

2

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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4/1/2010

O.A/T.A No. 86/2007  
R.A/C.P No.  
E.P/M.A No. 129/07 X 164/09

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*Commr. 04*
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SECTION OFFICER (Judl.)

*Shakil*  
26.9.17

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

ORDER SHEET

1. Original Application No. 86/07
2. Misc 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. Bhattacharjee  
K. Tahukbar

Advocate for the Respondent(s) Mr. C. S. Baruah

Notes of the Registry	Date	Order of the Tribunal
This application is in form of T.S. Regd. No. A&E (Ks. 30/-) dated 16.2.2007 No. 266325484 Dated 26.3.07.....	30.3.07.	Post the matter on 24.07. for Admission.  <i>u</i> Vice-Chairman
<i>Ans</i> Dy. Registrar	1m	
<i>Ans</i> 29/3/07	2.4.2007	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 January, February & March, 2007 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 not been furnished to him.
<i>Ans</i> 29/3/07		
Extra Rs. 25/- Pmtd by the Applicant. Receipt enclosed herewith.		
<i>Ans</i> 29/3/07		

Contd..

- 2 -

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.

2nd meeting  
G.Baishya  
Sr.C.G.S.C.  
3.04.07

Post on 10.04.2007.

Receiving  
B. M. D.  
31.4.07

Vice-Chairman

/bb/

17.5.07 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.

W/S filed by the  
Respondents. page  
1 to 32. Applicants  
copy served.

Vice-Chairman

/bb

4.5.07.

Post the matter on 14.5.07.

Vice-Chairman

14.5.07 1m  
Rejoinder has been 15.5.07.  
filed by the applicant.

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

N.S.  
17.5.07

1m

Vice-Chairman

18.5.07.

~~Order dated 18.5.07~~ 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

W.L.S and rejoinder  
has been filed.

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.

D.W.  
20.6.07

lm

2. No addl. W.L.S filed.

lm

Vice-Chairman

No addl. W.L.S filed.

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

D.W.  
27.6.07.

lm

Vice-Chairman

5.7.07

Reply filed by  
Respondent against  
Rejoinder. page  
1 to 19. Considered.

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.

D.W.

Vice-Chairman

/bb/

OA 82/07

order dt. 18/7/07  
issuing to applicant. 18.7.2007  
Copy to  
Court

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.

101s and responses  
filed.

22  
18.07.

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.

6.11.07  
An additional  
affidavit submitted  
by the Applicant.  
Copy ~~not~~ served.  
B.G.

ml

Vice-Chairman

/bb/

The case is ready  
for hearing.

6.11.07

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.

The case is ready  
for hearing.

/bb/

16.11.07

Member (A)

OA. 88/07 5-

19.11.2007

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

  
(Khushiram)  
Member (A)

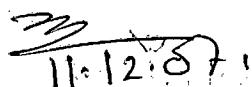
  
(M.R. Mohanty)  
Vice-Chairman

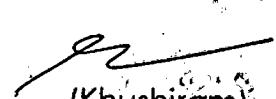
/bb/

26.11.2007

Mr.B.Gupta, ~~for the~~ 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

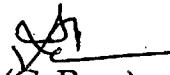
  
11.12.07

  
(Khushiram)  
Member (A)

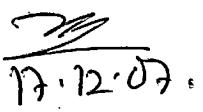
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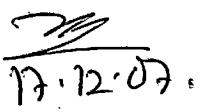
12.12.07

Call this matter on 18.12.2007.

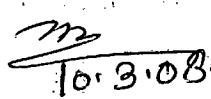
  
(G. Ray)  
Member (A)

  
(M. R. Mohanty)  
Vice-Chairman

  
The case is ready  
for hearing.

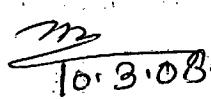
  
17.12.07

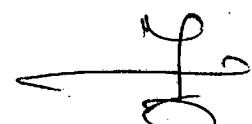
pg

  
The case is ready  
for hearing.

18.12.07

Call this matter on 10.01.2008.

  
10.1.08

  
(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.

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.

  
(Khushiram)  
Member (A)

  
(M.R. Mohanty)  
Vice-Chairman

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

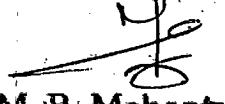
/bb/

cc 10/1/08 - D/No - 119  
Dt - 10/1/08.

30.01.2008 Call this matter on 11.03.2008 for hearing alongwith O.A.No.3/2008.

nkm

  
(Khushiram)  
Member (A)

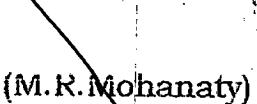
  
(M. R. Mohanty)  
Vice-Chairman

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.

lm

  
(M. R. Mohanty)  
Vice-Chairman

17-2-2008  
O.A. 86 of 07

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.

The case is ready  
for hearing.

22/3/08

lm

  
(M.R. Mohanty)  
Vice-Chairman

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

The case is ready  
for hearing.

24/3/08

pg

  
(Khushiram)  
Member(A)

  
(M.R. Mohanty)  
Vice-Chairman

The case is ready  
for hearing.

31/3/08

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

nkml

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

The case is ready for hearing.

10.4.08.

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.

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.

(Khushiram)

Member(A)

(M.R.Mohanty)

Vice-Chairman

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 15<sup>th</sup> September 2008, along with other connected cases.

(Khushiram)  
Member(A)

(M.R.Mohanty)  
Vice-Chairman

lm

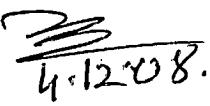
O.A 86/07, 9 -

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

  
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)

/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.

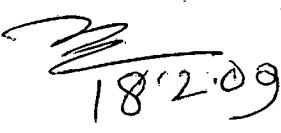
  
On the prayer of learned counsel for both  
the parties, call this matter on 30.01.2009 for  
hearing.

  
(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.

/bb/

  
(M.R. Mohanty)  
Vice-Chairman

O.A. No.86/07

10-

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.

Copies of order dt.  
24.2.09 is prepared  
& sent to the section  
61A issuing to appear  
& to correct case  
by hand.

DINo-6668

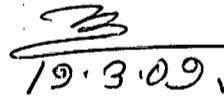
2009  
27.2.09

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,  
Arunudoi Residency, Sahid Dilip Huzuri  
Path, Sarumatoria, Dispur, Guwahati-6,  
Assam), who should come ready for hearing  
of his case on 20.03.2009.

  
19.3.09.

Mr G. Bajhya, 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

Mr G. Bajhya, 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.

Mr G. Bajhya, 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

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*  
(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*  
(Khushiram)  
Member (A)

*A.K.Gaur*  
(A.K.Gaur)  
Member (J)

/bb/

04.05.2009 Call this matter on 19.06.2009.

*M.R.Mohanty*  
(M.R.Mohanty)  
Vice-Chairman

/bb/

*22.5.09*  
This OA is prepared on  
request.

*Br*

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)  
1m (M.R. Mohanty)  
Member(A) Vice-Chairman

19.06.2009 Call this matter for hearing on 01.07.2009  
along with O.A. 170/2008.

*The case is ready  
for hearing*

(M.R. Mohanty)  
Vice-Chairman

~~30.6.09~~ 01.07.2009 Call this Division Bench  
matter for hearing on 22.07.2009.

*The case is ready  
for hearing*

(M.R. Mohanty)  
Vice-Chairman

JM

PT.O

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/-

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 1<sup>st</sup> 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 01<sup>st</sup> 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.

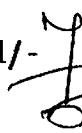
In the aforesaid premises, CAG of India/New Delhi (Respondent No.2 in O.A. 170/2008) need, without prejudice to the pendency of this case, consider the grievances of the Applicant, as raised in his representation dated 18.07.2008, and pass necessary orders.

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 C.A.T/ Guwahati Bench; Hon'ble new Administrative Member having joined on 14.07.2009.

Contd/-  


O.A.Nos. 08/2007, 86/2007, 03/2008 and 170/2008

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

Dated - 22-7-2009 prepared matter (P.T.No.191 of 2009) in which his

and send to D. Section prayer for transfer (of all the these cases to the Principal Bench) is being considered;

for issuing of the same 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.

3  
31/7/09

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

C  
(M. K. Chaturvedi)  
Member (A)

4  
(M. R. Mohanty)  
Vice-Chairman

Im 3  
11.8.09

is done in the Principal Bench;  
Member

Court -

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.

Kharial,

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

13/8/09

21.8.2009

Copy of The Order

Date 12.8.2009 prepared and send to Section 60 for issuing of the same

to the applicant & Respondents also issued to principal Registrar, CAT, P.B.

22

Vide D.No. 9628 to 9639

Date:— 21.8.09

21.8.09

Call this matter after Puja Vacation on 7<sup>th</sup> 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 07<sup>th</sup> October 2009 before Division Bench for hearing.

(M.K. Chaturvedi)  
Member(A)

(M.R. Mohanty)  
Vice-Chairman

The case is ready for hearing.

26.10.09

/lm/

PTO

-18-

O.A. 86/07

13.10.09

07.10.2009

As per P.B. New Delhi  
letter dated 15.9.09 regarding  
service of notice 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 <sup>12</sup>/<sub>13</sub> 10.09.  
Office copy kept in 'c' file  
in O.A 170/08.

*QW*  
15.10.09.

*QW*  
6/11/09

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.

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*  
(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 Kr. Chaturvedi)  
Member (A)

*✓*  
(Mukesh Kr. 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)

O.A.NO. 88/2008

17.11.2009 Heard learned counsel for parties.  
Hearing concluded.

Orders reserved.



(Madan Kumar Chaturvedi)  
Member (A)

nkm



(Mukesh Kumar Gupta)  
Member (J)

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O.A. No. 86 of 2007

30.11.2009

For the reasons recorded separately,  
the O.A. stands <sup>Allowed</sup> dismissed. No costs.

(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)  
Member (A) Member (J)

/lm/

Received order  
dated 30/11/2009  
Bimalesh Guptha  
28/12/2009.  
Received copy  
for: Gt. Baishya  
Advocate  
Utpalpara Bharacharya  
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)

12

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**

Original Application Nos. 08 and 86 of 2007

Date of Order: This, the 30<sup>th</sup> 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

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

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

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 1<sup>st</sup> 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.

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 his 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 impermissible. 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".

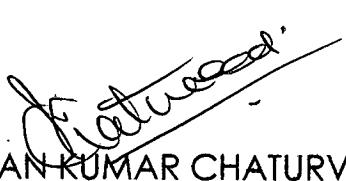
In other words, there is no specific denial to the contention raised by Applicant that he had attended the office during December 2006 and January 2007. Once facts are such crystal clear, we have no hesitation to conclude that order of the Sr. Deputy Accountant General (Accounts) is not passed for germane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

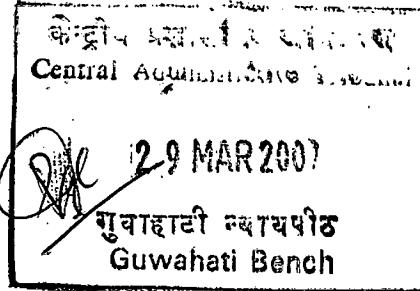
- (i) There is no substance and justification in the claim laid in O.A.08/2007 and accordingly, said O.A. is dismissed.
- (ii) There is no justification in the order dated 13.02.2007 and accordingly, same is quashed and set aside. Thus, O.A. is allowed. Applicant would be entitled to salary for the month 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)

  
(MUKESH KUMAR GUPTA)  
MEMBER (J)

/BB/



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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  
Depsrtnment of Expenditure, New-Delhi-1 and  
Ords.

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 from 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

...

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI

52  
Filed by the  
Applicant  
Group  
V. Number 29/3107  
Advocate

BETWEEN : Shri Bimalendu Gupta ... Applicant  
- versus -

Secretary to the Govt. of India  
Ministry of Finance (Dept 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 : 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 (Dept. 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.

*Bimalendu Gupta*

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, IAS,  
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 Administration 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 ~~privileges~~ 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 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.

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 scinicies 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).

*Bimalendu Deka*

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

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.

*S. Malakar*

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 OA.No.245/2001. After hearing both the parties This Hon'ble C.A.T. set aside the impugn 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 Nath*

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 empled as personal Respondent No.(v) 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 Respondent are in havit 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 occassion 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 occassion 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 impugn order dated 13.2.2007 it can be very easily made out the Respondent/<sup>No (iv)</sup> has no reason to stop the salary of the humble applicant from January,2007 and else.

*S. Mahadevappa*

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)/<sup>is</sup> same Respondent holding the duel 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 harrible 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.

VI.

DETAILS OF REMADIES EXHAUSTED:

The applicant declared that the applicant availed of all the remadies 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 isnot 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 tobe 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 avid 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 :

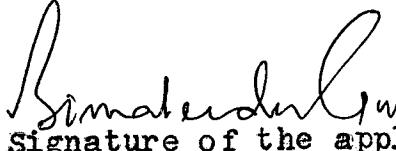
As stated in the Index.

*Bimalendu Nath* verification.....P/9

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 29<sup>th</sup> day of March, 2007 at Guwahati.

  
Bimalendu Gupta 29/3/07  
Signature of the applicant.

COMPTROLLER AND AUDITOR GENERAL'S MANUAL  
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.

वंशी तथ्य है कि नियंत्रण-प्रशासन के लिए और अधिकारी विधि, वैधति तथा के कार्य भी यह है, जो इनके कार्य हैं।

वंशी तथ्य है कि नियंत्रण-प्रशासन के लिए और अधिकारी विधि, वैधति तथा के कार्य भी यह है, जो इनके कार्य हैं।

नियंत्रण वाले संग राज्य अंतर्भूत नियंत्रण-भव्यालेष्या-महालेबापरीक्षा (कार्यव्य, नियम 1971 की पारा है, जिन्हें भी दी गयी है।

नियंत्रित के लिए

के लेखावां का यंकलन उपर्युक्त लेखावां से करने भी के रखने के लिए लियों या विभागों द्वारा तथा लेखापरीक्षा हैं; और विभायों में से इन्हीं के रखने के लिए जो,

बापरीक्षा से परामर्श नियंत्रित के रखने के

सी गुरुत्व या अनेक

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

**151 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

गृह संघ के,  
धोका, जितां  
प्राप्तियों और  
उसके द्वारा  
ग्राते हैं, तैयार  
प्राप्ति को या  
उच्च धोका के  
में, जो बहु  
करे, प्रस्तुत

से परामर्श  
ग्राता याले  
प्राप्तियों और  
प्रस्तुत करते

गृह संघाति  
परामर्श करते  
जिए वादित  
प्रेष्टे तीव्रात  
पुकार पर

प्राप्ति धोका,  
प्राप्ति 11 के  
प्रते हुए  
धरनार के  
राज्य धोका  
त्वापित्व से  
भले आदेश

प्राप्ति प्रस्तुत  
ग्राता प्रस्तुत  
लिपि  
प्राप्ति  
प्राप्ति विवर  
उत्तराधी  
को, राज्य  
धारन सेवा की  
परिवार-पार्मा  
रणियों की  
कर रुप से

(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.

## वार के कारण

लेखा तथा सेवा-  
वार और सामान्य-  
रा समय-समय पर  
कार्यों का नियादन  
बनाई गई नियमी  
जाते हैं या उसके

सम्बन्धित सरकार  
। वह नियरिति  
को उन्हें प्रस्तुत  
के सामले में वित्त  
एवं पार है। यह  
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 &amp; Unit

Name B. Gupta Date 13/6/06Age 52 yr Hospital No. B. 1249Advice 2 yr Sex M Regd. No. 875902Tuesday, 13/6/06  
DR. KABITA BARUAH PROFESSOR

ভাৰতীয় বৰষা, অসমিয়া

(1) Trixone "0" 200 - (10)  
1 tab twice daily x 5 days

(2) Alzero - 10  
1 tab daily at bed time

(3) Alex 103  
1 tab thrice daily

(4) Otrivine -  
Nasal drop thrice daily

sd/-

(i) To avoid dusty environment.

27/6/06

To continue No. 2 &amp; 4.

Ry (i) Trixone "0" 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 &amp; 4

sd/-

Annexure 3

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  
SACell

PS to DAG (A)  
for DRPS (A)

Certified to be true  
copy  
Bimalendu  
Gupta  
(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

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 ~~expessk~~ arrange to deposit the pay for January, 2007 by to-day. This may kindly be treated as Most Urgent.

Dated, Guwahati

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

Yours faithfully

sd/- Bimalendu Gupta

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

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. Accit. 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<sup>N</sup> 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<sup>N</sup> of File No. Admn.-2/2  
3/2001-03.

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

Accounts Officer (Admn.)

certified to be true  
copy  
Anubendu  
(Advocate)

To

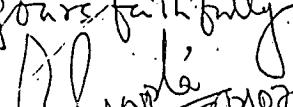
The Sr. Deputy Accountant  
General (A/Cs) O/o the A.G.  
(A&E) Assam, Beltola  
Guwahati-29.

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 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, as stated  
above for record and ready reference.

Dated 6 Guwahati  
28-02-2007

Yours faithfully

  
Bimalendu Gupta  
Sr. Acctt/CA-4

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).

7  
Certified to be  
true copy  
Bimalendu  
(Advocate)

17 MAY 2007

গুৱাহাটী ন্যায়পুর  
Guwahati Bench

File by  
The respondents  
through  
Gautam Borth  
Srl. Case

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),

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.

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/COB/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

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/Gs), 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 dttd.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 TA & 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.

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 arrear 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 lone 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

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

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

X

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-63/2001-2002/3409 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 dues not 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/COB/2006-2007/96 dated 16.1.2007, and the communication issued by Administration Section to the applicant vide No. Admin.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.

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 pages 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.

8. 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 what-

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. Adam.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 DA 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 DA. It is humbly submitted that DA

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.

ii. 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.

VERIFICATION

I, .... AKOIJAM RINA .... & AKOIJAM RANBIR  
aged about 36 years, R/o ... BELTOLA, GUWAHATI.....  
District KAMRUP .. 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

अकोजम रिना

Sr. Dy. Accountant General

सर्विसेंस ऑफ एक्युटिव एक्युटिव

O/O the Accountant General (P.U.L)

दस्तावेज़-

Assam, Guwahati

MAIDAMGAON, BELT

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

Annexure - 1  
ATT-29

Date : 18<sup>th</sup> Sept., 2006.

To

- 16 -

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  
Copy for information and necessary action to :- dtd. 18.09.2006

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

P. D.  
Section Officer  
I/c. Rec©

True Copy  
M. C. Das  
Advocate

11/07  
to CA

17 Annexure II

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

Srl 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"> <li>• Allotted work not attended to.</li> <li>• Application received from Shri Bimalendu Gupta Sr Acct on 8-05-06 on above 2 memos.</li> <li>• Reply turned down vide SrDAG memo dated 06-06-06</li> </ul>
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"> <li>• Imputations of misconduct also issued with memo.</li> <li>• Reply to memo dated 27-4-06 turned down.</li> <li>• Reply incomplete. Did not reply to imputations of misconduct.</li> <li>• Sought extension.</li> <li>• Allotted work not attended to.</li> </ul>
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"> <li>• Extension sought for 15 days vide application dated 14-6-06.</li> <li>• Allotted work not attended to.</li> </ul>
4	Memo No. CA-4/XON/2006-07/85	01-8-06	Within 3 days	.....	<ul style="list-style-type: none"> <li>• Memo could not be served as Shri Bimalendu Gupta Sr Acct was unavailable.</li> <li>• Allotted work not attended to.</li> </ul>
5	Memo No. CA-4/CON/2006-07/89	12-01-07	Within 3 days	Reply not submitted within 3 days.	<ul style="list-style-type: none"> <li>• Allotted work not attended to.</li> </ul>
6	Memo SrDAG(A/cs/Misc/06-07/1	05-02-07	By 12-2-07	No reply in time.	<ul style="list-style-type: none"> <li>• Extension for 10 days sought for reply.</li> <li>• Reply submitted on 20-2-07</li> <li>• 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)</li> </ul>

*True copy  
N. C. Das  
Advocate*

-18-

(23)

80

This with reference to Memo NO.Sr. DAG(A/Cs)/Misc/06-07/1 dated 05.02.2007 issued 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)

15/2/07

15/2/07  
A.O/CA-4

In spite of repeatedly warning and verbal memo vide NO. CA-4/2005-06/1 dt. 30.3.06, CA-4/2005-07/2 dt. 27.4.06 and CA-4/CONT/2006-07/80 dt. 8.6.06, Shri Bimbadanu 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 found seated in his seat. All hours of his table were have been accumulated. The accounts from Sep/05 to March/06 relating to Dispur & Rangia 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 Admin. - officer from time to time.

Copy to  
Accounts Officer  
C.A. Group  
10/8/06

Copy to:

✓ A.O., Confidential Cell.

True copy  
N. Upadhyay  
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 reallocating 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 andbut 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

9.06 to 30.09.06 4.5,6,7,8,11,1  
Time with C.R. Associate  
Dr. C. R. Associate

121 - 29

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.,

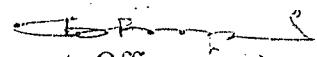
CA-4 section

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

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

NO. CA-4/CON/2006-07/104 dated Guwahati the 22<sup>nd</sup> 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  
W. C. Dabral*

(32)

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.

*E.P.*  
Accounts Officer 2-2-131.D  
I/C CA-4 Section

To

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

S

24

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 Adminn, 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(Adminn)

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

Asstt. Accounts Officer, i/c Confidential Cell.

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

*True Copy  
N. C. Deka  
Advocate*

## Annexure VII

25

संस्थाय प्राप्तिकाण संस्थान

भारतीय लोक एवं लोकार्थीका विभाग

उत्तर-पूर्वी शैक्षणिक विभाग, शिलांग- 793 003

REGIONAL TRAINING INSTITUTE

INDIAN AUDIT & ACCOUNTS DEPARTMENT  
NORTH EASTERN REGIONLACHATELETTE COMPLEX  
LAITUMKHRAH, SHILLONG 793 003  
PHONE: (0364) 2222594, 2216203, 2220381  
FAX: (0364) 2223314  
E MAIL: rtishg@suncharnet.in

04 APR 2007

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

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,

Kishan  
Officer on Special DutyTrue copy  
N.C.DS  
Sarkar

Annexure ~~3~~ VII

18

26-

To

The Sr. Deputy Accountant  
General (Clerk),  
OPO the A.C.C. Assam, Dibrugarh  
Guwahati-29.

Subj:- Explanation on memo dated  
12-01-2007

Madam,

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

Dated Guwahati

12-02-2007.

Yours faithfully  
Bimalendu Gopal  
Sr.ACC/CPA

True copy  
N. C. Das  
A.A.C.

*Pay in hand*

*27*

*2007*

*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*

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.

*R. Singh*  
28/1/06

*R. Singh* 27/1/06

Sr. Dy. Accountant General (Admn.)

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

*FCT*  
27/1/06

*Take copy  
P.C. DMS  
Parvate*

*D*

## Annexure-X

## OFFICE OF THE ACCOUNTANT GENERAL (A&amp;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 28<sup>th</sup> 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 - 3<sup>rd</sup>, 10<sup>th</sup>, 17<sup>th</sup>, 24<sup>th</sup> and 31<sup>st</sup> of October and 7<sup>th</sup> November 1998 (Total 6 days)

Sundays - 27<sup>th</sup> September, 4<sup>th</sup>, 11<sup>th</sup>, 18<sup>th</sup> and 25<sup>th</sup> of October and 1<sup>st</sup> and 8<sup>th</sup> November 1998 (Total - 7 days)

Holidays - 1<sup>st</sup>, 2<sup>nd</sup>, 19<sup>th</sup> October and 4<sup>th</sup> November 1998 (Total - 4 days)

Shri Bimalendu  
Gupta was found  
absent in his office  
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80 - 126 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

*Hebban 5710*  
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.
2. The Section Officer, Admn II
3. The Asstt. Accounts Officer, i/c. Confidential Cell

*Copy  
6/2/2002*

*✓*  
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.

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

SD  
Supervisor

L/c CA-4 section

Dated 16.01.2007.

l/b/m  
No. CA-4/CON/2006-07/ 96  
Copy for information and necessary action to:  
Assistant Accounts Officer, Admin. 2

SD  
Supervisor 16/1/07  
L/c CA-4 section

Trilekha  
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<sup>N</sup> 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<sup>N</sup> of File No. Admn.-2/2 3/2001-03.

*Recd  
Bopal 13/2/07*  
Sri Bimalendu Gupta, Sr. Acctt.  
CA-4 Section.

*Accounts Officer (Admn.)*  
*Recd  
13/2/07*

Though he put his sign in the Attendance Register today i.e. 13  $\frac{2}{07}$  but found left office without the permission

*13/2/07.*

*True Copy  
H. C. Das  
Govt. of Assam*

17 MAY 2007

गुवाहाटी बैचली  
Guwahati Bench

Filed by the  
Applicant

91

Through  
Advocate  
Services

17/5/07

IN THE ~~CENTRAL~~ ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI

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 (Dept. 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.

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/0607/1 dated 5.2.07

*Ramendra Nath*

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 Respondent 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 ~~ask~~ the applicant submit the written ~~con~~ consent to deduct the bank ~~loan~~ 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/- p.m. from December, 2005 is illegal and overriding of Rules. The statement in para 8 is liable

Subroto Dey

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.

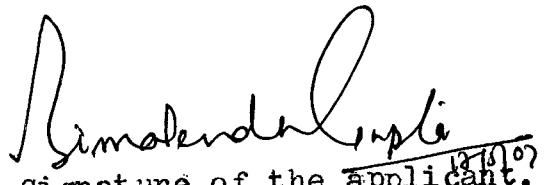
That with regard to the rejoinder made by the applicant begs to state that there is no ground for stopping payment of salary of the applicant from January,2007 the interim order as prayed for by the applicant in the said OA No.86/2007 kindly be granted and direction be passed to the Respondent No.(iii)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

*Bimalendu Nath*

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 (Arunudoi 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 6, 2, 3, 4 and 5 are based on records which I belief 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. 17/5/07

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

ab

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,

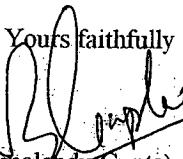
With reference to the subject, I beg to state that the Supervisor i/c CA-4 handed over treasury bundles of Accounts for 4/06 on 3.1.2007 and 8.1.2007 for detachment of schedules without any specific time limit. On scrutiny it is observed the schedules are not marked by the treasury authority and it is not authorised to the Sr. Accountant to prepare/marked 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 knowsthe 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 uscs 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.

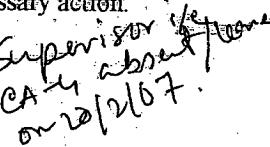
3. The cleaning, dusting and shifting of vouchers and painting works of the section was conducted upto 24.1.2007 and the works of detachment of vouchers from treasury bundles has been handed over to the other Sr. Accountant by the Supervisor i/c and the memo dated 12.1.07 is not correct and motivated.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

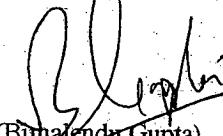
Dtd., Guwahati the 20.2.2007

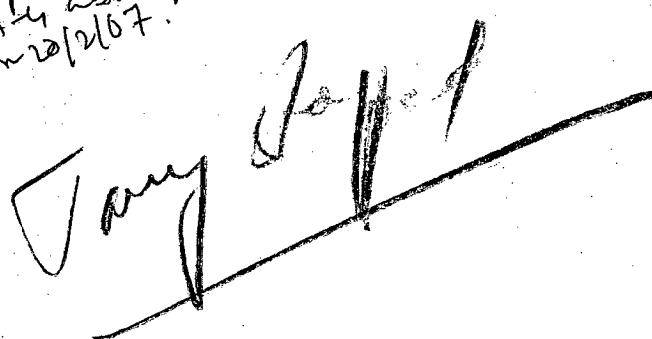
Yours faithfully  
  
(Bimalendu Gupta)  
Sr. Accountant

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.

  
Supervisor In-charge  
CA-4 absent from  
on 20/2/07.

  
Dharmabali  
20/2/07

  
(Bimalendu Gupta)

  
January  
20/2/07

Name of Subscriber: GUPTA AJANTA

PF A/C No. DT 4673

DOB: Treasury DISPUR

Int. Rate 8 %

DDO/COMMISSIONER HILLS AREA &amp; BORAK VALLEY, DISPUR, GUWAHATI

## Credit Details

## Debit

## Missing Credits #

Month	Subscription	Refund	Other	Category	Total	Debit	Type	Missing Credits #
04/2005	300				300			12/1999-01/2000
05/2005	300				300			02/2000-04/2000
06/2005	300				300			05/2000-06/2000
07/2005	300				300			07/2000-08/2000
08/2005	300				300			09/2000-10/2000
09/2005	300				300			11/2000-12/2000
10/2005	300				300			01/2001-02/2001
11/2005	300	700			1050			04/2001-05/2001
12/2005	300				300			06/2001-07/2001
01/2006	300				300			08/2001-09/2001
02/2006	300				300			10/2001-11/2001
03/2006	300				300			12/2001-01/2002
04/2006	300				300			02/2002-03/2002
05/2006	300				300			04/2002-05/2002
06/2006	300				300			06/2002-07/2002
07/2006	300				300			08/2002-09/2002
08/2006	300				300			10/2002-01/2003
09/2006	300				300			02/2003-03/2003
10/2006	300				300			04/2003-05/2003
11/2006	300				300			06/2003-07/2003
12/2006	300				300			08/2003-09/2003
01/2007	300				300			10/2003-11/2003
02/2007	300				300			12/2003-01/2004
03/2007	300				300			02/2004-03/2004
04/2007	300				300			04/2004-05/2004
05/2007	300				300			06/2004-07/2004
06/2007	300				300			08/2004-09/2004
07/2007	300				300			10/2004-11/2004
08/2007	300				300			12/2004-01/2005
09/2007	300				300			02/2005-03/2005
10/2007	300				300			04/2005-05/2005
11/2007	300				300			06/2005-07/2005
12/2007	300				300			08/2005-09/2005
01/2008	300				300			10/2005-11/2005
02/2008	300				300			12/2005-01/2006
03/2008	300				300			02/2006-03/2006
04/2008	300				300			04/2006-05/2006
05/2008	300				300			06/2006-07/2006
06/2008	300				300			08/2006-09/2006
07/2008	300				300			10/2006-11/2006
08/2008	300				300			12/2006-01/2007
09/2008	300				300			02/2007-03/2007
10/2008	300				300			04/2007-05/2007
11/2008	300				300			06/2007-07/2007
12/2008	300				300			08/2007-09/2007
01/2009	300				300			10/2007-11/2007
02/2009	300				300			12/2007-01/2008
03/2009	300				300			02/2008-03/2008
04/2009	300				300			04/2008-05/2008
05/2009	300				300			06/2008-07/2008
06/2009	300				300			08/2008-09/2008
07/2009	300				300			10/2008-11/2008
08/2009	300				300			12/2008-01/2009
09/2009	300				300			02/2009-03/2009
10/2009	300				300			04/2009-05/2009
11/2009	300				300			06/2009-07/2009
12/2009	300				300			08/2009-09/2009
01/2010	300				300			10/2009-11/2009
02/2010	300				300			12/2009-01/2010
03/2010	300				300			02/2010-03/2010
04/2010	300				300			04/2010-05/2010
05/2010	300				300			06/2010-07/2010
06/2010	300				300			08/2010-09/2010
07/2010	300				300			10/2010-11/2010
08/2010	300				300			12/2010-01/2011
09/2010	300				300			02/2011-03/2011
10/2010	300				300			04/2011-05/2011
11/2010	300				300			06/2011-07/2011
12/2010	300				300			08/2011-09/2011
01/2011	300				300			10/2011-11/2011
02/2011	300				300			12/2011-01/2012
03/2011	300				300			02/2012-03/2012
04/2011	300				300			04/2012-05/2012
05/2011	300				300			06/2012-07/2012
06/2011	300				300			08/2012-09/2012
07/2011	300				300			10/2012-11/2012
08/2011	300				300			12/2012-01/2013
09/2011	300				300			02/2013-03/2013
10/2011	300				300			04/2013-05/2013
11/2011	300				300			06/2013-07/2013
12/2011	300				300			08/2013-09/2013
01/2012	300				300			10/2013-11/2013
02/2012	300				300			12/2013-01/2014
03/2012	300				300			02/2014-03/2014
04/2012	300				300			04/2014-05/2014
05/2012	300				300			06/2014-07/2014
06/2012	300				300			08/2014-09/2014
07/2012	300				300			10/2014-11/2014
08/2012	300				300			12/2014-01/2015
09/2012	300				300			02/2015-03/2015
10/2012	300				300			04/2015-05/2015
11/2012	300				300			06/2015-07/2015
12/2012	300				300			08/2015-09/2015
01/2013	300				300			10/2015-11/2015
02/2013	300				300			12/2015-01/2016
03/2013	300				300			02/2016-03/2016
04/2013	300				300			04/2016-05/2016
05/2013	300				300			06/2016-07/2016
06/2013	300				300			08/2016-09/2016
07/2013	300				300			10/2016-11/2016
08/2013	300				300			12/2016-01/2017
09/2013	300				300			02/2017-03/2017
10/2013	300				300			04/2017-05/2017
11/2013	300				300			06/2017-07/2017
12/2013	300				300			08/2017-09/2017
01/2014	300				300			10/2017-11/2017
02/2014	300				300			12/2017-01/2018
03/2014	300				300			02/2018-03/2018
04/2014	300				300			04/2018-05/2018
05/2014	300				300			06/2018-07/2018
06/2014	300				300			08/2018-09/2018
07/2014	300				300			10/2018-11/2018
08/2014	300				300			12/2018-01/2019
09/2014	300				300			02/2019-03/2019
10/2014	300				300			04/2019-05/2019
11/2014	300				300			06/2019-07/2019
12/2014	300				300			08/2019-09/2019
01/2015	300				300			10/2019-11/2019
02/2015	300				300			12/2019-01/2020
03/2015	300				300			02/2020-03/2020
04/2015	300				300			04/2020-05/2020
05/2015	300				300			06/2020-07/2020
06/2015	300				300			08/2020-09/2020
07/2015	300				300			10/2020-11/2020
08/2015	300				300			12/2020-01/2021
09/2015	300				300			02/2021-03/2021
10/2015	300				300			04/2021-05/2021
11/2015	300				300			06/2021-07/2021
12/2015	300				300			08/2021-09/2021
01/2016	300				300			10/2021-11/2021
02/2016	300				300			12/2021-01/2022
03/2016	300				300			02/2022-03/2022
04/2016	300				300			04/2022-05/2022
05/2016	300				300			06/2022-07/2022
06/2016	300				300			08/2022-09/2022
07/2016	300				300			10/2022-11/2022
08/2016	300				300			12/2022-01/2023
09/2016	300				300			02/2023-03/2023
10/2016	300				300			04/2023-05/2023
11/2016	300				300			06/2023-07/2023
12/2016	300				300			08/2023-09/2023
01/2017	300				300			10/2023-11/2023
02/2017	300							



- 5 JUL 2007.

গুৱাহাটী বৰ্ষায়পীঠ  
Guwahati Bench

filed by the  
respondents  
29  
through  
Bimalendu  
Sarkar  
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. Akojam 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-

102

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

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.

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.

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 begs 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.

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.



- 11 -

Speed Post

No. 274 - LC/ 69- 2007

DY. Sr. DAG (A) / OA. 6/ 388 रि. 3-5-07 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

दिनांक / DATE 93-4-07

To,

Mr. (A & E) ... Sectt.  
Dated No. 01-4-07  
Date 01-5-07

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. MH  
(early P.) 15/4/07  
ON  
Para wise comments  
handed over to Sr. C.P. S.C.  
on 25/4/07  
M.M.  
15/4/07

Accepted  
Utki yogni

Yours faithfully

23/4/07  
(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.

*Validated  
M.R.B. 20/11/65*

- (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,

## Annexure -3

### 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.

Copy to:-

*P-12/4/07*  
Sr. Dy. Accountant General (Admn)

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.

Recd.

*P-12/4/07*  
Sr. Dy. Accountant General (Admn)

*Allesed  
Nabi*

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Annexure - 4

Original Application No. 245 of 2001

Date of Order: This the 28<sup>th</sup> 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, Beltola, 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 ..... of the Accountant General(A&E), Assam, Guwahati. He is expected to attend ..... Hindi Training

contd/-

11/11

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 Gowalpara 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 Gowalpara 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

H.L.S

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(A&E), 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~~ 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

ICLUSA

contd/-

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 (ADMN)

TELECOPIER COPY

संस्कृति

4/12/2001

क्रमांक १०१००८८  
संस्कृत विद्यालय  
कालाशनी विहार, विजयवाडा  
कर्णाटक भारत  
क्रमांक १०१००८८  
४/१२/२००१

85  
4/12/2001

19  
Annexure - 5

LETTER OF DECLARATION

I, Amrendra Choudhury.....being a member of Accounts Category III Association, o/o the A.G(A&E) Assam, Guwahati hereby authorise deduction of monthly subscription of Rs. 10.00..... from my salary and authorise its payment to Accounts Category III Association, Guwahati.

Signature: Amrendra Choudhury

Name

Designation: Ex. Secy

TO BE FILLED IN BY THE ASSOCIATION.

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

Amrendra Choudhury  
Signature of Authorised  
Bearer.

Amrendra  
Choudhury

5 NOV 2007

गुवाहाटी बैच  
Guwahati Bench

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 (Dept. 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 Arunudoi 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 conversent 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 compilation 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

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F  
filed by the applicant  
Bimalendu Gupta O.A. No. 86/2007

- 5 मार्च 2007

गुवाहाटी बायपोर्ट  
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 ~~xxx~~ 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 asstated 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 Panelty 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.5 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 egp.

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 <sup>st</sup> Rejoinder dated 17.5.2007).

Ramakrushna Upadhyaya

- 5.1.1.1007

Guwahati Bench

- 3 -

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 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. Aloijam Rina is presently working as Senior Deputy Accountant General in the office of the Accountant General (Audit) Assam, Moidam-gaon, 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 ~~in 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/ of the case (as this is subjudice), but the Respondent No.5, 3 maintaining the suspension order ~~xxx~~ 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.

2 || 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 ~~xxx~~ 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-4

8. 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.

9. 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 ~~to~~ 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.

  
Bimalendu Das  
Deponent  
5/11/07

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

Dated : 05-02-2007

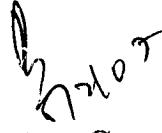
It has come to the notice that Sri Bimalendu Gupta, Sr.Accountant , CA-4 has not performed his allotted duties and was issued memo by the Sectional- In charge on 12/1/07 with directions to explain himself within 3 days. However, it is informed that he has not submitted his explanation till date.

In the mean time, work related to Rangiy 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.

  
Sr.Dy.Accountant General(A/cs)

Sri Bimalendu Gupta,  
Sr.Accountant , CA-4

BY SPECIAL MESSANGER मैदामगांव, बेलतोला, गुवाहाटी-781029  
Maidamgaon, Beltola, Guwahati-781029

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

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To  
Sri Bimalendu Gupta,  
Sr. Accountant (Under suspension),  
'Arunudoi 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  
Issued under letter NO. Admn-2/2-3/mise. Correspond-03/499 dated 15/10/03

Subsistance 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.

संसदीय अधिकारी (संसदीय)  
Assam Legislative Assembly  
संसदीय अधिकारी (संसदीय)  
संसदीय अधिकारी (संसदीय)  
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Registered with A&D Annexure-4 8  
महालेखाकार का कार्यालय (से पृष्ठ 2) (25)

Office of the Accountant General (A & E) Assam,  
मैदामगांव, बेलतोला, गुवाहाटी-781029  
Maldamgaon, Beldola, Guwahati-781029

178/01/2007  
No. Sr. DAG(A)/OA/97/2007/199

dated 22.5.07

To

22 May 2007

Shri Bimalendu Gupta  
Arunudoi Residency  
Block - B, Flat No.103  
Swahid Dilip Huzuri 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.

It 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

मैदामगांव, बेलतोला, गुवाहाटी-781029

Maldamgaon, Beldola, Guwahati-781029

EPABX : 03

2301/2307712/2307710/230160

0361-2303142 ♦ E-mail : [ngaoAssam@cag.gov.in](mailto:ngaoAssam@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 concerned 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. St. 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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whose 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/BG/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.

*✓ 27/07*  
Sr. Dy. Accountant General (Admn.)