

FORM NO. 4
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
ORDER SHEET

147

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 : 23 / 2010 In O.A. No. 92 / 2009
5. Review Application No : ----- / 2009 In O.A. No. -----
6. Discontinuation Petition No : ----- / 2009 In O.A. No. -----

Applicant (S) : Sri C Peter Ngakanyu

Respondent (S) : D.S. Poonia & ors

Advocate for the : Mr. M. G. Singh

(Applicant (S)) : Mr. S. K. Singha

Learned Counsel for Respondent : Mr. M. K. Neog & ors

Advocate for the : -----

(Respondent (S)) : -----

Name of the Applicant	Date	Order of the Tribunal
<p><i>This Contempt Petition has been filed by the petitioner U/s 17 of the CAT, Act 1985 Praying for invoking the power to punish the respondents for neglecting to comply with order passed by the Hon'ble Tribunal dated 31.5.2010 passed in Execution petition NO. 03/2010 laid before the Hon'ble Court for favour of order.</i></p> <p><i>(1) / 13.7.2010</i></p>	<p>14.07.2010</p> <p>/bb/</p>	<p>By the present contempt petitions 22 & 23 of 2010, grievance raised is that respondents have willfully, deliberately and intentionally flouted the directions contained vide order dated 05.02.2010 disposing of O.A. Nos. 211/2008 & 92/2009 as well as order dated 31.05.2010 whereby Execution Petitions 2 & 3 of 2010 in said O.A.s respectively were allowed. Prima facie contempt has been made out. Notice 'DASTI' to respondent no.1 for the time being, returnable on 02.08.2010. Personal presence is dispensed with for the time being.</p> <p>(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta) Member (A) Member (J)</p>

02.08.2010

Mr. Ibotombi Namojam, learned counsel appearing for respondent No.1 states that W.P.(C) No.405 of 2010 has been preferred against the orders dated 05.02.2010 and 31.05.2010 respectively and notice had been issued in the Writ Petition fixed for 04.08.2010. In the circumstances, list on 24.08.2010.

3-8-2010

① Counter Affidavit filed on behalf of the respondent No.1,

② Affidavit for Dastri Services filed by the applicants

3.8.2010

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

24.08.2010

Mr. Ibotombi Namojam, learned counsel for respondent no.1 states that writ petition before the Hon'ble High Court is slated for hearing on 25.08.2010.

In the circumstances, list on 06.09.2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/bb/

06.09.2010 Present: Mr.M.G.Singh for applicant &

Mr.Ibotombi Namojam, for respondent no.1

Both sides state that judgment and orders dated 05.02.2010 and 31.05.2010 passed in OA Nos.211/2008 & 92/2009 and EP Nos.2 & 3 of 2010 respectively have been challenged before Hon'ble High Court in WP(C) Nos. 404 & 405 of 2010 respectively and judgment therein has been reserved on 25.08.2010.

In this view of the matter, adjourned to 27.09.2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/bb/

27.09.2010

None for the applicant. Mr Ibatambi Namojam, learned counsel appearing for respondent No.1 states that judgment in WP(C) 404 & 405 have not yet been received pronounced. *J*
In the circumstances list on 1.11.2010.

J
(Madan Kumar Chaturvedi)
Member (A)

J
(Mukesh Kumar Gupta)
Member (J)

/pg/

~~C.P.23 of 2010 in O.A.No. 92 of 2009~~

01.11.2010

List the matter on 13.12.2010 before Division Bench.

J
(Madan Kumar Chaturvedi)
Member (A)

pg

13.12.2010

Mr S.K.Singh, learned counsel for the applicant is present.

List on 14.02.2011 before Division Bench.

J
(Madan Kumar Chaturvedi)
Member(A)

pg

14.02.2011

Mr.I.Namojam, learned counsel along with Mr.S.Suraj appeared on behalf of the respondent no.1.

Place it before the Division Bench. On the request of learned counsel, case is adjourned to 16.05.2011.

List on 16.05.2011.

J
(Madan Kumar Chaturvedi)
Member (A)

/bb/

13-5-11
Mr. Can & ready
for hearing


13/5


CP. 23/2010 (OA. 94/09)

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16.05.2011

For the reasons recorded separately, CP
stands dismissed.


(M.K. Chaturvedi)
Member (A)


(N.A. Britto)
Member (J)

/bb/

✓ Ethical judgement/order
At 16-5-2011 has been
prepared & sent to Section
for issuing to the applicant
& Responders by post.

Memo no. 625 to 628

W 26/5/11

W
26/5/2011

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Contempt Petition No. 22 of 2010 (in OA.211/2008)

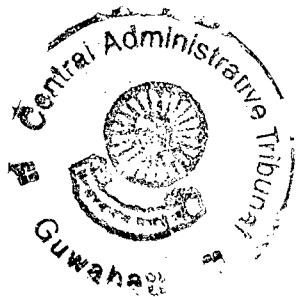
&

Contempt Petition No. 23 of 2010 (in OA.92/2009)

Date of Order: This, the 16th day of May, 2011.

HON'BLE MR. JUSTICE N.A.BRITTO, JUDICIAL MEMBER

HON'BLE MR. M.K. CHATURVEDI, ADMINISTRATIVE MEMBER



Sri C. Peter Ngahanyui
S/O late C. Paul
Resident of Ukhrul, P.O. & P.S: Ukhrul
Dist: Ukhrul, State: Manipur
Now residing at Irong Villa, Mantripukhri
Lamonge, Imphal, Manipur
PIN Code: 795 002.

...Petitioner in both the CPs

By Advocate: None appeared for the petitioner.

-Versus-

1. D.S.Poonia, IAS
Chief Secretary
Government of Manipur
Pin Code: 795 001.
2. Vumlunmang, IAS
The Secretary (Home)
Government of Manipur
Pin Code: 795 001.
3. P.K.Singh, IAS
The Secretary (DP)
Government of Manipur
Pin Code: 795 001.

...Respondents in both the CPs

By Advocate: Mr. I. Namoiijam for respondent no.1

ORDER (ORAL)

PER JUSTICE N.A.BRITTO, (J.M.):

Neither the petitioner nor his advocate is present.

Mr.I.Namoiijam, learned counsel is present on behalf of the respondent
no.1.

2. Mr.I.Namoiyam, learned counsel states that order dated 05.02.2010 passed in OA Nos.211/2008 and 92/2009 has been set aside by the Hon'ble High Court in Writ Petition (C) Nos. 404/2010 and 405/2010 vide order dated 27.09.2010 and the said order has been upheld by the Apex Court in SLP Nos.29686 and 29687/2010 vide order dated 29.10.2010 and as such nothing survives in these petitions. We accept the said statement of the learned counsel and consequently dismiss these applications as infructuous.



Sd/-

N.A. Britto

Member (J)

Sd/-

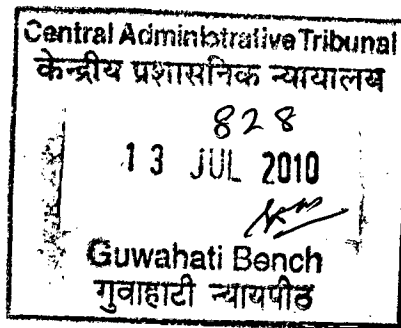
M.K. Chaturvedi

Member (A)

TRUE CO

प्रतिलिपि

अनुभाग अधिकारी
Section Officer (Judg)
Central Administrative Tribunal
पुनर्जागरण न्यायपीठ
अनुभाग अधिकारी
Section Officer (Judg)



DISTRICT: IMPHAL

STATE: MANIPUR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GAUHATI
BENCH

Contempt Petition No. 23/2010

**In Execution Petition No. 03/2010
arising out of O.A.NO. 92 OF 2009**

In the matter

An application for initiating contempt proceeding against the below named respondents/contemnors for their willful and intentional disobedience of the passed by the Hon'ble Tribunal 31/05/2010 in Execution Petition No...03/2010 and also with a prayer for invoking the power to punish the respondents for contempt under section 17 of the Administrative Tribunal Act 1985 for neglecting to comply with order direction of this Hon'ble Tribunal dated 31/05/2010 passed in Execution Petition No...03/2010.

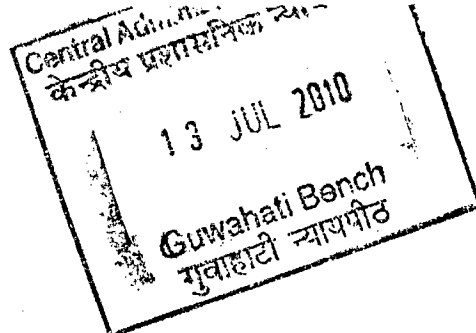
-And-

In the matter of

Sri C Peter Ngahanyui
S/o late C. Paul, resident of Ukhrul, P.O.
Ukhrul P.S. Ukhrul, District: Ukhrul State:
Manipur. now residing at Irong Villa,
Mantripukhri, Lamongei, Imphal, Manipur.
Pin Code – 795002

..... Petitioner

300670
H. Iboyima Singh
Oath Commissioner (Judicial)
Manipur



-Versus-

1. D.S. Poonia, I.A.S.
Chief Secretary, Government of Manipur.
Pin Code - 795001.

2. Vumlungmang, I.A.S.
The Secretary (Home), Government of
Manipur. Pin Code - 795001.

3. P. K. Singh, I.A.S.
The Secretary (DP), Government of
Manipur. Pin Code - 795001

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..... Respondents

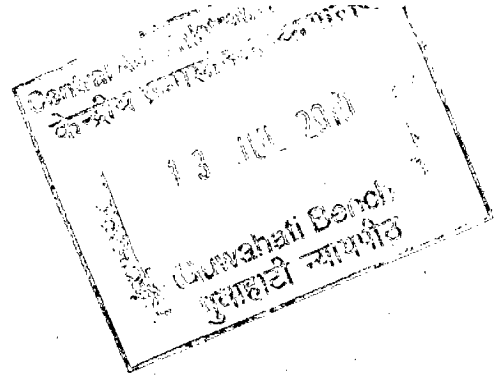
Humble application of the petitioner
abovenamed.

MOST RESPECTFULLY SHEWETH

1. That the petitioner herein is the applicant in the Original Application No211/2008 and as well as in Original Application No92/2009 in the said applications amongst others the applicant challenged the Departmental Proceeding dated 18/07/2007, proceeded against the applicant and the appointment of Sri. Y.Joykumar Singh IPS of '76 on 23/07/2007 in pursuance of DPC dated 19/07/2007 wherein the name of the petitioner/ applicant was not taken into consideration eventhough he is an IPS officer of 1975 batch.

2. That the petitioner begs to state that the Hon'ble Tribunal heard both the applications and by order dated 05/02/2010 set aside the appointment of Sri. Y.Joykumar Singh IPS of '76 batch and further directed the respondent Government to convene a regular DPC for appointment of DGP

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30.06.10
H. Iboyaima Singh
Oath Commissioner (Judicial)
Manipur



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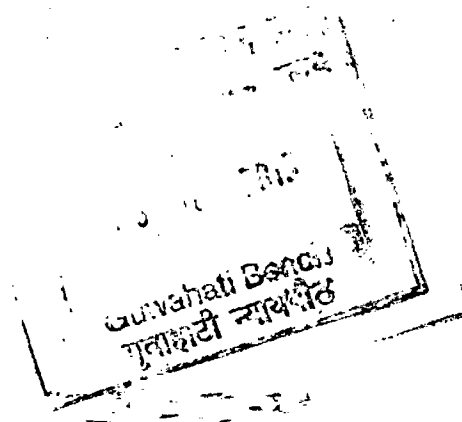
Manipur within thirty days by considering the names of all the eligible officers in the DPC, It is pertinent to mention herein that the Hon'ble Tribunal by order dated 05/02/2010 further gave direction to the respondent State authority to complete the Departmental proceeding against the petitioner within sixty days with effect from 12/02/2010 with a direction/ order that in the event the departmental proceeding is not completed within sixty days by passing a final order the same will stand abate. That on an application filed by the respondent State Government of Manipur, this Hon'ble Tribunal was pleased to extend the date of DPC by another 15 days on 05/03/2010 however, rejected the prayer for extension the time for completion of the Departmental Proceeding against the petitioner.

A copy of the order dated 05/02/2010 is enclosed herewith and marked as **Annexure -1**

3. That the petitioner begs to state that as per the direction of the Hon'ble Tribunal, the DPC for appointment of DGP Manipur was convened on 19/03/2010, and the case of the petitioner was kept in sealed cover because of the pendency of the Departmental Enquiry.

4. That the petitioner begs to state that as no final order has been passed as per the direction of the Hon'ble Tribunal, the applicant enquired about the status of the Departmental Proceeding. It is stated that to his utmost shock and surprise the petitioner came to know that without serving any notice to the petitioner/ his counsel the respondent Nos. 1, 2 and 3 filed Misc applications on 12/04/2009 for further extension of time to complete the Departmental Enquiry against the petitioner, the Hon'ble Administrative Member of the Hon'ble Tribunal while sitting single extended time to complete the Departmental proceeding till 26/04/2010 without hearing the petitioner.

30.06.10
H. Ibeyima Singh
Oath Commissioner (Judicial)
Manipur



5. That the petitioner begs to state that as no final order however was passed in the said departmental proceeding even after extension of time till 26/04/2010 by the direction of the Hon'ble Tribunal, and no prayer for extension of time for completion of the departmental proceeding was sought by the respondent authorities, the petitioner thereafter, filed execution petitions for implementation of the order dated 05/02/2010 passed in the Original applications. That this Hon'ble Court after hearing the execution petition, by order dated 31/05/2010 was pleased to declare the departmental proceeding stands abate and was pleased to direct the respondent authorities to open the sealed cover result of the DPC and also further directed to act accordingly with all consequential benefits.

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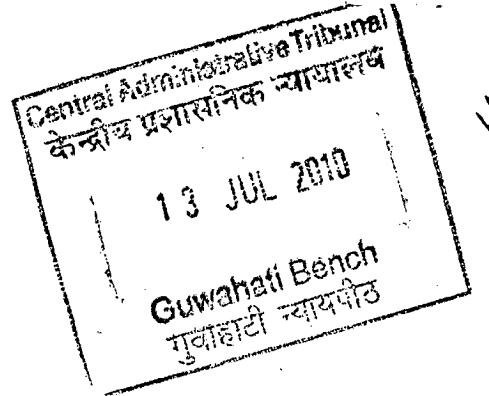
A copy of the order dated 31/05/2010 is enclosed herewith and marked as **Annexure -2**.

6. That the petitioner begs to state that petitioner through his counsel has delivered/ informed the respondent/ contemnors by delivering the certified copy of the order dated 31/05/2010 passed in the execution petitions with a covering letter on 02/06/10 Which was duly received by the respondent/ contemnors on 03/06/10

Xerox copies of the receipt of the dated 31/05/2010 by the respondent/ contemnors is enclosed herewith and marked as **Annexure -3** respectively.

7. That the petitioner begs to state that till date the sealed cover result of the DPC dated 19/03/2010 has not been opened by flouting the order passed by the Hon'ble Tribunal on 31/05/2010.

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 300610
H. Iboyaima Singh
 Oath Commissioner (Judicial)
 Manipur



8. That the petitioner begs to state that about a month has been passed and the respondent / contemnors are deliberately negligent to comply with the specific order of this Hon'ble Tribunal and willful disobedience of the said order amounts to contempt of the Hon'ble Tribunal, and respondents/ contemnors are liable for appropriate action for contempt under section 17 of the Administrative Tribunal Act, 1985.

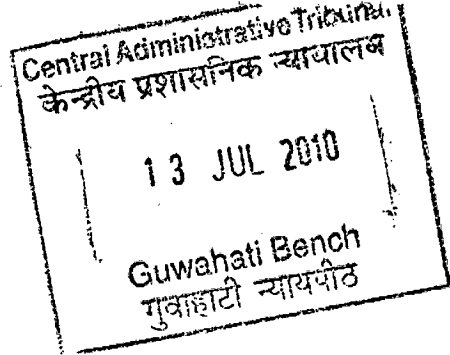
9. That, it is respectfully submitted that if such action of the Hon'ble Tribunal is allowed to go unchecked by passing an appropriate order by the Hon'ble Tribunal, the concept of rule of law will be wholly destroyed. The Apex Court in a case reported in (1991) 1 SCC 605 has held that:-

"Court constitute an inbuilt mechanism with the framework of the Constitution for the purposes of social audit and to ensure compliance of the Rule of law. In enforcing compliance by invoking the power of contempt, the Court seeks only to ensure that the majesty of this institution may not be lowered and the functional utility of the constitutional edifice may not be rendered ineffective".

10. That the petitioner therefore, states that in order to protect the majesty of this institution, the respondents who are happily indulging into disobedience of this Hon'ble Tribunal's order wilfully, intentionally and deliberately are required to be dealt with adequately so that repetition of such act is prevented and also to make them understand that respondents cannot play with the orders of the Hon'ble Court.

11. That, it is submitted that the direction and order of the Hon'ble Tribunal dated 31/05/2010 passed in Execution Petition No. 2/2010 arising out of O.A. No. 92/2009 and Execution Petition No. 3/2010 arising out of O.A. No. 211/2008 and also order dated 05/02/2010 passed in O.A. No. 211/2008 and O.A. No. 92/2009 are not unambiguous and are not capable of more than one interpretation and therefore as held by the

300610
H. Iboyaima Singh
Oath Commissioner (Judicial)
Manipur



Apex Court in the case reported in 2002(4) SCC 21 disobedience of a clear and unambiguous order would amount to contempt of Court. Hence, unless a strong action including committing the respondents for the act of contempt is passed by the Hon'ble Tribunal, due and proper administration of justice in India will be wholly destroyed.

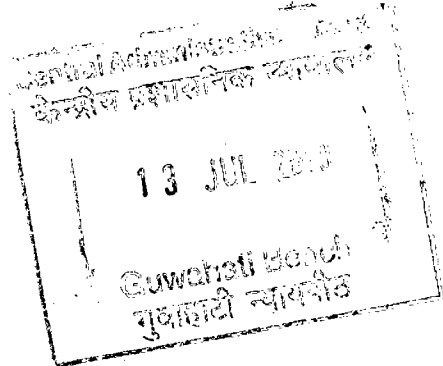
R. Singh

12. That this application is filed bonafide and for the ends of justice.

In the above facts and circumstances, it is therefore, respectfully prayed that Your Lordship's may graciously be pleased to :

I) To admit this petition, and issue notice under Section 17 of the A.T. Act, 1985 upon the respondents to show cause as to why proceedings for contempt of the Hon'ble Tribunal shall not be initiated for imposing punishment for contempt of the Hon'ble Tribunal and be pleased to take cognizance of the offence of committing contempt of Court by the respondents for their wilful and intentional disobedience of the Hon'ble Tribunal's order dated 31/05/2010 passed in Execution Petition No. 2/2009 and commit the respondents for committing act of contempt under the provision of contempt of Court Act, 1971 read with relevant provision of rules as applicable.

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H. Iboyaima Singh
Oath Commissioner (Judicial)
Manipur



ii) Direct the respondents to appear in person to explain the reason for their wilful disobedience.

iii) Punish the respondents for their wilful disobedience of the Hon'ble Tribunal's order according to the provision of law;

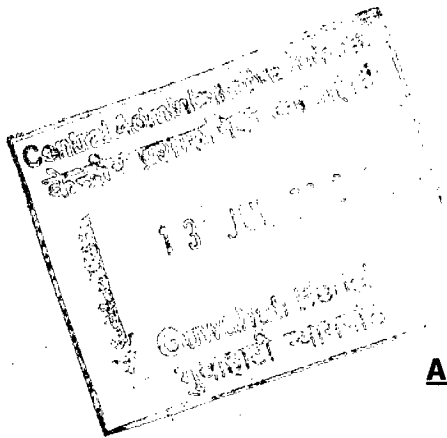
iv) Award heavy cost of against the respondents

AND

v) and after cause/causes being shown and hearing the parties be pleased to pass appropriate orders for contempt of the Hon'ble Tribunal and/or pass any other order/orders as deemed fit in the circumstances of the case to secure the ends of Justice.

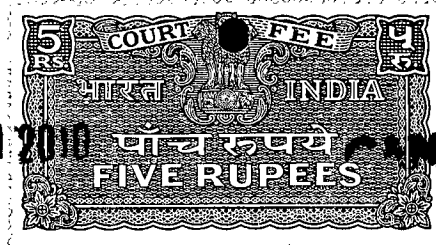
And for this act of kindness the petitioners as on duty shall ever pray.

206610
H. Iboyalme Singh
Oath Commissioner (Judicial)
Manipur



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30 JUN 2010



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AFFIDAVIT

I, Sri C Peter Ngahanyui S/o late C. Paul aged about 58 years resident of Ukhrul, P.O. Ukhrul P.S. Ukhrul, District: Ukhrul State: Manipur, now residing at Irong Villa, Mantripukhri. Lamongei, Imphal, do hereby solemnly affirm and say that I am the petitioner in the above petition and as such conversant with the facts of the case, and competent to swear and sign this affidavit which I do accordingly. I say that the statements made in this petition in para 1 to 8 are true to my knowledge and that I have not suppressed any material facts.

I sign this affidavit this 30th day of June, 2010 at Imphal.

A. Jagrit Singh
Deponent

Identified by me :

A. Jagrit Singh

Advocate

Solemnly affirmed and sworn in before me being identified by Sri *A. Jagrit Singh* Advocate, on this 30th day of June, 2010 at Imphal.

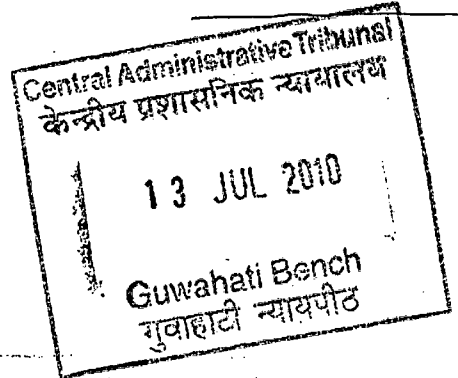
Solemnly affirmed before me on 30.6.2010 at 11.00 am in the court premises by the declarant who is identified by *A. Jagrit Singh, Adv.* The declarant seems to understand the contents fully well on their being read over and explained to him.

H. Iboyaima Singh
Oath Commissioner (Judicial)
Manipur

DRAFT CHARGE

The Hon'ble Central Tribunal, Guwahati Bench by an order dated 31/05/2010 passed in Execution Petition No. 2/2010 arising out of Original Application No.2/ 2009 (C. Peter Ngahanyui -vs- State of Manipur and others) was pleased to pass orders directing the respondents to open the sealed cover result of the petitioner in the DPC dated 19/03/2010 for appointment of the DGP, Manipur and accordingly give all the consequential benefits. The respondents have even after about a month has not complied with the direction of the Hon'ble Tribunal. This wilful disobedience and deliberate disobedience amounts to contempt of the Tribunal.

20.06.10
H. Iboyaimo Singh
Oath Commissioner (Judicial)
Manipur



-4-

CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH:

Original Application Nos. 211 of 2008 and 92 of 2009

Date of Decision: This, the 05th day of February 2010.

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

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

Sri C. Peter Ngahanyul
S/o Late C. Paul
Resident of Ukhrul
P.O.- Ukhrul, P.S.- Ukhrul
District- Ukhrul, State- Manipur
Now residing at Irong Villa
Mantripukhri, Lamongel, Imphal
Manipur, Pin Code- 795002.

...Applicant for both O.A.s

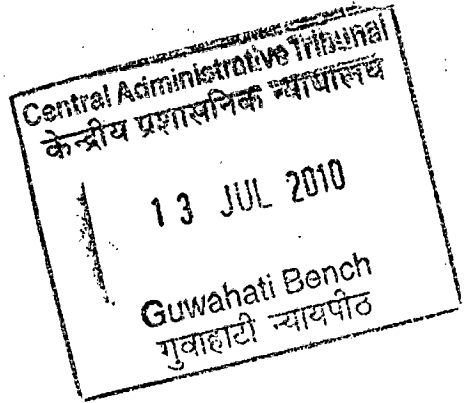
By Advocate: Mr. M. Gunedhor Singh

-Versus-

1. The State of Manipur
represented by Chief Secretary
Government of Manipur
Imphal, Manipur - 795001.
2. The Secretary / Commissioner/
Principal Secretary (Home)
Government of Manipur
Imphal, Manipur - 795001.
3. The Secretary / Commissioner/
Principal Secretary (DP)
Government of Manipur
Imphal, Manipur - 795001.
4. Sri Y. Joykumar, IPS (MT - 76)
Director General of Police
Government of Manipur
Imphal, Manipur - 795001.
5. The Union of India
represented by Secretary
Ministry of Home Affairs
Govt. of India, New Delhi - 1.
6. Union Public Service Commission
represented by its Chairman
Dholpur House, Shahajhan Road
New Delhi - 69.

...Respondents in O.A. No. 211/08

*Confirmed to be true
M. Gunedhor Singh
Advocate*



1. The State of Manipur
represented by Chief Secretary
Government of Manipur
Imphal, Manipur - 795001.
2. The Secretary
Home Department
Government of Manipur
Imphal, Manipur - 795001.
3. The Secretary
Department of Personnel
Government of Manipur
Imphal, Manipur - 795001.
4. Sri Y. Joykumar, IPS (MT - 76)
Director General of Police
Government of Manipur
Imphal, Manipur - 795001.
5. The Union of India
represented by Secretary
Ministry of Home Affairs
Govt. of India, New Delhi - 1.
6. Union Public Service Commission
represented by its Chairman
Dholpur House, Shahajhan Road
New Delhi - 69.

...Respondents in O.A. No. 92/09

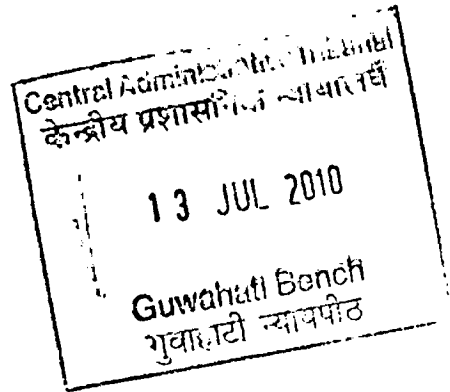
By Advocates: Mr. M.U. Ahmed, Addl. CGSC for U.O.I.
Mr. Satyen Sarma for Respondent Nos. 1- 3.
Mr. U.K. Nair for Respondent No.4
Mr. Nilutpal Borua for Respondent No.6
(Advocates in both Respondents).

ORDER (ORAL)

HON'BLE MUKESH KUMAR GUPTA, MEMBER (I):

O.A. No. 211 of 2008 as well as 92 of 2009, based on identical facts, are being decided by present common order.

2. Vide O.A. No. 211 of 2008; the reliefs claimed are that the Respondents be directed to promote him to the grade and scale of Director General of Police in IPS above Supertime scale of Rs. 24,050-



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O.A. Nos. 211 of 2008 & 92 of 2009

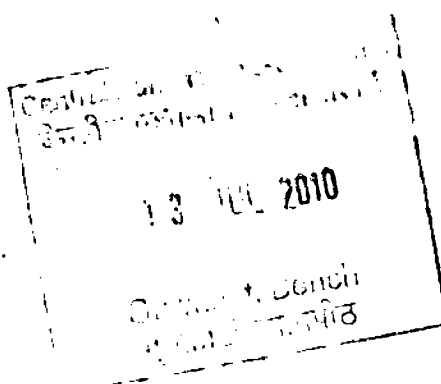
650-26000 or in alternative to set aside memorandum issued on 23rd July, 2007 whereby Respondent No. 4 has been appointed to said grade. Further relief sought is to quash departmental proceeding initiated vide memorandum dated 18th July 2007. Vide O.A. No. 92 of 2009 relief claimed is to quash the impugned Departmental Promotion Committee held on 19th July 2007.

3. Admitted facts are that the applicant being the second Senior most in IPS Manipur cadre was eligible for consideration to the post of Director General of Police, in IPS above Supertime Scale of Rs. 24,050-650-26000/-. DPC was convened on 19th July 2007. Just a day prior to it, he was proceeded for major penalty proceeding vide Memorandum dated 18th July 2007 alleging that he made payment of advance money to the tune of Rs. 2,61,45,000/- violating the provisions of CPWA Code and CPWD Manuals. Said memorandum had been issued under Rule 8 of the All India Services (Discipline & Appeal) Rules, 1969. DPC, which was convened on 19th July 2007, recommended promotion of Respondent No.4 and consequently he was appointed to said grade vide notification dated 23rd July 2007.

4. His grievance is of two folds:

i. Charge Memorandum had been issued just a day prior to DPC, which was held on 19.07.2007, which ex-facie smacks malafide exercise of power, which action has been initiated only to deprive him from getting promotion to the post of DGP. No progress has been made in Departmental Proceeding, which also indicate that the Respondents were not interested to prosecute him. The law is well settled that the proceeding initiated against the delinquent has to be concluded at the earliest. It is well settled law that "prosecution" should not become "persecution". By not concluding the said departmental

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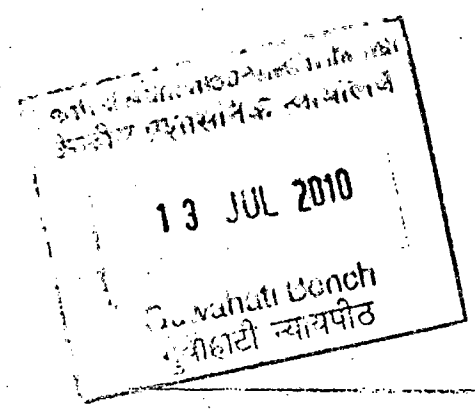
O.A. Nos. 211 of 2008 & 92 of 2009

proceedings, the respondents have violated well settled law on said aspect i.e. the delinquent has fundamental right of expeditious trial.

ii. Perusal of DPC Minutes dated 19th July 2007 would reveal that there is no just & fair consideration. Sealed cover procedure has not been followed, and having not followed said procedure & rather recommending Respondent No.4 for promotion makes it clear that the respondents some how wanted to exclude him from consideration zone. He had a fundamental right of fair consideration, which law has been grossly violated.

5. Applicant was second senior most official, besides Sri A.B. Mathur, IPS (MT:75). Apart from not considering the applicant and on examination of service records of officers and taking into consideration of all other aspects, which have not been disclosed by the said committee, it recommended Sri Y. Joykumar Singh, IPS (MT:76) (Respondent No.4) to the grade and scale of Director General of Police in the IPS above Supertime Scale of Rs. 24,050-650-26,000/-, but no reasons have been assigned. Assigning of reasons is a condition precedent.

6. In above backdrop, Mr. M. Gunedhor Singh, learned counsel for applicant contended that DPC Proceedings dated 19th July 2007 suffers from illegality and the same being malafide, which further had not applied the procedure in consonance with Rules, is liable to be set aside. As such, it was emphasized that said DPC as well as its consequential action are liable to be quashed and set aside. Consequently, appointment of Respondent No.4 be declared as illegal, arbitrary & unjust.



7. Filing reply, Respondent Nos. 1-3 have not denied that Memorandum dated 18.07.2007 had been issued under the provisions of All India Services (Discipline & Appeal) Rules, 1969 just a day prior to holding DPC on 19.07.2007. It was emphasized that as per the Government of India, Ministry of Home Affairs letter No. 45020/11/97-IPS-II dated 15.01.1999, IPS Officers who have completed 30 years of service are eligible for promotion to DGP. Therefore, 5 officials who had satisfied the said requirement were considered by DPC held on 19.07.2007.

8. Since the applicant alleged to have made certain irregular payment of advanced money to the tune of Rs. 2,61,45,000/- during the period from June, 2004 to January, 2005, while functioning as Managing Director, Manipur Police Housing Corporation Ltd., it was alleged that there were prima facie misconduct committed by him, and consequently the charge Memorandum dated 18.07.2007 under Rule 8 of All India Services (Discipline & Appeal) Rules, 1969 had been issued. At that point of time, he was on deputation as Chief Security Commissioner, Railway Protection Force, North-East Frontier Railway, Maligaon, Guwahati.

9. Since the Departmental Promotion Committee was held on 19.07.2007, he was also considered for promotion to DGP but his case could not be considered due to pendency of departmental enquiry. Vide reply para 11, it was stated that the Inquiring Authority was appointed vide order dated 17.10.2007. On the demise of Shri Saichhuana, IAS on 11.11.2007, another Official, i.e. Shri V. Ramnath, IAS, Director General, State Academy of Training, Manipur was appointed as next Inquiring Authority vide order dated 30.11.2007.

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13 JUL 2010

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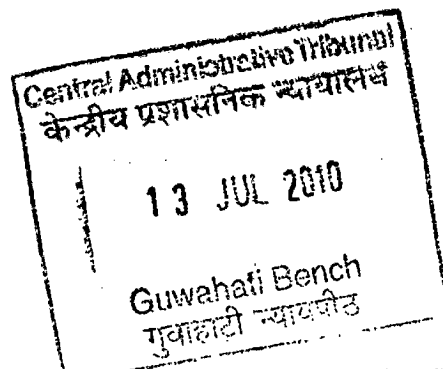
O.A. Nos. 211 of 2008 & 92 of 2009

But he expressed his inability to conduct the Enquiry on the plea that he was retiring shortly. Thereafter vide order dated 15th September 2008, Shri D.S Poonia, IAS, Principal Secretary (Home), Government of Manipur was appointed Inquiring Authority to inquire into the matter. Vide order dated 29th June 2009, Shri D.S Poonia, IAS, was appointed as Chief Secretary and thus there was necessity to appoint fresh Inquiring Officer, which exercise had been undertaken vide order dated 27th January, 2010 by appointing Shri A.N. Jha, IAS as Inquiring Authority. Vide order dated 04th February 2010, the date of Enquiry has been fixed i.e. 12.02.2010 and the applicant has been called upon to appear before the said Inquiring Authority.

10. In the above circumstances, learned Govt. Counsel contended that there was no delay in conducting the Enquiry initiated against him on 18th July 2007. Filing reply, the Respondent No.4 stated that there was no illegality committed by DPC in recommending him to the said post. Furthermore, the applicant had indeed been considered but because of initiation of Departmental Proceeding against him, he was not found suitable to said post, rather recommendation was made in favour of Respondent No. 4 which led to passing of promotion order on 23rd July 2007.

11. Sri U.K. Nair, learned Counsel for Respondent No.4 contended that at the best it could be construed as irregularity, which can be cured by convening DPC to consider applicant's case in isolation.

12. We have heard both sides at great length, perused the pleadings and other materials placed on record including the orders passed on 27th January, 2010 and 04th February, 2010 appointing fresh

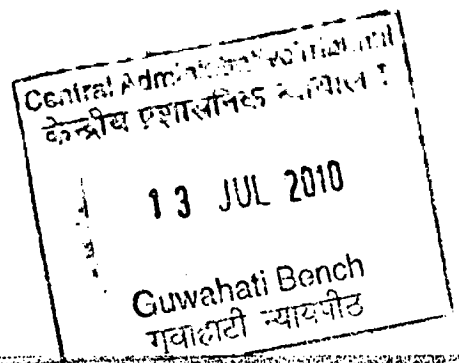


Inquiring Authority, as well as fixing the date of proceeding, requiring the applicant to appear before him in connection of Memorandum dated 18th July, 2007.

13. We have bestowed our careful consideration to all aspect of the case. At the outset, we may note that Mr. Satyen Sarma, learned counsel for official Respondents No. 1-3 stated that the State Government has undertaken to complete said Departmental Proceeding within a period of two months, which has not been agreed by Mr. M. Gunedhor Singh, learned counsel for applicant stating that in the given circumstance one month is sufficient to conclude said proceeding, which in turn was not agreed by the learned Counsel for State of Manipur.

14. Without going in to the merits and demerits of the case, we may note that allegation against the applicant is that he made certain "irregular" payment of substantial amount, & not the "illegal" payment. We are of the opinion that there is some justification in the contention raised by the applicant that from the details noted herein above, the Respondents have not taken reasonable steps to conclude the Departmental Proceedings initiated against him, rather the same remains inclusive. It had been initiated with a view to exclude him and deny him the promotion to the said post for some ulterior motive. Furthermore, it was emphasized that allegation leveled is "irregular payment" and not "illegal payment". Without recording any finding on this aspect, we are of the view that this Tribunal would not like to act as an Appellate Authority and also would not like to usurp the power & jurisdiction of the Inquiring Authority, rather we would require the State Government to conclude the said proceedings within sixty days

(12)



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O.A. Nos. 211 of 2008 & 92 of 2009

from 12.02.2010 by passing final order on said Departmental Proceedings. It is expected that the applicant would fully cooperate with the Inquiring Authority, & further would not raise any unnecessary & unwarranted hurdle for concluding the said Inquiry. If the Respondents are not able to finalize the said Departmental Proceedings initiated against him in the time limit prescribed, in the eventuality the said Proceedings would stand abate. As far as validity of DPC dated 19th July 2006 is concerned, we also find justification in the contention raised by applicant that apart from making observations that he was considered by it for promotion and his name found mentioned vide Paragraph 6-7, there was nothing worth consideration. Perusal of meeting minutes dated 19th July 2007 would reveal that there has been no just & fair consideration. Rather said consideration was mere eye-wash. It did not follow the sealed cover procedure, as per law laid by Hon'ble Supreme Court in Union of India v. K.V. Jankiraman & Ors. (1993) 23 ATC 322. Though said judgment was rendered in respect of non All India Service but the law laid down therein is squarely applicable in the given circumstances too. When a charge memorandum is issued against delinquent; he is placed under suspension or a decision is taken to initiate such action, DPC held/convened must follow the sealed cover procedure. In the present case, it is true that Proceedings were initiated against the applicant only a day prior to holding DPC but no such sealed cover procedure had been adopted. Further, the reasons for not following such procedure were neither highlighted in the reply nor the minutes of DPC made any reference to it.

15. In our considered view, the DPC had committed illegality in not following the sealed cover procedure & thereby such violation

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O.A. Nos. 211 of 2008 & 92 of 2009

cannot be sustained in law. Therefore, we have no hesitation to conclude that such proceeding and said DPC dated 19th July 2007 suffers from material irregularity and illegality, which cannot be cured & sustained in the eye of law, hence are liable to be quashed. We accordingly do so. Consequently recommendation made by it also cannot be operated and hence the promotion of Respondent No. 4 vide order dated 23.07.2007 is also rendered unsustainable in law, set aside and quashed. As the post held by the Respondent No.4 is the highest post in the hierarchy, we will not like to put it in limbo and therefore we require the respondents to convene a review DPC within thirty days from today to consider all eligible officers fairly & justly and accordingly regulate regular appointment/promotion to the said post. Till then Respondent No. 4 is allowed to remain in position.

Consequently O.A.s are disposed of in above terms. No costs.

Sd/- M.K. Gupta
Member (J)
Sd/- M.K. Chaturvedi
Member (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Execution Petition No.02 of 2010 (O.A. 211 of 2008)

&

Execution Petition No.03 of 2010 (O.A. 92 of 2009)

Date of Decision: This, the 31st Day of May, 2010.

HON'BLE SHRI MUKESH KUMAR GUPTA, JUDICIAL MEMBER

HON'BLE SHRI MADAN KUMAR CHATURVEDI, ADMINISTRATIVE MEMBER

Sri C. Peter Ngahanyu
Late C. Pou
Resident of Ukhrul
P.O. - Ukhrul, P.S. - Ukhrul
District - Ukhrul, State - Manipur
Now residing at Irong Villa
Mantripukhri, Lamangei, Imphal
Manipur, Pin Code - 795002.

...Applicant for both E.P.s

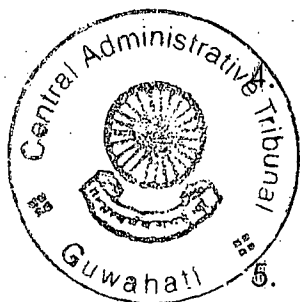
By Advocate: Mr. M. G. Singh

-Versus-

1. The State of Manipur
represented by Chief Secretary
Government of Manipur
Imphal, Manipur - 795001.
2. The Secretary / Commissioner/
Principal Secretary (Home)
Government of Manipur
Imphal, Manipur - 795001.
3. The Secretary / Commissioner/
Principal Secretary (DP)
Government of Manipur
Imphal, Manipur - 795001.

Sri Y. Joykumar, IPS (MT - 76)
Director General of Police
Government of Manipur
Imphal, Manipur - 795001.

The Union of India
represented by Secretary
Government of India
Ministry of Home Affairs
North Block, New Delhi - 1.



Certified to be true
Mr. G. Guadram Singh
Advocate

6. Union Public Service Commission
represented by its Chairman
Dholpur House, Shahjahan Road
New Delhi - 69.

... Respondents in both the cases.

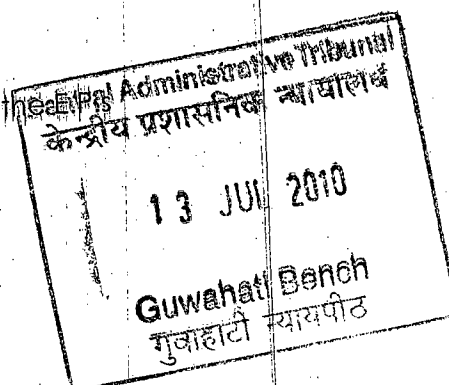
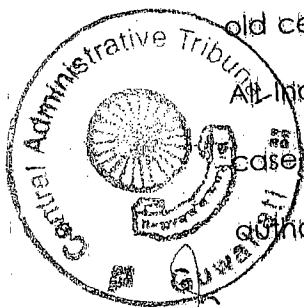
By Advocates: Mr. Satyen Sarma for Respondent Nos. 1-3.

ORDER

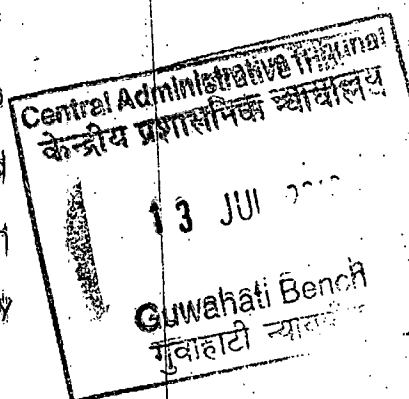
MUKESH KUMAR GUPTA, MEMBER (J)

We propose to deal with Execution Petition Nos. 02 & 03 of 2010 by present common order as the issue raised is common in nature. Sh. C. Peter Ngahanyul by these present cases basically seeks to enforce common order dated 05.02.2010 passed in O.A. No.211/2008 and O.A. No.92/2009 declaring the result of DPC and opening the sealed cover with all consequential benefits.

2. The respondents have filed their reply stating that the direction contained vide aforesaid order with regard to review DPC has already been complied with by holding DPC on 19.03.2010 findings of which, have been kept in sealed cover. With regard to departmental proceedings initiated against the applicant, Enquiry Officer has submitted the report on 24.04.2010, copy of which has been forwarded to him vide letter dated 14.05.2010 requiring to submit representation, if any, within 15 days. There was some delay in processing the enquiry report due to ongoing 4 months old cease work strike of the State Govt. employees. Furthermore, Rule 9 of All India Services (Discipline & Appeal) Rules, 1969 requires that in every case the record of the enquiry shall be forwarded by the disciplinary authority to UPSC for its advice.

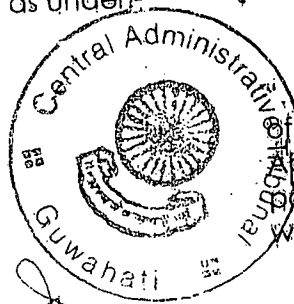


3. Mr. Satyen Sarma, learned standing counsel for the Govt. of Manipur forcefully contended that the ground realities must be taken into consideration. It was also emphasized that no prejudice has been caused to applicant in as much as the findings of review DPC have been kept in sealed cover and enquiry has been concluded by submitting the enquiry report.



4. Aforesaid aspects were seriously contested by Mr. M.C. Singh, learned counsel for applicant. It was contended that order dated 05.02.2010 in unambiguous terms concluded that if no final order is passed on the said disciplinary proceedings within the time limit prescribed, the same "would stand abate". It was also emphasized that the term used therein had been "disciplinary proceedings" and not the "enquiry". Furthermore, what was expected from the respondents was to pass "final order", on the said disciplinary proceedings, which has not been done. In any case, on the request of the respondents, time had been extended upto 26.04.2010. No further extension was either applied or granted, emphasized, learned counsel.

5. We have heard learned counsel appearing for the parties at great length, perused the materials placed on record. Before proceeding further, it would be expedient to notice the relevant excerpts of the common order dated 05.02.2010 in O.A.s.211/2008 & 92/2009, which read as under:-



Without recording any finding on this aspect, we are of the view that this Tribunal would not like to act as an Appellate Authority and also would not like to usurp the power & jurisdiction of the Inquiring Authority, rather we would require the State Government to conclude the

said proceedings within sixty days from 12.02.2010 by passing final order on said Departmental Proceedings. It is expected that the applicant would fully cooperate with the Inquiring Authority, & further would not raise any unnecessary & unwarranted hurdle for concluding the said Inquiry. If the Respondents are not able to finalize the said Departmental Proceedings initiated against him in the time limit prescribed, in the eventuality the said Proceedings would stand abate. As far as validity of DPC dated 19th July 2006 is concerned, we also find justification in the contention raised by applicant that apart from making observations that he was considered by it for promotion and his name found mentioned vide Paragraph 6-7, there was nothing worth consideration. Perusal of meeting minutes dated 19th July 2007 would reveal that there has been no just & fair consideration. Rather said consideration was mere eye-wash. It did not follow the sealed cover procedure.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

13 JUL 2010

Guwahati Bench
गुवाहाटी न्यायपीठ

15. In our considered view, the DPC had committed illegality in not following the sealed cover procedure & thereby such violation cannot be sustained in law. Therefore, we have no hesitation to conclude that such proceeding and said DPC dated 19th July 2007 suffers from material irregularity and illegality, which cannot be cured & sustained in the eye of law, hence are liable to be quashed. We accordingly do so. Consequently recommendation made by it also cannot be operated and hence the promotion of Respondent No. 4 vide order dated 23.07.2007 is also rendered unsustainable in law, set aside and quashed. As the post held by the Respondent No.4 is the highest post in the hierarchy, we will not like to put it in limbo and therefore we require the respondents to convene a review DPC within thirty days from today to consider all eligible officers fairly & justly and accordingly regulate regular appointment/promotion to the said post. Till then Respondent No. 4 is allowed to remain in position."

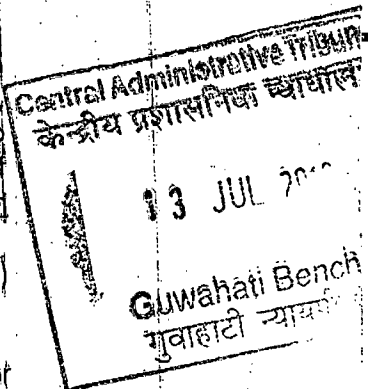
(emphasis supplied)

After the aforesaid order was passed, the respondents have moved M.A.s 39 & 40 of 2010 seeking extension of time. Vide order dated 05.03.2010, said M.A.s were disposed of, relevant excerpts of which, read as under:-

"We have heard learned counsel for the parties perused and examined the matter. As far as extension of time sought for concluding the departmental proceedings is concerned, we do not find any

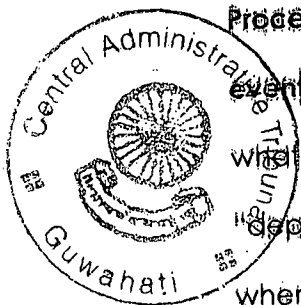
Justification as the respondents were granted 60 days time from 12.02.2010 instead of 05.02.2010, the date on which said order was passed, since there has been certain delay in issuing certified copy of the said order technically speaking respondents were required to complete the exercise as directed therein irrespective of receipt of certified copy, we grant 15 days time from today to complete the process.

(emphasis supplied)



Thereafter, undeterred by aforesaid order, the respondents filed further M.A. Nos.67 & 68 of 2010 respectively in aforesaid O.A.s seeking extension of time. Vide order dated 12.04.2010, said M.A.s were disposed of noticing the fact that the inquiring authority had proposed to complete the enquiry and hearing had been completed but one vital statement has to be checked, which was received only on 05.04.2010. Therefore, it was felt that there existed a reasonable cause for delay, and therefore, time was extended upto 26.04.2010, as prayed for.

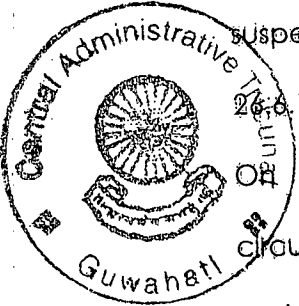
6. Upon examination of the matter, the clear fact which emerges are that the inquiry authority submitted its report on 24.04.2010, which was endorsed to him only on 14.05.2010 requiring him to make representation, if any, against it. It is undeniable fact that vide order dated 05.02.2010, this Tribunal required the respondents to pass "final order on said Departmental Proceedings" within "60 days from 12.02.2010". It was further observed therein that: "If the Respondents are not able to finalize said Departmental Proceedings initiated against him in the time limit prescribed, in that (sic) eventually said Proceedings would stand abate." Thus, it transpires that what has been concluded so far is the "enquiry" and not the "departmental proceedings". Disciplinary proceedings are concluded only when the final order is passed by the disciplinary authority and not mere



submission of the enquiry report by the Inquiring authority. Furthermore, we find justification in the contention raised by the applicant that in any event the time was extended upto 26.04.2010, which period has expired. Thereafter, neither any request was made for extension nor such time was extended beyond 26.04.2010.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
13 JUL 2010
Guwahati Bench
गुवाहाटी न्यायपीठ

7. We may note that virtually identical issue felt for consideration before Principal Bench of this Tribunal in **Bhauri Ram vs. Masih-Uz-Zaman, G.M., 1995 (1) SLJ (CAT) 253**, wherein the penalty of removal order dated 19.11.1991, while deciding O.A. No.997/1986, was quashed and set aside, and it required the respondents to conduct disciplinary proceedings, if any, according to law, which should be completed within a period of 6 months from the date of receipt of said order. One of the issues, which arose for consideration therein had been: "whether in view of the specific direction given by this Tribunal in its judgment dated 19.11.1991 that the disciplinary proceedings shall be completed within a period of six months the respondents had any legal justification to issue an order of deemed suspension on 15.3.1993, which was served upon the applicant on 26.6.1993, long after the expiry of a period of six months from 19.11.1991?" On examination of the matter and with reference to facts and circumstances of the case, this Tribunal concluded vide paras 9 & 10, as under:-



"9. The Tribunal in its order made it mandatory that the inquiry shall be completed within a period of six months. If the respondents did not complete the inquiry within the specified period, they did so at their peril. Whether they should be punished for having committed the contempt of the Tribunal is a different matter. In any view of the matter, it has to be held that the enquiry having not been completed within a period of six

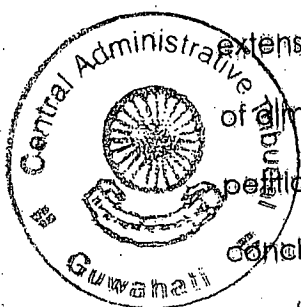
months from 19.11.1991 the same cannot be allowed to be completed now.

10. We are satisfied that the inquiry had been commenced to circumvent the undertaking given to the Tribunal and the direction given by it on that basis. Since an act is contumacious and, therefore, the order passed for holding an inquiry is without jurisdiction. Furthermore public policy requires that such an act should not be countenanced."

(emphasis supplied)

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
13 JUL 2010
Guwahati Bench
गुवाहाटी न्यायालय

Almost similar question had been considered by Hon'ble Calcutta High Court in Sher Singh vs. Union of India and Ors., 2007(3)SLR 817, which was a writ petition filed at the instance of an unsuccessful applicant before this Tribunal. The petitioner therein was a member of Indian Administrative Service of 1976 batch belonging to West Bengal cadre, who was served with a memorandum of charge dated 02.06.1994. In the proceedings initiated against him, this Tribunal disposed of the proceedings directing the State Government to complete the disciplinary proceedings and submit its report to the competent authority within 3 months and the competent authority was also directed to pass final order within the time limit prescribed therein. In default of compliance of said order, it was observed that the entire proceeding would stand quashed. As there was a delay in completing the proceeding, M.A. was filed seeking extension of time. No order has been passed thereon and after a passage of almost 3 years the penalty was imposed upon the applicant therein. The petitioner therein contended that as the proceedings were finalized and concluded much after the time limit prescribed by the judicial order and the time limit fixed by the Tribunal, continuance of the disciplinary proceedings beyond the time prescribed was without jurisdiction. Accepting said plea vide para 33 of the judgment, it was observed that:

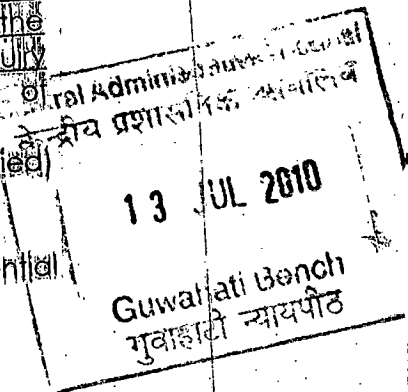
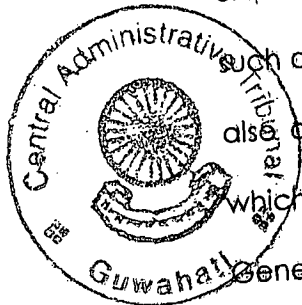


"we are of the opinion that Mr. Mullick (petitioner's counsel) is right in his contention that in view of the judicial order passed against the respondents fixing a time limit for conclusion of the proceedings and undisputedly such time limit not having extended, the respondents could not proceed further with the enquiry and conclude the same by passing an order of dismissal."

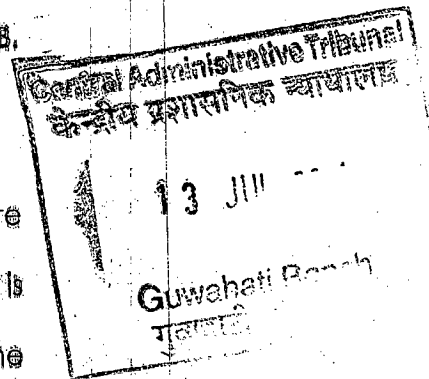
(emphasis supplied)

Ultimately, said order was quashed and set aside with all consequential benefits.

Luaknow Bench of this Tribunal in **K. B. Bhardwaj v Union of India [2002 (2) ATJ 477]** was also confronted with similar issue and following order dated 30.04.2001 passed by Hon'ble High Court of Allahabad in O.M. Application No.9786/2001 in WP No.584/2001, decision of the Hon'ble Supreme Court in the case of **Whirlpool Corporation v Registrar of Trade Marks [1999 (17) LCD 219]**, as well as **M.L. Sachdeva v Union of India [(1991) 1 SCC 605]**, it was held that where the Court's directions were issued to finalize the disciplinary proceedings within a stipulated period and the orders in compliance thereof are passed after expiry of the said period, such orders have to be quashed being without jurisdiction. Similar issue was also considered by the Principal Bench of this Tribunal in O.A.2066/2004, which was partly allowed vide order dated 26.08.2005 requiring the General Manager to pass fresh order permitting appointment of another enquiry officer only if the same enquiry officer who had earlier conducted the enquiry was not available for some good reason. In case the enquiry was not completed within the time limit prescribed, it shall stand abate. Review filed by the Union of India (R.A.6/2006) was rejected vide order

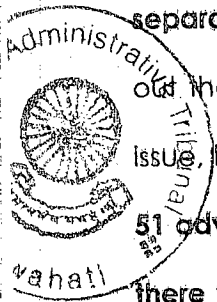


dated 31.01.2006 noticing aforementioned judgments, as narrated in K. B. Bhardwaj (supra).



8. Bare perusal of the facts of present vis-à-vis facts of the afore noted judgments would reveal that on all force the law laid down therein is squarely applicable in the facts of present case, particularly when the time limit prescribed by this Tribunal vide order dated 05.02.2010, as extended vide order dated 12.04.2010, came to an end on 26.04.2010. What was expected had been to pass final order on the proceedings initiated against the applicant and not to finalize the enquiry report. Admittedly, neither extension of time was applied nor granted. In this view of the matter and applying the aforesaid law, we have no hesitation to observe that there is no justification or substance in the contention raised by the respondents.

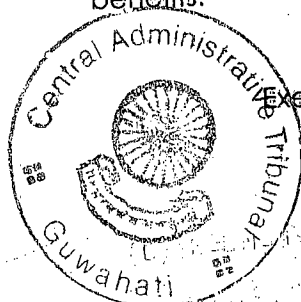
9. We may note another interesting aspect of the matter namely, the enquiry officer in his report has not recorded any specific unambiguous findings regarding guilt of the applicant. Rather, the allegations made vide said charge-sheet were splitted into 3 portions. For issue no.1, it was stated that "advances were made to contractors in exigencies of work and public interest after exercising prudence, care and diligence. It also emerges that "advances were made for different items of work each sanctioned separately and not in a combined sanction". For issue no.2, it was pointed out that in total 35 advances of different kind were made and for the 3rd issue, it was again divided into 3 parts. It was observed that: "In respect of 51 advances made, the provisions of CPWD Manual were not followed, but there was no monetary loss to MPHC Ltd." Advances of the kind he made



were also made prior to his joining MPHCL Ltd., and he also brought instances of advances being made even later after he handed over charge. It was further observed that "It would for the Disciplinary Authority to reach a decision on the defence that there was no misconduct or misbehaviour or loss incurred on part of the Charged Officer."

10. We would not like to make any further observation except noticing aforesaid aspect. In the result, E.P. Nos.2 & 3 of 2010 are allowed. Since "final order" on the disciplinary proceedings initiated vide memorandum dated 18.07.2007 has not been passed within "60 days of the said order" or in any case by 26.04.2010, time limit as extended vide order dated 12.04.2010, said disciplinary proceedings stand abated. Respondents are accordingly directed to open the sealed cover and give effect to recommendation made by the DPC with all consequential benefits.

Execution petitions are allowed. No costs.



Sd/- M.K. Gupta
Member (J)
Sd/- M.K. Chaturvedi
Member (A)

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प्रतिलिपि
16-6-2010
अनुभाग अधिकारी
Section Officer (Judicial)
Central Administrative Tribunal
गुवाहाटी न्यायपीठ
Guwahati Bench
गुवाहाटी/गुवाहाटी-8

INPHAL HQ (795001)
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 Counter No:5, OP-Code:563
 To: THE CHIEF SEC, GOVT OF MANIPUR
 INPHAL, PIN:795001



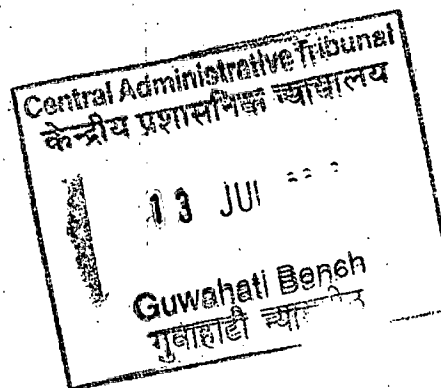
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 PS:50.00, 07/06/2010, 11:56
 <<Have a nice day>>

Manipuri Rajbari, Guwahati
 P.O. Ulubari, Guwahati-7
 (0) 984062734 (M)

02/6/2010

To,
 The Chief Secretary,
 Government of Manipur
 Imphal, Manipur - 795001.

Chief Secy
 Date: 07/06/2010



Sub :- DPC for regular appointment of DGP Manipur.

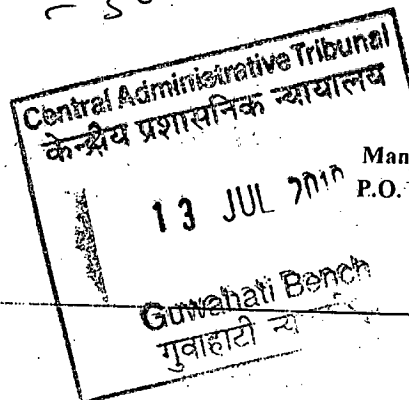
Ref. :- 1. Order dated 31/05/2010 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench in E.P. No. 2 in O.A. No 211/2008 and E.P. No. 3 O.A. No 92/2009

Sir,

Under the instruction of my client, Sri C. Peter Ngahanyui and on his behalf I hereby served this legal notice/ communication for your necessary compliance and action.

1. That my client is an IPS Officer of 75 batch, being aggrieved by the non consideration of his promotion case in the DPC dated 19/07/2007 the undersigned challenged the said DPC by preferring Original Application being registered as O.A. No. 92/2009 before the Hon'ble Central Administrative Tribunal, Guwahati Bench. It is also pertinent to mention herein the undersigned also by way of another Original Application being registered as O.A. No.211/2008 also challenged the promotion of Sri Y Joykumar Singh, IPS '76 batch as DGP Manipur. Both the original applications were heard together and the Hon'ble Tribunal by order dated 05/02/2010 set aside the appointment of Sri Y Joykumar Singh IPS of '76 batch and further directed the respondent Government to convene a regular DPC for appointment of DGP Manipur within thirty days and to consider the name of all the eligible officers in the DPC.

✓ **M. Gunedhor Singh, B.Sc., LL.B.**
Advocate, Gauhati High Court, Guwahati.



02/6/2010

2. That the Hon'ble Tribunal by order dated 05/02/2010 further directed the respondent Government to complete the Departmental proceeding against my client within sixty days with effect from 12/02/2010. It is pertinent to mention herein that, on 06/03/2010, the Hon'ble Tribunal was pleased to extend the date of DPC by another 15 days however, rejected the prayer for extension the time for completion of the Departmental Proceeding.
3. That from the reliable sources it has come to the knowledge of my client that as per the direction of the Hon'ble Tribunal the DPC was convened on 19/03/2010, and the case of my client was kept in sealed cover because of the pendency of the Departmental Proceeding.
4. That as no final order has been passed as per the direction of the Hon'ble Tribunal, my client enquired about the status of the Departmental Proceeding. It is stated that to his utmost shock and surprise my client came to know that without serving any notice to my client/ his counsel, the State respondents filed Misc applications on 12/04/2009 before the Administrative Tribunal for further extension of time to complete the Departmental Proceeding against my client, the Hon'ble Administrative Member of the Hon'ble Tribunal while sitting single extended time to complete the Departmental Proceeding till 26/04/2010 without hearing my client.
5. That as there was already inordinate delay in proceeding/ commencing the Departmental Proceeding, and even after a specific direction of the Hon'ble Tribunal that in the event no final order is passed the on the stipulated time the Departmental Proceeding will "stand abate" and the Departmental Proceeding having not completed within the stipulated time my client filed two Execution petition before the Hon'ble Tribunal being registered as E.P. No. 2 in O.A. No 211/2006 and E.P. No. 3 O.A. No 92/2009.

M. Gunedhor Singh, B.Sc., LL.B.
Advocate, Gauhati High Court, Guwahati.

3

Manipuri Rajbari, Guwahati
P.O. Ulubari, Guwahati-7
(0) 984062734 (M)

02/6/2010

6. That by order dated 31/05/2010 the Hon'ble Tribunal allowed both the execution petitions and declared the Disciplinary proceeding against my client as stand abate and further directed the respondent Government to open the sealed cover and give effect to recommendation made by the DPC with all consequential benefits. Therefore, you are requested to comply with the order of the Hon'ble Tribunal immediately.

A copy of the order dated 31/05/2010 passed in E.P. No. 2 in O.A. No 211/2008 and E.P. No. 1 O.A. No 92/2009 is annexed herewith and marked as ANNEXURE-1

This notice/communication is for your information and kind action.

Yours sincerely,

M. Gunedhor Singh
M. Gunedhor Singh

Encls :- As above

Copy to:- 1. The Secretary/ Commissioner/ principal Secretary (Home),
Government of Manipur. Pin Code - 795001.

→ 16/6/10

2. The Secretary/ Commissioner/ Principal Secretary (DP),
Government of Manipur. Pin Code - 795001

*RECEIVED
SECRETARY (DP)
GOVERNMENT OF MANIPUR
16/6/10*

Yours sincerely,

M. Gunedhor Singh

DISTRICT : IMPHAL WEST

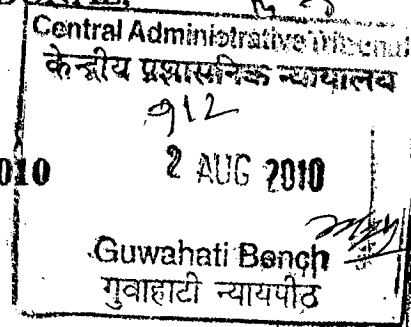
STATE : MANIPUR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

GAUHATI BENCH

CONTEMPT PETITION NO. 23 OF 2010

In Execution Petition No. 03 of 2010
arising out of O.A No. 92 of 2009



Sri C Peter Ngahanyui

... .. Petitioner.

- Versus -

D.S Poonia, I.A.S, Chief Secretary,
Government of Manipur and 2 Ors.

... .. Respondents.

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Sl.No.	Annexure(s)	Particular (s)	Page(s)
(1)	(2)	(3)	(4)
1.		Affidavit-in-Opposition With Verification	01 - 03
2.	Annexure-C/1	Order dt. 28.7.2010	04
3.		Vakalatnama	

Dated/Imphal,

The 2nd Aug, 2010

By:-

N. Sanjib Deka

Advocate
C/o Ibotombi Namoijam,
Advocate.

DISTRICT : IMPHAL WEST

STATE : MANIPUR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GAUKHATI BENCH

CONSTITUTED PETITION NO. 23 OF 2010

In Executive Petition No. 61 of 2010

arising out of O.A. No. 92 of 2009

Shri C Peter Ngabanyan

..... Petitioner

- Versus -

D.S. Prasad I.A.S. Chief Secretary

Government of Manipur and 2 Ors.

Respondents

INDEX

Sl.No.	Append (s)	Particulars (s)	Page(s)
(1)	(2)	(3)	(4)

1.		Applicant in Opposition	01 to 02
2.	Annexure-C	Order dt. 28.7.2010	04

Dated at Imphal

The 8th July 2011

By:-

Advocate
for the Respondents



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DISTRICT : IMPHAL WEST
STATE : MANIPUR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GAUHATI BENCH

PRESENTED BY

D. S. Poonia

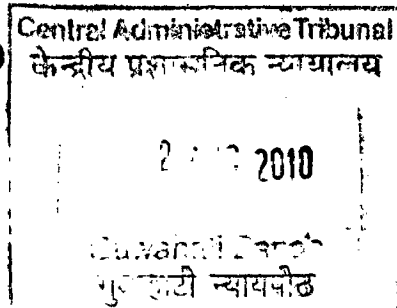
ADVOCATE,

2.8.2010

CONTEMPT PETITION NO. 23 OF 2010

In Execution Petition No. 03 of 2010

arising out of O.A No. 92 of 2009



Sri C Peter Ngahanyui

... .. Petitioner.

- Versus -

D.S Poonia, I.A.S, Chief Secretary,
Government of Manipur and 2 Ors.

... .. Respondents.

IN THE MATTER OF:

Counter Affidavit on behalf of the Respondent
No.1.

AFFIDAVIT-IN-OPPOSITION

I, D.S Poonia, I.A.S, Chief Secretary, Government of Manipur, the
Respondent No.1 have gone through the contents of the Contempt Petition
and have understood the same and accordingly I am swearing this Affidavit
on solemn oath as hereunder.

Commissioner of Affidavits
Gauhati High Court
Imphal Bench, Manipur

2-34-

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

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1. That, before offering reply to the contention made by the Petitioner, the answering Respondent craves leave of the Hon'ble Court to state the following as preliminary show cause statement.

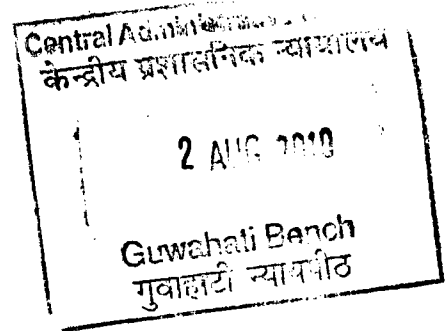
2. That, being aggrieved by the order dated 31.5.2010 passed by the Hon'ble Tribunal in Execution Petition No. 03 of 2010 arising out of O.A No. 92 of 2009, the State Respondents filed Writ Petition (C) No. 405 of 2010 and Misc Application No. 190 of 2010 for staying the order dated 31.5.2010 passed in Execution Petition No. 03 of 2010 before the Hon'ble Gauhati High Court, Imphal Bench. The said cases were listed for admission hearing on 28.7.2010 before the Hon'ble Division Bench consisting of the Hon'ble Mr. Justice Maibam BK Singh and Hon'ble Mr. Justice A.C Upadhyay and the Hon'ble High Court ordered for listing the case for admission hearing on 2.8.2010.

A true copy of the order dated 28.7.2010 is annexed hereto and marked as Annexure - C/1.

3. That, as the prayer for staying the operation of the order passed by the Hon'ble Tribunal is pending before the Hon'ble Division Bench, the answering Respondent prays that the Contempt Petition be kept in abeyance till the matter is decided by the Hon'ble Division Bench.

4. That, in view of the decision rendered by the Hon'ble Apex Court in Modern Food Industries (India) Ltd. and another, Appellants - Versus - Sachidanand Das and another, Respondents reported in 1995 Suppl. (4) SCC 465, the initiation of contempt proceeding against the Respondent may not be proper inasmuch as there is no willful and deliberate violation of the order passed by the Hon'ble Tribunal.

5. That, the deponent craves leave of Hon'ble Court to reserve the rights to answer all the allegation made in the Contempt Petition.



In view of the facts stated above, the answering Respondent begs to pray that of the present Contempt Petition be kept in abeyance till the matter is decided by the Hon'ble High Court as the ends of justice may call for.

SIGNATURE OF THE DEPONENT :

Dated/Imphal :

The 30th July, 2010

By :- N. Samir Devi
Advocate.

N. Samir Devi
(D.S. POONIA)

VERIFICATION

Verified that the above statements made in the foregoing paragraphs Nos.1 to 3 of this Counter Affidavit are true to the best of my knowledge and records and the statements made in para Nos.4, 5 and the rest are my submissions and prayer respectively which I derived from my counsel and which I verily belief to be true. The annexure annexed is the true copy of its original.

Dated, on this the 30 th day of July, 2010 at Imphal.

SIGNATURE OF THE DEPONENT,

Solemnly affirmed before me this
30th day of July, 2010 at 2.35 PM
The declarant is identified by
N. Samir Devi
personally known to me.
I certify that I read over and explained
the content to the declarant and that the
declarant seemed perfectly to understand
them.

N. Samir Devi
(D.S. POONIA)

30.07.2010
Commissioner of Affidavits
Gauhati High Court
Imphal Bench, Manipur

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ANNEXURE - 41

IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA,
MANIPUR, TRIPURA, MIZORAM & ARUNACHAL PRADESH)
IMPHAL BENCH

2 AUG 2010

Gauhati Bench
गुवाहाटी न्यायपीठ

WRIT PETITION (C) NO. 405 OF 2010

1. The State of Manipur, represented by Chief Secretary, Government of Manipur, Imphal, Manipur – 795001.
2. The Secretary/ Commissioner/ Principal Secretary (Home), Government of Manipur, Imphal, Manipur – 795001.
3. The Secretary/ Commissioner/ Principal Secretary (DP), Government of Manipur, Imphal, Manipur – 795001.

..... Petitioners .

-Versus-

1. Sri C.Peter Ngahanyui, S/o Late C.Paul, resident of Ukhrul, P.O. & P.S. Ukhrul, District-Ukhrul, State-Manipur, now residing at Irong Villa Mantripukhri, Lamongei, Imphal, Manipur, Pin Code-795002.

..... Principal Respondent.

2. The Union of India, represented by Secretary, Government of India, Ministry of Home Affairs, North Block, New Delhi – 1.
3. Union Public Service Commission, represented by its Chairman, Dholpur House, Shahajhan Road, New Delhi-69.
4. Sri Y.Joykumar, IPS (MT-76), Director General of Police, Government of Manipur, Imphal, Manipur – 795001.

..... Proforma Respondents.

TRUE COPY
N. Sanitri Devi
Advocate

B E F O R E

THE HON'BLE MR. JUSTICE MAIBAM B.K SINGH
AND THE HON'BLE MR. JUSTICE A.C UPADHYAY

For the Petitioner	:	Th. Ibohal, Senior Government Advocate
For the Respondents	:	Mr. M. Gunedhor Singh, Advocate
Date of order	:	28.07.2010

O R D E R

Heard Mr. Th. Ibohal, Learned Senior Government Advocate appearing on behalf of the petitioners and Mr. M. Gunedhor Singh, Learned Counsel appearing on behalf of the respondents.

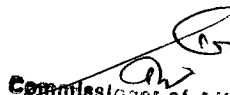
As agreed to by both sides, list this case on next Monday (02.08.2010) for motion.

Sd/-

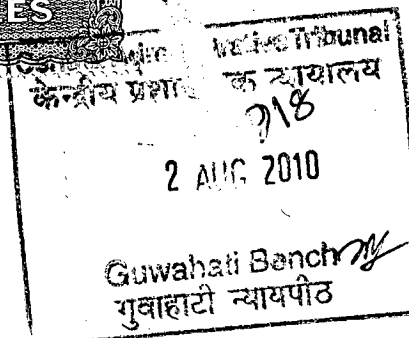
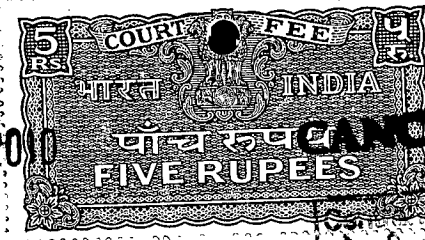
Judge

Sd/-

Judge


Commissioner of Affidavits
Gauhati High Court
Imphal Bench, Manipur

20 JUL 2010



Filed by
Sanjay Kumar Singh
Advocate

2/8/2010

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DISTRICT: IMPHAL

STATE: MANIPUR

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GAUhati
BENCH**



Contempt Petition No. 23/2010
In Execution Petition No. 03/2010
Arising out of O.A. NO. 92 OF 2009.

In the matter

An affidavit filed by the petitioner in the contempt petition for giving effect to the dasti service on respondent No.1 as per the direction of the Hon'ble Tribunal dated 14/07/210 passed in the in aforesaid contempt petition.

[Handwritten signature]

-And-

In the matter of

Sri C Peter Ngahanyui
S/o late C. Paul, resident of Ukhrul, P.O. Ukhrul P.S. Ukhrul, District: Ukhrul State: Manipur. now residing at Irong Villa, Mantripukhri, Lamongei, Imphal, Manipur.
Pin Code – 795002

..... Petitioner

-Versus-

Sri D.S Poonia IAS,
Chief Secretary, Government of Manipur.
Pin Code – 795001 and 2 others.

.... respondents

[Handwritten signature]
20.07.10
H. Iboyaima Singh
Oath Commissioner (Judicial)
Manipur

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I, Sri C Peter Ngahanyui S/o late C. Paul aged about 58 years resident of Ukhrul, P.O. Ukhrul P.S. Ukhrul, District: Ukhrul State: Manipur, now residing at Irong Villa, Mantripukhri. Lamongei, Imphal, do hereby solemnly affirm and state as follows:-



1 That I am the petitioner in the above contempt petition and such conversant with the facts of the case, and competent to swear and sign this affidavit which I do accordingly.

2 That by order dated 14/07/2010 while issuing notice to the aforesaid contempt the Hon'ble tribunal was pleased to direct dasti service on respondent No.1.

3 That on 19/07/2010 through my counsel I took step through dasti on respondent No.1 which was duly received and the receipt of the notice have been duly acknowledged.

Copy of the acknowledgement of the received of the notice through dasti is annexed herewith and marked as Annexure-1 to this petition.

I hereunto sign this affidavit this 20th day of July, 2010 at Imphal.

[Signature]
Deponent

Identified by me :

[Signature]

Advocate

Solemnly affirmed and sworn in before me being identified by Sri *[Signature]* Advocate, on this 20th day of July, 2010 at Imphal.

Solemnly affirmed before me on 20.07.2010 at 9.57 AM in the court premises by the declarant who is identified by *[Signature]*. The declarant seems to understand the contents fully well on their being read over and explained to him.

[Signature]
200710
H. Iboyaima Singh
Oath Commissioner (Judicial)
Manipur

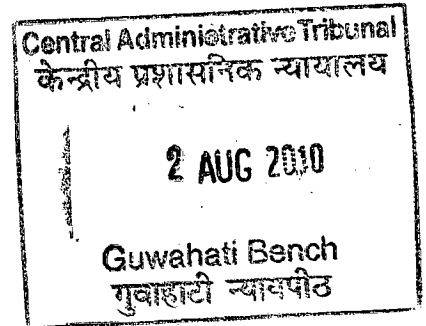
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M. Gunedhor Singh, B.Sc., LL.B.
Advocate, Gauhati High Court, Guwahati.

Manipuri Rajbari, Guwahati
P.O. Ulubari, Guwahati-7
(0) 984062734 (M)

Ref. No.....

Date 19/07/2010

To,
Chief Secretary,
Government of Manipur,
Imphal, - 795001.



Sub :- Dasti service

Ref. :- Order dated 14/07/2010 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench in Contempt Petition No. 23/2010 in O.A. No 92/2009.

Sir,

That in the Contempt Petition No. 23/2010 in O.A. No. 92/2009 filed by Sri C. Peter Ngahanyui you have been arrayed as respondent No.1 by name.

That by order dated 14/07/2010 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench in Contempt Petition No. 23/2010 in O.A. No 92/2009, the Hon'ble Tribunal was pleased to direct to serve dasti upon you and made the notice returnable on 02/08/2010.

As per the instruction of my client, Sri C. Peter Ngahanyui and on his behalf I hereby served upon you a complete set of the aforesaid contempt petition along with the Annexure appended therein. For your kind perusal a copy of the order dated 14/07/10 passed in the aforesaid contempt petition is also enclosed herewith.

You are therefore, requested to acknowledge the received of the notice.

Yours sincerely,

M. Gunedhor Singh
M. Gunedhor Singh

Enclosed :- 1. Order dated 14/07/2010 passed in the Contempt Petition No.22/2010 in OA No. 211/98.

2. A complete set of the Contempt Petition No.23/2010 in OA No. 92/99.

19.7.10
Certified to be true copy
S K Singh
Advocate.