

FORM No. 4  
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

ORDER SHEET

Orig. App./Misc. Petn/Cont. Petn/Rev. Appl. ....

35/04.....

In O.A. 283/2002

Name of the Applicant(s) Anisur Zamal

Name of the Respondent(s) N. Brahma

Advocate for the Applicant ~~Shri~~ Shri Mustafa Ahmed, Biasuddin  
R.S. Thakur

Counsel for the Railway/C.G.C.C. ✓

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

17.8.04

List on 24.8.04 for orders

By order.

This Contempt  
Petition has been  
filed by the Counsel  
for the petitioner praying  
non-compliance and  
wilful disobedience  
of the order passed  
by this Hon'ble Tribunal  
in O.A. 283/02.

24.8.2004

Present: The Hon'ble Shri D. C. Verma,  
Vice-Chairman (J).

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

Mr. A.M. Ahmed, learned counsel for  
the applicant is present.

It is noted that more than twelve  
months have passed and notice has not  
been issued. Learned counsel for the  
applicant seeks ~~xxx~~ and is allowed to  
argue on the question of maintainability.

List on 15.9.2004.

Local before  
the Hon'ble Court  
for further orders.

Amo.  
for Section Officer  
Amo.


K.V. Prahladan  
Member (A)


D  
Vice-Chairman

bb

10.11.04.

On the request of Sri S. Ghosh mentioning on behalf of learned counsel Sri A.A. Ahmed stand over to 14.12.04.

  
Member

  
Vice-Chairman

pg

14.12.04.

Present: Hon<sup>ble</sup> Mr. R.K. Batta, Vice-Chairman.

None present for the applicant.


On 24.8.04 the learned counsel for the applicant sought to argue on the question of maintainability. Again on 10.11.04 on the request of learned counsel for the applicant the matter was adjourned to to-day. To-day no one has appeared on behalf of the applicant. It appears that the applicant is not interested <sup>in</sup> prosecuting the matter. Hence C.P. is dismissed for non-prosecution.

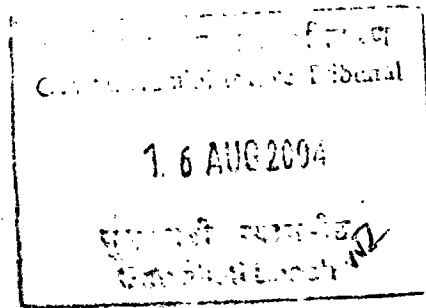
  
Vice-Chairman

lm

23.12.04

Copy of the order has been sent to the D/Sec. for filing the same to the Parties.

  
23/12/04



Anisuz Zamal  
Filed by the Petitioner  
Shri Anisuz Zamal  
through Md. Gireesh Uddin  
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH  
AT GUWAHATI

Contempt Petition No. 35 / 2004

In the matter of:-

An application under Section 17  
of the Administrative Tribunal  
Act, 1985.

And

In the matter of:-

Wilful disobedience and non-compliance  
of the order, passed on 12.6.2003  
by this Hon'ble Tribunal in Original  
Application No. 283/2002.

And

In the matter of:-

Shri Anisuz Zamal,  
S/o late Abul Mazid, working as  
Gangman in Kampur Railway Station  
at Kampur, N.F. Railway, Lumding.

..... Petitioner

- Versus -

1. Shri N. Brahma,  
Senior Divisional Engineer,  
N.F. Railway, Lumding.

.... Respondent  
Contemner

The humble petition of the  
petitioner above named:-

ANIS ZANAL

MOST RESPECTFULLY SHEWETH :-

1. That your petitioner is a peace loving and law abiding citizen of India and is a permanent resident of Kampur Railway Station and he is working as Gangman under the Senior Divisional Engineer, Lumding, N.F. Railway Lumding.
2. That your humble petitioner begs to state that he was working as Gangman on 14.5.2002 and thereafter he was not allowed to <sup>perform</sup> ~~perfor~~ his duty by the Gangmate as per the advice of the permanent way Inspector- 1 without any reason.
3. That your humble petitioner~~s~~ begs to state that he was not allowed to perform his duty and he was directed by the Gangmate to meet PWI- 1 and when the petitioner went to the office of the PWI- 1, he was not entertained and he was not allowed to meet the PWI by the Time-keeper of the office.
4. That as the petitioner failed to meet the PWI- 1 Assistant Engineer and Senior Divisional Engineer, Lumding to ventilate his grievances, finding no other alternative, petitioner has filed an application before the Hon'ble Central Administrative Tribunal, Guwahati Bench, which was registered as O.A. No.283/2002. The said original application was listed for hearing on 12.6.2003 and the Hon'ble Tribunal was pleased to pass the judgment in favourof the petitioner and directed the Senior Divisional ~~Manager~~ Engineer,

Lunding to detail the petitioner at the place of work either at Kampur or at Laopani. It was further directed the Senior Divisional Manager to look after the grievances of the applicant and to take appropriate measure under the law for payment of the salary as admissible under the rules.

5. That the humble petitioner begs to state that as per the judgment of the Hon'ble Tribunal the respondent authority including the Assistant Divisional Engineer, N.F. Railway, Jagiroad to complete the disciplinary proceeding within a period of three months the respondents were also directed to take all necessary steps to restore the impasse and take appropriate steps for release of the salary/allowances etc to the applicant.

A copy of the order passed by the Hon'ble Tribunal is enclosed herewith and marked as Annexure- 1.

6. That the humble petitioner begs to state that after obtaining the certified copy of the judgment it was handed over to the contemner/ respondent No.1 on 18.6.2003 which was duly received by the respondent.

7. That the petitioner begs to state that in the order of the Hon'ble Tribunal dtd. 12.6.2003, it was clearly directed to the respondent to complete the departmental proceeding on the basis of show cause notice issued by him within the period of three months from the date of judgment. The departmental enquiry was

initiated by the Assistant Engineer, Jagiroad on the allegation of absence from duty on and from 15.5.2002 and written statement was submitted by him on 14.9.2002 but till today no enquiry was initiated to find out the actual fact of allegation.

8. That the petitioner begs to state that the allegation of unauthorised absence from duty against him is yet to be established even after the final order in O.A. No. 283/2002. In such circumstances his pay and salary cannot be withheld by the respondent for the period from 15.5.2002 under any authority of law. The dispute of unauthorised absent is a subject matter to be decided by holding an impartial departmental enquiry to ascertain the correct fact.

9. That your humble petitioner begs to submit that the action of the contemner for not complying with the order of the Hon'ble Tribunal is nothing but disrespect to the Hon'ble Tribunal for which he is liable under the provision of Section 17 of the Administrative Tribunal Act, 1985 and also liable ~~to~~ under the Contempt of this Tribunal.

10. That your humble petitioner begs to state that he has joined his duty as per the order of the Hon'ble Tribunal on 14.8.2003 at Laopani.

11. That the petitioner joined his service on 14.8.2003 for which he was paid his salary from 14.8.2003

Anisul Zaman

but the period of absence from 15.5.2002 are yet to be released by the authority.

12. That your humble petitioner begs to state that as the grievances for the petitioner's are not yet settled and the enquiry was not conducted by the department about the allegation of unauthorised absence, your humble petitioner submitted an application under registered post to the respondent on 19.3.2004. The said application is pending ~~in pending~~ in the office of the respondent and no order has been passed by the respondent on the application.

The copy of the application and the copy of the registered receipt is enclosed herewith and marked as Annexures 2 and 2A respectively.

13. That your humble petitioner begs to state that the respondent has not paid the full attention of the judgment passed by the Hon'ble Tribunal and shows disrespect to the Hon'ble Tribunal and so he has not complied the order of the Hon'ble Tribunal as yet. Moreover, the respondent is also not acted on the application of the petitioner submitted on 19.3.2004.

14. That the inaction of the respondent and defying the direction of the Hon'ble Tribunal he is liable under the Contempts of Courts Act and is also punishable for his wilful violation of the Tribunal's order as per law.

Advisory Panel

15. That your humble petitioner begs to state that the respondent is duty bound to maintain the dignity of the Hon'ble Tribunal but the respondent by his conduct shows disrespect to the Hon'ble Tribunal and lowered down the dignity of the Hon'ble Tribunal for which he is liable for punishment.

16. That the petition is made bona fide and for the ends of justice.

It is, therefore, prayed that your Lordships may be pleased to admit this petition, issue a show cause notice to the respondent( contemner) why a contempt proceeding shall not be initiated against the contemner and why punishment<sup>s</sup> shall not be imposed against the contemner as per law and after hearing the parties punishment shall not be imposed against the contemner and or pass necessary order or orders as your Lordships may deem fit and proper.



A F F I D A V I T

I, Shri Anisuz Zamal, son of late Abdul Mazid, aged about 41 years, resident of Kampur Railway Station, N.F. Railway, Lumding, District- Nagaon, do hereby solemnly affirm and declare as follows:-

1. That I am the petitioner of the Contempt petition and as such, I am fully conversant with the facts and circumstances of the case.

2. That the statements made in this affidavit and in paragraphs 1 to 4, 6 to 8, 10, 11, 13 to 15 are true to my knowledge, those made in paragraphs 5, & 12

being matters of records of the case, are true to my information derived therefrom, which I believe to be true and ~~these~~ the rest are my humble submissions before this Hon'ble Court.

And

I set my hand to this affidavit today this the 16 <sup>August</sup> ~~July~~ day of ~~July~~, 2004 at Guwahati.

Anisuz Zamal

Deponent

Solemnly affirm and declare before Ali Mostafa Ahmed, Adv. on 16th August, 2004

Identified by me

Ali Mostafa Ahmed

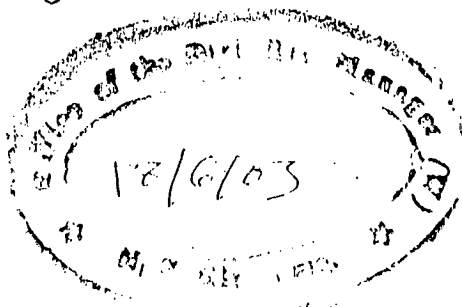
Advocate

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DRAFT CHARGE

Laid down before the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati for initiating a contempt proceeding against the contemnners for wilful disobedience and deliberate non compliance of order of the Hon'ble Tribunal dated 12.6.2003 passed in O.A. 283/2003.

And further be pleased to impose punishment on alleged contemnners/defendents for wilful disobedience and deliberate non compliance of the order dated 12.6.2003.



To,

The SR. DEN/ Lunding, N. F. Rly  
Dated Lunding the 17th June 2003

Sub: Application for Joining my duty as per Order dated 12/6/2003  
passed by the Central Administrative Tribunal Guwahati in  
OA 283/2002

Sir,

Most humbly and respectfully I beg to state the following few line for your kind consideration and necessary action, That Sir, I was not allowed to perform my duty on and from 15/5/2002 by my P.W.I. on the pretext of Transfer order. Hence I filed a case before the Central Administrative Tribunal Guwahati on 2/9/2002 which was registered as OA 283/2002

The Honourable Tribunal after hearing the case finally on 12/6/2003 pass the order directing me to report for duty to your honour. A Certified copy of the order is enclosed herewith for your use.

As such I may be allowed to join my duty as per Order of the Central Administrative Tribunal.

Your's Faithfully

Anisul Zamil  
17.6.03

*Certified to be  
true copy.*

*Anjana Patra.  
Advocate.*

-9-

12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.283 of 2002

Date of decision: This the 12th day of June 2003

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


The Hon'ble Mr R.K. Upadhyaya, Administrative Member

Shri Anisuz Zaman  
S/o Late Abdul Mazid,  
Working as Gangman,  
Kampur Railway Station, Kampur,  
Nagaon, Assam.

By Advocate Mr Hasibur Rahman.

.....Applicant

versus -

- 
1. The Union of India, represented by  
The General Manager,  
N.F. Railway,  
Maligaon, Guwahati.
  2. The Sr. Divisional Engineer,  
N.F. Railway,  
Lumding, Nagaon.
  3. The Permanent Way Inspector, Grade-I,  
N.F. Railway,  
Chapormukh, Nagaon, Assam.
  4. The Permanent Way Inspector (East),  
N.F. Railway,  
Chapormukh, Nagaon, Assam.
  5. Shri Jauhar Jha, Gangman,  
Posted at Kampur Railway Station,  
Nagaon, Assam.

By Advocates Mr B.K. Sharma, Railway Counsel  
and Mr S. Sarma.

.....Respondents

.....

ORDER (ORAL)

CHOWDHURY. J. (V.C.)

The sole controversy rests on the issue of discharging duties by the applicant at his place of work. According to the applicant he is continuously reporting at the place of work on and from 15.5.2002, but till institution of this application he was not allowed to

work at Kampur by the Gang Incharge at the instance of the Permanent Way Inspector I. (PWI-I for short). According to the applicant he was unauthorisedly debarred from discharging his duties.

2. The respondents contested and filed their written statement denying and disputing the claim of the applicant. In the written statement the respondents contended that the applicant was not attending to his duties and as a matter of fact a disciplinary proceeding was initiated against him on 6.7.2002 for the alleged absence of the applicant from duty on and from 15.5.2002 and the disciplinary proceeding is pending.

3. We have heard Mr H. Rahman, learned counsel for the applicant as well as Mr S. Sarma, learned counsel for the respondents. Mr H. Rahman submitted that the respondents unauthorisedly were not allowing the applicant to discharge his duties. The learned counsel submitted that the applicant reported in his place of work at Kampur and thereafter on his transfer from Kampur to Laopani, the applicant reported to the Gang Incharge of Gang No.24 at Laopani on 15.9.2002 and was discharging his duties at Laopani with effect from 15.9.2002/18.9.2002 and thereafter he was not allowed to perform his duties nor was he paid his salary. Mr S. Sarma, learned counsel for the respondents, on the other hand submitted that the question of not allowing the applicant to perform his duties did not arise since he did not even report for his duties.

4. In our opinion, the entire issue requires to be decided on assessment of the facts. As a matter of fact, the disciplinary proceeding is pending on the same issue which.....

which requires to be resolved with utmost expedition. Admittedly, the applicant is not placed under suspension. Therefore, there cannot be any impediment in not allowing the applicant to work at the place of work. According to the applicant he has been unauthorisedly refused work at the place of work by the PWI I, N.F. Railway, Chaparmukh.

5. On hearing the learned counsel for the parties and on consideration of the fact and circumstances, we direct the applicant to report to the Senior Divisional Manager, N.F. Railway, Lumding on or before 16.6.2003 and the Senior Divisional Manager should direct the concerned authority to detail him at the place of work either at Kamur or Laopani. The Senior Divisional Manager will also look after the grievance of the applicant and take appropriate measure under the law for payment of his salary etc. as admissible under the rules. In the meantime, the competent authority, namely the respondent authority including the Assistant Divisional Engineer, N.F. Railway, Jagiroad are directed to complete the disciplinary proceeding expeditiously. Since the applicant has already submitted his written statement as far back as 14.9.2002, the respondents shall complete the proceeding preferably within three months from today. The respondents shall take all necessary steps to resolve the impasse and take appropriate steps for release of the salary/allowances etc. to the applicant in accordance with law.

6. The application thus stands disposed of. There shall, however, be no order as to costs.

Sd/ VICE-CHAIRMAN

Sd/ MEMBER (A)

Section Officer (D)  
T. GUWALAH BANCH  
Guwahati-781005

Certified to  
be true copy  
Anjana Patra  
Advocate



To,

The Senior DEN Lumding,  
N.F.Railway, Lumding, District,  
Nagaon, Assam.

Sub:- Application for payment of Salary from 15.5.2002.

Sir, ..

Most humbly and respectfully I beg to state that the following few lines for your necessary action.

That, Sir, I was debarred from performing my duties illegally and unauthorisedly by the permanent way Inspector I Saparmukh, N.F.Railway. I file a case in the central Administrative Tribunal which was Registered as Original Application No. 283/03. The Hon'ble Tribunal was pleased to pass the Judgement and order on 12th day of June, 2003 directing the Railway authority to allow me to perform my duties. The Hon'ble Tribunal was pleased to pass further order directing the Assistant Divisional Engineer N.F.Railway Jagiroad to complete the Departmental Proceeding on the basis of show cause notice issued by him within the period of three month from the date of Judgement. The said direction was partly followed by your honour to allow me to join my duties from 14.8.03 at Laopani in Gang No. 24. The other part of law order, the direction of the Tribunal to complete the Departmental proceeding within three month were not complied with. The Departmental enquiry was initiated by the Asst. engineer Jagiroad, on the allegation of absence from duty on and from 15.5.02 and the written statement was submitted by me on 14.9.02 but till today no enquiry was initiated by your honour to find out the actual fact of allegation for which

*Certified to  
be true copy  
Anjana Patra  
Advocate*



I am always ready to face the Departmental enquiry. The allegation of unauthorized absent against me is yet to be established even after the final order in O.A 283/02. In such circumstance my pay and salary can not with held by your honour for the period from 15.5.02 under any authority of law. The dispute of unauthorized absent is a subject matter to be decided by holding and impartial Departmental enquiry to ascertain the correct fact for which the Hon'ble Tribunal was pleased to directed your honour to complete the enquiry within a period of three month from 12.6.03 which is already over.

It is therefore prayed to your honour to kindly look in to the matter and to release unauthorized salary from 15.5.02 to 13.10.03 which is with held by your honour without any authority of law even after the order dated 12.6.03. I hope and pray to your honour to take necessary action for release of my salary as mention above and not compel me to go to the Tribunal again for redressal of grievance.

Your faithfully,

Anisuz Zamal  
(Anisuz Zamal) 19.3.04  
Gang No. 24 at Laopani.

Certified to be  
true copy

Anjana Patra  
Advocate