

FORM NO. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. _____

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. ~~208~~ 18/04 _____

Applicants: U.O.I. & Oms.

Respondents: S. Karmakar & Oms.

Advocate of the Applicants: B. C. Pathak.

Advocate for the Respondents: S. Sarma, U. Das.

Notes of the Registry	Date	Order of the Tribunal
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This Review application, 01.12.2004 has been filed by the Counsel for the Union of India & Oms w/s 22(3)(f) of the CAT Act, 1985 read with Rule 17 of the CAT (Procedure) Rule, 1987 praying for review the order dated 6.10.04 passed no. A146/03

Laid before the Hon'ble Court for further orders

File
for Section Officer

Spd.

15.12.04

Copy of the order has been sent to the Office for issuing the same to the L/Advocates for the parties.

mb

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

Heard Mr. B. C. Pathak, learned counsel for the respondents.

There is no ground for reviewing the order dated 6.10.2004 as there is and no apparent error on records to entertain the review application. Hence, the Review Application is dismissed.

R
Vice-Chairman

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal

2 DEC 2004

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI
Guwahati Bench

Review Application No 18 of 2004

In O.A.No.146/2003

File by:-

20/11/04

(B. C. Pathak) 20/11/04
Addl. Central Govt. Standing Counsellor
Central Administrative Tribunal
Guwahati Bench : Guwahati

In the matter of :

An application made under Section 22(3)(f) of the Central Administrative Tribunal Act 1985 referred to as "Act") read with Rule 17, of the Central Administrative Tribunal (Procedure) Rules, 1987(referred to as "Rules")

-AND-

In the matter of :

1. Bharat Sanchar Nigam Limited , a registered company under the Companies Act, 1956, represented through the Chief General Manager, Assam Circle Guwahati.
2. The Telecom District Manager,
Nagoan Telecom Division
Bharat Sanchar Nigam Limited
Nagoan.

3. The Chairman – cum – Managing Director ,
Bharat Sanchar Nigam Limited, New Delhi.

..... Petitioners

-Vs-

1. Sri Subhas Karmakar
Vill –Lumding bazaar, Lumding
Dist –Nagaon, (Assam).
2. Sri Nitai Ch. Mitra
Vill-North Lumding Sankar Patti,
Lumding, Dist-Nagoan, Assam.
3. Sri Bikash Malakar
Vill- Pachim Nandalalpur Dimrupar (Hojai),
Dist – Nagoan, Assam.
4. Sri Mati Malakar
Pub –Nandalalpur,
O.P. Dimrupar, Via-Hojai
Dist- Nagaon, Assam.
5. Sri Babu Malakar
Vill & P.O. Dimrupar
Dist-Nagaon, Assam.
6. Sri Biswajit Malakar
Vill- Pachim Nandalalpur,
P.O. Dimrupur (Hojai),
Dist. Nagaon, Assam.

7. Sri Lakhi Kanta Malakar
Pachim Nandalalpur Dimrupar, Via-Hojai
Dist- Nagaon, Assam.

..... Opposite Party

The humble petition of the above name petitioners-

MOST RESPECTFULLY SHEWETH :

1. That the above named opposite party filed the above noted O.A.No. 146/03 (referred to as the "Application") in their Hon'ble Tribunal with a prayer for certain benefits as provided under the "Casual Labourers (Grant of Temporary Status and Regularization) of the Department of Telecommunications, Scheme of 1989". After filing of the said application, the petitioners received a communication from this Hon'ble Tribunal vide Communication O.A No.146/03 1910 dtd 9.9.03 which was received by the official respondents in the application on 22.9.2003. In the said notice dtd 22.9.2003 it was indicated that the Sr. CGSC (MR.A.Deb Roy) appeared in the case and took steps. As a matter of normal course of procedure, it was the duty of the Sr.CGSC to inform the present petitioners about the action to be taken and about the subsequent development in the case. But the said Sr.CGSC kept the petitioner quite in dark about the case and went on taking adjournment and ultimately this Hon'ble Tribunal was pleased to pass an order as on 6.10.2004 thereby imposing cost of Rs.500/- for seeking adjournment of the matter for the seventh time for filling written statements in the case. It has also been reflected in the said order dt 6.10.2004 that prior to 6.10.2004, the Sr.CGSC sought six adjournments for the same reason in the case. All this adjournments were sought without any intimation given to the petitioners or without any instruction given by the petitioners. From the said order dtd 6.10.2004, it has

however, not specifically mentioned anything as to who will pay the cost to the applicants. The matter has been fixed by the said order to be listed as on 1.12.2004. By the said order it has also been made a condition precedent that unless the said cost is paid the written statements shall not be allowed to be filed by the petitioners (respondents). In this connection it is also pertinent to mention here that although the order was passed on 6.10.2004 the copy of the said order was prepared only on 1.11.2004 and thereafter only the copy was sent through post to the petitioners (respondents) which they have received sometime in the mid of month of November, 2004. The petitioner was surprised to know the development on receipt of the said order and after going through the contents thereof. Hence this review application has been preferred by the petitioners.

A copy of the order dtd 6.10.2004 is annexed as
ANNEXURE-A

2. That immediately on receipt of the said order seeking review, the petitioners took up the matter with the Sr. CGSC vide their letter No. STES-21/465/9 dt. 25.11.2004 and expressed their surprise and dissatisfaction on the manner and the way the said Sr. CGSC conducted the case by keeping the petitioners in dark and without any intimation in that regard. By the said letter the petitioners also expressed the views that the Sr. CGSC did not follow the instructions given to him by the petitioners from time to time in defending/conducting the case on behalf of the petitioners.

A copy of the said letter dt. 25.11.2004
addressed to the Sr. CGSC is annexed as
ANNEXURE-B.

3. That the petitioners, after considering the development in the case and also the manner in which the Sr. CGSC was conducting the case, have decided to engage another counsel to defend the case on their

behalf by filling written statements/documents etc on or before 1.12.2004. Accordingly the written statement has been prepared and filed in the case which may kindly be accepted and considered for hearing of the matter.

4. That although it has been not specifically mentioned anything as to who would require to pay the cost of Rs.500/- to the applicants, the petitioner No.1 in this application has already written to the petitioner No.2 being the actual authority pertaining to the matter to arrange payment of Rs.500/- to the applicants This has been done vide letter No. STES-21/465/12 dt. 24.11.2004. It is expected that the said payment of cost of Rs.500/- would certainly be effected and made without any delay.

A copy of the said communication dt.
24.11.2004 as annexed as ANNEXURE-C.

5. That for the fact and circumstances of the case as explained hereinabove, it is a fit case in which the Hon'ble Tribunal would be pleased to exercise the power of review as provided under section 22(3)(f), of the Act and Rule 17 of the Rules read with Order 47, Rule 4(2)(b) of the Code of Civil Procedure, 1908 as amended.
6. That the application has been made within the period of limitation as provided under the Rules 17(1) as the petitioner received the copy of the order under review only after 1.11.2004 which is very much clear from the copy of the order itself which was issued on 1.11.2004 and thereafter transmitted through post to the petitioners which may received sometime in the mid of the month of November 2004.

7. That this is a fit case in which this Hon'ble Tribunal would be pleased to hear the parties and perused the records of the case and the copy of the order under review as in Annexure- A and would satisfy itself in reviewing the order for the facts and circumstances of the case and the explanation given showing the sufficient reasons for such review and for the fact that the written statement has also been filed in the case.
8. That if the order dt. 6.10.2004 passed by this Hon'ble Tribunal is not reviewed thereby exempting the petitioners from the liability of payment of cost of Rs.500/- to the applicants and consequently the written statement so filed are not accepted for hearing of the matter, the petitioners would suffer irreparable loss and injury. As explained hereinabove, there is a prima facie case which needs hearing with the presence of the petitioners and their pleadings and as such the balance of convenience is also there.
9. That this petition has been made bonafide and for the ends of justice.

In the premises aforesaid it is therefore prayed that Your Lordships would be pleased to hear the parties, perused the records and after hearing the parties and perusing the records also be pleased to allow the review the order dated 6.10.2004 passed in OA No.146/03 by exempting the petitioners from the liability to pay cost of Rs.500/- and also accept the written statements by fixing a date of hearing of the matter. And /or pass such further or other order that this Hon'ble Tribunal may deem fit and proper.

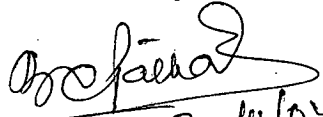
AFFIDAVIT

I, Sri Sankar Ch. Das, S/O Late Gopi Ram Das, aged about 58 years, resident of Telecom Officers' Colony, Chenikuthi Hillside, Guwahati -3, do hereby solemnly affirm and state as follows :

1. That at present I am working as Assistant Director Telecom (Legal) in the office of the Chief General Manager, Bharat Sanchar Nigam Limited, Assam Circle Guwahati and looking after and taking steps in all the courts cases relating to the Assam Circle. Hence I am fully acquainted with the facts and circumstances of the case and competent and duly authorized to swear this affidavit.
2. That the statement made in Para 5, 6, 7, and 8... are true to my knowledge and belief, those made in Para being matter of records are true to my information derived there from. The statement made in Para 1, 2, and 4... are my legal advice and the rest are my humble submissions before the Hon'ble Tribunal. I have not concealed and suppressed any material fact.

And I sign this affidavit on this 30th day of November 2004 at Guwahati.

Identified by me


Advocate 30/11/04

Sankar Chandra Das

As ~~Deponent~~ Assistant Director Telecom (Legal)
O/o the Chief General Manager BSNL
Assam Telecom Circle, Guwahati-7

Solemnly, affirm, declared and signed by this
deponent before me on this 30th day of
November 2004 at Guwahati, identified by B. Chandra,
Advocate.


Magistrate/Advocate 30/11/04

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ANNEXURE : A

ORDER SHEET

Original Application No: 146/03

Misc Petition No: _____

Contempt Petition No: _____

Review Application No: _____

Applicants: - S. Karmakar Sang

Respondants: - H. O. T. Sang

Advocate for the Applicants: - S. Sarma, Shishu Day

Advocate for the Respondants: - Caje

Notes of the Registry Date

6.10.2004

Order of the Tribunal

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

Learned Advocate for the respondents Mr. A. Deb Roy, Sr. C.G.S.C. seeks time to file written statement. Till today, six adjournments have already been granted in the said purpose. Last adjournment was granted on 7.9.2004 as a last chance. Be that as it may, last and final adjournment is granted subject, however, payment of costs of Rs.500/- to the applicant. Payment of costs is condition precedent for granting today's adjournment. If costs are not paid/deposited on or before the next date, the respondents shall not be allowed to file written statement. Adjourned to 1.12.2004.



TRUE COPY

रिजिस्ट्रार

11/10/04
 अधिकारी (साक्षिक शाखा)
 Central Administrative Tribunal
 6-टीए न्यायासनिक अधिकरण
 Guwahati Bench, Guwahati
 न्यायाधीश न्यायालय, गुवाहाटी

Sd/VICE CHAIRMAN

BHARAT SANCHAR NIGAM LTD.*(A Govt. of India Enterprise)***Office of the Chief General Manager Telecom.****Assam Telecom. Circle, Ulubari, Guwahati-781 007.**

No. STES-21/465/9

Dated at Guwahati the 25.11.2004.

To

Shri A. Deb-Roy

Sr. CGSC,

Hengrabari Houseing Colony

L. I. G - 3 (Top Floor)

Guwahati - 781006.

Ph: 2265334 (R)

Sub: OA No. 146/03 (S. Karmakar & Others Vs UOI & Others) action taken thereof.

Sir,

This is to inform you that we are in receipt of a copy of the order dated 06/10/2004 passed by the Hon'ble CAT/Guwahati in OA No. 146/2003. According to the said order it is seen that you had sought as many as 6 (six) Nos of adjournments in the case for filing Written statements. But we are surprised to note that no communication was made from your side to us informing about the case and also the steps to be taken there with our comments and records. We have been kept in dark about the said pending litigation and instead of taking positive steps you have further prayed for time for filing Written statement on 06/10/2004. The Hon'ble CAT has granted time to you but has imposed a cost of rupees 500/- with a direction to pay the same to the applicant. By the said order it has also been made a condition precedent that only after payment of said amount Written statement would be permitted to be filed in the case. The matter was adjourned till 01/12/2004 for such payment and filing Written statement. But inspite of the said order imposing cost in your presence and Knowledge, you have kept us in dark about the said order and not informing or filing of Written statement by 01/12/2004. We have recovered the said order by post sent by CAT only vide CAT/ Guwahati bench letter No. Nil dated 04/11/2004 received on 19/11/2004.

Now, in view of the above facts and circumstances there is virtually no time to file the Written statement on or before 01/12/2004 and whereas, on our enquiry we have come to know that you are not available at Guwahati till 25/11/2004.

In this connection we would like to remind you that we issued standing instruction to you on several occasions to raise question of want of Jurisdiction of CAT over the BSNL and to raise such objection as preliminary issue. Please refer to our standing instructions issued vide this office letter dated 23/08/2002, 01/03/2004, 20/07/2004 and 14/10/2004.

But we have seen in no occasion or in any Written statement (if filed) no such preliminary objection was raised. In this instant case also you could have raised the said issue preventing from imposing cost which has not been done.

Contd.....P/2.

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Under the situation, the undersigned has been directed to convey the displeasure of the competent authority for non-communicating the important decision of Hon'ble court at relevant time which could have been done in written or verbal to us.

We solicit your kind co-operation in this regards.

Thanking you.

Sincerely yours

(A. K. Chelleng)
Asstt. General Manager (A)

✓ FAX/SPEED POST/REGD/UR

COURT CASE/IMMEDIATE

**BHARAT SANCHAR NIGAM LIMITED**

(A GOVT OF INDIA ENTERPRISE)

O/O THE CHIEF GENERAL MANAGER
ASSAM TELECOM CIRCLE:ULUBARI::GUWAHATI-7

No. STES-21/ 465 / 12

Dated at Guwahati the 24.11.2004.

To

*The General Manager,
Nagaon Telecom District,
Bharat Sanchar Nigam Limited,
Nagaon.*

SUB:- OA No. 146/2003 filed by Shri S Karmakar & ors.

Ref:- This office letters of even nos. dtd. 2/1/2004, 25/5/2004, 31/7/2004 & 13/10/2004.

Inviting a reference on the subject mentioned above, and also referring this office correspondences dtd. 2/1/2004, 25/5/2004, 31/7/2004 & 13/10/2004, you are hereby once again requested to submit Para-wise comments, immediately, for submission of written statement before the Hon'ble CAT.

The case has already been delayed badly from your office in submission of Para-wise comments, in spite of several request from this office. And now the court has granted the last adjournment up to 1.12.04, on a condition to pay the applicant a sum of Rs.500/- (Rupees five hundred only) as payment of cost. A copy of order dtd. 6.10.04 is enclosed herewith. If the applicant is not paid the amount then the Respondents shall not be allowed to submit the written statement.

In the above situation, you are requested to take steps for making payment to the applicant and forward the Para-wise comments, immediately, together with payment slip, before 1.12.04 by return fax.

This is MOST IMMEDIATE

Encl:-A/A

(A. K. Chelleng)

Asstt. General Manager (A)

O/C