

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE  
TRIBUNAL,

GUWAHATI BENCH

C.P. (C) 19/2013

IN

O A NO. 172 OF 2011

M.P Luitel & Ors.

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APPLICANTS

VERSUS

L. S.Rathore

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CONTEMNOR


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THROUGH

Kankan Das,  
Addl. CENTRAL GOVT. COUNSEL,  
CENTRAL ADMINISTRATIVE TRIBUNAL, Guwahati Bench  
Guwahati

Date: June , 2013

  
CONTEMNOR  
मौसम विभाग के महानिदेशक  
Director General of Meteorology  
भारत मौसम विज्ञान विभाग  
India Meteorological Department  
पृथ्वी विज्ञान मंत्रालय / Ministry of Earth Science  
मौसम भवन, लोदी रोड, नई दिल्ली-110002  
Mausam Bhawan, Lodi Road, New Delhi-110002

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE  
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**COMPLIANCE AFFIDAVIT OF CONTEMNOR**

I, L. S. Rathore, Director General of Meteorology(DGM), India Metrological Department, Lodhi Road, New Delhi-110003, do hereby solemnly affirm and declare as under: -

1. That I am working as above. I am well conversant with the facts and circumstances of the case on basis of official records maintained in the office, and therefore, competent to swear this compliance affidavit on behalf of the answering Contemnor.
2. That the answering Contemnor has the highest regard for the Orders of this Hon'ble Tribunal and have no intention, whatsoever, of any wilful disregard of the Orders of this Hon'ble Tribunal.
3. That the averment made in Para 1 by the Applicants of C.P. No.19/2013 are not factually correct and cannot be accepted in the form as presented. In compliance of Hon'ble tribunal order dated 20/12/2012 in CP15/2012 in OA 172/2011 Hon'ble CAT Guwahati Order dated 20.12.2012 was communicated to the administrative

Ministry i.e Ministry of Earth Sciences to take all the steps to expedite the matter so that the benefit of improved Career Progression Scheme may be given to the Applicants at the earliest possible. In this regard, it is submitted that Administrative Ministry i.e. Ministry of Earth Sciences has taken the matter to the Deptt. of Expenditure, Ministry of Finance for their consideration (**Annexure R-1**). The matter was also referred to the nodal Department i.e Department of Personnel and Training, Ministry of Personnel, Public Grievances & Pensions (**Annexure R-2**) through Ministry of Earth Sciences for their opinion regarding implementation of benefits of FCS. DoP&T has advised that “ As per D/o Science & Technology D.O. letter NO.DST/MS/1(45)/82 dated November 14/22, 1983 (**Annexure R-3**), the Flexible Complementing Scheme(FCS) is applicable to Group “A” service/cadres in Scientific Ministries/Departments under Govt. of India. DoP&T notification dated 9/11/1998(**Annexure R-4**) also prescribes for in-stiu promotion under FCS to be applicable to Scientific & Technical Group ‘A’ posts in various Scientific Ministries/Departments under GOI. The scheme is still applicable to Scientific & Technical Group ‘A’ posts. This Department has not issued any instructions to extend the Flexible Complementing Scheme in Group ‘B’ Scientific cadre in any Ministry/Department under GOI. As such, FCS scheme to Group ‘B’ scientific cadres for IMD under MoES may not be available as per existing instructions/orders on FCS” (**Annexure R-2**). The applicants are Group ‘B’ employees, hence FCS is not applicable to them as intimated by DoP&T.

It is further informed by Administrative Ministry i.e. Ministry of Earth Sciences that,(i) “an alternate Restructuring proposal of Group ‘B’ Scientific cadre of IMD is under consideration of D/Expenditure, DoPT and MoES and has not yet reached the finality. (**Annexure R-1**). However, implementation of any such restructuring cannot be construed as a legal right by the applicants under present service rules. (ii)The existing instructions allow for at least three financial benefits in the entire service of a service employee in terms

of MACP Scheme and IMD ensure that these are provided to all the staff as per their eligibility to mitigate their stagnation”.

A copy of proposal sent to the Deptt. of Expenditure, Ministry of Finance is Annexed as (**Annexure R-1**). Restructuring is a policy matter and within the power of Govt. of India. As such, answering Contemnor is not the competent authority to decide the matter.

4. Averments made in Para-2 needs no comments.
5. In reply to Para 3 & 4 and in compliance of Hon'ble Tribunal Order dated 06.03.2012 in OA NO.172/2011 the representations dated 15.3.2012 have already been considered and they have been informed about the alternate proposal of restructuring of Group 'B' Scientific Staff of IMD.
6. In reply to Para-5 as per Hon'ble Tribunal order dated 20.12.2012 that Hon'ble Tribunal has already examined the related papers and it was found abundantly clear that the Contemnor No.2 has taken the steps to implement this Hon'ble CAT order and whatever was within the power of DGM. It is further submitted that Hon'ble Tribunal has also noted that in order to reach at a decision, concurrence of ministry is a sine qua non, de hors such concurrence, the benefit in respect of all 'B' and 'C' Scientific and technical Cadres of IMD, Flexible Complementary Scheme cannot be extended to the applicants. As such, delay caused in matter cannot be construed to be wilful disobedience of the order.

It is also submitted that administrative Ministry i.e. Ministry of Earth Sciences has taken the steps in the matter and at present it has been informed that the above said an alternate proposal (**Annexure R-1**) of restructuring of Group 'B' Scientific Staff is under consideration of Deptt. of Expenditure, Ministry of Finance. It is submitted that the restructuring involves creation and abolition of



posts and it has also have financial implications. As such, answering Contemnor is unable to take a final decision, as it is not within the powers of the Contemnor.

The answering Contemnor has taken steps after receipt of Hon'ble Tribunal order dated 20.12.2012 that administrative Ministry was requested on 27.12.2012 to expedite the alternate proposal of restructuring of Group 'B' consequently, to Deptt. of Expenditure (DoE) to comply the Hon'ble Tribunal order stagnation details of group 'B' scientific staff were worked out. The matter was also taken up with DoP&T regarding FCS. As such, there is no wilful disobedience or contumacious conduct on the part of the Contemnor justifying any further proceedings in the present CP.

7. In reply to Para-6 & 7. The averments made in this para are not true as the administrative Ministry i.e. Ministry of Earth Sciences has informed about the further steps taken in the matter as per **(Annexure R-1)**.
8. That the chronological steps on the action taken by the administrative Ministry i.e. Ministry of Earth Sciences & Deptt. of Expenditure are as follows:  
Administrative Ministry was requested on 27.12.2012 to expedite the alternate proposal of restructuring of Group 'B' consequently, to Deptt. of Expenditure (DoE). Ministry of Earth Sciences resubmitted the proposal to DoE on 18.1.2013 **(Annexure R-1)** and the matter has been discussed at length. The answering Contemnor is not competent authority to take the final decision in the matter of restructuring which is a policy decision.
9. Therefore, the answering Contemnor pray that in view of the facts stated above, directions contained in Hon'ble Tribunal Orders dated 06.03.2012 & 20.12.2012 have been complied with as whatever was within the powers of DGM is already done. The matter is also being

pursued sincerely with the administrative Ministry for early decision in restructuring of Group 'B' scientific staff. It is prayed the contempt proceedings may kindly be dropped against the answering Contemnor. Notices issued to the answering Contemnor may kindly also be withdrawn/ discharged.

### PRAYER

- i. It is, therefore, prayed before your lordship to kindly admit this reply and close the Contempt Proceedings against the answering Contemnor.
- ii. Pass any other Order(s) which this Hon'ble Tribunal may deem fit;



### DEPONENT

(डॉ) लक्ष्मण सिंह राठौर Dr. L. S. RATHOR  
मौसम विभाग क महानिदेशक  
Director General of Meteorology  
मौसम विभाग विज्ञान विभाग  
India Meteorological Department  
भारतीय विज्ञान मंत्रालय / Ministry of Earth Science  
मौसम भवन लोदी रोड नई दिल्ली-110001  
Mausam Bhawan Lodi Road New Delhi-110001

**VERIFICATION**

That the contents of the above paras of the counter affidavit are true and correct from the official records and nothing material has been suppressed there from.

Verified at New Delhi on June, 2013.



**DEPONENT**  
डी. विमान डी. रोड, नई दिल्ली  
मौसम विभाग के महानिदेशक  
Director General of Meteorology  
भारत मौसम विज्ञान विभाग  
India Meteorological Department  
पृथ्वी विज्ञान मंत्रालय / Ministry of Earth and  
मौसम भवन, लोदी रोड, नई दिल्ली-110  
Mausam Bhawan, Lodi Road, New Delhi-11