

FORM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET.

Orig. App/Misc. Petn/Cont. Petn/Rev. Appl. 49/04

In O.A. 15/03

Name of the Applicant(s) Dilip Kr. Das

Name of the Respondent(s) ~~W. O. I. Jais B. Gohain~~

Advocate for the Applicant K. P. Pathak, S. K. Saikia

Counsel for the Railway/C.G.S.C. ✓ P. Borah, P. N. Goswami

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

This Contempt
petition has been
filed by the counsel
for the petitioner praying
drawing up Contempt
proceeding against
the contemner for his
willful and deliberate
violation of the Judgment
and order dated
5.4.04 passed by this
Honble Tribunal in
O.A. No. 15/03.

07.10.2004

Matter be ~~placed~~ listed on 24.11.04

By order

bb

24.11.04.

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

Issue notice on the respondent
to show cause as to why the contempt
proceedings shall not be initiated
against the alleged contemnners.

List on 5.1.05 for orders.

[Signature]

Member

lm

5.1.2005

Mr. G. Rahul, learned counsel
for the respondents prays for four
weeks time to file reply. Prayer is
allowed. List on 4.2.2005 for orders

Laid before the
Honble Cont for further
orders

[Signature]
6/10/04
Sudhendra Chak

mb

[Signature]
Member (A)

15.2.2005 present; The Hon'ble Mr.M.K.Gupta,
Member (J).

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

Adjourned for filing reply, as
prayed for, to 24.3.2005.

K. Prahladan
Member (A)

M. K. Gupta
Member (J)

bb

Notice & order
dt. 24/11/04, sent
to D/section
for issuing to
respondent.

(2)
13/12/04.

D.No= 2000
dt-15/12/04.

4-1-05

5/2- admitted.

23-3-05

no reply. hq. Secy.

8/12/04.

Da

Notes of the Registry Date

24.3.05.

Order of the Tribunal

Present: Hon'ble Mr. Justice G. Sivaraman,
Vice-Chairman.
Hon'ble Mr. K. V. Prahladan, Admini-
strative Member.

At the request of learned counsel
for the Respondents time is granted for
filing written statement.

Post the matter on 28.4.05.

K. V. Prahladan
Member

G. Sivaraman
Vice-Chairman

lm

28.4.05.

The learned counsel for the Res-
pondents submits that some more time
is required to file affidavit.

Post the matter on 17.5.04.

G. Sivaraman
Vice-Chairman

lm

17.5.2005

Heard Mr. P. N. Goswami, learned
counsel for the applicant and also Mr.
G. Rahul, learned counsel for the
respondents.

Though the respondents have filed
affidavit alongwith copy of the proc-
eeding, learned counsel for the
applicant submits that this is not
strictly in compliance of the
direction issued by this Tribunal in
O.A. No. 15/2003 and that the applic-
ant will file a proper reply. Post
on 1.7.2005.

K. V. Prahladan
Member

G. Sivaraman
Vice-Chairman

mb

27-4-05
No affidavit has been
filed

Notice duly served
on resp. No. 1
27/4/05

16-5-05
No affidavit has been
filed.

18.5.05
Reply filed by the
Contemners.

Reply has been
filed.

20
30.6.05

Notes of the Registry Date Orders of the Tribunal

1.7.05

Mr G.Rahul, learned counsel for the respondents submits that the counsel for the applicant telephoned him in the morning and stated that he is not keeping well.

Post on 3.8.05 for order.

Vice-Chairman

pq

3.8.2005

Mr. G. Rahul, learned counsel for the respondents is present. Since the learned counsel for the applicant is stated to be not keeping well adjourned to 5.9.2005.

Member

Vice-Chairman

mb

05.09.2005

Lear-nd counsel for the applicant is absent. Mr. G. Rahul, learned counsel for the respondents is present. Post before the next Division Bench.

Vice-Chairman

mb

08.03.2006

Mr.P.Borthakur, learned counsel represented Mr.S.K.Sarma, learned counsel for the applicant and Mr.G.Rahul, learned counsel appeared on behalf of the alleged contemner/respondent.

Order passed, kept in separate sheets. The C.D. is closed in terms of the order.

Vice-Chairman(J)

Vice-Chairman(A)

bb

① Reply filed on behalf of the respondents

By
2.8.05

Reply has been filed.

By
2.9.05

7-3-06

Reply has been filed.

By

21.3.06

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

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Contempt Petition No.49 of 2004 in
Original Application No.15 of 2003.

Date of Order: This the 8th day of March 2006.

THE HON'BLE SHRI B.N.SOM, VICE CHAIRMAN (A)

THE HON'BLE SHRI K.V.SACHIDANANDAN, VICE CHAIRMAN (J)

Sri Dilip Kr. Das IPS, (Retd.)
Resident of 283, Carolanne Drive
Delmar New York - 12054
USA.

..... Petitioner/Applicant.

By Advocates S/Shri S.K.Sarma, P.N.Goswami & P.Borthakur.

- Versus -

1. Dr. Biren Gohain
Commissioner & Secretary
Home Department
Govt. of Assam
Dispur, Guwahati-6.

..... Contemner/Respondent.

By Sr.Advoate Shri K.N.Choudhury & Advocates S/Shri
I.Choudhury & G. Rahul.

ORDER (ORAL)

SACHIDANANDAN, K.V.(V.C.) :

The Contempt Petition has been filed by the applicant against the alleged contemner/respondent for non-compliance of the order dated 5.4.2004 passed in O.A.15/2003, the operative portion of which is quoted below:-

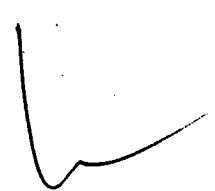
"4. Rule 2(g)(iv), AIS (Leave) Rules 1955 defines Government as the Government which sanctions leave. As per Rule 32 All India Service (Leave) Rules, 1955 the State Government is

competent to waive any conditions relating to the leave rules if it causes undue hardship to the Officer concerned. The State Government has implemented the provision of this rule in their letter dated 22.2.2000 at Annexure-II. Therefore, there is no impediment in the way of the Govt. of Assam in processing and finalising the pension case of the applicant and forward them to the competent authority so that payment of post-retirement benefits are made immediately. The Respondent No.2 is directed to complete this entire exercise within two months from the date of receipt of the order."

In the said order respondent no.2 was directed to complete the entire exercise within two months from the date of receipt of the order and finalise the pension of the applicant. Notice was issued in the C.P. The alleged contemner has filed a reply contending that due to non-furnishing of the necessary documents, particularly, the 'No Demand Certificate' by the applicant the entire orders of the Tribunal could not be pursued. The provisional pension for the period 5.7.1985 to 31.12.2004 has already been granted to the applicant.

2. Mr. P. Borthakur, learned counsel representing applicant's counsel Mr. S. K. Sarma, submits that the applicant is in U.S.A. Vide Annexure-E order dated 29.12.2004 annexed with the reply the respondent has granted provisional pension to the applicant.

3. Going through the materials placed on record, we are of the considered view that substantial compliance is available in the record and the C.P. will not stand since



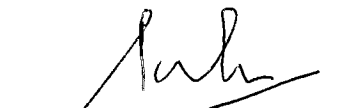
the Hon'ble Supreme Court declared that if there is substantial compliance of the order, contempt will not stand in its legs.

4. In the above circumstances, we drop the contempt proceeding against the alleged contemner/respondent and the notice, if any, is discharged. However, we leave open for the applicant to agitate further grievances, if any, in the appropriate forum.

The Contempt Petition is closed accordingly.

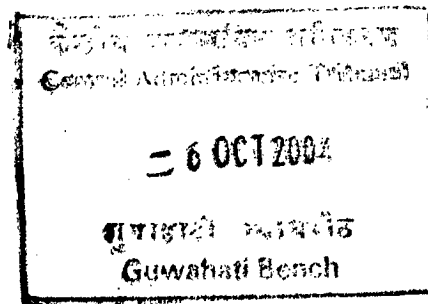


(K. V. SACHIDANANDAN)
VICE CHAIRMAN (J)



(B. N. SOM)
VICE CHARIMAN (A)

bb



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH
(An applicaiton under Section 19 of the Central Administra-
tive Tribunal Act, 1985)

TITLE OF CASE

Contempt Case NO. ⁴⁹.../2004
in O.A. No. 15/2003

Dilip Kr. Das

.... Petitioner.

-VERSUS-

Dr. Biren Gohain.

....Contemner/Respondent.

I N D E X

Sl. NO.	PARTICULARS	PAGE NOS.
1.	Petition	... 1 to 4
2.	Draft Charge	5
3.	Affidavit	6.
4.	Annexure-1	7.-9

For use in Tribunal Office

Registration NO.

Date of Filing:

Filed by 9
Dilip Das
through, P.N. Goswami
Advocate, G/10/04

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GUWAHATI BENCH

C.P.No. 49/2004
in O.A.NO. 15/2003

Sri Dilip Kr. Das, IPS, (Retd.),
...Applicant.

-VS-

Union of India & Ors.
...Respondents.

IN THE MATTER OF:-

An application under Section 17 of the Administrative Tribunal Act, 1985 for drawing up contempt proceeding against the contemner for ~~his~~ willful and deliberate violation of the Judgment and Order dated 5/4/2004 passed in O.A. No. 15/2003 by this Hon'ble Tribunal.

-AND-

IN THE MATTER OF:-

An application praying for appropriate execution of the Judgment and Order dated 5/4/2004 passed in O.A. No. 15/2004 by the Hon'ble Tribunal invoking Rule 24 of the Central Administrative Tribunal (Procedure) Rules, 1987.

-AND-

Contd....p/

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Dilip Das

IN THE MATTER OF:-

Sri Dilip Kr. Das, IPS, (Retd.),
Resident of 283, Carolanne Drive,
Delmar New York-12054,
USA.

Petitioner

Applicant.

-VERSUS-

(1) 2. Dr. Biren Gohain,
Commissioner & Secretary,
Home Department,
Govt. of Assam, Dispur, Guwahati-6.

Contemner

...Respondent.

The humble application on behalf of the petitioner
abovenamed:

MOST RESPECTFULLY SHEWETH:

1. That the petitioner/applicant preferred the above
noted O.A. praying for direction to the Respondent au-
thorities to finalise and release the pensionary bene-
fits due to the applicant. The Hon'ble Tribunal after
hearing the parties to the proceeding was pleased to
allow the said O.A. with a direction to the Respondent
NO.2 therein (present sole Respondent) to process and
finalise the pension case of the applicant/petitioner
and forward them to the competent authority so that
payment of post retirement benefits are made immediate-
ly. The Respondent No.2 (present sole Respondent) was
further directed to complete the entire exercise within

Contd....p/

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two months from the date of receipt of the Hon'ble Tribunal's order.

A copy of the said Order dated 5/4/2004 is annexed herewith and marked as ANNEXURE-1.

2. That the petitioner/applicant on receipt of the certified copy of the aforesaid Order submitted the same through his counsel before the sole Respondent on 9/4/2004 along with covering letter from his counsel. However, till date no action in compliance of the Hon'ble Tribunal's Order has been forthcoming from the concerned authority although the time period of two months fixed for the purpose in the aforesaid Order has elapsed long since.

3. That the Respondent/Contemner has full knowledge of the existence of the said Order of the Hon'ble Tribunal dated 5/4/2004 passed in O.A. No. 15/2003, but inspite of this, the Respondent/Contemner has acted in a contemptuous manner and has willfully and deliberately violated the Order of the Hon'ble Tribunal. Hence, the Respondent/Contemner is liable to be proceeded against and punished under the Contempt of Courts Act.

4. That the Respondent/Contemner has acted in violation of the Hon'ble Tribunal's Order by not finalising the pension of the petitioner/applicant within the stipulated time and as such, is liable to be punished by invoking the powers under Section 17 of the Administrative Tribunals Act, 1985 read with the provisions of the Central Administrative Tribunal (Contempt of Courts) Rules, 1992 as well as the provisions of the Contempt of Courts Act, 1971.

5. That the petitioner has been repeatedly requesting

Contd.....p/

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(4)

the concerned authority for compliance of the Hon'ble Tribunal's Order. But the authority is continuing with its inaction even after expiry of the stipulated time frame. Therefore, it is a fit case for invoking Rule 24 of the Central Administrative Tribunal (Procedure) Rules, 1987 directing the Respondent authority to implement the Hon'ble Tribunal's Order dated 5/4/2004 passed in O.A. No. 15/2003.

6. That this application is filed bonafide for the interest of justice.

In the premises aforesaid, it is most respectfully prayed that Your Lordships would be graciously pleased to initiate appropriate contempt proceeding against the Contemner for his willful and deliberate violation of the Judgment and Order dated 5/4/2004 in O.A. No. 15/2003 and to punish him severely invoking the power under 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 Court Act, 1971 with a further direction towards the contemnors to implement the said Judgment and Order dated 5/5/2004 passed in O.A. No. 15/2004 invoking its power under Rule 24 of the Central Administrative Tribunal (Procedure) Rules, 1987.

Contd....p/

(5)

DRAFT CHARGE

Deleip Dera

Whereas, Dr. Biren Gohain, Commissioner & Secretary, Home Department, Govt. of Assam. Dispur, Guwahati-6 has willfully and deliberately violated the Judgment and Order dated 5/4/2004 passed in O.A. NO. 15/2003 passed by the Central Administrative Tribunal, Guwahati Bench 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.

Contd.....p/

(6)

A F F I D A V I T

I, Sri Dilip Kr. Das, IPS, (Retd.), Resident of 283, Carolanne Drive, Delmar New York-12054, USA .aged about 65 years, do hereby solemnly affirm and say as follows:-

1. That I am the petitioner in the instant case and as such I am acquainted with the facts and circumstances of the case.

2. That the statements made in this affidavit in paragraphs1-6..... are true to my knowledge and those made in paragraphs ..X.XY..... being matters of records of the case are true to my knowledge and information derived therefrom which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal Court.

That the annexures/documents relied upon by the petitioner in the petition are true copies of their respective originals.

And I sign this affidavit on this 6..th day of October, 2004 at Guwahati.

Identified by:

P.N. Goswami

Advocate

Dilip Das

DEPONENT

Solemnly declared and affirmed before me by the deponent who is identified by Sri P.N. Goswami, Advocate on this 6..th day of October, 2004 at Guwahati.

D. Patrak

6/10/04.

ADVOCATE

Contd....p/

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

Original Application No. 15/2003.

Date of Order : This the 5th day of April, 2004.

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

Sri Dilip Kr. Das, IPS, (Retd.)
Resident of 283, Carolanne Drive,
Delmar, New York - 12054,
USA.

... Applicant.

By Advocates Mr. K.P. Pathak, Sr. Advocate,
Mr. S.K. Sarma, Mr. P.N. Goswami.

- VERSUS -

1. The Union of India,
Represented by the Secretary,
Ministry of Home Affairs,
Government of India,
North Block, New Delhi - 1.

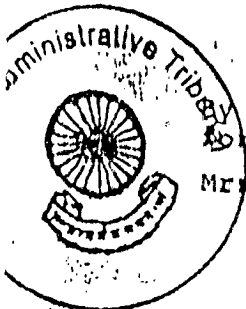
2. The State of Assam,
Represented by the Commissioner & Secretary,
Home Department,
Govt. of Assam, Dispur, Guwahati- 6.

3. The Accountant General, Assam,
Pension/Loan and G.E. - 4 Section
Maldamgaon, Beltola,
Guwahati - 29.

... Respondents.

Mr. A.K. Chaudhury, Addl. C.G.S.C.
for the Respondent No. 1.

Mr. M. Das, G.A., Assam for the Respondent Nos. 2 & 3.



ORDER

K.V. PRAHLADAN, MEMBER (A):

The applicant was an IPS Officer of Assam Cadre. He was on study leave w.e.f. 20.08.1979 to 19.08.1981, on E.L. w.e.f. 20.08.1981 to 17.12.1981 and on FOL w.e.f. 18.12.1981 to 4.7.1985. He took retirement from service on 21.10.1985 while he was in USA. His voluntary retirement was accepted by the State Government. No pensionary benefit has been paid to the applicant till now. As per Govt. of India, Ministry of Home Affairs letter dated 22.02.2001 (Annexure - B) only ^{Central Govt} State Government is

Contd...2

*certified to
be true copy.
P.N. Goswami
Advocate.*

competent to regularise absence in excess of 5 years. However, no provision is mentioned in the said letter. The Order dated 14th May, 2003 (Annexure - D) from the Ministry of Home Affairs requested some clarification from the State Government but the same is still awaited. Since there is no communication from the Ministry of Home Affairs and the State Government has not taken any action. After 19 years of retirement of the applicant, no pensionary benefit has been given to the applicant.

2. The Respondents stated that relaxation of excess of 5 years lies with the Central Government only. However, learned counsel for the applicant pointed out that absence in excess of 5 years under Rule 32 of the AIS (Leave) rules 1955, the power to relax any provision lies with the State Government.

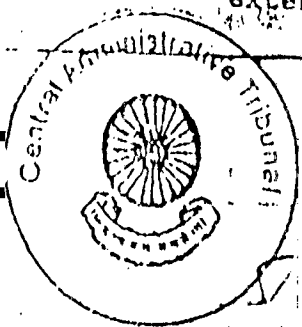
3. Heard Mr. P.N. Goswami, learned counsel for the applicant and also Mr. A.K. Chaudhury, learned Addl. C.G.S.C. for the Respondent No. 1 and Mrs. M. Das, learned G.A. for the State of Assam for the respondent Nos. 2 and 3.

4. Rule 2(g)(iv), AIS (Leave) Rules 1955 defines Government as the Government which sanctions leave. As per Rule 32 All India Service (Leave) Rules, 1955 the State Government is competent to ^{give} waive any conditions relating to the leave rules if it causes undue hardship to the Officer concerned. The State Government has implemented the provision of this rule in their letter dated 22.2.2000 at Annexure - II. Therefore, there is no impediment in the way of the Govt. of Assam in processing and finalising the pension case of the applicant and forward them to the competent authority so that payment of

contd...2

post-retirement benefits are made immediately. The Respondent No. 2 is directed to complete this entire exercise within two months from the date of receipt of this order.

This application is accordingly allowed to the extent indicated above. No order as to costs.



mb

Sd/MEMBER(ADM)

Sanctioned to be true copy
प्रमाणित प्रतिलिपि

Section Officer (A)
C.A.T. GUWAHATI BRANCH
Guwahati 781 005

10/11/2024

8 MAY 2005

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Contempt Petition No. 49/2004 (In O.A. No. 15/2003)

Sri D.K. Das

... Petitioner

- Versus -

Dr. Biren Gohain

... Opposite Party

IN THE MATTER OF:

Reply filed on behalf of the Opposite
Party/Alleged Contemner of C.P. No.
49/2004 in O.A. No. 15/2003.

The humble reply of the Opposite Party
abovenamed:

MOST RESPECTFULLY SHEWETH:

1. That the Opposite Party is the Commissioner and Secretary, Home Department, Government of Assam and has been impleaded in his personal capacity as the sole Opposite Party/Alleged Contemner in the aforesaid Contempt proceedings before this Hon'ble Tribunal. A copy of the aforesaid contempt petition has been served upon the answering respondent. The answering respondent after going through the contempt petition have understood the contents thereof. The answering respondent being fully aware of the facts and circumstances of the instant case has filed the present reply for a just and fair adjudication of the matter by this Hon'ble Tribunal.
2. That save and except the statements and averments made in the contempt petition, which is not specifically admitted herein below, all the other averments and statements shall be deemed to have been denied by the answering respondent.
3. That the petitioner has not narrated the facts involved in the instant case in its entirety. As such, before giving a detailed parawise reply against the statements and averments made in the competent petition, the answering respondent deems it pertinent to place the facts in its entirety before this Hon'ble Tribunal, which are narrated herein below: -

Filed by
The Opposite
Party/Alleged
Contemner
Through
HR, INDRANEE CHOWDHURY
ADVOCATE,
10/05/05

- A. The copy of the order of the Hon'ble Central Administrative Tribunal was received by the Office of the Respondent on 19.04.2004. Thereafter, vide Fax Message dated 21.05.2004 the Home Ministry was intimated about the Judgment and Order dated 05.04.2004 passed by the Hon'ble Central Administrative Tribunal in O.A. No. 15/2003. A query was made vide the said Fax Message to the Home Ministry with regard to the approval of the voluntary retirement of the petitioner. The said Fax Message also intimated the Home Ministry that the Government of Assam had earlier requested for decision of the Ministry with regard to the voluntary retirement of the petitioner. The Respondents was not in a position to process the pensionary benefits of the petitioner without the concurrence of the Home Ministry.

A copy of the said Fax Message dated 21.05.2005 is annexed herewith and marked as ANNEXURE – A.

- B. That thereafter Govt. of India issued instruction vide letter No. 16013/10/2003-IPS.II dated 22.11.2004 wherein it has been mentioned that retirement benefits to Shri D.K. Das, IPS (Retd.) may be allowed only provisionally.

A copy of the aforesaid letter dated 22.11.2004 is annexed herewith and marked as ANNEXURE – B.

- C. That on receipt of the aforementioned instructions from the Government of India, the Department issued the Post Retirement Order in respect of Shri D.K. Das vide Notification issued under Memo No. HMA.121/2003/73-A dated 22.12.2004. The Department found that Shri D.K. Das, IPS did not furnish the required papers for fixing the provisional pension and as such the Department had to obtain from Accountant General, Assam the pay particulars of the petitioner, which was received unofficially from A.G. Further Department had to procure the copy of the petitioner's Earned Leave Application dated 23.08.1981 to verify the statement of salary drawn by him when he went on Earned Leave for a long time.

A copy of the aforesaid Notification dated 22.12.2004 as well as a copy of the Earned Leave Application dated 23.08.1981 are annexed herewith

and marked as ANNEXURES – C & D respectively.

- D. That upon receipt of the pay particulars of the petitioner the Department assessed the provisional pension. Although an incumbent is entitled for provisional pension for a period of one year only yet the Government of Assam vide Order under Memo No. HMA(IPS)33/Pt.I/39-A dated 29.12.2004 had paid the petitioner his provisional pension for the period 05.07.1985 to 31.12.2004 @ Rs. 546/- P.M. with corresponding revision of pension.

A copy of the said Order dated 29.12.2004 is annexed herewith and marked as ANNEXURE – E.

- E. That for the finalization of the petitioner's pension and gratuity a "No Demand Certificate" is necessary. But the petitioner has not submitted the same till this date. As such, he was requested to submit the same vide the aforesaid office order dated 29.12.2004. However, the department has not received the "No Demand Certificate" from the petitioner till date.
- F. That the petitioners Provisional Pension amounting to Rs. 1,27,764/- (Rupees One Lakh Twenty Seven Thousand Seven Hundred Sixty Four only) has been drawn on 11.02.2005 by Director General of Police, Assam through Bank Draft (SBI) and sent to his foreign address.
4. That with regard to the statements made in paragraph 1 of the contempt petition, the answering respondent has no comments to offer.
5. That with regard to the statements made in paragraphs 2 to 5 of the contempt petition the answering respondent categorically denies the correctness of the same and further begs to state and reiterate the statements made in paragraph 3 hereinabove.
6. That with regard to the statements made in paragraph 6 of the contempt petition the answering respondent begs to state that contempt petition is not filed bonafide and for the ends of justice. The answering respondent humbly begs to state that there has been no willful and deliberate violation of this Hon'ble Tribunal's order dated 05.04.2004 passed in O.A. No. 15/2003 on his part. Infact, the Respondent has given highest regard to the said order of this Hon'ble Tribunal and has taken all possible steps for its compliance. The

Respondent regrets for the unavoidable delay, which has occurred in complying with the directions of this Hon'ble Tribunal. Such delay has occurred basically due to non-furnishing of the necessary documents by the petitioner on time. In view of the facts and circumstances narrated hereinabove, the Respondent humbly prays before this Hon'ble Tribunal that there has been no willful and deliberate violation of this Hon'ble Tribunal's orders/directions and as such, this Hon'ble Tribunal may be pleased to close the instant contempt case.

VERIFICATION

I, Dr. Biren Gohain, son of *Late Dipchand Gohain*, aged about 56 years, presently serving as Commissioner and Secretary, Home Department, Government of Assam, Dispur, Guwahati - 6, do hereby solemnly affirm and verify that I am the sole Respondent in the instant contempt petition and as such, I am fully conversant with the facts and circumstances of the case. The statements made in paragraph 1, 2, 4, 5(partly) and 6 are true to my knowledge and those made in paragraphs 3 and 5(partly) are matters of records derived therefrom, which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the th day of April, 2005 at Guwahati.

Biren Gohain

SIGNATURE OF THE DEPONENT

FAX MESSAGE

TO : HOME NEW DELHI.

FROM : HOMESEC ASSAM DISPUR.

NO. HMA. 121/2003/63 DATED 21.5.2004 (.) HON'BLE CAT GUWAHATI BENCH IN ITS JUDGEMENT DATED 5.4.04 IN THE OA NO. 15/2003 HAS ISSUED DIRECTION TO THE STATE GOVT TO FINALISE THE PENSION IN RESPECT OF SHRI D K DAS, IPS WITHIN 2 MONTHS (.) BUT FOR WANT OF GOVT OF INDIA'S APPROVAL TO THE ACCEPTANCE OF VOLUNTARY RETIREMENT STATE GOVT IS NOT IN A POSITION TO PROCESS THE PENSION MATTERS OF THE OFFICER (.) IN THIS CONNECTION IT IS MENTIONED THAT STATE GOVT HAD ALREADY REQUESTED MINISTRY OF HOME AFFAIRS VIDE W.T. MESSAGE NO. HMA(IPS)33/294 DTD 14.5.01 TO INTIMATE THE DECISION OF THE MINISTRY IN REGARD TO THE VOLUNTARY RETIREMENT OF SHRI D K DAS (.) BUT NO POSITIVE RESPONSE RECEIVED AS YET INSPITE OF REMINDERS DTD 24.4.02 (.) REQUEST KINDLY TO INTIMATE THE DECISION/ CONCURRENCE OF THE MINISTRY URGENTLY IN ORDER TO COMPLY WITH THE ORDER OF THE HON'BLE C.A.T. GUWAHATI BENCH (.) MATTER MOST URGENT (.)

(P.P. BAROOAH)
JOINT SECRETARY TO THE GOVT. OF ASSAM,
HOME (A) DEPARTMENT.
...

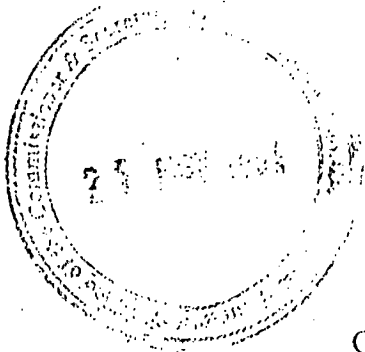
Certified to be true Copy

INDRANEEL CHOWDHURY
Advocate,

ANNEXURE-B⁷²

BY SPEED POST
Court Matter

- 7 -



No. 16013/10/2003-IPS.II
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

New Delhi, Dated the 22nd November, 2004

To,

Dr. B.K. Gohain, IAS
Commissioner & Secretary,
Govt. of Assam,
Home, Political, Passport, Border Areas Deptt.,
Dispur.

Sub: Judgment dated 5th April, 2004 of the CAT, Guwahati Bench in O.A. No. 15/2003
- filed by Shri D.K. Das, IPS (Rtd.) Vs Union of India & ors. - regarding.

Sir,

I am directed to refer to the State Government's Fax Message No. HMA 121/2003/63 dated 21.5.2004 and d.o. letter dated 30.9.2004 on the subject mentioned above and to say that the Hon'ble Tribunal vide their judgement dated 5th April, 2004 have allowed the O.A. and in para-4 of the said order, they have given directions for the State Government to finalize the pension case of Shri Das and allow him the retirement benefits within a specified period.

2. The matter has been carefully considered in this Ministry. It has been found that though there are many irregularities involved in the present matter, the instant CAT's order be implemented so as to avoid the possibility of any contempt proceedings. It will however be so done only provisionally and without prejudice to the Central Government's right to file an appeal/W.P. against the said CAT's order.

3. The State Government is requested to take further necessary action in the matter accordingly. A copy of the order thus passed may also be forwarded to us.

Yours faithfully,

(Y.P. Dhingra)

Under Secretary to the Govt. of India
Tel.No. 23092011/Ext. 264

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27/11/04

Certified to be true Copy

INDRANEEL CHOWDHURY
Advocate,

GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Dispur, the 22nd December, 2004.

NO. HMA. 121/2003/73 : In pursuance of the order dated 5.4.2004 in O.A. No. 15/2003 passed by the Hon'ble Central Administrative Tribunal, and instruction of Government of India contained in their letter No. 16013/10/2003-IPS.II dated 12.11.2004, and without prejudice to the Central Government's right to file an appeal/WP against the order dated 5.4.2004 of the Hon'ble C.A.T., Shri D.K. Das, IPS (retd) is allowed the post retirement benefits provisionally.

Sd/- B.M. Mazumder,
Commissioner & Secretary to the Govt. of Assam,
Home etc. Department.

Memo.No. HMA. 121/2003/73-A
Copy to :-

Dated Dispur, the 22nd December, 2004.

1. The Accountant General, Assam, Maidamgaon, Beltola, Guwahati-29.
2. The Director General & Inspector General of Police, Assam, Ulubari, Guwahati-7.
3. The Under Secretary to the Govt. of India, Ministry of Home Affairs, New Delhi with reference to the letter No. cited above.
4. The Registrar, Central Administrative Tribunal, Guwahati Bench, Rajgarh Road, Bhangagarh, Guwahati-5.
5. Shri D.K. Das, IPS (Retd), Resident of 283, Carolanne Drive, Delmar, New York-12054. He is directed submit pension papers, if not done yet, urgently.

By order etc.,

[Signature]
Deputy Secy. to the Govt. of Assam,
Home (A) Department.

[Signature]
Certified to be true Copy

INDRANEEL CHOWDHURY
Advocate,

MINAL JUSTICE CENTER

Houston State University
Huntsville, Texas 77341
(713) 294-1615

Victor G. Strecher, Ph.D.
Dean and Director

Annexure-V

ANNEXURE (D)



1400-22nd street #26
Huntsville
Texas 77340 (U.S.A.)

August 23, 1981

To
The Chief Secretary
Govt. of Assam
Gauhati.

Through the Inspector General of Police, Assam, Gauhati.

Sir:

This is in continuation of my applications dated July 10 and August 10 - both 1981 - asking for 4 months of study leave in extension from August 18, 1981 and 30 months' leave of absence starting December 19 this year to complete my Ph.D. programme in Criminal Justice.

As indicated by the Home Department I am sending the above request once again through the form enclosed.

I also send the form required in connection with the research fellowship.

I also pray that the Government may kindly advise the Indian Embassy in Washington D.C. to pay me the monthly Study Allowance from January 1981 to August 1981. Following my transfer to this University in January the Embassy wanted to know from the Government whether the Allowance should be continued and there was no reply to that query from Dispur. After my study leave expires in August 1981 I am no longer entitled to the said Allowance. Hence, it may be allowed till now only.

The Government also considered my case exceptional under the Study Leave Rules while I came for Master of Science degree in Criminal Justice to the Michigan State University. Under that rule full tuition fee is due to me. The Government has paid me half of the fee so far although I have appealed many times that because of the tuition fee rule I rejected an Assistantship offered to me by the Michigan State University which has meant a great loss to me and that once a case is considered exceptional under the Study Leave Rules there is no provision/paying only half of the fee. May this kindly be considered once again ?/ for

Yours Sincerely,

(D. K. Das)

INSTITUTE OF CONTEMPORARY CORRECTIONS AND THE BEHAVIORAL SCIENCES

Certified to be true Copy

INDRANEEL CHOWDHURY
Advocate.

- 10 -

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(173)

ASSAM SECRETARIAT (CIVIL)
APPLICATION FOR LEAVE

1. Name of applicant :- Dilip Kumar Das
2. Leave Rules applicable :- All India Services
3. Post held. :- Suptd. of Police
4. Department or office :- Police Department, Assam
5. Pay :- 1800.00
6. House rent allowance, conveyance allowance or other compensatory allowance drawn in the present post. :- None
7. Nature and period of Leave applied for and date from which required. :- August 19, 1981 to June 30, 1984
8. Ground on which leave applied for. :- To complete studies for a Ph.D. degree in Criminal Justice
9. Date of return from last leave and the nature and period of that leave :- January 1980 (69 days' E.L.)
10. I undertake to refund the difference between the leave salary drawn during leave on average pay/commuted leave and that admissible during leave on half pay/half pay leave which would not have been admissible has the proviso to FR.81 (h) (ii)/Rule 13(c) (iii) of the Revised Leave Rules, 1934, not been applied in the event of my retirement from service at the end or during the currency leave.

Date 23 8 81

DK Das

Signature of applicant

Leave address:- 1400-22nd Street #26
Huntsville, Texas 77340 USA

12. Remark and/or recommendation of the Controlling Officer.

1. Date _____
Signature
Department
Designation.

13. Report of the Audit Officer :-

Date :-

Signature :-

Designation:-

GCS
3-8-81

GOVERNMENT OF ASSAM
HOME (A) DEPARTMENT

No.HMA(IPS)33/Pt.I/39, Dtd.Dispur,the 29th Dec.,2004.

From : SHRI K.N. KALITA,
UNDER SECY.TO THE GOVT.OF ASSAM,
HOME (A) DEPARTMENT.

✓ To : The Accountant General (A&E), Assam,
Maidangaon, Beltola, Guwahati-29.

Sub : PROVISIONAL PENSION TO SRI D.K. DAS, IPS(RET.D.)

Sir,

I am directed to convey the sanction of the Governor of Assam to the grant of provisional pension to Sri Dilip Kr. Das, IPS (Retd.) @ Rs. 545/- (Rupees five hundred forty six) only per month for the period with effect from 5-7-1985 to 31-12-2004 with corresponding revision of pension in terms of Govt. Notification No.HMA. 121/2003/73, dtd.- 22-12-2004 (copy enclosed for ready reference).

Yours faithfully,

[Signature]
Under Secy. to the Govt. of Assam,
Home (A) Department

Memo No.HMA(IPS)33/Pt.I/39-A, Dtd.Dispur,the 29th Dec.,2004.
Copy to :-

- 1) The Director General of Police, Assam, Jubari, Guwahati-7. He is requested to draw and disburse the amount to Sri D.K. Das, IPS (Retd.).
- 2) Sri D.K. Das, IPS (Retd.) Resident of 283, Carolanne Drive, Delmar, New York- 12054. He is requested to submit the No Demand Certificate immediately for finalisation of his pension and gratuity etc.
- 3) The Treasury Officer, Kamrup, Guwahati-1.

By Order Etc.

[Signature]
Under Secy. to the Govt. of Assam,
Home (A) Department

Memo No.HMA(IPS)33/Pt.I/39-B, Dtd.Dispur,the 29th Dec.,2004.
Copy to :-

[Signature]
The Accountant General (A&E), Assam, Maidangaon,
Beltola, Guwahati-29.

Certified to be true Copy

[Signature]
INDRANEEL CHOWDHURY
Advocate,

[Signature]
Senior Financial Adviser,
Home (A) Department