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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No. 121/2000

R.A/C.P 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. 121/2000

OF 199

Applicant(s) Sri Nicode Barman
Dutta.

Respondent(s) UOI and os.

Advocate for Applicant(s) Mr. P. J. Saikia

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

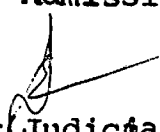

Notes of the Registry	Date	Order of the Tribunal
<p>499,229 4.4.2000 4/4/2000 7-4-2000</p> <p>Service of notices prepared and sent to D. Section for issuing of the same to the respondents through Regd. post with A/A vide D.Nos. 1049 to 1052 Dtd- 7.4.2000.</p>	5.4.00	<p>Present: Hon'ble Mr G.L. Sanglyine, Administrative Member</p> <p>Heard Mr P.J. Saikia, learned counsel for the applicant. Issue notice to show cause as to why this applica- tion should not be admitted and the reliefs prayed for should not be granted. List for consideration of admission on 5.5.00.</p> <p>Mr Saikia prays for an interim order. Mr A. Deb Roy, learned Sr. C.G.S.C. submits that he has no instructions. List for interim order on 5.5.00. The respondents are directed to maintain <u>status quo</u> as on today. Further, pendency of this application shall not be a bar for the respondents to allow the relief to the applicant.</p>

Member

Notes of the Registry	Date	Order of the Tribunal
	5.5.00	<p>Heard Sri P.J.Saikia, learned counsel appearing on behalf of the applicant and Sri A. Deb Roy, learned Sr. C.G.S.C on behalf of the respondents. Sri Roy seeks time to verify the date of release of the applicant so that the matter could be further heard.</p> <p>List on 16.5.2000 for further order.</p> <p><i>[Signature]</i> Member (J)</p>
	trd	
	16.5.00	<p>Learned counsel for the respondents submits that on 1.2.2000 the applicant had relinquished his charge as is evident from the charge report (Copy placed on records).</p> <p>List on 25.5.2000 for consideration of admission.</p> <p><i>[Signature]</i> Member (J)</p>
	trd	
	25-5-00	<p>There is no Bench today. Adjourn to 6.6.00.</p> <p><i>[Signature]</i> b20</p>
	6.6.00	<p>Mr A. Deb Roy, learned counsel for the respondents submits that the written statement is ready and he will file it today.</p> <p>List on 8.6.2000 for hearing.</p> <p><i>[Signature]</i> Member (J)</p>

Notice duly served
on R No - 2 & 3.

[Signature]
6.6.2000.

Notes of the Registry	Date	Order of the Tribunal
	8.6.00	<p>Present: Hon'ble Mr.D.C.Verma, Judicial Member.</p> <p>On the prayer of Mr. P.J.Saikia, learned counsel for the applicant case is adjourned to 13.6.00 for Admission.</p> <p style="text-align: right;"> Member (Judicial)</p>
<p>19.6.2000</p> <p>Copy of the Judgment has been sent to the J/Sec. for issuing the same to the applicant as well as to the Sr.C.G.S. for the Respondents.</p> <p>HS</p> <p>Issued vide S.Nos. 1597 & 1658 dt 22.6.2000.</p> <p>HS</p>	<p>lm</p> <p>13.6.00</p> <p>pg</p>	<p>Heard Mr P.J.Saikia, learned counsel for the applicant and Mr A.Deb Roy, learned Sr.C.G.S.C for the respondents. The O.A. is dismissed as per the order recorded separately.</p> <p style="text-align: right;"> Member (J)</p>

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[illegible]

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./B.A. No. 121 of 2000.

DATE OF DECISION 13-6-2000.

Sri Nirode Baran Dutta

PETITIONER(S)

Sri P.J.Saikia

ADVOCATE FOR THE
PETITIONER(S)

VERSUS -

Union of India & Ors.

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENTS

THE HON'BLE MR D.C.VERMA, JUDICIAL MEMBER.

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 Judicial Member.

X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 121 of 2000.

Date of Order : This the 13th Day of June, 2000.

The Hon'ble Shri D.C.Verma, Judicial Member.

Sri Nirode Baran Dutta,
S/o Surendra Bijoy Dutta,
P.A., Dibrugarh Head Post Office,
Dibrugarh. . . . Applicant

By Advocate Shri P.J.Saikia.

- Versus -

1. Union of India,
represented by the Secretary
to the Postal Department,
Parliament Street, New Delhi.
2. The Director of Postal Service(S)
Assam Circle, Guwahati-1
3. The Chief Post Master General,
Assam Circle, Guwahati-1.
4. The Superintendent of Post Offices,
Dibrugarh Division, Dibrugarh-1. . . . Respondents.


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

O R D E R (ORAL)

D.C.VERMA, JUDICIAL MEMBER,

Vide this O.A. the applicant has challenged the transfer order dated 28.12.1999, Annexure-01 to the O.A., by which the applicant has been transferred from Dibrugarh to North Lakhimpur against a vacant post. A direction is also sought against the respondents not to transfer the applicant from Dibrugarh H.O. to any other place.

2. The brief facts of the case is that the applicant retired from Indian Army on 31.1.1991. Subsequently, the applicant was appointed with the respondents as PA and was posted at Lakhimpur H.O. Prior to the impugned order the applicant was posted as PA Dibrugarh. The transfer of the applicant from Dibrugarh to North Lakhimpur is the cause of grievance. The order has been challenged on the ground


contd.. 2

that the applicant has minor children who still go to school at St. Marry's School, Dibrugarh and there is no English medium school at North Lakhimpur. The other ground is that the applicant has already completed 56 years of his age and he needed rehabilitation for the rest of his life and that's why at the time of retirement from the Army the applicant was given home posting.

3. The learned counsel for the respondents has on the other hand submitted that North Lakhimpur H.O. is also under the control of Dibrugarh Division and there is acute shortage of staff at North Lakhimpur. The post has been lying vacant consequently the applicant has been transferred to a vacant post at North Lakhimpur. It has been further submitted that the applicant was relieved on 1.2.2000 vide copy of charge report annexed to the written statement.

4. Heard counsel for the parties at great length. It is established law that an order of transfer can be challenged mainly on three grounds, (i) competence of the authority making the transfer order, (ii) violation of statutory provision and (iii) malafide. In the present case no malafide is alleged. Competence of the authority making the transfer order is not under challenge and also there is no breach of any statutory provision. The ground that the applicant is of more than 56 years age and has only to serve 3½ years cannot be accepted. In case this ground is accepted this will mean that the applicant will have to be allowed at Dibrugarh till the date of his superannuation. The other grounds taken by the applicant that children of the applicant are studying in English medium school and English medium school are not available at North Lakhimpur cannot be accepted as a ground



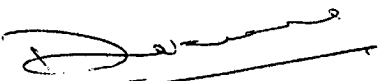
to quash the transfer order. The applicant's representation was considered by the respondents and has been rejected on 6.1.2000 (Annexure-03 to the O.A). Consequently on merit the O.A. has to be dismissed.

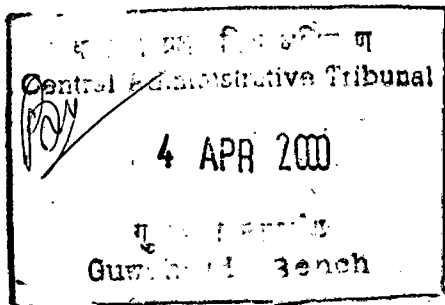
5. The learned counsel for the applicant has submitted that the applicant had not signed the relieving order dated 1.2.2000. Even it is so it will not effect the merit of the case as has been held above the impugned order of transfer is valid. Consequently, whether the applicant was relieved on 1.2.2000 or any other date would not effect the merit of the case.

6. The learned counsel for the applicant has further submitted that after the representation of the applicant was rejected on 6.1.2000 vide Annexure-03 to the O.A., the applicant preferred appeal, copy of which are Annexure-04 and 05 but the same has not been decided by the respondents.

It is always for the competent authority to consider personal difficulties of its employees and, as far as possible, provide relief as a model employer. Consequently it will be open for the respondents to consider the applicant's representations dated 20.1.2000 and 3.2.2000 (Annexures 04 and 05 to the O.A.) and to pass an appropriate order thereon.

With the above observation the O.A. is dismissed.
Costs on parties.


(D.C.VERMA)
JUDICIAL MEMBER



filed by
Nirede Barman Dutta
through
P. J. Saha, Adv.
4.4.2000.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI
BENCH, GUWAHATI.

ORIGINAL APPLICATION NO. 121 /2000.

Sri Nirede Barman Dutta.....Applicant.

-Vs-

Union of India & Ors.Respondents.

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6.	Annexure-05	-

Nirode Baran Dutta

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH.

ORIGINAL APPLICATION NO. 121 /2000.

Sri Nirode Baran Dutta,
S/o Surendra Bikash Dutta,
P.A., Dibrugarh Head Post Office,
Dibrugarh.

.... Applicant.

-Versus-

1. Union of India - represented by the
Secretary to the Postal Department,
Parliament Street, New Delhi.
2. The Director of Postal Service(s),
Assam Circle, Guwahati-1.
3. The Chief Post Master General,
Assam Circle, Guwahati-1.
4. The Superintendent of Post Offices,
Dibrugarh Division, Dibrugarh-1.

.... Respondents.

1. PARTICULARS OF ORDER AGAINST WHICH THIS APPLICATION
IS MADE :

- (a) Office Order No. B-4/Corr/Ch.III dated Dibrugarh
the 28th Dec'1999 issued by the Supdt. of
Post Office, Dibrugarh Division, Dibrugarh-1.

Nirode Bora Datta

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2. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the subject matter of the order/direction against which the relief is sought is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :

The applicant further declares that the application is within the period of limitation prescribed in Section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE :

(i) That the applicant is a citizen of India and at present resident of Dibrugarh town within the jurisdiction of Dibrugarh Police Station. The Dibrugarh district is the home district of the applicant.

(ii) That, the applicant had joined as a A.E.C. Instructor in the Indian Army in the year 1969. He has completed 22 yrs. long service in the Army in different parts of the country. In the year 1990, on the eve of his retirement he was given the Home Posting at Dibrugarh for resettlement/rehabilitation and for securing proper education for his children. The applicant was retired from his service w.e.f. 31.1.91.

Contd.....3.

Nirode Baran Datta

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(iii) That the applicant has two minor sons and for securing better education, he had ~~contracted~~ enrolled his both the minor sons at St. Mary's School, Dibrugarh. It may be mentioned herein that the Dibrugarh town is the heart of the Educational Institution in the whole of Upper Assam and the St. Mary's School is a highly reputed School for education for young pupil throughout the State of Assam.

(iv) That after being retired from the service, the petitioner had to sit idle for about 2 1/2 years. At that time the pension of amount of the applicant was only Rs. 631/- and was getting difficult to maintain his family with two minor School going children as such was looking for a suitable job so that the childrens can be properly educated. Because of all these reason the applicant could not even procure one permanent homestead and living in a rented house by paying rent of Rs. 1200/- per month.

(v) That, the petitioner was found qualified for the post of P.A. under the postal ~~and~~ Department under the Ex-Defence personnel quota and was posted at Lakhimpur Head Office. Immediately after joining

Contd.....4.

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in the post, the applicant submitted his representation stating all the facts mentioned above and prayed for his transfer to the Dibrugarh so that the applicant could reside with his family and look after the children and for making his permanent settlement at Dibrugarh.

(vi) That, the applicant states that it is quiet known fact that the entire state of Assam is affected by militant activities and the applicant being a Ex-defence personnel, there is also risk of his life as well as for his family. Under the circumstances, if the applicant is required to stay away from Dibrugarh leaving his family behind, the risk to the life of the members of the family ^{would} increase.

(vii) That, on considering all the facts and circumstances mentioned above, the authority immediately after about a month transferred the applicant from Lakhimpur to the Dibrugarh Head Office some time in the month of October, 1993 and since then the applicant is serving at Dibrugarh to the best satisfaction of the authority. Presently, the elder son of the applicant is studying in Class-VII and younger one is studying in Class-V at St. Mary's School, Dibrugarh and the applicant also preparing for his permanent settlement at Dibrugarh town.

Contd.....5.

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Nirad Kumar Datta

(viii) That, on 28th Dec, 1999, the applicant was served with a order bearing No.B-4/Corr/Ch.III dated 28th Dec '99 issued by the respondent No.4 whereby, vide order No.1 of the said order, the applicant has been transferred and posted as P.A., North Lakhimpur H.O. against the vacant post.

A copy of the aforesaid order No.B-4/Corr/Ch.III dated 28th Dec, 99 is annexed as Annexure-01.

(ix) That, the applicant states that on receipt of the aforesaid order dated 28.12.99, the applicant on 31.12.99 submitted a representation before the Superintendent of Post Offices, Dibrugarh Division stating all the facts mentioned above and thereby prayed to consider his genuine case and stop the transfer order as a defence personnel and considering the fag end of his service life.

A copy of the aforesaid representation dated 3.12.99 submitted by the applicant is annexed as Annexure-02.

(x) That, on receipt of the said representation the respondent No.4 vide his letter No.B4/Corr/Ch.III dated 6.1.2000 informed the applicant that his representation cannot be considered for the interest of the service.

A copy of the aforesaid letter No.B4/Corr/
Ch.III dated 6.1.2000 issued by the repre-
sentation No.4 is annexed as Annexure-03.

(xi) That both the aforesaid order dated 28.12.99 and 6.1.2000 came to the applicant as a big blow to the life of the applicant in as much as without the job the petitioner will suffer financially immensely and if the aforesaid order dated 28.12.99 is required to be carried out the proposed settlement of the applicant will come to a halt and the family members being the members of Ex-Army Personnel would be exposed to the risk of life and considering the education of his children he cannot take his family along with him to North Lakhimpur where there is no Branch of St.Mary School.Because of all these, the applicant suffered both mentally as well as physically and became sick compelling him to take leave from the office which is granted upto 6.4.2000.

(xii) That, the applicant states that the respondent No.4 while issuing the order dated 6.1.2000, did not consider any of the grounds and consequential difficulties that may be faced by the applicant in

Contd....7.

Nirale Parashar

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carrying out the order dated 28.12.1993 as stated by him in his representation dated 31.12.99 and most mechanically without application of mind cryptically refused the prayer of the applicant for cancellation of the order dated 28.12.1999.

(xiii) That having failed to get any justice from the respondent No.4, the applicant submitted an appeal/representation before the Chief Postmaster General, Assam Circle, Guwahati through the Zila Sainik Welfare Office, Dibrugarh stating all the facts mentioned above. In the said representation, the applicant categorically stated that during his tenure of service with the Indian Army had served in various terrain region and considering all these facts only towards the end of his service he was posted at Dibrugarh for rehabilitation and now he being attained the age of 56 years he sincerely ~~xxx~~ needed rehabilitation for rest of his life in as much as he ^{is} ~~has~~ having only about 4 years of his service and thereby prayed before him to look into the matter sympathetically and cancell the posting order to H.P.C., North Lakhimpur.

A copy of the aforesaid representation/appeal dated 20.1.2000 is annexed as Annexure-04.

Contd.....8.

Nirade Baran Datta

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(xiv) That, as no reply was received by the applicant, the wife of the applicant also submitted another representation/appeal before the Chief Post Master General, Guwahati on 3.2.2000 stating all the facts and grounds mentioned above but till today no reply is received by the applicant. The copy of the said representation was also sent to the Hon'ble Communication Minister, New Delhi, Defence Minister, New Delhi etc.

The copy of the aforesaid representation dated 3.2.2000 submitted by the wife of the applicant is annexed as Annexure-05.

(xv) That, thereafter also the applicant submitted several reminder in the line of appeal/representation before the Chief Postmaster General, Assam Circle, Guwahati, but yet to receive any reply from the said appellate authority.

5. RELIEF SOUGHT FOR :

In the facts and circumstances mentioned above, the applicant prays for the following relief :-

(i) The order/letter No. B-4/Corr/Ch.III dated 28th Dec'99 issued by the Superintendent of

Contd...9.

Post Offices, Dibrugarh Division, transferring the applicant from Dibrugarh H.O. to North Lakhimpur H.O. may be set aside.

(ii) The respondent authorities may be directed not to transfer the applicant at this stage of his service life from Dibrugarh H.O. to any other place.

6. INTERIM RELIEF SOUGHT FOR :

During the pendency of this original application, the order/letter No.B-4/Corr/Ch.III dated 28th Dec '99 issued by the Superintendent of Post Offices, Dibrugarh Division (Annexure-01) may be stayed.

7. The above reliefs are prayed on the following among other ;

G R O U N D S

1) For that Transfer from one post to another post although a condition of service, yet when the said transfer brings immense hardships to the employee, the employer must give due regard to said ~~inconveniences~~ inconveniences and modify/cancel the said order for the welfare of the employee.

Contd.....10.

Niradhi Parnanatta
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2) For that the impugned order/letter dated 28.12.99 issued by the respondent No.4 having transferred the applicant from Dibrugarh to a distant place which is about 450 km away from Dibrugarh, the sole intention of his earlier employer i.e. the authorities in Indian Army giving a scope to the applicant for rehabilitation at Dibrugarh would be frustrated and in fact if during these period, the applicant failed to settle down permanently he will never be able to settle in his life causing immense hardship to the entire family. As such the impugned order dated 28.12.99 is liable to be quashed.

3) For that if the order dated 28.12.99 is required to be implemented by the applicant, the applicant has to leave behind his family at Dibrugarh in consideration of the education and welfare of the children and proceed to North Lakhimpur alone which will not only deprive the children from getting proper attention but also the family of the applicant will be exposed to risk of life due to ongoing conflict between the Defence personnel and extremist outfit and they may become a ~~target of~~ ^{target} of the extremist at any time, as such the impugned order dated 28.12.2000 is liable to be quashed.

Contd.....11.

Nirvedh Berao Datta

4) For that the authority on earlier occasion having satisfied with the existence of ground for posting the applicant at Dibrugarh and transferred the applicant from North Lakhimpur to Dibrugarh within a period of 1 month itself, and the said grounds still having been existing, the authority ought not to have transferred the applicant again to North Lakhimpur as such the impugned order/letter dated 28.12.99 is liable to be quashed.

5) For that various departmental circular having speaks for posting of an employee at his ~~home~~ home place at least for 3 years prior to his retirement from the service, the authorities in the facts and circumstances of the case ought to have extended the said benefit to the applicant also in as much as the applicant has already attained the age of 56 years and there is hardly 4 years of service left before proceeding for retirement. As such the respondent authority may be directed to not to implement the order dated 28.12.99 and allow the applicant to remain at Dibrugarh for ^{enabling in} ~~facility~~ establishing a permanent settlement at Dibrugarh.

6) For that from the impugned order it having appeared that no incumbent has been transferred to fill up the post of the applicant and the post will

remain vacant soon the applicant is relieved from the post as such in the interest of service also, the impugned order/letters is bad and as such same is liable to be quashed.

8. That, applicant declares that he has availed of all the remedies available to him under the relevant service rules.

(i) The representation dated 31.12.99 filed by the applicant against the order/letter dated 28.12.99 has been rejected by the respondent No.4 vide the letter/order dated 6.1.2000.

(ii) The appeal dated 20.1.2000 submitted by the applicant and the appeal/representation dated 3.2.2000 submitted by the wife of the applicant before the respondent No.3 and subsequent reminder/appeals are not yet disposed of.

9. The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any Court of law or any other authority or any other Bench of the Tribunal

Nilgale P. O. D. L.

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and nor any such application, writ petition or suit is pending before any of them.

10. Particulars of the postal order in respect of the application fee :-

- (1) Number of the I.P.O. OG 494229
- (2) Date of issuing the I.P.O. - 4.4.2000.
- (3) Post Office at which payable. Guwahati H.O.

List of enclosure as per the index filed along with the application.

Verification.....

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

I, Sri Nirode Baran Dutta, S/o Surendra
Bikash Dutta, aged about 56 years, resident of
Dibrugarh town, P.O., P.S. & District-Dibrugarh,
do hereby declare and verify that the statement
made in paragraph 1 to 4, 5, 6, 8, 9, 10.
of this application are true to my knowledge and
those made in paragraphs —
being matters of record true to my information which
I believe to be true and the statement and submi-
ssions made in paragraph 7 (1) to, 8, 9
the application are true to my information on legal
advice and rests are my humble submissions. And
I sign this Verification on this the 4th day of
April, 2000.

Sri Nirode Baran Dutta
(Signature of the Applicant)

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE SUPERINTENDENT OF POST OFFICES : DIBRUGARH
DIVISION : DIBRUGARH- 786001

No. D-4/Corr/ChIII

Dated at Dibrugarh the 28th Dec '99

The following transfer and posting orders are issued to have immediate effect for the interest of service.

1. Sri Nirod Daran Dutta PA Dibrugarh H.O. is transferred and posted as PA North Lakhimpur H.O. against the vacant post.
2. Sri Pranabjyoti Hazarika PA Dibrugarh H.O. is transferred and posted as PA North Lakhimpur H.O. against the vacant post.
3. Sri Birendra Nath Bhuyan SPM Islamgaon is transferred and posted as SPM Dikrong SO vice Sri Chinaram Deori transferred.
4. Sri Chinaram Deori SPM Dikrong S.O. on being relieved by Sri Bhuyan will join as SPM Islamgaon on being transferred.

Relief Arrangement :-

1. The Postmaster Dibrugarh H.O. will relieve the official at Sr. 1 & 2 on office arrangement.
2. The Postmaster North Lakhimpur H.O. will depute one suitable hand temporarily to relieve official at Sr. 3 who will relieve Sri Deori to join as SPM Islamgaon.

Superintendent of post offices
Dibrugarh Division, Dibrugarh - 786001

Copy to :

1. The Postmaster Dibrugarh H.O. / North Lakhimpur H.O. for information and necessary action.
2. The SPM Islamgaon / Dikrong for information & necessary action.
3. The official concerned.
4. PF of the officials.
5. The Accountant Divisional Office, Dibrugarh H.

Superintendent of post offices
Dibrugarh Division, Dibrugarh - 786001

certified to be true copy
R

To
The Supdt. of Pos.
(Through the Post Master)
Dibrugarh

Sub :- Transfer and Posting order No.B-4/Corr/Ch III
dtd. 28th. Dec.99.
=====

Sir,

With due respect and humble submission I beg to state the following few lines for your kind consideration and favourable action please.

Sir, I was enrolled in the Indian Army in 1969 as a AEC instructor. I have served 22 years long service in different parts of the Country in Conginial Weather and interrior parts in 1971 during Indo-Pak war. After completion of 22 Years service I got my home-posting at Dinjan under 2 mtn. division for resettlement in Dibrugarh having been turned down my further promotion in the Army. I got my Postal Service from Defence Quata in April, 93. After receiving posting in Darbhanga (PTC)

I staight way joined in NLHO. After working one month SPos, Dibrugarh H.O. Sri J.N. Sharma re-posted me at Dibrugarh H.O. being defence personal along with my application. At present also I could not purchase a piece of land to built house for settlement, still now I am leaving in rented a Rly. quarter at Naliapool. Moreover, my two teenyrs. Son's are studying in ST. Marys School in class VII & V under this Circumstances I cannot leave this station keeping in view of my family disorder situation.

Lastly all the knowledge and hope of deep understanding of human affairs I therefore, request you consider my geniune case and stop my transfer order as a defence personal & last Service.

Yours faithfully,

Sri Nirode Baran Dutta
Bill

SRI NIRODE BARAN DUTTA
POST OFFICE : DIBRUGARH.

Certified to be true copy

R

भारतीय डाक विभाग/Department of Posts

प्राप्त हुआ वह

मिथिला भवन, डिपल्ला - 786 002

Superintendent of Post Office

Winnipeg On - Dibrugarh - 786 60

Shri. Nikode Baram Datta
PA, Sibringach Ho

NO 84/COCK/CH III. dtd 6/1/2000

Sub-Representation for stay of transfer order

Ref - Your representation dated 3/12/99

your representation for stay of
transfer order cannot be acceded to for
the interest of service.

However, your case will be considered in due course.

Phone: 1-800-786-0911

Superintendent of Post Office

CHAMBERLAIN, DOROTHY - THE CH

Copy to: —
The Postmaster, Singapore
He will please relieve the official immediately
with a direction to join at new posting place.
Self —

[Handwritten signature]

ATTN: OPS MGR

NO. 100-100000-726 001

REF ID: A66101

STANDARD FORM NO. 64-10808-100

certified to be true copies

2

From : Shri N.B. Dutta, PA
Dibrugarh HFC

Annexure-04

Dated Dibrugarh the 20th Jan 2000

To

The Chief Postmaster General,
Assam Circle, Guwahati - 1

(Through Zila Parishad Welfare Office, Dibrugarh)

Sub : An appeal against rejection of application vide Transfer and Posting Order No. 1-4 (Corr/CII III dtd. 20 Dec '92 in respect of Shri N.B. Dutta, PA/

Sir,

With due respect and humble submission I beg to state the following few lines for your kind consideration and sympathetic action.

First Sir, I am an Ex-Serviceman and presently serving at Dibrugarh HFC as Postal Assistant. I was enrolled in the Army on 01 Jan 1969 as an AEC Instructor and after completion of 22 yrs service in the Army I was discharged from service u.e.f. 31.1.1991. During this 22 yrs service I have served at many forward areas in the country even the 1971 Indo-Pak Conflict in very inclement and terrain areas without any hesitation. At the last spell of Army service, I have got the last posting at Dinjar in 1990 for resettlement/rehabilitation and for proper education of my children.

After ~~discharge~~ from service and after sitting idle at home for two and half yrs I have been qualified as a Postal Assistant and posted at North Lakhimpur HO. I have served there for 1 month and thereafter I was transferred to Dibrugarh HFC during October '93 and from that onwards I have been serving at Dibrugarh HFC only.

Sir, I have two minor sons who are studying in St. Marys School, Dibrugarh in Class VII & V. If I move to North Lakhimpur, their studies will be disturbed badly as there is no male member in my family to control them. Moreover, I am living in a rented house as I could not get the change to purchase a plot of land due to my absence in Army services. Furthermore, I have now attained the age of 56 years and there is only 4 years left behind. That Sir, it has shocked me when I have received my transfer order to HO North Lakhimpur again. I have made an appeal against this posting but this has been rejected by the Supdt, Dibrugarh HFC.

Sir, keeping in view the facts that I have spent my most valuable time for the Nation and that now I needed re-habilitation at this old age, you are requested to look into the matter sympathetically and turn down the posting order to HPO North Lakhimpur.

Yours faithfully,

(N.B. Dutta)

certified to be true copy

R



Ms. Priti Dutta
O N.B. Dutta PA
Dibrugarh HPO

To
The Chief Post Master General
Guwahati.

① Annexure-05

SUBJECT : AN APPEAL AGAINST REJECTION OF APPLICATION VIDE
TRANSFER AND POSTING ORDER NO.B-4/Corr/CH/III
dtd. 28th. Dec.,99 in respect of NB Dutta PA
DRHO

Respected Sir,

I the undersigned Mrs. Priti Dutta W/O NB Dutta PA DRHO submitted a few lines for your due kind consideration and needful action of posting order in North Lakhimpur of my husband.

No.9505076 of Ex-Hav NB Dutta enrolled in the Indian Army in 01 Jan,1969 as a AEC instructor. He has completed 22 yrs. long service in the Army in different parts of the Country in congenial weather and ttin area. Having completion of 22 yrs. service and leaving further promotion he has got the last home posting at Dinjan under 2 MTN Dvn. 1990 for re-settlement and proper education of Children. Most of his service were in field and disturbance area during 1971 war with pakistan. In 1991 01 Jan he retired from the army service. Later on, we proposed to settle at Dibrugarh. Due to enhance rate of residential plot, I could not purchase land. At that time my pension was RS-631/- only. After two and half years, he has got a job as a postal Assistant from defence quota Dibrugarh HO. Till now I could not purchase land and still living in rented house PM Rs.1200/- I have two minor sons are studying in ST marys School DR Recently promoted to one in Class VII and other is in Class V, age 12 yrs. and 10 yrs.. If my husband proceed to North Lakhimpur which is 600 Km. away from Dibrugarh I Cannot live with my two minor sons. It is well known to you Assam is a disturbance area. Any unprecedented occurrence has chance to happen in his absence. No body will come forward to save me and sons life.

Day to-day military activities is occurring life and security is not at all safe. No one knows what will happen tomorrow. So In this circumstances it is not possible for him to leave this station, grounds of rejection of his representation is not understood as a defence person. Due to adamant view his application rejected by SPO3 Dibrugarh. He is near attaining the age of 56 yrs. moreover we are both High pressure patient have to take medicine daily. Some docs. are enclosed herewith.

(a) Photos of two Sons.

certified to be true copy

20-80

In view of the above stated true facts kindly consider his genuine case and cancel the posting order with necessary direction to stay in the same station being defence persons and last service.

ADDRESS FOR CORRESPONDENCE :

N.B. Dutta, , PA DRHO.
P.O. Dibrugarh.

COPY TO :

1. Communication Minister, New Delhi - 1
for necessary action please.
2. Defence Minister New Delhi - 1
for necessary action please.
3. Chairman D. SS and Board
for necessary action please.
4. Prime Minister, New Delhi - 1
for necessary action please.

Yours faithfully,

Mrs. Priti Dutta
(MRS. PRITI DUTTA)

3.2.2

continued to be done

R

27-81
DIBRUGARH H.P.O. <786001>
SP EE7866207281N
Counter No:5, OP-Code:01
To: PRIME MINISTER OF INDIA
NEW DELHI, PIN:110001
From: N.B DUTTA DIBRUGARH HPO, DIBRUGARH
Wt: 21grams,
Amt: 45.00, 03/02/2000, 11:06



DIBRUGARH H.P.O. <786001>
SP EE7866207311N
Counter No:5, OP-Code:01
To: DEFENCE MINISTER OF INDIA
NEW DELHI, PIN:110001
From: N.B DUTTA DIBRUGARH HPO, DIBRUGARH
Wt: 21grams,
Amt: 45.00, 03/02/2000, 11:06



DIBRUGARH H.P.O. <786001>
SP EE7866207451N
Counter No:5, OP-Code:01
To: COMMUNICATION MINISTER OF INDIA
NEW DELHI, PIN:110001
From: N.B DUTTA DIBRUGARH HPO, DIBRUGARH
Wt: 21grams,
Amt: 45.00, 03/02/2000, 11:07



DIBRUGARH H.P.O. <786001>
SP EE7866207591N
Counter No:5, OP-Code:01
To: C.P.M.G. ASSAM CIRCL, MEGHDOOT 'BRAHAN'
GUWAHATI, PIN:781001
From: N.B DUTTA DIBRUGARH HPO, DIBRUGARH
Wt: 21grams,
Amt: 30.00, 03/02/2000, 11:08



certified to be true copy

22

Filed by
A. Del Roy
S.C. 9.5.02
6/6/2000

Central (1) Division
6 JUN 2000
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.NO. 121 OF 2000

Shri Nirode Baran Dutta

- VS -

Union of India & others

IN THE MATTER OF

Brief history of the case is given herewith which
may be treated as part of the written statement.

BRIEF HISTORY

Shri Nirode Baran Dutta, joined in the Department as Postal Assistant at North Lakhimpur H.O. vide this office memo No. B-1/Rectt/Staff/Corr dtd 21.09.93. Thereafter on receipt of the memo, the said Shri Dutta submitted one representation requesting for revision of his posting order at Dibrugarh H.O. Accordingly, his prayer was considered and transfer order revised. He joined as Postal Assistant, Dibrugarh on 15.11.93.

Shri Dutta completed his tenure at Dibrugarh in the month of Nov/97. But the official was allowed to work in the same station upto December, 1999.

On the other hand North Lakhimpur H.O. which is also under the control of Dibrugarh Division runs with acute shortage of staff and as such the public interest suffers a lot. In view of the above, the official who actually overstayed at Dibrugarh has been transferred purely in the interest of service.

In this occasion, the official on receipt of the order dated 28.12.99, at first refused to carry out with the order

but thereafter relinquished the charge on 1.2.2000 from Dibrugarh H.O. Relinquishing charge report(Photocopy) is enclosed and marked as ANNEXURE - A.

Again the official admitted a representation on 31.12.99 which is nothing but a repetition of the earlier ground. However, the official vide letter dtd.6.1.2000 has been informed that though his request for stay of the transfer order can not be ~~assessada~~ acceded to for the interest of service, the same will be considered in due course.

- (1) That with regard to para 1 to 3 the respondents beg to offer no comments.
- (2) That with regard to para 4(i) and 4(ii) the respondents beg to offer no comments.
- (3) That with regard to para 4(iii) the respondents state that similar educational environment is also prevailing at North Lakhimpur where the son of the applicant can be enrolled since the transfer order of the official was ~~also~~ issued before the commencement of educational year.
- (4) That with regard to para 4(iv) the respondent beg to state that transferring a official from one place to other after completion of his tenure cannot be considered as a bar for imparting proper education to his children.
- (5) That with regard to para 4(v) the respondents beg to state that this is a fact. Considering his difficulties and with a view to give him suitable opportunity to settle after returning from Army, his initial posting order at North Lakhimpur H.O. was revised on purely humanitarian ground.
- (6) That with regard to para 4(vi) the respondents beg to state

that this is nothing but after thought. He made no such intimation to any quarter that either his life or of his family members are under threat.

- (7) That with regard to para 4(vii) the respondents beg to state that the official was posted as P.A. Dibrugarh H.O. on 12.11.93 and has worked as such till 31.1.2000. In the application, the applicant has stated that he was transferred from North Lakhimpur to Dibrugarh H.O. In the month of October, 1999 is not true. Secondly similar educational environment is also available at North Lakhimpur and the reason put forward by the applicant for revision of this office order No.B4/Ocrr/Chill dtd 28.12.99 cannot be accepted
- (8) That with regard to para 4(viii) the respondents beg to state that since the official completed his tenure in 11/97, he was transferred to North Lakhimpur on rotational transfer.
- (9) That with regard to para 4(ix) the respondents beg to state that North Lakhimpur Head Post Office runs with severe shortage of staff and a good number of posts always remain vacant, in such the official was transferred there in the interest of service and the official was relieved by the Postmaster, Dibrugarh on 1.2.2000 in compliance with the order against which the application has been made.
- (10) That with regard to para 4(x) the respondents beg to state that on receipt of the representation of the applicant, the reason put forwarded by him was taken into consideration. But for the greater interest of service his request could not be acceded to.
- (11) That with regard to para 4(xi) the respondents beg to state that the contention of the applicant is not true. The transfer cannot be a course of financial and mental sufferings of the appli-

cant in any way. There will be no curtailment of any due allowance if the applicant is posted at North Lakhimpur H.O.

(12) That with regard to para 4(xiii) the respondents beg to state that the order was issued in the interest of service and that too after completion of his tenure at Dibrugarh. In a very case, all pros and cons were taken into consideration.

(13) That with regard to para 4(xiii) and 4(xiv) the respondents beg to offer no comments.

(14) That with regard to para 5 the respondents beg to state that the application is liable to be rejected without any relief as no deficiency is there in the order against which the application has been made.

(15) That with regard to para 6 the respondent beg to offer no comments.

(16) That with regard to para 7(1) the respondents beg to state that the transfer cannot be a cause of hardship for a Govt. servant which in part and parcel of their service condition.

(17) That with regard to para 7(2) the respondent beg to state that Dibrugarh Postal Division comprises of Lakhimpur District, Dhemaji District and a portion of Dibrugarh District. The applicant has been transferred within the division. The transfer cannot be bar for him to make him permanent settlement.

(18) That with regard to para 7(3) the respondents beg to state that this cannot be accepted.

(19) That with regard to para 7(4) the respondent beg to state that The official was initially posted at North Lakhimpur H.O. and his request was once considered by the concerned authority and he was posted at the place of his choice(Dibrugarh). But this cannot be a recurring process and presently the official has been

transferred on completion of his tenure only.

- (20) That with regard to para 7(5) the respondent beg to state that the transfer order of the official has been passed in the interest of service.
- (21) That with regard to para 7(6) the respondents beg to state that this is not a fact.
- (22) That with regard to para 8(1) the respondents beg to state that the representation dated 31.12.99 of the applicant was duly considered and the applicant had been inimated that his case would be considered in due course. The action cannot be termed as rejection of the representation.
- (23) That with regard to para 8(ii) and 9 and 10 the respondent beg to offer no comments.

VERIFICATION

I, Shri Anil Baran Seal Supt. of Po/DR
being authorised do hereby declare that the statements
made in this written statement are true to my knowledge
belief and information and no material fact has been
suppressed.

And I sign this Verification on this
the day of 20th May 2000.

Anil Baran Seal
DECLARANT SPOs/DR
Camp at Guwahati

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C/10-1-11
[Signature]

ए० सी० जी०-६१
A. C. G.-61

भारतीय डाक विभाग
DEPARTMENT OF POSTS
[Stamp]

(देखिए नियम 267, डाक-घर विभाग के नियम 1, 1980 (नए)
(See Rule 267, Posts and Telegraphs Financial Regulations, Volume 1, Second Edition)

चार्ज को बदली पर चार्ज रिपोर्ट और नकदी और स्टिकों की रसीद
Charge Report and Receipt for cash and stamps on transfer of charge

प्रमाणित किया जाता है कि
Certified that the charge of the office of PA. DR

चार्ज relinquished (नाम) से
was made over by (name) Sn. N.B. Datta

(नाम) को
to (name) स्थान
at (place) DR

तारीख को पूर्वाह्न
on the (date) 1-2-00 after noon in accordance with

सं. P.M. Nq/mis/Cp तारीख DR/90-2000 के अनुसार दे दिया DR 1-2-2000

भारतपूत अधिकारी
Relieved Officer

भारतपूत अधिकारी
Relieving Officer

(नाम पद उलटियें)
(P. T. O.)

1/2

*प्रमाणित किया जाता है कि आज के दिनांक पर कार्यालय की अनेक पुस्तकों के बखताल (Stock Book और रजिस्ट्रों समेत) कोर लेखाओं की जांच की और उन्हें ठीक पाया।

*Certified that the balances of this date of the several books (including Stock Book and Registers) and accounts of the office have been checked and found correct.

*प्रमाणित किया जाता है कि निम्नलिखित बातया मुझे प्राप्त अधिकारी ने सौंप दिए और वे इनके लिए जिम्मेदार हैं।

*Certified that the balances as detailed below were handed over to me by the Relieved Officer and I accept the responsibility for the same.

₹
Rs.

₹
P.

(अ) नकदी/Cash

(ब) भयभय टिकट/Stamp Imprest

जिसमें से शामिल है :-

Made up of :-

(1) टिकट/Stamp

(2) नकदी/Cash

भारतपुत्र अधिकारी
Relieved Officer

भारतपुत्र अधिकारी
Relieving Officer

तारीख
Dated the 1-2-1900

Forwarded to The *Supdt. of Govt. Secy.*

*जब प्रमाण-पत्र की आवश्यकता न हो तो इसे काट दिया जाए।

*The Certificate when not actually required may be scored through.

MOITHE (MIO)-33/132/CAL/93-94- 30 Lakh Copies.

[28-90/63-MI]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH.

IN THE MATTER OF :

C.A. NO. 121/2000.

Sri Nirode Baran Dutta.

-Versus-

Union of India & Ors.

-And-

IN THE MATTER OF :

An Affidavit-in-reply by the
Applicant to the Written statement
submitted by the respondents in
the above original Application.

AFFIDAVIT-IN-REPLY

I, Sri Nirode Baran Dutta, S/o Surendra Bikash
Dutta, aged about 57 years, resident of Dibrugarh town,
P.O., P.S. & District-Dibrugarh, do hereby solemnly
affirm and state as follows :-

1. That, a copy of the written statement
filed by the respondents was served on my counsel.

Contd.....2.

filed by
Nirode Baran Dutta
through
P.J. Baran, Advocate
18.6.2000.
20

Nirde Bazar Dille

41

- 2 -

I have gone through the same and understood the contents thereof.

2. That, with regard to the statement made in paragraph for brief history, to the effect that the official on receipt of the order dated 28.12.99 at first refused to carry out with the order but there-
after relinquished the charge on 1.2.2000 from Dibrugarh H.O. is not at all true and the deponent denies the same. In this connection, the deponent states that in pursuance of the transfer order dated 28.12.99, no release order was issued requiring to hand over the charge of P.A. by the deponent. In the Annexure-A to the written statement, the signature shown to have been put in the plea of ~~Relieved~~ Officer is not the signature of the deponent, but the same is made by some of the Official of the department.

3. That, the statement made in para 3 of the W.S. is not true. There is no St. Marry's School at North Lakhimpur which is a Missionary School and the best School in the entire Upper Assam. ~~xxxxxx~~
In fact at North Lakhimpur there is no proper English Medium School with good reputatation ~~six~~ exists at

Contd....3.

Niradla Benter Koller

42

- 3 -

North Lakhimpur, therefore ~~therefore~~ the education of the children of the deponent will be highly affected.

4. That, with regard to para 4 of the W.S. the deponent states that though there is no bar on transfer on the ground of proper education of the children yet in the welfare state it is the paramount duty of the Employer to take proper care of its employee.

5. That, with regard to the statement made in para 5 of the W.S., the deponent states that the same ground still being continuing, the authority ought not to have transferred the deponent merely on the ground that the deponent had overstayed at Dibrugarh more than 4 years.

6. That, the statement made in para 6 of the W.S. is not true and the deponent denies the same. In this connection the deponent begs to reiterate what had been stated by him in para 4(vi) of the O.A.

7. That, the statement made in para 7 & 8, the deponent states that the ground on which the deponent was transferred from North Lakhimpur to Dibrugarh H.O. immediately after joining at North Lakhimpur

Contd.....5.

Heede Bergen Duit

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- 4 -

is still existence. As such the said relief given earlier ought not to have been denied merely on the ground that he has completed his tenure.

In this connection, the deponent begs to submit that in the report of 5th Pay Commission, the Commissioner had recommended that in the cases of employees in Group 'C' and Group 'D' recruited on regional basis, posting should be given in the home town/home district whenever feasible and that whenever feasible a ~~retiring~~ Retiring Government Servant should be transferred to a station of his choice, three years prior to his superannuation. Under the circumstances, the transfer order having been made contrary to the said recommendations which had been accepted by the Govt. and strictly implementing the same is highly illegal and the order of transfer is liable to be quashed.

8. That, with regard to the statement made in para 9 of the W.S. the deponent states that there having several young persons at Dibrugarh H.O. the action of the respondent authority in picking up the deponent who is having only about 3 $\frac{1}{2}$ years to retire

Contd.....5.

Wade Brown Miller

44

- 5 -

in the name of interest of service is highly discriminatory and against the public policy and the recommendation of Pay Commission mentioned above. The deponent begs to reiterate here that till today the deponent is not released from his post and the respondents are put to strict proof thereof.

9. That, the statement made in para 10, 11 and 12 are not true and the deponent denies the same and begs to reiterate what had been stated by him in para 4(X), 4(XI), 4(XII) of the application.

10. That, with regard to para 14 of the W.S., the deponent begs to state that in view of the facts and circumstances, the deponent is entitled to the relief claimed for.

11. That, with regard to the statement made in para 16 of the W.S., the deponent begs to state that the hardship on transfer is a strong factor that is to be taken into consideration while transferring a Govt. servant.

Contd.....6.

11. That, with regard to statement made in paragraph 17 of the W.S., the deponent begs to state that though North Lakhimpur is within the ~~Dixk~~ same Division yet as the recommendation of the Pay Commission, employees of Group C & Group D are to be posted at the Home district as such transfer of the deponent from Dibrugarh to North Lakhimpur is against the said recommendation. Further though North Lakhimpur and Dibrugarh are within the same Division yet due to absence of any direct communication one has to cross 5 district to reach North Lakhimpur covering more than 600 k.m.

12. That, with regard to statement made in para 19 of the W.S., the deponent states that considering the facts and circumstances, it is a fit case where, the respondent of their own ought to have cancelled the order of transfer of the deponent.

13. That, with regard to the statement made in paragraph 20 to 22 the deponent begs to state that same are mere submissions and in the eye of law and facts of the case same are not tenable and liable to be rejected.

14. That, the statement made in paragraph 1 to 13 of this Affidavit are true to my knowledge and rests are my humble submissions.

Nirade Boran Dutta,

(DEPONENT)