

FROM No. 4  
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

ORDER SHEET

Original Application No:- \_\_\_\_\_/

Misc Petition No: \_\_\_\_\_/

Contempt Petition No: 61/2003, in OA-36/2003

Review Application No: \_\_\_\_\_/

Name of the Applicant(s): Sri James Guite

Name of the Respondant(s): Sri A.K. Singh & anr.

Advocate for the Applicant:- Mr. M. Chandra,  
Mr. S. Nath

Advocate for the Respondant:-  
C.G.S.C.

Notes of the Registry      date      Order of the Tribunal

This application has been filed by the applicant through his L/Advocate with a prayer for initiation of a contempt proceeding against the alleged contemners for wilful non-compliance of order dt 16.6.03 passed in OA No. 36/03 and order dt 29.10.03 passed in M.P. No 90/03.

Laid before the Hon'ble Court for favour of orders

24.12.03  
Section Officer (S)

24/12

Notice & orders dt. 26/12/03, sent to D/Section for issuing to respondent Nos 1 to 3. vide memo No

9/1/04  
56 to 58 dated 12-01-04.

26.12.2003

Present: Hon'ble Mr Justice B. Panigrahi, Vice-Chairman  
Hon'ble Mr K.V. Prahaladan, Administrative Member.

Let the copy of the Contempt Petition be served upon the alleged contemners by Registered Post with A/D within six weeks. Requisites be filed within a week. The matter shall appear for hearing on admission on 13.1.2004.

K.V. Prahaladan  
Member

B. Panigrahi  
Vice-Chairman

nkm

25.2.04

Respondents are granted further one week time to file reply. However, we find that the disciplinary proceedings stood close and the other relief for consideration of promotion of the applicant to be contd/-

13.1.2004 List the case before the next available Division Bench.

*[Signature]*  
Member

bb

25.02.04 Respondents are granted further 1 week time to file reply. However, we find that the disciplinary proceedings stood close and the other relief for consideration of promotion of the applicant to be considered on the next date.

List on 9.3.04. for orders.

*[Signature]*  
Member(A)

*[Signature]*  
Member(J)

pg

9.3.2004 List in the next available Division Bench.

*[Signature]*  
Member (A)

mb

30.3.2004 Present : The Hon'ble Sri Kuldip Singh, Judicial Member.  
The Hon'ble Sri K.V. Prahladan, Administrative Member.

Heard Sri M.Chanda, learned counsel for the petitioner and Sri A.Deb Roy, learned counsel for the respondents. The O.A. was disposed of on 16.6.2003 with the direction that the disciplinary proceeding against the applicant should be finalised within one month from the date of receipt of the order. We have been informed by the learned counsel for the respondents that the disciplinary proceeding has been come to an end and the applicant has been exonerated. By order dated 16.6.03 the respondents were also directed to take appropriate decision for promotion of the applicant with all

Order dt. 30/3/04  
sent to D/Section  
for issuing to  
learned counsel  
of both the parties.

*[Signature]*  
11/4/04.

30.3.04 consequential benefits in terms of the conclusion of the disciplinary proceeding. The learned counsel for the respondents has informed that the process for promotion of the applicant has been initiated and it will take some time.

Let the case be listed before the next available Division Bench.

*K.V. Prahladan*  
Member(A)

*K.V. Prahladan*  
Member(J)

14.6.04 :

pg

Reply has been submitted to Contemner No. 3.

18.6.04 Present : The Hon'ble Mrs Bharati Ray,  
Judicial Member

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

When the matter was called for learned counsel for the respondents submits that the order of this Tribunal has already been complied with. Learned counsel for the applicant has also submitted that the order has since been complied with.

Therefore, the C.P. is closed with no costs.

*K.V. Prahladan*  
Member(A)

*K.V. Prahladan*  
Member(J)

pg

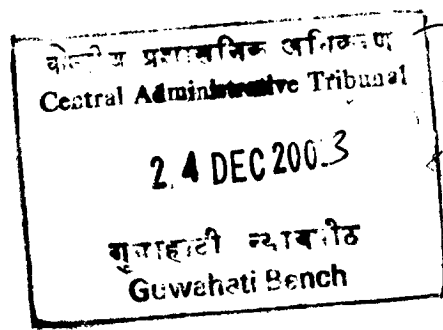
Received copy  
Order Respondent

*G. K. K. K.*  
29/07/04  
29/11/04

10.8.04

Copy of the order  
handed over to the  
Advocate for the  
party.

Received  
19/08/04



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Filed by me Petitioner  
through : Subrata Kalita,  
Advocate.  
24.12.03.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

Contempt Petition No. 61 /2003

In O. A. No. 36 of 2003

In the matter of :

Sri James Guite. ...Petitioner  
-Versus-

Union of India and others  
.....Alleged Contemnors  
-AND-

In the matter of :

An Application under Section 17 of the Administrative Tribunals Act, 1985 praying for initiation of a contempt proceeding against the alleged contemnors for willful non-compliance of the order dated 16.06.2003 passed in O. A. No. 36/2003 and order dated 29.10.2003 passed in Misc.Petition no.90 of 2003 in O.A.No 36 of 2003.

-AND-

In the matter of :

Sri James Guite,  
S/O- Late Vialzachin Guite,  
Inspector, Custom Preventive Force.  
Office of the Customs  
Churachandpur, Manipur.

...Petitioner

-Versus-

1. Sri A.K.Singh,

The Chairman,  
Central Board of Excise and Customs,  
Ministry of Finance, Department of Revenue  
North Block, New Delhi.

2. Sri M.S.Vinita Rao,  
Secretary, Revenue,  
Ministry of Finance, Department of Revenue  
Govt. of India,  
North Block, New Delhi.

3. Sri Z. Tochhwang,  
The Commissioner of Central Excise.  
Morellon compound  
Shillong-793001.

...Alleged Contemnors.

The humble petitioner above named -

**MOST RESPECTFULLY SHIEWETHS:**

1. That the petitioner being highly aggrieved for inordinate delay in concluding the Disciplinary Proceedings and for non consideration of promotion to the post of Superintendent Group B approached this Hon'ble Tribunal by filling O.A. No 36/2003.

2. That this Hon'ble Tribunal after hearing the contestants and having examined the facts and circumstances of the case was pleased to allow the Original application no.36/2003 and passed the following directions on 16.06.2003

"4. On consideration of all aspects of the matter, we are of the opinion that it is a fit case in which direction is need to be

issued on the respondents to take a final decision on the disciplinary proceeding, since the inquiry was concluded in 2001 and the matter is pending before the C.V.C from August, 2001. Accordingly the respondents are directed to take a final decision on the disciplinary proceeding against the applicants within a period of one month from the receipt of the order, failing which the proceeding against the applicants shall be deemed to have been set aside and quashed and the applicants shall stand exonerated. The respondents authorities are also directed to take appropriate decision for promotion of the applicants as per law and provide the applicants with all consequential benefits in terms of the conclusion of the Disciplinary proceeding."

Copy of the Judgment and order dated 16.06.2003 is annexed herewith and marked as **Annexure-I**.

3. That the petitioner thereafter submitted representation to the alleged contemnor dated 25.06.2003, which was forwarded by the Superintendent Customs Preventive Force, Lamka, Churachandpur, enclosing therewith a copy of the judgment and order dated 16.06.2003 in O.A No 36 of 2003 and praying for implementation of the said order of the Hon'ble Tribunal but the said contemnors

neither gave any reply nor have taken any action for implementation of the order. Being disappointed by the inaction of the alleged contemnors the petitioner submitted another representation on 04.08.2003 to the alleged contemnors through proper channel but in this occasion also the alleged contemnors neither gave any reply nor have taken any action.

Copy of the representation dated 25.06.2003, forwarding letter dated 25.06.03 and representation dated 04.08.2003 are enclosed herewith and marked as **Annexure-II & III** respectively.

4. That the respondent authority after receipt of the judgment dated 16.06.2003 passed in O.A.No.36 of 2003 filed Misc.Petition No.90/2003 in O.A.36/2003 praying for further 3 months time for implementation of the Judgment and order dated 16.06.2003. In the said Misc.petition the petitioner /respondents stated that the CVC is in need of further 3 months time to take final decision. Be it stated that the Misc.Petition no.90/2003 in O.A.No 36/2003 came for hearing before this Hon'ble tribunal on 29.10.2003 and the Hon'ble Tribunal dismissed the prayer for extension of time limit in Misc.Petition 90/2003 in O.A 36/2003 on 29.10.2003 with the following observations: -

"----- Considering the facts and circumstances of the case as a whole, we do not find any justification for extension of time to

comply with the order. Since the authority failed to take a decision on the disciplinary proceeding against the applicant within the specified time, as per order dated 16.06.2003 the disciplinary proceeding against the applicant stands abated/quashed is set aside and the applicant stood exonerated----".

That it is stated that Hon'ble tribunal vide its order dated 29.10.2003 passed in M.P 90/2003 have exonerated the applicant, therefore there is no proceeding pending against the petitioner.

Copy of the order dated 29.10.2003 is enclosed herewith and marked as **Annexure-IV**.

5. That the petitioner thereafter submitted a representation to the alleged contemnor dated 04.11.2003 enclosing herewith a copy of the order dated 29.10.2003 and praying for implementation of the order of the Hon'ble Tribunal. The representation dated 04.11.2003 was forwarded by the Deputy Commissioner, Customs Preventive Division, Impal, Manipur on 24.11.2003. In his representation the petitioner stated that since he has been exonerated by the orders dated 16.06.2003 and 29.10.2003 therefore the authority should consider his promotion to the grade of Superintendent Grade B at least w.e.f the date of promotion of his immediate juniors but the said



contemnors neither gave any reply nor have taken any action.

Copy of the representation dated 04.11.2003 and forwarding letter dated 24.11.2003 are enclosed herewith and marked as **Annexure-V** (Series).

6. That the petitioner begs to state that the alleged contemnors deliberately and willfully did not take any initiative for the implementation of the order dated 16.06.2003 passed in O.A.No.36/2003 and order dated 29.10.2003 passed in M.P.No.90/2003 which amounts to contempt of court and therefore the Hon'ble Tribunal be pleased to initiate a contempt proceeding against the alleged contemnors for willful non-compliance of the Tribunal's orders and further be pleased to punish the alleged contemnors for willful non-compliance of the order dated 16.06.2003 in O.A.No.36/2003 and order dated 29.10.2003 passed in O.A.No.90/2003.
7. That it is a fit case for the Hon'ble Tribunal for initiation of contempt proceeding for deliberate non-compliance of the order dated 16.06.2003 in O.A.No.36/2003 and order dated 29.10.2003 in M.P.No.90/2003 passed by the Hon'ble Tribunal.
8. That this petition is made bona fide and for the ends of justice.

Under the facts and circumstances stated above, the Hon'ble Tribunal be

pleased to initiate contempt proceeding against the alleged contemnors for willful non-compliance of the order dated 16.06.2003 passed in O.A.No.36/2003 and order dated 29.10.2003 passed in M.P.No.90/2003 and further be pleased to impose punishment upon the alleged contemnors in accordance with law and further be pleased to pass any such order or orders as deem fit and proper by the Hon'ble Tribunal.

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

AFFIDAVIT

I, Sri James Guite, Son of Late Vialzachin Guite, aged about 44 years, working as Inspector, Customs Preventive Force, Churachandpur, Manipur, do hereby solemnly declare as follows: -

1. That I am the petitioner in the above contempt petition and as such well acquainted with the facts and circumstances of the case and also competent to sign this affidavit.
2. That the statement made in paragraphs 1-8 are true to my knowledge and belief and I have not suppressed any material fact.
3. That this Affidavit is made for the purpose of filing contempt petition before the Hon'ble Central Administrative Tribunal, Guwahati Bench, in the matter of non-compliance of the Hon'ble Tribunal's order dated 16.06.2003 passed in O. A. No. 36/2003 and order dated 29.10.2003 passed in M.P.No.90/2003 in O.A.No.36/2003.

Identified by

*Subrata Nath*

Advocate

*James Guite,*  
Deponent

*Solemnly affirmed and declared  
before Sri Subrata Nath, Advocate  
on the 20<sup>th</sup> day of December, 2003*

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 16.06.2003 passed in O. A. No. 36/2003 and order dated 29.10.2003 passed in M.P.No.90/2003 in O.A.No.36/2003. And further be pleased to impose punishment on alleged contemnors/defendants for willful disobedience and deliberate non-compliance of the order dated 16.06.2003 and 29.10.2003.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application Nos. 18 & 36 of 2003.

Date of Order : This the 16th Day of June, 2003.

THE HON'BLE MR. JUSTICE D. N. CHOWDHURY, VICE CHAIRMAN.

THE HON'BLE MR. R. K. UPADHYAYA, ADMINISTRATIVE MEMBER.

1. Sri Subodh Dhar  
S/o Late Aswini Kumar Dhar  
Superintendent (Group B)  
Office of the Assistant Commissioner  
Central Excise, Silchar Division  
Circuit House Road  
Silchar.

. . . Applicant in O.A.18/2003.

1. Sri James Guite  
Inspector  
Customs Preventive Post  
Churachandpur,  
Central Excise.

. . . Applicant in O.A.36/2003.

By Advocates Mr.M.Chanda, G.N.Chakraborty & S.K.Ghosh in  
O.A.18/2003 & Mr.M.Chanda & G.N.Chakraborty in O.A.36/2003.

- Versus -

1. The Union of India  
Represented by the Secretary  
to the Government of India  
Ministry of Finance  
Department of Revenue  
New Delhi.

2. The Chairman  
Central Board of Excise and Customs  
Ministry of Finance  
Department of Revenue  
North Block, New Delhi.

3. The Commissioner of Central Excise  
Morellow Compound  
Shillong-793001.

4. Sri Rama Kanta Das  
Deputy Commissioner ( on Ad hoc basis)  
Office of the Commissioner  
Central Excise & Customs  
Shillong.

. . . Respondents in O.A.18/2003.

1. The Union of India  
Represented by the Secretary  
to the Government of India  
Ministry of Finance  
Department of Revenue  
New Delhi.

2. The Chairman  
Central Board of Excise and Customs  
Ministry of Finance  
Department of Revenue  
North Block, New Delhi.



*Advocate  
24.12.03*

3. The Commissioner of Central Excise  
Morallow Compound  
Shillong-793001.
  4. The Deputy Commissioner (P & V)  
Central Excise, Shillong.. . Respondents in O.A.36/2003
- By Mr.A.Deb Roy, Sr.C.G.S.C in both the cases.

ORDER

CHOWDHURY J.(V.C.):

Both the applications are taken up together for consideration since it involves commonality of facts and common question of law.

1. Both the applicants are serving under the Customs and Central Excise. The applicant in O.A.36/2003 is presently working as Inspector whereas the applicant in O.A. 18/2003 is serving as Superintendent. Disciplinary proceedings under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, were initiated against the applicants as far back as on 1998. So far as the applicant in O.A.36/2003 is concerned the proceedings against the applicant is initiated as far back on 12.2.1998 whereas in the other case proceeding is initiated on 21.1.1998. According to the applicants, in both the cases first enquiry proceeding was held on 16.9.1999. It has been stated that common proceeding was initiated against a number of officers including the applicants. The applicants referred the case of Sri B.K.Saikia who was also equally charged with similar misconduct in the common proceeding and finally he was exonerated from the charges and was promoted to the grade of Superintendent Group 'B' as far back on 23.9.2002. Both the applicants now moved this Tribunal assailing the continuance of the proceeding which according to them amounts to persecution. Mr.M.Chanda, learned counsel for the applicants contended that inordinate delay in concluding the proceeding itself is a ground for exonerating the applicants. On merit also, the applicants

contended that the facts alleged did not constitute any misconduct against the applicants.

2. Though time granted the respondents did not file written statement. Earlier also we ordered the respondents to file written statement, but that was not filed. We also ordered for production of the records. Mr.A.Deb Roy, learned Sr.C.G.S.C. stated that records are not made available to him till now and today also he prayed for time to file written statement. Mr.Deb Roy stated that <sup>the drafted</sup> written statement is forwarded to the respondents but he is yet to receive the same. Mr.Deb Roy referred to the para wise comments and from the para wise comments it appears that in both the cases the enquiry officer submitted his report and forwarded on 7.8.2001 to the Directorate General of Vigilance, New Delhi for obtaining 2nd stage advice from CVC. The D.G.V. further advised the office to collect the remaining documents from the C.B.I. However the C.B.I. could not furnish all the remaining documents till now. The matter was reported to the D.G.V. and 2nd stage advice from C.V.C. through D.G.V. is awaited. In the same para wise comments the respondents also mentioned that Sri B.K.Saikia was exonerated vide C.V.C.'s 2nd stage advice dated 21.2.2002. As regards the promotion of the applicants the respondents stated that in view of the pendency of the vigilance case their case were not considered.

3. We have given our anxious consideration on the matter. The disciplinary proceeding pertains to certain allegations which took place in Manipur as far back on 26.10.1994. The disciplinary proceeding is going on since <sup>February, 1998.</sup> /  
Seemingly one of the Inspectors Sri B.K.Saikia was exonerated from the charges. In the absence of the enquiry report it could not be ascertained as to whether these officials were found guilty or exonerated. However, fact authority have kept the pot boiling and remains that the disciplinary proceeding is kept going since

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1998. It is also a fact that in view of the pendency of the disciplinary proceeding these applicants were not considered for promotion. Materials on record clearly indicated that Enquiry Officer submitted his enquiry report and the same was forwarded to the D.G.V., New Delhi as far back on 7.8.2001. Disciplinary proceeding cannot be continued for an indefinite period. Time limit for passing a final order on the enquiry report is prescribed by the Government of India vide Office Memorandum No.39/43/70-Ests.(A) dated 8.1.1971. Mr.A.Deb Roy, learned Sr.C.G.S.C. however, submitted that this is a case in which consultation with the C.V.C. is required and the proceeding is kept pending because 2nd stage advice from the CVC is awaited. Even in cases requiring consultation with the C.V.C. and the U.P.S.C. also, every effort is <sup>required</sup> to be made to ensure that such cases are disposed of as quickly as possible. Administrative imperativeness as well as public interest also demands expeditious disposal of the disciplinary proceeding. Since the enquiry report was submitted on 7.8.2001 under Rule 15 of the CCS (CCA) Rules, cases need to be disposed within the time framed. No justification is forthcoming for not considering the case of the applicants for promotion till now in view of the Office Memorandum No.22011/4/91-Estt.(A) dated 14.9.1992. The said Office Memorandum was issued after the decision rendered by the Hon'ble Supreme Court in K.V.Jankiraman & Others -vs- Union of India & Others reported in (1991) 4 SCC 109. Guidelines are meant to be obeyed. Even the procedure prescribed for resorting to seal cover proceeding indicated six months time to review of the case. We are not aware as to what steps were taken in this regard.

4. On consideration of all aspects of the matter, we are of the opinion that it is a fit case in which direction is need to be issued on the respondents to take a final decision on the disciplinary proceeding, since the enquiry



was concluded in 2001 and the matter is pending before the C.V.C. from August, 2001. Accordingly, the respondents are directed to take a final decision on the disciplinary proceeding against the applicants within a period of one month from the receipt of the order, failing which the proceeding against the applicants shall be deemed to have been set aside and quashed and the applicants shall stand exonerated. The respondent authority are also directed to take appropriate decision for promotion of the applicants as per law and provide the applicants with all consequential benefits in terms of the conclusion of the disciplinary proceeding.

Subject to the observations made above, both the applications stand disposed.

There shall, however, be no order as to costs.

Sd/ vice-CHAIRMAN  
Sd/ MEMBER (A)

Verified to be true Copy  
प्रमाणित प्रतिलिपि

Section Officer (J)

C.A.T. GUWAHATI RANCH

Guwahati-781005

Attested  
for  
Advocate  
21.12.03

CUSTOMS PREVENTIVE FORCE : CHURACHANDPUR.

C.No. 11(3)ET/1/CPA/CCL/2003/25 Date: 25/06/2003

To.

The Deputy Commissioner.  
Customs Preventive Division,  
Imphal - Manipur.

Madam,

Subject: Prayer for implementation of the Judgment  
dated.16.06.03 of the Hon'ble CAT,Guwahati  
Bench. - Forwarding of.

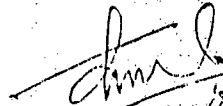
I, have to forward herewith an application alongwith  
the Judgment and Order dated.16.06.03 in O.A.No.18 & 36/2003  
passed by the Hon'ble CAT,Guwahati Bench in duplicate, received  
from Mr.James Guite, Insp.of this Unit, for your kind perusal  
and onward transmission to the Hd.Quarters Shillong.

A copy of the forwarding letter from your end may kindly  
be endorse to this Office for official record.

Encl:All in duplicate,

- (1).An application of  
Mr.James Guite, Insp.
- (2).Judgment and Order  
in 3(three)sheets.  
(As stated above.)

Yours faithfully,

  
25/06/03

(THANGCHUOILO.)

Superintendent.

Customs Preventive Force.  
Lamka, Churachandpur.

*Accepted  
Sub.  
Advocate  
24.12.03*

24 June, 2003.

THE SECRETARY, CUSTOMS, GUWAHATI, VICE CHAIRMAN.  
THE ADDL. COMMISSIONER, CUSTOMS, GUWAHATI, ACTIVE MEMBER.

To:

The Commissioner of Central Excise,  
Morelow Compound,  
Shillong-793001. ant Comm. officer  
Central Excise, Shillong Divis. on  
(Through Proper Channel.)

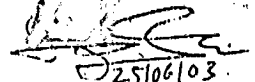
Sir, Subject: Prayer for implementation of the Judgment  
dated.16.06.03 of the Hon'ble CAT, Guwahati  
Bench.

Enclosed kindly find herewith a copy of the Judgment  
and Order dated.16.06.03 in O.A.No.18 & 36/2003 passed  
by the Hon'ble CAT, Guwahati Bench pertaining to promotion  
of the applicants etc.

This is for your kind necessary action and early -  
Implementation of the Judgment.

Encl:-Judgment & Order.  
( As stated above. )  
in 3(three)sheets.

Yours faithfully,



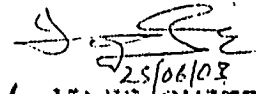
( JAMES GUITE. )

Inspector.

Customs Preventive Force,  
Lanka, Churachandpur.

Dated:Churachandpur,  
the 25th.June,2003.

A similar copy forwarded to the Addl.Commissioner(P&V).  
Commissioner of ~~Central Excise~~ Central Excise, Shillong for -  
favour of information and necessary action.



( JAMES GUITE. )

Inspector,

Customs Preventive Force,  
Lanka, Churachandpur.

Encl: Judgment & Order.  
(As stated above)

*Attested  
by  
24.12.07*

To  
The Commissioner Central Excise,  
Department of Revenue,  
Ministry of Finance  
Morellow Compound  
Shillong-793001

(THROUGH PROPER CHANNEL)

Sub: Prayer for early implementation of judgment and order dated 16.6.2003 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati in O.A. No. 36 of 2003 and also praying for consideration of my promotion to the cadre of Superintendent Group B with immediate effect.

Ref : My representation dated 25.6.2003.

Respected Sir,

Most humbly and respectfully, I like to draw your kind attention on the subject cited above and further beg to inform you that the judgment and order passed in O.A. No. 36 of 2003 was in fact delivered by the Hon'ble CAT on 16.6.2003, whereby the respondents were directed to take final decision on the disciplinary proceeding against the undersigned within a period of one month from the date of receipt of that order. Failing which the proceeding against me shall be deemed to have been set aside and quashed and the undersigned should stand exonerated. It was further directed by the Hon'ble CAT to the respondents to take appropriate decision for promotion of the undersigned as per law with all consequential service benefits in terms of the conclusion of the disciplinary proceeding. It is relevant to mention here that the order of the Hon'ble Tribunal dated 16.6.2003 in fact received by your office and in the meantime more than one month has already elapsed but surprisingly no action was initiated for consideration of my promotion in spite of the specific order of the Hon'ble Tribunal referred to above. It may be stated here that the disciplinary proceeding which was referred to in the judgment deemed to have been quashed and the undersigned

*Attended  
Sent  
24.12.03*

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deemed to have been exonerated in terms of the direction contained in the said judgment. Therefore you are requested to kindly consider my promotion to the cadre of Superintendent Group B without any further delay in the light of the direction passed by the Hon'ble Tribunal dated 16.6.2003 in O.A. 36 of 2003 with all consequential service benefits at least from the date of promotion of my immediate junior.

An early action is highly desired in this regard.

Enclo : A copy of the judgment  
and order dated 16.6.2003

Date : 4<sup>th</sup> Augt. 2003.

Yours faithfully,

  
(JAMES GUITE)

Inspector,  
Customs Preventive Force,  
Churachandpur, Manipur.

*Submitted  
for  
Advocate  
24.12.03*

FORM NO.4

(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWALATI BENCH

ORDERSHEET

Original Application : 36/03

Misc Petition No. : 90/03

Contempt Petition No. :

Review Application No. :

Applicants:- Union of India & Ors

Respondents:- James Guli

Advocate for the Applicants:- Sr. Case

Advocate for the Respondents:- M. Chanda, G.N. Chakraborty  
S.K. Ghosh.

Notes of the Registry

Date

Order of the Tribunal

mb

29.10.2003

Heard Mr.A.Deb Roy, learned Sr. C.G.S.C. appearing on behalf of Petitioners and also Mr.M.Chanda, learned counsel for the opposite party.

This application is filed praying for further extension of three months for implementation of the judgment and order dated 16.6.2003 passed in O.A. 36/2003.

Contd./2



*Attested  
Sr. Advocate  
24.12.03*

Contd.

29.10.2003

By our order dated 16.6.2003 passed in O.A.36/2003 we directed the authority to take a final decision on the disciplinary proceeding initiated against the applicant as far back on 21.1.1998 within the time specified. The disciplinary proceeding was concluded in 2001 and the matter was kept pending at the C.V.C. level from August, 2001. By the aforesaid order we directed the authority to decide the disciplinary proceeding initiated against the applicant within one month from the receipt of the order, failing which the proceeding against the applicant was deemed to have been set aside and quashed and the applicant stood exonerated.

Mr. A. Deb Roy, learned Sr.C.G.S.C., referring to his petition, stated that the C.V.C. is yet to take a decision and seeks for further three months time to comply with the order dated 16.6.2003 passed in the aforesaid O.A.

Considering the facts and circumstances of the case as a whole, we do not find any justification for extension of time to comply with the order. Since the authority failed to take a decision on the disciplinary proceeding against the applicant within the specified time, as per our order dated 16.6.2003 the disciplinary proceeding against the applicant stands set aside and the applicant stood exonerated.

The application thus stands dismissed. No costs.



Sd/ VICE CHAIRMAN

Sd/ MEMBER (A)

Memo No.

Sd/

Copy for information and necessary actions.

- 1) Mr. A. Deb Roy, Sr. C.G.S.C., CAT Guwahati Bench.
- 2) Mr. M. Chandra Advocate, Guwahati High Court.

Affected  
Advocate  
24.12.03

Section Officer (v),  
16/11/03

Government of India.  
Office of the Deputy Commissioner,  
Customs Preventive Division,  
Imphal - Manipur.

C.No.II(39)I/MISC/DCI/02-03/3223

Date: 24-11-03

To.

The Commissioner.  
Commissionerate of Central Excise,  
(N.E.R.) Morelew Compound,  
Shillong - 1.

Sir,

Subject:-Prayer for immediate consideration of my  
promotion to the post of Superintendent  
in view of the Order dated, 29.10.2003 -  
passed in Misc. Case No.90 of 2003 in O.A.  
36 of 2003. - Forwarding of.

Enclosed please find herewith a self explanatory  
application alongwith Order dated, 29.10.2003 passed in Misc. -  
Case No.90 of 2003 in O.A.36 of 2003 by the Hon'ble CAT, Guwahati  
Bench in r/o Mr. James Guite, Inspector for kind perusal and -  
necessary action please.

Encl:1 (one) application  
in original.  
2 (two) sheets of -  
Order dated, 29.10.03  
As stated above.

Yours faithfully,

*M. H. Anal*  
24/11/03

( H.M.ANAL. )  
Deputy Commissioner.  
Customs Preventive Division  
Imphal - Manipur.

*Attestd  
Sant.  
Advocate  
24.11.03*



To.  
The Commissioner,  
Central Excise, Shillong.

(Through proper channel)

Sub: Prayer for immediate consideration of my promotion to the post of Superintendent, in view of the order dated 29.10.2003 passed in Misc. Case No.90 of 2003 in O.A 36 Of 2003.

Respected Sir,

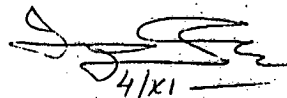
I like to draw your kind attention on the subject cited above and further beg to state that the Hon'ble Tribunal vide order dated 29.10.2003 declared that the undersigned is stood exonerated from the charges leveled against him, for which my promotion to the post of Superintendent has not yet been considered by the Commissionerate, therefore you are requested to consider my promotion to the post of Superintendent more particularly in view of the order passed in the Misc. Petition No.90 of 2003 in O.A 36 of 2003, with all consequential benefits at least from the date of promotion of my immediate juniors.

A copy of the Hon'ble Tribunal's Order dated 29.10.2003 is enclosed for your ready reference.

Encl: Order dated 29.10.2003.

Date: 4<sup>th</sup> Nov. 2003

Your's faithfully



(JAMES GUILTE)

Inspector

Customs Preventive Force  
Churachandpur: Manipur

*Accepted  
Rank  
Admitted  
21.11.2003*

- 23 -

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**

14 JUN 2004

C.P.NO. 61 OF 2003  
IN O.A. NO. 36 OF 2003

Shri James Guite

Vs.

Union of India & Others

— AND —

IN THE MATTER OF

Shri D.D. Ingty

..... Deponent

Vs.

Shri James Guite

.....Opposite Party  
Petitioner.

I, Shri D. D. Ingty, Commissioner, Customs (N E R), Shillong, have taken charge of Commissioner, Central Excise, Shillong in addition to my existing post from Shri Z. Tochhawng, Commissioner who retired on superannuation on the 29<sup>th</sup> February, 2004. Shri Z. Tochhawng is the alleged contemner No. 3. But since Shri Z. Tochhawng has retired and I have taken charge, I do hereby solemnly affirm and say as follows :-

1. That I am acquainted with the facts and circumstances of the case. I have gone through the petition and understood the contents thereof. Save and accept whatever is specifically admitted in this reply, rest of the averments will be deemed to have been denied.
2. That I have the highest reverence and regard for the Hon'ble Tribunal and its order. It may, however, be held on consideration of facts and circumstances of the case that had there been any lapse on my part, than I would have tendered unqualified apology and sincere regret for the same. I cannot even think of doing any act or omission amounting to contempt of Court or disobedience or violation of any order of the Hon'ble Tribunal.

I hold the Hon'ble Tribunal in highest and utmost respect and regard.

File No. 7/6/03  
(A. DEB ROY)  
S. C. G. S. C.  
A. R. Guwahati Bench

3. That I beg to state in view of the Hon'ble Tribunal's order, the petitioner was exonerated from the charges framed against the petitioner.
4. That necessary steps have been undertaken by the Office of the Commissioner of Central Excise, Shillong for giving promotion to the petitioner.
5. That I respectfully submit that there is no willful violation or disobedience to the direction and order passed by the Hon'ble Tribunal.
6. That the contempt petition is misconceived, untenable and hence the notice issued against the respondents requires to be discharged.

The statements made in paras 1 & 2 are true to my knowledge and belief and those made in paras 3 & 4 being matter of records are true to my information derived therefrom and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed or concealed any material fact.

And I sign this affidavit on this ..... day of June, 2004.

Identified by me

DEPONENT

*Any 7/6/04*  
*Advocate*

Solemnly affirmed and declared before me by the deponent,  
who is identified by Shri A. Debroy, Advocate on this  
7<sup>th</sup> day of June, 2004.

*Devajit Goswami*  
Advocate