

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No: _____/

Misc Petition No: _____/

Contempt Petition No: 31 / 12003 (OA 78/2002)

Review Application No: _____/

Applicants: - Kashab Sharma & ORS.

Respondants: - Subin Datta & ORS.

Advocate for the Applicants: - Mr B.D. Goswami
Mr S. Barthakur.

Advocate for the Respondants: - A.K. Chaudhuri for Respondent
Nos. 1, 2, 3 & 4.

Notes of the Registry Date Order of the Tribunal

This Contempt Petition
has been filed under
Section 17 of the
C.A.T. Act, 1985 on
deliberate and wilful
non-compliance of
order dated 6.6.02
Passed by the Central
Adm. Tribunal in
OA No. 78/2002.

2.6.2003

Heard Mr. B.D. Goswami, learned counsel for the applicant.

Issue notice on the respondents to show cause as to why the contempt proceedings as prayed for shall not be initiated against the alleged contemners, returnable by four weeks.

List on 1.7.2003 for further order.

Vice-Chairman

Laid before the
Honorable Court for
orders.

01.07.2003

Mr. A.K. Chaudhuri, learned Addl. C.G. S.C. has entered appearance on behalf of respondent Nos. 3 & 4 and prayed for time for filing of ~~xxxx~~ reply. Respondent Nos. 3 & 4 are allowed four weeks time to file reply. The other respondents also may file reply, if any, within that time.

List the case on 7.8.2003 for further order.

Vice-Chairman

28/5/03
Section Officer

Steps taken.
Steps taken. Notice prepared.
& sent to SAs for serving the
respondents No 1 to 4 by
Regd. A.D. vide 1170/03
1173 dtd 6/6/03 28/5/03

bb

(2)

No. reply has been filed.

20.6.03

7.8.2003 Heard Mr. B.D. Goswami, learned counsel for the applicant and also Mr. A.K. Choudhury, learned Addl. G.G.S.C. for the respondents.

Respondent Nos. 2,3 and 4 have filed reply through Mr. A.K. Choudhury, learned Addl. G.G.S.C. The respondent No.1 is yet to file reply. Mr. A.K. Choudhury, learned Addl. G.G.S.C. has entered appearance for the respondent No.1 also. Further four weeks time is allowed to respondent No.1 to file reply. The applicant may file rejoinder, if any. List again on 5.9.2003 for orders.

No. reply has been filed.

6.8.03

Member

Vice-Chairman

8.8.03

mb

Reply submitted by the Contemner Nos. 2, 3 & 4.

5.9.03 It has been stated that the learned counsel for the applicant has received the reply of the Respondent No.1 and he prayed for adjournment the case. List on 19.9.03 for orders.

Member

Vice-Chairman

lm

3.9.03

19.9.03

List again on 27.10.03 for orders.

Reply submitted by the Contemner No.1.

Member

lm

27.10.2003

Heard Mr. S. Borthakur, learned counsel for the applicant.

Respondent nos.1 to 4 filed their reply respectively. Put up the matter on 13.11.2003 for further orders.

Member

Vice-Chairman

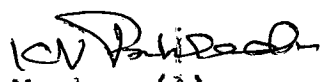
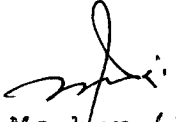


bb

19.11.03
Reply filed by Cont. no: 1 - 4.

13.11.03 no Bench today. Adj. to 20.11.03.

370

5 3

Office Note	Date	Tribunal's Order
	12.5.2004	<p>Present : The Hon'ble Sri Mukesh Kumar Gupta, Judicial Member.</p> <p>The Hon'ble Sri K.V. Prahladan, Member (A).</p> <p>None present for the parties.</p> <p>List before the next Division Bench.</p> <p> Member (A)</p> <p> Member (J)</p> <p>mb</p>
<p>The case is ready for hearing.</p> <p>NS 20/8/04</p>	21.7.2004	<p>Present: Hon'ble Shri K.V. Sachidanandan Judicial Member Hon'ble Shri K.V. Prahladan, Administrative Member.</p> <p>None for the applicant. There was a submission on behalf of the learned counsel for the respondents that the case may be posted in the next available Division Bench. Post the matter before the next available Division Bench.</p> <p> Member (A)</p> <p> Member (J)</p> <p>nkm</p>
	23.8.2004	<p>Present: Hon'ble Shri D.C. Verma, Vice-Chairman Hon'ble Shri K.V. Prahladan, Administrative Member.</p> <p>None appears for the applicant even today. Mr A.K. Chaudhuri, learned Addl. C.G.S.C. is present. We were considering to dispose of the Contempt Petition, but we find that the order passed by the respondents in response to the Tribunal's directions have not been annexed to the reply. Learned Addl. C.G.S.C. seeks one day time to</p>

Office Note	Date	Tribunal's Order
-------------	------	------------------

20.11.2003

Present: Hon'ble Smt Lakshmi Swaminathan, Vice-Chairman
 Hon'ble Shri S.K. Naik, Administrative Member.

Passed over.

Member

Vice-Chairman

nkm

21-11-03

Leftover. put up when next off available.

*1870
k.*

7-5-04
Ready for hearing
W.H.

26.2.2004

Present: Hon'ble Shri Shanker Raju, Judicial Member
 Hon'ble Shri K.V. Prahladan, Administrative Member.

List this case before the next available Division Bench.

[Signature]
 Member (A)

Member (J)

nkm

10.5.2004

Present: The Hon'ble Shri Mukesh Kumar Gupta, Member (J).
 The Hon'ble Shri K.V. Prahladan Member (A).

On the request made by Mr.A.K.Chau-dhuri, learned Addl.C.G.S.C. adjourned for 12.5.2004 for hearing.

[Signature]
 Member (A)

[Signature]
 Member (J)

bb

23.8.2004

produce the copy of the order passed in respect of each applicant.

List the matter on 26.8.2004.

[Signature]
Member

[Signature]
Vice-Chairman

nkm

26.8.04

None for the applicant. Sri A.K.Choudhury, learned counsel is present for the contemners. On several last occasions none present for the applicant. Heard Sri A.K.Choudhury for the respondents. As per order dictated separately the C.P. is decided.

[Signature]
Member (A)

[Signature]
Vice-Chairman

pg

Recd. [Signature] 7/9/04

7.9.04
Copy of the order has been sent to the office for issuing the same to the applicant by post.

[Signature]

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Contempt Petition No. 31 of 2003 (O.A.78/2002)

Date of Order : This the 26th Day of August, 2004.

The Hon'ble Shri D.C.Verma, Vice-Chairman

The Hon'ble Shri K.V.prahladan, Administrative Member.

1. Sri Keshan Sharma,
2. Sri Anup Sur,
3. Sri Dipak Sarma,
4. Sri Monai Kr. Bujar Barua,
5. Smt Gita Kalita Saikia,
6. Sri Deepanjan Choudhury,
7. Sri Ramayan Singh,
8. Sri Rajen Kr. Lama,
9. Smt. Valaria Marbaning,
10. Sri Genesh Bahadur Thapa,
11. Smt Genevieve Dhar and
12. Smt Dathitbha Challan . . . petitioners.

By None present for the applicants.

- Versus -

1. Sri Subir Dutta,
Secretary to the Govt. of India,
Ministry of Defence,
South Block, New Delhi.
2. Sri G.C.Bhandari,
Controller General of Defence Accounts,
West Block, V.R.K.Puram,
New Delhi-66.
3. Ms Ganga Purkuti,
Controller of Defence Accounts,
Udayan Bihar Complex,
Narengi, Guwahati.
4. Sri G. Venugopalan,
Asstt.Controller of Defence Accounts,
Group Officer (Admn.)
Office of the CDA,
Udayan Bihar, Narengi,
Guwahati. ; . . Respondents.

By Sri A.K.Choudhuri, Addl.C.G.S.C.

ORDER

D.C.VERMA (V.C)

The 12 applicants of the present Contempt petition have approached this Tribunal against the respondents for proceeding under Contempt of Court Act ~~against~~ ^{for} the alleged

RE

non-compliance of the Tribunal's order and direction given in O.A.78/2002 in Keshab Sharma and 11 others vs. Union of India & Ors. decided on 6.6.2002.

2. While deciding the said O.A. the Tribunal directed ~~to~~ the respondents to examine the case of each of the applicant in the light of the observations made in the order and to give them the consequential relief as expeditiously as possible, preferably within a period of 3 months from the date of receipt of a copy of the said order.

3. The respondents have filed separate reply. The reply filed on behalf of respondent No.1 i.e. Secretary to the Government of India, Ministry of Defence is as below :

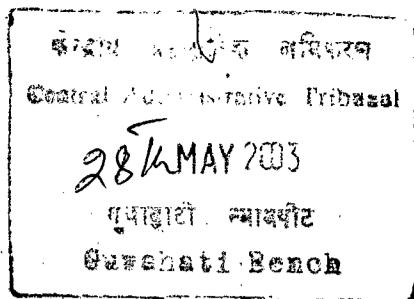
"Accordingly pay fixation in respect of the applicants was done in their respective grade viz. DEO Grade 'A' & DEO Grade 'B' in the pay scale of Rs.1150-1500 and Rs.1350-2200 respectively with effect from the date of their appointment vide part II Office Order No.308 dated 18.9.2002. The pay fixation has been done in accordance with the direction of the Tribunal in Para 6 of its judgment within the stipulated time, hence no wilful disregard has been committed by the respondents in implementing the CAT Guwahati Bench order."

4. The reply of the respondent No.2 also contains the recital that "the pay of the applicants of the O.A.No.78 of 2002 was fixed in their respective grades i.e. Grade 'A' and Grade 'B'."

5. As mentioned in the preceding paragraphs the Tribunal's direction ^{to} ~~to~~ examine the case of the applicants and give them consequential benefits have been complied with. Hence there is no willful non compliance of the direction of this Tribunal. Accordingly C.P. is dismissed. No costs.


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER


(D.C.VERMA)
VICE CHAIRMAN



Filed by:

Sri Keshab Sharma
- 8/11/03
& Petitioner
through
Santanu Chatterjee
Advocate, 28/5/03

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH AT GUWAHATI

CONTEMPT PETITION NO. 31 /2003

IN ORIGINAL APPLICATION NO. 78/2002

IN THE MATTER OF:

An application under Section 17 of the Administrative Tribunals Act, 1985 read with Section 12 of the Contempt of Courts Act for deliberate and willful non-compliance of order dated 6.6.02 passed by the Central Administrative Tribunal, Guwahati Bench in D.A. No. 78/2002.

-AND-

IN THE MATTER OF:

1. Sri Keshab Sharma,
S/o Late Mahesh Ch. Sharma,
R/o Quarter No. B-16, UDAYAN
VIHAR Complex, Guwahati, Assam.
2. Sri Anup Sur,
S/o Sri Tarun Kr. Sur,
R/o Adabari Colony,
Guwahati-12, Assam.

Contd..P/-

3. Sri Dipak Sarma,
S/o Late Churananda Sarma,
R/o Chenikuthi Hill Side,
Guwahati-3, Assam.
4. Sri Monai Kr. Bujar Barua,
S/o Lt. Mahendra Nath Bujar Barua,
R/o Rukminigaoon, Guwahati-22,
Assam.
5. Smt Gita Kalita Saikia,
W/o Sri Diganta Saikia,
R/o AIDC, R.G. Baruah Road,
Guwahati- 24, Assam.
6. Sri Deepanjan Choudhury,
S/o J.C. Choudhury,
R/o 264 U Tiroi Sing Nagar,
Umpling, Shillong-793006,
Meghalaya.
7. Sri Ramayan Singh,
S/o Krishna Singh,
R/o Pythorunkhrah
(Opp.M.P Dog Squad) Shillong,
Meghalaya.
8. Sri Rajen Kr. Lama,
S/o Late Chhan Bahadur Lama,
R/o Deatring, Nongthymmai,
Shillong, Meghalaya.

9. Sati Malaria Marbaning,
W/o Sri Rajen Kr. Lama,
R/o Deathring, Nongthymmai,
Shillong, Meghalaya.
10. Sri Banesh Bahadur Thapa,
S/o Lat Churamani Thapa,
R/o 3rd Mile, Old Fruit Garden,
P.O. Umlyngka Upper Shillong,
Shillong-793005, Meghalaya.
11. Smti Genevieve Dhar,
W/o Sri Ningthen Singh,
R/o Ryngi Jyriew, Upper
Nongthymmai, Shillong-793014,
Meghalaya.
12. Smti Dathitbha Challan
D/o Be Kyndiah,
R/o Lower Mauprem, Bedon Road,
Shillong-793002, Meghalaya.

...Applicants/Petitioners

-VERSUS-

1. Sri Subir Dutta,
Secretary to the Govt.
of India, Ministry of Defence,
South Block, New Delhi.

Contd..P/-

2. Sri S.C. Bhandari

The Controller General of
Defence Accounts, West Block
V.R.K.Puram, New Delhi-110066.

3. Ms Ganga Purkuti,

The Controller of Defence
Accounts, UDAYAN BIHAR COMPLEX,
Narengi, Guwahati-171.

4. Sri S. Venugopalan,

The Asstt. Controller of Defence
Accounts,
Group Officer (Administration),
Office of the CDA,
UDAYAN VIHAR, Narengi,
Guwahati -171.

....Opp.parties/contemners

The humble petition of the
petitioner abovenamed-

MOST RESPECTFULLY SHEWETH:

1. That the petitioners as the applicants filed the aforesaid original application inter alia challenging the order dtd. 6.2.02 issued by the Asstt. Controller of Defence Accounts, Group officer rejecting the prayer of the petitioners for revision of pay scales and also praying for a direction to the opp.party/contemners to grant the pay scale of Rs. 1350/- to Rs.2200/- revised

Contd..P/-

to Rs.4500/- to Rs.7000/- w.e.f. 1st January, 1986 or the respective dates of appointments whichever is later. In the interim it is prayed that the respondents may be directed to grant the benefit of the Judgment of the Hon'ble Tribunal, Hyderabad and Lucknow Benches dtd. 9.7.92 and 9.10.01.

2. That the said original application was initially moved as a motion on 2.3.02 and the Hon'ble Tribunal after hearing the counsels of the parties was pleased to issue Notice upon the respondents making it returnable in 4(four) weeks. Meanwhile respondent authority submitted their written statement and the said case, thereafter finally heard on 29.5.2002 in the admission stage itself and the Hon'ble Tribunal after hearing the counsel of the applicants as also the learned advocate for the respondents and upon perusal of materials on record was pleased to allow the application with following observations-

"For all the reasons stated above the O.A. is allowed and the respondents are directed to give effect to the pay scale of 1.1.86 in place of 11.9.89 to the applicants or the date of appointment whichever is later. The impugned communications dated 6.2.2002 rejecting the claim of the applicants are also set aside. The respondents are directed to examine the case of each of the applications in the light of the observations

Contd..P/-

made above and give them the consequential relief as expeditiously as possible preferably within a period of three months from the date of receipt of the order.

There shall, however, be no order as to costs".

A copy of the aforesaid order dtd. 6.6.2002 passed in OA No. 78/2002 is annexed herewith and marked as Annexure-A.

3. That after obtaining a certified copy of the aforesaid order dated 6.6.2002 each of the applicants served the copies of the said order on controller of defence Accounts along with covering letter dtd. 17/18 June, 2002 through proper channel praying for granting of pay scale of Rs.1350/- to Rs.2200/- revised to Rs.4500/- to Rs.7000/-) from the given date as directed by the Guwahati Bench of the Hon'ble Tribunal. The said letters of the applicants were forwarded by the Asstt. Accounts Officer vide TTB No. GAU/EDP/Estt/25/25/Vol-I office of the CDA Guwahati dtd. 19.6.2002 which have been duly received by the said opp.party.

A copy of the, said letter dtd. 19.6.02 is annexed herewith as Annexure-B.

4. That thereafter while the applicants were waiting in expectation that the said order of the Hon'ble Guwahati Bench of the CAT would be complied with

Contd..P/-

14

within the stipulated time, a communication vide No. AN/III/III/DEOs dtd. 16.8.02 under intimation to the applicants was by the Asstt. Controller of Defence Accounts (Admn) on the subject of implementation of CAT, Guwahati judgment dtd. 6.6.02 stating that "as all the applicants are already placed in the same pay scale applicable for their post/grade no further pay fixation is involved as a result of the clarification received from the Head quarters office, New Delhi".

A copy of the communication dtd. 16.8.02 is annexed herewith as Annexure-C.

5. That the petitioners beg to state that after receiving the said communication dtd. 16.8.02 the applicants again served a Notice upon the respondents/contemners through their counsel requesting them to comply with the judgment of the Hon'ble Guwahati Bench of the CAT dtd. 6.6.02 which were also received by the respondents and the respondents gave reply to the said notice by misinterpreting the Judgment of the Hon'ble Tribunal and misconstruing the law and facts of the case thereby refusing to comply with the said direction of the Hon'ble Court.

A copy of the said pleaders notice dtd. 14.3.03 is annexed hereto as Annexure-D.

Contd..P/-

6. That the petitioners beg to state that the opp. party by not complying with the judgment dtd. 6.6.02 passed by the Hon'ble Gauhati Bench of the CAT and by issuing the aforesaid communication dtd. 16.8.02 is committing gross contempt of the Hon'ble Guwahati Bench of the CAT making them liable for punishment.

7. That the petitioners beg to state that by issuing the said communication dtd. 16.8.02 and stating therein that "as all the applicants are already placed in the same pay scale applicable for their post/grade no further fixation is involved as a result of the clarification received from the Head quarters office, New Delhi" has willfully violated the judgment of the Hon'ble Guwahati Bench of the CAT in as much as the Hon'ble Guwahati Bench of the passed the aforesaid judgment dtd. 6.6.02 only after hearing all the parties and also after perusal of written statement filed on behalf of the respondents. In the said judgment dtd. 6.6.02 the Hon'ble Tribunal was specific enough to hold that the respondents action was obviously and manifestly contrary to the Article 14 and 16 of the Constitution of India under such circumstances the present stand of the respondents is in total violation of the Hon'ble Tribunal's Judgment dtd. 6.6.02 making them liable for punishment in accordance with the law for contempt of the Hon'ble Tribunal.

Contd..P/-

8. That the petitioners beg to state that apart from receiving copy of the said judgment passed by this Hon'ble Tribunal the opp.parties have also received the subsequent pleaders notice sent by the petitioners. But inspite of that the respondents have not complied with the directions of this Hon'ble Tribunal in absolute violation there of and in wilful disregard to the said directions of this Hon'ble Tribunal. The deliberate and wilful attitude of the opp.party is also evident from the fact that their stand on the entire matter is different: at different times. The stand they are presently taking was not pleaded before the Hon'ble Tribunal at the time of hearing of the case.

9. That the petitioners beg to state that the aforesaid action of the opp.parties in not giving the applicants pay scale of Rs.1350/- to Rs.2200/- revised to Rs.4500/- to Rs.7600/- PM w.s.f., 1.1.86 or the date of appointment, whichever is later, within the 3(three) months time as per direction of the Hon'ble Tribunal and in issuing the said communication dtd. 16.8.02 is grossly contemptuous and in excess of the direction of this Hon'ble Tribunal as if the valid and subsisting direction of this Hon'ble Tribunal did not exist at all.

10. That by the said action the opp.party and each one of them have obstructed and/or interfered with

Contd..P/-

the administration of justice by this Hon'ble Tribunal for which the said opp.party/contemners are jointly and severally liable to be punished for contempt under the provisions of Section 17 of the Administrative Tribunals Act, 1985 read with Section 12 of the Contempt of Courts Act, 1971.

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

In the premises aforesaid, it is respectfully prayed that this Hon'ble Tribunal may be pleased to issue notice upon the respondents to show cause as to why they shall not be punished for willful and deliberate non-compliance of order dated 6.6.02 passed in OA No. 7B/2002 and on upon such cause or causes being shown and upon hearing the parties pass such order(s) as may be deemed fit and proper punishing the respondents for willful and deliberate non-compliance of order dtd.6.6.02 passed in O.A. No.7B/2002.

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

DRAFT CHARGE

Whereas Sri Subir Dutta, Sri G.C. Bhandari, Ms Ganga Purkuti, Sri G. Venugopalan, the Contemner No. 1, 2,3 and 4 has/have wilfully and deliberately violated the Judgment and order dated 6.6.02 passed in OA No. 78/2002 and as such they are liable to be punished severally for their such action/inaction.

(12)
AFFIDAVIT.

I Sri Keshab Sharama, son of Late Mahesh Ch. Sharma
aged about 37 years, resident of Quarter No. B-16
UDDAYAN VIHAR Complex, Guwahati in the district of Kamrup
Assam, do hereby solemnly affirm and declare as follows :

1. That I am the petitioner No.1 in the instant contempt
petition and as such I am fully conversant with the facts
and circumstances of the case, I am authorised to swear
this affidavit on behalf of the other petitioners.
2. That the statements made in this affidavit and paragraphs
1,6 to 11 are true to my knowledge, those made in paragraphs
2,3,4 and 5 being matters of record of the case are true to
my information derived therefrom which I verify believe to be
true and the rests are my humble submissions before this
Hon'ble Court.

And I sign this affidavit on this 28th day of May, 2003
at Guwahati.

Identified by me

Santanu Borman
Advocate

Keshab Sharama
DEPONENT

Solemnly affirmed and
declared before me by
the deponent who is known
to me

Santanu Borman
ADVOCATE

13

ANNEXURE - 'A'

~~Part of Judgment~~

20

CENTRAL ADMINISTRATIVE TRIBUNAL
GUAHATI BENCH:::::GUAHATI

DESPATCH NO. CAT/GHY/JUDL.

Dated, Guwahati, the

✓ ORIGINAL APPLICATION NO: 78/2002

MISC. PETITION NO. :

CONTEMPT PETITION NO. :

REVIEW APPLICATION NO. :

TRANSFER APPLICATION NO.:

Smt Keshab Sarma & Ors

APPLICANT(S)

-VERSUS-

Union of India & Ors

RESPONDENT(S)

TO

Smt Keshab Sarma

R/O = Quarter No. B-16, "Udayan Vihar"
Complex, Narangi, Guwahati (Assam)

Please find herewith a copy of Judgment/Order dated 06/06/2002 passed by the Bench of this Hon'ble Tribunal comprising of Hon'ble Justice Shri D.N. Choudhury Vice-Chairman and Hon'ble Shri K.K. Sharma Member, Administrative in the above noted case for information and necessary action, if any.

Please acknowledge receipt of the same.

BY ORDER,

[Signature]
6/6/02
DEPUTY REGISTRAR.

Enclo: As stated above

Original Application No.78 of 2002.

Date of Order : This the 6th Day of June, 2002. 21

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

THE HON'BLE MR K. K. SHARMA, ADMINISTRATIVE MEMBER.

1. Sri Keshab Sharma
S/o Late Mahesh Ch.Sharma
R/o Quarter No.B-16
UDAYAN VIHAR Complex
Guwahati, Assam.

2. Sri Anup Sur
S/o Sri Tarun Kr.Sur
R/o Adabari Colony
Guwahati-12, Assam.

3. Sri Dipak Sarma
S/o Late Churananda Sarma
R/o Chenikuthi Hill Side
Guwahati-3, Assam.

Sri Monoj Kr. Bujar Barua
S/o Lt. Mahendra Nath Bujar Barua
R/o Rukminigaon, Guwahati-22
Assam.

Smt Gita Kalita Saikia
W/o Sri Diganta Saikia
R/o AIDC, R.G.Baruah Road
Guwahati-22, Assam.

6. Sri Deepanjan Choudhury
S/o J.C.Choudhury
R/o 264 U Tirot Sing Nagar
Umpling, Shillong-793 006
Meghalaya.

7. Sri Ramayan Singh
S/o Krishna Singh
R/o Pythorumkhrah
(Opp.MLP Dog Squad), Shillong
Meghalaya.

8. Sri Rajen Kr. Lama
S/o Late Chhan Bahadur Lama
R/o Demthring, Nongthymmai
Shillong, Meghalaya.



9. Smti Valaria Marbaning
W/o Sri Rajen Kr.Lama
R/o Demtring, Nongthymmai
Shillong, Meghalaya.
10. Sri Ganesh Bahadur Thapa
S/o Late Churamani Thapa
R/o 3rd Mile, Old Fruit Garden
P.O:- Umyngka Upper Shillong
Shillong-793 005, Meghalaya.
11. Smti Genevieve Dkhar
W/o Sri Ningthen Singh
R/o Ryngi Jyriew, Upper Nongthymmai
Shillong-793 014
Meghalaya.
12. Smti Dathitbha Challan
S/o Be Kyndiah
R/o Lower Mawprem
Dedon Road, Shillong-793 002
Meghalaya.

. . . Applicants.

By Advocates Mr.B.D.Goswami & S.Borthakur.

- Versus -

1. The Union of India ^{Secy to}
Represented through the Government
of India, Ministry of Defence
South Block, New Delhi.
2. The Controller General of Defence Accounts
West Block, V.R.K.Puram
New Delhi - 110 066.
3. The Controller of Defence Accounts
UDAYAN BIHAR COMPLEX, Narengi
Guwahati- 171.
4. The Asstt. Controller of Defence Accounts
Group Officer (Administration)
Office of the CDA
UDAYAN VIHAR, Narengi
Guwahati - 171.

. . . Respondents.

By Mr.A.K.Chaudhuri, Addl.C.G.S.C.

ORDER

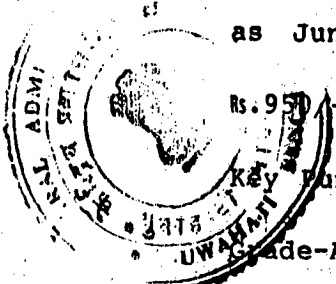
CHOWDHURY J.(V.C.) :

This is an application under Section 19
of the Administrative Tribunals Act, 1985 seeking for

direction upon the respondents to provide the applicants the pay scale of Rs.1350/- to 2200/- revised to Rs.4500- to 7000/- w.e.f. 1.1.86 or the respective dates of appointment whichever is later. The applicants also assailed the legality and validity of the order dated 6.2.2002 issued by the Assistant Controller Defence Accounts, Group Officer (Admn). The basic facts giving rise to this application are set out herein below :

1. The applicants are twelve in number who are serving as Date Entry Operator (DEO for short) in the Controller Defence Accounts Department of the Govt. of India under the Ministry of Defence of the Central Govt. The applicant Nos.1 to 4 were initially appointed as Junior Key Punch Operator in the pay scale of Rs.950/- 1400/- in the year 1988-89. The post of Junior Key Punch Operator was thereafter redesignated as DEO Grade-A w.e.f.11.9.89 in the pay scale of Rs.1150/- to 1500/-. The applicant No.5 was appointed as DEO Grade-A in the pay scale of Rs.1150/- 1500/- in the year 1995. The other applicants, namely, the applicant Nos. 6 to 12 were appointed as DEO Grade-A in the pay scale of Rs.1150/- 1500/- in the year 1995. The applicant Nos. 1 to 4 were promoted to the next higher grade of DEO Grade-B in the pay scale of Rs.1200/- to 2040/- w.e.f.22.12.97. The said scale of Rs.1200/- to 2040/- was revised subsequently to Rs.1350/- 2200/- w.e.f. 11.9.89 as per the recommendation of the 4th Pay

Contd./4



Commission and thereafter again revised to Rs.4500/- to 7000/- w.e.f. 1.1.96 as per the recommendation of the 5th Pay Commission. It may also be mentioned that the applicant Nos.1 to 5 are appointed and are serving in the Electronic Data Processing Centre of the Controller Defence Accounts, Guwahati, whereas the applicant Nos. 6 to 12 are appointed and serving at Pay Accounts Office (ORS), Assam Regimental Centre at Shillong.

2. The post of Junior Key Punch Operator under the respondents was in the pay scale of Rs.260/- 400/- w.e.f. 1.1.73 which was revised to Rs.950/- 1500/- w.e.f. 1.1.86 further redesignating the post as DEO Grade-A in the pay scale of Rs.1150/- to 1500/- w.e.f. 11.9.89. It was further revised to Rs.4000/- 6000/- w.e.f. 1.1.96. Similarly the post of Senior Key Punch Operator in the pay scale of Rs.330/- to 560/- w.e.f.1.1.73 which was revised to Rs.1200/- 2040/- w.e.f. 1.1.86, was redesignated as DEO Grade-B w.e.f. 11.9.89 in the pay scale of Rs.1350/- to 2200/-. The scale was further revised to Rs.4500/- 7000/- w.e.f. 1.1.96. The applicant contended that the nature of duties and responsibilities of the Junior Key Punch Operators redesignated as DEO Grade-A and Senior Key Punch Operators/Grade-B are same. Hence both the Grades are entitled for the pay scale without any difference.

3. The DEO/ Key Punch Operators working under various Ministries/Departments of the Central Govt. raised grievances with regard to recommendation of the 4th Central Pay Commission. Sheshagri Commission was appointed by the Central Govt. to enquire into the grievances. It was inter-alia pleaded that the Sheshagri Commission observed that the nature, duties and responsibilities attached to both grades of DEOs in various Ministries/Departments of the Central Govt. and Electronic Data Processing Staff working under the Railway Administration are self same, there being absolutely no difference. The Govt. of India issued notification on 11.9.89 and granted pay scale of Rs.1150-1500/- to DEOs Grade-A and the scale of Rs.1350/- 2200/- to DEOs Grade-B w.e.f.11.9.89. The applicant pleaded that the DEOs both Grade-A and Grade-B ought to have been granted the pay scale of Rs.1350/-2200/- w.e.f.1.1.86 or the date of appointment whichever is later. The DEOs working in the Directorate of Census Operation, Ministry of Home Affairs, Govt. of India preferred an O.A. before the Hyderabad Bench of the CAT claiming parity with the Electronic Data Processing Staff of the Railway Administration w.e.f.1.1.86. The which said O.A. was numbered and registered as O.A.957 of 1990 was allowed by the Hyderabad Bench of the CAT and the Govt. of India was directed to follow 1.1.86 as effective date on the principle of equal pay for equal work vide judgment and order dated 9th July, 1992



The DEOs working under the Controller General of Defence Accounts also instituted an O.A. before the Jabalpur Bench of the Tribunal which was numbered and registered as O.A.No.142 of 1995 for granting them the pay scale of Rs.1350/- 2200/- w.e.f.1.1.86. By judgment and order dated 28.9.99 the said O.A. was allowed. In terms of the said order the respondents granted pay scale of Rs.1350/- 2200/- to the DEOs working under the Controller of Defence Factories, Jabalpur w.e.f. 1.1.86. Some of the DEO Grade-As working under the Principal Controller of Defence Accounts, Central Command, Lucknow preferred Original Application before the Lucknow Bench of the Tribunal claiming the similar benefits to them as was granted by the Hyderabad and Jabalpur Benches of the CAT. The said application was numbered and registered as O.A.150 of 2001. Prior to institution of the said O.A. those applicants also preferred representations before the authority claiming the pay scale of Rs.1350/- 2200/- w.e.f.1.1.86 and the same was rejected by the authority on the ground that the decision was applicable only to those who were applicants before the Jabalpur Bench of the Tribunal and not to others. By judgment and order dated 9.10.2001 the said O.A. was finally allowed by the CAT Lucknow Bench. The Lucknow Bench held that the applicants of the said O.A. were similarly situated persons as the applicants before the Jabalpur Bench of the Tribunal who were granted the benefit of the

Contd./7



of the revised pay scale w.e.f.1.1.86.

4. In the light of the directions issued by the aforementioned Tribunals, these applicants also submitted individual representations before the authority. By the communication dated 6.2.2002 the Assistant Controller Defence Accounts, Group Officer, Administration intimated the DCDA, PAC(ORS)ARC as well as the O i/c EDP Center that the request for revision of pay scale of DEO's in the organisation as applied for could not be exceeded to. The judgment of the Lucknow and Jabalpur Benches of the Tribunal was applicable to the applicants of the respective O.A.s only as per direction given by the Ministry and conveyed by the Hqrs. Office. Hence this application claiming the similar benefit as was granted by the three Benches of the CAT.

27



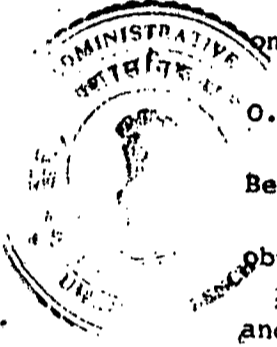
The respondents contested the claim of the applicants and reiterated to its stand as indicated in the impugned communication dated 6.2.2002. The respondents in the written statement also in so many words, stated that "that is their story - and that they^{are} sticking to that". It was stated and asserted that these applicants were not a party of the O.A. No.142/95 before the CAT Jabalpur Bench and O.A.No.150/2001 before the CAT Lucknow Bench and therefore the benefit of the aforementioned judgments could not be given effect to so far these applicants are concerned.

6. We have heard Mr.B.D.Goswami, learned

Contd./8

8

counsel for the applicants at length and also Mr.A.K.Chaudhuri, learned Addl.C.G.S.C. for the respondents. The issue raised in the application is no longer res integra. A new litigative battle is thrust upon the applicants. It was an avoidable exercise. Three of the Benches of the CAT, more particularly, the Jabalpur Bench and the Lucknow Bench of the CAT decided the issue between the DEOs and the respondents. Both the aforementioned Benches of the Tribunal dealt with the identical facts on identical issues. A decision of the Co-ordinate Bench is equally binding in another Bench. The respondents acted in a most illegal fashion by refusing the self same benefit to these applicants only on the ground that they were not party in the O.A.Nos.142/95 & 150/2001 before the Jabalpur and Benches of the CAT respectively. The discrimination is obviously and manifestly contrary to the Articles 14 and 16 of the Constitution. The goal of the Republic is to avoid litigation. Needless to state that unnecessary litigation concerns the welfare of the State. - " et interest reipublicae ut sin fines litum."

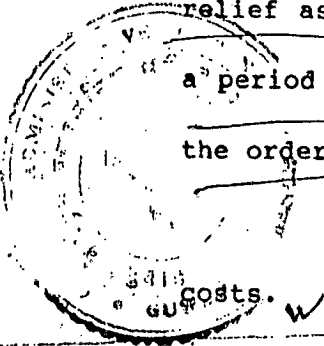


6. For all the reasons stated above the O.A. is allowed and the respondents are directed to give effect to the pay scale of 1.1.86 in place of 11.9.89 to the applicants or the date of appointment whichever is later. The impugned communications dated 6.2.2002 rejecting the claim of the applicants are also

Contd./9

set aside. The respondents are directed to examine the
case of each of the applicants in the light of the
observations made above and give them the consequential
relief as expeditiously as possible preferably within
a period of three months from the date of receipt of
the order.

There shall, however, be no order as to



Sd/ VICE CHAIRMAN
 Sd/ MEMBER (A)

TRUE COPY
 प्रतिलिपि

bb

N. B. Barua
6/6/02
 Joint Secretary (Administrative) /
 Joint Secretary (Administrative) /
 Guwahati Branch, Guwahati.
 Assam Administrative Tribunal

23 -

30

T.T.B.
GAU/EDP/Est/25/Vol- I
Office of the CDA Guwahati
Dated : 18-06-2002

To

The Officer-in-charge
AN-III
(Local)

Sub : Forwarding of Application for Revised Pay Scales for DEOs ; DAD ; Estt.

En

Five applications received from under mentioned DEOs serving in EDP Centre of this office seeking Revised Pay Scales along with photocopies of connected Judgment/order CAT Guwahati Bench are forwarded herewith for further necessary action.

01. SRI KESHAB SARMA , DEO GRADE - B , ACCOUNT NO. - 8328832
02. SRI ANUP SUR , DEO GRADE - B , ACCOUNT NO. - 8328883
03. SRI DIPAK SARMA , DEO GRADE - E , ACCOUNT NO. - 8328884
04. SRI MANOJ KUMAR BUJAR BARUA , DEO GRADE -B , ACCOUNT NO.-8328889
05. MRS GEETA KALITA SAIKIA , DEO GRADE -A , ACCOUNT NO. - 8334092

Enclo : As above.

18/6
Asst. Accounts Officer
EDP CENTRE
CDA GUWAHATI

To

Dr. (Ms) Mala Iyengar
 Dy. CGDA (EDP)
 Office of the CGDA
 West Block-V
 R. K. Puram
 New Delhi-110066

SPEED POST/FAJ

No. AN/III/III/DEO's
 Office of the CDA, Guwahati
 'Udayan Vihar', Narangi
 Guwahati-781171
 Dated: 16/08/2002

Subject : Implementation of CAT Guwahati Judgment in OA No.78 of 2002 filed by Shri. Keshab Sharma, DEO and 11 Others V/S Union of India.

Reference: *Your Fax No.EDP/113/11 (PC)/Vol-6 dated 13/08/2002.*

In this connection it is stated that the category of applicant DEO's in OA No.78 of 2002 is two. One category of such applicant is who were re-designated from the post of KPOs to the post of DEO Grade 'A' w.e.f 11/09/1989. They are already placed in the pay scale of Rs.1150-1500 and on revision of pay scale under RPR-97 in the scale of Rs.4000-6000 w.e.f. 01/01/1996. After promotion to the post of DEO Grade 'B' w.e.f. 22/12/1997, they have been placed in the revised scale of Rs.4500-7000. This is the position in respect of applicants at SL No.1 to 4 of the OA No.78 of 2002.

2. The other category of remaining 8 applicants (from SL No.5 to 12 of OA No.78 of 2002) is those who were directly recruited as DEO Grade 'A'. Their pay was placed in the scale of Rs.1150-1500 applicable as for DEO Grade 'A' and on revision of pay scale under RPR-97 they were placed in the scale of Rs.4000-6000 w.e.f. 01/01/1996.

3. Therefore, as all the applicants are already placed in the same pay scale applicable for their post/grade, no further pay fixation is involved as a result of the clarification received from HQrs. Office, New Delhi.

CDA has seen.


 (DILIP KUMAR)
 A.C.D.A. (AN)

Contt... .. P/2

Copy to:

1. Shri. Keshab Sharma, DEO 'B'
2. Shri. Anup Sur, DEO 'B'
3. Shri. Dipak Sarma, DEO 'B'
4. Shri. M. K. B. Barua, DEO 'B'
5. Smt. Gita Kalita Saikia, DEO 'A'
EDP Centre, CDA Guwahati
'Udayan Vihar', Narangi
Guwahati-781171

6. Shri. D. Choudhury, DEO 'A'
7. Shri. R. Singh, DEO 'A'
8. Shri. R. K. Lama, DEO 'A'
9. Smt. V. Marbaning, DEO 'A'
10. Shri. G. B. Thapa, DEO 'A'
11. Smt. G. Dkhar, DEO 'A'
12. Smt. D. Challan, DEO 'A'
PAO (ORs) ARC
Happy Valley
Shillong-793007

It is intimated for your information that consequent on receipt of clarification from HQrs. Office, New Delhi, it is found that no further fixation of pay is involved in your cases pursuant to CAT Guwahati Bench judgment dated 06/06/2002.


(DILIP KUMAR)
A.C.D.A. (AN)

B.D. Goswami
Advocate
Gauhati High Court
Guwahati - 781001

26
Residence-Cum-Chamber
"KANTA", Chenikuthi, Hillside
Guwahati - 781003, Assam
Ph. 2645173

BY REGD. POST

14/3/03

33

To,

1. The Union of India represented through the Secretary to the Govt of India, Ministry of Defence, South Block, New Delli
2. The Controller General of Defence Accounts. West Block, R.K. Puram, New Delhi-110066
3. The Controller of Defence Accounts, Udayan Vihar Complex, Narangi, Guwahati-781171
4. The Assistant Controller of Defence Accounts, Group Officer, (Administration), Udayan Vihar Complex, Narangi, Guwahati-781171

Ref: Order dtd. 6/6/2002 passed in Original Application No, 78/2002 (Sri Keshab Sarma & 11 Ors vs- Union of India & Ors) by the Hon'ble Central Administrative Tribunal, Guwahati Bench

Sub: Pleader's Notice

Sirs/ Madams,

21 MAR 2003
3138

On behalf of and under instructions of my clients Sri Keshab Sarma and his 11 other colleagues who are all serving as Data Entry Operators under you and more particularly under the Controller of Defence Accounts, Udayan Vihar, Narangi, Guwahati, I give you this notice as under:

1. That my clients. Sarbashri Keshab Sarma, Ar up Sur, Dipak Sarmah, Manoj Kr Bujarbaruah and Smti Gita Kalita Saikia are serving as Data Entry Operators (hereunder called the DEOs) in the Electronic Data Processing Centre of the office of the Controller of Defence Accounts at Guwahati and are respectively applicants No.1 to 5 in the aforesaid Original Application. My other clients Sarbashri Deepanjan Choudhury, Ramayan Singh, Rajen Kumar Lama, Smti Valeria Marbariang, Gianesh Bahadur Thapa, Smt Genevieve Dkhar and Smti Dathitbhar Chal an are serving as Data Entry Operators in the Pay Accounts Office (ORS) Assam Regimental Centre at Shillong and are 6 to 12 in the aforesaid OA.
2. That my said clients seeking parity in pay scale with identically situated persons in other Depts of the Central Govt as also in other Establishments

B. D. Goswami

B.D. Goswami

Advocate
Gauhati High Court
Guwahati - 781001

27 -
Residence-Cum-Chamber

"KANTA", Chenikuthi, Hillside
Guwahati - 781 003, Assam
Ph. : 515173

04

of the Controller General of Defence Accounts preferred the aforesaid Original Application No. 78/2002 before the Guwahati bench of the Central Administrative Tribunal inter alia praying for setting aside the orders dtd. 6/2/2002 issued by the Assistant Controller of Defence Accounts, Group Officer (Admin) refusing to accede to the request for revision of pay scale and for a direction to the respondents to grant them the pay scale of Rs. 1350/- to 7000/- p.m. w.e.f. 1-1-1986 or the respective dates of appointments whichever is later.

3. That in the aforesaid OA, the respondents which comprised your good offices contested the claims of my said clients by filing written statements and reiterated your stand as indicated in the impugned communication dtd 6/2/2002. In your written statements, it was also stated and asserted that my clients were not a party of the OA no. 142/95 before the CAT, Jabalpur bench and OA 150/2001 before the CAT, Lucknow Bench and therefore the benefit of the judgement passed in the said OA's could not be given effect to so far as my clients concerned, the applicants in OA no 78/2002, were concerned.
4. That after hearing the arguments put forward on behalf of my clients and yourselves and after perusal of the material on record, the Hon'ble Tribunal by order dtd. 6/6/02 was pleased to hold that the issue raised in the application was no longer *res integra* and that a new litigative battle, which was an avoidable exercise, was thrust upon the applicants, the Hon'ble Tribunal was of the view that three of the Benches of CAT, more particularly, the Jabalpur and the Lucknow Benches of the CAT having decided the identical issue between the DEOs and the respondents on identical facts and such decision of the coordinate Benches being equally binding in another Bench, the respondents acted in the most illegal fashion by refusing the self the same benefit to the applicants only on the ground that they were not party in the concerned OA Nos. 142/95 and 150/2001 before the Jabalpur and Lucknow Benches of the CAT respectively.
5. That the Hon'ble Tribunal was further pleased to hold that the respondents discriminated against the applicants, my said clients, which was obviously and manifestly contrary to the articles 14 and 16 of the Constitution and allow the said OA no. 78/02 directing the respondents to give effect to the pay scale of Rs. 1350/- to 2200/- revised to Rs. 4500/- to 7000/- pm w.e.f. 1/

B. D. Goswami

B.D. Goswami

Advocate
Guwahati High Court
Guwahati - 781001

28

Residence-Cum-Chamber
"KANTA", Chenikuthi, Hillside
Guwahati - 781003, Assam
Ph. : 515173

35

1/86 or the date of appointment whichever was later. The Hon'ble Tribunal by the said order dtd 6/6/2002 was also pleased to set aside the impugned communication dtd 6/2/2002 rejecting the claim of my clients and finally directed the respondents meaning yourselves to examine the case of each of my clients in the light of the observations made above and give them the consequential relief as expeditiously as possible preferably within a period of three (3) months from the date of receipt of the order.

6. That the aforesaid OA no. 78/2002 was decided by the Hon'ble Guwahati Bench of the CAT in presence of your learned counsel and further to that copy of the said order dtd. 6/6/2002 was duly served on the Controller of Defence Accounts by each of my clients along with covering letter dtd. 17/18 June, 2002 through proper channel praying for granting pay scale of Rs, 1350/- to - Rs. 2200/- (revised to Rs. 4500/- to Rs. 7000/-) from the given date as directed in the said order of Guwahati Bench of the CAT. The said letter from my clients were forwarded by the Asstt Accounts Officer vide TTB No. GAU/EIDP/Estt/25/Vol-I, Office of the CDA, Guwahati dtd 18/4/2002 which have been duly received by you.
7. That thereafter while my clients were waiting in expectation that the said order of the Hon'ble Guwahati Bench of the CAT would be complied with within the stipulated time a communication vide No. AN/III/III/DEOs dtd. 16/8/02 under intimation to my clients by the Assistant Controller of Defence Accounts (Admin) on the subject of implementation of CAT Guwahati judgement in OA No. 78/2002 filed by the clients stating that "as all the applicants are already placed in the same pay scale applicable for their post/grade no further pay fixation is involved as a result of the clarification received from the Head Quarter's Office, New Delhi".
8. That the said communication dtd. 16/8/2002 which is stated to have been seen by the CDA is in violation of the said order of the Hon'ble Guwahati Bench of the CAT. By the said order of the Hon'ble Guwahati Bench of the CAT. By the said letter, my clients were also intimated that the consequent on clarification from HQrs Office, New Delhi, it was found that no further fixation of pay scale involved in their cases pursuant to CAT Guwahati Bench's judgement dtd. 6/6/2002.

B. D. Goswami

B.D. Goswami

Advocate
Guwahati High Court
Guwahati - 781001

- 29 -

Residence-Cum-Chamber
"KANTA", Chenikuthi, Hillside
Guwahati - 781003, Assam
Ph. : 515173

36

9. That by not complying with the said direction of the Hon'ble Tribunal and further in issuing the said letter dated 16/8/2002 admitted as per direction of your HQrs Office, New Delhi, you have not only wilfully disregarded the said direction of the Hon'ble Tribunal but also caused gross contempt of court for which all of you are personally liable under the provision of section 17 of the Administrative Act and the rules passed thereunder.

Now therefore I have been instructed by my aforesaid clients, the applicants in OA no. 78/2002 (Sri Keshab Sarma & 11 Ors -vs- Union of India & Ors), to give you this notice that you are to rectify your wrong stand in the said matter at issue in respect of granting the recommended pay scale to my clients w.e.f. 1-1-86 or the date of appointment whichever is later and to comply with the said order dtd. 6/6/2002 of the Hon'ble CAT, Guwahati Bench forthwith, as otherwise I have clear instructions from my said clients to institute appropriate legal proceedings against all and everyone of you for contempt of the Hon'ble Guwahati Bench of the CAT and order dtd 6/6/2002 passed in OA no 78/2002 in which case please note that you will be personally liable for punishment for contempt of the tribunal.

Yours faithfully,

B. D. Goswami
(B.D. Goswami) 14/3/03
Advocate

- 20 -

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI
C.C.P.A. No.31/2003
(ARISING OUT OF O.A. No. 78 OF 2002).

Keshab Sharma & Others

Applicants

VERSUS

Secretary to Govt. of India,
Ministry of Defence (Finance) & Others

Respondents

The humble reply to the contempt petition on behalf of the respondents. No.1

MOST RESPECTFULLY SHEWETH:

That the contempt petition under consideration is not maintainable before the eye of the law in view of the fact that the respondent authorities have acted in accordance with the direction contained in Para 6 of the Hon'ble CAT Guwahati Bench Judgment dated 06/06/2002 in O.A. No.78 of 2002 filed by the applicants wherein the Hon'ble Tribunal has directed the respondents to give effect to the pay scale with effect from 01/01/1986 in place of 11/09/1989 to the applicants or the date of their appointment whichever is later within a period of three months from the date of receipt of copy of the order.

Accordingly pay fixation in respect of the applicants was done in their respective grade viz. DEO Grade 'A' & DEO Grade 'B' in the pay scale of Rs.1150-1500 and Rs.1350-2200 respectively with effect from

*Filed by
Sudri Datta
Through:-
Ajay Kumar Choudhary
Adv. Central Govt.
Standing Counsel.
3/9/03*

the date of their appointment vide Part II Office Order No.308 dated 18/09/2002. The pay fixation has been done in accordance with the direction of the Tribunal in Para 6 of its judgment within the stipulated time, hence no willful disregard has been committed by the respondents in implementing the CAT Guwahati Bench order.

PARA-WISE REPLIES TO THE CONTEMPT PETITION:

Para 1: In reply to the Para 1 of the Contempt petition it is submitted that the claim of the applicants that both the Data Entry Operators Grade 'A' and grade 'B' are entitled to the same scale of Pay is not correct due to the following reasons:

(A) The duties and responsibilities of DEO 'A' and DEO 'B' are not same. In addition to jobs mentioned to DEO 'A', DEO 'B' is given more duties and responsibilities. In this context, Government of India, Planning Commission, National Information Centre, A-Block, CGO Complex, Lodhi Road, New Delhi No. 2(4)/89-P & V dated 08/01/1990 refers (*copy enclosed*).

(B) As per recruitment rules, the minimum qualification for entry grade i.e. DEOs 'A' is 12th Standard pass or equivalent and should possess a speed of not less than 8000 key depressions per hour and for DEO 'B' is Graduation and should possess a speed of not less than 8000 key depressions per hour. Entry to Grade 'B' is either by 40% promotion,

30% by direct recruitment or 30% by transfer on deputation. DEO 'A' with 6 years regular service as DEO will become eligible for promotion to DEO 'B' subject to availability of vacancy.

Para 2: In reply to Para 2 of the contempt petition it is submitted that the copy of judgment dated 06/06/2002 of CAT Guwahati Bench was referred to Government of India by HQrs. Office i.e. CGDA's office. The Government of India has decided to implement the judgment as done in the case of judgments given by other CAT Benchs i.e. by granting pay scale of Rs.1150-1500 to DEO Grade 'A' and Rs.1350-2200 to DEO Grade 'B' with effect from 01/01/1986 or from the date of their appointment whichever is later. Accordingly the pay of the applicants of the O.A. No.78 of 2002 was fixed in their respective grades i.e. Grade 'A' and Grade 'B'.

Para 3: Same reply as in Para 2.

Para 4: Same reply as in Para 2.

Para 5: The clarifications sought by the applicant's Advocate were replied under CDA Guwahati letter No.AN/III/III/DEO'S dated 11/05/2003 (*copy enclosed*) addressed to Addl. Central Government Standing Counsel, CAT Guwahati Bench.

Para 6: In reply to Para 6 of the contempt petition it is submitted that as the pay fixation has been done in accordance with the directions of the Tribunal

- 33 -

in Para 6 of its judgment within the stipulated time the respondents have not committed contempt of the judgment of the CAT Guwahati Bench. It is also submitted that in similar cases, Hon'ble CAT Jabalpur Bench, Hon'ble CAT Hyderabad Bench, CAT Allahabad Bench, CAT Madras Bench etc. have directed the respondents to give effect of the pay scale recommended by the Committee with effect from 01/01/1986 instead of 11/09/1989. The Committee has recommended different pay scale for DEOs 'A' and DEOs 'B'. Accordingly the pay of the applicants in the above cases was fixed in their respective grade i.e. CAT Lucknow Bench has also delivered a similar judgment in O.A. No.150 of 2001. Due to wrong interpretation, the pay fixation done by the PCDA (CC) Lucknow in the pay scale of Rs.1350-2200 irrespective of DEO Grade 'A' and Grade 'B' is not correct. The matter was referred to Government of India, who has clarified that the pay fixation done by the PCDA (CC) Lucknow in respect of applicants of OA No.150 of 2001 of CAT Lucknow Bench is irregular and has directed to rectify the pay fixation and the same has been rectified.

Para 7: In reply to Para 7 of the contempt petition it is submitted that the contention of the applicants that the stand of the respondents is in total violation of the Hon'ble Tribunal judgment dated 06/06/2002 is totally incorrect. The pay fixation has been done in accordance with the

directions of the Hon'ble Tribunal and the decision of the Government of India.

Para 8: Same reply as in Para 5.

Para 9: In reply to Para 9 of the contempt petition it is submitted that the respondents have taken action as per the decision of the Government of India and in accordance with the directions of the Hon'ble CAT Guwahati Bench in their order dated 06/06/2002 to give effect of the pay scale with effect from 01/01/1986 instead of 11/09/1989, the pay of the applicants was fixed in their respective grades. As such the respondents have not committed any contempt of the Hon'ble CAT Guwahati Bench order.

Para 10: In reply to Para 10 of the contempt petition it is submitted that in view of the foregoing paras, the action taken by the respondents is not arbitrary, illegal, contemptuous and is not in willful disregard of the Hon'ble Tribunal judgment and there has been no case of any contempt under Section 17 of the Act and hence the present CCPA petition is fit to be dismissed in lamine.

Para 11: same reply as in Para 10.

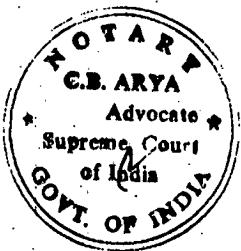
AFFIDAVIT

- 25 -

42

I, Subir Dutta son of ~~Shri~~ (Late) Arun Kumar Dutta Resident of New Delhi, Ex-Secretary to the Government of India, Ministry of Defence, South Block, New Delhi presently posted as Member, Union Public Service Commission New Delhi do hereby solemnly affirm and state as follows:

1. That I have duly been authorized to verify this reply to the contempt petition on behalf of the respondents.
2. That I am fully acquainted with the facts of the case.
3. That I have gone through the contents of this reply and have fully understood the same.
4. That the statement made in Paras 1 to 11 of counter reply is true to my best of the knowledge as derived from the records of the case and the rest are by way of submission to this Hon'ble Tribunal.
5. That I have not suppressed any material facts.



Place: New Delhi.
Dated: 16th August 2003.

Subir Dutta

Signature of the Deponent

(सुबीर दत्ता)
(SUBIR DUTTA)
संघ/Member
संघ लोक सेवा आयोग
Union Public Service Commission
नई दिल्ली/New Delhi-110008

ATTESTED

Notary Public, New Delhi

16 AUG 2003

C. B. ARYA
Advocate/Notary
Parliament Street Courts
New Delhi

* SECURITY THE DEPARTMENT WAS IN
Hand/Out T J In the presence
J. Arun Kumar
of C.B. Arya,
West Block-3
R. N. Puram
ND-9-66

16/8/03

-36-

43

128

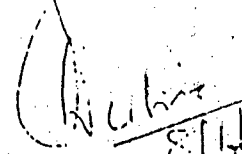
No.2(4)/89-P&V
Government of India
Planning Commission
NATIONAL INFORMATICS CENTRE
A-Block, CGO Complex, Lodhi Road, New Delhi - 110003

dated 8th January 1990

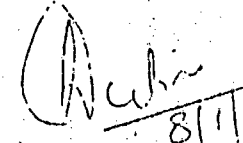
OFFICE MEMORANDUM

Subject:- Job Descriptions for different levels of Data Entry Operators and Programming Staff

The undersigned is directed to refer to the Ministry of Finance, Department of Expenditure (Implementation Cell) Office Memorandum No.F.7(1)/IC/86(44) dated 11th September 1989 and to say that vide para 8 of the above mentioned Office Memorandum, NIC was asked to evolve the job assignment charts for different levels of Data Entry Operators and Programming Staff, for adoption by different Ministries/Departments. Accordingly, the Job descriptions for various levels of Data Entry Operators and Programming Staff have been evolved as given in the enclosed Annexure-I and Annexure-II respectively, which could be adopted by the Ministries/Departments of the Government of India with suitable modifications, if necessary, to meet any particular requirements.


8/1/90
(K. Subbiah)
Deputy Director
Tel. 362628

- To
1. All Ministries/Departments of the Government of India (as per Standard List).
 2. Copy to Ministry of Personnel, Public Grievances & Pensions; (Department of Personnel & Training) (Director(E)).
 3. Copy to Ministry of Finance, Department of Expenditure, Implementation Cell.


8/1/90
(K. Subbiah)
Deputy Director
Tel. 362628

DESCRIPTIONS FOR VARIOUS CATEGORIES OF DATA ENTRY OPERATORSDATA ENTRY OPERATOR - A

All types of data preparation and validation including alpha-numeric data entry, graphic data entry, voice-entry, optical entry etc., and associated verification, and pre-programmed validation, text processing etc., on any type of machines/equipment/instrument endowed with facilities for data entry and/or preparation for data entry and/or pre-programmed validation of entered data including key punching machine, key to magnetic media machine, key to optical media machine, any type of computer/EDP equipment, any computer based equipment/computer based instrument/Computer based online or real time systems/computer network based systems.

2. DATA ENTRY OPERATOR - B - 1350 - 30 - 1420 - 40 - 1500 - 2A - 50 - 2000

In addition to those jobs mentioned for Data Entry Operator - A; Fobling, Counting, Collating, Coding, Console Operation, assisting in the preparation of Statistics, Billing, input/output handling etc. on any type of machine/equipment/instrument endowed with facilities for data entry or preparation for data entry and/or validation of entered data as specified under the heading for Data Entry Operator - A.

3. DATA ENTRY OPERATOR - C - 1400 - 40 - 1500 - 2A - 50 - 2000

In addition to those jobs and machine/equipment/instrument mentioned for Data Entry Operator - B, training of operators, scheduling of jobs and more skill-based validation of alpha-numeric or graphic data as determined by the needs of the organisation.

4. DATA ENTRY OPERATOR - D - 1600 - 50 - 2300 - 2A - 60 - 2600

In addition to those jobs mentioned for Data Entry Operator - C; programming relating to Data preparation and/or validation, and for a few staff who are considered to have the required aptitude and depending upon the need; supervision of the work of Data Entry Operator - A, B and C.

5. DATA ENTRY OPERATOR - E - 2000 - 60 - 2300 - 2A - 70 - 2500 - 200 - 3500

Supervision of the work of data preparation, scheduling and distribution of jobs among other Data Entry Operators, planning, scheduling, coordination, and implementation of interrelated and integrated data preparation jobs, programming relating to Data preparation and/or validation of data and if necessary to do supporting job of data entry, verification, validation etc. depending on exigencies of work.

37-
44
126

Note:- 1. In addition to particular job descriptions within the corresponding list given above, all Data Entry Operators will handle any other related jobs as may be assigned to them by the Officer-in-charge or the Controlling Officer of the Unit/User. Where such Operators are posted, or by the Head of Department or by the Head of Office, or by any other officer, as may be nominated by the Head of Department/Head of Office from time to time.

2. Wherever considered necessary, the Data Entry Operators are required to work on any shift as may be prescribed by the Head of Department/Head of Office or by any other Officer, as may be nominated by the Head of Department/Head of Office.

BY HAND

93 - 387
No. AN/III/III/DEO'S
Office of the CDA, Guwahati
'Udayan Vihar', Narangi
Guwahati-781171
Dated: 11/05/2003

To

Shri. A. K. Choudhury
Addl. CGSC
Central Administrative Tribunal
Guwahati.

Subject : CAT Case OA No.78 of 2002 filed by Shri. Keshab Sharma, DEO and other DEO'S V/S Union of India in CAT Guwahati.

Reference: *In continuation of this office letter of even No dated 21/03/2003 (addressed to you & copy to CGDA, New Delhi).*

The points in the notice issued by Shri. B. D. Goswami, Advocate Guwahati High Court have been examined by the HQrs. CGDA New Delhi and the point-wise reply furnished by them are appended below for necessary action at your end please.

(a) The DEOS working at Jabalpur under the organization of P C of A (Fys) Kolkata have filed a case, OA No.142 of 1995 in the CAT Jabalpur Bench. In the OA the applicants have claimed for the implementation of revised Pay scales for DEOS, announced vide Govt. of India, Ministry of Finance, Department of Expenditure OM No. F. 7(1)/IC/86(44) dated 11th September 1989 with effect from 01/01/1986 instead of 11/09/1989. CAT Jabalpur Bench in Para 2 of their order dated 06/10/1999 has directed the respondents to give effect of the pay scale recommended by the committee with effect from 01/01/1986 instead of 11/09/1989 and also to pay the arrears within a period of three months. The committee has recommended two separate pay scales to Data Entry Operators Grade 'A' and Grade 'B' i.e. Rs.1150-1500 to DEOS Grade 'A' and Rs.1350-2200 to DEOS Grade 'B' and not the pay scale of Rs.1350-2200 to both the grades. The Govt. of India has granted the two different pay scales vide their OM dated 11/09/1989. The CAT Jabalpur judgement was referred to Ministry of Defence (Finance) vide U.O. No.EDP/113/II (PC) dated 8th November 1999. Ministry of Defence (Finance) in consultation with Ministry of Finance, Department of Expenditure has decided to implement the judgement in respect of the applicants and accordingly the pay of 9 applicants of the OA No.142 of 95 was fixed in their respective grades i.e. Grade 'A' in the scale of Rs.1150-1500 and Grade 'B' in the scale of Rs.1350-2200 with effect from 01/01/1986 instead of 11/09/1989 and not in a single scale of Rs.1350-2200 as claimed by the applicants of the OA No.78 of 2002.

(b) In the case of OA No.150 of 2001 filed by the DEOs working at Lucknow in the CAT Lucknow bench have claimed for the Pay scale of Rs.1350-2200 to both the DEOs of Grade 'A' and Grade 'B' with effect from 01/01/1986. In the judgement CAT Lucknow Bench has stated that the case of the applicants of the OA No.150 of 2001 is identical to the facts of the case before the CAT Jabalpur Bench of Tribunal and the relief granted to the applicants of the OA 142/95 cannot be refused merely on the ground that the present applicants (DEOs working at Lucknow) were not party of the said OA i.e. 142/95 and directed the respondents to examine and grant consequential relief to the applicants of OA No.150 of 2001. The CAT Lucknow Bench judgement on OA No.150 of 2001 was referred to Ministry of Defence (Finance) and after consultation with Ministry of Finance, Department of Expenditure, they have decided to implement the judgement in respect of the applicants of 150 of 2001 only as done in the case of applicants of OA 142 of 95 of CAT Jabalpur Bench. Accordingly the pay of the applicants of the OA No.150 of 2001 was fixed in their respective grades i.e. Grade 'A' in the scale of Rs.1150-1500 and Grade 'B' in the scale of Rs.1350-2200.

(c) In similar cases filed by the DEOs working at Secunderabad, Patna, Bangalore, Chennai, New Delhi, Allahabad and Kolkata, the respective CAT Benches have directed the respondents to give effect of the pay scales with effect from 01/01/1986 or from the date of their appointment which ever is later instead of 11/09/1989. In all these cases the judgements were referred to Ministry of Defence (Finance) and they have directed to implement the judgements and to grant pay scales to DEOs in their respective Grades i.e. "A" and "B". Accordingly the pay of the applicants of the OAs was fixed in their respective grades i.e. Data Entry Operators Grade 'A' in the pay scale of Rs.1150-1500 and Data Entry Operators Grade 'B' in the pay scale of Rs.1350-2200.

Therefore

You are requested to prepare your reply to the notice received from Shri. B. D. Goswami, Advocate, Allahabad High Court.

All immediate action is requested.

Sd/ _____
 (G. VENUGOPALAN)
 A.C.D.A. (AN)

Copy to:

Wgt.
 The CGDA, West Block-V
 R. K. Puram,
 New Delhi-66

For information please
 w.r.t. HQrs. letter No.EDP/13/II (PC)/Vol-10
 dated 23/04/2003.

C.T.C
[Handwritten signature]

[Handwritten signature]


Sd/ _____
 (G. VENUGOPALAN)
 A.C.D.A. (AN)

2 - 11 - 11 11
with effect from the date of their appointment vide Part II Office Order No. 308 dated 18.09.2002. The pay fixation has been done in accordance with the directions of the Tribunal in Para 6 of its judgment within the stipulated time, hence no willful disregard has been committed by the respondents in implementing the CAT Guwahati Bench order.

PARA-WISE REPLIES TO THE CONTEMPT PETITION:

Para 1: In reply to the Para 1 of the Contempt petition it is submitted that the claim of the applicants that both the Data Entry Operators Grade 'A' and Grade 'B' are entitled to the same scale of pay is not correct due to the following reasons:

- (A) The duties and responsibilities of DEO 'A' and DEO 'B' are not same. In addition to jobs mentioned to DEO 'A', DEO 'B' is given more duties and responsibilities. In this context, Government of India, Planning Commission, National Informatics Centre, A-Block, CGO Complex, Lodhi Road, New Delhi No. 2(4)/89-P & V dated 08.01.1990 refers (copy enclosed).
- (B) As per recruitment rules, the minimum qualification for entry grade i.e. DEOs 'A' is 12th Standard pass or equivalent and should possess a speed of not less than 8000 key


गिरीश भण्डारी
G. C. BHANDARI
रक्षा लेखा महानियंत्रक
Controller General of Defence Accounts
पश्चिमी खंड-5, रामकृष्ण पुरम, न.दि.66
West Block-5, K.A. Puram, New Delhi-66

depressions per hour and for DEO 'B' is Graduation and should possess a speed of not less than 8000 key depressions per hour. Entry to Grade 'B' is either by 40% promotion, 30% by direct recruitment or 30% by transfer on deputation. DEO 'A' with 6 years regular service as DEO will become eligible for promotion to DEO 'B' subject to availability of vacancy.

Para 2: In reply to Para 2 of the contempt petition it is submitted that the copy of judgment dated 06.06.2002 of CAT Guwahati Bench was referred to Government of India by HQrs. Office i.e. CGDA's office. The Government of India has decided to implement the judgment as done in the case of judgments given by other CAT Benches i.e. by granting pay scale of Rs.1150-1500 to DEO Grade 'A' and Rs.1350-2200 to DEO Grade 'B' with effect from 01.01.86 or from the date of their appointment whichever is later. Accordingly the pay of the applicants of the O.A. No. 78 of 2002 was fixed in their respective grades i.e. Grade 'A' and Grade 'B'.

Para 3: Same reply as in Para 2.

Para 4: Same reply as in Para 2.

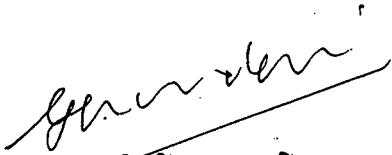
Para 5: The clarifications sought by the applicant's Advocate were replied under CDA Guwahati letter No. AN/III/III/DEO'S

G. C. Bhandari

गिरीश भण्डारी
G. C. BHANDARI
रक्षा लेखा महानियंत्रक
Controller General of Defence Accounts
पश्चिमी खंड-5, रामकृष्ण भवन, न.दि.66
West Block-5, A. S. Building, New Delhi-66

4
- 43 -
dated 11.05.2003 (copy enclosed) addressed to Addl. Central Government Standing Counsel, CAT Guwahati Bench.

Para 6: In reply to Para 6 of the contempt petition it is submitted that as the pay fixation has been done in accordance with the directions of the Tribunal in Para 6 of its judgment within the stipulated time the respondents have not committed contempt of the judgment of the CAT Guwahati Bench. It is also submitted that in similar cases, Hon'ble CAT Jabalpur Bench, Hon'ble CAT Hyderabad Bench, CAT Allahabad Bench, CAT Madras Bench etc. have directed the respondents to give effect of the pay scale recommended by the Committee with effect from 01.01.1986 instead of 11.09.1989. The Committee has recommended different pay scales for DEOs 'A' and DEOs 'B'. Accordingly the pay of the applicants in the above cases was fixed in their respective grade i.e. Grade 'A' and Grade 'B'. CAT Lucknow Bench has also delivered a similar judgment in O.A. No. 150 of 2001. Due to wrong interpretation, the pay fixation done by the PCDA(CC) Lucknow in the pay scale of Rs.1350-2200 irrespective of DEO Grade 'A' and Grade 'B' is not correct. The matter was referred to Government of India, who has clarified that the pay fixation done by the PCDA(CC)


गिरीश भण्डारी
G. C. BHANDARI
रक्षा लेखा महानिबंधक
Controller General of Defence Accounts
पाँचमी खड-5, रामकृष्ण पुरम, न.दि.68
West Block-5, K. M. Puram, New Delhi-66

5

-44-

51

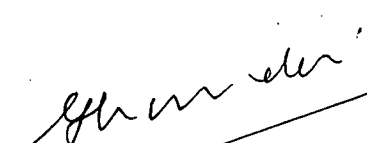
Lucknow in respect of applicants of OA No.150 of 2001 of CAT Lucknow Bench is irregular and has directed to rectify the pay fixation and the same has been rectified.

Para 7: In reply to Para 7 of the contempt petition it is submitted that the contention of the applicants that the stand of the respondents is in total violation of the Hon'ble Tribunal judgment dated 06.06.2002 is totally incorrect. The pay fixation has been done in accordance with the directions of the Hon'ble Tribunal and the decision of the Government of India.

Para 8: Same reply as in Para 5.

Para 9: In reply to Para 9 of the contempt petition it is submitted that the respondents have taken action as per the decision of the Government of India and in accordance with the directions of the Hon'ble CAT Guwahati Bench in their order dated 06.06.2002 to give effect of the pay scale with effect from 01.01.1986 instead of 11.09.1989, the pay pf the applicants was fixed in their respective grades. As such the respondents have not committed any contempt of the Hon'ble CAT Gawahti Bench order.

Para 10: In reply to Para 10 of the contempt petition it is submitted that in view of the foregoing Paras, the action taken by the



गिरीश भंडारी
G. C. BHANDARI
रक्षा लेखा महानियंत्रक
Controller General of Defence Accounts
पश्चिमी खंड-5, रामकृष्ण पुरम, न.दि.66
West Block-5, K.A. Puram, New Delhi-66

6
35-48
52

respondents is not arbitrary, illegal, contemptuous and is not in willful disregard of the Hon'ble Tribunal judgment and there has been no case of any contempt under Section 17 of the Act and hence the present CCPA petition is fit to be dismissed in limine.

Para 11: Same reply as in Para 10.

AFFIDAVIT

I, G.C. Bhandari son of Late Shri. M.D. Bhandari Resident of New Delhi presently posted as Controller General of Defence Accounts in the office of the Controller General of Defence Accounts New Delhi do hereby solemnly affirm and state as follows:

1. That I have duly been authorized to verify this reply to the contempt petition on behalf of the respondents.
2. That I am fully acquainted with the facts of the case.
3. That I have gone through the contents of this reply and have fully understood the same.
4. That the statement made in Paras 1 to 11 is true to my best of the knowledge as derived from the records of the case and the rest are by way of submission to this Hon'ble Tribunal.
That I have not suppressed any material facts.



Place: New Delhi.

Dated: 17th July 2003.

Regn. No. 784

ATTESTED
NOTARY PUBLIC, DELHI

17 JUL 2003

Old Court Compound
Parliament Street
New Delhi

G.C. Bhandari

Signature of the Deponent

G.C. Bhandari

गिरीज भंडारी
G. C. BHANDARI

रक्षा लेखा महानियंत्रक

Controller General of Defence Accounts
पश्चिमी खंड-5, रामकृष्ण पुरम, न.दि.66
West Block-5, R.N. Puram, New Delhi-66

F/B Annexure 'A' (46) 7- 128 36-57

No.2(4)/B9-P&V
Government of India
Planning Commission
NATIONAL INFORMATICS CENTRE
A-Block, CGO Complex, Lodhi Road, New Delhi - 110003

dated 8th January 1990

OFFICE MEMORANDUM

Subject: Job Descriptions for different levels of Data Entry Operators and Programming Staff

The undersigned is directed to refer to the Ministry of Finance, Department of Expenditure (Implementation Cell) Office Memorandum No.F.7(1)/IC/86(44) dated 11th September 1989 and to say that vide para 8 of the above mentioned Office Memorandum, NIC was asked to evolve the job assignment charts for different levels of Data Entry Operators and Programming Staff, for adoption by different Ministries/Departments. Accordingly, the Job descriptions for various levels of Data Entry Operators and Programming Staff have been evolved as given in the enclosed Annexure-I and Annexure-II respectively, which could be adopted by the Ministries/Departments of the Government of India with suitable modifications, if necessary, to meet any particular requirements.

(Signature)
8/1/90

(K. Subbiah)
Deputy Director
Tel. 362628

- To
1. All Ministries/Departments of the Government of India (as per Standard List).
 2. Copy to Ministry of Personnel, Public Grievances & Pensions, (Department of Personnel & Training), (Director (E)).
 3. Copy to Ministry of Finance, Department of Expenditure, Implementation Cell.

(Signature)
8/1/90

(K. Subbiah)
Deputy Director
Tel. 362628

(Signature)

Asst. Control Govt
Standing Council

54
37-
8
127

DESCRIPTIONS FOR VARIOUS CATEGORIES OF DATA ENTRY OPERATORS

DATA ENTRY OPERATOR = A -- 1150 - 25 - 1500

All types of data preparation and validation including alpha-numeric data entry, graphic data entry, voice-entry, optical entry etc., and associated verification, and pre-programmed validation, text processing etc., on any type of machines/equipment/instrument endowed with facilities for data entry and/or preparation for data entry and/or pre-programmed validation of entered data including key punching machine, key to magnetic media machine, key to optical media machine, any type of computer/EDP equipment, any computer based equipment/computer based instrument/computer based online or real time systems/computer network based systems.

2. DATA ENTRY OPERATOR = B -- 1350 - 30 - 1500 - 40 - 1500 - 4A - 50 - 2000

In addition to those jobs mentioned for Data Entry Operator - A, Pooling, Counting, Collating, Coding, Console Operation, assisting in the preparation of Statistics, billing, input/output handling etc. on any type of machine/equipment/instrument endowed with facilities for data entry or preparation for data entry and/or validation of entered data as specified under the description for Data Entry Operator - A.

3. DATA ENTRY OPERATOR = C -- 1400 - 40 - 1500 - 40 - 50 - 2300

In addition to those jobs and machines/equipment/instrument mentioned for Data Entry Operator - B, training of operators, scheduling of jobs and more skill-based validation of alpha-numeric or graphic data as determined by the needs of the organisation.

4. DATA ENTRY OPERATOR = D -- 1600 - 50 - 2300 - 40 - 60 - 2600

In addition to those jobs mentioned for Data Entry Operator - C, programming relating to Data preparation and/or validation, and for a few staff who are considered to have the required aptitude and depending upon the need, supervision of the work of Data Entry Operator-A, B and C.

5. DATA ENTRY OPERATOR = E -- 2000 - 60 - 2300 - 40 - 60 - 3200 - 700 - 3500

Supervision of the work of data preparation, scheduling and distribution of jobs among other Data Entry Operators, planning, scheduling, coordination and implementation of interrelated and integrated data preparation jobs, Programming relating to Data preparation and/or Validation traction and if necessary to do supporting job of data entry, verification, validation etc. depending on exigencies of work.

(47)

F/B

9

~~126~~ 55

126

ARC

: 2 :

Note:- 1. In addition to particular job descriptions within the corresponding list given above, all Data Entry Operators will handle any other related jobs as may be assigned to them by the Officer-in-charge or the Controlling Officer of the Unit/User Terminal where such Operators are posted, or by the Head of Department or by the Head of Office, or by any other officer as may be nominated by the Head of Department/Head of Office from time to time.

2. Wherever considered necessary the Data Entry Operators are required to work on any shift as may be prescribed by the Head of Department/Head of Office or by any other Officer as may be nominated by the Head of Department/Head of Office from time to time.

BY HAND

10

Annexure B 93

48

No. AN/III/III/DEO'S
Office of the CDA, Guwahati
'Udayan Vihar', Narangi
Guwahati-781171
Dated: 11/05/2003

39/56

To

Shri. A. K. Choudhury
Addl. CGSC
Central Administrative Tribunal
Guwahati.

Subject : CAT Case OA No.78 of 2002 filed by Shri. Keshab Sharma, DEO and other DEO'S V/S Union of India in CAT Guwahati.

Reference: *In continuation of this office letter of even No dated 21/03/2003 (addressed to you & copy to CGDA, New Delhi).*

The points in the notice issued by Shri. B. D. Goswami, Advocate Guwahati High Court have been examined by the IIQrs. CGDA New Delhi and the point-wise reply furnished by them are appended below for necessary action at your end please.

(a) The DEOS working at Jabalpur under the organization of P C of A (Fys) Kolkata have filed a case, OA No.142 of 1995 in the CAT Jabalpur Bench. In the OA the applicants have claimed for the implementation of revised Pay scales for DEOS, announced vide Govt. of India, Ministry of Finance, Department of Expenditure OM No. F. 7(1)/IC/86(44) dated 11th September 1989 with effect from 01/01/1986 instead of 11/09/1989. CAT Jabalpur Bench in Para 2 of their order dated 06/10/1999 has directed the respondents to give effect of the pay scale recommended by the committee with effect from 01/01/1986 instead of 11/09/1989 and also to pay the arrears with in a period of three months. The committee has recommended two separate pay scales to Data Entry Operators Grade 'A' and Grade 'B' i.e. Rs.1150-1500 to DEOs Grade 'A' and Rs.1350-2200 to DEOs Grade 'B' and not the pay scale of Rs.1350-2200 to both the grades. The Govt. of India has granted the two different pay scales vide their OM dated 11/09/1989. The CAT Jabalpur judgement was referred to Ministry of Defence (Finance) vide U.O. No.EDP/113/II (PC) dated 8th November 1999, Ministry of Defence (Finance) in consultation with Ministry of Finance, Department of Expenditure has decided to implement the judgement in respect of the applicants and accordingly the pay of 9 applicants of the OA No.142 of 95 was fixed in their respective grades i.e. Grade 'A' in the scale of Rs.1150-1500 and Grade 'B' in the scale of Rs.1350-2200 with effect from 01/01/1986 instead of 11/09/1989 and not in a single scale of Rs.1350-2200 as claimed by the applicants of the OA No.78 of 2002.

11

49
92

(b) In the case of OA No.150 of 2001 filed by the DEOs working at Lucknow in the CAT Lucknow bench have claimed for the Pay scale of Rs.1350-2200 to both the DEOs of Grade 'A' and Grade 'B' with effect from 01/01/1986. In the judgement CAT Lucknow Bench has stated that the case of the applicants of the OA No.150 of 2001 is identical to the facts of the case before the CAT Jabalpur Bench of Tribunal and the relief granted to the applicants of the OA 142/95 cannot be refused merely on the ground that the present applicants (DEOs working at Lucknow) were not party of the said OA i.e. 142/95 and directed the respondents to examine and grant consequential relief to the applicants of OA No.150 of 2001. The CAT Lucknow Bench judgement on OA No.150 of 2001 was referred to Ministry of Defence (Finance) and after consultation with Ministry of Finance, Department of Expenditure, they have decided to implement the judgement in respect of the applicants of 150 of 2001 only as done in the case of applicants of OA 142 of 95 of CAT Jabalpur Bench. Accordingly the pay of the applicants of the OA No.150 of 2001 was fixed in their respective grades i.e. Grade 'A' in the scale of Rs.1150-1500 and Grade 'B' in the scale of Rs.1350-2200.

(c) In similar cases filed by the DEOs working at Secunderabad, Patna, Bangalore, Chennai, New Delhi, Allahabad and Kolkata, the respective CAT Benches have directed the respondents to give effect of the pay scales with effect from 01/01/1986 or from the date of their appointment which ever is later instead of 11/09/1989. In all these cases the judgements were referred to Ministry of Defence (Finance) and they have directed to implement the judgements and to grant pay scales to DEOs in their respective Grades i.e. "A" and "B". Accordingly the pay of the applicants of the OAs was fixed in their respective grades i.e. Data Entry Operators Grade 'A' in the pay scale of Rs.1150-1500 and Data Entry Operators Grade 'B' in the pay scale of Rs.1350-2200.

Therefore

You are requested to prepare your reply to the notice received from Shri. B. D. Goswami, Advocate, Guwahati High Court.

An immediate action is requested.

SI

(G. VENUGOPALAN)
A.C.D.A. (AN)

Copy to:

by
The CGDA, West Block-V
R. K. Puram,
New Delhi-66

} For information please
w.r.t. HQrs. letter No.EDP/13/II (PC)/Vol-10
dated 23/04/2003.

SI

(G. VENUGOPALAN)
A.C.D.A. (AN)

*C.T.C.
A.A.O.*

[Signature]

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH
GUWAHATI ----- C.C.P.A. NO- 31/2003

(ARISING OUT OF O.A.No.780F 2002)

Keshab Sharma & others

Applicant

VERSUS

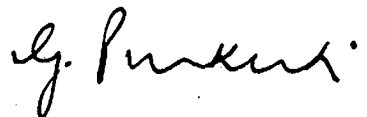
Secretary of Govt. of India
Ministry of Defence (Finance) &
Others

Respondents

The humble reply to the contempt petition on behalf of the respondents
No- 3

MOST RESPECTFULLY SHEWETH:

That the Petitioners of the applicants filed the original application of the contempt petition under consideration is not maintainable in view of the fact that the respondents have acted in accordance with the direction contained in Para 6 of the Hon'ble CAT Guwahati Bench judgment dated 06.06.2002 in O.A No.78 of 2002 filed by the applicants wherein the Hon'ble Tribunal has directed the respondents to give effect to the Pay Scale with effect from 01.01.1986 in place of 11.09.1989 to the applicants or the date of their appointment whichever is later within a period of three months from the date of receipt of copy of the order. Accordingly Pay Fixation in respect of the applicants was done in their respective grade viz. DEO Grade 'A' and DEO Grade 'B' in the Pay Scale of Rs. 1150-1500 and Rs. 1350-220 respectively w.e.f.the date of their appointment vide Part II O.O. NO 308 dated 18.09.2002. The Pay Fixation has been done in accordance with the directions of the Tribunal in Para 6 of its judgment within the stipulated time, hence no willful disregard has been committed by the respondents in implementing the Hon'ble CAT Guwahati Bench order.


GANGA PURKUTI
Controller
Office of the C. D. A.
Udayan Vihar, Narengi,
Guwahati-781171.

51
9

PARA WISE REPLIES TO THE CONTEMPT PETITION

PARA I: The argument made by the applicants, that both the Data Entry operator Grade 'A' and Grade 'B' are entitled to the same scale of pay is not correct due to the following reasons.

- (A) The duties and responsibilities of DEO 'A' and DEO 'B' are not same. In addition to jobs mentioned to DEO 'A', DEO 'B' is given more duties and responsibilities. In this connection Govt. of India, Planning commission / National informatics center, A- block CGO Complex, Lodhi Road, New Delhi No. 2(4)/89-p & v dated 8.1.90 refers (copy enclosed).
- (B) As per recruitment rules, the minimum qualification for entry grade i.e. DEO 'A' is 12th standard Pass or equivalent and should possess a speed of not less than 8000 Key depressions per hour. Entry to Grade 'B' is either by 40% promotion, 30% by direct recruitment or 30% by transfer on deputation. DEO 'A' with 6 years regular service as DEO will become eligible for Promotion to DEO 'B' subject to availability of vacancy.

Para 2: The copy of judgment dated 06.06.2002 of CAT Guwahati Bench was referred to Government of India by Hqrs. Office i.e. CGDA's office. The Government of India has decided to implement the judgment as done in the case of judgments given by other CAT Benches i.e. by granting Pay Scale of Rs. 1150-1500 to DEO Grade 'A' and Rs. 1350-2200 to DEO Grade 'B' w.e.f. 01.01.86 or from the date of their appointment whichever is later. Accordingly the Pay of the applicants of the O.A.No.78 of 2002 was fixed in their respective grades i.e. Grade 'A' and Grade 'B'.

Para 3: Same reply as in Para 2 above.

Para 4: Same reply as in Para 2 above.

Para 5: The clarifications sought by the applicant's Advocate were already replied vide this office letter No. AN/III/III/DEO's dated 11.05.2003 addressed to Addl. Central Government standing Counsel, CAT Guwahati Bench.

G. Purkuti
GANGA PURKUTI
Controller
Office of the C. D. A.
Udayan Vihar, Narengi,
Guwahati-781171.

43 (52)
60

Para 6: In reply to Para 6 of the contempt petition it is submitted that as the pay fixation has been done in accordance with the direction of the Tribunal in Para 6 of its judgment within the stipulated period the respondents have not committed contempt of the judgment of Hon'ble CAT Guwahati Bench. It is also submitted that in similar cases, Hon'ble CAT Jabalpur Bench, Hon'ble CAT Hyderabad Bench, Hon'ble CAT Allahabad Bench, Hon'ble CAT Madras Bench etc. have directed the respondents to give effect of the Pay Scales recommended by the committee with effect from 01-01-86 instead of 11-09-1989. The committee has recommended different Pay Scales for DEOs 'A' and DEOs 'B'. Accordingly the Pay of the applicants in the above cases was fixed in their respective grade i.e. Grade 'A' and Grade 'B'. CAT Lucknow Bench has also delivered a similar judgment in OA no 150 of 2001. Due to wrong interpretation, the pay fixation done by the PCDA (CC) Lucknow in the pay scale of Rs.1350-2200 irrespective of DEO DEOs 'A' and DEOs 'B' is not correct. The matter was referred to Govt. of India, who has clarified that the pay fixation done by the PCDA (CC) Lucknow in respect of applicants of OA NO.150 of 2001 of CAT Lucknow Bench is irregular and has directed to rectify the pay fixation and the same has been rectified.

Para 7: In reply to Para 7 of the contempt petition it is stated that the contention of the applicants that the stand of the respondents is in total violation of the Hon'ble Tribunal judgment dated 06.06.2002 is totally incorrect. The pay fixation has been done in accordance with the directions of the Hon'ble Tribunal and the decision of the Government of India.

Para 8: Same reply as in Para 5.

Para 9: In reply to Para 9 of the contempt petition it is submitted that the respondents have taken action as per the decision of the Government of India and in accordance with the directions of the Hon'ble CAT Guwahati Bench in their order dated 06.06.2002 to give effect of the pay scale with effect from 01-01-86 instead of 11-09-89, the pay of the applicants was fixed in their respective grades. As such, the respondents have not committed any contempt of the Hon'ble CAT Guwahati Bench order.

G. P. Kundu

GANGA SIKHARI
Controller
Office of the C. D. A.
Udayan Vihar, Narengi,
Guwahati-781171.

53
61

Para 10: In reply to Para 10 of the contempt petition it is submitted that in view of the foregoing paras, the action taken by the respondent is not arbitrary, illegal, contemptuous and is not in willful disregard of the Hon'ble Tribunal Judgment and there has been no case of any contempt under section 17 of the Act and hence the present CCPA petition is fit to be dismissed in lamine.

Para 11: Same reply as in Para 10.

Affidavit

I, GANGA PURKUTI son/daughter of LATE SHRI K. L PURKUTI
Resident of GUWAHATI presently posted as Controller of Defence
Accounts in this office of the Controller of Defence Accounts Narangi,
Guwahati do hereby solemnly affirm and state as follows:

1. That I am fully acquainted with the facts of the case.
2. That I have gone through the contents of this reply and have fully understood the same.
3. That the statement made in Para 1 to 11 is true to my best of the knowledge as derived from the records of the case and the rest are by way of submission to this Hon'ble Tribunal.
4. That I have not suppressed any material facts.

Place: Guwahati
Dated: July'2003

Identified by me

[Signature]
4/7/03
Advocate

Deponent

[Signature]

GANGA PURKUTI
Controller

Solemnly affirmed before me by **C. D. A.**
the deponent **Udavan Vihar, Narangi,**
Kumari/Shri Ganga Purkuti
Who is identified by **Shri A.K. Choudhury, Advocate** on the
6th day of July 2003.

[Signature]
(A/C A H 1161)
Advocate
6.8.2003

54

128

No.2(4)/89-P&V
Government of India
Planning Commission
NATIONAL INFORMATICS CENTRE
CGO Complex, Lodhi Road, New Delhi - 110003

A-Block dated 8th January 1990

OFFICE MEMORANDUM

Subject:- Job Descriptions for different levels of Data Entry Operators and Programming Staff

The undersigned is directed to refer to the Ministry of Finance, Department of Expenditure (Implementation Cell) Office Memorandum No.F.7(1)/IC/86(44) dated 11th September 1989 and to say that vide para B of the above mentioned Office Memorandum, NIC was asked to evolve the job assignment charts for different levels of Data Entry Operators and Programming Staff, for adoption by different Ministries/Departments. Accordingly, the job descriptions for various levels of Data Entry Operators and Programming Staff have been evolved as given in the enclosed Annexure-I and Annexure-II respectively, which could be adopted by the Ministries/Departments of the Government of India with suitable modifications, if necessary, to meet any particular requirements.

(K. Subbiah)
8/1/90
(K. Subbiah)
Deputy Director
Tel. 362228

- To
1. All Ministries/Departments of the Government of India (as per Standard List).
 2. Copy to Ministry of Personnel, Public Grievances & Pensions, (Department of Personnel & Training), Director (E).
 3. Copy to Ministry of Finance, Department of Expenditure, Implementation Cell.

(K. Subbiah)
8/1/90
(K. Subbiah)
Deputy Director
Tel. 362228

3

46

ANNEXURE - I

127

DESCRIPTIONS FOR VARIOUS CATEGORIES OF DATA ENTRY OPERATORS

DATA ENTRY OPERATOR - A --- 1150 - 25 - 1500

All types of data preparation and validation including alpha-numeric data entry, graphic data entry, voice-entry, optical entry etc., and associated verification, and pre-programmed validation, text processing etc., on any type of machines/equipment/instrument endowed with facilities for data entry and/or preparation for data entry and/or pre-programmed validation of entered data including key punching machine, key to magnetic media machine, key to optical media machine; any type of computer/EDP equipment; any computer based equipment/computer based instrument/computer based online or real time systems/computer network based systems.

2. DATA ENTRY OPERATOR - B --- 1350 - 30 - 2000 - 40 - 1500 - 20 - 50 - 2500

In addition to those jobs mentioned for Data Entry Operator - A, Pooling, Counting, Collating, Coding, Console Operation, assisting in the preparation of Statistics, billing, input/output handling etc. on any type of machine/equipment/instrument endowed with facilities for data entry or preparation for data entry and/or validation of entered data as specified under the description for Data Entry Operator - A.

3. DATA ENTRY OPERATOR - C --- 1600 - 40 - 1800 - 40 - 50 - 2300

In addition to those jobs and machines/equipment/instrument mentioned for Data Entry Operator - B, training of operators, scheduling of jobs and more skill-based validation of alpha-numeric or graphic data as determined by the needs of the organisation.

4. DATA ENTRY OPERATOR - D --- 1600 - 50 - 2300 - 40 - 60 - 2600

In addition to those jobs mentioned for Data Entry Operator - C, programming relating to Data preparation and/or validation, and for a few staff who are considered to have the required aptitude and depending upon the need, supervision of the work of Data Entry Operator-A, B and C.

5. DATA ENTRY OPERATOR - E --- 2000 - 50 - 2500 - 40 - 60 - 3200 - 40 - 5000

Supervision of the work of data preparation, scheduling and distribution of jobs among other Data Entry Operators, planning, scheduling, coordination and implementation of interrelated and integrated data preparation jobs; programming relating to Data preparation and/or validation and if necessary to do supporting job of data entry, verification, validation etc. depending on exigencies of work.

55

by

S/B

47-

126

ARC

: 2 :

- Notes:
1. In addition to particular job descriptions within the corresponding list given above, all Data Entry Operators will handle any other related jobs as may be assigned to them by the Officer-in-charge or the Controlling Officer of the Unit/User Terminal where such Operators are posted, or by the Head of Department or by the Head of Office, or by any other officer as may be nominated by the Head of Department/Head of Office from time to time.
 2. Wherever considered necessary the Data Entry Operators are required to work on any shift as may be prescribed by the Head of Department/Head of Office or by any other Officer as may be nominated by the Head of Department/Head of Office from time to time.

CP 31/03
GWA 78/02

43-56
65
Filed by -
Anup K. Jena
7/8/03
ADD. CONTROLLER
GUWAHATI

**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH:
GUWAHATI ----- C.C.P.A. NO- 31/2003**

(ARISING OUT OF O.A.No.780F 2002)

Keshab Sharma & others Applicant

VERSUS

Secretary of Govt. of India Respondents

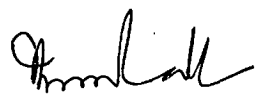
Ministry of Defence (Finance) &

Others

The humble reply to the contempt petition on behalf of the respondents
No- 4

MOST RESPECTFULLY SHEWETH:

That the Petitioners of the applicants filed the original application of the contempt petition under consideration is not maintainable in view of the fact that the respondents have acted in accordance with the direction contained in Para 6 of the Hon'ble CAT Guwahati Bench judgment dated 06.06.2002 in O.A No.78 of 2002 filed by the applicants wherein the Hon'ble Tribunal has directed the respondents to give effect to the Pay Scale with effect from 01.01.1986 in place of 11.09.1989 to the applicants or the date of their appointment whichever is later within a period of three months from the date of receipt of copy of the order. Accordingly Pay Fixation in respect of the applicants was done in their respective grade viz. DEO Grade 'A' and DEO Grade 'B' in the Pay Scale of Rs. 1150-1500 and Rs. 1350-220 respectively w.e.f.the date of their appointment vide Part II O.O. NO 308 dated 18.09.2002. The Pay Fixation has been done in accordance with the directions of the Tribunal in Para 6 of its judgment within the stipulated time, hence no willful disregard has been committed by the respondents in implementing the Hon'ble CAT Guwahati Bench order.


J. VENUGOPAL REDDY
Dy Controller
CDA, Guwahati

57

66

PARA WISE REPLIES TO THE CONTEMPT PETITION

PARA 1: The argument made by the applicants, that both the Data Entry operator Grade 'A' and Grade 'B' are entitled to the same scale of pay is not correct due to the following reasons.

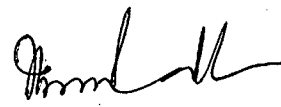
- (A) The duties and responsibilities of DEO 'A' and DEO 'B' are not same. In addition to jobs mentioned to DEO 'A', DEO 'B' is given more duties and responsibilities. In this connection Govt. of India, Planning commission / National informatics center, A- block CGO Complex, Lodhi Road, New Delhi No. 2(4)/89-p & v dated 8.1.90 refers (copy enclosed).
- (B) As per recruitment rules, the minimum qualification for entry grade i.e. DEO 'A' is 12th standard Pass or equivalent and should possess a speed of not less than 8000 Key depressions per hour. Entry to Grade 'B' is either by 40% promotion, 30% by direct recruitment or 30% by transfer on deputation. DEO 'A' with 6 years regular service as DEO will become eligible for Promotion to DEO 'B' subject to availability of vacancy.

Para 2: The copy of judgment dated 06.06.2002 of CAT Guwahati Bench was referred to Government of India by Hqrs. Office i.e. CGDA's office. The Government of India has decided to implement the judgment as done in the case of judgments given by other CAT Benches i.e. by granting Pay Scale of Rs. 1150-1500 to DEO Grade 'A' and Rs. 1350-2200 to DEO Grade 'B' w.e.f. 01.01.86 or from the date of their appointment whichever is later. Accordingly the Pay of the applicants of the O.A.No.78 of 2002 was fixed in their respective grades i.e. Grade 'A' and Grade 'B'.

Para 3: Same reply as in Para 2 above.

Para 4: Same reply as in Para 2 above.

Para 5: The clarifications sought by the applicant's Advocate were already replied vide this office letter No. AN/III/III/DEO's dated 11.05.2003 addressed to Addl. Central Government standing Counsel, CAT Guwahati Bench.


G. VENUGOPALAN I.D.A.S.
Dy Controller
CDA, Guwahati

Para 6: In reply to Para 6 of the contempt petition it is submitted that as the pay fixation has been done in accordance with the direction of the Tribunal in Para 6 of its judgment within the stipulated period the respondents have not committed contempt of the judgment of Hon'ble CAT Guwahati Bench. It is also submitted that in similar cases, Hon'ble CAT Jabalpur Bench, Hon'ble CAT Hyderabad Bench, Hon'ble CAT Allahabad Bench, Hon'ble CAT Madras Bench etc. have directed the respondents to give effect of the Pay Scales recommended by the committee with effect from 01-01-86 instead of 11-09-1989. The committee has recommended different Pay Scales for DEOs 'A' and DEOs 'B'. Accordingly the Pay of the applicants in the above cases was fixed in their respective grade i.e. Grade 'A' and Grade 'B'. CAT Lucknow Bench has also delivered a similar judgment in OA no 150 of 2001. Due to wrong interpretation, the pay fixation done by the PCDA (CC) Lucknow in the pay scale of Rs.1350-2200 irrespective of DEO DEOs 'A' and DEOs 'B' is not correct. The matter was referred to Govt. of India, who has clarified that the pay fixation done by the PCDA (CC) Lucknow in respect of applicants of OA NO.150 of 2001 of CAT Lucknow Bench is irregular and has directed to rectify the pay fixation and the same has been rectified.

Para 7: In reply to Para 7 of the contempt petition it is stated that the contention of the applicants that the stand of the respondents is in total violation of the Hon'ble Tribunal judgment dated 06.06.2002 is totally incorrect. The pay fixation has been done in accordance with the directions of the Hon'ble Tribunal and the decision of the Government of India.

Para 8: Same reply as in Para 5.

Para 9: In reply to Para 9 of the contempt petition it is submitted that the respondents have taken action as per the decision of the Government of India and in accordance with the directions of the Hon'ble CAT Guwahati Bench in their order dated 06.06.2002 to give effect of the pay scale with effect from 01-01-86 instead of 11-09-89, the pay of the applicants was fixed in their respective grades. As such, the respondents have not committed any contempt of the Hon'ble CAT Guwahati Bench order.



G. VENUGOPALAN I.D.A.S.
Dy Controller
CDA, Guwahati

Para 10: In reply to Para 10 of the contempt petition it is submitted that in view of the foregoing paras, the action taken by the respondent is not arbitrary, illegal, contemptuous and is not in willful disregard of the Hon'ble Tribunal Judgment and there has been no case of any contempt under section 17 of the Act and hence the present CCPA petition is fit to be dismissed in lamine.

Para 11: Same reply as in Para 10.

Affidavit

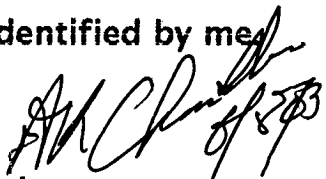
I, G. VENUGOPALAN son/daughter of A. GOPALAN
Resident of GUWAHATI presently posted as Deputy Controller of Defence
Accounts in this office of the Controller of Defence Accounts Narangi,
Guwahati do hereby solemnly affirm and state as follows:

1. That I am fully acquainted with the facts of the case.
2. That I have gone through the contents of this reply and have fully understood the same.
3. That the statement made in Para 1 to 11 is true to my best of the knowledge as derived from the records of the case and the rest are by way of submission to this Hon'ble Tribunal.
4. That I have not suppressed any material facts.

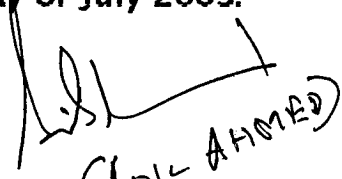


Place: Guwahati
Dated: 6th July 2003

G. VENUGOPALAN I D A
Deponent Dy. Controller
CDA, Guwahati

Identified by me

Advocate

Solemnly affirmed before me by
the deponent
Kumari/Shri G. Venugopalan
Who is identified by Shri A.K.
Choudhury, Advocate on the
_____ day of July 2003.


(ABDUL AHMED)
Advocate