

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

✓ (DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No... 286/2001

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

E.P/M.A No.....

1. Orders Sheet.....Pg. 01.....to 03.....
2. Judgment/Order dtd... 20.2.2002 Pg. 01.....to 03.....
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A.....Pg. 01.....to 16.....
5. E.P/M.P.....Pg.....to.....
6. R.A/C.P.....Pg.....to.....
7. W.S.....Pg. 01.....to 06.....
8. Rejoinder.....Pg.....to.....
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

[Signature]
07/12/17

FORM NO. 4

(See Rule 42)

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

ORDER SHEET

Craigdon APPLICATION NO. 286 OF 2001

APPLICANT (S) B. Brahma

RESPONDENT (S) L. C. I. Rom

ADVOCATE FOR APPLICANT(S)

ADVOCATE FOR RESPONDENT(S) CASE

Notes of the Registry	dated	Order of the Tribunal
<p>is in form Petition is filed vide M. P. No. C. F. for Rs. 50/- deposited vide IPO/BO No 64291649 Dated..... 23.7.2001 By Registrar.</p> <p>NS 30/7/2001</p> <p>Slava letter Notice prepared and sent to D/S for issuing the Respondent No 1 to 5 by Regd ALD vide D/No 2938W 42/424 8/8/01.</p> <p>3/8/01</p> <p>① Service report are still awaited.</p> <p>② No. reply has been biked.</p> <p>30.8.01</p>	<p>30.7.01</p> <p>trd 31.8.01 NS 30/7/01 mb</p>	<p>Issue notice on the respondents as to why the application shall not be admitted. Returnable by four weeks.</p> <p>Also issue notice as to why the impugned order dated 13.7.2001 transferring the applicant from DED, Guwahati to ADED, Agartala shall not be suspended. Returnable by four weeks. List on 31.8.2001 for further orders. Meanwhile the operation of the impugned Annexure-1 order dated 13.7.2001 shall remain suspended so far as the applicant is concerned.</p> <p>K. C. Sharma Member</p> <p>Vice-Chairman</p> <p>List on 21/9/01 to enable the respondents to obtain necessary instructions.</p> <p>By order A. K. Jha 31/8</p>

(2)

21.9.01

List on 5/10/01 to enable the respondents to obtain necessary instructions.

No written statement has been filed.

By
21.9.01

[Signature]
Vice-Chairman

mb

No written statement has been filed.

By
4.10.2001

5.10.01

Written statement has not been filed. Mr.M.Chanda learned counsel for the applicant prays for early early hearing of the case. List on 23.11.01. In the meantime the respondents may file written statement if any within this time. The interim order 30.7.01 shall continue.

Pl. comply.

By
8/10/2001

[Signature]
Member

Order dtd 5/10/01
Communicated to the
Parties Council

By
7/10/07

23.11.01

Mr.A.Deb Roy, Sr.C.G.S.C. prays for adjournment for filing of the written statement. Prayer is allowed. List on 2.1.2002, for filing of written statement and further orders.

No written statement has been filed.

By
22/11/01

[Signature]
Vice-Chairman

lm

2.1.02

No written statement has been filed.

By
1.1.02

Written statement has been filed. The case be listed for hearing on 23.1.02. In the meantime the applicant may file rejoinder if any within two weeks.

[Signature]
Member

lm

23.1.02

W/s has been filed on behalf of the respondents at page 16-21.


By
7/01/02

Mr.M.Chanda learned counsel for the applicant submits that the applicant has ^{met with} made an accident and he is unable to file the rejoinder, he prays for adjournment. Prayer is allowed. List on 20.2.02 for hearing.

[Signature]
Member

lm

O.A. No. 286 of 2001.

Notes of the Registry	Date	Order of the Tribunal
<p>14.3.2002</p> <p>Copy of the Judgt has been sent to the D/Sec. for issuing the order to the applicant as well as to the Sr. ASPC. by hnd. esb</p> <p>by 14/3</p>	<p>20.2.02</p> <p>mb</p>	<p>Heard learned 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> Vice-Chairman</p>

Notes of the Registry

Date

Order of the Trib

6

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 286 of 2001.

Date of Decision. 20.2.2002...

----- Sri Biswanath Brahma -----

Petitioner(S)

----- Sri M.Chanda -----

Advocate for the
Petitioner(s)

-Versus-

----- Union of India & Ors. -----

Respondent(s)

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

Advocate for the
Respondent(s)

THE HON'BLE 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.

} NO
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✓

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 286 of 2001.

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

The Hon'ble Mr Justice D.N.Chowdhury, Vice-Chairman.

Shri Biswanath Brahma,
U.D.C, Office of the Defence Estate
Office, Guwahati Circle,
P.O. Silpukhuri,
Guwahati- 781903. . . . Applicant

By Advocate Sri M.Chanda.

- Versus -

1. Union of India,
Through the Secretary to the
Govt. of India,
Ministry of Defence,
New Delhi.
2. Director,
Defence Estates,
Eastern Command,
B Camac Street, (7th Floor)
Calcutta- 700017.
3. Director General,
Defence Estates,
West Block - 4,
R.K.Puram,
New Delhi-66.
4. Defence Estate Officer,
Guwahati Circle, Guwahati.
5. B.D.Halibaruah,
U.D.C.
Office of the ADEO Agartala,
P.O. Agartala (Tripura) . . . Respondents.

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

O R D E R

CHOWDHURY J.(V.C)

posting and transfer order of Group C clerical staff was issued vide Memo dated 13.7.2001. By one of the order the applicant an UDC in the office of the Defence Estate Officer, Guwahati Circle was transferred to the office of ADEO Agartala and in his place another UDC in the office of the ADEO Agartala was transferred to the office of the DEO Guwahati. By the same order

six other officers were also transferred and posted. The applicant assailed the same order as contrary to the avowed policy of the Government for spouse posting. According to applicant his wife is serving at Guwahati as an employee under the Government of Assam. That apart she was suffering from bone tumor. It was also contended that the applicant was on the verge of retirement and therefore the aforesaid transfer order is against the policy of transfer of such persons.

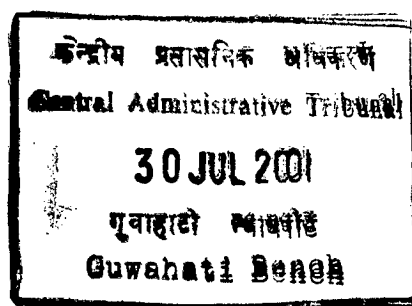
2. The respondents submitted its written statement and contested the claim of the applicant. The respondents stated that the applicant's date of retirement is 30.4.2005 and therefore he has more than 3 years service left. It also contended that the office Memorandum dated 12.6.97 regarding posting of husband and wife at the same station would be applicable to the same department. The respondents also stated that the respondent No.5 submitted his transfer application dated 16.2.2000 giving 3 choice place of posting in which the first station was Guwahati.

3. I have heard Mr M.Chanda, learned counsel for the applicant and also Mr A.Deb Roy, learned Sr.C.G.S.C for the respondents. Mr Deb Roy submitted that since there is no violation of any statutory provision in transferring the applicant nor the same has been said to be violative of Article 14 and 16 of the Constitution, the impugned order of transfer is not liable to be interfered, more so in absence of any improper motive. On the other hand Mr M.Chanda submitted that all actions of the State must be free from arbitrariness and received fairness. The

applicant was entitled for a fair treatment of his case for spouse posting. The stand taken by the respondents for posting of husband and wife at the same station would be applicable only in the same department. The stand taken by the Respondents in this issue is not sustainable. The benefit of the policy of spouse posting is not confined to the same department alone. ^IIntmy considered opinion it is a fit case in which the applicant may seek for ~~some~~ remedial measure departmentally by submitting a representation. He has also mentioned about some personal ~~problems~~ ^{problems} which can only be considered by the department. In the circumstances I am of the opinion that the ends of justice will be met if a direction is given to the Director General, respondent No.3 to dispose of the representation dated 24.7.2001 as per established norms. The applicant is also directed to submit a fresh representation within 2 weeks from today narrating his grievances and if such representation is filed the respondents are directed to dispose of the same within three months from the date of receipt of the representation. Till disposal of the said representation the interim order dated 30.7.2001 shall remain operative.

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


(D.N. CHOWDHURY)
VICE CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

(An application Under Section 19 of the Administrative Tribunal Act, 1985)

Title of the Case : O.A. NO. 286 /2001

Shri Biswanath Brahma : Applicant

-Versus -

Union of India & Ors : Respondents.

I N D E X

Sl.No.	Annexure	Particulars	Page Nos.
1.	-	Application	1 - 9
2.	-	Verification	10
3.	1	Order dt. 13.7.2001	11
4.	2	O.M. dated 12.6.1997	12-13
5.	3	Representation dt.24.7.01	14-15

Dated

Filed by,

Advocate.

Biswanath Brahma

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:GUWAHATI BENCH

G U W A H A T I

(An application under Section 19 of the Administrative Tribunal Act, 1985).

O.A. NO. 786 /2001

BETWEEN

Shri Biswanath Brahma
Son of Thakur Singh Brahma
U.D.C., O/O Defence Estate Office
Guwahati Circle, P.O. Silpukhuri
Guwahati - 781003.

.... Applicant

- AND -

1. Union of India
Through the Secretary to the
Ministry of Defence,
Government of India,
New Delhi.
2. Director
Defence Estates
Eastern Command
B Camac Street (7th Floor)
Calcutta - 700017
3. Director General
Defence Estates,
West Block - 4
R.K. Puram
New Delhi - 66.

contd...p/2

Biswanath Brahma

12

(2)

4. Defence Estate Officer,
Guwahati Circle, Guwahati.
5. B.D. Halibaruah
U.D.C.
Office of the ADEO Agartala,
P.O. : Agartala (Tripura).

.... Respondents

DETAILS OF APPLICATION :

1. Particulars of order against which this application is made

This application is made against the impugned transfer and posting order No. 102/195/ADM/DE dated 13.7.2001 issued by the Respondent No. 3 whereby the applicant sought to be transferred from DEO, Guwahati to ADEO, Agartala , violating the transfer and posting scheme dated 12.6.97 whereby husband and wife is required to be invariably posted in the same place of posting and also the impugned posting order passed during the middle of the academic session of the children of the applicant and also on an alleged ground of mutual transfer, on the verge of retirement of the applicant and praying for a direction upon the respondents to allow the applicant to continue in the present place of posting in terms of O.M. dated 12.6.97 till the date of retirement.

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.

contd..p/3

Siswaraath Borah

(3)

3. Limitation

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

4. Facts of the Case :

4.1 That your applicant is a citizen of India and working as a U.D.C. x in the Office of the Defence Estate Officer under Guwahati Circle and as such he is entitled to all rights and privileges guaranteed by the Constitution of India.

4.2 That your applicant initially appointed as a LDC in the year 1970 and joined in the office of the Defence Estate Officer at Tezpur and continued upto 1975, thereafter, in the year 1975 the applicant was transferred to the office of the Defence Estate Officer (hereinafter referred as DEO) Guwahati. The detail particulars of transfer and posting of the applicant in different places during his service career are furnished hereunder.

<u>Place of Posting</u>	<u>Tenure of service</u>
DEO, Tezpur	30.9.70 - 7.4.75
DEO, Guwahati	8.4.75 - 10.10.88
DEO, Bhubaneswar	11.10.88 - 30.11.89
DEO, Tezpur	1.12.89 - 3.5.93
DEO, Guwahati	4.5.93 - Till Date

contd....p/4

Siswarkh Brahma

(4)

4.3. That it is stated that the wife of the applicant Smti. *Saitakee Brahma* is also working as UDA in the office of the District Agriculture Office, Government of Assam, Ulubari, Guwahati - 7 at present. As such both husband and wife are presently posted at same place of posting at Guwahati. It is relevant to mention here that by the impugned order of transfer and posting issued under letter bearing No. 120/195/ADM/DE dated 13.7.2001 which was received in fact only on 24.7.2001 in the office of the applicant, whereby the applicant is now sought to be transferred and posted at to O/O ADEO, Agartala on the verge of retirement of the applicant. It is categorically stated that there is no scope for the wife of the applicant for posting at Agartala in the State of Tripura, as the wife of the applicant is an employee of the Govt. of Assam, therefore, the applicant is entitled to continue in the same station at Guwahati in terms of Office Memorandum dated 12.6.97 issued by the Government of India for invariably posting of the husband and wife in the same station if the post exist in the same station at appropriate level. It is needless to mention here that post in the appropriate level is still exist in the Station headquarter.

(Copies of the impugned order of transfer and posting dated 13-7.2001 and O.M. dated 12.6.97 are annexed hereto as Annexure - 1 and 2 respectively.)

contd....p/5

Siswarath Brahma

(5)

4.4. That it is stated that in the impugned order of transfer dated 13.7.2001, it is stated that the order of posting in respect of the applicant has been issued on mutual basis from Guwahati to Agartala. It is categorically denied that the applicant never applied for any mutual transfer from Guwahati to Agartala rather a representation is made by the applicant on 24.7.2001 praying inter alia for cancellation of posting order from Guwahati to Agartala especially on the ground of education of his daughter and also on the ground that his ~~xx~~ wife was suffering from Bone T.B. , who is working at Guwahati under Government of Assam and further stated that the applicant is in the verge of retirement. The applicant ~~xxxx~~ has also referred his earlier representation dated 18.7.2001 praying for retention in the same station at Guwahati but the applicant is now apprehending that he may be relieved at any moment, therefore, finding no other alternative approaching this Hon'ble Tribunal for protection of his valuable & legal rights acquired through Office Memorandum dated 12.6.97 for continuation in the same station, as per direction contained in the aforesaid memorandum.

(Copy of the representation dated
24.7.2001 is annexed hereto as
Annexure - 3)

contd...p/6

Siswazath Brahma

4.5. That it is stated that the eldest daughter of the applicant Miss Shelley is presently studying in Architecture Course at New Delhi since 1997 and his son Mr. Akshay in XII class in Guwahati Commerce College and third daughter Miss Shelja studying in B. Barooah College in Science Stream, therefore it is a middle of the academic session, therefore no routine order of transfer can be issued during the middle of the academic session. As such on that ground alone the impugned order or transfer and posting is liable to be set aside and quashed.

4.6. That it is stated that the respondent No.5 in his representation dated 16th February 2000 submitted option for choice posting for 3 (three) places namely Guwahati, Jorhat and Tezpur. Therefore there is no difficulty to accommodate the respondent No.5 either at Jorhat or Tezpur but the respondents in total violation of O.M. dated 12.6.2000 issued by the Government of India and also in violation of recommendation of Vth Pay Commission, passed impugned order of transfer and posting in respect of the present applicant, as such the impugned order of transfer and posting issued under letter dated 13.7.2001 is liable to be set aside and quashed.

4.7. That your applicant beg to state that he had approached, the authorities for consideration of his retention at Guwahati by cancelling the impugned order of posting dated 13.7.2001. Finding no response approaching this Hon'ble Tribunal for protection of his valuable legal

contd...p/7

Srinazath Brahma

rights by setting aside the impugned order of transfer and posting dated 13.7.2001 and ~~xx~~ also by way of granting an appropriate interim order, staying the operation of impugned transfer order dated 13.7.2001.

4.8. That this application is made bonafide and for the ends of justice.

5. Grounds for relief(s) with legal provisions

5.1. For that the applicant and his wife posted in the same station at Guwahati and there is no ~~xx~~ scope for posting of his wife at Agartala, as because wife is serving under the Government of Assam.

5.2. For that the applicant has acquired a valuable and legal rights for continuation in service in the same station invariably in terms of Office Memorandum dated 12.6.1997 issued by the Government of India and on that score the impugned order is liable to be set aside and quashed.

5.3. For that the applicant never submitted any representation for mutual transfer as alleged in the impugned order of transfer and posting dated 13.7.2001.

5.4. For that the order has been passed in the verge of retirement of the present applicant which is contrary to the recommendation of Fifth Pay Commission.

5.5. For that the impugned order has been passed during the middle of the academic session of his children which will cause irreparable loss of education of his children.

contd...p/8

S. Narayan Borah

(8)

6. Details of remedies exhausted

That the applicant states that he has no other alternative and efficacious remedy than to file this application before this Hon'ble Tribunal. Representat~~ions~~ submitted by the applicant failed to evoke any response from the respondents.

7. Matters not previously filed or pending with any other Court

The applicant further declares that he had not 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.

8. Reliefs sought for

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

18.1. That the impugned order of transfer and posting issued in respect of the applicant vide letter No. 102/195/ADM/DE dated 13.7.2001 be set aside and quashed.

8.2. That the respondent may be directed to allow the applicant to continue in his present place of posting at Guwahati.

contd...p/9

Siswadeh Brahma

(9)

8.3. To pass any other order or orders as deem fit and proper in the facts and circumstances of the case.

8.4. Costs of the case.

9. Interim relief sought for

During pendency of this application, the applicant prays for following interim relief-

9.1. That the impugned order of transfer and posing issued under letter No. 102/195/ADM/DE dated 13.7.2001 be stayed till disposal of this application in respect of the applicant only.

10. _____

This application is filed through Advocate.

11. Particulars of the I.P.O.

- i) IPO No. : 66791649
- ii) Date of Issue : 23-7-2011
- iii) Issued from : GPO Guwahati
- iv) Payable at : GPO Guwahati.

12. List of enclosures

As stated in the index

Verification


Biswanath Brahma

(10)

VERIFICATION

I, Shri Biswanath Brahma, aged about 56 years,
Son Of Thakur Singh Brahma, UDC, O/O Defence Estate
Officer, Guwahati Circle, P.O. Silpukhuri, Guwahati-3
do hereby verify that the statements in paragraphs
x 1 to 4 and 6 to 12 are true to my knowledge and
those in paragraph 5 are true to my legal advice
and I have not suppressed any material fact.

I sign this verification this the day of
July, 2001.


Signature.

No. 102/195/ADM/DE
Government of India,
Ministry of Defence,
Dte General Defence Estates
West Block-4, R.K. Puram,
New Delhi - 110066.
3 Jul 2001.

To

The Director,
Defence Estates,
Ministry of Defence,
Eastern Command,
CALCUTTA.

Subject :- POSTING/TRANSFER : GROUP 'C' CLERICAL STAFF

1. On the recommendation of your vide your D.O. letter No. 360009/LC-I/XXXII/47 dated 20 Apr 2001 regarding posting/transfers of Group 'C' Clerical staff.

2. In view of above, it has been decided to make the following mutual posting/transfers :-

Name (S/Shri)	From	To
(a) BD Hatibaruah, UDC ✓ EN Brahma, UDC	ADEO Agartala DEO Guwahati	DEO Guwahati ADEO Agartala
(b) GM. Paul, Steno PC Hazarika, Steno	DEO Siliguri DEO Guwahati	DEO Guwahati DEO Siliguri
(c) JS Bedi, LDC ✓ K. Barik, LDC	DEO Siliguri DEO Guwahati	DEO Guwahati DEO Siliguri
(d) NK Boro, LDC Ms. Sulochana Thapa, LDC	JD Shillong DEO Guwahati	DEO Guwahati JD Shillong

3. The above officials may be relieved of their duties immediately after payment of TA/DA advance.

4. The dates (FN/AN) of relinquishment/assumption of duty by the officials shall be intimated to this Dte General after the event.

A. V. Jangle

for Director General
Defence Estates

Copy to :-

The Joint Director, DE, Shillong.

Spent Post ✓ The DEO, Guwahati/Siliguri

The ADEO, Agartala

The CDA, Eastern Commands, Patna.

Office of the D.A.O.
Guwahati
PRE
A.D.E.O.
O.A.
Section
Date 24/7/2001

*Attended
Chit
Add*

Annexure-2

No. 28034/2/97-Estt.(A)
Government of India
Ministry of Personnel, Public Grievances & Pensions
(Department of Personnel & Training)

New Delhi, the 12th June, 1997

OFFICE MEMORANDUM

Sub : Posting of husband and wife at the same Station.

The undersigned is directed to say that on the subject mentioned above, Government has issued detailed guidelines vide O.M. No. 28034/7/86-Estt.(A) dated 3.4.1986. The Fifth Central Pay Commission has now recommended that not only the existing instructions regarding the need to post husband and wife at the same station need to be reiterated, it has also recommended that the scope of these instructions should be widened to include the provision that where posts at the appropriate level exist in the organization at the same station, the husband and wife may invariably be posted together in order to enable them to lead a normal family life and look after the welfare of the children, especially till the children are 10 years of age.

2. The Government, after considering the matter, has decided to accept this recommendation of the Fifth Central Pay Commission. Accordingly, it is reiterated that all Ministries/Departments should strictly adhere to the guidelines laid down in O.M. No. 28034/7/86-Estt.(A) dated 3.4.86 while deciding on the requests for posting of husband and wife at the same station and should ensure that such posting is invariably done, especially till their children are 10 years of age, if posts at the appropriate level exist in the organization at the same station and if no administrative problems are expected to result as a consequence.

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

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

5. A copy of this Department's OM No. 28034/7/86-Estt.(A) dated 3.4.86 is enclosed for ready reference and guidance.

6. Hindi version of the OM is enclosed.

Sd/- Illegible
(Harinder Singh)
Joint Secretary to the Govt. of India
Tel. No. 301 1276

To

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

To,

The Director General, (Adm Sec),
Defence Estates,
Government of India, Ministry of Defence,
West Block-IV, Sector-I, Wing No. 3 & 7,
R.K. Puram, NEW DELHI-110 066.

(THROUGH PROPER CHANNEL)

SUBJECT : POSTING/TRANSFER OF SRI B.N.BRAHMA,UDC
OF DEO GUWAHATI CIRCLE, GUWAHATI

Respected Sir/Madam,

Most respectfully I beg to submit herewith the following few lines for your kind information and consideration please :-

- (a) From reliable source I came to know that my posting order is going to be issued from DEO Guwahati Circle to the office of the ADEO, Agartala. As such I made an application dated 18.7.2001 to you stating position so that my posting order may not be issued.
- (b) I sent the aforesaid application dated 18.7.2001 to you by Fax.
- (c) But unfortunately I have seen that vide your letter No.102/195/ADM/DE dated 13.7.2001 my posting order has already been issued and I have been posted from office of the DEO Guwahati Circle to office of the ADEO, Agartala.
- (d) In this connection, the following points are reiterated for your information and kind consideration please :-
 - (i) My daughter is studying Architecture Environment and for which I have to spent huge amount of money for her education.
 - (ii) Condition of health of my wife is also not good because she was suffering from Bone T.B. and my wife is working in

contd ...P-2...

State Government Service at Guwahati.

For her disease I have to consult Doctor every now and then to check up the health of my wife.

(iii) Incidentally your goodself is aware of the fact that I have been posted from Guwahati to Bhubaneswar and thereafter Bhubaneswar to DEO Tezpur and DEO Tezpur to DEO Guwahati. As per your orders. I obeyed without any hesitation.

(iv) Moreover, I am going to be retired from service on 30-4-2005 i.e. only 3 years 10 months are left.

(e) Besides above my old father aged about 94 years.

(f) If I have to go outside Guwahati then there is none else to look after my old aged father.

(g) At this juncture if I have to go to office of the ADEO, Agartala my entire family will suffer and moreover it would not possible for me to make both ends meet with my small income.

In view of the position explained above I earnestly request you to kindly consider my case sympathetically and my posting order to the office of the ADEO, Agartala may kindly be cancelled.

For which act of kindness I shall remain ever grateful to you.

In case your goodself not consider my request I have no alternative but to go to CAT which may be permitted please, Madam.

Thanking you,

Station : GUWAHATI,

Dated the, 24th JULY, 2001..

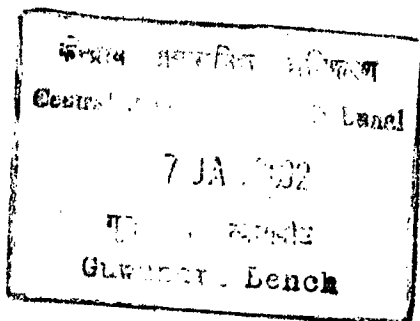
Copy forwarded to IN ADVANCE :-

1. The Director General, (Adm Sec),
Govt. of India, Min. of Def,
R.K. Puram, New Delhi-110066.
2. The Director, DE (LC-I),
Min of Def, Eastern Command,
13, Camac Street (7th Floor)
Calcutta-700 017.

Yours faithfully,

B. N. Brahma

(B. N. BRAHMA) UDC,
C/O DEO Guwahati Circle,
GUWAHATI-3



- 16

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Filed by

21/2002

C. A. T. Guwahati Bench

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

O.A. NO. 286 OF 2001

Shri Biswanath Brahma

- Vs -

Union of India & Ors.

- And -

In the matter of :

Written Statements submitted by
the respondents

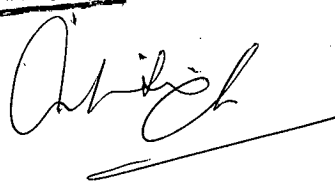
The written statements of the abovenoted respondents
are as follows :

1. That with regard to the statements made in para 1,
the respondents beg to state that save and except what are
matters of record ~~of~~ no comments to offer in this regard. The
facts contrary to the records are denied.
2. That with regard to the statements made in para 2
and 3 of the application, the respondents beg to offer no comments
3. That with regard to the statements made in para 4.1,
the respondents beg to state that submission made by the appli-
cant that he is a citizen of India and working as a UDC in the
office of Defence Estates Officer Guwahati Circle ^{is} ~~is~~ correct.
No comments to offer for rest of the submission made in this
para by the applicant.

4. That with regard to the statements made in para 4.2, the respondents beg to state that save and except what are matters of records no comments to offer in this regard. The fact contrary to the records are denied.

5. That with regard to the statements made in para 4.3, the respondents beg to state that this office is not aware whether applicant's wife is working in the office of the District Agricultural Office, Guwahati as UDA and hence no comments to offer in this regard. The submission made in this para by the applicant that he is on the verge of retirement is not correct. His date of retirement is 30.4.2005 and he thus has 3 and half years approximately of service still left. As regards applicant's submission that as both he and his wife are working in the same station i.e. at Guwahati, he is entitled to continue in the same station at Guwahati and in view of Govt. of India, Ministry of personnel Public Grievances and Pension (Department of Personnel and Training) office Memorandum No. 28034/2/97-Estt(A) dated 12.6.97 are not correct because of the reason explained hereunder :-

The applicant is working in the office of the Defence Estates Office, Guwahati Circle under Ministry of Defence whereas his wife, as stated by the applicant himself, is working as UDA in the Office of the District Agricultural Office, Govt. of Assam, Guwahati. [It is clearly laid down in para 4 of aforesaid office Memorandum dated 12.6.97 that posting of husband and wife at the same station would be applicable to posts within the same department. Hence submission made by



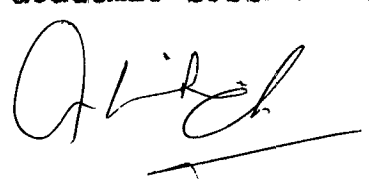
the applicant in this para is not sustainable.

Further applicant's submission that post in the appropriate level is still exist in the station Headquarters is not within the jurisdiction of Defence Estates Organisation.

6. That with regard to the statements made in para 4.4, the respondents beg to state that the word Mutual posting/ transfer's as mentioned in DG DE, New Delhi letter No. 102/195/ AIM/DE dated 13.7.2001 means that one post of UDC is transferred from office of the D ADEO, Agartala to the office of the DEO Guwahati Circle to ADEO Agartala to the office of DEO Guwahati Circle, similarly same post is also transferred from DEO Guwahati Circle to ADEO Agartala. As such applicants submission in this para is not tenable . Further applicant's prayer that he may be allowed to stay at Guwahati for the education of his daughter is not sustainable because it is clearly laid down that while deciding on the request for posting of husband and wife at same station is done especially till then children are 10 years of age whereas applicant's daughter's age is more than 10 years.

Further applicant's submission that he is on the verge of retirement is not correct in view of our submission made in para 4.3 / above. Other submission made by the applicant in the para is denied.

7. That with regard to the statements made in para 4.5, the respondents beg to state that submission made by the applicant in this para that no routine order of transfer can be issued during the middle of the academic session is not susta-



sustainable because that the applicant's children are more than 10 years of age and moreover applicant's wife is staying at Guwahati. As such applicant's submission that transfer and posting order dated 13.7.2001 is liable to be set aside and quashed are not tenable in view of our submission made above and else in para 4.4 above.

8. That with regard to the statements made in para 4.6, the respondents beg to state that the respondent No.5, while submitted his transfer application dated 16.2.2000 gave three choice stations out of which his first choice station was Guwahati. As such submission made by the applicant in this para that the Respondent No.5 may be accommodated either at Jorhat or Tezpur is not tenable. Further the applicant's submission that order dated 13.7.2001 is in total violation of O.M. dated 12.6.2000 are not correct because of our submission made in para 4.3, ~~4.4~~ 4.4 and para 4.5 above.

9. That with regard to the statements made in para 4.7, the respondents beg to state that submission made in this para by the applicant is not tenable in view of our submission made in para 4.3, 4.4, 4.5 and 4.6 above.

10. That with regard to the statements made in para 4.8, the respondents beg to state that is a submission made by the applicant before the Hon'ble CAT and hence no comments to offer in this regard.

11. That with regard to the statements made in para 5.1, the respondents beg to state that submission made by this para



by the applicant is not agreed in view of our submission made in para 4.3 above.

12. That with regard to the statements made in para 5.2, the respondents beg to state that submission made by the applicant in this para is not agreed in view of our submission made in para 4.3, 4.4 & 4.5 and 4.6 above.

13. That with regard to the statements made in para 5.3, the respondents beg to state that submission made in this para by the applicant is not sustainable in view of our submission made in para 4.4 above.

14. That with regard to the statements made in para 5.4, the respondents beg to state that submission made by the applicant in this para is not correct in view of our submission made in para 4.3 above.

15. That with regard to the statements made in para 5.5, the respondents beg to state that submission made by the applicant in this para is not sustainable in view of our submission made in para 4.4 and 4.5 above.

16. That with regard to the statements made in para 6 and 7, the respondents beg to offer no comments.

17. That with regard to the statements made in para 8, the respondents beg to state that relief sought for by the applicant in this para ^{is} are not tenable in view of our submission made in para 4.3, 4.4, 4.5 and 4.6 above.



ADDITIONAL PLEAS -

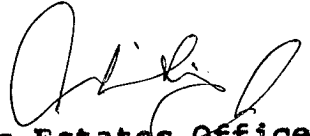
18. That the respondents beg to state that the Applicant already had two postings at Guwahati for the period from 17th April, 1975 to 10th October, 1988 and again from 5th May, 1993 to till date meaning thereby that he has already served in Guwahati for a period of more than 20 years.

19. The respondents also beg to state that the Applicant has an All India Service Liability and he could be transferred anywhere in the country in any office of the Defence Estates Service where his services are required in public (Govt) interest and it is in this context that he has been transferred purely on administrative grounds to the Office of the Assistant Defence Estates Officer, Agartala and as such, his request for his retention only at Guwahati does not deserve in merit and is not sustainable.

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

I, Avatar Singh Kaushal S/o Late Shri Teg Bahadur Singh, aged 58 years, posted as Defence Estates Officer, Guwahati Circle, Guwahati being authorised do hereby solemnly affirm and declare that the statements made in this written statement are true to my knowledge and information and I have not suppressed any material fact.

And I sign this verification on this th
day of , 2001.


Defence Estates Officer
Guwahati Circle