

V

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. O.A 178/2007

R.A/C.P No.....

E.P/M.A No.....

1. Orders Sheet..... O.A Pg.....1..... to.....X.....
2. Judgment/Order dtd 15/10/2007 Pg.....1..... to.....6.....A/D.....
3. Judgment & Order dtd..... Received from H.C/Supreme Court
4. O.A..... 178/2007 Pg.....1..... to.....18.....
5. E.P/M.P..... Pg..... to.....
6. R.A/C.P..... Pg..... to.....
7. W.S..... Pg..... to.....
8. Rejoinder..... Pg..... to.....
9. Reply..... Pg..... to.....
10. Any other Papers..... Pg..... to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendement Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

Salma
05/10/2017

CENTRAL ADMINISTRATIVE TRIBUNAL
COMMITTEE MEETING

ORDERSHEET

1. Original Application No. 178/07

2. Mise Petition No. /

3. Contempt Petition No. /

4. Review Application No. /

Applicant(s) Bimalender Gupta vs Union of India & Ors

Advocate for the Applicant(s) Md. B. Huda

Md. A. Huda.....

Advocate for the Respondent(s) ... C.A.S.L.

Notes of the Registry Date Order of the Tribunal

This application form is filed on 01-07-2007.

deposit of Rs. 50/- deposited in the account No. 346654526

Dated 22.6.07

2.7.2007

Post on 5.7.2007.


Vice-Chairman

/bb/

5.7.2007

Heard learned counsel for the parties
Judgment delivered in open Court, kept in
separate sheets.

The O.A. is disposed of at the admission stage itself in terms of the order.
No costs.


Vice-Chairman

bb

*Patronus Legal
for issue of Writs
and Revision*

*Received by Dr. S.
from Bimalender Gupta
11/7/07*

16/7/07

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No.178 of 2007

DATE OF DECISION: 5.7.2007

B.Gupta

.....Applicant/s

Mr.S.Huda

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

- Versus -

U.O.I. & Ors

.....Respondent/s

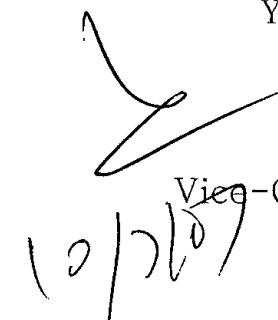
Mr.M.U.Ahmed, Addl.C.G.S.C.

.....Advocate for the
Respondents

CORAM

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

1. Whether reporters of local newspapers may be allowed to see the Judgment? Yes/No
2. Whether to be referred to the Reporter or not? Yes/No
3. Whether to be forwarded for including in the Digest Being compiled at Jodhpur Bench & other Benches ? Yes/No
4. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No


Vice-Chairman

10/7/07

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 178 of 2007.

Date of Order: This, the 5th day of July, 2007.

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

Shri Bimalendu Gupta
Son of Late Biswanath Gupta
Senior Accountant
O/o the Accountant General (A&E), Assam
Maidamgaon, Beltola
Guwahati-29.Applicant.

By Advocates Mr. S. Huda & Mr. A. Hai.

- Versus -

1. The Union of India
represented by the Secretary
to the Government of India
Ministry of Home Affairs
(Department of Personnel
and Administrative Reforms)
North Block, New Delhi-1.
2. The Comptroller and Auditor
General of India
Bahadur Shah Zafar Marg
Indraprastha HPO
Post Bag No.7
New Delhi - 2.
3. The Accountant General (A&E), Assam
Maidamgaon, Beltola
Guwahati-29.
4. Sr. Deputy Accountant General (Admn)
O/o the Accountant General (A&E), Assam
Maidamgaon, Beltola
Guwahati-29.
5. Shri Tarini Mohan Roy, IA & AS
Sr. Deputy Accountant General
(P&F, Pension & Fund)
O/o the Accountant General (A&E), Assam
Maidamgaon, Beltola, Guwahati-29
Holder of duel charge of Sr. Deputy

Accountant General (Admn)
O/o the Accountant General (A&E), Assam
Maidamgaon, Beltola, Guwahati-29.
... Respondents.

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

O R D E R (ORAL)

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

While the Applicant was working as Senior Accountant under the Accountant General (A&E), Assam, Annexure-1 order dated 11.4.2007 has been issued to him placing him under suspension under sub-rule (1) of Rule 10 of the CCS (CCA) Rules, 1965 with immediate effect. The Applicant approached this Tribunal by way of O.A. No.97/2007 and this Tribunal vide order dated 24.04.2007 directed the concerned Respondent to consider his representation and averment made in the said O.A. and pass appropriate, considered and reasoned order in accordance with Rules within one month from the receipt of that order. It was submitted that subsequently inadvertently a writ petition was filed before the Hon'ble High Court which was later on withdrawn. However, according to the Applicant, since no action was taken by the Respondents he has filed this O.A. seeking the following reliefs:-

"In the premises the humble applicant humbly prays that the Hon'ble Tribunal may be pleased to admit this application and called for the records related suspension order dated 11.4.2007 Annexure-1 and after hearing both the parties quashed and set aside the above impugned order along with directions to the Respondents to count the periods of absence from duty as duty for all purposes and reinstated in service with a further direction to release his salary arrear and current and implementation of order dated 24.4.2007 passed by this Hon'ble Tribunal in O.A. No.97/2007."

2. Heard Mr.S.Huda, learned counsel for the Applicant and Mr.M.U.Ahmed, learned Addl.C.G.S.C. for the Respondents. When the matter came up for consideration Mr.Ahmed has produced a copy of the order dated 22.05.2007 passed by Sr. Deputy Accountant General (Admn) purported to have been passed in compliance of the order of this Tribunal reiterating their contention and upholding the order dated 11.04.2007. Copy of the said letter is kept on record for future reference. Mr.S.Huda, learned counsel for the Applicant, after reading the aforesaid order, copy of which was served upon him during the course of argument across the Bar, submitted that the said order was not passed with due application of mind. However, he submitted that

J

since the Applicant has filed an appeal dated 12.04.2007 (Annexure-2) before the third Respondent which is pending disposal he would be satisfied if a direction is issued to the third Respondent to consider and disposed of the same by passing speaking orders communicating the same to the Applicant after affording an opportunity of being heard in person within a stipulated time.

3. Learned Addl. C.G.S.C. submitted that it is prerogative of the Respondents to suspend an employee. Strictly speaking to the Rules, it may be so, but one of the aspects that the Respondents totally forgetting is that when an employee is suspended on flimsy/silly reasons subsistence allowance @ 50% and enhancement upto 75% has to be paid to the suspended employee from the Govt. exchequer. This Court would like to make it clear that suspension should be an exception rather than a rule, it can be invoked only in the exceptional cases like financial misappropriation, detention by police for more than 48 hours or such serious overacts and when an employee becomes incorrigible, intolerable and a deadwood. While suspending an employee the Respondents should look into these



aspects. It should not be mere fancy/fantasy of the superiors to satisfy their ego or an empty formality. In the absence of any materials on record I am not expressing any view in the matter on merit. Suspension of an employee for flimsy/silly reason may have great financial implication on the Govt. exchequer. Initiative through motivation and extracting maximum manpower from the subordinate depends upon the leadership quality of the superior officer as well. The Applicant is in a senior position and has 27 years of unblemished service, as claimed by him. The reasons for rejecting his representation have not convinced this Court. Hence, it is appropriate that it should be dealt with by the highest office of the Department.

4. Considering the submissions made by the learned counsel for the Applicant and also the order that has been placed by the learned Addl. C.G.S.C. I am of the view that ends of justice would be met if a direction is issued to the third Respondent i.e., Accountant General (A&E), Assam to consider and dispose of Annexure-2 appeal with due application of mind within a time frame giving due



weightage to the above observations made by this Court. Accordingly, the third Respondent i.e., Accountant General (A&E), Assam is directed to consider and dispose of Annexure-2 appeal dated 12.04.2007 filed by the Applicant and pass a speaking order with due application of mind and keeping in view the above observations after affording a personal hearing to the Applicant within a period of 20 days from the date of receipt of this order. The Applicant will forward the copy of this order along with the appeal dated 12.04.2007 to the third Respondent forthwith.

5. The Original Application is disposed of as above at the admission stage itself. There will be no order as to costs.



(K.V. SACHIDANANDAN)
VICE CHAIRMAN

/BB/

10
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI
BENCH, GUWAHATI.

(An application under section 19 of the Central Administrative
Tribunal Act, 1985).

O.A. No. 178/2007.

Shri Bimalendu Gupta ...Appellant.

-Versus-

Union of India & others...Respondents.

INDEX

Sl.No.	Particulars.	Page.
1.	Application.	1 to 17
2.	Verification.	18
3.	Annexure-I.	19
4.	Annexure-2	20-21
5.	Annexure-3	22-24
6.	Annexure-4	25-28

Filed by


(A. Hai)

Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI
BENCH, GUWAHATI.

(An application under section 19 of the Central Administrative
Tribunal Act, 1985).

O.A. No. 178/2007.

Shri Bimalendu Gupta ...Appellant.

-Versus-

Union of India & others...Respondents.

:SYNOPSIS OF THE CASE:

In 1998 the Respondent No.5 issued an order against the applicant on 4.12.98 which was challenged in this Hon'ble Central Administrative Tribunal in O.A.No.245/2001. After hearing both the parties the Hon'ble Tribunal set aside the impugned order dated 4.12.98 but the Respondent No.2, 5 declined to pay the due salary to the applicant and retain the same order dated 4.12.98 without taking any action on the applicant application and the applicant filed the O.A. No.8/2007 in this Hon'ble Tribunal which is pending before this Tribunal. After receiving the notice the Respondent No.5 deliberately stopped payment of salary of the applicant from January, 2007 onwards without assigning any reason. Hence the Second O.A. No.86/2007 was filed by the applicant. The Hon'ble Tribunal express concern over the facts of the case and directed the Respondent No.5 to issue the instruction to

Bimalendu Gupta

the SGSC on or before 10.4.2007 regarding stopping pay. The Respondent No.3 and particular Respondent No.5 deliberately ignore ed the Hon'ble C.A.T. order dated 2.4.07 and put the applicant under suspension under contemplation of proceeding vide order dated 11.4.2007 which was deliberated by the Respondent No.5 to the ailing wife of the applicant at Sarumotoria Residence by involving two messenger resulted health condition of the applicant wife is aggravated. The suspension order dated 11.4.2007 Annexure-2 issued when the salary of the applicant al ready stopped from January, 2007 and the Respondents kept inaction the appeal of the applicant and hence this application is filed by the humble applicant.

Filed by

A.Hai
(A.Hai),

Advocate.

29 JUN 2007

गुवाहाटी बैचली
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI
BENCH, GUWAHATI.

File No. 2007
F. A. 2007
Advocate
437-C-2007

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

Union of India represented by
the Secretary to the Govt. of
India, Ministry of Home Affairs
(Department of Personal and
Administrative Reforms)
North Block, New Delhi-1. The
Comptroller and Auditor General
Of India, Bahadur Shah Zafar Marg,
Indraprastha HPO, New Delhi-2 and
Others.

... Respondents.

PARTICULARS OF THE APPLICANT:

- 1) Name of the Applicant : Shri Bimalendu Gupta.
- 2) Name of Father. : Late Biswanath Gupta.
- 3) Designation and Office in which employed. : Senior Accountant
O/o the Accountant General
(A & E) Assam, Maidamgaon,
Beltola, Guwahati-29.
- 4) Office Address. : O/O. the Accountant General(A & E),
Assam, Maidamgaon, Beltola,
Guwahati-29.
- 5) Address for service of Notice. : O/O. the Accountant General(A & E),
Assam, Maidamgaon, Beltola,
Guwahati or through the Advocate.

Bimleshwar Singh

PARTICULARS OF RESPONDENTS:

- 1) The Union of India represented by the Secretary to the Govt. of India, Ministry of Home Affairs (Department of personal And Administrative Reforms), North Block, New Delhi-1.
- 2) The Comptroller and Auditor General of India, Bahadur Shah Zafar Marg, Indraprastha HPO, Post Gag N.7, New Delhi-2.
- 3) The Accountant General(A &E), Assam, Maidamgaon, Beltola, Guwahati-29.
- 4) Senior Deputy Accountant General(Admn.), O/o. the Accountant General (A & E), Assam, Maidamgaon, Beltola, Guwahati-29.
- 5) Shri Tarini Mohan Roy, IA & AS
Senior Deputy Accountant General (P&F, Pension And Fund), O/o. the Accountant General (A&E), Assam, Maidamgaon, Beltola, Guwahati-29.
Holder of duel charge of Sr. Deputy Accountant General (Admn) o/o. the Accou9ntant General (A&E), Assam, Maidamgaon, Beltola, Guwahati-29.

I. PARTICUARS OF ORDER/ ORDERS AGAINST WHICH THE APPLIATION IS MADE:

The application is made against the order No. Sr. DAG(A)/Admn./PC/BG/194 dated 11.4.2007 issued by Shri Tarini Mohan Roy, IA & AS, Sr. Deputy Accountant General

5
Birendra Kumar
Ganguli

(Admn.) O/o. the Accountant General (A & E), Assam, Beltola, Guwahati-29, Respondent No.5 and delivered at residence of the applicant.

II. JURISDICTION OF THE TRIBUNAL:

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

III. LIMITATION.

The humble applicant begs to state that the application is within the limitation periods prescribed in the Central Administrative Tribunal Act, 1985.

IV. FACTS OF THE CASE:

1. That the applicant begs to state that the applicant is a citizen of India belongs to the General category and his rights and privileges are guaranteed by the Constitution of India.
2. That the applicant begs to state that the applicant is a Senior Accountant in the Office of the Respondent No.3 and posted in CA-4 section. The applicant is completed the services in the Department about 29 years six month after joining in November, 1977. As an employee he is entitled to all the rights, privileges and protection guaranteed by the Constitution of India and entitled right to live under Art. 21 of the Constitution of India.
3. That the applicant is a married one having only daughter. The wife of the applicant is an employee of the

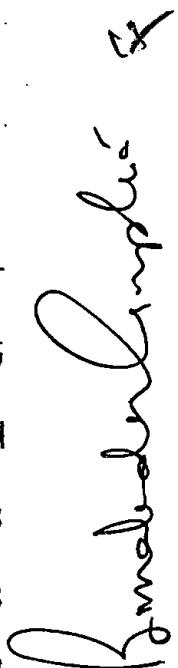
Govt. of Assam. The 1 (one) child of the applicant was appeared in the Higher Secondary Final Examination, 2007. The family members of the applicant is entitled to all benefits from the department of the Respondent No.3 under the provision of the Rules as an when applicable according to needs.

4. That the humble applicant begs to state that the applicant and the members of his family are passing a simple and life in the State of Assam and there is no record about the activities of the family including applicant is prejudicial to the interest of the security of the State, neither involvement with criminal offence or linked to or the offence is under investigation, inquiry or trial.

5. That the applicant begs to state that it is the habit of the Respondents 2 to 5 to create the plots of harassment to the applicant in every way of his service life and family life. In 1998 the Respondent No.4 vide letter No.DAG(A)/PC/BG/151 dated 4.12.98 declare the periods of service of the applicant w.e.f. 27.9.98 to 12.11.98 as "dies non" on the plea that he (the applicant) did not do his job except putting his initial in the attendance Register and leaving office without permission of the superiors". Accordingly the matter of "dies non" dated 4.12.98 was challenge in this Hon'ble C.A.T. by the applicant by filing O.A. No.245/2001 when the Respondents declined to consider the applications of the applicant. The Hon'ble C.A.T.

Original Copy

after hearing both the parties "set aside" the impugned order dated 4.12.98 on 28.11.2001. The Respondents NO.2 to 5 deliberately disobey the order of the Hon'ble Central Administrative Tribunal dated 28.11.2001 and retain the "dies non" under order dated 4.12.1998 without applying judicious mind on the spirit of the Ho'ble Central administrative Tribunal order and held up the part payment of the salary of the applicant under order dated 28.11.2001 and stop annual increment due on 1st of January every year. The applicant is again compelled to file the application before this Hon'ble Tribunal being No. O.A 8/2007 for justice which is pending before this Hon'ble Tribunal.



6. That the humble applicant begs to state that on receipt of the above case notice the Respondents No.5 deliberately stopped payment of the salary of the applicant from the month of January, 2007 onwards without assigning any reasons or prior information to the applicant. Thus the Respondents and particular Respondent No.5 violated the fundamental rights of the applicant as well as right to information. Despite repeated applications, Reminders the Respondents kept mum. Where as the salary for the month of January and February, 2007 has been considered as income of the applicant for assessment of income Tax 2007-08. Having no other alternative and keeping inaction on the part of the Respondents No.3, 4, 5 compelled the applicant to file the O.A. No.86/2007 before this Hon'ble

18
Dinesh Singh

Tribunal which is heard on 2.4.2007. This Hon'ble Tribunal expressed surprise hearing the application and order was passed direct in the Respondents to instruct their counsel on or before 10.4.07 regarding non-payment of salaries.

7. That the humble applicant begs to state that the Respondents authorities No. 3 to 5 getting knowledge of the said O.A. No.86/2007 and O.A. No.8/2007 which is pending before this Hon'ble Tribunal for order/ decision. That your humble applicant was expected that the Respondents No.5, 4 and 3 would send their instruction to the counsel on or before 10.4.2007 for decision of the Hon'ble C.A.T. on payment of salary, but instead of sending the instructions, and completely ignoring the Hon'ble Central Administrative Tribunal orders the Respondent No. 5 have issued an order vide No.Sr. DAG(A)/Admn/PC/BG/ 194 dated 11.4.2007 informing the applicant that your humble applicant was suspended on 11.4.2007 with immediate effect. The action of the Respondent No.5 who is also holding the charge of Respondent No.4 is arbitrary and desperate attitude to this Hon'ble C.A.T. and has established that they are not to carry out the orders of this Hon'ble Central Administrative Tribunal.
8. That it is humble stated that the Respondent No.5 ought to have handed over the impugned order to the applicant himself during the Office hour, despite sending the same to his ailing wife who was highly shocked on receiving the

Bimalendu Singh IA

undesirable and unexpected information from the Respondent No.5. This action on the part of the said Respondent No.5 aggravated her health condition and the applicant was forced to take her wife to the GMCH on very next day i.e. on 12.4.2007. The attending doctor of the GMCH advised to the applicant to take her to the treating doctor of the Apollo Hospital New Delhi immediately for follow up as advised by the treating doctor of Apollo Hospital Delhi to avoid further deterioration etc of her condition.

9. That the applicant begs to state that the particular Respondent No.5 and other Respondents are fully aware about the prolong illness of the applicant's wife and the matter of delay in treatment and deliberately handed over the letter of suspension of the applicant to the ailing wife of the applicant through his messengers on 11.4.2007 at 5.30 P.M. when the applicant is not available at home.
10. That the humble applicant begs to submit that the particular Respondent No.5 Shri Tarini Mohan Roy, IA & AS Sr. Deputy Accountant General (P & F) and i/c of Administration failed to apply his mind to issue the order dated 11.4.2007 Annexure-1 to the applicant to placed under suspension merely because enquiry is contemplated and abstained the applicant to enter the office premises by misuse of power and wrongly application of sub-rule (1) of Rule 10 of the Central Civil service (Classification, Control and Appeal) Rules, 1965 is

bad in the eye of law and malice just to damage the academic carrier of the lone girl child of the applicant as well as to damage the life saving treatment of the applicant wife as such the impugned order No.Sr. DAG(A)/ Admn/ PC/ BG/ 194 dated 11.4.2007 Annexure-1 is liable to be set aside and quashed.

11. That the humble applicant begs to submit that the particular Respondent No.5 ought not to have acted in such a hasty manner in issuing the impugned order dated 11.4.2007 Annexure-1 suspending the applicant from the service without assigning any reasons and on the ground of contemplation, and as such the action the particular Respondent No.5 is capricious, arbitrary, illegal and running contrary to the provision of principle of Natural justice and as such needs.

12. That, the petitioner begs to state that he is working as Senior Accountant in the Office of the Accountant General, Assam, Maidamgaon, Beltola, Guwahati and suddenly without any rhyme and reason and without following any procedure the Respondent No.4, Senior Deputy Accountant General (Administration) by order dated 11.4.2007 suspended the petitioner from service under Sub Rule 1 of Rule 10 of the Central Services (Classification, Control and Appeal) Rules, 1965 and as such, against the suspension order the petitioner filed an appeal before the Accountant General (A & E), Assam, Maidamgaon, Beltola, Guwahati-29 praying for payment of salary from, January, 2007 and for withdrawal of suspension

21
Bindu Singh

order, but nothing has been done by the authority concerned and as such, the petitioner approached the Central Administrative Tribunal, Guwahati Bench and filed a case being Original Application No.97/2007, but the learned Tribunal by Judgment and order dated 24.4.2007 dismissed the matter with a direction to the respondent authority to pass appropriate orders in accordance with the Rules within a period of one month, but stay was not granted. Till date, no action has been taken by the respondent authority as per direction of the learned Tribunal and as such the applicant filed a case being W.P.(C) No.2805/2007 praying for a direction to the respondent authority to release the arrear and current salary of the applicant and to reinstate the applicant in service and the Hon'ble High Court was pleased to direct the applicant to approach this Tribunal and as such this application is being filed.

A photocopy of the suspension order dated 11.4.2007 is annexed herewith and marked as Annexure-1 to this petition.

A copy of the appeal dated 12.4.2007 and a copy of the Judgment and order dated 24.4.2007 are annexed herewith and marked as Annexures-2 and 3 to this petition.

A copy of order dated 11.6.2007 is annexed herewith and marked as Annexure-4.

Bimal Chandra

13. That the applicant begs to state that his only daughter Anoopriya Gupta passed the Higher Secondary Examination, CBSE Course fro Kendriya Vidyalay, CRPF on 25.5.2007 in the 1st Division, but to due to financial crisis the applicant has not been able to give her admission in the College for higher education. This fact also brought to the notice of the concerned authority with a prayer for release of his subsistence allowance and for payment of arrear salary, but nothing has been done and the petitioner also prayed for interim stay of the impugned suspension order and the learned Tribunal refused to stay the same and as such the applicant has approach the Hon'ble High Court for stay of the impugned suspension order dated 11.4.2007, Annexure-1 and also for payment of his subsistence allowance as well as salary, otherwise, his daughter will not be able to get admission due to financial crisis and as such this is a fit case where your Lordship may be pleased to stay the suspension order dated 11.4.2007, Annexure-1 and further direct the concerned authority to release the subsistence allowance as early as possible along with the arrear salary.
14. That the applicant begs to submit that the inaction of the respondents in not disposing of the appeal/ representation filed by the petitioner before the concerned authority is in violation of the principles of natural justice and violative of Articles 14, 16 and 21 of the Constitution of India.

15. That the petitioner begs to submit that the action of the Respondents is malafide, arbitrary, unconstitutional discretionary and void ab initio and the authority concerned adopted the pick and choose policy to harass the petitioner as well as his family members and as such this is a fit case where your Lordships may be pleased to issue appropriate orders in the interest of justice.

16. That the humble applicant begs to submit that the act of the particular Respondent No.5 who is incharge of the Respondent No.4 in issuing the order dated 11.4.2007 Annexure-1 without application of mind and without reflecting the basis of the contemplation in the said impugned order must be constituted to be capricious, arbitrary, illegal running counter to the provision of Act. 14, 19 and 21 of the Constitution of India and as such the interference of this Hon'ble Tribunal by way of quashing and act aside the impugned order dated 11.4.2007 Annexure-1.

V. GROUND FOR RELIEF WITH LEGAL PROVISION.

The humble applicant urges the following grounds:

I) That the Respondent No.5 issued the suspension order dated 11.4.2007 Annexure-1 on the basis of merely

Bimalendu Dinda 29

contemplated without application of mind and with malice is bad in the eye of law and violation of the fundamental right of the applicant.

- II) That the humble applicant begs to submit that the inaction of the Respondents has deprived the petitioner from the fundamental right guaranteed to his by stopping salary from January, 2007 onwards and simultaneously putting the applicant under suspension and cause unnecessary break of service period in the verge of his retirement in near future.
- III) That the applicant begs to submit that irreparable financial loss and lose of prestige has been caused by the Respondent No.5 by issuance of suspension order dated 11.4.2007 Annexure-1 resulted miscarriage of justice due to no fault of the applicant.

VI. DETAILS OF REMADIES EXHAUSTED:

After having received the suspension order dated 11.4.2007 the applicant was cut to the quick and submitted the applications to the Respondents No.2, 3, 4 and 5 on 12.04.2007 by post to withdraw the suspension order dated 11.4.2007 is illegal but they did nothing till date, hence the applicant declare that the applicant availed of all the remedies available to him under the Rules.

VII. MATTER NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT.

The applicant further declare that the two O.A. No.8/2007 and O.A. No.86/2007 filed before this Hon'ble Tribunal and is pending before this Hon'ble Tribunal.

VIII. RELIEF SOUGHT FOR:

In view of the facts stated above, the applicant prays for the following relief:

In the premises aforesaid the humble applicant humbly prays that the Hon'ble Tribunal may be pleased to admit this application and called for the records related suspension order dated 11.4.2007 Annexure-1 and after hearing both the parties quashed and set aside the above impugned order along with directions to the Respondents to count the periods of absence from duty as duty for all purposes and reinstate in service with a further direction to release his salary arrear and current and implementation of order dated 24.4.2007 passed by this Hon'ble Tribunal in O.A. No.97/2007.

IX. INTERIM ORDER.

Pending final decision of the application the applicant prays for issuance of the following interim order.

Dinakar Singh

i) Pending disposal of the application this Hon'ble Tribunal maybe pleased to stay the operation of the impugned order dated 11.4.2007 Annexure-1 and allow the applicant with direction to the Respondent No.3-4 to continue his service in the Office of the Respondent No.3 to avoid starvation and hardship and release the Salaries.

THE PARTICULARS OF IPO IN RESPECT OF

APPLICATION FEES:

1. Number of IPO (a) for Rs. 50/-: 34G654526
2. Name of issuing post : IPO Ganeshi
3. Date of issue : 22/06/07
4. Post Office at which -: Ganeshi payable.

LIST OF PARTICULARS:

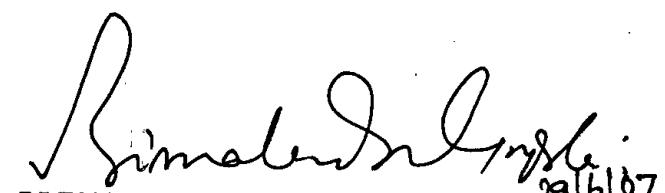
As stated in the Index.

Verification.....

VERIFICATION:

I, Shri Bimalendu Gupta, son of late Biswanath Gupta, aged about 55 (fifty five years) by caste Hindu by profession Central Govt. service, resident of Sarumotoria, Sahid Dilip Huzuri Path (Arunudoi Residence) Dispur, Guwahati-6, Assam do, hereby verify that the statement made in paragraphs.1,4,8,9,11,13...of this application are true to my knowledge and those made in paragraph 5,6,7,10,12.....are based on records which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

And I sign this verification this 29th day of June, 2007 at Guwahati.



29/6/07

SIGNATURE OF THE APPLICANT.

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

No. Sr. DAG(A)/Admn/PC/BG/194

Dated 11/4/2007

11 APR 2007

ORDER

Whereas a disciplinary proceeding against Shri Bimalendu Gupta, Senior Accountant of CA 4 Section of this Office is contemplated, and whereas his continuance in office will prejudice investigation and interest of the Department, and subvert discipline in the Office.

Now, therefore, the undersigned in exercise of the powers conferred by sub-rule (1) of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, hereby places the said Shri Gupta under suspension with immediate effect.

It is further ordered that during the period that this order shall remain in force the headquarters of Shri Bimalendu Gupta, Senior Accountant shall be Guwahati and the said Shri Gupta, Sr. Accountant shall not leave the headquarters without obtaining the previous permission of the undersigned. It is further directed that Shri Gupta shall not, during the period that this order shall remain in force, enter the office premises save and except he has obtained written permission from the undersigned after applying therefor in writing.


Senior Deputy Accountant General (Admn.)

✓ Copy to Shri Bimalendu Gupta, Senior Accountant, CA 4 Section. He is informed that orders regarding subsistence allowance admissible to him during the period of his suspension will issue separately, and directed to furnish his residential address in Guwahati for communication.

*sent to
certified to be
true copy
Shri
APR*

MOST URGENT, BY POST

TO

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

Sub: Appeal for payment of Salaries from January, 2007 and withdrawal/Cancellation of the suspension order No. Sr. DAG(A)/Admn/PC/BG/197 dated 11.4.2007 issued by Shri Tarini Mohan Roy, IA&AS Sr. Deputy Accountant General (P&F) i/c Admn.

Sir,

With reference to the subject, I beg to state that I am surprised to received the letter No. Sr. DAG(A)/Admn/PC/BG/197 dated 11.4.2007 issued by Sr. Deputy Accountant General (P & F) i/c administration and handed over the same to my wife at my residence by the messangers on 11.4.2007 at 6 p.m. when I was absent at residence.

That sir, I have repeatedly submitted applications to the administration for payment of due medical claims which has recovered from my salary arbitrarily against medical advises and wrong application of the CS(MA)Rules and refused to provide follow up life saving treatment to my wife despite clear instructions of the treating physician of Apollo Hospital Delhi. Due necessity of the follow up and deliberate/ ignorance of the Admn ^{not} to provide required treatment cost and conveyance, I have ^{been} compelled to take loan from Bank to meet the treatment in Aug'05 and accordingly the final claim received by the Admn-2 on 7.11.05 and not ^{yet} paid/reimbursed the claims. As such I have been compelled to appeal repeatedly for my right claims for continuation of treatment which has ignored.

That sir, suddenly from January, 2007 my salary has been stopped arbitrarily without assigning any reason nor information issued in this regard and the payment of salary under C.A.T. order dated 28.11.2001 was also held up. Accordingly I have filed the applications in OA No.8/2007 and OA No.86/2007 to the Hon'ble CAT for my right salary. After receiving the C.A.T. direction dated 2.4.2007 the administration deliberately disobey the C.A.T to comply on or before 10.4.2007 and arbitrarily issued the Suspension order against me on 11.4.2007 as stated above by wrong application of sub-rule (1) of Rule 10 CCS(CCA)Rules 1965 which is illegal, motivated, arbitrary and not tenable in law may kindly review and dropped the charges and withdraw/cancell the order dated 11.4.2007 forthwith and allow me to continue/join in the service.

*Anti fed to be
from C&F
Shri
D.D.*

- 2 -

Due to restriction imposed on me by the Senior Deputy Accountant General(P & F) i/c Administration to entry in office arbitrarily I have been compelled to send my application to you by post.

In view of the above I beg to request you to examine the matter personally and withdraw/cancell the order of suspension dated 11.4.2007 which is framed/issued on contemplation and arrange to disburse the all pending salary forthwith from January, 2007 and allow me to resume in duties. For this act of your kindness I shall ever pray.

Dated, Guwahati
the April 12, 2007

Yours faithfully

Bimalendu Gupta (Bimalendu Gupta)
Senior Accountant

Copy submitted by post to :

1. Shri Tarini Mohan Roy, IA&AS, Sr. Deputy Accountant General(P&F) i/c Administration o/o the AG(A&E) Assam, (1st Floor) Maidamgaon, Beltola Guwahati-29 with a request to cancell the order dated 11.4.2007 which is wrong, illegal, motivated and intentional and beyond the purview of the rules and allow me to continue in the service forthwith and arrange to release the stopped salary.
2. The Comptroller and Auditor General of India, Bahadur shah Zafar Marg, Indraprasth HPO, Post Bag No.7 New-Delhi-2. He is requested to examine the matter on priority to pay the all due claims of medical reimbursement which has arbitrarily and wrongly recovered from my pay by the AG(A&E) Assam against Govt. direction and orders and arrange to disburse the salary from January, 2007 onwards and cancell/withdraw the Suspension order dated 11.4.2007 which is not based with material facts and motivated.

Bimalendu Gupta (Bimalendu Gupta)
Senior Accountant

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 97 of 2007.

Date of Order: This, the 24th day of April, 2007.

THE HON'BLE SHRI G. SHANTHAPPA, JUDICIAL MEMBER

THE HON'BLE SHRI GAUTAM RAY, ADMINISTRATIVE MEMBER

Shri Bimalendu Gupta

Son of Late Biswanath Gupta

Senior Accountant

O/o the Accountant General (A&E), Assam

Maidamgaon, Beltola, Guwahati-29.

...Applicant.

By Advocates Mr. A. Bhattacharya & Mrs. K. Talukdar.

- Versus -

1. The Union of India represented
by the Secretary to the Govt. of India
Ministry of Home Affairs (Department of
Personnel and Administrative Reforms)
North Block, New Delhi-1.

The Comptroller and Auditor General of India
Bahadur Shah Zafar Marg, Indraprastha HPO
Post Bag No.7, New Delhi-12.

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

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

5. Shri Tarini Mohan Roy, IA & AS
Senior Deputy Accountant General
(P&F, Pension & Fund)
O/o the Accountant General (A&E), Assam
Maidamgaon, Beltola, Guwahati-29
Holder of dual charge of Sr. Deputy
Accountant General (Admn)
O/o the Accountant General (A&E), Assam
Maidamgaon, Beltola, Guwahati-29. ... Respondents.

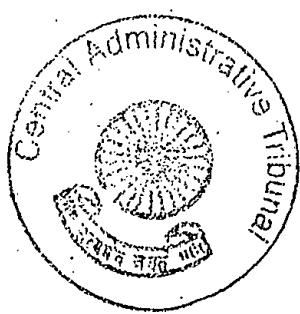
By Mr. G. Baishya, learned Sr. C. G. S. C.

*Authenticated
True copy
Ahai
D.*

ORDER (ORAL)

SHANTHAPPA, G. MEMBER (J):

This Application has been filed by the Applicant under Section 19 of the Administrative Tribunals Act, 1985 challenging the impugned order dated 11.4.2007 (Annexure-2) on the ground that no reason has been assigned in the impugned order for his suspension. Subsequent to the order of suspension, the Applicant has submitted a representation dated 12.04.2007 which is pending for considering with the third Respondent i.e., Accountant General, (A&E), Assam, Beltola, Guwahati-29. The reliefs as prayed in the O.A. are as follows:-



"In the premises aforesaid the humble applicant humbly prays that the Hon'ble Tribunal may be pleased to admit this application and called for the records related suspension order dated 11.4.2007 Annexure-2 and after hearing both the parties quashed and set aside the above impugned order alongwith directions to the Respondents to count the periods of absence from duty as duty for all purposes."

2. We have heard Mr. A. Bhattacharya, learned counsel for the Applicant and Mr.G.Baishya, learned Sr. C.G.S.C. for the Respondents. Since the Applicant's representation is pending with the Respondents, learned counsel for the Applicant submitted that Applicant will be satisfied if a direction is given to the fourth Respondent i.e., the Senior Deputy Accountant

Gh

General (Admn), Office of the Accountant General (A&E), Assam to decide the representation. Learned counsel for the Respondents submitted that justice would be met if such a direction is issued to the Respondents.

3. We have considered the request made by both sides.

Accordingly, we direct the Respondent No. 3 to transmit the representation dated 12.04.2007 filed by the Applicant to the Respondent No.4. Without observing on merits of the case we direct the Respondent No.4 to consider the aforesaid representation dated 12.04.2007 (Annexure-3) and also averment made in the O.A. and pass appropriate, considered and reasoned order in accordance with Rules within a period of one month from the date of receipt of a copy of this order.

4. The Original Application is disposed of as above at the admission stage itself. Liberty is given to the Applicant to approach this Tribunal, if necessary. There will be no order as to costs.



TRUE COPY
প্রতিপিক্ষা

sd/ MEMBER (J)

sd/ MEMBER (A)

N. S. Sengupta
26.4.07
Central Admin. Tribunal

26.4.07
Central Admin. Tribunal
Guwahati-5

/BB/

तारीख Date of application for the copy.	स्टॉपर और फोलियो की अपेक्षित संख्या सुचित करने की तिथित तारीख Date fixed for marking the required number of stamps and folios.	अपेक्षित स्टॉपर और फोलियो देने की तिथि Date of delivery of the requisite stamps and folios.	प्राप्ति, वह तिथि देने के लिए प्रतिक्रिया देने वाला श्री With the copy for delivery.	आवश्यक वाले अप्लाईटेंट की तारीख Date of making over the copy to the applicant.
13/6/67	13/6/67	14/6/67	14/6/67	14/6/67

IN THE GAUCHATI HIGH COURT

(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura,
Mizoram & Arunachal Pradesh)

CIVIL APPELLATE SIDE

Appeal from W-P(C)
Civil Rule

No. 2805 of 2007

Appellant
Petitioner

Bimalendu Gupta

versus

Union of India and ors

Respondent
Opposite PartyAppellant Mr. S. Huda
For Petitioner Mr. A. Haq AdvocatesRespondent
For
Opposite Party

Asstt. S.G.I.

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports orders or proceedings with signature
1	2	3	4
<i>S.</i> certified to be true copy Shas SDR.			

IN THE MATTER OF :-

Sri Bimalendu Gupta,

S/o Late Biswanath Gupta,

Senior Accountant ,

Office of the Accountant General,

Maidamgaon, Beltola, Guwahati-29.

.... Petitioner.

-Versus-

1. The Union of India represented by
the Secretary to the Govt. of India,
Ministry of Home Affairs(Department
of Personal and Administrative
Reforms), North Block, New-Delhi-1.

2. The Comptroller and Auditor General
of India, Bahadur Shah Zafar Marg,

4 3

Indraprastha HPO Post Bag No.7,
New-Delhi-2.

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

4. Senior Deputy Accountant
General(Admn.), C/O the Accountant
General(A&E), Assam, Maidamgaon,
Beltola, Guwahati-29.

5. Shri Tarini Mohan Roy, IA & AS
Senior Deputy Accountant General(
P& F, Pension and Fund)
O/o the Accountant General (A&E),
Assam, Maidamgaon, Beltola,
Guwahati-29. Holder of dual charge
of Sr. Deputy Accountant
General(Admn.) O/o the Accountant
General (A&E), Assam, Maidamgaon,
Beltola, Guwahati-29.

... Respondents.

Noting by Officer or Advocate	Serial No.	Date	Offices, reports, orders or proceedings with signature
1	2	3	4

WP(C) No. 2805/2007

BEFORE
THE HON'BLE MR. JUSTICE B.K. SHARMA

11.06.07

Mr. S. Huda, learned counsel for the petitioner, upon instruction seeks to withdraw the writ petition with a liberty to approach the appropriate Court/Tribunal for which Mr. Baruah, learned CGSC does not have objection.

The prayer is allowed with the liberty.

*S/ B. K. Sharma
Judge*

CERTIFIED TO BE TRUE COPY
Bengal Ram Singh
Date 14/6/07
Superintendent (Copying Section)
Gauhati High Court
Authorised U/R 76 Act I: 1879
3/4/6/07

Sl. 77695
Date: 13/6/07