

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

131
ORDER SHEET

Original Application No. _____

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicant(s) Alaka Saha

Respondent(s) U. O. I. 90M

Advocate for the Applicants Miss B. Das, Mr. S. R. Dey

Advocate for the Respondent(s) Mr. G. Baishya, SCGSC

Rly St. Counsel

Notes of the Registry Date

Order of the Tribunal

contd

2.1.06.

This Misc. petition has been filed by the counsel for the petitioner and, praying for initiation of a Contempt proceeding against the alleged contemner for non-compliance of the Judgement and order dated 1m 13.7.2005, panned in O.A 160/05 panned by this Hon'ble Tribunal.

Laid before the Hon'ble Court for further orders.

Section Officer

Poi.

Respondents (contemner) should be by name.

NT
30.12.05 ND. 1

Defects removed except

Mr. K. Paul learned counsel for the applicant is present. Mr. G. Baishya, learned SCGSC submits that a Review Application has been filed in this case which is pending.

Post the matter on 4.1.06 alongwith the R.A.

HoFF
Member

HoFF
Vice-Chairman

4.1.2006 Post on 19.1.2006 alongwith R.A. Nos. 10/2005 and 11/2005.

HoFF
Member

HoFF
Vice-Chairman

mb

Contd....

19.1.06. Post the matter before the next
available Division Bench.

Vice-Chairman

lm

3.8.06

In view of the pendency of the Review
Application post on 5.9.06 for order.

Member

Vice-Chairman

pg

05.09.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

Mr G. Baishya, learned Sr. C.G.S.C.
for the Respondents submitted that this
contempt petition may be tagged along
with R.A. Nos. 10/2005 and 11/2005
since similar issue is involved.

Tag the C.P. alongwith the aforesaid
R.A.s.

Vice-Chairman

/mb/

15.3.07.

Post the matter on 16.3.07
alongwith R.A. 10 or 05.

Member

Vice-Chairman

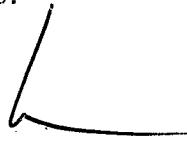
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22.3.07 This petition has been filed by the applicant in O.A.160/2005 for non compliance of the order of this Tribunal. In view of the fact that the Review Applications No.10/05 and 11/05 has already been disposed of today this petition has become infructuous and therefore dismissed.

No order as to costs.

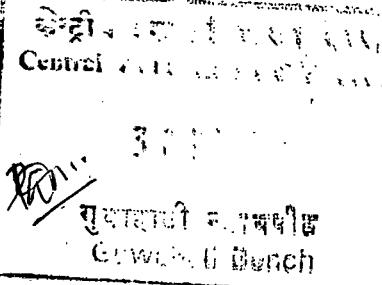


Member(A)



Vice-Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

GUWAHATI

Contempt Petition No. 42/2005.

In O.A. No. 160 of 2005.

IN THE MATTER OF :

Smt. Alaka Saha.

--Petitioner

-Vs-

Union of India
and others.

--Respondents.

- AND -

IN THE MATTER OF :

An application Under Section 17
of the Administrative Tribunals
Act, 1985 praying for initiation
for a contempt proceeding against
the alleged contemners for non
compliance of the Judgement and
order dated 13/7/2005 passed in
O.A.No.160 of 2005.

- AND -

IN THE MATTER OF :

Smti Alaka Saha,

contd..2

R. A. M.

Filed by
The Police Officer
Alaka Saha
Through
Smti Rani Deka
Att-18-12

W/O Sri Shankar Saha
C/O Smti. Geeta Saha
R/O Qtr. No.P.A.7-,
151 Base Hospital,
C/O 99 A.P.O.
Basistha Road,
P.O. - Basistha, Guwahati-29,
District Kamrup, Assam

----- PETITIONER

- VERSUS -

1. Shri T. P. Madhusudanam Secretary
To the Government of India,
Ministry of Defence,
South Block, New Delhi - 1.

2. Sri T. P. Madhusudanam.
The Deputy Director Medical
Services, Ministry of Defence,
101 Area, C/O - 99 APO

3. Sri G. Ramdas,
Brigadier Commandant,
151 Base Hospital,
C/O 99 APO,
Basistha Road, Basistha.

--- Respondents.
ALLEGED CONTEMNERS
contd...3

The humble petition of the Petitioner abovenamed
MOST RESPECTFULLY SHEWETH :-

1. That the petitioner begs to state that she applied for the post of Ward Sahayika in the 151 Base Hospital, C/O 99 APO and on receiving the interview Call Letter issued from the office of the Respondent/ alleged Contemner No. 3, the Petitioner appeared before the interview/Test Board on 17.2.2005 at 151 Base Hospital, C/O 99 APO. She secured highest mark in the interview and her name was listed on the top of the select list.

2. That in the meantime one Smti. Kalpana Das who has also applied for the post of Ward Sahayika and could not pass in the interview filed an Original Application on 01.03.05 before the Central Administrative Tribunal, Guwahati Bench which was registered as O.A. No.59/05 and the Hon'ble Tribunal passed an Order on 1.3.05 in the said original application directing the applicant Smti. Kalpana Das to submit

representation listing out her grievances to the respondents within 15 days and the Respondents were directed to give reply within two months and the original Application was disposed of by fixing the case for listing on 9.5.2005 for compliance report of the order dated 1.3.2005.

3. That the respondent authorities submitted the compliance report to the Central Administrative Tribunal on 6.5.2005 and through this compliance report the Respondent Authorities cancelled the appointment of the petitioner on the ground that her relation to Late Jagabandhu Saha is of dubious status one is of adopted daughter and the other is of Daughter-in-law.

4. That the petitioner begs to state that she approached this Hon'ble Tribunal vide O.A.No.160 of 2005 with a prayer for setting aside the compliance Report dated 6.5.2005 and directing the Respondents to appoint her to the vacant post of ward Sahayika.

5. That the petitioner states that the Hon'ble Tribunal vide order dated 22.6.2005 was pleased to admit the application and thereafter the application was heard finally and the Hon'ble Tribunal was pleased to dispose of the same vide order dated 13.7.2005 directing alleged contemner/the Respondent No.1to 3 to appoint

the applicant to the post of Ward Sahayika as notified if they want to fill up the vacancy of the Ward Sahayika.

The copy of the Order dated 13/07/2005 in O.A. No. 160 of 2005 is annexed hereto and marked as ANNEXURE - 1.

6. That the Petitioner begs to state that after passing the Order dated 13/7/2005 in O.A. No. 160/05 the Respondant authorities who had already decided to appoint Miss Marry Gogoi, depriving the petitioner of her legitimate right to be appointed which is clear from the Letter dated 18/7/2005 issued by Sri P. Guha, Lt. Col. OSD for Offg. BDMs, they have again filed a review application before the Hon'ble Tribunal being registered as Review petition No. 10/2005 on some false and baseless grounds on 6th September' 2005 after 2 months 7 days of the order in the original application.

A copy of the Letter dtd. 18/07/2005 is annexed hereto and marked as ANNEXURE - 2.

7. That the petitioner begs to submit that as per petitioner has secured the highest mark in the interview and has secured 1st position in the Selection she had a legal right to be appointed to the post of Ward Sahayika but the Respondent authorities decision to appoint Miss Mary Gogoi to the said post depriving the Petitioner and filing of the Review Petition against the Order dated 13/7/05 after 2 months 7 days on some baseless grounds

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is complete violation of the order dated 13/7/05 passed by the Hon'ble Tribunal in O.A. No.160 of 05.

8. That the petitioner begs to submit that this Hon'ble Tribunal vide the order dated 13/7/05 directed the respondents to appoint the petitioner if they wants to fill up the vacancies and the respondents ought to have appointed the petitioner against the vacant post of wardsahayika in terms of the order of this Hon'ble Tribunal. But the Respondents have deliberately and willfully violated the order dated 13/7/2005 in O.A. No.160 of 2005 and as such they are liable for contempt of court.
9. That the petitioner begs to submit that the respondents cannot reject the appointment of the petitioner by taking a new plea and violate the order of the Hon'ble Tribunal. Because of violation of the order of the Hon'ble Tribunal it is a fit case for initiation of contempt proceeding against the respondents/ alleged contemners and therefore the Hon'ble Tribunal may be pleased to initiate a contempt proceeding against them and impose punishment in accordance with law and further be pleased to pass any other order or orders as deemed fit and proper in the facts and circumstances as stated above.

10. That this application is made bonafide and for ends of justice.

Under the facts and circumstances stated above the Hon'ble Tribunal be pleased to initiate contempt proceeding against the alleged contemners for wilful non compliance of the order dated ~~13~~ 13.7.2005 passed in O.A. No. 160/05 and further be pleased to impose punishment upon the alleged contemners in accordance with law and further be pleased to pass any such other order or orders as deem fit and proper by the The Hon'ble Tribunal.

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

Draft Charge
contd.. ~~13.7.2005~~

DRAFT CHARGE

The applicant is aggrieved for non-compliance of the Hon'ble Tribunal's Judgment and Order dated 13.7.2005 passed in O.A. No.160 of 2005. The Contemners/Respondents have willfully, deliberately violated the Judgment and Order passed in O.A. No.160 of 2005 by not implementing the direction contained therein till date. Accordingly, the Respondents/Contemners are liable for contempt of Court proceeding and severe punishment thereof as provided under the law. They may also be directed to appear in person and reply the charge of this Hon'ble Tribunal.

Contd., Affidavit

AFFIDAVIT

I, SMT. ALAKA SAHA, w/o Sri Sankar Saha, aged 23 years, resident of C/o Smt. Geeta Saha, W/S Qtr. No.P.A.-7, 151 Base Hospital, C/o 99 APO, Basistha Road, P.O.Basistha, Guwahati-29, District Kamrup, Assam do hereby solemnly affirm and declare as follows:-

1. That I am ~~xxxxx~~ the petitioner of the instant petition and as such am fully acquainted with the facts and circumstances of the case.
2. That the statements made in this affidavit and paragraphs made in the instant petition from 1,2,3,4, ~~7 to 10~~ are true to the best of my knowledge and 5,6 belief and rests are my humble submission before this Hon'ble court.

And I sign this affidavit on this day of December, 2005 at Guwahati.

Identified by me,

*Wessieh
(P.K.SARMAH)*
Advocate, Ghy.

Alaka Saha

DEPONENT

Solemnly affirmed and declared before me by the deponent, who is identified by Sri P. K. Sarmah, Advocate on 29th day of December 2005

*Alaka Dutta Deka
Advocate*

29-12-05

-10-

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ANNEXURE -1

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.160 of 2005.

Date of order: This the 13th day of July, 2005.

HON'BLE MR JUSTICE G.SIVARAJAN, VICE-CHAIRMAN
HON'BLE MR.K,V,PRAHLADAN, ADMINISTRATIVE MEMBER

Smti. Alaka Saha,
Wife of Sri Sankar Saha
C/O.Smti.Geeta Saha-W/s Qtr.No.
P.A-7, 151 Base Hospital,
C/o 99 APO.
Basistha Road, P.O.Basistha,
Guwahati-781029, Dist.Kamrup,
Assam.

Applicant

By Advocate Mr. K.Paul, Miss B.Das, Miss S.R. Dey

-Versus-

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

2. The Deputy Director Medical,
Services, Ministry of Defence,
101 Area, C/o 99 APO.

The Brigadier Commandant, 151 Base Hospital
C/o 99 APO

Smti Kalpana Das
Village-Natun Bazar
P.O.Basistha Chariali,
Dist.Kamrup, Assam.

Respondents.

By Advocate Mr.M.U.Ahmed, Addl.CGSC
Mr.A.Ahmed, For Respondent No.4.

ORDER(ORAL)

SIVARAJAN, J(V.C.):

Pursuant to advertisement inviting applications for the post of Ward Sahayika in the 151/Base Hospital, C/O 99 APO, issued by the Respondents the applicant applied for the said post. She was called for interview on 17.2.05. She secured highest mark in the interview and her name was listed on the top of the select list. When

9/07/

Certified to be true Cop.

Sima Rani Dey
Advocate

the applicant's name was listed on the top of the list, the Respondent No.4 who had also applied for the post of Ward Sahayika, approached this Tribunal by filing O.A.No.59 of 2005 on 1.3.2005 alleging that the applicant herein secured the position and obtained selection by impersonation. The said application was disposed of at the admission stage itself by directing the applicant therein- 4th respondent to make representation before the 3rd Respondent and the said Respondent was directed to pass orders thereon. The matter was also directed to be listed for compliance report. In the compliance report (Annexure 9) filed by the 3rd Respondent clearly stated that there is no impersonation at all. The 4th Respondent's application was rejected. However, the Respondents declined to appoint the applicant on a different ground viz, with Shri Jagabandhu Saha is of dubious status (one of adopted daughter and the other of Daughter-in-law), hence she will not be considered for the post of Ward Sahayika. The applicant is aggrieved by the denial of her appointment.

2. We have heard Mr.K.Paul, learned counsel for the applicant, Mr.M.U.Ahmed, learned Addl.C.G.S.C. appearing for the respondent Nos.1 to 3 and Mr.A.Ahmed learned counsel appearing on behalf of Respondent No.4. Admittedly, the selection Board interviewed 9 candidates including applicant and the 4th respondent and selected the applicant for the post having secured highest marks(55). The 4th Respondent herein secured only 48 marks. However, the 4th Respondent, as already noted, challenged the applicant's selection on the ground of impersonation. The 3rd respondent pursuant to the decisions issued by this Tribunal conducted enquiry and found that there was no impersonation. Thus the applicant was entitled to be appointed to the post of Ward Sahayika on the basis of her selection.

Jpt

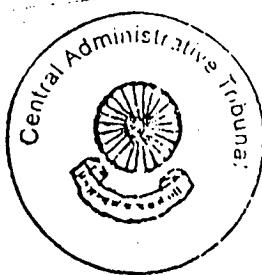
Only ground as could be seen from the compliance report (Annexure 9), as already noted, is that the Board has shown its inability to find out whether the candidate is Daughter-in-law of Late Jagabandhu Saha. The Police verification, it is stated, has confirmed that the applicant was an adopted daughter of Late Jagabandhu Saha when she was 8 years old and later on she was married to Shri Shankar Saha, son of Late Jagabandhu Saha and thereby she became daughter-in-law of Late Jagabandhu Saha. The compliance report, however, clearly states that the School Leaving Certificate and Caste Certificate has been verified. If, as a matter of fact, the respondent No.3 had verified the Caste Certificate (Annexure 1) and School Leaving Certificate (Annexure 2) there was no cause for any doubt as to who is the father of the applicant, for, both the Certificates clearly show that Shri Jagabandhu Saha is the father of the applicant. The subsequent marriage of the applicant with the son of Late Jagabandhu Saha may be a ground for nullifying the marriage but it cannot be ground for denying employment to the applicant. The name of the father shown is consistent with official records. According to us the 3rd Respondent was not justified in going further than what was available from the documents issued by the competent authority and find out a new case. It has nothing to do with the employment of the applicant. Since the applicant has already been selected, she having secured the highest mark, the Respondent 1 to 3 cannot deny the appointment to the applicant for the reasons stated in the compliance report (Annexure 9).

3. In the circumstances we direct the Respondent Nos. 1 to 3 to appoint the applicant to the post of Ward Sahayika as notified if the Respondents want to fill up the vacancy of Ward Sahayika.



4. The Original Application is disposed of as above. There
will be no order as to costs.

sd/ VICE CHAIRMAN
sd/ MEMBER (A)



Certified to be true (Copy)
अनुभाग अधिकारी 7-05
Section Officer (Jd)

Central Administrative Tribunal
N.T.O.B.I-4
GUWAHATI-5.

1/8/8

Certified to be true (Copy)
Jayati Purkayastha
Advocate

Tele 2782

ANNEXURE-2

W.O
95/7/05

230801/2/M-3(B)

HQ 101 Area (Med)
C/O 99 APO

Headquarters
Eastern Command
Fort William
Kolkata-21

18 Jul 2005

FILLING UP GROUP 'D' VACANCIES : WARD SAHAYIKA

1. Ref your letter No 73136/2/M-3(B)1 dated 16 Jun 2005.
2. As per para 3 of Army HQ DGMS(Army) letter No B/72748/III/DGMS-3B dated 11 Jul 2001 (copy att for ready ref) DDsMS HQs are empowered to issue appointment offer for Group 'D' post Civ employees.
3. IAFD-931 (Board proceedings) dated 17 Feb 2005 of 151 BH for the post of Ward Sahayika in r/o Mrs Marami Hira (Gen-1) and Miss Mary Gogoi (OBC-1) alongwith all connected documents recd vide your letter under ref are returned herewith. DDMS your HQ may issue the appointment offer.
4. Following documents are also enclosed herewith which were received by this office separately vide 151 BH letter No 452/2/Civ Est/coy/2005 dated 06 Jul 2005.
 - (a) Requisition for Gp 'D' employees for the post of Ward Sahayika
 - (b) Advertisement in New Paper
 - (c) Display put on Notice Board
 - (d) Application and its connected documents of Mrs Marami Hira
 - (e) Application and its connected documents of Miss Mary Gogoi

5. Please ack.


(P Guha)
Lt Col
OSD

For Ofcig DDMS

Encls: As above

Copy to

151 BH - for info wrt their letter No 452/2/Civ Est/Coy/2005 dt 06 Jul 2005.
C/O 99 APO

*Certified to be
true copy
Sina Raiji Dey
Advocate*