

FORM NO. 4

( See Rule 42 )

# In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO.

15 OF 1998

Applicant(s) Sri U.C. Oza

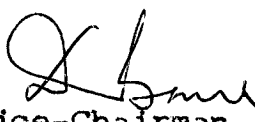
-VS-

Respondent(s) Union of India & Ors

Advocate for Applicant(s) Mr. B.K. Sharma  
M. S. Sharma

Advocate for Respondent(s)

C.G.S.C

| Notes of the Registry   | Date           | Order of the Tribunal   |
|---|----------------|---|
| <p>This application is in form and within time G. F. of Rs. 50/- deposited vide IPO BD No 752327 Dated 2.6.98</p> <p>27/11/98</p> <p>By Registrar.</p> <p>27/1</p> <p>Requisites 4 copies have been filed.</p> <p>Annexure 'D' page 33-34 not visible.</p> <p>27/11/98.</p> | <p>28.1.98</p> | <p>Heard Mr B.K.Sharma, learned counsel appearing on behalf of the applicant. There is no representation on behalf of the respondents. Copy of the application has also not been served on the respondents. Mr Sharma submits that the standing counsel is not available.</p> <p>List on 6.2.98 for admission.</p> <p>Mr Sharma prays for an interim order. Operation of the transfer orders Annexure C and D dated 20.10.97 and 2.1.98 respectively shall not be given effect to till 6.2.98, if not already given effect to.</p> <p><br/>Vice-Chairman</p> |

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|---|---------------------------|--|
| Received copy of order<br>28.1.98.<br>Biddharine & Sonar<br>Advocate<br>29.1.98.  | 6.2.98                    | On the prayer of the learned counsel for the parties this case is adjourned till 20.2.98.  |
| 28.1.98<br>Requisite has been<br>issued on 28.1.98<br>as per the<br>respondents by Regdt/Pst<br>vide despatched No. 289<br>- 292 dt. 3.2.98 | nkm<br>28/1/98<br>20.2.98 | Mr B.K. Sharma, learned counsel for the applicant, is in bereavement and is unable to attend court. Accordingly the case is adjourned till 27.2.98. Meanwhile the interim order dated 28.1.98 shall continue.                    |
| Service reports are still<br>awaited.   | nkm                       |  |
| 24.2.98<br>Copy of order dtd.<br>20.2.98 issued to the<br>counsel of parties.   | 27.2.98                   | Heard Mr B.K. Sharma, learned counsel for the applicant. Two weeks further time allowed to Mr S. Ali, learned Sr. C.G.S.C. to obtain instructions. List it on 20.3.98. Meanwhile the interim order dated 28.1.98 shall continue. |
| Service Reports are still<br>awaited.   | nkm                       |  |
| 3.3.98<br>Copy of order dtd.<br>27.2.98 issued to<br>the respondents<br>on 3.3.98.  | 20-3-98                   | Mr.S.Ali, learned Sr.C.G.S.C. prays for 10 days time. Prayer is allowed. List it on 3-4-98. Meanwhile the interim order dated 28-1-98 shall continue.  |
| 3.3.98<br>Notice duly served<br>on respondent No. 2 & 3   | 1m<br>23/3                |  |
| 3.3.98<br>I have complied<br>immediately  | 23/3                      |  |

Vice-Chairman

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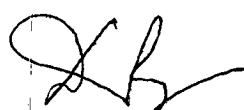
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| Notes of the Registry | Date    | Order of the Tribunal  |
|-----------------------|---------|--|
|                       | 15.5.98 | <p>The applicant claims that he should have been given a place of choice of posting and in this connection Mr S. Sarma, learned counsel for the applicant, has invoked the provisions of Rule 14 of the Posting/Transfer Policy of Group 'C' and 'D' personnel of the MES. He submits that as per the provisions of Rule 14 he should have been posted in a place of his choice. I quote Rule 14.</p> <p>"14. On completion of tenure, the individual will be adjusted in any one of the three choice stations given by him in the Repatriation proforma. In the case of non-availability of a vacancy in any of the three choice stations, the affected person due for turnover may be allowed to remain in the tenure station till a vacancy arises in his choice station. Such employees may be given the benefit of deferment for his reposting to tenure station in his next turn for such posting. The exact period for which the benefit is to be given will be decided by CE Command, based on the following norms:</p> <ul style="list-style-type: none"><li>a) Upto 6 months stay in excess of the tenure. No benefit to be given.</li><li>b) Excess stay of more than 6 months but upto 12 months. Deferment @ 50% of excess time (months) spent.</li><li>c) Excess stay of over 12 months and above. Deferment @ 75% of excess time (months) spent."</li></ul> <p>But this was not given to the applicant.</p> <p>On reading Rule 14 of the circular it appears that on completion of the tenure, an individual acquires a right of posting in any one of the three choice stations given by him. However, this right is given only when he gives the choice of posting in the repatriation proforma. Mr S. Sarma,</p> |

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|                       | 15.5.98 | <p>however, has not been able to show that any such repatriation proforma was filed by the applicant in this connection. Mr A.K. Choudhury, learned counsel for the respondents submits before me that no such option was exercised by the applicant by giving the name of three place of his choice in the repatriation proforma. Col. S. Choudhury and Major Sriram Kilania who are present on behalf of respondent Nos.3 and 4 also submit that no such proforma was ever submitted by the applicant.</p> <p>In view of the above I do not find any force in the prayer of Mr S. Sarma for continuation of stay of the transfer order. Accordingly the stay granted on 28.1.1998 is vacated. However, this order will not debar the respondents to consider any representation of the applicant and pass any order favourable to the applicant. The applicant may file a representation within five days from today and the respondent No.3 shall dispose of the representation within ten days thereafter. For the next fifteen days the applicant may not be disturbed.</p> <p>In view of the above order the learned counsel for the parties submit that the original application may be disposed of. Accordingly the original application stands disposed of. No order as to costs.</p> <p style="text-align: right;"> <br/> Vice-Chairman </p> |

25.5.98

Copies of the order  
have been sent to the  
d/fce for issuing the same  
to the parties through  
Regd. with A/D.

Issued with d. no.  
1400 to 1404 d 27.5.98.  
bl.

nkm

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