

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

1. original Application No. 62/06
2. Misc Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) Anisuz Zamal

Respondents U.O.I. Sons

Advocate for the Applicant(s). H. Rahman, J. Dinda, R. S. Thakur
I. Deka, A. H. Ahmed

Advocate for the Respondant(s). Railway Counsel.....

Notes of the Registry	Date	Order of the Tribunal
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This application is in form
is filed/C. I. as. 50/-
deposit BB
No. 26.63193.12
Dated....12.2.2006

11e Dy. Registrar
10.3.2006

10.3.2006

At the request of counsel for the
applicant the case is adjourned and posted
on 30.3.2006.

Vice-Chairman(J)

Vice-Chairman(A)

30.03.2006

Heard learned counsel for the
parties. The application is disposed of
at the admission stage itself in terms
of the order passed in separate sheets.
In the circumstances, ~~fixxx~~ no order, as
to costs.

Steps taken
with envelope.

mls

Vice-Chairman

Received copy for
applicant
Received copy
from J.L. Sarker
6 T 4/06

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

62 OF 2006

O.A. No.

30.03.2006

DATE OF DECISION

Anizuz Zamal Applicant/s

Mr. H. Rahman, Ms. J. Huda, Mr. R.S. Thakur, Ms. I. Deka, Mr. A.M. Ahmed Advocate for the Applicant/s.

- Versus -

Union of India & Others Respondent/s

Dr. J.L. Sarkar, Railway Standing Counsel. Advocate for the Respondents

CORAM

THE HON'BLE MR. K.V. SACHIDANANDAN, VICE CHAIRMAN.
THE HON'BLE

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 to be forwarded for including in the Digest Being complied at Jodhpur Bench ? Yes/No
4. Whether their Lordships wish to see the fair copy of the Judgment ? Yes/No

Vice-Chairman(J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 62 of 2006

Date of Order: This the 30th March 2006.

The Hon'ble Sri K.V. Sachidanandan, Vice-Chairman.

Anisuz Zamal,
Son of Late Abul Mazid,
Working as Gangman in Kampur Railway
Station, at Kampur, N.F. Railway,
Lumding.

... Applicant.

By Advocates Mr. H. Rahman, Ms. J. Huda, Mr. R.S. Thakur, Ms. I. Deka and Mr. A.M. Ahmed.

- Versus -

1. The Union of India,
Represented by the General Manager,
N.F. Railway, Maligaon, Guwahati – 11.
2. The Divisional Railway Manager (P).
N.F. Railway, Lumding,
Nagaon.
3. The Senior Divisional Engineer,
N.F. Railway, Lumding,
Nagaon.

... Respondents.

By Advocate Dr. J.L. Sarkar, Railway Standing Counsel

.....

ORDER (ORAL)

K.V. SACHIDANANDAN (V.C.)

The applicant, while working as Gangman at Kampur, was unauthorisedly debarred from discharging his duties from 15.05.2002. At the intervention of this Tribunal in O.A. No. 283 of

✓

2002 dated 12.06.2003, the applicant was allowed to work and was given a posting order. Accordingly, the applicant has been given a posting, but his grievance is that salary for the intervening period has not been disbursed despite the fact that there was a direction from this Tribunal to consider the same. The applicant filed representation dated 29.03.2005, which is not considered and disposed of by the respondents. Aggrieved by the said inaction of the respondents, the applicant has filed this application seeking the following reliefs: -

"In view of the facts and circumstances mentioned above, your humble applicant prays for the following reliefs:

To release the salary etc. which is due to the applicant from 15-5-2002 to 13-8-2003."

2. Heard Ms. J. Huda, learned counsel for the applicant and Dr. J.L. Sarkar, learned standing counsel for the railways.

3. When the matter came up for admission hearing, learned counsel for the applicant submits that she will be satisfied if a direction is given to the Respondent No. 2 to consider and dispose of the representation within a time frame.

4. Considering the submission made by the learned counsel for the applicant, this Court is of the view that such recourse will meet the ends of justice. Therefore, this Court directs the Respondent No. 2 and any other competent authority as directed by him to consider and dispose of the representation of the



applicant dated 29.03.2005 within a period of three months from the date of receipt of this order.

The O.A. is disposed of as above at the admission stage itself. In the circumstances, no order as to costs.



(K.V. SACHIDANANDAN)
VICE-CHAIRMAN

/mb/

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

Original Application No.

62/06

1. a) Name of the Applicant:- A. Zaman
b) Respondents:- Union of India & Ors.
c) No. of Applicant(S):-

2. Is the application in the proper form:- Yes / No.

3. Whether name & description and address of the all the papers been furnished in cause title :- Yes / No.

4. Has the application been duly signed and verified :- Yes / No.

5. Have the copies duly signed :- Yes / No.

6. Have sufficient number of copies of the application been filed :- Yes / No.

7. Whether all the annexure papers are impleaded :- Yes / No.

8. Whether English translation of documents in the Language :- Yes / No.

9. Has the application is in time :- Yes / No.

10. Has the Vokatlatnama/Memo of appearance / Authorisation is filed: Yes / No.

11. Is the application by ITO/BL for Rs. 50/- 266319312

12. Has the application is maintainable : Yes / No.

13. Has the Impugned order original duly attested been filed:- Yes / No.

14. Has the legible copies of the annexurea duly attested filed: Yes / No.

15. Has the Index of the documents been filed all available :- Yes / No.

16. Has the required number of enveloped bearing full address of the respondents been filed:- Yes / No.

17. Has the declaration as required by item 17 of the form: Yes / No.

18. Whether the relief sough for arises out of the Single: Yes / No.

19. Whether interim relief is prayed for :- Yes / No.

20. Is case of Condonation of delay is filed is it Supported :- Yes / No.

21. Whether this Case can be heard by Single Bench/ Division Bench:

22. Any other point :-

23. Result of the Scrutiny with initial of the Scrutiny Clerk:
The application is in order.

1/2 DEPUTY REGISTRAR
S.3.06

SECTION OFFICER (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH :

AT GUWAHATI. গুৱাহাটী বিধৃতি
Guwahati Bench

8 MAR 2006

কেন্দ্ৰীয় প্ৰশাসনিক বিধৃতি
Central Administrative Tribunal

Filed by

Ami S. Zarnal
Khons 28-2-06
Benzee Dinda
Advocate

(An Application under Section 19 of the Administrative
Tribunal Act, 1985)

Original Application No. 62 /2006.

Anisuz Zamal .. Applicant.

- Vs -

Union of India & Ors. .. Respondents

S Y N O P S I S

The Applicant, while working as a Gangman at Kampur, was unauthorisedly debarred from discharging his duties from 15.5.2002. The applicant, under such circumstances, had filed a case before the Hon'ble CAT. The Hon'ble CAT vide its Order and Judgment dated 12-6-2003 directed the respondents to allow the applicant to work detailing the place of posting of the applicant. The Hon'ble CAT also directed the respondents to release the unpaid salary to the applicant since 15.5.2002. The Respondent Authority did not pay salary from 15.5.2002 to 13/8/2002. The applicant submitted his representations, but, no order has been passed by the Respondents to release his salary.

Hence, this instant application praying for releasing the salary from 15.5.2002 to 13.8.2002 as per the Hon'ble CAT's Order dated 12-6-2002.

L I S T O F D A T E S

Order of the Hon'ble CAT to allow the applicant to work and to release his salary since 15.5.2002.

ANNEXURE-1, Page - 9

Representation by the applicant to release his salary from 15.5.2002 to 13.8.2002.

ANNEXURE-2, Page - 12

Filed by -

Benzee Dinda.
ADVOCATE.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH :
AT GUWAHATI.

(An Application under Section 19 of the Administrative
Tribunal Act, 1985).

Original Application No. _____/2006

Anisuz Zaman ... Applicant

- Vs -

Union of India & Ors. ... Respondents

I N D E X

<u>Sl.No.</u>	<u>Particulars</u>	<u>Page No.</u>
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3.	Annexure - 1	9 to 11
4.	Annexure - 2	12

Filed by -

A D V O C A T E.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH :

AT GUWAHATI.

(An Application under Section 19 of the Administrative tribunal Act, 1985).

Original Application No. _____/2006.

Anisuz Zamal,
Son of Late Abul Mazid,
Working as Gangman in Kampur Railway
Station, at Kampur, N.F. Railway, Lumding.

... Applicant.

- Versus -

1. The Union of India,
represented by the General Manager,
N.F. Railway, Maligaon, Guwahati-11.

2. The Divisional Railway Manager (P),
N.F. Railway, Lumding, Nagaon.

3. The Senior Divisional Engineer,
N.F. Railway, Lumding, Nagaon.

... Respondents.

1) PARTICULARS OF THE ORDERS AGAINST WHICH THIS APPLICATION IS MADE :

The application is made against the representation dated 29-3-2005 by the applicant before the Respondent No.3 for not releasing the unpaid arrear and salary from 15-5-02 to 13-8-2003 and for inaction on the part of Respondents.

2) JURISDICTION OF THE TRIBUNAL :

The application declares that the subject matter of the application in which the applicant seeks relief is within the jurisdiction of the Hon'ble Tribunal.

3) LIMITATION :

The application further declares that the application is within the Limitation period prescribed under the Act.

4) FACTS OF THE CASE :

- a) That the applicant is a citizen of India and is the resident of the aforesaid locality and, as such, he is entitled to all the rights and privileges as guaranteed by the Constitution of India and the laws of the land.
- b) That the applicant begs to state that he was working as a Gangman at Kampur on 14-5-2002 and thereafter he was not allowed to work at Kampur by the Gang-in-charge at the instance of the Permanent Way Inspector (PWI - 1 for short) without any reason.
- c) That the applicant begs to state that he was not allowed to discharge his duties and he was directed by the Gangman to meet PWI-1. The applicant thereafter went to the Office of PWI-1, he was not allowed to meet the PWI-1 and his grievance was not entertained.
- d) That the applicant begs to state that when he failed to meet the PWI-1, the applicant tried to meet the Assistant Engineer and the Senior Divisional Engineer to ventilate his grievance, but he also failed to express his grievance before them.

Annexure 2/2001

e) That the applicant begs to state that finding no other alternative the applicant filed an application before the Hon'ble CAT. The said application was numbered and registered as Original Application No.283/2002. The Hon'ble Central Administrative Tribunal vide its Order and Judgment dated 12-6-2003 was pleased to pass the judgment in favour of the applicant. The Hon'ble Tribunal in its judgment dated 12-6-2003 directed the Senior Divisional Engineer, Lumding to detail the applicant his place of posting either at Kampur or at Laopani and to complete the disciplinary proceedings within three months from the receipt of the Order copy. The Hon'ble CAT further directed the Senior Divisional Engineer to look into the grievance of the applicant and also directed ~~the~~ him to take appropriate measures to release salary etc. which is due to the applicant as per rules.

A copy of the Order and judgment dated 12-6-2003 is enclosed herewith and marked as Annexure - I.

f) That the applicant begs to state that as per the Order and Judgment of the Hon'ble CAT, your humble applicant reported for his duty before the Respondent No.3 and the applicant was allowed to work in the post of Gangman from 14-8-2003.

g) That the applicant begs to state that the applicant joined his post of Gangman at Laopani on 14-8-2003, he was regularly paid his salary and allowances since his joining. However, he was not paid salary and other allowances from 15-5-2002 to 13-8-2003 for the reason best known to Respondent authorities. It is also worth-mentioning that the

applicant was not placed under suspension by the Respondent authorities, although the disciplinary proceedings was initiated against him.

h) That the applicant begs to state that as per the Order and Judgment dated 12-6-2003 in Original Application No.283/02 it was a clear direction of His Lordship's that the unpaid salary etc. are to be paid to the applicant as per rules. The Respondent authorities have no right to withhold the salary and other allowances of the applicant during the period of absence as compelled by Respondent from 15-5-2002 to 13-8-2003.

i) That the applicant begs to state that in order to highlight his grievances the applicant submitted an application before the Respondent No.3 to release the arrear payment from 15-5-2002 to 13-8-2003 the first application was sent by registered post on 19-3-2004. However, the said application is pending in the Office of the Respondent and no order has been passed by the Respondent against the said application. The applicant has also submitted another application on 29-3-05 to release his salary which is due to him from 15-5-2002 to 13-8-2003. However, the Respondent Authority is not disposing of the applications and willingly deviating the Hon'ble CAT's Order and Judgment for the reason best known to them.

A copy of the application dated 29-3-2005
is enclosed herewith and marked as
Annexure - 2.

Contd...5

13
Anil Kumar
A
Zamal

j) That the applicant begs to state that the Respondent has not paid the full attention of the judgment passed by the Hon'ble Tribunal and their intention categorically shows the disrespect of the Hon'ble CAT's Order.

k) That your humble applicant begs to state that the Respondent Authority did not disposed of the representation and simply sitting tight over the issue.

l) That finding no other alternative and seeing no hope of a positive response from the Respondents, the humble applicant has no other alternative but to file this application before this Hon'ble Tribunal for redressal of his grievance.

m) That this application is being filed bonafide and for the ends of justice.

5) DETAILS OF THE REMEDY EXHAUSTED :

The humble applicant declares that he has exhausted all the departmental remedies which were available to him within the department.

6) MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY COURT OR TRIBUNAL :

The humble applicant further declares that the subject matter against which the applicant seeks remedy is not pending before any Court or Tribunal.

Ans 2 and 14

7) RELIEF SOUGHT :

In view of the facts and circumstances mentioned above, your humble applicant prays for the following reliefs :

To release the salary etc. which is due to the applicant from 15-5-2002 to 13-8-2003.

8) GROUND OF RELIEF WITH LEGAL PROVISION :

- a) For that the action of the Respondents for not releasing his salary is highly improper and unjust to the cause of the applicant. The applicant was unauthorisedly compelled to debar from his duties for no fault of his own. The Respondents Authority have no right to withhold the applicant's salary without any reason and without any order for salary deducted for which no departmental enquiry was initiated against the applicant.
- b) For that the action of the Respondents for illegally debarring him from joining his duties in the eye of law. The applicant, have the right to receive his salary etc. for the period of 15-5-2002 to 13-8-2003. Thus the respondent has no right to stop his salary from 15-5-02 to 13-8-03.
- c) That the respondent is duty bound to pay the salary of the applicant as he was not absented from his duties but the duty was not allotted to him for the reason best known to them.

- 7 -

9) INTERIM RELIEF PRAYED FOR :

- N I L -

10) PARTICULARS OF BANK DRAFT/POSTAL ORDER :

Indian Postal Order No. 269 319312
dated 26-2-2006 for Rs.50/- (fifty) only payable at
Guwahati in favour of the Registrar, Central Adminis-
trative Tribunal, Guwahati.

Contd...8 - Verification.

VERIFICATION

I, Anisuz Zamal, son of Late Abul Mazid, aged about 42 years, working as Gangman in Kampur Railway Station, at Kampur, N.F. Railway, Lumding, Assam do hereby solemnly affirm and declare as follows :-

That, I am the applicant in the accompanying application and I do hereby verify that the statements made therein are true to my knowledge, belief and information.

And I sign this Verification on this the 1st day
^{March,} of February, 2006 at Guwahati.

Anisuz Zamal.

Signature.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 283 of 2002

Date of decision: This the 12th day of June 2003

The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman

The Hon'ble Mr R.K. Upadhyaya, Administrative Member

Shri Anisuz Zaman
S/o Late Abdul Mazid,
Working as Gangman,
Kampur Railway Station, Kampur,
Nagaon, Assam.

By Advocate Mr Hasibur Rahman.

.....Applicant

- versus -

1. The Union of India, represented by
The General Manager,
N.F. Railway,
Maligaon, Guwahati.
2. The Sr. Divisional Engineer,
N.F. Railway,
Lumding, Nagaon.
3. The Permanent Way Inspector, Grade-1,
N.F. Railway,
Chapormukh, Nagaon, Assam.
4. The Permanent Way Inspector (East),
N.F. Railway,
Chapormukh, Nagaon, Assam.
5. Shri Jauhar Jha, Gangman,
Posted at Kampur Railway Station,
Nagaon, Assam.

By Advocates Mr B.K. Sharma, Railway Counsel
and Mr S. Sarma.Respondents

.....
O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

The sole controversy rests on the issue of discharging duties by the applicant at his place of work. According to the applicant he is continuously reporting at the place of work on and from 15.5.2002, but till institution of this application he was not allowed to

Certified to be True Copy
Kamal Shanta Talukdar
ADVOCATE

work at Kampur by the Gang Incharge at the instance of the Permanent Way Inspector I (PWI-I for short). According to the applicant he was unauthorisedly debarred from discharging his duties.

2. The respondents contested and filed their written statement denying and disputing the claim of the applicant. In the written statement the respondents contended that the applicant was not attending to his duties and as a matter of fact a disciplinary proceeding was initiated against him on 6.7.2002 for the alleged absence of the applicant from duty on and from 15.5.2002 and the disciplinary proceeding is pending.

3. We have heard Mr H. Rahman, learned counsel for the applicant as well as Mr S. Sarma, learned counsel for the respondents. Mr H. Rahman submitted that the respondents unauthorisedly were not allowing the applicant to discharge his duties. The learned counsel submitted that the applicant reported in his place of work at Kampur and thereafter on his transfer from Kampur to Laopani, the applicant reported to the Gang Incharge of Gang No.24 at Laopani on 15.9.2002 and was discharging his duties at Laopani with effect from 15.9.2002/18.9.2002 and thereafter he was not allowed to perform his duties nor was he paid his salary. Mr S. Sarma, learned counsel for the respondents, on the other hand submitted that the question of not allowing the applicant to perform his duties did not arise since he did not even report for his duties.

4. In our opinion, the entire issue requires to be decided on assessment of the facts. As a matter of fact, the disciplinary proceeding is pending on the same issue
which.....

: 3 :

which requires to be resolved with utmost expedition. Admittedly, the applicant is not placed under suspension. Therefore, there cannot be any impediment in not allowing the applicant to work at the place of work. According to the applicant he has been unauthorisedly refused work at the place of work by the PWI I, N.F. Railway, Chaparmukh.

5. On hearing the learned counsel for the parties and on consideration of the fact and circumstances, we direct the applicant to report to the Senior Divisional Manager, N.F. Railway, Lumding on or before 16.6.2003 and the Senior Divisional Manager should direct the concerned authority to detail him at the place of work either at Kampur or Laopani. The Senior Divisional Manager will also look after the grievance of the applicant and take appropriate measure under the law for payment of his salary etc. as admissible under the rules. In the meantime, the competent authority, namely the respondent authority including the Assistant Divisional Engineer, N.F. Railway, Jagiroad are directed to complete the disciplinary proceeding expeditiously. Since the applicant has already submitted his written statement as far back as 14.9.2002, the respondents shall complete the proceeding preferably within three months from today. The respondents shall take all necessary steps to resolve the impasse and take appropriate steps for release of the salary/allowances etc. to the applicant in accordance with law.

6. The application thus stands disposed of. There shall, however, be no order as to costs.

*Certified to be true copy
C. A. L. G. C. W. I. M. T. B. A. C. C.
Guwahati, 26/6/2003*

sd/ VICE-CHAIRMAN

sd/ MEMBER (A)

Section Officer (D)

*C. A. L. G. C. W. I. M. T. B. A. C. C.
Guwahati, 26/6/2003*

*1/6/2003
Certified to be True Copy
Ram Shankar Thakur
ADVOCATE*

To,

The Senior Divisional Engineer,
N.F. Railway, Lumding,
Dist. Kamrup, Assam.

Sub : Application for payment of arrear salary from
15/5/2002 to 13/10/2003.

Sir,

Most humbly and respectfully I beg to state the following few lines for your kind consideration and necessary action.

That Sir, as per the Hon'ble Tribunal Order dated 12/6/2003 in O.A. No. 283/2002, Your Honour was pleased to allow me to join my duties and accordingly I join my duties. After joining my duties Your Honour was pleased to dispose of my appeal by the Order dated 20/12/04. Your Honour was pleased to pass an Order "Censure". But till date the operative portion of the judgment regarding payment of salary is not yet considered. The Disciplinary proceeding was not conducted against me even after submission of Written Statement on 14/9/02. Being a poor Railway employee I am facing economic hardship for non-payment of my arrear salary for which I am entitled.

It is, therefore prayed that Your Honour may pleased be pass necessary order for payment of my arrear and unpaid salary for which I am entitled as per the law. And the Hon'ble Tribunal was also directed you to consider the case of payment of unpaid salary by its judgment dated 12/6/2003.

Certified to be True Copy
Kamla Khan Koy Thakur
ADVOCATE

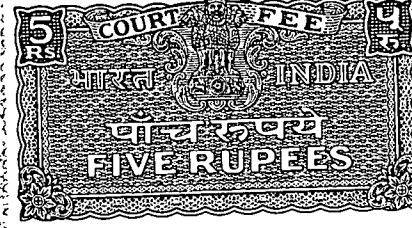
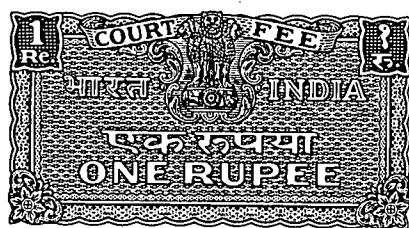
Yours faithfully,

Anisus Zamat
(Anisus Zamat) M.E.L.
Gangman, Lanpani
Railway Station,
N.F. Railway.

In a gland
with hand

29.3.05

Sl. No.
District:



IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA
MIZORAM AND ARUNACHAL PRADESH)

O.A. No..... OF..... 2006

Arisuz Zama

VERSUS

Union of India & ors.

APPELANT
PETITIONER

RESPONDENT
OPPOSITE-PARTY

Know all men by these presents that the above named *Petitioner / Applicant*

..... do hereby nominate, constitute and appoint Shri/Smti..... *Hasilur Rahman, Sesmee Dinda, R.S. Thakur, Malina Deka, A.M. Ahmed* Advocate and such of the undermentioned Advocates as shall accept this Vakalatnama to be my / our true and lawful Advocates to appear and act for me / us in the matter noted above and in connection therewith and for that purpose to do all acts whatsoever in that connection including depositing or drawing money filing in or taking out papers, deeds of composition etc. for me / us and on my / our behalf and I / We agree to ratify and confirm all acts to be done by the said Advocates as mine / ours for all intents and purposes. In case of non-payment of the stipulated fee in full, no Advocate will be bound to appear and act on my / our behalf.

In witness whereof I / We hereunto set my / our hand on this Day of 200

Advocates

N. M. LAHIRI

D.R. GOGOI

J. R. GIRI

B. K. GOSWAMI

ZIAUL KAMAR

ZIAUL ALAM

A. H. MAZUMDAR

HASIBUR RAHMAN

AFTAB HUSSAIN

J. M. CHOUDHURY

B.M CHOUDHURY

P.S. BHATTACHARYYA

D. K. MISHRA

DILIP MAZUMDAR

A.M. AHMED

D.C. MAHANTA

J.R. GIRI

N. RAJKHOWA

H. DAS

R.S. THAKUR

Receive from the
executant, satisfied
and accepted:

Mr./Mrs.....
will lead me / us in the case

and Accepted

Arisuz Zama
Advocate

Sesmee Dinda
Advocate

A.M. AHMED

*Rama Shankar Thakur,
Ivalina Deka*
Advocate

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Notice

Foram:

Jasvee Shuda
Advocate
Gandhi High Court.

To,

Standing Counsel
Rly.

Ref:- O. A. No 1/2006

Arisez Zaman

-vs- — Applicatet
union of India & Ors
— Respondents.

Sir,

please take this notice that the above named applicant has filed an original application petition and same will be moved as and when Hon'ble court permits.

A copy of the same is served upon you for your use.

Kindly acknowledge receipt of the same.

yours faithfully

Jasvee Shuda

Advocate.

Received of Mr. C.P.T.
Advocate
(Under Statute)

As per Telephone call the
copy already handed over to
Standing counsel, Rly.
8/3/06