

FORM NO. 8
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Original Application No. _____

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicant(s) _____

Respondent(s) _____

Advocate for the Applicants _____

Bhaskar Deb lala

U. O. T. Form

A. A. Ahmed

Advocate for the Respondent(s) _____

CGSC

Adv. St. Counsel

Notes of the Registry

Date _____

Order of the Tribunal

23.12.05.

This contempt petition has been filed by the Counsel for the petitioner and praying for punishment of the contemners for non-compliance of judgment and order passed by this Hon'ble Tribunal in O.A. 1m 193/05 dated 22.7.05.

Heard Mr. A. Ahmed learned counsel for the applicant. Issue notice to the respondents to show cause as to why the contempt proceedings shall not be initiated against the respondents for the alleged violation of the directions issued order in the O.A.. Counter affidavit if any with six weeks. Post on 10.2.06. Personal appearance of the respondents is dispensed with for the time being.

2 Jan 06
Vice-Chairman

Post on 10.03.2006.

Land before the Hon'ble Court for further order.

1 Jan 06
27.12.05
Section Officer

Pl. copy to order
dated 23.12.05.
WS
26.12.05

Contd....

Notice & order
sent to D/Section
for issuing to
resp. No. 1 to
7 by regd. A/D
post. D/No = 15 to 21
for 3/11/06. Df = 4/11/06.

10.3.2006

Mr. A. Ahmed, learned counsel
for the applicant and Mr. M. U. Ahmed,
learned Addl. C.G.S.C. submitted that
the orders of the Tribunal have
already been complied with.

In the circumstances, the C.P.
will not stand and the same is
dropped. Notice, if any, is dischar-
ged.

Vice-Chairman (J)

bb

Vice-Chairman (A)

30.1.06
Panchayat copies
submitted to the
officials.

8-2-06

(1) Service report was
awaited.

(2) Mr. Attiladavit has
been listed.

15.2.06

Reply filed by
Respondent No. 5.

Ans.13.3.06

Copy of the order
has been sent to the
Office for issuance
and to the L/SAdv.
for the applicant and
a copy is handed
over to the Addl. C.G.S.C.
for the Respondent.

Ans.

22 DEC 2005

গুৱাহাটী আদায়কোট

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI.

Contempt Petition No. 41 /2005

IN

Original Application No. 193 of 2005

IN THE MATTER OF:

A Petition under Section 17 of the
Administrative Tribunals Act, 1985 praying
for punishment of the Contemnors/
Respondents for non-compliance of
Judgment and Order passed by the Hon'ble
Tribunal in O. A. No. 193 of 2003
22.07.2005.

- AND -

IN THE MATTER OF:

Sri Bhaskar Deb Lala

... Applicant.

- VERSUS -

The Union of India & Others.

... Respondents.

- AND -

IN THE MATTER OF:

Sri Bhaskar Deb Lala,
MES No. 243375
Son of Sri Bhpendra Kumar Deb Lala
Junior Engineer (E/M)
Office of the Garrison Engineer
(Air Force), Borjhar, Guwahati - 15.
... Petitioner

- VERSUS -

Bhaskar Deb Lala

1. Shri Shekhar Dutta
Secretary to the Government of India, Ministry of Defence, 101 South Block, New Delhi-1.
2. B.M. Mittal
Chief Engineer
Air Force, Elephant Falls Shillong-793009, Meghalaya.
3. General B. Thambiah
Chief Engineer,
HQ Eastern Command
Fort William, Kolkatta - 70021.
4. Lt. Col. A. N. Rafat
Garrison Engineer (Air Force)
Borjhar, Guwahati - 15.
5. Mr. Satender Singh
Garrison Engineer
Silchar, P.O. Arunachal
Dist. - Cachar.
Pin - 788 025.
6. Sri K. Vaipai
Controller of Defence Accounts (CDA), Udayan Vihar, Narengi Guwahati - 781 171.
7. Smt. Sarika Agarwal
Area Accounts Officer
Ministry of Defence, Bivar Road
Shillong - 1, Meghalaya.

... Respondents/Contemnors

The humble Petition of the above named Petitioner:

MOST RESPECTFULLY SHEWETH:

1. That your humble Petitioner had filed the Original Application No. 193 of 2005 before this Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati for seeking a direction from this Hon'ble Tribunal to the Respondents for payment of Special Duty Allowance to the Applicant as per Government of India, Cabinet Secretariat letter No. 20-12- 1999-EA-1-1789 dated 02.05.2000.

Bhaskar Deb Lal

2. That this Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati on 22.07.2005 finally heard the matter and disposed of the Original Application at the admission stage itself by directing the applicant to make appropriate the representation pointing out the factual details and the decision dated 31.05.2005 rendered by this Tribunal in O.A. 170/1999 and series. If any such representation is filed by the applicant, the respondents were directed consider the same and to pass appropriate order as per law..

ANNEXURE – A is the photocopy of Judgment & Order dated 22.07.2005 passed in O. A. No. 193 of 2005.

3. That your Petitioner begs to state that as per direction of this Hon'ble Tribunal, the petitioner filed a representation on 10.08.2005 pointing out all factual details and the decision dated 31.05.2005 rendered by this Tribunal in O.A. 170/1999 and series.

ANNEXURE – B is the photocopy of representation dated 10.08.2005 submitted by the petitioner before the respondents.

4. That your Petitioner begs to state that the respondents till date did not consider the representation submitted by the petitioner. Nor they have passed any order this regard. Although petitioner is entitled to get the Special Duty Allowance as per decision dated 31.05.2005 rendered by this Hon'ble Tribunal in O.A. No. 170/1999 and series. The Respondents/Contemnors have willfully and deliberately violated the Governing Principle adopted by this Hon'ble Tribunal in regard to the payment of Special Duty Allowance and also not disposing the representation submitted by the petitioner. The Respondents /Contemnors have shown disrespect, disregard and disobedience to this Hon'ble Tribunal. The Respondents/Contemnors deliberately with a motive behind have not complied the Hon'ble Tribunal's Judgment and Order dated 22.07.2005 passed in O. A. No. 193 of 2005. Hence the Respondents/Contemnors deserve punishment from this Hon'ble Tribunal. It is a fit case where the Respondents/Contemnors may be directed to appear before this Hon'ble Tribunal to explain as to why they have shown disrespect to this Hon'ble Tribunal.

Bhaskar Deblal

5. That this Petition is filed bona fide to secure the ends of justice.

In the premises, it is, most humbly and respectfully prayed that Your Lordships may be pleased to admit this petition and issue Contempt notice to the Respondents/Contemnors to show cause as to why they should not be punished under Section 17 of the Administrative Tribunals Act, 1985 or pass such any other order or orders as this Hon'ble Tribunal may deem fit and proper.

Further, it is also prayed that in view of the deliberate disrespect and disobedience to this Hon'ble Tribunal's order dated 22.07.2005 passed in O. A. No. 193 of 2005, the Respondents/Contemnors may be asked to appear in person before this Hon'ble Tribunal to explain as to why they should not be punished under the Contempt of Court proceeding.

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

Draft Charge

Bhaskar Deb Lala

DRAFT CHARGE

The petitioner has aggrieved for non-compliance of the Judgment and Order dated 22.07.2005 passed in O.A. No. 193 of 2005. The Contemnors/Respondents have willfully and deliberately violated the Order dated 22.07.2005. Accordingly, the Contemnors/Respondents are liable for Contempt of Court proceedings and severe punishment thereof as provided to appear in persons and reply the charges leveled against them before this Hon'ble Tribunal.

Bhaskar Deb Lal

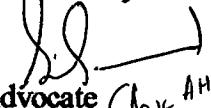
AFFIDAVIT

I, Shri Bhaskar Deb Lala, MES No. 24337, son of Sri Bhupender Kumar Deb Lala, Junior Engineer (E/M), Office of the Garrison Engineer (Air Force), Borjhar, Guwahati – 15, do hereby solemnly affirm and state as follows:-

- 1) That I am petitioner in the instant Contempt Petition and also the applicant in O.A. No. 193 of 2005 and as such, I am fully acquainted and well conversant with the facts and circumstances of the case.
- 2) That the statements made in paragraphs 1, 3, 4, 5 – of the Contempt Petition are true to my knowledge those made in paragraphs 2, _____ of the petition being matters of record are true to my information which I believe to be true and the rest are my humble submissions before this Hon'ble Court.

And I put my hand hereunto this 22nd day of December 2005 at Guwahati.

Identified by me:


Advocate (Adil Ahmed)

Bhaskar Deb Lala

DEPONENT

Solemnly affirmed before
me by the Deponent
who is identified by Adil
Ahmed.

Hira Devi
Advocate.

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ANNEXURE-A

CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH.

Original Application No. 193 of 2005.

Date of Order: This, the 22nd day of July, 2005.

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

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

Shri Bhaskar Deb Lala

MES No.243375

Son of Sri Bhupendra Kumar Deb Lala

Junior Engineer (E/M)

Office of the Garrison Engineer

(Air Force), Borjhar

Guwahati - 15.

.... Applicant.

By Advocate Mr. A. Ahmed.

Versus -

1. The Union of India
Represented by the Secretary
to the Government of India
Ministry of Defence
101 South Block
New Delhi - 1.

2. The Chief Engineer
Air Force, Elephant Falls
Shillong, Meghalaya.

The Chief Engineer
HQ Eastern Command
Fort William, Kolkata - 700 021.

The Garrison Engineer (Air Force)
Borjhar, Guwahati-15.

The Garrison Engineer
Silchar, P.O: Arunachal
Dist: Cachar, PIN- 788 025.

6. The Controller of Defence Account (CDA)
Udayan Vihar, Narangi
Guwahati - 781 171.

7. The Area Accounts Officer
Ministry of Defence, Bivar Road
Shillong-1, Meghalaya. Respondents.

By Mr. M. U. Ahmed, Addl. C.G.S.C.

.....

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8-
ORDER (ORAL)

SIVARAJAN J. (V.C.):

The applicant is presently working in the office of the Garrison Engineer (Air Force), Borjhar as Junior Engineer (E/M). It is stated that he was transferred from Bagdogra, West Bengal to N. E. Region. According to the applicant, since he has got all India transfer liability, in view of the various Government orders right from 14.12.1983 till 29.5.2002 besides circular dated 4.6.2003 (Annexure-E) he is entitled to get special duty allowance (for short SDA). It is the grievance of the applicant that though the bill for payment of SDA (Annexure-F) was submitted, the same was returned back by Annexure-G letter. According to the applicant, similarly situated persons were granted SDA in view of the decisions of this Tribunal in O.A. Nos. 301 of 2003 and 79 of 2005.

2. Mr. A. Ahmed, learned counsel for the applicant, submits that the applicant is entitled to get SDA and that the respondents have erroneously declined to grant the same to the applicant. Counsel also draws our notice the Government orders and the various decisions of this Tribunal in O.A. Nos. 56/2000, 11/2003 and 30/2003 (Annexures-H, I & J respectively) in support.

3. We have also heard Mr. M.U. Ahmed, learned Addl.C.G.S.C. appearing for the respondents. He has brought our notice to the decision rendered by this Tribunal on this issue vide order dated 31.5.2005 passed in O.A. Nos. 179/1999 and other connected cases and submitted that it is for the applicant to place all the facts and figures before the authority for considering his case with reference to

the said order. We find merit in the said submission. Accordingly, we direct the applicant to make appropriate representation pointing out all the factual details and the decision dated 31.5.2005 rendered by this Tribunal in O.A. Nos.170/1999 and series. If any such representation is filed respondents will consider the same and pass appropriate order as per law.

With the above direction and observations this application is disposed of at the admission stage itself.

sd/ VICE CHAIRMAN

sd/ MEMBER (A)

CCP/CS/2005

27.7.05
N. Sengupta
Section Officer (Judi)
Central Administrative Tribunal
Nehru Bhawan
GUWAHATI-5.

To

Date: 10 Aug '2005

The Chief Engineer,
Air Force, Elephant Falls
Shillong, Meghalaya.

Through proper channel

Ref.: O.A. No. 193 of 2005 - Bhaskar Dev Lala Vs. U.O.I. & Ors.

Sub.: Representation submitted with reference to the direction issued by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati on 22nd July 2005 in Original Application No. 193/2005.

Respected Sir,

Most humbly I beg to state that I had filed an Original Application No. 193/2005 before the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati praying for a direction from the Hon'ble Tribunal to the Respondents for payment of Special Duty Allowance to me as per Government of India, Cabinet Secretariat Letter No.20-12-1999-EA-1-1789 dated 02-05-2000, Order No. 90237/ 7521/ EIC(Legal-C) dated 04.06.2003 issued by the Office of the Engineer in-Chief's Branch and also as per other similar judgments passed by this Hon'ble Tribunal in O.A.No.56 of 2000, O.A.No.11 of 2003, O.A.No.30 of 2003, O.A.No.301 of 2003, O.A.267 of 2004 and O.A.No.79 of 2005. The Hon'ble Tribunal finally heard the above matter on 22nd July 2005 and directed me to make appropriate representation pointing out all the factual details and decision dated 31.05.2005 rendered by this Tribunal in O.A. No. 170/1999 and series and if any such representation is filed the respondents will consider the same and pass appropriate orders as per law. Hence, I have submitted the representation before you for kind and sympathetic consideration of the matter and may be pleased to pass appropriate order.

2. That Sir I was appointed as Superintendent E/M Grade II in April 1977 and was posted at the Office of the Garrison Engineer, 868 EWS, C/o 99 APO. After that I was transferred to Office of the Garrison Engineer 872 EWS C/o 99 APO, Office of the Garrison Engineer, Silchar, GE Shillong, Office of the Garrison Engineer (Project) (Air Force) Bagdorga, West Bengal, Garrison Engineer Silchar etc. Now I am working at the office of the Garrison Engineer (Air Force) Borjhar as Junior Engineer (E/M). It is to be stated here that I was posted to the post of Superintendent E/M Grade I in the year 1995. The said post was re-designated as Junior Engineer from 1998.

3. That Sir, the Government of India, Ministry of Finance, Department of Expenditure granted certain improvements and facilities to the Central Government Civilian Employees of the Central Government serving in the States and Union Territories of North Eastern Region vide Office Memorandum No.20014/3/83-IV dated 14-12-1983. In clause II of the said Office Memorandum Special (Duty) Allowance was granted to Central Government Civilian Employees, who have All India Transfer liability at the rate of Rs.25% of the basic pay subject to ceiling of Rs.400/- (Rupees Four Hundred) only per month on posting to any station in the North Eastern Region. The relevant portion of the Office Memorandum dated 14.12.1983 is quoted below:

(iii) **Special (Duty) Allowance: -**

"Central Government Civilian employee who have All India Transfer liability will be granted a Special (Duty) Allowance at the rate of Rs.25% of basic pay subject to a ceiling of Rs.400/- (Rupees Four Hundred) only per month on posting to any station in the North East Region. Such of these employees who are exempted from payment of Income Tax, will however not be eligible for the Special (Duty) Allowance, Special (Duty) Allowance will be in addition to any Special Pay and for allowances already being drawn subject to the condition that the total of such Special (Duty) Allowance plus Special Deputation (Duty) Allowance will not exceed Rs.400/- (Rupees Four Hundred) only per month. Special Allowance like Special Compensatory (Remote) Locality Allowance, Construction Allowance and Project Allowance and Project Allowance will be drawn separately."

The Govt. of India, Ministry of Finance, Department of Expenditure vide its Office Memorandum No.F.No.11 (2)/97-E-II (B) dated 22-07-1998 continued the said facilities as per recommendation of the Fifth Central Pay Commission.

4. That Sir I am saddled with All India Transfer liability and seniority in terms of the offer of appointment and with the said liabilities I have accepted the All India Transfer liability as per the appointment letter. It is worth to mention here that as per the said All India Transfer Liability I was transferred to the Office of the Garrison Engineer (Project), (Air Force) Bagdora, West Bengal from North Eastern Region and after serving there I was transferred to Garrison Engineer, Silchar.

5. That Sir as per the Cabinet Secretariat Letter No.20-12-1999-EA-1-1799 dated 02-05-2000 it has been clarified that an employee hailing from NE Region and subsequently posted to outside of NE Region and reposed from outside of NE Region to NE Region will be entitled for Special Duty Allowance.

6. That Sir the Office of the Engineer in Chief's Branch, HQ, New Delhi vide their letter No.90237/752/EIC (Legal-C) Dated 4th June 2003 also clarified regarding payment of Special Duty Allowance payable to MES Employees relating to Court Cases. In the said letter it has been stated "*SDA is admissible to the Central Government Employees who have All India Transfer Liability on their posting to NE Region from outside region. No restriction is made to the effect that the residents of NE Region shall not be entitled to SDA when they fulfill the criteria of All India Transfer Liability and are transferred/posted in NE region from outside the region*". It may be stated that the Office of the Garrison Engineer Silchar has submitted my pay bill of Special Duty Allowance before the Area Accounts Officer, Shillong but surprisingly Area Accounts Officer returned the said bill to me vide Memorandum No. P/1/316/Pt A dated 17.05.2004.

7. That Sir the similarly situated persons have earlier approached this Hon'ble Tribunal by filing O.A.No.56/2000 and this Hon'ble Tribunal vide its Judgment dated 19-03-01 in the said case has stated that an employee hailing from NE Region initially but subsequently transferred out of NE Region but reposed to NE Region would be entitled to S.D.A. It is worth to mention here that similarly situated person who is working under the same Ministry has already given the similar relief by this Hon'ble Tribunal in O.A.No.301 of 2003 and O.A. 79/2005.

8. That Sir in O.A. No. 170/1999 the Hon'ble Central Administrative Tribunal, Guwahati Bench vide Judgment and Order dated clarified that Special Duty Allowance is admissible to Central Government Employees having All India Transfer Liability on posting to North Eastern Region from out side the Region by virtue of the Cabinet Clarification mentioned earlier and employees belonging to N.E. Region and subsequently posted to out side North Eastern Region if he is retransferred to North Eastern Region he is entitled to grant of SDA.

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- 13 -
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I therefore, request your honour to pay the Special Duty Allowance to me with effect from the date of my reposting at North Eastern Region from outside the North Eastern Region in the light of above Judgments & Orders passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati.

Thanking you in anticipation.

Yours faithfully,

(Shri Bhaskar Deb Lala)

MES No.243375

Son of Sri Bhupendra Kumar Deb Lala

Junior Engineer (E/M)

Office of the Garrison Engineer,

(Air Force), Borjhar Guwaati - 15.

Copy for information to :-

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Defence, 101 South Block, New Delhi-1.
2. The Chief Engineer, Air Force, Elephant Falls, Shillong, Meghalaya.
3. The Chief Engineer, HQ, Eastern Command, Fort William, Kolkata-700021.
4. The Garrison Engineer (Air Force), Borjhar, Guwahati-15.
5. The Garrison Engineer, Silchar, P.O.-Arunachal, Dist. - Cachar, PIN - 788025.
6. The Controller of Defence Account (CDA) UDHYAN VIHAR, Narangi, Guwahati-781171.
7. The Area Accounts Officer, Ministry of Defence, Bivar Road, Shillong-1, Meghalaya.

(Shri Bhaskar Deb Lala)

MES No.243375

10 FEB 2005
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

Guwahati Bench

In the matter of:-

Contempt petition No 41/05
BD Lala - Petitioner

VS

Sekhar Dutta and others

Respondent / Contemnors.

Reply of the Respondent No 5 to the contempt petition.

Most Respectfully sheweth.

1. That the contempt petitioner/applicant has filed the contempt petition on the ground of alleged violation of the Hon'ble Tribunal order dated 31.5.05 in OA No 193 of 2005.
2. That the answering Respondent begs to state that applicant is now serving with Garrison Engineer (A/F) Borjar and Garrison Engineer (A/F) Borjar is also one of the respondent of this contempt petition.
3. That the answering Respondent begs to state that the applicant has served in the office of the Respondent No 5 from 01 Sept to 31 May 05 and this office ask action needed to claim the amount in respect of arrears of SDA, but audit authority i.e. Area Accounts Office Shillong who are audit authorities to admit and Pass such claim, did not admit the claim in audit, which is beyond the control of this office.

Sekher Dutta
Sekher Dutta
G. C. Silhara
through
My Name
Chanchal
Sekher Dutta

4. That the answering Respondent beg to state that as per official norms, all future action in this regard if any would have been taken by applicants new establishment i, e. Garrison Engineer (A/F) Borjar. Garrison Engineer (AF) Borjar has initiated necessary bills to AAO Shillong but the same was not passed by audit authorities.
5. That the answering Respondent beg to state that Garrison Engineer (A/F) Borjar is dealing with OA No 193/05 and CP No 41/05 and they have already appealed for extension of time for CP No 41/05 through advocate Mr. M.U. Ahmed Addl CGSC.
6. That the answering Respondent beg to state in view of the above the Respondent's name may be deleted as an alleged contemner.
7. That the answering Respondent has highest regard the order of the Hon'ble Tribunal. However the answering Respondent offer unconditional apology to the Hon'ble Tribunal if it finds that the answering Respondent has committed any contempt of the Hon'ble Tribunal order in O/A 193/05.

Affidavit

I, Satendra Singh, Garrison Engineer Silchar do hereby solemnly affirm and say as follows :-

(1) That I am arrayed as Respondent No.5, in the above contempt petition No 41/05.

(2) That the statement made in paragraphs 1 to 7 are true to my Knowledge and belief and I have not suppressed any material fact.

And I sign the affidavit on the day of 08 Feb 2006.



Satendra Singh
(SATENDRA SINGH, IDSE)
(Signature in full)
Executive Engineer
Garrison Engineer Silchar
Seal

Identified by me

Subrata Nath
08/2

Advocate: -

Solemnly affirmed before me by the deponent

Satendra Singh, Garrison Engineer Silchar who
is identified By Sri Subrata Nath

Advocate.

Chunnilal
Advocate
8-2-06