

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

OA No. 285/89

CAUSE TITLE. OF

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

Versus

..... V. P. L. Zerh 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 A7.

Dated 13-12-11....

Counter Signed.....

Section Officer/In charge

Signature of the
Deputy Assistant

Annexure - A

CAT- 02

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD//
CIRCUIT BENCH, LUCKNOW

INDEX - SHEET

CAUSE TITLE 2955/89 C OF 198

Name of the parties K. L. Chabria

Versus

Union of India

Part A, B and C

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Check

OK
24/6/2011

50(1)

1/2011/SM

D.T. → 4.6.91

Central Administrative Tribunal
CIRCUIT BENCH, LUCKNOW

Circuit
Date
Year

16/10/89

Registration No. 285 of 1989 (L).

Registar(J)

APPLICANT(s)

K.L. Chopra

REPRESENTANT(s)

Union of India & Ors.

Particulars to be examined

Endorsement as to result of examination

1. Is the appeal competent ? yes
2. a) Is the application in the prescribed form ? yes
b) Is the application in paper, book form ? yes
c) Have six complete sets of the application been filed ? yes
3. a) Is the appeal in time ? yes
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 ? yes
5. Is the application accompanied by B.D./Postal Order for Rs. 50/- yes
6. Has the certified copy/copies of the order(s) against which the application is made been filed ? yes
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 by a Gazetted Officer and numbered accordingly ? —
c) Are the documents referred to in (a) above neatly typed in double space ? yes
8. Has the index of documents been filed and paginated properly ? yes
9. Have the chronological details of representation made and the date 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 ? —

Five sets filed

2
2

Particulars to be Examined

Endorsement as to result of examination

1. Are application/duplicate copy/extra copies signed ? Yes

2. Are extra copies of the application with Annexures filed ? Yes

3. a) Identical with the Original ? Yes

b) Defective ? -

c) wanting in Annexures -

4. Are the application ? -

5. Have the file size envelopes bearing full addresses of the respondents been filed ? -

6. Are the given address the registered address ? Yes

7. Do the names of the parties stated in the copies tally with those indicated in the application ? Yes

8. Are the translations certified to be true or supported by an Affidavit affirming that they are true ? -

9. 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

10. Have the particulars for interim order prayed for indicated with reasons ? Yes

11. Whether all the remedies have been exhausted. Yes

ainosh

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

ORDER SHEET

OANO. 285/89/IV
REGISTRATION No. _____ of 198.

A2
X4

APPELLANT
APPLICANT

K.L. Chabra

DEFENDANT
RESPONDENT

VERSUS
Union of India & Ors

Serial number of order and date	Brief Order, Mentioning Reference if necessary	How complied with and date of compliance
17/10/89	<p>Hon' Mr. D.K. Agarwal, T.M. Hon' Mr. K. Obayya, A.M.</p> <p>Shri S.C. Galati, Counsel for the applicant is present and heard. we feel that notice be given 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. 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> for orders.</p> <p>A.M.</p>	<p>Shri S.C. Galati (Rajiv Sharma) (24-4-93)</p> <p>DR Copies served to the applicant at 2 p.m submitted to order 17/10/89</p>

(SNS)

17/10/89

8/2
OJ 205/89 (L) 8/2

27/10/89.

Hon. Justice K. Nath, V.C.

Smti. R.K. Agarwal for the applicant
and Smti. V.L. 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.

Op
V.C.

on
Case is submitted
for admission
6/11/89

Re

Hon'ble Mr. D.K. Agarwal, I.M.

Hon'ble Mr. K. Bhagya, I.M.

7-11-89

Shri R.K. Agarwal, and Mr. S.C. Galalhi Counsel
for the applicant are present. None for the
respondent 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

I.M.

OK
Case is submitted
for admission

6/11/89

(SNS)

285/094

A²
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56

28/3/90

Hon. Mr. D.K. Agarwal, J.M
Hon. Mr. K. Obayya, A.M

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

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

17/4/90.

A.M.

Dee
J.M.

19-4-90 Hon. D.K. Agarwal, J.M
Hon. P.S. Tahib and A.M

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

Recd (By)
J.M.
AM.
16/4/90

Dee
J.M.

Received records in
J.D. 565/PL/EL/11
of Chief Engineer between
Zone and Tribunal Report
Ans. of Am.
for a. H. N. A.
for Respondent
16-5-90.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
A L L A H A B A D

CIRCUIT BENCH LUCKNOW

CA NO. 205 1989 (U)

DATE OF DECISION 19-4-80

K. L. Chirrig PETITIONER

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

VERSUS

U.O.L RESPONDENT

V. K. Choudhury Advocate for the
Respondent (s)

CORAM :

The Hon'ble Mr. D. K. Agarwal, I.M

The Hon'ble Mr. P. S. Habib Mohammad, 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 ?

D. K. Agarwal

A 83
Reserved

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

DK, G.S.

93
12

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.

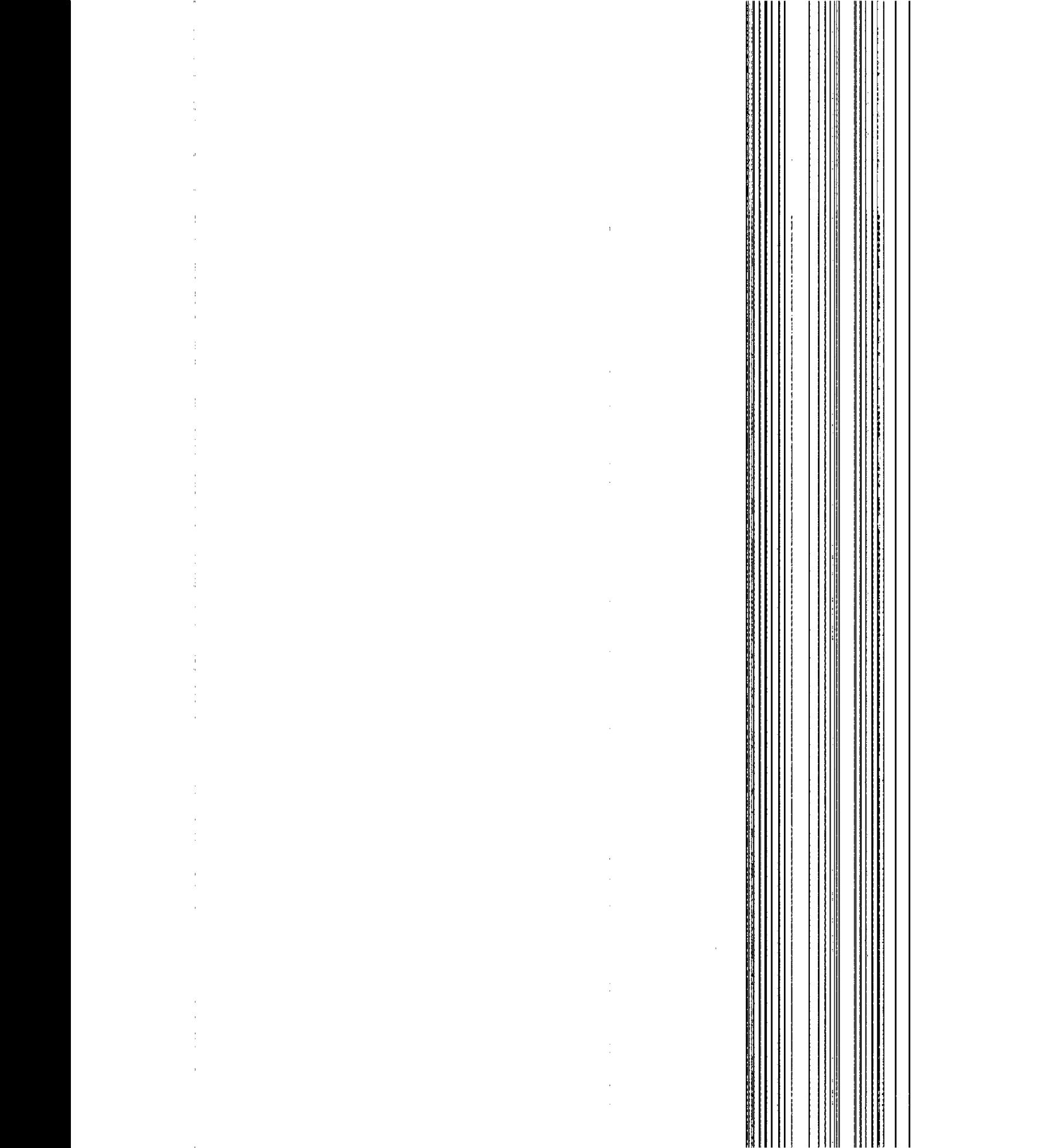
4. We have heard learned counsel for the parties and perused original record as well. We are of opinion that the case can be finally disposed of. It need not be made to linger on any more. It is true that the guidelines for transfers are not mandatory but the policy of posting stands on a different footing. 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

W.K. Charyan

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



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

Dk. Geraur
19.4.90
MEMBER (J)

Dated: April 1990
k.k.b.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
REGD. NO. 1144/1960.

Madan Mohan Lal Sodejkar - 100 - applicant

Seal of the Commonwealth of Massachusetts
Year 1860

CHAPTER IV. THEORY OF DEFENCE

03-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/ μ

AM 28/7/89

5d/
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(505)

Cartes postales

ATTENTION STED TIME CO

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

THE CENTRAL ADMINISTRATIVE REGIONAL
LAW ENFORCEMENT BUREAU

OPA# No. 605/89

Hon' Mr. D.K. Agrawal, J.M.
Hon' Mr. R. Balasubramanian? A.M.

28/7/8

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 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.

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

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

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LAW CHAMBERS, NEW DELHI, U.P.

Madan Mohan L. J. Sodeja - - - - - Applicant
Versus
Secretary Ministry of Defence
New Delhi, U.P.

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. Barman, Learned
Counsel for the applicant.

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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
FATTESTED True Copy

D.J. Dubey

28/7/89
(D. S. DUBEY)

SECTION OFFICER
Central Administrative Tribunal
Allahabad,

Central Administrative Tribunal

Circuit Bench, Lucknow

Date of Filing 16/10/89.

Date of Receipt by Past

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
---------	--------------------------------------	------------	----

COMPIILATION 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	to 11
3-	Annexure No.A-1/1, (Copy of GE CC LKO Letter No.901250/1/T0/251/EIC/(1) dated 7.6.1989 issued by Respondent No.2.	12	to 13
4-	Affidavit	14	15
5-	Vakalatnama	16	

Lucknow:

Dated: 16.10.1989.


Applicant

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

M/4

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH, LUCKNOW.

Appln. No. 285 of 1989 (L) P/C

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. *FA/3*

DETAILS OF APPLICATION

1. PARTICULARS OF ORDER AGAINST WHICH APPLICATION IS MADE
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/T0/251/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

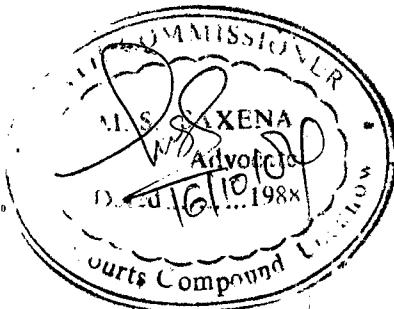
3. That the applicant declares that the subject matter of the orders against which he is seeking remedies is within jurisdiction of this Hon'ble Tribunal.

3. 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.

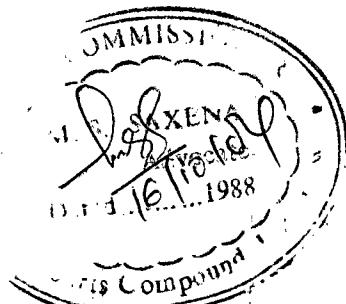
4. FACTS OF THE CASE

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



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. I, 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. I vide letter No.79040/EIC(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.



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 II's 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-division to another sub-division in case of B/R Gde II's and from one station to another section for Super B/R/ Gde.II and E.M. Gde II by the GE.
- b) Gde I's 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 station they shall be transferred to another station."

The true copy of the said letter 'E-in-C's Branch, AHO, 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 promotes from Sub-Overseer to Superintendent B/R II are more suitable for executive duties rather than staff duties.

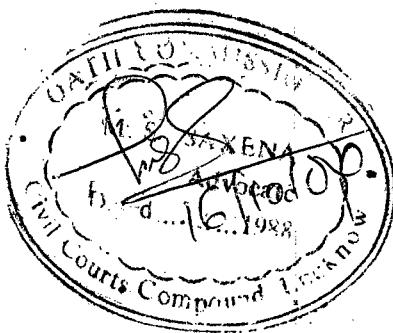
11. That the applicant is B/R Grade II and the staff duty as per the said policy is meant for Grade I only, hence



B/4
B/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 ~~Respo-~~ ³ndent 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-~~4~~ 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.



A/9
6. 8/7

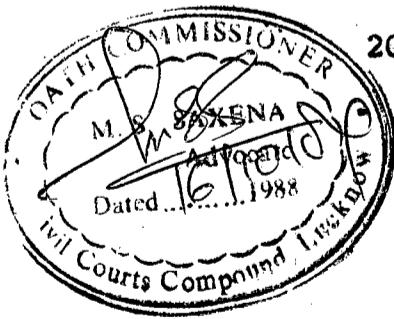
16. That the abovesaid action of the Respondent No. 2 posting the Applicant on turn-over basis is totally arbitrary, illegal and liable to be set aside.
17. That the similar case has been considered itself by the Respondent No. 2 vide their letter No. 901250/1/T0/165/EIC(I) dated 2nd August, 1988 and 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:

5. 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 ~~has~~ ³ 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.



contd..7

A/20
2/6

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. I.

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.



2/9
9
2/18. R E L I E F S : *See 8/17*

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/T0/251/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.



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/T0/251//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 / are true to my personal knowledge and those of paragraphs / to / are believed by me to be true on legal advice and that I have not suppressed any material fact.

Lucknow: /
October / 1989

(KISHAN LAL CHOPRA)
Applicant.

Mukund
COUNSEL FOR THE APPLICANT.

16

A/21

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH, LUCKNOW.

Appln. No.

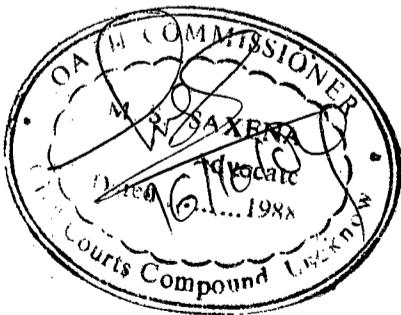
of 1989

Mr. K.L. Chopra ... **Applicant.**

Vrs.

Union of India and Others. ... **Respondents.**

ANNEXURE NO. A-1



Ref. Mil. : 2640

Garrison Engineer(East)
Lucknow - 226002

1472/ 203 /E1

Oct 89

06

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/T0/251/EIC(I)
dated 07 Jun 89.

2. You will be relieved 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.

R K Chhabra
(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

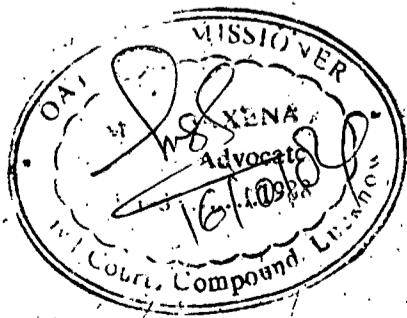
Date of Birth - 13-4-38

Date of next increment - 01.10.90

Casual Leave Balance - 12 days

RH Balance - 02 days

*bsw/



12

A/2

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH, LUCKNOW.

Appln. No.

of 1989

Mr. K.L. Chopra

...

Applicant.

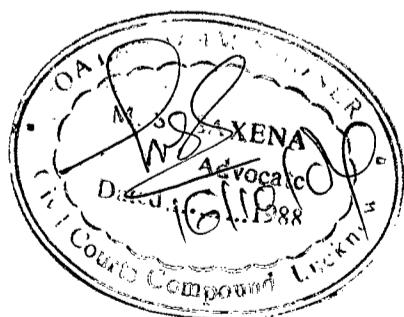
Vrs.

Union of India and Others.

...

Respondents.

ANNEXURE NO. A-1/1



WPS

Tele M.I. 2066

Engineer's French
Central Command
Lucknow - 226 002

901250/1/26/25) /EIC(I)

12
4/24
5/2
07 Jun '89

Chief Engineer
Lucknow Zone
Lucknow-2

POSTING/TRANSPORT & RETURN ON BASIS COORDINATES

1. The following postings are hereby ordered.

1. Post No, Name & Designation	2. Post	3. Remarks
--------------------------------	---------	------------

1. NEE-460127 Shri T.D. Misra	Asstt S/R II	CCE (P) Lucknow GE (E) Lucknow Against existing vacancy.
----------------------------------	-----------------	---

2. NEE-436378 Shri Anand Prakash	-30	CCE (P) Lucknow GE (E) Lucknow
--	-----	--------------------------------

3. NEE-462056 Shri K.L. Chakrabarti	-30	GE (E) Lucknow CCE (P) Lucknow
--	-----	--------------------------------

2. No TA/DA and joining time is admissible.

3. Have to be completed immediately.

4. The disposeses of your letter no 120501/TO/968/EIC(I) dated 17 May 89.

5. This has the approval of appropriate authority.

Copy to:-

CCE (P) Lucknow, GE (E) Lucknow, GE (R) Lucknow
ID : EID(1), EID(2), Posting folder.

(C. S. Misra)

10/2
Chief Engineer

Depponent.
(K.L. Chopra)
[Signature]

Lucknow: Oct. 16, 1989

are these true copies.

their originals and the deponent certifies that they
accompanying application have been compared from
3. That the Annexure No. A-1 to A- annexed with with

based on legal advice and information received.
to *✓* of the accompanying application are
of the deponent while the contents of paragraphs
accompanying application are true to own knowledge
17/10/89

2. That the contents of paragraphs to *✓* of the
facts of the case;
noted as such he is fully acquainted with all the
1. That the deponent is the applicant in the above-

on oath as under :
Kanpur Road, Lucknow do hereby solemnly affirm and state
of Shri B.D. Chopra, resident of Sector 'D', C-9,
I, Kishan Lal Chopra, aged about 51 years, son

AFFIDAVIT

Applicant	K.L. Chopra
versus	Union of India & others
Respondents



Appn. No. 16 of 1989

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL.
LUCKNOW BENCH, LUCKNOW.

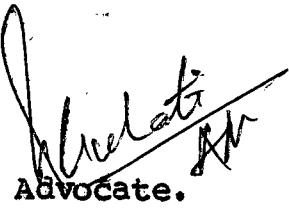
VERIFICATION

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 th 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.

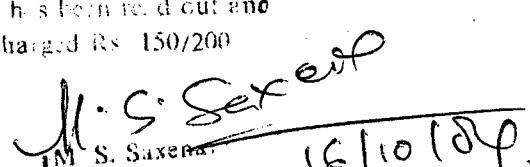

Advocate.

Lucknow;

75 M. October 16, 1989

solemnly affirmed before me in office to-day
on 16.10.1989 by Kishan Lal Chopra
who is identified by Shri... S. C. Gulati
Merk to Shri

I have signed myself before the deponent that I understand his contents
of this affidavit which has been read out and
explained by me. Fee charged Rs. 150/200

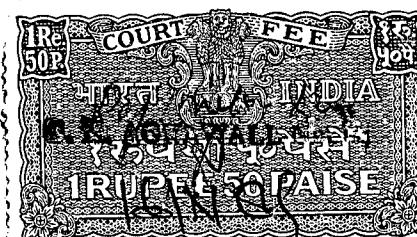
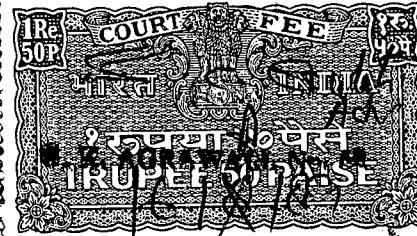

M. S. Saxena
Oath Commissioner
Civil Courts Lucknow
16/10/89

१६

बालत श्रीमान् Before The Central Administrative Tribunal of Lucknow
 [वालपीलान्ट] Bench, Lucknow. महोदय

श्री का वकालतनामा

प्रतिवादी [रेस्पाइन्ट]



K. L. Chopra, Applicant

V.S

Union of India & others वकील
 Respondent

नं० मुकद्दमा

सन्

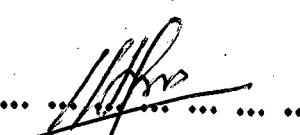
पेशी की तातो

१६ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री Nishkash Chaudhary Ghulam Advocate
 Scatter G.C. ५३ Kanpur Road, W.A. Colony Lucknow वकील
 महोदय
 एडवोकेट

नाम अदालत	नं०	नाम फरीकेन्ट
मुकद्दमा	नं०	

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ इस मुकद्दमा में वकील महोदय इवयं 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 बसूत 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 (हस्तखती) रसांद से लेवे या पंच नियुक्त करे—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूँ कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकर को भेजता रहूँगा 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 १६ महीना सन् १९४९ ई०

स्वीकृत

*Nishkash
16.7.49*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH, LUCKNOW.

Appln. No. 204 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
---------	--------------------------------------	---------------	----

COMPIILATION 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,
A/2
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 -226022

To

The Chief Engineer
Headquarters Central Command
Lucknow -226022

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 B-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 Talbehat, 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 CECC 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 (West) 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 (West) Lucknow vide CECC 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 CECC letter No 901250/1/ Turnover/454/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/T0/251/EIC(I) dated 07 Jun 89 vice Shri Anand Prakash, Supdt B/R Gde II. Is being
- (h) Shri Anand Prakash, Supdt B/R Gde II, who is turnover 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
X/4
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 fil : 2640

1472/201 /E1

AEE B/R I

Garrison Engineer (East)
Lucknow - 226002

5
05 Oct 89

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.

Rameshwar
AEE
AGE 'T'
For Garrison Engineer



B E F O R E T H E C E N T R A L A D M I N I S T R A T I V E T R I B U N A L ,

L U C K N O W B E N C H , L U C K N O W .

Appln. No. of 1989

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

Vrs.

Union of India and Others. ... Respondents.

ANNEXURE NO.

A-4



Telephone : 372337

7
Coord. Engg. Karanik Niddhalhya
Pravindh Engineer Shakti
Tamil Sena, Lalbagh
Coord & Pers Directorate / FIC
Engineer in Chief's Branch
Army Headquarters
HQ PO NEW DELHI-110011

79040/EIC(I)

30 Dec 1983

To The Chief Engineer

HQ Southern Command, Poona
HQ Eastern Command, Calcutta
HQ Central Command, Lucknow
HQ Western Command, Simla
HQ Northern Command, C/o 56 AGO

POLICY REGARDING TRANSFER OF CIVILIAN
SUBORDINATE IN THE MTS

1. Reference this HQ letter No. 79040/EIC(I) dated 20 Aug 83 in your reply thereto.
2. Orders/Instructions laying down the broad principles according to which transfer of Civilian Subordinate personnel in the MTS 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 issued by the Ministry of Defence for MTS Defence Establishments. The CEs Commands were asked to issue comprehensive instructions based on the guide lines/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 CEs Commands do not fully conform to the instructions/guide lines 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 MPs/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 CEs Commands, the existing instructions/guide lines 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/guide lines as given in the attached Appendices 'A' & 'B' will be strictly followed by CEs Commands. The various policy letters issued by CEs Commands will be reviewed and fresh comprehensive policy letter will be issued. Where due to local conditions deviation in the instructions/guide lines is considered necessary, prior approval of this HQ will be obtained before making it or prescribing it in the Command.
5. A copy of the policy letter issued by CEs Commands to the CEs 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.

Enclosure As above

(VN Agarwal)
Maj Gen
D O R
Pravindh Engineer
Engineer in Chief



AMENDMENT/GUIDE LINES REGARDING TRANSFER OF CIVILIAN
EMPLOYEES OF THE MEF: CIVIL STAFF TO TENURE STATION

INTRODUCTION

1. The broad principles under which transfers of Gp 'C' and Gp 'D' Civilian employees who are to be carried out are stipulated in Ministry of Defence (M.O.D.) 32(1)/70(L) (Appts) dated 29 Nov 72 and 32(4)/73/D(Appts) dated 21 Aug 73. Carried down them 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 Surplus/Deficiency.
- (b) Promotion
- (c) Compassionate ground, 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 reported to under very special circumstances.

TRANSFERS FROM NON TENURE STATION

3. No compulsory turnover 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 should 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 non-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 CG Command of Zone/CWE (highest officer in the station). But the Command CG will order postings outside the station. The following guide lines are suggested:-

(a) Gds IIIs 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/R Gds IIIs and from one section to another section for B/R B/S Gds IIIs and F/M Gds IIIs by the CG.

(b) Gds IIs 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 CG.

Contd. 2

1/2/84

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH, LUCKNOW.

Appn. No.

of 1989

Mr. K.L. Chopra

...

Applicant.

vrs.

Union of India and Others.

...

Respondents.

ANNEXURE NO.

A5



10

8/4

Tele ntl 666

Engineer's Branch
HQ Headquarters Central Command
Lucknow - 226002

22 Aug 86

Chief Engineer
Lucknow Zone
Lucknow

TURN OVER PENDING : A.I.C. Staff

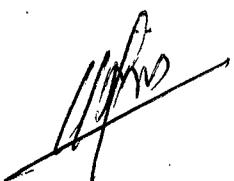
1. Reference your letter No 120545/004/BIC(I) dated 25th Jul 86.
2. The case has been examined and the following points require considerations:-
 - (a) Paras 4 and 5(a) of E-in-C's Br letter No 79040/BIC(I) dated 30 Dec 85 stipulate that individuals are not be allowed to hold a sensitive appointment for more than 3 to 4 years.
 - (b) Shri GP Pandey was promoted to Supdt I/R II from Sub Overseer on 7.2.86. 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.

Sd/- x x x x x x x x
(Reghuvinder Lal)
Lt Col
DO I (Pers)
Chief Engineer

Copy to :-

C/E (P) Lucknow

GE(E) Lucknow



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

C.M. Application

in Re: OA No.285 of 89

100%
100%

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: 16 Oct 1989.

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 ^{interim} 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 ~~examined~~ 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 ~~of~~ 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.

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 i.e. 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 cause he has no right or ~~xxx~~ of action to challenge the same before this Hon'ble Tribunal.

8. That ~~xxx~~ 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 ~~xxx~~ 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 7.5.99 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 GB(West), GE(East), GE(E&M), CWE (Project) etc.

10/10
X6

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 promovetee 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

unfairly

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 ~~exxxxxxxxxx~~ 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 averments 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.

Uma
GE(East)
for Respondents.

through

V.K. Chaudhary
(VK Chaudhary)
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 compli-
cation was served in the office of opposite
parties No. 2 and 3.

8/10
A/10

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

1/2/87

dated 19.5.1987 (True copies of which are annexed as Annexure No. A-6 and A-7 respectively. This clearly contradict the ~~xxx~~ allegations of the opposite parties that he has been transferred 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, ~~xxxxxxxxxx~~ in the same Station under the said policy , but he can not be transferred 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 pertainant 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

[Signature]

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

8. That the contents of para 8⁹ 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

R/S
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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 mentioned in para 5 (b) that Gde I should be turn over from executive to staff and vice-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 ACE (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 Sub-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.



AS
✓

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).

MH

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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

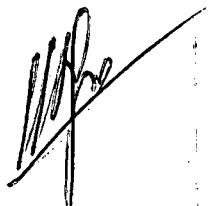
APPLICATION NO. OF 1989.

K.L.Chopra Applicant

Vs.

Union of India & others. Respondents.

ANNEXURE NO. A-6



Tele. Mily 666

201250/1/ Turnover/453/EIC(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	GE (West) Lucknow	
			AGE B/R Sub Divn	AGE (MES) Bakshi-Ka-Talab	
4.	MES- 454923 Shri Radhey Lai	-do-	GE (W) Lucknow	GE (E)-LKO AGE (MES)	
				Bakshi-Ka-Talab	
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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AA

-2-

SlNo	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)	LKO
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
13.	MES-436858 Shri Hargovind Sharma	-do-	CECC Lucknow	GE(W) Lucknow	Gde I already Posted during 1985
14.	MES-246167 Shri BN Kalra	-do-	CE LZ Lucknow	GE (E) Lucknow	He will relieve Shri BN Kalra already posted to during 1985 to CE LZ Lucknow
15.	MES-246167 Shri BN Kalra	-do-	CE LZ Lucknow	GE (E) Lucknow	WZ
16.	MES-246167 Shri BN Kalra	-do-	CE LZ Lucknow	GE (E) Lucknow	Contd. ...3

SIN	TIME	No & Name	Designation	Posted From	To	Remarks
14.	MES-467666	Shri Rajender Singh	Supdt E/M Gde II	CWE(P) LKO	GE (West) Lucknow	<i>By</i>
15.	MES-439013	Shri KN Das	-do-	GE (West) 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 <i>(Ex (With))</i> 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 Wadhura 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	

W.P. Contd...4

PLC/3

SL No	MES No & Name	Designation	Posted		Remarks
			From	To	
21.	MES-431319 Shri SP Bawa	SK Gde II	GE E/M LKO	GE (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

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 CH's division is carried out.

This has the approval of Addl CE this HQ,

BR Bharucha

(BR Bharucha)
AO I
Chief Engineer

Copy to:-

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

ID E1OB (Adm) - for information and necessary action.

E1D, E1D Ser Gp Posting Folder.

X

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

APPLICATION NO. OF 1989.

K.L.Chopra

..... Applicant.

Vs.

Union of India & others. Respondents.

ANNEXURE NO. A-7



TeleMilly 666

901250/1/Turnover 1454 ELC(1)

Chief Engineer
Lucknow Zone Lucknow

3/1096
Engineer's Branch
HQ Central Command
Lucknow-2

19 May 87

1118

1116

1118

1117

POSTING/TRANSFERS SUBORDINATES ON TURNOVER BASIS

1. Reference this HQ letter No 9101250/1/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
AGB (MES) Bakshi Ka Talab"

-1116 Deleted - F/1182

Read "GE (West) Lucknow only"

GE EAST ECO 10/R 12 sub Divn

para -1 against serial No 12 under Column posted to:

For "GE E/M Lucknow"

Read "GE (W) Lucknow"

3. Other entries will hold good.

U. Bharucha

(RR Bharucha)
AO I
Chief Engineer

Copy to:-

1. CME (P) Lucknow 2. GE (S) Lucknow 3. GE (W) Lucknow

4. GE E/M Lucknow 5. AGB (MES) Bakshi Ka Talab.

1D E10, E10 Ser Gp Posting Folder

E10B (Adm) - for information and necessary action ..

U/1116

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
[LAW BENCH, ALLAHABAD]

Median Mehan L.L. Dedeja - - - - - Applicant
Versus
Secretary Ministry of Defence
Government of India - - - - -

Opn. No. 605/89

Hon' Mr. D.K. Agarwal, 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 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/order on 10-8-89.

Sd/-

A.M. 28/7/89

(sns)

Sd/-

J.M.

Certified
F-A-T-T-E-S-T-E-D Time Copy

D.S. DUBEY

(D. S. DUBEY)

SECTION OFFICER

Central Administrative Tribunal

Allahabad.