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6
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No 318/2006

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SECTION OFFICER (Judl.)

Kalita
31/10/17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET.

1. Original Application No. 318 / 2006
2. Misc Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) S. Pandit VS Union of India & Ors

Advocate for the Applicant(s) Mr B. Malakar

Advocate for the Respondant(s) Addl. C.G.S.C. Ms. M. Das

Notes of the Registry	Date	Order of the Tribunal
This application is in form is filed, C. F. for Rs. 50/- deposited vide IPC/SD No. <u>28G1933249</u>	<u>8.1.07.</u>	<u>Post the matter on 9.1.07.</u>
Dated <u>26.12.06</u>	<u>1m</u>	<u>Vice-Chairman</u>
Dy. Registrar <u>5.1.07.</u>	9.1.2007 Present, The Hon'ble Shri K.V. Sachidanandan Vice-Chairman.	
	Mr.B.Malakar, learned counsel for the Applicant and Mrs.M.Das, learned Addl.C.G.S.C. for the Respondents were present.	
	Post the matter on 21.2.2007.	

Vice-Chairman

/bb/

6.3.2007

Mrs M. Das, learned Addl. C.G.S.C. prays for four weeks time to file written statement. Let it be done. Issue notice to the applicant.

Post the matter on 5.4.07.

Notice & order sent to D/Section for issuing to R-1 to 4 by regd-A/D post.

Vice-Chairman

D/No-258,259

nkm

360,361

5.4.2007

Mrs. M. Das, learned Addl. C.G.S.C.

submitted that she has not got the instruction so far.

Considering the issued issue notice to the respondents.

Post on 21.5.2007.

Notice duly Served

on R-3.

Co
26/4/07

Notice for Resp. no 4 received back us unserved with a postal remarks, "Addr. not found".

21.5.2007

Mr. G. Baishya, learned Sr.C.G.S.C.

sought for two weeks' more time to file reply statement. Let it be done.

Post on 6.6.2007.

BB/Bar

1/bb/

Vice-Chairman

21

18.5.07

21.5.2007

Four weeks' more time is granted to

Mrs. M. Das, learned Addl. C.G.S.C. to file reply statement.

Post on 21.6.2007.

Notice duly Served on R-3,1.

No WTS has been filed.

22

20.6.07.

1/bb/

Vice-Chairman

21.6.07. At the request of learned counsel for the respondents four weeks time is granted to file written statement. Post the matter on 23.7.07..

Vice-Chairman

lm

23
20.7.07.

23.8.2007 Post the case on 25.9.2007 granting
Post the matter 23.8.07
four weeks time to Mrs.M.Das, learned
Addl.C.G.S.C. for filing of reply statement.

Vice-Chairman

Vice-Chairman

/bb/

23.8.2007 Post the case on 25.9.2007 granting
four weeks. time to Mrs.M.Das, learned
Addl.C.G.S.C. for filing of reply statement.

Vice-Chairman

/bb/

-4- 0.A.318/06

25.9.07

None appears for the applicant nor the applicant is present. No reply has been filed in this case. Mrs. M. Das learned Addl.C.G.S.C. took four weeks time to obtain instructions on 6.3.2007. Vide order dated 5.4.07 Registry was directed to issue notice to the Respondents. Again four weeks time was taken by Mrs.M.Das, Addl.C.G.S.C. On 21.5.07, 21.6.07, 23.7.07 and again on 23.8.07, ^{23.8.07} Despite all these adjournments were given to the respondents to file reply they have not filed reply in this matter. To-day learned Addl.C.G.S.C. seeks for further time to file reply. On the said request of Addl.C.G.S.C. counsel for the Union/Respondents, the last opportunity is hereby given to the respondents to file their reply by 5.11.07; failing which the respondents shall be heard ex parte.

Sent copy of this order to the respondents and also be handed over to Mrs. M. Das. Addl.C.G. S. C..

Post the matter on 7.11.07.


Vice-Chairman

Mr.B.Gupta, the Applicant, who is present personally, requests for a direction upon the Respondents for payment of his salary which has been withheld for some reasons. Mr.G.Baishya, learned Sr.C.G.S.C. requests for some time to obtain instruction from the Department on the Affidavit received by him.


List the case on 19.11.2007.

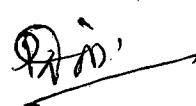
Member (A)

/bb/

order dt. 25/9/07
sent to D/Section
for issuing to
Mrs. M-Das, Addl.C.
G.S.C by hand
and resp. nos 1 to 4
sent to by post.

~~Ans~~
3/10/07. D/No-950 to 954
dt. 9/10/07.

5.11.07
~~W/Cs submitted
by the Respondents.
copy not served.
Service copy kept
in 'C' file.~~


W/Cs filed.


6.11.07.

07.11.2007

Mrs. M.Das, learned Addl. C.G.S.C.
states that Reply statement has been filed.

None appears for the Applicant.

Post the case on 22.11.2007.


Member (A)

/bb/

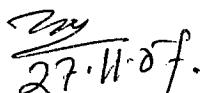
WLS billef.

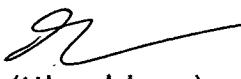

21.11.07

22.11.2007. Copy of the Written Statement has already been served. Mr.H.R.Das, learned counsel accepts the same on behalf of Mr.B.Malakar, learned counsel for the Applicant.

Call this matter on 28.11.07 for final disposal of the hearing.

WLS billef.


27.11.07.


(Khushiram)
Member(A)

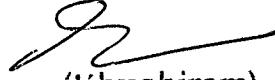

(M.R. Mohanty)
Vice-Chairman

lm

28.11.2007

Heard Mr.B.Malakar, learned counsel for the Applicant. None for the Respondents. For the reasons recorded separately. *case is disposed of*

2.11.08
Tried & heard
w/case d/f no. 1785
to 1788 d. 13.12.07


(Khushiram)
Member(A)

lm

3.7.08
Re-dream w/case
d/f nos 3016 to
3018 d. 3.7.08

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 318 of 2006

DATE OF DECISION: 28.11.2007

Mr.S.Pandit Applicant/s
Mr. B.Malakar Advocate for the
..... Applicant/s.

- Versus -

U.O.I. & Ors Respondent/s
Mrs. Manjula Das, Addl.C.G.S.C. Advocate for the
..... Respondents

CORAM

THE HON'BLE MR.KHUSHIRAM, ADMINISTRATIVE MEMBER

1. Whether reporters of local newspapers may be allowed to see the Judgment? Yes/No
2. Whether to be referred to the Reporter or not? Yes/No
3. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No

Vice-Chairman/Member 

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.318 of 2006

Date of Order: This the 28th November 2007

HON'BLE MR.KHUSHIRAM, ADMINISTRATIVE MEMBER

Sri Shivajee Pandit,
S/O Asarfi Pandit
P.O. Sapakhowa
District - Tinsukia.

By Advocate Mr.B.Malakar.

-Versus-

1. The Union of India, represented
By the Superintending Engineer,
Central Water Commission, Northern Eastern
Investigation Circle,
Shillong.
2. The Executive Engineer,
NEICS-1, CWC, Itanagar.
3. The Junior Engineer,
Investigation Project, CWC,
Sapakhowa, District- Tinsukia.
4. The Executive Engineer, CWC,
Pancheswar Investigation
Division-II, Pithoragarh (UP).

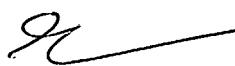
By Advocate Mrs. Manjula Das, Addl.C.G.S.C

ORDER (ORAL)

KHUSHIRAM, MEMBER(A)

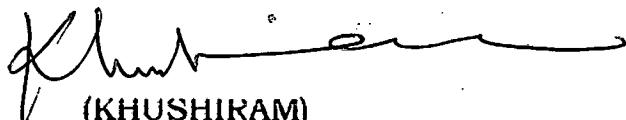
Mr.B.Malakar, learned counsel for the Applicant is present.
None is present for the Respondents. Paragraph 8 of the Written
Statement filed by the Respondents ~~as per~~ reads as under:-

"That in compliance of the aforesaid
judgment dated 26.03.02 passed by
the Hon'ble CAT, the applicant has
been given all the past service benefit



like counting of service rendered as Mason Grade-I with effect from 02.04.83 to 31.01.85 for retiral benefit, leave has been carried out over the above service period and proper entry in the Service book has been made. The promotional benefit by way of ACP scheme has also been given to him with effect from 01.05.2000. Thus the applicant was given all due benefits as per order of this Hon'ble Tribunal and the Service rule enforced"

In view of this acceptance by the Respondents, they have implemented the order of this Tribunal, dated 26.03.2002 earlier passed in O.A.No.442 of 2000 this Original Application has become infructuous, and the same is disposed of accordingly. There will be no order as to costs.



(KHUSHIRAM)
ADMINISTRATIVE MEMBER

LM

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

GUWAHATI BENCH : GUWAHATI

An Application U/S 19 of the Central
Administrative Tribunal Act, 1985.

C.A. 318/06

Applicant : Sri Shivjee Pandit

I N D E X

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09.	Annexure - 7	17-19.

Filed by -

ADVOCATE.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

OA 318/06

An Application U/S 19 of the Central
Administrative Tribunal Act, 1985.

Applicant : Sri Shivajee Pandit.

L I S T O F D A T E S

02-05-83 :- Appointed as Mason Grade-I
31-01-85 :- Reverted to the post of Khalashi.
17-05-83 :- Termination order.
26-12-84 :- Calling for option.
25-02-85 :- Newly joined.
17-07-91 :- D.P.C. held.
26-3-02 :- CAT's Order.

A D V O C A T E.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

An application U/S 19 of the CAT Act, 1985

Registration No. :

REGISTRAR.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH : GUWAHATI

13
File No 167-
Mr. Sachin Barua
A. D. O. C.
21.12.06

OA 318/06

1. Particulars of the : Sri Shivajee Pandit,
Applicant S/o Asarfi Bandit
P.O. Sapakhowa,
District - Tinsukia.

i) Particulars of : As above.
address for
services of
Notice

ii) Particulars of the : i) The Union of India, represented
Respondents. by the Superintending
Engineer, Central Water
Commission, Northern Eastern
Investigation Circle,
Shillong.
2) The Executive Engineer,
NEICS-1, CWC, Itanagar.
3) The Junior Engineer,
Investigation Project, CWC,
Sapakhowa, District-Tinsukia.
4) The Executive Engineer, CWC,
Pancheswar Investigation
Division-II, Pithoragarh (UP).

2.(i) Address for service : As above.
of notices

III. Particulars of the : Illegal reversion of the
order against which
this application
has been made applicant and non-consideration
of his representation resulting
in extreme hardship. Vis-a-vis
CAT's order dtd. 26-3-02.

S. Pandit

...2

iv) Jurisdiction of the : The applicant declares that the subject matter of this application is within the jurisdiction of this Tribunal.

v) Limitation : The applicant further declares that the application is within the limitation prescribed in Section 21 of the CAT Act, 1985.

vi) Facts of the Case :

i) That the applicant was first appointed as Mason Grade-I on 2/5/83 in Scale of Pay Rs.260-350 per month plus other allowances admissible under the rules from time to time. The applicant was posted at Pithoragarh in U.P. Pancheswar Investigation Division.

A copy of the appointment letter is annexed herewith and marked as Annexure-1 to this application.

ii) The applicant worked there till December 1984 when he was abruptly reverted to the post of Khalasi vide Office Order No. PID-ii/Admn-2/186/317 dtd. 31.1.85. In the Order it was stated as under :-

"Sri Shivajee Pandit, Mason Grade-I hereby redesignated as Khalasi in the pay scale of Rs. 195-232 and further transferred to the Office of Sankh Investigation Division with immediate effect."

A copy of the letter is annexed herewith and marked as Annexure-2.

iii) That thereafter vide Office Order PID-ii/Admn/109/2423-26 dtd. 17-5-83 it was stated as under :-

" The service of Sri Shivajee Pandit, Mason, Grade-I (Ad-hoc basis) appointed vide Office Order No. PID-ii/Admn-2/109/1964-67 dtd. 12.4.83 with effect from 2-4-83 (FN) to 31-5-83 are hereby terminated with effect from 1-5-83 AM."

A copy of the said letter is annexed herewith and marked as Annexure-3 to this petition.

iv) That services of the petitioner being terminated, his acceptance was sought for whether he was agreeable to be appointed to the post of Khalasi. The applicant who made a representation but nothing was considered. While inviting his willingness vide letter No. PID-ii/Admn-2/106/4818-1946 dated 26.12.84, it was stated :-

" Due to completion of investigation works of Pancheswar Project, the service of work charge staff are likely to be terminated very shortly. Efforts are however being made to redeploy the service staff in other Units of CWC against the available vacancy all over India."

The applicant had no other option but to accept the offer of appointment as Khalasi. Before acceptance of the proposal, to appoint the applicant as Khalasi, an Office Memorandum was issued vide No. PID-ii/Admn-2/105/5080-5214 dtd. 31.12.84.

SPandit

In this office memoeandum, it was stated :

" due to the closer of Pancheswar investigation works, your service shall no longer be required with effect from 31-1-85 (AN) this letter may therefore be treated as notice in connection with the provisions made in the offer of your appointment."

All the terminable benefits as per rules will be paid to you in due course."

The letter is annexed herewith and marked as Annexure -4 to this application.

v) That the applicant begs to state that thereafter another office orders issued in Memo No. SID/CB/WC-II/85/590-96 dtd. 25-2-85 whereby the applicant was asked to join in the post of Khalasi on 5.2.85 at lower Sankh Dart Site, Kuraitali (Cumla) and the applicant thereafter was working there satisfactorily.

A copy of the order is annexed herewith and marked as Annexure-5 to this application.

vi) That the applicant begs to state that thereafter vide office order in Memo No. NEID.iii/AGT/Admn.32/3628-69 dtd. 11.7.91 appointed the applicant ~~as~~ substantive capacity w.e.f. 1.4.88 on the recommendation of DPC held on 11.7.91 in the office of Respondent No.2 and since then the applicant is working as such.

A copy of the said office order is annexed herewith and marked as Annexure-6 to this application.

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vii) That the applicant begs to state that thereafter vide office order No.NEID-iii/WC/PF-134/5053-56 dated 23.9.98 fixed the pay of the applicant at Rs.3020/- in scale of pay of Rs.2550-55-2660-SC-3220 w.e.f. 1.5.96.

viii) That the applicant begs to state that his original appointment was to the post of Mason Grade-I in scale of pay Rs. 260-~~250~~. The post of Khalasi to which the applicant was appointed afresh after termination from the post of Mason Grade-I carries a pay of scale 196-232 which is much lower than the post he held earlier. The pay scale revised on date for the post of Mason Grade-I is Rs.3050 to 4500, whereas the post of Khalasi carries the pay scale of Rs.2550-3200 revised by the confliction orders issued by the authority which have been annexed hereto. This application will reveal that the termination of the applicant from the post of Mason Grade-I was an illegal order. Therefore appointment of the applicant to the post of Khalasi was illegal. The applicant filed a representation but it was not considered. The applicant states that the order of termination is by way of discrimination meted out to him as one Sri Dikor Ram who was appointed as Mason Grade-I alongwith the applicant was allowed

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Shandit

to continue in the post after the termination of the applicant. The said Sri Dikor Ram has been promoted and he is holding higher post than the applicant. Therefore, the termination/reversion of the applicant from the post of Mason Grade-I was illegal.

ix) That the applicant begs to state that the said order of termination and/or reversion was ex-facie and illegal order and as a result the applicant faces a great hardships. Because the pay and allowances has been badly affected by virtue of such illegal order passed by the authority without any valid reason. Therefore, although the order of termination was passed much earlier, the same will not come in the way of filing this application. The applicant therefore prays for setting aside the order of illegal termination with retrospective effect, giving the petitioner all service benefits including monetary.

x) That the applicant begs to state that since the date of his appointment he has been posted at the various places Uttar Pradesh, Bihar, Bhutan, Sikkim, Arunachal Pradesh and Mizoram. During this period the applicant has submitted a number of representations, to the authority to transfer him to his home town at Bihar which has not been considered on the ground that work charge employees are not entitled to seek transfer. On 10.5.90 the respondent No.2 informed the applicant that his prayer for re-designation as Mason Grade-I will be considered alongwith other candidates, when the

recruitment to the post of Mason Grade-I is made.

This was conveyed by the letter No.BID/CB/WC/PF-115/1617 dated 10.5.90.

xi) That the applicant begs to state that although the case of the applicant for transfer has not been considered on the ground that work charge employees are not entitled to transfer. The respondents authorities vide order dated 2.6.99 issued vide Memo No. CNSUC-2/10(3)/99/Adm.11/1327-50 some 11 persons holding the post of work charge Khalasi have been transferred. This is a clear case of discrimination as has been stated earlier that there was discrimination in terminating his service from Mason Grade-I. This time also the something has been repeated denying the transfer to the applicant who has stated before the authority that under compelling circumstances and on humanitarian ground he prayed for the transfer as his old parents and wife with minor children are residing at Bihar. It has already been stated before authority that it was practically impossible for him to maintain his family with a small salary which he draws.

xii) That with the above facts and circumstances, the applicant approached this Tribunal with an application which was registered as O.A. 442/2000. In this case, the respondents filed written statements contesting the claim of the applicant, the learned Tribunal heard the matter and vide order dtd. 26-3-02, held that there

was no infirmity in order of termination dtd. 31.1.85. However, the Tribunal directed the authority to compute the ~~past~~ services of the applicant in the matter of fixation of pay and retiral benefits. It was also observed to give some benefit of promotion to the applicant.

A copy of the CAT's order is annexed hereto and marked as Annexure-7.

xiii) That the order by the CAT was passed as far back as on 26.3.02 and till to-day, the Department has not done anything. Pay fixation has not been done completing the earlier period. Not to speak of giving promotional benefit. Hence the instant petition before the Hon'ble Tribunal for relief.

8. Remedies sought :

The applicant files representation before respondents authorities. There was no effective consideration of his representation.

9. Matters not previously :
filed ~~xx~~ or pending before
any other court or
Tribunal

The applicant states that he has not filed any other application before any other court or Tribunal.

10. Relief Sought :

In the premises aforesaid, the applicant prays for

...9

S. Pandit

the following reliefs :

i) The applicant be given full service benefit with retrospective effect from 17.5.83 including promotional benefit.

11. Interim Order ; NIL

12. Particulars of the IPO : 28G 933249

i) No.of IPO :

ii) Issuing Post Office : 26.12.85

iii) Post Office at which payable :

13. Enclosures :- 1. ANNEXURE - 1

A copy of the appointment letter.

2. ANNEXURE - 2.

Office Order reverting to the post of
Khalasi No.PID-ii/Admn-2/186/317
dtd. 31.1.85.

3. ANNEXURE - 3.

Office Order No.PID-ii/Adm/109/2423-2
-26 dtd. 7.5.83 consisting of termina-
tion and appointment order.

4. ANNEXURE-4.

Termination order.

5. ANNEXURE-5.

A letter dtd.SID/CB/WC-ii/85/590-96
dtd. 25.7.85 consisting option of the
petitioner.

6. ANNEXURE-6.

Recommendation of DPC.

7. ANNEXURE - 7.

Order passed by the CAT in O.A.No.
442/00 dtd. 26-3-2002.

✓
✓

VERIFICATION

I, Sri Shivjee Pandit, aged about 44 years, son of Asarfi Pandit at present residing at Sapakhowa, Tinsukia do hereby verify that the statements made in paragraphs - 1, 2, 3, 4, 5, 6 (i, ii, viii, ix, x are true to my knowledge and those made in paragraphs - 6(iii,iv, v, vi, vii) are being matters of records are true to my information derive from the case, which I believe to be true and the rest are my submission before this Hon'ble Tribunal and I sign this Verification on this 21st day of November, 2006 at Guwahati.

Shivjee Pandit -

S I G N A T U R E

- 3x -

ANNEXURE - I

No.PID-II/Adm-2/101/2415-22
GOVERNMENT OF INDIA
Central Water Commission
Pancheswar Investigation Division No.II
Takana Road, Pithoragarh (U.P)

Dated 17 May '83

OFFICE ORDER

Consequent upon his acceptance of offer of appointment as a W/C Mason Grade-I in the pay scale of Rs.260-6-226-EB-8-350/- plus other usual allowances as admissible vide this office order No. PID-III/Adm-2/101/2170-78 dated 27-4-83 Shri Shivji Pandit S/O Shri Asharfi Pandit is hereby appointed as Mason from 2-5-1983 F.N at Lohaghat under P.I. Sub Division No.IV, CWC, Pithoragarh.

colony His pay is chargeable to the estimate." "R&M of Temporary stores at Barakot Road, Lohaghat."

Sd/-
(S.P. KAKRAN)
Executive Engineer.

Copy to :-

1. The Superintending Engineer, Investigation Circle No.I, CWC, NH.IV, Faridabad, Haryana in continuation to this Office Order No. PID-II/Adm-2/101/2170-78 dated 27-4-83.
2. The Employment Officer, Employment Exchange, Pithoragarh.
3. The Assistant Executive Engineer, P.I. Sub-Division No.IV, CWC, Pithoragarh with reference to his No. PISD.IV/A-11013/83/610-11 dated 9-5-83.
4. Accounts Branch, The medical fitness certificate in respect of Shri Shivji Pandit has been received and kept in record.
5. Shri Shivji Pandit, W/C Mason Grade-I through the Assistant Executive Engineer, P.I. Sub-Division No.IV.
6. Personal File.
7. File No. PID-II/Adm-2/102.
8. Office Order File.

Sd/- Illegible
(S.P. KAKRAN)
Executive Engineer.

Salta

Passed on - through Sh.S.Hussain Supr.

Sd/- Illegible
17/5/83.

Government of India,
Central Water Commission
Pancheswar Inv. Division No.II
Takana Road, Pithoragarh (UP)

No.PID-ii/Adm-2/106/317

dated the 31st Jan. '85

OFFICE ORDER

Consequent upon the closure of the investigation work of Pancheswar CWC Project and in pursuance of the Superintending Engineer's office letter No. -65(3)151 dated 21st January 1985 the following mentioned W/C staff are hereby redesignated/ transferred as under :

Shri Loknath Sarkar Asst. Welder is hereby redesignated as W/S Gr.III in the pay scale of Rs. 210-290 and further transferred to the office of Sankh Inv. Divn. with immediate effect.

Shri Shivji Pandit, Mason Gr.I is hereby redesignated as Khalasi in the pay scale of Rs. 196-232 and further transferred to the office of the Sankh Investigation Divn. with immediate effect.

Shri D.K.Mazumdat, Ram Chandra Dutta and Ravindra Jha, Khalasies are hereby transferred to the office of Sankh Inv. Division, with immediate effect.

All the above persons stand relieved w.e.f. 31.1.85 (A.N.) from this office with the instructions that they may report to the Executive Engineer, Sankh Inv. Divn. presently working at Bareilly (UP) for further instructions.

Sd/- Illegible
(S.P.KAKRAN) 31/1/85

Executive Engineer.

Copy to :-

All concerned.

Sri Shivji Pandit Mason Grade-I through AEPISD to our Pithoragarh.

True copy
Shri B.

No.PID-II/Adm-2/109/2423-26
Government of India
Central Water Commission
Pancheswar Investigation Division - II
Takana Road, Pithoragarh (UP)

Dated 17 May '83

OFFICE ORDER

The services of Shri Shivji Pandit, Mason Grade-I (W/C ad-hoc basis) appointed vide office Order No.PID-II/Adm-2/109/1964-67 dated 12-4-83 with effect from 2-4-83 F.N. to 31-5-83 are hereby terminated with effect from 1.5.83 A/N.

Sd/-
(S.P.KAKRAN)
Executive Engineer.

Copy to :

1. The Assistant Executive Engineer, P.I. Sub-Division No.IV, CWC, Pithoragarh with reference to his endorsement No. Orgl/644 dated 12-5-83.
2. Shri Shivji Pandit through the Assistant Executive Engineer, P.I. Sub-Division No.IV.
3. Accounts Branch.
4. Office Order file.

Sd/- Illegible
(S.P.KAKRAN)
Executive Engineer.

S.L.
Passed on through Sh.S.Hussain Supr.

Sd/- Illegible 17/5/83.

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True copy
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No. PID-II/Adm-2/106/4318-4941

Government of India

Central Water Commission

Pancheswar Inv. Division No.II

Takana Road, Pithoragarh (U.P)

Dated the 26-12-84

OFFICE MEMORANDUM

Due to completion of investigation works of Pancheswar H.E. Project, the services of W/C staff are likely to be terminated very shortly. The efforts are however, being made to redeploy the surplus staff in other units of CWC against the available vacancies, all over the India.

You are therefore requested to please intimate your willingness within 7 days of the issue of this letter whether you are prepared to be absorbed against the following mentioned posts on W/C establishment, in other units of CWC.

1. Khalasi Yes/No
pay scale Rs.196-3-220-3-232

2. Yes/No

You are likely to be posted any where in India against the existing vacancies but at present, most likely in District Ranchi (Bihar).

Your willingness not received in time shall be treated as if you are not willing for the re-deployment.

Sd/- Illegible
(S.P.KAKRAN)
Executive Engineer.

To,

Shri Shivaji Pandit, Mason Gr-I,
Through AE PISD-IV
CWC, Pithoragarh.

Copy to :

1. The Superintending Engineer, Inv. Circle No.1, CWC, NH-IV, Faridabad for his kind information.
2. The District Magistrate, Pithoragarh for his kind information.
3. The AEs-III/IV/VI, CWC, Pithoragarh.
4. The Executive Engineer, PID-I, CWC, Bareilly for information.
5. Personal file.
6. Office order file.

Sd/- Illegible
Executive Engineer
Pancheswar Inv. Division No.II
CWC, Pithoragarh (U.P.).

True w/ B

GOVERNMENT OF INDIA
 CENTRAL WATER COMMISSION
 SANKH INVESTIGATION DIVISION
108/B, MODEL TOWN : BAREILLY (UP)

No. SID/CE/WC-II/85/590-96

Dated 25-2-85

OFFICE ORDER

Consequent upon their transfer from Pancheswar Inv. Divn. No.II, CWC, Pithoragarh to Sankh Investigation Division Camp Bareilly vide S.E., Inv. Circle No.I, CWC, Faridabad's Office Order No. IC/E-65(j)/151 & 52 dt. 21.1.85 and being received vide Exe. Engineer, Pancheswar Inv. Division No.II, Pithoragarh's office Order No. PID-II/Adm-2/106/317 & 322 dt. 31.1.85 the following W/C staff has reported for duty in this Division on the dates as indicated against each. They have been posted at the sites as indicated before them with immediate effect.

Sl.No.	Name & Designation	Date of joining	Place of posting

	S/Sri		
1.	K.L.Das, Work Sarkar Gd.I	11.2.85 FN	Simdaga (Cumla)
2.	Phulendra Jha, - do -	7.2.85 FN	Lower Sankh Dam Site Poraltoli (Cumla)
3.	Lok Nath Sarkar, Work Sarkar Gd.III	8.2.85 FN	- do -
4.	R.C.Dutta, Khalasi	8.2.85 FN	- do -
5.	Sheojee Pandit, Khalasi	5.2.85 FN	- do -
6.	Ravindra Jha, Khalasi	7.2.85 FN	- do -
7.	D.K.Mazumdar, Khalasi	7.2.85 FN	Simdaga (Cumla)

(S.C.GUPTA)
 EXECUTIVE ENGINEER
 SANKH INVESTIGATION DIVN.

Copy to :-

1. The Superintending Engineer, Inv.Circle No.I, CWC, Faridabad.
2. The Executive Engineer, Sone Inv.Divn. CWC, Camp Pithoragarh.
3. Supervisor (HQ) Sankh Inv.Divn. CWC, Bareilly.
4. Accounts Branch.
5. Person concerned. (7.)
6. Person file. (7.)

(S.C.GUPTA)
 EXECUTIVE ENGINEER
 SANKH INVESTIGATION DIVN.

CENTRAL WATER COMMISSION.

No.NEID.III/AGT/Adm/32/3628-69

Date : 11-7-91.

OFFICE ORDER

Sri Shivji Pandit W/C Khalasi is hereby allowed to work in the substantive post on the recommendation of D P C held on 11-7-91. He is given effect from 1-4-88.

Executive Engineer
Central Water Commission
NEID III/Itanagar

Copy to :

Shri Shivji Pandit, W/C Khalasi under AE/MS TLC
Sub-Division/Alipurduar.

Sd/-

Executive Engineer.

- xx -

True copy
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ANNEXURE -7

For Respondent

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 442 of 2000. 9/17

Date of Order : This the 26th Day of March, 2002.

THE HON'BLE MR JUSTICE D.N.CHOWDHURY, VICE CHAIRMAN.

THE HON'BLE MR K.K.SHARMA, ADMINISTRATIVE MEMBER.

Shri Shivjee Pandit
S/O Asarfi Pandit
P.O: Sapakhwa
District : Tinsukia.

... Applicant.

... appears for the applicant.

- Versus -

1. The Union of India

Represented by the Superintending Engineer
Central Water Commission
Northern Eastern Investigation Circle
Shillong.

2. The Asstt. Executive Engineer

NETSD-1, CWC,
Itanagar.

3. The Junior ENgineer

Kundil Investigation Project
CWC, Sapakhwa
Dist : Tinsukia.

... Respondents.

By Mr.B.C.Pathak, Addl.C.G.S.C.

O R D E R

CHOWDHURY J.(V.C.) :

By office order dated 17.5.83 the applicant

was first appointed as W/C Mason Grade.I in the pay scale

of Rs.260-6-226-EB-8-350/- plus other usual allowances as

admissible with effect from 2.5.93 forenoon at Lohaghat

under P.I.Sub-Division No.IV, CWC, Pithoragarh consequent

upon his acceptance of offer of appointment in the said

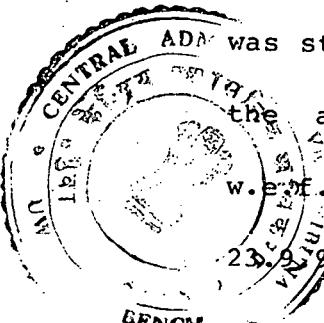
post vide office order dated 27.4.83. Consequent upon the

closure of the Investigation Work among others the

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applicant was redesignated as Khalasi in the pay scale of Rs.196-232/- and furthered transferred to the office of Sankh Investigation Division with immediate effect vide order dated 31.1.85. It appears that the applicant was appointed earlier by office order No.PID-II/Adm-2/109/1964-67 dated 12.4.83 w.e.f.2.4.83 forenoon. By order dated 17.5.83 the aforesaid said service of the applicant was terminated w.e.f.1.5.83.

2. Prior to the order dated 31.1.85 the office memo dated 26.12.84 was issued informing the persons concerned including the applicant about the likely termination of service of those persons who were engaged in the investigation works of Pancheshwar H.E. Project. The applicant was also issued such notice vide memo dated 26.12.84 for intimating his willingness for being absorbed against available vacancies on such establishment. By office order dated 25.2.85 seven persons including the applicant were posted at different sites as W/C staff. The applicant was posted w.e.f.5.2.85 forenoon at Lower Sankh Dam Site Poraltoli (Gumla). It


was stated that subsequently DPC was held on 11.7.91 and the applicant was appointed on substantive capacity w.e.f.1.4.88. It was also stated that by order dated 23.9.98 the pay of the applicant was fixed in the scale of Rs.2550-55-2660-60-3220 w.e.f.1.5.98. By this application the applicant has prayed for quashing of the order of reversion from the post of Khalasi to the post of Mason and allowing him full service benefit from

retrospective effect and for his transfer to his home town at Bihar.

3. The respondents submitted its written statement contesting the claim of the applicant. We have also heard Mr.B.C.Pathak, learned Addl.C.G.S.C. on behalf of the respondents. Considering all the materials on record we do not find any infirmity in the order of reversion dated 31.1.85. Even if we take a liberal view on the question of limitation the aforementioned reversion or transfer cannot be flawed. The applicant was, however, re-employed by the department. We only make it clear that the past service that he rendered is to be computed in the matter of fixation of pay and retiral benefits.

4. From the materials placed before us it appears that the applicant rendered a considerable length of service and continued as such. Considering the facts and circumstances of the case we are of the opinion that like in the similar cases the respondents should take care of the situation and find a way for giving him some benefit of promotion and like benefits as was indicated in O.A.441 of 2000.

Subject to the observations made above, the

application stands disposed of.

There shall however, be no order as to costs.

22/4/02
Section Officer (A)
Central Administrative Tribunal
Guwahati Bench, Guwahati
Assam, India

Sd/ VICE CHAIRMAN
Sd/ MEMBER (A)

TRUE COPY
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Central Administrative Tribunal
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

5 NOV 2007
गुवाहाटी न्यायपीठ
Guwahati Bench

File No:-
The Respondents
Through
Maninder Das
Adv. C.S.C. CAT 32
21/11/07
Sunil Kumar
(Sunil)

IN THE MATTER OF:

O.A.No.318/06

Sri Shivjee Pandit

...Applicant

-Vs-

Union of India and ors.

...Respondent.

-AND-

IN THE MATTER OF:

Written statement on behalf of all
the respondents.

(WRITTEN STATEMENT ON BEHALF OF ALL THE RESPONDENTS)

I, Shri SUNIL KUMAR son of SRI C.D. CHOWDHURY presently working as the Executive Engineer, North Eastern Investigation Division-III, Central Water Commission, Itanagar, State of Arunachal Pradesh, do hereby solemnly affirm and state as follows:-

1. That I am the Executive Engineer, North Eastern Investigation Division-III, Central Water Commission, Itanagar, State of Arunachal Pradesh. I have been impleaded as party respondent no.2 in the aforesaid application and accordingly a copy of the same has been served upon me. I have gone through the same and have understood the contents thereof. Being the Executive Engineer I am acquainted with the facts and circumstances of the case. I have been authorized to file this written statement on behalf of all other respondents.
2. I do not admit any of the averments except which are specifically admitted hereinafter and the same are deemed as denied.
3. That the applicant Sri Shivjee Pandit was initially appointed as Mason Grade -I on ad-hoc basis with effect from 02.04.83 and subsequently his ad-hoc service was terminated with effect from 01.05.83.

Sunil
21/11/07

4. Thereafter again he was appointed as Mason Grade-I with effect from 02.05.83 with the scale of Rs.260-350 against the work of R and M of temporary Colony and stores at Barakot road, Loha Ghat under P.I. Sub-Division No. IV, Central Water Commission, Pithoragrah, Uttar Pradesh.

5. That after closure of investigation works of Pancheswar H.E. Project, CWC, his service was found to be surplus and required to be terminated/ re-deployed and accordingly he was served a notice of termination of his service. Further, simultaneously, he was also offered his willingness for re-deployment and on his willingness he was re-deployed by re-designating him as Work Charged Khalasi in the scale of Rs.196-232 with effect from 01.02.1985 against available vacancy in another work/unit of CWC i.e. Sankh Investigation Division, CWC, Bareilly.

Thereafter the applicant worked as Work charged Khalasi in various Division.

6. That the applicant long after 15 years of termination from his service as Mason Grade-I, filed a O.A. No.442/2000 before this Hon'ble CAT with a prayer for setting aside of termination/ reversion order and for granting the full service benefit with retrospective effect.

7. That the Hon'ble Tribunal after hearing was pleased to dispose of the O.A. 442/2000 vide order dated 26.03.02 as follows:

“.....Considering all the materials on records we do not find any infirmity in the order of reversion dated 31.01.85.”

Further it was observed that

“ The applicant was, however, re-employed by the department, we all make it clear that he rendered is to be computed in the matter of refixation of pay and retiral benefit.”

Further the Hon'ble Tribunal observed as indicated in O.A. no.441/2000 that the respondents should take care of the situation and find a way for giving the applicant some benefit of promotion and like benefits.

2/11/02

8. That in compliance of the aforesaid judgment dated 26.03.02 passed by the Hon'ble CAT, the applicant has been given all the past service benefit like counting of service rendered as Mason Grade-I with effect from 02.04.83 to 31.01.85 for retiral benefit, leave has been carried out over the above service period and proper entry in the service book has been made.. The promotional benefit by way of ACP scheme has also been given to him with effect from 01.05.2000. Thus the applicant was given all due benefits as per order of this Hon'ble Tribunal and the service rule enforced.

9. Reply to the facts of the case:

9.1 That with regard to the statements made in paragraph 2.(VI).I of the application, the humble answering respondent has nothing to make comment on it as they are being matters of records of the case.

9.2 That the humble answering respondent denies the correctness of the statements made in paragraph 2.(VI).II of the application.

It is not correct that the applicant was reverted to the post of Work Charged Khalasi. It is to be stated here that the Work Charged staff is employed on the actual execution of specific works, sub-works of a specific works etc. The cost of the work charged Establishment should invariably be shown under a separate sub-head of the estimate for a work. The applicant was recruited specifically for investigation works of Pancheswar H.E. Project at Pitharogarh (U.P.). After closure of the said project the service of the Work Charged staff including the applicant was found to be surplus and required to be terminated /redeployed under the existing rules. Accordingly alongwith others the applicant was served notice of termination of his service. Simultaneously the department also sought their willingness for redeploying them against existing available vacancies elsewhere in India in other units of C.W.C in various categories of Work Charged Establishment.

It is to be stated here that the applicant served as Work Charged staff in the project area on temporary basis and could be terminated by giving one month notice. However, as per his willingness he was re-deployed as Work

02/11/07

-4-

Charge Khalasi against available vacancy in another project i.e. the Shankh Investigation Division, Bareilly (U.P) vide order dated 31.01.85.

9.3 That with regard to the statements made in paragraph 2.(VI).III of the application, the humble answering respondent begs to state, that the applicant was initially appointed on ad-hoc basis for two months i.e. 02.04.83 to 31.05.83 which in fact was purely temporarily and is a stop gap arrangement and was terminated from service vide order dated 17.05.83. However, thereafter he was again appointed ^{as} Work Charge Mason Grade-I at Lohaghat under P.I. Sub-Division no.IV C.W.C Pithoragarh (U.P)

9.4 That with regard to the statements made in paragraph 2.(VI).IV of the application, the humble answering respondent begs to state, that the applicant was served a notice informing him, that due to completion of investigation works of Pancheswar H.E. Project his service was likely to be terminated very shortly. Further ^{he was} asked to submit his willingness for the post of Khalasi in Work Charge establishment against the existing vacancies available in other units of C.W.C. As per the willingness of the applicant he was re-deployed as Khalasi in the scale of Rs.196-232 with effect from 01.02.85 in Sankh Investigation Division, C.W.C, Bareilly (U.P)

9.5 That with regard to the statements made in paragraph 2.(VI).V to 2.(VI).VII of the application, the humble answering respondent has nothing to make comment on it as they are being matters of records of the case. However, he does not admit any statements which are contrary to records.

9.6 That with regard to the statements made in paragraph 2.(VI).VIII of the application, the humble answering respondent begs to state, that as stated above, the applicant was initially appointed on work charge establishment on temporary basis against the work, 'R and M of the Temporary Colony' at Barakat Road, Lohaghat under Pancheswar Investigation Division at Pithoragarh, (U.P) . After completion of the said

Sumit Kumar
02/11/85

works of investigation the applicant was rendered surplus and was required to be terminated /re-deployed. Accordingly, he was served notice of termination of his service as well as, in the same time asked for willingness for re-deployment against existing available vacancies vide order dated 26.12.84.

On the basis of his willingness the applicant was redeployed by redesignating him as Work Charge Khalasi in the scale of Rs.196-232 with effect from 01.02.85 against the available vacancy in the project of the C.W.C that is Shankh Investigation Division, C.W.C. Bareilly vide order dated 31.01.85. Hence, there is no question of illegality or any discrimination towards the applicant, rather on humanitarian consideration he was accommodated in the service.

So far the case of Sri Dikar Ram is concerned, it is to be stated here that on completion of works of investigation of Pancheswar Project, he who belongs to Schedule Caste Community was accommodated to other unit of the department against available vacancy.

Further so far the termination/ reversion of the applicant is concerned this Hon'ble Tribunal vide order dated 26.03.2002 in O.A.no.442/2000 was pleased to hold that there was no infirmity in order of reversion dated 31.01.85. The applicant did not approach before the Higher Court against the said order and accordingly the order dated 26.03.2002 has got finality.

9.7 That with regard to the statements made in paragraph 2.(VI).IX of the application, the humble answering respondent begs to state, that after being terminated the applicant infact was re-deployed in the services. Further in compliance with the Hon'ble Tribunal order dated 26.03.2002 passed in O.A. no.442/2000, the applicant was given all the past service benefits like counting of services, rendered as Mason Grade-I with effect from 22.04.83 to 31.01.85 for retiral benefits, leave has been carried over the above service period and proper entry in the service book has been made. Further the applicant has been given the ACP benefit with effect from 01.05.2000 by considering the period of Mason Grade-I. Thus, the applicant has been given all the benefits as per the order of this Hon'ble Tribunal, and

27/1/02

the service rule in force. The contentions made by the applicant in the paragraph is not at all correct and without having any genuinity.

9.8 That with regard to the statements made in paragraph 2.(VI).X of the application, the humble answering respondent begs to state, that it is not correct that the applicant made representation before any of the respondents. Hence the consideration of representation does not arise at all.

Further as per service condition of the Work Charged employees, who are recruited only for a specific period or a sub-works of a specific work, seniority of Work Charged staff are maintained in Circle Office headed by a Superintending Engineer. The Circle Office, under whose the applicant is presently working has no site at Siwan, Bihar the home town of the applicant

Further, it is to be stated here that the office of the humble answering respondent no.2 has started functioning only from April 1991.

9.9 That the humble answering respondent denies the statements made in paragraph 2.(VI).XI of the application. It is to be stated here that the seniority of the Work Charged staff in C.W.C are maintained Circle wise as per standing instructions. In order to maintain promotional and other beneficial avenues of the Work charged staff of a particular Circle, inter Circle transfer of W/C staff are not allowed in CWC, except in special circumstances with the approval of Chairman C.W.C. However, in such case, the employee under transfer is required to forego his past service benefit in the new unit. As regards inter Circle transfer of 11 persons holding the post of Khalasi, the respondents state that these persons were transferred to some other Region for a new work against available vacancies there but after obtaining clear undertakings from them that they are willing to forego their past service benefits of the new Unit.

Further as per the willingness of the applicant and as per requirement of the Work Charged Staff under Planning and Investigation Division, Faridabad, he was transferred to the said Division. Accordingly he was relieved from NEID-II, Aizawl, on 28.02.06 (AN) for joining in his new

02/11/07

place of posting at Planning and Investigation Division, Faridabad and he thereafter joined in his service at Faridabad, Haryana.

It is respectfully stated that the applicant infact suppressed the material facts and tried to mislead this Hon'ble Tribunal by citing irrelevant statements.

9.10 That with regard to the statements made in paragraph 2.(VI).XII of the application, the humble answering respondent has nothing to make comment on it.

9.11 That with regard to the statements made in paragraph 2.(VI).XIII of the application, the humble answering respondent begs to state that the respondent complied the Hon'ble Tribunal's order dated 26.03.2002 passed in O.A. no.442/2000. The applicant in the instant case made false and incorrect statement and tried to mislead this Hon'ble Tribunal. As per order of this Tribunal he was given the past benefits. He has also been given promotional benefits by way of ACP with effect from 01.05.2000 by counting the service rendered by the applicant as Mason, Grade-I.

9.12 That the applicant made this present application by suppressing the material facts which is not tenable under the eye of law and hence the application is liable to be dismissed with cost.

10. That it is respectfully begs to states that the instant application has not been made in proper form. No grounds for relief with legal provisions have been set forth. Hence the instant application is liable to be dismissed.

11. That the applicant has filed the present application without any merit having no basis at all, without proper justification and with clear false and misleading statements by wasting the valuable time of this Hon'ble Tribunal and as such the applicant is liable to be dismissed with cost.

02/12/02

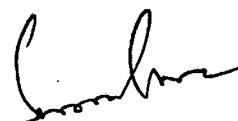
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VERIFICATION.

I, Shri Sunil Kumar son of C.D.Choudhary presently working as the Executive Engineer , North Eastern Investigation, Division- III, Central Water Commission, Itanagar, State of Arunachal Pradesh, aged about ³⁴.....years do hereby verify that the statements made in paragraphs 1,2,8,9.2, 9.7, 9.8, 9.9, 9.10, 9.11, 9.12 and 10are true to my knowledge ; and those made in the paragraphs 3,4,5,6,7,9.1, 9.3, 9.4, 9.5 and 9.6 are being matters of records of the case derived therefrom which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

I have not suppressed any material facts.

And I sign this verification on this 2nd November 2007 at Guwahati.



SIGNATURE

Executive Engineer
NEID - III, C. W. C
P.B. No.144, Itanagar