

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

3

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 370/2020
R.A/C.P No.
E.P/M.A No.

1. Orders Sheet O.A- 370/2020 Pg. 1 to 2
2. Judgment/Order dtd. 2/11/2020 Pg. No report order disposed
3. Judgment & Order dtd. Received from H.C/Supreme Court
4. O.A. 370/2020 Pg. 1 to 4.6
5. E.P/M.P. NIL Pg. to
6. R.A/C.P. NIL Pg. to
7. W.S. NIL Pg. to
8. Rejoinder. Pg. to
9. Reply. Pg. to
10. Any other Papers. Pg. to
11. Memo of Appearance.
12. Additional Affidavit.
13. Written Arguments.
14. Amendment Reply by Respondents.
15. Amendment Reply filed by the Applicant.
16. Counter Reply.

SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI. 5

ORIGINAL APPLICATION NO. 370/2000

... Su. R. S. Chakraborty .. APPLICANTS
versus.

Union of India & ors Respondents.

FOR THE APPLICANT(S) Mr. D.C. Borah
ADVOCATE Mr. D. Borah

FOR THE RESPONDENT(S)

Rd. Advocate

Notes of the Registry

DATE

COURT'S ORDER

This application is in
form but not in time
Condonation of delay is
filed / not filed C.F.
for Rs. 5/- deposited
vide IFO/B No. 503/12
Dated..... 30.12.2000

1-11-00

NO. Representation. List
again on 2-11-2000.
By order,

2.11.00

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

Dy. Registrar.

Annexure A, I is
not legible.

Requisite filed.

Bom

AS
3/10/2000

By this application the applicant
has assailed the order of his transfer
and posting at DJA as ASM on his existing
pay and scale.

Heard Mr D.C.Borah, learned counsel
for the applicant and Mr J.L.Sarkar,
learned Railway standing counsel for the
respondents. Mr Borah, learned counsel
for the applicant submitted that as per
the policy guidelines pertaining to
transfer the applicant who is not holding
a sensitive post and only working as
Cabin Station Master should not have been
disturbed. Mr Borah further submitted
that as per the Railway guidelines the
respondents ought to have taken note of
posting of his wife Mrs Seema Chakraborty
at the same station who is now working
in Pandu Post Office. Mr Borah in support

2.11.00

of his contention referred to the office Circular regarding 'Mid-Session transfer relating to children' of the Railways. Mr J.L.Sarkar, learned Railway standing counsel on the other hand submitted that these are only guidelines and these are not mandatory in character. Mr Sarkar further submitted that the Railway circular mentioned at Annexure-H of the application does not preclude the respondent authorities from transferring such person.

The applicant has already submitted a number of representations on 21.7.2000 6.9.2000 and the last one on 12.10.2000. The grievance of the applicant are required to be looked into and accordingly a direction is issued upon the applicant to make a fresh representation narrating all the material facts and submitting his contentions before the Divisional Railway Manager(P), Lumding within two weeks from today. If such representation is made the respondents are directed to consider the same and pass a reasoned order as early as possible. Till completion of the aforesaid exercise the impugned transfer order dated 5.7.2000 shall not be given effect to insofar as it relates to the applicant.

The application is accordingly disposed of. No order as to costs.


Vice-Chairman

30.11.2000

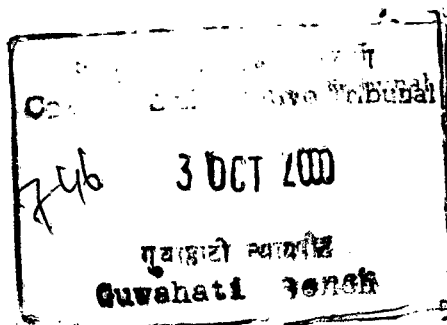
Copy of the order has been sent to the D/HR for issuing the same to the L/Advocate for the petitioner.

Issued vide D/HR. 2909 to 2910 D.D. 1.12.2000.

HP

pg

3/11/2000



IN THE COURT OF THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An Application Under Section 19 of the Administrative
Tribunal Act, 1985)

Q. A. No. 370 of 2000

Suhash Chakrabarty

... APPLICANT

-Vs-

Union of India & Others


... RESPONDENTS

I N D E X

<u>Sl. No.</u>	<u>Particulars of documents relied upon</u>	<u>Page No</u>
1	Application	1 to 15
2	Annexure - 'A' Transfer Order. ; ;	16-17-
3	Annexure - 'B' Representation	18
4	Annexure - 'C' - do -	19
5	Annexure - 'D' - do -	20-21
6	Annexure - 'E' Certificate as to wife's ... employment	22
7	Annexure - 'F' Certificate as to son's study.	23
8	Annexure - 'G' Certificate as to mother's .. illness	24
9	Annexure - 'H' Standing instructions issued by the Railway Authority.	25-26
10	Annexure - 'I' - do -	27-38

Contd....2

<u>Sl. No.</u>	<u>Particulars of documents relied upon</u>	<u>Page No.</u>
11	Annexure - 'J' Hon'ble C. A. T. of Guwahati Bench copy of order.	39-40


Signature of the Applicant

Date of filing:

31-10-2000

Date of Receipt by

Post :

Registration No.

Registrar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BRANCH

(An Application Under Section 19 of the Administrative Tribunal Act, 1985)

Q. A. No. 370 of 2000

Sri Suhash Chakrabarty

Son of Late Chitta Ranjan Chakrabarty

Resident of Railway Quarter No. D 5/40E

Rest Camp, P. O. Pandu, Guwahati : 12

P. S. Jalukbari.

..... APPLICANT

- VERSUS -

1. The Union of India
represented by the General Manager,
N. F. Railway, Maligaon
2. The Chief Operating Railway Manager
N. F. Railway, Maligaon.
3. The Chief Personal Officer, MxR.
N. F. Railway, Maligaon.
4. Divisional Railway Manager (P),
N. F. Railway, Lumding
5. Sr. Divisional Operating Manager,
N. F. Railway, Lumding
6. Sr. Divisional Personal Officer,
N. F. Railway, Lumding.

..... RESPONDENTS

Contd.... 2

6
Filed by:
Suhash Chakrabarty
Shri. D. C. Baruah, A.O.
21.10.2000

DETAILS OF APPLICATION

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

(a) The application is directed against the order No. E/39-20-ASM/P VIII(T)(TR) dt. 5.7.2000 issued under the order of the Divisional Railway Manager(P), Lumding in pursuance of which the applicant is transferred from Pandu to DJA, a railway Station situated in the Hill Section of Lumding- Badarpur Railway line.

(b) Non disposal of the applicant's several representations submitted against the aforesaid orders, before concerned competent authorities under N. R. Railway.

2. Jurisdiction of the Tribunal :

The applicant declares that the subject matter of the order as mentioned above against which he wants redressal is within the jurisdiction of the Tribunal.

3. Limitation :

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

Contd..... 3

Suben Chakraborty

4. Facts of the Case :

The petitioner most respectfully states:

1. That the applicant was originally appointed as Assistant Station Master in the year 1984.
2. That the applicant joined as Assistant Station Master, Cabin, at New Guwahati Railway Station on 10.7.84.
3. That the applicant was promoted to Sr. Asstt. Master in the year 1993 and was posted at Cabin of Pandu Railway Station in which post he is still working as Sr. Assistant Station Master. The petitioner since joining in the Railway Department has been discharging his duties with complete dedication and to the best satisfaction of all without any blemish or stigma.
4. That the applicant, vide an order No. E/39-20-ASM/P VIII(T)(TR) dt. 5.7.2000 issued for and on behalf of Divisional Railway Manager(P), N. F. Railway, Lumding, had been transferred in the same capacity to Dautahaja(DJA) Railway Station in the Hill Section of Lumding-Badarpur Railway line.

... Annexure - 'A'

5. That prior to this order of transfer the applicant had been intimated nothing about this impending transfer.

Contd..... 4

Suresh Chakraborty

Sudas Chakraborty

6. That the applicant was stunned at getting this sudden and unexpected transfer order which came to him as a 'Bolt from the Blue'.

7. That thereafter, the applicant had submitted representations in appeal form specifying all the difficulties and inconveniences because of this transfer order to all levels of competent authorities of N. F. Railways right from the Divisional Railway Manager (P), N. F. Railways, Lumding to the General Manager, N. F. Railways, Maligaon.

Annexure 'B' : Appeal before Divisional Railway Manager(P), N. F. Rly, Lumding. dt. 21. 7. 2000.

Annexure 'C' : To Sr. D. O. M., N. F. Railway, Lumding. dt. 6. 9. 2000.

Annexure 'D' : To General Manager, N. F. Railway, Maligaon. dt. 12. 10. 2000.

8. That the applicant had to suffer what great difficulties and irreparable loss in the face of the transfer order, he had been very politely and humbly placed before the concerned competent authority in the above mentioned appeal petitions for their kind consideration and favourable order that

(a) The wife of the applicant who is the mother of one minor child is also working as Postal Assistant,

P

Sudho Chakrabarty

posted at Maligaon Railway Head Quarter Sub-Post Office under the Govt. of India, in P & T Department.

Annexure 'E' : Certificate to this effect.

(b) The only son of the petitioner, Master Sumit Chakrabarty is continuing his studies at Kendriya Bidyalaya in Class-VI (Six) located at Maligaon. That also, as there is no Kendriya Bidyalaya at the Station to which the petitioner has been transferred, the study of his only son will be severely disturbed resulting a serious dislocation of further studies.

Annexure 'F' : Certificate of concerned school.

(d) The seventy five years old widow mother, who is completely dependent on the petitioner, is a serious patient of Heart disease and Hypertension and had to be under constant medical treatment including periodical check-up and monitoring by her family members. In this event of this impending transfer order, the old mother of the petitioner had to suffer a severe bolt as there is no such medical facilities of treatment for such a dreaded disease at the Station to which the petitioner has been transferred to, and an imminent end of her life may come at any moment.

Annexure 'G' : Medical certificate to this effect.

Contd....6

11
Sufar Chakraborty

(d) That the petitioner most respectfully states that the impugned transfer order was issued with malafide intention of appeasing someone at the behest of some vested interests that he being a senior one had been transferred out leaving aside other juniors in the same Station as had been clearly pointed out in the petitioner's repeated representations before the concerned authority.

9. That, 16 (sixteen) Railway employees including the petitioner who topped the list were dealt with by the above mentioned impugned order No. E/30-20-ASM/PVIII(I)(TR) dt. 5.7.2000. But this petition is directed against the portion of the aforesaid order involving the petitioner's transfer only.

5. Grounds of Relief with legal provisions :

1. The impugned order inflicting transfer of the petitioner from his present place of posting in the Cabin of Pandu Railway Station to a far off and remote place, a tiny station in the Hill Section of Lumding - Badarpur Railway line, which is devoid of required facilities of pulling up a family life alongwith devoted and committed service to the Railway Department, has been issued without any human consideration and seemed to have been issued with an ulterior motive of malafide and extraneous consideration and is liable to be set aside.

Contd....7

2. The impugned transfer order has been issued in complete violation of the instructions issued under Memo No. E(NG)1/2000/TR/17 dt. New Delhi the 26th June, 2000 by the Ministry of Railway Department, Govt. of India (Railway Board).

Annexure - 'H'

and also, the instruction issued under Memo No. E(NG)ii/77/TR/21 dt. 10.6.77.

Annexure - 'I'

3. According to the above mentioned instructions issued in respect of effecting periodical transfer which in general is 4(four) years can be effected only in case of Railway Employees as had been clearly shown in the instructions, Annexure - 'I', wherein at page 5 ~~clearly~~ of Annexure- I clearly and unambiguously stated that Station Masters, Asst. Station Masters etc. working in the Cabin are out of the list of employees which are subjected to periodical transfer i.e. S. Ms., ASMs. are not ~~subjected~~ to be transferred under such periodical transfer.

4. As the petitioner who was born as A. S. M. in the Cabin and till date he is working in the Cabin of the Pandu Railway Station, the impugned transfer order, transferring him to a remote and far-off place is in complete violation of established instructions of the Govt. of India in Railway Department and shall be liable to be quashed.

5. Further, even though, there is provision for periodical transfer of certain categories of Railway

12

Sufas Chakraborty

employees, instructions issued under (i)(b) of Para 4 of Annexure - 'H' which reads as follows :

"(b) In order to avoid large scale dislocation in case of this category of staff, periodical transfer may, as far as possible, be effected without involving a change of residence of the staff concerned, so long as fundamental objectives of such transfers can be achieved by transferring such staff to a different location in the same Station or to a different Station in the same urban agglomeration."

In spite of such clear and emphatic instruction, the concerned authority has issued the impugned transfer order in complete disregard to the instructions with ulterior motive of malign and causing unnecessary harassment and inconvenience to the petitioner which shall be liable to be quashed.

6. The impugned transfer order has been issued denying the principle "Posting of wife and husband" at same Station, in such a way to enable them ^{to} lead a normal family life including children's education and other welfare matters relating to family including Health and Medical care, as has been issued under several memos by the Railway Ministry in this regard. As such, this impugned order, issued purely on whims and capricious motive of the authority concerned is liable to be set aside.

Contd.....9

Sudhas Chakrabarty

7. This impugned transfer order has also been issued in complete defiance of instructions regarding 'Mid-Session transfer relating to childrens' study' and this impugned order be quashed outright.

8. The impugned transfer order has been issued with such a maligned, capricious discriminatory motive by the authority concerned that, they have not even considered the repeated appeal/representations placed before them in which, the petitioner had, with utmost sincerity and politeness, brought all facts relating to what magnitude of difficulties and harassment he had to face in the face of this impugned transfer order.

The concerned competent authority, not only had taken a blunt view on the points raised by the petitioner in his several representations/appeals to the authority, such as :

i) His wife is also working under a Department of the Govt. of India being posted at Railway Head Quarter Sub-Post Office of N. & F. Railway, Maligaon.

ii) His only son's continuing of further education, in Kendriya Vidyalaya at Maligaon, shall be dislocated.

iii) His nearly 75 years' old widowed mother who had none else to look after except the petitioner

is a Heart-Patient and is currently going on under active medical care at Maligaon, may have to face a situation like "Fish out of Water" had the petitioner be transferred away at this moment

and the last but not the least that

iv) Inspite of there are so many junior A. S. M. or Sr. A. S. M. are working in the Railway Station at Pandu, the petitioner being the senior to them had been transferred away from that station to a tiny station at the Hill Section of the Lumding-Badarpur Railway line, which is devoid of such most essential and life saving facilities to lead a comfortable family life as mentioned in paras in i) to iii) above,

But also, ^{had} ~~have~~ taken an unsympathetic and harsh attitude in not considering the above mentioned genuine problems and difficulties in a humanitarian out-look,

9. The said impugned order passed without any consideration of facts and problems of the petitioner shall liable to be quashed,

10. It is submitted that the Hon'ble Central Administrative Tribunal, Guwahati Branch, had recently passed an order keeping order of transfer in abeyance in Case No. 28/2000 between,

Contd... 11

Suras Chakraborty

Sudhas Chakravarty

Kamala Kanta Swargiary

-Vs-

Union of India & Others

the copy of order of which is annexed as Annexure-'J'.
In this case, the Railway employee falls under category of transferable employees on periodical transfer, but, in the instant case, the petitioner is excluded from the category of transferable employees on periodical transfer as per instructions at Annexure- 'H'.

11. Under the circumstances, as stated in the above mentioned paras, it is most humbly submitted that the ~~ix~~ impugned transfer order was issued, is prima-facie a case of abuse of discretion, arbitrary, discriminatory and colourful exercise of powers which was issued in complete violation of specific instructions in this respect and as such it is a clear case of malafide and and which was issued in complete disregard to humanitarian ground shall be liable to be quashed.

12. Further, the petitioner had not yet handed over ~~his~~ charge and he is still on sick-leave on medical ground.

13. Further, also that the petitioner had not received any pay and allowances since his time of going on sick-leave and as a result he had to suffer an immense financial crunch in order to pull up his day to day family affairs including meeting the expenditure of his school going minor child and also that of his mother's treatment.

14

Lukas Chokany

6. Details of Remedies exhausted :

The applicant declares that he had availed of all the remedies under the relevant Rules and submitted representations/appeals to the concerned competent authority who had not only disposed of the same but also paid an unsympathetic and defiant attitude.

7. Matters not previously filed or pending with any other Court.

The applicant further, declares that he had not previously filed any application, Writ Petition or Suit regarding the matter of which this application has been made before any Court or any other authority or any other Bench of the Tribunal nor any such application or Suit is pending.

8. Relief Sought :

In view of the abovementioned facts and circumstances, the applicant most respectfully prayed that Your Lordships would be graciously pleased to admit the application, issue notice calling upon the respondents to show cause as to why the impugned transfer order dated 5.7.2000, Annexure- 'A' shall not be rescinded or quashed and after cause or causes if any shown by the respondents, hearing the parties, the following relief may kindly be granted.

Contd....13

a) The portion of the impugned transfer order No. E/39-20-ASM/PVIII(T)(TR) dt. 5.7.2000 which dealt with the transfer of the petitioner and which was issued with ulterior motive of malice, whims, arbitrariness and which also violates all Standing Circulars/Instructions of the Govt. of India in judicial decisions and against the principle of humanity and also prima-facie a malafide and colourable exercise of administrative power shall be set aside.

b) And also prayed that such order or orders may be passed as deem fit and proper in the interest of justice, equity and fair play.

9. Interim Relief :

Pending final decision on the application, the applicant seeks the following interim relief :

a) The portion of the impugned transfer order No. E/39-20-ASM/PVIII(T)(TR) dt. 5.7.2000 transferring the applicant from the post of Sr. A. S. M. at Cabin of Pandu Railway Station to a remote and far-off tiny Railway Station, DJA located in the Hill Section of Lumding - Badarpur Section of N. F. Railway in the same capacity be graciously kept in abeyance.

b) A direction may graciously be issued to the concerned authority to pay the due pay and allowances of

Sulab Chakraborty

the petitioner for which the petitioner had been suffering during the period of his sick-leave.

10. The application is being filed at the office of the Tribunal and the applicant undertakes to take all information from the office.

11. Particulars of Postal Order filed in respect of application fee.

Postal Order No. 26,503/12 dt 30.10.2000 drawn in favour of Registrar, Central Administrative Tribunal, Guwahati Branch, at Q.P.O. Guwahati.

12. List of enclosure

1. Annexure - 'A' : Transfer order.
2. Annexure - 'B' : Appeal against transfer to DRM(P)
3. Annexure - 'C' : Appeal to Sr. DCM, Luming.
4. Annexure - 'D' : Appeal to General Manager, NF Rly, Maligaon.
5. Annexure - 'E' : Certificate that wife is a Central Govt. employee.
6. Annexure - 'F' : Certificate that the child is a student of Kendriya Vidyalaya.
7. Annexure - 'G' : Medical Certificate that mother is a patient.
8. Annexure - 'H' : Circular No. E(NG)1/2000/TR/17 dt. 6.6.2000.
9. Annexure - 'I' : Circular No. E(NG)1/90/TR/46 dt. 8.4.91.
10. Annexure - 'J' : Orders of the C.A.T., Guwahati Bench - in Case No. 28/2000.

VERIFICATION

I, Shri Suhash Chakrabarty, Son of Late Chitta Ranjan Chakrabarty, aged about 41 years working as Sr. A. S. M. in the Cabin of the Pandu Railway Station, now on sick-leave do hereby verify that the contents of paras 1 to 4 are true to my knowledge and belief and paras 5 to 9 are believed to be true on legal advice and that I have not suppressed any material fact.

Suhash Chakrabarty

Date : 31.10.2000

Signature of the Applicant

Place: *Rucsatkali*

- 16 JH no. Assesment-A
35/7NO 2

N. F. RAILWAY.

Office of the
Divisional Rly. Manager (P),
Lumding.

Dated 5.7.2000.

OFFICE ORDER.

The following transfer and posting orders are issued to take immediate effect :-

- 1) Sri Sunash Chakraborty, ASM/PNO in scale Rs.5000-8000/- is hereby transferred and posted at DJA as ASM on his existing pay and scale vice vacancy.
- 2) Sri B.K.Das, ASM/NGC in scale Rs.5000-8000/- is hereby transferred and posted at BHZ as ASM on his existing pay and scale vice vacancy.
- 3) Sri P.K.Dey, LR, ASM/NGC in scale Rs.5000-8000/- is hereby transferred and posted at BHZ as Rg. ASM on his existing pay and scale vice vacancy.
- 4) Md. Imdad Ali, ASM/NGC in scale Rs.5000-8000/- is hereby transferred and posted at PKB as ASM on his existing pay and scale vice vacancy.
- 5) Sri P.K.Mallik, ASM/PNO in scale Rs.5000-8000/- is hereby transferred and posted at NGC as ASM on his existing pay and scale vice vacancy.
- 6) Shri D.K.Bailey, ASM/PNO in scale Rs.5000-8000/- is hereby transferred and posted as in Sr. ARM's office/GHY as RASM on his existing pay and scale vice vacancy.
- 7) Shri A.B.Roy, LR, ASM/NGC in scale Rs.5000-8000/- is hereby transferred and posted in Sr. ARM's office/GHY as RASM on his existing pay and scale vice vacancy.
- 8) Shri Kandarpa Das, LR, ASM/NGC in scale Rs.5000-8000/- is hereby transferred and posted in Sr. ARM's office/GHY as RASM on his existing pay and scale vice vacancy.
- 9) Sri Prabinda Chanda, ASM/LMG in scale Rs.5000-8000/- is hereby transferred and posted in Sr. ARM's office/GHY as RASM at his own request on his existing pay and scale vice vacancy.
- 10) In supersession of earlier order, Shri Bipul Misra, ASM/LRG in scale Rs.4500-7000/- is hereby transferred and posted in Sr. ARM's office/GHY as RASM at his own request on his existing pay and scale vice vacancy.
- 11) Sri Manash Das (ST), ASM/HJO in scale Rs.4500-7000/- is hereby transferred and posted at MPP as Rg. ASM at his own request on his existing pay and scale vice vacancy.
- 12) Shri T.C.Deka (SC), ASM/GHY in scale Rs.5500-9000/- is hereby transferred and posted at ILCR as SM on his existing pay and scale vice Shri N.N.Roy, SM/ILCR - transferred (item No.13 below).
- 13) Shri M.N.Roy, SM/ILCR in scale Rs.5500-9000/- is hereby transferred and posted at LFG as Rg. ASM on his existing pay and scale vice vacancy.

.....2.....

Certified to be true

[Signature]

14) Shri. Prasad, SM/CHY in scale Rs. 5000-8000/- is hereby transferred and posted at KOTI as ASM on his existing pay and scale with vacancy.

15) Shri. A. K. Mahapatra, SM/CHY in scale Rs. 5000-8000/- is hereby transferred and posted at LMG on his existing pay and scale with vacancy.

16) Shri. D. C. Das, SM/CHY in scale Rs. 5000-8000/- is hereby transferred and posted at LMG on his existing pay and scale with vacancy.

From 1.4.2000, transfer allowance and joining bonus is admissible in the cases of item No. 1, 2, 3, 4, 12, 13, 14, 15 and 16 only.

The above transfer and posting orders should be implemented within 15 days from the date of receipt of this order.

This issues as per orders of competent authority.

(N. B. Das)
APO/I/LMG.

For Divisional Rly. Manager (P),
N. F. Railway : Lunding.

NO. E/39-20-ASM/PVIII(T)(TR) : Dtd. LMG 4/7/2000.

Copy forwarded for information and necessary action to:-

- 1) Staff concerned thro. proper channel.
- 2) SS/DIA, SS/DIA, CYN/NGC, SS/BIZ, SM/PKB, Sr. ASM/CHY, SS/LMG, SM/CHY, SS/DO, SS/MFR, SS/CHY, SM/DETR, SS/LMG, SS/DET, SS/LGT. They will please advise this office when the above changes are given effect to.
- 3) DA/LMG, 4) SR. DOM/LMG, & AM/EPB.
- 5) TI/CHY, TI/Wost/LMG, TI/H/LMG, TI/LMG, TI/BPB, TI/East/LMG.
- 6) AM/CHY, CWN/LMG, SL II/BPB, 7) OS/ET Bill at office.
- 8) RAC(O) at office.
- 9) B. and C. for P/cases, transfer allowance file.

(N. B. Das)
APO/I/LMG.

For Divisional Rly. Manager (P),
N. F. Railway : Lunding.

Authenticated to be true.

[Signature]

-18- Annexure-B # 18 ✓

To,
The Divisional Railway Manager (P),
N.F.Rly / Lumding.

Through proper channel.

Sir,

Sub:- Appeal against transfer and posting order at DJA.

Ref:- Your office order No. E/39-20-ASM/Pt-viii(T) (TR)
dated 5.7.2000.

.....

In reference to the above, I was asked to carry out transfer and posting order from Pandu to DJA on existing pay and scale as ASM/DJA.

That Sir, on this issue I like to lay before you the following few lines to draw your kind attention and legal consideration please.

That Sir, firstly, I like to let you know that my wife Mrs. Sima Chakraborty is a central govt employee (P&T) is working as a clerk at Pandu post office, Guwahati-12 since 1998 after being transferred from Guwahati-1 (posting order enclosed) which has already been intimated to you on 12.3.92. (copy enclosed). In this respect as per extent rules vide GM(P)MLG's circular No. Misc 516/E/230/6(c)P11 dated 19.11.71 the husband and wife should not be disturbed and be remained at the same place.

That Sir, secondly, my only son is reading at Maligaon Kendriya Vidyalaya in class VI and in the middle of the session how it will be possible to make his transfer from Pandu to DJA disturbing his study from the very childhood or to stop his study with a loss of one year.

That Sir, thirdly, my old widow mother is remaining with me and off and on she is to attend at Central Hospital/Maligaon for her treatment which is not possible from staying at DJA.

That Sir, fourthly, it has been furnished in the list of office order that being a Sr. ASM I am transferred to DJA but the staff junior to me has been posted in the GHY area which is not supposed to be considered.

On the above mentioned reasons, I like to pray to your honour to please arrange to scrutiny the case sympathetically and consider my case reviewing the transfer order issued against me and arrange for my posting at Pandu as usual.

Your favourable action is solicited.

D/A - 3 (THREE)

Date

24.7.20

Yours faithfully,

Suhas Chakraborty
(Suhas Chakraborty)

ASM/PNO.

Copy to:-

- 1) Sri N.B.Das APO/1/LMG for information and necessary action pl.
- 2) Sr. DOM/LMG
- 3) Sr. ARM/GHY. For information and n/a please .
- 4) APO/GHY
- 5) SS/PNO - for information and to wait for sparing till the reply received.

Date

24.7.20

Yours faithfully,

(Suhas Chakraborty)

ASM/PNO.

Continued to be true

-19-

Amesmu - C 'e'
TH V

Dr DOM/LMG
N. F. Rly

Sir,

Sub:- Appeal against transfer and posting order at DJA to Sri Suhas Chakraborty, ASM, PNO.

Ref:- Your office order No. E/39-20-ASM, Pt. VIII(T)(Tr) dated 5.7.2000.

(11) My earlier application dated 27.7.2000.

.....

With due respect and humble submission I beg to lay before you the following few lines for favour of your kind consideration please.

That Sir, I have been transferred from Pandu to DJA as ASM in the same pay and scale (scale Rs. 5000-8000/-) (B.P. Rs. 5900/-) but the serial seniority position which I am compelled to show you for my harassment transfer that in PNO station seniority Sri P.K. Mallick is in 1st position who is transferred from PNO to NGC; the 2nd Sri H.P. Banik remains in the same place; 3rd I, Sri Suhas Chakraborty am transferred from Pandu to DJA; 4th Sri N.K. Kakati remains in the same place; 5th Sri D.K. Baishya is transferred from Pandu to ARM office/ GHY; 6th Sri R.C. Dutta also retained at PNO; 7th Sri A.K. Tewari is working in Central Control/Maligaon and all are in same scale. So, it is unfortunate how I have got such transfer order though I am senior than the above mentioned four persons.

That Sir, my wife Mrs. Sima Chakraborty is working at Pandu Post office under Guwahati Division and as per GM(P)/Mlg's circular No. Misc 516/E/230/6(C) Pii dt. 19.11.71 and central govt. circular No. 28034/7/86-Estt(I) dated 3.4.1986 husband and wife should remain at same station. So, you please consider my case sympathetically (9circular copy enclosed).

That Sir, my son is reading in Kendriya Vidyalaya/ Maligaon whose school session is going on and it is very difficult for my son to take transfer from K.V./Maligaon as there is no K.V. at DJA. and also for your information that no hostel facility is available at Maligaon.

That Sir, my old mother aged 75 years is a cardiac patient who is staying with me and her treatment is going on in Central Hospital / Maligaon & Guwahati Medical College. This treatment is only possible in Guwahati only.

That Sir, though I have appealed against my transfer order at DJA on 27.7.2000 to DRM(P)/L/MG and copy given to you on that date but I did not get any reply from your end uptil now. In the mean-affected with viral disease I have fallen sick under Rly doctor since 14.8.2000 to till now.

In view of the above reasons I may hope that you please consider my case as early as possible by which I may remain in the same station as usual and oblige me thereby.

With regards,

Yours faithfully
Suhas Chakraborty
ASM PNO

Dr. - 6/9/2K
Copy to - DRM/LMG
DRM(P)/LMG
for information and
necessary action please.

Certified to be true
[Signature]

-20- Annexure-D 'D' 25

To,
The General Manager, / General manager (P)
N.F. Railway / H.Q.
Maligaon.
Guwahati-781011.

(Through Proper Channel)

Respected Sir,

Subject :- 1) Appeal against for transfer and Posting
Order at DJA.
2) Non-Payment of Salary & Bonus.

1. Notwithstanding the ansterity of the Chair your humble memonalist craves leaves of your lines for favour of your due consideration and equitable justice please.

That Sir, interms of DRM(P)/LMG's office Order no.E/39-20-ASM/P VIII(T)/(TR) dated 6/7/2000. I have been asked to transfer from Pandu to DJA in my same pay and same scale (Rs. 5000-8000) with a stipulation to carryout the order within 15 days from the date of receipt of above order.

That Sir, in this above connection I beg to inform you that I have submitted an appeal on 21.7.2000 addressed to DRM/P/N.F.Rly, lunding for reviewing the transfer order issued against me and arrange for my Posting at Pandu indicating my enormous difficulties and barries to be faced if I an transfer to DJA. a copy of which is enclosed for your kind perusal."

That Sir, I would like to state that my wife is a Central Govt. employee under the administration of Postal and Telegraph organisation is working as a clerk at Pandu Post Office, Guwahati-12. In this respect it is a legal tennet everybody wants to remain with his family and the family environment of his working place and as convention culminates, normally an employee is also not to disturbed by his employer, more Particularly, in a socio-welfare pattern Public sector like the Railways.

That Sir, it would also not be an out of Point to mention hither to that my only son is Prosecuting his studies at Pandu Guwahati Complex. Now, consequent upon my such undesirable transfer to DJA his studies will severaly be geonardised, for, after the admissible Period I would be compelled to vacate my Rly. quarter for such order of transfer. Moreover your good conseience would also invariably admit that in this Position it could no way be feasible to get him admitted in a new school in a new place.

That Sir, my widow mother 75 years old is chronic Patient of cardiac troubles and for which reasons she is in need of attending Maligaon Central Hospital with short spell of intervals. If I were transferred from Pandu Then she would completely remain uncared and unattended and, God forbid, something unpleasent may happen at any moment.

Certified to be true
[Signature]

Contd.....p/2

That Sir, it has been furnished in the list of office order that being a Sr. ASM I am transferred to DCA out the staff junior to me has been posted in the GHY area which is not supposed to be considered.

That Sir, as I have been suffering from various diseases for a long time so as per Doctor's advise I have reported sick from 14th Aug/2000. SS/Pandu, in view to smile at another's woe sent my IPC to DCA on 19/8/2000 without bother to inform victim as a result I have not getting any salary and Bonus. at the time of Durga Puja. For this want of money my family and myself deprived from all kinds of Hindu religious rites and happiness. Sincerely speaking at Present my financial condition is very deplorable and unmanageable stage.

I therefor highly requesting to you that you kindly first of all arrange to Pay my salary and Bonus without further delay and also once again I would request your sympathetic honour to look into my case favourably and consider to reviewing the transfer order issued against me and arrange for my Posting at Pandu as usual.

In view of the facts and circumstances stated above, this humble memorialist most humbly Prays that his fate shall not be buried in the crannied wall of the dilapidated house but equitable justice should invariably showed by your besign hands and esteemed notion and thereby redressed the transfer order of this unfortunate employee.

With all humility and regards.

Yours faithfully,

Dated :- 12/10/2000

✓ Subas Chakraborty
(Subas Chakraborty)
ASM/Pandu

Copy to :-

✓ COM/Maligan. J.F.Rly.
✓ SS/PNC

- for information.
and necessary
action please.

Continued to be true

Oh

-22-

Immerane - E

29

To whom it may concern

This is to certify that
Mrs. Sima Chakraborty, wife of
Sri. Suhas Chakraborty is working
in postal deptt. at Maligaon Rly.
head Quarter Sub-Post Office,
Gauhati - II as Postal Asstt. since
January 1990.

[Signature]
Sub-Postmaster (S. 11)
Maligaon Rly. Sta.
Gauhati - II

Delivered to bearer
[Signature]

-23- Annexure - F₂d

(F)



दूरभाष पी एच टी 670796 (O) 670461 (R) रम 23662 (O) 23663 (R)
Phone : P & T 670796 (O) 670461 (R) Rm. 23662 (O) 23663 (R)

केन्द्रीय विद्यालय, मालीगाँव
KENDRIYA VIDYALAYA, MALIGAON
GUWAHATI - 781011

पत्रांक
Ref No.....

दिनांक 21/10/2000
Date.....

TO WHOM IT MAY CONCERN

This is to certify that Master
Sumit Chakraborty son of Shri Suhas
Chakraborty is a bonafide student of
class VI (Six) in the session 2000-
2001 of this vidyalaya.

for *Rahman* 21/10/2000
Principal
Principal,
माधव,
Kendriya Vidyalaya
केन्द्रीय विद्यालय
Maligaon, Guwahati
मालीगाँव, गुवाहाटी

Authenticated to be true
[Signature]

-24- Amesme-A 29

Dr. Anirban Ganguly

Regd No. - 14378 (AMC)
Medical Practitioner

10361-572822

TO WHOM IT MAY CONCERN

This is to certify that Mrs. Jyosna Chakraborty, M/O Mr. Sukhas Chakraborty is a diagnosed case of Hypertension & IHD and is under my treatment since 6 (Six) months. As such she is advised to undergo periodic medical check-up at regular intervals & she requires care & monitoring by her family members.

(Dr. Anirban Ganguly)

[Signature]
21/10/2000

Dr. Anirban Ganguly
REGD. No. 14378 (AMC)

Certified to be true.
[Signature]

-25- Amenu - H 30

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1087
3076

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RBE No. 123 /2000

SC No. 1110 MC No.24

GOVERNMENT OF INDIA/BHARAT SARKAR
MINISTRY OF RAILWAYS/RAIL MANTRALAYA
(RAILWAY BOARD)

No.E(NG)/2000/TR/17.

New Delhi, dated 26-6-2000

The General Managers (P)
All Indian Railways and
Production Units.
(As per Standard List).

OFFICER	
CPD	✓
CPD/A	✓
DY. CPD/HB	✓
SPD/R	✓

CPD

Sub: Periodical transfer of Railway employees.

- 1.E(NG)/78/TR/85 dated 27.4.79.
- 2.E(NG)/78/TR/82 dated 7.2.80
- 3.E(NG)/80/TR/28 dated 22.8.80, 31.12.81, 19.2.86 and 16.10.87.
- 4.E(NG)/87/TR/34 dated 27.9.89 and 17.11.92
- 5.E(NG)/94/TR/29 dated 2.5.95
- 6.E(NG)/96/TR/42 dated 26.11.96.

In terms of the instructions contained in the Ministry's marginally noted letters, Railway employees holding sensitive posts, including those who frequently come into contact with public and/or contractors/suppliers, are required to be transferred every four years. For this purpose, a comprehensive list of sensitive posts has also been circulated. The thrust of these instructions is on transfer from one place to another. However, when transfer of such employees to a different place is not possible, they are to be shifted to a different seat in the same place to meet the requirement of periodical transfer.

- 1.E(NG)/80/TR/28 dated 22.1.82, 19.2.86, 16.10.87, 21.7.88 and 13.4.89.
- 2.E(NG)/92/TR/32/JCM(DC) dated 10.8.93, 5.5.94 and 29.6.95
- 3.E(NG)/98/TR/11 dated 30.10.98 and 2.11.98

2. Instructions also exist vide this Ministry's letters quoted in the margin that Ticket Checking staff, as also other staff in mass contact areas, detected to be indulging in malpractices should be sent on inter-divisional transfers as a matter of policy. Besides, the staff who have repeatedly figured in substantiated vigilance cases and where penalties have been imposed, are required to be reviewed at appropriate level and such staff are also to be transferred on inter-divisional basis.

Office of General Manager

Date

Admitted to be true

3. It has been brought to the notice of this Ministry that the extant instructions on periodical transfer are being interpreted differently by different Railways. The matter has therefore been considered by the Board and the position is clarified in the following paragraphs.

4. The instructions for periodical transfer of Railway employees cover two broad categories of staff :-

(i) (a) The first category includes staff of the Commercial Department (such as Commercial Supervisors, Enquiry-cum- Reservation Clerks / Booking Clerks, Goods Clerks, Parcel Clerks, Ticket Checking staff etc.) and the staff of the Operating Department (SSs/SMs/ ASMs etc.)

(b) In order to avoid large scale dislocation in the case of this category of staff, periodical transfers may, as far as possible, be effected without involving a change of residence of the staff concerned, so long as the fundamental objectives of such transfers can be achieved by transferring such staff to a different location in the same station or to a different station in the same urban agglomeration.

(c) However, the instructions regarding inter-divisional/inter-railway transfer of staff detected to be indulging in malpractices or substantiated vigilance cases shall continue to be strictly complied with.

(ii) In the second category, consisting mainly of staff working in offices such as Pay Bill Sections, Stores Offices, Accounts Offices, Fuel Sections, Medical Department, etc., who cannot normally be transferred to another place for reasons like the seniority unit being different/very small, the office being localised etc. a change in seat which will result in change in the nature of job being performed by the staff, will meet the requirements of periodical transfer.

5. In the cases of transfers of office bearers of the two recognized Unions to another place outside the existing trade Union jurisdiction, the instructions contained in Railway Board's letter No.E(L)61FE1-43 dated 31.7.1961 shall be applicable. Accordingly, the proposed periodical transfer, if it involves change in the trade Union jurisdiction may be

allowed to pend till the next election of the union office bearers subject to the maximum period of one year, provided the transfer is not necessitated earlier under circumstances indicated in para 4 (i) (c) above.

Please acknowledge receipt.

(J.S. Gusain)

Joint Director "

Rn"

Confirmed to be true

OK

Annexure-1

321

M.C. No. 2/4
No. 1950/2/24(ES)(C)

K. P. A. ...

Malignam, dated, -1-21-

15-2-95

To
All Heads of Deptt.
All DMCs.
All Distt. & Asstt. Officers of
Non-divisionalised Offices.
Genl. Secy./NFRU.
" " /NFRU.
CS/MISCTEN/H. P. ZONE/Malignam.
Guvahatti-11.

Sub: Transfer of Group 'C' & Group 'D' Railway
Servants - MASTER CIRCULAR.

A copy of MASTER CIRCULAR NO. 24 on the above subject received
under Rly. Board's letter No. E(NG)1/90/TR/46, dt. 8-4-91 is forwarded herewith for
necessary guidance please.

DA: As above.

for CHIEF PERSONNEL OFFICER, M.R.

Sub: Transfer of Group 'C' & Group 'D' Railway
servants - Master Circular.

The instructions issued by the Railway Board from time to time
the subject of transfer of non-zotted Railway servants are contained in several
letters. It has now been decided by the Railway Board, to issue a consolidated
Master Circular, as below, incorporating all the instructions issued so far on the
subject for the information and guidance of all concerned.

2. Transfer means the movement of a Railway servant from one
headquarter station in which he is employed, to another such station, either

- (i) to take up the duties of a new post; or
- (ii) in consequence of a change of his headquarter.

(Ref: Rule 103(51) - Indian Railway Establishment Code Vol. I
1905).

Comp.
24/1/95

Contd...2.

As ordered to be true.

3. Transfer may be ordered either on a temporary basis or on a permanent basis otherwise than temporary.

3.1. Wherever the transfer of a Railway servant is temporary, the name should be mentioned in the transfer order.

4. Transfers otherwise than on temporary basis are necessitated by administrative requirements or occasioned by consideration of requests received from the Railway servants. Transfer is not a punishment.

4.1. Transfer of a Railway servant, ordered as a result of his promotion should be carried out by the employee as early as possible in his own interest.

4.2. (1) Whenever any curtailment in a cadre takes place and Railway servants have to be transferred, as a general rule the juniormost employee should be transferred first.

(Ref: Board's letter No.E(NG)66/TR2/20 dt.27-7-66).

(11) If there is closure of activity on a particular station or on a Railway like closing down a shed or a particular establishment necessitating transfer of Railway servants en masse, the matter should be discussed with the Labour, to help in proper arrangements being made for dealing with the human problems that might arise in such cases.

(Ref: Board's letter No.E(NG)II/77/TR/21 dt.10-6-77).

4.3. (1) Railway servants holding sensitive posts and who come into contact with public or/and contractors/suppliers etc., should be transferred out of their existing post/station as the case may be, after every four years.

(11) Posts in the different departments which have been identified as sensitive posts for the purpose of periodical transfer are as follows:

A. Accounts Department:

1. Staff passing contractors'/Firm's bills;
2. Staff dealing with claims/refund and wharfage/damage for general public;
3. Cheque writers;
4. Cashiers;
5. Staff dealing with Pension/PT claims;
6. Staff dealing with Passes/release of unpaid wages; and
7. Staff dealing with post audit of paid vouchers and issue of acquittances.

Contd...3.

B. Civil Engineering Department.

1. IOWs/PWIs in charge of stores;
2. Bill Clerks;
3. Material checking Clerk, Store Clerks;
4. Time Keepers;
5. Works Accountants;
6. Assistant Superintendents/Superintendents in charge of Stores Accounts;
7. Staff dealing with transfers/promotion/sanction of loans and advances/issue of passes and PIOs, maintenance of leave accounts and local purchases; and
8. Draftsmen/Estimators in Divisional Drawing Office checking Contractors' bills.

C. Commercial Department.

1. Goods/Parcel/Luggage Clerks;
2. Enquiry/Reservation/Booking Clerks;
3. Ticket Collector/TTEs/Conductors;
4. Reservation/Goods Supervisors;
5. Staff dealing with Wharfage/Dormage cases;
6. Staff dealing with Goods/Parcel handling contracts and catering contracts;
7. Staff dealing with City Booking/Out-agencies;
8. Staff dealing with claims; and
9. Sectional CMA& Sectional Claims Inspectors.

D.

1. Stores Clerk;
2. Establishment Clerk/Time Keepers;
3. Assistant Superintendent/Superintendent Stores in Divisional Office;
4. Assistant Superintendent/Superintendent Works in Divisional Office;
5. Air-conditioned coach in charge/coach attendant;
6. Person in charge of Shop;
7. Mileage Clerk/Shed Notice Clerk;
8. Staff dealing with Tender/Contracts; and purchasing stores.

Contd...4.

E. Mechanical Department:

1. Store Clerk;
2. Bill Clerk/Establishment Clerk;
3. T.
4. Fuel Inspector/Fuel Issuer/Fuel Clerk in Sheds;
5. Mileage Clerk/Shop Liquor Clerk in Sheds;
6. Staff dealing with Tenders/Contracts, purchase of stores.

F. Medical Department:

1. Pharmacists looking after the drug stores;
2. Staff in charge of Kitchen Stores; and
3. Staff writing out Sick/Fit certificates.

G. Personnel Department:

1. Bill Clerk;
2. Staff dealing with settlement cases/advances; and
3. Cadre Section staff dealing with recruitment/promotion/transfer.

H. Stores Department:

1. Tender Clerk/Disposal Clerk, Purchases Section in charge (Food Clerk/Assistant Superintendent), Demand Clerk dealing with operation of radio contract.
2. Assistant Comptroller, Tender Clerk/Tender Opening Clerk/Supply Clerk/Superintendent CICA.
3. Section in charge (H.O./A.S.), Registration Clerk in charge, general registration;
4. Sales section in charge (ASKP/DSKP) and staff working under them;
5. Receipt/Issue Supervisor Incharge (Ward Keeper, ASKP/LSKP) and Group 'C' staff working under them, Recd. purchase staff;
6. Supply and Returned Store Section Incharge, (ASKP/DSKP) Ward Keeper and Group 'C' staff working under them; and
7. Staff in Purchase Section of EA/DEM or DCOS of Division.

I. P. R. Department:

1. Inspectors/Staff dealing with revenue earning, Commercial Publicity.

Contd...5.

J. Carriage Department

1. Station Superintendents
2. SWS/ASN not working as Cabin SWS/ASN
3. Station clock
4. Train clock dealing package work
5. Stock Controller/Conductor; Controller in Control Room;
6. Staff on desks dealing with m. l. bills, operating restrictions, distribution of uniforms, traffic etc. and charge sheets, wagon allotment section, dealing assistants in the office of DCSs/DCSs; and
7. Staff on desks dealing with Commodity Section and Stores Section in the CPSS office.

K. Stores

1. SWS/TCIs in charge of Stores;
2. Bill Clerk/The Cooper/Detailing Clerk;
3. Stores Clerk/Stores Issuer.

(Ref: Board's Letter No. E(HC)II/78/TR/85 dt. 27-4-79, E(HC)II/78/TR/85 dt. 7-2-80, E(HC)II/80/TR/29 dt. 22-8-80, 31-12-81, 1-2-86, 10-10-87 and E(HC)II/87/TR/32/11/88 dt. 27-5-89).

For clerical staff working on sensitive posts/posts, rotational shifting from desk to desk will meet the requirements of periodical transfer.

(Ref: Board's Letter No. E(HC)II/78/TR/85 dt. 27-4-79).

4.5. Transfers are ordered in certain cases at the instance of the Vigilance Organisation/Special Police Establishment, to facilitate proper enquiries being made etc. In order to ensure that there is no harassment and/or victimisation on this account, the DRI in respect of Headquarters controlled staff and the CIO in respect of Headquarters controlled staff may hear representations of genuine grievance, if any, before a final decision is taken to effect the transfer. This procedure will not, however, apply to the transfer of office bearer(s) of the recognised Union, who are governed by a separate set of orders.

(Ref: Board's letters No. E(HC)II/77/TR/112 dated 6-2-78 and 27-5-78).

4.6. As a general principle, the transfer of Railway servants in the transfers, whenever the transfer order is issued by the competent authority on the basis of complaints, allegations etc., is proposed to be cancelled without the Railway servant being actually carried out the transfer order or it is proposed to bring back the employee concerned to the original place of posting within one year, the competent authority should obtain the approval of the next higher authority, providing the full details of the case to the said higher authority and the reasons which justify the change in the original transfer orders. It should also be kept in view that a Railway servant undergoing penalty as a result of a vigilance case is not posted in any post involving public dealings especially in areas prone to corruption.

(Ref: Board's letter No.E(NG)I/60/TR/28 dt.21-8-68).

4.7. Ticket checking staff, detected indulging in malpractices, should be sent on inter-Divisional transfer, as a matter of policy. They may be transferred to an adjoining Division on the same Railway. They may also be transferred to a Division on another Railway adjoining their parent Railway, if they make a request to that effect. The ticket checking staff, who have been so transferred out of the existing Division on complaints of corruption and later exonerated or awarded a penalty of censure, should not be brought back to the parent Division, even if they so desire.

(Ref: Board's letter No.E(NG)I/60/TR/28 dt.19-2-68).

4.8. May, however, personally review cases of inter-Divisional transfers of Ticket Checking Staff orders on suspicion of malpractices if after proper enquiry, the staff are fully exonerated. The review will be done personally by the GME and the powers in this regard should not be delegated to any other authority. Where the transfer has been ordered at the instance of the Board, a reference to the Board is necessary.

(Ref: Board's letter No.E(NG)I/60/TR/28 dt.13-4-69).

4.8. Transfer of Railway servants from one unit of seniority to another unit of seniority on administrative grounds except on promotion/due to shrinkage of cadre/legal requirements etc., should be ordered rarely and in public interest only e.g. in cases where the conduct of an employee is under investigation or where in the interests of the Administration it is considered that the Railway servant should be kept at another station. In such cases of transfer, the Railway servants so transferred are given protection of seniority, causing hardship to the staff awaiting promotion in the unit to which they have been transferred. Therefore, such transfers should be ordered only when absolutely inescapable. Where an enquiry is pending against the Railway servant, the same should be processed expeditiously and the matter finalised as early as possible, so that the Railway servant may be transferred back to his original unit of seniority.

(Ref: Board's letter No.E(NG)I/60/SK/23 dt.25-1-69).

5.

Transfer of Railway servants for consideration of their requests within the same unit. Seniority does not entail loss of seniority to the Railway servants concerned. The requests are normally based on family convenience or educational facilities, etc. Such requests should be registered under the practice already prevalent and processed. Where there are unpopular stations from which the Railway servants have sought transfer, it should be ensured that such stations are manned to the authorized strength by prescribing a minimum period of service at such stations as a prerequisite to transfer to popular station by registration.

(Ref: Board's letter No. E(NG)II/71/TR/14 dt. 1-10-71).

5.1. Where the requests involve transfer to a different unit of seniority/another Division on the same Railway/another Railway, transfer should be ordered after clearance from all sources and acceptance by the new unit. Such requests should be considered only from the Railway servants, who are in the initial recruitment grade (a) or in the intermediate grade (a), to which there is an element of direct recruitment. Such employees (those working in intermediate grades) when transferred should be set off against the vacancies reserved for direct recruitment in the new unit. Railway servants seeking inter-Divisional, inter-Railway transfer need not possess the educational qualification (a) prescribed for direct recruitment. No transfer on personal requests should be ordered in intermediate grades where all the vacancies are filled entirely by the promotion of staff in the lower grade (a). Requests from Railway servants recruited against the Sports Quota for inter-Railway transfer, in any grade, should not be entertained.

(Ref: Board's letter No. E(NG)C5816/31 dated 30-3-65,

29-1-66, 1-4-66 and E(NG)II/71/TR/1 dated 31-3-71,

(Ref) I/ESAL/12/6/115 dated 7-6-68).

5.2. Railway servants transferred at their request from one unit of seniority to another should be assigned bottom seniority in the relevant grade on the date they join the new unit i.e. they should be placed in the seniority list below all the existing staff, both permanent and regular in the relevant grade on the date they join the new unit irrespective of their length of service and status in the former unit.

(Ref: Board's letter No. E(NG)II/71/TR/1 dt. 31-3-71).

5.3. Apart from cases of individual requests made by the Railway servants, cases of two employees of different Divisions/Railways working in the same grade, submitting joint applications or separate individual applications seeking mutual transfer may also occur. Where such requests are allowed after processing the necessary formalities, the senior of the two employees will be assigned the place of seniority vacated by the other person i.e. the junior, who will be allotted to retain his former seniority and fitted into the seniority in the new unit below all the persons having the same seniority.

(Ref: Rule 23A.R.I 1985 Edition).

Contd...D.

and a permanent railway servant. It may also be employed in intermediate orders, where there is no element of Direct recruitment.

5.5. To mitigate the hardships caused to the Railway servants seeking transfer from one unit of seniority to another, in the shape of loss of seniority, a Coll should be set up in the Headquarters Office of each Railway where requests from Railway servants for transfer from one unit of seniority to another should be registered. Requests involving inter-Railway transfer should, thereafter be advised to the other Railways concerned, which should arrange to publish the requests in the Railway Gazette for the benefit of those who may be interested in mutual transfer, to enable them to apply. This will help in locating applicants, if any, in the other Railways with matching seniority, for purposes of consideration. The requests should be registered and processed on the basis of seniority among applicants once annually and the Coll should function as a clearing house for sorting out the transfers on the basis of mutual exchange.

(Ref: Board's letter No. E(NG)11/71/TM/1 dated 31-3-71).

5.6. While placing indent with the Railway Recruitment Boards, the extent of additional candidates required on the basis of the number of Railway servants in various categories who have applied for transfer to the other Division/Railways should be taken into account and recruited so that transfer may take place without hitch in the availability of replacements.

(Ref: Board's letter No. E(NG)1/70/RM/31 dt. 11-1-71).

6. Transfer of Railway servants who are office bearers of recognised Trade Unions:

Any proposal to the transfer of an office bearer of a recognised Trade Union including its Branches should be advised to the Union concerned and the Union should be allowed to bring to the notice of the Divisional Officer and if necessary, later to the G.M. any objection that they may have to the proposed transfer. If there is no agreement at the lower levels, the decision of the G.M. will be final. Sufficient notice should be given to the Union of a proposed transfer to enable the Union to make alternative arrangements for carrying on the work or for making a representation against the proposed transfer.

(Ref: Board's letter No. E(L)60/TM/31 dated 19-2-60).

6.1. In the case of usual periodical transfer, where it is decided, after consideration of the appeal by the General Manager, not to cancel the order, the transfer may be allowed to pend till the next election of the Union office bearers, subject to a maximum period of one year. This procedure will apply only in cases of periodical transfers as distinct from transfers ordered on other special considerations in public interest.

(Ref: Board's letter No. E(L)61/IE1/43 dt. 31-7-61).

Contd..9.

6.2. (a) Where a transfer is necessary for the service of the Railway, there is no need to give notice to the Union before hand. However, the Union office bearers. It is necessary to inform the Union to which he belongs, as far as possible, and the station is concerned.

(b) Where a transfer is necessary only with statutory obligations under the Act, the Railway should follow the usual procedure, by conveniently placing the transfer.

(c) For transfers for promotion, it is enough if the Union is only informed about the proposed transfer and it is not necessary to postpone the same unless the Railway servant wishes to refuse promotion. A senior employee need not be transferred in preference to the one promoted in order to accommodate the Union office bearer at the same station. Transfer of an office bearer who has been rendered surplus at a particular station should be treated on the same lines, as given herein.

(Ref: Board's letter No. E(L)640M/113 dt. 6-10-64).

6.3. (a) If an office bearer of the Union ^{has} to be transferred because of involvement in a SPE case, the Union concerned may only be advised of the transfer. Any representation the Union mayon may be considered, but it is not necessary to keep the transfer in abeyance for the purpose.

(Ref: Board's letter No. E(L)640M/113 dt. 21-11-64).

(b) In case of transfer from one station/Department to another in the same office there is no need to give notice to the Union before hand. However, the Union may be informed about the transfer at the time of effecting such transfers. For transfers to another office located at a distance but within the same area at the same station, usual procedure need be followed.

(Ref: Board's letter No. E(L)640M/113 dt. 21-11-64).

(c) The usual procedure should be followed for transfers from one administrative jurisdiction to another at the same station i.e. say transfer from a Workshop to a Loco Shed.

6.4. The normal procedure need not be followed in a case where the transfer of an office bearer of the Union is considered necessary by the SPE/Vigilance organisation of the Railway. In such a case, papers should be seen by the G.M. personally, before the transfer is decided. The Trade Union need not be given any notice but should only be advised of the transfer. The same procedure should be followed in the cases where the Civil and Police authorities recommend immediate transfer of the Railway servant, who is an office bearer of a recognised Union, on the ground that the individual is indulging in undesirable activities, detrimental to the efficient functioning of the Railway.

(Ref: Board's letter No. E(L)640M/113 dt. 2-8-75).

Contd...10.

6.5. mentioned in para 6.4. shall be subject to strict compliance.

(Ref: Board's letter No. 101/ACI/79/022/1 dated 16-1-80).

7. Transfer from other divisions

Railway servants employed in the department shall not be eligible for employment in another except with the previous consent of the Head of the department in which they are employed. Without such prior consent, the Head of an Office or Department shall not employ anyone, either temporarily or permanently, if he knows or has reason to believe that the person belongs to another establishment under the Government. A Railway servant who takes up an employment without the consent of the Head of the Department, commits a breach of discipline and is liable to be punished. DMR concerned may, however, transfer Gr. D Railway servants (Purna, Gangman, Khakhsis, Unskilled and Semi-skilled etc.) from one Department to another or from one Division to another without consulting the Head of the Department.

(Ref: Board's letter No. 101/ACI/79/022/1 dated 19-7-66 and para 26-3.1. 1985 Edition).

8. Transfer of documents of Railway servants

When a Railway servant is transferred from one office to another, the transfer documents of the Railway servant concerned, complete in all respects, should be forwarded within ten days from the date of his relief, to the office to which he has been transferred, so as to ensure that no hardship/difficulty is experienced by him due to non-availability of the documents.

(Ref: Board's letter No. 64/ACI/21/2 dated 25-8-84).

9. General

Ordinarily, a Railway servant shall be employed throughout his service on the Railway or the Railway establishment to which he is posted on first appointment and he shall have no claim as of right, for transfer to another Railway or establishment. In the absence of service, it shall be open to the President to transfer a Railway servant to any other Department or Railway or Railway establishment including a project in or out of India. In regard to Group 'C' and Group 'D' Railway servants, powers to transfer them within India may be exercised by the General Manager or by a lower authority to whom the powers have been redelegated.

(Ref: Para 226-3.1. 1985 Edition).

7.1. A Railway servant may transfer from one post to another, provided that the Railway servant shall not be transferred substantively to off, except in a case of special appointment to officiate in a post carrying pay less than the pay of the permanent post on which he holds a lien or would hold a lien had it not been suspended. This provision will not, however, apply, where a Railway servant has to be transferred.

- (1) On account of inefficiency or misbehaviour or
- (2) on his written request.

(Ref: Para 27-R.I. - 1995 Edition).

9.2. Mid-season transfers of Railway servants should be kept down to the minimum necessary in the interest of administration.

9.3. While transferring Railway servants from one station to another, the fact of an employee's spouse having been posted at a particular station should be kept in view. Requests for transfer to a station where a Railway servant's spouse is working should also be considered sympathetically as far as possible, having regard to the administrative convenience and the merits of each case.

(Ref: Board's letter No. E(NC) 17/17/TR/19 dated 1/10/11 & E(NC) 1/16/TR/14 dated 6-1-33).

9.4. Views of the Supervisory staff should be given due consideration, wherever possible, while ordering transfers of Railway servants working under their charge.

(Ref: Board's letter No. E(NC) 1/31/IM1/246 dt. 3-12-81).

9.5. Transfers of Railway servants should be confined to their initial appointment/promotion, employees belonging to those categories in their initial appointment/promotion transfers should as far as practicable be confined to their native district or adjoining districts or places where the Railway Administration can provide the quarters subject to their eligibility.

(Ref: Board's letters No. E(SCT) 74/15/3 dt. 19-11-70, E(SCT) 74/15/53 dt. 14-1-75, 76-1 E(SCT) 15/25 dt. 6-7-73 & 85-E(SCT) 1/43 dated 2-12-85).

38-

43

10. The Master Circular, which is issued by the Railway Protection Force and Railway Protection Special Force is governed by the provisions of the R.P.F. Rules, 1957.

11. (i) While referring to this Master Circular, the original letters mentioned herein should be read for a proper appreciation. The Master Circular is only a consolidation of the existing instructions and should not be treated as a substitution to the original circulars. In case of doubt, the original circulars should be relied upon as authority;

(ii) The instructions contained in the original circulars referred to, have only prospective effect from the date of their issue, unless indicated otherwise;

(iii) If any circular on the subject, which has not been superseded has been lost sight of in the preparation of the Master Circular, the said circular which has been missed through oversight, should not be ignored, but should be treated as valid and operative.

12. The letters and other references on the basis of which, the Master Circular has been prepared are indicated in the enclosure.

Sd/-

(K. D. LALL.)

JOINT DIRECTOR, ESTABLISHMENT (N)
RAILWAY BOARD.

AB/16-9.

Certified to be true



In The Central Administrative Tribunal
GUWAHATI BENCH : GUWAHATI

ORDER SHEET
APPLICATION NO. 28/2000 OF 199


Applicant(s) *Ramain Kanta Sarma*

Respondent(s) *Union of India and Ors.*

Advocate for Applicant(s) *H. K. Sarma*

Advocate for Respondent(s)

K. L. Advoca.

Notes of the Registry	Date	Order of the Tribunal
	2.2.00	<p>Present: Hon'ble Mr G.L. Sanglyine, Administrative Member</p> <p>Learned counsel Mr B.S. Basumatary for the applicant and Mr S. Sengupta, learned Railway Counsel for the respondents.</p> <p>The application is taken up for disposal at the admission stage itself.</p> <p>The applicant is a Deputy Station Superintendent, Guwahati Railway Station. He was transferred from Guwahati to Jatinga Railway Station. In this application he has impugned the transfer order dated 28.10.1999, Annexure 1.</p> <p>Heard Mr Basumatary and Mr Sengupta. I am of the view that this original application is to be disposed</p>

Advised to be true

[Signature]

-40-

115

Date	Order of the Tribunal
2.2.00	<p>of, with direction. According to the applicant he submitted representation dated 5.11.1999. The Divisional Railway Manager (P), N.P. Railway, Lumding, communicated to the applicant by letter dated 3.12.1999 that his "retention at Guwahati has not been considered by the competent authority." and therefore, he was to carry out the transfer order immediately. The applicant further submitted representation dated 2.12.1999. This is pending disposal of the respondents. From the letter dated 3.12.1999 mentioned above it also appears that the respondents did not even consider the representation of the applicant.</p> <p>In the above circumstances, this application is disposed of with direction to the competent authority of the respondents to pass a speaking order disposing of the representation dated 5.11.1999 submitted by the applicant as well as his representation dated 2.12.1999. The applicant shall be communicated a speaking order within fortyfive days from the date of receipt of this order. Till a fresh order is issued, the operation of the impugned order dated 28.10.1999 shall be kept in abeyance.</p> <p>Liberty is given to the applicant to agitate if he is still aggrieved with the order of the respondents.</p>

Sd/MEMBER (ADM)

Certified to be true Copy
 प्रमाणित प्रतिलिपि

Section Officer (J)
 आवृत्ताना अधिकारी, नै. प्रशासनिक शाखा
 Central Administrative Tribunal
 केन्द्रीय प्रशासनिक न्यायालय
 Guwahati Bench, Guwahati-8
 गुवाहाटी बेंच, गुवाहाटी-8

Certified to be true.

