

DA No. \_\_\_\_\_  
MP No. (DA) \_\_\_\_\_  
RA No. (DA) \_\_\_\_\_  
✓ CP No. 23/96 (DA 217/95)

C. C. Mandal & ors. APPLICANT(S)  
VERSUS

A. K. Nambiar & ors. RESPONDENT(S)

Mr. Adil Ahmed Advocate for the applicant.

Mr. S. A. S. S. S. Advocate for the Respondents.

Office Notes \_\_\_\_\_ Court's Orders \_\_\_\_\_

This CP is filed by Mr. A. Ahmed, Adv. on behalf of the petitioner praying for non-compliance of a judgment & order dt 18.10.95 passed in O.A. No. 217/95 in the course of Hon'ble Justice M. G. Chaudhry, or Justice G. L. Sanyal, M.A)

30.7.96

Mr A. Ahmed for the contempt petitioners.

This Contempt petition has been submitted by the petitioners, applicants in the O.A., for alleged non compliance to the order dated 18.10.1995 passed in O.A.217/95.

The time for implementation of the order was extended upto 10.7.96 vide order dated 2.5.96 in M.P.49/96 (O.A.217/95).

Issue notice on the alleged contemners by Registered Post with A/D to show cause as to why a contempt of Court proceeding should not be initiated against them for wilful violation of the Tribunal's order dated 18.10.95 passed in O.A.217/95.

Returnable on 4.9.96.

List on 4.9.96 for show cause and further orders.

Submitted for order for placing before a Hon'ble Court.

22/7

24/7

Deputy Registrar (D)  
Central Administrative Tribunal  
Guwahati Bench

Member

Verification has been done pg by Mr. A. Ahmed, Adv. on behalf of the applicant.

Submitted

28.8.96

Notice duly served 24/7

a R/3

Bow

DR

4.9.96

Mr A. Ahmed for the petitioners.  
Mr S. Ali, Sr. C.G.S.C for the alleged  
contemners.

9.8.96

Notices issued to the  
concerned parties  
on 6.8.96.

Mr Ali submits that the matter of  
payment to the applicants is under  
process. He seeks short adjournment  
to file show cause.

List on 23.9.96 for show cause  
and further orders.

Ban

*ba*  
Member

1) Notice duly served  
on O.P. No. 3.

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9/9

2) Show Cause has not  
been filed.

23.9.96

Learned counsel Mr A. Ahmed for  
the petitioners. Mr S. Ali, learned Sr. C.G.S.C.  
for the opposite parties. Mr A. Ahmed submits  
that he may be allowed to withdraw the  
Contempt Petition as payment has already been  
made to the applicants. Prayer allowed.

sd  
3/9

16.9.96

No official letter  
received from Garrison  
Engineer praying for withdrawal  
in C.P. 23/96 in connection  
with R/L Allowance.

The Contempt Petition is dispose  
of on withdrawal.

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24/9

*ba*  
Member

Ban

20.9.96

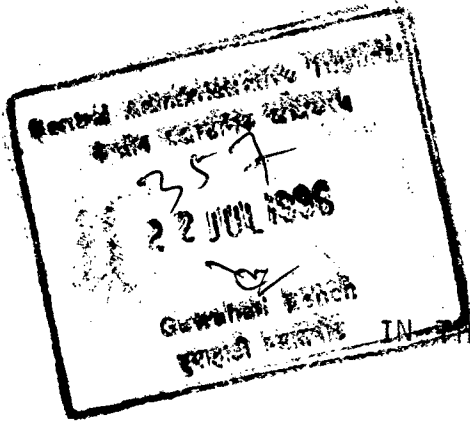
Show cause reply filed

at-19.

comply  
m  
24/9/96.

4/10/96

Copy of the  
order issued to the  
L/Advocates of the parties  
vide D. No 3406 & 3407 of 9.10.96  
dtd 4/10



3  
Filed by  
Adil Ahmed  
(ADIL AHMED)  
Advocate  
12.7.96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:  
GUWAHATI BRANCH:  
GUWAHATI.

CONTEMPT PETITION NO. 23 OF 1996.  
(In O.A. No. 217/95 )

IN THE MATTER OF:

A Petition under Section 17 of the Central Administrative Tribunal Act, 1985 praying for punishment of the contemners for non-compliance of the Judgment & order dated 18-10-95 passed by the Hon'ble Tribunal in O.A. Case No. 217/95.

- AND -

IN THE MATTER OF:

Sri G. C. Mandal & Others.

... Petitioners.

-Versus-

1) ... A. K. Nambiar.

The Under Secretary, Defence, <sup>ll</sup>  
Government of India,  
New Delhi.

(Contd.)

Received COPY  
File - Sr. CYS  
11/7/96

2) ~~J. LUNDING~~ ~~LAM~~ L HUNG DIM <sup>du)</sup>

C. D. A. , Narangi, Guwahati.

3) Sri S. Deb Nath,

Gerrison Engineer,

868 EWS , C/o 99 APD.

... Contemners.

The humble petition of the  
above-named Petitioners:

MOST RESPECTFULLY SHEWETH:

1) That , your petitioners filed the above  
D.A. No. 217/95 praying for payment of 1) Special <sup>du)</sup>  
duy allowance , 2) House rent allowance, 3) Special  
compensatory (Remote Locality) allowance and 4) Field  
Service ~~exp~~ Concession of which the petitioners are  
legally entitled. Their application was registered and  
numbered as 217/95 .

2) That, the Hon'ble Tribunal after hearing on  
both sides was pleased to pass the judgment & Order  
dated 18-10-95 directing the Respondents including  
the contemner to pay following reliefs to the peti-  
tioners.

RELIEFS:

- i) That S.D.A. of the petitioners should  
be paid with effect from - 1-12-1988 .
- ii) Arrears from the date of actual posting  
of the petitioners in Nagaland on or  
after ~~the date~~ 1-12-1988 in respect of

(Contd.)

the applicant and to continue the pay of rent so long as the concession is admissible .

iii) The S.C.A.(RL) they are directed to be paid with effect from 1-10-86 from the date of actual posting in Nagaland on or after 1-10-86 and continue to pay the same so long as the concession is admissible.

iv) The arrear of the S.C.A. (R) on the date of actual posting in Nagaland on or after 1-10-86 up to the date to be paid within the period of 3(three) months from the date of communication of the order.

It was directed that Field Service Concession should be paid to the applicant with effect from 1-4-93 . The same was to be paid with effect from 1-4-93 or from the date of actual appointment to each of the applicant upto date and to continue to give the same so long as admissible.

3) It was also directed that H.R. A. is to pay the applicant at the rate as was applicable to the Central Government employees in B-I, B-II plus cities/towns for the period from 1-10-86 or from the actual date of appointment as case may be in respect of each applicant up to 28-2-91 and at the rate as admissible from time to time as from 1-3-91 upto date

(Contd.)

and to continue to pay the same at the rate prescribe thereafter. The arrears to be paid accordingly subject to adjustment of the amount as may have already been paid to the respective applicant during aforesaid parties towards H.R.A. The future payment of HRA to be regularised accordingly.

Arrears to be paid as early as practicable but not later than a period of 3 (three) months from the date of communication of the order to the Respondents.

4) That inspite of these directions the contemners have deliberately not complied with the order with a notice behind and no ~~xxxx~~ step has yet been taken for payment of the reliefs given by the Hon'ble Tribunal to the applicants.

5) That your petitioner begs to state that, the contemner have shown complete disregard, disobedience and have not cared to carry out the judgment/direction passed by the Hon'ble Tribunal till to-day and this occasions to the contemners amounts to serious contempt of court and they deserve the punishment for willful disobedience, disregard, non-implimentation of the judgment & order passed by the Honible Tribunal in O.A. No. 217/95 for which they deserve punishment.

6) That your petitioner begs to submit that, unless they are hold up in contempt, the contemner will not impliment the judgment & order passed by the

Hon'ble Tribunal , and as such, it is a fit case that the contemnners should be directed to appear before the Hon'ble Tribunal and to explain as to why they have not impliment the judgment of the Hon'ble Tribunal .

7) That, your petitioners submit that, unless the contempt proceeding are initiated against the contemnners they will not care to impliment the judgment passed by the Hon'ble Tribunal.

8) That your petitioner beg to state that the contemnners have not implimented the judgment & order dated 18-10-95 the applicant have been compelled to file this contempt petition before this Hon'ble Tribunal for taking action against the contemnners.

Under the circumstances, it is therefore prayed that , the ~~xxxxxx~~ Hon'ble Tribunal may be pleased to issue contempt notices to the contemnners to show cause as to why they should not be punished under Section 17 of the Central Administrative Tribunal Act,1985 or pass such any other order or orders as the Hon'ble Tribunal may seem fit and proper.

(Contd.)

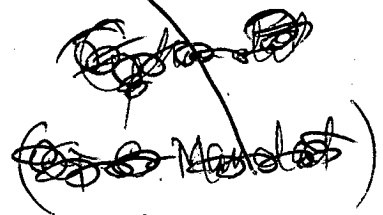
Further it is prayed that , in view of the deliberate negligence and disobedience to carry out the Hon'ble Tribunal's order , the contemner should be asked to appear in person before this Hon'ble Tribunal to explain as to why they should not be punished for contempt.

And for which act of kindness your petitioner as in duty bound shall ever pray .

VERIFICATION.

I, Sri G.C. Mandal, do hereby verify the above statements and declare that the statements are true to my knowledge, belief & information.

I, put my hand/ sign this verification to-day on 12<sup>th</sup> day of July, 1996 at Guwahati.

  
(Sri G.C. Mandal)

- Affidavit next.

IN THE COURT OF MAGISTRATE AT GUWAHATI.

A F F I D A V I T

I, Shri G.C. Mandal, serving peon under the Garrison Engineer, 868 EWS C/O 99 A.P.O. Petitioner in the above case do hereby solemnly affirm as follows:-

1. That I am the petitioner in the above ~~case~~ Contempt petition as such I am well acquainted with the facts and circumstances of the case.
2. That the statements made in this Contempt petition are true to my knowledge and belief.
3. That this affidavit is made for filing Contempt petition before this Hon'ble Central Administrative Tribunal at Guwahati Bench.

Identified by,

*Adil Ahmed*  
 Adil AHMED  
 Advocate  
 17.7.96

*G.C. Mandal*  
 (G.C. Mandal)  
 Deponent

Signed before me today on 17<sup>th</sup> July

1996 who is identified by Shri Adil Ahmed, Advocate, Guwahati.



Magistrate.

*Adil Ahmed*  
 Adil Ahmed,  
 1st. Class, Guwahati.



DRAFT CHARGE

The applicants aggrieved for non-compliance and non-payment of S D A, HRA, A& SCA(RL) and FSC in terms of Hon'ble Tribunal's judgment and order dated 18-10-95 passed in O.A.No. 217 of 1995. The contemner/Respondents has willfully ,deliberately violated the Judgment & Order passed in O.A. No. 217/95 by not implementing the direction contained therein till date. Accordingly the respondents/ contemnners is liable for contempt of court proceeding and severe punishment thereof as provided for under the law. They may also be directed to appear personally and reply the charge in this Hon'ble Tribunal .

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.217 of 1995

With

Original Application No.218 of 1995.

Date of Decision : This the 18th Day of October, 1995.

The Hon'ble Justice Shri M.G.Chaudhari, Vice-Chairman.

The Hon'ble Shri G.L.Sanglyine, Member (Administrative)

O.A.No.217/95

311640 Shri G.C.Mondal & 23 others.

All are serving in the office of the Garrison Engineer, 868 EWS C/o 99 APO.

. . . Applicants

- Versus -

1. Union of India represented by the Secretary, Defence, Govt. of India, New Delhi.
2. The Garrison Engineer, 868, EWS, C/o 99 APO.
3. The Garrison Engineer, 869 EWS, C/O 99 APO.

. . . Respondents.

O.A. No.218/95

230016 Shri K.P.Pillai & 225 others.

All are serving in the office of the Garrison Engineer, 868 EWS C/O 99 APO:

. . . Applicants

- Versus -

1. Union of India represented by the Secretary Defence, Govt. of India, New Delhi,
2. The Garrison Engineer, 868 EWS, C/O 99 APO.
3. The Garrison Engineer, 869 EWS, C/O 99 APO.

. . . Respondents

For the applicants in both the cases : By Advocate Shri A. Ahmed:

For the respondents in both the cases : By Advocate Shri S. Ali, Sr.C.G.S.C.

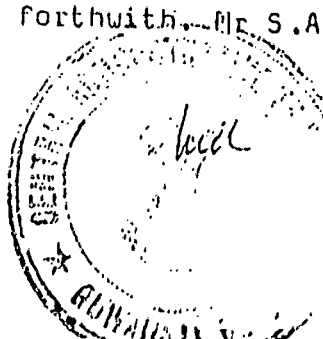
O R D E R

CHAUDHARI J. V.C.

O.A.No.217/95 :

As the question raised is covered by earlier decisions the O.A. is admitted. Intim notice to the respondents.

Returnable forthwith. Mr S.Ali, Sr.C.G.S.C unives notice and



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appears for the respondents. Called out for final hearing.

O.A.No.218/95 :

As the question raised is covered by earlier decisions the U.A. is admitted. Issue notice to the respondents. Returnable forthwith. Mr S.Ali, Sr.C.G.S.C waives notice and appears for the respondents. Called out for final hearing.

As the claim made in both the above U.As are identical these are disposed of by a common order. The applicants in the respective applications are granted leave to agitate their claim in the single application.

Facts of O.A.No.217/95:

The 24 applicants concerned in O.A.217/95 are civilian employees belonging to Group A, B, C and D and are serving in the Defence Department from respective dates since 1963 onwards. They have stated that they are from outside the North East Region but have been posted as civilian employees in Nagaland in the office of Garrison Engineer, 868 EWS C/O 99 A.P.O. Their grievance is that they are eligible to be paid :

- (i) Special (Duty) Allowance (SDA),
- (ii) House Rent Allowance (HRA) at the rate of 15% on the monthly salary with effect from 1.10.1966;
- (iii) Special Compensatory (Remote Locality) Allowance with effect from 1.4.1993 and
- (iv) Field Service Concession with effect from 1.4.1993

but that these benefits are being wrongfully denied to them by the respondents. They placed reliance upon the earlier decision in O.A.48/91. It also appears that the applicants had filed Civil Suit No.265/89 praying for the aforesaid benefits and the suit was decreed. However according to the applicants the decree is not obeyed by respondents, <sup>on the ground that</sup> it is a nullity ~~being~~ being without jurisdiction.



Facts of U.A.No.218/95 :

The U.A.218/95 has been filed by 226 applicants. They are all civilian employees belonging to Group 'C' serving in the Defence Department from respective dates since 1963. They also claim the benefits of :

- (i) Special (Duty) Allowance,
  - (ii) House Rent Allowance,
  - (iii) Special Compensatory (Remote Locality) Allowance and
  - (iv) Field Service Concession in the same manner
- and on the same grounds as claimed by the applicants in the other U.A.

In support of the claim for Special (Duty) Allowance reliance is placed upon the Defence Ministry O.M. No.4(19)/DS/D,Civil-1 dated 1.1.84 and Defence Ministry Memorandum No.20014/3/83-IV. Reliance is placed upon the Circular issued by the Government of India, Ministry of Finance No.11013/2/46-E.11(D) dated 23.9.1906 in support of the claim of HRA at the rate of 15% applicable to B Class cities. The claim for Special Compensatory (Remote Locality) Allowance amount for Defence department civilian employees is based upon the letter of Ministry of Defence, Government of India No.B/37269/AG/PS3(a)/165/D(Pay)/Services dated 31.1.95 with effect from 1.4.93. Lastly, the Field Service Concessions are claimed on the basis of letter No.16729/ORG4 (civ.) (d) dated 25.4.94 issued by the Army Headquarter in pursuance of letter of Government of India dated 13.1.94.

The Hon'ble Supreme Court has now held that employees having all India transfer liability who were appointed outside North East Region but have been posted in the said Region are entitled to the benefit of payment of SOA under



contd. 4...

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The Memorandum dated 14.12.1983 relied upon by the applicants.  
 (See decision of the Hon'ble Supreme Court in Civil Appeal  
 No.834 of 1995, Chief General Manager (Telecom), N.E. Telecom  
 Circle & another vs. Shri Rajendra Ch. Bhattacharjee & others  
 dated 18.1.95.) <sup>JT 1995 (1) SC 440.</sup> We have considered this aspect as well as the  
 question of eligibility of House Rent Allowance, Special  
 Compensatory (Remote Locality) Allowance and Field Service  
 Concessions in our order on O.A.124/95 with O.A.125/95 dated  
 24.8.95. The applicants in those cases were also Defence  
 civilian employees like the applicants serving under the  
 Garrison Engineer and who had been posted in the State of  
 Nagaland. After examining the relevant materials we have  
 hold that the applicants are entitled to get all those  
 benefits. The applicants in the instant O.As and the applicants  
 in those cases were also plaintiffs in the same Civil Suit  
 namely 265/89 and they are all identically placed. We are  
 satisfied that for the same reasons as are recorded in the  
 common order on the aforesaid two applications namely O.A.  
 124/95 and O.A.125/95, similar order may be passed in the  
 instant applications. Although the applicants claimed SDA  
 from November, 1993 we shall allow that claim with effect  
 from 1.12.1988 as was done in the earlier cases. Similarly  
 in so far as the HRA is concerned the relief will not be  
 granted as prayed but as was granted in the earlier cases.  
 Other two reliefs will also be similarly granted as was done  
 in the earlier cases.

For the aforesaid reasons following order is  
 passed:

(A) O.A.No.217/95:

- 1) It is declared that SDA is payable from 1.12.1988.

contd. 5...



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ii) (a) The respondents are directed to pay to the applicants Special (Duty) Allowance (SDA) with effect from the date of actual posting in Nagaland on or after 1.12.1988 as the case may be in respect of each applicant and continue to pay the same so long as the concession is admissible.

(b) Arrears from the date of actual posting in Nagaland on or after 1.12.1988 upto date to be paid within three months from the date of receipt of copy of this order.

iii) (a) It is declared that SCA(RL) is payable from 1.10.1986,

(b) The respondents are directed to pay to the applicants SCA(RL) with effect from the date of actual posting in Nagaland on or after 1.10.1986 as the case may be in respect of each applicant and to continue to pay the same so long as the concession is admissible.

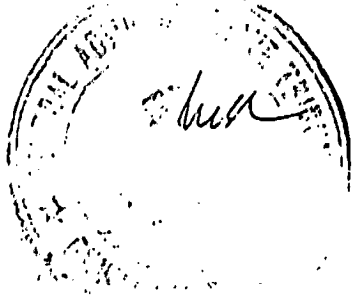
(c) Arrears from the date of actual posting in Nagaland on or after 1.10.1986 upto date to be paid within a period of three months from the date of communication of this order.

iv) (a) It is declared that FSC is admissible from 1.4.1993.

(b) The respondents are directed to extend the FSC to the applicants in the prescribed manner with effect from 1.4.1993 or from the date of actual appointment as the case may be in respect of each applicant upto date and to continue to give the same so long as admissible.

v) (a) It is declared that HRA is admissible as indicated below:

(b) The respondents are directed to pay HRA to the applicants at the rate as was applicable to the Central Government employees in B, B-1, B-2 class cities/towns for the period from 1.10.1986 or from the actual date of



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appointment as the case may be in respect of each applicant upto 28.2.1991 and at the rate as may be applicable from time to time as from 1.3.1991 upto date and to continue to pay the same at the rate prescribed hereafter.

(c) Arrears to be paid accordingly subject to the adjustment of the amount as may have already been paid to the respective applicants during the aforesaid period towards IIRA.

(d) Future payment to be regulated in accordance with clause (a) above.

(e) Arrears to be paid as early as practicable, but not later than a period of three months from the date of communication of this order to the respondents.

The original application is allowed in terms of the aforesaid order. No order as to costs.

A copy of the order dated 24.8.95 passed in O.A.No.124/95 and 125/95 shall be made part of record of this O.A.

(B) O.A.No. 218/95:

i) It is declared that SDA is payable from 1.12.1988

ii) (a) The respondents are directed to pay to the applicants Special (Duty) Allowance (SDA) with effect from the date of actual posting in Nagaland on or after 1.12.1988 as the case may be in respect of each applicant and continue to pay the same so long as the concession is admissible.

(b) Arrears from the date of actual posting in Nagaland on or after 1.12.1988 upto date to be paid within three months from the date of receipt of copy of this order.

iii) (a) It is declared that SCA(RL) is payable from 1.10.1986,

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contd. 7...

(b) The respondents are directed to pay to the applicants SCA(RL) with effect from the date of actual posting in Nagaland on or after 1.10.1986 as the case may be in respect of each applicant and to continue to pay the same so long as the concession is admissible.

(c) Arrears from the date of actual posting in Nagaland on or after 1.10.1986 upto date to be paid within a period of three months from the date of communication of this order.

iv) (a) It is declared that FSC is admissible from 1.4.1993.

(b) The respondents are directed to extend the FSC to the applicants in the prescribed manner with effect from 1.4.1993 or from the date of actual appointment as the case may be in respect of each applicant upto date and to continue to give the same so long as admissible.

v) (a) It is declared that HRA is admissible as indicated below :

(b) The respondents are directed to pay HRA to the applicants at the rate as was applicable to the Central Government employees in U, U-1, U-2 class cities/towns for the period from 1.10.1986 or from the actual date of appointment as the case may be in respect of each applicant upto 28.2.1991 and at the rate as may be applicable from time to time as from 1.3.1991 upto date and to continue to pay the same at the rate prescribed hereafter.

(c) Arrears to be paid accordingly subject to the adjustment of the amount as may have already been paid to the respective applicants during the aforesaid period towards HRA.

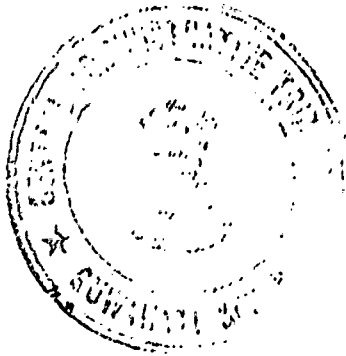
(d) Future payment to be regulated in accordance with clause (a) above.

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(e) Arrears to be paid as early as practicable, but not later than a period of three months from the date of communication of this order to the respondents.

The original application is allowed in terms of the aforesaid order. No order as to costs.

A copy of the order dated 24.9.95 passed in O.A. No.124/95 and 125/95 shall be made part of record of this O.A.



Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMN)

TRUE COPY

प्रतिरूपि

*Handwritten signature*  
20/10

Section Officer (J)

जनसुनवाई अधिकारी (अधिकांश शाखा)  
Central Administrative Tribunal

चंडीगढ़  
पता: म.स.स. नं. 10-8  
सु.स.जी. 4.4.4.4.4, सु.स.स.स.स.

*Handwritten signature*  
22/10

- 16 -

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

In the matter of :-

C.P. No 23/96  
OA 217/95

GC Mondal & others - Petitioners

Vs

AK Nambiar & others - Contemners

— AND —

In the matter of :-

Show-cause reply submitted by all the  
alleged Contemners.

Show-cause Reply

The humble alleged contemners submit their  
joint show-cause replies as follows :-

1. That as per judgements and order dated 18 Oct 95  
OA 217/95  
passed by the Hon'ble Tribunal in OA No 217/95, all the  
arrears/dues upto December 1995 have been paid to the  
applicants on 06th August 1996 and nothing left to be  
paid to them. In fact, the judgements of the Hon'ble  
Tribunal has been implemented by the Respondents  
and the remaining dues from January to update will be  
paid soon.
2. That due to delay in getting sanction from  
the Govt of India, Ministry of Defence for payment  
of the amount directed to be paid by the Hon'ble  
Tribunal, there has been some delay

....2/-

Filed by:

*A. Nambiar*

(MD. SHAUKAT ALI) 20/08/96  
Sr. Central Govt. Secretary  
Central Administrative Tribunal  
Guwahati Bench

3. That the delay in payment was not intentional but because of the reasons stated in Para 2 above.

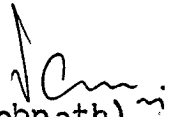
4. That the respondents have no intension to disobey or disregard the orders of the Hon'ble Tribunal and for such delay in full payment, the Respondents may kindly be excused. The dues for January to August 1996 will be paid earlier September 1996.

5. That in view of the implementation of the judgements in question having fully implemented by the Respondents, the Contempt Petition is liable to be dropped/disposed of.

Contd....3/-

VERIFICATION

I, Major S Debnath, GE 868 Engr Wks Sec,  
C/O 99 APO, as authorised ~~do~~ hereby solemnly  
declare that the statements made above are  
true to my knowledge, belief and information,  
and I sign the verification on this 19<sup>th</sup>  
day of September 1996 at Dimapur.

  
(S Debnath)  
Major  
Garrison Engineer