

FORM No. 4
(SEE RULE 12)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Org./App./Misc.Petn/Cont.Petn/Rev.Appl.....19/2004
In O.A.....52/2002
Name of the Applicant(s) J. Chakraborty
Name of the Respondent(s) Br. K. T. Gayria & 2 ors.
Advocate for the Applicant A.K. Roy
Counsel for the Railway/CGSC.....

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

26.5.2004

This contempt petition has been filed by the applicant with a prayer for ~~prosecution & punishment for~~ non compliance with this Hon'ble court order in office of repeated representation by the applicant. It is said before to Hon'ble court for order.

mb

Heard Mr. A.K. Roy, learned counsel for the applicant.

Issue notice to show cause as to why contempt proceeding shall not be initiated against the alleged contemnors, returnable within four weeks.

List on 21.6.2004 for orders.

[Signature]
Member (A)

[Signature]
S.O (C/A)

19.7.2004 present: The Hon'ble Shri K.V. Sachidanandan, Member (J).

The Hon'ble Shri K.V. Prahladan Member (A).

Passed over.

[Signature]
Member (A)

[Signature]
Member (J)

Notice & order sent to D/Section for issuing to respondent as nos 1, 2 & 3, by regd. letter A/D post.

[Signature]
28/5/04, Memo No = 938 to 940
Dt. 28/5/04. *[Signature]*

A/D card return
from resp. No. 1.

4/7/04.

A/D card return
from resp. No. 2, 3.

12/7/04.

20.7.2004 Present: The Hon'ble Sri K.V. Sachidanandan, Member (J).

The Hon'ble Sri K.V. Prahladan, Member (A).

From the Registry notings it is found that notice upon the Respondent Nos. 1, 2 and 3 has already been served and the A/D cards were returned. In the circumstances, four weeks more time is granted to the respondents to file reply affidavit as to why contempt proceedings should not be initiated against them as alleged by the petitioner.

List on 26.8.2004 for orders.

25.8.04
Notice duly served
on 2-2-1 to 3.

No. reply from Sec. Filed.

Member (A)

Member (J)

bb

26.8.04.

Present: Hon'ble Mr. D.C. Verma, Vice-Chairman.

Hon'ble Mr. K.V. Prahladan, Administrative Member.

Mr. A.K. Roy, learned counsel for the applicant states that the respondents have complied with the order in which the applicant may challenge by a separate O.A. Accordingly, the C.P. is dropped.

Member

Vice-Chairman

lm

13.9.04

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

SP

2 copies
B.C. Patil

21/9/04

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Filed by the Applicant
through Mr. L. Wapang
Advocate.
CAT.

CONTEMPT ORIGINAL PETITION NO: 19 /04.

IN THE ORIGINAL APPLICATION NO: 52 /02.

Shri. JYOTIRMOY CHAKRABORTY.

MES/233639.

Instrument repair (Now retired as
Elect. H.S-II)

C/o. G.E(1) Air Force,

Tezpur. District: Sonitpur
(Assam).

..... Applicant.

-VERSUS-

1. Br.K.T Gayria

Chief Engineer(H.O)

Shillong Zone: Shillong.

2. Shri. Nabir Chouhan

G.E(1) Air Force, Tezpur

District: Sonitpur (Assam)

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-2-

3. Shri. Covind Mohender
Singh.

Commander Works Engineer.

C/O. G.E Air Force, Tezpur.

District: Sonitpur (Assam).

.....Respondents.

-AND-

IN THE MATTER OF:

An application under
Section¹¹ and [✓]12 of the
Contempt of Court Act, 1971
read with Section 17 of the
Administrative Tribunal
Act, 1985 for contempt of
Court.

-AND-

IN THE MATTER OF:

Willful violation and non-
compliance of the order
dated 11/11/2002, passed by
the Hon'ble Central

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Administrative Tribunal in
O. A No: 52/2002.

The humble application of
the applicant abovenamed:-

MOST RESPECTFULLY SHEWETH:

1. That the applicant in the month of December 1971 joined in service as Instrument Repairer, presently described as Electrician H.S-II under the respondent. That prior to 1984, the post of Instrument Repairer was a feeder post for promotion to the post of Electrician. In the year 1986 a three-grade structure came into force-Electrician (Skilled), Electrician (Highly Skilled Grade-II) and Electrician (Highly Skilled Grade-I). The post of Instrument Repairer was redesigned as Electrician and the post of Charge Electrician was re-designated as Electrician Grade-I. In the year 1976, the applicant appeared in the trade test for the post of charge Electrician and become eligible for promotion to the post of

Charge Electrician. That in the year 1987, the applicant was promoted to the post of Electrician H.S-II, but as per earlier policy he was to be promoted to the post of charge Electrician Grade-I, on the other hand, these persons who were selected in the trade test of Charge Electrician in the year 1976 along with the applicant were given promotion to the post of Electrician Grade-I, after restructuring. Similarly, persons passed the trade test in the year 1987 was also promoted to Electrician H.S-I in the same year. As the case of the applicant was unlawfully ignored, he raised his grievances before the authority by submitting representation from time to time. Failing to get appropriate remedy, the applicant approached this Hon'ble Tribunal by filing an Original Application being No: 52/2002. This Hon'ble Tribunal was pleased to disposed of the said Original Application by an order dtd. 11/11/2002 directing the respondents to finalise the Review DPC and pass appropriate order, preferably within three months from the date of receipt of the order.

Copy of the said Order dtd.11/11/2002
is annexed herewith and Marked as
Annexure-A

2. That immediately after receiving the copy of the said order dtd.11/11/2002, the applicant furnished the same in the month of December 2002 to the respondents with an application requesting the respondents for compliance with the order of this Hon'ble Tribunal. But, after waiting for nearly bout six months, as the respondents did not take any step to implement the order dtd.11/11/2002 of this Hon'ble Tribunal. Subsequently he had submitted another application on 9/6/2003 to the respondent No: 2 requesting for compliance of the order dtd.11/11/2002, but the same has also been failed to evoke any response on their part.

Copy of the representation dtd.
9/6/2003 is annexed herewith and
marked as Annexure-B

3. That thereafter, the applicant approached the office of the respondent No: 4 for number of times to get the result of the representation,

but every time he was told that the matter had been sent to the Higher authority and if any order come from the higher authority, he would be informed.

4. That, the respondents have not till date complied with the order dtd.11/11/2003 passed in O. A No: 52/2002 by this Hon'ble Tribunal and accordingly one year six months had been passed away, finding willful and deliberate negligence on the part of the Respondent, the alleged condemner, the applicant had no other choice but to approach this Hon'ble Tribunal by filling this Contempt petition against the respondents for not complying with the order of this Hon'ble Tribunal.

5. That the petitioner states that after lapse of three months, on every and each day the respondents are violating and disobeying the order of this Hon'ble Tribunal in not implementing the same and hence they are liable to be punished under the Contempt of Court's Act, 1971. The very action of the respondents is a continuing wrong on the part of them which is occurring in every moment and every day.

6. That, inspite of repeated approach of the applicant and his request, the respondents did not initiated to comply with the Hon'ble Tribunal order, their action is a clear willful and deliberate violations of the Hon'ble Tribunal's order.

7. That, the Respondents are guilty of the offence of contempt of Court under the Contempt of Court Act, 1971 read with relevant rules and procedures of the Central administrative Tribunal Act, 1985 for willful and negligent Act and for violating the Hon'ble Tribunal order dtd.11/11/2002. The very unchallent attitude of the Respondents is clearly violation of the Hon'ble Tribunal order and hence they are liable to be prosecuted and punished for contempt of Court's order.

8. That, this application is made bonafide and for the interest of justice.

In the premises aforesaid
it is therefore prayed
that Your Lordship's *may*
be pleased to admit this
application and pass
necessary order drawing
contempt proceeding
against the Respondents
and after hearing the
parties may please to
punish them for their
willful and deliberate
violation of this Hon'ble
Tribunal order and/or be
pleased to pass any other
further order as your
Lordship's my deem fit
and proper.

And for this act, as in duty bound, the
applicant shall ever pray.

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A F F I D A V I T

I, Sri. Jyotirmoy Chakraborty, MES/233639, son of Shri. Bhupendra Mohan Chakraborty aged about 61 years, presently residing at Air Force Gate, Near Mess Union Building, P.O: Haleswar, Dist: Tezpur, Assam, and I am the applicant in the instant Application and I do hereby solemnly affirm and state that the statements made in paragraphs 1 to 7 are true to the best of my knowledge and belief and rest are my humble submission before this Hon'ble Tribunal.

And I sign this Affidavit on this 25th day of May, 2004 at Guwahati.

Identified by:

A. K. Roy

Advocate

C A T.

DEPONENT

Solemnly affirmed and declare before me by the deponent on being identified by Shri. A.K. Roy, Advocate, CAT, on this th day of May, 2004 at Guwahati.

Indranil Gogoi
Advocate
Guwahati High Court

D R A F T C H A R G E

The charge against the condemner is that in spite of the direction of this Hon'ble Tribunal to resolve the issue as early as possible, preferably within three months from the date of receipt of the order, keeping in mind that the inter-se seniority for the promotion of the applicant to the post of Electrician Grade-I passed in O. A No: 52/2002,nd inspite of repeated representation from the side of the applicant, the respondents have neither finalise the review DPC nor did promoted the applicant and accordingly they have intentionally and willfully violated the order dtd.11/11/20002 passed in O. A No: 52/2002 and hence they re liable to be punished under the Contempt of Court Act,1971.

(cont..... Affidvit)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.52 of 2002

Date of decision: This the 11th day of November 2002

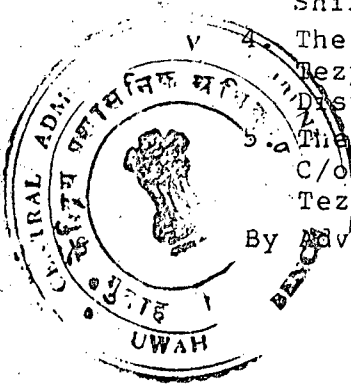
The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman

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

Shri Jyotirmoy Chakraborty,
MES/233639,
Instrument Repairer (Now Elect. H.S.-II),
C/o GE (I) AF, Tezpur,
District- Sonitpur, Assam.Applicant
By Advocates Mr A.K. Roy, Mr S.C. Biswas and
Mr I. Gogoi.

- versus -

1. The Union of India, represented by the
Secretary,
Ministry of Defence,
New Delhi.
2. The Chief Engineer (Headquarter),
Eastern Command,
Fort William, Calcutta.
3. The Chief Engineer (H.O.),
Shillong Zone, Shillong.
4. The G.E. (I), Air Force,
Tezpur,
District- Sonitpur, Assam.
5. The Commander Works Engineer,
C/o G.E., AF,
Tezpur.Respondents
By Advocate Mr B.C. Pathak, Addl. C.G.S.C.



ORDER (ORAL)

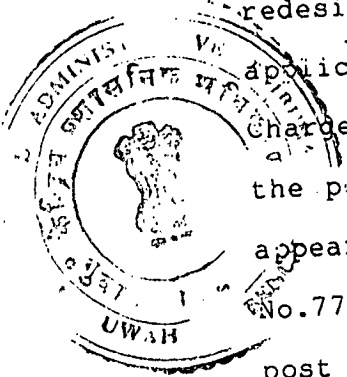
CHOWDHURY. J. (V.C.)

In this application under Section 19 of the Administrative Tribunals Act, 1985 the applicant has raised a question of legitimacy of the action of the respondents in not considering his case for promotion to the post of Electrician HS-I and allowing his juniors to march over him.

Attested by :-

Limawapang
Advocate

2. The applicant joined in service as Instrument repairer, presently described as Electrician HS II under the respondent No.4 in the month of December 1971. Prior to that the applicant served in the Indian Air Force for about nine years as Instrument Repairer. It was pleaded, inter alia that prior to 1984 the post of Instrument Repairer was a feeder post for promotion to the post of Electrician. In the year 1986 a three grade structure came into force - Electrician (Skilled), Electrician (Highly Skilled Grade-II) and Electrician (Highly Skilled Grade-I). The post of Instrument Repairer was redesignated as Electrician and the post of Charge Electrician was redesignated as Electrician HS-I. In the year 1976, the applicant appeared in the Trade Test for the post of Charge Electrician and became eligible for promotion to the post of Charge Electrician. The name of the applicant appeared amongst the successful candidates at serial No.77. In the year 1987 the applicant was promoted to the post of Electrician HS II. According to the applicant as per the earlier policy he was to be promoted to the post of Charge Electrician, which was redesignated as Electrician (Skilled I) and erroneously the authority promoted him as Electrician (Skilled II). It was also pleaded that other persons who were selected in the Trade Test of Charge Electrician in the year 1976 alongwith the applicant were given promotion to the post of Electrician (Skilled I) after restructuring. The applicant cited the name of one Shri Jogen Chandra Borah, who also passed the Trade Test alongwith the applicant in the year 1976 and who was given promotion to the post of Electrician (HS I). Similarly, Shri Paritosh Kumar Sengupta who passed the Trade Test in the year 1987 was promoted to Electrician HS I in the year 1987. The case of the applicant was unlawfully.....



unlawfully ignored. He raised his grievance before the authority. As a matter of fact the applicant further pleaded that the competent authority by communication No.90270/89/EC/EIC (3) dated 10.2.1995 issued the following instructions:

"Consequent on redesignation of Instrument repairer/MPI to Electrician (SK) some representation have been recd from existing instrument repairer/MPI with regard to their promotion to electrician HS-II/Elect.-I. The cases have been gone into and following decisions have been taken:-

- (a) Since prior to introduction three grade structure Electrician and Instrument repairers/MPI were the feeder category, for promotion to Ch.Elect, there is no anomaly in redesignation of instrument repairer/MPI to electrician.
- (b) Review DPCs are to be convened and instrument repairer/MPI who are otherwise eligible for promotion be considered for promotion to elect HS I with notional seniority at par with their immediate junior elect SK.Wireman, who have already been promoted to elect HS-I. However, the over-all percentage of HS-II/HS-I vacancies are to be maintained as per existing instructions."

3. Though the policy guidelines were published, the respondents failed to remedy the situation and the applicant accordingly submitted representations from time to time before the authority vide representations dated 7.8.1996, 18.7.1998, 7.7.1999, 14.10.1999 and similar other representations. By communication dated 18.6.2000 the Commander Works Engineer addressed to the Chief Engineer and communicated the position to the authority and requested the authority to do the needful in the light of the policy decision issued by the department. The applicant thereafter also submitted representations. Failing to get appropriate remedy, he moved the Tribunal by way of the present O.A. for redressal of his grievances.

4. The respondents submitted their written statement. In the written statement the respondents on the one hand submitted that the Review Departmental Promotion Committee (DPC for short) meeting could not be held due to non-availability of vacancies and also the applicant did not possess the qualification required for Electrician HS-I.

5. We have heard Mr A.K. Roy, learned counsel for the applicant and also Mr B.C. Pathak, learned Addl. C.G.S.C. The materials on record indicated that the applicant passed the Trade Test of Charge Electrician in the year 1976. Similar persons who passed the same Trade Test were shown to be promoted by the respondents. Similarly, even persons who passed the test later on were also promoted and the case of the applicant was not considered in the light of the policy decision laid down in 1995. The seniority list was also not produced. Therefore, the contention of the respondents that the Review DPC could not be held due to non-availability of vacancy and that the applicant did not qualify in the Trade Test is not sustainable. When persons junior to the applicant were considered for promotion to the post of Electrician HS I there is no justification in not considering the case of the case applicant. The respondents have, however, stated, that the matter was taken up with the higher authority for conducting Review DPC and it was expected that the dispute would be finally resolved by the Review DPC.

6. On consideration of all the aspects of the matter we direct the authority to finalise the Review DPC and pass appropriate order thereon, keeping in mind the inter se seniority and other like matters. The matter is an old one

and.....



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and the respondents are accordingly directed to resolve the issue as early as possible, preferably within three months from the date of receipt of the order.

7. With the above observations the application stands disposed of. There shall, however, be no order as to costs.



nkm

Sd/ VICE CHAIRMAN
Sd/ MEMBER (ADM)

TRUE COPY

[Signature]
27/12/12
Section Officer (Judicial)
Central Administrative Tribunal
Lucknow Bench, Lucknow

[Signature]
27/12/12

To,

The Garrison Engineer,
Air Force, Tezpur.
P.O: Salonibari,
Tezpur - 784104,
Assam.

From:

MES/233639
Jyotirmoy Chakraborty
(Retired)
Air Force Gate,
Near MES Union Building
P.O: Haleswar, Tezpur

NON-IMPLEMENTATION OF CAT JUDGEMENT-ORDER dt 11 NOV 02.
ORIGINAL APPLICATION NO. 52 OF 2002.

Respected Sir,

1. Reference my original Application No. 52 of 2002 dated 11 Nov 2002.
2. I beg to state that after lapse of six months time, till date no further progress has so far been noticed. It presumes that it is a total and serious negligence and avoidance on my part.
3. By this said order, you were directed to resolve the issue as early as possible, preferably within three months time from the date of receipt of the order, but it is a matter of sad affairs which has already been lapse as on date, means overdelayed.
4. You are again requested to kindly implement my legitimate action for promotion to the post of Electrician Highly Skilled Grade I with financial effect before June 02, otherwise, I have no other alternative way but to take shelter of court of law through contempt petition.

Thanking you.

09-6-2003

Yours faithfully,

Jyotirmoy Chakraborty

(Jyotirmoy Chakraborty)

MES/233639 (Retired)

Copy to:

1. C.W.E, Tezpur - For information and necessary direction to G.E. (AF), Tezpur.
2. H.Q., C.E.(AF) S2, Shillong-11 - Do -
3. H.Q., C.E.E.C. Kolkata (Legal Cell) - Do -
Engg. Branch, Fort William
Kolkata - 21
4. E.H.C Branch (Legal Cell)
Army H.Q., D.H.Q., New Delhi - 110011 - Do -

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Attested by :-
Limawapang
Advocate