

GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 108/02

R.A/C.P No.

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SECTION OFFICER (Judl.)

[Signature]
6/12/17

FORM NO.4
(See Rule 42)

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

ORDER SHEET
APPLICATION NO 108 OF 2001

Applicant (s) Sri Tarun Kr. Dey

Respondent(s) Union of India & Ors.

Advocate for Applicant(s) Mr. M. Chanda, Mrs. S. Deka,
Mr. A. Chakrabarti,

Advocate for Respondent(s) Rly. Advocate

Notes of the Registry	Date	Order of the Tribunal
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This application is filed
in form paying a sum
of Rs. 50/- through IPO
No. 005226 D-1, 1-01.
This is found in order
& may be placed before
the Hon'ble Court.

Steps & Envelopes are
also filed along with the
application.

15/3/01

15/3/01
So (S)

21-3-2001

Service of Notice
prepared issued to
the respondents vide
D.No. 1071-75 of
21.3.01.

NO W/S has been filed.

pg

16/3/01

Heard Mr M.Chanda, learned
counsel for the applicant.

Application is admitted.
Call for the records.

List on 25.4.2001 for written
statement and further orders.

Mr Chanda prays for an interim
order. Issue notice to show cause
as to why the impugned transfer and
posting Order No.07/2001(ENGG) dated
21/22.2.2001 shall not be suspended
insofar as it relates to the appli-
cant. Returnable by four weeks.
Mr J.L.Sarkar, learned Railway stan-
ding counsel accepts notice on
behalf of respondents No.1 to 4.

List on 25.4.2001 for order.
In the meantime the operation of
the impugned order dated 21/22.2.
2001 shall remain inoperative ^{suspended} till
the returnable date insofar as it
relates to the applicant.

Vice-Chairman

25.4.2001. Four weeks time allowed to the respondents to file written statement. List it for orders on 1.6.01.

Order dtd 1/6/01
Communicated to the
Parties Counsel.

Vice-Chairman

nk m

1.6.01 Further four weeks time is allowed to the respondents for filing of written statement.

In the meantime the interim order dated 16-3-2001 shall continue.

List on 25-6-2001 for orders.

Vice-Chairman

bb

413-
416/01

25.6.01 On the prayer of learned counsel for the parties case is adjourned to

25.6.01 It has been stated by Mr.J.L.

Sarkar learned Standing Counsel Railway that the impugned transfer order No. 07/2001(ENGG) dated 21/22-02-2001 was withdrawn on the basis of the statement of the aforementioned statement the present application is disposed of as infructuous.

Vice-Chairman

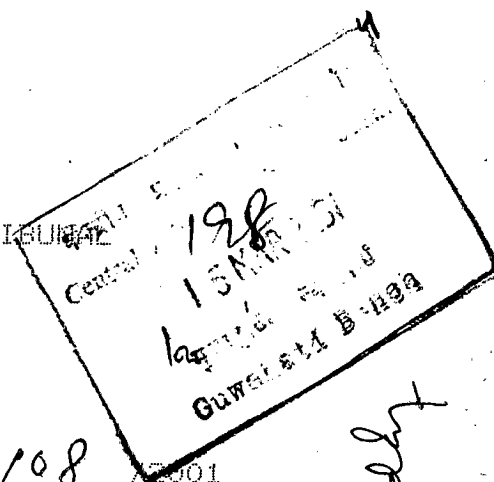
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Copy of the long
order sent to the
Office for filing
the case to the A/Ady
for the parties

11/5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI



Title of the case : O.A. No.: 108 / 2001

Sri Tarun Kr. Dey : Applicants

----- versus -----

Union of India & ors. : Respondents

I N D E X

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4.	A/2	Copy of letter dated 29.5.2000	13
5.	A/3 ^{me} A/3A	Copy of letters dated 29.8.2000	14-16
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Filed by

Advocate

Handwritten signature and date:
15/3/2001

In The Central Administrative Tribunal
Guwahati Bench :: Guwahati. C

D.A. No. 108 /2001

BETWEEN

Sri Tarun Kr. Dey,

Working as SEN/Flood Control/Maligaon

Office of the Chief Engineer, N.F.Rly

Maligaon, Guwahati - 11.

____ Applicant

AND

1. Union of India represented by the
General Manager, N.F.Rly,
Maligaon, Guwahati-11.

2. The General Manager,
N.F. Rly, Maligaon,
Guwahati-11.

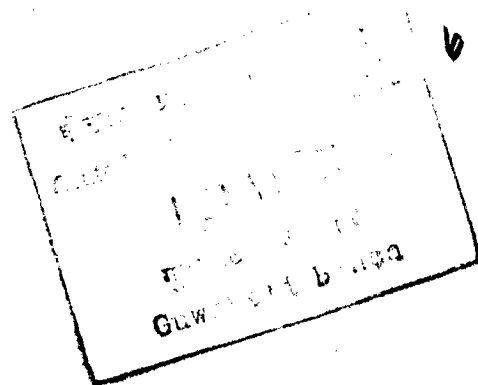
3. Chief Engineer,
Office of the Chief Engineer,
Maligaon, Guwahati-11.

4. Chief Bridge Engineer,
Office of the Chief Engineer,
Maligaon, Guwahati-11.

5. Sri Balbir Singh,
Chief Bridge Engineer,
Office of the Chief Engineer,
Maligaon, Guwahati-11.

____ Respondents

Filed by the applicant
15/03/2001
D. Choudhury
15/3/2001



Details of the Application :

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

The application is made against the Transfer Order dated 21/22-02-2001 issued by the respondent No.3 transferring the applicant and posting as WM/EWS/Bongaigaon.

2. Jurisdiction:

The applicant declares that the subject matter of the application is within the jurisdiction of the hon'ble tribunal.

3. Limitation:

The applicant declares that the application is within the period of limitation under section 21 of the Administrative Tribunal Act, 1985.

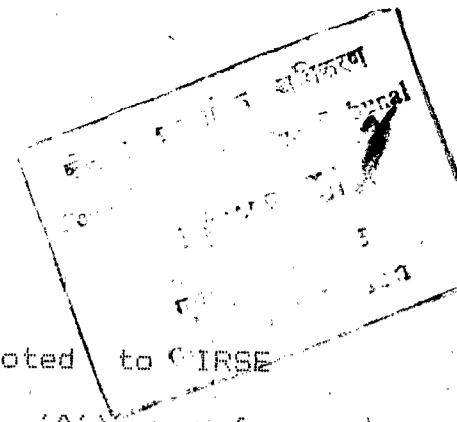
4. Facts of the case:

4.1 That the applicant is a citizen of India and as such is entitled to the rights and privileges guaranteed by the constitution of India.

4.2 That the applicant is LME and AMIE(Civil Engineering). He was appointed as Bridge Inspector/ Grade-III (Apprentice) w.e.f. 14.5.76 in N.F.Rly and thereafter was promoted to the post of Bridge Inspector/ Grade-II w.e.f. 29.6.79 and Bridge Inspector/ Grade-I w.e.f. 27.12.84. He was promoted to Group 'B' service of the engineering department and posted as Assistant Works Manager, Bongaigaon on 14.3.1990. Thereafter he was promoted as Senior Engineer, Bridge Design w.e.f. 26.10.95 and posted at Maligaon.

See eldy

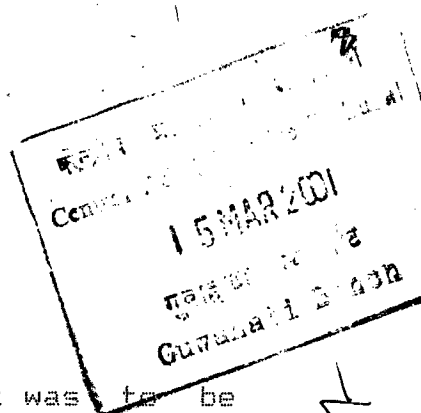
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4.3 That the applicant has been promoted to IRSE (Indian Railway Service of Engineers) (Group 'A') w.e.f. 3.8.2000. At present he is working as Senior Engineer/ Flood Control, Maligaon. In this connection it is stated that for promotion to Group 'A' service (IRSE) DPC is held in association with UPSC where Annual Confidential Reports (for short ACRs) for the last five years are considered. It is also stated that gradation of marks is such that only 'Good' ranking for 5 years will not entitle any officer for promotion to Group 'A' service. There must be 'Very Good' or 'Outstanding' ranking in some years.

4.4 That the respondent No.5, the Chief Bridge Engineer (for short CBE) on number of occasions called the applicant in his chamber and used humiliating words. There have been occasions also when the languages used and behaviour of the CBE were unbearable and the applicant had to politely protest and request him not to humiliate the applicant by such words and behaviour and instead put his views in official notes and communicate him by serving letters. The applicant had to make such a request because the issues raised by the respondent No.5 had no relation with the reality of the works and factual position of the progress. The respondent No.5 became very much annoyed and wanted to find faults with the applicant and made some communications through notes and letters. These letters and notes reflected wrong position and the applicant replied to the same representing the correct position.

4.5 That the applicant received communication dated 12.10.2000 communicating adverse remarks in the ACR for the year ending 31.03.2000. It is stated that if there was



anything adverse during the said year ending it was to be communicated under the rules of the Indian Railway Establishment Code (Rule under Article 309 of the Constitution of India) by the second week of May, 2000. It is stated that on 2.5.2000 the respondent No.5 wrote a letter to the applicant and advised him to improve in the matter of disposal in a workman like manner. The applicant submitted a letter dated 29.8.2000 to the CBE, Maligaon i.e. respondent No.5 explaining the position and wrote that "as such your observation vide reference above that the case has been put up on 2.5.2000 is wrong". Most unfortunately the respondent No.5 was very much annoyed on the applicant. The respondent No.5 also wrote a letter to the applicant expressing displeasure in connection with the monthly progress report regarding adoption of manual of instruction for Railway affecting works by the State Govt. The applicant submitted a detailed information by his letter dated 29.8.2000 explaining the total position that there was no lapse on the part of the applicant and stated that issuing letter by the respondent No.5 on 29.5.2000 to the applicant stating that his instructions had not been complied with was not appropriate. This caused more annoyance to the respondent No.5. Ultimately the adverse communication for the year ending 31.3.2000 was communicated to the applicant.

Copy of the letters dated 2.5.2000 and 29.5.2000 are enclosed as Annexure - 'A/1' and 'A/2' respectively.

Copy of the applicants letters dated 29.8.2000 ^{are} ~~is~~ enclosed as Annexure- 'A/3' and A/3A *respective ly.*

.. 5 ..

Copy of the adverse communication dated 12.10.2000 is enclosed as Annexure- 'A/4'

4.6 That the applicant submitted representation dated 6.11.2000 to the Chief Engineer, Maligaon against the adverse communication dated 12.10.2000 where he has explained the total position including the humiliating behaviour by the respondent No.5. By letter dated 22.1.2001 the applicant has been informed by the respondent No.3 that the adverse remarks would stand. No reason was given nor a speaking order was passed. The applicant thereafter submitted a representation dated 24.01.2001 to the General Manager, N.F.Rly requesting for his kind intervention.

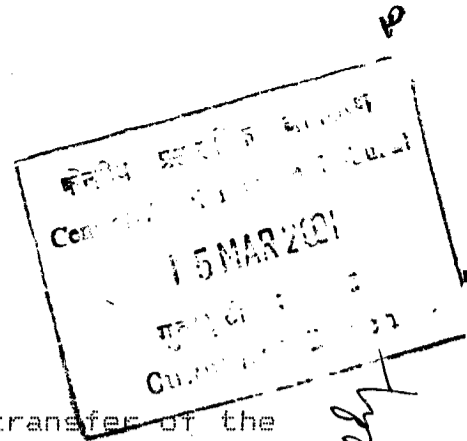
Copy of the representation dated 6.11.2000 is enclosed as Annexure- 'A/5'.

Copy of the letter dated 22.01.2001 is enclosed as Annexure- 'A/6'

Copy of the representation dated 24.01.2001 is enclosed as Annexure- 'A/7'.

4.7 That the applicant went out of head quarter on scantion leave w.e.f 26.01.2001 to Banaras, and on return to Maligaon he has fallen sick and is now in the sick list. An order dated 29.01.2001 was passed transferring the applicant from Maligaon to Katihar. However as the applicant was on leave the order was not implemented. It is

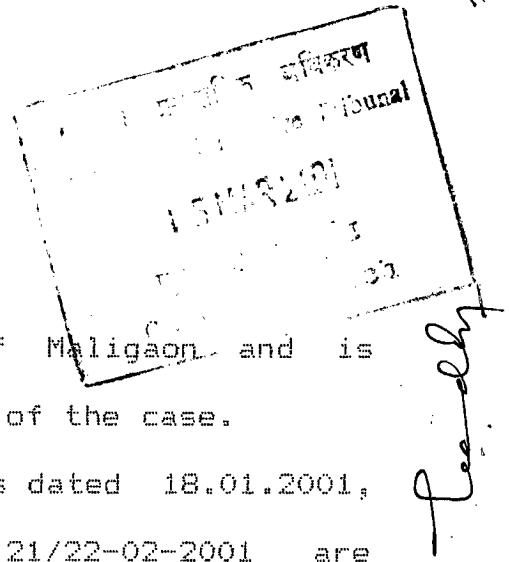
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stated that there was no bonafide reason for transfer of the applicant out of Maligaon. The order of transfer was the result of annoyance of the respondents to the applicant. However this order was not given effect to as the applicant was on leave.

Copy of the Order dated 29.01.2001 is enclosed as Annexure - 'A/8'.

4.8 That it is stated that though the transfer of the applicant to Katihar was not given effect to another order dated 21/22-02-2001 was issued by which the applicant has been transferred from Maligaon to Bongaigaon as Works Manager/EWS/Bongaigaon vice Sri Samaresh Roy. It is stated that the transfer of the applicant to Bongaigaon is the result of the malafide exercise of powers by the respondents and at the behest of the respondent No.5 in particular. The annoyance caused by the letters of the applicant as explained above prompted the order/orders for transferring the applicant out of Maligaon. It is also stated that the respondents wanted to accommodate another officer i.e. Sri S. Halder who was ordered for transfer to Bongaigaon as WM/EWS/Bongaigaon. Sri Halder was transferred on promotion to Bongaigaon vice Sri Samaresh Roy by an order dated 18.01.2001 (serial No.6 of the order). For the purpose of accommodating Sri Halder at Maligaon itself, the said order dated 18.01.2001 by which he was ordered to be posted as WM/EWS/Bongaigaon has been modified by an order dated 20.02.2001 and he has been posted as SEN/BD/MLG vice existing vacancy. After thus accommodating Sri Halder at Maligaon the respondents have issued the order dated 21.02.2001 transferring the applicant to Bongaigaon where Sri Halder was transferred and posted. The entire exercise



is to transfer the applicant out of Maligaon and is malafide, in the facts and circumstances of the case.

Copy of the orders dated 18.01.2001, 20.02.2001 and 21/22-02-2001 are enclosed as Annexure - 'A/9', 'A/10' and 'A/11' respectively.

4.9 That for information of the Hon'ble Tribunal the facts of transfer are narrated below :

i) Sri S. Halder, ABE/W/MLG on promotion was transferred as WM/EWS/Bongaigaon vice Sri Samaresh Roy (Order dated 18.01.2001) (Annexure - A/9)

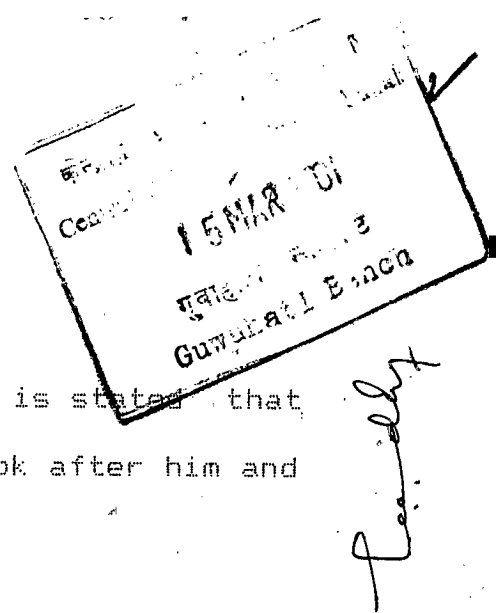
ii) The order of transfer of Sri Halder to Bongaigaon was modified by order dated 20.02.2001 to accommodate him at Maligaon (Annexure- A/10)

iii) The applicant has been transferred out of Maligaon to Bongaigaon in the office where Sri Halder was ordered on transfer. (Order dated 21/22-02-2001) (Annexure - A/11)

4.10 That the applicant begs to state that his order of transfer to Bongaigaon is a result of malice in fact and malice in law.

4.11 That the applicant begs to state that his son Sri Dipankar Dey is reading in B.Sc. 1st year classes in Pandu College and it is the mid session of his studies. The examination is likely to be held during March-April, 2001. The transfer of the applicant out of Maligaon will very

:: 8 ::



badly effect the studies of his said son. It is stated that there is no other member in the family to look after him and guide him in the matter of his studies.

4.12 That the applicant has submitted a representation to the Chief Engineer, N.F.Rly praying for his retention at Maligaon. No reply has been received.

Copy of the representation dated 12.3.2001 is enclosed as Annexure-A/12.

4.13 That the order of transfer in the facts and circumstances of the case is penal in nature.

4.14 That the applicant is also aggrieved by the adverse communication recorded as a result of protest by the applicant and writing factual positions contrary to the view of the respondent No.5. For this the applicant shall prefer a separate Original Application before this Hon'ble Tribunal.

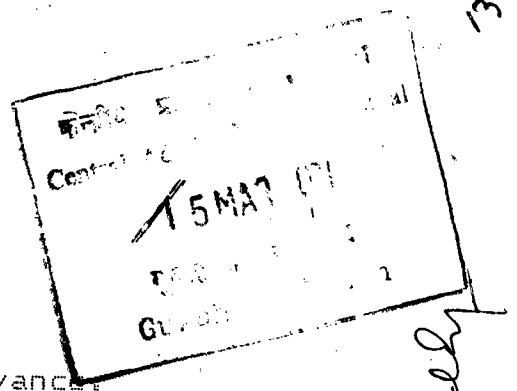
5. Grounds for reliefs with legal provisions:

5.1 For that the order of transfer dated 21/22-02-2001 has been issued to accommodate another person in head quarter sending the applicant to Bongaigaon.

5.2 For that the order of transfer is the result of malafide exercise of power.

5.3 For that the representations of the applicant in reference to the adverse communication have caused annoyance to the respondents and respondent No.5 in particular and the

:: 9 ::



transfer order is the result of such annoyance.

5.4 For that the respondent No.5 was misbehaving with applicant against which the applicant had protested, as a result the applicant has been given adverse remarks in the ACR which was communicated to him and the transfer order has been passed.

5.5 For that the transfer order is a penal transfer.

5.6 For that the transfer order shall adversely effect the academic studies of the son of the applicant.

5.7 For that malice in fact and malice in law is the reason of the transfer of the applicant from Maligaon to Bongaigaon.

6. Details of remedies exhausted:

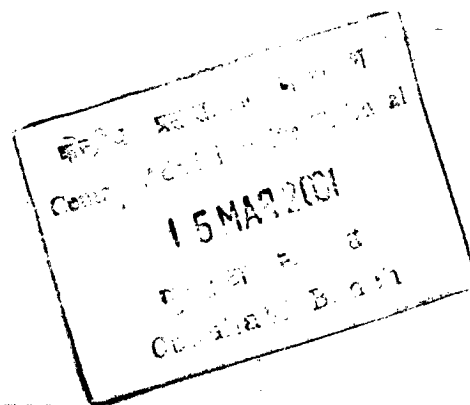
There is no remedy under any rule and this Hon'ble Tribunal is the only forum for redressal of the grievance. However the applicant submitted representation but no reply has been given.

7. Matters not previously filed or pending before any other Court:

The applicant declares that he has not filed any other case in any tribunal, Court or any other forum against the impugned order.

8. Reliefs sought for :

Under the facts and circumstances of the case, the applicant prays for the following reliefs :



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8.1 The order dated 21/22-02-2001 transferring the applicant from Maligaon and posting him as WM/EWS/Bongaigaon be set aside and quashed.

8.2 Any other relief/reliefs the Hon'ble tribunal may deem fit and proper.

The above reliefs are prayed for on the grounds stated in para 5 above.

9. Interim relief prayed for :

During the pendency of this application the applicant prays that the order dated 21/22-02-2001 transferring the applicant from Maligaon to Bongaigaon be suspended.

The above relief is prayed for on the grounds stated in para 5 above.

10. This application has been filed through Advocate.

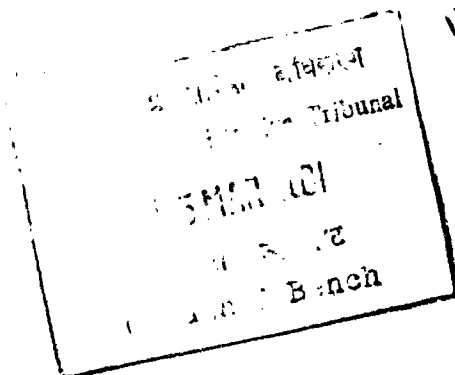
11. Particulars of Postal Order :

- | | | |
|-------------------|---|---------------|
| i) I.P.O. No. | : | 815 005726 |
| ii) Date of issue | : | 04-01-01 |
| iii) Issued from | : | Maligaon P.O. |
| iv) Payable at | : | Guwahati. |

12. Particulars of Enclosures :

As stated in the index.

Verification.....



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

I, Tarun Kr. Dey, son of *Lali B. Dey*, resident of Maligaon, Guwahati-11, aged about 50 years do hereby verify that the statements made in para 1, 4, 6 and 7 are true my personal knowledge and those made in para 2, 3 and 5 are true to my legal advice and the rests are my humble submission. I have not suppressed any material facts.

And I, sign this verification on this 13 th day of March, 2001, at Guwahati.

Guwahati.

B. B. Dey
Signature 13/3/01.

'CONFIDENTIAL'

N. F. RAILWAY.

Office of the
General Manager(Works),
Maligaon, Guwahati-11.

No. CBE/Confdl/Misc.

Dated 02. 05. 2000.

To


SEN/FCW/MLG.

(Through DY.CE/BD)

Sub:- 96th meeting of the Technical
Committee of West Bengal Flood
Control Board.

Vide endorsement on Memo.No.3F-1/ 407(18)
dated 24.4.2000 at SN-9 of Case No.W/FCW/MLG/G-13/Pt.V,
it was directed to apprise the position and implication
in respect of the schemes forwarded by the West Bengal
Flood Control Board by 1st May, 2000. It is noted that the
compliance have not been done as desired. The case has
been put up on date (2.5.2000) without the schemes
received.

You are advised to improve and take necessary
action for disposal of the matter in a workman like
manner.

 2.5.2000
(Balbir Singh)
Chief Bridge Engineer,
Maligaon.

.....

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Annexure - A/2
17

N. F. RAILWAY.

'CONFIDENTIAL'

Office of the
General Manager(Works),
Maligaon.

No. CBE/Confdl./Misc.

Dated 29. 5. 2000.

To ✓
Shri T.K.Dey,
SEN/FCW/MLG.

(Through DY.CE/BD)

Sub:- Adoption of Manual of Instructions
for Railway Affecting Works by the
State Government - Monthly Progress
Report.

Ref:- Director(B&S)CB-II/RDSO/LKO's letter
No. RBF/SCA dated 15.9.1998.

Monthly Progress Report on the subject is to be
submitted to RDSO. Progress Report for the month of Dec'99 was
put up for perusal last on 24.1.2000. Progress Reports for the
month of Jan, Feb, March & April, 2000 have been issued without
approval and putting up it to DY.CE/BD or the undersigned.

2. Also in respect of the Draft Manual of
Instructions for RAW Tripura State I had instructed several
times verbally to send a final copy of the Manual of
Instruction duly incorporating the addition and alteration as
discussed upto the 3rd Meeting of the State Committee of
Engineers Tripura State, when the manual was finally
recommended unanimously for adoption, to enable the Secretary,
Transport(Chairman, SCE/Tripura) to process and obtain the
approval of the Govt. and arrange for its publication in the
Gazette. However, the instructions have not been complied
inspite of repeated discussion on the matter.

3. Displeasure is hereby expressed for such
lackadaisical approach to work and in compliance of the clear
instructions. You are advised to improve your working so as
to bring about a qualitative change in your approach and
attitude hitherto.

(Balbir Singh)
Chief Bridge Engineer,
N.F. Railway, Maligaon.

....

Annexure - 1/3
Ann - 1

16

Confidential.

N.F.Railway

No:- TKD/Conf./Misc/1

Dt. 29 - 8-2000.

To,
CBE/MLG
N.F.Railway.

(Through Dy.CE/BD/MLG)

Sub:- 96th meeting of the Technical committee of the W.B/F.C.B
Scheduled to be held on 4th May'2000.

Ref:- Your L/No. CBE/ Conf./Misc Dt. 2-5-2000.

Sir,

Vide memo no. 3 F-1/407(18) dt. 24-4-2000 at SN/9 of case No. W/FCW/MLG/G-13/Pt.-V your endorsement on 27/4/2000 was as under -

"Please go through and apprise the position and implication in respect of any item concerning us by 1st May' 2000."

The schemes received from WB/FCB after properly examining were submitted back to you on 28/4/2000 with a certificate by me that "none of the schemes submitted for 96th meeting belongs to N.F.Rly".

As such, your observation vide reference above that the case has been put up on 2/5/2000 is wrong.

It is further communicated by you under the letter reference above that - " the case file has been put up without schemes".

It is clarified here that - once the schemes have properly gone through, examined and certificate (as quoted above) given thereof it may be presumed that the scheme would not be required for further checking at the higher level for time constraint.

However, in case of any doubt or for cross check, calling schemes by you was hardly a matter of 10 seconds only on inter-com and that was produced too, on being asked to submit.

In this connection, issuing letter of displeasure is not only extending injustice to the undersigned but it appears to be full of prejudice.

Yours Sincerely,

(T.K.Dey)
SEN/FCW/MLG
N.F.Railway.

Copy to:-

PA to CE - may please arrange to put up the letter to CBE through Dy.CE/BD.

dy 29/8
(T.K.Dey)
SEN/FCW/MLG
N.F.Railway.

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Ann-1
Annexure - A/3A
A

Confidential.

N.F.Railway

No:- TKD/Confdl./Misc/2

Dt. 29-8-2000.

To,
CBE/MLG
N.F.Railway.

(Through Dy.CE/BD/MLG)

**Sub:- Adoption of Manual of Instruction for RAW
(Monthly Progress Report)**

Ref:- Your L/No:- CBE/Confdl./Misc Dt. 29-5-2000.

Sir,

In terms of your letter under reference the para wise reply is furnished below.

1. Monthly progress report for RDSO was lastly despatched to RDSO under your signature for Nov'98. Thereafter, from DEC'98 it was sent under the signature of SEN/FCW (predecessor) observing your remarks that-
"May be issued under signature of SEN/FCW, letter/progress being a matter of routine,"

- (i) During the period from Jan'99 to Jan'2000 (13 months) the case file has been put up for many occasions, but it has never been advised to take approval of CBE/Dy.CE/BD prior sending the progress report to RDSO.
- (ii) Further, on advising (verbally) to put up the case file time to time, so to be conversant with the on going progress, it was put up on 21-1-2000 for perusal only but not for approval. Besides, it was not desired / advised at that point of time also to put the progress file for approval on wards.

More over, on putting up the case file to you on 26-5-2000 with a reply letter, against Rly. Bd's letter, querying about the progress, instead of signing the letter, you passed the following remarks -

" Monthly progress report has been discontinued to be put up for approval before despatching since Jan'2000 This is not appreciated "

- (iii) It is clarified here that, the progress report has neither been put up for approval of CBE or Dy. CE/BD, in the past nor there was any instruction for taking approval before despatch. As such, the question of discontinuity of taking approval dose not arise.

Contd.

- 20 2. As regard to item (2) ie. sending final copy Draft Manual duly incorporating the two new items, I have always replied that the final copy had been personally handed over by me to the Chairman of the committee during the 2nd meeting held on 5-5-99.

Further, to confirm the action regarding the putting of manual to the Govt of Tripura for obtaining approval, a letter was issued to Chairman State Committee of Engineers by the undersigned. Besides, on confirming from Chairman later, on phone, details was recorded in the PP side of the case file and was put up to you for appraisal on 26-5-2000. On being satisfied with the information you passed the following remarks –

“SEN/FCW to persue & obtain the copy of notification for keeping on records,”

There after, issuing letter by you on 29-5-2000 to the undersigned stating that your instruction have not be complied is not appropriate.

3. It is stated that the approach to any work assigned to the undersigned was complied always in time. It is right place to mention it here that there had been no meeting of SCE/Assam since May'96 for three & half years. After I assumed charge in Jan'99 as SEN/FCW, all the meetings of all the States of Assam, Arunachal Pradesh & Tripura have been organised alone and conducted well in time. Besides, all the routine works viz. Monsoon observation works, bridge review, survey of rivers and preparing plan there of, also sending reports to all concerned(RDSO etc.) have been done in time.

Further, apart from above, a huge no of additional works viz. Monsoon observation 4 bridges, Survey- 4 bridges with preparing plan, design guid bund, protection work, review water way etc. Br. No. 93 & 331, Protection work- 2 bridges etc. have been done without interrupting the 3 nos of routine works of rivers observations nominated by RDSO with a very negligible staff (30 nos) only under different IOW's / BNGN, SGUJ, LMG & MLG.

In perspective it appears that the displeasure expressed by you is again not proper and fraught with prejudice.

Yours Sincerely,

(T.K.Dey)
SEN/FCW/MLG
N.F.Railway.

Copy to:-

PA to CE - may please arrange to put up the letter to CBE through Dy.CE/BD.

dy 29/8/00
(T.K.Dey)
SEN/FCW/MLG
N.F.Railway.

— 17 —
(Confidential)

Annexure - 2/4

2

Northeast Frontier Railway

Headquarters office,
(Works Branch)/Maligaon

No. CE/SS/13/0/ADV

12.10.2000

Shri T.K.Dey,
SEN/FCW/MLG

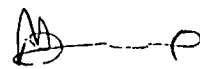
Sub : ACR for YE 31.3.2000 – communication of adverse entries.

The following adverse remarks have appeared in your ACR for year ending 31.3.2000 :

- (1) Not fully agreed. The progress report on adoption of RAW Manual is not being sent to RDSO regularly and also not put up till March, 2000. The review of water-way of Br.No. 93 was delayed badly; protection scheme for Br. 331 was prepared in a most non-technical way.
- (2) (i) Level of knowledge of functions is inadequate & poor.
(ii) Application is lacking on his part.
(iii) Technical input in the plan & preparation is lacking.
- (3) (i) Quality of output is very poor. There is poor initiative.
(ii) Minutes of the SCEs/Assam, Tripura & Arunachal Pradesh were highly inadequate and had to be redrafted entirely. Lack of application is evident in working as noted by CE himself.

The above is conveyed to you so that you are made aware of the deficiencies for improving your performance in the desired direction.

Please acknowledge receipt of this letter on the duplicate copy and send the same to the undersigned within 15 days time. Please note that representation, if any, has to be preferred within one month's time of receipt of this letter after which no representation will be considered.


(B.K. Agarwal)
Chief Engineer

Copy to : PS to GM, NF Railway.

—
(B.K. Agarwal)
Chief Engineer

— 18 —

Annexure 1/3-
22

N.F. Railway

Confidential

N0. T.K.D/Cofd./ 3/2000

Dt. 6-11-2000.

To,
The CE /Maligaon,
N.F.RLY

Sub:- ACR for YE. 31.3.2000 - Communication of adverse entries.

Ref:- CE's Confidential letter No. CE/SS/13/0/ADV dtd.12.10.2000

Sir,

In terms of your letter under reference I firmly deny and disagree with the adverse remarks which has been communicated to me vide your letter cited above. The remarks are not based on my performance rather it is due to biasness of reporting/reviewing officer(s) for the reasons lying else where. I beg to furnish the parawise reply for favour of your kind information and sympathetic consideration please.

(1) 1st part:- "The progress report March'2000".

In this connection may kindly see my reply at Ann. - 1 where in it was clarified to CBE that the charges brought vide his letter No. CBE/Confdi/Misc dt. 29.5.2000 (Annexure -2) was not correct.

(1) 2nd part : "The review of water way badly delayed".

In this connection a chart prepared to show the movement of the concerned file Annexure-3 which will speak the truth whether the delay was on my part.

That Sir, From the summery of the above chart (at bottom) it may kindly be seen that , out of total 587 days since the 1st endorsement on 18.3.99 till 24-10-2000 the file was held by me for 25 days only i.e. 4.25 %.

It is brought out here that the water way of Br.No. 93 (9 X 100 ft.) was already finalised on 11.1.2000 & duly approved by CBE with further instruction to process the tenders etc. (Annexure-4). But while furnishing the information to GM by CBE the water way already finalised was mentioned as 700 ft. instead of 900 ft for which GM remarked as under.

"The waterway is being practically halved. Pl.have the calculations etc. re-checkedetc". (Annexure-5)

Contd.

*Received
Rung
PACCE
6/11/2000*

23

To comply GM's note the calculations were re-checked and found that the water way ----- 900(ft) as calculated earlier was correct.

It is, however not known at what point of time, water way was further reduced down from 900(ft) to 700(ft) against the existing 1380(ft) as no record of this is available in any of the concerning case files.

After GM's intervention on 14.7.2000, the finalisation of the W/way took a new turn and the case delayed further. AEN/FCW has been instructed by CBE to re-calculate the w/way based on old survey records etc. and the case file duly re calculated is lying even to day with DY/CE/BD since 29.9.2000 and the review is still being done on trial & error method and final decision is yet to be taken by CBE. As such question of delay in review of water way on my account dose not arise.

(1) 3rd part :- "Protection scheme for Br. 331most non-technical way".

During the restoration of this bridge, CBE, DY/CE/BD and AEN/FCW were closely attached to this bridge work and they were fully familiar with the site conditions. The protection works (guide bund, T/spur etc.) were designed under the guidance of CBE. However, AEN/FCW was always consulting me for design /calculation etc.

On completion of the design, the preliminary plan was prepared showing GB reduced in length due to space constraints (hill, high land etc) and the T-spur was shown in full length/ size as per design as there was no space constraints.

While giving final shape of the plan, CBE approved the GB but expressed his anguish for not reducing the size of T-spur also which in his opinion was wastage of money.

You may like to appreciate that the case is put up to the CBE being the final authority for approval of the proposal for any suggestion, additions/altration if any before giving the final shape for which he is only competent dose not show that every body other than him is technically poor who are connected with design. These remarks made in the ACR are not based on facts rather due to prejudice.

2 (i), (ii), (iii) & 3(i)

For better appreciation, prior replying to the above, it is necessary to furnish the present set up of FCW in brief. The position is shown through Annexure-6.

May kindly appreciate Sir, how with a skeleton gang only all the programmed works (col-2) along with huge additional works too, (col-3) have been completed within the specified period of time absolutely with my initiative alone.

Contd.

Sir, in the most important part of my representation I would like to bring out here that ----- the design staff like CDA, SDA etc. who used to work under the control of SEN/FCW were with-drawn in 1992 and merged with DYCE/BD. There after all the river protection works were done in the Bridge section.

As a SEN/BD in 95-96, I have also designed protection works of river Simen, Kumatia etc.

However, for a certain period of time Sri S. Sarkar who worked all along as AEN/BD, on getting promotion as SEN/FCW in April '96 was asked to continue design works also to assist the then SEN/BD, Mr. Rajib Kumar as there was shortage of AENs.

After departure of Sri Sarkar, (Aug. '97) his successors were also being assigned the job of river protection works whenever the post SEN/BD remained vacant.

It is brought out here that Sir, for extending this assistance to bridge design section, FCW section had to suffer much as there had been no ASCE's meetings for consecutive three & half yrs. (3 ½ yrs) and considerable part of this period present CBE was the HOD/Br. section. After I joined in Jan '99, I again started the meeting absolutely with my initiative alone.

Unfortunately, on joining as SEN/FCW in Jan '99, since the post of SEN/BD was lying vacant, all the protection works were again thrown on FCW stating that one AEN/FCW was posted newly after a gap of 8 yrs. and quoting his old duty which was to be updated after merging the design section of FCW with BD. section in 1992. *due*

With submission, Sir, by highlighting all the above, I don't mean to point out that I have been compelled to shoulder extra duty although not reflected in the duty list but I want to point out here, that while discharging extra duties, unlike my predecessors, I have conducted all the nominated meetings of all the states, completed all the works as programmed in 99-2000 and also have done huge extra works all well within scheduled time as already mentioned above.

In perspective, the charges brought vide item 2(i), (ii), (iii) above & 3(i) below are not only base-less, but being not specific in nature are considered as "WILD CHARGES" and brought against any body with malafied intention only.

3(ii)

Minutes of the SCE redrafted entirely.

To arrive at the fact why this re-drafting, I shall request your honour to kindly call for your memory regarding the positive remarks (Good, V. good etc) made by you on the cover page of minutes booklet of SCE's meeting held in the post monsoon '99 and send back the booklet to CBE.

Contd.

This was prepared and submitted by me wherein contribution of the officers above me was not much. It is pointed out here that Sir, the above booklet was not further sent down to the level below by CBE for record, instead it was said that it would be kept by him for his personal record.

Here after, on completion of the pre- monsoon meeting in April '2000 when draft minutes duly prepared and submitted by me with in 10/ 11 days of completion of meeting through DYCE/BD to CBE, he drained down the full brain holding the file for more than one month to make the minutes April '2000 some thing special to impress upon you, perhaps to achieve more positive remarks this time, but this time, unfortunately, the booklet was returned to me with your remarks "Thanks" only.

It is pointed out here that while making addition/alteration in the minutes one important column "Committees decision" was completely eliminated by CBE and instruction has been included without being discussed and resolved in the meeting that - " Statement & Inspection report (RAW) shall be tabled in the next meeting". This may affect sentiment of the officers /members and thus the future meeting also.

Further , claim by CBE "re-drafted entirely" indicates that there was no materials at all in the draft minutes prepared and submitted by me to DYCE/BD and onwards making further addition/alteration submitted to CBE by DYCE/BD. It can well be understood how baseless charge can this be that officers below him failed to produce any material .By this CBE wants to say rather show that all in the bridge wing are useless except him and thereby grab the full credit alone.

Item - 3 (ii) Last line- " Lack of ----- by CE himself ".

In this regard, Sir, I sincerely believe that the charges do not require be given clarification from my side as you know me personally. Yet I shall quote 2/3 works which were required to be done very fast in face of ensuing and full monsoon which are as under -

(a) Protection works of left G. bund of river Diana (Rly Br. No. 180 , MG under Sr. DEN /APDJ.

As instructed by you all the works right from inspection of the site, suggesting boulder sausage bed bars etc. making drawing-plan estimate worth Rs. 46 lakh were completed and submitted to you with-in 2 days. Later DEN/TV/APDJ informed after monsoon that the work was completed before monsoon and proved to be very effective in saving the Rly. embankment.

Contd.

- (b) Taking sounding as per your instruction (by- echo sounder) personally by a country boat round the piers 4 to 7 in the river Brahmaputra in the full flood (AUG' 99) and the detailed report there of with sketches on graph paper showing erosion round the piers was put up to you on the very next day.

Thus, it is evident from the above that there is no lack in working with me. Instead, the lack what is noticed in the bridge wing after I joined is lack of leadership, improper instruction, incomplete guide line, very poor feeling for the fellow officials. Besides extending humiliating behaviour and finding faults all the time to create mental pressure.

Now, Sir, in the 2nd and final part of my representation I would like to communicate the reason for which CBE made an attempt to spoil my ACR inspite of completing all programmed works of 99 - 2000 with huge extra work well within the specified time and fully initiated by me alone.

The reason behind this was his unbearable increasing humiliating behavior. This development was noticed in him little after he was promoted to SAG.

In few consecutive occasions calling me in his chamber he misbehaved with me using unparliamentary words which I protested and requested him, instead of ill behaving he may put PP notes and serve letters.

As a result of the above development in April'2000, CBE started finding loop holes against me and communicating through PP notes of the respective case files, supported with displeasure letters.

Two such displeasure letters have been communicated to me in the month of May'2000. The reply of the one is available at Annexure-1, details already narrated in item 1(i) above.

The reply to the 2nd letter (Annexure-7) if compared with the PP notes (Annexure-8) it will be found that the charge is not only wrong but false also. (CBE's letter is available at Ann. -9)

It is a matter of regret that all these above occurrence took place in the month of April, May'2000 and communicated to me through ACR YE. March'2000.

It is worth mentioning here that I have very recently been inducted into Group- A by Railway Board. Obviously, my performances as reflected in my successive ACRs, must have carried very good gradings which were favourably taken into consider^{ation}. On the face of it, such adverse remarks in the ACR-2000 speaks volume about the prejudice and bias which were predominant in the mind of Initiating as well as Review Authority.

Contd.

I, therefore, request you to kindly have the perspective view of the above fact and expunge the adverse remarks made in my ACR which are not based on fact rather based on personal grudge, false ego to misconstrue my sincerity and honesty which I have maintained till date.

Yours faithfully,

T.K. Dey
6/11/2000

(T.K.Dey)
SEN/FCW/MLG
N.F.Railway

— 24 —

Annexure - 2/6
3

(Confidential)

NORTHEAST FRONTIER RAILWAY

Headquarters office,
(Works Branch)/Maligaon

No. CE/SS/13/0/ADV

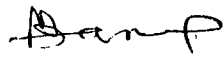
22nd Jany/2001

Shri T.K.Dey,
SEN/FCW
NF Railway

Sub : *ACR for YE 31.3.2000 – disposal of representation
against adverse entries.*

Ref : *Your defence against adverse entries – No.TKD/Cofd/3/2000
dt. 6.11.2000.*

After carefully going through your above representation, it has been decided that the remarks recorded in your ACR for YE 31.3.2000 would stand and no modification is called for.


(B.K.Agarwal)
Chief Engineer,
NF Railway

Copy to : PS to GM, NF Railway, Maligaon.

✓
(B.K.Agarwal)
Chief Engineer,
NF Railway

No. TKD/Confidential /1/2001

Dt. -01-2001

To,
The General Manager,
N.F. Railway, Muligaon.

(Through Proper Channel).

Sub:-ACR for Y.E. 31/3/2000 – Communication of adverse entries.

Ref:-CE's Confidential Letter No. CE/SS/13/O/Adv dt. 12/10/2000.

Respected Sir,

With profound respect and humble submission I beg to furnish the following few lines for your kind information and sympathetic consideration please.

That Sir,- My representation against adverse report communicated to me for Y.E 31/3/2000 (letters with annexures enclosed) has yet another scope for expunging the adverse remarks if gone through by you personally with perspective view and open mind as the remarks made in my ACR are not based on fact at all rather false ego to misconstrue my sincerity and honesty which I have maintained without any spot till date.

I, therefore, request your honour to kindly intervene and extend justice to me as the entries made in my ACR by superiors are all irrelevant and only to harm my career without maintaining any norms with an intention to debar my promotion and to keep me in mental agony to spoil the peace of mine.

I, therefore, earnestly request your honour to kindly communicate your favorable view with in 15-2-01 so that, I do not require to knock the Royal door for natural justice.

DA- As above.

Advance Copy:-

1. GM/N.F.Rly.,MLG.
2. Secy. POA/N.F.Rly./MLG.

Yours faithfully,

T.K. Dey – IRSE(P)
LME, AMIE (Civil)
SEN/FCW/MLG/N.F.Rly.

Recd.
S.K. Singh
1/5/2001
25/1

n/c

— 26 —

Sri T.K. Dey,
SEN/FCW/MLG
30
Annexure A/g

N. F. RAILWAY.

OFFICE ORDER NO. 05 / 2001 (ENGG.)

Sub :- Transfer and Posting.

Sri T.K.Dey, SEN / FCW / MLG, is temporarily transferred and posted as DEN / III / KIR vice Sri K.Jha, proceeded on training at IRICEN / Pune for 5 weeks from 29-01-2001.

Sri Dey will proceed to take over charge of DEN / III / KIR immediately.

This issues with the approval of Competent Authority.

S.K. Choudhury
29.1.2001
(S.K. CHOUDHURY)
APO / GAZ.

for GENERAL MANAGER(P)/MLG.

No. E/283/31 Pt.XVII (O).

Date. 29-01-2001.

Copy for information and necessary action to :-

1. CE,CBE,CGE,CTE,CPDE, CVO/MLG
2. FA & CAO/EGA/MLG.
3. DRM/KIR, DRM(P)/KIR.
4. Sr.DEN/KIR.
5. DAO/KIR.
6. PS to GM, PA to CE/MLG.
7. QS/EO-Bill.
8. Officer Concerned.

S.K. Choudhury
29.1.2001
(S.K. CHOUDHURY)
APO / GAZ.

for GENERAL MANAGER(P)/MLG

S.K. Choudhury
29/01/01

N.E. RAILWAY

Office Order No. 02/2001/Engr

The following promotion, transfer and postings are ordered with immediate effect :-

1. Shri T.G. Biswas, AFN/Safety/Maligaon, on being empanelled for promotion to Sr. Scale on ad-hoc basis, is promoted to Sr. Scale (ad-hoc) and transferred to Construction Organisation under GM/Con/MLG.
2. Shri R.P. Paul, ADE/E/Maligaon, on being empanelled for promotion to Sr. Scale on ad-hoc basis, is promoted to Sr. Scale (ad-hoc) and posted as Sr. ABE/E/Maligaon by operating the post in Sr. Scale by utilising the Sr. Scale element of the vacant post of SEN/LM/Maligaon.
3. Shri Ram Ratan, AFN/Con, on being empanelled for promotion to Sr. Scale on ad-hoc basis, is promoted to Sr. Scale (ad-hoc) and posted under GM/Con/Maligaon.
4. Shri D.D. Dutta, AFN/Con, on being empanelled for promotion to Sr. Scale on ad-hoc basis, is promoted to Sr. Scale (ad-hoc) and posted under GM/Con/Maligaon.
5. Shri S.K. Bhattacharjee, AFN/Con, on being empanelled for promotion to Sr. Scale on ad-hoc basis, is promoted to Sr. Scale (ad-hoc) and posted under GM/Con/Maligaon.
- ✓ 6. Shri S. Halder, ABE/W/Maligaon, on being empanelled for promotion to Sr. Scale on ad-hoc basis, is promoted to Sr. Scale (ad-hoc) and posted as WM/EWS/ENGN vice Shri Samresh Roy.
7. Shri S. Banerjee, Secy. to CE/Maligaon, on being empanelled for promotion to Sr. Scale on ad-hoc basis, is promoted to Sr. Scale (ad-hoc) and posted as Secy. to CE/Maligaon in Sr. Scale by utilising the Sr. Scale post of Secy. to CE.
8. Shri Samresh Roy, WM/EWS/ENGN, on relief, is transferred and posted as DEN/V/APDJ vice Shri S.K. Ghosh.
9. Shri S.K. Ghosh, DEN/V/APDJ, on relief, is transferred and posted as SEN/G/Maligaon by temporarily downgrading the post of SEN/G/Maligaon on retirement of Shri U.S. Singh, DY. CE/G/MLG, on 31.1.2001.

This issues with the approval of Competent Authority,

Line
18.1.2001
(S.K. Choudhury)
APO(Gaz.)

For General Manager (P)
N.E. Railway/Maligaon

No. E/283/31 Pt. XVII (O)

dated : 18.1.2001

Copy for information and necessary action to :-

1. GM/Con/Maligaon
2. CE, CTE, LBE, CGE, CPDE, CVO, CE/Con/Maligaon
3. FA&CAO/EGA/PF/Maligaon
4. FA&CAO/Con/Maligaon
5. DRMs/APDJ, KIR, LMG, TSK
6. DRM (P)/APDJ, KIR, LMG, TSK
7. SR. DEN/APDJ, KIR, LMG, TSK, MLG
8. DY. CE/ER/LINE/MLG, DY. CPO (CON)/MLG, DY. CPO(HQ)/MLG
9. DAO/APDJ, KIR, LMG, TSK
10. PS to GM, PA to CE, PA to CPO, Asst. Secy. to ADM/MLG
11. OS&RO/BILL
12. Officers concerned

Line
18.01.2001
(S.K. Choudhury)
APO(Gaz.)
For General Manager (P)
N.E. Railway/Maligaon

18/01/01

CBE/MLG

N.E. RAILWAY.

OFFICE ORDER No. 08 / 2001 (ENGG.)

Sub - Transfer / posting of officers.

1. In partial modification of Item No. 6 of this Office Order No. 02/2001(Engg.), dated 18-01-2001, Shri S. Halder, ABE/West/MLG, on being empanelled for promotion to Sr. Scale on ad-hoc basis, is promoted to Sr. Scale (ad-hoc) and posted as SEN/BD/MLG vice existing vacancy.
2. Item Nos. 8 & 9 of this Office Order No. 02/2001 (Engg.), dtd. 18-01-2001, will be kept pending for sometime.

This issues with the approval of Competent Authority.

[Signature]
20/2/2001
(S.K. CHOUDHURY)
APO / GAZ.

for GENERAL MANAGER(P)/MLG.
Date. 20-02-2001.

No. E/283/31 Pt. XVII(O).

Copy for information and necessary action to :-

1. CE, CBE, CTE, CPDE, OGE, CVO/MLG.
2. FA&CAO/EGA/MLG.
3. DRM/APDJ, DRM(P)/APDJ.
4. Sr. DEN/APDJ, Dy. CPO/HQ, Dy. CE/Br./Line/MLG.
5. DAO/APDJ, WM/EWS/BNGN, DEN/VAPOJ, ABE/West/MLG.
6. PS to GM, PA to CE, PA to CPO, Asstt. Secy. to AGM.
7. OS / EO-BILL.
8. Officers concerned.

[Signature]
22.2
20/2/01

[Signature]
20/2/2001
(S.K. CHOUDHURY)
APO / GAZ
for GENERAL MANAGER(P)/MLG.

12
20/02/01

102
20/02/01

SR. T.K. Dey
SEN/FCW/MLG 33

N.F. RAILWAY,

OFFICE ORDER NO.: 077/2001 (ENGG.)

The following transfer and postings are ordered with immediate effect:-

1. Sri T.K.Dey, SEN/FCW/MLG is transferred and posted as WM/EWS/BNON vice Shri Samarash Roy.
2. Shri Samarash Roy, WM/EWS/BNON on relief is transferred and posted as DEN/VIAPDJ vice Shri S.K.Ghosh.
3. Shri S.K.Ghosh, DEN/VIAPDJ on relief is transferred and posted as SEN/G/MLG against the temporarily downgraded post of Dy. CE/G/MLG.

This issues with the approval of Competent Authority.

[Signature]
21.2.2001
(S.K.Choudhary)
APO / GAZ.

for GENERAL MANAGER (P/MLG)

No. E/283/31 Pt. XVII (O).

Date, 21.2.2001.

Copy for information and necessary action to:-

1. GM/CON/MLG.
2. FA&CAO/CON/MLG., FA&CAO/EGA, PF /MLG
3. CE, CBE, CTE, CPDE, CGE, CVO/MLG.
4. Dy. CPO/HQ/MLG, DRM(P) & DAO /APDJ
5. WAO/NBQ. SPO/NBQ. Asstt. Secy. (Confid.) to GM/MLG
6. PS to GM. PA to CE, PA to CPO. Asstt. Secy. to AGM
7. Officers Concerned.

*Affected
Authorized
Advocate*

[Signature]
21.2.2001
(S.K.Choudhary)
APO / GAZ.

FOR THE GENERAL MANAGER (P/MLG)

— 30 —

No. TKD/Confid./2/2001.

Confidential 194

To,
The Chief Engineer,
N.F. Railway.

Dt. 07.03.2001

Sub :- Appeal against Transfer order and prayer for retention at H.Q.

Ref :- Transfer Order No.s 02.06. & 07/2001
Engg. Dt. 18.1.2001, 29.1.2001 &
21/22.2.2001 respectively.

Sir,

With due respect I beg to furnish the following few lines for your sympathetic consideration please.

That Sir, my appeal Dt. 6.11.2000, where I had requested you to review and expunge the adverse entries made in my ACR for year ending 31.3.2000, has been rejected and I have appealed to GM/N.F.Rly through you, on the same ACR and reply to which is awaited.

That Sir, soon after receiving my appeal I was transferred to KIR vide No. 06/2001, Engg. Dt. 29.1.2001., but as I was on leave, the order was modified and other officer was transferred.

That Sir, one transfer order has again been made vide No. 07/2001 Engg. Dt. 21/22.2.2001 to transfer me as JM/ENS/BVGN when I was on leave under extension upto 24.02.2001.

Further, it is seen that my above transfer order has been made modifying the transfer order of Sri S. Halder who was already transferred to JM/ENS/BVGN on promotion to Senior Scale vide No. 02/2001 Engg. Dt. 18.1.2001.

Further, it appears to me from the above that the administration, as if, has made a mind to transfer me out of H.Q. particularly at the time when I am pursuing the appeal and the transfer is the result of the contention made in the representation and appeal.

In this connection, I like to bring to kind notice that this transfer will badly affect the education of my son reading in BSc. 1st year in Pandu College and his final examination is ahead.

I, therefore, request you to kindly review the transfer order so that education of my son is not disturbed in the mid session and oblige thereby.

Yours Faithfully,

Recd by
S. Singh
CS/CE
12/3/01

(T.K. Dey) 12/3/01
SEN/FCW/N.F.Rly. MLG.