

FORM No. 4

(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. _____

Misc. Petition No. _____

Contempt Petition No. 1/05 in O.A. 93/03 with P. 22/04

Review Application No. _____

Applicants: Krishna Bahadur Bhujal

Respondents U.O.R. Gurs.

Advocates for the Applicant M. Chanda, S. Nath, O.N. Chakraborty

Advocates of the Respondents Case B.C. Patra, B. Patra, D. Bora

Notes of the Registry | Date | Order of the Tribunal

This Contempt petition has been filed by the counsel for the petitioner praying for initiation of a contempt proceeding against the alleged contemner for non-compliance of the order dated 26.2.04 passed in O.A. No. 93/2003^{and} order dated 31.3.04 passed in M.P. 22/04.

07.01.2005

Heard S. Nath, learned counsel for the applicant.

Issue notice to show cause as to why contempt proceedings shall not be initiated.

List on 7.2.2005 for orders.

[Signature]
Member (A)

Laid before the Honble Court for further orders.

11-8-05

[Signature]

370

[Signature]
for Section officer

[Signature]

Notice & order sent to D/section for issuing to resp. Nos. 1, 2 & 3 by regd. A/D post.

24/01/05.

Letters No. -
Ref. - AC No. 1(10)/Law/AHY/05/159, Dt. 2/3/05, received from Superintendent (Law) Central Excise, AHY, at front page of file "A".

9/3/05.

3-8-05

OA 9/05 of the same applicant disposed on 28.05.05. The CP is placed in orders on 11.8.05.

pm

① Service report are still awaited.

mb

Received copy on behalf of contemners.

Received by B. C. Pathak 25/8/05

Inspector, Hqrs. Law Cell, Central Excise, Guwahati.

25/8

12.8.2005 Present : Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.

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

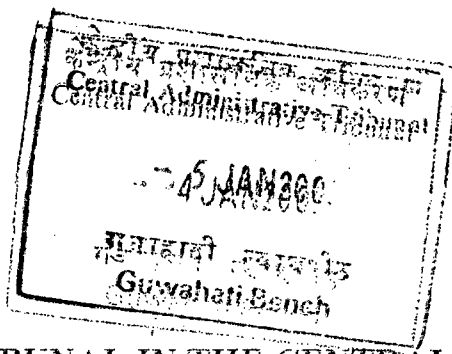
Today when the matter came up for consideration learned counsel Mr. D. Baruah representing Mr. B.C. Pathak, learned counsel for the respondents submitted that the direction issued in the O.A. has already been complied with. Counsel has also placed before us a communication dated 19.5.2005 alongwith a copy of the Office Order No. 72/2005 dated 16.5.2005. Mr. S. Nath, learned counsel for the applicant ^{for also} submits that the direction has already been complied with.

In the light of the above, without prejudice to the right to the applicant to challenge the said order, if he so advised, the C.P. is closed.

Member

G. Sivarajan

Vice-Chairman



3

Filed by me petitioner
through: Subrata Nath
Advocate
OS. dt. 2005.

**TRIBUNAL IN THE CENTRAL ADMINISTRATIVE
GUWAHATI BENCH: GUWAHATI**

(An Application under Section 17 of the Administrative Tribunals Act, 1985)

Contempt Petition No. 1 /2005

In O.A. No. 93 of 2003.

In the matter of:

Shri Krishna Bahadur Bhujal.

... Petitioner.

- Versus-

Union of India and Others.

... Alleged Contemnors.

-And

In the matter of:

An application under section 17 of the Administrative Tribunals Act, 1985 praying for initiation of a Contempt proceeding against the alleged contemnors for non-compliance of the order dated 26.02.2004 passed in O.A. No. 93/2003 and order dated 31.03.04 passed in M.P No. 22/04 in O.A. No. 93/03.

-And -

In the matter of:

Shri Krishna Bhadur Bhujal

S/O- Late Ranabir Bhujal.

Assistant Commissioner.

Central Excise, Jorhat Division.

Jorhat, Assam.

... Petitioner.

✓

-Versus-

- 1) Shri K.M Chandra Sekhar.
Secretary to the department of Revenue,
Govt. of India.
New Delhi.
- 2) Shri A.K. Singh.
The Chairman
Central Board of Excise and Customs.
New Delhi.
- 3) Shri R.K. Tiwari.
The Member (Personnel & Vigilance),
Central Board of Excise & Customs.
New Delhi.

... Alleged Contemnors.

The humble petitioners above named-

Most respectfully sheweth: -

1. That your petitioner being aggrieved due to non-consideration of his promotion to the post of Deputy Commissioner, Central Excise and Custom by the DPC held in 2002, approached this Hon'ble Tribunal through O.A. No 93 of 2003 and also sought for a direction upon the respondents to promote him to the post of Deputy Commissioner from the date in which his juniors were promoted.
2. That the Hon'ble Tribunal after hearing both the parties was pleased to dispose of the application vide order dated 26.02.2004 passed in O.A. No. 93 of 2003 directing the respondents as follows: -

“that the representation dated 15.5.2001 against the adverse remarks which were communicated to the applicant on 25.4.2001 is still pending and no action taken by the respondents for disposal of the representation. the O.A stands disposed of with directions to dispose of the representation by a speaking order without taking into consideration the litigation before us and without prejudice to him and the same shall be communicated to the applicant. If the adverse remarks are toned down or expunged a review DPC to be held for consideration of the applicant for promotion to Deputy Commissioner from the date of his juniors are promoted and in that event he would be entitled to all consequential benefits.

The O.A. stands disposed of. ”

(Copy of the Judgment and order dated 26.02.2004 is annexed hereto and marked as Annexure-1).

3. That your petitioner thereafter approached this Hon'ble Tribunal for correction in the judgment and order dated 26.2.2004 through Misc. Petition No. 22/04 in O.A. No. 93/03 which was disposed of on 31.3.2004 with a direction to the respondents as follows: -

“----- Let the judgment and order dated 26.2.2004 passed in O.A. No. 93/2003 be corrected. Respondents are directed to pass an order on the representation dated 8.3.2002 also filed by the applicant against the adverse remark communicated vide letter dated 13.2.2002.

This order shall supplement the earlier order dated 26.2.2004 passed in O.A. 93/2003.”

(Copy of the order dated 31.03.2004 is annexed hereto and marked as Annexure-II.)

- 4. That your petitioner approached the alleged contemnors through representation dated 05.03.2004 and 29.09.04 for implementation of the order dated 26.02.3004 and dated 31.3.2004 enclosing therewith copies of the order of the Hon'ble Tribunal passed in O.A. No. 93 of 2003. Be it stated that the petitioner in his representation dated 29.09.04 prayed for early decision on his representation but to no result.

(Copy of the representation dated 05.03.04 and 29.09.2004 are annexed hereto and marked as Annexure-III & IV respectively.)

- 5. That the humble petitioner begs to state that more than 9 (nine) months time have passed since the passing of the order by this Hon'ble Tribunal but the alleged contemnors have not initiated any action for implementation of the Judgment aforesaid.
- 6. That it is stated that the alleged contemnors deliberately and willfully did not initiate any action for implementation of the Judgment and Order dated 26.02.2004 and dated 31.03.2004 passed by this Hon'ble Tribunal in O.A. No 93 of 2003 and M.P. No. 22/04 respectively which amounts to Contempt of Court. Therefore the Hon'ble Tribunal be pleased to initiate a Contempt proceeding against the alleged contemnors for willful violation of the order of the Hon'ble Tribunal dated 26.02.2004 in O.A.No.93/2003 and order dated 31.03.04 in M.P. No. 22/04 and further be pleased to impose punishment upon the alleged contemnors in accordance with law.

Under the facts and circumstances stated above, the Hon'ble Tribunal be pleased to initiate Contempt proceeding against the Alleged Contemnors for willful non-compliance

of the order dated 26.02.2004 in O.A.No.93/2003 and order dated 31.03.04 in M.P. No. 22/04 in O.A. No. 93/2003 and be pleased to impose punishment upon the alleged contemnors in accordance with law and further be pleased to pass any other order or orders as deemed fit and proper by the Hon'ble Court.

And for this act of kindness the petitioner as in duty bound shall ever pray.

AFFIDAVIT

I. Shri Krishna Bahadur Bhujal, S/o Late Ranabir Bhujal aged about 53 years resident of Upper Mauprem, Shillong, presently working as Assistant Commissioner, Central Excise at Jorhat, Assam, do hereby solemnly declare as follows: -

1. That I am the petitioner in the above contempt petition and as such I am well acquainted with the facts and circumstances of the case and also competent to sign this affidavit.
2. That the statement made in para 1 to 5 are true to my knowledge and belief and I have not suppressed any material fact.
3. That this Affidavit is made for the purpose of filing contempt petition before the Hon'ble Central Administrative Tribunal, Guwahati Bench for non-compliance of the Hon'ble Tribunal's order dated 26.02.2004 passed in O.A. No.93/03 and order dated 31.03.04 passed in M.P No. 22/04 in O.A. No. 93/04.

And I sign this Affidavit on this 5th day of January, 2005.

Identified by

Surajit Choudhary,
Advocate.

Krishna Bahadur Bhujal
Deponent

The abovenamed deponent solemnly affirmed and declared before Shri Subrata Nath, Advocate on the 5th day of January, 2005, who is identified by Shri Surajit Choudhary, Advocate.

Subrata Nath
Advocate
5.1.05.

DRAFT CHARGE

Laid down before the Hon'ble Central Administrative Tribunal, Guwahati for initiating a contempt proceeding against the contemnors for willful disobedience and deliberate non-compliance of order of the Hon'ble tribunal dated 26.02.2004 passed in O.A. No 93:2003 and Order dated 31.03.04 passed in M.P No.22:04 in O.A No. 93:2003 and to impose punishment upon the alleged contemnors for willful disobedience and deliberate non-compliance of the Hon'ble Tribunal's order dated 26.02.04 and order dated 31.03.04.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.93 of 2003

Date of decision: This the 26th day of February 2004

The Hon'ble Shri Shanker Raju, Judicial Member

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

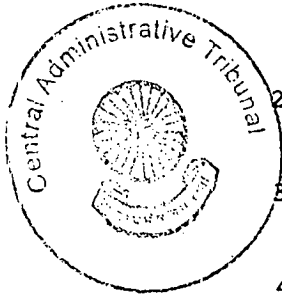
Shri Krishna Bahadur Bhujal
S/o Late Ranbir Bhujal
Assistant Commissioner
Central Excise, Jorhat Division,
Jorhat, Assam.

.....Applicant

By Advocates Mr A.S. Choudhury and
Mr I. Hussain.

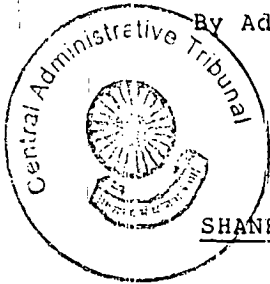
- versus -

1. The Union of India, through the
Secretary,
Ministry of Finance (Department of Revenue),
Government of India,
New Delhi.
2. The Chairman
Central Board of Excise and Customs,
New Delhi.
3. The Member (Personnel & Vigilance)
Central Board of Excise & Customs,
New Delhi.
4. The Chief Commissioner
Central Excise,
Kolkata.
5. The Commissioner
Central Excise
Shillong.
6. Shri Prem Chndra Bhujal
General Manager
Government Opium Factory, Gajipur,
Uttar Pradesh.
7. Shri Dimbeswar Bora
Deputy Commissioner,
Central Excise (A&E),
Shillong.
8. Shri B.R. Deb Roy
Deputy Commissioner, Customs,
Strand Road, Kolkata.
9. Shri Nazrul Islam
Deputy Commissioner
Siliguri Customs Division
Siliguri, West Bengal.
10. Shri A.K. Pandit
Deputy Commissioner,
Strand Road, Kolkata.
11. Md. A. Hussain
Deputy Commissioner
Central Excise
Bhangagarh, Guwahati.



True Copy
Sent
Advocate

12. Shri L.S. Vanchuawng
Deputy Commissioner, Customs
Aizwal Division,
Aizwal, Mizoram.
 13. Shri M.C. Hazarika
Deputy Commissioner
Central Excise, Dibrugarh Division,
 14. Shri Biswajit Sarkar
Deputy Commissioner
Customs,
Strand Road, Kolkata.
 15. Shri Subir Kumar Chakraborty
Deputy Commissioner
Central Excise, Shillong Division,
Shillong.
 16. Shri S.P. Chakraborty
Deputy Commissioner
C/o Member (P & V),
Central Board of Excise & Customs,
New Delhi.
 17. Shri P.S. Purkayastha
Deputy Commissioner
New Delhi.
 18. Shri Rama Kanta Das
Deputy Commissioner,
Central Excise, Digboi Division,
Tinsukia, Assam. Respondents
- By Advocate Mr A.K. Chaudhuri, Addl. C.G.S.C.



O R D E R (ORAL)

SHANKER RAJU, MEMBER (J)

The applicant, an Assistant Commissioner in the Central Excise and Customs seeks promotion as Deputy Commissioner. The DPC held in 2002 has not considered the case of the applicant.

2. Heard Mr I. Hussain, learned counsel for the applicant and Mr A.K. Chaudhuri, learned Addl. C.G.S.C.

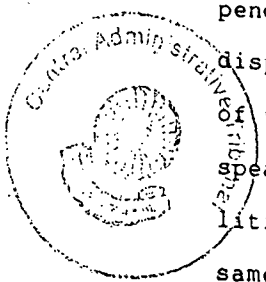
3. The learned counsel for the applicant states that as per the instructions on writing of ACRs a representation against adverse remarks in the ACR is to be disposed of within three months from the date of its submission.

4. We also find that as per the procedure to be adopted in holding the DPC as contained in O.M. dated 10.4.1989, when a representation is pending against adverse remarks in the ACR, the DPC may in their discretion defer the consideration of case until a decision on the representation against the adverse remarks is taken.

5. In case the adverse remarks is toned down or expunged review DPC is to be held to consider the case of the applicant for promotion from the date his juniors were promoted.

6. As it is found that the representation dated 15.5.2001 against the adverse remarks which were communicated to the applicant on 25.4.2001 is still pending and no action taken by the respondents for disposal of the representation, the O.A. stands disposed of with directions to dispose of the representation by a speaking order without taking into consideration the litigation before us and without prejudice to him add the same shall be communicated to the applicant. If the adverse remarks are toned down or expunged a review DPC to be held for consideration of the applicant for promotion to Deputy Commissioner from the date his juniors are promoted and in that event he would be entitled to all consequential benefits.

The O.A. stands disposed of.



Certified to be true Copy
 सत्यं ज्ञानमोक्षमिति

Sd/MEMBER (J)

Sd/MEMBER(Adm)

[Signature]
 3/3/06
 Section Officer (J)
 C.A.T. GUWAHATI BRANCH
 Guwahati-781005
[Signature] 3/3/06

[Signature]
 28/3/06
 (N. SINGHA)
 Superintendent
 Central Excise, Jorhat

*True Copy
 for Advertiser*



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

MEMBER SHEET

Orig. App./ Misc. Petn./ Pet. Dnly/ Rev. Appl. 22/04

O.A. No. 93/03

Name of the Applicant(s) K.B. Borhual

Name of the Respondent(s) UOI & ONS.

Advocate for the Applicant Mr A.S. Chaudhry & J. Hussain

Counsel for the Railway/ C.G.S.C. Mr A.K. Chaudhry, Add. C.G.C.

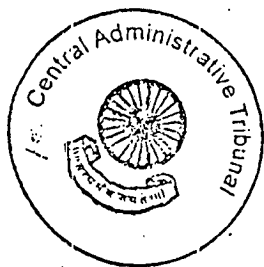
OFFICE NOTE

DATE 31.3.2004

OFFICER OF THE TRIBUNAL

Present: The Hon'ble Shri Ruldip Singh
Member (J).

The Hon'ble Shri K. V.
Prahlanan, Member (A).



We have heard Mr. I. Hussain, learned counsel for the petitioner and Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. for the respondents.

This application has been filed seeking correction in the judgment and order dated 26.2.2004 passed in O.A. 93 of 2003. It is submitted that while passing the said order, no mention was made to consider the representation dated 8.3.2002. We have observed that the same appears to be a typographical omission.

Let the judgment and order dated 26.2.2004 passed in O.A. 93/2003 be corrected. Respondents are directed to pass an order on the representation dated 8.3.2002 ^{also} filed by the applicant against the adverse remark communicated vide letter dated 13.2.2002.

This order shall supplement the earlier order dated 26.2.2004 passed in O.A. 93/2003.

The M.P. is accordingly disposed of

Sd/MEMBER(J)

Sd/MEMBER(Adn)

Certified to be true Copy
प्रमाणित प्रतिलिपि

[Handwritten signature]
01/04/04

Section Officer (J)
C.A.T. GUWAHATI BENCH
Guwahati-781005

[Handwritten initials]
11/4/04

[Handwritten signature]
20/4/04
(N. SINGHA)
Superintendent
Central Excise, Jorhat

True copy
sent
[Handwritten initials]

C.No. II(1)1/ET-II/MISC/ACJ/2001/ 4419

Dated: 5/3/04

To,
The Member (P&V),
Central Board of Excise & Customs,
North Block, New Delhi.

Sir,

Subject :- CAT Guwahati Bench order dated 26.02.2003 - Submission of .

I have the honour to forward herewith an attested certified copy of the order dated 26.02.2003 passed by the Hon'ble CAT, Guwahati Bench, the contents of which will be found self explanatory.

In this light of natural justice and fair play, it would be evident that the contentions made in my representations dated 15.05.2001 and dated 08.03.2002 against the adverse remarks deemed accepted by your honourable office, though I am yet to be intimated about the same.

In view of the aforesaid, you are requested to kindly let the undersigned know through a speaking order nullifying the adverse remarks made against me.

I hope, you will be kind enough to accept my contention sympathetically in all fairness.

For this act of kindness I shall remain ever pray.

Yours faithfully,

Encl: CAR order in 3 (three) pages. *O/c*

[Signature]
5.3.04
(K.B.BHUJEL)
ASSISTANT COMMISSIONER
CENTRAL EXCISE : JORHAT.

C.No. II(1)1/ET-II/MISC/ACJ/2001/ 4420

Dated: 5/3/04

Copy for favour of information and necessary action to :

- 1. The Commissioner, Central Excise, Morello Compound, Shillong.

O/c

[Signature]
5.3.04
(K.B.BHUJEL)
ASSISTANT COMMISSIONER
CENTRAL EXCISE : JORHAT.

*True copy
sent
Advocate*



REGISTRATION

ANNEXURE-IV 15

GOVT. OF INDIA
OFFICE OF THE ASSISTANT COMMISSIONER
CENTRAL EXCISE DIVISION::JORHAT
Station Godown Road, Jorhat 785001

Phone: (0376) 2322805 Fax: 2320006 E-mail:div7403 & cenexjor@sancharnet.in

C.No.II/3/3/ET/89/ 2971

Dated : 29/9/04

To,

The Member (P & V)
Central Board of Excise and Customs,
North Block, New Delhi- 110002

(Through the Commissioner, Central Excise, Dibrugarh)

Sir,

Subject :- Hon'ble CAT, Guwahati Bench's order dated 26.2.2004 &
Dated 31.3.2004- Reg.

In continuation of my representation dated 5.3.2004, I have the honour to once again place before you my humble submission along with the copies of honourable CAT, Guwahati Bench order dated 26.2.2004 and dated 31.3.2004 for favour of your kind information and necessary action.

That Sir, much time has elapsed for disposal of my representation dated 15.5.2001 and 8.3.2002 against the adverse remarks for the year 1999-2000 communicated to me on 27.4.2001 through the Commissioner, Central Excise, Shillong under his office letter C.No.3/Commr/ACR/CON/2000 dated 25.4.2001 and another adverse remark for the year 1998-99 sent to me in the month of February,2002 under F.No.A.28017/7/2000/EC/per dated 13.2.2002 and duly represented by me on 15.5.2001 and 8.3.2002 respectively.

That Sir, in accordance to the hon'ble CAT orders my representation may please be decided at the earliest and I may kindly be favoured with promotion to the grade of Deputy Commissioner from the date of promotion of my juniors promotion vide Office Order No.181/2002 dated 11.11.2002 as I have been passing through mental agony and depression.

For which act of this kindness, I shall remain under the deep debt of gratitude.

Yours faithfully,

Encl: 4 (Four) only
sheets

(K.B. BHUJEL),
ASSISTANT COMMISSIONER

C.No.II/3/3/ET/89/ 2972-75

Dated : 29/9/04

Advance copy sent for favour of information to:-

1. The Chairman, Central Board of Excise and Customs, North Block, New Delhi.
2. The Member (P & V), Central Board of Excise & Customs, North Block, New Delhi.
3. The Chief Commissioner, Customs & Central Excise, N.E.R. Shillong.
4. The Commissioner, Central Excise, Dibrugarh.

Enc :- 4 (Four) only
sheets

(K.B. BHUJEL),
ASSISTANT COMMISSIONER

Some copy
sub
forward