

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./TA/ NO. 105/08 2008-2008  
R.A./CP/NO.....2015  
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SECTION OFFICER (JUDL.)

7.8.2015

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

1. Original Application No. 105/08
2. Miscellaneous Petition No.
3. Contempt Petition No.
4. Review Application No.

Applicant(S).... Ateup Roy ..... VS Union Of India & Ors

Advocate for the Applicant(S): A. S. Chandhury, I. Hussain  
D.M. Hussain

Advocate for the Respondant(S): Abd. CGSC M. U. Ahmed

Notes of the Registry	(i) Date	Order of the Tribunal
<p>This application is in form is filed/C. F. for Rs. 50/- deposited vide IPO/BD No. <u>396344281</u> Dated <u>1.6.08</u></p> <p><u>Registrar</u></p> <p><u>Petitioner's copy for issue notices are received with envelopes, copy served. Excess Rs. 5/- deposited vide slip No. 2694 dt. 5.6.08</u></p> <p><u>5/6/08</u></p>	<p>06.06.2008</p>	<p>Heard Mr. Iqbal Hussain, learned counsel appearing for the Applicant and Mr. M. U. Ahmed, learned Addl. Standing counsel for the Union of India and perused the materials placed on record.</p> <p>2. It is stated by the learned counsel appearing for the Applicant, Mr. Iqbal Hussain, that although a programme for training was fixed (during April, 2007) to send the Applicant for training during November, 2007; the Applicant was not relieved to go and attend the training between 01.11.2007 to 07.11.2007 and yet he has been punished under Annexure-9 dated 22.04.2008. It is also argued by Mr. Iqbal Hussain that there were gross violation of the principle of natural justice. On this positive statement of the learned</p>

Contd...



O.A.105/2008

Contd.  
06.06.2008

Dt. 6.6.08.

1. Pl. serve Notices to the Respondents
2. Pl. Communicate this stay order
3. Pl. send copies of this order to the Applicant & Respondents
4. Free copies of this order be supplied to the counsel for both the parties.

*Handwritten signature*

Notice & order send to D/Section for issuing to respondents by regd. A/D post and free copies of this order handed over to counsel for both the parties.

*Clerk*  
12/6/08. D/No-2786 to  
Dt-2791  
= 16/6/08. /bb/

29.07.2008

Received

*Handwritten signature*  
12.6.08

for Applicant

Notice for Resp. No-1 received back as unrvd with a postal remarks - "Incomplete Address without Department".

*Clerk*  
25/6/08.

Notice duly served

on R-3, 5 & 6.

counsel for the Applicant, this case is admitted. Notices to be issued to the Respondents requiring them to file their counter within six weeks.

3. As an ad-interim measure, the impugned order under Annexure-9 dated 22.04.2008 and subsequent order under Annexure-11 dated 09.05.2008 are, hereby, stayed.

4. Send copies of this order to the Applicant and Respondents (along with notices) and free copies of this order be supplied to the learned counsel appearing for both the parties.

5. Call this matter on 29.07.2008.

*Handwritten signature*  
(Khushiram)  
Member (A)

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

O.A. 47 of 07

On behalf of Mr. D. K. Das, learned counsel for the Applicant, prayer has been made seeking an adjournment on the ground that Mr.D.K.Das, learned counsel for the



29.07.2008

No written statement has been filed as yet by the Respondents in this case.

Call this matter on 08.09.2008 awaiting written statement from the Respondents.

w/s not filed.

5.9.08.

(Khushiram)  
Member(A)

lm

(M.R. Mohanty)  
Vice-Chairman

08.09.2008

Mr. I. Hussain, learned counsel appearing for the Applicant and Mr. M. U. Ahmed, learned Addl. Standing Counsel appearing for the Respondents are present. Written statement has not been filed by the Respondents.

Call this matter on 30.10.2008 awaiting written statement from the Respondents.

(Khushiram)  
Member(A)

lm

30.10.2008

30.10.2008

Hussain, Mr. I. Hussain, learned counsel appearing for the Applicant is present. None is present for the Respondents/ Department.

Notice sent to respondent No.1 has come back unserved, because it has not been disclosed to which department of the Ministry of Finance this case relates to. Mr. I. Hussain, undertakes to furnish the correct address to Respondent No.1 by 7th November 2008. He should furnish the correct address

Contd/-

01A.105/08 4-

30.10.2008

Mr. I. Hussain,

learned counsel

appearing for the Applicant is present. None is present for the Respondents/Department.

Notice sent to respondent No.1 has come back unserved, because it has not been disclosed to which department of the Ministry of Finance this case relates to. Mr. I. Hussain, undertakes to furnish the correct address to Respondent No.1 by 7<sup>th</sup> November 2008. He should furnish the correct address

Contd/-

30.10.2008

Mr. I. Hussain,

learned counsel

appearing for the Applicant is present. None is present for the Respondents/Department.

Notice sent to respondent No.1 has come back unserved, because it has not been disclosed to which department (of the Ministry of Finance) this case relates to. Mr. I. Hussain, undertakes to furnish the correct address to Respondent No.1 by 7<sup>th</sup> November 2008. He should furnish the correct address of Respondent No.1 along with required postages for issuance of fresh notice to the Respondent No.1 in the correct address to be supplied by the Applicant. In the notice it should be specified that Respondent No.1 should file return/counter by 8<sup>th</sup> December 2008. Regd. to issue notice accordingly.

No written statement has yet been filed by the other Respondents; who should file their written statement by 8<sup>th</sup> December, 2008.

Send copies of this order to the Applicant and all the Respondents and free copies of this order be also supplied to the Advocates appearing for both the parties.

Call this matter on 8<sup>th</sup> December 2008.

(S.N. Shukla)  
Member(A)

(M.R. Mohanty)  
Vice-Chairman

Dt. 30.10.08

Pl. send copies of this order to the Applicant and all the Respondents.

Free copies of this order be supplied to the Advocates appearing for both the parties.

*W/S not filed*

Copies of order dt 30/10 send to D/Sec. for issuing to applicant, all the respondents and counsel appearing both the parties.

Call 08. D/N-4422 to 4430  
Dt. 19-11-08

W/S not filed.

5.12.08



O.A. 105 of 08

08.12.08

Mr. I. Hussain, learned counsel appearing for the applicant is present. Mr. M.U. Ahmed, learned counsel appearing for the Respondents is on accommodation. Mr. I. Hussain, learned counsel for the Applicant has stated that he has not been able to ascertain the correct addresses of the Ministry of Finance, who are to be made party as Respondent No.1. Written statement has not been filed by the Respondents in this case, despite adjournments. Mr. G. Baishya, learned Sr. Standing Counsel appearing for the Respondents seeks four weeks time on behalf of Mr. M.U. Ahmed, learned Addl. Standing Counsel appearing for the Respondents, to file written statement.

Call this matter on 07.01.2009.

(S.N. Shukla  
Member(A))

lm

07.01.2009

Mr. I. Hussain, learned counsel appearing for the Applicant seeks permission to supply the correct address of the Respondent No.1. He also seeks permission to file required postages to issue notice to Respondent No.1 in the correct address. He is permitted to do so. Registry to issue fresh notice to Respondent No.1 (in the correct address) requiring them to file their reply by 25.02.2009.

Mr. M.U. Ahmed, learned Addl. Standing counsel appearing for the Respondents seeks permission to file written statement in this case by 25.02.2009. Prayer is allowed.

Call this matter on 25.02.2009 awaiting written statement from the Respondents.

No W/S filed

6.1.09

31.7.1'09

22. issue fresh Notice to R-1 in the correct address requiring them to file their reply by 25.2.09.

Notice duly served on R-2

21/1/09  
Hon'ble court dt. 07.1.09  
Issue fresh Notice to R-1 in the correct Address requiring them to file their reply by Regd Adl. Prst  
21/1/09  
25/1/09  
A-22-1-09


0.A.105/08

25.02.2009

None appears for the Applicant.

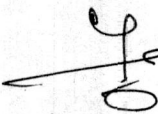
Mr.M.U.Ahmed, learned Addl. Standing counsel undertakes to file written statement in course of the day. He also undertakes to serve the same on the learned counsel appearing for the Applicant in course of the day.

Call this matter on 08.04.2009 awaiting rejoinder, if any, from the Applicant.

  
(M.R. Mohanty)  
Vice- Chairman

In this case written statement has already been filed by the Respondents. To-day, Rejoinder is being filed on behalf of the Applicant.


Call this matter on 29.05.2009 for hearing.

  
(M.R. Mohanty)  
Vice- Chairman


29.05.2009

On the prayer of Mr.I.Hussain, learned counsel for the Applicant (made in presence of Mr.M.U.Ahmed, learned Addl.Standing Counsel representing the Respondents), call this matter on 24.07.2009.


N.D.Dayal)  
Member(A)

  
(M.R. Mohanty)  
Vice-Chairman


Rejoinder filed by the applicant against the W/s filed by the respondents.

  
20.4.09


the case is ready for hearing.

  
28.5.09

the case is ready for hearing.

  
23.7.09

W/s not filed.

  
24.2.09

3.3.09


W/s submitted by the respondents.

copy not served.



08.04.2009

Rejoinder not filed.

  
6.3.09



O.A. NO. 105/2008

24.07.2009

Call this matter on 04.09.2009 for hearing.

(M.K. Chaturvedi)  
Member (A)

(M.R. Mohanty)  
Vice-Chairman

nkm

the case is ready  
for hearing,

3.9.09

04.09.2009

On the prayer of Mr.M.U.Ahmed,  
learned Addl. Standing Counsel for the  
Government of India, call this matter on  
29.10.2009.

(M.K. Chaturvedi)  
Member(A)

(M.R. Mohanty)  
Vice-Chairman

Lm.

the case is ready  
for hearing,

28.10.09.

29.10.2009

Heard Mr.I.Hussain, learned counsel for  
Applicant and Mr.M.U.Ahmed, learned Addl.  
C.G.S.C. for Respondents.

Reserved for orders.

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)

/bb/

26-11-2009.

Order dated

10th Nov./09

10.11.2009

Judgment pronounced in open court.

Sent to the S/section  
for issuing the All  
the Respondents and  
Applicant

vide J. No 12663 &  
12669

dated - 26-11-2009

/pb/

The O.A. is allowed in terms of the order  
passed separately. No costs.

(Madan Kumar Chaturvedi)  
Member (A)

(Mukesh Kumar Gupta)  
Member (J)



CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI:

O.A. No 105 of 2008

Date of Decision : 10.11.2009

Sri Arup Roy

.....

Applicant/s

Mr. I. Hussain

.....

Advocates 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 :

HON'BLE MR. MUKESH KUMAR GUPTA MEMBER (J)  
HON'BLE MR.MADAN KUMAR CHATURVEDI, MEMBER (A)

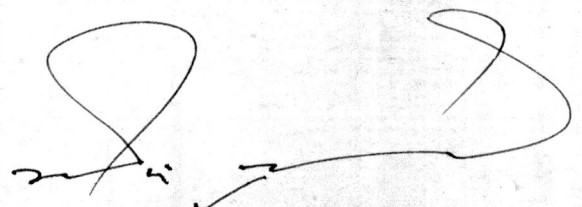
1. Whether reporters of local newspapers may be allowed to see the Judgment ?
2. Whether to be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?

Yes/No

Yes/No

Yes/No

Judgment delivered by

  
MEMBER(J) / MEMBER(A)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI :

O.A. No. 105 of 2008

DATE OF DECISION :      THIS IS THE 10<sup>th</sup> OF NOVEMBER, 2009

HON'BLE MR. MUKESH KUMAR GUPTA, JUDICIAL MEMBER

HON'BLE MR. MADAN KUMAR CHATURVEDI, ADMINISTRATIVE MEMBER

Sri Arup Roy  
Son of Late Ramesh Ch. Roy  
R/o Babupatty Lumding  
P.O. Lumding  
District - Nagaon, Assam.

... Applicant


By Advocate :      Mr. I. Hussasin

-Versus-

1.    The Union of India  
      Through the Secretary  
      Ministry of Finance  
      Government of India  
      New Delhi - 110 001.
2.    The Comptroller and Auditor  
      General of India, 10<sup>th</sup> Bahadur  
      Shah Jafar Marg  
      New Delhi - 110 002.
3.    The Accountant General  
      Nagaland, Kohima - 791001.
4.    The Senior Deputy Accountant  
      General (A & E)  
      Nagaland, Kohima - 791001.
5.    Senior Accounts Officer  
      Office of the Sr. Deputy  
      Accountant General (A & E)  
      Nagaland, Kohima - 791001.
6.    Accounts Officer (Admn.)  
      Office of the Sr. Deputy  
      Accountant General  
      Nagaland, Kohima - 791001.

... Respondents

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






ORDER  
O.A. 105 of 2008

Sri Arup Roy, Section Officer in the Office of Sr. Deputy Accountant General (A&E) Nagaland, Kohima in this O.A. challenges an order dated 22<sup>nd</sup> April 2008 (Annexure – 9) whereby the period from 01.11.2007 to 07.11.2007 has been treated as unauthorized absence without any break in service with a special mention of said aspect in his ACR. He also challenges communication dated 9<sup>th</sup> May, 2008 (Annexure – 11) rejecting his representation stating that his plea was placed at the appropriate level which was not found acceptable. He also seeks direction to treat the aforesaid period as on duty for all intents and purposes as well as to expunge the special mention of his absence in ACR.


2. Fact of the case is that he was initially appointed as Clerk/Typist in the year 1990, promoted to next higher post of Accountant, Sr. Accountant and Section Officer in year 1995, 1998 and 2006 respectively. Respondent No. 4 notified an order showing names of officials on 04.04.2007 for undergoing training at Regional Training Institute Shillong for the year 2007-08 wherein his name was shown at Serial No.8 and he was required to undergo special course on vigilance and Disciplinary Proceedings from 01.11.2007 to 07.11.2007.

3. Since he did not attend said special course training, vide memo dated 7/8 June 2008 he was required to explain why disciplinary proceedings be initiated for not attending aforesaid training without clear information. The same had been replied to stating that he could not attend said training due to "busyness to achieve the assignments as fixed by the respected Accountant General for timely dispatch of GPF statements of 2006-07". Further, he had already submitted a representation dated 05.11.2007 to condone said absence from training.



Another memo dated 21<sup>st</sup> February, 2008 was issued by Sr. Accounts Officer (Admn.) requiring him to submit explanation why he had not informed the authority about his inability to attend said training programme well before the commencement of training course. Said memo was replied on 22<sup>nd</sup> February 2008. Yet another memo dated 28<sup>th</sup> February 2008 was issued seeking his explanation, which too was attended by submitting representation dated 03.03.2008 wherein it was stated that due to attending official business for dispatch of annual GPF statements for 2006-07, as well as attending his ailing wife, he was unable to attend the same. Being not satisfied with said explanation, the impugned memorandum dated 22<sup>nd</sup> April, 2008 had been issued. Review Petition filed on 28<sup>th</sup> April, 2008 was rejected vide communication dated 9<sup>th</sup> May, 2008.

4. Sri I. Hussain, learned counsel appearing for the Applicant strenuously urged that since programme had been issued 6-7 months prior to date of training, he could not remember it and when he recollected about the training schedule, it was too late and therefore he submitted representation dated 05.11.2007 seeking for condoning his absence from training. He had no intention to be absent in training, and his prayer deserved sympathetic consideration. He had 18 years unblemished service record. During said period, he was attending his duty and had marked his presence in Attendance Register (Annexure – 2). There was no reason to mention his alleged absence from training in his ACR which will have an adverse effect and his future prospects may be jeopardized although he has clean service records. The explanation submitted had not been considered and the respondents have failed to appreciate the matter in its true perspective. No enquiry was held before taking extreme step to record unauthorized absence from training in his ACR.






5. Learned counsel emphasized that when Respondents have taken work during 01.11.2007-07.11.2007, said period could not have been treated as unauthorized absence. Mere not attending training during said period can not be termed as "unauthorized absence". There is total non-application mind in passing the impugned orders. His request deserves sympathetic consideration, which has been grossly overlooked.

6. By filing reply it was stated by the Respondents that based on the principles of waiver, estoppel and acquiescence O.A. is liable to be dismissed. The action taken by the respondents is not stigmatic and same were for the sake of public interest. In his explanation submitted he had not mentioned anything about his wife's ailment nor informed the office about his absence from training till 05.11.2007. Only one slot was allowed by the Regional Training Institute, Shillong and said slot was wasted, resulting in loss of resources and time to the office. His explanation was not considered legitimate. Had he submitted information regarding his absence from the said training well in advance, a suitable substitute could have been nominated. No medical certificate had been produced showing the ailments of his wife. He was given sufficient opportunity to explain the reasons for not carrying out office orders and attending the aforesaid training. There is no illegality in action taken. Every kind of leave or absence is noted in ACR. Vide impugned order it was clarified that the said "unauthorized absence" will not be treated as break in service. He had violated and flouted the orders; there was no illegality or arbitrariness in treating the said period as dies non.

7. In the above backdrop Sri M.U. Ahmed, learned Addl. Standing counsel appearing for the Respondents argued that there is no justification to interfere while exercising power of judicial review.



8. We have heard learned counsel for the parties, perused the pleadings and other materials placed on record very minutely.

9. The question arising for consideration is that whether the Respondents can treat the period from 01.11.2007 – 07.11.2007 as unauthorized absence "without any break" in service, particularly when he had attended the office. Admittedly, the Applicant had produce an extract from attendance register for the month of November, 2007 to establish that during said period he had attended the office and marked his attendance. The extract from the Attendance Register for the month of November, 2007 had also been produced at Annexure – 2 to buttress the aforesaid contentions. Said aspects have not been refuted or controverted by placing any cogent material by the Respondents. On the face of it when Applicant had attended office, though not the training, for which he had been deputed, how could it be alleged or even suggested that he was unauthorisely absent during the said period. In our opinion, in the given fact and circumstances, the action of Respondents was totally unjustified in treating the said period as "unauthorized absence".

10. It is undisputed fact that the slot allotted by the Regional Training Institute, Shillong to concerned office to attend training for acquiring specialized training, could not be properly used, but the fact remains that Applicant had attended the office during the period in question on those dates. Mere absence from training could not be treated and concluded that he was unauthorizely absent from work during the period in question. Absence from training certainly exists, but there is no absence from work. On examination of the matter further we found inherent contradiction in Respondent's decision as, on the one hand they conclude that Applicant was unauthorisely absent, but on the other hand said absence would not be treated as break in service, though treated as dies-non.

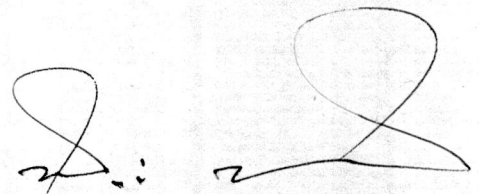


11. For reasons mentioned herein above, we are of the considered view that the Respondent's plea that present O.A. is without any merits cannot be sustained. The entire issue has been dealt with very casually and not in its proper perspective. Order dated 22<sup>nd</sup> April 2008 as well as communication dated 09.05.2008 rejecting his application against the aforesaid decision cannot be sustained in law and the same are accordingly quashed and set aside with all its consequential effects.

Thus O.A. is allowed. No costs.

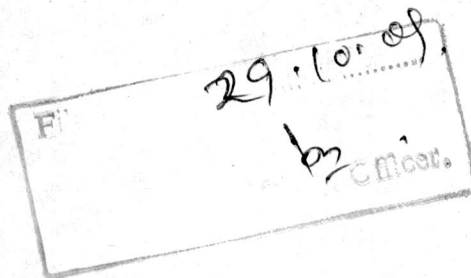


(MADAN KUMAR CHATURVEDI)  
MEMBER (A)



(MUKESH KUMAR GUPTA)  
MEMBER (J)

/PB/



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GAUHATI  
BENCH AT GUWAHATI

ORIGINAL APPLICATION NO.105/2008

Sri Arup Roy Vs. The Union of India & Ors

**Written argument filed on behalf of the applicant:-**

The Applicant herein has approached this Hon'ble Tribunal with a prayer for setting aside and quashing the impugned orders dated 22.4.2008 issued by the respondents holding entire period of training with effect from 01.11.07 to 07.11.07 at Regional Training Institute (R.T.I in short) at Shillong as unauthorized absence and special mention in A.C.R. of the Applicant (vide Annexure No.9 at Page 27), to set aside the impugned order dated 9.5.2008 holding the representation of the Applicant as not acceptable and upholding the earlier order (vide Annexures No.11 at page 30). And further to treat the period of RTI training w.e.f. 01.11.07 to 07.11.2007 as on duty with all benefits as well as to expunge the special mention in the A.C.R. as regard absence from R.T.I. if recorded already.

The applicant while serving as Section Officer in the office of the Senior Deputy Accountant General (A&E), Nagaland, Kohima ~~issued~~ <sup>was issued</sup> an order dated 04.04.2007 enclosing a calendar showing the names by officials and dates for undergoing training at R.T.I. Shillong for 2207-08. As per the calendar the Applicant was to attend training w.e.f. 01.11.07 to 07.11.07 (i.e. more than ~~7~~ months in advance).

The Applicant was extremely busy in his office in September/October, 2007 in attending urgent work and also because of his wife's ailments he could not attend the training programme and was attending his office regularly during the said period. Moreover, the authorities did not relieve the applicant to undergo the training which was obligatory on their part to issue necessary orders in this regard.

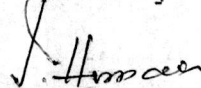
As soon as he recalled about the training programme after 3 days he informed his superior about same on 5.11.07 and prayed for condoning the absence from training but the same was rejected and issued show cause

notices to which he replied in time explaining the reasons as the same was not intentional.

The authorities instead of considering his case favourably issued the aforementioned orders (vide annexure No.9 and 11). Having no alternative, the applicant has preferred the original application before this Hon'ble Court with a prayer for setting aside and quashing the impugned orders and prayed for other reliefs as mentioned above as there was no intention of the Applicant to avoid the training as the same would have of immense help in his service career. On the other hand the authorities also did not inform and relieve the applicant from the office works and passed the impugned orders.

Hence, the applicant prays for the relief sought for (in para 8 Page 14 and 15) and to make the interim order absolute in the interest of justice.

Filed by -

  
Advocate



- 3 JUN 2008

গুৱাহাটী ন্যায্যপীঠ  
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH AT GUWAHATI

(An Application Under Section 19 of the Central  
Administrative Tribunal Act, 1985)

ORIGINAL APPLICATION NO. 105/2008.

Sri Arup Roy ... Applicant.

- Vs.-

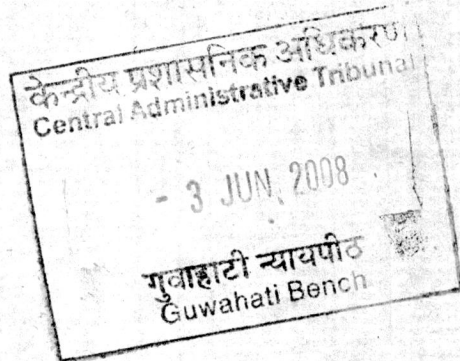
The Union of India & Ors. ... Respondents.

SYNOPSIS OF THE CASE/APPLICATION.

The Applicant was initially appointed as Clerk typist on 9.10.90 and was posted in the office of the Sr. Deputy Accountant General (A & E) Nagaland, Kohima (Respondent No. 4). Thereafter, he was promoted as Accountant, then to Sr. Accountant and again promoted as Section ~~Assistant~~ Officer on 8.9.06 and is serving as such in the same office.

The Respondent No. 4 issued an order dated 04.4.07 enclosing a calender showing names of officials and dates for undergoing training at Regional Training Insititute Shillong for the year 2007-08. As per the calender, the applicant was to attend the training w.e.f. 01.11.07 to 07.11.07 (more than 7 months in advance).

The applicant was extremely busy in his office in Sept./Oct. 2007 in preparation of G.P.F. Accounts and also because of his wife's ailments completely forgot about the date of training and was regularly attending his office. However, he suddenly recalled about the training after 3 days and informed his Superior about the same in writing on 5.11.07 with a prayer condoning the absence from training. But the respondent authorities



: 2 :

inspite of considering his prayer issued notices/orders one after another directing the applicant to explain the reasons for not attending the training, to which the applicant replied in time as directed.

Thereafter, the respondent authorities under signature of the Senior Accounts Officer issued an order dated 22.4.08 observed that, Applicant's prayer for condonation was found "unsatisfactory" and as such the entire period of training at RTI, Shillong be treated as "unauthorised absence" without break in service and special mention in ACR (vide Annexure No.9).

Being aggrieved, the applicant filed another representation dated 28.4.08 with a prayer for condonation and not to treat the period of training as unauthorised absence and special mention in A.C.R. However, his prayer was ~~against~~ rejected vide an order dtd. 9.5.08 issued under the signature of the Accounts Officer (Admn) as not acceptable and upholding the earlier order (vide Annexure No.11).

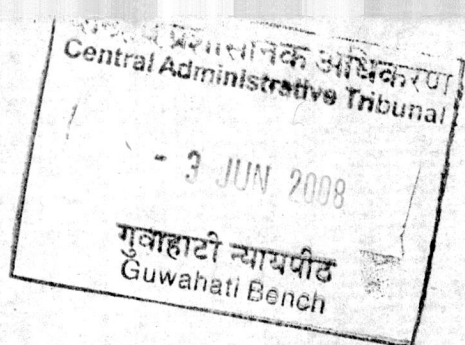
Hence this Application before this Hon'ble Tribunal with a prayer for setting aside and quashing the impugned orders, not to treat the period of training as unauthorised absence as well as not to mention/record about the same in the A.C.R. amongst other ~~per~~ prayers.

Filed by

(IQBAL HUSSAIN)

Advocate.





IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH AT GUWAHATI.

(An Application Under Section 19 of the Central Administrative Tribunal Act, 1985)

ORIGINAL APPLICATION NO. 105/2008.

Sri Arup Roy ... Applicant.

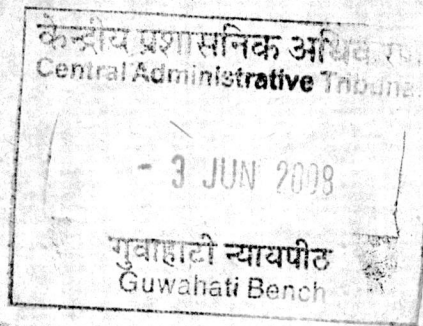
-Vs.-

The Union of India & others .... Respondents.

I N D E X

<u>Sl. No.</u>	<u>Particulars</u>	<u>Page No.</u>
1.	Original Application.	1 to 17
2.	<u>Annexure No. 1.</u> Copy of order dtd. 4.4.07 along- with Calender of training programme.	18 to 19
3.	<u>Annexure No. 2 :</u> Copy of Attendance Register for the month of Nov. 2007.	20
4.	<u>Annexure No. 3 :</u> Copy of Memo <del>of</del> dtd. 7/8 Jan. 2008 issued by the Respondent No.5.	21.
5.	<u>Annexure No. 4 :</u> Reply of the applicant dtd. 16.1.08 to show cause memo.	22
6.	<u>Annexure No. 5 :</u> Copy of Memo dated 21.2.08 issued by the Respondent No.5.	23
7.	<u>Annexure No. 6 :</u> Copy of Second reply dated 22.2.08 of the applicant.	24
8.	<u>Annexure No. 7 :</u> Copy of Memo dated 28.2.01 issued by the Respondent No.5.	25





: 2 :

9. Annexure No. 8 :

Copy of reply dated 3.3.08 of the applicant against show cause notice.

26

10. Annexure No. 9 :

Copy of the impugned order dated 22.4.08 passed by Respondent No.6.

27.

11. Annexure No. 10 :

Copy of the representation dated 28.4.08.

28 to 29

12. Annexure No. 11 :

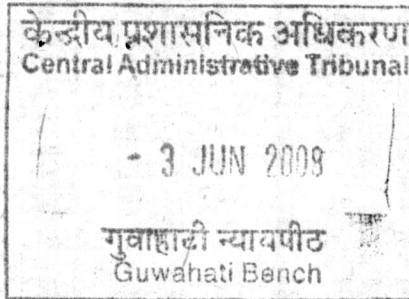
Copy of the impugned order dated 9.5.08 passed by Respondent No.6 rejecting the representation.

30

13. Vakalatnama.

Filed by

*Sobal Hossain*  
Advocate.



*Filed by the Applicant*  
*Arup Roy*  
*Through*  
*Legal Advisor, Adm. Sec.*  
*4.6.08*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH AT GUWAHATI.

( An application Under Section 19 of  
the Central Administrative Tribunal  
Act, 1985 )

(ORIGINAL APPLICATION NO. 105/2008

SRI ARUP ROY ...Applicant

-Vs-

THE UNION OF INDIA & ORS. .. Respondents

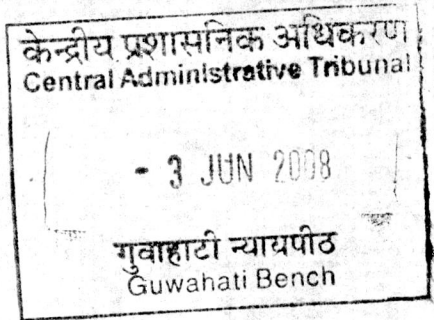
DETAILS OF APPLICANT:

Name of the Applicant : Sri Arup Roy  
Son of Late Ramesh Ch. Roy,  
R/O Babupatty Lumding/  
P.O. Lumding  
District- Nagaon, Assam.

Designation and  
Office : Section Officer,  
Office of the  
Senior Deputy Accountant  
General (A & E) Nagaland  
Kohima.

contd.....



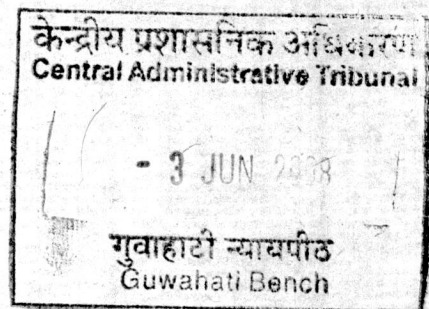


: 2 :

- DETAILS OF RESPONDENTS :
1. The Union of India,  
through the Secretary,  
Ministry of Finance,  
Government of India,  
New Delhi - 110 001.
  2. The Comptroller and Auditor  
General of India, 10th  
Bahadur Shah Jafar Narg,  
New Delhi - 110 024.
  3. The Accountant General,  
Nagaland, Kohima.- 797001.
  4. The Senior Deputy Accountant  
General ( A & E),  
Nagaland, Kohima.- 797001
  5. Senior Accounts Officer,  
Office of the Sr. Deputy  
Accountant General ( A & E )  
Nagaland, Kohima. - 797001
  6. Accounts Officer (Admn)  
Office of the Sr. Deputy  
Accountant General,  
Nagaland, Kohima.- 797001

....3.

Anup Roy



: 3 :

1. PARTICULARS OF THE ORDERS  
AGAINST WHICH THE APPLI-  
CATION IS MADE.

1. Order dtd. 22.4.08  
passed by the Accounts  
Officer(Admn) Office of  
the Sr. Deputy Accountant  
General (A&E), Nagaland,  
Kohima holding entire  
period of training w.e.f.  
01.11.07 to 07.11.07 as  
unauthorised absence and  
special mention in Annual  
Confidential Report (ACR)  
of the applicant.

(Vide Annexure No. 9 )

2. Order dtd. 9.5.08 passed  
by the Accounts officer  
(Admn) affirming the  
earlier order dated 22.4.08  
passed by him after consider-  
ation of the representation  
of the applicant.

(Vide Annexure No. 11 )

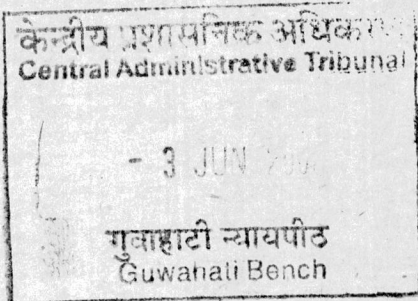
2. JURISDICTION OF THE  
TRIBUNAL

: The Applicant declares that the  
application preferred in with-  
in the jurisdiction of this  
Hon'ble Tribunal.

...4.

Asup Roy





: 4 :

3. LIMITATION : The Applicant declares that the application is filed before the Hon'ble Tribunal in within time limit prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE :

4.1. That the applicant is a Citizen of India being the permanent resident of Lumding, Dist. Nagaon, Assam and is presently serving as Section Officer, in the Office of the Senior Deputy Accountant General, Nagaland, Kohima and as entitled to all the rights, protection and privileges as guaranteed by the Constitution of India and other laws of the Country.

4.2. That the applicant was initially appointed as Clerk Typist (CT) on 9.10.90 and was posted in the office of the Respondent No. 4. Thereafter he was promoted to Accountant in 1995 then to Sr. Accountant in 1998 and promoted as Section Officer on 8.9.2006 in the same office and the continuing as such till date. He got his promotion due to his efficiency, honesty and discipline in official work.

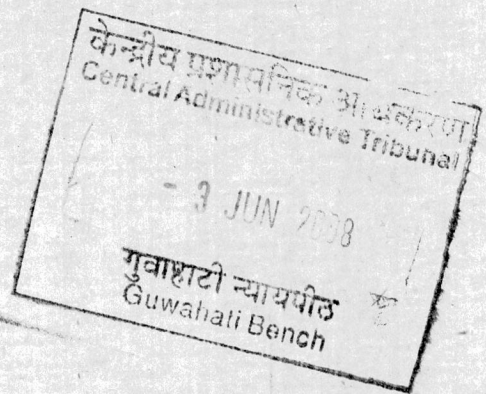
4.3. That, the Respondent No. 4 issued an order of dated 04.04.2007 showing names the Officials and enclosing a calender for undergoing training (General course and EDP) at Regional Training Institute, Shillong for the year, 2007-08.

...5.

Anup Roy



: 5 :



As per the aforesaid list (Appendix-1) the name of the Applicant was mentioned at Sl. No. 8 and he was to undergo Special Course on Vigilance and Disciplinary Proceeding for 6 days w.eff. 01.11.07 to 07.11.07, i.e. after more than 7 months from the date of issue of the Notification.

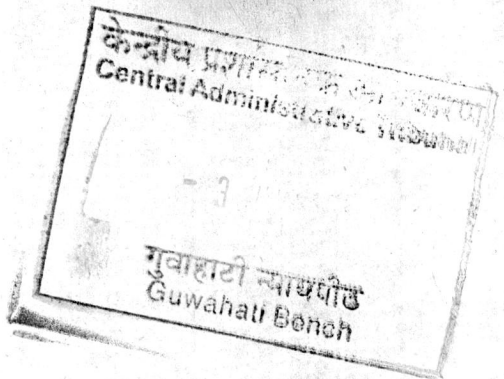
The copy of the order dated 4.4.07 alongwith Calender of Training programme is annexed as Annexure No.1.

4.4. That the Applicant states that he was extremely busy in his office in preparation and despatch of GPF statement etc. for 2006-07 as directed by Respondent No. 3 from middle of October, 2007 onwards and also had to attend his ailing wife who was under treatment at Naga Hospital, Kohima during the aforesaid period. Because of the aforesaid reasons, the applicant could not remember about the training programme at Shillong which was notified more than seven months ago prior to the scheduled date. He was all along attending his office at Kohima during the relevant time i.e. with effect from 01.11.07 to 07.11.07 and there was no further information from the office as regards training. However, on 5.11.07, the applicant recollected about the training schedule and it was already late. As such, he immediately submitted a representation dated 5.11.07 about the same and prayed

.....6.

Asup Roy





for condoning the absence for training. The applicant is annexing herewith the copy of attendance register for the month of November, 2007 as a proof of attending his office at the relevant time when the training was going on.

The copy of Attendance register for the month of Nov. 2007 is annexed as Annexure No.2.

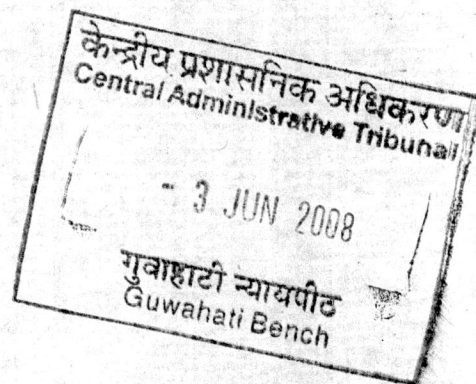
4.5. That the Applicant states that, inspite of submission of representation, the respondent No. 5 (vide DAG order) issued a Memo dtd. 7/8 January, 2008 asking the applicant to reply on or before 11.01.2008 why disciplinary action will not be taken for not attending training w.e.f. 1.11.07 to 7.11.07 at RTI, Shillong without prior information.

The copy of Memo dtd. 7/8 Jan. 2008 issued by the Respondent No. 5 for show cause is annexed as Annexure No. 3.

4.6. That the Applicant states that, as receipt of the aforesaid memo, he submitted his reply on 6.1.08 stating that, as he was very busy in preparation of G.P.F. statement of 2006-07 as per assignment fixed by the Accountant General he could not attend the training programme and in this regard, he had already file representation on 05.11.2007 for condonation for the same.

The...

Asup Ray



: 7 :

The reply of the applicant dtd.  
16.1.08 to show cause Memo is  
annexed as Annexure No. 4.

4.7. That the applicant states that, the Respondent  
No. 5 again issued a Memo dated 21.2.2008 asking him  
to explain on or before 3.3.2008 why he had not informed  
the authority about his inability to attend the training.

The copy of Memo dated 21.2.2008  
issued by the Respondent No.5 is  
annexed as Annexure No.5.

4.8. That the Applicant states that, he again submitted  
his reply on 22.2.2008 reiterating his earlier stand and  
again prayed for condoning the absence from training.

The copy of Second reply dated  
22.2.08 of the applicant is annexed  
as Annexure No. 6.

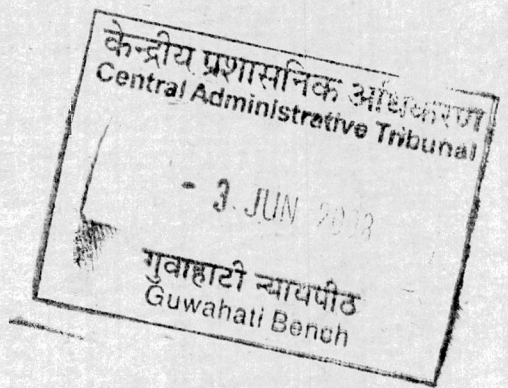
4.9. That the Applicant states that, inspite of receipt  
of his two earlier replies the Respondent No. 5 again  
issued a Memo dated 28.2.08 asking the applicant to  
submit his reply for not intimating earlier about his  
inability to attend training at Shillong and also directed  
him to submit his reply on or before 10.3.2008.

The copy of Memo dtd. 28.2.08  
issued by the respondent No.5 is  
annexed as Annexure No. 7.

4.10. That..

Anup Roy





: 8 :

4.10. That the applicant states that, he again submitted his reply on 3.3.08 in continuation of his earlier replies stating that because of very busy schedule for despatch of G.P.F. statement, also for attending his ailing wife, the date for commencement of training went out of his mind which was fixed more than seven months ahead i.e. April, 2008. As such, he again prayed for condonation for not attending the training programme.

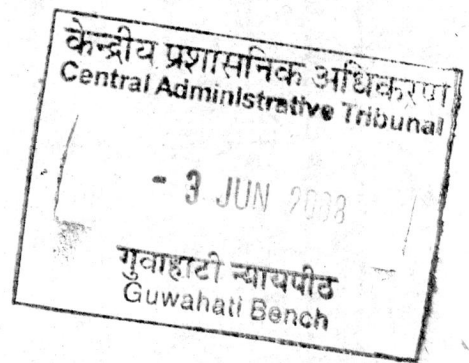
The copy of reply dated 3.03.08 of the applicant against show cause notice is annexed as Annexure No.8.

4.11. That the applicant ~~xxx~~ states that after receipt of his replies, the Respondent No. 6 (Accounts Officer, Admn.) passed an order stating that the reply with a request for condonation was examined and found "unsatisfactory" and as such the entire period of training be treated as unauthorised absence without any break in service including special mention in his Annual Confidential Report (A.C.R). It be stated that, there was no enquiry in to the allegations before passing the impugned orders.

The copy of impugned order dated 22.4.08, passed by Respondent no. 6 is annexed as Annexure No.9.

4.12. That...

Arup Ray



: 9 :

4.12. That the Applicant states that, on receipt of the impugned order, he preferred a petition for review of the order on the grounds that during his service period 18 years, he never committed any lapses, and he could not attend the training due to unavoidable reasons. Moreover, as the Memo issued by the authority fixing the date prior to seven months, he could not remember the date, more so as he was extremely busy in preparation of GPF statement. On the other hand he attended the office regularly during the period of training as evident from the attendance register for Nov. 2007 and he again prayed for condoning the same as in-advertant mistake.

The copy of representation dated 28.4.2008 is annexed as Annexure No. 10.

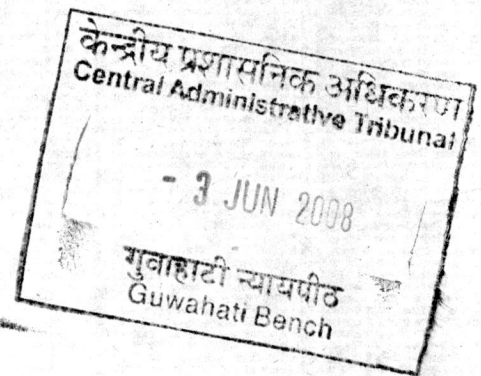
4.13. That, the Applicant states that, the Respondent No.6 passed an order dated 9.5.2008 informing the applicant that, the representation has been considered at appropriate level and it was not found acceptable and further ordered that the earlier order stands.

The copy of impugned order dated 9.5.2008 passed by Respondent No. 6 rejecting the representation is annexed as Annexure No. 11.

5. GROUNDS...

Arup Ray





: 10 :

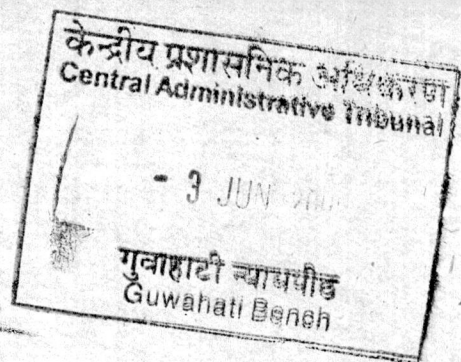
5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1. For that the Applicant has unblemished record of long 18 years of service and by dint of his sincerity and efficiency, he was promoted from Typist Clerk to Section Officer. He also does not any adverse remarks. But due to some personal problem as well as heavy pressure of official work, the date of training went out his memory and as such could not attend the same, As such the respondent authorities ought to have considered the lapses if any considering the applicant's explanation as well as past service record, before passing the impugned orders. As such the same are bad in law, arbitrary and is liable to be set aside and quashed.

5.2. For that, the respondent authorities should also have considered that, the date for training was notified more than seven months in advance and due to human error, the applicant has missed the date which was unintentional on his part. In fact the applicant was very keen to attend the training programme as the same would have increased his knowledge and also could have been a plus point in his service career. The respondent authorities ought to have considered the aforesaid aspects of the matter before passing the impugned order.

5.3. For that, the respondents have failed to consider that, the applicant was attending his duties and marked present in the attendance register during the relevant period...

Anup Ray



11 :

period of training. But inspite of the said fact, the Respondent authorities passed the impugned order to treat the aforesaid period as "unauthorised absence". The action of the authorities is not at all justified and is illegal and arbitrary and as such is liable to be set aside and quashed.

5.4. For that, the respondent authorities also passed an order to mention in the Annual Confidential Report (A.C.R) about the matter. Recording in A.C.R. will have adverse effect and the applicant's future prospects may be jeopardised although he has clean A.C.R. through out his service career. It be stated that, the remark has not yet been entered in his service book but is likely to be entered in near future. As the matter is not of very serious one with grave consequences this Hon'ble Tribunal may be pleased to pass an order expunge the remark in the service book if recorded.

5.5. For that, the respondent authorities ought to have considered the explanation of the applicant and his prayer for condoning the absence from training period and ought not have passed the impugned orders on the fact and circumstances of the case. But the respondent have failed to appreciate the matter in true perspective and as such the same are liable to be set aside and quashed.

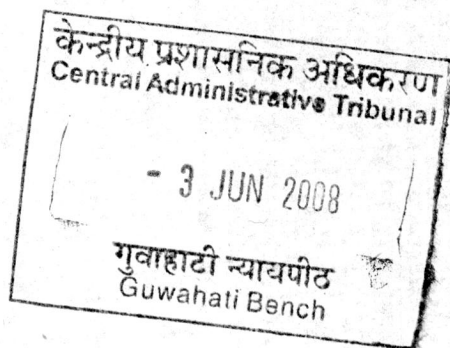
5.6. For that, the respondent authorities could have enquired in to the matter as per rule but no such enquiry was held except issuing the memos for filing explanation.

~~xxxxxx~~

If.....

Amr Roy





: 12 :

If itself ~~r~~ violates the established procedure ~~in~~ force and violation of C.C.S. (C.C.A) Rules and as well principle of Natural Justice, equity, good conscience and administrative fairness.

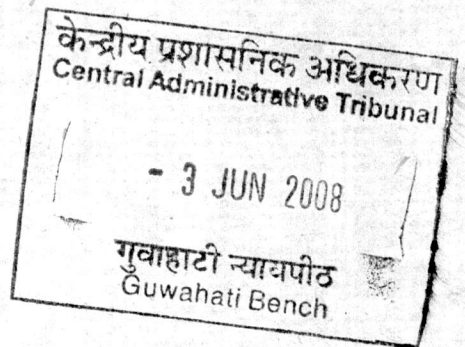
5.7. For that the Applicant submits that for such a petty offence/mistake due to human error the punishment imposed is very serious and highly disproportionate to the gravity of the offence if at all the same is considered to be so. Hence the impugned orders are without any legal, equitable and moral justification and as such the same are liable to be set aside and quashed.

5.8. For that the applicant submits that there are in-stances in the office of A.G., Nagaland in the past in which officers failed to attend training but they have not been dealt in such curial manner, as has been done in the case of the applicant. The impugned action of the Respondents upon the applicant are also discriminatory and harass. Hence the impugned orders are liable to be set aside and quashed.

5.9. For that the applicant submits that the impugned orders have been passed imposing very serious and multiple punishment for a single and petty offence affecting the service career of the applicant. The period of seven days of training has been treated as unauthorised absence although he was regularly attending the office of the A. G., Nagaland for the period of 01.11.07 to 07.11.07.

The...

Anup Roy



The respondent authorities can not pass order treating him unauthorised absent when they have taken his full service for the said period. On the otherhand, special mention in the A.C.RR. will have serious consequence in his service career. The respondent authorities ought to have conducted a full fledged enquiry before imposing such serious punishment. Hence the impugned order are bad and illegal and liable to be set aside and quashed.

5.10. For that the applicant submits that considering his explanation, the fact of human error and unblemished past services the offence in question is liable to be condoned/exonerated in the interest of justice.

6. DETAILS OF REMEDIES EXHAUSTED :

That the applicant filed a representation against the impugned order dated 28.4.2008 with a prayer for condonation as well as for natural justice but the same was rejected by the appropriate authority vide an order dated 09.05.2008.

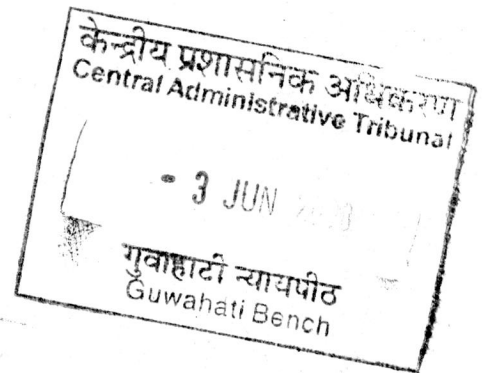
7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY COURT OF LAW :

That the Applicant states that he has not filed any application, petition etc. in any Court of law against the aforesaid orders which are challenged in this Hon'ble Tribunal.

8. RELIEF.....

*Anup Roy*





: 14 :

8. RELIEF SOUGHT FOR :

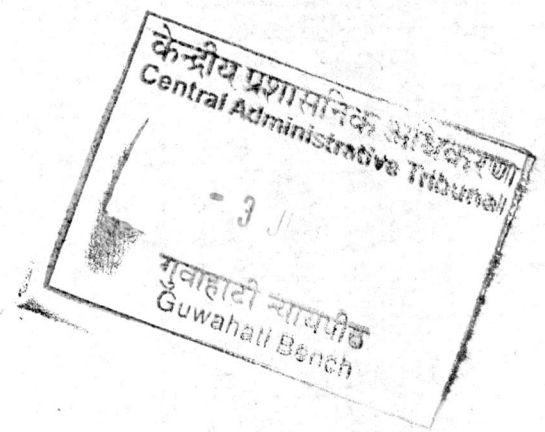
Under the facts and circumstances of the case, the applicant prays the Your Lordship would be pleased to admit the application, issue notice to the Respondents to show cause, as to why the relief sought for by the applicant shall not be granted, call for the records of the case and on perusal of the same and after hearing the parties, Your Lordship may be pleased to grant following relief -

1) To set aside and quash the impugned order dated 22.4.08 issued under the signature of the Accounts Officer (Admn) (Respondent No.5) holding the entire period of RTI training (w.e. f. 01.11.07 to 07.11.07) as unauthorised absence and spacial mention in Annual Confidential Report (A.C.R) of the Applicant (Vide Annexure No. 9) ;

2) to set aside and quash the impugned order 09.5.08 issued under signature of Accounts Officer (Admn.) (Respondent No. 6) holding the representation submitted by the applicant as not acceptable and upholding the earlier order (vide Annexure No.11) ;

3) to.....

*Arup Roy*



: 15 :

- 3) to treat the period of RTI training w.e.f. 01.11.07 to 07.11.07 as on duty for all intention and purpose of service ~~career~~ and benefits on which dates, the applicant was marked present in the attendance register of the Office of A.G., Nagaland;
- 4) to expunge the Special mention in the A.C.R. as regard absence from R.T.I. training.
- 5) If recorded to grant any other relief as the applicant may be entitled to .

9. INTERIM ORDER PRAYED FOR :-

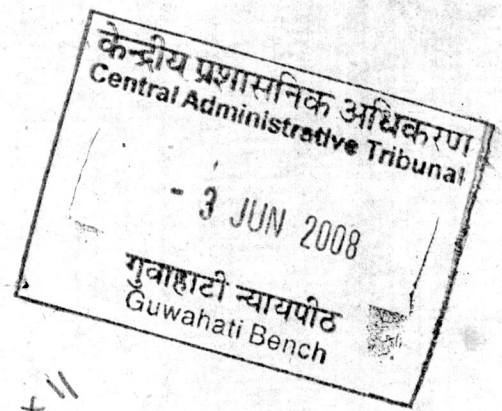
That during pendency of the application the applicant prays for interim order/orders as follows =

- 1) To stay the ~~operation~~ of impugned order dated 22.4.08 issued under the Signature of the Accounts Officer (Admn) (Respondent No.5) holding the entire period of RTI training (with effect from 01.11.07 to 07.11.07) as unauthorised absence and special mention in Annual Confidential Report (A.C.R) of the Applicant ( vide Annexure No. 9 ) ;

2. to...

*Arup Ray*





: 16 :

Annex II

2) To stay the operation of the impugned order dated 9.5.08 issued under signature of Accounts Officer (Admn.) (Respondent No. 6) holding the representation submitted by the Applicant as not acceptable and upholding the earlier order (vide Annexure No. 11) ;

3) not to treat the period of RTI training w.e.f. 01.11.07 to 07.11.07 as unauthorised absence and not to record/mention about the same in the A.C.R. of the applicant.

10. PARTICULARS OF I.P.O.

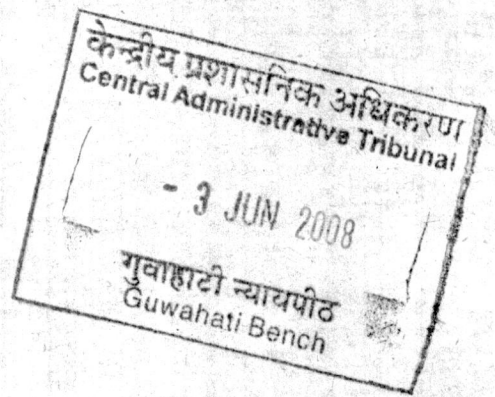
I. P. O. No. 396 344281 Dated 1.6.08  
issued by G.P.O., Guwahati for Rs. 70.00.

11. LIST OF ENCLOSERS :

As per Index.

VERIFICATION....

Anup Ray



: 17 :

VERIFICATION

I, Sri Arup Roy, aged about 41 years, son of Late Ramesh Chandra Roy, a resident of Babupatty, Lumding, P.S. Lumding, District-Nagaon, Assam, presently serving as Section Officer in the Office of the Senior Deputy Accountant General (A & E), Nagaland, Kohima, Nagaland, do hereby verify that the contents in paragraph 1,2,3, 4, 6, 7, 10, & 11 are true to my personal knowledge and paragraph 5,8 and 9 are believed to be true as legal advice, and I have not suppressed any material facts.

Date : 17th May, 2008

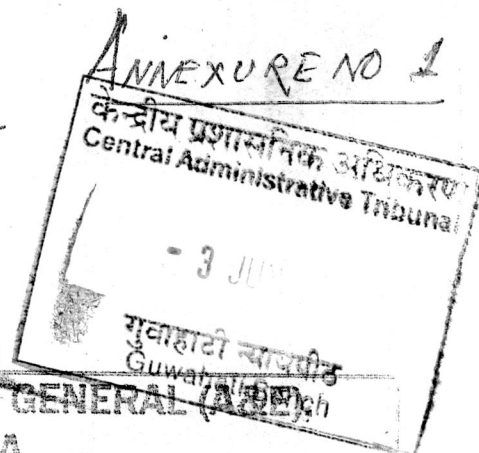
Place: Guwahati.

*Arup Roy*

Signature of the Applicant



-18-



OFFICE OF THE SR. DY. ACCOUNTANT GENERAL (A&E)  
NAGALAND, KOHIMA.

No. Admn/A&E/Order No. 3

Dated : 04.04.2007

The Officers /Staff listed in the Appendix- I and II have been nominated for training (General Course) and EDP Course ) at Regional Training Institute, Shillong for the year 2007-08.

Participants are directed to attend the training programme without fail as per the enclosed Appendix. Except under extremely emergent circumstances, no applications for exemption from attending the training shall be entertained.

Further the participants are directed to report Admn (A&E), Section immediately after returning from training without fail.

Encls : - As stated above.

Sd/-  
Dy. Accountant General (A&E)

Memo No. Admn/A&E/2-6/2004-05/Vol-II/15-21

Dated : 04.04.2007

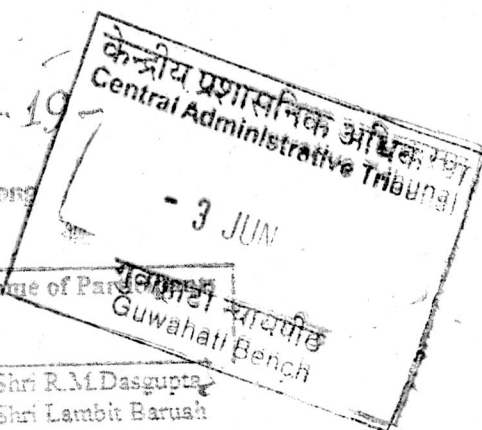
Copy to : -

- 1) The Principal Director, Regional Training Institute, Shillong, Lachatelette Complex, Laitumukhrah, Shillong- 793003 with reference to your D.O. letter No. RTI/ACM-18/2007-08/672 dated 15-03-2007.
- 2) All nominated Officers/ Staff concerned.
- 3) Advance Table

Certified to be  
true Copy

Advocate

**Calendar of Training Programme 2007-2008 (General Course) at R.T.I. Shillong**  
Appendix-I



Sl. No	Programme Title	Duration (days)	Period	Slot	Name of Participants
1	Special Course on Preparation of Finance Accounts & Appropriation Accounts and Certification Standards of Finance & Appropriation Accounts (Participants: SOs to SAOs)	6	03-05-07 to 09-05-07	2	1. Shri R.M. Dasgupta 2. Shri Lambit Baruah
2	Maintenance of Broadsheets, Different types of Suspense Accounts, Debts, Deposits & Remittance heads (Participants: C/Is to Sr. Accountants)	3	11-06-07 to 13-06-07	3	1. Shri Swapan Paul 2. Shri Uttam Choudhury 3. Shri A. Dominic
3	Special Course on Inspection of Treasuries (Participants: SOs to SAOs)	4	02-07-07 to 05-07-07	2	1. Shri Joseph K.A. 2. Shri Ashim Dey
4	Special Course on Preparation of Finance Accounts & Appropriation Accounts and Certification Standards of Finance & Appropriation Accounts (Participants: Auditors/Sr. Auditors/Accts/Sr. Accts)	6	16-07-07 to 21-07-07	2	1. Shri Soumitra Roy 2. Swapan Paul
5	Special Course on Human Resource Development, Organizational Behaviour, Leadership and Motivation (Participants: SOs to SAOs)	6	20-08-07 to 25-08-07	1	Shri Akum Chaba
6	Special Course on Government Accounts-the Process Flow, VLC & Management Issues (Participants: SOs to SAOs)	6	17-09-07 to 22-09-07	1	Shri K. Sani
7	Special Course on Common Administrative Issues, Reservation Roster, Preparation & Conduct of DPC Meetings and Writing of ACR (Participants: SOs to SAOs)	6	08-10-07 to 13-10-07	2	1. Shri Joseph K.A. 2. Shri A.K. Das
8	Special Course on Vigilance and Disciplinary Proceedings (Participants: SOs to SAOs)	6	01-11-07 to 07-11-07	1	Shri Arup Roy
9	Induction Course for newly promoted AOs (Audit & Accounts)	8	11-12-07 to 19-12-07	1	Shri J. Goswami
10	Induction Course for newly promoted Section Officers/SOGE Passed officials awaiting promotions (Audit & Accounts)	8	07-01-08 to 15-01-08	2	Nomination to be made after declaration of SOGE results
11	Special Course on Maintenance of GPF Accounts, Disposal of Fund, GAD, Pension case and Complaint cases (Participants: Auditors/Sr. Auditors/Accts/Sr. Accts)	6	17-01-08 to 23-01-08	2	1. Shri Ajay Dutta 2. Shri S.L. Shangne
12	Special Course on Training of Trainers (Participants: SOs to SAOs)	8	12-03-08 to 20-03-08	1	Shri S.D. Choudhury
13	Special Course on Gender Sensitisation and Role of Audit (Participants: SOs to SAOs)	3	24-03-08 to 26-03-08	1	Shri R. Adhikari

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**Advocate**



# Attendance Register

for the month of

Nov. 2007

- Annex No 2

ATTEN

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22
1	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
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6	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
7	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
8	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
9	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
10	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
11	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
12	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
13	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
14	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
15	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
16	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
17	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
18	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
19	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
20	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
21	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
22	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

DANCE										Actual No. day Worked	Leave	Total No. of days Salary is due	Rate of pay	Payable Basic Salary	Allowance	Gross Amt. Payable	Provident Fund	Advance Deduction		Net Amt. Payable		Signature of employees	
23	24	25	26	27	28	29	30	31										OB	CL	CL	CL	CL	CL
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓									7	2 1/2	2	6 1/2	2	
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓									5	2	2	2	3	2
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓									3 1/2	2	0	0	3 1/2	2
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓									7	2 1/2	0	5	2	
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓									2	2	0	0	0	2
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓									6	1 1/2	0	5 1/2	1	
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓									2	1	0	0	2	1
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓									2	1	0	0	2	1

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Advocate

ARUP ROY

Gauhati Bench

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Annexure No. 3

**OFFICE OF THE SR. DY. ACCOUNTANT GENERAL (A&E)  
NAGALAND, KOHIMA**

**Memo**

No. Admn/A&E/2-6/04-05/Vol-II/Training/1437 Dated:-Monday, January 07, 2008  
Tues, Jan 08, 08

Shri Arup Roy, SO, who was nominated for the training 'Special Course on Vigilance and Disciplinary Proceedings' and which was held w.e.f. 01/11/07 to 07/11/07 at RTI, Shillong, didn't attend the said training without the prior information to the authority, and as such he is asked hereby to reply to the authority why a disciplinary action may not be taken against him (Shri Arup Roy, SO).

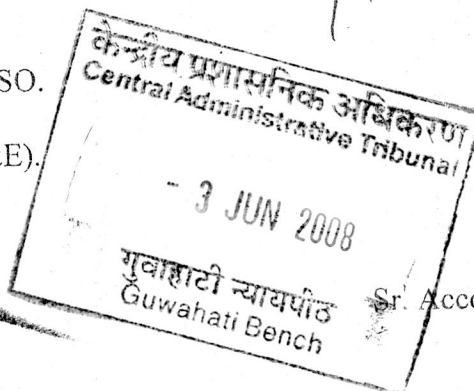
The reply should be submitted to the undersigned on or before 11/01/08.

(Authority: DAG's order at p/34n in file No. Admn/A&E/2-6/04-05/Vol-II/Training)

Sr. Accounts Officer (Admn)

Memo No. Admn/A&E/2-6/04-05/Vol-II/Training/1437 Dated:-January 7, 2008  
Copy to:- S, L, W

- ✓ 1. Shri Arup Roy, SO.
2. Personal File.
3. PA to DAG(A&E).



Sr. Accounts Officer (Admn)

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**Advocate**

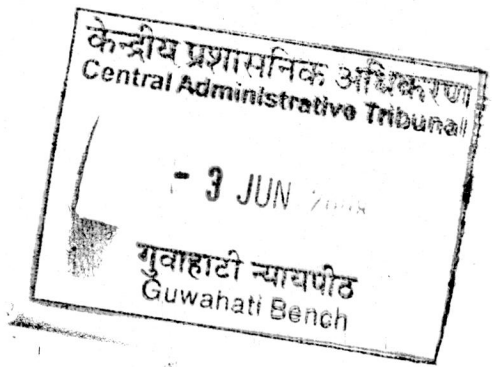


-22-

Annexure no. 4

To

The Sr.Accounts Officer,  
Administration Section (A&E),



Sub: Reply of Memo

Sir,

In inviting a reference to memo No.Admn/A&E/2-6/04-05/Vol-II/Trainging/1437,dtd.08.01.08, I am to state that I was unable to attend the training programme at RTI, Shillong w.e.f., 01.11.2007 to 07.11.2007 due to busyness to achieve the assignments as fixed by the respected Accountant General for timely dispatched of GPF statements of 2006-07 However, in this context I have already given a representation to Accountant General on 05.11.2007 for condo nation.

In view of the above fact, I am regret and request to the authority for condo nation at your end.

Thanking you in anticipation.

Yours faithfully

(Shri Arup Roy)

*Arup Roy*  
46/11/08

Enclo: Representation.

*Received*  
*12/1/08*

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*J. Hossain*

Advocate

- 23 -

Annexure no. 5

**OFFICE OF THE SR. DY. ACCOUNTANT GENERAL (A&E)  
NAGALAND, KOHIMA**

**Memo (Reminder)**

No. Admn/A&E/Memo No. 164

Dated:-Thursday, February 21, 2008

Shri Arup Roy, SO, is hereby asked to explain why he had not informed the authority about his inability to attend the said training programme before the commencement of the training course (vide memo No. Admn/A&E/2-6/04-05/Vol-II/Training/1438 dated 08/01/07).

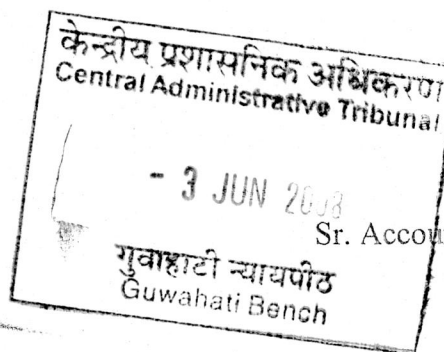
The reply should be submitted to the undersigned on or before **03/03/08**.

(Authority: DAG's order at p/37n in file No. Admn/A&E/2-6/04-05/Vol-II/Training.)

Sr. Accounts Officer (Admn)

Memo No. Admn/A&E/2-6/04-05/Vol-II/Training/1425 Dated:-February 21, 2008  
Copy to:-

1. Shri Arup Roy, SO.
2. Personal File.
3. PA to DAG(A&E).



Sr. Accounts Officer (Admn)

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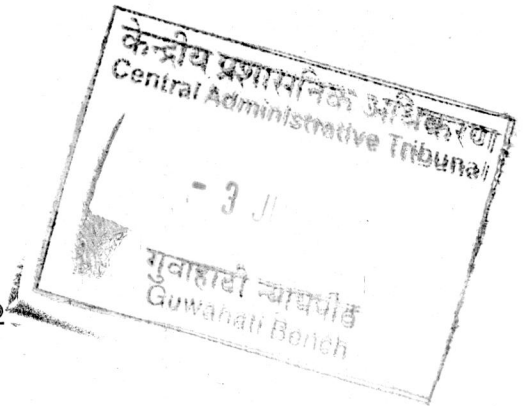
Annexure No. 6

Second Reply

To

The Sr.Accounts Officer,  
Administration (A&E) Section.

Sub: Reply of Memo



Sir,

In inviting a reference to memo(reminder)No.Admn/A&E/164,dtd.21.02.2008, I am to state that I was unable to attend the training programme at RTI,Shillong due to busyness to achieve the targets as fixed by the Accountant General in a sudden meeting. However, in this context I have already given a representation stating of my inability to attend the programme to the Accountant General as well as reply of memo No.Admn/A&E/2-6/4-5/Vol-II/Training/1437,dtd.8.1.2008 on 16.01.008 for condonation but the impunity not yet come out. Keeping the fact, the purported reminder of memo is beyond my comprehension after a elapse of long periods.

In view of above fact, I am regret and request to the authority for con donation of the absence in the training and ensure that I will not repeat such type of absence in future.

Thanking you in anticipation.

Encl: As stated above

Yours faithfully,

*Arup Roy*

(Arup Roy)  
Section Officer

22/02/08

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**Advocate**

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Annexure No. 7

**OFFICE OF THE SR. DY. ACCOUNTANT GENERAL (A&E)  
NAGALAND, KOHIMA**

**Memo (Reminder)**

No. Admn/A&E/Memo No. 166

Dated:-Thursday, February 28, 2008

Shri Arup Roy, SO, is hereby asked to reply the Memo Nos. Admn/A&E/2-6/04-05/Vol-II/Training/1438 dated 08/01/07 and Admn/A&E/2-6/04-05/Vol-II/Training/1626 dated 21/02/2008) to the point i.e., why he had not intimated about his inability to attend the training at RTI, Shillong to the Administration before the commencement of the training.

The reply should be submitted to the undersigned on or before 10/03/08.

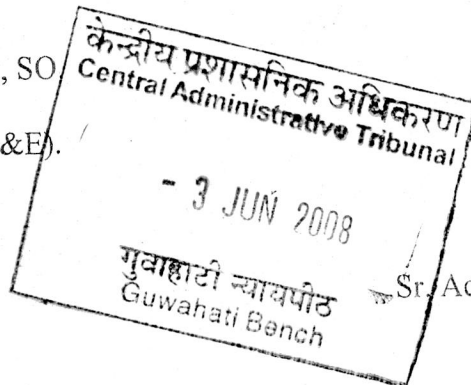
(Authority: DAG's order at p/38n in file No. Admn/A&E/2-6/04-05/Vol-II/Training.)

Sd/-

Sr. Accounts Officer (Admn)

Memo No. Admn/A&E/2-6/04-05/Vol-II/Training/1635-37 Dated:-February 28, 2008.  
Copy to:-

1. Shri Arup Roy, SO
2. Personal File.
3. PA to DAG(A&E).



Sr. Accounts Officer (Admn)

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Annexure No. 8

To

The Deputy Accountant General  
Nagaland, Kohima.

Sub: Prayer for condonation for my inability to attend the RTI Training Programme at Shillong.

Sir,

I am to invite a reference to this office memos as stated below:

1. No.Admn/A&E/2-6/04-06/Vol-II/Training/1438,dtd.8.1.2008
2. No.Admn/A&E/Memo No./1625,dtd.21.2.2008
3. No.Admn/A&E/Memo No.1635, dtd.28.02.2008

In this context I have the honour to inform you that I have already submitted my replies to the memo No 1 and 2 (*enclosed*) as above praying for condonation of my inability to attend the RTI, Shillong w.e.f., 1.11.2007 to 7.11.2008 due to unavoidable circumstances.

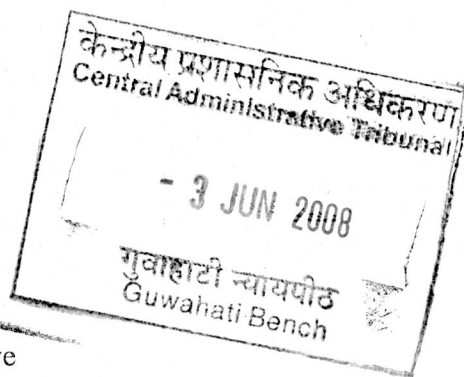
Respected Sir, in this connection I would like to bring to your kind notice that due to my extreme official business for dispatched of annual GPF statements for 2006-07, as well as attending my ailing wife at home who fell sick during that period, the date of commencement of the training, which was intimated to me only in the month of April 2007 i.e., 7 months before commencement of the training, went out of my mind.

That Sir, I have submitted my representation to the authority as soon as the matter reached to my knowledge, for kind condonation.

That Sir, I therefore once again regret for my inabilities to attend the said training programme under the circumstances as stated above and pray to your good self to condone the same to enable me to devote my duties with more sincerity in future.

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true Copy

Advocate

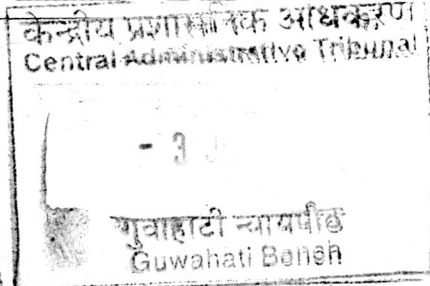


Encl: As stated above

Recd  
14/6/08  
3.2.08

Yours faithfully,

Arup Roy  
(Arup Roy)  
Section Officer  
(03/03/08)



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Annexure no. 9

OFFICE OF THE SR. DY. ACCOUNTANT GENERAL (A&E)  
NAGALAND, KOHIMA

Admn/A&E/Order No. 07

Date 22.04.08

Shri Arup Roy, Section Officer, who had been nominated for training at RTI, Shillong on "Special Course on Vigilance and Disciplinary Proceedings" from 01/11/07 to 07/11/07 has failed to attend the said training without any prior information in contravention of this office order. Accordingly, he was asked to explain about his inability to attend the training.

In response, the officer has replied the memo(s) with the request for condonation. However, after examined, his reply is found "unsatisfactory". As such, the entire period of his RTI training shall be treated as unauthorized absence without any break in service. Moreover, there should be a special mention in his ACR in this regard.

(Authority:- AG's order at p/43n in file no. Admn/A&E/2-6/04-05/Vol-II/Training dtd. 12/03/08)

Accounts Officer (Admn)

Memo No. Admn/A&E/2-6/04-05/Vol-II/Training/124 Date:-April 22, 2008

Copy for information and necessary action:-

1. The Sr. PS to AG.
2. The PA to DAG (Au).
3. The PA to Sr. DAG (A&E).
4. The AO/ PF Group.
5. Shri Arup Roy, SO.
6. The Service Book Table.

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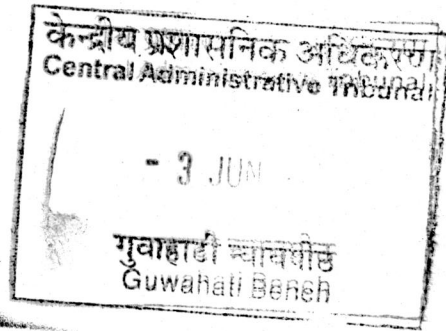


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Annexure no. 10

To

The Accounts Officer,  
Admn. Section.



**Sub: Prayer for condo nation as well as natural justice.**

Sir,

In inviting a reference to Admn. Order No. A&E/Order/07, dtd. 22.04.2008, I beg to lay down following few lines for kind condo nation as well as for natural justice:

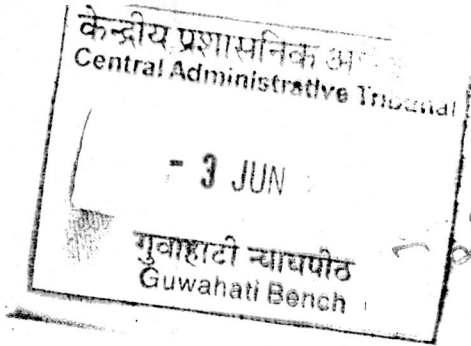
That Sir, I am unable to attend the training programme at RTI Shillong w.e.f., 1.11.2007 to 7.11.2007 due to some unavoidable circumstances, the specific reasons has already been narrated in my last four replies but the authority is reluctant to consider on the contrary to stand about the matter. In this connection, I would like to state that during my 18 years regular service never committed such lapses.

Secondly: the Admn (A&E) section has informed the training programme 7 months ahead of the programme which is went out of my mind may be considered as human error. Eventhough, the Admn. Section had also failed to remind me before the training programme.

.Thirdly: the authority has consider unauthorized absence for the said period but that specific period I was regularly attend the office, having the documentary proof also. However, the authority has considered my service w.e.f., 1.11.2007 to 7.11.2007 as satisfactory in one hand and unauthorized absence in other hand. So, I request to my benign authority that to clarify me under what circumstances and under what rule my valuable service is treated as dies non and intimated to me within 7 days from the date of receipt of this representation to avoid any litigation in the matter. Otherwise, which may compelled me to consult my legal advisor.

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Advocate



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Fourthly: I am to request you to clarify that why double penalty is imposed in my case for a simple human mistake which is not in order. The veracity of the case is beyond of my comprehension.

In view of above fact, I am request you for further enquire about the matter and condone of the said period.

Thank you in anticipation.

Yours faithfully,

(Arup Roy)

Copy to: The Secretary, Group 'B' Association, O/O the Sr.DAG (A&E), Nagaland for information and necessary action Please.

Arup Roy

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Annexure No 11,

**OFFICE OF THE SR. DY. ACCOUNTANT GENERAL (A&E)  
NAGALAND, KOHIMA**

Admn/A&E/Order No. 18  
Date Friday, May 09, 2008

In response to his representation dated 28/04/08, Shri Arup Roy, SO, is informed that the representation has been considered at the appropriate level and it was not found acceptable.

Hence, the order issued earlier stand.

(Authority:- AG's order at p/50N in file no. Admn/A&E/2-6/04-05/Vol-II/Training dtd. 30/04/08)

Accounts Officer (Admn)

Memo No. Admn/A&E/2-6/04-05/Vol-II/Training/257  
Copy for information and necessary action:-

Date:-Friday, May 09, 2008

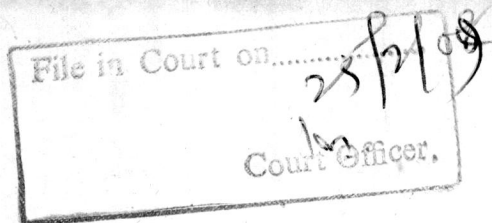
1. Shri Arup Roy, SO.
2. Service Book and Personal File.
3. The PA to Sr. DAG (A&E).
4. The PS to AG.

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Advocate

Accounts Officer (Admn)





IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Motin Ud-Din Ahmed  
M.A., B.Sc., LL.B.  
Addl. Central Govt. Standing Counsel  
Guwahati Bench (CAT)

IN THE MATTER OF :

Original Application. NO.105/2008

Shri Arup Roy

.....Applicant

- Versus -

Union of India & Ors.

.....Respondents

AND -

IN THE MATTER OF :

Written statement submitted by the Respondents No. 116

WRITTEN STATEMENT

The humble answering respondents  
submit their written statement as  
follows :

(a) That I Satish Kr. Gang  
S/o Late Moti Lal Gang

and Respondents No. 116 in the above case and I have gone through a copy of the application served on me and have understood the contents thereof. Save and except whatever is specifically admitted in the written statement, the contentions and statements made in the application may be deemed to have been denied. I am competent and authorized to file the statement on behalf of all the respondents.

(b) The application is filed unjust and unsustainable both on facts and in law.

Satish  
Deputy Accountant General  
Kohima - 797001  
Nagaland

25 FEB 2009

गुवाहाटी न्यायपीठ

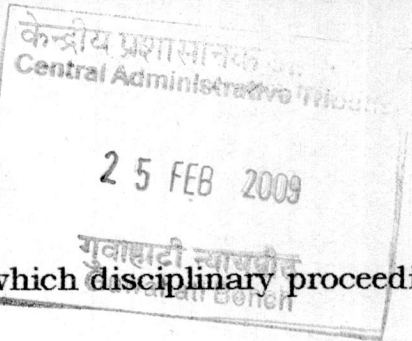
(c) That the application is also hit by the principles of waiver estoppel and acquiescence and liable to be dismissed.

(d) That any action taken by the respondents was not stigmatic and some were for the sake of public interest and it cannot be said that the decision taken by the Respondents, against the applicant had suffered from vice of illegality.

2. That with regard to the statements made in paragraphs 1 of the Application, the answering Respondents beg to state that this office has issued Admn/A&E/Order No.07 dated 22.04.2008 and communicated to the Applicant about his representation dated 28.04.2008 vide this office Admn/A&E/Order No.18 dated 09.05.2008.

3. That with regard to the statements made in paragraphs 2, 3 and 4.1, 4.2, 4.3 and 6 to 11 of the Application, the answering Respondents beg to state that they do not admit anything which is beyond the record and based on legal foundation and as such the applicants are put to strict proof thereof.

4. That with regard to the statements made in paragraphs 4.4 of the Application, the answering Respondents beg to state that to the applicant was holding the post of Section Officer and the work mentioned by him is his regular and normal duty. The applicant has neither mentioned anything about his wife's treatment in his representation submitted on 05.11.2007 (P/438c) nor informed the office till then. The Regional Training Institute, Shillong had allotted only one slot to this office for the above mentioned training and due to the negligence of the officer who is a Section officer, the slot allocated was wasted resulting loss of resources and time to the office. Hence the allegation made by him is not legitimate. The official's attendance in this office during the



period is against the official order for which disciplinary proceedings can be initiated against him.

5. That with regard to the statements made in paragraph 4.5 of the Application, the answering Respondents beg to state that the applicant had submitted a representation on 05.11.07 i.e. after the commencement of the training. Being a responsible officer holding the post of SO, the excuse stated by the officer is not convincing. The representation should have been submitted prior to the commencement of the training so that a suitable substitute could be nominated. Hence the memo was served.

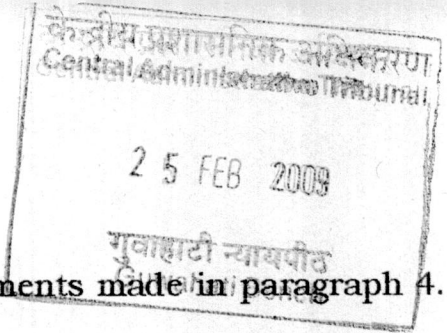
6. That with regard to the statements made in paragraph 4.6 of the Application, the answering Respondents beg to state that this time also he did not clarify the query made by the authority that why he had not informed the authority before the commencement of the training programme.

7. That with regard to the statements made in paragraph 4.7 of the Application, the answering Respondents beg to state that the office has issued him memo again on the ground that the earlier reply was not to the point 'why he had not informed the authority before the commencement of the training.'

8. That with regard to the statements made in paragraph 4.8 & 4.9 of the Application, the answering Respondents beg to state that the same is correct. This time also the applicant has not given a convincing reply to the memo.

10. That with regard to the statements made in paragraph 4.10 of the Application, the answering Respondents beg to state that no medical certificate has been produced showing the ailments of his wife on time. Further, derelection of duty is committed by the official.





11. That with regard to the statements made in paragraph 4.11 of the Application, the answering Respondents beg to state that the applicant was given opportunity to explain the reasons for not carrying out office orders as stated. The reply was not satisfactory as he did not clarify why he had not intimated this office about his inability to attend the training before the commencement of the training.

12. That with regard to the statements made in paragraph 4.12 of the Application, the answering Respondents beg to state that the nomination is made as per guidelines of RTI, Shillong & as Headquarters office. The nomination has to be prepared for a whole year at the beginning of the year. The applicant is not the only person who was nominated and informed 07 months ahead. The accusation by the applicant violating of the order of the higher authority in which he had been ordered to attend RTI, Shillong for the training.

13. That with regard to the statements made in paragraph 4.13 of the Application, the answering Respondents beg to state that the same is correct. The ground for condonation of the application was not acceptable. Therefore, no condonation was allowed.

14. That with regard to the statements made in paragraph 5.1 of the Application, the answering Respondents beg to state that the order is based on Rule 62, P&T Manual, Vol-III and Para 6, page No. 19 of Swamy's CCS (CCA) Rules, that the period on which he attended the office instead of RTI, Shillong as he was given order to attend the training by the authority, the entire period of this will be treated as unauthorized absence.

15. That with regard to the statements made in paragraph 5.2 of the Application, the answering Respondents beg to state that the order

126  
Deputy Accountant General  
Kohima-797001  
Naga and : Kohima-797001

was issued as directed by RTI, Shillong. The ground furnished by Shri Arup Roy, the applicant holding the post of S.O is not acceptable.

16. That with regard to the statements made in paragraph 5.3 & 5.9 of the Application, the answering Respondents beg to state that the order is legal. The applicant was directed to attend the training at RTI, Shillong. Instead he had attended the office (Sr. DAG (A&E) during the training period. Hence the officer has violated official order for which action can be taken against the officer.

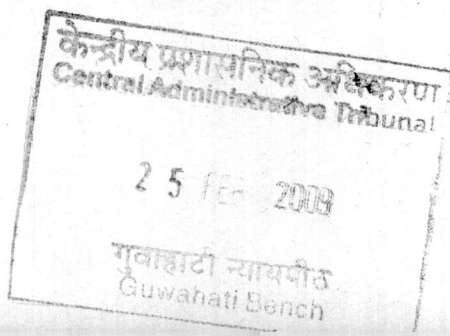
17. That with regard to the statements made in paragraph 5.4 of the Application, the answering Respondents beg to state that every kind of leave or absence is noted in ACR. In the order it has been already clarified that unauthorized absence will not be treated as break in service.

18. That with regard to the statements made in paragraph 5.5 of the Application, the answering Respondents beg to state that the reply of the applicant was considered at the appropriate level and it was not found convincing.

19. That with regard to the statements made in paragraph 5.6 of the Application, the answering Respondents beg to state that the official was given enough opportunity to explain the reasons but his reply was not convincing.

20. That with regard to the statements made in paragraph 5.7 of the Application, the answering Respondents beg to state that this office is convinced that the official intentionally violated the order of the authority hence the order of *dies non* was passed.

21. That with regard to the statements made in paragraph 5.8 of the Application, the answering Respondents beg to state that the allegation is beyond fact. Two wrongs do not make it right.



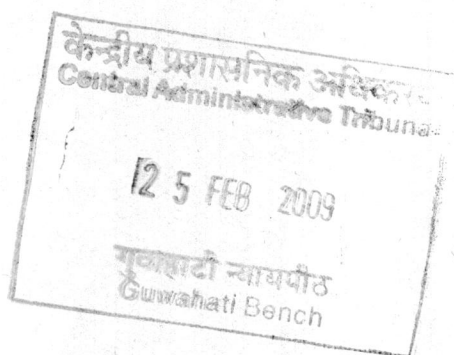
Accountant General  
काहिमा-797001  
Nagaland & Kumaon - 797001

22. That with regard to the statements made in paragraph 5.10 of the Application, the answering Respondents beg to state that the applicant had been given several chances to give satisfactory reply so that his case might be considered for condonation but the applicant has not given to the point reply. Despite of that the authority has issued an order as unauthorized absence of the period of absence at RTI, Shillong but not to any break in service which is abided by the rule mentioned in para 5.1 which is not a penalty and mentioning that period in ACR is not a punishment but a rule only.

23. That the application is devoid of any merit and deserved to be dismissed.

24. That this reply has been made bona fide and for the ends of justice and equity.

It is therefore humbly prayed before this Hon'ble Tribunal that the present application filed by the applicant may be dismissed with cost.



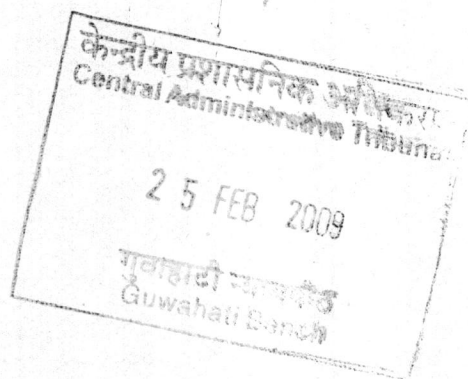
*Attn*  
Deputy Accountant General  
Nagaland, Kohima - 797001  
Nagaland : Kohima - 797001



VERIFICATION

I, Satish Kr. Garg  
 Son of Late Motilal Garg aged about 42 yrs.  
 years, resident of Kohima  
 working as SV. DAG (A&E)  
 duly authorized and competent officer of the answering respondents  
 to sign this verification, do hereby solemnly affirm and verify that the  
 statements made in Paras 1-24 are true to my knowledge,  
 belief and information and those made in Para — being  
 matters of record are true to my knowledge as per the legal advice  
 and I have not suppressed any material facts.

And I sign this verification on this 20<sup>th</sup> <sup>Feb 09</sup> day of August 2008  
 at Kohima



Satish  
 Deputy Accountant General  
 नागालैण्ड, काहिमा-797001  
 Nagaland : Kohima - 797001

8 0 APR 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

File in Court on... 8/4/08

Court Officer.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH, GUWAHATI

ORIGINAL APPLICATION No. 105/2008

Sri Arup Roy

Applicant

Versus

The Union of India & Ors.  
Respondents

INDEX

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Filed by

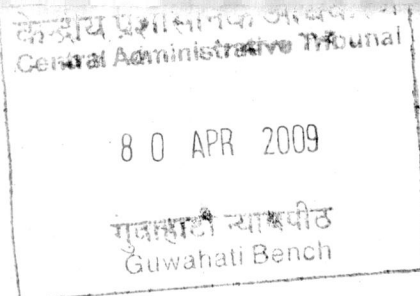
(L.Hussain) 08.04.08

Advocate

Recd

2009

8/4/09



*Filed by the Applicant*

*Arup Roy*  
*Indrajit*  
*S. Hiran*  
*Advocate*  
*08.04.09*

In the Central Administrative Tribunal  
Guwahati Bench, Guwahati

In the matter of

Original Application No. 105/2008

Sri Arup Roy

... Applicant

Versus

Union of India & Ors.

... Respondents.

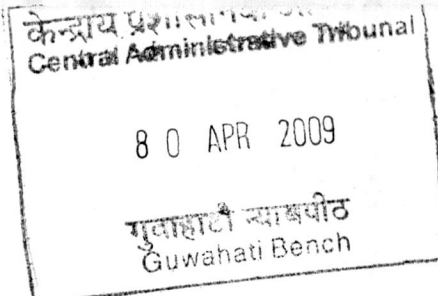
In the matter of

Rejoinder filed by the applicant against the Written  
statement of the respondents.

The humble applicant above named begs to file his rejoinder as  
follows-

1. That, I Arup Kumar Roy, applicant in the instant case begs to state that, a copy of the Written Statement was served upon me and having gone through the same understood the contents made therein. The averments and submissions made in the Written statement which are not specifically admitted by me are to be treated as denied.
2. That, the applicant begs to rely upon the averments made in the Original Application reiterates his contentions made therein.
3. As regards submission made in paragraph (b),(c), and (d) of the Written statement, the applicant begs to submit that, he has good case on





merit and the application is not an unsustainable one, and also not hit by principles of waiver, estoppels and acquiescence and is not liable to be dismissed.

4. That as regards to averments made in paragraph 2,3 of the Written Statement the same are partly based on actual fact as well as on records which the applicant reiterates his statements made in the original application.

5. That, as regards to the averments made in paragraph 4 of the Written statement, the applicant begs to state that it is a fact that, as per instructions of the Accountant General, he had to do some urgent official works at the relevant period for achieving work target. Admitted<sup>ly</sup> the applicant did not inform initially about his wife's ailment to the authority as he was under impression that, his representation as regards his inability to go for training will be *favourably* considered. As already stated in the O.A, because of heavy pressure of work as well as his wife's ailments he was not in a position to remind his authorities about the training programme at Shillong. Admittedly he has missed the training programme because of the aforesaid facts and circumstances and was never an intentional one. In fact, he would have gained by attending the training which could be a plus point in his career. He never disobey official order of the authorities but for the aforementioned reasons he could not attend the training and no disciplinary proceedings is attracted in the instant case.

✓ Anup Roy

8 0 APR 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

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6. That, as regards averments made in paragraph 5,6 and 7 of the Written Statement, the applicant begs to state that, he could not inform the authorities prior to commencement of the training because of compelling circumstances. Moreover, as the training Schedule was fixed about 7/8 months back, there <sup>noting the</sup> were some mistake in dates, Moreover, the authorities also ought to have informed the applicant prior to the date of the training programme and release him accordingly. But they did nothing in this regard which has also part of the responsibility which they cannot hide.

7. That, as regards to averments made in paragraph 8 of the applicant begs to reiterates his contentions made in paragraph 4.8 & 4.9 of the O.A.


8. That, as regards the averments made in paragraph 10 of the Written Statement t he applicant begs to state that, he produced the Medical certificate of his wife subsequently although the same was in his possession as because, he was under impression that, his representation will be considered favorably in the facts & circumstances of the matter. Further, the applicant denies that there was dereliction of duty by him as he has always done his job sincerely & honestly.

9. That as regards the averments made in paragraph 11 of the written statement the applicant has also clarified the same in his foregoing paragraph.

✓ Asup Roy

10. That, as regards averments made in paragraph 12 of the Written statement, the applicant begs to state that on earlier occasion, the training schedule is made for the whole year and circulated to all concerned. But as because, some difficulty that arose because of long training schedule the concerned ~~institute~~ started preparing training schedule on quarterly basis to avoid confusions ~~concerned~~ because of various reasons. But in the instant case the authorities did not send any particulars on quarterly basis. If they would have done so, the mistake would not have occurred. Accordingly the Principal Director vide his letter dated 6.6.08 circulated fresh guidelines in this regard.

The copy of the letter dated 6.6.08 of the Principal Director, Regional Training, Institute Shillong & letter of Sr. Deputy A.G to Principal Director are annexed as Annexure No. A and Annexure-B (series).

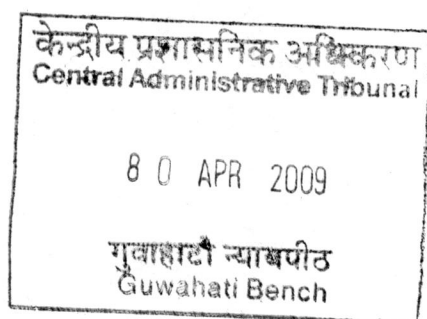


11. That, as regards averments made in paragraph 13 of the Written statement the applicant begs to state that in the facts and circumstances of the case, his representation ought to have been considered formally and same should have been accepted. It be stated that one Sri Kezaletor Angami, Section Officer did not go for training like that of the applicant but he has been excused by the authorities but for the same reasons the applicant has been penalized

12. That as regards averments made in paragraph 14 of the Written statements the applicant begs to state that the respondents have referred

✓ Arup Roy





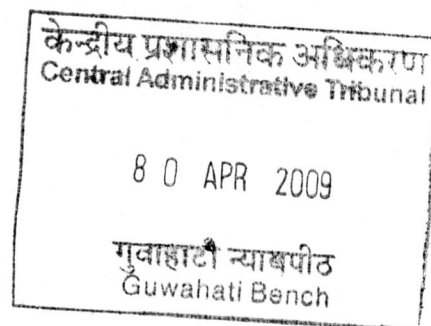
to Rule 62, P & T Manual of C.C.S Rules as regards marking an employee as ~~dis~~ not and its effect. But in the instant case the applicant <sup>not</sup> was unauthorizedly absent from work and <sup>and</sup> attended his duty performed the assigned work as directed by higher authorities. However, he could not attend the training course for the reasons stated hereinbefore and as such no punishment is called for in this regard.

13. As regards the averments made in paragraph 15 of the Written statement the deponent begs to state that, the RTI Shillong only circulated the programme and order was issued by ~~respondent~~ asking the applicant to attend the same.

14. That as regards averments made in paragraph 16 of the Written statement the applicant begs to state that although his name was forwarded for undergoing training, at the relevant time, the authorities did not release him from official work instead asked him to do some extra pending work. It was also the duty of the authorities to release the applicant for training without being asked for by the applicant. No such order for releasing the applicant in this regard <sup>So</sup> the authorities cannot take any ~~final~~ action against the applicant.

15. That, as regards averments made in paragraph 17 of the Written Statement, the applicant reiterates his submission made in the relevant paragraph of O.A. Further the applicant states that, all leave availed by an official are not entered in the ACR. But the respondents are to note

✓ Anup Roy



the alleged absence in his ACR which will adverse<sup>ly</sup> effect his service career unless the same are directed to be expunged.

16. That, as regard the averments made in paragraph 18 of the Written statement the applicant begs to state that, the respondent ~~should~~ have considered the matter in true perspective of the fact and circumstances and ought not to have passed the impugned orders when similarly situated persons have been exempted from imposing any penalty.

17. That, as regards averments made in paragraph 19 of the Written Statement, the applicant begs to state that, no inquiry was held and only some letter for explanations were issued to which the applicant properly replied citing reasons which violates the CCS (CCA) Rules as well as Principle of equity, good conscience & administrative fairness.

18. That, as regards averments made in paragraph 20 of the Written statement the applicant begs to state that he never intentionally avoided going for training. In fact he was very keen to go as it would have been a positive point in his service and gathered extra knowledge but due to reasons mentioned above, he could not attend the training. There was ~~no~~ offence on the part of the applicant which warranted passing an order of diasnon.

19. That as regards averments made in paragraph 21 of the Written Statement the applicant begs to ~~state~~ and rely upon his submission made in the paragraphs 5.8 of the O.A. The respondents have avoided answering to the statement made by the applicant but simply denied

✓ Anup Roy

which is not true. The action of the respondents are discriminatory and they are serious to impose punishment to the applicant.

20. That, as regards averments made in paragraph 22 of the Written Statement the applicant reiterates his submission made in para 5.10 of the O.A. The respondents only sought for written reply and did not go for a detail inquiry and wrongly held the reply as unsatisfactory. The impugned orders are nothing but penalty and contentions of the respondents that, the same are not penalty and punishment but as a rule only *is not true*.

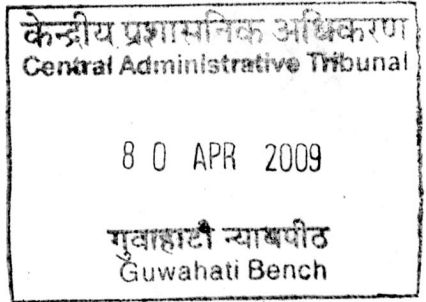
21. That, the rejoinder has been made bonafide and in the interest of justice.

It is therefore, prayed that the Hon'ble Tribunal would be pleased to accept the rejoinder filed by the applicant and on perusal of the records be pleased to allow the original Application in the interest of justice.

Verification .....

✓ Anup Roy





VERIFICATION

I, Arup Roy, aged about 42 years, son of Late Ramesh Ch. Roy a resident of Babupatty, Lumding, P.S.Lumding., District-Nagaon, Assam and presently serving as Section Officer in the Office of the Senior Deputy Accountant General (A & E) Nagaland, Kohima, do hereby verify that the contents in paragraph 1 to 18 of the rejoinder are true to my knowledge, belief and true to the information derived from the records of the case and the rests are my humble submissions as per legal advise and I have not suppressed any material fact.

And I sign this verification on this the 30th day of March at Kohima.

✓ Arup Roy

80 APR 2009

গুৱাহাটী ব্যাংক  
Guwahati Bench

Admn/14/171  
2/7/08

John K Sellate,  
Principal Director



क्षेत्रीय प्रशिक्षण संस्थान  
भारतीय लेखा तथा लेखापरीक्षा विभाग  
उत्तर-पूर्वी क्षेत्र: लखतलेत कम्पलेक्स, शिल्लोंग-793 003  
**REGIONAL TRAINING INSTITUTE**  
INDIAN AUDIT & ACCOUNTS DEPARTMENT  
NORTH EASTERN REGION  
LACHATELETTE COMPLEX  
LAITUMKHAH, SHILLONG - 793 003  
PHONE: (0364) 2222594, 2210203, 2220381  
FAX: (0364) 2223314  
E-MAIL : rtishg@sancharnet.in

06 JUN 2008

D.O No. RTI/Nomination/Gen/2008-09/ 164

Dear Ramamtee,

A reference is invited to Headquarters' office letter No.111/Trg. Div/40-2007 dated 25.04.2008 (copy enclosed) regarding "Recommendations of Meeting of Heads of RTIs/RTCs held on 1<sup>st</sup> and 2<sup>nd</sup> February, 2008 at iCISA, Noida.

2. I would like to inform you that a mid-term RAC meeting will be held some time in the month of October 2008. A skeleton of the Training Need Analysis (TNA) for the year 2009-10 & 2010-2011 as directed by Headquarters' office may kindly be prepared and forwarded to this Institute by the end of 30<sup>th</sup> September 2008 for discussion in the mid-term RAC. An electronic copy of the same may also be forwarded to Headquarters' office. While preparing (TNA) the following points should be kept in view by all user offices:-

- TNA should include most needed courses and suitable persons identified so as to cover every official at least once in two or three years.
- Same persons should not be sent for training repeatedly during one calendar year.
- Persons (in a tentative list) are to be nominated in advance against every course planned during 2008-09.
- Each user office should submit a list of identified trainees from the tentative list for the whole year against each course.
- Training reserve should be worked out in advance while making audit plan to ensure nomination of participants.
- Nomination of trainees on adhoc basis or last stage nomination and not according to pre-identified needs should be avoided.

Admn/Admn  
Subst  
desir

17/6

Certified copy  
J. K. Sellate  
Admn

18 JUN 2008

Contd...2/-

80 APR 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

10

:2:

- g) Quarterly nomination of trainees from the list of identified trainees should be submitted to RTI, Shillong one month in advance of the relevant quarter.
- h) Quarterly nomination should be accompanied by a list of reserved candidates to take care of last stage withdrawal of nominated trainees or to utilize the slots in case of the nominated officials failing to report to RTI for scheduled training programme.
- i) In case originally nominated officials could not be deputed due to valid official reasons, substitutes should be deputed from the reserved list of candidates.

3. Moreover, many user offices were nominating same individual for more than one course at frequent intervals in a particular year. An analysis of data of the participants who attended different training during 2007-08, shows that 28 officials attended more than one course in **General** and 19 officials in **EDP** courses (copy enclosed). We need to seriously consider this issue and avoid nominating same officials for attending training repeatedly so that one is not deputed for more than one course during the year 2008-09 unless a proper justification exists. In such cases, the nomination will be rejected by RTI, Shillong. For proper selection of trainees, a "Personnel and Training Management Software"- has already been implemented by your office, which should be made use of while nominating participants. Further, officers/officials not having basic computer knowledge or the pre-requisite qualification required for attending high end courses should not be nominated for EDP courses.

4. I solicit your response on the above points for a favorable action at the earliest.

Yours sincerely,

*But with,*

*[Signature]*

Shri Ramawatar Sharma,  
Dy. Accountant General,  
O/o the Sr. DAG (A&E),  
Nagaland, Kohima - 797 001



8 0 APR 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

-11-

MAJOR POINTS CONSIDERED BY RAC FOR TRAINING PROGRAMME  
2008-09

- While allocating slots Headquarters' instructions, physical capacity of RTI, Shillong, minimum size of participants for each course etc., were kept in view.
- Allocation of slots for Group 'B' and 'C' officials were done based on Training Need Analysis (TNA).
- A.G Mizoram, A.P yet to send details for special training indicating level, areas and needs to RTI, Shillong.
- Selection of trainees to be done according to the identified training needs of each person.
- Nomination of trainees on adhoc basis or last stage nomination and not according to pre-identified needs to be avoided.
- Quarterly nomination of trainees to be sent to RTI, Shillong for scheduled training programme to ensure firm nomination of participants (after necessary changes if any) from the list of identified persons.

7

MAJOR POINTS CONSIDERED BY RAC FOR TRAINING PROGRAMME  
2008-09

- ⊗ ▪ A list of reserved candidates is to be sent to RTI alongwith the quarterly nomination.
- Last minute withdrawal of nominated persons was common-can be linked to non-submission of quarterly nomination or lack of proper nomination.
- Late submission of quarterly nomination (due to be submitted 1 month in advance of the relevant quarter). Quarterly nomination for Oct. to Dec. 08 not received from A&E offices-Meghalaya, Mizoram, A.P, Manipur, Tripura and Audit offices- Meghalaya, A.P, Mizoram, Tripura, Manipur, Sikkim. Jan - March 08 due by 1<sup>st</sup> Dec.08. Date to be fixed by RAC.
- Nominated trainees are frequently withdrawn/changed just before the commencement of scheduled training programme.
- Originally nominated officials are sometimes not deputed and substitutes in their place are not sent in many cases.

8

80 APR 2009

গুৱাহাটী ন্যায়পীঠ  
Guwahati Bench

OFFICER OF THE SR. DY. ACCOUNTANT GENERAL (A&E)  
NAGALAND, KOHIMA

Fax No. 0364-2223314/Speed Post.

No. Admn/A&E/2-6/08-09/Vol-I/1754  
Date:-Tuesday, March 27 2008

To

The Principal Director,  
Regional Training Institute (IA&AD),  
N. E. Region, Lachatellette, Complex,  
Laitumukhrah - Shillong - 793 003.

Subject:- A quarterly nomination of participants for training courses for the period  
01/04/2008 to 30/06/2008.

Reference:- Your DO letter No.RTI/ACM-19/2008-09/957 dtd. 18/03/08.

Sir,

With reference to your letter No. cited above, I am to forward herewith the list of  
nominated nomination of participants for training courses for the period 01/04/2008 to  
30/06/2008 to your office for necessary action at your end please.

Thanking you, sir.

Encl:- As stated above.

Yours faithfully,

Accounts Officer (Admn)

Date:-Tuesday, March 25, 2008

No. Admn/A&E/2-6/07-08/Vol-II/1753-1758

Copy to

1. All participants.
2. PA to Sr. DAG (A&E).
3. PS to AG.
4. Notice Board

Accounts Officer (Admn)

Certified copy  
H. H. in  
Densad

Admn

80 APR 2009

गुवाहाटी न्यायापीठ  
Guwahati Bench

13-

2-

**OFFICE OF THE SR. DY. ACCOUNTANT GENERAL (A&E),  
NAGALAND, KOHIMA.**

No. Admn/A&E/Order No. 3

Dated : 04.04.2007

The Officers /Staff listed in the Appendix- I and II have been nominated for training (General Course) and EDP Course ) at Regional Training Institute, Shillong for the year 2007-08.

Participants are directed to attend the training programme without fail as per the enclosed Appendix. Except under extremely emergent circumstances, no applications for exemption from attending the training shall be entertained.

Further the participants are directed to report Admn (A&E), Section immediately after returning from training without fail.

Encls : - As stated above.

Sd/-

Dy. Accountant General (A&E)

Memo No. Admn/A&E/2-6/2004-05/Vol-II/15-21

Dated : 04.04.2007

Copy to :-

- 1) The Principal Director, Regional Training Institute, Shillong, Lachatelette Complex, Laitumukhran, Shillong- 793003 with reference to your D.O. letter No. RTL/ACM-18/2007-08/672 dated 15-03-2007.
- 2) All nominated Officers, Staff concerned.
- 3) Advance Table.
- 4) Pay Bill Table.



80 APR 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

- 347C - 14

Calendar of Training Programme 2007-2008 (General Course) at R.T.I Shillong  
Appendix-I

SL No	Programme Title	Duration (days)	Period	Slot	Name of Participants
1	Special Course on Preparation of Finance Accounts & Appropriation Accounts and Certification Standards of Finance & Appropriation Accounts (Participants: SOs to SAOs)	6	03-05-07 to 09-05-07	2	1. Shri R.M Dasgupta 2. Shri Lambit Baruah
2	Maintenance of BROADSHEETS. Different types of Suspense Accounts. Debits. Deposits & Remittance heads (Participants: C/Ts to Sr. Accountants)	3	11-06-07 to 13-06-07	3	1. Shri Swapan Paul 2. Shri Uttam Choudhury 3. Shri A. Dominic
3	Special Course on Inspection of Treasuries (Participants: SOs to SAOs)	4	02-07-07 to 05-07-07	2	1. Shri Joseph K.A. 2. Shri Ashim Dey
4	Special Course on Preparation of Finance Accounts & Appropriation Accounts and Certification Standards of Finance & Appropriation Accounts (Participants: Auditors/Sr. Auditors/Accts/Sr. Accts)	6	16-07-07 to 21-07-07	2	1. Shri Soumitra Roy 2. Swapan Paul
5	Special Course on Human Resource Development, Organizational Behaviour, Leadership and Motivation (Participants: SOs to SAOs)	6	20-08-07 to 25-08-07	1	Shri Akum Chuba
6	Special Course on Government Accounts-the Process Flow, VLC & Management Issues (Participants: SOs to SAOs)	6	17-09-07 to 22-09-07	1	Shri K. Sani
7	Special Course on Common Administrative Issues, Reservation Roster, Preparation & Conduct of DPC Meetings and Writing of ACR (Participants: SOs to SAOs)	6	08-10-07 to 13-10-07	2	1. Shri Joseph K.A. 2. Shri A.K. Das
8	Special Course on Vigilance and Disciplinary Proceedings (Participants: SOs to SAOs)	6	01-11-07 to 07-11-07	1	Shri Arup Roy
9	Induction Course for newly promoted AOs (Audit & Accounts)	8	11-12-07 to 19-12-07	1	Shri J. Goswami
10	Induction Course for newly promoted Section Officers/SOGE Passed officials awaiting promotions (Audit & Accounts)	8	07-01-08 to 15-01-08	2	Nomination to be made after declaration of SOGE results
11	Special Course on Maintenance of GPF Accounts. Disposal of Fund, GAD, Pension case and Complaint cases (Participants: Auditors/Sr. Auditors/Accts/Sr. Accts)	6	17-01-08 to 23-01-08	2	1. Shri Ajoy Dutta 2. Shri S.L. Shangne
12	Special Course on Training of Trainers (Participants: SOs to SAOs)	8	12-03-08 to 20-03-08	1	Shri S.D. Choudhury
13	Special Course on Gender Sensitisation and Role of Audit (Participants: SOs to SAOs)	3	24-03-08 to 26-03-08	1	Shri R. Adhikari

Attended

8.0 APR 2008

गुवाहाटी न्यायपीठ  
Guwahati Bench

-15-  
Fax No. 0364-2223314/Regd.

**OFFICE OF THE SR. DY. ACCOUNTANT GENERAL (A&E)  
NAGALAND, KOHIMA**

Admn/A&E/2-6/08-09/Vol-I/ 821

Date:-Friday, August 22, 2008

To

The Principal Director,  
Regional Training Institute (IA&AD),  
N. E. Region, Lachatellette Complex,  
Laitumukhrah,  
Shillong – 793 003

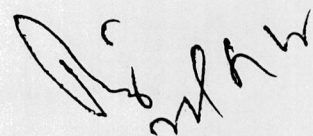
Subject:- Quarterly nomination of participants for the training courses from 01.10.2008 to 31.12.2008.

Sir,

With reference to the subject cited above, I am to forward herewith the list (tentative) of nominated officials/officers for the training courses from 01.10.2008 to 31.12.2008 for your information and necessary action at your end please.

Enclo:- As stated above.

Yours Faithfully,



(Ph. Jugindro Singh)  
Accounts Officer (Admn)

केन्द्रीय प्रशासनिक अधिकांश  
Central Administrative Training  
80 APR 2009  
गुवाहाटी न्यायपीठ  
Guwahati Bench

16  
Fax No. 0364-2223314/Regd.

**OFFICE OF THE SR. DY. ACCOUNTANT GENERAL (A&E)  
NAGALAND, KOHIMA**

Admn A&E 2-6 08-09 Vol-I 1336

Date:-Wednesday, December 17, 2008

To

18/12  
The Principal Director,  
Regional Training Institute (IA&AD),  
N. E. Region, Lachatellette Complex,  
Laitumukhrah,  
Shillong - 793 003

Subject:- Quarterly nomination of participants for the training courses from **01.01.2009** to **31.03.2009**.

Sir,

With reference to the subject cited above, I am to forward herewith the list (tentative) of nominated officials/officers for the training courses from **01.01.2009** to **31.03.2009** for your information and necessary action at your end please.

Encl:- As stated above.

Yours Faithfully,

  
Accounts Officer (Admn)

ATTN