

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

✓ (DESTRUCTION OF RECORD RULES, 1990)

M.P-167/01 ordered sheet Pg-1

disposed date-14/09/01

INDEX

O.A/T.A No. 237/2001

R.A/C.P No.....

E.P/M.A No. 167/2001

1. Orders Sheet O.A-237/2001 Pg.....1 to.....2

2. Judgment/Order dtd. 14/09/2001 Pg.....1 to.....3 *disposed*
common order 236, 8237/01

3. Judgment & Order dtd..... Received from H.C/Supreme Court

4. O.A..... 237/2001 Pg.....1 to.....21

5. E.P/M.P..... 167/2001 Pg.....1 to.....17

6. R.A/C.P..... X11 Pg.....1 to.....

7. W.S..... submitted by the Respondent Pg.....1 to.....14

8. Rejoinder..... Pg.....1 to.....

9. Reply..... Pg.....1 to.....

10. Any other Papers..... Pg.....1 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.....

SECTION OFFICER (Judl.)

FORM NO. 4
(See Rule 42)IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWALIATI BENCH ::::::: GUWAHATIORDER SHEET
APPLICATION NO ... 237 OF 2001.Applicant (s) *Smti Bireli Nang*Respondent (s) *UOI 2045*Advocate for Applicants (s) *Mr S. Dutta, K.K. Dey &*
Ms M. Chaudhury

Advocate for Respondent (s)

(GSC)

Notes of the Registry	Date	Order of the Tribunal
	03.07.01	Mr. S. Dutta, appearing for the applicant states that they made some development in the matter. He requests for one week's time.
		List on 11-7-2001 for admissions
<i>This application is in form but not in the Petition is for donation of P. N. filed vide for Rs. C. F. IPO/BD No dep. 64 770229 Dated..... 2/7/2001</i>	mb 11.7.01	<i>LC Choudhury</i> Member Heard learned counsel for the parties. Application is admitted. Call for records. Issue notice to show cause as to why the interim prayer shall not be granted as prayed for. Returnable by 4 weeks. Mr. A. Deb Roy Sr. C. G. S. C. accepts notice on behalf of the respondents. List on 10.8.01 for order. Meanwhile, status quo as on to-day shall be maintained.
<i>Notice not yet filed.</i> <i>WS 2/7/2001</i>		<i>Vice-Chairman</i>
<i>Received copy.</i> <i>Arrears 12/7/01</i>	<i>103 12/7/01</i>	
<i>Slips taken 26/7/01</i>		

✓ Step & Encls submitted
by the Advocate. Notice prepared
and sent to D/S concerning the
Respondent No. 1 to 5 by Regd
Aff Wk & INo 2817 W21
dd 31/7/01

27/7/01

10.8.01

✓ ✓
Shri A. Deb Roy and Shri B. C. Pabbak,
for the respondents states that the case
may be fixed after 3 weeks. In the meantime
they will file the written statement.
Prayer is accepted. They are directed to
file written statement within 2 weeks.

List on 7/9/01 for hearing.

LC Usha
Member

7.9.01 On the request of both the counsels for the
Parites, the matter is adjourned to 14/9/01 for
hearing.

LC Usha
Member

mb

26.9.2001

14.9.01

Judgment delivered in open
Court. Kept in separate sheets.

Application is disposed of. No costs.

h
Vice-Chairman

Copy of the Judgment
has been sent to
the Office for
fixing the date
to the applicant
as well as to the
Addl. CSSC for
Mr. Repr
et

lm

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 236 of 2001 and 237 of 2001

1. Shri M.C.Das

Date of Decision. 14.9.01.....

2. Smt. Bulu Nag.

Petitioner(s)

Mr. S. Datta, Mr. K.K.Dey, Ms. M. Choudhury

versus-

Advocate for the
Petitioner(s)

Union of India & Ors.

Respondent(s)

Mr. A. Deb Roy, Sr. C.G.S.C. & Mr. B.C. Pathak, Addl. C.G.S.C.

Advocate for the
Respondent(s)

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

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble : VICE-CHAIRMAN



5

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.236 of 2001 and 237 of 2001.

Date of Order: This the 14th Day of September 2001.

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

1. Shri Manik Ch.Nag (In O.A.No.236 of 2001)
Son of Late Motilal Nag
Insurance Inspector(Legal)
Employees State Insurance Corporation
Regional Office
North Eastern Region
Guwahati-21. Applicant

By Advocate Mr.S.Dutta, K.K.Dey
Ms.M.Chaudhury,

-Vs-

1. Union of India
Represented by the Secretary
Department of Labour
Parliament Secretariat
New Delhi.

2. Employees State Insurance
Corporation,
represented by the Director
Regional Office,
North Eastern Region,
Guwahati-21.

3. The Regional Director,
Employees, State Insurance
Corporation,
Regional Office,
North Eastern Region,
Guwahati-21

4. The Assistant Director
Employees, State Insurance Corporation
Regional Office,
North Eastern Region
Guwahati-21.

5. Sri A.Haque (By Advocate Mr.A.Deb Roy
Inspector, Legal Office Sr.C.G.S.C.)
Employees' State Insurance Corporation
Tinsukia. ... Respondents.

2. Smti.Bulu Nag.
Sife of Sri Manik Ch.Nag (In O.A.No.237 of 2001)
Superintendent
Employees State Insurance Corporation
Regional Office
North Eastern Region
Guwahati-21. Applicant

By Advocate Mr.S.Dutta, K.K.Dey, Mr.M.Chaudhury

-Vs-

contd--

By Advocate Mr.B.C.Pathak, Addl.C.G.S.C..

O R D E R.

D. N. CHOUDHURY, J (VC):

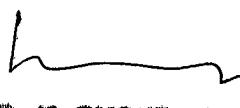
Both the applications were taken up for consideration together since the same facts and the same question of law were involved. The applicant in O.A.No.237 of 2001 is the wife of the applicant in O.A.No.236 of 2001. By order No.43-A-22/15/2000-Estt. dated 7.6.2001 both the applicants were transferred from Guwahati to Tinsukia. The applicant in O.A.No.236/2001 was transferred from the post of Insurance Inspector (Legal) Regional Office, Guwahati to the post of Insurance Inspector, Tinsukia Division, Tinsukia. and the Applicant in O.A.No. 237 of 2001 was transferred from the post of Superintendent, Regional Office, Guwahati to the post of Manager, Grade-II Tinsukia Division, Tinsukia. The common grievance of the

applicants those were focussed on the effect of the order of transfer in the educational career of the two daughters and one minor son of the applicants, those studying in Guwahati. It has been contended by Mr.M.Chanda that they were transferred in the middle of the Academic Session, that would disrupt the educational career of their children. It was stated that the Academic Session of the eldest daughter would be over by April/May, 2002, second daughter and minor son could be over by April, 2002.

I have heard Mr.M.Chanda learned counsel on behalf of Mr.K.K.Dey learned counsel appearing on behalf of both the applicants at length and also Mr.A.Deb Roy, Sr.C.G.S.C. and Mr.B.C.Pathak, Addl.C.G.S.C. appearing on behalf of the Respondents in both the applications. Apparently though no infraction of any statutory provision is discernible from the order nonetheless the transfer of both the persons at a time undoubtedly would cause dislocation in the education of their children. In the circumstances I am of the view that the ends of justice will be met if direction is issued to the respondents to consider the case the case of the applicant Smt. Bulu Nag in O.A.No. 237 of 2001 for retaining her at Guwahati for keeping the order of transfer in abeyance till completion of the final examination of the Children. It is however, made clear that the applicant in O.A.No.236 of 2001 Shri M.C.Nag shall however, have to join in the new place of posting at the earliest subject to the availability of the joining time.

The application thus stands disposed of.

There shall however be no order as to costs.


(D.N.CHOWDHURY)
VICE-CHAIRMAN

LM

केन्द्रीय प्रशासनिक अधिकार
Central Administrative Tribunal

2 JUL 2001

गुवाहाटी न्यायपोर्ट

Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH:

GUWAHATI

Title of the case : O.A. 237 OF 2001

Smti Bulu Nag.

... Applicant.

- Versus -

Union of India & ors.

... Respondents.

I N D E X

<u>Sl.No.</u>	<u>Annexure</u>	<u>Particulars of documents</u>	<u>Page No.</u>
1.	1	Order No.43-A.22/15/ 2000-Estt. dated 7.6.2001.	12 & 17
2.	2	Order No. 43-A.22/15/ 2000-Estt. dated 7.6.2001.	18 and 19
3.	3	Representation dated 8.6.2001.	20 and 21

Pl. filed by: Smti. Bulu Nag
--Applicant
Mailed to
various concerned
Advisors
2.2.2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH:

GUWAHATI

O.A. OF 2001

- BETWEEN -

Smti Bulu Nag,
Wife of Sri Manik Ch. Nag,
Superintendent,
Employees State Insurance
Corporation,
Regional office,
North Eastern Region,
Guwahati - 21.

... APPLICANT.

- Versus -

1. The Union of India
represented by the Secretary
Department of Labour
Parliament Secretariat,
New Delhi.
2. Employees State Insurance
Corporation,
represented by the Director,
Regional office,

contd...

North Eastern Region,

Guwahati - 21.

3. The Regional Director,

Employees' State Insurance

Corporation,

Regional office,

North Eastern Region,

Guwahati- 21.

4. The Assistant Director,

Employees' State Insurance

Corporation, Regional office,

North Eastern Region,

Guwahati- 21.

5. Sri J. Boro,

Manager,

Grade-II,

Local office,

Employees' State Insurance

Corporation,

Tin sukia.

Details of Application :

1. Particulars of the order against which the application made :

contd...

Office order No. 46 of 2001 issued under Memo No. 43-A.22/15/2000-Estt. dated 7.6.2001 by the Assistant Director for Regional Dffector, Employees' State Insurance Corporation, Regional Office, North Eastern Region, Guwahati-21 transferring the applicant from the post of Superintendent, Regional office, Guwahati to the post of Manager, Grade-II, Tinsukia division, Tinsukia.

2. Jurisdiction of the Tribunal :

The applicant declares that the subject matter of this application praying to set aside the order dated 7.6.2001 is within the jurisdiction of this Hon'ble Tribunal.

3. Limitation :

The applicant further declares that the grievance in respect of which the application has been made has arisen by reason of transfer of the applicant as such this application is within the limitation prescribed in section 21 of the Administrative Tribunal Act, 1985.

4. Facts of the case :

a) That the applicant is a citizen of India having his permanent residence at Guwahati.

b) That the applicant joined in the respondent employees' State Insurance Corporation on 1.3.68 as Lower Division Clerk. Thereafter she was duly promoted to the next higher post and she served in the various capacities in several places. The applicant was ultimately promoted to the post of Superintendent on 1.3.94 at Guwahati which she is still holding. The applicant's husband Sri M.C. Nag is also serving in the respondent employees' State Insurance Corporation as Insurance Inspector (Legal) in the Regional office at Guwahati. The applicant is due to retire in the year 1008.

c) That the applicant is having 3 children i.e. 2 daughters and one son. The applicant's eldest daughter Smti Moumita Nag is studying M.A. in the Gauhati University. Her session for the final year started from April, 2001 and shall be continued till May-June, 2002. Her second daughter Smti Sumita Nag is studying B.Com in the Gauhati Commerce College and her session for final year B.Com started in the year March, 2001 and shall continued till April, 2002. Sri Sajal Nag the son of the applicant is studying in Class-IX in the Central School at Noonmati, Guwahati and the session started in the year March, 2001 and shall be continued till April, 2002.

d) That the respondent No. 4 for the respondent

No. 3 vide impugned office order No. 46 of 2001 issued under Memo No. 43-A.22/15/2000-Estt. dated 7.6.2001 transferred the applicant from the post of Superintendent Regional office, Guwahati to the post of Manager, Grade-II, Local office, Tinsukia. The applicant beg to stat that by the same order her husband Sri M.C. Nag has also been transferred f rom thepost of Insurance Inspector (Legal), Regional office, Guwahati to the post of Insurance Inspector Tinsukia Division, Tinsukia. It was directed in the said impugned order dated 7.6.2001 that the applicant will be relieved from Regional office, Guwahati on 29.6.2001 and thereafter she should proceed to Tinsukia and take over charge of Manager Grade-II, Local office, Tinsukia, from Shri J.Boro, the respondent No. 5 Manager after availing normal joining time.

A copy of the said impugned order dated 7.6.2001 is annexed her to and marked as Annexure-1.

- e) That the applicant beg to state that she is suffering from hypertension and not in a position to take hazards of shifting residence. She needs constant advice by a competant doctor.
- f) That the applicant beg to state that on

the same day the respondent No. 4 for respondent No. 3 vide vide office order No. 47 of 2001 issued under Memo No. 43-A.22/15/2000-Estt. dated 2.6.2001 directed that in partial modification of this office order ~~dated~~ No. 46 of 2001 dated 7.6.2001 the applicant will be relieved from her present duties of Regional Office, Guwahati immediately instead of 29.6.2001.

A copy of the aforesaid order dated 7.6.2001 is annexed hereto and marked as Annexure-2.

A. B.

g) That the applicant beg to state that the aforesaid order of her transfer came as bolt from the blue. She is under the treatment of her doctor at Guwahati. The applicant's 2 grown up daughters and one minor son is studying at Guwahati. They needs her help and care. The applicant is not in a position to go to a far place from Guwahati. The academic session of her eldest daughter will get over by June, 2002 and of her second daughter and minor son will be over by April, 2002 and it will be quite difficult for the applicant to leave the station before the academic sessions are over.

h) That the applicant beg to state that there are many officers junior to her in the respondent

corporation including one Sri Rajen Deka, Insurance Inspector in the Regional office at Guwahati who is working since 1992-1993 at Regional office, Guwahati i.e. working since longer period than the applicant have not been transferred and he has been allowed to work at Guwahati.

i) That the applicant will be subjected to irreparable loss and injury if she has to do for work at Tinsukia in view of the impugned order dated 7.6.2001.

j) That the applicant beg to state that she submitted her representation dated 8.6.2001 before the Regional Director E.S.I. Corporation, Bamunimaidan, Guwahati- 21, stating that her daughters and son who are studing and their academic session will be over by May-June, 2002 and will such time her transfer may be kept in abeyance.

Copy of the representation is annexed hereto and marked as Annexure-8.

k) That the applicant beg to state that she has not yet taken over charge of Manager, Grade-II Tinsukia Division, Tinsukia as such the respondent

No. 5 could not join the post presently held by the applicant in the Regional office at Guwahati.

5. Grounds for relief with legal provisions :

- a) That the impugned order dated 7.6.2001 is arbitrary, illegal and malafide inasmuch as the same has been passed in total non-application of mind, hastily, on the verge of her retirement and without effording any time to make representation and as such the same is liable to be set aside and quashed.
- b) That the impugned order dated 7.6.2001 is illegal and without jurisdiction inasmuch as the same has been passed in the midst of academic session creating much problem to me concerned employee and as such the same is liable to be set aside and quashed.
- c) That the impugned order dated 7.6.2001 is arbitrary and discriminatory inasmuch as the junior incumbents of the same rank working for longer period in the same office than that of the applicant has not been transferred and as such the same is liable to be set aside and quashed.
- d) That in any view of the matter the impugned order dated 7.6.2001 is liable to be set aside and quashed.

6. Details of remedies exhausted :

The applicant states that she filed representation dated 8.6.2001 before the Regional Director, Employees' State Insurance Corporation, Guwahati-21 but no order has been passed yet. The applicant beg to state that she apprehends that the authority will not pass any favourable order to her.

7. Matter ~~of~~ not previously filed or pending before any other Central Administrative Tribunal :

The applicant declares that the matter regarding which the application has been made is not pending before any court of law or any other authority or any other Bench of the Tribunal.

8. Relief sought for :

In view of the facts mentioned in para 4 above, the applicant prays for the following relief(s):-

a) To set aside and quash the impugned office order No. 46 of 2001 issued under Memo No. 43-A.22/15/2000-Estt. dated 7.6.2001 by the Assistant Director for Regional Director, Employees' State Insurance Corporation, Regional office, North Eastern

Region, Guwahati- 21 transferring the applicant from the post of Superintendent, Regional office, Guwahati to the post of Manager Grade-II Local office, Tinsukia Division, Tinsukia.

- b) Costs of the application.
- c) Any other appropriate relief or relief that the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for :

The applicant prays that pending disposal of this application this Hon'ble Tribunal may be pleased to stay the operation of the impugned office order No. 46 of 2001 issued under Memo No. 43-A.22/15/2000-Estt. dated 7.6.2001 by the Assistant Director for Regional Director, Employees' State Insurance Corporation, Regional office, North Eastern Region, Guwahati- 21 transferring the applicant from the post of Superintendent, Regional office, Guwahati to the post of Manager Grade-II Local office, Tinsukia division, Tinsukia.

10. That the application is filed through Advocate Sri S. Dutta and K.K. Dey.

11. Particulars of the Indian Postal order :-

i) Number of India postal : 66-770229
order.

ii) Name of the issuing : 2-7-2001
post office.

iii) Date of issue of postal :
order.

iv) Post office at which :
payable.

12. List of Annexures :

Annexures- 1 to 4.

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

Rehn
I, Smti Bulu Nag wife of Sri Manik Chandra Nag,
aged about 53 years resident of Bamunimaidan, P.S.
Chandmari, District-Kamrup, Assam do hereby declare
and verify and I am the applicant in the instant
application and the statements made in paragraphs
1, 2, 3, Sub-paragraphs (a) (b) (c) (e) (g), (i) (j) and (k)
of paragraphs 4, 5 and 7 to 9 of the application are
true to my knowledge and those made in sub-paragraphs
(d), (f) and (h) of paragraphs 4, 10 and 11 are true
to my information derived therefrom which I believed
to be true and I sign this verification on this the 12 th
day of June, 2001 at Guwahati.

Bulu Nag

ANNEXURE - 1.

EMPLOYEES' STATE INSURANCE CORPORATION

REGIONAL OFFICE: NORTH EASTER REGION

GUWAHATI - 21.

No. 43-A.22/15/2000-Estt.

Dated: 7.6.2001.

OFFICE ORDER NO. 46 OF 2001.

The Regional Director has ordered the postings/transfers in respect of the following officials in the interest of public service.

<u>Sl.No.</u>	<u>Name official & Designation</u>	<u>Present place of posting</u>	<u>Posting/transfers Now ordered</u>
1.	Sri P.K.Sarmah, Offg. Mgr. Gr.II	Local Office, Bongaigaon.	Manager Gr.II(Offg) Locsl office, Shillong.
2.	Sri M.C.Nag, I.I.(Legal).	Regional office Guwahati.	Insurance Inspector Tinsukia Division, Tinsukia.
3.	Srs. B.Nag, Supdt.	Regional office, Guwahati.	Manager Gr.II, Local office, Tinsukia.
4.	Sri J.Boro, Mgr. Gr.II.	Local Office, Tinsukia.	Insurance Inspector (LR) Bft.Br., Regional office, Guwahati.

5. Sri A. Haque, I.I.	Tinsukia Division, Tinsukia;	Insurance Inspector (Legal), Regional Office, Guwahati.
6. Sri D. Sinha, I.I.(R).	Regional office, Guwahati.	Manager Gr.II, Local Office, Silchar.
7. Sri P. Goswami, Offg. Mgr.II.	Local office, Silchar.	Insurance Inspector (Recovery), Regional office, Guwahati.
8. Sri T.C. Das Sastri, Mgr.Gr.II .	Local office, Shillong.	Superintendent(Adm) Regional office, Guwahati.
9. Sri I.Ali Sheikh, I.I./Supdt.	Regional office, Guwahati.	Manager Gr.II, Local Office, Bongaigaon.
10. Sri P.K.Sarma, UDC-Cashier.	Local office, Shubri.	U.D.A.--Cashier, Regional office, Guwahati.
11. Sri P.D.Patgiri, UDC.	Regional office, Guwahati.	U.D.C.--Cashier, Local Office, Dhubri.
12. Sri J.R. Mahanta, UDC- Cashier.	Regional office, Guwahati.	U.D.C., Regional Office, Guwahati.

Sri I. Ali Sheikh, I.I/Supdt. who is looking after

the works of Local office, Chandrapur will be relieved on the day when Sri C.K. Bora Manager Take-over charge of Manager Gr. II, Local office, Chandrapur.

On being relieved by Sri Bora, Sri I.Ali Sheikh should proceed to Bongaigaon and take-over charge of Manager Gr.II, Local office, Bongaigaon immediately from Sri P.K. Sarmah, Manager.

On being relieved by Sri I.Ali Sheikh, Sri P.K. Sarmah should proceed to Shillong and take-over charge of Manager Gr.II, L.O. Shillong from Sri T.C. Das Sastri after availing normal joining time.

On being relieved by Sri P.K.Sarmah, Sri T.C. Das Sastri should come to Guwahati and report for duty as Superintendent (Adm.) at Regional office, Guwahati after availing normal joining time.

Sri D. Sinha, Insurance Inspector(R), R.O. Guwahati will be relieved from his present duties of R.O. Guwahati on 29.6.2001 (AN) and thereafter should proceed to Silchar and take-over charge of Local office, Silchar as Manager Gr.II from Sri P.Goswami, Mgr. , L.O. Silchar after availing formal joining time.

On being relieved by Sri Sinha, Sri P. Goswami

- 16 -

should come to Guwahati and report for duty as Insurance Inspector (Recovery), Regional office, Guwahati immediately.

Sri M.C.Nag, I.I.(Legal) (On leave) will be relieved from Regional office, Guwahati on 29.6.2001 (AN) and thereafter should proceed to Tinsukia and take-over charge of Insurance Inspector, Tinsukia Division from Shri A. Haque, I.I. after availing normal joining time.

On being relieved by Sri Nag, Sri A. Haque, I.I. Tinsukia should come to Guwahati and take-over charge of Insurance Inspector (Legal), R.O., Guwahati immediately after availing normal joining time.

Mrs. B. Nag, Supdt. will be relieved from her present duties of R.O. on 29.6.2001 (AN) and thereafter she should proceed to Tinsukia and take-over charge of Manager Gr.II, L.O. Tinsukia from Sri J. Boro, Mgr. after availing normal joining time.

On being relieved by Mrs. Nag, Sri J.Boro, should come to Guwahati and should report for duty as Insurance Inspector (LR) Bft. Br. at R.O., Guwahati immediately after availing normal joining time.

cont...

- 17 -

Sri P.D. Patgiri, UDC, R.O. Guwahati will be relieved from his present duties of R.O. Guwahati on 29.6.2001 (AN) and should join/take-over charge of U.D.C.-Cashier, L.O. Dhubri immediately after availing normal joining time.

On being relieved by Sri P.D. Patgiri, Sri P.K. Sarma, UDC-Cashier should come to Guwahati and join/take-over charge of UDC-Cashier, R.O.Guwahati from Sri J.R. Mahanta after availing normal joining time.

On being relieved by Sri P.K. Sarma, Sri J.R. Mahanta, UDC- Cashier should report for duty as U.D.C. at R.O. Guwahati on the same forenoon/afternoon.

Transfer/posting of Sri I.Ali Shekhh and Sri P.Goswami have been made on their own request and cost.

They will draw their present pay and other allowances as admissible in the new place of posting.

TA/DA and joining time etc. will be entitled to the official at Sl. No.1, 2, 3, 4, 5, 6, 8, 10, 11. No TA/DA joining time etc. will be entitled to the official at Sl.No. 7 & 9 as the postings/transfers have been ordered on their own request. No. TA/DA/Joining time etc. will be entitled to the official at Sl.No.12 as the posting has

17
26

- 18 -

has been ordered in the same office/ station.

Necessary charge/joining report may be sent
in due course.

Sd/-

(K.C.GHOSH)

ASSISTANT DIRECTOR
FOR REGIONAL DIRECTOR.

To

1. Officials concerned.
2. The Dy.Director(F), ESIC,R.O.Guahati.
3. The Dy.Director(R), ESIC, R.O.Guahati.
4. All Local office Managers, NE Region.
5. Cash Br. R.O.Guahati.
6. All Branches, R.O.Guahati- Bft. Br.
8. Office order Register.
10. Personal file concerned.
11. Hindi Cell, R.O. Guahati.

certified to be
true copy
Kanuanta Dey
Advocate
11.6.2001

ANNEXURE - 2.

EMPLOYEES' STATE INSURANCE CORPORATION
REGIONAL OFFICE: NORTH EASTER REGION

GUWAHATI-21.

NO. 43-A.22/15/2000-Estt.

Dated: 7.6.2001.

OFFICE ORDER NO. 47 OF 2001.

Inpartial modification of this office order No. 46 of 2001 dated 7.6.2001, the following officials will be relieved from their present duties of Regional office, Guwahati immediatelyinstead of 29,6.2001 (AN).

1. Sri D. Sinha, I.I.(R)
2. Sri M.C. Nag, I.I. (On leave)
3. Mrs. B. Nag, Supdt.
4. Sri P.D.Patgiri, U.D.C.

Others conditions will remain unchanged.

Sd/- 7.6.2001.

(K.C. GHOSH)

ASSISTANT DIRECTOR
FOR REGIONAL DIRECTOR.

contd...

19

28

- 20 -

To

1. Officials Concerned.
2. The Dy. Director (F), R.O. Guwahati.
3. The Dy. Director (R), ESIC, R.O.
4. All Local office Managers,
M.E. Region.
5. Cash Br. R.O. Guwahati.
6. All Branches, R.O. Guwahati.
7. Office order Register.
8. Personal file concerned.
9. Hindi Cell, R.O.

Guwahati.

Sd/-

ASSISTANT DIRECTOR
FOR REGIONAL DIRECTOR.

certified to be
true copy
Karamanta Dey
Achrocali
11.6.2001

20

-21-ANNEXURE - 3

To

The Regional Director,
 E.S.I. Corporation,
 Guwahati.

SUB:- Transfer of Self from Guwahati to Tinsukia.

Sir,

With reference to R.O. Guwahati O/O No. 46 of 2001 issued vide No. 43-A.22/15/2000-Estt dated 7.6.2001 on the above subject, I beg to state the following few lines for favour of your kind consideration.

(1) That Sir, my eldest daughter will appear in M.A. Final examination during April/02 - May/02 and the youngest daughter is also appear B.Com. final examination during April'02. My son is now reading in Class-IX at Central School in the current session started from April, 2001 to March/02. As such it is not possible for me to shift my children at this stage outside of Guwahati.

(2) My husband Sri K.C. Nag is suffering from "Osteo arthaitis" since 26.4.01 and he is not

contd..

2)

- 22 -

fully cured till now. Moreover, he is a patient of Heart disease. He has already suffered heart attack during 1997. He has to check up regularly by the physician of Guwahati almost every fortnight. Hence it is not possible for me to shift my entire family outside of Guwahati.

In view of above, it is my earnest request kindly to cancell my transfer order immediately so that I will be highly grateful to you.

Yours faithfully,

Sd/- 8.6.2001

(MRS. B. NAG)

Date: 8.6.01.

Supdt. R.O. Guwahati.

Certified to be

true copy

....

Karenma Ranjan Dey

Advocate
11.6.2001

31
Smti. Bule Nag
Bench No.
14/9/01

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

O.A. NO. 237 OF 2001

Smti. Bule Nag

- Vs -

Union of India & Ors.

- End -

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 office order No.46 of 2001 under No. 43.A-22/15/2000-Estt. dated 7.6.2001 issued transferring the applicant from Guwahati to Local Office, Tinsukia as Manager Gr.II in the interest of public service. Her husband Shri M.C. Nag has also been transferred from Guwahati to Tinsukia by the same order in the interest of public service.

Liability of transfer is one of the conditions of service. The petitioner joined the E.S.I. Corporation knowing fully well that the post is a transferrable one. Therefore, the petitioner have no right to claim that she may not be transferred.

The petitioner has been relieved from her duties of Regional Office, Guwahati on 8.6.2001 (FN) as per order No. 47 of 2001 (in partial modification of order No. 46/2001) dated 7.6.2001) dated 7.6.2001 vide office order No. 48 of 2001 dated 8.6.2001.

Copy of office order No. 46 of 2001, 47 of 2001 dated 7.6.2001 and order No.48 of 2001 dated 8.6.2001 and appointment order are enclosed herewith.

Further, there is no such Govt./Department instruction that both husband and wife serving in the same organisation can not be transferred. Rather, both husband and wife can be posted in same station as far as practicable vide Govt. of India O.M. No. 28034/2/97-Estt.(A) dated 12.6.97. Keeping the instruction in view, both of them have been transferred to the same station.

2. That with regard to para 2, the respondents beg to state that no documents/evidence has been submitted by her as she is suffering from hypertension and need constant advice by Doctor. Further, she may also take treatment at Tinsukia for the disease she suffering from.

3. Thzt with regard to para 3, the respondents beg to state in the interest of public service, the office order No. 46 of 2001 dated 7.6.2001 modified partially vide office order no.47 of 2001 dated 7.6.2001 directing to release the applicant on 8.6.2001 and accordingly, the applicant has been relieved from her duties of Regional Office, Guwahati on 8.6.2001 (FN) vide Office order No.48 of 2001 dated 8.6.2001.

4. That with regard to para 4, the respondents beg to state that in the order of transfer has been issued in the interest of public service, hence the same is not bolt from blue as she knows that the job is transferrable anywhere in India.

Further, there is no bar to educate the children at Guwahati if she is posted even at Tinsukia. There is also no order/instruction from Govt. of India/Depot. that the employee can not be transferred in the middle of academic session of employee's children.

5. That with regard to para 5, the respondents beg to state that the transfer has been ordered in the interest of public service, it is not possible to keep in abeyance till the completion of academic session i.e. May-June, 2002 of her children.

The representation dated 8.6.2001 has been considered and intimated to her that request could not be acceded to vide this office memo no. dated 14.6.2001 (copy enclosed).

6. That with regard to para 6, the respondents beg to state that the transfer has been ordered in the interest of public service, the Hon'ble CAT is requested not to grant interim relief for stay of the transfer order till disposal of the case O.A. No. 237 of 2001 as requested by the applicant.

7. That with regard to para 7, the respondents beg to offer no comments.

-4-

8. That with regard to para 8, the respondents beg to state that although, the other officials mentioned by the applicant transferred by the same order, there is no relation of the applicant with the other officials regarding transfer.

9. That with regard to para 9, the respondents beg to state that no such representation dated 3.7.2001 received from Mrs. B. Nag by this office. However, Mrs. B. Nag was submitted another application dated 25.6.2001 and the same has been considered and the same intimated to her that her request has been considered but could not be acceded to vide this office Memo dated 25.6.2001 (copy enclosed).

10. That with regard to para 10, the respondents beg to state that the respondent No.4 for respondent No.3 has not ~~app~~ discriminated her as well as Article 14 of the constitution of India has not violated.

11. That with regard to para 11, the respondents beg to state that the order for transfer of the applicant has not been issued with a malafide view against the applicant and as such the order of transfer is not liable to be set aside and quashed.

12. That with regard to para 12, the respondents beg to state that ~~inxxiexxxafxxkxxgxx~~ the reason stated in the above paras, the Hon'ble CAT is requested not to stay the transfer order No.46 of 2001 and 47 of 2001 dated 7.6.2001 issued by the competent authority.

VERIFICATION

I, Shri D.N. Pegoo, Regional Director

ESI Corporation 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 14th
day of Sept , 2001 at Guwahati.


Declarant.
(D. N. Pegoo)
Regional Director,
ESI Corporation,
N E Regional Guwahati-21

36

EMPLOYEES' STATE INSURANCE CORPORATION
REGIONAL OFFICE: NORTH EASTERN REGION
GUWAHATI-21

No. 43-A-22/15/2000-Estt.

b

Dated 7-6-2001.

OFFICE ORDER NO 46 of 2001

The Regional Director has ordered the postings/transfers in respect of the following officials in the interest of public service.

S.No.	Name Official & Designation	Present place of posting	Posting/transfer now ordered
1.	Sri P.K.Sannah, Offg.Mgr.Gr.II	Local Office, Bongaigaon	Manager Gr.II(Offy.) Local Office, Shillong
2.	Sri M.C.Mag, I.I(Legal)	Regional Office, Guwahati	Insurance Inspector Tinsukia Division, Tinsukia
3.	Mrs B.Nag, Supdt.	Regional Office, Guwahati	Manager Gr.II, Local Office, Tinsukia
4.	Sri J.Boro, Mgr.Gr.II	Local Office, Tinsukia	Insurance Inspector(LR) Bft.Br., Regional Office Guwahati
5.	Sri A.Baque, I.I	Tinsukia Division, Tinsukia	Insurance Inspector(Legal) Regional Office, Guwahati
6.	Sri D.Sinha, I.I (R)	Regional Office, Guwahati	Manager Gr.II, Local Office, Silchar
7.	Sri P.Goswami, Offg.Mgr.II	Local Office, Silchar	Offg. Insurance Inspector(Recovery) Regional Office, Guwahati
8.	Sri T.C.Das Sastri, Mgr.Gr.II	Local Office, Shillong	Superintendent(Adm) Regional Office, Guwahati
9.	Sri I.ali Sheikh, I.I/Supdt.	Regional Office, Guwahati	Manager Gr.II, Local Office, Bongaigaon
10.	Sri P.K.Sannah, UDC-Cashier	Local Office, Dhubri	UDC-Cashier, Regional Office, Guwahati
11.	Sri P.D.Patgiri, UDC	Regional Office, Guwahati	UDC-Cashier, Local Office, Dhubri
12.	Sri J.R.Mahanta, UDC-Cashier	Regional Office, Guwahati	UDC, Regional Office Guwahati

Sri I.ali Sheikh I.I/Supdt. who is looking after the works of Local Office, Chandrapur will be relieved on the day when Sri G.K.Bora Manager take-over charge of Manager Gr.II, Local Office, Chandrapur. Sri I.ali Sheikh should proceed to Bongaigaon and take-over charge of Manager Gr.II, Local Office, Bongaigaon immediately from Sri P.K.Sannah, Manager Gr.II, Local Office, Bongaigaon.

On being relieved by Sri Bora, Sri I.ali Sheikh should proceed to Shillong and take-over charge of Manager Gr.II, Local Office, Shillong from Sri T.C.Das Sastri after availing normal joining.

7

(iii)

On being relieved by Sri P.K.Sarma, R.O.Guwahati should come to Silchar and report for duty as Superintendent(Adm.) at Regional Office,Guwahati after availing normal joining time.

Sri D.Sinha,Insurance Inspector(IV),R.O.Guwahati will be relieved from his present duties of R.O.Guwahati on 29-6-2001(AN) and thereafter should proceed to Silchar and take-over charge of Local Office,Silchar as Manager Gr.II from Sri P.Goswami,Mgr.,L.O.Silchar after availing normal joining time.

On being relieved by Sri Sinha,Sri P.Goswami should come to Guwahati and report for duty as Insurance Inspector(Recovery),Regional Office,Guwahati immediately.

Sri M.C.Nag,I.I(Legal)(on leave) will be relieved from Regional Office,Guwahati on 29-6-2001(AN) and thereafter should proceed to Tinsukia and take-over charge of Insurance Inspector,Tinsukia Division from Shri A.Haque,I.I after availing normal joining time.

On being relieved by Sri Nag,Sri A.Haque,I.I,Tinsukia should come to Guwahati and take-over charge of Insurance Inspector(Legal),R.O.,Guwahati immediately after availing normal joining time.

Mrs B.Nag,Supdt. will be relieved from her present duties of R.O. on 29-6-2001(AN) and thereafter she should proceed to Tinsukia and take-over charge of Manager Gr.II,L.O.Tinsukia from Sri J.Boro,Mgr.,after availing normal joining time.

On being relieved by Mrs. Nag,Sri J.Boro should come to Guwahati and should report for duty as Insurance Inspector(LR) Bft.Br. at R.O.,Guwahati immediately after availing normal joining time.

Sri P.D.Patgiri,UDC,R.O.Guwahati will be relieved from his present duties of R.O.Guwahati on 29-6-2001(AN) and should join/take-over charge of U.D.C-Cashier,L.O.Dhurmi immediately after availing normal joining time.

On being relieved by Sri P.D.Patgiri,Sri P.K.Sarma,UDC-Cashier should come to Guwahati and join/take-over charge of UDC-Cashier,R.O.Guwahati from Sri J.R.Mahanta after availing normal joining time.

On being relieved by Sri P.K.Sarma,Sri J.R.Mahanta,UDC-Cashier should report for duty as U.D.C at R.O.Guwahati on the same forenoon/afternoon.

Transfer/posting of sri I.Ali Sheikh and sri P.Goswami have been made on their own request and cost.

They will draw their present pay and other allowances as admissible in the new place of posting.

TA/DA and joining time etc. will be entitled to the official at Sl.No. 1,2,3,4,5,6,8,10,11. No TA/DA /joining time etc. will be entitled to the official at Sl.No. 7 & 9 as the postings/transfers have been ordered on their own request. No. TA/DA/Joining time etc. will be entitled to the official at Sl.No. 12 as the posting has been ordered in the same office/station.

Necessary charge/joining report may be made in due course.

1. OFFICERS
2. D.Y. DIRECTOR (E) R.O. GUWAHATI
3. D.Y. DIRECTOR (R) R.O. GUWAHATI
4. ALL LOCAL OFFICE MANAGER N.E. REGION
5. CASH BR. R.O. GUWAHATI
6. ALL BRANCHES, R.O. GUWAHATI

Office of the Register
Personal concerned
Hindi Cell, R.O. Guwahati

EMPLOYEES' STATE INSURANCE CORPORATION
REGIONAL OFFICE, NORTH EASTERN REGION
GUWAHATI-21

No. 43-A.22/15/2000-Estt. Dated 14-6-2001

MEMORANDUM

Subject: Transfer from Guwahati to Tinsukia.

With reference to her letter dated 8-6-2001 on the above subject, Mrs B. Nag, Supdt. is informed that the Regional Director has examined her request and the same could not be acceded to and directed to the undersigned to advise Mrs B. Nag, Supdt. to join immediately after availing normal joining time as per order failing which departmental action would be taken against her.

(K. C. GHOSH)
ASSISTANT DIRECTOR
FOR REGIONAL DIRECTOR

To

Mrs B. Nag,
Supdt.,
Regional Office,
E.S.I. Corporation,
Guwahati

Partha K. Ghosh

9

EMPLOYEES' STATE INSURANCE CORPORATION
REGIONAL OFFICE: NORTH EASTERN REGION
GUWAHATI-21

No.43-A.22/15/2000-Estt.

Dated 25-6-2001

MEMORANDUM

Subject: Transfer from Guwahati to Tinsukia.

.....

With reference to her letter dated 25-6-01 on the above subject, Mrs B.Nag, Supdt. is informed that the Regional Director has considered her request but could not acceded to. She is directed to join in her new place of posting as per order.

(K.C.GHOSH)
ASSISTANT DIRECTOR
FOR REGIONAL DIRECTOR

To

Mr. XXB&x

Mrs B.Nag, Supdt.
Regional Office,
E.S.I.Corporation,
Guwahati

Re: B.Nag

1. The 35.5° - occurs in the Galerite
2. 30 :- 1. The 35.5° - occurs in the Galerite
2. Rock 35° - occurs in the Galerite
3. 35° - occurs in the Galerite
4. 35° - occurs in the Galerite

М. Б. С. 1906

EMPLOYEES' STATE INSURANCE CORPORATION
REGIONAL OFFICE: NORTH EASTERN REGION
GUWAHATI-21

No. 43-A.22/15/2000-Estt.

Dated 25-6-2001

MEMORANDUM

Subject: Transfer from Guwahati to Tinsukia.

.....

With reference to her letter dated 25-6-01 on the above subject, Mrs B. Nag, Supdt. is informed that the Regional Director has considered her request but could not acceded to. She is directed to join in her ~~new~~ new place of posting as per order.

(K. C. GHOSH)
ASSISTANT DIRECTOR
FOR REGIONAL DIRECTOR

To

XXXXXX

Mrs B. Nag, Supdt.
Regional Office,
E.S.I. Corporation,
Guwahati

✓

Ranjita

EMPLOYEES' STATE INSURANCE CORPORATION
REGIONAL OFFICE, NORTH EASTERN REGION
GUWAHATI-21

No. 43-A.22/15/2000-Estt.

Dated 14-6-2001

MEMORANDUM

Subject: Transfer from Guwahati to Tinsukia.
.....

With reference to her letter dated 8-6-2001 on the above subject, Mrs B.Nag, Supdt. is informed that the Regional Director has examined her request and the same could not be acceded to and directed to the undersigned to advise Mrs B.Nag, Supdt. to join immediately after availing normal joining time as per order failing which departmental action would be taken against her.

(K.C.GHOSH)
ASSISTANT DIRECTOR
FOR REGIONAL DIRECTOR

To

Mrs B.Nag,
Supdt.,
Regional Office,
E.S.I.Corporation,
Guwahati

Par
6/8/01

13
13
New Delhi, the 3-4-86.

OFFICE MEMORANDUM

Subject : Posting of husband and wife at the same station.

The question of formulation of a policy regarding the posting at the same place of husband and wife who are in Govt. service or in the service of Public Sector Undertakings has been raised in Parliament and other forums on several occasions. Govt.'s position has been that requests of Govt. servants and employees of public sector undertakings for posting at the same station usually receive sympathetic consideration, and that each case is decided on merits, keeping in view the administrative requirements.

2. The Govt. of India have given the utmost importance to the enhancement of women's status in all sectors and all walks of life. Strategies and policies are being formulated and implemented by different Ministries of the Central Govt. to achieve this end. It is also considered necessary to have a policy which can enable women employed under the Govt. and the Public Sector undertakings to discharge their responsibilities as wife/mother on the one hand, and productive workers on the other, more effectively. It is the policy of the Govt. that as far as possible and within the constraints of administrative feasibility, the husband and wife should be posted at the same station to enable them to lead a normal family life, and to ensure the education and welfare of their children.

3. In Feb., 1976 the then Department of Social Welfare had issued a circular D.O. letter to all Ministries and Departments requesting them to give serious consideration to the question of posting husband and wife at the same station. However, representations continue to be received by the Department of Women's Welfare in the Ministry of Human Resources Development from women seeking the intervention of that Department for a posting at the place where their husbands are posted. It has, therefore, now been decided to lay down a broad statement of policy at least with regard to these employees who are under the purview of the Govt./ Public Sector Undertakings. An attempt has, therefore, been made in the following paragraphs to lay down some guidelines to enable the cadre controlling authorities to consider the request from the spouses for a posting at the same station. At the outset, it may be clarified that it may not be possible to bring every category of employees within the ambit of this policy as situations of husband/wife employment are varied and manifold. The guidelines given below are, therefore, illustrative and not exhaustive. Govt. desire that in all other cases the cadre controlling authority should consider such requests with utmost sympathy.

...2/4

New Delhi, the 12th June, 1997

14
OFFICE MEMORANDUM

Sub :- Posting of husband and wife at the same station.

The undersigned is directed to say that on the subject mentioned above, Government had issued detailed guidelines vide OM No. 28034/7/86-Estt. (A) dated 3-4-86. The Fifth Central Pay Commission has now recommended that not only the existing instructions regarding the need to post husband and wife at the same station need to be reiterated, it has also recommended that the scope of these instructions should be widened to include the provision that where posts at the appropriate level exist in the organisation at the same station, the husband and wife may invariably be posted together in order to enable them to lead a normal family life and look after the welfare of the children, especially till the children are 10 years of age.

2. The Government, after considering the matter, has decided to accept this recommendation of the Fifth Central Pay Commission. Accordingly, it is reiterated that all Ministries/Department should strictly adhere to the guidelines laid down in OM No. 28034/7/86-Estt. (A) dated 3-4-86 while deciding on the requests for posting of husband and wife at the same station and should ensure that such posting is invariably done, especially till their children are 10 years of age, if posts at the appropriate level exist in the organisation at the same station and if no administrative problems are expected to result as a consequence.

3. It is further clarified that even in cases where only the wife is a government servant, the concession elaborated in Para 2 of this O.M. would be admissible to the government servant.

4. These instructions would be applicable only to posts within the same department and would not apply on appointment under the Central Staffing Scheme.

5. A copy of this Department's OM No. 28034/7/86-Estt (A) dated 3-4-86 is enclosed for ready reference and guidance.

6. Hindi version of the OM is enclosed.

Sd.

(Harinder Singh)

Joint Secretary to the Govt. of India

Tel. No. 301 1276

To

- (1) All Ministries /Departments of the Government of India.
- (2) Department of Women & Child Development.
- (3) The National Commission for Women, 4, Deendayal Upadhyay Marg, ITO, New Delhi.