

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

CP. No. 33 196

Dr. S. K. Mallik

Applicant(s)

Union of India & ors.

Respondent(s)

Mr. M. Chanda

Advocates for the applicant(s)

Mr. J. Sarma, All Sec.

Advocates for the Respondent(s)

Office Notes

Date

Courts' Orders

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

3.9.96

This Contempt Petition is  
moved by learned counsel Mr M. Cha-  
nda 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 direc-  
ted to take the decision and convey  
it to the applicant within a period  
of 2 months from the date of commu-  
nication 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.

Member

5.9.96

Notice issued to the  
concerned parties  
vide D. No. 3041 Dt. 6.9.96

Ben

30.9.96

Show Cause filed by  
the both contemners al-  
B. 14-17.

pg

m/3/9

② C.P. 33/96 (CA. 172/95)

✓

Service Reports are still  
awaited.

2) This is a Reply to  
the F.W.

1/10

3.10.96

Mr M.Chanda for the petitioner.  
Mr S.Ali, Sr.C.G.S.C for the alleged  
contemners has submitted the show  
cause for the two <sup>alleged</sup> contemners and ~~served~~  
served copy on Mr M.Chanda. Mr Chand  
submits that he may be allowed to  
withdraw the Contempt Petition. Pray  
allowed.

Contempt Petition is disposed of  
on withdrawal.

Pl. comply on

3.10.96.

m 3/10/96.

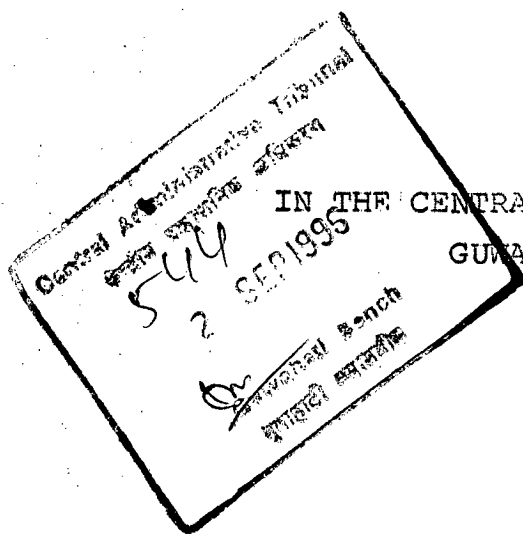
Member

pg  
m  
3/10

4.10.96

Copy of the order  
issued to the parties  
vide D.No. 3349  
to 3353 D. 4.10.96

4/10



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Filed by the appli  
cant through  
30-8-96. M. Chandra. ADV

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

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

..... Contemners

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

Contd...P/3

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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 contemnners 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 Contemnners/ 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 ~~23.9.95~~. 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

*Manik Chandra*

Advocate

Signed before me today on 29-8-96,  
who is identified by *Shri M. Chandra*,  
Advocate.



*29.8.96,*  
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

Attst  
Chanda  
Sarma

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. 13.9.95

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)

Attested  
②  
B.W.

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.

Dated Dibrugarh  
The 20th Nov '95

Yours faithfully,  
Sd/- Shyamal Mallick  
(Shyamal Mallick

*Accepted*  
*Shyamal Mallick*  
*20/11/95*

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, Sookna Bhavan  
New Delhi-110003

Subject : Prayer of Sh. Shymal 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

*Attended  
@ 10/10/96  
JW*

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/850 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/-

(V.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

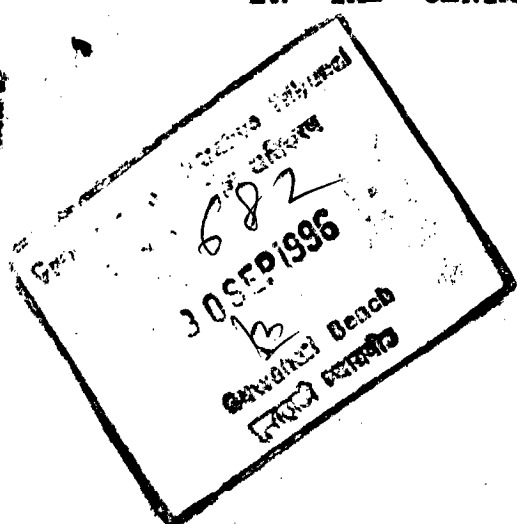
*Attended  
Chh  
A.V.*

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.).

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BRANCH.  
GUWAHATI



C.P. No.33/96

(In O.A. 172/95)

Shri Shyamal Mallick

*Filed by*  
*Shyamal Mallick*  
*Sr. CGSC*  
*30/9/96*

----- Petitioner.

- VS -

1. Shri V.K.Choudhury, S.E.

2. Shri R.C.Das, E.E(Civil)

----- Contemners.

- A N D -

In the Matter of

Show Cause Reply submitted  
by both the contemners.

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

1. That the alleged contemners 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 absorbtion 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..



- 15
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 contemnors 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 contemnors 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 contemnors. 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 contemnors beg to state that the Dibrugarh Division having abolished, the applicant could not be absorbed. But the case of the applicant 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 contemnners 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 *is* ~~marked~~ <sup>stated</sup> 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 to hereby solemnly declared that the statements made above are true to my knowledge, belief and information, and I sign this verification on this 28<sup>th</sup> day of September, 1996 at Guwahati.

*Rajendra Chandra Das*  
E.E. (C), C.E.D. AIR  
Itanagar

Declarant .

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : GUWAHATI - 5**

R.A. 4/96 (O.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.

**D A T E**

23.2.96

**O R D E R**

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  
प्रमाणित प्रतिलिपि

COURT OFFICER  
न्यायाधीश प्रशासकी  
Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय  
Guwahati Bench, Guwahati-8  
गुवाहाटी न्यायालय, गुवाहाटी-8

