

2/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 360/2000

R.A/C.P No.

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SECTION OFFICER (Judl.)

balita
21/12/17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI. 5

ORIGINAL APPLICATION NO. 360/2000

... Sriyam. Kr. Das ... APPLICANTS
versus.

Union of India & ors ... Respondents.

FOR THE APPLICANT(S) Mr. K. N. Choudhury
ADVOCATE Mr. B. L. Das
Mr. A. Sarma

FOR THE RESPONDENT(S) Mr. B. K. Sharma, Sr. Advocate
Mr. S. Sharma
Mr. U. K. Goswami, Ad

Notes of the Registry

DATE

COURT'S ORDER

27.10.00

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

Heard Mr. K.N. Choudhury learned counsel for the applicant and Mr. A. Deb Roy, Sr. C.G.S.C. for the respondents.

Application is admitted. Call for records. Issue notice on the respondents. Returnable by 4 weeks. List on 29.11.00 for orders.

Issue notice to show cause as to why the impugned order dated 23rd August 2000 so far transfer^{ing} of the applicant S.K. Das, Assistant Commissioner Customs, Dimapur Division to Customs Head quarters Shillong, as Assistant Commissioner. (Annexure R-7) shall not be suspended till returnable date.

In the meantime the operation of the order dated 23.8.2000, pertaining to the transfer Shri S.K. Das from Dimapur to Shillong shall remain suspended till returnable date.

Vice-Chairman

Form
bri
Petition
M. P. No.
for Rs.
IPO/B
Dated

Dy. Registrar.

27/10/2000

Notice prepared and sent to D/S for issuing the respondents No 1 to 3 vide D/No 2539 to 2541 dtd 9/11/2000.

6/11/2000

① Service report are still submitted.

② Show cause has not been filed.

28/11/2000

1m

NS 30/11/2000

29.11.2001

Four weeks time allowed for filing of written statement on the prayer of Mr A. Deb Roy, learned Sr. C.G.S.C. List for orders on 2.1.2001.

① No written statement has been filed.

By
1.1.01.

Vice-Chairman

nkm

2.1.2001

List it on 1.2.01 to enable the respondents to file written statement on the basis of prayer made by Mr.B.C. Pathak, learned Addl.C.G.S.C. on behalf of Mr. A. Deb Roy, learned Sr.C.G.S.C. and for further orders.

Meanwhile, the interim order dated 27.10.00 shall continue.

Vice-Chairman

mk.

NS
03/03/01.

27/2/2001

List on 27/3/2001

B/O

ND

Order dtd 2/01/01 Communicated to the parties Counsel vide

where no dtd

By
9/1/01.

Schilling

27.3. no S.C. adjourned to 28.3.2001

no
Adj
27.3

① Service report are still awaited.

② No. w/s has been filed.

By
29.1.2001.

28.3.2001

Four weeks time allowed to the respondents to file written statement. List for orders on 2.5.01.

Vice-Chairman

nkm

6.2.2001

W/s has been filed on behalf of Respondents by B. Choudhary.

2.5. pass over to 11.5.2001.

11.5. there was a reference. List on 18/5/2001.

Mlo
Adj
2.5

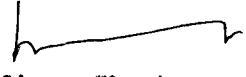

Mlo
Adj
11.5

Written statement has been filed

By
6/2/2001

Adjourned to 29.5.2001.

By
27.3.01

Notes of the Registry	Date	Order of the Tribunal
<p>Written statement has been filed.</p> <p><u>By</u> 5.7.01</p>	<p>29.5.01</p> <p>lm</p>	<p>The office to show the name of Shri B.K.Sharma learned Sr.counsel along-with Mr. S.Sharma and Mr.U.K.Goswami as the counsel for the respondents, instead of Shri A.Deb Roy, Sr.C.G.S.C. in this case. Case is accordingly adjourned to 6.7.01 for hearing.</p> <p> Vice-Chairman</p>
<p>Copy of The order dtd. 6.7.2001 sent to the D/section for issuing of the same to the learned Advocate for the parties.</p> <p><u>By</u> 11.7.01</p>	<p>6.7.2001</p> <p>nkm</p> <p><u>JS</u> 9/7/2001</p>	<p>Mr B.C. Das, learned counsel for the applicant, has submitted that in view of the changed circumstances, the applicant complied with the impugned order dated 23.8.2000 and joined at the Shillong Customs Division. In the circumstances he submitted that he has been instructed not to press the case.</p> <p>In view of the statment made by Mr Das and also upon hearing Mr B.K. Sharma, learned Sr. Counsel for the respondents assisted by Mr S. Sarma, learned Advocate, the case is dismissed on withdrawal.</p> <p>No order as to costs.</p> <p> Vice-Chairman</p>

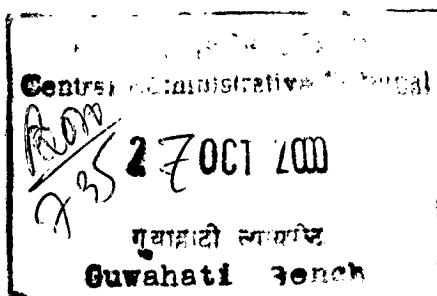


Notes of the Registry

Date

Order of the Tribunal

<p><i>[Faint, illegible handwritten notes in the first column]</i></p>	<p><i>[Faint, illegible handwritten notes in the second column]</i></p>	<p><i>[Faint, illegible handwritten notes in the third column]</i></p>
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH ::
AT GUWAHATI

(An application under Section 19 of the Administrative
Tribunal's Act, 1985)

Title of the Case : Original Application No. 368 /2000.

Sujan Kumar Das ... Applicant.

- Versus -

Union of India & Others. ... Respondents.

I N D E X

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For use in Tribunal's Offices

Date of filing :

Date of Registration :

Registration No. :

REGISTRATION

Filed by:
Primal Chandra Das
Advocate. ~~X~~
27.10.2000

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH ::
AT GUWAHATI.

ORIGINAL APPLICATION NO. 360 /2000

BETWEEN :

Shri Sujan Kumar Das,
S/O Shri Sudhir Chandra Das,
Assistant Commissioner,
Customs Division, Dimapur,
Nagaland.

.... Applicant.

- A n d -

- 1) Union of India,
Represented by the Secretary,
Finance Department, New Delhi.
- 2) Chief Commissioner,
Eastern Zone,
Customs & Central Excise,
Calcutta.
- 3) Commissioner of Customs,
N.E. Region, Shillong,
Meghalaya.

.... Respondents.

contd... p 2.

Sujan Kumar Das.

DETAILS OF APPLICATION :

1. Particulars of Order against which the application has been made :

This application is made against the Order No. 10/2000 dated 23.8.2000 issued by the Commissioner, Customs, N.E. Region, Shillong transferring the applicant from Dimapur Division to Customs Head Quarters as Assistant Commissioner before completion of the tenure posting.

2. Jurisdiction :

The applicant declares that this Hon'ble Tribunal has got jurisdiction to adjudicate the matter in regard to which this application is made.

3. Limitation :

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

4. Facts of the case :

- 4.1) That the applicant is a citizen of India and

contd... p 3.

Sujan Kumar Das.

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3.

a permanent resident of the State of Assam in the N.C. Hills District. The applicant is presently working as Assistant Commissioner, Customs Division, Dimapur. The applicant is a Class I Central Govt. Officer.

4.2) That the applicant states that the Government of India, Ministry of Finance, Department of Revenue vide Office Order No. 278/98 dated 23.11.1998 issued under the signature of the Under Secretary was pleased to promote the applicant to the Grade of Assistant Commissioner of Customs and Central Excise in the Scale of Pay of Rs. 8000-13,500/- and was posted as Assistant Commissioner, Central Excise, Calcutta pursuant to the said Order dated 23.11.98 the Respondent No. 3 vide Order dated 14.12.1998 was pleased to relieve the applicant from his duties as Superintendent, Moreh w.e.f. 31.12.1998 with direction to report for duty at his new place of posting at Calcutta. Your applicant reported for duty on 4.1.1999. In this regard the applicant also submitted a joining report before the Respondent No. 2.

Copies of Orders dated 23.11.98, 14.12.98 and Joining report dated 4.1.99 are annexed hereto and are marked as Annexures - R1, R2 and R3 respectively.

4.3) That thereafter, vide order No. 7/99 CC dated 12.2.1999 issued by the Respondent No. 2, Your applicant was transferred from Calcutta to Bolpur as Assistant

contd... p 4.

Sujan Kumar Das.

4.

Commissioner under Bolpur Commissionerate. Pursuant to the said Order the applicant joined at Bolpur.

A copy of the said Order dated 12.2.1999 is annexed hereto and is marked as Annexure- R4.

4.4) That thereafter the Commissioner, Central Excise, Bolpur vide his Order No. 33/99 dated 16.3.1999 again transferred the applicant to Jalpaiguri Division. Obeying the said Order the applicant joined Jalpaiguri Division on 18.3.1999.

A copy of the said Order dated 16.3.99 is annexed hereto and is marked as Annexure - R5.

4.5) That while serving at Jalpaiguri the applicant represented before the Respondent No. 2 through proper channel for his transfer to Shillong Commissionerate on the ground of illness of his wife who is suffering from Nasal Carcinoma (Cancer). The Respondent No. 2 vide his Order No. 70/99 CC dated 16.6.99 was pleased to pass an order transferring the applicant from Jalpaiguri to Dimapur Division under Shillong Commnerate. Pursuant to the said Order the applicant took over charge of Dimapur Division as Assistant Commissioner in the forenoon of 28.6.1999. Since then Your applicant is serving at Dimapur sincerely and honestly to the satisfaction of the authorities concerned.

contd... p 5.

Sujan Kumar Das.

5.

A copy of the Certificate of transfer of charge is annexed hereto and is marked as Annexure- R6.

4.6) That while the matter rested at thus the applicant was shocked and surprised to come across the impugned Office Order No. 10/2000 dated 23.8.2000 passed by the Respondent No. 3 by which Your applicant has been purportedly transferred to Customs Headquarter, Shillong as Assistant Commissioner with full charge of Shillong Customs Division.

A copy of the said impugned Order No. 10/2000 dated 23.8.2000 is annexed hereto and is marked as Annexure - R7.

4.7) That being aggrieved by the impugned order of transfer the applicant submitted a representation before the Respondent No. 2 on 28.8.2000 through proper channel. In the representation the applicant specifically pointed out that his wife is a Cancer patient and is now in her fag end of life. The applicant also alleged violation of the guidelines/professed norms governing transfer of Central Govt. Class - I Officer. However, till date the representation has not been disposed off, atleast the applicant has not been informed anything about the fate of the representation dated 28.8.2000.

A copy of the representation dated 28.8.2000 is annexed hereto and is marked as Annexure - R 8.

contd... p 6.

Sujan Kumar Das,

12

4.8) That your applicant's wife is suffering from Nasopharygeal Carcinoma (Cancer) and is at present surviving on Chemotherapy. It is unfortunate that no radiation is possible and, as such, she is on Chemotherapy, as per doctor's advise. She is in fag end of her life. It may be pointed out that she is from Churachandpur of Manipur.

However, most of her relatives are in an around Manipur. Therefore, it is her pious wish that she spends her remaining days in the midst of her relatives. Moreover, she is not in a position to be shifted to Shillong.

The relevant medical certificates are annexed hereto and marked as Annexure - R 9 (Series).

4.9) That the applicant states that the applicant is yet to complete his tenure at Dimapur. In this connection it would be pertinent to state that the normal tenure posting of Class - I Officers of the Central Govt. in the N.E. Region varies from 2 to 4 years depending upon the length of service. Further, as per the transfer policy/guidelines issued by Govt. of India Class - I Officers on completion of their tenure posting in N.E. Region are entitled to choice posting. In the instant case the applicant has neither be given the opportunity to complete the tenure and nor to avail the choice of posting. Therefore, the impugned Order which is violative of the guidelines/professed norms is legally not sustainable. The applicant undertakes to refer and rely upon the transfer policy at the time of hearing.

contd....

Sujan Kumar Das.

4.10) That the applicant states that the impugned order has been passed by the respondent No. 3 most arbitrarily in colourable exercise of power. To the best of the knowledge of the applicant the Respondent No. 2 has not transferred the applicant vide Office Order No. 12/2000 CC dated 7.8.2000. The Respondent No. 2 has transferred only the two officers mentioned in the impugned Order at Serial Nos. 1 and 2. The name of the applicant and Shri M.L. Dey has been added by the Respondent No. 3 on the plea of "in pursuance of further direction". Records of the case would reveal the aforesaid assertion of the applicant. Further, the applicant has also been discriminated in as much as, although the Assistant Commissioner working in Imphal, Aizwal and Shillong have completed their tenure posting, they have not been disturbed by Respondent No. 3 for obvious reasons.

4.11) That the applicant states that transfer order of Class - I Officers are issued by the Board or the Chief Commissioner as they are the competent authority. But in the instant case the Respondent No. 3 issued the impugned order by inserting the name of the applicant to cause undue harassment to the applicant. To the aforesaid extent the Respondent No. 3 acted illegally and without jurisdiction.

4.12) That although the impugned order of transfer was issued on 23.8.2000 the applicant is still working in

contd...

Sujam Kumar Das.

Dimapur Division, in as much as, to ~~the~~ the best of his knowledge he has not yet been relieved from Dimapur. It may be pointed out herein that Your applicant is at present on Earned Leave w.e.f. 24.10.2000. Moreover, the representation filed by the applicant is still pending for disposal. Needless to say that the authority is bound to dispose of the representation having regard to the guidelines and ailment of the applicant's wife. Atleast the applicant is entitled to some ~~compensation~~ compassion.

4.13) That the applicant states that the Respondents while issuing the aforesaid order of transfer violated the professed norms formulated by the Department in the matter of transfer. As pointed out above barely after *one year* of joining at *Dimapur*, the applicant has again been transferred, Such action on the part of the authority can not be in the public interest. Atleast the authority must justify the departure from the guidelines by producing the records.

4.14) That under the facts and circumstances stated above, this Hon'ble Tribunal may be pleased to set aside the impugned order of transfer dated 23.8.2000 in so far as the applicant is concerned.

4.15) That this application has been filed bonafide and in the interest of justice.

contd....

Sujan Kumar Das,

5. Grounds for relief with legal provisions :

5.1) For that the applicant has acquired legal and valuable right to complete his tenure posting of 2/4 years at Dimapur Customs Division in view of Transfer Policy/ Guidelines issued by Govt. of India in respect of Class - I Officers. The same having been flouted, the impugned order of transfer is legally not sustainable.

5.2) For that the applicant has been discriminated in the matter of transfer and posting in violation of the aforesaid Transfer Policy.

5.3) For that the transfer order is legally not sustainable as admittedly the same is violative of the aforesaid Transfer Policy and professed norms, in as much as, the applicant has not completed his tenure posting at Dimapur.

5.4) For that the action of the Respondents is not disposing of the representation dated 28.8.2000 submitted by the applicant is also violative of the law laid down by the Apex Court. It is true that transfer orders can be issued in administrative exigency, but in effecting such transfer, the Authority is bound to take note of the guidelines governing such transfers. Further, if any representation is filed, the same has to be disposed of having regard to the guidelines as well as the hardship faced by the

contd....

Syjam Kumar Das,

Government Servant. The same having not been done, the impugned order is legally not sustainable.

5.5) For that the Authority miserably failed to take note of the hardship that would cause to the applicant and his wife if the applicant is to be transferred at this critical juncture. This is a relevant consideration which the Authority failed to take note of. In the name of administrative exigency, the applicant and his family members cannot be subjected to harassment by frequent transfers. Further, in view of serious ailment of his wife the applicant deserves sympathetic consideration.

5.6) For that the Respondents have violated administrative fair play and has displayed object arbitrariness in passing the impugned order of transfer.

6. Details of remedies exhausted :

That the applicant begs to state that he has exhausted all the remedies available to him and there is no other alternative remedy than to approach this Hon'ble Tribunal by way of filing this application. The representation dated 28.8.2000 submitted by the applicant has not yet been disposed of.

7. Matters not previously filed or pending before any other court :

contd...

Sujan Kumar Das.

11.

That the applicant further begs to declare that he has not previously filed any writ petition, application or suit before any court or authority or any other Benches of the Hon'ble Tribunal regarding the grievances for which this application has been made and nor they are pending before any of them.

8. Relief sought for :

Under the facts and circumstances, the applicant prays that the instant application be admitted, records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of the records be further pleased to grant the following relief :

- 8.1) To set aside and quash the impugned Order No. 10/2000 dated 23.8.2000 issued by Commissioner of Customs, N.E. Region, Shillong, Respondent No. 3 as far as applicant is concerned.
- 8.2) To allow the applicant to complete his tenure posting at Dimapur Customs Division.
- 8.3) Cost of the application.
- 8.4) Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and as may be deemed fit and proper.

contd....

Sujan Kumar Das,

12.

9. Interim Order prayed for :

Pending disposal of this application the applicant prays that the impugned Order No. 10/2000 dated 23.8.2000 as far as applicant is concerned be suspended.

10. The application is filed through Advocates.

11. Particulars of the I.P.O. :- 4/6777

i) I.P.O. No. : 7. 8. 2000

ii) Date of issue :

iii) Issued from : Guwahati.

iv) Payable at : Guwahati.

12. List of Enclosures :-

As stated in the Index.

VARIFICATION

Sujin Kumar Das.

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

I, Shri Sujan Kumar Das, son of Shri Sudhir Chandra Das, Assistant Commissioner, Customs, Dimapur, aged about 48 years, do hereby solemnly affirm and verify that the statement made in paragraphs 4.1, 4.9, 4.10, 4.11, 4.12, 4.13, 4.14 and 4.15 are true to my knowledge, those made in paragraphs 4.2 to 4.8 being matters of records are true to my information derived therefrom and the rest are my humble submissions before the Hon'ble Tribunal and I have not suppressed any material facts of the case.

And I sign this verification on this the 27 th day of October, 2000 at Guwahati.

Sujan Kumar Das.

APPLICANT

P.No.A-32012/6/97-Ad.II
Government of India
Ministry of Finance
Department of Revenue

ANNEXURE = R-1

New Delhi, the 23rd Nov., 1998

Office Order No.278/98

Subject:- Promotion, Posting and transfers of officers in the grade
of Assistant Commissioner (Junior Time Scale) - Reg.
=====

The President is pleased to order that the following
Superintendents of Central Excise, Superintendents of Customs(P)
and Customs Appraisers be promoted on purely ad-hoc and
provisional basis to officiate in the grade of Assistant
Commissioner of Customs & Central Excise in the scale of Rs.0000-
275-13500 with effect from the date (s) they assume charge of the
higher post till further orders:-

SUPDTS. OF CENTRAL EXCISE, GROUP 'B'

6/Shri

1. K.H. Sapkal
2. P.P. Songh
3. Ram Suresh Ram
4. Rajinders P. Choudhary
5. Ram Bilas Baitha
6. V.M. Udhoii
7. Shujan Kumar Das

SUPDTS. OF CUSTOMS (PREV.)

1. M.K. Ramasamy
2. U. Veereshwar Rao
3. Elias Joseph
4. M. Sree Rama Murthy
5. M. Kunni Kannan

APPRAISER CUSTOMS

1. MS.Poonam Ambastha

The above promotions to the grade of Assistant Commissioners have been made on purely ad-hoc basis for a limited period of six months, 30.06.99, and these promotions do not confer on the officers so promoted any claim for continued officiation in the grade of Assistant Commissioner and the period of such service will not count for seniority or as qualifying service for further promotions. The aforesaid promotions are further subject to the outcome of the implementation of the judgement dated 22.11.1998 of the Supreme Court in Civil Appeals Nos. 257 of 1988 and 4004-07 of 1987 with C.M.P. No.8 16003/89 and 9014/88 and Writ Petitions No. 306/88, 512, 835, 1200/88, 4532-33/78 and outcome of O.A.No. 976/98 filed in CAT Mumbai Bench.

.....2/-

CERTIFIED
TO BE TRUE COPY
B. C. Dora
ADVOCATE

POSTING AND TRANSFERS

S. No.	Name of the Officer S/Shri	Present Posting	Promotion
SUPDTS. OF CENTRAL EXCISE, GROUP 'B'			
1.	K.H. Sapkal	Indore	ACCF, Gwalior
2.	P.P. Songh	Jaipur	ACCE, Allahabad
3.	Ram Buresh Ram	Patna	ACCE, Jamshedpur
4.	Rajindera P. Choudhary	Patna	ACCE, Jamshedpur
5.	Ram Bilas Baitha	Patna	ACCE, Patna
6.	V.M. Udhoji	Nagpur	JDR, CEGAT, Delhi
7.	Shujan Kumar Das	Shillong	ACCE, Calcutta
SUPDTS. OF CUSTOMS (PREV.)			
8.	M.K. Ramasamy	Chennai	JDR, CEGAT, Delhi
9.	U. Veereshwar Rao	Chennai	ACCE, Hyderabad
10.	Elias Joseph	Cochin	ACCE, Hyderabad
11.	M. Sree Rama Murthy	Chennai	JDR, CEGAT, Delhi
12.	M. Kunni Kannan	Chennai	AC, Dte. of Valuation, Delhi.
APPRAISER CUSTOMS			
13.	MS. Poonam Ambastha	Ahmedabad	ACCE, Ahmedabad

(R.K. MALHOTRA)
UNDER SECRETARY TO THE GOVT. OF INDIA

Copy forwarded to :-

1. The officer concerned.
2. All Chief Commissioners/Director Generals, Customs & Central Excise.
3. All Commissioners/Directors, Customs & Central Excise.
4. Pr. OCA, CBEC, New Delhi.
5. PSS to FM/MOS(RB&I)/Secy.(R)/Chairman(EC)/All Members, CBEC/
JS(Admn.)/ DG (Vig.)/DS(Ad. II)/Dir.(Pub.).
6. AS(A)/Dir(HQRS).
7. All Head of Departments under CBEC.
8. SO(P)/Ad.V/Hindi Section.
9. Office order folder/Personal file.

(R.K. MALHOTRA)
UNDER SECRETARY TO THE GOVT. OF INDIA

6005-22-4750

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FILE COPY

B.C. Don
ADVOCATE

OFFICE OF THE COMMISSIONER OF CUSTOMS
NORTH EASTERN REGION
:: SHILLONG ::

ANNEXURE - R-2

-16-

22

O R D E R

Dated, Shillong, the 14th December, 1998.

In pursuance of Office Order No.278/98 dated 23-11-98 issued under F.No.A-32012/6/97-Ad.II dated 23-11-98 by the Under Secretary to the Govt.of India, Ministry of Finance, Department of Revenue, New Delhi, Shri Sujan Kumar Das, Superintendent, Moreh CPF under Imphal Customs Division is hereby relieved of his duties in the afternoon of 31st December, 1998 with direction to report for duty at his new place of posting on promotion as Asstt.Commissioner, Central Excise, Calcutta.

Sd/-
(Z. TOCHHANG)
COMMISSIONER OF CUSTOMS

C.No.II(3)4/ET/CC/CELL/SH/98/5215-48(A) Dated:- 14-12-98

Copy forwarded for information & necessary action to :-

1. The Chief Commissioner(E2), Customs & Central Excise, 15/1, Strand Road, Customs House, Calcutta-1.
2. The Commissioner of Central Excise, Shillong.
3. The Commissioner(Appeals), Customs & Central Excise, Guwahati.
4. The Commissioner, Central Excise, Calcutta.
5. The Principal Chief Controller of Accounts, Central Board of Excise & Customs, New Delhi.
6. Shri R.K.Malhotra, Under Secretary to the Govt.of India, Ministry of Finance, Deptt.of Revenue, New Delhi.
7. The Assistant Commissioner of Customs, Imphal. Copy meant for the concerned officer is enclosed herewith for causing delivery.
8. The Assistant Commissioner of Customs, Agartala/Karimganj/ Guwahati/Aizawl/Dimapur/Shillong.
9. The Assistant Commissioner of Central Excise _____ (All).
10. The Chief Accounts Officer, Customs & Central Excise, Shillong.
11. The PAO/ACAO(Accounts), Customs & Central Excise, Shillong.
12. The A.O.(Customs), Hqs.Office, Shillong.
13. Shri S.K.Das, Superintendent, Moreh CPF for information & compliance.
14. The Branch-in-Charge, ET.II & III/Accts.I & II/Confdl./ CIU-VIG Branch of Hqs.Office, Shillong.
15. Guard File.

CERTIFIED
TO BE TRUE COPY

B.C. Don
ACCOMPT

(Z. TOCHHANG)
COMMISSIONER OF CUSTOMS

To,

The Chief Commissioner (EZ),
Customs and Central Excise,
Calcutta-1.

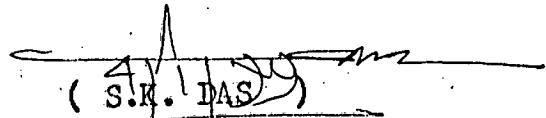
Subject :- Joining Report.

Sir,

In pursuance of Office Order No.278/98 dated 23.11.98 issued under F.No.A-32012/6/97-Ad.II dated 23.11.98 by the Under Secretary to the Govt. of India, Ministry of Finance, Department of Revenue, New Delhi and subsequent relieve Order Dated, Shillong the 14th December, '98 issued under C.No.II(3) 4/ET/CC/CELL/SH/98/5215-48(A) dtd.14.12.98 by the Commissioner of Customs, N.E.R. Shillong, I do hereby report myself for duty today on 4.01.99 as Assistant Commissioner, Central Excise, Calcutta.



yours faithfully,


(S.K. DAS)

Assistant Commissioner, Central
Excise, Calcutta.

CERTIFIED
TO BE TRUE COPY

B. C. Das
ADVOCATE

GOVERNMENT OF INDIA
OFFICE OF THE CHIEF COMMISSIONER OF CENTRAL EXCISE AND CUSTOMS : CALCUTTA :
15/1, STRAND ROAD :: CUSTOM HOUSE :: CALCUTTA-700 001.

ORDER NO. 07/99 - C.C.

Dated : 12.2.99

In pursuance of Government of India, Ministry of Finance, Department of Revenue, New Delhi's office order No.278/98 dated 23.11.98 Sri S. K. Das, Superintendent of Central Excise, Shillong has been promoted and posted as Assistant Commissioner of Central Excise, Calcutta and reported for duty at Chief Commissioner's Unit, Calcutta on 05.01.99. The Chief Commissioner is pleased to post him as Assistant Commissioner of Central Excise, Bolpur. He may report for duty at Bolpur immediately.

(S. K. K. KABIRPANTHI)
Deputy Commissioner :
Chief Commissioner's Unit : Calcutta :

C.NO.II(3)3-ET/CC/Cal/98/

Dated :

Copy forwarded for information and necessary action to :

1. Sri S. K. Das, ACCE, C.C.Unit for compliance.
2. The Commissioner of Central Excise, Bolpur.
3. R. K. Malhotra, Under Secretary to the Government of India, C.B.E.C., New Delhi.
4. C.A.O./P.A.O., Bolpur.
5. Sr. P.A. to Chief Commissioner, East Zone, Calcutta.

(S. K. BHATTACHARYA) 15/2/99
Assistant Commissioner :
Chief Commissioner's Unit :
East Zone :: Calcutta :

CERTIFIED
BE TRUE COPY
13-1-99
ADVOCATE

GOVERNMENT OF INDIA
OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE : BOLPUR COMM'ITE :
BOLPUR (SIAN) : BIRBHUM : WEST BENGAL.

Establishment Order No. 33/99

Dated : The 16th March, 1999,
Bolpur.

Transfer and postings of the following officers in the grade of Assistant Commissioners are hereby ordered from and to the places as mentioned against their names with immediate effect and until further orders.

Sl. No.	Name of Officers	From	To	Remarks
1.	Sri Tribeswan Nath	Jalpaiguri Divn.	Gangtok Divn.	
2.	" S. K. Das	Joined at Bolpur HQ. on 9.3.99	Jalpaiguri Divn.	
3.	" N. Barua	Gangtok Divn.	Siliguri Divn.	*

* No additional charge.

- Arrears of Revenue realisation Cell and the pending provisional assessments cases would be looked after by A.C. Sri S.B. Roy and the Law Cell would be looked after by A.C. Sri T.K. Kar as usual.
- The officer at Sl. No. 2 above is treated to be relieved in the afternoon of 16.3.99 with the direction to join at his new place of posting at Jalpaiguri.

Sd.-
(S. DUTT MAJUMDER)
Commissioner of Central Excise,
Bolpur.

Contd.....p/2

UTPAL/

CERTIFIED
TO BE TRUE COPY
B.C. Das
ADVOCATE

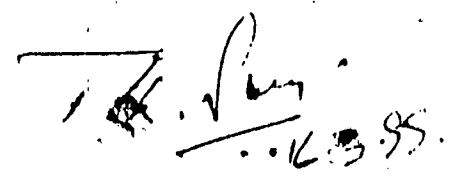
Contd. before

C. No. II (3)-5-ET/BOL/96/14149A

Dated : 16.3.99

Copy forwarded for information and necessary action to :-

1. Sri Tridibeswan Nath, Asstt. Commissioner, Jalpaiguri Divn., C.Ex.
- ✓ 2. Sri S. K. Das, Asstt. Commissioner, Bolpur HQ., Central Excise.
3. Sri N. Barua, Asstt. Commissioner, Gangtok Divn., Central Excise.
4. The Asstt. Commissioner, Siliguri Division, Central Excise. *
5. The Chief Commissioner, Customs & Central Excise, East Zone, Cal.
6. The Under Secretary, AD.II, C.B.E.C., Min. of Fin., Deptt. of Revenue, North Block, New Delhi.
7. The Commissioner, Central Excise, Cal-I/II/III/IV Comm'te.
8. The Addl. Commissioner, Durgapur/Deputy Commissioner, Siliguri, Central Excise.
9. The Asstt. Commissioner, C.Ex., Durgapur-I/II/Steel/Asansol/Berhampore/Siliguri/Jalpaiguri/Gangtok/Cooch-Bihar Divn.
10. The P & A.O./A.C.A.O. (A/cs)/DPC/Re-Org./Disp./B.Unit/Fund/S.Book/-Vig./G. File, C.Ex., Bolpur.
11. The Supdt., C.Ex., Tech./S.Tax/Valuation/Stat/A&R/A&E/Law/-Central Excise, Bolpur (HQ.)


..16.3.99.

(T. K. SANYAL)
Assistant Commissioner (P & V),
Central Excise,
Bolpur.

UTPAL/

CERTIFIED
TO BE TRUE COPY
B. C. Das
DEPUTY

FCM GFR 33
(See Rule 1778)
Certificate of transfer of charge.

Certified that ~~I/We~~ have in the forenoon/~~afternoon~~
of this day respectively made over and received charge of
the office of the (HSA) Commissioner. in pursuance of Order No.
.....Mil..... dated 11.6.79.....

Relieved Officer : Relieving Officer
Signature Signature
(SHIRI C. SONGATE) (SHIRI S. K. DAS)
(Name in Block Letters) (Name in Block Letters)

Designation... Asst. Commissioner Designation... Asst. Commissioner
 Station... Tripahar Station... Dinapore
 Date... : Date...

(For use in Audit Office/RAO only)

Noted in ✓R at page

"SO/MO/NO/FLO

Noted in A/R at page

50/110/10/P10

forwarded

Note: Separate certificate (as per form appended) also to be used where transfer/assumption of charge in gives responsibility for Cash, Stores etc.

.....
C. NO. 31 (351) / ET / MISD / ASD / 99 / 1744.

[illegible]

Copy furnished for information 2 n/a do:

The Commissioner of Customs
North Eastern Region, Shillong.

Assistant Commissioner
Customs Preventive Division
Singapore & Malacca

B.C. Den

FORM GFR 33 (APPENDIX)

(See Rule 78)

Certificate of transfer of charge of charge in respect
of transfer/assumption of responsibilities for Cash, Stores
etc.

.....

Certified that I/We have in the forenoon/afternoon
of this day * respectively made over and assumed charge
and responsibility of the following:-

Cash Rs. — Nil —

Permanent advance Rs. — Nil —

Others — Nil —

Relieved Officer

Relieving Officer

* date to be indicated.

.....

A. C. Des

23-29

Dated, Dimapur the 28th
June '99

The undersigned has assumed the charge of the Assistant
Commissioner of Customs Division Dimapur with effect from
28th June '99.

Wherefore all Demi - official, Confidential and secret
communication intended for the Asstt. Commissioner, Customs
Division Dimapur may please be communicated to the undersigned.

(S.K. DAS)
ASSISTANT COMMISSIONER,
CUSTOMS DIVISION : DIMAPUR

1/MT/Misc./AcB/99/1757-82

Dated :- 16/7/97

For forwarded for information & necessary action to :-

1. The Commissioner of Customs, H.I.D., Shillong.
2. The Commissioner of Central Excise, Shillong.
3. The Commissioner (Appeal), Customs & Central Excise,
H.I.D., Shillong, Trust Building, 5th Floor, Bhagawan,
Imphal, 791005.
4. The Deputy Commissioner (P&V), Customs & Central Excise, Shi.
5. The Add. Commissioner (Audit/Tech.), C & Central Exc., Shillong.
6. The Post Master, Head Post Office, Dimapur.
7. The pay & accounts Officer, Customs & Central Excise, Shill.
8. The Chief Accounts Officer, Customs & Central Exc. Shillong.
9. The Asstt. Commissioner, Customs & Central Excise
(All).
10. The Supdt. of Police, Dimapur Dist. Dimapur.
11. The Chief Manager, State Bank of India (Main Branch), DMR.
12. Treasury Officer, P.O. & Dist. Dimapur.

34/7/97
ASSISTANT COMMISSIONER,
CUSTOMS DIVISION : DIMAPUR.

O/c.

CERTIFIED
TRUE COPY
R. C. Das
ADVOCATE

ANNEXURE-R-7

-243-

COMMISSIONERATE OF CUSTOMS, NORTH EASTERN REGION, SHILLONG

OFFICE ORDER NO. 10/2000

Dated (the 23rd August, 2000)

In pursuance of Office Order No. 12/2000-CC dated 7.8.2000 issued by the Chief Commissioner(EZ), Customs and Central Excise, Calcutta on the Deputy/Assistant Commissioner of Customs and Central Excise and in pursuance of further direction received on the subject the following transfer and postings in the grade of Deputy/Assistant Commissioner of Customs are ordered with immediate effect and until further order.

Sl.no.	Name of the officer	From	To
1.	Shri V. Singson	DO, CE, Silchar Division under order of transfer to Customs	DO, Customs Karimganj Customs Division.
2.	Shri L.S. Vanohhawang	AC, OOE, Shillong to CC, NER, Shillong	AC Customs, Agartala Customs Division.
3.	Shri M.L. Dey	AC Customs, Shillong Customs Division.	AC Customs, Dimapur Customs Division.
4.	Shri S.K. Das,	AC Dimapur Customs	AC Customs Hqrs. with full charge of Shillong Customs Division.

23.8.2000
(K.K. Das)
Commissioner of Customs.



CERTIFIED
TO BE TRUE COPY
B.C. Das
ADVOCATE

-25- 31

C.No. II(3)9/ET/00/Cell/SH/2000/2584-629(A)

Dated the 23rd August, 2000

Copy forwarded for information and necessary action to :-

1. ✓ S/Shri S.K. Das, Asst. Commissioner..... for compliance.
2. The Chief Commissioner(EZ), Customs and Central Excise, 15/1 Strand Road, Custom House, Calcutta-1.
3. The Commissioner of Central Excise, Shillong.
4. The Joint Commissioner(P&V), Central Excise, Shillong.
5. The Joint Commissioner(Tech), Central Excise, Shillong.
6. The C.A.O./P.A.O. of Customs and Central Excise, Shillong.
7. Shri R.K. Malhotra, Under Secretary, Central Board of Excise & Customs, North Block, New Delhi-1.
8. The Assistant Commissioner of Customs Division(all)
9. The Assistant Commissioner of Central Excise Division(all)
10. All the Branch in-charge of Commissionerate of Customs, NER, Shillong.
11. The Branch in-charge ET.II & III/Accts. I & II/Confidential/Vigilance Branch of Customs & Central Excise, Shillong
12. Guard File

K.K. Das
 Commissioner of Customs.

rs.



(CERTIFIED)

CD 13.11 COPY

B. C. Das

2000

OFFICE OF THE ASSISTANT COMMISSIONER
CUSTOMS DIVISION DIMAPUR: Nagaland.
=====

-26-
ANNEXURE = R 8
3

C.NO. II(3)2/ESTT/ACD/2000/1924-26

DATED: 29.08.2000

To,
The Commissioner,
Commissionerate of Customs,
North Eastern Region
Shillong.

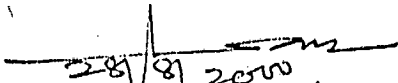
Sub: Forwarding of representation for transfer - C/R.

Sir,

Enclosed please find herewith the representation for transfer (in duplicate) of the undersigned for favour of your kind information and necessary action at your end.

Encls:- 2(2) sheets

Yours faithfully.


(S.K. Das)
Assistant Commissioner
Customs Division Dimapur

CERTIFIED
TRUE COPY
B.C. Das
ADVOCATE

OFFICE OF
THE CHIEF COMMISSIONER
Eastern Zone,
Customs & Central Excise,
Calcutta.

(Through proper channel)

Sir,

Sub: A prayer for transfer to Imphal Customs Division or to retain in Dimapur Customs Division.

With humilities and profound respect may I approach your graciousness with my following humble appeal for favour of kind and sympathetic consideration.

That Sir, I am serving in the capacity of Assistant Commissioner and at present posted in Dimapur Customs Division.

That Sir, in pursuance of your office order No.12/2000 dated 07.08.2000 the Commissioner of Customs, N.E.R., Shillong has been pleased to transfer me from Dimapur to Shillong as Assistant Commissioner, Hqrs., with charge of Shillong Customs Division, for which I must remain grateful to your honour as well as the Commissioner of Customs, N.E.R., Shillong.

That Sir, being a victim of illfate and circumstances I have to make this humble appeal to your Honour for consideration of my posting in Imphal Customs Division or to retain me in my present place of posting. May I waste your valuable time in narrating my miserable state that come in the way of compliance of your impugned valued order.

That Sir, my wife is a cancer patient and is now at the fag end of her life. She is now surviving on Chemotherapy (enclosed medical records). Very recently one of her cousin sister has also expired adding pain to her wound. Being in her last stage, she needs the care, love and attendance of her nearest kith and kin who are scattered in and around Manipur. Be it mentioned here that my wife hails from Churachandpur of Manipur, where my octogenarian mother-in-law is residing. My other sister-in-law is residing at Moreh and there is no male member in the family of my mother-in-law. In such circumstances, if I be posted in Imphal Customs Division, I could get medical facilities from Regional Institute Of Medical Sciences, Imphal and also could get some sort of help from my in-laws in looking after my wife which in turn would help me to serve the department to the best of my ability. Simultaneously I can also look after them in their hours of needs as there is no male member in their family. However, being posted in Dimapur my wife is at least in touch with the members of her family in Manipur.

But Sir, the present transfer order if materialised, will only increase my trouble enormously. These were the reasons for which I was kindly transferred from Jalpaiguri and posted to Dimapur Customs Division, where I joined on 28.06.99. But then now I am transferred to Shillong that too at the end of one year.

In view of these I would respectfully pray your honour to look into my cause sympathetically and pass order for my transfer to Imphal Customs Division instead of Shillong or retain me in my present place of posting.

For this act of kindness I shall remain ever grateful to you.

Yours faithfully

Dated, Dimapur

Encls - 6 (Six) copy.

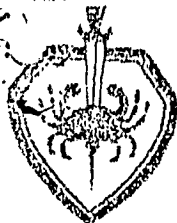
28/8/2000
(S. K. Das)
Assistant Commissioner
Customs Division Dimapur

RECEIVED

TO THE CHIEF COMMISSIONER

R. C. Das

ADVOCATE



RAJIV GANDHI CANCER INSTITUTE & RESEARCH CENTRE
Sector-V, Rohini, New Delhi-110 085 Phones : 7051011 To 7051030

ANNEXURE - R-9

-28-

DISCHARGE SUMMARY

C.R.NO. : 2101
NAME : DEEPA DAS
DIAGNOSIS: CA NASOPHARYNX WITH RECURRENCE
RT.NO : 341/96
AGE : 43 YRS.
SEX : FEMALE

BRIEF SUMMARY OF THE CASE :

Patient is a treated case of Ca Nasopharynx. She was treated by local Ext. RT at RGCI in 1996. She had diplopia for which evaluation was done in Sept 98 and revealed a mass lesion in Rt cavernous sinus and basitemporal region. Radiosurgery was done on 28/9/98 at VIMHANS. Repeat MRI on 5/1/2000 revealed enhancing mass in Rt temporal lobe and Rt cavernous sinus with significant mass effect causing compression of Rt lateral ventricle. Patient was admitted on 14/1/2000 for chemotherapy but is not yet clear to take chemotherapy.

INVESTIGATION RESULTS :

Haemogram : WNL
Biochemistry : WNL
CXR PA View : WNL

MRI (5/1/2000) : Enhancing mass lesion in Rt temporal lobe and Rt cavernous sinus with significant mass effect.

Thallium Spect (11/1/2000) : Increase uptake in region of cavernous sinus and adjoining areas of infero medial Rt temporal lobe cortex and proximal part of nasopharynx.

CERTIFIED

TRUE COPY

B. C. Verma

COGNATE

**RAJIV GANDHI CANCER INSTITUTE & RESEARCH CENTRE**

Sector-V, Rohini, New Delhi-110 085 Phones : 7051011 To 7051030

TREATMENT GIVEN IN THE HOSPITAL :

Patient was planned for combination chemotherapy but patient is not willing to stay. Dr to follow at Gandhi for

Comb. chemotherapy

(Cisplatin based drugs)

ADVICE ON DISCHARGE :

Tab Alprax 0.25mg BID

As no further Radiation is possible, patient can be taken up for combination chemotherapy.

DR. S. P. H. H. H.
(Chief, Radiation Oncology)

COPIED
1000 COPY

B. C. Van

96

INDRAPRASTHA
APOLLO
HOSPITALS

Name: Ms. Deepa Das Unit No. 96027255 Received On: 28.10.96
Age: 43 Sex: F Ward/Op. ENT Reported On: 29.10.96
Specimen: Nasopharyngeal Mass
Ref. By: Dr. S. Samant Lab No. S-1522/96

SURGICAL PATHOLOGY REPORT

GROSS DESCRIPTION:

Three bits, the largest 1.0 x 0.75 cms. and the two smaller ones 0.5 cms. each. The large bit was bisected. All passed. (x4)

MICROSCOPIC PATHOLOGY: Section reveals a tumour composed of well defined aggregates of spindloid epithelial cells surrounded by fibrous tissue and lymphoid cells. The tumour cells are oval or elongated with plump, vesicular nuclei. Mitotic activity is fairly marked.

CONCLUSION:

NASOPHARYNGEAL MASS:-

NASOPHARYNGEAL CARCINOMA (UNDIFFERENTIATED)


DR. V. RAINA
(Consultant Histopathologist)

Sarita Vihar, Delhi-Mathura Road, New Delhi - 110 044. Tel: 6925801, 6925858. Fax: 91-11-6823629.

CERTIFIED
TRUE COPY
B. C. Das
DATE

Discharge summary

Gamma 43/98

Deepa Das 46 years/Female
c/o S.K. Das,
Customs Office, Imphal, Manipur, 795001
Phone No.: 0385-231396

Dr. A.K. Banerjee
Dr. S.N. Chaudhry
Dr. M.S. Gaur
Dr. Jayant Misra
DOA : 27/09/1998
DOO : 28/09/1998
DOD : 29/09/1998

Diagnosis: Recurrent Right Cavernous Sinus Basitemporal
Nasopharyngeal Carcinoma [Undifferentiated]

History: Patient Presented to us with the complaints of off and on bleeding per orally, blockage, irritation of right nasal cavity and diminution of hearing in October 1996. A fiberoptic endoscopy at Apollo Hospital New Delhi [NO. S-1522/96 dated 29/10/96] was reported as Nasopharyngeal Carcinoma [undifferentiated]. A fiberoptic endoscopy at Apollo demonstrated the mass to be reddish, rounded and blocking the right choana. The growth extended to the eustachean tube opening along the posterior lip on the lateral nasopharyngeal wall. She later recieved 60Gy/30 Fractions/6 weeks external radiation. MRI dated 24/9/1998 demonstrated good response to radiotherapy but a new mass lesion in the right cavernous sinus and basitemporal region suggesting contiguous spread.

Examination : On Examination the patient was awake, and oriented. There was no cranial nerve, motor or sensory deficit.

Investigation: Folloup MRI Scan showed recurrent, enhancing tumor in the right cavernous sinus & basitemporal region. Stereotactic MRI on the day of treatment demonstrated unchanged tumor size.

Operation : After shifting the patient in Gamma Knife suite, Leksell Stereotactic head frame was applied under local anesthesia. The skull and frame measurments were recorded and imaging of the head with fudicial marker [stereotactic MRI Scan] was obtained. The images were then scanned into the Gamma Plan software and treatment planning was performed. Then we delivered 10 shots using two 14mm collimators, three 8mm collimators & five 4mm Collimators. The volume 5.5 cubic cm (98%) of tumor was covered in 50% isodose configuration. Prescription dose of 20 Gy with 40 Gy at the maximum point in the matrix was delivered. 1% of optic Nerve recieved more than 4Gy radiation. Sheilding and plug pattern used to protect optic apparatus from radiation. Patient tolerated the procedure well.

Treatment Advised:

(3 tabs of 100mg)
Tab Eptoin 300mg H.S. [at bed time]
Tab Deca Forte 4mg QID X 3 days, 2mg QID X 3 days
2mg TDS X 3 days, 2mg BD X 3 days
1mg BD X 3 days, then stop.

Tab Rantac 150 mg BD X 15 days
Tab Combiflam 1tab X SOS - pain
Neosporin Ointment Local Application

Adviced Follow up MRI on 3rd, 6th month, 1 year, 2 years
at 1 month. Dr. M.S. Gaur

Jayant Misra
Dr. Jayant Misra

CERTIFIED

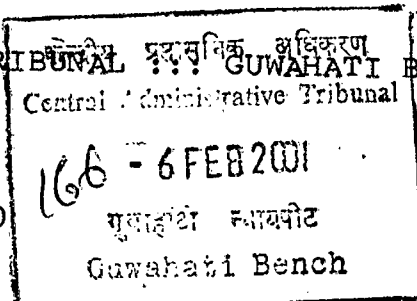
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R. C. Dora

ADVOCATE

- 32 -

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH.
GUWAHATI



O.A.No. 360 of 2000

Shri S.K.Das

-Versus-

Union of India & Ors.

38
Filed by the Respondent
through Ujjal Kr. Goswami
Advocate
22/2/2001

WRITTEN STATEMENT FILED ON BEHALF OF RESPONDENTS.

I, Shri V. Kezo, Deputy Commissioner of Customs Division Guwahati do hereby solemnly affirm and state as follows :

1. That I am the Deputy Commissioner of Customs Division, Guwahati. That in the instant Original Application alongwith Union of India the Commissioner of Customs, Shillong have been impleaded as Respondent No.3. That I have been authorised by the Respondent to look after the development of the instant case time to time including taking of steps on behalf of all the official Respondents and also to file the written statement. I have received a copy of the aforesaid Original Application, gone through and understood the contents thereof, as such I am competent to swear and file this affidavit on behalf of all the official Respondents as directed by the Hon'ble Tribunal.
2. That this answering respondent does not admit any of the facts, statement, allegations and averments made in the O.A. save and except those have been specifically admitted hereunder in this written statement. Further the statements which are not borne out of the records have been categorically denied.
3. That as regards the contents of paragraph 1 of the O.A., this answering respondent respectfully states that the transfer order No.10/2000 dated 23.08.2000 was issued on administrative exigency by the Commissioner of Customs, NER, Shillong with the approval of the Chief Commissioner of Customs and Central Excise(Eastern Zone), Calutta in accordance with the policy of Department of review the transfer and postings of all sensitive areas with an intention to make the Administration untainted, transparent and efficient where the tenure of posting of an individual officer is not at all an important factor.
4. That as regards the contents of paragraph 2 and 3 of the O.A. this answering respondent does not make any comments.

5. That as regards the contents of paragraph 4.1 of the O.A. this answering respondent does not offer any comments.

6. That as regards the contents of paragraph 4.2 of the O.A. this answering respondent respectfully states that the averments made therein have no relevancy in challenging the instant transfer order dated 23.08.2000 since the same relates to the applicants' promotion to the grade of Assistant Commissioner of Customs & Central Excise and his subsequent posting at Calcutta in the usual manner, wherein he joined on 04.01.99. It appears that the applicant is trying to mangle up the irrelevant subject deliberately with ^aview only to make out a case.

7. That as regards the contents of paragraph 4.3 of the O.A. this answering respondent respectfully states that the averments made in the paragraph has no nexus with the instant transfer of the applicant. It is pertinent to be mentioned here that the same relates to the applicant's posting at Belpur Commissionerate under the Administrative Control of the Office of the Chief Commissioner of Central Excise and Customs (Eastern Zone), Calcutta where he initially joined and subsequent adjustment in Jalpaiguri Division was made in an usual manner by way of transfer and posting and finally to Dimapur Division under Shillong Commissionerate.

8. That as regards the contents of paragraph 4.4 to 4.5 of the O.A. this answering respondent does not make any comments.

9. That as regards the contents of paragraph 4.6 of the O.A. this answering respondent respectfully states that the competent authority, viz., the Respondent No.3 has issued the transfer order No.10/2000 dated 23rd August, 2000 in pursuance of office order No.12/2000-CC dated 07.08.2000 issued by the Chief Commissioner (EZ), Customs and Central Excise, Calcutta and also followed by subsequent further direction received on the subject. As such the instant transfer order does not bear any legal infirmity and, if the same is not allowed to implement the administration will suffer a lot from all respects. On that count itself the instant application is liable to be dismissed.

10. That as regards the contents of paragraph 4.7 of the O.A. this answering respondent respectfully states that the allegations made by

the

the applicant is totally baseless and mischievous inasmuch as the representation dated 28.08.2000 submitted by the applicant before the respondent No.2 through respondent No.3 for his transfer to Imphal Customs Division instead of Shillong or to retain in Dimapur Division has been rejected by the Respondent No.2 and the same was duly intimated to the applicant vide relieve order issued by the respondent No.3 bearing its No.C.No.II(3)9/ET/CC/CELL/SH/2000 dated 24.10.2000.

A photostat true copy of the aforesaid letter dated 24.10.2000 is annexed herewith and marked as ANNEXURE-R¹ hereof.

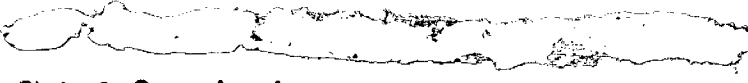
Moreover, the Respondent No.3 issued the transfer order dated 23.08.2000 following the guidelines and professed norms governing transfer of Central Govt. Officers and it is pertinent to mention here that the Respondent No.3 is responsible for good administration of Customs work throughout the N.E. Region as a whole.

11. That as regards the contents of paragraph 4.8 of the O.A. this answering respondent respectfully states that the respondent has great sympathy in respect of sufferings of Ms. Das, However, for the sake of betterment of the Department as a whole as well as administrative convenience her request could not be acceded. Be it further stated that keeping in view the frequent trips to Guwahati and Delhi made by the applicant in connection with his treatment to avoid further suffering of the administrative works as well as the applicant the applicant has been shifted to Shillong which is nearer to Guwahati and more convenient to undertake journey and render treatment etc. to his wife. The proximity to his in-laws should not be a ground for retention in a place where his performance is showing downward trend.

12. That as regards the contents of paragraph 4.9 of the O.A. this answering respondent respectfully states that the respondents have not violated in any manner the guidelines/professed norms in issuance of the aforesaid transfer order dated 23.08.2000 inasmuch as the applicant is transferred and posted within the North Eastern Region and that too at a better and convenient place for treatment of his wife by

Way

by way of undertaking frequent tour to Guwahati. It is also pertinent to mention here that he is yet to complete his tenure in the North Eastern Region which is normally 2-3 years depending upon the length of service rendering him entitled for his choice of posting.

13. That as regards the contents of paragraph 4.10 of the O.A. this answering respondent respectfully states that the transfer order dated 23.08.2000 was issued on administrative requirement in accordance with the policy of the Department. The Respondent No.3 has not acted arbitrarily in colorable exercise of power in as much as he had issued the transfer order in pursuance of the Chief Commissioner's order dated 08.08.2000  with prior approval of the Chief Commissioner and the Respondent No.3 is competent enough to issue such transfer order. Further the applicant being a subordinate to the Respondent his counter claim for transfer of Assistant Commissioner at Imphal, Aizwal and Shillong is not maintainable.

14. That as regards the contents of paragraph 4.11 of the O.A. this answering respondent respectfully states that he has not acted illegally and with out jurisdiction as alleged in as much as the transfer order was issued under order of competent authority i.e. the Chief Commissioner.

15. That as regards the contents of paragraph 4.12 of the O.A. this answering respondent respectfully states that the Respondent No. 2 has rejected his representation and the same has been intimated vide the relieve order dated 24.10.2000, which he has received after his return from earned leave. Hence the allegation of the applicant is not sustainable.

16. That as regards the contents of paragraph 4.13 of the O.A. this answering respondent respectfully states that the respondent deny the allegation and beg to state that the transfer order was issued in accordance with the guidelines formulated by the Department.

17. That as regards the contents of paragraph 4.14 of the O.A. this answering respondent respectfully / states that on the points discussed above, the application do not have any merits and liable to be dismissed.

As the order in question is issued by the Head of Department and in the public interest for better functioning without any arbitrary consideration, it is prayed that the alleged petition be dismissed and the stay order vacated early.

18. That as regards the contents of paragraph 5.1 of the O.A. this answering respondent beg to state that the transfer order was issued on administrative exigencies following transfer policy/guidelines issued by the Govt. of India and the applicant is adjusted well within the North Eastern Region considering tenure of posting. The allegation made by the applicant is baseless and mischievous and hence the application is liable to be dismissed and the stay order vacated.

19. That as regards the contents of paragraph 6 and 7 of the O.A. this answering respondent does not offer any comments.

19. That as regards the contents of paragraph 8.1 of the O.A. this answering respondent beg to state that the applicant is not entitled to any relief whatsoever as prayed for. It is further submitted that the law relating transfer has been well settled by the Hon'ble Apex Court that unless the order is mala fide or issued in violation of statutory Rules. In the case of Shilpi Bose Vs - State of Bihar, 1991 (17) ATC 935, the Hon'ble Supreme Court has

has held that the Court should not interfere with the transfer order which are made in public interest and for administrative reasons, unless transfer order are made in ~~in~~ violation of any mandatory statutory ~~rules~~ Rules or on the ground of malafide.

20. That as regards the contents of paragraph 9 of the O.A. this answering respondents beg to state that in view of the above position of law and facts, the applicant is not entitled to any interim relief and the interim stay so granted is liable to be vacated.

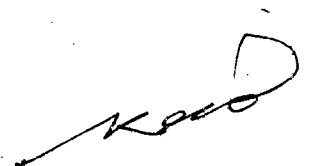
That in ~~my~~ view of the above facts and circumstances and the provisions of settled law, the application is liable to be dismissed without cost.

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

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

I, Shri ~~KKKXX~~ V. Kezo, Deputy Commissioner of Customs Division, Guwahati do hereby verify that the contents made in paragraphs 1 to 20 of the reply are true to my information derived from the official records, which I verif~~y~~ believe to be true and that nothing material has been concealed therefrom.


Deponent
Deputy Commissioner
CUSTOMS DIVISION
GUWAHATI