

(RULE - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. /

Misc. Petition No. /

Contempt Petition No. 19/03 m/o, A 192/02

Review Application No. /

Applicant (s) P. K. Singh

- vs. -

Respondent (s) Sri. Gopakarnan Force.

Advocate for the applicant (s) M. Chanda, G. N. Chakrabarty

Mr. A. Deb Roy, S. Chaudhury

Advocate for the respondent (s) S. C. Das

Notes of the Registry	Date	Order of the Tribunal
<p>This Contempt Petition has been filed by the learned counsel for the petitioner praying for initiation of a Contempt proceeding against the alleged Contumacious for non-compliance of the Judgement and order dated 13.11.02 passed by this Hon'ble Tribunal in O.A 192/02.</p> <p>Laid before the Hon'ble Court for further orders.</p> <p>Seeckren Officer</p> <p>Notice informed and sent to the learned Respondent No 1 to 3 by Regd. A.D.</p> <p>DINo 79615798 dd. 23/4/03</p>	9.4.2003	<p>Heard Mr. M. Chanda, learned counsel for the applicant. Issue notice to show cause as to why the contempt petition shall not be initiated. List on 13.5.2003 for orders.</p> <p>Vice-Chairman</p>
		<p>Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents prayed for time for filing reply. Prayer allowed. List again on 13.6.2003 for orders.</p> <p>Vice-Chairman</p>

(2)

C.P. 19/2003

No. reply has been
billed.

My
12.6.03.

No. reply has been
billed.

My
12.6.03.

No. reply has
been billed.

My
1.7.03.

8.7.03
Reply submitted
by the respondents.

My

mb

13.6.2003 Present : The Hon'ble Mr. Justice
D.N. Chowdhury, Vice-Chairman.
The Hon'ble Mr. R.K. Upadhyaya,
Member (A).

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

On the prayer of Mr. A. Deb Roy,
learned Sr. C.G.S.C. for the respondents
further two weeks time is allowed
to the respondents to file reply.

List again on 2.7.2003 for
orders.

My
21.7.03.

Member

My
Vice-Chairman

2.7.2003 Heard Mr. M. Chanda, learned
counsel for the applicant and also Mr.
A. Deb Roy, learned Sr. C.G.S.C. for
the respondents.

Mr. M. Chanda, learned counsel
for the applicant placed before me the
order dated 27.6.2003 passed by the
Hon'ble High Court in Misc. Case (N)
No. 493/2003 arising out of the W.P. (G)
No. 3020/2003. In view of that order
no order is required at this stage.

Put up again on 4.8.2003 for
orders.

My
Vice-Chairman

3

4.8.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

The Hon'ble Mr. N.D. Dayal, Administrative Member.

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

This contempt proceeding was initiated at the instance of the applicant on the score of wilful violation of the judgment and order of the Tribunal passed in O.A. No. 192/2002 disposed on 13.11.02. The respondents submitted its reply and contended that against the judgment and order of the Tribunal passed in O.A. 192/2002 the respondents had approached the Hon'ble High Court and the High Court admitted the Writ Petition.

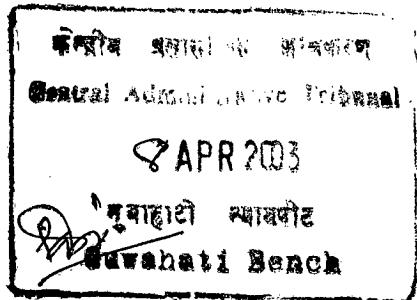
Mr. M. Chanda, learned counsel for the applicant on the other hand submitted that the High Court ~~not~~ issued positive direction for publishing the result within time specified. We are only concerned whether there is wilful defiance of the judgment and order passed in O.A. No. 192/2002. The judgment and order of the Tribunal is under examination before the High Court in W.P.(G) No. 3020/2003. In the circumstances, we do not find any justification for exercising contempt proceeding in the matter.

The contempt notice accordingly stands discharged.

Member

Vice-Chairman

mb



1
Filed by the Petitioner
through Sarojit Choudhury
8/1/03 Adocet

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

Contempt Petition No. 19 /2003

In O.A. No. 192 of 2002

In the matter of :

Dr. Priya Kumar Singh
.....Petitioner

-Versus-

Sri G. Gopalaswami & Ors.

.....Alleged Contemnors

-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 contemnors for non-
compliance of the judgment and
order dated 13.11.2002 passed in
O.A. No.192/2002.

-AND-

In the matter of :

Dr. Priya Kumar Singh
Medical Officer
P.O. Imphal, District Thoubal,
Manipur.

.....Petitioner

-versus-

1. Sri G. Gopalaswami,
Secretary Home,
Ministry of Home Affairs,
Government of India,
New Delhi.
2. Lt. General H.S. Kanwar
Director General,
Assam Rifles,
Shillong.
3. Sri Maitahli Sharan Guta,
D.I.G.,
Member Secretary,
Medical Officers Selection
Board, ITB Police MHA (Govt.
of India), Tigri Camp, P.O.
Madangir, New Delhi.

.....**Alleged Contemners**

The humble petitioner above named -

Most Respectfully Sheweth :

1. That your petitioner being highly aggrieved for non consideration of his appointment as Medical Officer or to the cadre of General duty Medical officer in the rank of Assistant Commandant of Assam Rifles in consideration of petitioner's long seven years ad hoc

service in Assam Rifles approached this Hon'ble Tribunal, through O.A. No. 192/2002. The said Original Application was duly contested by the respondents and the matter was finally decided by Hon'ble Tribunal on 13th November, 2002 with a direction upon the respondents to examine afresh the matter of regular appointment of the petitioner and the Hon'ble Tribunal was further pleased to direct the respondents to declare the results of the petitioner by taking remedial measure by relaxation of his age and consider the case for regularization. It is further observed by the Hon'ble Tribunal that the matter is an old matter, and the respondents are directed to act with utmost expedition, preferably within three months from the date of receipt of the order. The relevant portion of the direction passed by the Hon'ble Tribunal is quoted below :

"6. Considering the facts and circumstances and the nature of service rendered by these persons we are of the opinion that it is a fit case in which a direction needs to be issued on the respondents to reconsider the case for regularization of the petitioner who served as a ad hoc medical officer. Similarly, we do not find any justification on the part of the authority for not providing age concession to the petitioner who worked on ad hoc basis taking note of the

period of previous service and the authority utilized his services for this purpose. The power to relax the age is provided to the authority with some meaningful purpose. Such powers are to be used lawfully and reasonably and not arbitrarily. Such powers are to be exercised on equitable consideration to remove the hardship on the fact situation. The Government of India delineated such policies and the category of persons to whom the benefit can be extended. These are not exhortative, but only illustrative. The main consideration for giving the relaxation is to avoid the hardship. In taking a decision the authority is to take note of the question as to whether there is a nexus of the duties of the post held by the Government servant and those of the posts for which recruitment is made. If the nexus is available there is no justification slamming the power for consideration. The impugned communication dated 18.4.2002 declining to count the earlier service of such persons in the circumstances cannot be sustained. In the circumstances, the respondents are directed to examine afresh the matter and are directed to consider the case of the petitioner and like persons taking note of their services in the Assam Rifles on ad hoc basis and consider

their cases on the basis of their performance. The respondents are accordingly ordered to declare the results of the petitioner by taking remedial measure of relaxation of his age and consider the case for regularization. Since the matter is an old one the respondents are directed to act with utmost expedition, preferably within three months from the date of receipt of the order.

7. The application is accordingly allowed. There, shall however, be no order as to costs."

It is quite clear from the above direction of the Hon'ble Tribunal that the respondents have been ordered to provide age relaxation as well as direction is also given for declaration of the results of the recruitment examination for combatised cadre of Medical Officers/General Duty Medical Officers in the rank of Assistant Commandant conducted by the Member Secretary, Medical Officer Selection Board, ITB Police MHA (Govt. of India), New Delhi.

A copy of judgment and order dated 13.11.2002 passed in O.A. No. 192/2002 is annexed hereto as Annexure-I).

2. That it is stated that during the pendency of the Original Application No. 192/2002, the alleged

contemner No. 3 conducted the recruitment examination for combatised cadre of Medical Officers/General Duty Medical Officers in the rank of assistant Combatant. Be it stated that the petitioner was initially not allowed to appear in the aforesaid examination on the alleged ground of over aged, without taking into account the ad hoc period of service rendered by the present petitioner in Assam Rifles. In this connection it may also be stated that the petitioner was initially appointed with due process of law i.e. an advertisement was issued inviting applications for recruitment of ad hoc medical officers and thereafter selection were conducted for appointment and accordingly the present petitioner was appointed as Medical Officer of Assam Rifle.

However, following the interim order passed by the Hon'ble Tribunal on 15.7.02 in O.A. No. 192/02 the present petitioner was allowed to appear in the aforesaid recruitment examination in the month of August, 2002 and the petitioner faired well in the said examination but result was not declared following the interim order of the Hon'ble Tribunal. The Hon'ble tribunal finally decided the O.A. 192/02 specifically directing the respondents to declare the result of the aforesaid examination, within a period of three months. More so, in view of the fact that the matter is a old one. But surprisingly no action has yet been taken although the judgment and order was passed way back on 13.11.2002.

A copy of the interim order dated 15.7.2002 is annexed as **Annexure-II**.

3. That the petitioner further begs to state that immediately after receipt of the judgment and order dated 13.11.2002, the lawyer of the petitioner has sent copies of the aforesaid judgment with a request to declare the results of the competitive examination conducted by the Member Secretary, ITBP, New Delhi. The copies were sent to alleged contemners No. 2 and 3 on 14.12.2002 on behalf of the present petitioner. In the said letter dated 14.12.2002 it is specifically requested to condone the age limit of the petitioner to the extent period of ad hoc service rendered by the present petitioner. Moreover, the petitioner came to learn from a reliable source that the matter for condonation of age limit so far present petitioner is concerned has already been forwarded to the alleged contemner No.1. Since he is the authority to pass necessary order condoning the age limit, for recruitment of the petitioner as General Duty Medical Officer. But the alleged contemner No.1 did not take any steps till filing of this Contempt Petition in compliance with the order of the Hon'ble Tribunal. As such, the Secretary, Ministry of Home Affair, Govt. of India has been impleaded as one the alleged contemners.

It is submitted that due to in action of the alleged contemners, the result of the petitioner has not yet been declared in compliance with the Hon'ble

Tribunal's order dated 13.11.2002, whereas for other candidates who appeared in the said examination, result of those candidates were declared long back and offer of the appointment letter also issued to all those candidates except the present petitioner. As a result, present petitioner is suffering irreparable loss and injury in the matter of recruitment. Be it stated that the present petitioner is now jobless, after rendering long seven years ad hoc service in Assam Rifles due to arbitrary order of termination/non sanction of ad hoc service by DGAR Assam Rifles, although vacancies are available. It is stated that condonation of age limit to the extent of ad hoc service has been granted by the Govt. of India in series of cases following the order of various benches of Hon'ble Tribunal. Hon'ble High Court and Supreme Court. But in the instant case the respondents/alleged contemners did not take any steps for condonation of age limit in spite of the direction of the Hon'ble Tribunal. Therefore non compliance of the order of the Hon'ble Tribunal dated 13.11.2002 in O.A. No. 192/2002 is a deliberate and willful violation and as such alleged contemners are liable for contempt of court for willful violation of the judgment and order of the Hon'ble Tribunal.

A copy of Lawyer's notice is annexed as Annexure-III.

4. That it is stated that the present petitioner also submitted a representation on 1st March 2003 to the

alleged contemner No.1, enclosing copy of the judgment and order passed on 13.11.2002 in O.A. No. 192/2002 with a request to condone the age limit in terms of the order passed by the Hon'ble Tribunal and further stated that the result of the competitive examination be declared which was conducted by the Member Secretary, Medical Officer- Selection Board-ITB Police-MHA, Govt. of India, New Delhi, But to no result. As such it is a fit case for initiation of a contempt proceeding against the alleged contemners and therefore the Hon'ble Tribunal be pleased to initiate a contempt proceeding against the alleged contemners and further be pleased to impose punishment upon the alleged contemners in accordance with law and further be pleased to pass any other order or orders as deemed fit and proper in the facts and circumstances stated above.

A copy of the representation dated 1st March 2003 is annexed as **Annexure-IV.**

5. 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 contemners for wilful non-compliance of the order dated 13.11.2002 passed in O.A. No.192/2002 and further be pleased to impose punishment upon the alleged

contemners 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 petitioner as in duty bound shall ever pray.

Affidavit

I, Dr. Priya Kumar Singh, Son of Shri P. Birendra, aged about 33 years, aged about 34 years, Medical Officer, P.O. Imphal, District Thoubal, Manipur, do hereby solemnly declare as follows :-

1. That I am the petitioner in the above contempt petition and as such well acquainted with the facts and circumstances of the case and also competent to sign this affidavit.
2. That the statement made in paragraphs 1-5 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, in the matter of non-compliance of the Hon'ble Tribunal's order dated 13.11.2002 passed in O.A. No. 192/2002.

And I sign this Affidavit on this the 8th day of April, 2003.

P. Priya Kumar Singh

Identified by

P. Priya Kumar Singh
8/4/03
Advocate

DRAFT CHARGE

Laid down before the Hon'ble Central Administrative Tribunal, Guwahati for initiating a contempt proceeding against the contemners for willful disobedience and deliberate non-compliance of order of the Hon'ble Tribunal dated 13.11.2002 passed in O. A. No. 192/2002.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(At Shillong)

— Original Application No.192 of 2002

Date of decision: This the 13th day of November 2002

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

The Hon'ble Mr K.K. Sharma, Administrative Member

Dr Priya Kumar Singh,
 Medical Officer,
 17 Assam Rifles,
 C/o 99 APO.

.....Applicant
 By Advocates Mr M. Chanda, Mr G.N. Chakraborty
 and Mr H. Dutta.

- versus -

1. The Union of India, represented by the
 Secretary to the Government of India,
 Ministry of Home Affairs,
 New Delhi.

2. The Secretary to the Government of India,
 Ministry of Health and Family Welfare,
 Department of Health,
 New Delhi.

The Director General,
 Assam Rifles,
 Government of India,
 Ministry of Home Affairs,
 Shillong.

The Member Secretary,
 Medical Officers Selection Board,
 ITB Police MHA, Government of India,
 Tigris Camp, P.O. Madangir,
 New Delhi.

.....Respondents
 By Advocate Mr A. Deb Roy, Sr. C.G.S.C.



O R D E R (CRAL)

CHOWDHURY, J. (V.C.)

The issue pertains to the action of the respondents in the matter of regularisation of the services of the applicant in the following circumstances:

The Director General, Assam Rifles, Ministry of Home Affairs, Shillong advertised for recruitment of

*Attested
 by
 Advocate
 8/1/03*

Medical Officers in the year 1994. Along with others, the applicant also applied for the post. The authority took steps for selection of Medical Officers and accordingly interview was held by the Selection Board for appointment as Medical Officers, as per the terms and conditions laid down in the Directorate's letter dated 4.8.1994. In course of time the respondent authority issued appointment letter to the applicant. In terms of the advertisement the appointment was made on ad hoc basis. The applicant was accordingly offered with the formal order of appointment dated 3.8.1995 appointing him as a Medical Officer in the Assam Rifles against the existing vacancy for a period of six months on the terms and conditions mentioned in the appointment order.

2. On being appointed, the applicant was initially posted in the State of Jammu and Kashmir under the administrative control of Assam Rifles and he served there for about one and half year. Thereafter, the applicant was posted at Jairampur, Arunachal Pradesh for a period of six months and other places where Assam Rifles was operating. At the time of filing of the application the applicant was serving at Imphal in Assam Rifles. The applicant while working as such, submitted a representation for consideration of his regular absorption as Medical Officer. His application was forwarded by the concerned authority to the Directorate, Assam Rifles, Shillong. The Directorate, Assam Rifles, in turn, took up the issue with the Government of India, Ministry of Health and Family Welfare and other connected departments. The applicant also stated that the Assam Rifles was running in acute shortage of Medical Officers and the Department of Central Government Health Services

Attested

for

Advocates

also.....

8/4/03

also could not provide the required number of Medical Officers. In such compelling circumstances the DGAR, Shillong recruited persons with the approval of the Central Health Services. The applicant cited about six Medical Officers mentioned at para 4.8 of the application who were also appointed as ad hoc Medical Officers and finally regularised by the authority. The applicant also submitted that the Assam Rifles, in fact, was also keen to take the services of the applicant, but till now the regularisation process of the applicant was not taken up by the respondents and it is now stated by Mr M. Chanda, learned counsel for the applicant, that in the absence of further sanction of the authority the applicant is presently not engaged by the Assam Rifles, though no such order has been communicated to him. The applicant also stated about the advertisement made by the competent authority for combatised cadre of Medical Officers and to that effect the Director General, Assam Rifles forwarded a copy of the advertisement to all Units with instructions to forward applications of all ad hoc/ contract Medical Officers with the Directorate of Assam Rifles latest by 15.7.2001 for onward transmission to DG, ITEP. The applicant also applied for the post through the proper channel. As per the advertisement, the age limit for this post was specified as 30 years as on the crucial date and since the applicant crossed the age of 30 years on the date of the advertisement, the applicant also requested for condonation of his age for recruitment to the post of Medical Officer vide his representation dated 6.3.2002 on humanitarian consideration. It has been stated in the Bar that by virtue of the interim order of this Tribunal dated 15.7.2002, the applicant appeared

in.....



in the selection test for Medical Officer pursuant to the advertisement and as per the order of the Tribunal the results of the examination were not declared. It may be mentioned that subsequently, at the instance of the respondents the order dated 15.7.2002 was modified allowing the respondents to declare the results of all the candidates who appeared in the test except the applicant and other ad-hoc Medical Officers of the Assam Rifles.

3. The respondents submitted their written statement denying and disputing the claim of the applicant. In the written statement the respondents did not dispute the fact that the Director General of Assam Rifles made correspondence for regularisation of the ad hoc Medical Officers including the applicant on Central Health Service Cadre. On getting no reply, the Director General wrote a letter to the Ministry of Home Affairs to regularise the service of the ad hoc Medical Officers of Assam Rifles, but the Ministry of Home Affairs by communication dated 19.6.2000 turned down the proposal. We shall avert to the said communication at a later stage. The respondents in the written statement stated that the Director General, Assam Rifles intimated to the authority that the applicant was a OBC candidate and recommended his case for regularisation in the Assam Rifles. The applicant was found overaged by five years six months and sixteen days on the crucial date, i.e. 17.8.2001. It was also mentioned that even if he was considered as a OBC candidate, age relaxation of only three years could have been granted, but the applicant was overaged by five years on the crucial date. The department also sought clarification on this aspect and by communication dated

18.4.2002, the Ministry of Home Affairs informed the Director General, ITBP that age relaxation as Government servants was admissible only to regular Government employees and not to those who were working on ad hoc/contract/short term basis and as such the Medical Officers who were working in the Assam Rifles on ad hoc/contract basis were not entitled to get age relaxation as Government servants for appearing in the test.

4. We have heard Mr M. Chanda, learned counsel for the applicant and also Mr A. Deb Roy, learned Sr. C.G.S.C. at length. The core issue is that of regularisation of the applicant. Admittedly, the applicant was appointed on ad hoc basis and he continued to hold the post as such and served the department till he was disengaged in October 2002. The applicant duly fulfilled the eligibility criteria. The department also did not indicate that no regular appointment was made in the meantime by the Assam Rifles. The Assam Rifles wrote to the concerned authority for regularisation of the services of the ad hoc Medical Officers since their services were needed. No such Recruitment Rules were pointed before us indicating any impediment for such regularisation of ad hoc Medical Officers, especially when the department was in need of their services. We do not find any reasonable justification for not regularising the services of the applicant. If the applicant fulfilled the eligibility criteria, there was no justification in not regularising his services by providing weightage to the services rendered by the applicant.



5. We have already mentioned about the communication addressed by the Director General, Assam Rifles to the Ministry of Home Affairs for regularising the services of the ad hoc Medical Officers. The Government of India, Ministry of Home Affairs by its communication dated 19.6.2000 in a most cryptic manner informed the Director General, Assam Rifles that it was not possible to regularise the services of the ad hoc Medical Officers in the Assam Rifles. There is no discernible reason as to why the case of the persons who served for a long period could not be considered for regularisation on the post held by those persons. No statutory limitations/inhibition are also ascribed for not regularising their services.

6. Considering the facts and circumstances and the nature of service rendered by these persons we are of the opinion that it is a fit case in which a direction needs to be issued on the respondents to reconsider the case for regularisation of the applicant who served as a ad hoc Medical Officer. Similarly, we do not find any justification on the part of the authority for not providing age concession to the applicant who worked on ad hoc basis taking note of the period of previous service under the Assam Rifles. Ad hoc service is also a service and the authority utilised his services for this purpose. The power to relax the age is provided to the authority with some meaningful purpose. Such powers are to be used lawfully and reasonably and not arbitrarily. Such powers are to be exercised on equitable consideration to remove the hardship on the fact situation. The Government of India delineated such policies and the category of persons to whom the benefit

: 7 :

can be extended. These are not exhortative, but only illustrative. The main consideration for giving the relaxation is to avoid the hardship. In taking a decision the authority is to take note of the question as to whether there is a nexus of the duties of the post held by the Government servant and those of the posts for which recruitment is made. If the nexus is available there is no justification slaming the power for consideration. The impugned communication dated 18.4.2002 declining to count the earlier service of such persons in the circumstances cannot be sustained. In the circumstances, the respondents are directed to examine afresh the matter and are directed to consider the case of the applicant and like persons taking note of their services in the Assam Rifles on ad hoc basis and consider their cases on the basis of their performance. The respondents are accordingly ordered to declare the results of the applicant by taking remedial measure of relaxation of his age and consider the case for regularisation. Since the matter is an old one the respondents are directed to act with utmost expedition, preferably within three months from the date of receipt of the order.

The application is accordingly allowed. There shall, however, be no order as to costs.

certified to be true Copy
Certified by [Signature]

Norman [Signature]
Section Officer (S)
C.A.T. GUWAHATI BANCH
Guwahati 781005

Sd/ VICE CHAIRMAN
Sd/ MEMBER (AGM)

ORDER BOOK

Original Application No. 172/02 Date 02.08.02
 Misc Petition No. _____
 Contempt Petition No. _____
 Review Application No. _____

Applicant(s) Dr. P.K. Singh

-Vs-

Respondent(s) W.O.T. Govt.Advocate for the Applicant(s) M. Chanda, G. N. Chatterjee

H. DNB

Advocate for the Respondent(s) C.A. S.

Notes by the Registry Date Order of the Tribunal

15.7.02 Heard on interim order, Heard.
 Mr. M. Chanda, learned counsel for the applicant on interim matter.

The matter relates to the selection of the Medical Officer working in the Assam Rifles. Mr. Chanda, learned counsel submitted that the applicant alongwith 12 others who were appointed as Medical Officer on Temporary and Ad hoc basis had already applied for. Mr. Chanda, learned counsel submitted that their application were, however, not accepted on the ground of age. It was also stated by Mr. Chanda, learned counsel that the selection board is holding the selection test from 19.8.02 to 24.8.02 at New Delhi.

We have also heard Mr. A. Deb Roy, learned Sr. C.G.S.C. at length. Upon hearing the parties, considering the pleadings, the balance of convenience and all the aspects of the matter, we are of the opinion that it is a fit case for passing interim order. We accordingly direct the respondents to allow the applicant to sit in the selection test of Medical Officer pursuant to his application. However, the result shall not be declared without the order from the Tribunal. The respondents may also allow the other applicants from Assam Rifles whose applications were sent by the authority in March, 2002 serving as Ad hoc and Temporary and their cases also result shall not be declared until further order.

List the matter on 26.8.2002 for

order.

Sd/ VICE CHAIRMAN
 Sd/ MEMBER (Adm)

TRUE COPY

Mr. Mukherjee 16/7/02
 Section Officer (Judicial)
 Central Administrative Tribunal
 Bawali Dera, Gurugram

Attested
Advocate
8/9/03.

To

The Member Secretary
 Medical Officers Selection Board
 ITB Police MHA (Govt. of India)
 Tigris Camp, P.O. Madanpur,
 New Delhi.

Sub : Request for immediate implementation of the judgment and order passed on 13.11.2002 in O.A. No. 192 of 2002 in favour of my client Dr. Priya Kumar Singh, Medical Officer, 17 Assam Rifles, C/o 99 APO.

Dear Sir,

Under the instruction of my client named above, I am sending herewith a copy of the judgment and order dated 13.11.2002 passed in O.A. No. 192 of 2002. Be it stated that my client being aggrieved for non regularization of his service as Medical Officer approached the learned C.A.T. through O.A. No. 192 of 2002 praying for a direction for regularization of his service in the cadre of Medical Officer and also with the prayer to allow him to switch over to the proposed cadre of General duty Medical Officer in the rank of Asstt. Commandant in Assam Rifles. The said Original Application decided by the Hon'ble C.A.T. on 13.11.2002 with the following observation and direction :

".....The impugned communication dated 18.4.2002 declining to count the earlier service of such persons in the circumstances cannot be sustained. In the circumstances, the respondents are directed to examine afresh the matter and are directed to consider the case of the applicant and like persons taking note of their services in the Assam Rifles on ad hoc basis and consider their cases on the basis of their performance. The respondents are accordingly ordered to declare the results of the applicant by taking remedial measure of relaxation of his age and consider the case for regularization. Since the matter is an old one the respondents are

Attested
 [Signature]
 Advocate
 8/9/03

directed to act with utmost expedition, preferably within three months from the date of receipt of the order.

The application is accordingly allowed. There shall, however, be no order as to costs."

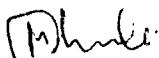
In view of the above direction of the Hon'ble Central Administrative Tribunal my client is entitled to be appointed/regularized in the cadre of Medical Officer. Therefore, you are requested to take necessary steps to condone the age limit and further be pleased to declare the results of the competitive examination conducted by the Member Secretary, Medical Officer Selection Board, ITB Police, MHA, Government of India, Tigris Camp, P.O. Madangir, New Delhi and also be pleased to absorb my client in the rank of Medical Officer as per direction contained in the aforesaid judgment.

A copy of the judgment is enclosed for your ready reference.

An early action in this regard is highly desired.

Dated : 14.12.2002

Yours sincerely,


(MANK CHANDA)
Advocate

To,

26

**The Secretary to the Government of India,
Ministry of Home Affairs,
New Delhi.**

Subject :- Request for immediate implementation of the judgement and order passed on 13.11.2002 in O.A. No. 192 of 2002.

Sir,

I am herewith submitting a copy of the judgment and order dated 13.11.2002 passed in O.A. No. 192 of 2002 with the following observation and direction.

..... The impugned communication dated 18.04.2002 declining to count the earlier service of such persons in the circumstances cannot be sustained.

In the circumstances, the respondents are directed to examine afresh the matter and are directed to consider the case of the applicant and like persons taking note of their services in the Assam Rifles on ad-hoc basis and consider their cases on the basis of their performance. The respondents are accordingly ordered to declare the results after applicant by taking remedial measure of relaxation of his age and consider the case for regularization.

Since the matter is an old one the respondents are directed to act with utmost expedition, preferably within three (3) months from the date of receipt of the order.

The application is accordingly allowed. There shall, however, be no order as to costs.

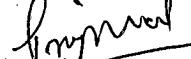
I am also referring to the Supreme Court's orders dated the 24th September, 1987 on the writ petitions that ad-hoc Doctors appointed after 1.10.1984 in the Ministry of Railways to be granted relaxation in age to the extent of the period of service rendered by them as ad-hoc Doctors in Railways.

In view of the above direction of the Hon'ble Central Administrative Tribunal and also in the light of the Supreme Court's orders as synonymous, you are requested to take favourable steps to condone the age limit and further be pleased to declare the results of the competitive examination conducted by the Member Secretary, Medical Officer Selection Board – ITB – Police – MHA – Govt. of India, New Delhi.

A copy of the judgment is enclosed herewith for your ready reference.

An early action in this regard is requested.

Yours Sincerely,

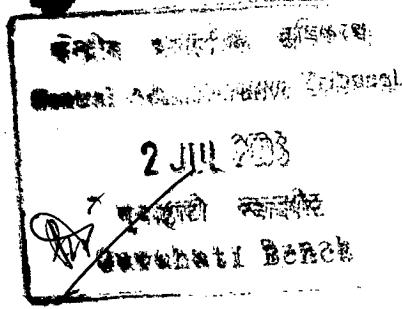


(Dr. P. Priyo Kumar Singh)

17 – Assam Rifles
C/o 99 APO.

Date : 3rd Feb. 2003

Attested
by
8/1/03



Filed by

on 21/7/03

(A. DEB ROY)
Sr. C. C. C.
C. A. T., Guwahati Bench

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI**

CONTEMPT PETITION No 19/2003

In O.A No 192 of 2002

In the matter of :

Dr Priyo Kumar Singh

.....Petitioner

-Versus-

1. Sri G Gopalaswami
Secretary Home,
Ministry of Home Affairs
Government of India
New Delhi
2. Lt General HS Kanwar
Director General Assam Rifles
Shillong
3. Sri Maithali Sharan Gupta
DIG
Member Secretary,
Medical Officers Selection Board,
ITB Police MHA (Govt of India) Tigri Camp,
PO Madangir, New Delhi

..... Alleged Contemnors

I, Lt General HS Kanwar, AVSM, VSM, aged 59 years, Director General Assam Rifles, Shillong, Meghalaya do hereby solemnly affirm and state as under:-

1. That I have read the contempt petition filed by the applicant above named and understood the contents thereof. I hereby deny the contentions made therein, unless the same are expressly admitted thereon. I hereby file a preliminary reply on behalf of all the respondents.
2. That the respondents have the highest regard for the Hon'ble Tribunal and always complied with the directions of this Hon'ble Tribunal sincerely and faithfully.
3. That the respondent, Assam Rifles on receipt of the judgement by this Hon'ble Tribunal, immediately intimated the administrative ministry about the same and the ministry in consultation with Ministry of Law, decided to file an appeal in the Hon'ble High Court.
4. It is respectfully submitted that the respondents filed a writ petition before the Hon'ble High Court Guwahati, WP(C) No 3020/03 which has already been admitted and notice has also been issued to the applicant/respondent.

A true copy of the orders of Hon'ble High Court in WP(C) No 3020/03 dated 29 Apr 2003 is annexed as Annexure – I.

5. That it is most respectfully submitted that the respondents have full faith in the Hon'ble Tribunal and the justice imparted by this Hon'ble Tribunal. The judgment of this Hon'ble Tribunal was not complied as a decision was taken by the competent authority to exercise the right of

appeal and the same was not to undermine the status and dignity of this Hon'ble Tribunal. It is further humbly submitted that the respondents are also taking steps for early hearing of the appeal.

It is therefore, humbly prayed that your Lordships may graciously be pleased to consider the above facts and to discharge the contemnors/respondents from the notice of contempt.



DEPONENT

ले जनरल

Lt Gen.

महानिदेशक असाम रिफ्लिज

Director General Assam Rifles

शिलांग-793 011 (मेघालय)

SHILLONG-793 011 (MEGHALAYA)

VERIFICATION

I, Lt General H S Kanwar, AVSM, VSM, aged 59 years s/o Late Thakur Babu Ram, working as Director General Assam Rifles do hereby verify and declare that the statements made in this written statement are true to my knowledge, information and belief and I have not suppressed any material fact.

AND I, sign this verification on this 24th day of Jun 2003.


24th Jun

DEPONENT

ले जनरल

Lt Gen.

महानिदेशक असाम रिफ्लिज

Director General Assam Rifles

शिलांग-793 011 (मेघालय)

SHILLONG-793 011 (MEGHALAYA)



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलिओ की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलिओ देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
19/5/03	19/5/03	20/5/03	20/5/03	20/5/2003

IN THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM : NAGALAND : MEGHALAYA : MANIPUR : TRIPURA :
MIZORAM AND ARUNACHAL PRADESH)

W.P.C. NO. 3020/03

1. The Union of India, represented by the Secretary to the Govt. of India Ministry of Home Affairs, New Delhi.
2. The Secretary to the Govt. of India, Minister of Health & Family Welfare Deptt. of Health, New Delhi.
3. The Director General, Assam Rifles, Govt. of India Ministry of Home Affairs, Shillong.
4. The Member, Secretary, Medical Officers, Selection Board, ITB Police MHA Govt. of India, Tigri Camp, P.O. Madangir, New Delhi.

..Petitioners.

-Vs-

Dr. Priya Kumar Singh
Medical Officer, 17 Assam Rifles, C/O 99 APO.

..Respondents.

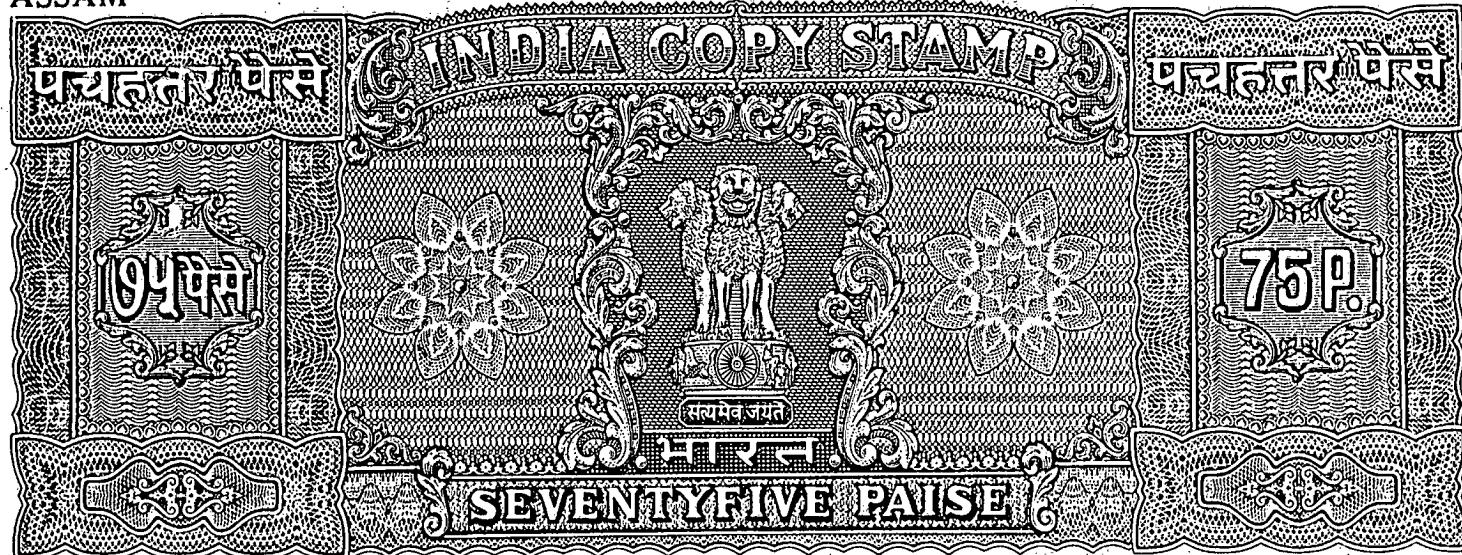
::PRESENT::

THE HON'BLE THE CHIEF JUSTICE MR. P. P. NAOLEKAR
THE HON'BLE MR. JUSTICE AMITAVA ROY
For the petitioner : Mr. D. Baruah, Add. CGSC.
For the respondent:-

...2/-

ASSAM

75P. 31



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलिओ की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलिओ देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

-2-

Date :- 29.4. 2003. O R D E R

Appeal is admitted.

Issue notice on the prayer for stay.

Appellant shall take steps for service of notice on respondents by registered post immediately.

Sd/-AMITAVA ROY

JUDGE.

Sd/-P.P. NAOLEKAR

CHIEF JUSTICE.

Y.R. 8776
K. das 20/5/03
Issued 20/5/03

Dekhal Baruah 20/5/03

Issued 20/5/03