

CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

OA No. 285/89

CAUSE TITLE ..... OF .....

NAME OF THE PARTIES ..... K. L. Chopra ..... Applicant

Versus

..... U. O. I. 2001 ..... Respondent

Part A.

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CERTIFICATE

Certified that no further action is required to be taken and that the case is fit for consignment to the record room (decided)

Check. Am.

Dated 13.12.11....

Counter Signed.....

Section Officer/In charge

Signature of the  
Deputing Assistant

Annexure - A  
CAT- 82

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
CIRCUIT BENCH, LUCKNOW  
\*\*\*\*\*

INDEX - SHEET

CAUSE TITLE 295/89 (C) OF 198

Name of the Parties K. L. Chopra

Versus

Union of India

Part A, B and C

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Check

24/6/2011

50 (T)

W/20/800  
4.6.71  
DT: →

CENTRAL ADMINISTRATIVE TRIBUNAL  
DIRECT BENCH, LUCKNOW

16/10/89

Registration No. 285 of 1989 (L)

Registrar(J)

APPLICANT(S) K.L. Chopra

RESPONDENT(S) Union of India 40/hrs.

17/

Particulars to be examined

Endorsement as to result of examination

1. Is the appeal competent?
2. a) Is the application in the prescribed form?  
b) Is the application in paper book form?  
c) Have six complete sets of the application been filed?
3. a) Is the appeal in time?  
b) If not, by how many days it is beyond time?  
c) Has sufficient cause for not making the application in time, been filed?
4. Has the document of authorisation/ Vakalatnama been filed?
5. Is the application accompanied by B.D./Postal Order for Rs. 50/-
6. Has the certified copy/copies of the order(s) against which the application is made been filed?
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed?  
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly?  
c) Are the documents referred to in (a) above neatly typed in double space?
8. Has the index of documents been filed and paging done properly?
9. Have the chronological details of representation made and the out come 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 Tribunal?

yes

yes

yes

Five sets filed

yes

—

—

yes

yes

yes

yes

—

yes

yes

yes

—

1/2

Particulars to be Examined

Endorsement as to result of examination

- |  |      |
|--|------|
| 1. Application/duplicate copy/separate copies signed ?   | yes  |
| 2. Are extra copies of the application with Annexures filed ?  | yes  |
| a) Identical with the Original ?   | yes  |
| b) Defective ?   | -    |
| c) Missing in Annexures  | -    |
| Was _____ page(s) _____ ?  | -    |
| 3. Have the file size envelopes bearing full addresses of the respondents been filed ?                   | -    |
| 4. Are the given address the registered address ?  | yes  |
| 5. Do the names of the parties stated in the copies tally with those indicated in the application ?      | yes  |
| 6. Are the translations certified to be true or supported by an Affidavit affirming that they are true ? | -    |
| 7. Are the facts of the case mentioned in item no. 6 of the application ?                                | yes  |
| a) Concise ?   | yes  |
| b) Under distinct heads ?  | yes  |
| c) Numbered consecutively  | yes  |
| d) Typed in double space on one side of the paper ?  | yes  |
| 8. Have the particulars for interim order prayed for indicated with reasons ?                            | yes  |
| 9. Whether all the remedies have been exhausted.   | yes. |

dinesh/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

OP No. 285/89  
REGISTRATION No. \_\_\_\_\_ of 198 .

APPELLANT  
APPLICANT

K. N. Chopra

VERSUS

DEFENDANT  
RESPONDENT

Union of India & Ors

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
1770-89	<p>Hon' Mr. D.K. Agrawal, J.M.</p> <p>Hon' Mr. K. Bhayya, J.M.</p> <p>Shri S.C. Gulati Counsel for the applicant is present and heard.</p> <p>We feel that notice be issued to respondents before taking up the matter for interim order.</p> <p>Shri V.K. Choudhary, Standing Counsel for Union of India takes notice on behalf of Union of India re respondent No 1.</p> <p>Counsel for the applicant undertakes to serve notice on respondents 2 and 3 outside the court today itself. Therefore, put up this case on <u>18-10-89</u></p> <p>for orders.</p> <p><u>[Signature]</u> A.M.</p> <p><u>[Signature]</u> J.M.</p> <p>(S.H.S.)</p>	

Shri S.C. Gulati  
(Regd. Shri M.A.  
24-4-90)

OR  
Copies served to the  
applicant at 2 P.M.  
Submitted to order  
17/11

27/2/89  
OA 285/89 (L) 1/3

27/1/89.

Hon. Justice K. Nethy, VC.

Sri R.K. Agarwal for the applicant  
and Sri V.K. Chaudhary for  
the opposite parties are  
present. The learned Counsel  
for the applicant files a  
rejoinder. The matter be  
laid before a Bench on  
7-11-89 for admission.

VC.

or  
Case is submitted  
for admission  
6/11/89

1/2

Hon'ble D.K. Agarwal, J.M.

Hon'ble K. Deyya, J.M.

7-11-89

Sri R.K. Agarwal, and Mr. S.C. Gulathi Counsel  
for the applicant are present. None for the  
respondents except a representative.  
We have heard the counsel for the applicant  
at length. We have also perused the documents  
wherein B/R Grade II has been transferred to  
C.W.E. (Project). We have also perused a confidential  
note which necessitated the transfer of the applicant.  
We have also perused the guidelines as cited by the  
applicant. At the end of the arguments, counsel for  
the applicant prayed for some more time to be  
granted to ~~the applicant~~ place further facts. Allowed.  
List this case on 20-12-89 for hearing on admission  
or final disposal as the case may be.

A.M.

De  
J.M.

OR  
Case is submitted  
for admission.

19/11/89

(SNS)

285/046

A2  
27

1/6

22/3/90

Hon. Mr. D.K. Agrawal, J.M.  
Hon. Mr. K. Ojha, A.M.

Shri. S.C. Gulati, appears for  
the applicant and wants change of  
date. ~~The~~

List it for orders on  
28/3/90. It is <sup>very</sup> likely that ~~there~~ there  
would be no Bench on 28/3/90.  
Therefore, the date is advanced to

17/4/90.

A.M.

Dec  
J.M.

19-4-90 Hon. D.K. Agrawal, J.M.  
Hon. B.S. Habeebullah, A.M.

O.A. has been allowed  
by a separate order. The  
parties have been left to bear  
their own costs.

Recd by  
J.M.  
A.M.

A.M.

J.M.

28/4/90

Received Records of  
20545/KLC/EC(1)  
of Chief Engineer  
2 one and Tribunal Report

For  
R.A. KHANI  
16-5-90.

OR  
L/c for the  
applicant has filed  
172/90(L) & 174/90(L)  
filed for early hearing  
& S. Reply.

S.F.O. on 28.3.90  
Date fixed L  
28/3/90

L  
149

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD

\*\*\*\*\*

CIRCUIT BENCH LUCKNOW

CA EX. NO. 205 1989. (11)

DATE OF DECISION 19-4-80.

K. L. Chitrg PETITIONER

K. C. Gidali Advocate for the  
Petitioner (s)

VERSUS

U. O. L. RESPONDENT

U. K. Choudhary Advocate for the  
Respondent (s)

CORAM :

The Hon'ble Mr. D. K. Agrawal, J. M.

The Hon'ble Mr. P. S. Habib Mohammed, A M

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement ? ✓
4. Whether to be circulated to other Benches ? P

\*\*\*\*\*

*Dr. Kapoor*



Central Administrative Tribunal, Allahabad.  
CIRCUIT BENCH, LUCKNOW.

Registration O.A.No. 285 of 1989 (L)

K.L.Chopra ..... Applicant

Vs.

Union of India and others ..... Respondents.

Hon. D.K.Agrawal, JM

Hon. P.S.Habeeb Mohammad, AM

( By Hon. D.K.Agrawal, JM)

The abovenamed Applicant has approached us u/s.19 of the Administrative Tribunals Act XIII of 1985 for issue of writ of certiorari to quash the order dated 6th Oct. 1989 (Annexure A-1) passed by Garrison Engineer, East, Lucknow- Respondent no.3 by which the Applicant has been transferred and directed to join staff duty in the office of CWE(P) Lucknow.

2. Briefly, the facts are that the Applicant was appointed as Sub Overseer in the department of Military Engineering Services in the year 1958 and subsequently promoted to the cadre of Superintendent B/R Grade II and continues to hold the same post. The Applicant's grievance is that he has been unfairly treated inasmuch as, on the one hand the department has held that departmental promotees from the post of Sub Overseer to the post of Superintendent B/R Grade II are more suitable for executive duty rather than staff duty and on the same analogy, directed the posting of G.P.Pande on executive duty, on the other hand, the Applicant has been discriminated. His representation dated 12.6.1989 has been rejected vide order dated 5.10.1989 without assigning any reason. Reference has also been made to

*K.R. G. Sood*

para 5-A of the policy framed by the department for the posting of Superintendent B/R Gr.II which lays down that they should be posted from one division to another division or from one sub-division to another sub-division. The Applicant has further stated in para 11 of his rejoinder that he has no objection to his transfer in accordance with the policy to any other division or sub-division but he should not be posted on staff duty because the department has already held in the case of G.P.Pande that departmental promotees from the post of Sub-Overseer to the post of Superintendent B/R Gr.II are more suitable for posting on executive duty.

3. The Respondents have denied the contention of the Applicant. Their contention is that the Applicant has already been posted on executive duty for about 3-4 years and, therefore, he has been shifted to staff duty.

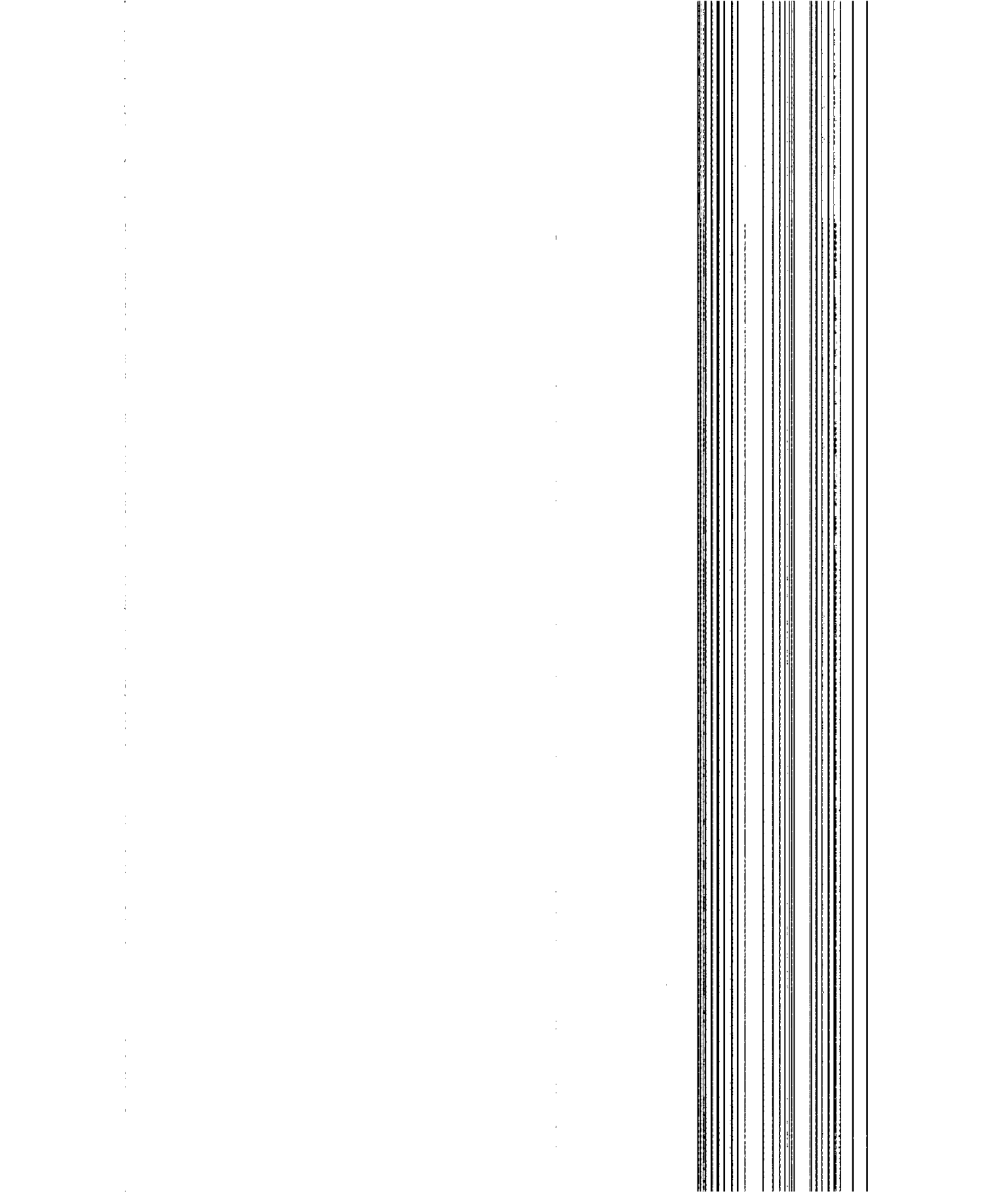
4. We have heard learned counsel for the parties and perused original record as well. We are of opinion that the case can be finally disposed of. It need not be made to linger on any more. It is true that the guidelines for transfers are not mandatory but the policy of posting stands on a different footing. The policy of transfer and posting as framed by the department has been filed as Annexure A-4. A perusal of paras 5-A and 5-B thereof indicates that Superintendent B/R Gr.II are to be posted from one division to another division or one sub-division to another sub-division while Superintendent B/R Gr.I are to be posted to executive or staff duty or vice-versa. This is the main sheet anchor of the Applicant. We are constrained to observe that the Respondents have not brought on record any instance where a Sub Overseer promoted departmentally to the post of Superintendent B/R.Gr.II has been posted on staff duty. The

*Dr. Ag. S. S. S.*

annexure A-5 is an order of the department itself which mentions that Superintendent B/R Gr.II promoted from the post of Sub-Overseer are more suitable for executive duty rather than staff duty. The said letter was issued while posting G.P.Pandey on executive duty. The question, therefore, is as to why the Applicant has not been treated at par with G.P.Pandey. We are of opinion that the department should have stated specifically reasons while rejecting his representation dated 12.6.1989. The often quoted maxim that "Justice should not only be done but shown to have been done" is equally applicable on administrative actions. The administrative orders should not only be fairly passed but shown to have been fairly passed. We are unable to find any reason as to why a distinction has been made in the case of the Applicant in the instant case. If the department has been consistently following the policy of posting departmental promotees on executive duty, we feel that the Applicant is entitled to the same treatment, more particularly when the Applicant has no objection to his transfer from one division to another division or from one sub-division to another sub-division. We would not like to interfere with the discretion of the competent authority as regards the transfer of the Applicant but we are inclined to direct the Respondents to give the Applicant a posting on executive duty.

5. The Application is accordingly allowed partly.

The Respondents are directed to post



annexure A-5 is an order of the department itself which mentions that Superintendent B/R Gr.II promoted from the post of Sub-Overseer are more suitable for executive duty rather than staff duty. The said letter was issued while posting G.P.Pandey on executive duty. The question, therefore, is as to why the Applicant has not been treated at par with G.P.Pandey. We are of opinion that the department should have stated specifically reasons while rejecting his representation dated 12.6.1989. The often quoted maxim that "Justice should not only be done but shown to have been done" is equally applicable on administrative actions. The administrative orders should not only be fairly passed but shown to have been fairly passed. We are unable to find any reason as to why a distinction has been made in the case of the Applicant in the instant case. If the department has been consistently following the policy of posting departmental promotees on executive duty, we feel that the Applicant is entitled to the same treatment, more particularly when the Applicant has no objection to his transfer from one division to another division or from one sub-division to another sub-division. We would not like to interfere with the discretion of the competent authority as regards the transfer of the Applicant but we are inclined to direct the Respondents to give the Applicant a posting on executive duty.

5. The Application is accordingly allowed partly. The Respondents are directed to post the Applicant on executive duty in any division or sub-division which they consider proper. The parties are left to bear their own costs.

MEMBER (A) 19/4/1990

Dr. Agrawal  
19.4.90.  
MEMBER (J)

Dated: April 1990  
kkb.

Madan Mohan Lal Godeja - Applicant  
Versus  
Secretary Ministry of Defence

D.A. No. 605/89

Hon' Mr. D.K. Agrawal, J.M.

Hon' Mr. R. Balasubramanian A.M.

28/7/89

We have heard Shri V.K. Barman, Learned Counsel for the applicant.

The applicant has a grievance in that he has been transferred from a sensitive post to a nonsensitive post curtailing the usual tenure of 3 years. The learned counsel specifically pointed out that this curtailment of tenure is a stigma and causes humiliation to his client. He has contended that the earlier transfer from non sensitive post to sensitive post had been done even when a charge sheet against his client was pending; but that now he has suddenly been ordered back to non sensitive post drastically curtailing the tenure period. He has also alleged that the procedure for altering tenure has not been followed and that the transfer order was a sequel to certain anonymous complaints etc. He has also sought an interim relief that pending disposal of the application, the order dated 19-7-89 according to which his client has to move out before 31/7/89 be stayed during the pendency of the above application.

This case is considered fit for adjudication and an interim stay of 14 days is also granted.

List this case for hearing on admission/orders on 10-8-89.

Sd/-  
A.M. 28/7/89

(sns)

Sd/-  
J.M.

Confirmed  
G-A-T-E-S-T-E-D True Copy

D.S. Dubey

(D. S. DUBEY)

SECTION OFFICER  
Central Administrative Tribunal  
Ahmedabad.

Madan Mohan L.J. Godej - - - - - Applicant

Secretary Ministry of Defence

OPA No. 605/89

Hon' Mr. D.K. Agrawal, J.M.

Hon' Mr. R. Balasubramanian, A.M.

28/7/89

We have heard Shri V.K. Berman, Learned Counsel for the applicant.

The applicant has a grievance in that he has been transferred from a sensitive post to a nonsensitive post curtailing the usual tenure of 3 years. The learned counsel specifically pointed out that this curtailment of tenure is a stigma and causes humiliation to his client. He has contended that the earlier transfer from non sensitive post to sensitive post had been done even when a charge sheet against his client was pending; but that now he has suddenly been ordered back to non sensitive post drastically curtailing the tenure period. He has also alleged that the procedure for altering tenure has not been followed and that the transfer order was a sequel to certain anonymous complaints etc. He has also sought an interim relief that pending disposal of the application, the order dated 19-7-89 according to which his client has to move out before 31/7/89 be stayed during the pendency of the above application.

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List this case for hearing on admission/orders on 10-8-89.

Sd/-

A.M. 28/7/89

(sns)

Sd/-

J.M.

ATTESTED True Copy

D.S. DUBEY

28/7/89  
(D.S. DUBEY)  
SECTION OFFICER  
Central Administrative Tribunal  
Allahabad.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

Madan Mohan L.I. Sodeja - - - - - Applicant  
Versus

Secretary Ministry of Defence  
New Delhi

O.A. No. 605/89

Hon' Mr. D.K. Agrawal, J.M.

Hon' Mr. R. Balasubramanian, A.M.

28/7/89

We have heard Shri V.K. Barmen, Learned  
Counsel for the applicant.

The applicant has a grievance in that he has been  
transferred from a sensitive post to a non-sensitive  
post curtailing the usual tenure of 3 years. The  
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curtailment of tenure is a stigma and causes humilia-  
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dated 19-7-89 according to which his client has to  
move out before 31/7/89 be stayed during the pendency  
of the above application.

This case is considered fit for adjudication and an  
interim stay of 14 days is also granted.

List this case for hearing on admission/orders  
on 10-8-89.

Sd/-  
A.M. 28/7/89

(sns)

Sd/-  
J.M.

certified  
ATTESTED True Copy

D.S. Dubey

(D. S. DUBEY)

SECTION OFFICER  
Central Administrative Tribunal  
Allahabad.



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH, LUCKNOW.

Application No. 285 of 1989 (L)

Deputy Registrar (J)

K.L. Chopra

.....

Applicant

Versus

Union of India and others .....

Respondents

I N D E X

Sl. No.	Description of documents relied upon	Pages	
		from	To

COMPILATION NO. 1

1-	Application	1	- 9
2-	Annexure No.A-1 (Copy of G.E.(East) Letter No.1472/ 203/E-1 dated 6.10.1989 issued by Respondent No.3.	10	11
3-	Annexure No.A-1/1, (Copy of CE CC LKO Letter No.901250/ 1/TO/251/EIC/(1) dated 7.6.1989 issued by Respondent No.2.	12	13
4-	Affidavit	14	15
5-	Vakalatnama	16	

Lucknow:

Dated: 16.10.1989.

Applicant

(S.C. Gulati) Advocate  
Counsel for the Applicant.Filed today  
16/10/89

M/4

42/✓

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
LUCKNOW BENCH, LUCKNOW.

Appln. No. 285 of 1989 (1)

Kishan Lal Chopra, aged about 51 years, son of  
Shri Bishambhar Das Chopra, resident of Sector 'D',  
C-9, Kanpur Road Scheme, LDA Colony, Lucknow -  
(presently working in the Office of Garrison Engineer  
(East), Rani Laxmi Bai Marg, Lucknow Cantt.

... Applicant

Versus

1. Union of India, through its Secretary,  
Ministry of Defence, Engineer-in-Chief Branch,  
Army Headquarters, New Delhi.
2. Chief Engineer, Head Qrs., Central Command,  
Lucknow Cantt.
3. The Garrison Engineer (East), 4, Rani Laxmi Bai  
Marg, Lucknow Cantt.

... Respondents.

APPLICATION UNDER SECTION 19 OF THE  
ADMINISTRATIVE TRIBUNAL ACT, 1985.

\*\*\*\*\*

To The Hon'ble Chairman and the Judicial Members Tribunal.  
The humble applicant most respectfully sheweth  
as under ;



contd..2

2. 1/3

## DETAILS OF APPLICATION

### 1. PARTICULARS OF ORDER AGAINST WHICH APPLICATION IS MADE

1. That the instant application is directed against the arbitrary order vide letter No. 1472/203/E-1 dated 6th October, 1989 of Garrison Engineer (East), Lucknow respondent No. 3, by which he has been transferred and directed to join staff duty in the office CWE (P), Lucknow. True copy of which is filed as ANNEXURE NO. A-1 to this application.
2. That the said transfer order dated 6.10.1989 - (ANNEXURE NO. A-1) has been issued under the authority of Respondent No. 2 vide letter No. CE CC LKO. Letter No. 901250/1/TO/251/EIC/(1) dated 7th June, 1989. True copy of which is filed as ANNEXURE NO. A-1/1 to this application.

### 2. JURISDICTION OF THE TRIBUNAL

3. That the applicant declares that the subject matter of the orders against which he is seeking remedies is within jurisdiction of this Hon'ble Tribunal.

### 2. LIMITATION

4. That the applicant further declares that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunal Act, 1985.

### 4. FACTS OF THE CASE

5. That the facts giving rise to the instant application are as under :
6. That the applicant has been appointed on the post of Sub-Overseer in the department of Military Engineering Services under the respondents in the year 1958 and subsequently promoted in the cadre of



*[Handwritten signature]*

3. <sup>A</sup>16  
AU  
U

Superintendent B/R Grade II and is continuing on the said post in the office of Respondent No. 3.

7. That the applicant aggrieved against the said order of posting, wrongfully over-ruling the policy of posting on the turn over basis framed by respondent No. 1, the applicant filed representation on 12th June, 1989 mentioning all facts therein. The true copy of the said representation is being annexed as ANNEXURE No. A-2 with this application;
8. That the Respondent No. 2 has failed to consider the said representation of the applicant and the same has been rejected without assigning any reasons, whatsoever. The True copy of the said order dated 5.10.1989 communicated by the Respondent No. 3 is being filed herewith as ANNEXURE NO. A-3 to this application.
9. That the policy of posting on turn-over basis has been framed by Respondent No. 1 vide letter No.79040/ETC(i) dated 30.12.1983. According to the said policy, the transfer shall be made in the following manner as mentioned in paragraph 4 and 5 (a), (b) ;
- "4. The staff employed on executive duties or where financial dealings and contacts with the public could be made, the turnover should however, be carried out. No person should be allowed to hold a particular sensitive appointment for a period of more than 3 to 4 years. It will be ensured that personnel posted to outstations are not due for posting to tenure station and they are also the senior-most in the stations.



A/T  
D/S  
4.

5. Adjust ments within the same station can be ordered by the CE Command CE Zone/CWE(Highest officer in the station). But the Command CE will order postings outside the station. The following guidelines are suggested :

a) Gde IIs should be formed over from one Division to another Division within the same station. If that is not possible because there is only one Division in that station, they should be transferred from one sub-divi ion to another sub-division in case of B/R Gde IIs and from one station to another section for Super~~BR~~/ Gde.II and F.M. Gde II by the GE.

b) Gde Is should be turned over from Executive to Staff and vice-versa they should be - moved from one<sup>2</sup> division<sup>2</sup> station to another division. In case there is only one Division in station they shall be transferred to another station."

The true copy of the said letter 'E-in-C's Branch, AHQ, New Delhi letter No. 79040/EIC(I) dated 30.12.83 is being annexed as ANNEXURE NO. A-4 to this application.

10. That acting in accordance with the policy laid down vide Annexure No. A-4 the respondent No. 2 has confirmed the transfer order of Shri Anand prakash and Sri G.P. Pandey. The situation of the applicant is also similar to that of Shri G.P. Pandey, who has been held Department promotees from Sub-Overseer to Superintendent B/R II are more suitable for executive duties rather than staff duties.

11. That the applicant is B/R Grade II and the staff duty as per the said policy is meant for Grade I only, hence



18/10/89

5.

the said order of posting of the applicant is illegal and arbitrary and against the Policy of respondent No. I.

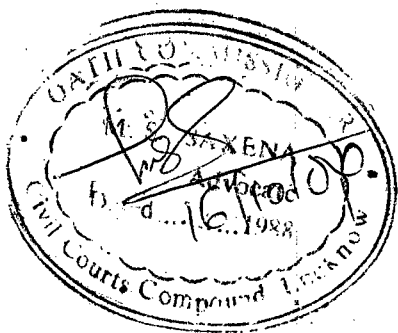
12. That the applicant was posted on turnover basis to AGE B/R II Sub-Division, Lucknow on 7.5.1987 by the Respondent No. 2, hence the posting of applicant has completed the period of two years only on turn-over basis is also illegal and arbitrary and against the policy of Respondent No. I.

13. That as per Policy of the Respondent No. I ANNEXURE No. A-5 only Grade I can be transferred from executive to staff duty. The applicant being grade II he is not liable to be transferred to Staff duty as has been done vide impugned orders dated 7.6.1989 ANNEXURE NO. A-1/1, and dated 6.10.1989 ANNEXURE No. A-I.

14. That the applicant is also department promotee from Sub-Overseer Non-Technical to B/R Gr. II and he has not completed the period of four years as per Policy hence the applicant's posting on turn-over basis is illegal and against the said policy of Respondent No. I and are liable to be set aside.

15. That inspite of the aforesaid facts, the Respondent No. 2 has posted the applicant against the Policy and directed to the respondent No. 3 to relieve him from his duty by 16th October, 1989.

...6



*[Handwritten signature]*

A/19  
6. 8/7

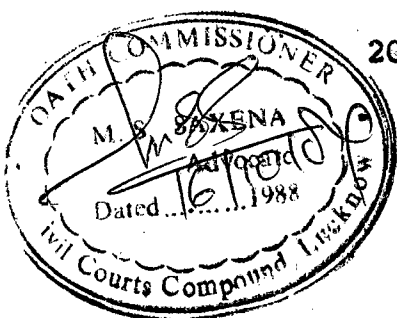
16. That the abovesaid action of the Respondent No. 2 posting the Applicant on turn-over basis is totally arbitrary, illegal and liable to be set aside.
17. That the similar case has been considered itself by the Respondent No. 2 vide their letter No.901250/1/TO/165/EIC(I) dated 2nd August, 1988 and the Policy as ANNEXURE NO. A-4 has been given effect too, while in the case of applicant it is being violated arbitrary. (True copy of the said order is being filed as ANNEXURE NO. A-5 to this application).
18. That the applicant having no other efficacious and alternative remedy available to him, now beg to file the instant application on the following amongst other grounds;

2. DETAILS OF THE REMEDIES EXHAUSTED

19. That the applicant declares as there is no remedies available under the Service Rules and the applicant's representation dated 12th June, 1989 - Annexure No.A-2 has been rejected vide impugned order dated 5.10.1989- (Annexure No. +A-3).

6. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT

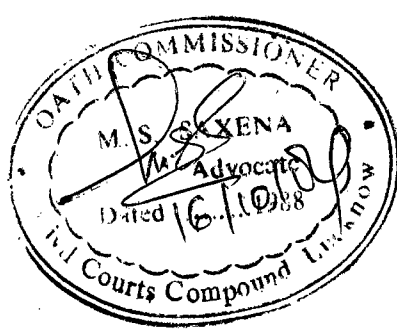
20. That the applicant further declares that he has ~~not~~<sup>3</sup> not previously filed any application, writ-petition or suit regarding the matter in respect of which this application has been made, before any Court or any other authority or any other Bench of the Tribunal not any such application, writ-petition or suit is pending before any of them.



1/20  
5/6  
7.

G R O U N D S

- a) Because the impugned transfer order dated 7th June, 1989 and 6th October, 1989 - Annexure Nos. A-1/1 and A-1 are illegal, arbitrary and against the policy laid down vide ANNEXURE NO. A-4 of the Respondent No. 1.
- b) Because the applicant has not completed four years period at the present posting hence in view of the paragraph-4 of Policy (Annexure No. A-4), the applicant cannot be transferred and the impugned Transfer order dated 7.6.1989- Annexure No. A-1 is arbitrary and liable to be set aside;
- c) Because the applicant is a promotee B&R Grade II, hence he cannot be transferred on Staff Duty in violation of paragraph 5(b) of the Policy (Annexure No. A-4) and the impugned order dated 7.6.1989 -- (Annexure No. A-1/1) passed by respondent No. 2 is illegal, arbitrary and liable to be set aside;
- d) Because the respondent No. 2 has illegally rejected the representation dated 12th June, 1989 (Annexure No. A-2) of the Applicant without assigning any reason vide order dated 5.10.1989 (Annexure A-3), hence the said order is illegal, arbitrary against the principle of natural justice;
- e) Because the transfer order dt. 7.6.1989 (Annexure No. A-1/1) passed by Respondent No.2 is liable to be set aside.



*[Handwritten signature]*



8. R E L I E F S : Sec 847

WHEREFORE, the applicant most humbly and respectfully prays for the following reliefs :

- i) THAT the Transfer order/letter No. 1472/203/E-I dated 6th October, 1989 (Annexure No. A-1 ) issued by respondent No. 3 on the basis of authority contained in Letter No. 901250/1/Lko/251/E-I-C(I) dated 7.6.1989 (Annexure No. A-1/1) issued by respondent No. 2 may please be set aside being illegal, arbitrary and against the policy.
- ii) That any other appropriate order or direction which the facts and circumstances of the case may admit, be also issued or passed.
- iii) That cost of the application be also awarded to the applicant.

9. INTERIM RELIEF

Pending decision of the application, the applicant prays that the operation of Transfer order dated 6.10.1989 passed by the respondent No. 3 (Annexure No. A-I) on the basis of authority contained in letter No. 901250/1/TO/251/EIC/(I) dated 7.6.1989 passed by respondent No. 2 (Annexure No. A-1/1) may please be stayed.

Postal order of Rs. 50/- only bearing No. 839202 dated 13.10.89 is filed with this application.

contd...9

*[Handwritten signature]*

10. LIST OF ENCLOSURES :

1. Copy of G.E. (East) letter No.1472/203/E-I dated 6th October, 1989 issued by respondent No. 3.
2. Copy of C.E. C.C. LKO. Letter No. 901250/1/TO/251//EIC/(I) dated 7.6.1989 issued by respondent No. 2.
3. Copy of Representation filed by the applicant dated 12th June, 1989.
4. Copy of rejection of representation order dated 5th October, 1989 of respondent No. 2.
5. Policy letter ~~No.~~ dated 30.12.1983 issued respondent No. I.
6. Copy of letter dated 2.8.1988 issued by respondent No. 2.

VERIFICATION

I, Kishan Lal Chopra, S/o Shri B.D. Chopra, aged about 52 years, working as B/R Grade II in the office of G.E.(East), Lucknow + Cantt. resident of Sector 'D', C-9, Kanpur Road, LDA Colony, Lucknow, do hereby verify that the contents of paragraphs / to /<sup>117 & 2</sup> are true to my personal knowledge and those of paragraphs /<sup>16</sup> to are believed by me to be true on legal advice and that I have not suppressed any material fact.

Lucknow; <sup>2</sup>  
October /<sup>6</sup> .1989

(KISHAN LAL CHOPRA)  
Applicant.

COUNSEL FOR THE APPLICANT.

16  
A/21  
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH, LUCKNOW.

Appln. No.

of 1989

Mr. K.L. Chopra

...

Applicant.

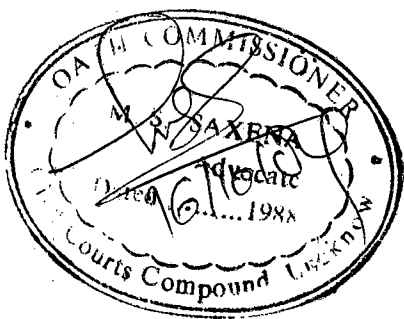
Vrs.

Union of India and Others.

...

Respondents.

ANNEXURE NO. A-1



File Mil : 2640

Garrison Engineer(East)  
Lucknow - 226002

1472/ 203 /E1

06 Oct 89

MES-442056

Shri K L Chopra,  
Supdt B/R Gde II  
(Through AGE B/R I Sub Div)

POSTING/TRAN-SFER ON TURN OVER BASIS

1. You are hereby permanently transferred to CWE(P) Lucknow in the interest of state,

Auth : CE CC Lko letter No 901250/1/TO/251/EIC(I)  
dated 07 Jun 89.

2. You will be releived of your duties on 16 Oct 89 (A/N) by this office and report to your new formation immediately.

3. No TA/DA is admissible.

4. You will submit the following before you leave this office :-

- (a) Clearance Certificate (b) Departure Report  
(c) CGHS Card (d) Pt Identity Card

5. It will be noted that your pay and allowances for the month of Nov 89 and onward will be claimed by your new formation only after you report there physically for duty.

*[Signature]*  
( R K Chhabra  
Major  
Garrison Engineer

Distribution:

1. CE CC Lucknow
2. CE LZ Lucknow
3. CWE (P) Lucknow
4. CDA CC Lucknow
5. BSO (Rev)
6. BSO (F/S) Lko
7. E-1 Pay
8. E-1 (Con)
9. Documents Clk

Pay and allowances of above named individual has been claimed upto Oct 89 at the following rates :-

B/Pay	DA	CCA	HRA
1800/-	612/-	50/-	450/-

Deduction:

GPF A/C No 151345 Sub @ Rs 500.00 PM.

CGEIS Rs 20/- PM.

CGHS Rs 3/- PM

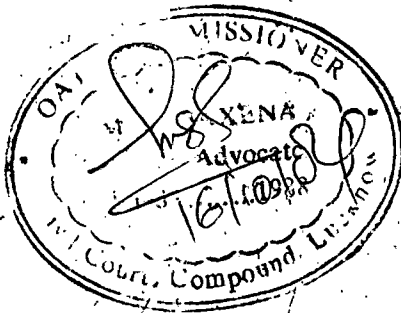
Date of Birth - 13-4-38

Date of next increment - 01.10.90

Casual Leave Balance - 12 days

RH Balance - 02 days

\*bsw/



12  
8/27

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH, LUCKNOW.

Appln. No.

of 1989

Mr. K.L. Chopra

...

Applicant.

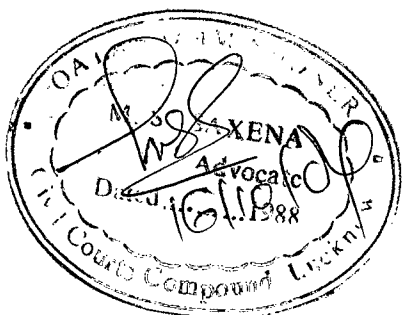
Vrs.

Union of India and Others.

...

Respondents.

ANNEXURE NO. A-1/1



*[Handwritten signature]*

Tele Mil 2666

Engineer's Branch  
Central Command  
Lucknow - 226 002

901250/1/10/251 /EIC(I)

07 Jun '89

Chief Engineer  
Lucknow Zone  
Lucknow-2

POSTING/TRANSFER : TURN OVER BASIS SUBORDINATES

1. The following postings are hereby ordered.

Sl No, Name & Designation	Posted		Remarks
	From	To	
1. MES-440127 Shri TD Misra	Super S/R II	CHE (P) Lucknow	GE (N) Lucknow Against existing vacancy.
2. MES-436376 Shri Anand Prakash	-do-	CHE (P) Lucknow	GE (E) Lucknow
3. MES-442056 Shri K L Chandra	-do-	GE (E) Lucknow	CHE (P) Lucknow

2. No 14/DA and joining time is admissible.
3. Move to be completed immediately
4. This disposes of your letter No 120501/10/968/EIC(I) dated 17 May 89.
5. This has the approval of appropriate authority.

(C-S Misra)

AC-1

Chief Engineer

Copy to:-

CHE (P) Lucknow, GE (E) Lucknow, GE (N) Lucknow  
ID : EIC(1), EIC(2), Posting folder.

16/10/89

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
LUCKNOW-BENCH, LUCKNOW.

Appln. No. OF 1989



K.L. Chopra ... Applicant

Versus

Union of India & Others ... Respondents.

A F F I D A V I T

I, Kishan Lal Chopra, aged about 51 years, son

of Shri B.D. Chopra, resident of Sector 'D', C-9,

Kanpur Road, Lucknow do hereby solemnly affirm and state

on oath as under :

1. That the deponent is the applicant in the above-  
noted as such he is fully acquainted with all the  
facts of the case;

2. That the contents of paragraphs 1 to 17 of the  
accompanying application are true to own knowledge  
of the deponent while the contents of paragraphs  
to 18 of the accompanying application are  
based on legal advice and information received.

3. That the Annexure No. A-1 to A- annexed with

accompanying application have been compared from

their originals and the deponent certifies that they

are their true copies.

Lucknow: Oct. 16, 1989

(K.L. CHOPRA)  
Deponent.

VERIFICATION

I, Kishan Lal Chopra, the deponent do hereby verify that the contents of paragraphs 1 to 3 of this affidavit are true to my personal knowledge. No part of it is false and nothing material fact has been concealed -so help me God.

Signed and verified this 16<sup>th</sup> day of October, 1989 at Lucknow.

(KISHAN LAL CHOPRA)  
Deponent.

I identify the deponent, who is personally known to me and who has signed this affidavit before me.

Advocate.

Lucknow;

75 M. October 16, 1989

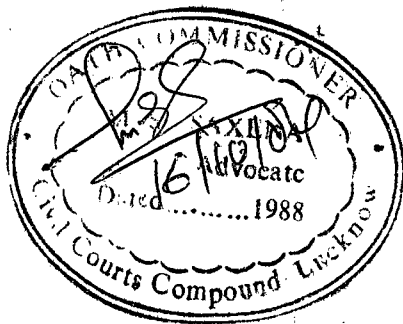
solemnly affirmed before me in office to-day  
10:15 AM by Kishan Lal Chopra  
who is identified by Shri S. C. Gulati  
Clerk to Shri

I have signed myself by Advocate  
deponent (Kishan Lal Chopra) understands the contents  
of this affidavit which has been read out and  
explained by me fee charged Rs. 150/200

\*\*\*

M. S. Saxena  
Oath Commissioner  
Civil Courts Lko

16/10/89





2 RS COURT FEE 2 RS

भारत सरकार

दो रुपये

TWO RUPEES

# वकालतनामा

48

Union of India & other-<sup>बताव</sup> Respondent

**सन्**

22 450

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री Subhash' Chander Gulati... Advocate  
 Secd. G.C. - 53 Kanpur Road, L.D.A. Colony Lucknow. वकील  
 महोदय  
 एडवोकेट

नाम अदालत ... ..  
मुकुटमा नं० ... ..  
नाम फरीकैन ... ..

को अपना वकील नियुक्त करके प्रतिज्ञा ( इकरार ) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा उठावें या कोई रुपया जमा करें या हारी विपक्षी ( फरीकसानी ) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त ( दस्तखती ) रसीद से लेवें या पंच नियुक्त करे—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकर को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे ।

हस्ताक्षर... ..

साक्षी (गवाह) ... साक्षी (गवाह) ...

दिनांक ..... 16 ..... महीना ..... 10 ..... सन् १९८७ ई०

## स्वीकृत

~~Shivukata~~

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
LUCKNOW BENCH, LUCKNOW.

Appln. No. 200 of 1989

K.L. Chopra

.....Applicant

Versus

Union of India and others .....Respondents

I N D E X

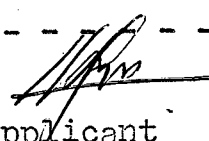
Sl.No.	Description of documents relied upon	Pages From To
--------	---	------------------

COMPILATION NO.2

- |    |  |         |
|----|--|---------|
| 1- | Annexure No.A-2 (Copy of Representation filed by the applicant dated 12.6.1989.                | 1 to 3  |
| 2- | Annexure No.A-3 (Copy of Rejection of Representation Order dated 5.10.1989 of Respondent No.2. | 4 to 5  |
| 3- | Annexure No.A-4 (Policy letter No.79040/EIC(I) dated 30.12.1983 issued by the Respondent no.1) | 6 to 8  |
| 4- | Annexure No.A-5 (Copy of letter dated 2.8.1988 issued by the Respondent No.2.                  | 9 to 10 |

Lucknow:

Dated: 16.10.1989.

  
Applicant

(S.C.Gulati) Advocate  
Counsel for the Applicant

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL.

LUCKNOW BENCH, LUCKNOW.

Appln. No.

of 1989

Mr. K.L. Chopra

...

Applicant.

Vrs.

Union of India and Others.

...

Respondents.

ANNEXURE NO.

A-2



From : MES-442056 KL Chopra  
Supdt B/R Gde II  
Office of GE (East)  
Lucknow -226002

To

The Chief Engineer  
Headquarters Central Command  
Lucknow -226002

Through : Proper channel

POSTINGS ON TURN OVER BASIS

Sir,

I am shocked to know about my posting from GE (East) Lucknow to CWE (P) Lucknow ordered on turnover basis vide your HQ letter No 901250/1/70/251/EIC(I) dated 07 Jun 89. I feel that my turn over posting is not in conformity with the existing policy on postings/transfers as laid down in E-in-C's Branch, Army Headquarters letter No 79040/EIC dated 30 Dec 83. In this context I put forward the following facts for your kind consideration:-

- (a) On completion of my tenure at hard/tenure station; viz Talabhat, I was posted to GE (East) Lucknow.
  - (b) On resuming my duty, I was posted as SDO 'T' in GE (East) Lucknow for three months.
  - (c) Thereafter I was shifted to AGE B/R I Sub Division (under GE (East) Lucknow) in 1981.
  - (d) After that GECC vide their letter No 901250/1/Turnover/453/EIC(I) dated 15 May 87 ordered my posting on the turnover basis to AGE MES Bakshi-Ka-Talab under GE (East) Lucknow.
  - (e) Since Bakshi-Ka-Talab is an out station and I was not the longest stayee at Lucknow station, my posting was reviewed and I was posted to GE (East) Lucknow vide GECC letter No 901250/1/Turnover/454/EIC(I) dated 19 May 87.
  - (f) Finally my posting on turnover basis was made to AGE B/R II Sub Division (under GE (East) Lucknow) vide GECC letter No 901250/1/Turnover/Fri/EIC(I) dated 03 Jul 87/reason best known to your office.
  - (g) Now again my posting on turn over basis has been ordered from GE (East) Lucknow to CWE (P) Lucknow vide your HQ No 901250/1/70/251/EIC(I) dated 07 Jul 89 vice Shri Anand Prakash Supdt B/R Gde II. / is being
  - (h) Shri Anand Prakash, Supdt B/R Gde II, who turned over from CWE (P) Lucknow is serving in that office from May 88 and has completed only one year on the staff appointment before his posting to CWE (P) Lucknow. Shri Anand Prakash had been serving on the Executive duties for about 4 years. He being a direct recruit
- .....2

4  
A  
N

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH, LUCKNOW.

Appln. No.

of 1989

Mr. K.L. Chopra

...

Applicant.

Vrs.


Union of India and Others.

...

Respondents.

ANNEXURE NO.

A-3



Tele Nil : 2640

1472/201 /E1

AGE B/R I

Garrison Engineer (East)  
Lucknow - 226002

05 Oct 89

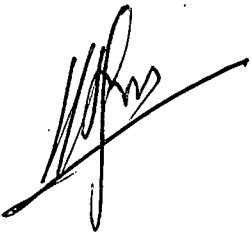
1/5 201/2

POSTING/TRANSFER ON TURNOVER BASIS

1. Reference your letter No 103-A/30/E1 dated 12 Jun 89.
2. The case had taken up with HQ CE CC Lucknow. It has been intimated vide their letter No 901250/1/To/334/EIC(I) dated 25 Sep 89 that the case of Shri K L Chopra Supdt B/R Gde II has been considered at appropriate level and rejected.

\*BSM/

(Rameshwar)  
AEE  
AGE 'T'  
For Garrison Engineer



8  
x/6  
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH, LUCKNOW.

Appln. No.

of 1989

Mr. K.L. Chopra

...

Applicant.

Vrs.

Union of India and Others.

...

Respondents.

ANNEXURE NO.

A-4

11/11/89

Telephone : 372337

7  
Chief Engineer, Madhya Pradesh  
Pradesh Engineer, Madhya Pradesh  
Thal Sena, Madhya Pradesh  
Coord & Pers Directorate / EIC  
Engineer in Chief's Branch  
Army Headquarters  
DHQ PO NEW DELHI-110011

30 Dec 1983

79040/EIC(I)

The Chief Engineer

HQ Southern Command, Pune  
HQ Eastern Command, Calcutta  
HQ Central Command, Lucknow  
HQ Western Command, Srinagar  
HQ Northern Command, C/o 56 AGO

POLICY REGARDING TRANSFER OF CIVILIAN  
SUBORDINATE IN THE MES

1. Reference this HQ letter No. 79040/EIC(I) dated 20 Aug 83 and your reply thereto.
2. Orders/Instructions laying down the broad principles according to which transfer of Civilian Subordinate personnel in the MES to tenure stations or otherwise were to be carried out were issued vide this HQ letter No. 79040/EIC(I) dated 21 Sep 74 and 17 Oct 74, as amended from time to time. The broad principles and guidelines in the above referred letters were based on orders/instructions issued by the Ministry of Defence for all Defence Establishments. The Chief Engineers Commands were asked to issue comprehensive instructions based on the guidelines/instructions in the above referred letters.
3. Of late, it has been observed that the policy letters on the subject issued and later on amended by CE's Commands do not fully conform to the instructions/guidelines laid down by us. The deviations were made without prior approval of this HQ to suit the local requirements resulting in various representations from the affected individuals themselves or through MP's/Other authorities/Association/Court of Law. Such representations have, at times, put this HQ in an embarrassing position.
4. To over-come this situation and the problem being faced by CE's Commands, the existing instructions/guidelines have been reviewed at this HQ. After thorough examinations of the man-power state, the requirement of staff on the ground and the difficulties being faced by employees, it has been decided that instructions/guidelines as given in the attached Appendices 'A' & 'B' will be strictly followed by CE's Commands. The various policy letters issued by CE's Commands will be reviewed and a fresh comprehensive policy letter will be issued. Where due to local conditions any deviation in the instructions/guidelines is considered necessary, prior approval of this HQ will be obtained before making it or prescribing it in the Command policy letter.
5. A copy of the policy letters issued by CE's Commands to the CE's Zone will be forwarded to this Headquarters.
6. All previous instructions/guidelines issued by this HQ on the above subject may be treated as cancelled.

Encls: As above

(VN Agarwal)

Maj Gen

D O R

Pradesh Engineer

Engineer in Chief



INSTRUCTION/GUIDE LINES REGARDING TRANSFER OF CIVILIAN  
EMPLOYEES OF THE MEE FROM ONE STATION TO ANOTHER STATION

INTRODUCTION

1. The broad principles under which transfers of Gp 'C' and Gp 'D' civilian employees are to be carried out are stipulated in Ministry of Defence (M.D.) (1) 70 (Appts) dated 20 Nov 72 and 32(4) 73 (Appts) dated 31 May 75. It is laid down there in Gp 'C' and 'D' personnel should not normally be transferred from one station to another except to meet the following conditions:-

- (a) Adjustment of Surpluses/Deficiencies.
- (b) Promotion
- (c) Compassionate grounds/medical basis.
- (d) Exigencies of service or administrative requirements.

2. The Government has further emphasized that specially in case of Gp 'D' employees transfers should be resorted to under very special circumstances.

TURNOVER FROM NON TENURE STATION

3. No compulsory turn over from non-tenure stations will be made after completion of any period of service except to cater for turn over from tenure stations or to meet the job requirements.

4. The staff employed on executive duties or where financial dealings and contacts with the public could be made, the turnover should however be carried out. No person should be allowed to hold a particular sensitive appointment for a period of more than 3 to 4 years. It will be ensured that personnel posted to out-stations are not due for posting to tenure station and they are also the senior most in the stations.

5. Adjustments within the same station can be ordered by the CE Command CE Zone/CWE (highest officer in the station). But the Command CE will order postings outside the station. The following guide lines are suggested:-

(a) Gdc IIs should be turned over from one Division to another Division within the same station. If that is not possible because there is only one Division in that station, they should be transferred from one Sub-Division to another Sub-Division in case of B/A Gdc IIs and from one section to another section for Senior B/S Gdc II and P/A Gdc II by the CE.

(b) Gdc Is should be turned over from Executive to Staff and vice-versa. They should be moved from one Division to another Division. In case there is only one Division in a station, they shall be transferred to another station.

(c) Clerks working in a sensitive section will be transferred to another Division if any such exists in that station. If no such Division exists, they will be adjusted within that station in non-sensitive sections by the CE.

9  
A/9  
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH, LUCKNOW.

Appln. No.

of 1989

Mr. K.L. Chopra

...

Applicant.

Vrs.

Union of India and Others.

...

Respondents.

ANNEXURE NO.

A5

*[Handwritten signature]*

10

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901250/1/TO/165/E10(I)

Chief Engineer  
Lucknow Zone  
Lucknow

1. Reference your letter No 120545/804/LIC(I) dated 26th Jul 88.

(a) Paras 4 and 5(a) of E-in-C's Br letter No 79040/EIC(I) dated 30 Dec 83 stipulate that individuals are not be allowed to hold a sensitive appointment for more than 3 to 4 years.

(b) Shri GP Pandey was promoted to Supdt B/R II from Sub Overseer on 7.2.80. Departmental promotees are more suitable for executive duties rather than staff duties.

(c) Shri Anand Prakash being a direct recruit and working on executive duties wef 14.3.84 has been moved as per the policy in vogue and he is considered to be more suitable for staff appointment.

3. In view of above, change in existing posting orders is not required.

4. This has the approval of ACE this HQ.

Copy to :-

CWE (P) Lucknow

GE(E) Lucknow

*[Handwritten signature]*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

C.M. Application

in Re: OA No.285 of 89

K.L. Chopra

... Applicant

-vs-

Union of India and others

... Respondents.

APPLICATION.

The Respondents above named begs to submit  
as under:-

1. That the facts, reasons stated in the accompanying reply, it is expedient in the interest of justice and most humbly requested that the application as well as prayer for interim relief may kindly be rejected.

P R A Y E R.

Wherefore it is most respectfully prays that the application as well as prayer for interim relief filed by the applicant may very kindly be rejected in the interest of justice.



(VK CHAUDHARI)

Addl. Standing Counsel for Central Govt  
Counsel for Respondents.

Lucknow,

Dated: 18 Oct 1989.

Filed today

10/10

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

O.A. No. 285 of 1989

K.L. Chopra

... Applicant

-vs-

Union of India and others

.. Respondents.

PRELIMINARY OBJECTION TO THE GRANT OF INTERIM RELIEF.

...

The Respondents begs to submit as under:-

1. That the applicant is not entitled to get  
any <sup>interim</sup> relief for the facts and reasons given

herein under as many of the allegations made by the applicant in his application are incorrect and reply to those allegations in short is given only at this stage.

2. That parawise reply to the contents of the application in short is given herein under as it is not possible to give proper reply within such short period of few hours. In view of the fact that the copy of the application was not supplied in the office of the opposite party no.3 and only copy of the compilation no.2 ie. the copy of the enclosures was given in the office of the Respondent no.3 along with the notice in the afternoon

of 17th October 1989. However with the help of the Counsel who received a copy of the application as well as copies of annexures compilation 2 is being prepared and filed as the matter is ~~xxxxxxx~~ urgent and is listed for hearing on the matter of interim relief on 18.10.89.

3. That the contents of para 1 to 4 of the application need no comments.

4. That in reply to the contents of para 5 of the application it is submitted that no cause of action ~~was~~ has accrued ~~at~~ to the applicant for filing the instant application.


5. That the contents of para 6 of the application are not disputed.

6. That in reply to the contents of paras 7 & 8 of the application it is submitted that the Respondents never over-ruled the policy regarding posting issued by the E-in-C's Branch, Army Headquarters and it is wrong to allege that no such infringement was done in the case of the applicant. However the representation of the applicant was considered and was not found fit for interference and hence rejected. It is pertinent to mention that the applicant was transferred on turn over basis in as much as he has been transferred after 8 years continuous service on sensitive appointment, although

he was likely to be posted after 3 to 4 years of service on sensitive ~~post~~ appointment to the post of staff duty. X/14

7. That in reply to the contents of para 9 of the application it is submitted that the posting of the applicant was done as per policy decision mentioned by the applicant himself in para under reply. It is absolutely wrong that he has not posted 3 - 4 years on the sensitive appointment. That the applicant was never posted outside the Division within the past 8 years ie. since 1981 and he cannot be posted on sensitive appointment for more than 4 years in one division. Since the applicant has been posted in another division within the same station after 4 years he has no right or ~~xxx~~ <sup>cause</sup> of action to challenge the same before this Hon'ble Tribunal.

8. That ~~xxxxxx~~ the contents of para 10 of the application are wrong and hence denied. The situation of the applicant is not similar to that of Shri GP Pandey and Anand Prakash. It is also pertinent to mention that it is for the Department to consider the candidature of any ~~xxxxxx~~ person for posting in sensitive post or on staff duty post and since GP Pandey who was promoted from Sub-Overseer was found suitable for executive duty at that moment.



He was allowed to do the same duty from one division to another division but the applicant also with regard that consideration was given executive posting for a period of 8 years instead of 4 years. In the case of Shri A nand Prakash no interference was made by the higher authorities on his representation. It is also pertinent to mention that the matter regarding posting of particular post or the division is in the look out of the departmental competent authorities and the Hon'ble Tribunal seldom entertain in such matters where the same are not malafides or prima facie arbitrary.

9. That in reply to the contents of para 11 of the application it is submitted that there are many post of staff duty for B/R Gr. II and the applicant has been posted on the said post, it is wrong to allege that the staff duty post are only for Grade-I.

10. That in reply to the contents of para 12 of the application it is submitted that the posting of the applicant on 7.5.89 to the B/R. Grade. II Sub Division, Lucknow (under the same Division) cannot be termed as turn over basis as per posting policy quoted by the applicant himself as there are number of divisions in Lucknow such as GE(West), GE(East), GE(E&M), CWE (Project) etc.



11. That the contents of para 13 of the application are incorrect as stated and copy of letter enclosed as Annexure A-5 has wrongly been interpreted by the applicant.

12. That in reply to the contents of para 14 of the application it is submitted that the Departmental promotee from the post of Sub-Overseer to the post of B/R Grade-II are not always liable to be posted on sensitive duty. As per policy and procedure they are supposed to be posted at least 4 years on the sensitive post whereas the petitioner has been working on the sensitive appointment for the last 8 years in the same division within the same station. As per exigencies of service or administrative requirement even before completion of 4 years the incumbent can be posted anywhere either on the post of the sensitive appointment or staff duties even outside the station, which is particularly mentioned in the policy referred to by the applicant (para 1(b)).

13. That the contents of para 15 of the application are wrong and hence denied and in reply it is stated that there has not been any infringement of policy.

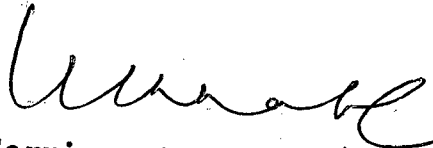
14. That the contents of para 16 of the application are wrong and denied and it is submitted that the posting of the applicant is neither arbitrary nor illegal or

as it is liable to be set aside.

15. That in reply to the contents of para 17 of the application it is submitted that there is no similarity between the case of Shri GP Pandey and Anand Prakash as well as of the ~~applicant~~ applicant.
16. That the contents of paras 18 to 20 of the application needs no comment.
17. That the grounds taken by the applicant are not tenable in the eyes of law as per averements made by the respondents in the above paragraphs in their reply.
18. That the applicant is not entitled to get any relief either by way of interim matter or by way of final relief.
19. That it is pertinent to mention that every Central Government employee is liable to serve anywhere in India and as such the applicant has no claim or right to serve on any particular post on any particular division and in one station only. He is liable to be transferred anywhere in the territory of India.
20. That in view of the facts and circumstances stated above, the application filed by the applicant as well as stay application are liable to be dismissed with costs to the Respondents.

Lucknow,

Dated: 18 Oct. 89

  
Garrison Engineer (East)  
(MES) Lucknow.

Verification.

son of

aged about

43

years,

working as

Garrison Engineer

in the office of GE(East) Lucknow Cantonment do

hereby verify that the contents of paragraphs 1

to 15 & 19. are true to my personal knowledge and

those of paragraphs 16 to 18 & 20

are believed by me to be true on legal advice and

that I have not suppressed any material fact.

GE(East)  
for Respondents.

through

(VK Chaudhari)

Addl. Standing Counsel for Central Govt  
Counsel for the Respondents.

Lucknow

Dated: 18 Oct. 1989.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CIRCUIT BENCH, LUCKNOW

C.M. Application

in Re: CA No. 285 of 1989.

K.L. Chopra

..... Applicant

Versus

Union of India and others

..... Respondents.

REPLY TO THE PRELIMINARY OBJECTIONS OF  
OPPOSIT PARTIES TO THE GRANT OF INTERIM  
RELIEF.

The humble applicant most respectfully

submits as under:-

1. That the contents of para 1 of the objections are denied and those of application are re-affirmed. The contents of the application of the applicant are correct.
2. That the contents of para 2 of the objections are denied. Since the respondents are in possession of all documents. They were in position to give proper reply within time. The copy of the application alongwith compliation was served in the office of opposite parties No. 2 and 3.

*Filed today  
L  
28/1/89*

*[Signature]*

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✓  
A/20

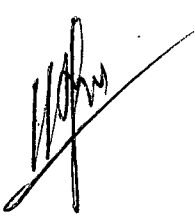
3. That the contents of para 3 of the objections do not call for any reply.
4. That the contents of para 4 of the objections are denied. The cause of action accrued to the applicant for filing the application before the Hon'ble Tribunal.
5. That the contents of para 5 do not call for any reply.
6. That in reply to the contents of para 6 of the objections it is submitted that the contents themselves show that infringement of the policy has been done in case of the applicant. It is submitted that the representation of the applicant was rejected without assigning any reason and in the rejection order ( Annexure No. A-3 ) it is nowhere mentioned in Annexure No. A-3 that the representation was not found fit for interference. The applicant was transferred vide order dated 15.5.1987 read with amendment

*[Handwritten signature]*

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dated 19.5.1987 ( True copies of which are annexed as Annexure No. A-6 and A- 7 respectively. This clearly contradict the ~~are~~ allegations of the opposite parties that he has been transfered after 8 years.

7. That in reply to the contents of para 7 of the objections it is submitted that applicant posting in 1987 vide Annexure No. A-~~6~~ and A-7 was on transfer from one Division to another Division under para 5(a) of the policy ( Annexure No. A-4 ). The applicant can be posted in another Division, ~~but he can~~ in the same Station under the said policy , but he can not be transfered to any post out side any Division as under the said policy. The applicant can be turn over from one Division to another Division within the Station. It is pertaintant to mention that policy (Annexure No. A-4) is dated 30.12.1983 and on the basis of same the transfer order of the applicant ( Annexure No. A-6 and A-7 ) were issued in 1987 earlier to it, there was no



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bar for retaining any person at any post more than 3 or 4 years. The applicant is challenging his transfer by impunged order as by the applicant has been transfered out side Division while under policy he can ~~not~~ only be transfered from one Division to another Division in the same Station to which the applicant has no objection.

8. That the contents of para 8,<sup>9</sup> of the objections are denied. The situation of applicant is similar to the case of Sri G.P.Pandey as the applicant is also departmental promotees being appointed as Sub Overseer and than promoted to the post of Supdt B/R II and as per policy the Deptt. promotees are most suitable for executive duties rather than Staff Duty was considered more suitable for Staff Apptt. It is no doubt the authorities are competent to post the applicant for One Division to another Division, but they are not competent to transfer the applicant from GE (East) Lucknow which a division to CWE(P) Lucknow



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which is not a Division or Sub Division as per policy ( Annexure No. A-4 ). The policy ( Annexure No. A-4 ) is specifically mention in para 5 (b) that Gde I should be turn over from executive to staff and vise-versa.

9. That the contents of para 10 of the objections are denied. The applicant posting order dated 7.6.1989 ( Annexure No. A-1/1 ) to CWE (P) Lko is out side any Division and respondents can transfer the applicant on turn over basis from one Division to another Division or ~~where~~ within same Sub Division within same Station. It is submitted that ~~CWE~~ ( Project ) is not a Division or Sub Division but severals divisions are under the control of ACWE as per para 23 of Section 2 of the Regulations for the Military Engineer Service which reproduce below:

23. " ACE's Command is divided into a number of MES Districts each under the control of a CWE. Districts are further subdivided into Divisions and Sub-Divisions and





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the control of GEs and SDOs respectively."

It is wrong to allege that CWE(P) is a Division to which the applicant is transferred vide ( Annexure No. A-1 and A-1/1 ).

10. That the contents of para 11 of the objections are denied and those of para 13 of the application is correct.
11. That the contents of para 12 of the objections are denied and those of para 14 of the application are re-affirmed. It is submitted that as per policy ( Annexure No. A-4 ) the applicant can only be transferred from One Division to another Division or from one Sub-Division to another <sup>Sub</sup> Division. The service Rules do not describe any duties as sensitive post or sensitive duty or any appointment as sensitive appointment. The applicant has no objections to his transfer in accordance with the policy to any other Division or Sub-Division.

*[Handwritten signature]*

4/5 8/10

12. That the contents of para 13 of the objections are denied and those of para 15 of the application are reaffirmed.
13. That the contents of para 14 of the objections are denied and those of para 16 of the application are reaffirmed.
14. That the contents of para 15 of the objections are denied and those of para 17 of the application are reaffirmed.
15. That the contents of para 16 do not call for any reply.
16. That the contents of para 17 and 18 are denied. The grounds taken by the applicant are tenable and he is entitled for the reliefs prayed for including interim relief.
17. That in reply to the contents of para 19 of the objections it is submitted that the applicant only be transferred to one Division to another Division and from one Sub-Division to another sub-Division in the same station only as per policy ( Annexure No. A-4 ).

*[Handwritten signature]*

A<sub>26</sub> BLC/9

18. That the contents of para 20 of the objections are denied. The application is fit to be allowed with interim relief.

Lucknow Dt:  
27 Oct '89.

Applicant


(S.C. Gulati) Advocate.  
Counsel for the Applicant.

Verification

I, Kishan Lal Chopra son of Shri B.D. Chopra aged about 52 years working as B/R Grade II in the Office of GE (East) Lucknow Cantt. do hereby verify that the contents of paragraphs 1 to 17 are true to my personal knowledge and those of paras 18 to are believed by me to be true on legal advice and that I have not suppressed any material fact.

Lucknow Dt:  
27 Oct '89.

  
(KISHAN LAL CHOPRA)  
APPLICANT

  
(S.C. GULATI) ADVOCATE.  
COUNSEL FOR THE APPLICANT



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOW

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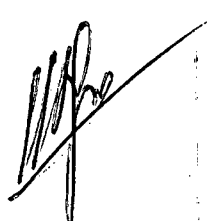
APPLICATION NO. OF 1989.

K.L.Chopra ..... Applicant

Vs.

Union of India & others. .... Respondents.

ANNEXURE NO. A-6



Tele. Mily 666

901250/1/Turnover/453/ElC(1)

CE Lucknow Zone Lucknow

Engineer's Branch  
HQ Central Command  
Lucknow- 2

15 May 87

POSTING/TRANSFER SUBORDINATES ON TURNOVER  
BASIS

1. The following postings are hereby ordered:-

SlNo	MES No & Name	Designation	Posted		Remarks
			From	To	
1.	MES-210225 Shri BD Gidwani	Supdt B/R Gde I	CE LZ Lucknow	GE (W) Lucknow	
2.	MES-440131 Shri Mehar Singh	Supdt B/R Gde I	GE (W) Lucknow	CE LZ Lucknow	
3.	MES- 452056 Shri KL Chopra	Supdt B/R Gde II	GE (E) Lucknow AGE B/R Sub Divn	GE (West) Lucknow AGE (MES) Bakshi-Ka-Talab	
4.	MES- 454923 Shri Radhey Lal	-do-	GE (W) Lucknow AGE (MES) Bakshi-Ka-Talab	GE (E)-LKO	
5.	MES- 223018 Shri SD Porwal	SA Gde I	CE CC Lucknow	CWE (P) Lucknow	
6.	MES-40121 Shri Tejbir Singh	SA Gde I	CWE(P) Lucknow	CECC Lucknow	

Contd....2

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Sl No	MES No & Name	Designation	Posted		Remarks
			From	To	
7.	MES-302798 Shri GN Trivedi	SA Gde II	GE (E) LKO	CE LZ Lucknow	
8.	MES-439067 Shri Chandrika Prasad	-do-	CE LZ Lucknow	GE (E) IKO	
9.	MES-408267 Shri Vijay Nand	Supdt E/M Gde I	CECC LKO	GE E/M Lucknow	Vice Shri VK Verma Supdt E/M I promoted to AE.
10.	MES 470011 Shri Rajendra Singh	-do-	GE E/M LKO	CE LZ Lucknow	
11.	MES-436016 Shri DP Vasdeo	-do-	CE LZ Lucknow	GE E/M Lucknow	Vice SL No 10
12.	MES-246167 Shri DN Kanpal	-do-	CE LZ Lucknow	GE (E) Lucknow	He Will relieve Shri RC Bagia Supdt E/M Gde I already posted to during 1985.
13.	MES-436858 Shri Hargovind Sharma	-do-	CECC Lucknow	GE(W) Lucknow	He will relieve Shri EL Katra already posted to during 1985 to CE LZ Lucknow
12.	MES-246167 Shri DN Kanpal	-do-			

112

10/12

Sl. No.	Name	Designation	Posted		Remarks
			From	To	
14.	MES-467666 Shri Rajender Singh	Supdt E/M Gde II	CWE(P) LKO	GE (Weast) Lucknow	
15.	MES-439013 Shri KN Das	-do-	GE (Weast) Lucknow E/M Sub Divn	CWE(P) LKO	
16.	MES- 441913 Shri Ajit Singh	-do-	CE LZ LKO	GE E/M Lucknow	Vice Shri Sugan Singh E/M II Promoted & Posted out.
17.	MES-455124 Shri SK Roy	-do-	CECC LKO	GE E/M Lucknow	Vice Shri JS Bhasin promoted To E/M I
18.	MES- 194011 Shri GP Sharma	-do-	CE LZ	GE E/M Lucknow	Vice Shri Wadhera promoted to E/M Gde I.
18.	MES- 437817 Shri Harish Kumar	-do-	CE LZ Lucknow	CECC Lucknow	
19.	MES- 445302 Shri HV Omar	Supvr B/S Gde I	GE(E) LKO BSO F/S Yard No 1	CE LZ Lucknow	
20.	MES-445117 Shri BB Pandey	-do-	CE LZ LKO	GE (E) LKO BSO F/S Yard No 1	

Contd...4

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SLNo	MES No & Name	Designation	Posted From	To	Remarks
21	MES-431319 Shri SP Bawa	SK Gde II	GE E/M LKO	IE (W) LKO	Vice Shri SW Yadava SK II posted to tenure station.
22	MES- 455283 Shri MY Kidwai	SK Gde II	GE (W) LKO	BSD CDS (I) LKO	Vice Shri RN Awasthi SK II Promoted to SK I

T/12A

Sis...  
15 Sep 87

2. NO TA /DA and joining time is admissible.
3. Move to be completed immediately
4. All moves to be completed by 10 Jun 87 and CE Zone will submit his confirmation by 15 Jun 87 for information of Addl CE this HQ. Also individuals serving on staff will move first. All representations if any will be entertained by 25th May 87 through proper channel.
5. Please also note that tenure repatriatee will be adjusted accordingly by this HQ after local turnover in CE's division is carried out.

This has the approval of Addl CE this HQ.

*U. Bhargava*

(PR Bhargava)  
AO I  
Chief Engineer

Copy to:-

EXX

1. CWE (P) Lucknow.
2. GE East Lucknow
3. GE (W) Lucknow
4. GE E/M Lucknow
5. AGE MES Bakshi Ka Talab

ID ELOB (Adm)- for information and necessary action.

EID, EID Ser Gp Posting Folder.

*[Handwritten signature]*



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
LUCKNOW BENCH LUCKNOW

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APPLICATION NO. OF 1989.

K.L.Chopra ..... Applicant.

Vs.

Union of India & others. .... Respondents.

ANNEXURE NO. A-7

*[Signature]*

Tele. Mily 666

901250/1/Turnover/453/ELC(1)

Chief Engineer  
Lucknow Zone Lucknow

Engineer's Branch  
HQ Central Command  
Lucknow-2

19 May 87

POSTING/TRANSFERS SUBORDINATES ON TURNOVER BASIS

1. Reference this HQ letter No 910327/4/ 901250/1/Turnover/453/ELC(1) dated 15 May 87.

2. The following amendments are hereby made to this HQ letter under reference:-

Para -1 against Serial No 3 under column posted to

For " GE (West) Lucknow  
AGE (MES) Dakshi Ka Talab "

Read " GE (West) Lucknow only "

Para -1 against serial No 17 under Column posted to:

For " GE E/M Lucknow "

Read " GE (W) Lucknow "

3. Other entries will hold good.

*U. R. Dharucha*  
(RR Dharucha)  
AO I  
Chief Engineer

Copy to:-

1. CME (P) Lucknow 2. GE (E) Lucknow 3. GE (W) Lucknow  
4. GE E/M Lucknow 5. AGE (MES) Dakshi Ka Talab.

ID ELO, ELD Ser Gp Posting Folder

ELOB (Adm) - for information and necessary action ..

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD

Madan Mohan L.J. Dedeja - Applicant  
Versus

Secretary Ministry of Defence

OPA No. 605/89

Hon' Mr. D.K. Agrawal, J.M.

Hon' Mr. R. Balasubramanian A.M.

28/7/89

We have heard Shri V.K. Berman, Learned  
Counsel for the applicant.

The applicant has a grievance in that he has been transferred from a sensitive post to a non-sensitive post curtailing the usual tenure of 3 years. The learned counsel specifically pointed out that this curtailment of tenure is a stigma and causes humiliation to his client. He has contended that the earlier transfer from non sensitive post to sensitive post had been done even when a charge sheet against his client was pending; but that now he has suddenly been ordered back to non sensitive post drastically curtailing the tenure period. He has also alleged that the procedure for altering tenure has not been followed and that the transfer order was a sequel to certain anonymous complaints etc. He has also sought an interim relief that pending disposal of the application, the order dated 19-7-89 according to which his client has to move out before 31/7/89 be stayed during the pendency of the above application.

This case is considered fit for adjudication and an interim stay of 14 days is also granted.

List this case for hearing on admission/pleading on 10-8-89.

Sd/-  
A.M. 28/7/89

(sns)

Sd/-  
J.M.

certified  
ATTACHED True Copy

D.S. DUBEY

(D. S. DUBEY)

SECTION OFFICER

Central Administrative Tribunal  
Allahabad.