

5/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 397/2000

R.A/C.P No.

E.P/M.A No.

1. Orders Sheet. OA-397/2000 Pg. 1 to 4
2. Judgment/Order dtd. 13/12/2001 Pg. No separate order dismissal
3. Judgment & Order dtd. Received from H.C/Supreme Court
4. O.A. 397/2000 Pg. 1 to 21
5. E.P/M.P. NIL Pg. to
6. R.A/C.P. NIL Pg. to
7. W.S. Pg. 1 to 4
8. Rejoinder. NIL Pg. to
9. Reply. Pg. to
10. Any other Papers. Pg. to
11. Memo of Appearance.
12. Additional Affidavit.
13. Written Arguments.
14. Amendement 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. 397/00

Dr. R. A. Yadav

Applicant.

versus

Union of India & Ors Respondents.

For the Applicant(s) Mr. S. A. C. Sr. Adv.

Ms. B. Seal, Adv.

Mr. J. L. Sarkar,

For the Respondents. R. G. Counsel...

NOTES OF THE REGISTRAR

DATE

ORDER

This application is in form
but not in the Coordination
Petition filed vide

M.P.N. C.F.

for Rs. 50/- vide

IPO/B. No. 503445

Dated 11.11.2000

Dy. Registrar

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

On the prayer of Mr J.L. Sarkar
learned Standing counsel for Rail-
ways the case is adjourned to
28.11.2000 for admission.

Vice-Chairman

pg

All registrations are
filed at the time of
filing along with application.

28.11.00

Further two weeks time is
granted to the respondents to short
out the matter on the prayer of Mr
J.L. Sarkar, learned Railway standing
counsel.

List on 12.12.00 for order
admission.

Vice-Chairman

pg

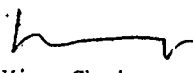
A. G. J. 28/11

13-12-00 S-10, Adjourned to 1.1.2001

M. A. J. 13/12

15.12.00

List the matter after two weeks. Meanwhile the respondents may sort out the matter. Post the matter on 3.1.2001 for further orders.


Vice-Chairman

trd

3.1.2001

Heard Mr S.Ali, learned counsel for the applicant and Mr J.L.Sarkar, learned Rail standing counsel for the respondents.

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

List on 5.2.2001 for written statement and further orders.

Meanwhile, the respondents may look into the matter afresh for accommodating the applicant at Guwahati during the pendency of the proceeding.


Vice-Chairman

pg

5.2.

Ms. S. B. Adjourned to 14.2.2001.
mlo
AB-32

14.2.2001

Four weeks time allowed to the respondents to file written statement. List for orders on 16.3.01.


Vice-Chairman


nkm

16.3.

Ms. S. B. Adjourned to 25.4.2001.
mlo
AB-32

25.4.2001

Three weeks time allowed to the respondents to file written statement. List it for orders on 18.5.01.


Vice-Chairman

nkm

Notice prepared and sent to D/Sec for bring the persons No 1 to 5 by Regd A/D. vide D/No 1 CY 3 old 9.1.2001

10/1/01

No written statement has been filed.

24
13.2.01

28.3.01

Notice duly served on receipt No. 1, 2.

per

NO R/S has been filed.

MS
24/4/2001

HA- 397/2010

(3) 7

Notes of the Registry	Date	Order of the Tribunal
No written statement has been filed. <u>By</u> 19.6.01	18.5.01	Mr S.Sarma, learned counsel appearing on behalf of the respondents prays for four weeks time to file written statement. Prayer allowed. List on 20.6.01 for written statement and further orders. <u>1 C U Sharma</u> Member
No written statement has been filed. <u>By</u> 24.7.01	pg 20.6.01	On the prayer of Mr.J.L.Sarkar learned counsel for the respondents four weeks time is allowed for filing of written statement. List on 25.7.01 for orders. <u>1 C U Sharma</u> Member
No written statement has been filed. <u>By</u> 28.8.01	lm 25.7.01	On the prayer of learned counsel for the respondents further four weeks time is granted for filing written statement. List on 29.8.2001 for order. <u>[Signature]</u> Vice-Chairman
Order dtd 26/9/01 Communicated to the Parties Commr. vide D/No 3737 & 3738 dtd 1/10/01 <u>By</u> 27/9/01	pg 29.8.01	List on 26/9/01 to enable the respondents to file written statement. <u>[Signature]</u> Vice-Chairman
No written statement has been filed. <u>By</u> 18.10.01	mb 26.9.01	The respondents has filed written statement. The applicant may file rejoinder, if any, within two weeks from today. List on 19.10.01 for order. Interim order shall continue. <u>[Signature]</u> Vice-Chairman

Notes of the Registry	Date	Order of the Tribunal
<p>24.9.2001</p> <p>Wfs has been submitted by the Respondents.</p> <p>No rejoinder has been filed.</p> <p>27.11.01</p> <p>No Rejoinder has been filed.</p> <p>12.12.01</p> <p>19.12.2001</p> <p>Copy of the order has been sent to the office for issuing the same to the L/Adn for the parties.</p>	<p>19.10.01</p> <p>28.11.01</p> <p>mb</p> <p>13.12.01</p> <p>mb</p>	<p>Written statement has been filed. Three weeks time is allowed to the applicant to file rejoinder if any. List on 28.11.01 for orders.</p> <p>Member</p> <p>Written statement has been filed. List on 13.12.01 for hearing. In the meanwhile, the applicant may file rejoinder, if any.</p> <p>Member</p> <p>Member chairman</p> <p>Sri S.A.L., learned counsel for the applicant submits that the applicant's relief is considered by the respondents and he did not pursue the application. In view of the relief allowed to the applicant, the application is treated as dismissed. A copy of the order dated 15.10.01 is placed for records.</p> <p>The application is dismissed. W. order as to costs.</p> <p>Member</p>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI - BENCH


Application Under Section 19 of

The Central Administrative Tribunals Act., 1985.

Ram Ashraya Yadav –Versus– Union of India & others.

INDEX

Sl. No.	Particulars of Documents relied upon	Page No.
1.	Application	1-9
2.	Annexure I, Transfer order vide DRM(P)/LMG's No. E/39-98/PVI(T), dated 3.1.2000	10
3.	Annexure II, Sparing order vide DOM/NGC'S No. E/111/GHY/Pt. I(A), dated 6.1.2000	11
4.	Annexure-III, Specialist Doctor's Certificate. dated 9.12.99	12
5.	Annexure-IV, Rly., Doctor's Certificate, dated 3.1.2000	13
6.	Annexure-V, Rly., Doctor's Extension of Leave Certificates, dated 3.1.2000 & dated. 3.3.2000	14
7.	Annexure VI, Applicant's representation to DRM/LMG, dated 12.1.2000	15
8.	Annexure VII, Applicant's representation to GM/N.F.Rly, dated 31.3.2000.	16
9.	Annexure VIII, Railway Doctor's Fit Certificate No. 68/65, dated 22.4.2000	17
10.	Annexure-IX, Applicant's prayer for joining duty, dated 24.4.2000.	18
11.	Ann.-X & XA., Applicant's representation dated 31.5.2000 & authorities acknowledgement/receipts, dated 19.6.2000	19-20
12.	Annexure XI, Photo copy of Pay Slips for the applicant, upto Oct.2000.	21


Signature of the Applicant

Date of Filing : 7

Registration No.

REGISTRAR

8
Filed by the
Petitioner through
Me. Baghathi Seal
Advocate
17/11/2000

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI - BENCH**

Application under Section 19 of the
Central Administrative Tribunals Act, 1985.

O.A. No.397 of 2000.

Ram Ashraya Yadav

Son of Late Shri Tilak Dhari Yadav

Resident of Railway, Q. No. 333-G, Bamunimaidan

Railway Colony, Guwahati - 21 (Assam)

Presently working as Chief Controller, Area Control, Guwahati-1 in the
Lumding Division of N.F. Railway.

----- Applicant.

Versus

The Union of India represented by the Principal Secretary, Ministry of
Railways, Railway Board, Rail Bhavan, New Delhi-1.

- ii) The General Manager, N.F. Railway, Maligaon, Guwahati - 11.
- iii) The Chief Operations Manager, N.F. Railway, Maligaon,
Guwahati - 11.
- iv) The Divisional Railway Manager, N.F. Railway, Lumding, Nagaon
(Assam).
- v) The Senior Divisional Operations Manager, N.F. Railway, Lumding,
Nagaon (Assam).

----- Respondents.

DETAILS OF APPLICATION :

1. Particulars of the order against which the application is made :

Divisional Railway Manager (Personnel)/Lumding's Office order No. E/39-8/P VI (T) dated 3-1-2000, Transferring and Posting the applicant from Guwahati to Lumding in his existing pay and scale.

2. Jurisdiction of the Tribunal :

The applicant declares that the subject matter of the case against which he wants redressal is within the jurisdiction of the Honourable Tribunal.

3. Limitation :

The applicant further declares that the application has been filed within the limitation period prescribed under Section 21 of the Central Administrative Tribunals Act, 1985.

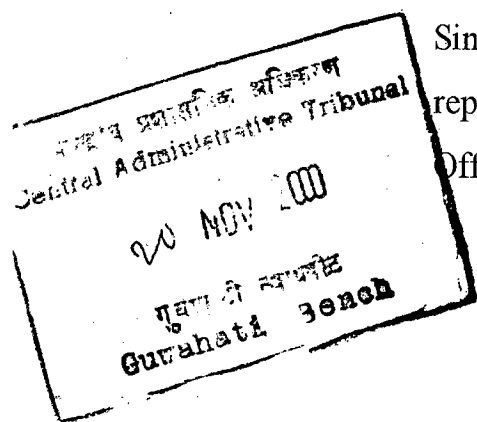
4. Facts of the Case :

- i) That your humble applicant is an Indian citizen and as such he is entitled to all the rights and privileges guaranteed under the Constitution of India. The applicant is presently working as Chief Controller at Area Control / N.F. Railway / Guwahati, under Senior Area Railway Manager / Guwahati, in the Operations Department of N.F. Railway.
- ii) That your applicant was initially appointed as Guard-C on 20-3-1968 in the Lumding Division in N.F. Railway. After promotions now he has been working as Chief Controller at Guwahati.
- iii) That normally under the Railway Establishment Rules, Railway employees are not transferred and posted from the original place to some other place except in the following cases :
 1. Transfer on promotion.
 2. Transfer in the interest of Administration.
 3. Transfer on the request of employee .

But in the case of the applicant, he has been transferred illegally with mala fide intentions as per the Senior Divisional Operations Manager/Lumding's order communicated vide the Divisional Railway Manager (Personnel)/Lumding's letter dated 3.1.2000 (impugned).

Annexure - I, is the photo copy of the Transfer/Posting letter dated 3.1.2000 communicated by the Divisional Railway Manager (Personnel)/Lumding.

- iv) That consequent upon the order at Annexure - I, the Divisional Operations Manager / New Guwahati issued sparing letter No. E/III/GHY/Pt.-I (A) dated 6.1.2000, sparing the applicant from Area Control/Guwahati with effect from afternoon of 6.1.2000. Since the applicant was then under sick list, he was directed to report to Lumding Control on declared fit from Railway Medical Officer.



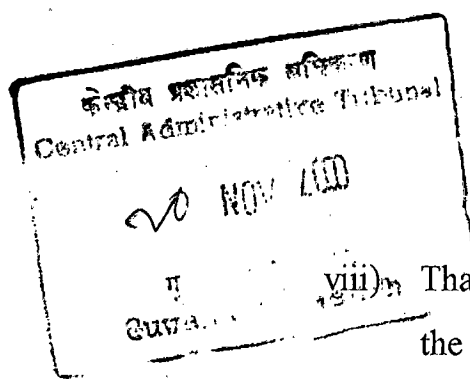
Annexure - II, is the such sparing letter dated 6.1.2000 issued by the Divisional Operations Manager/New Guwahati.

- v) That both the orders at Annexure-I & II, has been served on the applicant on 12.1.2000 by Registered Post at his New Guwahati Railway Colony residence while he was in sick-bed under Railway Doctor's treatment.
- vi) That it may be mentioned in this connection that the applicant was under railway Medical Treatment with effect from 28.11.99 for stomach troubles and thereafter on 8-12-99 he broke his left leg in a road accident and undergone orthopedical treatment at a private Nursing Home in emergency condition and was laid bed-ridden for nearly three months under Railway orthopedic Doctor's treatment and the period in continuation of his sick leave was extended by the Railway Doctor.

Annexures - III & IV, are the photo copies of the Private & Railway Doctor's Certificates.

Annexure - V, is the photo copy of the Railway Doctor's Extensions of sick-leave for the applicant.

- vii) That the applicant begs to state that against the transfer and sparing order (Ann. I & II) issued by the Railway Authorities, your applicant sent a representation before the Divisional Railway Manager, N.F. Railway, Lumding on 12.1.2000, stating his health condition and enclosing the copies of the Doctor's Certificates (Annexures III & IV).



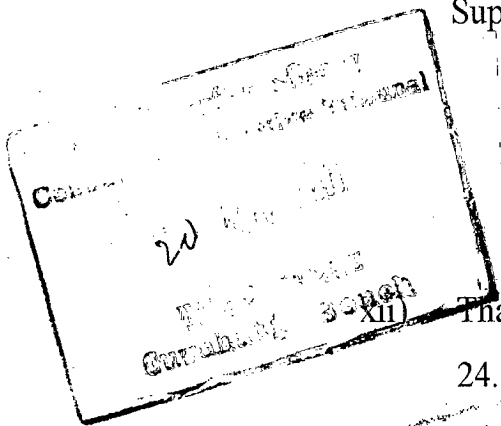
Annexure - VI, is the photo copy of the applicant's representation dated 12.1.2000 before the Divisional Railway Manager, Lumding.

- viii) That by Annexure-VI your applicant prayed for cancellation of the Applicant's transfer and sparing orders and your applicant was expecting the cancellation of the Transfer/Sparing, but the authorities did not care to consider the representation of the applicant.

- ix) That your applicant having failed to get any reply from the authorities as to whether the representation of the applicant has been considered or not and being tired of waiting for the reply of the representation at Annexure VI, the applicant submitted another representation dated 31.3.2000 addressed to the General Manager, N.F. Railway, Maligaon, Guwahati - 11, but until now no reply has been given by the General Manager, N.F. Railway.

Annexure-VII, is the photo copy of such representation dated 31.3.2000 before the General Manager, N.F. Railway.

- x) That the applicant on 3.4.2000, personally met with the Additional General Manager, N.F. Railway and on his advice also met with the Chief Operations Manager, N.F. Railway at Maligaon, Guwahati - 11 and handed over the copies of the representation dated 31.3.2000 addressed to the General Manager.
- xi) That in the mean time applicant became fit for joining his duties as per the Railway Medical Fit Certificate No. 68/65 dated 22.4.2000. The Fit Certificate covering the period of sickness from 28/29.11.99 to 23.4.2000 was issued by the Medical Superintendent, N.F. Railway, New Guwahati.



Annexure- VIII, is the photo copy of the Fit Certificate dated 22.4.2000 issued by the Railway Doctor.

That as per the Fit Certificate Annexure-VIII, your applicant on 24.4.2000, approached Senior Area Railway Manager/ Guwahati with a prayer for allowing him duty at Guwahati. But the Senior Area Railway Manager refused to accept the prayer. And as such the applicant was compelled to meet Chief Operations Manager/ N.F. Railway, Maligaon and then Chief Passenger Traffic Manager/ N.F. Railway, Maligaon on 25.4.2000 and reported to them about refusal to allow him to join duty at Guwahati by the Senior Area Railway Manager. On hearing the applicant both the officers advised the applicant to approach Senior Divisional Operations Manager, Lumding who was at Guwahati on that day. Accordingly, applicant met with Senior Divisional Operations Manager/Lumding at Guwahati Railway Station and appraised him the situation. The applicant also handed over the copy of the prayer dated 24.4.2000 alongwith the original Fit Certificate No. 68/65 (Ann. VIII) to him. After going through the same he

informed the applicant that he would pass necessary orders on the prayer and would issue the same from Lumding office.

Annexure-IX, is the photo copy of the applicant's prayer dated 24.4.2000 for joining his duty at Guwahati.

- xiii) That your applicant begs to state that having no reply of Annexure-IX from the Senior Divisional Operations Manager/Lumding, the applicant submitted another representation on 31.5.2000 addressed to the Senior Area Railway Manager/Guwahati, endorsing copies to the Senior Divisional Operations Manager/Lumding and the Divisional Personnel Officer/Lumding, with prayer for allowing him waiting duty at Guwahati till formal allotment of regular duty.

Annexure - X & XA, are the photo copies of the representation dated 31.5.2000 and its acknowledgement/receipts, from the offices of the Authorities.

- xiv) That the applicant begs to state that though he was sick and bed-ridden and also had fracture on his left leg for which he had to undergo treatment from the specialist and Railway Doctor, yet the Authorities have not paid his salary for the month of March/2000, but they have paid the salary for the month of April/2000. It is worth mentioning in this connection that the Authorities have not paid applicant's salary from the month of May/2000 till date and as a result the applicant is facing acute financial hardships.

- xv) That the applicant further begs to state that all his salaries upto April/2000, Bonus for the year 1999-2000 and Arrear Dearness Allowance. for the period July/2000 to October/2000 have been paid to the applicant here at Guwahati by the Authorities .

Annexure-XI, is the photocopy of some of the Pay Slips issued for the applicant during Feb./2000 to Oct./2000.

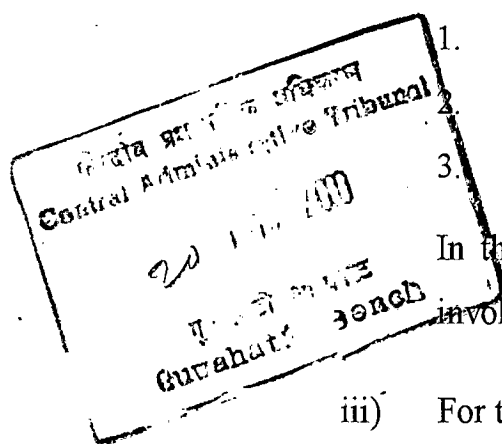
5. **Grounds for relief with legal provisions :**

- i) For that the impugned transfer order having not passed for public interest or on Administrative exigencies, the same is illegal and mala fide.
- ii) For that under the Railway Rules, a Railway Employee can not be transferred from one place to other except on the following grounds :

1. Transfer on promotion. ✓
2. Transfer in the interest of Administration. ✓
3. Transfer on the request of employee. ✓

In the transfer order of the applicant none of these grounds is involved and as such the transfer order is mala fide and illegal.

- iii) For that in normal course the applicant would have carried out the transfer order but for his illness and serious injuries to his left leg caused due to road accident, he is still not in a position to walk properly.
- iv) For that the Junior Officers at Sl. No. 3 and 4, who were posted and transferred from Guwahati to Lumding on promotion through earlier orders have been retained at Guwahati by transferring the applicant. This amounts to favouritism and nepotism.
- v) For that the officer at Sl. No. 1, who was also transferred along with the applicant has also been retained at Guwahati though he was not sick at the relevant time. This is a glaring instance of discrimination within the applicant and other transferees, caused by the Authorities.



Handwritten signature/initials.

- vi) For that the transfer order of the applicant is in violation of the Transfer Rules of the Railways.
- vii) For that at any rate the transfer order of the applicant is liable to be set aside.

6. **Details of the remedies exhausted :**

15-19 The applicant declares that he has submitted several representations against the transfer/sparing orders before the authorities/respondents but none of his representations has been considered till date.

7. **Matter not previously filed or pending with any other Court/Tribunal :**

The applicant further declares that no case is filed or pending in any Court or Tribunal regarding the present case.

Relief Sought for :

Under the facts and circumstances narrated above, the applicant prays for the following relief(s) :

- i) To set aside the transfer order of the applicant from Guwahati to Lumding.
- ii) Respondents be directed to pay to the applicant all his outstanding salaries within a period of one month.
- iii) Any other relief/relief(s) entitled to the applicant.

9. **Interim order if any prayed for :**

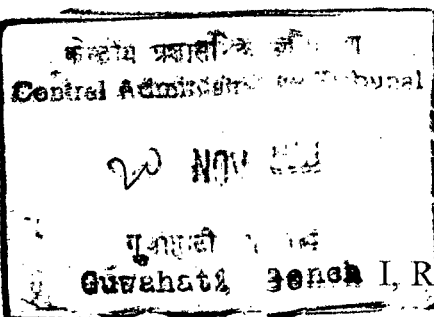
Pending disposal of the application, the applicant prays for direction to the respondents to allow him join at Guwahati in his duties in his post of Chief Controller .

10. Particulars of Postal order filed in respect of the application fee :

Postal order No. 2G 503445
 Drawn in favour of The Registrar, Central Administrative Tribunal, Guwahati - Bench
 Amount Rs. 50/-
 Date of issue : 11. 11. 2000.

11. List of Enclosures :

As per the Index



VERIFICATION.

I, Ram Ashraya Yadav son of Late Shri Tilak Dhari Yadav, aged about 52 years, resident of Railway Quarter No. 333-G, Railway Colony, Bamunimaidan, Guwahati - 21; Police Station- Chandmari; District- Kamrup, Assam, do hereby verify and declare that the statements made in paragraphs 2 to 4 and 6 to 11 are true to my knowledge and those made in paragraphs 1 and 5 of the application being matter of record are true to my information derived therefrom which I believe to be true and the rests are my humble submission before the Honourable Tribunal.

And I hereunto set my hand to this verification on this day of 11th November/2000 at Guwahati.

Signature of the applicant

NORTHEAST FRONTIER RA ILWA Y.OFFICE ORDER.DRM(F)'s Office/LMG
Dated 3-1-2000.

- 1). Shri Sova Das, CHC/A C/GHY in scale Rs. 7450-11500/- is hereby transferred and posted ~~xxx~~ at LMG as CHC on his existing pay and scale vice vacancy with immediate effect. ✓
- 2). Shri R. A. Yadav. ~~EN~~ CHC/AC/GHY in scale Rs. 7450-11500/- is hereby transferred and posted at LMG as CHC on his existing pay and scale vice vacancy with immediate effect.
- 3). Shri S.K. Dasgupta, DYC/AC/GHY in scale Rs. 6500-10500/- who has been ordered to be promoted to the post of CHC in scale Rs. 7450-11500/- and posted at LMG vide this office order No. E/39-8/PV(T) dated 26-8-98, is hereby posted at GHY Area Control as CHC in scale Rs. 7450-11500/- on promotion vice item No. 1 above with immediate effect. The said promotion order must be implemented prior to 11-1-2000 i.e. before expiry of the panel.
- 4). Shri Jyotish Ch. Sarmah, DYC/AC/GHY in scale Rs. 6500-10500/- who has been ordered to be promoted to the post of CHC in scale Rs. 7450-11500/- and posted at LMG vide this office order No. E/39-8/CHC/Selection(T) Pt. I dated 16-6-99, is hereby posted at Area Control/GHY as CHC in scale Rs. 7450-11500/- on ~~xxx~~ promotion vice item No. 2 above with immediate effect.

Transfer pass, transfer allowance and joining time are admissible in the cases of item No. 1 and 2.

This issues as per orders of Sr. DOM/LMG.

for Divisional ~~Man~~ Manager(F),
N. F. Railway/Lumding.
Dated 3-1-2000.

No. E/39-8/PV(T)

Copy forwarded for information and n.a. to:-

- 1). Staff concerned thro:- Proper Channel.
- 2). CHC/AC/GHY (3). ~~CHC~~ CHC/LMG
- 3). Sr. ARM/GHY. Senior most CHC of Area Control/GHY may kindly be utilised as In-charge of the ~~Area~~ Area Control/GHY.
- 4). DAO/LMG & Sr. DOM/LMG.
- 5). APO/GHY (7). OS/ET/Bill at Office (8) Spare copy for F/Cases.

for Divisional ~~Man~~ Manager(F),
N. F. Railway/Lumding.

Attested by
Bansari Seal.
Advocate.

OS/optg

N.F. RAILWAYOFFICE OF THE
SR.ARM/GUWAHATI
DT: 6-1-2000

NO.E/III/GHY/Pt.I(A)

To
Shri R.A.Yadav,
CHC/AC/GHY

Sub:- Sparing.

Ref:- DRM/P/LMG's Office Order No.E/39-8/P VI(T)
dtd. 3.1.2000.

In terms of DRM/P/LMG's Office order under reference you are hereby spared from Area Control/GHY on the afternoon of date (6.1.2000) to carry out your transfer order at LMG control. Since you are on sick list you have to report at LMG control on declared fit from Railway Medical Officer.


DCM/NGC AT GHY

Copy to:

1. DRM/P/LMG, SR.DCM/LMG for information.
2. APO/GHY for information. He is requested to issue transfer pass in favour of the staff concerned Ex-GHY to LMG and also to issue LPC of Shri R.A.Yadav, CHC/GHY and send the same to DRM/P/LMG immediately for taking further necessary action.
3. SR.ARM/GHY for information
4. CHC/GHY for information and necessary action.

DCM/NGC AT GHY

Attested by
Bashari Seal
Advocate

WINTROBE HOSPITAL

G.N.B. Road, Ambari, Guwahati-781001

☎ : 522860

DISCHARGE CERTIFICATE

Hosp. No... 5492.....

Ind. Reg. No... 1854.....

Dt. of Admission... 8/12/99.....

Dt. of Discharge... 9/12/99.....

Name... Mr. R. A. Yadav.....

Address... 40 Chandra Pratap Yadav, New Guwahati City, Assam.
333-6.

Age... 51 Yrs Sex... Male? Ward... DPD - 1.

Under Dr... A. Dolegapan M.S. (Ortho).

DIAGNOSIS - Fracture medial malleolus on lower end of the
fibula (comminuted), just above the lat. malleolus.INVESTIGATIONS -
↳ Enclaved. (Left)

TREATMENT - Close Manipulation done under X-ray and

CONDITION AT DISCHARGE - B.K. P.O.P. Cast applied.

↓
ADVICE - Stable.3) Shipro (500mg) Tablet (14)1 tablet at 8 AM.
1 tablet at 8 PM. x 7 days.4) Nuro Tablet (14)

1 tablet three times daily after food.

3) Chymoral Forte Tablet (20)

1 tablet 3 times daily before meals.

4) To check depth of wound 3 weeks.

5) Active toe movements.

3) Care of POP cast.

Date 9/12/99 4) Report in case of emergency.

Pain / swelling / numbness of toes

5) NO weight-bearing.

Attested by
Bachasi Seal
Advocate

Date 9/12/99

Signature of Doctor

86

५० मी. एम. / N. E. M. ८

34

द्वितीयः Discontinued

६३४

R. A. Ynday

उपनाम/नाम/विभाग/Name of employee and department

748/10

1. Independent 2 Control

नामिबुका : समाजगीत : सम्बन्ध/Relationship to on: place is dependent

प्राप्तिकां प्रमाणदिना / Occupation If any of dependent

8/2/43

1. Name of employee and designation of employee and department.

मला निवा (निवा) / Address (Hes)

5/12/05

द. वि. / Admission

4. 诊断/Diagnosis

टिप्पणी/नोट/उपचार / Note and Treatment

बाधा/Initial

A-13 as seen

6 female and medical
Males (Lt. 1st) and
was under treatment in
Nursing home in emergency
condition. He ^{is} ~~has~~ been
in the sick list since 6-28-99

द्वारा/Onlo

दिष्पणी और उपचार/Notes and Treatment

नाम/शर/Initial

Ref to On the island
for admission and
necessary actions

All documents
are enclosed
herewith.

Xy ATP

my Double

Urgent
delivered by
air

$\frac{fRL}{4112000}$

Dr. McNeill
of the opp.

12-NOV-12

2025/12/20

Clinically

use crepe paper

Adv Non Exercises & answers

wt-binding
Toys: ankle

X-ray, A-P

m (2) anke. (2)

2000

2000

Attested by
Bashari Seed
Advocate

ए. एम. डि. एल/ A MDL 45A

छुट्टी बढ़ाने की सूचना/EXTENSION INTIMATION

સં/No.....

पदनाम/Designation.....

ए एम डि एल/A MDL 45A

बुद्धि बढ़ाने की सूचना/EXTENSION INTIMATION

पदनाम/Designation: Official Stamp

Attested by
Bachari Seal.
Advocate

To,
The Divisional Railway Manager,
N. F. Railway, Lumding.

(For personal attention of Sri V. Subramanyam)

Through Proper channel (Advance Copy by post)

Sub :- Incompatible sparing order.

Ref :- DOM/NGC at GHY's letter No.E/III/GHY/Pt.I(A)
dated 6.1.2000.

Sir,

Most respectfully, it is to bring to your kind notice that the referred sparing letter dated 6.1.2000 has been served in hurriness, in following DRM(P)/LMG's office order No.E/39-8/ P VI(T) dated 3.1.2000. This sparing letter reached me by post on date (12.1.2000).

Be it mentioned that I am under Railway Medical sick since 28.11.99. At present, I am suffering from serious dislocation of leg bones at joint, out of an accident on 8.12.99 and has to undergo Orthopedical Surgery at private Nurshing Home by a specialist followed by railway orthopedical treatment as at present.

As per both the Doctors (specialists) I am not allowed to touch my feet on ground, but DOM/NGC at Guwahati, through his letter referred above has directed me to run to Lumding. In the same spirit he has also advised APO/GHY to stop payment of my salary at Guwahati and issue LPC (last pay certificate) to DRM(P)/Lumding. It puts me at a loss to believe my existence under a civilized society and disciplined administration.

All this hurriness explicitly exhibits pre-occupation for extention of undue favours to one Shri J.C. Sharma of their choice to accommodate him on promotion in my place of working, quite incompatible under the norms and discipline of the administration.

Your kind honour will certainly be pleased to appreciate that it is an enough bonafide fit case for your prudent take up to arrest such complicity and harassment to innocent employee through an unusual transfer, at the earliest and oblige.

Documents Attached :-

1. Doctor's Certificates
(Both private and Railway)
2. Sparing letter dtd. 6.1.2000
3. Transfer order dtd. 3-1-2000
Dated 12.1.2000

Yours faithfully,

Ram Ashraya Yadav
(RAM ASHRAYA YADAV) 12-1-2000.
Chief Controller,
Area Control, Guwahati.

Attested
by Barhosi Seal
Advocate

To,

Honourable, the General Manager/N.E. Railway,
Maligaon, Guwahati-11.

**Sub : Solicit Relief by removal of complicity in the management
at Area Control, Guwahati.**

Sir,

Having been aggrieved with complicity and injustices at the hands of the Divisional authorities, your humble employee being isolated and constraint, begs to approach your goodself with the following :

The humble employee is undergoing treatment at MS/NGC and Central Hospital (Orthopedix) Maligaon for serious dislocation and fracture of leg bones at joints caused by a road accident and has timely submitted the Railway Medical Sick Certificate covering the period from 28-11-99 with extensions to the CHC/Area Control/GHY. Copies enclosed herewith.

In Jan. 2000 when your humble employee was lying bed-ridden with plastering on his left leg, a transfer and sparing order for accommodation of a junior Shri J.C. Sharma in his place, was served on him by post. The humble employee preferred an appeal to DRM/LMG but to no effect. Photo copies of the transfer order, sparing order and the appeal are enclosed herewith.

The plea for transfer created from the trifling affair of so called new shift duty Roster for Area Control/GHY executed w.e.f. 27.3.99 with only abolishing the long prevailing a day's rest between Evening and Morning Shifts usurping the HOER (Rule 3505 of I.R.E.M.). Appeal preferred at the next following day not disposed of. Implied rest compatible with the Rule availed with intimation and consent, subsequently ended up in absent markism and pay-cut since 15-6-99. Ultimately the matter went before Regional Labour Commissioner (Central) where it is still subjudiced.

In course of the proceedings before Labour Commissioner, APO/I/LMG Shri N.B. Das, representing DRM/LMG, procured a report from Sr. ARM/GHY to reply on the issue of change in the roster, wherein, apart from an untrue allegation of working only 5 days in place of actual 6 days of working in a week, a recommendation for transfer was also procured and the same is instrumental in the orders of Jan. 2000. Copy of the Sr. ARM/GHY's report is enclosed herewith.

At present besides earn leave sufficiently due (151 days) and Railway Sick Certificate and extensions duly submitted, your humble employee has been subjected to Nil pay treating him transferred to LMG. Photo copies of leave account and pay slip are enclosed herewith.

From the statements and records given above your kind honour will definitely find that grave injustices have been done to your humble employee beginning from the transfer to Nil pay at a time when he is struggling for survival under Railway Medical treatment at Guwahati.

Therefore, to save utter disaster and uprooting of your humble employee with his family and for removal of the complicity, a kind prudent take up in all the matters alongwith cancellation of the transfer is solicited.

And for this act of kindness your humble employee shall ever pray.

DA = 8 (eight) copies
as mentioned
Dated 31-3-2000

Yours faithfully

Ram Ashraya Yadav
(Ram Ashraya Yadav)

31-3-2000

CHC/Area Control/Guwahati
presently under Railway Medical treatment.

*Attested by
Beyhavi Seal
Advocate*

*Arvind Mishra dmt
for 21/11*

PS

फॉर्म नं. 12/R. B.-Med/C. 1

पू. री. रेलवे/N. F. Railway

चिकित्सा विभाग/Medical Department

"स्वस्थता प्रमाण पत्र"/"FIT" CERTIFICATE

क्रमांक/Serial No. *1016*

आवेदक या हस्ताक्षर या बायें हाथ के अंगूठे का निशान

Signature of L. T. I. of Applicant

अस्पताल/Hospital

दवाखाना/Dispensary

मैं एतद्वारा प्रमाणित करता हूँ कि मैंने निम्नलिखित व्यक्ति को सावधानी पूर्वक जांच की है/I do hereby certify that I have carefully examined

नाम/Name

पदनाम/Designation

शाखा या विभाग/Branch or Department

सेवा की जगह/Station where employed

जिनका हस्ताक्षर ऊपर है और

तारीख तक इलाज में रहे डॉक्टर

की सलाह पर तारीख से तारीख तक छुट्टी पर रहे/Whose signature is given above and who was sick and under treatment from

date *29.11.99* to date *23.4.2000*

leave on medical recommendation from (date)

कार्यालय की मोहर

Office Seal

रेलवे डॉक्टर या हस्ताक्षर

Signature of Railway Dr.

तारीख/Date

*अनावश्यक पन्नों को काट दें/Strike out unnecessary pages

नोट/Note:—इस प्रमाण पत्र को किसी भी प्रकार के दावे या शिकायतों के लिए प्रमाणित नहीं किया जा सकता है। यदि कोई दावा या शिकायत है तो उसे अलग से प्रमाणित किया जाना चाहिए।
This certificate is not to be taken as evidence in any claim or complaint. If any claim or complaint is made, it should be proved separately.
contained in this certificate shall not be taken as evidence in a claim to any leave or other benefit from the Railway authorities or for the purpose of any other law or regulation.

*Attested by
Bashari Seal
Advocate*

To,

The Senior Area Railway Manager,
N.F. Railway, Guwahati.

Sub:- Prayer for allowing duty at Guwahati.

Ref:- Advice of Medical Practitioner Communicated through Fit Certificate No. 68/65 dated - 22-04-2000./

Sir,

Respectfully I beg to submit that I happened to be under prolonged Medical Treatment from 28-11-99 to 23-04-2000, a total of 148 days, mainly for compound fracture and dislocation of joints of my left leg due to road accident.

Unfortunately for me when I was lying bed-ridden with plastering on my leg, an office order communicating transfer and sparing to LMG was served upon by post on 06-01-2000, which could not be materialised in following my illness and appeals before Honourable DRM and GM, yet under active considerations before them.

It is further to submit that although I am still not fully cured enough for normal walking and functioning, I had to seek resumption for duty at my own request to overcome the financial crisis and sufferings of my family caused out of no pay charged from March, 2000.

My health condition has also been acknowledged by the Doctors in their fit certificate No. 68/65 dated 22-04-2000, original copy enclosed herewith.

At present my health situation does not permit to carryout with the office order dated 06-01-2000.

It is therefore requested that your honour may kindly permit me to continue duty at Guwahati exempting Night- Shift for few days till my health situation improves and oblige.

DA - 1(One) as mentioned.

Yours faithfully,

Dated - 24-04-2000.

Ram Ashraya Yadav 24-4-2000

(Ram Ashraya Yadav)

CHC/Area control/Guwahati.

*Attested by
Barkari Seal
Advocate*

To,

The Senior Area Railway Manager,
N.F. Railway, Guwahati

Sub : Attendance during waiting duty till an order to continue usual duty.

Sir

Respectfully I beg to submit that I had been appointed on promotion to officiate as Chief Controller at Area Control, Guwahati, duly been approved by appointing authority i.e. CFTM/ Maligaon under their office order No. E/203/122 Pt. VIII (T) dated 06-07-94.

The above expressly clears that the appointing authority for Chief Controllers are not below the rank of CFTM/DRM.

During my prolonged illness and treatment since 28-11-99 under Railway Medical Authority, an aberrant order approved by Sr. DOM/LMG appointing me at Lunding on immediate Transfer from Guwahati, was issued aiming to extend undue favours to accommodate one Shri J.C. Sharma on promotion in my place. This usupt all norms and principle of natural justice as well Railway Rules governing Transfer and Posting.

With all humbleness, I beg to submit that Sr. DOM/LMG can not be an authority to act in to the jurisdiction of CFTM or DRM. There is also no Rule or Law for extending undue favour to juniors at the cost and harrassment to the Seniors.

Such an order approved by an authority other than those competent does not hold any force to abide by it. Rather it invites unnecessary financial expenditures upon Govt. exchequer towards transfer allowance etc.

Any action on such an irregular order by any personnel has to suffer from serious illegalities as are apparent in the feckless sparing letter issued by Shri L. Saikia DOM/NGC at Guwahati on 6-1-2000, and striking off my name/attendance from the Muster Roll of March, 2000 by another Shri B.R. Sing acting Chief Controller in-charge, Area Control/GHY for arranging Nil Pay during my sickness and treatment despite leaves were due.

Be it mentioned that I was under sick list up to 23-4-2000. On 24-4-2000 I had to seek for usual duty at Guwahati to get rid of the sufferings of Nil pay, with an appeal addressed to Sr. ARM/Guwahati enclosing the Railway Doctor's Fit Certificate No. 68/65 dated 22-04-2000. I reported to CDO/Guwahati, the then acting Sr. ARM/Guwahati alongwith Shri B.R. Sing acting Chief Controller in-charge. CDO/GHY could not help me on the face of the already infectious sparing letter dated 6-1-2000 issued by Shri L. Saikia. Immediately I met Sr. DOM/LMG who was available at Guwahati on 25-04-2000 and he was kind enough to take my appeal praying for usual duty at Guwahati, with him for consideration.

In The facts and circumstances aforesaid, I was left with nothing but to perform waiting duty on Administrative ground till order reaches for continuing usual duty. The period thus spent on waiting duty since 24-04-2000 is factually spent on duty. It cannot be read otherwise as Shri B. R. Sing acting CHC in-charge is reading through absent marking for May, 2000 in following his own earlier study of March, 2000.

Solicit a prudent take-up for arresting such unwarranted absent markism by Shri B.R. Sing, which straightway infringes the Statutory provision of Payment and Wages Act.

Yours faithfully

Ram Ashraya Yadav 31-5-2000
(Ram Ashraya Yadav)
Chief Controller, Area Control, Guwahati

Dated : 31-05-2000

Copy for information to :

1. Sr. DOM/LMG
2. DPO/LMG.

*Checked by
Barbari Seal
Advocate*

*176/122
05/7/12*

cover from LA under exec/sky - sv. Dom/rmg

Dpo / 2m to

9/6/10

19-6. 2000

1. Comm from RA ynder C/te/ty to Sr Dom/Lm

~~A/63/07/Ar~~

1976

Attested
by Benhari Seal
Advocate.

Receipt of the copy of applicant's representation dated 31-5-2000 by the Office Supdt./operating of the office of Senior Divisional Operations Manager/N. E. Railway/Lumding.

Photo copies of the Pay Slips for the applicant for the relevant months after Feb./2000. charged at Guwahati

EDP CENTRE/LMG PAY - IN - SLIP FEB. 2000 AU/BU/STN/DEPT 05/505/GHY000/OPTNG 6
V/NOS: LES487C/LE220C 25 02 00 ALLOC:09 0250
R A YADAV PAY. * 9025.00 PF-SUBCRPTN. * 752.00 GROSS PAY*12724.00
D.A. * 3339.00 V.P.F. * 3700.00 DEDUCTN* *9767.00
DESIG:CHC SCA * 160.00 INCOME-TAX * 4676.00 NET PAY RS*2957.00
PFNO: 01785758-NC TRANSPORT ALL* 200.00 RENT. * 71.00 CASH PAY* *2957.00
DUTY-DAYS:29 L-DAYS: 0 LIC-RECOVERY * 383.00
GROUP INS. * 30.00
AP TAX * 155.00

SIGNATURE

EDP CENTRE/LMG PAY - IN - SLIP MAR. 2000 AU/BU/STN/DEPT 05/505/GHY000/OPTNG 6
V/NOS: LES487C/LE220C 01 04 00 ALLOC:09 0250
R A YADAV GROSS PAY*****0.00
DEDUCTN* ****0.00
NET PAY RS-NIL-
DESIG:CHC CASH PAY* -NIL-
PFNO: 01785758-NC
DUTY-DAYS: L-DAYS:31

SIGNATURE

EDP CENTRE/LMG PAY - IN - SLIP APR. 2000 AU/BU/STN/DEPT 05/505/GHY000/OPTNG 6
V/NOS: LES487C/LE220C 26 04 00 ALLOC:09 0250
R A YADAV PAY. * 9025.00 PF-SUBCRPTN. * 752.00 GROSS PAY*12997.00
D.A. * 3430.00 V.P.F. * 3700.00 DEDUCTN* *5091.00
DESIG:CHC ARR. DA * 182.00 RENT. * 71.00 NET PAY RS*7906.00
PFNO: 01785758-NC SCA * 160.00 LIC-RECOVERY * 383.00 CASH PAY* *7906.00
DUTY-DAYS:30 L-DAYS: 0 TRANSPORT ALL* 200.00 GROUP INS. * 30.00
AP TAX * 155.00

SIGNATURE

EDP CENTRE/LMG PAY - IN - SLIP MAY 2000 AU/BU/STN/DEPT 05/505/GHY000/OPTNG 6
V/NOS: LES487C/LE220C 29 05 00 ALLOC:09 0250
R A YADAV GROSS PAY*****0.00
DEDUCTN* ****0.00
NET PAY RS-NIL-
DESIG:CHC CASH PAY* -NIL-
PFNO: 01785758-NC
DUTY-DAYS: L-DAYS:31

SIGNATURE

N F RAILWAY/DATA CENTRE/LMG
UNIT 05-505 STN : GHY

PRODUCTIVITY LINKED BONUS FOR 1999-2000

AB NO: LEB487C

PAY GROSS ABS MTH PAY GROSS ABS

SRLNO. 5

NAME: R A YADAV

APR: RS. 9025

2500

OCT:RS 9025

2419

1

PLB GROSS : RS. 27419

PFNO: 01785758

MAY: RS. 9025

2500

NOV:RS 9025

2500

EXGRATIA GROSS:RS. 0

DESIGN:CHC

JUN: RS. 9025

2500

DEC:RS 9025

2500

PLB PER DAY : RS.75.12

DAYS :54

JUL: RS. 9025

2500

JAN:RS 9025

2500

.00

SPL-PAY:

AUG: RS. 9025

2500

FEB:RS 9025

2500

PLB PAYABLE :RS.*4056.00

P/PAY :

SEP: RS. 9025

2500

MAR:RS

31

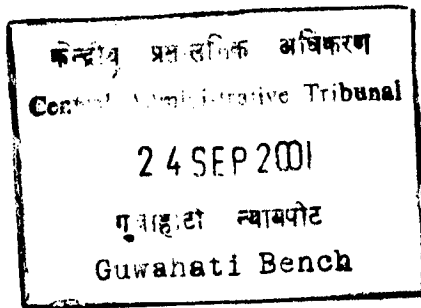
ALLOC-NO: 090250

EDP CENTRE/LMG PAY - IN - SLIP OCT. 2000 AU/BU/STN/DEPT 05/505/GHY000/OPTNG 6
V/NOS: LES487C/LE220C 27 10 00 ALLOC:09 0250
R A YADAV ARR. DA * 810.00 GROSS PAY***810.00
DEDUCTN* ****0.00
NET PAY RS**810.00
DESIG:CHC CASH PAY* **810.00
PFNO: 01785758-NC
DUTY-DAYS: L-DAYS:31

SIGNATURE

* HAPPY DEEPAVALI 2000 *

Attested
Balkrishna
Advocate



Filed by Sarma Advocate
19/9/2001
28

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

O.A No. 397/2000

Shri R.A. Yadav

versus

Union of India & Ors.

IN THE MATTER OF

Written statement on behalf of
Respondents.

The answering Respondents beg to state as follows

1. That the answering Respondents have gone through the copy of the OA as served on them and have understood the contents thereof. Save and accept the statements which are specifically admitted herein below, other statements made in the OA are categorically denied.

2. That with regard to the statements made in paragraph 4.(i) to (iii) of the OA, it is denied that the Applicant is presently working as Chief controller at Area Control, NF Railway, Guwahati as he has already been transferred to Lumding Control vide DRM(P)/LMG's office order No. E/39-8/PVI(T) dated 3.1.2000. The allegations made by the Applicant are categorically denied. The Applicant has been transferred from Guwahati to Lumding on administrative exigencies and there is no question of any malafide intention as alleged by the Applicant.

3. That with regard to the statements made in paragraph

4.iv to xi of the OA, while denying the contentions raised therein, it is reiterated that the transfer order was issued in administrative exigencies. This being the position, there is no ground to accede to the request of the Applicant.

4. That with regard to the statements made in paragraph 4.xii of the OA, it is stated that the Applicant after obtaining the medical fit certificate applied to the Senior Area Railway Manager, Guwahati with a prayer to allow him to perform his duty at Guwahati. It was not possible to accede to such a prayer as he was already transferred to Lumding by the aforesaid order dated 3.1.2000 and he was also advised to report at Lumding on being fit from the sickliest vide Senior Area Railway Manager, Guwahati's letter No. E/III/GHY/Pt-I(A) dated 6.2.2000. As regards the representations to the Chief Passenger Traffic Manager, Maligaon and Senior Divisional Railway Manager, Lumding, same could not be granted as the transfer of the Applicant was in the administrative exigencies.

5. That with regard to the statements made in paragraph 4.xiii to xv of the OA, while the contentions raised therein are denied, it is stated that the Applicant was in the sickliest with effect from 28.11.99 to 23.4.2000 as per his application dated 31.5.2000. But the fit certificate in question has not yet been received in the office for which his sick period could not be regularised. The arrear dearness allowance and payment of bonus for the year 1999-2000 etc., have got no

= 3 =

bearing with the instant case.

6. That under the facts and circumstances stated above, the Applicant is not entitled to any relief and the OA is liable to be dismissed with costs. The answering Respondents crave leave of the Hon'ble Tribunal to produce the relevant records at the time of hearing of the OA in support of their contentions raised in the WS.

Verification

VERIFICATION

I Shri A.K. NIGAM, aged about 47 years, son of Late S.P. GAURHA, resident of Maligaon, Guwahati-11, presently working as Chief Personnel Officer/Admn, N.F. Railway do hereby verify and state that the statement made in paragraphs _____ are true to my knowledge and those made in paragraph _____ being matters of records are true to my information derived therefrom, which I believe to be true and the rest of my humble submissions before this Hon'ble Tribunal. I am also authorised to competent to sign this verification on behalf of all the Respondents.

And I sign this verification on this 14th day of September 2001.


Deponent

(A)