

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Ch. No. 33 196

by S. K. Mallik.

vs

Applicant(s)

Union of India, etc.

Respondent(s)

Mr. M. Chanda

Advocates for the applicant(s)

Mr. G. Sarma, etc. Advocates for the Respondent(s)

Office Notes

Date

Courts' Orders

This case is filed by
Mr. M. Chanda, Adv. of the
applicant, praying for
non-compliance or in
order dt. 13.9.95 passed
in OA No. 172/95.

placed before the
Hon'ble Court on the
aforesaid.

On
21/9/96

W.B. 21/9/96
Secty
DR.

3.9.96

This Contempt Petition is
moved by learned counsel Mr. M. Chanda
for the petitioner (applicant
in the O.A.).

It has been submitted that
in the order dated 13.9.95 in O.A.
172/95 the respondents were directed
to take the decision and convey
it to the applicant within a period
of 2 months from the date of communication
of the order but till date
no decision has been taken by the
respondents pursuant to the order
of this Tribunal above.

Issue notice on the alleged
contemners by registered post to
show cause as to why a contempt
of Court proceeding should not be
initiated against them for wilful
non-compliance and disregard to
the aforesaid order dated 13.9.95
in O.A. 172/95. Returnable within
one month.

show cause and
List on 3.10.96 for/further
orders.

5.9.96

Notice issued to the
concerned parties
wide D. No. 3841 Df. 6.9.96

On

30.9.96

Show cause filed by
the both contemners al-
G. M-17.

pg
M
3/9

6 Member

② C.P. 33/96 (CA. 172/95)

✓

9 Service Repairs are still
outstanding.

2) Next court Reply has
been filed.

1/10

3.10.96

Mr M.Chanda for the petitioner.

Mr S.Ali, Sr.C.G.S.C for the alleged
contemnors has submitted the show
cause for the two ^{alleged} contemnors and ~~serve~~
served copy on Mr M.Chanda. Mr Chanda
submits that he may be allowed to
withdraw the Contempt Petition. Pray
allowed.

Contempt Petition is disposed of
on withdrawal.

File completed on

3.10.96

M
3/10/96

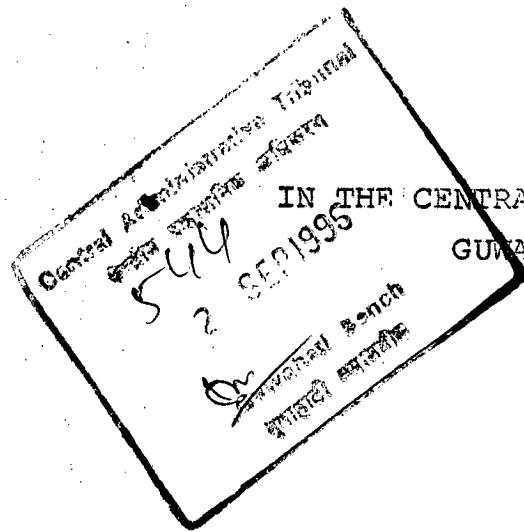
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Member

pg
PZ
3/10

4.10.96

Copy of the order
Issued to the parties
Case No. 3349
to 3353 D, 4.10.96

4/10



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

C.P.No. 33 /96

in

O.A. No. 172 of 1995

Sri Shyamal Kumar Mallick

-versus-

Union of India & Ors.

-And-

In the matter of :-

An Application under Section 17
of the Administrative Tribunals Act,
1985 for non-compliance of the
Hon'ble Tribunal's Order dated
13.9.95 passed in O.A. No. 172/95.

-And-

In the matter of :

Sri Shyamal Kumar Mallick
Son of late S.C.Mallick
Railway Qr. No. 45/A, Barabari,
Dibrugarh
Assam Petitioner

-versus-

Contd....P/2

Filed By the App.
Contd.
30-8-96. No. Chancery No. 311 V.

1. Sri V.K.Choudhury
Superintending Engineer (Civil)
Civil Construction Wing,
All India Radio, Zoo Narengi Tiniali
Bye Lane No. 1
Guwahati-781021

2. Sri R.C. Das

Executive Engineer (Civil)
Civil Construction Wing,
All India Radio
Itanagar-791111

..... Contemnors

The applicant above named most humbly and respectfully begs to state as under :

1. That your applicant being highly aggrieved for non-absorption on regular basis to the Group 'D' category staff under Civil Construction Wing, All India Radio, Dibrugarh although completed requisite length of service as casual worker under the Assistant Engineer, Civil Construction Wing, All India Radio, Dibrugarh but even then the applicant was not absorbed on regular basis and accordingly approached this Hon'ble Tribunal through O.A. No. 172/95. The Hon'ble Tribunal after perusal of records was pleased to dispose of the case with the following directions :

"In the circumstances it is desirable that the decision on the request for absorption of the applicant in Group 'D' category staff be

taken expeditiously by the Chief Engineer (C), CCW, AIR New Delhi with whom the matter seems to have rested since July 1994. The said authority is therefore directed to take the decision and convey it to the applicant within a period of two months from the date of communication of this order. In the event of no such decision is being taken within that time or the applicant feels aggrieved by such decision he will be at liberty to approach this Tribunal for relief."

but the authorities have not taken any decision till date and disobeyed the order of the Hon'ble Tribunal passed in O.A. No. 172/95 dated 13.9.95. Therefore the contemners are liable for contempt of Court for non-compliance of the Hon'ble Tribunal's Order dated 13.9.95 passed in O.A. No. 172/95. In this connection it may also be stated that the respondents of the Original Application had filed a Review Application before the Hon'ble Tribunal against the Order dated 13.9.95 but the Hon'ble Tribunal was also pleased to dismiss the Review Application. Even thereafter also no action is taken by the Contemners/ respondents in terms of the Order passed in O.A. 172/95 on 13.9.95.

A copy of the Order dated 13.9.95 passed in O.A. No. 172/95 is annexed hereto and the same is marked as Annexure-1.

2. That your applicant submitted an appeal before the Director General, Civil Construction Wing, All India Radio, New Delhi and also before the Chief Engineer (I),

New Delhi dated 20.11.95. In response to the same the Superintending Surveyor of Works (II) addressed the letter bearing No. SSW-II-13(6-A)/96-S/725 dated 6.6.96 to the Chief Engineer-II, CCW, All India Radio, New Delhi wherein it is requested that necessary action in the matter be taken at ~~your~~ his end since it pertains to jurisdiction of Chief Engineer (II) Office and also requested for an urgent action in this regard. Similarly, another letter also addressed to Chief Engineer(II), CCW AIR, New Delhi vide letter No. SSW-II-13(6-A)/96-S/850 dated 01/02.7.96 wherein it was requested for early settlement ~~of~~ the matter treating the same as most urgent. In the said letter reference of a letter dated 10.1.96 is made. However the authorities till date have not taken any action regarding absorption of the applicant on regular basis. Therefore the same is disregard to the Hon'ble Tribunal's Order dated ~~xx~~ 13.9.95 and the Hon'ble Tribunal be pleased to impose punishment upon the contemnors for such wilful non-compliance of the Hon'ble Tribunal's Order in accordance with law.

A copy of the appeal dated 20.11.95 and letter dated 6.6.96 and letter dated 01/02.7.96 are annexed ~~xx~~ hereto and the same are marked as Annexure 2,3, and 4 respectively.

3. That this application is made bonafide and ~~xxx~~ for the ends of justice.

Under the facts and circumstances mentioned above it is prayed that the Hon'ble Tribunal be pleased to initiate Contempt Proceedings against the Contemnors/Respondents and further be pleased to impose punishment upon the Contemnors/respondents in accordance

with law for wilful non-compliance and for disobeying the Hon'ble Tribunal's Order dated 13.9.95 passed in O.A. No. 172/95 (Sri Shyamal Kumar Mallick Vs. U.O.I. & Ors.) or further be pleased to pass any other order or orders as deemed fit and proper.

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

IN THE COURT OF MAGISTRATE, GUWAHATI

A F F I D A V I T

I, Sri Shyamal Mallick, son of late S.C. Mallick, aged about 25 years, resident of Barabari Railway Colony, Qr. No. 45/A, Dibrugarh petitioner in the above case do hereby solemnly affirm and declare as follows :

- i. That I am the petitioner in the above Contempt Petition as such am well acquainted with the facts and circumstances of the case and have gone through this petition.
- ii. That the statements made in this Contempt Petition are true to my knowledge and belief.
- iii. That this Affidavit is made for filing a Contempt Petition before the Hon'ble Central Administrative Tribunal, Guwahati Bench.

Shyamal Mallick

Deponent

Identified by

Moni K. Chanda

Advocate

Signed before me today on 29-8-96,

who is identified by Sri M. Chanda,

Advocate.



W. G. S. 96

Magistrate Guwahati

Annexure-1

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH:
GUWAHATI

ORIGINAL APPLN. NO. 172 of 1995

Shyamal Kr. Mallick X - APPLICANT (S)

-Vs.-

U.O.I. & Ors - RESPONDENT (S)

For the Applicant (s) - Mr. B.K.Sharma
Mr. M.Chanda
Mr. B.Mehta
Mr. S.Sarma

For the Respondent (s) - Mr. G.Sarma, Addl.C.G.S.C.

ORDER

13.9.96 Mr. B.K.Sharma for the applicant

Mr. G.Sarma, Addl.C.G.S.C. for the respondents.

O.A. admitted. Notice waived.

Prima facie it appears from Annexure B that the applicant who belongs to Scheduled Caste should be eligible to be appointed under the Scheme "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme" of Government of India 1993" meant for permanent absorption of Group 'D' staff since the applicant belongs to Group 'D'. The service of the applicant was terminated by a verbal order in the month of November, 1990. The applicant had been representing to the authorities to absorb him. Eventually he addressed a representation to the Prime Minister's office. That being referred to the Director General of All India Radio, the office of the Directorate requested the Assistant Engineer (Civil) Civil Construction Wing, All India Radio, Dibrugarh by letter dated 11.5.95 to submit his comments to the Directorate at the earliest. The information was furnished but it transpires that the matter

*Attn of
Colvin
X*

Annexure-1 (Contd.)

13.9.95 was to be dealt with by Chief Engineer (C), CCW, AIR, New Delhi and therefore the Assistant Engineer (C), CCW, AIR Dibrugarh by letter dated 15.7.94 requested the Directorate to despatch all the related documents in respect of the applicant to Chief Engineer (C), CCW, AIR, New Delhi for early action. It is seen that by earlier letters Assistant Engineer (C), CCW, AIR, Dibrugarh has recommended for sympathetic consideration of the case of the applicant as he was a good, efficient and sincere worker and was a ~~good~~, needy person and only earning member of the family. The Chief Engineer (C), CCW, AIR, New Delhi does not appear to have been taken the decision even though the matter has been pending since July 1994 and anxiety was shown by the Directorate by letter dated 11.5.94 to decide the matter early in view of the reference from Prime Minister's office. It is now the grievance of the applicant that while the matter is thus pending some others who were junior to him are being absorbed and thus injustice is being caused to him.

In the circumstances it is desirable that the decision on ~~xxxxxx~~ the request for absorption of the applicant in Group 'D' category staff be taken expeditiously by the Chief Engineer (C), CCW, AIR, New Delhi with whom the matter seems to have rested since July 1994. The said authority is therefore directed to take the decision and convey it to the applicant within a period of two months from the date of communication of this order. In the event of no such decision

Ans/Adm

13.9.95 being taken within that time or the applicant feels aggrieved by such decision he will be at liberty to approach this Tribunal for relief.

O.A. is accordingly disposed of.

No order as to costs.

Sd/- Chairman

Sd/- Member (A)

Attn:-
②
Dhruv

From :

Shri Shyamal Mallick
Barbari Railway Colony,
Quarter No. 45/A
Dibrugarh, Assam
Pin-786 001

To

The Director General
Civil Construction Wing
All India Radio
Parliament Street,
P.T.I. Building, 2nd floor
New Delhi : 110 001

Sub : Application for regular appointment to the post of
Class-IV staff in this department.

Respect Sir,

With due respect, I beg to lay a few lines for favour
of your kind consideration please.

That Sir, I have joined in the office of the Assistant
Engineer(civil) Civil Construction Wing, All India Radio,
Dibrugarh on 1st December, 1988 as a casual un-skilled labour
and worked upto November 1990. Since then I have been serving
in the said post to the entire satisfaction on all in my office.

That Sir, after doing job for two years continuously,
I should have been appointed as a regular Class-IV staff in
this department. But, unfortunately, the whole matter was
diverted to the another side. Shri A.B.Mitra (now working as
a regular peon in the office of the Assistant Engineer(Civil)
CCW, AIR, Dibrugarh) jumped from Guwahati, who was more junior
to me in casual service and got the regular post by the help
of some reliable source.

That Sir, besides, that I have no other way to approach
myself to get a regular post in this department. So, I have to
go to take the help of court. And I appealed the same grievance
to the Central Administrative Tribunal, Guwahati. Accordingly
the Chairman of the Central Administrative Tribunal, Guwahati
Bench, Guwahati passed an order vide the original application
No. 172 of dated 13.09.95 to appointment within a period of
two months from the communication of this order (copy enclosed).

In the circumstances mentioned here above, I request
you, to issue an order as early as possible, so that I may
be appointed in the permanent Class-IV staff in this department
please.

I remain Sir,

Enclo : A xerox copy of the
above order.

Yours faithfully,
Sd/- Shyamal Mallick

Dated Dibrugarh
The 20th Nov '95

(Shyamal Mallick

Shyamal Mallick

Annexure-3

COURT CASE/CAT CASE
MOST IMMEDIATE

GOVERNMENT OF INDIA
DIRECTORATE GENERAL : ALL INDIA RADIO
CIVIL CONSTRUCTION WING

2nd Floor, PTI Building,
4, Parliament Street,
New Delhi-110001

No. SSW-II-13 (6A)/96-S/725 Dated 06/6/96

The Chief Engineer-II
CCW, AIR, Soochna Bhavan
New Delhi-110003

Subject : Prayer of Sh. Shyamal Mallick for implementation of court order of the Hon'ble "Central Administration Tribunal," passed on 30/9/95 in the original application of 172/95.

A letter from Sh. Shyamal Mallick along with the photocopies of the CAT orders passed on 30.9.95 by Guwahati Bench on the subject cited above has been received in this office.

It is requested that necessary action in the matter be taken at your end since it pertains to jurisdiction of CE-II office.

An urgent action is requested please.

Sd/- Y.K.SHARMA
E.A to Superintending Surveyor of Works-II

Enclo : As above.

Copy to Sh. Shyamal Mallick, Barbari Railway Colony, Qr. No. 45/A, Dibrugarh Assam. PIN-786001 with request to take up the matter with CE-II since it pertains to them.

Sd/- Illegible
E.A. to Superintending Surveyor of Works-II

*ATC/1
Omkar
D.S.*

13
Annexure-4
-12-
MOST IMMEDIATE
COURT CASE

GOVERNMENT OF INDIA
DIRECTORATE GENERAL : ALL INDIA RADIO
CIVIL CONSTRUCTION WING

2nd Floor, PTI Building,
4, Parliament Street
New Delhi - 110001

No. SSW-II-13 (6-A)/96-S/250 Dated 01/02.7.96

The Chief Engineer (C) -II
CCW, AIR, Soochna Bhavan
CGO Complex, Lodhi Road,
New Delhi-110003.

Subject : Representation for implementation of Court Order
of the Hon'ble Central Admn. Tribunal, passed on
30.9.95 in the Original Application of 172/95
by Sh. Shyamal Mallick.

Enclosed please find herewith the original copy
of letter from Sh. Shyamal Mallick, Barbari Rly. Colony,
Qr. No. 45/A, Dibrugarh, Assam on the subject cited above,
for further necessary action at your end please.

It is requested that the similar representation
of Sh. Shyamal Mallick received from EE (C) CCW, AIR,
Itanagar alongwith photo copies of Guwahati CAT Bench
decision has already been sent to you by this office
letter of even number dated 10.1.95 for early settlement
of this matter.

This may please be treated as Most Urgent
please.

Sd/-
(Y.K.SHARMA)

E.A. to Superintending Surveyor of
Works-II

Enclo : As above

Copy to Sh. Shyamal Mallick, Barbari Rly. Colony, Qr. No.
45/A, Dibrugarh, Assam-786001. Further it is requested
that the further correspondence may please be held directly
to the CE-II, Soochna Bhavan, New Delhi.

Sd/-
E.A. to Superintending Surveyor of Works-II

*Dated
Chander
A.D.*

D R A F T C H A R G E

Laid down before ~~the~~ before the Hon'ble Tribunal
for initiation of Contempt of Court Proceeding and to
impose punishment upon the contemners for wilful
non-compliance and disregard to the Hon'ble Tribunal's
Order passed in O.A. No. 172/95 on 30.9.95 (in the case
of Shri Shyamal Mallick Vs. Union of India & Ors.).

14

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BRANCH.

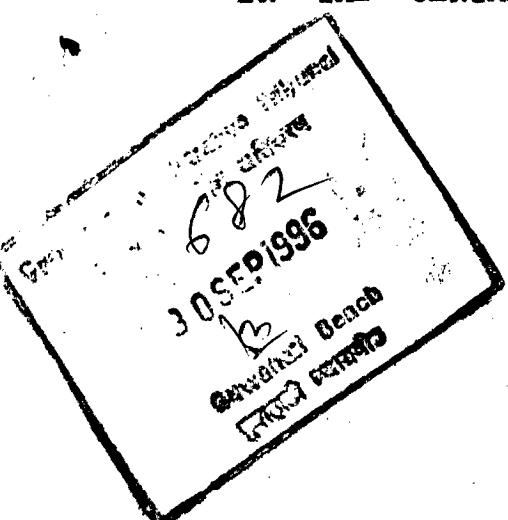
GUWAHATI

C.P. No.33/96

(In O.A. 172/95)

Shri Shyamal Mallick

Filed by
Shyamal
S.C.G.S
30/2/96



----- Petitioner.

- VS -

1. Shri V.K.Choudhury, S.E.
2. Shri R.C.Das, E.E(Civil)

----- Contemnors.

- A N D -

In the Matter of

Show Cause Reply submitted
by both the contemnors.

The humble alleged contemnors submit their show cause reply as follows :-

1. That the alleged contemnors have no intention to disregard, disobey or flout the Hon'ble Tribunal's order.
2. That the contemp petition is premature one and as such, the same is liable to be disposed of with a direction to wait for reasonable time or dismiss the same.
3. That the original judgement ~~though~~ though passed without notice to the Respondents, there is no positive direction to the respondents to absorb the petitioner in service. The Hon'ble Tribunal only desired that the decision on the request for absorption of the applicant be taken expeditiously by the Chief Engineer(C),AIR, New Delhi and convey the decision within a period of two months from the date of communication. It was also directed that if the applicant feels aggrieved by such decision of the Chief Engineer, then the liberty was given to the applicant to approach the Hon'ble Tribunal.

Contd. .p.2..

2. That the Respondents in O.A. filed the R.A.4/96 being aggrieved by the order dated 13-9-95, as the same was passed by the Hon'ble Tribunal without serving notices to them.
3. That the Hon'ble Tribunal after hearing the parties disposed of the R.A. on 23.2.96 stating that there is "no positive direction to the Respondents and the order merely requires the authority concerned to take such decision as he is advised only expeditiously, there can thus arise no prejudice to the Respondents --".

Annexure --X is the photo copy of judgements and order dated 23.2.96 passed by the Hon'ble Tribunal in R.A.4/96.

4. That the present alleged contemners are not the authority to take decision on the matter but it is the Chief Engineer(C) (I), the authority to take decision regarding absorption of the applicant. The applicant as per judgement of the Hon'ble Tribunal filed an appeal before the Chief Engineer(C)-I directly and the alleged contemners are not aware of the appeal filed by the applicant. But the petitioner instead of making Chief Engineer(as contemner, he has made the Executive Engineer and the Superintending Engineer, who have no authority to take decision as contemners. This is contrary to the decision of the Hon'ble Tribunal's judgement and as such the contempt petition is liable to be dismissed.
5. That with regard to statements made in para 1 of the contempt petition, the alleged contemners beg to state that the Dibrugarh Division having abolished, the applicant could not be absorbed. But the case of the/can be considered if and when a post occurs. The review application has been not dismissed but disposed as per Annexure X.

applicant

Contd. .3..

6. That with regard to statements made in para 2 of the petition the alleged contemners have no earlier knowledge about the filing of the appeal but they came to know from the petition of the petitioner.
7. That with regard to statements made in para 3 of the petition the alleged contemner dispute the same.
8. That in view of the facts and circumstances of the case ~~as stated~~ ^{stated} marked above, the contempt petition is liable to be dismissed.

VERIFICATION

I, R.C.Das, Executive Engineer, (Civil) CCW,AIR,Itanagar alleged contemner No 2 as authorised hereby solemnly declared that the statements made above are true to my knowledge, belief and information, and I sign this verification on this 28th day of September,1996 at Guwahati.

Rayendra Chandra Das
S.B. (C), C.E.O. AIR
Itanagar

Declarant .

ANNEXURE - 8. 17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI - 5

R.A. 4/96 (D.A.172/95)

Union of India & Ors. ... Petitioners
-VS-
Shyamal Mallick ... Respondent

P.R.E.S.E.N.T

THE HON'BLE JUSTICE SHRI M.G.CHAUDHARI, VICE CHAIRMAN
THE HON'BLE SHRI G. L. SANGLYINE, MEMBER (ADMN.)

For the Petitioners ... Mr. S. Ali, Sr.C.G.S.C.

For the Respondent ... Mr. B.K. Sharma,
Mr. B. Mehta,
Mr. S. Sarma.

DATE

23.2.96

ORDER

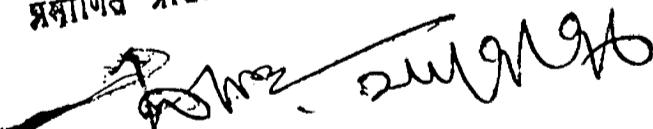
Heard Mr. S. Ali, Sr.C.G.S.C. for
the applicants.


It is true that the respondents were not served but the fact remains that Mr. G. Sarma, Addl.C.G.S.C. was present at the Hearing and had waived notice. Moreover no positive direction has been given to the respondents and the order merely requires the authority concerned to take such decision as he is advised only expeditiously, there can thus arise no prejudice to the respondents. We, therefore see no ground to entertain this Review Application. Hence it is disposed of.

Copy of the order to be furnished to
Mr. S. Ali, Sr.C.G.S.C.

Sd/- VICE CHAIRMAN
Sd/- MEMBER (ADMN)

Certified to be true Copy
প্রাণিত প্রতিলিপি


COURT OFFICER
महिला अधिकारी
Central Administrative Tribunal
केन्द्रीय नियन्त्रित न्यायालय
Guwahati Bench, Guwahati - 5
গুৱাহাটী ন্যায়ালয়, গুৱাহাটী-৫