

FORM NO. 4  
(See Rule 42)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
ORDER SHEET

1. ORIGINAL APPLICATION No. : -----/2011
2. Transfer Application No. : -----/2011 in O.A. No.-----
3. Misc. Petition No. : -----/2011 in O.A. No.-----
- ✓ 4. Contempt Petition No. : 12 /2011 in O.A. No. 65/2005
5. Review Application No. : -----/2011 in O.A. No.-----
6. Execution Petition No. : -----/2011 in O.A. No.-----

Applicant (S) : Md. Islamul Haque Mandal

Respondent (S) : Sri Satpal Agarwal & Anr

Advocate for the : Mrs. R.S. Choudhury  
[Applicant (S)] Ms. N. Sultana

Advocate for the : -----  
[Respondent (S)]

Notes of the Registry	Date	Order of the Tribunal
<p>This's cp. is filed by the applee'cant, Through Mrs. R.S. Choudhury, Advocate, praying for non-compliance of the order dated-21-10-09 passed in OA. 65/2005</p> <p>Laid before the Hon'ble Court for favour of order.</p> <p><u>17/6/2011</u> Section Officer (G)</p> <p><u>16.6.2011</u></p>	<p>20.06.2011</p> <p>06.09.2011</p>	<p>This is a Division Bench matter. Place it before the next available Division Bench.</p> <p>Adjourned sine die.</p> <p><u>d.</u> (Madan Kumar Chaturvedi) Member (A)</p> <p>Petitioner made a prayer for the issuance of notice for contempt under Section 17 of the Central Administrative Tribunal Act, 1985. Heard the 1d. counsel.</p> <p>Issue notice under Rule 11 (1) (i) of the CAT (Procedure) Rules 1987 returnable within four weeks.</p> <p>List the matter on 24.10.2011.</p> <p><u>16.</u> (S.K. Kaushik) Member (J)</p> <p><u>d.</u> (M. K. Chaturvedi) Member (A)</p>

9-9-11

Learned notice to  
Respondents Nos 1 & 2  
by two last of  
petitioner by  
speed post with  
A/D.

9/9

24.10.2011

Ms. N. Sultana, learned counsel for the petitioner appeared and submitted that service report is still awaited. As such, matter may be adjourned.

List the matter on 02.11.2011.

(Madan Kumar Chaturvedi)  
Member (A)

PB

21-10-11

Service Reports are  
awaited.

02.11.2011

Ms. N. Sultana, learned counsel for the petitioner appeared and submitted that service report is still awaited. As such, matter may be adjourned. Place it before the next available Division Bench.

Adjourned sine die.

(Manjula Das)  
Member (J)

(Madan Kumar Chaturvedi)  
Member (A)

PB

13.02.2012

List the matter on 27.02.2012.

(Manjula Das)  
Member (J)

22-2-12

① Notice issued on 12.9.11. PB  
No A/D received.  
Deemed to be served.

② no reply filed.

27.02.2012

Applicant's counsel Mrs.R.S.Choudhury is present. She submitted that connected OA No.125 of 2011 is posted on 29.02.2012 and as such, she prayed that this CP be posted along with said OA.

Post the CP on 29.02.2012 along with OA No.125 of 2011.

(M.K.Chaturvedi)  
Member (A)

(M. Kanthaiah)  
Member (J)

/bb/

29.02.2012

In view of order passed in  
O.A.125/2011 this Contempt Petition is  
closed. Notices are discharged.

6.3.12

Order copy issued

to the parties vide

NO. 257-259

of 6.3.12

for R. copy for

R.S. Chowdhury

vgb

Buttani

06.03.2012

(M.K. Chaturvedi)  
Member(A)

(M. Kanthaiiah)  
Member (J)

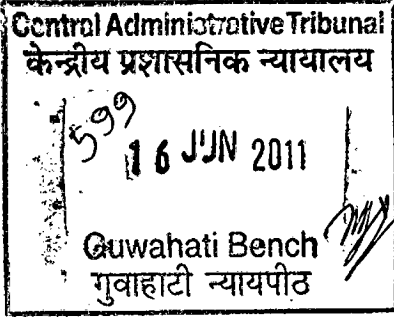
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## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH AT GUWAHATI

CONTEMPT PETITION NO. 12 OF 2011

IN

ORIGINAL APPLICATION NO. 65 OF 2005

FILED BY  
THE PETITIONER  
THROUGH  
Nasrin Sultana  
Advocate  
16.06.11

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 & Order passed by the Hon'ble Tribunal in OA No.65 of 2005.

-AND-

IN THE MATTER OF

Md. Islamul Haque Mandal

Son of late Sakeruddin Mandal, presently serving as Sub-Divisional Engineer, North East Telecom Task Force, Bharat Sanchar Nigam Ltd, Telecom Project-II

Bhangaghar, Guwahati:781005

...PETITIONER/APPLICANT

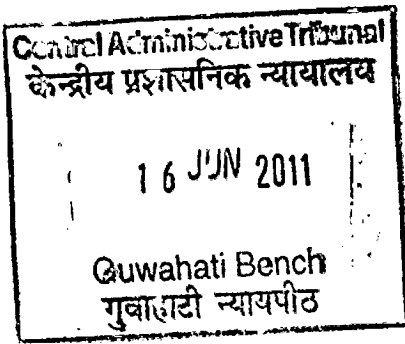
-Vs-

1. Shri Satpal Agarwal

Advisor (HRD)  
Department of Telecommunications,  
Sanchar Bhawan, 20, Ashok Road,  
Shri S.C. Misra New Delhi - 110001.

Member (Services)  
Department of Telecommunications,  
Ministry of Communication & IT,  
Sanchar Bhawan, 20, Ashok Road,  
New Delhi - 110001.

Md. Islamul Haque Mandal



....CONTEMNERS/  
RESPONDENTS

The humble petition of the above named petitioner:

MOST RESPECTFULLY SHEWETH:

1. That the Applicant had filed the Original Application No.65 of 2005 before this Hon'ble Tribunal inter alia challenging the order dated 31.12.2004 issued by the Member (services) Department of Telecommunications whereby the Applicant was inflicted with the punishment of reversion from the post of SDE to JTO in addition to reduction of pay as JTO. Moreover, at the time of issuance of the said impugned order, the Applicant was never provided with an opportunity to defend his case against the harsher punishment of reduction of rank. Although, the said impugned order was issued in gross violation of the principles of natural justice and administrative fair play, the same was upheld vide the Presidential order dated 17.08.2007.
2. That this Hon'ble Tribunal vide order dated 21.10.2009 was pleased to set aside the impugned order dated 31.12.2004 as well as the order dated 17.08.2007 and further pleased to remit the matter back to the Member (Services) Telecom Commission with a direction to take appropriate steps into the matter as per the relevant Rules. The respondents were directed to complete entire exercise within a period of 4 months from the date of the receipt of a copy of the said order i.e., 21.10.2009.

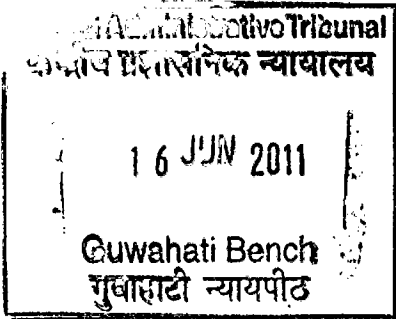
A copy of the order dated 21.10.2009 passed by this Hon'ble Tribunal in OA No.65 of 2010 is annexed herewith and marked as

ANNEXUER:A

3. That pursuant to the order dated 21.10.2009 passed by this Hon'ble Tribunal, the Applicant was expecting the Respondents to comply with the directions contained therein. The Petitioner/ applicant immediately thereafter ON 03.11.2009 submitted

*Md. Islamul Haque Mandal*

a letter along with a copy of the said Order to the Respondent No.2, which was duly received by the respective office of Respondent No.2. However, the Respondent authorities filed a Miscellaneous petition in the month of March, 2010 praying for extension of time for implementation of the judgment and Order dated 21.10.2009. This Hon'ble Tribunal after hearing the parties, vide Order dated 25.03.2010 was pleased to dispose of the said Misc Case by granting 3 months further time /extension to comply with the directions contained therein.



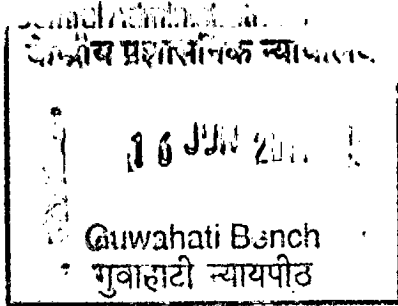
A copy of the letter dated 03.11.2009 of the Petitioner to the respondent No.2 duly received is annexed herewith and marked as **ANNEXURE-B.**

The petitioner craves leave of this Hon'ble Tribunal to produce a copy of the order dated 25.03.2010 if so deemed essential by this Hon'ble Tribunal.

4. That the Applicant humbly begs to state that after seeking extension of time to comply with the directions of this Hon'ble Tribunal, the Petitioner awaited action to be initiated by the Respondents. However, to the utter shock and surprise of the Petitioner, the respondents in a most clandestine manner approached the Hon'ble Gauhati High Court challenging the order dated 21.10.2009 passed by this Hon'ble Tribunal by way of a writ petition being **W.P(C) No.5529 of 2010**. After a detailed hearing in the matter, the Hon'ble Court was pleased to express their mind about dismissing the said writ petition. Under such circumstances, the counsel for the respondents was pleased to seek time for instructions on whether they would withdraw the petition. Accordingly, on a submission made on behalf of the counsel for the respondents on the next date, the Division Bench of the Hon'ble High Court vide order dated 17.03.2011 was pleased to dismiss the said writ petition on withdrawal. As such, in the humble submission of the Petitioner/Applicant the order dated 21.09.2010 passed by this Hon'ble Tribunal

*Mr. Islamul Haque Mandal*

has attained finality and the respondents are bound to follow the directions issued by this Hon'ble Tribunal vide said order dated 21.10.2009. Be it humbly stated herein that considering the fact that the writ petition was pending before the Hon'ble High court, the Petitioner in his best judgmental capacity did not file a contempt case against the authorities concerned.

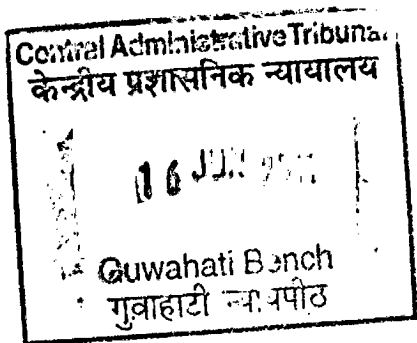


A Copy of the order dated 17.03.2011 passed by the Hon'ble Gauhati High Court in W. P. (C) No. 5529 of 2010 is annexed herewith and marked as ANNEXURES:C.

5. That be it stated herein that immediately thereafter the Applicant has communicated the order dated 17.03.2011 passed by the Hon'ble Gauhati High Court to the respondents vide letter dated 19.04.2011. However, the Joint Controller of Communication, Account, Assam Telecom Circle vide letter dated 11.05.2011 informed the petitioner that office of the Joint Controller of Communication, Account, Assam Telecom Circle is not the competent authority to forward his application dated 19.04.2010 to the Member (services) DOT, Telecommunications. Although, the said letter was sent back to the petitioner on 11.05.2011, the petitioner received the said letter only in the last week of May, 2011. Pursuant to the receiving of the said letter dated 11.05.2011, the petitioner immediately vide letter dated 07.06.2011 communicated the order dated 17.03.2011 passed by the Hon'ble Gauhati High Court. The respondents have duly acknowledged the receipt of the order dated 17.03.2011. However, for the reasons best known to the respondents, they are deliberately sitting over the matter and have not taken any action for compliance of the order dated 21.10.2009 passed by this Hon'ble Tribunal in OA No.65 of 2005. Be it further stated herein that considering the fact that a disciplinary proceeding has been pending against the Petitioner/ Applicant for the past 10 years, grave prejudice is being caused to the Petitioner/ Applicant by such inaction of the respondents. The authorities have deliberately been sitting over the matter to harass the Petitioner. Hence, the

*Md. Islamul Haque Mondal*

Petitioner/Applicant is left with no other option/ constrained to file the instant contempt petition.



Copies of the letters dated 19.04.2011, 11.05.2011 and 07.06.2011 are annexed herewith and marked as **ANNEXURE: D COLLY.**

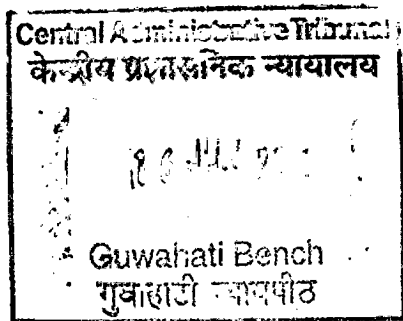
6. That, to the utter shock and surprise of the Applicant, the Contemnors' /respondents, despite due communication of the order dated 21.10.2009 passed by this Hon'ble Tribunal, have completely failed to comply with the directions issued by this Hon'ble Tribunal. The Applicant respectfully begs to state that the Contemnor/respondents have been sitting over the matter and have deliberately refused to consider the directions in compliance of the order passed by this Hon'ble Tribunal. The Applicant humbly states that such noncompliance on the part of the Contemnor/respondents despite communication made by the Applicant amounts to nothing but willful disobedience of the orders passed by this Hon'ble Tribunal. The aforesaid order of this Hon'ble Tribunal besides being binding on the Contemnor/respondents are also a clear and categorical direction and should leave no room for ambiguity for the Contemnor/respondents.
7. That, the Applicant begs to submit that such noncompliance of the order dated 21.09.2010 passed by this Hon'ble Tribunal in OA No.65 of 2010 amounts to interfering with the administration of justice and lowering the dignity and honour of this Hon'ble Tribunal.
8. That, the Applicant begs to submit that such noncompliance by the Contemnor's /respondents of the order dated 21.09.2010 passed by this Hon'ble Tribunal constitutes willful disobedience of the order of this Hon'ble Tribunal, for which the Contemnor/respondents are liable to be punished in accordance with the

*Md. Islamul Haque Mandal*



provisions of the Section 17 of the Administrative Tribunals Act, 1985 read with the Contempt of Courts Act, 1971 and Article 215 of the Constitution of India.

9. That, the Petition is made bonafide and for the ends of justice.

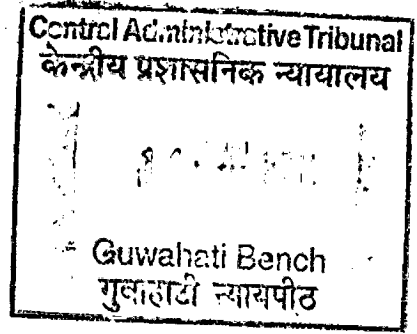


In the Premises aforesaid it is, therefore, most respectfully prayed that Your Lordships may be pleased to issue a Notice on the Contemnors /respondents to show cause as to why they should not be punished under the provisions of the Section 17 of the Assam Administrative Tribunal Act, 1985 read with Contempt of Courts Act, 1971 and Article 215 of the Constitution of India for willful and deliberate disobedience/ violation and/or noncompliance of the Order dated 21.10.2009 passed by this Hon'ble Tribunal in OA No.65 of 2005 and upon hearing the parties, Your Lordships may be pleased to punish the Contemnors /respondents for Contempt of this Hon'ble Tribunal and/or pass such further or other order/s as this Hon'ble Tribunal may deem fit, and proper.

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

... Draft Charge....

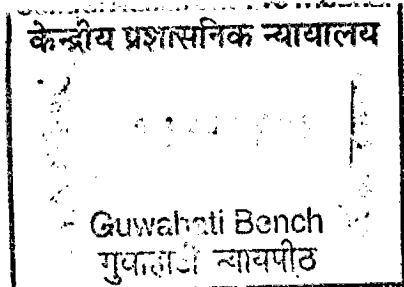
*Ad. Islamul Haque Hamdani*



## DRAFT CHARGE

The Applicant is aggrieved for non-compliance of the Judgment and order dated 21.10.2009 passed by this Hon'ble Tribunal in OA No. 65 of 2005. The respondents/contemnors' have willfully and deliberately violated the Judgment and order dated 21.10.2009 passed by this Hon'ble Tribunal in OA No.65 of 2005. Accordingly, the respondents are liable for contempt of Court proceedings and severe punishment thereof as provided under the law. They may also be directed to appear in person and reply to the charges leveled against them before this Hon'ble Tribunal.

*Md. Islahul Haque Mandal*

AFFIDAVIT

I Sri Islamul Haque Mondal, son of Late Sakeruddin Mondal, aged about 47 years, presently serving as Sub-Divisional Engineer, North East Telecom Task Force, Bharat Sanchar Nigam Ltd, Telecom Project-II Bhangaghar, Guwahati:781005, do hereby solemnly affirm and states as follows:

1. That I am the Applicant of O.A. No.65 of 2005 and also the petitioner in the instant Contempt petition and as such, I am fully acquainted and well conversant with the facts and circumstances of the case and I am competent to swear this affidavit.
2. That the statements made in this paragraph and paragraphs 1, 3, 4, 5, 6, 7, 8 and 9 are true to my knowledge and those made in paragraph 2 are true to my information derived from records which I believe to be true and rest are my humble submission before this Hon'ble Tribunal.

And, I sign this affidavit on the 16<sup>th</sup> day of June, 2011 at Guwahati.

*Md. Islamul Haque Mondal*

DEPONENT

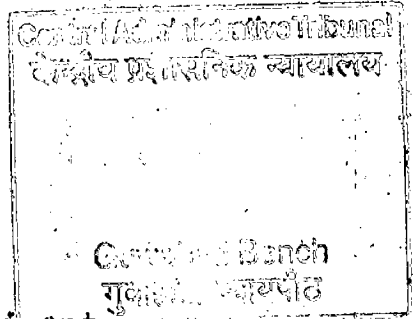
Identified by me:  
*Nasrin Sultana*  
Advocate

Solemnly affirmed and declared before me by the Deponent, who is identified by Nasrin Sultana, Advocate, Guwahati on this the 16<sup>th</sup> day of June '2011 at Guwahati.

ADVOCATE

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :: RAJGARH ROAD  
BHANGAGARH ::: GUWAHATI - 05.

O.A. No. 65 of 2005



Md. Islamul Haque Mondal

Applicant,

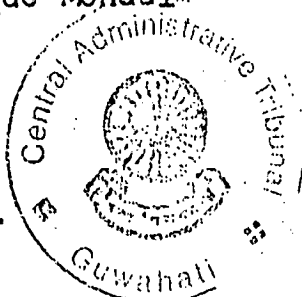
--Versus--

U.O.I. & Ors.

Respondents.

MEMO NO. \_\_\_\_\_

DATED \_\_\_\_\_



Copy to :-

- ✓ 1. Md. Islamul Haque Mondal,  
Working as Sub-Divisional Engineer,  
North East Telecom Task Force,  
B.S.N.L., Telecom Project-II  
Bhangagarh, Guwahati - 781 005.

Applicant,

2. The Secretary to the Govt. of India,  
Ministry of Communications & IT Department of  
Telecommunications, 20 Ashok Road, Sanchar Bhawan,  
New Delhi - 110 001.
3. The Member(Services)  
Department of Telecommunications,  
Ministry of Communication & IT, Sanchar Bhawan,  
Ashok Road, New Delhi - 110 001.
4. The Advisor (HRD)  
Department of Telecommunications  
Ministry of Communication & IT,  
Sanchar Bhawan, 20 Ashok Road, New Delhi - 110 001.

Respondents.

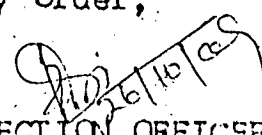
5. Mrs. R. S. Choudhury, Advocate for Applicant.
6. Mr. M.U. Ahmed, Addl. C.G.S.C.

Please find enclosed herewith a copy of the order  
dated 21/10/2009 in O.A. No. 65 of 2005 passed by  
this Tribunal and do needful.

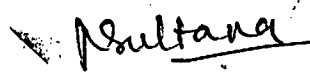
Encl :-

Order dtd.  
21/10/2009.

By Order,

  
SECTION OFFICER(J).

Certified to be true copy

  
ADVOCATE

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 65 of 2005

Date of Order: This, the 21<sup>st</sup> of October, 2009

HON'BLE SHRI MUKESH KUMAR GUPTA, MEMBER (J).

HON'BLE SHRI MADAN KUMAR CHATURVEDI, MEMBER (A).

Md. Islamul Haque Mondal  
Son of Late Sakeruddin Mondal  
Working as Sub-Divisional Engineer  
North East Telecom Task Force  
Bharat Sanchar Nigam Limited  
Telecom Project-II  
Bhangagarh, Guwahati-781 005.

.....Applicant

By Advocates: Mrs.R.S.Choudhury.

-Versus-

1. The Union of India  
represented by the Secretary  
to the Government of India  
Ministry of Communication & IT  
Department of Telecommunications  
20 Ashok Road, Sanchar Bhawan  
New Delhi - 110 001.

2. The Member (Services)  
Department of Telecommunications  
Ministry of Communication & IT  
Sanchar Bhawan, 20 Ashok Road  
New Delhi - 110 001.

3. The Advisor (HRD)  
Department of Telecommunications  
Ministry of Communication & IT  
Sanchar Bhawan, 20 Ashok Road  
New Delhi - 110 001.

.....Respondents

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

\*\*\*\*\*

- 07-H -

**ORDER (ORAL)**  
**21.10.2009**

16 Oct 2009

Gauhati Bench  
Guwahati

**MUKESH KUMAR GUPTA, MEMBER (J):**

Validity of order dated 31.12.2004 (Annexure-9) passed by Member (Services) Telecom Commission inflicting penalty of reduction of rank from SDE to JTO as well as reduction in pay by two increments in time scale with cumulative effect, as upheld by Presidential order dated 17.08.2007 (Annexure-10) is questioned by Md. Islamul Haque Mondal, SDE in present proceeding filed under Section 19 of the Administrative Tribunals Act, 1985.

2. Amongst various contentions raised, two basic contentions emphasized are that initially charge memoranda dated 04.12.2000 had been issued against him. Said charge-sheet was withdrawn vide order dated 13.09.2001 on the ground that it had not been issued by the competent authority. In the meantime, he was promoted from JTO to the cadre of TES Group-B on 19.12.2001, on which date, there remained no departmental proceeding either contemplated, issued or pending against him. However, posting order had not been issued, which grievance became the subject matter of O.A.8/2002. Said O.A. was dismissed on 02.05.2002. Writ Petition (C) No.3570/2002 was preferred before the Hon'ble Gauhati High Court and during its pendency, a fresh charge-sheet dated 10.07.2002 was issued alleging that he was in possession of assets disproportionate to his known source of income besides certain other allegations. Aforesaid writ petition was disposed of vide order dated 24.03.2003 directing the Respondents to complete said disciplinary proceeding within the time frame prescribed therein. Vide report dated

-12-3

28.07.2003, Inquiry Officer concluded that charges were not proved. Misc.

Application No.533/2003 in aforesaid writ petition seeking extension of time was preferred by the Respondents which was rejected with direction to open sealed cover subject to final outcome of the disciplinary proceeding.

In compliance of said direction, order dated 29.09.2003 was issued promoting him. Subsequently he was given retrospective promotion w.e.f.

04.01.2002 vide order dated 19.11.2003. The Advisor (HRD) Telecom Commission assuming the function and authority of Disciplinary Authority

and disagreeing with findings of the Inquiry Officer required him to submit a representation vide memoranda dated 12.02.2004, which opportunity was

indeed availed by him on 08.03.2004. In such circumstances and on consideration of aforesaid representation, an order dated 15.04.2004 was

passed by the aforesaid authority inflicting punishment of reduction of pay by two increments for two years with cumulative effect. A statutory appeal

was preferred by the Applicant on 05.05.2004, which had been disposed of vide order dated 13.12.2004, impugned in present proceedings.

3. Contention raised by the Applicant is that the said Appellate Authority i.e., the Member (Services) Telecom Commission while passing the Annexure - 9 order dated 31.12.2004 committed illegality in as much as it

had withdrawn the penalty order dated 15.04.2004 though there exists no such provision under the CCS (CCA) Rules, 1965 as well as the said order

suffers from manifest illegality as no show cause notice was issued and Applicant not was afforded any opportunity of hearing prior to enhancing

the penalty by it in the nature of reduction in rank. Specific contention in the pleadings was raised to said effect vide paras 5.4 and 5.5 of O.A., as

amended. Mrs.R.S.Choudhury, learned counsel appearing for the

- 13 -

Applicant vehemently urged that said illegality is incurable and since it is manifest in the said order, though upheld by the Presidential order on 17.08.2007, is not sustainable in the eyes of law.

4. By filing written statement, as further explained by the additional written statement, it has been urged by the Respondents that final penalty order dated 31.12.2004 was issued in compliance of the direction issued by Hon'ble Gauhati High Court on 28.07.2003 in the abovementioned writ petition, and at best, giving no opportunity of hearing could be termed as mere "irregularity", instead of illegality. Mr.M.U.Ahmed, learned Addl. C.G.S.C. appearing for the Respondents contends that in case the Tribunal is of the opinion that there is violation of principles of natural justice, matter may be remitted back to the competent authority to examine said aspect without recording anything about merits of the matter, as projected by the Applicant.

5. We have heard learned counsel for the parties, perused the pleadings including the rule position, namely, Rule 27(2) of the CCS (CCA) Rules, 1965. Before proceeding into the matter, it would be expedient to notice the mandate of Rule 27(2), relevant portion of which reads as under:-

"(2) In the case of an appeal against an order imposing any of the penalties specified in Rule 11 or enhancing any penalty imposed under the said rules, the Appellate Authority shall consider ...

- (a) Whether the procedure laid down in these rules has been complied with and if not, whether such non-compliance has resulted in the violation of any provisions of the Constitution of India or in the failure of justice;
- f





- (b) Whether the findings of the Disciplinary Authority are warranted by the evidence on the record; and
- (c) Whether the penalty or the enhanced penalty imposed is adequate, inadequate or severe;

and pass orders\_\_\_

- (i) Confirming, enhancing, reducing, or setting aside the penalty; or
- (ii) remitting the case to the authority which imposed or enhanced the penalty or to any other authority with such direction as it may deem fit in the circumstances of these cases.

Provided that -

- ...
- ...
- (iii) if the enhanced penalty which the Appellate Authority proposes to impose is one of the penalties specified in Clauses (v) to (ix) of Rule 11 and an enquiry under Rule 14 has been held in the case, the Appellate Authority shall make such orders as it may deem fit after the appellant has been given a reasonable opportunity of making a representation against the proposed penalty]; and
- (iv) no order imposing an enhanced penalty shall be made in any other case unless the appellant has been given a reasonable opportunity, as far as may be in accordance with the provisions of Rule 16, of making a representation against such enhanced penalty."

(emphasis supplied)

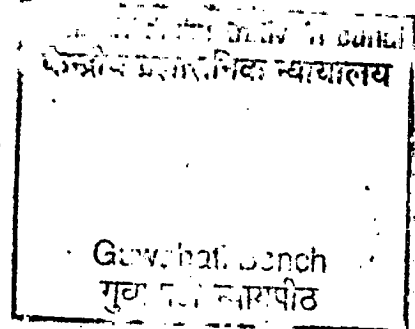
A bare perusal of proviso (iii) and (iv) of Rule 27(2), as extracted hereinabove, would reveal that mandate of said rule is that when the Appellate Authority intends to enhance the penalty, it is under legal obligation to afford the delinquent officer an opportunity of hearing. It is not in dispute that prior to passing order dated 31.12.2004, said mandate of the Rules has not been clearly followed and observed. In that view of the matter, we are of the considered view that irregularity has been crept in

*pe*

procedure adopted by the Member (Services) Telecom Commission while passing order dated 31.12.2004 which remains even on the disposal/rejection of his appeal by the President. In that view of the matter, we have no hesitation to conclude that order dated 31.12.2004 as upheld on 17.08.2007 are not sustainable in the eyes of law and same are accordingly quashed. Matter is remitted back to the Member (Services) Telecom Commission to follow the mandate of Rule 27(2) of the CCS (CCA) Rules, 1965 and to afford the Applicant an opportunity of hearing before deciding his appeal against order dated 15.04.2004 passed by the Disciplinary Authority, if it intends to enhance the penalty. We may note here that learned counsel for Applicant has raised two further contentions, namely, that since he has been promoted as SDE vide order dated 29.09.2003, as modified on 19.11.2003, there is a positive change in the Disciplinary Authority and the Member (Services) Telecom Commission could not have acted as the Appellate Authority, rather he would have assumed the role of the Disciplinary Authority. We are not, at this stage, entering into merits and demerits of said contention for the simple reason that the charge-sheet has been issued prior to issuance of the aforesaid promotion order. Further contention has been that there is no provision of withdrawal of punishment order. In view of clear cut mandate of Rule 27(2) of CCS (CCA) Rules which provides that Appellate Authority can confirm, enhance, reduce and set aside the penalty, we are refraining from making any such observation on this aspect.

6. In the result, O.A. is allowed quashing order dated 31.12.2004 (Annexure-9) as well as order dated 17.08.2007 (Annexure-10), and remitting the matter back to the Member (Services) Telecom Commission

*[Signature]*



to take further steps into the matter and to follow the mandate of the rules as well as law on said subject. Aforesaid exercise shall be undertaken, as expeditiously as possible, but not later than four months from the date of receipt of a copy of this order. No costs.

Sd/MEMBER (J)

Sd/-Member(A)

/BB/

TRUE COPY  
प्रतिलिपि  
अनुभाग प्रमुखको  
Section Officer (Judl)  
Central Administrative Tribunal  
Gandhinagar Bench  
New Delhi

To

The Hon'ble  
**Member (Services)**  
 DOT, Telecom Commission  
 Sanchar Bhawan, 20 Ashoka Road  
 New Delhi -1  
 (Through proper channel)

Dated 3<sup>rd</sup> November 2009

Sub : *Submission of Certified copy of Order and judgment dated  
 21-10-2009 passed by Hon'ble CAT, Guwahati bench in OA  
 65/2005.*

Respected Sir,

With due respect and humble submission, I, Md. Islamul Haque Mandal, SDE, NETF/BSNL Guwahati (Staff No.109096) beg to submit herewith the order and judgment dated 21-10-2009 passed by Hon'ble Central Administrative Tribunal, Guwahati bench in OA No. 65/2005.

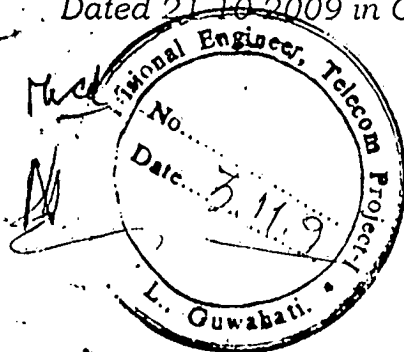
That Sir, the Hon'ble Tribunal has been pleased to quash all the punishment orders pending against me, with regards to the disciplinary proceeding initiated against me, through the above order dated 21-10-2009.

Therefore, I request your honour to kindly issue a favourable order in line with the direction of the Hon'ble Tribunal and for which act of your kindness I would remain ever grateful to you Sir.

With best regards.

Yours faithfully,

Enclosure : One certified copy of order  
 Dated 21-10-2009 in OA 65/2005.



(Md. Islamul Haque Mandal)  
 Sub-Divisional Engineer  
 o/o Divisional Engineer TP-1  
 NE Task Force, BSNL  
 Bhangagarh, Guwahati-5.

Certified to be true copy  
Multana  
 ADVOCATE



# THE GAUHATI HIGH COURT AT GUWAHATI

(The High Court Of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh)

PRINCIPAL SEAT AT GUWAHATI

Page No. 1

CASE NO : WP(C) 5529/2010

District : Kamrup

Category : 10057 (Order of the Appellate or Revisional authority. )

- 1 THE UNION OF INDIA & 2 ORS  
REP. BY THE SECY. TO THE GOVT. OF INDIA,  
MINISTRY OF COMMUNICATION AND IT, DEPTT. OF  
TELECOMMUNICATION, 20 ASHOK ROAD, SANCHAR  
BHAWAN, NEW DELHI-110001
- 2 THE MEMBER (SERVICES)  
DEPARTMENT OF COMMUNICATION & IT, 20 ASHOK  
ROAD, SANCHAR BHAWAN, NEW DELHI-110001.
- 3 THE ADVISOR (HRD),  
DEPARTMENT OF TELECOMMUNICATION, MINISTRY  
OF COMMUNICATION & IT, 20 ASHOK  
ROAD, SANCHAR BHAWAN, NEW DELHI-110 001.

Petitioner/appellant/applicant

Versus

- 1 MD. ISLAMUL HAQUE MONDAL  
PRESENTLY HOLDING THE RANK OF JR.  
TELECOMMUNICATION OFFICER, NORTH EAST  
TELECOM TASK FORCE, BSNL, TELECOM  
PROJECT-II, BHANGAGARH, GHY-5

Respondent/Opp. Party

Advocates on record for Petitioner/ap

- 1 MR. R SHARMA
- 2 ASSTT.S.G.I.

Advocates on record for Respondents

- 1 MR. I CHOWDHURY
- 2 MRS. R S CHOWDHURY
- 3 MR. N J KHATANAR

Summary Of Case And Prayer In Brief

## CERTIFIED COPY OF JUDGEMENT / ORDER

DATE OF FILING APPLICATION	DATE WHEN COPY WAS READY	DATE OF DELIVERY
18/04/2011	18/04/2011	18/04/2011

BEFORE

HON'BLE THE CHIEF JUSTICE MR MADAN B. LOKUR

HON'BLE MR JUSTICE A. K. GOSWAMI

DATE OF ORDER : 17/03/2011

Mr N Bora, learned Central Govt Counsel, seeks liberty to withdraw this writ petition. Prayer is allowed.

Dismissed as not pressed.

Sd/- A.K. Goswami  
Judge

Sd/- Madan B. Lokur  
Chief Justice

Sl. No. 165191  
Dt. 18.04.2011

CERTIFIED TO BE TRUE COPY

Date: 18/4/11  
Superintendent (Copying Section)  
Gauhati High Court  
Authorised U/S 76, Act 1, 1872

Certified to be true copy

Multara  
ADVOCATE

18.04.11



Colly

Ministry of Communication  
Department of Telecommunications  
O/O Controller of Communication Accounts  
Assam Telecom Circle, Guwahati-1

No.ASM/CCA/IHM/FF/2008-09

Dated at Guwahati the 11<sup>th</sup> May 2011

To

I.H.Mondal  
Sub- Divisional Engineer, TP-I  
N E Task Force,BSNL,  
Bhangaganj  
Guwahati-5

Sub:- Returning of Documents - thereof

Refer to your letter dated 19/4/2010 this is to inform you that this office is not the Competent Authority to forward your application to the Member (services) DOT, Telecommunications.

Therefore, you are requested to send your application through <sup>your</sup> the competent authority for which your application in original is returned back to you.

( M N Talukdar )  
Jt. Controller of Communication Accounts  
Assam Telecom Circle,Guwahati.  
Ph - 0361-273486

Certified to be true copy

ADVOCATE

To

The Hon'ble

MEMBER (Services)

DOT, Telecom Commission

Sanchar Bhawan, New Delhi-1

(Through DOT Cell Guwahati)

Dated: 19.04.2010

Sub: *Submission of certified copy of order dated 17.3.2011 in  
WP(C) 5529/2010 passed by Hon'ble Gauhati High Court.*

Respected Sir,

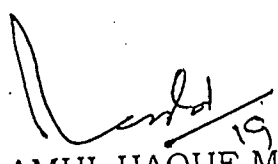
With due respect, I, Md. Islamul Haque Mandal, SDE/NE Task Force, Guwahati beg to submit herewith one certified copy of order dated 17.3.2011 passed by Hon'ble Gauhati High Court in WP(C) 5529/2010.

The above writ petition has been dismissed by the Hon'ble High Court as the same was withdrawn by CGSC. As such the order of Hon'ble CAT, Guwahati bench passed in OA 65/2005 ought to be followed.

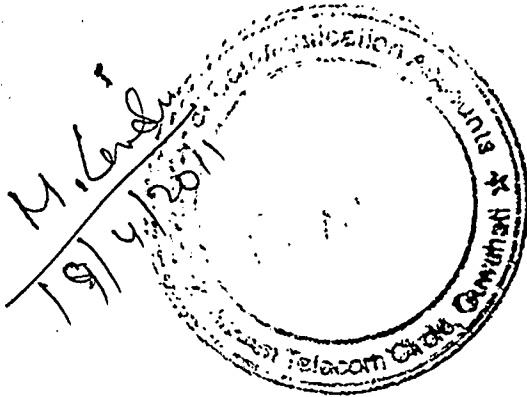
This is for your kind information and issuance of a favorable order please.

Enclosure:

Certified copy as above.

  
(MD. ISLAMUL HAQUE MANDAL)

Sub divisional Engineer, TP-I  
NE Task Force/BSNL, Bhangagarh  
Guwahati-5.



- 21 -

Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय

ANEXURE-D

Colly

To  
The Hon'ble  
Member (Services)  
DOT, Telecom Commission  
Sanchar Bhawan, New Delhi-1  
(Through Proper Channel)

From:  
Md. Islamul Haque Mandal  
SDE, TP-1/ NE Task Force  
BSNL, Guwahati-5

Sub : Submission of certified copy of order dated 17-3-2011 in WP (C)  
No. 5529/2010 passed by Hon'ble Gauhati High Court.

Respected Sir,

With due respect and humble submission, I beg to submit herewith one certified copy of order dated 17.3.2011 passed by Hon'ble Gauhati High Court in WP (C) No. 5529/2010.

That Sir, this is the same certified copy already mailed to your honour through Speed Post on 19-4-2011. Moreover, one more copy was submitted to DOT cell/office of CCA, Assam Telecom Circle Guwahati on 19-4-2011 with a request to forward the same to your honour, but the same was returned back to me on 11-5-2011 expressing their inability to do so.

That Sir, as you are aware the said Writ Petition was filed by the department challenging the order and judgment dated 21-10-2009 passed by Hon'ble Central Administrative Tribunal, Guwahati bench in OA - 65/2005, but the Writ Petition has been dismissed by the Hon'ble High Court. As such the order of Hon'ble Tribunal in OA-65/2005 ought to be followed.

This is for favour of your kind information please.

With best regards.

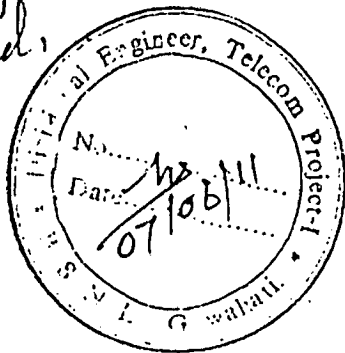
Yours faithfully,

Dated at Guwahati  
The 7<sup>th</sup> June 2011.

Enclosures:

All relevant papers as above  
(3 pages)

Received,



(Md. Islamul Haque Mandal)  
Sub-divisional Engineer  
TP-1/NETF, BSNL  
Guwahati-5