

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. B251/2001

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SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

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

ORDER SHEET

Original APPLICATION NO. 325 OF 2001APPLICANT (s) Probhat Ch. DasRESPONDENT (s) W.O.I FormADVOCATE FOR APPLICANT(s) M. Chanda, Mrs. N. D. Goraon, G. N. ChakrabortyADVOCATE FOR RESPONDENT(s) CAGC H. Datta

Notes of the Registry

dated

Order of the Tribunal

21.8.01

Heard counsel for the parties.

The application is admitted. Call for the records.

Issue notice as to why interim order shall not be passed suspending the order No. 2411/A-22015/5/84-Rectt dated 3-8-01. Returnable by 4 weeks.

Mr. A. Deb Roy, learned Sr. C.G.S.C. for respondents, accepts notice on behalf of respondents Nos. 1 and 2 and notice to respondent Nos. 3 to 5, go by registered post. In the mean time the operation of the said order shall remain suspended till the returnable day.

List on 19/9/01 for further order.

C. U. Shaha
Member

Vice-Chairman

19.9.01

VS
2/10/01

List on 19/10/01 to enable the respondents to file written statement.

In the meantime, the interim shall continue.

mb

Vice-Chairman

No written statement has been filed.

2/9
18.9.01

No written statement has been filed.

2/10
18.10.01

19.10.01

Order dtd. 19/10/01
Communicated to the
Parties Counsel.

Four weeks time is allowed to file written statement. List on 5.12.01 for filing of written statement and further orders. Interim order dated 21.8.01 shall continue.

NO Written Statement
has been filed by the
respondents.

5.12.01

I C Usha
Member

Written statement has been filed. Mr. M.Chanda, learned counsel for the applicant prays for time to file rejoinder. Prayer is allowed.

List on 4.1.02 for the order.

Member(J)

I C Usha
Member(A)

mb

4.1.02

Written statement has been filed. The case may now be listed for hearing. The applicant may file rejoinder, if any, within ~~the~~ 2 weeks from today.

10.12.2001

List on 8.2.2002 for hearing.

W.P.S. Submitted

by the Respondents.

Vice-Chairman

mb

8.2.02

Mr. M.Chanda learned counsel for the applicant prays for adjournment to obtain instructions. Mr. A. Deb Roy, Sr. C.G.S.C. has no ^{objection} instructions. List on 8.3.02 for orders.

I C Usha
Member

8.3.02

Mrs. N.D.Goswami, learned counsel for the applicant prays for adjournment of the case on the ground that she will take instructions. Prayer is allowed. List on 22.3.2002 for hearing.

I C Usha
Member

mb

7.2.02

The case is ready
for hearing.

mb

7.2.02

3

3

Notes of the Registry	Date	Order of the Tribunal
	22.3.02	Mr. A. Webb Roy, Sr. C.G.S.C. prays for adjournment on the ground that he will take instructions. Brayer is allowed. List on 1.4.02 for hearing hearing. orders. K C Ushan Member
	1.4.02	At the request of learned counsel for the applicant the case is adjourned. List on 4.4.2002 for hearing. In the meanwhile, interim order dated 28.8.2001 shall continue. K C Ushan Member
	4.4.02	Heard Mr. M. Chanda, learned Counsel for the applicant & Mr. A. Webb Roy, Sr. C.G.S.C. for the respondent. Hearing concluded. Judgment reserved. P.M. A.C. T.S. 4/4/02
4/4/02	12.4.02	Judgment delivered in open Court. Kept in separate sheets. Application is disposed of. No costs. K C Ushan Member

Notes of the Registry	Date	Order of the Tribunal

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.NO..... 325 of 2001

DATE OF DECISION 12.4.2002

Shri Prabhat Chandra das

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 MR K.K.SHARMA, ADMINISTRATIVE MEMBER

THE HON'BLE

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

Judgment delivered by Hon'ble Admn. Member

KKUSh

X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 325 of 2001.

Date of order : This the 12th day of April, 2002.

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

Shri Prabhat Chandra Das,
son of late Putu Das,
Working as Superintendent,
Office of the Director,
Geological Survey of India,
Operation : Arunachal Pradesh,
Itanagar.

...Applicant

By Advocate Sri M.Chanda

- Versus -

1. Union of India,
represented by the Secretary to the
Government of India,
Ministry of Mines, New Delhi.

2. The Director General,
Geological Survey of India,
27 J.L.Nehru Road,
Calcutta-16.

3. The Deputy Director General,
Geological Survey of India,
North Eastern Region,
Nongrim Hills, Shillong.

4. The Director,
Geological Survey of India,
Itanagar, Arunachal Pradesh.

5. Sri Rehai Chandra Boro, Superintendent,
Geological Survey of India,
Itanagar.

...Respondents

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

o r d e r

K.K.SHARMA, MEMBER(A)

By this application the applicant has challenged
the order No.2411/A-22015/5/84-Rectt. dated 3.8.2001
(Annexure-I) transferring the applicant from the post
of Superintendent, A.P.Circle, GSI, Itanagar to

1c Ushma

contd..?

T.M.Circle, GSI, Agartala with effect from 31.8.2001.

The order has been challenged on numerous grounds including that the transfer has been made in order to accommodate respondent No.5 Sri R.C.Boro on his promotion to the cadre of Superintendent. It is stated that respondent No.5 had the longest stay in Itanagar and had been retained there since his initial appointment as LDC. The respondents have not fairly observed the transfer policy.

2. The applicant was appointed as a Contingency worker in A.P.Circle, Tezpur of Geological Survey of India in the year 1972. In 1975 he was appointed as a regular LDC at Agartala. in 1981 he was promoted as UDC and in 1997 he was promoted to the post of Superintendent and posted to Dimapur. On 17.8.98 the applicant was transferred to Itanagar. On his promotion in the year 1997 he was posted to Dimapur inspite of his repeated requests to keep him at Itanagar. However, the applicant's request for transfer to Itanagar was accepted in August 1998. The transfer order is challenged on the ground that it was issued in violation of transfer policy in order to accommodate Sri R.C.Boro on his promotion. Sri Boro has been continuing at the same station since his initial appointment as LDC. The applicant has served at the following stations :

KC Ushan

contd..3

Sl.No	Designation	Period of stay	Place of posting
1	LDC	1975-1977	Agartala
2.	LDC	Nov.1977 to Dec.1982 (Promoted to UDC, May 1981)	Shillong
3.	UDC	January 1983 to 1987	Itanagar
4.	UDC	1987 to December 1995(April 1990 promoted to the post of Assistant	Guwahati
5.	Assistant	1996 to Feb 1997	Itanagar
6.	Superintendent	1997 August 1998	Dimapur
7.	Superintendent	1998(August) till date	Itanagar

Transfer of the applicant is stated to be arbitrary.

The applicant has also mentioned the names of Sunil Ghosh, LDC, Shillong, Sri S.Dutta, Steno, Itanagar, Mrs M.Kharmawlong, LDC, Shillong. These officers have all along been retained at the same station. It is stated that as a practice the respondents transferred officers on promotion as was the case of the applicant when he was transferred to Dimapur on promotion as Superintendent. Transfer of the applicant was not in public interest but has been made for extraneous consideration to accommodate respondent No.5. Mr M.Chanda, learned counsel for the applicant supported the application by arguing strongly that the applicant has been discriminated against by the transfer and the respondent No.5 has been favoured.

3. The respondents have filed their written statement and Mr A.Deb Roy, learned Sr.C.G.S.C supported the averments made in the written statement.

CCUShan

The learned counsel argued that the respondents have always considered the request of the applicant and accommodated him at Itanagar. In the year 1987 when the applicant was promoted as Assistant he requested for a posting to Guwahati which was accepted. Again in 1996 the applicant was transferred to Itanagar at his request. In 1998 the applicant was again transferred from Dimapur to Itanagar at his own request. It indicates that the respondents were not in any way discriminating against the applicant. The staff of GSI are transferred on the basis of suitability for a particular job keeping in view the best interest of the department. It is stated that GSI has regional headquarter at Shillong. It has four circle offices at Guwahati, Itanagar, Agartala and at Dimapur. Shillong being the headquarter has requirement for more staff.

of Superintendent
Out of 10 posts/five are posted at Shillong, two are in Itanagar, one each in Dimapur and Guwahati and one is on deputation. There is no Superintendent at Agartala and the department is facing difficulty in administrative work. The office at Itanagar is a smaller one with lesser work load and the work can be handled by one Superintendent. As there was a vacancy at Agartala and as there was lesser work load at Itanagar the applicant was transferred for smooth functioning of that office. The transfer order dated

W L Shaha

contd...5

3.8.2001 has been passed in public interest and in exigencies of department. The transfer order was not made with a view to harrass the applicant or to do any injustice to the applicant. With regard to the claim of the applicant that being a reserved category officer he should not have been transferred, it is stated that it is not possible to post all reserved category Superintendents at the station of their choice.

4. The learned counsel for the parties have been heard at length. The main argument of the applicant is that he has been discriminated against and he has specifically mentioned the name of respondent No.5 and the other officers that transfer has been made on account of the promotion of respondent No.5. It is alleged by the applicant that respondent No.5 had continued at Itanagar since his initial appointment, while the applicant has been transferred to accommodate him. This allegation of the applicant has been very vaguely replied in the written statement. The reply of the respondents to the specific allegation is reproduced below :

"With regard to his allegation of accomodating Sri Rehai Chandra Boro, Superintendent are totally baseless. it may be stated that as a policy matter the transfer and posting of staff including Superintendent in the Government Department like Geological Survey of India is never been done to accomodate some one or on seniority basis.

ICL/BS

The transfer order of the staff in Geological Survey of India, is effected for administrative reasons on the basis of suitability for a particular job at a particular place keeping in view the best interest of the Government work."

Mr A.Deb Roy, learned Sr.C.G.S.C could not give any reason as to why respondent No.5 has been continuing at Itanagar since his initial appointment. Having considered the submission of the applicant and the written statement I am of the view that the applicant's case has not been fairly considered. The applicant had been accommodated at Itanagar on his request in August 1998. The applicant was the only Superintendent at Itanagar. The respondent No.5 was promoted as Superintendent and retained at Itanagar. Since his initial appointment he has not been transferred from Itanagar. It would be reasonable to direct the respondents to reconsider the case of the applicant for his posting at Itanagar. The applicant has not made any representation against the transfer order. The applicant is directed to make a representation to the respondents within one month from the date of receipt of this order and the respondents are also directed to re-consider the same and take a decision within a period of two months from the date of filing of the representation.

ICU/Chawla

The application is disposed of as indicated above. There shall, however, be no order as to costs.

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

केन्द्रीय प्रशासनिक बिधिकरण
Central Administrative Tribunal

20 AUG 2001

गुवाहाटी न्यायालय

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

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

Title of the Case : O.A. No. 325/2001

Shri Prabhat Chandra Das : Applicant

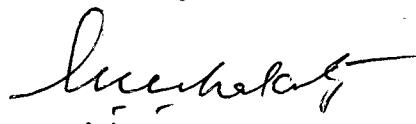
- Versus -

Union of India & Others : Respondents.

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Filed by


Advocate

Date 20.8.2001

Prabhat Ch. Das

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

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

O.A. No. 325/2001

BETWEEN

Shri Prabhat Chandra Das
Son of Late Putu Das
Working as Superintendent,
Office of the Director,
Geological Survey of India,
Operation : Arunachal Pradesh,
Itanagar.

.....Applicant

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Mines, New Delhi.
2. The Director General,
Geological Survey of India,
27 J.L.Nehru Road,
Calcutta-16.

S. Bhattacharya

Prabhat Ch. Das

Filed by the Prabhat Ch.
Das - Application
through
Advocate

3. The Deputy Director General,
Geological Survey of India,
North Eastern Region,
Nongrim Hills,
Shillong.

4. The Director,
Geological Survey of India,
Operation : Arunachal Pradesh,
Itanagar, Arunachal Pradesh.

5. Sri Rehai Chandra Boro,
Superintendent,
Geological Survey of India,
Operation : Arunachal Pradesh,
Itanagar.Respondents.

DETAILS OF THE APPLICATION

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

This application is made against the impugned order of transfer and posting issued under letter No.2411/A-22015/5/84-Rectt. Dated 3.8.2001 whereby the applicant is now sought to be transferred from Itanagar to Agartala in the same capacity in total violation of fair transfer policy and also in total violation of Article 14 of the Constitution of India. The applicant is presently working as Superintendent in the office of the Director, Geological Survey of India, Operation : Arunachal Pradesh, Itanagar and praying for a direction upon

U DC-1972

Regular
Subject

P. Prabhat Ch. Das

the respondents to allow the applicant to continue in his present place of posting at Itanagar.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

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

4. Facts of the case.

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India. He is presently working as Superintendent in the office of the Director, Geological Survey of India, Operation : Arunachal Pradesh, Itanagar.

4.2 That your applicant initially appointed as a contingent worker at the then Arunachal Pradesh Circle , Tezpur in the year 1972. In the year 1975 he was appointed as a regular Lower Division Clerk at the then Tripura Mizoram Circle at Agartala. Thereafter he was promoted to the post of ~~Lower~~ ^{upper} Division Clerk in the month of 25.4.1990. 1.5.1981. h.s.

4.3 That your applicant in the year 1997 promoted to the post of Superintendent and posted to Dimapur thereafter ^{was} he transferred to Itanagar in the month of 17th August 1998 and he reported for duty and continued in the said place of posting till date. It is pertinent to mention here that applicant married with a local Arunachalis Girl belong to Scheduled Tribe Community. Out of the said wedlock two children were born namely one son Master Pallab Das and one daughter Miss Rubi Das aged about 5 years and 3 years respectively. Besides

Probabilist. Das

the above the dependent aged Mother-in-law is also staying with the petitioner.

4.4 That your applicant beg to state that while he was earlier working in Itanagar in the cadre of Assistant during the year 1997 he was transferred and posted to Dimapur under the ^{North Eastern Region G.S.I. Shillong} ~~Tripura-Mizoram Circle~~ on promotion to the cadre of Superintendent in spite of his several requests and repeated approach even then the applicant was forced to join at Dimapur ~~under Tripura Mizoram Circle~~ leaving his new born baby and wife at Itanagar. However, the petitioner was transferred and posted to Itanagar in the month of August, 1998 on his request on compassionate ground.

4.5 That your applicant states that the impugned order of transfer and posting issued letter bearing No. 2411/A-22015/5/84-Rectt dated 3.8.01 by the Deputy Director General, Geological Survey of India, Shillong whereby the applicant is now sought to be transferred from the office of the Director, Operation : Aruanchal Pradesh, GSI, Itanagar to the office of the Director, Tripura-Mizoram Circle, Agartala, that too during the middle of the academic session as because the children of the applicant is studying in an English Medium school at Itanagar. Moreover the impugned transfer order has been issued in total violation of transfer policy in order to accommodate one Sri Rehai Chandra Boro on his promotion to the cadre of Superintendent. It is relevant to mention here that Sri Rehai Chandra Boro since his initial appointment to the cadre of L.D.C. is continuously working at Itanagar and now by the impugned order ^{of} transfer dated 3.8.2001 the respondents in fact made an attempt to accommodate Sri Rehai Chandra Boro in the same station at Itanagar on his promotion to the post of Superintendent at the cost of the applicant. Sri Rehai

P
Pratik Ch. Das

Boro is an employee who has the longest stay in the office of the Director, Geological Survey of India, Operation : itanagar.

It is also relevant to mention here that the applicant during his entire service career transferred and posted in all the stations of this North Eastern Region in different capacities. The detail particulars of such transfer and posting are furnished hereunder for perusal of the Hon'ble Tribunal.

Sl.No	Designaion/Post	Period of stay	Place of Posting
1	L.D.C.	1975-1977	Agartala
2	L.D.C.	Nov.1977 to Dec.1982 (Promoted to U.D.C., May 1981)	Shillong
3	U.D.C.	January 1983 to 1987	Itanagar
4	UDC	1987 to December 1995(April 1990 promoted to the post of Assistant)	Guwahati
5	Superintendent Assistant	1996 to Feb 1997	Itanagar
6	Superintendent	1997 to August 1998	Dimapur
7	Superintendent	1998 (August) till date	Itanagar

In view of the above factual position the applicant should not have been transferred at this stage in order to accommodate Sri Rehai Chandra Boro on his promotion to the cadre of Superintendent from the post of Assistant. This action of the Respondents is highly arbitrary, illegal and unfair and the same is violative of Article 14 of the Constitution. As because the applicant was never accommodated in any particular station immediately after promotion in the higher cadre. In this connection it is also relevant to mention here that the Respondents always favoured with undue advantage to the following officers, namely;

1. Mr. Sunil Ghosh, L.D.C. to Superintendent, Shillong.

Prabhat Ch. Das

2. Mr. S.D. Dutta, Steno to Admn. Officer, Itanagar.
3. Mrs. M. Kharmawlong, L.D.C. to Admn. Officer, Shillong.

It would be evident from above that the following officers are retained all along in the same station with the blessing of the Higher Authorities. But the applicant always picked up for transfer and posting in order to accommodate others. In the instant case the impugned transfer and posting order dated 3.8.2001 has been passed to accommodate Sri R.C.Boro on his promotion to the cadre of Superintendent. It is pertinent to mention here that the promotion of Sri Boro is effected to the cadre of Superintendent in the month of July, 2001 and with the view of intention to accommodate Sri Boro at Itanagar, the applicant is picked up for posting at Agartala by the impugned order dated 3.8.2001 as such the same is liable to be set aside and quashed.

Copy of the impugned transfer and posting order dated 3.8.2001 is annexed as Annexure-1.

4.6 That your applicant further begs to state that on his promotion to the cadre of Superintendent, he was transferred and posted to Dimapur from Itanagar vide Memorandum issued under letter No. 2217/2/34/80-Rectt/84 dated 26.12.1996. The authority ought to have adopted similar practice in the case of Sri R.C.Boro.

Copy of the order dated 26.12.1996 is annexed as Annexure-2.

4.7 That your applicant carried out the posting order dated 26.12.1996 and joined at Dimapur in the promotional post of Superintendent. However on 3.3.1997 ~~6.1.1997~~ applicant submitted a representation for consideration of his posting at

P
Prob. L. S. Ch. Das

Itanagar on the ground of his domestic problem. However, the said request was rejected by the Deputy Director General, Geological Survey of India, Shillong vide letter dated 17.1.1997. Thereafter, applicant joined at Dimapur and after continuation for about 1 year he submitted another representation on 9.12.1997 for his posting at Itanagar on compassionate ground. However, the applicant was transferred and posted at Itanagar in the month of August, 1998.

Copy of the representation dated 6.1.1997, reply dated 17.1.1997
and representation dated 9.12.1997 are annexed as Annexure-3,4
and 5 respectively.

4.8 That it is stated that the impugned order of transfer and posting dated 3.8.2001 has not been passed in public interest but the same has been passed on extraneous consideration to accommodate Sri R.C.Boro, as such the impugned order is liable to be set aside and quashed.

4.9 That your applicant could not submit any representation after receipt of the impugned transfer and posting order as because the applicant is apprehending of his release from the existing place of posting at any moment, as such finding no other alternative the applicant approaching before this Hon'ble Tribunal for protection of his valuable and legal right by staying the operation of the impugned order of transfer and posting dated 3.8.2001 till final disposal of this Original Application.

4.10 That your applicant is also belongs to Scheduled Caste Community as such he is entitled to special privileges so far transfer and posting is concerned as per the Rule laid down by the Government of India, therefore the applicant cannot be transferred to a far of places like Agartala frequently.

P
Prabudh sh. Das

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

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

5.1 For that the applicant has been discriminated in the matter of transfer and posting by issuing the impugned order of transfer and posting dated 3.8.2001 to accommodate 3.6.2001 excluding the respondent no.5 who has the longest stay in the said station i.e. at Itanagar.

5.2 For that the impugned transfer and posting order dated 3.8.2001 has not been issued in public interest but the same has been issued on extraneous consideration in order to accommodate Sri R.C.Boro, respondent No.5 on his promotion to the cadre of Superintendent.

5.3 For that frequent transfer of a Schedule Cast Group 'C' employee is contrary to Rule/Law of the Government of India laid down from time to time.

5.4 For that the applicant has been transferred and posted in different places on different occasion through out the N.E. Region and the posting at Itanagar has been made in respect of the applicant on extreme compassionate ground as such the impugned order of transfer and posting dated 3.8.2001 is liable to be set aside and quashed.

5.5 For that Sri R.C.Boro is an employees who has the longest stay in the station at Itanagar and he is retained since his initial appointment as L.D.C. to till his promotion to the cadre of Superintendent. Therefore fair transfer policy demands that respondent no. 5 should be moved ^{out} first on transfer in public interest.

6. Details of remedies exhausted.

Prabhat Das

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That the applicant states that he has no other alternative and other efficacious remedy than to file this application.

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

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

8. Reliefs sought for :

Under the facts and circumstances stated above, the applicant humbly prays that your Lordships be pleased to grant the following reliefs.

- 8.1 That the impugned order of transfer and posting issued under letter No. 2411/A-22015/5/84-Rectt. dated 3.8.2001(Annexure-1) be set aside and quashed.
- 8.2 That the respondents be directed to allow the applicant to continue in his present place of posting in the same capacity i.e. at Itanagar.
- 8.3 Costs of the application.
- 8.4 Any other relief or reliefs to which the applicant is entitled to, as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

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

- 9.1 That the impugned order of transfer and posting issued under order No.2411/A-22015/5/84-Rectt. Dated 3.8.2001 (Annexure-1) be stayed till disposal of this application.

P
Prasun et. al.

10.

This application is filed through Advocates.

11. Particulars of the I.P.O.

- i) I.P.O. No. : TG 548699
- ii) Date of issue : 16.8.2001
- iii) Issued from : G.P.O., Guwahati.
- iv) Payable at : G.P.O., Guwahati.

12. List of enclosures.

As stated in the index.

P. Prob. L. Ch. Das

VERIFICATION

I, Shri Prabhat Chandra Das, aged about 50 years, S/o Shri Late Putu Das, working as Superintendent in the office of the Director, Geological survey of India, Operation : Arunachal Pradesh, Itanagar, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 20th day of August, 2001.

Prabhat Ch. Das
Signature

- 12 -

Annexure - I

GOVERNMENT OF INDIA

NO. /A-22015/5/84-Rectt., Dated the th.

" OFFICE ORDER "

Shri Prabhat Ch.Das, Superintendent, Opn.A.P.Circle, GSI, Itanagar is hereby transferred in Public interest to Opn.T.M.Circle, GSI, Agartala with immediate effect latest by 31.08.2001 (A.N.).

This issues with the approval of Dy. Director General, GSI, NER, Shillong.

(MRS. M. KHARMAWLONG)

Administrative Officer
for Dy. Director General.

NO. /A-22015/5/84-Rectt., Dated the th.

Copy for information and necessary action to :-

- 1) The Director, Opn.A.P.Circle, GSI, Itanagar. He is requested to release Shri Prabhat Ch.Das, Superintendent on 31.08.2001 (A.N.) positively after obtaining N.D.C. from your office. The Service Book, Leave Account, L.P.C. etc. may be forwarded to Opn.T.M.Circle, GSI, Agartala.
- 2) The Accounts Officer, P.A.O., GSI, NER, Shillong.
- 3) The Administrative Officer, Budget Section/DDO/P.S. to DDG, GSI, NER, Shillong.
- 4) Shri Prabhat Ch.Das, Opn.A.P.Circle, GSI, Itanagar for compliance.
- 5) Personal file/Guard file/Assessment report file/C.R.File, 2001.
- 6) The General Secretary, GSIEA/GSIEA(822) GSI, NER, Shillong.

(MRS. M. KHARMAWLONG)

Administrative Officer

for Dy. Director General.

Allied
Jack
Bd/00/00

13-

GOVERNMENT OF INDIA
GEOLOGICAL SURVEY OF INDIA
NORTH EASTERN REGION
SHILLONG

Annexure - 2

FAX MESSAGE

No. 1/234/80-Recd/84.

Dated 1996.

MEMORANDUM

On the recommendation of the DPG the Dy. Director General, Geological Survey Of India, North Eastern Region, Shillong is pleased to approve the appointment of ~~the~~ the following Assistants to the post of Superintendent on promotion on pay according to rules in the pay Scale of Rs. 1600-50-2300-EB-60-2600/- with their place of postings on promotion as indicated against each.

Sl. No.	Name	Present place of posting	posting on promotion
1.	Smt. Arati Paul	Agartala	Agartala
2.	Shri P.C. Das	Itanagar	Dinapur

~~permanence~~ Their promotion to the post of Superintendent is on officiating capacity and they will be on probation for a period of 2 years or till whichever is earlier. Their retention in the post will be subject to the assessment of their work and conduct during the probationary period.

If they are willing to accept the appointment on the above terms and conditions, they may receive charge of the post of Superintendent in the place of posting on promotion within one month from the date of issue of this memorandum, failing which the offer is liable to be cancelled.

His/her pay on promotion may be fixed initially in the manner as provided under F.R. 22(a) (1) which may be refixed on the date of accrual of next increment in the scale of the lower post (if so, the next increment which fall due on completion of 12 months qualifying service from the date pay is fixed). Option once soever shall be final.

On joining the post of Superintendent copy of the joining report duly forwarded may be sent to this office for further necessary action at this end.

*Alleged
Signature
Advocate*

(D.T. SYLVESTER)
Sr. ADMINISTRATIVE OFFICER
for Dy. Director General(G).

CONT'D.....2.

No. 2277/2/34/80-Recd/84.

Dated 26-Dec-1996.

Copy forwarded to :

1. The Director, M.G.D, Geological Survey of India, Tripura, Minoren, Agartala.
2. The Director, M.G.D (AP), G.S.I., Itanagar, with the request to release Shri P.C. Das after joining to the post of Superintendent to take charge at M.G.D, G.S.I., Dimapur. S/Book, L.P.C. etc may be sent to the Director M.G.D, G.S.I., Dimapur.
3. The Director, M.G.D, G.S.I., M.H., Dimapur.
4. Smt. Arati Paul, Asstt., G.S.I., Telli, Agartala.
5. Shri P.C. Das, Asstt., M.G.D, G.S.I., AP, Itanagar. He is directed to resume duty after joining to the post of Superintendent at G.S.I., Dimapur.

D. P. S. I. (M.G.D.)
S. ADMINISTRATIVE OFFICER
D. P. Director General (G).

To :

The Dy. Director General,
North Eastern Region,
Geological Survey of India,
Ashakutir, Laitumkhrah,
Shillong - 793 003.

(Through Proper Channel)

Sub :- Request for consider to join at Op : Arunachal Pradesh, GSI, Itanagar as Supdt. temporarily.

Sir,

With due respect I beg to draw your kind attention to the following few lines for your favourable consideration :-

Sir, as per telephonic message of 26/12/96 received from this office it is known that I have been promoted to the post of Supdt. and posted to Manipur Nagaland Circle, GSI, Dimapur. However, the formal office order is still awaited.

Sir, I had applied earlier for transfer from RGD (Assam) Guwahati to Op : Arunachal Pradesh, Itanagar explaining my problem in the application for which you have considered my case with sympathetically and I have joined to this office on 2/1/96 accordingly.

It is very humble submitted that I have not keeping good health and at present is under treatment of the Doctor who has advised me to take rest as well as attend to him for medical check up regularly till cure of my disease (copy of medical certificate is enclosed).

Under the above circumstances, I would request you to kindly allow me to join as a Supdt. at Op : Arunachal Pradesh, GSI, Itanagar temporarily.

I shall remain ever grateful to you for this act of your kindness.

Dated the _____
Itanagar .

Yours faithfully,

Prabhat Ch. Das
6/1/97
(Prabhat Ch. Das)
Asstt.

Op : Arunachal Pradesh,
Geological Survey of India,
Itanagar .

*Alleged
Signature
Prabhat Ch. Das*

NO. 6170

NO. 6170 /2/34/SO-Rectt., Dated the 17th January, 1997.

From :
The Dy. Director General,
Geological Survey of India,
North Eastern Region,
Shillong - 793 003.

To :
The Dy. Director General,
Geological Survey of India,
Opn. A.P. Circle,
Itanagar.

३

Sub : Promotion of Shri Prabhat Ch.Das, Asstt.
to the post of Superintendent.

Ref : Undertaking dated 15/01/97.

Sir,

The request of Shri Prabhat Ch.Das, Assistant to permit to join the post of Superintendent at Itanagar from 26.12.96 has been sympathetically considered in depth, but since the post of Superintendent is already allotted to GSI, Dimapur and fell vacant on promotion of Mrs. Usha Roy Sharma, the request for joining at Itanagar cannot be acceded to. However, Shri Prabhat Ch.Das is allowed to join the post of Superintendent at Dimapur upto April, 1997. On expiry of the period, the offer for promotion to the post of Superintendent will automatically stand as cancelled. This issues with the approval of Dy. Director General, GSI, NER.

Yours faithfully,

~~Sr. Administrative Officer
for Dy. Director General.~~

Sr. Administrative Officer
for Dy. Director General.

A.O H. informs the P.C. that according to
Govt
24/1

N. 3 He is informed that all the claims of the Rainier
has been cleared

~~SPM 19~~
1971

John Smith
John Miller
John Phillips

Alleged
less
Dorocent

Date 09-12-97.

To

The Dy. Director General,
 Geological Survey of India,
 North Eastern Region,
 "ZOREM" Nongrim Hills,
 Shillong : 793 003.

(THROUGH PROPER CHANNEL)

Sub : Request for transfer from M.N. Division, GSI,
 Dimapur to Op : Arunachal Pradesh, Itanagar.

Sir,

With due respect I beg to draw your kind attention to the following few lines for your favourable consideration.

Sir, I was working at Op: Arunachal Pradesh, GSI, Itanagar as a Asstt. subsequently I have been transferred to M.N. Division, GSI, Dimapur on promotion to the post Superintendent. As one Superintendent was already been there for which I have been transferred to Dimapur office and have joined at M.N. Division, Dimapur as a Superintendent.

It is learnt that the Superintendent of the GSI, Op: Arunachal Pradesh, Itanagar has been transferred to Calcutta on promotion. The place of Superintendent is still laying vacant. Therefore, I request you kindly transfer me from M.N. Division, GSI, Dimapur to Op : Arunachal Pradesh, Itanagar.

That Sir, recently I have married with a local girl who belonging to Arunachal Pradesh and she is suffering from several disease at Dimapur. The Doctor advised me that the climate of the Dimapur is not suitable for her for which she is suffering from several disease (Doctor certificate) enclosed).

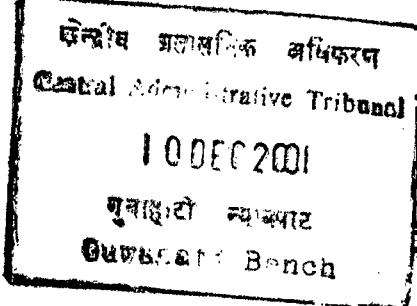
Sir, I have a small child who is one year old and his mother cannot take care on him due to her ill-health. Nobody is at Dimapur to look after my child and my wife. I suffering from physically and mentally agony for the same. If, I transfer to Itanagar office that my father-in-law/mother-in-law will take care of my family.

In view of the above, I earnestly request you kindly to consider my transfer case and save me from mental and physically torture. I shall remain ever grateful to you.

Yours faithfully,

(P.C. DAS)
 Superintendent
 GSI, MND, DIMAPUR

*P.C. DAS
 Superintendent
 GSI, MND, DIMAPUR*



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

Filed by

(A. DEB NOY)
Sr. C. G. S. C.
C. A. T., Guwahati Bench

O.A. NO. 325 OF 2001

Sari P.C. Das

- Vs -

Union of India & Ors.

- And -

In the matter of :

Written Statements submitted by
the Respondents.

before always considered
The Written Statements of the above noted respondents
are as follows :

1. That with regard to the statements made in para 4.1, the respondents beg to offer no comments.
2. That with regard to the statements made in para 4.2, the respondents beg to state that the application are matters of record. Any thing contrary to record is denied and firmly disputed.
3. That with regard to the statements made in para 4.3, the respondents beg to state that the application are matters of record. Anything contrary to record is denied and disputed. It is stated here that his transfer from Dimapur to Itanagar was made at his own request.

Copy of the application is annexed herewith and marked as Annexure - A.

-2-

4. That with regard to the statements made in para 4.4, the respondents beg to state that the applicant was promoted to the post of Superintendent and his posting at Dimapur was made in administrative exigencies and in public interest. The Applicant accepted the promotion and joined at Dimapur. Subsequently at his own request on compassionate ground, the applicant was transferred back to Itanagar.

5. That with regard to the statements made in para 4.5 and 4.6, the respondents beg to state that the ~~application~~^{same} are matter of record. Anything contrary to record is denied and disputed. The applicants contention that his transfer has been made during the middle of the academic session as because the children of the applicant are studying in an English Medium School at Itanagar and to accommodate Sri R.C. Boro, Superintendent are baseless and hence denied.

With regard to his children's education it may be mentioned that the Government employees are expected to enroll their children in Kendriya Vidyalaya which are spread through out the territory of India, including Itanagar to mitigate this kind of problem of Government servant.

With regard to his allegation of accommodating Sri Rehai Chandra Boro, Superintendent are totally baseless. It may be stated that as a policy matter the transfer and posting of Staff including Superintendent in the Government Department like Geological Survey of India is never been done to accommodate some one or on seniority basis.

- 20 -
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The transfer of the staff in Geological Survey of India, is effected for administrative reasons on the basis of suitability for a particular job at a particular place keeping in view the best interest of the Government work.

The applicant Shri P.C. Das is a Superintendent in Geological Survey of India, which is a Group 'B' Non-Gazetted post having transfer liability within Region, as per the recruitment rules, and his transfer was effected for smooth running of the Government work.

Regarding the contention of the applicant that he has been posted to all the Stations of the North Eastern Region, it is stated that whenever possible he has been accommodated and was posted to his Station of choice on compassionate grounds.

(Copies of his application and copies of the transfer orders are annexed herewith and marked as Annexure-B.

With regard to the Applicants allegations of favouring with undue advantage to the officer, namely 1) Shri Sunil Ghosh, L.D.C. to Superintendent, Shillong 2) Shri S.D. Dutta, Steno to Administrative Officer, Itanagar 3) Mrs. M. Karmawlong, L.D.C. to Administrative Officer, Shillong are denied. Shri Sunil - Ghosh, Superintendent came on transfer from Geological Survey of India, CGO Kolkata to Shillong as L.D.C. Shri S.D. Dutta, was in Steno steam and on 8.3.1985 he was promoted to the post of Superintendent and posted in the same station i.e. in Itanagar as there was no Superintendent at that time in Itanagar, and after serving about eight years he was promoted to the post of Administrative Officer.

The Geological Survey of India, North Eastern Region with its Regional Head quarters at Shillong has 04 Circle Offices, namely 1) Opm. Assam, Guwahati 2) Opm. Arunachal Pradesh, Itanagar, 3) Opm. Tripura- Mizoram Division, Agartala and 4) Opm. Nagaland - Manipur Division at Dimapur.

Shillong being head quarters there is always a requirement of more staff in Shillong. There are only ten posts of Superintendent allotted to North Eastern Region. Out of which five are posted in Shillong, two are posted in Itanagar, one each in Dimapur and Guwahati and one is on deputation. There is no Superintendent posted at Agartala due to which Agartala office has been facing difficulty in administrative work.

The office at Itanagar is small with less work load which can be handled by one Superintendent. No Superintendent is posted at Agartala and administrative decision was taken to transfer the applicant to Agartala for smooth functioning of that office.

6. That with regard to the statements made in para 4.7, of the application, the respondents beg to state that the representation dated 06.01.1997 of the applicant for consideration of his posting at Itanagar on the ground of his domestic problem could not be acceded to for administrative Reason explained to him as the post was allotted to Dimapur and was lying vacant.

Thereafter, the applicant joined in Dimapur, and after working for about one year he submitted another representation for his posting at Itanagar on compassionate ground which was

-5-

considered and subsequently he was transferred back to Itanagar.

7. That with regard to the statements made in para 4.8, the respondents beg to state that the applicants transfer and posting order dated 03.08.2001 has been passed in public interest and in administrative exigencies as explained in para 4.5 above.

8. That with regard to the statements made in para 4.9, of the application, the respondents beg to state that in view of reasons indicated above it is humbly prayed that the Hon'ble Tribunal may not interfere in the transfer case of the Govt. Servant having transfer liability to all the station of North Eastern Region as transfer is an incident of Public service and since no harassment or injustice as alleged by the applicant is involved in the case, otherwise it will be difficult to run the Govt. administration and to carry out the Govt. Work smoothly.

9. That with regard to the statements made in para 4.10, the respondents beg to state that it may be mentioned that due advantage in Recruitment/Promotion is being given to the ST/SC employees as per Govt. policy. The applicant is a Superintendent (Group 'B' Non-gazetted officer) having transfer liability to any station of North Eastern Region. It is not possible or feasible to post all SC/ST employees including Superintendent having transfer liability to all the station of NER in their place of choice.

10. That with regard to the statements made in para 4.11, the respondents beg to offer no comments.

-6-

It is, therefore, prayed that Your Lordships would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records, shall further be pleased to dismiss the application with cost.

Verification.....

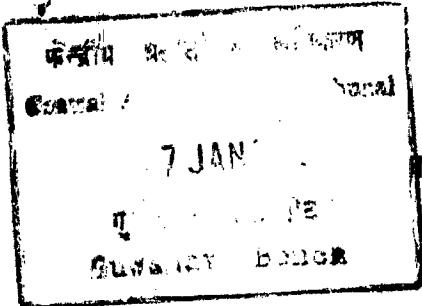
-7-

VERIFICATION

I, Shri Subhash Chander Nagal 80 Shri Kesi Das Nagal
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 28 th day
of November, 2001.

Subhash Nagal
Declarant: 28/11/2001
Head of C.R. and Head of office,
C.S.I., NER, Shillong.



-25-

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

In the matter of :

325/2000
O.A. No. 398 of 2000

Shri Prabhat Chandra Das

Filed by the applicant
through advocate Sri
G. N. Chakravarty
on 6-1-2002
39

-vs-

Union of India & Ors.

And

In the matter of

Rejoinder submitted by the applicant in reply to the
written statement submitted by the Respondents.

The applicant above named most humbly and respectfully begs to state as under :

1. That your applicant categorically denies the statements made in paragraphs 3, 4, 6 and 7 of the written statement and begs to state that on his promotion as Superintendent, he was transferred from Itanagar to Dimapur in spite of the fact that there was a post of Superintendent at Itanagar also where he could be accommodated even after promotion. But despite his several requests and repeated approach, the applicant was forced to join at Dimapur. Subsequently he was transferred back to Itanagar at his own request, on compassionate ground.
2. That with regard to para 5 of the written statement, the applicant begs to submit that there is no such provision in law that the Government employees will have to enroll their children in Kendriya Vidyalaya only in anticipation of transfer.

The contention of the respondents that the applicant has been transferred and posted at Agartala on the basis of suitability for a particular job at a particular

place, interest of the Government, smooth running of the Government works etc are not tenable since the same purpose would have been served by transferring other persons also and it cannot be a plea that it is the present applicant only who has to be transferred for the said purposes.

Further, the applicant has already suffered dislocation due to transfer on several occasions as shown in the O.A. although only once he was transferred on his own request on compassionate ground. But some specific persons as illustrated are being granted undue advantage by the respondents by keeping them in the same station and leaving them undisturbed for years together for the reasons best known to them. In the same manner, the applicant could also be left undisturbed by keeping him at his existing place i.e. Itanagar and the vacancy at Agartala could be well filled up by posting Sri R.C.Boro on his promotion as Superintendent, as was done in case of the applicant while he was promoted to the post of Superintendent. The applicant was posted at Itanagar only in August, 1998 and that too on compassionate ground whereas Sri Boro has been working at Itanagar since is very appointment as L.D.C. Alternatively, this could be done by transferring some other persons who have been staying in the same station for long instead of transferring the applicant, who has joined at Itanagar only in 1998.

3. That the applicant categorically denies the statements made in paragraph 8 of the written statement and begs to state that although transfer is an incidence of service, but in the instant case, the respondents have issued the impugned transfer order in respect of the applicant violating all principles of natural justice and acting most arbitrarily and in a mala fide manner thus doing gross injustice on the applicant. As such it is a fit case for the Hon'ble Tribunal to interfere with and to protect the rights and interests of the applicant.

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4. That with regard to para 9 of the written statement the applicant begs to submit that the applicant is sought to be transferred only in order to accommodate another person who has newly been promoted to the post of Superintendent who also has transfer liability to any station of the N.E. Region and who has been staying in the same station i.e. Itanagar since his joining as L.D.C. and as such there is no reason whatsoever to transfer the applicant from Itanagar to Agartala only because someone else has been promoted and he has to be accommodated in the said station i.e. Itanagar only in perpetuity.
5. In view of the facts and circumstances stated above, the application deserves to be allowed with costs.

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28-

VERIFICATION

I, Shri Prabhat Chandra Das, aged about 50 years, S/o Shri Late Putu Das,, working as Superintendent in the office of the Director, Geological survey of India, Operation : Arunachal Pradesh, Itanagar, do hereby verify that the statements made in Paragraph 1 to 5 pf this rejoinder are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the ~~2nd~~ ^{21st} day of January, 2002.

Prabhat Ch. Das