

50/100

5

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 100/2000

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SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 100/2000

OF 199

Applicant(s) Sri Sitomur Ali.

Respondent(s) Union of India and oes.

Advocate for Applicant(s) Mr. M. Chanda.

Mrs. N. D. Goswami.

Advocate for Respondent(s) Mr. G. N. Chakraborty.

C.G.S.C.

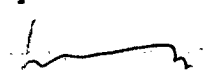

Notes of the Registry	Date	Order of the Tribunal
<p>15.3.2000</p> <p>452048</p> <p>2.2.2000</p> <p>9/14/3</p> <p>14/3/2000</p> <p>29-3-2000</p> <p>Notice has been prepared and sent to Responder Section in issuing to the Respondents No. 1-6. vide D.Nos. 942 to 947.</p>	<p>15.3.2000</p>	<p>Heard counsel for both sides. Perused the application. Application is admitted. List for further written statement and further order on 26.4.2000.</p> <p>Heard Mr. A. Deb Roy, Sr. C.G.S.C. for the respondents. Mr. Chanda learned counsel for the applicant prays for interim order. Mr. Deb Roy opposes the interim order.</p> <p>Heard Counsel for both sides. The operation of impugned order dated 9.8.99 shall be kept in abeyance until further orders.</p>

Member(A)

Notes of the Registry	Date	Order of the Tribunal
<p>Notice duly served on R.N.O.S.</p> <p>By 4.5.2000</p> <p>12-5-00</p> <p>No. written statements has been filed.</p> <p>By 14.6.2000</p> <p>3-7-2000</p> <p>No. written statements has been filed.</p> <p>By</p>	<p>26.4.00</p> <p>nkm</p> <p>15.5.00</p> <p>trd</p> <p>16.6.00</p> <p>mk</p> <p>4.7.00</p> <p>trd</p> <p>26.7-00</p> <p>11.8-00</p>	<p>Two weeks further time allowed for submitting written statement on the prayer of Mr B.C. Pathak, learned Addl. C.G.S.C. List for written statement and further orders on 15.5.00.</p> <p>Member</p> <p>Learned Sr. C.G.S.C. Sri A. Deb Roy prays time to file written statement. Prayer allowed.</p> <p>List on 16.6.2000. Interim order shall continue.</p> <p>Member(J)</p> <p>Present : Hon'ble Mr.D.C. Verma, Judicial Member.</p> <p>Two weeks further time is allowed to the respondents to file written statement on the prayer of Mr.A.Deb Roy, learned Sr.C.G.S.C. Interim order to continue.</p> <p>List on 4.7.00 for written statement and further orders.</p> <p>Member (J)</p> <p>Present : Hon'ble Sri S.Biswas, Member(A).</p> <p>On the prayer of the learned counsel for the respondents the case is adjourned to 26.7.2000 for filing of written statement.</p> <p>List on 26.7.2000 for written statement and further order.</p> <p>Member(A)</p> <p>There is no Bench. Adjourned to 11.8-00.</p> <p>There is no Bench. Adj. on 6.9.00.</p>

(3) OA 100/00

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Notes of the Registry	Date	Order of the Tribunal
	6.9.00	no Bench. To be listed on 19.9.00.
<u>8-9-2000</u> Written Statement has been filed by the respondents No. 1, 2, 3, 4. <u>BK</u> ① No. Rejoinder has been filed. ② W/S has been filed. <u>BK</u> 1.11.2000 <u>13.12.2000</u> Copy of the Judgment has been sent to the D/Sec. for issuing the same to the Applicant as well as to the Sr. C.G.S.C. H.S.	19.9.00 mk 2.11.2000 nkm	<p style="text-align: right;">1070 h.</p> <p>Present : Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.</p> <p>The case is ready for hearing. The matter shall be posted for hearing on 2.11.2000.</p> <p>In the meantime, the applicant may file rejoinder, if any.</p> <p style="text-align: right;"> Vice-Chairman</p> <p>Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is disposed of. No order as to costs.</p> <p style="text-align: right;"> Vice-Chairman</p>

Notes of the Registry	Date	Order of the Tribunal
<p> 1. The Tribunal has received a request from the Government of the United States of America for the extradition of the following persons: </p> <p> (a) [Name], born [Date], [Nationality], [Address] </p> <p> (b) [Name], born [Date], [Nationality], [Address] </p> <p> (c) [Name], born [Date], [Nationality], [Address] </p> <p> The Government of the United States of America has provided the following information regarding the persons named above: </p> <p> (a) [Name] is a [Nationality] and is currently residing in [Address]. </p> <p> (b) [Name] is a [Nationality] and is currently residing in [Address]. </p> <p> (c) [Name] is a [Nationality] and is currently residing in [Address]. </p> <p> The Government of the United States of America has also provided the following information regarding the persons named above: </p> <p> (a) [Name] is a [Nationality] and is currently residing in [Address]. </p> <p> (b) [Name] is a [Nationality] and is currently residing in [Address]. </p> <p> (c) [Name] is a [Nationality] and is currently residing in [Address]. </p>		

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CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./RXX No. 100. of 2000

DATE OF DECISION 2.11.2000.

Shri Dilnur Ali

PETITIONER(S)

Mr M. Chanda, Ms N. D. Goswami and

Mr G.N. Chakraborty

ADVOCATE FOR THE
PETITIONER(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 ?

Judgment delivered by Hon'ble Vice-Chairman



X

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.100 of 2000

Date of decision: This the 2nd day of November 2000

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

Shri Dilnur Ali,
Telephone Mechanic,
Kamalpur Exchange, Rangiya.

.....Applicant

By Advocates Mr M. Chanda, Ms N.D. Goswami and
Mr G.N. Chakrabarty.

- versus -

1. The Union of India,
Ministry of Communication,
Represented by the Secretary,
Telecom Commission, New Delhi.
2. The Chief General Manager,
Assam Telecom Circle,
Guwahati.
3. The General Manager,
Kamrup Telecom District,
Guwahati.
4. The Divisional Engineer Phones, (EXT.III)
Kamrup Telecom District,
Guwahati.
5. Shri P.C. Das,
Divisional Engineer,
External III Adabari,
Guwahati.
6. Shri Thzuddin Ahmed,
Sub Divisional Officer,
Telecom Rangiya Sub-Division,
Rangiya.

.....Respondents

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

.....

O R D E R (ORAL)

CHOWDHURY.J. (V.C.)

By this application the applicant has assailed the order of transfer No.E.3/DE(X3)/99-2K/5 dated 9.8.1999.


- L
2. The applicant is a Telephone Mechanic and at the relevant time he was working at Kamalpur Telephone Exchange under SDOT,

Rangiya. By the above order dated 9.8.1999 he was transferred from Kamalpur Telephone Exchange, Rangiya to Telephone Repair Centre, Adabari, Guwahati. The applicant earlier approached this Tribunal challenging the order of transfer. This Tribunal by order dated 17.12.1999 passed in O.A.No.376 of 1999 directed the authority to consider the representation of the applicant dated 22.9.1999. The Divisional Engineer, Phones (Ext.III), Kamrup Telecom District, Guwahati accordingly considered the representation of the applicant and by order No.Q-11/DE-III/99-2000 dated 3.2.2000 rejected the same.

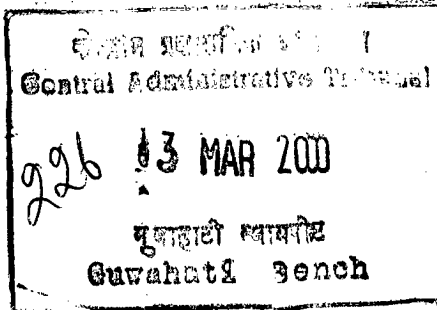
3. I have heard Mr M. Chanda, learned counsel for the applicant and Mr A. Deb Roy, learned Sr. C.G.S.C. at length. The order of transfer dated 9.8.1999, as such, cannot be faulted as illegal and arbitrary. The representation of the applicant was fairly considered and same was turned down after considering all the aspects of the matter. The considerations that were taken by the respondents in disposing of the representation are relevant considerations and prima facie, the impugned order of transfer cannot be faulted. Mr Chanda referring to the written statement of the respondents pointed out that the respondents took into consideration some of the allegations against the applicant without providing him any opportunity to counter those allegations. The assertions made in para 3 of the written statement by itself will not vitiate the order of transfer which was passed on administrative grounds as disclosed by the order dated 3.2.2000. At this stage Mr Chanda submitted that the applicant's school going children are appearing in the examination and he should not be disturbed till the examinations are over.

4. In view of the ensuing examination of the applicant's children, the applicant may be allowed to continue to serve at Kamalpur Telephone Exchange, Rangiya till the end of this month and he is ordered to join in the new place of posting thereafter.

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


(D. N. CHOWDHURY)
VICE-CHAIRMAN

nkm



In the Central Administrative Tribunal

Guwahati Bench ::: Guwahati.

Title of the Suit : O.A. NO. 100 /2000

Shri Dilnur Ali Applicant.

- Vs-

Union of India and others Respondents.

I N D E X

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4.	2	Copy of the order dated 6.4.99	12
5.	3	Copy of the order dated 9.8.99	13
6.	4	Copy of the letter dated 3.2.2000	14

Filed by

N.D. Goswami

Advocate.

Dilnur Ali

10
Filed by the Applicant
Through Advocate
N.D. Goswami

In the Central Administrative Tribunal

Guwahati Bench ::: Guwahati.

(An application under Section 19 of the Central -
Administrative Tribunal Act, 1985).

O.A. No. _____/2000

Between

1. Shri Dilnur Ali Applicant.

-Versus-

1. The Union of India
Ministry of Communication,
Representated through the Secretary,
Telecom Commission,
New Delhi.
2. The Chief General Manager,
Assam Telecom Circle,
Ulubari, Guwahati.
3. The General Manager
Kamrup Telecom District,
Ulubari, Guwahati.
4. Divisional Engineer Phones
(EXT.III)
Kamrup Telecom District
Adabari, Guwahati- 781 012.
5. Shri P.C. Das
Divisional Engineer,
External-III Adabari,
Guwahati-12.

Dilnur Ali

6. Shri Thzuddin Ahmed
Sub Divisional Officer,
Telecom Rangia Sub-Division,
Rangia. Respondents.

~~DETAILS OF PARTICULARS~~

DETAILS OF PARTICULARS.

1. Particulars against which this application is made.

This application is made against the impugned order of transfer and posting issued under letter No. E.3/DE(X3)/99-2K/5 dated 09.08.99 whereby the applicant is sought to be transferred and posted from the Kamalpur Telephone Exchange under SDOT, Rangia to Telephone Repair Centre, Adabari, Guwahati-12 under SDE(Trans) O/O the D.E.P. (EX-3) Guwahati-12 and also praying for a direction upon the respondents to allow the applicant to continue in his present place of posting at Kamalpur Telephone Exchange, Kamalpur, Bihata and also against the letter dated 03-2-2000.

2. Jurisdiction of the Tribunal.

The applicant declares that the subject matter of this application is well within the jurisdiction of this Hon'ble Tribunal.

3. Limitation.

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

D. Mur Ali

4. Facts of the Case.

4.1. The applicant is a Citizen of India as such he is entitled to all the rights and privileges and protections guaranteed under the Constitution of India.

4.2. That the applicant was initially appointed as Telegraph Messenger at Central Telegraph Office, Guwahati under the Chief Superintendent, C.T.O. Guwahati, while serving at C.T.O. Guwahati the applicant appeared for phone Mechanic Examination in the year 1995, he came out successful in the said examination. Thereafter the applicant was posted as Phone Mechanic at Baihata Charali Telephone Exchange in the month of November, 1995.

4.3. That while posted at Baihata Charali the applicant was verbally asked to work at Rangia Telephone Exchange, accordingly the applicant worked at Rangia for a period of about 6 months in terms of the verbal order of the authority. Thereafter, the applicant was again brought back to Baihata-Chariali Telephone Exchange. Again while the applicant was working at Baihata Chariali he was ordered for transfer to Kamalpur Telephone Exchange vide letter No. E-2/98-99/24 dated 28.12.98.

In pursuance to the posting order dated 28.12.98 the applicant carried out the same and reported for duty at Kamalpur Telephone Exchange.

A copy of the order dated 28.12.98 is enclosed as Annexure-1.

Dilip Kumar

4.4. That your applicant begs to state that while working at Kamalpur interms of posting order dated 26.12.98 the respondents, particularly the Sub-Divisional Officer Telecom, Rangia again issued another transfer order vide letter bearing No. E.12/00//98-99/4 dated 18.3.99 whereby the applicant was ~~sought~~ sought to be transfer and posted to Goreswar Telephone Exchange. However the said order of transfer and posting dated 18.3.99 was stayed until further order by the SDO Telecom Rangia vide his letter bearing No.E.12/0.0/99-2000/1 dated 6.4.99. The aforesaid order of transfer dated 18.3.99 was issued in respect of the applicant within a span of 2½ months. Therefore the order of transfer and posting seems to be arbitrary and unfair in as such as frequent transfer orders uprooted the family and it causes ^{irreparable} ~~imparable~~ loss to the Education of the Children as well as Welfare of the family. The son of the applicant studying in high School and the transfer order is made in the middle of session.

A copy of the order dated 6.4.99 is encloses as Annexure-2.

4.5. Most surprisingly the applicant again ordered for transfer and posting from Kamalpur Telephone Exchange to the Telephone Repair Centre Adabari, Guwahati under SDE(Trans) O/O the DFO Adabari, Guwahati-12. The applicant was highly shocked on receipt of the impugned order issued under letter No. E-3/DE(X3)/99-2K/5 dated 9.8.99 and could guess that a vested circle in the office of the SDOT, Rangia as well as

Dilmer Ali

in the office of Divisional Engineer, Adabari Telephone Exchange Kamrup Telecom District are working against the interest of the present applicant. The said impugned order dated 9.8.99 is passed only after a lapse of 7 months. Therefore it appears that the respondents No.4 and 5 issued the transfer order dated 9.8.99 in colourable exercise of power with a malafide intention. In this connection it stated that on 7.2.99 at about 7 P.M. while the applicant was on duty in the Telephone Exchange building at Kamalpur alongwith 3 other departmental staff suddenly Shri Jagat-Das lineman looked entrance door of the office and started shouting loudly with filthy language. Then the applicant requested ~~e~~ over telephone to another employee to open the door but surprisingly some people assaulted in the front of the office and then Shri Jagat Das ^{was} compelled to open the door and then only the applicant with other staff were able to come out from the office room. This matter was ~~reported~~ reported by the applicant to the SDOT on 8.2.99 in writing. It is relevant to mention here that while the applicant went to SDOT office on 9.2.99 to enquire about the action taken by the SDOT against his complain dated 8.2.99 one Shri Deben Das RSA alongwith. Some other employees who were sitting with the SDOT came out of the room of the SDOT and started assaulting the applicant tried to man handle him. In the meanwhile the SDOT Shri Tazuddin Ahmed came out and only then the situation because ~~xxxx~~ normal and Shri Das could not proceed further.

Deben Das

It is stated that all the above incidents took place due to instigation of Respondent No.5 when Sri Jagat-Das was ousted from the Telephone Exchange Building, Kamalpur where he was living unauthorisely with the illegal permission of respondent no.5 and the entire development took place after Shir Jagat Das ousted from the office Building and for that incident the SDOT got annoyed with the applicant and as a result the respondent No.5 influenced respondent no.4 submitting false statement and complain against the applicant therefore impugned order of transfer and posting dated 9.8.99 is punitive in nature and the same is liable to be set aside and quashed.

Copy of Impugned Order dated 9.8.99 is annexed as Annexure- 3.

4.6. That your applicant in the complaining circumstances as state above approached the Hon'ble Tribunal through original application no. 376/99 (Dilnur Ali Vs Union of India and others) however this Hon'ble Tribunal vide its order dated 17.12.99 disposed of the said original application with a direction to dispose of the representation dated 22.9.99 submitted by the applicant within a period of one month from the date of the receipt of the order, till then the applicant may not be distrubed.

The respondent particularly Divisional Engineer Phones (Ext-III) Kamrup Telecom District, Guwahati- 781 012 vide his letter No. Q-11/DE-III/99-2000 dated 03.02.2000, whereby it is informed to the applicant that after the incident which took place on 7.2.99, the applicant insisted several times to take

Dilnur Ali

action against Shri Jagat Das, lineman but Shri Das had never represented to take action against the applicant. It is further alleged that the applicant went SDOT Rangia office on 8.2.99 and 9.2.99 without taking permission from J.T.O. and also stated that applicant had created unhealthy situation in the office of SDOT Rangiya which shows doubtful integrity towards superior. It is also stated that keeping in view the interest of telephone subscribers of Kamalpur and to preserve the working atmosphere at Kamalpur Telephone Exchange which was deteriorating day by day and also the allegation of refusal to take the order from SDOT Rangiya which is an act of misconduct and insubordination, under such condition it was not possible to review the transfer order of the applicant.

It appears from the impugned letter dated 3.2.2000 that the transfer order has been issued following the allegation of misconduct without giving any opportunity to the applicant as such the impugned order of transfer order dated 9.8.98 is liable to be set aside and quashed as well as the impugned letter dated 3.2.2000 is also liable to be set aside and quashed.

Copy of the letter dated 3.2.2000 is enclosed as Annexure-4.

5. Grounds for relief with legal provision.

- 5.1. For that the impugned order of transfer dated 9.8.99 issued on the basis of the misconduct without giving any opportunity to defend the case of the applicant and the impugned letter dated 3.2.2000 are liable to be set aside and quashed.

Dilmer Ali

5.2. For that the impugned order of transfer dated 9.8.99 is punitive and letter dated 3.2.2000 is motivated and have been issued in colourable exercise of powers.

5.3. For that frequent order of transfer causes irreparable loss to the applicant as well as education of the children and welfare of the / family members.

6. Details of remedies exhausted.

That the applicant states that he has no other alternative and other efficacious remedy then to file this application before this Hon'ble Tribunal. Representations through proper channel were submitted by the applicant but no action has been initiated by the respondents.

7. Matters no provisiously filed or pending with any ~~is~~ other court.

The applicant further declares that he had not filed 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 of any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Reliefs Sought for :

8.1 That the impugned order of transfer and posting ~~iss~~ issued under letter No. B.3/DE(X3)/99-2K/5 dated 09-08-99 and impugned letter No. Q-11/DE-III/99-2000 dated 03-02-2000 be set aside and quashed and further

Dilmer Ali

be please to direct the respondents to allow the applicant to continue in the present place of posting at Kamalpur.

8.2. Cost of the case.

9. Interim Relief Prayed for :

During the pendency of this application the applicant prays for the following relief.

9.1. That the impugned order dated 9.8.99 be stayed till final disposal of this application.

10.

This application has been filed through advocate.

11. Particulars of the I.P.O.

I.P.O. No.

OG 457048
: ~~26492887~~

Date of Issue

: ~~23.2.21~~ 7/3/21

Issued from

: G.P.O. Guwahati.

Payable at

: G.P.O. Guwahati.

12. List of enclosures :

As stated in the Index.

Verification.....

Delimur Ali

-10-

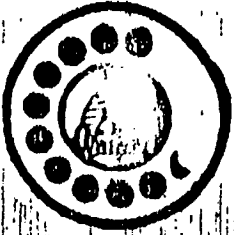
V E R I F I C A T I O N

I, Shri Dilnur Ali son of late L. Ali village Nizmadartale, Baihata Chariali Dist. Kamrup do hereby verify and declare that the statements made in paragraph 1 to 4 and 6 to 12 are true to my knowledge and I have not suppressed any material fact.

I sign this verification to day on 24th February, 2000.

Dilnur Ali

Signature.



Corr-22

दूर संचार विभाग

DEPARTMENT OF TELECOMMUNICATIONS

प्रेषक

From

:- S.O. T/Anglic

सेवा में

To

O. R. L. A. A.

क्रम संख्या

No.

2/48-99/24

दिनांक

Dated at

विषय

Subject

Transfer Order.

In corrigendum of this office letter no. 2-2/98-99/24
no. 18-12-98, the following transfer and posting orders are
issued the interest of service with immediate effect.

- 1) Sri Sarifuddin Ahmad, Phone Mechanic Crowsaw
Exchange, transferred from Crowsaw and posted
at Delhi Telephone Exchange. *He is directed to*
- 2) Mr. Wilson A. J., Phone Mechanic Delhi Telephone
Exchange, is transferred to Manipal Exchange. *He is directed to*

The officials are not entitled for transfer and
posting have order as per their own request.

Sub-Divisional Officer Telegraphs,
Anglic.

Copy to:-

- 1) The S.O. (Genl), S/O the S.O. T/Anglic-7.
- 2) The S.O. (Genl), S/O the S.O. T/Anglic/Genl.
- 3) The A.O. (Genl), S/O the S.O. T/Anglic/Genl.
- 4) J.T.O. (Genl), S/O the S.O. T/Anglic/Genl. He is directed
to report to the S.O. T/Anglic immediately.
- 5) Official and file.

D. S. D. / 11-11-98, 11-11-98
New Delhi

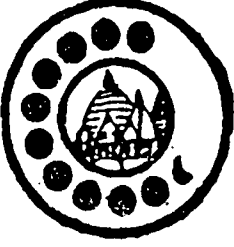
42

Amex-2
28

Corr-22

दूर संचार विभाग

DEPARTMENT OF TELECOMMUNICATIONS



प्रेषक

From :- S.D.O.T/Rny

सेवा में

To

ORDER

क्रम संख्या

No. E-12/O.O/99-2000/1

दिनांक

Dated at Rny the, 6-4-99

विषय :

Subject : ~~Stay order.~~

The Transfer order vide this office.
No. E-12/O.O/98-99/4 Dated 18-3-99 is hereby stayed
until further order.

Sub-Divisional Officer Telegraphs,
Rangia.

Copy to:-

- 1) The DE (Admn), O/o the GMT/Emurup/GH.
- 2) The DE(Ext-III), Awarari, GH.
- 3) Sr.A.O. O/o the GMT/GH.
- 4) D.K. Sarma, JTO Rangia.
- 5) Official Concerns.

(1) Dilano Ali PM.
Kamalpur

Sub-Divisional Officer Telegraphs,
Rangia.

Annexure - 3

DEPARTMENT OF TELECOMMUNICATIONS

From :

Divisional Engineer Phones (Ext.-III)
 Kamrup Telecom District
 Adabari : Guwahati- 781012

No. E3/DE(X3)/99-2K/5

Dated at GH, 09.08.99 ✓

Subject : ORDER

The following transfer and posting order is issued
 in the interest of service with immediate effect.

Shri Dilnur Ali, Telephone Mechanic working at
Kamalpur Telephone Exchange under S D O T, Rangiya is
 transferred and posted at Telephone Repair Centre, Adabari,
Guwahati-12 under SDE (Trans) O/O D.E.P. (Ex-3), GH-12.

Sd/-

Divisional Engineer Phones
 (Ext.III)
 Kamrup Telecom District,
 Guwahati- 781012.

Copy to :

1. A M T (East) Dispur.
2. D.E. (Adm) O/O GMTD/GH.
3. S.D.O.T. Rangiya. He is directed to release the official immediately.
4. S.D.E. (Transmission) Adabari.
5. Sr. A.O. (Cash) O/O GMTD/GH.
6. Official concern. Sh. Dilnur Ali. T/M.
7. O/C.

Sd/-

Divisional Engineer Phones
 (Ext. III)
 Kamrup Telecom District
 Guwahati- 781 012.

Dilnur Ali
Adm

Dilnur Ali

1/4
Annexure - 4
Regel. Post. 24

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE DIVISIONAL ENGINEER PHONES (EXT. - III)
ADABARI TELEPHONE EXCHANGE ::: GUWAHATI - 781012

No. Q-11/DE-III/99-2000/

Dated, GH. 03.2.2000 ✓

✓ To

Sri Dilnur Ali.
Telephone Mechanic,
Kamalpur Telephone Exchange, Kamalpur.

Ref. : Yr. representation dated 22.9.99 ✓

With ref. to your representation dated 22.9.99, the following points are intimated to you for your necessary action.

1. You were serving as Telegraph Messenger at C T O Guwahati upto Nov./95. You were posted at Baihata Telephone Exchange as per your choice option when you got promotion to Telecom mechanic. ✓
2. After serving at Baihata for 3 years you had requested several times to go to Kamalpur. Finally, SDOT, Rangia was pleased to transfer you to Kamalpur Telephone Exchange in Dec./98. A copy of your representation is attached for your ready reference. ✓
3. After joining at Kamalpur Telephone Exchange, in your home place, you have started creating problems for both the subscribers and the department. After the incident occurred on 7.2.99 you have insisted several times to take action against Sri Jagat Das, Line man, but Sri Das had never represented to take action against you. ✓
4. After the incident of 7.2.99, you went to SDOT, Rangia office on 8.2.99 and 9.2.99 without taking permission from your J T O. Again you had created unhealthy situation in the office of SDOT, Rangia and you had a quarrel with Sri D. Das, RSA in front of SDOT, Rangia. This shows your doubtful integrity towards your superior.
5. The transfer order No. E-3/DE(Ext.III)/99-2K/50 dated 9.8.99 was issued keeping in view the interest of telephone subscribers of Kamalpur and to preserve the working atmosphere at Kamalpur Telephone Exchange which was deteriorating day by day due to your personal quarrel with Sri Jagat Das LM. Sri Jagat Das was also transferred from Kamalpur and he has obeyed the order. But you have refused to take the order from SDOT, Rangia by hand and also by registered post. This is an act of misconduct and insubordination. Under such conditions it was not possible to review your transfer order.

Per. 3/2/2000
Divisional Engineer Phones (Ext.-III)
Kamrup Telecom District
Adabari:: Guwahati - 781012.

Copy to

The G M T, Kamrup, for information please
The A D T (Legal), o/o CGMT, Assam, for information and n/a please.

Attested
[Signature]
[Signature]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

SEP 21 GUWAHATI BENCH

O.A.No. 100 OF 2000

Filed by

(A. DEBROY)

Sr. C. G. S. C.

C. A. T., Guwahati Bench

Dilnur Ali

- VS -

Union of India & others

IN THE MATTER OF

Written statement submitted by the respondents

No. 1,2,3, and 4.

A similar case was filed by Sri Dilnur Ali, T/M, Kamalpur in the CAT Guwahati vide O.A. No.376/99, which was disposed of by the Hon'ble CAT vide Memo No.112 dt. 13.1.2000.

WRITTEN STATEMENT

1. That with regard to para 4.1 and para 4.2 the respondents beg to offer no comments.
2. That with regard to para 4.3 the respondents beg to state that No transfer order (Verbal or written) was issued to Sri Dilnur Ali, Telecom Mechanic as mentioned in the petition, but he was sent on tour as per departmental rule to learn practically about modern telecommunication as he was earlier a telegraph messenger only. He was transferred to Kamalpur telephone exchange on his own request.

A copy of his request is enclosed as

ANNEXURE -I.

3. That with regard to para 4.4 the respondents beg to state that after joining at Kamalpur telephone exchange, his native place Mr. Dilnur Ali has started malpractice with telephone subscribers, such as disconnecting telephone lines for petty reasons, does not attend telephone fault, demand money from the subscriber

for new connection, STD connections, correcting excess metering etc., and above all he has started giving STD calls to customers from telephone exchange in the evening times after his duty hours for his personal gain. So after getting heavy complaints from the subscribers SDOT, Rangia had no option but to transfer him from Kamalpur. However the transfer order no. E-12/0.0/98-99-4 dt. 18.3.99 issued by SDOT, Rangia was cancelled within 20 days for administrative reasons. So, he was not disturbed anyway. In Assam, academic session in school is Jan to December only, so, a transfer order in March is not at all in the middle of the seasons. ✓

4. With regard to para 4.5 the respondents beg to state that on 7.2.99 at 7 P.M. Mr. Dilnur Ali was not on duty, his duty hours ended at 5 P.M. That day also he came to telephone exchange with 3 outsiders (not departmental staff) to make free STD calls for them. This was his regular practice of earning money by making loss to the department. That day, when Mr. Ali was making free calls from the telephone exchange, Sri Jagat Das, Line man who is staying in departmental quarter within Exchange Campus, intercepted Mr. Ali and asked him to stop this illegal activity, but Mr. Ali with the help of 3 outsiders chased Mr. Das to beat him. Then to save himself from this raged group Mr. Das had closed the entrance door and ran to his house. Then some persons came from nearby area and negotiate the situation and open the door.

If the story planted by Mr. Ali in his petition is correct, then after the incident he should have lodged a FIR in Kamalpur Police Station with his 3 departmental colleagues as witness, as he claimed that he was on duty. But Mr. Ali did not do it, because he was involved in illegal activity in the exchange beyond his duty hours. Next day, also Mr. Ali did not report the incident to his

controlling officer, JTO, but he went straight ~~to~~ to SDOT, Rangia before Mr. Das report the incident to higher officers. In fact Mr. Ali preferred to meet SDOT, Rangia next day morning with hue and cry to cover his illegal activity in the telephone exchange.

There was no instigation from any officer/officials of this division against Mr. Ali and the incident of 7.2.99 was the result ~~the~~ of illegal activities started by him since he has been posted at Kamalpur. Mr. ~~Ali~~ J. Das Lineman, was working at Kamalpur and he was bonafide occupant of the departmental quarter as per senior most employee of the station. So Mr. J. Das was not ousted from the office building quarter till Sept/99. Hence Mr. Ali is submitting a false statement in this para to divert the attention of Hon'ble CAT from the truth.

Hence the transfer order issued vide No. E-3/DE-X3/99-2K/5 dt. 9.8.99 was based on some facts which were created by Mr. D. Ali himself and ~~Mr. D. Ali himself~~ was not done in colourable exercise of power with no malafide intention. On the other hand, on several occasions Mr. D. Ali was found with doubtful integrity towards his superior act of insubordination, misconduct and making losses to the department in terms of revenue. For example, he ~~was~~ was given a letter in the official peon book by the SDOT, Rangia in his office, which he refused to take. Then the letter was send to him by registered post which he again refused to accept and the letter was returned by the postal ~~and~~ department. ~~(copy enclosed in Annexure)~~. Again another letter was sent to him by the D.E.Ext.-III, Guwahati-12 by ordinary post, that was also refused by him and the letter came back to the sender with a remarrk by postal ~~and~~ authority as "refused" ~~(copy enclosed in Annexure)~~. This is a few example of Mr. Ali's misconduct.

5. With regard to para 4.6 the respondents beg to state that it is not

mandatory to give a warning or an opportunity to an employee for each and every offence he made in the department. There are some offences which need not be communicated to the erring official to maintain official secrecy, such as, loss of revenue to the department for misusing official records or apparatus, doubtful integrity of the employee etc Mr. Ali's offences were of serious nature which did not called for any explanation.

The letter No.Q-11/DE-III/99-2000 dated 3.2.2000 was issued as per the direction of Hon'ble CAT, GH Memo No.112 dated 13.1.2000.

6. With regard to para 5.1 the respondent beg to state that it is as detailed in para 4.6 above.
7. With regard to para 5.2 the respondents beg to state that the transfer order dated 9.8.99. was issued only in the interest of service and as per departmental norms, there is nothing colourable or motivation behind this order.
8. With regard to para 5.3 the respondents beg to state that in fact, there are only two transfer orders issued in Mr.D.Ali, for all practical purposes after Dec/95. One order was issued in Dec/98 on his own request which was implemented, and other order was issued on 9.8.99 in the interest of service, but this order has not yet been implemented. So the question of issuing frequent transfer orders does not arise at all.

VERIFICATION

I, Sri/Smt. Ganesh Ch. Sarma, Asst. Director Telecom. of

Guwahati, being authorised do hereby declare that the statement made in this written statement are true to my knowledge and information and no material facts has been suppressed.

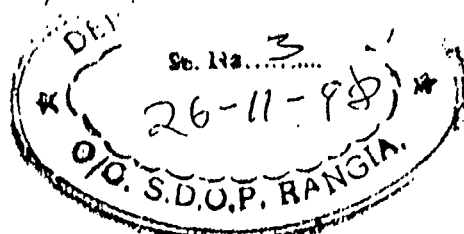
And I sign this verification on this 25th day of Aug. 2000


Declarant

Asst. Director Telecom. Deptt.
O/O the C. G. M. Telecom
Circle, Guwahati--781000

Annexure-1

REMAINDER



To,

The S.D.O.T/Rangia.

Dated at Ray, 26-11-98.

sub: Remainder for transfer.

Sir,

Respectfully I inform to you that I wish to go to at Kamalpur Telephone Exchange from Baihata Cherali Telephone Exchange. That Sir, now I am working at Baihata switching and outgong both way, Sir, Now I am facing very trouble at Baihata Exchange.

Hencefore, I cordially request you that kindly grant my request transfer from Baihata Telephone Exchange to Kamalpur Telephone Exchange.

Thanking You Sir,

Copy:-

- 1) The Divisional Secy, AIUTEE Class-VI & Grp'D'.OH.
- 2) Branch Secy, Rangia, NFTE class-VI & Grp'D'Ray.

Yours faithfully,
MD Dilmur Ali P/M.
(Md. Dilmur Ali, P.M.)
O/o the S.D.O.T/Rangia.