

## In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

## ORDER SHEET

APPLICATION NO.

Cp. 34 OF 1998

O.A. 218/96

Applicant(s) Sri B.K. Prasad Gupta

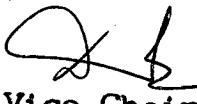
Respondent(s) Sri Rajendra Nath &amp; Ors.

Advocate for Applicant(s) Mr. M. Chanda.

Advocate for Respondent(s)

Notes of the Registry	Date	Order of the Tribunal
Ih's Mr. is filed by Mr. M. Chanda, Adv. on behalf of the applicants, praying for remis- ment upon the contamners for non- compliance of the Judgment and Order dated 4-5-98 passed in O.A. 218/96	18.11.98 nkm	Present: Hon'ble Mr Justice D.N. Baruah Vice-Chairman  Mr S. Ali, learned Sr. C.G.S.C. to receive instructions within a month. List it on 18.12.98.
dated 4-5-98 passed in O.A. 218/96	1.1.99 pg	Mr B.K. Sharma, learned Railway coun- sel once again prays for further exten- sion of time to receive instruction. Prayer allowed.  List on 18.1.99 for order.

  
 Vice-Chairman

  
 Vice-Chairman

 16/11/98  
 Registerer

21/11/98

Notes of the Registry	Date	Order of the Tribunal
Requisite 2 copies have been filed.	18-1-99	Two weeks time is allowed on the prayer of Mr.B.K.Sharma learned counsel for Railway Administration. List on 2-2-99 for orders.
<i>2nd 12-1-99</i>		<i>JS</i> Member
<u>22-12-98</u> There was a Bench available on 18-12-98. Hence placed on order.	1m 2.2.99	Mr. M.Chanda, learned counsel appearing on behalf of the petitioner prays for issuance of notice. Division Bench is not available today. Place for order on 5.2.99.
		<i>62</i> Member
<i>trd 22/12/99</i>	5.2.99	On the prayer of the learned counsel for the parties the case is adjourned to 8.3.99.
		<i>JS</i> Member
<i>pg 22/12/99</i>	8-3-99	On the prayer of counsel for the parties case is adjourned to 23-3-99 for orders.
		<i>JS</i> Vice-Chairman
<i>1m 23/3/99</i>	23.3.99	Mr B.K.Sharma, learned counsel for the alleged contemners informs this Tribunal that the order has since been complied with. Mr & M.Chanda, learned counsel for the petitioner submits that he has no instruction in this regard. However,

contd..

67

Notes of the Registry	Date	Order of the Tribunal
<p><u>20.4.99</u></p> <p>Copies of the order have been sent to the D/Sec. for issuing the notice to the L/Advocate of the party.</p> <p><u>81</u> Signed notice despatched No. 1448 to 1449 dt. 28-4-99 <i>John</i> 725-99</p>	<p><u>22.</u> 23.3.99</p> <p>PG SBS 29/3/99</p>	<p>on the submission of Mr B.K.Sharma we find no ground to proceed with the case. However, if on a later date it transpires that the order is not implemented the petitioner may renew his prayer.</p> <p>The contempt petition is closed.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p> <p><i>[Signature]</i></p>

of the Registry	Date	Order of the Tribunal

12/11/98  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH



Contempt Petition No. 34 /98

in

Original Application No. 218 of 1996

Sri B.K. Prasad Gupta

-versus-

Union of India & Others

-And-

In the matter of

An Application under Section 17  
of the Administrative Tribunals Act,  
1985 for initiating Contempt Proceeding  
against the contemners for non-compli-  
ance of the Hon'ble Tribunal's  
Judgement and Order dated 4.5.1998  
passed in O.A. No. 218 of 1996.

-And-

In the matter of

Sri Brij Kishore Prasad Gupta  
Wireless Telecom Maintainer/1/TSK  
N.F. Railway, Tinsukia, P.O. Tinsukia,  
Tinsukia Assam.

-versus-

1. Sri Rayendra Nath do,  
General Manager, N.F. Railway,  
Maligaon, Guwahati-11.

Contd...

Filed by the applicant  
through Prashant Kishore  
12/11/98. Adv.

2. Sri *P. Mukherjee* to.  
Chief Personnel Officer,  
N.F.Railway, Maligaon,  
Guwahati-11.

3. Sri *Guoish Bhattacharjee* to.  
Divisional Railway Manager (F),  
N.F.Railway, Tinsukia,  
Assam.

The petitioner named above Most humbly and  
Respectively begs to state as under :

1. That your petitioner approached this Hon'ble  
Tribunal through Original Application No. 218 of 1996  
praying for a direction upon the Respondents to promote  
the applicant to the post of Telecom Inspector Grade III  
with effect from 1.4.1991 on completion of 3 months period  
of penalty of reversion which was imposed by the depart-  
mental authorities vide Order dated 31.12.1990 with all  
consequential service benefits. The said Original  
A pplication was finally decided by this Hon'ble Tribunal  
on 4.5.98 with direction to the respondents to promote  
the applicant to the post of Telecom Inspector Grade III  
in terms of Annexure-XI Order dated 13.12.90 i.e. from  
1.4.91 and the applicant should get all consequential  
benefits including he is entitled to be considered for  
promotion to the next higher grade. The relevant portion  
of the Judgement and Order dt. 4.5.98 passed in O.A. No.  
218/96 is quoted below :

Contd...

"5. In view of the above we dispose of this application with direction to the respondents to promote the applicant to the post of Telecom Inspector Grade III in terms of the Annexure XI order dated 31.12.90, i.e. from 1.4.1991 and he shall get all the consequential benefits including his entitlement to be considered for promotion to the next higher grade."

Immediately after receipt of the aforesaid order, the petitioner submitted a copy of the aforesaid judgement and Order dated 4.5.98 to the Divisional Railway Manager (P), N.F. Railway, Tinsukia, for implementation of the Judgement and Order dt. 4.5.98 vide his letter dated 22.6.98 and the petitioner also pointed out that one post of Telecom Inspector Grade III is lying vacant at Tinsukia.

Copy of the Judgement and Order dt. 4.5.98 and Letter dt. 22.6.98 are annexed hereto and the same are marked as Annexures-1 & 2 respectively.

2. That your petitioner begs to state that although copy of the judgement and order dt. 4.5.98 was duly submitted received by the contemners but surprisingly no action has been initiated for implementation of the Judgement and Order dated 4.5.98 of the Hon'ble Tribunal. In the meantime six months have elapsed but the contemners wilfully disobeyed the Order of the Hon'ble Tribunal, therefore wilful non-compliance of the Judgement and Order

Contd..

of the Tribunal dt. 4.5.98 is amount to Contempt of Court, therefore contemners are liable for contempt of court and the Hon'ble Tribunal be pleased to initiate contempt proceeding against the contemners in accordance with law and further be pleased to impose punishment for wilful non-compliance of the Judgement and Order dated 4.5.98 passed by this Hon'ble Tribunal in O.A. No<sup>A</sup> 218/96.

3. That your petitioner begs to state that he had also personally approached authorities for implementation of the Judgement and Order dated 4.5.90 passed by the Hon'ble Tribunal but even then no action has been initiated by the contemners till filing of this petition before the Hon'ble Tribunal.

In the facts and circumstances finding no other alternative the petitioner approaching this Hon'ble Tribunal for initiation of contempt proceeding against the contemners for wilful non-compliance of the Judgement and Order dated 4.5.90 passed in O.A. 218/96 by this Hon'ble Tribunal.

4. That this petition is made bonafide and for the ends of justice.

Under the facts and circumstances stated above, Hon'ble Tribunal be pleased to initiate contempt proceeding against the contemners and further be pleased to impose punishment upon the contemners in accordance with law for

Contd...

wilful non-compliance of the Judgement  
and Order dated 4.5.98 passed in O.A.  
No. 218/96 and further be pleased to  
pass any other such order or orders as  
deemed fit and proper by the Hon'ble  
Tribunal.

And for this act of kindness as in  
duty bound the petitioner shall ever  
pray.

A F F I D A V I T

I, Sri Brij Kishor Prasad Gupta, petitioner in this Contempt Petition presently serving as Wireless Telecom Maintainer Grade I, N.F.Railway, Tinsukia, P.O.- Tinsukia, Assam and resident of Tinsukia do hereby solemnly affirm on oath and state as follows :

1. That I am the petitioner of this Contempt Petition as such I am well acquainted with the facts and circumstances of this case and also competent to swear this affidavit.
2. That the statements made in paragraphs 1 to 4 are true to my knowledge and belief and rests are my humble submissions before this Hon'ble Tribunal.
3. That this affidavit has been made for the purpose of filing Contempt Petition.

Place Guwahati  
Date 21.9.98.

*Brij Kishore Prasad Gupta*  
DEPONENT

The deponent above name has signed this  
affidavit today on <sup>September</sup> 21 October, 1998 before me  
who is identified by Shri *Pranik Chanda*  
Advocate.

*(Signature)*  
Signature  
21.9.98.

Annexure-1

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 218 of 1996

Date of decision : This the 4th day of May 1998

The Hon'ble Mr. Justice D.N. Baruah, Vice-Chairman.

The Hon'ble Mr. G.L. Sanglyine, Administrative Member.

Shri B.K. Prasad Gupta  
WTM/1/TSK,  
N.F. Railway, Tinsukia,

.... Applicant

By Advocate Mr. M. Chanda.

-versus-

1. The Union of India, through the  
General Manager, N.F. Railway,  
Maligaon.

2. The Chief Signal &  
Telecommunication Engineer,  
N.F. Railway, Maligaon.

3. The Chief Personnel Officer,  
N.F. Railway, Maligaon.

4. The Divisional Railway Manager (F)  
N.F. Railway, Tinsukia

5. The Divisional Signal Telecommunication  
Service, N.F. Railway,  
Tinsukia

.... Respondents

By Advocate Mr. B.K. Sharma, Railway Counsel.

.....

O R D E R

BARUAH J. (V.C.).

This application has been filed by the applicant seeking certain directions.

2. Facts for the purpose of disposal of this application are :

At the material time the applicant was working as Wireless Telecom Maintainer (WTM for short) Grade I. By Annexure III order dated 17.10.1989 he was promoted to the

*Appetized  
M. Chanda  
P.D.*

Contd...

Annexure-1 (Contd.)

post of Telecom Inspector Grade III and as per the said order of promotion he joined at Mariani in that post. After joining at Mariani the applicant still continued to occupy the Quarter at Tinsukia. Accordingly a memorandum dated 25.9.1990 was issued to the applicant to show cause why action should not be taken against him. The applicant submitted his explanation to the aforesaid memorandum. However, the authority was not satisfied with the explanation given by the applicant. Accordingly by Annexure XI order dated 31.12.1990 he was revered to the post of WTM Grade I in the scale of pay of Rs.1320-2040 for a period of three months with non-cumulative effedt. As per the said Annexure XI order after expiry of the period of three months the applicant ought to have been promoted to the post of Telecom Inspector Grade III. However, this was not done. Thereafter, there were certain communication between the Divisional Railway Manager (P) and the N.F.Railway, Headquarter. The applicant also prayed that he ought to be promoted to the original post of Telecom Inspector Grade III at Tinsukia as and when such post would fall vacant. However, in his request, he made it clear that if that was not possible he should be immediately promoted to the post of Telecom Inspector Grade III. This was, however, not done. Hence the present application.

3. We have heard Mr. M.Chanda, learned counsel for the applicant and Mr. B.K.Sharma, learned Railway Counsel. Mr. Chand submits that as per Annexure XI order dated 31.12.1990 the authority was bound to promote the applicant after March 1991. According to Mr Chanda this promotion was denied arbitrarily and illegally. Mr. B.K.Sharma,

Contd....

After  
the  
affid.

Annexure-1 (Contd.)

however, submits that because of the option given by the applicant the matter got delayed. Mr. Sharma further submits that the matter is now pending in the Headquarter. However, nothing has been done.

4. On hearing the learned counsel for the parties it is now to be seen whether the applicant was entitled to get his original post of promotion after the expiry of the period mentioned in the Annexure XI order dated 31.12.1990. Annexure XI order is very clear that the applicant was revered to the post of WTM for a period of three months with non-cumulative effect. Therefore, in all fairness the authority ought to have promoted the applicant immediately after 31.3.1991. The denial of such promotion, in our opinion, is unreasonable and arbitrary.

5. In view of the above we dispose of this application with direction to the respondents to promote the applicant to the post of Telecom Inspector Grade III in terms of Annexure XI order dated 31.12.1990, i.e. from 1.4.1991 and he shall get all the consequential benefits including his entitlement to be considered for promotion to the next higher grade.

6. The application is accordingly disposed of. However, considering the facts and circumstances of the case we make no order as to costs.

Sd/- VICE-CHAIRMAN

Sd/- MEMBER (A)

Annexure-2

To

The Divisional Railway Manager (P),  
N.F.Rly., Tinsukia

Sub : Submission of Judgement sheet of Central  
Administrative Tribunal, Guwahati Bench  
No. CAT/GHY/JUDL/312 dt. 18.5.98.

Sir,

I am submitting herewith the Xerox copy of the  
above cited for my posting as TCI now JE/Tele at TSK  
against vacant post w.e.f. 1.4.1991 as decision by CAT  
please.

Dt. 22.6.98

DA - As above

Yours faithfully,

sd/-

B.K.Prasad Gupta  
WTM/I/TSK

*Posted  
W.M.  
R.W.*

-7- ✓

D R A F T      C H A R G E

Laid down before this Hon'ble Tribunal for initiation  
of Contempt Proceeding against the Contemners for non-  
compliance of the Judgement and Order dated 4.5.98  
passed in O.A. No. 218/96 by this Hon'ble Tribunal and  
be pleased to impose punishment upon the contemners  
in accordance with law.