

FORM NO. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUJARATI BENCH

ORDER SHEET

36/04.....

In O.A. 259/02

Name of the Applicant(s)

Habul Ghosh Ions

Name of the Respondent(s)

K. O. I. Ions

Advocate for the Applicant Ms. U. Das, Ms. B. Desi

Counsel for the Railway/C.G.B.C.

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

This Contempt petition
has been filed by the
counsel for the petitioner
praying for appropriate
execution of the judgement
and order dated 25.8.03
passed by this Hon'ble
Court in O.A. 259/02

Laid before the
Hon'ble Court for further
orders.

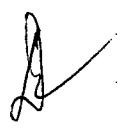
26.8.2004

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

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

Heard Ms. U. Das, learned
counsel for the petitioner. Issue
notice to the respondents to show
cause why proceedings for contempt of
court be not initiated against them
for non-compliance of the Tribunal's
order dated 25.8.2003 passed in
O.A. 259 of 2002. Reply be filed within
four weeks. List on 29.9.04 for
orders.

KV Prahladan
Member

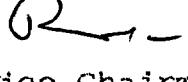

Vice-Chairman

nkm

29.9.04

On the request of Dr. M.C. Sharma,
learned standing counsel for the
respondents stand over to 4.11.04
for filing reply.

KV Prahladan
Member


Vice-Chairman

Notice & order sent to
D/Section for issuing
to resp. Nos. 1, 2, by
regd. with A/D post pg


postal A/c word
received from
resp. No. 2, 1

4.11.04. Present: Hon'ble Mr. Justice R.K. Butta
Vice-Chairman.
Hon'ble Mr.K. V. Prahladan, Administrative
Member.

15/9/04

28-9-04
Service completed.
No reply has been
received

Heard learned counsel for the parties.
The learned counsel for the applicant
states that in view of the reply filed
by the Respondent reporting compliance
of order of this Tribunal, this applica-
tion be disposed of. The application
is accordingly dismissed.

K. P. Prahladan
Member

R -
Vice-Chairman

lm

3-11-04
no reply has been
received

ad

R
P. 10/11/04
Clerk (con) Lao
J. P. RY, MLS

16.11.04

Copy on the order
has been sent to the
Office for filing the
same to the L.A.O.s
for the parties.

ad.

Central Administrative Tribunal
Central Administrative Tribunal

19 AUG 2004

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Titled by
the petitioners through
Ghosh Das
Advocate
30/7/04

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

96
C.P. No. /04.
O.A. No. 259/02

Sri Habul Ghosh & ors.
.....Applicants.
-VS-

Union of India & Ors.
.....Respondents

IN THE MATTER OF

An application under Sec 17 of the
Administrative Tribunal Act, 1985
for drawing up contempt proceeding
against the contemners for their
willful and deliberate violation of
the Judgment and order dated
25.08.03 passed in OA No. 259/02, by
this Hon'ble Tribunal.

- AND -

IN THE MATTER OF

An application praying for
appropriate execution of the
Judgment and order dated 25.08.03
passed in OA No. 259/02, by this
Hon'ble Tribunal, invoking the power
under Rule 24 of the Central
Administrative Tribunal (procedure)
Rules 1987.

IN THE MATTER OF Ghosh,

IN THE MATTER OF

1. Sri Habul Ghosh,
2. Sri Haren Das.
3. Sri Kishore Kumar Mandal.
4. Sri Biren Boro.
5. Sri Maina Boro.
6. Sri Kripa Tewary.
7. Sri Pradip Sarma.
8. Sri Praneswar Boro.
9. Sri Nagendra Boro.
10. Sri Anil Kalita and
11. Sri Bhogi Ram Basumatary

Petitioners/Applicants.

- versus -

1. Sri N. Ramasuramaniyam,
The General Manager (Con)
N.F.Railway, Maligaon.
Guwahati, Assam.
2. Mrs. Pampa Babbar,
The Divisional Railway Manager,
Alipurduar Division, N.F.Railway,
Alipurduar.

Contemners/ Respondents.

The humble application on behalf of the petitioner above named.

MOST RESPECTFULLY SHEATH

1. That the petitioner/applicant claiming the benefit of regularisation, preferred the above O.A No 259/02. The Hon'ble

Tribunal was pleased to dispose of the said O.A vide its judgment and order dated 25.08.03.

Copy of the judgment and order dated 25.08.03 annexed herewith and marked as ANNEXURES-1.

2. That the petitioner immediately on receipt of the copy of the judgments submitted the same before the concern authority vide their individual representations but till date nothing has been done in this matter even after the expiry of the several months. The petitioner repeatedly kept on pursuing the matter before the concerned authority praying for implementation of the judgment and order dated 25.08.03.

~~One of such~~ representations dated ...15/9/04.....is annexed herewith and marked as Annexures - 2

4. That the petitioner begs to state that the aforesaid representation filed by the petitioner were received by the respondents. The respondents/condemners have full knowledge about the passing of the said judgments and order dated 25.08.03 passed in OA No.259/02, but in spite of this the respondents/condemners have acted in a contemptuous manner. The respondent for such inaction and willful violation of the said Judgment and order made themselves liable to be punished under contempt of Court's Act.

5. That the petitioner begs to state that the condemners have acted in violation of the judgment in not considering the

case of the petitioner within the stipulated time frame and as such they are liable to be punished severely for their such action invoking the power under section 17 of the Administrative Tribunal Act, 1985 read with provision under Central Administrative Tribunal (Contempt of Court's) Rules 1992 as well as the provisions contained in the contempt of Court's Act 1971.

6. That the petitioner begs to state that inspite of repeated requests the Respondents have acted contrary to the judgment and the contemner is continuing such inaction even after expiry of the stipulated timeframe. It is therefore is a fit case for invoking Rule 24 of the Central Administrative Tribunal (Produced) Rule 1987 directing the Respondents to implement the Judgment and order dated 25.08.03 passed in OA No.259/02.

7. The this application has been filed bonafide and to secure ends of justice.

In the premises aforesaid it is most respectfully prayed that Your Lordships would graciously be pleased to initiate appropriate contempt proceeding against the contemners for their willful and deliberate violation of the Judgment and order dated 25.08.03 passed in OA No.259/02, by this Hon'ble Tribunal, and to punish them severely invoking the power under section 17 of the Administrative Tribunal Act, 1985 read with Central Administrative Tribunal (Contempt of Court) Rules 1992 as well as the provisions contained in the contempt of courts Act, 1971 with a further direction towards the contemners to implement the said Judgment and

order. ad/or pass any such order/orders as may
be deemed fit and proper.

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

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DRAFT CHARGE

Whereas 1. Sri.N.Ramasuramaniyam, the General Manager (Con), N.F.Railway, Maligaon, Guwahati, Assam. and 2. Mrs. Pampa Babbar, the Divisional Railway Manager, Alipurduar Division, N.F.Railway, Alipurduar, dated 25.08.03 passed in OA No.259/02, passed by the Hon'ble Tribunal and as such they are liable to be punished severely invoking the power under section 17 of the Administrative Tribunal Act, 1985 read with provisions under Central Administrative Tribunal (Contempt of Courts) Rules 1992 as well as the provisions contained in the Contempt of Courts Act, 1971

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AFFIDAVIT

I, Sri Habul Ghosh, aged about 41 years, son of Ghosh, at resident of, Assam, do hereby solemnly affirm and state as follows;

1. That I am the petitioner in the instant application and am acquainted with the facts and circumstances of the case. I am competent to swear this affidavit.

2. That the statements made in this affidavit and in the accompanying application in paragraphs 3,4,5,
6,7 are true to my knowledge ; those made in paragraphs 1,2 being matters of records are true to my information derived therefrom. Annexures are true copies of the originals and grounds urged are as per the legal advice.

And I sign this affidavit on this the 29 th day of July of 2004.

Identified by me :

Alsha Das
Advocate

Sri Habul Ghosh

Deponent.

Solemnly affirm and state by the deponent who is identified by Miss U.Das. Advocate. on this the 29th day July 2004.

Bandana Dei
Advocate

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 259 of 2002.

Date of Order : This the 25th Day of August, 2003.

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

The Hon'ble Mr K.V.Prahala^{dan}, Administrative Member.

1. Shri Habul Ghosh,
2. Shri Haren Das,
3. Sri Kishor Kumar Mandal,
4. Sri Biren Boro,
5. Sri Maina Boro,
6. Sri Kripa Tewary,
7. Sri Pradip Sarma,
8. Sri Paneswar Boro,
9. Sri Nagendra Boro,
10. Sri Anil Kalita and
11. Sri Bhogi Ram Basumatary

...Applicants

All the applicants are ex casual workers under
Alipurduar Division, N.F.Railway.

By Advocate Miss Usha Das.

~~3~~ - Versus -

1. Union of India,
represented by General Manager,
N.F.Railway, Maligaon,
Guwahati-11.
2. The General Manager (Construction),
N.F.Railway, Maligaon,
Guwahati-11.
3. The Divisional Railway Manager(P),
Alipurduar Division, N.F.Railway,
Alipurduar, West Bengal.

...Respondents

By Sri S.Sengupta, Railway standing counsel.

O R D E R (ORAL)

CHOWDHURY J.(V.C)

The eleven applicants claimed to be ex casual labourers in Alipurduar Division, N.F.Railway. In view of commonality of the cause of action, nature of claim and relief sought for leave was granted allowing the applicants

contd..2

Attested
Usha
Advocate

to espouse their cause by one single application in terms of Rule 4(5) (a) of the Central Administrative Tribunal (Procedure) Rules 1987.

2. The applicants claimed that all of them worked in the Alipurduar Division as casual labourer on being engaged. When they were expecting for their regularisation they were arbitrarily terminated some times in 1981. After their termination all of them left for different destination in search of livelihood. The applicants thereafter came to learn about the decision taken by the authority for regularisation by absorbing all such persons and for that matter a special drive was also taken. According to applicants their names ought to have entered in Live Register for their absorption in the Railway as per the policy decision. The applicants claimed that persons similarly situated already moved the door of the Tribunal in O.A.79/96, O.A.43/2002 and O.A.44/2002 finally disposed of by the Tribunal on 11.1.99, 1.5.2003 and 1.5.2003 respectively.

3. The respondents contested the case by disputing their claim. In the written statement the respondents asserted that the casual labourers who have worked in N.F.Railway open line before 1.1.81 and were discharged for want of work or due to completion of work were given an opportunity to apply, if they so wished for inclusion of their names in the Live Casual Labour Register. They were asked to submit their representation with adequate documentary proof so as to reach the concerned Divisional Manager's office before the specified time. It was also asserted that in Bridge Division a panel of 715 men was drawn after screening who were borne on the various BRI units under DY.CE/BR/1/MLG and copy of the ex casual

Attested
by an
Advocate

contd..3

✓

labourers were sent to various BRI units. Out of the panel of 715 screened casual labour only 252 could be engaged. Rest could not be engaged for want of vacancies. According to the respondents none of the applicants applied for registering their names in live casual labour register or supplementary live registers in response to the notification dated 13.3.1987. As a result their names could not be registered with live casual labour register or supplementary live register. Since these applicants did not apply for the post their cases could not be considered. In the written statement the respondents however admitted that one ex casual labour namely, Sri Habul son of Ruplal was screened thereby indicating that the applicant was screened but he could not be absorbed for want of vacancy within the panel period.

4. We have heard the learned counsel for the parties at length. Miss U.Das, learned counsel for the applicant referred to the decisions of this Bench rendered in O.A.79/96 as well as in O.A.43/2002 and 44/2002. The learned counsel contended that the case of the present applicants is squarely covered by those judgments. Mr S.Sengupta, learned Railway standing counsel appearing for the respondents opposing the claim of the applicants contended that these applicants did not come in time and could not be granted relief by the Tribunal for their latches. Mr Sengupta further contended that even on merit the applicants did not deserve any consideration since they are lacking for want of particulars in respect of their services.

5. We have given our anxious consideration on the matter. The plea of limitation raised by Mr Sengupta is no doubt a substantial question of law but then it will be

Attended
N.Das
Advocate

contd..4

denial of justice if the applications of the applicants who are unemployed on retrenchment are thrown out on the ground of delay. After termination as it appears that they went in search of livelihood and scattered for different places. The authority reviewed its policy, which did not reach them. Only after came to know the decisions they have knocked the door of the Tribunal. The applicants are not guilty of any laches. When similar nature of orders were passed it was equally incumbent on the part of the respondents to issue notices to all the like persons so that they could also approach the authority for appropriate relief. Be that as it may, we are of the opinion that the ends of justice will be met if a direction is issued on the applicants also to submit their representations giving the details of their services as far as practicable to the respondents authority narrating all the facts within six weeks from the date of receipt of this order and if such representations are filed within that time the respondents shall examine the same as expeditiously as possible preferably within two months from the date of receipt of the same and take appropriate decision as per law.

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

TRUE COPY

Attested

Section Officer (J)
C.A.T. GUWAHATI MEMBER
Guwahati 781009

Sd/ VICE CHAIRMAN

Sd/ MEMBER (A)

Attested
Hoov
Advocate

Date - 15/9/03

To,

(1) The General Manager (Con)
N.F.Railway, Maligaon,
Guwahati.

(2) The Divisional Railway Manager (P)
Alipurduwar Division, N.F.Railway,
Alipurduwar.

Sub: Judgment and order passed in OA No.259/02

Sir,

With due respect we beg to lay the following few lines for your kind information and necessary action thereof.

Sir, we on being selected were engaged as casual labourer and were continuing as such in the respective posts. We completed requisite number of days, entitled for conferment of temporary status. Instead of regularising our services, we were terminated prior to 1981.

There after the Railway authority had taken steps to fill up the reserve vacancies by way of special recruitment drive vide circular dated 13.2.1995. By the communication No 6/37/2000-Gen/01 dated 26.4.2001 sent by the Director of National Communication for Scheduled Caste and Scheduled Tribes, State office, Guwahati, Govt. of India addressed to you and stated that a list of 120 ex-casual labourers, were forwarded by DRM(P)/APDJ to GM/COM/MLG for verification vide endorsement dated 10.7.95 where our names were also appeared. But our names are not yet approved by you and till now no action has been taken for our absorption.

Sir, we belong to very poor family and also belong to the protected class of persons listed as Scheduled Tribe and Scheduled Caste who are entitled for constitutional guarantee provided by the Constitution.

Sir, we the ex-casual labourers of Alipurduwar Division, N.F.Railways aggrieved by the action towards our engagement on and after 1.1.1981 and also to confer the benefits to us as casual labourers under the rules and thereafter regularise our appointment to fill up the backlog vacancies meant for Schedule Tribe and Schedule Caste candidates approached the Hon'ble Central Administrative Tribunal by way of filing above noted Original Application.

The Hon'ble Tribunal after hearing the parties to the proceeding at length was pleased to allow the OA directed the applicants to all the Original Applications to submit individual representations before you narrating our grievances within a period of one month from the date of receipt of the order. After filing of the representations. You are directed to examine the respective cases and scrutinise and verify our claims. If we fulfill the requirement. You are directed to consider our cases for

Attested
W.Das
Advocate

absorption against available vacancies as per law and further directed to complete the process within three months from the receipt of the representations. (A copy of judgment and order dated 1.5.2003 passed in OA 43/02 is enclosed herewith).

In view of the facts and circumstances stated above we request your honour to scrutinise and verify our case and thereafter to consider our case for absorption against available vacancies as per direction of the Hon'ble Tribunal.

Thanking you.

Yours faithfully

Sd/-
Habul Ghosh

Attested
Habul
Ghosh
Advocate