

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

✓ (DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓
O.A./T.A No. 214/01

R.A./C.P No.

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FORM NO.4
(See Rule 42)

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

ORDER SHEET

APPLICATION NO²¹⁴.....OF 2001.

Applicant (S) *P. K. Saikia.*

Respondent (S) *CCOT & ONS.*

Advocate for Applicants (s) *Mr B.K. Sharma, S. Sarma & Miss L.D. Das.*

Advocate for Respondent (s) *CGSC.*

Notes of the Registry	Date	Order of the Tribunal
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This application is in form 5.6.2001
but not in form 5.6.2001
Petitioner's name is *vide*
M. F. C. F.
for *vide*
IPC/B *69 792089*
Dated *9.5.2001*

h. D. J. Registrar 11/6/01

*Requisites not yet
filed by the applicant's
counsel.*

*WS
4/6/2001*

*Requisites filed, Notice prepared
and sent to D/S. for cross the
Respondent No. 1 to 4 by Regd AD.
vide D/No 20385-41 dtd 14/6/01*

nk m

*WS
7/6/01*

Heard Mr S. Sarma, learned
counsel for the applicant. Issue notice
as to why the application shall not
be admitted. Returnable by six weeks.
Also issue notice as to why the order
No.UBD/DIB/WC-01/2001/3620-3674 dated
21.5.2001, transferring the applicant
from Nagaon to Seppa shall not be
suspended, so far as the applicant is
concerned. Notice is returnable by three
weeks. In the meantime the aforesaid
order dated 21.5.2001 shall remain
suspended so far as the applicant is
concerned till the returnable date. List
for further orders on 3.7.01.

h. D. J. Registrar
Vice-Chairman

03.07.01

Mr. A. Deb Roy, learned Sr.C.G.S.C. for the respondents, requests for time to file written statement. Four weeks time is allowed to file written statement. Interim order dated 5-6-2001 shall continue.

List on 3-8-2001 for orders.

Member

mb
24.8.01

List on 26/9/01 to enable the respondents to file written statement.

The interim order dated 5-6-01 shall continue.

Vice-Chairman

mb

26.9.01

List again on 21.11.01 to enable the respondents to file written statement.

Interim order dated 5.6.01 shall continue.

Vice-Chairman

pg

① No written statement has been filed.

21.11.01

Written statement has been filed. List the matter for hearing on 19.12.2001. In the meantime the applicant may file rejoinder if any.

Vice-Chairman

20.11.2001

W/S submitted

for the Report. No. 1, 2, 3 & 4.

trd

No rejoinder has been filed.

24.11.02

19.12

on the prayer of Mrs. Sarna, learned counsel for the applicant the case is adjourned to 25/12/02

Mrs. Sarna

Copy of order dtd 3/7/01
Communicated to the
Parties Counsel vide
D/N No _____
dtd _____
5/7/07

No written statement
has been filed.

25.9.01

Order dtd 26/9/01
Communicated to
the Parties Counsel.
vide No _____
dtd _____

27/9/07

(3)

O.A.214/2001

Notes of the Registry	Date	Order of the Tribunal
	25.1.2002	<p>Mr.U.K.Nair makes a request on behalf of Mr.S.Sarma, learned counsel for the applicant for a short adjournment. Mr.A.Deb Roy, learned Sr.C.G.S.C. has no objection.</p> <p>Prayer accepted. List the case for hearing on 30.1.2002.</p> <p>10/1/02 Member</p>
	30.1.02	<p>bb</p> <p>Mr. U.K. Nair learned counsel prays for adjournment on behalf of Mr. S. Sarma learned counsel for the applicant and submits that he is unable to attend the Court to-day due to his personal difficulty. Mr.A.Deb Roy, Sr. C.G.S.C. has no objection. List on 8.3.02 for hearing.</p> <p>10/3/02 Member</p>
	8.3.02	<p>lm</p> <p>Mr. S.Sarma, learned counsel prays for the applicant prays for adjournment on the ground that there is a development in the matter. Prayer for adjournment is allowed. List on 20.3.2002 for hearing.</p> <p>mb</p> <p>10/3/02 Member</p>

Wk has been filed.

Roy
10.3.02

Notes of the Registry

Date

Order of the Tribunal

Received copy
~~Page~~
 Applicant.

20.3.02

Heard counsel for the parties.
 Hearing concluded. Judgment delivered
 in open Court, kept in separate
 sheets.

The application is dismissed
 in terms of the order. No order as
 to costs.

IC (Ushay)
 Member

pg

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 214 of 2001.

20.3.2002.
Date of Decision.....

Shri Padma Kanta Saikia

Petitioner(S)

Sri S. Sarma

Advocate for the
Petitioner(s)

-Versus-

Union of India & Ors.

Respondent(s)

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

Advocate for the
Respondent(s)

THE HON'BLE MR K.K.SHARMA, ADMINISTRATIVE MEMBER

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 : Member(A)

16/3/02

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 214 of 2001.

Date of Order : This the 20th Day of March, 2002.

The Hon'ble Mr K.K.Sharma, Administrative Member.

Shri Padma Kanta Saikia,
Khalasi (W/C) in Central Water
Commission (D) (S) K Sub Division,
CWC, Nagaon, Assam.

. . . Applicant

By Advocate Sri S.Sarma.

- Versus -

1. Union of India,
represented by the Secretary to
the Govt. of India, Ministry of
Water Resources, New Delhi-1.
2. The Superintending Engineer,
Central Water Commission,
Hydrological Observation Circle,
Guwahati-24.
3. The Executive Engineer,
Upper Brahmaputra Division,
P.O. Central Revenue Building,
Dibrugarh-3.
4. The Asstt. Executive Engineer
D S.K Sub Division,
CWC, Nagaon.

. . . Respondents.

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

O R D E R

K.K.SHARMA, MEMBER(A)

This application is made against the impugned order of transfer dated 21.5.2001 transferring the applicant from D.S.K.Sub Division, CWC, Nagaon to Seppa (A.P). The applicant is working as a Khalasi in the office of Assistant Executive Engineer, D (S) K Sub-Division, CWC, Nagaon. The applicant joined the present place of posting only on 3.7.98. It is stated that the persons senior to the applicant are still continuing in the office. It is stated that the applicant is suffering from T.B and his wife is in advanced stage of pregnancy. He made a representation on 31.5.2001 which remains undisposed till filing of this application. The

K.K.Sharma

applicant claims that as per the Government notification persons holding the post of Group 'C' and 'D' should not be transferred. The transfer order is challenged on the ground that it is violative of the guidelines issued by the department.

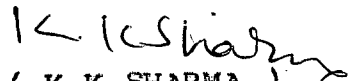
2. The respondents have filed written statement stating that Upper Brahmaputra Division, CWC, Dibrugarh is entrusted with the responsibility of flood forecasting work. Accordingly work programme is drawn before onset of monsoon every year. Work planning and programme is to post more manpower to tackle the strategic sites depending upon the location and their importance. The applicant is one of the work charged Khalasi out of 23 ~~transferred during~~ during May, 2001 under this Division. Mr A. Deb Roy, learned Sr. C.G.S.C submitted that the department ^{not} was ~~was~~ aware that the applicant ^{was} suffering from T.B. The certificate filed by the applicant alongwith O.A.S dated 29.5.2001 ^{certificate} ~~regarding~~ ^{obtained} his illness and suffering from T.B was ~~only~~ after the transfer order. According to Mr Deb Roy the applicant has been transferred in the administrative exigencies and in the interest of forecasting work. The transfer order has not been made with any mala fide intention. It is stated that the transfer and posting rules are not applicable in the case of work charged establishment. The applicant has not been subjected to frequent transfers and has been posted to nearby site of his home town. The applicant is holding the post of work charged Khalasi and assigned the duties of Gauge Observations at Flood Forecasting and Hydrological observation sites. Representation of the applicant was sent for consideration to Superintending Engineer, CWC, Guwahati on 16.6.2001. The transfer has not been made with any intention to harrass the applicant but

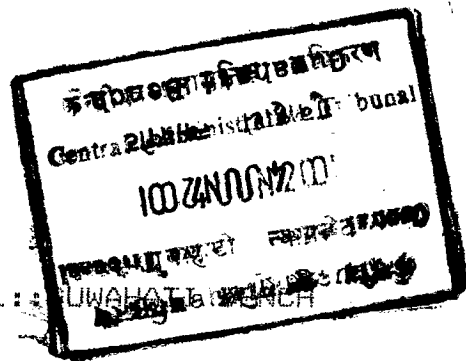
K. Ushar

for administrative convenience. Two pending medical bills referred to in the O.A. do not pertain to the applicant for his illness, both are awaiting clarification as per rules.

3. I have heard Mr S.Sarma, learned counsel for the applicant and Mr A.Deb Roy, learned Sr.C.G.S.C for the respondents at length. It is not a case that the applicant has been singled out in the transfer order dated 21.5.2001. 23 workers have been affected by the transfer order. From the facts stated by the respondents it is clear that the nature of work of the applicant is such that it ^{as U} depends on importance of work at different sites. The respondents had found that work at Nagaon was not ^{as U} important as at Seppa. Against the requirement of 3 work charged Khalasis only one Khalasi was available at Seppa. In such circumstances the transfer of the applicant cannot be considered as illegal. Transfer has been made ^{for U} in administrative convenience. No illegality or mala fide is found in the transfer order.

The application is accordingly dismissed. There shall, however, be no order as to costs.


(K.K.SHARMA)
ADMINISTRATIVE MEMBER



THE CENTRAL ADMINISTRATIVE TRIBUNAL :
GUWAHATI

O.A. No. 214 of 2001

Shri Padma Kanta Saikia

... Applicant

- Versus -

Union of India & Ors.

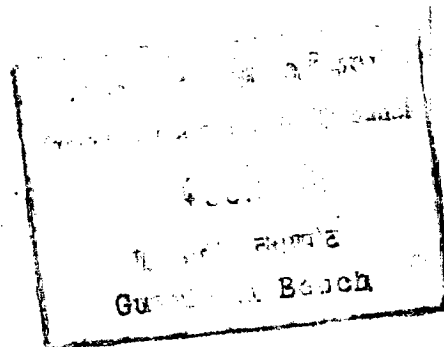
... Respondents

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Filed by :

Advocate



Filed by
the applicant through
Advocate
4/6/2001

THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH
GUWAHATI

(Application under Section 19 of the Central
Administration Tribunal Act, 1985)

O.A. No. of 2001

BETWEEN

1. Sri Padma Kanta Saikia,
Khalasi (W/C) in Central Water
Commission (D) (S) K Sub-division,
CWC Nagaon, Assam.

... Applicant

AND

1. The Union of India, represented by
the Secretary to the Government of
India. Ministry of Water
Resources, New Delhi-1,
2. The Superintending Engineer, Central
Water Commission, Hydrological
Observation Circle, Nabin Nagar,
Janapath, Guwahati-24.
3. The Executive Engineer, Upper
Brahmaputra Division, P.O. Central
Revenue Building, Dibrugarh-3.
4. The Asstt. Executive Engineer, D (S)
K Sub-division, Central; Water
Commission, Nagaon.

... Respondents

DETAILS OF APPLICATION

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

The instant application has been filed by the
Applicant challenging the order vide No. UBD/DIB/WC-
01/2001/3620-3674 dated 21.5.2001 issued by the
Executive Engineer, CWC, by which the Applicant is
sought to be transferred to Seppa (A.P.)

2. JURISDICTION OF THE TRIBUNAL :

Baner

The applicant declares that the subject matter in respect of which the application is made is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :

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

4. FACTS OF THE CASE :

4.1 That the present Applicant has preferred this OA challenging the legality and validity of the order vide No. UBD/DIB/WC-01/2001/3620-3674 dated 21.5.2001 issued by the Executive Engineer, CWC by which he has been sought to be transferred to Seppa (A.P.) from his present place of posting. The Applicant presently holding the post of Khalasi in the office of the Asstt. Executive Engineer, D (S) K sub-division CWC Nagaon. The post of khalasi is the lowest stratum of post in the said office and as per various guidelines it has been emphasised that holders of Gr-D & C should not be made to transfer from one place to another. In the present case the Applicant who has been subjected to frequent transfer without any basis and without following the official procedures. The Applicant joined the present place of posting only on 3.7.98 and the Respondents by issuing the impugned order dated 21.5.2001 now sought to transfer the Applicant to Seppa. It is noteworthy to mention here that persons senior to the Applicant (longest stayee) are still continuing in the office and that apart nobody has been posted in place of the Applicant. The Applicant.

Balkia

presently suffering from T.B. and his wife is in the advance stage of pregnancy and therefore at any cost he is unable to carry out the order of transfer. It is noteworthy to mention her that the present Applicant has been subjected to frequent transfer and being a group-D employee he is suffering from tremendous financial hardship. Highlighting his grievances Applicant preferred a representation dated 31.5.2001 but same is yet to be disposed of. Situated thus, the Applicant having no other alternative has come before this Hon'ble Tribunal seeking an appropriate relief.

This is the crux of the matter for which the applicant has preferred the present application seeking quashing of order dated 21.5.2001 transferring the Applicant from Nagaon to Seppa (A.P.)

4.2 That the Applicant is a citizen of India and as such he is entitled to all the rights and privileges as guaranteed under the Constitution of India and laws framed thereunder.

4.3 That the Applicant presently is holding the post of Khalasi under the work charged establishment in the office of the Asstt. Executive Engineer, CWC Nagaon. Earlier the Applicant was working in the GDSWQ Site, Jogibhakat Gaon from Dec '1995 to July '1998 and he was transferred to Nagaon Sub-division from July 1998 vide an order dated 2.7.98. The aforesaid order dated 2.7.98 has been approved by the Executive Engineer vide his letter dated 30.7.98 and till date he has been serving in the present place of posting.

Copies of the orders dated 2.7.98 and 30.7.98 are annexed herewith and marked as Annexure-1 & 2 respectively.

4.4 That surprising enough the Respondents i.e. the Executive Engineer issued an order vide No. UBD/DIB/WC-01/2001/3620-3674 dated 21.5.2001 by which the present Applicant has sought to be transferred from Nagaon to Seppa (A.P.). Immediately on receipt of the said order of transfer the Applicant preferred a representation dated 31.5.2001 highlighting his grievances with a further prayer to modify the transfer order.

Copies of the impugned order dated 21.5.2001 and the representation dated 31.5.2001 are annexed herewith and marked as Annexure- 3 & 4 respectively.

4.5 That the Applicant in his Annexure-4 representation dated 31.5.2001 has highlighted the fact that he has been suffering from T.B. and it would be difficult for him to join any high altitude station like Seppa (A.P.) The Applicant has also highlighted the fact that his wife is in advanced stage of pregnancy and for what he prayed for modification of the impugned transfer order. It is noteworthy to mention here that the representation preferred by the Applicant is yet to be disposed of.

The Applicant craves leave of the Hon'ble Tribunal to produce the relevant medical documents at the time of hearing of the case.

4.6 That the Applicant begs to state that as per the various Government notifications normally the holders of group-C & D posts should not be subjected to transfer but in the instant case the Applicant has been made to suffer from various harassment. It is pertinent to mention here that inspite of the said Government notifications restricting the transfer of low paid group-C & D staff the Respondents have issued transfer orders by which the present Applicant has been subjected to frequent transfer.

4.7 That the Applicant begs to state that the Respondents have acted illegally in issuing the impugned transfer order dated 21.5.2001 violating the professed norms. Normally in every Central Government offices certain guidelines are maintained to streamline the process of transfer of the employee. Needless to say here that in the office of the Respondents also there are guidelines in which it has been categorically mentioned, that the longest stay of an unit should be transferred first but in the present case the Applicant who has only completed 2 years of service has been sought to be transferred ignoring the case of the employees who is working since 1982 in the same station. The aforesaid fact smakes malafide on the part of the Respondents and on this score alone the impugned order dated 21.5.2001 is liable to be set aside and quashed.

4.8 That the Applicant begs to state that the Respondents knowing fully well the health condition of

the present Applicant have issued the order of transfer that too a place of high stricate restriction so far it relates to T.B. patients are concerned. As stated above there has been a series of incidents by which the present Applicant has been harassed. In this connection mention may be made of two medical bills which are yet to be reimbursed to the present Applicant.

Copies of the bills dated 7.4.2000 and 2.3.2001 are annexed herewith and marked as Annexure- 5 & 6 respectively.

4.9 That the Applicant begs to state that immediately after receipt of the impugned order dated 21.5.2001 the Applicant preferred a representation dated 31.5.2001 which is yet to be disposed of. It is noteworthy to mention here that the Respondents have not yet issued any releasing order to the present Applicant however, the Applicant apprehence that at any moment the Respondents may issue the releasing order. It is further stated that the Applicant is continuing in his present place of posting till date in absence of any such releasing order. It is therefore the Applicant prays before this Hon'ble Tribunal for an interim order directing the Respondents not to transfer the Applicant by suspending the operation of the impugned order dated 21.5.2001 during the pendency of the OA. In case the Hon'ble Tribunal does not pass any such interim order protecting the service interest of the Applicant, the Applicant will suffer irreparable loss and injury.

4.10 That this application has been filed bonafide and

to secure the ends of justice.

5. GROUND'S FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that in any view of the matter the action/inaction on the part of the Respondents are not sustainable in the eye of law and same are liable to be set aside and quashed.

5.2 For that the Applicant being a low paid employee ought not to have subjected to any sort of transfer as has been sought to be done in the present case by issuing the impugned order dated 21.5.2001 violating various guidelines issued by the concerned Ministry from time to time and on this core alone the impugned order is liable to be set aside and quashed.

5.3 For that the Respondents being a model employer ought to have look into the welfare of the employees more particularly the employee like present Applicant who forms the lower stratum of the office and having not done so the entire action on the part of the Respondents are liable to be set aside and quashed.

5.4 For that there being various guidelines streamlining the process/procedure of transfer and the Respondents being part and parcel of the said process/practice ought to have took into consideration all the aspect of the matter before issuing the impugned order which is going to effect adversely to the present Applicant.

5.5 For that in any view of the matter the impugned

action/inaction on the part of the Respondents are liable to be set aside and quashed.

The applicants crave leave of this Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of this case.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant declares that they have no other alternative and efficacious remedy except by way of filing this application. They are seeking urgent and immediate relief.

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

The applicant further declare that no other application, writ petition or suit in respect of the subject matter of the instant application is filed before any other Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT FOR :

Under the facts and circumstances stated above, the applicants pray that this application be admitted, records be called for and notice be issued to the respondents to show cause as to why the reliefs sought for in this application should not be granted and upon hearing the parties and on perusal of the records, be pleased to grant the following reliefs :

8.1 To set aside and quash the impugned order dated

21.5.2001.

8.2 To direct the Respondents to allow the Applicant to resume his duty and to allow him to draw his salary in his present place of posting.

14
15 8.3 To direct the Respondents to settle the medical bills of the Applicant.

8.4 Cost of the application.

8.5 Any other relief/reliefs to which the applicant is entitled to and as may be deemed fit and proper by the Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR :

During the pendency of the OA the Applicant prays for an interim order directing the Respondents not to transfer him from his present place of post by suspending the operation of the impugned order dated 21.5.2001 and to allow him to perform his duties with a further direction to pay his salary.

10.

The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O. :

i) I.P.O. No. : 66 792089
ii) Date : 9/5/2001
iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

Rehman made to
SE - should be
to CE

Bailin

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

I, Shri Padma Kanta Saikia, son of Sri Thagiram Saikia, aged about 35 years, at present working as Khalasi, Work Charged at the office of the Asstt. Executive Engineer, D (S) K, Sub-division CWC, Nagaon, do hereby solemnly affirm and verify that conversant with the facts and circumstances of the case. I am competent to verify this case and the statements made in paragraphs 1-3, 4.2, 4.6, 4.7, 4.9, 4.10 & 5 to 12 are true to my knowledge ; those made in paragraphs 4.1, 4.3-4.5, 4.8 are true to my information derived from records and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 4 th day of June 2001.

Padma Kanta Saikia

From : Perreant,
Nagaen

Phone No.: 22739.

- 11 -

ANNEXURE - 1

No. D(S)KSD/16(B)/WC-7/98/760-64

Government of India
D(S)K Sub-Division, CWC,
Nagaen (Assam).

Dated 02/7/1998.

OFFICE ORDER

The shifting of Head Quater in respect of Shri P.K. Saikia, W/C Khalasi from GDSWQ Site, Jagibhakat Gaen to D(S)K Sub-Division, CWC, Nagaen is hereby accorded at his own interest w.e.f. 03.07.1998 (P.N.).

He will not get TA, DA, etc. for shifting of his Head Quater.

[Signature]
02/07/98
Assistant Executive Engineer
D(S)K Sub-Division, CWC, Nagaen:

Copy forwarded for information & necessary action to :-

- 1) The Executive Engineer, U.D. Division, CWC, Dibrugarh with reference to this office letter No. D(S)-KSD/EAG/145/1P-51/98/44B dated 17.04.1998. *for necessary approval Please*
- 2) The Junior Engineer, GDSWQ Site, Jagibhakat Gaen with reference to his letter No. JB/77/E-2/98/80 dt. 16.04.98 Shri P.K. Saikia, W/C Khalasi may please be released on 02.07.1998 (A.N.) positively.
- 3) Shri P.K. Saikia, W/C Khalasi (Through J.E. (CI-11), CWC, Jagibhakat Gaen).
- 4) Copy to PF No. 51.
- 5) The Asstt. Account Officer, UED C.W.C. Dibrugarh.

Attested

[Signature]
Advocate.

①

GRAM : FORECAST.

ANNEXURE - 2

PHONE : 20799

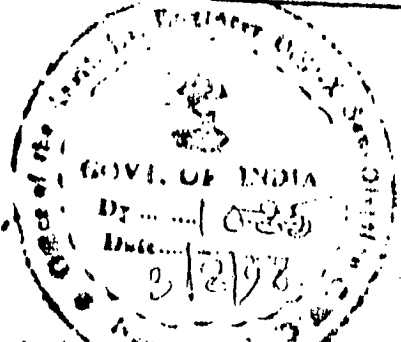
GOVERNMENT OF INDIA
CENTRAL WATER COMMISSION
UPPER BRAHMAPUTRA DIVISION
P.O. CENTRAL REVENUE BUILDING
DIBRUGARH-897003

NO. UBD/Dib/WC-1/7743

Dated, Dibrugarh the 30.7.98.

To,

The Asstt. Ex. Engineer,
D(S)K Sub-Division, CWC,
Nagaon.



Sub :-

Transfer of Shri P.K. Saikia, W/C Khalasi
from GDSWQ site Jagibhakatgaon to D(S)K
Sub-Division, CWC, Nagaon - regarding.

Ref :-

Your letter No. D(S)K ED/16(B)/WC-7/98/760-64
dated 2.7.98.

The transfer of Shri P.K. Saikia, W/C Khalasi from
GDSWQ site Jagibhakatgaon to ~~ED~~ D(S)K Sub-Division, CWC, Nagaon
in own interest as proposed vide your letter under reference is
hereby approved.

(Signature)
30/7/98
(K. C. Halder)
I/C Executive Engineer

(Signature)
Advocate.

GOVERNMENT OF INDIA
CENTRAL WATER COMMISSION
UPPER BRAHMAPUTRA DIVISION
P.O. CENTRAL REVENUE BUILDING
DIBRUGARH - 786003

NO. UDD/DIB/WC 01/2001/2825 - 3674

Dated, Dibrugarh the 21 MAY 2001

OFFICE ORDER

The following staff borne on Work-Charged establishment of U.B. Division, CWC, Dibrugarh are hereby transferred with immediate effect.

Sl. No.	Name & Designation	Present place of working	Posting on transfer	Remarks
1. Sh.	L.D. Charu, W/S Gr. II	Daporizo	Chouldhowaghat	Own Cost
2. Sh.	K.K. Das, W/S Gr. III	H.T. Road X-ing Ranganadi	Udaipur	Own Cost
3. Sh.	T. Sonwal, Khalasi	Bihubar	Udaipur	Own Cost
4. Sh.	Gajen Kalita, W/S. II	Jiadhal Dhemaji	65 Mile, Siang	Public Interest (2 years tenure)
5. Sh.	B.N. Lohar, Khalasi	Jiadhal mukh	Daporizo	- do -
6. Sh.	A.K. Das, Khalasi	Jiadhal Dhemaji	65 Mile, Siang	- do -
7. Sh.	Pipul Sharma, Khalasi	Badalighat	Kabu	- do -
8. Sh.	H.P. Dutta, Khalasi	Udaipur	Bihubar	Own cost
9. Sh.	G.H. Das, W/S Gr. III	Tezu	Margherita	Public Interest
10. Sh.	H.K. Das, W/S Gr. III	Dholla	Subansiri Sub-Divn., Naharlagun	Public Interest.
11. Sh.	H.N. Das, Khalasi	Dharamtul	Jagibhakatgaon	Own Cost
12. Sh.	Ramant Rajkumar, Khl.	Jagibhakatgaon	Dharamtul	Public Interest
13. Sh.	S. Pu kayastha, W/S. II	Udaipur	U.B. Sub-Divn. No. I, Dibrugarh	Own Cost
14. Sh.	Sobin Gandhiya, W/S. III	H.T. Road X-ing Ranganadi	Dholla	Own cost
15. Sh.	Abul Ch. Sarma, W/S. III	D(S)K Sub-Divn. CWC, Nagaon	Seppa	Public Interest
16. Sh.	Pancham Bora, Khalasi	H.B. Sub Divn. No. I, Dibrugarh	Dillighat	Public Interest
17. Sh.	Chandreswar Das, Khalasi	Dillighat	Bokajan	Own Cost

Contd. page No. 2

Attested

[Signature]
Advocate.

[Signature]
Executive Magistrate
Nagaon

- 2 -

Sl. No.	Name & Designation	Present place of working	Posting on transfer	Remarks
18.	Sh. Krishna Dey, Khalasi	Golaghat	Bokajan	Public Interest
19.	Sh. Padmakanta Saikia, Khalasi	D(S)K Sub-Divn. CWC, Nagaon	Seppa	Public Interest
20.	Sh. Rajen Das, W/S Gr. III	Bokajan	Golaghat	Own Cost
21.	Sh. D. C. Gogoi, W/S Gr. II	Kabu	Dadatighat	Own Cost
22.	Sh. Pradip Baruah, W/S. II	Subansiri Sub-Divn. Naharlagun	Dholla	Own Cost
23.	Sh. M. N. Gogoi, W/S. II	U. B. Sub-Divn. No. II, Jorhat	Bhomoraguri	Public Interest

The persons at Sl. No. 4, 5 & 6 presently posted at the gauge sites at Jh Dhemaji and Jiadhalmukh under Subansiri Sub-Division, CWC, Naharlagun (AP) are relieved in the afternoon of 31st May, 2001.

(A. V. REDDY)
EXECUTIVE ENGINEER

Copy to :-

1. The Superintending Engineer, Hydrological Observation Circle, CWC, Nabin Janapath, Guwahati - 24 with reference to his Office Order No. A-15017/12(6), WC/2001/1178 dated 9.5.2001.
2. The Asstt. Ex. Engineer (HQs), U. B. Division, CWC, Dibrugarh.
3. EAD(HM), U. B. Division, CWC, Dibrugarh.
4. The Assistant Engineer, U. B. Sub-Divn. No. I, CWC, Dibrugarh.
5. The Assistant Engineer, U. B. Sub-Divn. No. II, CWC, Jorhat.
6. The Assistant Engineer, D(S)K Sub-Division, CWC, Nagaon.
7. The Assistant Engineer, Subansiri Sub-Division, CWC, Naharlagun. Jiadhalmukh Jiadhalm Dhemaji gauge sites may be closed w.e.f. 31.05.2001 (AN)
8. Accounts Branch, U. B. Division, CWC, Dibrugarh.
9. Person concerned
10. Personal file
11. Office Order file No. G-5.

NO. D(S)-K3D/NAG/16(B)/WC-7/2001/633-36

dt. 27/5/2001

Copy passed on to :-

1. Sri N. N. Das, W/C Khalasi, through the site-in-charge, CWC, Dharant.
2. Sri K. Rajkumar, W/C Khalasi, through the site-in-charge, CWC, J. B.
3. Sri Atul Ch. Sarmah, W/S Gr. III, D(S)-K Sub-Divn., CWC, Nagaon.
4. Sri P. K. Saikia, W/C Khalasi, D(S)-K Sub-Divn., CWC, Nagaon.

Executive Engineer
Nagaon

J/C ASSTT. EXECUTIVE ENGINEER

Nagaon
Jagdishwar
3/8/2001

The Superintending Engineer,
Hydrological Observation Circle,
Central Water Commission,
Nabin Nagar, Janpath,
Guwahati-24.

Subject: Request for cancellation of my transfer from D(S)K Sub-Divn.,
Nagaon to W/T Station Seppa (Arunachal Pradesh) regarding.

Sir,

With due respect I beg to lay before you the following few lines
for favour of your kind consideration please.

Firstly, I was transferred from D(S)K Sub-Divn., C.W.C. Nagaon to
Sepaa site (without substitute) vide E/E letter No. UBD/DIB/WC-
01/2001/3620-3674 dt. 21/5/2001, approved by you vide your letter No. A-
15017/12(6)/Estt.WC/2001/1178 dt. 9/5/2001. Sir, I was joined in service on
24/1/1985 on this department and since then I was not staying in a place
more than five years. My place posting are -

1. GDSWQ site Jagibhakatgaon from Jan.'85 to Oct.'87
2. W/T Station, Bokajan from Nov.'87 to Aug.'90
3. W/T Station, Kampur from Aug.'90 to Dec.'94
4. GDSWQ site Jagibhakatgaon from Dec.'94 to July'98
5. D(S)K Sub-Divn., Nagaon from July'98 to till date.

At Nagaon I have joined on 3/7/98 and working with great
satisfaction of my superior. But there are so many staff who are staying
posting at Nagaon from long term.

1. Sri P. Bhatta W/S grade II from 1.11.82 till to date.
2. Sri S.N. Bordoloi, W/C Khalsi from 23.3.82 till to date.
3. Sri G.K. Saikia, W/C Khalsi from 29.1.96 till to date.
4. Sri Biren Saikia, W/C Khalasi from 15.5.92 till to date.
5. Sri Giridhar Sarma, W/C Khalasi from 9.2.88 till to date.
6. Md. Faruq Hussain, W/C Khalasi from Feb.'95 till to date.

I am very astounded that out of this above long time staying
persons, Executive Engineer intentionally transferred me by a difficult
place mainly communication.

Secondly, There is no male member in my family to look after my
old aged father and my wife who is under pregnancy stage, moreover,
Gallbladder & Appendicitis operation has been done on 3/12/2000. Enclosed
photostat copy pregnancy report and operation certificate.

Thirdly, I am suffering from T.B. Since 3 months under treatment
of Dr. Kamal Ch. Laskar, sub-Divl. Medical & Health office of the Jt.DHS,
Nagaon. So, it is very difficult for me to join at high altitude and
difficult communication place Seppa.

Attested


Advocate.

Contd. P/2

Fourthly, I have submitted two nos medical bills (father treatment) which are countersigned & forwarded by Asstt. Executive Engineer, Nagaon to Executive Engineer Dibrugarh vide letter No. D(S)-KSD/NAG/12A/WC-3/2000/358 dt.7/4/2000 and D(S)-KSD/NAG/12(A)/WC-/2001/244 dt.2/3/2001. The bills forwarded are as follows:

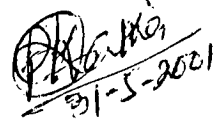
<u>Letter No. 1</u>	<u>Period</u>	<u>Amount</u>
1. Sri P.K. Saikia, W/C Kh.	5.2.2000 to 23.2.2000	Rs.12690.00
2. Sri Nirmal Bannerjee, W/C Gr.III	2.3.2000 to 14.3.2000	Rs. 4902.00
<u>Letter No.2</u>		
1. Sri P.K. Saikia, W/C Kh.	30.6.2000 to 27.9.2000	Rs.1971.00
2. Md. Faruq Hussain, W/C Kh.	7.10.2000 to 16.10.2000	Rs. 719.00

As I know, other two bills in respect of Sri N.Bannerjee and Md. Faruq Hussain got received the payment of above bill but till to date I have not received any amount against my above bills nor authority have inform me accordingly.

Lastly, Sir I would like to request you to kindly cancelled my above transfer, and same my family from above difficulties.

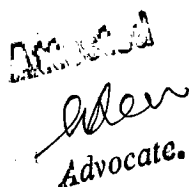
Thanking you,

Yours faithfully,


31-5-2001

(PADMA KANTA SAIKIA)


W/C Khalasi,
D(S)K Sub-Division,
C.W.C., Nagaon.


Advocate.

AM AREA PROJECT - IPP IX
FAMILY WELFARE DEPTT., ASSAM


Advice slip for patient

Regd. No. 31317 Date 30/3/01
MRS. Rakhi Saikia Age/Sex 33/85

OSIS  Rakhi Saikia

certified that the above
cited lady is in early
week of gestation where
Hypertension is manifest
post clouetstary case.
she was treat at B.I. Civil
hospital Nagaon since
24/4/01 as opd case.
she was advised to
take absolute bed rest
a hospitalisation so

Attested
M. S. S.
30-5-01

Medical Officer (AM) 
Nagaon District
13/04/01

Asstt. Project Officer (AM)
Rural Development Agency
Nagaon, Assam

গত বিহাত পঞ্জীকৃত হৈ যতি কয়েও তিনিবান সাহা পৰীক্ষা
কৰায়ে থাকে আৰু কোৱাৰ বাবে সত্যাপ্ত কৰিব।

Attested

Advocate.

Dr. A. C. Surana
M.B.B.S., D.T.M. & H.
P 22450

Ashoka Medical Hall
HAIBARGAON
NAGAON : ASSAM

Date. 28.4.01

Name. Reelchi Sarmah Age. 22y

Refd. by Dr.

Nature of examination	Result
Urine for HCG test	POSITIVE

Attd
30.5.01
Asstt. Project Officer (Agriculture)
District Rural Development Agency
Nagaon, Assam

Dr. A. C. Surana. *Asstt*
MBBS, DTM & H (Cal.)

Please correlate with your Gynaecological

- Test Card supplied with this Report
- Please correlate Clinically
(There may be few False Positive or
False Negative result with this test.)

Attested
Asstt
Locate.

For Mrs. Rakhi Seetha

1) Lab. Sympas → (20)

2 1/2

cutab twice daily after food

2) Lab. Nicheprade MRS → (20)

2 1/2

cutab twice daily

3) Parlozime / Nistozime Capsule → (20)

cutab after twice daily after food

Signature
26/12/2001

4) Neurokin-B → (20)

cutab daily after breakfast

5) Lab. Meclizine (15mg) → (10)

2 1/2

cutab daily after lunch

6) Lab. Ranocid 40 → (10)

7 PM

cutab at 7 PM

7) Lab. Roshoni R → (30)

cutab daily after breakfast

Signature
27/12/2001

Attd.

M. S.

30-5-09

Project Officer (M.D.)
Rural Development Agency
Nagaon, Assam

Signature

Cap Depan 200. → (14)

Amritam twice daily x 7 days

in Jeen Nimbid → 10g

Amritam twice daily after food x 5 days

(in Jeen) Cigamraal - fruit → (15)

Amritam twice daily before food

(in Cap EO 20. → (20)

Amritam daily before breakfast

(in) Ketumid Loni → (10th

Amritam twice daily after food

(in) Sokeru cream → (1)

to apply locally

Amritam powder for cheek up

ms. Relak Slegui →

4th/8th, 1st and 2nd

1/12/2000

Attested

Advocate

TO WHOM IT MAY CONCERN

Certified that Sri Padma Kanti Saikia son of Sri Thagi Ram Saikia has been presently under my treatment on account of his suffering from 'Suspected Pulmonary-Tuberculosis' associated with pyrexia of unknown origin and chronic respiratory infection, ^{since a couple of months} In view of the present ailing state of health I have advised the incumbent concerned not to take undue physical & mental exertion that may aggravate his present ailing condition of health.

A. H. S. S.

M. L. S.

30.5.01

Asstt. Project Officer (Asstt.)
District Rural Development
Nagpur, Assam

K. L. S.

29-5-2001.

Dr. KAMAL CHANRA LASKAR MBBS

Reg no 4506 (AMC)

S.D. M. H. C. Office of the J. & D. S. Nagpur

Noted

Libas.

Libas.

NO.D(R)-AED/HAG/12A/WC-3/2000/358
GOVERNMENT OF INDIA
CENTRAL WATER COMMISSION
DHANSIRI(S)-KOPILI SUB-DIVISION
BANKER PITRICH ROAD III HAGAZH-782001.

Dated, Nagazh the 7/4 /2000.

To,

The Executive Engineer,
Upper Brahmaputra Division,
Central Water Commission,
Dibrugarh.

Sub : Medical bills of Work-Charge staff.

Sir,

Please find enclosed herewith the Medical bills of W/C staff alongwith necessary documents for the period are mentioned below against each for favour of your kind information & necessary action please.

S.No.	Name & Designation	Period	Amount.
1.	Shri D.K. Sainko (W/C)	5.2.2000 to 2.3.2.2000	Rs:12690.00
2.	Shri Nilmonal Banerjee W/C	2.3.2000 to 14.3.2000	Rs:5,902.00

Encl: - As above.

Yours faithfully,
[Signature]
7/4/2000
K. C. Sainko (W/C) AEE
অসম জল আয়োগ, নগাওঁ (আসাম)
Asst. Executive Engineer
নগাওঁ (স.) - কপিলী সাব-ডিভ.
Dhansiri (S) Kopli Sub-Div.
Central Water Commission
Nagazh, Assam

RECEIVED

[Signature]

12.11.00

NO. D(S)-KSD/MAG/12(A)/WC/2001/ 244

Government of India
Central Water Commission
Dhansiri(S)-Kopili Sub-Division
Sankar Mission Road Nagao:::782001.

Dated Nag, the 23 / 2001

To,

The Executive Engineer,
Upper Brahmaputra Division
Central Water Commission
Dibrugarh.

Sub :- Medical Bills of workcharged staff-Regarding

Ref :- Your letter NO. UBD/DIB/AB-12/2000/11327 dt. 14.11.2000

Sir,

AS per verbal instruction over telephone 2 (two) Nos .
medical bill countersigned by you in respect of the following
workcharged official are resubmitted herewith for your kind per-
usal and necessary action please .

1. Shri P.K.Sikia W/c khalasi,
2. Md. F. Hussain -do -

Encls : As Above

YOURS faithfully,

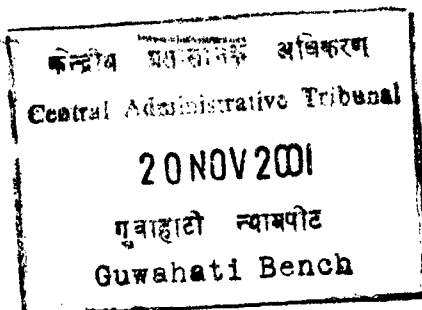
02/03
Assistant Engineer

02/03

Attested

W.Das

Circulate.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH ::: GUWAHATI

O.A. NO. 214 OF 2001

Shri P.K. Saikia

- Vs -

Union of India & Ors.

- And -

In the Matter of :

Written Statements submitted by
the respondents No. 1, 2, 3 & 4.

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

The Upper Brahmaputra Division, CWC, Dibrugarh is entrusted with the responsibility of flood forecasting work in the Upper Brahmaputra Region. Accordingly, the work programme is drawn before onset of the monsoon every year based on the previous years performance. The work planning and programme is made to strengthen the sites by providing the additional manpower and materials in the interest of the work and also depending upon the technical and administrative exigency.

A part of the work planning & programme is to post more manpower to tackle the strategic sites

depending upon the location and their importance. Accordingly, transfers and postings of Work Charged Staff are taken up on rotational basis before onset of the monsoon season in the month of May every year. The transfers and postings of the Work Charged Staff are issued purely based on their performance and capability in the interest of the work. The applicant is one of the W/C Khalasi out of 23 persons transferred during May, 2001 under this Division.

The applicant is holding the post of Work-Charged Khalasi, who are assigned the duties of Gauge Observations sites under the jurisdiction of Upper Brahmaputra Division, Central Water Commission, Dibrugarh. The W/C Khalasis are required to be posted and transferred on the basis of the work requirement as and when and where necessary.

The applicant has not been subjected to the frequent transfers to far of sites, rather he was getting the facility of being posted at nearby sites from his ~~aw~~ home town, such as Jagibhakatgaon, Bokajan, Kamrup and Nagaon etc. In the past also, he has enjoyed to be at convenient sites.

The applicant has been transferred to Seppa, which is a prominent site for the Flood Forecasting purposes on river Jiabharali. At present, there is only one regular Work-Charged Khalasi available at the site and there is a requirement of at least two more

Work-Charged Khalasis at the site for on 24 hours observation of the Gauge data and its communication to the downstream stations of Bhalukpong/N.T. Road Crossing, Jiabharali, from where the formulated forecaste for advance warning of floods are issued.

Non-availability of the Work-Charged staff at that site would make the position at down steam sties extremely vulnerable, as the data from the up-stream sites would not be available, in case flood occurs in the river. The requirement of the works at Sub-Division at Nagaon is not considered that emergent and as such two persons have been transferred from that site.

The fact that the applicant is suffering from TB and his wife is in the advance stage of pregnancy was never communicated to the Sub-Division office by the applicant before his transfer orders were issued. The Medical Certificate attached with the OA indicates that the applicant approached to the Sub-Divisional Medical & Health Officer only on 30.5.2001, i.e. after the above stated transfer orders were issued.

It may also be stated that the applicant has totally violated the Conduct Rules as he has also not exhausted the proper channel i.e. awaiting from his employer the reply to the so called representation submitted by him. He has neither

met his senior officers in person nor represented his case properly in his Deptt., but filed a case in the CAT, Guwahati Bench.

Parawise Written Statements are submitted as below :

1. That Respondents do not admit any of the facts, statement, allegations and averments made in the O.A., except those specifically admitted hereinunder in this written statement . Further, the facts and statements, which are not borne on records, are categorically denied.

1. That as regards the contents of paragraph 1 of Original Application, Respondents respectfully state that the applicant has distorted entire facts and has depicted such a picture as to make out a case just to approach the Hon'ble Tribunal . As a matter of fact, for the administrative exigency and in the interest of the Flood Forecasting work, the applicant has been transferred to Seppa gauge site. The applicant has never been subjected to the frequent transfers to far off sites, rather he was enjoying the facility of being posted at nearby sites from his Home Town, such as Jagibhakatgaon, Bokajan, Kampur and Nagaon etc and was enjoying to be at convenient sites. Thus, the arrangement made by the Respondents are not at all punitive action against the applicant as alleged. As such, the instant application is not tenable in the eye of law and liable to be dismissed.

2. That as regards the contents of paragraphs 2 and 3 of the Original Application, this answering Respondents do not offer any comments.

took out
on 29.5.01
for TB.

- 27 -
57

3. That as regards the contents of paragraph 4.1 of the Original Application, the answering Respondents do not agree to the facts mentioned in the para as they are not true.

The transfer orders have been issued for facilitating urgent Flood Forecasting works at site. There is no mala-fide intention on the part of the Executive Engineer for transferring the applicant from Sub-Division to Seppa site.

The applicant is holding the post of Work-Charged Khalasi, who are assigned the duties of Gauge Observations at Flood Forecasting and Hydrological Observation sites under the jurisdiction of Upper Brahmaputra Division, Central Water Commission, Dibrugarh. There is no circular or instruction preventing transfer of staff belonging to Group B & C of Regular establishment and or Work-Charged establishment from one place to the ~~any~~ other. However, the rules for transfer/posting of Group 'D' staff are not applicable to Work-Charged establishment, except in the case of pay and allowances.

A photostat true copy of the Recruitment Rules of 1988 of CWC to defend the case on behalf of all the respondents issued vide Under Secretary, CWC, letter No.1-6/86-Estt-XII dated 22.4.1988. is annexed herewith and marked as Annexure - A.

In fact the Work-Charged Khalasis are specifically recruited for work at sites, which is collecting of data for the Flood Forecasting and Hydrological Observation purpose. As such, it is not correct to state that the applicant, presently posted at D(S)K Sub-Division, ~~the~~ Nagaon can not be transferred from

Nagaon Sub-Division to Seppa, a site meant for Flood Forecasting purposes. Due consideration is always given to the grievances or other difficulties faced by Work-Charged Khalasis when they are transferred from one place to other.

A photostat true copy of the Transfer policy applicable to Group 'C' & 'D' personnel for Central Water Commission to defend the case on behalf of all the respondents issued vide Under Secretary, CWC, letter No.A.49011/13(A)// 85-Estt-IV dated 16/23-12-1998 is annexed herewith and marked as Annexure - B.

The longest stay transfer policy is not observed in case of Work-Charged staff, because they are specifically meant for the works at site. However, sometimes, some of the Work-Charged staff is deputed to the Sub-Division offices or in Division office to attend to petty works.

The fact that the applicant is suffering from TB and his wife is in the advance stage of pregnancy was never communicated to the Sub-Division Office by the applicant before his transfer orders were issued. The Medical Certificate attached with the OA indicates that the applicant approached to the Sub-Divisional Medical and Health Officer only on 30.5.2001 i.e., after the above stated transfer orders were issued.

He has not been subjected to the frequent transfers to far of sites, rather he was getting the facility of being posted at nearby sites from his home town, such as Jagibhakatgaon, Bokajan, Kampur and Nagaon etc. In the past also, he has ✓

enjoyed to be at convenient sites.

The transfer/posting of staff is done keeping the above facts always in mind. No replacement has been posted in the applicant's place, as the sites are given priority posting as and when need arises during the Flood season and it is not obligatory to post a substitute in each case, which depends upon the work factors and administrative reasons. The applicant is only a regular W/C employee, who is required to be posted and transferred on the basis of the work requirement as and when and where necessary.

A photostat true copy of the Recruitment Rules for W/C staff in CWC to defend the case on behalf of all the respondents issued vide Under Secretary, CWC, letter No.1-6/86-Estt-XII dated 22.4.1988 is annexed herewith and marked as Annexure-A.

Wherein it has been specifically mentioned that W/C staff is to be treated at par with Group 'C' & 'D' only for financial matters. The applicant has never given any information to his office regarding his suffering from TB/any other disease and has been attending office till 5th of June, 2001. It may also be stated that the applicant has totally violated the Conduct Rules as he has also not exhausted the proper channel i.e. awaiting from his employer the reply to the so called representation submitted by him. He has neither met his senior officers in person nor represented his case properly in his Department. As such, the fact mentioned in the para is not correct and is only intended to mislead the Hon'ble CAT.

4. That as regards the contents of paragraph 4.2 of the Original Application, this answering Respondents beg to offer no comment.

5. That as regards the contents of paragraph 4.3, of the Original Application, this answering Respondents ~~responds~~ respectfully state that the applicant has been transferred to Seppa, which is a prominent site for the Flood Forecasting purposes on river Jiabharali. At present, there is only one regular Work-Charged Khalasi available at the site and there is a requirement of at least two more Work Charged Khalasis at the site for 24 hours observation of the Gauge data and its communication to the downstream stations of Bhalukpong/N.T. Road Crossing Jiabharali, from where the formulated forecasts for advance warning of Floods are issued. Another Work-Sarker Gr. III, namely Shri Atul - Ch. Sharma has also been transferred from Nagaon Sub-Division to Seppa considering the immediate and urgent requirement at the site. Non-availability of the Work-Charged staff at that site would make the position at down stream sites extremely vulnerable, as the data from the upstream sites would not be available, in case flood occurs in the river. The requirement of the works at Sub-Division at Nagaon is not considered that emergent and as such two persons have been transferred from that site.

6. That as regards the contents of paragraph 4.4 of the Original Application, this answering Respondents respectfully state that the representation has been received in the office of Executive Engineer only on 12.6.2001 and the same has been forwarded to Superintending Engineer, H.O. Circle, CWC, Guwahati on 16th June, 2001 for further consideration. The receipt of applicant's representation was never refused by the Deptt. but simultaneously after submitting his representation he should have waited for the opinion of the competent authority before filing a case in CAT. If the applicant wanted immediate decision on his transfer to Seppa, he should have met the officer competent, in person and explained the facts indicated in his representation.

7. That as regards the contents of paragraph 4.5 of the Original Application, this answering Respondents respectfully state that the fact that he is suffering from TB has never been intimated to the office. He has also not informed to this office about his wife's advance stage of pregnancy.

8. That as regards the contents of paragraph 4.6, of the Original Application, this answering Respondents respectfully state that Work-Charged Khalasis are meant to work at various sites and the post of the Work Charged establishment is sanctioned only against the sites. The applicant does not belong to regular establishment but he is working only under Work-Charged establishment governed by the rules and regulations applicable to such Work-charged establishment.

9. That as regards the contents of paragraph 4.7, of the Original Application, this answering Respondents respectfully state that there is no malafide intention on the part of the respondents for transferring him from Nagaon to Seppa. As stated in the above paras, there are no guidelines for transferring of the Work-Charged staff from one place to another as the pay of Work-Charged staff is charged to works. The transfer has been done purely considering the immediate requirement of staff at the site and also for better administrative reasons.

10. That as regards the contents of paragraph 4.8, of the Original Application, this answering Respondents respectfully deny the allegations that the applicant has been harrassed. The applicant has been getting reimbursement of various medical bills from time to time. The two medical bills submitted by the applicant were for the Meloena treatment and Cat bite & treatment of his father. The medical bills do not pertain to his own ill health. Both the medical bills are under scrutiny and awaiting clarification, as per medical attendance rules issued from time to time by Govt. of India.

~~11x~~ This office has not been informed officially about his marriage and he has also not submitted necessary marriage declaration certificate to this office earlier. However, a revised family declaration, with his wife namely Mrs. Rakhi - Saikia as dependent, has been submitted to D(S & K Sub-Division, CWC, Nagaon only on 29th May, 2001 after the issue of the transfer order. The revised family declaration certificate

has been received in Division office on 12th June, 2001.

11. That as regards the contents of paragraph 4.9, of the Original Application, this answering Respondents respectfully state that, as stated above, it is not correct that the representation has been given by him to the Superintending Engineer for consideration. As stated above, the said representation was received in the office of the Executive Engineer on 12.6.2001 and the same was forwarded to the Superintending Engineer, H.Q. Circile, CWC, Guwahati on 16th June, 2001 for further consideration.

The applicant has preferred to go to CAT even after submitting his representation dated 31.5.2001 and without waiting for the opinion of the competent authority on his transfer/posting. Further, his apprehension regarding issue of relieving order by the office is not correct. He applied for one day leave and went to Guwahati only to file a case in CAT, but he never thought of meeting the competent authority in Guwahati to explain his difficulties as represented in his application dated 31.5.2001 instead of filing a case in CAT. On his return from one day casual leave, he again applied for leave on medical grounds for 3 months, without joining duty as he has stated to be suffering from TB. He has also not submitted any departure report before proceeding on Medical leave.

12. That as regards the contents of paragraph 4.10 of the Original Application, this answering Respondents respectfully offer no comments.

13. That as regards the contents of paragraph 5.1 to 5.5 of the Original Application, this answering Respondents respectfully submit that under the facts and circumstances stated in the above paragraphs of this written statement, this Original Application has no merit for adjudication and as such the same is liable to be dismissed with adequate costs.

14. That as regards the contents of paragraphs 6 & 7 of the Original Application, the answering Respondents do not offer no comments.

15. That as regards the contents of paragraphs 8.1 to 8.5 and 9 of the Original Application, this answering Respondents respectfully submit that since instant Original Application has no merit, as has been explained earlier, the applicant is not entitled for any relief including interim relief as prayed for and the instant Original Application is liable to be dismissed with costs.

Verification

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

I, Shri A.V.Reddy, Executive Engineer, Upper Brahmaputra Division, Central Water Commission, Jiban - Phukan Nagar, P.O. C.R. Building, Dibrugarh, do hereby solemnly affirm and state that statement made in this paragraphs 1, 6, 9 and 10 of the written statement are true to the best of K my knowledge and belief and those have been made in paragraphs 2, 4, 7, 8, 11 and 12 are true to my best information which have been derived from the records and rests are my humble submission before the Hon'ble Tribunal.

And I verify and sign this verification on this the 12th day of November, 2001.


Deponent.

(A. V. REDDY)
Executive Engineer,
Upper Brahmaputra Division
C. W. C. Dibrugarh-786001

ANNEXURE-A

310 Bawa Bhawan R.K. Puram,
New Delhi-110066,
Dated the 22nd April, 1980. ✓

1. All field Chief engineers,
Central Water Commission.
2. All Superintending Engineers,
Central Water Commission.

Subject: Revised Cadre Structure and recruitment
rules for W/O Staff in C.W.C.

Sir,

In December, 1985 a Committee consisting of field
Chief Engineers, Director, PCP Directorate, Superintending
Engineer, Investigation Circle No. I and Under Secretary (IS)
was constituted to review the cadre and service conditions
of W/O employees in Central Water Commission. The Committee
submitted its report in October, 1986. The report has since
been considered by the Commission and the following decisions
have been taken:-

Terms and conditions of Service:-

- 1.1 The Central Public Works Department (CPWD) are
having a large work-charged establishment and
have from time to time been formulating rules
and regulations governing the service conditions
of the W/O Establishment which are embodied in
CPWD Manual, Volume-III (1984). From inception,
the erstwhile CWPO has been following by and
large those rules and regulations for its
work-charged establishment.

The terms and conditions of service as
contained in CPWD Manual Vol. III, being followed
in respect of CWO W/O Staff basically remain
unaltered. Some salient features of these are
reproduced below for ready information:-

- 1.2 ~~W/O Establishment is comparable to the regular establishment for certain matters, but has not been classified into group 'C' or Group 'D' in CPWD. However, according to para 1.04 of the CPWD Manual Vol. III, for the purpose of allowances.~~

- 1.2 W/C Establishment is comparable to the
regular establishment for certain matters, but
but has not been classified into group
'C' or Group 'D' in CPWD. However, according
to para 1.04 of the CPWD Manual Vol. III,
for the purpose of allowances.

medical examination, etc. the posts, the maximum of whose scale of pay does not exceed Rs. 270/- (pre-revised) are treated as equivalent to Group 'B' and other as equivalent to Group 'C'.

1.3 Para 1.01 of the CWD Manual further provides as under:-

"The P.R.B. and S.R.B. are also applicable to the work-charged staff. Ministry of Law have opined that work-charged employees in the CWD are Civil Servants in terms of Article 311 of the Constitution.

1.4 Para 8.01 of the CWD Manual further stipulates as under:-

"Central Civil Service (Temporary Services) Rules, 1965 are applicable to such of the temporary work-charged employees who have opted for pensionary benefits. Temporary work-charged employees of this category:-

(i) shall be declared quasi-permanent under the aforesaid rules.

(ii) shall continue to get compensation, where payable under the Workmen's Compensation Act, 1923 in addition to the gratuity admissible under the aforesaid rules.

(iii) shall also be allowed benefits of Retrenchment compensation, if any, under the Industrial Disputes Act, 1947.

(iv) Work-charged staff of the CWD opting for pensionary benefits may be declared quasi-permanent either from 1.1.76 or from the date of completion of 3 years continuous service which ever is later."

1.5 Para 24.01 of the CWD Manual Vol. III further provides as under:-

"Retrenchment compensation in accordance with the provisions of Section 25F of the Industrial Disputes Act, 1947 is payable whenever a work-charged employee is retrenched from service. Compensation under the Workmen's Compensation Act, 1923 as amended from time to time to a work-charged employee, covered by the definition of workman, as given in the Act is also payable under the conditions laid down in that Act."

3 - 15 - 38
Compensation under workmen's Compensation Act.

Most of the states have added a new entry (xxxiii) in Schedule III of Workmen's Compensation Act, which reads as under:-

"employed other-wise than in a clerical capacity in the conduct of surveys in river valley including collection of data relating to the river". This covers W/O employees of C.W.C.

3. Overtime Allowance.

Overtime allowances as admissible to other regular staff in field offices will be applicable to the W/O staff also, in cases where they have to work over and above the normal working hours depending upon the contingency of Govt. work.

4. Seniority.

Seniority of all W/C Staff of various categories will be maintained Circle-wise, as already indicated vide CWC letter No. 1-6/86-Estt. XII(11), dated 18-8-87. However, in the case of P & I Organization, Seniority of drivers, and drilling staff will be maintained for P&I Organization as a whole, as already informed vide CWC letter No. 1-6/86-E-XII(11) dated 18.8.87.

5. Transfer.

CWC Manual Para 11.01 (iii) stipulates that no transfer of an employee on his own request shall be made except in very special circumstances with the approval of the Director General of Works and against posts falling in the Direct Recruitment quota in the new unit. Such an employee will not be given benefit of past service in the new unit for the purpose of seniority. He will, however, count his past service for pensionary or terminal benefits, carry forward of leave etc.

In CWC, such requests for transfer within the Circle will be decided by the Superintending Engineer in charge of that Circle, in the case of inter-circle transfer and within the Organization of a field Chief Engineer by the Chief Engineer. Other requests for transfer are to be processed by Superintending Engineers in accordance with C.W.C. Circular No. 1/1/85-Estt. XII (Vol. III) dated 3-12-86.

Contd.: 47-

According to Ministry of Personnel, Public
Provisions & Pensions O.M. No. 4/4/87-PIC-II dated 1st May
1987 all C.P.F. beneficiaries, who were in service on 1.1.86
should be deemed to have come over to the pension scheme
and from that date unless they specifically opt out to
continue under the C.P.F. Scheme.

7. Revised Categories of W/C Establishment.

There at present 64 categories of W/C Staff. These
are hardly amenable to a properly graded hierarchy of
promotions to meet the aspirations of W/C Staff. In order
to rationalise the structure and to provide promotional
avenues to W/C Staff, it has been decided to regroup these
64 W/C categories under various broad groups based on skills
as per Annexure II & III of the Committee Report (copy enclosed).
This will reduce the number of W/C categories to about 24.
The existing personnel may be fitted in new categories. Revised
pay scales applicable to new categories in the basis of
Government decision on the recommendations of 4th Pay Commission
are also indicated in Annexure-III.

8. Recruitment Rules.

Fresh guidelines for recruitment have also been framed
for the revised cadre structure and the same are enclosed.
These may be followed in making fresh appointments in the
new cadre structure as also for promotions.

9. Liveries.

Liveries i.e. Uniforms to W/C Staff may be supplied as
per orders contained in QWD letter No. 1735/85-Estt. XII dated
22.5.87. Modalities of purchasing clothes etc. may be
observed as per orders issued by the Department of Personnel
Handbook of Uniforms for Class III/IV from time to time.

10. Working Hours and Holidays.

Existing 48 working hours per week and holidays as
contained in QWD Manual Vol. III will continue. They shall
not be eligible to observe second Saturday & restricted
holidays.

The receipt of this may please be acknowledged.

Encs: As above.

Yours faithfully,

Abolition of E.B.
in W/C post analogous
to that of D. Post
vide letter dt. 24.9.83

(D. Krishna) 11/82
Under Secretary (TS)
Central Water Commission.

12. All W/C Promotion Post through Selection
Commission Substituted by Promotion Selection
Commission dated 24.9.83.

UNIONIZED ESTABLISHMENT : RECRUITMENT RULES

1. Name of post : Khalasi
2. Classification : Unclassified/Unskilled
3. Scale of pay : Rs. 2550-55-2,660-62-3200
4. Whether selection or Non-selection posts : Not applicable
5. Age limit for direct recruitment : 18-30 years.
6. Educational qualification and experience required : Middle school (VIII Class) Pass
7. Method of recruitment : 100% Direct Recruitment.
8. In case of recruitment by promotion grade from which promotion to be made.
9. Composition of Selection Committee/Departmental Promotion Committee.
10. Selection Committee - The Chairman
 ABE/AB Member
 (Of other Division) - ABE/AB Member
11. For confirmation : The Chairman
 E. E. Member
 ABE/AB Member -
 Co-opted.

To carry out :

1. Any unskilled job as Khalasi, Chowkidar, Garuvala, Malik, Laskar, Chaugi/Discharge/sit Khalasi/Cleaner etc.
2. Any duty as signed by the Officer-in-Charge.

Room No. 314, Sewa Bhawan,
R.K. Puram, New Delhi-56.

Date: 16 - 12 - 1978.

OFFICE MEMORANDUM

Subject: Transfer Policy for Central Water Commission.

The undersigned is directed to enclose a copy of the Transfer Policy with up-to-date amendments brought out so far in respect of Group C & D employees of Central Water Commission for information and guidance.

Hindi version will follow.

Encl.: As above.

B.R. Sharma
(B.R. SHARMA)
UNDER SECRETARY (III)
CENTRAL WATER COMMISSION
TEL.: 6107794.

To

1. P.S. to Chairman/Members/Chief Engineers, C.W.C.
2. All Heads of Subordinate Offices including all Field Offices headed by Executive Engineers/Dy. Directors of C.W.C.
3. Director (Adm.)/Director (Bett.)/Secretary, CWC/
All Under Secretaries/Accounts Officer/Director (Tre.), C.W.C.
4. All Directorates/Bett. Sections/Accounts Sections, C.W.C.
5. All recognised Associations of CWC (as per list attached)

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08/11/99

Pl examine & advise

US

135
09/11/99

18 91-3

CENTRAL WATER COMMISSION

TRANSFER POLICY APPLICABLE TO GROUP 'C' & 'D' PERSONNEL.

PREAMBLE :

All appointments to Civil Posts/Services in the Central Water Commission inter alia include a provision for transfer or posting to any part of the country and outside. In view of the nature of functions of CWC and the fact that a good number of posts on its establishment are meant for manning posts in the field formation, periodical transfers of its employees from one station to another is a normal feature of the requirements of service in CWC.

To minimise the problems of transfer at lower rungs of the cadre, recruitment to the posts of Junior Engineers, Draftsman Gr. III, Research Assistants, Junior Computers, Stenographers, Lower Division Clerks etc. in the field formations are permitted to be made by the concerned field officers, on regional basis, through the Staff Selection Commission or Employment Exchanges, as provided in the relevant Recruitment Rules.

Even so Inter Unit transfers at the same station or from one station to other become essential for the administrative reasons and contingencies of work. It was, therefore, considered desirable to evolve a "Transfer Policy" so as to ensure harmonising the essential needs of the organisation and the interests of the employees.

With these objectives and considerations in view

based on the recommendations of a group constituted for the purpose, a set of general principles and guidelines governing the postings and transfers of various categories of the employees of the CWC were formulated and issued vide CWC No. A-49211/13(A)/85-E.IV dated 27th May, 1987 and further amended vide letter of even number dated 31st December, 1987, and 3rd February, 1988.

However, in the course of implementation of this policy, certain suggestions/views have been received from various service Associations. Taking into view all these and also the views from the Chief Engineers on the implementation of the various clauses, a review was made by the Commission and the Revised Draft Transfer Policy" incorporating modifications considered as necessary was further discussed in detail with the various service Associations and their views considered and incorporated to the extent feasible.

In view of the peculiarities of different cadres even in Group 'G' in respect of the strength at the Head Quarters and field offices, initial recruitment and postings etc., certain requirements are specific in some of the cadres, and have to be taken care of by incorporating some clauses for specific applications to such cadres only under the general clauses.

The 'Transfer Policy' as approved by the Commission in its 102nd meeting on 31st July, 1989, after all the above considerations, and as applicable to Group 'G' personnel of CWC is brought out in the following clauses.

- 3 -

Clause 1:

This policy is applicable to all Group 'C' officers of the Central Water Commission.

Clause 2:

Subject to exigencies of public service and administrative requirements, transfers from one station to another by and large may be kept to the minimum extent possible.

Clause 3:

Group 'C' personnel should not normally be transferred from one station to another except to meet the following contingencies:-

- a) When transfers become essential for the purpose of adjusting surplus staff making up deficiencies of staff, or shifting of an office.
- b) In the request of employees on compassionate grounds by the provision under Clause 11.
- c) On the requests for mutual transfer.
- d) On promotion of an individual when the promotee cannot be adjusted at the same station. However, an promotion in the case of D'man cadre vacant posts of D'man cadre in the field offices will be filled up first (Amended vide O.M. No. A-49011/13(A)/85-B.IV dated 18.9.97).
- e) For exigencies of service or administrative requirements and
- f) For fulfilment of the requirements of Clause 5.

Clause 4:

When transfers from one station to another are inescapable for any of the aforesaid reasons, persons to be transferred shall be in the following order:

- 56
- a) Those who volunteer for such transfer.
 - b) Person/s with longest stay at the place/region of their posting.
 - c) Deleted.

For the purpose of b) and c) above, the following points shall be taken into account:-

1. Person/s available for post/s in question from the list of promotees shall be simultaneously considered. However, in the case of D-man cadre sufficient number of longest stayees in Delhi/Faridabad/Noida from the list of promotees will be shifted out in the field offices (Amended vide O.M. No. A-49011/13(A)/85-E.IV dated 18.9.97).
2. Period spent on deputation to other organisations at that place/station is to be included while counting the longest stay at that place/station.
3. Period spent on deputation outside the country is to be treated as the period spent at Delhi for counting the period of stay at Delhi.
4. Period spent on deputation within the country in any organisation/Project shall be treated at par with CWC posting at the place/region, and, the time of longest stay shall be counted from the time of his continuous stay at that place/region including the period of deputation.
5. For counting the stay at Delhi/Faridabad, the period will be counted from the date of return to Delhi/Faridabad from last posting outside Delhi/Faridabad, if the person was posted outside Delhi/Faridabad before 1972, whereas HRA/DOA is

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other facilities were not available at par with Delhi will not be counted as stay at Delhi/Faridabad for this purpose.

7. Persons who have served in North-Eastern region for a minimum continuous period of three years are not to be transferred again to that region before the expiry of 10 years from the date of their return from that place, unless they desire so.

Clause 5:

Employees transferred to stations away from their home state/requested station may be brought back if so requested by them after a period of 3 years of posting at such station subject to the exigencies of service. Such transfers, even though on request, effected after 3 years stay at a particular place will be considered as in the public interest.

In case of Drawing Staff, Group 'C', the service outside Home State, Delhi/Faridabad shall be restricted to two years unless extension is desired on voluntary basis.

Clause 6:

Officers returning from foreign posting/service shall be posted in offices located outside Delhi/Faridabad for a minimum period of two years.

Clause 7:

Employees due for retirement on superannuation within a period of 5 years before their superannuation shall not ordinarily be transferred if the persons of lesser age are available for manning the posts. However, in respect of

Drawing Staff the employees due for retirement on superannuation within a period of 3 years before their superannuation shall not ordinarily be transferred if persons of lesser age are available for manning the posts. The requests for transfer to the place of their choice, if made, would be considered (Amended vide O.M. No. A-49011/13(A)/85-E.IV dt. 18.9.97 and again amended vide corrigendum No. A-49011/13(A)/85-E.IV dated 23.9.97).

Clause 8:

Officer under zone of consideration of transfer including officers returning from a foreign posting, should give their preference for place of posting, well in time, and the same will be considered subject to the exigencies of work and administrative requirements, alongwith requests of other officers in the grade entered in the request register maintained for the purpose vide Clause 11.

Clause 9:

As far as possible, transfers will be ordered in the months of March/April and compliance of these orders secured by May/June as this will cause the least disruption of the educational Schedule of the School/College going wards of the employees.

Clause 12:

Requests for posting to a station where the employee's spouse in Govt. service is posted, would be considered and efforts will be made to the extent possible to accommodate the official at or near the place of posting of the spouse subject to the administrative conveniences.

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authorised medical attendant (where authorised medical attendant is not available, from a Civil Surgeon or a Medical Superintendent of a Govt. Hospital) indicating the nature of illness and reasons justifying transfer of the individual.

e) All transfers on compassionate grounds will be ordered at the expenses of the individual if effected within a period of stay of 3 years at that station.

Clause 12:

Employees posted to sensitive places, such as work of secret/confidential nature of work, involving procurement/handling of stores, award of contracts, etc. should not ordinarily be retained on that work for a period of more than 3 years. There shall also be periodical inter-Sectional transfers (including technical directorates) so that normally no person remains in the same section/directorate for more than 5 years.

Clause 13:

Representation, if any, against the transfer/posting orders will be made through proper channel, by the affected individuals, within seven days of the receipt of posting orders. When the representation received through proper channel is considered and rejected by the appropriate authority, the concerned individual will move without further delay and in no case exceeding 15 days, failing which the official will be relieved/deemed to have been relieved by the competent authority.

Clause 14:

Female employees will ordinarily not be posted to or family stations, except on their own request or due to

Such transfers may be treated as transfers "on request" on compassionate grounds if effected within a period of stay of 3 years at that station; otherwise, the transfer will be treated as in the "public interest".

Clause 11:

The following procedures will apply to transfers/postings on compassionate grounds.

- a) Employee seeking posting/transfer on compassionate grounds should apply to the concerned cadre controlling authority/competent authority to order transfer, through proper channel in the prescribed proforma. No application for such transfers received from relatives or sent by the employee direct will be entertained.
- b) Applications for transfers on compassionate grounds will invariably be forwarded by the existing office of the applicant with suitable remarks to the competent authority.
- c) On receipt, these applications will be entered in the compassionate transfer register maintained for each grade/post separately by competent authority for processing/dealing such requests in the order of receipt of the request by the concerned section. Transfers will be decided by the competent authority on the merits of each case.
- d) Consideration of applications for transfers on the compassionate grounds should be subject to verifications by and satisfaction of the department of the grounds indicated by the applicants. Applications on medical grounds should be accompanied by appropriate medical certificate from the

Clause 15:

Female employees posted away from their families should be as far as possible be brought back as per their request to the place of their families after they have put in two years of service at the place of posting.

Clause 16:

Appropriate authorities for representation against transfers shall be Chief Engineer of the respective field organisation or the Chief Engineer (A&C) as the case may be.

Clause 17:

Transfers/postings in relaxation/deviation of the guidelines detailed above shall require the prior approval of the Member of the Commission controlling the particular cadre.