

30/100

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 236/2000  
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E.P/M.A No.

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SECTION OFFICER (Judl.)

FORM NO. 4

( See Rule 42 )

# In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

## ORDER SHEET

APPLICATION NO. 236/2000

OF 199

Applicant(s) Sri Susil Baruah

Respondent(s) Union of India & Ors.

Advocate for Applicant(s) Mr.M.Chanda.

Advocate for Respondent(s) C.G.S.C.

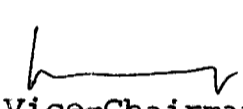
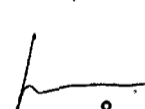
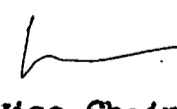
Notes of the Registry	Date	Order of the Tribunal
<p>This application form and within time of Rs. 50/- deposited vide IPO BD No. 487202 Dated 13.7.2000</p> <p>17/7/00 Envelope not submitted. Notice prepared and sent to Direction for issuing the order. No 1 to 4 vide D/No 1883 to 1888 dtd 19/7/00</p> <p>13/7/00</p>	13.7.00	<p>Present: Hon'ble Mr.S.Biswas, Administrative Member.</p> <p>Mr.M.Chanda learned counsel for the applicant and Mr.A. Deb Roy, Sr.C.C.G.S.C. for the respondents.</p> <p>Heard counsel for the applicant.</p> <p>It is stated that the applicant is retiring within a period of 8 to 9 months. The rule relating to transfer is clear that in such cases the Government employees should be accommodated in their choice Station or in the present place of posting during the last 2 years of retirement on superannuation. In this situation this application is admitted with a direction that the impugned order Annexure 2, dated 8.6.2000 shall be kept in abeyance until further orders only in respect of the applicant. List on 14.8.00 for orders.</p> <p>5. Dinesh Member(A)</p>

LM

MS 14/7/2000

②

U.A-236/2000

Notes of the Registry	Date	Order of the Tribunal
	14.8.00	There is no Bench. adj. to 8.9.00. 10/0
<u>21-9-2000</u> Written Statement has been filed by the respondents. Bon	8.9.00	no Bench. To be listed on 22-9-00. 10/0
	22.9.00	Present : Hon'ble Mr. Justice D.N. Choudhury, Vice-Chairman. Mr. M. Chanda learned counsel for the applicant and Mr. A. Deb Roy, Sr. C.G.S.C. for the respondents. On the prayer of Mr. M. Chanda, ld. counsel for the applicant two weeks time is allowed for filing of rejoinder. List on 23.10.00.
The case is ready for hearing as regards Wfs. 20/10/2000	lm	 Vice-Chairman
	23.10.00	Ms N.D. Goswami, learned counsel for the applicant and Mr A. Deb Roy, learned Sr. C.G.S.C. are present. Written statement has been filed. The case is ready for hearing. List for hearing on 9.11.00.
<u>7-11-2000</u> Rejoinder has been filed by the respondent's Applicant Advocate. Bon	nkm	 Vice-Chairman
	9.11.00	On the prayer of Mrs N.D. Goswami, learned counsel for the applicant the case is adjourned to 10.11.00 for hearing.
The case is ready for hearing. 30 8.11.00	pg	 Vice-Chairman

Notes of the Registry

Date

Order of the Tribunal

10.11.2000

Heard the learned counsel for the parties.  
Hearing concluded. Judgment delivered in open  
court, kept in separate sheets. The application  
is dismissed. No order as to costs.

  
Vice-Chairman

nkm

29.11.2000

Copy of the Judgment  
has been sent to the  
D/Sec. for issuing the  
same to the applicant  
as well as to the Dr.  
C.G.S.C. for the Respondent.  
H

Notes of the Registry	Date	Order of the Tribunal
<div data-bbox="172 279 236 321">5</div>		

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A.No. 236 ..... of 2000

DATE OF DECISION. 10.11.2000 .....  
b

Shri Sushil Boruah

PETITIONER(S)

Mr M. Chanda, Ms N.D. Goswami and  
Mr G.N. Chakrabarty

ADVOCATE FOR THE  
PETITIONER(S)

-VERSUS-

The Union of India and others

RESPONDENT(S)

Mr A. Deb Roy, Sr. C.G.S.C.


ADVOCATE FOR THE  
RESPONDENT(S)

THE HON'BLE MR JUSTICE D.N. CHOWDHURY, VICE-CHAIRMAN

THE HON'BLE

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

Judgment delivered by Hon'ble Vice-Chairman



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.236 of 2000

Date of decision: This the 10th day of November 2000

The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman

Shri Sushil Boruah,  
Assistant Engineer,  
C.P.W.D., Guwahati Central Division,  
CRPF Group Centres,  
Guwahati.

.....Applicant

By Advocates Mr M. Chanda, Ms N.D. Goswami and  
Mr G.N. Chakrabarty.

- versus -

1. The Union of India, through the  
Secretary to the Government of India,  
Ministry of Urban Development,  
New Delhi.
2. The Additional Director General (5R),  
C.P.W.D., Nizam Palace,  
Calcutta.
3. The Superintending Engineer,  
Co-ordination Circle No.1,  
C.P.W.D., Calcutta.
4. The Chief Engineer (N 52),  
C.P.W.D., Shillong.

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....

O R D E R

CHOWDHURY.J. (V.C.)

This is an application under Section 19 of the Administrative Tribunals Act, 1985, assailing the order of transfer dated 8.6.2000, Annexure 2, by which the applicant was transferred from the Office of the Guwahati Central Division, Guwahati to the Office of the Assistant Engineer (P)/Acctts., Guwahati. The applicant has not challenged the order of transfer as being contrary to any statute or rules made thereunder etc. Admittedly, the order of transfer has been passed as a routine order and no illegality in the order of transfer, as such, is discernible. The only grievance of the applicant is that since he is on the verge of

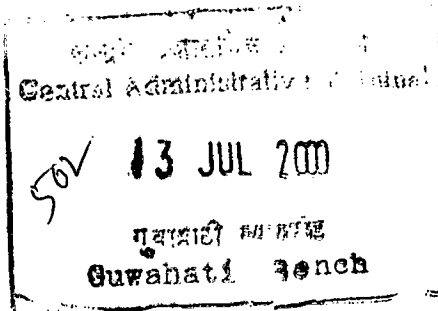
retirement and will attain superannuation on 30.4.2001, if he is transferred at this stage it may seriously impede the settlement of his pensionary benefits. By the order of transfer the applicant will be allowed to remain in the same station and posting, only the place of posting will be different. The changing of the place of posting cannot, as such, be faulted.

2. The application is opposed by the respondents. In its reply the respondents assured that the order of transfer will not in any way impede the progression of the pension matter of the applicant. It was inter alia stated that the Pay and Accounts Office dealing with the pension of the applicant will remain the same. There is no room to take leave to doubt the sincerity of the aforementioned statement. Hope and trust tha the respondents shall honour their undertakings and complete the retiral process promptly without providing any scope to complain.

3. In the above circumstances, I am of the view that the transfer has been made on administrative exigency and in the absence of any arbitrariness or illegality there is no scope for interference by the Tribunal. The application is accordingly dismissed. The dismissal of the application shall, however, not hinder the respondents to afford a crumb of comfort anyway to the applicant.

No order as to costs.

  
( D. N. CHOWDHURY )  
VICE-CHAIRMAN



In the Central Administrative Tribunal

Guwahati Bench at Guwahati.

( An application under Section 19 of the Administrative  
Tribunal Act 1985 ).

Title of the case: Original Application No. 236 /2000

Shri SuSíl Boruah : Applicant.

- Vs-

Union of India and others: Respondents.

I N D E X

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5.	3	Representation dated nil.	13

Filed by

Manik Chandra.

Advocate.

(S. Boruah)

In the Central Administrative Tribunal

Guwahati Bench at Guwahati.

( An application under Section 19 of the Administrative  
Tribunals Act 1985 )

Original Application No. 226 /2000.

BETWEEN

Shri ~~Su~~fil Boruah

Assistant Engineer,


C.P.W.D. Guwahati Central Division

CRPF Group Centres

Guwahati-23.

- Versus -

1. Union of India  
through Secretary to the Govt.  
of India, Ministry of Urban  
Development, New Delhi.
2. The Additional Director,  
General (5R) C.P.W.D. Nizam Palace,  
234/4 A.J.C. Bose Road,  
Calcutta-29.
3. The Superintendent Engineer  
Co-ordination Circle No. 1  
C.P.W.D. Calcutta - 20.
4. Chief Engineer, ( N 52 )  
C.P.W.D. Shillong-3

  
(S. Boruah)

DETAILS OF THE APPLICATION .

1. Particulars of orders against which the application is made.

This application is made against the impugned order of transfer issued by the Additional Director General (Eastern Region) C.P.W.D., Calcutta vide his letter No. 21(7)/AE(C) 562 dated 08.06.2000. by which the applicant is sought to be transferred from G.O. <sup>Khennupara</sup> Guwahati to AE(P)/Accts, Guwahati.

2. Jursdiction of the Tribunal.

The applicants declare that the subject matter of the application is within the jurisdiction of the Hon'ble Tribunal.

3. Limitation.

The applicants further declare that the application is within the period of limitation under Section 21 of the Administrative Tribunals, Act 1985.

4. Facts of the Case.

4.1. That your applicant is a Citizen of India and as such he is entitled to all rights and privileges guaranteed by the Constitution of India. The applicant is presently working as Assistant Engineer, in the Central Public Works Department , Government of India and presently posted at Guwahati Central Division C.P.W.D. office in the CRPF Group Centre, Guwahati-23.

*(Signature)*  
(8/2/2002)

Name of the places where applicant transferred  
and posted.

1. NEFA
2. CALCUTTA
3. GUWAHATI
4. SHILLONG.
5. MOHANBARI DIBRUGARH.
6. DOOMDOOMA.
7. CUTTACK.
8. BORJHAR.
9. JORHAT.
10. CRPF Group Centre Khanapara  
(presently posted ).

4 3. That the date of superannuation of the applicant is approaching fast and he is retiring on superannuation on 30th April 2001, it is about 8(eight) months to be completed till he <sup>attained</sup> attend the age of superannuation.

It is stated that the applicant received the notife of retirement from the office of the executive Engineer, Guwahati Central Division, CPWD, Guwahati-21 vide letter bearing no. 9(3)/GCD/2000/594 dated 5.6.2000 thereafter the applicant submitted necessary papers has required under the rule for processing his case for ~~penstion~~ pensonery benefit .

Copy of the letter dated 5.6.2000 is enclosed  
as Annexure -1.

✓ *(S. B. Choudhary)*

4.4. That most surprisingly while the applicant preparing himself for proceeding towards retirement he has suddenly received an order of transfer and posting issued under office order bearing letter No. 21(7)/AE(C)/SE(COR)/CAL/2001/562 dated 8.6.2000. Where by the applicant is ordered for transfer and posting from Guwahati Central Division Khanapara to Assam Central Circle No. II CPWD Guwahati, which is situated about 25 KM away from the present place of posting the applicant is highly shocked after receipt of the impugned transfer and posting order. It appears that a series of transfer and posting order has been issued in routine nature in the same letter dated 8.6.2000, if the said transfer order is required to be carried out the present establishment including the family members required to be shifted from the present place, as such it will cause total dislocation of the family members and it will also upset the future planning of the applicant who is going to be settled down in the near by places from the present place of posting, it will also create difficulty in processing the pension case of the applicant as because all service record including the pension papers will be required to be shifted to the new place of posting and it is likely to cause delay in settlement of pensionary benefit.

Earlier the applicant approached to the Chief Engineer through his representation dated 19.4.2000 requesting the authority to allow him to continue to the present place of posting for a period of one year which

*(S. Boruah)*

was duly forwarded by the Assistant Engineer ~~MR~~ GCD, CPWD Guwahati to SE Assam Central Circle Guwahati subsequently he has also submitted representation to the Additional Director General (ER) CPWD Calcutta stating details of his difficulties and prayed for allow him to continue in the present place of posting at CRPF Group Centre, Khanapara but to no result.


Copy of the transfer and posting order dated 8.6.2000 and representation dated nil are encloses as Annexure - 2 and 3 respectively.

4.5. That the Hon'ble Tribunal in the facts and circumstances stated above be pleased to direct the respondents to allow the applicant to continue present place of posting and also be pleased to direct to modify the impugned order of transfer and posting.

4.6. That this application is made bonafide and for the ends of justice.

5. Grounds for relief(s) with legal provision.

5.1. For that the applicant is retiring on supernnuation only after a period of about 8(eight) months as such he is entitle to continue in the present place of posting at CRPF Group Centre at Khanapara Guwahati.

  
(S. B. Barua)

- 5.2. For that impugned transfer order will cause dislocation of life, family members and property if implemented.
- 5.3. For that as per existing Government policy applicant is entitle to continue in the present place of Posting as he is fast proceeding towards retirement.
- 5.4. For that impugned transfer order will cause delay in settlement of pensionary benefit of the applicant.

6. Details of remedy exhausted.

The applicants beg to state that there is no other alternative remedy under any rule, than to file this application before the Hon'ble Tribunal.

7. Matter not pending before any other Court.

The applicants further declare that they had not previously filed any application, writ petition or suit regarding the matter in which the application has been made before any court of law or any other authority or any Bench of the Tribunal and/or any such application, writ petition or suit is pending before any of them.

8. Relief(s) sought for :

- 8.1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned order of transfer and posting dated 8.6.2000 ( Annexure - 2 )

*(S. B. B. B. B.)*

in respect of the applicant only.

8.2. That the Hon'ble Tribunal be pleased to direct the respondents to allow the applicant to continue in the present place of posting at Guwahati Centre Division, CPWD Khanapara till the date of his superannuation.

8.3. To pass any other order or orders as deem fit and proper.

8.4. Cost of the case.

9. Interim Reliefs prayed for :

During the pendency of the case the applicant prays for the following interim relief.

9.1. That the Hon'ble Tribunal be pleased to stay the operation the impugned order of transfer and posting dated 8.6.2000 ( Annexure - 2 ) in respect of applicant only.

10. ....

This application is filed through advocate.

11. Particulars of Postal Order.

I.P.O. NO. : 06 49 7707  
Date of Issue : 3-7-2000  
Issued from : G.P.O. Guwahati.  
Payable at : G.P.O. Guwahati.

12. Particulars of Enclosures.

As stated in the Index.

Verification.....

*(Signature)*  
(S. C. Bhowmik)

-8-

V E R I F I C A T I O N

I, Shri Sushil Boruah, son of late P.K. Boruah presently working as Assistant Engineer in Guwahati Central Division, CPWD Khanapara do hereby verify and declare that the statements made in paragraph 1 to 12 are true to my knowledge and belief.

And I sign this verification today on        th day of July, 2000 at Guwahati.

  
S. Boruah  
Signature.

- 9 -

Annexure-1

Government of India  
Central Public Works Department  
@@@@

NO:-9(3)/GCD/2000/594

Dated, Guwahati, the 5 /06/2000

To,  
Shri Sushil Baruah  
Asstt Engineer(Civil)  
Guwahati Central Sub-Divn.I,  
C.P.W.D., Khanapara,  
Guwahati-23

Sub: Supply of Pension related Forms.

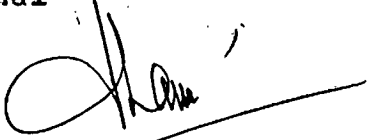
You are going to retire from Govt. Service on attaining the age of superannuation on 30-4-2001 (A.N.) as per record available from your service Book.

In view of the above, I am sending herewith following Forms(Blank) each in triplicate which may be re-submitted immediately to this office duly filled in, signed and complete in all respect for further needful action at this end.

Kindly acknowledge the receipt of the same.

Enclo:- Form in Triplicate

1. Form - 5
2. Form - 3
3. Form - I.A.
4. Option in two pages
5. Nomination for (i) OGGIS  
ii) GPF  
iii) Gratuity
6. Application Form for final GPF withdrawal.

  
(Er. P. Chakma)  
Executive Engineer  
Guwahati Central Division  
C.P.W.D., Guwahati-21

Copy to:-

1. The Superintending Engineer, Assam Central Circle-I, CPWD, Guwahati-21 for favour of kind information please.
2. The Senior Accounts Officer, PAO(NEZ), CPWD, Raja Villa, Near Malki Point, Shillong-793001 for favour of information please.
3. The Junior Accounts Officer, GCD, CPWD, Guwahati-21 for favour of information and necessary action.
4. P/File of Shri Sushil Baruah, AE, GCSD-I, CPWD, Ghy-23
5. File No.8(1)/GCD/2000 for record.

EXECUTIVE ENGINEER

-10-

Annexure-2

GOVERNMENT OF INDIA  
CENTRAL PUBLIC WORKS DEPARTMENT

No. 21(7)/AE(C)/SE@/R/Cal/2000/

562

Dated: 08.06.2000

OFFICE ORDER

The Additional Director General (Eastern Region), CPWD, Calcutta is pleased to order the transfer/posting of the following Assistant Engineers (Civil) in the interest of public service:-

Sl. No	Name	From	To	Remarks
1)	A.K Mukherjee	NAAPD/Guwahati	AE(P)/BFRC/Cal	Vice B.K Chakraborti
2)	D.N Biswas	TCD/Agartala	TLC&QA/CAL	Vice N.B.Paul
3)	J.K Biswas	SCD/Silchar	TLC&QA/Cal	Vice M.K Biswas
4)	B.Biswas	SE(P)/NEZ/Shillong	AE(P)/SE(P)/EZ-I/Cal	Vice B.R Das
✓ 5)	P.K.Brahma	GCD/Guwahati	CCD-III/Cal	Vice R.R Ghosh retiring on 30.6.2000
6)	N.B.Paul	TLC&QA/Cal	MIRMD/Behrampur	Vice A.K Banerjee
7)	M.K.Biswas	TLC&QA/Cal	AE(P)/PCD-II/Patna	Vice K.Karmakar
8)	B.R.Das	AE(P)/SE(P)/EZ-I/Cal	AE(P)/SE(P)/IRBZ/Siliguri	Vice R.C Sarkar
9)	A.K.Dutta	BCD-II/BBSR	AE(P)/SE(P)/EZ-I/Cal	Vice N.K Sen retiring on 30.9.2000
10)	S.K.Saha	AE(P)/BCC/BBSR	BCD-III/BBSR	Vice A.K Dutta
11)	B.K.Saha	GCD/Gangtok	CSD/Dhulian	Vice A.P Saha
12)	D.K Chakraborty	CCD-III/Cal	AE(P)/CCC-III/Cal	Vice S.B.Roy retiring on 30.6.2000
13)	P.K Chatterjee	PCD-II/Patna	AE(P)/PCC/Patna	Vice Md. Jallaaddin
14)	Md.Jallaaddin	AE(P)/PCC/Patna	PCD-II/Patna	Vice P.K Chatterjee
15)	G.N.S Chowdhury	TCD/Agartala	AE(P)/BCD-III/Barasat	Vice D.K Mandal
16)	S.K.Saha	AE(P)/SE(P&A)/Patna	NLD/Cal	Vice M.K Guha Roy retiring on 30.6.2000
17)	K.Karmakar	AE(P)/PCD-II/Patna	CCD-II/Cal	Vice K.C Basak retiring on 31.7.2000
18)	A.P.Saha	Dhulian CSD	AE(P)/SE(P)/EZ-I/Cal	Vice M.L Dey retiring on 30.6.2000
19)	S.C.Hakder	Under posting to MCD-II/Manipur	AE(P)/SE(P)/EZ-I/Cal	Vice M. Paul

In cancellation of posting to MCD-II/Manipur issued vide DGW, CPWD's office order no.249/98 dated 30.12.99

ac14

Office of the Additional Director General (Eastern Region), CPWD, Calcutta-700070

Handwritten signature and initials.

Stamp: 16/6/2000

-11-

20)	T K Gangopadhyay	AE(P)/KCC/MV/ Krishnanagar	AE(P)/BFCR/Cal	Vice T.R Dutta
21)	T K Banerjee	MMSD/Malda/MRMD/ Behrampur	AE(P)/SE(P)/EZ-II/Cal	Vice A.K Chakraborty retiring on 31.8.2000
22)	S N Ghosh	MCD/Behrampur	AE(P)/SE(P)/EZ-II/Cal	Vice H.S Roy retiring on 31.7.2000
23)	A K Banerjee	MRMD/Behrampur	CCD-III/Cal	Vice S.K Banerjee
24)	M. Paul	AE(P)/SE(P)/EZ-I/Cal	MCD/Behrampur	Vice S.N Ghosh
25)	S K Banerjee	CCD III/Cal	AE(P)/BCC/BBSR	Vice S.K Saha
26)	D.K.Mandal	AE(P)/BCD II/ Barasat	MMSD/Malda/MRMD/ Behrampur	Vice T.K Banerjee
27)	T.R.Dutta	AE(P)/BFCR/Cal	GCD/Gangtok (I.I.Q.Siliguri)	Vice B.K.Saha
28)	S P Poddar	AE(P)/SCG/EZ- I/Siliguri	MCD-II/Malda	Vice R.Debnath
✓ 29)	B.Saikia	AE(P)/ACC-I/Guwahati	NAAPD/Guwahati	Vice A.K Mukherjee
30)	R C Sarkar	AE(P)/BCC/BBSR	AE(P)/SE(P)/IBBZ/ Siliguri	Vice A.K Chatterjee
31)	G.K Chowdhury	Val Cell/Patna	RCD/Ranchi	Vice S.K Ganguly
32)	S.K Ganguly	RCD/Ranchi	RCD/Ranchi (H.Q. Jamshaedpur)	Vice Safi Ahmad expired.
33)	Nandan Dhar	SCD/Silchar	MCD-I/Imphal	Vice K.C Singha
34)	K C Singha	MCD-I/Imphal	SCD/Silchar	Vice N.Dhar
35)	R Debnath	MCD-II/Malda	AE(P)/SE(P&A)/Patna	Vice S.K Saha
✓ 36)	A.U Majumdar	AE(P)/ACC-I/Guwahati	GCD/Guwahati	Vice S. Baruah
✓ 37)	S Baruah	GCD/Guwahati	AE(P)/ACC-I/ Guwahati	Vice A.U Majumdar
38)	A.K.Chatterjee	AE(P)/SE(P)/IBBZ/ Siliguri	TCD/Agartala	Vice G.N.Saha Chowdhury
40)	A K Acharya	KCD-I/Krishnanagar	AMD/Agartala	Ex.Vacancy
41)	S.K Basu	AE(P)/CCC-III/Cal	AE(P)/BI.MD/ Balurghat	Ex.vacancy
42)	P.K.Mitra	BCC/BBSR	AE(P)/CCC-III/Cal	Vice S.K Basu
✓ 43)	D K Samanta	Under posting to MCD/Shillong	AE(P)/BCC/BBSR	Vice S.K Saha
In cancellation of posting to MCD-4/Manipur Issued vide DGW, CPWD's office order no.177/99 dated 20.8.99				
44)	S K Sarkar	CCD-VII/Cal	AE(P)/BCC/BBSR	Vice P.K.Mitra
In cancellation of posting order issued vide DGW, CPWD's office order no.177/99 dated 20.9.99				

actd

-12-

## Notes:-

1. SI No. 5, 12, 16 & 18 shall not be relieved before 31.06.2000
2. SI No. 17 & 22 shall not be relieved before 31.07.2000
3. SI No. 21 shall not be relieved before 31.08.2000
4. SI No. 9 shall not be relieved before 31.09.2000

The Officers under order of posting and transfer should immediately proceed to their respective place of posting and two copies of T.T. Form with name in Capital letter be sent to this office giving reference to this order. They should send certificate having written by Self, As per order and the CR in respect of Officers under him in the prescribed form.

2. In terms of D.O. (W) C.P.W.D. No. 2373 (13) 9240/11 dated 15<sup>th</sup> July 1999, in case the AEs are not relieved they will automatically stand relieved at the end of the month immediately following the month of issue of transfer orders and will not be eligible to draw pay and allowances from their present office thereafter unless their transfer orders are cancelled/modified or further instructions given from Additional Director General (ER), CPWD, Calcutta. This is applicable for CPWD & surrounding area.

3. In case of vacancy at a station against which posting orders have been issued, has already been filled up by the CE concerned by making internal adjustment under his own power, the AE concerned may be given another posting at the same station within the Zone in the field planning as per this order.

4. The practice of not accepting the joining report of officers while they submit on their transfer to the concerned Officers and directing the concerned Officer to report back to this office should be avoided. Hence forth all the CE/ AE/ DE are requested to accept the joining report of the officer concerned who on their transfer submit their joining report to them. If some thing they want to say they may take up the matter later on with Additional Director General (ER), CPWD, Calcutta.

5. The above orders may be implemented without waiting for substitute.

(D. More) 8/6/2000  
Superintending Engineer Coordination

## Copy to

1. The Director General (Works), CPWD, Bimora Bhawan, New Delhi-110011
2. The Additional Director General (ER), CPWD, Lizam Palace, Calcutta-20
3. All Chief Engineers (Civil) of Eastern Region, CPWD
4. All Superintending Engineers (Civil) of Eastern Region & Supply Engineer (P&A)
5. Superintending Engineer (Valuation), CPWD, Kanpur
6. All Executive Engineers (Civil) of Eastern Region
7. Officers Concerned (through controlling Officers)
8. The Secretary, CPWD Employees Association, Calcutta-20

8/6/2000  
Superintending Engineer Coordination

-13-

To  
The Addl. Director General(ER),  
C.P.W.D., Nizam Palace,  
234/4 Acharya J.C. Bose Road,  
Calcutta-700029

Sub : Request for continuation of self as Assistant Engineer, Guwahati Central Sub-Division No.I, C.P.W.D., Guwahati-23.

Ref : SE(Coord), CPWD(ER), Calcutta No.21(7)/AEC/SE(Cor)/Cal/2001/562 dated 8-6-2000 Sl. No.37.

Sir,

With due respect I may request my continuation in the present posting as mentioned above for the following reasons.

1. The date of my superannuation is 30-4-2001 and if I am transferred from the present place posting under Guwahati Central Division under Assam Central Circle No.I to other different Circle i.e. Assam Central Circle No.II, C.P.W.D., Guwahati.

It may be brought to your kind notice that my pension paper is already under process in the present place of posting i.e. Guwahati Central Division, C.P.W.D., Guwahati. If my present posting is disturbed and if I am transferred in the last part of my service even only a few months are left for my superannuation. I feel my pension case will be delayed without any reason and non-settlement of my pension case including clearance of vigilance will cause tremendous financial constraints to run my family members including daughter in higher study.

2. I have disposed of my duties for the entire period of service and particularly in the recent past with the entire satisfaction of my superior officers. I have also coordinated and carried out all the liaison with the client department, i.e. CRPF authority, NIPCCD authority. For the reason I have been transferred from the present office is shocking to me and I have not acted anything to the best of my knowledge for which I am being punished and cleanly delaying the settlement of my pension.

3. I may claim myself as a bonafied Government Servant and as such I may request your goodself for consideration of my pray for continuation of the present posting.

With best request and wishes.

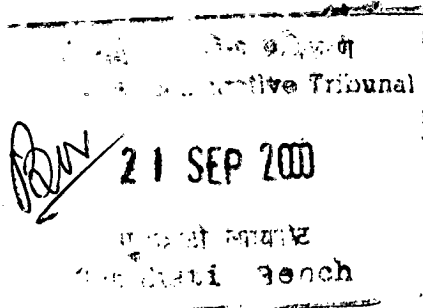
Yours faithfully,

(Er. S. Barua)  
Assistant Engineer  
Guwahati Central Sub-Division No.I  
C.P.W.D., Guwahati-23

Copy to :-

1. The Chief Engineer(NEZ), CPWD, Shillong-3 for favour of information please. (FAX NO.0364225976/TEL.NO. SAME)
2. The Superintending Engineer, Assam Central Circle No.I, C.P.W.D., Guwahati-21 for favour of information please.
3. The Superintending Engineer(Coord), Co-ordination Circle(ER), C.P.W.D., Calcutta-20 for favour of information please. (FAX NO.0332472808/TEL.NO.CAL.2477416)
4. The Executive Engineer, Guwahati Central Division, C.P.W.D., Guwahati-21.

ENGINEER



**In the Central Administrative Tribunal  
Guwahati Bench :: Guwahati**

**OA No. 236/2000**

**Shri Sushil Baruah**

**..... Applicant**

**-Versus-**

**Union of India and others.**

**..... Respondents.**

**WRITTEN STATEMENT FOR AND ON BEHALF OF RESPONDENT  
NO.1,2,3&4**

I, Anurag Garg, Executive Engineer(Admn), Assam Central Circle-I, CPWD, Guwahati-21, do hereby solemnly affirm and state as follows :

1. That I am the Executive Engineer(Admn), Assam Central Circle-I, CPWD, Guwahati-21 and I am under instructions from the Secretary, Ministry of Urban Development, Government of India, Nirman Bhawan, New Delhi for taking necessary steps including filing written statement in this original application for and on behalf of Union of India and other respondents. Be it stated that the Union of India and the other respondents have been impleaded parties as Respondent No. 1,2,3 & 4 respectively. A copy of the aforesaid original application received from Respondents, has been gone through and understood the contents thereof and as such I am competent to file this written statement for and on behalf of all the Respondents.
2. That this deponent does not admit any of the facts, statements allegations and averments made in the original application save and except those which have been specifically admitted hereunder in this written statement. Further the statements which are not born on records have also been categorically denied.
3. That this deponent makes no comments as regards the contents of paragraph 1 of the original application since these are matters of record.

Anurag Garg 18/9/2000

Filed by  
Anurag Garg  
(ANURAG GARG)  
18/9/2000  
(A. DEBROY)  
Sr. C. C.  
O. A. T., Guwahati Bench

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4. That as regards the contents of paragraphs 2 & 3 of the original application, this deponent does not make any comments.
5. That as regards the contents of paragraph 4.1 and 4.2 of the original application this deponent respectfully states that the statements are based on records. However, it is stated that as per the transfer rules in force, the officers and staff are liable to be transferred from one office to another or from one station to another or to another Govt. organization in the interest of public service and the applicant has been transferred from one office in Guwahati to another office in Guwahati in the interest of public service as mentioned in the transfer order dt.8-6-2000 (Annexure-2 of the original application).
6. That as regards the contents of paragraph 4.3 of the original application, this deponent respectfully states that the statements are based on records. However it is stated that keeping in view the superannuation of the applicant on 30<sup>th</sup> April 2001, he was served with the pensionary benefit forms which are required to be submitted to Pay and Accounts Office (NEZ) Shillong six months prior to the date of superannuation for processing the pension case. The applicant's transfer from one office in Guwahati to another office in Guwahati will in no way, hinder the processing of pension case as the pay and accounts office dealing the pension case will remain unchanged.
7. That as regards the contents of paragraph 4.4 of the original application, this deponent respectfully states that contents brought out by the applicant are false and misleading. Although the applicant is transferred from Guwahati Central Sub-Division-I, under Guwahati Central Division, CPWD to Assam Central Circle-II at R.G.Baruah Road which is approximately 12 Kms. away from his present place of posting. It does not involve the change of residence as the applicant is residing at R.G. Baruah Road, Guwahati which is only one Km. approximately from the new place of posting. The applicant's joining at Assam Central Circle-II, R.G.Baruah Road, Guwahati will only facilitate him by relieving him from the regular journeys to his present office located at Khanapara from his residence at R.G.Baruah Road, Guwahati.

Amr/m  
18/9/2000

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Recently the applicant has submitted the pension papers to the Executive Engineer, Guwahati Central Division, CPWD, Guwahati-21 in which he has clearly mentioned his present address at R.G.Baruah Road.

An attested photocopy of the pension paper duly filled in by the applicant stating his present address at R.G.Baruah Road is hereby annexed and marked as Annexure R-1.

As regards the representation of applicant dt. 19-4-2000, it is respectfully submitted that the request made by the applicant in his representation could not be acceded to by the respondents as the applicant is holding charge of Guwahati Central Sub-Division at Khanapara for last five years. The present posting of the applicant is a field unit posting. As per the transfer policy, the Assistant Engineers are due for posting to planning units after completion of three or more years in field units. Accordingly the applicant has been posted to planning unit of Assam Central Circle-II, Guwahati after completing 5 years in field unit.

8. That as regards the contents of paragraph 4.5, this deponent respectfully states that under the facts and circumstances as explained in this written statement, the original application is not tenable in the eye of law and as such liable to be dismissed.
9. That as regards the contents of paragraph 4.6, this deponent does not make any comments.
10. That as regards the contents of paragraph 5.1, this deponent respectfully denies that the applicant is entitled to continue in the present place of posing. The applicant has been transferred strictly as per rules and the applicant is only making an attempt to evade the transfer to a planning unit.

am/m 18/4/2000

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11. That as regards the contents of paragraph 5.2, this deponent respectfully states that the contents are false and misleading. As per the contents of annexures R-1, it is very clear that the applicant's joining at new place of posting will not involve any change of residence or shifting of family members. In fact, it will relieve the applicant from regular journeys to his present place of posting, which is approximately 12 Kms. from his present place of residence. The applicant is only trying to evade the transfer for different reasons, best known to him.

12. As regards the contents of paragraph 5.3 of the original application, this deponent respectfully states that the applicant has wrongly mentioned about the existing Government policy. As per the existing policy, the applicant may be entitled to continue at the **present station** of posting but not at the **present place** of posting.

An attested photocopy of the extracts from the CPWD Manual Vol-I is hereby annexed and marked as annexure R-2.

As per Annexure R-2, the officers who are due to retire on superannuation within two years are not ordinarily disturbed from their existing **stations of posting** unless they themselves want a change near their hometown. In the present case, the applicant has been transferred from one office in Guwahati to another office in Guwahati and thus transfer does not involve any change of station.

13. As regards the contents of paragraph 5.4 of the original application, this deponent respectfully denies the contents. As already stated under paragraph 7, processing of pension case is a priority matter. The transfer of applicant does not involve any change of the pay and Accounts Office, which process the pension case. As per the existing policy, the pension cases are disposed expeditiously in a time bound manner, irrespective of the place of posting.

14. As regards the contents of paragraph 6 & 7 this deponent does not make any comments.

amtm 10/11/2000

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15. As regards the contents of paragraph 8.1 to paragraph 8.4 of the original application, this deponent respectfully states that the original application has got no legal grounds. The applicant has apparently approached the Hon'ble CAT with a view to evade the transfer and it is therefore prayed that the original application of Shri Sushil Baruah may be dismissed without cost.

16. As regards the contents of paragraph 9.1 of the original application, this deponent respectfully states that Hon'ble CAT has already passed an interim order (Annexure R-3), keeping the impugned order dt.8-6-2000 in abeyance until further orders only in respect of the applicant.

Under the facts and circumstances stated above, it is submitted that the transfer order dt.8-6-2000 has been issued strictly as per the existing rules and the original application is not tenable. Further the officer to relieve the applicant from his present post as per transfer order dt.8-6-2000 has already reported for duty in Guwahati Central Division and waiting to take charge from the applicant.

The joining report of Sh. A. U. Mazumdar who is to take charge of the applicant if transfer order dt.8-6-2000 is implemented, is annexed herewith and marked as Annexure R-4.

The services of the officer to relieve the applicant will remain unutilized, till the interim order of Hon'ble CAT dt.13-7-2000 (Annexure R-3) is in force. It is therefore prayed that the original application of Sh. Sushil Baruah may be dismissed without cost.

17. As regards the contents of the paragraphs 10, 11 and 12 of the original application this deponent does not make any comments.

annexed 10/11/2000

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18. The transfer order dated 8-6-2000 has been issued by competent authority strictly as per the existing transfer policy. The applicant is not transferred outside the present station of posting as per the policy of the Government. Further the applicant has furnished misleading information to the Hon'ble CAT with the sole intention to avoiding the transfer to a planning unit. Further the pay and allowances of the officer to relive the applicant as per transfer order dated 8-6-2000 are to be paid without assigning him the duty with the applicant continuing in the present post, amounting to unnecessary expenditure.

It is therefore prayed that your lordships would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records shall further be pleased to vacate/cancel the interim order dt.13-7-00 and dismiss the original application of Shri Sushil Baruah without cost and/or pass such further or other order that your lordships may deem fit and proper.

amtm  
10/7/2000

## VERIFICATION

I, Anurag Garg, Executive Engineer(Admn), ACC-I, CPWD, Guwahati-21, Assam, do hereby solemnly affirm and states that the statements made in this written statement are based upon the information gathered from official records and are believed to be true. Nothing has been concealed. So, help me God.

And I verify and sign this verification on this the 18<sup>th</sup> day of September 2000.

anurag 18/9/2000  
D. P. R. N. N. (E)  
असम केन्द्रीय परिवहन-1  
ई. पी. सि. डि., गुवाहाटी-21

R-1

(See Rules 50(1)(c) and 61(1))

Particulars to be obtained by the Head of Office from the retiring Govt. servant eight months before the date of his/her retirement.

1. Name : MOHAMMAD DORRAN
2. (a) Date of birth : 01/01/1941  
(b) Date of retirement : 30/04/2001
3. Two specimen signatures (to be furnished in a separate sheet) duly attested by a gazetted Govt. servant (a) : Separate Sheet attached
4. Three copies of passport size joint photograph with wife or husband (to be attested by the Head of Office) (b)(c) : Attached Separately
5. Two slips showing the particulars of height and personal identification marks duly attested by a Gazetted Govt. servant (d) : Attached Separately
6. Present address : Sachit Porwal  
Kakringar, P. G. Road, Road  
Behind Punjab National Bank  
Gurukul - 231005
7. Address after retirement (c) : Same
8. Name of the Treasury or the Branch of Public Sector Bank or the Pay & Accounts Officer through which the Pension is to be drawn : Punjab National Bank  
Sec Road Patanch  
Gurukul - 5
9. Details of the family in form 3(f) :
10. ~~RM~~ Indicate whether family pension is admissible from any other source - Military or State Govt. and/or Public Sector Undertakings/Autonomous Body/Local Fund under the Central or State Government. : No

Place : GurukulDated, the 12.7.2000

Signature

Designation Assistant Engineer

Ministry/Deptt./Office

GCEI / CPWD, Gurukul-23

(Under GCEI, Gurukul-21)

- (a) Two slips each bearing the left hand thumb and finger impressions duly attested, may be furnished by a person who is not literate to sign his name. If such a Govt. servant on account of physical disability is unable to give left hand thumb and finger impressions he may give thumb and finger impressions of the right hand. Where a Govt. servant has lost both the hands, he may give his to impressions. Impressions should be duly attested by a Gazetted Govt. servant.

attested photocopy

amtm 18/9/2000

कार्यालय इंजीनियर (प्र)

असम केन्द्रीय परिवहन-1

डि. पी. डि. डि., गुवाहाटी-29

Contd....Page-2

(g) The period spent on deputation in any particular station will be treated as period of stay at that station.

(h) Ghaziabad and Faridabad are not regarded as separate stations for tenure transfer rules and those who have completed combined terms of four years in the Delhi Complex comprising of Delhi, Ghaziabad and Faridabad, shall be deemed to have completed the tenure of four years in Delhi. Manesar is treated as separate station for tenure transfer rules.

(i) The Officers in the grade of A.Es and above and equivalent who have already completed 55 years of age are not generally posted to hard areas.

✓ (j) The Officers who are due to retire on superannuation within two years are not ordinarily disturbed from their existing stations of posting unless they themselves want a change near their home town.

(k) The period spent on foreign assignment is treated as stay on the station from where he proceeded on such assignment.

Note: (i) and (j) will not apply when administrative exigencies make transfer necessary.

#### Junior Engineer

8. The transfers of Junior Engineers will be ordered by the Superintending Engineers (Co-ordination) of the respective Regions.

9. Transfers within a Circle other than those on tenure basis will be ordered by the Superintending Engineers of the Circle concerned. Similarly, those within a Division may be ordered by the Executive Engineer concerned. Where transfers involve change of circle at Delhi, Superintending Engineers (Coordination) should be consulted before issue of the orders.

10. The following guiding principles will be observed by the Superintending Engineers (Coordination) in effecting transfers of Junior Engineers:--

(a) The normal period of continuous stay of Junior Engineers shall be 5 years at all stations, unless a different period of normal stay is specifically prescribed by the Director General of Works in respect of any particular

lar area or Division etc. The period of stay may be reduced by one year in the case of Officers posted to hard areas.

(b) The period of stay at a station, when period spent on deputation or on leave at any station beyond the usual period of stay is involved, shall not exceed a maximum of period of 10 years. However, it shall also be ensured that they do not serve in any particular Division or group (viz. Planning, Maintenance or Construction) for more than five years.

(c) The period spent on deputation or on leave at any particular station will be treated as a period of stay at the station from which he proceeded on deputation/leave. The stay in Nepal will be treated as stay at the station from which the official proceeded to Nepal.

(d) The Superintending Engineers (Coordination) will intimate the Circle in which any particular Junior Engineer is serving, two months in advance of the expiry of the normal tenure that the Junior Engineer concerned is due for transfer on a particular date. Normally the date lines will be adhered to except for marginal adjustment upto one month on either side.

(e) Superintending Engineer (Coordination) may effect transfers upto six months before completion of the period of normal stay at any station, if the transfer becomes necessary due to:

(i) opening of new Circles/Divisions; and

(ii) repatriation of Junior Officers from deputation in large numbers. In all other cases, the permission of the Director General of Works will be necessary for relaxing the normal period of stay.

(f) Transfers of Junior Engineers from one Region to another may be effected with the approval of D.G.(W) if the two Superintending Engineers (Coordination) agree to such transfers.

attested photocopy

amr (m) 18/9/2000

कार्यवाहक इंजीनियर (प्र.)

असम केन्द्रीय परियोजना-1

डि. प्रो. नि. वि. गारो-29

FORM NO. 3  
(See Rule 42)

In The Central Administrative Tribunal  
GUWAHATI BENCH : GUWAHATI

ORDER SHEET  
APPLICATION NO. 236/2000

OF 199

Applicant(s) Sri Susil Baruah

Respondent(s) Union of India & Ors.

Advocate for Applicant(s) Mr.H.Chanda.

Advocate for Respondent(s) C.C.C.C.

Notes of the Registry	Date	Order of the Tribunal
	13.7.00	<p>Present: Hon'ble Mr.S.Biswas, Administrative Member.</p> <p>Mr.H.Chanda learned counsel for the applicant and Mr.A. Deb Roy, Sr.C.C.C.S.C. for the respondents.</p> <p>Heard counsel for the applicant.</p> <p>It is stated that the applicant is retiring within a period of 8 to 9 months. The rule relating to transfer is clear that in such cases the Government employees should be accommodated in their choice Station or in the present place of posting during the last 2 years of retirement on superannuation. In this situation this application is admitted with a direction that the impugned order Annexure 2, dated 8.6.2000 should be kept in abeyance until further orders only in respect of the applicant. List on 14.9.00 for orders.</p>

attested photocopy

amit 10/7/2000

काईलकर ईजीनियर (अ)

असम केन्द्रीय परिवहन-1

क. को. वि. वि., गारो-२९

SH/MAJDER (ADP)

GOVERNMENT OF INDIA  
CENTRAL PUBLIC WORKS DEPARTMENT

No.8(1) GCD 2000 1302

Dated Guwahati the 3. 8. 2000

OFFICE MEMO

Consequent upon transfer from Assam Central Circle No II, C.P.W.D., Guwahati-781005 vide no.21(7) AE(C) SE(C) ER Cal 2000 562 dated 8-6-2000 of Superintending Engineer(Coord), Co-ordination Circle(EZ), C.P.W.D., Calcutta-20 and subsequent relieved from Assam Central Circle No II, C.P.W.D., Guwahati-781005 vide no.8(1) ACC-II 2000/500 dated 31-7-2000 Sri A. U. Mazumdar, Assistant Engineer has joined in this division on 1-8-2000 (F.N.)

(Er. P. Chakma)  
Executive Engineer  
Guwahati Central Division  
C.P.W.D., Guwahati-781 021

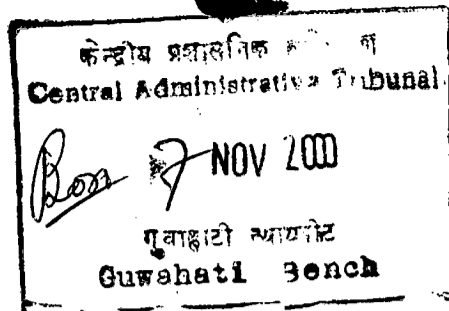
Copy to :-

1. The Addl. Director General(ER), C.P.W.D., Calcutta-20.
2. The Chief Engineer(NEZ), C.P.W.D., Shillong-3.
3. The Superintending Engineer(Coord), Co-ordination Circle(EZ), C.P.W.D., Calcutta-20. Sri A.U. Mazumdar, Assistant Engineer temporarily adjusted against the existing vacancy of Assistant Engineer(P) GCD CPWD Guwahati-21 till vacation of the stay order of Hon'ble CAT of Sri Sushil Baruah, AE.
4. The Superintending Engineer, Assam Central Circle No I, C.P.W.D., Guwahati-21.
5. The Superintending Engineer, Assam Central Circle No II, C.P.W.D., Guwahati-5. He is requested to send his Service Book with upto date leave accounts, Personal Files, LPC immediately to this office.
6. The Senior Accounts Officer, Pay & Accounts Office(NEZ), C.P.W.D., Shillong-1.
7. The JAO GCD CPWD Guwahati-21.
8. The Bill Clerk (in duplicate) GCD CPWD Guwahati-21.
9. Sri A.U. Mazumdar, Assistant Engineer under this division. He is directed to look after the charges of works related to Assistant Engineer(P) of this division for the time being till further order.
10. Sri A.K. Biswas, Assistant Engineer, Guwahati Central Sub-Division No II, C.P.W.D., Guwahati-21. He is directed to hand over the charges of works related to Assistant Engineer(P) under this division.
1. Service Book of Sri A.U. Mazumdar, AE(C).
2. Personal File of Sri A.U. Mazumdar, AE(C).

attested photocopy

amr 10/9/2000  
कार्यवाही ईडीनियर (प्र)  
असम केन्द्रीय परिषद्-1  
क. को. नि. वि., गुवाहाटी-२१

  
EXECUTIVE ENGINEER



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH ::: GUWAHATI

O.A. No. 236/2000

Shri Sushil Baruah

- Vs -

Union of India & Ors.

- And -

In the matter of :

Rejoinder submitted in reply to  
the written statements made by the  
respondents No. 1, 2, 3 and 4 res-  
pectively.

The above named applicant most humbly and  
respectfully begs to state as under -

1. That your applicant categorically denies the  
statement made in paragraphs 7, 8, 10, 11 and 12 of the  
written statement and further beg to state that the appli-  
cant is presently residing at 9th Mile Khanapara, and  
attending his office from his rented house from 9th Mile,  
his house at R.G. Barua Road is given on rent basis there-  
fore citing reference of his house at R.G. Baruah Road is  
irrelevant in the present context of the matter. The basic  
point involved in the instant case is that the applicant

Contd.....

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Filed by the applicant 23

through advocate G.N. Chakraborty  
7-11-2000.

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-2-

approaching towards retirement very fast, therefore, as -  
such passing of the impugned order at the stage is likely  
to dislocate the life, family members and property of the  
applicant. It is pertinent to mention here that only about  
four months is left for retirement of the applicant, there-  
fore, taking charge of a new establishment at this stage  
is contrary to transfer policy. As such the impugned order  
is liable to be set aside and quashed.

2. That your applicant categorically denies <sup>Paras</sup> 13, 15, 16, 18 and further beg to state that in the facts and cir-  
cumstances the application is deserve <sup>to</sup> allow <sup>with</sup> cost.

Verification.....


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07

V E R I F I C A T I O N

I, Shri Sushil Boruah, son of late P.K. -  
Boruah presently working as Assistant Engineer in Guwahati  
Central Division, C.P.W.D. Khanapara do hereby verify  
and declare that the statements made in para 1 and 2 are  
true to my knowledge and belief.

And I sign this verification today on 7 the  
day of November, 2000 at Guwahati.

  
(S. Boruah)

Signature.