

30/100

3

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No. 315/2000

R.A/C.P No.

E.P/M.A No.

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2. Judgment/Order dtd. 28/02/2001 Pg. No Deparet order Dismissed
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6. R.A/C.P. Nil Pg. to
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8. Rejoinder. Pg. to
9. Reply. Pg. to
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11. Memo of Appearance.
12. Additional Affidavit.
13. Written Arguments.
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SECTION OFFICER (Judl.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI. 5 (FORM NO. 4)
(See Rule-42)

ORDER SHEET.

APPLICATION NO. 315/2000

Applicant(s) Anandya Sargary

Respondent(s) Union of India and or

Advocate for Applicant(s) Mr. A.K. Phukan
Mr. H. Sarma

Advocate for Respondent(s) Mr. A. Monir

Mr. B.S. Basumatary, Advocate for G. A. Assam.

Notes of the Registry

DATE

ORDER OF THE TRIBUNAL

28.9.00

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

Heard Mr K. Munir, learned counsel for the applicant and Mrs M. Das, learned Government Advocate, Assam.

Application is admitted. Issue usual notice. Call for the records.

List on 6.11.2000 for written statement and further orders.

Vice-Chairman

pg

NS
28/9/2000

6.11.2000

None appears for the applicant. The learned counsel for the applicant is directed to serve a copy of the application on Mr B.S. Basumatary, learned counsel for the respondents. No further notice need be issued to respondent No.1 in that case. Put up the matter on 6.12.2000 after completion of service, report on respondent Nos.2 and 4.

Vice-Chairman

nkm

NS
2/11/2000

Respondent No. 1. in the OP.
is incomplete - Hence Notice
prepared No 2 to 4 and
Sent to D/S for issuing the
Respondent No. 2 to 4 vid
D No 2433 to 2435 dated
2/11/2000

11/10/00

3-11-2000

Service copy is not
completed.

Beta

① Notice duly served (by hand)
on R. No. 2 & 3. respondent
No-

6.12.00

On the prayer of Mr. A. Deb Roy
Sr.C.G.S.C. on behalf of Mr. B.S. Basu-
matary, Addl.C.G.S.C. three weeks
time is allowed for filing of
written statement. List on 5.1.00
for filing of written statement and
further orders.

Vice-Chairman

lm

5.1.2001

None appears for the applicant
nor any one appears on behalf of the
State respondents No.2 and 3.

Mr. B.S. Basumatary, learned Addl.
C.G.S.C. appearing on behalf of the
Respondent No.1. has stated that since
it is a matter relating to posting of
an officer, the Union of India has
nothing to do with it.

List it again for orders on
6.2.01.

Vice-Chairman

① Notice served on
R. No- 2, 3, and 4.

② No. 1 has been
billed.

3/1/2001

No written statement
has been billed. mk

6.2. NOS. 13. Adjourned to 28.2.2001.

M/6
A.K. Jais

6.2

28.2.2001

None appears for the
applicant nor for the respondent
Nos.2 and 3. It appears that the
applicant has lost interest in the
case. Accordingly the application
stands dismissed for default.

Vice-Chairman

nkm

2/3/01

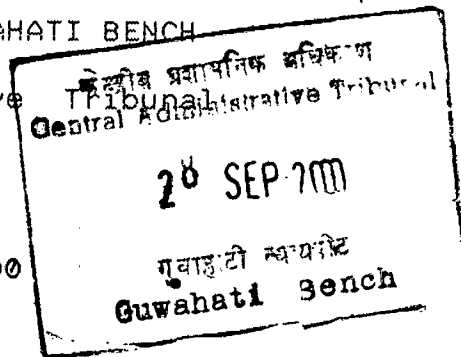
19/3/2001

Copy of the order
has been sent to the
D/Sec. for issuing the
order to the L/Advocate
for the parties.

4/4

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

(An application U/s.19 of the Administrative Act, 1985).



ORIGINAL APPLICATION NO. 315 OF 2000

Shri Anandya Swargowari

...

Applicant.

Versus

The Union of India & Ors.

...

Respondents.

INDEX

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11.	Annexure - 9	26

Filed by -

Advocate.

Date of Filing : 28.09.2000
Registration No:

REGISTRAR.

Filed by the
applicant Sri Anindya
Swargowari
Advocate
K. Prizul Khan
Advocate - 22/9/20

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI : BENCH
: GUWAHATI

O.A. NO. 418 OF 1999

Sri Anindya Swargowari,
son of A.C. Swargowari,
Deputy Conservator of Forests,
Office of the Chief Conservator
of Forests, Assam, Rehabari,
Guwahati-8, Dist. Kamrup, Assam.

... APPLICANT

-VERSUS-

1. Union of India.
2. State of Assam,
through the Commissioner and
Secretary, Forest Department,
Dispur, Guwahati-6.
3. The Joint Secretary to the
Government of Assam,
Forest Department,
Dispur, Guwahati-6.

Central Administrative Tribunal
Guwahati Bench

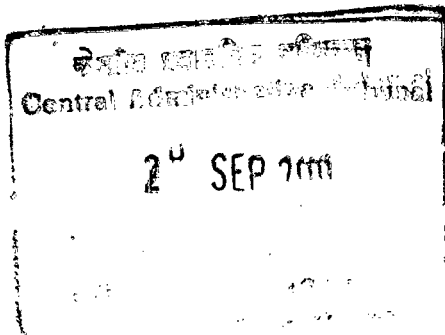
20 SEP 2000

Guwahati Bench

[Signature]

4. Sri Jatin Sarmah,

Divisional Forest Officer,
Kamrup West Division,
Bamunigaon, P.S.Boko,
District -- Kamrup, Assam.



... RESPONDENTS

DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDERS RELATING TO WHICH THE
APPLICATION IS MADE.

The application is made for enforcement of
Order vide Notification Memo No. FRE.70/2000/68-B dated
11.9.2000 which was passed in pursuance to the Judgement
& Order dated 29.8.2000 passed by Hon'ble Gauhati High
Court in W.P.(C) No. 3884 of 2000.

2. JURISDICTION OF THE TRIBUNAL

The applicant declare that his subject
matter of the order against which the applicant/ want
redressal is within the jurisdiction of the Hon'ble
Tribunal.

3. LIMITATION

The applicant further declare that the

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application is within limitation period prescribed in section 21 of the Administrative Tribunal Act, 1985.

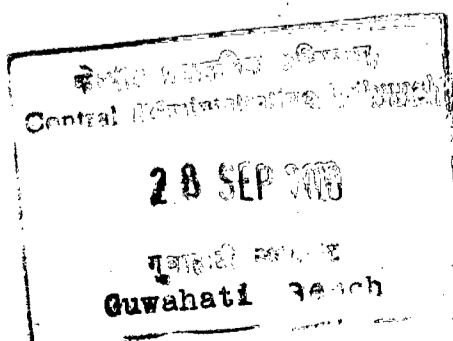
4. FACTS OF THE CASE

4.1 That the applicant is citizen of India and is permanent resident of Assam in the district of Kamrup.

4.2. The applicant is serving as a Deputy Conservator of Forest and is a member of Indian Forest Service. The applicant was serving as Divisional Forest Officer, Cachar Division, Silchar and vide Notification No.FRE. 19/2000/Pt-1/11/A dtd.20.05.2000 was transferred and posted as Divisional Forest Officer, Kamrup West Division, Bamunigaon vice Respondent No.4.

4.3 That vide another notification on the same day No.FRE/19/2000/Pt-2/11/B the Respondent No. 4 was transferred from Kamrup West Division, Bamunigaon and posted as Divisional Forest Officer, Darrang, Social Forestry Division.

Vide another notification made on the same day Sri S.U.Choudhury, Divisional Forest Officer, Darrang Social Forestry, Mangaldoi was transferred and posted as Divisional Forest Officer, Cachar Division vice applicant.



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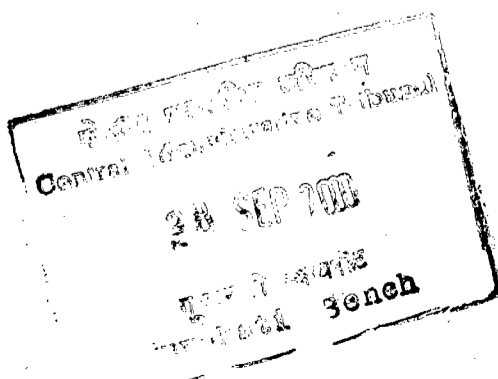
A copy of the aforesaid notification dated 20.5.2000 is annexed herewith and marked as ANNEXURE-1.

4.4 That vide notification No. FRE/19/2000/Pt-1/31-A dtd. 9.6.2000 issued by the Respondent No. 3, the aforesaid notification (Annexure-1) were stayed until further orders.

4.5 That thereafter vide notification FRE/19/2000/Pt-1/48-C dtd. 20.7.2000, the said stay order of 9.6.2000 has been vacated and the applicant was posted as Deputy Conservator of Forests attached to the Chief Conservator of Forests (Wildlife) Assam.

A copy of the aforesaid Notifications dtd. 9.6.2000 and 20.7.2000 are annexed herewith and marked as ANNEXURES-2 & 3 respectively.

4.6. That the post of Deputy Conservator of Forests in the attached in the office of the Chief Conservator of Forests is designated as Senior Wild Life Warden not being a Cadre post as defined under I.F.S. Cadre Rule 1966, and on certain other grounds the applicant challenged the said order in the Hon'ble Gauhati High Court in W.P.(C) No. 3884/2000.



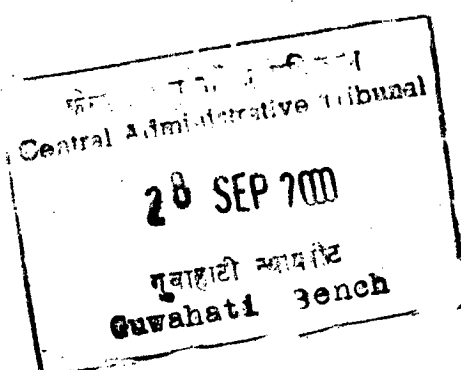
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4.7. That the Hon'ble Gauhati High Court after hearing the parties disposed of the case and passed the Judgement and Order dated 29.8.2000 in W.P.(C) No. 3884/2000 to the effect that the Deputy Senior Wild Life Warden as appears from the notification is a state cadre post and in view of the fact the authorities were directed to reconsider the entire matter and pass appropriate orders within a period of 15 days from the date of order posting the applicant against any cadre post.

A copy of the aforesaid order and Judgment dtd. 28.8.2000 in W.P.(C) No. 3884 is annexed herewith and marked as ANNEXURE-4.

4.8 That pursuant to the notification No. FRE/19/2000/Pt-1/48 dtd. 20.7.2000 allowing Sri S.U.Choudhury to take over charge of Cachar Division unilateral and since 21.7.2000, the applicant stood relieved from Cachar Division, Silchar.

4.9 That thereafter in pursuance to the aforesaid order of the Hon'ble Gauhati High Court the Govt. of Assam vide notification No.FRE.70/2000/68 posted the applicant at Kamrup West Division, Bamunigaon and vide another notification of the said date being No. 70/2000/68-A/ Respondent no. 4 was transferred from Kamrup West Division and posted as Deputy Conservator of



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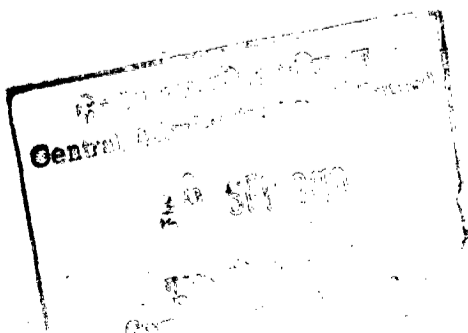
Forests (Monitoring) in the office of the Chief Conservator of Forests, Social Forestry, Assam, Guwahati. The said post of Divisional Forest Officer, Kamrup West Division being is cadre post within the meaning of relevant Rules.

A copy of the aforesaid order dated 11.9.2000 is annexed herewith and marked as ANNEXURE-5.

4.9. That pursuant to the aforesaid Notification dated 11.9.2000 the applicant went to office of the Kamrup West Division and meeting the Respondent No. 4 made a written prayer to him for handing over the charge at the earliest possible time who assured the applicant to hand over the charge within 2/3 days. The applicant thereafter again went to the said office for taking charge. On 15.9.2000 but did not find the Respondent No. 4 at his office. Thereafter on 19.9.2000 the applicant again made a prayer to the Respondent no. 4 to hand over the charge with a copy to the Chief Conservator of Forests (Territorial), Assam under whose jurisdiction the Kamrup West Division falls.

4.10. That Respondent No. 4 not being handed over the charge, the Chief Conservator of Forests (Territorial) vide letter No. FET.12/TP/Officers/21 dated

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20.9.2000 also directed the Respondent No. to comply with Govt. order of transfer.

Copies of the aforesaid letters dtd. 12.9.2000, 19.9.2000 and 20.9.2000 are annexed herewith and marked as ANNEXURES- 6, 7 & 8 respectively.


4.11 That the applicant being released from his earlier post of Divisional Forest Officer., Cachar Division, Silchar w.e.f. 21.7.2000 till now has not been able to join anywhere and is in hanging position. The Respondent No. 4 in spite of transfer order of the Government has not yet handed over the charge and is taking political shelter to cancel the said transfer order.

4.12. That the applicant begs to state herein that the post of Divisional Forest Officer, Kamrup West Division is a cadre post within the meaning of Indian Forest Services Cadre Rule 1966 and the Respondent No.4 is a member of State Forest Service and not a cadre officer. Further the Respondent No. 4 is in the said post in the said Division w.e.f. 11.8.97 and already 3 years have lapsed in the same post.

4.13. That applicant begs to state that in spite of

Contd.../-

20 SEP 2000
JAWAHARLAL NEHRU
JAWAHARLAL Nehru

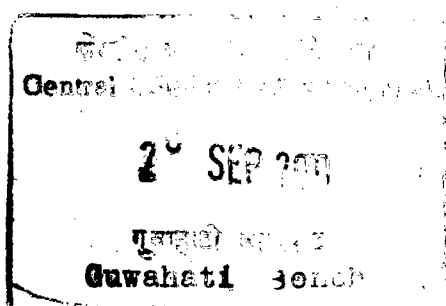


non compliance of the transfer order dtd. 11.9.2000 by Respondent No. 4 for more than 16 days and resultantly the applicant remaining hanging for more than 2 months since 21.7.2000. The appropriate authority has not passed any order to solve the situation by passing the order of unilateral charge as is done in other cases. The applicant understands that the Respondent No. 4 is moving with political circle for cancelling the order dated 11.9.2000 and applicant got information that on political pressure the said order is going to be stayed/cancelled/varied very shortly. If there is allowed to be done the applicant will be seriously prejudiced apart from flouting the order of the Hon'ble Gauhati High Court.

4.14. That under the aforesaid circumstances the applicant has no other alternative but to approach this Hon'ble Tribunal praying to appropriate action for immediate compliance of the transfer order dated 11.9.2000.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS.

i) For that the action of the State Respondents in not taking any action to enforce the transfer order dtd. 11.9.2000 is illegal, arbitrary and discriminatory.



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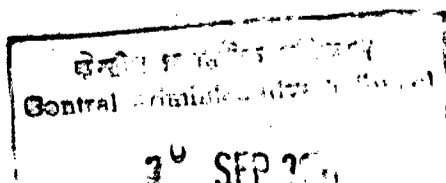
(ii) For that the applicant having treated in a discriminatory manner by not allowing him to take the charge of officer in Kamrup West Division unilaterally as required under the law appropriate actions may be taken by Your Lordship giving relief to the applicant to put an end to hanging position since 21.7.2000.

iii) For that the Respondent No. 4 not being a cadre officer within the meaning of the Rule is not entitled to hold the post of Divisional Forest Officer, Kamrup West Division and his continuance in the said post is illegal.

(iv) For that the Respondent no. 4 having served in the said post in said Division for more than 3 years since 11.8.97 is not entitled under the policy of the Govt. to remain in the same post and duty bound to hand over the charge to the applicant and that not having done the State Respondents may be directed to issue appropriate order for taking over the charge by unilaterally.

v) For that since 21.7.2000 i.e. the date of release of the applicant from Cachar Division, applicant not getting the salaries for the aforesaid action of the Respondent and this has caused immense injury to the applicant and family consisting of old parents and minor school going children.

Contd.../-



vi) For that the Respondent No. 4 has no authority vested him by law to refuse to hand over the charge to the applicant and it is incumbent upon him to hand over the charge within 10 days from date of receipt of the transfer order, violation of which entitled disciplinary action as per office memorandum under Memo No.FRE.23/91/156-A dtd. 28.6.94 which is still enforce, and on such necessary direction may be issued by Your Lordship to protect the interest of the order of transfer dtd. 11.9.2000.

A copy of the office memorandum dated 30.6.94 is annexed herewith and marked as ANNEXURE-8.

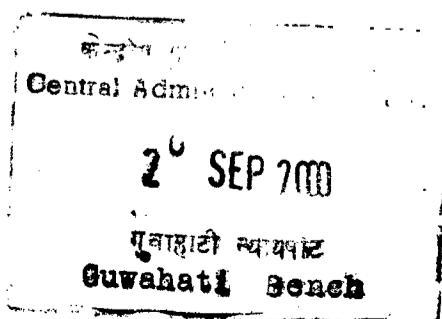
6. DETAILS OF REMEDY EXHAUSTED

Applicant requested the Respondent No. 3 to take necessary action for arranging handing over the charge vide his letter dated 12.9.2000, 19.9.2000. But no action has been taken as yet.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT:

The applicant has not preferred any other Court for enforcement of the order dated 11.9.2000, except the present application.

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8. RELIEF SOUGHT

In view of the facts and circumstances stated in para 4 above, the applicant pray for following relief(s) -

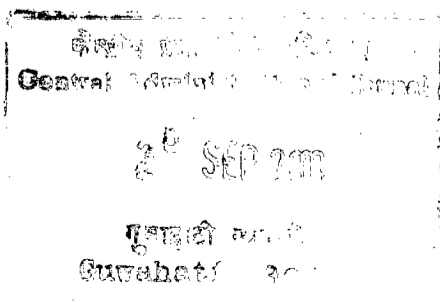
(A) Issue appropriate order to State Respondents to enforce the transfer order dated 11.9.2000 issued vide memo No. FRE.70/2000/68-B dtd. Dispur, the 11th September, 2000.

(B) Issue necessary direction to the State Respondents to pass appropriate order for taking unilateral charge by the applicant.

(C) Issue appropriate direction to the State Respondents not to cancel/stay/modify the order of transfer dtd. 11.9.2000.

(D) Cost of the application.

(E) Any other relief or reliefs to which the applicant is entitled as to the Hon'ble Tribunal may deem fit and proper.



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Myr

9. INTERIM PRAYER

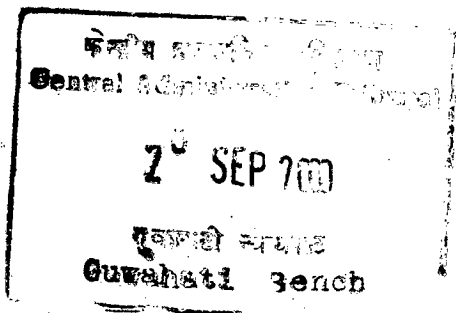
Pending disposal of the application Your Lordships may be pleased to pass interim order directing the State Respondents not to cancel/stay/modify the orders of transfer dtd. 13.9.2000 and to direct to enforcement to same further and/or may be pleased to pass any other order/orders as Your Lordships may deem fit an proper.

11. PARTICULARS OF I.P.O.

i) I.P.O. No. : 502784
ii) Date : 12.9.2000
iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated above in the index.



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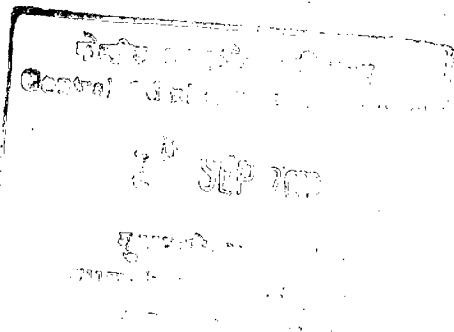
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VERIFICATION

I, Sri Anindya Swargowari, son of Sri A.C. Swargowari, aged about 38 years, working as Deputy Conservator of Forests under Government of Assam in the Forest Department do hereby solemnly verify that the statements made in paragraphs 1, 2, 4 are true to my knowledge and those made in paragraphs 5, 6, 7, 8 & 9 are true to my legal advice and I have not suppressed any material facts.

And I sign this verification on this the 28th day of September, 2000 at Guwahati.

Sri Anindya Swargowari
Signature.



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14- ~~Annex A~~ 16
GOVERNMENT OF ASSAM
FOREST DEPARTMENT :: : DISPUR

Annex I

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Dispur, the 20th May, 2000

NO.FRE.19/2000/Pt-I/11 : In the interest of public service Shri S.U.Choudhury, DFO, Darrang S.F.Division, Mangaldoi is transferred and posted as Divisional Forest Officer, Cachar Division, Silchar with effect from the date of taking over charge vice Shri A. Sworgowari, IFS.

NO.FRE.19/2000/Pt-I/11-A : In the interest of public service Shri A. Sworgowari, IFS, Divisional Forest Officer, Cachar Division, Silchar is transferred and posted as Divisional Forest Officer, Kamrup West Division, Bamunigaon with effect from the date of taking over charge vice Shri Jatin Sarma.

NO.FRE.19/2000/Pt-I/11-B : In the interest of public service Shri Jatin Sarma, Divisional Forest Officer, Kamrup West Divn., Bamunigaon is transferred and posted as Divisional Forest Officer, Darrang S.F.Division, Mangaldoi vice Shri S.U.Choudhury transferred.

The transfer order issued vide Govt. Notification No. FRE.8/96/Pt/71/1, dtd.29.11.99 in respect of the above-mentioned officer which was stayed vide Notification No. FRE.8/96/Pt/75, dtd.6-1-2000 is hereby cancelled.

Sd/- A.B.Md.Eunus,
Joint Secretary to the Govt. of Assam,
Forest Department, Dispur

Memo No. FRE.19/2000/Pt-I/11-C : Dated Dispur, the 20th May, 2000
Copy to :-

1. The Accountant General (A&E) Assam, Beltola, Guwahati-28.
 2. The Principal Chief Conservator of Forests, Assam, Guwahati-8.
 3. The Chief Conservator of Forests (SF) Assam, Guwahati-24.
 4. The Chief Conservator of Forests (WL) Assam, Guwahati-8.
 5. The Chief Conservator of Forests (T) Assam, Guwahati-1.
 6. The Chief Conservator of Forests, Research, Education and Working Plan, Assam, Guwahati-24.
 7. The Conservator of Forests concerned.
 8. Shri A. Sworgowari, IFS, D.F.O., Cachar Division, Silchar.
 9. Shri S.U.Choudhury, D.F.O., Darrang S.F.Division, Mangaldoi. He is directed to move first after handing over charge of the division to the Seniormost of A.C.F. of the division.
 10. Shri Jatin Sarma, Divisional Forest Officer, Kamrup West Divn., Bamunigaon.
 11. The Seniormost A.C.F. attached to Divisional Forest Officer, Darrang S.F.Division, Mangaldoi.
 12. P.S. to the Chief Minister, Assam for information of the Chief Minister.
 13. P.S. to the Minister of State Forest, Assam for information of the Minister.
 14. P.S. to the Chief Secretary, Assam for information of the Chief Secretary.
 15. The Deputy Director, Assam Govt. Press, Bamunimaidan, Ghy-21 for publication in the next issue of the Assam Gazette.
 16. Personal file: of the officers.
- By order etc.,

Joint Secretary to the Govt. of Assam,
Forest Department, Dispur

15
~~Annex B~~ 19
Annex 2

GOVERNMENT OF ASSAM
FOREST DEPARTMENT ::: : DISPUR

ORDERS BY THE GOVERNOR

-NOTIFICATION-

Dated Dispur, the 09th June, 2000

NO.FRE.19/2000/Pt-I/31, : Transfer orders issued vide Government Notification No.FRE.19/2000/Pt.I/11, NO.FRE.19/2000/Pt.I/11-A and No.FRE.19/2000/Pt-I/11-B dated 20th May, 2000 are hereby stayed until further orders.

Sd/- A.B.Md.Eunus,
Joint Secretary to the Govt.of Assam,
Forest Department, Dispur

Memo No.FRE.19/2000/Pt-I/31-A, Dated Dispur, the 09th June, 2000
Copy to :-

1. The Accountant General(A&E)Assam, Beltola, Guwahati-28.
2. The Principal Chief Conservator of Forests; Assam, Rehabari, Guwahati-8.
3. The Chief Conservator of Forests(SF) Assam, Guwahati-24.
4. The Chief Conservator of Forests(WL) Assam, Rehabari, Guwahati-8.
5. The Chief Conservator of Forests(T) Assam, Panbazar, Guwahati-1.
6. The Chief Conservator of Forests, Research, Education and Working Plan, Assam, Guwahati-24.
7. The Conservator of Forests concerned.
8. Sri A.Sworgowari, IFS, Divisional Forest Officer, Cachar Divn., Silchar.
9. Sri Jatin Sarma, Divisional Forest Officer, Kamrup West Divn., Bamunigaon.
10. Sri S.U. Choudhury, Divisional Forest Officer, Darrang SF Division, Mangaldoi. He is directed to resume the charge of Darrang S.F.Division, if he has already handed over charge to the Senior most ACF of the Division.
11. Senior most A.C.F. attached to Darrang S.F.Division, Mangaldoi.
12. P.S. to the Chief Minister, Assam, Dispur for information of the Chief Minister.
13. P.S. to the Minister of State, Forests, Assam, Dispur for information of the Minister.
14. P.S. to the Chief Secretary, Assam, Dispur for information of the Chief Secretary.
15. The Deputy Director, Assam Govt. Press, Bamunimaidan, Guwahati-2 for publication in the next issue of the Assam Gazette.
16. Personal file of the officers.

By order etc.,

Joint Secretary to the Govt.of Assam,
Forest Department, Dispur

GOVERNMENT OF ASSAM
FOREST DEPARTMENT ::::: DISPUR :::::

Annex 3

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Dispur, the 20th July, 2000.

NO.FRE. 19/2000/Pt.I/48 :- The stay of transfer and posting order issued vide Govt. Notification No.FRE. 19/2000/Pt.I/31, dtd. 9.6.2000 in respect of Shri S.U. Choudhury, Divisional Forest Officer, Darrang Social Forestry Division, Mangaldoi is hereby vacated with immediate effect.

Shri S.U. Choudhury, Divisional Forest Officer, Social Forestry Darrang Division is hereby allowed to take over charge of Cachar Division, Silchar, unilaterally.

NO.FRE. 19/2000/Pt.I/48-A :- In the interest of public service, Shri A. Subgiari, Divisional Forest Officer, Cachar Division, Silchar is transferred and posted as D.C.F. attached to Chief Conservator of Forests (Wildlife), Assam, Guwahati vice Shri H.R. Laskar, D.C.F. transferred.

This is in modification of Govt. earlier Notification No.FRE. 19/2000/Pt.I/11-A, dtd. 20.5.2000.

NO.FRE. 19/2000/Pt.I/48-B :- In the interest of public service, Shri H.R. Laskar, D.C.F. attached to Chief Conservator of Forests (Wildlife), Assam, Guwahati is hereby transferred and posted as Divisional Forest Officer, Darrang Social Forestry Division, Mangaldoi vice Shri S.U. Choudhury, Divisional Forest Officer transferred.

Sd/- A.B. Md. Eunus,
Joint Secretary to the Govt. of Assam,
Forest Department, Dispur.

Contd...P/2..

Memo No. FRE. 19/2000/Pt. I/40-C, Dated 20th July, 2000.
Copy to :-

- 1) The Accountant General (A&E), Assam, Sultola, Guwahati-28.
- 2) The Principal Chief Conservator of Forests, Assam, Rehabari, Guwahati-8.
- 3) The Chief Conservator of Forests (Territorial), Assam, Pabazar, Guwahati-1.
- 4) The Chief Conservator of Forests (Wildlife), Assam, Rehabari, Guwahati-8.
- 5) The Chief Conservator of Forests (Social Forestry), Assam, 233 Maringi Road, Guwahati-24.
- 6) The Chief Conservator of Forests (Research Education and Working Plan), Assam, Guwahati-24.
- 7) The Conservator of Forests, Southern Assam Circle, Silchar/ Central & Southern Assam Social Forestry Circle, Guwahati.
- 8) Shri S.U. Choudhury, Divisional Forest Officer, Social Forestry Barrang Division, Mangaldoi.
- 9) Shri A. Sworgari, Divisional Forest Officer, Cachar Division, Silchar.
- 10) Shri H.R. Laskar, DCF attached to Chief Conservator of Forest (Wildlife), Assam, Rehabari, Guwahati-8.
- 11) The P.S. to the Minister of State, Forest, Assam, Dispur, Guwahati-6.
- 12) The P.S. to Hon'ble Chief Minister, Assam, Dispur, Guwahati-6.
- 13) The Deputy Commissioner, Cachar, Silchar, for necessary action to ensure the charge.
- 14) The Deputy Director, Assam Govt. Press, Guwahati-21 for publication of the above Notification in the next issue of the Assam Gazette.
- 15) Personal File.

By order etc.,

Joint Secretary to the Govt. of Assam,
Forest Department, Dispur.

तारीख
Date of application for
the copy.

संख्या सूचित करने की तिथि
तारीख
Date fixed for notifying
the requisite number of
stamps and folios.

देने की तारीख
Date of delivery of the
requisite stamps and
folios.

प्रतिनिधि तैयार थी
Date on which the copy
was ready for delivery.

तारीख
Date of making over the
copy to the applicant. ✓

29/8/21

29/8/21

29/8/21

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ANNEXURE - 4

IN THE GAUHATI HIGH COURT

(High Court of Assam Nagaland, Meghalaya, Manipur, Tripura,
Mizoram & Arunachal Pradesh)

CIVIL APPELLATE SIDE

Appeal from

Civil Rule

W.P.C.

No.

3884

of Rs. 2000

Appellant

Petitioner

Sri Anindya Suwasgolaan

Versus

The State of Assam & ors

Respondent

Opposite-Party

Appellant

For

Petitioner

Mr. R.P. Sarmah

Mrs. M. Arora

Adv. S

Respondent

For

Opposite-Party

Mr. N. Dutta, Mr. D.D. Goswami, Mr. A. Tachikawa

Gr. A. Assam

Noting by Officer or
Advocate

Serial
No.

Date

Office notes, reports, orders or proceedings
with signature

1

2

3

4

15

7 AUG 2000

10,327/38

18
-And-

In the matter of :-

W.P.(C) No. 3884/2000.

Shri A.Swargowari,

... Petitioner.

-Versus-

State of Assam & Ors,

... Respondents.

Contd..2.

19

Presented by officer or Advocate.	Serial No.	Date	Office notes, reports, orders, or proceedings with signature.
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BEFORE

THE HON'BLE MR JUSTICE D.BISWAS

, 29/8/2000

Heard Mr AK Phukan, learned senior counsel for the writ petitioner, Mr HRA Choudhury, learned senior counsel for the respondent No.3 and Mr B Chowdhury, learned State counsel for respondent Nos. 1 and 2.

This order relates to the interim prayer made by the writ petitioner for stay of the operation of the impugned order dated 20.7.2000 (Annexure D) in order to facilitate him to continue in the present cadre post as D.F.O., Cachar Forest Division.

Mr Phukan, learned senior counsel submitted that the writ petitioner is an officer in the cadre of Indian Forest Service and, as such, as per provisions of Rule 2(a) & (b) read with Rule 8 & 9 of the Indian Forest Service (cadre) Rules, 1966 he is entitled to posting in any cadre post. The present posting of the writ petitioner as Deputy Senior Wild Life Warden, according to Mr Phukan, being a post in the State cadre cannot be filled up by the writ petitioner. In support of his contention Mr Phukan has also referred to a purported notification (Annexure E) and a D.O. letter (Annexure F). It would appear from the purported notification and the D.O. letter that the post of Deputy Senior Wild Life Warden has been shown as a State cadre post. Mr HRA Choudhury, learned counsel for the respondent No.3, however, pointed out that formal notification is yet to be issued in this behalf and, as such, the said purported notification and the D.O. letter issued by the Govt. of India cannot be acted upon. It would appear that Annexure E as referred to above is a formal notification indicating various posts with

Contd.... /2

Contd.....
29/8/2000

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cadres to which they pertain. The subsequent letter (Annexure F) also indicates that it was intended to be issued as a notification although the provisions of law under which it was going to be issued has not been indicated. In my opinion, we are not in-selsin with this aspect of matter. The vires of this notification or its validity is not in challenge in this writ petition. The provisions as contained in Rule 2 and 8 of the Indian Forest Service (cadre) Rules clearly show that an officer of the Indian Forest Service is a cadre officer and he is entitled to posting only against a cadre post. The present posting of the writ petitioner as Deputy Senior Wild Life Warden as it appears from the notification referred to above pertains to State cadre. Definitely the petitioner may bear grievance on this count for not having been posted against any cadre post. In view of this the respondent authorities are directed to re-consider the entire matter and pass appropriate orders within a period of 15 days from today posting the petitioner against any cadre post as shown in Annexures E & F.

It is needless to mention here that Mr AK Phukan, learned senior counsel has assured that during this period of 15 days, the writ petitioner will not stake a claim for rejoining the duty as D.F.O. Silchar, Cachar.

Subject to the above direction this writ petition stands disposed of.

A copy of this order be furnished to Mr B Chowdhury, learned State counsel during the course of the day.

Communicate and
Comply with the order
urgently.

29/8/2000

Sd/- D. Biswas
Judge

RECEIVED
JUDICIAL OFFICE
CACHAR
29/8/2000

29/8/2000

29/8/2000

21

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Annexure - 5

GOVERNMENT OF ASSAM
FOREST DEPARTMENT ::::: DISPUR.
GUWAHATI

ORDERS BY THE GOVERNOR
NOTIFICATION

Dated Dispur, the 11th September, 2000.

NO.FRE. 70/2000/68 :- In modification of earlier Govt. Notification No.FRE. 19/2000/Pt.I/48-A, dtd. 20th July, 2000 Shri A. Swargowari, IFS, JCF is posted as Divisional Forest Officer, Kamrup West Division, Samunigaon with effect from the date of taking over charge vice Shri Jatin Sarma, Divisional Forest Officer.

NO.FRE. 70/2000/68-A :- On relief, Shri Jatin Sarma, Divisional Forest Officer, Kamrup West Division, Samunigaon is in the interest of public service is transferred and posted as Deputy Conservator of Forests (Monitoring) in the office of the Chief Conservator of Forests (Social Forestry), Assam, Guwahati with effect from the date of taking over charge vice Shri S.P. Vasietha, IFS is deputed for training.

Sd/- A.B. Nd. Eunus,
Joint Secretary to the Govt. of Assam,
Forest Department, Dispur.

Memo No.FRE. 70/2000/68-B, Dated Dispur, the 11th September, 2000.
Copy to:-

1. The Accountant General (A&E), Assam, Belitola, Guwahati-29.
2. The Principal Chief Conservator of Forests, Assam, Rehabari, Guwahati-8.
3. The Chief Conservator of Forests (Social Forestry), Assam, Zoo Narengi Road, Guwahati-24.
4. The Chief Conservator of Forests (wildlife), Assam, Rehabari, Guwahati-8.
5. The Chief Conservator of Forests (Territorial), Assam, Panbazar, Guwahati-1.
6. The Chief Conservator of Forests (Research, Education and Working Plan), Assam, Guwahati-24.
7. The Additional Senior Govt. Advocate, Assam, Gauhati High Court, Guwahati-1 with reference to his letter No. 6261, dtd. 2.9.2000 and in compliance with the order dtd. 29.8.2000 in W.P.(C) No.3884/2000 of the Hon'ble High Court, Guwahati.
8. The Conservator of Forests concerned.
9. Shri A. Swargowari, IFS, JCF, Office of the Principal Chief Conservator of Forests, Assam, Rehabari, Guwahati-8.
10. Shri Jatin Sarma, Divisional Forest Officer, Kamrup West Division, Samunigaon.
11. The P.O. to the Chief Minister, Assam, Dispur, Guwahati-6 for information of the Chief Minister.
12. The P.O. to the Minister of State Forest, Assam, Dispur, Guwahati-6 for information of the Minister.
13. The Deputy Director, Assam Govt. Press, Samunimaidam, Guwahati-21 for publication in the next issue of the Assam Gazette.
14. Personal File of the officers.

By order etc.,

Sd/- A.B. Nd. Eunus,
Joint Secretary to the Govt. of Assam,
Forest Department, Dispur.

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From

Shri A. Swargowari, IFS
Deputy Conservator of Forests
C/O Office of the Principal Chief Conservator of Forests.
Assam, Rehbari, Guwahati - 781 008

Annexure - 6

Dated Guwahati, the 12th September, 2000

To,

Sri Jatin Sarma,
Divisional Forest Officer,
Kamrup West Division,
Bamunigaon,
District : Kamrup, Assam

6

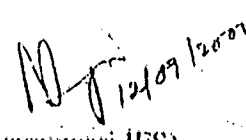
Subject : *Taking and handing over charge of kamrup West Division, Bamunigaon.*

Ref : Government notification Number FRE. 70/2000/68, dated Dispur 11th September 2000.

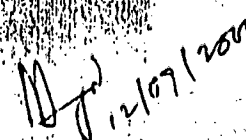
Sir,

With reference to the notification cited above, I am to request you kindly to hand over charge of Kamrup West Division, Bamunigaon at the earliest possible.

Yours faithfully


(A. Swargowari, IFS)

Copy to the Commissioner & Secretary, to the Government of Assam, Forest Department Dispur for favour of his kind information and necessary action. This has the reference of the Government notification cited under reference as above.


(A. Swargowari, IFS)

Copy to :-

1. The Principal Chief Conservator of Forests, Assam, Rehbari, Guwahati - 8 for favour of his kind information and necessary action with reference to the Govt. notification cited under reference as above.
2. The chief conservator of Forests (F), Assam, Kacharighat, Guwahati - 1 for favour of his kind information and necessary action, with reference to the Govt. notification cited under reference as above.
3. The Conservator of Forests, Central Assam Circle, Kacharighat, Guwahati - 781 001 for favour of his kind information and necessary action with reference to the Govt. notification cited under reference as above. He is requested to issue necessary instruction to enable the undersigned to take over charge of Kamrup West Division at the earliest as possible.

MD 12/09/2010
(A. Swargowari, IFS)

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Annex - 7 29

FROM : Sri A. Swargowari, IFS,
Deputy Conservator of Forests,
C/O Office of the Principal Chief Conservator
of Forests, Assam, Rehabari, Guwahati-8.

Dated Guwahati, the 19th September, 2000.

To

✓ Sri Jatin Sarma,
Divisional Forest Officer,
Kamrup West Division, Bamunigaon,
Dist Kamrup, Assam.

Sub : Taking and handing over charge of Kamrup West
Division, Bamunigaon.

Ref : Govt. Notification No. FRE.70/2000/68
dated 11-9-2000 and my letter dated 12-9-2000.

Sir,

With reference to subject and reference cited
above, I am to request you kindly to hand over charge of
Kamrup West Division immediately. The convenient date for
handing over charge may kindly be intimated accordingly
without further delay.

Yours faithfully,

[Signature] 19/09/2000

(A. Swargowari, IFS)
Deputy Conservator of Forests,

Copy to the Commissioner & Secretary to the Govt. of
Assam, Forest Department, Dispur for favour of his kind
information and necessary action. This has the reference of
the Govt. Notification cited under reference as above.

(A. Swargowari, IFS)
Deputy Conservator of Forests,

Copy to :-

1. The Principal Chief Conservator of Forests, Assam,
Rehabari, Guwahati-8 for favour of his kind
information and necessary action with reference
to the Govt. Notification cited under reference.
2. The Chief Conservator of Forests (Territorial) Assam,
Kacharighat, Guwahati-1 for favour of his kind
information and necessary action with reference
to the Govt. Notification cited under reference.
3. The Conservator of Forests, Central Assam Circle,
Kacharighat, Guwahati-781001 for favour of his
kind information and necessary action with
reference to the Govt. Notification cited under
reference.

(A. Swargowari, IFS)
Deputy Conservator of Forests

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Annexure - 8

GOVERNMENT OF ASSAM.
OFFICE OF THE CHIEF CONSERVATOR OF FORESTS: (TERRITORIAL): ASSAM:
G U W A H A T I - 1.

Letter No. FET.12/TP/Officers/21, Dated Guwahati, the 20/9/2000.
To,

Sri Jatin Sarma,
Divisional Forest Officer,
Kamrup West Division,
Bamunigaon.

Sub : Handing over the charge of the Kamrup West Division
in compliance of Govt. Notification No. FRE.70/2000/
68, dt.12-9-2000.

Ref : Letter, dt.19-9-2000 addressed to you by ^{by} A. Swar-
gowari with copies endorsed to the undersigned
and others.

With reference to above, I request you to please
take necessary steps to implement the Govt. Order as requested
by Sri A. Swargowari, I.F.S.

(M. C. MALAKAR, IFS)
CHIEF CONSERVATOR OF FORESTS: (T):
A S S A M.

Copy for information and necessary action to :-

1. Commissioner & Secretary to the Govt. of Assam,
Forest Department, Dispur.
2. Principal Chief Conservator of Forests, Assam,
Rehabari, Guwahati-8.
3. Conservator of Forests, Central Assam Circle,
Guwahati-1.
4. Sri A. Swargowari, I.F.S., Deputy Conservator
of Forests.

20/9/2000

CHIEF CONSERVATOR OF FORESTS: (T):
A S S A M.

-COPY-

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Anerme 93

GOVERNMENT OF ASSAM
FOREST DEPARTMENT : : : : : DISPUR
.....

OFFICE MEMORANDUM

Dated Dispur, the 28th June, '94.

It has been observed that many officers after receipt of the transfer orders donot proceed to join their new places of posting neither do they hand over charges to their reliever very, often they request the Ministers and other political personalities, verbally or in writing to get their transfer orders cancelled/stayed/modified. The violation of orders of transfer and posting sometimes puts the Government in a very embarrassing position and also put those officers who relinquish their charges in compliance with Government orders and intend to join their new assignments after availing of admissible joining time, to unnecessary harassment.

It is, therefore, impressed upon all concerned that officers of the Forest Department under order of transfer must arrange to hand over charge within 10(ten) days from the receipt of transfer order. Any delay in complying with such orders of transfer without specific permission of the authority who issued the order of transfer will be liable to be proceeded against as per the Rules. As such, for any violation of the above instructions, disciplinary actions will be initiated against them.

Sd/-H.Sonowal,
Secretary to the Govt. of Assam,
Forest Department, Dispur.

Memo No.FRE.23/91/156-A, Date : 28/6/94.

Copy to :

1. The Principal Chief Conservator of Forests, Assam
Nehabari, Ghy-8.
2. The Chief Conservator of Forests(SI), Assam, Ghy.-24.
3. The Chief Conservator of Forests(ML) Assam, Ghy-5.
4. The Chief Conservator of Forests, R.E.&Working Plan,
Assam, Ghy.
5. All Conservator of Forests,
6. All Divisional Forest Officers.

By order etc.

Sd/- Illegible.

Joint Secretary to the Govt. of Assam,
Forest Department, Dispur.

oooOooo