

FORM NO. 4.
(S.O. Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GENERAL BENCH:

ORAL SHEET

1. Original Application No. _____
2. Misc Petition No. _____
3. Contempt Petition No. 14/06 (OA 236/05)
4. Review Application No. _____

Applicant(s) Mani Kanta Das & Another

Respondants B. Mazumdar & Ors.

Advocate for the Applicant(s) Mr. Asif Ahmed

Advocate for the Respondant(s) Mr. S. Sarmah
Miss B. Devi

Notes of the Registry Order of the Tribunal

31.3.2006

This Contempt Petition has been filed by the Applicant with a prayer u/s 17 of the A.T. Act, 1985 for punishment of the Contemnors for non compliance of judgement and order dated 9.9.05 passed in OA No. 236/05.

bb

17.05.2006

This contempt petition emanates from the non compliance of the order of this Tribunal dated 9.9.2005 passed in O.A. No. 236 of 2005.

Issue simple notice to 4th Respondent/contemner. post on 16.5.2006.

Vice-Chairman

Contemnors No. 3 and 4 have filed reply affidavits. It appears that direction has been given by this Court "The applicants are directed to file a fresh representation with all requisite details before the competent Respondent within 1 month from today. The concerned Respondent will dispose of the said representations on merits in the light of the principles stated in the common order extracted above and in accordance with the law within a period of three

Contd/-2

Pl. comply order dated 31.3.06.

NS
4.4.06.

Notice & order sent to D/section for issuing to resp. no-4, by regd. A/D post.

4/4/06. D/No = 436
4/4/06. D/No = 12/4/06.

Contd/-

17.05.2006 months thereafter. The Respondent will pass a speaking order and communicate the same to the applicants."

Service report
awaited

20
16.5.06

It is found that the Respondent No. 2, i.e. the Chief Engineer is the concerned person to dispose of the representation. The applicant will explain why all the respondents are impleaded as contemnors in the Contempt Petition.

Post on 16.06.2006.

order dt. 17/05/06
sent to D/section
for issuing to
resp. no. 2 by
regl. post and
another copy issuing
to counsel for
applicant received
by hand...

nb

Vice-Chairman

16.6.2006

Mr.A.Ahmed, learned counsel for the applicant is present. Mr.S.Sarma, counsel for the alleged contemnors submits that the orders of this Tribunal had been complied with by the respondents and he will place the copy of the compliance order on record. Registry is directed to keep the same on record.

Recording the above submissions that the orders have been complied with the C.P. is closed.

Vice-Chairman

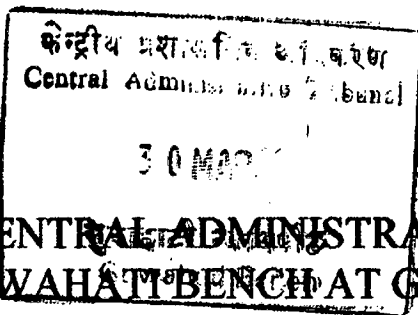
bb

order dt. 17/05/06
duly served on
resp. no-2.

6/6/06

20/6/06.
Copy of the order
has been sent to
the D/Sec. for issuing
the same to the 1/Adv.
for the parties.

20/6/06



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI.

Filed by
Shri Mani Kanta Das
Applicant No. 1
Through Jiff
(Abul Ahmed)
Advocate

CONTEMPT PETITION NO. 14 OF 2006

IN

O. A. NO. 236 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. 236 of 2005 on 09.09.2005.

- AND -

IN THE MATTER OF:

Shri Mani Kanta Das & Another.

...Applicants.

- VERSUS -

The Union of India & Others.

...Respondents.

- AND -

IN THE MATTER OF :

1. Shri Mani Kanta Das
Son of Late Teka Ram Das
Khalasi
Office of the Executive Engineer
(Electrical) Guwahati
Electrical Division - I,
Bamunimaidam, Guwahati - 21.
2. Sri Ramesh Chandra Bordoloi

Son of Late Kali Nath Bordoloi
Lift Operator
Office of the Executive Engineer
(Electrical) Guwahati
Electrical Division – I
Bamunimaidam, Guwahati – 21.
... Petitioners

- VERSUS -

1. Shri B. Mazumdar,
Director General of Works,
Central Public Works
Department, 118-A, Nirman
Bhavan, New Delhi – 110 011.
2. Sri Mohan Swarup
Chief Engineer, (EL) (EZ)
Central Public Works
Department, Nizam Palace
234/4 A.J.C. Bose Road,
Kolkata – 20.
3. Sri Sandeep Mehta
Superintending Engineer
(Electrical), Guwahati Central
Circle, Central Public Works
Department, Mabunimaidam,
Guwahati – 21.
4. Sri Dhiraj Bhattacharjee
Executive Engineer (Electrical)
Guwahati Electrical Division
No.1, Central Public Works
Department, Guwahati – 21.
... Respondents/
Contemnors

The humble Petition of the above named
Petitioner :

MOST RESPECTFULLY SHEWETH:

- 1) That your humble Petitioner along with another had filed the Original Application No. 236 of 2005 before the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati for payment of Special Duty Allowance to the applicants.

2) That this Hon'ble Tribunal on 09.09.2005 heard the matter and finally disposed of the said Original Application No. 236 of 2005 on 09.09.2005 with the following directions :

"The applicants are directed to file a fresh representation with all requisite details before the competent Respondent within 1 month from today. The concerned Respondent will dispose of the said representations on merits in the light of the principles stated in the common order extracted above and in accordance with the law within a period of three months thereafter. The Respondent will pass speaking order and communicate the same to the applicants."

Annexure-A is the photocopy of Judgment and Order dated 09.09.2005 passed by this Hon'ble Tribunal in O.A. No. 236 of 2005.

2. That your petitioners beg to state that as per direction of this Hon'ble Tribunal the petitioners filed representations dated 27.09.2005 and 04.10.2005 before the respondent No. 2 to take necessary steps and actions in this matter and also to release the Special Duty Allowance from the respective date of their joining at NE Region from out side of NE Region. But till today the Respondents/Contemnors did not take any action in this regard. As such, your Petitioners are 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.

Copies of the representations dated 27.09.2005 and 04.10.2005 are annexed herewith and marked as ANNEXURES - B & C respectively.

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 09.09.2005 passed in O.A. No. 236 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 09.09.2005 passed in O. A. No. 236 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

M.K.Das

DRAFT CHARGE

The Petitioner aggrieved for non compliance of Judgment and Order dated 09.09.2005 passed by this Hon'ble Tribunal in O.A No. 236 of 2005. The Contemnors/Respondents have willfully and deliberately violated the Judgment and Order dated 09.09.2005 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.

M.K. Das

AFFIDAVIT

I, Shri Mani Kanta Das, Son of Late Teka Ram Das, Khalasi, Office of the Executive Engineer, (Electrical) Guwahati, Electrical Division - I, Bamunimaidam, Guwahati - 21, by profession Central Government Service, by religion Hindu, do hereby solemnly affirm and state as follows:

1. That I am one of the Applicants in O. A. No. 236 of 2005 and also petitioner No. 1 in the instant petition and I am authorized to swear this affidavit on the behalf of the other petitioner. As such, I am fully acquainted with the facts and circumstances of the case.

2. That the statements made in paragraphs 1, 4 — of the Contempt Petition are true to my knowledge, those made in paragraphs 2, 3 — 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 30th day of March 2006 at Guwahati.

Mani Kanta Das

Identified by
Advocate (Adil Ahmed)

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

(Santanu Nandan Tomuli)
Advocate

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.236 of 2005

Date of Order: This the 9th Day of September, 2005.

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

1. Shri Mani Kanta Das
Son of Late Teka Ram Das
Khalasi
Office of the Executive Engineer(Electrical)
Guwahati
Electrical Division-1 Bamunimaidam,
Guwahati-21.

2. Shri Ramesh Chandra Bordoloi,
Son of Late Kall Nath Bordoloi
Lift Operator
Office of the Executive Engineer(Electrical)
Guwahati
Electrical Division-1
Bamunimaidan
Guwahati-21.
By Advocate Mr.A. Ahmed

Applicants

-Versus-

1. The Union of India represented by the Secretary
To the Government of India,
Ministry of Urban Affairs, Nirman Bhawan,
New Delhi-110011.

2. The Director General Works,
Central Public Works Department, 118-
Nirman Bhawan,
New Delhi-110011

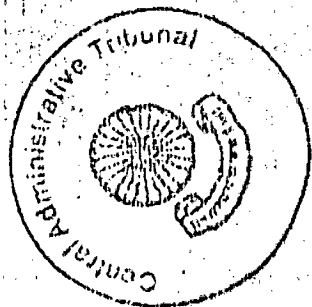
3. The Chief Engineer(EL)(EZ)
CPWD, Nizam Palace,
234/4A.J.C.Bose Road,
Kolkata-20.

4. The Superintending Engineer
(Electrical), Guwahati Central, Electrical Circle
Central Public Works Department
Bamunimaidan, Guwahati-21.

5. The Executive Engineer(Electrical)
Guwahati Electrical Division No.1
Central Public Works Department, Guwahati-21

Respondents

By Advocate Mr.A.K. Choudhury, Addl.C.G.S.C.



Handwritten signature/initials

9- 2

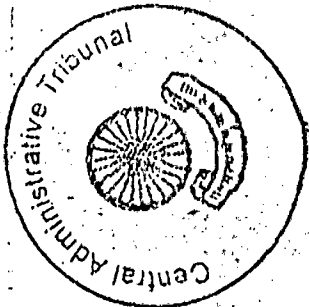
ORDER (ORAL)

SIVARAJAN, J(V.C):

The applicants are presently working as Khalasi and Lift Operator respectively, under the Respondents. Their grievance is that though they are entitled to Special Duty Allowance (SDA for short) for working in the N.E.Region under various Government orders and the decisions of Courts and Tribunals, the Respondents are not paying SDA to the applicants. The applicants made representations to the Respondent, which were returned by the 5th Respondent stating that :

"We should not forward this type of case to SE (E) when no. of such rep. has been turned down by Govt./Sup. Court. He may file the case in Guw. CAT."

2. I have heard Mr. A .Ahmed learned counsel for the applicant and Mr.A.K. Choudhury, learned Addl.C.G.S.C. appearing for the Respondents. Mr. A.Ahmed counsel for the applicant submits that it is in the above circumstances the applicants are forced to file this application for the relief sought for therein. I also heard Mr. A. K. Choudhury, learned Addl, C.G.S.C. appearing for the Respondents. As already noted the applicants are claiming SDA on the basis of various Government orders and the decisions of this Tribunal. In order to get SDA the applicants have to satisfy various conditions stipulated Government orders granting SDA. In the circumstances it is a matter for the applicants to place all relevant facts before the authorities and it is for the authorities to take decision thereon with reference to the Government order on the point and the decision of the Tribunal and the court in the first instance. In the instant case though the



lpr

*Attended
filed
Dance*

10 3

applicants had preferred representation in that regard they were returned of the endorsement noted herein before.

3. This Tribunal had occasion to consider the question of admissibility of SDA in the common order dated 31.5.2005 in O.A.No.170 of 1999 and connected cases. The principle deduced from the various Government orders and the decisions of Courts and Tribunals are summed up in paragraphs 52 and 53 of the said order which reads thus:-

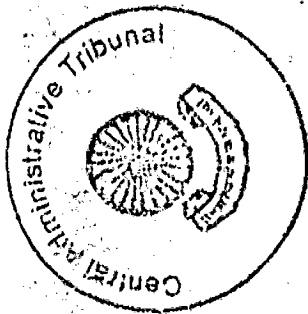
"52. The position as it obtained on 5.10.2001 by virtue of the Supreme Court decisions and the Government orders can be summarized as:

✓ Special Duty Allowance is admissible to Central Government employees having All India Transfer liability on posting to North-Eastern Region from outside the region. By virtue of the Cabinet clarification mentioned earlier, an employee belonging to North Eastern Region and subsequently posted to outside N.E. Region if he is retransferred to N.E. Region he will also be entitled to grant of SDA provided he is also having promotional avenues based on a common All India seniority and All India Transfer liability. This will be the position in the case of residents of North Eastern Region originally recruited from outside the region and later transferred to North Eastern Region by virtue of the All India Transfer Liability provided the promotions are also based on an All India Common Seniority.

"53. Further, payment of SDA, if any made to Ineligible persons till 5.10.2001 will be waived."

4. In the circumstances I am of the view that this application can be disposed of with the following directions:-

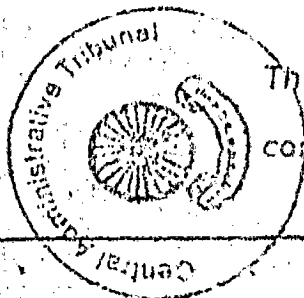
The applicants are directed to file a fresh representation with all requisite details before the competent Respondent within 1 month from to day. The concerned Respondent will dispose of the said representations on merits in the light of the principles stated in the



Attested
JL
Dated

11
a period of three months thereafter. The Respondent will pass speaking order and communicate the same to the applicants.

The O.A. is disposed of as above at the admission stage itself. This will be produced alongwith the representations before the concerned respondent for compliance.



Sd/VICE CHAIRMAN

LM

Date of Application : 12.9.05

Date when copy is ready : 12.9.05

Date when copy is delivered : 12.9.05

Confirmed to be true copy

Nedra
12.9.05

Section (C) (J. III)

C. A. T. C. - Adm Bench

Overseer

Atul
1
Amal

To

Dated 27.09.05

The Chief Engineer (EL) (EZ)
CPWD Nizam Palace,
234/4A.J.C. Bose Road,
Kolkata - 20.

Ref.: O.A. No.236/2005 - Sri Mani Kanta Das & another -Vs- The Union of India & Others.

Sub: Representation submitted with reference to the direction issued by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati on 9th September, 2005 in Original Application No.236/2005.

Respected Sir,

Most humbly I beg to state that I have filed an Original Application No.236 of 2005 before the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati for seeking a direction for payment of Special Duty Allowance to me as per Government of India Cabinet Secretariat letter No.20-12-1999-EA-1-1-1789 dated 02-05-2000. The Hon'ble Tribunal disposed off the said Original Application at the admission stage on 9th September 2005 directing me to file a fresh Representation with all requisite details before the Competent Respondent within one month. The concerned Respondent will dispose off the said Representation on merits in the light of the principle stated in the common order passed by this Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati in O.A.No.170 of 1999 and connected cases dated 31-05-2005 and in accordance with the law within a period of 3 (three months) thereafter. The Respondent will pass speaking order and communicated the same to the Applicants. Hence, I have submitted the following representation before you for kind and sympathetic consideration of the matter and may be pleased to pass appropriate order.

That sir, I am working as Khalasi under the office of the Executive Engineer (Electrical), Guwahati Electrical Division - 1, Bamunimaidan, Guwahati - 21. I am a permanent resident of North Eastern Region and I was appointed as Khalasi by the Superintending Engineer (Electrical), Guwahati Central Electrical Circle, CPWD, Bamunimaidan, Guwahati - 21 vide Office Memorandum No.10(7)GEDII/92/1894 dated 30-12-1992 in pursuance of the letter No.10(1)GCEC/92/2973 dated 28-12-1992

[Handwritten signature]
1
Auto

13

issued to me. I was attached to the Assistant Engineer (Electrical), Aviation Electrical Sub-Division No.V, Central Public Works Department, Coach Bihar, West Bengal. In the said Office Memorandum dated 3-12-1992 in paragraph 4 it has been clearly stated the appointment carries with the liability to serve any part of India or outside where the CPWD has an organisation. I was transferred to the office of the Assistant Engineer (Electrical), Guwahati Central Electrical Sub-Division no.1, Central Public Works Department, Guwahati - 21 from Office of the Assistant Engineer (Electrical), Aviation Electrical Sub-Division No.V, CPWD, Coach Bihar, West Bengal vide Office order No.10(1)AESD-V/COB/93/336 dated 01-05-1993.

That sir, as per Cabinet Secretariat letter No.20-12-1999-EA-12-1799 dated 02-05-2000 it has been clarified and stated that an employee hailing from NE Region and subsequently posted out side of the NE Region and reposted from out side of NE Region to NE Region will be entitled for payment of Special Duty Allowance.

That sir, I am saddled with All India Transfer liability and with the said liability I have been transferred from the office of the Assistant Engineer (Electrical), Aviation Electrical Sub-Division V, CPWD, Coach Bihar, West Bengal to Office of the Assistant Engineer (Electrical), Guwahati Central Electrical Sub-Division No.1.

That sir, regarding payment of Special Duty Allowance the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati in a common order dated 31-05-2005 in O.A.No.170 of 1999 and connected cases held that an employee belonging to NE Region and subsequently posted to out side NE Region and retransferred to NE Region, he will also be entitled for grant of Special Duty Allowance.

From the above, it is very clear that I am also entitled for Special Duty Allowance as per Cabinet Secretariat letter dated 02-05-2000 and also as per observation made by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati on 31-05-2005 in O.A.No.170/99 and other connected cases.

Abin
Jil — *Don't*

145 56
I, therefore, humbly pray before your honour to take necessary steps and actions in this matter and also to release my Special Duty Allowance from the respective date of my joining at NE Region from out side of NE Region.

Thanking you in anticipation,

Yours faithfully,

Encl.: As above.

M.K. Das
(Mani Kanta Das)
Son of Late Teka Ram Das
Khalasi
Office of the Executive Engineer
(Electrical),
Guwahati Electrical Division - I
P.O. - Bamunimaidan,
Guwahati - 21.

Advt
21
Advt

C15

ANNEXURE - C

To

Dated 27/09/2005

The Chief Engineer (EL) (EZ)
CPWD Nizam Palace,
234/4A.J.C. Bose Road,
Kolkata - 20.

Ref: O.A. No.236/2005 - Sri Mani Kanta Das & another -Vs- The Union of India & Others.

Sub: Representation submitted with reference to the direction issued by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati on 9th September, 2005 in Original Application No.236/2005.

Respected Sir,

Most humbly I beg to state that I have filed an Original Application No.236 of 2005 before the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati for seeking a direction for payment of Special Duty Allowance to me as per Government of India Cabinet Secretariat letter No.20-12-1999-FA-I-1-1789 dated 02-05-2000. The Hon'ble Tribunal disposed off the said Original Application at the admission stage on 9th September 2005 directing me to file a fresh Representation with all requisite details before the Competent Respondent within one month. The concerned Respondent will dispose off the said Representation on merits in the light of the principle stated in the common order passed by this Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati in O.A.No.170 of 1999 and connect cases dated 31-05-2005 and in accordance with the law within a period of 3 (three months) thereafter. The Respondent will pass speaking order and communicated the same to the Applicants. Hence, I have submitted the following representation before you for kind and sympathetic consideration of the matter and may be pleased to pass appropriate order.

That Sir, I am working as Lift Operator under the office of the Executive Engineer (Electrical), Guwahati Electrical Division - 1, Bamunimaidan, Guwahati - 21. I am a permanent resident of North Eastern Region and I was surplus skilled worker Grade - II of Small Industries Service Institute under the office of the Development Commissioner, Small Scale Industries, New Delhi and subsequently I was redeployed and appointed Lift Operator under you vide office order No. 9(42)/LO/94/SE(C)/CAL/1077 dated 01.06.1994. I was transferred and posted from office of the Development Commissioner, Small Scale Industries, New Delhi to Calcutta Central Electrical Division - IV, Central Public Works Department, Calcutta - 20. Again I was transferred to the Office of the Superintending Engineer, Guwahati Central Electrical Circle, Guwahati from Calcutta Central Electrical Division - IV, Central Public Works Department vide office order No. 9(42)/LO/SE(C)/EZ/CAL/564 dated 22.07.1997.

Attest
A. I. S. S.

16²

That Sir, as per Cabinet Secretariat letter No.20-12-1999-IA-12-1799 dated 02-05-2000 it has been clarified and stated that an employee hailing from NE Region and subsequently posted out side of the NE Region and reposted from out side of NE Region to NE Region will be entitled for payment of Special Duty Allowance.

That Sir, I am saddled with All India Transfer liability and with the said liability I have been transferred from the office of the Central Electrical Division -- IV, Central Public Works Department, Calcutta - 20 to the Office of the Superintending Engineer, Guwahati, Central Circle Guwahati.

That Sir, regarding payment of Special Duty Allowance the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati in a common order dated 31-05-2005 in O.A.No.170 of 1999 and connected cases, held that an employee belonging to NE Region and subsequently posted to out side NE Region and retransferred to NE Region, he will also be entitled for grant of Special Duty Allowance.

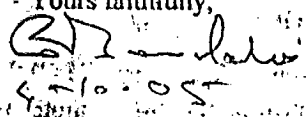
From the above, it is very clear that I am also entitled for Special Duty Allowance as per Cabinet Secretariat letter dated 02-05-2000 and also as per observation made by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati on 31-05-2005 in O.A.No.170/99 and other connected cases.

I therefore, humbly pray before your honour to take necessary steps and actions in this matter and also to release my Special Duty Allowance from the respective date of my joining at NE Region from out side of NE Region.

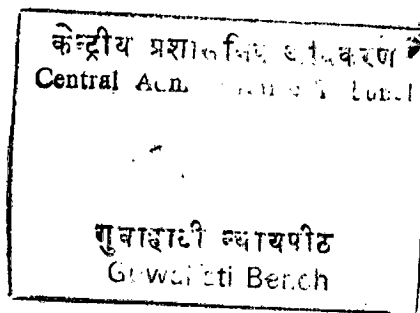
Thanking you in anticipation,

Encl.: As above.

Yours faithfully,


(Ramesh Chandra Bordoloi)
Son of Late Kali Nath Bordoloi
Lift Operator
Office of the Executive Engineer
(Electrical),
Guwahati Electrical Division - I
P.O.- Bamunimaidan,
Guwahati - 21.

Attest
Sd/-
Date



Filed by:-
The Respondent No. 3
Through
Bomdona Devi
Advocate
17-5-06

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

C.P. NO 14/06.

O.A. NO 236/05.

Sri. Mani Kanta Das & anr.

-vs-

Sri B. Mazumdar & ors.

IN THE MATTER OF:

Show Cause reply filed by the
respondent No.3.

1. That a copy of the C.P, has been served on the respondent No.3 and the respondent No.3 has gone through the copy of the C.P filed by the applicant and has understood the contents thereof.

2. That save and except the statements which are specifically admitted hereinbelow, other statements made in the C.P are categorically denied. Further the statements which are not borne on records are also denied and the applicant is put to the strictest proof thereof.

3. That with regard to the statement made in para 1, and 2 of the CP, the answering respondent while denying the statement made therein begs to state that the petitioners are presently serving as Khalasi, and Lift Operator, which fall within the

60

- 2 -

Group D/ Work Charged cadre, and they are not entitled to receive the payment of SDA on the ground that their promotional avenues are not based on common All India Seniority irrespective of the fact of having All India Transfer Liability. The Hon'ble Tribunal while disposing of the OA has relied on the earlier judgment which reads as follows;

" 52 The position as obtained on 5.10.2001 by virtue of the Supreme Court decision and the Govt. orders can be summarised as;

Special Duty Allowance is admissible to Central Government employees having All India Transfer liability on posting to North Eastern Region from outside the region. By virtue of the Cabinet clarification mentioned earlier, an employee belonging to North Eastern Region and subsequently posted to outside N.E.Region, if he is retransferred to N.E.Region, he will also be entitled to grant of SDA provided he is also having promotional avenues based on a common All India seniority and All India Transfer liability. This will be the position in case of residents of North Eastern Region by virtue of the All India Transfer Liability provided the promotions are also based on an All India Common Seniority."

" 53 Further payment of SPA, if any made to ineligible persons till 5.10.2001, will be waived"

4. That with regard to the statement made in para 3 (2) of the C.P, the answering deponent begs to state that the as per the direction contained in the Judgment and order dated 9.9.05,

the petitioners filed representations dated 27.9.05 and 4.10.05 respectively. In fact the representations filed by the applicants are vague and there is no disclosure of the material facts involved in the case and it was therefore, it took time to get the actual factual background of the matter. It is stated that the delay occurred in passing the speaking order is totally due to the fact of non disclosure of factual aspect by the petitioners in the aforesaid representations inspire of the direction passed by the Hon'ble Tribunal. Apart from that the decision (Speaking order) as directed by the Hon'ble Tribunal will have the far reaching effect in near future and for that concurrence from the higher authority is required.

It is further stated that the present deponent is not the concerned authority to pass the speaking order as directed by the Hon'ble Tribunal but having regard to the impact and far reaching effect of the said speaking order, correspondences have already been made by the authority concerned in this regard. In this connection communications dated 19.12.05, 26.12.2005, 9.05.06 and 11.05.2006 may be referred to.

5. That with regard to the statement made in para 4 (3) of the C.P the deponent begs to state that there is no negligence and disregard to the judgment and order passed by the Hon'ble Tribunal. It is stated that the present deponent not to speak of disregarding the Judgment passed by the Hon'ble Tribunal, the deponent even could not think of doing the same. He has got the highest regard to the judgment passed by the Hon'ble Tribunal.

From the facts as narrated above the present case can not stated to be a case of willful and deliberate violation of

the direction passed by the Hon'ble Tribunal and accordingly the present C.P is liable to be closed. As per utmost administrative exercisability the judgment and order of the Hon'ble Tribunal is being implemented in its true spirit, therefore the present contempt petition filed against the Respondents/contemners is liable to be dismissed with cost.

6. That the respondent/Contemners beg to state that the petitioner in his petition has raised various allegation indicating disregard to the Court orders, which is not at all correct and same is denied. Even assuming but not admitting there is any such violation, that may be treated as unintentional and for the same the contemners/respondents through this reply place their unconditional apology with an assurance of not repeating the same in future.

62

- 5 -

AFFIDAVIT.

I Shri Sandeep Mehta, aged about 43 years, son of N.K.Mehta, resident of Japorigog, Guwahati, in the Dist. Kamrup, Assam do hereby solemnly affirm and state as follows;

1. That I am the Contemner No 3, in the instant C.P and as such I am well acquainted with the facts and circumstances with the case and competent to swear this affidavit.

2 That the statements made in this affidavit and in the accompanying show cause reply in paragraphs.....2, 5, 6..... are true to my knowledge and the statements made in paragraphs.....3, 4, 5..... are matters of records and rests are my humble submission before this Hon'ble Court.

And I sign this affidavit on this the 17th day of May 2006.

Identified by

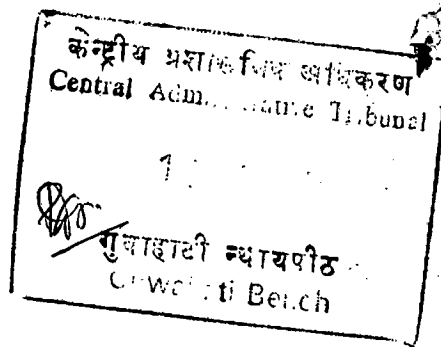
Bondana Sini

Advocate

4

DEPONENT.

✓ Solemnly affirm and state by the the deponent before me who is identified by Ms. B. Devi, Advocate, today i.e. 17th May 2006 at Guwahati.



Filed by:-
The Respondent No. 4
through
Bomdona Devi
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

C.P. NO 14/06.

O.A. NO 236/05.

Sri. Mani Kanta Das & ann.

-VS-

Sri B. Mazumdar & ors.

IN THE MATTER OF:

Show Cause reply filed by the
respondent No. 4.

1. That a copy of the C.P., has been served on the respondent No. 4 and the respondent No. 4 have gone through the copy of the C.P. filed by the applicant and have understood the contents thereof.
2. That save and except the statements which are specifically admitted hereinbelow, other statements made in the C.P. are categorically denied. Further the statements which are not borne on records are also denied and the applicant is put to the strictest proof thereof.
3. That with regard to the statement made in para 1, and 2 of the CP, the answering respondent No. 4 while denying the statement made therein begs to state that the petitioners are presently serving as Khalasi, and Lift Operator, which fall

within the Group D/ Work Charged cadre, and they are not entitled to receive the payment of SDA on the ground that their promotional avenues are not based on common All India Seniority irrespective of the fact of having All India Transfer Liability. The Hon'ble Tribunal while disposing of the OA has relied on the earlier judgment which reads as follows;

" 52 The position as obtained on 5.10.2001 by virtue of the Supreme Court decision and the Govt. orders can be summarised as;

Special Duty Allowance is admissible to Central Government employees having All India Transfer liability on posting to North Eastern Region from outside the region. By virtue of the Cabinet clarification mentioned earlier, an employee belonging to North Eastern Region and subsequently posted to outside N.E.Region, if he is retransferred to N.E.Region, he will also be entitled to grant of SDA provided he is also having promotional avenues based on a common All India seniority and All India Transfer liability. This will be the position in case of residents of North Eastern Region by virtue of the All India Transfer Liability provided the promotions are also based on an All India Common Seniority."

" 53 Further payment of SPA, if any made to ineligible persons till 5.10.2001, will be waived"

4. That with regard to the statement made in para 3 (2) of the C.P, the answering deponent begs to state that as per the direction contained in the Judgment and order dated 9.9.05,

the petitioners filed representations dated 27.9.05 and 4.10.05 respectively. In fact the representations filed by the applicants are vague and there is no disclosure of the material facts involved in the case and it was therefore, it took time to get the actual factual background of the matter. It is stated that the delay occurred in passing the speaking order is totally due to the fact of non disclosure of factual aspect by the petitioners in the aforesaid representations inspire of the direction passed by the Hon'ble Tribunal. Apart from that the decision (Speaking order) as directed by the Hon'ble ^{Tribunal} will have the far reaching effect in near future and for that concurrence from the higher authority is required.

It is further stated that the present deponent is not the concerned authority to pass the speaking order as directed by the Hon'ble Tribunal but having regard to the impact and far reaching effect of the said speaking order, correspondences have already been made by the authority concerned in this regard. In this connection communications dated 19.12.05, 26.12.2005, 9.05.06 and 11.05.2006 may be referred to.

5. That with regard to the statement made in para 4 (3) of the C.P the deponent begs to state that there is no negligence and disregard to the judgment and order passed by the Hon'ble Tribunal. It is stated that the present deponent not to speak of disregarding the Judgment passed by the Hon'ble Tribunal, the deponent even could not think of doing the same. He has got the highest regard to the judgment passed by the Hon'ble Tribunal.

From the facts as narrated above the present case can not stated to be a case of willful and deliberate violation of

the direction passed by the Hon'ble Tribunal and accordingly the present C.P is liable to be closed. As per utmost administrative exercisability the judgment and order of the Hon'ble Tribunal is being implemented in its true spirit, therefore the present contempt petition filed against the Respondents/condemners is liable to be dismissed with cost.

6. That the respondent/Condemners beg to state that the petitioner in his petition has raised various allegation indicating disregard to the Court orders, which is not at all correct and same is denied. Even assuming but not admitting there is any such violation, that may be treated as unintentional and for the same the condemners/respondents through this reply place their unconditional apology with an assurance of not repeating the same in future.

AFFIDAVIT.

I Shri Dhiraj Bhattacharyya , aged about 37 years, son of Late R.C.Bhattacharyya, resident of Kumsarpara, Guwahati , in the Dist. Kamrup, Assam do hereby solemnly affirm and state as follows;

1. That I am the Contemner No 4, in the instant C.P and as such I am well acquainted with the facts and circumstances with the case and competent to swear this affidavit.

2 That the statements made in this affidavit and in the accompanying show cause reply in paragraphs.....2,6..... are true to my knowledge and the statements made in paragraphs.....3,4,5..... are matters of records and rests are my humble submission before this Hon'ble Court.

And I sign this affidavit on this the 15th day of May, 2006.

Dhiraj Bhattacharyya.

Identified by
Bandana Devi
Advocate

DEPONENT.

Solemnly affirm and state
by the deponent before me
who is identified by Ms.
B. Devi, Advocate, before
me

Kabita Goswami
Advocate