

19
FORM NO. 4
(SEE RULE 12)
CENTRAL ADMINISTRATIVE TRIBUNAL
CHAWATI BENCH.

ORDER SHEET

Org. App/ Misc. Petn/ Cont. Petn/ Rev. Appl. 05/2004

D.A. 227/03

Name of the Applicant(s) Jitendra Nain Misra

Name of the Respondent(s) Sai Vipan Manda & sons.

Advocate for the Applicant Mr L.P. Sarma & S. Chakrabarty.

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

OFFICE NOTE

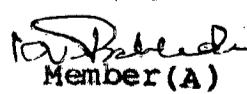
DATE

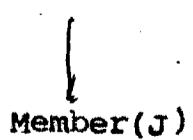
ORDER OF THE TRIBUNAL

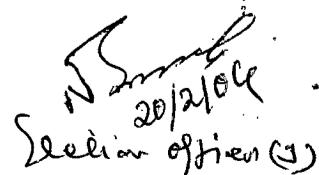
This contempt petition was filed by the applicant with a proper for Lordships may be pleased to admit this petition, issue notice to the alleged contemners directing them to appear in person before this Hon'ble Tribunal and to show-cause as to why they should not be punished for their wilful and deliberate disobedience of the order dated 07.10.2003, 23.10.03 as 21.11.03 passed by this Tribunal.

Laid before Hon'ble Court for orders.

PG


Member (A)


Member (J)


20/2/04
Section Officer (1)

25.3.2004 List the case on 1.4.2004 before
Division Bench.

4/3/04

Notice is prepared
and sent to Despatch
Section for issuing
to the contemnor nos
1 and 2.

D/No = 317, dt. 4/3/04
318, dt. 9/3/04.

bb

4/3/04

Order dt. 1/4/04
Sent to D/Section
for issuing to
respondent nos
1 & 2.

(L.P.S.)
2/4/04

A/c and received from
R-2 duly served.

N.J.
27/4/04

16.5.04
Show Cause reply on
behalf of the Contemnor
No.2. has been filed.

(P.P.)

16.5.04
Copy of the order
has been sent to the
D/Sec for issuing
the same to the
applicant as well
as to the Respondent.

BB

30.4.2004 Heard Mr. L.P. Sharma, learned
counsel for the applicant and also Ms.
U. Das, learned counsel for the respondents.

List on 13.5.2004 for orders
before the Division Bench.

mb

13.5.2004 Present : The Hon'ble Sri Mukesh Kumar
Gupta, Judicial Member.
The Hon'ble Sri K.V. Prahala
Member (A).

Heard learned counsel for the
parties. Order passed separately.

mb

K.V. Prahala
Member (A)

M.J.
Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL :::: GUWAHATI BENCH ::::

Contempt Petition No. 05 of 2004 (in O.A. No. 227/2003)

Date of Order : This the 13th day of May, 2004.

THE HON'BLE SHRI MUKESH KUMAR GUPTA, JUDICIAL MEMBER.

THE HON'BLE SHRI K.V. PRAHLADAN, ADMINISTRATIVE MEMBER.

Shri Jitendra Nath Misra,
Son of Late Khargeswar Misra,
Aged about 43 years, at present
residing at Quarter No. A/17 Type-II
Uzanbazar, Guwahati - 1.

... . Applicant.

By Advocate Sri L.P. Sarma, Sri S. Chakrabarty.

- Versus -

1. Shri Vipan Nanda, General Manager,
N.F. Railway, Maligaon, Guwahati - 11.
2. Shri A. Kispote, Divisional Rly.
Manager (P), N.F. Railway, Lumding.

... . Respondents/
Contemnors

O R D E R (ORAL)

SHRI MUKESH KUMAR GUPTA, MEMBER (J) :

Heard Mr. L. P. Sarma, learned counsel for the applicant and also Mr. S. Sarma, learned counsel for the respondents.

2. In this application, it is contended that the applicant in pursuance of the order dated 7.10.2003 passed in O.A. No. 227/2003 has not ^{been} paid salary as directed. However, the respondents had complied with the order passed by this Tribunal dated 20.11.2003.
3. Sri S. Sarma, learned counsel appearing on behalf respondents states that the order dated 20.11.2003 passed by this Tribunal has been fully complied with and order

Contd...2

dated 8.1.2004 has been issued by the competent authority transferring the applicant from Lanka Station to Guwahati Station. However, since the applicant had not been released by any specific release order by the Lanka Station, the Station Master, Guwahati Station declined to join the applicant. So far as the payment of salary of the applicant is concerned, the learned counsel for the respondents states that since the charge sheet dated 8.10.2003 for his unauthorised absence from 17.3.2003 to 23.3.2003 and from 25.3.2003 onwards is pending, the salary for the said period could not be released at this stage.

4. After hearing learned counsel for the parties, it appears that the respondents have fully complied with the order dated 20.11.2003. So far as the order dated 7.10.2003 is concerned directing the respondents to release the salary, we refrain from passing any order since the disciplinary proceeding is pending against the applicant. As such, the respondents could not comply with the direction to release the salary as per law.

5. It is admitted fact that the applicant reported for duty at Guwahati in pursuance of the order dated 8.1.2004. However, he was not allowed to join since any specific release order was not issued by the Lanka Station. As such, the Station Superintendent, Lanka is directed to issue specific release order within three (3) days from the date of receipt of this order. The applicant on accepting this order immediately report to the Station Superintendent, Lanka for necessary order.

The Contempt Proceeding accordingly disposed of.


(K.V. PRAHLADAN)
ADMINISTRATIVE MEMBER


(MUKESH KUMAR GUPTA)
JUDICIAL MEMBER

संघ नियन्त्रण न्यायालय
Central Administrative Tribunal

20 FEB 2004

गुवाहाटी न्यायालय
Guwahati Bench

DISTRICT: KAMRUP

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI.

Contempt Case No. 05 /2004.

In O.A. No. 227 of 2003.

IN THE MATTER OF :

An application under Section 17 of the
Administrative Tribunal Act, 1985 read with
Section 11 and 12 of Contempt of Courts Act,
1971, and Rule 6 and 7 of the Contempt of Courts
(CAT) Rules, 1992.

-And-

IN THE MATTER OF :

Violation of order dated 7.10.2003, 23.10.2003
and 20.11.2003 passed by this Hon'ble Tribunal
in OA No. 227/2003.

-And-

IN THE MATTER OF :

Sri Jitendra Nath Misra,
Son of Late Khageswar Misra,
Aged about 43 years, at present residing
at Quarter No. A/17 Type-II Uzanbazar, Guhati-1
by profession service in the N.F.Railway, now
posted at Head Coaching Clerk, N.F.Railway, Lankha.

.....Applicant.

-Versus-

1. Shri Vipan Nanda, General Manager,
N.F.Railway, Maligaon, Guwahati-11.
2. Shri A.Kispotte, Divisional Rly.
Manager, (P) N.F.Railway, Lumding.

Respondent/
Contempliers.

5
Jitendra Nath Misra
Through : Santanu Chakraborty
Advocate
20-2-04

: 2 :

The humble Petition of the abovenamed
Petitioner -

MOST RESPECTFULLY STATES:

1. That the Petitioner is a citizen of India by birth and is a permanent resident of Janigog(Karebari)village, P.O.Janigog, P.S.Nalbari in the district of Nalbari. The Petitioner was appointed as Commercial Clefk(Coaching) and as a handicapped person on 17-9-1982, by the Respondent/Contemner No.2. The Petitioner was ~~appointed~~ promoted to the post of Sr. Commercial Clerk(C) and thereafter by order dated 27-02-2003 The Petitioner was further promoted to the post of Head Commercial Clerk(C) in the Pay Scale of Rs.5,000/- to Rs.8,000/- and he is holding the post as such Head Commercial Clerk(C). The Petitioner filed an Application before this Hon'ble Tribunal with a prayer for issue of a direction by this Hon'ble Tribunal to the Respondents/Contemners to consider his case for transferring him from Lanka to Guwahati Railway Station and to pay him the salary.
2. That this Hon'ble Tribunal by order dated 07-10-2003 was pleased to direct the Respondents/Contemners to release the salary of the Petitioner as per Law and also further directed them to consider the representation of the Petitioner within 3(three) weeks.

A copy of the aid order dated 07-10-2003 passed by this Hon'ble Tribunal in OA No.227/2003 is annexed herewith and marked as ANNEXURE-I.

: 3 :

3. That the order dated 07-10-2003 was confirmed by this Hon'ble Tribunal on 23-10-2003.

4. That on receipt of the said order dated 07-10-03 the Petitioner by his letter dated 08-10-2003 forwarded the said order dated 07-10-2003 passed by this Hon'ble Tribunal to the Respondents/Contemners.

A copy of the letter dated 08-10-2003 is annexed herewith and marked as ANNEXURE-II.

The said letter dated 08-10-2003 was duly received by the Respondents/Contemners and as no action was taken by the Respondents/Contemners the Petitioner by his letter dated 10-11-2003 submitted a reminder to the Respondents/Contemners requesting them to act as per order dated 07-10-2003 which were also duly received by them.

A copy of the letter dated 10-11-2003 is annexed herewith and marked as ANNEXURE-III.

5. That thereafter this Hon'ble Tribunal was pleased to dispose of the O.A.No.227/2003 directing the Respondents/Contemners to consider the representation of the Petitioner sympathetically and pass appropriate orders within 3(three) weeks from the date of receipt of the copy of this order. By the said order this Hon'ble Tribunal was further confirmed the order dated 07-10-2003 passed by this Hon'ble Tribunal.

A copy of the order dated 20-11-2003 disposing of the O.A.No.227/2003 is annexed herewith and marked as ANNEXURE- IV.

: 4 :

6. That on receipt of the copy of the order dated 20-11-2003 the Petitioner by his letter dated 25-11-03 forwarded the order ~~as~~ to the Respondents/Contemners and a copy of which was also endorsed to the Divisional Commercial Manager which were duly received by them.

A copy of the said letter dated 25-11-2003 is annexed herewith and marked as ANNEXURE-V.

/Contemner

7. That the Respondent/No.2 was pleased to pass an order on 08-01-2004 transferring the Petitioner from Lanka to Guwahati Rly. Station. In the said order there was no mention about the release of the Petitioner, ~~worked~~. As the Petitioner had not ~~work~~ in Lanka Station from the month of June, 2003.

A copy of the order dated 08-01-2004 passed by the Respondent/Contemner No.2 is annexed herewith and marked as ANNEXURE -VI.

8. That on the basis of the order dated 08-01-2004 the Petitioner joined in his service on 13-01-2004 which was duly received by the Station Manager on ~~13-01-2004~~ 13-01-2004 itself, but the Station Manager, Guwahati Rly. Station, NF Rly. asked the Petitioner to submit his medical fitness certificate as the Petitioner was on LAP and sick leave. Accordingly, the Petitioner obtained a medical fitness certificate and submitted the same to the Station Manager on 17-01-2004.

A copy of the joining report of the Petitioner dated 13-01-2004 is annexed herewith and marked as ANNEXURE-VII.

9

: 5 :

The Station Master, NF Rly., Guwahati Rly.

Station asked the Petitioner verbally on 16-01-2004 to obtain release order from Lanka Rly. Station and immediately the Petitioner proceeded to Lanka Rly.

Station and approached the Station Superintendent, Lanka who intimated the Petitioner that there is no need of any formal release order as there is no mention about the release order in the order dated 08-01-2004 and as no duty was entrusted to the Petitioner at Lanka.

9. That though more than one month have already been over the Respondents did not allot any duty to the Petitioner at Guwahati Rly. Station nor he has been allowed to draw his salary as per order of this Hon'ble Tribunal and as a result of which the Petitioner is not getting his salary for the period from 17-3-03 to 10-4-2003 and from 11-05-2003 to till this date.

In this connection it is pertinent to mention here that the NF Railway used to pay the monthly salary to the Traffic Staff working under them on 12th day of each month.

10. That non-payment of salary and non-entrusting of any duty to the petitioner is a gross violation of the order dated 07-10-2003, 23-10-2003 and 20-11-2003 passed by this Hon'ble Tribunal.

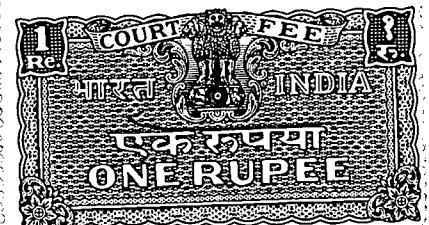
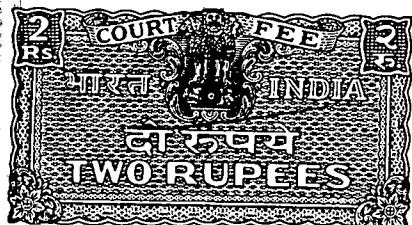
11. That the Respondents deliberately and wilfully failed to comply with the order dated 07-10-2003, 23-10-2003 and 20-11-2003 passed by this Hon'ble Tribunal in O.A.No.277/2003.

12. That the Petitioner most respectfully submits that it is ~~xxx~~ a pre-eminently fit case where this Hon'ble Tribunal may be pleased to punish the alleged Contemners under the provisions of Law for their deliberate and wilfull disobedience of the order dtd. 07-10-2003, 23-10-2003 and 20-11-2003 passed by this Hon'ble Tribunal in O.A.No.227/2003.

13. That the Petition is made bonafide and in the interest of Justice.

In the premises aforesaid, it is respectfully prayed that Your Lordships may be pleased to admit this Petition, issue notice to the alleged Contemners directing them to appear in person before this Hon'ble Tribunal and to show-cause as to why they should not be punished for their willful and deliberate disobedience of the order dated 07-10-2003, 23-10-2003 and 20-11-2003 passed by this Hon'ble Tribunal and after hearing the Parties Your Lordships may be pleased to punish them under the provisions of Law and pass such other order or orders as Your Lordships is deem fit and proper.

.... Affidavit.



: 7 :

A F F I D A V I T.

I, Shri Jitendra Nath Misra, aged about 43 years, son of Late Khargeswar Misra, at present residing at Quarter No.A/17 Type II, Uzanbazar, Guwahati-1 in the district of Kamrup, profession- service in the N.F. Railway now posted as Relieving Head Commercial Clerk (Coaching) at Guwahati Railway Station do hereby solemnly affirm and state as follows :

1. That I was the Applicant in O.A.No.227/2003 which was disposed of on 20-11-2003 and 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 para ...!....to 9.... are within my personal knowledge and the contents of para ...10....to..... are based on records which I believe to be true and those made in para...10.... to13.. are my respectful submissions before this Hon'ble Tribunal and accordingly I sign this Affidavit today the 19 th day of February/2004 at Guwahati.

Identified by me-

R. Bhattacharya

Advocate:

19.2.04

Solemnly affirmed before me by the Deponent aforesaid who is identified by *Miss Rina Bhattacharya*, Advocate today the 19 th day of February/2004.



DEPONENT

Jitendra Nath Misra
Name in block letters

(SHRI JITENDRA NATH MISRA)

19.2.04

MAGISTRATE,
GUWAHATI.

*RECEIVED
19.2.04
MAGISTRATE, GUWAHATI.*

✓
8
-7A-

DRAFT CHARGE.

Laid down before the Hon'ble Central Administrative Tribunal, Guwahati for initiating a contempt proceeding against the alleged contemners/Respondents for wilful and deliberate non compliance of order of the Hon'ble Tribunal dated 7.10.2003 passed in O.A. No.227/2003 and further be pleased to impose punishment upon the alleged Contemners/Respondents for wilful and deliberate non-compliance of order dated 7.10.2003 and 20.11.2003 passed in O.A. Np.227/2003.

ANNEXURE- I

FROM NO. 4
(... RULE 42)CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No: 227/103

Mise Petition No: _____/

Contempt Petition No: _____/

Review Application No: _____/

Applicants: - J. N. Misra.

Respondents: - 2012 ans.

Advocate for the Applicants: - Mr L. P. Sarma.

Advocate for the Respondents: - *by learned*.

Notes of the Registry	Date	Order of the Tribunal
	7.10.03	present : The Hon'ble Mr K.V. Prahadan, Administrative Member.

Certified to be true Copy
SARMA

Heard Mr L.P. Sarma, learned counsel for the applicant. Issue notice to show cause as to why this application shall not be admitted. Returnable by three weeks.

List on 23.10.2003 for show cause and admission. In the meanwhile the respondents are directed to release the salary of the applicant as per law. The respondents are also directed to consider the representation of the applicant sympathetically and give him a reply within three weeks. Pre decisional hearing may also be given to the applicant.

Sd/MEMBER (Adm)

Section Officer

C.A.T. GUWAHATI BENCH
Guwahati, 28/10/03

7/10/03

ANNEXURE - XII

- 9 -

By Registered Post

476
10/10

To

The General Manager
N.F. Railway, Maligaon, Ghy-11

भारतीय डाक
R. 344-471 370 1701001
R. 3701
PA : 4400
TOMR. 115807722
12/10/2003, 7:30AM



The Sr. Divisional Personnal Officer
N.F. Rly, Lumding.

भारतीय डाक
R. 344-471 370 1701001
R. 3701
PA : 4400
TOMR. 115807722
12/10/2003, 7:30AM

The Divisional Rly. Manager
N.F. Rly, Lumding,

भारतीय डाक
R. 344-471 370 1701001
R. 3701
PA : 4400
TOMR. 115807722
12/10/2003, 7:30AM



The Divisional Commercial Manager
N.F. Rly, Lumding

भारतीय डाक
R. 344-471 370 1701001
R. 3701
PA : 4400
TOMR. 115807722
12/10/2003, 7:30AM

The Station Superintendent
N.F. Rly, Lanka.

Date : 07 Oct. / 03

Sub: (i) Prayer for Transfer & posting to Sri J.N. MISRA Hd. Coaching Clerk / Lanka from Lanka to Guwahati on physically Handicapped ground.
(ii) Non-Payment of Salary for the month of April / 03, June / 03 to Sept / 03

Ref: C.A.T. order dated 7/10/03 against application No. 227/03

Sir,

In enclosing herewith the copy of the certified copy of the order dtd. 7/10/03, of the Hon'ble central Administrative Tribunal, Guwahati. I would like to request you kindly to take necessary action on the matter urgently.

Recd.

कार्यालय का अधिकारी
Officer of the
General Manager

दिनांक

8 OCT 2003

नॉटरी. सेवा, राज्यालय, गुवाहाटी-1
N. F Railway
Maligaon, Guwahati-11

भारतीय डाक
R. 344-471 370 1701001
R. 3701
PA : 4400
TOMR. 115807722
12/10/2003, 7:30AM

भारतीय डाक
R. 344-471 370 1701001
R. 3701
PA : 4400
TOMR. 115807722
12/10/2003, 7:30AM

Yours faithfully

जितेन्द्रनाथ मिश्र
(SRI JITENDRA NATH MISRA)
Head Coaching Clerk
N.F Rly, Lanka.

भारतीय डाक

R. 344-471 370 1701001
R. 3701
PA : 4400
TOMR. D. R. ROY,
LUMDING, PWD

भारतीय डाक

भारतीय डाक
R. 344-471 370 1701001
R. 3701
PA : 4400
TOMR. D. R. ROY,
LUMDING, PWD

भारतीय डाक
R. 344-471 370 1701001
R. 3701
PA : 4400
TOMR. D. R. ROY,
LUMDING, PWD

ANNEXURE - III

Dated: 10th November'2003

To,
The Sr. Divisional Personal Officer,
N.F. Rly., Lumding.

The Divisional Commercial Manager,
N.F. Rly., Lumding.

The Chief Personal Officer (Admn.),
N.F. Rly., Maligaon. Ghy-11.

The Chief Commercial Manager (Genl.),
N.F. Rly., Maligaon. Ghy-11.

The Divisional Rly. Manager,
N.F. Rly., Lumding.

The General Manager,
N.F. Rly. Maligaon, Ghy-11.

GUWAHATI 370 081001
KL-80 243
4A : 3403
To: RR A KISTORI, LUMDING
NAGALI, PUNJ

pt:20000
PS:0.60, At: 25.00.10/11/2003, 12:55:57



GUWAHATI 370 081001
KL-80 243
4A : 3403
To: RR A KISTORI, LUMDING
NAGALI, PUNJ



Sub:- (i) Prayer for transfer and posting to Sri. J. N. Misra, Hd C.C/LKA from
Lanka to Guwahati on Physically Handicapped ground.

(ii) Non-payment of salary for the month of April'03, June'03, July'03 and
Sept.'03 and prayer for pre-decisional hearing.

Ref:- My representation dated 07.10.03.

Sir,

With due respect, I beg to lay before your good will the following few lines
for favour of kind consideration.

That sir, as per direction of C.A.T. / Guwahati given on 07.10.2003, I
request you to entertain pre-decisional hearing about my transfer from Lanka to
Guwahati and also release my salary for the month of April'03, June'03 to
Sept.'03 incompliance of the Hon'ble Central Administrative Tribunal/
Guwahati's order dated 07.10.2003.

Enclo:- 2.

Yours faithfully.

Jitendra Nath Misra
(SRI JITENDRA NATH MISRA)
Head Coaching Clerk
N.F. Rly., Lanka Station.
LANKA

RECEIVED
C.P.O./I.F. RLY
MLG/GHY. 11

Recd.
Onwards only. Re.



10/11/03
14/11/03

Original Application No.227 of 2003.

14

Date of Order : This, the 20th Day of November, 2003.

-1L-

THE HON'BLE SMT. LAKSHMI SWAMINATHAN, VICE CHAIRMAN.

THE HON'BLE SHRI S. K. NAIK, ADMINISTRATIVE MEMBER.

Sri Jitendra Nath Misra
 S/o Late Khageswar Misra
 aged about 43 years
 at present residing at Quarter No.A/17
 Type-II, Uzanbazar, Guwahati-1, by profession
 service in the N.F.Railway now posted at
 Head Coaching Clerk
 N.F.Railway, Lanka. Applicant.

By Advocate Mr.L.P.Sharma.

- Versus -

1. Union of India
 Represented by General Manager
 N.F.Railway, Maligaon
 Guwahati-11.

2. Divisional Railway Manager (P)
 N.F.Railway
 Lumding. Respondents.

By Dr.M.C.Sharma, Railway Standing counsel.

ORDERSMT.L.SWAMINATHAN, (V.C.) :

We have heard Mr.L.P.Sharma, learned counsel for the applicant. We have also heard Dr.M.C.Sharma, learned counsel for the respondents and perused the relevant documents on record.

2. This application has been filed by the applicant stating that he is aggrieved ^{as} no decision has been taken by the respondents regarding his request for transfer and posting in any suitable post at Guwahati Booking Office. In this regard, learned counsel for the applicant submits that applicant had made a representation to the respondents on 5.4.2003 (Annexure-V). During the hearing, learned counsel for the applicant submits that the applicant, being a physically handicapped person, may be given any suitable post in Guwahati Railway Station, in his post as Head Clerk

Contd./2

(Coaching) for which according to him, there are vacancies. He has submitted that in the facts and circumstances of the case, the applicant would be satisfied if the respondents are directed to consider the applicant's request for transferring him from Lanka to Guwahati Railway Station, taking into account ^{the} relevant facts, including the fact that he is a physically handicapped employee of the Railway Administration.

3. We note from the record that the applicant had filed the O.A. after about six months of submitting the aforesaid representation dated 5.4.2003. Learned counsel for the applicant submits that no reply has been given by the respondents to his request for transfer from Lanka to Guwahati Railway Station on the facts mentioned by him, including his physical handicap, for posting in any appropriate post equivalent to that of Head Coaching Clerk.

4. In the facts and circumstances of the case, mentioned above, we consider it appropriate to dispose of the O.A. with the following direction :-

We reiterate our previous order dated 7.10.2003 directing the respondents to consider the aforesaid representation of the applicant sympathetically and pass appropriate orders within three weeks from the date of receipt of a copy of this order, if not already done, with intimation to the applicant. They may also afford a hearing to the applicant, before passing the orders in terms of our previous order.

No order as to costs.

SD/ VICE CHAIRMAN
SD/ MEMBER (A)

bb

2003-01-16
Definitive Date
S. M. Sarker
Section Officer
C.A.T. GUWAHATI RAILWAY
Guwahati-15/03

Registered with ADO to DRM/r/ Lumberg only. 18
ANNEXURE - V

To
The General Manager
N.E. Rly, Maligaon, Guwahati-11

Date : 25th Nov./2003

-13-

The Divisional Railway Manager (P)
N.E. Rly, Lumding.

Sub : (i) Prayer for Transfer & Posting to Shri J.N. Misra Hd CC/LKA. From Lanka to Guwahati on physically handicapped ground.

(ii) Non-Payment of salary for the month of April'03, June'03, July'03, August'03, Sept'03 and Oct'03.

Ref: C.A.T. order dated 07/10/03 and 20/11/03 against O.A. No.227 of 2003 and my representation dated 7/10/03 and 10/11/03.

Sir,

With due respect, I beg to lay before your good-will the following few lines for favour of kind consideration and disposal please.

That Sir, as per direction of C.A.T./Guwahati given on 20/11/2003, enclosing herewith the copy of the certified copy passed by the Hon'ble Central Administrative Tribunal, Guwahati. I would like to request you kindly to take necessary action regarding my Transfer from Lanka to Guwahati urgently and also release my salary for the month of (i) April/03 (ii) June/03 (iii) July/03 (iv) August/03 (v) Sept/03 and Oct/03. In compliance of Hon'ble C.A.T. order dated 20th Nov/03 hearing against O.A. No.227/2003.

Present residing address
for communication

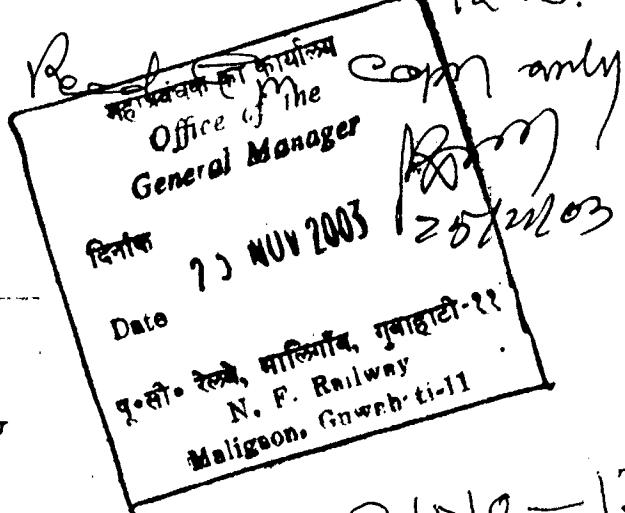
J.N. Misra
Rly. Qr. No.A/17
Type-II
Uzanbazar Rly. Colony (Barowary)
P.O. Uzanbazar
Guwahati-1
Kamrup, Assam.

Yours faithfully,

Jitendra Nath Misra
(SRI JITENDRA NATH MISRA)
Hd. Coaching Clerk
N.F. Rly, Lanka

25/11/2003.

C.P.O. R/NO-1724
27.11.03



O.C. R/No-138
27/11/2003

GUWAHATI SPC (781001)
RLE-05 3045
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LUMDING, PIN:



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HAVE A GOOD DAY

14-
ANNEXURE - VI

N. Railway.

OFFICE ORDER.

Office of the
Divil. Rly. Manager (P),
Lumding.
Dt.: 08/01/2004.

Group A

1. Shri. Jitendra Nath Misra, HCC(C) in scale Rs. 5000-8000/- is hereby transferred and posted at GHY as HCC(C) coaching. In his same pay & scale vice Shri. Joseph Antony, HCC(C), GHY transferred to KY on promotion, in consideration of his appeal dt 20.3.03, 5.4.03, 25.5.03, 16.8.03 and as per verdict of CAT/GHY in O.A. NO.227 of 2003.
2. Shri. Tapan Ch. Dey, Sr.CC(C), GHY in scale Rs. 4000-6000/- who is under order of transfer and posting at LDR on promotion as HCC(C) in scale Rs. 5000-8000/- vide this Office order No. E/39-20(CC) Pt. III(T) dt. 27.02.2003 is now hereby retained at GHY on promotion as HCC(C) in scale Rs. 5000-8000/- and posted in the Relg list GHY against existing vacancy in consideration of his appeal dt 10.5.2003.
3. Shri. Perimal Kr. Chakraborty, Sr.CC(C)/GHY in scale Rs. 4000-6000/- who is under order of transfer and posting at HFG on promotion as HCC(C) in scale Rs. 5000-8000/- vide this Office order No. E/39-20(CC) Pt. III(T) dt. 27.02.2003 is now hereby retained at GHY on promotion as HCC(C) in scale Rs. 5000-8000/- and posted in the Relg list/GHY against existing vacancy in consideration of his appeal dt 27.3.2003.

Group B

The following staff in scale Rs. 4000-6000/- who have found suitable to be promoted to the post of HCC(C) in scale Rs. 5000-8000/- with immediate effect (i.e. from the date of assumption of higher responsibility) vice existing vacancies. Their place of posting are shown against each.

SE.O. Name, Designation and station

New place of posting
Promotion as HCC(C) coaching
In scale Rs. 5000-8000/-

(1) (2)

(3)

1. " K. N. Datta (J) Sr. CC(C)/BPS.
2. " Anil Ch. Majhi (J) Sr. CC(C)/DRR
3. " D. D. Datta Ch. Chakraborty (UR)
Sr. CC(C), GHY
4. " Durga R. D. Sarma (UR)
Sr. CC(C), RDR now Sr. CC(C)
DRR.

He cannot be promoted due to
is under going administrative
L.C.C. (C) DRR vide P.D. order
tcc to DRR.

H.C.C.C. CHBN vide vacancy.

He cannot be promoted due
to pending of major penalty
DRR case.

..... 2.

....2....

(1) (2)

(3)

5. **Suri. T. Mukund (UR) Sr. CC (c) / RAY** : He cannot be promoted due to pending of Major penalty DRB case.

6. **Suri. K. M. Rao (UR) Sr. CC (c) / RAY** : Hec (c) / DRB vice vacancy.

7. **Abani Kalita (UR) Sr. CC (c) / RAY** : DRB vice vacancy.

8. **Abani Kanti Dey (UR) Sr. CC (c) / RAY** : He cannot be promoted as he is under going punishment and DRB (TIG) case pending.

9. **Abani Kanti Dey (UR) Sr. CC (c) / RAY** : Hec (c) / DRB vice vacancy.

10. **Abinash Kumar Bhattacharya (ST)** : DR. CC (c) LCA vice J. J. Bhattacharya DR. CC (c) / RAY. Tfd to RAY.

11. **Achyut Kr. Das (SC) Sr. CC (c) / RAY** : DR. CC (c) / RAY vice vacancy.

12. **Abijendra Nath Gayen (SC)** : DR. CC (c) / HJI vice vacancy.
R. Sr. CC (c) / RAY.

13. **Harish Ch. Modhi (SC) Ag Sr. CC (c)** : Hec (c) / LFG vice Shri. H. P. Upadhyay. Tfd to HJI.

14. **Hari Prasad Upadhyay (UR)** : DR. CC (c) / LFG in scale Rs.5000-8000/- is hereby transferred and posted at HJI vice existing vacancy in his salary and scale in consideration of his appeal dt 10.5.2003.

The above named staff may exercise their option for fixation of their pay from the date of their next increment in automatically, or else within one month from the date of issue of this order.

Slabs. 2, 3, 6, 7, 9, 10, 12, and 13 of Group 'C' are entitled to get CTC, 3rd class, T/Pass etc as per extant rules.

This is the approval of ADRLV/LFG.

Nikher 08/01/04
(S. Mukund rje, APO/I/LDC)
For. Civil. Rly. Manager (P),
R. P. Railway: Mumbai.

U. E 30-22(20)Pt. III(T) dt. 08/01/2004.

Copy forwarded for information and necessary action to :-

1) Staff concerned through proper channel. This is to inform that if a staff without any valid reason fails to submit his written unwillingness to DRN(P)/LFG within 30 days of issue of this order or does not carry out his promotion and posting within 30 days of issue of this orders, it will be deemed that the staff concerned is not willing to carryout his promotion and posting orders. Accordingly the staff concerned of such staff will stand forfeited and that the staff concerned shall him self be held responsible for the loss of promotional and any other benefits incidental to his service.

....3....

..... 3

2. BSV/CH, B/ICR, BPP, DMR, DVI, EEA, EKJ, EJI, LMG

3. BoIC/LLB, BoIC/AGB, BoIC/ATGM, BoIC/CHBN, BoIC/RTDR,
BoIC/PYK.

4.0: - All concerned in the above are advised to spare the above
time for working under them to carryout their promotion/
posting order with in 30 days under intimation to this
office.

4. 1. BSV/CH, B/ICR, BPP, DMR, DVI, LMG (7) DVI/IM

5) C.(c)/IMB (9) OS/DT/BSL (10) OS(Coaching)/GHY

11) OS, Compt/IMG.

Wkhr/01/04
For. Div. 11. Rly. Manager (P),
N. F. Railway Slumming.

16/01/04

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AGRAO/-

-17-
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ANNEXURE - VII

To

The Station Manager
N.F. Rly. Guwahati.

Dated-13-1-04

Sub : Joining Report

Ref. : No.E 39-20(CC) Pt III (T) dt. 08-01-2004

Sir,

With reference to the Div. Rly. Manager (P)
N.F. Rly. Lumding's order under reference, I have the
honour to inform you that I have joined my duty as HCC
under your establishment to-day the 13th Jan'2004 (F.N)

This is for favour of your information and
necessary action.

Encls:- 3 (Three)

Yours faithfully,

Jitendra Nath Misra
13/1/2004
(SRI JITENDRA NATH MISRA)
Hd Coaching clerk
N.F. Rly. Guwahati.

One
Copy
Tin
Guwahati

Central Adminis.

10 MAY 2004

গুৱাহাটী বিধুত বৰ্ষ
Guwahati Bench

Filed by
the Contemnor No. 2 in
Jitendra Nath
Mishra
Date
A. K. Kishore 10/5/04

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ড. কামল সুন্দর
শু. সী. র. কে/ মুখ্য
S. Div. Personnel Off. cr

N. F. Rly., Lumding

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

IN THE MATTER OF:

C.P. No 5 of 2004.

O.A No 227/2003.

Sri. Jitendra Nath Mishra.....Petitioner.

-VS-

Sri. V. Nanda & orsRespondents.

IN THE MATTER OF:

Show Cause reply on behalf of the
respondent/contemner. No 2.

1. That the contemner No 2 has received the copy of the Contempt Petition No 5 of 2004 and has gone through the copy of the said Contempt petition filed by the petitioner and have understood the contents thereof.
2. That save and except the statements which are specifically admitted hereinbelow, other statements made in the Petition are categorically denied. Further the statements which are not borne on records are also denied and the petitioners are put to the strictest proof thereof.
3. That with regard to the statement made in para 1 of the Contempt Petition the deponent while denying the contentions made

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• कां अधिकारी
१० सी. रेव/सम.पान
Sr. Div. Personnel Off. I
N.F.Rly, Lumding

J. Kishor

therein begs to state that, the petitioner was promoted to the post of Head Commercial Clerk (Coaching) in scale of Rs.5000/- 8000/- and ordered to be posted at Lanka within reasonable period of 30 days to express unwillingness, if any. But there was no unwillingness and any kind of representation from the petitioner, in regard to transfer. So after a period of 17 days on 16.3.2003 he was spared by the Station Superintendent/Guwahati so that he can carry out the aforesaid order of promotion. He joined at Lanka on 17.3.2003 and on 20.3.03 he preferred an application for his transfer and posting in the return section of Guwahati Booking Office.

While working as Head Commercial clerk, the petitioner left his working place/station at Lanka without any permission of the authority at different spells of time. Once for his unauthorised absence for the period from 19.03.2003 to 24.03.03, he was asked to submit explanation vide DRM(P)LMG's letter NO.ES/92-J(T) dated 22.04.03. But he did not bother to submit any reply. Further he went on unauthorised absence for which he was charge sheeted vide Memorandum No.C/Con/LM/Misc/106 (JNM-Hd.CC-LKA) dated 8.10.2003 issued by Divisional Commercial Manager/Lumding for his unauthorised absence for the period from 17.03.03 to 23.03.03 and from 25.03.03 onwards. The disciplinary proceeding pending against him. He has not yet participated in the enquiry though he was summoned. He was unauthorisedly absenting from 25.03.03 onwards but sent the sick certificate covering the period from 26.03.03 to 16.01.04. It is not still known where he was during his absence at Lanka.

The practice of the petitioner as evident from the records reveals that he used to leave Lanka without any permission of the authority and remaining so he used to send sick certificate. It may be pointed out here that for the treatment of staff of Lanka and adjoining stations there is a railway Health Unit at Hojai and staff are to report sick there in case of necessity.

The reports dated 17.11.2003 & 17.12.03 of Station Superintendent/Lanka suggest that initially Sr.DMO/MLG allowed the petitioner for 15 days only. For the extension of sick period he was required to submit sick extension certificate but no sick extension certificate thereafter was submitted by the petitioner. Hence he was marked absent. Only one extension certificate dated 16.1.2004 was submitted by the petitioner.

However, a case No.OA 226/03 was filed by the petitioner before this Hon'ble Tribunal for issuing a direction to Railway respondents to consider his case for transfer from Lanka Station to Guwahati Railway Station and to pay him the salary. In the OA the applicant suppressed the facts before the Tribunal that since his joining at Lanka he remained unauthorised absent at different times, that he has been asked to submit explanations and that a disciplinary proceeding has been initiated against him pursuant to the Memorandum of charge sheet dated 8.10.03, is pending against him.

Contempt Petition the deponent while denying the contentions made therein begs to state that, that the Hon'ble Tribunal by its interim order dated 7.10.2003 was pleased to direct the Railway respondents to release the salary of the petitioner as per law with a further direction to consider the representation of the applicant sympathetically and give him a reply within 3 weeks holding that pre decisional hearing may also be given to petitioner.

5. That with regard to the statement made in para 3,4,5, and, 6 of the Contempt Petition the deponent while denying the contentions made therein begs to state that in compliance with the orders dated 7.10.2003 and 20.11.2003 of the Hon'ble Tribunal the petitioner was ordered to be transferred and posted from Lanka to Guwahati so that his current salary can be disbursed.

So for the compliance with the interim order dated 7.10.2003 and final order dated 20.9.2003 as to the release of salary for the month of April/03, June/03 to OCT/03 is concerned, the respondents like to state that after his resumption at Lanka on 17.03.2003 the petitioner remained absent from Lanka at different spells of time. During the period from 19.03.2003 to 24.03.2003 for his unauthorised absence the petitioner was asked to submit his explanation vide DRM(P)/LMG's letter No.ES/92-J(T) dated 22.07.03, but till date he has not given any explanation. Again the petitioner remained unauthorised absent and a charge sheet vide Memo No.C/Con/LM/Misc/106 (JNM-Hd.CC/C-LKA) dated

J. K. spotted 28

का. अधिकारी
• सौ. रामेश
पु. वा. विभाग
Sr. Div. Personnel Officer
N. P. R.Y. Lumding

8.10.03 was issued to the petitioner for his unauthorised absence from 17.5.2003 to 23.5.2003 and from 25.5.2003 onwards which was acknowledged by him on 23.10.03 and disciplinary proceeding is pending against him now. The Hon'ble Tribunal issued the interim direction to release the salary of the petitioner as per law. Since the petitioner suppressed the issuance of the Show Cause Notice dated 22.07.03, and Memorandum of Charge dated 8.10.03 before the Hon'ble Tribunal and as such the Hon'ble Tribunal had no occasion to know about these development, however, apprehending existence of such pending proceeding the Hon'ble Tribunal passed the interim order dated 7.10.03 directing the respondents to release the salary of the petitioner.

The petitioner was well aware of reasons for non-payment of his salary, but he suppressed the said fact from the Hon'ble Tribunal to get undue advantage. Further in compliance with the Hon'ble CAT/GHY's order dated 7.10.2003 and 26.11.2003 DRM(P)/Lumding vide letter No.ES/92-J(T) dated 22.3.2004 inter alia informed the petitioner that salary cannot be released till the finalisation of the above DAR Case. The detailed attendance and salary payment particulars of the petitioner after his joining at Lanka are enclosed herewith in a separate statement and marked as Annexure-A.

6. That with regard to the statement made in para 7 of the Contempt Petition the deponent while denying the contentions made therein begs to state that the fact that the petitioner was unauthorisedly remained absent from his Hd.Qr. in several spells

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C
.03 was issued to the petitioner for his unauthorised absence

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२. श्री. रे/ मिस्टर
Sr. Div. Personnel Officer
N. F. Rly., Lumding

J. K. S. P. O. H.

of time and that he has been charge sheeted, was deliberately suppressed by the petitioner in the OA and even in this petition. It is further stated that since the proceeding pending against the petitioner, was not the subject matter, the salary for the said period could not be released to the petitioner as per law.

It is further stated that the transfer and posting order was issued on 8.1.04. But to carry out the said order the petitioner is required to join at Lanka from where he is to obtain sparing memo so that he can join in Guwahati. This is a normal official formality from which the petitioner can not shirk his responsibility and being an employee the petitioner is required to follow the official formalities, and this procedure is required for regularisation of pay and service. Instead of joining at Lanka, on 13.1.04 he approached the Station Manager/Guwahati to join in Guwahati without any sparing letter from Station Superintendent/Lanka. The Station Manager declined to permit him to join duty and advised him to bring the sparing letter from Station Superintendent/Lanka. The report of SM/Guwahati dated 17.1.04 enclosed herewith as Annexure-2.

It is further stated that the transfer and posting order dated 8.1.04, made it clear that sparing by Subordinate In-Charge is necessary as stated above. Sparing by the Subordinate In-Charge is an official formality which requires to be complied with and to that mention is not required.

A. Kishore

का. कां. क. शर्मा
कृ. सौ. रामेश्वर
Sr. Div. Personnel Officer
N. F. Rly., Lumding

¶ That with regard to the statement made in para 8 of the Contempt Petition the deponent while denying the contentions made therein begs to state that the petitioner again suppressed the fact regarding his unauthorised absent from Lanka.

The medical 'Fit' certificate submitted by the petitioner speaks that he was sick from 26.9.03 to 16.1.04 (copy enclosed as Annexure-3.). Hence it is not understood how he can approach the Station Manager/Guwahati on 13.1.04 for allowing him to join duty in Guwahati. It may also be pointed out that from 25.5.03 he remained unauthorisedly absent from Lanka but submitted the sick certificate for the period from 26.9.03 to 16.1.04 issued by the Railway Doctor at Guwahati.

It is categorically denied that the petitioner approached the Station Superintendent/Lanka for release order. He never met him for his release.

¶ That with regard to the statement made in para 9 of the Contempt Petition the deponent while denying the contentions made therein begs to state that the petitioner has not yet joined at Lanka which is necessary for his release to carry out his transfer to Guwahati. So far the payment of salary is concerned the leave & payment position have already been mentioned in the proceeding paragraphs and further that for his unauthorised absence during those period he has been charge sheeted and disciplinary proceeding is going on.

A. K. S. P. O. H.

ব. কা. অধিকারী
ড়ো. রে. বে/সমিতি
Sr. Div. Personnel Officer
N. F. Rly, Lumding

¶. That with regard to the statement made in para 10.11. and 12 of the Contempt Petition the deponent while denying the contentions made therein begs to state that the Railway respondents are always duty bound to Judgments and order passed by the Hon'ble Tribunal. The petitioner is deliberately complicating the situation and hampering the process of implementation of the Hon'ble Tribunal's orders. He even suppressed the material fact that he was all along remained absent from Lanks unauthorisedly, that an explanation has been sought from him and that he was charge sheeted which is still pending. Nowhere in the OA and CP he brought the fact that though there is a Railway Health Unit at Hojai and staff of Lanks adjoining Station is required to report sick there first in case of necessity, but without informing his controlling authority he left his place of posting unauthorisedly from 25.5.03 and reported sick in Guwahati on 26.9.03.

¶. That with regard to the statement made in para 13 of the Contempt Petition the deponent while denying the contentions made therein begs to state that the averments of the petitioner are baseless and hence denied. In the context of the factual position narrated herein above, it is prayed that the contempt petition may kindly be dismissed.

¶. That the deponent begs to state that from the above it is crystal clear that the petitioner with an ulterior motive suppressed the material facts before the Hon'ble Tribunal to get

A. K. Kapoor

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प० सी० र०/ बिंग
Sr. Divl. Personnel Off.
N. F. Rly, Lunadig

undue advantage and as such it is a fit case for drawing up appropriate contempt proceeding against the petitioner invoking power under the Central Administrative Tribunal (Contempt of Court) Rules 1992, read with section 17 of the Administrative Tribunal Act 1985 and to punish the petitioner for suppressing the material facts before the Hon'ble Tribunal.

12. That the deponent begs to state that he being a responsible officer is allege duty bound to Judgment and order passed by the Hon'ble Tribunal. It is stated that the Judgment of the Hon'ble Tribunal has been implemented in its true since and spirit and as such there is no violation of the same as alleged by the petitioner. However, in case of any deviation from the said Judgment, that has occurred unknowingly, may not be treated as willful violation and the deponent for such violation, if any places his unconditional apology before the Hon'ble Tribunal.

13. That the deponent begs to state that in view of the facts and circumstances state above the present contempt proceeding is liable to be dismissed with cost.

N

AFFIDAVIT

I, Shri... Abraham Kisporta, aged about 52 years, son of Late Andreas Kisporta, by occupation Railway Service, resident of Lumding, Assam. do hereby solemnly affirm and state as follows:

1. That I am the Respondent/contemner No. 2 of the N.F.Railway and acquainted with the facts and circumstance of the case. I am authorized and competent to swear this affidavit on behalf of the Respondents.
2. That the statements made in this affidavit in paragraphs 1, 2, 10, 11, 12, 13 are true to my knowledge: those made in paragraphs 3, 4, 5, 6, 7, 8, 9 are being matters of records are true to my information derived therefrom and the rest are my humble submissions before this Hon'ble Court.

And I sign this affidavit on this the 10 the day of May, 2004 at Guwahati.

Identified by me:

Usha Das,
Advocate & Clerk

A. Kisporta

ब. का. अधिकारी
पू. सी. रेलवे/लामडिङ
Sr. Divl. Personnel Officer
N. F. Ry., Lumding

Solemnly affirmed and declared by the deponent that the deponent is identified by Miss Usha Das, Advocate on 10th day of May 2004, at Guwahati

Siddhartha
Afon

ES/92-J(T)

Office of the Divisional
Railway Manager (P) LKA

Dated 22-3-2004.

To Shri Jitendra Nath Misra, Hec (Coaching) / LKA.
Through SS / LKA.

Shri Jitendra Nath Misra, Hec (C) / LKA.
Rly B/S no. A/17, uzaubazar Rly. Colony.
P.O. uzaubazar.
Guwahati - 1.
Dist - Kamrup, Assam.

Sub :- Implementation of Hon'ble CAT / Ghy's
orders dt 7.10.2003 and dt 20.11.03 in O.A.
No. 227 of 2003.

In terms of Hon'ble CAT / Ghy's
orders quoted above, it is to inform you that you have
already been ordered for posting at Ghy or transfer
from LKA vide this office order no. E 39-20(cc) Pt III (T)
dt 08-01-2004.

Further regarding Hon'ble CAT / Ghy's order for
release of your salary it is stated that a Major
Memorandum Chargeshet vide no. C/CON/LM/Misc/106
CJNM-Hdcece-LKA) dt 8.10.2003 has been issued to
you for unauthorised absence w.e.f 17.5.2003 to
23.5.2003 and from 25.5.2003 onwards which is
still to be finalised and hence your salary for
above periods cannot be released till finalisation
of the above DAR Case.

Writen/22/3/04
(N. Mukherjee, Appt/cont)
v Divisional Railway
Manager (P) / LKA

Copy forwarded to DCM / LKA for information please and
he is requested to finalise the above ~~of the~~ DAR case
early.

1. SS / LKA — 1

2. By Post
Jitendra Nath Misra, Hec (C) / LKA — 1
Rly B/S M. A/17, uzaubazar Rly. Colony.
P.O. uzaubazar,
Guwahati - 1.
Dist - Kamrup, Assam — 1

3. DCM / LKA — 1

Writen/22/3/04
v Divisional Railway
Manager (P) / LKA

of LKA
22/3/04

Attested
Advocate

No. CE/24/111/c/Ghy.

DT 17/1/04

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To: DRM/PL/Leumding.(N.B.R.W)

Sub:- Sri Jitendra Nath Misra

In terms of your order No. E 39-20 (cc) PL-111 (T) dt 27/2/03 Sri Jitendra Nath Misra SPCC/Guwahati was spared from this Station on AN of 16/3/2003 to carry out his transfer & Posting order on Promotion as Hdcce at LKA.

On 13/1/04 he had come to this office with your Office order No. E 39-20 (cc) PL-111 (T) dt 08/1/2004 wherein he has been ordered for transfer & Posting at Guwahati in his existing Pay & Scale Rs 5000-8000/- and applied for allowing him to join at Guwahati as Hdcce. But he did not obtain any spare memo from SS/LKA.

So, he has been advised to bring the spare letter from SS/LKA regarding his transfer & Posting at Guwahati.

But he did not make any response to the advised & misbehaved with the office clerk and sent one register Letter (along with the office order issued by you, his appeal to allow him to join at Ghy and one xerox copy of Court judgement) to the office Clerk.

So you are requested to look into the matter and to advise accordingly.

Enc = 2 (Rejoining letter & Court order)

Copy to DCM/LM&B for information and
WA please.

Q/H

Attended
Advocate

1. Dr. S. K. Das
2. Dr. B. B. Bhattacharya
3. Dr. B. B. Bhattacharya

ANNEXURE - ~~3~~ 3

To

The Station Manager
N.F. Rly. Guwahati.

Dated-13-1-04

Sub : Joining Report

Ref. : No.E 39-20(CC) Pt III (T) dt. 08-01-2004

Sir,
With reference to the Div. Rly. Manager (P)
N.F. Rly. Lumding's order under reference, I have the
honour to inform you that I have joined my duty as HCC
under your establishment to-day the 13th Jan 2004 (F.N)
This is for favour of your information and
necessary action.

Encls:- 3 (Three)

Yours faithfully,

Jitendra Nath Misra
13/1/2004
(SRI JITENDRA NATH MISRA)
Hd Coaching clerk
N.F. Rly. Guwahati.

OK
Jitendra Nath Misra
13/1/2004

Attested
Advocate