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5

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

✓ (DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

( See Rule 42 )

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

ORDER SHEET

APPLICATION NO. 268 OF 2001

APPLICANT (S) Md. Mohibullah

RESPONDENT (S) U.O.P. Govt

ADVOCATE FOR APPLICANT(S) Adil Ahmed

ADVOCATE FOR RESPONDENT(S) Case

Notes of the Registry	dated	Order of the Tribunal
<p>This application is in form but not in the form of Petition. It is filed vide M.P. No. ... for Rs. 50/- deposited vide IPMB/No. 64291/2001. Dated 8.7.2001</p> <p><i>Dy. Registrar</i></p>	23.7.01	<p>Issue notice on the respondents to show cause as to why the application shall not be admitted, returnable by 2 weeks. Mr.A.Deb Roy, learned Sr.C.G.S.C. accepts notice on behalf of the respondents.</p> <p>Issue notice to show cause as to why the impugned order dated 17.7.2001 as prayed for, shall not be suspended, returnable by 10 days.</p> <p>Mr.A.Deb Roy shall obtain necessary instruction on the matter. Till the returnable date the impugned order dated 17.7.2001, so far the transfer of the applicant is concerned, shall remain suspended.</p> <p>List on 10.8.2001 for admission.</p>
<p>Notice prepared and sent to DB for issue the respondents No 1 to 3 by Regd AD vide S/No 2785 dated 30/7/01</p> <p><i>29/7/01</i></p>	bb	<p><i>K.C. Chatterjee</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>Order dtd 16/8/01 Communicated to the parties Comd. 3057 W 58 16/8/01</p> <p><i>14/8/01</i></p>	10.8.01	<p>Mr.A.Deb Roy, Sr.C.G.S.C. prays three weeks time on the ground that he has not received any instruction. Mr.A.Ahmed, counsel for the applicant, has no objection.</p>
		<p>In the meantime, the interim order dated contd./-</p>

10.8.01 14.7.01 shall continue.

List on 5/9/01 for admission.

*[Signature]*  
Member

mb  
5.9.01

Mr. A. Deb Roy, learned Sr. C.G.S.C. states that he has not received any instructions.

The application is admitted. Call for the records. In the meanwhile, interim order dated 23/7/01 suspending the operation of the impugned order dated 17.7.01 shall continue.

List on 5/10/01 for further order.

*[Signature]*  
Member

mb

*[Handwritten]*  
5/10/01

5.10.01

Prayer has been made on behalf of Mr. A. Deb Roy, Sr. C.G.S.C. for filing of written statement. Prayer is allowed. List on 21.11.01 for orders. Interim order dated 23.7.01 shall continue.

*[Signature]*  
Members

*[Handwritten]*

*[Handwritten]*  
5/10/2001

*[Handwritten]*  
Order dtd 5/10/01  
Communicated to the  
Parties Council.

21.11.01

Written statement has been filed. List the matter for hearing on 02.01.2002. In the meantime the applicant may file rejoinder if any.

*[Signature]*

Vice-Chairman

12.11.2001

*[Handwritten]*  
w/s on behalf  
of the respondents has  
been submitted

9.1.02

Mr. A. Ahmed, learned counsel for the applicant prays for adjournment. Prayer is allowed. List on 13.2.2002 for hearing.

*[Signature]*  
Member

mb

13.2.02




*[Handwritten]*  
No rejoinder has been  
filed.

The learned counsel for the applicant is not present. Mr. A. Deb Roy, Sr. C.G.S.C. prays for adjournment. Prayer is allowed. List on 15.3.02 for hearing.

*[Signature]*  
Member

*[Handwritten]*  
8.1.02

..bjr..

Notes of the Registry	Date	Order of the Tribunal
<p><u>22.2.2002</u>                      W/S submitted                      by the Respondents.  </p>	<p>15.3.02</p>	<p>Heard counsel for the parties.                      Hearing concluded. Judgment delivered                      in open Court, kept in separate sheets.                      The application is disposed of                      in terms of the order. No order as to                      costs.</p>
<p><u>18.4.2002</u>                      Copy of the Judgment                      has been sent to the                      office for issuing the                      same to the applicant                      as well as to the R.                      G.S. for the Respondents                      by hand.  </p>	<p>pg</p>	<p>                      Vice-Chairman</p>

4

Notes of the Registry	Date	Order of the Tribunal

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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 268 of 2001.

Date of Decision. 15.3.2002.

----- Md. Mohibullah, Driver. -----  
----- Petitioner(S)

----- Mr. A. Ahmed. -----  
----- Advocate for the  
----- Petitioner(s)

-Versus-

----- Union of India & Others. -----  
----- Respondent(s)

----- Sri A. Deb Roy, Sr. C.G.S.C. -----  
----- Advocate for the  
----- Respondent(s)

THE HON'BLE MR JUSTICE D.N. CHOWDHURY, 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.

( NC  
h )

4

CENTRAL ADMINISTRATIVE TRIBUNAL,

GUWAHATI BENCH, GUWAHATI.

Original Application No. 268 of 2001.

Date of Order : This the 15th Day of March, 2002.

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

Md. Mohibullah, Driver,  
Grade-I, Office of the Regional Director,  
Central Ground Water Board,  
Ministry of Water Resources,  
Government of India,  
North Eastern Region, Tarun Nagar,  
Bye Lane No. 1, Guwahati-5.

.... Applicant

By Advocate Mr A.Ahmed.

- Versus -

1. Union of India,  
represented by the Secretary to the  
Government of India, Ministry of Water  
Resources, Shram Shakti Bhawan,  
New Delhi-1.

2. The Director (Administration),  
Central Ground Water Board,  
Faridabad, Haryana, NH-IV,  
PIN-121001.

3. The Regional Director,  
Central Ground Water Board,  
North Eastern Region, Tarun Nagar,  
Bye lane No.1, Guwahati-5.

... Respondents

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

O R D E R

CHOWDHURY J.(V.C)

Heard Mr A.Ahmed, learned counsel for the applicant and also Mr A. Deb Roy, learned Sr.C.G.S.C for the respondents. The issue relates to transfer and posting. By the impugned order dated 17.7.2001 the applicant Driver Grade-I was transferred from Central Ground Water Board, N.E.Region(Guwahti) to SUO,

Itanagar. By the same order another Driver from CGWB, NER was also transferred to SUO, Itanagar and Sri Jangila Boro, Driver(OG) SUO, Itanagar was transferred to CGWB, NER, Guwahati. According to the applicant the impugned order of transfer is arbitrary, discriminatory and violative of transfer policy.

2. The respondents in its written statement stated that the applicant is working as a Driver in Guwahati continuously since his appointment with effect from 23.10.75. In the unit office at Itanagar though there were two vacancies of Driver, save and except Jangila Boro there was no other Driver. Sri Boro could not be spared even when to attend the last rite of his brother who was slain by insurgents. According to the respondents the transfer order was made bonafide and as per transfer guidelines.

3. Considering all the aspects of the matter I do not find any infirmity in the order of transfer requiring interference from this Tribunal. Mr Ahmed, learned counsel for the applicant in course of his argument stated that the applicant had submitted an application before the authority for voluntary retirement. If such application is made undoubtedly the authority shall take action as per law. Mr Ahmed also stated that the transfer order of Sri Ganesh Das transferring him to Itanagar was cancelled by the

headquarter. I make no comment on it. The applicant may however make a representation to the authority narrating his grievances, if any, so that his case can be considered within the permissible zone.

With these the application stands disposed of. There shall, however, be no order as to costs.

  
( D.N.CHOWDHURY )  
VICE CHAIRAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH AT GUWAHATI.  
(AN APPLICATION UNDER SECTION 19 OF THE CENTRAL  
ADMINISTRATIVE TRIBUNAL ACT, 1985)

ORIGINAL APPLICATION NO. 268 OF 2001.

Md. Mohibullah -Applicant.  
-Versus-  
The Union of India & Others  
-Respondents.

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Filed by  
Advocate. (ADIL AHMED)

Filed by  
Md. Mohibullah  
through [Signature] Applicant  
(Aric AHMED)  
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH AT GUWAHATI.  
(AN APPLICATION UNDER SECTION 19 OF THE  
CENTRAL ADMINISTRATIVE TRIBUNAL ACT, 1985)

ORIGINAL APPLICATION NO. OF 2001.

B E T W E E N

Sri Md. Mohibullah, Driver,  
Grade-I, Office of the Regional  
Director, Central Ground Water  
Board, Ministry of Water Resour-  
ces, Government of India, North  
Eastern Region, Tarun Nagar, Bye  
Lane No. 1, Guwahati-781005.

- Applicant

-AND-

- 1] The Union of India, represented  
by the Secretary to the Govern-  
ment India, Ministry of Water  
Resources, Shram Shakti Bhawan  
New Delhi-110001.
- 2] The Director (Administration),  
Central Ground Water Board,  
Faridabad, Haryana, NH-IV,  
PIN-121001.
- 3] The Regional Director,  
Central Ground Water Board,

147 [Signature]

Ministry of Water Resources,  
Government of India, North  
Eastern Region, Tarun Nagar, Bye  
Lane No. 1, Guwahati-781005.

- Respondents.

DETAILS OF THE APPLICATION:

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

This instant application is directed against illegal and arbitrary transfer of the applicant vide Office Order No. 4/MISC/CGWB/NER/2001-613 dated 17-07-2001 issued by the Respondent No. 3.

2. JURISDICTION OF THE TRIBUNAL

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

3. LIMITATION

The applicant further declares that the subject matter of the instant application is within the limitation prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE

M/10/11

Facts of the case in brief are given below:

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

4.2. That your applicant is working as Driver, in the Office of Regional Director, Central Ground Water Board, North Eastern Region, Ministry of Water Resources, Tarun Nagar, Bye-Lane No. 1, Guwahati-5. He is now aged about 52 years.

4.3. That your applicant begs to state that he was transferred from Guwahati to Itanagar (Arunachal Pradesh) vide office order No. 4/MISC/CGWB/NER/2001-613 dated 17-07-2001 issued by the Respondent No. 3.

Annexure-A is the photocopy of Office Order No. 4/ MISC/ CGWB/ NER/ 2001-613 dated 17-07-2001 issued by the Respondent No. 3.

4.4 That your applicant begs to state that he is suffering spondolisis (Gradual pain and stiffness of neck) since 1998. He is also suffering from diabetics. He is under treatment of Ram Ratan Hospital, Patna and also under treatment of Composite Regional Centre (CRC), Government of India, PMRT

*M. B. M.*

building, Guwahati Medical College Hospital Campus.

Annexures-B, C, D & E are the photo copies of Medical Certificates and prescriptions issued by the competent authorities of different medical institutions.

4.5 That the applicant begs to state that his wife is also suffering from serious E.N.T. problem since 1996. She needs immediate and urgent operation. She is under treatment of E.N.T. Expert at Guwahati.

Annexures- F, G & H are the photo copies of Medical certificates and prescriptions of Applicant's wife issued by the E.N.T. Expert.

4.6 That the applicant begs to state that his two sons and his daughter are studying at different colleges at Guwahati under Guwahati University.

4.7 That the applicant begs to state that being a low paid employee and it is not possible for the applicant for taking his family at Itanagar. It is also not possible for the applicant to transfer his daughter and sons to another college under a different University at this stage. Apart from this the applicant can not maintain two establishments

M. K. M.

at two different places. The applicant apprehends that at any time he may be released from Guwahati to Itanagar. As such, the applicant is approaching before this Hon'ble Tribunal for seeking justice.

4.8 That your applicant begs to state that it is not possible for him to move a hilly place like Arunachal Pradesh as he is suffering from Spondolisis. There are sufficient vacancies are available at Guwahati and he may be adjusted in any of available vacancies at Guwahati.

4.9 That your applicant begs to state that ever since his entry to the service of this department he has been rendering his devotional and sincere service to all the concerned higher authorities with ought most satisfaction. There is no blemish from any quarter in any point of time in his entire service life.

4.10 That your applicant submits that the Respondents have issued the transfer order in violation of Government Circular and Policy regarding posting of Group - C & D employees. Your applicant has got reasonable belief that the Respondents are resorting a colourable exercise of power to accommodate their interested person.

M. K. Saha

4.11 That your applicant further submits that the action of the Respondents is highly illegal, improper, whimsical and also against the policy adopted by the Government of India regarding posting of Group-C & D employees.

4.12 That in view of the facts and circumstances it is a fit case for passing an interim order protecting the interest of the applicant and his family members.

4.13 That this application is filed bona fide and for the interest of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1 For that, due to the above reasons narrated in details the passing of the transfer order of the applicant in prima facie is illegal, mala fide, arbitrary and without jurisdiction and hence the same is liable to be set aside and quashed.

5.2 For that, the action of the Respondents is highly illegal, arbitrary and also violative of the Government Policy regarding transfer of Group-C & D employees.

5.3 For that, the action of the Respondents is in total violation of the Articles 14, 16 and 21 of the Constitution of India.

M. B. S.

5.4 For that, the action of the Respondents is arbitrary, mala fide and discriminatory with an ill motive and as such, the impugned transfer orders at Annexure-A is liable to be set aside and quashed.

5.5 For that, the Respondents before transferring the applicant ought to have considered the transfer policy of the Government of India in this matter and as such, the impugned transfer order is bad in the eye of law and is liable to be set aside and quashed.

5.6 For the, in any view of the matter the action of the respondents are not sustainable and hence the same is liable to be set aside and quashed.

The applicant craves leave of this Hon'ble Tribunal to advance further grounds at the time of hearing of this instant application.

6. DETAILS OF REMEDIES EXHAUSTED:

That there is no other alternative and efficacious remedy available to the applicants except invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

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

*NA*

That the applicants further declare that they have not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other Court, authority, nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicants most respectfully prayed that your Lordship may be pleased to admit this application, call for the records of the case, issue notices to the Respondent as to why the Impugned Transfer order dated 17-07-2001 issued by the Respondent No. may not be quashed and after hearing the parties and the cause or causes that may be shown your Lordship may be pleased to direct the Respondents to give the following reliefs.

8.1 That the impugned order of Transfer dated 17-07-2001 transferring the applicant from Guwahati to Itanagar is liable to be set aside.

8.2 Cost of the application.

8.3 To pass any other relief or reliefs to which the applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.

M. B. K.

## 9. INTERIM ORDER PRAYED FOR:

Pending disposal of the applicant most respectfully prays for interim order by way of suspending the order of Transfer from Guwahati to Itanagar vide order dated 17-07-2001 (Annexure-A) issued by the Respondent No.3

10. Application Is Filed Through Advocate.

11. Particulars of I.P.O.:

I.P.O. NO. 66791249

Date Of Issue 21.7.2001

Issued from Guwahati

Payable at Guwahati

12. LIST OF ENCLOSURES:

As stated above.

.. Verification.

*Interim order*

*No dupn*

*M. K. S.*

VERIFICATION

I, Sri Md. Mohibullah, Driver, Grade-I, Office of the Regional Director, Central Ground Water Board, Ministry of Water Resources, Government of India, North Eastern Region, Tarun Nagar, Bye Lane No. 1, Guwahati-781005 do hereby solemnly verify that the statements made in paragraphs 4.1, 4.2, 4.6 to 4.9, — are true to my knowledge those made in paragraphs 4.3, 4.4, 4.5 — are being matters of records are true to my information derived therefrom which I believe to be true and those made in paragraph 5 are true to my legal advice and I have not suppressed any material facts.

And I sign this verification today on this the 23<sup>rd</sup> day of July 2001 at Guwahati.

*Md. Mohibullah*  
Declarant.

No. 4/Misc/CGWB/NER/2001 - 613  
Government of India  
Central Ground Water Board  
North Eastern Region  
Tarun Nagar, Bye Lane No.1  
Guwahati - 781 005.


July 13, 2001  
17

ORDER

The following Drivers are hereby transferred with immediate effect at the place mentioned against their names as below :


	<u>Present place of posting</u>	<u>Place transferred to</u>
✓ 1. Md. Mohibullah, Driver, Gr-I,	CGWB, NER	SUO, Itanagar
2. Shri Genesh Ch. Das, Driver- II	CGWB, NER	SUO, Itanagar
3. " Jangila Boro, Driver(OG)	SUO, Itanagar	CGWB, NER

The transfer is in the public interest, the officials are entitle for TADA and joining time as admissible.

  
( K. Keerthiscelan )  
Suptd. Hydrogeologist (HOO)

Distribution :

- ✓ 1. Person concern
- 2. OIC(S&V), CGWB, NER, Guwahati.
- 3. OIC, SUO, Itanagar.
- 4. DDO, CGWB, NER, Guwahati.
- 5. AO, CGWB, NER, Guwahati.
- 6. Director(Admn), CGWB, III-IV, Faridabad.

Attested  
  
Attested

राम रतन हॉस्पिटल RAM RATAN HOSPITAL (A unit of P. O. I. & Poly Clinic Pvt. Ltd. Patna)

ANNEXURE - B

NEAR : BAZAR SAMITI, RAMPUR ROAD, PATNA-6, PHONE-666266

Orthopaedic Consultant Prof. R. C. RAM M.B.B.S. (Pat.), M.S. (Gen Surg.), M.S. (Ortho.) Rtd. Prof. & Head of the Dept. of Ortho. Surgery PATNA MEDICAL COLLEGE, PATNA-800 004 Director & Senior Consultant RAM RATAN HOSPITAL (Regd. No. 6757 Bihar)

Consultation Hours: Week days - 4 p.m. to 7 p.m. (Sunday Closed)

DR. ANIL KUMAR M.B.B.S., D. Ortho., M.S. (Ortho.) Specialist in the diseases of BONES & JOINTS (Reg. No. 20856 Bihar) Phone : 351456 (Res.)

MD. MAHMOULLAH

Date: 25/8/98

49yrs. Pain & limitation of movement of rt shoulder since 3 months speed disturbed. No history of DM. Control with Glinaze mor. An ht & built, gait normal, wt - 59 kg. Cervical spine clinically free, Rt shoulder completely frozen. Bicipital tenderness & no axillary tenderness. Has been treated conservatively extensively with no improvement.

△ frozen shoulder (rt) EDM. controlled (R) Anemia

- Adv: 1) X-ray rt shoulder - AP view in flexion 2) X-ray cervical spine - lat view in extension mild spondylosis C5/6 3) Hb% 61% ESR 105 mm/hr 4) Blood sugar fasting & 2 hrs after breakfast & after Glinaze 118 mg 5) R/E urine - NAD 6) Ribophen 1 tab each 2 times daily 8 AM for 2 1/2 months 2 PM 7) Eucam 20 1 tab each at bed time after meals for 2 months 8) Vigorous shoulder mobilization exercise Physiotherapy.

25/8/98

26/8/98

- 1) Manipulation in I.A. Injection Rt shoulder under GA 2) Intra articular Inj of Depomedrol 2cc / one each I.A 1% xylocain lcc. Rt shoulder at the interval of 7 - 5 days 3) Vigorous exercises of Rt shoulder for increasing range of motion 4) S.W.D. Exposures - 20 units daily - 6 days the 20 unit A.D. - 6 such.

Attended by Adv. Dr. Anil Kumar

Symptomatic (esp over class) 1 1/2 months

23) Drugs to condition are suggested on 25/8/98

7) consult Dental surgeon for dental problem

8) Report tomorrow morning in summary 1/10/98

for manipulation of Pt should under GA

Inj or Dolorex (long) 1 amp in the before manipulation

*[Signature]*  
2/6/98

J.A. Jyl  
9 Deposited

Attached  
S.S. /  
A. Wente

DR. B. MUKHOPADHYAYA, M.Ch., (Ortho) L'Pool, F.R.C.S.(Lond.) F.N.A.M.S.  
EMERITUS PROFESSOR  
Consultation Hours : 9 AM to 12 Noon  
Reg. No. 3378 (Bihar)

Saidpur Road  
Patna-800 004  
Tel. 672258 (C)  
Saturday &  
Sunday Closed

New Pts. : 9 A.M. to 12 Noon  
Old Pts. : 4 P.M. to 7 P.M.

TO WHOM IT MAY CONCERN

This is to certify that Mr. Mohibulla  
49 yrs M/M of Assam was under my  
treatment from 27.8.78 to 30.7.78  
for periarthritis of RT shoulder  
He did physiotherapy here as per my  
advice for 4 weeks.  
Now he is better and can join  
his study from 3.10.78. He is  
advised to continue exercise to  
maintain then report for treatment.

*[Signature]*

27.9.78

डा० बी० मुखोपाध्याय  
साइपुर रोड, पटना-८००००४  
दूरभाष-52258

Attst  
*[Signature]*  
P. J. Wante



संयोजित क्षेत्रीय केन्द्र ( सी.आर.सी. )

विकलांग व्यक्तियों के लिए

( सामाजिक न्याय और अधिकारिता मंत्रालय, भारत सरकार )

COMPOSITE REGIONAL CENTRE (CRC)

FOR PERSONS WITH DISABILITIES

(MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT, GOVT. OF INDIA)

PMRT BUILDING, GUWAHATI MEDICAL COLLEGE HOSPITAL CAMPUS

GUWAHATI, ASSAM - 781 032

Tel./ Fax : 0361-456510

PHYSIOTHERAPY DEPARTMENT

Clinical Assessment & Therapy Sheet

Date 16.06.01

OPD No. 128/

Name/नाम: Mr. Mihilla

Physio No. A-128/01

Age/वयस: 52 yr Sex/लिंग: Male

Address/ठिकना:

Diagnosis Frozen Shoulder

Complains of:

Pain and stiffness of @ shoulder since 1 yr

H/O -> No history of trauma. Gradual onset of pain & stiffness.

90 Muscle wasting in @ Deltoid region  
Tenderness in ant aspect of shoulder  
Pyriformis tendinitis +/-

R.O.M. @ Shoulder. Ab<sup>n</sup>: elev<sup>n</sup>: 90°  
Abd<sup>n</sup>: elev<sup>n</sup>: 85°  
ext rot<sup>n</sup>: 40°  
Int rot<sup>n</sup>: 50°

Muscle Power: good 3-4 around @ shoulder

Please pay pt's charges for 5 test kits.

Ach  
Mds<sup>n</sup> ex  
S.W.D / Hot pack.

Signature

Signature  
16.06.01

ANNEXURE

संयोजित क्षेत्रीय केन्द्र ( सी.आर.सी )



विकलांग व्यक्तियों के लिए  
 ( सामाजिक न्याय और अधिकारिता मंत्रालय, भारत सरकार )  
**COMPOSITE REGIONAL CENTRE (CRC)**  
 FOR PERSONS WITH DISABILITIES  
 (MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT, GOVT. OF INDIA)  
 PMRT BUILDING, GUWAHATI MEDICAL COLLEGE HOSPITAL CAMPUS  
 GUWAHATI, ASSAM-781 032



OUT PATIENT TICKET

Reg No./पंजीयन नं: 128 Date/तारीख: 16/6/01

Name/नाम: Md. Mahibulha Age/वयस: 59 Sex/लिंग: M

Address/ठिकना: Birubari GHY - 16

Diagnosis: P. O. (1) Shoulder.

Date	Advice Given
<u>16/6/01</u>	Adv.
<u>16/6/01</u>	Arts. NOVON SR. 75 mg. 1 bid x 2 weeks.
<u>CL 27/6.</u>	<p>P.T.   - Not Remission (1) Shoulder.</p> <p>↓</p> <p>Shoulder mobilization 5x daily.</p>

বিঃ দ্র : (ক) বিকলাঙ্গ ব্যক্তিসকলে প্রতিদানে এই প্র-পত্রখন মগত লৈ অহাটো বাধ্যতামূলক।

(খ) চিকিৎসার বাবে আয়ব প্রমান পত্র চক্র বিয়মার পৰা আনিব লাগিব।

Attst  
S. L. 1  
Advocate

# NIGHTINGALE HOSPITAL

GANESHGURI, KACHARI BASTI  
DISPUR, GUWAHATI-781 005

Sunday Closed

CONSULTANT

ENT  
Dr. GAUTAM KHAUND  
M.S.

SURGERY  
Dr. G. C. JAIN M. S.  
Reid prof of surgery GMCH

Dr. RAJENDRA KR. JAIN MS.  
(General & Laparoscopic Surgeon)

MEDICINE  
Dr. M. K. KESHIAN  
MD.

PLASTIC SURGERY  
Dr. PANKAJ BHARADWAJ  
MS, MCH

ANAESTHESIOLOGY  
Dr. AKBAR HUSSAIN MD.

PAEDIATRICS  
Dr. SURESH Kr. JAIN MD.

AUDIOLOGIST & SPEECH  
PATHOLOGIST  
Mr. A. K. BISWAS  
M. Sc. (Speech & hearing)

MRS. JULIENA BEGAM

△ (L) CSOM

Adv - AUDIOGRAM

R

- (1) Tromax cap x 15  
Sj — 1 cap 3 times daily  
○ ○ ○
  - (2) Mucorav tab. x 20 / XL-80 tab.
  - (3) Ibugenic 200 x 20  
Sj — 1 of each 3 times daily  
after food  
○ ○ ○
  - (4) Foristel tab x 20  
Sj — 1 tab daily at bed  
○
  - (5) Neosporin + ear drops  
Sj — 5 drops twice daily  
in left ear
- Adv — to avoid water in left ear

22/2/16

Facilities available :-

- ★ ENT OPD : 9am to 2pm. 5pm to 7pm
- ★ SURGERY OPD : 10am to 11am, 3pm to 6pm
- ★ AUDIOLOGY & SPEECH CLINIC : 4pm to 6pm
- ★ Facilities for Microscopic & Conventional ENT Surgery ★ Plastic Surgery
- ★ Laparoscopic Surgery for Gall Bladder Uterus etc.
- ★ Audiology, Speech Therapy, Ear Mould, Hearing Aids are also available.

Atul  
Arav

23

- 18 -

Asw - Blood for TC, DLC, ESR, Hb, Sugar (Random)

Rx 200 mg of ...

① Promydon cap - Ketaron bb x 10

3 - 1 tab, if needed

② Omvin nasal drops

3 - 2 drops 4x daily  
twice daily


Handwritten signature or initials

2

Asw  
Rx  
Aswite

**Dr. S. B. Medhi.** M.B.B.S. (Gau) M.S. (Delhi)  
 Ear, Nose & Throat Specialist & Oncologist  
 (CONSULTANT-CANCER DISEASES)  
 MEDICAL SUPERINTENDENT  
 DR. B. BAROOAH CANCER INSTITUTE  
 GUWAHATI-781016

CHAMBER : ANNEXURE-G  
 M. L. Nehru Road, Panbazar  
 CONSULTING HOURS :  
 MONDAY TO FRIDAY 5 P.M. to 7 P.M.  
 MINAKSHI MEDICAL  
 (BEHIND DON BOSCO SCHOOL) Phones  
 SATURDAY 5 P.M. to 8 P.M. (R) 544939  
 SUNDAY 10 P.M. to 1 P.M. (C) 515665  
 Date... 31.1.2001 ..... (H) 521366

CSOM(L) 

For Jalima Begum

Rx ① Ganspar Tab. (2004) - (6)  
 Sj. 2 tabs 1st day, then  
 1 tab daily x 4 days

0 0 X 5 ② Tab. Hiat - 20 (15)  
 0 X 5 Sj. 1 tab twice daily after food.

0 0 X 10 ③ Dexamethasone Ear drops.  
 0 X 10 Sj. 3 drops twice daily in (L) ear after cleaning


Antibiotic given

8/3/2001 Rx only  
 Ref +  
 R - ve (L)

Advise to follow the instructions regularly.

Rx ① Tab. Cetirizine (15)  
 Sj. 1 tab at night.

Somy

ATTACHED  
  
 Attached



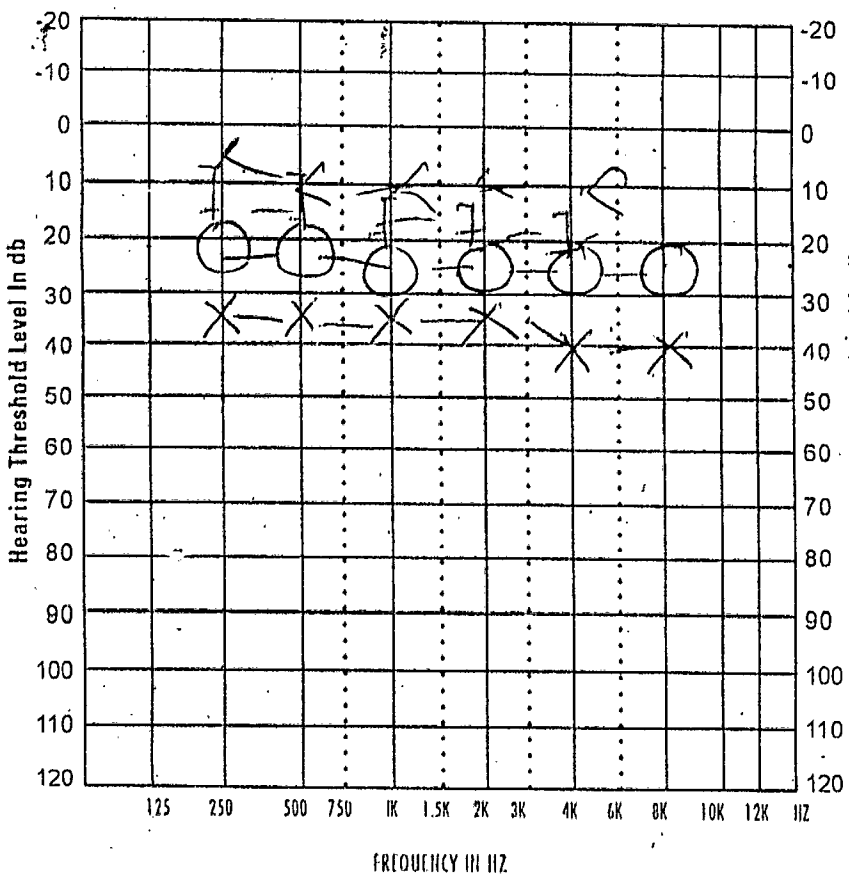
**High-tech** POLYCLINIC & DIAGNOSTIC CENTRE  
Rupali Path, R. G Baruah Road, Guwahati - 781 024

TEL : 0361-221417

AUDIOGRAM

NAME Mrs. J. Begum SEX/AGE F/40  
ADDRESS \_\_\_\_\_ DATE 28-9-2K  
REFERRED BY DR. M. N. Baruah

TEST	RIGHT EAR	LEFT EAR
RINNE		
WEBER		
SPECIAL TEST		
TDT		
SISI		
RECRUITMENT		



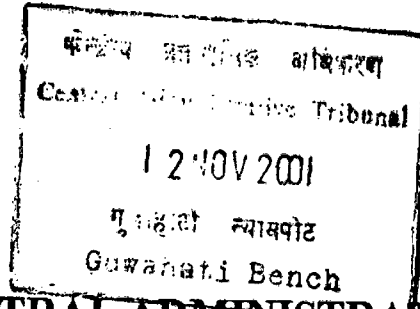
Audiological Interpretation: Deaf Hearing Sensitivity WNL  
Deaf Mild Conductive HL

Recommendations :

AUDIOLOGIST [Signature]  
28/9

FACILITIES AVAILABLE FOR PURETONE AUDIOMETRY, IMPEDANCE AUDIOMETRY, ENG, SPEECH THERAPY AND HEARING AIDS.

[Handwritten notes]  
Apt. Tel  
Advent



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

**GUWAHATI BENCH : GUWAHATI**

O.A. No. 268/2001

**Md. Mohibullah**

- Vs -

**Union of India & Ors.**

- And -

In the matter of :

**Written Statement submitted by the respondents**

The written statements of the above noted respondents are as follows :

1. That with regard to para 1, the respondents beg to state that the transfer order of Md. Mohibullah, Driver Grade-I vide O.O. No. 4/Misc/CGWB/NER/2001/613 dated 17.7.2001 issued by respondent No. 3 is neither illegal nor arbitrary.
2. That with regard to paras 2,3, 4.1 and 4.2, the respondents beg to offer no comments.
3. That with regard to para 4.3, the respondents beg to state that the applicant has been working as driver OG, Gr.II and Gr.I since his appointment on 23.10.75 in the office of the Regional Director, NER, CGWB, Ministry of Water Resources, Guwahati till date.

4. That with regard to 4.4, the respondents beg to state that the applicant has never informed this office about his disease like spondilisys since 1998. Also he claims to be suffering from Diabetes. It is not known to this office. However, he is covered under CGHS scheme. The applicant had not produced any prescription and diagnosis from the CGHS, Guwahati.

Since the official is covered under the CGHS scheme, he is supposed to produce certificate of illness from the CGHS Dispensary.

5. That with regard to para 4.5, the respondents beg to state that the applicant's wife Smt. Julima Begam is suffering from ENT problem. She also has been covered under CGHS scheme. She also has to produce the CGHS dispensary certificate.

6. That with regard to para 4.6 and 4.7, the respondents beg to state that as informed by the applicant his two sons and one daughter are studying in different colleges at Guwahati. It does not mean that only because of this he has to be posted only at Guwahati during his entire service period. The applicant already completed 25 years 10 months at Guwahati. As per service rules laid down for employees of Govt. of India is entitled to be posted at any part of India in the public interest.

7. That with regard to para 4.8, the respondents beg to state the office is not aware of his sufferings from spondilities it is presumed that the official is still fit for serving in any terrain. Had the office been aware of this, he would have been sent to Medical Board for examination. Since it is not informed, no such action was initiated from this office. The SUO, Itanagar has been allocated two vacancies of drivers. On the day of transfer orders one vacancy was still to be filled up. For the efficient functioning of that SUO office and to complete the target fixed for that office it is essential to post one more Driver. Under the circumstances the filling of vacancy of State unit Office is considered most essential than Regional Office at Guwahati.

23

33

8. That with regard to para 4.9, the respondents beg to state that contrary to the applicant's claim of rendering satisfactory service to the department, it has been observed that he avoids duty and remains on long leave for something or the other. As per example the applicant was on long leave as under :-

Commuted leave – 1. 28 days w.e.f. 7.6.95 to 14.7.95

2. 20 days w.e.f. 9.6.98 to 28.6.98

3. 17 days w.e.f. 2.3.2K to 1.4.2K

4. 40 days w.e.f. 2.6.2K to 21.7.2K

E.L.

1. 52 days w.e.f. 10.8.98 to 30.9.98

2. 33 days w.e.f. 15.11.99 to 17.12.99

H.P.L

1. 18 days w.e.f. 2.1.01 to 19.1.01

9. That with regard to para 4.10, the respondents beg to state that the respondents has issued thd transfer order as per the office memorandum issued by Central Ground Water Board No. 14.3/95-CH(Estt) dated 28.8.1998. According to it all the heads of the Offices of the Regional, Divisional and SUO are empowered to transfer Group C & D officials within the region.
10. The respondent has not resorted to colour exercises of power, he is executing the power vested with him in order to run the other subordinate offices in a efficient manner. (Copy enclosed).

With reference to the above cited subject I am enclosing a brief note on the circumstances for which the transfer of Md. Mohibullah, Driver-I has been affected. The circumstances under which the official was transferred from NER, Guwahati to SUO, Itanagar are as follows :

1. Allocated post of drivers for the State Unit Office. Itanagar is two. At present only one driver Shri Jangila Boro is serving there. The other driver who was posted in SUO, Itanagar got transferred to NER, Guwahati during 2000.
2. Director happened to inspect the Unit office, Itanagar on 9<sup>th</sup> and 10th June, 2001. At that time one driver Shri Jangila Boro, Driver (OG) was there. On the day of his visit to Itanagar, the brother of Shri Jangila Boro was slain by insurgents and because of our visit he could not go and pay his last rites. This is because instead of two drivers only one was posted in that office. Inspection visit also fell on the same day. Hence the situation could not be handled properly. However, Director felt sorry for the incident happened in the unit office. Therefore, the Director felt, if two drivers are there, it is possible to use one for the office work and other can be relieved for attending emergency reasons.
3. Since this official Shri J. Boro already completed his tenure of three years in SUO, Itanagar, on his request and on his family condition had merited his transfer to NER, Guwahati.
4. The State Unit office has posted with two officers apart from the Officer-In-Charge. For the FSP 2001-02 two items of works have been taken up Exploration at Lakhimpur & Dhemaji districts, Assam and Lohit district, Arunachal Pradesh are to be attended by the two officers. Moreover, they are to attend pumping test, monitoring of water levels, conducting short term investigation etc. Further, the urban hydrogeology and environmental studies are to be carried out in Itanagar. Item of works have been increased for AAP 2001-02. Under the circumstances two officers S/Shri Biplab Roy, Sc-B and S.D. Waghmare, STA (HG) have to attend all the above said works.
5. For attending the above said items experienced drivers are required. Accordingly based on the merits of their records two drivers have been transferred and Md. Mohibullah, Driver, Gr.-I, is one of them.

6. Shri Mohibullah, Driver, Gr.II joined on 23.10.75 in NER, Guwahati and continued till date. The driver was not used expeditiously either in the field duties or at head quarter duty.
7. After receipt of the transfer order, he has not approached this office for any change or modification. Bu he approached CAT first, brought the stay order of CAT and then requested this office for cancellation of the order. This clearly indicates that the applicant has not exhausted any remedies and directly filed this O.A. in hesitation. On this particular ground the O.A. is become liable to be disallowed. The Hon'ble CAT is accordingly prayed to disallowed this O.A. at admission stage.
8. All the drivers deserve to serve outside the NER, office at least once. This official being senior among drivers other than one Shri S.R. Das, Driver Gr.I who is holding the post of Secretary of the Employees Union, he has been considered for the postings.
9. There are two vehicles in that office and two drivers have been posted. Transferring the official to SUO, Itanagar from, NER, Guwahat is justified.
10. Without transferring these officials to Itanagar, it will be very difficult for Respondent No. 3, to achieve the targets fixed for this region. If these are not implemented the entire responsibility rests with Director for not providing logistic support for completion of the work.
11. The Hon'ble CAT has to consider these transfers in the interest of completion of work of AAP 2001-02 and for implementation of fixed tenure norm applicable for NER also.
11. That with regard to para 4.11, the respondents beg to state that the action of the respondent is legal, proper, not whimsical and as per the policy of the Govt. of India.
12. That with regard to para 4.12, the respondents beg to state that this is not a fit case to be considered and liable for immediate disposal.

13. That with regard to para 4.13, the respondents beg to offer no comments.
14. That with regard to para 5.1, the respondents beg to state that due to the above reasons the transfer order is prima facie, legal, non-malafide, not arbitrary and within jurisdiction and the same to be held up and the transfer order should be implemented.
15. That with regard to para 5.2, the respondents beg to state that the action of respondent is legal, not arbitrary and also non violative of Govt. policy regarding transfer of Group C & D.
16. That with regard to para 5.3, the respondents beg to offer no comments.
17. That with regard to para 5.4, the respondents beg to state that the action of respondent is not arbitrary, non-malafide and undiscriminatory without ill motive. As such transfer order is liable to be held up and implemented and accordingly prayed to be held.
18. That with regard to para 5.5, the respondents beg to state that the respondent have been considered all the existing policies of Govt. of India before transferring the applicant to Itanagar.
19. That with regard to para 5.6, the respondents beg to state that in view of respondent the matter is sustainable and the same is liable to be held up and implemented.
20. That with regard to para 6 and 7, the respondents beg to offer no comments
21. That with regard to para 8.1, the respondents beg to offer no comments.

22. That with regard to para 8.3 and 9 to 12, the respondents beg to offer no comments.

This application has no merit. The grounds raised and relief sought are not tenable. The applicant not exhausted any remedies and filed this O.A. in hesitation. It is not in the preview of the Hon'ble CAT to interfere in the matter of transfer of any employee of the Govt. department. Therefore, this tribunal of the Hon'ble CAT is prayed to disallow or dismiss this O.A. at the admission stage and vacate the interim stay order on the operation of the transfer order of the applicant.


The O.A. is devoid of any merit hence liable to be set a side

**VERIFICATION**

I, Shri G. C. SAHA

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

And I sign this verification on this 30<sup>th</sup> day of October, 2001, at Guwahati.

  
30/10/01  
**Deponent**

Head of Office,  
Central Ground Water Board  
North Eastern Region,  
Ministry of Water Resources,  
Govt of India, Guwahati

গণপ্রজাতন্ত্রী বাংলাদেশ  
Central Administrative Tribunal  
22 FEB 2002  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
Guwahati Bench  
GUWAHATI BENCH : GUWAHATI

O.A. No. 268/2001

Md. Mohibullah

- Vs -

Union of India & Ors.

- And -

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Filed by

22/2/02  
(A. DEBROY)  
Sr. C. G. S. C.

C. A. T., Guwahati Bench

- 39
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- 52
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The O.A. is devoid of any merit hence liable to be set a side

### VERIFICATION

I, G. C. Saha, Regional Director Incharge  
S/O Late R. G. Saha

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

And I sign this verification on this 30<sup>th</sup> day of October, 2001, at Guwahati.

G. C. Saha  
30/10/01  
Deponent