

(RULE - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. _____/

Misc. Petition No. _____/

Contempt Petition No. 17/03 in O.A. 42/02

Review Application No. _____/

Applicant (S) Mangy Chetrel

Vs. -

Respondent (s) Smt. M. Jawphnian

Advocate for the applicant (s) J. L. Sarkar A. Chakrabarty

A. Deb Roy,

Advocate for the respondent (s) Sr. Case.

Notes of the Registry

Date

Order of the Tribunal

This Contempt petition 1.4.2003
has been filed by the
counsel for the petitioner
praying for initiation
of a Contempt proceeding
against the alleged contemners
for non-compliance of the
Judgement and order dated
8.11.02 passed by this mb
Honble Tribunal in O.A. 5.5.2003
42/02.

Laid before the
Honble Court for further
order.

Section Officer
31/3/03

bb

Heard Mr. J.L. Sarkar,
learned counsel for the applicant.
Issue notice to show cause
as to why the contempt proceeding
shall not be initiated.
List on 5.5.2003 for
orders.

Vice-Chairman

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

The Hon'ble Mr. S. Biswas
Administrative Member.

Put up after service on 20.5.

2003,

Member

Vice-Chairman

Notice prepared and sent to D's
for issuing the Respondent No 1.
By Regd. A.D. 21/4/03

D/No 638 dtd 3/4/03.

(2) OA CP. 17/03/04/12

No reply has been filed.

20
2.5.03

20.5.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman
The Hon'ble Mr. S.K. Hajra, Administrative Member.

No reply so far filed by the respondents. Put up again on 10.6.2003 to enable the respondents to file reply, if any.

No reply has been filed.

20
9.6.03


Member


Vice-Chairman

mb

10.6.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.
The Hon'ble Mr. R.K. Upadhyaya, Member (A).

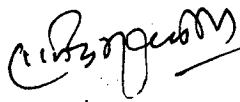
Heard Mr. A. Chakrabarty, learned counsel for the applicant.

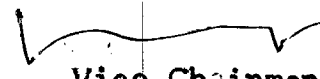
Service is complete. None entered appearance on behalf of the respondents. The respondents may file reply, if any.

List again on 22.7.2003 for reply

No reply has been filed.

20
21.7.03


Member


Vice-Chairman

mb

22.7.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.
The Hon'ble Mr. N.D. Dayal, Member (A).

Heard Mr. A. Chakrabarty, learned counsel for the applicant. Mr. Chakrabarty learned counsel for the applicant has submitted an additional affidavit stating the ^{events} grievance that took place after the order of reinstatement that was passed by the respondents. Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents prays for time for filing reply.

List again on 20.8.2003 for orders.

An additional affidavit has been submitted by the Petitioner.



7

Member


Vice-Chairman

mb

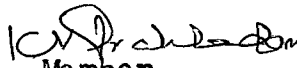
G.P.17/2003

20.8.2003

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

The Hon'ble Mr. K.V. Prahaladan
Administrative Member.

None appears for the parties. List the case again on 22.9.2003 for further order.


Member

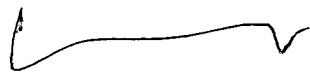

Vice-Chairman

bb

22.9.2003

None appears for the applicant. Put again on 23.9.2003 for orders in presence of learned counsel for the applicant.


Member


Vice-Chairman

mb

23.9.2003

Heard Mr. J.L. Sarkar, learned counsel for the applicant and also Mr. A. Deb Roy, learned ~~MEMBER~~ Sr. C.G.S.C. for the respondents.

Mr. A. Deb Roy has stated that pursuant to the judgment and order of the Tribunal dated 8.11.2002 passed in O.A. 42/2002, the respondents authority reinstated the applicant and implemented the order. Mr. Deb Roy also placed before us the order dated 25.7.2003, which is placed on record.

In that view of the matter, the contemporary proceeding stands closed.


Member


Vice-Chairman

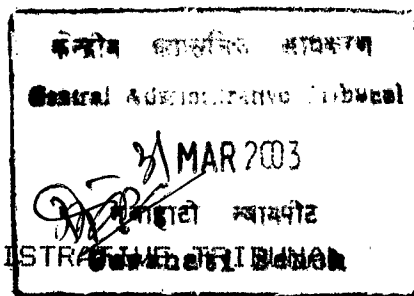
bb

25/9/2003

Copy of the order has been sent to the Dy Sec. for issuing the same to the L/Advocates for the parties.

HS

W/30/10



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI

C.P. No. 17 /2003

Sri Manjay Chetri

- Vs.-

Smt. M. IAWPHNIAW

I N D E X

Sl. No.	Annexure	Particulars	Page No.
1.		Petition	1 to 4
2.		Affidavit	5
3.		Draft Charge	6
4.	'A'	Judgment dated 8.11.2002	7-10
5.	'B'	Letter dated 5.12.2002	11

Filed by

(A. Chakraborty) 31/3/2003

Advocate

In The Central Administrative Tribunal
Guwahati Bench :: Guwahati.

Contempt Petition No. /2003

In

O.A. NO. 42/2002

In The Matter Of:

Sri Manjay Chetry

____ Applicant

- Vs. -

Union Of India & Ors.

____ Respondents

-- 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 common Judgment and
Order dated 08.11.2002 passed
in O.A. No. 42/2002.

-- AND --

In the matter of:

Sri Manjay Chetri, Driver
Office of the Director of
Postal services,
Itanagar- 791 111.

____ Petitioner

Filed by Mr. Petitioner
through A. Chakraborty
3/13/2003

--- Versus ---

Smt. M. IAWPHNIAW

The Director of Postal
Services, Arunachal Pradesh
Division, Itanagar- 791 111.

____ Respondent

The humble petition of the
above named petitioner :

MOST RESPECTFULLY SHEWETH:

1. That your petitioner was engaged as a casual Driver in the Office of the Director of Postal services, Arunachal Pradesh Division, Itanagar w.e.f.14.9.2000. The Petitioner was not allowed to perform his duties as Driver w.e.f. 21.11.2001 for no reason. He was not even paid salaries thereafter. Being highly aggrieved by this action of the respondents the petitioner moved this Hon'ble Tribunal through O.A. No.42/2002. The Hon'ble Tribunal, after hearing the parties, was pleased to set aside the order of removal and was further pleased to give direction to the respondents to re-instate the applicant in the post where from he was removed.

A copy of the Judgment and Order dated 08.11.2002 is enclosed as Annexure- A.

2. That your petitioner most humbly begs to state that after obtaining certified copy of the Judgment and Order dated 08.11.2002 in DA.No.42/2002 he submitted a copy of the same to the respondent by letter dated 05.12.2002 which was also acknowledged by the respondent.

A copy of the Letter dated 05.12.2002 is
enclosed as Annexure - B.

3. That the petitioner begs to state that the respondent has received the copy of the said Judgement and Order dated 08.11.2002 but nothing has been done in this regard as yet.

4. That your petitioner humbly submits that a period of about four months have passed away from the date of submission of Judgement of this Hon'ble Tribunal dated 8.11.2002 alongwith petitioner's letter dated 5.12.2002 but the respondents did not take any initiative to implement the judgment of Hon'ble Tribunal.

5. That your petitioner begs to state that the respondent deliberately and willfully did not take any initiative to implement the Judgment and Order of this of Hon'ble tribunal

6. That in the facts and circumstances stated above, it is a fit case for the Hon'ble Tribunal for initiating a contempt proceeding against the respondents for deliberate and willful disregard to the Judgment and Order of the Hon'ble Tribunal dated 8.11.2002 passed in OA.No.42/2002.

7. That this petition is made bonafide and for the cause of justice.

Under the facts and circumstances
stated above, the Hon'ble tribunal be
pleased to issue notice to the

A

:: 4 ::

respondents and after hearing the parties be pleased to initiate contempt proceeding against the respondents for willful negligence of the Judgment and Order dated 8.11.2002 passed in O.A. No. 42/2002 and further be pleased to impose punishment in accordance with law.

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

9
:: 5 ::

A F F I D A V I T

I, Manjay Chetri, resident of Arunachal, Itanagar, do hereby solemnly declare as follows :

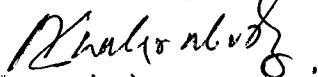
1. That I am the petitioner in the above contempt petition and as such I am well acquainted with the facts and circumstances of the case.

2. That the statements made in para 1 to 7 are true to my knowledge and belief and that I have not suppressed any material fact.

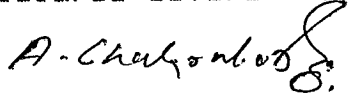
3. That this affidavit is made for the purpose of filing the contempt petition before the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati.

And I, sign this affidavit on this 31st day of March, 2003 at Guwahati.

Identified by


(Advocate)

Manjay Chetri
Dependent

Solemnly affirms and declares before me
who is identified by 
Advocate on this 31st Day of March, 2003.


Advocate

DRAFT CHARGE

Laid down before the Hon'ble Tribunal for initiating a contempt proceeding against the respondents for willful disregard to the judgment and order of the Hon'ble tribunal dated 08.11.2002 passed in OA. No. 42/2002. The respondent has willfully and deliberately violated the order of the Hon'ble Tribunal dated 08.11.2002 and therefore is liable for contempt of court proceedings and punishment in accordance with law.

7- *Aravind - A*

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 42 of 2002.

Date of Order : This the 8th Day of November, 2002.

THE HON'BLE MR JUSTICE D.N.CHOWDHURY, VICE CHAIRMAN.

Sri Manjay Chetry
Working as Casual Driver in the
Office of the Director of Postal Services
Arunachal Pradesh Division
Itanagar-11.

. . . Applicant.

By Advocate Mr.J.L.Sarkar, A.Chakraborty &
Mrs.S.Deka.

- Versus -

1. Union of India
Represented by the Secretary
to the Government of India
Ministry of Communication
Department of Post
New Delhi.

2. The Director of Postal Services
Arunachal Pradesh Division
Itanagar - 791 111.

. . . Respondents.

By Mr.B.C.Pathak, Addl.C.G.S.C.

ORDER

CHOWDHURY J.(V.C.):

This application under section 19 of the Administrative Tribunal's Act, 1985 is made praying for conferment of temporary status in the light of the policy laid down by the Govt. of India. The basic facts relevant for the purpose of adjudication of the case are summed up herein below :-

1. The applicant was engaged as a Casual Driver in the office of the Director of Postal Services, Arunachal Pradesh Division, Itanagar w.e.f.14.9.2000 on daily wages basis vide memo No.B-1/Staff/Rtg/Corr dated 14.9.2000.

The applicant worked accordingly in the year 2000 and 2001. The applicant was sponsored by the Employment Exchange, Naharlagun and his appointment was made after process of selection. After joining under the respondents the applicant rendered his services in the department. The applicant pleaded that he worked more than 240 days in a year and his total service rendered is one and half years. The applicant pleaded that though he is working under the respondents the respondents has not paid him salary since 21.11.2001. The applicant pleaded before the authority demanding justice. Failing to get appropriate remedy from the authority the applicant moved this Tribunal for redressal of his grievances by way of this application.

2. The respondents submitted its written statement, wherein it was stated that he was selected as a Casual Driver of the MMS Vehicle No. AR-01-A-3167 on daily wages basis vide order dated 14.9.2000. He was terminated from his service as he was not found suitable for regular absorption. In the written statement in Para 3 the respondents clearly stated that his services was discontinued because of misconduct. He was directed to submit his explanation and he failed to comply with the order and accordingly he was discontinued from his service. In the written statement the respondents also stated that the applicant was working as such a Group-C category Driver, therefore, "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme, 1989" was not applicable to the applicant. Moreover, the scheme was



9 : 3 :

17

operative from 29.11.89 to 1.9.93 only, whereas the applicant was engaged as Casual Driver only from 14.9.2000. The respondents in the written statement clearly stated that the applicant worked on casual basis from 23.9.2000 to 20.11.2001. Since the applicant was not found suitable for the job he was discontinued.

3. I have heard Mr.J.L.Sarkar, learned counsel for the applicant and also Mr.B.C.Pathak, learned Addl.C.G.S.C. for the respondents at length. On consideration of materials on record, it appears that the applicant worked for more than a year in the department and he was discontinued from service on the alleged misconduct. Admittedly, no enquiry was conducted. His removal from service as Casual Worker on the alleged misconduct without holding enquiry is, therefore, not sustainable. Mr.B.C.Pathak, learned Addl.C.G.S.C., however, submitted that the applicant was a Casual Driver and since there was a proved misconduct on the facts and circumstances the authority bonafide passed the order of termination. There is no dispute that the order of termination/removal is passed because of misconduct. The very foundation of such removal was the alleged misconduct without giving opportunity to the applicant and, therefore, said termination/removal order cannot be sustained. Mr.B.C.Pathak contended that the applicant cannot be conferred temporary status, more so, he was engaged in Group-C and that Temporary Status Scheme is not an ongoing process. The scheme has expired in 1.9.93.



Mr. Pathak's contention has its force and therefore question of granting Temporary Status does not arise, but then it will not preclude the authority to consider his case for regular absorption as per law.

On consideration of all the aspects of the matter, the order of removal is set aside and the respondents are directed to re-instate the applicant in the post from which he was removed.

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

S

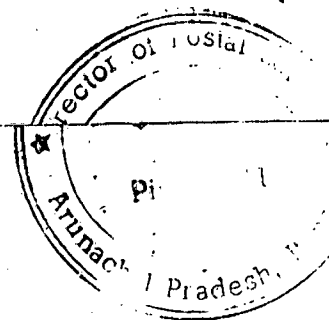
SD/VICE CHAIRMAN

bb

TRUE COPY

for Section officer (Judicial)
Central Administrative Tribunal
Gurgaon, Haryana

To
The Director of Postal Services,
Arunachal Pradesh Division,
Itanagar-791111



SUB : Joining in the post of 'Driver' as per direction of Hon'ble CAT, Guwahati in OA No. 42/2002.

Respected Madam,

With due respect I beg to state that I was not allotted to perform my duties as Driver of MMS Vehicle No. AR-01-A3167 w.e.f. 21.11.2001. I filed an O.A. No. 42/2002 before the Hon'ble Central Administrative Tribunal, Guwahati. The Hon'ble Tribunal by order dated 8/11/2002 has been pleased to give direction to re-instate me in the post of Driver. A copy of the order of the Hon'ble Tribunal dated 8/11/2002 is enclosed.

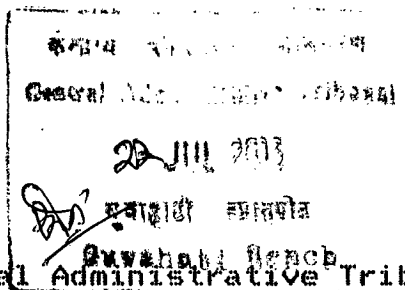
I therefore, request your kind self to pass necessary order/orders in this regard and oblige.

Thanking you,

Yours Faithfully,

Manjay Chetri
(Manjay Chetri)
C/o Atal kr. Thapa,
Satellite Complex,
C-Sector/Itanagar

Dr. Arunachal Pradesh
5/12
Dr. Arunachal Pradesh



the petitioner to join duty. By the said Memo it was also directed the petitioner to submit his explanation for alleged misbehaviour.

Copy of the Memo dated 17.6.2003 is enclosed as Annexure-1

2. That on 1.7.2003 the petitioner submitted his reply and also reported for joining the duty. It is stated that the respondent has not allowed the petitioner to join duty and proceeded further with the disciplinary proceedings.

Copy of the letter dated 1.7.2003 is enclosed as Annexure-2.

3. That it is respectfully submitted that the respondents authority though issued the aforesaid Memo dated 17.6.2003 but they have not allowed the petitioner to join duty. It also submitted that the respondent with a view to avoid the contempt proceedings has issued the Memo dated 17.6.2003 but deliberately has not acted upon the said Memo dated 17.6.2003.

_____Affidavit

A F F I D A V I T

I, Manjay Chetri, resident of Arunachal, Itanagar, do hereby solemnly declare as follows :

1. That the statements made in para 1 to 3 are true to my knowledge and belief and that I have not suppressed any material fact.

And I, sign this affidavit on this 21st day of July, 2003 at Guwahati.

Identified by

A. Chakraborty

(Advocate)

Manjay Chetri

Deponent

Solemnly affirms and declares before me who is identified by *A. Chakraborty*, Advocate on this 21st Day of July, 2003.

[Signature]
Advocate

Department of Post :: India
Office of the Director Postal Services :: Itanagar

NO.E-1/Stff/Rlg/Corr,

Dated at Itanagar the 17th June'2003

WHEREAS Shri Manjay Chetry the then casual driver of Inspection vehicle, Divisional Office Itanagar was absenting from service w.e.f. 21-11-01 which led to his own discontinuation in service.

AND WHEREAS the CAT Guwahati bench vide order OA NO.42/02/3143 dtd 25-11-02 has held "the order of removal is set aside and the respondents are directed to re-instate the applicant in the post from which he was removed".

AND WHEREAS the Hon'ble High Court Guwahati vide its WPC NO.2966/2003 dtd 25-04-2003 perused the judgment and order dtd 08-11-2002 passed by the Central Administrative Tribunal, Guwahati bench in OA NO.42/02 and the reasons recorded by the Tribunal and particularly because of the fact that the respondent was removed from service on misconduct without initiating formal disciplinary proceeding, Hon'ble High Court is not inclined to interfere with the judgment of the learned Tribunal and therefore dismissed the appeal with the observation that the authorities concerned may in their discretion proceed against the respondent in accordance with the provisions of Law".

AND WHEREAS the remark of CO Shillong (competent authority) "DPS may be advised to initiate action as per H/C judgement that the applicant be proceeded against in accordance with the Deptl procedures (Provisions of Law)".

NOW THEREFORE, the undersigned hereby :-

1. Allows Shri Manjay Chetry as per order of Hon'ble CAT and Hon'ble High Court Guwahati for joining duty without back wages.
2. Direct Shri Manjay Chetry to submit his explanation for alleged misbehaviour at Postal IQ Guwahati which after investigation by the Chief PMG, Assam Circle Guwahati have been established. He is directed to submit his explanation within 10 days from the date of received of this Memo.

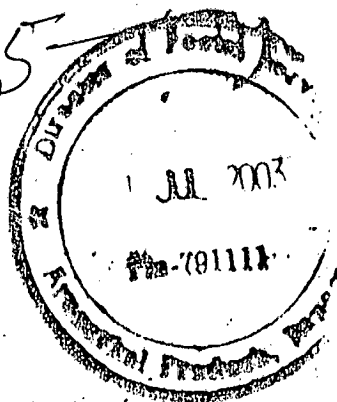
To,
Manjay Chetry
C/O Atal Kr. Thapa
Satellite Complex
C-Sector, Itanagar.

Manjay Chetry
Manjay Chetry
Manjay Chetry

M. Lawphuiaw
(M. Lawphuiaw)
Director Postal Services
Itanagar-791111.

To

The Director of Postal Services
Itanagar - 791111



Annexure - 2

Date : 1/7/03

Sub : Reply to office Letter No. B-1/Stff/Rlg/Corr.
Dated 17/6/2003

Respected Madam,

I have received the above letter dated 17/6/2003 on 25/6/2003. In this connection I beg to state the following few lines for your kind consideration.

1. That no specific allegation has been brought against me in the said letter dated 17/6/2003 and hence I am not in a position to submit any detailed reply.
2. That I have never been served with any charge-sheet nor I have any knowledge about any investigation.
3. That I have not been served with a copy of investigation report, if any.
4. That I deny the alleged misbehavior at Postal IQ Guwahati.

In the above facts and circumstances, your goodself be kind enough to consider my case sympathetically and may be pleased to call for personal hearing to submit further explanations, evidences & witness etc, if required.

And for this act of kindness I shall remain grateful.

Yours faithfully,


(MANJAY CHETRY)

Borah
1/7/03

Affected
Anil Kumar
Adhikari