

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

(1) MP 129/03 order - 1 to 3
(2) MP 164/09 order 1 to 2 *As per 83rd*
4.1.2010

INDEX

✓ O.A/T.A No. 86/2007

R.A/C.P No.

E.P/M.A No. 129/07 & 164/09

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SECTION OFFICER (Judl.)

Handwritten
26.9.17

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:**

ORDER SHEET

1. Original Application No. 86/07
2. Miscellaneous Petition No. _____
3. Contempt Petition No. _____
4. Review Application No. _____

Applicant(S) Bimalendu Gupta VS Union of India & Ors

Advocate for the Applicant(S) A. Bhattacharyya
K. Talukdar

Advocate for the Respondent(S) Sr. Case - G. Barishya

Notes of the Registry	Date	Order of the Tribunal
<p>File application is in form of Miscellaneous Petition No. 26/07 deposited Rs. 50/- No. 26/07 325484 Dated 26.7.07</p> <p><i>[Signature]</i> Dy. Registrar</p> <p><i>[Signature]</i> 29/3/07</p> <p>Petitioner's copy for issue notices are received.</p> <p><i>[Signature]</i> 29/3/07</p> <p>Extra Rs. 25/- paid by the Applicant. Receipt enclosed herewith.</p> <p><i>[Signature]</i> 29/3/07</p>	<p>30.3.07.</p> <p>Im</p> <p>2.4.2007</p>	<p>Post the matter on 2.4.07. for Admission.</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>The Applicant is working as Sr. Accountant in the office of the Accountant General (A&E), Assam. He claimed that salary for the months of <u>January, February & March, 2007</u> has not been disbursed to him. In the impugned order dated 13.2.2007 at Annexure-5 it is stated that Applicant's salary for the month of January, 2007 has been stopped on the basis of order dated 12.01.2007 issued by the Sr. Deputy Accountant General (A/C). The case of the Applicant is that despite his request vide letter dated 28.02.2007 a copy of the aforesaid order dated 12.01.2007 was has not been furnished to him.</p>

Contd..

Contd.
2.4.2007

If the salary of the Applicant is stopped without any reason, as claimed by the counsel for the Applicant Mrs. K.Talukdar, it is a serious matter. Therefore, Mr.G.Baishya, learned Sr.C.G.S.C. appearing for the Respondents is specifically directed to obtain instruction as to why Applicant's salary has been stopped within one week from today.

Post on 10.04.2007.

Vice-Chairman

/bb/

30.4.2007

Mr.G.Baishya, learned Sr.C.G.S.C. sought for time to file reply statement. Let it be done within three weeks.

Post on 22.5.2007.

Vice-Chairman

4.5.07.

Post the matter on 14.5.07.

Vice-Chairman

14.5.07

lm

Rejoinder has been filed by The applicant 15.5.07.

Counsel for the applicant wanted time to file rejoinder. Let it be done. Post the matter on 18.5.07.

Vice-Chairman

lm

2.4.07
G.Baishya
Sr.C.G.S.C.
3.04.07

Received P/comm
B.L. Talukdar
21/4/07

17.5.07

W/S filed by the

Respondents. page 1 to 32. Applicant's copy served.

P.T.

/bb

15
17.5.07

18.5.07.

~~Mr. G. Baishya~~ Counsel for the respondents wanted time to file addl. written statement. Since the matter is payment of salary of the applicant and some urgency is there. ~~in this~~ Post the matter on 22.5.07 for hearing.

lm

Vice-Chairman

22.5.07. Four weeks time is granted to the counsel for the respondents to file Addl W/S. Post the matter on 21.6.07.

Vice-Chairman

22.5
20.6.07

2. No addl. W/S filed.

lm

21.6.07.

Counsel for the respondents has submitted that he would like to file reply to the rejoinder. Let it be done. Post the matter on 28.6.07

Vice-Chairman

No addl. W/S filed.

21.6
2.7.07.

lm

5.7.07

Reply filed by Respondent against Rejoinder. page 1 to 19. Cpn served.

5.7

3.7.2007

Mr. G. Baishya, learned Sr. C.G.S.C. has filed reply to the rejoinder filed by the Applicant. Let it be brought on record if it is otherwise in order. It is reported that pleadings are complete.

Post the case for hearing on 18.7.2007.

Vice-Chairman

-4-

OA 86/07

order dt-18/7/07
issuing to applicant. 18.7.2007

20/7/07

ols and rejoinder
filed.

22
1.8.07.

Learned counsel for the Applicant is not present. Mr.G.Baishya, learned Sr.C.G.S.C. is present. List the case on 2.8.2007. Registry is directed to send urgent notice to the learned counsel for the Applicant to be present on the next date.

Vice-Chairman

The case is ready
for hearing.

/bb/
2.8.07.

Post the matter on 23.8.07.

Vice-Chairman

22
22.8.07.

1m
23.8.2007

Post the case for hearing on 5.9.2007. Learned counsel for the Respondent will inform the learned counsel about the next posting of the case.

ml

Vice-Chairman

6.11.07
An additional
affidavit submitted
by the Applicant.
Copy served.
Di.

/bb/

The case is ready
for hearing.

07.11.2007

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

List the case on 19.11.2007.

Member (A)

6.11.07

No Court on 5-9-07.

The case is ready
for hearing.

/bb/

22
16.11.07.

OA 88/07 -5-

19.11.2007

On the consent of the parties call this matter on 26.11.2007.

(Khushiram)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/bb/

26.11.2007

Mr.B.Gupta, learned counsel for the Applicant is present in person. Mr.M.U.Ahmed, learned Addl. Standing counsel for the Union of India, is also present. He prays for some time to obtain some instruction from the Respondents. His prayer is allowed

Accordingly, the matter is adjourned to be taken up on 12.12.2007 for hearing

The case is ready for hearing.

11.12.07

(Khushiram)
Member (A)

/bb/

12.12.07

Call this matter on 18.12.2007.

(G. Ray)
Member(A)

(M. R. Mohanty)
Vice-Chairman

The case is ready for hearing.

17.12.07

PG

The case is ready for hearing.

18.12.07

Call this matter on 10.01.2008.

10.3.08

(M. R. Mohanty)
Vice-Chairman

PG

OA. 86/2007

-6-

10.01.2008


None appears for the Applicant nor the Applicant is present. However, Mr.G.Baishya, learned Sr. Standing counsel for the Union of India, is present. On previous occasion, the Applicant was appearing in person.


At 10.1.08
Pl. send a copy of the order to the Applicant.

In the said premises, call this matter on 30.01.2008 for hearing.

Send a copy of this order to the Applicant in the address given in the O.A. to come ready for hearing of the matter on the date fixed.

order dt-10/1/08
sent to D/Section
for issuing to
applicant.



(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

/bb/

30.01.2008

Call this matter on 11.03.2008 for hearing alongwith O.A.No.3/2008.


(Khushiram)
Member (A)


(M. R. Mohanty)
Vice-Chairman

nkm

11.03.2008

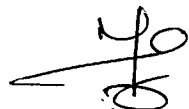
Later the Applicant has filed a Memo to fix the date on 18.03.2008.

Call this matter on 18.03.2008.

(M.R. Mohanty)
Vice-Chairman

lm

11.03.2008 Call this Division Bench matter
on 02.04.2008.


(M.R. Mohanty)
Vice-Chairman

lm

11.03.2008

(Later)


The Applicant has filed a Memo
with a prayer to fix the case on
18.03.2008. Prayer is allowed.

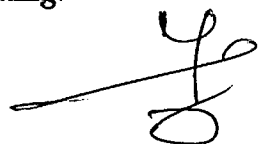
Call this matter on 18.03.2008.


(M.R. Mohanty)
Vice-Chairman

lm

18.03.2008 On the prayer of the Applicant call this
matter on 25.03.2008 for hearing.



(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

pg

25.03.08


Call this matter on 01.04.2008
before the Division Bench.

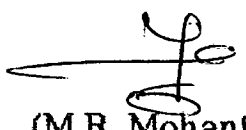

(M.R. Mohanty)
Vice-Chairman

pg

01.04.2008

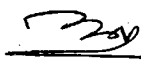
Call this matter on 30.04.2008.


(Khushiram)
Member (A)



(M.R. Mohanty)
Vice-Chairman

nkm


The case is ready
for hearing.


17.3.08.

The case is ready
for hearing.


24.3.08.

The case is ready
for hearing.


31.3.08

-8- 07/8/08

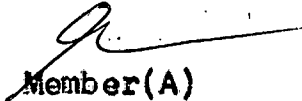
6

The case is ready
for hearing.

4.6.08.

10.4.2008 This case which was posted
to 30.8.2008, is now postponed/
re-scheduled to be listed on
5.6.2008.

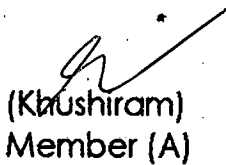
Send copies of this order to
both parties.


Member(A)


Vice-Chairman.

05.06.2008

On the prayer of Mr.S.Huda, learned
counsel appearing for the Applicant call this
matter on 11.06.2008.


(Khushiram)
Member (A)


(M.R.Mohanty)
Vice-Chairman

The case is ready
for hearing.

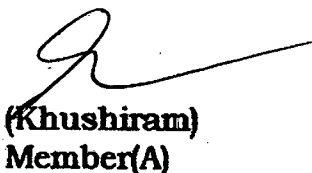
/bb/

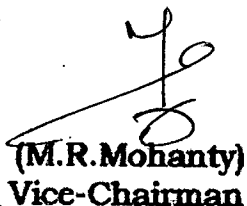
10.6.08

11.06.08

Heard in part.

Call this matter on 29.07.2008 for
hearing.


(Khushiram)
Member(A)


(M.R.Mohanty)
Vice-Chairman

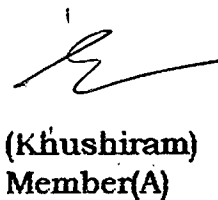
The case is ready
for hearing.

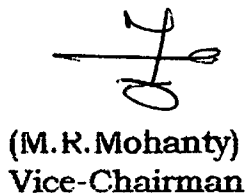
28.7.08.

pg

29.07.2008

Mr. S. Huda, learned counsel
appearing for the Applicant is absent.
However, Mr. H. K. Das, learned counsel
appearing for the Applicant has sought an
adjournment. Accordingly, call this part
heard on 15th September 2008, along with
other connected cases.


(Khushiram)
Member(A)

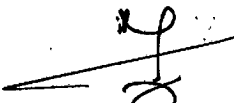

(M.R.Mohanty)
Vice-Chairman

lm

OA 86/07 - 9 -


15.09.08 Call this matter on 05.12.2008
along with O.A.170/08.


(Khushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman


pg

The case is ready
for hearing.



4.12.08.

05.12.08 Mr. H. K. Das, learned counsel for the
Applicant is present. Mr. G. Baishya, learned
Sr. Standing Counsel for the Respondent is
absent on account of his personal difficulty.

Call this matter on 18.12.2008.


(S.N. Shukla)
Member(A)


The case is ready
for hearing.


17.12.08.

/bb/

18.12.2008 Mr.H.K.Das, learned counsel appearing
for the Applicant, is present. Mr.G.Baishya,
learned Sr. Standing Counsel, is also present on
behalf of the Respondents.

On the prayer of learned counsel for both
the parties, call this matter on 30.01.2009 for
hearing.


(S.N. Shukla)
Member (A)


(M.R. Mohanty)
Vice-Chairman

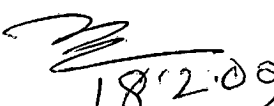
/bb/

30.01.2009 Mr.H.K.Das, learned counsel appearing
for the Applicant is present. Mr.G.Baishya,
learned Sr. Standing counsel appearing for the
Union of India, is also present.

Call this matter on 19.02.2009 before the
Division Bench for hearing.


(M.R. Mohanty)
Vice-Chairman

The case is ready
for hearing.


18.2.09

/bb/

O.A. No.86/07

19.02.2009.

Call this matter on 03.04.2009.



(M.R. Mohanty)
Vice- Chairman

/bb/

24.02.2009

This case has been posted to
03.04.2009.

The Applicant by his Petition dated
16.02.2009 requested the Hon'ble
Chairman of this Tribunal for expeditious
disposal of this case.

The Division Bench is available
between 16.03.2009 to 27.03.2009.

Accordingly hearing of this case is
preponed to 20.03.2009.

Send copies of this order to the
Applicant (Bimalendu Gupta, B-103,
Arunodoi Residency, Sahid Dilip Huzuri
Path, Sarumatoria, Dispur, Guwahati-6,
Assam), who should come ready for hearing
of his case on 20.03.2009.

Mr G. Baishya, learned Sr. Standing
Counsel appearing for the Respondents in
this case, who is present in court, takes
notice of the preponement of the hearing of
this case.



(M.R. Mohanty)
Vice-Chairman

*Copies of order dt.
24-2-09 is prepared
& sent to B section
for issuing to applicant
& Ld. counsel case
by hand
D.No-6608*

27.2.09


*The case is ready
for hearing.*

19.3.09.

OA 86/07

20.03.2009 Mr.H.K.Das for the Applicant and
Mr.G.Baishya, Sr.C.G.S.C. for the Respondents.

With the consent of the parties list this
case on 26.03.2009 for hearing.

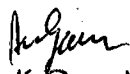

(A.K.Gaur)
Member (J)

/bb/

26.03.2009 From the perusal of the records it is found
that synopsis of the case has not properly been
supplied. Mr.H.K.Das, learned counsel for the
Applicant is directed to supply a
comprehensive detailed synopsis of the case
within two weeks. Mr.G.Baishya, learned
Sr.C.G.S.C. is present for the Govt. of India.

Put up the matter on 04.05.2009. It is
made clear that the case shall not be
adjourned on any ground whatsoever on the
next date.

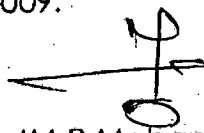

(Khushiram)
Member (A)


(A.K.Gaur)
Member (J)

/bb/

04.05.2009

Call this matter on 19.06.2009.

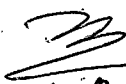

(M.R.Mohanty)
Vice-Chairman

22.5.09

This OA is preponed on
request.

/bb/

The case is ready
for hearing.


1.05.09

O.A. 86/07 - 12

25.05.2009

On the prayer of Mr.H.K.Das,

learned counsel appearing for the

Applicant, call this matter on

19.06.2009.

(N.D.Dayal)
Member(A)

(M.R.Mohanty)
Vice-Chairman

19.06.2009

Call this matter for hearing on 01.07.2009

along with O.A.170/2008.

(M.R.Mohanty)
Vice-Chairman

01.07.2009

Call this Division Bench

matter for hearing on 22.07.2009.

(M.R.Mohanty)
Vice-Chairman

lm

21.07.09

JM
PT-0

22.07.2009

By order dated

30.01.2009, all these Court cases were asked to be listed on 19.2.2009, for hearing. In absence of the Division Bench, the matter was again adjourned to 03.04.2009. On 16.02.2009 the Applicant sent a Petition to the Hon'ble Chairman of this Tribunal; seeking expeditious hearing of all these cases. A copy of the said representation was made available to this Bench on 18.02.2009, and it was confirmed from the Principal Registrar, on 19.02.2009, that a Division Bench would be available at Guwahati between 16.03.2009 to 23.03.2009. Accordingly, on 24.02.2009, the matter was directed to be listed before Division Bench on 20.03.2009. However, Division Bench was not available, for which the matter was adjourned to 26.03.2009. On 26.03.2009, the matter was listed before Division Bench; when following order were passed.

"From the perusal of the records it is found that synopsis of the case has not properly been supplied. Mr.H.K.Das, learned counsel for the Applicant is directed to supply a comprehensive detailed synopsis of the case within two weeks. Mr.G.Baishya, learned Sr. C.G.S.C. is present for the Govt. of India.

Put up the matter on 04.05.2009. It is made clear that the case shall not be adjourned on any ground whatsoever on the next date."

2. On 04.5.2009, in absence of Division Bench, the matter was again adjourned to 19.06.2009.

Contd/-

4
8

Contd/-

22.07.2009

3. Informations having been made available about availability of Division Bench during 18.05.2009 to 29.5.2009, the cases of the Applicant were preponed and listed on 25.05.2009. On 25.05.2009 the Applicant's side sought an adjournment. Accordingly, the matter was adjourned to 19.06.2009. The text of the order dated 25.5.2009 reads as under:-

"Mr.H.K.Das, learned counsel appearing for the Applicant and Mr.M.U.Ahmed, learned Addl. Standing Counsel appearing for the Respondents are present.

Mr.H.K.Das, learned counsel appearing for the Applicant prays for an adjournment of this case. In fact, the case was posted to 19.06.2009 for hearing and, on the request of learned counsel for the Respondents, the matter was preponed to to-day. Since, Mr.H.K.Das, learned counsel for the Applicant seeks an adjournment; call this matter on 19.06.2009 along with O.A.Nos. 86 of 2007, O.A.No.3 of 2008, O.A. 8 of 2007".

4. In the meantime, the Applicant addressed another representation dated 26.05.2009 to the Hon'ble Chairman of this Tribunal seeking expeditious hearing of these cases.

5. On 19.06.2009, in absence of Division Bench, this matter stood adjourned to 1st July 2009. On the prayer of the Advocate for the Applicant, an interim direction was, however, issued to the Respondents on that day/19.06.2009. The order dated 19.06.2009 reads as under:-

Contd/-

Contd/-
22.07.2009

"Applicant Sri Bimalendu Gupta and his Advocate Mr.H.K.Das are present. These O.A. Nos.8 of 2007, 86 of 2007 and 3 of 2008 and 170 of 2008 are matters to be considered by the Division. In absence of the Division Bench this matter has to be adjourned to be taken up by the Division Bench. A Division Bench is expected at any time at CAT/Guwahati.

In the aforesaid premises, hearing of these matters stand adjourned to 01st July 2009.

Mr H.K. Das, learned counsel for the Applicant pointed out from the rejoinder filed in O.A.No.170/2008 that the representation dated 18.07.2008 of the Applicant addressed to the CAG (directed against the order dated 07.07.2008 of Accountant General of Assam) is still pending with the CAG. Mr H.K. Das, learned counsel for the Applicant states that, notwithstanding pendency of this case, the CAG/India/New Delhi need consider the representation dated 18.07.2008 of the Applicant.

In the aforesaid premises, CAG of India/New Delhi (Respondent No.2 in O.A. 170/2008) need, without prejudice to the pendency of this case, consider the grievances of the Applicant, as raised in his representation dated 18.07.2008, and pass necessary orders."

Call this matter on 01.07.2009 along with O.A.Nos.08/2007, 86/2007 and 03/2008.

Send a copy to Respondent No.2

6. On 01.07.2009 the matter was adjourned to to-day for hearing.

7. Now a permanent Division Bench is available for CA.T/ Guwahati Bench; Hon'ble new Administrative Member having joined on 14.07.2009.

Contd/-

Contd/-

22.07.2009

8. The Applicant Sri Bimalendu Gupta; Mr.H.K.Das, learned counsel for the Applicant; Mr.G.Baishya, learned Sr.Standing Counsel for Government of India and Mr.M.U.Ahmed, learned Addl. Standing Counsel for Government of India, are present.

9. At the outset, the Applicant (who is present in Court) stated that the Principal Bench of this Tribunal is in Session of a matter (P.T.No.191 of 2009) in which his prayer for transfer (of all the these cases to the Principal Bench) is being considered; for which he has already received notice on 15.07.2009 and the said P. T. No.191 of 2009 is now posted to 07.08.2009 and, in the said premises, he prayed for an adjournment of hearing of these cases. He filed a memo to the said effect.

10. In the aforesaid premises, hearing of all these cases stand adjourned to 12.08.2009.

(M.K.Chaturvedi)
Member (A)

(M.R. Mohanty)
Vice-Chairman

lm

11.8.09

Member
Bench;
Bench is

Contd/-

Copy of the order
Dated-22-7-2009 prepared
and send to D. Section
for issuing of the
same to the R.No-2,
vide D.No-9097,
Date:-31.7-2009.

The case is ready
for hearing.

OA-86/07 -17.

Q.A.No.08/2007,86/2007,03/2008 and 170 of 2008

12.08.2009 None appears for the

Applicant nor the Applicant is present. Mr. M. U. Ahmed, learned Addl. Standing counsel representing the Respondents states that a petition for transfer of this case PT No.191 of 2009) to the Principal Bench was pending before Principal Bench and was posted to 07.08.2009. He is not in a position to say as to what was the progress of the matter on 07.08.2009.

Call this matter after Puja Vacation on 7th October 2009 for hearing.

Send copies of this order to the Applicant and the Respondents of this case.

A copy of this order be also sent to the Registrar of Principal Bench of the Tribunal, requiring him to intimate about the case of P.T.No.191 of 2009. It may also be intimated to the Registrar of the Principal Bench that this matter has been posted to 07th October 2009 before Division Bench for hearing.

(M.K.Chaturvedi)
Member(A)

(M.R.Mohanty)
Vice-Chairman

/lm/

PTO

Kharisul,

Send copies of this order to the Applicant and to the Respondents, and also Registrar, Principal Bench.

13/8/09

18-8-2009

Copy of the order

Date 12.8.2009 prepared and sent to D. Section for issuing of the same to the Applicant & Respondents, also issued to principal Registrar, CAT, P.B.

Vide D.No- 9628 to 9639

Date:- 21.8.09

23
21.8.09

The case is ready for hearing.

2
6.10.09


-18-
O.A. 86/07

13.10.09

07.10.2009

None appears for the Applicant nor the Applicant is present. However, Mr.Subhash Paul, Assistant Accounts Officer of the Office of the A.G. (A&E), Assam and Mr.Biswanath Paitya, Sr. Accountant of the Office of the A.G. (A&E), Assam are present with Ms.U.Das, learned Addl. Standing counsel for the Govt. of India. They do not have any information about the fate of the Transfer Application (P.T. No.191/2009) filed in the Principal Bench/New Delhi on behalf of the Applicant.

As per P.B. New Delhi letter dated 15.9.09 regarding service of notices issued in O.A No.8/07, O.A 86/07, O.A No.3/08 and O.A No.170/08 sent to the P.Bench, New Delhi by Speed post on 12.10.09. office copies kept in file in O.A 170/08.


15.10.09.


6/11/09

Call this matter before the Division Bench on 05.11.2009. Send copies of this order to the Applicant and the Respondents in the address given in the O.A. A copy of this order may also be sent to the Deputy Registrar (Judicial) of CAT, Principal Bench, New Delhi for reference in P.T. No.191/2009.

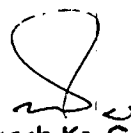

(M.R.Mohanty)
Vice-Chairman

/bb/

05.11.2009

On the written request of Mr H.K.Das, learned counsel for the applicant list on 9.11.2009 for hearing.


(Madan K. Chaturvedi)
Member (A)


(Mukesh K. Gupta)
Member (J)

/pg/

09.11.2009

Due to general strike call by ULFA, none appears for parties.

Adjourned to 16.11.2009


(Madan Kumar Chaturvedi)
Member (A)


(Mukesh Kumar Gupta)
Member (J)

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17.11.2009

Heard learned counsel for parties.

Hearing concluded.

Orders reserved.



(Madan Kumar Chaturvedi)
Member (A)

nkm



(Mukesh Kumar Gupta)
Member (J)

O.A. No. 86 of 2007

30.11.2009

For the reasons recorded separately,
the O.A. stands ~~dismissed~~ ^{Allowed}. No costs.


(Madan Kumar Chaturvedi)
Member (A)


(Mukesh Kumar Gupta)
Member (J)

/lm/

Received order
dated 30/11/2009
Bimlesh Gupta
29/12/09

Received copy
for. G. Baishya
Advocate
Utpalparna Bhattacharya
3.12.2009.

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No.08 & 86 of 2007

DATE OF DECISION 30.11.2009

Sri Bimalendu Gupta

.....Applicant/s.

Mr.H.K.Das

..... Advocate for the
Applicant/s.

- Versus -

U.O.I. & Ors

.....Respondent/s

Mr.M.U.Ahmed Addl. C.G.S.C. & Mr.G.Baishya

.....Advocate for the
Respondents

CORAM

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

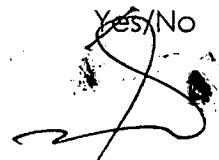
THE HON'BLE MR.MADAN KUMAR CHATURVEDI, MEMBER (A)

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

Judgment delivered by



Hon'ble Member (J)



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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application Nos. 08 and 86 of 2007

Date of Order: This, the 30th Day of November, 2009

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

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

Sri Bimalendu Gupta
Senior Accountant
O/O the Accountant General
(A&E), Assam, Maidamgaon
Beltola, Guwahati-29.

...Applicant in both O.A.s.

By Advocate: H.K.Das.

-Versus-

1. The Secretary to the Govt. of India
Ministry of Home Affairs
Department of Official Language
North Block, New Delhi-1.
 2. The Comptroller and Auditor General of India
Bahadur Shah Zafar Marg, Indraprastha
Head Post Office, Post Bag No.7
New Delhi-2.
 3. The Accountant General (A&E), Assam
Maidamgaon, Beltola
Guwahati-29, Assam.
 4. The Senior Deputy Accountant General (Admn & VLC)
O/O the Accountant General (A&E), Assam
Maidamgaon, Beltola
Guwahati-29.
 5. The Accounts Officer (Admn.I & II)
O/o the Accountant General (A&E), Assam
Maidamgaon, Beltola, Guwahati-29.
 6. Asstt. Accounts Officer (Admn.I)
O/o the Accountant General (A&E), Assam
Maidamgaon, Beltola
Guwahati-29.
 7. The Asstt. Accounts Officer
Pay and Accounts Office
O/o the Accountant General (A&E), Assam
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Maidamgaon, Beltola
Guwahati-29.

Respondents in O.A.08/2007.

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

1. The Secretary to the Govt. of India
Ministry of Finance
Department of Expenditure
North Block, New Delhi-1.
2. The Comptroller and Auditor General of India
Bahadur Shah Zafar Marg, Indraprastha
Head Post Office, Post Bag No.7
New Delhi-2.
3. The Accountant General (A&E), Assam
Maidamgaon, Beltola
Guwahati-29, Assam.
4. The Senior Deputy Accountant General (Administration)
O/o the Accountant General (A&E), Assam
Maidamgaon, Beltola
Guwahati-29.
5. The Senior Deputy Accountant General (A/c s)
O/o the Accountant General (A&E), Assam
Maidamgaon, Beltola
Guwahati-29.
6. The Accounts Officer (Admn.)
O/o the Accountant General (A&E), Assam
Maidamgaon, Beltola, Guwahati-29.
7. The Accounts Officer (I/c CA-4)
O/o the Accountant General (A&E), Assam
Maidamgaon, Beltola, Guwahati-29.
8. Supervisor I/C CA-4 Section
O/o the Accountant General (A&E), Assam
Maidamgaon, Beltola
Guwahati-29.
9. Smt. Sukla Das
Supervisor I/c CA-4 Section
O/o the Accountant General (A&E), Assam
Maidamgaon, Beltola, Guwahati-29.
10. Shri Tarini Mohan Roy (IAS)
Senior Deputy Accountant General (P&F)
O/o the Accountant General (A&E), Assam
Maidamgaon, Beltola
Guwahati-29

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Duel charge of (Administration)
O/o the Accountant General (A&E), Assam
Maidamgaon, Beltola
Guwahati-29.

... Respondents in O.A.86/2007.

By Advocate: Mr.G.Baishya for Accountant General of Assam

ORDER
30.11.2009

MUKESH KUMAR GUPTA, MEMBER (J):

These two O.A.s filed by same Applicant though seeks different reliefs, but facts being overlapping, are being dealt with by present common order.

2. Vide O.A. No.08/2007, Sri Bimalendu Gupta challenges communication dated 05.02.2002 and 02.11.2006 (Annexures-2 & 3 respectively) and seeks direction to Respondents to count the period between 27.09.1998 to 12.11.1998 totaling 47 days as duty for all purposes and to release pay and allowances in terms of this Tribunal order dated 28.11.2001 in O.A.245/2001. Vide O.A. 86/2007 validity of order dated 13.02.2007 has been challenged and he seeks direction to the Respondents to release salary for the month of January, 2007 forthwith with all consequential benefits.

3. Admitted facts are that vide order dated 04.12.1996, the period between 27.09.1998 to 12.11.1998 had been treated as dies-non, which became the subject matter of O.A.245/2001. Applicant, a Senior Accountant in the Office of the Accountant General (A&E), Assam, Guwahati had been directed to attend Hindi training in PRAVEEN conducted from 15.09.1998 for two days in a week. It was submitted by him

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that he not only attended said training but also attended his normal duties, yet said period had been treated as dies-non. On the other hand, Respondents' version had been that said training classes were held on Tuesdays and Thursdays and during the said training period he was required to continue to discharge his normal duties for rest of the office hours as did by another official deputed for the same training. He, as a matter of fact, did some works upto 27.09.1998 but thereafter he stopped attending to his allotted work. Initially he was deputed to attend said training from 15.07.1998 vide order dated 08.07.1998. Since he did not attend his official duties assigned, sectional works suffered and he used to leave the office/section without obtaining permission of the competent authority after putting his initials in the attendance register. Furthermore, said training was held for two hours on the prescribed dates and not for whole day. In such circumstances, said period was treated as dies-non. Pay and allowances for said period being Rs.12,109/- was recovered from his salary in four installments from the pay of March, 1999 onwards. As O.A. No.245/2001 had been allowed by quashing the order dated 04.12.1998, in pursuance thereof, Saturdays and Sundays which were counted as dies-non had been ignored and pay and allowances for 17 days being Saturdays and Sundays during the aforesaid period had been released to him.

4. The grievance raised vide O.A.08/2007 is that once order of dies-non dated 04.12.1998 has been quashed by this Tribunal, he was entitled to full pay and allowances for the aforesaid period. He has filed various representations seeking redressal of his grievances in releasing the amount for rest of the period but the same did not elicit any favourable

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result. There was no justification in treating said period as dies-non and making him to suffer financially. Furthermore, he suffered his increments also which were due on 1st January every year. Shri H.K.Das, learned counsel for Applicant contends that Application is within limitation as he has been making repeated representations seeking redressal of his grievances.

5. In O.A.86/2007 the principal grievance is that vide order 13.02.2007 (Annexure-5) the Accounts Officer (Administration) conveyed him that salary for the month of January 2007 was stopped on the basis of Sr. Deputy Accountant General (A/C)'s order dated 12.01.2007. It is contended that C.A.-4 section where he had been posted in November 2003, was full of dusty environment due to dumping of treasury vouchers and lack of proper ventilation which was harmful to him as he is a chronic patient of sinusitis, and therefore, he had been receiving treatment from the prescribed authorities. Without assigning any reason his salary for the month of January 2007 had been withheld with ulterior motive though he was not absent from his normal duties during the month of December 2006 and January 2007. Therefore, there was no justification to stop his salary and in not depositing the same in his bank account. Respondents' action is violative of principles of natural justice and administrative fair play. The Sr. Deputy Accountant General (Accounts) had no authority to pass a blanket order stopping his salary. On the one hand his salary was stopped, on the other hand he had been suffering from medical ailment. He was denied advance for medical treatment. In the above backdrop, learned counsel contended that authorities acted in high-handedness without any justification and tenable reasons, which action is unsustainable in the eyes of law.



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6. By filing reply, Respondents have contested claims laid. In reply to O.A.08/2007 it was stated that Hindi training commenced w.e.f. 15.07.1998 and ended on 12.11.1998. During his training he was also required to discharge his normal duties, which he failed to attend. He used to leave section without obtaining permission from the competent authority after putting his initials in sectional attendance register. Though he had attended his work upto 27.09.1998 but stopped discharging his duties after said date till 12.11.1998. In such circumstances, the period in between had been treated as dies-non. Direction of this Tribunal vide order dated 28.11.2001 in O.A. No. 245 of 2001 were fully complied with by passing reasoned and speaking order 05.02.2002 whereby earlier order dated 04.12.1998 had been modified excluding the period of Saturdays and Sundays. There was no justification in the claim laid. This Tribunal has not issued any direction to treat the entire period as on duty, as projected. On the other hand, direction had been to consider his representation by passing reasoned and speaking order, which direction was scrupulously followed. As Applicant continued to make repeated representations; which was unwarranted, vide communication dated 02.11.2006 he was warned to desist from approaching the authorities on the same issue which had long been settled and reasons for which had already been communicated to him.

Mr.M.U.Ahmed, learned Addl. C.G.S.C. for Respondents contended that communication dated 02.11.2006 did not furnish any cause of action particularly when in compliance of directions of this Tribunal Respondents have passed speaking order dated 05.02.2002. Thus, it was urged that the claim laid in said O.A. is not only misconceived but also

suffers from delay and latches. No M.A. seeking condonation of delay has been filed and in no circumstances order dated 02.11.2006 would extend limitation or provide a fresh cause of action.

7. By filing reply in O.A.86/2007 it was stated that handling treasury vouchers is part of normal duties by Accountant/Sr. Accountant, which is primary function of Accountant General (A&E) Office. He had made a representation seeking supply of certain articles like gloves and mask for his use while working in the section. There is no codal provision for supply of such items to the dealing assistants while discharging their day to day work. He has been informed on this aspect vide communication dated 18.09.2006. No complaint has been received from any other officials in the office in this regard to the extent of being unable to work without gloves and masks. It was an attempt on his part to divert attention from the real issue, which amounts to dereliction of duty and conduct unbecoming of a Government servant. His salary was withheld as he had not been attending to his officially allotted works in spite of having put his signature in the attendance register of his section. The report of negligence of work was submitted by the Sectional In-charge, based on which administration decision had been taken to withhold his salary till he completes his pending work. Subsequently, an administrative decision has also been taken vide order dated 27.03.2007 to treat the days on which he has put his signature on the attendance register as a mark of his attendance in office but did not work as dies-non. Since he was neither available in the section or, when available, had refused to receive the said communication, he could not be informed of it. Furthermore, he had been absenting himself from office from 22.03.2007 without authority. He remained absent from 22.03.2007 to



23.03.2007 which had three working days. On 27.03.2007 and 28.03.2007 he attended office but refused to receive said official communication dated 22.03.2007. He was attending office without doing any work and used to leave the section after putting his signature in attendance register without authority. His work had to be reallocated to other staff on payment of honorarium basis thus causing loss to the exchequer. The decision of stoppage of salary was taken due to his not performing his official duties. By projecting that he has been denied salary, he is making an attempt to gain sympathy of this Tribunal which is impressible. In compliance of direction of this Tribunal, number of dies-non days were recalculated and since in between there were seven Sundays and four closed holidays and on two days he had attended training in total 16 days were excluded from earlier dies-non period of 47 days. Consequently, a sum of Rs.4637/- was paid vide bill No.1770 dated 11.02.2002. The treatment of period as dies-non has no connection or relation with decision to withhold his salary for the month of January, 2007. These two are distinct issues. Applicant is making an attempt to link it for extraneous consideration. As he did not perform the duties allotted to him, he was not entitled to pay and salary for said period. Allegations of harassment caused to him by making recovery from his pay had been denied. No salary is payable based on principle of no work no pay and decision taken on such account did not constitute misuse of power, as projected. On many occasions he was asked to explain his negligence in performing his duties and advised to attend his work. However, he failed to show any improvement. He was in habit of either remaining absent without authority or putting his signature in attendance register and therefore, leaving office without permission. Our attention was drawn by learned counsel for the Respondents Mr.G.Baishya (in O.A. 86/07)

to Annexure-4 memorandum dated 22.03.2007 appended to reply by which he was given an opportunity to explain why he had signed in the attendance register over cross marks. It was further stated that for the period mentioned therein he did not perform any duties but signed the attendance register. In the above backdrop learned counsel for the Respondents urged that application deserves dismissal.

8. We have heard Mr.H.K.Das, learned counsel appearing for the Applicant, Mr.M.U.Ahmed, learned Addl. C.G.S.C. and Mr.G.Baishya, learned counsel for the Respondents in O.A. 08/2007 and 86/2007 respectively, perused the pleadings and other material placed on record very minutely.

9. Questions which arise for consideration are (i) whether O.A.08/2007 is maintainable and he deserves any reliefs, as prayed for and (ii) whether the Respondents' action in passing order dated 13.02.2007 withholding Applicant's salary for the month of January 2007 is justified in the given circumstances.

10. On examination of the matter from either angle we may note that the period in between 27.09.1998 to 12.11.1998 had been treated as dies-non was challenged vide O.A. 245/2001. Said O.A. had been allowed primarily on the ground that Sundays and other holidays were included while calculating period of dies-non, which was not justified and in such circumstances Respondents were directed to reconsider his representation by passing reasoned & speaking order. By passing order dated 05.02.2002, sundays and other closed holidays had been excluded and he had been paid for said dates. For rest of the period the decision taken earlier, namely,

to treat dies-non had been reiterated. Validity of said order had not been challenged within the limitation prescribed under Section 21 of the A.T. Act, 1985. Rather Applicant kept on making repeated representation on the same subject. Thus, further question which would arise for consideration is whether repeated representations made and order passed thereto would extend the period of limitation. It is undisputed fact that Section 21 of the A.T. Act, 1985 provides limitation of one year for seeking redressal of the grievances by making an application "within one year from the date on which such final order has been made". Order dated 05.02.2002 has to be treated as final order made on the subject. We may further observe that this Tribunal had not granted liberty to him to make repeated representations on the same subject even after consideration of his representation by passing reasoned & speaking order. No M.A. seeking condonation of delay has been preferred. Furthermore, as per law settled by Hon'ble Supreme Court in **AIR 1990 SC 10 S.S.Rathore vs. State of Madhya Pradesh**, repeated representations made on the subject would not extend the period of limitation. Even if the Respondents have passed certain order on 02.11.2006 that would not furnish any cause of action. Moreover, said order in specific noticed that in compliance of directions of this Tribunal in O.A. 245/2001 vide order dated 28.11.2001 they had already passed necessary order and in such circumstances, said order dated 02.11.2006 would not furnish any fresh cause of action. Furthermore, limited direction of this Tribunal of 28.11.2001 had been to consider his representation by passing reasoned & speaking order. Said aspect has duly been complied with by the Respondents by passing reasoned speaking order dated 05.02.2002. In this view of the matter, we have no hesitation to



conclude that the challenge made in O.A. No.08/2007 is neither within limitation period nor there is any merit in the claims laid therein.

11. Coming to second issue raised about validity of order dated 13.02.2007, challenged in O.A.86/2007, we noticed that said communication has been based on Applicant's representation dated 08.02.2007 whereby he requested for disbursement of salary for the month of January, 2007 and in response thereto he was informed that decision has been taken to stop his salary based on Sr. Deputy Accountant General (Accounts) order dated 12.01.2007. Normally, such a blanket order passed by the authorities stopping his salary cannot be approved but we have to examine validity of said order in the context of facts of the case as adumbrated in O.A.. Pleadings raised in O.A. would show that Applicant has made a specific plea vide paragraph 4.8 that he was not absent in the office in December 2006 and January 2007. Therefore, Respondents were not justified to withhold his salary for the month of January, 2007. In reply filed to said para, it was specifically pointed out that salary was withheld for: **"his not attending to his officially allotted works in spite of having put his signature in the Attendance Register of his Section"**. It was further urged that administrative decision was taken to withhold his salary **"till he completed all pending work"**. In the same breath Respondents have further stated that he was absent from office from "22.3.07 to 26.3.07".


In other words, there is no specific denial to the contention raised by Applicant that he had attended the office during December 2006 and January 2007. Once facts are such crystal clear, we have no hesitation to conclude that order of the Sr. Deputy Accountant General (Accounts) is not passed for germane reasons. If the person has attended

office and had not completed his all pending works, Respondents cannot be allowed to resort to the principle of "no work no pay". One may be slow in discharging his function and other person may be very fast in discharging his works & therefore, person who is slow in attending the works may not complete his all assigned duties in time but for such reason one cannot take shelter of principle of "no work no pay". Thus, we have no hesitation to conclude that the decision taken by said authority as conveyed to Applicant on 13.02.2007 is rendered unsustainable in the eyes of law.


12. In view of the discussion made hereinabove, our conclusion is as follows:-

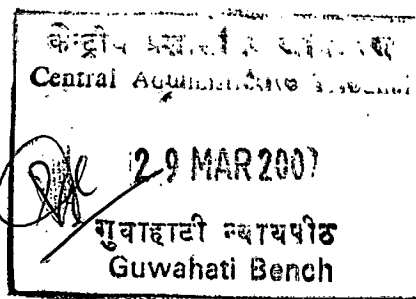
- (i) There is no substance and justification in the claim laid in O.A.08/2007 and accordingly, said O.A. is dismissed.
- (ii) There is no justification in the order dated 13.02.2007 and accordingly, same is quashed and set aside. Thus, O.A. is allowed. Applicant would be entitled to salary for the month of January, 2007, as prayed for. Aforesaid exercise shall be undertaken within a period of 45 days from the date of receipt of this order.

No costs.


(MADAN KUMAR CHATURVEDI)
MEMBER (A)

/BB/


(MUKESH KUMAR GUPTA)
MEMBER (J)



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

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

O.A. No. 86 /2007

Shri Bimalendu Gupta Applicant

-versus -

Union of India Represented by the Secretary
to the Govt. of India, Ministry of Finance
Department of Expenditure, New-Delhi-1. and
Others.

I N D E X

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

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

O.A. No. 86 /2007

Shri Bimalendu Gupta ... Applicant

-versus -

Union of India, represented by the Secretary
to the Govt. of India, Ministry of Finance
Department of Expenditure New- Delhi and
others.

... Respondents

S Y N O P S I S

The applicant is a permanent employees of the office of the Respondent No.(iii) and working in this office as Senior Accountant. The applicant is verymuch punctual and regular attending in the office and do the job handed over to him by the Sectional i/c of C-A-4. Sudeenly the salary of the applicant from January,2007 has been stopped by the Respondent No.(iv) (v) arbitrarily without intimation/prior intimati to the applicant. Even the applicant repeatedly submitted application to the Respondents (iii) to (v) for releasing the salary ofom January,2007 onwards to avoid financial and mental harassment to the applicant and the family members. The Respondents failed to consider the applications of the applicant and declined to pay the salary from January,2007 which is beyond the purview of the Govt. norms and official duties. Hence the applicant filed this application before this Hon'ble C.A.T. for justice.

Bimalendu Gupta

...

Filed by the
applicant
through
H. Palukodan 29/3/07
Advocate

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

BETWEEN : Shri Bimalendu Gupta ... Applicant

- versus -

Secretary to the Govt. of India
Ministry of Finance (Deptt of
Expenditure) North Block,
New-Delhi-1. and Others ... Respondents

PARTICULARS OF APPLICANTS:

- i) Name of the applicant : Shri Bimalendu Gupta
- ii) Name of Fathers : Late Biswanath Gupta
- iii) Designation and Office in which employed : Senior Accountant,
O/o the Accountant General
(A&E) Assam, Maidamgaon,
Beltola, Guwahati-29.
- iv) Office Address : O/o the Accountant General
(A&E) Assam, Beltola,
Guwahati-29.
- v) Address for service of Notice : O/o the Accountant General
(A&E) Assam, Maidamgaon,
Beltola, Guwahati-29.

PARTICULARS OF RESPONDENTS :

- i) Secretary to the Govt. of India
Ministry of Finance (Deptt. of Expenditure)
North Block, New-Delhi-1.
- ii) The Comptroller and Auditor General of India,
10, Bahadur Shah Zafar Marg, I.P.O
Post bag No.7, New-Delhi-2.
- iii) The Accountant General (A&E) Assam,
Maidamgaon, Beltola, Guwahati-29.
- iv) The Sr. Deputy Accountant General
(Administration) O/o the Accountant General
(A&E) Assam, Maidamgaon, Beltola, Guwahati-29.
- v) The Sr. Deputy Accountant General (A/c s)
O/o the Accountant General (A&E) Assam,
Beltola, Guwahati-29.
- vi) The Accounts Officer (Admn.),
O/o the Accountant General (A&E) Assam,
Beltola, Guwahati-29.

contd....2.

- vii) The Accounts officer(i/c CA-4)
O/o the Accountant General(A&E) Assam,
Maidamgaon, Beltola, Guwahati-29.
- viii) Supervisor i/c CA-4 Section
O/o the Accountant General(A&E) Assam,
Maidamgaon, Beltola, Guwahati-29.
- ix) Smt. Sukla Das,
Supervisor i/c CA-4 Section
O/o the Accountant General(A&E) Assam,
Maidamgaon, Beltola, Guwahati-29.
- x) Shri Tarini Mohan Roy, ITAS,
Sr. Deputy Accountant General(P & F)
O/o the Accountant General(A&E) Assam,
Maidamgaon, Beltola, Guwahati-29.
dual charge of (Administration) O/o the
Accountant General(A&E) Assam, Maidamgaon,
Beltola, Guwahati-29.

I. PARTICULARS OF THE Order/ORDERS AGAINST
WHICH THE APPLICATION IS MADE:

- i) No. Admn-2/2-3/2001-03/822 dated 13.2.2007 issued
by the Accounts officer (Administration) Respondent.
No. (vi) informing the salary for the month of January,
2007 has been stopped on the basis of the order of
Respondent No. (v) dated 12.1.2007.

II. JURISDICTION OF THE TRIBUNAL :

The humble applicant declares that the subject matter
of the order against which the applicant wants redressal
is ~~within~~ within the jurisdiction of the Tribunal.

III. LIMITATION :

The humble applicant further declares that the
application is within the limitation periods prescribed in
the Central Administrative Tribunal Act, 1985.

IV. FACTS OF THE CASE:

1. That the applicant begs to state that the applicant is
a citizen of India belongs to the General Category and his
rights and previllages are guaranteed by the Constitution of
India and the orders issued by the Govt. of India
from time to time.

2. That the humble applicant is a permanent employee in the O/o the Respondent No.(iii) the Accountant General (A&E) Assam, Guwahati-29 and presently posted and working in the C.A.-4 section on holding the post of Senior Accountant.

3. That the humble applicant begs to state that the function of the Respondents No.2,3 and others are guided by the Art.149 to 151 of the Constitution of India and the Comptroller and Auditor General of India's Manual of standing orders (Accounts and Entitlements) Vol-I. Chapter-I define function of the Comptroller and Auditor General of India and duties of the Indian Audit and Accounts Department in para 1.5 of page 3.

4. That the applicant begs to refer the para 1.5 of the C&AG's Manual of standing order (Accounts and Entitlements) Vol.-I runs as " The Accountants General and the staff of the Indian Audit and Accounts Department shall, under such special and general directions as may be given by the Comptroller and Auditor General from time ~~time~~ to time, perform such duties and functions as are imposed on or undertaken by him under the provisions of the Constitution, or of any law made by Parliament. It is essential that an Accountant General should work in close co-ordination, with the Govt. concerned. He is entitled to seek the help of the Finance Ministry/Department in case of failure of any authority to maintain the prescribed accounts or submit them on the due dates, He may seek their assistance where necessary to secure a satisfactory settlement of outstanding objections of accounting nature.

Copy of para 1.5 of C&AG's Manual of standing order is Annexed herewith and marked as Annexure -1.

5. That the humble applicant begs to state that the C.A.-4 section where the applicant was posted again in 11/2003 and Block of CA is full of dusty environment due to dumping of Treasury vouchers and lack of proper ventilation which is harmful to the applicant as the applicant is a chronic patient of scincities alongwith other ailments does not permit him to handle dusty nature of work/dust based materials as advised by the treating doctor(s) of the applicant on 13.6.06 which was re-submitted to the Respondent No.(iii) on 09.10.2006 for taking necessary action, but no action has been taken on the issue by the Respondent No.(iii).

Bimalendra Gupta

Copy of the medical advise dated 13.06.06 is annexed herewith and marked as Annexure-2.

6. That the applicant begs to state that the applicant opted for receipt of monthly salary from the Respondent No. (iii) by direct depositing in his SBI S/B A/c of Dispur Branch in terms of Ministry of Finance O.M. No.F 1(1)/2005/TA/476 dated 10.06.2005 which was accepted by the Respondents (iii) & (iv) to deposit the salary of the applicant in the Bank A/c in the last day of the month under Rule/orders. Without assigning any reason the Respondents No. (iii) & (iv) not depositing the salary in the Bank a/c of the Applicant for the month of January, 2007 and nor intimated the matter to the applicant on or before 31.1.2007 rather intentionally placed the applicant for training at Shillong vide Admn. order No. 188 dated 22.12.06 for attending training from 1.2.07 to 7.2.2007. The Respondent also silent about the payment of T.A./DA for Training in this order.

7. The humble applicant is surprise when the SBI Dispur Branch refuse to disburse the pay on demand due to non-depositing of the salary of January, 2007 by the Respondent No. (iv) on 31.1.2007. The applicant after enquiry of the Bank on 8.2.2007 requested the Respondent No. (iv) to deposit the salary to the Bank a/c of the applicant on or before 8.2.2007 to avoid financial hardship, the applicant failed to get the pay on 8.2.2007 and approached to the Respondent No. (iii) on 9.2.07 to take necessary action for deposit the salary of January, 2007 to the Bank A/c of the applicant with intimation by Fax to the Respondent No. (ii). But the justice denied to the applicant.

Copies of the application dated 8.2.2007 and 9.2.2007 are annexed herewith and marked as Annexure-4 & 5.

8. That the applicant begs to state that the applicant is surprise to received a letter vide No. Admn. 2/2-3/2001-03/822 dated 13.2.2007 from the Respondent No. (vi) the Accounts officer (Admn.) that the salary for the month of January, 2007 has been stopped on the basis of the Sr. Deputy Accountant General (A/cs)'s order dated 12.1.2007 at P/13 note of file No. CA-4/Con/2006-07. (Respondent No. v) The applicant is not aware of the facts as the applicant is not absent from the office during the month of December'06 and January'07. The Respondent No. (v) has not empowered to stopped salary of the the applicant because the Respondent is not appointing nor disciplinary authority of the applicant.

Bimalendu Gogoi

Copy of the letter dated 13.2.2007 is annexed herewith and marked as Annexure-6.

9. That the applicant begs to state that the applicant requested the Respondent No.(v) the Sr. Deputy Accountant General (A/cs) on 28.2.2007 to issue a copy of the order dated 12.1.07 of P/13 Note of file No.CA-4/Con/2006-07 which was suppressed to the applicant and till date the Respondent No.(v) deliberately not issue a copy of the information as called for and the matter of payment of salary for the month of January, February'07 and March also stopped and will not be depositing in the Bank A/c of the applicant. The matter is violation of principle of natural justice and administrative fair play. That inspite of such illegal order passed against the applicant, the applicant is regularly present in the office without Pay and other allowances viz. Transport allowance, CCA for B-2 city Guwahati & HRA.

Copy of the application dated 28.2.2007 is annexed herewith and marked as Annexure-7.

10. That the applicant begs to state that due to non-issuance of the copy of the letter dated 12.2.2007 the applicant failed to submit the copy of the letter in this application for necessary action and justice. The applicant further believe that the Respondent No.(v) would be produce the copy of the said letter dated 12.2.2007 alongwith a copy of the P/13 of Note of file No.CA-4/Con/2006-07 before this Hon'ble C.A.T. to access the administrative transparency and justice to the applicant regarding arbitrary stopped payment of salary of the applicant from January, 2007 onwards.

11. That the applicant begs to state that the Respondent No.2 to 6 are in habit of misuse of power, mis-interpretation of Rules etc just to harass the applicant. In an earlier occasion on 4.12.1998 the Respondent No.(iv) imposed dies non from 27.9.98 to 12.11.98 on the ground that (the applicant) "he did not do his job except putting his initial in the attendance register and leaving office without permission of the superior". The applicant challenged the above order dated 4.12.98 before this Hon'ble C.A.T. in O.A.No.245/2001. After hearing both the parties this Hon'ble C.A.T. set aside the impugned order dated 4.12.98. But Respondent No.(iii) & (iv) failed to act on the order of the C.A.T. dated 28.11.2001 and retain the dies non order dated 4.12.98 and the applicant is compelled to file the O.A.No.8/2007 before this Hon'ble C.A.T. for justice which is pending before this Hon'ble C.A.T.

Bimalendu Gupta

Due to pending of the above O/A No.8/2007 before this Hon'ble C.A.T. the Respondents No.(iv) (v) & (vi) deliberately stopped the payment of the salary of the applicant from January, 2007 so that the applicant cannot meet the legal cost for justice to get his right claims of medical treatment as well as medical treatment advances under medical advises of the treating doctor which has denied to the applicant despite repeated applications and just to harass the applicant and his family members from their rights otherwise there is no other apparent reason, as such the Respondent (iv) is impleaded as personal Respondent No. (X) and Respondent No. (viii) as Respondent No. (ix) as personal Respondent. The Respondents No. 2 and others are equally responsible for overriding fundamental rights of the applicant by stopped payment from January, 2007 for creation of mental harassment and financial hardship and harassment and liable to pay compensation.

12. That the applicant humbly submitted that the Respondents are in habit of harassing the humble applicant due to his honest and sincere service. The tactic, the Respondents adopted in harassing the petitioner is just weakening the financial capacity of the humble applicant. The respective Respondent authorities in earlier occasion also recovered amounts from pay illegally and even orders of this Hon'ble High Court the payment has not been correctly and hence the OA No.8/2007 is filed by the applicant. In a similar occasion the Respondent No.(iv) also started recovery of Rs.1712/-p.m. w.e.f. 12/2005 on the vague plea as "Non-Govt. dues" without stating any reason and not considering the application of the applicant. This time also the Respondents authorities has adopted a similar tactic to weaken the financial position of the humble applicant so that the applicant is unable to meet the transport cost to attend office, default to pay House Rent and market expenditure, without assigning any reason the Respondent suddenly stopped payment of salary of the humble applicant from the very face of record of the impugned order dated 13.2.2007 it can be very easily made out the Respondent, No. (iv) has no reason to stop the salary of the humble applicant from January, 2007 and else.

Bimal Kumar Singh

V. GROUND FOR RELIEF WITH LEGAL PROVISIONS:

That the applicant urges the following grounds:

- (i) That the particular Respondents No.(iii) to(vi) failed to apply their administrative mind to discharge their official duties as guided by the Constitution of India in coming to a decision for stopped payment of salary of the applicant from January, 2007 onwards despite in facts that the applicant is attended office in time regularly and put attendance in the attendance Register and performed allotted/ assigned works in CA -4 section.
- (ii) That the humble applicant begs to submit that the Respondent No.(iv) & (x)/~~the~~¹⁶ same Respondent holding the dual charges of Respondent No.(iv), that the non-payment of salary from January, 2007 by the Respondent No.i/c (iv) has resulted in miscarriage of justice to the applicant and the family of is concerned.
- (iii) That the humble applicant begs to submit that if any more delay occurs in payment of salary of the applicant thus it may bring horrible consequences of the family.
- (iv) That your humble applicant begs to submit that the inaction of the Respondents has deprived the petitioner from the fundamental rights guaranteed to him by the Constitution of India as well as legal rights.
- (v) That the applicant begs to state that irreparable financial loss and loss of prestige has been caused by the Respondents by non-payment of Salary from January, 2007 onwards as a result the applicant failed to meet the needs of the family and the Respondents are liable to pay such created damage cost/compensation.

contd....8.

VI. DETAILS OF REMADIES EXHAUSTED:

The applicant declared that the applicant availed of all the remedies available to him under the Rules.

VII. MATTER NOT PREVIOUSLY FILED OR PENDING IN ANOTHER COURT.

The applicant further declare that the matter stated in this application is not pending before any court in India.

VIII. RELIEF SOUGHT FOR:

i) In view of the facts stated above, the applicant prays for the following relief/reliefs:

Necessary direction/order be passed directing the Respondent No.(iii),(iv) & (vi) to set aside the impugn order dated 13.2.2007 and to continue the payment of salary of the applicant from the month of January,2007 forthwith.

ii) Necessary direction/order to be passed to the Respondent to pay appropriate compensation/cost for stopping payment of salary by misuse of power, administrative hurdles financial hardship, harassment, mental harassment to the applicant and the family members and overriding fundamental rights right to life.

IX. INTERIM ORDER

i) Pending final decision on the application the applicant prays for issuance of Interim order/direction to the Respondent No.(iii) the Accountant General(A&E) Assam, Guwahati-29 to pay the stopping salary from the month of January,2007 to avoid created financial hardship to the the applicant and the family members.

The particulars of the IPO in respect of application fees:

1. Number of IPO for Rs.50.00= (1) No.26G 325484
2. Name of issuing Post office: GPO Guwahati
3. Date of issue : 26.07.2006
4. Post office at which payable : Guwahati

List of particulars :
As stated in the Index.

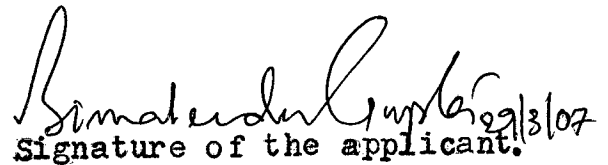
verification.....P/9

Bimaladevi Singh

VERIFICATION

I, Shri Bimalendu Gupta, son of late Biswanath Gupta, aged about fifty five years by cast Hindu, belongs to general category by profession Central Govt. employee and serving under the Govt. of India resident of Guwahati, Assam do, hereby verify that the statement made in 2, 3, 9, 10 paragraphs of this application are true to my knowledge those made in paragraph 4, 5, 6, 8 are based on records which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

AND I sign this verification this 29th day of March, 2007 at Guwahati.


Signature of the applicant.

COMPTROLLER AND AUDITOR GENERAL'S MANUAL-21

STANDING ORDERS

(ACCOUNTS & ENTITLEMENTS)

VOL.- I (First Edition) 1991.

CHAPTER I

FUNCTIONS OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA

DUTIES AND POWERS

1.1 The functions of Comptroller and Auditor General are derived in the main from the provisions of Articles 149, 150 and 151 of the Constitution of India. Article 149 of the Constitution provides that the C&AG shall perform such duties and exercise such powers as may be provided by or under any law made by Parliament. Article 149, 150 and 151 are reproduced below.

149 Duties and Powers of the Comptroller and Auditor General

The Comptroller and Auditor General shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States and of any other authority or body as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States as were conferred on or exercisable by the Auditor General of India immediately before the commencement of this Constitution in relation to the accounts of the Dominion of India and of the Provinces respectively.

150 Form of Accounts of the Union and of the States

The accounts of the Union and of the States shall be kept in such form as the President may, on the advice of the Comptroller and Auditor General of India, prescribe.

AUDIT REPORTS

151 (1) The reports of the Comptroller and Auditor General of India relating to the accounts of the Union shall be submitted to the President, who shall cause them to be laid before each House of Parliament.

(2) The reports of the Comptroller and Auditor General of India relating to the accounts of a State shall be submitted to the Governor of the State, who shall cause them to be laid before the Legislature of the State.

As envisaged in Article 149 of the Constitution of India, Parliament has enacted the Comptroller and Auditor General's (Duties, Powers and Conditions of Services) Act, 1971 which prescribes the duties and

powers of the Comptroller and Auditor General as well as his conditions of service. This Act came into force from 15/12/1971. The Act has superseded the provisions of the Audit and Accounts Order, 1936 as adopted by the India (Provisional Constitution) Order 1947 which regulated the duties and powers of the Comptroller and Auditor General in relation to the accounts of the Union and of the States till then as envisaged in Article 149 of the Constitution.

It is a matter of historic accident that the Comptroller and Auditor General was entrusted with such functions of an Accountant like keeping the account of State Government and also the Provident Fund, Pension and Pay accounts of employees of State Governments, which are normally the functions of the Executive authorities.

1.2 The responsibilities of the Comptroller and Auditor General in so far as it relates to compilation of accounts of the Union, the States and the Union Territories with Legislatures are given in Sections 10, 11 and 12 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971 which are reproduced below :-

Section 10

(1) The Comptroller and Auditor General shall be responsible —

(a) for compiling the accounts of the Union and of each State from the initial and subsidiary accounts rendered to the audit and accounts offices under his control by treasuries, offices or departments responsible for the keeping of such accounts; and

(b) for keeping such accounts in relation to any of the matters specified in clause (a) as may be necessary :

Provided that the President may, after consultation with the Comptroller and Auditor General, by order, relieve him from the responsibility for compiling —

(i) the said accounts of the Union (either at once or gradually by the issue of several orders); or

अंतर्गत और शक्तियों तथा
रत करता है। यह अधि-
तुआ। इस अधिनियम ने
देश 1947 द्वारा अपनाए
देश, 1936 के उपबन्धों
र राज्यों के लेखाओं के
के कर्तव्य और शक्तियों
विधान के अनुच्छेद 149
का।

यंही तथ्य है कि नियंत्रक-
सरकार के लेखों और
अधिनियम निधि, पेंशन तथा
के कार्य सीधे गए थे, जो
के कार्य हैं।

नियंत्रक वाले संघ राज्य
अंतर्गत नियंत्रक-महालेखा-
महालेखापरीक्षक (कर्तव्य,
नियम 1971 की धारा
है, जिन्हें भी वे सीधे

निम्नलिखित के लिए

के लेखाओं का संकलन
सुपरी लेखाओं से करने
ओं के रखने के लिए
लियों या विभागों द्वारा
तथा लेखापरीक्षा
है; और

विषयों में से किसी के
के रखने के लिए जो,

जापरीक्षक से परामर्श
नलिखित के संकलन के
:-

तो गुरस्त या अनेक
में); या

- (ii) the accounts of any particular services or departments of the Union :

Provided further that the Governor of a State with the previous approval of the President and after consultation with Comptroller and Auditor General, by order, relieve him from the responsibility for compiling —

- (i) the said accounts of the State (either at once or gradually by the issue of several orders); or

- (ii) the accounts of any particular services or departments of the State.

Provided also that the President may, after consultation with the Comptroller and Auditor General, by order relieve him from the responsibility for keeping the accounts of any particular class or character.

(2) Where under any arrangement, a person other than the Comptroller and Auditor General has, before the commencement of this Act, been responsible —

- (i) for compiling the accounts of any particular service or department of the Union or of a state, or
- (ii) for keeping the accounts of any particular class or character,

Such arrangement shall, notwithstanding anything contained in sub-section (1) continue to be in force unless, after consultation with the Comptroller and Auditor General, it is revoked in the case referred to in clause (i) by an order of the President or the Governor of the State, as the case may be, and in the case referred to in clause (ii) by an order of the President.

Note : Based on the orders issued by the President in 1976 and thereafter, the Comptroller and Auditor General was relieved from the responsibility of compiling and keeping the accounts of various Departments/Ministries of the Union Government and Union Territories except in respect of the accounts relating to (a) Pensions (b) the Indian Audit and Accounts Department and (c) Union Territories without Legislatures of Chandigarh, Dadra and Nagar Haveli and Lakshadweep.

Section 11

The Comptroller and Auditor General shall, from the accounts compiled by him or by the Government or any other person responsible in that behalf prepare

in each accounts (including in the case of accounts compiled by him, appropriation accounts) showing under the respective heads the annual receipts and disbursements for the purpose of the Union, of each State and of each Union Territory having a Legislative Assembly and shall submit those accounts to the President or the Governor of a State or Administrator of the Union Territory having a Legislative Assembly, as the case may be on or before such dates as he may, with the concurrence of the Government concerned, determine.

Provided that the President may after consultation with the Comptroller and Auditor General, by order, relieve him from the responsibility for the preparation and submission of the accounts relating to annual receipts and disbursements for the purpose of the Union or of a Union Territory having a Legislative Assembly.

Provided further that the Governor of a State may, with the previous approval of the President and after consultation with the Comptroller and Auditor General, by order, relieve him from the responsibility for the preparation and submission of the accounts relating to annual receipts and disbursements for the purpose of the State.

Note : In exercise of the power conferred by the first Proviso to Section 11 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971, the President issued orders relieving the Comptroller and Auditor General from the responsibility of preparing the Finance Accounts of Union Government from 1977-78 onwards and of the Union Territory of Pondicherry from 1988-89 onwards.

The Comptroller and Auditor General, will, however, continue to be responsible for the submission of the Finance Accounts of the Union to the President for being laid before the Parliament.

Section 12

The Comptroller and Auditor General shall, in so far as the accounts for the compilation or keeping of which he is responsible, enable him to do so, give to the Union Government, to the State Governments or to the Governments of Union Territories having Legislative Assemblies, as the case may be, such information as they may, from time to time, require and render such assistance in the preparation of annual financial statements as they may reasonably ask for.

गत संग के,
क्षेत्र, जिसमें
प्राप्तियों और
उत्पत्ति के द्वारा
गते हैं, तैयार
गति को या
जब क्षेत्र के
में, जो वह
करे, प्रस्तुत

से परामर्श
रखा जाने
प्रतिष्ठानों और
प्रस्तुत करने

व राष्ट्रीय
परामर्श करने
लिए वांछित
क्षेत्रों तैयार
गुप्त कर

मन्त्रियों,
रा 11 के
करते हुए
सरकार के
राज्य क्षेत्र
स्वायत्त से
माले आदेश

प्रमाण प्रस्तुत
में को प्रस्तुत
लि

कि दे
उत्पत्ति
को, राज्य
क्षेत्र की
वित्त-समय
प्रणियों की
स्त रूप से

(1)

2
53

भाग के कर्तव्य

लेखा तथा लेखा-
वि और सामान्य
या समय-समय पर
कार्यों का निष्पादन
बनाई गई किसी
जाते हैं या उसके

सम्बन्धित सरकार
ए। वह निर्धारित
को उन्हें प्रस्तुत
के मामले में वित्त
एकवार है। यह
में या संतोषजनक
आवश्यक हो उनकी

1.3 Any power exercisable by the Comptroller and Auditor General under the provisions of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971 or any other law may be exercised by such Officer of his department as may be authorised by him in this behalf by general or special order. The delegation is subject to the condition that except during the absence of the Comptroller and Auditor General on leave or otherwise, no officer shall be authorised to submit on behalf of the Comptroller and Auditor General, any report which the Comptroller and Auditor General is required by the Constitution or the Government of Union Territories Act, 1963 to submit to the President or the Governor of a State or the Administrator of a Union Territory having a Legislative Assembly as the case may be.

1.4 The Comptroller and Auditor General is responsible for watching the due compliance of

directions issued by the President to a State which are of financial or quasi-financial character.

Duties of the Indian Audit and Accounts Department

1.5 The Accountants General and the staff of the Indian Audit & Accounts Department shall, under such special and general directions as may be given by the Comptroller and Auditor General from time to time, perform such duties and functions, as are imposed on or undertaken by him under the provisions of the Constitution, or of any law made by Parliament.

It is essential that an Accountant General should work in close co-ordination with the Government concerned. He is entitled to seek the help of the Finance Ministry/Department in cases of failure of any authority to maintain the prescribed accounts or submit them on the due dates. He may seek their assistance where necessary to secure a satisfactory settlement of outstanding objections of accounting nature.

GAUHATI MEDICAL COLLEGE HOSPITAL
OUT-PATIENT DEPARTMENT
ADVICE SLIP



Service & Unit..... Date 13/6/07
Name B. Gupta Hospital No. 131249
Age 53 yrs Sex M Regd. No. 87507
Advice

Tuesday 12.06.07
DR. KAMTA BARUA, PROFESSOR
ডাঃ কামতা বরুয়া, অধ্যাপিকা

- ① Trixone "O" 200 - (10)
1 tab twice daily x 5 days
0 — 0
- ② Alzero - 10
1 tab daily at bedtime
0 — 0
- ③ Alex 103
3 - To reach there 2 days
0 — 0 — 0
- ④ Otrivine -
9 Nasal drop thrice daily

Adv.

13/6/07

- ① To avoid dusty environment.

27/6/08

To continue No 2, 3 & 4.

✓

- By (i) Trixone "O" 200 (10)
1 tab twice daily x 5 days
(2) Alzero - 10
1 tab daily at bed time
(3) Alex 103 thrice daily
(4) Otrivine
Nasal drop thrice daily.

sd/- 13.6.06

Adv. (i) To avoid dusty environment.

27.6.06

to continue No. 2 & 4

sd/

Certified to be
true copy
Tealukden
(Advocate)

TO

The Sr. Deputy Accountant General
(Administration)
O/o the A.G. (A&E) Assam Beltola
Guwahati-29

Sub:- Disbursement of Salary for
January 2007 in SBI A/c

Sir,

I beg to inform you that the salary for January 2007 has not deposited in my bank A/c of SBI Dispur on 31/01/2007 by this office. It has come to my knowledge after enquiry of my bank A/c.

The matter of non-remittance of salary for January 2007 kindly be examined and let me know the reason behind and ^{arrange} deposit the pay for January 2007 by to-day. This may kindly be treated as Most Urgent.

Dated, Guwahati.
08-02-2007

yours faithfully
Bimalendu Gupta
Sd/-

PS to DAG (A)
08/02/07

Certified to be true
copy
Tealukdar
(Advocate)

To
The Sr. Deputy Accountant General (Administration)
O/o the A.G. (A&E) Assam, Beltola,
Guwahati-29.

Subject : Disbursement of salary for January 2007
in SBI A/c

Sir,

I beg to inform you that the salary for January, 2007 has not deposited in my bank A/c of SBI Dispur on 31.1.2007 by this office. It has come to my knowledge after enquiry of my Bank A/c

The matter of non-remittance of salary for January, 2007 kindly be examined and let me know the reason behind and ~~arrange~~ arrange to deposit the pay for January, 2007 by to-day. This may kindly be treated as Most Urgent.

Dated, Guwahati

Yours faithfully
sd/- Bimalendu Gupta

Sd/ P.S. to DAG (A) 08.02.2007

To

The Accountant General (A&E) Assam,
Maidamgaon, Beltola,
Guwahati-29.

Subject : Non-payment/remittance of Salary for
January, 2007 to my Bank A/c of SBI
Dispur, Guwahati.

Sir,

I beg to state that without assigning any reason arbitrary and malafide way the administration till now my salary for the month of January, 2007, not deposited to my bank account of SBI, Dispur. The matter of non-payment/remittance was brought to the notice of the Sr. Deputy Accountant General (Admn.) of this office on 08.02.2007.

I therefore request you kindly arrange to pay/remitt my salary for the month of January, 2007 to my Bank Account by today of 9.2.2007 to avoid financial hardship and harassment. For this act of your kindness I shall ever pray.

Dated, Guwahati
the 9th Feb., 2007

Yours faithfully

(Bimalendu Gupta)
Sr. Accountant

Copy submitted to the Comptroller and Auditor General of India, New-Delhi for necessary action to release of my payas stated above (Attention Pr. Director Staff).
by post and by Fax.

(Bimalendu Gupta)
Sr. Accountant

hp officejet 4200 series 4255

Personal Printer/Fax/Copier/Scanner

Log for
Dispur Internet Centre
03612611632
2/15/2007 10:55AM

Last Transaction

Date	Time	Type	Identification
02/15	10:54a	Fax Sent	

Duration	Pages	Result
0:34	1	OK

*Certified to be true
copy
Kallukdas
(Advocate)*

*Submitted to A.G.
(Adv.) on
9/2/07*

Post

Annexure - 5

16

OFFICE OF THE ACCOUNTANT GENERAL (A&E) ASSAM,
MAIDAMGAON::BELTOLA::GUWAHATI-781029

No. Admn.-2/2-3/2001-03/822

Date-13.02.2007

With reference to his representation dtd. 08.02.2007 addressed to Sr. Deputy Accountant General regarding disbursement of salary for the month of January'2007, Sri Bimalendu Gupta, Sr. Acctt. is hereby informed that, his salary for the month of January, 2007 has been stopped on the basis of Sr. Deputy Accountant General (A/C)'s order dtd. 12.01.2007 at P/13^N in the file No. CA-4/CON/2006-07.

This disposes his application dtd. 08.02.2007.

Authority - Sr. D.A.G. (Admn.)'s order dtd 12.02.2007 at P/9^N of File No. Admn.-2/2/2001-03.

Sri Bimalendu Gupta, Sr. Acctt.
CA-4 Section.

Accounts Officer (Admn.)

certified to be true
copy
Jankuadar
(Advocate)

To

The Sr. Deputy Accountant
General (A/Cs) O/o the A.G.
(A/E) Assam, Beltola
Guwahati-29.

Madam,

I beg to state that the Accounts officer i/c (Admn) informed vide letter dated 13-02-2007, the salary for the month of January 2007 has been stopped under your letter dated 12-01-2007 at P/13^N in file No. CA-4/Con/2006-07, I am to request you kindly arrange to issue a copy of the letter dated 12-01-2007 to me to-day as stated above for record and ready reference.

Dated, Guwahati
28-02-2007

Yours faithfully
Bimalendu Gupta
Sr. Acctt/CA-4

Charitable
28/2/07

To

The Sr. Deputy Accountant General (A/Cs)
O/o the A.G. (A/E) Assam, Beltola
Guwahati-29.

Madam,

I beg to state that the Accounts officer i/c (Admn) informed vide letter dated 13.2.2007, the salary for the month of January, 2007 has been stopped under your letter dated 12.01.2007 at P/13 N in file No. CA-4/Con/2006-07, I am to request you kindly arrange to issue a copy of the letter dated 12.01.2007 to me to-day as stated above for record and ready reference.

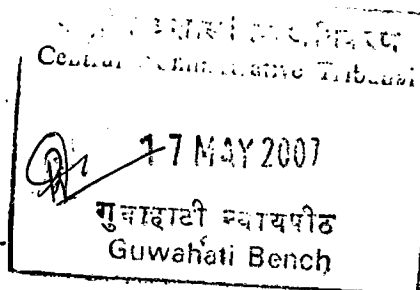
Dated, Guwahati
28.2.2007

Yours faithfully
sd/ Bimalendu Gupta
Sr. Acctt/CA-4.

Received by PS to
DAG(A?cs).

Certified to be
true copy
Bimalendu
(Advocate)

...



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

O.A. NO. 86 OF 2007

Sri Bimalendu Gupta

...Applicant

-Versus-

Union of India & Ors.

....Respondents

The written statement on behalf of
the Respondents No.ii to x above
named-

WRITTEN STATEMENT OF THE RESPONDENTS

MOST RESPECTFULLY SHEWETH:

1. That with regard to the statement made in paragraph I,II and III of the instant application those are within specific knowledge of the applicant and the Respondents have no comment to offer.
2. That as regard to the statement made in paragraph IV.1, IV.2 and IV.3 of the instant application the Respondents beg to offer no comment.
3. That with regard to the statement made in paragraph IV.5 of the instant application the Respondents beg to state that what has been stated by the applicant Sri Bimalendu Gupta, Senior Accountant in CA 4 Section of the office of the Accountant General (A&E),

Contd...P/-

Filed by

The respondents
through
Bimalendu Gupta
Sr. Case

Assam is not factually correct. The primary function of the Accountant General (A&E), Assam is compilation and preparation of the accounts of the Government of Assam based on accounts rendered to him by treasuries and other accounts rendering offices of the State Government. Handling treasury vouchers therefore is part of the normal duty of an Accountant/Sr. Accountant in this office. the applicant had represented and sought from the office certain articles like gloves and mask for his use while working in the Section. Since there is no codal provision for supply of such items from office to the Dealing Assistants for their day to day work in the Section, the applicant was appropriately informed vide letter No. AG(A&E)/Assam/Rec/3-3/2006-07/177 dtd.

18.9.2006. The office makes the best efforts to keep its premises neat and clean as far as practicable. Incidentally, it is a matter of fact that no complaint has been received from other officials in the office in this regard to the extent of being unable to work without gloves and masks. It is therefore evident that Sri Gupta is simply making use of this as an excuse for not carrying out his official duty and it is an effort on his part to divert attention from the real issue which is his dereliction of duty and conduct unbecoming of a Government Servant.

A copy of the letter dated 18.9.06 is annexed herewith as Annexure - I.

Contd...P/-

4. That with regard to the statement made in paragraph IV.6, IV.7 and IV.8 of the instant application the Respondents beg to state that-

i) The salary of the applicant was withheld for his not attending to his officially allotted works in spite of having put his signature in the Attendance Register of his Section.

ii) The applicant has not been performing his officially allotted work and Memos were issued from time to time to him to clear his pending work. However, he has not heeded to the orders of his higher authorities.

Copy of a statement showing the number of memos issued to him from time to time is annexed as Annexure - II.

iii) The Report of negligence of work was submitted by the Sectional incharge. On the basis of this report, administrative decision was taken to withhold his salary till he completed all pending work. Subsequently, an administrative decision has also been taken vide order No. CA-4/CBB/2006-2007/107 dated 27.3.2007 to treat the days on which the applicant has put his signature on the Attendance Registrar as a mark of his attendance in office but did not work as dies non Since the

Contd...P/-

applicant is either unavailable in the Section or, when available, has refused to receive the communication of this decision, he could not be informed of it so far. Further the applicant has been absenting himself from office from 22.3.2007 without authority.

Copies of the report of negligence of work submitted the sectional incharge and Annexure-III. IV.

iv). The applicant represented vide his letters dated 26.2.2007 to the Accountant General and dated 28.2.2007 to the Sr. Deputy Accountant General (A/Cs), regarding non payment of his salary for January, 2007. The reason for withholding the applicant's salary has been explained in the foregoing paras. In response to his representation, the position was explained to the applicant vide letter No. CA4/CON/2006-07/104 dated 22.3.2007. However, the applicant remained absent from office without any authority from 22.3.07 to 26.3.07 which had three working days. On 27.3.07 and 28.3.07 the applicant attended office but refused to receive the said official communication dtd. 22.3.07. On account of the applicant's habit of attending office without doing any work and of leaving his Section after putting his signature in the Attendance Register without authority, his work is having to be reallocated to other staff on payment of honourarium basis, thus consisting the exchequer additionally.

Copies of the letter dtd. 22.3.07 and report dtd. 28.3.07 are annexed herewith as Annexure - V and VI.

v) The stoppage of salary of the applicant was due to his not having performing of his "officially allotted work." This has nothing to do with his being nominated for training at Regional Training Institute of IA & AD at Shillong during the period February 1st to 7th 2007. Nomination and sending of officials for training are part of normal official duty. However, it has been reported by RTI, Shillong, the applicant had not attended the training. This is another instance of his dereliction of duty. As regards TA/DA, the applicant neither applied for any advance nor submitted any claim on this account, and therefore no TA/DA was paid to him. Hence, his statement that the Respondents are silent about payment of TA/DA for training is irrelevant and contrary to TA rules and procedures, and by mentioning non payment of TA/DA for which he had not applied. Thus the applicant is trying to mislead the Tribunal by mentioning his nomination for RTI training. As a matter of fact, in defiance of official orders, the applicant did not attend the said training programme.

A copy of the letter dtd. 4.4.07 by RTI, Shillong is annexed herewith as Annexure-VII.

Contd...P/-

5. That with regard to the statement made in paragraph IV.9 of the instant application the Respondents beg to state that the statement made in the petition is based on not fact. The reply to the applicant's representation dated 28.2.07 was given vide this office letter dated 22.3.07. However, since the applicant was absent without authority, the letter could not be handed over to him. Sri Gupta attended office subsequently but refused to receive the official reply. Therefore, there is no question of suppression of information or denial of natural justice to the applicant. The applicant is distorting factual position of his attendance in office clearly for the reason that even though he may be physically present in the office premises, he did not attend to any work allotted to him. In evidence of the fact that the work allotted to him is lying as arrears work, and that some of his work has had to be got done by other staff on honourarium basis.

Non performance of duty by the applicant over long periods has in fact been affecting performance of the office with regard to work schedule and targets.

Non performance of duty by the applicant is causing loss to Government as the work allotted to him has to be got done by payment of honourarium to other employees of the office.

This in turn, has the potential of adversely impacting the quality of service the office of the Accountant General A&E renders to the Government of

Contd...P/-

Assam and its employees on behalf of the Comptroller & Auditor General of India, an authority under the Constitution of India. The applicant's conduct too has a deleterious effect on his colleagues in the office.

6. That with regard to the statement made in paragraph IV.10 of the instant application the Respondents beg to state that the statement submitted by the applicant is factually incorrect as explained in the foregoing paras. The applicant was asked vide memo No. SR.DAG(A)/Misc/06-07/1 dated 5.2.07 to complete all his pending work by 12/2.07 and submit completion report, failing which disciplinary action would be initiated against him. In spite of this, he did not attend to his allotted work but on 12.2.07 he sought extension of time to furnish the reply of Memo dated 5.2.07 on the ground that he was busy with regard to medical consultation of his wife. The Respondent begs to place before the Hon'ble Tribunal that the applicant did not complete his work and failed to file a completion report by 12.2.2007 and instead sought unnecessary long time of 10(ten) days for furnishing a reply. It is further submitted that Shri utterly neglected his official duty and failed to discharge his responsibility as a public servant, it is submitted that the administration of this office has maintained transparency and has given ample opportunity to the applicant to attend to his allotted work before the decision to withhold his salary was

Contd...P/-

made. It is restated that the said decision is a consequence of his wilful and continued refusal to perform his duty, and not at all an arbitrary decision.

A copy of the letter dtd. 12.2.07 is annexed herewith as Annexure - VIII.

7. That with regard to the statement made in paragraph IV.11 of the instant application the Respondents beg to state that the facts stated in para IV.11 is not correct. The order of the Hon'ble Tribunal dated 28.11.01 in OA No. 245/2001 set aside the order of dies non imposed on the applicant from 27.9.98 to 12.11.98 and directed the applicant to make a representation within a period of 15 days from the date of receipt of the order dated 28.11.01 and the respondents to reconsider the representation of the applicant within a period of 2 months from the date of receipt of representation.

The applicant submitted his representation dated 7.12.01 to Respondent No.3 which was received in office on 18.12.01. Based on the representation, the facts of the earlier decision was reviewed thoroughly and carefully based on records relating to works allotted to the applicant and the work actually done by him and also in the light of the principles implied in the Hon'ble Tribunal's said order. Based on the review, it was decided to treat dies non only those days on which

Contd...P/-

the applicant had put his signature in the Attendance Register but did not do any work. In other words, it was decided not to treat as dies non (a) the day (12.11.1998) on which the applicant attended Hindi Examination at Maligaon, and (b) Saturdays (a total of 6 days), Sundays (a total of 7 days) and closed holidays (a total of 4 days) during the period from 27.9.1998 to 12.11.1998. It was also decided to refund the pay and allowances that had been recovered from the applicant in respect of the said days. The reviewed decision was issued in the form of Office order No. Admn.1/PC/B-63/2001-2002/3407 dated 5.2.2002. Thus, the number of dies non declared in respect of the applicant stood reduced from 47 days to 29 days. Consequently a total amount of Rs.4637/- (Rupees four thousand six hundred thirty seven) only was paid to the applicant under Bill No.1770 dated 11.2.2002. It is humbly submitted before the Hon'ble Tribunal that in course of the review it was confirmed that the applicant had not attend to his work during the period in question. It is also submitted that Hindi Training classes are held for a part of the day and during the rest of the day an official like the applicant deputed to Hindi Training is duty bound to do his or her allotted work in office.

The applicant's salary for the month of January, 2007 was withheld on account of his not doing any work and negligence of duty, and this has no rela-

Contd...P/-

tion to the dies non served on him by the earlier order dated 5.2.2007 and is also not linked to his having filed OA No. 8/2007 before the Hon'ble Tribunal. It is humbly submitted that at the time of making the decision to withhold the said salary of the applicant, the Respondents were not aware of the said O.A. No. 8/2007. It is submitted that a copy of the said OA was received in this office only on 3.4.2007 whereas the decision to withhold the applicant's salary for the month of January, 2007 had been taken earlier vide communication issued by CA-4 Section, in which the applicant is posted, to Administration Section bearing No. CA-4/CDB/2006-2007/96 dated 16.1.2007, and the communication issued by Administration Section to the applicant vide No. Admn.2/2-3/2001-03/822. The Respondents beg to state that by linking up the two things, namely the decision to withhold his salary and the OA filed by him in the Hon'ble Tribunal the applicant is trying to bring in extraneous material and confuse and mislead the Hon'ble Tribunal. The Respondents beg to submit that the decision to withhold the said salary of the applicant has nothing to do with what he calls his ability to meet his legal cost of justice in the matter of medical or any other claim, and there is no question of violation of Fundamental Rights of Applicant nor any intention on the part of Respondents to cause mental harassment or financial hardship to Applicant.

Contd...P/-

The Respondents further beg to state that the actions taken by Respondent No. 4 Shri Tarini Mohan Roy, IAAS and Respondent No. 9 Smt Sukla Das in this matter and as enunciated in the foregoing paras are in course of discharging their official duties and responsibilities, and that therefore there is absolutely no reason and ground to implead them in their personal capacity. It is humbly submitted that the applicant's charges are not based on facts or logic and amount to irresponsibility, mischief, malice, vendetta and conduct unbecoming of a Government Servant. By bringing up personal charges against these two honest officials, the applicant is trying to destroy their good reputation and mislead the Hon'ble Tribunal.

Copies of the order dtd. 5.2.02, order dtd. 16.1.07 and order dtd. 13.2.07 are annexed herewith as Annexure - IX, X & XI.

B. That with regard to the statement made in paragraph IV.12 of the instant application the Respondents beg to state that the respondents outright that the Respondents have any intention or habit of harassing him. The Respondents also beg to state that the statement of applicant is incorrect and that Sri Gupta is misleading the Hon'ble Tribunal by making factually incorrect statement. It is humbly submitted that whate-

Contd...P/--

ver recovery has been made from the applicant's pay has been made in accordance with relevant rules.

As regards recovery of Rs.1712/- in the month of December, 2005, and the recoveries made thereafter, the same was made on account of the loan availed of by him from Assam Civil Accounts Association Co-operative Mutual Benefit Fund Limited, Shillong, Civil Accounts Sports & Cultural Club, and Staff Association in accordance with relevant Rules and prior consent of the applicant as is the practice followed in the office and applicable to all similarly placed employees of the office. The matter was explained to applicant vide letter No. Adm. II/Bills/Ghy/Misc/Part-1/05-06/613 dtd. 27.1.2006.

It is denied unequivocally that it is the intention of the Respondents to harass applicant by making recovery from his pay as alleged by him. It is humbly submitted that, on the contrary, it is applicant whose cantankerous actions amount to harassment to your humble Respondents and is resulting in wastage of valuable time and energy of the Respondents in the conscientious discharge of their official duties.

It is humbly submitted that as regards the charges brought up by the applicant in OA No. 8/2007 as mentioned by him in his application, the requisite written statement will be made before the Hon'ble Tribunal in connection with that OA. It is humbly submitted that OA

Contd...P/-

No. 8/2007 was received by the Respondents on 3.4.2007 which was subsequent to receipt of the instant O.A.

9. That with regard to the statement made in paragraph V.(i) to V(v) of the instant application the Respondents beg to state that the allegations raised by the applicant are not correct, the applicant is in the habit of either remaining absent without authority or he of putting his signature in the Attendance Register and thereafter leave the office without permission. Thus the applicant left his officially allotted work unattached and violated provisions of Conduct Rules. the applicant was asked to explain his negligence of duties several times, and advised to attend to his work. He has however failed to show any improvement. Hence the administrative decision was made to withhold his salary from January, 2007 on the principle of "no work no pay" until he completed his pending work. In view of these reasons, it is unequivocally denied that the applicant has been denied any justice or deprived of any of his fundamental rights.

The grievances alleged by applicant are clearly not based on fact and truth and his application should therefore be rejected outright.

10. That with regard to the statement made in paragraph VI and VII of the instant application the Respondents beg to offer no comments.

Contd...P/-

11. That with regard to the statement made in paragraph VIII(i) and VIII.(iii) of the instant application the Respondents beg to state that in view of the facts and circumstances stated in the foregoing paras, no ground exists or justification for granting relief as sought for by the applicant. In other words, no salary is payable to the applicant on the principle of "no work no pay" and that the said administrative decision does not constitute misuse of power and is not intended to cause harassment to the applicant.

For the reasons laid out in the aforementioned paras, the Respondents beg to state that there is no ground or need for granting any compensation as sought for by the applicant.

12. That with regard to the statement made in paragraph IX of the instant application the Respondents beg to state that there is no ground for issuing any interim order requiring payment of the withheld salary for the month of January, 2007 to the applicant as sought for by him. It is prayed that this Hon'ble Tribunal be graciously pleased to dismiss the petition of Shri Bimalendu Gupta outright.

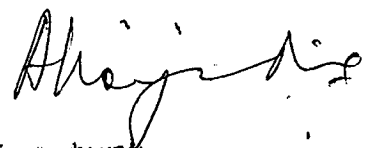
83

- 15 -

VERIFICATION

I, AKOIJAM RINA D/o AKOIJAM RANBIR
aged about 36 years, R/O BELTOLA GUWAHATI
District KAMRUPO and competent officer of the
answering respondents, do hereby verify that the state-
ment made in paras are true
to my knowledge and those made in paras
being matters of record are true to my information
derived therefrom which I believe to be true and the
rests are my humble submission before this Hon'ble
Tribunal.

And I sign this verification on this th day
of 2007 at Guwahati.



Signature

वरिष्ठ उप महालेखाकार

Sr. Dy. Accountant General

महालेखाकार (उप) (ल. ए. ए. ए.)

O/O the Accountant General (U.A.)

बस्ता, गुवाहाटी-

Assam, Guwahati-

No. AG(A&E)/Assam/Rec©/3-3/2006-07/ 177

Date : 18th Sept., 2006.

To

The Section Officer
I/c. CA-4 Section.

Sub : Requisition for Gloves and Mask.

Sir,

With reference to your requisition no. nil dated 15.05.2006 for the supply of above mentioned ~~subject~~ items, I am to state that there is no such Codal provision to supply Gloves and Masks to the Dealing Assistant in CA Section for their day to day work in the Section as these are non-scale items.

Yours faithfully,

Sd/-
Sr. Accounts Officer
I/c. Rec-C Sec.

No. AG(A&E)/Assam/Rec©/3-3/2006-07/ 178-180 did. 18.09.2006
Copy for information and necessary action to :-

1. PA to Sr. DAG(A).
2. AAO/Confidential Cell.
3. SO/CA-4 Section.

[Signature]
Section Officer
I/c. Rec©

True Copy
A.C. Das.
Advocate

11/07
1c CA-

17 Annexure II

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Chronology of explanations called/ replies/applications received and other related information in respect of negligence of work by Shri Bimalendu Gupta Sr Accountant

Sr No	Memo No.	Memo date	Reply returnable	Reply received/ Not received	Remarks
1	Memo No. CA-4/2005-06/01	30-03-06	Within 3 days	Not received within 3 days	Allotted work not attended to.
2	Memo No. CA-4/2005-07/02	27-04-06	Within 3 days	Not received within 3 days	<ul style="list-style-type: none"> Allotted work not attended to. Application received from Shri Bimalendu Gupta Sr Acct on 8-05-06 on above 2 memos. Reply turned down vide SrDAG memo dated 06-06-06
3	Memo No. Sr DAG(A)/CA-4/BG/53	06-06-06	Within 10 days	One Reply received on 16-6-06, another on 04-7-06	<ul style="list-style-type: none"> Imputations of misconduct also issued with memo. Reply to memo dated 27-4-06 turned down. Reply incomplete. Did not reply to imputations of misconduct. Sought extension. Allotted work not attended to.
3	Memo No. CA-4/Con/2006-07/80	08-06-06	Within 3 days	Reply received on 06-7-06.	<ul style="list-style-type: none"> Extension sought for 15 days vide application dated 14-6-06. Allotted work not attended to.
4	Memo No. CA-4/XON/2006-07/85	01-8-06	Within 3 days	<ul style="list-style-type: none"> Memo could not be served as Shri Bimalendu Gupta Sr Acct was unavailable. Allotted work not attended to.
5	Memo No. CA-4/CON/2006-07/89	<u>12-01-07</u>	Within 3 days	Reply not submitted within 3 days.	<ul style="list-style-type: none"> Allotted work not attended to.
6	Memo SrDAG(A/cs/Misc/06-07/1	<u>05-02-07</u>	By 12-2-07	No reply in time.	<ul style="list-style-type: none"> Extension for 10 days sought for reply. Reply submitted on 20-2-07 Allotted work not attended to. (See Report of Accounts Officer-CA sections placed at page 26 c of file No. CA-4/CON/2006-07/1)

True copy
N. C. Das
Advocate

-18- (22)

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This with reference to Memo NO.Sr. DAG(A/Cs)/Misc/06-07/1 dated 05.02.2007 issued to to Shri Bimalendu Gupta, Sr. Accountant, CA-4 section with copy to me. Shri Gupta was directed vide memo under reference to complete all his pending works and submit completion report and explanation by 12.02.2007. But Shri Gupta has neither completed the pending works nor submitted any report or any explanation to me till date. As per Attendance Register he was found present on 12.02.2007, but he was not at all in the section for the whole day. He was inquired of in the section on 12.02.2007 4 (four) times viz. at 1130 hrs, 1300 hrs, 1500 hrs and 1630 hrs, but he was not at available in the section. The following is the present position of his pending work as on today i.e. 15.02.2007.

Treasury allotted	No. & month of accounts pending (MH 2202)
Dispur-905	03 (04/06, 05/06 and 06/06)
Rangia-931	03(04/06, 05/06 and 06/06)

Submitted for Sr. DAG(a/cs) perusal please.

Sr. DAG(A/Cs)

A.O/CA-4

15/2/07

8A

-19-

Annexure - III

28

In spite of repeatedly ^{verbal} warning and memo vide no. CA-4/2005-06/1 dt. 30.3.06, CA-4/2005-07/2 dt. 27.4.06 and CA-4/CON/2006-07/80 dt. 8.6.06, Shri Bimalendu Gupta, S.A. has not yet turned up to his allotted duties. The above memos with reply have already been sent to Confidential Cell for further action.

It is found that Shri Gupta has been leaving office just after signing the attendance register. He is ~~hardly~~ hardly found seated in his seat. All books of his table ~~are~~ have been accumulated. The accounts from Sep/05 to March/06 relating to Dispen & Rangin try have been kept pending till date.

Shri Gupta has not attended his allotted duties from 8.3.06 to 30.3.06 and from 24.4.06 to till date. The matter has already been brought to the notice of Administration from time to time.

10/8/06
Accounts Officer
- A. Group

Copy to:-

✓ AAO, Confidential Cell.

True copy
N.C. Date
Advocate

-20- Annexure IV

OFFICE OF THE ACCOUNTANT GENERAL(A&E) ASSAM, MAIDAMGAON,
BELTOLA GUWAHATI- 781029.

NO. CA-4/CON/2006-07/PART/ 107

DATED 27.03.2007

During the accounting year 2005-06, Shri Bimalendu Gupta, Senior Accountant, CA-4, was due to complete the accounts of Dispur and Rangia Treasury under Major Head 2202 within target date. However, 7 months accounts of two treasuries viz. Dispur and Rangia numbering 14 accounts (for the accounting year 2005-06) from September 2005 to March 2006 fell into arrears since he did not attend to his allotted work and consequently the unattended work had to be completed by re-allocating these to other officials in the section on payment of honorarium.

Further, by March'07, he was to have completed 8 accounts (i.e for April'06 to July'06) for the accounting year 2006-07. He has not attended to this work also. As a result, the compilation work in his allotted table fell into arrears. Shri Gupta, Senior Accountant was served several memos in this regard.

Thus he was given opportunities to explain as to why disciplinary action should not be taken against him for his gross negligence of duty and unauthorized absence from the section. However he has shown no improvement in his behaviour

Shri Gupta also used to leave the section just after signing the Attendance Register without proper permission and signing of the Attendance Register over the 'crossed' marks without noting the time in the Attendance Register. More recently, it is observed that he used to put his signature with time over the 'crossed & A' marks on the day following the day on which the Attendance Register was closed with 'cross' mark and 'A' mark in the afternoon.

Thus, the number of days during March 2006 to 23.03.2007 during which Shri Gupta performed no duty and but signed the Attendance Register is 213 days as detailed in the table below. This 213 days excludes the CL /EL, Saturdays, Sundays, Holidays and Bandh.

Sl no	Month/Period	Days during which no work was done	No. of days
1	08.03.06 to 30.03.06	8,9,10,13,14,15,16,17,20, 27,28,29 & 30	13
2	24.04.06 to 30.04.06	24,25, 26, 27 & 28	5
3	01.05.06 to 31.05.06	1,3,4,5,8,9,10,11,12,15,16,17,18,19,22,23,24,25,26,29	20
4	01.06.06 to 30.06.06	1,2,5,6,7,8,9,12,13,14,15,16,19,20,21,22,23,26,29,30	20
4	01.07.06 to 31.07.06	3,4,5,6,7,17,18,19,20,21,24,25,26,27,28,31	16
5	01.08.06 to 31.08.06	1,2,3,4,7,8,9	7
6	01.09.06 to 30.09.06	4,5,6,7,8,11,12,13,14,15,18,19,20,21,22,25,26,27,28	19

The C.A.
N. C. Ray
Advocate

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7	01.10.06 to 31.10.06	3,4,5,6,9,10,11,12,13,16,17,18,19,23,24,26,27,30,31	19
8	01.11.06 to 30.11.06	1,2,3,6,7,8,9,10,13,14,15,16,17,20,21,22,23,24,27,28,29,30	22
9	01.12.06 to 31.12.06	1,4,5,6,7,8,11,12,13,15,18,19,20,21,22,26,27,28, 29	19
10	01.01.07 to 31.01.07	2,3,4,5,8,9,10,11,12,17,18,19,22,23,24,25,29,30,31	19
11	01.02.07 to 28.02.07	2,5,6,7,8,9,12,13,14,15,16,19,20,21,22,23,26,27,28	19
12	01.03.07 to 23.03.07	1,2,5,6,8,9,12,13,15,16,19,20,21,22,23	15
	Total		213

After careful consideration of the facts and circumstances of the case, the undersigned orders that the 213 days on which Shri Gupta performed no duty but signed the Attendance Register during the period from 08.03.06 to 30.03.06 and from 24.04.06 to 23.03.07 be treated as dies-non in terms of GI Instruction (6) and (7) below Rule 11 of CCS(CCA) Rules 1965. The period will neither count as service nor be construed as break in service.

[Authority: A.G.'s order dated 27.03.2007 at page 6N in the File No.CA-4/CON/2006-07/PART]

sd/-

Senior Deputy Accountant General (Accounts & VLC)

To,

Shri Bimalendu Gupta, Sr. Acctt.,

CA-4 section

NO. CA-4/CON/2006-07/PART/ 108-113

DATED 27.03.2007

Copy for information and necessary action to:

1. Senior Deputy Accountant General (Admn)
2. Accounts Officer, i/c Admn.1 and 2 section
3. Asstt. Accounts Officer, i/c Admn.1
4. Asstt. Accounts Officer, i/c Admn.2
- ✓ 5. Asstt. Accounts Officer, i/c Confidential Cell.
6. P.S. to Accountant General

Accounts Officer

CA - 4 section

-22-

Annexure - V

20

(Signature)

**OFFICE OF THE ACCOUNTANT GENERAL (A&E)
ASSAM, MAIDAMGAON, BELTOLA, GUWAHATI:29**

NO. CA-4/CON/2006-07/104 dated Guwahati the 22nd March 2007

With reference to your letter dated 26.2.07 addressed to the Accountant General (A&E) Assam and letter dated 28.2.07 addressed to Sr. Deputy Accountant General (Accounts), you are hereby informed that your pay for the salary month of January 2007 has been stopped until work allotted to you which has fallen into arrear is cleared. A copy of order dated 12.1.2007 stopping your pay is also enclosed as requested by you.

You were allotted the accounts of two treasuries viz. Dispur and Rangia under Major Head 2202 as noted in the Work Allocation Register (page no. 13) which was also duly acknowledged by you on 19-11-03. For the accounting year 2006-07, accounts related to April '06, May '06, June '06 and July '06 are to be completed by 12-01-07, 07-02-07, 28-02-07 and 21-03-07 respectively. Thus, during January-February '07, four numbers of accounts i.e accounts of Rangia and Dispur treasuries for the months of April '06 and May '06 were due to be completed by you which was not done. As a result, the section had to redistribute the work to another dealing hand, namely Shri Dibyajyoti Bhattacharjee Sr Acctt, who completed part of the work i.e April '06 and May '06 accounts of Dispur treasury in addition to his normal work. Hence, till date, for the accounting year 2006-07, out of a total of 8 accounts due from your table, 6 (Six) accounts are still pending against your table.

It is also not clear from your letter dated 26-2-07 which information you have alleged to be wrong that has formed the basis for stopping your salary for January.

Attendance Register is available with the concerned Supervisory Officer depending on the time of the day and no provision laid down in the Office Procedure Manual has been flouted. This system in the office has been working well and other

*True Copy
N. C. Das
Asstt*

32

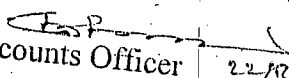
23 -

officials in the office have found no occasion to complain about it. Your contention about the system for keeping the Attendance Register is therefore not in line with the procedure laid down in this regard.

As brought to your notice from time to time, although you put your signature on the Attendance Register, you are habitually absent from the Section and you have not been attending to your allotted official work. Consequently your official work in the Section have been falling into arrears delaying, among others, sending of Vouchers / Schedules to GPF and Loan Sections. Further the work in GPF and Loan Sections have been adversely affected which in turn have the potential of impairing the interest of the employees of Government of Assam so far as the accounting work of their GPF subscriptions and Loan recoveries are concerned. You are aware that the State Government employees compulsorily subscribe to GPF and many of them have availed of Long Term Advances (House Building Advance, Motor Car Advance etc.) from the Government.

It is brought to your notice again that administration is having to manage the work allotted to you, but left unattended by you, by reallocating to other officials on payment of honorarium. Your negligence to do your official work is thus causing loss to Government and is creating an environment of indiscipline and insubordination.

You are hereby informed that salary for the month of January remains withheld since you have not performed your officially allotted Sectional work.


Accounts Officer 22/1/2017
I/C CA-4 Section

To

Shri Bimalendu Gupta, Sr. Accountant, CA-4 Section.

S

24 - Annexure - VI 82

**OFFICE OF THE ACCOUNTANT GENERAL(A&E) ASSAM,
MAIDAMGAON, BELTOLA, GUWAHATI-7810029.**

As Shri Bimalendu Gupta Sr. Acctt., CA-4 section was unavailable in the section on 22.03.2007, Shri Kabin Kalita, Gr'D' (Casual) was asked to hand over the letter bearing NO.CA-4/CON/2006-2007/104 dated 22.03.2007 to Shri Gupta, if he is found in any section/branch in the office. It is reported by the Gr'D' that Shri Gupta is not found available in the office on 22.03.07 up to 16.30 hours and hence the letter could not be delivered to him on that date.

Further, Shri Gupta was also not available in the section from 930 hrs to 1730 hrs on 23.03.2007 and hence the letter could not be delivered. On 26.03.2007, he was absent without prior intimation. On 27.03.2007, he refused to receive the letter in presence of A.A.O, CA-2 section, who was also present in my chamber on the ground that he could not receive the letter as he could not read without having spectacles which he left at home.

On 28.03.2007, he has refused to receive the letters bearing NO.CA-4/CON/2006-2007/104 dated 22.03.2007 and NO.CA-4/CON/2006-2007/PART/107 dated 27.03.2007 on the ground of not having spectacles with him as he could not read without it from Shri Kabin Kalita, Gr'D' (Casual) who was asked to deliver the same.

Further, I personally approached Shri Gupta, who was in the PAO section of this office and asked him to receive the letters. This time also he has refused on the same ground in front of the Staff of PAO section as well as Accounts Officer, i/c Admn, who was also present at that time. His behave and misconduct has been observed by all present in PAO section.

Sd/-
ACCOUNTS OFFICER
I/C CA-4 section.

Dated 28.03.2007.

No.CA-4/CON/2006-2007/PART/114-116
Copy for information and necessary action to:

P.S. to Sr DAG(Admn)

P.S. to Sr DAG(A/cs & VLC)

Asstt. Accounts Officer, i/c Confidential Cell.

[Signature]
ACCOUNTS OFFICER
I/C CA-4 section

*True Copy
N.C. Das
Advocate*

APR-2007 12:28

R.T.I. SHILLONG

913642223314

Annexure - VII

25

क्षेत्रीय प्रशिक्षण संस्थान
भारतीय लेखा तथा लेखापरीक्षा विभाग
उत्तर-पूर्वी क्षेत्र/समेत कार्यक्षेत्र, शिल्लोंग- 793 003
REGIONAL TRAINING INSTITUTE
INDIAN AUDIT & ACCOUNTS DEPARTMENT
NORTH EASTERN REGION
LACHATELEITE COMPLEX
LAITUMKHRAH, SHILLONG - 793 003
PHONE: (0364) 2222594, 2210203, 2220381
FAX: (0364) 2223314
E-MAIL: rtishg@sonchornet.in

No. RTI/Gen/Course-21/2006-07/08

04 APR 2007

To

The Sr. Deputy Accountant General (Admn.),
O/o the Accountant General (A&E), Assam.
Maidamgaon, Beitola.
Guwahati - 781 029

Sub:- Training on Special Course on Government Accounts and Certification
Standards of Finance & Appropriation Accounts held from 01-02-2007 to 07-
02-2007.

Sir,

With reference to your letter No. Admn.1/1-10/2006-07/76 dated 03-04-2007
on the subject cited above, I am to inform you that Shri Bimalendu Gupta, Sr.
Accountant of your office has not attended the said course held from 01-02-2007 to
07-02-2007.

This is for your information and necessary action at your end please.

Yours faithfully,

[Signature]
Officer on Special Duty

*True Copy
N.C. D/S
Amul*

Annexure ~~20~~ VIII

18

To 26 -

The Sr. Deputy Accountant
General (Aces),
Of the A.C. (A & E) Assam, Dibrugarh
Guwahati-29.

Subj: Explanation on memo dated
12-01-2007

Sir,

With reference to your memo No. Sr.DAG.
(Aces)/Mirc/06-07/1 dated 05-02-2007 on the
Subject, I am to state that the reply
of the said memo could not be submitted
due to very much busy with regard to
medical consultation of my wife. However,
I may kindly be allowed ten days time for
furnishing the reply.

Dated Guwahati
12-02-2007.

Yours faithfully
Bimalendra Singh
Sr. Asstt. / CA-4.

1/19/2007

True copy
N.C. Pas
also c/c

payment held

27

4/5 *23*
85

As the work of his table is lying unattended, the salary for the month of January 2007 of Shri Bimalendu Gupta, senior accountant, may be stopped till arrear work is pulled up.

[Authority: Sr. DAG's(Accounts) order dated 12.01.2007 at p/13N in the File No. CA-4/CON/2006-2007]

Supervisor

Sd/-

I/c CA-4 section

Dated 16.01.2007.

No. CA-4/CON/2006-07/ 96

Copy for information and necessary action to:

Assistant Accounts Officer, Admn. 2

Supervisor

Sd/-

I/c CA-4 section

28-
Annexure -IX

218
86

Admn-II/Bills/GHY/Misc/Pt.I/05-06/ 613

Date 27-01-2006.

With reference to his application dated 10-01-2006 regarding short disbursement of monthly salary for the month of December' 2005, Sri Bimalendu Gupta, Sr. Accountant is hereby informed that an amount of Rs.1712/= (One thousand seven hundred and twelve) was deducted from his salary in the month of December' 2005 being non-Govt. deductions.(i.e. Co-op-Bank, Association Cultural Club.

From henceforth, he is advised to draw his salary by cash till the drawal of salary is made compulsory through cheque to avoid such incidents in future.

Further, he is directed to refrain from making false allegations against the office and the staff of this office in future, which is un-becoming of a Govt. Servant.

However, a salary statement for the month of December'2005 is attached for doing needful.

This disposes his application dated 10-01-06.

[Signature]
27/1/06

[Signature]
27/1/06

Sr. Dy. Accountant General (Admn.)

Sri Bimalendu Gupta,
Sr. Accountant, CA-4 Sec.

Treke Gpy
N.C. Das
Advocate

FC
27/1/06

[Signature]

-29-

189

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Annexure - X

OFFICE OF THE ACCOUNTANT GENERAL (A&E), ASSAM

Memo NO. Admn 1/PC/B-63/2001-2002/3409

Tuesday, February 05, 2002

In consideration of the representation submitted by Shri Bimalendu Gupta No. Nil dated 7.12.2001 and in compliance with order dated 28th November 2001 issued by the Hon'ble Central Administrative Tribunal, Gauhati Bench, Guwahati in connection with O A No 245/2001 and after careful reconsideration of the facts and circumstances of the case, it has been ordered by the Accountant General that apart from 12.11.1998 on which Shri Bimalendu Gupta attended the Hindi Examination at Maligaon, the under-mentioned days, being Saturday, Sunday and closed holidays during the period 27.9.1998 to 12.11.1998 shall be treated as duty for all purposes:

Saturdays - 3rd, 10th, 17th, 24th and 31st of October and 7th November 1998 (Total 6 days)
Sundays - 27th September, 4th, 11th, 18th and 25th of October and 1st and 8th November 1998 (Total - 7 days)
Holidays - 1st, 2nd, 19th October and 4th November 1998 (Total - 4 days)

As such, the Order No.DAG (A)/PC/BG/151 of this office dated 12.12.98 stands modified to the above extent. However, except the period mentioned above as duty, the remaining days between 27.9.1998 to 12.11.1998 shall remain as dies-non.

Shri Bimalendu Gupta was found absent in the Section at 4.30 pm on 5.2.2002

Received
B. Gupta
6/2/02
at 12-20

True GPT
N.C Das
paravarts

30 - 125 88

The pay and allowances already recovered in respect of the above mentioned days, be refunded accordingly.

Authority: Accountant General's order dated 5.2.2002 at P/ 9-11 in File No. Admn I/OANo 245/ 2001-2002

Habib S. M. A.
Dy. Accountant General

Shri Bimalendu Gupta, Senior Accountant

Memo NO. Admn 1/PC/B-63/2001-2002/3410-12
Tuesday, February 05, 2002

Copy for information to :

1. The Senior Accounts Officer, Admn II – The pay and allowances for the above mentioned period in respect of Shri Gupta may be refunded immediately.
The Section Officer, Admn II
The Asstt. Accounts Officer, i/c. Confidential Cell

3. 6/2/2002

[Signature]
6/2/2002

[Signature]
Sr. Accounts Officer (Admn)

-31-

Annexure - XI

139

As the work of his table is lying unattended, the salary for the month of January 2007 of Shri Bimalendu Gupta, senior accountant, may be stopped till arrear work is pulled up.

[Authority: Sr. DAG's (Accounts) order dated 12.01.2007 at p/13N in the File No. CA-4/CON/2006-2007]

of 16/1/07
pay not to be
paid

sd
Supervisor

I/c CA-4 section

Dated 16.01.2007.

No. CA-4/CON/2006-07/ 96

Copy for information and necessary action to:

Assistant Accounts Officer, Admn. 2

sd
Supervisor 16/1/07

I/c CA-4 section

True copy
N. C. P. S.
Advocate

OFFICE OF THE ACCOUNTANT GENERAL (A&E) ASSAM,
MAIDAMGAON::BELTOLA::GUWAHATI-781029

No. Admn.-2/2-3/2001-03/822

Date-13.02.2007

With reference to his representation dtd. 08.02.2007 addressed to Sr. Deputy Accountant General regarding disbursement of salary for the month of January 2007, Sri Bimalendu Gupta, Sr. Acctt. is hereby informed that, his salary for the month of January, 2007 has been stopped on the basis of Sr. Deputy Accountant General (Admn.)'s order dtd. 12.01.2007 at P/13^N in the file No. CA-4/CON/2006-07.

This disposes his application dtd. 08.02.2007.

Authority:- Sr. D.A.G. (Admn.)'s order dtd 12.02.2007 at P/9^N of File No. Admn.-2/2 3/2001-03.

Sri Bimalendu Gupta, Sr. Acctt.
CA-4 Section.

Accounts Officer (Admn.)

Though he put his
sign in the Attendance
Register today i.e. 13²/₀₇
but found left office
without the permission
of B.O. 13/2/07.

True Copy
H.C. Das
Approved

17 MAY 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

Filed by the
applicant

91

Through
Advocate
17/5/07

O.A. No.86/2007

Shri Bimalendu Gupta

...

Applicant

- versus -

Union of India & Ors.

...

Respondents

The rejoinder to the written statement filed by the particular Respondent No.(v) Akoijam Rina D/o Akoijam Ranbir on behalf of the Respondents No.(ii) to (x) without assigning any reasons or power of submitting written statement which was handed over to the applicant on 15.5.2007 through the advocate.

The Rejoinder of the applicant

Most Respectfully sheweth :

1. The rejoinder to the written statement filed by the Respondent No.(v) Akoijam Rina Sr. Deputy Accountant General(Accounts & VLC) the applicant states that neither the Respondent No.1 Secretary to the Govt. of India, Ministry of Finance (Deptt. of Expenditure) New-Delhi filed any written statement against the above O.A nor the Respondent No.2 C&AG of India delegated power/authorised the Respondent No.(v) who is posted and working as Sr. Deputy Accountant General(Accounts & VLC) to file written statement against the above O.A. Hence the Respondent No.(v) failed to provide the copy of the authority/power of attorney in this regard. Hence the statement filed by the Respondent No.(v) to the above O.A. is just to misguide the Hon'ble Tribunal to take appropriate action/decision to pass the order/on interim prayer of the applicant to release the pay for January,2007 and February to April,2007 in the above O.A. As such the written statement of Respondent No.(v) liable to set aside.

2. That the rejoinder to the written statement of the particular Respondent No.(v) the applicant states that Respondent No.(v) is not an appointing authority, cadre authority, Disciplinary authority, Head of the department or head of the office according to CCS(CCA) Rules 1965. This Rule shall apply to any member of the All India Services.

contd.....2.

3. That the applicant in the rejoinder to the written statement of the Respondent No.(v) states that the Respondent No(v) who is not competent authority to take any disciplinary action against the applicant, by wrong authority of the Respondent No.(iii) the A.G. (A&E) Assam vide dated 27.3.2007. The Respondent No.(v) on contemplate "dies non" of the applicant service from 8.3.06 to 30.3.06 and 24.4.06 to 23.3.07 stopped payment of salary of the applicant from January, 2007 first then issued the order vide No. CA-4/Con/2006-07/Part/107 dated on 27.3.2007 under GI Instruction (6) & (7) below Rule 11 of CCS(CCA) Rule 1965 by overriding the power of administration as stated in para (iii) of the written statement and Annexure-IV Page-20. The action of the Respondent No.(v) is illegal, who failed to apply her mind is bad and liable to set aside the Annexure -IV letter dated 27.03.2007 on the ground without evidence.

4. That the applicant in the rejoinder to the written statement states that the Respondent No.(v) who is not competent to take policy decision on issuance of major penalty to the applicant by stopping the salary for January 2007 onwards. The Respondent No.(v) is not a cadre controlling, appointing authority, disciplinary authority of the applicant so the action taken by the Respondent No.(v) by stopping salary of the applicant from January, 2007 vide her order dated 12.01.2007 issued in page 27 of the written statement by her self authority. The Respondent No.(v) failed to apply her mind to take such steps against the applicant without quoting the provision of her financial & administrative power to stopped salary of the applicant as such the Respondent No.(v) deliberately not enclosing the copy of the authority in the written statement just to misguide the Hon'ble Tribunal to delay or refuse the interim order of payment of salary of the applicant from January, 2007 onwards hence the statement made in page 27 letter No. CA 4/Con/2006-07/96 dated 16.1.07 liable to set aside and direction kindly be passed to the Respondent No.(iii) to disburse the pay of the applicant for January, 2007 and from February, 2007 onwards forthwith through Bank account of the applicant.

5. That the applicant in the rejoinder to the written statement states that the statements made in para 4(i) (ii) (iv), 5, is not correct and liable to set aside. In regard to para 6 the applicant do his job the detachment of vouchers according to direction of the Respondent No.(v) on or before 12.2.2007 and furnished reply to the Respondent on 20.2.07 of the letter No. Memo Sr.DAG(A/cs)/Misc/06-07/1 dated 5.2.07

Bindu S. Gupta

which was suppressed in the written statement of the Respondent No.(v), and the decision of the Respondents is yet pending, as such the statement in para 4 is not correct. The applicant submitted the application for casual leave for five days from 26.3.2007 on 23.3.2007. The applicant was unable to attend Training at RTI Shillong due to illness of his wife due to non-providing proper treatment cost by the Respondents No.(iii)(iv) under medical advises dated 18.10.2005 and non-payment of T.A./DA and salary of January, 2007 in the last day of the month, Hence the statement in para 4 is motivated and liable to set aside.

copy of the application dated 20.2.2007
is annexed herewith and marked as Annexure-I

6. That the applicant in reply to the written ~~stat~~ statement of the Respondent No.(v) dated NIL states that statement made in para -6 are same as stated in para 5 as ~~st~~ state above in this rejoinder.

7. That the applicant in reply to the rejoinder of the Respondent No.(v) dated NIL states that the partial statement of the Respondent in para 7 is not related to this above OA which is related to the OA No.8/2007. The particular Respondent No.4 and 9 failed to apply their mind and arbitrarily stopped payment of salary on flimsy ground as such they are personally responsible for such harassment to the applicant and the family members.

8. That the applicant in reply to the rejoinder of the Respondent No.(v) dated NIL states that statement of para 8 is not correct. The Senior Deputy Accountant General (Admn) MS. Naina A. Kumar vide his letter No.Admn-II/Bills/GHY/Misc/05-06/613 dated 27.1.2006 Annexure-IX page-28 of Written statement clearly stated "deduction from his salary in the month of December 2005 being non-Govt. deduction (i.e. Co-op. Bank, Association Cultural Club) amounting to Rs.1712/- where as the Respondent No.(v) who is not the Administration, modifying the above letter and stated that it the dues of Assam Civil Accounts Association Co-operative Mutual Benefit Fund Limited and staff Association and cultural club. Apart from that the Respondents No.(v) nor Respondeent No.(iv) have any power to recover the non-govt. dues from the pay of the applicant out of his written consent. As such the the applicant when ~~xxxx~~ the applicant submit the written ~~xxx~~ consent to deduct the bank kloan of the Nationalised bank from his pay and directly to deposit in the Bank which was refused/denied to the applicant as such the recovery of Non-govt. dues @ Rs.1712~~4~~ p.m. from December, 2005 is illegal and overriding of Rules. The statement in para 8 is liable

Simulated Signature

to set aside due to contradictory statement of the Respondent No.(v) and direction may be given to refund the amount recovered out of Rule from the applicant from December, 2005. The statement made in para 9 is also not correct. In this regard ~~in~~ reply to the written statement para in para 9 the applicant states that As per C&AG's Manual of standing order (Accounts & Entitlement) Vol-I para 1.5 Annexure-1 of the said O.A it the duty of the applicant to seek clarification of the concerned Treasury or from the Govt. in case of any doubt in regard to processing Treasury Accounts related to state Govt. employees is concerned to avoid wrong posting and wrong classification. In this regard a note submitted to the Respondent No.(viii) to take up the matter to the Respondents No.(v) and (iii) for necessary action but no action taken by the Respondent. Due to hurry posting of GPF Schedule from Treasury Accounts resulted the wrong statement prepared by the Respondent No.(iii) (v) in regard to my wife GPF A/C No.SAS/DT/4673 in the name of the office of Deputy Commissioner, Dibrugarh instead of Commissioner of Hills and Barak Valley Division Dispur apart from that a wrong posting of loan recovery was also reflected in the statement for 1999, 2006. To avoid such type of wrong information to the Govt. employees and for the interest of good and better performance of the office the clarification of the Govt./concerned Treasury is necessary in all respect. It is no fault of the applicant due to seeking proper clarification. Hence the statement in para 9, 10, 11, & 12 is not correct and non-payment of salary on the ground 'no-work no-Pay' is not applicable in case of the applicant, hence the statement of the written statement is arbitrary, malafide and illegal liable to be set aside for the end of justice.. GPF statements annexed as Annexure- 2, 3.

That with regard to the rejoinder made by the applicant begs to state that there is no ground for stopping payment of salary of the applicant from January, 2007 the interim order as prayed for by the applicant in the said OA No.86/2007 kindly be granted and direction be passed to the Respondent No.(iii) to pay the salary(s) and pleased to dismiss the written statement ~~made~~ of the Respondent No.(v) dated Nil..

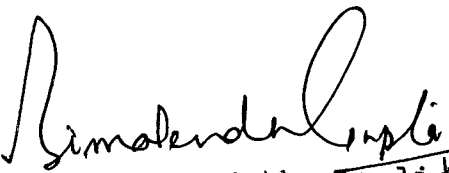
Bimalendu Singh

verification...

VERIFICATION

I, Shri Bimalendu Gupta Son of late Biswanath Gupta age about fifty five years by cast Hindu belongs to General category by profession Central Govt. employees resident of Guwahati, Assam (Arunodoi Residency, Sarumotoria, Dispur-6) do hereby verify that the statement made in 8 paragraphs of this application are true to my knowledge those made in paragraph 1, 2, 3, 4 and 5 are based on records which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

AND I sign this verification this 17th day of May, 2007 at Guwahati.


Signature of the applicant.

....

To
The Senior Deputy Accountant General(A/cs)
O/o the Accountant General(A&E) Assam, Maidamgaon,
Bellola, Guwahati-29.

Subject : Reply of Memo No. Sr. DAG(A/cs)/ Mis/06-07/1 dated 5.2.2007 and Supervisor
CA-4 letter No. CA-4/CON/2006-07/89 dated 12.1.2007

Madam,

With reference to the subject, I beg to state that the Supervisor i/c CA-4 handed over treasury bundles of Accounts for 4/06 on 3.1.2007 and 8.1.2007 for detachment of schedules without any specific time limit. On scrutiny it is observed the schedules are not marked by the treasury authority and it is not authorised to the Sr. Accountant to prepare/mark the treasury vouchers on behalf of the treasury. The matter was informed to the supervisor to take up the matter to the Treasury concerned. Suddenly the entrusted treasury accounts bundles are handed over to the other Sr. Accountant of the CA-4 without my knowledge for compilation. The supervisor i/c CA-4 is best know the facts. Hence there is no treasury accounts pending with me.

2. I am to state that my treating doctor advised me on 13.6.2006 to avoid dusty environment (copy enclosed) the matter of facts intimated to the Administration, Accountant General (A&E) Assam for doing the needful to withdraw me from the section for the grater interest of the works. For the interest of the works it was suggested to arrange to supply Gloves, mark, soap, slip stand to me for official uses which was accepted by the supervisor i/c CA-4 and submitted requisition to the Record section on 15.5.06 (copy enclosed) But till date the goods are not supplied rather refused arbitrarily. The treasury accounts for the year 2006 has been completed by the other Sr. Accountants/Clerks of the section by the Supervisor i/c CA-4 without handing over the works to me in my presence in the section.

3. The cleaning, dusting and shifting of vouchers and painting works of the section was conducted upto 24.1.2007 and the works of detachment of vouchers from treasury bundles has been handed over to the other Sr. Accountant by the Supervisor i/c and the memo dated 12.1.07 is not correct and motivated. The matter was already stated in my application dated 31.1.2007 kindly refer to.

4. It is further stated that the salary for the month of January, 2007 has not been disbursed and deposited to my bank account by the administration without any intimation. On my enquiry it is stated by the Accounts officer (Admn.) on 13.2.2007 that the pay for the month of January, 2007 has been stopped on the basis of your letter dated 12.1.2007 which was not intimated to me but the completion of pending works fixed on 12.2.2007. The created non-payment of salary has been caused not only financial hardship towards me but harassment and mental torture towards family members. You are therefore requested to look into the matter and arrange to issue direction to release the pay for January, 2007 to my bank account by to-day 20.2.2007 without any delay. For this act of your kindness I shall ever pray.

Dtd., Guwahati the 20.2.2007

Yours faithfully

(Bimalendu Gupta)
Sr. Accountant

Copy to Supervisor In-Charge, CA-4 Section. This is with reference to her letter No. CA-4/CON/2006-07/89 dated 12.01.07 for necessary action.

(Bimalendu Gupta)

Supervisor i/c
CA-4 absent from
on 20/2/07.

Charanaboli
20/2/07

Vijay Singh

Name of Subscriber: GUPTA AJANTA

PF A/C No. DT 4673

DOB:

Treasury

DISPUR

Int. Rate 8.7%

DDO COMMISSIONER HILLS AREA & BORAK VALLEY, DISPUR, GUWAHATI

[illegible]

Annexure-2

OFFICE OF THE ACCOUNTANT GENERAL(A&E) ASSAM,
MAIDAMGAON, BELTOLA, GUWAHATI-29
Statement of GPF Accounts for the year ended

MARCH, 99

Duplicate

Subscriber Name : GUPTA AJANTA DT 4673

DOB : / / Treasury : DIBRUGARH Int. rate 12.00

DDO: DEPUTY COMMISSIONER DIBRUGARH (ASSAM)

Credit Details					Debit Details	
Month	Sub:	Refund	Other	Category	Debit	Type
AUG 91	33	0	0			
AUG 91					95	ADJ
MAY 93	100	0	0			
JUL 93	100	0	0			
JUL 93					60	ADJ
MAY 94	0	0	0			
MAY 94					200	ADJ
AUG 94	100	0	0			
AUG 94					60	ADJ
SEP 94	100	0	0			
SEP 94					260	ADJ
OCT 94	0	0	0			
OCT 94					200	ADJ
NOV 94	0	0	0			
NOV 94					200	ADJ
DEC 94	100	0	0			
DEC 94					260	ADJ
JAN 95	100	0	0			
JAN 95					260	ADJ
FEB 95	0	0	0			
FEB 95					200	ADJ
MAR 95	0	0	0			
Summary		Balance1	Balance2	Total		Missing Crs
Opening Balance						
Deposit						
Withdrawals						
Interest						
Closing Balance						

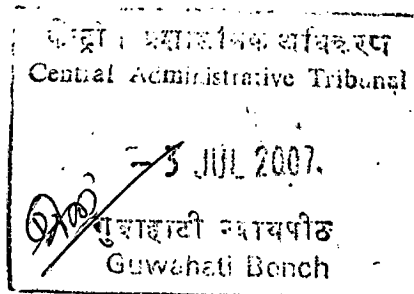
We hereby declare that the above mentioned information based on the records received by this office is accurate and verified to the best of our knowledge. Please acknowledge by returning the confirmation slip.

Date :
 Place : Asstt. Accounts Officer/Section Officer

Confirmation Slip

I hereby confirm the correctness of the Statement of Accounts of _____
 date _____
 Date :
 Place : Signature

Office of the Accountant General (A&E) Assam
 Maidamgaon, Beltola, Guwahati-29



Filed by me
respondents
through
03.07.07

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

O.A. NO. 86 OF 2007

Shri Bimalendu Gupta

...Applicant

-Versus-

Union of India & Ors.

....Respondents

The reply is filed on behalf of all
the Respondents against the rejoinder
filed by the applicant-

THE REPLY OF THE RESPONDENTS

MOST RESPECTFULLY SHEWETH:

1. That with regard to the statement made in paragraph 1 of the rejoinder, the statement is denied. Respondent No. (V) Ms. Akoijam Rina, Sr. Dy. Accountant General (Accounts and VLC) was holding the additional charge of Administration due to leave of regular Sr. Dy. Dy. Accountant General (Admn) (Respondent No.(IV) of OA 88/2007) during the period when the rejoinder application was filed and hence Respondent No.(V) as Sr. Dy. Accountant General (Admn) was competent to file the written statement on behalf of the other Respondents, as authorised by the Headquarter office vide letter No.

Contd...P/-

274-LC/69-2007 dated 23.4.07 for filing the OA No. 86/2007 before the Hon'ble Tribunal on behalf of the Respondents including Union of India, Ministry of Finance. The written statement was also approved by the Office of the Comptroller and Auditor General of India for filing before the Hon'ble Tribunal vide the said letter *ibid*.

A copy of the letter dated 23.4.07 annexed herewith as Annexure - 1.

2. That with regard to the statement made in paragraph 2 of the instant application, the Respondents beg to state that what has been stated by the applicant Shri Bimalendu Gupta, Sr. Accountant (now under suspension) is not factually correct. The Respondent No.(V) was holding the charge of both Administration and Accountants/VLC during the period when the rejoinder application was filed before the Hon'ble Tribunal Sr. Dy. Accountant General (A)/ Dy. Accountant General (A) being the appointing authority, Disciplinary authority in terms of Rule 2 of CCS (CCA) rules, 1965, is therefore competent to file the written statement before the Hon'ble Tribunal.

A copy of Rule 2 of CCS(CCA) Rules, 1965 is annexed herewith as Annexure - 2.

Contd...P/-

3. That with regard to the statement made in paragraph 3 of the instant application, the Respondents beg to state that the contents of the rejoinder of the applicant are not correct and hence denied. The period of 213 days running across 8.3.06 to 23.3.07 excluding holidays/Saturdays/Sundays/leave availed of by the Applicant was treated as dies non vide order dated 27.3.07 by respondent No.V being the leave sanctioning authority in respect of the Applicant as per GI No. (6) below rule 11 of CCS (CCA) Rule 1965.

It is humbly submitted that holidays/Saturdays/Sundays etc. were not treated as dies non and salary to the applicant has been admitted for these days in accordance with the principle laid down in the order of the Hon'ble Tribunal dated 28.11.2001 in the matter of OA 245/2001 filed by the official in connection with an earlier order of dies non pertaining to the period from 27.9.98 to 12.11.98.

The communication of the order dated 27.3.07 was issued to the Applicant who however refused to receive it. The same was then sent to him by Registered post to his residential address. In this connection the Respondents beg to state that the applicant is in the habit of disobeying order of his Superiors and neglecting his officially allotted work and was placed under suspension w.e.f. 11.4.07. Department Disciplinary proceeding has been initiated against him in this re-

Contd...P/-

gard. A copy of the order for subsistence allowance dated 12.4.07 was issued to him by special messengers to his residence. However, when the messengers met him the applicant refused to receive the said order and stated that he was not going to receive any communication from office personally and that all communication to him should be routed through his lawyer. In view of his said refusal, the said order was subsequently sent by Registered Post to his residential address.

A copy of order dated 12.4.07 is annexed herewith as Annexure -3. A copy of the Hon'ble Tribunal's said order dated 28.11.2001 is given at Annexure -4.

4. That with regard to the statement made in paragraph 4 of the instant application, it is stated that the statement is not correct. The Applicant's salary for the month of January, 2007 was withheld on the ground that he had not attended to his allotted work and he was further directed to complete all pending work. However, the applicant failed to abide by the order of his higher authority and he continued to simply put his signature on the sectional attendance Register and leave the Section without permission from the Supervisory Officers and without attending to his official work. On account of the Applicant's habit of attending office without doing any work and of leaving his section after

Contd...P/-

putting his signature in the Attendance Register without authority, his work had to be reallocated to other staff on payment of honorarium basis, thus costing the exchequer additionally. Therefore, the order for dies non vide No. CA-4/CON/2006-07/Part/107 dated 27.3.07 (copy enclosed as Annexure -IV) was issued by the respondent No. (V) in her capacity as leave sanctioning authority vide Rules stated in para 3 above.

5. That with regard to the statement made in paragraph 5 of the instant application, the respondents beg to state that the statement submitted by the applicant is factually incorrect. The applicant was asked vide Memo No. SR.DAG(A)/Misc/06-07/1 dated 5.2.07 to complete all his pending work by 12.2.07 and submit completion report, failing which disciplinary action would be initiated against him. In spite of this, he did not attend to his allotted work; but on 12.2.07 he sought extension of time to furnish the reply of Memo dated 5.2.07 on the ground that he was busy with regard to medical consultation of his wife. The Respondent begs to place before the Hon'ble Tribunal that Shri Gupta did not complete his work and file a completion report by 12.2.07 and instead sought unnecessary long time of 10(ten) days for furnishing a reply. It is further submitted that the applicant utterly neglected his official duty and failed to discharge his responsibility as a public servant, and has tried to mislead the

Contd...P/-

Hon'ble Tribunal by prevarication of facts. Further, it is submitted that the administration of this office has maintained transparency and has given ample opportunity the applicant to attend to his allotted work before the decision to withhold his salary was made. It is restated that the said decision is a consequence of his willful and continued refusal to perform his duty, and not at all an arbitrary decision.

2 It is reiterated that the applicant had represented and sought from the office certain tools such as gloves and mask for his use while working in the Section. It is submitted that there is no provision in this office and the Department to supply such items from office of Dealing Assistants for their routine, day to day work in the Section, the applicant was appropriately informed vide letter No. AG(A&E)/Assam/Rec-c/3-3/2006-07/177 dated 18.9.2006. The office makes the best efforts to keep its premises neat and clean as far as practicable. Incidentally, it is a matter of fact that no complaint has been received from other officials in the office in this regard to the extent of being unable to work without gloves and masks. It is therefore evident that the applicant is simply making use of this as an excuse for not carrying out his official duty and it is an effort on his part to divert attention from the real issue which is his dereliction of duty, and conduct unbecoming of a Government Servant.

Contd...P/-

the applicant's claim that he had performed his duty as per direction of Respondent No.V is not factually correct. The position of work pending on his table as per report of Sectional Incharge already submitted before the Hon'ble Tribunal as Annexure-III.

Further, the applicant's statement before the Hon'ble Tribunal that he had applied for Casual Leave for 5(five) days w.e.f. 26.3.07 is not factually correct. As per office record he remained absent from office without any authority w.e.f. 22.3.07 to 26.3.07 which had 3(three) working days. It is submitted that no application for any Casual Leave had been received by the applicant's Supervisory Officer.

6. That with regard to the statement made in paragraph 6 of the instant application, it is stated that the matter has already been explained in the foregoing paras.

7. That with regard to the statement made in paragraph 7 of the instant application, the respondents beg to state that the reasons for withholding of salary in respect of the applicant have been explained in the foregoing paras and Respondent No.IV and IX did not take any arbitrary decision and have no intention of harassing the applicant and his family.

Contd...P/-

8. That with regard to the statement made in paragraph 8 of the instant application, the Respondents beg to state that the applicant misleading the Hon'ble Tribunal by making factually incorrect statements. It is humbly submitted that whatever recovery has been made from the applicant's pay has been made in accordance with relevant rules.

As regards recovery of Rs.1712 in the month of December, 2005 and the recoveries made thereafter, the same was made on account of the loan availed of by from Assam Civil Accounts Association Co-operative Mutual Benefit Fund Limited, Shillong, Civil Accounts Sports & Cultural Club, and staff Association in accordance with relevant Rules and with prior consent of the applicant as is the practice followed in the office and applicable to all similarly placed employees of the office. Copy of the consent letter of staff Association as furnished by the applicant is enclosed as Annexure-5. The matter was explained to the applicant vide letter No. Admn.II/Bills/Ghy/Misc/Part-I/05-06/613 dated 27.01.2006.

It is denied unequivocally that it is the intention of the Respondents to harass the Applicant by making recovery from his pay as alleged by him. It is humbly submitted that, on the contrary, it is the applicant whose cantankerous actions amount to harassment to

Contd...P/-

your humble Respondents and is resulting in wastage of valuable time and energy of the Respondents in the conscientious discharge of their official duties.


It is humbly submitted that as regards the charges brought up by the applicant in OA No.8/2007 as mentioned by him in his petition, the requisite written statement will be made before the Hon'ble Tribunal in connection with that OA. It is humbly submitted that OA No.8/2007 was received by the Respondents on 3.4.2007 which was subsequent to receipt of the instant O.A.

Contd...P/-

VERIFICATION

I, Tarini Mohan Roy, S/o. Late H.C. Roy, aged about 59 years, Sr. Deputy Accountant General i/c Administration, Office of the Accountant General (A&E) Assam, Beltola, Guwahati, Dist. Kamrup, Assam and competent officer of the answering respondents, do hereby verify that the statement made in paras are true to my knowledge and those made in paras being matters of record are true to my information derived therefrom which I believe to be true and the rests are my humble submission before this Hon'ble Tribunal.

And I sign this verification on this th day of 2007 at Guwahati.


~~Sr. Dy. Accountant General (Admin)
 Office of the Accountant General (A&E) Assam
 Beltola, Guwahati-29~~
वरिष्ठ उप महालेखाकार (प्र.)
Sr. Dy. Accountant General (Admin)
महालेखाकार का कार्यालय (ले. एवं प्र. स.)
O/O the Accountant General (A&E) Assam
मैदामगाँव, बेल्टोला, गुवाहाटी-29
Maldamgaon, Beltola, Guwahati-29



- 11 - *Anne*
Speed Post

No. 274 - LC/ 69- 2007

DY. Sr. DAG (A) / OA No. 86/ 2007/ 181 dated 09.2.2007

भारत के नियंत्रक-महालेखापरीक्षक का कार्यालय
10, बहादुरशाह जफर मार्ग,
नई दिल्ली - 110 002
OFFICE OF THE
COMPTROLLER & AUDITOR GENERAL
OF INDIA
10, BAHADUR SHAH ZAFAR MARG,
New Delhi - 110 002

To,

A. G. (A & E) Sectt.
Office No. C 330
Date 01-6-07

दिनांक / DATE 23-4-07

Shri T. M. Roy
Sr. Deputy Accountant General (Admn.),
O/o Accountant General (A&E),
Assam,
Guwahati- 781 029.

Sub:- OA No. 86/07 filed by Shri Bimalendu Gupta, Sr. Accountant.

Sir,

I am directed to invite a reference to your office letter No. Sr. DAG (A)/ OA- 86/ 2007/ 181 dated 09.2.2007 regarding the case OA No. 86/07 filed by Shri Bimalendu Gupta before the Hon'ble CAT Guwahati Bench and to state that draft written statement is has been approved by the competent Authority for filing it before the Tribunal alongwith annexures after verifying the factual position therein.

2. You are requested to ensure that the written statement is filed on behalf of all the respondent including UOI, Ministry of Finance. Annexures to the OA may be sent to this office for records.

A.C/Admn.
A.A.C/c.e. ml
(early pr.) 4/5/07.
ON
Para wise comments
headed over to Sr. cty S.c.
on 25/4/07
ml
4/5/07.

Attested
Urbi yogini

Yours faithfully

Hawa Singh
(Hawa Singh)
Administrative Officer (Legal)

Annexure - 2

CHAPTER 1
Central Civil Services
(Classification, Control and Appeal) Rules

PART I
GENERAL

1. Short title and commencement

- (1) These Rules may be called the Central Civil Services (Classification, Control and Appeal) Rules, 1965.
- (2) They shall come into force on the 1st December, 1965.

2. Interpretation

In the rules, unless the context otherwise requires,—

- (a) "Appointing authority", in relation to a Government servant, means—
 - (i) the authority empowered to make appointments to the Service of which the Government servant is for the time being a member or to the grade of the Service in which the Government servant is for the time being included, or
 - (ii) the authority empowered to make appointments to the post which the Government servant for the time being holds, or
 - (iii) the authority which appointed the Government servant to such Service, grade or post, as the case may be, or
 - (iv) where the Government servant having been a permanent member of any other Service or having substantively held any other permanent post, has been in continuous employment of the Government, the authority which appointed him to that Service or to any grade in that Service or to that post,

whichever authority is the highest authority;

- (b) "Cadre authority", in relation to a Service, has the same meaning as in the rules regulating that Service;

1. Published, vide G.I., M.H.A., Notification No. F. 7/2/63-Ests. (A), dated the 20th November, 1965.

Filested
Urbi Gogi

- (c) "*Central Civil Service and Central Civil Post*" includes a civilian Service or civilian post, as the case may be, of the corresponding class in the Defence Services;
- (d) "*Commission*" means the Union Public Service Commission;
- (e) "*Defence Services*" means services under the Government of India in The Ministry of Defence, paid out of the Defence Services Estimates, and not subject to the Army Act, 1950 (46 of 1950), the Navy Act, 1957 (62 of 1957), and the Air Force Act, 1950 (45 of 1950);
- (f) "*Department of the Government of India*" means any establishment or organization declared by the President by a notification in the Official Gazette to be a department of the Government of India;
- (g) "*Disciplinary authority*" means the authority competent under these rules to impose on a Government servant any of the penalties specified in Rule 11;
- (h) "*Government servant*" means a person who—
 - (i) is a member of a Service or holds a civil post under the Union, and includes any such person on foreign service or whose services are temporarily placed at the disposal of a State Government, or a local or other authority;
 - (ii) is a member of a Service or holds a civil post under a State Government and whose services are temporarily placed at the disposal of the Central Government;
 - (iii) is in the service of a local or other authority and whose services are temporarily placed at the disposal of the Central Government;
- (i) "*Head of the Department*" for the purpose of exercising the powers as appointing, disciplinary, appellate or reviewing authority, means the authority declared to be the Head of the Department under the Fundamental and Supplementary Rules or the Civil Service Regulations, as the case may be;
- (j) "*Head of the Office*" for the purpose of exercising the powers as appointing, disciplinary, appellate or reviewing authority means the authority declared to be the Head of the Office under the General Financial Rules;
- (k) "*Schedule*" means the Schedule to these rules;
- (l) "*Secretary*" means the Secretary to the Government of India in any Ministry or Department, and includes—
 - (i) a Special Secretary or an Additional Secretary,
 - (ii) a Joint Secretary placed in independent charge of a Ministry or Department,

- 14 -
Annexure - 3 (T)

OFFICE OF THE ACCOUNTANT GENERAL (A&E) ASSAM,
BELTOLA, GUWAHATI-29

No. Sr.DAG(A)/Admn/PC/BG/part/216


Dated 12/4/2007

12 APR 2007

In continuation of this office order No. Sr.DAG(A)/Admn/PC/ BG/ part/194 dated 11/4/07 Placing Shri Bimalendu Gupta, Sr. Accountant under suspension w.e.f. 11/4/07, it is further ordered that the said Shri Bimalendu Gupta, Sr. Accountant will be entitled to Subsistence Allowance w.e.f. 11/4/07 at an amount equal to the leave salary which the Government servant would have drawn if he had been on leave on half average pay or on half pay and in addition, dearness allowance, if admissible on the basis of such leave salary from the date and during the period of suspension under the statutory provision of FR 53.


The Subsistence Allowance shall not be denied on any ground unless a Government servant is unable to/does not furnish a certificate that he is not engaged in any other employment, business, profession or vocation during the period of suspension.

During the period of suspension, the Headquarters of the Government Servant will continue to be Guwahati, Assam.


Sr. Dy. Accountant General (Admn)

Copy to:-

1. The Accounts Officer, i/c Admn - 2 Section. He is requested to make payment of Subsistence Allowance to Shri Bimalendu Gupta, Sr. Accountant, only when it is supported by a certificate furnished by him as mentioned in Para 2 above.
2. Shri Bimalendu Gupta, Sr. Accountant. Arunudoi Apartment, Block-B, Flat No.103, Sarumotoria, Dispur, Guwahati - 781 006.
3. Pay and Accounts Officer, O/o the A.G.(A&E) Assam, Guwahati-29.
4. Accounts Officer, i/c CA-4 Section.


Sr. Dy. Accountant General (Admn)

*Attested
Vibha Garg*

Regd.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Annexure - 4

Original Application No. 245 of 2001

Date of Order: This the 28th Day of November 2001.

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

Shri Bimalendu Gupta

Sr. Accountant,

O/O the A.G.(A&E) Assam, Baltola, Moidamgaon,

Guwahati- 29. ... Applicant

By Advocate Mr. H.K.Das, Mr.B.Pathak.

-Vs-

1. Union of India, Represented by the Secretary to the Govt. of India, New Delhi-1.
2. The Comptroller and Auditor General of India, Bahadur Shah Fafar Marg, Indraprastha Head Post office, Post Bag No.7, New Delhi
3. The Accountant General(A&E) Assam, Moidamgaon, Beltola, Guwahati-29, Assam
4. The Deputy Accountant General(Admn) O/O the Accountant General(A&E) Assam, Moidamgaon, Beltola, Guwahati-29.
5. The Senior Accounts Officer, I/C C.A. Section, O/O the A.G.(A&E) Assam, Moidamgaon, Beltola, Guwahati-29.
6. The Section Officer(Admn)-II O/O the A.G.(A&E) Assam, Guwahati-29. ... Respondents.

By Advocate Mr. A.Deb Roy, Sr.C.G.S.C.

O R D E R.

K.K.SHARMA MEMBER(ADMN):

By this application the applicant has challenged the Office Order dated 4.12.98 and informing him that the period of 47 days from 27.9.98 to 12.11.98 shall be treated as "Dies non"

The applicant is working as Senior Accountant in the office of the Accountant General(A&E), Assam, Guwahati. He is directed to attend ~~undergoing~~ Hindi Training

contd/-

*Alleged
Wk 409*

10/11/01

for Praveen Examination for a period of 47 days from 27.9.98 to 12.11.98 for two days in a week. The punishment of "dies non" has been given to the applicant for non completion of the compilation work of Gawalpara Treasury for the month of 6/98 and 7/98. The applicant has challenged the impugned order on the ground that he has attended the Hindi Training and also got Certificate on completion of the training. It is also stated that the applicant was attending his office regularly and assigned duties. He attended to the compilation work of Gawalpara Treasury in the presence of Senior Accounts Officer. The applicant has referred to the letter dated 12.1.99 to the Accountant General (A&E) Assam, intimating him that the work entrusted to him is almost completed and it will take some time for final touches.

Heard Mr.H.K.Das learned counsel appearing on behalf of the applicant and Mr.A. Deb Roy, Sr.C.G.S.C. appearing on behalf of the respondents. In the written statement it has been stated that the work in the office of the respondents is time bound and for undergoing Hindi Training for Praveen Examination the applicant had to attend the training classes only for two hours on two days in a week. The applicant did not complete the official works. The applicant has put signature in the Attendance Register and was not attending to work regularly. Mr.A. Deb Roy, Sr.C.G.S.C. referred the CCS(CCA) Rules and he argued that as per CCS(CCA) Rules when a Government Servant is absent from duty without proper permission or when on duty in office, has left the office without proper permission or while in the office refused to perform the duties assigned to them, the leave sanctioning authority

11/11/99 contd/-

may order that the days on which work is not performed be treated as "dies non".

I have heard learned counsel for the parties at length. There is no dispute that the applicant has successfully completed the Hindi Training during the period from 27.9.98 to 12.11.98 as evident from the Certificate as Annexure 'B' to the O.A. The Respondents also submit that the applicant has been putting initials in the Attendance Registrar. Mr.H.K.Das learned counsel for the applicant argued that the respondents have treated the days of Saturday and Sunday and other holidays period as 'dies non'. I am of the view that the Respondents have not carefully considered the reply of the applicant by letter dated 12.1.99 in which he has submitted that he has almost completed the work which was assigned to him. The applicant submitted a representation to the Accountant General (AGE), Assam, but the respondents have not given any reply to the letter dated 12.1.99. It appears that the respondents have not fairly appreciated the facts, the respondents have taken the entire period as dies non. It is seen from Annexure V to the Written statement that the Memos for non-completion of assigned work have been issued to the applicant on 4.2.99, 8.2.99 and 12.2.99 while 'dies non' has been considered for the period from 27.9.1998 to 12.11.1998.

In the facts and circumstances the order dated 4.12.98 can not be sustained ^U and is set aside. The applicant is directed to make a representation within a period of 15 days from the date of receipt of this order and the Respondents are directed to reconsider the representation of the

K. Usha

contd/-



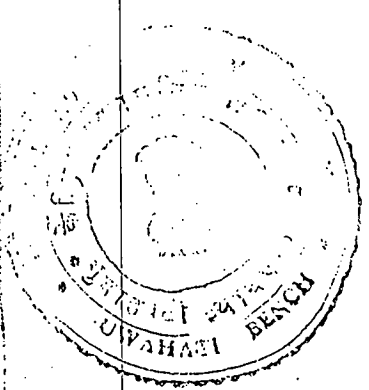
18-

-4-

applicant by passing a reasoned order within a period of 2 months from the date of receipt of the representation.

The application is disposed of as above. There shall however, be no order as to costs.

Sd/MEMBER (AGMN)



TRUE COPY
प्रतिप्रति

Handwritten signature
4/12/2007

સચિવ સાહિત્ય અકાદમી
ગાંધીનગર
ગાંધીનગર, ગાંધીનગર
ગાંધીનગર, ગાંધીનગર
ગાંધીનગર, ગાંધીનગર

Handwritten signature
4/12/2007

19
Annexure - 5

LETTER OF DECLARATION

I, Bimalendra Guptabeing a member of Accounts Category III Association, O/O the A.G(A&E) Assam, Guwahati hereby authorise deduction of monthly subscription of Rs. 12.00 from my salary and authorise its payment to Accounts Category III Association, Guwahati.

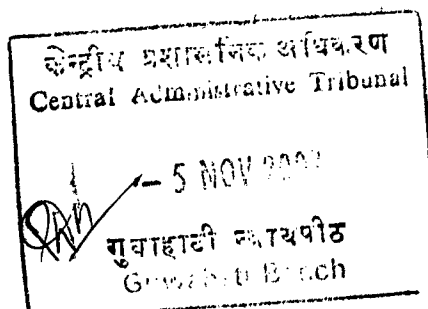
Signature: [Signature]
Name : Bimalendra Gupta
Designation: Self

TO BE FILLED IN BY THE ASSOCIATION.

It is certified that Sri/Smti. Bimalendra Guptais a member of Accounts Category III Association, O/O the A.G(A&E) Assam, Guwahati.

[Signature]
Signature of Authorised Bearer.

Subscribed
Ubi Singh



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

O.A. No. 86/2007

Shri Bimalendu Gupta ... Applicant

- versus -

Secretary to the Govt. of India
Ministry of Finance (Deptt. of
Expenditure) New- Delhi and
Others

... Respondents

In the Matter of :

An Affidavit filed by the applicant.

A F F I D A V I T

I, Shri Bimalendu Gupta, son of late Biswanath Gupta age about 55 years presently working as a Senior Accountant in the O/o the Respondent No.3 the Accountant General(A&E) Assam, Maidamgaon, Beltola Guwahati-29 and resident of Assam residing at Arunodoi Residency, Sahid Dilip Huzuri Path Sarumotoria, Dispur Guwahati-6 P.S. Dispur, District Kamrup, Assam do hereby solemnly affirm and declares as follows :

1. That I am the applicant of the instant O.A and as such I am fully conversant with the facts and circumstances of the instant case and hence I am competent to swear this Affidavit.
2. That the applicant begs to state that this Affidavit as an oath to place some more and recent facts/incidents in connection to the subject matter of this instant case for purpose of incorporation in the main application and this affidavit may be read with and may be treated as a part of the instant application.
3. That the applicant begs to state according to procedure of Accounting Annexure-1 page 12 of C&AG's Manual of standing order (Accounts and Entitlement) Vol-I the applicant after completion of Accounts for the month of 8/2005 of Rongia Treasury on 21.4.2006, the applicant find some anomalies in the Dispur and Rongia Treasury vouchers/schedules which are not marked properly by the Treasury

c ontd...2.

11/8
Filed by the applicant
Bimalendu Gupta 5/11/07

- 5 NOV 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

- 2 -

concerned and according to guideline of the Respondent No.2 the Applicant filed/submitted a "Note" on 08.06.2006 to the Accounts officer i/c CA-4 section Respondent No.7 to take up the matter of improper submission of Treasury Vouchers alongwith Schedules it is difficult to identify proper entry of the schedules and need Dispur and Rongia Treasury clarification in this regard. But the Respondent No.7 did not take any action on the issue ~~and~~ for taking clarification from the concerned Treasury and the Accounts for the month of September, 2005 onwards kept with Supervisor i/c Respondent No.9. The Respondent No.7 on receipt of the "Note" as stated above a letter issued to the applicant on 12.6.2006 with a motivated facts which is not correct.

4. That the applicant begs to state that during the year 2005 the applicant was rewarded Honararium by the Accountant General (A&E) Assam on the Recommendation of the ~~xxxx~~ Section officer CA-4 for performance of extra accounting work and detachment of schedules of Dispur and Rongia Treasury in addition to the applicant normal works. As such the statement of the Respondent that the applicant did not do his allotted duties is bias and motivated and as stated in the Written statement are liable to set aside.

5. That the applicant begs to state that there is no Rules to held up/stopped payment of salary of the applicant on the ground non-performance of duties which is no fault of the applicant. The pay stopped by Respondent No.5 under order dated 16.01.2007 page 27 of written statement and order dated 13.2.2007 are contradictory statement of the Respondent No.5 who is not competent authority to issue any minor/major Penalty etc to the applicant as the Respondent is not appointing Authority hence the written statement filed by the Respondent No.5 liable to be set aside and direction may kindly be passed to the Respondent No.3 to pay the due salary w.e.f. January, 2007 onwards and also consider to set aside the order dated 27.03.2007 page 20 Annexure-IV on the ground the order issued by the incompetent authority on 27.3.2007 which was not yet issued to the applicant just to misguide the Hon'ble Tribunal the order was incorporated in the statement to fulfil their ego.

6. That the applicant begs to state that the Respondent No.5 in a letter dated 5.2.2007 directed the applicant to complete the Dispur and Rongia Treasury Accounts of April & May Accounts of 2006 by 12.2.2007. The applicant after completion of Accounts of April, 2006 put up a note to the Supervisor of CA-4 to take up the matter of anomalies of Treasury Accounts to the concerned Treasury on 16.1.2007 but the supervisor failed to act according to Rules/orders and an application filed on 20.02.2007 (Annexure-1 ^{et} ~~with~~ Rejoinder dated 17.5.2007.)

Bimalendu Chpta

2007

গুৱাহাটী বেঞ্চ
Guwahati Bench

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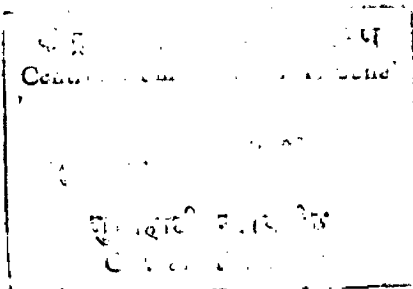
The Respondent No.5 already order to the Applicant to complete the detachment of vouchers of Treasury Accounts for April and May, 2007 by 12.2.2007 at this stage the the Stopped payment of Salary ~~on~~ for the month of January, 2007 on the last working day i.e. 31.1.2007 is unjust improper and illegal and without application of mind the order dated 13.2.2007, 16.1.2007 and 27.3.2007 (Annexure-5 page-16 of the instant OA, Page 27 of the written statement of the Respondent and Annexure-IV) deserve set aside. The applicant further stated that the Respondent No.5 Ms. Akoijam Rina is presently working as Senior Deputy Accountant General in the office of the Accountant General (Audit) Assam, Moidamgaon, Guwahati-29 under Respondent No.2.

Copy of the letter of Respondent No.5 dated 5.2.2007 is annexed and marked as Annexure-1.

7. That the applicant begs to state that the Respondent No.4 Sr. Deputy Accountant General (Admn.) and the Respondent No.10 Shri Tarini Mohan Roy IA&AS are the same person holding the charge of Administration ~~of his~~ vide a letter No.Sr.DAG(A)/OA/97/178/2007/227 dated 27.7.2007 very clearly stated in the last part of the letter that the ^{release of} salary from January, 2007 necessary action will be taken on the conclusion of the disciplinary proceedings/ or the case (as this is subjudice). but the Respondent No.5, 3 maintaining the suspension order ~~and~~ illegally and enforced payment of Subsistence allowance w.e.f. 11.4.2007 to 30.9.2007 vide letter dated 15.10.2003. When the matter of payment of salary from January, 2007 onwards is subjudice according to Respondent No. 10 as well as the order dated 27.3.2007, the recovery of amount of Rs.11400/- from Subsistence allowance as excess pay is unjust and not correct, because the matter is still pending for this Hon'ble Tribunal for decision.

Copies of the letter dated 27.7.2007 and pay statement dated 15.10.07 are annexed and marked as Annexure-2 and 3.

8. The Respondent No.5 vide letter dated 22.5.2007 claimed that the salary was held up until he was completed the ~~stated~~ work allotted to him. Copy of the letter dated 22.5.2007 is annexed herewith and marked as Annexure-4.



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The copy of the letter dated 22.5.2007
is annexed and marked as Annexure-2

9. The the humble applicant begs to submit that
this a fit case to admit. Due to pending admission of the
case the Respondents deliberately ignored payment of salary
of the applicant from January, 2007 onwards on flimsy ground.

10. That this affidavit is made bonafide and for
the end of justice.

10. That the statements made in this paragraph and
those made in paragraph 3 to 7 are the matter of records
being derived therefrom are true to my information and para
8 are my humble submission before this Tribunal.

And I put my hand unto this affidavit on this 5th Day of
November, 2007 at Guwahati.


Deponent 5/11/07

Annexure-1

122 (5)

Memo Sr.DAG(A/cs)/Misc/06-07/1

Dated : 05-02-2007

It has come to the notice that Sri Bimalendu Gupta, Sr.Accountant , CA-4 has not performed his allotted duties and was issued memo by the Sectional- In charge on 12/1/07 with directions to explain himself within 3 days. However, it is informed that he has not submitted his explanation till date.

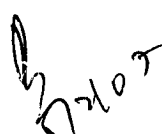
In the mean time, work related to Rangiya Treasury and Dispur Treasury for April and May Accounts 2006 which were allotted to Sri Gupta is yet to be performed by him thereby leading to accumulation of work arrears in the Section.

Sri Bimalendu Gupta, is therefore, directed to complete all pending works allotted to him within a week failing which disciplinary action will be initiated against him.

Sri Gupta is also directed to explain his non-compliance to memo dated 12/1/07 issued by the Sectional - Incharge of CA-4.

He should complete all pending work and submit completion report and explanation as directed above by 12/2/07 failing which disciplinary action will be initiated against him.

Sri Bimalendu Gupta,
Sr.Accountant , CA-4


Sr.Dy.Accountant General(A/cs)

BY SPECIAL MESSANGER

मैदामगांव, बेलतोला, गुवाहाटी-781029

Maidamgaon, Beltola, Guwahati-781029

No. Sr. DAG(A)/OA/97/178/2007/227 Date 27-07-2007

To
Sri Bimalendu Gupta,
Sr. Accountant (Under suspension),
'Arunodoi Residency'
Block-B, Flat No. 103
Swahid Dilip Huzuri Path
Sarumotoria, Dispur,
Guwahati- 781006

Sub: Personal hearing on 31-07-07 in compliance with
Hon'ble CAT's order dated 05-07-2007 in OA No.
178/2007.

With reference to your FAXED letter dtd.26-07-07 on the subject cited above, I am to inform you that no legal practitioner will be allowed on the date of personal hearing fixed on 31-07-07 as this is not permissible under Rule. You may, however, take the assistance of any other Government Servant at your headquarters.

As regard release of salary from January '2007, necessary action will be taken on the conclusion of the disciplinary proceedings/of the case (as this is subjudice).

This issues with the approval of the Pr. Accountant General.


Sr. Dy. Accountant General (Admn.)

Received on 26/10/2007

Annexure 3.

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Issued under letter NO. Admn-2/2-3/mise. Corres/03/499 dated 15/10/07

Subsistence allowance in r/o of Shri Bimalendu Gupta, Sr. Acctt., Under suspension w.e.f. 11/04/2007 to 30/09/2007.

	PAY	DP	PP	DA	SCA	HRA	TOTAL	PFOF. TAX	CGEGIS	CGHS	FEST ADV	EXCESS PAY	ACAA CO MBFL	TOTAL DEDUCTION	NET PAY
APR'07	2533	1267	20	1330	133	1140	6423	133	0	0	0	1900	1382	3415	3008
MAY'07	3800	1900	30	1995	200	1710	9635	208	30	100	150	1900	1374	3762	5873
JUN'07	3800	1900	30	1995	200	1710	9635	208	30	100	150	1900	1366	3754	5881
JUL'07	3800	1900	30	2337	200	1710	9977	208	30	100	150	1900	1358	3746	6231
AUG'07	3800	1900	30	2337	200	1710	9977	208	30	100	0	1900	1350	3588	6389
SEP'07	3800	1900	30	2337	200	1710	9977	208	30	100	0	1900	1342	3580	6397
	0	0	0	0	0	0	0	0	0	0	0	*****	4586	4586	-4586
	21533	10767	170	12331	1133	9690	55624	1173	150	500	450	11400	12758	26431	29193

- N.B.
1. Monthly Pay Rs.7600/-
 2. DA 35% w.e.f. January'2007
41% w.e.f. July'2007
 3. Excess Pay on account of 213 dies non.
 4. Festival Advance Recovery completed in July'2007
 5. The Assam Civil Accounts Association Co-Operative Mutual Benefit Fund Limited, Shillong recovery for the month of Jan'07, Feb'07 and March'07 made at the due rate Rs.1598/-, Rs.1598/- and Rs.1390/- respectively in terms of demand received from the Bank.

[Signature]

Accounts Officer (Admin.)
Accounts Section, Assam Civil Accounts Association Co-Operative Mutual Benefit Fund Limited, Shillong

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Registered with A/D Annexure-4 (25)

Office of the Accountant General (A & E) Assam,

মৈদামগাঁও, বেলতলা, গুৱাহাটী-৭৮১০২৯

Maldamgaon, Bortola, Guwahati-781029

No. Sr. DAG(A)/OA/97/2007/199

dated 22.5.07

To

22 May 2007

Shri Bimalendu Gupta
Arunodoi Residency
Block - B, Flat No.103
Swahid Dilip Muzuri Path, Sarumotoria, Dispur
Guwahati 781 006.

Sub: - Representation of Shri Bimalendu Gupta, Sr. Accountant (now under suspension)
for withdrawal of the Suspension order and his averments in OA No. 97/2007
filed by him in Hon'ble CAT, Guwahati Bench

In O.A. No.97/2007 filed by him before the Hon'ble Central Administrative Tribunal, Guwahati Bench Shri Bimalendu Gupta, Sr. Accountant (under suspension) has stated that he had sent an application on 12.04.07 to this office by post regarding the office order of 11.4.2007 placing him under suspension. He is hereby informed that the said application is yet to be received in this office. However, the copy of his representation received as Annexure 3 to his said OA is considered carefully and sympathetically and the views of this office on the issues raised by him are conveyed as follows.

Regarding recoveries from his salary, the position has been explained to him several times beginning with this office letter dated 20.5.03 and followed by reminders/reiterations dated 20.11.03, 20.8.04, 23.6.05 and 13.9.05. Through these communications, Shri Gupta was informed that Central Services (Medical Attendance) Rules was not applicable to him as Guwahati city is a CGHS covered area and he lived within the CGHS jurisdiction. He had also been directed to furnish relevant documents and certificates in support of his claims to enable this office to further consider the parts

claims that could not be admitted in the absence of the said documents/certificates.

He has represented again that his medical reimbursement claims have not been paid to this office. The matter has been examined once again and he is hereby

মৈদামগাঁও, বেলতলা, গুৱাহাটী-৭৮১০২৯

Maldamgaon, Bortola, Guwahati-781029

EPABX : 031

2307712/2307716/23016

0361-2303142 ❖ E-mail : agaoAssam@cag.gov.in

informed that his claims have been dealt with correctly in terms of procedures laid down in this behalf.

That with regard to non-payment of salaries from January 2007, the informed to him vide letter No. Admn. II/2-3/2001-03/822 dated 13.2.07 which he received on 14.2.07. He is once again informed that the said salary was withheld until he was going to complete the work allotted to him. It is explained to him that the said decision was made in view of non-performance and accumulation of work undone. Shri Gupta is also informed that he had not been attending to his work although he used to put his signature in the Attendance Register. This dereliction of duty and non-performance by him had been pointed out to him by the Supervisory Officers from time to time, and in writing vide memos dated 30.3.06, 27.4.06, 6.6.06, 8.6.06, 1.8.06, 12.1.07 and 5.2.07. It is a matter of record that Shri Gupta failed to perform his duties in spite of repeated reminders and advice. It is, therefore, not factually correct that Shri Gupta's salary with effect from January 2007 had been withheld suddenly without assigning any reason or information as alleged by him.

Shri Gupta has also repeated his allegation of non-compliance of Hon'ble Central Administrative Tribunal's order of 28.11.2001 and what he calls non-payment of salary to him. He is informed once again that appropriate action was taken by this office on receipt of the said Hon'ble CAT order by reviewing the decision on declaration of *dies non*, by issuing a self-explanatory revised order and releasing the salary due to him on account of the revision. In other words, the original office order on *dies non* was reviewed and revised on the basis of the said Hon'ble CAT order. This position was explained to Shri Gupta vide this office letter Memo No. Admn I/PC/B-63/2001-02/3409 dated 5.2.02 which was received by him on 6.2.02. Shri Gupta has raised this issue again and has filed an application before the Hon'ble Central Administrative Tribunal in spite of having been explained the position.

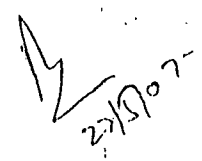
As regards the Suspension order issued to him on 11.4.07 it is explained to Shri Gupta that he has been put under suspension in accordance with Sub-rule (1) of Rule 10 of CCS (CCA) Rules 1965 and that the grounds on which he was put under suspension has been clearly stated in the preamble of the order No. Sr. DAG (A)/Admn./PC/BG/194 dated 11.4.2007 which read as "Whereas a disciplinary proceeding against Shri Bimalendu Gupta, Senior Accountant of CA-4 Section of this Office is contemplated, and

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whereas the continuance in office will prejudice investigation and interest of the Department and subvert discipline in the Office". As Shri Gupta is aware, the Disciplinary Proceeding against him has in fact been begun promptly with the issue of Charge Sheet vide No. Sr. DAG(A)/Admn/PC/BQ/Part/405 dated 23.4.07 which he has received on 30.4.07. It is thus clear that Shri Gupta has been put under suspension wholly in compliance with rules in this behalf and the Disciplinary Proceedings too will follow the rules and procedures laid down in this behalf.

As regards the restriction imposed on Shri Gupta on his entry to the office referred to by him in his representation, it is pointed out to him that he is not barred from entering the office and can do so with the permission of Sr. DAG (Admn) as stipulated in the said office order of 11.4.2007. It is therefore, pointed out to Shri Gupta that his contention that he was compelled to send his application dated 12.4.2007 to the office by post in view of the said restrictions imposed on him is not tenable. He is once again informed that the application dated 12.4.2007 claimed by him to have been posted to this office has not been received in this office as of date which is over four weeks.



Sr. Dy. Accountant General (Admn.)