

(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 mo A 306/02

Applicant (s) Dr. A. K. Bhattacharjee

-vs-

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

Advocate for the Applicant (s) S. K. Bhattacharjee, B. Chaudhury

Advocate for the Respondent(s) Cast Rly. Stand Counsel.

Notes of the Registry	Date	Order of the Tribunal
<p>This Contempt Petition has been filed by the petitioner for intentional and willful disobedience of the order dated 4.10.02 passed by this Hon'ble Court in mo.A.306/02.</p> <p>laid before the Hon'ble Court for further orders.</p> <p><i>Notice 9/10/02</i></p> <p><u>Section 147</u></p>	10.10.02	<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>I.C.Usha</i> Member</p>
	12.11.02	<p>The respondents has submitted the show cause reply. List the matter on 26.11.2002 for hearing.</p> <p><i>I.C.Usha</i> Member</p>
<p>Step taken Notice served and sent to DPS for serving the respondent X/182 by Regd. A.D. vide 22/24 & 29/25 on 22/10/02.</p>	26/11/	<p>Opposition heard did not set today, the case adjourned to 11/12/2002.</p> <p><i>I.C.Usha</i> Vice-Chairman</p>

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.

IC (Usha)
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.

IC (Usha)
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.

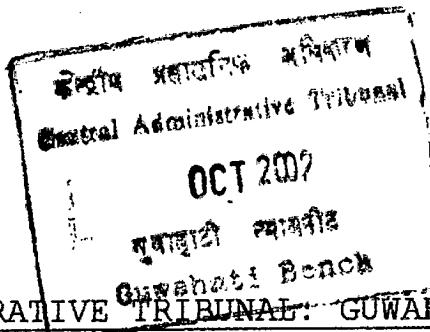
Considering the facts and circumstances of the case, the Contempt proceeding stands dismissed.

IC (Usha)
Member

Vice-Chairman

mb

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-

Amrapali Parbatacharya
Filed by the petitioner through
Bikram Choudhury, 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

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. Bhateebjee

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/contemners is contemptuous and amounts to willful and intentional

Amul Mr. 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 contemnors 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/contemnors 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. Bhatia

A

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 to 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 09th 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, Guwahti on this 9th day of October, 2002 at Guwahati.

Mary fallisre
Advocate

DRAFT CHARGE

Whereas the contemners 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.

Subhash Chandra Das
SIGNATURE

(SEE RULE -4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

....

ORDER SHEET

Original Application No : 306/02
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant (s) Dr. A.K. Bhattacharjee

Respondent (s) N.O.I. Sun

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

Advocate for the Respondent(s) Calz.

Notes of the Registry	Date	Order of the Tribunal
 <i>W. S. 01/10/02</i>	20.9.02	<p>Heard Mr. G.K. Bhattacharjee, learned counsel for the applicant.</p> <p>Issue notice to show cause as to why the application shall not be admitted. Returnable by four weeks.</p> <p>Also, issue notice to show cause as to why interim order as prayed for shall not be granted. Returnable by ten days.</p> <p>List on 4.10.2002 for admission.</p>

Sel/-
Vice-Chairman

mb

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, Lumding to Rangapara Noth 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 Lumding and on the basis of the report dated 21.6.2002 by DRM/Lumding to CMD, N.F.Railway, Maligaon (Annexure-1). Mr.Bhattacharyya referred to the reply of the reply of the CMS, Lumding to CMD, Maligaon disputing the facts narrated by DRM.

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 one month from the receipt of the order. Accordingly 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

महाप्रभु शर्मा

4/10/02

Section Officer (A)

गणराज्य प्रशासनिक अधिकारी
Central Administrative Tribunal
केन्द्रीय प्रशासनिक अधिकारी
Guwahati Bench, Guwahati-8
गुवाहाटी न्यायालय, गुवाहाटी

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/Ms 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: 07th 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 05th September '02 and DRM(P)/LMG's letter No. E/283/LM/1/(O) Pt.II dated 05th 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.

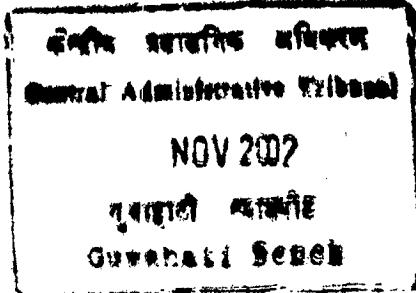
(Dr.S.C.Das)
CMS/LMG

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)	

7.10.2002
CMS/LMG

Attested by:
Bikram Choudhury
Advocate



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 55 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 4, 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.

Subhashchandra Das

Identified By

Das.

Advocate

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

Subhashchandra Das.

NORTHEAST FRONTIER RAILWAY



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

REGISTERED WITH A/D

No.363E/1/548(O)

08 November 2002

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



The transfer orders were issued as Dr. Bhattacherjee 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. Bhattacherjee 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.

*KuJ
11/11/02*

*Alteef Ali
Advocate*