

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

1. Original Application NO. _____

2. M.B. Petition No. _____

3. Contempt Petition No. 2/08 in O.A.225/07

4. Review Application No. _____

Applicant(S).... Rintu Roy..... VS- Union of India & Ors

Advocate for the Applicants... M. Chanda, S. Nath, Ms. K. Dutta..

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

Notes of the Registry

Date

Order of the Tribunal

This Contempt petition has been filed by the Counsel for the petitioner w/s 17 of the CAT Act, 1985, Praying for initiation of a contempt proceeding against the alleged contemners for non-compliance of the order dt. 28.8.07 as well as order dated 28.9.07 passed in O.A.No.225/07.

04.02.2008

A copy of the C.P. No.2/2008 has been supplied to Mrs.M.Das, learned Addl. Standing counsel in Court today.

Call this matter on 05.03.2008 along with O.A. 225/2007.

(Khushiram)
Member (A)

(M.R.Mohanty)
Vice-Chairman

05.03.08

Heard Mr M.Chanda, learned counsel for the applicant.

Issue notice to the Respondents returnable by four weeks.

Call this matter on 24.4.2008.

(Khushiram)
Member(A)

pg

Section Officer

24/1/08

Recd
(M)
26/2/08

C.P.No. 02/2008 (O.A. 225/07)

Notice & order sent
to D/Section for
issuing to resp.
nos. 1 and 2 by
regd. A/D post.

24.04.2008

Call this matter on 08.05.2008
alongwith O.A.No.225/2007.

(M. R. Mohanty)
Vice-Chairman

nkm

D/No-1419,

DT-1420

20/3/08

08.05.2008

Call this matter on 20.6.2008

alongwith R.A. 5 of 07 for hearing.

1.5.08

Affidavit submitted
by Rspdt No. 2. Copy
served.

(Khushiram)
(Member(A))

(M.R. Mohanty)
Vice-Chairman

~~20.06.2008~~

Call this matter on 2nd September,

10.6.08

A letter dated 17.4.08
received by this Registry
from Lt. Col, OC Adm Wing.
For offg Comdt, regarding
Address of Rspadut No. 1
in C.P. 2/08 in O.A. 225/07
which will speak itself.

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

20.06.2008

Call this matter on 2nd September
2008 along with O.A. 225 of 07.

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

02.09.2008


Call this matter on 30.09.2008
alongwith O.A.No.225/2007.

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

nkm

01.12.2008 Call this matter on 22.01.2009
alongwith the O.A.


(M.R. Mohanty)
Vice-Chairman

nkm

3.12.08

Reply filed
by the petitioner.
Copy served.



22-1-09 Bench is not available
List on 27-2-09

12/09

O.A.259/07

04.06.2008

None appears for the Applicant nor
the Applicant is present.

Call this matter on 10.06.2008 for
hearing.

(Khushiram)
Member (A)

(M.R. Mohanty)
Vice-Chairman

nkm

C.P.18/07

04.06.2008

Call this matter on 10.06.2008
alongwith the O.A.

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

nkm

O.A.111/06

06.06.2008

None appears for the Applicant nor

(CP 2/2008 OA 225/07)

Reply filed.

22.4.09

27.02.2009

Call this matter on 24.04.2009
alongwith the O.A.



(M.R. Mohanty)
Vice-Chairman

nkm

24.04.2009

Call this matter on 05.06.2009 along with
O.A.225 of 2007.



(M.R. Mohanty)
Vice-Chairman

/bb/

05.06.2009

Call this matter on 31.07.2009 along with
O.A.225 of 2007.




(M.R. Mohanty)
Vice-Chairman

/bb/

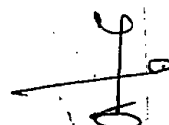
31.07.2009

Call this matter on 06.08.2009 along with
O.A.225 of 2007.



(M.K. Chaturvedi)
Member (A)

/bb/



(M.R. Mohanty)
Vice-Chairman

06.08.2009

Heard Mr. M. Chanda,
learned counsel appearing for the
Applicant and Mrs. Manjula Das,
learned Addl. Standing Counsel
appearing for the Respondents and
perused the materials placed on record.

Hearing concluded. Judgment
reserved.



(M.K. Chaturvedi)
Member(A)

(M.R. Mohanty)
Vice-Chairman

C.P. 2/09 (O.A. 225/07)

10.09.2009

Judgment pronounced in open.

Court. Kept in separate sheets. C.P. is
dropped. No costs.

15/9/09

Judgment order

dtd 10/9/09 send to
the D/Section for
issuing to the Applicant
& Respects. by Regd post.

/lm/

(M.K. Chaturvedi)
Member (A)

(M.R. Mohanty)
Vice-Chairman

D/Na 11397-11390 ~~2009~~
dtd 22/9/09 15/9/09

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI
C.P.No.02/2009 (in O.A.No.225/2007)

Dated 10.09.2009

Shri Rintu Roy
By Advocate

Mr M. Chanda

Applicant

Versus

Brig. R.M. Painuly & another
By Advocate Mrs. Manjula Das, Addl. Standing Counsel

Respondents

Present: The Hon'ble Mr. Manoranjan Mohanty, Vice-Chairman
The Hon'ble Mr. M. K. Chaturvedi, Administrative Member

1. Whether reporters of local newspapers may be allowed to see the Judgment?
2. Whether to be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether to be forwarded to other Benches?

Yes/No ✓

Yes/No ✓

Yes/No ✓

Yes/No ✓


Vice-Chairman/Administrative Member

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI
C.P.No.02 of 2008 (in O.A.No.225/2007)

This the 10th day of September 2009

Present The Hon'ble Mr Manoranjan Mohanty, Vice-Chairman
The Hon'ble Mr. M.K. Chaturvedi, Administrative Member

Shri Rintu Roy,
No.14117514 Model Maker,
Counter Insurgency and
Jungle Welfare School,
Pin: 900446, C/O- 99 APO.

Applicant

By Advocate Mr M. Chanda

Versus

1. Brig. R.M. Painuly,
Commandant,
Counter Insurgency and
Jungle Welfare School,
Pin: 900446, C/O 99 APO.
2. Shri S.K. Das
Sr. Area Accounts Officer,
Area Accounts Office
Bivar Road, Shillong-1

Respondents

By Advocate Mrs. Manjula Das, Addl. Standing Counsel

ORDER

C.P.No.02/2009 (in O.A.No.225/2007)

Manoranjan Mohanty, Vice-Chairman:-

Non-compliance of the interim restraint orders dated 28.08.2007 and 28.09.2007 rendered in O.A.225 of 2007 is the subject-matter of allegation in this Contempt Petition No.2 of 2008.

2. By way of filing a reply, the Respondent No.2 has disclosed as under:-

“...I beg to state that consequent upon proposal from the unit for grant of ACP, the pay of the petitioner was fixed at the higher scale of Rs.4000/- with effect from 20.05.2003. However the said benefit was granted erroneously on the pay scale of Rs.4000-6000 instead of Rs.3200-Rs.4000.

As per clarification dated 02.12.2004 of the Director General of Military Training, General Staff Branch, Army Headquarters, DHQPO, New Delhi-110011, (Respondent no.2 of the O.A.) the post of the Model Maker is a promotional post and the said post is to be filled up from the Model Mazdur with 5 years service. Consequently the

petitioner will be eligible for grant of ACP only after completion of 12 years service after re-mustering from Cook to model Mazdur. Thus, 1st ACP granted to the petitioner on 01.12.2000 is irregular and not as per rule. Accordingly the petitioner's pay was fixed reverting to earlier lower scale.

Excess payment due to fixation of higher scale on Pre-Mature Grant of Assured Career Progression was made to the petitioner with effect from 20.05.03 to 31.07.07. However in compliance with the Hon'ble Tribunal orders dated 28.08.07 and 28.09.07 no recovery of excess payment has been made."

3. Respondent No.2 has also stated as under:-

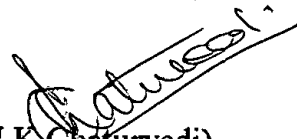
"... I beg to state that as soon as he order dated 28.08.07 and 28.09.07 passed by the Hon'ble Tribunal, the respondents/contemners immediately complied with the Hon'ble Tribunal's order and stopped the recovery of excess payment from the applicant. He also confirmed from the Commandant, Jungle Welfare School that in compliance with the Hon'ble Tribunal's order dated 28.08.07 and 28.09.07 no recovery of excess payment has been made thereafter."

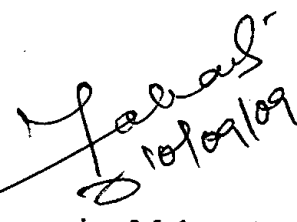
4. By way of filing a rejoinder, the Applicant has placed on record a salary statement of 09.09.2008 to show that some recoveries were being effected from the salary of the Applicant. But there are nothing to show that there were any recovery on the count of excess payment of ACP.

5. By our order dated 10.09.2009 rendered in O.A.225/2007, we have already held that recovery was ordered for just reason and that should be done upon grant of ACP from 01.12.2007.

6. In the above premises, there remains nothing to proceed with this case.

7. Accordingly, this C.P. is dropped. No costs.


(M.K. Chaturvedi)
Administrative Member


(Manoranjan Mohanty)
Vice-Chairman

23 JAN 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI

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

Title of the case : C.P. No. 2 /2008

IN O.A. No. 225/2007

Shri Rintu Roy : Applicant.

-Versus-

Union of India & Ors. : Respondents.

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Filed By:

S. K. K. A.

Advocate

Date:- 23/01/08.

केन्द्रीय प्रशासनिक अपिलेशन
Central Administrative Tribunal

24 JAN 2008

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Guwahati Bench
GUWAHATI BENCH GUWAHATI

Filed by the petitioner
Mr. R. M. Painuly, S. Naik,
Advocate
23/01/08.

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

CONTEMPT PETITION No. 2 /2008

In O.A No. 225/2007

In the matter of:

Shri Rintu Roy.

... Petitioner.

-Versus-

Dr. Brig. R. M. Painuly & ~~One~~ Another

... Respondents/
Alleged contemnors.

-And-

In the matter of:

An application under Section 17 of the
Administrative Tribunals Act, 1985,
praying for initiation of a Contempt
proceeding against the alleged
contemnors for non-compliance of the
order dated 28.08.2007 as well as order
dated 28.09.2007 passed in O. A. No.
225/2007.

-And-

In the matter of:

Shri Rintu Roy.

No. 14117514 Model Maker.

Counter Insurgency and

Jungle Welfare School.

Pin: 900446, C/O- 99 APO.

-Versus-

Rintu Roy

2 JAN 2008

1. Brig. R.M Painuly,
Commandant,
Counter Insurgency and
Jungle Welfare School,
Pin: 900446, C/O- 99 APO.

गुवाहाटी न्यायपीठ
Guwahati Bench

2. Shri S.K. Das,
Sr. Area Accounts Officer,
Area Accounts Office
Bivar Road, Shillong- 1.

... Respondents/
Alleged contemnors.

The humble petitioners above named

Most respectfully sheweth:-

1. That the petitioner has approached this Hon'ble Tribunal through O.A. No. 225/2007 against the impugned letter No. 74175/Cir/VCPC/GS/MT-7 dated 02.12.2004, letter bearing No. Pay/Tech Co-ord 19 (B) ACP Army dated 20.03.2006, letter bearing letter No. 6013/ACP/Adm dated 31.05.2006 and letter bearing No. Pay/Tech/Coord/49 (B)/ACP dated 25.07.2007 and praying for a direction upon the respondents to grant revised higher pay scale of Rs. 4000-6000/- w.e.f. 01.01.1996 and also for a declaration by this Hon'ble Tribunal that the respondents are not entitled to make any recovery in terms of the impugned order dated 25.07.2007. The petitioner has also prayed in the OA No. 225/07 that the Hon'ble Tribunal be pleased to stay operation of the impugned letter bearing letter No. 6013/ACP/Adm dated 31.05.2006 and letter bearing No. Pay/Tech/Coord/49 (B)/ACP dated 25.07.2007 till disposal of the Original Application.
2. That the petitioner states that the O.A. No. 225/2007 came before this Hon'ble Tribunal on 28.08.2007 for admission and the Hon'ble Tribunal after hearing Counsels of the parties and after perusal of materials on record was pleased to direct the respondents that further recovery, if any, will be kept in abeyance till the next date. It is stated that on 28.09.2007 the matter came before the Hon'ble Tribunal for further consideration and the Hon'ble Tribunal was pleased to issue notice to the respondents and the

Rinta Ray

2

Hon'ble Tribunal as an ad-interim measure, directed that no recovery should be made from the applicant until further orders.

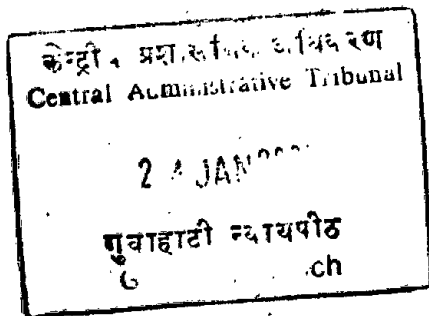
Copies of the order dated 28.08.07 and 28.09.07 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- I and II respectively.

3. That the petitioner on receipt of the copies of the order dated 28.08.07 and 28.09.07 approached the respondents/alleged contemnors through his representation dated 13.10.2007 praying for keeping in abeyance recovery from his pay and allowances enclosing copies of the order dated 28.08.07 and 28.09.07. The representation submitted by the petitioner on 13.10.07 has been forwarded to the respondents/alleged contemnors on 13.10.07. But the respondents/alleged contemnors in spite of direction passed by the Hon'ble Tribunal on 28.08.07 and 28.09.07 has not stopped recovery from the pay and allowance of the petitioner till date.

A copy of the representation dated 13.10.07 along with forwarding letter dated 13.10.07 are enclosed herewith as Annexure-III (Series).

4. That the alleged contemnors/respondents in spite of receipt of the order dated 28.08.07 and 28.09.07 of this Hon'ble Tribunal has not stopped recovery from the pay and allowance of the petitioner till date. As such action of the respondents/alleged contemnors is itself contemptuous in nature and it is willful disobedience of the order of the Hon'ble Tribunal passed on 28.08.2007 and on 28.09.07. Therefore, the Hon'ble Tribunal be pleased to initiate a Contempt proceeding against the alleged contemnors for willful violation of the order dated 28.08.2007 and 28.09.2007 in O.A. No. 225/2007 of this Hon'ble Tribunal and further be pleased to impose punishment upon the alleged contemnors in accordance with law.
5. That this application is made bonafide and for the cause of justice.

Rintu Roy



Under the facts and circumstances stated above, the Hon'ble Tribunal be pleased to initiate Contempt proceeding against the alleged contemnors for willful non-compliance of the order dated 28.08.07 and 28.09.07 passed in O.A. No. 225/2007 and be pleased to impose punishment upon the alleged contemnors in accordance with law and further be pleased to pass any other order or orders as deemed fit and proper by the Hon'ble Court.

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

Rintu Roy

24 JAN 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

AFFIDAVIT

L Shri Rintu Roy, No. 14117514 Model Maker, aged about 44 yrs, working in the Counter Insurgency and Jungle Welfare School, Pin: 900446, C/O- 99 APO, do hereby solemnly declare as follows: -

1. That I am the petitioner in the above contempt petition duly authorized by the others and as such I am well acquainted with the facts and circumstances of the case and also competent to sign this affidavit.
2. That the statements made in paragraph 1 to 5 are true to my knowledge and belief and I have not suppressed any material fact.
3. That this Affidavit is made for the purpose of filing contempt petition before this Hon'ble Tribunal, Guwahati Bench, Guwahati for non-compliance of the Hon'ble Tribunal's order dated 28.08.07 and 28.09.07 passed in O.A. No. 225/2007.

And I sign this Affidavit on this 7th day of January 2008.

Rintu Roy

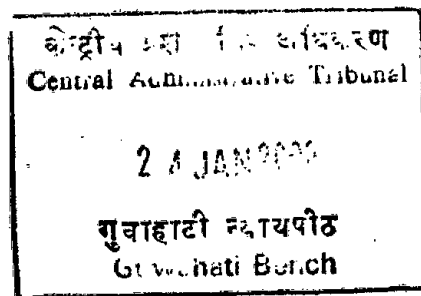
Deponent

Identified by

W. Dutta
Advocate.

The above named deponent solemnly affirmed and declared before me on this the 7th day of January 2008.

Subrata Dasgupta
7/1/08.
Advocate



DRAFT CHARGE

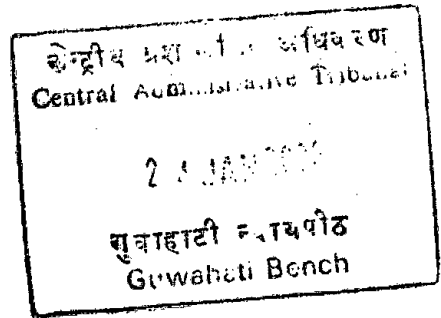
Laid down before the Hon'ble Central Administrative Tribunal, Guwahati Bench for initiating a contempt proceeding against the contemnors for willful disobedience and deliberate non-compliance of the order of the Hon'ble Tribunal dated 28.08.07 and 28.09.07 passed in O.A. No. 225/2007 and further to impose punishment upon the alleged contemnors for willful disobedience and deliberate non-compliance of the Hon'ble Tribunal's order dated order dated 28.08.07 and 28.09.07 passed in O.A. No. 225/2007.

Rintu Roy

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

O R D E R S S H E E T

1. Original Application No. 225/07
 2. Misc Petition No.
 3. Contempt Petition No.
 4. Review Application No.



Applicant(S) Rintu Roy -VS- Union of India & Ors

Advocate for the Applicants:- M. Chandra, S. Nath, Ms. U. Datta

Advocate for the Respondents:- C&S.

Notes of the Registry	Date	Order of the Tribunal
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28.8.07. The applicant was initially appointed as Civilian Cook and thereafter he was re-mastered as Model Maker w.e.f. 01.12.1995 in the pay scale of Rs.950-1500/-. On 06.11.2003 the School Authority clarified that remastering of the applicant has been transferred to the cadre of Model Maker is not a promotion. According to the applicant he should have been granted as remaster from Cook to Model Maker w.e.f. 01.12.1995 in the pay scale of Rs. 950-1500/- Vide impugned order dated 02012.04 informed the applicant that remastering from Cook to Model Maker is prima facie appears to be irregular as because Model Maker is a promotional post from the Model Mazdoor with 5 years service and also observed that the individual could be eligible for 1st

Contd/-

Alleged
Jury
Attorney

8

28.8.07.

ACP benefit only after completing 12 years of service from the date of remustering i.e. on Nov,2007. The applicant has submitted representations dated 30.03.2005, 25.01.2006 before the respondents to grant the pay scale of Rs. 4000-6000/-. But the Respondent No.3 informed the applicant that the applicant is not entitled to the benefit of ACP, in view of the fact that he has already got a financial upgradation to the post of Model Maker from 01.12.95. Being aggrieved the applicant has filed this O.A. seeking the reliefs.

केन्द्रीय प्रशासनिक अपील निकाय
Central Administrative Tribunal
24 JAN 2008
गुवाहाटी न्यायपीठ
Guwahati Bench



I have heard Mr.M.Chanda learned counsel for the applicant and Mrs. M. Das, learned Addl.C.G.S.C. for the Respondents. Counsel for the respondents has submitted that he would like to take instructions.

In the meantime, this Court directs the respondents that further recovery if any, will be kept in abeyance till the next date.

Post the matter on 28.9.07.

SA/ VICE CHAIRMAN

Date of Application : 28.8.07
Date on which copy is received : 29.8.07
Date on which copy is referred : 29.8.07
Certified to be true copy

Section Officer (Judl) 29/8/07
C. A. T. Guwahati Bench
Guwahati-5.

29/8/07

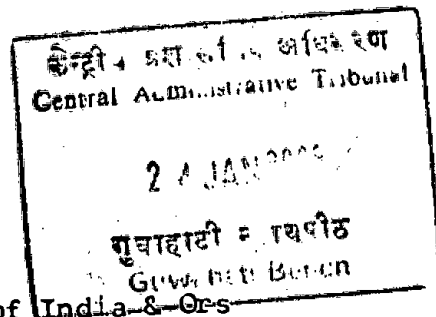
9.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERS SHEET

ANNEXURE II

1. Original Application No. 225/07
2. Misc Petition No.
3. Contempt Petition No.
4. Review Application No.



Applicant(s) Rintu Roy -VS- Union of India & Ors
Advocate for the Applicants:- M. Chanda, S. Nath, Ms. U. Dutta
Advocate for the Respondents:- C & S

Notes of the Registry	Date	Order of the Tribunal
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28.9.07. Mrs. U. Dutta, learned counsel for the Applicant and Mrs. Manjula Das, learned Addl. Standing Counsel for the Central Government are present. Learned Addl. Standing Counsel has not been able to obtain any instructions from the Respondents.

Issue notice to the Respondents, requiring them to file reply by 30.11.07.

As an ad- interim measure, no recovery should be made from the applicant until further orders.

While granting the ad- interim order, liberty is hereby granted to the Respondents to put up their objection, if any, to the interim prayer made in this Original Application/ to this ad interim order.

Send copies of this order to the respondents' (alongwith notices) and free copies of this order be also handed over to the learned counsel appearing for both the



TRUE COPY
অনুলিপি

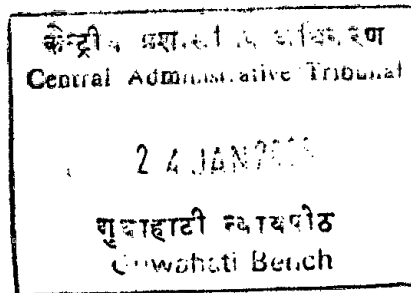
Received
গুৱাহাটী কেন্দ্রীয় প্রশাসনিক আদালত
28.9.07
Central Administrative Tribunal
Guwahati Bench
গুৱাহাটী কেন্দ্রীয় প্রশাসনিক আদালত


54/ VICE CHAIRMAN
54/ MEMBER (A)

13 Oct 07

COURSES WINGANNEXURE-III (Series)KEEPING IN ABEYANCE OF RECOVERY

An application for keeping ~~of recovery~~ in abeyance of recovery made from pay and allowances in respect of No 14117514 Model Maker Shri Rintu Roy presently serving with Courses Wing is forwarded for your perusal and favourable action please.




(Harshal Dixit)
Maj
DS Coord
For SI

Encls : (Three only)

Adm Wing

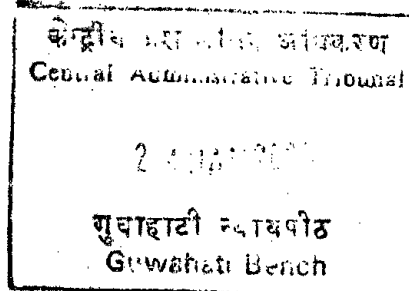
AAO Shillong

Attested
Law
Advocate

From : No 14117514
Model Maker
Shri Rintu Roy
CIJW School

To : The Commandant
CIJW School
C/O 99 APO

Through proper channel




ANNEXURE- III (series)

Sub : **REQUEST FOR KEEPING IN ABEYANCE OF RECOVERY
MADE FROM PAY AND ALLOWANCES**

Sir,

1. With due respect and in appreciation of the above cited subject, I have the honour to state that you the following few lines for your kind consideration and favourable action please.
2. That Sir, I submitted an application to the Central Administrative Tribunal (CAT), Guwahati bearing No 225/07. In relation to it, the decision of the CAT, Guwahati, and as per the Court's Order No 225/07 dated 28 Aug 2007 and 28 Sep 2007 no recovery should be made from my pay and allowances until further order (photo copy attached).
3. Sir, keeping in view of the recovery made from my pay and allowances wcf 01 Aug 2007 and the above I want to get exemption from making recovery.
4. I, therefore, request your honour that you will be kind enough to keep recovery in abeyance immediately please for which I shall be grateful to you.
5. Thanking you.

Yours faithfully


(Rintu Roy)
Model Maker

Station : C/O 99 APO

Dated : 13 Oct 2007

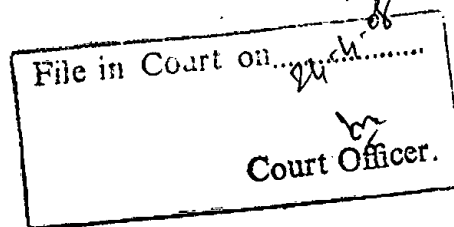
Encls : (Three only)

Copy to :

Area Accounts Office
(Pay - IV)
Shillong (Meghalaya)

- For information and further necessary action please.

Attested
Date
Signature



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

IN THE MATTER OF

C.P.no.2/08
In O.A no. 225/07
Sri Rintu Roy

...Petitioner

-Vs-

Sri R.M. Das and ~~Sri R.M. Das~~
...Respondent.

-AND-

IN THE MATTER OF:

An affidavit on behalf of Respondent
no.2 to the C.P.no.2/08.

(AFFIDAVIT ON BEHALF OF RESPONDENT NO.2)

I, Sri S.K.Das s/o late R.M. Das, presently working as Senior Accounts Officer, Area Accounts Office, Bivar Road, Shillong-1, do hereby solemnly affirm and state as follows:-

1. That, I have been impleaded as party respondent/ contemner no.2 in the aforesaid Contempt Petition. Accordingly a copy of the same has been served upon me and have understood the contents thereof.
2. That, I do not admit any of the averments except which are specifically admitted hereinafter and the same are deemed as denied.
3. That with regards to the statements made in paragraph 1 of the contempt petition the humble answering respondent has nothing to make comment on it as they are being matters of records of the case.
4. That with regards to the statements made in paragraph 2 of the contempt petition the humble answering respondent has nothing to make comment on it as they are being matters of records of the case.
5. That I deny the correctness of the statements made in paragraph 3 of the contempt petition. I beg to state that as soon as the order dated 28.08.07 and 28.09.07 passed by the Hon'ble Tribunal, the respondents/ contemnors immediately complied with the Hon'ble Tribunal's order and stopped the recovery

120 bps: -
Sri S.K. Das
...Alleged Contemner
no.2
Through
Mangaly Das
Advocate
CMT
23/04/08

Received
23/04/08

24.1.08

हेतु भी मांगी गई
Guaranteed

of the excess payment from the applicant. He also confirmed from the Commandant, Jungle Welfare School that in compliance with the Hon'ble Tribunal's order dated 28.08.07 and 28.09.07 no recovery of excess payment has been made thereafter.

6. That I deny the correctness of the statement made in paragraph 4 of the contempt petition. I beg to state that consequent upon proposal from the unit for grant of ACP, the pay of the petitioner was fixed at the higher scale of Rs.4000/- with effect from 20.05.2003. However the said benefit was granted erroneously in the pay scale of Rs.4000-6000 instead of Rs.3200-Rs4000.

As per clarification dated 02.12.2004 of the Director General of Military Training, General Staff Branch, Army Headquarters, DHQPO, New Delhi-110011, (Respondent no.2 of the O.A) the post of the Model Maker is a promotional post and the said post is to be filled up from the Model Mazdur with 5 years service. Consequently the petitioner will be eligible for grant of ACP only after completion of 12 years service after re-mustering from Cook to Model Mazdur. Thus, the 1st ACP granted to the petitioner on 01.12.2000 is irregular and not as per rule. Accordingly the petitioner's pay was fixed reverting to earlier lower scale.

Excess payment due to fixation of higher scale on account of Pre-Mature Grant of Assured Career Progression was made to the petitioner with effect from 20.05.03 to 31.07.07. However in compliance with the Hon'ble Tribunal orders dated 28.08.07 and 28.09.07 no recovery of excess payment has been made.

7. That the humble deponent begs to state that there is no lapse or negligence on the part of the petitioner of the Respondent Authority to comply with the Hon'ble Tribunal's order.

8. That there is no violation of the orders dated 28.08.07 and 28.09.07 passed by the Hon'ble Tribunal and hence the Contempt Petition is liable to be closed.

Swapan K. Das

AFFIDAVIT

I, Shri S.K.Das s/o late R.M.Das, aged about 50 years, resident of Pragati Nagar, Satgoan, Guwahati-781171, presently working as Senior Accounts Officer, Area Accounts Office, Bivar Road, Shillong-1, in the district ~~East Khasi Hills~~ do hereby solemnly affirm and state as follows :-

1. That I have been impleaded as the alleged contemner no.2 in the instant case and am fully conversant with the facts and circumstances of the case.
2. That the statements made in paragraphs 1, 2, 5 and 7 of the application are true to my knowledge, those made in paragraphs 3, 4 and 6 are being matters of record of the case derived therefrom which I believe to be true and the rest are my humble submissions before this Hon'ble Court.

And I sign this affidavit on this the 23rd April 2008 at Guwahati.

Identified by:-

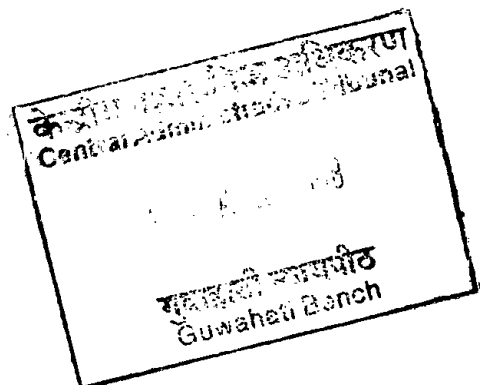
M. S. Das

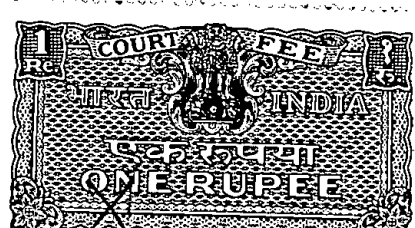
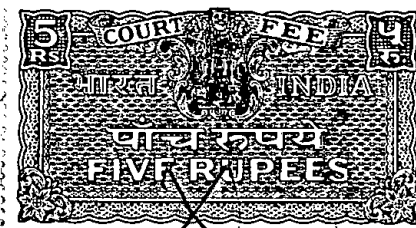
S. K. Das
SIGNATURE

Advocate:-

Solemnly affirmed & declare by the deponent who is identified by *M. S. Das, Adv.*

M. S. Das
(M. S. Das)
(Adv.)
24/4





DISTRICT:

VAKALATHNAMA

CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH
KAMRUP :: GUWAHATI.

OA/RA/CP/PT/NO. 2 of 2008

in O.A. No. 225/07

Sri Rishu Roy

....Applicants./petitioners

-Versus-

Brig. R.M. Paizaly Darr

...Respondent/s./Alleged Contemners

I, Sri Swapan Vr. Das, Applicant No. / Respondent No. 2 in the above application/petition do hereby appoint and retain Shri Manjinder Das Advocate/s to appear, plead and act for me/us in the above application/petition and to conduct and prosecute all proceedings that may be taken in respect thereof including contempt of Court Petitions enter into compromise and to draw any moneys payable to me/us in the said proceeding.

Place: Guwahati

Swapan Vr. Das

Date: 23.4.08

Signature of the Party

Executed in my presence

"Accepted"

(Name and Designation)

Manjinder Das

(Name of the Advocate)

Name and address of the

Advocate for Service

The contents of the Vakalath were truly and audibly read over/translated intolanguage known to be party executing the vakalath and he seems to have understood the same.

Signature with date
(Name and Designation)

Swapan Vr. Das

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

Title of the case : C.P. No. 2 /2008

IN O.A. No. 225/2007

Shri Rintu Roy : Applicant.

-Versus-

Union of India & Ors. : Respondents.

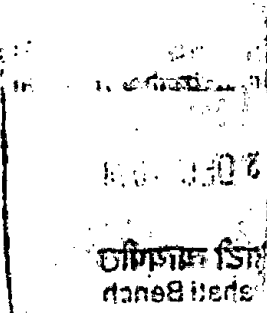
INDEX

Sl. No.	Annexure	Particulars	Page No.
1.	---	Reply	1-3
2.	---	Verification	-4-
3.	IV	Copy of salary statement of the petitioner dated 09.09.2008	-5-

Date:- 01.12.08

Filed By:

Dutta
Advocate



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

An application under section 17 of the Administrative Tribunal Act 1985

C.T. No. 12345

Title of the case

W.O.A. No. 12345

Applicant

Respondent

7-12-2017

Respondent

Union of India & Ors.

2017

2017

2017

2017

2017

2017

2017

2 DEC 2008

गुवाहाटी न्यायपीठ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

Filed by the petitioner
through U. Dutta, advocate
on 01.12.08

In the matter of:

C.P. No. 2/2008

In O.A No. 225/2007

-And-

In the matter of:

Shri Rintu Roy.

... Petitioner.

-Versus-

Brig. R.M Painuly & another.

... Respondents/
Alleged contemnors.

-And-

In the matter of:

Reply submitted by the petitioner to the
affidavit submitted by the respondent No.
2 to the C.P. No. 2/2008.

The petitioner above named most respectfully begs to state as follows:-

1. That the petitioner categorically denies the correctness of the statements made in paragraph 5 of the affidavit filed by the respondent No. 2 and further begs to state that the respondents are still recovering alleged excess payment from the monthly salary of the petitioner in violation of the direction passed by the Hon'ble Tribunal on 28.09.2007 that no recovery should be made from the applicant until further orders. It is stated that in spite of the direction passed by the Hon'ble Tribunal that no recovery should be made from the applicant until further order respondents are recovering @ Rs. 1030/- p.m from the salary of the petitioner in each and every month till date. As such statement made by the alleged contemner/respondent No. 2 that he also confirmed from the Commandant, Jungle Welfare School that in compliance with the Hon'ble Tribunal's order dated 28.08.2007 and

Rintu Roy

28.09.2007 no recovery of excess payment has been made thereafter is false and misleading. Therefore, the Hon'ble Tribunal be pleased to initiate a Contempt proceeding against the alleged contemnors for willful violation of the order dated 28.08.2007 and 28.09.2007 in O.A. No. 225/2007 of this Hon'ble Tribunal and further be pleased to impose punishment upon the alleged contemnors in accordance with law.

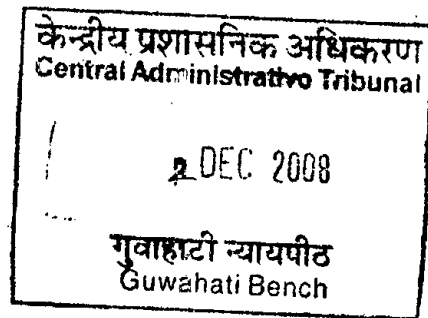
2. That the petitioner denies the statement made in paragraph 6, 7 and 8 of the affidavit filed by the respondent No. 2 and further begs to state that he was remustered as Model Maker, therefore such appointment cannot be termed as promotion, as alleged in the impugned letter dated 25.07.07. Moreover, the decision of the respondents that the financial upgradation/or benefit of 1st ACP is granted wrongly, such decision of the authority cannot be sustained in the eye of law, as because 'remustering' is not a promotion, as such upgradation were rightly granted to the applicant. It is not a fact that the scale of Rs. 4000-6000/- was granted to the applicant erroneously but done as per the provisions of rules, which he is entitled to get from 17.08.2000 itself. It is further stated that no excess payment was made to the petitioner, as such question of recovery of excess payment does not arise.

It is further stated that the Hon'ble Tribunal was pleased to direct the respondents no recovery should be made from the applicant until further order way back on 28.08.2007 and on 28.09.2007 but the respondents in total disregard to the ad interim order of the Hon'ble Tribunal recovering @ Rs. 1030 p.m from the salary of the petitioner till date. As such it is prayed that the Hon'ble Tribunal be pleased to direct the respondents to produce the salary statement of the applicant and other records before the Hon'ble Tribunal to ascertain the fact that the respondents are still recovering @ Rs. 1030/- p.m from the salary of the petitioner in violation of the direction passed by this Hon'ble Tribunal on 28.08.2007 and 28.09.2007.

Copy of a salary statement in respect of the applicant dated 09.09.2008 is enclosed herewith as Annexure- R.

Rinku Ray

3. That under the facts and circumstances as stated above the Hon'ble Tribunal be pleased to initiate a contempt proceeding against the alleged contemnors for willful violation of the order dated 28.08.2007 and 28.09.2007 in O.A. No. 225/2007 of this Hon'ble Tribunal and further be pleased to impose punishment upon the alleged contemnors in accordance with law.

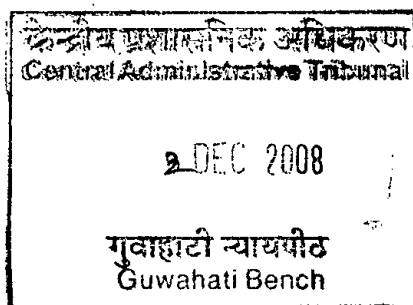


Rintu Ray

VERIFICATION

I, **Shri Rintu Roy**, No. 14117514 Model Maker, aged about 43 years, working in the Counter Insurgency and Jungle Welfare School, Pin: 900446, C/O- 99 APO, applicant in the instant application, do hereby verify that the statements made in Paragraph 1 to 3 are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 29th day of November 2008.



Rintu Roy

ANNEXURE-IV

Salary Statement in respect of Shri Rintu Roy, Model Maker of CIJW School C/O 99 APO
For the period of 01 Jul 2007 to 31 Aug 2008.

Month/ Year	Basic Pay	DP (50% of Basic Pay)	DA	SCA/ RLA	Convien ce Allices	HRA 05%	Med Allices	Grand Total	Deduction			Total deduc- tion	Net amount payable	Sig of indi
									GPF	CGEGIS	Any other			
Jul-07	4400	2200	2706 (41%)	600	75	330	100	10,411	1000	30		1030	9381	DP
Aug-07	3875	1938	2383 (41%)	450	75	291	100	9112	1000	30		1030	8082	DP
Sep-07	3875	1938	2383 (41%)	450	75	291	100	9112	1000	30		1030	8082	DP
Oct-07	3875	1938	2383 (41%)	450	75	291	100	9112	1000	30		1030	8082	DP
Nov-07	3875	1938	2383 (41%)	450	75	291	100	9112	1000	30		1030	8082	DP
Dec-07	3950	1975	2429 (41%)	450	75	296	100	9275	1000	30		1030	8245	DP
Jan-08	3950	1975	2785 (47%)	450	75	296	100	9631	1000	30		1030	8601	DP
Feb-08	3950	1975	2785 (47%)	450	75	296	100	9631	1000	30		1030	8601	DP
Mar-08	3950	1975	2785 (47%)	450	75	296	100	9631	1000	30		1030	8601	DP
Apr-08	3950	1975	2785 (47%)	450	75	296	100	9631	1000	30		1030	8601	DP
May-08	3950	1975	2785 (47%)	450	75	296	100	9631	1000	30		1030	8601	DP
Jun-08	3950	1975	2785 (47%)	450	75	296	100	9631	1000	30		1030	8601	DP
Jul-08	3950	1975	2785 (47%)	450	75	296	100	9631	1000	30		1030	8601	DP
Aug-08	3950	1975	2785 (47%)	450	75	296	100	9631	1000	30		1030	8601	DP

Prepared and signed by

(Signature)
(Shri Rintu Roy)
Model Maker

09 Sep-08

*Attested
With
Adh*

Note: (i) Regimental Cutting @ Rs 14/- per month from Net payable amount.
(ii) Increased of DA receipt by separate Sy Bill.

