

100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH:GUWAHATI.5

ORIGINAL APPLICATION NO. 398/00

Sri. B. K. Das Applicant.

versus

Union of India & Ors Respondents.

For the Applicant(s) Mr. S. Dutta
" S. Ghosh

For the Respondents. C.G.S.C.

NOTES OF THE REGISTRAR

DATE

ORDER

This application is in form
but not in time. Consideration
Petition is filed in this vide
M.P. No. G.R.
for Rs. 5/- filed
IPO/B No 503933
Dated.....20.11.2000

My
Dy. Registrar

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

Heard Mr S.Dutta, learned coun-
sel for the applicant and Mr A.Deb
Roy, learned Sr.C.G.S.C for the
respondents.

Issue notice to show cause as
to why this application shall not
be admitted. Returnable by six weeks
List on 3.1.2001 for show cause
and admission.

Vice-Chairman

Notice prepared and Sent to D/Sec
for issuing the Respondent No 3 to 4
by Regd/AD vide D/No 30004
3003 old 5/12/00

3.1.01 List on 1-2-01 to enable
Mr.A.Deb Roy, Sr.C.G.S.C. to obtain
instructions.

Vice-Chairman

- ① Service report are
still awaited.
- ② No. Show cause has
been filed.

1m

1-2. Circuit Bench Shillong
Adjourned to 7-2-2001.

My
A.D.R.
T-2

2-1-2001

7.2.01

(1) Service report are still awaited.

(2) Show cause has not been filed.

Zy
6.2.01

lm

Heard Mr. M. Chanda learned counsel for the applicant. Application is admitted. No return was so far filed. List on 8.3.01 to enable the respondents to file written statement.

Vice-Chairman

No. written statement has been filed.

Mr. Deb Roy
8.3

Zy
20.3.01

21.3.01

Four weeks time is allowed to the respondents for filing of written statement.

List on 16.5.2001 for written statement and further orders.

Vice-Chairman

No. written statement has been filed.

trd

16.5.2001

Four weeks time allowed to the respondents to file the written statement. List for orders on 15.6.01.

Vice-Chairman

nm

15.6.01

Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents, seeks three weeks time to file written statement.

Request is accepted. List for order is on 13-7-2001.

11.7.2001
w/s has been submitted by the respondents.

I C Usha
Member (A)

bb

13.7.01

21.8.2001
Rejoinder has been submitted by the applicant against the w/s.

Written statement has been filed.

Copy of the written statement has not been served on the applicant. Respondents may serve copy of the written statement within 4 weeks. List on 22.8.01 for hearing.

I C Usha
Member

(3)

O.A. 398/2000

3

Notes of the Registry	Date	Order of the Tribunal
<p>The case is ready for hearing as regard W.P. and rejoinder.</p> <p><u>3/8/</u> <u>18.9.01</u></p> <p><u>27.9.2001</u> Copy of the Judgment has been sent to the D.P.C. for issuing the same to the Applicant and to the Dr. C.S.P.C. OS</p>	22.8.01 bb 19.9.2001 nkm	<p>On the request made by Shri S. Dutta, learned counsel for the applicant, 3 weeks time is allowed to file additional statement. List on 19/9/01 for hearing.</p> <p><i>I.C.U.Sharma</i></p> <p>Member</p> <p>Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is dismissed. No order as to costs.</p> <p><i>H.</i> Vice-Chairman</p>

<u>Notes of the Registry</u>	<u>Date</u>	<u>Order of the Tribunal</u>

6

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A. /XXX/ NO. 398 of 2000

DATE OF DECISION 19.9.2001

Shri Benoy Kumar Das

APPLICANT(S)

Mr S. Dutta and Mr S. Ghosh

ADVOCATE FOR THE APPLICANT(S)

-- VERSUS --

The Union of India and others

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE MR JUSTICE D.N. CHOWDHURY, VICE-CHAIRMAN

THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches ?
5. Judgment delivered by Hon'ble Vice-Chairman



X

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.398 of 2000

Date of decision: This the 19th day of September 2001

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

Shri Benoy Kumar Das
MES No.233355,
Building Chowkidar,
Barak Store Office,
Sub Division, P.O.- Dekargaon,
District Sonitpur, Assam,
C/o Garrison Engineer,
Tezpur.

.....Applicant

By Adovcates Mr S. Dutta and Mr S. Ghosh.

- versus -

1. The Union of India, through
The Secretary,
Ministry of Defence,
New Delhi.
2. The Garrison Engineer,
Military Engineer Service,
Tezpur.
3. The Commandar Works Engineer,
Military Engineer Service,
Dekargaon, Tezpur.
4. Shri K.K. Rai,
Barrack Store Officer,
Office of the Garrison Engineer,
Tezpur.

.....Respondents

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

.....

O R D E R (ORAL)

CHOWDHURY, J. (V.C.)

This is an application under Section 19 of the Administrative Tribunals Act, 1985 assailing the transfer and posting order dated 20.2.1998 as well as for disbursement of the salary of the applicant since 1998. The applicant has also assailed some of the actions of the respondent No.4 in this proceeding.

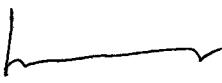
2. The applicant at the relevant time was working as a Chowkidar in the Office of the Barrack Store Officer, Tezpur. While he was working as such he was served with a notice dated 20.11.1997 for vacation of the married quarter allotted to him. The applicant has assailed the aforementioned notice questioning the legitimacy of the signatory. By order dated 20.2.1998 the applicant was transferred from Tezpur to Misa and in his place the incumbent working at Misa was posted. The applicant submitted a representation dated 28.4.1998. By Memo No.2576 dated 14.12.1999 the applicant was ordered to report for interview before the CWC, Tezpur immediately. The applicant instead submitted a representation demanding justice. In the representation the applicant again raised the question of impropriety of the notice dated 20.11.1997 as well as the order of transfer. By communications dated 20.1.1999 and 25.1.2000 the applicant was asked to submit certain documents. While things rested at that stage the present O.A. was moved assailing the action of the respondents including the action of respondent No.4 for issuing the impugned notice dated 20.11.1997.

3. The respondents submitted their written statement. In the written statement the respondents have stated that representations were received from the residents who were occupying the married accommodation about the behaviour pattern of the applicant causing impediment to the peaceful atmosphere. In the written statement it was also stated that by the communication dated 20.11.1997 the applicant was asked to vacate the quarter and the Garrison Engineer, Tezpur was requested to transfer the applicant to some other place. The aforementioned notice was signed by the Barrack Store Officer, Tezpur. By order dated 20.2.1998 the applicant was transferred to Misa, but, instead of joining at Misa and instead of vacating the quarter the applicant went on representing to various authorities for cancellation of the transfer order on the ground of harassment by the then Barrack Store Officer and fraudulently signing the vacation order. Thereafter he remained absent. The CWE, Tezpur accordingly directed the applicant to meet him vide

letter dated 10.12.1999. As regards the communication dated 20.11.1997 the respondents have stated that the said communication was signed by the then Barrack Store Officer, Shri K.K. Rail, on behalf of the Garrison Engineer. The aforesaid officer was performing duties of the Staff Officer assigned to him as Barrack Store Officer where he was signing all the latters pertaining to Sec E3/E2B for and on behalf of the Garrison Engineer pertaining to Stores and barrack matters. This was clarified vide letter dated 1.3.1999. It was specifically asserted that the signature of the Garrison Engineer was not forged. On the other hand it has been stated that while signing the aforementioned communication the officer failed to mention that it was signed on behalf of the Garrison Engineer. It was asserted that the transfer order was made for administrative reasons and to bring a peaceful atmosphere.

4. I have heard Mr S. Dutta, learned counsel for the applicant and also Mr A. Deb Roy, learned Sr. C.G.S.C. Prima facie, the action of posting out the applicant cannot be said to be illegal or arbitrary nor the action of the respondent No.4 can be said to be unauthorised. The respondent Nos.2, 3 and 4 acted strictly within their authority. No arbitrariness or illegality is discernible. The application thus stands dismissed. The applicant is ordered to resume his duty at Misa within two weeks from the date of receipt of the order and if he joins at Misa the respondents shall take necessary steps for giving him the salary by regularising his absence, if any. After joining the post at Misa the applicant may submit a representation before the authority for his transfer to Tezpur, if he still desires and the authority shall consider the same after assessing all aspects of the matter.

No order as to costs.


(D. N. CHOWDHURY)
VICE-CHAIRMAN

Central Administrative Tribunals
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

807
20 NOV 2000
Central Adminstrative Tribunals
Guwahati Bench

10

(An Application under Section 19 of the Administrative Tribunals Act, 1985).

Title of the Case : O.A. No. 398/2000

Sri Binoy Kumar Das : Applicant

-versus-

Union of India & Ors. : Respondents

I N D E X

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8	6	Representation dt. 19.8.99	18-19
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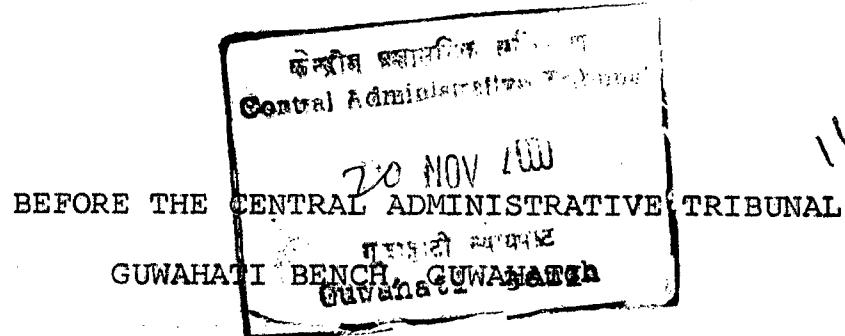
Date : 20/11/2000

Filed by

Advocate

Binoy Kumar Das

Filed by the applicant
Binoy Kumar Das
Advocate



(An Application under Section 19 of the Administrative Tribunals Act, 1985).

O.A. No. 398 /2000

BETWEEN

Sri Benoy Kumar Das

Son of late Naren Chandra Das

MES No. 233355

Building Chowkidar

Barak Store Office,

Sub Division, P.O. Dekargaon

Dist. Sonitpur, Assam

C/o Garrison Engineer,

Tezpur

....Applicant

-versus-

1. The Union of India

Through Secretary,

Ministry of Defence,

Defence, New Delhi.

2. The Garrison Engineer,

Military Engeer Service

Tezpur

3. Commandar Works Engineer,

Military Engineer Service,

Dekargaon,

Tezpur.

Contd.....

T.C. 93

4. Sri K.K. Rai
Barak
Barak Store Officer
Office of the Garrison Engineer,
Tezpur

.....Respondents

1. Particulars of order against which this application is made.

This application is made against the impugned order of transfer and posting issued under Part I order No. 20 dated 20.2.1998 which is communicated to the applicant vide letter No. 103/226/EIBS dated 2.3.1998 whereby the applicant is sought to be transferred and posted from Barak Store office Texpur to B/S(DET) Misa in the Nagaon District and also against the order issued under letter bearing No. 105/236/EEBS dated 12.5.98, 1190/P/448/EIC(2) dated 20.6.98 and letter bearing No. 131543/2/332/Engrs/EIC(2) dated 25.1.2000 issued by the Chief Engineer Headquarter, Eastern Command, Calcutta and praying for a direction upon the Respondents to allow the applicant to continue in service in the present place of posting at Tezpur with all consequential service benefits including monetary benefit.

2. Jurisdiction of the Tribunal

~~This application is made against the jurisdiction of this Tribunal.~~ The applicant declares that the subject matter of the application is within the jurisdiction of this Hon'ble Tribunal.

3. Limitation

The applicant declares that the application is within the period of limitation under Section 21 of the Administrative Tribunals, A.C., 1985.

Balmoj K. S. Das

4. Facts of the Case

4.1 That your applicant is a citizen of India as such he is entitled to all the rights and privileges as guaranteed under the Constitution of India.

4.2 That the applicant is working as care of vacant Building (for short COB) as Chowkidar in the office of Barak Store Officer, Tezpur, Assam. While working as such the applicant received a notice for vacation of married quarter which was duly allotted to the applicant vide letter bearing No. 2576/874/E2B/ dt 20-11-97. the said notice for vacating the quarter although issued by the Garrison Engineer, Tezpur under his letter No. 2576/874/E2B dated 20.11.97, however on enquiry the applicant came to know that the aforesaid vacation notice in fact ^{not} issued by the Garrison Engineer, Tezpur but on ^{Barack} Shri K.K. Rai, Barak Store Officer, Tezpur fraudulently and forging the signature of Garrison Engineer, Tezpur issued the notice to the applicant for vacating the quarter No. E/28/4 in 155 B.H. Area within a fixed time limit.

A copy of the vacation notice dated 20.11.97 is annexed as Annexure-1.

4.3 That your applicant invariably after receipt of the fraudulent and illegal notice dated 20.11.1997 wrote a letter to the Garrison Engineer, Tezpur putting the reference of the quarter vacating notice dated 20.11.97 and requested the Garrison Engineer, Tezpur to make necessary investigation on the ground that the said notice was not signed by the Garrison Engineer but signed by

Binoy KR DAS

केन्द्रीय प्रशासनिक अदायक
Central Administrative Tribunal
20 NOV 2000
मुख्य दिवान
Guwahati Bench

somebody else. The said request of enquiry is made by
the applicant dated 28.1.98 but the Garrison Engineer
remained silent to the same without taking any action
being influenced by the Respondent No.4 Shri K.K.Rai.

A copy of the request letter dated 20.12.1998 28.1.98
is annexed hereto and marked as Annexure-2.

4.3 (a) That your applicant begs to state that so far the applicant came to know that the Barak Store Officer Shri K.K.Rai even did not put up the application dated 20.1.1998 submitted by the present applicant as required under the rule but managed the same influencing the then Garrison Engineer Major V.S. Venugopal keeping him dark and also with ^{the} ^{and} _{view of} intention to cover up his unlawful activities.

4.4 That most surprisingly the impugned order of transfer and posting was issued by the then Garrison Engineer, Tezpur at the instance of the respondent No.4 whereby the applicant is sought to be transferred from the office of the B.S.O., Tezpur to Misa under Nagaon district which was communicated to the applicant vide letter No. 103/226/EIGS dated 2.3.1998.

Copy of the order of transfer and posting dated 20.2.98 and 2.3.98 are annexed as Annexures-3 and 4 respectively.

4.5 That your applicant thereafter submitted his representation dated 28.4.1998 praying inter alia to suspend/postpone the impugned order of transfer and posting on the ground that the wife of the applicant

Binay K S A B

was in the advanced stage of pregnancy at the relevant point of time. However, officiating Garrison Engineer, vide his letter bearing No. 105/236/EIBS dated 12.5.98 rejected the prayer of the applicant. However, the applicant in the compelling circumstances again approached the C.W.E., Tezpur by way of submitting a representation dated 15.6.1998 for cancellation of impugned order of transfer and posting dated 20.2.1998 but the said prayer is also rejected by the C.W.E., vide his letter bearing No. 1190/13/448/EIC(2) dated 20.6.98. However the applicant again submitted another representation on 31.7.98 and also on 30.11.1998 requesting the authority to allow him to continue to work in the present place of posting but the same was also rejected vide Garrison Engineer's letter bearing No. 103/283/EIBS dated 18.12.98 and 22.12.1998 whereby the applicant is threatened that if he fails to join to his new place of posting he will be liable to for initiation of disciplinary proceedings.

However, the applicant finding no favourable reply submitted another representation on 4.12.1999 to C.W.E, Tezpur demanding an enquiry regarding harassment of the applicant and also referred regarding fraudulent letter and on receipt of the aforesaid representation the applicant was directed to report for interview before CWE, Tezpur immediately vide telegram dated 14.12.1998 and the applicant accordingly appeared before the CWE, Tezpur on 16.12.99 and submitted his details of the manipulation/fraudulent letter regarding vacation of quarter signed by Shri K.K.Rai, BSO, Tezpur without the

Banoy RT DAS

knowledge of the Garrison Engineer, Tezpur but ^{no} progress is made regarding enquiry of his case and also regarding impugned order of transfer and posting.

Copy of the Telegram dated 14.12.1999 is annexed as Annexure-5.

4.6 That your applicant again submitted representation before the Chief Engineer, Military Engineer Service, Shillong on 19.8.99 wherein the applicant stated in detail regarding harassment of the applicant by way of transfer and also stated in detail regarding issuance of fraudulent letter for vacation of quarter issued by Shri K.K.Rai, the then B.S.O., with a copy to the Eastern Commandant, Calcutta, however the Eastern Command, Calcutta vide their letter bearing No. 131/543/2/332 dated 25.1.2000 whereby it is informed to the applicant that his application dated 19.8.1999 has been forwarded to the Chief Engineer, Military Engineer Service, Shillong Zone, Shillong for necessary action, but the office of the Chief Engineer is silent over the complaint of the applicant. It is relevant to mention here that in spite of repeated requests the present applicant was not allowed to join at his present place of posting and his salary also is not paid since February, 1998. It is stated that the impugned order of transfer and posting dated 20.2.98 has been issued as a measure of punishment without any fault of the applicant as such the impugned order of transfer and posting dated 20.2.98 is liable to be set aside and quashed.

Copy of the representation dt. 19.8.99 and reply dated 25.1.2000 are annexed as Annexures 6 & 7. respectively.

Binay K. DAS

4.7 That your applicant begs to state that Shri K. K.Rai, B.S.O. on behalf of Garrison Engineer, Tezpur with reference to applicant's representation dated 28. 12.1998 informed vide letter No. 2576/94/E2B dated 20.1.99 that "no action is taken based on Xerox copy" but the applicant did not handover the original copy to Respondent No.4 on the apprehension that if the same is submitted to Shri K.K. Rai, BSO the same will be tampered with by Shri K.K.Rai. However the original copy is available in the custody of the applicant and the applicant urged to produce the same before this Hon'ble Tribunal at the time of hearing of this application.

Copy of the letter dated 20.1.99 is annexed as
Annexure-8.

4.8 That your applicant begs to state that the order of transfer and posting has ^{not} been issued in public interest and the same is passed in colourable exercise of power with a mala fide intention and in collusion with the Garrison Engineer, Tezpur, therefore, the said impugned order of transfer and posting and the subsequent order rejecting the representation of the applicant by the Garrison Engineer/CWE are liable to be set aside and quashed.

~~xxxxxxxxxxxxxxxxxxxx~~

4.9 That your applicant further begs to state that he had also filed a complaint before the Assistant Labour Commissioner, Central regarding the impugned order of

transfer and posting, however finding no progress, has withdrawn the complaint vide his letter dated 13.7.2000 and preferred to file this application for redressal of his grievance.

4.10 That this application is made bonafide and for the ends of justice.

5. Grounds for relief(s) with legal provision(s) :

5.1 For that the order of transfer has been issued in respect of the applicant on extraneous consideration at the instance of respondent No.4 with a view of intention to oust the applicant just to cover the fraudulent activities of respondent No.4.

For that the impugned order of transfer and posting has been issued in order to avoid any sort of proceeding against the respondent No.4 for issuance of fraudulent order to vacate the quarter allotted to the applicant.

5.3 For that the impugned order of transfer and posting has been issued on the ground that the applicant has lodged complaint against the respondent No.4 regarding issuance of a fraudulent order of vacation of quarter in respect of the applicant.

5.4 For that respondent No.4 fraudulently issued the order for vacating the quarter forging the signature of Garrison Engineer, Tezpur.

Contd...

Benny Das

- 5.5 For that no action has been taken or any enquiry has conducted by the higher authorities in spite of repeated request made by the applicant regarding fraudulent order issued by the respondent No.4 forging the signature of Garrison Engineer, Tezpur, on the contrary the impugned order of transfer and posting has been issued to oust the applicant from the office of the Barak Store Office.
- 5.6 For that the impugned order of transfer has been issued by the authority with a mala fide intention to harass the applicant and also to cover up the fraudulent activities of respondent no.4.

Details of remedies exhausted :

That the applicant states that he has no other alternative and other efficacious remedy than to file this application. The applicant submitted number of requests before the authorities to make an enquiry but no action has been taken by the authority.

7. Matter not previously filed or pending with any other court, or Tribunal.

The applicant further declares that he had not filed previously any application, writ petition or suit regarding the matter in respect 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, writ petition or suit is pending before any of them.

Contd....

Benoy K. Pal

20. Reliefs sought for :

In view of the facts and circumstances stated in paragraphs 4 of this application, the applicant prays for the following reliefs :

- 8.1 That the impugned order of transfer and posting has been issued under Part I order No. 20 dated 20.2.98, communicated under letter No. 103/226/EIOS dated 2.3.1998 under letter No. 103/22/EIOS be set aside and quashed.
- 8.2 To direct the respondents to conduct an enquiry regarding the fraudulent order for vacating the quarter (married accommodation) allotted to the applicant vide impugned letter No. 2526/874/E2B dated 20.4.1997 by forging the signature of the then Garrison Engineer, Major V.S. Venugopal and for initiation of necessary proceeding against the respondent No.4 in accordance with law.
- 8.3 That the respondents be directed to allow the applicant to continue in his present place of posting i.e. at Barrack Store Office, Tezpur.
- 8.4 That the respondents be directed to release the arrear salary of the applicant since February 1998.
- 8.5 Costs of the Application.
- 8.6 Any other relief or reliefs to which the applicant is entitled to, as the Hon'ble Tribunal may deem fit and proper.
9. Interim Relief prayed for :
- The applicant does not pray for any interim relief in this application, but pray before the Hon'ble Central Administrative Tribunal for expeditious disposal of this application.

10.

This application has been filed through Advocate.

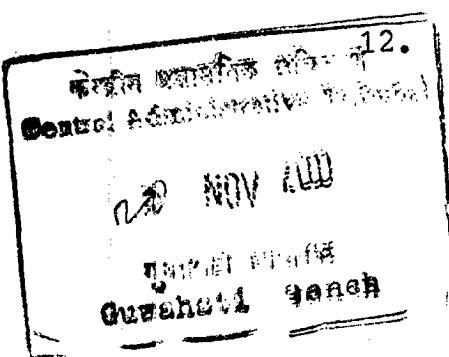
11. Particulars of the I.P.O.

i.	I.P.O. NO.	:	26 503933
ii.	Date of Issue	:	20. 11. 2000
iii.	Issued from	:	G.P.O., Guwahati.
iv.	Payable at	:	G.P.O., Guwahati.

12. List of enclosures :

As stated in the Index.

..... Verification

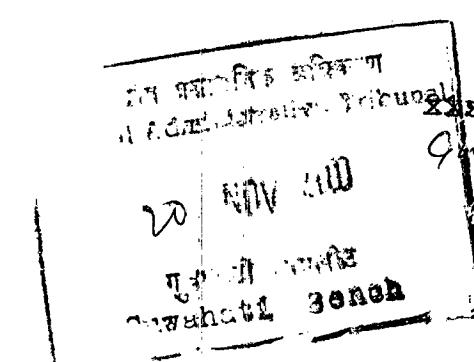


BINAY K. DAS

VERIFICATION

I, Sri Binoy Kumar Das, Son of ~~xxx~~ late Naren Chandra Das, MES No. 233355, Chowkidar, in the Barak Store Office, Tezpur, do hereby verify that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the ~~xx/xx/xx~~ 20th day of November 2000 A.D.



15 28.4.98
20.6.98
1.7.98
4.12.98

Repr. rejected

Binoy K Das

Signature

Tele : Mily 6553
2576/874/EZB

Office of the GE Tezpur

20 Nov' 97

MES-233355
Shri Binoy Kumar Das,
CVB Chowkidar
BSO Sub division
Teapur (Assam)

Vacation of Md Quarter : Notice.

1. You have been allotted Md quarter P/28/4 in 155-BH area for Handing/Taking over of the Bldgs in VIP area/Look after the vacant Bldgsat that area also. As per clause 1(c) of the allotment order now notice do hereby given to you that the said quarter be vacated immediately, but not later than 30th Nov' 97 failing which market rent as per normal rules will be charged without any further communication.

Sd/- Illegible
G.E. Tezpur

Copy to :

GE, Tezpur (E/1)
~~xxRxxkxxkxxk~~

Individual is disturbed the Residential area at night, Hence he may be posted to other place i.e. Misé for performing duties.

BSO Tezpur

-for information & further action please.

Binoy KR PAS

From : MES 233355
Shri Binoy Kumar Das,
CVB Chowkidar
BSC Sub division
Tezpur (Assam) Dt. 28.12.98

To GE Tezpur

(Through Proper Channel)

ILLEGAL SIGNATURE/FRAUDULENT LETTER.

Sir,

Refer to E2B letter No. 2576/874/E2B dt. 20 Nov 97 (Photo copy attached).

2. I have recd your letter under reference, which appears that you have not signed it, someone else has signed it, which is illegal and fraud. So I request your kind honour to kindly investigate the matter and necessary action may be taken against the culprit who have signed the letter as a GE Tezpur.

Yours faithfully,

Sd/- 28.12.98

(Binoy Kumar Das)
233355

Copy to

CWE, Tezpur - for information please

All
Assam MEX Union
Tezpur (Army Branch)

Binoy Das

PART I ORDER

MAJOR VS. VENUGOPAL, ~~EXX~~ ENGR GARRISON ENGINEER TEZPUR

Unit : GE Tezpur
Station : Tezpur

Sl No. 20

Dated 20 Feb 98

INTERNAL POSTING : CHOV (CVB)

1. The following internal/posting is hereby ordered :-

S/No	MES No. Name & Designation	Posted From	Posted To	Remarks
1	2	3	4	5
1	MES/233355 Sri Binoy Kr. Das Chow (CVB)	BSO Tezpur	B/S (Det) Misa	
2	MES/233713 Sri K N Gayan, Chow (CVB)	B/S (det) Misa	BSO Tezpur	

2. Move should be completed forthwith.

3. Handing/Taking over and should be completed by
25 Feb '98

Sd/- xx

(V S Venugopal)
Major
Garrison Engineer

Distribution

1. BSO Tezpur - for info w.r. his letter No.103/220/
E1BS dt. 19.2.98
2. ASO Shillong
3. AAO CE Tezpur
4. B/S (Det) Misa

C.T.C.

Sd/-

(K.K.Rai)
BSO
BSO Tezpur

131109 KR RAS

Annexure-4

Tele : Mily 6574

Orrice of the BSO
BSO Sub Divn

No. 103/226/E1GS 02 Mar'98
MES/23355 : Sh KxNxDayan Binoy Kr Das
Chow (CVB)

MES/233713 : Sh K.N.Gayan
Chow (CVB)

INTERNAL POSTING : CHOW (OVB)

1. A copy of Part I order No. 20 dt. 20 Feb'98 is fwd herewith your strict compliance

Sd/-

(B.D. Das)
Supvr B/S Gde-I
Offg BSO
BSO Tezpur

Encl : (One)

Copy to : GE Tezpur - w.r. to their Part I order No. quoted above.

*Attest
Binoy Kr Das*

Binoy Kr Das

Annexure-5

IN LIEU OF TELEGRAM FORM

STATE : MILITARY
DEBIT : ARMY

To

MES/233355
SHRI BINOI KUMAR DAS, CHOWKIDAR (CVB)
C/o JAIMATI BARUAH
VILL-BHALUKDHARA, P.O. DEEKIAJULI
TELEGRAPH OFFICE : DHEKIAJULI
DIST : SONITPUR (ASSAM)

ILLEGAL SIGNATURE | FRAUDULENT LETTER AAA REFERENCE YOUR
APPLICATION FOR DEC 04 ADDRESSED TO CWE TEZPUR AAA
REPORT FOR INTERVIEW OF CWE TEZPUR IMMEDIATELY.

GARRENGER TEZPUR

NOT TO BE TELEGRAPHED :-

Sd/- G. ASHOKAN

(G. ASHOKAN)

Major

Garrison Engineer

No. 2506/Tuesday/E2B
Office of the GE Tezpur
AT : Solmara, P.O. DSkargaon
Dist. Sonitpur (Assam)

14 DEC 99

Copy by post in confirmation to :-

MES/233355 Shri Binoy Kumar Das,
Chowkidar (CVB) C/o Jatmati Baruah
Vill-Bhalukdhara, P.O. Dheekiajuli
Distt. Sonitpur (Assam)

1. Reference your application at 04 Dec 99 addressed to CWE Tezpur.

2. Please report for interview of CWE Tezpur immediately.

Copy to :

CWE Tezpur - Reference their letter No. 2501/1723/E2B dt.
10 Dec. 99

BSO Tezpur - Wrt above for information

E1 Con Sec - for information

Binoy K Das

Regd No. 8231

Dated 19.8.1999

To
The Chief Engineer,
S.E. Falls Camp
SHILLONG-11

Sub : Request for legal judgement and enquiry on the case.

Sir,

With most respect I submit :-

That I am a C.VB Chowkidar MES No. 233355 under B.S.O Sub-Division, Tezpur with 18 (Eighteen) years of my sincere and devoted service your esteemed department with no any bad records during this my service tenure. That B.S.O. Tezpur served a Notice upon me on 20th Nov. '87 vide 2576/874/E2B dated 20 Nov. 97 from the Office of the G.E. Tezpur the photostae Copy of which has been attached herewith whereby I was asked to vacate the M.D. Quarter P/2B/4 in 155 B H area not later than 30th Nov '97 Otherwise it was mentioned in the said notice that normal rate of rent would have been charged on me and the copy of said notice which is seen to have been referred to be effect transference of my service to Misa from my present place. But as a subordinate servant of MES department, Tezpur I have bonafide belief that the said notice did not bear the signature of respected G.E. Tezpur nor the B.S.O. Tezpur was authorised by the respected G.E. Tezpur to sign and serve the above said notice on behalf of the respected G.E. Teapur. The B.S.O. Tezpur without any legal authorisation whimsically and with some vested interest illegally served the said notice upon me counterfitting and forging the signature of the respected G.E. Tezpur. Hence seeking justice I submitted an application to the respected G.E. Tezpur through Regd. letter No. 1291 dated 28.12.98 and also one application or the same fact was also sent by Regd. A/D letter No. 1318 dated 31.12.98 to the respected C.W.D. Tezpur seeking justice in that matter but no reply was sent from the respected G.E. and C.W.E. Tezpur. But letter No. 2576/934/E2B dated 20.1.99 was sent to me where it was seen that the letter No. 2576/934/E2B dated 20.1.99 I sent the Regd. A/D No. 1638 & 1639 dated 1.2.99 the copy of which was also sent to the respected CWE and GE Tezpur through Regd. No. letter No. 1638 and 1639

Contd...

B.M.Y R.D.A.S

and 1639 dated 01.02.99 for necessary action. But respected CWE and G.E. Tezpur seeking justice in that matter no reply. I therefore request you to conduct an enquiry on the above subject as early as possible.

Under the circumstance I earnestly and eagerly pray you so that you do a proper and just enquiry in the presence of all of us (myself Respected C.W.E., Tezpur and B.S.O, Tezpur) and give a justice to me in the matter. And for this act of justice I ever be prayed to you. A response from your end is solicited within 15 (fifteen) days from the receipt of this letter.

Thanking you

Yours faithfully,

(SHRI BINOY KUMAR DAS)
MES 233355)

N.B. : Sir, I have attached all the copies (Photostate copies) of the notices and letter cited in this appeal petition for your kind and due perusal.

Copy to : The H.Q. Chief Engineer,
Eastern Command
Fort William,
Calcutta-21

For information and necessary
action please.

The enquiry on the above subject
has been required for just
decision of my case.

Yours faithfully,

Sd/- Binoy KUMAR DAS)

(BINOY KUMAR DAS)
MES 233355
C/o Jaimati Baruah
Vill Bhalukdhara
P.O. Dhekiajuli-784110
Dist. Sonitpur (Assam)

13/2/99 R.S.A

Annexure-7

Tele : FW/2449

REGISTERED

HQ Eastern Command
Engrs Branch
Fort William
Calcutta-21

131543/2/332/Engrs/EIC(2)

25 Jan 2000

MES/233355

Shri Binoy Kumar Das
C/o Jaimati Baruah,
Vill : Bhaludhara
P.O. Dhekiajuli, 784110
Dist. Sonitpur
(Assam)

APPLICATION

1. Reference your reminder application dated 08 Nov 99
2. To enable this HQ to take further action in the matter, please forward the copies of your applications dated 19.8.99 direct to the Chief Engineer Shillong Zone with an intimation to this HQ.

Sd/- Illegible
(JR Kachari)
AO I
SO 3 (pers)
for Chief Engineer

Copy to :-

Chief Engineer - With reference to your letter No.70203/2
Shillong Zone 409/EIC(2) dated 09 Dec 99 for information.
Shillong

Binoy KDas

Annexure-8

Tele Mily : 6574

Garrison Engineer
Tezpur

2576/934/E2B

20 Jan 99

MES/233355

Shri Binoy Kumar Das, Chowkidar (CVB)
Qtr No. P/28/4
Chandpur Area C/o 155 BH

ILLEGAL SIGNATURES/FRAUDULENT LETTER.

1. Reference your application dated 28.12.98
2. No action can be taken based on Xerox copy.
3. Please forward the original letter No. 2576/874/E2B dated 20 Nov 97.
4. Xerox copy of our letter No. 2576/874/E2B dt. 20 Nov 97 is returned herewith.

Sd/- Illegible

Enclo : One

(K.K.RAI)

Copy to

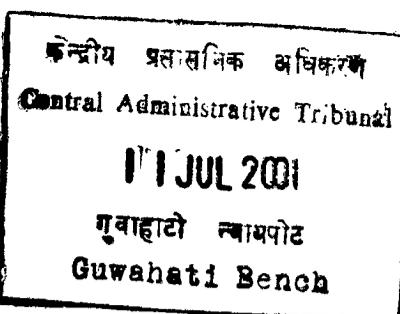
BSO

for Garrison Engineer

BSO Sub division
Tezpur

- for information wrt their letter No.
105/594/E1BS dt. 04 Jan 99.

Binoy Das



11/7/01
A. DEB ROY
Sr. C. C. S.C. 2
Q. A. T. Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :::: GUWAHATI.

O.A. NO. 398 of 2000

Shri Binoy Kumar Das

-Vs-

Union of India & Others.

-And-

In the matter of :

Written Statement submitted by
the respondents

The humble respondents beg to submit the background of the case, which may be treated as a part of written statement.

(BACK GROUND OF THE CASE)

Shri Binoy Kumar Dass, Chowkidar CVB was ~~was~~ allotted Qtr. No. P/28/4 Chandpur C/O 155 BH. He was given duty to the ~~merit accumulation~~ accomodation in Chandpur area and to guard the vacant ~~was~~ accomodation at Chandpur and when they fall vacant.

He was in habit of remaining absent from duty without prior information. He was advised to desist from such acts and to perform his duties properly.

During Nov'97 a representation was received from residents of married accomodation of B.H. complaining about Shri B.K. Das bringing out-siders to his house and consuming liquor and thus vitiating the atomospher and disturbing peace during night. Assam Employees Union Tezpur also complained.

Assam Employees Union Tezpur also complained.

He was asked to vacate the quarter vide letter No. 2576/874/E2B dated 20 Nov 97 and GE Tezpur was requested to transfer him to other place i.e. Misa as he is disturbing the area during the night. The above referred letter has been signed by the BSO.

Shri Binoy Kumar Dass questioned authenticity of letter No. 2576/874/E2B dated 20 Nov '97 calling it that the signature of GE has been fraudulantly done by then BSO.

Shri B.K. Dass was posted to Misa vide part I Order Serial No. 20 dated 20 Feb '98. (103/220/E1Bs dt. 19.2.98).

Shri B.K. Dass instead of joining his duties at Misa has not vacated the accomodation so far and has kept on representing to various authorities for cancellation of posting on ground of harrasment by then BSO and fraudulently signing the vacation order. He has been living in the said accomodation occassionaly and some times at his home (address as per telegram bearing No. 2576/Tuesday/E2BS dated 14 Dec '99 village Bhalukdhara, Post Dhekiajule, District Sonitpur Assam) clarified it. Since then he has remained absent. ~~CWE Tezpur has also directed him to meet him vide CWE Tezpur letter No. 2501/1723/E2B dated 10 Dec '99 and GE Tezpur letter No. 2576/Tues/E2B dated 14 Dec '99.~~ ✓✓

The O.A. No. 398/2000 at CAT Guwahati is sequel to the above events as mentioned in para 1 to 7 above.

The respondents Most Respectfully beg to submit the Written Statement as follows :

1. That with regard to para 1 the respondents beg to state that it is submitted that B/S det at Misa is a part of BSO Tezpur and it is not separate entity.
2. That with regard to paras 2, 3, & 4.1 the respondents beg to offer no comments.
3. That with regard to para 4.2 the respondents beg to state that the contention is not agreed to, The letter bearing No. 2576/874/E2B dated 20 Nov '97 it was signed by then BSO Shri KK Rail on behalf of Garrison Engineer, He was performing duties of Staff Officer assigned to him as BSO where he was signing all the letters pertaining to Sec E3/E2B for on behalf of GE pertaining to Stores and barrack matters. This has been clarified vide letter No. C/101/D/BSO/245/E1C dated 01 Mar '99 . Therefore the contention of forging Signature of GE is not tenable. However it appears that while signing the letter the officer inadvertently failed to mention for Garrison Engineer .

Copy of letter dated 1.3.99 is annexed hereto and marked as Annexure - R-1.

4. That with regard to para 4.3 the respondents beg to state that the avertment made by applicant not agreed to :- The notice to vacate the house allotted him was served as the individual was looking after prestgeous VIP area and he remained absent without any prior information to his supervisory officers. He was also habitual of consuming liquors and eveating uncomfortable and embarrahence situation. After receipt of representation/complaint from resident of BH area and MES employees Union.

He was served vacation notice. His representation have been replied vide Tezpur letter No. C/101/D/BSO/245/EIC dated 01 Mar '99

5. That with regard to para 4.4 the respondents beg to state that the avertment made not agreed to :-

The individual was attached with B/S Det Misa due to administrative reasons as the individual was creating problems for his supervisory staff remaining absent and consuming liquor as is clear from the representation received as such contention that the transfer was influenced by then BSO is not proved and tantamounts to defaming the office as the note under letter No. 2576/874/E2b dated 20 Nov '97 is self explainatory.

As such inquies into said fraudulent letter.

6. That with regard to para 4.5 the respondents beg to state that in view of position explained above does not arive no comments are offered.

7. That with regard to para 4.8 the respondents beg to state that the avertment made are not agreed to, since the applicant is in habit of consuming liquor and creating ~~nuisance~~ nuisance for his neighborhood and not congenial to the atmosphere. Which also violates allotment rules of Govt. ~~merit~~ married accomodation SRO 328 of 78 para . Where in it is stipulated that an allottee is supposed to maintain good neighborshly and cordial relations with his ~~neighbours~~ neighbours. As such it is clear that the transfer order has been issued in the public interest and safeguard transquility in the neighbour.

Copy of SRO 328 of 98 is annexed hereto and marked as Annexure - R-II.

8. That with regard to para 4.9 the respondents beg to offer no comments.
9. That with regard to para 5.1 the respondents beg to state that the avertment not agreed to in view of position explained above.
10. That with regard to para 5.2 the respondents beg to state that the contention is refutted in view of position explained above.
11. That with regard to para 5.3 the respondents beg to state that the contention is agreed to.
12. That with regard to para 5.4 the respondents beg to state that the statement is refutted as the letter has been signed an behalf of GE as such question forging of GE's signature does not arise.
13. That with regard to para 5.5. the respondents beg to state that the contention is not agreed to, in view of position explained the question of inquiry does not arise, as the signature of then GE has not been forged.
14. That with regard to para 5.6 the respondents beg to state that in view of applicants own reputation as in clear from complaints/representation. The transfer order has been issued to safe a guard administrations interest and users interest. No malafide intention exists, as it is duty of administrative officer to proper decorom/descipline employee serving under them.

15. That with regard to paras 6 and 7 the respondents beg to ~~state~~~~offer~~ offer no comments.

16. That with regard to para 8 the respondents beg to state that in view of facts explained in foregoing paragraphs. The applicant is not entitled to get any relief.

✓

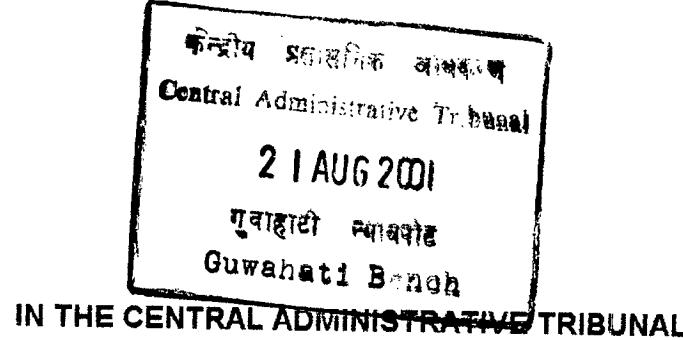
V E R I F I C A T I O N

I, ~~state~~ MAJOR G ASHOKAN, GARRISON ENGINEER TEZPUR being authorised do hereby solemnly declare that the statement made in this written statement are true to my knowledge, believe and information and I have not suppressed any material fact.

And I sign this verification on this ^{3rd} the day of March, 2001 at Guwahati.

Declarant.

(G. Ashokan)
Major
Garrison Engineer, Tezpur



GUWAHATI BENCH

In the matter of :

O.A. No. 398 of 2000

Shri Binoy Kumar Das

-vs-

Union of India & Ors.

And

In the matter of

Rejoinder submitted by the applicant in reply to
the written statement submitted by the
Respondents.

The applicant above named most humbly and respectfully begs to state as
under :

1. That he has gone through the written statements and has understood the contents thereof.
2. That in reply to the Background of the case stated in the written statement, the applicant denies the contention of the Respondents and begs to state as follows –

That the applicant is working as Chowkidar in the office of the Barrack Stores Officer, Tezpur, Assam, and has been taking care of vacant building. While working as such, the applicant received a notice for vacating married quarter which was duly allotted to the applicant, vide letter bearing No. 2576/874/E2B dated 20.11.97 by the competent authority. The said notice dated 20.11.97, though appeared to be issued under the signature of Garrison Engineer, was subsequently found to have been signed by Shri K.K.Rai, Barrack Stores Officer (BSO), fraudulently signing as Garrison Engineer, Tezpur, forging the signature of the Garrison Engineer. On revealment of the act of frauds and forgery of the

*Filed by the applicant
through advocate Sri
G. N. Chakraborty on
21-8-2001.*

signature of Garrison Engineer by Sri K.K. Rai, BSO in the letter dated 20.11.1997, the applicant vide his letter dated 20.01.98, informed the Garrison Engineer, Tezpur of the matter and requested him to investigate the matter. But it could be understood that the B.S.O., Shri K.K.Rai kept the Garrison Engineer in the dark about the applicant's letter dated 20.01.1998 just to cover up the mischief and lapse committed by him by way of issuing the fraudulent letter dated 20.11.97 and managed to influence the Garrison Engineer and got one transfer order issued by the Garrison Engineer, Tezpur transferring the applicant from the office of the B.S.O., Tezpur to Misa under Nagaon district which was communicated to ~~vide letter no. 103/226/EIBS dt. 2.3.98. The applicant~~ thereafter submitted representations to all concerned authorities time and again praying for cancellation of the impugned order of transfer and investigation/inquiry of the fraudulent order dated 20.11.97 issued by the B.S.O. in the name of Garrison Engineer asking the applicant to vacate his allotted quarter. Since all his prayers were rejected by the authorities arbitrarily and in an unjustified manner, the applicant had not other way but had to file this application before the Hon'ble Tribunal for the ends of justice.

3. That in reply to the statements made in para 1 and 3 of the written statement, the applicant categorically denies the contentions of Respondents and begs to submit that the place Misa where the applicant is sought to be transferred is in the district of Nagaon and hence it is an inter district transfer.

Further, the statement that while signing the letter the officer inadvertently failed to mention for Garrison Engineer is false and it was deliberately done by Shri K.K.Rai, BSO who signed the letter fraudulently and now taking a false plea of "inadvertence" just to cover up his mischief.

4. That in reply to the statements made in paragraphs 4 and 5 of the written statement, the applicant emphatically denies the allegations brought by the Respondents and begs to state that he had never consumed liquors or did anything unlawful as alleged. At no point of time, the Respondents found him

vp

involved in such acts nor the applicant was warned or any letter was issued to him at any such occasion. The respondents simply tried to justify the impugned order of transfer by bringing some false allegations of consumption of liquor and absentism of the applicant which they cannot substantiate by any action/documents against the applicant on any occasion prior to the impugned transfer.

5. That in reply to the statement made in paragraph 7 of the written statement, the applicant categorically denies the contentions of the Respondents. The Respondents have stated in para 5 of the written statement that the applicant has been transferred to Misa due to Administrative reasons whereas in para 7 of the said written statement it has been stated that the transfer order has been issued in the public interest. The intention of the Respondents are clear from their contradictory statements.
6. That in reply to the statements made in paragraphs 9,10,12 and 13 of the written statements, the applicant denies the contentions of the Respondents in view of the facts stated above.
7. That in reply to para 14 of the written statement, the applicant denies the contentions of the Respondents and reaffirms that the issuance of the impugned transfer order was mala fide and unjust.
8. That in reply to the statement made in paragraph 16 of the written statement, the applicant emphatically denies the contention of the Respondents and begs to submit that the applicant is fully entitled to get the reliefs as prayed for.
9. That in the facts and circumstances, the applicant humbly submits that he is entitled to the reliefs prayed for, and the O.A. deserves to be allowed with costs.

VERIFICATION

I, Sri Binoy Kumar Das, s/o Late Naren Chandra Das, Mes No. 233355, Chowkidar, in the Barrack Stores Office, Tezpur, do hereby verify and declare that the statements in paragraphs 1 to 8 made in this Miscellaneous Petition are true to my knowledge and the rests are my humble submission before the Hon'ble Tribunal and I have not suppressed any material fact.

And I sign this verification on this the 21st day of August, 2001, at Guwahati.

Binoy Kumar Das