

3

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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Mr. K.K. Das. Adm. case

✓
29.5.2015

P.D.
10/7/2015
SECTION OFFICER (JUDL.)

FROM NO. 4
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERSHEET

1. Original Application No: 122/2009

2. Miscellaneous Petition No

3. Contempt Petition No

4. Review Application No

Applicant(s) Smti Usha Rani Das

Respondant(s) Union of India vops.

Advocate for the Applicant(s): Mr. S. Dutta,
Smti U. Dutta

Advocate for the Respondant(s): 6
CGSC.

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form is filed/ F. R. Es. 50/- dep: <u>DD</u> No. <u>396 409/26</u> Dated <u>28.5.09</u> <u>N. S. Sharma</u> Dy. Registrar <u>29.6.09</u> <u>26/6/09</u></p> <p><u>26.6.09</u> 3 (Three) copies of application with envelops received for issue notices to the Respondants No. 1 to 3. Copy Served. <u>26/6/09</u></p>	<p>30.06.2009</p> <p>/bb/</p>	<p>Heard Mr.S.Dutta, learned counsel for the Applicant and Mr.M.U.Ahmed, learned Addl. Standing counsel for the Union of India.</p> <p>For the reasons recorded separately, this O.A. stands disposed of.</p> <p style="text-align: right;"><u>(M.R.Mohanty)</u> Vice-Chairman</p>

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**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

O.A. No.122 of 2009

DATE OF DECISION: 30.06.2009

Smti Usha Rani Das

.....Applicant/s.

Mr. S.Dutta

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

- Versus -

Union of India & Ors.

.....Respondent/s

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

.....Advocate for the
Respondents

CORAM

THE HON'BLE MR.MANORANJAN MOHANTY, VICE CHAIRMAN

1. Whether Reporters of local newspapers may be allowed to see the Judgment? Yes/No[✓]
2. Whether to be referred to the Reporter or not? Yes/No[✓]
3. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No[✓]

Judgment delivered by


Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 122 of 2009

Date of Order : This, the 30th Day of June, 2009

Smti. Usha Rani Das
Wife of Shri Uma Ranjan Das
Vivekananda Road, Silchar
P.O. Silchar- 788007
District- Cachar (Assam)

.....Applicant

By Advocates: Mr. S. Dutta, Mrs.U.Dutta.

-Versus-

1. The Union of India
through the Secretary to the
Government of India
Ministry of Communications &
Information Technology
Department of Posts
Dak Bhavan
New Delhi- 110116.
2. Senior Superintendent of Post Offices
Head Post Office, Silchar- 1.
3. Assistant Superintendent of Post Offices
North Sub-Division
Head Post Office
Silchar- 1.

.....Respondents

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

ORDER (ORAL)
30.06.2009

MANORANJAN MOHANTY, (V.C.) :

Applicant, a Stamp Vendor in Gramin Dak Seva attached to
Vivekananda Road Sub-Post Office under Silchar Head Post Office, was
placed under "put-off-duty" by order No.A2/VN Road Dated
13.10.2008 of the Assistant Superintendent of Post Offices of Silchar



North Sub-Division, and by her representation dated 25.05.2009, she prayed to grant her "ex-gratia payments" with effect from 14.10.2008 (as provided under Rule 12(3) of the Gramin Dak Sevaks (Conduct & Employment) Rules, 2001) and, without getting the said Ex-gratia payments, she has approached this Tribunal with the present Original Application filed (on 26.06.2009) under section 19 of the Administrative Tribunals Act, 1985 with the following prayers:-

- "8.1 That the respondents be directed to pay the applicant ex-gratia compensation with effect from 14.10.2008
- 8.2 That the respondents be directed to pay the applicant such higher ex-gratia compensation with effect from 14.10.2008.
- 8.3 Any other relief(s) as this Hon'ble Tribunal may deem fit and proper.
- 8.4 Cost of the application."

(2) Heard Mr. S. Dutta, learned counsel appearing for the Applicant and Mr. M. U. Ahmed, learned Addl. Standing Counsel for Govt. of India (to whom a copy of this Original Application has already been supplied) and perused the materials placed on record.

(3) Applicant was placed under orders of 'Put-off duty' on 13.10.2008 and, without getting anything as "ex-gratia" for more than 7 months, she represented in writing on 25.05.2009 and, after waiting for another month, she has filed the present Original Application. Early consideration of grievances is a healthy personal management. That apart non-payment of subsistence allowances (in this case, "ex-gratia compensation") during the period of suspension (in this case, during



the "put-off-duty period") amounts to violation of Article 21 of the Constitution of India.

4. Since the Applicant has already submitted a representation dated 25.05.2009, seeking payment of ex-gratia to her (from the Respondents) in terms of Rule 13 of the aforesaid Rules of 2001, without any waste of time, this case is remitted back to the Respondents with direction to consider and pass orders (as due and admissible under Rules, pertaining to the prayer of the Applicant to grant her ex-gratia during her put-off duty period/from 14.10.2008) within 30 days of receipt of a copy of this order.

5. With the above observations and directions, this case is hereby disposed of.

6. Send copies of this order (by Registered Post) to the Applicant and to all the Respondents along with in the address given in the O.A.

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


(MANARANJAN MOHANTY)
VICE-CHAIRMAN

/BB/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: AT GUWAHATI

Title of the Case: Original Application No. 122/2009

Smti Usha Rani Das

... Applicant

-Vs-

Union of India & others

... Respondents

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Date: 26.06.2009

Filed By: -
The Applicant
Through: -
U. Dutta
(Mrs. Urna Dutta)
Advocate

Usha Rani Das.

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: AT GUWAHATI**

Title of the Case: **Original Application No. 122/2009**

Smti Usha Rani Das

... Applicant

-Vs-

Union of India & others

... Respondents

SYNOPSIS

The application is filed challenging the inaction of the respondents in not paying ex-gratia compensation to the applicant with effect from 14.10.2008, she having been placed under 'Put-off Duty' with effect from 13.10.2008. The applicant is a Gramin Dak Sevak Stamp Vendor under the respondents and by an order issued by the respondent no. 2, she has been placed under 'Put-off Duty'. The Rule 12(3) of the Gramin Dak Sevaks (Conduct & Employment) Rules, 2001 makes provision for payment of ex-gratia compensation per month to a person placed under 'Put-off Duty', however, the respondents have not paid the applicant any such compensation despite repeated approaches, the last being through representation dated 25.05.2009 submitted to the respondent no. 3. Hence, this application for appropriate relief.

LIST OF DATES

- | | |
|------------|--|
| 13.10.2008 | Applicant ('A') put under ' <u>Put-off Duty</u> ' with immediate effect on the ground that a disciplinary proceeding against her was contemplated/pending.
... Para 4.3/Anx. 1, Pg. 8 |
| 21.10.2008 | Respondent no. 3 lodge ezahar at Silchar Police Station - Police registered Silchar PS Case No. 2195 of 2008 u/s 406/420/468 IPC against the applicant. |
| 17.11.2008 | Hon'ble High Court allowed the prayer of 'A' to grant anticipatory bail in connection with Silchar PS Case No. 2195 of 2008 u/s 406/420/468 IPC.
... Para 4.4, Pg. 2 |
| 25.05.2009 | 'A' represented to respondent no. 3 seeking payment of ex-gratia compensation with effect from 14.10.2008.
... Para 4.6/Anx. 2, Pg. 9 |

Usha Rani Das

26 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

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Filed by the applicant
through U. Sultana, advocate
on 26.06.09 '09

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: AT GUWAHATI**

(An application under Section 19 of the Administrative Tribunals Act, 1985)

Original Application No. 122/2009

Between:

Smti Usha Rani Das

Wife of Shri Uma Ranjan Das

Vivekananda Road, Silchar

P.O. Silchar - 788007

District: Cachar (Assam)

... **Applicant**

-AND-

1. The Union of India, through the Secretary to the Government of India, Ministry of Communications & Information Technology, Department of Posts, Dak Bhavan, New Delhi - 110116
2. Senior Superintendent of Post Offices
Head Post Office, Silchar - 1
3. Assistant Superintendent of Post Offices
North Sub-Division, Head Post Office, Silchar - 1

... **Respondents**

DETAILS OF THE APPLICATION

1. **PARTICULARS OF THE ORDER (S) AGAINST WHICH THIS APPLICATION IS MADE:**

The application is filed challenging the inaction of the respondents in not paying ex-gratia compensation to the applicant with effect from 14.10.2008, she having been placed under 'Put-off Duty' with effect from 13.10.2008.

2. **JURISDICTION OF THE TRIBUNAL:**

The applicant declares that the subject matter of this application is within the jurisdiction of this Hon'ble Tribunal.

3. **LIMITATION:**

The applicant further declares that this application is being filed within the period of limitation prescribed under Section 21 of Administrative Tribunals Act, 1985.

Usha Rani Das:

4. FACTS OF THE CASE:

- 4.1 That the applicant is a citizen of India and as such, is entitled to all the rights, protections and privileges guaranteed by and under the Constitution of India.
- 4.2 That the applicant has been working as Gramin Dak Sevak Stamp Vendor of Vivekananda Road Sub Post Office, Silchar. The Gramin Dak Sevaks (Conduct & Employment) Rules, 2001 (hereinafter referred to as 'the Rules') govern the conditions of service of the applicant.
- 4.3 That while the applicant had been working as such, by an order under Memo No. A2/VN Road dated 13.10.2008 the respondent no. 3 has placed the applicant under 'Put-off Duty' on the ground that a disciplinary proceeding was contemplated/pending against the applicant.

A copy of the order dated 13.10.2008 is annexed herewith as **Annexure - 1.**

- 4.4 That incidentally it may be stated that on 21.10.2008 the respondent no. 3 lodged an ezahar with the Silchar Police Station alleging that the applicant, in an unauthorised manner, accepted an amount of Rs. 98060 tendered by various Recurring Deposit Account holders for making deposit into their respective account maintained at Vivekananda Sub Post Office but did not credit the same to the respective accounts. On receipt of said ezahar, police registered Silchar PS Case No. 2195 of 2008 u/s 406/420/468 IPC against the applicant. However, by an order dated 17.11.2008 passed in BA No. 5429 of 2008, the Hon'ble Gauhati High Court - while considering the factum of deposit made by the applicant - has been pleased to allow and grant her prayer for anticipatory bail in connection with Silchar PS Case No. 2195 of 2008 (GR case No. 4085 of 2008). It is stated that there has been no occasion for

Wsha Rani Das

applicant's arrest so far in connection with the aforesaid case and none has so far approached the Hon'ble High Court for cancellation of the order dated 17.11.2008 referred to above. The respondents have also not initiated any disciplinary proceeding against her till date.

4.5 That the applicant states that Rule 12(3) of the Rules reads as follows:

"12. Put-off duty

(1) xxxx xxxx xxxx

(2) xxxx xxxx xxxx

(3) **A Sevak shall be entitled per month for the period of put-off duty to an amount of compensation as ex-gratia payment equal to 25% of his/her Time Related Continuity Allowance together with admissible Dearness Allowance:**

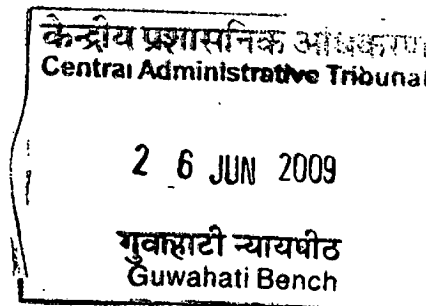
Provided **where the put-off duty exceeds 90 days**, the Appointing Authority or **the authority** to which the Appointing Authority or any other authority empowered in this behalf, as the case may be, **who made the order of put-off duty shall be competent to vary the amount of compensation for any period subsequent to the period of first 90 days as follows:**

(i) **The amount of compensation as ex-gratia payment may be increased to a suitable amount, not exceeding 50% of such compensation admissible during the period of first 90 days, if in the opinion of the said authority the period of put-off duty has been prolonged, for reasons to be recorded in writing, not directly attributable to the Sevak.**

(ii) **The amount of compensation as ex-gratia payment may be reduced by a suitable amount not exceeding 50% of such compensation admissible during the period of first 90 days, if in the opinion of the said authority the period of put-off duty has been prolonged, for reasons to be recorded in writing directly attributable to the Sevak."**

4.6 That since passing of the order dated 13.10.2008 and on completion of every month thereafter; the applicant has approached the respondent no. 3 with verbal prayer for release of ex-gratia compensation to her but to no result. Finally on 25.05.2009 she has submitted a written representation to the respondent no. 3 with a prayer to release to her the payment of ex-

Usha Rani Das.



gratia compensation with effect from 14.10.2008. But till date nothing has been done.

A copy of the representation dated 25.05.2009 is annexed herewith as **Annexure - 2**.

4.7 That the applicant states that as an ED Stamp Vendor she had been receiving a paltry sum of Rs. 3400 per month. As she has been placed under 'Put-off Duty', she is being deprived of her monthly emolument which is a means of her livelihood. Under the provision of the aforesaid Rules, she is entitled to payment of ex-gratia compensation with effect from 14.10.2008 and the cause of action arises in her favour on each day thereafter whenever such compensation has not been paid to her. It is stated that the period of put-off duty has not been prolonged due to reasons attributable to her and as such, she has become entitled to higher ex-gratia compensation with effect from 13.01.2009. The respondents are, therefore, liable to be directed to pay to the applicant ex-gratia compensation. The respondents having not paid the ex-gratia to the applicant in time are also liable to pay her the cost of this litigation.

4.8 That this application is made bona fide and in the interest of justice.

5. **GROUND(S) FOR RELIEF (S) WITH LEGAL PROVISION:**

5.1 For that, the action of the respondent in not paying ex-gratia compensation to the applicant with effect from 14.10.2008 is contrary to the mandate of Rule 12(3) of the Gramin Dak Sevaks (Conduct & Employment) Rules, 2001 and hence the impugned action is liable to be interfered with.

5.2 For that, the action of the respondent in not paying ex-gratia compensation to the applicant despite written representation made

Usha Rani Das

26 JUN 2009

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Guwahati Bench

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in that behalf is arbitrary, fanciful and without any authority of law and as such, the are liable to be directed by this Hon'ble Tribunal in an appropriate manner.

5.3 For that, the action of the respondents in not paying ex-gratia compensation to the applicant violates her right as guaranteed under Article 21 of the Constitution of India inasmuch as such action of the respondents deprives the applicant of her livelihood and therefore, the respondents are liable to be directed by this Hon'ble Tribunal to pay the applicant her dues.

5.4 For that, the respondents having not paid the ex-gratia to the applicant in time are also liable to pay her the cost of this litigation.

6. DETAILS OF REMEDIES EXHAUSTED:

The applicant declares that he has exhausted all remedies available. Representation filed before the respondents on the subject matter in issue has not been favourably responded to as yet.

7. MATTER NOT PREVIOUSLY FILED BEFORE OR PENDING WITH ANY OTHER COURT/TRIBUNAL:

The applicant also declares that he has not previously filed any suit/application before any other Court/Tribunal pertaining to the subject matter involved in this application.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, it is respectfully prayed that the Hon'ble Tribunal may be pleased consider this application, admit the same, issue notice to the respondents and

Usha Rani Das-

26 JUN 2009

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Guwahati Bench

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upon hearing the parties on the cause or causes that may be shown, be further pleased to grant the following relief(s):

- 8.1 That the respondents be directed to pay the applicant ex-gratia compensation with effect from 14.10.2008;
- 8.2 That the respondents be directed to pay the applicant such higher ex-gratia compensation with effect from 14.10.2008.
- 8.3 Any other relief(s) as this Hon'ble Tribunal may deem fit and proper.
- 8.4 Cost of the application.

9. INTERIM RELIEF SOUGHT FOR:

Pending disposal of this application, this Hon'ble Tribunal may be further pleased to direct the respondents to release to the applicant ex-gratia compensation for the current months.

10. The applicant files this application through an Advocate.

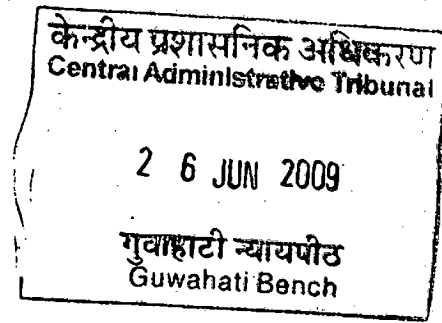
11. PARTICULARS OF POSTAL ORDER:

- | | | |
|----|----------------------|---------------------------|
| a) | I.P.O. Number: | 39 G 409126 |
| b) | Date of Issue: | 28 th May 2009 |
| c) | Issuing Post Office: | GPO, Guwahati |
| d) | Payable at: | GPO, Guwahati |

12. LIST OF ENCLOSURE:

As given in the Index.

Usha Rani Das



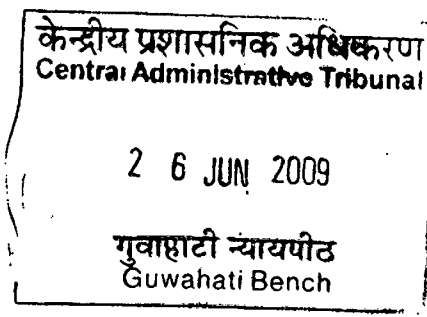
VERIFICATION

I, **Smti Usha Rani Das**, wife of Shri Uma Ranjan Das, aged about 43 years, resident of Vivekananda Road, Silchar – 788007, P.O. Silchar, District: Cachar (Assam) do hereby verify that the statements made in paragraphs 1 to 4 are true to my knowledge and those made in paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this 15th day of June 2008 at Silchar.

Usha Rani Das

Signature



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ANNEXURE - 1

Govt. of India
Department of Posts, India
Office of the Assistant Superintendent of Post Offices
Silchar North Sub-Division, Silchar - 1

No. A2/VN Road

Dated at Silchar the 13th October 2008

ORDER

Whereas a disciplinary proceeding against Smt. Usha Rani Das, GDS Stamp Vendor, Vivekananda Road SO is contemplated/pending.

Now, therefore, the undersigned, in exercise of the powers conferred by sub-rule (1) of Rule 12 of Department of Posts, GDS (Conduct and Employment) Rules, 2001, hereby places said Smt. Usha Rani Das under put-off duty with immediate effect.

It is further ordered that during the period that this order shall remain in force the headquarter of Smt. Usha Rani Das, GDS Stamp Vendor, Vivekananda Road SO should be Silchar and the said Smt. Usha Rani Das shall not leave the headquarter without obtaining the previous permission of the undersigned.

Signed/-
(AJ Paul)

Assistant Superintendent of Post Offices
Silchar North Sub-Division, Silchar - 1

Copy to: -

1. Smt. Usha Rani Das, GDS Stamp Vendor, Vivekananda Road SO
2. The Sr. Postmaster, Silchar Head Office for information & n/a
3. The SPM, VN Road SO for information & n/a

Signed/-
Illegible

13.10.2008

(AJ Paul)

Assistant Superintendent of Post Offices
Silchar North Sub-Division, Silchar - 1

Attested
Surajit Deka
Advocate
26.06.09

Usha Rani Das

Govt. of India
Department of Posts, India
Op the
सहायक अधीक्षक
Asslt. Supdt. Posts
सिलचर उत्तर उप-मंडल
Silchar North Sub-Divn.
सिलचर-७८८००१/Silchar-788001

NO. A2/V. N. Road

Dated at Silchar
the 13/10/2008

ORDER

Whereas a disciplinary proceeding against
Smt. Usha Rani Das, G.S. Stamp vendor, Viveka-
-kanda Road SO is contemplated/pending

NOW, therefore, the undersigned, in
exercise of the powers conferred by sub-rule
(1) of Rule 12 of Department of Posts, G.S. (Conduct
and Employment) Rules, 2001, hereby places
said Smt. Usha Rani Das under put-off duty
with immediate effect.

It is further ordered that during the
period that this order shall remain in force
the Headquarters of Smt. Usha Rani Das,
G.S. Stamp vendor, Vivekanda Road SO
should be Silchar and the said Smt. Usha
Rani Das shall not leave the Headquarters
without obtaining the previous permission
of the undersigned.

Sd/-
(A. J. Paul)

सहायक अधीक्षक
Asslt. Supdt. Posts
सिलचर उत्तर उप-मंडल
Silchar North Sub-Divn.
सिलचर-७८८००१/Silchar-788001

- CPT to 1. Smt. Usha Rani Das,
Vendor, Vivekanda Road SO
2. The Sr. Postmaster, Silchar SO for
information & n/a.
3. The SPM, V.N. Road SO for information
n/a.

13/10/08
(A. J. Paul)

Attested
Surjit Datta
Advocate
26.06.09

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench

सहायक अधीक्षक
Asslt. Supdt. Posts
सिलचर उत्तर उप-मंडल
Silchar North Sub-Divn.
सिलचर-७८८००१/Silchar-788001

SILCHAR HPO 788001

RLAD A 8948

Counter No:1, OP-Code:01

To: ASST. SUDPT. OF POSTS, SILCHAR NORTH

SILCHAR HPO, PIN: 788001

Wt: 15 grams

PS: 25.00, 25/05/2009, 13:30

<<Have a nice day>>

To

The Assistant Superintendent of Post Offices
Silchar North Sub-Division,
Silchar 788001

Subject: - Prayer for payment of Ex gratia from
14/10/2008 for the period of put off duty.

Reference to Your Memo. No A2/V.N.road. Dated
at Silchar, the 13th October, 2008.

Sir,

I have the honour beg to state that I was put
off from duty and relieved from the post of GDS Stamp
Vendor on 13th of October, 2008, after-noon.

I have been under put off duty from the 14th day
of October, 2008 as such I would be allowed to draw
the ex-gratia as admissible from time to time from
14/10/2008.

Therefore, I pray that your honour would, for
the justice sake, be kind to take required step for
payment of ex-gratia from 14th October, 2008 at the
earliest and oblige.

Dated at V.N. Rd. Silchar,
The 25th day of May, 2009.

Yours faithfully

✓ Usha Rani Das

Smti. Usha Rani Das

GDS St. Vendor (Put Off)
PO. Vivekananda Rd.
Silchar

Attested
Surajit Datta
Advocate
26.06.09

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal

26 JUN 2009

गुवाहाटी न्यायपीठ
Guwahati Bench