

FORM NO. 2

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

SB/DB

SB.

REPORT ON THE SCRUTINY OF APPLICATION

Diary No. ...1519...

Presented By: A.K. Bajpai Date of Presentation ...3-8-200...

Applicant (s) ...Joginder Singh...

Respondent (s) ...The D.G. PWD

Nature of grievance: ...Transfer

No. of applicants: ...One... No. of Respondents: ...

4/8/02
on Date...
Registrar

CLASSIFICATION

Subject: Transfer (No. 28) Department: U.D. (No. 7)
* if S.B.

1. Is the application is in the proper form? (PROFORMA / COMPILATION)
(three complete sets in paper book form
in two compilations). ✓
2. Whether name, description and address of
all the parties been furnished in the
cause title? ✓
- 3.(a) Had the application been duly signed and (SIGNED / VERIFIED)
verified ? ✓
(b) Have the copies been duly signed? ✓
(c) Have sufficient number of copies of the
application been filed? ✓
4. Whether all the necessary parties are impleaded ? ✓
5. Whether English translation of documents in a
language other than English or Hindi been filed ? ✓
- 6.(a) Is the application in time ? ✓
(See Section 21)
(b) Is MA for condonation of delay filed ? MA
7. Has the Vakalatnama/Memo of appearance/00
authorisation been filed ? ✓
8. Is the application maintainable ? U/s 2, U/s 14, U/s 18
(u/s 2,14,18 or U/R 6 etc). U/R 6, PT u/s, 25 file ✓
9. Is the application accompanied by IPO/DD
for Rs. 50/- ? ✓
10. Has the impugned orders original/duly
attested legible copy been filed ? LEGIBLE/ATTESTED ✓

GA-1/KS6/mms
p no 14, 15, 18
11. Have legible copies of the annexure duly LEGIBLE/ATTESTED attested been filed ?

12. Has the index of documents been filed and pagination done properly ? FILED/PAGINATION Yes

13. Has the applicant exhausted all available remedies ? Yes

14. Have the declaration as required by item 7 of Form-I been made ? Yes

15. Have required number of envelopes (file size) bearing full address of the respondents been filed ? Yes

16. (a) Whether the reliefs sought for, arise out of single cause of action ? Yes

(b) Whether any interim relief is prayed for ? Yes

17. In case an MA for condonation of delay is filed, is it supported by an affidavit of applicant ? No

18. Whether this case can be heard by Single Bench ? Yes

19. Any other point ?

20. Result of the scrutiny with initial of the Scrutiny Clerk.

The application is in order and may be registered and listed before the Court for admission/orders on;

- ~~(a) MA for joining U/R (5) (a) / 4 (5) (b)~~
~~(b) MA U/R 6 of CAT Procedure Rules, 1987.~~
~~(c) PT u/s 25 under At Act~~
~~(d) MA for condonation of Delay;~~

OR

The application has not been found in order in respect at Item No(s) mentioned below ;

- ✓ (a) Item Nos. 11
(b) Application is not on prescribed size of paper.
(c) MA U/R 4(5)(a) / 4(5)(b) has not been filed.
(d) Application /counsel has not signed each page of the application/documents.
(e) MA U/R 6 has not been filed.

The application might be returned to the applicant for rectification of the defects within 7 days.

SCRUTINY CLERK

SECTION OFFICER

JOINT REGISTRAR

COURT NO. DATE

Objections removed & listed
4/8/2003

3/8/2003
4.8.2003
A-8-2003

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

ORIGINAL APPLICATION NO. 1486/2000

SHRI/SMT. Joginder Singh APPLICANT

VERSUS

The D.G. of WD RESPONDENT

This application has been submitted to the Tribunal by Shri/Smt. A. K. Bajpai under Section 19 of the Administrative Tribunal Act, 1985 and the same has been scrutinised with reference to the points mentioned in the Administrative Tribunal Act, 1985 and Procedure Rules, 1988.

The applicant has also filed a Misc. Application(s) regarding (a) jurisdiction (b) joining (c) condonation of delay and/or (d) Petition for Transfer. MA U/R 6 of CAT Procedure Rules, 1987.

The application has been found in order and may be listed in Court for admission/orders.

S.O. (Listing)

D.R. (J)

JOINT REGISTRAR

COURT NO. S.B.

DATE

10-8-2000

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH : NEW DELHI.

O.A. NO. *1480* / 2000

IN THE MATTER OF:-

Joginder Singh

... Appellant

- VERSUS -

General
The Director [^] (Works),

C.P.W.D., Nirman Bhawan, New Delhi

& Ors.

... Respondents

I N D E X

Sl.No.	Particulars	Page No.	Court Fee
1.	Application under section 19 of the Central Administrative Tribunal Act, 1985	<i>1-10</i>	
2.	<u>Annexure-A</u> : Copy of Impugned order dated 24.07.2000.	<i>11-15</i>	
3.	<u>Annexure-B</u> : Copy of Newspaper	<i>16-18</i>	
4.	<u>Annexure-C(Colly)</u> : Copy of representations dated 15/03/2000, 20/06/2000 and 27/07/2000.	<i>19-35</i>	
5.	Vakalatnama	<i>36</i>	
6.	Indian Postal Order for Rs. <i>50/-</i> P.O.No. <i>29040867</i>	<i>37 - 225</i>	

New Delhi.

APPELLANT

Dated : *3rd* Aug., 2000

Through :

(*A.K. BAJPAI*)
ADVOCATE,
D-46/C, South Extn. Pt. I,
New Delhi-110 049.

4
J AUG 2000

1519

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH : NEW DELHI.

O.A. NO.

1486 / 2000

IN THE MATTER OF:-

Joginder Singh,

S/o late Sh. Hazara Singh,

House No.2125, Lodi Road Complex,

NEW DELHI.

... Appellant

General - VERSUS -
1. The Director (Works),
C.P.W.D.,

Nirman Bhawan,

New Delhi.

2. The Superintending Engineer(Electrical Coordn.),

C.P.W.D.,

I.P.Bhawan, New Delhi.

3. Union of India,

Services to be effected through its

Secretary, Ministry of Urban Development,

Government of India, Nirman Bhawan,

New Delhi.

... Respondents

APPLICATION UNDER SECTION 19 OF THE

ADMINISTRATIVE TRIBUNAL ACT, 1985

2

1. ORDER AGAINST WHICH APPLICATION IS BEING MADE:

Application is being filed against the impugned order dated 24/07/2000 by which the Petitioner, work charge employee has been transferred to Ghaziabad.

2. JURISDICTION:

The applicant states that the subject-matter of this application falls within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION:

The applicant further states that the O.A. is being filed within the limitation period.

4. FACTS OF THE CASE:

(1) That the Petitioner was appointed in the year 1980 on Muster Roll and thereafter his services were regularized from 27.11.1991 as Pump Operator on work charge establishment, as such, Work Charge Manual of CPWD is applicable in regard to service conditions etc. of work charge employees.

(2) That during the course of employment, the Petitioner is allotted House No. 2125, Lodi Road Complex, New Delhi, in the year 1993 and since then he is continuously residing in the said house with his family members.

(3) That the Petitioner is also Office Bearer of the recognized C.P.W.D. Mazdoor Union (Regd.) and being All-India Secretary and Joint Secretary of Delhi Branch he is always raised voice against the illegal policy of management and employees as well as the residents of the colony work for the welfare of his fellows and he is also Office Bearer in Federation, Residents' Association of Lodhi Road Complex.

(4) That on 24.07.2000, the respondent No.1 has issued transfer order transferring the Petitioner from Delhi to Ghaziabad although it is not permissible under the rules and provisions of Work Charge Manual applicable to CPWD employees.

True copy of impugned order dated 24.07.2000 is being filed herewith and annexed as Annexure-'A'

(5) That as per the provisions of Work Charge Manual in regard to transfer of work charged employees it is very clear that no transfer should be made outside Delhi and Delhi being one unit of seniority, the transfer could only be permissible from one Circle to another in Delhi and that could only be made by the Superintending Engineer (Coordination) concerned. The relevant provision is quoted below :-

"(J) ROTATION OF STAFF

12.01. Work charged staff posted in Delhi

The work charged staff may be rotated within their circle/Division under order of the S.E./E.E. concerned,

4

if it is administratively necessary or desirable to do so. Delhi being one unit of seniority, transfer of work charged staff from one circle to another in Delhi could be made by S.E. (Coordn.) concerned."

(6) That the present transfer order is complete misuse of power as the same has been done by Respondent No.2, as per the instructions of the Respondent No.3, whose Minister is personally inimical towards the Petitioner and this fact was reported in the newspaper in which it is alleged that the present Petitioner worked against the interest of the Minister in the Lok Sabha Election, and this fact was not liked by him and Petitioner became eye-shore for the Minister and ultimately he has issued instructions to the Department to transfer the Petitioner from Delhi and not only transfer him but also evict him from the allotted quarter, as such, it is a complete malafide exercise of Respondent No.3.

(7) That the Respondent No.3 has no power to transfer the Petitioner as he is neither appointing authority nor concerned in any manner with the appointment and service conditions of the Petitioner.

True copy of the Press cutting is annexed herewith and marked as Annexure-B.

5

(8) That there is no other reason or justification in transfer of the Petitioner as there is no charge sheet, no memo, no warning or any complaint against the work and conduct of the Petitioner and if at all any complaint is found against him that must have been done in connection with the trade union activities for which no notice was ever issued to the Petitioner.

(9) That the seniority of Delhi Union for the Pump Operators consists of 500 Pump Operators and the Petitioner is not the junior most person who has been transferred from Delhi to Ghaziabad. It is clear from plain reading of the impugned order that it is a transfer which clearly smells malafide and is not sustained in the eyes of law.

(10) That since the Petitioner is Office Bearer of the recognized union, who is also to be treated as "protected workman" as per the provisions of Industrial Dispute Act, 1947.

(11) That CPWD Manual which is applicable on every work charge employee, it clearly indicates that transfer of an employee is only permissible within circle/division if it is administratively necessary or desirable to do so. In the present case there is no requirement from Ghaziabad Division for such transfer and there is no administrative reason behind such transfer, as such, the transfer is completely

6

invalid and not sustainable in the eyes of law. In fact, the transfer is being done just to harass the Petitioner and out of personal vindictiveness of Respondent No.3. It is submitted that the interest of the high officials of Respondent Nos.1 & 2 is also involved so that trade union activities are curtailed but as per Clause-7 of Vth Schedule of Industrial Dispute Act, 1947, it is very clear that malafide transfer of workman from one place to another under the guise of management policy is not permissible.

(12) That the Petitioner has not committed any misconduct and no Show-cause Notice whatsoever was ever given in regard to any complaint, if at all, lodged by any rivalry union or association against the Petitioner. As such, the transfer cannot be permissible under the provisions of Work Charge Manual.

(13) That action of the Respondents is absolutely illegal, malafide and contrary to the provisions contained in Work Charge Manual as applicable to the CPWD Work Charge employees. It is also submitted that there is no justification in transferring the Petitioner from Delhi to out-station and specially when the juniors are not touched.

(14) That the Petitioner has also represented the matter to the Respondent No.1 pointing out the transfer order followed instructions contained in the CPWD Work Charge Manual and the transfer is based on the instructions

of the Ministry which is against the service conditions of workmen and even the Minister has no right to order such punitive transfer without warning the Petitioner.

True copy of the representation dated 27.07.2000 is annexed herewith and marked as Annexure-C.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:

- (a) BECAUSE the transfer order is in violation of Work Charge Manual which contain that transfers of work charge persons are not permissible outside Delhi and they can only be transferred within their circle/division, if it is administratively necessary desirable to do so and Delhi being one unit of seniority, transfer of staff from one circle to another in Delhi could be made by the Superintending Engineer(Coordination) concerned.
- (b) BECAUSE as per the newspaper report that the Petitioner has worked against the interest of the present Minister during the recent Elections and Petitioner became an eye-sore in the eyes of the Minister and ultimately the Department is instructed by the Additional Pvt. Secy. of the Minister to transfer the Petitioner from Delhi and also evict him from the allotted quarter at the earliest and this action is absolutely illegal, unjustified, unwarranted and malafide.

- 8
- (c) BECAUSE the Petitioner is a "protected workman" and no such action can be taken against him without the prior permission of the Labour Court where hundreds of disputes are pending on behalf of the Union and the Petitioner is concerned with those disputes.
- (d) BECAUSE the Petitioner is Office Bearer of recognized union and due to trade union activities false complaints are lodged by other unions but till date no warning, no charge sheet, no notice was ever issued by the Department, as such, no adverse finding or view can be taken against the conduct of the Petitioner.
- (e) BECAUSE the Petitioner is living in the allotted house with his family members and it would be very difficult for him to make alternative arrangement for education of the children during the mid-session of studies. Especially, when there is no justification in the transfer order, issued by the Respondent No.2 at the instance of Respondent No.3.
- (f) BECAUSE the impugned order of transfer was also challenged to the highest authority but no reply from him and it appears they are not able to

9

exercise powers under the pressure of Respondent No.3 as transfer order is passed under the instructions of Respondent No.3.

6. Remedies Exhausted:

The applicant had submitted a representation but not decided.

7. Matter not previously filed : The applicant further states that he has not filed any other case on this subject matter in this Hon'ble Court or any other court of law.

8. Relief : It is prayed that your Lordships may graciously be pleased to direct the respondents to :

(a) Quash the impugned order dated 24.07.2000 passed by the Respondent No.2 by which the applicant is transferred from Delhi to Ghaziabad.

(b) Direct the Respondents not to evict the Appellant from the quarter No. 2125, Lodi Road Complex, New Delhi.

(c) Pass any other order/s, direction/s, relief/s which may deem fit and proper in the circumstances of the case.

10

9. Interim Relief : It is respectfully prayed that the Respondents be directed to stay the operation of transfer order dated 24.07.2000 and they be further directed not to evict the Appellant from the quarter No. 2125, Lodi Road Complex, New Delhi during the pendency of the original application interest of justice.

10. Not applicable.

11. Postal Order

12. Details of Annexures as mentioned in the Index

APPELLANT

Through :

NEW DELHI :

DATED : 3rd Aug., 2000

(A.K. BAJPAI)
ADVOCATE,
D-46/C, South Extn.Pt.I,
New Delhi-110 049.

Annex A'
11/17

CENTRAL PUBLIC WORKS DEPARTMENT

No.10/7/2000/Elect.Coordination/E-4/1150

dt. 24.07.2000

OFFICE ORDER

The following Pump Operator are transferred/posted with immediate effect.

Sl. No.	Name	Office where working	Office where transferred	Remarks
1.	Joginder Singh	Asian Pump Elec.Divn.	Air condition Divn.3	In place of Sh.Partap Singh

Note :-

1. The above order will remain in force till these orders are effected and are returned to issuing officer or cancelled.
2. The aforesaid reference may be quoted while issuing reliving/joining orders of the above named officers/workman and it is necessary to give a copy of the same to the concerned officer.

Superintending Engineer (Elec.)
Coordination Circle,
Room No.401A, 4th Floor,
Indraprastha Bhawan, New Delhi.

(Signature)
A.K. Bapal
Attorney

12 ~~18~~

cc to :-

1. Sh. R. Narain, Addl. Pvt. Secretary to the Urban Development Minister, Nirman Bhawan, New Delhi.
2. The Chief Engineer (Elec.)-2, C.P.W.D., Vidyut Bhawan, New Delhi.
3. Sh. D.P. Goyal, Chief Engineer, New Delhi Zone 3, CPWD, New Delhi.
4. The Superintending Engineer(Elect.), Outer Delhi Vidyut Parimandal, C.P.W.D., New Delhi.
5. The Executive Engineer(Elect.), Outer Delhi Vidyut Parimandal-5, C.P.W.D., New Delhi.
6. Workman Engineer(Elect.), Air conditioning Divn.3, C.P.W.D., New Delhi. You are directed vide Minister of Urban Development order that Sh.Joginder Singh, Pump Operator will remain posted outside Delhi. Hence, you should post Sh. Joginder Singh, Pump Operator to Gha-ziabad in place of Sh. Partap Singh, Pump Operator.
7. Workman Engineer (Elect.) Asian Pump Vidyut Mandal, C.P.W.D., New Delhi.

Sd/-

Superintending Engineer (Elect.)

TRUE COPY
A.K. Bajpai
Advocate

13

MA

CENTRAL PUBLIC WORKS DEPARTMENT

No.9/2/E.3/D.K.V.P.-5/500

dt. 24.07.2000

Copy to Workman Engineer (Elec.), A.K.V.M. for information and necessary action.

Sd/-

Workman Engineer (P & A),
Delhi Central Electrical Divn.No.5,
C.P.W.D., New Delhi.

CENTRAL PUBLIC WORKS DEPARTMENT

No.21/2/A.K.V.M/1043

dt. 24.07.2000

cc to:-

1. Asstt.Engineer (Elec.), Delhi Central Electrical Divn.No.5, C.P.W.D. for information and instructions that Sh.Joginder Singh, Pump Operator, may be relieved immediately from his duties according to the aforesaid order.
2. Sh.Joginder Singh, Pump Operator through Asstt.Engineer(Elect.), Delhi Central Elect. Divn.No.5, C.P.W.D., New Delhi.

Sd/-

Workman Engineer (Elect.)



TRUE COPY

A.K. Bajpai
Advocate

संख्या :- 10/7/2000/सम0परि0वि0/सं-4/

दिनांक 14/7/2000

कार्यालय आदेश

निम्नलिखित [पम्प ऑपरेटर] के स्थानान्तरण/तिनाती आदेश लोकाहित में तात्काल किये जाते हैं।


क्रम सं.	नाम	कार्यालय जहाँ कार्यरत है	कार्यालय जहाँ तैनात किया	टिप्पणी
1.	जोगिन्दर सिंह	रेशिडन मेक्स विद्युत मंडल	बासा. सं. -3	श्री प्रताप सिंह [पम्प ऑपरेटर] के स्थान पर

नोट :-

- उक्त आदेश तब तक लागू रहेंगे जब तक की यह आदेशानुसार क्रियान्वित नहीं हो जाते अथवा जारी करने वाले प्राधिकारी द्वारा विशेषीर पर बाधित नहीं लिये जाते या रद्द नहीं किये जाते या परिवर्तित नहीं किये जाते।
- भारमुक्त/कार्यमुक्त आदेश जारी करत समय नियन्त्रण अधिकारियों/कार्यालयों द्वारा उक्त आदेशों का संदर्भ देते हुये एक प्रति आदेश जारी करने वाले प्राधिकारी को पृष्ठार्कित की जानी आवश्यक है।

TRUE COPY

A.K. Bajpai
Advocate


अधीक्षक इंजीनियर [विद्युत]
समन्वय परिमंडल, देहली विधि
क0सं0-4018, चौथा तल
इन्द्रप्रस्थ भवन, नई दिल्ली।

प्रतिलिपि प्रेषित:-

- श्री आर. नारायण, शहरी विकास मंत्री के अतिरिक्त निजि सचिव, निर्माण भवन, नई दिल्ली।

2. मुख्य इंजीनियर [पि०]-2, के. लो. नि. वि., विद्युत मयन, नई दिल्ली ।
3. श्री डी. पी. गोयल, मुख्य इंजीनियर [न. दि. अ.]-3, के. लो. नि. वि., नई दिल्ली ।
4. अधीक्षक इंजीनियर [पि०], बाहरी दिल्ली विद्युत परिमंडल, के. लो. नि. वि., नई दिल्ली ।
5. अधीक्षक इंजीनियर [पि०], दिल्ली केन्द्रीय विद्युत परिमंडल-5, के. लो. नि. वि., नई दिल्ली ।
6. कार्यपालक इंजीनियर [पि०], वातानुकूलन मंडल-3, के. लो. नि. वि., विद्युत मयन, नई दिल्ली । आपको निर्देश दिये जाते हैं कि शहरी विकास मंत्रालय के निर्देशानुसार श्री जोगिन्दर सिंह, पम्प आरेटर को दिल्ली से बाहर ही तैनात रखा है । अतः आप उक्त कार्यकारी को श्री प्रताप सिंह, पम्प आरेटर के स्थान पर गायकियाबाद में ही तैनात करें ।
7. कार्यपालक इंजीनियर [पि०], रशियन गेम्स विद्युत मंडल, के. लो. नि. वि., नई दिल्ली ।

अधीक्षक इंजीनियर [विद्युत]

TRUE COPY
A.K. Bajpai
Advocate

23 जून 2000

16 Annex B

NATIONAL HERALD CITY NEWS

3

CPWD workers threaten to go on strike

Herald News Service

NEW DELHI, June 22 — The National Conference of C.P.W.D. Mardoor Union which was held yesterday and decided to urge Mr Jagmohan, Minister of Urban Development to concede the long outstanding demands of CPWD workers otherwise they will be forced to go on indefinite strike.

On the call of Central P.W.D. Mardoor Union, today thousands of CPWD workmen held a massive demonstration in support of their 19-point charter of demands in front of the office of Mr Jagmohan and warned that they would go on indefinite strike.

While addressing workers, Mr B.K. Prasad, general secretary of the Union and chairman, National Front of trade unions said that in CPWD workers right are being ignored, labour laws are misused and corruption and contract system is flourishing.

Mr Jagmohan, director general works and senior engineers have no time to look into the grievances

of workers and to stop corruption.

Mr Prasad said that whenever corruption and anti-worker cases are brought to their notice, the said officers are shielded.

He further elaborated, saying, that demonstrations were held in the past to draw the attention of the management towards worker's grievances but due to the indifferent attitude, workmen are compelled to go on indefinite strike.

The demonstrators were also addressed by the senior leaders H.S. Vast, R.K. Dutta, Choudhary Satvir Singh, Bhagwan Singh, W.P. Chowhan, P.S. Sharma, Madan Chand Varma & S.K. Roy, Virender Singh, Joginder Singh etc.

Meanwhile, after the demonstration, a 19-point charter of demands was submitted to Mr Jagmohan, in which the main demands like implementation of assured career promotion scheme to CPWD workers as per order of Government of India, department

of personnel & training after 12 and 24 years of service, automatic promotion after five years to Beldar, Khallasi, all full category workmen, Chowkidar, MLD, Choudhary, sweeper, foreman, electrician, work asstt. etc.

Payment of arrears of OTA on new pay scales w.e.f. 1.1.96 to nov. 98, regularisation of hand receipt/muster roll/work order daily-rated workmen, promotion of Beldars, Khalasis who have passed the trade test and holding of trade for remaining workmen.

Abolition of contract system and getting the works done departmentally, new recruitment, appointment on compassionate grounds in all cases revival of the posts of Mali and Choudhary lying vacant for more than two years and promotion of Mali to the post of Choudhary, payment of all terminal benefits to superannuating employees on the date of superannuation itself, hospital care allowances, etc.

TRUE COPY

A.K. Bajpai
Advocate

17 23

CPWD staff rally

The Hindu

NEW DELHI, MARCH 15. A large number of Central Public Work Department (CPWD) workers today held a demonstration in support of their 19-points charter of demands at Nirman Bhawan, office of the Union Urban Development Minister.

Addressing them, the general secretary of the Union and Chairman, National Front of Trade Unions, Mr. B. K. Prasad, alleged that workers' rights were being denied, labour laws misused and corruption and contract system was flourishing.

The Hindu 16 March 2000

by
C. Prasad

TRUE COPY

A.K. Bajpai
Advocate

Dhawan's poll prospects in peril

Cong candidate charged with violating code

By Vishal Thapar

NEW DELHI, Feb. 21

The election prospects of Congress general secretary R. K. Dhawan from the New Delhi Parliamentary constituency have been put in jeopardy due to charges of violation of the model code of conduct levelled against him. He is in the dock for "putting government accommodation to political use" for the purpose of election propaganda.

Mr Dhawan has been charged with misusing government infrastructure in unauthorisedly running his campaign office from a government flat in Lodhi Colony, and thus violating the election code. The campaign office of the Congress candidate which was being run from a Central Public Works Department (CPWD) flat, No. 2218, Lodhi Road Complex, has been sealed after a raid on Feb. 15, a day before the polling, and placed under armed guard.

Deputy Commissioner of Police (South) Amulya Patnaik told 'The Hindustan Times' that a case had

the premises by Sub-Divisional Magistrate (Connaught Place), K. Mahesh, who is the assistant returning officer for the New Delhi constituency.

In recommending appropriate action against the Congress candidate, authorities have invoked Para VII, page 188, of the Model Code of Conduct. This clearly stipulates that "no party or candidate shall use or be allowed to use such (government) accommodation as a campaign office or for holding public meeting for the purpose of election propaganda".

The report of the raiding party comprising Mr Mahesh and Mr Sanjeev Ahuja, both assistant returning officers, mentions that Congressmen were feasting in the flat when it was raided around 3.30 p.m. on Feb. 15. Among those present were Mr Jaswant Singh Arora, who had unsuccessfully contested the Jangpura Assembly seat on the Congress ticket, and Mr Balwinder Singh Marwah.

The flat was reportedly made available to the Congress to run a campaign office by Mr Joginder

president Sitaram Kesri and Mrs Sonia Gandhi were pasted on the walls of the flat. The flat was also littered with Congress leaflets, pamphlets and other election material, which was seized.

"On the basis of the statements of four persons and the observations of the raiding party, it is a clear violation of the model code of conduct for political parties and candidates by putting government accommodation to political use," the report states.

The assistant returning officers have also recommended action against the government official who illegally made the residential flat allotted to him available to the Congress candidate. "The government servant who has allowed his government accommodation to be used for non-residential purpose must be dealt with under the Civil Services Conduct Rules and rules pertaining to allotment of government accommodation. Action must also be initiated against JEE in charge, CPWD, Lodhi Colony," the report states.

The raiding party recorded the statements of Mr R. P. Singh, Mr Jaswant Singh, Mr Ravi Kalsi and

Delhi's Chief Electoral Officer O. P. Kelkar was also informed that a crowd of about 300 Congressmen gathered outside the Lodhi Colony flat, allegedly to intimidate the raiding party. It was later left to Mr Jag Parvesh Chandra, leader of the Opposition in the Delhi Assembly, to coax and cajole the raiding party at the spot.

Station House Officer, Lodhi Road, Ms Vimlesh Yadav was immediately summoned and directed to seal the flat after photographing and videographing the premises. She was also directed to post two constables to prevent trespassing or rampering with evidence.

Mr Satya Gopal, returning officer for the New Delhi constituency, said the matter was under the consideration of the Election Commission. He refused to comment on the possible repercussions.

DCP Amulya Patnaik informed that the Lodhi Colony police had registered a case of "defacement of government accommodation" under the West Bengal Prevention of Defacement of Property Act, which is applicable to Delhi. The police are keeping the flat sealed

19/25
CENTRAL P.W.D. MAZDOOR UNION

सैन्ट्रल पी. डब्ल्यू. डी. मजदूर यूनियन

(Registered & Recognised by the Govt. of India)

(Regd. No. 2562)

B.K. Prasad
General Secretary

Annexure 1
E-26, RAJA BAZAR, (OLD QRTS)
BABA KHARAK SINGH MARG
NEW DELHI-110001
TEL. NO. : 3365186

Ref. No. C.P.W.D.M.U./Memorandum/2000

Dated 15.03.2000

To,

Shri Jagmohan,
Hon'ble Minister of Urban Development,
Nirman Bhavan,
New Delhi.

Sub: Mass demonstration of CPWD workmen - Submission of
Memorandum to the Hon'ble Minister of Urban Development.

Dear Sir,

As you are aware that this Union had submitted a
Memorandum through Director General, Works on 17.11.99, but till
date no action has been taken on the genuine demands of the
workmen.

In this connection it is submitted that today i.e. on
15.3.2000 more than ten thousand workers assembled before your
office and protested against the inaction of the Ministry
and Director General, Works, CPWD on the genuine grievances of
the CPWD workers. Again we are submitting the Charter of Demand
related to the workmen and also copy of the memorandum dated
17.11.99 for your kind intervention. It is again submitted
that meeting may kindly be granted for settlement of the genuine
demands of the workmen of CPWD, so the industrial unrest
prevailing in the CPWD be defused.

With regards,

Yours sincerely,

(B.K. Prasad)
General Secretary

Encl : As above.

TRUE COPY

A.E. Bapnai
Advocate

CENTRAL P.W.D. MAZDOOR UNION

सैन्ट्रल पी. डब्ल्यू. डी. मजदूर यूनियन

(Registered & Recognised by the Govt. of India)

(Regd. No. 2562)

B.K. Prasad
General Secretary

E-26, RAJA BAZAR, (OLD QRTS)
BABA KHARAK SINGH MARG
NEW DELHI-110001
TEL. NO. : 3365186

Ref. No. C.P.W.D.M.U./

Dated.....

CHARTER OF DEMANDS

1. Implement Assured Career Promotion Scheme to CPWD Workcharged and Regular Classified employees.

The management of CPWD in its meeting held in the room of ADG (S&P) on 7.7.99 at 4.30 PM with the representatives of CPWD Mazdoor Union had agreed as under:

// Director (Admn) informed the union representatives that this issue as per the recommendation of Fifth Central Pay Commission for ACP is under consideration of the Ministry of Finance. Whatever decision in the matter will be taken up by the Government will be made applicable to the CPWD workers also. //

As per the said commitment of the management of CPWD, no office order has been issued till date for providing ACP to workcharged and regular classified workmen of CPWD. It is, therefore, requested kindly instruct the management of CPWD to issue orders without any further delay as the workers are agitating at all India level.

2. Automatic promotion after five years to Beldar, Khalasi and full categories workmen e.g. Chowkidar, MLD, Choudhary, Sr. Mali, Mali, Sweeper, Foreman, Electrician, Work Asstt. etc.

In this connection, it is submitted that the management of CPWD have granted automatic promotion after completion of five years of service to the Jr. Engineer on the same work but the above categories of industrial workmen have not been granted automatic promotion. It is further submitted that only providing five yearly automatic promotion to the category of Jr. Engineer ignoring the other categories including workcharged and regular classified is arbitrary unlawful and unjustified. It is, therefore, requested that all the categories of workmen in the workcharged and regular classified also be given promotion on the same analogy.

--2/-

TRUE COPY

A.K. Bajpai
Advocate

CENTRAL P.W.D. MAZDOOR UNION

सैन्ट्रल पी. डब्ल्यू. डी. मजदूर यूनियन

(Registered & Recognised by the Govt. of India)

(Regd. No. 2562)

B.K. Prasad
General Secretary

E-26, RAJA BAZAR, (OLD QRTS)
BABA KHARAK SINGH MARG
NEW DELHI-110001
TEL. NO. : 3365186

Ref. No. C.P.W.D.M.U./

: -2- :

Dated.....

3. Grant of promotion as Work Assistant to all the Beldars, Carpenters, Masons, Fitters, Painters, Chowkidars etc. w.e.f. 18.9.1993.

It has been brought to the notice of Hon'ble Minister vide union letter No.CPWDMU/MOD/Complt/99 dated Feb.,1999 vide which request for reversion of Shri Satish Kumar, Work Assistant was made who was unlawfully promoted as Work Assistant from the post of Beldar or alternatively all the senior persons in the categories mentioned above may be promoted and granted pay scale of Work Assistant with retrospective date i.e. 18.9.93. The said representation of the union is self-explanatory. In this case undue favour was given to Shri Satish Kumar when he was not eligible to be trade tested but his name was included to favour him out of the way.

It is also submitted that the Superintending Engineer concerned and the then Executive Engineer 'R' Division and some of the officers of CPWD have misguided the officers at the level of Secy., Ministry of Urban Development and got de-novo regularisation of services of Shri Satish Kumar which was illegal appointment/promotion of Satish Kumar with retrospective date when he was not eligible for the post of Work Assistant and no other persons were given the chance to sit in the interview with that person. It is further submitted that how he was allowed to sit in the interview and made passed as the workmen of CPWD are complaining that he was not even passed the test. It is informed that without eligibility the officers of CPWD have allowed him to sit in the test with NTS.

It is, therefore, requested that the whole matter may kindly be reopened at the level of Ministry of Urban Development because the officers of DSW, CPWD are not competent to reopen the issue as some of the officers are involved to get him regularised through Ministry of Urban Development putting wrong information with ulterior motives best known to them.

4. To implement the order of Shri J.S. Kaira, Presiding Officer, Central Govt. Labour Court in LC No.267/88 and others in the matter of Ashok Kumar and 1112 others.

It is submitted that in this case CPWD Mazdoor Union represented the case and got computed the amount of equal pay for equal work like time scale, house rent, CCA, DA and as per the order of Labour Court in the above referred case, workmen also got computed the amount towards the cost of uniform, bonus equivalent to workcharged employees during the period of muster roll, increments, washing allowance etc. and but after the implementation of judgement of Sureinder Singh and others Vs. Engineer-in-Chief, CPWD, the workmen

--3/-

TRUE COPY

A.K. Prasad
Advocate

CENTRAL P.W.D. MAZDOOR UNION

सैन्ट्रल पी. डब्ल्यू. डी. मजदूर यूनियन

(Registered & Recognised by the Govt. of India)

(Regd. No. 256?)

B.K. Prasad
General Secretary

E-26, RAJA BAZAR, (OLD QRTS)
BABA KHARAK SINGH MARG
NEW DELHI-110001
TEL. NO. : 3365186

Ref. No. C.P.W.D.M.U./

: - 3 - :

Dated.....

have got time scale plus DA, HRA, OCA but other allowances like cost of uniform, regular bonus, washing allowance so the workmen are entitled to get these allowances not only to 1113 but to all the workmen as per the order of said Labour Court. As per the said judgement of Labour Court, CPWD Mazdoor is also entitled to get Rs. 10,000/- as cost with interest from the date of order i.e. 20.6.89. It is also submitted that the union have also written many times and recently vide this union letter dated 1.11.99 for implementation of the said order.

5. Request to initiate CBI inquiry in respect of recruitment of Work Assistant.

It is requested that the case of recruitment of Shri Satish Kumar, Beldar as Work Assistant w.e.f. 18.9.93 and the undue favour given to him. In this connection, copy of the result of trade test vide CPWD OM No.3-20/Coord.Circle(Civil)/E-6/1977 dated 30.9.93 is enclosed. It is strange to note that in the main letter it is confirmed that the test was taken only for the muster roll employees on the work of NTS but Shri Satish Kumar's name is appearing at Sl.No.9 of the Result and he has been included as a candidate though he was Beldar at that time and other Beldars were given the chance to sit in the trade test and the Recruitment Rules do not provide promotion even under direct quota. So the inquiry be conducted against the then Superintending Engineer, (Coord Civil Circle), CPWD for bungling and misuse of power not in good faith but in the colourable exercise of employer's right as the action of the said S.E.(Coord (Civil) Circle) is unfair labour practice and also smacks some ulterior motive and also gives the impression that money might have exchanged hands in the said deal. It is a fit case to refer the whole matter for inquiry by CBI while allowing Shri Satish Kumar, Beldar who was not holding the post of NTS and after declaration of the result how a failed person was declared pass as the recruitment rules for including of Beldars are still not been notified and the Govt. documents/records were altered which is also against the Official Secrets Act.

The matter be referred for CBI inquiry as to how he was allowed to appear in the trade test of Work Asstt. being a Beldar as the trade test conducted only for the workmen of muster roll NTS. This fact is proved from the letters and from the result sheet erasing the typed word and written as passed and no signature were put by the officer who had taken the test. Shri Satish Kumar was not eligible for the post of Work Assistant either through promotion or direct recruitment how his name was considered and the result sheet was altered.

--4/-

TRUE COPY

A.K. Bajpai
Advocate

CENTRAL P.W.D. MAZDOOR UNION

सैन्ट्रल पी. डब्ल्यू. डी. मजदूर यूनियन

(Registered & Recognised by the Govt. of India)

(Regd. No. 2562)

B.K. Prasad
General Secretary

E-26, RAJA BAZAR, (OLD QRTS)
BABA KHARAK SINGH MARG
NEW DELHI-110001
TEL. NO. : 3365186

Ref. No. C.P.W.D.M.U./

: -4- :

Dated.....

6. Regularisation of Hand Receipt/Muster Roll/Work Order daily rated workmen.

As you are aware that thousands of workmen are still getting their wages on daily rated basis and their services have not been regularised. After imposition of ban on recruitment, workmen were recruited for performing the works and were exploited due to administrative lapses of the Govt. including the officers of CPWD. The daily rated workers have not been given equal pay for equal work and have been getting their wages only as minimum wages fixed by the appropriate Govt. from time to time. This is discriminatory unlawful and unjustified. It is, therefore, requested kindly to intervene in the matter without any loss of time.

7. Abolition of limit on OTA and payment of OTA to all the categories e.g. Work Asstt., Foreman, Mate etc.

CPWD have unlawfully imposed restriction on OTA hrs which tentamounts that the workers will get fixed OTA. In the Govt., OTA is given only in the exigencies of work so imposition of restriction on OTA hours is not proper and is unlawful so the said order may kindly be withdrawn in the interest of justice.

8. Promotion of Senior Beldar as Mate.

/per The post of Mate is only for providing promotion to the Beldars working on the roads of PWD and the DGW, CPWD have revived the post as the version of officers of CPWD. They have revived the post only for providing regularisation to the category of NTS. But as per the R.Rs, it is still not in existence and 75% posts will go to the seniormost Beldar as promotion. It is, therefore, requested kindly to advise the DGW, CPWD to grant promotion to the seniormost Beldars working on the roads of PWD.

9. Promotion to all Beldars and Khalasis who have passed the trade test and remaining workmen be trade tested early.

It is submitted that the Beldars, Khalasis who have passed the trade test successfully and awaiting promotion in the respective higher categories may be promoted retrospectively on the basis of their passing the trade test on which account there is great resentment amongst them all over India.

--5/-

TRUE COPY

A.K. Bajpai
Advocate

CENTRAL P.W.D. MAZDOOR UNION

सैन्ट्रल पी. डब्ल्यू. डी. मजदूर यूनियन

(Registered & Recognised by the Govt. of India)

(Regd. No. 2562)

B.K. Prasad
General Secretary

E-26, RAJA BAZAR, (OLD QRTS)
BABA KHARAK SINGH MARG
NEW DELHI-110001
TEL. NO. : 3365186

Ref. No. C.P.W.D.M.U./

: -5- :

Dated.....

10. Appointment of cases on compassionate grounds.

It is brought to your kind notice that Govt. have celebrated 50 years of independence, so it is requested kindly to grant one time 100% relaxation for appointment on compassionate grounds in the first phase and thereafter the Govt. may also be approached to waive the restriction of 5% as the death is not in the hands of a person concerned.

11. Abolition of contract system and open new recruitment.

It is brought to your kind notice that a settlement was signed with the management of CPWD in the year 1986-87 and thereafter the management had also issued circular not to give the works on contract basis without the consultation of this union. This circular was issued on account of tripartite agreement between the management of CPWD, Chief Labour Commissioner (Central) and representatives of CPWD Mazdoor Union which is binding under Sections 17 and 17-A of the Industrial Disputes Act, 1947 and violation of said agreement has penal consequences under Section 29 of the said Act as a penalty for breach of settlement/award.

It is, therefore, requested kindly to instruct the officers of CPWD not to indulge in unfair labour practice failing which the union will be compelled to file individual complaints against the field officers of CPWD as every work is given to the contractor in the name of saving OT wages.

12. Revival of posts of Sr. Mali, and Choudhary which were lying vacant for more than two years and promotion of Malis to Sr. Malis and Sr. Mali to Choudhary.

It is requested that the posts of Sr. Malis and Choudharies be revived which have not been field up for the last two or more years and promote the incumbents respectively.

13. Filling up the post of Work Assistant and Road Inspector through promotion.

It is requested that the Work Asstt. and Road Inspector be revived and the workmen of CPWD who are eligible for the said posts may be promoted. Amendment in RRs be initiated after consultation with recognised unions in CPWD.

--6/-

TRUE COPY

A.K. Bajpai
Advocate

CENTRAL P.W.D. MAZDOOR UNION

सैन्ट्रल पी. डब्ल्यू. डी. मजदूर यूनियन

(Registered & Recognised by the Govt. of India)

(Regd. No. 2562)

B.K. Prasad
General Secretary

E-26, RAJA BAZAR, (OLD QRTS)
BABA KHARAK SINGH MARG
NEW DELHI-110001
TEL. NO. : 3365186

Ref. No. C.P.W.D.M.U./

: - 6 - :

Dated.....

14. Transfer of Assistant Engineer of 5K sub-division and CBI into the affairs of Banjara Hostel.

This demand is long pending. This union has requested in the past also to immediately transfer the said Asstt. Engineer and hold CBI inquiry into the affairs of Banjara Restaurant which was closed and property worth crores doled out to IAS Officers Institute. It is requested that the whole matter may be got investigated through CBI.

15. Increase in the allowances e.g. Tool Allowance, Cycle allowance, washing allowance and stitching charges etc.

It is requested that the above allowances being given to the workmen are quite old and need increase proportionately. It is, therefore, in the fitness of things if the said allowances are increased as per the current prices.

16. Filling up the posts as per the yardsticks.

In CPWD, the posts are laying vacant for years together and they lapse on account of non-filing of the said posts as per the yardsticks. It is, therefore, requested that all the posts be filled up as per the yardsticks strictly and instructions to this effect be issued.

17. Request for instructions to DGW, CPWD for holding periodical meetings and reply to the union letters.

As per the policy/instructions, the DGW, CPWD have to grant periodical meetings every three months including ADG and Chief Engineers but the officers of CPWD are not granting periodical meetings to this union being a recognised union and not even acknowledging/replying to our letters. It is also submitted that the Dte. of CPWD has not been responding to the letters written by this union and not taking proper cognisance and casually replying one or two letters. It is, therefore, requested that instructions may kindly be issued to hold periodical meetings as per the practice and also reply to this union letters.

--7/-

TRUE COPY

A.K. Bajpai
Advocate

CENTRAL P.W.D. MAZDOOR UNION

सैन्ट्रल पी. डब्ल्यू. डी. मजदूर यूनियन

(Registered & Recognised by the Govt. of India)

(Regd. No. 2562)

B.K. Prasad
General Secretary

E-26, RAJA BAZAR, (OLD QRTS)
BABA KHARAK SINGH MARG
NEW DELHI-110001
TEL. NO. : 3365186

Ref. No. C.P.W.D.M.U./

:--7--:

Dated.....

18. Request for filling up the post of Electrician under Direct Recruitment Quota.

CPWD Mazdor Union vide its letter No.ADG (CPWD)/98 dated 11.1.99 requested for filling up the post of Electrician under Direct Recruitment quota was sent to ADG (TD) which is self-explanatory. The S.E.(Coord.Elect) has appointed three persons under direct recruitment quota and two persons who also were eligible and were declared passed in the trade test S/Shri Sumer Singh and Rehman who are working as Wireman on muster roll have not been appointed as electricians. Even if the 10% cut is accepted as per Chief Engineer (E) letter No.15/4/97-CE(E)II/1275 dated 18.6.97 has indicated that 12 posts are vacant and after surrender of 2 posts, remaining 10 posts still remain to be filled in which 3 persons were recruited under promotion quota but Sumer Singh and Rehman were also eligible to be promoted under direct recruitment quota but due to discriminatory and unfair labour practice of the present S.E. (Elect.Coord) the workmen were denied the due promotion. It is, therefore, requested that officers of CPWD be instructed to not to discriminate and act arbitrarily and create dissatisfaction between the workmen and management of CPWD.

19. To stop unfair labour practice while encouraging unrecognised and defunct paper unions by the CPWD management and officers of Ministry of Urban Development.

This union many times requested the management of CPWD and officers of Ministry of Urban Development to not to indulge in unfair labour practice while encouraging unrecognised and defunct unions in the CPWD. As you are aware that Section 2(ra) of the I.D. Act in Vth Schedule provided some unfair labour practice on the part of employer and trade unions of the employer and in Item 2 (a) & (b), the same is reproduced as under:

2. To dominate, interfere with or contribute support, financial or otherwise, any trade union, that is to say
 - (a) an employer taking an active interest in organising a trade union of his workmen; and
 - (b) an employer showing partiality or granting favour to one of several trade unions attempting to organise his workmen or to its members, where such a trade union is not a recognised union.

/trade

xx

xx

--8/-

TRUE COPY

A.K. Bajpal
Advocate

CENTRAL P.W.D. MAZDOOR UNION

सैन्ट्रल पी. डब्ल्यू. डी. मजदूर यूनियन

(Registered & Recognised by the Govt. of India)

(Regd. No. 2562)

B.K. Prasad
General Secretary

E-26, RAJA BAZAR, (OLD QRTS)
BABA KHARAK SINGH MARG
NEW DELHI-110001
TEL. NO. : 3365186

Ref. No. C.P.W.D.M.U./

Dated.....

:--8--:

In view of above, you are, therefore, requested to instruct the management of CPWD not to encourage or take active interest in organising a trade union of their choice.

20. Grant of hospital care allowance to the CPWD workers attached to the Govt. hospitals.

It is submitted that the Govt. of India have granted the hospital care allowance to the staff of hospitals run by the Govt. of India and the staff of CPWD are also provided the work for the maintenance of their hospitals and during the course of employment they also come into the contact with the patient of infectious disease while performing their duties. It is, therefore, requested that the workers belongs to the CPWD attached with the Civil, Electrical and Horticulture Divn. may also be granted hospital care allowance from the same date when the Govt. of India granted the said facilities to the staff of hospitals.

TRUE COPY

A.K. Baijai
Advocate.

28

34

CENTRAL P.W.D. MAZDOOR UNION

(Registered & Recognized by the Govt. of India)

(Regd.No.2562)

B.K. Prasad

General Secretary

E-26, RAJA BAZAR, (OLD QRTS),

BABA KHARAK SINGH MARG,

NEW DELHI-110 001.

TEL.NO.3365186

Ref.No.C.P.W.D.M.U./AIC/200 Dated : 20th June, 2000.

To

Shri Jagmohan,

Hon'ble Minister of Urban Development,

Nirman Bhawan,

New Delhi.

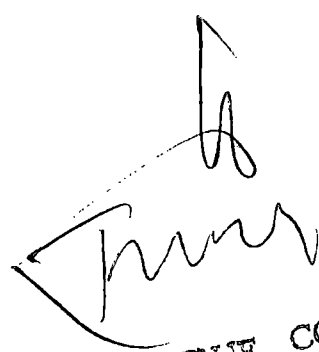
Sub: Notice for demonstration & request for meeting
with representative of this Union

Sir,

All India Conference of C.P.W.D. Mazdoor Union is going to be held on 21st June, 2000 in the Conference Hall of VISHWA YOVAK KENENDRA in which the delegates from all over states will participate.

The workers of C.P.W.D. will also hold mass demonstration on 22nd June, 2000 before your office on their long standing demands. It is again submitted that this Union have many times requested the Director-General(Works) to grant the meeting to settle the genuine grievances of the Workmen but till date Shri B.S. Duggal, D.G. (Works) has not granted the meeting to this recognized Union.

27



TRUE COPY

A.K. Bajpai
Advocate

29
3K

As you are also aware that hundreds of letters and demonstrations all over India has been ignored by the D.G.(W) and now the only alternative is to go on indefinite strike if scope of bi-lateral talks is denied by the management of C.P.W.D.

In view of the above, it is therefore, requested that please allow some time to meet the Office-bearers of this Union who have come from all over the states on 22.06.2000 and also direct the D.G.(W), C.P.W.D. not to ignore the representatives of this Union of C.P.W.D. workers.

With kind regards,

Yours sincerely,

(B.K. PRASAD)
General Secretary

Copy to:-

Shri B.S. Duggal,

Director-General (Works), CPWD, Nirman Bhavan, New Delhi
with a request to grant the time for the meeting with
representatives of this Union came from all the states.

Sd/-
(B.K. PRASAD)
General Secretary

TRUE COPY

A.K. Bapai
Advocate

30
36

CENTRAL P.W.D. MAZDOOR UNION

(Registered & Recognized by the Govt. of India, Regd. No. 2562)

(Delhi Regional Committee)

B.K. Prasad E-26, RAJA BAZAR, (OLD QRTS),
(All-India General Secy.) BABA KHARAK SINGH MARG,
NEW DELHI-110 001.

Nand Lal TEL. NO. 3365186

(President)

Virendra Singh

(Secretary)

Ref. No. C.P.W.D.M.U.

Dated : 11/11

To,

Sh. N. Krishnamurthy,
Director General (Works),
CPWD, Nirman Bhawan,
New Delhi.

Sub: Request for cancellation of transfer order dated
24.07.2000 of Superintending Engineer (Elect.)
Coordination Circle in respect of Sh. Joginder
Singh as the transfer order is illegal,
unjustified, malafide and arbitrary.

Dear Sir,

The Superintending Engineer (Elect.) Coordination Circle
has issued the transfer order vide his letter
No. 10/7/2000/Elect. Coordination/E-4/1150 dt. 24.07.2000 by
which Sh. Joginder Singh, Pump Operator posted in Asian
Pumps (Elect.) to Air Condition Division III and he will be
posted at Ghaziabad. Copy of the order is annexed with this

~~TRUE COPY~~
~~A.K. Gupta~~
~~Ad-11/11~~

31
37

letter at Annexure 'A'. The Superintending Engineer further directed to the Executive Engineer (Elec.) Air Condition Dn.III CPWD to that the transfer order was issued under the direction of Ministry of Urban Development so he has to be posted outside Delhi in place of Sh. Pratap Singh at Ghaziaabad.

In view of the above this type of transfer order is not permissible because it shows arbitratative malafide intention of the management and in this respect the instruction contained in the CPWD Work Charged Manual Vol.III is also violatory. If some alleged misconduct has come to the notice of the management then it is the duty of the officer of the CPWD to issue the show cause notice and decide the punitive action against the workmen and in this case no such procedure has been adopted by the management.

So, you are therefore requested to consider the following facts and grounds and cancel the above illegal transfer order dated 24.07.2000 :

i) that it has been reported that one Shri Praful Kumar who is the General Secretary of Residence Welfare Association of Lodhi Road Complex from Quarter Nos.1 to 420 and alongwith him some parallel association of Lodhi Road Complex have made some false complaint against Sh.Joginder Singh who is also Secretary General of Federation of Residence Welfare Association of Lodhi Road complex, New Delhi and without going to the facts of the complaint his transfer was managed from New Delhi to Ghaziabad without providing any chance to represent his case before the officers of

TRUE COPY
A.K. Bapnai
Advocate.

32
32

CPWD/Ministry of Urban Development.

ii) that Shri Pratul Kumar is a Wire man and Sh. Joginder Singh, Pump Operator in the Asian Game (Elec.) Division, Jawahar Lal Nenru Stadium and Pratul Kumar is also a leader of unrecognised union i.e. All-India CPWD MRM Union and Sh. Joginder Singh is All India Assistant Secretary and Joint Secretary (Delhi) of CPWD Mazdoor Union which is recognized by Ministry of Urban Development to represent the workers of CPWD and on this account a false complaint was written due to rivalry to the Hon'ble Minister of Urban Development and managed to transfer the services of Sh. Joginder Singh from New Delhi to Ghaziabad. It is also submitted that without providing the chance in this case on the false complaint, the action of the management is not proper and justified.

iii) that the transfer order dated 24.07.2000 is based on direction by the officers of Ministry of Urban Development which is against the service condition of workmen and even the Minister has also not have a right to order for punitive transfer without providing provision of natural justice because we are living in a civilized society and rule of law must be respected.

iv) that the arbitrary order of the management of CPWD is affecting the living condition of the workman as Sh. Joginder Singh cannot do up and down and the study of his children is also disturbed so the action of the officers of Urban Development / CPWD is punitive as well as high handedness and cannot be passed without providing the right of

TRUE COPY
A.K. Bajpai
Advocate

33
3A

defence.

v) that all the officers even Superintending Engineer(Elec.) Coordination are fully knowing that Sh. Joginder Singh is representing the Workers of CPWD and due to that some officers are annoyed with him and finally managed to transfer him to New Delhi to Ghaziabad with a view to suppress the activity of the Union also.

vi) that hundred of disputes are pending before the Hon'ble Presiding Officers of Central Government Industrial Tribunal-cum-Labour Court, Industrial Tribunal/Labour Court constituted by the National Capital Territory of Delhi and also before the State Labour Commissioner and Sh. Joginder Singh being a protected workman is concerned with disputes pending before the above authorities. So, it is the mandatory to take prior permission from the above Authorities and in this case management neither hold any enquiry and taken prior permission from the above authorities. So, on this account the order of transfer is also illegal and unjustified.

vii) that Sh. Joginder Singh being a Trade Union leader is also a protected workman and his service condition etc. will remain unchanged under section 33 of Industrial Disputes Act, 1947 and relevant portion of the same is reproduced as under:

" Conditions of service, etc. to remain unchanged under certain circumstances during pendency of proceedings.

(3) Notwithstanding anything contained in sub-section (2), no employer shall, during the pendency of any such

TRUE COPY
A.K. Bajpai
Advocate

34
40

proceeding in respect of an industrial dispute, take any action against any protected workman concerned in such dispute -

a) by altering, to the prejudice of such protected workman, the conditions of service applicable to him immediately before the commencement of such proceedings; or

b) by discharging or punishing, whether by dismissal or otherwise, such protected workman, save with the express permission in writing of the authority before which the proceeding is pending.

Explanation -- For the purpose of the sub-section, a "protected workman", in relation to an establishment, means a workman who, being a member of the executive or other office bearer of a registered trade union connected with the establishment, is recognized as such in accordance with rules made in this behalf."

viii) that it is proved while reading the contents of the transfer order dated 24.7.2000 of Shri Joginder Singh one place to another is a malafide action of the management which is an unfair Labour practice under section 2(a) being an unfair Labour practice, as mentioned in the 5th schedule as Item No.7 of Industrial Disputes Act and the operative portion is reproduced as under:

7. "To transfer a workman malafide from one place to another, under the guise of following management policy."

35
6/11

ix) that Sh. Joginder Singh is also All-India office bearer of this union and arbitrary transfer may disturb the Industrial peace in this organization being an essential service.

In view of the above you are therefore requested to withdraw the transfer order dated 24.7.2000 without any further delay.

With regards,

Yours sincerely,

(B.K. PRASAD)
General Secretary

Copy to :

i) Sh. D.P. Goyal, Chief Engineer, New Delhi Zone 3, CPWD, New Delhi. Kindly recall the discussion I had with you on 25th July and take up the matter at your level also and not indulge and take side of an unrecognised Union this transfer will only create unrest in your Zone also.

ii) Shri Sudhir Kumar, Superintending Engineer(Elec.) Coordination Circle CPWD. Kindly recall my telephonic discussion with you and take appropriate action to cancel your transfer order of dated 24.7.2000 on the ground and facts narrated hereinabove, failing which Mazdoor Union will also compel to start agitation before your office for demanding cancellation arbitrary and malafide action on the part of officer concerned as the service condition and Labour Laws were not taken into account while approaching to the highest authority of the Ministry and not advising him the service conditions of the workmen and Labour Law be ignored.

(B.K. PRASAD)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL (PB)
NEW DELHI.

O.A No. 1486/2000.

27/11

Yoginder Singh.

Applicant

Versus

UOI Loss.

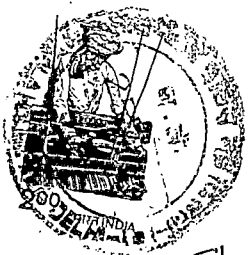
Respondent

INDEX

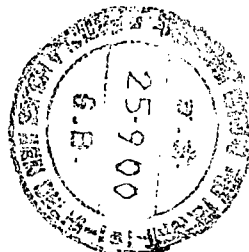
S No.	PARTICULARS	PAGES
-------	-------------	-------

1.	Short reply on behalf of Respondents	1-3

12 (11/11)
10587



U. P. C



Sh. A.K. Bapnai
D-46/C, South Ext. Part-I.
New Delhi-110049.

Rajinder Nischal
(RAJINDER NISCHAL)

Advocate

Chamber No.198

Patiala House Courts,

New Delhi.

Ph: 3384876.

37
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

36/1

O.A. No. 1486 of 2000

In the matter of

Joginder Singh

: Applicant

(Through A.K. Bajpai, Advocate)

Versus

Union of India & Others

: Respondents

Rajinder Nischal,
(Advocate) ~~not yet appointed~~

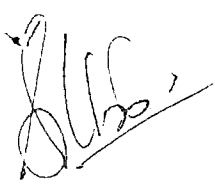
INTERIM REPLY TO THE ABOVE O.A. ON BEHALF OF THE RESPONDENTS

Most Respectfully sheweth that:

I, Sudhir Kumar, working as Superintending Engineer, Coordination Circle Elect., C.P.W.D., I.P. Bhawan, New Delhi do hereby state as under.

That I am familiar with the facts and circumstances of this case in my official capacity and I am competent to file this reply on behalf of the Respondents.

That I have gone through the application and understood its contents and short reply to the same is as under.



Details for short reply

As per existing instructions, the Work-charged staff in Delhi have all been placed in one unit of Seniority and SE's Co-ordination have been appointed to look after initial

27 (2)

recruitment, placement, promotion and transfers from one Circle to other Circles, etc.

Applicant Sh. Joginder Singh, Pump Operator is covered under Work-charged staff and on the basis of complaint received from Hon'ble Minister of Urban Development's and Poverty Allevation through his Addl. P.S. Sh. R. Narayanan, he has been transferred from his present site Lodhi Road Complex (under Asian Games Elect. Division) to Ghaziabad Central Elect. Sub-division (under Air-conditioning Division No.III, C.P.W.D., New Delhi).

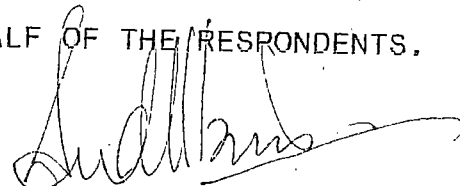
However the jurisdiction of Air-Conditioning Division No.III is scattered out of Delhi also. But both the Divisions are well located in Delhi as well as pay and allowances and seniority of Work-charged staff of above Divisions are at par with other Divisions located within Delhi, which are being controlled by this Co-ordination. Hence there is no discrimination with applicant, with regard to his apprehensions that his seniority would be affected.

In view of above, it is prayed that O.A. in question may please be decided on merit and dismissed, as the applicant is not entitled for any relief.

FOR AND ON BEHALF OF THE RESPONDENTS.

New Delhi

Dated: *Sept. 2000*


(SUDHIR KUMAR)
SUPERINTENDING ENGINEER(E)
COORD. CIRCLE ELECT, CPWD,
A-401, I.P.BHAVAN,
NEW DELHI-110002

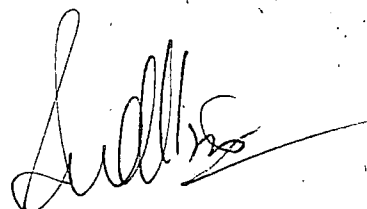
3316065
Rajinder Nischal
Counsel

VERIFICATION

Verified at New Delhi on this 8th day of Sep., 2000 that the contents of the above Short Reply are true and correct to my knowledge, based upon the official records of the Respondents. No part of it is false and nothing material has been concealed.

New Delhi

Dated :



(SUDHIR KUMAR)

Superintending Engineer(Elect.)

Co-ordination Circle(Elect.)

C.P.W.D., New Delhi.

through.

Counsel.

29 3
(1)
27/11

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL (PB)
NEW DELHI.

O.A No. 1486/2000.

Shri Joginder Singh

Applicant

Versus

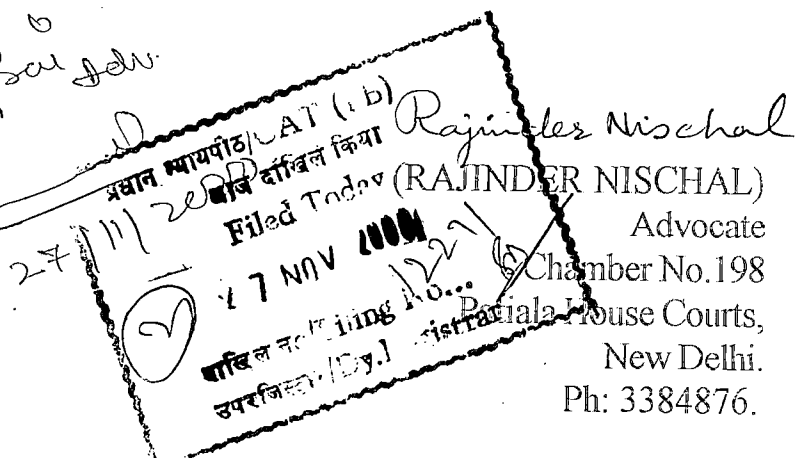
UNION OF INDIA & others.

Respondent

INDEX

S No.	PARTICULARS	PAGES
1.	Reply on behalf of Respondents	1-4.
2.	ANNEXURE-I dated 24-07-2000	5.
3.	ANNEXURE-II dated 28-07-2000	6-10.
4.	ANNEXURE-III dated 9-08-2000	11.

Received copy to
for file. P. Rajinder Nischal
Dated: 27/11/2000



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, NEW DELHI

O.A. No. 1486 of 2000

In the matter of

Shri Joginder Singh

..... Applicant

Versus

Union of India & Others

..... Respondents

REPLY TO THE ABOVE O.A. ON BEHALF OF THE RESPONDENTS

RESPECTFULLY SHOWETH:

1 to 3 : It is a matter of record.

4 : Facts of the case:

- 1) Admitted.
- 2) Admitted.
- 3) Denied as this office is not aware of the fact that the applicant is an office Bearer in Federation, Residents' Association of Lodhi Road Complex. Moreover there is no provision for giving the weightage to a office Bearer in any Federation or Association.
- 4) As per existing instructions, the work-charged staff in Delhi have all been placed in one unit of Seniority and SE's Co-ordination have been appointed to look after initial recruitment, placement, promotion and transfers from one Circle to ^{on} other Circles, etc.

Applicant Sh. Joginder Singh, Pump Operator is covered under Work-charged staff and on the basis of the complaint received from Hon'ble Minister of Urban Development's and Poverty Allevation through his Addl. P.S. Sh. R. Narayanan, he has been transferred from his present site Lodhi Road Complex (under Asian Games Elect. Division) to Ghaziabad Central Elect. Sub-Division (under Air-Conditioning Division No.III, CPWD, New Delhi.)

However the jurisdiction of Air-Conditioning Division No.III is scattered out of Delhi also. But both the Divisions are well located in Delhi as well as pay and allowances and seniority of work-charged staff of above Divisions are at par with other Divisions located within Delhi, which are being controlled by this Co-ordination. Hence there is no discrimination with regard to his apprehensions that his seniority would be affected.

- 5) In view of position explained para (4) above, there is no malafide intention in issuing the transfer order, as the applicant will not loose his seniority of Delhi Unit. The transfer has been made on administrative grounds, which is just and genuine.

- 2
- 6) Facts of the para are denied, as no Govt. Servant can canvass or participate in activities of any Political parties for elections. The applicant is liable for disciplinary action for violating the CCS (Conduct) Rules, 1964. h0

Eviction/allotment of Govt. accommodation is falls under the jurisdiction of concerned Estate Officer. Hence, it will be decided on merit by the concerned Estate Officer instead of Respondents.

- 7) Denied, as the transfer orders of applicant are in order and are issued by the competent authority.
- 8) Denied, as there was a complaint against the applicant as per annexure-I and accordingly the applicant was transferred within the same unit of Seniority.
- 9) Denied.
- 10) Denied, as only General Secretary and President of any recognised Union/Association are not to be transferred, but applicant is not holding any such portfolio in his Union.
- 11) Denied.
- 12) Denied, as the transfer orders of the applicant are Valid under the rules.
- 13) Denied, as the applicant has not been transferred out of Delhi Unit of Seniority, which is meant of Work-charged staff of this unit of seniority. The administrative authority is competent to transfer the worker. Therefore, the transfer of any senior/junior is not involve in this case.
- 14) Denied, the representation of applicant received through Central P.W.D. Mazdoor Union vide their letter No.CPWDMU/786/2000 dated 28.7.2000 Annexure-II has since been disposed of vide letter No.10(7)/CoordCircle(E)/E-4/1262 dt.9.8.2000 as per Annexure-III.

5. : Grounds for relief with legal provisions:

1. As per existing instructions, the work-charged staff in Delhi have all been placed in one unit of Seniority and SE Co-ordination have been appointed to look after initial recruitment, placement, promotion and transfers from one Circle to other Circles, etc.

Applicant Sh. Joginder Singh, Pump Operator is covered under Work-charged staff and on the basis of complaint received from Hon'ble Minister of Urban Development's and Poverty Allevation through his Addl. P.S. Sh. R. Narayanan Annexure-I he has been transferred from his present site Lodhi Road Complex (under Asian Games Elect. Division) to Ghaziabad Central Elect. Sub-Division (under Air-Conditioning Division No.III, CPWD, New Delhi.)

However the jurisdiction of Air-Conditioning Division No.III is scattered out of Delhi also. But both the Divisions are well located in Delhi as well as pay and allowances and seniority of work-charged staff of above Divisions are at par with other Divisions located within Delhi, which are being controlled by this Co-ordination. Hence there is no

3
41

discrimination with regard to his apprehensions that his seniority would be affected.

In view of above, it is prayed that O.A. in question may please be decided on merit and dismissed, as the applicant is not entitled for any relief. Facts of the para are denied, as no Govt. Servant can canvass or participate in activities of any Political parties for elections. As confirmed by the applicant that he had worked against the interest of the Minister in the Lok Sabha Election. Thus he is liable to take disciplinary action.

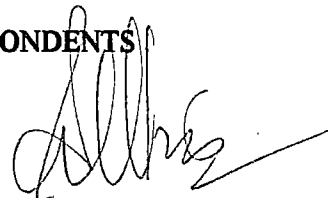
2. There is no such rules.
3. Facts of this para partly denied as this office is not aware about that the application is a office Bearer in Federation, Residents' Association of Lodhi Road Complex. Moreover there is no provision regarding giving the weightage to a office Bearer in any Federation, Residents' Association.
4. Matter of record.
5. The applicant can represent to the issuing authority and decision of the authority (Transferring authority) is full and final and as per rules are in order.

In view of the submissions made herein above, it is most respectfully prayed that, this Hon'ble Tribunal may kindly be pleased to dismiss the above case with costs.

Place : New Delhi

Dated : 27th November, 2000

RESPONDENTS



(SUDHIR KUMAR)
SUPERINTENDING ENGINEER(E)
COORD. CIRCLE ELECT, CPWD,
A-401, I.P.BHAVAN, NEW DELHI-110002

through



(RAJINDER NISCHAL)

Addl. Central Govt. Standing Counsel
198, Patiala House, New Delhi.

4.
V

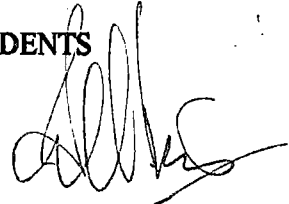
VERIFICATION

I, Sudhir Kumar, working as Superintending Engineer(E), Co-ordination Circle, I.P. Bhawan, New Delhi do hereby verify that the contents of the above counter reply are true and correct to my knowledge, which I have derived from the concerned records and upon information received from the concerned officers and believed the same to be true. Nothing material have been concealed therefrom. Verified at New Delhi on this 27th day of November, 2000.

Place : New Delhi

Dated : 27 November, 2000

RESPONDENTS



(SUDHIR KUMAR)
SUPERINTENDING ENGINEER(E)
COORD. CIRCLE ELECT, CPWD,
A-401, I.P. BHAVAN, NEW DELHI-110002

71
Annexure I.

543

MOST IMMEDIATE

OFFICE OF MINISTER OF URBAN DEVELOPMENT
AND POVERTY ALLEVIATION

Shri Joginder Singh, Water Pump Operator, Lodhi Road Complex, may be transferred from his post to any other post immediately. The compliance report should be reported to Minister positively by today evening i.e. 24th July, 2000.

This has the approval of Hon'ble UDM.

UDM OFFICE
No. 1648
Date 24/7/00

(R. NARAYANAN)
Addl. PS to UDM
24-07-2000

DG, CPWD

Copy to: Shri D.P. Goel, CE(NDZ-III)

Addl. PS to UDM

FOR KIND ATTENTION TO

CE (E) II

As discussed on phone, Shri. Joginder Singh P.O. with Asian Games Related Div. may be transferred from his present post under intimation to Addl. PS to U.D.M., D.G.W & P.O.

Sudhir Kumar

S.B.(E) Coordinator

24/7/2000 C.B. B.A.

Rt
24/7

True copy
24/7/00

6

CENTRAL P.W.D. MAZDOOR UNION

सैन्ट्रल पी. डब्ल्यू. डी. मजदूर यूनियन

(Registered & Recognised by the Govt. of India, Regd. No. 2562)
(Delhi Regional Committee)

B.K. Prasad

(All India General Secretary)

Nand Lal

(President)

Virendra Singh

(Secretary)

E-26, RAJA BAZAR, (OLD ORTS,

BABA KHARAK SINGH MARG

NEW DELHI-110001

TEL NO.: 3365186

Regd. No. CPWDMU/786/2000

Dated: 28-7-2000

To,

Shri N. Krishnamurthy,
Director General (Works),
CPWD, Nirman Bhawan,
New Delhi.

Sub: Request for cancelation of transfer order dated 24.7.2000
of Superintending Engineer (Elect) Coordination Circle
in respect of Shri Joginder Singh as the transfer order
is illegal, unjustified, malafide and arbitrary.

Dear Sir,

The Superintending Engineer(Elect) Coordination Circle
has issued the transfer order vide his letter No. 10/7/2000/Elect. Coordination/
dated 24.7.2000 by which Shri Joginder Singh pump operator E4/1150 dt. 24/7/00
posted in Asian Games (Elec) to Air Condition Division III
and he will be posted at Ghaziabad. Copy of the order is annexed
with this letter at Annexure 'A'. The Superintendent further
directed to the Executive Engineer(Elec.) Air Condition Dn. III
CPWD to that the transfer order was issued under the direction
of Ministry of Urban Development so he has to be posted outside
Delhi in place of Shri Pratap Singh at Ghaziabad.

In view of the above this type of transfer order is
not permissible because it shows arbitratative malafide intention
of the management and in this respect the instruction contained
in the CPWD Work Charged Manual Vol. III is also violatory.
If some alleged misconduct has come to the notice of the management
then it is the duty of the officer of the CPWD to issue the
show cause notice and decide the punitive action against the
workman and in this case no such procedure has been adopted by the
management.

Contd...

Received
(Ar)

CENTRAL P.W.D. MAZDOOR UNION

सैन्ट्रल पी. डब्ल्यू. डी. मजदूर यूनियन

(Registered & Recognised by the Govt. of India, Regd. No. 2562)
(Delhi Regional Committee)

B.K. Prasad
(All India General Secretary)

Nand Lal
(President)

Virendra Singh
(Secretary)

E-26, RAJA BAZAR, (OLD ORTS)
BABA KHARAK SINGH MARG
NEW DELHI-110001
TEL NO.: 3365186

Ref. No. C.P.W.D.M.U.

-2-

Dated.....

So, you are therefore requested to consider the following facts and grounds and cancel the above illegal transfer order dated 24.7.2000 :

- i) that it has been reported that one Shri Pratul Kumar who is the General Secretary of Residence Welfare Association of Lodhi Road Complex from Quarter No. 1 to 420 and along with him some parallel association of Lodhi Road Complex have made some false complaint against Shri Joginder Singh who is also Secretary General of Federation of Residence Welfare Association of Lodhi Road Complex, New Delhi and without going to the facts of the complaint his transfer was managed from New Delhi to Gaziabad without providing any chance to represent his case before the officers of CPWD/Ministry of Urban Development.
- ii) That Shri Pratul Kumar is a wireman and Shri Joginder Singh pump operator in the Asian Game (Elec.) Division, Jawahar Lal Nehru Stadium and Pratul Kumar is also a leader of unrecognised union i.e. All India CPWD MRM Union and Shri Joginder Singh is All India Assistant Secretary and Joint Secretary (Delhi) of CPWD Mazdoor Union which is recognised by Ministry of Urban Development to represent the workers of CPWD and on this account a false complaint was written due to rivalry to the Hon'ble Minister of Urban Development and managed to transfer the services of Shri Joginder Singh from New Delhi to Gaziabad. It is also submitted that without providing the chance in this case on the false complaint, the action of the management is not proper and justified.
- iii) that the transfer order dated 24.7.2000 is based on direction by the officers of Ministry of Urban Development which is against the service condition of workman and even the Minister has also not have a right to order for punitive transfer without providing provision of natural justice because we are living in a civilized society and rule of law must be respected.
- iv) that the arbitrary order of the management of CPWD is affecting the living condition of the workman as the Joginder Singh cannot do up and down and the study of his children is also disturbed so the action of the officers of Urban Development/CPWD is punitive as well as high handedness and cannot be passed without providing the right of defence.
- v) that all the officers even Superintending Engineer (Elec.)

True copy
Swat
(AV)

CENTRAL P.W.D. MAZDOOR UNION

सैन्ट्रल पी. डब्ल्यू. डी. मजदूर यूनियन

(Registered & Recognised by the Govt. of India, Regd. No. 2562)
(Delhi Regional Committee)

J.K. Prasad
(All India General Secretary)

Nand Lal
(President)

Virendra Singh
(Secretary)

Ref No. C.P.W.D.M.U.

E-26, RAJA BAZAR, (OLD QRTS)
BABA KHARAK SINGH MARG
NEW DELHI-110001
TEI NO.: 3365186

-3-

Dated.....

Coordination are fully knowing that Shri Joginder Singh is re-presenting the Workers of CPWD and due to ~~the~~ that some officers are annoyed with him and finally managed to transfer him to New Delhi to Gzadabad with a view to suppress the activity of the Union also.

vi) that hundred of disputes are pending before the Hon'ble presiding officers of Central Government Industrial Tribunal-cum-Labour Court, Industrial Tribunal/Labour Court constituted by the National Capital Territory of Delhi and also before the State Labour Commissioner and Shri Joginder Singh being a protected workman is concerned with disputes pending before the above authorities. So it is the mandatory to take prior permission from the above Authorities and in this case management neither hold any enquiry and taken prior permission from the above authorities. So on this account the order of transfer is also illegal and unjustified.

vi) that Shri Joginder Singh being a Trade Union leader is also a protected workman and his service condition etc. will remain unchanged under section 33 of Industrial Disputes Act, 1947 and relevant portion of the same is reproduced as under :

"33" Conditions of service, etc. to remain unchanged under certain circumstances during pendency of proceedings.

(2) Notwithstanding anything contained in sub-section (2), no employer shall, during the pendency of any such proceeding in respect of an industrial dispute, take any action against any protected workman concerned in such dispute -

a) by altering, to the prejudice of such protected workman, the conditions of service applicable to him immediately before the commencement of such proceedings; or

b) by discharging or punishing, whether by dismissal or otherwise, such protected workman,

save with the express permission in writing of the authority before which the proceeding is pending.

Contd...

Handwritten signature/initials

CENTRAL P.W.D. MAZDOOR UNION

सैन्ट्रल पी. डब्ल्यू. डी. मजदूर यूनियन

(Registered & Recognised by the Govt. of India, Regd. No. 2562)
(Delhi Regional Committee)

B.K. Prasad
(All India General Secretary)

Rand Lal
(President)

Virendra Singh
(Secretary)

Ref. No. C.P.W.D.M.U.

E-26, RAJA BAZAR, (OLD QRTS.)
BABA KHARAK SINGH MARG
NEW DELHI-110001
TEL NO.: 3365186

-4-

Dated.....

Explanation -- For the purpose of the sub-section, a "protected workman", in relation to an establishment, means a workman who, being a member of the executive or other office bearer of a registered trade union connected with the establishment, is recognised as such in accordance with rules made in this behalf."

viii) that it is proved while reading the contents of the transfer order dated 24.7.2000 of Shri Joginder Singh one place to another is a malafide action of the management which is an unfair Labour practice under section 2(ra) being an unfair Labour practice as mentioned in the 5th schedule as Item No 7 of Industrial Disputes Act and the operative portion is reproduced as under:

7. "To transfer a workman malafide from one place to another, under the guise of following management policy."

ix) that Shri Joginder Singh is also All India office bearer of this union and arbitrary transfer may disturb the Industrial peace in this organisation being an essential service.

In view of the above you are therefore requested to withdraw the transfer order of dated 24.7.2000 without any further delay.

With regards,

Yours sincerely,

(B.K. PRASAD)

General Secretary

Copy to:

1) Shri D.P. Goyal, Chief Engineer, New Delhi Zone 3, CPWD, New Delhi. Kindly recall the discussion I had with you

Contd...

*Received
Sd/-
Asst*

10
67

CENTRAL P.W.D. MAZDOOR UNION

सैन्ट्रल पी. डब्ल्यू. डी. मजदूर यूनियन

(Registered & Recognised by the Govt. of India, Regd. No. 2562)
(Delhi Regional Committee)

B.K. Prasad

(All India General Secretary)

Nand Lal

(President)

Virendra Singh

(Secretary)

E-26, RAJA BAZAR, (OLD QRTS)

BABA KHARAK SINGH MARG

NEW DELHI-110001

TEL NO.: 3365186

Ref No. C.P.W.D.M.U.

Dated.....

-5-

on 25th July and take up the matter at your level also and not indulge and take side of an unrecognised Union this transfer will only create unrest in your Zone also.

11) Shri Sudhir Kumar Superintending Engineer (Elec.) Coordination Circle CPWD. Kindly recall my telephonic discussion with you and take appropriate action to cancel your transfer order of dated 24.7.2000 on the ground and facts narrated here in above, failing which Mazdoor Union will also compel to start agitation before your office for demanding cancellation arbitrary and mala fide action on the part of officer concerned as the service condition and Labour Laws were not taken into accounts while approaching to the highest authority of the Ministry and not advising him the service conditions of the workmen and Labour Law be ignored.

(B.K. Prasad)

(B.K. PRASAD)

*True copy
Ludh
Prasad*

केन्द्रीय लोक निर्माण विभाग

पत्र सं० 10171/सम०परि०वै०/ई-4/1262

दिनांक: 9/8/2000.

सेवा में,

श्री बी०के० पुसाद,
ऑल इंडिया जनरल सेकट्री
ई-26, राजा बाजार
{ओल्ड क्वार्टर}
बाबा खडक सिंह मार्ग
नई दिल्ली।

विषय :

Request for cancellation of Transfer Order dated 24.7.2000 of Superintending Engineer(Elect.), Co-ordination Circle in respect of Sh. Joginder Singh (P. Operator) as the transfer order is illegal, unjustified, mala fide and arbitrary.

संदर्भ :

आपका पत्र सं० सी.पी. डब्ल्यू. डी. एम. यू. /786/2000 दिनांक 28-7-2000.

उपरोक्त संदर्भित पत्र विद्यमानतः सूचित किया जाता है कि उक्त अभ्यावेदन में जो कि निर्माण म.निदेशक, को सम्बोधित है, पर निर्माण महा-निदेशालय के निर्णय/अनुदेश अनुसार सम्बन्धित अधिकारियों द्वारा कार्यवाही की जा सकेगी।

इस सम्बन्ध में आगे की कार्यवाही के लिए आप कंट्रोलिंग, अधीक्षण एवं/या कार्यपालक अभियन्ता से सम्पर्क करें।

अधीक्षण इंजीनियर-विद्युत।

समन्वय परिमंडल, के.ओ.नि.वि.

क०सं०-401ए, चौथा तल

०/६, इन्दुप्रस्थ भवन, नई दिल्ली-2.

नाम/स्थ. 07/08/2000

True copy
Amal
Av.

14/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL (PB),
NEW DELHI

D.A.NO. 1486/2000

11

23/12/2000

IN THE MATTER OF:

SHRI JOGINDER SINGH

...APPLICANT

VERSUS

UNION OF INDIA & ORS.

...RESPONDENT

I N D E X

S.NO.	PARTICULARS	PAGE NO.	C. FEE
-------	-------------	----------	--------

01.	REJOINDER ON BEHALF OF THE PETITIONER.	1-4.	
-----	--	------	--

New Delhi
Dated - 12-12-2000

Petitioner.

Through: A. K. BASPAP

ADVOCATE
D-46/C.N.D.S.B.T.
NEW DELHI-110001.

1-1-1

5

12871

प्रधान न्यायपीठ/CAT (PB)
मात्र दाखिल किया
Filed Today
13 DEC 2000
दाखिल नो./Filing No...
उप-रजिस्ट्रार/Dy. Registrar

1 69

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, (PB),
NEW DELHI

O.A.NO. 1486/2000

IN THE MATTER OF:

SHRI JAGINDER SINGH

...APPLICANT

VERSUS

UNION OF INDIA & ORS.

...RESPONDENT

REJOINDER ON BEHALF OF THE PETITIONER TO THE COUNTER
AFFIDAVIT FILED BY RESPONDENTS

MOST RESPECTFULLY SHOWETH:

1-3. That these paras need no reply.

4(1)-(3) That these paras need no reply. However, it is submitted that the office bearers of recognised union are very well protected under the provision of Industrial Dispute Act, 1947.

4). That contents of this para are not correctly stated hence denied. It is incorrect to say that Hon'ble Minister of Urban Development and Poverty alleviation has power to transfer any employee. It is submitted that the minister is not an appointing authority of the applicant as such he is not entitled to pass any order transferring the applicant. The minister does not enjoy

25

administrative power over the employees the concerned ministry and in the present case it is admitted by the respondents that the services of the petitioner stand transfer as per the order of additional P.S. to U.D.M. and that too on phone and accordingly the transfer order is based on the whims of the minister. It is further submitted that the petitioner was not given any show cause notice or opportunity to explain his conduct against the complaint if any, found against the petitioner. In fact, the transfer order is absolutely illegal and contrary to the rules apply to the workcharge employees. It is also admitted by the answering respondents that the petitioner stand transfer to Ghaziabad which is contrary to the workcharge manual.

5. That the contents of this para are not correctly stated, hence denied. It is wrong to say that the transfer has been made on administrative grounds. It is submitted that there is admission on the part of the respondents to the extent that the transfer is made on the basis of telephonic instructions issued by the Private Secretary of the Minister, as such, the transfer order is not sustainable in the eyes of law. It is submitted that the junior person to the applicant are

3 →

not transferred and the petitioner has been picked up arbitrary.

6. That the contents of this para are wrong hence denied.

7-12 That the contents of these paras are wrong hence denied and those paras of original application are reiterated and reaffirmed.

13. That the contents of this para are wrong hence denied. It is wrong to say that the petitioner is not transferred out of Delhi. It is submitted that as per the guidelines/instructions issued by the ministry, the petitioner cannot be transferred unless he completes 10 years of service at one place.

14. That the contents of this para are matter of record.

5. (1) That the contents of this para are not correctly stated hence denied. It is wrong to say that there is no discrimination on the part of the respondents. It is submitted that the transfer order is punitive as admitted in the counter affidavit filed by the respondents and that too without calling for any explanation from the applicant.

4 8

2-5. That the contents of these paras are not correctly stated hence denied.

Prayer clause denied.

Under these circumstances, it is respectfully prayed that this Hon'ble Tribunal may kind be pleased to;

i) grant relief(s) in terms prayers set out in the original application.

Jaginder Singh
PETITIONER

THROUGH:

(A.K. BAJPAI)
ADVOCATE

D-46/C, N.D.S.E. PART-I,
NEW DELHI-110049.

NEW DELHI
DATED:

Verification:

Verified at New Delhi on this day of Dec, 2000,
that the contents of the above rejoinder are true and
correct and nothing material has been concealed
therefrom.

Jaginder Singh
PETITIONER