

(8) (11)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.152/97

DATE OF ORDER : 11-02-1997.

Between :-

S.Krishna Swamy

And

1. The General Manager, SC Rlys,
Rail Nilayam, Sec'bad.
2. The Divl. Rlys, Manager, RG Division,
SC rlys, Sec'bad.
3. The Sr.Divl. Personnel Officer,
RG Division, SC Rlys, Sec'bad.



... Respondents

Counsel for the applicant : Shri S.Laxma Reddy

Counsel for the Respondents : Shri C.V. Nalla Reddy, for Rlys.

CORAM:

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

THE HON'BLE SHRI D.S.JAI PARAMESHWAR : MEMBER (J)

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

... 2.

Jr

(11) (14)

- 4 -

cause of action. The above submission is reasonable and acceptable and is also followed in similar cases. Hence the applicant is eligible for the arrears of the pension only from one year prior to the filing of this D.A.

6. In the result, the following direction is given :-

The qualifying service of the applicant has been barring the period which is to be treated as dies non, reckoned right from 1-9-58/and pension xxxxx xxxx xxxx due to him has to be fixed [✓] on that basis [✓] and has to be paid from 1-9-91 accordingly.

It is open to the applicant to apply for commutation of pay if he is so advised in accordance with the rules. The pension amount due to the applicant from 1-9-91 has to be fixed on national basis and arrears if any due to him has to be paid from one year prior to filing of this D.A. i.e. from 29-12-96 (This ^{was} D.A. filed on 29-1-97). The fixation of pension and pensionary benefits and payment of arrears ^{have} ~~has~~ to be done within six months from the date of receipt of ^{the} ~~a~~ copy of this order.

7. The D.A. is ordered accordingly at the admission stage itself. No costs.

प्रमाणित प्रति
CERTIFIED TO BE TRUE COPY

[Signature]
न्यायालय अधिकारी
COURT OFFICER
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद न्यायाधीश
HYDERABAD BENCH

RCR

"Passing of order of re-appointment of the applicant herein as Shunter as a fresh entrant has to be held as in disregard of rules. It is to be construed as an order of major penalty in accordance with Rule-6(v), by lowering the pay of the applicant in the category of Shunter to the minimum of the scale i.e. Rs.1200-2040 and that the annual increments accrue thereafter. The period from 29-3-86 the date of removal till 26-8-89 the date of re-instatement should be treated as 'Dies-non'."

5. In this case the applicant was taken back and re-instated as Yard Kalsi as a fresh entrant. Hence that should be treated as a Major Penalty in accordance with the Rule-6 by reverting the applicant to lower category in the scale of pay of Rs.740-950 and that the annual increment in that post will accrue thereafter. The period from 12-12-83 to 5-2-86 should be treated as Dies-non. The pensionary benefits of the applicant has to be calculated taking into account the earlier service ^{earlier} to 12-12-83 as qualifying service.

6. The applicant was re-instated into service on 5-2-86 as a fresh entrant. At that time itself he ^{was} knew that his past services ^{would} ~~will~~ not be counted. Further the applicant retired from service on 29-8-1991 on medical grounds. At that time also he was informed that he ^{was} ~~is~~ not eligible for any pension and pensionary benefits. His representation was rejected by letter dt. 10-1-90. In the sequence of events given above, the applicant ^{was} knew that he is not eligible for pensionary benefits in the year 1991 itself. He should have approached the Tribunal immediately thereafter. Hence it is to be held that this O.A. is barred by limitation. But the learned counsel for the applicant submitted that in such cases the arrears are paid one year prior to the filing of the O.A. as payment of pension is a continuous xxxx xxxx xxxx xxxx

[Signature]

[Signature] 4.

SOUTH CENTRAL RAILWAY

DIVL.SUPDT.'S OFFICE: SEC'BAD.

NO. HEP/5012

Date: 21-2-1976

Shri Balliah Pochaiah
Fireman 'B' /LGD
(THROUGH: LF/LGD)

Sub:- Appeal of 30-10-75 addressed to COPS/SC from Shri
Ballaiah POCHAIH, Fireman 'B'/LGD removed from
service.

...

COPS, the appellate authority has carefully considered your
appeal against the penalty of removal from service imposed
on you by Dy.DS/SC, vide Order No.even dated 8-10-75, and
ordered that you may be re-appointed as a fresh entrant for
all purposes.

Please report to LF/LGD for duty forthwith.

The receipt of this letter may be acknowledged.

Sd/- for Divl.Supdt. SC.

Copy to: LF.LGD: HOS/DLR Personnel branch, DS's Office, SC
for infn.and necessary action.

Sd/- for Divl.Supdt.SC.

//True copy//

TL
B

8-10-75
21-2-76

SOUTH CENTRAL RAILWAY

HYB DIVISIONAL OFFICE
MECHANICAL BRANCH
SECUNDERABAD.

No.Y.M.226.L.1.DAR.PB.

Dated: 18 / 7 / 1996.

Shri.P.Balaiah,
Ex.Pass.Driver/LGD. (THROUGH CCC.LGD)

Sub: Your representation dated 20.4.1996 against this office final orders of even No. dt 8.3.96.

In accordance with Rules 18 to 22 of Railway Servants (Discipline and Appeal) Rules 1968, the undersigned has gone through your appeal as well as the relevant facts of the case. After carefully going through all the records as well as points highlighted by you during personal hearing and has observed as under:

- i) The Breathalyser Test conducted on you showed a positive result. The fact that the alcohol level in your blood was higher than permissible limits was confirmed by Medical examination.
- ii) DME/Power/HYB, the disciplinary authority has given his detailed reasons for coming to the conclusion that the charges are fully substantiated and has imposed the penalty of removal from service.
- iii) You have yourself admitted to the undersigned during the personal hearing that you had been drinking the previous night.

The undersigned, therefore, finds that you have been correctly held guilty and punishment imposed after giving you all reasonable opportunity. However, keeping in view the fact that you would have otherwise retired on attaining the age of superannuation on 31.3.96, the undersigned has decided to modify the penalty, purely on humanitarian grounds, to 'Compulsory retirement' from service wef 08.3.96, the date on which the disciplinary authority imposed the original penalty'.

Accordingly, the penalty of "removal from service with immediate effect" imposed by DME(Power)HYB, the disciplinary authority vide this office order of even No. dt 08.3.96 is modified to that of "Compulsory retirement from service wef 08.3.96".

You are advised that Rule 25 of R.S.(L&A) Rules, 1968, you may prefer a revision petition against these orders to COM/SC provided that:

- a) The revision petition is preferred within a period of 45 days from the date on which a copy of the orders is delivered to you.

....2

18-7-96

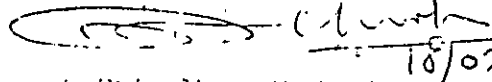
TRK

(14)

(17)

- b) The revision petition is preferred in your own name and presented to the authority to whom the revision petition lies and does not contain any disrespectful language.


Please acknowledge the receipt of this letter.


18/07/96
A. K. SHARMA
ADRM/HYB &
APPELLATE AUTHORITY

Copy to: CCC/LGD

- " Sr. IPO/HYB
- " OS(P)BILLS
- " OS(P)CADRE
- " DEN(CENTRAL)HYB
- " HOS/Quarters/HYB
- " HOS/PASS SECTION/HYB
- " HOS/SR. CELL/HYB.

for information and
necessary action.


ADRM/HYB.

Headquarters Office,
Personnel Branch,
Secunderabad.

No.P.90/HYB/PB/2175

Dt: 13.12.1996.

ORDER

In exercise of the powers conferred by the provisions of Rule 25 of the R.S.(D&A) Rules, 1968, the undersigned, the Revising Authority, has carefully considered the Revision Petition dated 31.8.96 of Shri P.Balaiah, ex.Passenger Driver/LGD against the modified penalty of compulsory retirement w.e.f. 8.3.96 imposed on him by ADRM/HYB, the Appellate Authority, vide Penalty Advice dated 18.7.96, along with relevant records.

The undersigned has studied the case in detail. It is proved by the breath analyser test as well as on Medical examination that Sri Balaiah, the Passenger Driver who worked Pass. No.573 ex-SC to NZB on 14.1.94 was in a state of drunkenness. Being drunk on duty is inexcusable.

It is, however, seen that the appellate authority (ADRM) has considered the case leniently in view of the charged employee attaining superannuation on 31.8.96 and compulsorily retired him with effect from 8.3.96.

As being drunk on duty is a matter of serious nature, the undersigned does not see any reason for further modification of the penalty already imposed by the appellate authority. The Appeal is regretted.

Accordingly, the modified penalty of compulsory retirement w.e.f. 8.3.96 imposed on Shri P.Balaiah, ex.Passenger Driver/LGD by ADRM/HYB, vide Penalty Advice dated 18.7.96 shall hold good.

Receipt of this order shall be acknowledged by Sri P.Balaiah.

Signature :

Name :

Designation
of the
Revising
Authority

[Handwritten Signature]

(C.RAMAKRISHNA)

C.O.M.

Sri P.Balaiah,
(ex.Pass.Driver/LGD)
H.No.12-1-1111/231,
Indira Nagar Colony,
North Lallaguda,
Secunderabad -17.

(Thro' RP/AD)

[Handwritten Initials]

दक्षिण मध्य रेलवे
SOUTH CENTRAL RAILWAY

श. की. GC. 9
एन. आर. मो. - फॉर. SRC-P. 7.20
जि. G. 29 जी B/संशोधन Rev. 47

सेवा प्रमाण पत्र

Service Certificate

क्र. म. 051580
Serial No.

DRM (P) 44B

19.11.76

जारी की जाने वाली
Issuing Office
जारी करने की तिथि
Date of issue

Sri Balaram Pochirish

1. नाम
Name

Sri Pochirish

2. (i) पिता का नाम
Father's name

Hindu

(ii) जाति
Caste

3. जन्म तिथि (अक्षरों में)
Date of birth (in words)

(20.8.33) Twentieth August Nineteen Thirty Eight

4. पहचान चिह्न (यदि कोई हो)
Identification marks (if any)

A Mole on the Chest

5. विभाग जिसमें नियुक्त है
Department in which employed

Mechanical

6. सेवा की अवधि
Period of Service - From

11.3.76

To

8.3.96

7. सेवा छोड़ने समय नियुक्ति
Appointment when leaving service

Pass Driver / LE / Lgd

8. सेवा छोड़ने पर वेतन दर
Rate of pay on leaving service

Rs. 1850/- Gr. 1600-2660

9. सेवा छोड़ने पर प्रमाण पत्र
Remarks for leaving

Compulsorily Retired

10. जारी करने वाला
Issued by

11. कर्मचारी का हस्ताक्षर या अंगुली छाप
Employee's Signature or Thumb Print

हस्ताक्षर
Signature
पदनाम
Designation

for
Signature
U. C. Gupta

R
R

S. C. M. H.

No. Sett. Case No. 251/96-97

Office of the Sr. LDO/HYR

Date: 25.10.96

Pen. Case No.

Sub: Intimation reg. payment of settl. dues to
 Sri/ Smt. Belaiah Porlain
 Designation: Bus- Driver
~~HYR/~~ Conf. Rtd: 8.7.96

It is to inform that the Settl. dues in his/her favour has been passed for payment for Rs. 108674/- as detailed below and the cheque has been sent to the DC(P) for arranging of the same through the Post Master/

- | | |
|---|-------|
| ✓ 1. State Railway Provident Fund | 1584 |
| ✓ 2. Death cum retirement gratuity | 50703 |
| ✓ 3. Group Insurance amount | 6824 |
| ✓ 4. Commutation of pension | 35396 |
| ✓ 5. Wages for the month of | 2019 |
| ✓ 6. Leave encashment bill (No. of day) | 7158 |
| 7. Deposit linked Insurance | |
| 8. Others. | |

DEDUCTIONS:

- | | |
|------------------------|------|
| ✓ 1. Group Insurance | 830 |
| 2. Wages | |
| ✓ 3. House rent | |
| ✓ 4. Misc. charges | |
| ✓ 5. Festival advance | |
| ✓ 6. Future debits | 120 |
| 7. Funeral advance | 240 |
| ✓ 8. School advance | |
| 9. House building adv. | 4995 |
| ✓ 10. Professional tax | 20 |
| ✓ 11. R.M.S. | 1850 |
| 12. Others. | |

Total deductions:

Net amount payable:

Sr. D.A.O./HYR

Secunderabad,
Date: 21.2.97.

(18) (21)
Ann VII

To
DRM/MG DN,
Hyderabad.

Respected sir,

Sub:- Fixation of my Retirement Service Reg:-

...

I the under signed beg to bring a few lines for your kind consideration.

As per my service certificate I have given Compulsarily Retirement i.e., from 8-3-96 and it shows that from 13-3-76 to 8-3-96. But my Date of Appointment is 8-8-1960. Hence I should be given from 8-8-60 to 8-3-96 and my length of service is 36 years.

Due to some reason or the other, I was given the Break of Service of from 8-8-60 to 13-3-76. Accordingly my Settlement dues also had been made, and my pension was as per Khatori's Pay has been fixed. Those who retired similar to my Basic Pay, their Pension was fixed as Rs. 3450/-. My pension was fixed as Rs. 2011/- only, and no pass.

Sir, at the time of my Retirement my basic was Rs. 1850/- in the grade of Rs. 1600-2660 as a passenger driver.

In view of the above circumstances I request you good self to look into the injustice done to me and restore my Break of Service Period from 8-8-60 to 13-3-76 and fix my Pension as per Rules.

Sir, I request you seekly to consider my case as a humanitarian ground as do the needful sympathetically.

Thanking you un-anticipation.

Yours faithfully,

Balsiah Poehatah
(BALSIAH POEHATAH)
Passenger Driver,
LF/LGD/SE.

OK

FOR ORDERS OF HON'BLE TRIBUNAL

O.A.SR. 1299/97

The above O.A. has been filed praying interalia for counting of his entire length of service from 8-8-1960 to 8-3-1996 as qualifying service for pensionary benefits. On this the office has raised objection as to limitation as under.

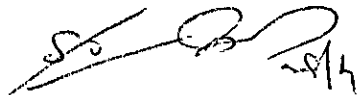
" When the actual relief being claimed is modification of re-instatement order dt. 21-2-1976 (A-II) is not this O.A barred by limitation ?

To the above objection, the counsel for the applicant has replied as under.

" The office has raised objection that there is limitation for filing of O.A.SR.1299/97. The Hon'ble Tribunal has taken view in a batch of OAs that the Railway Administration exercising appellate power cannot order reinstatement as a fresh entrant, forfeiting the past service, which is not provided as under the Railway Servants (Discipline & Appeal) Rules, 1968. The Hon'ble Tribunal further held that the said orders are in disregard of rules and directed to treat the period from date of removal to reinstatement as a fresh entrant as dies non for the purpose of pension and other retirement benefits, ~~the~~ the said orders are passed in OA No.441/94, 1523/93 132/97 and 273/97. Further the Hon'ble Tribunal directed that the grant of relief of arrears of 1 year prior to the date of filing of OA. This present OASR No.1299/97 is covered by the same judgements. Hence, there is no limitation in filing of this present OA, and also that the applicant is already retired from the service on 8-3-96 and his settlement was made on 25-10-96.

The matter is therefore placed before the Bench for orders as to limitation.


DEPUTY REGISTRAR.



22

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH.

O.A. REGD. NO

(50) 1299/97

Date:


24-4-97

To

Sri B. M. Ginnivah Reddy - Advocate
Sir,

I am to request you to rectify the defects mentioned below in your application within 14 days from the date of issue of this letter, failing which your application will not be registered and action under Rule 5 (4) will follow.

(A) When the actual relief being claimed is modification of re-instatement order dt. 21-2-1976 (A-II), is it a barred by limitation?


DEPUTY REGISTRAR (JUDL) 24/4

CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH,
AT HYDERABAD.

O.A.S.R.No.1299/97

Date: 29--4--1997.

Between:

Balaiah Pochaiyah. Applicant.
and

1. Union of India, represented by the
General Manager, South Central Railway
at Secunderabad.
 2. Divisional Railway Manager, M.G Division,
South Central Railway, Hyderabad Division,
at Secunderabad.
 3. The Senior Divisional Personnel Officer,
M.G.Division, South Central Railway,
Hyderabad Division at Secunderabad.
 4. Senior D.A.O., M.G.Division, South
Central Railway, Hyderabad Division
at Secunderabad.
- Respondents.

Counsel for the Applicant: Sri P. Meher Srinivasa Rao

Counsel for the Respondents:

ORDER:

(as per Hon'ble Shri R. Rangarajan, Member (A).
--

The applicant was given break in service with effect from 9-10-19975 by an order dated 8--10--1975till he was reinstated on 21--2--1976. The applicant retired from service on 18--3--1996. He was compulsorily retired from service on 18-3-1996.

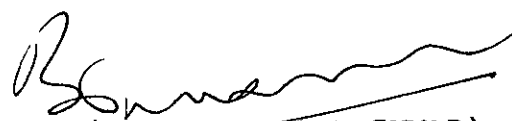
The O.A.S.R., was filed on 24--4--1997 after his date of compulsory retirement. The applicant has not objected to the break in service earlier when he was in service. He approached this Tribunal only after ^{he} was compulsorily retired. In the circumstances, the applicant may have to file condonation petition for the delay

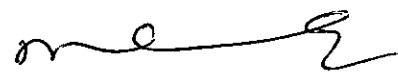
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: 2 :

and suitable orders have to be ^{obtained} ~~filed~~ on condonation
petition. The Office objection is upheld and the
applicant is directed to file a ^{delay} condonation petition.


(B.S. JAI PARAMESHWAR)
Member (J)


(R. RANGARAJAN)
Member (A)

29.4.97

Date: 29--4--1997.

Dictated in open Court.

SSS.

26

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.1321/97.

Dt. of Decision : 24-12-97.

Balaiah Pechalaiah

.. Applicant.

V
s

1. The Union of India, rep.by
the General Manager, SC Rly,
Secunderabad.
2. The Divl.Rly.Manager, MG Division,
SC Rly, Hyderabad Division,
Sec'bad.
3. The Sr.Divl.Personnel Officer,
MG Division, SC Rly, Hyderabad
Division at Sec'bad.
4. The Sr.D.A.O., M.G.Division,
SC Rly, Hyderabad Division,
Sec'bad.

.. Respondents.

Counsel for the applicant : Mr.P.M.Srinivasa Rao

Counsel for the respondents : Mr.N.R.Devaraj, Sr.CGSC.

CORAM:

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (JUDL.)

ORDER

ORAL ORDER (PER HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.))

Heard Mr.P.M.Srinivasa Rao, learned counsel for the
applicant and Mr.N.R.Devaraj, learned counsel for the respondents.

Jr

D

2. This OA was listed to-day in view of ^{listing of} the MA.1176/97 praying for expediting the hearing of the OA. We thought that the OA itself can be disposed of to-day. Both the ^{Councils} sides agreed for the same. Hence the OA is disposed of as under:-

3. The applicant was removed from service by order dated 8-10-75. It is stated that he was not admitted to duty from that date onwards. However by order No.HEP/5012 dated 21-2-76 (Annexure-II) the applicant was reappointed as a fresh entrant for all purposes. Thus the applicant was not in service from 8-10-75 to 21-2-76. The applicant requests that the break in service should be condoned and that his earlier services should also be counted for the purpose of fixing his pension and other pensionary benefits. The applicant submits that he ^{was Compulsorily} retired from service on 8-3-96. He further submits that he had submitted ^a number of representations for condoning the break in service for the period referred to above. But it is stated that his case was not considered.

4. This OA is filed praying for a declaration that the action of the respondents in not treating the period of service of the applicant from the date of appointment to the date of retirement i.e., from 8-8-60 to 8-3-96 as qualifying service for the purpose of pensionary and other retirement benefits on the ground that the applicant was reinstated as a fresh entrant in service by the appellate authority as a Fireman 'B' is totally illegal, without jurisdiction and violative of Article 14 and 16 of the Constitution of India and for a consequential direction to the respondents to treat the total period of service from the date of appointment i.e., 8-8-1960 to the date of retirement i.e., 8-3-1996 as qualifying service for the purpose of pensionary and other benefits.

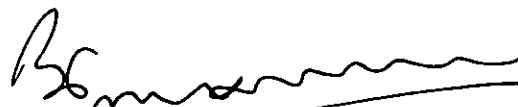
-3-

5. In this OA an MA.797/97 was filed for condoning the delay in filing the application. That MA was disposed of on 30-09-97. It was observed that while passing the final order the financial relief to be given to the applicant will be suitably indicated so as to take care of the delay involved in this case.

6. It is stated that this OA is covered by the order of this Tribunal In OA.132/97 disposed of on 11-2-97. The learned counsel for the ~~applicant~~ respondents also submits that it is a covered case. Hence the following direction is given:-

The qualifying services of the applicant should be counted fully, barring the period which is to be treated as dies non reckoned from 8-10-75 to 21-2-76, and on that basis the pension payable to him has to be fixed. As the applicant has approached this Tribunal belatedly, ^{Hence} the arrears if any arising out of the above direction will be paid to him only from 24-4-96 i.e., one year prior to filing of this OA (this OA is filed on 24-4-97).

7. With the above direction the OA is disposed of.
No costs.

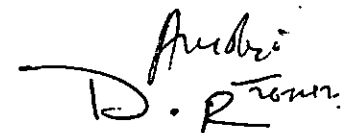


(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)
24/11/97



(R. RANGARAJAN)
MEMBER (ADMN.)

Dated : The 24th Dec. 1997.
(Dictated in the Open Court)



spr

DA.1321/97

Copy to:-

1. The General Manager, South Central Railway, Secunderabad.
2. The Divisional Railway Manager, MG Division, South Central Railway, Hyderabad Division, Secunderabad.
3. The Senior Divisional Personnel Officer, MG Division, South Central Railway, Hyderabad Division, AT Secunderabad.
4. The Senior D.A.O., M.G. Division, South Central Railway, Hyderabad Division, Secunderabad.
5. One copy to Mr. P.M. Srinivasa Rao, Advocate, CAT., Hyd.
6. One copy to Mr. N.R. Devaraj, Sr. CGSC., CAT., Hyd.
7. One copy to D.R.(A), CAT., Hyd.
8. One duplicate.

srr

27/11/98
TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD.

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B. S. JAI PARAMESWAR :
M(J)

Dated: 24/12/97
13/21/97

ORDER / JUDGMENT

MA./R.A./C.A.No.

in

D.A.No. 1321/97

Admitted and Interim Directions
Issued.

Allowed

Disposed of With Directions

Dismissed

Dismissed as Withdrawn

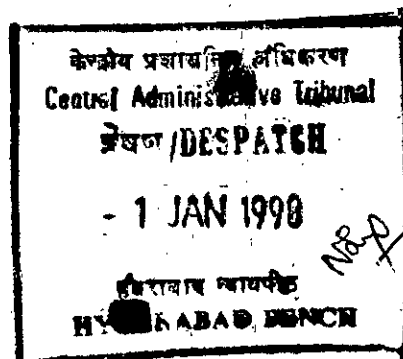
Dismissed for Default

Ordered/Rejected

No order as to costs.

SRR

II. Court



CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

INDEX SHEET

O.A.No. 1322 of 1997

Name of the Applicant Vineeta Sharma

Versus

Name of Respondents The Secretary,
Ministry of Personnel &
Training, New Delhi & Ors.

| Sl.No. | Description of Documents | Page No. |
|--------|---|----------|
| 1. | Order Sheet | 1 |
| 2. | Original Application | 2 - 11 |
| 3. | Material papers | 12 - 24 |
| 4. | Xerox copy of Judgment dt.14-18-97 in OA.1322/97 | 25 - 28 |
| 5. | One spare copy of above - do - | 29 - 80 |

Central Administrative Tribunal Hyderabad Bench; Hyderabad.

C.A. No. 1322 of 1997.

Vineta Sharma Applicant(s).

The Secretary, Min. of Personnel & Training, New
Delhi & Co. (Respondents).

Date

Office Note.

ORDER

13-10-97

At the request of counsel for
the applicant, list it on 14-10-97.

Jr
HBSSP
M D)

Jr
HRAW
M(A)

14-10-97

CA is ordered with
no cost vide orders on
separate sheet.

(C.C. Today)

Jr
HBSTP
M D)

Jr
HPRN
M(A)

Reg:- To declare the notification dt. 18-2-97 issued by R2, in so far as the allocation of the (2) applicant to the Assam-Meghalaya cadre is concerned and direct the Responds. to consider and reallocate her either in U.P., N.B. Rajasthan In the Central Admn. Tribunal Bench, at Hyderabad (Application under Section 19 of Admn. Tribunals' Act 1985) etc.

O.A.No. 1322 of 1997

Bench

(3) Cadre Allotment

Between

Vineeta Sharma ..

Applicant

and

Union of India and others ..

Respondents

साधारण/GENERAL

ANNEXURE

| S.No. | Date and Description of the document. | Page Nos. |
|-------|---|-----------|
| I. | 24-9-1997 Application | 1 to 8 |
| II. | 18-2-97 - Office Memorandum and notification of the 2nd respondent | 9 & 10 |
| III. | 18-6-91 - Letter from the Ministry of Personnel & P.G. & Pensions, Dept. of Personnel & Training, Govt. of India to the Chief Secretary, Govt. of Manipur | 11 & 12 |
| IV. | 27-8-97 - Representation of the applicant | 13 to 17 |
| V. | 20-2-97 - Representation of the father of the applicant | 18 |
| VI. | 19-3-97 - TP message to the Govt. of Assam, Dispur | 19 & 20 |
| | 26-12-96 - FAX message to the Director, SVP National Academy, Hyderabad | 21 |

Counsel for applicant.

Dt. 24-9-1997.

For Tribunal's Office use only.

Date of registration:

Registration No.



Registrar.

Recd
18/9/97
P. N. R. Dey
Copy
for P. N. R. Dey
for Counsel for State of MP
10
25/9/97

In the Central Admn. Tribunal Bench, at Hyderabad


O.A.No. 1322 of 1997

Between

| | | |
|---------------------------|----|-------------|
| Vineeta Sharma | .. | Applicant |
| and | | |
| Union of India and others | .. | Respondents |

CHRONOLOGICAL EVENTS

| S.No. | Date and description of the event. | Page Nos. |
|-------|--|------------|
| 1. | 18-2-97 - Applicant's allotment to Assam - Meghalaya cadre | 1,2,3,6,8 |
| 2. | 17-6-96 - Results of the Central Civil Services examination declared | 2 |
| 3. | Dec. 1996 - Applicant commencing training in the 4th respondent Academy | 2 |
| 4. | 18-6-91 - Government of India letter enunciating a policy not to allot women officers to the North-Eastern regions | 3, 4, 5, 6 |
| 5. | 29-6-97; 8-8-97; 22-7-97; 30-7-97; 23-8-97 - Recent events in the North-Eastern Region | 5 |
| 6. | 24-3-94; 26-4-94; 16-6-93 and -- IAS and IPS Officers who got their cadres changed | 7 |


Counsel for applicant,

O.A.No. 1322 of 1997

Between

Vineeta Sharma, d/o. Sri B.N.Sharma
aged 28 years, IPS probationer, presently
undergoing training at SVP National Police
Academy, Shivarampally, Hyderabad 500 052 .. Applicant
and

1. Union of India through the Secretary
to the Govt. of India, Ministry of
Personnel & Training, Central Secretariat
North Block, New Delhi
2. Ministry of Home Affairs, through its
Secretary, Government of India, Central
Secretariat, North Block, New Delhi
3. State of Rajasthan through the Chief Secretary
Government of Rajasthan, Jaipur
4. S.V.P.National Police Academy, through
its Director, Shivarampally, Hyderabad 500 052
5. Government of Assam-Meghalaya, rep. by its
Chief Secretary to the Government of Assam-
Meghalaya, Secretariat, Guwahati, Assam State .. Respondents

DETAILS OF APPLICATION:

1. Particulars of the applicant: As shown in the cause title
Address for service: c/o. M/s. V.V.Prabhakararao and
K.Sudhir Reddy, Advocates
1-10-13, Ashoknagar, Hyderabad 20.
2. Particulars of the respondents: As shown in cause title
Address for service of proces-
ses, notices etc. on the res-
pondents: -- do --
3. Particulars of the order against
which the application is made:
 - a. Order No. Notification in Office Memorandum
No.I-14012/19/96-IPS-IV dt.18-2-97
issued by the second respondent
(Annexure I)
 - b. Subject in brief: The challenge in the present O.A. is
regarding the change of allotment of cadre, and the inaction
in not responding to the applicant's request for change of
cadre. As per the cadre allocation contained in the impugned
order, the applicant was allotted to Assam-Meghalaya cadre.
She has made a representation for change of cadre. No res-
ponse has been received thereon. Hence the O.A.
4. Jurisdiction: The applicant submits that the subject
matter of the above O.A. is within the jurisdiction of this
Hon'ble Tribunal under Sec. 14 of the Admn. Tribunals' Act 1985
read with Rule 6 of the Central Admn. Tribunals (Procedural)
Rules, 1987. The applicant is undergoing training at S.V.P.
National Police Academy, Hyderabad within the jurisdiction
of this Hon'ble Tribunal.

5. Limitation: The applicant further submits that the above O.A. is filed within the period of limitation under Sec. 21 of the Admn. Tribunals' Act 1985, as the order which is challenged is dated 18-2-1997 (Annx. I).

6. Facts of the case:

i) The applicant is an IPS probationer of the 1996 batch selected on the basis of 1995 Civil Services Examination, for the recruitment of various Central Civil Services, including the IPS. The applicant states that the result of the said examination after viva-voce was published on 17-6-96 in 'the Hindu'. She was successful and was placed at S.No.93 in the combined list of 638 successful candidates, for all the Central services.

ii) The applicant further submits that after excluding the candidates selected for IAS and IFS ~~xxxxxx~~ So far as the IPS is concerned, the applicant is ranked at S.No.25 out of a total number of 80 candidates selected for IPS in her batch, Nine (9) of the IPS selectees in the applicant's batch, above her obtained permission for abstaining from training so as to possibly pursue another attempt at the examination. The applicant is thus effectively at Rank No.16 in the 1995 batch of IPS Officers after excluding thereof 9 individuals.

iii) In the 1996 batch of IPS Officers, there are 12 women officers including the applicant. Five (5) women officers are occupying ranks higher to the applicant while six (~~xxx~~ 6) officers rank below her.

iv) The applicant submits that after completion of training at Mussorie^U she commenced training in the IV respondent Academy in December 1996 and the passing out parade on completion of the said training is scheduled on the first of November 1997. Thereafter, the applicant along with other officers of her batch would have to proceed for 2 weeks' border training and thereafter after availing joining time for a week, would have to proceed for cadre training to the cadre to which she is allotted.

6

v). The applicant submits that as per the cadre allocation of 1996 IPS batch contained in the office memorandum of Government of India, Ministry of Home Affairs No.1-14012/19/96-IPS.IV d/18-2-97 (Annx. No.I), the applicant has been allotted to the Assam - Meghalaya cadre. Her home State is Uttar Pradesh. Four officers of her batch have been allotted to the Assam - Meghalaya cadre and except the applicant all the other three are men officers. The applicant is the sole woman officer singled out for allocation to the Assam - Meghalaya cadre, out of the 12 women officers of the 1996 IPS batch.

vi) The applicant further submits that by letter No. 13017/23/91-AIS dt.18-6-91 (Annx. II), the Government of India, Ministry of Personnel (PG & Pension), Department of Personnel & Training enunciated a policy regarding allocation of women officers in the All India Services to North-Eastern cadres. In the said policy statement, the Government recognising the acute difficulties faced by All India Service Officers allotted to North-Eastern Cadres and recognising the reality that service conditions of All India Services in these States are fairly difficult and in appreciation of the fact of the difficulties faced by single women officers serving in these regions is of a more accentuated dimension, decided that women probationers would not be allocated to North-Eastern States for a period of 5 years commencing from the Civil Services Examination 1989 (1990 batch). The said policy statement also sets out the Union Government's decision that the women officers working in these regions would be allowed cadre transfer to any other State, other than the Home State.

vii) The applicant submits that the five year period mentioned in the above policy statement commenced from 1990 batch and would end with the 1995 batch. The applicant has no knowledge whether the said policy has been extended beyond 1995 batch.

viii) The applicant respectfully submits that the conditions prevailing in the North-Eastern region which animated the enunciation of the aforementioned policy continue to subsist. The applicant also begs to submit that the conditions which satisfied the Government of India in and around the year 1991 to enunciate the said policy continue to exist but have become accentuated. Judicial notice can be taken of the well-known fact that the conditions in this region have further deteriorated and have assumed very serious dimension at present. On considerations of fairness in action, non-arbitrary action, avoidance of hostile discrimination, requirement of equality before the laws and equal protection of laws enjoined on the State by the provisions of Articles 14, 15, 16 and 21 of the Constitution of India, the Union Government is constitutionally obligated to continue the said policy. The liberty of the Government to review any policy decision periodically involves a concomitant constitutional and public law obligation to continue the said policy or eschew it depending upon the continuance or disappearance of the rational considerations which animated the policy in the first instance. This constitutional and public law obligation cannot be sub-verted by silence or inaction on the part of the Union Government to review and continue the policy enunciated by the order of Government of India d/18-6-91 (Annex. II) in the context of the continuing and ~~xxxx~~ deteriorated conditions of life and environment in the North-Eastern Region warranting continuance of the State's affirmative action towards women officers of All India Services in respect of cadre allocation to these areas. The constitutional philosophy underlined in the order dt. 18-6-91 of the Government (Annex. II) is eminently founded on the equality injunctions of Article 14 and the constitutional injunctions contained in Article 15 against gender discrimination. The ~~xxxx~~ mandate of Art. 15 includes the obligation of the State to provide necessary protection to women officers in conditions which existed in the case on hand, by applying the policy

contained in the Government of India's letter dt.13-6-91 (Annx.II) and by not allotting the applicant to Assam-Meghalaya cadre.

ix) The deterioration and accentuation of the problem in the North-Eastern States in the immediate past and at present is demonstrable by the recent events in this region, a few of which are enumerated hereunder:

- a. On 29-6-97 the militants fired at Mr.Sarat Phukan, Superintendent of Police, Goalpara District of Assam who had a miraculous escape.
- b. On 8-8-97 the extremists gunned down Brig. T.D.S.Visakhan, Chief Engineer of the Shillong M.E.S. and Subhash Chander, Superintending Engineer in broad day light in the heart of Guwahati.
- c. Recently the militants hurled a powerful bomb at Mr.Prafulla Kumar Mahanta, the Chief Minister of Assam State.
- d. On 22-7-97 the militants killed eight army jawans and injured 14 persons near Kohima.
- e. On 30-7-97, the militants gunned down three Tripura State Rifles jawans and injured 11 other personnel at Natunbari in North Tripura District.
- f. On 23-8-1997, militants shot dead four army jawans at Pulbari Garugaon in Sonipur district of Assam.
- g. Apart from the above, there have been numerous cases of kid-napping and abduction of officials and non-officials in Assam and other North-Eastern States. There have also occurred several bomb blasts involving damage and blowing off of vital railway tracks and important trains and bridges causing enormous loss to life and property.
- x) The applicant respectfully submits that she submitted a representation dt. 27-8-97 (Annx. III) to the respondents 1 and 2 through the 4th respondent setting out in detail the facts in support of her request contained therein for change of cadre either to Uttar Pradesh, Rajasthan, Madhya Pradesh or Gujarat.

The applicant also begs to submit that she is willing to be considered for re-allotment even to the Haryana cadre in addition to the 4 State Cadres mentioned in the above representation. Respondents 1 and 2 however have not passed any orders on the applicant's representation mentioned above. As the training that the applicant is undergoing in the 4th respondent Academy is scheduled to conclude by the end of October 1997, it is just and necessary that this Hon'ble Tribunal may be pleased to issue appropriate directions to the respondents before the said period.

xi. The applicant further begs to submit that as already stated the 1996 batch of IPS officers comprises 12 women officers of which five officers are above the applicant in rank and six below her. The applicant is the sole women officer singled out by the respondents 1 and 2 for ~~xx~~ allocation to Assam - Meghalaya cadre. The other three officers allocated to this cadre are men officers. This act constitutes hostile discrimination per se and constitutes in the context of the law and order environment obtaining in this region a violation of gender equality contained in Articles 14, 15 & 16 of the Constitution of India. It also constitutes a violation of the applicant's Constitutional right under Article 21 of the Constitution of India.

xii) The applicant further respectfully submits that her father who is a retired officer of the IPS cadre has also made a representation to the Hon'ble Home Minister, Government of India dt. 20-2-97 (Annx. IV) setting out the family circumstances in support of the request for sympathetic consideration for allocation of the Uttar Pradesh cadre or any other adjacent State Cadre.

xiii) The applicant further begs to submit that having regard to the present law and order environment in the said region, there is no rational basis for Government of India to allot the applicant to the Assam-Meghalaya cadre. The order of the 2nd respondent contained in notification dt. 18-2-97 (Annx. I) allocating the applicant at S.No.12 of the said notification to the

Assam - Meghalaya cadre constitutes violation of Constitutional injunctions mandated on the said respondents and the inaction on the part of respondents 1 and 2 to rectify the said illegality by positively responding to the applicant's request for re-allocation of cadre by her representation, constitutes abdication of the Constitutional and public law obligation to act non-arbitrarily and fairly and to avoid hostile discrimination.

xiv) The applicant also begs to submit that pursuant to the policy enunciated as contained in the first respondent's proceedings dt.18-6-91 (Annx. II), several officers of IAS and IPS allotted to the North-Eastern State Cadres have got their cadres changed to other States. Some of the instances of such cadre change are:

- a. Miss. Sukriti Vohra, I.A.S. (probationer) of 1993 batch allotted to the Manipur - Tripura cadre was given cadre transfer to Haryana State, vide No.13017/58/93 AIS dt. 24-3-94 of the Dept. of Personnel and Training.
- b. Miss. Punya Salila Srivastava I.A.S. (probationer) of 1993 batch allotted to Assam - Meghalaya cadre was given cadre transfer to Union Territories cadre, vide No.13017/1/94 dt.26-4-1994.
- c. Miss. Nuzhrat Khan I.P.S. of 1991 batch got her Punjab State Cadre changed to the A.G.M.U.T. Cadre, vide No.14020/49/92 UTS, dt.23-6-1993 of Government of India, Ministry of Home Affairs and vide Notification No.13016/6/92 AIS (I) dated 16-6-1993 of the Dept. of Personnel and Training.
- d. Miss. Malini Krishnamoorthi, I.P.S. of 1993 batch allotted to the Assam-Meghalaya cadre got her cadre transferred to the Karnataka State Cadre by Government of India.

7. Details of Remedies exhausted
The applicant submits that she has no other alternative remedy except to approach this Hon'ble Tribunal for relief.

8. Matters not previously filed or pending with any other court.
The applicant further submits that she has not filed any proceedings before any other legal forum for the same cause of action.

9. Main relief: In view of the facts and circumstances stated above, the applicant prays that this Hon'ble Tribunal may be pleased to

- a. declare the notification of the 2nd respondent bearing No.1-14012/19/96-IPS-IV dt.18-2-97 (Annx.I) in so far as the allocation of the applicant at S.No.12 therein to the Assam-Meghalaya cadre is concerned, as unconstitutional, arbitrary, void ab initio and non-est;
- b. direct the first and second respondents to consider and reallocate the applicant either to Uttar Pradesh, Rajasthan Madhya Pradesh, Gujarat or Haryana cadre;

and to pass such other order or orders as this Hon'ble Tribunal deems fit and proper, in the circumstances of the case.

10. Interim relief: Pending disposal of the above O.A., it is prayed that this Hon'ble Tribunal may be pleased, pending disposal of the O.A., to

- a. suspend the operation of the 2nd respondent's notification bearing ref. No.1-14012/19/96/IPS-IV dt.18-2-97 (Annx.I) in so far as it relates to allotment of the applicant to Assam-Meghalaya cadre;
- b. direct the respondents to send the applicant for her district attachment/State training to the State of Rajasthan, the 3rd respondent herein;

and pass such other order or orders as this Hon'ble Tribunal deems fit and proper, in the circumstances of the case.

11. Details of Postal Order:

- a. No. and date of Postal Order:
- b. Postal order where obtained:
- c. Postal order where payable:

12. Details of enclosures: Vakalat, Material papers, postal order and covers.

Counsel for applicant.

O 12 8887142
25/9/97
High Court Exh-Cover
G.P.O.

Vineeta Sharma
APPLICANT.

VERIFICATION:

I, Vineeta Sharma, d/o. Sri B.N.Sharma, aged 28 years, IPS probationer, presently undergoing training at SVP National Policy Academy, Hyderabad, do hereby declare that the facts stated above are true to my knowledge, information and belief.
Hyderabad
Dt.24-9-1997.

Vineeta Sharma
APPLICANT.

FAX MESSAGE/SPEED POST

No. I-14012/19/96-IPS-IV
Government of India
Ministry of Home Affairs

...

New Delhi, the 18th February 1997


OFFICE MEMORANDUM

Sub: Civil Services Examination 1995 - Cadre
Allocation of IPS Probationers of 1996
batch - Reg.

The undersigned is directed to forward herewith a copy of this Ministry's Notification of even number dated 18-2-97 on the subject mentioned above and request you to inform about the cadre allotted to IPS probationers of 1996 batch.

Sd. V.K. Gupta
Desk Officer, T.No. 301 4038.

To
The Director
SVP National Police Academy
Hyderabad.


- true copy -

:10 :

(To be published in the Gazette of India Part I Section2)

No. I-14012/19/96-IPS-IV
Government of India
Ministry of Home Affairs

New Delhi, the 18th Feb. 1997

NOTIFICATION


In exercise of the powers conferred by sub-rule (1) of Rule 5 of the Indian Police Service (Cadre) Rules 1954, the Central Government allocates the cadre officers mentioned in column 2 of the Table below who have been appointed to the Indian Police Service on the basis of the results of the Civil Service Examination, 1995, to the cadre mentioned against their names in column 3 thereof:-

| S.No. | Name of the cadre officer. | Cadre to which allocated |
|----------|----------------------------|--------------------------|
| 1 to 10 | | |
| 11. | Manish Kumar Singhal | Assam - Meghalaya |
| 12. | Vineeta Sharma (MS) | Assam - Meghalaya |
| 13. | Hiren Chandra Nath | Assam - Meghalaya |
| 14. | Nelli Kumar Subrahmanyam | Assam - Meghalaya |
| 15 to 99 | | |

The names have been shown cadre-wise and inter se seniority among themselves shall be fixed separately ie. after completion of probationary training.

Sd. V.K.Gupta
Desk Officer, T.No, 301 4038

To
The Manager,
Government of India Press,
Faridabad (Haryana).


- true copy -

No. 13017/23/91-AIS
Government of India

Ministry of Personnel P.G. & Pensions
Department of Personnel and Training.

Dt. 18-6-1991

To The Chief Secretary
to the Government
of Manipur, Imphal.

Sub: IAS (Cadre) Rules 1954 - Women in Indian Ser-
vice Officers allotted to North-Eastern Cadres.

Sir,

I am directed to say that for sometime past this Department has been considering difficulties faced by AIS Officers allotted to the North Eastern Cadres. While it is generally agreed that service conditions of All Indian Services in these States are fairly difficult, Government have appreciated that these difficulties are being faced by women officers serving in these regions in a more accentuated form; Keeping this in view, the Government have decided that women probationers would not be allocated to the North Eastern States for a period of 5 years commencing from the Civil Services Examination 1989 (1990 batch). It has also been decided that single women officers working in these regions would be allowed cadre transfer to any other State, other than home state. It has been further decided that in the case of women AIS Officers married to AIS Officers should be allowed short-term deputation along with their husbands to a state other than home state for a period of three years.

2. It has been observed that there are two women officers in the Joint Cadre of Manipur-Tripura. They are Smt.C.R.Chibber, IPS (RR: 1978) married to Shri V.Chibber, IPS (RR: 1978) and Smt.Nina Rani, IPS (RR: 1989) married to Shri Rohit Kumar Singh, IPS (RR:1989).
3. In order to enable this Department to consider this matter further, it is requested that Smt.C.R.Chiber and Smt. Nina Rani

may be requested to indicate three cadres, other than home State, in order of preference to which they along with their husbands would like to be considered for deputation. The options if any may be forwarded to this Department within a period of one month along with the comments of the State Government.

4. Smt.C.R.Chiber and Smt.Nina Rani may also be informed that the exercise of option by her and her husband for deputation will not confer any legal claim for deputation or cause transfer to one of the cadres mentioned by them or to any other cadre. They may also be informed that the period of deputation will be for 3 years only and in no case request for extension will be entertained. Finally, it is not obligatory for the officers to give any option.

Yours faithfully,

Sd.R.Chaterjee

Director.

Copy forwarded to:

1. Sh. R.R.Shah, Jt. Secretary (P), Ministry of Home Affairs
New Delhi.
2. Shri B.B.Hasurkar, Jt. Secretary, Ministry of Environment,
Forests and Wild Life, CGO Complex, New Delhi.

Sd. R.Chaterjee

Director.

- true copy -

From: Miss. Vineeta Sharma
IPS (Probationer)
SVP National Police Academy
Hyderabad.

Dt. 27.8.99

To The Director
SVP National Police Academy
Hyderabad.

Sub: Request for change of cadre in accordance with No.
13017/23/91/AIS dt.18-6-91 of Dept. of Personnel
and Training, Ministry of Personnel, Public Grievances
and Pensions, Government of India.

Sir,


I very respectfully beg to state that I am submitting
three copies of my representation to the Government of India
for the change of my cadre of Assam-Meghalaya allotted to me.

2. It is requested that one copy each of my representation
may kindly be forwarded to the Secretary, Dept. of Personnel
and Training, Ministry of Personnel, Public Grievances and
Pensions and the Secretary, Home Dept., Ministry of Home
Affairs, Government of India, New Delhi. The decision of
the Government of India may kindly be communicated to me at
the earliest.

Yours faithfully,

Encl: as above.

Sd. Vineeta Sharma.


- true copy -

From: Ms.Vineeta Sharma
IPS (P)
SVP National Police
Academy, Hyderabad
500252

To 1. The Secretary
Dept. of Personnel and
Training, Ministry of
Personnel, Public Grievances
and Pension, New Delhi 110001

2. The Secretary
Home Department
Ministry of Home Affairs
Government of India
New Delhi 110 001

Through:

Dated: 27-8-97

The Director
SVP National Police Academy
Hyderabad 500 252.

Sub: Request for change of cadre in accordance with No.
13017/23/91/AIS dt.18-6-1991 of Ministry of Person-
nel, Public Grievances and Pensions, Department of
~~Personnel~~ Personnel and Training.

Sir,

I beg to submit that in pursuance of advertisement issued by the Union Public Service Commission, a combined examination was held in November/December 1995 for recruitment to various Central Services including the Indian Police Service. I appeared in the Civil Services Examinations and had given my choice of service in the following order of preference:-

- i) Indian Administrative Service (I.A.S)
- ii) Indian Foreign Service (I.F.S)
- iii) Indian Police Service (I.P.S)

2. The results of the Civil Services (Main) examination held in November/December 1995 and personality test boards held in April/May 1996 were published in the Hindu dated June 17, 1996. I was successful and was placed at Sl.No.93 in the combined list of 638 successful candidates. After excluding the candidates selected for the IAS and IFS, I was appointed in the IPS by the Govt. of India on the basis of my merit position.

3. I am an IPS probationer of the 1996 batch. Presently, I am undergoing training in the S.V.P.National Police Academy, Hyderabad.

4. As per the cadre allocation made by the Dept. of Personnel and Training and Home Government of India, New Delhi, I have been allotted to the Assam - Meghalaya Cadre. My home state is Uttar Pradesh.

5. Keeping in view the unfavourable situations and difficulties faced by women officers in the North-Eastern States of the country, the Govt. of India took a policy decision not to post such officers in those States for a period of five years vide order No. 13017/23/91-AIS dt.18-6-1991 of the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training regarding women All India Service Officers allotted to the North-Eastern States cadres. The policy decision, inter-alia, states that 'Women probationers would not be allotted to the North-Eastern States for a period of five years commencing from Civil Services Examinations 1989 (1990 batch). It has also been decided that single women officers working in these regions would be allowed cadre transfer to any other State other than Home-State.' A photo copy of the aforesaid Government of India order is annexed hereto as Annexure A.

6. On the basis of the aforesaid Government order the IAS and IPS officers allotted to the North-Eastern States cadres have got their cadres changed to other States. The instances of such officers are given below:-

- i) Miss Sukriti Vohra, IAS (probationer) of 1993 batch allotted to the Manipur-Tripura cadre was given cadre transfer to Haryana State, vide No.13017/58/93/AIS dt.24-3-94 of the Dept. of Personnel and Training.
- ii) Miss Punya Salila Srivastava IAS (Probationer) of 1993 batch allotted to Assam-Meghalaya cadre was given cadre transfer to Union Territories Cadre vide No.13017/1/94 AIS dt. 26-4-1994.
- iii) Miss Nuzhat Khan IPS of 1991 batch got her Punjab State Cadre changed to the AGMUT cadre vide No.14020/49/92 UTS dt. 23-6-1993 of Govt. of India, Ministry of Home Affairs and vide notification No.13016/6/92 AIS (1) dt.16-6-1993 of the Dept. of Personnel and Training.

iv) Miss Mahini Krishnamoorthi IPS of 1993 batch allotted to the Assam Meghalaya Cadre got her cadre transferred to the Karnataka State cadre by Government of India.

7. I appeared at the Civil Services Examination held in the year 1995 and belong to the 1996 batch. However, the benefit of the Government of India order as ~~xx~~ mentioned in para 4 above has been denied to me and I have been allotted to the Assam-Meghalaya cadre ostensibly on the ground that the period of five years has expired.

8. I very respectfully submit that the aforesaid Government Order mentions the batch year as 1990. It also mentions the time limit of five years from the base year 1990. However, the conditions prevailing in the North-Eastern States which prompted the Government of India to take the policy decision contained in the Government Order are still continuing. Rather they have accentuated as will be apparent from the following facts:

- i) On 29-6-97 the militants fired at Mr. Sarat Phukan, Superintendent of Police, Goalpara district of Assam who had a miraculous escape.
- ii) On 8-8-97 the extremists gunned down Brig. T.D.S. Visakhan, Chief Engineer of the Shillong M.E.S. and Subhash Chander, Superintending Engineer in broad day light in the hear of Guwahati.
- iii) Recently the militants hurled a powerful bomb at Mr. Prafulla Kumar Mahanta, the Chief Minister of Assam State.
- iv. On 22-7-97 the militants killed eight army jawans and injured 14 persons near Kohima.
- v. On 30-7-1997 the militants gunned down three Tripura State ~~Offxxsxxs~~ Rifles jawans and injured 11 other personnel at Natunbari in North Tripura District.

9. Apart from the above, there have been several cases of kidnapping and abduction of the officials and non-officials in Assam and other North-Eastern States. There have also been several bomb blasts to damage and blow off vital railway tracks and important trains and bridges which have caused huge loss of life and property of passengers.

10. The abovementioned instances amply indicate that the activities of militants are continuing in the North-Eastern regions. The situation is still difficult and unfavourable to the women officers who are exposed to great dangers and personal risks. Thus there is no rational basis for depriving me from the benefit of the aforesaid Government order.

11. Out of the thirteen women IPS probationers, I am the only woman officer who has been singled out for posting in the North-Eastern region.

12. It is also worth mentioning that I belong to Uttar Pradesh State and my aged parents are settled at Lucknow, a district in that State. My father retired from the Post of Deputy Inspector General of Police in 1988. He also made representation dated 20-2-1997 to the Hon'ble Home Minister, Govt. of India for changing my cadre, but he has received no response thereto so far. A copy of the representation is annexed hereto as Annexure B.

13. I further beg to submit that I am undergoing training at the SVP National Police Academy, Hyderabad. My training will be completed by the end of October 1997. Thereafter in November 1997, I will be required immediately to join the district training in the State allotted to me.

14. It is, therefore, very humbly and respectfully, requested that in view of the Government order and also the difficult situation still prevailing in the North-Eastern States, the Assam-Meghalaya cadre allotted to me, may kindly be changed and I may be allotted to the cadre of Uttar Pradesh, Madhya Pradesh, Rajasthan or Gujarat State. It is further requested that an early decision may kindly be taken in this matter and the same may kindly be communicated to me at the earliest.

Yours faithfully,

Encl: as above.

 Sd. Vineeta Sharma.

- true copy -

From: B.N.Sharma, IPS (Retd)
A-438, Indiranagar
Lucknow, UP.

No. BNS-3/97

To The Hon'ble Home Minister
Government of India
New Delhi.

Dt. 20-2-1997

Subject: Change of cadre.

Sir,

With due respect I beg to inform you that I am a retired Indian Police Service Officer of Uttar Pradesh cadre. After my retirement in 1988, I have settled down at Lucknow. My wife is suffering from heart ailment and is mostly confined to bed. Recently I have also suffered serious health set back due to two major operations and it will take a few years to recover fully. I have no son. My daughter Kumari Vineeta Sharma has been looking after me and my ailing wife. She has been selected in Indian Police Service on the basis of Civil Services Examinations, 1995 and is under training at SVP National Police Academy, Hyderabad. I have come to know that Vineeta Sharma has been allotted to Assam-Meghalaya cadre and will be posted in above States on completion of her training. Because of ailments and adverse effects of old age, I and my wife are greatly handicapped and will face great difficulties in emergent situations in the absence of my daughter.

It is humbly requested that in view of above mentioned circumstances a sympathetic attitude may kindly be taken and instead of Assam-Meghalaya cadre, UP or an adjacent State cadre may kindly be allotted to my daughter, Vineeta Sharma. However, if it is not possible, she may kindly be allotted UP cadre temporarily so that we may get ourselves properly treated with her aid and assistance.

I will remain ever grateful for this act of compassion and kindness.

Thanking you very much,

Yours sincerely,

Sd. B.N.Sharma

IPS (Retd).

- true copy -

T.P. MESSAGE

To 01. Chief Secretary to
Govt. of Assam, Dispur
02. Chief Secretary to
Govt. of Meghalaya, Shillong
INFO 01. HOME New Delhi
02. DIG OF POLICE ASSAM GUWAHATI
03. DG OF POLICE MEGHALAYA SHILLONG
FROM: DIRECTOR SVP NBA HYDERABAD.

No.11011/13/97-Trg.IPS(P)49Dated: 19th March 1997.

S/Shri Manish Kumar Singhal, Vineeta Sharma (Ms), Hiren Chandra Nath and Nelli Kumar Subramanyam IPS Probationers of (Civil Services Examination 1995) 1996 batch have been allotted to Joint Cadre of Assam - Meghalaya by the Govt. of India, Ministry of Home Affairs, New Delhi vide their notification No.I-14012/19/96-IPS-IV dt.18th February 1997 (.) Out of the abovementioned probationers only three probationers viz. S/Sri Vineeta Sharma (Ms), Hiren Chandra Nath and Nelli Kumar Subramanyam have joined the Academy for training with the current batch (49-RR) commenced on 30-12-96 (.) Sri Manish Kumar Singhal not joined the Academy with the current batch (.) Request intimate reallocation of States of the abovementioned IPS probationers early to enable us to send Biodata of the probationers and also to facilitate learning of the Regional Language by the probationers accordingly (.) The Regional Language classes are to be started from first week of April 1997 (.) Please treat the matter as urgent (.)

Sd. Dr.B.Maria Kumar
Asst. Director (Indoor)

Copy to ..


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MS ZPA DE ISPA NYD 2 MAY 076 GR 150

TO HOME DE DELHI
DIRECTOR GVP NPA NYD DE
INFO HOME SEC REGIMENYA CHILLING
FROM HOME SEC NYD DE DISP.R

NO. NYD 672/82/Vol.IV/22 21-5-97

REF STATE GOVT'S MSG NO. NYD 672/82/ VOL IV/12 DT. 21-4-97
REGARDING RELOCATION OF IPS (P) (1996 BATCH) TO NYD DE
OF THE JOINT IPS CHIEF OF NYD DE AND REGIMENYA AND GOVT. OF
REGIMENYA'S MSG NO. NYD 147/96/32 dt.22-4-97 CONTAINING THE
REQUEST FOR RELOCATION OF SHRI M.R. SUBRAMANYAM TO REGIMENYA
IN PLACE OF SMT VINETA SHARMA. (.) STATE GOVERNMENT AGREE
TO RETAIN SMT. SHARMA IN NYD DE AND SHRI M.R. SUBRAMANYAM
MAY BE RELOCATED TO REGIMENYA (.)
ST DE NYD DE.



- true copy -

Hyderabad District

In the Central Adm. Tribunal
Bench, at Hyderabad

O.A.No. of 1997

Original application

M/s.V.V.Prabhakararao
K.Sudhir Reddy
Counsel for applicant

FAX MESSAGE

FROM: HOME NEW DELHI

TO DIRECTOR SVP NATIONAL POLICE ACADEMY HYDERABAD

No. I-14012/15/96-IPS-IV

Dt. 26-12-1996

REFER ACADEMY MESSAGE NO. 11011/22/96-TRG. IPS (P) 148 DATED 29-11-1996 REGARDING FINAL SERVICE ALLOCATION LIST OF CANDIDATES ALLOCATED TO IPS (,) A COMPLETE LIST OF 99 CANDIDATES ALLOCATED SO FAR TO IPS ON THE BASIS OF CSE, 1995 IS ENCLOSED(.) THE RESULT OF ONE CANDIDATE IS YET TO BE DECLARED BY UPSC (.) THE POSITION OF I/R OF 9 CANDIDATES WHO HAVE NEITHER JOINED FOUNDATIONAL COURSE NOR TAKEN PERMISSION TO ABSTAIN FROM TRAINING FROM DOP & T IN ORDER TO APPEAR FOR CSE 1996 WILL BE SENT LATER (.)

(V.K.Gupta)
Desk Officer, T.No.301 4038

Copy by Speed Post along with
list in confirmation to:

The Director,
SVP National Police Academy
Hyderabad 500 252.

Sd. V.K.Gupta
Desk Officer, T.No.301 4038.

CIVIL SERVICES EXAMINATION 1995

| SN | Rank No. | Cate-gory | N a m e | Whether joined F.I.C. | Permission to abstain from Trg. granted. |
|-----------|----------|-----------|---------------------|-----------------------|--|
| 1 to 25 | | | | | |
| 26. | 93 | GENL | VINEETA SHARMA (MS) | JOINED | |
| 27 to 100 | | | | | |

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2. The applicant in this OA ^{is} an IPS probationer of 1996 batch. Presently she is undergoing training in the S.V.P. National Police Academy, Hyderabad. She was allotted the cadre of Assam-Meghalaya by notification No.I-14012/19/96-IPS-IV, dated 18.2.1997 (page-10). The Director of S.V.P. National Police Academy, Hyderabad also informed the Chief Secretary, Government of Assam-Meghalaya regarding the posting by memo No.11011/13/97-Trg.IPS (P)49, dated 19.3.1997 (page-19). The applicant submits that she being a lady ~~she~~ should have been posted not in North Eastern State but somewhere in the other States. She relies on the Judgement of this Tribunal in the case of Ms.Malini Krishna Murthy, IPS of 1993 batch to state that her case is covered by that judgement. The applicant further submits that though the instructions applied in the case of Ms.Malini Krishna Murthy ^{had} case expired in the year 1995 those instructions must be extended indefinitely for the reasons stated in sub-paras (viii) & (ix) at page-4 & 5 of the application. She has submitted a representation for the change of cadre by her representation dated 27.8.97 (page-14) addressed to R-1 and R-2 and that representation was sent through R-4. R-4 had forwarded that representation on 30.8.97 to R-1 and R-2.

3. This OA is filed for a declaration that notification of R-2 No.1-14012/19/96-IPS-IV, dated 18.2.97 is unconstitutional arbitrary and for a consequential direction to R-1 and R-2 to consider and reallocate the applicant either to Uttar Pradesh, Rajasthan, Madhya Pradesh, Gujarat or Haryana cadre.

4. The learned counsel for the respondents submitted that she has been allotted the cadre in accordance with the rules and there is nothing illegal in allotting her Assam-Meghalaya. When she is wanting to posted in cadres other than Assam-Meghalaya there is no rule which prevents the Government to post her in

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.1322/97

Date of Order: 14.10.97

BETWEEN:

Vineeta Sharma

.. Applicant.

AND

1. Union of India through the Secretary to the Govt. of India, Ministry of Personnel & Training, Central Secretariat, North Block, New Delhi.
2. Ministry of Home Affairs, through its Secretary, Govt. of India, Central Secretariat, North Block, New Delhi.
3. State of Rajasthan through the Chief Secretary, Govt. of Rajasthan, Jaipur.
4. S.V.P.National Police Academy, through its Director, Shivarampally, Hyderabad.
5. Government of Assam-Meghalaya, rep. by its Chief Secretary to the Govt. of Assam-Meghalaya, Secretariat, Gauwahati, Assam State.

.. Respondents.

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Counsel for the Applicant

.. Mr. Raghuram
for
Mr. V.V. Prabhakara Rao

Counsel for the Respondents

.. Mr. N.R. Devraj

- - -

CORAM:

HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

- - -

J U D G E M E N T

X As per Hon'ble Shri R. Rangarajan, Member (Admn.) X

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Mr. Raghuram assisted by Mr. V.V. Prabhakara Rao, learned counsel for the applicant and Mr. N.R. Devraj, learned standing counsel for the respondents.

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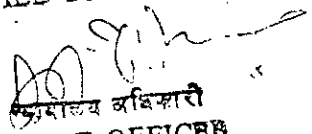
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30 days from the date of receipt of a copy of this order.

The applicant should be suitably informed within that date in regard to her cadre allotment.

8. The O.A. is ordered accordingly at the admission stage itself. No costs.

प्रमाणित प्रति
CERTIFIED TO BE TRUE COPY


कोर्ट ऑफिसर
COURT OFFICER
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद ब्याचपाठ
HYDERABAD BENCH

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Assam-Meghalaya cadre. Further, the learned counsel for the respondents submits that the notification on which the case of Ms. Malini Krishna Murthy was decided had already expired and hence that notification cannot be relied upon now to grant her change of cadre from Assam-Meghalaya. The respondents counsel further submits that the applicant does not belong to Andhra Pradesh IPS cadre and she is undergoing training at S.V.P. National Police Academy, Hyderabad and hence this Bench may not have the jurisdiction to deal with this case. However in view of the nature of the direction that is going to be given we do not thought it necessary to enter into the ^{controversy or jurisdiction} ~~contrary~~ at this juncture.

5. It is not understood why the applicant submitted her representation on 27.8.97 when the cadre allotment was notified by the order dated 18.2.97 and that must be known to her because of the letter of S.V.P., Hyderabad dated 19.3.97 as she was in the National Police Academy undergoing training at that time. In any case we do not want to go into merits of this case at this juncture as her representation is still pending to be replied.

6. In view of what is stated above, we feel that a direction to R-1 and R-2 to dispose of her representation within short period will meet the ends of justice. The learned counsel for the applicant submitted that two weeks time may be given for disposal of that representation; which is opposed by the learned counsel for the respondents. Considering the points putforth by both sides we are of the opinion that the representation should be disposed of within one month from the date of receipt of a copy of this order.

7. In the result, the following direction is given:-

R-1 and R-2 should dispose of the representation dated 27.8.97 forwarded by R-4 by his letter dated 30.8.97 within

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