

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH;

1. Original Application No.	253/07
2. Misc Petition No.	/
3. Contempt Petition No.	11/08
4. Review Application No.	/

Applicant(S) Ignatius Hansdak VS Union Of India & Ors

(1) Ashutosh Swami
(2) Mathew John (3) P.K. Singh

Advocate for the Applicant(S) Miss. U. Das

Advocate for the Respondent(S)

Notes of the Registry	Date	Orders of the Tribunal
<p>This contempt petition has been filed by the counsel for the petitioner w/s 12 of the CAT Act, 1985 praying for punishment of the contemnors/ respondents for non-compliance of the order dated 19.9.2007 passed by this Hon'ble Tribunal in O.A 253/07</p> <p>Laid before the Hon'ble court for further orders.</p> <p><u>25/8/08</u> <u>Section Officer</u></p> <p><u>14/8/08</u></p> <p>Received Usha Das Advocate 25/8/08</p>	19.08.2008 /bb/	<p>Heard Ms.U.Das, learned counsel for the petitioner and perused the materials placed on record.</p> <p>For the reasons recorded separately, this CP is dismissed being not entertained.</p> <p><u>M.R. Mohanty</u> (Khushiram) Member (A)</p> <p><u>M.R. Mohanty</u> (M.R. Mohanty) Vice-Chairman</p>

25-8-08

copy of the order
alongwith the copy of
the application send
to the office for
issue the same to the
Respondent in OA 253/07
as copy of the order
to the applicant and
free copy to the HOD in
the office.

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**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Contempt Petition No.11 of 2008

(Arising out of Original Application No.253 of 2007
that was disposed of on 19.09.2007)

Date of Order: This, the 19th Day of August, 2008

HON'BLE SHRI MANORANJAN MOHANTY, VICE CHAIRMAN

HON'BLE SHRI KHUSHIRAM, ADMINISTRATIVE MEMBER

Sri Ignatius Hansdak
S/O: Manikchand Hansdak
R/O: Padumbori
Guwahati-33
P.S: Jalukbari
Dist: Kamrup, Assam.

..... Petitioner.

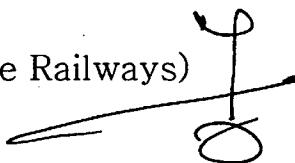
(By Advocates: Mr.D.K.Sarmah, Ms. Usha Das, Mr.P.K.Lakhan & Mrs.K.Goswami)

- Versus -

1. Sri Ashutosh Swami
The General Manager
HeN.F.Railway, Maligaon
Guwahati-11.
2. Sri Mathew John
Secretary, Railway Board
Rail Bhawan
(Ministry of Railway)
New Delhi- 110 001.
3. Sri Pradip Kumar Singh
Deputy Chief Personnel Officer
(Gazetted) N.F.Railway
Maligaon, Guwahati-11.

... Respondents/Contemnors.

(By Dr.J.L.Sarkar, Standing counsel for the Railways)



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ORAL ORDER Dated 19.08.2008
C.P. No. 11 of 2008
(Arising out of O.A. No.253 of 2007
disposed of on 19.09.2007)

MANORANJAN MOHANTY, VC.:

Heard Ms. Usha Das, learned counsel appearing for the Petitioner and perused the materials placed on record.

2. Non compliance of the order dated 19.09.2007 of this Tribunal rendered in O.A. No. 253 of 2007 is the subject matter of allegation (against the Officers of Railways/Respondents) in the present Contempt Petition No. 11 of 2008 filed on 14.08.2008.

3. Facts leading to filing of the Original Application No.253 of 2007 under Section 19 of the Administrative Tribunals Act, 1985, as recorded in the final order dated 19.09.2007, reads as under:-

“ The applicant was working as Deputy Chief Mechanical Engineer in the N.F.Railway, in Grade – A Service in the Indian Railways. He submitted application dated 20.01.2003 (Annexure-“A”) for voluntary retirement with effect from 01.05.2003(FN) for personal reasons. Thereafter, he wanted to withdraw his voluntary retirement and submitted application dated 21.04.03 (Annexure B) requesting for acceptance of the withdrawal. According to the applicant, the applicant has a right to withdraw the voluntary retirement before 01.05.2003 but the respondent without accepting the withdrawal issued a letter dated 22.04.2003 (Annexure-D) the claim of the applicant was rejected and acted upon originally, an employee who wishes to withdraw his notice for voluntary retirement before expiry of the prescribed three

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months period should indicate clearly his request the circumstances for withdrawing the same. The Respondents has issued Memorandum dated 21/22.04.2003 (Annexure F) stating that the Railway Board by letter dated 17.04.2003 (Annexure -G) accepted the voluntary retirement with effect from 30.04.2003. By letter dated 24.04.2003 (Annexure H) G.M./N.F. Railway recommended to Railway Board to process the withdrawal of the voluntary retirement. The applicant received letter dated 27.5.2003 (Annexure-I) with which copy of the Railway Board's letter dated 26.5.03(Annexure-I) rejecting the withdrawal of voluntary retirement of applicant. Applicant resumed his duties up to 26.5.2003. The applicant submitted number of representations dated 24.3.2005 (Annexure-N) and 04.052005 (Annexure-O) to the Minister for Railways and the Railway Board has issued letter dated 31.08.2005 (Annexure-P) in suppression of earlier decision in order dated 26.5.2003 and accepted the withdrawal of voluntary retirement to reinstate the applicant in service from the date her resumes duty, stating on grounds of mercy. The applicant submitted letter dated 26.10.2005 (Annexure-Q) praying for resuming his duty. But unfortunately the Railway Board issued letter dated 12.01.2006 (Annexure R) by which letter dated 31.08.2005 was modified that the total FS/Pension received by the applicant shall have to be refunded in lump sum with interest before joining and the period of absence shall be treated as "dies non". The applicant submitted letter dated 9.3.2006 to allow him to pay 50% before joining and balance within 2 years in installments. But the Railway Board has not accepted to relax the conditions. The applicant states that his present financial condition after lapse of time shall not permit him to deposit 50% of FS/Pension as stated earlier because he has not received pay & allowances for a long period and had to meet the family expenses of higher education of children. Aggrieved by the certain action of the Respondents the applicant has filed this O.A. seeking the relief."

4. In the above said O.A. No.253 of 2007, the following

prayers were made:-

J
D

- “8.1 The applicant shall be allowed to join duty immediately.
- 8.2 That the conditions given by the respondents in letter dated 12.1.2006 (Annex-R) to be set aside and quashed. The letter dated 17.2.2006 issued by G.M./P, N.F.Railway (Annexure-S) also be quashed.
- 8.3 The ground that the case of the applicant has been considered on mercy as said in letter dated 31.8.2005 (Annexure-P) be set aside and quashed. His service shall be treated as continuous and not reinstatement from the resuming duty.
- 8.4 The applicant be paid pay and allowances w.e.f. 01.05.2003 till date of joining with interest on the amount. The entire period be treated as on duty and the order for treating as ‘*dies non*’ be set aside and quashed, and loss Privilege Passes, PTOs, Free Air Travel by compensated by money reasonably.
- 8.5 The requirement of circumstances/reasons for voluntary retirement in Para-3(I) in Railway Board’s letter dated 05.11.2001 (Annexure-Y) be set aside and quashed.
- 8.6 Any other relief/reliefs the Hon’ble Tribunal is pleased to grant
- 8.7 Cost of the case.”

5. Though there were multiple prayers (as noted above) in the Original Application No.253 of 2007, the learned counsel for the Applicant, as it appears from the final order dated 19.09.2007, confined his prayers to the following effect. Relevant portion of the order dated 19.09.2007 reads as under:-

“Counsel for the Applicant has submitted that though there are many prayers in the O.A., the main prayer of the Applicant is that his service shall be treated as continuous and not reinstatement from date of resuming duty and he may be allowed to pay 50% of the amount before joining and rest 50% plus the accrued interest within two years of instalments.” 4 5

6. By order dated 19.09.2007 the aforesaid O.A. No.253 of 2007 was disposed with direction to the Applicant to deposit 50% of Rs.15,81,648/- within four weeks of receipt of a copy of the said order dated 19.09.2007 and the Respondents were asked to reinstate the Applicant in service within four weeks of deposit of the said amount. Relevant portion of the ultimate directions of this Tribunal (as noted in paragraph 3 of the final order dated 19.09.2007 in O.A. No.253 of 2007) reads as under:-

“A

“... this Court directs the applicant that the 50% amount 15,81,648/-Rs as shown in (Annexure -S) dated 17.02.2006 will be deposited within four weeks from the date of receipt of this order and after depositing the said amount the respondents shall reinstate the applicant in service within four weeks thereafter.”

“B”

“It is made clear that the respondents are at liberty to recover any further amount from the salary of the applicant or otherwise by a separate order.”

“C”

“Since, there are so many prayers in the O.A. this Court further directs that the applicant shall make comprehensive representation for his grievances before the Respondents and on receipt of such representation the respondents shall consider and dispose of the same accordingly.”

Thus, there were two parts of the orders/directions of the above order (dated 19.09.2007 of this Tribunal) marked "A". While the 1st part of the same required the Applicant to deposit the money,

the 2nd part required the Respondents/Railways to reinstate the Applicant only after deposit of the money.

7. It may be noted here that letter dated 31.08.2005 of the Railway Board (sent to the General Manager of N.F.Railway) directed reinstatement of the Applicant; relevant portion of which reads as under:-

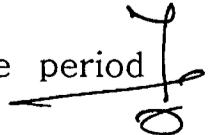
“The President, on reconsideration, has decided, as a very special case on the grounds of mercy, to accept the request dated 22.04.2003 of the said Sh. Hansdak and to reinstate him in service with effect from the date on which he resumes duty. *** ***

*** It is presumed that retirement dues of Shri Hansdak would have already been released to him. If so, the same would have to be realized back from him by the Railway Administration in accordance with the relevant provisions contained in the Railway Services (Pension) Rules, 1993. This may kindly be ensured by the Railway.”

8. It may be noted further that in the subsequent communication of the Railway Board dated 12.01.2006 (sent to the General Manager of N.F.Railway) it was disclosed that the prayer for reinstatement was accepted subject to fulfillment of following two conditions:-

“(a) that the pensionary benefits by the said Sh. Hansdak shall have to be refunded by him in lumpsum along with the interest at the rate as prescribed in Railway Services (Pension) Rules, 1993, viz the rate applicable on P.F. accumulations from time to time before the said Sh.Hansdak is reinstated and

(b) that the intervening period, i.e. the period



between the date on which the said Sh. Hansdak stood voluntarily retired and the date on which he is finally reinstated after fulfilling the condition as mentioned in sub-para above, shall be treated as dies non."

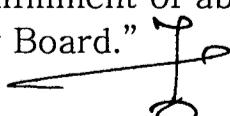
In the said Annexure-R dated 12.01.2006 to the O.A. No.253 of 2007 it was also stated as under:-

" Sh. I. Hansdak may accordingly resume his duties w.e.f. the date on which he fulfils the condition as mentioned in para (a) above and on resumption of duties by him in the aforesaid manner, the intervening period shall be treated as dies non in terms of para (b) above.

3. On receipt of the aforesaid communication, if and when Sh. Hansdak accepts the said conditions and refunds the pensionary benefits drawn by him in lumpsum along with interest, Railway may reinstate him in service w.e.f the date of such refund of pensionary benefits by him, and treat the intervening period as dies non in terms of the aforesaid decision."

9. In another communication dated 17.02.2006 from the end of General Manager of N.F.Railway (to the Applicant), a copy of which was Annexure-S to the O.A. No.253 of 2007, it was clearly stated as under:-

" In reference to Board's letter quoted above, you are hereby requested to deposit in lumpsum an amount of Rs.15,81,648/- (Rupees Fifteen lakhs eighty one thousand six hundred forty eight) only to Dy.CAO/Cash & Pay/MLG, which has been vetted by Finance. Your case for reinstatement will be considered only after fulfillment of above conditions, as laid down by Railway Board."



10. This Tribunal, however, granted opportunity to the Applicant to deposit 50% of the aforesaid demand to get reinstated, as has been noted in paragraph 6 above.

11. It appears from the records of the disposed of O.A. No.253 of 2007 that the Advocates for both the parties were supplied with certified copies (of the order dated 19.09.2007) on 28.09.2007.

12. It appears, further, from the records of the said disposed of O.A. No.253 of 2007 that, on 07.11.2007, the Respondents/Railways filed an application (M.P. No.115 of 2007) seeking extension of two months time for taking appropriate action. In the said M.P. No.115 of 2007 following orders were passed on 08.11.2007:-

“8.11.07 Heard Mr.S.Nath learned counsel for the applicant and Dr.J.L.Sarkar, learned Railway Standing Counsel for the Respondents. Counsel for the Respondents has prayed for two months time for taking necessary action. Counsel for the applicant has no objection. Prayer is allowed.

Accordingly, Misc. Petition is disposed of.”

13. As it appears from Annexure-C to this C.P. (alleging non compliance of order dated 19.09.2007 of this Tribunal) that the Respondents/Railways also approached the Hon'ble High Court (at Guwahati) in a writ application/W.P.(C) No.249 of 2008; which was

dismissed (at the admission stage) as not maintainable. It has been stated in paragraph 5 (at page 5) of the C.P. that there were no order of stay (in respect of the order dated 19.09.2007 of this Tribunal) granted by the Hon'ble Court.

14. It appears from Annexure-D dated 02.07.2008 of this C.P. No.11 of 2008 that on 27.10.2007, 26.11.2007 and on 02.07.2008, the Applicant (instead of depositing 50% of above said Rs.15,81,648/- with the Respondents, in terms of the orders dated 19.09.2007 of this Tribunal) wrote letters to the Respondents seeking permission to deposit the amount. Text of the last letter dated 02.07.2008 (a copy of which has only been filed as Annexure-D at page 19 of this C.P. No.11/2008) of the Applicant (seeking permission to deposit the amount) reads as under:-

“Subject: Regarding permission to deposit money in connection with my posting.

Ref: (i) Order of Central Administrative Tribunal, Guwahati Bench, dated 19th Sept. 2007 in OA No-253/07.

(ii) Order of The Gauhati High Court at Guwahati in WP (C) 249/08 dated 25.06.2008

(iii) My earlier applications dated 27.10.07 and 26.11.07

In pursuance to the order of Central Administrative Tribunal, Guwahati Bench dated 19.09.2007 and the order of the The Gauhati High Court dated 26.06.2008 kindly give permission to deposit Rs.7,90,824.00 (Rupees Seven Lakhs Ninety

Thousand Eight Hundred and Twenty Four only) with FA&CAO/Maligaon in connection with my posting. Permission may be given early so that money can be arranged and deposited in a reasonable period of time.

Copy each of the above referred orders is enclosed for ready reference.

Thanking you."

15. The aforesaid letter under Annexure-D to this C.P. goes to show that the Applicant (despite clear instructions in Annexure-S dated 17.02.2006 to deposit the amount with the Dy. CAO/Cash & Pay/MLG) did not deposit the amount with the Respondents.

16. Since the Applicant has not yet deposited the money, as per 1st part of orders dated 19.09.2007 of this Tribunal; the question of non-compliance of the 2nd part of the said order (dated 19.09.2007) by the Respondents/Railways does not arise.

17. As there are no non-compliance of the order dated 19.09.2007 (of this Tribunal) by the Respondents, they have not committed any contempt. Hence, the prayer to initiate a contempt proceeding against the officers of the Railways cannot be entertained and, accordingly, this C.P. is dismissed without being entertained.

18. While parting with the case, we make it clear that this dismissal of the Contempt Petition shall not affect the right of the Applicant to get reinstated on deposit of the amount drawn as

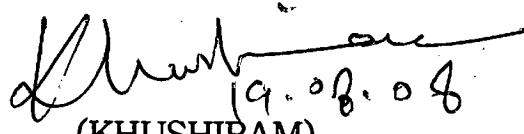
pension. We have marked that by his communications dated 27.10.2007 (filed within four weeks of receipt of the order of this Tribunal), dated 26.11.2007 (made even after extension of time obtained, by the Respondents, from this Tribunal) and dated 02.07.2008 (submitted after dismissal of the writ petition in the Hon'ble High Court) the Applicant approached the Respondents to permit him (Applicant) to deposit 50% of Rs.15,81,648/- in terms of the orders of this Tribunal. It is stated that the Applicant has not yet been given permission (to deposit the said amount) by the Respondents; who took extension of time from this Tribunal and unsuccessfully approached the Hon'ble Court. In our considered view, no permission was necessary from the Respondents. As per court order, the Applicant ought to have tendered the money to the officers of the Respondents to get the order of reinstatement. In the peculiar premises, however, the Applicant need deposit the amount / send the amount in shape of a Bank Draft to the specified officers of N.F.Railway under intimation to all Respondents of the O.A. No.253 of 2007 at the earliest, and, on receipt of the same, the Respondents should pass necessary orders of reinstatement (in favour of the Applicant) in terms of the order dated 19.09.2007 of this Tribunal rendered in O.A. No.253 of 2007.

19. Send copies of this order to the Applicant and to all the Respondents (with copies of this C.P.) of O.A. No.253 of 2007 and a

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free copy of this order be supplied to the Advocate for the Applicant.

A free copy of this order shall also be supplied to the learned Standing Counsel for the Railways.


(KHUSHIRAM)
ADMINISTRATIVE MEMBER

/bb/


(MANORANJAN MOHANTY)
VICE-CHAIRMAN
19/08/08

केन्द्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal

4 AUG 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

Title of the case : CP No. 11 /2008
OA No 253 of 2007

BETWEEN
Shri Ignatius Hansdak ..Petitioner.
AND

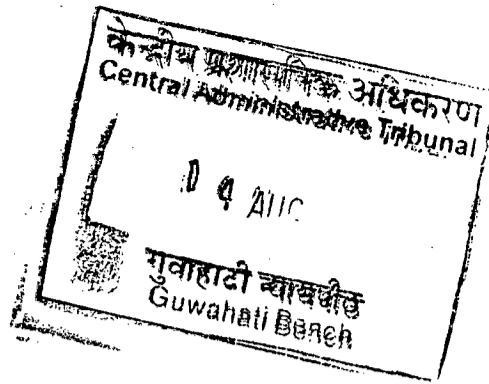
UNION OF INDIA & ORSRESPONDENTS

I N D E X

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Filed by : *Usha Das*
Miss Usha Das
Advocate

Date : 13.8.2008



2/1
Filed by
through
class
Advocate
13/8/08

**IN THE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH
AT GUWAHATI.**

CONTEMPT PETITION NO. 11 OF 2008

IN

ORIGINAL APPLICATION NO 253 OF 2007

IN THE MATTER OF

A petition Under Section 17 of the Administrative Tribunal Act. 1985 praying for punishment of the contemnors / respondents for non compliance of the order dated 19.09.2007 passed O.A. NO. 253/2007 passed by the Hon'ble Tribunal.

A N D

IN THE MATTER OF

O.A. No. 253/ 2007

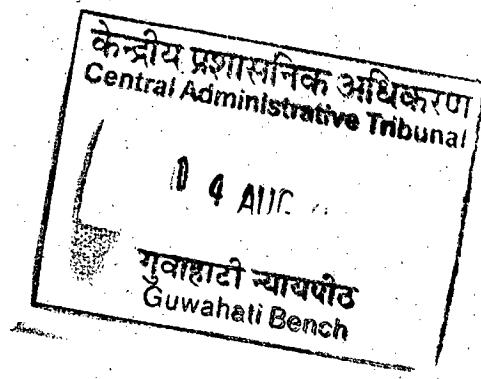
Sri Ignatius Hansdak

Applicant

-Vs-

The Union of India & ors.

Respondents



A N D

IN THE MATTER OF

Sri Ignatius Hansdak,
S/O- Manikchand Hansdak,
R/O- Padumbori,
Guwahati- 33
P.S.- Jalukbari,
Dist.- Kamrup, Assam.

Ignatius Hansdak

PETITIONER.

-Vs-

1. Sri Ashutosh Swami,
The General Manager,
N.F. Railway, Maligaon,
Guwahati - 11.
2. Sri Mathew John,
Secretary, Railway Board,
Rail Bhawan,
(Ministry of Railway)
New Delhi.- 11 00 01

3. Sri Pradip Kumar Singh,
Deputy Chief Personnel Officer
(Gazatted) N.F. Railway,
Maligaon. , Guwahati - 11

गुवाहाटी बायपीठ
Guwahati Bench

RESPONDENTS/CONTEMNORS

The humble petition of the petitioner above named: -

MOST RESPECTFULLY SHEWETH: -

1. That the petitioner of the instant contempt petition had preferred the Original Application No. 253/2007 before this Hon'ble Tribunal mainly praying for a direction to treat his service as continuous service for the period of rejection of withdrawal of his voluntary retirement to the period of acceptance of withdrawal of voluntary retirement instead of reinstatement in service, payment of back wages and other benefits for the said period and to allow him to pay 50% of the amount received by him as final settlement dues before joining and rest 50% plus interest within 2 years of his reinstatement apart from other prayers.

2. That the petitioner begs to state that this Hon'ble Tribunal upon hearing the Counsel for the applicant as well as the Counsels for respondents was pleased to dispose of the said original application at the admission stage itself by its order dated 19.09.2007. The order dated 19.09.2007 was a consent order. The Hon'ble Tribunal by the aforesaid order dated 19.09.2007 was pleased to direct the applicant that 50% amount i.e. Rs.15,81,648/- (as shown in Annexure "S" dated 17.02.2006) will be deposited within 4 weeks from the date of receipt of the said order and after depositing the said amount, the respondent shall re-instate the applicant in service within 4 weeks thereafter. In the said order, it was also made clear that the respondents are at liberty to recover any further amount from the salary of the applicant or otherwise by a separate order. Since, there, were so

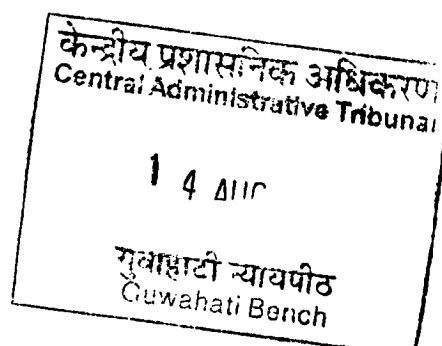
Respondents
Guwahati Bench

many prayers in the Original Applications, this Hon'ble Tribunal further directed that the applicant shall make comprehensive representation for his grievances before the respondents and on receipt of such representation the respondent shall consider and dispose of the same accordingly.

Gyanamitra Handak

A copy of the order dated 19.09.2007 passed in O.A. No. 253/07 is annexed herewith and marked as Annexure - "A".

3. That the petitioner begs to state that as per direction of this Hon'ble Tribunal, the petitioner had approached the respondent authority to permit him to deposit Rs.7,90,824/- (Rupees seven lakhs ninety thousand eight hundred twenty four) with F.A. & C.A.O., Maligaon pursuant to the order dated 19.09.2007 passed by this Hon'ble Tribunal; but the respondent authority instead of permitting him to deposit the said amount and allowing him to join, preferred M.P. No. 115/2007 in O.A. No. 253/2007 praying for extension of time to take appropriate action and this Hon'ble Tribunal by its order dated 08.11.2007 passed in M.P. No. 115/2007 has been allowed two months time to take necessary action.



A copy of the aforesaid order dated 08.11.2007 passed in M.P. No. 115/07 is annexed herewith and marked as Annexure - "B".

4. That the petitioner begs to state that the respondent authority instead of allowing the petitioner to join in his service on payment of 50% amount of the final settlement dues inspite of his repeated request/ representations/ approach during and after the extended period of time preferred a Writ petition being WP(C) No. 249/08 challenging the order dated 19.09.2007 passed by this Hon'ble Tribunal in O.A. No. 253/07.

14 A.I.C. 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

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Signature stamp
Signature stamp

5. That the petitioner begs to state that the Hon'ble High Court was although pleased to admit the Writ petition preferred by the respondent authority, there was no order staying the order passed by this Hon'ble Tribunal. Hence, the petitioner repeatedly approached the authority to comply with the direction of this Hon'ble Tribunal; but the respondent authority did not comply with the said order.

6. That the petitioner begs to state that the aforesaid Writ Petition No. 249/2008 has been finally dismissed by the Hon'ble High Court by its order dated 25.06.2008 holding the same is not maintainable as the impugned order was a consent one and although the authority taken the plea that the said consent has been given by the Counsel without any authority; but no action has been taken against the said Counsel.

A copy of the aforesaid Order dated 25.06.2008 passed in W.P.(C) No. 249/2008 is annexed herewith and marked as Annexure- "C".

7. That the petitioner begs to state after dismissal of the aforesaid Writ Petition preferred by the respondents, the petitioner by his application dated 02.07.2008 again requested the respondent authority to give him permission to deposit Rs.7,90,824/- (Rupees seven lakhs ninety thousand eight hundred twenty four) and allow him to join pursuant to the direction of this Hon'ble Tribunal; but till date none of the respondents has permit him to deposit the amount and allow him to join his post.

A copy of the application dated 02.07.2008 is annexed herewith and marked as Annexure- "D" *Section 7*

14 AUG, 2008

8. That the ~~petitioner~~ ^{गवाहाती बैच} _{Guwahati Bench} begs to state that till date the

respondents/contemnors have not allowed the petitioner to join in his service on payment of 50% of the final payment dues inspite of dismissal of the Writ petition preferred against the direction of this Hon'ble Tribunal dated 19.09.2007 inspite of the repeated approach/representations of the petitioner. Now, almost one year has been passed since the aforesaid direction passed by this Hon'ble Tribunal; but the same has not been complied with as yet though there is no order passed by any higher/ superior Court staying the order dated 19.09.07. As such finding no other alternative, petitioner is compelled to file this contempt petition before this Hon'ble Tribunal seeking justice and praying for initiation of contempt of Court proceeding against all the respondents/contemnors under the contempt of Court Act as well as other Acts.

Signature of Plaintiff

9. That the petitioner begs to state that the respondents/contemnors have shown disrespect, disregard and disobedience to this Hon'ble Tribunal as well as the Hon'ble High Court. The respondents/contemnors intentionally, deliberately and willfully have not complied with the Hon'ble Tribunal's order dated 19.09.2007 passed in O.A. No. 253/2007. As such, the respondents/ contemnors deserve punishment from this Hon'ble Tribunal for intentional, willful and deliberate disobedience of the order passed by this Hon'ble Court.

10. That it is a unique and fit case for drawal of contempt proceeding and the respondent/contemnors may be directed to appear before this Hon'ble Tribunal to explain as to why they have shown disrespect to the Hon'ble Tribunal and also to pass appropriate order as may be deem fit and proper under the facts and circumstances of the case.

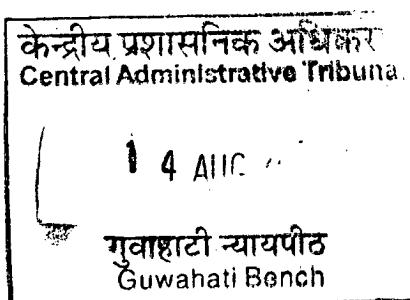
11. That this petitioner is filed bonafide to secure the ends of justice.

In the premises aforesaid it is most humbly and respectfully prayed that your Lordship may be pleased to admit this petition and issue contempt notice to the respondents/contemnors to show cause as to why they should not be punished under Section 17 of the Administrative Tribunal Act, 1985 or to pass such appropriate order/orders as this Hon'ble Tribunal deem fit and proper.

Signature
Hansdak

Further, it is also prayed that in view of the deliberate disrespect and disobedience to this Hon'ble Tribunal i.e. Order dated 19.09.2007 passed in O.A. No. 253/07, respondents/contemnors may be asked to appear in person before this Hon'ble Tribunal to explain as to why they should not be punished under the contempt of Court Act, 1971.

AND for this act of kindness your petitioner as in duty bound shall ever pray.



Draft Charge.....

केन्द्रीय प्रशासनिक अदायका
Central Administrative Tribunal

14 AIC

गुवाहाटी न्यायपीठ
Guwahati Bench

DRAFT CHARGE

The petitioner is aggrieved for non-compliance of the order dated 19.09.2007 passed by this Hon'ble Tribunal in O.A. No.253/2007. The contemnors/respondents have willfully and deliberately did not comply with the order dated 19.09.2007 passed by this Hon'ble Tribunal. Accordingly, the respondents/contemnors are liable for contempt to Court proceeding and serve punishment thereof as provided. The Hon'ble Tribunal may pleased to direct the respondents/contemnors to appear in person before this Hon'ble Tribunal and reply to the charges leveled against them.

Affidavit.....

14 AUG 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

AFFIDAVIT

I, Sri Ignatius Hansdak, aged about 47 years, son of Sri Manik Chand Hansdak, resident of Village- Padumbari, P.O.- Gotanagar, Guwahati-33 under P.S.- Jalukbari, in the District of Kamrup, Assam do hereby affirm and declare as follows:

1. I am the petitioner of the instant Contempt petition, as such I am fully acquainted with the facts and circumstances of the case and competent to swear this Affidavit.
2. That the Statements made in this affidavit and the accompanying application in paragraph 9 to 11 and true to my knowledge; those made in paragraphs 1 to 8 being matter of records are true to my information derived therefrom. Annexure are true copies of the originals and grounds urged are as per the legal advise.

And I sign this affidavit on this 12th day of August' 2008, at Guwahati.

Ignatius Hansdak

DEPONENT

Identified by

Usha Das
Advocate

Solemnly affirmed and state by the deponent before me who is identified by *Mr. Usha Das* by *Mr. P.S. Lahkar*, Advocate on this 12th day of August' 2008.

Nimshim Varshum
Advocate
12/08/08

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.253 of 2007

Date of Order: This the 19th Day of September, 2007.

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

Ignatius Hansdak
S/O Shri Manick Chand Hanbsdak.

Applicant

By Advocate, Mr.M.Chanda,
Mr.S.Nath, Ms.U.Dutta.केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

-Versus-

14 AUG 2007

गुवाहाटी न्यायालय
Guwahati Bench

1. Union of India, represented by
General Manager, N.F.Railway,
Maligaon, Guwahati-11.
2. Secretary, Railway Board,
Rail Bhawan (Ministry of Railways)
New Delhi.
3. Deputy Chief Personnel Officer (Gazetted)
N.F.Railway, Maligaon
4. Rail Bhawan
Ministry of Railways
New Delhi
Through Respondent No.2

Respondents

By Advocate Dr.J.L.Sarkar, Railway advocate.

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

The applicant was working as Deputy ~~Chief~~
Mechanical Engineer in the N.F.Railway, in Grade A
Service in the Indian Railways. He submitted application
dated 20.01.2003 (Annexure-A) for voluntary retirement
with effect from 01.05.2003(FN) for personal reasons.
Thereafter, he wanted to withdraw his voluntary

*Atul
Chakraborty
Advocate*

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retirement and submitted application dated 21.04.03

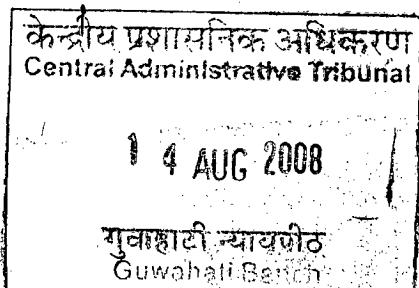
(Annexure B) requesting for acceptance of the withdrawal.

According to the applicant, the applicant has a right to withdraw the voluntary retirement before 01.05.2003 but the respondent without accepting the withdrawal issued a letter dated 22.04.2003 (Annexure-D) the claim of the applicant was rejected and acted upon originally, an employee who wishes to withdraw his notice for voluntary retirement before expiry of the prescribed three months period should indicate clearly his request the circumstances for withdrawing the same. The Respondents has issued Memorandum dated 21/22.04.2003 (Annexure F) stating that the Railway Board by letter dated 17.04.2003

(Annexure -G) accepted the voluntary retirement with effect from 30.04.2003. By letter dated 24.04.2003 (Annexure H) G.M./.N.F. Railway recommended to Railway Board to process the withdrawal of the voluntary retirement. The applicant received letter dated 27.5.2003

(Annexure-I) with which copy of the Railway Board's letter dated 26.5.03 (Annexure-I) rejecting the withdrawal of voluntary retirement of applicant. Applicant resumed his duties up to 26.5.2003. The applicant submitted number of representations dated 24.3.2005 (Annexure-N) and 04.052005 (Annexure-O) to the Minister for Railways and the Railway Board has issued letter dated 31.08.2005 (Annexure-P) in suppression of earlier decision in order dated 26.5.2003 and accepted the

*Alka Shanta
Advocate*

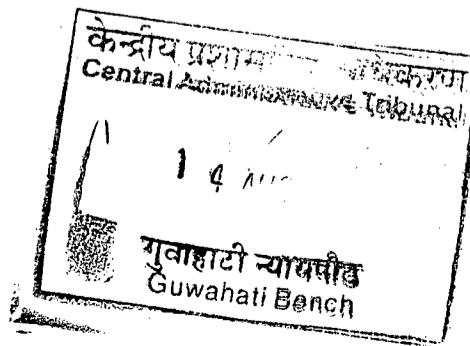


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withdrawal of voluntary retirement to reinstate the applicant in service from the date her resumes duty, stating on grounds of mercy. The applicant submitted letter dated 26.10.2005 (Annexure-Q) praying for resuming his duty. But unfortunately the Railway Board issued letter dated 12.01.2006 (Annexure R) by which letter dated 31.08.2005 was modified that the total FS/Pension received by the applicant shall have to be refunded a lump sum with interest before joining and the period of absence shall be treated as "dies non". The applicant submitted letter dated 9.3.2006 to allow him to pay 50% before joining and balance within 2 years in installments. But the Railway Board has not accepted to relax the conditions. The applicant states that his present financial condition after lapse of time shall not permit him to deposit 50% of FS/Pension as stated earlier because he has not received pay & allowances for a long period and had to meet the family expenses of higher education of children.. Aggrieved by the certain action of the Respondents the applicant has filed this O.A. seeking the relief.

I have heard Mr.M.Chanda learned counsel for the applicant and Dr.J.L.Sarkar learned Railway Counsel for the Respondents. Counsel for the applicant has submitted that though there are many prayers in the O.A., the main prayer of the applicant is that his service shall be treated as continuous and not reinstatement from

Attested
Abhijit
Advocate



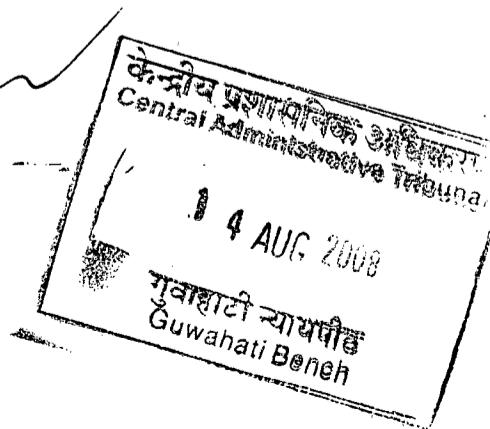
✓ date of resuming duty and he may be allowed to pay 50% of the amount before joining and rest 50% plus the accrued interest within two years of installments. The counsel for the respondents has submitted that he has no objection, if this will meet ends of justice. The Railway Board has sent letter to the General Manager, N.E.Railway dated 31.08.2005, Application for withdrawal of notice for voluntary retirement from service of the applicant is reproduced below:-

"The petitions dated 24.03.2005 and 04.05.2005 submitted by Shri I. Hansdak, Ex. Dy. CME/WS/MLG, N.F.Railway requesting for reconsideration of the earlier decision of the President contained in this Ministry's letter of even number dated 26.05.2003 rejecting his earlier request dated 22.04.2003 seeking withdrawal of the notice dated 20.01.2003 for voluntary retirement from service w.e.f.01.05.2003, have been examined. The President, on reconsideration has decided, as a very special case on the grounds of mercy, to accept the request dated 22.04.2003 of the said Shri. Hansdak and to reinstate him in service with effect from the date on which he resumes duty.

This issues in suppression of the aforesaid earlier decision dated 26.05.2003.

It is presumed that retirement dues of Shri Hansdak would have already been released to him. If so, the same would have to be realized back from him by the Railway Administration in accordance with the relevant provisions contained in the Railway Services (Pension) Rules, 1993. This may kindly be ensured by the Railway.

Attested
Abhijit
Advocate



This implementation of the above order may kindly be advised to his office at the earliest."

3. Considering the facts and circumstances, this Court directs the applicant that the 50% amount 15,81,648/-Rs as shown in (Annexure -S) dated 17.02.2006 will be deposited within four weeks from the date of receipt of this order and after depositing the said amount the respondents shall reinstate the applicant in service within four weeks thereafter. It is made clear that the respondents are at liberty to recover any further amount from the salary of the applicant or otherwise by a separate order. Since, there are so many prayers in the O.A. this Court further directs that the applicant shall make comprehensive representation for his grievances before the Respondents and on receipt of such representation the respondents shall consider and dispose of the same accordingly.

4. O.A. is disposed of accordingly, at the admission stage itself and there shall be no order as to costs.

Sd/ VICE CHAIRMAN

TRUE COPY
प्रतिलिपि

अनुमति दिया गया है। 26/07/2008

(Signature of the Clerk)

Central Administrative Tribunal

Guwahati Bench

Guwahati, Assam

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

15-

1. Original Application No. _____

2. Misc. Petition No. 115/07 in O.A 253/07

3. Contempt Petition No. _____

4. Review Application No. _____

Applicant(s) vs Union of India & Ors
Advocate for the Applicants. I.L.B.C. & C.W. Hamsdak

Advocate for the Respondent(s). M. Chanda, S. Nath

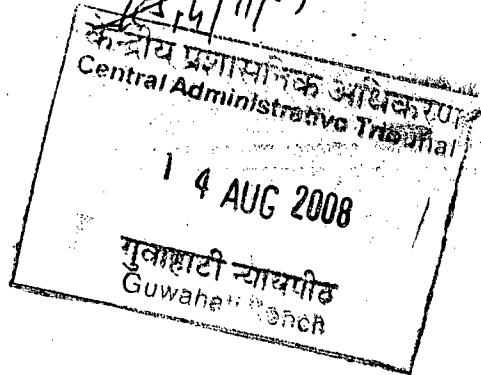
Notes of the Registry	Date	Order of the Tribunal
	8.11.07	Heard Mr. S. Nath learned counsel for the applicant and Dr. J. L. Sarkar, learned Railway Standing Counsel for the Respondents. Counsel for the Respondents has prayed for two months time for taking necessary action. Counsel for the applicant has no objection. Prayer is allowed. Accordingly, Misc. Petition is disposed of.

Sd/-
Kushiram
Member(A)

870. 14-11-07

Mem No 1233
copy for information and necessary action to:
Dr. J. L. Sarkar, Rly Standing Counsel, CAT.
Guwahati Bench.
Mr. M. Chanda, Advocate, Gauhati High Court.

14-11-07
Section Officer (5nd)



Attested
Usha Das
Advocate



THE GAUHATI HIGH COURT AT GUWAHATI

(The High Court Of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh)

PRINCIPAL SEAT AT GUWAHATI

Page No. 1

CASE NO : WP(C) 249/2008

District : Kamrup

Category : 10060 (Other service matters.)

1. THE UNION OF INDIA & ORS
REP. BY THE GENERAL MANAGER, N.F. RLY
MALIGAON, GHY-11.
2. SECRETARY, RAILWAY BOARD,
RAIL BHAWAN, (MINISTRY OF RAILWAYS), NEW
DELHI.
3. DEPUTY CHIEF PERSONNEL OFFICER (GAZETTED)
N.F. RAILWAY, MALIGAON.

Petitioner/appellant/applicant

Versus

1. MR. IGNATIUS HANSDAK.
S/O SHRI MANICK CHAND MANSDAK,
R/O PUDUMBURI, GHY,
DIST. KAMRUP.

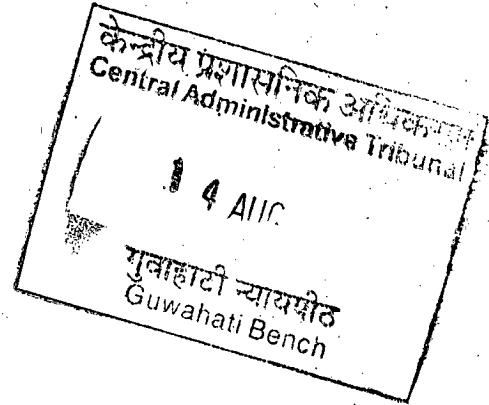
Respondent/Opp. Party

Advocates for Petitioner/appellant

1. J SINGH
2. M BARUAH

Advocates for Respondents

1. M CHANDA
2. S CHOWDHURY
3. S K GHOSH
4. D K SARMAH✓
5. P S LAHKAR✓
6. K GOSWAMI✓



Summary Of Case And Prayer In Brief

CERTIFIED COPY OF JUDGEMENT / ORDER

DATE OF FILING APPLICATION	DATE WHEN COPY WAS READY	DATE OF DELIVERY
26/06/2008	27/06/2008	27/06/2008

BEFORE

**HON'BLE THE CHIEF JUSTICE MR. J. CHELAMESWAR
HON'BLE MR. JUSTICE HN SARMA**

DATE OF ORDER : 25/06/2008

Heard Mr J Singh, learned counsel for the petitioner and Mr DK Sarma, learned counsel for the respondent.

Purporting to be aggrieved by an order dated 19-9-07 of the Central Administrative Tribunal, Guwahati Bench in OA No.253/07 the respondents therein preferred the writ petition.

It may not be necessary for us to go into the details of the case as the order under appeal appears to be an order passed on consent of the

*Attested
Usha Sarma
Advocate*

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parties. At paragraph 2 of the order under appeal it is stated as follows :-

"I have heard Mr M Chanda learned counsel for the applicant and Dr JL Sarkar learned Railway Counsel for the Respondents. Counsel for the applicant has submitted that though there are many prayers in the O.A., the main prayer of the applicant is that his service shall be treated as continuous and not reinstatement from date of resuming duty and he may be allowed to pay 50% of the amount before joining and rest 50% plus the accrued interest within two years of installments. The counsel for the respondents has submitted that he has no objection, if this will meet ends of justice. The Railway Board has sent letter to the General Manager, N.F. Railway dated 31-08-2005. Application for withdrawal of notice for voluntary retirement from service of the applicant is reproduced below"

When the matter came up on the previous occasion the learned counsel for the respondent pointed out that the order under challenge is a consent order in view of the above extracted paragraph of the order under challenge. Confronted with the situation the learned counsel appearing for the petitioner sought time to obtain instruction as according to the learned counsel such a consent on the part of the counsel appearing before the Administrative Tribunal for the respondent (petitioner herein) was a consent not authorized by the writ petitioner. This court, therefore, called upon the petitioner to inform the court whether the petitioner believes that such a consent on the part of the counsel was not a consent authorized by the petitioner and if so whether the petitioner took any action against the counsel or proposed to take any action.

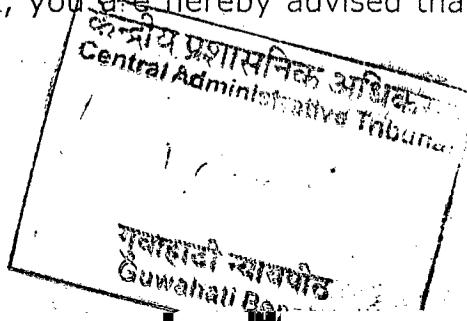
Today when the matter is taken up Mr J Singh learned counsel appearing for the petitioner placed before the court a letter dated 17-6-08 from the Sr Deputy General Manager & Chief Vigilance Officer of the petitioner addressed to the learned counsel appearing for the respondent before the Tribunal, the relevant portion of which reads as follows :-

"While giving additional affidavit in the H.C/GHY on 13.06.2008, it has been categorically mentioned that no consent from Railway side was given to you for agreeing to deposit 50% of the amount in the case of Shri I. Hansdak and you have suo-moto acted and consented for depositing 50% of the amount.

The Hon'ble H.C/GHY has pointed out that whether any action has been taken against the concerned advocate and unless action is taken against the Counsel, the case will not be heard in the Court and is likely to be dismissed.

As you have suo-moto taken decision and consented to deposit 50% of the amount in the case of Shri I. Hansdak, you are hereby advised that in

*Attested
Bishwa Dr.
Associate*



18-
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future this type of suo-moto action should not be taken by you without the consent of Railway Authorities."

Neither the tenor nor the content of the letter indicate any action known to law that is proposed to be taken against the counsel to appeared before the Tribunal in the instant case and gave a consent without authorization.

In the circumstances, we are of the opinion that the writ petition is not maintainable and, therefore, dismissed at the admission stage.

We also regret to record that the whole episode demonstrates the lack of seriousness with which legal issues are handled by public bodies like the writ petitioner as well as some of their counsel. It is a matter which perhaps requires attention of the Railway Board.

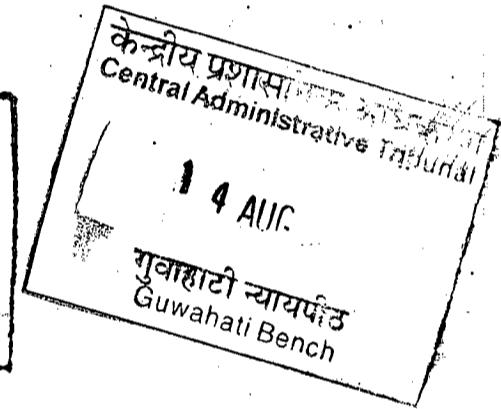
Registry is directed to communicate a copy of this order to the Railway Board.

Sd/ H. N. Sarma Sd/ J. Chelameswar
Judge Chief Justice

SL no 99437
dtd 26/6/08

Neelam Pathak

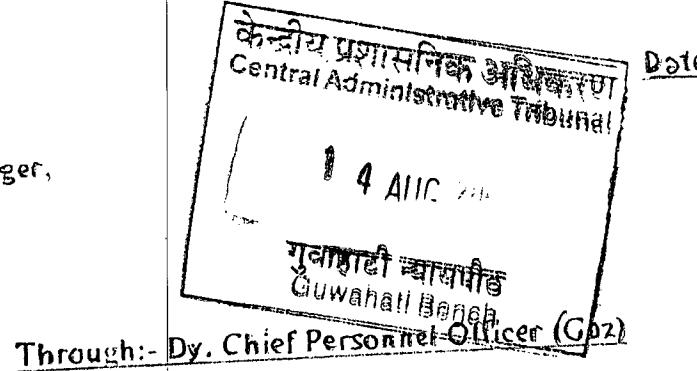
CERTIFIED TO BE TRUE COPY
Date 27/6/08
Superintendent (Copying Section)
Guahati High Court.
Authorised U/S 70, Act 1, 1872



Classed
27/6/08

Attended
Abha Dev
Advocate

To:
The General Manager,
N. F. Railway,
Maligaon.



Dated: 02.07.2008

Sir,

Subject:- Regarding permission to deposit money in connection with my posting.

Ref:- (i) Order of Central Administrative Tribunal, Guwahati Bench, dated 19th Sept. 2007 in OA No-253/07.
 (ii) Order of The Gauhati High Court at Guwahati in WP (C) 249/08 dated 25.06.2008.
 (iii) My earlier applications dated 27.10.07 and 26.11.07.

In pursuant to the order of Central Administrative Tribunal, Guwahati Bench, dated 19.09.2007 and the order of The Gauhati High Court dated 26.06.2008, kindly give permission to deposit Rs. 7,90,824.00 (Rupees Seven Lakhs Ninety Thousand Eight Hundred and Twenty Four only) with FA&CAO/Maligaon in connection with my posting. Permission may be given early so that money can be arranged and deposited in a reasonable period of time.

Copy each of the above referred orders is enclosed for ready reference.

Thanking you.

DA:- As above

Yours faithfully,


(J. Hansdak)

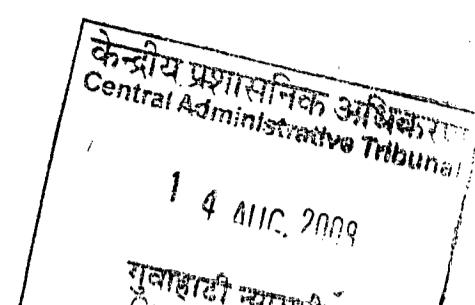
Address:-
At- Padumbori
P.O.- Gotanagar
Distt- Kamrup
Guwahati-781033
(ASSAM)

Altered
Bishen Das
Advocate

Dated-02.07.08

To,

The Secretary Railway Board,
Rail Bhawan (Ministry of Railways),
New Delhi.



Sub:- Regarding information about the order dated 25.06.08 passed by the Gauhati High Court in W.P.(C) No. 249/08 preferred against the order dated 19.09.07 passed by the Hon'ble the Central Administrative Tribunal, Guwahati Bench in O.A. No. 253/07.

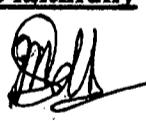
Sir,

Please find herewith a copy of the aforesaid order dated 25.06.08 passed by the Hon'ble High Court in W.P.(C) No.249/08 by which the Hon'ble Court was pleased to dismiss the same. As such you are hereby earnestly request to comply with the direction passed by the Hon'ble C.A.T., Guwahati Bench by its order dated 19.09.07 in O.A. No. 253/07 and I may be allowed to join in my service on deposition of Rs. 7,90,824/- (Seven Lakhs ninety thousand eight hundred twenty four) only.

Please do the needful as early as possible because I am facing tremendous hardships and may not be able to deposit the aforesaid amount if the matter is further delayed.

Thanking You.

Yours faithfully


 (I. Hansdak)
 Ex. Deputy CME,
 N.F. Railway, Maligaon
 At present resident of - Padumbari
 P.O. Gotanagar, Guwahati-33.

Attested
 Isha Das
 Advocate