

FORM No. 4  
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

ORDER SHEET.

Case No. / Misc. Petn / Cont. Petn / Rev. Appr. .... 49/04 .....

In O.A. 15/03

Name of the Applicant(s) Dilip Kr. Deka

Name of the Respondent(s) K. D. Teng. B. Gohain

Advocate for the Applicant K. P. Pathak S.K. Sarma  
P. Borothikan P. N. Goswami

Counsel for the Railway/C.G.S.C. ✓

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 wilful and deliberate violation of the Tribunal and order dated S. 4.04 passed by this Hon'ble Tribunal in O.A No. 15/03.	07.10.2004	Matter be <del>stayed</del> 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 contemners. List on 5.1.05 for orders.
	1m	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 Hon'ble Cont for filing order 6/10/04 Sekhendip Singh	5.1.2005	Member mb
		Member (A) mb

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

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

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

K. Prahладан  
Member (A)

Member (J)

bb

13/12/04  
D.No= 2000  
Dt-15/12/04

4-1-05

S/2 - admitted.

23-3-05  
no reply has been  
bited.

Om

Notes of the Registry Date

24.3.05.

Orders of the Tribunal

Present: Hon'ble Mr. Justice G. Sivarajan,  
Vice-Chairman.  
Hon'ble Mr. K. V. Prahладan, 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. Prahладan*  
Member

*G. Sivarajan*  
Vice-Chairman

27-4-05  
No notice has been  
served

1m

B.Ted

28.4.05.

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

1m

17.5.2005

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

Post the matter on 17.5.04.

*G. Sivarajan*  
Vice-Chairman

16-5-05  
No affidavit has been  
served.

*SI*

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 pro-  
ceeding, 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. Prahладan*  
Member

*G. Sivarajan*  
Vice-Chairman

Reply has been  
filed.

30  
30.6.05

mb

Notes of the Registry Date Order 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.

*2 Jan 05*  
Vice-Chairman

⑪ Reply filed on behalf of the respondents

*3 by 28.05*

Reply has been filed.

*7 by 2.9.05*

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.

*K. P. Borthakur*  
Member

*2 Jan 05*  
Vice-Chairman

mb

05.09.2005

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

7-3-06

Reply has been filed.

*3 by*

21.3.06

Copy of the order has been sent to the D.P.C. for issuing the same to the applicant as well as to the Advocate for the contemner.

*ctb*

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.P. is closed in terms of the order.

*Rah*  
Vice-Chairman(J)

Vice-Chairman(A)

5

**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:-

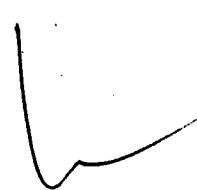
"4. Rule 2(g)(iv), AIS (Leave) Rules 1955 defines Government as the Government which sanctions leave. As per Rule 32 All India Service (Leave) Rules, 1955 the State Government is

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.

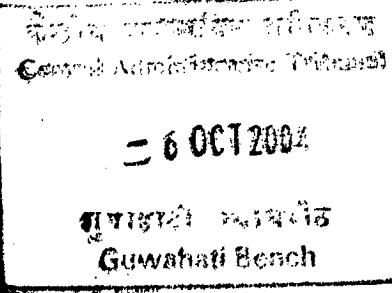


(K. V. SACHIDANANDAN)  
VICE CHAIRMAN (J)



(B. N. SOM)  
VICE CHAIRMAN (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:

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 ~~convenor~~ 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/

Filed by *9*  
Dilip Dev  
through, P.N. Goswami,  
Advocate, 6/10/04

6  
Sri  
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-

(D) 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 be-  
nefits 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/

4  
Delhi Govt

(3)

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/Condemner 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

(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 contemners 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.

(5)

DRAFT CHARGE

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 paragraphs ..... 1-6 ..... are true to my knowledge and those made in paragraphs ..... 7-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 6th day of October, 2004 at Guwahati.

Identified by:

P.N. Goswami

Advocate

Dilip Das

D E P O N E N T

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

D. Pathak  
6/10/04.  
A D V O C A T E

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  
Maidamgaon, 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 &amp; 3.

ORDERK.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 <sup>Central Govt</sup> State Government is

Contd...2

Established 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.

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 <sup>law</sup> waive any conditions relating to the leave rules if it causes undue hardships 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 this order.

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

Sd/MEMBER(ADM)



mb

Certified to be true Copy  
मान्य अवलोकन

From Section Officer (I.I.)  
C.A.T. GURU GEGE BANGLA  
Gangchari 13/205

11/11/1984

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  
Contemnor  
Through  
MR. INDRAJIT CEDAR HUKEY  
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

21

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.



SIGNATURE OF THE DEPONENT

ANNEXURE - A

- 6 -

(63)

FAX MESSAGE

TO : HOME NEW DELHI.

FROM : HOMESEC ASSAM DISPUR.

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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 (.)

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*21/5/04*  
(P.P. BAROOAH)  
JOINT SECRETARY TO THE GOVT. OF ASSAM,  
HOME (A) DEPARTMENT.

*97*  
Certified to be true Copy

INDRANEEL CHOWDHURY  
Advocate,

ANNEXURE-B 672

- 7 -

BY SPEED POST  
Court Matter

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

\* \* \* \*

New Delhi, Dated the 22<sup>nd</sup> November, 2004

To,

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

Sub: Judgment dated 5<sup>th</sup> 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 5<sup>th</sup> 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.

jmp & Immediate  
DTS Home (A)  
C/S-fo/t  
AB

Yours faithfully,

(V.P. Dhingra)

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

59  
27/11/04

Certified to be true Copy

INDRANEEL CHOWDHURY  
Advocate,

MB  
29/11

GOVERNMENT OF ASSAM  
HOME (A) DEPARTMENT

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Dispur, the 22<sup>nd</sup> 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 22<sup>nd</sup> 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.,

*so and  
22/12/04*  
Deputy Secy. to the Govt. of Assam,  
Home (A) Department.

*C/C*  
Certified to be true Copy

INDRANEEL CHOWDHURY  
Advocate,

MINAL JUSTICE CENTER

Houston State University  
Huntsville, Texas 77341  
619 294-1635

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

Annexure-V

ANNEXURE



- 9 -

245

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

INORANEEL CHOWDHURY  
Advocate.

ASSAM SECRETARIAT (CIVIL)  
APPLICATION FOR LEAVE

1. Name of applicant :- Dilip Kumar Das

2. Leave Rules applicable :- All India Services

3. Post held. :- Subdt. 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 :- 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

*DKD*

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:-

- 11 -

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(RETD.)

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. 546/- (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,

*Sri K.N. Kalita*  
 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, Jorhat, 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.

*Sri K.N. Kalita*  
 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 :-

*W.A.* The Accountant General (A&E), Assam, Maidangaon, Beltola, Guwahati-29.

*JK*  
 Certified to be true Copy

*INDRANEEL CHOWDHURY*  
 Advocate.

*JK*  
 Senior Financial Adviser,  
Home (A) Department