

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

R.A No. 1 / 97 (O.A.88/95)

Shri Girish Ch. Goswami
.....Applicant(S)

Versus-

Union of India & Ors
..... Respondant(S)

Mr. B.K. Sarma, S. Sarma
.....Advocate for Applicant(s)

.....Advocate for Respondant(s)

Office Notes

Date

Courts' Orders

This Review application
is filed by Mr. B.K. Sharma, ^{learned}
advocate on behalf of
the applicant, against the
order dated 20-9-96
passed in O.A. 88/95 in
the Court of Honble
Member (Admin).

The final order was
communicated to the respondents
on 4-10-96 and the copy
of the same was received
on 30-12-96 (page-4, line
7 of the application). The
applicant filed ^{the} R.A on
30-1-97. Hence it is
within time.

Land for award of
consideration of
admission

pg

15/5

18.6.97

lm

19/6

Mr S.Sarma, learned counsel
for the petitioner is present.

This R.A has been submitted
by Sri Girish Ch.Goswami, respon-
dent No.4 in O.A.88/95 seeking
review of the order dated 20.9.
1996.

Issue notice on the responde-
nts(opposite party) for objec-
tion, if any,

List for consideration of
admission on 18.6.97.

Seeps within 3 days.

Member

Service report awaited.

List for consideration of
admission on 16-7-97.

Member

24

D.R. i/c

28.5.97

Notice has been
received on 28.5.97
and issued to the
respondents on 28.5.97

R.A. 1/97. (O.A. 88/95)

16.7.97

There is no report whether service have been affected on the respondents by the registry. None is present for any of the respondents.

Adjourned to 20.8.97 for consideration of admission.

Registry to make endorsement regarding service report.

Member

*Please do the
needful
on 18/11*

Service Reports are still
awaited.

20.8.97

Mr S.Sarma for the petitioner. None for any of the respondents.

Adjourned to 19.11.97 for consideration of admission.

Send copy of this order to all the opposite parties.

Member

22.8.97

*Copy of order dtd.
20.8.97 issued to
the all concerned
parties 22.8.97.*

19.11.97

Service reports are still awaited.

Adjourned for consideration of admission to 17.12.97.

Registry is to ascertain and give a detail note regarding service of Review Application on the respondents.

Member

Please comply.

W 20/11/97.

16.12.97.

*Notice duly served
on Respond No. 1. Other
respondents are still awaited
for service of notices.*

Bon Bon

R.A. 1 / 97 (O.A. 88/95)

17.12.97

Mr A.K.Choudhury, learned Addl.C.G.S.C. prays for adjournment on account of indisposition of Mr S.Ali, Sr.C.G.S.C. Mr Mr B.K.Sharma, learned counsel for the petitioner has no objection.

List for consideration of admission on 7.1.1998.

6/11
Member

pg

ms
18/12

7-1-98

Heard Mr.S.Sharma learned counsel appearing on behalf of the applicant and Mr.S.Ali, Sr.C.G.S.C. for the respondents. in form of letters. the / There is no appearance on behalf of private respondents. No reply has received from them. Reply from the respondents No. 6 & 7 has been received. Copy of this reply be served on the counsel of the petitioners.

7-1-98

Heard Mr.S.Sarma learned counsel appearing on behalf of the applicant. and Mr.S.Ali learned Sr.C.G.S.C. for the respondents.

There is no appearance on behalf of the private respondents. No reply has received from them. Reply from the respondent No.6 & has been received in the form of letter. Copy of this reply may be served on the counsel of the petitioners. The Admission of otherwise of the Review Application can not be kept pending for so long. However, list the R.A. for consideration of Admission on 11-2-98. ^{Sent} Copy of this order to all the respondents. If no reply/objection is received on that day the matter of Admission of the R.A. will be finally considered without the reply/objection.

6/11
Member

No 2 cc duly served on R. No. 1. Other Respdh are still awaited.

6/11

15.1.98

Copy of order dtd. 7.1.98 issued to the respondents.

Ben

Please comply order dtd 7.1.98.

ms
12/1/98

No Reply has been received. 1m

6/11

(4)
R.A. 1/97

11.2.98

Mr S.Sarma for the petitioner.

Mr M.Chanda submits ~~that~~ on behalf of Mr S.Ali, learned Sr.C.G.S.C that he has submitted leave of absence.

List on 18.2.98 for admission.

~~Member~~

62
Member

pg

18.2.98

On the prayer of Mr S.Sarma, learned counsel for the petitioner the case is adjourned to 25.2.98 for admission.

62
Member

pg

25.2.98 There is no representation.

Adjourned to 11.3.98.

By order

11.3.98

Mr S.Sarma for the applicant and Mr S. Ali, learned Sr.C.G.S.C for the respondents.

Adjourned to 25.3.98 for consideration of admission. On that day Mr Sarma shall furnish the informations :

- a) as to ~~the~~ when the applicant was relieved from Jorhat as J.T.O and
- b) as to the date on which he received information about the disposal of the O.A.88/95 in his office.

62
Member

pg

12/3

Notice duly served on R.No.1 and other respondents are still awaited.

24/2

An application received from Soienochal Roadesh dated 19.1.98 at 21.9 '98.

10/3/98

5

Notes of the Registry	Date	Order of the Tribunal
<p>No. 1 & 2 duly served on R. No. 1. The other respondents are still awaited.</p> <p>28/5</p>	<p>25-3-98</p> <p>lm</p>	<p>Notices were sent by the registered post on 28-5-97 to the respondents. Notices have not been returned unserved in respect of respondents No.2,3,8 & 9. It is therefore, presumed that the notices were served on them, Mr.Sarma submits that respondents No.4 & 5 had received the notices.</p> <p>Heard Mr.S.Sarma, counsel for the applicant and Mr.S.Ali, Sr.C.G.S.C. regarding the question whether the Review Application is in time. Mr Sarma submits that the petitioner came to know in his office about the impugned order on 30-12-96. Considering his submission the Review Application is treated to be in time.</p> <p>List on 20-5-98 for Admission.</p> <p>Member</p>
<p>No. 1 & 2 duly served on R. No. 1. The other respondents are still awaited.</p> <p>28/7</p>	<p>20.5.98</p> <p>pg</p> <p>21/5</p>	<p>Mr S.Sarma for the applicant and and Mr S.Ali, learned Sr.C.G.S.C for the respondents.</p> <p>List for hearing on 29.7.98. In the meantime the respondents may submit written statement with copy to the opposite party.</p> <p>Member</p>
<p>No. 1 & 2 duly served on R. No. 1. The other respondents are still awaited.</p> <p>28/7</p>	<p>29.7.98</p> <p>pg</p> <p>30/7</p>	<p>Mr G.Sarma prays for adjournment on behalf of Mr S.Ali due to his personal difficulty.</p> <p>List on 5.8.98 for hearing.</p> <p>Member</p>
<p>Vakalatnama filed by Mr. M. R. Choudhury, U.K. New on behalf of the respondents No- 5.</p> <p>No. 1 & 2 duly served on R. No. 1. The other respondents are still awaited.</p> <p>28/8</p>	<p>5.8.98</p>	<p>There was a reference. Ad. on 19.8.98.</p> <p>By Mr.</p>

R.A. 1/97

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Notes of the Registry	Date	Order of the Tribunal
1) Notice duly served on R.No. 1. The other are still awaited. 2) W/s has not been filed. SD 1/9	19-8-98 lm 25/8 20/8	After hearing at some length case is adjourned to 2-9-98 on the prayer of Mr. S. Sarma learned counsel for the applicant. List on 2-9-98 for hearing. Member
1) Notice duly served on R.No. 1. The other are still awaited. 2) NO. W/s has been filed. SD 8/9	2.9.98 pg 25/9 2/9	Mr G. Sarma has made a mention on behalf of Mr. S. Ali who has submitted letter of absence. List on 9.9.98 for hearing. Member
1) Notice duly served on R.No. 1. The other are still awaited. 2) NO. W/s has been filed. SD 22/9	9.9.98 pg 25/9 10/9	On the prayer of Mr U.K. Nair, learned counsel for respondent No. 5, Sri Pradip Gohain the case is adjourned to 23.9.98 for taking further instruction. The other parties have no objection. Member
1) NO. W/s has been filed. 2) Notice duly served on R. 1. SD 19/11	23.9.98 nkm 25/9 22/9	Ms N.D. Goswami prays for adjournment on behalf of Mr B.K. Sharma, learned counsel for the review applicant. Mr S. Ali and Mr U.K. Nair, learned counsel for the respondents have no objection. List for hearing on 18.11.98. Member
1) Notice duly served on R.No. 1. 2) NO. W/s has been filed. SD 24/11	18.11.98 nkm 25/9 22/9	On the prayer of Mr. S. Sarma case is adjourned till 25.11.98.

By Order

Notes of the Registry	Date	Order of the Tribunal
<p><u>1-12-98</u></p> <p>1) Notice duly served on R.No. 1. The other are still awaited.</p> <p>2) Written statement has not been filed.</p> <p>25/11/98</p>	25.11.98	<p>Mr B.K.Sharma, learned counsel for the petitioner prays for a short adjournment. Mr S.Ali, learned Sr.C.G.S.C has no objection.</p> <p>List on 2.12.98 for hearing.</p> <p style="text-align: right;">Member</p>
<p><u>29-12-98</u></p> <p>1) Notice duly served on R.No. 1. The other are still awaited.</p> <p>2) Written statement has not been filed.</p> <p>29/12/98</p>	2.12.98	<p>None present for respondents No. 6, 7, 8 and 9. Mr M.Chanda, learned counsel is directed to act as an amicus curiae on behalf of respondents No.6, 7, 8 and 9. Mr Chanda prays for a short adjournment to peruse the records.</p> <p>Adjourned to 30.12.98 for hearing.</p> <p style="text-align: right;">Member</p>
<p><u>30-12-98</u></p> <p>1) Notice duly served on R.No. 1. The other are still awaited.</p> <p>2) Written statement has not been filed.</p> <p>29/12/98</p>	30-12-98	<p>Mr.A.Deb.Roy learned Sr.C.G.S.C. prays for adjournment on the ground that having being engaged Standing counsel recently requires time to peruse the matter. Adjourned for hearing on 13-1-99.</p> <p style="text-align: right;">Member</p>
<p><u>13-1-99</u></p> <p>1) Notice duly served on R.No. 1. The other are still awaited.</p> <p>2) Written statement has not been filed.</p> <p>31/12/98</p>	13.1.99	<p>There is no representation for both sides.</p> <p>However for the ends of justice the case is adjourned to 3.2.99.</p> <p style="text-align: right;">Member</p>
<p><u>16-2-99</u></p> <p>1) Notice duly served on R.No. 1. The other are still awaited.</p> <p>2) Written statement has not been filed.</p> <p>16/2/99</p>	3.2.99	<p>On the prayer of Mr U.K.Nair on behalf of the Mr B.K.Sharma the case is adjourned to 17.2.99 for hearing. Mr B.C.Pathak, learned Addl.C.G.S.C has no objection.</p> <p style="text-align: right;">Member</p>
<p><u>30-3-99</u></p> <p>1) Notice duly served on R.No. 1. The other are still awaited.</p> <p>2) Written statement has not been filed.</p> <p>30/3/99</p>	30-3-99	<p>On the prayer of Mr U.K.Nair on behalf of the Mr B.K.Sharma the case is adjourned to 17.2.99 for hearing. Mr B.C.Pathak, learned Addl.C.G.S.C has no objection.</p> <p style="text-align: right;">Member</p>

R.A. 1/97

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Notes of the Registry	Date	Order of the Tribunal
	17.2.99	On the prayer of Mr J.L.Sarkar on behalf of Mr M.Chanda, learned counsel for the petitioner the case is adjourned to 3.3.99 for hearing.
	pg	Member
30-3-99 There was a circuit sitting at Guntur for 15-3-99 to 17-3-99 so it was not place before court	3-3-99	Honble Member is on leave Adjourned to 17-3-99.
SD 30/3	31.3.99	Heard Mr.S.Sarma, learned counsel for the petitioner and Mr A.Deb Roy, learned Sr.C.G.S.C. for the respondents and Mr M.Chanda, learned counsel as Amicus Curia on behalf of respondents No.6,7,8,and 9. Hearing concluded.Judgment reserved.
	lm	Member
24.6.99 Copies of the Judgment have been sent to the D/Sec. for issuing the same to the parties. Through Regd. with a/c. H.S.	12.5.99	Judgment and order pronounced in open Court, kept in separate sheets. The application is allowed in terms of the order. No order as to costs. Send copy of the order to all the parties.
	pg	Member

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

M.X.M.R.A. 1 of 1997.

DATE OF DECISION.....12-5-1999.

Sri Girish Ch. Goswami.

(PETITIONER(S))

Sri S.Sarma

ADVOCATE FOR THE
PETITIONER(S)

-VERSUS-

Union of India & Ors.

RESPONDENT(S)

Sri A.Deb Roy, Sr.C.G.S.C for respondents No.1,2 & 3.

Sri M.Chanda, Amicus Curiea for respondents

ADVOCATE FOR THE
RESPONDENTS.

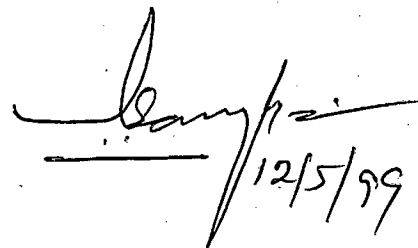
No.6, 7, 8 & 9.

THE HON'BLE SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER

THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Administrative Member.


12/5/99

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Review Application No. 1 of 1997 (O.A.No.88/95)

Date of Order : This the 12th Day of May, 1999.

Shri G.L.Sanglyine, Administrative Member.

Shri Girish Ch. Goswami,
Junior Telecom Officer,
Office of the Sub-Divisional Officer,
(Phones), Adabari, Guwahati-11. Petitioner

By Advocate Sri S.Sarma.

- Versus -

Union Of India & Ors. Respondents.

Sri A.Deb Roy, Sr.C.G.S.C for
respondents No. 1,2 & 3.
Sri M.Chanda, Amicus Curiea for respondents
No.6, 7, 8 & 9.

O R D E R

G.L.SANGLYINE, ADMN.MEMBER,

After hearing learned counsel the Review Application was treated to be in time vide order dated 25.3.1998.

2. The review petitioner Sri Girish Ch. Goswami was respondent No.4 in Original Application No.88/95 filed by Sri Gautam Kumar Das and three others. This application was disposed of by the Tribunal by order dated 20.9.1996. The main ground of grievance of the review petitioner is that no notice was received by him about the O.A.No.88/95 and therefore he could not make any representation or place any defence against the contentions of the applicants in that Original Application. Secondly, the O.A. was admitted subject to consideration of limitation but at the time of disposing the O.A. the question of limitation in submission of the O.A. was not determined. Heard learned counsel for the review petitioner Mr S.Sarma and Mr M.Chanda, Amicus

Curia. Mr Sarma submitted that on the above grounds the O.A. is to be reviewed.

3. Heard learned counsel. It is correct that the question of submission of the O.A. was left open but no decision was taken at the time of hearing or in the order dated 20.9.1996. Certain observations were made in the order dated 20.9.1996 which concern the review petitioner. Assuming that on determination of the question of limitation the application was not entertained on the ground of limitation, occasion to make such observations may not have arisen. Moreover in the O.A. the address of the review petitioner as respondent No.4 is shown as below :

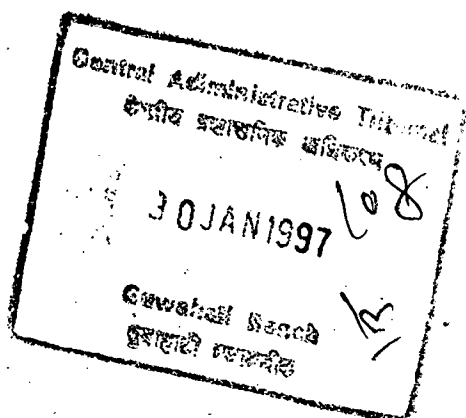
Sri Girish Ch. Goswami,
J.T.O., Jorhat.

Mr Sarma had submitted that the review petitioner was relieved from Jorhat as far back as in 1993 and now posted at Guwahati. In the facts and circumstances I am of the view that there is possibility that notices regarding the O.A.88/95 did not reach him in his new address and for that reason he was prevented from presenting his case. There was also no presumption that the notice was served on him before disposing of the O.A. In view of the above I set aside the order dated 20.9.1996 passed in O.A.88/95. The Review Application is allowed. No order as to costs.


(G.L.SANGLYINE)
ADMINISTRATIVE MEMBER

Filed by
Disson Sam
3/1/97

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:: GUWAHATI BENCH



Review Application No. 1 / 97
In Original Application No. 88/95

IN THE MATTER OF :

An application under Section 22(3) (f)
of the Administrative Tribunals Act,
1985 for review of the Judgment and
Order dated 20.9.96 passed in O.A.No.
88/95

- AND -

IN THE MATTER OF :

O.A. No. 88/95

Shri Gautam Kr. Das & Ors. ... Applicants

- Versus -

Union of India & Ors. ... Respondents

- AND -

IN THE MATTER OF :

Shri Girish Chandra Goswami,
Junior Telecom Officer,
office of the Sub-Divisional Officer,
(Phones), Adabari, Guwahati-11

... Petitioner
Respondent No. 4
in O.A. 88/95

- Versus -

✓ 1. Union of India,

represented by the Secretary,
Government of India,
Deptt. of Telecommunication,
New Delhi.

Contd...P/2.

2. The Chief General Manager (Telecom.),
N.E. Circle, Shillong.

3. The Chief General Manager (Telecom),
Assam Circle, Guwahati.

... Respondents
Respondents in
O.A. No.88/95

✓ 4. Shri Anil Kumar Sinha,
Junior Telecom Officer, Diphu

✓ 5. Shri Pradip Gohain,
Junior Telecom Officer, Chapakhowa,
under the Divisional Engineer, Microwave,
Dibrugarh

... Respondents
Private Respondents
in O.A. 88/95.

✓ 6. Shri Gautam Kumar Das, S/O Sri Paresh Das,
Microwave Station, Itanagar,
Arunachal Pradesh

✓ 7. Shri Joylal Shrestha, J.T.O.
son of B.B. Shrestha,
Resident of Dimapur,
under S.D.O.T. Dimapur,
under T.D.M. Nagaland.

8. Shri Swapan Kr. Bhattacharjee,
son of Late S.K. Bhattacharjee,
Resident of Seppa, P.O. Seppa,
District East Kamengh
Arunachal Pradesh,

9. Shri Brajen Gogoi, J.T.O.
S/O Late Dharmeswar Gogoi,
Office of the S.D.O. (T), Dimapur,

... Respondents/
Applicants in O.A.88/95

✓ Received

The humble petition on behalf of the
abovenamed petitioner -

MOST RESPECTFULLY SHEWETH :

1. That the present respondent Nos. 6 to 9 as the applicants had filed O.A. 88/95 before this Hon'ble Tribunal making a grievance therein ~~that the~~ with the following prayers :

- (i) that the respondents be directed to issue necessary orders of transfer and posting allotting the applicants into Assam Telecom Circle in the cadre of Junior Telecom Officer
- (ii) that in terms of prayer No.(1) if the vacancies of the J.T.O. are not available to accommodate in the Assam Telecom Circle in that event, the posting/ allotment orders of the respondent Nos. 4 to 6 in Assam Telecom Circle in the cadre of J.T.O. be cancelled and in the resultant vacancies the applicants be accommodated in the Assam Telecom Circle.

2. That the present petitioner was arranged as Respondent No. 4 in the said O.A. 88/95. However, no notice of admission of the said O.A. was and/or any show cause reply was received by the petitioner and accordingly, he could not make any representation and/or place his defence in the said O.A. Thus the said O.A. ~~was~~ got disposed of ex-parte against him vide judgment and order dated 20.9.96. Although the said O.A. has been disposed, however, there are

Contd....P/4.

certain observations in respect of present petitioner which will seriously prejudice his service career and thus the same has necessitated filing of the instant review application. The present petitioner has come to know about the filing of the aforesaid O.A. ~~and~~ and disposal of the same only on receipt of the copy of the judgment, dated 20.9.96 on 30.12.96. Before such receipt of the judgment,

as stated above he was not aware of the aforesaid case as he was not served with any notice of the case. The applicant came to know about the judgment in the office and that the same contains some adverse orders against him and having come to know such a position, he applied for a certified copy of the judgment dated 20.9.96 and the basis of such application he was given a copy of the judgment dated 20.9.96 on 30.12.96.

3. That on receipt of the copy of the judgment, the applicant has since obtained copy of the application and a copy of the W.S. By going through the O.A. filed by the applicants therein, the petitioner has come to know about the various contentions raised therein by the original applicants. In the said O.A., it has been contended by the applicants therein and the respondent Nos. 6 to 9 therein that on bifurcation of the then composite N.E. Circle in 1987 to Assam Circle and N.E. Circle, they had opted for posting in Assam Telecom Circle. It is their contention in the O.A. that during the last five years many vacancies ~~were~~ of J.T.O. were filled up by promotion/transfer and many vacancies were available due to various reasons. It

Contd....P/5.

20-9-96

4-10-96

① When came to know =

② When applied for cc = 30/12/96

③ Receipt of cc = 30/12/96

I sent to -
1) CGM on 30-9-96
2) CCFA = 30/9/96
may be resubmitted
on 4-10-96
or 8-10-96

was their contention in the O.A. that after posting of the private respondents in the O.A. including the present petitioner to Assam Telecom Circle, they made representations in the year 1992 and 1993. It was the case of the applicants in the aforesaid O.A. that they are senior to the private respondents including the present petitioner.

4. That the grievance was made that since the private respondents including the present petitioner who were juniors to the applicants in O.A. 88/95 have been accommodated in the Assam Telecom Circle, the applicants should also be accommodated in the Assam Telecom Circle. As stated above, although the said O.A. has been disposed of, but there are certain observations in the judgment which is going to ~~maintain~~ effect seriously the service interest of the petitioner. As stated above, no notice of the aforesaid O.A. filed by the applicants was ever served on the petitioner and thus his case had gone unrepresented and the judgment is an ex-parte judgment against the present petitioner.

5. That the petitioner states that ~~at~~ it appears that many vital factual position have either been withdrawn or not disclosed before the Hon'ble Tribunal either by the applicants or by the official respondents ; but for which the observations which have got bearing on the service career would not have been made. The actual position is made clear below.

Contd.....P/6.

The petitioner is presently working as Junior Telecom Officer under Telecom District Manager, Guwahati. The petitioner was initially a resident of Assam and was initially posted as Telecom Office Assistant in the office of the D.E.T., Guwahati on 4.1.83. The petitioner was promoted as Repeaters Station Assistant on 21.7.88 and worked under the T.D.M., Guwahati at Rangia. The petitioner joined at Rangia on 24.7.88.

6. That the petitioner states that the then composite N.E. Circle was bifurcated in the year 1987 into the Assam Circle and N.E. Circle. The petitioner completed his training of R.S.A. on 20.7.88 and opted for posting in Assam Circle, pursuant to asking for exercise of option to be posted either in N.E. Circle or Assam Circle. His option was accepted for being posted in Assam Circle and was posted in Assam Circle.

7. That in the meantime, the applications were called for from the eligible candidates of Assam Circle for a competitive departmental examination of Junior Telecom Officer as per the norms laid down for such examination. The petitioner having completed 5 years continuous service of Telecom Office Assistant and Repeaters~~xx~~ Station Assistant he was eligible to be called for the competitive examination. Accordingly, he applied for the same against 15% quota in 1989 against the existing vacancies ~~and~~ in Assam Circle. The authorities of the official respondents duly recommended his case. The said departmental examination was held on 17.2.80 and 18.2.90 in the Assam Circle. The petitioner was

Contd....P/7.

recommended and released for appearing in the said examination. On the other hand, the applicants in O.A. 88/95 had applied for vacancies of N.E. Circle and accordingly they were recommended for appearing in the said examination in the N.E. Circle. The petitioner was issued with the Hall Permit by the C.G.M.(T), Assam Circle for the said examination and was released to appear in the examination at Guwahati.

8. That the petitioner came out successful in the said examination of J.T.O. and he was thereafter directed to undergo JTO Training at Regional Telecom Training College Kalyanee with effect from 6.5.91 and accordingly, he was released to undergo the said training. The petitioner completed the said training on 17.1.92 and was posted in the Assam Circle vide C.G.M.(T), Assam Circle letter No. STES-5/43 dated 16.1.92. On the other hand, the applicants in O.A. 88/95 completed the said training after the petitioner and ~~posting in N.E.~~ were posted in N.E. Circle after posting of the petitioner in Assam Circle. Thus they are junior to the present petitioner.

9. That as already stated above, the applicants in O.A. 88/95 applied for JTO Examination against vacancies in N.E. Circle and were posted to N.E. Circle. They never applied against vacancies of Assam Circle.

10. That in the O.A., it was contended by the applicants therein that they have been trying to get back to Assam Circle since 1988, however, have not stated anything in the O.A. regarding their exercise of ~~p~~ option to appear in the said

Contd.....P/8.

in the N.E. Circle. They ought ~~to have~~ not to have exercised their option for appearing in the J.T.O. examination in the N.E. Circle. ~~The~~ It is pertinent to mention here that taking into consideration the agreement of bifurcation some of the affected employees mainly belonging to the cadre of RSA, Phone Inspectors were sent back to their respective Circles in terms of their willingness and the applicants in O.A.88/95 never made any complaint and as stated above they also appeared in the examination of J.T.O. for N.E. Circle.

11. That the petitioner states that in the impugned judgment seeking a review of which the instant application has been filed, it has been noted that the present petitioner and others have ~~been~~ not contested the application and that they have neither submitted their written statement nor appeared in the hearing personally or through an authorised person. As stated above, the petitioner had no knowledge of the aforesaid case and thus did not have any opportunity to contest the application and/or to file his written statement. On the other hand, it appears that the official respondents in their written statement had taken the plea that the present petitioner and others who were arrayed as private respondents in the O.A. were not entitled to be posted in Assam Telecom Circle. On the basis of such averments, the Hon'ble Tribunal in the impugned judgment has passed the following order :

"The Written Statement was submitted on behalf of the respondent Nos. 1, 2 and 3. They have now found out their mistake. They are the competent authorities to rectify their own mistake and

therefore, they are at liberty to rectify the mistake committed in connection with the aforesaid posting of the respondent Nos. 4 to 6 in Assam Telecom Circle in accordance with law. It is expected that they would do so within a reasonable time....."

A copy of the judgment dated 20.9.96 (received by the petitioner on 30.12.96) is annexed herewith as ANNEXURE: A.

12. That being aggrieved by the aforesaid observation of the Hon'ble Tribunal in its judgment dated 20.9.96 in O.A. 88/95, the instant review is filed ~~at~~ on amongst others the following

G R O U N D S

I. For that the judgment in question dated 20.9.96 though the name of the petitioner appears as respondent No.4, he had never been served with any kind of notice, orders etc. which is a glaring error apparent on the face of the records. The Hon'ble Tribunal ought to have issued any kind of intimation, notice etc. for appearance of the petitioner in the instant review petition for his say in the matter in question prior to the final disposal of the said matter.

II. For that from the judgment in question, it is not clear whether the petitioner is junior or senior to the respondents Nos. 6 to 9. The respondent Nos. 6 to 9 have misled the Hon'ble Tribunal showing a list of attestation of

posts ~~for~~ ~~xxx~~ as gradation list. The Annexure-1 is the list for allocation of respective posts from which seniority cannot be determined. But as per the successful merit list of CTTC, Guwahati for RSA trainees the petitioner is senior to the Respondent No. 6 as per letter No. E-31/88-89/76 dated 20.7.88. However, the Hon'ble Tribunal while passing the said order made observation that the petitioner is junior to the Respondent No. 6 which is an error apparent on the face of the record.

III. For that the petitioner is senior to the respondent Nos. 6 to 9 as he had been posted as JTO much earlier to the respondent Nos. 6 to 9 but the Hon'ble Tribunal failed to take consideration regarding the seniority position which is an error apparent on the face of the record.

IV. For that the Departmental Examination for the posts of JTO was held on 1990 i.e. 17/18.2.90 whereas the Hon'ble Tribunal has failed to take into consideration the actual date and year of the said examination which is an error apparent on the face of the record.

V. For that the Hon'ble Tribunal ought to have taken into consideration that the instant petitioner had completed his JTO training on 17.1.92 at RTTC/Kalyani not in RTTC, Ahmedabad.

VI. For that the Hon'ble Tribunal ought to have taken into consideration the fact that as the instant petitioner has been working in the Assam Telecom Circle since

fairly long spell, he opted for Assam Circle and accordingly after completing all the official procedure he has been promoted to JTO for the existing vacancies of Assam Circle.

VII. For that the Hon'ble Tribunal has failed to take into consideration the point of limitation. The application of the respondent Nos. 6 to 9 was admitted subject to the determination of limitation point. However, the Hon'ble Tribunal failed to discuss the matter in the said judgment and only on ~~these facts~~ this score the O.A. should have been dismissed summarily without going into the merit of the case.

VIII. For that the bifurcation took place in the year 1987 and the petitioner submitted application for JTO Examination under Assam Circle and Examination was held in February 1990 and the training was held on 6.5.91, the respondents Nos. 6 to 9 could have objected the said matter at that time but to take some advantage they filed the said O.A. in 1995 for which the Hon'ble Tribunal ought to have rejected the prayers mainly relief No. 2 on the point of limitation, taking into consideration of the principles of not to unsettle the settled position after long lapse of time.

IX. For that the Hon'ble Tribunal ought to have taken into consideration that the respondents Nos. 6 to 9 instead of objecting the said matter of posting and absorption of the petitioner in Assam Circle opted to N.E. Circles JTO test and accordingly applied in the same of their own will and volition.

X. For that while ~~disposing of~~ disposing of the O.A., the Hon'ble Tribunal ought to have made the observation

and direction as contained in the impugned judgment and order. Subh observation and direction having not passed on factual position are error apparent on the face of the record. The Hon'ble Tribunal ought ^{not} to have disturbed the petitioner after such a long lapse of time with his promotion to ~~XX~~ JTO in the Assam Circle. The Hon'ble Tribunal lost ~~xxxx~~ sight of the fact that the position of the petitioner in the Assam Circle is secured and his seniority etc. has also been determined in the Assam Circle. Now if the impugned observation and direction of the Hon'ble Tribunal is implemented, his service career will be seriously affected and he might be made the ~~k~~ juniormost J.T.O. in the N.E. Circle. This vital aspect of the matter having not been pointed out to the Hon'ble Tribunal either by the applicants or by the official respondents, same has resulted into the observation and direction which is error apparent on the face of the record.

XI. For that the bifurcation having been taken place way back in 1987 and the petitioner having been continued in the Assam Circle including the promotional post of JTO and nearly 7/8 years having been elapsed and the position of the petitioner in the Assam Circle having been secured, such a position ought not to have been interfered with in the manner as has been done in the impugned judgment and order.

XII. For that in any view of the matter, the impugned judgment and order so far as it affects the service interest of the petitioner is not sustainable and liable to be set aside on a review of the same.

In the premises aforesaid, it is most respectfully prayed that the Hon'ble Tribunal would be pleased to admit the instant review application, call for the records of the case, issue notice on the respondents and upon hearing the parties on the cause or causes that may be shown and on perusal of the records, be pleased to set aside and quash that part of the judgment and order dated 20.9.96 passed in O.A. No. 88/95 by which the service prospect of the petitioner is adversely affected in so far as the direction towards his posting in the N.E. Circle is concerned, and/or be pleased to pass such other order/orders as this Hon'ble Tribunal may deem fit and proper

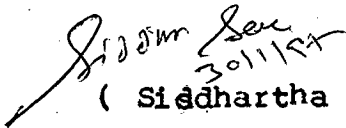
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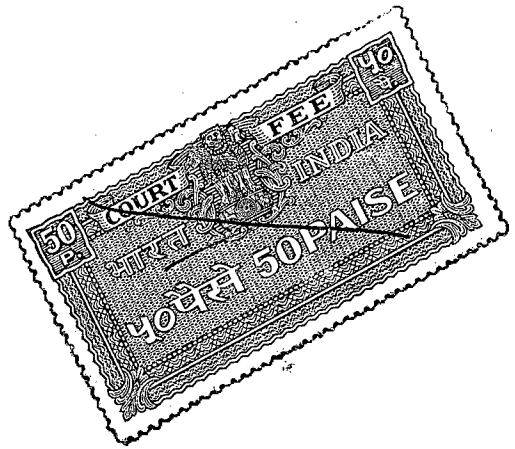
Pending disposal of the review application, be pleased to stay the operation of the observation and direction as contained in the judgment dated 20.9.96 in O.A.No.88/95 by which the official respondents have been directed to do the needful in respect of the petitioner and others towards repatriation to N.E. Circle.

And for this, as in duty bound, the petitioner shall ever pray.

C E R T I F I C A T E

I, Shri Siddhartha Sarma, Advocate for the petitioner of the instant review application, do hereby certify that the above are good grounds of review and I undertake to support them at the time of hearing of the same.


(Siddhartha Sarma)
Advocate.



: 14 :

A F F I D A V I T

I, Shri Girish Chandra Goswami aged about 37 years, S/O R.K. Goswami at present working as J.T.O in the office of the S.D.O Phone Adabari Guwahati-11 do herein solemnly affirm and state as follows :

1. That I am the petitioner in in stant Review application and as such I am well conversant with the facts and circumstances of the case and also competent the swear this affidavit.
2. That the statements made in this affidavit and in the accompanying petition in para 1 to 12 (Grounds) are true to my knowledge and those made in para (Grounds) are true to my legal advice.



I sign this affidavit on this 30 th day of Jan. 1996, at Guwahati. *Girish Ch. Goswami*

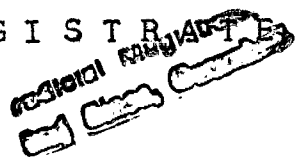
D E P O N E N T

Identified by :

Siddhartha Sarma
30/1/96
Advocate's Clerk

Solemnly affirm and state in this deponent who is identified by Sri Siddhartha Sarma Advocate At Guwahati.

30.1.96
M A G I S T R A T E



- 15 -

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 88 of 1995.

Date of Order : This the 20th Day of September, 1996.

Shri G.L.Sanglyine, Administrative Member.

1. Sri Gautam Kumar Das,
2. Sri Joylal Shrestha,
3. Sri Brojen Gogoi &
4. Sri Swapan Kumar Bhattacharjee . . . Applicants

By Advocate S/Shri J.L.Sarkar & M.Chanda.

- Versus -

1. Union of India
through the Secretary,
Govt. of India, Department of
Telecommunication, New Delhi.
2. Chief General Manager,
Telecommunication,
North Eastern Circle, Shillong.
3. Chief General Manager,
Telecommunication,
Assam Circle, Guwahati.
4. Sri Girish Ch. Goswami,
J.T.O., Jorhat.
5. Sri Anil Krishna Singha,
J.T.O., Diphu.
6. Sri Pradip Gohain,
J.T.O., Chapakhoma under
Divisional Engineer,
Microwave, Dibrugarh. . . . Respondents.

By Advocate Shri S.Ali, Sr.C.G.S.C.

O R D E R

G.L.SANGLYINE, ADMINISTRATIVE MEMBER

The applicants in this application are Sri Gautam Kumar Das, Sri Joylal Shrestha, Sri Brojen Gogoi and Sri Swapan Kumar Bhattacharjee. Sri Girish Ch. Goswami is respondent No.4. Sri Anil Krishna Singha respondent No.5 and Sri Pradip Gohain respondent No.6. Sri Girish Ch. Goswami was junior to Sri Gautam Kumar Das. Sri

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20.9.96

Anil Krishna Singha was junior to Sri Joylal Shrestha and Sri Pradip Gohain is junior to Sri Swapan Kumar Bhattacharjee. All of them were working within the territorial jurisdiction of Assam under the erstwhile North Eastern Telecom. Circle. In 1987 this Telecom. Circle was bifurcated into Assam Telecom. Circle with headquarter at Guwahati and North Eastern Telecom. Circle with headquarter at Shillong. Under the scheme of bifurcation options were called for from the staff to opt either for North Eastern Telecom Circle or for Assam Telecom Circle. Most of the staff opted for Assam Telecom Circle. This created administrative and practical difficulties as all of them could not be accommodated in Assam Circle and as telecommunication services will have to be maintained in the other parts of the North Eastern Region. Therefore selection was made on the basis of seniority. As a result some of the junior officials were allotted to the North Eastern Telecom Circle. The 4 applicants together with respondents No. 4, 5 and 6 were allotted to North Eastern Telecom Circle. The applicants were however, physically relieved to join North Eastern Telecom Circle earlier than the private respondents No.4 to 6. In the year 1989 a J.T.O departmental competitive examination was held. The applicants submitted their applications for the examination to the North Eastern Telecom Circle but the private respondents who were not released from Assam Circle at that time submitted their applications to Assam Circle. All the 7 officials were selected for



contd. 3...

promotion to J.T.O. cadre and were sent for training and on completion of the training the Principal, Regional Telecom Training Centre, Ahmedabad posted the applicants to North Eastern Telecom Circle and the private respondents 4 to 6 to Assam Telecom Circle. The position remains that the options of the private respondents No. 4 to 6 for the Assam Telecom Circle stand fulfilled. This has created the grievance of the applicants in this instant application.

2. In this application the applicants have prayed for the following reliefs :-

- i) That the respondents be directed to issue necessary orders of transfer and posting allotting the applicants into Assam Telecom Circle in the cadre of J.T.O.
- ii) That in terms of prayer No.1 if the vacancies of JTOs are not available to accommodate the applicants in the Assam Telecom Circle in that event the posting/allotment orders of the Respondents No.4 to 6 in Assam Circle in the Cadre of JTOs be cancelled and in the resultant vacancies, the applicants be accommodated in Assam Telecom Circle.

The grounds for the reliefs is mainly based on discrimination on the ground that the private respondents who were juniors to the applicants were preferred by sending them to Assam Telecom Circle. The respondents have stated in their written statement as follows :

"In fact all the above officials should have been posted to N.E. Telecom Circle had the Government's

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20.9.96

orders were implemented timely. Because of the non-implementation of the orders, the mistakes in entertaining the applications before joining N.E.Circle and the wrong posting orders issued by Principal training centres this anomaly has arisen.

Since this anomaly has arisen because of the non-implementation of the Government's orders, administrative mistakes and wrong posting orders it is fair and justified to transfer the three respondents to N.E.Circle as JTOs for where vacant posts are available otherwise we have to insist for implementation of the earlier Government orders which means that the three private respondents have to come back to N.E.Circle on their original cadre then appear for JTO promotion examination if they so wish.

Hence to avoid any such hardship, it is prayed to the Lordship, to pass an order to transfer them to N.E. Telecom Circle where vacancies in JTO's cadre exists and we are ready to accommodate them to meet the end of the justice."



3. The respondents No.4, 5 and 6 have not contested this application. They have neither submitted their written statements nor appeared at the hearing personally or through an authorised person.

4. From the facts on records it is gathered that the applicants being junior in the relevant Gradation list of the erstwhile N.E.Telecom Circle in comparison with other officials, who were senior to them, were not entitled to be posted in Assam Telecom Circle in accordance with the policy adopted by the administration for the purpose of transfer of staff in the circumstances prevailing during the bifurcation. Similar is the case with the respondents No.4 to 6. The only difference is that the applicants had been posted in the N.E.Telecom Circle and had actually joined their posts in the Circle while the respondents No.4 to 6 had somehow been posted in the Assam Telecom Circle and are actually continuing in that Circle. The official Respondents have claimed in their written statement that the respondents


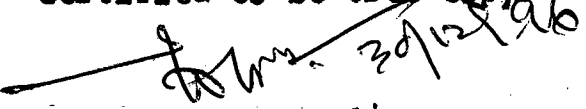
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No.4 to 6 were wrongly posted in the Assam Telecom Circle. The written statement was submitted on behalf of Respondents No.1, 2 and 3. They have now found out their mistake. They are the competent authorities to rectify their own mistake. They are therefore at liberty to rectify the mistake committed in connection with the aforesaid posting of the Respondents No.4 to 6 in Assam Telecom Circle in accordance with law. It is expected that they would do so within a reasonable time. The applicants may approach this Tribunal again if they are aggrieved with the order of the respondents in this regard. As far as the case of the applicants is concerned, I am of the view that they had been correctly posted in the N.E.Telecom Circle in view of their seniority and the aforesaid policy adopted by the respondents. They cannot get a posting in the Assam Telecom Circle simply because the respondents No.4, 5 and 6 were posted in Assam Telecom Circle in the facts and the circumstances of their case as mentioned hereinabove.

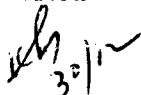
The application is dismissed. No order as to costs.

Sd/-MEMBER(A)

Certified to be true Copy



Deputy Registrar
Central Administrative Tribunal,
Guwahati Bench, Guwahati.

Deputy Registrar
Central Administrative Tribunal
Guwahati


30/12/96