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**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05**

9

(DESTRUCTION OF RECORD RULES, 1990)

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R.A/C.P No.
E.P/M.A No.

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CENTRAL ADMINISTRATIVE TRIBUNAL
 GUWAHATI BENCH ::::::::::: GUWAHATI

ORIGINAL APPLICATION NO. 68 / 96

MISC. PETITION/CONT EMT PETITION/REVIEW APPLICATION NO.

(O.A.)

Rakesh Ch. Roy

APPLICANT(S)

M.O.J & ors.

RESPONDENT(S)

Mr. B.K. Talukdar

Advocate for Applicant(s)

Mr. S. Ali, Sr. C.G.S.C.

Advocate for Respondent(s)

OFFICE NOTE	DATE	O R D E R
<p>This application is in form and within time C.F. of Rs. 50/- deposited vide IPO/BD No. 345725 dated 11.9.96</p> <p><u>13.9.96</u> B.K. Talukdar</p>	<p>9.5.96</p>	<p>None is present. List for admission on 14.5.96. Inform the counsel of the applicant.</p> <p style="text-align: right;"><u>[Signature]</u> Member</p>
<p>Order dt. 9.5.96 issued to applicant from OA No. 67/96. <u>3-6-96</u> Notices issued to all respondent No. 1154-1158 dt. 4.6.96</p> <p><u>[Signature]</u> Show Cause has not been filed?</p>	<p>14-5-96</p>	<p>Learned counsel Mr. B.K. Talukdar for the applicant. Mr. S. Ali, Sr. C.G.S.C. for the respondents.</p> <p>Issue notice before admission to the respondents that the application should not be admitted and relief sought for be granted. Returnable on 28-6-96.</p> <p>List for disposal of show cause and consideration of admission on 28-6-96.</p> <p>Pending consideration of admission the respondents are at liberty to consider the request of the applicant for releasing of his pay.</p> <p style="text-align: right;"><u>[Signature]</u> Member</p>

OFFICE NOTE

DATE.

ORDER

28.6.96

Mr B.K.Talukdar for the applicant.
 Mr S.Ali, Sr.C.G.S.C for the respondents
 Mr Talukdar informs that the applicant has been granted the relief prayed for. Under the circumstances he submits that he may be allowed to withdraw the application. Prayer allowed.
 Application is dismissed on withdrawal.

[Signature]
 Member

18.7.96

Copy of order issued to the parties vide s. Nos. 2185, 2186 d. 19.7.96

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI - 5.

Case No. O.A. 68 of 1996.

An application under Section 19 of
the Central Administrative Tribunal
Act, 1985.

Sri Rakesh Chandra Roy.

... Applicant.

- Versus -

Union of India & Ors.

... Respondents.

I N D E X

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For the use in Tribunal's Office :-

Date of Filing. :-

Received copy.

C. Talwar

Sr. C.S.C.

12/4/96

Filed by -
S. K. Jaisankar
Admitted -
11-1-96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH ::
GUWAHATI - 5.

An application under section 19 of
the Central Administrative Tribunal
Act, 1985.

O.A. No. X of 1996.

Sri Rakesh Chandra Roy,
Sr. Auditor,
Office of the Accountant General (Audit),
Assam, Meghalaya etc., Guwahati.

.... Applicant.

- Versus -

- 1) Union of India represented by
Secretary, Finance Department,
Government of India,
New Delhi.
- 2) The Comptroller and Auditor General
of India, New Delhi.
- 3) The Accountant General (Audit),
Meghalaya and Assam etc.,
Shillong.
- 4) The Deputy Accountant General (I.C)
(Audit), Bhangagarh, Guwahati - 5.

2.

- 5) The Sr. Audit Officer,
Establishment, Office of the
Accountant General (Audit),
Bhangagarh, Guwahati - 5.

.... Respondents.

Details of Application :

1. Particulars of the order against which the application is made -

The application is directed against the order No. E A/194 dated 30.11.95 passed by the Deputy Accountant General (Audit) (I.C), Assam, Guwahati communicated to the applicant on 30.11.95 through Association (All India Audit and Accounts Association) and to quash the said Order dated 30.11.95 forwarded by the sr. Audit Officer, Establishment (Annexure - 1).

2. Jurisdiction of the Tribunal :-

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Hon'ble Tribunal.

3. Limitation :-

The application further declares that the application is within the limitation prescribed in Section 21 of the Administrative Tribunal Act, 1985.

contd... p 3.

4. Facts of the Case :-

(1) That the applicant is a citizen of India and as such he is entitled to all the right and protections guaranteed by the Constitution of India. He belongs to schedule Caste Namasudra Community.

(ii) That the applicant entered into the services as a Lower Division Clerk in the Office of the Accountant General (Assam, Meghalaya etc. in the year 1969. Ever since his entry into the services, he has been working with due delegece and to the full safisfaction of the authority. The applicant was promoted as Upper Division Clerk in the year 1976, Thereafter, the authority being satisfied with performance of the work of the applicant, The authority promoted the applicant as Senior Auditor in the year 1984. Since then, the Applicant has been working sincerely, honestly, deligently and to the full satisfaction of the authority.

(iii) That the Respondent No. 4 without rhym and reason by his order No. Estt/194 dated 30.11.95 held up the pay and allowances of the applicant for the month of November, 1995 which was communicated by the Respondent No. 5. The applicant was shocked to see the vindictive, biased, motivated, malicious and vague orders of the Respondent Nos. 4 & 5.

The applicant has to maintain family of 6(six) members including his 85 years old widow mother, school

going

going children and his sick wife, while passing the impugned orders, the Respondent Nos. 4 and 5 did not consider at all the economic hardship of the applicant. The applicant had to mortgage his wife's Jewelleries for meeting the expenditure.

(iv) That the applicant submitted a representation to the Deputy Accountant General (I.C.), Assam, Guwahati on 1.12.95 praying for releasing his pay and allowances for the month of November, 1995.

A copy of the said representation dated 1.12.95 is enclosed herewith and marked as Annexure - 2.

(v) That the applicant begs to state that nothing has been heard till this date about the fate of the representations (Annexure -2) of the applicant.

5. Grounds for relief with legal provisions :-

(a) For that the impugned order is prima-facie illegal and not maintainable under the law.

(b) For that the impugned order which is conjectures and surmises and without any substance, the same is bad in law and liable to be set aside.

There is no law under which the pay and allowances of the applicant can be held over.

(c) For that the malicious intention of the Respondent Nos. 4 & 5 is writ large from the facts borne

by the Respondent No. 4 against the loyal and sincere officer like the applicant and out of grudge and sheer malice, the Respondent Nos. 4 & 5 passed the impugned orders to avenge their grudge against the applicant though they are not authorised to pass the same. No allocation of duties was given to the applicant inspite of repeated requests.

(d) For that the Respondent Nos. 4 & 5 have got no power to take away legal and the fundamental rights of the applicant violating the principles of natural Justice.

(e) For that the Respondent Nos. 4 & 5 cannot keep the representations of the applicant pending deliberately in order to cause harm to the applicant.

(f) For that before passing the impugned order the applicant was not given opportunities of being heard which is mandatorily required. Thus the impugned order is not sustainable, Malafide is writ large on the face of it.

(g) For that in any view of the matter, the impugned orders are liable to be quashed.

6. Details of remedies exhausted :-

The applicant declares that he has exhausted the departmental remedies available to him and there is other alternative and efficacious remedy open to the applicant.

7. Matter not previously filed or pending with any other Court :-

(i) The applicant further declares that the

matter regarding which the application has been made, is not pending before any other court of law or any other Bench of the Hon'ble Tribunal, but one representation is pending before the authority.

(ii) That the applicant filed previously O.A. No. 18/96 before this Hon'ble Tribunal, but the same was disposed of on withdrawal.

A copy of order dated 23.2.96 is annexed hereto and marked as Annexure - 3.

8. Reliefs sought :-

Under the facts and circumstances, the applicant prays that this application be admitted and the records of the case called for and after hearing the parties on the cause or causes that may be shown and on perusal of the records, be pleased to grant the following reliefs :-

(i) To set aside and quash the impugned order dated 30.11.95, (Annexure - 1) and to allow all the consequential benefits.

(ii) Cost of the application.

(iii) Any other relief or reliefs to which the applicant is entitled to as this Hon'ble Tribunal may deem fit and proper.

9. Interim Order prayed for :-

Pending disposal of the case, the applicant prays that the impugned order dated 30.11.95

(Annexure - 1) may kindly be stayed since the balance of convenience lies in favour of the applicant and otherwise he will suffer irreparable loss and injury in as much as the applicant's 85 years old widow mother and his sick wife left unattended and his wife's mortgaged Jewelleries will not be returned.

10. Application filed through Advocate.

11. Particulars of the I.P.O. :-

- (i) I.P.O. No. : 09 345725
(ii) Date : 12-4-96.
(iii) Payable at Guwahati.

12. List of enclosures :-

As stated in the Index.

V E R I F I C A T I O N

I, Sri Rakesh Chandra Roy, son of Late Tarani Roy, presently working as Sr. Auditor in the Office of the Accountant General, Assam etc, Guwahati, aged about 51 years, do hereby solemnly affirm and verify that the statements made in paragraphs 1 to 4, 6 to 9, 11, 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice and I have not suppressed any material facts.

And I sign this verification on this the 11 th day of April, 1996.

Rakesh Chandra Roy
SIGNATURE 11/4/96.

8.

ANNEXURE - 1.

OFFICE OF THE PRINCIPAL ACCOUNTANT GENERAL (AUDIT)
ASSAM ETC. :: BHANGAGARH. :: GUWAHATI - 5.

Order No. Estt/194

Dated 30.11.95.

In pursuance of DAG(IC)'s orders conveyed order Memo No. CASS-II/AO/Confidential/95-96/158 dated 21.11.95 the pay and allowance of Shri Rakesh Chandra Roy, Sr. Ar. for the month of November, 1995 has been held over until further orders from DAG(IC).

sd/- Illegible.

Sr. Audit Officer, Establishment.

Copy for information to:-

1. Shri Rakesh Ch. Roy, Sr. Ar.
2. DAG (IC).

sd/- Illegible.

Sr. Audit Officer.

As per order
11-4-96

ANNEXURE - 2.

To
The Deputy Accountant General (IC),
Assam, Guwahati.

Through proper channel.

Sir,

With reference to your Memo No. CASS-II/AO/
Confid1/95-96/156-57 dated nil, I am to state that I
have already submitted four representations to the Extt.
Section for giving me a copy of written allocation of
duty. It is found that I am not allowed to give any
allocation of duty i.e. today 1/12/95. Previously I did
not know the norms of the section. I had done my duty
according to my ability. I shall do 30 nos. of divisions
of accounts per month which will be submitted to you
directly at the time of fortnightly report.

You are requested to allow me to work 30 Nos.
of division per month and you are requested to disburse
my pay and allowances for the month of November, 1995.

Yours faithfully,

Sd/- Rakesh Chandra Roy,
CAP-6 Section
1.12.95.

*attached
D. Chandra
A. Chandra
11-4-96*

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI - 5.

(O.A. 18/96)

Rakesh Ch. Roy ... Applicant.

- Vs -

Union of India & Ors. ... Respondents.

P R E S E N T

THE HON'BLE SHRI G.L. SANGLYINE, MEMBER (ADMN).

For the Applicant ... Mr. B.K. Talukdar.

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

23.2.96 Learned counsel Mr. B.K. Talukdar for
the applicant.

Learned Sr. C.G.S.C., Mr. S. Ali, for
the respondents.

Counsel for the applicant desires to
withdraw the application with a request to
allow the applicant to file fresh application.
Submission considered. Prayer allowed. The
application is disposed of on withdrawal. The
applicant is at liberty to submit fresh appli-
cation and to raise all contentions that have
been raised in the present application if he
is so advised.

Sd/- MEMBER (ADMN)

Certified to be true copy.

Sd/- Illegible.
8.3.96

Court Officer,
Central Administrative Tribunal,
Guwahati Bench, Guwahati - 5.

*affidavit
submit
11-4-96*