

ORDER SHEET

1. Original Application No. _____

2. Misc Petition No. _____

3. Contempt Petition No. 7/07 CoA 30/07

4. Review Application No. _____

Applicant(S) Pradip Kr. Ghosh VS Union of India & Ors

Advocate for the Applicant(S) A. R. Sikdar, J. A. Azad

K. M. Haloi

Advocate for the Respondant(S) Dr. J. L. Sarkar,
Standing Counsel

Notes of the Registry Date Order of the Tribunal

This Contempt

8.5.2007

Post the matter on 14.05.2007.

petition has been
filed by the Counsel
for the Applicant and

prayed that the Contemners/
Respondents wilfully deliberately
disobedience and flouting
of this Tribunal's order
dated 24.8.2006 in

/bb/
15.5.07.

Counsel for the applicant has
submitted that he wants to file affidavit
in the C.P. Let it be done. post the
matter on 24.5.07.

O.A 202/06. Hence the
Hon'ble Court issue notice
or show cause to the
Contemners/respondents
and after hearing the
parties be pleased to pass
an order for appropriate
punishment for committing
guilty of contempt in the
interest of Justice.

lm

Vice-Chairman

Laid before the Hon'ble
Court for further orders.

Dr.
for Secretary officer

41
24.5.07

22.5.07

*Affidavit Submitted
Advocate for the Applicant.*

Ho.

- 2 -
This Contempt Petition has been filed by the counsel for the applicant for non compliance of the order dated 24.8.2006 in O.A. 202 of 06 passed by this Tribunal. This Court has directed the respondents to dispose of the representation dated 28.04.2006 and pass appropriate order and communicate the same to the applicant within a period of two months. But the contemnors respondent No.2 vide Annexure B order dated 30.10.2006 rejected the said representation stating that no Railway Doctor had recommended him unfit as the applicant were found physically fit to carry out his normal duties. Thereafter the applicant has approached this Tribunal, by filing O.A. No.30 of 2007. This Tribunal on 14.2.2007 has passed the order, the operative portion of the order of which is reproduced as follows:-

"3. However, considering the issue involved and the Medical Superintendent being a party in this O.A. I direct the applicant to report before the Medical Superintendent, Railway Hospital, New Bongaigaon i.e. the 5th Respondents, who or any other competent authority authorized by him, shall examine the Applicant and issue a fitness certificate if he is fit and the same shall be produced before the authority who shall permit the applicant to join duty if he is otherwise eligible. The exercise will be completed at the earliest.

4. The O.A. is disposed of accordingly, There shall be no order as to costs."

Thereafter the applicant has submitted that he has intimated for compliance of the said order.

W

24.5.07 compliance of the said order of this Tribunal. Thereafter the applicant received a back dated letter on 12.4.07 from the Medical Superintendent, Railway Hospital instructing him to remain present his office alongwith with sick memo of the department which has not been issued by the Respondent No.4. As per his instruction the applicant submitted an application dated 13.4.2007 before the respondent No.4 praying for issuance of sick memo. But the respondent has not issued any fitness certificate so as to allow him to join in his service. Aggrieved by the certain action the applicant has filed this Contempt Petition before this Tribunal for taking appropriate action against the respondents.

From the above pleadings I am of the view that the 4th Respondents cannot be made a party in the C.P. Considering the averment made in the Contempt Petition and also materials placed on record I find that the respondents have not complied with the order of the Tribunal and therefore, Registry is directed to issue notice on the 1st respondent, Shri Deepak Kumar Gupta, Divisional Rly, Manager (Personal), the 2nd respondent Sri Samarash Chakraborty, Divisional Personal Officer, and 3rd Respondent, Shri Arun Kumar Das, Medical Superintendent, to show cause as to why the contempt proceedings shall not be initiated against them for non compliance of the order of this Tribunal.

24.5.07

Post the matter on 20.7.07. It is made clear that the personal appearance of the alleged contemnors will not be dispensed with unless they will comply with the order of this Tribunal within the

~~time frame.~~ well before the next date of hearing. Sent to be as above

Vice-Chairman

As per order dt. 24/5/07 notice & order sent to D/section for issuing to R-1, 2 & 3 by regd. A/D post.

lm


20.7.2007

D/NO - 573 to 575

14/6/07 DT = 18/6/07.

25.6.07

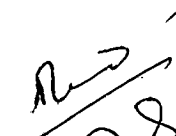
Reply Submitted by Respondent Nos. 1, 2, 3 & 4. Copy not served.



23.7.07

/bb/

Copy of the order has been sent to the D/Sec. for issuing the same to the applicant by post.

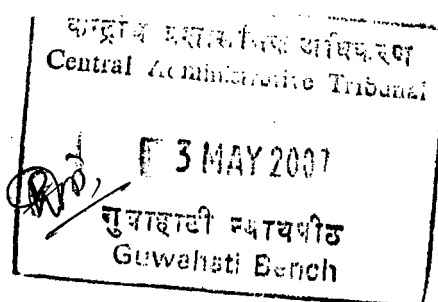

23/7/07

All the contemnors have filed separate affidavits. When this C.P. came up for consideration today, learned counsel for the Petitioner Mr.K.M.Haloi submitted that orders of this Tribunal has been complied with. Dr.J.L.Sarkar, learned Railway Standing counsel also submitted that orders have already been complied with.

Recording the above submissions I am of the view that this C.P. does not stand in its legs. Accordingly, the C.P. is closed as complied with.



Vice-Chairman



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GAUHATI BRANCH : GUWAHATI

(An application under Section 17 of the Central Administrative Tribunal Act, 1985)

Contempt Application No. 7 /2007.

Prodip Kumar Ghosh

.... Applicant

- Vs. -

Shri Deepak Kr. Gupta & Ors.

.... Respondents.

The applicant has filed O.A. No.141/2007 which has been disposed of with a diversion to examine the applicant by the Medical Superintendent, NBQ, Contemner No.3 or by any other officer authorised by him and in the event of finding medically fit, a fitness certificate may be issued so as to permit him to join duty. But the said authority did not do so despite of repeated request on furnishing the copy of this Hon'ble Order dated 14.2.2007 in O.A. No.30/2007. Hence this Contempt Petition.

LIST OF DATES WITH INDEX

<u>Sl.No.</u>	<u>Date</u>	<u>Particulars</u>	<u>Annexures</u>	<u>Page</u>
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2.	24.8.2006	Date of Order No. O.A. No.202/06	A	10 - 12
3.	30.10.2006	Date of letter rejecting the representation dated 28.4.06	B	13
4.	14.2.2007	Date of Order in O.A. No.30/2007	C	14 - 16

Contd....2/-

as

2.

5.	15.3.2007	Date of Application	D	17
6.	2.4.2007	Date of Reminder Letter	E	18
7.	12.4.2007	Date of receipt of letter dated 4.3.2007	F	19
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Filed by -

as

Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

(An application under Section 17 of the Central Administrative
Tribunal Act, 1985)

Contempt Application No. _____/2007

Prodip Kumar Ghosh ... Applicant

-Versus-

Shri Deepak Kr. Gupta & Ors. ... Respondents

Details of the applicant:

1. Name of the applicant : Prodip Kumar Ghosh

& Address

S/o Late Mahesh Ch. Ghosh

R/o Vill. New Bongaigaon,

B.G. Colony, Rly. Qr. No. 112/03

Type-II, P.O. New Bongaigaon, Assam.

2. Designation : Head Train Clerk

3. Particulars of the (1) Shri Deepak Kumar Gupta

Respondents : The Divisional Rly. Manager (Personal)

N.F. Railway, Rangia Division,

P.O. Rangia, Dist. Kamrup, Assam.

(2) Sri Samaresh Chakraborty,

The Divisional Personal Officer,

N.F. Railway, Rangia Division,

P.O. Rangia, Dist. Kamrup, Assam.

(3) Shri Arun Kumar Das,

Filed by me
40
applicant
Prodip Kr. Ghosh
Shri
Shri Arun Kumar Das

Medical Superintendent, Railway Hospital,
New Bongaigaon, P.O. New Bongaigaon,
Dist. Bongaigaon, Assam.

(4) Shri Jehuda Basumatary,

X The Chief Yard Master, New Bongaigaon
Yard, N.F. Railway, P.O. New Bongaigaon,
Dist. Bongaigaon, Assam.

... Contemners

(Contemners No.1, 2, 3 are the respondents

No.2, 3 and 5 in O.A. No. 30/2007)

1. Particulars of the order in reference of which the contempt application is made:-

Order dated 14.2.2007 passed in O.A. No.30 of 2007 by this Hon'ble Tribunal directing the Medical Superintendent, Railway Hospital, New Bongaigaon, who or any other competent authority authorised by him shall examine the applicant and issue a fitness certificate if he is fit and the same shall be produced before the authority who shall permit the applicant to join duty but the same has not been complied despite of all communications are made.

2. Jurisdiction of the Tribunal

The applicant declares that the cause of action has arisen within the jurisdiction of this Hon'ble Tribunal under Section 17 of the Administrative Tribunal Act, 1985 read with section 12 of the Contempt of Court Act, 1971.

3. Limitation :

The applicant declares that this application is filed before this Hon'ble Tribunal within time limit.

4. Facts of the Case:

(i) That the applicant begs to state that he has been seeking as Head Train Clerk for the period since last 16 years back with best of his ability, sincerity to the satisfaction of all concern without any stigma or blemish and without any break. Unfortunately the applicant has developed chronic diabetic which developed in severe form on 10.3.2006 and he was taking medical treatment from New Bongaigaon Railway Hospital. Immediately after starting his treatment he informed the matter to his immediate superior authority and requested to issue a sick memo to the concerned Medical authority but the same was not issued although the applicant had to attend the Hospital on 11.3.06, 13.3.06, 16.3.06, 18.3.06, 21.3.06, 24.3.06, 30.3.06, 3.4.06, 10.4.06, 15.4.06, 16.4.06, 5.5.06, 13.5.06 and other subsequent dates on being advised to continue medicines. The applicant was declared diabetic mellitus and under medical treatment.

(ii) That the applicant sent a letter addressing the Divisional Railway Manager (Personal), N.F. Railway, Rangia Division and Area Manager, N.F. Railway, New Bongaigaon through proper channel for intervention, but no action was taken. A Pleader's Notice was also served finding no alternative the

applicant filed O.A. No. 202/06 before this Hon'ble Tribunal which was disposed by order dated 24.8.06 with a direction to dispose of applicant's representation dated 28.4.2006. But the contemner respondent no.2, Shri S. Chakraborty rejected the said representation by order dated 30.10.2006 on false plea that the sick memo already issued but the applicant did not collect it.

A copy of the order dated 24.8.2006 in O.A. No.202/2006 is annexed as Annexure No. 'A'.

A copy of the letter dated 30.10.2006 rejecting representation dated 28.4.06 is annexed as Annexure No. 'B'.

- (iii) That the applicant served a pleader's notice dated 8.11.06 to the contemner no.2 communicating the fact that the plea of issuing sick memo and not collecting the same by the applicant are not the bonafide reasons to reject the prayer of the applicant and also requested the authority to allow him to collect the sick memo but he was denied of the same. Finding no alternative, the applicant approached this Hon'ble Tribunal by filing O.A. No.30/2007. The said case has been disposed by an order dated 14.2.07 directing the applicant to report before the Medical Superintendent, Railway Hospital, New Bongaigaon to examine the applicant and issue a fitness certificate if he is fit and on production of

applicant filed O.A. No. 30/2006 before this Hon'ble Tribunal which was disposed by order dated 24.8.06 with a direction to dispose of applicant's representation dated 28.4.2006. But the contemner respondent no.2, Shri S. Chakraborty rejected the said representation by order dated 30.10.2006 on false plea that the sick memo already issued but the applicant did not collect it.

A copy of the order dated 24.8.2006 in O.A. No.202/2006 is annexed as Annexure No. VI.

A copy of the letter dated 30.10.2006 rejecting representation dated 28.4.06 is annexed as Annexure No. VII.

(ii) That the applicant served a pleader's notice dated 8.11.06 to the contemner no.2 communicating the fact that the plea of issuing sick memo and not collecting the same by the applicant are not the bonafide reasons to reject the prayer of the applicant and also requested the authority to allow him to collect the sick memo but he was denied of the same. Finding no alternative, the applicant approached this Hon'ble Tribunal by filing O.A. No.30/2007. The said case has been disposed by an order dated 14.7.07 directing the applicant to report before the Medical Superintendent, Railway Hospital, New Bongaigaon to examine the applicant and issue a fitness certificate if he is fit and on production of

the same the authority shall permit the applicant to join duty.

A copy of the order dated 14.2.2007 in
O.A. No. 30/2007 is annexed as
Annexure No. 'C'.

- (iv) That the applicant begs to state that he obtained a certified copy of the order dated 14.2.07 (vide Annexure-C) and produced the same before the Medical Superintendent, N.F. Railway on 15.3.07 alongwith a prayer petition praying inter alia to do the needful in compliance of the order of this Hon'ble Tribunal. The applicant again submitted a reminder application dated 2.4.2007 to the Medical Superintendent and thereafter the applicant received a back dated letter on 12.4.07 from the Medical Superintendent, Railway Hospital, NBQ instructing him to remain present his office alongwith a memo of the department. The applicant as per his instruction submitted an application dated 13.4.2007 dated 23.4.2007 before the Chief Yard Master, NBQ, N.F. Railway praying for issuance of sick memo. Of these petitions the 1st one received by the Office of the contemner no.3 endorsing acknowledgement on the body of the petition on 13.4.07 and the 2nd one served by hand serving advance copy to the Medical Superintendent through registered post.

A copy of the application dated 15.3.07
is annexed as Annexure-'D'.

the same the authority shall permit the applicant to join
duty.

A copy of the order dated 14.3.2007 in
O.A. No. 30/2007 is annexed as

Annexure No. 'C'

(iv) That the applicant begs to state that he obtained a certified copy of the order dated 14.3.07 (vide Annexure-C) and produced the same before the Medical Superintendent, N.F. Railway on 12.3.07 alongwith a prayer petition praying inter alia to do the needful in compliance of the order of this Hon'ble Tribunal. The applicant again submitted a reminder application dated 2.4.2007 to the Medical Superintendent and thereafter the applicant received a back dated letter on 12.4.07 from the Medical Superintendent, Railway Hospital, NFO instructing him to remain present in his office alongwith a memo of the department. The applicant as per his instruction submitted an application dated 13.4.2007 dated 23.4.2007 before the Chief Yard Master, NFO, N.F. Railway praying for issuance of sick memo. Of these petitions the 1st one received by the Office of the controller no.3 endorsing acknowledgement on the body of the petition on 13.4.07 and the 2nd one served by hand serving advance copy to the Medical Superintendent through registered post.

A copy of the application dated 12.3.07
is annexed as Annexure-'D'.

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Proship Mr. Ghosh

A copy of the reminder letter dated 2.4.07 is annexed as Annexure-'E'.

A copy of the back dated letter of date 4.3.07 received from M/S, NBQ on 12.4.07 is annexed as Annexure-'F'.

Copies of the applications dated 13.4.07 and 23.4.07 are annexed as Annexure-'G' & 'G₁' respectively.

- (v) That the petitioner begs to state that despite of the aforesaid communications and production of the Hon'ble Tribunal's order dated 14.2.2007 vide Annexure 'C' neither the contemner no.1 has examined the applicant nor issued any fitness certificate^{to} as to allow him to join in his service. By the order of this Hon'ble Tribunal directed the contemner no.1 to examine the applicant on his report without any reference of sick memo of the department. Yet the said contemner, authority by his letter vide Annexure-F directed the applicant to appear before him with sick memo of the department which has not been issued by the Chief Yard Master, NBQ (contemner No.4) despite of repeated requests vide letters dated 13.4.2007 (Annexure-G) and 23.4.07 (Annexure-G₁). Consequently this applicant unable to join in his service.

A copy of the reminder letter dated

23.4.07 is annexed as Annexure-F.

A copy of the back dated letter of date

4.3.07 received from M/S. NBO on

12.4.07 is annexed as Annexure-F.

Copies of the applications dated 13.4.07

and 23.4.07 are annexed as Annexure-

'G' & 'G', respectively.

(7) That the petitioner begs to state that despite of the

foresaid communications and production of the Hon'ble

Tribunal's order dated 14.2.2007 vide Annexure 'C' neither

the petitioner nor I has examined the applicant nor issued

any fitness certificate as to allow him to join in his service.

By the order of the Hon'ble Tribunal directed the petitioner

no.1 to examine the applicant on his report without any

reference of sick memo of the department. Yet the said

petitioner, authority by his letter vide Annexure-F directed

the applicant to appear before him with sick memo of the

department which has not been issued by the Chief (and

Master NBO (contemner No.4) despite of repeated requests

vide letters dated 13.4.2007 (Annexure G) and 23.4.07

(Annexure-G). Consequently this applicant unable to join in

his service.

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Indip Mr. Ghosh.

(vi) That the applicant begs to submit that the contemnors have wilfully, intentionally and deliberately disobeyed this Hon'ble Tribunal's order dated 14.2.2007 passed in O.A. No.32/07 (vide Annexure-C) whereby the Medical Superintendent, NBQ, the contemner no.3 has been directed in clear terms to examine the applicant of his own or by authorising any other officer under his authority. But instead of that he unnecessarily required sick memo from the department which was not issued by the immediate senior officer Mr. Tapan Chakraborty on earlier occasion (now transferred) nor by the Chief Yard Master, NBQ, N.F. Railway (Contemner no.4) to whom request was made by submitting two letters on 13.4.2007 (Annexure-G) and 23.4.2007 (Annexure-G₁). Hence the Chief Yard Master, NBQ, Shri Jehuda Basumatary has also committed guilty of contempt of court and hence he is also made party in the present case. No one is in charge of Office of the Area Manager and hence none is made party.

(vii) That the applicant submits that the actions of the contemnors no.1, 2 and 3 right from the issuing letter dated 30.10.2006 (by the contemner no.2) rejecting the applicant's representation dated 28.4.06 as per earlier order dated 24.8.2006 in O.A. No. 202/06 and non compliance of order dated 14.2.2007 passed in O.A. No.32/07 have amounted deliberate disobedience and flouting of this

Hon'ble Tribunal's orders committing guilty under section 19 of the Administrative Tribunal Act, 1985 read with section 12 of the contempt of Court Act, 1971 and also Article 215 of the Constitution of India. As such they deserve punishment under the aforesaid provisions of law by initiating contempt proceeding not only to restore dignity of the court but also to restore the confidence of the litigant people.

(viii) That this application is filed bonafide in the interest of justice.

Under the above facts and circumstances it is therefore prayed that your honour would be pleased to admit this petition, issue notice of show cause to the contemnors/respondents as to why a contempt proceeding shall not be issued against them for their wilful, deliberate disobedience and flouting of this Tribunal's order and after hearing the parties be pleased to pass an order awarding appropriate punishment for committing guilty of contempt in the interest of justice.

And for this act of kindness your humble applicant as in duty bound shall ever pray.

Verification ...

Draft Charge

Laid down before this Hon'ble Tribunal to initiate contempt proceeding against the contemnor for willful and deliberate disobedience to this Hon'ble Tribunal's order dt.14.2.2007 passed in O.A. No.30/07 and also to impose punishment for noncompliance, willful disobedience and disregard to the said order committing guilty under contempt of Court Act, 1971 and Section 17 of the Administrative Tribunal Act, 1985.

VERIFICATION

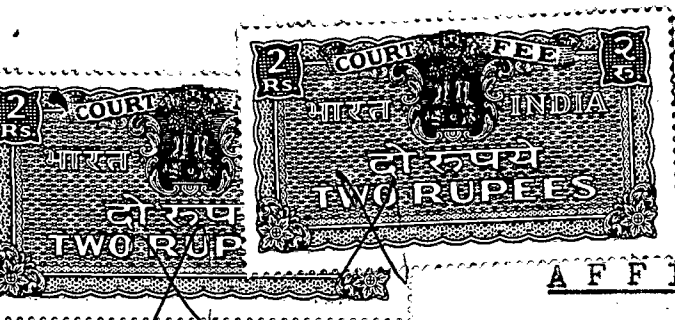
I, Sri Prodip Kumar Ghosh, s/o Late Mahesh Chandra Ghosh, resident of New Bongaigaon B.G. Colony, P.O. New Bongaigaon, P.S. Dhaligaon, Dist. Bongaigaon, Assam do hereby verify that the contents in paragraphs 1 to 7 are true to the best of my knowledge which are also believed to be true as legal advice and I have not suppressed any material fact.

And I sign this verification on this 30th day of April /2007 at Guwahati.

Date : 30/4/07

Prodip K. Ghosh.

Place : Guwahati.



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A F F I D A V I T

I, Shri Pradip Kumar Ghosh, S/o. Late Mahesh Chandra Ghosh, resident of New Bongaigaon B.G. Colony, P.O. New Bongaigaon, P.S. Dhaligaon, District - Bongaigaon, Assam do hereby solemnly affirmed and declared as follows :

1. That I am the applicant in the contempt Application No.7/07 filed before the Hon'ble Central Administrative Tribunal, Guwahati and as such I am very much acquainted with the facts and circumstances of the case and this affidavit is to be filed in support of contempt petition.

This is true to my knowledge and belief.

2. That all the statements made in Contempt Application No.7/07 and the statements made in above paragraph of this affidavit are true to the best of my knowledge and information which are also matters of record and verified to be true.

And I sign this affidavit on this 16th day of May, 2007 at Guwahati.

Identified by :

Pradip K. Ghosh

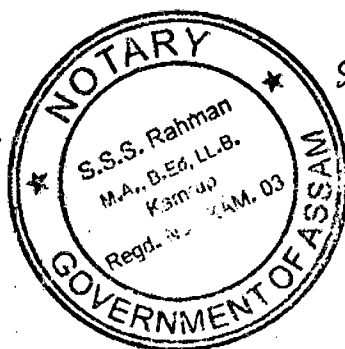
[Signature]

Advocate

D E P O N E N T

Solemnly affirmed and declared before me by the deponent, who is being identified by *Jahangir Alam* - A 202, Advocate on this the 16th day of May, 2007 at Guwahati.

Sworn before me
S. Rahman



S.L. No -
3
16/5/07

SHAH SYED SAMAGUR RAHMAN
M.A., B.Ed., LL.B.

Guwahati, Kamrup.
Regd. No:-KAM. 03

10 -
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 202 of 2006.

Date of Order : This the 24th day of August 2006.

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

Sri Prodip Kumar Ghosh
S/o - Late Mahesh Ch. Ghosh
R/o - Vill. - New Bongaigaon B.C. Colony
Rly. Quarter No. 112/B
P.O. - New Bongaigaon, P.S. - Dhaligaon
Dist. - Bongaigaon, Assam.

... Applicant.

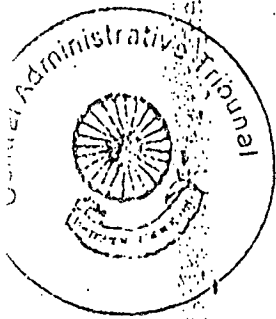
By Advocates Mr H. Das, Mr A. R. Sikdar, Mr J.A. Azad and Mr.
S.A. Massafir.

Versus -

1. The Union of India, through the
Secretary, Ministry of Railway,
Government of India,
New Delhi - 110 001.
2. The Divisional Railway Manager (Personal)
N.F. Railway, Rangia Division,
P.O. - Rangia,
District - Kamrup, Assam.
3. The Divisional Personal Officer,
N.F. Railway, Rangia Division
P.O. - Rangia,
District - Kamrup, Assam.
4. The Area Manager
N.F. Railway, New Bongaigaon,
P.O. - New Bongaigaon,
District - Bongaigaon, Assam.

... Respondents.

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



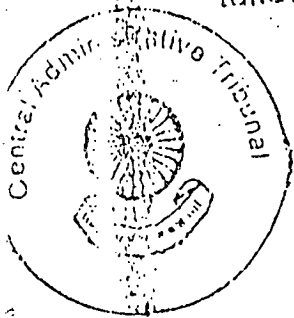
ORDER (ORAL)K.V. SACHIDANANDAN, (V.C.)

The Applicant, who is a Head Train Clerk, rendered service about 16 years in the N.E. Railway, New Bongaigaon. The Applicant claims that for his ailment, he needs medical leaves and therefore, issuance of sick memo is necessary. He made representation to the immediate superior officer and followed by lawyer notice to the concerned authorities. But they have not considered the same. Aggrieved by the said inaction of the Respondents, the Applicant has filed this Application seeking the following reliefs:-

- (i) That his Hon'ble Tribunal may kindly be pleased to pass an order directing to the authority to issue sick Memo so as to grant Medical leave w.e.f. 10.03.06 till he recovered and attain the fitness certificate.
- (ii) To allow the applicant to get his current salary in full and arrear salary in full granting his leave w.e.f. 10.03.06.
- (iii) To pass an order so that the applicant can get all the benefit along with total payments due as per norms and procedure of the Railway Authority."

2. Heard Mr A.R. Sarker, learned Counsel for the Applicant and Dr. J.L. Sarkar, learned Standing Counsel for the Railways.

3. Mr A.R. Sarker, learned Counsel for the Applicant submitted that he will be satisfied if a direction is given to the Respondent No. 2 to consider the dispose of the representation dated 28.04.2006 filed by the Applicant within a time frame. Dr. J.L. Sarkar, learned Standing Counsel for the Railways submitted that he has no objection if such a course is adopted.

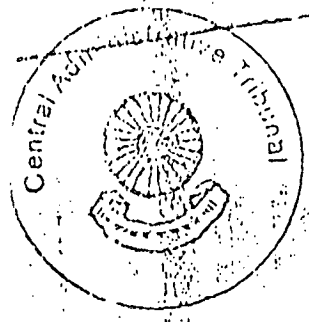


Accordingly, in the interest of justice this Tribunal directs that the Respondent No. 2 and/or any other Competent Authority shall consider and dispose of the representation dated 28.04.2006 within a period of two months from the date of receipt of copy of this order and pass appropriate order and communicate the same to the Applicant hereafter. The Applicant is also directed to send a copy of the O.A. as well as copy of the representation alongwith this order to the concerned authority forthwith to avoid any delay.

The O.A. is disposed of at the admission stage itself. No

order as to costs.

Sd/VICE CHAIRMAN



Date of Application : 12.7.06
 Date on which copy is ready : 12.9.06
 Date on which copy is delivered : 12.7.06
 Certified to be true copy

Section Officer (J:dl)
 C. A. T. Court Delhi Bench
 12/9/06
 12/7/06

N.F. Railway

Office, of the
DRM (P)/RNY
Dated : 30.10.2006

No. ET/RN/PKG/CAT/06

To
✓ Shri Pradip Kr. Ghosh,
Hd. Trains Clerk under
Area Manager
New Bongaigaon

Sub: - O.A. No. 202 of 2006 - ----- Shri Pradip Kr. Ghosh -
Vs - UOI & Ors.

Ref: - Your representation dated 28.04.06

1. With reference to your above application it is to inform you that sick memo was issued by CTNC/NBQ vide Memo No. Nil dtd. 11.03.06 but you did not collect the same till 14.03.06. However on 17.04.06 AM/NBQ vide Memo No. Nil dated 17.04.06 informed the matter to MS/NBQ.
2. MS/NBQ Railway Hospital vide his letter No. H/186/1(Sick)/NBQ/63 dated 20.10.06 (Annexure- C) informed that you had attended NBQ Railway Hospital on 11.03.06 & thereafter and had taken medicines intermittently from different Rly Doctors for Diabetic Mellitus. No Railway Doctor had recommended you unfit as you were found physically fit to carry out your normal duties with medicine. It was also informed by MS/NBQ that you had never complained of severe illness which needed immediate hospitalization etc.

You were marked absent in the attendance register for absence from duty & as such you were paid less salary for the said period.

Enclosr :- Annexure - "c"

(S. Chakraborty)

DPO/RNY

For DRM(P)/RNY

30.

- 14 -
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ANNEXURE - C

Original Application No. 30 of 2007.

Date of Order: This, the 14th day of February, 2007.

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

Prodip Kumar Ghosh
Son of Late Mahesh Chandra Ghosh
Resident of village: New Bongaigaon B.G.
Colony Rly. Qtr. No.112/B Type-II
P.O: New Bongaigaon
P.S: Dhaligaon
Dist: Bongaigaon, Assam.

...Applicant.

By Advocates S/Shri A.R.Sikdar, J.A.Azad K.M.Haloi.

- Versus -

1. The Union of India
Represented through the Secretary
Ministry of Railway
Government of India
New Delhi-110 001.
2. The Divisional Railway Manager (Personal)
N.F.Railway, Rangia Division
P.O: Rangia, Dist: Kamrup
Assam.
3. The Divisional Personal Officer
N.F.Railway, Rangia Division
P.O: Rangia, Dist: Kamrup
Assam.
4. The Area Manager
N.F.Railway, New Bongaigaon
P.O: New Bongaigaon
Dist: Bongaigaon
Assam.
5. Medical Superintendent
Railway Hospital, New Bongaigaon
P.O: New Bongaigaon

15 2
Dist Bongaigaon
Assam.

... Respondents.

By Dr. J. L. Sarkar. Railway Standing counsel.

ORDER (ORAL)

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

This Original Application has been filed by the Applicant contending that he has been rendering service in the Railway for about 16 years and due to some ailments he could not attend his office duties. According to him, sick memo has not been issued to him by the Respondents and the Doctor could not issue a certificate. The Applicant earlier approached this Tribunal by way of O.A. No. 202/2000 which was disposed of by this Tribunal at the admission stage vide order dated 24.8.2006 directing the Respondents to consider the representation filed by the Applicant. The Respondents vide order dated 30.10.2006 rejected the claim of the Applicant. Hence this Original Application seeking the following main reliefs:-

"8.i) That this Hon'ble Tribunal may kindly be pleased to pass an order directing to the authority to issue sick Memo and if issued the applicant may be permitted to collect the same, so as to grant Medical leave w.e.f. 10.03.2006 till he recovered and avail the fitness certificate.

8.ii) To allow the Applicant to get his current salary in full and arrear salary in full granting his leave w.e.f. 10.03.06.

8.iii) To pass an order so that the applicant can get all the benefit along with total payments due as per norms and procedure of the Railway Authority."

2. Heard Mr.A.K.Sikdar, learned counsel for the Applicant and Dr.J.L.Barkar, learned Standing counsel for the Railways. Mr.Sikdar submitted that since fitness certificate had not been issued by the Respondents the Applicant could not join his duty. However, contention of the Respondents is that sick Memo has already been issued to the Applicant but he did not collect the same. The issuance of the said memo was also intimated to the Applicant.

3. However, considering the issue involved and the Medical Superintendent being a party in this O.A. I direct the Applicant to report before the Medical Superintendent, Railway Hospital, New Bongaigaon i.e., the 5th Respondent, who or any other competent authority authorized by him, shall examine the Applicant and issue a fitness certificate if he is fit and the same shall be produced before the authority who shall permit the Applicant to join duty if he is otherwise eligible. The exercise will be completed at the earliest.

5. The O.A. is disposed of accordingly. There shall be no order as to costs.

Sd/ VICE CHAIRMAN

VICE CHAIRMAN

6.3.07

6.3.07

To,
The Medical Superintendent
N.E. Railway, A.,
New Bongaigaon.

Dated- New Bongaigaon the 15th March '07.

Ref :- OA No. 30/2007 & M.P. No. 16/07 in
Central Administrative Tribunal, Guwahati
Branch.

Sir,

Pleased find herewith a photostat copy of the
Order of the Hon'ble Central Administrative Tribunal,
Guwahati Branch vide dtd. 14/2/2007 which is self
explicit. As per direction of the Hon'ble Tribunal I
have appeared before you for doing the needful.

I, therefore fervently request you to kindly
give necessary direction in compliance with the
above order and oblige.

Thanking you Sir,

Yours faithfully,

P. K. Ghosh.

11/TW2/NB8.

(Pradip Kr. Ghosh)

C/O Rly. Qtr. No. 112/B

Type-II, B.C. Colony,

P.O. New Bongaigaon,

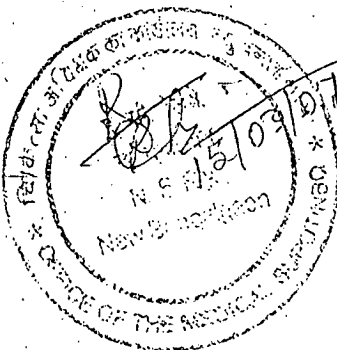
Dist. Bongaigaon, Assam.

Enclosure :

OA No. 30/2007 &

M.P. No. 16/07 in

CAT, Guwahati Branch.



Verified to be true
copy
[Signature]
[Signature]

- 18 -

65

Reminder.

To,
The Medical Superintendent,
N. F. Railway, New Bongaigaon.

Dated, New Bongaigaon,
the 2nd. April, 2007.

Sir,

Sub: Remainder in connection with CAT Guwahati Bench.

Ref: (i) O.A. No.30/2007 & M.P.No.16/07 in Central
Administrative Tribunal Guwahati Bench.

(ii) My application No. Nil dated 15/03/2007.

In reference to the above quoted letter No.
I hereby like to appear before you for further
necessary action please.

I, Therefore fervently request you to kindly
give necessary direction in compliance with the
above order and oblige thereby.

Thanking you in an anticipation.

Enclosure: Two in one order
of CAT Guwahati
Bench.

Yours faithfully,

P. K. Ghosh.

(PRADIP KR. GHOSH)
Hd. TNC/NBQ,
C/p Rly. Qtr.No.112/B,
Type-II, B.G.Colony,
P.O.: New Bongaigaon,
Dist: Bongaigaon, Assam,
Pin - 783381.

ACKNOWLEDGEMENT

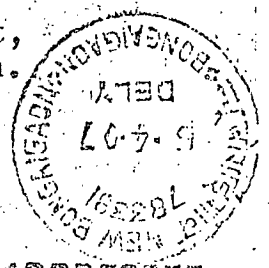
(REGISTERED LETTER
ADDRESS TO

R/L No:

Name:- To,
The Medical Superintendent,
Address: N.F. Railway/New Bongaigaon.
P.O.: New Bongaigaon,
Dist: Bongaigaon, (Assam),
Pin:- Pin - 783381.

SIGNATURE OF ADDRESSEE

NEW BONGAIGAON (783381)
RADD 126
Counter No: 1, D-Code: H T
TODD SPOT,
NEW BONGAIGAON
Wt: 10 grams,
RS: 25.00, 02/04/2007, 12:14
<<Have a nice day>>
Certified to be
true copy
Adv.



Office of the
Medical Supdt.
New Bongaigaon
Date- 04-03-07

No.H/Court/PKG/NBQ/07

To
✓ Sri Pradip Kr. Ghosh,
Hd. TNC/NBQ
S/O late Mahesh Chandra Ghosh,
Resident of village : New Bongaigaon BG Colony
Rly. Qr. No.112/B Type-II
P.O. New Bongaigaon
Dist- Bongaigaon-(Assam)

Sub:- Medical examination of Sri P.K. Ghosh, Hd.TNC/NBQ
Ref:- GM(P)/MLG's letter No.E/170/LC/NS/841/07 dt.02-03-07

In reference to the above quoted letter you are hereby directed to present yourself to the Medical Supdt./NBQ Rly. Hospital with a memo from your department to examine you for issuing fitness certificate if you are found fit.

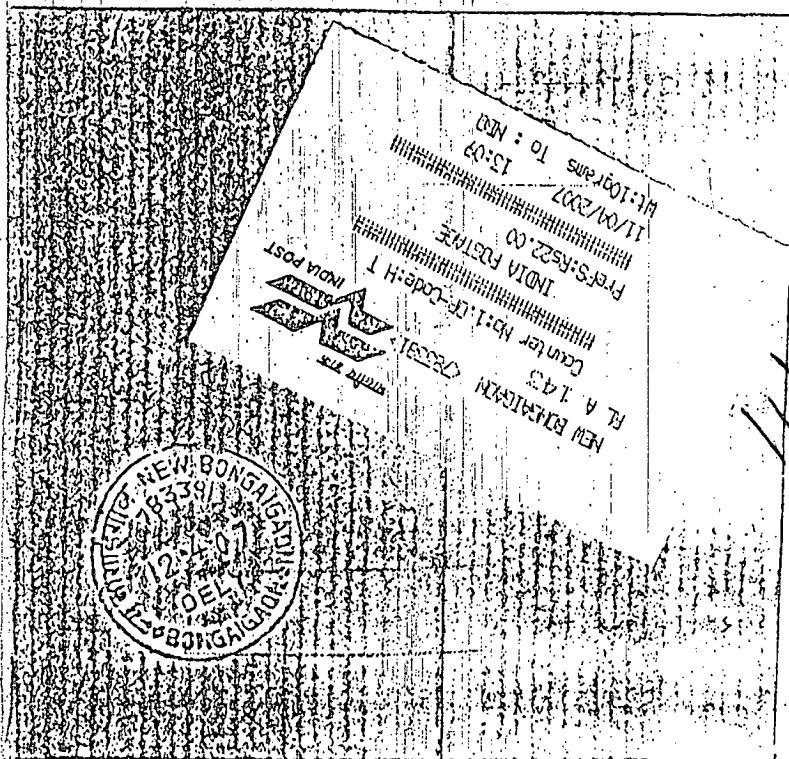
Therefore, you are directed to take necessary action, so I can proceed as per Hon'ble Tribunal order to avoid further complicity.

Medical Supdt.
N.F.Rly. New Bongaigaon

Copy to: 1) Sri B. Sarma, Asstt. Personal Officer/LC/MLG
2) Area Manager/NBQ
3) DPO/RNY
4) DOM/RNY

for information and
necessary action please.

Medical Supdt.
N.F.Rly. New Bongaigaon



Certified to be
true copy
D. Anon
Rev

20 - 8/13/04/2007
New Bongaigaon.

CA

To,
The Chief Yard Master
New Bongaigaon/Yard,
N.F. Railway.

Ref:- Letter vide no. H/Court/PK6/NB/07
dtd. 04-03-07 issued by Medical
Superintendent, N.F. Railway, New-
Bongaigaon received by me on
12-04-2007.

Sub - Prayer for issuance of Sick Memo.

Respected Sir,
Please find enclosed herewith a
photostatic copy of the above referred letter
which is self explanatory.

You are hereby requested to issue
me a sick memo so that I may appear before
the Medical Superintendent for issuing
a fit certificate in favour of me after
due examination. & oblige.

Thanking you,

Enclosure

1. A photo copy of the
above referred letter.

yours faithfully,
P. K. Ghosh.

(Poddip K. Ghosh
Hd. TNC/NBR (Yd.)

Handwritten:
Chief Yard Master
N.F. Rly. New Bongaigaon

Handwritten:
Certified to be true
copy
[Signature]

21

Remainder

18

To,

The Chief Yard Master.
New Bongaigaon/Yard.
N. F. Railway.

Dated, New Bongaigaon,
The 23rd, April, 2007.

Sub:- Prayer for issuing sick memo.

Ref:- (I) MS/NBQ'S L/No.H/Court/PKG/NBQ/07, Dated. 04.03.07.

(II) My application No. Nil. Dated. 13.04.07.

R/Sir,

In reference to the above quoted Letters, I Compelled to re-submit an application requesting you to issue sick memo so that, I may appear before the Medical superintendent for issuing a fit certificate in favour of me, after due examination.

Therefore, Kindly arrange to issue sick memo and oblige thereby.

Thanking you in an anticipation.

Your's faithfully,

P. K. Ghosh.

(Prodip kr. Ghosh)

Hd. TNC/NBQ

C/O, Rly Qt. No. 112/B, Type-II,

B. G. Colony,

P.O. :- New Bongaigaon,

D.T. :- Bongaigaon,

Pin. :- 783381 (Assam)

Ph. No. 03664-224109.

Copy to:-

(I) MS/NBQ for kind information please.

D.A. :- One Xerox Copy of my previous application.

Your's faithfully,

P. K. Ghosh.

(Prodip kr. Ghosh)

Hd. TNC/NBQ

Under CYM/NBQ.

2
R
23/4/07
Chief Yard Master
N. F. Railway, New Bongaigaon

Certified to be true
copy
[Signature]

25 JUN 2007

গুৱাহাটী ন্যায়পীঠ
Guwahati Bench

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI**

C.P. No. 07 of 2007

In OA No.30/2007

Sri Pradip Kr. Ghosh Petitioner

-Vs-

Sri. Deepak Gupta & Ors Respondents

IN THE MATTER OF:

Reply to the show-cause reply of Respondent No.1 of C.P No.07/2007.

The alleged contemner/respondent No.1 most respectfully beg to state as under:

1. That, the respondent has received a copy of the above petition and has understood the contents thereof.
2. That, this deponent has no scope in the instant case to anyway interfere in the matter of medical examination of the petitioner. This deponent has been made a party in the Contempt Petition without any reason which is abuse of the process of law.
3. That, the deponent has as a law abiding citizen enquired about the matter and has ascertained that the petitioners has since been medically examined and has been advised for joining duty.
4. That, the respondent Nos. 2 and 3 have filed separate affidavits narrating the facts of the case.
5. This respondent as a law abiding person has full regards for the judicial process and has in no way neglected to comply or obstruct compliance of the Hon'ble Tribunal's order. The petition deserves to be dismissed with Cost.

মডেল রেল প্রচলক
ডু.সি. রেল, রংগিয়া
Divisional Railway Manager
N. F. Railway, Rangiya

Filed by the respondent
no-1 through
Dr J.L. Sonken (Advocate)

AFFIDAVIT

I, DEEDAK GUPTA aged about 51 years, resident of
Rangia in the Dist. of Kamrup

do hereby solemnly affirm and state as follows:-

1. That, I am the Divisional Railway Manager Rangia under N.F. Railway, and as such well acquainted with the facts and circumstances with the case and also competent to swear this affidavit.

2. That, the statement made in this affidavit and in the accompanying petition in paragraph 1, 2, 3, 4, and 5 are true to my knowledge and the statement made in paragraphs X are matters of records and rests are my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this day 21/6/07 of June' 2007.

Identified by:

(S.N. Tamuli)
Advocate

Deponent

(Signature)

मंडल रेल प्रबंधक
पु० सी० रेल, रंगिया
Divisional Railway Manager
N. F. Railway, Rangiya

Sworn before
me

Jay Das
Advocate

Dt: 21/6/07

5. That, as per Hon'ble Tribunal's order dt 14-2-2007, the answering Respondent is duty bound to take action to allow the applicant for joining duty on production of fitness certificate issued by Medical Superintendent, Railway Hospital, New Bongaigaon or any other Rly Doctor authorised by him. There is no scope of non-compliance of the order of the Hon'ble Tribunal, by this deponent.

6. That, after receiving the copy of the GM(P)/MLG's letter No.E/170/LC/NS/841/07 dt 05-04-2007 DRM(P)/Rangia sent a letter No.ET/RN/PKG/06 dt 05-04-2007 to Medical Superintendent to take action as per Hon'ble Tribunal's order dt 14-2-2007 (copy of the letter ET/RN/PKG/06 dt 05-04-2007 is enclosed).

7. That, it is mentioned here that this Respondent was ready to take action as per Tribunal's order dt 14-2-2007, on production of fitness certificate issued to Sri P.K. Ghosh by Railway Doctor.

8. That, this Respondent send another letter vide No.ET/RN/PKG/06 dt 17-05-2007, to GM(P)/MLG, that Hon'ble Tribunal's order could not be complied with as the applicant did not appear personally before Medical Superintendent, New Bongaigaon even after memo dt 04-05-2007 which he received on 08-05-2007. (copy of the letter no. ET/RN/PKG/06 dt 17-05-2007 and memo dt 04-05-2007 enclosed).

9. That, this Respondent begs to state that there is no intention on his part to violate any direction passed by this Hon'ble Tribunal and as a law abiding citizen and an officer of the Indian Railways he is duty bound to comply with orders of the Hon'ble Tribunal.

10. That, vide letter CTN/NG/NBQ/07 dt 06-06-2007 Sri P.K. Ghosh has been advised to join duty (copy of the letter No.CTN/BG/NBQ/07 is enclosed).

11. That, under this facts and circumstances of the case, the above case deserves to be dismissed with cost.

12
Sd/-
Lance Chandra Beatty
Dr. P. K. Ghosh, Rangia

AFFIDAVIT

I, Somen Chakrabarty aged about 55 years, resident of
Rangia in the Dist. of Kamrup

do hereby solemnly affirm and state as follows:-

1. That, I am the Divisional Personnel Officer/Rangia under N.F. Railway, and as such well acquainted with the facts and circumstances with the case and also competent to swear this affidavit.

2. That, the statement made in this affidavit and in the accompanying petition in paragraph 1 to 10 and 11 are true to my knowledge and the statement made in paragraphs x are matters of records and rests are my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this day 26th day of June' 2007.

Identified by:

(S.N. Tamuli)
Advocate

Deponent

Somen Chakrabarty
मंडल कार्यालय - डिभिजनरी
Divisional
पु. र. वि. र. वि. र. वि.
N. F. Railway, Rangia

Sworn before
me

Jyoti
Advocate
Dt: 21/6/07

- 4 -
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 30 of 2007.

Date of Order: This, the 14th day of February, 2007.

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

Prodip Kumar Ghosh
Son of Late Mahesh Chandra Ghosh
Resident of village: New Bongaigaon B.G.
Colony Rly. Qtr. No.112/B Type-II
P.O: New Bongaigaon
P.S: Dhaligaon
Dist: Bongaigaon, Assam.

Applicant.

By Advocates S/Shri A.R.Sikdar, J.A.Azad K.M.Haloi.

- Versus -

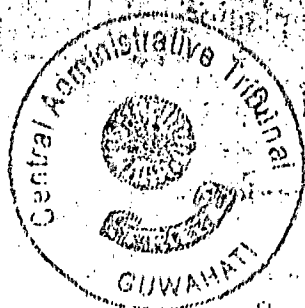
1. The Union of India
Represented through the Secretary
Ministry of Railway
Government of India
New Delhi-110 001.

The Divisional Railway Manager (Personal)
N.F.Railway, Rangia Division
P.O: Rangia, Dist: Kamrup
Assam.

3. The Divisional Personal Officer
N.F.Railway, Rangia Division
P.O: Rangia, Dist: Kamrup
Assam.

4. The Area Manager
N.F.Railway, New Bongaigaon
P.O: New Bongaigaon
Dist: Bongaigaon
Assam.

5. Medical Superintendent
Railway Hospital, New Bongaigaon
P.O: New Bongaigaon



Dist: Bongaigaon
Assam.

... Respondents.

✓ By Dr. J.L. Sarkar, Railway Standing counsel.

ORDER (ORAL)

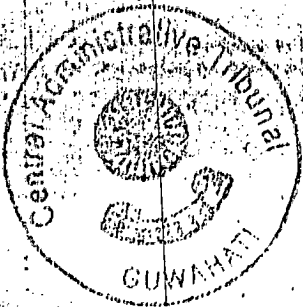
SACHIDANANDAN. K.V., (V.C.):

This Original Application has been filed by the Applicant contending that he has been rendering service in the Railway for about 16 years and due to some ailments he could not attend his office duties. According to him, sick memo has not been issued to him by the Respondents and the Doctor could not issue a certificate.

The Applicant earlier approached this Tribunal by way of O.A. No. 202/2006 which was disposed of by this Tribunal at the admission stage vide order dated 24.8.2006 directing the Respondents to consider the representation filed by the Applicant. The Respondents vide order dated 30.10.2006 rejected the claim of the Applicant.

Hence this Original Application seeking the following main reliefs:-

- "8.i) That this Hon'ble Tribunal may kindly be pleased to pass an order directing to the authority to issue sick Memo and if issued the applicant may be permitted to collect the same, so as to grant Medical leave w.e.f. 10.03.2006 till he recovered and avail the fitness certificate.
- 8.ii) To allow the Applicant to get his current salary in full and arrear salary in full granting his leave w.e.f. 10.03.06.



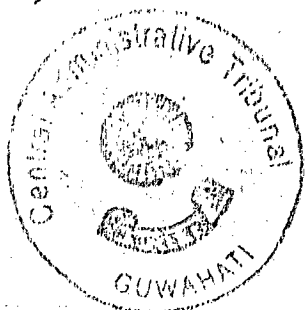
SN-77
76

8.iii) To pass an order so that the applicant can get all the benefit along with total payments due as per norms and procedure of the Railway Authority."

2. Heard Mr.A.K.Sikdar, learned counsel for the Applicant and Dr.J.L.Sarkar, learned Standing counsel for the Railways. Mr.Sikdar submitted that since fitness certificate had not been issued by the Respondents the Applicant could not join his duty. However, contention of the Respondents is that sick Memo has already been issued to the Applicant but he did not collect the same. The issuance of the said memo was also intimated to the Applicant.

3. However, considering the issue involved and the Medical Superintendent being a party in this O.A. I direct the Applicant to report before the Medical Superintendent, Railway Hospital, New Bongaigaon i.e., the 5th Respondent, who or any other competent authority authorized by him, shall examine the Applicant and issue a fitness certificate if he is fit and the same shall be produced before the authority who shall permit the Applicant to join duty if he is otherwise eligible. The exercise will be completed at the earliest.

5. The O.A. is disposed of accordingly. There shall be no order as to costs.



TRUE COPY

84/ VICE CHAIRMAN

SECRET

15/11/07

SECRETARY (GENERAL)

Central Administrative Tribunal

Guwahati

15/11/07

15/11/07

VICE CHAIRMAN

100/

15/11/07

2/3/07
RECEIVED
OFFICE
22/03/07

Court Judgement
URGENT

SN-22

NORTHEAST FRONTIER RAILWAY

Office of the
General Manager (P)
Maligaon, Guwahati - 11

No. E/170/LC/NS/841/07

Date: 02-03-2007

To,

*The Medical Superintendent,
Railway Hospital,
New Bongaigaon.*

Sub:- OA No.30/2007 & M.P No.16/07 in CAT/Guwahati

Sri Pradeep Kr. Ghosh ... Applicant

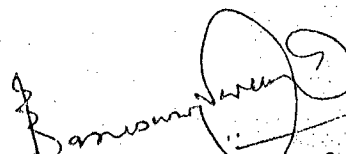
-Vs-

UOI & Ors ... Respondents

Enclosed herewith please find a copy of the OA No.30/07 alongwith the copy of the judgement dated 14-02-2007, by which Hon'ble Tribunal has directed 5th Respondent, i.e. Medical Superintendent Rly Hospital/NBQ or any other competent authority authorised by him to examine the applicant Sri Pradeep Kr. Ghosh and issue a fitness certificate if he is fit. The target date for compliance of Tribunal's order is 22-05-2007.

Therefore you are requested to take necessary action as per Hon'ble Tribunal's order to avoid further complicity. Action taken in this regard may please be intimated to this office please.

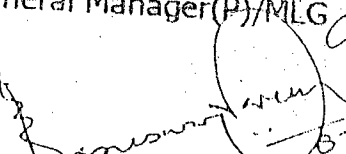
DA: As above.

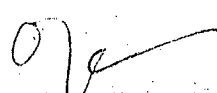

(B. Sarma) 02.03.07

Asstt. Personnel Officer/LC
for General Manager(P)/MLG

Copy to:
DPO/RNY

- For information and necessary action please


for General Manager(P)/MLG 02.03.07



88
SN-27

URGENT/COURT CASE

N. F. RAHMAN

No. ET/RN/PKG/56

To

Med. Supdt/NBQ

Area Manager/NBQ

Office of the

Divl. Rly. Manager(P)

Rangiya-781354

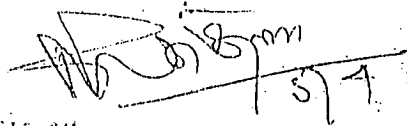
dtd 05.04.2007

Sub: CAT case OA No.30/07 MP No.16/07 in
CAT/GHY filed by Shri Pradeep Kr Ghosh
against UOI & Ors

Ref: GM(P)/MLG's letter No. E/170/LC/NS/841/07
Dated 14/20.03.2007 addressed to this office
and copy encdorsed to you & Ors.

Hon'ble Central Administrative Tribunal/Guwahati has
disposed of the OA No.30/07 MP No.16/07 filed by Shri Pradeep Kumar
Ghosh, Head Trainee Clerk under you, at admission stage directing the
MS/NBQ to issue fitness certificate to the applicant, if found fit. Thereafter,
on production of fitness certificate by the applicant, the competent authority
shall permit the applicant to join duty, if otherwise eligible. The whole
exercise have to be completed before the target date 22/05/2007.

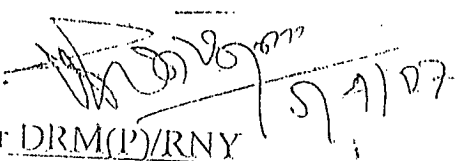
Kindly arrange to take necessary action as per above order of
CAT/GHY under confirmation to this office & GM(P)/ Law
Section/Maligaon within above target date.



(AK Chatterjee), APO/III

Divl. Rly. Manager(P)

Copy to : GM(P)/Law Section/MLG for information. This has a reference
to his letter cited above. Pradeep's Personal Bill of Rly Advocate vide
No.12/07 & 13/07 with a copy of letter No.E/170/LC/841/07 dt
02.03.07 were NOT received with the said letter and hence
payment cannot be arranged.



for DRM(P)/RNY

cc to: WLI/I/Roy (for info)
for new entry information

SN-
Hd. (1251)-med
25.4.07

2
2-
ad. (1251)-med

N. F. RAILWAY

Office of the
Divl. Railway Manager(P)
Rangiya-781354
Dt: 17.05.2007

No.ET/RN/PKG/06

To

GM(P)/Legal Cell/MLG

Sub: CAT/GHY/No.30/07 & MP No.16/07
filed by Shri Pradeep Kumar Ghosh, Hd TNC/NBQ
under CTNC/NBQ against UOI & Others

Ref: Your letter No.E/170/LC/NS/841/07 dtd 14/20.03.07

Shri Pradeep Kumar Ghosh, Head TNC/NBQ, who filed the above case in CAT/GHY, did not turn up to Medical Supdt/NBQ inspite of repeated letters duly received by him vide CTNC/NBQ's letter dated 04.05.07; MS/NBQ's letter dtd 07.05.07; and this office Reg. letter of even number dated 14.05.07 (copies enclosed). Under the circumstances no fitness certificate could be issued to him by MS/NBQ till to-day.

He has not yet reported for/resumed to duty.

DA/5 sheets (Total 6 sheets)

Copy for information to

Sr DOM/RNY
AM/NBQ
MS/NBQ
CTNC/NBQ

ET(ET Cad)

for DRM(P)/RNY

SN-29

4/5/07

Sr. I. K. Gosh HDINC/NBQ

MS/NBQ as early as possible to appear
before Medical Board. This is as per
order of Sptom/Roy on 04/05/07.

R
at 22/45 hrs.
on 08-05-2007
my residence
P. K. Gosh
HDINC/NBQ

4/5/07

HDINC/NBQ
04/05/07

Note: Sick memo issued to P. K. Shosh
H/ncf/MSD as per telephonic order of
Sr/DGM/Roy through Dy/Sec/Roy Mr. Brindaban
Soud at 18f-10 of 04-05-07.

~~4/5/07~~

N.F. Railway

No. CTN/BG/NBQ/07

Office of the
CTNC/IC/BG/NBQ
Dated 06-06-07

To,

Shri P.K. Ghosh,
Head. TNC/NBQ,

Sub:- Report for resumption of duty.

You have represented to Sr. DOM/RNY vide your representation dated 28th May/07 that you have not been allowed to join duty after obtaining duty fit certificate issued by Railway Doctor On 24-5-07

It is fact that you have attended my office on 25-5-07 with an application praying for resumption of duty but the allegation that I have not allow you to resume duty are not correct. As you were absenting yourself from duty since 10.03.06, it was required that the necessary permission for joining should be taken from DRM (O)/RNY.

Also you have been under order of transfer from NBQ to RNY vide DRM (P) RNY's letter No. E/254/RN/Optg/05 (Tr.) D dated 7-4-05. Considering this my self forwarded your application to Sr. DOM/RNY for necessary action i.e. for obtaining permission for joining.

Further you have pointed out in the representation that myself denied to issue proceed order to you which is base-less as I advised you to obtain proceed order from CYM/NBQ as he is the In charge of the Yard/NBQ but you did not reported to him for taking ED Pass.

You have also pointed out that you are attending CTNC/BG/NBQ's office regularly, but to the best of my knowledge as well as my staff it is base-less that you have ever attended the office except on 25-05-07. It appears that you want to avoid duty by giving some reasons or other.

Now you are advised to attend CTNC/BG/NBQ's office for joining in duty at once as the joining permission has already been obtained from Sr. DOM/RNY by me.

(S.K. BORO)
CTNC/BG/IC/NBQ

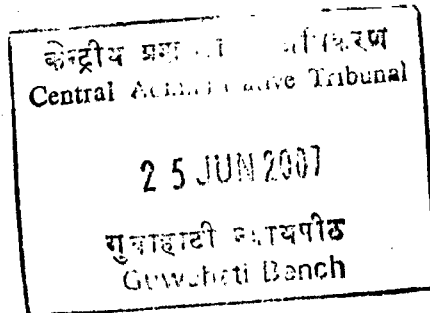
Copy to:- 1) Sr.DOM/RNY for kind information please.
2) DPO/RNY for kind information please.

CTNC/BG/IC/NBQ

DPO
07/06/07

R. Das LA

SPO/Recd. KLC
11/6/07



**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI**

C.P. No. 07 of 2007

In OA No.30/2007

Sri Pradip Kr. Ghosh Petitioner

-Vs-

Dr. Arun Kr. Das & Ors Respondents

IN THE MATTER OF:

Show-cause reply of Respondent No.3 in C.P No.07/2007

1. That, a copy of the contempt petition has been served on the Respondent and the Respondent has gone through the copy of the petition filed by the applicant and has understood the contents thereof.
2. That, save and except the statement which are specifically admitted herein below, other statement made in the petition are categorically denied. Further the statement which are not borne on records are also denied and the applicant is put to the strictest proof thereof.
3. That, the Hon'ble Tribunal passed the order in OA No.30/2007 on 14-2-2007 with a direction to the 5th Respondent to OA i.e. Medical Superintendent, Railway Hospital, New Bongaigaon, who or any other competent authority authorised by him shall examine the Applicant and issue a fitness certificate if he is fit and the same will be produced before the authority who shall permit the Applicant to join duty if he is otherwise eligible. The exercise should be completed at the earliest (copy of the order dt 14-2-2007 in OA No.30/2007 is enclosed).
4. That, the General Manager (P)/ MLG vide letter No. E/170/LC/NS/841/07 dt 02-03-2007 directed this Respondent to take action as per Hon'ble Tribunal's order (copy of the letter no.E/170/LC/NS/841/07 dt 02-03-2007 is enclosed).
5. That, on 15-3-2007, Sri P.K. Ghosh, Hd. TNC/TFC/NBQ came to my office and left one letter after obtaining receipt from the clerk. The next day when I read the letter, I understood that I should examine him for fitness and for that I was waiting his personal appearance before me so that I can examine him for fitness. I wrote a letter dt 04-04-2007

..contd/P-2

83
Arun Kr. Das
Filed by the respondent no.3
through Dr. J.L. Sankar
Advocate

asking him to come to me with a departmental memo which was relevant for his identification (copy of the letter no. H/Court/PKG/NBQ/07 dt 04-04-2007 is enclosed).

6. That, another reminder from P.K. Ghosh was received on 05-04-2007. It is seen from the records that Sri Ghosh is not coming to me personally, only making letter correspondence. This deponent thought that if the applicant was asked to come with one memo then he may be forced by department so that he will present to me with identification. On the other hand while I shall write fit certificate whether it will be one RMC format or DFC format, that will be clear. By this time this deponent has received several letters asking to issue fit certificate, but without examining the person your Respondent could not issue fit certificate (copy of the dt 23-04-07, 05-05-07, letter no. ET/RN/PKG/06 dt 05-04-2007, ET/RN/PKG/06 dt 07-05-2007 and letter No.NBQ/Main/A-4/07(.) dt 07-05-2007 are enclosed).

7. That, under this circumstances, I have asked all my doctors and other hospital staff to locate Sri P.K. Ghosh and to bring him for medical examination if he happens to be in hospital area. Again on 07-05-2007 I issued another letter bearing no.H/Court/PKG/NBQ/07 to P.K. Ghosh to appear before me. By this time he was issued memo from SS/NBQ vide NBQ/Main/A-4/07(.) dt 07-05-2007 and from CTNC/TFC dt 04-05-07 which was received by P.K. Ghosh on 08-05-2007 (copy of the letter of CTNC/TFC dt 04-05-07 & NBQ/Main/A-4/07(.) dt 07-05-07 are enclosed).

8. That, your Respondent was on leave from 15-05-2007 to 20-05-2007 and on 21-05-2007 received a letter from the petitioner dt 12-05-2007. After receiving the said letter, a letter to him to appear before me on 23-05-2007 was issued. I left for Mallgaon on 22-05-2007 due to unavoidable reason. But the hospital staff Sri Pradip Kumar, who went to his quarter to deliver the letter in the evening on 21-05-2007, his wife told that Sri Ghosh was not available at quarter but Sri Pradip Kumar realized that Sri Ghosh was inside the house. Again on 22-05-2007 at 8 A.M. Sri Pradip Kumar H.A went to his quarter but his wife told that Sri Ghosh has gone to court. Hence he again went at 12 A.M. when Sri P.K. Ghosh has received the letter on 22-05-2007 (copy of the letter no. M/Court/PKG/07 dt 21-05-2007 is enclosed).

9. That, finally on 23-05-2007 at 4.30 P.M, Sri P.K. Ghosh came personally to meet me at my office. This is the first time he came to me personally. He never came to me before

..contd/P-3

34
Amo Kumar Ban

that only sending letter or leaving letters in my office. After his arrival I asked him why he has come in the evening hours when all investigation facilities are closed except in emergency. Being a railway employee he should have come in the morning. However, I advised him to obtain a prescription memo from reception counter, where I have advised him ECG, X-Ray, and Blood examination to be done on 24-05-2007 in the Morning and on 24-05-2007 he has completed all the investigation in the morning and has brought all report to me in the afternoon. After thorough examination he was given fit for duty on 24-05-2007 (copy of the fit certificate issued vide no.49 dt 24-5-2007 is enclosed).

10. That, it is to be mentioned here that your Respondent, could not issue the necessary fit certificate to Sri P.K. Ghosh, only for the reason of his non-appearance before me physically, but not violating the Hon'ble Tribunal's order dt 14-02-2007 in OA No.30/2007. Had he appeared before me physically for medical examination, instead of correspondence made through several letters, this Respondent would be in a position to issue necessary fit certificate after due examination. Hence his allegation of deliberate disobedience and flouting of this Hon'ble Tribunal's order is not true and is totally baseless. This Respondent begs to state that there is no intention on his part to violate any direction passed by this Hon'ble Tribunal. This deponent is a responsible Doctor attending to the medical requirement of the Railwaymen and the members of their family. It is unfortunate that such allegation has been brought against me. This deponent as a law abiding citizen has full regards to judicial process and has no intention to neglect Hon'ble Tribunal's or any Court's orders.

11. That, in fact and circumstances of the case the above case deserves to be dismissed with cost.

AFFIDAVIT

I, Dr Arun Kumar Sen aged about 59 years, resident of
New Bongaigaon in the Dist. of Bongaigaon.

do hereby solemnly affirm and state as follows:-

1. That, I am the Medical Superintendent P.B. Hospital ^{N.S.S.} under N.F. Railway, and as such well acquainted with the facts and circumstances with the case and also competent to swear this affidavit.

2. That, the statement made in this affidavit and in the accompanying petition in paragraph 1 to 10 and 11 are true to my knowledge and the statement made in paragraphs X are matters of records and rests are my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this day 21st day of June' 2007.

Identified by:

(Signature)

(D.N. Tumul))

Advocate

Dr Arun Kumar Sen.

Deponent
चिकित्सा सुपरिन्तेंडेंट
Medical Superintendent
पु.सी. रेलवे, न्यू बंगाईगाव
NEW BONGAIGAON

Sworn before

by

(Signature)

(Signature)

Dt: 21/6/07.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 30 of 2007.

Date of Order: This, the 14th day of February, 2007.

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

Prodip Kumar Ghosh
Son of Late Mahesh Chandra Ghosh
Resident of village: New Bongaigaon B.G.
Colony Rly. Qu. No.112/B Type-II
P.O: New Bongaigaon
P.S: Dhaligaon
Dist: Bongaigaon, Assam.

...Applicant.

By Advocates S/Shri A.R.Sikdar, J.A.Azad K.M.Haloi.

- Versus -

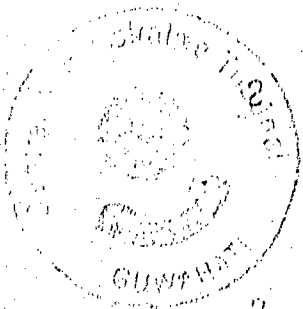
1. The Union of India
Represented through the Secretary
Ministry of Railway
Government of India
New Delhi-110 001.

The Divisional Railway Manager (Personal)
N.E.Railway, Rangia Division
P.O: Rangia, Dist: Kamrup
Assam.

3. The Divisional Personal Officer
N.E.Railway, Rangia Division
P.O: Rangia, Dist: Kamrup
Assam.

4. The Area Manager
N.E.Railway, New Bongaigaon
P.O: New Bongaigaon
Dist: Bongaigaon
Assam.

5. Medical Superintendent
Railway Hospital, New Bongaigaon
P.O: New Bongaigaon



Dist: Bongaigaon
Assam.

... Respondents.

✓ By Dr. J. L. Markar, Railway Standing counsel.

ORDER (ORAL)

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

This Original Application has been filed by the Applicant contending that he has been rendering service in the Railway for about 16 years and due to some ailments he could not attend his office duties. According to him, sick memo has not been issued to him by the Respondents and the Doctor could not issue a certificate. The Applicant earlier approached this Tribunal by way of O.A. No. 202/2006 which was disposed of by this Tribunal at the admission stage vide order dated 24.8.2006 directing the Respondents to consider the representation filed by the Applicant. The Respondents vide order dated 30.10.2006 rejected the claim of the Applicant.

Hence this Original Application seeking the following main reliefs:-

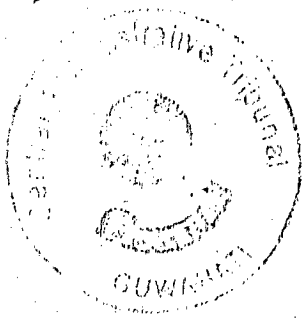
- 8.i) That this Hon'ble Tribunal may kindly be pleased to pass an order directing to the authority to issue sick Memo and if issued the applicant may be permitted to collect the same, so as to grant Medical leave w.e.f. 10.03.2006 till he recovered and avail the fitness certificate.
- 8.ii) To allow the Applicant to get his current salary in full and arrear salary in full granting his leave w.e.f. 10.03.06.

8.iii) To pass an order so that the applicant can get all the benefit along with total payments due as per norms and procedure of the Railway Authority."

2. Heard Mr.A.K.Sikdar, learned counsel for the Applicant and Dr.J.L.Sarkar, learned Standing counsel for the Railways. Mr.Sikdar submitted that since fitness certificate had not been issued by the Respondents the Applicant could not join his duty. However, contention of the Respondents is that sick Memo has already been issued to the Applicant but he did not collect the same. The issuance of the said memo was also intimated to the Applicant.

3. However, considering the issue involved and the Medical Superintendent being a party in this O.A. I direct the Applicant to report before the Medical Superintendent, Railway Hospital, New Bongaigaon i.e., the 5th Respondent, who or any other competent authority authorized by him, shall examine the Applicant and issue a fitness certificate if he is fit and the same shall be produced before the authority who shall permit the Applicant to join duty if he is otherwise eligible. The exercise will be completed at the earliest.

5. The O.A. is disposed of accordingly. There shall be no order as to costs.



TRUE COPY

54/ VICE CHAIRMAN

RECEIVED

25.07

STATIONER

10/11/07

Central Railway, Guwahati

10/11/07

10/11/07

10/11/07

VICE CHAIRMAN

100/

10/11/07

2/3/07
OFFICE
MALIGAON

Court Judgement
URGENT

20
21-22

NORTHEAST FRONTIER RAILWAY

Office of the
General Manager (P)
Maligaon, Guwahati - 11

No. E/170/LC/NS/841/07

Date: 02-03-2007

To,

The Medical Superintendent,
Railway Hospital,
New Bongaigaon.

Sub:- OA No.30/2007 & M.P No.16/07 in CAT/Guwahati

Sri Pradeep Kr. Ghosh ... Applicant

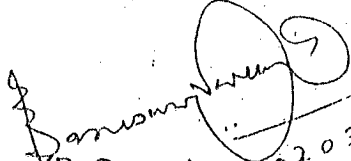
-Vs-

UOI & Ors ... Respondents

Enclosed herewith please find a copy of the OA No.30/07 alongwith the copy of the judgement dated 14-02-2007, by which Hon'ble Tribunal has directed 5th Respondent, i.e. Medical Superintendent Rly Hospital/NBQ or any other competent authority authorised by him to examine the applicant Sri Pradeep Kr. Ghosh and issue a fitness certificate if he is fit. The target date for compliance of Tribunal's order is 22-05-2007.

Therefore you are requested to take necessary action as per Hon'ble Tribunal's order to avoid further complicity. Action taken in this regard may please be intimated to this office please.

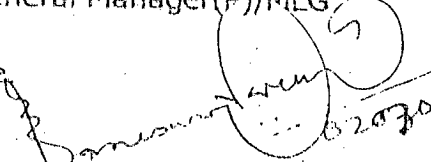
DA: As above.



(B. Sarma) 02.03.07

Asstt. Personnel Officer/LC
for General Manager(P)/MLG

Copy to:
DPO/RNY

- For information and necessary action please


for General Manager(P)/MLG 02.03.07



Office of the
Medical Supdt.
New Bongaigaon
Date: 04/11/07

21

0.11/Comdt/LG/NBQ/07

Sri Pradip Kr. Ghosh,
Id. TNC/NBQ
W/O late Mahesh Chandra Ghosh,
Resident of village : New Bongaigaon DG Colony
Hly. Qr. No.112/B Type-II
P.O. New Bongaigaon
Dist- Bongaigaon (Assam)

Sub:- Medical examination of Sri P.K. Ghosh, Id. TNC/NBQ
Ref:- GM(P)/MLG's letter No. E/170/LC/NS/341/07 dt.02.03-07

In reference to the above quoted letter you are hereby directed to present yourself to the Medical Supdt./NBQ Rly. Hospital with a memo from your department to examine you for issuing fitness certificate if you are found fit.

Therefore, you are directed to take necessary action, so I can proceed as per Hon'ble Tribunal's order to avoid further complicity.

MD
4/11/07

Medical Supdt.
N.F.Rly. New Bongaigaon

Copy to: 1) Sri B. Sarma, Asstt. Personal Officer/LC/MLG
2) Area Manager/NBQ
3) DPO/RNY
4) DOM/RNY

} for information and
necessary action please.

/
Medical Supdt.
N.F.Rly. New Bongaigaon

6/1

Sd/- 6

✓

Remainder

To
The Chief Yard Master,
New Bongaigaon Yard,
N. E. Railway.

Dated, New Bongaigaon
The 23rd April, 2007.

Subj:- Prayer for issuing sick memo.

Ref:- (I) MS/NBQ/ST/No.11/Court/PKG/NBQ/07 Dated. 04.03.07.
(II) My application No. Nil Dated. 13.04.07.

R/Sir,

In reference to the above quoted Letters, I am compelled to re-submit an application requesting you to issue sick memo so that, I may appear before the Medical Superintendent for issuing a fit certificate in favour of me, after due examination.

Therefore, Kindly arrange to issue sick memo and oblige thereby.

Thanking you in an anticipation.

Your's faithfully,
P. K. Ghosh.

(Prodip kr. Ghosh)
Hd. TNC/NBQ
C/O, Rly Ql. No.112/B, Type-II,
B. G. Colony,
P.O. :- New Bongaigaon,
D.T. :- Bongaigaon,
Pin. :- 783381 (Assam)
Ph. No. 03664-224109.

Copy for:-

(I) MS/NBQ for kind information please.

D.A. :- One Xerox Copy of my previous application.

Your's faithfully,
P. K. Ghosh
(Prodip kr. Ghosh)
Hd. TNC/NBQ
Under CYM/NBQ.

*Hd. date
Mr. Prodip up with
C.A.T. to Le
MS
25/4/07*

Dated: 05-05-2007.

The Medical Superintendent,
R. P. Rly / New Bongaigaon.

Sir,

Reference: Ld. TNC / P.K.G. / TNC / 07, Dtd. 04-04-03-2007.

Respected Sir,

In reference to your letter No. quoted above, I applied for issue departmental Sick memo to CYM / NBO on dt. 13-04-07, but departmental Sick memo did not issue. On 04-05-07 one slip has sent to me by Sri K. C. Das on duty PIR / PIR for report to you, but there is no I/No., issuing authority of official seal & time etc. Which is received by me on 04-05-07 at 22.00 hrs. at my Rly station. As this slip is not at all authentic & proper information without any signature. I am unable to proceed till provision of proper information.

The slip (Xerox copy) enclosed here with for your kind information and necessary advice please.

Your faithfully,

P. K. Ghosh

(Prodip Kr. Ghosh)

Hd. TNC / NBO.

(UNDER CYM/PCA)

M.L.
8/5/07

COURT CASE
LD-22.5.2007.)

Northeast Frontier Railway

Office of the
Divisional Railway Manager(P),
Rangiya-781354

Dated, 07.5.2007

No. ET/RNY/PKG/06.

To
M/S NBQ

[For kind attention of Dr. A.K. Das, MS)]

Sub: CAT case OA No. 30/07 & MP No. 16/07 in CAT/GHY filed
by Shri Pradeep Kr. Ghosh, CTNC/NBQ against UOI & Ors.

Ref: This office letter No. ET/RN/PKG/06, Dated 05.4.2007 (copy
enclosed

Kindly refer to above quoted letter and intimate details of action
taken indicating whether fitness certificate, if found fit, has been issued
to Shri P.K. Ghosh, CTNC/NBQ and if so, the number and date thereof.

The last target date for ~~all action~~ after production of fitness
certificate, if any, is to be completed by 22.5.2007, as desired by
Hon'ble CAT GHY.

DA/I(a.a.)

(A. K. Chatterjee)
APO/II

for Divl. Rly. Manager(P)

Copy to:-

- 1) SEDOM/RNY for kind information
- 2) AM/NBQ for information and necessary action please.

for Divl. Rly. Manager(P)

MA
8/5/07

4/5/07

SN-29

Smt J. K. GHOSH HDINE/NBQ

MS/NBQ as early as possible to appear
before Medical Board. This is as per
order of Sgtn/Roy dt 04/05/07.

R
at 22/45 hrs.
on 08-05-2007
my Residence
P. K. Ghosh
HDINE/NBQ

4/5/07

HDINE/NBQ
04/05/07

25

Note - Sick memo issued to P.K. Shastri
H/ncf/NBS as per Telephonic order of
Sr/Dom/Roy through Dy/Chc/Roy Mr. Brindaban
Soud at 18/- hrs of 04-05-07.

4/5/07

N. F. Railway

Office of the

Station Superintendent,

N. F. Railway, NBQ.

DL 07.05.07

No. NBQ/Main/A- 4/ 07 (.)

To,

Sri P. K. Ghosh, Hd. TNC/NBQ,
N. F. Railway, NBQ.

Sub : Spared & direct to report MS/NBQ.

Ref : GHY - CAT case No. OA/ 30/07 & MP No. 16/07 along with MS/NBQ's Order.

Your are hereby directed to report MS/NBQ for medical checkup positively on date and information to be intimated to the undersigned positively by writing or through your next in charge.

Copy to -

SS/NBQ

1. MS/NBQ } to take necessary action please.

2. Sr. DOM/RNY

3. DPO/RNY

4. CTNC/NBQ YARD

} for information please.

SS/NBQ

Station Superintendent
N. F. Railway, How Bongaigaon

N.F. RAILWAY

Office of the
Medical Supdt.
New Bongaigaon

Date- 21-05-07

No.H/Court/PKG/NBQ/07

To
Sri Pradip Kr. Ghosh,
Hd. TNC/NBQ
S/O late Mahesh Chandra Ghosh,
Resident of village : New Bongaigaon BG Colony
Rly. Qr. No.112/B Type-II
P.O. New Bongaigaon
Dist- Bongaigaon (Assam)

Sub:- Medical examination

Ref:- GM(P)/MLG's letter No.E/170/LC/NS/841/07 dt.02-03-07
and this office letter of even No, dt. 07-05-07

In reference to the above quoted letter you are hereby directed to present yourself to the Medical Supdt./NBQ Rly. Hospital on 23-05-07 with a memo from your department to examine you for issuing fitness certificate if you are found fit.

Medical Supdt.
N.F.Rly. New Bongaigaon

- Copy to: 1) Sri B. Sarma, Asstt. Personal Officer/LC/MLG
2) Area Manager/NBQ
3) DPO/RNY
4) Sr.DOM/RNY
5) SS/NBQ

for information and
necessary action please.

Medical Supdt.
N.F.Rly. New Bongaigaon

H.C. - Pradip K. Ghosh
21/5/07

GOVERNMENT OF INDIA
Ministry of Health and Family Welfare
GOVERNMENT MEDICAL DEPARTMENT
GOVERNMENT DUTY FIT CERTIFICATE

29

अस्पताल/ Hospital
खानदान/ Dispensary

File No. 49

मैं यहाँ उपस्थित हूँ कि मैंने Hereby certify that I have examined

नाम/ Name P. K. Bhowmik

पद/ Designation U.S. T. M. C.

चिह्न/ Mark of identification R. F. CRACK

जहाँ मैं हूँ/ Branch or Department T. F. C.

जहाँ मैं काम करता हूँ/ Station, where employed T. F. C.

मैंने उसे देखा कि वह ठीक है कि मैंने उसे देखा/ Remarks

मैंने उसे ठीक माना कि मैंने उसे ठीक माना/ and consider him fit to resume duty pending production of
fit certificate from 21/10/57

अस्पताल/ Hospital अस्पताल/ Dispensary

Sig. (L.T.I. of the applicant)
P. K. Bhowmik

मैंने उसे देखा कि मैंने उसे देखा/ Office Seal

दिनांक/ Date 21/10/57

Medical Superintendent
T. F. C.
NEW BONGAIGOR

25 JAN 2013

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI**

C.P. No. 07 of 2007

In OA No.30/2007

Sri Pradip Kr. Ghosh Petitioner

-Vs-

Sri Jehuda Basumatary & Ors Respondents

IN THE MATTER OF:

Show-cause reply of Respondent No.4 in C.P No.07/2007

1. That, a copy of the contempt petition has been served on the Respondent and the Respondent has gone through the copy of the petition filed by the applicant and has understood the contents thereof.
2. That save and except the statement which are specifically admitted herein below, other statement made in the petition are categorically denied. Further the statement which are not borne on records are also denied and the applicant is put to the strictest proof thereof.
3. That, the Hon'ble Tribunal passed the order in OA No.30/2007 on 14-2-2007 with a direction to the 5th Respondent to OA i.e. Medical Superintendent, Railway Hospital, New Bongaigaon, who or any other competent authority authorised by him shall examine the Applicant and issue a fitness certificate if he is fit and the same will be produced before the authority who shall permit the Applicant to join duty if he is otherwise eligible. The exercise will be completed at the earliest (copy of the order dt 14-2-2007 in OA No.30/2007 is enclosed).
4. That, as per Hon'ble Tribunals order dt 14-02-07 in OA No.30/2007, Medical Superintendent/Railway Hospital/NBQ, issued a letter no.H/Court/PKG/NBQ/07 dt 04-04-07 to P.K. Ghosh to attend the MS/Rly Hospital/NBQ with a memo from his department for medical examination. Sri P.K. Ghosh wrote a letter dt 13-04-07 to this Respondent for issuance of sick memo. Again he wrote a letter for the same on 23-04-07. The necessary sick memo was issued to Sri P.K. Ghosh on 04-05-07 by CTNC/FC/NBQ which was duly received by Sri P.K. Ghosh on 08-05-07 as per order of Sr. DOM/RNY. Another sick memo was issued to Sri P.K. Ghosh on 07-05-07 vide NBQ/Main/A-4/07(.) directing to report MS/NBQ for medical check-up (copy of the sick memo issued on 04-05-07 and letter no.NBQ/Main/A-04/07 dt 07-05-07 are enclosed herewith).

..contd/P-2

Filed by the respondent no 4
through Dr. J. L. Senker
Advocate

5. That, despite all attempts made by the Respondents, the petitioner did not presented him physically to examine him for medical checkup before Medical Superintendent/NBQ.

6. That, finally Sri P.K. Ghosh appeared before M.S/NBQ on 23-05-07 and he was issued fit certificate on 24-05-07 and he was forwarded to Sr. DOM/RNY for resumption of duty on 25-05-07 (copy of fit certificate is enclosed herewith).

7. That, the OA No. 30/2006 was filed against the order dt 30-10-2006 issued by DRM(P)/RNY The said OA No.30/2006 was disposed of with a direction to issue fit certificate to the applicant. But, when the person concern has not reported to collect necessary sick memo from his authority and not appeared before Medical Superintendent for medical check up, a fit certificate can not be issued by said Medical authority. Hence Hon'ble Tribunal's order could not be implemented due to non-co-operation with the authority by the applicant himself. This time also if he presented himself before the Medical authority physically, fit certificate might be issued to him as per procedure.

8. That, this respondent does not violated the Hon'ble Tribunal's order nor he willfully disobeys the Tribunal's order. This respondent begs to state that there is no intention on his part to violate any direction passed by this Hon'ble Tribunal.

9. That, as per order of Sr.DOM/RNY, Sri P.K. Ghosh has been advised to join his duty vide letter No. CTN/BG/NBQ/07 dt 06-06-2007 (copy of the letter No.CTN/BG/NBQ/07 dt 06-06-2007 is enclosed).

10. That, in the facts and circumstances above, the above case deserves to be dismissed with cost.

201
Jhuda Bannam
100 472 478
1st Yard Master
10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100
R.F. Rly. New

A F F I D A V I T

I, Shri Jeshu Barmatay aged about 46 years, resident of
New Bongaigaon in the Dist. of Bongaigaon

do hereby solemnly affirm and state as follows:-

1. That, I am the Chief Yard Master / New Bongaigaon under N.F. Railway, and as such well acquainted with the facts and circumstances with the case and also competent to swear this affidavit.

2. That, the statement made in this affidavit and in the accompanying petition in paragraph 7 to 9 and 10 are true to my knowledge and the statement made in paragraphs X are matters of records and rests are my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this day 21st day of June' 2007.

Identified by:

(S.N. Tamuli)
Advocate

Deponent

Jeshu Barmatay
Chief Yard Master
N.F. Ry. New Bongaigaon

Sworn before
me
Jyoti
Advocate
Dt: 21/6/07

- 4 -

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 30 of 2007.

Date of Order: This, the 14th day of February, 2007.

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

Prodip Kumar Ghosh
Son of Late Mahesh Chandra Ghosh
Resident of village: New Bongaigaon B.G.
Colony Rly. Qtr. No.112/B Type-II
P.O: New Bongaigaon
P.S: Dhaligaon
Dist: Bongaigaon, Assam.

...Applicant.

By Advocates S/Shri A.R.Sikdar, J.A.Azad K.M.Haloi.

- Versus -

1. The Union of India
Represented through the Secretary
Ministry of Railway
Government of India
New Delhi-110 001.

The Divisional Railway Manager (Personal)
N.E.Railway, Rangia Division
P.O: Rangia, Dist: Kamrup
Assam.

3. The Divisional Personal Officer
N.E.Railway, Rangia Division
P.O: Rangia, Dist: Kamrup
Assam.

4. The Area Manager
N.E.Railway, New Bongaigaon
P.O: New Bongaigaon
Dist: Bongaigaon
Assam.

5. Medical Superintendent
Railway Hospital, New Bongaigaon
P.O: New Bongaigaon.

Dist: Bongaigaon
Assam.

... Respondents.

✓ By Dr. J.L. Sarkar, Railway Standing counsel.

ORDER (ORAL)

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

This Original Application has been filed by the Applicant contending that he has been rendering service in the Railway for about 16 years and due to some ailments he could not attend his office duties. According to him, sick memo has not been issued to him by the Respondents and the Doctor could not issue a certificate. The Applicant earlier approached this Tribunal by way of O.A. No. 202/2006 which was disposed of by this Tribunal at the admission stage vide order dated 24.8.2006 directing the Respondents to consider the representation filed by the Applicant. The Respondents vide order dated 30.10.2006 rejected the claim of the Applicant.

Hence this Original Application seeking the following main reliefs:-

"8.i) That this Hon'ble Tribunal may kindly be pleased to pass an order directing to the authority to issue sick Memo and if issued the applicant may be permitted to collect the same, so as to grant Medical leave w.e.f. 10.03.2006 till he recovered and avail the fitness certificate.

8.ii) To allow the Applicant to get his current salary in full and arrear salary in full granting his leave w.e.f. 10.03.06.

8.iii) To pass an order so that the applicant can get all the benefit along with total payments due as per norms and procedure of the Railway Authority."

2. Heard Mr.A.K.Sikdar, learned counsel for the Applicant and Dr.J.L.Sarkar, learned Standing counsel for the Railways, Mr.Sikdar submitted that since fitness certificate had not been issued by the Respondents the Applicant could not join his duty. However, contention of the Respondents is that sick Memo has already been issued to the Applicant but he did not collect the same. The issuance of the said memo was also intimated to the Applicant.

3. However, considering the issue involved and the Medical Superintendent being a party in this O.A. I direct the Applicant to report before the Medical Superintendent, Railway Hospital, New Bongaigaon i.e., the 5th Respondent, who or any other competent authority authorized by him, shall examine the Applicant and issue a fitness certificate if he is fit and the same shall be produced before the authority who shall permit the Applicant to join duty if he is otherwise eligible. The exercise will be completed at the earliest.

5. The O.A. is disposed of accordingly. There shall be no order as to costs.

TRUE COPY

64/ VICE CHAIRMAN

VICE CHAIRMAN

SN-29

4/5/07

Smt J. K. GHOSH HDINE/ATBQ

MS/NBQ as early as possible to appear
before Medical Board. This is as per
order of Sg/Com/Roy on 04/05/07.

at 22/15 Hrs.
on 08-05-2007
my Residence
P. K. Ghosh
HDINE/ATBQ

4/5/07

HDINE/ATBQ
04/05/07

7-
Note: Sick Memo issued to P.K. Shastri
H/ncf/1888 as per Telephonic order of
Sr/Dom/Roy through Dy/Chc/Roy Mr. Brindaban
Soud at 18/11/07 04-05-07.

4/5/07

N. E. Railway

103

Office of the
Station Superintendent,
N. E. Railway, NBQ.

No. NBQ Main/A-4/07 (.)

Dt. 07.05.07

To:

Sri P. K. Ghosh, Hd. TNC & BQ,
N. E. Railway, NBQ.

Sub :- Spared & direct to report MS/NBQ.

Ref :- GHY. CAT case No. OA/30/07 & MP No. 19/07 along with MS/NBQ's Order.

You are hereby directed to report MS/NBQ for medical checkup positively on date and information to be intimated to the undersigned positively by writing or through your next in charge.

SS/NBQ

Copy to -

1. MS/NBQ } to take necessary action please.
2. SE DOM/RNY
3. DPO/RNY
4. CTNC/NBQ YARD } for information please.

[Signature] 14/5/07

SS/NBQ

TO THE SUPERINTENDENT

N. E. Railway, NBQ.

Station Superintendent

(1) The above mentioned

GOVT. HOSP. K. T. RAHAWA
Bilateral Post-operative Department
Duty Fit Certificate

General Hospital
General Dispensary

Doc No. 42

I, the undersigned, do hereby certify that I have examined

patient P. K. S. S. S.

of the operation U. I. J. J. J.

by the Mark of identification 27-08-02

at the Post/Branch or Department U. I. J. J.

at the Post/Branch, where employed U. I. J. J.

and I am of the opinion that the patient is fit for duty.

I have considered the patient's condition and consider him fit to resume duty pending production of

the certificate from U. I. J. J.

given by the patient's doctor.

The M. T. of the applicant U. I. J. J.

Signature of the Officer Seal U. I. J. J.

Date 2.11.02

[Signature]
Medical Superintendent
GOVT. HOSP. K. T. RAHAWA
BONGAIGOR

N.E. Railway

Office of the
CTNC/IC/BG/NBQ
Dated 06-06-07

No. CTN/BG/NBQ/07

To,

Shri P.K. Ghosh,
Head, TNC/NBQ,

Sub:- Report for resumption of duty.

You have represented to Sr. DOM/RNY vide your representation dated 28th May/07 that you have not been allowed to join duty after obtaining duty fit certificate issued by Railway Doctor On 24-5-07

It is fact that you have attended my office on 25-5-07 with an application praying for resumption of duty but the allegation that I have not allow you to resume duty are not correct. As you were absenting yourself from duty since 10.03.06, it was required that the necessary permission for joining should be taken from DRM (O)/RNY.

Also you have been under order of transfer from NBQ to RNY vide DRM (P) RNY's letter No. E/254/RN/Optg/05 (Tr.) D dated 7-4-05. Considering this my self forwarded your application to Sr. DOM/RNY for necessary action i.e. for obtaining permission for joining.

Further you have pointed out in the representation that myself denied to issue proceed order to you which is base-less as I advised you to obtain proceed order from CYM/NBQ as he is the In charge of the Yard/NBQ but you did not reported to him for taking ED Pass.

You have also pointed out that you are attending CTNC/BG/NBQ's office regularly, but to the best of my knowledge as well as my staff it is base-less that you have ever attended the office except on 25-05-07. It appears that you want to avoid duty by giving some reasons or other.

Now you are advised to attend CTNC/BG/NBQ's office for joining in duty at once as the joining permission has already been obtained from Sr. DOM/RNY by me.

(S.K. BORO)
CTNC/BG/IC/NBQ

Copy to:- 1) Sr.DOM/RNY for kind information please.
2) DPO/RNY for kind information please.

CTNC/BG/IC/NBQ

DPO
07/06/07

R. Das LA

SPO/Reall VI
11/6/07