

No. 40 196 (OA 172/95)

Dr. S. K. Mallick Applicant(s)

VS

Ret. Col. Dr. Manclande, CE Respondent(s)

AIR, C.O. complex, N. Delhi

Mr. M. Chanda Advocates for the applicant(s)

Mrs. G. Sarma, Secy. Advocates for the Respondent(s)

ce Notes

Date

Courts' Orders

15.10.96

Learned counsel Mr M. Chanda for the alleged contemner.

This contempt petition has been submitted on the ground of alleged wilful non-compliance and disregard to the order dated 13.9.1995 passed by this Tribunal in O.A.No.172/95 by the alleged contemner. It has been pointed by Mr Chanda that in Annexure-4, the Superintending Supervisor of Works II has stated that the applicant had made representation and his representation alongwith photocopies of the order of the Tribunal was sent to the Chief Engineer, C II, CCW, AIR, New Delhi, but uptil now the Chief Engineer has not taken any decision and conveyed the same to the applicant. As directed in the order dated 13.9.1995.

Issue notice on the alleged contemner by Registered Post to show cause why contempt of court proceedings should not be initiated against him for wilful non-compliance of the aforesaid order dated 13.9.1995. Returnable on 27.11.96.

List for show cause and further orders on 27.11.96.

Member

is a CP filed

M. Chanda Adv.

applicant - Dr.

compliance of

order dt. 13.9.85

in OA no. 172/95

is in order &

be placed before

on the Court.

Sarmer
14/10/96
EC

comply order

15.10.96.

Mr 16/10/96.

10.96

is issued to the

erned parlin vide

No. 859024. 24.10.96

service Repairs are still

awaited.

show cause for not being

filed.

26/11

(2)

27.11.96

Learned counsel Mr
contempt petitioner. Learne
S. Ali for the alleged con
he may be allowed time to
on behalf, alleged contemner. A

List for show cause
on 30.12.96.

List- When
Division Bench
is available.

for
2/11/97.

nkm

W
28/11

20.5.97

The case is ready f
List on 9.7.97 for

1) Service Reports are
still awaited.

2) Show Cause has
not been filed.

for
Member

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for
23/5

9.7.97

Counsel for the parties p
ajournment on their personal grounds.
allowed.

List on 29.8.1997.

1) Service Reports are
still awaited.

2) Show Cause has not
been filed.

for
Member

Vice-

trd

for
23/7

1) Service Reports are 29.8.97
still awaited.

2) Show Cause has not
been filed.

Division Bench is not av
List on 19.9.97 for hear

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for
18/9

19.9.97 Mr M.Chanda, learned counsel appearing on behalf of the petitioner is present.

It has been informed by the applicant that the order has since been complied with. We have also perused the petition. We do not find any ground to proceed with the contempt petition. Accordingly Contempt Petition is closed.

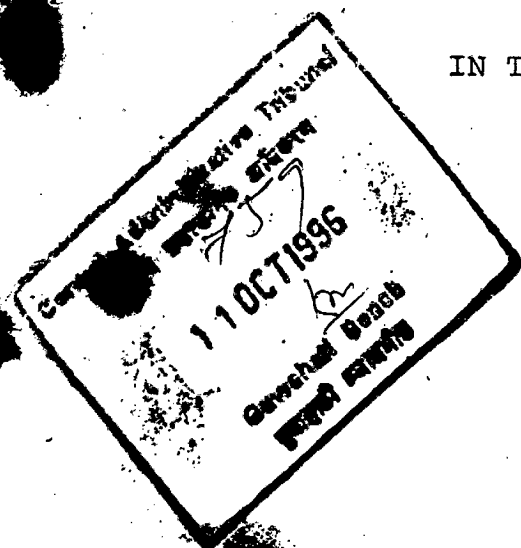

Member


Vice-Chairman

24.9.97

Copy of the order
has been sent to the
D/Secy. for issuing
the same to L/Adm.
for the parties, vide No.
3146 to 3147 dated
28-9-97.

pg
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2299



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Filed by Mr. applic
through M. Choudh
21.10.96. Adv

C.P. No. 40/96

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
13.9.1985 passed in O.A. No. 172/95.

-And-

In the matter of :

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

-versus-

Contd....P/2

Lt. Col. D.S. Manchanda
Chief Engineer (Civil)-II
Civil Construction Wing,
All India Radio
Soochna Bhawan
C.G.O. Complex,
Lodhi Road,
New Delhi Contemner.

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^s 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. No. 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

Contd....P/4

Chief Engineer-II, CCW, All India Radio, New Delhi wherein it is requested that necessary action in the matter be taken at 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 disregarded to the Hon'ble Tribunal's Order dated 13.9.95 and the Hon'ble Tribunal be pleased to impose punishment upon the contemner 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 hereto and the same are marked as Annexure 2, 3 and 4 respectively.

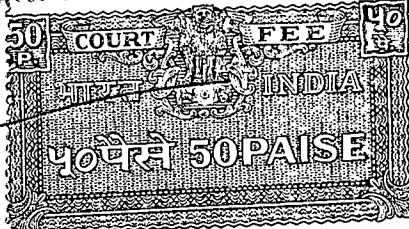
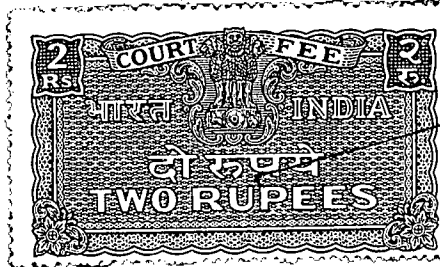
3. That this application is made bonafide and for the ends of justice.

Under the facts and circumstances mentioned above, it is prayed that the Hon'ble Tribunal be pleased to initiate Contempt Proceedings against the Contemner/Respondent and further be

Contd.....P/5

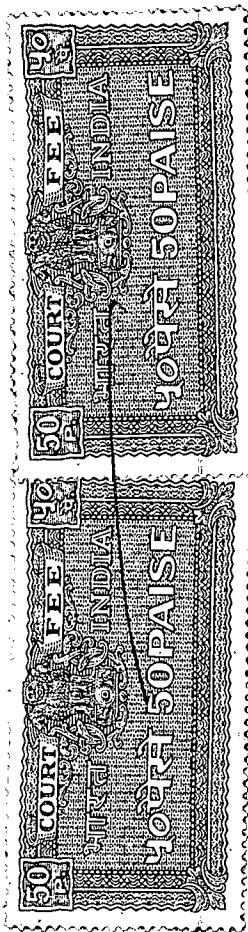
pleased to impose punishment upon the
contemner/respondents in accordance
with law for wilful non-compliance and
for disobeying the Hon'ble Tribunal's
Order dated 13.9.95 passed in O.A. No.
172 of 1995 (Sri Shyamal Kumar Mallick
Vs. U.G.I. & Ors.) or further be pleased
to pass any other order or orders 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

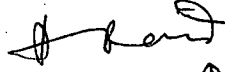
A F F I D A V I T



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

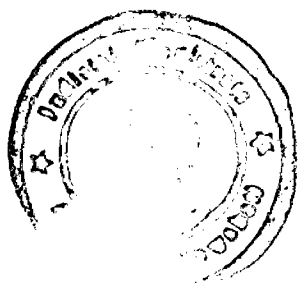
1. That I am the petitioner in the above contempt petition as such am well acquainted with the facts and circumstances of the case and have gone through this petition.
2. That the statements made in this Contempt Petition are true to my knowledge and belief.
3. That this Affidavit is made for filing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


Identified by :


Advocate 9/10/96

Shyamal Mallick
DEPONENT

Signed before me today on 8th day of Oct/96
who is identified by sn. A. Roshid
Advocate, Guwahati




09/10/96
Judicial Magistrate, 1st class
Guwahati
District Magistrate
Guwahati

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH:
GUWAHATI

ORIGINAL APPLN. NO. 172 of 1995

Shyamal Kr. Mallick - 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

13.9.95

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

Contd....

Attested
Order
Adv

13.9.95 the Directorate at the earliest. The information was furnished but it transpires that the matter 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 need 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 other 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 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

Contd..

13.9.95 months from the date of communication of this order. In the event of no such decision 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)

Attest
Chairman
Sd/-

From

Shri Shyamal Mallick
Barbari Railway Colony
Quater No. 45/A
Dibrugarh, Assam
PIN-786001

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.

Respected 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 1995 dated 10.09.95 to appointment within a period
of two month from the communication of this order (Copy enclo-
sed).

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 depart-
ment please.

I remain Sir,

Enclo : A xerox copy of the
above order

Yours faithfully,

Sd/- Shyamal Mallick
(Shyamal Mallick)

Dated Dibrugarh
The 20th Nov '95

*Attested
Order
Sd/-*

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 (6-A)/96-3/725

Dated 06/6/96

The Chief Engineer-II
~~THE CHIEF ENGINEER~~
CCW, AIR, Soochna Bhavan
New Delhi-110003

Subject : Prayer of Sh. Shymal Mallick for implementation of Court order of the Hon'ble Central Administrative 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 the 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

Handwritten:
A.H. 2-1-96
O.K.
A.S.V.

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

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. Shymal 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 photocopies 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 Wroks-II

Enclo : As above

Copy to Sh. Shymal 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

Attested
by
Ad

D R A F T C H A R G E

Laid down before the Hon'ble Tribunal for initiation of Contempt of Court Proceeding and to impose punishment upon the contemner for wilful non-compliance and disregard to the Hon'ble Tribunal's Order passed in O.A. No. 172/95 on 13.9.95 (in the case of Shri Shyamal Mallick Vs. Union of India & Ors.).