

50/600

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

X

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 119/95

R.A/C.P No.

E.P/M.A No. 298/98

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SECTION OFFICER (Judl.)

5.12.98

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH
GUWAHATI

✓ ORIGINAL APPLN.NO. 119 OF 1995
TRANSFER APPLN.NO. OF 1995
CONTEMPT APPLN.NO. OF 1995 (IN OA NO.)
REVIEW APPLN. NO. OF 1995 (IN OA NO.)
MISC. PETN..NO. OF 1995 (IN OA NO.)

Hari Sadhan Sengupta
..... APPLICANT(S)

-vs-
Union of India & Others
..... RESPONDENT(S)

FOR THE APPLICANT(S) ...MR. Applicant in person.

FOR THE RESPONDENTS ...MR. S. Ali, Sr. Counsel.

OFFICE NOTE	DATE	ORDER
<p><u>3-7-95</u></p> <p>This application dtd.19-5-95 was returned to the applicant for some modification/correction which is re-submitted after doing the same. This application is in form and in time and submitted along with an IPO No.8-09-316617 dtd.19-5-95 for Rs.50/-.</p> <p>The applicant submitted his last representation on 26-5-94 and as such the application is within time. However, he has submitted a petition for condonation of delay (Flag 'B').</p> <p>The applicant desires to have oral hearing at the admission stage (Para 10 at Page 10) and prayed that the hearing be fixed at Agartala (Forwarding letter at Flag 'A').</p> <p>Laid for favour of orders.</p> <p><i>S.O(J)</i></p>	<p>7-7-95</p> <p>lm</p> <p>15.9.95</p>	<p>None is present for the applicant. learned Sr.C.G.S.C. Mr.S.Ali is present. Issue notice on the respondents to show cause as why the application should not be admitted. List on 15-9-95 for show cause and for admission.</p> <p><i>Member</i></p> <p>None for the applicant.</p> <p>Learned Sr.C.G.S.C Mr S.Ali is present for the respondents. No show cause has been submitted. Application is admitted. Issue notice on the respondents by registered post. Written statement on 10.11.95.</p> <p>Pendency of this application shall not be a bar for the respondents to pay the pension according to rules.</p>

Member

Requisites sent by post & issued v.no. 2953-56 dt. 12.2.95
for admission v.no. 2952 dt. 12-2-95

notice sent on
A. NO. 1, 2, 3 & 4

10.11.95

Case ready
as regards
service

Learned Sr.C.G.SC Mr S.Ali is present. Written statement has not been submitted. The applicant has submitted an application dated 28.10.95 seeking that his application may be heard only in circuit Bench at Agartala. The respondents have been served. Learned Sr.C.G.S.C Mr S.Ali prays for time to file written statement. He is allowed six weeks time to submit written statement with copy to the applicant.

While in the order
dt. 15-9-95 (sent vide
no-4251-54 dt. 22-9-95)

List on 15.12.95 for written statement. The hearing of the application may be fixed at Agartala when Bench sits there. Applicant may be informed accordingly.

notice sent on
Resps.

Member

pg

An application is
received from the applicant
praying for transfer to Circuit Bench
at Agartala.
Submitted for perusal.

15.12.95

None is present. Written statement has not been submitted. Adjourned to 16.2.1996 for written statement and further orders.

Member

On
17/11/95

pg

Order dt. 10.11.95 issued to
applicant - v. no. 4923
dt. 16.11.95

On
14/11/95

W/statement - has not been filed

15/12

16-2-96

None is present. Written statement has not been submitted. Adjourned to 29-3-96 for written statement and further orders.

Copy of this order be sent to the official respondents.

bo
Member

Order of 16-2-96

lm

to all respondents. note

No. 637-41 of 20.2.96. *for 16/2*

for 16/2

29.3.96

Written statement has not been submitted. List for written statement and further orders on 8.5.96.

bo
Member

pg

8-5-96

None is present. Written statement has not been submitted. Adjourned for written statement and further orders, to 6-6-96.

bo
Member

of statement - has not been submitted - has not been submitted - has not been submitted

for 16/2

pg

18-7-96

Mr.S.Ali, Sr.C.G.S.C. is present. Written Statement has not been submitted. List for written statement and further order on 17-7-96.

bo
Member

of statement - has not been submitted - has not been submitted

17.7.96

Mr S.Ali, Sr.C.G.S.C for the respondent. Written statement has not been submitted. List on 16.8.1996 for written statement and further orders.

bo
Member

9-8-96

W/S filed on behalf of R. nos. 1, 2, 3 etc. pg 10-20-23, for


O.A. 119/95

16.8.96

Mr. S.Ali, Sr. C.G.S.C. for the respondents.

Written statement has been submitted.
Copy of the same be served on the applicant.,

List for hearing on the next Circuit Bench at Agartala.


Member

trd


16/8

3.9.97

List the case for hearing in Agartala when the Bench sits there.
Date to be notified later on.


Member

lm

25.6.98

*applicant appear in person from Agartala. ✓
since in case is old matters, it has been placed before honorable court for fixing date of hearing.*

lm


30/6

Case is ready for hearing.
List for hearing on 5-8-98.


Member


Vice-Chairman

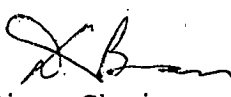
5-8-98

There was a reference. Adm 16 19-8-98.

17.8.98

Applicant is not present. This is a matter of 1995 and we are not inclined to grant any further adjournment and propose to dispose of the matter. We have gone through the application and also heard Mr. S.Ali, Sr.C.G.S.C. Judgement delivered in the open court, kept in separate sheets. Application is disposed of. No order as to costs.

Member


Vice-Chairman

5

4

O.A. No. 119 of 1995

Notes of the Registry

Date

Order of the Tribunal

19.8.98

Applicant is not present today.

Heard Mr. S.Ali, learned Sr. C.G.S.C. appearing on behalf of the respondents. The application is disposed of as infructious. No order as to costs.


Member


Vice-Chairman

21.10.98

Copies of the Judgment have been sent to the D/Sec. for issuing the same to the parties through Regd. with A/D. H.P.

Issued vide J.W.O. 3071 to 3075 Dtd. 22.10.98. H.P.

trd

4.2.99

There was an amicus. Adjourned to 8.2.99. By order
Bor

8.2.99

Heard Mr. B.K.Sharma & Mr. M.Chanda, learned amicuscuriae and Mr. A.Deb Roy, learned Sr. C.G.S.C. The application is disposed as infructuous. No order as to costs.


Member

Vice-Chairman

3-2-99

The case no. O.A. 119/95 was restored in M.P. No. 298/98 vide order dtd. 16-12-98. Mr. B.K. Sharma & Mr. M. Chanda are engage as Amicus - Curiae for the case.

trd

31/4/99

10.3.99

Copies of the Judgment have been sent to the D/Sec. for issuing the same to the parties through Regd. with A/D. H.P.

Issued vide Despatch No. 846 to 850 dt. 17-3-99

Notes of the Registry	Date	Order of the Tribunal
6		

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI-5

O.A. No. 119 of 1995

Date of decision 8.2.99

Shri Hari Sadhan Sengupta

PETITIONER(S)

Mr. B.K.Sharma & Mr. M.Chanda
(Amicuscuriae)

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

Mr. A.Deb Roy, learned Sr.C.G.S.C.

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR. JUSTICE D.N.BARUAH, VICE-CHAIRMAN.

THE HON'BLE SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether the Judgement is to be circulated to the other Benches?

Judgement delivered by Hon'ble Vice-Chairman.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 119 of 1995.

Date of decision : This the 8th day of February, 1999.

Hon'ble Mr. Justice D.N. Baruah, Vice-Chairman.

Hon'ble Shri G.L. Sanglyine, Administrative Member.

Shri Hari Sadhan Sengupta,
Retired Assistant Postmaster,
S/o Late Bhabesh Chandra Sengupta,
Residing at 29, C Krishnagar,
East of Sankar Choumuhani,
Opposite Directory of Statistics,
Agartala-799 001
P.S. West Agartala,
District-West Tripura

.....Applicant

By Advocates Mr. B.K. Sharma and Mr. M. Chanda as
amicus curiae.

-versus-

1. Union of India,
Represented by the Secretary to the
Government of India, Department of Post,
Ministry of Communication,
New Delhi-110011.
 2. The Director of Postal Services,
Government of India, Tripura,
Laxmi Narayan Bari Road,
Agartala-799 001.
 3. The Post-Master,
Agartala Head Post-Office,
Agartala-799 001.
 4. The S P M,
Ramnagar-2,
Agartala-799 002
-Respondents.

By Advocate Mr. A. Deb Roy, learned Sr. C.G.S.C.

O R D E R

BARUAH J. (V.C.)

This Original Application was disposed of on
19.8.98 as infructuous on the basis of the statement

Contd.....

made by the learned Sr. C.G.S.C. Against the said order dated 19.8.98 the applicant filed a Writ Petition before the Hon'ble Gauhati High Court. The Hon'ble High Court dismissed the said Writ Petition on 8.12.98. However, liberty was given to approach this Tribunal. Accordingly the applicant has approached this Tribunal by filing a Misc. Petition No. 298 of 1998 in O.A. No. 119/98. The judgement and order dated 19.8.98 passed by this Tribunal in O.A.No. 119/98 in the absence of the applicant was set aside by an order dated 16.12.98 passed in M.P. No. 298 of 1998 in O.A. No.119/95. As the applicant was not in a position to engage counsel we requested Mr. B.K.Sharma to assist the court and Mr.M.Chanda to assist Mr. B.K. Sharma as amicus curiae.

2. We have heard Mr. B.K.Sharma, learned amicus curiae and Mr. A. Deb Roy, learned Sr. C.G.S.C.?

3. The grievance of the applicant is that his pension is to be paid on the last working day of the month except for the month of March which is payable on the first working day of April. The respondents in para 3 of the written statement have stated as under :


3.However on receipt of the copy of the plaint the Supdt. of POs Agartala has been directed to pay his pension on the last working day of the month in future except for March. The applicant

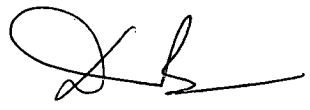
did not approach this office before filing the case to the CAT Guwahati. Had it been brought to the notice of this office earlier, this could have been settled by this office.

4. Mr. Sharma submits that from the statements made in paragraph 3 of the written statement it appears that the applicant has already been granted relief. However if the applicant is still aggrieved he may be permitted to approach this Tribunal by filing a fresh Original Application. Mr. Deb Roy submits that this application has become infructuous as the relief sought for by the applicant has already been granted.

5. Considering the submissions of the learned counsel for the parties we dispose of this application as infructuous. However, we make it clear if later on it transpires that no relief was granted as claimed by the applicant may approach this Tribunal.

6. Considering the facts and circumstances of the case, however, make no order as to costs.


(G.L.SANGLYINE)
Administrative Member


(D.N.BARUAH)
Vice-Chairman

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI-5

O.A. No. 119 of 1995

Date of decision 19.8.98

Sri Hari Sadhan Sengupta

PETITIONER(S)

Applicant in person

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

Sri S. Ali, Sr. C.G.S.C.

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE JUSTICE SHRI D.N.BARUAH, VICE-CHAIRMAN.

THE HON'BLE SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether the Judgement is to be circulated to the other Benches?

Judgement delivered by Hon'ble Vice-Chairman.



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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 119/95.

Date of decision : This the 19th day of August, 1998.

Hon'ble Justice Shri D.N. Baruah, Vice-Chairman.

Hon'ble Shri G.L. Sanglyine, Administrative Member.

Sri Hari Sadhan Sengupta,
Retired Assistant Post-master,
S/o Late Bhabesh Chandra Sengupta,
Residing at 29, C Krishnagar,
East of Sankar Chowmuhan, East,
Opposite Directory of Statistics,
Agartala-799 001
P.S. West Agartala,
District-West Tripura.

..... Applicant

Applicant in person.

-versus-

1. Union of India,
Represented by the Secretary to the
Govt. of India, Department of Post,
Ministry of Communication,
New Delhi-110011.
2. The Director of Postal Services,
Govt. of India, Tripura,
Laximi Narayan Bari Road,
Agartala-799 001
3. The Post-master,
Agartala Head Post-Office,
Agartala-799 001
4. The S P M,
Ramnagar-2,
Agartala-799 002

.... Respondents


By Advocate Sri S. Ali, Sr. C.G.S.C.

O R D E R

BARUAH J(V.C.)

The present application has been filed by the
applicant for a direction to the Respondents to make
monthly pension on the last working day

Contd.....



of the month to which the pension is payable except for the month of March which is payable on the first working day of April. As the request of the applicant was not considered by the respondents the present application has been filed. In due course respondents have entered appearance. The respondent nos. 1 to 4 have filed written statement. In their written statement these respondents have stated that the applicant approached the Tribunal without filing any representation. In paragraph 3 it is also mentioned that the relief sought for, have already been granted to the applicant. We quote the relevant portion of paragraph of the written statement :

"However on receipt of the copy of the plaint the Supdt. of POs Agartala has been directed to pay his pension on the last working day of the month in future except for March. The applicant did not approach this office before filing the case to the CAT Guwahati. Had it been brought to the notice of this office earlier, this could have been settled by this office."

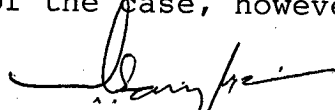
2. The applicant is not present today. He is from Agartala and appears in person. By order dated 3.9.97 this Tribunal directed to list the case for hearing at Agartala. As per the said order the next date would be notified later on. As the case is very old and there is no likelihood of holding Circuit Bench at Agartala in near future the Tribunal decided


R
Contd....

to hear the matter at Guwahati and accordingly by Order dated 29.6.98 fixed the case for hearing on 5.8.98. However, the case could not be taken up because of reference. Today the matter has come up for hearing. In all probability the applicant is not aware of the date of hearing. However, in view of the stand taken by the respondents in paragraph 3 of their written statement as quoted above we do feel that no useful purpose would be served by adjourning the case. As per written statement a direction was given to the Superintendent of Post Offices, Agartala to pay the pension on the last day of every month except for the month of March which is to be paid on the first working day of April.

3. We have heard Mr. S.Ali, learned Sr. C.G.S.C. appearing on behalf of the respondents. Mr. Ali confirms the statements made in the written statement that reliefs sought for by the applicant has already been granted on 20.2.98, therefore the application has become infructuous. However, if the applicant finds that he has not been given relief as mentioned in the written statement and assured by Mr.Ali, the applicant is at liberty to approach the Tribunal with his grievances if so advise.

4. Considering the facts and circumstances of the case, however, we make no order as to costs.


(G.L.SANGLYINE)
Administrative Member


(D.N.BARUAH)
Vice-Chairman

(FORM I)

APPLICATION UNDER SEC, 19 of THE ADMINISTRATIVE TRIBUNAL
ACT, 1985

Case No.

OA 119/95

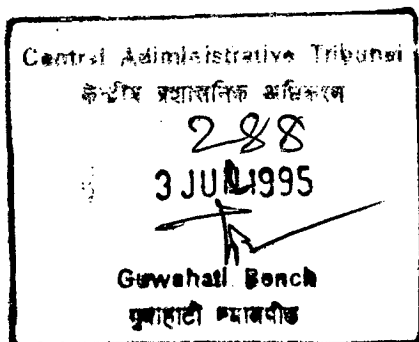
Sri Hari Sadhan Sengupta,
s/o Late... Bhabesh Ch... Sengupta
29, C Krishnanagar, Agartala-799 001,
P.S.-West Agartala, Dist-West Tripura.

.....Applicant.

VERSUS

The Union of India and Others.

.....Respondents.



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Sl.No.	DESCRIPTIONS OF DOCUMENTS RELIED UPON	PAGE NO.
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3.	Letter, dt. 26-04-93 issued by the Applicant (Annexure-2).	13 4
4.	Letter, dt. 30-04-93 issued by the Office ... (Annexure-3).	14 5
5.	Letter, dt. 22-03-94 issued by the Applicant (Annexure-4).	15 8
6.	Letter, dt. 26-04-94 issued by the Applicant (Annexure-5).	16 8
7.	One notice, dt. 26-05-94 issued by the Applicant (Annexure-6).	17-18 5

For used in Tribunal
Office

Hari Sadhan Sengupta
Signature of the
Applicant. 19/5/95

Date of filing
or
Date of receipt by Post
Registration No.

Signature of the
Registrar.

Hari Sadhan Sengupta

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BENCH AT GAUHATI

Sri Hari Sadhan Sengupta,
~~Retired~~
~~Registered~~ Assistant Post-master,
s/o Late Bhabish Ch. Sengupta
Residing at 29, C Krishnanagar,
East of Sankar Chowmuhani,
opposite Directory of Statistics,
Agartala - 799 001,
P.S.-West Agartala, Dist:-West Tripura.

.....APPLICANT.

V E R S U S

1. Union of India,
Represented by the Secretary
to the Govt. of India,
Department of Post,
Ministry of Communication,
New Delhi - 110 001.
2. The Director of Postal Services,
Govt. of India, Tripura,
Laxmi Narayan Bari Road,
Agartala - 799 001.

Hari S. Narain Singh

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3. Limitation :-

The applicant further declares that the application is within the limitation period prescribed in section 21 of the Administrative Tribunal Act, 1985.

4. Facts of the Case :-

(i) That, the applicant ^{retired} ~~is registered~~ from the Govt. service under the Respondents as Assistant Post-master on 31-10-1984.....

(ii) That, the applicant is entitled to the pensionary benefits under the Central Civil Service (pension) Rules, 1972, (for "pension Rule"). He has been receiving his monthly pension after superannuation from service. At present he is get^{ting} his pension from the Respondent No. 4.

(iii) That, the provision of Sub-Rule 2 of the Rule 85 of the Pension Rule runs as follows :-

"The pension fixed at monthly rate shall be payable monthly on or after the last working day

Handwritten: *Handwritten San Gupta*
Handwritten: 20

of the month to which the pension related except for the month of March when it shall be payable on or after first working day of April....."

The applicant being governed by the aforesaid Pension Rule ^{is} ~~are~~ entitled to get his monthly pension on or after the last working day of the month to which the pension relates except for the month of March when it shall be payable on or after first working day of April.

(iv) That, the Respondents No.4 had been paying the monthly pension to the Applicant on the last working day of the month to which the pension related as per the provision of the aforesaid Pension Rule up to Feb.,93. But suddenly the Respondent No.4 stopped payment of monthly pension to the Applicant on the last working day of the month and intimated the Applicant that the Respondent No.3 had directed him (Respondent No.4) not to pay any pension on the last working day.

(v) That, the Applicant issued two letters dt. 01-04-93 and 26-04-93 to the Respondent No.2 and

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Hewi Sathan Sengulab

requested him to intimate if there was any Rule/Circular to stop of monthly pension on the last working day of the month.

A-1
A-2

Copies of the letters are annexed herewith and marked as Annexure-1 & 2.

(vi) That, the Respondent No.2 through his Superintendent issued a letter bearing No. C.2-2/84-85 dated 30-04-93 to the Applicant and intimated that "there is no provision for payment of pension on the last working day of the month. Pension is generally paid on the first and subsequent days on the following month."

A-3

A copy of the letter dt.30-04-93 is annexed herewith and marked as Annexure - 3.

(vii) That, the Applicant thereafter issued two letters dt.22-03-94 and 26-04-94 and ultimately one notice dt. 26-05-94 to the Respondent Nos.1 & 2 requesting to arrange payment of his (Applicant's) pension on the last working day of every month except March and to arrange payment of accrued interest for delayed payment of pension.

For signature

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A-4
A-5
A-6

The copies of the letters dt. 22-03-94 and 26-04-94 are annexed herewith and marked as Annexures-4 & 5. A copy of the notice dated 26-05-94 is annexed herewith and marked as Annexure-6.

5. Grounds for relief with legal provisions :-

(i) That, the Applicant respectfully submits that the Respondents have not acted according to the pension Rule Rule in refusing to make payment of monthly pension on the last working day of every month.

(ii) That, the communication from the office of the Respondent No.2 in Annexure-3 is violative of Articles 14, 16 & 21 of the Constitution of India.

(iii) That, the Respondents can not treat the existing employees and the retirees differently in paying the monthly salary and ^{payment of} pension ^{at} ^{are} different date ^{the} differential treatment to the Applicant attracts Article 14 of the Constitution of India and the element of discrimination and arbitrariness is

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liable to be declared unconstitutional as being violative of Article 14 of the Constitution of India. This question calls for an answer in the backdrop of a welfare state and that pension is a socio-economic justice providing relief when ^{advancing} ~~adversing~~ age gradually but irrevocably impairs capacity to stand on one's own ^{feet} ~~sheet~~.

(iv) That, the Respondent most arbitrarily stopped payment of pension to the Applicant on the last working day who is a senior citizen of the Country.

(v) That, even after issuing the notice in Annexure-6 demanding the payment of pension on the last working day of the month the Respondent did not take any step for making payment of monthly pension to the Applicant on the last working day which is nothing but refusal of the Legal and Constitutional Right of the Applicant.

6. Details of the remedy exhausted :-

(i) That, the Applicant being aggrieved by the letter in Annexure-3 issued two letters dt. 22-03-94

Contd...p/8

Harish Chandra Singh

(Annexure-4) and 26-04-94 (Annexure-5) and ultimately
(A-6)
one notice dt. 26-05-94 to the Respondents Nos.1 & 2
and requested them to ~~xxxx~~ arrange payment of his
(Applicant) pension on the last working day of every
month except March and to arrange payment of accrued
interest for delayed payment of pension. But the Res-
pondents have not arranged to make payment of his
pension as per the Pension Rule.

(ii) That, the Applicant declared that he has
availed of all the remedies available to him under the
relevant rules but with no result.

7. Matters not previously filed or pending with any other
Court :-

The Applicant further declared that he had
not previously filed any application, Writ Petition or
suit regarding the matter in respect of which this
application has been made, before any court or any
other authority or any bench of the Tribunal nor any
such application, Writ Petition or Suit is pending before
any of them.

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Hori-Go-Thomasburg

8. Relief Sought :-

In view of the facts mentioned in para-6 above the Applicant prays for the following reliefs :-

- (a) Direct the Respondent to make monthly pension to the Applicant on the last working day of the month to which the pension relates except for the month of March when shall be payable on the first working day of April or there after.
- (b) Interest ;
- (c) Cost ;
- (d) Any other appropriate relief or reliefs as your Lordships deem, fit and proper.

9. Interim order, if any prayed for :-

pending final decision on the application, the Applicant seeks the followings interim relief :-

Kindly direct the Respondent to make payment of pension to the Applicant on the last working day of the month to which the pension relates except for the month of March when

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11. Particulars of Indian Postal Order filed in respect of application fee :-

in favour of the Registrar, Central Administrative Tribunal, Gauhati Bench.

(1) Letter, dt.01-04-93 issued by the Applicant
(Annexure-1).

(ii) Letter, dt. 26-04-93 issued by the Applicant (Annexure-2).

(iii) Letter, dt. 30-04-93 issued by the Office (Annexure - 3).

Hari Sadhan Sengupta

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(iv) Letter, dt.22-03-94 issued by the Applicant
(Annexure-4).

(v) Letter, dt.26-04-94 issued by the Applicant
(Annexure - 5).

(vi) One notice, dt. 26-05-94 issued by the
Applicant (Annexure-6).

VERIFICATION

I, Sri Hari Sadhan Sengupta, S/O Late Bhabesh
Ch Sengupta aged about 71.....years, retired
as Assistant Post-master in the office of S P M, Ram
Nagar, resident of 29,C. Krishnanagar, East of Sankar
Chowmuhani, opposite of Directory of Statistics, Agar-
tala-799 001,P.S.-West Agartala,Bistrict-West Tripura
do hereby verify that the contents of paras 1 to 4 & 7
are true to my personal knowledge and paras 5,6,8 to 10
are my submission and believed to be true on legal
advice and that I have not suppressed any material
facts.

Dated, 19.5.95
Place, Agartala.

Hari Sadhan Sengupta
Signature of the Appli-
cant.

(True Copy)

Annexure - A-1.

To
The D.P.S Agartala

Thro SPM Ramnagar

Non payment of pension on last workingday

Sir,

I beg to intemate you the following facts in respect of pension payment on the last working-day of the month. I was drawing my pension from Ramnagar P.O. on the last workingday of the month today SPM Ramnagar intemated me that he will not make any pension payment on the last working day as was done by him previously on the plea that the PM Agartala had intimated him not to pay any pension on the last working day. I therefore hope that you would kindly intemate whether there is any irregularity was done of the SPM Ramnagar if so you should intemate me the rules under which the pension should not be paid on the last workingday. Awating your prompt reply.

Yours faithfully,

dt 1/4/93

Attested

[Signature]
15/6/95
(H. P. SAKA)
D. P. S. Registrar,
Gauhati High Court
Agartala Bench.

(True Copy)

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A-2

29

To
The Director, Postal Services, Agartala.

Sub:- Non payment of pension on the last workingday and
on any days of the month.

Sir,

I am to refer my letter dated 1-4-93 addressed to you through SPM Ramnagar Post Office which might have been receive by you by this time. I have not been favoured with any reply in this regard as yet if any fixed date is a pointed to release pension to the pensioner may cause serious inconveniences to me in particular as if is not at all possible to appear to receive the pension on any date fixed by the authority.

Perhaps there may not be any law inforce to regulate the release the pension in a male as dicide to the present Postal authority at Agartala if there be any such law/rule to regulate the payment of pension on any appointed day kindly enliguten me the provision of such a since the salary of respective month of the postal dept at Agartala at normally/ usually and or generally paid on the last workingday of the month, the pensioner of the dept should be treated a live. Any deviation or deperture from this practice will lead to descriminatory treatment which is not expected in the democratic set up of free India this is being the position I would request you to kindly let me know by return of post your decesion to the extent of making payment of pension on the last working day o the respective month or any day ~~XXXXXXXXXX~~ of the following month otherwise pensioner as of me may put into great difficulties and hardship.

Your early action and valued cooperation in the matter would be highly appreciated.

Yours sincerely,

Dated Agartala
The 26/4/93

Sd/- Hari Sadhan Sengupta
Retd Asst Postmaster
C/O N.S. Sengupta
Librarian-Cum-Research Officer
High Court P.O. Agartala
Agartala-799001

Copy to SPM Ramnagar (Agartala) for information he is requested to have follow of action n the matter for recancelation.

Sd/- Hari Sadhan Sengupta
Retd APM
dt. 26/4/93

Attested

[Signature]

14/6/95
Deput. Registrar,
Gauhati High Court,
Agartala Bench.

(True Copy)

14
A-3
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Corr-22

DEPARTMENT OF POSTS, INDIA

From Director of Postal
Services
Tripura State,
Agartala-799001

To Shri Harisadhan Sengupta
Retd. APM.
Care H.S. Sengupta,
Librarian Cum Research Officer,
High Court, Agartala-1.

No. C2-2/84-85

Dated at Agartala the 30-4-93

Subject : Non payment of Pension on
the last working day and on any days
of the month

Ref :- Your application dtd. 26-4-93

Sir,

With reference to your aforesaid letter on the
subject, this is to intimate you that there is no provision
for payment of pension on the last working day of the month.
Pension is generally disbursed on the first and subsequent
days of the following month.

Thanking you.

Yours faithfully,

Sd/- Illegible

Dy. Superintendent,
O/o the Director Postal Services
Director of Postal Services
Tripura State, Agartala-799001.

Attested
✓ Panch
16/6/95
(H. D. SAHA)
Deputy Registrar,
Gauhati High Court
Agartala Bench.

(True Copy)

15

A-4

To
The Director of Postal Services,
Tripura State
Agartala.

Sub:- Non-Payment of pension on the last working day is arbitrary and violative being inconsistent with the provision of subrule 2 of Rule 85 of Central Civil Services (Pension) Rules, 1972

Sir,

While acknowledging the receipt of your letter No. C2-2/84-85 dated 30-04-1993 I am to state that in view of sub rule 2 of Rule 85 of Central Civil Services (Pension) Rules 1972 corrected as on 27-11-1992 which still stood the test of time your decision for not making payment of pension to the pensioner on the last working day is totally arbitrary, unwarranted being violative of sub rule 2 of Rule 85 of the Rules under reference. The provision of sub rule 2 of Rules 85 runs thus "A pension fixed at monthly rates shall be payable monthly on or after the last working day of the month to which the pension relates except for the month of March when it shall be payable on or after 1st working day of April." A xerox copy of the said Rule is enclosed herewith for your ready reference and perusal.

A plain reading of the provision of the Rules just quoted above will clear it very much that the pension ought to have paid on the last working day except for the month of March when it shall be payable on or after 1st working day of April as is evident from the last two lines of the provision itself. In this connection it is worthwhile to mention that all the lines of the provision must be read in consonance and not in isolation.

Your decision in this regard with necessary document/(s) if any in support of your decision be it a circular or memo issued from the appropriate Authority of the Government of India on which you are acting to the effect that "Pension is generally disbursed on the first and subsequent days of the following month" may be conveyed immediately for taking further necessary action at this each month except for the month of March per provision of the Rules.

Yours faithfully

Sd/- S. Sengupta
dt. 22/3/94

(H.S. Sengupta)

Retd Asstt. Postmaster
29C Krishnanagar, East
of Sankar Chowmohani
(Just oppt to the Directorate of Statistic
Krishnanagar, Agartala-799001.

Copy to :-

The SPM, Ramnagar, Ramnagar, Agartala-799 002. He is requested to take follow up action in this matter for reconciliation under intimation to me.

Sd/- H Sengupta

dt 22/3/94

Attest
✓
(H. P. Sengupta)
Deputy Registrar,
Gauhati High Court,
Agartala Bench.

Enclo : 1 (one) only.

(True Copy)

The Director of Postal Services,
Agartala : West Tripura.

Sub :- Non payment of Pension on the last working day
is arbitrary and violative being inconsistent
with the Provision of Sub-rule-2 of Rule-85
of Central Civil Services (Pension) Rule-1972.

.....
I am to refer to my Ramnagar - 792002 Registered
Letter No. 2843 dated 22-03-1994 addressed to you with
a copy to Sub-Post Master, Ramnagar on the above noted
subject and to state that I have not been favoured with
any reply as yet.

I would, therefore, request you to expedite your
reply enabling me to draw the Pension on the last working
day of each month except in March per Rule above otherwise
I shall have to claim accrued interest for the delayed
payment of my pension. In this connexion, it may be borne
in mind that you are disbursing monthly salary to your
staff on the last working day and even earlier when the last
working day (s) is/are holiday (s).

Yours faithfully,

Dated, Agartala.
The 25/4/1994.

2d/- H Sengupta
(J. A. S. SENGUPTA)
Hd. Asstt. Postmaster,
200 Krishnanagar,
East of Saket Chowmahani,
(Just Opposite to Directorate
of Statistics)
Agartala - 792 001.

Copy to :-

Sub-Post Master, Ramnagar,
for favour of information.

Agartala Bench
Deputy Registrar
14/5/94
7/5/94
A. N. Sengupta

To
The Director of Postal Services,
Govt. of India, Tripura, Agartala.

The Secretary to the Govt. of India,
Department of Post, Ministry of Communication
NEW DELHI.

Sir,

I Shri H. S. Sengupta, Retired Asstt Postmaster from
Agartala Head Officer, Agartala, District Tripura West, Tripura
State would submit as follows :

1. I have received a letter No C-2-2/84-85 dated 30-04-1993 from the Notice receiver No 1 to the effect that "Pension is generally disbursed on the first and subsequent days of the following month".
2. On receipt of the aforesaid letter I requested the Notice receiver No 1 vide my registered letter dated 22-03-94 to convey the circular or memo issued from the competent Authority in support of his decision.
3. I invited attention of the notice receiver No 1 to the provision of Sub-Rule 2 of Rule 85 of CCS (Pension) Rules 1972 corrected as on 27-11-1992. This Sub-Rule runs thus " A pension fixed at monthly rates shall be payable monthly on or after the last working day of the month to which the pension relates except for the month of March when it shall be payable on or after 1st working day of April.....".
4. But the notice receiver No 1 did not communicate anything to the undersigned, notice giver.
5. Then I sent another registered letter dated 26-04-1994 to the notice receiver No 1 in which it was again requested to expedite the decision of the notice receiver No 1.
6. In the above letter of 26-04-1994, I also mentioned that the notice giver might claim accrued interest for the delayed payment of his pension.
7. But nothing has so far been communicated to me. Nor it has been arranged for payment as per Sub-Rule 2 of Rule 85 of the CCS (Pension) Rules 1972.

Attested

✓ P. R. Sengupta
16/6/95
(H. R. SARA)
Deputy Registrar,
Jauhati High Court,
Agartala Bench.

Contd....P/2

(True Copy)

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-: 2 :-

In view of the above facts and circumstances I am requesting you to arrange payment of my pension on the last working day of every month except March and arrange payment of accrued interest for delayed payment so far made to me within 15 (fifteen) days from the date of receipt of this notice failing which the matter shall be referred to the judicial forum holding you responsible for cost and compensation in addition.

Thanking you,

Yours faithfully,

Sd/- H Sengupta

Dated, Agartala,

The 26th May, 1994.

(H. S. Sengupta)

Notice Giver

Retd Asstt. Postmaster
29C Krishnanagar, East of
Sankar Chowmohani (Just
oppt to the Directorate
of Statistic Krishnanagar,
AGARTALA - 799 001.

A. Hestee

16/6/94
(H. S. Sengupta)
Deputy Registrar,
Gauhati High Court
Agartala Bench.

(19)

34
Shri Hari Sadhan Sengupta

In the Central Administrative Tribunal
/Bench at Guwahati/

Case No

Shri Hari Sadhan Sengupta
Retd. Asstt. Post Master
29C, Krishnanagar, Agartala-799 001 Applicant

Versus

The Union of India and Others Respondents.

An application u/s 21(2) of the A.T. Act 1985 for
condonation of delayⁱⁿ the original application.

The applicant above named most respectfully begs to
submit as follows :-

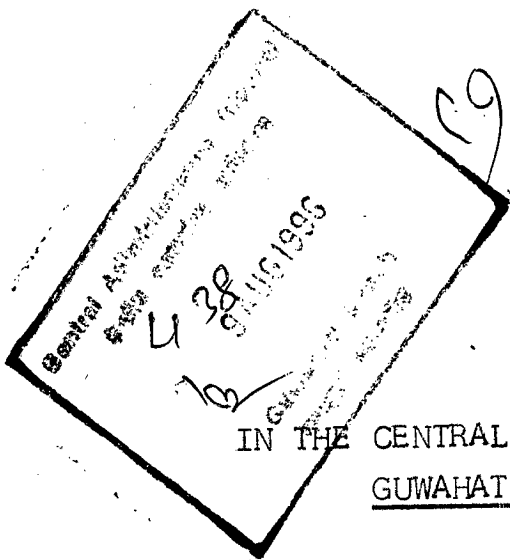
1. That the applicant has filed an original application against the union of India and others for getting his pension on the last day of the month.
2. That he has challenged the validity of the letter dt 30-4-93 in Annexure-3 at page-14 of the original application.
3. That the applicant submitted several representations against that letter (A-3) and ultimately served a notice upon the Respondents on 26th May, 1994 (A-6 at page-17 of the original application) with a view to settle the matter avoiding Court case.
4. The the applicant, therefore, could not file his original application within limitation period.

In the above premises it is most humbly prayed that your honour would be pleased to condone the delay in filing the application and admit the original application for ends of justice.

V E R I F I C A T I O N

I Shri Hari Sadhan Sengupta S/O Late Bhobesh Ch. Sengupta aged about 71 years, retired as Assistant Post Master in the office of SPM, Ramnagar, resident of 29C, Krishnanagar, East of Sankar Chowmohani, Agartala - 799 001, P.S. West Agartala, Dist West Tripura do hereby verify that the contents of paras 1 to 4 are true to my personal knowledge and the rest are my submissions and in acknowledgement where-of I sign this verification today 20th June, 1995 at Agartala.

Shri Hari Sadhan Sengupta
Signature of the Applicant.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH AT GUWAHATI:

In the matter of :-

O.A. No. 119/95

Shri Hari Sadhan Sengupta

-Vs-

Union of India and ors.

-And-

In the matter of :-

Written Statements submitted by the
Respondents No. 1,2,3 & 4.

WRITTEN STATEMENTS :

The humble Respondents submit their
written statements as follows :-

1. That with regard to statements made in paragraphs 1,2 & 3 of the application, the Respondents have no comments.
2. That with regard to paragraphs 4(i) to 4(ii) of the application, the Respondents have no comments, the same being matters of record.
3. That with regard to statements made in paragraph 4(iii) of the application the Respondents beg to state that the Rules for making payment of pension are 'on or after' but not only 'on' the last working day of the month as such the pension was paid to the applicant on the 1st working day of the following month, for facility of maintaining accounts for pension

...p/2..

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Filed by:
Mr. SHAIKAT ALI 8/7/96
Mr. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench, Guwahati
Tribuna State
Agartala-799 001
Director of Postal Services

Debnath
Director Postal Services,
Tripura State
Agartala-749 001.

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payment. Because most of all the pensioners do not like to take payment of pension on the last working day of the month on which date regular employees are drawing their salaries. To avoid delay in payment on the pay day they generally come on the 1st working day or later date of the following month for drawing their pension according to their convenience. However on receipt of the copy of the plaint the Supdt. of POs Agartala has been directed to pay his pension on the last working day of the month in future except for March. The applicant did not approach this office before filing the case to the CAT Guwahati. Had it been brought to the notice of this office earlier, this could have been settled by this office.

(A copy of the order No. 43/4/92-P&PW(G) dt. 27.11.92 from the Ministry of Personnel, Public Grievances and Pension is enclosed).

4. That with regard to paragraphs 4(iv) to 4(v) of the application, the Respondents have no comments.

5. That with regard to statements made in paragraphs 4(vi) of the application, the Respondents beg to state that as the rule framed for payment on or after the last working day of the month, the authority concerned presumed the date of the date of payment as after the last working day i.e. 1st working day of the following month and on the analogy the applicant was informed.

6. That with regard to statements made in paragraph 4(vii) of the application, the Respondents

Debnath
Director Postal Services,
Tripura State
Agartala-799 001.

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beg to state that no representation has been received by the Circle office as stated no such representation was received by the circle office which is the immediate controlling office of the divisions. So the applicant did not exhaust the all possible channels.

7. That with regard to paragraph 5 of the application regarding relief sought for with legal provision, the Respondents beg to state that as per pension rules, the applicant can get his pension on the last day of working of the month except the month of March. This was arranged by the SPOs from October, 1985. If the applicant was dissatisfied or there was irregular payment then he ought to have brought to the notice of the higher authorities for necessary actions. But the applicant did not do so and he rushed to the Hon'ble Tribunal without exhausting the departmental remedy before filing the application before the Hon'ble Tribunal.

8. That with regard to statements made in paragraph 6(i) of the application, the Respondents beg to state that necessary arrangement has already been made to make payment of his pension on the last working day of the month except for March with effect from October, 1994.

9. That with regard to statements made in paragraph 6(ii) of the application, the Respondents beg to state that the applicant has not availed the Departmental remedies available to him and as such the application is liable to be dismissed as per rules.

Debnath
Director Postal Services,
Tripura State
Agartala-799 001.

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10. That with regard to statements made in paragraph 7 of the application, the Respondents have no comments.
11. That with regard to statements made in paragraph 8, regarding relief sought for, the Respondents beg to state that he is not entitled to any relief and as such the application is liable to be dismissed.
12. That regarding paragraphs 10, 11 & 12 of the application, the Respondents have no comments.
13. That the Respondents submit that the application has no merit and as such the application is liable to be dismissed.

- Verification -

I,

Director, Postal Services, Govt. of India, Respondent No.2, Laxmi Narayan Bari Road, Agartala do hereby solemnly declare that the statements made above are true to my knowledge, belief and information and I sign the verification on this 25th day of JULY, 1996 at Agartala.

Debnath
DECLARATION Director Postal Services,
Tripura State.
Agartala-799 001.