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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 253/001
R.A/C.P No.
E.P/M.A No.

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SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

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

ORDER SHEET

Original APPLICATION NO. 253 OF 2001

APPLICANT (S) Mr. Ujjwal Roy

RESPONDENT (S) Case.

ADVOCATE FOR APPLICANT(S) M. Chandra, G.N. Chakraborty, A. Datta

ADVOCATE FOR RESPONDENT(S) Case.

Notes of the Registry	dated	Order of the Tribunal
<p>This application is in form but not in the Conciliation Petition is filed vide M.F.No. C.F. for As St. deposited vide IPO/BD No. S.G. 424.19.4 Dated.....12.7.2001</p> <p><i>[Signature]</i> Dy. Registrar 11/7/2001</p>	<p>12.7.01</p> <p>lm</p>	<p>Heard learned counsel for the parties. Judgment delivered in open Court. Kept in separate sheets. Application is allowed. No costs.</p> <p><i>[Signature]</i> Member</p>

30.7.2001

Copy of the Judgment has been sent to the Office, for issuing the same to the applicant as well as to the Add. C.S. for the Respondent.

[Signature]
for 26/7/2001

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 253 of 2001

Date of Decision. 12.7.01

Shri Ujjwal Ray

Petitioner(S)

Mr.M.Chanda, Mr.G.N.Chakraborty,

Advocate for the
Petitioner(s)

Versus-

Union of India & Ors.

Respondent(s)

Mr.B.C.Pathak, Addl.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 : ADMINISTRATIVE MEMBER

12/08/01

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**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No.253 of 2001

Date of Order: This the 12th Day of July 2001.

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

Dr.Ujjwal Ray

**S/O.Shri Parimal Ray,
Working as Sr.Medical Officer,
1 Assam Rifles, Aizawl,
Mizoram, C/o 99 APO**

... Applicant

**By Advocate Mr.M.Chandaborty, Mr.G.N.Chakraborty,
Mr.H.Dutta.**

-Vs-

**1. The Union of India,
Through the Secy. of the Govt. of India,
Ministry of Health & Family Welfare,
New Delhi.**

**2. The Secretary to the Govt.of India,
Ministry of Home Affairs
Government of India,
New Delhi.**

**3. The Under Secy. to the Govt. of India
Ministry of Health & Family Welfare,
Govt of India,
New Delhi.**

**4. The Director General of Assam Rifles,
Headquarter, Shillong**

**5. The Dy.Director(Admn)
Assam Rifles, Shillong.
Addl.**

... Respondents.

By Mr.B.C.Pathak, S/L C.G.S.C.

O R D E R.

K.K.SHARMA, MEMBER(ADMN)

By this application the applicant has requested for transfer and posting in choice station in the light of the O.M. dated 14.12.1983 issued by the Government of India, Ministry of Finance. The applicant was recommended for appointment to the Central Health Services. The

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applicant has served Assam Rifles in NorthEastern Region since 3.5.1993 and has served more than 7 years. The applicant acquired a right for the benefit of choice station posting given in the light of the O.M. No.2001/2/83/E/IV dated 4.12.83 issued by the Government of India, Ministry of Finance, Department of Expenditure after a specific tenure posting. The Civilian Employees of the Central Government employees are entitled to choice station posting after completion of 3 years tenure posting. The applicant submitted representations dated 20.9.1996 and 15.4.99 giving his choice station of posting outside the N.E.Region. The applicant submitted another representation(Annexure VI) which has been rejected by the order dated 14.11.2000(Annexure VII). The applicant's case has been rejected on the ground that the applicant was specifically recruited for Assam Rifles, N.E.Region, in consultation with Government of India, Ministry of Health. The respondents have further stated therein that his request for choice place of posting will be considered in due course. Keeping in view the administrative requirement. The respondents have not filed any written statement. However, Mr.B.C.Pathak argued that in view of the shortage of officers in the N.E.Region the applicant's request could not be accepted. Mr.M.Chanda learned counsel appearing on behalf of the applicant refers to the Judgment of this Bench in O.A.No.250 of 98 dated 8.1.1999 and O.A.No. 287 of 2001 dated.2.2.2001. In the said judgment, it is held that the Government servant posted in the N.E.Region are entitled to choice station posting on completion of fixed tenure.

contd/-

10/11/2001

Application is allowed with direction to the respondents to consider the case of the applicant for his transfer from the North Eastern Region and posting at a place of his choice, as early as possible, preferably within 3(three) months from the date of receipt of this order.

Application is accordingly allowed. There shall however, be no order as to costs.

K. K. Sharma
(K.K.SHARMA)
ADMINISTRATIVE MEMBER

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

Title of the Case : O.A. No. 253/2001

Dr. Ujjwal Ray : Applicant

-Versus-

Union of India & Others : Respondents

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Date

Filed by

Advocate

Ujjwal Ray

Filed by the applicant
through advocate
G. N. Chakravarty on 7/7/01

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

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

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

BETWEEN :

1. Dr. Ujjwal Ray,
S/o Shri Parimal Ray,
Working as Sr. Medical Officer,
1 Assam Rifles, Aizawl,
Mizoram, C/o 99 APO

.....Applicant

-AND -

1. The Union of India,
Through the Secy. of the Govt. of India,
Ministry of Health & Family Welfare,
New Delhi.
2. The Secretary to the Govt. of India,
Ministry of Home Affairs,
Government of India,
New Delhi.

Ujjwal Ray

3. The Under Secy. to the Govt. of India,
Ministry of Health & Family Welfare,
Govt. of India,
New Delhi.

4. The Director General of Assam Rifles,
Headquarter, Shillong.

5. The Dy. Director (Admn.),
Assam Rifles, Shillong.

Respondents

DETAILS OF THE APPLICATION

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

This application is made against the impugned letter No.C.17011/12/99-CHS.II(Pt.) dated 14.11.2000 issued by the Respondent No.3 and addressed to the applicant informing the applicant that the facility of choice posting extended by the Government under O.M. No.20014/2/83-E.IV dated 14.12.1983 as claimed by the applicant is not applicable to the employees on their initial posting to North Eastern Region and praying for a direction upon the respondents for choice station posting.

2. Jurisdiction of the Tribunal

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

3. Limitation

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

Usiswal Ray

4. Facts of the Case

4.1 That the applicant is citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

4.2 That the applicant initially joined Central Health Services as a Medical Officer on the recommendation of the Union Public Service Commission and thereafter served the 5th, 9th, 4th and 1st Assam Rifles since 03.05.1993. The applicant is presently serving under 1st Assam Rifles, Aizawal, Mozoram on the promoted post of Sr. Medical Officer.

4.3 That having served for more than seven years in the N.E. Region, the applicant is now entitled to get the benefit of transfer and posting to his choice station in the light of the O.M. No.20014/2/83/E.IV dated 14.12.1983, issued by the Govt. of India, Ministry of Finance, New Delhi whereby such special facilities have been extended to the Civilian Employees of the Central Govt, posted in N.E. Region. The facility of transfer and posting to choice station after serving in the N.E. Region for a specified tenure (3 years in case of the applicant) has been categorically provided in the aforesaid O.M. dated 14.12.1983 and the applicant by virtue of his serving for more than 7 years in the N.E. Region, has duly qualified for transfer to his choice station. The said facility has been reiterated by the Government in the O.M. dated 01.12.1988 and also in O.M. No.F.No.11(2)/97-EII(B) dated 22.07.1998, issued by the Ministry of Finance, Govt. of India.

(Copy of O.M. dated 14.12.1983 and O.M. dated 22.07.1998 are annexed hereto as Annexure I and II respectively).

4.4 That on fulfilling the above criteria, the applicant submitted his representation dated 20.09.1996 and another representation dated 15.04.1999 to the respondent No.3 praying for his transfer to following choice station.

- i) CGHS Disp., West Bengal.
- ii) P & T Hospital, West Bengal.

Uiswal Ray

- iii) Geological Survey of India Hospital, West Bengal.
- iv) Labour Welfare Hospital, West Bengal.
- v) Port Trust of India Hospital, West Bengal.
- vi) Other Civil Organisation within West Bengal.
- vii) Any CHS set up in West Bengal.
- viii) CGHS Delhi.
- ix) Delhi Administration Hospital.
- x) CGHS, Uttar Pradesh.
- xi) New Delhi.

(Copy of applications dated 20.09.1996 and dated 15.04.1999 annexed hereto as Annexure-III & IV respectively)

4.5 That inspite of all efforts, the applicant failed to get due considerations of the respondents for his legitimate transfer to his choice station outside N.E. Region as per the principles laid down by the Government and being aggrieved, the applicant approached this Hon'ble Tribunal for justice and the Hon'ble Tribunal passed the order on 14.06.2000 in O.A. No.330/99 and disposed of the O.A. directing the respondents to decide the representations of the applicant within a period of one month.

(A copy of the judgment and order dated 14.06.2000 in the OA No.330/99 is annexed hereto as Annexure-V).

4.6 That the applicant thereafter submitted another application on 28.07.2000 enclosing the judgment and on receipt of the aforesaid order of the Hon'ble Tribunal, the respondent No.3 has issued an impugned letter C.17011/12/99.CHS.II(Pt.) dated 14.11.2000, wherein it is stated that, the Office Memorandum dated 14.12.1983 is only applicable to the Central Government employees who are posted to any State/UT of the N.E. Region on the basis of transfer/deputation, and that the said order does not apply to the employees on their initial posting to N.E. Region, and the same is not applicable in

Usiwal Ray

the case of the applicant, whereas this particular issue has already been settled by this Hon'ble Tribunal in number of cases, involving the question of choice station posting.

(Copy of application dated 28.07.2000 and dated 14.11.2000 is appended hereto as Annexure-VI & VII).

4.7 That the plea taken by the respondents in their aforesaid letter dated 14.11.2000 is arbitrary and inconsistent with the principles laid down by the Government in the relevant office memoranda cited above since the facility of transfer to choice station has been extended to all employees who are saddled with all India transfer liability and serving in the N.E. Region. It is relevant to mention here that the applicant is a permanent resident of West Bengal wherefrom he came to serve in the N.E. Region and is saddled with All India transfer liability and is a member of Central Health Service. It is categorically submitted that the applicant is qualified, as per the scheme of 14.12.1983 for choice station of posting.

4.8 That this Honb'le Tribunal in a series of cases, has held that those who have come from outside the N.E. Region and have served in the N.E. Region will get the benefit of transfer to choice station as per the Govt. OM No.20014/2'83-E.IV dated 14.12.1983. In this context, the following cases disposed of by this Hon'ble Tribunal are referred to as illustrations –

- 1) O.A. No.287/2000 (Dr. Sutapa Sikdar Vs. Union of India & Others).
- 2) O.A. No.250/98 (Dr. N.S. Chauhan Vs. Union of India & Others).

This applicant is identically situated and thus his case is covered by the aforesaid decisions.

4.9 That this application is made bonafide and for the cause of justice.

5. Grounds for relief(s) with legal provisions.

5.1. For that that the applicant has completed more than 7 years of service in Assam Rifles in the post connected with defence of India in N.E. Region

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- 5.2. For that in accordance with the criteria laid down by the Government for choice station posting in O.M. dated 14.12.1983 and O.M. dated 22.07.1998, the applicant is eligible for choice station posting after serving for a tenure of 3 years in the N.E. Region whereas the applicant has already served for more than 7 years.
- 5.3 For that the applicant is a member of Central Health Service and saddled with all India transfer liability which are the criteria for having choice station posting.
- 5.4 For that the applicant has already served hard areas in the N.E. Region, therefore he is entitled to be posted to choice station on transfer from Assam Rifles.
- 5.5 For that the representations of the applicant has been rejected arbitrarily, without application of mind, by the impugned order 14.11.2000.
- 5.6 For that the order of this Hon'ble Tribunal passed on 14.06.2000 in O.A. No.330/99 has not been complied with by the respondents.
- 5.7 For that the applicant has acquired a valuable and legal rights for immediate transfer to his choice station in the light of Govt. OM dated 14.12.1983.

6. Details of remedies exhausted:

That the applicant states that he has no other alternative and other efficacious remedy than to file this application before this Hon'ble Tribunal. Representations submitted by the applicant and the order of this Hon'ble Tribunal passed on 14.06.2000 in OA No.330/99 failed to evoke any response from the respondents.

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

The applicants further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

Usiwal Ray

8. Reliefs sought for :

Under the facts and circumstances stated in Paragraph 4 above, the applicant prays for the following reliefs:-

8.1 That the letter No.C.17011/12/99-CHS.II(Pt.) dated 14.11.2000 issued by the respondent No.3 be set aside and quashed.

8.2 That the respondents be directed to issue order of transfer and posting in respect of the applicant to his choice station i.e. Calcutta in the light of the O.M. dated 14.12.1983 issued by the Ministry of Finance, Govt. of India with immediate effect.

8.3 To pass any other order(s) as deemed fit and proper under the facts and circumstances as stated above.

8.4 Costs of the case.

9. Interim order prayed for.

9.1 Pending disposal of this application, an observation be made that pendency of this application shall not be a bar for the respondents to pay the arrears to the applicants at the revised rate w.e.f. 01.01.1996, more so in view of the section 19(4) of the Administrative Tribunals Act. The applicants also pray that the instant application be disposed of expeditiously.

10.

This application is filed through Advocate.

11. Particulars of the I.P.O.

i. I.P.O. No. : 56.424194
 ii. Date of Issue : 12-6-2001
 iii. Issued from : G.P.O., Guwahati.
 iv. Payable at : G.P.O., Guwahati

12. Details of enclosures.

As stated in the Index.

Ujjwal Ray

VERIFICATION

I, Dr. Ujjwal Ray, S/o Shri Pr4arimal Ray now working as Sr. Medical Officer, 1 Assam Rifles, Aizawl, Mizoram, do hereby verify that the statements made in paragraphs 1 to 4 and 6 to 11 are true to my knowledge and those made in paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the day of May, 2001.

Ujjwal Ray

Annexure-1(Extract)

No.20014/2/83/E.IV
Government of India
Ministry of Finance
Department of Expenditure

New Delhi, the 14th Dec'83

OFFICE MEMORANDUM

Sub: Allowances and facilities for civilian employees of the Central Government serving in the States and Union Territories of North Eastern Region – improvements thereof.

The need for attracting and retaining the services of competent officers for service in the North Eastern Region comprising the States of Assam, Meghalaya, Manipur, Nagaland and Mizoram has been engaging the attention of the Government for some time. The Government had appointed a Committee under the Chairmanship of Secretary, Department of Personnel and Administrative Reforms, to review the existing allowances & Administrative Reforms, to review the existing allowances and facilities admissible to the various categories of Civilian Control Government employees serving in this region and to suggest suitable improvements. The recommendations of the Committee have been carefully considered by the Government and President is now pleased to decide as follows :-

i) Tenure of posting/deputation :

There will be a fixed tenure of posting of 3 years at a time for officers with service of 10 years or less and of 2 years at a time for officers with more than 10 years of service. Periods of leave, training, etc., in excess of 15 days per year will be excluded in counting the tenure period of 2/3 years. Officers, on completion of the fixed tenure of service mentioned above, may be considered for posting to a station of their choice as far as possible.

The period of deputation of the Central Government employees to the States/Union Territories of the North-Eastern Region, will generally be for 3 years

which can be extended in exceptional cases in exigencies of public service as well as when the employee concerned is prepared to stay longer. The admissible deputation allowance will also continue to be paid during the period of deputation so extended.

ii) Weightage for Central deputation/training abroad and Special mention in confidential Records.

iii) Special (Duty) Allowance :

Central Government civilian employees who have all India Transfer Liability will be granted a Special (Duty) Allowance at the rate of 25 percent of basic pay subject to a ceiling of Rs.400/- per month on posting to any station in the North Eastern Region. Such of those employees who are exempted from payment of Income Tax will, however, not be eligible for this Special (Duty) Allowance. Special (Duty) Allowance will be in addition to any special pay and pre-Deputation (Duty) Allowance already being drawn subject to the condition that the total of such Special (Duty) Allowance plus Special pay/deputation (Duty) Allowance will not exceed Rs.400/- P.M. Special Allowance lies Special Compensatory (Remote Locality) Allowance, Construction Allowance and Project Allowance will be drawn separately.

Sd/-
(S. C. MAHALIK)
Joint Secretary to the Government of
India.

Annexure-II (Extract)

F. No. 11(2)/97-E.II(B)
Government of India
Ministry of Finance
Department of Expenditure

New Delhi, Dated July 22, 1998.

OFFICE MEMORANDUM

Sub: Allowances and Special Facilities for Civilian Employees of the Central Government serving in the States and Union Territories of the North-Eastern Region and in the Andaman & Nicobar and Lakshadweep Groups of Islands – Recommendations of the Fifth Central Pay Commission.

With a view to attracting and retaining competent officers for service in the North Eastern Region, comprising the territories of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram Nagaland and Tripura, orders were issued in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983 extending certain allowances and other facilities to the Civilian central Government employees serving in this region. In terms of paragraph 2 thereof, these orders other than those contained in paragraph 1 (iv) *ibid*, were also to apply *mutatis mutandis* to the Civilian Central Government employees posted to the Andaman & Nicobar Islands. These were further extended to the Central Government employees posted to other Lakshadweep Islands in this Ministry's O.M. of even number dated March 30, 1984. The allowances and facilities were further liberalised in this Ministry's O.M. No. 20014/16/86/E.IV/E.II(B) dated December 1, 1988 and were also extended to the Central Government employees posted to the North Eastern Council when stationed in the North Eastern Region.

2. The Fifth Central Pay Commission have made certain recommendations suggesting further improvements in the allowances and facilities admissible to the Central Government employees, including Officers of the All India Services, posted in the North Eastern Region. They have further recommended that these may also be extended to the Central Government employees, including officers of the All India Services, posted in Sikkim. The recommendations of the Commission have been considered by the Government and the President is now pleased to decide as follows :

i. **Tenure of Posting/Deputation**

The provisions in regard to tenure of posting/deputation contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983, read with O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, shall continue to be applicable.

ii. **Weightage for Central Deputations/Training Abroad and Special Mention in Confidential Records.**

The provisions contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983, read with O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988 shall continue to be applicable.

iii. **Special (Duty) Allowance.**

Central Government Civilian employees having an "All India Transfer Liability" and posted to the specified Territories in the North-Eastern Region shall be granted the Special (Duty) allowance at the rate of 12.5 percent of their basic pay as prescribed in this Ministry's O.M. No. 20014/16/86-E.IV/E.II(B) dated December 1, 1988, but without any ceiling on its quantum, in other words, the ceiling of Rs. 1,000 per month currently in force shall no longer be applicable and the condition that the aggregate of the Special (Duty) Allowance plus Special Pay/Deputation (Duty) Allowance, if any, will not exceed Rs. 1,000 per month shall also be dispensed with. Other terms and conditions governing the grant of this Allowance shall, however, continue to be applicable.

In terms of the orders contained in this Ministry's O.M. No. 20022/2/88-E.II(B) dated May 24, 1989, Central government Civilian employees having an "All India Transfer Liability" and posted to serve in the Andaman & Nicobar and Lakshadweep Groups of Islands are presently entitled to an Island Special allowance at varying rates in lieu of the Special (Duty) Allowance admissible in the North Eastern Region. This allowance shall continue to be admissible to the specified category of Central Government employees at the same rates as prescribed for the different specified areas in the O.M. dated May 24, 1989, but without any ceiling on its quantum. This Allowance shall also henceforth be termed as Island Special (Duty) allowance. Separate orders in regard to this Allowance have been issued in this Ministry's O.M. No. 12(1)/98-E.II(B) dated July 17, 1998.

Attention is also invited in this connection to the clarificatory orders contained in this Ministry's O.M. No. 11(3)/95-E.II(B) dated January 12, 1996, which shall continue to be applicable not only in respect of the Central Government employees posted to serve in the North Eastern Region but also to those posted to serve in the Andaman & Nicobar and Lakshadweep Groups of Island.

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Sd/- Illegible

(N. SUNDER RAJAN)

Joint Secretary to the Government of India

Annexure-III

To
The Under Secretary to the Governmentt of India,
Ministry of Health and Family Welfare
(CHS-II)
New Delhi – 11
(Through proper channel)

Subject :- APPLICATION FOR TRANSFER TO ANY CIVIL ORGANISATION
UNDER CHS.

Sir,

1. With due respect, I beg to submit to you that I have been serving in Assam Rifles since 3rd of may 1993 and have completed the minimum period of service (i.e. 3 years).
2. In view of the above, a proforma for request for transfer is attached as an appendix to this application for your kind & favourable consideration.

Yours faithfully,

Dated : 20 Sep'96

Sd/-
(DR. UJJWAL RAY)
9 Assam Rifles
C/o 99 Army Post Office

PROFORMA FOR REQUEST FOR TRANSFER

1. Name : UJJWAL RAY
2. Employee : _____ (Leave Blank)
3. Designation : MEDICAL OFFICER
4. Date of joining in CHS : 3RD MAY 1993.
5. Date of joining the organization from where transfer is sought : 3RD MAY 1993.
6. Details of the period of service : Serving in Assam Rifles since date of rendered in other organizations appointment.
including difficult area like Assam Rifles. Arunachal Pradesh, Andaman & Nicobar Island/Dadra Nagar Haveli Lakshadweep Islands. Min of Labour etc.
7. Reason for seeking transfer : Asthmatic Problem.
(in brief).
8. Stations/organization(s) where transfer is desired (in order of preference):
 - 1) C.G.H.S. Dispensary, West Bengal.
 - 2) P & T Hospital, West Bengal.
 - 3) Geological Survey of India Hospital, West Bengal.
 - 4) Labour Welfare Hosp, W.B.
 - 5) Port Trust of India Hosp, W.B.
 - 6) Other Civil Organisation within West Bengal.

Sd/-
(Signature of the applicant)
Date : The 20 Sep 96

FOR USE IN THE OFFICE OF THE HEAD OF DEPARTMENT/OFFICE WHERE THE OFFICER IS POSTED

1. The officer can be relieved with/without a substitute in the event of his transfer.
2. Certified that the information given in columns 1 to 4 above has been verified from record.

Dated : 21 Sep 96

Sd/-
Signature of Head of Office/
Department.

Col
Commandant 9 AR

Annexure-IV

From

Dr. Ujjwal Roy
SMO (CHS)
Assam Rifles
C/o 99 APO

To

The Under Secretary to the Government of India
Ministry of Health and Family Welfare(CHS-II)
New Delhi-11

Sub: **REQUESTING FOR POSTING OUT SIDE ASSAM RIFLES IN CHS.**

Sir,

1. With due respect I would like to bring this into your notice that I am presently posted to Directorate General, Assam Rifles since 03 May 93, vide your appointment letter No. 12925/57/92-CHS I dated 05 Apr 93.

2. However my applications to your supreme office requesting reverse back to CHS has already been forwarded by DGAR to the Ministry of Health and Family Welfare vide DGAR letter Nos quoted below :

- a. No. I. 14015/3-92/SRD-MO/MT (A) dated 08 March 95
- b. No. I. 14015/5-93/UR-MO/Med dated 7th Jul 96.
- c. No. I. 14015/5-93/UR-MO/Med dated 18 Oct 96
- d. No. I. 14015/5-93/UR-MO/Med dated 12 Feb 99

3. Hence considering my medical problems as mentioned earlier which was forwarded to your end vide DGAR letter No. I. 14015/5-93/UR-MO/Med dated 7th Jul 96 this honourable DGAR requested you to consider my case and informed that even this office will release me without any relief.

4. But since last three (3) years I have been waiting and waiting for my posting outside Assam Rifles in CHS. Hope you would be kind enough to consider my case and oblige me thereby.

5. Here for your kind perusal I have given my choice in chronological orders :

- a. Any CHS set up in West Bengal
- b. CGHS Delhi
- c. Delhi Administration Hospital
- d. CGHS Uttar Pradesh
- e. NCT Delhi.

Yours faithfully,

Dated 15.4.1999

Sd/-

(UJJWAL RAY)
SMO (CHS)

Enclosures :

Advance copy forwarded to :-

The Under Secretary to the Government of India, Ministry of Health and Family Welfare (CHS-II), New Delhi-1.

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ANNEXURE-IV(Contd.)

1 Assam Rifles
C/o 99 APO

1073/A/99/994

Headquarters
Mizoram Range Assam Rifles
C/o 99 APO

REQUEST FOR POSTING OUTSIDE ASSAM RIFLES IN CHS.

An application submitted by Dr. Ujjwal Ray, SMO (CHS) regarding posting outside

Assam Rifles in CHS is fwd herewith in triplicate duly recommended by the Comdt.

Encl : 10 (Ten) only

Sd/ Illegible

(AMARJIT SINGH)
Maj
Adjt
for Comdt

ANNEXURE-V

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 330 of 1999.

Date of Order : This the 14th day of June, 2000.

The Hon'ble Sri D.C.Verma, Judicial Member.

Dr. Ujjwal Ray,
S/o Shri Parimal Ray,
Working as Sr. Medical Officer,
1 Assam Rifles, Aizawl,
Mizoram, C/o 99 APO
By Advocate Shri M. Chanda
-Versus -

.....Applicant

1. The Union of India,
Through the Secy. of the Govt. of India,
Ministry of Health & Family Welfare,
New Delhi.
 2. The Secretary to the Govt. of India,
Ministry of Home Affairs,
Government of India,
New Delhi.
 3. The Director General of Assam Rifles,
Headquarter, Shillong.
 4. The Dy. Director (Admn.),
Assam Rifles, Shillong-11
- Respondents

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

ORDER (ORAL)

D.C. VERMA, JUDICIAL MEMBER.

The applicant has prayed for issuance of a direction against the respondents to transfer the applicant to his choice station in terms of Office Memorandum dated 14.12.1983 issued by the Government of India, Ministry of Home Affairs, New Delhi. As per the applicant's case he joined the Central Health Service as Medical Officer and thereafter served 5th, 9th, 4th and 1st Assam Rifles since 3.5.1993. The applicant is

presently serving under the 1st Assam Rifles, Aizawl on the promoted post of Senior Medical Officer. The claim of the applicant is that the central Government civilian employee who are posted at North Eastern Region have been granted certain facilities by the central government. Consequently, such civilian Central Government employees who have all India transfer liability are entitled to have choice station posting. The applicant to his choice place of posting.

2. During the course of arguments learned counsel for the applicant had made representations Annexure A-3 dated 20.9.1996 and Annexure A-5 dated 15.4.1999. None of the two representations have been decided by the respondents till date. The representation of 1996 has now become stand still I feel that the respondents should have decided the representations and communicated the same to the applicant. The learned counsel for the respondents agreed that the representations of the applicant would be considered by the respondents as per the relevant rules and circulars on the subject. It is found that Annexure A-5 dated 15.4.1999 was forwarded by the department vide Annexure A-6 with letter dated 21.4.1999 and more than a year has passed but the respondents have not taken a decision on this representation also.

3. In view of the above learned counsel for the applicant agrees that the O.A. may be disposed of at this stage with a direction to the respondents to decide the representation of the applicant within a fixed time. Accordingly the respondents are directed to decide the representation Annexure A-3 and A-5 in the light of the relevant circulars and instructions on the subject, within a period of one month from the date of receipt of copy of this order and communicate the decision taken on the representation to the applicant.

The O.A. is decided accordingly. Costs on parties.

Sd/- MEMBER (J)

To

The Secretary
Government of India
Ministry of Health and Family Welfare
New Delhi.

(Through Proper Channel)

Sub : Prayer for immediate implementation of judgment and order dated
14.6.2000 passed in O.A. 330/99 (Dr. U. Roy Vs. Union of India & Others).

Respected Sir,

I like to draw your kind attention on the subject cited above and further beg to state that I have approached the Hon'ble Central Administrative Tribunal through O.A. No. 330/99 (Dr. U. Roy Vs. Union of India & Others) praying for a direction for choice station posting in any of the following places :

- i. CGES Disp. West Bengal.
- ii. P & T Hospital, West Bengal.
- iii. Geological Survey of India Hospital, West Bengal.
- iv. Labour Welfare Hospital, West Bengal.
- v. Port Trust of India, Hospital, West Bengal.
- vi. Other Civil Organisation within West Bengal.
- vii. Any CHS set up in West Bengal..
- viii. CGHS Delhi.
- ix. Delhi Administration Hospital.
- x. CGHS Uttar Pradesh.
- xi. New Delhi.

The Hon'ble Tribunal after hearing the matter disposed of the said O.A. in favour of the applicant directing the respondent to dispose of his representation i.e. Annexure-3 dated 20.9.1996 and Annexure-5 dated 15.4.1999 of his application within

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a period of one month "in the light of the relevant circulars and instructions on the subject within a period of one month from the date of receipt of the order."

It is pertinent to mention here that the Govt. of India, Ministry of Finance, New Delhi issued the relevant circular i.e. O.M. dated 14.12.1983, 1.12.1988 and 22.7.1998 whereby it is directed that a Central Govt. Civilian Employees if posted to North Eastern Region for a period of 3 years he has a right to get transfer for choice station posting, accordingly the undersigned exercised option in terms of his aforesaid representation for choice station posting but no decision is taken till date on any representation, I am enclosing here a copy of the O.M. dated 14.12.1983 and 22.7.1998 for your ready reference.

An early action is highly desired.

Yours sincerely,

Sd/-

(Dr. Ujjwal Ray)
Son of Sri Parimal Ray
Senor Medical Officer
1st Assam Rifles, Aizawl.
Mizoram
C/o 99 AP)

Copy enclosed :

1. Judgement and Order dated 14.6.2000 in O.A. No., 330/99.
2. O.M. dated 14.12.1983.
3. O.M. dated 22.7.98.

ANNEXURE-VII

No. C.17011/1/12/99-CHS.II (Pt)
Government of India
Ministry of Health & Family Welfare

New Delhi the 14th Nov, 2000

To
Dr. Ujjawal Roy, SMO,
C/o Director General,
Assam Rifles,
Shillong-793011

Sub : O.A. No. 330 of 99 Dr. Ujjawal Roy, SMO, Assam Rifles Vs. Union of India,
Ministry of Health & DG, Assam Rifles.

Sir,

Whereas the Hon'ble CAT vide their order dated 14.6.2000 have directed as under :

"In view of the above learned counsel for the applicant agrees that the O.A. may be disposed of at this stage with a direction to the respondents to decide the representation of the applicant within a fixed time. Accordingly the respondents are directed to decide the representation Annexure A-3 and A-5 in the light of the relevant circulars and instructions on the subject, within a period of one month from the date of receipt of copy of this order and communicate the decision taken on the representation to the applicant.

And whereas the copy of the order of the Hon'ble CAT was received in the Ministry only on 14.9.2000 through the Dy. Director (Medical), DG, Assam Rifles.

And whereas Dr. Ujjawal Roy in his representation dated 15.4.99 forwarded by DG, Assam Rifles vide letter No. 14015/5/93-UR-MO-Med dated 7.5.99 and representation dated 27.7.2000 forwarded by DG, Assam Rifles vide letter No. 14015/5/93-UR-MO/MI dated 22.8.2000 and representation dated 21.5.96 forwarded by DG, Assam Rifles vide their letter No. 14015/5/93-UR-MO/MI dated 9.7.96 requesting for posting in number of places of his choice as indicated below :-

- a. Any CHS set up in West Bengal
- b. CGHS Delhi
- c. Delhi Administration Hospital
- d. CGHS Uttar Pradesh
- e. NCT Delhi.
- f) LWO West Bengal,
- g) P & T West Bengal

In terms of the Ministry of Finance (Department of Expenditure) OM No. 20014/2/83-E.IV dated 14.12.83.

The Government of India, Ministry of Health & Family Welfare having examined the representation very carefully as also the applicability of the provisions contained in the Ministry of Finance (Deptt. of Expenditure)'s O.M. No. 20014/2/83-E.IV dated 14.12.83, in consultation with them, wherein it has been clarified by the Ministry of Finance (Deptt. of Expenditure) that the above instructions are applicable only to Central Government employees who are posted to any State/UT of the North Eastern Region on the basis of transfer/deputation, and that the said order does not apply to the employees on their initial posting to North Eastern Region.

In this connection it may also be stated that, keeping in view the large number of pending requests for transfer of doctors from Assam Rifles and also the unwillingness of doctors selected through the Combined Medical Service Examination to join Assam Rifles, this Ministry has already taken up the matter with the Ministry of Home Affairs for decadrement of the CHS posts from the Assam Rifles and also, filling up the posts quickly by them so as to release all the CHS doctors. In response, the Ministry of Home Affairs have recently issued order vide letter No. I. 45025/21/94-Pers. II dated 5.9.2000 decadering all the CHS posts for forming a separate Medical Cadre for Assam Rifles. They have also requested this Ministry not to withdrawn the Medical Officers, till suitable arrangement are made by way of creation of a Medical Cadre for Assam Rifles. Thus, all the doctors not willing to serve in Assam Rifles will be ultimately taken out from there. But this will take some more time.

Keeping in view the above position and the fact that Dr. Ujjawal Roy was recruited through special drive conducted specifically for Assam Rifles against a Cadre Post his request for transfer cannot be acceded to, immediately. However, his case will be considered along with other requests in due course of time, keeping in view the Administrative requirement/constraints, as indicated above.

Yours faithfully,

Sd/-

(N.K. PUSHPAKARAN)

Under Secretary to the Govt. of India

Copy to :

DG, Assam Rifles, Shillong-793011.

Sd/-

(N.K. PUSHPAKARAN)

Under Secretary to the Govt. of India