

( SEE RULE -4 )

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI

ORDER SHEET

Original Application No : \_\_\_\_\_

Misc. Petition No. \_\_\_\_\_

Contempt Petition No. \_\_\_\_\_

Review Application No. \_\_\_\_\_

54/02 MOA 306/02

Applicant (s) Dr. A.K. Bhattacharjee

-Vs-

Respondent (s) (1) A. Swamy (D.M) (2) S.C. Das, (C.M.S)

Advocate for the Applicant (s) G.K. Bhattacharjee, B. Chaudhary

Advocate for the Respondent(s) ~~Case~~ Rly. Stand/counsel.

Notes of the Registry	Date	Order of the Tribunal
<p>This Contempt Petition has been filed by the Respondent for the petitioner praying for intentional and willful disobedience of the order dated 4.10.02 passed by this Honble Tribunal in C.A. 306/02.</p> <p>Read before the Honble Court for further orders.</p> <p><i>Section Adm</i> 9/10/02</p>	<p>10.10.02</p> <p>mb</p> <p>12.11.02</p> <p>mb</p> <p>26/11</p>	<p>Heard Mr. G.K. Bhattacharjee, 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 12.11.2002 for orders.</p> <p><i>K. Usham</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>The respondents has submitted the show cause reply. List the matter on 26.11.2002 for hearing.</p> <p><i>K. Usham</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>Respondent's counsel did not appear today. The case is adjourned to 11/12/2002.</p> <p><i>M. K. Das</i></p>

Steps taken Notice prepared and sent to  
D/S for issuing the respondent No 182  
by Regd. A.D. vide 29.24.12 29.25  
22/10/02

12.11.02

Show cause reply  
on behalf of the Respondent  
No. 1 & 2 has been  
submitted.

11.12.02

On the prayer of Mr. B. Choudhury, learned counsel for the applicant the case is adjourned. List on 19.12.2002 for hearing.

K. C. Sharma  
Member

Vice-Chairman

mb

19.12.02

List on 24.12.2002 for hearing on the prayer of Mr. B. Choudhury, learned counsel for the applicant.

K. C. Sharma  
Member

Vice-Chairman

mb

24.12.02

Heard Mr. B. Choudhury, learned counsel for the applicant and also Mr. S. Sarma, learned counsel appearing on behalf of the Standing counsel for the Railway.

Considering the facts and circumstances of the case, the Contempt proceeding stands closed.

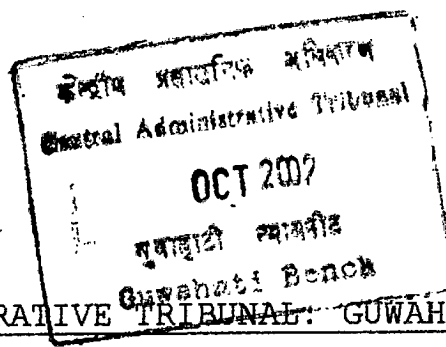
K. C. Sharma  
Member

Vice-Chairman

mb

26.12.2002

Copy of the order  
has been sent to the  
Office for issuing  
the fine to the L/Adm.  
for the parties.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI

BENCH: GUWAHATI

C.P.No. 54 of 2002

IN O.A NO. 306 of 2002

IN THE MATTER OF :

An application u/s 17 of the  
Administrative Tribunals  
Act, 1985.

-AND-

IN THE MATTER OF :

Intentional and willful  
disobedience of the order  
dated 4.10.2002 passed by  
this Hon'ble Tribunal in O.A.  
No.306/2002.

-AND-

IN THE MATTER OF :

An application under Rule 24  
of the CAT (Procedure) Rules  
1987 for non-implementation  
of the order dated 4.10.2002  
passed by this Hon'ble  
Tribunal in O.A.306/02.

-AND-

3  
Anup Mr. Bhatnagar  
Filed by the petitioner through  
Bikram Choudhary, Advocate.  
9.10.02

IN THE MATTER OF :

Dr. Anup Kumar Bhattacharjee,  
S/o Sri Bijoy Prasad  
Bhattacharjee, Senior Divisional  
Medical Officer, Divisional  
Railway Hospital, N.F. Railway,  
Lumding.

.... Petitioner.

-Vs-

1. Ashutosh Swamy,  
Divisional Railway Manager,  
N.F. Railway, Lumding,  
Dist. Nagaon.
2. Subhash Chandra Das,  
Chief Medical Superintendent,  
Divisional Railway Hospital,  
Lumding, Dist. Nagaon.

.... Contemners/  
Respondents

The humble petitioner above named.

MOST RESPECTFULLY SHEWETH :

1. That the petitioner is presently serving the N.F. Railway as Sr. Divisional Medical Officer and at present he is posted at Divisional Railway Hospital, Lumding.

2. That the petitioner begs to state that due to an accident on 17.6.2002 between a motor trolley

Anup K. Bhattacharjee

and a goods train between Dihakho and Mupa Station in Lumding Badarpur section where one RPSF jawan lost his life there were some incidents in the hospital, where the petitioner was manhandled. The contemner No.1/Respondent No.1 instead of taking action against the assailant wrote a letter No.LM/CON-2/(SECRET) dated 21.6.2002 to Chief Medical Director, N.F. Railway, Maligaon narrating the incident of 17.6.02 and further making wild, malicious and reckless statement against the petitioner and further recommending that the petitioner be relieved out of the division as top most priority. Thereafter the contemner No.2 made an enquiry in respect of the allegations made against the petitioner as directed by the Chief Medical Director but the contemner No.2 did not found anything against the petitioner. As such the petitioner was surprised when he, while sick was served with the impugned order No.E/283/III/ 130-Pt.XI(O) dated 5.9.02 issued by the General Manager (P), N.F. Railway, Maligaon transferring and posting the petitioner at Rangapara North Hospital vice B. Basumatary and by the said order Dr. Basumatary ADMO was transferred in the petitioner's place in Lumding. The petitioner being aggrieved assailed the transfer order dated 5.9.02 before this Hon'ble Tribunal which was registered and numbered as O.A. No. 306/02. On 20.9.02 when the original application was moved this Hon'ble

Anup M. Bhattacharya

Tribunal issued show cause notice on authorities and also notices for interim order was issued as the Railway Counsel wanted some time for instructions and fixed the next date on 4.10.02.

On 4.10.02 the Railway Counsel again prayed for time to file reply. The learned counsel for the petitioner then prayed for interim order. The Hon'ble Tribunal after hearing both sides, issued a direction directing the petitioner to submit a representation before the Respondent within 10 days from the receipt of the order and if such representation was made, the Respondents were directed to dispose of the same within one month from the receipt of the same. In the meantime the impugned transfer order dated 5.9.02 was stayed so far as it related to the petitioner.

A copy of the Hon'ble Tribunal's order dated 4.12.02 is annexed herewith and marked as Annexure-I.

3. That, thereafter, the petitioner on receiving a copy of the Hon'ble Tribunal's order dated 4.10.02, on 5.10.2002 the petitioner submitted his joining report with fit certificate alongwith the Hon'ble Tribunal's order before the Contemner/Respondent No.2 who received the same on that date.

Anup Mr. Bhattacharya

A copy of the joining report is enclosed herewith and marked as Annexure-II.

4. That, thereafter, the petitioner was surprised when on 7.10.02 he went for duty he was served with a copy of the letter No. H/268/LM/GAZ/Pt.II dated 7.10.2002 issued by the contemner No.2 addressed to Chief medical Superintendent, N.F. Railway, Alipurduar (West Bengal) forwarding his application for resumption of duty for necessary action and he was not allowed to join inspite of the order passed by this Hon'ble Tribunal.

A copy of the letter dated 7.10.2002 is annexed herewith and marked as Annexure-III.

5. That the petitioner begs to state that the contemner No.2 after receiving the Hon'ble Tribunal's order instead of allowing the petitioner to join duty order referred the matter to the Chief Medical Superintendent, N.F. Railway, Alipurduar (West Bengal) at the behest of contemner No.1. ~~At~~ The contemner No.2, at best could have referred the matter to General Manager (p), Maligaon who issued the transfer order dated 5.9.02 and as such the action of the Respondents/contemnors is contemptuous and amounts to willful and intentional

Anup kr. Bhattacharya

disobedience of the order passed by this Hon'ble Tribunal and there can be no reasonable explanation for such act of contempt on the face of the record.

The petitioner further states that he has already filed the representation as directed by the Hon'ble Tribunal.

6. That the petitioner states that the contemnners are liable to be prosecuted and punished under the contempt of Court of proceeding.

7. That this application is filed bonafide and for the ends of justice.

It is, therefore, prayed that Your Lordships would be pleased to consider what is stated above, issue show cause notice to the Respondents/contemnners and take appropriate action for willful and deliberate violation of the order dated 4.10.02 (Annexure-I) passed by this Hon'ble Tribunal in O.A. 306/2002 and after hearing the causes shown, if any, be pleased to draw a contempt proceeding against the Respondents for imposition of appropriate punishment under the contempt of Court's Act and/or pass such order/orders as Your Lordships may deem fit and proper.

And for this act of kindness, the petitioner as in duty bound shall every pray.

Anup Kr. Bhattacharya



9

A F F I D A V I T

I, Sri (Dr) Anup Kumar, Son of Sri Bijoy Prasad Bhattacharjee, aged about 46 years, resident of Lumding, in the district of Nagaon, Assam, do hereby, solemnly affirm and declare as follows:

1. That, I am the petitioner in this petition and as such I am well conversant with the facts and circumstances of the case and I swear this affidavit.

2. That, the Statements made in this affidavit and in paragraphs 1, 5, 6 and 7 of the petition are true to the best of my knowledge; those made in paragraphs No. 2, 3 and 4 being matters of record, are true my information derived therefrom which I believe to be true and the rest are my humble submissions before this Hon'ble Court.

And I sign this affidavit on this 09<sup>th</sup> day of October, 2002 at Guwahati.

IDENTIFIED BY  
*Bikram Choudhury*  
ADVOCATE

*Anup Kr. Bhattacharjee*  
DEPONENT

Solemnly affirmed and declared before me by the department who is identified by Sri Bikram Choudhury, Advocate, Guwahati on this 9<sup>th</sup> day of October, 2002 at Guwahati.

*Mang Kallora*  
Advocate

DRAFT CHARGE

Whereas the contemnners namely Sri Ashutosh Swamy, Divisional Railway Manager, N.F. Railway, Lumding and Subhash Chandra Das, Chief Medical Superintendent, Divisional Railway, Hospital, Lumding are liable for contempt of Court's proceeding for their willful and deliberate violations of the order dated 4.10.2002 passed by the Central Administrative Tribunal, Guwahati, Bench in O.A. No. 306/02.

*Bikram Choudhury*  
SIGNATURE

( SEE RULE -4 )

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI  
....ORDER SHEETOriginal Application No : 206/02  
Misc. Petition No.                       
Contempt Petition No.                       
Review Application No.                     Applicant (s) Dr. A-K. Bhattacharjee

-Vs-

Respondent (s) H.O.I. JunAdvocate for the Applicant (s) G.K. Bhattacharjee, B. ChoudhuryAdvocate for the Respondent(s) Cafe.

Notes of the Registry

Date

Order of the Tribunal

20.9.02

Heard Mr. G.K. Bhattacharjee,  
learned counsel for the applicant.Issue notice to show cause  
as to why the application shall not  
admitted. Returnable by four weeks.Also, issue notice to show  
cause as to why interim order as  
prayed for shall not be granted.  
Returnable by ten days.

List on 4.10.2002 for admission.

3el/-  
Vice-Chairman

mb

Wdwd  
9/10/02

4.10.2002

Present : The Hon'ble Mr.K.K.Sharma  
Administrative Member.

The application is against the order dated 5.9.2002 transferring the applicant, Sr.DMO, Lunding to Rangapara North in the same capacity.

Heard Mr.G.K.Bhattacharyya, learned Sr. counsel for the applicant and also Mr. S.Sarma, learned counsel appearing for the respondents. The respondents were directed to show cause as to why interim order should not be granted vide earlier order dated 20.9.2002. Mr.S.Sarma wanted time to file ~~written statement~~ reply. Mr.G.K. Bhattacharyya, learned Sr. counsel, on the other hand, prayed for interim order. The applicant has been transferred on account of certain incidents that took place at Lunding <sup>as mentioned in</sup> and on the basis of the report dated 21.6.2002 by DDM/Lunding to CMD, N.F.Railway, Maligaon (Annexure-1). Mr.Bhattacharyya referred to the reply of the reply of the CMS, Lunding to CMD, Maligaon disputing the facts narrated by DDM.

After hearing the learned counsel for the parties, I am of the view that ends of justice will be met, if a direction is issued to the applicant to make a representation before the respondents ~~within 10 days~~ ~~xxxxxx~~ According to the applicant is directed to submit a representation before the respondents within 10 days from the receipt of the order and if such representation is made, the respondents are directed to dispose of the representation within one month from the receipt of the same. In the meantime the order dated 5.9.2002 is stayed in so far as the applicant is concerned.

The application is disposed of. No order as to costs.



Certified to be true Copy

प्रमाणित प्रतिलिपि

*[Signature]*  
4/10/02

Section Officer (A)

सहायक अधिकारी (न्यायिक शाखा)  
Central Administrative Tribunal  
केन्द्रीय प्रशासनिक अधिकरण  
Guwahati Bench, Guwahati-7  
গুৱাহাটী ন্যায়ালয়, গুৱাহাটী-৭

*SK* Member (A)

To  
Chief Medical Supdt.,  
N.F. Railway,  
Lumding,

Dated, 05.10.2002

Sub:- Order of CAT/GHY dated 04.10.02  
in O.A.No.306/2002 - Dr.Anup Kr.  
Bhattacharjee Vs. UOI & Ors.,  
staying the transfer order issued  
under Dy.CPO/M& Gaz/MLG's No.  
E/283/III/130-Pt.XI(O) dated  
05.09.2002.

Sir,

In terms of Dy.CPO/GAZ/MLG's office order No.  
E/283/III/130-Pt.XI(O) dated 05.09.2002 I was transferred  
and posted at RPAN Hospital in the same capacity.

Vide my application u/s 19 of A.T.Act, 1985,  
I challenged the said transfer order which was registered  
as O.A.No.306/02 in Central Administrative Tribunal  
Guwahati on 20.9.02 and a notice was issued to the  
respondents on the same day. Also notice was issued  
to the respondents to show cause as to why interim  
order as prayed for should not be granted. This notice  
was made returnable by ten days. The case was listed  
for admission on 4.10.02.

On 4.10.02, the CAT/GHY disposed of the petition  
with certain direction and also stayed the transfer  
order dated 5.9.2002 in so far as I am concerned.

A copy of CAT/GHY's order dated 4.10.02 in  
O.A.No.306/02, in Dr.A.K.Bhattacharjee Vs. UOI & Ors.,  
is enclosed with this application for compliance.

In view of the above order of CAT/GHY staying  
the order transferring and posting me at RPAN Hospital,  
I request you to kindly permit me to resume duties  
on date after following the procedure on being declared  
by my treating doctor, Dr. R.Bhattacharjee, M & HO-I,  
Lumding State Hospital. Certificate of fitness issued  
by him is also enclosed.

Thanking you,

Yours faithfully,

Encl: Copy of CAT/GHY's  
order dated 5.10.02  
Copy of Medical  
certificate issued  
by Dr.R.Bhattacharjee,  
M & HO-I/Lumding  
State Hospital, dt.5.10.02

Anup Kr. Bhattacharjee  
(Dr. A. K. Bhattacharjee)  
Sr.DMO/Lumding.

Attested by  
Bikram Choudhury  
Advocate

**NORTHEAST FRONTIER RAILWAY  
LUMDING DIVISION**

Office of the  
CMS, Lumding  
(Assam)

No. H/268/LM/GAZ/Pt.II

Date: 07<sup>th</sup> Oct 2002

To,  
CMS,  
NF Railway,  
Alipurduar (WB)

**SUB.: APPLICATION OF Dr. A.K. BHATTACHARJEE, ex-SrDMO/LMG  
REGARDING RESUMPTION OF DUTY.**

1. Please refer to GM(P)/MLG's Office Order No. 18/2002(Medical) circulated vide No. E/283/III/130/Pt.XI(O) dated 05<sup>th</sup> September '02 and DRM(P)/LMG's letter No. E/283/LM/1/(O) Pt.II dated 05<sup>th</sup> September '02, as per which Dr.A.K.Bhattacharjee, ex-SrDMO/LMG has been transferred and spared to report under you.
2. In the mean time, the said officer Dr.A.K.Bhattacharjee has submitted a Private Practitioner's Medical Certificate who has declared him fit for resumption of duty w.e.f. 05-10-2002 along with an application for resumption of duty and a copy of Hon'ble CAT/GHY's order dated 04-10-2002 on OA No. 306/2002 - which is self-explanatory.
3. Since the said officer has already been spared from this end on 05-9-2002 (i.e., much before the said order dated 04-10-2002 of CAT/GHY) and is no longer under the administrative control of the undersigned, the said PPMC dated 05-10-2002 (issued by Dr. R. Bhattacharjee, Sr. Medical & Health Officer, Lumding State Hospital), his application and the afore-mentioned order of CAT/GHY are sent herewith for necessary action please.

**Enclosed: As above.**

(Dr.S.C.Das)  
CMS/LMG

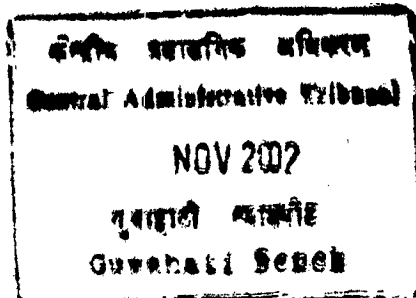
**Copy for information to: -**

- |                 |                |   |               |
|-----------------|----------------|---|---------------|
| 1. CMD/MLG      | 2. GM(P)/MLG   | 3. DRM/LMG                                  | 4. DRM(P)/LMG |
| 5. DyCPO(G)/MLG | 6. DRM(P)/APDJ | 7. Dr.A.K.Bhattacharjee (Officer concerned) |               |

CMS/LMG

7.10.2002

*Attested by  
Bikram Choudhury  
Alipurduar*



Filed by:  
Siddhanta Kumar  
Advocate  
For: B.K. Sharma  
S.C. No. 11/11/02

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

C.P. No. 54/2002  
In OA No. 306/2002

Dr. A.K. Bhattacharjee

...Applicant

-versus-

A. Swami & Anr.

...Respondents

IN THE MATTER OF

Show cause reply on behalf of the  
Respondent No. 1 and 2.

The answering Respondents abovenamed :-

MOST RESPECTFULLY SHEWETH :

1. That the answering Respondents have gone through the copy of the above mentioned contempt petition and have understood the contents thereof. Save and except the statements which are specifically admitted to hereinbelow, other statements made in the contempt petition are categorically denied.

2. That with regard to the statements made in paragraphs 1 of the contempt petition, the answering Respondents beg to state that it is incorrect to say that the Applicant is posted at Divisional Railway Hospital, Lumding. As reflected in OA No. 306/2002, he

has been transferred to Rangapara vice one Shri (Dr.) B. Basumatary, by an order dated 5.9.2002. By the said order, said Dr. Basumatary was transferred to Lumding in place of the applicants. Pursuant to the said order of transfer, both the officers were released/spared from their respective place of posting, while Dr. Basumatary joined at Lumding, pursuant to his release from Rangapara vide letter dated 9.9.2002, the Applicant inspite of his release from Lumding did not join at Rangapara. However, as per direction of this Hon'ble Tribunal passed in OA No. 306/2002 (order dated 4.10.2002), the representation submitted by the Applicant to the General Manager, on 9.10.2002 has been considered and disposed of by an order dated 8.11.2002.

A copy of the letter dated 8.11.2002 is annexed as Annexure-1.

3. That with regard to the statements made in paragraph 2 of the contempt petition the answering Respondents do not admit anything contrary to the relevant records. It is stated that since that OA was disposed of at the motion stage itself, the Respondents could not submit any reply. Be that as it may, the OA was disposed of by an order dated 4.10.2002 directing disposal of the representation to be submitted by the Applicant, as provided in the order.

4. That with regard to the statements made in paragraphs 3 & 4 of the contempt petition, the answering Respondents do not admit anything contrary to



the relevant records. As regards the Annexure-III letter dated 7.10.2002, it is submitted that the contents of the letter are self explanatory. Copy of the same was also endorsed to the competent authority, namely the General Manager (P), Maligaon. The letter was written, in view of the fact that the Applicant stood already released/spared much before passing of the order dated 4.10.2002 and Dr. Basumatary had joined the post earlier being held by the Applicant.

5. That with regard to the statements made in paragraph 5 of the contempt petition, the answering Respondents categorically deny the allegations made therein and reiterate and reaffirm the statements made in para 4 above. As stated by the Applicant, the General Manager (P) Maligaon, is the competent authority towards disposal of the representation directed to be submitted by the applicant, which he submitted on 9.10.2002. As the Applicant stood already spared about a month back and his post was occupied by Dr. Basumatary, the answering Respondent No. 2 had issued the letter dated 7.10.2002 which was always subject to the final order to be passed by the General Manager (P), Maligaon on the representation. As stated above, the representation submitted by the Applicant on 9.10.2002, has already been disposed of by Annexure-1 letter dated 8.11.2002. It is categorically denied that the answering Respondent No. 2 has done anything at the behest of answering Respondent No. 1.

6. That the answering Respondents deny the correctness

of the statements made in paragraphs 6 and 7 of the contempt petition and reiterate and reaffirm the statements made herein above.

7. That the answering respondents submit that they have got highest regard to the judiciary and they cannot even conceive of willful and deliberate violation of orders passed by this Hon'ble Tribunal. To the best of their knowledge and belief there is no willful and deliberate violation of the order dated 4.10.2002 passed in OA No. 306/2002. However, if there is any commission and/or omission on their part towards the said order, which is naturally unintentional the answering Respondents tender their unconditional apology to this Hon'ble Tribunal.

8. That under the facts and circumstances stated above the contempt petition is not maintainable and is liable to be dismissed.

Affidavit.....

AFFIDAVIT

I, Shri Subhash Ch. Das, aged about 35 years, son of Late A. N. Das, presently working as Chief Medical Superintendent, Divisional Railway Hospital, Lumding, District-Nagaon, Assam, do hereby solemnly affirm and state as follows :

1. That I am the Contemner No. 2 in C.P. No. 54/2002 and as such conversant with the facts and circumstances of the case and as such competent to swear this affidavit. I have also been authorised to swear this affidavit on behalf of the Respondent No. 1.
2. That the statements made in this affidavit and those made in paragraphs 1, 6 and 8 of the accompanying writ petitions are true to my knowledge and those made in paragraphs 2 to 5 and 7 being matters of record, are true to my information which I verily believe to be true and the rest are my humble submissions before this Hon'ble Court.

And I sign this affidavit on this the 10th day of November, 2002.

*Subhash chandra Das*

Identified By

*[Signature]*

Advocate

Solemnly affirm and state by the  
Deponent who is identified by  
Miss V. Das Advocate.

*[Signature]*  
Siddhartha Samra.

## NORTHEAST FRONTIER RAILWAY



Office of the  
General Manager(P)  
Maligaon, Guwahati-781011

1

REGISTERED WITH A/D

No.363E/1/548(O)

08 November 2002

To  
Dr. A. K. Bhattacharjee,  
Sr.DMO/RPAN designate,



The transfer orders were issued as Dr. Bhattacharjee had worked for about 9 years at LMG. The quality of his work was not the basis for his transfer. In fact, in the representation, Dr. Bhattacharjee has himself indicated that he has been working in Lumding hospital since 1993.

Keeping above in view, his request for cancellation of transfer orders to RPAN is regretted “.

Accordingly, this disposes of your appeal dated 09-10-2002.

Attested  
/s/  
Advocate.