

GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 193/2001

R.A/C.P No.

E.P/M.A No.

1. Orders Sheet. OA-193/2001 Pg. 1 to 2
2. Judgment/Order dtd. 10/10/2001 Pg. No record order Disposed
3. Judgment & Order dtd. Received from H.C/Supreme Court
4. O.A. 193/2001 Pg. 1 to 36
5. E.P/M.P. NIL Pg. to
6. R.A/C.P. NIL Pg. to
7. W.S. submitted by the respondents Pg. 1 to 4
8. Rejoinder. Pg. to
9. Reply. Pg. to
10. Any other Papers. Pg. to
11. Memo of Appearance.
12. Additional Affidavit.
13. Written Arguments.
14. Amendment Reply by Respondents.
15. Amendment Reply filed by the Applicant.
16. Counter Reply.

Additional W.S. submitted by the Respondents

PG- 1 to 6

SECTION OFFICER (Judl.)

FORM NO. 4
(See Rule 42)

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

ORDER SHEET
APPLICATION NO193...OF 2001.

Applicant (S) *S. Choudhury;*

Respondent (S) *COL 2 ORS*

Advocate for Applicants (s) *Mr B.K. Sharma, S. Sarma
and Mrs U. Das.*

Advocate for Respondent (s)

C.G.S.C.

Notes of the Registry

Date

Order of the Tribunal

23.5.01

*This application is in form
but not in time (Condensation
Petition) filed vide
M.P. No. C.F.
for Rs. 50/- deposited vide
IPO/BE No. 64 792093
Dated 9.5.2001.*

Dy. Registrar

Admit. Issue Notice. Call for the records. Notice returnable on 23.6.2001.

Issue notice on the interim prayer as to why the operation of the Annexure-G order dated 10.7.2000 shall not be suspended in respect of the applicant. Notice returnable on 22.6.2001. Mr. A. Deb Roy, learned Addl. C.G.S.C. accepts notice on behalf of the respondents. In the meantime the operation of the impugned Annexure-G order dated 10.7.2000 shall remain suspended.

List on 22.6.2001 for further orders.

Vice-Chairman

Requisite 4 copies filed.

*NS
23/5/2001*

trd

*NS
24/5/2001*

Recd Copy

*Subhas Ch. Choudhury
24-5-01*

*Notice framed. One copy shared
and sent to D/S. for issuing the
Respondent No. 2 to 3. vide 22.6.01*

D INO 204942032 dtd 7/6/07

5/6/07

List on 27.7.01 to enable the respondents to file written statement. Interim order shall continue until further orders.

Q X d

2

22.6.01 List on 27.7.01 to enable the respondents to file written statement. Interim order shall continue until further orders

① Notice duly served on R.No. 2, 3 & 4.

② Show cause has not been filed.

Vice-Chairman

By 21.6.01

lm

27.7.01

Written statement has been filed. The applicant may file rejoinder if any. List on 22.8.01 for orders.

Member

lm

Order dtd 22/6/01 communicated to the parties concerned vide D/No _____ dtd _____
by 25/6/01

22.8.01

Written statement has been filed. Counsel for the applicant prays time for filing of rejoinder. Prayer allowed. List the matter on 12.9.2001.

Member

trd

17-7-2001

W/S has been submitted.

W/S

No rejoinder has been filed.

12.10.2001

Written statement has been filed. The applicant may file rejoinder, if any, withing two weeks from today.

List on 10.10.2001 for order. In the meanwhile interim order dated 23.5.2001 shall continue.

Member

orders

bb

WS 13/9/01

trd

20.9.2001

10.10.01

It has been stated that the applicant has already joined in the promotional post of HSG-I at Guwahati and accordingly this application has become infructuous and disposed of.

Vice-Chairman

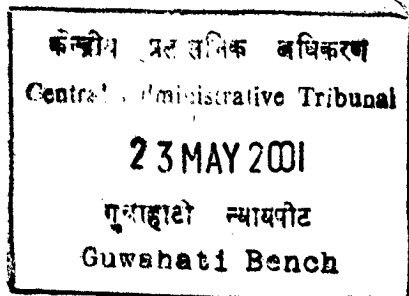
Add. W/S submitted by the Respondents.

12.10.2001

Copy of the order has been sent to the Office for issuing the writs to the L/Adv. for the applicant as per the Resp. No. 2.

pg

Vice-Chairman



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::
GUWAHATI BENCH::

OA. NO 193 2001.

Sri Subhash Choudhury..... Applicant.

-VS-

Union of India & ors..... Respondents.

I N D E X

SL NO	PARTICULARS	PAGE NO.
1.	APPLICATION	1 to 15
2.	VERIFICATION.	16
3.	ANNEXURE-A	17
4.	ANNEXURE-B	18
5.	ANNEXURE-C	19
6.	ANNEXURE-D	20
7.	ANNEXURE-E	21 to 24
8.	ANNEXURE-F	25 to 28
9.	ANNEXURE-G	29
10.	ANNEXURE-H	30 to 32
11.	ANNEXURE-I	33 to 36
~~~~~		

FILE :- C:WS/SS/WP.

5  
Filed by  
the applicant through  
Alsha Das.  
Advocate  
23/5/2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::  
GUWAHATI BENCH::

OA. NO _____ 2001.

BETWEEN.

Subhash Chandra Choudhury,  
Son of Late J Choudhury,  
Manager Postal Store Depot,  
Panbazar, Guwahati-781001.

... Applicant.

- Versus -

1. Union of India, represented by the Secretary to the Ministry of Communication, Department of Posts, Dak Bhavan, New Delhi. Director of Postal Services, Assam Circle, Guwahati.
2. The Chief Post Master General, Assam Circle, Guwahati-1.
3. Senior Superintendent of Post Offices, Guwahati-1.
4. Director of Postal Services, Assam Circle, Guwahati.

... Respondents

DETAILS OF THE APPLICATION.

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE.

This application is directed against the action of the respondents in issuing the order vide No B/R-13/Rotation/Ch-IV. dated 10.7.2000, transferring the applicant to a lower post.

2. LIMITATION.

That the applicant declares that the instant application has been made within the limitation period

Sh.

under section 21 of the Administrative Tribunal Act 1985.

### 3. JURISDICTION.

The applicant further states that the subject matter of the instant application is well within the jurisdiction of the Hon'ble Tribunal.

### 4. FACTS OF THE CASE.

4.1. That the applicant is a citizen of India and the resident of the State of Assam and as such he is entitled to all the rights privileges guaranteed under the constitution of India and the laws framed thereunder.

4.2. That the applicant presently holding the post of Manager, Postal Stores Depot, (in short PSD) Guwahati under the Assam Circle. Earlier he was under the N.E. Circle, but subsequently the office of the Postal Stores Depot (PSD) which was stated to be under N.E. Circle alongwith the posts pertaining to PSD was shifted to the administrative Control of Assam Circle. The Respondents on a mis-interpretation of the factual and legal aspect of the matter sought to repatriate the applicant to N.E. Circle at Shillong. Being aggrieved applicant approached the Central Administrative Tribunal, Guwahati by way of filing OA No. 1/96 which was disposed of by an order dated 5.6.97 with a direction to consider the case of the applicant.

Sd/-

4.3. That pursuant to the said order dated 5.6.97 the Chief Post Master General, N.E. Circle issued an order dated 21.8.97 showing transfer of the applicant to Assam Circle. Pursuant to the said order dated 21.8.97 the applicant was once again shown to be posted as Manager (HSG-II) Postal Stores Depot Guwahati on repatriation to Assam Circle by an order dated 25.8.97.

Copies of the said order dated 21.8.97 and 25.8.97 are annexed herewith as **Annexure-A and B** respectively.

4.4. That the applicant consequent upon his passing of the Post Office & Railway Mail Service Accountant Examination was holding the post of Lower Selection Grade, Accountant (LSG/Accountant ) and was designated as Assistant Post Master, Accountant in the scale of pay Rs. 4500-7000/-. Be it stated here that to remove stagnation in the matter of promotion of the Department of Posts has issued two schemes known as Time Bound One Promotion (TBOP) and Biennial Cadre Review (BCR) granting the benefits of two promotions on completion of 16 & 26 years of service respectively. The 1st promotion is in the cadre of Lower Selection Grade and the 2nd promotion is in the cadre of Higher Selection Grade to which cadre the applicant belongs to.

4.5. That the applicant was selected and promoted to the post of Manager in the PSD is in scale of pay Rs. 5000-8000/- in the cadre of Norm Based HSG-II. Norm

Schw.

Based HSG-II post is a promotional post and is open for promotion both from accounts line and general line LSG officials combined.

4.6. That by an order dated 29.8.98 the applicant was sought to be transferred to the post of Supervisor Norm Based LSG of general line issued by the senior supdt. of post offices, Guwahati, making a grievance against which the applicant once again approached the Hon'ble Tribunal by way of filing Original Application No. 52/98. On amongst the others, it was the ground of the applicant that the Senior Supdt. of Post Offices is not competent to transfer the applicant in terms of Directorate letter dated 23.1.98 as forwarded by letter dated 3.2.98, in terms of which it is only the Director of Postal Services who is much higher in rank than the Senior Supdt. of Post Offices competent to issue such order of transfer. Be it stated here that the applicant is a BCR Officials.

A copy of the letter dated 23.1.98 forwarding letter dated 3.2.98 are annexed herewith and marked as Annexure-C

4.7. That it was the further case of the applicant that he being in the accounts line could not have been transferred to the post of Supervisor in the general line that to belonging to LSG cadre.

Instead of repeating the contention raised in the said OA the applicant craves leave of this Hon'ble

Schw



Tribunal to produce the same if and when necessary. However, a copy of the order dated 9.3.87 is annexed herewith and marked as Annexure-D to show that the applicant belongs to accounts line and he was all along transferred in the accounts line.

4.8. That as already stated above post in the LSG cadre carries the pay scale of Rs. 4500-7000/- and those belonging to HSG cadre carries the pay scale of Rs. 5000-8000/- and naturally higher in rank.

4.9. That the above OA was disposed of by judgment and order dated 12.6.2000 only on the ground that the impugned order of transfer having been issued by an incompetent authority. As regards the plea of non-transferability of officials from accounts line to general line the Hon'ble Tribunal did not give any finding, however it has been held that the applicant could not have been transfer from HSG-II to LSG.

A copy of the judgment and order dated 12.6.2000 is annexed herewith and marked as Annexure-E.

4.10. That the applicant states that he is now left with only few months of service and he is entitled to protection as envisaged under circular No. 69-4/79-SPB-I dated 12.11.81, in terms of which apart from tenure posting of four years it has been laid down under clause 10 of the said circular which is quoted below for ready reference.

Scha

" 10. The staff who have two years or less to go on 30th September of each year before superannuation may be exempted from rotational transfer, as far as possible, and also given posting of their choice to the extent administratively feasible."

A copy of the said circular dated 12.11.81 is annexed herewith and marked as **Annexure-F**. It is stated that the said circular is still holding the field and till date same has not been altered by any other circular more particularly the clause 10 quoted above.

4.11. That the applicant is now shocked to come across the impugned order of transfer issued under No. B/R-13/Rotation/Ch-IV dated 10.7.2000 by which is once again transferred to a lower post i.e. LSG (Asstt. Manager, Postal Store Depot). Adding insult to the injury the order has been issued by the Senior Supdt. of Post Offices, who is not the competent authority.

A copy of the said order dated 10.7.2000 is annexed herewith and marked as **Annexure-G**.

4.12. That the applicant states that the said order dated 10.7.2000 is per-se illegal and on the face of it same has been issued with a malafide intention and

ggb

colourable exercise of power, within less than one month of judgement of the Hon'ble Tribunal. The applicant has come across the said order with has got the endorsement of PSD of 17.7.2000, only on 24.7.2000 and he is yet to be formally served a copy of the said order. Things have been done in a surreptitious manner and it is the genuine apprehension of the applicant that he might be released from the present post of Manager PSD even before formal service of the said impugned order on him.

4.13. That the applicant states that the impugned order dated 10.7.2000 is virtually an order of reversion of the applicant, since he is sought to be transferred from the post of HSG-II to LSG which is admittedly a lower post in all respect. The post of Asstt. Manager is a Norm Based LSG Posts of general line. As already stated above the applicant once belongs to Norm Based LSG Accounts line and later on promoted as Manager, PSD (Norm Based HSG-II) on selection by competent authority on regular basis. Be it stated here that the term Norm Based means sanction/functional post.

4.14. That the applicant states that the authority who issued the impugned order of transfer dated 10.7.2000 is not a competent authority to exercised the said power. On the other hand by the said impugned order the said authority has transferred him to another cadre/line which is not permissible under Rule 15 of FRSR. As per the said Rule 15 of FRSR transfer order from one cadre to another cadre can be issued only on

two grounds i.e. 1. Acting on own request and 2. on the ground of inefficiency or misbehavior. In the present case both the element are absent and hence the order dated 10.7.2000 is not sustainable.

An extract of the FRSR is annexed herewith and marked as Annexure-H.

4.15. That the applicant states that in the earlier occasion the same authority, i.e. the Senior Supdt. of Post Office, Guwahati Division issued the order of transfer dated 29.1.98 but against which the applicant moved the Hon'ble Tribunal by way of filing OA No. 52/98 and on hearing the parties to the proceeding the Hon'ble Tribunal was pleased to set aside the said order of transfer on amongst the other grounds that the authority who issued the order is not a competent authority. Be it stated here that the Hon'ble Tribunal's judgment and order dated 12.6.2000 is, still holding the filed and to the best of the knowledge of the applicant till date no writ petition has been filed against the said order nor any stay order has been granted suspending the operation of pursuant of the order dated 12.6.2000. In view of the judgment and order dated 12.6.2000 the Respondents could not have issued the said order of transfer showing total disregard to the judgment and order of the Hon'ble Tribunal.

4.16. That the applicant states that presently he is working as manager Postal Store Depot pursuant to the

Chief Post Master General, Assam Circle's order dated 25.8.97 which is a Norm Based higher selection grade post (HSG-II). Officials of Norm Based HSG-II cannot be transferred by an authority other than Director of Postal Services which has been affirmed and confirmed by the Directorate letter dated 23.1.98. Therefore the impugned order dated 10.7.2000 issued by the Senior Supdt. of Post Offices who is much lower in rank than the post of Directorate of Postal Services is not sustainable and liable to be set aside and quashed.

4.17. That the applicant begs to state that under the Administrative Tribunal Act 1985, the appropriate forum of the present case is the Central Administrative, Guwahati Bench. However, at that point of time the Guwahati bench was not sitting. Since there was no sitting of Guwahati Bench, under the compelling circumstances the applicant directly approached the Hon'ble Court under Article 226 of the Constitution of India. In L. Chandrakumar's case it has been laid down by the Hon'ble Apex Court that the High Court has supervisory power over the Central Administrative Tribunal and writ petition lies before the Division Bench against the order of the Hon'ble Tribunal. However, the Hon'ble Court held that the Tribunal being the court of first instance should always be approached first. While holding thus the Hon'ble Apex Court also reiterating the power of the High Court under Article 226 cannot be curtailed and same can always be exercised. Hence in the present case in absence of

there being no sitting of Guwahati Bench. The applicant has approached the Hon'ble Court directing under its extra ordinary jurisdiction. The present applicant invoking power conferred under Art 226 of the Constitution of India moved the Hon'ble Guwahati High Court, Guwahati, by way of filing W.P. (C) No 3985 of 2000. The Hon'ble High Court while entertaining the said WP (C) issued notice to the respondents and passed an interim order on 27.7.2000 protecting his interest.

A copy of the said order dated 27.7.2000 is annexed herewith and marked as ANNEXURE-I.

4.18. That the aforesaid WP(C) filed by the applicant came up before the Hon'ble High Court on 15.5.2001 and the same was dismissed on the ground of jurisdiction.

Inspite of his best effort, the applicant could not collect the copy of the said order dated 15.5.2001 passed by the Hon'ble High Court, Guwahati and hence he prays that the said copy will be produced before the Hon'ble Tribunal as and when same is available.

4.19. That the applicant states that the order dated 10.7.2000 has not yet been given effect to in view of the stay order passed by the Hon'ble High Court and the applicant is still holding the post of Manager PSD and no one has come to take over the charge from him. As already stated above the aforesaid impugned order is yet to be formally served on the applicant but he

See.

apprehends that he might be released at any time in view of the said order dated 15.5.2001 to frustrate the claim of the applicant. The applicant has got a prima facie case and he will suffer irreparable loss and injury if the interim order as prayed for is not granted.

4.20. That the applicant submits that ex-facie the impugned order of transfer dated 10.7.2000 is illegal, arbitrary and founded on malafide and colourable exercise of power and same is not sustainable in the eye of law.

4.21. That the applicant submits that by issuing the impugned order of transfer dated 10.7.2000 the Respondents have flouted the judgment and order of the Hon'ble Tribunal and for the same the Respondents are liable to be punished under Contempt of Court Proceedings.

4.22. That the applicant submits that now he is left with only nine months of service in his credit and thus he could not have been subjected to any transfer in terms of circular dated 12.11.81.

4.23. That the applicant submits that the impugned order of transfer dated 10.7.2000 is illegal, arbitrary and violative of Article 14, 16 and 311 of the Constitution of India and hence same is liable to set aside and quashed.

Sek

4.24. That the applicant submits that the impugned order of transfer dated 10.7.2000 having been issued contrary to the judgment and order of the Hon'ble Tribunal, same is not sustainable and liable to be set aside and quashed.

4.25. That the applicant submits that he has attracted wrath of the Respondents because of his approached to the Hon'ble Tribunal by way of filing OAs and consequently he is constantly being harassed. This is the third time the applicant has has been forced to come under the protective hands of Your Lordships.

4.26. That the applicant files this application bonafide for securing the ends of justice.

#### 5. GROUNDS FOR RELIEF WITH LEGAL PROVISION.

5.1. For that the action/inaction on the part of the respondents in issuing the impugned order dated 10.7.2000 is illegal and arbitrary and violative of various provisions of law and same are liable to be set aside and quashed.

5.2. For that ex-facie the impugned order of transfer dated 10.7.2000 is illegal, arbitrary and founded on malafide and colourable exercise of power and same is not sustainable in the eye of law.

5.3. For that by issuing the impugned order of transfer dated 10.7.2000, the Respondents have flouted the judgment and order of the Hon'ble Tribunal and for the same the Respondents are liable to be punished



under Contempt of Court Proceedings.

5.4. For that now the applicant is left with only nine months of service in his credit and thus he could not have been subjected to any transfer in terms of circular dated 12.11.81. 5.5. For that the impugned order of transfer dated 10.7.2000 is illegal, arbitrary and violative of Article 14, 16 and 311 of the Constitution of India and hence same is liable to set aside and quashed.

5.6. For that the impugned order of transfer dated 10.7.2000 having been issued contrary to the judgment and order of the Hon'ble Tribunal, same is not sustainable and liable to be set aside and quashed.

5.7. For that the applicant has attracted wrath of the Respondents because of his approached to the Hon'ble Tribunal by way of filing OAs and consequently he is constantly being harassed. This is the third time the applicant has has been forced to come under the protective hands of Your Lordships, and for this reasons only the respondents have issued the impugned order of transfer dated 10.7.2000 with malafide intention.

5.8. For that the respondents have violated various provisions of law and Rules guiding the field in issuing the impugned the order dated 10.7.2000 and hence same is not sustainable in the eye of law and liable to be set aside and quashed.

The applicant craves leave of the Hon'ble Tribunal to advance more grounds both legal as well as factual

Scb.

at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED

That the applicant has availed all the possible alternative remedies available to him. The WP(C) No 3985/2000 filed before the Hon'ble High Court has been dismissed for want of jurisdiction. Now the applicant has filed the present application under section 19 of the Administrative Tribunal Act 1985 before the Hon'ble Tribunal seeking appropriate reliefs.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT.

That the applicant further declares that he has not filed any other Writ Petition, Suit or Application before any Court of law or any other authority nor any of the same are pending for any of them.

8. RELIEF SOUGHT FOR.

Under the facts and circumstances stated above, the applicant prays before the Hon'ble Tribunal that the present application be admitted, records be called for and after hearing the parties to the proceeding be further pleased to grant the following reliefs;

8.1. To set aside and quash the order dated 10.7.2000, with all consequential service benefits, with a further direction to the Respondents not to transfer the applicant till his retirement from his present place of

Scanned

posting .

8.2. Cost of the application.

8.3. Any further order/orders as may be deemed fit and proper by the Hon'ble Tribunal considering the facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR.

Pending disposal of the petition, be further pleased to suspend the operation of the impugned order dated 10.7.2000 so far it relates to the applicant and to allow him to continue in his present place of posting, i.e. Manager Postal Stores Depot, Guwahati.

10.

11. PARTICULARS OF THE I.P.O.

1. I.P.O. NO...66.792095
2. dated...9/5/2001
3. Payable at..... Guwahati.

12. LIST OF ENCLOSURES.

As indicated in the Index.

VERIFICATION.

SON.

VERIFICATION

I, Shri Subhash Chandra Choudhury, aged about 59 years, son of Late J. Choudhury, presently working as Manager, PSD, Guwahati, Assam Circle, do hereby solemnly affirm and verify that the statements made in in paragraphs 4.1, 4.2, 4.4, 4.5, 4.8, 4.12, 4.13, 4.15, 4.16, 4.18, 4.19 & 5.1 to 5.8 are true to my knowledge ; those made in paragraphs 4.3, 4.6, 4.7, 4.9, 4.10, 4.11, 4.14 & 4.17 being matters of records are true to my information derived therefrom. Annexures are true copies of the originals and grounds urged are as per the legal advice.

And I sign this verification on this the 21 th day of May 2001 at Guwahati.

*Subhas Ch Choudhury*

DEPARTMENT OF POST, INDIA.  
OFFICE OF THE CHIEF POSTMASTER GENERAL, N.E. CIRCLE:  
SHILLONG - 793 001.

MEMO. NO. STAFF/125-1/PSD/93 Dated at Shillong the 21-8-97.

In consideration of the application dated 30.7.97 of Shri Subhash Choudhury Vis-a-vis the Judgement of the CAT, Guwahati Bench, dated 5.6.97, the Chief Postmaster General, N.E. Circle, Shillong, is pleased to accept the option dated-6.6.88 of Shri Subhash Choudhury for remaining in Assam Circle at the time of Bifurcation of the erstwhile North Eastern Circle.

Accordingly, Shri Subhash Choudhury is treated as transferred to Assam Circle with effect from the date of Bifurcation.

Sd/-  
(P.K. NANDI MAJUMDAR)  
Asstt. Postmaster General (Staff)  
for Chief Postmaster General,  
N.E. Circle, Shillong-793 001.

Copy to:

1. The Chief Postmaster General, Assam Circle, Guwahati, N.E. Circle, his letter and D.O. No. Staff/57-1/94 PT. I dated 1.8.97 & 13.8.97.
2. The Supdt of P.S.D., Guwahati. - 21.
3. The Sr. Supdt of POs, Meghalaya Divn., Shillong.
4. The Official concerned. (Sd/- Subhash Choudhury, Manager, F.S.D. Guwahati - 21)
5. Office Copy.

Sd/-  
for Chief Postmaster General,  
N.E. Circle, Shillong-793 001.

BK-

Attested

Advocate.

DEPARTMENT OF POSTS, INDIA  
OFFICE OF THE CHIEF POSTMASTER GENERAL, ASSAM CIRCLE  
MECHPOOT BHAGAN, GUWAHATI-1.

No.Staff/37-1/94 Pt.-I

Dated at Guwahati the 25-08-97.

In pursuance of Chief Postmaster General, N.E. Circle, Shillong letter No.Staff/125-1/PSD/93 dtd. 21-8-97, approval of the Chief PMG, Assam Circle, Guwahati is hereby conveyed for repatriation of the following official of N.E. Circle to Assam Circle with effect from the date of bifurcation of the erstwhile N.E. Circle i.e. w.e.f. 28-6-1988.

Sl.No.	Name of the official	Present place of posting.	Allotted Dn.
1.	Sri Subhash Choudhury, P.A.(PO), HSG-II (BCR)	Manager, PSD/GH. on deputation from N.E. Circle.	Guwahati Postal Dn.

( I. C. SARMA )  
A.P.M.G. (STAFF)  
For Chief Postmaster General  
Assam Circle, Guwahati-781001.

Copy for information and necessary action.

1. SPOs, Guwahati (A copy of CO/GH. letter cited above is enclosed).
2. Sr. PM, Guwahati GPO.
3. Supdt. PSD, Guwahati w.r. to his SD/BA-141/CAT/GH/92 dtd. 7-8-97.
4. APMG(Inv), C.O./GHY. w.r. to his No.V1g/5/VII/93-96 dtd. 29-7-97.
5. Chief PMG, N.E. Circle, Shillong.
6. Sri S. Choudhury, Manager, PSD, Guwahati.

For Chief Postmaster General  
Assam Circle, Guwahati-781001

Amesha  
er Das.  
Advocate

DEPARTMENT OF POSTS: INDIA  
OFFICE OF THE CHIEF POSTMASTER GENERAL, ASSAM CIRCLE  
HIGHDOOT BHAWAN, GUWAHATI-1.

To,

✓ Supdt. PS D/Ghy -

1. All Heads of Divns/Units in Assam Circle.
2. All Group Officers, CO/RO, Guwahati.
3. All dealing shares in Staff Section, CO/RO, GHY.

No. Staff/17-1/Rlg/TB 2nd Corr Dated at Guwahati the 3-2-98.

Sub:- Posting of BCR officials against norm based post.

A copy of Directorate's New Delhi letter  
No. 137-55/95-3PB-II dtd. 23-1-98 on the above subject is  
appended below for information, guidance and necessary action.

Appended : As above.

( I. C. SARMA )  
A.P.M.G. (STAFF)  
For Chief Postmaster General  
Assam Circle, Guwahati-781001.  
A.R.M.

Copy of Dte's New Delhi letter No. 137-55/95-3PB-II dtd. 23-1-98.

Sir,

I am directed to say that the Unions in one of the  
meetings with the Secretary(P) had pointed out that there is no  
uniform policy reg. B.C.R. officials and their tenure posting.  
Secy(P) assured the Union that the matter would be looked into.  
Now, it has been decided that the tenure rule applies to the  
B.C.R. officials subject to the condition that B.C.R. officials  
working on a non functional post would be required to be shifted  
to a norm based LSG/HSG post on the basis of their seniority  
even if they have not completed their tenure. Posting of BCR  
officials to all the norm based HSG-II posts should be ordered  
by the DPs concerned.

Yours faithfully,

SD/-

( A.K. KAUSHAL )  
Asstt. Director General (SPN).

29/1/98 1/0

Asstt. Dir.  
Adm.

DEPARTMENT OF POSTS: INDIA.  
OFFICE OF THE POSTMASTER GENERAL: N.E. CIRCLE: SHILLONG-793001

Memo No. Staff/10-11/76 Dated Shillong the 9/3/1987

The order of transfer and posting of the following L.S.G. Accountants are issued in the interest of service.

1. Shri R. Bagchi, APM A/Cs, Tura H.O. is transferred and posted as APM A/Cs Agartala. He shall be relieved only on the joining of his substitute.
2. Shri S. C. Choudhury, LSG., Accountant Tinsukia P.O. is transferred and posted on regular basis as APM A/Cs Tura H.O. vice Shri R. Bagchi transferred.
3. Shri S. K. Chakuria, LSG, Accountant who is approved on Circle basis, for posting as APM A/Cs on regular basis, is allotted to Assam Region where he shall be posted as APM A/C, Guwahati G.P.O. Addl P.M.G. Guwahati will issue formal orders of posting.

Should any vigilance or disciplinary case is pending against the officials at serials 2 or 3 immediate report may be sent before relieving the officials.

Sd/-

( L. Munga )  
A.P.M.G. (Staff)  
for Postmaster General  
N.E. Circle, Shillong.

SKD

Copy to:-

1. Addl P.M.G. Assam Region, Guwahati
2. Sr. Supdt of P.O's Shillong/Guwahati
3. D.P.S. Agartala
4. Sr. Postmaster Guwahati
5. Supdt. of P.O's Tinsukia/Nalbari
6. Postmaster Tinsukia, Nalbari/Hagartala
- 7-9 Officials concerned.
- 10-12 P/F of the officials.
13. Copy to Accts Share, Staff Section.
- 14-15. Spare.

for Postmaster General  
N.E. Circle, Shillong.

C. Choudhury  
L.S.G. Acct.  
H.O.  
Tinsukia  
Tinsukia (Assam)

SKD  
14/3/87



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 52 of 1998.

Date of Order : This the 12th Day of June, 2000.

Hon'ble Shri D.C.Verma, Judicial Member.

Shri Subhash Chandra Choudhury,  
Manager, Postal Stores Depot,  
Guwahati-21.

. . . Applicant.

By Advocate S/Shri B.K.Sharma, S.Sarma.

- Versus -

1. Union of India  
represented by the Secretary to the  
Government of India,  
Ministry of Communication,  
Department of Posts,  
New Delhi-1.
2. The Director General of Posts,  
New Delhi.
3. The Chief Post Master General,  
Assam Circle,  
Guwahati-1.
4. The Sr.Superintendent of Post Offices,  
Guwahati-1. . . Respondents.

By Advocate Shri B.S.Basumatary, Addl.C.G.S.C.

ORDER

D.C. VERMA, JUDICIAL MEMBER,

The applicant has prayed for quashing of the  
transfer order dated 29.1.1998 (Annexure-D to the C.A) and  
Order dated 11.3.1998 (Annexure-I to the C.A).

The applicant was posted as Manager, Postal Stores  
Depot (PSD) at Guwahati under the administrative control  
of the North East Circle, Shillong. The applicant opted for  
Assam Circle. The applicant was accordingly allotted the  
Assam Circle. From the post of Manager PSD the applicant  
had been transferred by Annexure-D dated 29.1.1998, to  
join as Supervisor, NESD, Guwahati-20. The applicant's

contd..2

Attested

Attested

Case is that the impugned order of transfer dated 29.1.1998 had not been passed by the competent authority. Further ground is that the post of NESD, Guwahati carries lower scale of pay consequently the posting of the applicant to NESD amounts to reversion. The third ground is that the applicant had not complete the usual 4 years tenure as Manager PSD. The fourth ground on which the impugned order has been challenged is that the applicant belongs to Accounts cadre and the post of Supervisor, NESD is of general cadre. Consequently, it has been submitted that the applicant's cadre cannot be changed in the manner it has been done by the respondents by Annexure-D to the O.A.

3. The applicants belongs to HSG-II Grade. During the course of arguments it has been admitted that the Grade of HSG-II is Rs.5000-8000/-. The scale of pay attached to the post of Manager, PSD is also Rs.5000-8000/-. The post of Supervisor, NESD is in the scale of Rs.4500-7000/-. Thus the applicant had been transferred from the scale of Rs.5000-8000/- to the lower scale of Rs.4500-7000/-. Learned counsel for the respondents has submitted that, as per Annexures 7 and 8 filed with the written statement of the respondents, an HSG-II Grade official can be posted against LSG post but would carry the scale of HSG-II. Even if the contention of the learned counsel for the respondents be accepted the position of posting of an HSG-II Grade official to LSG post as per Annexures 7 and 8 is at the time when the BCR Scheme was being implemented and not for all time to come. Once the applicant has been posted to a post of HSG-II carrying the pay scale of Rs.5000-8000/- the applicant cannot be sent back to a post of LSG even though the same may carry the same scale. Further in the impugned transfer order dated



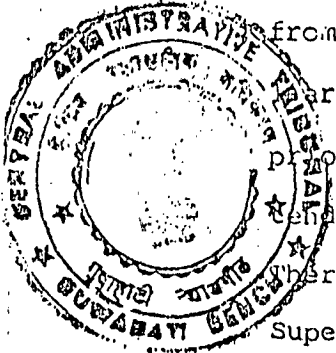
*[Handwritten signature]*

contd.. 3

**Attested**  
*Abas*  
Advocate

29.1.1998 there is no mention that the applicant would draw the scale of HSG-II even on the post of Supervisor, NESD. In view of this matter the order transferring the applicant from a higher scale to a lower scale post, by the impugned order, is not valid.

4. Admittedly, the impugned order dated 29.1.1998 has been passed by the Senior Superintendent of Post Offices, As per Annexure-E dated 3.2.1998 posting of BCR officials to all the norm based HSG-II post is to be ordered by the Director, Postal Services (DPS), concerned. Thus an HSG-II official can be transferred by DPS only. The present impugned order has been passed by the Senior Superintendent of Post Offices who is not a competent authority. In the light of Annexure-E dated 3.2.1998 learned counsel for the respondents has pointed out that Annexure-E was issued in February 1998 whereas the order impugned in the case was passed in January 1998. The submission is that the DPS has been made the competent authority with effect from 3.2.1998 when the order Annexure-E was issued. The learned counsel has however, not been able to show that prior to issue of this order (Annexure-E) Senior Superintendent of post Offices was the competent authority. There is nothing in Annexure-E to indicate that Senior Superintendent of Post Offices was earlier the competent authority or the same has been changed with effect from 3.2.1998. In absence of any such document the submission of the learned counsel for the respondents cannot be accepted. It is therefore, held that the impugned order passed by the Senior Superintendent of Post Offices, who was not a competent authority, is not valid. It may be pointed out that by Annexure-I dated 11.3.1998 the DPS rejected the



contd.. 4

*hDas*  
*Advocate*

representation of the applicant made against the transfer order. Such an order could not have been passed by the DPS if after 3.2.1998 (Annexure-E) the DPS had become the competent authority to pass the transfer. Consequently Annexure-I dated 11.3.1998 is also not valid.

5. One of the reliefs claimed by the applicant is that he be allowed to continue as Manager in the PSD till completion of his tenure of 4 years with effect from 25.8.1997. In support of the applicant's claim the learned counsel for the applicant have placed reliance on Annexure-F which is a copy of Swamy's Compilation of Posts and Telegraphs Manual Volume IV on the subject of establishment, to show that the tenure is of 4 years. Heard counsel for the parties on the point. The period of tenure provided in the rule is to be 'ordinarily' followed. It is only a guideline and is not justiciable. In a given circumstance and/or on administrative grounds or exigency of service an official can be transferred before completion of the tenure or can even be retained after he has completed the tenure period. In my view therefore, this relief of the applicant that he be allowed to continue in the post of Manager, PSD Guwahati, till completion of his tenure of 4 years, has no merit.

6. In view of the discussion made above the O.A. is partly allowed. The impugned orders Annexure-D insofar as it relates to the applicant and Annexure-I is quashed. The other reliefs claimed in the O.A. is rejected. Costs on parties.



TRUE COPY

sd/MEMBER(j)

Section Officer (J)  
Central Administrative Tribunal  
Guwahati Bench, Guwahati  
গুৱাহাটী বেঞ্চ, গুৱাহাটী

16/6/2000  
adars.

14/29

INDIAN POSTS AND TELEGRAPH DEPARTMENT  
OFFICE OF THE DIRECTOR GENERAL OF POSTS AND TELEGRAPHS  
SAHSAD MARG NEW DELHI-110001

NO- 69-4/79-SDD-I

Dated the 12 November, 81

- All Heads of Posts/Telecom/Civil Circles,
- All Heads of Telephone Districts,
- All Heads of other Administrative offices
- Chief Engineer (Civil)

Subj: Rotational Transfers

Sir,

The question of rotational transfers of staff - gazetted as well as non-gazetted - has been considered in depth. In supersession of all the previous orders on the subject, the following orders are issued to regulate the rotational transfers of staff.

2. As regards transfers on completion of tenure in posts, the existing instructions regarding "Post tenure" will continue to be applicable for various categories of staff, both gazetted and non-gazetted, as laid down in P&T Manual Volume IV.

3. As regards transfers on completion of tenure in a stations, the principles as explained in the following paragraphs will be followed:

4.1 Gazetted officers and non-gazetted supervisory staff (such as ASPOs, ASRMs, TPOs, JPOs, JEs, Junior Accounts Officers, etc.) will be normally subject to a station tenure of 4 years, which may be extended upto 6 years in individual cases, in the public interest. The powers in respect of the gazetted officers will be exercised by the P&T Directorate and in the case of non-gazetted supervisory staff, by the concerned Heads of Circle.

4.2 Gazetted officers as well as non-gazetted officials, who have all-India transfer liability, may be transferred to another station in the same State/region on completion of tenure, to the extent administratively possible.

4.3 As regards non-gazetted operative staff, they may also be liable to transfers from one station to another (within their respective recruiting units) on the basis of completion of station tenure of 4 years. Such transfers should also take into consideration the need for balancing of popular and non-popular stations, so that popular stations are not monopolised by certain favoured employees. The station tenure of 4 years may, however, be extended to 6 years in individual cases in the public interest. The powers for extending the station tenure beyond the prescribed limit in respect of the operative staff up to the level of LSG officials will be exercised by the concerned Director of Postal Services/Director Telegraphs/Area Manager/Deputy General Manager and in the case of higher selection grade officials, by the Head of the Circle.

..2/

Attested  
*Asas*  
Advocate.

- Circle Postal Accounts Officers working outside the Circle Postal Accounts Officers i.e., in offices like the Postal Stamp Depot, etc. and the same stipulation of staff tenure of 4 years should apply. These officers, after completion of tenure, should be brought back to Postal Accounts Offices and their position in SACOs etc. should be taken by these officials working in the Postal Accounts Offices. Junior Accounts Officers on promotion, as far as possible, should be posted outside the Circle in which their parent office is located. They may be brought back wherever there are vacancies to their parent office, after completion of their tenure if suitable vacancies are available in their original parent office. The JAOs and AOs should be rotated periodically within the Circle so that they acquire varied experience.
5. The crucial date for computing the completion (or otherwise) of the tenure will be the 30th of September.
6. Transfers may not be effected, save in exceptional circumstances (which will include administrative necessity) in the middle of the academic session.
7. Transfers may, as far as possible, be effected sufficiently in advance of the commencement of the academic year. Officials who are due to complete the tenure by the 30th of September (in any year) should be transferred in the preceding April-June period or the following December-January period depending upon the academic session. Those who are completing the tenure after the 30th of September, should be transferred in December of the same year or in April-June of the following year depending upon the starting date of the academic session. Orders in respect of rotational transfers should be issued in the middle of December, 1981 so that officers/officials keep themselves in readiness for moving to their station of posting by January or April-May, 1982, as the case may be, depending upon the academic session. In future, the same procedure will be followed.
8. Periods of leave taken in the course of a posting in a station will be counted as duty for the purpose of computation of the tenure period, except that continuous leave of any kind exceeding six months at a stretch will be excluded from the tenure period.
9. Period of training/deputation exceeding six months at a time, both in India and abroad, will be excluded from the computation of tenure period. All other training/deputation periods will be counted as duty for the purpose of computation of tenure.
10. The staff who have two years or less to go on 30th September of each year before superannuation may be exempted from rotational transfer, as far as possible, and also given posting of their choice to the extent administratively feasible.
11. In the case of officers on deputation to other Departments/Ministries in the same station, the principle to be followed will be that they should not remain away from the field for too long. An officers, on return from deputation, will as a rule be posted at a station different from the one he was working at before he proceeded on deputation. The same principle will be followed in respect of officers returning from foreign assignments. In exceptional cases, which should be rare, if the competent authority is satisfied that in the interest of the Department

*Handwritten signature and initials*

11. In reckoning the period of stay of a gazetted officer at a station, the period of non-gazetted service immediately preceding the gazetted service at the same station will be taken into account. It will, however, be ensured that no official, on promotion, may be posted to work in a post which requires the exercise of supervisory or inspectorial powers over the staff with whom he was working for a good period of time or immediately before his promotion.

12. In reckoning the period of stay of a gazetted officer at a station, the period of non-gazetted service immediately preceding the gazetted service at the same station will be taken into account. It will, however, be ensured that no official, on promotion, may be posted to work in a post which requires the exercise of supervisory or inspectorial powers over the staff with whom he was working for a good period of time or immediately before his promotion.

13. Re-transfer of an officer/official to the station from which he was transferred should not be normally considered for a period of two years. In other words, an officer/official should spend a minimum of two years at the station to which he is transferred before he can be considered eligible for re-transfer. The two-years break is, however, only a minimum condition and it will not entitle an officer/official to claim re-transfer to the old station in preference to others who have spent longer period outside. Re-transfer after a break of two years may be considered in administrative as well as compassionate grounds. In such cases, an officer/official will count his tenure at the old station afresh for purpose of further rotational transfer. Re-transfer before the completion of two years may be considered only in extreme public interest or on extreme compassionate grounds in very rare cases. Re-transfer of officers from Regional/Area Headquarters to Circle headquarters may, however, be considered without the two years restriction subject to exigencies of service and the principle of station tenure.

14. Transfers on promotion may be ordered keeping in view the exigencies of public service, notwithstanding non-completion of tenure by an officer/official at a station. When transferring an officer/official to a post involving all-India transferability, efforts should be made, subject to public interest, to give posting in the same State/Circle (where the Circle comprises of more than one State) or region. If transferred to outside station for lack of vacancies, the officer/official may, after for joining duty, ask for posting in his own State/Circle/region. Efforts will be made, subject to public interest, to comply with the request on the occurrence of appropriate vacancy provided that the re-transfer, if made before two years, will be treated as done at the request of the officer/official. No request for re-transfer will be considered with respect to any officer/official who does not join the station assigned to him.

15. Promotion from a non-gazetted grade to a gazetted grade, an official will be generally transferred to a different functional at a different station

*Handwritten signature and initials*

15. Cases of extension of tenure, whether in a post or station, on compassionate grounds should be the exception and considered only in very deserving cases. Even in such cases, extension of the prescribed station tenure should not be granted for more than one year by the next superior authority and reasons therefor, should be recorded on the file. Any proposal for extension beyond one year in respect of non-gazetted staff should be referred to the Directorate. In case of gazetted officers, proposals for granting extension even for one year should be referred to the Directorate.

16. Transfers in the interest of service may be ordered by the competent authority even though they do not fall within the purview of the above guidelines.

17. While making transfers of officials/officers administrative needs of particular region/state should be kept in view.

18. If the operation of rotational transfers necessitates transfer of officials exceeding 75% in a particular station/unit in a particular category, large transfers will be limited to 33% in the current year. If, however, there are only two persons at a station, who have completed their tenure, one of them will be transferred and if there is only one, he will be transferred notwithstanding the ceiling of 33%. The officers/officials, who have over-stayed in their posts as on 30th September for a longer period, may be transferred first.

19. In the case of officials trained specially to man the advanced technology programmes in satellite communication and electronic switching, the proposals for their transfer on completion of tenure or otherwise on the grounds of administrative requirements should be referred to the Directorate.

20. Heads of the Circles, etc., are requested to take immediate necessary action in the matter accordingly.

21. Receipt of this letter may please be acknowledged to Director(SP).

Hindi version will follow.

Yours faithfully,

Sd/-

( R.K. SINGH )

DEPUTY DIRECTOR GENERAL (P)

Copy to:-

- 1. Staff sections of the Directorate.
- 2. Recognised Federations/Unions/Associations, JCH.
- 3. DDGs and Directors in the Directorate.

*[Handwritten signature]*



- 29 -



DEPARTMENT OF POSTS, INDIA  
OFFICE OF THE SR SUPERINTENDENT OF POST OFFICES, GUWAHATI  
MEGHDOOT BHAWAN 3RD FLOOR, GUWAHATI-781001

NO. B/R-13/Rotation/Ch-IV,

Dated at Guwahati the, 10.07.2000.

The following transfer and posting order is issued in the interest of Service to have immediate effect.

1. Sri Nirmal Ch. Das, P.A., PSD, on being relieved on office arrangement will join as SPM, Pandu Railway Colony S.O. relieving Sri Khagen Ch. Medhi, SPM, there.
2. Sri Khagen Ch. Medhi, SPM, Pandu Railway Colony SO on being relieved will join as SPM, Silpukhuri SO relieving Sri Arabinda Boro, SPM, there.
3. Sri Arabinda Boro on being relieved will join as Manager, PSD, Guwahati relieving Sri Subhash Ch. Choudhury, Manager there.
4. Sri Subhash Ch. Choudhury, Manager, PSD, Guwahati on being relieved will join as Asstt. Manager, PSD, Guwahati relieving Sri Jiban Ch. Das, Asstt. Manager there.
5. Sri Jiban Ch. Das, Asstt. Manager, PSD, Guwahati on being relieved will join as P.A., PSD, Guwahati vice Sri Nirmal Ch. Das transferred.

Sr. Superintendent of Post Offices,  
Guwahati Division, Guwahati-781001

Copy to:-

- 1-5) The official concerned.
- 6-12) The PFs of the officials.
- 13) The C.P.M.G., Assam Circle, Guwahati-1 w.r.t. CO/GH No. Vig/5/XXIII/98 dtd. 13.6.2000.
- 14) The Superintendent, P.S.D., Guwahati -781021.
- 15) The Sr. Postmaster, Guwahati GPO.
- 16-17) The SPM, Pandu Railway Colony SO/Silpukhuri SO.
- 18) O/C.

Sr. Superintendent of Post Offices,  
Guwahati Division, Guwahati-781001

*Handwritten signature/initials*  
2000.10.

# Swamy's Compilation

## Fundamental

## Principles

## Swamy's

## Parts I & II

Approved by the  
Director General of  
Posts & Telegraphs  
as a reference book

*Swamy*

31-  
a Government servant's lien on a post may in no circumstances be terminated even with his consent, if the result will be to leave him without a permanent post.  
A question has been raised as to what procedure should be followed in terminating the lien of a permanent Government servant who is transferred on foreign service and is subsequently absorbed in the service of the foreign employer.

It is hereby clarified that F.R. 14-A applies only so long as a Government servant remains in Government service. Obtaining of consent of the Government servant to the termination of lien is necessary in certain circumstances where the Government servant is to be confirmed in another post under Government. Such consent is not necessary in cases where the Government servant ceases to be in Government employ. The proper procedure in such cases where it is proposed to absorb him in non-Government service in public interest would be to ask the Government servant concerned to resign from Government service with effect from the date of such permanent absorption and the lien will stand automatically terminated with the cessation of Government service.

Such resignation from Government service will be without prejudice to the entitlement of the Government servant to the retirement benefits provided the transfer to the public sector undertakings or Government or Semi-Government Corporations is in the public interest.

However, obtaining of formal resignation is not necessary if an individual is deemed to have retired from service by virtue of rule 37 of C.C.S. Pension Rules, 1972.

In all cases where a Government servant is to be absorbed permanently by the foreign employer under his organisation, it would be incumbent on him to consult the parent employer before issuing orders absorbing the Government servant permanently in his service. The order of permanent absorption should be issued only after the resignation of the Government servant has been accepted by the Government and with effect from the date of such acceptance.

G.L.F.M.F. OM. No. F. 4 (3)-E. IV/A/63, dated the 1st October, 1963 and 2 (1)-E. IV (A)/73, dated the 22nd April, 1974.

F.R. 14-B: Subject to the provisions of Rule 15, the President may transfer to another permanent post in the same cadre, the lien of a Government servant who is not performing the duties of the post to which the lien relates, even if that lien has been suspended.

F.R. 15. (a) The President may transfer a Government servant from one post to another; provided that except

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

a Government servant shall not be transferred substantially to, or, except in a case covered by Rule 49, appointed to officiate in a post carrying less pay than the pay of the permanent post on which he holds a lien; or

Attested  
*WAS*  
Advocate.

32- would hold a lien had his lien not been suspended under Rule 14.

- (b) Nothing contained in clause (a) of this Rule or in clause (13) of Rule 9 shall operate to prevent the re-transfer of a Government servant to the post on which he would hold a lien, had it not been suspended in accordance with the provisions of clause (a) of Rule 14.

### GOVERNMENT OF INDIA'S ORDERS

(1) Creation of supernumerary post to provide a lien in the new post on transfer/reduction.—F.R. 15 (a) provides, *inter alia* that the President may transfer a Government servant from one post to another provided that, except on account of inefficiency or misbehaviour, such a Government servant shall not be transferred substantively to a post carrying less pay than the pay of the permanent post on which he holds lien, or would hold a lien had his lien not been suspended under F.R. 14. Similarly, reduction to a lower service, grade or post, or to a lower time-scale, is one of the penalties prescribed in the Central Civil Services (Classification, Control and Appeal) Rules, which may, for good and sufficient reasons, be imposed on a Government servant in accordance with the procedure laid down in those rules.

A question has been raised whether in the event of non-availability of a permanent post in the lower service/grade/time-scale, etc., to which a Government servant is transferred/reduced by the competent authority, a supernumerary post can be created in that service/grade/time-scale, etc., to provide a lien to the Government servant concerned on his new post.

It has been decided that it would be reasonable to create such a post in the lower service/grade/time-scale, etc., to provide lien to the person concerned in case of non-availability of a permanent post in that service/grade/time-scale, etc.

It should also be noted in this connection that when a permanent post is rendered vacant by the reduction of a Government servant, it should not be filled substantively before the expiry of one year from the date of reduction.

When, on the expiry of the period of one year, such post is filled substantively and the original incumbent happens to be reinstated thereafter, he should be accommodated against a post which may be substantively vacant in the grade to which his previous substantive post belonged. In the absence of a vacant post, he may be accommodated in a supernumerary post which may be created with proper sanction and terminated on the occurrence of a substantive vacancy in that grade.

[G.L. M.F., O.M. No. F. 9 (3)-E-IV (A)/60, dated the 29th August, 1960 and the 2nd August, 1962.]

F.R. 16. A Government servant may be required to subscribe to a provident fund, a family pension fund or other

36

Advocate.



- AND -

IN THE MATTER OF 1

Illegal and arbitrary action on the part of the Respondents in issuing the order of transfer of the Petitioner.

- AND -

IN THE MATTER OF 1

Enforcement of other fundamental rights of the Petitioner.

- AND -

IN THE MATTER OF 1

Circular issued by the Director General of Posts and Telegraph vide No. 69-4/79-SPB-1 dated 12.11.01

- AND -

IN THE MATTER OF 1

Subhash Chandra Choudhury,  
son of Late Choudhury, Manager  
Postal Store Depot, Panbazar,  
Guwahati-781001.

... Petitioner

- Versus -

Attested

hoas.

Advocate.

- 5 -

1. Director of Postal Services,  
Assam Circle, Guwahati.
2. The Chief Post Master General,  
Assam Circle, Guwahati-1.
3. Senior Superintendent of Post  
Offices, Guwahati-1.
4. Union of India, represented by  
the Secretary to the Ministry of  
Communication, Department of Posts,  
Dak Bhavan, New Delhi.

10  
**Attested**  
*Libas*  
**Advocate.**

Noting of office or Advocate	Sl. No.	Date	Office Notes, Reports, Orders or proceeding with signature
------------------------------	---------	------	------------------------------------------------------------

- PRESENT -

THE HON'BLE MR JUSTICE AK PATNAIK

27.7.2K

Heard Mr BK Sharma, learned senior counsel appearing for the petitioner.

This writ petition relates to a matter which falls within the jurisdiction of Central Administrative Tribunal. Since the Central Administrative Tribunal, Guwahati Bench is not functioning presently, I am entertaining this petition under Article 226 of the Constitution.

Let a notice of motion issue calling upon the respondents to show cause as to why a Rule should not be issued, as prayed for; and/or why such further or other order or orders should not be passed as to this court may seem fit and proper.

Notice on behalf of the respondents be furnished to the learned Central Government Standing Counsel within three days.

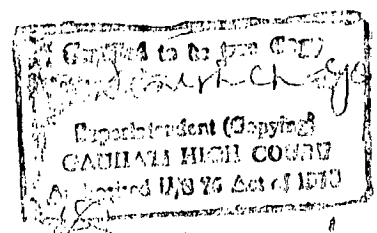
The notice is made returnable within six weeks.

In the meanwhile, the petitioner, Sri Subhash Chandra Choudhury will continue as Manager, PSD at Guwahati and the impugned order dated 10.7.2K (Annexure-G) passed by the Senior Superintendent of Post Offices, Guwahati Division shall remain stayed so far the petitioner is concerned.

As soon as the Central Administrative Tribunal, Guwahati Bench starts functioning, counsel for the petitioner will inform the court for appropriate orders.

① 2 notes  
② fit 6 months  
into the

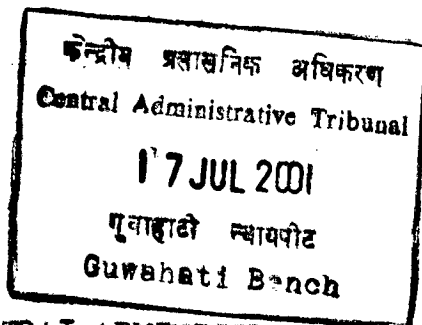
Sd/- A.K. Patnaik  
Judge



5/8/2000

lidas -  
4/8/2000





Filed by 16/7/01  
(A. DEB ROY)  
Sr. C. S. C.  
A. T. Guwahati Bench  
41

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

O.A. NO. 193 OF 2001

Shri S. Choudhury

- Vs -

Union of India & Ors.

- And -

In the matter of :

Written Statement submitted by  
the respondents

The respondents beg to submit the written  
statement as follows :

1. That with regard to para 1, the respondents beg to state that the order dated 10.7.2000 has not been given effect and in supersession of the above order a fresh order under no. B2/BCR/HSG-II/92 dated 21.5.2001 has been issued in pursuance of CO's Guwahati letter no. Staff/3-14/95 dated 11.5.2001.
2. That with regard to para 2, 3, 4(1), 4(2), 4(3), 4(4), 4(5), 4(6), 4(7), 4(8) & 4(9) the respondents beg to offer no comments.
3. That with regard to para 4(10), the respondents beg to state that the applicant has been transferred as Dy. P.M.-II at Guwahati GPO after taking consideration of circular no. 69-4/79-SPB-1 dated 12.11.81.

4. That with regard to para 4(11), the respondents beg to state that the transfer order dated 10.7.2000 has been cancelled.

5. That with regard to para 4(12), 4(13), 4(14), 4(15), 4(16), 4(17), 4(18), 4(19) and 4(20) the respondents beg to offer no comments.

6. That with regard to para 4(21), the respondents beg to state that the order dated 10.7.2000 has not been given effect and posting order has been issued to the applicant as Dy. P.M. -II Guwahati GPO in supersession of order dated 10.7.2000.

7. That with regard to para 4(22), the respondents beg to submit the comments what have already made against the foregoing paragraph 4(10) above.

8. That with regard to para 4(23) & 4(24), the respondents beg to offer no comments.

9. That with regard to para 4(25), the respondents beg to state that not based on facts. The applicant has been working as Manager, PSD, since 1993 which is not at all permissible in view of the sensitive nature of the post.

10. That with regard to para 4(26), 5(1) & 5(2), the respondents beg to offer no comments.

11. That with regard to para 5(3), the respondents beg to submit the comments what have already made against the foregoing paragraph 4(21) above.

12. That with regard to para 4(10), the respondents beg to submit the comments what have already made against the foregoing paragraph 4(10) above.

13. That with regard to para 5(6), the respondents beg to offer no comments.

14. That with regard to para 5(7), the respondents beg to submit the comments what have already made against the foregoing paragraph 4(25) above.

15. That with regard to para 5(8), 6, 7 and 8, the respondents beg to offer no comments.

16. That with regard to para 8(1), the respondents beg to state that the order dated 10.7.2000 was not given effect. The competent authority has issued order posting the applicant as Dy. P.M.-II, Guwahati GPO which is equal to rank at present the applicant holding. The applicant has been posted within the city taking consideration Govt. of India Circular no. 69-4/79-SPB-1 dated 12.11.81.

17. That with regard to para 8(2), the respondents beg to state that it is not admissible.

18. That with regard to para 8(3), the respondents beg to offer no comments.

19. That with regard to para 9, the respondents beg to state that it is not permissible as the applicant is liable to be transfer from the post of Manager, PSD, Guwahati which is a sensitive post.

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

I, Shri B. R. Chakravarty.

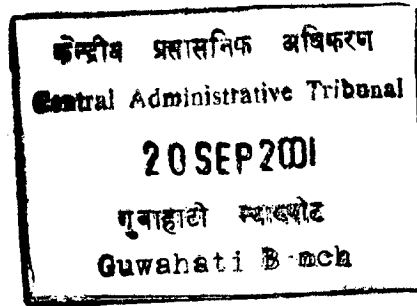
SSP, Guwahati being authorised do hereby verify and declare that the statements made in this written statement are true to my knowledge information and believe and I have not suppressed any material fact .

And I sign this verification on this 10 th day of July 2001.

B. Radhika.

Declarant.

वरिष्ठ जवाबदार, डाकघर  
गुवाहाटी मंडल, गुवाहाटी 781 001  
Sr. Superintendent of Post Office  
Guwahati Division, Guwahati-781 001



Filed by

19/9/01  
(A. DEBROY)  
Sr. C. S. J.  
C. A. T. Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH ::: GUWAHATI

वरिष्ठ नवीनक शास्त्र  
गुवाहाटी मंडल गुवाहाटी-781001  
Sr. Superintendent of Post Offices  
Guwahati Division, Guwahati-781001

O.A. NO. 193 OF 2001

Shri Subhas Choudhury

- Vs -

Union of India and others.

- And -

In the matter of :

Addl. Written Statement submitted by the  
Respondents

The respondents beg to submit the written statement  
as follows :

1. That with ~~order~~ regard to para 1, the respondents beg to state that the order dated 10.7.2000 has not been given effect and in supersession of the above order a fresh order under no. B2/BCR/HSG-II/92 dated 21.5.2001 has been issued in pursuance of CO's, Guwahati letter no. Staff/3.14/95 dated 11.5.2001.
2. That with regard to paras 2, 3 and 4.1, the respondents beg to offer no comments.
3. That with regard to paras 4.2, 4.3 and 4.4, the respondents beg that these paras are not relevant with the case.
4. That with regard to paras 4.5 and 4.6, the respondent beg to offer no comments.

5. That with regard to para 4.7, the respondents beg to state that it is not relevant with the case.
6. That with regard to para 4.8, the respondents beg to offer no comments.
7. That with regard to para 4.9, the respondents beg to state that it is not relevant with the case.
8. That with regard to para 4.10, the respondents beg to state that the applicant has been transferred and posted as Dy. P.M.-II, Guwahati GPO which is in the same city at a distance of about 5 Kms taking into consideration the terms of circular no. 69-4/79-SPB-1 dated 12.11.81 in the interest of service as the applicant has been continuing as Manager, PSD, Guwahati since 1993 which is not at all desirable in view of sensitive nature of post.
9. That with regard to para 4.11, the respondents beg to submit the comments what have already made against the foregoing paragraph 1 above.
10. That with regard to para 4.12, the respondents beg to state that the order dated 10.7.2000 has not been given effect and in supersession of the above order, a fresh order posting the applicant as DPM-II has been issued in pursuance of C.O. Guwahati letter dated 11.5.2001.
11. That with regard to para 4.13, the respondents beg to submit the comments what have already made against the foregoing paragraph 4.12.

12. That with regard to para 4.14, the respondents beg to state that the order dated 10.7.2000 has not given effect and the applicant has been transferred and posted as DPM-II, Guwahati GPO, which is HSG-II post, thus the question of provision of Rule-15 of FRSR does not arise.
13. That with regard to para 4.15, the respondents beg to state that there was no disregard to the judgement and order of the Hon'ble Tribunal from the Respondents side. The order dated 10.7.2000 has not been given effect. Fresh order dated 21.5.2001 has been issued in the light of judgement and order of Hon'ble Tribunal dated 12.6.2000.
14. That with regard to para 4.16, the respondents beg to submit the comments what have already made against the foregoing paragraph 1 above.
15. That with regard to para 4.17 and 4.18, the respondents ~~th~~ beg to offer no comments.
16. That with regard to para 4.19, the respondents beg to state that the order dated 10.7.2000 has not given effect and a fresh order dated 21.5.2001 has been issued in pursuance of C.O., Guwahati letter No. Staff/3-14/95 dated 10.7.2000 does not arise.
17. That with regard to para 4.20, the respondents beg to offer no comments.
18. That with regard to para 4.21, the respondents beg to state that it is not based on facts as stated in para 4.15 above.

19. That with regard to para 4.22, the respondents beg to submit the comments what have already made against the foregoing paragraph 4.10 above.
20. That with regard to para 4.23, the respondents beg to submit the comments what have already made against the foregoing paragraph 1 above.
21. That with regard to para 4.24, the respondents beg to submit the comments what have already made against the foregoing paragraph 4.15 above.
22. That with regard to para 4.25, the respondents beg to offer no comments.
23. That with regard to para 4.26, the respondents beg to state that the application is liable to be dismissed as the order dated 10.7.2000 has not been given effect.
24. That with regard to para 5.1, the respondents beg to ~~submit~~ submit the comments what have already made against the ~~ga~~ foregoing paragraph 1 above.
25. That with regard to para 5.2, the respondents beg to submit the comments what have already made against the foregoing 4.12 above.
26. That with regard to para 5.3, the respondents beg to submit the comments what have already made against the foregoing 4.15 above.
27. That with regard to para 5.4, the respondents beg to submit the comments what have already made ~~g~~ against the foregoing paragraph 4.10 above.



28. That with regard to para 5.6, the respondents beg to submit the comments what have already made against the foregoing paragraph 4.15 above.

29. That with regard to paras 5.7, 5.8, 6 and 7, the respondents beg to offer no comments.

30. That with regard to para 8.1, the respondents beg to state that the order dated 10.7.2000 has not been given effect. The competent authority has issued order in fresh posting the applicant as Dy. p.M-II, Guwahati GPO which is equal to fx rank at present the applicant is holding. The applicant has been posted within the city taking consideration Govt. of India Circular No. 69-4/79-SPB-1 dated 12.11.81.

31. That with regard to para 8.2, the respondents beg to state that it is not admissible.

32. That with regard to para 8.3, the respondents beg to offer no comments.

33. That with regard to para 9, the respondents beg to state that the para not permissible as the applicant is liable to be transfer from the post of Manager, PSD, Guwahati, which is a sensative post.

Verification.....

VERIFICATION

I, Shri B. R. Chakravarty, Senior  
Supt. of Post Office 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 12th  
day of September, 2001, at Guwahati.

B. Radhiker  
Declarant.

वरिष्ठ डाकमंडल अधिकारी  
गुवाहाटी मंडल गुवाहाटी-781001  
Sr. Superintendent of Post Office  
Guwahati Division, Guwahati-781001