

FROM No. 4  
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

ORDER SHEET

Original Application No. \_\_\_\_\_/

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

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

Review Application No. 2 12002 in O.A. 137/2002

Applicants. Nripendra Deka

-Vs-

Respondant(s) H.O.I. GOM

Advocate for the Appellant(s) B. Malakar, R. Das

Advocate for the Respondant(s) Cafe

Notes of the Registry

Date

Order of the Tribunal

This Review application 15.5.02  
has been filed by  
the counsel for the  
applicant praying  
for review of order  
dated 1.5.02 in O.A.  
137/02 passed by  
this Honble Tribunal.

laid before the  
Honble Court for further  
order.

15/5/02

Section Officer

In R.A. Should be submitted  
applicant for my order. 1m

23/5 15/5/02

This is an application praying  
for review of the order though in  
fact the application is not a review  
application under the rules. ~~32123~~  
This is not an application for review  
but the same is for clarification  
of our earlier order dated 1.5.2002.  
By the said order we dismissed the  
application and directed the applicant  
to make a detailed representation  
before the authority narrating his  
grievances. If such representation  
is made, the respondents shall consider  
the same on its own merit by the  
authority. The dismissal of the appli-  
cation shall not preclude the respon-  
dents on considering the representa-  
tion. If any representation is filed  
by the applicant the respondents shall  
consider the same on merit. The  
application is thus stands disposed  
of.

Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :: GUWAHATI

Filed by -  
Sri Nripendra Deka  
Ahor:  
Ratul Das  
Advocate  
(24/5/02)

R.A. No. 2 ~~155~~ / 2002

(in O.A. 137/2002)

Nripendra Deka ..... Applicant

-Vs.-

Union of India & ors.

... Respondents.

In the matter of :-

An application under Rule 17 of  
the Central Administrative Tribunal  
(<sup>P</sup>rocedure) Rules, 1987 for review of  
the order passed by the Tribunal on  
1-5-02 in O.A. 137/02 (by Hon'ble the  
Vice-Chairman)

AND

In the matter of :-

Sri Nripendra Deka .... Petitioner

-Vs.-

Union of India & ors. ... Respondents.

The humble petitioner abovenamed most  
respectfully begs to state as under :-

1) That the humble petitioner filed O.A. No. 137 of 2002 against an order of transfer from CTO/ Panbazar to Hatigarh Exchange on being promoted as Phone Mechanic. The application was filed bonafide on the ground that the applicant being a Central Office bearer of the National Union of BSNL Workers should not have been transferred particularly at a time when the process of verification of membership was being held shortly. It was also contended in the application that he being an office bearer of the Union was not required to be transferred as per Trade Union facilities released by the Department of Telecommunications vide No.16-12-/87-SRT dated 5.5.87 which is in force. The applicant besides being a member of the Central Executive by virtue of ~~his~~ his being a Circle Secretary was also elected Vice-President NUTE LS & Gr.D of the Local Branch. Therefore, it was contended that the transfer of the applicant from the HQ was motivated in order to curb his activities to deprive his Union from being newly affiliated. Further, there was vacant post in the HQ itself.

A copy of the circular containing the instructions of DOT is annexed herewith and marked as Annexure - R.

2) That the Hon'ble Tribunal vide order dated 1.5.02 disposed the application directing the applicant to file a detail representation before the authority for

*M. A. N. U.*

consideration of his case. The petitioner has since submitted the application on 2.5.2002.

A copy of the said representation is annexed hereto and marked as Annexure - R1.

3) That the petitioner humbly submits that the General Secretary of the National Union of BSNL Workers have written on 10.5.2002 to the GGM/Telcom BSNL, Assam Circle requesting the latter to reconsider the posting in view of ongoing process of membership verification.

A copy of the said letter is annexed hereto and marked as Annexure - R2.

4) That it is further submitted that in the order passed by the Tribunal the application has been shown as 'dismissed'. Although the Hon'ble Tribunal has not decided anything on merit of the case, the word 'dismissal' would be disadvantageous to the petitioner in the esteem of the bureaucrats.

22 5) That this review has been filed on the ground that although diligent, the applicant could not file the instruction issued by the DOT which caused prejudice to the applicant in considering his case by the Hon'ble Tribunal.

*V. Ramesh*

Under the circumstances, it is most respectfully prayed that the Hon'ble Tribunal would graciously be pleased to admit this petition and after hearing be pleased to review the order dated 1.5.2002 passed in O.A. No. /02 to the following extent:-

i) the respondent authorities be directed to re-consider his transfer in the light of the instruction issued by the DOT

and

ii) the application be treated as 'disposed'.

And or pass such further or other order(s) as to this Hon'ble Tribunal may deem fit and proper in the interest of justice.

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

Verification .....

*W. A. K. S.*

VERIFICATION

I, Shri Nripendra Deka, the petitioner abovenamed do hereby verify that the statements made in paragraphs 1, 2, 3, 4, are true to my knowledge and those in paragraphs 5 being matters of records are true to my information which I believe to be true and the rest are my humble submission before the Hon'ble Tribunal.

Guwahati  
14.5.02

Nripendra Deka  
SIGNATURE

Annex R

FEDERATION OF NATIONAL TELECOM. ORGANISATIONS.

T-16, ATUL GROVE NEWDELHI 110001.

To  
All FWC Members,  
All Circle Secretaries,  
FNTU Affiliates.

Dear Colleagues,

A compilation of instructions on trade union facilities released by the Department of Telecom vide its no:10-12/87-SRT dated 5.5.87 is enclosed for your reference.

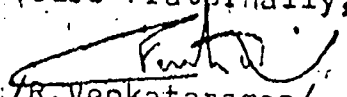
This compilation incorporates all the modified and new instructions issued by the Department from time to time. It is an up to date one keeping all instructions issued till 31.3.1987.

I am sure that this compilation will help you in all respects in your day to day discharge of trade union activities.

I request you to take earnest steps to get additional copies cyclostyled at your end and circulate it to the Divisions/branches under your jurisdiction, so as to equip the Divisional/Branch secretaries with the latest instructions and provisions on trade union facilities.

With best wishes,

Yours fraternally,

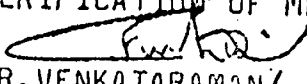
  
/R. Venkataraman/  
Secretary General.

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All CIRCLE SECRETARIES TO NOTE

1. Please ensure proper and timely remittance of quota/foreign service fund of Re.1/- and PTI Affiliation fee to Sri.R.C.P.Singh, Financial Secretary, FNTU.
2. Please respond to the request of the Federation by sending the list of branch secretaries of your jurisdiction to enable the Federation to despatch the Journal.
3. Please furnish the information asked by the Federation regarding the representation of the FNTU in quality Circle at various places.
4. PLEASE KEEP YOUR RECORDS ON MEMBERSHIP OF FNTU AND BE IN READINESS TO ACCEPT THE VERIFICATION OF MEMBERSHIP.

  
/R. VENKATARAMAN/  
Secretary General.

[Handwritten signature]

6. Pension contribution to be made by recognised unions in respect of serving Government employees on foreign service with them may be waived. The concession is limited to not more than two serving employees at a time. As regards leave salary contributions, no objection to waive them if the unions agree to bear the leave salary and if the employees concerned agree to forego their claim for leave from Government in respect of foreign service period.  
(86-4/75-SPB-II dated 22.11.1975)

## VI IMMUNITY FROM TRANSFER

1. a) Concession of immunity from transfers from the Head Quarters of recognised unions/Associations is applicable to their office bearers during the first year of their elections to the offices of Executive or General Secretary, Asst. Secretary and Financial Secretary (or treasurer) of Class. III or Class. IV Union whether they are All India, Circle, Divisional (if the constitution and by-laws of the central union permit opening of such branches)
- b) If there are several office bearers with the same designation the concession applies during the first year of the office to only one of each category, i.e. Chief executive or General Secretary, Secretary, Asst. Secretary and Financial Secretary (or treasurer) as may be nominated by the Unions.
- c) The concession ceases to be applicable to the above union office bearers on promotion to higher posts.
- d) With the mutual goodwill between the Union and the local officers and subject to the administrative convenience, the office bearers elected to above said offices of the union may stay at the Head Quarters station even longer than one year.
- e) If the office bearers working at other stations are elected to these offices, i.e. Chief executive or General Secretary, Secretary, Asst. Secretary and Financial Secretary (or Treasurer) they may be brought on temporary transfer to the Head-Quarters of the Union during the first year of election and may be retained there even for longer than one year but with the goodwill between the unions and the local officers and subject to administrative convenience only.
- f) The concession are not guaranteed and cannot be claimed as a matter of right. They are always subject to administrative exigencies.  
(69-18/70-SPB-I dated 7.12.1970)

2. The orders regarding grant of immunity from transfers to union office bearers should be followed strictly except on administrative grounds. Bringing the chief executive of the unions to their head quarters should also be followed if an appropriate post in which the Chief Executive could be posted, is available (69-52/72-SPB.I dt 23.3.73)

3. Where it is not possible to observe the general principles laid down in the instructions on the concessions of immunity from transfer, a report should be sent to the Directorate indicating the circumstances under which it is not possible to extend the facility even in the first year of term of office with the Union.  
(69-52/72-SPB.I dated 2.1.1974)

4. Subject to the administrative exigencies, this concession of immunity from transfer may be granted for the 2nd year also to the office bearers of such of the Unions/Associations whose constitution provides Conference/ elections in two years, instead of annually.  
(69-7/77-SPB-I dated 20.4.1977)

..contd..7..

*True MB*



To  
The General Manager  
Kamrup Telecom District (BSNL)  
Ulubari, Guwahati-781007

dtd. 2.5.02

(Through proper channel)

Sub:- Request for retention at CTO Guwahati.

Sir,

I have the honour to state that the DE(Admn) of your office vide order dtd. 18.3.02 I have been promoted as Telecom Mechanic and by the same order I have asked to join at Hatigarh Exchange and accordingly, the released letter have been issued by the DE/CTO Guwahati.

1. Sir, in this connection, I state that I am holding the Vice-President of the Federation(FNTO), President and acting circle secretary of NUTE LS & Gr-D, Assam circle in place of Sri R.Roy circle secretary who is under treatment at TATA Memorial Hospital Mumbai.

2. Sir, On Feb/02 I was elected as branch president of CTO Guwahati NUTE LS & Gr-D branch. After two months my elected B/Secretary is regretted to take the secretary post continuously. So the executive committee of the branch union advice to take the charge of secretary post. Now both the posts are holding.

3. Sir, as per DOTs letter No. 10-12/87-SRT dtd. 5.5.87, the office bearers of the union be given some immunity in the transfer matter.

4. Sir, the BSNL Head quarter has directed the unions for further members verification to recognition of trade unions being given with higher number of members. At this state if I am transferred out of the Head quarter my activity as an union office bearers will suffer much. Again it is directed the Federations to form a single union both Class-III&ClIV in every Federation. But the same is not done in Assam circle. Now the process is going on.

In view of the matter my retention at CTO Guwahati may kindly be considered.

5. Some persons junior to me have been retained at CTO Guwahati on that grade that they were promoted in 1999. My promotion was delayed not for my fault but for the omission of the Deptt. Total 16 similar persons have been kept engaged under DE/CTO Guwahati. In that view of the matter my retention at CTO Guwahati deserve consideration.

Under the above, I fervently request that my retention at CTO may kindly be considered and order dtd 18.3.02 may kindly be revised.

Your kind consideration in this regard will be more helpful to me and my family members please.

With Thanks,

Yours Faithfully

N.B. Advance copy to GNT Kamrup  
for necessary action please.

(N. Deka) T/Man(O)  
CTO Guwahati

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FNTU

NATIONAL UNION OF BSNL WORKERS

(Regd No. 101)

K. THOMAS JOHN

T16, Atul Grove, New Delhi - 110 001. ☎ 011 - 3723202, 3350100.

President

K. VALLINAYAGAM

General Secretary

(email: vallinayagam82@hotmail.com)

Ref. .

Date : .....

No 1/N U/circle/2002

9/5/2002

To  
The Chief General Manager,  
Telecom, BSNL -  
Assam circle, Guwahati.

Sir,

Sub: Transfer of Central office bearer of NUBSNLAW (FNTU) Request for  
cancellation.

It is reported that Sri Nripen Dekha, Phone Mechanic (Telegraph Man, Guwahati) who is our central office bearer and a leader of Assam circle has been transferred out from Pan Bazar Guwahati on phone mechanic postings. In this connection it is intimated that Sri N. Dekha is our Vice President of the Central Head quarters (CHQ) and an important circle leader whose presence at Guwahati is very much essential especially when the verification of membership is to be held shortly.

It is therefore requested of you to kindly reconsider his posting out of Guwahati and he may please be retained at Pan bazar where he is already working.

With Regards .

Yours Faithfully,

(K Vallinayagam)  
General Secretary.

Copy to : DDG - SR/ BSNL, New Delhi

True Copy  
Rm

FORM NO. 4

(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.  
GUWAHATI

ORDER SHEET

Original No. 137/2002

Misc. Petition No. 137/2002

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

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

Applicant(s) Nandendra Deka

Respondent(s) U.O.T. & Others

Advocate for Applicant(s) B. Malakar, Ratul Das

Advocate for Respondent(s) CCSC

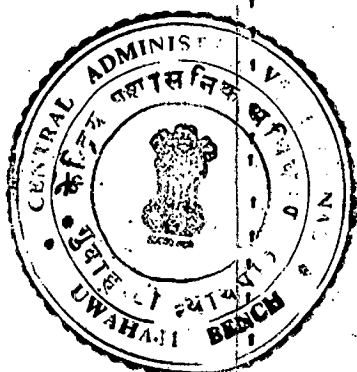
Notes of the Registry

Date

ORDER OF THE TRIBUNAL

1.5.2002

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



This is an application assailing the legitimacy of the order dated 18.3.2001 posting the applicant at Hatigarh Exchange under D.E.(OCB)/Dispur. By the aforesaid order the applicant was appointed as Telecom Mechanic on temporary basis in the pay scale of Rs.4500-125-7800/- on successful completion of Initial Course Training of Telecom Mechanic at CTTC, Bharalumukh, Guwahati from 1.7.96 to 23.8.96 and he was posted at Hatigarh Exchange under D.E.(OCB)/Dispur against the sanctioned posts.

The applicant by representation dated 5.4.2002 requested the Divisional Engineer (Admn.) to post him at CTO, Guwahati itself. In the said communication he has referred to an order where by 16 Telecom Mechanic were allowed to stay at CTO, Guwahati.

Contd./2

Contd.

Mr. B. Malakar, learned counsel appearing for the applicant submitted that the applicant being a protected workman and a Trade Union activist, he ought to have not been transferred. I have also heard Mr. A. Dev Roy, learned S.R.C.G.S.C. for the respondents.

Upon hearing the learned Advocates for the parties and on considering all the aspects of the matter I am of the considered opinion that ends of justice will be met, if a direction is issued to the applicant to make a detailed representation before the authority narrating his grievances. If such representation is made, the respondents shall consider the same on its own merit and pass necessary order thereon as per law, *expeditiously*.

The application thus stands dismissed.  
No costs.

Sd/- VICE CHAIRMAN



TRUE COPY  
प्रतिप्रिपि

14/5/02

Section Officer (A)

कायस्थ अधिकारी (न्यायिक शाखा)

Central Administrative Tribunal

केन्द्रीय प्रशासनिक न्यायालय

Guwahati Bench, Guwahati-8

गुवाहाटी न्यायपीठ, गुवाहाटी-8