

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
ORDERSHEET

1. ORIGINAL APPLICATION No : -----/ 2009
2. Transfer Application No : -----/2009 in O.A. No.-----
3. Misc. Petition No : -----/2009 in O.A. No.-----
4. Contempt Petition No : 21 2010 82/2010 -----/2009 in O.A. No.-----
5. Review Application No : -----/2009 in O.A. No.-----
6. Execution Petition No : -----/2009 in O.A. No.-----

Applicant (S) :

Shri Pradip Kumar Ghosh

Respondent (S) :

Shri Shiv Kumar or 2 others.Advocate for the :
(Applicant (S))Ms. U. DasAdvocate for the :
(Respondent (S))

Notes of the Registry

Date

Order of the Tribunal

28.6.2010

This Contempt Petition has been filed by the applicant through his Adv. Ms. U. Das with a prayer to punish the respondents for their willful and deliberate violation of the dated 10.3.10 passed in O.A. No. 82/2009.

Laid before the Hon'ble Court for favour of order.

Shro
28/6/2010
Section Officer (P).
28/6/2010

29.06.2010

It is alleged that directions contained vide order dated 10.03.2010 in O.A.No.82/2009 requiring the respondents to refund the amount deducted within the period stipulated therein has been violated willfully. Prima facie contempt has been made out. Notice to respondent No.3 for the time being, returnable on 02.08.2010. Personal appearance is dispensed with.

List on 02.08.2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

nkm

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CP 21-10 (O.A.82/2009)

02.08.2010

Ms.U.Das, learned counsel for the applicant states that after the order passed on 29.06.2010 in present C.P., the respondents have complied with direction contained vide order dated 10.03.2010 in O.A. 82/2009. Accordingly, she prays for disposal of present C.P.

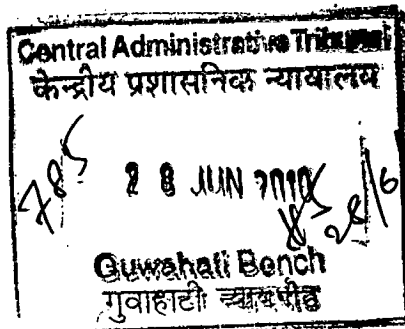
In view of above, contempt does not survive. C.P. is closed. Notices are discharged.


(Madan Kumar Chaturvedi)
Member (A)


(Mukesh Kumar Gupta)
Member (J)

/bb/

12-8-2010
Final order sent
to the A/S for the
working filed. Do bro —



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

Title of the case :

Contempt Petition No. 21/2010
In OA No 82 of 2009

BETWEEN
Shri Pradip Kumar Ghosh ..Applicant.
AND

UNION OF INDIA & ORS
.....RESPONDENTS

I N D E X

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Filed by : *Usha Das*
Miss Usha Das
Advocate

Date : 28/6/2010

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

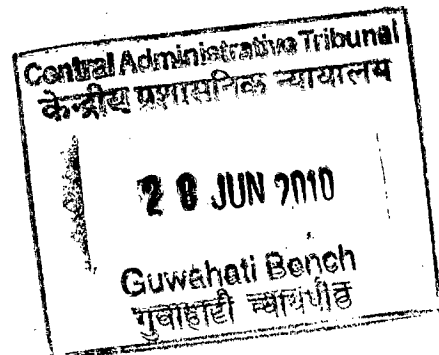
Contempt Petition No. 21/2010

In OA No. 82 /2009

Shri Padrip Kumar Ghosh
.....Applicant

-Versus-

Union of India & others
.....Respondents



IN THE MATTER OF:

A petition filed by the applicant under Section 17 of the Contempt of Courts (CAT) Rules 1992 read with Section 24 of the Contempt of Courts Act, 1971.

-AND-

IN THE MATTER OF:

Shri Pradip Kumar Ghosh

Son of Late Mahesh Chandra Ghosh

Working as Head Train Clerk

In the Office of the N. F. Railway, New Bongaigaon

Resident of Vill- New Bongaigaon B. G.

Colony Rly Qtr. No. 112/B

P.O.- New Bongaigaon,

P.S. Dhaligaon,

Dist- Bongaigaon,

PIN No.- 783381, Assam

.....Petitioner

-VERSUS-

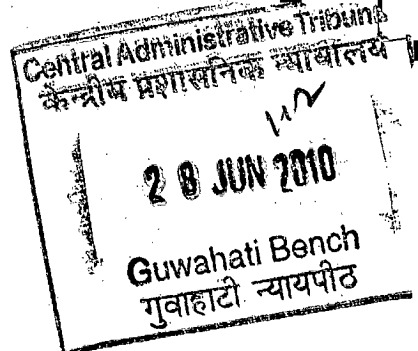
1. Shri Shiv Kumar

The General Manager

N.F. Railway, Maligaon

Guwahati-781011

Pradip Kr. Ghosh.



2. Shri Satendra Kumar

The Divisional Railway Manager (Personal),
N. F. Railway, Rangia Division, P.O. Rangia,
P.O. Rangia,
Dist- Kamrup. Assam

3. Shri Samaresh Chakraborty

The Divisional Personal Officer,
N. F. Railway, Rangia Division
P.O.- Rangia
Dist- Kamrup, Assam

.....Respondents

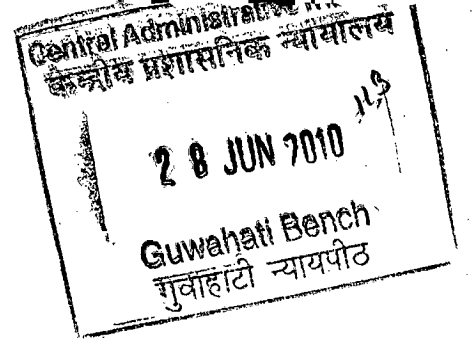
The humble petition on behalf of the Petitioner above named

MOST RESPECTFULLY SHEWETH:

- 1) That the applicant in the OA approached the Hon'ble Tribunal by way of filing OA No. 82/2010 against the impugned action of the respondents by which the damage rent as well as penal rent was deducted from the salary of the applicant without providing natural justice to the applicant. On 10.3.2010 the Hon'ble Tribunal after hearing both the parties and perusal the material based on records has been pleased to allow the Original Applicant set aside and quash the action of the respondent in not regularizing the period. The Hon'ble Tribunal also directed the respondents to refund the amount whatsoever deducted within a period of 45 days from the date of receipt copy of the Order dated 10.3.2010.

A copy of the order dated 10.3.2010 passed in OA No. 82/2009 passed by the Hon'ble Tribunal is annexed herewith and marked as Annexure- 1.

Prodip K. Ghosh



- 2) That after receipt of the order dated 10.3.2010 passed in OA No. 82/2009 the petitioner has submitted the same before the Divisional Railway Manager (P), N. F. Railway, Rangia through proper Channel on 05.4.2010.

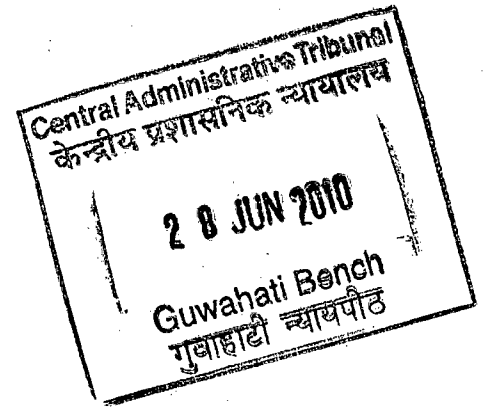
A copy of the covering letter dated 05.4.2010 is annexed herewith and marked as Annxure-2.

- 3) That the petitioner begs to submit that the time period granted by the Hon'ble Tribunal has already been expired to implement the order dated 10.3.2010 passed in OA No. 82/2009 but till date the Respondents have not implemented even after duly receipt by them.
- 4) That the petition begs to submit that this is a clear case of willful and deliberate violation of the Hon'ble Tribunal's direction given in order dated 10.3.1020 passed in OA No. 82/2009 for which they are liable to be punish under Rule 17 of Contempt of Courts (CAT) Rules 1992 as well as under Section 24 of the Contempt of Court Act, 1971.
- 5) By not implementing the order dated 10.3.2010 where the direction given by the Hon'ble Tribunal is very clear and unambiguous, the respondents have shown total disregard of the Hon'ble Tribunal.
- 6) That this petition has been filed bonafide and to secure ends of justice.

In the premises aforesaid it is most respectfully prayed that the Hon'ble Tribunal may be pleased to punish the respondents for their willful and deliberate violation of the Hon'ble Tribunal's order dated 10.3.2010 passed in OA No. 82/2009 and/or any such order/orders as the Hon'ble Tribunal deem fit and proper.

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

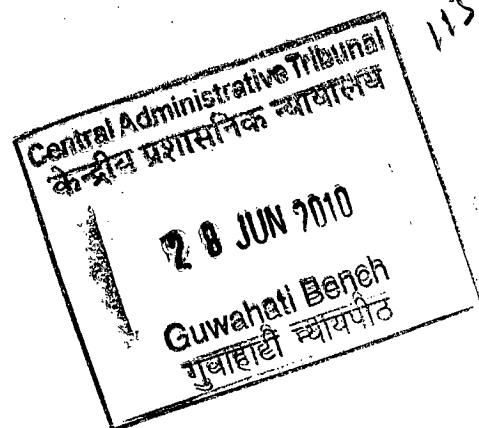
Prodyot K. Ghosh



DRAFT CHARGE

Shri Shiv Kumar, the General Manager, N.F. Railway, Maligaon, Guwahati-781011, Shri Satendra Kumar, the Divisional Railway Manager (Personal), N. F. Railway, Rangia Division, P.O. Rangia, P.O. Rangia, Dist- Kamrup. Assam and Shri Samaresh Chakraborty, the Divisional Personal Officer, N. F. Railway, Rangia Division, P.O.-Rangia, Dist- Kamrup, Assam are liable to be punished under Rule 17 of the Contempt of Courts (CAT) Rules 1992 read with Section 24 of the Contempt of Court's Act, 1971 for their willful and deliberate violation of the order dated 10.3.2010 passed in OA No. 82/2009 by the Hon'ble Tribunal.

Pradip K. Ghosh.



AFFIDAVIT

I, Shri Pradip Kumar Ghosh, aged about 48 years, son of Late Mahesh Chandra Ghosh, resident of New Bongaigaon, B. G. Colony, Rly Qtr No. 112 B, Type -II, P.O. New Bongaigaon, Dist- Bongaigaon, PIN -783381, who is the Petitioner in this Contempt Petition and hence competent to sign this affidavit do hereby solemnly affirm and state that the statement in paragraphs 4, 5, 6 are true to my knowledge and belief, those made in paragraphs 1 to 3 being matter of records, are true to my information derived there from and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this affidavit on this 1st day of June 2010 at Guwahati.

Identified by me

Usha Das
Advocate

Pradip K. Ghosh

DEPONENT

Solemnly affirm and state
by the deponent, who is
identified by Miss Usha
Das, Advocate, on this 1st
day of June 2010 at
Guwahati

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Annexure - 1

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

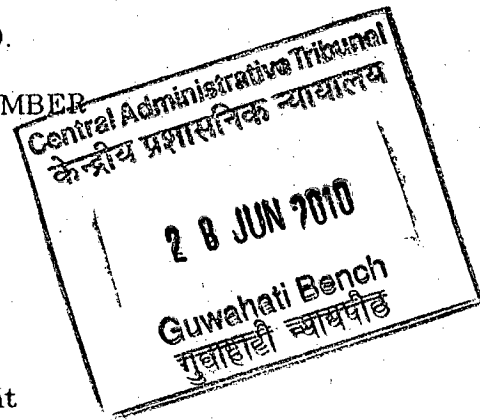
Original Application No. 82/2009.

Date of Order : This the 10th Day of March, 2010.

THE HON'BLE MR MUKESH KUMAR GUPTA, JUDICIAL MEMBER

Shri Pradip Kumar Ghosh,
Head Train Clerk,
Office of the N.F.Railway, New Bongaigaon
Resident of Vill-New Bongaigaon B.G. Colony,
Railway Quarter No. 112/B,
P.O. New Bongaigaon,
Dist. Bongaon, Assam

....Applicant



By Advocate Ms U. Das

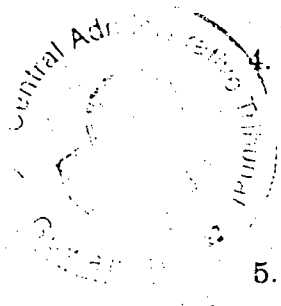
-Versus-

1. Union of India
represented by the Secretary to the
Govt. of India,
Ministry of Railways,
New Delhi-110001.
2. The General Manager
N.F.Railway, Maligaon,
Guwahati -- 781011.
3. The Divisional Railway Manager (Personnel),
N.F.Railway, Rangia Division,
P.O. Rangia,
Dist. Kamrup, Assam
PIN - 781354.
4. The Divisional Personnel Officer,
N.F.Railway, Rangia Division,
P.O. Rangia,
Dist. Kamrup, Assam
PIN - 781354.
5. The Area Manager,
N.F.Railway, New Bongaigaon,
P.O. New Bongaigaon,
Dist. Bongaigaon, Assam
PIN - 783380.

.....Respondents

By Advocate Dr M.C.Sarma, Railway counsel.

Attested
Usha Das
Advocate

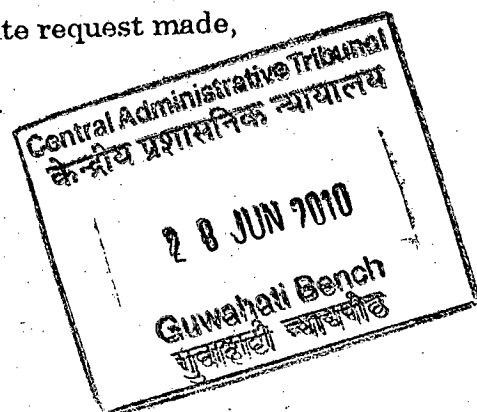


Controversy raised in present application should not survive after the Railway Board communication dated 26.10.2009 whereby it had decided that retention of Railway accommodation at the previous place of posting in favour of the officers/staff posted to Pune Division in Central Railways and Rangia Division in N.F. Railway would be permitted with post facto approval upto 31.08.2009.

2. Facts in a nutshell are applicant was transferred from New Bongaigaon to Rangia vide order dated 7.4.2005, which had been implemented on 7.6.2007. On a request made by him for retention of quarter at New Bongaigaon, he was conveyed such approval vide letter dated 5.11.2007 for a period of 8 months up to 8.6.2007, which period expired on 7.2.2008. Thereafter, he continued to make representation for retention of said quarter for the reason that there is no Kendriya Vidyalaya at Rangia where he could admit his wards. Moreover, he had his ailing mother, who required family attention. As his family was staying at New Bongaigaon, said request had been repeatedly made to the authorities, which remained unconsidered. In the meantime he was transferred back to New Bongaigaon on 14.7.2008, which order had been carried out on 23.7.2008.

3. By present O.A applicant seeks direction to respondents not to deduct penal rent as well as arrears of damage rent for the period 8.2.2008 to 23.7.2008 and to refund the entire amount deducted with interest @ 12% per annum. His grievance is despite request made,

no favourable attention has been paid by the Railways.

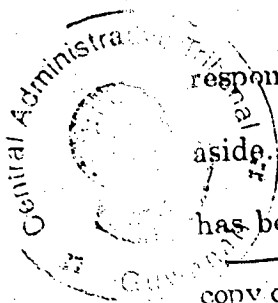
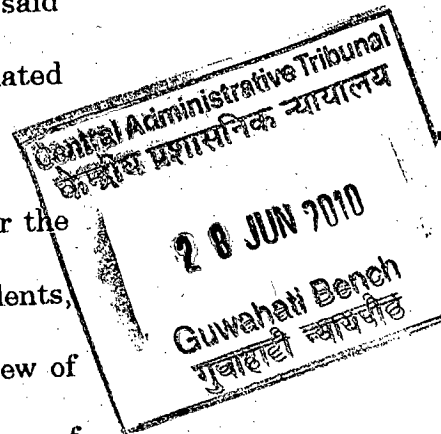


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Initially by filing reply his claim has been contested by the respondents on all possible count. I need not to repeat the contentions raised to avoid burdening of the record for the sake of brevity, as said issue no longer survive after the Railway Board issued circular dated 26.10.2009.

I have heard Ms U.Das, learned counsel appearing for the applicant and Dr M.C.Sarma, learned counsel for the respondents, perused the pleadings and other material placed on record. In view of the communication dated 26.10.2009, there remains no question of unauthorized occupation of quarter by the applicant at New Bongaigaon and it is undisputed fact that New Bongaigaon also falls within Rangia Division. There is no question of unauthorized occupation of the applicant till the aforesaid period i.e. 31.8.2009. In this view of the matter as the post facto approval of retention of Railway quarter has been granted by the Railway Board upto 31.8.2009 and the period in question falls within said limit, there remains no grievance to be adjudicated and the respondents ought to have been regularized the period in question.

Since it has not been done, O.A is allowed and the respondents action in not regularizing the period is quashed and set aside. The Respondents are also directed to refund whatever amount has been deducted within a period of 45 days from the date of receipt copy of this order. No costs.



TRUE
प्रतिनिधि

अनुष्ठा अधिकारी
Section Officer (Judicial)
Central Administrative Tribunal
गुवाहाटी न्यायपीठ
Guwahati Bench
गुवाहाटी न्यायपीठ

SC-

Writ - Chairman.

To,

The Divisional Railway Manager(P)
N.F. Railway, Rangiya.

Through: - Proper Channel

Date: - New Bongaigaon, the 5th day of April, 2010.

Sir,

Sub: - Refund of the Penal rent / damage rent against the Qrs. No. 112/B, type - II (Ele) in B.G. Colony / NBQ as ordered by the Learned Vice Chairman, C.A.T. / Guwahati Bench dated 10/03/2010.

I have the honour to draw your kind attention to the above order of the C.A.T. / Guwahati Bench and Pray that the Penal rent / damage rent from 08/02/2008 to 23/07/2008, recovered from my salary would be refunded to me with interest @ 12% per annum at the earliest possible delay.

I shall be highly obliged if the Order of the C.A.T. / Guwahati Bench be carried out within the stipulated date i.e. within 45 days from the date of the Order. Original Order of the C.A.T. issued as True Copy signed by the Section Officer (Judi), C.A.T. / Guwahati Bench in two pages is submitted herewith.

Forwarded to DRM (P) / RNY. Encl: - One in two sheets (Original).

05-04-10.
मुख्य यार्ड मास्टर
Chief Yard Master
ए. सी. रेलवे / न्यू बंगालगाँव
N. F. Ry / New Bongaigaon

Attested
Usha Don
Advocate

DRM (P) / RNY
Received
Date - 05.04.10

Yours faithfully,
Prodip KR. Ghosh.
(PRODIP KR. GHOSH)
Hd. TNC/NBQ
(Under CYM/NBQ)

