

FROM NO. 4
(SEE RULE 24)
CENTRAL ADMINISTRATIVE TRIBUNAL
CUMHATI BENCH:

1. Original Application No. _____
2. Mice Petition No. _____
3. Contempt Petition No. 34/06 in O.A 213/06
4. Review Application No. _____

Applicant(S) Mustaqim Ali

Respondent(S) Mrs. Sujata Samik Das

Advocate for the Applicant(S) Mr. D.K. Das Adil Ahmed
Mrs. R.C. Chowdhury Ms. S. Bhattacharya
Mr. K. Bhatnagar

Advocate for the Respondent(S) Case

Notes of the Registry	Date	Order of the Tribunal
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This Contempt petition has been filed by the Counsel for the petitioner u/s 17 of the CAT Act, 1985 for drawing up contempt proceeding against the contemnors for their willful and deliberate violation of the interim order dated 21.8.06 passed by this Hon'ble Tribunal in O.A. 213/06.

07.12.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice - Chairman.

This Contempt Petition has been filed by the petitioner under Section 17 of the Central Administrative Tribunal Act, 1985 for drawing up contempt proceeding against the contemnors for willful and deliberate violation of the interim dated 21.08.2006 passed by this Tribunal in O.A. No. 213/2006 and under Rule 24 of the Central Administrative Tribunal (Procedure) Rules 1987 for implementation of the said interim order.

When the matter came up for hearing, Mr D.K. Das assisted by Mrs. R.S. Chowdhury, learned Counsel for the Applicant submitted that they do not want to press the Application under Rule 24 of the Central Administrative Tribunal

Contd/-

Read before the Hon'ble Court for further orders.

Mr. Subhash Chandra

2-
Contd/-

07.12.2006 (Procedure) Rules 1987 and would stand only Section 17 of the Administrative Tribunals Act 1985. Therefore, the application under Rule 24 of the Central Administrative Tribunal (Procedure) 1987 is deleted as not being pursued.

The Tribunal vide order dated 21.08.2006 passed an interim order. The operative portion of the said order is reproduced herein below:

"Post on 21.09.2006. Considering the fact that the Applicant's two minor children have been admitted in the school at Guwahati and the Applicant has shifted from Arunachal Pradesh to Guwahati and holding the charge of Assistant Project Officer, Assam at Guwahati, the Respondents are directed to permit the Applicant to continue at Guwahati in his capacity as above, if not as Secretary to the Board."

Thereafter, the Applicant filed Misc. Petition No. 107/2006, wherein this Court observed as follows:-

"Mr D.K. Das insisted for a final order in this Misc. Petition, otherwise, the applicant will be put to great hardship. This Tribunal is of the view that it is not the duty of this Tribunal to look into or monitor the day-to-day affairs of the administration concerned. Since the applicant is very much aggrieved, counsel for the applicant submits that he may be permitted to make a comprehensive representation before the second and/or third respondent highlighting his grievances, in not grating any work to him and not complying with the orders of this Tribunal dated 21.8.2006. The non-engagement of the services of a govt. servant will be against public interest. He further submitted that he would be satisfied if a direction is given to consider and dispose of the same by a speaking order communicating to him within a time frame. This Tribunal is also of the opinion that such a course of action

3
Contd/-
07.12.2006

3
will meet ends of justice. Therefore, I direct the applicant to make a comprehensive representation as to his grievances to the second and/or third respondent forthwith and on receipt of such representation the competent authority, whomsoever, shall consider and dispose of the same by passing a speaking order communicating the same to the applicant within a period of two weeks thereafter."

The direction was to make a comprehensive representation and to pass a speaking order by the Respondents. In purported compliance of the said order, the Respondents passed an order dated 04.12.2006 (Annexure - P6). The operative portion of the said order is reproduced below:-

"13. It is very unfortunate that you have alleged furnished of wrong information and suppressing of the material facts by the Chairperson, Assam State Board in her written statements (Para 24). You are informed that judiciary as the wing for resolving disputes, takes care of all the statement. However, on your allegation, the matter has been enquired into and it has been ascertained that the counsel conducting the case for the respondents submitted before the Hon'ble Tribunal (after filing the W.S. by the respondent No. 4) that the CSWB is not a Central Govt. organization by is within jurisdiction of the Hon'ble Tribunal by notification under the Administrative Tribunal Act, 1985. As a responsible officer of the organization, such understanding and hostility towards superiors is not expected from you.

In above perspective you are directed to report to Arunachal Pradesh State Social Welfare Board without any further delay."

It is pertinent to note that in M.P. No. 107/2006, this Court also referred the interim order that has been passed by

✓

Contd/-

07.12.2006 this Tribunal and to meet ends of justice the Respondents were directed to dispose of the representation to be filed by the Applicant. The interim order passed by this Tribunal dated 21.08.2006 made clear that "the Respondents are directed to permit the Applicant to continue at Guwahati in his capacity as above, if not as Secretary to the Board".

It is very clear that the intention and purpose of the order of this Tribunal was to permit the Applicant to continue in the post, but the impugned order has been passed overcoming that direction, which is not in the true spirit of law. Therefore, it is directed to issue notice to Mrs. Sujata Saunik, IAS, the Executive Director, Central Social Welfare Board, Samaj Kalyan Bhawan, B-12, Qutab Institutional Area, South of IIT, New Delhi - 110 016 and Dr. (Mrs.) Mukti Deb Choudhury, Chairperson, Assam State Social Welfare Board, Beltola, Guwahati - 781 028 directing them to file affidavit within four weeks as to why on the basis of averments made in the Contempt Petition contempt proceedings shall not be initiated against them. Post on 10.01.2007. However, personal appearance of the Respondents are dispensed with for the time being.


Vice-Chairman

/mb/

The counsel for the respondents and the alleged contemner No.1 submitted that she would like to file affidavit. Let it be done.

Post the matter on 12.2.07.


Vice-Chairman

Notice & order
Sent to D/Section
for issuing to
resp. nos-1, 2 by
regd. A/D post.

10/12/06 D/No-1237, 1238
D/- 8/12/06

8.1.07

Contemner/Respondent
No. 2 has been submitted
reply.



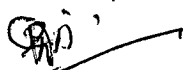
10.1.07.

9.2.07
No Affidavit filed
by Cont. no. 1.

in

13.2.07

Counter affidavit on
behalf of the Respondent No.1.
Page 1 to 10.



Notes of the Registry	Date	Order of the Tribunal
Abhidavit filed on behalf of R.No-1 & 2.	12.02.2007	Let the case be posted on 27.2.2007 alongwith the O.A.
<u>8.3.07</u>	/bb/ 09.03.07.	Post the matter before the next available Division Bench.
Abhidavit filed by R.No-1 & 2.	lm 15.3.07.	Heard learned counsel for the parties. Hearing concluded. Judgment reserved.
<u>14.3.07</u>	lm	Member
	23.03.2007	Present: The Hon'ble Mr.K.V.Sachidanandan Vice-Chairman The Hon'ble Mr.Tarsem Lal Administrative Member.
Received for Sr. C & S. C 26/3/07		Though the Petition has been described as Contempt Petition it appears that it is an application filed by the petitioner under Rule 24 of the Central Administrative Tribunal (Procedure) Rules, 1987 for implementation of the interim order dated 21.08.2006 passed in O.A. 213 of 2006. This Court has passed final orders in the O.A. dismissing the same therefore, this petition will not stand in its legs.
<u>26.3.07</u> Copy of the order has been sent to the office for issuing the order to the advocates of the parties.		Therefore, this Petition is dismissed.

Member

Vice-Chairman

/bb/

6 JUL 2006
गुवाहाटी न्यायपीठ
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI

FILED BY:

The Petitioner

THROUGH:

R. S. Chowdhury

Advocate.

06/12/06

CONTEMPT PETITION NO. 34 /2006

in

ORIGINAL APPLICATION NO. 213 OF 2006

IN THE MATTER OF

An application under Section 17 of the Administrative Tribunal Act 1985 for drawing of a contempt proceeding against the contemnors for their willful and deliberate violation of the interim Order dated 21.08.06 passed by this Hon'ble Tribunal in O.A. No. 213 of 2006

-AND-

IN THE MATTER OF

An Application under Rule 24 of the Central Administrative Tribunal (procedure) Rules 1987 for implementation of the interim Order dated 21.08.06 passed in O.A. No. 213 of 2006

-AND-

IN THE MATTER OF

Sri Mustaquim Ali,
Son of Late Mehboob Ali,
Resident of 7th Mile, Jalukbari,
P.O. & P.S. Jalukbari,
Guwahati - 781 014, Dist. Kamrup, Assam

...PETITIONER

-VERSUS-

1. Mrs. Sujata Saunik, IAS,
The Executive Director,
Central Social Welfare Board,
Samaj Kalyan Bhawan,
B-12, Qutab Institutional Area, South of
I.I.T.,
New Delhi - 110016
2. Dr. (Mrs.) Mukti Deb Choudhury,
Chairperson,
Assam State Social Welfare Board,
Beltola, Guwahati - 781 028

**...CONTEMNORS/
OPPOSITE PARTIES**

The humble petition of the Petitioner above named;

MOST RESPECTFULLY SHEWETH:

1. That the Petitioner herein, had filed an Original Application No.213 of 2006, before this Hon'ble Tribunal inter alia challenging the legality and validity of the impugned Orders dated 04.08.2006, 10.08.2006 and 18.08.2006 (Annexures- F-Colly & G-Colly to the Original Application) whereby the Petitioner/Applicant was sought to be transferred back to Arunachal Pradesh State Welfare Board within a short span of 2 months of having joined at Guwahati. The Petitioner had further challenged the legality and validity of the impugned Order dated 04.08.06 whereby he had been removed from his substantive charge of Secretary, Assam State Social Welfare Board. Be it stated herein that, in the said Original Application, the Petitioner/Applicant had categorically alleged malafide against the Chairperson of the Assam State Social Welfare Board (the Opposite party No. 2 herein) to illegally

accommodate one Sri D.D. Mondal. For the sake of brevity, the Petitioner/Applicant refrains from reiterating the statements made in the said Original Application, and craves leave of this Hon'ble Tribunal to refer to and rely upon the averments made therein.

2. That the said Original Application No.213 of 2006 was moved before this Hon'ble Tribunal on 21.08.2006 and on the said date this Hon'ble Tribunal after hearing the matter at length was pleased to stay the impugned transfer Order dated 10.08.2006 and 18.08.2006 and further directed the authorities to allow the Applicant to continue in the said post of Assistant project Officer at Guwahati. The matter was fixed for further hearing/instructions on 21.09.2006.

A copy of the said Order dated 21.08.2006 is
annexed herewith and marked as
ANNEXURE-P 1

3. That however, despite such categorical directions having been issued by this Hon'ble Tribunal, the Opposite party No. 2 herein i.e. the Chairperson of the Assam State Social Welfare Board, in gross and willful disobedience and violation of the directions of this Hon'ble Tribunal, vide an Order dated 13.09.2006 re-allocated the Zone/area of work distributed amongst the various Asstt. Project Officers under the Assam State Social Welfare Board. In the said Order dated 13.09.2006 the name of the Petitioner/Applicant did not figure at all and infact the districts so allotted to the Petitioner/Applicant were given to two other Asstt. Project Officers. As such, being highly aggrieved by such impugned actions of the Opposite party No. 2 of divesting the Petitioner/Applicant of his powers/duties, the Applicant once again approached this Hon'ble Tribunal by way of another Original Application which was registered and numbered as O.A.No.239 of 2006, challenging the legality and validity of the impugned Order dated 13.09.2006 and the actions of the Respondent No.4. The said Application was moved before this Hon'ble Tribunal on 18.09.2006 as an unlisted matter on which date this Tribunal was pleased to direct the authorities to seek instructions as to why the districts which had been earlier allotted to the Petitioner/Applicant have been divested from him. This Hon'ble Tribunal further fixed the matter on 21.09.2006.

A copy of the said Order dated 18.09.2006 passed in O.A. No.239/2006 is annexed herewith and marked as ANNEXURE-P 2

4. That on 21.09.2006, both the aforesaid Original Application's were taken up together for consideration. Be it stated herein that the Opposite party No. 2 herein had also filed a Miscellaneous Petition No.97 of 2006 for vacating the aforesaid Order dated 21.08.2006 passed by this Hon'ble Tribunal (Annexure-P1 herein) to which the Petitioner/Applicant had also filed his objection. The said Miscellaneous Case was also taken up for consideration on the said date i.e. on 21.09.2006. After hearing the parties at length this Hon'ble Tribunal refrained from vacating, modifying the interim Order dated 21.08.2006 and further fixed the matter for hearing on 09.11.2006.

Copies of the Orders dated 21.09.2006 passed in O.A. No.213 of 2006 and 239 of 2006 are annexed herewith and marked as ANNEXURE-P 3 & P 4 respectively.

5. That however, despite the said position as enumerated hereinabove, and despite the operation of the interim Order dated 21.08.06, the Opposite party No. 2 in a most malafide and arbitrary manner had refused to sanction the tour programme of the Petitioner/Applicant inspite of the fact that the petitioner/Applicant had submitted the tour programme several occasion (on 07.09.2006, 11.09.2006, 19.09.2006 and 26.09.2006). Moreover, no positive response was forthcoming from the Respondents with regard to his posting and infact the Respondents did not allow the Petitioner/Applicant to perform his duties. As such, being highly aggrieved by the non action of the Authorities, the Petitioner filed a Misc. Case before this Hon'ble Tribunal which was registered as M.P. No. 107/06, praying inter alia for early disposal of all the cases and further praying that during the pendency of the O.A., the Petitioner/ Applicant maybe allowed to perform his duties. This Hon'ble Tribunal after hearing the parties, vide Order dated 13.11.06, directed the Petitioner to make a representation before the concerned Authority and further directed the Authorities to consider and dispose of the same by passing a speaking Order thereon, within a period of 2 week from the receipt of such representation. It is categorically stated that this Hon'ble Tribunal while disposing of the said Misc. application, the Hon'ble Tribunal had categorically

held that "it is not a healthy practice to keep an employee ideal not granting any work whatsoever."

A copy of the said Order dated 13.11.06 passed in MP. No. 107/6 is annexed herewith and marked as ANNEXURE-P5.

6. That the Petitioner begs to state that pursuant to the Order dated 13.11.06, he filed a detailed representation before the authorities concerned on 14.11.06. However, the Petitioner has come to learn through reliable sources that the Opposite party No. 1 vide an Order dated 04.12.06 has been pleased to reject the representation of the Petitioner and has further directed the Petitioner to forthwith proceed to Arunachal Pradesh.

A typed copy of the Order dated 04.12.06 passed by the Opposite party No. 1 is annexed herewith and marked as ANNEXURE-P6.

7. That the Petitioner humbly states that the factual matrix of the case as has been narrated herein above, clearly reveals that the Opposite party No. 1 & 2 were well aware of the interim Order dated 21.08.06 (Annexure-P1), whereby this Hon'ble Tribunal had granted protection to the Petitioner. The Opposite parties are also aware of the fact that the said Order dated 21.08.06, is yet to be vacated and/or modified by this Hon'ble Tribunal. However, in a most unbecoming and contumacious manner, the Opposite Parties in completely willful and deliberate violation of this Hon'ble Tribunal's directions, have managed to make a mockery of the Orders passed by this Hon'ble Tribunal by stating that the petitioner stood released and had to report to Arunachal Pradesh.
8. That the Opposite parties have flouted the interim Orders issued by this Hon'ble Tribunal on 21.08.06, in all impunity and have lowered the dignity and honour of Your Lordships by directing the Petitioner to proceed to Arunachal Pradesh, despite being aware of the fact that this Hon'ble Tribunal is in session of the matter. The same is reflective of the willful and deliberate intention of the Opposite parties of not complying with the directions of this Hon'ble Tribunal. By passing the said Order dated 04.12.06, the Opposite

parties have sought to project that they have complied with the directions of this Hon'ble Tribunal.

9. That the Petitioner humbly begs to submit that the Opposite parties/ Contemnors have committed contempt of court for which they are liable to be punished severely for such deliberate and willful non compliance of the interim Order dated 21.08.06 passed in O.A. No. 213 of 2006. Hence this petition.
10. That this Petition has been filed bonafide and for the ends of Justice.

In the premises aforesaid it is most respectfully prayed that Your Lordships may be pleased to admit this Petition and draw up appropriate contempt proceedings against the Opposite parties/ Contemnors for their willful and deliberate violation and/or non compliance of the interim Order dated 21.08.06 passed by this Hon'ble Tribunal in O.A. No. 213/06 and to punish them accordingly.

and/or

pass such further or other Order(s) as Your Lordships may deem fit and proper to grant appropriate relief to the Petitioner.

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

...AFFIDAVIT...

DRAFT CHARGE

Whereas Smti. Sujata Saunik, the Executive Director, Central Social Welfare Board, Samaj Kalyan Bhawan and Dr. (Mrs.) Mukti Deb Choudhury, Chairperson, Assam State Social Welfare Board, Beltola, Guwahati, have willfully and deliberately violated the interim Order dated 21.08.06 passed by this Hon'ble Tribunal in O.A. No. 213/06, as such, they are liable to be punished under the provisions contained in the Contempt of Courts Act, for such act of willful and deliberate violation and/or non compliance.

..... Affidavit

AFFIDAVIT

I, Shri Mustaqim Ali, son of Late Mehboob Ali, resident of 7th Mile, Jalukbari, P.O. & P.S. Jalukbari, Guwahati - 781 014, Dist. Kamrup, Assam., aged about 46 years, do hereby solemnly affirm and verify that I am the Petitioner in the instant Contempt application and as such, I am fully conversant with the facts and circumstances of the case. The statements made in Paragraphs-1, 2(partly), 3(partly), 5(partly), ... 6(partly), 7 to 10.....are true to my knowledge and those made in Paragraphs- 2(partly), 3(partly), ⁴5(partly), 6(partly) are matters of records derived therefrom, which I believe to be true and those made in paragraphs are true to my legal advice and I have not suppressed any material fact

And I sign this verification on this the 6th day of December, 2006 at Guwahati.

Mustaqim Ali

SIGNATURE OF THE PETITIONER

IDENTIFIED BY ME

 ADVOCATE
 KI

Solemnly affirmed and declared before me by the deponent who is identified by Sri R.S. Chowdhury, Advocate on this the 6th day of Dec, 2006 at Guwahati.

R.S. Chowdhury

Advocate 6/12/06

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDERS SHEET

1. Original Application No. 213/06
2. Miso Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

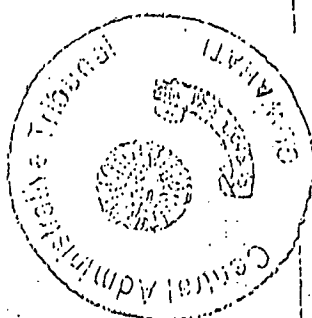
Applicant(s) Mostaqim Ali

Respondant(s) U. O. T. Gurus

Advocate for the Applicant(s) D.K. Das, Ms. R. S. Choudhury

Advocate for the Respondant(s) C. A. S. C.

Notes of the Registry	Date	Order of the Tribunal
	21.08.2006	Present : Hon'ble Sri K.V. Sachidanandan, Vice-Chairman.



The Applicant was appointed in the Central Social Welfare Board and was sent on deputation to various State Social Boards. After completion of his tenure posting at Arunachal Pradesh, the Applicant was transferred and appointed as Secretary, Assam State Social Welfare Board on deputation basis with additional charge of Assistant Project Officer, Assam as well as the Assistant Project Officer, Arunachal Pradesh. Accordingly, the Applicant joined on 14.06.2006 and reported to the Respondent No. 4. The Applicant after taking over charge admitted his two minor children at Kendriya Vidyalaya, Maligaon. While so, proposal for transfer of funds from Plan to Non-plan account for payment of staff salary for the month of June, 2006 was put up before the Applicant and the Applicant signed two cheques to the

Certified to be true Copy

Rakhee Sirauthia Chowdhury
ADVOCATE

Contd/-

Contd/-

21.08.2006 amount of Rs. 1,80,000/- and Rs. 98,700/- and endorsed both the cheques to the Respondent No. 4 for necessary approval. The Applicant subsequently came to learn that the Cashier/UDA presented the cheques before the Bank without prior approval of the Respondent No. 4, who signed the cheques on 03.07.2006 and 07.07.2006. The Respondent No. 4 demanded explanation from the Cashier/UDA as to why he presented the cheques without approval. The Cashier vide letter dated 04.07.2006 stated that he had obtained the telephonic consent from the Respondent No. 4 and acted thereof and rendered his apology for the same. The Applicant also issued explanation for the said anomaly committed by him. While so, the orders dated 10.08.2006 and 18.08.2006 have been issued transferring the Applicant to Arunachal Pradesh State Welfare Board. The Applicant alleged malafide and submitted that he has no role to play to the alleged irregularities, if any.

Heard Mr D.K. Das, learned Counsel for the Applicant and Mr G. Baishya, learned Sr. Central Government Standing Counsel for the Respondents.

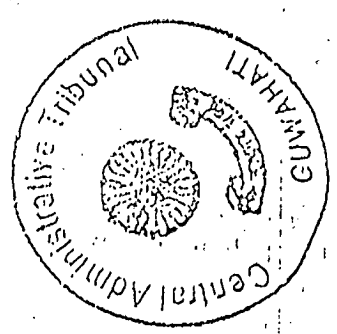
Mr G. Baishya, learned Sr. C.G.S.C. for the Respondents wanted time to take instructions. Let it be done.

Post on 21.09.2006. Considering the fact that the Applicant's two minor children have been admitted in the school at Guwahati and the Applicant has shifted

Contd/-

Contd/-

21.08.2006 from Arunachal Pradesh to Guwahati and holding the charge of Assistant Project Officer, Assam at Guwahati, the Respondents are directed to permit the Applicant to continue at Guwahati in his capacity as above, if not as Secretary to the Board.



Sd/- vice-Chairman,

TRUE COPY
प्रति

[Signature]
21.8.06.
अध्यक्ष, (प्रति)

Sec.
Central.
उत्तराखण्ड - 144915
GUWAHATI OFFICE
Guwahati-5

21/8/06.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 239/06

Misc Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicant(s) Mr. M. Ali

Respondents U.O.T 90ms

Advocate for the Applicant(s) D.K.Das., Mr. R.S. Choudhury
K. Borah

Advocate for the Respondent(s) Rase

Notes of the Registry Date Order of the Tribunal



18.9.2006

Heard Mr.D.K.Das, learned counsel
for the applicant and Ms.U.Das, learned
Addl.C.G.S.C. for the respondents.

post the matter on 21.9.2006. Res-
pondents are directed to take instruction
as to why the districts for which he was
earlier allotted have been divested from
him.

Dr.J.L.Sarkar, learned counsel has
accepted notice on behalf of respondent,
NO.4.

Sd/VICE CHAIRMAN

TRUE COPY

प्रतिप्रति

अनुमान आधिकारी

Secretary (Adm. Secy)

Central Administrative Tribunal

गुवाहाटी न्यायपीठ

GUWAHATI BENCH

गुवाहाटी, Guwahati-5

Certified to be true Copy

Rakhee Sirauthia Chowdhury
ADVOCATE

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERS SHEET

Original Application No. 213/06

Misc Petition No. /

Contempt Petition No. /

Review Application No. /

Applicant(s) Mortaqum Ali

Respondant(s) U.O.I. Jams

Advocate for the Applicant(s) D.K. Das., Ms. R. S. Chandley

Advocate for the Respondant(s) C. A. F.

Notes of the Registry

Date

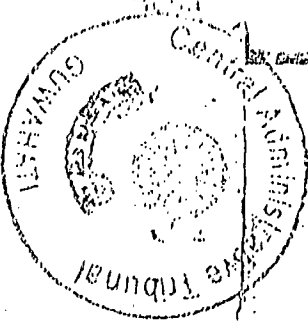
Order of the Tribunal

21.9.06.

Issue notice on the respondents.

After hearing the counsel for the respondents parties, counsel for the respondents has submitted that he will take instructions from the respondents.

Rest the matter on 9.11.06.



Sd/VICE CHAIRMAN

TRUE COPY

M. Sena
Section Officer, 21.9.06

C.A.T. GUWAHATI BENCH
Guwahati-781006

21/9/06

Certified to be true Copy

Rakhee

Rakhee Sirauthia Chowdhury
ADVOCATE

FROM No. 4.
(Sec Rule 42)

11

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

1. Original Application No. 239 / 06

2. Misc Petition No.

3. Contempt Petition No.

4. Review Application No.

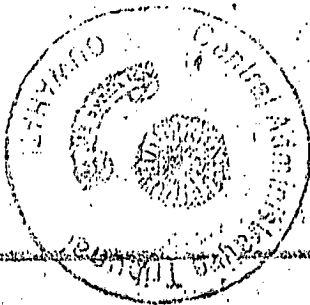
Applicant(s) Mr. M. Ali

Respondents U. O. T. Goms

Advocate for the Applicant(s) D. K. Das., Mr. R. S. Chaudhary
K. Bartholomew

Advocate for the Respondent(s) none

Notch of the Registry Date Order of the Tribunal



bb

21.9.06

Issue notice on the respondents.
After hearing the counsel for the
parties Mr. counsel for the respon-
dents has submitted that he will take
instructions from the respondents.
Post the matter on 21.11.06

Sd/VICE CHAIRMAN

FROM COPY

(Signature)
Section Officer (A) 21.9.06
C.A.T. GUWAHATI BENCH
Guwahati-781003
31/9/06

Certified to be true Copy

(Signature)
Rakhee Sirauthia Chowdhury
ADVOCATE

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Miscellaneous Petition No: 107 of 2006
In

Original Application No. 213 of 2006

Date of Order: This, the 13th Day of November 2006.

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

Sri Mustaqim Ali
Son of Late Mehboob Ali
Resident of 7th Mile, Jalukbari
P.O. & P.S: Jalukbari
Guwahati - 781 014
Dist: Kamrup, Assam. ... Applicant.

By Advocates Mr.D.K.Das & Mrs.R.S.Choudhury.

- Versus -

1. Union of India
Represented by the Secretary
to the Government of India
Ministry of Human Resource Development
Department of Women and Child Development
New Delhi.
 2. The Executive Director
Central Social Welfare Board
Samaj Kalyan Bhawan
B-12, Qutub Institutional Area
South of IIT, New Delhi-110016.
 3. The Deputy Director (FO, ESTT)
Central Social Welfare Board
Samaj Kalyan Bhawan
B-12, Qutub Institutional Area
South of IIT, New Delhi-110016.
 4. Dr. (Mrs.) Mukti Deb Choudhury
Chairperson
Assam State Social Welfare Board
Beltola, Guwahati-781 028.
- Respondents.

Dr. J.L. Sarkar for Respondent Nos. 2 to 4.

Certified to be true Copy

Rakhee Sirauthia Chowdhury
ADVOCATE

SACHIDANANDAN, K.V. (V.C.) :

This Miscellaneous Petition has been filed by the applicant seeking the following reliefs:-

"In the premises aforesaid it is most respectfully prayed that Your Lordships may be pleased to admit this Petition and accordingly fix the said O.A. Nos. 213 of 2006 along with O.A. No.239 of 2006 for an early hearing.

and/or

During the pendency of the instant Misc. Petition the Respondent authorities particularly the Respondent No.4 may be directed to allow the Petitioner/Applicant to perform his duties as Assistant Project Officer under the Assam State Social Welfare Board under the districts so allocated to him earlier as per the directions issued by this Hon'ble Tribunal vide interim Order dated 21.08.2006 and

-AND-

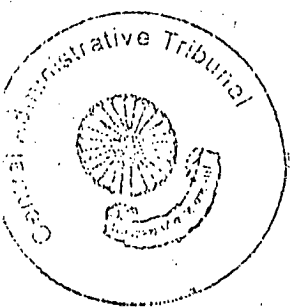
further direct the Respondent authorities to pay the arrear salary of the Petitioner/Applicant forthwith-

and/or:

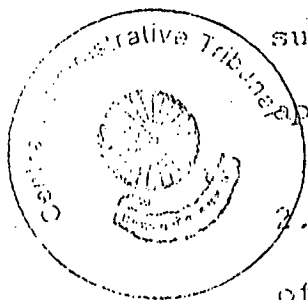
pass such further or other Order(s) as Your Lordships may deem fit and proper to grant appropriate relief to the Petitioner/Applicant."

This Tribunal, on 21.8.2006, passed an order in O.A. No.213/2006, operative portion of which is as under:-

"the Respondents are directed to permit the Applicant to continue at Guwahati in his capacity as above, if not as Secretary to the Board."



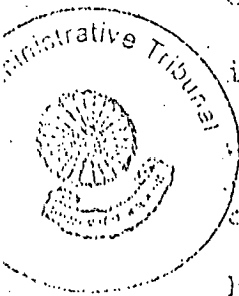
It is submitted that vide order dated 28.6.2006 the applicant have been allocated four districts to work. But Mr.D.K.Das, learned counsel for the applicant has drawn my attention to a subsequent order dated 13.9.2006 whereby all the four districts have been divested/withdrawn from the applicant. The contention of the applicant is that in total violation of the Tribunal's order dated 21.8.2006 the 4th respondent had not allocated any work to the applicant. The case of the respondents, on the other hand, is that the applicant was relieved from the post and therefore, such allocation of work cannot be given to the applicant.



2. Considering all the aspects this Tribunal is of the view that it is not a healthy practice to keep an employee idle not granting any work whatsoever. The applicant alleged malafide against 4th respondent in the O.A. Dr.J.L.Sarkar, learned counsel for the respondent Nos. 2 to 4 submits that respondent No.4 does not fall under the jurisdiction of this Tribunal which is a matter to be adjudicated.

3. Mr.D.K.Das insisted for a final order in this Misc Petition, otherwise, the applicant will be put to great hardship. This Tribunal is of the view that it is not the duty of this Tribunal to look into or monitor

the day-to-day affairs of the administration concerned. Since the applicant is very much aggrieved, counsel for the applicant submits that he may be permitted to make a comprehensive representation before the second and/or third respondent highlighting his grievances, in not granting any work to him and not complying with the orders of this Tribunal dated 21.8.2006. The non-engagement of the services of a govt. servant will be against public interest. He further submitted that he would be satisfied if a direction is given to consider and dispose of the same by a speaking order communicating to him within a time frame. This Tribunal is also of the opinion that such a course of action will meet ends of justice. Therefore, I direct the applicant to make a comprehensive representation as to his grievances to the second and/or third respondent forthwith and on receipt of such representation the competent authority, whomsoever, shall consider and dispose of the same by passing a speaking order communicating the same to the applicant within a period of two weeks thereafter.



2 of Application : 14.11.06
Date on which copy is ready : 14.11.06
Date on which copy is delivered : 14.11.06
Certified to be true copy

The Miscellaneous petition is disposed and
as above as to no order as to cost.
Section Officer (Judicial)
C. A. T. Guwahati Bench
Guwahati-5.

Sd/VICE CHAIRMAN

14/11/06

No.F.14-1/FO/2003/F.O.Estt.

Fax : 26960057

Telegram :

"SANGHASEVA"

THE CENTRAL SOCIAL WELFARE BOARD

SAMAJ KALYAN BHAVAN

B-12, Qutub Institutional Area, New Delhi - 110 016

Date: 04th Dec., 2006

Sh. Mustaquim Ali, APO

Arunachal Pradesh State Social Welfare Board,

C/o: Moohboob Manzil,

Opp. Girls High School, Sat Mile, Jalukbari,

P.O: Guwahati University, Pin: 781014,

Guwahati.

Ref. No. ASSWB/Per/Estt./2006 dt.14/11/2006.

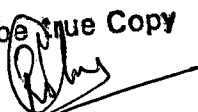
Your representation dt. 14/11/2006 has been received on 21/11/2006 in the office of the Central Social Welfare Board. As per direction of the Hon'ble Central Administrative Tribunal in order dt. 13/11/2006 in M.P. No. 107/2-6 (in O.A No.213 of 2006) the matter has been considered and you are informed as under.

1. Under letter No.F.14-2/94-SBA dt. 4/8/06, Sh. D.D. Mandal was appointed as Secretary of Assam State Social Welfare Board by the Central Social Welfare Board and copy given to you. You handed over charge on 5/8/06.

By memo dt. 10/8/06 from Central Social Welfare Board, you were transferred to Arunachal Pradesh State Social Welfare Board on administrative ground. You were relieved from the Assam State Board by under dt. 18/8/06.

2. The Hon'ble Tribunal passed an order on 21/8/06 and in the interim to allow you to continue as APO. But before this order dt. 21/8/06, you were already released by order dt. 18/8/06 w.e.f. 19/8/06. Hence, you were not in the office of Assam State Social Welfare Board w.e.f. 19/8/06.

Certified to be true Copy



Rakhee Sirauthia Chowdhury
ADVOCATE

Contd.../-

3. The factual position that you were released from the Assam State Board w.e.f. 19/8/06 was placed before the Hon'ble Tribunal. The factual details were explained in the detail by filing an M.P. before the Hon'ble Tribunal (M.P No. 97/2006) which is pending.

4. Thereafter, the works of the Assam State Social Welfare Board in different areas were reallocated by order dt. 13/9/06 amongst existing Secretary / APO and two Welfare Officers. No additional manpower is necessary and works do not justify additional manpower. The order dt. 13/9/06 was challenged by you before the Hon'ble CAT, Guwahati praying for staying the said order dt. 13/9/06. The Hon'ble Tribunal while issuing notice was pleased not to pass any interim order. The works of the State Board, Assam are smoothly functioning with above allotment and distribution. There is no administrative reason to disturb the said allotment and functional arrangement.

5. It is the admitted position that no staff should be kept without any work. You have been posted as APO in Arunachal Pradesh State Social Welfare Board. That Board is functioning without any Field Officer and affected the functional works there.

6. As regards your statement about the withdrawal of money from the Bank and encashment of the cheque (Para 5-8), you will please take note that this is a separate issue and this is being dealt with separately. In this respect a show cause notice has already been served on you. This will be dealt with following principles of law.

7. You have mentioned that present Secretary Sh D D Mandal is junior to you (para- 9). You are informed that in the matter of appointing the Secretary, seniority is not the only factor. There are instances where charge of the post of Secretary is given to a junior officer as per merit of the case, administrative grounds and in public interest.

8. Your statement that you have received the release order on 18/8/06 is not correct (para-11). You received order on 19/8/06. However, this has

Contd.../-

no relevance in representation context and you have been administratively treated as released w.e.f. 19/8/06.

9. As regards your contention of working in the hilly area (Para-12) for more than five years, you are informed that the fact has been kept on record and as the appointment in different places are made looking to the welfare works of the different State Boards of the country, the transfers are made for needs of administration. However, the Authorities are also sympathetic to the cause of the employees. Your case will be considered within administrative feasibility when occasion arises.

10. As regards the education of your children (Para-13) there is Kendriya Vidyalaya at Arunachal Pradesh where your children were studying earlier.

11. You have brought allegation against Sh. C.R Pawe, Welfare Officer of the State Social Welfare Board, Assam (Para 18 of your representation). Your allegation demonstrates gross indiscipline on your part because it speaks as if you assumed supervision of Pawe's works and functions unauthorisedly. When you were already released from the State Board, Assam, it was not within your domain to bring such allegation in this representation which is pursuant to Hon'ble Tribunal's order. It would have been, however, a different tenor if such things were brought to the notice of the Central Social Welfare Board or the State Board as an employee only for the Welfare of the organisation. The other allegation speaks of very serious concern and demonstrates your's special and uncalled for attachment with voluntary organisations. This being a quite different context will be dealt with separately. You may, however, send the names and particulars of the organisations who reported to you about Sh. C.R Pawe, Welfare Officer for taking appropriate administrative measure in the context of such reports.

12. As regards your allegations stated in Para 19, 20, 21 and 22, you are informed that the works are being done by duly allotted persons and your allegations of 'blatant contravention or the policy decision of CSWB' by the Chairperson of State Board is not correct and not befitting of a subordinate

Contd.../-

officer. You are at liberty to project policy decision of CSWB to this office in this respect. As regards allegation of 'Flagrant Violations of Honorable Tribunal's order dt. 21/8/06, Hon'ble Tribunal is seized with the matter and it would not be just and fair to comment on the same.

13. It is very unfortunate that you have alleged furnished of wrong information and suppressing of the material facts by the Chairperson, Assam State Board in her written statements (Para 24). You are informed that judiciary as the wing for resolving disputes, takes care of all the statement. However, on your allegation, the matter has been enquired into and it has been ascertained that the counsel conducting the case for the respondents submitted before the Hon'ble Tribunal (after filing the W.S. by the respondent No.4) that the CSWB is not a Central Govt. organisation but is within jurisdiction of the Hon'ble Tribunal by notification under the Administrative Tribunal Act, 1985. As a responsible officer of the organisation, such understanding and hostility towards superiors is not expected from you.

In above perspective you are directed to report to Arunachal Pradesh State Social Welfare Board without any further delay.

Sd/ Illegible
(Sujata Saunik) IAS
Executive Director.

SPEED POST

28

No. F. 14-1/FO/2003/F.O.Estt.

फैक्स / Fax : 26060057

तार : 'संघसेवा'

Telegram:

"SANGHASEVA"

केंद्रीय समाज कल्याण बोर्ड

THE CENTRAL SOCIAL WELFARE BOARD

समाज कल्याण भवन

बी-12, क़ुतुब इंस्टीट्यूशनल एरिया, नई दिल्ली - 110 016

SAMAJ KALYAN BHAVAN

B-12, Qutub Institutional Area, New Delhi - 110 016

Date: 04th Dec., 2006


Sh. Mustaqim Ali, APO,
Arunachal Pradesh State Social Welfare Board,
C/o Moohboob Manzil,
Opp. Girls High School, Sat Mile, Jalukbari,
P.O. Guwahati University, Pin 781014,
Guwahati.

Ref. No. ASSWB/Per/Estt./2006 dt.14/11/2006

Your representation dt. 14/11/2006 has been received on 21/11/06 in the office of the Central Social Welfare Board. As per direction of the Hon'ble Central Administrative Tribunal in order dt. 13/11/06 in M.P. No.107/2-6 (in O.A.No.213 of 2006) the matter has been considered and you are informed as under.

1. Under letter No. F.14-2/94-SBA dt. 4/8/06, Sh.D.D. Mandal was appointed as Secretary of Assam State Social Welfare Board by the Central Social Welfare Board and copy given to you. You handed over charge on 5/8/06. By memo dt. 10/8/06 from Central Social Welfare Board, you were transferred to Arunachal Pradesh State Social Welfare Board on administrative ground. You were relieved from the Assam State Board by under dt. 18/8/06.
2. The Hon'ble Tribunal passed an order on 21/8/06 and in the interim to allow you to continue as APO. But before this order dt. 21/8/06, you were already released by order dt. 18/8/06 w.e.f. 19/8/06. Hence, you were not in the office of Assam State Social Welfare Board w.e.f. 19/8/06.
3. The factual position that you were released from the Assam State Board w.e.f. 19/8/06 was placed before the Hon'ble Tribunal. The factual details were explained in the detail by filing an M.P. before the Hon'ble Tribunal (M.P. No.97/2006) which is pending.

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Rakhee Sirauthia Chowdhury
ADVOCATE

- 24 -

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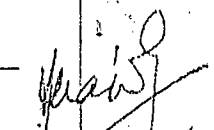
4. Thereafter, the works of the Assam State Social Welfare Board in different areas were reallocated by order dt. 13/9/06 amongst existing Secretary / APO and two Welfare Officers. No additional manpower is necessary and works do not justify additional manpower. (The order dt. 13/9/06 was challenged by you before the Hon'ble C.A.T. Guwahati praying for staying the said order dt. 13/9/06. The Hon'ble Tribunal while issuing notice was pleased not to pass any interim order. The works of the State Board, Assam are smoothly functioning with above allotment and distribution. There is no administrative reason to disturb the said allotment and functional arrangement.
5. It is the admitted position that no staff should be kept without any work. You have been posted as APO in Arunachal Pradesh State Social Welfare Board. That Board is functioning smoothly and you have been working there.
6. As regards your statement about the withdrawal of money from the Bank and encashment of the cheque (Para 5-8), you will please take note that this is a separate issue and this is being dealt with separately. In this respect a show cause notice has already been served on you. This will be dealt with following principles of law.
7. You have mentioned that present Secretary Sh. D.D. Mondal is junior to you (Para 2). You are informed that in the matter of appointing the Secretary, seniority is not the only factor. There are instances where charge of the post of Secretary is given to a junior officer as per merit of the case, administrative grounds and in public interest.
8. Your statement that you have received the release order on 18/8/06 is not correct (Para 11). You received order on 19/8/06. However, this has no effect in representation context and you have been administratively treated as released w.e.f. 19/8/06.
9. As regards your contention of working in the hilly area (Para 12) for more than five years, you are informed that the fact has been kept on record and as the appointment in different places are made looking to the welfare works of the different State Boards of the country, the transfers are made for needs of administration. However, the Authorities are also sympathetic to the cause of the employees. Your case will be considered with administrative reasonability when occasion arises.
10. As regards the education of your children (Para 13) there is Kendriya Vidyalaya at Arunachal Pradesh where your children were studying earlier.
11. You have brought allegation against Sh. C.R. Pawe, Welfare Officer of the State Social Welfare Board, Assam (Para 18 of your representation). Your allegation demonstrates gross indiscipline on your part because it speaks as if you assumed supervision of Pawe's works and functions unauthorisedly. When you were already released from the State Board Assam, it was not within your domain to bring such

allegation in this representation which is pursuant to Hon'ble Tribunal's order. It would have been, however, a different tenor if such things were brought to the notice of the Central Social Welfare Board or the State Board as an employee only for the Welfare of the organisation. The other allegation speaks of very serious concern and demonstrates your's special and uncalled for attachment with voluntary organisations. This being a quite different context will be dealt with separately. You may, however, send the names and particulars of the organisations who reported to you about Sh.C.R.Pawe, Welfare Officer for taking appropriate administrative measure in the context of such reports.

12. As regards your allegations stated in Para 19, 20, 21 & 22, you are informed that the works are being done by duly allotted persons and your allegations of 'blatant contravention of the policy decision of CSWB' by the Chairperson of State Board is not correct and not befitting of a subordinate officer. You are at liberty to project policy decision of CSWB to this office in this respect. As regards allegation of 'Flagrant Violations of Honorable Tribunal's order dt. 21/8/06, Hon'ble Tribunal is seized with the matter and it would not be just and fair to comment on the same.

13. It is very unfortunate that you have alleged furnished of wrong information and suppressing of the material facts by the Chairperson Assam State Board in her written statements (Para 24). You are informed that judiciary as the wing for resolving disputes, takes care of all the statement. However, on your allegation, the matter has been enquired into and it has been ascertained that the counsel conducting the case for the respondent submitted before the Hon'ble Tribunal (after filing the W.S. by the respondent no.4) that the CSWB is not a central Govt. organisation but is within jurisdiction of the Hon'ble Tribunal by notification under the Administrative Tribunal Act 1985. As a responsible officer of the organisation, such understanding and hostility towards superiors is not expected from you.

In above perspective you are directed to report to Arunachal Pradesh State Social Welfare Board without any further delay.


(Sujata Sainik),
IAS,
Executive Director

Challenging the entire order

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH, GUWAHATI

C.P.34/2006

IN M.P. NO. 107/2006

IN OA NO. 213/2006

Shri M. Ali

S/o Late Mehboob Ali

R/o 7th Mile

Jalukbari, Guwahati-14

...Petitioner.

-Vs-

Mrs. Mukti Deb Choudhury

Chairperson

Assam State Social Welfare
Board Beltola Guwahati-28

& Anr.

...Opposite Parties.

Reply submitted by the opposite party No. 2 in the above contempt petition.

1. That the opposite party No. 2 has gone through the contempt petition and understood the contents thereof.

Filed by the opposite party No-2 through S.N.Tamuli (Advocate) 8/1/07

Mukti Deb Choudhury

2. That the Assam state social welfare Board (For Short ASSWB) Guwahati, Assam functions for the welfare of the women and children within the jurisdiction of the state of Assam. The said board and the central social welfare Board (CSWB in short), New Delhi are separate organizations and functions in coordination and consultation. The chairperson of the Assam Board (now the present deponent) is not a person holding office of profit. The present deponent is not a civil servant but is a retired principal of the Cotton College, Guwahati, Assam which is a Government of Assam Educational institution. As a responsible and law abiding citizen now appointed as the chairperson of the ASSWB, Guwahati, by the Governor of Assam, She has full regards and respect for the process of law and the judiciary and as such has full respect for the Hon'ble Tribunal. There is no question or scope of contempt by her in the discharge of her duties. She humbly and respectfully submits that she has not done any deliberate or willful negligence in respect of any order by the Hon'ble Tribunal nor she has committed any wilful and deliberate violation of any order of the Hon'ble Tribunal. In the circumstances she humbly denies the allegation of any contempt of the Hon'ble Tribunal. The petitioner has abused process of law by showing the opposite party as contempner even before the Hon'ble Tribunal had initiated process under A.T. Act, 1985. This is not permitted by the Act. The petition as such is not maintainable.

3. That the contempt petitioner was posted in the Assam State Social Welfare Board, Guwahati. He was transferred from the ASSWB, Guwahati to Arunachal State Welfare Board by order dated 10.8.06 issued by CSWB. There ^{after} he was released by the ASSWB, Guwahati w.e.f. 19/8/06 by the order dated 18/8/06. The ASSWB, Guwahati has also informed the Central Board that the contempt petitioner is not in that organization i.e. ASSWB, Guwahati w.e.f 19/8/06. The contempt petitioner filed OA No. 213/2006 before this Hon'ble Tribunal and the Hon'ble Tribunal was pleased to pass the interim order date 21/8/06 on the ^{premise that} the contempt petitioner was holding the charge of Assistant Project Officer, Guwahati, Assam. and directed to permit the applicant to continue at Guwahati in his capacity as above. He was ^{in fact} released

Monika Deb Choudhury

Sub

w.e.f. 19/8/06 as explained above and was not holding the charge of Assistant Project Officer on 21.8.06. There was no scope to continue the contempt petitioner at Guwahati from where he had already been released and severed link after the release and he was not holding any post in ASSWB.

4. That immediately after receipt of the order dated 21/8/06 in the OA 213/06 the respondents as law abiding persons filed a Miscellaneous Petition before the Hon'ble Tribunal, ie MP No. 97/06 which is pending.
5. That after the release of the contempt petitioner as indicated in Para 3 above the Assam State Board redistributed the works among the existing staff. On this the contempt petitioner filed an OA registered as OA No. 239/2006 which is pending. The Hon'ble Tribunal was pleased not to pass any interim order. The works in ASSWB are running smoothly.
6. The the contempt petitioner filed Misc Case no. 107/2006 and the Hon'ble Tribunal was pleased to dispose of the said MP by an order dated 13/11/2006. The opposite party No.2 craves for the liberty to refer to the statements in the said MP No. 107/2006 and also the order dated 13/11/2006 of this Hon'ble Tribunal disposing the said MP.

Copy of MP No. 107/2006 is enclosed as
Annexure A(I).

7. That the contempt petitioner as applicant in MP No. 107 had made false statement that the Hon'ble Tribunal was pleased to stay the impugned transfer order dated 10/8/2006 and 18/8/2006. He is not with clean hands.
8. That this deponent had no scope under the order dated 13.11.06 of the Hon'ble Tribunal .

A copy of the order dated 13/11/2006 in MP

No. 107/2006 is enclosed as Annexure B(I).

9. That as per direction of the Hon'ble Tribunal a speaking order dated 4/12/06 was passed on the representation of the applicant dated 14/11/06 by the

Mukte Deb Choudhury

CSWB New Delhi. Said order dated 4/12/2006 includes 13 paragraphs. The factual position has been explained in detail. The opposite party No. 1 had passed speaking order bonafide in Para nos. 2,3,4 and 5 that in the circumstances applicant should report to Arunachal Prasedh and discharge the functional works there. In para 9 it has also been informed that the case of the applicant for transfer will be considered within administrative feasibility.

It is stated that the concluding sentence of the order dated 4/12/2006 is in the perspective of the total 13 paragraphs and not the paragraph number 13 alone.

10. That deponent begs to state that the contempt petitioner is not with clean hands. In the MP No. 107/2006 he suppressed factual position and stated that the transfer orders dated 10/8/06 and 18/8/2006 were stayed by the Hon'ble Tribunal which is a gross misstatement. The interim order dated 21.8.06 was also obtained ex parte as against the Respondent No. 2 to 4 in OA No. 213/2006 with the premise that he was holding the charge of Assistant Project Officer though in fact he was not holding the charge on 21/8/06
12. That the applicant in the OA 213/2006 the contempt petitioner has abused process of law and made misstatements deliberately.
13. That in the circumstances explained above the opposite party prays that the Hon'ble Tribunal may be pleased to discharge the deponent of the contempt proceeding and be pleased to dismiss the same contempt petition with cost.

Mukte Del Chandhury

AFFIDAVIT

I Smt. Mukti Deb Choudhury aged about.....64.....years, wife of Late...Rabigiet Choudhury presently working as Chairperson, Assam State Social Welfare Board, Guwahati do hereby solemnly affirm and say that I am the opposite part 2 in the Contempt Petition No. 34/06 in OA213/06 and as such conversant with the facts and circumstances of the case I verity that the statement, made in paragraph No. 1 to 13 are true to my knowledge and belief and I have not suppressed any material facts.

AND I sign this affidavit this 4. th day of December 2006 at Guwahati.

Mukti Deb Choudhury
Signature

Identified by



S.N. Tamuli
Advocate

Solemnly sworn in and affirmed before me
this.....4. th.....day of December 2006 at
Guwahati, being identified by Shri. SN.
Tamuli, Advocate.

Sukanta Kanta
Advocate
04/12/06

- 6 - Service Copy
Ms. T. L. Sarkar, Advocate
for K. No. 1
30

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH GUWAHATI

MISCELLANEOUS PETITION NO. 157- /2006

in

ORIGINAL APPLICATION NO. 213 OF 2006

IN THE MATTER OF

O.A. NO. 213 OF 2006

Md. Mustaquim Ali

....Applicant

-Versus-

The Union of India & Ors.

...Respondents

-AND-

IN THE MATTER OF

A Miscellaneous Petition on behalf of the
Applicant for early hearing of the aforesaid
O.A. No. 213 of 2006 along with O.A.
No. 239 of 2006 (connected matter) for the
ends of justice.

-AND-

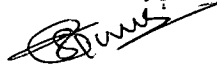
IN THE MATTER OF

Sri Mustaquim Ali,
Son of Late Mehboob Ali,
Resident of 7th Mile, Jalukbari,
P.O. & P.S. Jalukbari,
Guwahati - 781 014, Dist. Kamrup, Assam.

...PETITIONER

...APPLICANT

Certified to be true copy


(Advocate)

-VERSUS-

1. The Union of India,
Represented by the Secretary to the
Govt. of India, Ministry of Human
Resource Development, Department of
Women and Child Development,
New Delhi.
2. The Executive Director,
Central Social Welfare Board,
Samaj Kalyan Bhawan,
B-12, Qutab Institutional Area, South of
I.I.T.,
New Delhi - 110016
3. The Deputy Director (FO, ESTT)
Central Social Welfare Board,
Samaj Kalyan Bhawan,
B-12, Qutab Institutional Area, South of
I.I.T.,
New Delhi - 110016
4. Dr. (Mrs.) Mukti Deb Choudhury,
Chairperson,
Assam State Social Welfare Board,
Beltola, Guwahati - 781 028

...OPPOSITE PARTIES

... RESPONDENTS.

MOST RESPECTFULLY SHEWETH:

1. That the Petitioner herein, has filed the aforesaid Original Application No.213 of 2006 inter alia challenging the legality and validity of the impugned Orders dated 04.08.2006, 10.08.2006 and 18.08.2006 (Annexures- F-Colly & G-

Colly to the Original Application) whereby the Petitioner/Applicant was sought to be transferred back to Arunachal Pradesh State Welfare Board within a short span of 2 months of having joined at Guwahati. Be it stated herein that, in the said Original Application, the Petitioner/Applicant had categorically alleged malafide against the Chairperson of the Assam State Social Welfare Board (the Respondent No.3 herein) to illegally accommodate one Sri D.D. Mondal. For the sake of brevity, the Petitioner/Applicant refrains from reiterating the statements made in the said Original Application, and craves leave of this Hon'ble Tribunal to refer to and rely upon the averments made therein.

2. That the said Original Application No.213 of 2006 was moved before this Hon'ble Tribunal on 21.08.2006 and on the said date this Hon'ble Tribunal after hearing the matter at length was pleased to stay the impugned transfer Order dated 10.08.2006 and 18.08.2006 and further directed the authorities to allow the Applicant to continue in the said post of Assistant project Officer. The matter was fixed for further hearing/instructions on 21.09.2006.

A copy of the said Order dated 21.08.2006 is annexed herewith and marked as ANNEXURE-P 1

3. That however, despite such categorical directions having been issued by this Hon'ble Tribunal, the Respondent No.4 herein i.e. the Chairperson of the Assam State Social Welfare Board, in gross and willful disobedience and violation of the directions of this Hon'ble Tribunal, vide an Order dated 13.09.2006 re-allocated the Zone/area of work distributed amongst the various Asstt. Project Officers under the Assam State Social Welfare Board. In the said Order dated 13.09.2006 the name of the Petitioner/Applicant did not figure at all and infact the districts so allotted to the Petitioner/Applicant were given to two other Asstt. Project Officers. As such, being highly aggrieved by such impugned actions of the Respondent No.4 of divesting the Petitioner/Applicant of his powers/duties, the Applicant once again approached this Hon'ble Tribunal by way of another Original Application which was registered and numbered as O.A.No.239 of 2006, challenging the legality and validity of the impugned Order dated 13.09.2006 and the actions of the Respondent No.4. The said Application was moved before this Hon'ble Tribunal on 18.09.2006 as an unlisted matter on which date this Tribunal was pleased to direct the authorities to seek instructions as to why the districts which had been earlier allotted to the Petitioner/Applicant have been divested from him. This Hon'ble Tribunal further fixed the matter on 21.09.2006

A copy of the said Order dated 18.09.2006 passed in O.A. No 239/2006 is annexed herewith and marked as ANNEXURE-P 2

4. That on 21.09.2006, both the aforesaid Original Application's were taken up together for consideration. Be it stated herein that the Respondent No.4 herein had also filed a Miscellaneous Petition No.97 of 2006 for vacating the aforesaid Order dated 21.08.2006 passed by this Hon'ble Tribunal (Annexure-P1 herein) to which the Petitioner/Applicant had also filed his objection. The said Miscellaneous Case was also taken up for consideration on the said date i.e. on 21.09.2006. After hearing the parties at length this Hon'ble Tribunal refrained from vacating, modifying the interim Order dated 21.08.2006 and further fixed the matter for hearing on 09.11.2006.

Copies of the Orders dated 21.09.2006 passed in O.A. No.213 of 2006 and 239 of 2006 are annexed herewith and marked as ANNEXURE-P 3 & P 4 respectively.

5. That however, despite the said position as enumerated hereinabove, the Respondent No.3 in a most malafide and arbitrary manner has refused to sanction the tour programme of the Petitioner/Applicant inspite of the fact that the petitioner/Applicant had submitted the tour programme several occasion (on 07.09.2006, 11.09.2006, 19.09.2006 and 26.09.2006). Moreover, no positive response was forthcoming from the Respondents and infact the Respondents have not allowed the Petitioner/Applicant to perform his duties. The Petitioner/Applicant categorically states that in furtherance of their illegal motives, the Respondents have further withheld the salary of the Petitioner/Applicant for the month of September 2006.

Copies of the letter dated 08.09.2006, 11.09.2006, 19.09.2006 and 27.09.2006 submitted by the Petitioner/Applicant are annexed herewith and marked as ANNEXURE-P 5 series.

6. That in view of the facts and circumstances that have been narrated hereinabove, the Petitioner/Applicant humbly states that grave prejudice has been caused to him due to the illegal actions of the authorities concerned. On the one hand the Petitioner/Applicant is not being allowed to perform his duties and on the other hand his salary has been withheld in a most arbitrary

manner. The said actions of the Respondent authorities smacks of ulterior motives and is in complete violation of the interim Order dated 21.08.2006. As such, in the interest of Justice the matter needs to be heard urgently for the Petitioner/Applicant to be able to perform his duties. Hence this Petition. Be it stated herein that since the Applicant was not being allowed to work, having no other option the Petitioner/Applicant had to proceed on Earned Leave w.e.f. 03.10.2006, since he was not allowed to render any service in the office concerned. The Applicant is continuing on Earned Leave till date.

7. That this Petition has been filed bonafide and for the ends of Justice.

In the premises aforesaid it is most respectfully prayed that Your Lordships may be pleased to admit this Petition and accordingly fix the said O.A. Nos.213 of 2006 along with O.A. No.239 of 2006 for an early hearing
and/or

During the pendency of the instant Misc. Petition the Respondent authorities particularly the Respondent No.4 may be directed to allow the Petitioner/Applicant to perform his duties as Assistant Project Officer under the Assam State Social Welfare Board under the districts so allocated to him earlier as per the directions issued by this Hon'ble Tribunal vide interim Order dated 21.08.2006 and

-AND-

further direct the Respondent authorities to pay the arrear salary of the Petitioner/Applicant forthwith-

and/or

pass such further or other Order(s) as Your Lordships may deem fit and proper to grant appropriate relief to the Petitioner/Applicant.


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

... AFFIDAVIT...

AFFIDAVIT

I, Shri Mustaquim Ali, son of Late Mehboob Ali, resident of 7th Mile, Jalukbari, P.O. & P.S. Jalukbari, Guwahati - 781 014, Dist. Kamrup, Assam., aged about 46 years, do hereby solemnly affirm and verify that I am the Applicant in the instant application and as such, I am fully conversant with the facts and circumstances of the case. The statements made in Paragraphs-..... are true to my knowledge and those made in Paragraphs-..... are matters of records derived therefrom, which I believe to be true and those made in paragraphs are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 30th day of October, 2006 at Guwahati.


SIGNATURE OF THE APPLICANT

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDERS SHEET

1. Original Application No. 213/06
2. Miso Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) Mostaqim Ali

Respondant(s) L. D. I. Goumy

Advocate for the applicant(s) D. K. Das, Ms. R. S. Choudhury

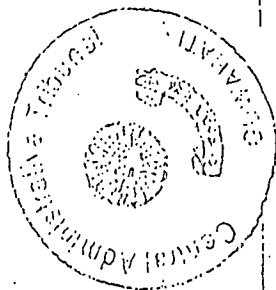
Advocate for the Respondant(s) C. S. E.

Notes of the Registry

Date

Order of the Tribunal

21.08.2006 Present: Hon'ble Sri K.V. Sachidanandan,
Vice-Chairman.



The Applicant was appointed in the Central Social Welfare Board and was sent on deputation to various State Social Boards. After completion of his tenure posting at Arunachal Pradesh, the Applicant was transferred and appointed as Secretary, Assam State Social Welfare Board on deputation basis with additional charge of Assistant Project Officer, Assam as well as the Assistant Project Officer, Arunachal Pradesh. Accordingly, the Applicant joined on 14.06.2006 and reported to the Respondent No. 1. The Applicant after taking over charge admitted his two minor children at Kendriya Vidyalaya, Maligaon. While so, proposal for transfer of funds from Plan to Non-plan account for payment of staff salary for the month of June, 2006 was put up before the Applicant and the Applicant signed two cheques to the

Contd/-

21.08.2006 amount of Rs. 1,80,000/- and Rs. 98,700/- and endorsed both the cheques to the Respondent No. 4 for necessary approval. The Applicant subsequently came to learn that the Cashier/UDA presented the cheques before the Bank without prior approval of the Respondent No. 4, who signed the cheques on 03.07.2006 and 07.07.2006. The Respondent No. 4 demanded explanation from the Cashier/UDA as to why he presented the cheques without approval. The Cashier vide letter dated 04.07.2006 stated that he had obtained the telephonic consent from the Respondent No. 4 and acted thereof and rendered his apology for the same. The Applicant also issued explanation for the said anomaly committed by him. While so, the orders dated 10.08.2006 and 18.08.2006 have been issued transferring the Applicant to Arunachal Pradesh State Welfare Board. The Applicant alleged malafide and submitted that he has no role to play in the alleged irregularities, if any.

Heard Mr D.K. Das, learned Counsel for the Applicant and Mr G. Haishya, learned Sr. Central Government Standing Counsel for the Respondents.

Mr G. Haishya, learned Sr. C.G.S.C. for the Respondents wanted time to take instructions. Let it be done.

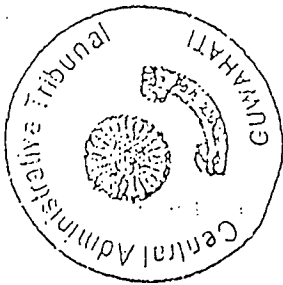
Post on 21.09.2006. Considering the fact that the Applicant's two minor children have been admitted in the school at Guwahati and the Applicant has shifted

Contd/-

-3- OA No - 213/06.
-29-

Contd/-

21.08.2006 from Arunachal Pradesh to Guwahati and holding the charge of Assistant Project Officer, Assam at Guwahati, the Respondents are directed to permit the Applicant to continue at Guwahati in his capacity as above, if not as Secretary to the Board.



SA - vice - Chairman

TRUE COPY

অনুলিপি

[Signature]
21.8.06.
অতিরিক্ত সচিব

So
Central
সিটিজেন সার্ভিস
গুৱাহাটী ব্রাঞ্চ
সিটিজেন সার্ভিস গুৱাহাটী-৫

21/8/06

FROM No. 4.
(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI Bench

ORDER SHEET

Original Application No. 239/06

Misc Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicant(s) Mr. M. Ali

Respondents U.O.T 90M

Advocate for the Applicant(s) D.K. Das., Mr. R.C. Choudhary
K. Borah

Advocate for the Respondent(s) R.C. Choudhary

Date of the Registry	Date	Order of the Tribunal
----------------------	------	-----------------------

18.9.2006

Heard Mr.D.K.Das, learned counsel for the applicant and Mr.U.Das, learned Addl.C.G.S.C. for the respondents.

Post the matter on 21.9.2006. Respondents are directed to take instruction as to why the districts for which he was earlier allotted have been divested from him.

Dr.J.L.Sarkar, learned counsel has accepted notice on behalf of respondent/ No.4.



Sd/VICE CHAIRMAN

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प्रतिप्रत

18.9.06

सचिव, न्यायालय

Central Administrative Tribunal

गुवाहाटी न्यायालय

GUWAHATI BENCH

Guwahati-5

18/9/06

(S. 11(1)(a))
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI Bench:

ORDERS SHEET

1. Original Application No. 213/06
2. Miso Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant(s) Montaquim AliRespondent(s) H. D. T. GurusAdvocate for the applicant(s) D. K. Das, Ms. P. S. ChandleyAdvocate for the respondent(s) C. A. S.

Name of the Registry

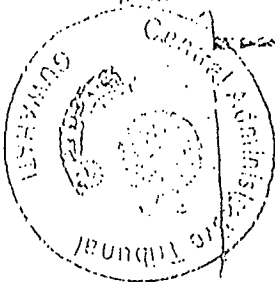
Date

Order of the Tribunal

2149206.

Issue notice on the respondents.
After hearing the counsel for the
respondents parties, counsel for the
respondents has submitted that he will
take instructions from the respondents.
Post the matter on 9.11.06W

sd/VICE CHAIRMAN



FROM COPY

(Signature)
Section Officer, 2149206
C.A.T. GUWAHATI BENCH
Guwahati, Assam

21/10/06

FROM No. 4.
(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
JHARKHAND PENCH:

ORDERSHEET

1. Original Application No. 239 / 06

2. Misc Petition No. _____

3. Contempt Petition No. _____

4. Revision Application No. _____

Applicant(s) Mr. M. Ali

Respondents U. G. I. Goms

Advocate for the Applicant(s) D. K. Das., Mr. R. S. Chaudhary
K. Borthakur

Advocate for the Respondent(s) case

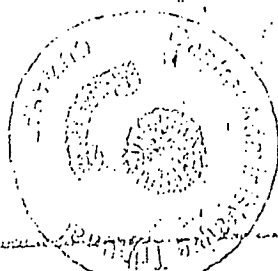
Notice of the Registry

Date

Order of the Tribunal

bb

21.9.06



Issue notice on the respondents.
After hearing the counsel for the
parties Mr. counsel for the respon-
dents has submitted that he will take
instructions from the respondents.
Post the matter on 9.11.06

Sd/VICE CHAIRMAN

FROM COMPTROLLER
GENERAL

(Signature)
Sd/VICE CHAIRMAN
C.A.T. JHARKHAND PENCH
G.O. No. 28/03

(Signature)
31/7/06

No. : ASSWB/TP-MD/APO/2006

Dtd. 8/9/06

To,
The Chairperson,
Assam State Social Welfare Board,
Beltola, Guwahati-28

Subj:--Approval of Tour Programme regarding.

Madam,

I am to inform you that the tour programme for the month of September, 2006 for visiting applicant voluntary institutions for seeking grants under Board's Welfare Schemes during 2006-07 in Darrang, Udalguri and Sonitpur districts have been endorsed to you together with requisition for office vehicle with POL advance for undertaking the above tour for our approval on 7/9/06. The above tour programme will be commenced on 11th Sept/06 and upto 15/9/06 (1st phase) and tomorrow and day after being holding on account of 2nd Saturday and Sunday, I therefore, request you kindly to approve the programme and sanction the POL advance to enable me to proceed on tour as per schedule. The postponement if any of above tour will delay the process of inspection and submission of pre-sanction appraisal report during the current year as the number of grant seeking voluntary inspections are quite large.

Yours faithfully,

(M. Ali)
A.P.O.

Attached to Assam State Board, Guwahati.

No. ASSWE/TP/MD/APO/2006

Date:-11th Sept/2006.

To
The Chairperson
Assam State Social Welfare Board
Guwahati-28.

Sub:- Approval of Tour Programme for Sept/2006-postponment regarding.

In continuation of my application dated 8.9.06 in connection with approval of tour programme w.c.f.11.9.06 which was placed on 7.9.06 for undertaking tour in Darrang, Udalguri, Sonitpur and Lakhimpur Districts for inspection in connection with pre-sanction appraisal report during 2006-07. I am to inform you that due to non-approval of Tour programme till 11th September/06, I could not proceed on tour on 11/09/06 as proposed. As such, the tour programme w.c.f.11/9/06 has to be postponed till approval of tour programme and advance on POL is received.

Further, it is to be mentioned here that the postponment of tour due to non-receipt of approval will delay the process of inspection of Voluntary Institutions due to which the completion and submission of pre-sanction appraisal report will be delayed.

Yours faithfully,

11/9/06

(MUSTAKULIM ALI)

A.P.O.

Attached Assam State Board
Guwahati-28.

- Copy to:-
1. The Executive Director, Central Social Welfare Board, New Delhi-16 for kind information and necessary action.
 2. The Deputy Director(FCI), Central Social Welfare Board, New Delhi-16 for kind information & necessary action.

(ASSTT. PROJECT OFFICER)

No.ASSWB/TP-MD/APO/2006/

Date:-17/9/06

To
The Chairperson
Assam State Social Welfare Board
Beltola, Guwahati-28.

Subj:- Non-approval of Tour Programme for the month of Sep/06 - regarding.

Madam,

In continuation of my application dt.8th & 11th Sep/06 on the above quoted subject, I am to inform you that the tour programme proposed for your kind approval for Sep/06 for inspection of Voluntary Organisations has not been approved due to which I could not undertake tour w.e.f. 11th Sep/06. This will delay the process of inspection of Voluntary Institutions of my allotted area and submission of I.R. including Pre-sanction appraisal report during the current year (2006-07). This also causes delay in proposing tour programme for Arunachal Pradesh also.

This is for your kind information.

Yours faithfully,

Sell-

(M. Ali)
A.P.O.

Assam State Board
Guwahati.

Copy to:- The Executive Director/ Deputy Director,(FC & I),Central Social Welfare Board,New Delhi-16 for kind information.

ml
17/9/06

Asstt. Project Officer
Assam State Board
Guwahati-28.

o/c

No. ASSWB/IP-MD/APO/2006

Date 27/09/06

To,
The Executive Director
Central Social Welfare Board
New Delhi - 110016.

For kind attn. of Dy. Director (FCI) , C.S.W.B.

Sub :- Non- Approval of Tour programme for the month of September 2006,
regarding.

Madam,

With reference to the above quoted subject , I have the honour to inform you that the tour programme as proposed by me for the month of Sep/ 06 for inspection of voluntary institutions seeking grants under different schemes during 2006-07 was submitted to the Chairperson, State Board on 7 th Sep/ 06. The tour programme was not approved and the file was also not received back. As such the tour could not be undertaken.

Considering the importance and urgency of inspection for submission of pre-sanction appraisal report of grant seeking institutions and to avoid delay in completing the process of PAR besides regular inspection of aided schemes under my zone/districts, again the tour programme was proposed w.e.f. 26th Sep/ 06 and put up for the approval of chairperson in part file. This time again, neither the file was returned nor the programme approved due to which the tour could not be undertaken. Copies of communication made in this regard are enclosed for ready reference.

This is for favour of your kind information & necessary action.

Your faithfully

Encls :
As above.

Mustaqim Ali
(Mustaqim Ali)
A.P.O.

Attached to Assam State Social
Welfare Board, Guwahati - 28

Certified to be true copy

(Signature)
(Advocate)

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Miscellaneous Petition No. 107 of 2006

In

Original Application No. 213 of 2006

Date of Order: This, the 13th Day of November 2006.

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

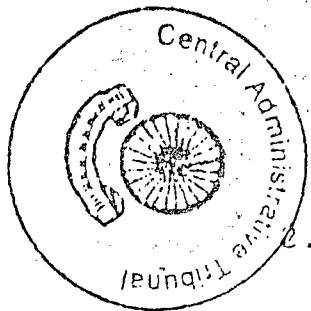
Sri Mustaquim Ali
Son of Late Mehboob Ali
Resident of 7th Mile, Jalukbari
P.O. & P.S: Jalukbari
Guwahati - 781 014
Dist: Kamrup, Assam.

... Applicant.

By Advocates Mr.D.K.Das & Mrs.R.S.Choudhury.

Versus -

1. Union of India
Represented by the Secretary
to the Government of India
Ministry of Human Resource Development
Department of Women and Child Development
New Delhi.



2. The Executive Director
Central Social Welfare Board
Samaj Kalyan Bhawan
B-12, Qutub Institutional Area
South of IIT, New Delhi-110016.
3. The Deputy Director (FO, ESTT)
Central Social Welfare Board
Samaj Kalyan Bhawan
B-12, Qutub Institutional Area
South of IIT, New Delhi-110016.
4. Dr. (Mrs.) Mukta Deb Choudhary
Chairperson
Assam State Social Welfare Board
Beltola, Guwahati-781 028.

.....Respondents.

Dr.J.L.Sarkar for Respondent Nos. 2 to 4.

Certified to be true copy

(Signature)
(Advocate)

O R D E R (ORAL)

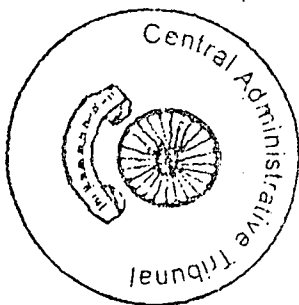
SACHIDANANDAN, K.V. (V.C.) :

This Miscellaneous Petition has been filed by the applicant seeking the following reliefs:-

"In the premises aforesaid it is most respectfully prayed that Your Lordships may be pleased to admit this Petition and accordingly fix the said O.A. Nos. 213 of 2006 along with O.A. No.239 of 2006 for an early hearing.

and/or

During the pendency of the instant Misc. Petition the Respondent authorities particularly the Respondent No.4 may be directed to allow the Petitioner/Applicant to perform his duties as Assistant Project Officer under the Assam State Social Welfare Board under the districts so allocated to him earlier as per the directions issued by this Hon'ble Tribunal vide interim Order dated 21.08.2006 and



-AND-

further direct the Respondent authorities to pay the arrear salary of the Petitioner/Applicant forthwith-

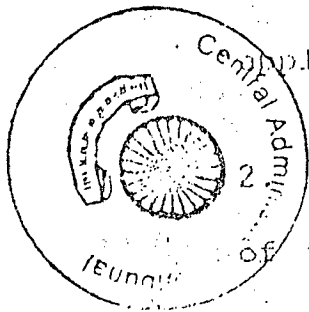
and/or

pass such further or other Order(s) as Your Lordships may deem fit and proper to grant appropriate relief to the Petitioner/Applicant."

This Tribunal, on 21.8.2006, passed an order in O.A. No.213/2006, operative portion of which is as under:-

"the Respondents are directed to permit the Applicant to continue at Guwahati in his capacity as above, if not as Secretary to the Board."

It is submitted that vide order dated 28.6.2006 the applicant have been allocated four districts to work. But Mr.D.K.Das, learned counsel for the applicant has drawn my attention to a subsequent order dated 13.9.2006 whereby all the four districts have been divested/withdrawn from the applicant. The contention of the applicant is that in total violation of the Tribunal's order dated 21.8.2006 the 4th respondent had not allocated any work to the applicant. The case of the respondents, on the other hand, is that the applicant was relieved from the post and therefore, such allocation of work cannot be given to the applicant.

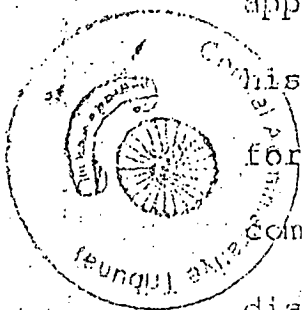


Considering all the aspects this Tribunal is of the view that it is not a healthy practice to keep an employee idle not granting any work whatsoever. The applicant alleged malafide against 4th respondent in the O.A. Dr.J.L.Sarkar, learned counsel for the respondent Nos. 2 to 4 submits that respondent No.4 does not fall under the jurisdiction of this Tribunal which is a matter to be adjudicated.

3. Mr.D.K.Das insisted for a final order in this Misc Petition, otherwise, the applicant will be put to great hardship. This Tribunal is of the view that it is not the duty of this Tribunal to look into or monitor

4

the day-to-day affairs of the administration concerned. Since the applicant is very much aggrieved, counsel for the applicant submits that he may be permitted to make a comprehensive representation before the second and/or third respondent highlighting his grievances, in not granting any work to him and not complying with the orders of this Tribunal dated 21.8.2006. The non-engagement of the services of a govt. servant will be against public interest. He further submitted that he would be satisfied if a direction is given to consider and dispose of the same by a speaking order communicating to him within a time frame. This Tribunal is also of the opinion that such a course of action will meet ends of justice. Therefore, I direct the applicant to make a comprehensive representation as to



his grievances to the second and/or third respondent forthwith and on receipt of such representation the competent authority, whomsoever, shall consider and dispose of the same by passing a speaking order

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प्रतिलिपि communicating the same to the applicant within a period of two weeks thereafter.

सुभाष अधिकारी
Section Officer (Judl)

Central Administrative Tribunal

The Miscellaneous petition is disposed and

गुवाहाटी न्यायाधीश

GUW. The petition is disposed as above as to no order as to cost.

गुवाहाटी, Guwahati-5

SD/VICE CHAIRMAN

Certified to be true copy

(Signature)
(Advocate)

IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL,

GUWAHATI BENCH

GUWAHATI

CONTEMPT PETITION NO. 34 OF 2006

IN

ORIGINAL APPLICATION NO. 213 OF 2006

IN THE MATTER OF :

PETITIONER

SH. MUSTAQUIM ALI

VERSES

SMT.SUJATASAUNIK, IAS&ANRS RESPONDENT

COUNTER AFFIDAVIT ON BEHALF OF
RESPONDENT NO.1

I, Smt. Sujata Saunik, IAS, Executive Director, Central Social Welfare Board, B-12, Qutub Institutional Area, New Delhi, do hereby solemnly affirm and state as under :-

1. That I am Executive Director, Central Social Welfare Board and as such I am conversant with the facts and circumstances of the case and competent to swear this affidavit on behalf of the Union of India.
2. That I have read and understood the contents of the Contempt Petition and I deny each and every averment made therein except those, which are

Filed by the opposite party
No-1 through S.N. Tomchi
Advocate
7/2/07

2 55

admitted expressly by the deponent. The averments, which are not denied, may be deemed to have been denied by the deponent.

3. At out set, the deponent respectfully submits that he holds this Hon'ble Tribunal in the highest of esteem; therefore the question of flouting the orders of this Hon'ble Tribunal does not arise. It is further submitted that the deponent has not taken any action, which would lower the majesty of this Hon'ble Tribunal or interfere in the process of dispensation of justice, in any manner whatsoever. The deponent cannot conceive of a situation whereby he would lower the high reputation and esteem of this Hon'ble Tribunal in the eyes of the general public. However, if this Hon'ble Tribunal feels that any action of the deponent is unwarranted, the deponent tenders unconditional apology.
4. It is submitted that the petitioner is from the day one misleading this Hon'ble Tribunal. It has already been brought on record by the answering respondent before this Hon'ble Tribunal that while pressing the stay application the petitioner deliberately misled this Hon'ble Tribunal and secured the order dt. 21/8/06. It is submitted that

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the petitioner was transferred in public interest on 10/8/06 to Arunachal Pradesh State Social Welfare Board and on 18/8/2006 he was relieved. Without disclosing these facts, the petitioners obtained the order dt. 21/8/06.

5. It is humbly submitted that in any case immediately after receiving the order dt. 21/8/06, an application for vacation of the interim order dt. 21/8/06 was moved before this Hon'ble Tribunal being Misc. Petition No. 97/2006, which is still pending. However, at the time no further order regarding the posting of petitioner has been passed by the respondents in view of the said order dt. 21/8/06. It is humbly submitted that distribution of work to different employees is purely a policy matter and the tribunal may not interfere in the same. However, the petitioner moved an application agitating the grievances regarding withdrawal of district from his duties. This Hon'ble Tribunal vide order dt. 13/11/06 very rightly held that "it is not the duty of this Tribunal to look into or monitor the day to day affairs of the administration concerned. Since the applicant is very much aggrieved, the counsel for the applicant submits that he may be permitted to make a comprehensive representation before second or

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third respondent highlighting his grievances in no granting any work to him and not complying with the orders of this Tribunal dt. 21/8/06. The non-engagement of the services of the government servant will be against public interest. He further submits that he would be satisfied if a direction is given to consider and dispose off the same by a speaking order communicating to him within a time frame. This Tribunal is also of opinion that such a course of action will meet end of justice and therefore, I direct the applicant to make a comprehensive representation as to his grievances to the 2nd and 3rd respondent forthwith and on receipt of such representation the competent authority whomsoever shall consider and dispose of the same by passing a speaking order communicating the same to the applicant within a period of two weeks therefrom".

6. It is submitted that the order dt. 21/8/06 merged into order dt. 13/11/06. As per direction of this Hon'ble Tribunal the petitioner moved representation addressed to deponent wherein he agitated the grievances regarding his transfer as well as allotment of districts. In para 11 and 12 he admitted that he was transferred on 10/8/06 and was released vide order dt. 18/8/06 from the

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Assam Board. In para 12 he agitated the grievances that he could not get the opportunity to represent to the Central Social Welfare Board for consideration and review of the transfer order. In para 16 to 22 he agitated grievances regarding allotment of districts and tour programme. From his representation, it is clear that he is more interested in tour programmes than any other work and the reasons are obvious. Further in para 25 of the representation, the applicant stated that as per the order dt. 13/11/06 he has moved a comprehensive representation on following terms.

“ a comprehensive representation regarding the grievances as detailed above for kind consideration and disposal that a speaking order by considering my hardship and prejudice to my service career in divesting me of my powers and functions as APO after approaching the Hon'ble Tribunal seeking for the justice”.

7. Since the order dt. 21/8/06 merged with order dt. 13/11/06 the applicant agitated both the grievances in his representation i.e. regarding his transfer as well as allotment of duty. The deponent disposed of the said representation as per direction of this Hon'ble Tribunal and by no stretch of imagination,

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the order disposing of representation could be treated a direction commanding anything contrary to the directions contained in order dt. 21/8/06 and 13/11/06 of this Hon'ble Tribunal. Once this Hon'ble Tribunal had given the direction to the deponent to pass a speaking order to the representation filed by the applicant, the deponent is duty bound to dispose of the same and such order would be subject to the scrutiny of the court. The last sentence of the order dt. 4/12/06 passed by the deponent will have to be construed in the light of contents of the other paras of the order and the ultimate para could not be read in isolation.

8. It is humbly submitted that even if it is construed that the order dt. 21/8/06 did not merge with the order dt. 13/11/06 the order dt. 4/12/06 passed by the deponent as per the direction of this Hon'ble Tribunal cannot be treated as contempt as the said order was passed as per the direction of this Hon'ble Tribunal in response to the grievances made in the representation by the applicant. Even if on the face of order dt. 21/8/06 it is open to the applicant to represent his grievances regarding his transfer, it would be very well within the competence of the deponent to pass an appropriate order on such grievances. It is not open to the

applicant to raise an issue and then contend that such issue should not be disposed or taken up by the authorities. In any case the order dt. 4/12/06 was passed by deponent, in compliance of direction dt. 13/11/06 issued by this Hon'ble Tribunal, keeping in view the contents of representation and by no stretch of imagination observations made in the order could be treated as contempt.

9. It is humbly submitted that the present contempt petition is clearly an example of abuse of the process of law. In catena of decisions the Hon'ble Supreme Court has directed that the power of contempt should be exercised sparingly. In present case the applicant himself misrepresented and misled this Hon'ble Tribunal and obtain the order dt. 21/8/06. An appropriate application was immediately moved for vacation of the said order in view of the facts that the applicant has already been released and he was transferred on administrative grounds. It is totally unjustifiable under the facts and circumstances to even take note of such contempt petition.

10. It is further submitted that the transfer is an incident of service and unless and until transfer is

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by way of punishment or malafide alleged, the Tribunal cannot interfere in the matter of transfer. So far initiation of contempt in present case is concerned, it is humbly submitted that as per the catena of judgements of Hon'ble Supreme Court the contempt proceedings should be initiated sparingly. On these propositions the deponent is relying on the decisions of Hon'ble Supreme Court reported in the following cases of judgement -

- (i) 2002 (1) SCC-766 S C Poddar Vs. Dani Ram
- (ii) 1998 (4) SSC-409 (Para 42) SC Bar Association Vs. Union of India
- (iii) 2002 (5) SCC-352 (Para 11) Jhareswar Prasad Paul Vs. Tarak Nath Ganguly
- (iv) 2005 (9) SCC - 629, Madhukar Verma Vs. State of MP
- (v) 2001 (3) SCC - 739, Para 18 Mrituyanija Das Vs. S.H. Rahman


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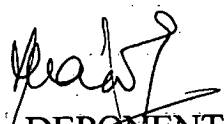
In view of these submissions, it is humbly submitted that paragraph-wise reply to the contempt petition is not necessary. However, the deponent keeps his right reserved to file detailed affidavit is so required in future.

VERIFICATION :-

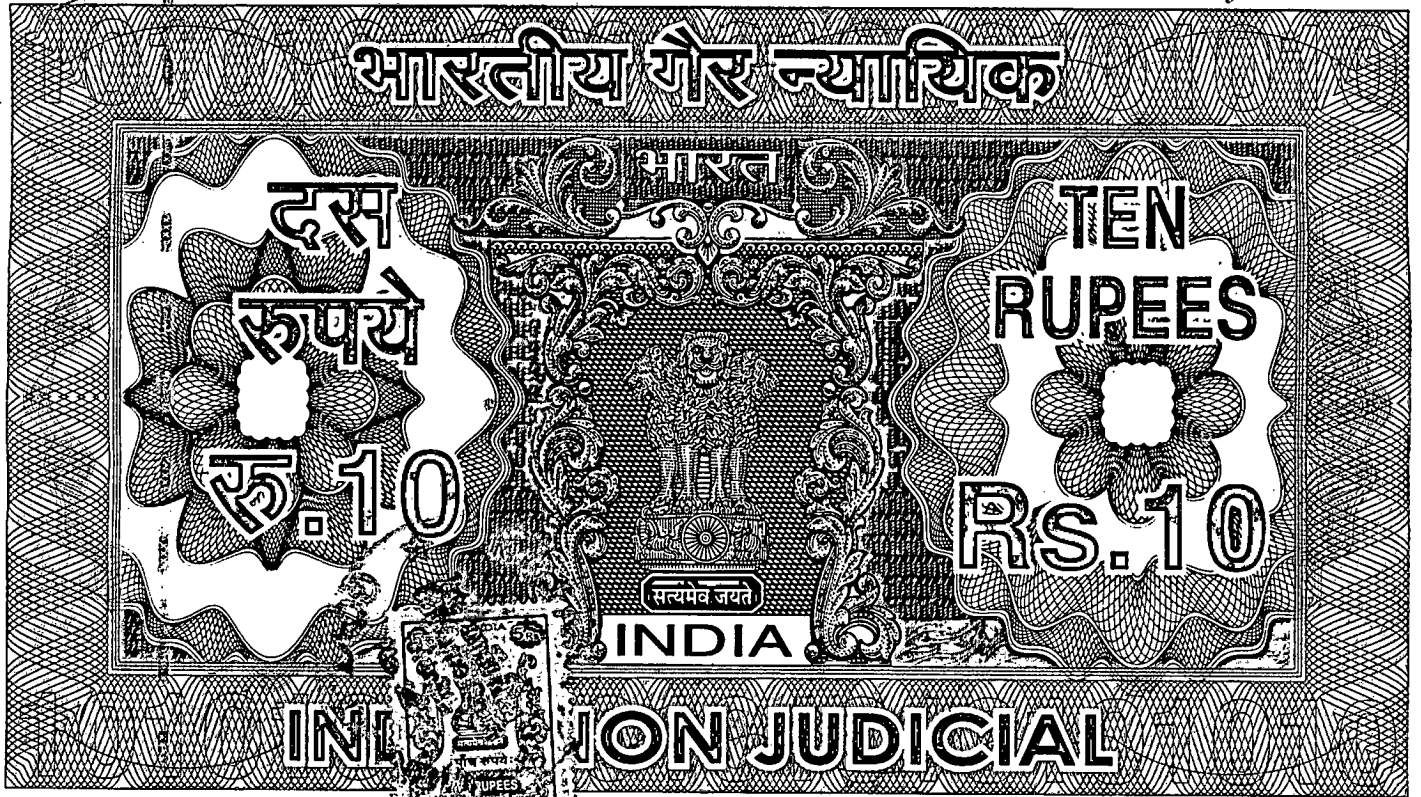
I, the above named deponent, do hereby verify that the facts stated in the above affidavit are true and correct to my knowledge based on records and nothing material has been concealed therefrom.

Verified at New Delhi on this the day of
January, 2007.


DEPONENT
SUJATA SAUNIK
Executive Director
Central Social Welfare Board
B-12 Qutub Institutional Area,
New Delhi-110 016


DEPONENT
SUJATA SAUNIK (I.A.S.)
Executive Director
Central Social Welfare Board
B-12 Qutub Institutional Area,
New Delhi-110 016

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AFFIDAVIT

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Smt. Sujata Saunik aged about 41 years, wife of Shri Manoj Saunik, presently working as Executive Director, Central Social Welfare Board, New Delhi, do hereby solemnly affirm and say that I am the opposite party in the Contempt Petition No. 34/06 in OA 213/06 and as such conversant with the facts and circumstances of the case. I verify that the statement, made in Paragraph No. 1 to 11 are true to my knowledge and belief and I have not suppressed any material facts.

And I sign this affidavit this 9th day of January, 2007 at New Delhi.

Identified by me.

S. Wasim

(Advocate)

Identify the Execlutiant Diponere who has signed in my presence

Sujata Saunik
(SUJATA SAUNIK)

Signature
SUJATA SAUNIK (I.A.S.)
Executive Director
Central Social Welfare Board
B-12 Outub Institutional Area,
New Delhi-110 016

Solemnly sworn and affirmed before me this 9th day of January, 2007 at New Delhi.

Being identified by
Shri S.Wasim A.Qadri
Advocate

ATTESTED

S. Wasim
NOTARY DELHI