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GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A. No. 183/2001

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Bun 6/12/12

SECTION OFFICER (Judl.)

unittre300

FORM NO.4

(See Rule 42)

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

ORDER SHEET

Original APPLICATION NO ...183....OF 2001.

Applicant (S) S. K. Chaudhary

Respondent (S) U.O.I from

Advocate for Applicants (s) B. Banerjee, S.K. Goshe

Advocate for Respondent (s) CAH.

Notes of the Registry	Date	Order of the Tribunal
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16.5.2001

Heard Mr B. Banerjee, learned counsel for the applicant. The applicant is admitted. Call for the records. Issue notice as to why the impugned order dated 18.12.2000, Annexure 3, transferring the applicant from Silchar CPF to Aizawl Range as well as the order dated 24.4.2001 directing to release the applicant from the afternoon of 18.5.2001 and to join the new place of posting at Aizawl Range should not be suspended returnable by four weeks. List for orders on 15.6.01.

In the meantime the operation of the aforementioned orders shall remain suspended.

Vice-Chairman

~~This application is in form~~

~~but not in form of a petition~~

~~Petition~~

~~M. P.~~

~~for~~

~~18.5.2001~~

~~Dated...~~

By Registrar.

NS
16/5/2001

Notice not prepared due to non receipt of requisite copy.

12/6/01.

nk m

NS
17/5/2001

Not Requisite Copy received along with Encls. Notice prepared and sent to D/S for Encls. Respondent No 1705 by Regd AD vide D/No 2042 & 2046 dated 14/6/01

12/6/01

N

15.6.01

Mr.A.Deb Roy, learned S.C.G.S.C. appearing for the respondents requests for four weeks time for filing of written statement.

Request is accepted. List for orders is on 18-7-2001. In the meanwhile, interim order dated 16.5.2001 shall continue.

1 C U Sharma
Member (A)

bb

18.7.01

On the prayer of Mr.A.Deb Roy, Sr.C.G.S.C. 4 weeks time is allowed for filing of written statement. List on 17.8.01 for orders.

Meanwhile the interim order dated 16.5.01 shall continue till the next date.

1 C U Sharma
Member

lm

17.8.01

On the prayer of Mr.A.Deb Roy, Sr.C.G.S.C. 4 weeks time is allowed for filing of written statement. List on 14.9.01 for orders. Meanwhile interim order 16.5.2001 shall continue.

1 C U Sharma
Member

lm

W3
20/8/01

Order dtd. 15/6/07.
Communicated to
the parties Counsel vide
D/No. 2167 to 2168
dtd. 20/6/07

18/6/07

Order dtd 18/7/01 Communicated
to the parties Counsel vide
D/No. ——— dtd. ———
18/7/01

No. written statement
has been filed.

24
16.8.01

No. W/S has been filed.

24
13.9.01

Notes of the Registry	Date	Order of the Tribunal
No. written statement has been filed.	14.9.01	List on 5/10/01 to enable the respondents to file written statement.
mb		Vice-Chairman
By 4.10.01	5.10.01	Mr. B.C. Pathak, Addl. C.G.S.C. on behalf of Mr. A. Deb Roy, Sr. C.G.S.C. prays for adjournment for filing of written statement. List on 23.11.01 for orders.
		Member
lm		
15.10.2001	23.11.01	List on Written statement has been filed. Case be listed for hearing on 21.12.01. The applicant may file rejoinder if any within two weeks.
W/s submitted by the respondents.		Vice-Chairman
Written statement has been filed.	lm	
By 22.11.01	21.12.01	Prayer has been made by learned counsel for the applicant for adjournment on the ground that may they would file amended & O.A. Request is accepted. List on 30.1.2002 for hearing.
40.12.2001		Member
W/s submitted by the respondents.		
mb		
11.1.02		List on 30.1.02 alongwith M.P. No. 6 of 2002.
lm		Vice-Chairman

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Notes of the Registry	Date	Order of the Tribunal
	30.1.02	<p>List alongwith OMAF.No.6 of 2001 on 6.3.02 for hearing.</p> <p><i>[Signature]</i> Member</p>
<p>18.4.2002</p> <p>Copy of the Order has been sent to the office for issue of the same to the Applicant as well as to the Dr. C.G.S. by hand.</p> <p><i>[Signature]</i></p>	<p>lm</p> <p>6.3.2002</p> <p>bb</p>	<p>Heard counsel for the parties. Hearing concluded. Judgement delivered in open Court, kept in separate sheets.</p> <p>The application is disposed of in terms of the order. No order as to costs.</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>any 26/4</p>		

6

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 183 of 2001.

Date of Decision. 6.3.2002.....

----- Sri Swapan Kumar Choudhury ----- Petitioner(S)

----- By Mr. M. Chanda. ----- Advocate for the
Petitioner(s)

-Versus-

----- The Union of India & Others. ----- Respondent(s)

----- By Mr. A. Deb Roy, Sr. C.G.S.C. ----- Advocate for the
Respondent(s)

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.

NO

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 183 of 2001.

Date of Order : This the 6th Day of March, 2002.

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

1. Sri Swapan Kumar Choudhury
S/o Sri Nalini Mohan Choudhury
Working as Inspector
Office of the Commissioner of Central Excise
Silchar C.P.F.
Karimganj Customs Division. . . . Applicant.

By Advocate Mr.M.Chanda.

- Versus -

1. The Union of India
Through the Secretary to the
Government of India
Ministry of Finance
Department of Revenue
New Delhi.
2. The Chairman
Central Board of Excise and Customs
Government of India
Ministry of Finance
Department of Revenue
New Delhi.
3. Commissioner of Customs
North Eastern Region
Shillong.
4. Commissioner of Central Excise
North Eastern Region
Shillong.
5. Additional Commissioner (P & V)
Customs and Central Excise
Shillong. . . . Respondents.

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

O R D E R

CHOWDHURY J.(V.C.) :

By order dated 18.12.2000 Additional
Commissioner (P & V), Customs & Central Excise, Shillong

Contd..2

orders for issued/transfer, posting and adjustment in the grade of Inspectors. By the said order the applicant who was working as Inspector in Silchar CPF, Karimganj Customs Division was transferred in the same capacity to Aizawl Range, Silchar Central Excise Division. The applicant assailed the legitimacy of the said order as arbitrary and discriminatory.

2. In this application the applicant stated that he worked in different places of posting. While he was working at Shillong he made an application to the authority for posting him at Silchar to look after his old and ailing parents, who were suffering as such from different ailments. The respondents took a compassionate view and transferred the applicant in May, 1998 to Silchar under Karimganj Customs Division. By the impugned order he was sought to be transferred to Aizawl causing serious dislocation to his family. Hence this application.

3. The respondents submitted its written statement. The Assistant Commissioner of Central Excise in its written statement stated that the applicant had completed more than 12^{years} of service in Customs and as the transfer policy after completion of 4 years of continuous service in Customs any officer is liable to be transferred to Central Excise and vice-versa. Accordingly, he was released by the Commissioner of Customs to Central Excise. Upon release from Customs to Central Excise, the Central Excise authority provides

posting such officer according to Administration exigencies. In the written statement the respondents stated that the said respondents acted as per law by posting the applicant at Aizawl. The Deputy Commissioner of Customs, Guwahati also submitted its written statement. In the written statement it was stated that the representation of the applicant in 1998 was considered and accordingly he was posted at Silchar on compassionate ground. Since he had completed 10 years of service in Customs as per the existing norms the applicant vide order No.19/2000 dated 15.12.2000 was relieved from Customs and was placed at the disposal of Commissioner of Central Excise, Shillong. Subsequently by order No.C.No.II(3)27/FT.III/2000-37433-60 dt.18.12.2000 ^{the} applicant was given a Central Excise posting and transferred to Aizawl Range under Silchar, Cental Excise Division. The respondents stated that following the creation of two separate commissionerate an order No.1/93 dated 16.6.93 was issued by then Principal Collector of Customs and Central Excise, Calcutta to re-define the jurisdiction and function of the two collectorate based at Shillong and to re-distribute the existing staff between the two collectors. As per the norms prescribed and executive officer is to work in the Customs formation not exceeding four years. For retention of an officer in Customs in excess of four years approval of Principal Collector (Now Chief Commissioner) was necessary. Hence

the transfer order was made purely on administrative ground.


4. I have heard Mr.M.Chanda, learned counsel for the applicant and also Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents at length. On consideration of the materials on record it appears that the applicant was transferred out from Customs Division to Central Excise in terms of the policy decision. The policy decision is not assailed. At any rate there is no infirmity in the policy decision in posting from one Division to another. As a matter of fact the earlier order of posting the applicant at Aizawl was modified by order No.190/2001 dated 14.12.2001 and the applicant was transferred and posted at Margherita Range III, Digboi Central Excise Division.

5. On overall consideration of the matter the transfer and posting of the applicant cannot be said as unlawful. Mr.M.Chanda, learned counsel for the applicant, however, submitted that the applicant is not in fact assailing the legitimacy of transferring the applicant from Customs to Central Excise. The applicant at any stage made no grievance for posting him out from Customs Division, but his grievance was for posting him out of Silchar which in terms would cause serious dislocation to his family, more particularly, when his old parents were afflicted of different ailments. Under Section 19 of the Administrative Tribunals Act, 1985 the

Tribunal is basically concerned about as to the legitimacy of the action of the respondents as observed earlier. No infirmity is discernible in the transfer order. As regards the other grievance of the applicant for his posting at Silchar Central Excise Division against some vacancies, it is for the respondents to consider the same not for the Tribunal. The applicant may submit separate representation to the authority for posting him at Silchar in the Central Excise Division and within one month from the date of receipt of the order. If such application is made, the respondents may consider the same fairly and as per law keeping into consideration amongst others the administrative exigencies preferable within a period of three months thereafter.

Subject to the observations made above, the application stands disposed of.

There shall, however, be no order as to costs.


(D.N. CHOWDHURY)
VICE CHAIRMAN

THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

Title of the Case : O.A. No.....183/2001

Shri Swapan Kr. Chowdhury : Applicant

& 2 Ore.

-Versus-

Union of India & Others : Respondents

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Date 16.5.2001

Filed by
Sujit Shash
Advocate

Filed by the applicant
through: *Sujit Shash*
Adv.
16.5.2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

O.A. No...../2001

BETWEEN :

1. Sri Swapan Kumar Choudhury,
Son of Sri Nalini Mohan Choudhury,
Working as Inspector,
Office of the Commissioner of
Central Excise,
Silchar C.P.F.
Karimganj Customs Division

Applicant.

-AND -

1. The Union of India,
Through the Secretary to the
Government of India,
Ministry of Finance,
Department of Revenue,
New Delhi.
2. The Chairman,
Central Board of Excise and Customs,
Government of India,
Ministry of Finance,

Swapan K. Choudhury

- Department of Revenue,
New Delhi.
3. Commissioner of Customs,
North Eastern Region,
Shillong.
4. Commissioner of Central Excise,
North Eastern Region,
Shillong.
5. Additional Commissioner (P &V)
Customs and Central Excise,
Shillong.

..... Respondents

DETAILS OF THE APPLICATION

1. **Particulars of orders against which this application is made.**

This application is made against the impugned order issued under letter No. C.No.II(3)27/ET.III/2000-37433-60 dated 18.12.2000 whereby the applicant is sought to be transferred from Silchar C.P.F. under Karimganj Customs Division II to Aizawl Range Silchar, Central Excise Division in total violation of professed norm and also during the middle of the academic session and praying for a direction upon the respondents to allow the applicant in his present place of posting till completion of his tenure as the posting of the applicant at Silchar earlier made on extreme compassionate ground.

2. **Jurisdiction of the Tribunal**

Snapan M. Choudhury

The applicants declare that the subject matter of his application is well within the jurisdiction of this Hon'ble Tribunal.

3. Limitation

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

4. Facts of the Case

4.1 That the applicants ^{is} ~~are~~ citizen of India and as such ^{he is} ~~they are~~ entitled to all the rights, protections and privileges as guaranteed under the Constitution of India. h

4.2 That your applicant initially appointed as Inspector of Customs and Central Excise during the year 1988 under the Commissionerate of Customs and Central Excise, Shillong. During his service career as Inspector the applicant was transferred and posted in different places in the N.E. Region on different occasions and he has carried out of the transfer and posting orders. The detail particulars of the earlier transfer and posting are furnished hereunder for perusal of the Hon'ble Tribunal.

Sl. No.	Place of posting	With effect from	To
1	Agartala Division	20.1.1988	May 92
2	Kailasahar under Agartala (and subsequently under Karimganj Division)	May 1992	March 1997
3	Shillong Customs Hqr office	March 1997.	May 1998
4.	Silchar under Karimganj Customs Division	May 1998 18/12/2000	Till date.

on request
4.3 That it is stated that while the applicant serving at Shillong during the year 1997-98 submitted several representation for posting in any place under Silchar Division office or at Karimganj Divisional Office on compassionate ground on the ground that the father of the applicant was suffering from serious ailment and he required constant medical attention. Be it stated that the applicant is the only son of his aged parent who are presently suffering from serious ailment such as heart disease. The applicant more particularly on 14.4.1997 submitted a representation to the Commissioner of Customs,

Sriapan Mr. Choudhury

NER, Shillong praying inter alia for his posting on compassionate ground in any place under Silchar Divisional Office of Customs and Central Excise alternatively in any place under Karimganj Division office of the Customs and Central Excise. It is relevant to mention here that the applicant is a permanent resident of Dharmanagar and the aforesaid representation was submitted with the intention to provide necessary medical assistant to his parent. The Commissioner of Customs after considering his representation and was pleased to transfer him at Silchar under Karimganj Customs Division vide office order No. 6/98 dated 29.4.1998. Pursuant to the aforesaid transfer and posting order the applicant joined at Silchar in the month of May 1998 under Karimganj Customs Division.

Copy of the representation dated 14.4.97 is Annexed as **Annexures 1.**

4.4 That it is stated that Government of India Ministry of finance, Department of Revenue Central Board of Excise and Customs vide their letter No. F. No. A-35017/2B/92-Ad-III-B dated 30.6.94 formulated transfer and posting guidelines regarding transfer and posting of Group B, C and D attached in subordinate offices under Central Board of Excise and Customs in supersession of all previous instructions. It is further instructed to all the Principal Collector of Central excise and Customs, All the Heads of Departments under Central Board of Excise and Customs that the instructions of the transfer guidelines may please be followed scrupulously. So far the Executive officers are concerned it is stated in para I(1) (a) that the period of stay of an officer in one station should normally be four years. It is further stated that transfer may be made earlier if administrative requires ^{or} compassionate ground so necessitates. In paragraph VIII it is further stated that general transfer should be avoided at the end of the academic year and orders of transfer should be issued sufficiently in advance. Orders issued otherwise should contain the reasons on record. The relevant paragraph (1) (i) and VIII of the transfer guidelines dated 30.6.94 are quoted below for perusal of the Hon'ble Tribunal.

" Group B and Group C officers :

Snapan (w. Chandhury)

(i) Period of stay at one station.

- (a) **Executive Officers** : The period of stay of an officer at one station should normally be 4 years. Transfers may be made earlier if administrative requirements or compassionate grounds so necessitate."
-
-
-
-

VIII. General :

- (i) General transfers should be effected at the end of the academic year and orders therefore should be issued sufficiently in advance. Orders issued otherwise should contain reasons on record."

In view of the above transfer guidelines and more particularly if the earlier transfer of the applicant was made in the Karimganj Division at Silchar on extreme ground therefore the respondents ought not to have issued the impugned transfer order before completion of the normal tenure of the applicant at Silchar by issuing the impugned order of transfer dated 18.12.2000. It is also relevant to mention here that a mere perusal of the impugned order dated 18.12.2000 it would be evident that the transfer and posting dated 18.12.2000 it is event that the posting and adjustment in the grade of Inspector has been ordered in a routine nature particularly when the case of the applicant for posting at Silchar under Karimganj Division had been ordered on compassionate ground although there was no specific communication was made in the order dated 29.4.1998 so far the applicant is concerned. The said transfer order was issued after due consideration of his representation on compassionate ground so that the applicant could be posted near to his home town and to facilitate to look after his aged and ailing parent and to provide necessary medical facilities and the parent of

Swapan K. Choudhury

the applicant was suffering from serious ailment. The said fact has already brought to the notice of the Union of India by his representation dated 14.4.1997.

A copy of the transfer policy dated 30.6.1994 referred to above is annexed as **Annexure-2**.

- 4.5 That most surprisingly the applicant received the impugned transfer and posting order issued under letter No C.No. II(3)27/ET III/2000/37433-60 dated 18.12.2000 whereby the applicant is sought to be transferred and posted from Silchar CPF under Karimganj Division II to Aizawl Range, Silchar Central Excise Division in total violation of the professed norm and the guidelines laid down the transfer policy dated 30.6.1994. It is relevant to mention here that the applicant has not completed his tenure for four years in his present place of posting till filing of this application. Moreover, the parents of the applicant are still require constant medical treatment as the father of the applicant is suffering from heart diseases. It is relevant to mention here that the applicant before issuing of the impugned order of transfer and posting which is normally issued in routine nature in every year, submitted a representation dated 2.11.2000 addressing to Deputy Commissioner (P & V) Customs and Central Excise, Shillong through proper channel praying inter alia that his posting at Silchar was made in connection with the medical treatment of his aged parent and accordingly he joined at Silchar CPF on May 1998 and he is a permanent resident of Dharmanagar under Tripura State although he is not enjoying home posting facility but due to his posting at Silchar he has an opportunity to provide better medical facility to his parents and has mentioned that his parents are suffering from chronic hyper tension and heart disease and require constant medical treatment and further requested for retention at Silchar in any unit under the Division. However after passing of the impugned order dated 18.12.2000 the applicant being highly shocked again approached the Commissioner of Customs, NER, Shillong as well as the Commissioner, Customs and Central Excise through proper channel and further reiterated his domestic problems and also stated that the

Snapan M. Choudhury

parents of the applicant are suffering from serious ailment and need constant medical treatment and as such require medical treatment under supervision of cardiologist and medicine specialist. Therefore his frequent presence is necessary for providing necessary medical treatment to his presents. Finding no favourable response the applicant again submitted another representation on 20.12.2000. But to no result.

It is further stated that the applicant finding no response from the authorities regarding consideration of his representation again submitted another representation on 04.01.2001 praying inter alia for reconsideration of his posting at Aizawl and prayed for retention in the present place of posting on extreme compassionate ground, especially on the ground of medical facilities to his parents who are suffering from serious ailment. It would be evident from medical certificate issued on 03.05.2000 that the father of the petitioner suffering from Hypertensions and Heart diseases and require constant medical treatment. Moreover the son of the applicant Shri Saumadeep Choudhury standing in South Silchar Collegiate School. Therefore it would be difficult on the part of the applicant to shift the family at Aizawl during the middle of the academic session and the another difficulty that being the only son it would be difficult to leave the ailing parents who needs regular medical treatment due to serious ailment, the applicant is ready to serve in any place around Silchar under Karimganj division and also in any post to the level of Inspector at this critical juncture. Moreover the applicant not yet completed the normal 4 (four) years tenure as per transfer policy dated 30.06.1994 and there is no administrative exigency to transfer the applicant from Silchar to Aizawl before completion of normal tenure.

It is categorically submitted that at least 4 to 5 officers in the cadre of Inspector serving at Silchar under Karimganj Division in the Customs and Central Excise for about last 5 to 10 years but the applicant has been picked up as pick and choose basis for posting at Aizawl in total violation of professed norms. A fair transfer policy demands that among the officers who have the longest stay in the station should move first in case of necessity or administrative

Swapan K. Choudhury

exigency but in the instant case a reverse policy has been adopted by the respondents by issuing the impugned transfer and posting order particularly when the case of the applicant was considered for posting at Silchar on compassionate ground, Therefore the impugned order of transfer has been issued in total violation of the transfer policy as such the same is liable to be set aside and quashed.

Copy of the impugned order of transfer and posting dated 18.12.2000, representation dated 02.11.2000, 11.12.2000, 20.12.2000 and 04.01.2001 and copy of the medical certificate dated 3.5.2000 are enclosed as **Annexures 3,4,5, 6, 7 & 8** respectively.

4.6 That it is stated that the applicant after receipt of the impugned order of transfer and posting submitted numbers of representations for cancellation/modification of the impugned transfer order but the respondents till filing of this application no communication is received regarding consideration of his representations but surprisingly received another impugned letter bearing no.C. No. II(3)2/ET/ACK/2000 dated 24.04.2001 whereby it is directed that the applicant shall be relieved with effect from 18.05.2001 with the instruction to report at Aizawl. This action of the respondents is highly arbitrary and unfair. As such finding no other alternative the applicant approaching this Hon'ble Tribunal for protection of his valuable and legal rights as acquired by the applicant by way of granting an interim order staying the operation of impugned transfer order and also directing the respondents to allow the applicant to continue in the present place of posting till the tenure is over.

A copy of the order dated 24.4.2001 is annexed as **Annexure-9**.

That this application is made bona fide and for the ends of justice.

5. Ground for relief with legal provisions :-

~~Under the facts and circumstances of the case the applicant prays that Your Lordships be pleased to grant the following reliefs to the applicant :~~

Swapan K Chudhury

- 5.1 For that the impugned transfer and posting order has been issued in total violation of transfer policy dated 30.06.94 and also before completion of normal tenure as prescribed by the transfer policy dated 30.06.1994.
- 5.2 For that posting at Silchar under Karimganj division earlier issued in respect of applicant vide order dated 29.04.1998 on compassionate ground after consideration of his earlier representation dated 14.04.1997
- 5.3 For that there are at least 5 (five) inspectors working at Silchar in different offices under Karimganj division of Customs and Central Excise for about last 5 to 10 years as such officers who have the longest stay in the station ought to have been transferred on priority basis, especially when the applicant is posted at Silchar on compassionate ground after consideration of his representation.
- 5.4 For that the applicant's parents are suffering from serious ailment and need constant medical treatment the applicant being the only son, none is there to look after them.
- 5.5 For that the transfer order has been issued during the middle of the academic session of his son studying at Silchar.
- 5.6 For that the applicant submitted numbers of representations but the same has not yet been disposed of till filing this application.
- 5.7 Cost of the application.

6. Details of remedies exhausted:

That the applicant states that she has no other alternative and other efficacious remedy than to file this application before this Hon'ble Tribunal. Applications, representations submitted to the respondents time and again as indicated in Para 4.8 and 4.9 could not yield any result.

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

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

Grapan K. Choudhury

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8. **Reliefs sought for :**

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

- 8.1 That the impugned order of transfer and posting issued under Establishment order no. 130/2000 dated 15.12.2000. bearing C No-II(3)27/ET III/2000/37433-60 dated 18.12.2000 and order dated 24.4.2001 issued under letter No. C. No. II(3)2/ET/ACK/2000 be set aside and quashed, so far the applicant is concerned.
- 8.2 That the respondents be directed to allow the applicant to continue in the present place of posting till the tenure is over in terms of transfer policy dated 30.6.1994.
- 8.3 Costs of the case.
- 8.4 To pass any other order or orders as deemed fit and proper.

9. **Interim relief (s) prayed for :**

During the pendency of this original application the applicant prays for the following relief (s) :

- 9.1 That the impugned order of transfer issued under letter No. C. No. II(3) 27/ET III/2000 37433-60 dated 18.12.2000 (Annexure- 3) and order dated 24.4.2001 relieving the applicant from his duty (Annexure-8) be stayed so far as the applicant is concerned till final disposal of this Original application.

10.

This application is filed through Advocate.

11. **Particulars of the I.P.O.**

- i. I.P.O. No. : 66 792449
- ii. Date of Issue : 15.5.2001
- iii. Issued from : G.P.O., Guwahati.
- iv. Payable at : G.P.O., Guwahati

12. **Details of enclosures.**

As stated in the Index.

Srapan K. Choudhury

18
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VERIFICATION

I, Shri Swapan Kr. Choudhury, son of Sri Nalini Mohan Choudhury, aged about 41 years presently residing at Silchar, working as Inspector, Customs and Central Excise, applicant in this Original Application, do hereby verify and declare that the statements made in paragraphs 1 to 4 and 6 to 11 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 ^{16th} ~~17th~~ day of May, 2001.

(18)

Representation

2.11.00

(20)
(22)

11.12.00

4.1.01

(21)
(23)

Swapan Kr. Choudhury
SIGNATURE.

To,
The Commissioner of Customs
North eastern region,
Shillong.

Sub Hombler prater for transfer on the ground of father's serious sickness, surrendering T.T.A.

Respected sir,

I have the honour to pray before your kindness the following facts for your sympathetic consideration.

That sir, I was transferred from Karimganj Customs prev. division (Manu Land customs station, Kailashar) to customs (appeal Branch C.C (P)'s H.O. Office, Shillong vide your Establishment order No 33/97 dated 6th feb, 97. Immediately after getting the Transfer order, I represented before your goodness praying for my retention at Kailashar on the ground of serious sickness of my retarded old aged father. I also stated the fact that ultrasound test was performed in his abdomen and multiple stones were detected in both of his kidneys and according to Dr. A. Biswas F.R.C.S of Silchar Medical College Hospital, those are becoming larger day by day and should be immediately removed from his kidneys by surgical method to protect the kidneys from ultimate damage to save his life. For the purpose of which he should be under prolonged treatment and periodical medical checkup which in absence of me is virtually impossible as I am the only son of my aged parents and there is none other than me to look after them in their distress, but as I did not get any response against my representation from your kind end, I had to join my new place of posting at Shillong, H.Q.

certified to be true copy
Suyillesh
pdr

Cont d-2

But very recently, the abdominal pain of my father has become quite intolerable and has increased considerably and according to the said Surgeon R. A. Biswas the stones should be removed immediately, other wise it would definitely be fatal to the life of my father.

So, in the above circumstance I do not find any other alternative but to approach before your kind and humanitarian self to save the life of my old aged father by arranging my transfer to any place of Silchar Divisional Office or at Karimganj Divisional Office as I may provide the minimum medical facilities to my father to save his life.

And for this act of kindness, I would remain ever grateful to you and as in duty bound shall ever pray.

Yours faithfully,

Dated Shillong,
the 14th April 197.

Swapan K. Choudhury
(SWAPAN KR. CHOUHURY) 14/4/77
Inspector,
Customs (Appeal) Branch,
N.E.R., Shillong.

Copy to :-

The General Secretary, Group - 'C', Executive Officers Association, North Eastern Region, Shillong, for taking up the matter with the appropriate authority for sympathetic consideration.

Swapan K. Choudhury
(SWAPAN KR. CHOUHURY) 14/4/77
Inspector.

-24- -14- 25-
-15- -18-

Annexure-4
ANNEXURE-2

F. No. A-35017/28/92-AD-III-B
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

New Delhi, the 30th June, 1994

To

All Principal Collectors of
Central Excise and Customs.

All Director Generals/Narcotics Commissioner

All the Heads of Departments under
Central Board of Excise & Customs.

Subject : Transfer-Guidelines regarding posting and
transfers of Group 'B' 'C' and 'D' officers
in the attached & subordinate offices under
Central Board of Excise and Customs.

Sir,

1. F. No. A 22015/20578-
Ad-III-B dt. 1.11.78.
2. E.No. A-22015/21/89-
Ad-III-B dt. 22.7.89.
3. F. No. A-35017/17/91-
Ad-III-B dt. 24.1.92
4. F. No. B-22014/4/92
Ad-III-B dt. 2.9.92.

In supersession of all previous
instructions, as indicated in
the margin, the following instruc-
tions/guidelines are issued in
consolidated form for regulating
the transfers and deputation of
Group B C and D officers in the
various attached and subordinate
offices under the Central Board
of Excise & Customs :-

I. Group 'B' and Group 'C' Officers

(1) Period of stay at one station :

(a) Executive Officers : The period of stay of an
officer at one station should normally be 4 years.
Transfers may be made earlier if administrative
requirements or compassionate grounds, so
necessitate.

(b) Ministerial Officers : While Ministerial officers
are also liable to transfer, like Executive
Officers, routine transfer of Ministerial Officers
from one station to another should be avoided.
However, Ministerial officers are liable to be
transferred from one charge to another at periodic
intervals.

Contd..1/2

certified to be true copy
Swilthash
adv.

II. Group 'D' staff :- Group 'DI' staff are also liable to be transferred any where within the Collectorate even though its jurisdiction extends to more than one State. However, frequent transfers of Group D staff should be avoided.

III. Postings of husband - wife living at the same STATION :-

Guidelines contained in Department of Personnel & Training's Office Memorandum No. 2034/7/86-Extt(A) dated 03.4.86 may be followed subject to administrative requirements/exigencies.

IV. The tenure at sensitive charges and requirements of "Cooling Off" period :-

(1) Officers posted in any of the following charges as mentioned below, on completion of his/her normal tenure, be posted to a formation/organisation/assignment other than those mentioned here below :-

- (a) Airports,
- (b) I.C.R.I.
- (c) D.O.A.E.
- (d) NCB/ED (FERA/ELB ETC.

The officers so posted in any of the aforesaid charges/organisation assignments will be required to complete the "Cooling Off" period of not less than two years before being considered for re-posting to any of the aforesaid charges.

V. (A) The power to relax the cooling off period etc.

The power to relax the "cooling off" period for an officer with reference to the charges mentioned in para IV shall be exercised by the P.R. Collr./ Director General Concerned, in consultation with the Head of the Department of the Officer in question.

(b) The decision to extend the normal tenure :

The decision to extend the normal tenure etc. will be governed by the provisions of recruitment rules and the DPO&T's guidelines on the tenure/deputation/executive instructions of the Board as the case may be.

VI. Transfers of Office bearers of the recognised Associations of Central Government Employees.

In regard to the transfers of Office bearers of the recognised Unions/Associations the instructions contained in the Department of Personnel & Training's O.M. No. 27/3/69-Estt. (B) dated 8.4.1969 should be observed strictly read with future amendments, if any.

VII. Notwithstanding the instructions contained in paragraphs (I), (II), (III), the Heads of the Department will have full authority/power to transfer an officer on administrative/compassionate grounds.

The Heads of the Department will also be the deciding authority as to what would constitute difficult posting depending on the local conditions and will be fully authorised to fix - tenure of posting of officers at those places, as deemed necessary for administrative requirements and exigencies of service.

VIII. General :

- (i) General transfers should be effected at the end of the academic year and orders therefor should be issued sufficiently in advance. Orders issued otherwise should contain reasons on record.
- (ii) Officers who are due to retire within two years or so, may not be transferred from their state/district or from the proximity of the station where they propose to settle down after retirement. Those who are posted away from such a station may, if they so request be brought to the proximity of that

18

ANNEXURE - 3

29

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE, SHILLONG

C.No. 11(3)27/ET.III/2000/37433-60

Dated: 18.12.2000

ESTABLISHMENT ORDER NO. 130/2000
DATED, SHILLONG THE 15th DECEMBER, 2000**Subject :** Establishment Annual General Transfer posting and adjustment in the grade of Inspector. - Order regarding.

The following transfer, posting and adjustment in the grade of Inspectors are hereby ordered with immediate effect and until further orders.

Sl.No.	Name	From	To
01.	S.K. Saha	Anti Smuggling Unit Guwahati Customs Divn.	Nagaon Range Guwahati C.Ex. Divn.
02.	S. Mahanta	Hallidayganj P.P. Guwahati Customs Divn.	Nagaon Range Guwahati C.Ex. Divn.
03.	H. Goswami	Tezpur C.P.F. Guwahati Customs Divn.	Divisional Office Tezpur C.Ex. Divn.
04.	N. Bhattacharjee	ICD Amingaon Guwahati Customs Divn.	Silchar I Range Silchar C.Ex. Divn.
05.	S. Goswami	Disposal Unit Guwahati Customs Divn.	Hqrs. Anti Evasion Guwahati
06.	R.C. Sharma	Law Branch Guwahati Customs Divn.	Jagiroad Range Guwahati C.Ex. Divn.
07.	Arun Choudhury	Anti Smuggling Unit Agartala Customs Divn.	Agartala Range Silchar C.Ex. Divn.
08.	G.C. Deb Barma	Agartala Airport P.P. Agartala Customs Divn.	Agartala Range Silchar C.Ex. Divn.
09.	A.K. Chakraborty	Law Branch Agartala Customs Divn.	Agartala Range Silchar C. Ex. Divn.
10.	Kartik Sarkar	Anti Smuggling Unit Agartala Customs Divn.	Tinsukia Divnl. Office, Tinsukia C.Ex. Divn.
11.	Swapan Kr. Debnath	Agartala Airport P.P. Agartala Customs Divn.	Agartala Range Silchar C.Ex. Divn.
12.	S.B. Roy	Sonamura CPF Agartala Customs Divn.	Tinsukia - I Range Tinsukia C.Ex. Divn.
13.	Alokesh Dev	Dharmanagar CPF Karimganj Customs Divn.	Dharmanagar Range Silchar C.Ex. Divn.
14.	P. Borbora	Badarpur CPF Karimganj Customs Divn.	Sibsagar Range Jorhat C.Ex. Divn.
15.	S.K. Choudhury	Silchar CPF Karimganj Customs Divn.	Aizawl Range Silchar C.Ex. Divn.
16.	H.P. Roy	Tech/SIS/Adj. Br. Karimganj Customs Divn.	Tinsukia - III Range Tinsukia C.Ex. Divn.
17.	R.K. Das	Silchar CPF Karimganj Customs Divn.	Badarpur Range Silchar C.Ex. Divn.
18.	J. Majumder	Anti Smuggling Unit Karimganj Customs Divn.	Karimganj Range Silchar C.Ex. Divn.
19.	J.G. Paul	Badarpur CPF Karimganj Customs Divn.	Jorhat Range Jorhat C.Ex. Divn.
20.	R. Chakraborty	Anti Smuggling Unit Karimganj Customs Divn.	O o the Commr. (Appeals) Guwahati

certified to be true copy
 Signed
 Dm.

-19-

48. Parag Kanti Das

49. P.K. Saikia

50. S. Ahmed

51. Utpal Das

52. Ms. Noni Borah

53. Hitesh Sharma

54. B.R. Boro

55. B.C. Nath

56. T.C. Mazumder

57. D.C. Bania

58. Ms. K.M. Symlich

59. G.C. Sharma

60. G.K. Bhuyan

61. Gobinda Kalita

62. S. Das Choudhury

63. T.T.N. Dhuia

64. B.M. Das

65. N.K. Nandi

C.Ex. Hqrs. Office, Shillong

Nagaon Range

Guwahati C.Ex. Divn.

Divnl. Anti Evasion

Guwahati C.Ex. Divn.

C.Ex. Hqrs. Office, Shillong

Mongoldoi Range

Tezpur C.Ex. Divn.

Adjudication Branch

C.Ex. Hqrs. Office, Shillong

Chapaguri Anti Evasion

Dhubri C.Ex. Divn.

Chapaguri Anti Evasion

Dhubri C.Ex. Divn.

Chapaguri Anti Evasion

Dhubri C.Ex. Divn.

Hqrs. Anti Evasion Unit

Guwahati

C.H.-cum-VIG Br.

C.Ex. Hqrs. Office, Shillong

Technical Branch

Guwahati C.Ex. Divn.

Hqrs. Law Br.

Guwahati

NOR Range

Guwahati C.Ex. Divn.

Amingaon Range

Guwahati C.Ex. Divn.

APRO

C.Ex. Hqrs. Office, Shillong

Divnl. Anti Evasion

Guwahati C.Ex. Divn.

Divnl. Audit

Guwahati C.Ex. Divn.

Divnl. Office

Silchar C.Ex. Divn.

Divnl. Anti Evasion

Guwahati C.Ex. Divn.

Nagaon Range

Guwahati C.Ex. Divn.

Divnl. Office

Guwahati C.Ex. Divn.

Divnl. Office

Guwahati C.Ex. Divn.

Anti Evasion Unit

Tezpur C.Ex. Divn.

NRPI - I Range

Dhubri C.Ex. Divn.

Divnl. Office

Dhubri C.Ex. Divn.

Divnl. Office

Dhubri C.Ex. Divn.

Technical Branch

Guwahati C.Ex. Divn.

Law Branch

C.Ex. Hqrs. Office, Shillong

Dibrugarh - II Range

Dibrugarh C.Ex. Divn.

Divnl. Office

Dibrugarh C.Ex. Divn.

Margherita - II Range

Dibroi C.Ex. Divn.

O/Othe commissioner

(Appeals), Guwahati

Appeal Branch

C.Ex. Hqrs. Office, Shillong

Divnl. Audit

Guwahati C.Ex. Divn.

Divnl. Anti Evasion

Guwahati C.Ex. Divn.

(B. THAMAR)
 ADDITIONAL COMMISSIONER (P&V)
 CUSTOMS & CENTRAL EXCISE
 SHILLONG

To
The Deputy Commissioner (P & V);
Customs & Central Excise;
Shillong.

3

(Through proper channel)

Sir,

Subject: Prayer for retention at Silchar on humanitarian ground-

Most humbly and respectfully I beg to bring the following facts for your kind and sympathetic consideration.

That Sir, I prayed to your goodness for my transfer on the ground of medical treatment of my old aged parents and accordingly your honour was pleased to order my transfer at Silchar and I joined here at Silchar C.P.F. on May '98. It may be mentioned here that my permanent residence is at Dharmnagar town under Tripura State, which means that, I am not enjoying home posting facility, but as I am the only son of my parents, I opted Silchar as my place of posting, because a Medical College is here which gives me the opportunity to provide better medical facilities to my parents. My parents are suffering from chronic hypertension and other cardiological problems and as per opinion of the doctor they need prolonged treatment and periodic check up. Now if I am transferred to a remote place they will be at enormous distress.

So, I pray to your kind and judicious end that, if my name is being considered for transfer during the ensuing annual general transfer, I may kindly be retained at Silchar and be posted at any Unit here.

And for this act of kindness, the poor petitioner, as in duty bound shall remain ever & ever & ever pray.

Yours Faithfully

(S. L. CHOWDHURY)
Inspector
C.P.F., SILCHAR

Copy to: 1. The Commissioner, Customs, M.S.A., Shillong for his information and kind action as prayed above.
2. The Commissioner, Central Excise, Shillong for kind action please.

3. The General Secretary, Group 'C' Officers' Association, Shillong, with a request to issue the issue with appropriate authority for kind consideration.

(S. L. CHOWDHURY)
Inspector
C.P.F., SILCHAR

certified to be true copy
Sujit Ghosh
Adv.

To

- 1) The Commissioner of Customs,
N.S.R. Shillong.
- 11) The Commissioner of Central Excise,
Shillong.

(Through Proper Channel)

Sir,

Sub:- Prayer for retention at Silchar.

With reference to my earlier representation, submitted a couple of months back on the above subject, I seek the opportunity to submit the following for your kind and sympathetic consideration :

That Sir, on the ground of my old aged parents chronic illness, I prayed before your honour for my transfer in the year of 1998, while being posted at Shillong Customs Hqrs. Accordingly your kindness ordered my transfer here at Silchar C.P.F. and I joined here on May '98. As a Medical College is here, I thought that, my ailing parents can be provided with best medical treatment facilities here and that is why I opted Silchar as my place of posting, though it is not my permanent residence. However, since then, I am living here with my parents and they are always being under supervision of renowned cardiologists and Medicine specialists. Meanwhile, I have given admission of my son here also at a School.

Now, as I already have completed 10 years in Customs organisation, I am apprehending that I might be released to Central Excise this time during Annual General transfer, on which occasion, if, it is being done actually, I may kindly be adjusted at Silchar, which is a Divisional Hqrs., otherwise if I am being sent outside of Silchar, that would be the cause of an enormous distress to me and my family members as well.

And for this act of kindness, the poor petitioner as in duty bound shall remain and ever pray.

Yours faithfully,

[Signature]
11/12/24
(S. K. Choudhury)
Inspector, CPF, Silchar

Copy to : The General Secretary, Gr. 'C' EXOA, Shillong, with a request to take up the issue with appropriate authority for kind consideration.

*certified to be true up y
S. K. Choudhury
11/12/24*

[Signature]
11/12/24
(S. K. Choudhury)
Inspector
CPF, Silchar

To

The Commissioner of Central Excise,
Shillong.

(Through Proper Channel)

Sub :

Prayer for retention at Silchar on humanitarian ground.

Ref :

Establishment order No. 130/2000, dated Shillong, the 15th December, 2000.

Hon'ble Sir,

Kindly refer to the above order, vide which I have been transferred (Sl.No.15) to Aizawl Range from my present posting at Silchar C.P.F.

That Sir, since October, 2000 this is my third consecutive representation praying for my retention at Silchar for the following reasons :-

1) Though Silchar is not my home posting, I opted this place as my place of posting for the purpose of better medical treatment available here. My old aged parents are suffering from hypertension and other heart diseases, and for this only, my prayer for transfer was granted and accordingly I was permitted to join Silchar C.P.F. on last May '98 and since then I am leaving here with my parents and since then they are under treatment of renowned Cardiologist of Silchar Medical College Dr. P.C. Sharma and according to him they need prolonged treatment under his supervision, According to Dr. Sharma my father should undergo the bi-pass surgery immediately in order to save his life from the Ischemic heart disease from which he is suffering. I being the only son, looking after them during their last days full of distress. Now if I am transferred to such a remote place like Aizawl, I would be in a total helpless condition, virtually waiting for the last days of my ailing parents to come.

So, I pray to your kind and judicious end and hope that you would adjust me here at any Unit at Silchar in order to save the life of my parents and oblige thereby.

Encl:- Earlier representation
dated 11/12/2k and 02/11/2k
for ready reference.

Yours faithfully,

(S.K. Choudhury)
Inspector,
C.P.F. Silchar.

*certified to be true copy
S.K. Choudhury
Adv.*

To

The Commissioner of Customs,
North Eastern Region,
Shillong.

Hon'ble Sir,

Sub : Humble prayer for retention at Silchar on the ground of mother's serious illness.

Kindly refer to my earlier representations dated 2.11.2K, 11.12.2K, and 20.12.2K praying for my retention at Silchar (i.e. at my present place of posting). Once again most humbly and fervently I pray before your kind and judicious end as below :-

That Sir, in a very recent development, condition of the health of my aged mother deteriorated a lot, who, as I have told already, is a chronic patient of hypertension associated with other heart ailments. Ultimately she had to be admitted into Silchar Medical College Hospital and according to Dr. P.C. Sharma, a renowned cardiologist of that college, she should be there in the I.C.U. atleast for another week under strict supervision to come out from the crisis which endangered her life, as virtually her condition was leading her to a cerebral attack, which could only be prevented due to timely intervention of the doctor.

That Sir, it may be mentioned here that, recently during Annual General transfer, my name has been released from Customs side and subsequently been posted to Aizawl C.E. Range.

Now, if I am to proceed for Aizawl leaving my mother here (I being the only son of my parents), how she would pass her days, it can very easily be predicted.

With such a condition, I have no other alternative, but to knock at your kindness for retaining me here at Silchar atleast for another six months (if not more), considering my help-less condition as stated above and oblige me thereby.

Yours faithfully,

(S.K. Choudhury)
Inspector,
C.P.F., Silchar.

Copy to :-

- 1) The Commissioner of Central Excise, Shillong for his kind information & necessary action.
- 2) The General Secretary, Gr. 'C' EXOA, Shillong, for taking the issue with the appropriate authority for consideration.

*certified to be true copy
S.K. Choudhury
Adv.*

(S.K. Choudhury)
Inspector, C.P.F., Silchar.

13-24-

25

Annexure- 8

Prof.(Dr.)Manmath Nath (Rtd.

Formerly Professor and Head
Department of Cardiology
Silchar Medical College

Chamber

Silchar Hear Care
N.S. Avenue, Silchar-5
Tele 38266 FAX 41196

Residence

Green Park, Meherp-II,
Silchar-15
Phone (03842) 32455, 41196

TO WHOM IT MAY CONCERN

This is to certify that Sri Nalini Mohan Choudhury, 69 yrs. Is under my treatment for Hypertension and Ischamic Heart Disease (CAD) for long time. He needs constant Medical supervision and treatment by a cardiologist. The nature of his disease is chronic one and will required prolonged treatment. He also require constant nursing care bythe nearest relatives of the patient.

Sd/- Illegible

Dr. M. Nath
Retired Professor of Cardiology,
Silchar Medical College
AMC, Regd No. 3909

*certified to be true copy
Suniti Ghosh
adv.*

25 -

ANNEXURE- 9
36

OFFICE OF THE DEPUTY COMMISSIONER
CUSTOMS DIVISION::KARIMGANJ

O R D E R
- - - - -

DATED:- 24.04.2001.

In pursuance of the Estt. order NO.130/2000 dated 15.12.2000 of the Additional Commissioner (P & V) Customs And Central Excise Shillong, issued under endt. C.NO. II(3)27/ET.III/2000/37433-60 dated 18.12.2000, Shri S.K.Choudhury, Inspector of Silchar CPF is hereby relieved of his duties in the afternoon of 18.05.2001 with direction to join his new place of posting at Aizawl Range under Silchar Central Excise Division.

V. Singson 25/4/2001
(V. Singson)

Deputy Commissioner,
Customs Division, Karimganj.

C.NO.II(3)2/ET/ACK/2000/

Dated:- 4

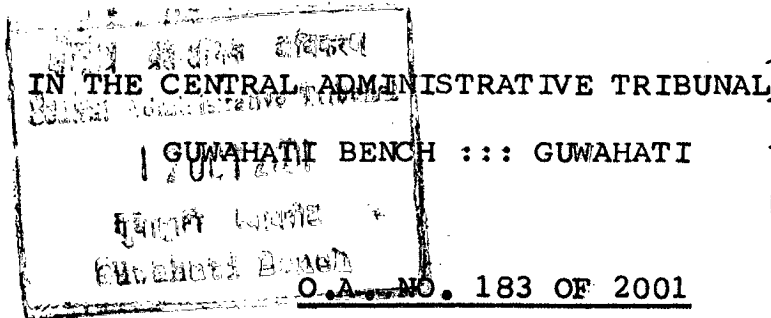
Copy forwarded for information to:-

1. The Commissioner of Customs, N.E.R., Shillong.
2. The Additional Commissioner (P & V), Customs & Central Excise, Shillong.
3. The Assistant Commissioner, Silchar Central Excise Division.
4. The Supdt. Silchar CPF.
5. The Supdt. Aizawl Range.
6. I/C Bill Br./Accounts Br./Cashier/Confidential Br.
- ✓ 7. Shri S.K.Choudhury ^{CPF Silchar} Inspector for compliance.

V. Singson 25/4/2001
(V. Singson)

Deputy Commissioner,
Customs Division, Karimganj.

*Certified to be true copy
Sivillush
sdh.*



Shri Swapan Kr. Chowdhury,

-Vs-

Union of India and others.

-And -

In the Matter of :

Written Statement submitted by the
respondents

The Written Statements of the abovenoted
respondents are as follows :

1. That with regard to paras 1, 2, 3, 4.1, 4.2 and 4.3, the respondents beg to offer no comments.
2. That with regard to paras 4.4 and 4.5, the respondents beg to state that the contention of the applicant is not correct. The applicant has completed more than 12 years of service in Customs and as per the transfer policy after completion of 4 years of continuous service in Customs any officer is liable to be transferred to Central Excise and vice-versa. Accordingly, his name was released by the Commissioner of Customs to Central Excise.

Upon release from Customs to Central Excise, the Central Excise authority give posting such officer according to Administration exigencies.

It is pertinent to say that the transfer order of the applicant from Silchar to Hizwal was issued in the month of December, 2000, much before the start of the academic session of 2001-2002.

3. That with regard to para 5, the respondents beg to state that in view of above submission the applicant is not eligible to get any relief and O.A. be dismissed.

Verification.....

-3-

VERIFICATION

I, Shri Azwan Hussain s/o late Ahmed Hussain

aged 50 years

being authorised do hereby verify

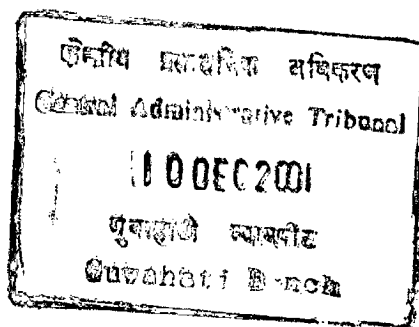
and declare that the statements made in this written statement are true to my knowledge, information and believe and I have not suppressed any material fact.

And I sign this verification on this the 1st day of ^{Oct} August, 2001, at Guwahati.

Azwan Hussain

Declarant.

Assistant Commissioner
CENTRAL EXCISE
GUWAHATI DIVISION



Filed by

29/11/01
(A. DEBROY)
Sr. C.G.S.C.

C.A.T. Guwahati Bench
Virelia Kato

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

O.A. NO. 183 OF 2001

Sari S.K. Choudhury

- Vs -

Union of India & Ors.

- And -

In the matter of :

Written Statements submitted by
the respondents.

The respondents beg to submit the written statements
as follows :

1. That with regard to para 1, the respondents beg to state that the contention of the applicant that the impugned order was passed during the middle of academic session is totally false, as is evident from the date of passing the order i.e. 15.12.2000.
2. That with regard to para 2 and 3, the respondents beg to offer no comments.
3. That with regard to para 4, the respondents beg to state that it is a fact of the case .
4. That with regard to para 4.3, the respondents beg to state that it is a fact that the applicant was posted at Silchar, Customs prev. Post vide Order No. 6/98, dated 29.4.98. In consideration of his representation. However, since the

applicant had already completed 10 years service in Customs formation, in view of existing norms the applicant vide Order No. 19/2000 dated 15.12.2000, was relieved from Customs and was placed at the disposal of Commissioner of Central Excise, Shillong. Subsequently, vide Order No. 130/2000 dated 15.12.2000 of Additional Commissioner (P & V) Customs and Central Excise, Shillong, the applicant was given a Central Excise posting and transferred to Aizawl Range under Silchar, Central Excise, Division.

5. That with regard to para 4.4, the respondents beg to state that the applicant joined the department as Inspector on 27.1.88 and since August, 1990 till the passing of the impugned order he was continuously posted in Customs formation only. It may be mentioned here that the present Commissionerate of Customs, N.E.R. Shillong along with Commissionerate of Central Excise, Shillong ^{were carved out of earlier Collectorate of Customs and Central Excise, Shillong} by Ministry's Office Order No. 98/93 dated 3.6.1993. (F.No.A-32012/18/90-Ad.II). Following the creation of two separate commissionerate an Order numbered 1/93 dated 16.6.93 was issued by then Principal Collector of Customs and Central Excise, Calcutta to re-define the jurisdiction and function of the two collectorate based at Shillong and to re-distribute the Existing staff between the two Collectors.

6. That with regard to para 4.4, the respondents beg to state that in view of the above quoted order an executive officer will work in the Customs formation only for a period not exceeding 4(four) years. For retention of an Officer in Customs formation in excess over the stipulated period of

of four years approval of Principal Collector (Now Chief Commissioner) is necessary. In view of the above facts the transfer was ordered purely on administrative ground.

The contention of the applicant that transfer was ordered during the middle of the academic session is unfounded. Also, the applicant was given sufficient time to join his new place of posting as is evident from the fact that he was relieved from Customs Preventive Post, Silchar, w.e.f. 18.5.2001.

(Annexure-9 of the O.A. No. 183/2000) vide order dated 24.4.2001, of the Deputy Commissioner, Customs Division, K Karimganj, i.e. after 5(five) months from the date of transfer, vide Order No. 130/2000 dated 15.12.2000.

7. That with regard to para 4.5, the respondents beg to state that there is no violation of any professed norm and guidelines laid down under the transfer policy/guidelines dated 30.6.1994. Under para 1(1) (a) of the above transfer guidelines it is clearly mentioned that transfer of an executive officer may be made before the completion of the normal tenure of 4(four) years wherever administrative requirement so necessitates. And, the applicant was transferred purely on administrative reason as stated above in para 4.4. The applicant's contention that he was picked up as pick and choose basis and there was no administrative exigency for the transfer, cannot be accepted at all. The respondent being head of the department is responsible for smooth and proper administration of the department, throughout the jurisdiction of the Commissionerate, which extends over whole of the north eastern region. Therefore respondent is the best person to

decide wheather any administrative exigency exists in case of a transfer .

8. That with regard to para 5, the respondents beg to state that the applicant's transfer from Customs to Central Excise was long due, but considering his representation he was allowed to continue under Customs formation and given posting as per his choice at Silchar vide order No. 6/98 dated 29.4.98. However, administrative reasons as stated above in forgoing paras, Compelled the respondent to relieve the applicant from Customs formation to Central Excise vide Order No. 19/2000 dated 15.12.2000. In view of the facts stated above the applicant is not entitled to any relief.

9. That with regard to paras 6 and 7, the respondents beg to offer no comments.

10. That It is therefore prayed that the Hon'ble Tribunal dismiss the application and vacate the stay order dated 16.5.2001.

Verification.....

VERIFICATION

I, **Sri Visielie Kzo**, Deputy Commissioner of Customs, Guwahati being authorised, do hereby verify and declare that the statements made in this written statements are true to my knowledge, information and ~~in~~ believe and I have not suppressed any material fact.

And I sign this verification on this 19th day of November, 2001, at Guwahati.

Visielie Kzo
Deponent.
Deputy Commissioner
CUSTOMS DIVISION
GUWAHATI.

17/06/93

2 3312297 DRI, NEW DELHI

Principal Collector
CUSTOMS & CENTRAL EXCISE
CALCUTTA
June 16, 1993

F.No. 11(3)/1/ET/PC-Cal

93

ORDER NO. 1/93

Sub: Allocation of work amongst Collectors of -
Central Excise, Shillong and Collector of
Customs (Preventive), Shillong.

With the issue of Ministry's Office Order No. 98/93 dated 30.6.93 (F.No. A-32012/18/90-Ad.II) under which a separate Preventive Collectorate of Customs has been carved out of the existing Collectorate of Customs and Central Excise, Shillong, it has become necessary to redefine the jurisdiction and functions of the two Collectorates based at Shillong and to re-distribute the existing staff between the two Collectors.

2. The two Collectors will now be re-designated as Collector of Central Excise, Shillong and Collector of Customs (Preventive), Shillong, and the two Collectorates will be known as Collectorate of Central Excise, Shillong and Collectorate of Customs (Preventive), Shillong.

3.1 The jurisdiction of either Collectorates will cover the States of Assam, Meghalaya, Arunachal Pradesh, Manipur, Mizoram, Nagaland and Tripura.

3.2 The Collector, Central Excise will look after the entire Central Excise work within his Collectorate, i.e. collection of Central Excise Revenue and Cess, raising of Demands, recovery of Central Excise Arrears, Anti-Evasion work of Central Excise, Adjudication of Central Excise cases, Review of orders in Adjudication passed by Additional/Deputy/Assistant Collectors of Central Excise, filing of appeals against orders pertaining to Central Excise passed by Collector (Appeals), computerisation and all Court work pertaining to Central Excise. He will exercise over-all supervision over the Central Excise Divisions and Ranges including Administration and Audit functions in his jurisdiction.

3.3 The Collector, Customs (Preventive) will correspondingly look after the entire work of Customs within his Collectorate i.e. planning of Anti-Smuggling and Drug Trafficking work along the International borders of Bangladesh, Myanmar, China and Bhutan and the adjacent areas thereto, including all areas within his jurisdiction, performing Customs work arising out of any Imports from and Exports to the aforesaid and other countries, collection of Customs Revenue, disposal of goods confiscated under the Customs Act and NDPS Act, recovery of Customs duties, arrears, review of orders passed by the Additional / Deputy / Assistant Collectors of Customs under the Customs Act, Adjudication of cases under the Customs Act, filing of Appeals against orders passed under the Customs Act by Collector (Appeals) and the Tribunal, all Court matters relating to Customs

...p/2

and Narcotics, Administration matters relating to Customs, Narcotics and staff deployed in the Customs Collectorate, Audit, Computerisation and all other matters pertaining to Customs. He will exercise overall supervision over all the Customs Divisions in his jurisdiction. He will also process and sanction all rewards cases on the Customs side.

4. All logistics in terms of Vehicles, Arms and Ammunitions, Metal Detectors, other Anti-Smuggling equipment etc. earmarked for Customs work will stand immediately transferred to the Collectorate of Customs (Preventive). Both Collectors must meet together immediately to work out the same.

5.1 Establishment/Vigilance etc. : In so far as Administration is concerned, the two Collectors will be supported by common Establishment and Vigilance Sections. In so far as the executive and operational staff is concerned i.e. in the grades of Superintendents, Inspectors, Drivers and Sepoys, the two Collectors will conduct a joint exercise of transferring these staff enblock from Central Excise to Customs and vice-versa, once in a year. The staff so earmarked for transfer from Central Excise to Customs will work in the Customs formations for a period not exceeding 4 years, with a maximum of 2 years in a station. - Approval of the Principal Collector will have to be taken if an officer has to be retained in the Customs Collectorate in excess over the period of 4 years.

5.2 All transfers and postings of staff within the Customs Collectorate will be done by the Collector of Customs (Preventive) and likewise on the Central Excise side, by the Collector of Central Excise.

5.3 Complaints and Vigilance matters pertaining to the staff will be looked into by the respective Collectors and directions for disciplinary action given by them.

6. Financial Powers: Steps are being taken to earmark a separate budget for the Customs (Preventive) Collectorate and which will be operated by the Collector of Customs (Preventive). The Chief Accounts Officer will maintain two Budgets viz. the Central Excise Budget and the Customs Budget, which will be operated by the respective Collectors.

Sd/-
(R.K. THAWANI)
PRINCIPAL COLLECTOR OF CUSTOMS
& CENTRAL EXCISE,
CALCUTTA

.....p/3

Read as 3-6

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Copy forwarded to: - 3 -

1. Shri B. Sankaran, Member (CX), Central Board of Excise and Customs, New Delhi.
2. Shri B. G. Rastogi, Member (P&V), Central Board of Excise & Customs, New Delhi.
3. Shri K. Vishwanathan, Member (AS), Central Board of Excise & Customs, New Delhi.
4. Director-General of Revenue Intelligence, 'D' Block, I.P. Bhawan, I.P. Estate, New Delhi-110002.
5. Director-General (Anti Evasion), Central Excise, West Block VIII, Wing No. VI, 2nd Floor, R.K. Puram, New Delhi-110 066.
- ✓ 6. Shri V. Lalvula, Collector of Central Excise, Shillong
- ✓ 7. Shri Dalbir Singh, Collector of Customs (Preventive) Shillong.
8. P.C. Unit, Calcutta.
9. Shri Subash Chander, Collector of Customs (Preventive) West Bengal, Custom House, M.S. Building, 15/1, Strand Road, Calcutta-700 001.

R. K. Thawani

(R. K. THAWANI)

PRINCIPAL COLLECTOR OF CUSTOMS &
CENTRAL EXCISE, CALCUTTA

BIO-DATA

SWAPAN KUMAR CHOUDHURY.

Name Of The Officer :-
(BLOCK LETTERS)

Date Of Appointment In The Dept.:- 20-1-88.

Date Of Appointment In The Present Grade :- -do-

Date Of Birth :- 11.15 April '60.

Home Town & State (Complete Address) :- Dharmamagan Town,
under Tripura State.

6. History Of Posting Since Entry :- (Vairab Sarani,
Hospital Rd, PO Dharmamagan) 1)

Sl.No.	Name Of The Division	Name Of The Unit	Post Held	From	To
1.	AGARTALA.	Technical Branch.	Inspector	27-1-88	March '88.
2.	- do -	Central Excise Prev. Unit	- do -	March '88	August '90.
3.	- do -	Divisional Customs (Prev) Unit.	- do -	August '90	May '92.
4.	- do -	Customs Prev. Post and Main LC Station at Kalachar	- do -	May '92	March '97
5.	- HQ, Office Shillong.	Customs (Appeal) Branch	- do -	March '97	May '98.
6.	- Karimganj.	CDF Silchar	- do -	May '98	to till date

Station :- SILCHAR

Date :- 9-12-99

Signature With Designation
Inspector

Inspector
Customs Preventive Force
SILCHAR

FORWARDING OFFICER'S VERIFICATION.

The Particulars Given Above Are Verified & Found To Be Correct.

Signature :-

Name :-

Designation :-