

FROM NO. 4.
(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

1. original Application No.

2. Misc Petition No.

3- Contempt Petition No.

4. Review Application No.

9/06 in O.A. 26/05

Applicant(s) S. B. Tiwari & Ors

Respondents S. Datta & Ors

Advocate for the Applicant(s) ... Adil Ahmed.....

Advocate for the Respondant(s) ... Mr. M.U. Ahmed Addl.C.G.S.C.

Notes of the Registry	Date	Order of the Tribunal
of this Contempt petition	2.3.2006	Mr. A. Ahmed, learned counsel for the

has been filed by the
Counsel for the petitioner
and promptly for pronouncement
of the Contemners/Respondents
for non-compliance of

the order dated 6.7.05 bb

passed by this Bench
of Tribunal in O.A 26/05.

Laid before the
Hon'ble Court for further
order.

applicants is present.
Issue notice to the respondents.
Post on 31.3.2006.

Vice-Chairman

Despite the fact that simple
notice has been duly served on the alle-
ged contemners no reply has so far been
filed. Mr. M.U. Ahmed, learned Addl.C.G.S.
C. persuasively argued that he may be
given last chance to file reply. Let it
be done.

Post on 5.5.2006 granting the
alleged contemners last chance to file
reply.

Vice-Chairman

AN Seethanofficial

Ch.

A. Campbell under dated
7-3-06. NJ 213/06

51

5.5.06

Notice & Order sent
to D/section for
issuing to resp.
nos. 1,2 by regd.
A/D post.

This Misc. Petition has been filed
by the applicant and praying for punishment
of the contemners/respondents for non-compliance
of Judgment and order passed by the Hon'ble
Tribunal in O.A. No. 26 of 2005 on 6.7.2005.
The counsel for the Respondents are directed
to file the written statement.

Post the matter on 9.6.06.

~~6/3/06~~ D/N^o=285,286
6/3/06 DT=7/3/06 ^{lm}

Vice-Chairman

9.6.2006

Neither any affidavit nor any state-
ment has been filed by the alleged contem-
ners even after 3 adjournments. They are at
liberty to file the same within two weeks
from today. However, the case is posted
before the next Division Bench.

~~20/3/06~~ (A/D. card at file - e
at CP 7/06.)

Vice-Chairman

30 - 3 - 06

bb

No Reply has been
billed.

2y

Service awaited in
respect of Resp. No. 1.

Ch

4-5-06

No appearance as well as
reply filed.

b

7/5/06

12/6/06

8 - 6 - 06

No Reply statement
has been filed.

2y

C.P.W.O. 9/06

Notes of the Registry	Date	Order of the Tribunal
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26.7.06

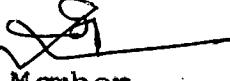
09.08.2006 Present: Hon'ble Sri K.V. Sachidanandan,
Vice-Chairman.

An affidavit
filed by Appell. No. 3.

Hon'ble Sri Gautam Ray,
Administrative Member.

Mr M.U. Ahmed, learned Addl. C.G.S.C. for the respondents submitted that he has filed an affidavit contending that there is no willful disobedience on the part of the respondents. ~~But~~ They are also wanting to implement the order of this Tribunal, but there is some procedure. Therefore, sought for further time. Considering the submission made by the learned counsel for the respondents one month time is granted to comply with the order. It is made clear that if it is not complied with contempt proceeding will be initiated against the alleged contemners.

Post on 11.09.2006.

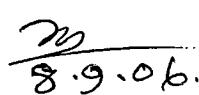

Member


Vice-Chairman

order dt. 9/8/06
issuing to resp
nos. 1, 2 by post.


25/8/06.

Affidavit filed by
the R. No - 2.


8.9.06.

11.9.06. Learned counsel for the respondents wanted to file additional reply. Let it be done. Post the matter on 30.10.06.


Vice-Chairman

27.10.06

~~No Addl. reply filed~~ 10.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

b.

Post on 01.12.2006. Mr M.U. Ahmed, learned Counsel for the Respondents submitted that they are not denying the claim of the Applicants but they have required some more time to comply with the order. As a last chance time is granted. It is made clear that if the Respondents do not comply with the order, the contempt notice will follow.

53

9
C * P - 9 - of 06

30.10.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

order dt. 30/10/06
Sent to D/Section
for issuing to
resp. nos - 1, 2 & 3
regd. A/D post.

Copy
10/11/06 D/No - 1127, 1128
D/ - 15/11/06

Post on 01.12.2006. Mr M.U. Ahmed, learned Counsel for the Respondents submitted that they are not denying the claim of the Applicants but they have required some more time to comply with the order. As a last chance time is granted. It is made clear that if the Respondents do not comply with the order, the contempt notice will follow.

Vice-Chairman

/mb/

01.12.06

No Add'l. reply has
been recd.

Re
30.11.06

4/12/06

When the matter came up for hearing the learned counsel for the Respondents has submitted that there is no willful violation on the part of the respondents to comply with the order of this Tribunal. Due to the paucity of fund the respondents could not comply with the order. However, six weeks time is granted finally to comply with the order of this Tribunal. It is made clear that the opportunity is given to the respondents finally and as a last chance to come up with fruitful result of the order of this Tribunal. Otherwise the Contempt proceedings will follow.

Post the matter on 18.1.06.

Vice-Chairman

lm

Abdulavit b/sd by
R.No - 2.

3
17.1.07

18.1.2007 Claiming H.R.A the Applicants had approached this Tribunal in O.A. No.26/2005. The order was passed on 06.07.2005. This Contempt petition initially came up for consideration on 2.3.2006 and on various dates adjournments had been granted to the Respondents/Contemners and finally came up on 01.12.2006. On all these occasions Mr. M. U. Ahmed, learned Addl. C.G.S.C. for the Respondents/ Contemners was submitting that there is no willful disobedience on the part of the Respondents/Contemners and they want to implement the order and it is only procedural delay. On 09.08.2006, this Court made it clear that if the order is not complied with, contempt proceeding will be initiated against them. Thereafter also, three more adjournments were sought and granted to them and the same pleadings have been taken by the learned counsel for the Respondents. They have also submitted an affidavit reiterating the same submissions.

R
For Addl C.G.S.C
24/11/07

On going through the proceedings, it appears that the Respondents had not complied with the orders of this Tribunal despite many chances granted to them. Therefore, on the strength taken by the Respondents in their affidavit and the pleadings taken thereto this Court directs to issue contempt notice to Respondent/Contemner No. 1 i.e. Shri

55

Contd.
18.01.2007

Shekhar Dutt, Secretary to the Govt. of India, Ministry of Defence, 101 South Block, New Delhi - 110 001 and Respondent/Contemner No. 2 i.e. Lt. Col. R. I. Mullick, Commanding Officer, 50 Coy ASC (Supply), Type 'C' C/o 99 APO to show cause as to why contempt proceedings shall not be initiated against them, returnable by the next date of hearing. Post the matter on 02.03.2007.

Mr. M. U. Ahmed requested that personal appearance of both the Respondents/Contemners may be dispensed with. But Court directs that the second Respondent/Contemner shall appear before the court on 02.03.2007 in person. Personal appearance of the 1st Respondent/Contemner is dispensed with for the time being.

Vice-Chairman

Affidavit filed by
R. No-2.

23
12.3.07

/bb/

2.3.2007

Let this C.P. be posted along with the connected matters. In the meantime contemners/respondents are at liberty to file compliance order and also the vouchers whatever that they wanted to produce.

cl

Member (A)

/bb/

Vice-Chairman

13.3.07. This Tribunal vide order dated 6.7.2004 passed an order in O.A. 26 of 2005 directing the respondents to consider the individual representations to be filed by these petitioners within a specified time. When the C.P. came up for consideration Mr.M.U.Ahmed learned Addl. C. G. S. C. has produced a copy of speaking order dated 22.2.2007 in compliance with the order passed in this O.A. 26 of 2005 contending that the applicants are not entitled to get the relief as prayed for in the O.A. Accordingly, he submits that the C.P. does not stand in its legs.

15.3.07
 A copy of the
 report submitted
 by the
 learned Addl. C. G. S. C.

C.P. is dismissed accordingly. Liberty is given to the applicant to file fresh application in the original side if he is still aggrieved.


 Member


 Vice-Chairman

20/3/07
 Copy of the
 order handed
 over to the Addl.
 for the parties.

lm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Contempt Petition No. 9/2006

In O.A. No. 26/05

IN THE MATTER OF :

Shri. Sashi Bhusan Tiwari & Ors.

.... Petitioner

- Versus -

Shri R. I. Mullick
Lt. Col.,
Commanding Officer
50 Coy ASC (Sup) Type 'C'

... Alleged Contemner/
Respondent No. 2.

IN THE MATTER OF :

An affidavit and/or compliance
report for and on behalf of the
Respondents.

I, Shri R. I. Mullick, Lt Col. Commanding Officer do hereby
solemnly affirm and state as follows :-

1. That I am the Respondent No 2 in the instant Contempt Petition and have gone through the aforesaid Contempt Petition filed by the petitioner and have understood the contents thereof and I am well acquainted with the facts and circumstances of the case based on records.
2. The Respondents have not willfully flouted any order passed by this Hon'ble Tribunal.
3. At the outset I submit that I have the Highest regard for this Hon'ble Tribunal and there is no question of any willful disobedience of any Order passed by the Hon'ble Tribunal. However, I tender unqualified and unconditional apology for any delay or lapse in the compliance of the Order dated 06.07.05 in O.A. No. 26/05 pronounced by this Tribunal.

5X
M. W. Thomas Case
12/3/07

4. That there is no any willful or deliberate and reckless disobedience of the aforesaid order by the respondents and due to the compelling circumstances, the respondents could not implement the order in time, which can be termed as honest and innocent mistake without any malafide and/or hidden vested interest and such type curable mistake may not be termed as willful disobedience of the aforesaid order.
5. That the submission made in the following paragraphs amply clarify that the respondents have shown due regard to the orders of this Hon'ble Tribunal and as such, there is no question of showing any contempt to the orders of this Hon'ble Tribunal.
6. That the respondents tender an unconditional and unqualified apology for any lapse in compliance of the aforesaid order of the Hon'ble Tribunal.
7. That the implementation of the aforesaid order is not under the domain of the present respondent since it had to pass through different concerning departments such as Integrated Headquarters of MOD (Army), Ministry of Defence, Ministry of Defence (Finance), Controller General of Defence Accounts and also lastly approval from the Ministry of Urban Development and Ministry of Finance which caused the delay in implementation of the order. Finally direction was received from Integrated Headquarters of MOD (Army) that the Ministry of Finance has ruled that the applicants are not entitled for grant of compensation in lieu of Rent Free Accommodation. Ministry of Finance further directed that a Speaking Order refusing the claim of the applicants be issued. Accordingly the Speaking Orders to all the applicants have been issued on 22.02.07.

A copy of such Speaking Orders issued to all the applicants dated 22.02.2007 is annexed herewith and marked as Annexure-R which is self explanatory.

8. That it is stated that Respondents have the highest respect for the orders of Hon'ble Central Administrative Tribunal, Guwahati Bench. The respondent therefore prays that in the circumstances of the case mentioned above, the Hon'ble Central Administrative Tribunal, Guwahati Bench may be pleased to exempt the respondent from the contempt proceedings and dispose off the case as per merit.

AFFIDAVIT

I, Shri R I Mullick, Lt Col. Commanding Officer son of (Late) Ahidul Hoque Mullick aged about 45 years do hereby solemnly affirm and state as follows :-

That I am the Respondent No 2 in the above case and I am fully acquainted with the facts and ~~all~~ circumstances of the case.

That, the statements made in para 1 to 8 of the affidavit are true to my knowledge, belief and information based on the record and nothing has been suppressed thereof.

And I sign this affidavit/report on this tenth day of March 2007 at Guwahati.

Identified by

M
ADVOCATE

Solemnly affirm and declare

ले० कनैल, Lt Col
कम न अधिकारी
Commanding Officer
50 कम्पनी ए एस सी (पूर्ती) पकार 'बी'
50 Coy ASC (Sup) T
Deponent

before me by the deponent who is identified by M. H. Ahmed Advocate at Guwahati on this 12th day of March 2007 at Guwahati.

SPEAKING ORDER

No 47/ST-12 (Civ)

50 Coy ASC (Sup) Type 'C'

PIN 905050

C/O 99 APO

The 22 Feb 2007

To,

Shri Sashi Bhushan Tiwari
Sup Pt ASC Chui att with
50 Coy ASC (Sup) Type 'C'
PIN 905050
C/O 99 APO

IMPLEMENTATION OF CAT GUWAHATI ORDER DATED 06 JUL 2005 IN
OA NO 26//2005 FILED BY SHRI S B TIWARI & 11 OTHERS

1. Further to the information conveyed to you on the subject.
2. This Speaking Order is being issued in compliance of CAT Guwahati order dated 06 Jul 2005 in OA No 26/2005.
3. Order dated 06 Jul 2005 of Hon'ble Tribunal Guwahati has been examined in consultation with MOD, MOD/Fin, CGDA, Min of Urban Development and Min of Fin.
4. You alongwith 11 others had filed OA No 26/2005 in CAT Guwahati for payment of compensation @ 10% in lieu of Rent Free Accommodation. In the above context, it is informed that the subject of compensation in lieu of Rent Free Accommodation is guided by GOI OM No 12-11/60-ACC-I dated 02 Aug 1960. The compensation is to be granted based on the criterion of the obligatory stay of the incumbent at the office premises. The OM referred ibid stipulates that for the efficient discharge of duties it is necessary that an employee should live on or near the premises where he works, it would be desirable that he should be provided with a Government residence. But the residence should be rent free or rent recovered at reduced rates only if the nature of his duties or conditions under which they have to perform are such that a higher scale of pay or special pay, etc, would be granted but for the concession of rent free accommodation or recovery of rent at reduced rates.
5. Thus for grant of compensation in lieu of Rent Free Accommodation two conditions are to be met. First, the nature of an employee should be such as to require his living on the or near the premises. Secondly, duties should also be such as to deserve grant of higher scale of pay or special pay. Unless both these conditions are met an employee would not be eligible for rent free accommodation or compensation in its lieu.
6. Since nature of your duties as laid down vide your charter of duties is not such so as to necessitate your living on the premises of 50 Coy ASC (Sup) or near to it nor does it deserve a higher pay scale or special pay in compensation of which Rent Free Accommodation is to be provided there is no legally sustainable basis to extend the facility to you. As regards analogy with other Departments of GOI as brought out by you in the application submitted before the Tribunal it is stated that working conditions, nature of duties and organisational responsibilities being different, situation obtaining in other Departments cannot be made applicable mutatis mutandis in ASC.
7. In view of forgoing, you are hereby informed that your claim for compensation in lieu of Rent Free Accommodation has been examined by all concerned and after due consideration of ground realities in ASC and in other departments, it is a considered view of this department that you are not entitled for compensation as prayed for. Therefore, it is regretted that your request cannot be acceded to.

S B TIWARI

(R I Mallick)
Lt Col

Commanding Officer

F 1 MAR 2006

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH AT GUWAHATI.

CONTEMPT PETITION NO. 9 OF 2006

IN

O. A. NO. 26 of 2005

IN THE MATTER OF:

A Petition under Section 17 of the
Administrative Tribunals Act, 1985
praying for punishment of the
Contemners/ Respondents for non-
compliance of Judgment and Order
passed by the Hon'ble Tribunal in O. A.
No. 26 of 2005 on 06.07.2005.

- AND -

IN THE MATTER OF:

Shri Sashi Bhusan Tiwari & Ors.

... Applicants.

- VERSUS -

The Union of India & Others.

... Respondents.

- AND -

IN THE MATTER OF:

Shri Sashi Bhusan Tiwari
P. No. 6403303
Permanent Mazdoor,
Office of the Commanding Officer,
50 Coy. ASC (Supply), Type 'C'
C/o - 99 APO.

... Petitioner

- VERSUS -

7/1/2011

62
Shri Sashi Bhusan Tiwari
Applicant No 1
Case No. A/1009/2005
Advocate
Sashi Bhusan Tiwari
Advocate

1. Shri Shekhar Dutt,
Secretary to the Government of
India, Ministry of Defence, 101
South Block,
New Delhi-110001.

2. Lt. Col. R. I. Mullick,
Commanding Officer,
50 Coy ASC (Supply), Type 'C'
C/o 99 APO.

... Respondents/
Contemnners

The humble Petition of the above named
Petitioner :

MOST RESPECTFULLY SHEWETH:

- 1) That your humble Petitioner along with 12 others had filed the Original Application No. 26 of 2005 before the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati for non payment of Licence Fee @ 10 % compensation in lieu of Rent free accommodation to the applicants by the respondents.
- 2) That this Hon'ble Tribunal on 06.07.2005 heard the matter finally and the above said Original Application No. 26 of 2005 was disposed of the original application by directing the respondents to consider the claim of the applicants including the legal heirs of the deceased employees for grant of licence fee @ 10% in lieu of rent free accommodation and to take a decision in the matter. The Hon'ble Tribunal also stated that since all the require details are not in the O.A, the Hon'ble Tribunal also directed the applicants to make individual representations containing the factual details for grant of licence fee @ 10% in lieu of rent free accommodation for the period for which the claim is made within a period of six week from the date of receipt of the order. The respondents were also directed that if the applicants made individual representation containing all the requisite details for grant of licence fee, the same

will be duly considered and orders passed as directed in the order, keeping in mind the observations made in the order and in accordance with law within a period of three months from the date of receipt of such representations. The Hon'ble Tribunal further stated that the reasoned orders would have to be passed thereon and directed the respondents to communicate the same to the applicants without delay. Accordingly, the petitioner and other applicants in O.A. No. 26 of 2005 filed representations before the respondents for compliance. But till today the Respondents/Contemnors did not implement the said Judgment and Order dated 06.07.2005 passed in O.A. No. 26 of 2005 by the Hon'ble Tribunal. As such, your Petitioner is compelled to file this Contempt Petition before this Hon'ble Tribunal to initiate contempt proceedings under the Contempt of Court Act against the alleged Contemnors/Respondents.

Annexure-A is the photocopy of Judgment and Order dated 06.07.2005 passed by this Hon'ble Tribunal in O.A. No. 26 of 2005.

- 3) That your Petitioner begs to state that 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 06.07.2005 passed in O.A. No. 26 of 2005. As such, 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.
- 4) That this Petition is filed bonafide 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 to pass such appropriate 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 06.07.2005 passed in O. A. No. 26 of 2005 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 Act.

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

... Draft Charge

S/B T1WN821

DRAFT CHARGE

The Petitioner aggrieved for non compliance of Judgment and Order dated 06.07.2005 passed by this Hon'ble Tribunal in O.A No. 26 of 2005. The Contemnors/Respondents have willfully and deliberately violated the Judgment and Order dated 06.07.2005 passed by this Hon'ble Tribunal. Accordingly, the Respondents/Contemnors are liable for Contempt of Court proceedings and severe punishment thereof as provided to appear in person and reply to the charges leveled against them before this Hon'ble Tribunal.

S. B. Tiwari

AFFIDAVIT

I, Shri Sashi Bhusan Tiwari, Son of Late S.P.Tiwari, P. No. 6403303, Permanent Mazdoor, Office of the Commanding Officer, 50 Coy. ASC (Supply), Type 'C', C/o 99 APO by profession Service, by religion Hindu, do hereby solemnly affirm and state as follows:

1. That I am one of the Applicants in O. A. No. 26 of 2005 and also petitioner in the instant petition and as such, I am fully acquainted with the facts and circumstances of the case.
2. That the statements made in paragraphs 1, 3, 2 of the Contempt Petition are true to my knowledge, those made in paragraphs 2 of the petition being matters of records 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 affidavit on this 26th day of February 2006 at Guwahati.

S B TIWARI

Identified by
Advocate (Adil Ahmed)

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

Sukumar Salma
Advocate

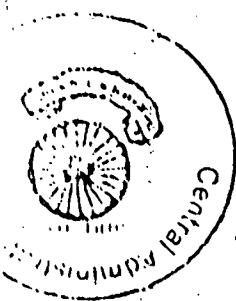
**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 26/2005.

Date of Order: This the 6th day of July, 2005.

The Hon'ble Sri Justice G. Sivarajan, Vice-Chairman.

1. Shri Sashi Bhusan Tiwari
P. No. 6403303
Pmt/Mazdoor.
2. Shri N.R.C. Nair
P. No. 6402891
Pmt/Mazdoor
3. Shri D.B. Thapa
P. No. 6402892
Pmt/Mazdoor
4. Shri C.T. Kuttan
P. No. 602893
Pmt/Mazdoor.
5. Shri P.M. Bhaskaran
P. No. 6402894
Pmt/Mazdoor.
6. Sri Kunjumaoon
6402895
Pmt/Mazdoor.
7. Shri D.K. Singh
P. No. 6403299
Pmt/Mazdoor.
8. Sri N.B. Gurung
P. No. 6403300
Pmt/Mazdoor.
9. Shri K.N. Thankachan
P. No. 6403301
Pmt/Mazdoor.
10. Shri D.P. Sharma
P. No. 6403302
Pmt/Mazdoor.
11. Shri N. Peethambaran
P. No. 6403304
Pmt/Mazdoor.



12. Sri D.C. Ram
P. No. 6403305
Pmt/Mazdoor.

... Applicants

All the applicants are working under the Office of the Commanding Officer, 50 Coy, ASC (Supply), Type C C/o 99 APO.

By Advocate Mr. Adil Ahmed.

• Versus -

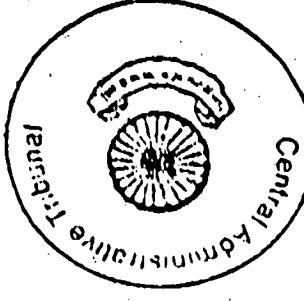
1. The Union of India,
Represented by the
Secretary to the Government of India
Ministry of Defence, 101 South Block,
New Delhi - 1.
2. The Commanding Officer,
50 Coy, ASC (Supply)
Type - C, C/o 99 APO.

... Respondents.

By Mr. A. K. Chaudhuri, Addl. C.G.S.C.

ORDER (ORAL)

SIVARAJAN, J. (V.C.)


The matter relates to grant of Licence Fee. According to the applicants, they are employed in the remote part of Nagaland which has been considered as a difficult area from the point of view of availability of rented house and therefore Central Govt. employees are given rent free accommodation. According to them, they are not provided with rent free accommodation by the respondents and consequently they are entitled to get compensation @ 10% in lieu of rent free accommodation in addition to HRA.

2. Heard Mr. A. Ahmed, learned counsel for the applicants and Mr. A.K. Chaudhuri, learned Addl. Central Government Standing Counsel for the respondents and also considered the averments in the application and in the written statement.

gpt

*Attm'd
J.L.
Suresh*

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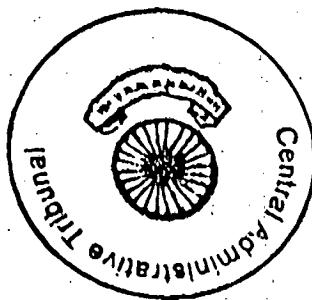
3. An identical question arose for consideration in O.A. No. 205/2004 where the respondents in that application were same as in this application. This Tribunal by order dated 16.06.2005 disposed of the said application. The relevant portion of the said order reads thus:

"7. According to me, the question of granting licence fee can be decided only on ascertaining all the factual situation namely whether the applicants have been provided with rent free accommodation, for, licence fee is granted in lieu of rent free accommodation. The applicants contend that they have not been provided with rent free accommodation while the respondents contend that they were. It would not be possible for this Tribunal to resolve such dispute on factual matters. True, this Tribunal in the orders in O.A. Nos. 48/1991 and 266/1996 had directed payment of licence fee @ 10% to the applicants therein. Whether the factual situation in the case of the instant applicants are the same as the applicants in those cases is yet to be ascertained. A Division Bench of this Tribunal had occasion to consider the case of grant of HRA to some of the employees working under the Garrison Engineer, 868, Engineering Workshop, C/o 99 APO in the Judgment dated 8.6.2005 in O.A.123/2004. That was a case in which the applicants therein had approached this Tribunal, obtained reliefs and the same was affirmed by the Hon'ble Supreme Court. Therefore directions were issued to the respondents to pay HRA to the applicants as directed by the Tribunal in the O.A.s filed by them. The said directions cannot be issued in this case for the reason that the instant applicants did not obtain any such orders from this Tribunal earlier and the orders relied on by them are orders passed in the case of persons employed in other departments. Here it must be noted that the applicants had not produced any materials other than the bald averment made in the application to show that they had preferred any claim for grant of licence fee @ 10% in lieu of rent free accommodation before the authorities at any earlier point of time. The applicants are claiming licence fee in lieu of rent free accommodation for prior periods since they are being posted at Nagaland. Though the request is highly belated I am of the view that the respondents must be directed to consider the claim of the applicants for grant of licence fee @ 10% in lieu of rent free accommodation. In the circumstances, there will be a direction to the respondents to consider the claim of the applicants including the legal heirs of the deceased employees for grant of licence fee @ 10% in lieu of rent free accommodation and to take a



hpr

Abdul
Abdul
Abdul



decision in the matter. Since all the required details of the applicants are not there in this O.A. there will be a direction to the applicants to make individual representation containing the factual details for grant of licence fee @ 10% in lieu of rent free accommodation for the period for which the claim is made within a period of six weeks from today. If the applicants make individual representation containing all the requisite details for grant of licence fee the same will be duly considered and orders passed as directed hereinabove keeping in mind the observations made above and in accordance with law within a period of three months from the date of receipt of such a representation. Needless to say, revised orders have to be passed thereon and communicated to the applicants without delay.

In the light of the above, this O.A. is also disposed of with similar directions.

4. A copy of the order dated 16.06.2005 passed in O.A. No. 205/2004 will also be appended to this order.

The O.A. is disposed of as above. The applicant will produce this order alongwith individual representation before the concerned respondents for compliance.

sd/VICE CHAIRMAN

Certified to be true,
मतापिल असित

अनुचित असित
Section Officer (Jcc)

Central Administrative Tribunal

GUWAHATI-5.

Adm
17/7/05

26 JUL 1968

गुवाहाटी न्यायपीठ Gauhati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Contempt Petition No. 9/2006

In O.A. No. 26/2005

IN THE MATTER OF

1. Sri Sachi Bhushan Tiwari
..... Peti

- Versus -

Shri R. L. Mullick,
Lt. Col.,
Commanding Officer

... Alleged Contemner/
Respondent No.2

IN THE MATTER OF:

An affidavit for and on behalf of the
Respondent No.2.

I, Shri R. I. Mullick, Lt. Col, Commanding Officer do hereby
solemnly affirm and state as follows :-

1. That I am the Respondent No.2 in the instant Contempt Petition and have gone through the aforesaid Contempt Petition filed by the petitioner and have understood the contents thereof and I am well acquainted with the facts and circumstances of the case based on records.
2. That the Respondent No.1 has not willfully flouted any order passed by this Hon'ble Tribunal as alleged by the applicant.
3. At the outset I submit that I have the Highest regard for this Hon'ble Tribunal and there is no question of any willful disobedience of any order passed by the Hon'ble Tribunal. However, I tender unqualified

C. Commanding-Officer
50 कम्पनी ए एस बी (सूरी) प्रकार 'सी' Major Commanding Officer 50 Coy ASC (Sup) Type C

and unconditional apology for any delay or lapse in the compliance of the Order dated 6.7.05 passed in O.A.26/05 pronounced by this Tribunal, during the tenure of my service.

4. That there is no any willful or deliberate and reckless disobedience of the aforesaid order by the respondents and due to the compelling circumstances, the respondent could not implement the order in time, which can be termed as honest and innocent mistake without any malafide and/or hidden vested interest and such type of curable mistake may not be termed as willful disobedience of the aforesaid order.

5. That the submission made in the following paragraphs amply clarify that the respondents have shown due regard to the orders of this Hon'ble Tribunal and as such, there is no question showing any contempt to the orders of this Hon'ble Tribunal.

6. That the Respondent No.2 begs to state that the delay in the implementation of the Hon'ble Central Administrative Tribunal, Guwahati Bench is of administrative nature and not the willful delay.

7. It is pertinent to mention here that the answering respondent has made every efforts and approached the concerned authority to expedite the case on priority and accordingly the Army Headquarters has taken the matter and the same is under the process with the Ministry of Defence. Further the respondent have not denied the claim of the applicants to constitute any contempt and due to some accounts, procedural and administrative constraints some time will be required in order to make due payment.

8. That it is stated that Respondent No.2 has the highest respect for the orders of Hon'ble Central Administrative Tribunal, Guwahati Bench. The respondent therefore prays that in the circumstances of the case mentioned above, the Hon'ble Central Administrative Tribunal, Guwahati Bench may be pleased to exempt the respondent from the contempt proceedings.

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AFFIDAVIT

1, Shri R. I. Mullick, son of (Late) Ahidul Hoque aged Mullick
about 45 years Lt. Col., Commanding Officer do hereby solemnly affirm
and state as follows :

1. That I am the respondent No.2 in the above case.
2. That the statement made in para 1 to 8 of the affidavit are true
to the best of my knowledge and belief.

Identified by :

Advocate

श्री. कर्ण/ Lt C 
कमान अधिकारी Signature
Commanding Officer
50 कम्पनी ए एस सी (पूर्ती) प्रकार 'सी'
50 Coy ASC (Sup) Type 'C'

Solemnly affirm before me by the
deponent Shri R. I. Mullick, who is
identified by M. V. Ahmed
Advocate at Ernakulam on the
day of July 26/7 2006.