

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH
GUWAHATI

ORIGINAL APPLN.NO. OF 1995
TRANSFER APPLN.NO. OF 1995
CONTEMPT APPLN.NO. 98 OF 1995 (IN OA NO. 163/95)
REVIEW APPLN. NO. OF 1995 (IN OA NO.)
MISC. PETN. NO. OF 1995 (IN OA NO.)

..... Binod Linghi APPLICANT(S)

-vs-

..... H. O. J. Sam RESPONDENT(S)

FOR THE APPLICANT(S)

...MR. B.K. Chandra
MR. M. Chanda
MR.
MR.

FOR THE RESPONDENTS

...MR. G. Sarma, Addl Case

OFFICE NOTE

DATE

ORDER

This application is
filed by Mr. M. Chanda, 25.3.96
advocate for the petitioner
for Contempt of Court w/s 17
of the A.T. Act 1985 for
ignoring and disobeying
the order dt. 20.9.95
passed in OA 163/95 by
this Honble Tribunal.
A draft charge is
enclosed along with
the petition.
Laid before
the Bench for further
orders.

Mr. M. Chanda for the applicant.
moves Mr this contempt petition for
alleged non compliance to the order
of this Tribunal dated 20.9.95 in
O.A.163/95 in the case of Binod
Enghi & others -Versus- Union of
India & Ors. Let a copy of this
petition be served on Col. V.Kapoor,
Administrative Commandant, Eastern
Command, Fort William, Calcutta.

List on 29.5.96 for considera-
tion and order on this contempt
petition. Steps within two days.

Copy of this order may be furni-
shed to the learned Addl.C.G.S.C Mr.
G.Sarma counsel for the respondents.
in the original application.

Member

RP 21.3.96
Deputy Registrar (J)
Central Administrative Tribunal PG
Guwahati Bench

[Signature]

Order dt. 25.3.96 (contd)

to a counsel in parties
no 823-24 dt 16.4.96

19/4/96

Copy for issuing notices
has not been submitted
20.4.96

2

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH
GUWAHATI

2

ORIGINAL APPLN.NO. OF 1995
TRANSFER APPLN.NO. OF 1995
CONTEMPT APPLN.NO. 9/96 OF 1995 (IN OA NO. 163/95)
REVIEW APPLN. NO. OF 1995 (IN OA NO.)
MISC. PETN. NO. OF 1995 (IN OA NO.)

..... APPLICANT(S)
-VS-

..... RESPONDENT(S)

FOR THE APPLICANT(S) ...MR.
...MR.
...MR.
...MR.
FOR THE RESPONDENTS ...MR.

OFFICE NOTE	DATE	ORDER
Copies for issuing notices has not been submitted 7/6	30.5.96	Leave note of Mr B.K. Sharma, learned counsel for the applicant, and Mr G. Sarma, learned Addl. C.G.S.C., for the respondents. List on 4.6.96 for orders.
	nkm	
	4.6.96	Learned counsel Mr M. Chanda for the applicant and learned Addl. C.G.S.C., Mr G. Sarma, for the respondents, are present. Requisites have not been filed. List on 11.6.96 for orders.
	nkm	

60
Member (A)
A
Member (J)

60
Member(A)
A
Member(J)

OFFICE NOTE

DATE

ORDER

11.6.96

Learned counsel Mr M.Chanda for the applicant.

List on 19.6.96 for order.

Member (A)

Member (J)

pg

19.6.96

Mr M.Chanda for the petitioner.

List on 3.7.96 for order.

Member

pg

3.7.96

Leave note of Mr M.Chanda and Mr G. Sarma.

List for order on 31.7.96.

Member

pg

31.7.96

Mr M.Chanda for the contempt petitioners. Mr G.Sarma for the respondents.

Service reports awaited. List for order on 29.8.96.

Member

pg

29.8.96

Mr M.Chanda for the contempt petitioner. Mr G.Sarma for the respondents.

No show cause has been submitted.

List for show cause and further orders on 25.9.96.

Member

pg

Regulate Receipt
and issued to the
respondents vide
No. 1401 dt. 17.6.96

Rev.
18/6

Service Reports are
still awaited

2/7

Service Reports are
still awaited

28/8

Show Cause has not
been filed

29/9

QA/TA/CP/RA/MP No. of 19 C.P. 9/96

OFFICE NOTE

DATE

ORDER

25.9.96

Mr M.Chanda for the petitioner.
Mr G.Sarma, Addl.C.G.S.C for the respondents.

Adjourned to 1.10.96.

Member

pg

M/25/9

1.10.96

Mr M.Chanda for the petitioner.

Vide order of today in M.P.129/96 the petitioners have been allowed to implead Lt.Col.Y.Yadav the present Administrative Commandant, Station Headquarter, Narengi as contemner No.2 in this C.P. Petitioners are directed to take steps within 3 days.

List for further order on 8.10.96.

Member

pg

M/1/10

8.10.96

Learned counsel Mr M. Chanda for the contempt petitioner. Steps have been taken by the contempt petitioner. Issue notice on the alleged contemner No.2, Lt. Col. Y. Yadav, Administrative Station Headquarter, Narangi, by registered post to show cause why contempt of court should not be initiated against him for wilful non-compliance of the judgment and order dated 20.9.1995 passed in O.A.No.163/95. Returnable within one month.

List for show cause and further orders on 18.11.1996.

Member

nkm

M/9/10

25/10/96

Show cause has not been submitted on 30/9/96.

Show cause has not been filed.

7.10.96

Service of Notice Report No.2 has been filed today.

Bow

Comply above order dated 8/10/96.

M/9/10/96

14.10.96

Notice issued to the contemner side.

D.No.3477 dt.15.10.96

Show cause has not been filed.

5

C.P. 9 of 1996 (O.A. 163/95)

18.11.96

None present for the contempt petitioner.

Mr. G.Sarma, Addl. C.G.S.C. for the alleged contemnors.

Show cause has not been submitted. Service report is awaited.

List for order on 17.12.1996.

Member

trd

17-12-96

Learned counsel Mr.M.Chanda for the applicant. Learned Addl.C.G.S.C. Mr.G.Sarm submits that he has been authorised by the respondent in this C.P. Namely, Lt.Col. Yubraj Yadav, that he has been authorised to appear on his behalf in this C.P. Lt.Col.Yadav is also present in the Court. His personal attendance in this C.P. will not be necessary untill specifically ordered by this Tribunal in this regard. Mr.Sarma submits that the reply in writing will be submitted soon and he seeks adjournment. Prayer is allowed.

List for show cause reply and further order on 10-1-96.

Member

26.12-96

lm

Show cause filed by the alleged contemnor.

10-2-97

Leave note of Mr.B.K.Sharma. Addl. C.G.S.C. Mr.G.Sarma for the respondents. Show cause reply on behalf of Lt.Col. Yubraj Yadav has been submitted on 26-12-96. Copy of the same be served on counsel of the petitioner(applicant in the O.A.).

List for order on 10-2-97.

Other respondents, Col. V.Kapoor may submit show cause reply on that date.

Member

6-2-97

Show cause has not been filed by Col. V. Kapoor, R-1, 6/2

lm

(6)

C.P. No. 9 of 1996 (O.A. 163/95)

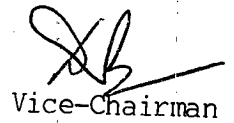
18.2.97

10.2.97

List on 19.2.97 for further orders.

1) Show case filed
by the alleged
contemners.


Member


Vice-Chairman

2) Memo of appearance
has been filed. trd

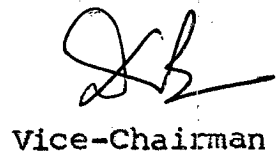
Mr
18/2

19.2.97

On the prayer of Mr G. Sarma, learned
Addl. C.G.S.C appearing on behalf of the
alleged contemners prays for four weeks
time to file show case for instructions
We however, not inclined to grant four
weeks time. As a last chance we grant two
weeks time. On that day the case will be
decided.

List on 4.3.97 for further orders.


Member


Vice-Chairman

pg

4.3.97

This Contempt Petition has been filed by the petitioner alleging that there was a wilful violation of the direction given by this Tribunal as per its order dated 20.9.95. The alleged contemner is the Administrative Commandant, Purav Kaman Mukhalaya, Headquarters, Eastern Command, Calcutta. The directions as contained in para 9 of the order are quoted below :

- "(i) The respondent No.4 is directed to move the Government of India/competent authority for sanction of the posts so as to facilitate the appointment of the applicants against the vacant posts on regular basis and scale.
- (ii) The respondent No.4 is directed to move the Government of India/competent authority to sanction the payment of arrears of wages to the applicants for the two spells during which they were engaged on daily wage and make the payment to the respective applicants. The competent authority of the Government of India is requested to accord sanction for the payment of arrears of wages mentioned in the above clause
- (iii) Pending the accord of the sanction to the posts the respondent No.4 is directed to consider as and when it is possible to give casual engagement on daily wage to the applicants or any of them and ensure the payment of wages to them by obtaining the sanction in time."

In this Contempt Petition a show cause notice was issued. Pursuant to the said show cause notice the alleged contemner has submitted his reply to the show cause and in that reply it has been clearly stated in para 2 that the alleged contemner had already ~~been~~ taken necessary steps pursuant to the direction given

contd..

4.3.97 by this Tribunal. Mr M.Chanda, learned counsel appearing on behalf of the petitioner also very candidly submits that necessary steps had~~x~~ already been taken by the alleged contemner. However, no payment was made. There was no sanction also. In view of the above, we are of the opinion that the alleged contemner has not done anything which may amount to wilful disobedience of the directions given by this Tribunal and therefore we do not find any ground to proceed with the petition for contempt.

Accordingly the Contempt Petition is closed.

he comply.

m/11/3

13.2.97

Copy of the order has been sent to the despatch section for issuing the same to the parties.

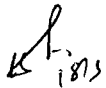

Member


Vice-Chairman

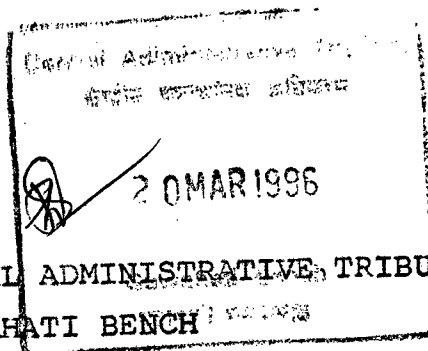
pg
m/11/3

13/7

Issued vide S.N.
783 to 787 d. 14.2.97


18/3

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH



C.P. No. 9/96

C.P. No. 9/96

in

O.A. No. 163/95

Sri Binod Einghi, & 8 Ors.

Vs.

Union of India & Ors.

In the matter of :-

An Application under Section 17 of the Administrative Tribunals Act praying for initiation of Contempt Proceeding against the Contemner for wilful non-compliance of the Judgement and Order dated 20.9.95 passed in O.A. 163/95 by this Hon'ble Tribunal whereby the Hon'ble Tribunal was pleased to direct the respondents to appoint the applicants against the vacant post of Conservancy Safaiwala on regular basis and also directed for payment of arrear wages for the period from 1.3.95 to 27.9.95 and also for the period from 17.6.95 to 28.8.95.

-AND-

In the matter of :-

1. Sri Binod Einghi,
2. Sri Narayan Das,
3. Sri Uttam Ch. Basumatary,

Contd..P/2

Filed by The applicant
through Mr. Advocate
15.3.96

4. Sri Rajesh Ram,
5. Smt. Nirmala Basfore
6. Smt. Minu Bala Das (Rajbanshi)
7. Sri Lakhan Das,
8. Sri Ram Khilaon Passi
9. Smt. Renu Prava Borah

..... Petitioners

Vs.

1. Col. V. Kapoor ✓
Administrative Commandant,
Purav Kaman Mukhalaya,
Headquarters,
Eastern Command, Fort William
Calcutta-700021

In terms of order dt. 1.10.96
passed in MP 129/96 in
petitioners were allowed to add
R. No. 2 as follows:-

2. Lt. Col. Y. Yadav,
Present- Administrative Commandant,
Stn. Head Qr, Narengi, Guwahati.

..... Contemner

The petitioners most humbly and respectfully
beg to state as under :

1. That your petitioners being highly aggrieved for non-appointment to the post of Conservancy Safaiwala under the Administrative Commandant, Station Headquarter, Narengi, Guwahati even after completion of all requisite formalities such as interview, medical examination, Police Verification ~~the petitioners have filed an Original Application~~ and also for non payment of arrear salary for the period from 1.3.95 to 27.5.95 and 17.6.95 to 28.8.95 the petitioners have filed an Original Application before this Hon'ble Tribunal which

Contd....P/3

was registered as O.A. 163/95. The Original Application was contested by the original respondents. However the Original Application was finally decided by the this Hon'ble Tribunal on 20.9.95 whereby the Hon'ble Tribunal was pleased to pass the following order after hearing both the counsel of the parties. The relevant portion of the Judgement and Order passed in O.A. 163/95 on 20.9.95 by this Hon'ble Tribunal is quoted below :

✓ 9. In the result following order is passed :

- i. The respondent No. 4 is directed to move the Government of India/competent authority for sanction of the posts so as to facilitate the appointment of the applicants against the vacant posts on regular basis and scale.
- ii. The respondent No. 4 is directed to move the Government of India/Competent authority to sanction the payment of arrears of wages to the applicants for the two spells during which they were engaged on daily wage and make the payment to the respective applicants. The competent authority of the Government of India is requested to accord sanction for the payment of arrears of wages mentioned in the above clause.
- ii. Pending the accord of the sanction to the posts the respondent No. 4 is directed to consider as and when it is possible to give casual engagement on daily wage to the applicants

Contd...P/4

or any of them and ensure the payment of wages to them by obtaining the sanction in time. Since the respondent No. 4 had already adopted a compassionate attitude we hope that it will be possible for him to give engagement to the applicants, at least some of them, on daily wages as there may be work to be carried out by them as there are regular vacancy of Conservancy Safaiwalas lying vacant. The respondent No. 4 to take expeditious steps within two months from the date of communication of this order to him to move the Government of India/competent authority to consider according sanction and appointment of the applicants.

10. O.A. is disposed of in terms of the above directions. No order as to costs. The interim order is vacated subject to the observations made herein above in respect of casual engagement. If the applicants or any of them have been engaged pursuant to the ad-interim order they shall be paid the wages upto today and we direct the respondent No. 4 to take steps for securing the sanction from the competent authority. We hope that the competent authority will accord the sanction immediately.

The case is decided long back in the month of September 1995 and the ~~same~~ judgement and order ~~was~~ received

Contd...P/5

by the original respondents/Contemner (present) immediately after the decision of the case by the Hon'ble Tribunal but surprisingly no action is initiated till date for implementation of the direction of the Hon'ble Tribunal passed in O.A. 163/95 on 20.9.95. The petitioners also submitted a copy of the Judgement and Order dated on 20.9.95 passed by the Hon'ble Tribunal with an application for immediate implementation of the direction of this Hon'ble Tribunal passed in the aforesaid case.

A copy of the Judgement and order dt. 20.9.95 is enclosed as Annexure 1.

2. That the petitioners beg to state that even after receipt of the Judgement and Order dated 20.9.95 the present contemner remain silent ~~as~~ regarding implementation of the same and no initiation is taken for payment of arrear salary as well as their appointment on regular basis in the existing vacancies of conservancy safaiwalas although six months almost completed from the date of the Judgement and Order passed by this Hon'ble Tribunal and finding no other alternative the present petitioners preferred this Contempt Petition for wilful disobedience of the Judgement and Order dated 20.9.95 passed in O.A. 163/95 by this Hon'ble Tribunal and ~~that~~ it is prayed that the Hon'ble Tribunal be pleased to initiate necessary ^{against the present Contemner} contempt Proceeding/for wilful non-compliance of the Direction of the Hon'ble Tribunal.

Contd...P/6

3. That the petitioners beg to state that the wilful non-compliance of the Judgement and Order dated 20.9.95 is amount to Contempt of Court ~~of~~ and the Hon'ble Tribunal be pleased to impose punishment upon the contemnners for wilful non-compliance of the Order dated 20.9.95 passed in O.A. 163/95 in accordance with law.

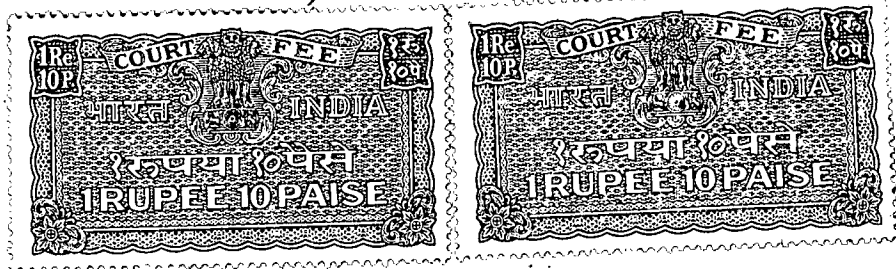
4. That this Contempt Petition is filed bonafide and for the ends of justice.

Under the facts and circumstances stated above it is prayed that the Hon'ble Tribunal be pleased to admit this Contempt Petition and issue notice to the contemner and further be pleased to initiate necessary Contempt Proceedings for wilful non-compliance of the Judgement and Order dated 20.9.95 passed in O.A. No. 163/95 and further be pleased to impose punishment upon the contemner in accordance with law.

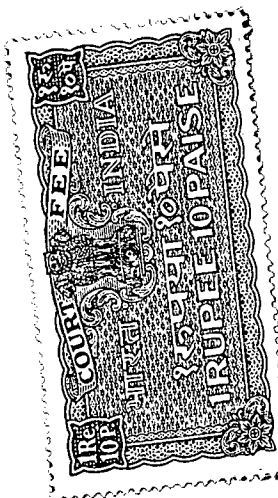
And for this act of kindness the petitioners shall remain ever pray.

D R A F T C H A R G E

Laid down this before the Hon'ble Tribunal for non-compliance of the order of the ~~Tribunal~~ Hon'ble Tribunal dated 20.9.95 passed in O.A. 163/95 for appointment to the post of Conservancy Safaiwala and the arrear pay for the period from 1.3.95 to 27.9.95 and also for the period from 17.6.95 to 28.8.95 but the contemner/original respondents wilfully did not comply with the order of this Hon'ble Tribunal and therefore liable for contempt proceedings and Hon'ble Tribunal be pleased to initiate the Contempt Proceedings and further be pleased to impose punishment upon the Contemner/respondents in accordance with law.



IN THE COURT OF MAGISTRATE, GAUHATI



A F F I D A V I T

I, Sri Binod Einghi, Son of Late Biren Einghi
ident of Jorabat, Dist. Kamrup petitioner in the
above case do hereby solemnly affirm as follows :-

1. That I one of the petitioners in the above Contempt Petition as such I am well acquainted with the facts and circumstances of the case and am authorised by all the other petitioners to sign this Affidavit on their behalf.
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 the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati.

Sri Binod Einghi.

Identified By :

DEPONENT

Mani K Chanda
Advocate

Signed before me today on 7th March 1996
who is identified by Shri M. Chanda Advocate.



7/3/96
Magistrate
Subd. Magistrate,
1st Flr., Guwahati

-10- Annexure - 1

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 163 of 1995.

Date of Order : This the 20th Day of September, 1995.

Justice Shri M.G. Chaudhari, Vice-Chairman.

Shri G.L. Sanglyine, Member (Administrative)

1. Sri Binod Singh,
2. Sri Narayan Das,
3. Sri Uttam Ch. Basumatary,
4. Sri Rajesh Ram,
5. Smt Nirmola Basfore,
6. Smt Minu Bela Das (Rajbanshi),
7. Sri Laldan Das,
8. Sri Ram Khilason Passi &
9. Smt Renu Praya Borah. . . . Applicants.

By Advocate Shri B.K. Sharma with M. Chanda.

- Versus -

1. Union of India
through the Secretary to the Govt. of India,
Ministry of Defence,
New Delhi.
2. The Additional Director General of Staff Duties
(S D G B), General Staff Branch,
Army Headquarter OHG,
New Delhi-110001.
3. Administrative Commandant,
Purav Kaman Mukhyalaya, Headquarters,
Eastern Command, Fort William,
Calcutta-700021.
4. The Administrative Commandant,
Station Head-quarter, Narengi,
Guwahati, C/O 39 A.F.O.
5. Employment Officer,
Employment Exchange for unskilled applicants,
Pub Sarania, Guwahati-3. . . . Respondents.

By Advocate Shri G. Sarma, Addl. C.G.S.C.

ORDER

CHAUDHARI J. (V.C.)

O.A. admitted. Notice waived. By consent taken up
for hearing.

2. The Station Headquarter, Narengi Camp, Guwahati
notified Employment Exchange, Guwahati to forward a list of
names in SC/ST category for employment as Conservancy Safaiwala.
The employment exchange sent a list of 202 names. A Board of
Officers was thereafter detailed and after following the



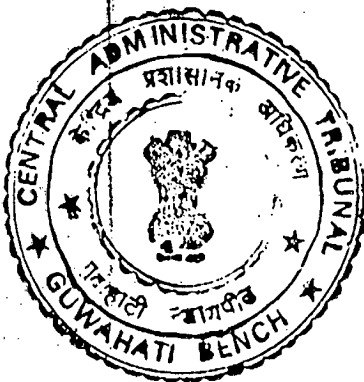
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A.H. - 10/9/95
Adv.

procedure a list of 14 candidates who were found suitable was prepared. The 9 applicants are amongst the selected candidates. Police verification and medical examination was however kept pending and the applicants and other candidates were told that they will be employed when sanction from Government of India was received in due course of time.

Meanwhile they were engaged as labourer ^{on} daily wage basis at Rs.20/- per day. The first spell of engagement was from 1.3.95 to 27.5.95. The second spell was from 17.6.95 to 28.8.95. They were informed that their services on daily wage were no longer required from 29.8.95 as there was no work that ^{could} be assigned to them. The applicants filed the instant O.A. on 28.8.95 interalia praying that the respondents be directed to absorb them against the regular vacancies as per the requisition sent to the Employment Exchange, that the verbal order of termination of their services be quashed and set aside, that they be declared as regular Conservancy Safaiwala in the Station Headquarter, Narengi with effect from 1st March, 1995 and the respondents be directed to pay ~~regular salary~~ in scale of Rs.750-940/- and other allowances with effect from 1.3.1995 till the date of reappointment.

The applicants ^{also} ~~now~~ prayed for interim relief to direct the respondents to allow them to continue to work till the disposal of the application and to pay them the arrears in the scale of Rs.750-940/-.

3. After hearing the counsel we issued notice to the respondent No.4 to show cause as to why interim relief may not be granted. Pending admission and hearing on the prayer for interim relief we directed the respondent No.4 to continue the casual appointment of the applicants and also to keep 9 posts vacant until further orders.

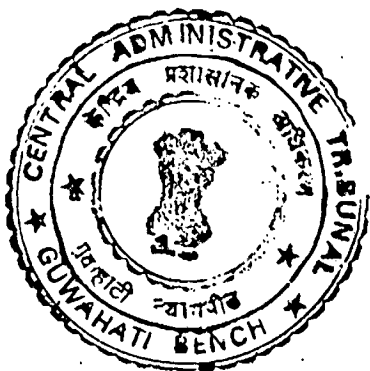


hnd

4. In response to the notice the respondent No.4 has filed the show cause reply dated 19.9.1995 and also the written statement in opposition to the main application, also dated 19.9.95.

5. It is admitted in the show cause reply that the Station Headquarter had asked the Employment Exchange to send names of SC and ST category for employment as Conservancy Safaiwala, and a list of 202 names ^{was} were received. It is further admitted that thereafter a Board of Officers was detailed and after following the procedure a list of 14 candidates who were found suitable for appointment was prepared and that the applicants are amongst those candidates. In the written statement it is stated that the Headquarter had planned to fill up certain existing vacancies of Conservancy Safaiwala, subject to availability of Government sanction. It is shown that the deficiency of Conservancy Safaiwala, was to the extent of 62 persons. It is submitted by respondent No.4 that since the selection was made with a view to fill up the vacancy at the Headquarter subject to the availability of sanction from the Government of India, the regular appointments could not be made as the sanction has not so far been received. It is contended that as there is no sanction to fill up the posts nor for the funds to pay wages the applicants could not be appointed so far. It is however, not explained in the written statement as to what steps have been taken by the Headquarter for obtaining the sanction from the competent authority for these posts or at what stage that proposal was pending. The very fact that there were vacancies required to be filled and were thus available as had been planned by the Headquarter and steps were taken to get the candidates.

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AA ested
Chh
Adv

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from Employment Exchange and the selection process was also completed ^{and indicates that} and the station headquarter had a strong reason to believe ^{that} the sanction was on its way or would be conveyed by the Government of India/competent authority. Such an expectation could not have been without any foundation. It is possible that the Headquarter may have consulted the Government of India before it had planned to notify the vacancy ^{held} and held a selection. We wish that respondent No.4 had explained in the written statement ^{about} ~~concerning~~ the sanction and as to why it is delayed since it is not shown ^{that} then it has been refused.. That on receiving the sanction the applicants being selected candidates will necessarily be offered the regular job of Conservancy Safaiwalasis not in dispute. In the show cause reply respondent No.4 has stated that the candidates had been told that they will be employed when sanction from Government of India was received in due course. In the written statement it is stated in paragraph 4 that the Headquarter had planned to fill up certain existing vacancies of Conservancy Safaiwala, subject to availability of Government Sanction. It has further been stated that no appointment letter was issued as sanction to employ them was not received. It is further stated that as the employment ^{could} not ~~to~~ be carried out due to ban on employment/non availability of sanction order from the Government the Employment Exchange was accordingly informed. In para 18 it has been stated by the respondent No.4 that the apprehension of the applicants that some other persons may be appointed and they may be denied the appointment is baseless as they were told again and again that as and when vacancies are sanctioned by the department they will be taken into service and that the

contd...



vacancies are still kept vacant pending receipt of Government sanction. The statement is repeated in para 20 of the written statement. It is stated that it is assured that all 15 candidates including these applicants will be taken in only after sanction of competent authority is received from the department.

6. The above noted statements made in the counter and the written statement filed by respondent No.4 leave no manner of doubt that the only hurdle in the appointment of the applicants is the sanction for the same to be received from the Government. The background which we have set out above revealed from the counter and written statement strongly indicates that the sanction is a matter of formality because the Headquarter had proceeded almost to finalise the appointments by selection which could only be in the hope that sanction was expected to be accorded. Why the sanction is delayed cannot be gathered since that is a matter which the Government of India is required to deal with. We would therefore impress upon the Government of India/competent authority to accord the sanction without further delay for otherwise the object of providing employment to SC, ST candidates in menial posts will be defeated and the respondents will be exposed to have mislead members of SC, ST community by creating a hope in their mind that they are likely to be appointed. We would therefore strongly recommend to the Government of India to accord the sanction as early as possible so that the appointment of the applicants can be made in pursuance of their selection.

7. It appears that the respondent No.4 was expecting the sanction within a short time and therefore he offered temporary job as daily wage labourers to the applicants and that was given in two spells on payment of daily wage

luc



*Attested
Adv.*

of Rs.20/-. It has been stated in para 15 of the written statement that the bills for the wages for the period from 1.3.95 to 27.5.95 although were prepared and forwarded to Area Accounts Office, Shillong these were returned unpassed by the Accounts Office on 29.5.95 for want of sanction. In para 23 of the written statement it has been stated that applicants cannot be allowed to work as no sanction exists and there are no funds to pay money. The fact that Accounts office returned the bills for want of sanction suggests that respondent No.4 was in all probability expecting the sanction in the meantime for otherwise it is difficult to understand as to how he could engage the applicants on daily wage if he is not in a position to pay for want of budgetary sanction. In our opinion as the respondent No.4 had chosen to offer engagement on daily wage basis and the applicants have actually worked during the two spells mentioned in the written statement the applicants cannot be denied the payment of wages for those periods on the ground of want of sanction. It is the responsibility of respondent No.4 and he has to secure the sanction for payment of those arrears. He may therefore obtain the necessary sanction and see that the payment is made to the applicants. Since it appears to us that it would be illegal to deny them the wages for the periods for which they ^{have} worked and they were offered engagement, ^{we hope that} the competent authority will sanction the payment of the arrears forthwith without raising any further objection. Having regard to the overall circumstances we are of the opinion that it would be just and fair that the applicants are provided atleast daily wages engagement to the extent possible if necessary from time to time till they can be regularly appointed on receipt of the sanction. It is highly desirable that respondent No.4 will take steps to ensure



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that the payment of wages for such engagement could be sanctioned.

8. Before concluding we express our strong displeasure at certain statements made by Col. V.Kapoor, Administrative Commandant, Station Headquarter, Narengi Camp, Guwahati in his pleadings. In para 2(i) of the show cause reply he has stated as follows :

"That it is not understood how these 9 candidates who have yet not been employed, but their O.A.No.153/95 been accepted by this Hon'ble Tribunal."

In this connection we would like to impress upon the respondent No.4 that it is the job of the Tribunal to deal with a case and all that the respondents can do is to reply to the claim made by the applicants and satisfy the Tribunal that relief may not be granted. It is not open to any litigant to make a statement of above nature and the respondent No.4 should have tried to gather as to why the interim order was passed from the Addl.C.G.S.C who has represented him at the time when the order was passed and has been appearing for him in this O.A. It is not proper to put a doubt upon the exercise of its jurisdiction by the Tribunal which may be inclined to accept a case on its merits. It is hoped that such statements will be avoided in the pleadings before this Tribunal.

9. In the result following order is passed :

i) The respondent No.4 is directed to move the Government of India/competent authority for sanction of the posts so as to facilitate the appointment of the applicants against the vacant posts on regular basis and scale.

ii) The respondent No.4 is directed to move the Government of India/competent authority to sanction the payment of arrears of wages to the applicants for the two



[Signature]

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S.V.

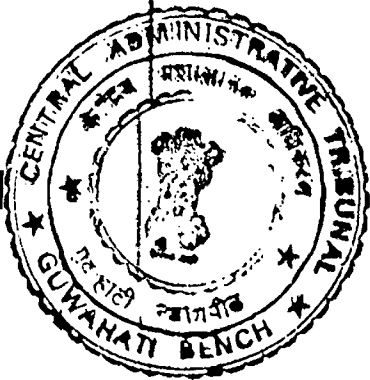
spells during which they were engaged on daily wage and make the payment to the respective applicants. The competent authority of the Government of India is requested to accord sanction for the payment of arrears of wages mentioned in the above clause.

(iii) Pending the accord of the sanction to the posts the respondent No.4 is directed to consider as and when it is possible to give casual engagement on daily wage to the applicants or any of them and ensure the payment of wages to them by obtaining the sanction in time. Since the respondent No.4 had already adopted a compassionate attitude we hope that it will be possible for him to give engagement to the applicants, atleast some of them, on daily wages as there may be work to be carried out by them as there are regular vacancies of Conservancy Safaiwalas lying vacant. The respondent No.4 to take expeditious steps within two months from the date of communication of this order to him to move the Government of India/competent authority to consider according sanction and appointment of the applicants.

10. O.A. is disposed of in terms of the above directions. No order as to costs. The interim order is subject to the observations made herein above in respect of casual engagement. If the applicants or any of them have been engaged pursuant to the ad-interim order they shall be paid the wages upto today and we direct the respondent No.4 to take steps for securing the sanction from the competent authority. We hope that the competent authority will accord the sanction immediately.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMN)

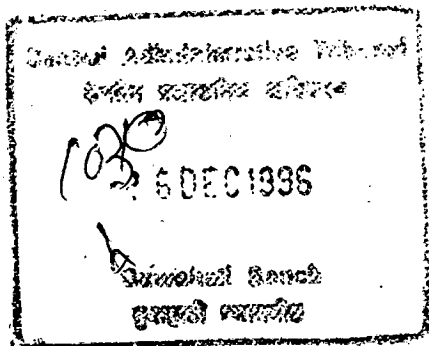


P9

Certified to be true Copy
प्रमाणित प्रतिलिपि

Section Officer (J)

जनसूचना अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक अधिकरण
Guwahati Bench, Guwahati-6
गुवाहाटी न्यायपीठ, गुवाहाटी-6



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

File by Golap Sarma
21/12/96
96/12/96

In the matter of :

C.P.No.9/96
O.A.No.163/95

Binode Enghi & 8 others.

-AND-

In the matter of :

Showing causes by the alleged
contemner Y.Yadav, Lt.Col., Station
Staff Officer, Guwahati.

I, Y.Yadav, Lt.Col., Station Staff Officer -
Offg. Admn Comdt., Station Headquarter, Guwahati (Narangi
Camp) do hereby solemnly affirm and declare as follows:-

1. That I am in receipt of the notice in
connection with the above noted contempt case arising
out of O.A.No.163/95 and I have gone through the notice
and also the allegations levelled against me. I hereby
show causes as per orders of this Hon'ble Tribunal
and say categorically that save and except what is
admitted in this show cause, rest may be treated as total
denial by me.

Contd....p.2/-

2. That with regard to the contents made in paragraph-1, I beg to state that as per official records these conservancy safaiwalas were engaged in the Golf Ground from some work by paying daily wages to them from the Golf Fund @ Rs.20/- per day with effect from 1st March,1995 to 27th May 1995 and 17th June '85 to 28th Aug '95. These 9(nine) persons have never been issued with any appointment letter signed by any competent military authority. We have no record in this office to certify that these 9(nine) candidates have been announced as selected candidates for the post of conservancy safaiwalas by the competent authority. The formalities completed by these 9(nine) civilians as stated in the petition such as medical examination and Police Verification etc. would have been done thinking that they will be absorbed immediately after the interview. Once they have come to know that their names did not figure in the selected list of the candidates under provision of Special Recruitment Drive - 93 they decided to approach the Hon'ble Tribunal seeking judgement for continuous service vide their application i.e. O.A.No.163/95. Accordingly, the Hon'ble Tribunal gave a verdict on 20th Sept '95 in their favour directing that these 9 civilian persons to be absorbed in a regular status. But these office could not implement the direction immediately due to ban on employment/in the absence of Govt.sanction.

Regarding non implementation of the direction of the Hon'ble Tribunal it is stated that there was no

wilful.....

wilful violation of the order of Hon'ble Tribunal.
Immediately on receipt of the order of this Hon'ble Tribunal, this office approached higher HQ asking to implement the Tribunal's direction. Higher HQ has asked to forward audit report in this case to regularise the appointment. Accordingly, this HQ has approached the Controller of Defence Accounts, Guwahati on 22nd July '96 to forward the audit report on the subject. The Audit Report has already been forwarded to higher HQ vide this HQ letter No. PC-7202/Est/CAT(163/95) dated 20th Sept '96. A copy of the same is ~~for~~ Annexed as Annexure R-I.

3. That with regard to the contents made in paragraph 2 alleging the contemner remaining silent on the issue, I beg so state that immediately on receipt of the Hon'ble Tribunal's order the higher HQ in channel has been approached for implementation of the Tribunal's order. This HQ being a lower HQ in the channel would not have been implemented the Tribunal's order immediately in the absence of govt. sanction on the subject. I beg to assure the Hon'ble Tribunal that there was no willful violation/disobedience of the Hon'ble Tribunal's order. It is only due to procedural formalities the delay has been caused to implement the Tribunal's direction.

4. That with regard to the contents made in paragraph 3, once again I beg to assure this Hon'ble Tribunal that at no stage this office had violated the
Tribunal's.....

Tribunal's order due to willful non-compliance of the judgement and order dated 20th Sept '95 which may avoid to contempt of case. The delay is caused/anticipated due to completion of procedure formalities at various stages of higher HQs. The moment Govt. sanction is received the order will be implemented accordingly. Hence it is prayed to Hon'ble Tribunal that no contempt of Court has been done by me at any stage and I assure that all directions will be implemented once the direction is received from higher Headquarters.

5. That I have greatest regard to the judiciary and I cannot think of showing any disrespect or willful negligence towards the order passed by this Hon'ble Tribunal. During my entire career I am never held up for contempt of Court and the allegations levelled against me are not based on facts.

6. That I am to work with a very limited jurisdiction and sanctioning power being not vested upon me, I am helpless.

7. That if under the above circumstances, this Hon'ble Tribunal is satisfied to hold that I am guilty of contempt of Court, I seek for unconditional apology and I may kindly be excused.


Contd.....

8. That this showing cause is made bonafide and in the interest of justice.

VERIFICATION

I, Y.Yadav, Lt. Col., Station Staff Officer - Offg. Admn Comdt., Station Headquarter, Guwahati do hereby solemnly affirm and declare that the contents made in paragraph 1 are true to my knowledge and those made from paragraph 2 to 4 are derived from records which I believe to be true and rest are humble submissions before this Hon'ble Tribunal and nothing being suppressed, I sign this Verification on this 21 day of December, 1996 at Guwahati.

DEPONENT


(Y Yadav)
Lt Col
Offg Adm Comdt, Gauhati
(Narangi Camp)