

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET
APPLICATION NO.

CP. 34 OF 1998

OA. 218/96

Applicant(s) Smt B K. Prasad Gupta

Respondent(s) Smt Rajendra Nath & ORS

Advocate for Applicant(s) Mr. M. Chandra

Advocate for Respondent(s)

Notes of the Registry	Date	Order of the Tribunal
<p>This mp. is filed by Mr. M. Chandra, Adv. on behalf of the applicants, praying for punishment upon the contemners for non-compliance of the Judgment and Order dated 4-5-98 passed in OA. 218/96</p> <p>Lead for baron of orders.</p> <p><i>Noted</i> 16/11/98</p> <p>By Registrar 16.11.98</p>	<p>18.11.98</p> <p>nkm</p> <p>1.1.99</p> <p>pg</p> <p>2/11/99</p>	<p>Present: Hon'ble Mr Justice D.N. Baruah Vice-Chairman</p> <p>Mr S. Ali, learned Sr. C.G.S.C. to receive instructions within a month. List it on 18.12.98.</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>Mr B.K.Sharma, learned Railway counsel once again prays for further extension of time to receive instruction. Prayer allowed.</p> <p>List on 18.1.99 for order.</p> <p><i>[Signature]</i> Vice-Chairman</p>

Notes of the Registry

Date

Order of the Tribunal

18-1-99

Requisite 2 copies
have been filed.

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.

[Signature]
Member

[Signature]
Vice-Chairman

lm

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.

[Signature]
Member

trd

5.2.99

On the prayer of the learned counsel
for the parties the case is adjourned
to 8.3.99.

[Signature]
Member

[Signature]
Vice-Chairman

pg

8-3-99

On the prayer of counsel for the
parties case is adjourned to 23-3-99 for
orders.

[Signature]
Vice-Chairman

lm

23.3.99

Mr B.K. Sharma, learned counsel for the
alleged contemnors 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..



22-12-98

There was a Bench
at Agartala on 18-12-98.
Hence placed for order.

[Signature]
2/2/99

[Signature]
8/2/99

[Signature]
9/3/99

Notes of the Registry	Date	Order of the Tribunal
<p>20.4.99</p> <p>Copies of the order have been sent to the D/Sec. for issuing the line to the L/Advocates of the parties.</p> <p>sg</p> <p>Issued vide despatch No. 1448 to 1449 dt. 28-4-99</p> <p>sg</p> <p>24/3/99</p> <p>725-99</p>	<p>22. 23.3.99</p> <p>pg</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> <div> <div data-bbox="762 598 931 713">  Member </div> <div data-bbox="1255 586 1532 726">  Vice-Chairman </div> </div>

of the Registry	Date	Order of the Tribunal

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 contemnors 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,
~~xxxxxxTinsukia~~ Assam.

-versus-

1. Sri Rajendra Nath ds,
General Manager, N.F.Railway,
Maligaon, Guwahati-11.

Contd...

Filed by the applicant
through main branch
12-11-98. Adv

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

3. Sri *Girish Bhatnagar* *M.*
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 departmental authorities vide Order dated 31.12.1990 with all consequential service benefits. The said Original Application 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 contemnors 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 contemnors 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 contemnors are liable for contempt of court and the Hon'ble Tribunal be pleased to initiate contempt proceeding against the contemnors 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. 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 contemnors 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 contemnors 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 contemnors and further be pleased to impose punishment upon the contemnors 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 *Cumhita*
Date *21.9.98*.

Brij Kishore Prasad Gupta
DEPONENT

The deponent above name has signed this affidavit today on ^{September} 21 October, 1998 before me who is identified by Shri *Mani K Chouda* Advocate.

(Signature)
Advocate
21.9.98.
Signature

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

Contd...

*Agreed
Baruah
Adm.*

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 reverted 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 effect. 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....

*Attested
@her
S.V.*

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 reverted 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 - Asabove

Yours faithfully,

sd/-

B.K.Prasad Gupta
WTM/I/TSK

*Attested
@ Wm.
Adv.*

-7- 12 ✓

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.