

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No: _____/

Misc Petition No: _____/

Contempt Petition No: _____ 39 / 03 in O.A 283/02

Review Application No: _____/

Applicants: - Anisuz Zama

Respondants: - N. Brahma, S.D.E, N.F. Railway
Lumding

Advocate for the Applicants: - H. Rahman, R. S. Thakur

Advocate for the Respondants: - Railway Counsel

Notes of the Registry	Date	Order of the Tribunal
<p>This Contempt petition has been filed by the Counsel for the Petitioner praying for wilful disobedience and non-compliance of the order dated 12.6.03 passed by this Hon'ble Tribunal in O.A 283/02.</p> <p>mb</p> <p>27.8.03</p> <p>laid before the Hon'ble Court for further orders.</p> <p><u>Banb</u> 30/7/03 Section Officer</p> <p><u>Banb</u></p>	<p>31.7.2003</p> <p>27.8.03</p>	<p>Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. N.H. Dayal, Administrative Member.</p> <p>Put up again on 27.8.2003 for orders,</p> <p><u>Member</u></p> <p><u>Vice-Chairman</u></p> <p>Mr. S. Sarma learned counsel for the respondents has stated that the respondents are filing their reply and he prays for further four weeks time. List on 16.9.03 for orders.</p> <p><u>Member</u></p> <p><u>Vice-Chairman</u></p>

16.9.2003 Present : The Hon'ble Sri K.V. Prahaladan, Member (A).

-No reply has been
filed.

My
26.9.03

List the matter again on
26.9.2003 for orders.

K.V. Prahaladan
Member

mb

26.9.2003 Respondents filed reply. Mr.H. Rahman, learned counsel for the applicant submitted that he has received the same in the Court today and he wants to go through the same, and hence he needs some time.

Prayer allowed. List the case on
29.10.2003 for further order.

K.V. Prahaladan
Member

[Signature]
Vice-Chairman

bb

29.10.2003 Heard Mr.H.Rahman, learned counsel for the applicant and also Mr.S. Sarma, learned counsel appearing for the respondents.

Also perused the application. Upon hearing learned counsel for the parties and on consideration of the reply, more particularly, the orders Nos.NB/2003/12 and WE/OS.Misc/LM/W both dated 12.8.2003 passed by the Sr.Divisional Engineer, Co-ordination, Lunding, it appears that the respondents are taking all the follow up measures pursuant to the judgment and order dated 12.6.2003 passed by this Tribunal in O.A.283/2002.

In this circumstances, the Contempt proceeding stands closed.

K.V. Prahaladan
Member

[Signature]
Vice-Chairman

bb

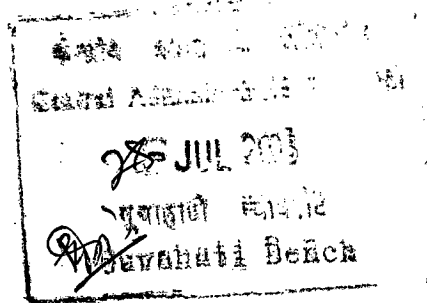
6.10.03
Show reply filed
by the Contemner, Sri
N. Brahma, Sr. DEN (C)
N. S. R., Lunding.

[Signature]

18.11.2003

Copy of the order
has been sent to
D/Sec. for security
the line to the
Advocate for the
parties

[Signature]



Filed by - The applicant
- H. Singh
Rama Shankar Thakur
Advocate
28.07.03

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:GUWAHATI BENCH
AT GUWAHATI

Contempt petition No. 39 / 2003

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
the Hon'ble Tribunal in Original
Application No. 283/2002.

And

In the matter of:-

Shri Anisuz Zama,
S/o late Abdul Majid, 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:-

MOST RESPECTFULLY SHEWETH :-

1. That your humble petitioner is a peace loving and law abiding citizen of India and is a permanent president 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 in Kampur Railway Station. He was not allowed to perform his legal duties by the Permanent Way Inspector, Chapormukh for the reasons best known to the authority.

3. That your petitioner begs to state that he was continuously working as Gangman in Kampur Railway Station up to 14.5.2002 and thereafter he was not allowed to perform his duties by the authorities without any fault of his own.

4. That your petitioner begs to state that as he was not allowed to perform his duties by the Permanent Way Inspector in short PWI- 1 he tried to contact the Senior Divisional ~~Man~~ Engineer to redress his grievances. But he was not allowed to meet the Senior Divisional Engineer as a result of which your petitioner had to file his representation through registered post before the Sr. Divisional Engineer to highlight his grievances and prayed for justice from the Sr. Divisional Engineer.

5. That your petitioner begs to state that while all attempts failed and he could not join his duties, he was compelled to file an Original Application before the Hon'ble Central Administrative Tribunal, Guwahati Bench at Guwahati which was registered as O.A. No. 283/2002.

6. That your petitioner begs to state that in O.A. No. 283/2002 notices were served to the respondents and the respondents have contested the case by filing their written statement and ultimately the case was listed for hearing before the Hon'ble Tribunal on 12th day of June, 2003.

7. That the Hon'ble Tribunal was pleased to pass an order and after hearing the parties in O.A. No. 283/2002 on 12.6.2002 and by the said order it was directed to the present petitioner to report to the Sr. Divisional Engineer, N.F. Railway Lumding on or before 16.6.2003 and the Senior Divisional Engineer was also directed by the Tribunal to direct the concerned authority to detail the petitioner at the place of work either at Kamur or at Laopani.

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

8. That your petitioner begs to state that after obtaining the certified copy of the order of this Hon'ble Tribunal your petitioner personally

went to the office of the Senior Divisional Engineer, Lumding, N.F. Railway Lumding and submitted the certified copy of the order with a forwarding application. The said application and certified copy of the order was accepted by the Senior Divisional Engineer, Lumding, N.F. Railway Lumding on 18.6.2003.

9. That your petitioner begs to state that after receipt of the said application on 18.6.2003 the Senior Divisional Engineer, Lumding has not taken any action on the basis of the order passed by this Hon'ble Tribunal till date.

10. That your petitioner begs to state that he has submitted his application on 18.6.2003 with the certified copy of the order passed by the Hon'ble Tribunal which was duly acknowledged by the Senior Divisional Engineer, Lumding, N.F. Railway Lumding on 18.6.2003 and thereafter although your petitioner has visited the office of the Senior Divisional Engineer, Lumding, N.F. Railway; no order has been issued to your petitioner and for which your petitioner could not join in his duties till today.

11. That your petitioner begs to state that after 18.6.2003 your petitioner tried to contact the Sr. Divisional Engineer, N.F. Railway and he met the Sr. Divisional Engineer at Lumding and he asked ~~me~~ to wait for the order and he was directed to stay

at Lumding Railway Station in his departmental quarter so that the formal order can be handed over to the petitioner in his residential address.

12. That your petitioner begs to state that as per assurance of the Senior Divisional Engineer, N.F. Railway, Lumding your petitioner waited till today for a formal order to join in his duties but till today no order has yet been passed by ~~xxxx~~ the contemner and as such, there is no other alternative but to file this petition under the Contempt of Courts Act against the respondents contemner.

13. That your petitioner begs to state that in the order of the Hon'ble Tribunal dtd. 12.6.2003 it was clearly instructed to the respondent/ contemner to issue appropriate order for joining the petitioner in his duties but till today no order has been received by your petitioner and as such he could not report for duty either at Laopani or Kampur and as per the direction of the Hon'ble Tribunal he has personally submitted the application to the respondents /contemner which was duly acknowledged by the contemner.

14. That the contemner shows disrespect to the Hon'ble Tribunal and ignoring the order of the Hon'ble Tribunal and sitting tight over the matter without any action.

15. 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 provisions of ~~the~~ Section 17 of the Administrative Tribunal Act, 1985 and also liable under the contempt of this Tribunal.

16. That your petitioner begs to submit that the contemner who has received the order of the Hon'ble Tribunal on 18.6.2003 ought to have acted upon and issue order as per the Hon'ble Tribunal's order but till today the respondent/ contemner has not acted upon on the basis of the order of the Tribunal, for which he is liable to be punished under the above Act.

17. That this petition is filed bona fide and in the interest of justice.

It is ,therefore, prayed that your Lordships may be pleased to admit this petition and after showing cause pass necessary orders against the contemner as per the provisions of the Central Administrative Tribunal Act as well as the Contempt of Courts Act for wilful violation of the order passed by this Tribunal.

And

For this your petitioner, as in duty, bound shall ever pray.

Affidavit.....

A F F I D A V I T

I, Shri Anisuz Zaman, son of late Abdul Majid, aged about 40 years, working as Gangman in Kampur Railway Station at Kampur, N.F. Railway Lunding, do hereby solemnly affirm and say as follows:-

1. That I am the petitioner of the instant 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 6, 8, & 14 of this petition are true to my knowledge; those made in paragraphs — 7 — being matters of records of the case derived therefrom, which I believe to be true and those made in the rest are my humble submissions before this Hon'ble Tribunal.

And

I set my hand to this affidavit today this the

28th day of July, 2003 at Guwahati.

Anisuz Zaman
Deponent

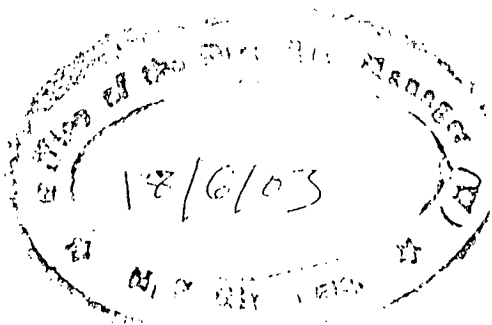
Identified by me.

R. Mahanta
28.07.03
Advocate's ~~Clerk~~.

p

DRAFT CHARGE.

Laid down before the Hon'ble Central Administrative Tribunal, Guwahati for initiating a contempt proceeding against the contemnors for willful disobedience and deliberate non-compliance of order of the Hon'ble Tribunal dated 12-6-2003 passed in OA No. 283/2003.



11

To,

The SR. DEN/ Lumding, N. F. Rly
Dated Lumding 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 Cen-
tral Administrative Tribunal.

Certified to be true copy
Ali Mustafa Ahmed, Adv.

Your's Faithfully

Amis Zamil
17.6.03

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

12

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.

.....Applicant

By Advocate Mr Hasibur Rahman.

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.

.....Respondents

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

.....

O R D E R (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 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 Kamrup 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.

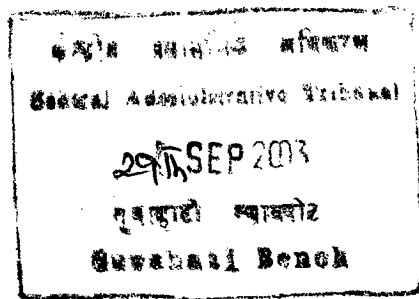
6. The application thus stands disposed of. There shall, however, be no order as to costs.

Sd/ VICE-CHAIRMAN

Sd/ MEMBER (A)

Certified to be true copy
Ali Mustafa Ahmed, Adv.

16/6/03
 Section Officer (D)
 N.F. Railway, Lumding Branch
 Guwahati-781005



Filed by
Siddhanta Sarma
Advocate

For. S.C. Railway.
26-09-03

15

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

C.P. No. 39...../03
DA No. 283/2000

Anisuz Zama

.....Applicant

Petitioner

-VS-

Mr. N. Brahma

.....Respondent

Contemner

IN THE MATTER OF

Show cause reply filed by the
Contemner, Sri N. Brahma Sr.
DEN(C). N.F.Rly Lumding.

The humble application on behalf of the petitioner
contemner above named:

MOST RESPECTFULLY SHEWETH:-

1. That the contemner has received the copy of the
Contempt Petition filed by the Petitioner and understood the
contention. Save and except the statement which are not
specifically admitted herein below, rest may be treated as
total denial and the statements which are not born on record
are also denied and the petitioner is put to the strictest
proof thereof.

10

2. That with regard to the statement made in para 1, 2, 3 & 4 the alleged contemner while denying the allegations made therein begs to state that by an order dated 13.5.2002 he was transferred from gang No.25 to gang No.24 within the radius of 5 K.M. The aforementioned order dated 13.5.2002 was followed by another similar order dated 20.5.2002. The petitioner having come to know about the issuance of the order dated 13.5.2002 left the office on 13.5.2002 without any intimation and permission of the concerned authority only to avoid the order of transfer. Since the petitioner kept himself away from service and even refused to accept the same an attempt was made to serve the same at his residence but he refused to accept the said order of transfer and the orders of transfer was posted at his residence. The refusal of service was in fact witnessed by his colleagues.

3. That with regard to the statement made in para 5 to 10, the contemner while denying the allegation made therein begs to state that immediately on receipt of copy of the judgment passed by the Hon'ble Tribunal the contemner issued a control message bearing No. NB/2003/8 allowing the petitioner to resume duty. Presently the petitioner has resumed his duty and the proceeding initiated against him is in progress.

Copies of the message dated 12.8.2003 and letter dated 12.8.2003 are annexed herewith and marked as Annexure A & B respectively.

[Signature]
C. of the Contemner
10/10/03
Divisional Engineer
W&A Bangalore Division

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7. That with regard to the statement made in para 15 and 16 of the Contempt Petition, the contemner begs to state that under any circumstances he has got no intention to violate the Judgment and order passed by the Hon'ble Tribunal. The contemner is a law abiding officer and he has got highest regard to the Hon'ble Tribunal and its judgments.

In that view of the matter the present contempt petition may be dismissed with cost.

0

Senior Divisional Engineer
L. S. Reddy
S.D. Railway, Lucknow

AFFIDAVIT.

I Sri N. Brahma, , S/o Late L. Nath Brahma aged about 33 years, at present holding the post of Senior Divisional Engineer (c) N.F.Railways Lunding do hereby solemnly affirm and state as follows;

1. That I am the contemner in the present Contempt Petition and as such well acquainted with the facts and circumstances of the case and accordingly I am competent to swear this affidavit.
2. That the statement made in this affidavit and in the accompanying Misc Petition In para...1, 2, 4, 5, 6, 7... are true to me knowledge and those made in para...3... are matters of records and rests are my humble submission before the Hon'ble Board.

And I sign this affidavit on this 24th day of Sept. 2003 at Guwahati

Identified by ,

Identified by
24/9/03

(Signature)
Senior Divisional Engineer
N.F. Railway Lunding

Solemnly affirm and state by the deponent who is identified by Sri...S. Sankar Advocate Guwahati, on this 24th day of Sept. 2003, at Guwahati.

Advocate

12 set

- 6 -

ANNEXURE - A

20

N.F. Railway

Office of the
Divl. Rly. Manager(Works)
Lumding

No.NB/2003/12

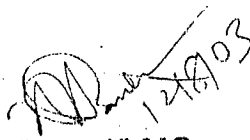
Date: 12.08.03

To
ADEN/JID
&
CPWI/CPK

Through SS/CPK and JID.

Shri ANISUZ JAMAL Gangman under you working at KWM
should be allowed to resume duty immediately at Gang No.24

Please confirm his resumption.


Sr.DEN/Co-ord/LMG

O/c

Attested

for signature

Office of the
Divl. Rly. Manager (Works)
Lumding

No. WE/OS.Misc/LM/W

Date: 12.08.03

Sub:- Compliance of the Hon'ble CAT/GHY's order on
OA No. 283/03 of dt. 12.06.03.

I have gone through the judgment made by the Hon'ble CAT/GHY and the following remarks are furnished -

- (1) Shri Anisuz Zamal, Gangman of KWM has never met me personally nor turned up to my chamber. The case was not known to me. However, on going through the case, Shri Anisuz Zamal is allowed to resume on duty immediately at his transferred place i.e. at Gang No.24.
- (2) ADEN/JID and SSE/P-Way/CPK have been intimated through control message No. NB/2003/8 dt. 12.08.03 for allowing him to resume duty at Gang no. 24.
- (3) Shri Anisuz Zamal, Gangman under Gang No.25 transferred to Gang No.24 was served SF/11 by ADEN/JID, ADEN/JID(DA) may be advised to finalise the minor memorandum as per the time schedule as given by CAT/GHY.

ADEN/JID

Sr.DEN/Co-ord/LMG

Attended
Advocate