

(SEE RULE -4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI
....

ORDER SHEET

Original Application No : _____

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

49/02 in O.A 131/01

Applicant (s) Shyamal Mallick

-Vs-

Respondent (s) H. O. I. Town

Advocate for the Applicant (s) M. Chanda, B.N. Chakraborty

Advocate for the Respondent(s) Mr. A. Deb Roy, H. D. Datta
Sr. C. A. B.

Notes of the Registry	Date	Order of the Tribunal
<p>This Contempt petition has been filed by the Contempt applicant praying for initiation of a contempt proceeding against the alleged contemnors for non-compliance of the judgement and order dated 6.2.02 passed by this Honble Tribunal in O. A. No. 131/01</p> <p>Read before the Honble Court for further orders.</p> <p><i>[Signature]</i> Section Officer 3/10/02</p>	<p>9.10.02</p> <p>mb</p> <p>21.11.02</p>	<p>Heard Mr. M. Chanda, learned counsel for the applicant.</p> <p>Issue notice to show cause as to why the contempt proceedings shall not be initiated.</p> <p>List on 21.11.2002 for orders</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>Mr. A. Deb Roy, learned Sr. C.G.S.C. has stated that hea has been instructed to appear on behalf of the respondents and he is awaiting for more instructions from the respondents. List on 19.12.2002 to enable the respondents to submit its appearance and reply.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>

Notice returned to the respondents No. 182
of Regd. A.D. 29/10/02 D No. 29/10/02
18/10/02 21/10/02

No. reply has been
filed.

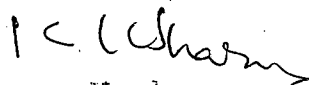
19.12.2002

Heard Mr. G.N. Chakrabarty,
learned counsel for the applicant.

Issue notice to show cause
as to why the contempt proceedings
shall not be initiated.


List on 27.1.2003 for
orders.

No. reply has been
filed.


Member


Vice-Chairman

mb

Sent vide S/No 2918 to 2919
dtd. 21/10/02


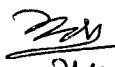
27.1.03

Present : The Hon'ble Mr. Justice
D.N. Chowdhury,
Vice-Chairman.

The Hon'ble Mr. S.K. Hajra
Administrative Member.

No. reply has been
filed.

The respondents are yet
to file written statement though time
was granted earlier. Mr. A. Deb Roy,
learned Sr. C.G.S.C. for the respond-
ents again prayed for time to file
written statement. Reluctantly,
further four weeks time is allowed
to the respondents to file its reply.
if any. List on 25.2.2003 for orders.


24.1.03


Member


Vice-Chairman


mb

25.2.2003

No reply so far filed by the
respondents though time granted. Let
the respondents be appeared in person
on 26.3.2003 to explain the matter.

List on 26.3.2003 for personal
appearance and further orders.

No. reply has been
filed.


25.3.03


Vice-Chairman

mb

Notes of the Registry

Date

Order of the Tribunal

26.3.2003

Present & The Hon'ble Mr. Justice D.N. Chowdhury,
Vice-Chairman.

The Hon'ble Mr. S.
Biswas, Member (A).

Heard Mr. G.N. Chakra-

barty, learned counsel for the
applicant and also Mr. A. Deb
Roy, learned Sr. C.G.S.C. for
the respondents

It appeared that
against the judgment and order
dated 6.2.2002 passed by this
Tribunal in O.A. No. 131/2001
the respondents approached the
Hon'ble High Court by way of
a Writ Petition and the High
Court issued rule. In that view
of the matter, the C.P. stands
dropped.

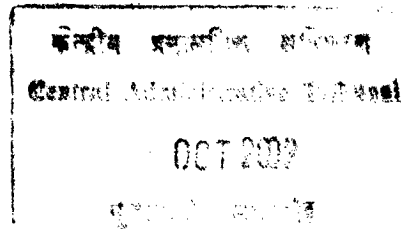
S. B.
Member

Vice-Chairman

mb

28.3.2003

Copy of the order
has been sent to the
D/Sec. for issuing
the rule to the H/Advn
for the parties.
H.P.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

Contempt Petition No. 49 /2002

In O.A. No.131 of 2001

In the matter of :

Sri Shyamal Mallick

...Petitioner

-Versus-

Union of India & others.

...Alleged Contemners

-AND-

In the matter of :

An Application under Section 17 of the Administrative Tribunals Act, 1985 praying for initiation of a contempt proceeding against the alleged contemners for non-compliance of the judgment and order dated 06.02-2002 passed in O.A. No.131/2001.

-AND-

In the matter of :

Order dated 06.02.2002 passed by this Hon'ble Tribunal in O.A. No. 131/2001, directing the respondents/alleged contemners to

*Filed by the applicant
through Sri G.N. Chakravarty
Advocate on 30-9-02*

resolve the matter either by absorbing the applicant against any vacant Group 'D' post or to take steps for conferment of temporary status to the applicant.

-And-

In the matter of :

Sri Shyamal Kr. Mallick,
Son of Late Satish Chandra Mallick
Borbari Railway Colony
Railway quarter No. 45/A
P.O. Dibrugarh, Assam.

-Versus-

1. Shri Viggan Prakash
Chief Engineer (Civil) I,
Chief Construction Wing
All India Radio
Soochna Bhawan
6th Floor, New Delhi.
2. Shri K. Ponniah
Superintending Engineer (c)
Civil Construction Wing
All India Radio
T.V. Staff Quarter
Hengrabari, Guwahati-781036

...Alleged Contemners

The humble petitioner above named -

Most Respectfully Sheweth :

1. That your applicant being highly aggrieved due to non consideration of his absorption in a permanent Group 'D' post against the services rendered by him for a long period as casual labour and even after the direction issued by this Hon'ble Tribunal vide its order dated 13.9.1995 passed in earlier O.A. No. 172/95, this petitioner approached this Hon'ble Tribunal by way of second round of litigation through O.A. No. 131/2001 praying for a direction upon the respondents/alleged contemnors to absorb the petitioner in a permanent Group 'D' post.
2. That the Hon'ble Tribunal took up the matter for hearing on 06.02.2002 and after hearing both the parties and examining the facts and circumstances of the case, had been pleased to pass its order dated 06.2.2002 directing the respondents/alleged contemnors as follows :

"6. In the circumstances a direction is issued to the respondents to resolve the situation either by absorbing the applicant against any vacant Group 'D' post as per the communication dated 15.10.1996 or take steps for conferment of temporary status expeditiously. The respondents shall complete

the exercise at any rate within a period of four months from the date of receipt of a copy of this order.

The application is allowed to the extent indicated above. There shall however be no order as to costs."

Copy of the order dated 6.2.2002 is annexed herewith and marked as **Annexure-I**.

3. That immediately after receipt of the copy of the aforesaid order dated 06.02.2002, the petitioner submitted one representation on 12.3.2002 to the alleged contemner no.2, enclosing therewith a copy of the judgment and order dated 06.02.2002 praying for his absorption in a Group 'D' post in terms of the order aforesaid. Having failed to evoke any response from the alleged contemnners, the petitioner submitted another reminder on 11.6.2002 reiterating his prayer as stated above but with no result.

Copy of the representation dated 12.3.2002 and reminder dated 11.06.2002 are annexed hereto as **Annexure-II and III** respectively.

4. That the petitioner begs to submit that nearly seven months have elapsed since the order dated 06.02.2002 was passed by this Hon'ble Tribunal but the alleged contemnners have not initiated any action whatsoever for implementation of the aforesaid order and inspite of all efforts of the petitioner, the alleged contemnners

have neither absorbed nor granted temporary status to the petitioner. The alleged contemners have flouted and disregarded the said order deliberately and willfully and are not at all inclined to comply with the order even after the lapse of about seven months whereas the Hon'ble tribunal's direction was to complete the exercise within a period of four months and as such they are liable to be prosecuted for non-compliance/violation of order of this Hon'ble Tribunal.

5. That it is stated that the alleged contemners deliberately and wilfully did not take any initiation for implementation of the judgment and order dated 06.02 2002 passed by the Hon'ble Tribunal in O.A. No. 131/2001 which amounts to contempt of Court. Therefore the Hon'ble Tribunal be pleased to initiated a contempt proceeding against the alleged contemners for wilful violation of the order of the Hon'ble Tribunal dated 06.02.2002 and the Hon'ble Tribunal further be pleased to impose punishment against the alleged contemners for wilful violation of the order of the Hon'ble Tribunal in accordance with law.
6. That the petitioner submits that this is a fit case for the Hon'ble Tribunal to draw an appropriate proceeding of Contempt against the alleged contemners for deliberate non-compliance of the order dated 06.02.2002 passed by the Hon'ble Tribunal in O.A. No. 131 of 2001.
6. That this application is made bona fide and for the ends of justice.

Under the facts and circumstances stated above, the Hon'ble Tribunal be pleased to initiate contempt proceeding against the alleged contemnors for wilful non-compliance of the order dated 6.2.2002 passed in O.A. No.131/2001 and further be pleased to impose punishment upon the alleged contemnors in accordance with law and further be pleased to pass any such other order or orders as deem fit and proper by the Hon'ble Tribunal.

And for this act of kindness the applicant as in duty bound shall ever pray.

AFFIDAVIT

I, Sri Shyamal Kumar Mallick, Son of Late Satish Chandra Mallick, resident of Borbari Railway Colony, Railway quarter No. 45/A, P.O. Dibrugarh, Assam, do hereby solemnly declare as follows :-

1. That I am the petitioner in the above contempt petition and as such I am well acquainted with the facts and circumstances of the case and also competent to sign this affidavit.
2. That the statement made in para 1-6 are true to my knowledge and belief and I have not suppressed any material fact.
3. That this Affidavit is made for the purpose of filing contempt petition before the Hon'ble Central Administrative Tribunal, Guwahati Bench for non-compliance of the Hon'ble Tribunal's order dated 06.02.2001 passed in O.A. No.131/2001.

And I sign this Affidavit on this
...30th...day of September, 2002.

Shyamal Kr Mallick

Identified by

Sri G. N. Chakravarty
Advocate's Clerk

Deponent

Solemnly affirmed and declared
before me by the deponent who is
identified by *Sri G. N. Chakravarty*
Advocate on this the day of
September, 2002.

W. S. S.
Advocate

- 8 -

DRAFT CHARGE

Laid down before the Hon'ble Central Administrative Tribunal, Guwahati for initiating a contempt proceeding against the alleged contemnors/Respondents for wilful and deliberate non-compliance of order of the Hon'ble Tribunal dated 06.02.2002 passed in O.A. No.131/2001 and further be pleased to impose punishment upon the alleged Contemnors/Respondents for wilful and deliberate non-compliance of order dated 06.02.2001 passed in O.A. No.131/2001.

GUWAHATI BENCH

Original Application No. 131 of 2001.

Date of decision : This the 6th day of February, 2002.

Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

Shri Shyamal Kumar Mallick,
Son of Late Satish Chandra Mallick
Borbari Railway Colony
Rly. Quarter No. 45/A
P.O. Dibrugarh
Assam

....Applicant

By Advocate Mr. M.Chanda

-versus-

1. Union of India
Through Secretary, Govt. of India
Ministry of Informations and Broadcasting,
New Delhi.
2. Director General,
All India Radio,
Akashvani Bhawan,
Parliament Street,
New Delhi-110001.
3. The Chief Engineer (Civil)
Civil Construction Wing (CCW)
AIR, New Delhi.
4. The Superintending Engineer (Civil),
Civil Construction Wing,
All India Radio,
Guwahati.
5. Executive Engineer (Civil)
Civil Constructin Wing,
All India Radio
Dibrugarh

...Respondents

By Adovate Mr. A. Deb Roy, Sr. C.G.S.C.

O R D E R (ORAL)

CHOWDHURY J. (V.C.)

This is a second round of litigation centering round absorption under the respondents. The applicant earlier moved this Bench for permanent absorption in Group post. In the application he claimed that he was engaged as casual labour

*Attested
by
Advocate*

and his service was terminated by a verbal order. This Bench dealt with the matter in detail in the said Application which was numbered as O.A. 172/95 and while disposing the application on 13.9.95 the Tribunal expressed its view and desired to take decision on the request for absorption of the applicant in Group 'D' category staff expeditiously by the Chief Engineer (C), CCW, AIR, New Delhi with whom the matter rested since July 1994. The authority was accordingly directed to take decision. Since no action was taken a Contempt Petition was filed and the same was numbered as C.P. No. 33/96(O.A.172/95). The said Contempt Petition was thereafter withdrawn because of some assurances given by the office of the Director General, All India Radio, New Delhi vide letter dated 15.10.1996. The full text of the said letter is reproduced below :

" Chief Engineer (C)-II, CCW, AIR, New Delhi has sympathetically considered your application mentioned above and I am directed to inform you that at present there is no vacant post in Group D cadre and your case will be considered sympathetically as & when the vacancy arises."

The applicant also mentioned in his application that in the year 1988-89 and 1989-90 he completed 348 days and 310 days of work.

2. The respondents submitted its written statement and contended that the applicant could not be accommodated for want of vacancy and on the surplus ground 4 employees belonging to Dibrugarh had to sent to far of places. The applicant submitted its rejoinder and additional rejoinder. In the rejoinder the applicant pointed out that a vacancy arose on the death of Babui Chandra Dey, Peon in the Silchar Electrical Sub Division under the Guwahati Electrical Division, Civil Construction Wing, All India Radio, Guwahati.

Contd....

3. Heard Mr. M.Chanda, learned counsel appearing on behalf of the applicant and Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents.

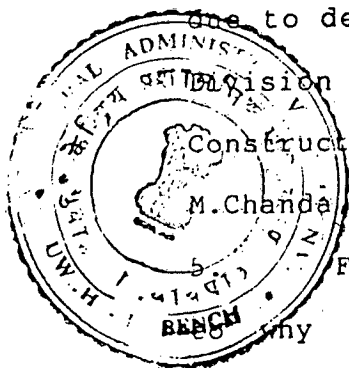
4. From the facts stated it thus emerges that a direction was issued by this Bench in the earlier O.A. for consideration of the case of the applicant against the vacant post. The respondents on their own letter dated 15.10.1996 admitted that his case was under consideration. The Govt. of India already issued an Office Memorandum No.5106/2/90-Estt(C) dated 10.9.1993 in the light of the earlier O.M. for conferment of temporary status. The scheme for grant of temporary status and regularisation of casual workers is also applicable in All India Radio as appears from the Office Memorandum issued by the Directorate General, All India Radio dated 30.11.1994. For consideration of granting temporary status there is no requirement of vacancy, that apart one such vacancy has arisen

due to death of Babul Chandra Dey under Silchar Electrical Sub-Division under the Guwahati Electrical Division, Civil Construction Wing, All India Radio, Guwahati, as cited by Mr. M.Chanda, learned counsel for the applicant.

From the facts stated above I do not find any reason as to why the case of the applicant for absorption was not considered so long either for conferment of temporary status or for absorption against the vacancy in Group 'D' cadre despite the assurance given by the authority as far back in 1996 and keeping the matter alive.

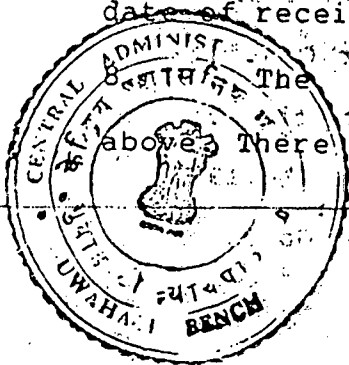
6. In the circumstances a direction is issued to the respondents to resolve the situation either by absorbing the applicant against any vacant Group 'D' post as per the communication dated 15.10.1996 or take steps for conferment of temporary status expeditiously. The respondents shall complete

Contd...



the exercise at any rate within a period of four months from the date of receipt of a copy of this order.

The application is allowed to the extent indicated above. There shall however be no order as to costs.



Sd/ VICE CHAIRMAN

trd

Certified to be true Copy
प्रमाणित प्रतिलिपि

Section Officer (J)
8/3/02

आयुक्त अधिकारी (अ)
गोवाहाटी न्यायाधीश न्यायालय
Guwahati Bench, Guwahati
गुवाहाटी न्यायाधीश, गुवाहाटी

16/7/3/2002

To,
The Superintending Engineer (Civil)
Civil Construction Wing,
All India Radio
T.V. Staff Quarter Colony
Hengrabari
Guwahati - 781036

Date: 12-03-2002

Sub: Prayer for Absorption of Sri Shyamal Kumar Mallick in Group "D" Cadre and O.A No. 131 of 2001 regarding _____

Sir,

With due respect, I would like to lay before you the following few lines for favour of your kind information and sympathetic necessary action please.

That Sir, in continuation of my letter dt. 27.04.2000 addressed to the Chief Engineer © II, New Delhi and copy endorsed to you seeking implementation of order of the honourable CAT, Guwahati Branch on 13.09.95 in O.A. No. 172/95.

That Sir, during this period of time it was known to me that a Post of Peon has fallen vacant due to the death of the incumbent in Silchar Electrical Sub Division of CCW, AIR and as you have not initiated action in this regard; I have approached the honourable CAT, Guwahati Branch - O.A. No. 131 of 2001. The honourable CAT, Guwahati delivered their direction either to give me the temporary status or to absorb me in the post of peon in Silchar electrical Sub Division.

That sir, in the meantime it has also come to know that another post of Peon has also fallen vacant due to death of Pradip Seal in Itanagar Division of Civil Construction Wing, All India Radio. I hope you will consider me for absorption in any one of the above two posts at an early date and save me alongwith my poor family members from starvation.

Necessary copy of order / decision of honourable CAT Guwahati Branch dt. 6.2.2002 is also enclosed herewith for favour of your perusal please.

Enclose As above

Yours faithfully,

*Pls find
here
Advocate*

Shyamal kr Mallick

(Shyamal Kr. Mallick)
Barbari Rly. Colony
Quarter No. 45/A
Dibrugarh

-14 -
REMINDER

ANNEXURE-III

By Speed Post

Date : 11-06-2002 17

To,
The Superintending Engineer (Civil)
Civil Construction Wing,
All India Radio
T.V. Staff Quarter Colony
Hengrabari
Guwahati - 781036

Sub: Prayer for Absorption of Sri Shyamal Kumar Mallick in Group "D" Cadre and O.A
No. 131 of 2001 regarding _____

Sir,

With due respect, I would like to lay before you the following few lines for favour of your kind information and sympathetic necessary action please.

That Sir, in continuation of my letter dt. 27.04.2000 addressed to the Chief Engineer CIL, New Delhi and copy endorsed to you seeking implementation of order of the honourable CAT, Guwahati Branch on 13.09.95 in O.A. No. 172/95.

That Sir, during this period of time it was known to me that a Post of Peon has fallen vacant due to the death of the incumbent in Silchar Electrical Sub Division of CCW, AIR and as you have not initiated action in this regard; I have approached the honourable CAT, Guwahati Branch - O.A. No. 131 of 2001. The honourable CAT, Guwahati delivered their direction either to give me the temporary status or to absorb me in the post of peon in Silchar electrical Sub Division.

That Sir, in the meantime it has also come to know that another post of Peon has also fallen vacant due to death of Pradip Seal in Itanagar Division of Civil Construction Wing, All India Radio. I hope you will consider me for absorption in any one of the above two posts at an early date and save me alongwith my poor family members from starvation.

Necessary copy of order / decision of honourable CAT Guwahati Branch dt. 6.2.2002 is also enclosed herewith for favour of your perusal please.

Enclose : As above

Yours faithfully,

Shyamal Kr Mallick

(Shyamal Kr. Mallick)

Barbari Rly. Colony

Quarter No. 45/A

Dibrugarh

*Attested
Jm
Sno call*