

2/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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(RULE - 4)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
.....

ORDER SHEET

Original Application No. 35/2003

Misc. Petition No. /

Contempt Petition No. /

Review Application No. /

Applicant (s) Mujeeb-ul-Rahman

- Vs. -

Respondent (s) Wt 2 O/S

Advocate for the applicant (s) Mr. P. Sarma M.D. Sarma
& S.K. Singha.

Advocate for the respondent (s) Case

Notes of the Registry	Date	Order of the Tribunal
<p>449 application is in a but not in time - location Petition is d / not Y G 605818 20/2/03 26/2/03</p> <p>Envelops were too small to Post the Notices. 27/2/03. Notice prepared and sent to DPs for giving the respon- dent No 1 to 5 by Regd APB. 4/3/03 D/N. 368 W 372 dtd 5/3/03</p> <p>No. reply has been biked. 27.3.03.</p>	<p>27.2.2003</p> <p>mb</p> <p>28.3.2003</p> <p>mb</p>	<p>Heard Mr. D. Sarma, learned counsel for the applicant.</p> <p>Issue notice to show cause as to why the application shall not be admitted. Returnable by four weeks.</p> <p>List on 28.3.2003 for admis- sion.</p> <p>Vice-Chairman</p> <p>Mr. D. Sarma, learned counsel for the applicant stated that he has been instructed by the applicant not to press the application. Accordingly, the application is dismissed as not pressed.</p> <p>Vice-Chairman</p>

113

31.3.2003

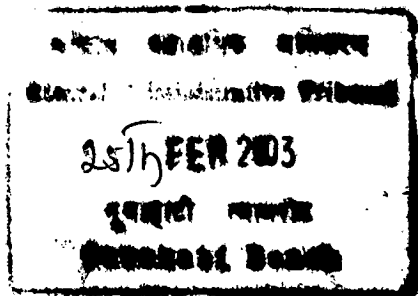
Copy of the order
has been sent to the
D/Sec. for Issuance
The rule to the
applicant.
etc

31.3.2003

31.3.2003

31.3.2003

31.3.2003



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE CENTRAL
ADMINISTRATIVE TRIBUNAL ACT, 1985)

ORIGINAL APPLICATION NO. 35 OF 2003.

Sri Mujeeb-ul-Rahman -Applicant.

-Versus-

The Union of India & Ors. -Respondents.

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Filed by

Bacunah
Advocate.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH, GUWAHATI.

IN THE MATTER OF:

O.A. No. /2003.

Md. Mujeebul Rahman.

...Applicant.

-Versus-

Union of India & ors.

...Respondents.

LIST OF DATES AND SYNOPSIS

The applicant above named respectfully submits that this original application seeking a direction upon the respondents for payment of monthly salaries due from 12.1.2002 to 6th July 2002.

Some of the relevant dates with brief facts heading to filing of the present application are as under :-

That the applicant is working as Helper under the respondent authorities specially respondent No.3.

contd..

24.5.2002. That the applicant was transferred from Janmu and Kashmir to Guwanati under the respondent no.5 and he is continuing in the same .

(Annexure- A, page 13).

13.8.2002. That the applicant submitted a representation praying for salaries which were due from 12.1.2002 to 6.7.2002.

(Annexure-B, page 14).

28.8.2002. That the respondent no.4 issued a communication to the applicant informing him that they have sent the salaries of the applicant to the office of the respondent no.3 i.e. the Principal, Institute of Hotel Management, Srinagar, J & K .

(Annexure-C, page 15).

10.9.2002.

That the applicant submitted another representation to the respondent no.3 to sent the salaries to Guwahati where he is serving at present.

(Annexure,D, page 16).

contd..

3.

6.11.2002.

The respondent no.3 issued a communication to the applicant stating that under Rules, this institute is unable to draw your salary for the period w.e.f.

12.1.2002 to 6.7.2002 .

(Annexure-E, page 17).

...

Filed by the
Applicant-
Ismail Saad
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE CENTRAL
ADMINISTRATIVE TRIBUNAL ACT, 1985)

ORIGINAL APPLICATION NO. 35 OF 2003.

BETWEEN

Md. Mujeeb-ul-Rahman,
Son of Late Abdul Goni,
Resident of Bhangagarh
Masjid Complex,
P.O.-Bhangagarh,
Guwahati-5, Kamrup, Assam.
-Applicant.

-AND-

- 1) The Union Of India
Represented by the Secretary
to the Government of India,
Ministry of Tourism New Delhi.
- 2) The Director (K),
Ministry of Tourism,
Government of India,

Mujeeb-ul-Rahman

C-1 Hutment, Halhousie Road,
New Delhi.

3) The Principal,
Institute of Hotel Manage-
ment, P.O.-Srinagar,
Jammu and Kashmir.

4) The Principal/Secretary,
Dr. Ambedkar Institute of
Hotel Management,
Catering & Nutrition Sector:
42-D, Chandigarh-160036.

5) The Principal,
Institute of Hotel Manage-
ment, AIDC Building,
ABC Stoppage,
G S Road, Bhangagarh,
Guwahati - 781005.

-Respondents.

DETAILS OF THE APPLICATION:

- 1) PARTICULARS OF THE ORDER AGAINST
WHICH THE APPLICATION IS MADE:

Mujeeb-ul-Rahman

The application is made against non-payment of salary of the applicant for the period from 12-01-2002 to 06-07-2002.

2) JURISDICTION OF THE TRIBUNAL:

The applicant declares that the Subject matter of the instant application is within the jurisdiction of this Hon'ble Tribunal.

3) LIMITATION:

The applicant further declares that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4) FACTS OF THE CASE:

Facts of the case in brief are given below:

4.1 That your humble applicant is a citizen of India and as such, he is entitled to all the rights and privileges guaranteed under

Mujeeb-ur-Rahman

the Constitution of India. The applicant is working under the Institute of Hotel Management, AIDC Building, ABC Stoppage, G.S. Road, Bhangagarh, Guwahati-5. He is serving under the Ministry of Tourism (HRD Division), New Delhi since a long time as a helper.

4.2 That your applicant begs to state that the applicant was serving under the Respondent No.4 and he was transferred under the Respondent No. 4 vide Office Order No. IHM/ADM/2k2/261-265 dated 24th May 2002 issued by the Principal/Secretary, Dr. Ambedkar Institute of Hotel Management, Catering & Nutrition, Sector: 42-D, Chandigarh-160036. At present the applicant is serving under the Respondent No. 5, i.e., under the Principal, Institute of Hotel Management, AIDC Building, A.B.C. Stoppage, G. S. Road, Bhangagarh, Guwahati-781005.

A copy of such Office order dated 24th May 2002 is annexed as Annexure-A to this petition.

4.3) That your humble applicant begs to state that, as stated above, the applicant was transferred under the Respondent No. 5 as per Order dated 24-02-2002 (Annexure-A) but the

Mujeeb-ul-Rahman

applicant was not in receipt of his monthly salaries from the month of January 2002 to 7th July 2002. Being compelled the applicant submitted his representation dated 13-08-2002 before the Respondent No. 4 and requested him to release the same.

A copy of such representation dated 13-08-2002 is annexed as Annexure-B to this petition.

4.4] That the applicant begs to state that thereafter the Office of the Respondent No. 4 issued a communication to the applicant vide their letter No. IHM/ADM/2k2/1302 Dated 28-08-2002 and informed the applicant that they have sent the salaries of the applicant to the office of the Respondent No.3, i.e., the Principal, Institute of Hotel Management, P.O.- Srinagar, Jammu and Kashmir.

A copy of such letter dated 28-08-2002 is annexed as Annexure-C to this application.

4.5] That the applicant begs to state that after knowing the above fact, the applicant submitted a representation dated 10-09-2002

Mujeeb-Ul-Rahman

before the Respondent No.3, i.e., the Principal, Institute of Hotel Management, P.O.-Srinagar, Jammu and Kashmir and requested him to send his salaries to the Institute of Hotel Management, Guwahati.

A copy of such representation dated 10-09-2002 is annexed as Annexure-D to this petition.

4.6] That the applicant begs to state that after receiving the representation dated 10-09-2002 the Respondent No. 3 issued a communication to the applicant stating inter alia that "Under Rules, this Institute is unable to draw your salary for the period w.e.f. 12-01-2002 to 06-07-2002 and you are therefore advised to take up the matter with the Ministry in this regard for the regularization of the period of absence."

A copy of such communication dated 06-11-2002 is annexed as Annexure-E to this petition.

4.7] That your applicant begs to state that he had duly joined his service under the Respondent No. 5 and discharging his duties

Mijeeb-ul-Rahman

honestly and sincerely. But without any reason the respondents have stopped the salaries of the applicant for the period from 12-01-2002 to 06-07-2002.

4.8) That the applicant begs to state that the Respondent No.3 had transferred the applicant to Guwahati vide Annexure-A above and the Respondent No. 3 is also well aware of the fact. The office of the Respondent No. 3 is the ~~parent~~ office of the applicant; hence, it is bound to maintain every details of the applicant and the Respondents are also bound to pay the salaries to the applicant.

4.9) That the application is filed bonafide and for the ends of justice.

GROUND FOR RELIEF WITH LEGAL PROVISIONS:

5.1 For that the applicant is a permanent employee of the Respondent and is serving under them. The respondents are bound pay the salary of the applicant for his service.

Mujeeb-ul-Haque

5.2 For that the applicant is entitled to his due salaries for the period from 12-01-2002 to 06-07-2002 there is no reason for the detention of the salary of the applicant and the denial has resulted in violation of Articles 14 & 16 of the Constitution of India.

5.3 For that the applicant has been denied the salaries without any principle being heard. There is a violation of principal of natural justice in the denial of the salaries to the applicant and proper relief is required to be granted to the applicant.

5.4 For that the action of the Respondents is illegal, arbitrary and not sustainable in law.

6) DETAIL REMEDY EXHAUSTED:

Mujeeb-Ul-Rahman
That there is no other alternative and efficacious remedy available to the applicant except invoking the jurisdiction of this Hon'ble Court under Section 19 of the Administrative Tribunal Act, 1985.

7) MATTERS NOT PREVIOUSLY FILED OR
PENDING BEFORE ANY OTHER COURT:

The applicant further declares that they have not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other court, authority or any other bench of this Hon'ble Tribunal nor any such, application, writ petition or suit is pending before any of them.

8. RELIEF PRAYED FOR:

Under the facts and circumstances narrated above it is prayed that your Lordship may be pleased to admit this Application and issue notice to the Respondents to show cause as to why the relief sought for in this application should not be allowed, call for the records of the case and on perusal of the records and after hearing the parties and/or cause or causes that may be shown your Lordship

Mujeeb-ur-Rahman

may be pleased to grant the following reliefs:

- a) the Respondents may be directed to pay the salary to the applicant from 12-01-2002 to 7th July 2002;
- b) to pay the cost of the case to the applicant;
- c) any other relief or reliefs that may be entitled to the applicant.

9) INTERIM ORDER PRAYED:

At this state no interim order is prayed, however, this Hon'ble Tribunal may be pleased to pass necessary order or orders directing the Respondents for early release of arrear salaries of the applicant.

10) APPLICATION IS FILED THROUGH ADVOCATE.

11) PARTICULARS OF I.P.O.

Mujeeb-ul-Lahmar

I.P.O.No. : 76605818
Date of Issue: 24-2-2003
Issued from : G.P.O. (Main), Ghy.
Payable at : Dy- Registrar,
C.A.T., Gwalhati Bench.

9) LIST OF ENCLOSURES:

As stated in index.

- Verification.

Mujeeb-ul-Rahman

VERIFICATION

I, Md. Mujeeb-ul-Rahman, Son of Late Abdul Goni, Resident of Bhangagarh Masjid Complex, P.O.-Bhangagarh, Guwahati-5, Kamrup, Assam and verify the statements made in the accompanying application and in paragraphs 4.1, 4.5, 4.6,

4.7 are true to my knowledge, those made in paragraphs 4.2, 4.3 & 4.4 are true to my information being matters of record and which I believe to be true and those made in para 5 are true to my legal advice and I have not suppressed any material facts.

And I sign this verification on this the 25th day of February 2003 at Guwahati.

Md. Mujeeb-ul-Rahman
Declarant.

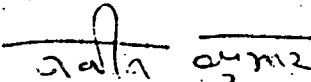
DR. AMBEDKAR INSTITUTE OF HOTEL MANAGEMENT
CATERING & NUTRITION, SECTOR: 42-D, CHANDIGARH 160 036

OFFICE ORDER

As per Ministry of Tourism, (HRD Div.) Govt. of India, New Delhi letter No. 48(3)/2001-HRD Dated 26th April, 2002 you are hereby deployed to Institute of Hotel Management, Catering & Nutrition, Guwahati with immediate effect.

Your deployment would be purely on temporary basis and you will be revert back to IHM, Srinagar at anytime and at short notice as and when so decided by the Government.

This issues with the approval of Hon'ble Minister of Tourism and Cultutre.


(Navin Kumar Nanchahal)
Principal | Secretary

IHM|ADM|2k2|261-265-
Dated: 24th May, 2002

Copy to:

- ✓ 1. Shri Mujeeb-ul-Raheman for compliance.
2. Principal, IHM, Guwahati.
3. Principal, IHM, Srinagar
4. Shri P.S. Kharola, Director (K) Ministry of Tourism, Govt. of India, C-I Hutment, Dalhousie Road, New Delhi.

*Attested
Barman
Advocate*

To,

Date : 13.08.2002

The Principal,
Institute of Hotel Management
Sector 42 D
Chandigarh.

Sub : Prayer for issue the Salary for the month of 1st January to 7th July 2002.

Sir,

I would like to state that I have not received salary for the month of 1st January to 7th July 2002.

Therefore, I pray that you would be kind enough to issue the same.

Thanking you.

Yours faithfully,



(Mujeeb Rahman)

N.B. : Please send my L.P.C.
as soon as possible. with leave record.

Encl : Pay Slip of July 02.

Principal
I.H.M.
Guwahati.

Attested
Sarwah
Associate

ANN. C
Registered

डॉ० अम्बेडकर होटल प्रबन्ध भोजन भण्डार

एवं पोषाहार संस्थान सेक्टर 42 - डी, चण्डीगढ़ दरभारा : 604833, टेलिफैक्स : 605703

DR. AMBEDKAR INSTITUTE OF HOTEL MANAGEMENT

CATERING & NUTRITION Sec. 42-D, Chandigarh Ph. : 604833, Tele Fax : 605703

IHM|ADM|2K2|1302

Date: 28st Aug., 2002

Shri Mujeeb-ul-Raheman
Helper
Institute of Hotel Management
Catering & Nutrition
AIDC Building, ABC Stoppage
G.B. Road
GUWAHATI: 781005

Subject: Release of salary.

This has reference to your request regarding release of salary for the period 1st Jan., to 7th July, 2002.

Please note that you were repatriated to your parent Institute w.e.f. 11th Jan., 2002 vide order No. IHM|ADM|2002|9778-86 dated 11th Jan., 2002. A cheque bearing No.044695 dated 11th Jan., 2002 for Rs.1675/- (Rupees one thousand six hundred seventy five only) drawn on State Bank of India, Sec:37 CHD being full and final settlement of your salary was sent to you alongwith above referred order. However, the same was received back undelivered.

As such, your all records alongwith salary cheque was sent to your parent Institute, i.e. Institute of Hotel Management Srinagar, you may claim the same from Institute of Hotel Management, Srinagar alongwith any amount due if any for the period from 12th Jan., 2002 to 7th July, 2002.

Navin Kumar Nanchahal
(Navin Kumar Nanchahal)
Principal | Secretary

पर्यटन मंत्रालय, भारत सरकार द्वारा प्रायोजित राष्ट्रीय परिषद्, होटल प्रबन्ध, नई दिल्ली से सम्बन्ध

Sponsored by Ministry of Tourism, Govt. of India, Affiliated to National Council for Hotel Management, New Delhi

Attested
Sarmah
Advocate

To,

Date 10.09.2002

The Principal
Institute of Hotel Management
Srinagar, Kashmir.

Respected Sir,

With due respect I would like to state that I haven't find any salary for the period from 1st January 2002 to 7th July 2002. According to Chandigarh Institute. They have already send to you such salary for the same period.

So, I pray that you would be kind enough to send me the same at the address of Guwahati I.H.M.

Thanking you.

Yours faithfully,

Mojib ul Rahman
MJR
Institute of Hotel Management
Guwahati.

Attested
Saimah
Advocate



INSTITUTE OF HOTEL MANAGEMENT Catering Technology & Applied Nutrition

(Sponsored by Ministry of Tourism, Govt. of India)

NEHRU PARK, BOULEVARD ROAD, SRINAGAR - 190001, KASHMIR.

Ref. No: IHM/2002/(345)/ 867.

Date 06-11.2002

Shri Mujeeb-ul-Rehman,
C/O Institute of Hotel Management,
AIDC Building, ABC Stoppage,
G.B. Road, Bhangagarh,
Guwahati - 781005

Reference : Your letter dated:10.9.2002 regarding
Salary for the period of absence.

Kindly refer to your above said letter. In this connection, please be informed that the cheque dated:11.1.2002 (issued by IHM, Chandigarh) for an amount of Rs.1,676/- as salary of 11 days for the month of January, 2002 has not been traced by this office in its records so far. Even if the said cheque is traced at this stage, the cheque would be invalid for the purpose of encashment from bank. The salary of the said 11 days may be claimed from IHM, Chandigarh through a fresh cheque, which would be encashable within six months from its date of issue.

Since you were relieved by IHM, Chandigarh vide order No:IHM/ADM/2002/9778-86 dated:11.01.2002 on 11th January, 2002 with the direction to report to Srinagar Institute immediately, but you did not do so and later on the direction of Ministry you joined at IHM, Guwahati on 07.07.2002.

Under Rules, this Institute is unable to draw your salary for the period w.e.f.12.1.2002 to 06.7.02 and you are therefore advised to take up the matter with the Ministry in this regard for the regularisation of the period of absence.

Yours faithfully,

Dinesh NASA

(DINESH NASA)
PRINCIPAL

*Attested
Dinesh
Advocate*