

FORM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUJARATI BENCH

ORDER SHEET

Orig. App/Misc. Petn/Cont. Petn/Rev. Appt. 34/2004

In O.A. 200/03

Name of the Applicant(s) Sri Niranjan Das.

Name of the Respondent(s) Sri S.K. Das

Advocate for the Applicant Mr. S. Sarma, Miss U. Das.

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

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

2.9.2004

Heard Ms. U. Das, learned counsel for the applicant.

Issue notice on the respondent to show cause as to why contempt proceeding, as prayed for, shall not be initiated against him, returnable by four weeks.

List on 4.10.2004.

Member (A)

bb

4.10.2004

Present : The Hon'ble Mr. Justice R.K. Batta, Vice-Chairman.

The Hon'ble Mr. K.V. Prahladan, Member (A).

Ms. U. Das, learned counsel for the applicant, was present. Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents seeks adjournment for filing written statement. Stand over to 24.11.2004.

Member (A)

Vice-Chairman

This contempt petition has been filed by the applicant with a prayer u/s 17 of The Administrative Tribunal for granting of contempt proceeding against the respondents for their willful and deliberate violation of the judgment and order dated 5.5.2004 passed in O.A. 200/03 by this Hon'ble Court.

Laid before Hon'ble court for orders.

Section Officer.

Notice & order sent to D/Section for issuing to resp. by regd. with A/D post.

mb

9/9/04

D/Memo No = 1442

DT. 10/9/04

10/9/04

24.11.04. Present: Hon'ble Mr.K.V.Prahladan,
Administrative Member.

List the case for hearing
on 23.12.04.

KV Prahladan
Member (A)

1/10/04

1) A/D cards not yet
received.

2) S/R is awaited.

23.12.2004 List on 6.1.2005 for hearing.

KV Prahladan
Member (A)

1/10/04

Service report
duly serve on
10/9/04 (By Hand).

mb
06.01.2005 List on 02.02.2005 for hearing.

KV Prahladan
Member (A)

1/10/04

mb
14.02.2005 Present : The Hon'ble Mr. M.K. Gupta,
Member (J).

4/11/04

An affidavit - in reply
submitted by the concerned
without giving the verification.

None appears. List on 16.2.2005
before Division Bench.

Member (J)

4/11/04

mb
16.2.2005 Heard Ms U. Das, learned
counsel for the petitioner. Orders
passed separately.

Member (A)

Member (J)

11.2.05

The case is ready
for hearing as regards
service and reply.

2/3/05

nkm

9/3/05

Copy of the order
has been sent to
the office for
issuing the same
to the applicant
by post.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Contempt Petition No.34 of 2004
(In O.A.No.200 of 2003)

Date of decision: This the 16th day of February 2005

The Hon'ble Shri M.K. Gupta, Judicial Member

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

Shri Niranjana Das
Sr. Post Master,
Silchar Head Office,
Silchar.

.....Petitioner

By Advocates Mr S. Sarma and Ms U. Das.

- versus -

Shri S.K. Das,
Chief Post Master General,
Assam Circle, Meghdoot Bhawan,
Guwahati, Assam.

.....Contemner

.....

O R D E R (ORAL)

M.K. GUPTA, JUDICIAL MEMBER

By the present C.P. breach of directions issued on 5.5.2004 passed in O.A.No.200 of 2003 is alleged. By the aforesaid order, the respondents were directed to consider the applicant's request for choice posting after affording him an oral hearing as he had to retire on attaining superannuation within a period of one year. It is contended that the aforesaid direction has not been complied with either in letter or in spirit and the respondents acted contrary to the aforesaid direction. It was further contended that the petitioner was not allowed to attend the office of the contemner and was also prevented from placing his defence ~~case~~ before the concerned authorities.

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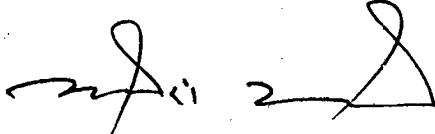
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2. We heard Ms U. Das, learned counsel for the petitioner and perused the contempt petition as well as the reply filed by Shri S.K. Das, Chief Post Master General, Assam Circle, Guwahati. In the said reply, it has been specifically averred that the applicant was granted personal hearing in the presence of senior officers of the department and after considering his case, the applicant's request for choice posting was rejected vide order dated 16.6.2004.

3. We have perused the pleadings and heard the learned counsel for the petitioner. The only direction issued by this Tribunal by the aforesaid order dated 5.5.2004 was to consider the applicant's case/request for choice posting after providing an oral hearing. It is not denied that the applicant appeared before the concerned authorities on 15.6.2004 at 17-35 hours and after considering his submission, the order dated 16.6.2004 was passed. The perusal of the said order shows that it is a detailed and analytical order and the pleas raised by the applicant have been duly met by the concerned authorities. Such being the case, we do not find any wilful, contemptuous disobedience on the part of the respondents to the order of the Tribunal dated 5.5.2004.

The Contempt Petition is dismissed. However, the applicant may take such steps as available to him as per law.


(K. V. PRAHLADAN)
ADMINISTRATIVE MEMBER


(M. K. GUPTA)
JUDICIAL MEMBER

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

CP NO: 34 of 2004
In OA No: 200 of 2003

Shri Niranjana Das -- Petitioner

Vs

Shri S.K.Das -- Contemptner

In the matter of :

A rejoinder in counter reply submitted by the Petitioner.

I, Shri Niranjana Das hereby solemnly affirm and state that, save and except the averments made in this statements and the rest are either denied or not admitted.

2. That, as regards para 1 and 2 of the reply, the Applicant begs to have no comment.
3. That, as regards para 3, the Applicant begs to state that, the Respondents did not fully complied with the judgment order and direction dated 05.05.2004 given by the Hon'ble Tribunal except by calling the Applicant for an oral hearing fixing the date on 15.06.2004 at 17 hrs. but he was not allowed to meet the Chief PMG up to 17.35 hrs. at his chamber.

Instead, it has been most surprising that, a group of Senior Officers like Chief PMG, PMG, DPS, APMG entering in to the chamber of the Chief PMG made a plan or conspiracy and called/invited the Applicant at 17.35 hrs and grilled him in an awkward situation and the Chief PMG started to command raising his hands speak, speak, speak without any matter or relevancy of facts. Moreover, the other Officers also spoke like anything as they liked including cause of dishonesty by joining to the post forcefully and the Dictionary meaning of consideration and shall consideration by forcing to see the Dictionary etc etc. Thus, the Applicant was severely, brutally and mentally tortured to an unbearable extent.

Fortunately, after say 5 minutes, there has been a telephone call from one Senior officer (Maheswari) of Postal Directorate, New Delhi and it took more than 15/20 minutes and then, the Chief PMG told that 5 minutes over and there has been a patience hearing and enough discussion etc. and the said irrelevant meeting was declared off. Thus in facts and reasons as stated above, it was or there was no any oral hearing at all as per order and direction dated 05.05.2004 of the Hon'ble Tribunal.

4. (i) That as regards para 4 of the counter reply, the Applicant begs to state that, the Applicant was not on leave of any kind during the period and also that, he was not relieved from his original post legally and formally. Because, while the Applicant was on duty at an outstation and at Gauhati High Court, an officer of the cadre who was scheduled to take and hold dual charge has assumed the charge of the post belonging to the Applicant on 05.02.2003 at the absence of him and more factually that, he did not receive the modified transfer order dated 03.02.2003 by the time and even now and has had no knowledge or information of the said order. Moreover, the reply to the cause of his representation dated 27.01.2003 made against the transfer order dated 22.01.2003 happened to be still awaited.
- (ii) It would be more glaring that, on the cause of an Application made under OA No: 21/2003 dated 07.02.2003 with the order and direction of abstaining from holding the dual charge by the Officer scheduled to hold the charge against which the respondents made a misc. petition for vacation of the said stay order of the Hon'ble Tribunal. And in that view it is illusory to hold that, the stay order was not affective since the incumbent has been alledgely relieved from the charge of the post .
- (iii) Secondly, the judgment order and direction of the Hon'ble Tribunal on OA No: 21/2003 dated 28.02.2003 received on 27.03.2003 and the representation dated 28.03.2003 meant for the cause of direction in the said order and, while it was pending for disposal, the respondents have again issued a transfer order dated 26.06.2003 against which the present OA No: 200/2003 with interim order and direction dated 29.08.2003 holding the said transfer order remaining suspended and continued till judgment order and direction dated 05.05.2004. However the Applicant has immediately complied with the said order for joining to the post of Sr. Postmaster, Silchar HO on 22.05.2004.
- (iv) Thus, the order and direction dated 05.05.2004 of the Hon'ble Tribunal held under the Single Bench of the of the Hon'ble Member (A) who happened to be confused of the cause and situation and having sight off the instance of the transfer order remaining under suspension till 05.05.2004. issued such direction of granting leave by the respondents to the applicant if applied for and cause of which was supposed to create disadvantage and injustices to the Applicant. Hence, this RA No: 12/2004 together with MP No: 76/2004 in OA No: 200/2003 is in the Central Administrative Tribunal, Guwahati.
- (v) The Postmaster General, Dibrugarh Region, Dibrugarh has not called for any option for granting leave and made so much so haste that, he has done wrong of treating the period from 05.02.2003 to 21.05.2004 as "Dies-non" having no marginal period of transit for movement of the Govt. servant on transfer from Nalbari to Silchar under the provision of Rules.

Rejoinder on Merrit:

5. That, as regards para 1(a), "Reply on Merrit" – the Applicant begs to state that, he has complied with the judgment order and direction dated 05.05.2004 of the Hon'ble Tribunal to the extent of joining as Sr. Postmaster Silchar on 22.05.2004 and represented to the Respondents to consider the case of transfer to the place of choice (which has been intimated in the application dated 22.05.2004) within one month from the date of joining at Silchar and giving an oral hearing. Since, the Applicant has less than one year to retire, the Respondents may take a compassionate view.

The routine nature oral hearing fixed on 15.06.2004 at 17.00 hrs at the Chamber of the Chief PMG, Guwahati was not held and the Applicant was not allowed to meet the Chief PMG except the cause and situation as stated above in para 3 of this statement or Rejoinder. For the period intervening from 05.02.2003 to 21.05.2004 is involved in RA No: 12/2004 and MP No: 76/2004 in OA No: 200/2003 in the Hon'ble Central Administrative Tribunal, Guwahati.

6. (i) That, as regards para 2(a), the Applicant begs to state that, since the Applicant while was holding the post of Supdt. of Post offices, Nalbari-Barpeta Division and has not been relieved as yet and joining even as Sr. Postmaster, Silchar HO under direction of the Hon'ble Tribunal has had every right to hold such status and to sign papers at that moment and presently too unless it is specific under any Rules.

(ii) The Applicant begs to state that, it is all correct that, he was not allowed to meet the Chief PMG to place his case even though the time fixed at 17.00 hrs on 15.06.2004 and the Applicant was waiting up to 17.35 hrs in the visitors room to the chamber of the Chief PMG. Immediately at 17.35 hrs the Applicant was called to the Chamber where a group of Senior Officers made a plan or conspiracy and grilled him to such an awkward situation in the name of so called personal hearing and tortured him severely, brutally and mentally in the manner as have been described in para 3 of this statement or the Rejoinder.

(iii) The impact of inviting so many Senior Officers to make prosecution witnesses in the so called hearing without notice and calling the Applicant alone vide Chief PMG, Guwahati letter dated 09.06.2004 has been considered to be under prejudicial notion, ill and malafied intention and has had harassment both mentally and consciously to an unbearable condition. If it is held to be a blatant lie let the minutes of the meeting be produced by the Chief PMG and the Respondents please.

(iv) The impact of the oral hearing under direction of the Hon'ble Tribunal should be only to decide more popularly and glaringly the place of choice and has had no scope or chance for speaking orders with irrelevant facts, materials, and discussion to invite the cause of double jeopardy where there should be no cause or reason of administrative

ground and the rejection thereof against the impact of the judgment order and direction dated 05.05.2004.

7. That, as regards para 3(a), the Applicant begs to state that his home town may not be at Nalbari but to a place in other District of the Division for which he has rightful claim under the provision of the Rules and the orders of the Government. If it is held that, the residence of the Applicant is in a place under Guwahati why it was not proposed or considered his case to such an extent. Thus, it has been that, the logic and arguments of the Respondents are irrational and not at all rational.
8. That, as regards para 4(a), the Applicant begs to state that, the entire episode is within the purview of the Hon'ble Tribunal and it has been tantamount to hold that, the Respondents are either willfully neglecting or intentionally failing to comply with the order and direction dated 05.05.2004 of the Hon'ble Tribunal and not to speak of taking any compassionate view.

In view of the submission, the Applicant begs to state that, the Contempt petition has had rightful status for the cause of intentional negligence or willful disobedience to comply with an execution of order and direction dated 05.05.2004 of the Hon'ble Tribunal by the Respondents and the Chief PMG, Assam Circle, Guwahati in particular. And this CP No: 34/2004 to the Hon'ble Central Administrative Tribunal, Guwahati is warranted.

And, therefore, the Applicant fervently prays for reasonable justice and to ensure that none is above law and all are equal in the eyes of law irrespective of standard or status and there shall be strict obedience to comply with the orders and directions of the Hon'ble Tribunal and may not be stealing of justices in any manner.

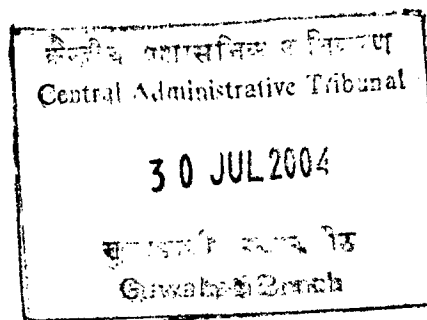
And for this act of kindness, the Applicant would remain to your lordship ever grateful.

It is solemnly affirmed and declared that, the statement made is based on facts and believe to be true and signed this ----- th day of ----- 2004.

Identified by:

Deponent

(Advocate)



Filed by
the petitioner through
Asha Das,
Advocate
20/7/04

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.

CP NO. 34 of 2004
OA NO: 200 of 2003

Shri Niranjana Das
Applicant
Vs
Union of India & Others
Respondents

IN THE MATTER OF.

An application under Sec. 17 of the
Administrative Tribunal for drawal of
contempt proceeding against the
contemners for their willful and
delebarate violation of the Judgment and
order dated 5.5.2004 passed in O.A. No
200/03 by the Hon'ble Tribunal.

-AND-

IN THE MATTER OF.

Sri Niranjan Das,
Sr. Post Master, Silchar Head Office.
Silchar.

.....Petitioner.

vs

Sri. S.K. Das,
The Chief Post Master General,
Assam Circle, Meghdoot Bhawan.
Guwahati-1. Assam.

..... Contemners.

The humble application on behalf of the petitioner
abovenamed;

1. That the petitioner making a challenge to the order of
transfer dated 26.6.2003, along other consequential prayers,

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preferred the abovenoted OA before the Hon'ble Tribunal. The Hon'ble Tribunal while issuing notice on the day of its admission, was pleased to suspend the operation of the said impugned order of transfer dated 26.6.03 till disposal of the OA. The respondents in the said O.A filed their Written Statement and the petitioner controverting the said statement submitted rejoinder. The said O.A came up for hearing on 5.5.2004 before the Hon'ble Tribunal and the Hon'ble Tribunal was pleased to close the proceeding directing the respondents to reconsider the case the petitioner providing him a personal hearing in the matter.

A copy of the said judgment and order dated 5.5.2004 is annexed herewith and marked as ANNEXURE-A.

2. That the petitioner immediately on receipt of the copy of the said Annexure-A judgment, joined the post of Sr. Post Master, Silchar and submitted a representation to the concerned authority highlighting the grievances. It is noteworthy to mention here that the hon'ble Tribunal while passing the Annexure-A judgment directed the respondents to provide personal hearing so that matter could be resorted to by mutual settlement. The respondents only to make a show off issued an order directing the petitioner to attend the chamber of the contemner on 15-6-04 and accordingly the petitioner attended the office of the contemner, but he was not allowed to meet the contemner and he was not allowed to place his case. The contemner on the next day itself issued the impugned order rejecting the claim of the petitioner.

3. That the Hon'ble Tribunal while passing the Annexure-1 judgment made observation that the matter is required to be

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3 -

resorted amicably and only for that purpose personal hearing was ordered. However, the contemnors without following the direction contained in the said judgment rejected his prayer to place the facts at the time of personal hearing. In fact the petitioner was not allowed to enter the office of the contemner.

4. That the petitioner begs to state that the Hon'ble Tribunal at the time of passing the Annexure-1 judgment observed that the petitioner who has got only few months of service left, his case for transfer to home town requires to be considered. But the contemnors without any reasons did not consider his case.

5. That the petitioner begs to state that inspite of repeated requests the contemner has acted contrary to the said judgment and the contemner is continuing his such inaction even after expiry of the stipulated timeframe. It is therefore is a fit case for invoking Rule 24 of the Central Administrative Tribunal (Produced) Rule 1987 directing the Respondents to implement the said Judgment and order dated 5.5.2004 passed in OA No.200/03.

6. That this application has been filed bonafide and to secure ends of justice.

In the premises aforesaid it is most respectfully prayed that Your Lordships would graciously be pleased to initiate appropriate contempt proceeding against the contemnors for their willful and deliberate violation of the Judgment and order dated 5.5.2004 passed in OA No.200/03, by this Hon'ble Tribunal and to punish them severely invoking the power under

4- 11

section 17 of the Administrative Tribunal Act,
1985 read with Central Administrative Tribunal
(Contempt of Court) Rules 1992 as well as the
provisions contained in the contempt of courts
Act, 1971 with a further direction towards the
contemnors to implement the said Judgment and
order. ad/or pass any such order/orders as may
be deemed fit and proper.

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5 -

DRAFT CHARGE

Whereas Sri S.K.Das, The Chief Postmaster General, Megdoot Bhawan Guwahati-781003, have violated the judgment and order dated 5.5.04 passed in O.A NO 200/03, passed by the Hon'ble Tribunal and as such he is liable to be punished severely invoking the power under section 17 of the Administrative Tribunal Act, 1985 read with provisions under Central Administrative Tribunal (Contempt of Courts) Rules 1992 as well as the provisions contained in the Contempt of Courts Act, 1971

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AFFIDAVIT

I, Sri Niranjan Das, aged about 58 years, at present working as Sr. Post Master, Silchar, Head Office, Silchar, do hereby solemnly declare and state as follows:

1. That I am the petitioner in the accompanying petition and as such, well conversant with the facts and circumstances of the case. I am therefore competent to swear this affidavit.

3. That the statements made in this affidavit and in paragraph.....2 to 6..... of the accompanying application are true to my knowledge, those made in paragraph.....1.....are matters of records which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts. The Annexure are true copies of their original.

And I sign this affidavit on this the 30th day of July, 2004 at Guwahati.

Identified by me:

Alsha Das.
Advocate

Niranjan Das,
Deponent.

Solemnly declare and state by the deponent who is identified by Miss U. Das Advocate.

Bondana Devi
Advocate

7 - SL No. 120 (3)
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.200 of 2003

Date of decision: This the 5th day of May 2004

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

Shri Niranjan Das
Superintendent of Post Offices,
Nalbari-Barpeta Division,
Nalbari.

.....Applicant

By Advocates Mr S. Sarma and Ms U. Das.

- versus -

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Communication, Department of Posts, Dak Bhawan, New Delhi.
2. The Chief Postmaster General Assam Circle, Meghdoot Bhawan, Guwahati.
3. The Director, Postal Services, Assam Circle, Meghdoot Bhawan, Guwahati.
4. The Asstt. Post Master General (Staff), Office of the Chief Post Master General, Assam Circle, Guwahati.
5. The Superintendent of Post Offices, Darrang Division.

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....
O R D E R (ORAL)

K.V. PRAHLADAN, ADMINISTRATIVE MEMBER

This application is for quashing of the order of transfer of the respondents dated 26.6.2003, Annexure-4, transferring the applicant from the post of Superintendent NESD, Guwahati to the post of Sr. Post Master, Silchar Head Office. The applicant had been earlier transferred from Nalbari-Barpeta Division to the post of Superintendent NESD, Guwahati vide order dated 22.1.2003. This order was

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Attested
by
Advocate

confirmed with some modification by the respondents vide order dated 3.2.2003, Annexure-6. Both the transfer orders dated 21.2.2003 and 3.2.2003 were challenged before this Tribunal in O.A.No.21 of 2003. The said O.A. was finally dismissed by this Bench vide order dated 28.2.2003 (as there was no merit in the application).

2. The present O.A. is against the order dated 26.6.2003 by which the applicant has been transferred from Guwahati to Silchar Head Office as Post Master. The applicant had earlier by interim order dated 7.2.2003 in O.A.No.21/2003 got a stay against the transfer order dated 22.1.2003. The applicant also claimed that the charge report dated 5.2.2003 was arbitrary ^{and issued} / with malafide intentions. The applicant has also not got his salary since the implementation of the order dated 5.2.2003, Annexure-7 to the written statement. The respondents, however, claimed that the applicant was relieved on 5.2.2003 before the receipt of the interim order dated 7.2.2003.

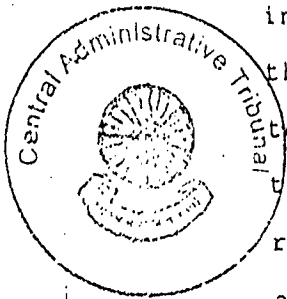
3. Heard Mr S. Sarma, learned counsel for the applicant and Mr A. Deb Roy, learned Sr. C.G.S.C. appearing on behalf of the respondents.

4. The transfer orders dated 22.1.2003 and 3.2.2003 have been decided by this Bench vide order dated 28.2.2003 in O.A.No.21/2003. The crux of the matter is whether the order of transfer dated 26.6.2003 is legitimate, just and fair. This order was issued since the applicant did not join Guwahati as per the order of transfer dated 22.1.2003. In O.A.No.21/2003 this Bench observed as follows:

".....it is difficult to hold that the transfer order of the applicant emanated from any improper motive....."

This judgment had gone into the entire matter relating to the transfer orders dated 22.1.2003 and 3.2.2003. In O.A.

No.200/2003.....



*Attended
was
Advocate*

No.200/2003 the transfer order dated 26.6.2003 was stayed vide interim order dated 29.8.2003. However, since his relief by order dated 5.2.2003 the applicant has not joined as Senior Post Master, Silchar. Therefore, the applicant with effect from 5.2.2003 has not joined duty till date. It appears that the transfer order was passed in exigency of administrative requirements. We cannot attribute any improper motive in the action of the respondents.

5. The applicant is accordingly directed to join the post of Senior Post Master, Silchar Head Office as per the transfer order dated 26.6.2003 and the respondents shall within a period of one month of his joining at Silchar consider his case for transfer to the place of his choice after giving him an oral hearing. Since the applicant has less than one year to retire, the respondents may take a compassionate view. The period of absence may regulated by giving him leave for which he is eligible as per rules and provided he applies for it.

6. Subject to the observations made above, the application stands dismissed. No order as to costs.

Sd/ MEMBER (A)

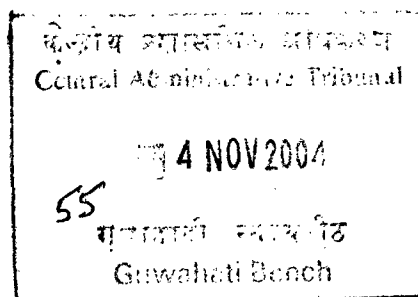
Certified to be true Copy
 17/5/04

nkm

Section Officer (I)
 C.A.T. GUWAHATI BRANCH
 Guwahati-781005
 17/5/04

Attested
 as
 Advocate

-10-



Filed by
7/11/04
(A. DEB ROY)
Sr. C. G. S. C.
A. T. Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH ::: GUWAHATI

C.P. NO. 34 OF 2004
IN O.A. NO. 200 OF 2003

Shri Niranjan Das.

..... Petitioner

-Vs-

Shri S.K. Das.

..... Alleged Contemner

In the matter of :

Affidavit in reply submitted by the
Contemner.

I, S.K. Das, Chief Postmaster General, Assam
Circle, Guwahati, do hereby solemnly affirm and say
as under :

1. That I have gone through the contempt Petition
and understood the contents thereof. Save and except
whatever is specifically admitted in this reply rest of
the averments will be deemed to have been denied.

2 . That the alleged contemner most respectfully
submits that he has the highest regard for the orders
of the Hon'ble Tribunal and there is no wilful or
intentional disobedience of the orders of this Hon'ble
Tribunal.

Contd.....

3. That the Judgment and Order dated 5.5.2004 has been fully complied by the respondents according to the directions given by the Hon'ble Tribunal. The petitioner was given opportunity to place his case orally in person before the Chief Postmaster General, Assam Circle, Guwahati on 15.6.2004 at 17-15 hours and after proper hearing, the case of the petitioner was disposed of.

4. That the petitioner did not apply for leave of any kind admissible for the period of his absence from 5.2.03 to 21.5.04 inspite of instruction issued to him vide letter dated 1.6.2004. Keeping in view the direction of Hon'ble Tribunal, the Postmaster General, Dibrugarh who is the leave sanctioning authority issued an order vide No. Staff/1/15-51/04 dated 16.8.04, treating the said period of absence as Dies-Non towards regularisation of the service record of the petitioner.

8 Thus the Judgment and order dated 5.5.04 passed in O.A. No. 200/2003 has been fully complied by the respondents.

Copy of order dated 16.8.04 is annexed
herewith and marked as Annexure - C-1.

REPLY ON MERIT :

1(a). . In reply to para 1, it is stated that, the Hon'ble Tribunal dismissed the O.A. No. 200/2003 by its order dated 5.5.2004 directing the applicant to

join the post of Senior Postmaster, Silchar Head office as per the transfer order dated 26.6.2003 and the respondents shall within a period of one month of his joining at Silchar consider his case for transfer to the place of his choice after giving him an oral hearing. Since the applicant has less than one year to retire, the respondents may take a compassionate view. The period of absence may be regulated by giving him leave for which he is eligible as per rules and provided he applies for it.

It is pertinent to mention here that he was given oral hearing on 15.6.2004. It is also to be mentioned here that he did not apply for leave as directed by the Hon'ble Tribunal.

2(a). Contents of paras 2 and 3 are not denied to the extent of joining the post of Sr. Postmaster, Silchar and submission of representation requesting for his posting at Nalbari within 6.6.04 and treating the period of absence from 5.2.03 to 21.5.04 as duty as per rules.

✓ In his representation the petitioner has signed as Supdt. of Post Offices, Nalbari - Barpeta Division and Senior - Postmaster, Silchar. After his joining as Sr. Postmaster, Silchar, he cannot write and sign as Supdt. Nalbari - Barpeta Division.

Copy of petitioner's representation is annexed hereto and marked as Annexure - C-2.

Contd.....

It is blatant lie on the part of the petitioner to allege that he was not allowed to meet the Chief PMG to place his case. He was given full scope to place his case orally on 15.6.04 at 17.15 hours as fixed vide letter dated 9.6.04. During the oral hearing senior officers of the Department viz. PMG, Dibrugarh, Director of Postal Services 'HQ' and Asstt. PMG (Staff) were present in the Chamber. After hearing the case orally from the petitioner, the competent authority considered carefully and decision was issued by a speaking order vide No. Staff /1-343/88(L) dated 16.6.2004 rejecting his claim on administrative ground.

Copy of order dated 16.6.2004 is annexed hereto and marked as Annexure-C-3.

3(a). In reply to para 4 it is stated that his home is not now at Nalbari. The petitioner has his house/home at Dhirenpara, Guwahati-25 and keeping his family there.

4(a). In reply to paras 5 and 6 the petitioner has filed Contempt Petition No. 34/04 in O.A. No. 200/03 and also filed R.A. No. 12/04 in O.A. 200/03 along with M.P. No. 76/04 for condonation of delay. By filing Contempt Petition and R.A. at the same time, the petitioner has contradicted the issue for no valid reason, since the Judgment and order of the Hon'ble Tribunal have been complied fully by the petitioner as well as the respondents.

Contd.....

It is respectfully submitted that there is no wilful and deliberate violation of the order of 5.5.04.

In view of the submission made herein above, the deponent respectfully prays that the present Contempt - Petition is liable to be dismissed by discharging the notice issued to the Respondent.

Sirajit Kumar Das
Deponent.

मुख्य पोस्टमास्टर जनरल
Chief Postmaster General
असम परिमंडल, गुवाहाटी-781001
Assam Circle, Guwahati-781001

A F F I D A V I T

I, S.K. Das, Chief Postmaster General, Assam Circle, Guwahati, do hereby solemnly affirm and state as follows :-

1. That I am contemner and I am acquainted with facts and circumstances of the case and I am competent to swear this affidavit.

2. That the statements made in paras are true to my information and those made in paras are true to my knowledge and rests are my humble submission before this Hon'ble Tribunal.

And I sign this affidavit this 4th day of Nov 2004.

Identified by
A. Deb Roy
Advocate.

Swrajit Kumar Das
DEPONENT.
मुख्य पोस्टमास्टर जनरल
Chief Postmaster General
असम परिमंडल, गुवाहाटी-781001
Assam Circle, Guwahati-781001

Solemnly affirmed by the deponent

Shri S.K. Das who is identified by Shri A. Deb Roy, Advocate, before on this day of 4th Nov 2004.

Manik Chandra
Advocate.

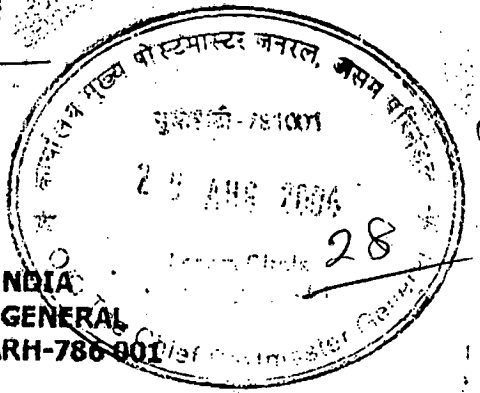
ANNEXURE - C-1

Staff
m/j.

-15-

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DEPARTMENT OF POST : INDIA
OFFICE OF THE POSTMASTER GENERAL
DIBRUGARH REGION, DIBRUGARH-786 001

Memo No. Staff/1/15-51/04

Dibrugarh the 16 August, 2004.

Sri Niranjana Das a PS Gr. B Officer before joining as Sr. Postmaster Silchar H.O. absented himself from 05.02.2003 to 21.05.2004 without prior permission. In compliance with the Hon' ble CATs order dtd. 05.05.04, Sri Niranjana Das Sr. Postmaster, Silchar H.O. was asked by the Chief Postmaster General, Assam Circle, Guwahati for submitting his leave application for unauthorised absence from 05.02.2003 to 21.05.2004 vide C.O's letter no. Staff/1-343/88(L) dtd. 1.6.2004 which was already been received by Sri Das and to which he replied on 7.6.2004 without submitting any leave application for the said leave period. Again in compliance of the CATs order, an oral hearing was given to Sri Niranjana Das by the Chief Postmaster General, Assam Circle, Guwahati on 16.06.04 during which the officer was again asked to submit leave application for the period of unauthorised absence from 05.02.2003 to 21.05.2004. But the officer neither submitted any leave application nor responded to the communication of Chief Postmaster General, Assam Circle, Guwahati.


In pursuance of CATs order passed on 5.5.04, the officer was again directed to join as Sr. Postmaster Silchar H.O. vide C.O's letter no. Staff/1-343/88(L) dtd. 21.05.04. The officer joined at Silchar H.O. as Sr. Postmaster on 22.05.2004 and after joining at Silchar, the officer did not submit any leave application to the SSPOs Silchar as well as Regional Office Dibrugarh also.

In view of the above discussion, it is evident that Sri Das willfully absented from duty without proper permission from the competent authority and now, therefore the competent authority in exercise of powers conferred upon orders that the period of unauthorised absence from 05-02-2003 to 21-05-2004 by Sri Niranjana Das now Sr. Postmaster Silchar H.O. will be treated as **Dies Non**. The period of Dies Non will neither count as service nor be construed as break in service. This will be without prejudice to any other action that the competent authorities might take against the persons resorting to such practices.

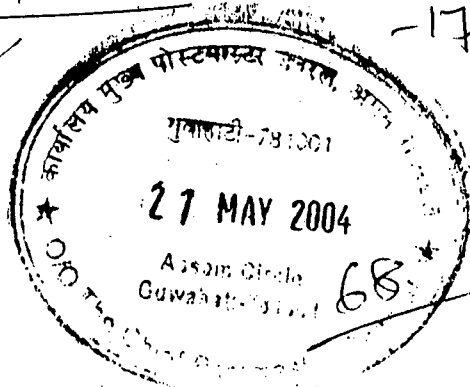
(A.N.D.KACHARI)
Postmaster General
Dibrugarh Region
Dibrugarh-786 001

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16-8
Copy to:

1. The Chief Postmaster General(Staff) Assam Circle, Guwahati for information w.r.to C.O's letter no. Staff/1-343/88(L) dtd. 26.07.04.
2. The DDA(P) Guwahati for information.
3. Sri J.K.Barbhuiya Sr. Supdt. of Post Offices, Cachar Division, Silchar.
4. The Sr. Postmaster Silchar H.O.
5. Sri Niranjan Das Sr. Postmaster Silchar H.O.(Through SSPOs,Silchar).
6. C.R. File of the officer.
7. P.F. of the officer.
8. O.C.


Postmaster General
Dibrugarh Region
Dibrugarh-786 001

To,
The Chief Postmaster General,
Assam Circle, Meghdoot Bhawan,
Guwahati-781 001



Dated Silchar the May 22, 2004.
Sub: Judgment & Order dated 05.05.2004 passed in OA
No: 200/2003 – Implementation thereof.

Hon'ble Sir,

I with due deference and profound submission beg to state the following few lines for favour of your sympathetic consideration and reasonable orders.

That, pursuant to the above mentioned judgment, where I have been directed to join the post of Senior Postmaster, Silchar Head Office as per the transfer order dated 26.06.2003. It is imperative that, my this letter may be treated as status report of joining in compliance with reference to the aforesaid Judgment and Order dated 05.05.2004.

That, as you are aware of the fact that, I am attaining the age of superannuation on 28.02.2005 and as directed by the Hon'ble CAT, Guwahati Bench, Guwahati, I may be posted back to Nalbari-Barpeta Division, as SPO's Nalbari, having the place of my choice and the same being my home town as declared.

That, in terms of the said Judgment & Order dated 05.05.2004 my period of service with effect from 05.02.2003 to 21.05.2004 may be treated as on duty since as per rules, the said period was under the coverage of "Interim Orders" dated 07.02.2003 and 29.08.2003 as held by the Hon'ble Apex Court.

That, as per the directives of the aforesaid Judgment & Orders which is with the tune of recommendation of the 5th Central Pay Commission, my posting therefore, may be ordered at Nalbari-Barpeta Division within 6th day of June, 2004.

That, it is understanding that, under the terms and conditions of the Judgment & Orders dated 05.05.2004 and the status report on joining to the post under directions of the Hon'ble CAT, Guwahati, I am supposed to complete the time bound period of one month by June 20, 2004 and as such necessary arrangement may be made for my relief in time. It is further stated that, if there be no orders being issued earlier to comply with the terms and conditions of the aforesaid Judgment & Order dated 05.05.2004, it would be held that, I would be eligible and permissible to relinquish the present charge and to report for my joining as SPO's Nalbari which has been at the place of my choice.

Under the condition and circumstances, I humbly request you kindly to take necessary steps to minimise further complicacies to have the implementation of the Judgment & Orders dated 05.05.2004 of the Hon'ble CAT, Guwahati. And for this act of your kindness, I shall as duty bound be ever grateful.

Yours faithfully,

Niranjan Das,
(NIRANJAN DAS)

Supdt. of Post Offices,
Nalbari-Barpeta Division
& Sr. Postmaster, Silchar H.O.

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Copy to:

1. The Postmaster General, Dibrugarh Region, Dibrugarh for favour of information and necessary action.
2. Sr. Supdt of Post offices, Cachar Division, Silchar for information and necessary action.
3. The Director, Accounts (Postal), Chenikuthi, Guwahati for information.
4. Supdt of Post Offices, Nalbari-Barpeta Division, Nalbari
5. & 6. Sr. Postmaster, Silchar H.O/Postmaster Nalbari H.O.
7. The Superintendent N.E.S.D, Noonmati, Guwahati


(NIRANJAN DAS)

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(GL)

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Department of Posts
O/o Chief Postmaster General, Assam Circle,
Meghdoot Bhavan, Guwahati-781001.

No. Staf/1-343/88(L)

dated : 16.6.2004

ORDER

Sri Niranjana Das who was working as Superintendent of Post offices, Nalbari-Barpeta Division in Assam Circle and was transferred and posted as Superintendent, NESD Guwahati vide Chief PMG, Assam Circle, Guwahati vide Memo no. Staff/3-4/92/Ch II, dated 22.1.2003. The officer was relieved from Nalbari-Barpeta Division. But he did not join his new place of posting as Supdt. NESD Guwahati. The said Shri Das preferred an Original Application in the Hon'ble CAT Guwahati bench vide OA No. 21 of 2003. The Hon'ble CAT was pleased to dispose of the OA on 28.2.2003 and upheld his transfer order posting him as Supdt. NESD, Guwahati.

Even after the receipt of Hon'ble CAT's Guwahati Bench Order, the applicant did not join his duties. As Shri Das did not join till 25.6.03, the competent authority keeping in view the operational importance and in administrative interest filled up the post of Supdt NESD Guwahati. The said Shri Das was transferred and posted as Senior Postmaster Silchar vide CPMG Assam Circle, Guwahati memo no. Staff/3-4/92/Ch II dated 26.6.2003.

Sri Niranjana Das did not join his new place of posting i.e. Senior Postmaster Silchar and preferred an Original Application vide OA no. 200 of 2003 before Hon'ble CAT Guwahati Bench. The Hon'ble CAT Guwahati was pleased to grant stay order on this OA on 29.8.2003 and the said O.A. was disposed of on 5.5.2004 with direction to the applicant to join as Senior Postmaster Silchar HO as per transfer order dated 26.6.2003. It was further directed by the Hon'ble CAT that the respondents shall within a period of one month of joining of respondent at Silchar, consider his case for transfer to the

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place of his choice after giving him an oral hearing. Since the applicant has less than one year to retire, the respondent may take a compassionate view. The Hon'ble CAT also directed the respondent that the period of absence may be regulated by giving him leave for which he is eligible as per rules and provided he applies for it.

Keeping in view, the direction of the Hon'ble CAT in this case, the applicant viz. Sri Niranjana Das was requested vide CPMG Guwahati office letter no. Staff/1-343/88(L) dated 1.6.2004 to send his request if he desired to be heard in person by the competent authority. Sri Niranjana Das vide his letter dated 7.6.04 which he faxed to Chief PMG, Assam Circle requested to be heard in person on 15.6.2004. In his request letter, the said Sri Niranjana Das has signed as Supdt. of Post offices, Nalbari Barpeta Dn. and Senior Postmaster Silchar. This is misleading and wrong, after his joining as Sr. Postmaster Silchar, he cannot write and sign as Supdt., Nalbari-Barpeta division. Moreover, the Hon'ble CAT Guwahati upheld the transfer order posting him as Sr. Postmaster, Silchar. It is brought to his notice through this communication not to sign letter as Supdt of Post offices, Nalbari Barpeta Dn.

As per order of the Hon'ble CAT Guwahati, oral hearing was given by the undersigned to Sri Niranjana Das on 15.6.2004 at 17:15 hours for about one hour. During this hearing, Sri Niranjana Das explained the whole case in person. During the oral hearing, following points were discussed as per the direction of Hon'ble CAT, Guwahati.

1. The issue of regularization of period of absence by giving leave for which Sri Niranjana Das is eligible as per rules provided he applies for it.

On this point, the CPMG Guwahati clearly told Sri Niranjana Das that he was asked to apply for leave vide CO's letter no. Staff/1-343/88(L) dated 1.6.2004 which has already been received by him and to which

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he has replied on 7.6.04. It was again emphasized that Sri Niranjan Das may apply for leave as per the time frame stipulated in CO letter no. Staff/1-343/88(L) dated 1.6.04 for taking further decision on this matter. It was also made clear to Sri Niranjan Das during oral hearing that if he does not apply for leave within the stipulated time frame, further course of action as stipulated in the rules would be followed for regularization the period of absence.


2. In his representation dated 7.6.2004 Sri Niranjan Das had stated he had already opted for posting for place of choice at Nalbari-Barpeta Dn as Superintendent of Post offices which may be considered.

The Chief PMG Assam Circle Guwahati has given due consideration to his request but cannot agree because of the following reasons.

- (1) Shri Niranjan Das has requested for his posting as Supdt. of Post offices, Nalbari where he worked earlier for nearly full tenure from 11.10.99 to 05.02.03 when he was removed from Nalbari because of persistent complaints and mal-administration. He did not prove to be competent Supdt. of POs and therefore he was removed on these grounds by my predecessor from Nalbari to CSD, Guwahati ultimately as Sr. Postmaster, Silchar.
- (2) He cannot be given posting as Supdt. of Post offices, Nalbari as Sri S. Das is working there as Supdt. of POs for last one year and he cannot be disturbed to accommodate Shri N. Das just for 8 months before his retirement in February, 2005.
- (3) He has already been charge-sheeted under Rule 16 for offence and his increment was stopped and further irregularities during his tenure as Supdt. of POs, Nalbari have come to light for which an investigation has been almost


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completed and disciplinary action is contemplated to be taken against him. In such a light it will not be administratively advisable to post him back to Nalbari where he has almost completed his tenure earlier. He has not given reasonable ground for consideration of his posting at Nalbari. His hometown is not at Nalbari but his house is at Guwahati. Therefore, his plea for posting at Nalbari cannot be acceded to. Moreover, the order which states that an officer as far as possible should not be disturbed if he has only two years left for retirement is not mandatory as he is claiming but is left to the discretion and administrative convenience of the transferring authority.


(S K DAS)
Chief PMG, Assam Circle
Guwahati-781 001

Copy to:

- ✓
02/02/01
1. Sri Niranjana Das, Sr Postmaster Silchar
 2. The Postmaster General, Dibrugarh
 3. Sr. Supdt of Post offices, Cachar Dn, Silchar
 4. The Registrar, Central Administrative Tribunal, Guwahati
 5. PF of the officer concerned


(S K DAS)
Chief PMG, Assam Circle
Guwahati-781 001.