

## CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

APPLICANT (S) H. M. ParmarRESPONDENTS (S) Union of India

PARTICULARS TO BE EXAMINED

ENDORSEMENT AS TO  
RESULT OF EXAMINATION

1. Is the application competent? Yes
2. (A) Is the application in the prescribed form? Yes  
(B) Is the application in paper book form? Yes  
(C) Have prescribed number complete sets of the application been filed? Yes
3. Is the application in time? Yes  
If not, by how many days is it beyond time?  
Has sufficient cause for not making the application in time stated?
4. Has the document of authorisation/ Vakalat nama been filed? Yes
5. Is the application accompanied by B.D./I.P.O for Rs.50/-? Number of B.D./I.P.O. to be recorded. 02 742944
6. Has the copy/copies of the order(s) against which the application is made, been filed? 100
7. (a) Have the copies of the documents relied upon by the applicant and mentioned in the application been filed? Yes  
(b) Have the documents referred to in (a) above duly attested and numbered accordingly? Yes  
(c) Are the documents referred to in (a) above neatly typed in double space? Yes
8. Has the index of documents has been filed and has the paging been done properly? Yes

PARTICULARS TO BE EXAMINED

ENDORSEMENT AS TO BE  
RESULT OF EXAMINATION.

9. Have the chronological details of representations made and the outcome of such representation been indicated in the application?
10. Is the matter raised in the application pending before any court of law or any other Bench of the Tribunal?
11. Are the application/duplicate copy/spare copies signed?
12. Are extra copies of the application with annexures filed.
  - (a) Identical with the original.
  - (b) Defective.
  - (c) Wanting in Annexures  
No \_\_\_\_\_ Page Nos \_\_\_\_\_?
  - (d) Distinctly Typed?
13. Have full size envelopes bearing full address of the Respondents been filed?
14. Are the given addressed, the registered addressed?
15. Do the names of the parties stated in the copies, tally with those indicated in the application?
16. Are the translations certified to be true or supported by an affidavit affirming that they are true?
17. Are the facts for the cases mentioned under item No. 6 of the application.
  - (a) Concise?
  - (b) Under Distinct heads?
  - (c) Numbered consecutively?
  - (d) Typed in double space on one side of the paper?
18. Have the particulars for interim order prayed for, stated with reasons?

YH

mm

YH

YH

YH

YH

YH

YH

YH

YH  
checked  
14/6

SKS <sup>216/89</sup>  
146

In the Central Administrative Tribunal,  
Ahmedabad Bench.

Original Application No. 243 Of 1989.

Between

Shri H.M.Parmar ..... Applicant

And

Union of India and another ..... Respondents

I N D E X

Annex.	Particulars	Page No.
	Original application	1 to 8
"A1"	Copy of the chargesheet dtd. 24th February 1989 issued to the applicant.	9-11
"A2"	Copy of the order td. 12th April 1989 whereby the respondent- department appointed Inquiring Authority	9-12

Considered  
on 12/6/89  
12/6/89

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
AHMEDABAD BENCH.

Original Application No. 243 OF 1989.

Between

Shri H.M.Parmar,

29/220, Kabir Kutir,

Kalapinagar, ASarwa,

Chamanpura, Ahmedabad- 16.

..... Applicant

And

1. Union of India,

(Notice to be served through

the Secretary, Ministry of

Home, New Delhi)

2. Central Intelligence Officer,

Subsidiary Intelligence Bureau,

Bungalow No. 31,

Opp : Police Stadium,

Shahibag, Ahmedabad.

..... Respondents

Details of application :

1. Particulars of the applicant :

- |  |  |                       |
|--|--|-----------------------|
| i) Name of the applicant   |  |                       |
| ii) Name of father/husband   |  |                       |
| iii) Age of the applicant  |  |                       |
| iv) Designation and<br>particulars of office<br>in which employed. |  | As per cause<br>title |
| v) Office address  |  |                       |
| vi) Address for service of<br>notices                              |  |                       |

2. Particulars of the respondents :

- |      |  |   |                    |
|------|--|---|--------------------|
| i)   | Name of the respondents  | X |                    |
| ii)  | Name of father   | X |                    |
| iii) | Age of the respondents   | X |                    |
| iv)  | Designation and particulars of <del>xx</del> office in which employed. | X | As per cause title |
| v)   | Office address   | X |                    |
| vi)  | Address for service of notices.  | X |                    |

3. Particulars of the order against which application is made.

The application is against the following order :-

- |       |                                    |   |  |
|-------|------------------------------------|---|--|
| (i)   | Order No. with reference to Annex. | X | Nil  |
|       |                                    | X | Nil  |
| (ii)  | Date                               | X | 12th June, 1989                                    |
| (iii) | Passed by                          | X | Respondent No.2                                    |
| (iv)  | Subject in brief                   | X | Transfer of the applicant from Ahmedabad to Surat. |

4. Jurisdiction of the Tribunal :

The applicant declares that the subject matter of the order against which ~~x~~ he wants redressal is within the jurisdiction of the Tribunal.

5. Limitation :

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

6. Facts of the case :

The facts of the case are given below :-

6.1 This application is directed against the transfer of the applicant from Ahmedabad <sup>to a far-off place</sup> ~~to a far-off place~~ inter alia on the ground that the said transfer effected by respondent No.2 on or about 12th June 1989 is arbitrary, illegal, penal in nature, contrary to the policy of transfer and violative of Articles 14 and 16 of the Constitution of India.

6.2 On 11th September 1970 the applicant joined the services of the respondent- department as Security Assistant at Junagadh. In 1978 the applicant was promoted as Junior Intelligence Officer Grade II and transferred from Junagadh to Ahmedabad. In 1981 he was transferred in the same capacity from Ahmedabad to Himatnagar. On 11th June 1987, the applicant was promoted as Junior Intelligence Grade I and was transferred from Himatnagar to Ahmedabad. Within two years' of service at Ahmedabad as Junior Intelligence Officer Grade I, the applicant is again sought to be transferred from Ahmedabad ~~to~~ ~~whereas~~ whereas as a matter of policy the transfer of the employees is effected once in three years.

6.3 The applicant is an employee ~~is~~ belonging to scheduled caste. He has six children- five school going. One of his daughters is studying in 11th standard, two of his daughters are studying in 7th standard, one of his daughters ~~is~~ is studying in 4th standard and his son is studying in 2nd standard. His five children are thus studying at Ahmedabad and it would be difficult to get admission <sup>for him to</sup> ~~in~~ any schools <sup>a new place</sup> at ~~there~~ and he is not in a position to maintain two families.

6.4 The applicant submits that there is a departure in the policy of transfer. The persons who have stayed for long at <sup>a</sup> particular station are transferred by the respondent- department. One <sup>and Mr. P. Prasad Rao who have</sup> Mr. H.B. Raval, ~~who have~~ been at Ahmedabad for more than two years <sup>he</sup> ~~is~~ not sought to be transferred by the respondent- department whereas the applicant who has put in lesser time than what <sup>Mr. Raval</sup> ~~Mr. Raval~~ put at Ahmedabad is picked and chosen for the purpose of transfer from Ahmedabad. ~~to Ahmedabad~~. Apart from the fact that the impugned transfer is contrary to the policy of transfer viz. normally those who have not completed three years of service at a particular station should not be transferred, the transfer by virtue of the fact that <sup>a</sup> senior person in terms of stay at a particular station is left out and a junior person like the applicant is picked and chosen for the transfer, is penal in nature as could be seen from what follows.

Annex 'A1'

6.5 The applicant submits that he was issued a chargesheet dtd. 24th February 1989, copy whereof is annexed hereto and marked Annexure 'A1', to the effect that he was detailed for duty in City Police Control room Ahmedabad on 18th December 1988 from 14.00 hours to 21.00 hours, that he had not remained present on duty during that time, that as a result he had failed to collect and pass on a very important information relating to communal incident which took place at about 16-30 hours in Ahmedabad city and that he had indulged into wilful absence and negligence of duty and violated Rule 3 (1) (ii) of Central Civil Services (Conduct)



Annex 'A2'

Rules 1964. In connection with the said chargesheet the respondent- department appointed an Inquiring Authority vide an order dtd. 12th April 1989, copy whereof is annexed hereto and marked Annexure 'A2', after receiving the representation of the applicant against the said chargesheet. The inquiry has not yet commenced. Instead of commencing and concluding the inquiry, the respondent- department has sought to transfer the applicant from Ahmedabad ~~to Ahmedabad~~ by way of penalty. That the transfer is by way of penalty can be revealed by the fact that <sup>the Ahmedabad two persons who have</sup> ~~the Ahmedabad two persons who have~~ <sup>have</sup> ~~who have~~ stayed at Ahmedabad for long ~~has~~ <sup>has</sup> not been disturbed but the applicant has been sought to be disturbed by way of transfer. This transfer is, in the submission of the applicant, not in the exigencies of service nor in public interest. This transfer is effected by the respondent- department only on the ground that there is an inquiry pending against the applicant. As could be seen from the chargesheet, the charge is <sup>of negligence in duty</sup> ~~a universal~~ one, and that the witnesses to be examined at the inquiry are the superior officers who can no way be influenced by the applicant in the event of his continuance at Ahmedabad. There is absolutely no possibility of tampering with any record so far as the chargesheet is concerned. In the circumstances the transfer cannot be justified on the ground that the very inquiry which is pending has necessitated the transfer for the purpose of its smooth commencement and conclusion.

6.6 The applicant, therefore, submits that the impugned transfer is penal in nature, arbitrary,



not in administrative interest, not in public interest and is in disregard of the personal difficulties an employee like the applicant would face in getting admission to school for his children.

6.7 The applicant submits that the order of transfer though made has not yet been served on the applicant and that the applicant has not been relieved from his duties.

7. Details of the remedies exhausted.

The applicant declares that he has availed of all the remedies available to him under the relevant service rules, etc.

8. Matters not previously filed or pending with any other court :

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any court of law or any other authority or any other Bench of the Tribunal and nor any such application, writ petition or suit is pending before any of them.

9. Reliefs sought :

In view of the facts mentioned in paragraph 6 above the applicant prays for the following reliefs :-

- (A) quashing and setting aside the order of transfer of the applicant from Ahmedabad to ~~Surat~~ made by respondent No.2 on or about 12th June, 1939 ;

- (B) restraining the respondent- authorities from operating and/or implementing the impugned order of transfer made by respondent No.2 on or about 12th June, 1989;
- (C) granting such other and further reliefs as may be deemed fit and proper ;
- (D) awarding the costs of this application.

10. Interim order, if any prayed for :-

Pending final decision on the application, the applicant seeks issue of the following interim order:-

- (a) to stay the operation and/or implementation of the order of transfer of the applicant from Ahmedabad ~~to Mumbai~~ made by respondent No.2 on or about 12th June 1989 and restrain the respondents from preventing the applicant from discharging his duties at Ahmedabad as Junior Intelligence Officer Grade I.

11. Particulars of Bank draft/ postal order in respect of the Application fee :-

1. Name of the Bank :  
on which drawn

2. Demand draft No. : ~~52 747944~~

Or

1. Number of Indian : 22 747944  
Postal Order (s) 5

2. Name of the issuing: *Amniglaunt. 1-0.*  
post office. *Alber. 9*

3. Date of issue of : 14-6-89  
postal order (s)


4. Post office at :  
which payable.

12. List of enclosures.

- 1.
- 2.
- 3.
- 4.

Verification

I, H.M.Parmar, applicant, aged 42 working as Junior Intelligence Officer Grade I, in the office of Central Intelligence Officer, subsidiary Intelligence Bureau, Shahibag, Ahmedabad, resident of Ahmedabad do hereby verify that the contents of paras 1 to 12 are true to my personal knowledge and paras 1 to 12 believed to be true on legal advice and that I have not suppressed any material fact.

  
(H.M. PARMAR)

Signature of the applicant.

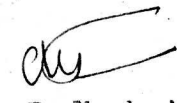
Date : 14.6.89 X  
Place: AhmedabadX

To

The Registrar,  
Central Administrative Tribunal,  
Ahmedabad.

*It is announced that the true  
copy of which they  
must be taken*

(SHAILESH BRAHMBHATT)  
Advocate

  
(M. Radhakrishnan)

Advocate for the applicant.

Filed by Mr. Shailesh Brahmabhatt  
Learned Advocate for Petitioners  
with second set of 2 copies  
which are only served and served to  
other side

Di. 14/6/89 Dy. Registrar C.A.T (I)  
Ahmad Banch

Annexure A-1

No.6/EST(AHD)/70(15)-II/587  
Subsidiary Intelligence Bureau  
Ahmedabad : 380 004

9

D. C. I. O., A'bad,
Dy. No. 199
Date: 24-2-89

Dated:- 24-2-89

MEMORANDUM

Shri H.M.Parmar, JIO-I(G), working in Field Unit branch, Ahmedabad is hereby informed that it is proposed to take action against him under Rule 16 of Central Civil Services (Classification, Control & Appeal) Rules, 1965. The substance of the imputation of misconduct or misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charge (Annexure-I). A statement of the imputation of misconduct or misbehaviour in support of articles of charge is also enclosed (Annexure-II). A list of documents by which and a list of witnesses by whom the articles of charge are proposed to be sustained are also enclosed (Annexure-III and Annexure-IV).

2. Shri H.M.Parmar is hereby given an opportunity to make such representation as he may wish to make against the proposal. If he fails to submit his representation within 10 days of the receipt of this Memorandum, it will be presumed that he has no representation to make and orders will be liable to be passed against Shri H.M.Parmar, JIO-I(G), ex-parte.

3. The receipt of this Memorandum should be acknowledged by Shri H.M.Parmar.

3/2/89  
( Udayan Mukerji )

Encl: As stated above.

Central Intelligence Officer

To

✓ Shri H.M.Parmar,  
JIO-I(G), Ahmedabad.  
(through DCIO-FU ).

Sh. Parmar  
24/2/89

10

ANNEXURE-I

Statement of articles of charge framed against  
Shri H.M.Parmar, JIO-I, Ahmedabad.

-.-.-.-.-

ARTICLE-I

That the said Shri H.M.Parmar, while functioning as JIO-I(G) at Ahmedabad has indulged into negligence of duty subversive of discipline in the office and thereby violated Rule 3(1)(ii) of Central Civil Services (Conduct) Rules, 1964.

ANNEXURE-II

Statement of imputation of misconduct or misbehaviour in support of the articles of charge framed against Shri H.M.Parmar, JIO-I(G), Ahmedabad.

-.-.-.-.-

That the said Shri H.M.Parmar, JIO-I(G) was detailed for duty in City Police, Control Room, Ahmedabad on 18-12-1988 from 1400 Hrs. to 2100 Hrs. He has not remained present on duty from 1400 Hrs. to 2100 Hrs. and as a result he has failed to collect and pass on a very important information relating to communal incident which took place at around 1630 Hrs. in Ahmedabad City from City Police Control Room to Control Room Officer, SIB Hqrs., Ahmedabad. He has, thus indulged into wilful absence and negligence of duty and violated Rule 3(1)(ii) of Central Civil Services (Conduct) Rules, 1964.

-.-.-.-.-



11 ~~100~~

ANNEXURE-III

List of documents by which the articles of charge framed against Shri H.M.Parmar, JIO-I (G), Ahmedabad are proposed to be sustained.

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1. JAD, SIB, Ahmedabad's Memorandum No.8/P2-Com/88/4872 dated 22-12-1988 ;
2. DCIO, FU Br.Ahmedabad's Memorandum No.20/Est(Ahd)/FU/89/101 dated 11-1-1989;
3. Explanation dated 10-1-1989 of Shri H.M.Parmar, JIO-I(G) submitted to DCIO-FU Branch.

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ANNEXURE-IV

List of witnesses by whom the articles of charge framed against Shri H.M.Parmar, JIO-I(G) Ahmedabad are proposed to be sustained:-

- 1.Shri R.K.Rawat, DCIO, PI Br.Ahmedabad.
- 2.Shri R.M.Desai, ACIO-I (G), Ahmedabad.

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Annexure-A-2

No.6/EST(AHD)/70(15)-II/995  
Subsidiary Intelligence Bureau  
Ahmedabad : 380 004

12

315  
13-4-89

Dated:- 12 APR 1989

WHEREAS an inquiry under Rule 16 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 is being held against Shri H.M.Parmar, JIO-I(G), Ahmedabad.

2. AND WHEREAS the undersigned considers that an Inquiring Authority should be appointed to inquire into the charges framed against Shri H.M.Parmar, JIO-I(G).

3. NOW, THEREFORE, the undersigned, in exercise of the powers conferred by sub-rule 1(b) of the said rule, hereby appoints Shri J.P.Purohit, DCIO, Ahmedabad as the Inquiring Authority to inquire into the charges framed against said Shri H.M.Parmar, JIO-I(G).

3rd 12/4/89

( Udayan Mukerji )  
Central Intelligence Officer

Copy to:-

1. Shri J.P.Purohit, DCIO, Ahmedabad.

✓ 2. Shri H.M.Parmar, JIO-I(G), Ahmedabad (through DCIO-FU Br.).

Shri Parmar

13/4/89