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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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8/12/17
SECTION OFFICER (Judl.)

FORM No. 4
(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.

ORDERS SHEET

Original APPLICATION NO. 379/2001

Applicant (S) Susanta Nayak

Respondant(S) W.O.I 90m

Advocate for the Applicant: Mr. A. Roy, Mr. D.K. Dm

Advocate for the Respondant: Case.

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form but not in the donation Petition filed vide M.P.N. C.F. for Rs. 20/- permitted vide IPO/2/ No 66288305 Dated 12-9-2001</p> <p><i>Steps taken with out interruption</i></p> <p><i>Copy Short: Notice prepared and sent to D/S for cross the respondent No 2 to 5 by Regd A.D. 24/9/01</i></p> <p><i>NS</i></p> <p><i>On Copy sheet, 19/9/01</i></p> <p><i>mb</i></p>	<p>19.9.01</p>	<p>Heard counsel for the parties.</p> <p>Issue notice as to why the application shall not be admitted. Returnable by four weeks.</p> <p>Also, issue notice as to why the interim order as prayed for shall not be granted. Returnable by two weeks.</p> <p>Mr.B.C.Pathak, learned Addl.C.G.S.C. Mrs.M.Das, counsel for the State and Mr.S.Sarma, learned counsel accepts notice for respondent Nos. 1, 2 & 3 and 5 respectively.</p> <p>In the meantime, the applicant shall be allowed to occupy the official quater in which his family members are staying at Dhubri.</p> <p>List on 3/10/01 for admission.</p> <p><i>Vice-Chairman</i></p>

3.10.2001

Heard Mr.D.K.Das, learned counsel for the applicant. Mr.S.Sarma, learned counsel appearing for the respondent No.5 submitted his ~~xxx~~ written statement. The other respondents more particularly, respondent Nos.2,3 & 4 may file written statement as prayed for by Mr.Y.K.Phukan.

List the matter again on 16.11.01. In the meanwhile the operation of the interim order dated 19.9.2001 shall continue until further order.

Vice-Chairman

bb

16.11.01

Mr.S.Sarma, learned counsel for the applicant informs that similar matter are fixed for hearing before Division Bench on 5.12.2001.

List the case on 5.12.2001 before Division Bench.

Member

bb

5.12.01

Heard Sri D.K.Das, learned counsel for the applicant as well as Sri S.Sarma, learned counsel for respondent No. 5, Mrs. M.Das, learned counsel for the respondent Nos. 2 and 3 and Mr.A.Deb Roy, learned Sr. C.G.S.C. for respondent No. 1.

List on 20.12.01 for hearing.

Endeavour shall be made to disposed of the same at the next date. Meanwhile, interim order dated 19.9.01 shall continue.

Member(J)

Member(A)

mb

~~20.12.2001~~

~~Let the matter be listed again for hearing on 8.1.2001 alongwith O.A.Nos.440/2001 and 443/2001. The interim order dated 19.9.2001 shall continue.~~

~~Member~~

~~Vice-Chairman~~

PS. comply

VB

4/10/2001

Order dtd 3/10/01
Communicated to the
Parties Council.

do
5/10/01

5.10.2001

bfz on behalf
of Respondent No. 5
has been submitted.

do

Order dtd 5/12/01
Communicated to the
Parties Council.

do
20/12/01

9

written statement
filed, on behalf of
the A. No. 5, other
respondents are still
awaited.

By
19.12.01

20.12.2001

1

Let the matter be listed again for hearing on 8.1.2002. By that time the respondents, more particularly the State of Assam is directed to file the written statement. The interim order dated 16.1.2001 shall continue.

K. C. Shaha
Member

[Signature]
Vice-Chairman

nkm

08.01.92

Pass over and list it again on 10.1.02 for hearing.

21.12.2001

W/S on behalf
of the Assam, Respondt.
Nos 2 and 3. has
been submitted

mb

K. C. Shaha
Member

[Signature]
Vice-Chairman

10.1.

Heard Mr. D.K. Das, learned Counsel
for the applicant and Mrs. M. Das, learned
C.A. Assam and also Mr. B.K. Sharma,
learned Counsel for respondent No. 5.
Hearing Concluded.
Judgment reserved.

[Signature]
A.K. Das
10.1.

Order dated 20/12/01
Communicated to the
Kastha Court.

01/11
Mrs. M. Das, advocate produced
the file No. - F.A.B. 68/2001 - Pt.
11/11/2002
Mrs. M. Das produced the
file No. - F.A.B. 68/2001 today.
A.K. Das
11.1.

21.1.02

Judgment delivered in open court, kept
in separate sheets. The application is
dismissed in terms of the order. No order
as to costs.

Member

[Signature]
Vice-Chairman

19.2.2002

Copy of the Judgment
has been sent to the
Office for the
file to the applicant
as well as to the
Govt. Secy. for the
Respon.

21.1.02

Judgment delivered in open court, kept
in separate sheets. The application is
disposed of in terms of the order. No order
as to costs.

K. C. Shaha
Member

[Signature]
Vice-Chairman

mb

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CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./XXX. No. 379 of 2001
With

O.A.No.440 of 2001 and O.A.No.443 of 2001

DATE OF DECISION 21.1.2002

1. Shri S. Nayak (In O.A.Nos.379 and 440 of 2001)

2. Shri T.V. Reddy (In O.A.No.443 of 2001)

PETITIONER(S)

Mr A. Roy and Mr D.K. Das in O.A.Nos.379 & 440 of 2001

Mr B.K. Sharma & Mr U.K. Nair in O.A.443/2001

ADVOCATE FOR THE
PETITIONER(S)

VERSUS -

The Union of India and others

RESPONDENT(S)

Mr A. Deb Roy, Sr. C.G.S.C.,

Mr B.C. Pathak, Addl. C.G.S.C.,

Dr Y.K. Phukan, Sr. Government Advocate, Assam

and Mrs M. Das, Government Advocate, Assam.

ADVOCATE FOR THE
RESPONDENTS

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

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

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 ?
- } Yes

Judgment delivered by Hon'ble Vice-Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.379 of 2001

With

Original Application No.440 of 2001

And

Original Application No.443 of 2001

Date of decision: This the 21st day of January 2002

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

The Hon'ble Mr K.K. Sharma, Administrative Member

1. O.A.No.379/2001

Sri Susanta Nayak, IFS,
Divisional Forest Officer,
Dhubri Division,
Dhubri.

.....Applicant

By Advocates Mr A. Roy and Mr D.K. Das.

- versus -

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Environment and Forest, New Delhi.
2. The State of Assam, represented by the Commissioner & Secretary to the Government of Assam, Department of Forests, Dispur, Assam.
3. The Joint Secretary to the Government of Assam, Department of Forests, Dispur, Guwahati.
4. The Principal Chief Conservator of Forests, Assam, Guwahati.
5. Sri T.V. Reddy, IFS, Divisional Forest Officer, Haltugaon Division, Kokrajhar, District- Kokrajhar.

.....Respondents

By Advocates Mr A. Deb Roy, Sr. C.G.S.C.,
Mr B.C. Pathak, Addl. C.G.S.C.,
Dr Y.K. Phukan, Sr. Government Advocate, Assam and
Mrs M. Das, Government Advocate, Assam.

II. O.A.No.440/2001

Sri Susanta Nayak, IFS,
Divisional Forest Officer,
Dhubri Division, Dhubri.

.....Applicant

By Advocates Mr D.K. Das and Mr S. Shyam.

- versus -

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Environment and Forests, New Delhi.
- h

2. The State of Assam, represented by the Secretary to the Government of Assam, Department of Forests, Dispur, Assam.
3. Shri M.G.V.K. Bhanu, IAS, Commissioner & Secretary to the Chief Minister, Assam, Dispur, Guwahati.
4. The Principal Chief Conservator of Forests, Assam, Guwahati.
5. The Deputy Commissioner, Dhubri, District- Dhubri.
6. Sri T.V. Reddy, IFS, Divisional Forest Officer, Under posting as Working Plan Officer, Upper Assam Circle, Jorhat, District- Jorhat.

.....Respondents

By Advocates Mr A.K. Choudhury, Addl. C.G.S.C.,
Dr Y.K. Phukan, Sr. Government Advocate, Assam and
Mrs M. Das, Government Advocate, Assam.

III. O.A.No.443/2001

Shri T.V. Reddy,
Divisional Forest Officer,
Dhubri Division,
Dhubri.

.....Applicant

By Advocates Mr B.K. Sharma and Mr U.K. Nair.

- versus -

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Environment and Forests, New Delhi.
2. The State of Assam, represented by the Chief Secretary to the Government of Assam, Dispur, Guwahati.
3. The Secretary to the Government of Assam, Department of Forests, Dispur, Guwahati.
4. Shri Susanta Nayak under order of posting as Working Plan Officer, Upper Assam Circle, Jorhat, C/o P.C.C.F., Assam, Guwahati.

.....Respondents

By Advocates Mr A.K. Choudhury, Addl. C.G.S.C.,
Dr Y.K. Phukan, Sr. Government Advocate, Assam and
Mrs M. Das, Government Advocate, Assam.

.....

O R D E RCHOWDHURY. J. (V.C.)

These three applications are inter connected pertaining to transfer order. Therefore, all the three applications were taken up together for disposal by a common judgment and order.

2. By Notification dated 4.9.2001 four orders were issued transferring and posting of four Divisional Forest Officers, which also included posting and transfer of the applicant and respondent No.5 in O.A.No.379/2001. The Full text of the Notification is reproduced below:

"NO.FRE.68/2001/Pt.I/3 :- Shri P.Roy, IFS, Deputy Director, Manas Tiger Project, Barpeta Road is in the interest of public service transferred and posted as Divisional Forest Officer, Haltugaon Division, Kokrajhar, with effect from the date of taking over charge vice Shri T.V. Reddy, IFS transferred.

Shri P. Roy, IFS is also allowed to hold the charge of the Working Plan Division, Kokrajhar in addition to his own duties.

NO.FRE.68/2001/Pt.I/3-A :- On relief, in the interest of public service Shri T.V. Reddy, IFS, Divisional Forest Officer, Haltugaon Division, Kokrajhar is transferred and posted as Divisional Forest Officer, Dhubri Division, Dhubri with effect from the date of taking over charge vice Shri S. Nayak, IFS transferred.

Shri G.N. Buzbaruah, ACF is hereby relieved of the dual charge.

NO.FRE.68/2001/Pt.I/3-B :- Shri S. Nayak, IFS, Divisional Forest Officer, Dhubri Division, Dhubri is in the interest of public service transferred and posted as Working Plan Officer, Upper Assam Circle, Jorhat with effect from the date of taking over charge vice Shri M.K. Yadav, IFS already transferred. The Divisional Forest Officer, Jorhat Division is hereby relieved of the additional charge of Working Plan Officer.

NO.FRE.68/2001/Pt.I/3-C :- On having been released by Political (Vigilance Cell) Department from the post of Divisional Forest Officer, Bureau of Investigation and Economic Offences, Assam, Guwahati Shri R.C. Goswami, is in the interest of public service transferred and posted as Deputy Director, Manas Tiger Project, Barpeta Road with effect from the date of taking over charge vice Shri P. Roy, IFS transferred."

By Notification dated 9.11.2001 the earlier Notification dated 4.9.2001 pertaining to transfer and posting of the applicant vis-a-vis the respondent No.5 was modified. By the said Notification the applicant was reposted as Divisional Forest Officer, Dhubri with effect from the date of taking

over charge vice respondent No.5. By another Notification the respondent No.5, Divisional Forest Officer, Dhubri Division was transferred and posted as Working Plan Officer, Upper Assam Circle, Jorhat. By the Notification dated 12.11.2001 the Notification dated 9.11.2001 was stayed until further orders. The aforesaid Notification dated 12.11.2001 staying the operation of the Notification dated 9.11.2001 is the subject matter in O.A.No.440/2001. The respondent No.5 in O.A.No.379/2001 has been impleaded as respondent No.6 in O.A.No.440/2001. The respondent No.5 in O.A.No.379/2001, respondent No.6 in O.A.No.440/2001, also assailed the order dated 9.11.2001 transferring and posting him as Working Plan Officer, Upper Assam Circle, Jorhat in modification of the transfer order dated 4.9.2001 in O.A.No.443/2001 as applicant.

2. There is no dispute at the Bar that transfer of an employee is a part of the conditions of service. There is also no dispute that it is within the competence and domain of the employer to transfer its officers from one place/post to another place/post. An order of transfer is not to be lightly interfered in exercise of jurisdiction under Section 19 of the Administrative Tribunals Act, 1985, unless the Tribunal finds the order arbitrary, unlawful and contrary to the service rules or that the order is passed malafide with improper motive. The learned counsel appearing on behalf of the respective parties with their forensic ability focussed their arguments on the legitimacy of the order of transfer.

3. Mr D.K. Das, learned counsel for the applicant in O.A.No.379/2001 and O.A.No.440/2001 contended that the respondents acted in a most illegal fashion by transferring and posting the applicant on extraneous considerations. The learned counsel contended that the authority at one point of time realised its own mistake and modified the order of transfer dated 4.9.2001 vide order dated 9.11.2001. But the same order was subsequently stayed vide order dated 12.11.2001 on extraneous considerations. The learned counsel submitted that the order dated 9.11.2001 was subsequently stayed by the concerned authority at the instance of an outside agency who did not have any role to play. Mrs M. Das, learned

Government.....

Government Advocate, Assam contended that the State respondents all throughout acted bonafide and passed the order of transfer and posting on exigency of service. Mrs Das also placed before me the connected records. Mr B.K. Sharma, learned Sr. Counsel appearing for the respondents on the other hand, submitted that at no point of time the applicant questioned the power and competency of the State respondents in transferring and posting the concerned officers under it.

4. An officer of the Government cannot claim any right to any particular post. He is required to serve anywhere in India, unless the transfer order is passed in contravention of the statutory rules. There is no dispute that the discretion of transfer and posting of officers is vested on the State Government, but all power has its own limits. An unfettered discretion is what the Courts refuse to countenance. Statutorily, all power is to be exercised reasonably and in good faith for proper purposes only on lawful considerations. The power is to be exercised for valid and lawful purpose. Unfettered governmental discretion is an anathema. There is no dispute at the Bar on the legal principle. What is in dispute is as to the respective assessment of facts. On perusal of the materials on record it appears that the applicant in O.A.No.379/2001 vide order dated 29.11.1999 was transferred from the post of Divisional Forest Officer, Central Assam Afforestation Division, Hojai and posted as Divisional Forest Officer, Dhubri Division. The said order of transfer and posting dated 29.11.1999 was stayed on 6.1.2000. Subsequently, it was vacated and the applicant was thereafter posted as Divisional Forest Officer, Dhubri Division. The applicant took over charge of the Division on 7.7.2000. The applicant alongwith three other officers was sent to attend the professional skills upgradation training programme at the Indira Gandhi National Forest Academy, Dehradun scheduled to be held from 14.8.2001 for a period of ten weeks. In that view of the matter the applicant handed over the charge of the Division on 13.8.2001 for a period of ten weeks to the seniormost Assistant Conservator of Forests of the Division as directed by the communication dated 27.7.2001 and proceeded

for.....

for attending the training programme. While the applicant was on training the impugned order of transfer was made transferring and posting the respondent No.5, Divisional Forest Officer, Haltugaon Division as Divisional Forest Officer, Dhubri Division with effect from the date of taking over charge vice Shri S. Nayak. By the same order Shri P. Roy, Deputy Director Manas Tiger Project, Barpeta Road was transferred and posted as Divisional Forest Officer, Haltugaon Division, Kokrajhar with effect from the date of taking over charge vice respondent No.5. By the same order the applicant was transferred and posted as Working Plan Officer, Upper Assam Circle, Jorhat with effect from the date of taking over charge vice Shri M.K. Yadav. Shri R.C. Goswami was posted as Deputy Director, Manas Tiger Project, Barpeta Road with effect from the date of taking over charge vice Shri P. Roy.

5. From the records it appears that a representation was made before the Chief Conservator of Forests on 27.7.2001 from Kokrajhar by Shri T.V. Reddy, respondent No.5, requesting the Chief Conservator of Forests to consider his case for transfer and posting to a Cadre Division befitting his seniority and experience. In the said representation Shri Reddy mentioned that he had completed four and a half years as Incharge of Haltugaon Forest Division and that he also worked in Kokrajhar District with efficiency and diligence. A copy of the letter was addressed to the P.S. to the Hon'ble Minister of Forests, Government of Assam, Dispur for information. The P.S. was requested to bring the matter to the kind attention of the Hon'ble Minister. On 27.7.2001 the Hon'ble Minister made the following endorsement in the representation:

"Secy Forests

He may be posted at Dhubri. Pl. Put up.

Sd/-

27/7/2001

Minister

Forest, Social Forestry, Hill Areas
Deptt. Mines, Minerals,
Dispur, Assam."

In the file it was pointed out that though Shri Reddy, Divisional Forest Officer, Haltugaon Division had completed his tenure at Kokrajhar for more than four years, but Shri S. Nayak, Divisional Forest Officer, Dhubri

Division.....

Division had just completed one year only. The matter was put up with a list of cadre officers who had completed three years in cadre posts including Territorial Division. The office indicated that it was premature for shifting Shri S. Nayak. The Joint Secretary put up the note to the Secretary on 24.8.2001 for posting and transferring the officers. In that communication it was suggested for transfer of respondent No.5 as Working Plan Officer, Jorhat in place of Shri M.K. Yadav. The Secretary submitted his note to the Minister of Forests and in his proposal he suggested for transfer and posting of respondent No.5 as Divisional Forest Officer, Dhubri and Shri S. Nayak as Working Plan Officer, Jorhat and in that light the applicant was transferred. A representation dated 11.9.2001 was addressed to the Secretary, Government of Assam, Forest Department, Dispur by the wife of Shri Nayak praying for cancellation of the transfer order of Shri Nayak. In that representation she pointed out that the applicant was transferred before completion of the three years tenure which was contrary to the policy of the Government. There is an endorsement of receipt of the representation in the Secretariat on 15.9.2001. On receipt of the said representation the same was processed in the Secretariat. The office note that was put up before the Secretary mentioned about the the grounds cited in the representation, namely about his short stint at Dhubri, that he had served earlier in Working Plan Division at Jorhat and that his daughter was admitted to a school at Kalimpong. it was observed that on the above grounds only his transfer within a short period of tenure at Dhubri deserves consideration. The Secretary discussed the matter with the Hon'ble Minister and the Hon'ble Minister in the notesheet ordered that the transfer order of Shri Nayak be stayed and Shri Reddy may be posted as Working Plan Officer, Divisional Forest Officer at Jorhat. Consequent thereto, the order dated 9.11.2001 was passed modifying the order dated 4.9.2001 in respect of the applicant, Shri S. Nayak and he was reposted as Divisional Forest Officer, Dhubri with effect from the date of taking over charge and the respondent No.5 was transferred and posted as Working Plan Officer, Upper Assam Circle, Jorhat. Promptly, the respondent No.5 in O.A.No.379/2001, respondent in O.A.No.440/2001-
applicant.....

applicant in O.A.No.443/2001 submitted a representation dated 12.11.2001. There is an endorsement dated 12.11.2001 by the Joint Secretary on the representation dated 12.11.2001. In the representation the respondent No.5 stated that pursuant to the order of transfer dated 4.9.2001 he took over charge at Dhubri Division. He shifted his family and he got his children admitted to school at Dhubri. As he had admitted his children in the school at Dhubri, he requested to cancel the Government Notification transferring him from Dhubri Division to Working Plan Officer, Jorhat. It appears that the matter was processed on the day of receipt of the representation and the Joint Secretary in his note recorded that the Minister, Forest also telephonically told him on 11.11.2001 to keep the matter pending till his return from tour. In view of the above the order issued on 9.11.2001 was stayed until further orders. The Joint Secretary accordingly ordered for issuance of notification immediately. Pursuant thereto, the Notification No.FRE.68/2001/Pt/24 dated 12.11.2001 was made which reads as follows:

"No.FRE.68/2001/Pt/24: Without prejudice to the pendency of the O.A.No.379/2001 in the Hon'ble Central Administrative Tribunal, Guwahati, the transfer and posting order issued vide Govt. Notification No.FRE.68/2001/Pt/22, dated 9.11.2001 and No.FRE.68/2001/Pt/22-A, dtd. 9.11.2001 in respect of Shri S. Nayak, IFS, Deputy Conservator of Forests and Shri T.V. Reddy, IFS, Deputy Conservator of Forests are hereby stayed until further orders."

The above mentioned representation dated 12.11.2001 is a one-page handwritten representation found at page 23 of the file. There is one more three-paged representation dated 12.11.2001 addressed to the Secretary, Government of Assam, Forest Department, which was endorsed by the Secretary to the Joint Secretary on 13.11.2001. At page 58 of the file a typed representation also dated 12.11.2001 was also found. The said representation was addressed to the Secretary, Government of Assam, Forest Department praying for cancellation of the Government Notification No.FRE.68/2001/Pt/22A dated 9.11.2001. A copy of the said representation was addressed to the P.S. to the Hon'ble Minister for Forests, Government of Assam for information with the request to bring the matter to the

notice.....

notice of the Hon'ble Minister for cancellation of the said notification immediately. On the body of the representation the Hon'ble Minister, Forests, made the following endorsement to the Secretary, Forests.

"Secy. Forests

Pl. cancell the notification transfer order of Sri Reddy.
Pl. put up file urgently.

Sd/-

17/11/2001

Minister,
Forests, Social Forestry, Hill Areas
Development: Mines and Minerals."

The matter was processed, but from the records it appears that there was no followup action, may be because of the interim order of the Tribunal.

6. From the conspectus it appears that the respondent No.5 took the initiative for his transfer from Haltugaon Forest Division and for that purpose he sent a copy of the representation dated 27.7.2001 to the P.S. to the Hon'ble Minister of Forests. The said copy reached the Ministry on 27.7.2001 as appears from the office seal where it put the number 260. In the body of the representation the Hon'ble Minister directed the Secretary for posting respondent No.5 at Dhubri and accordingly ordered him to put up and endorsed the application to the Secretary. He put his signature on 27.7.2001. The matter reached the Office of the Secretary on 30.7.2001. The office processed the matter. The office note clearly indicated the fact that Shri S. Nayak (applicant) was yet to complete his normal tenure of three years. On the other hand he completed only one year and was sent for training. The office note also indicated that the respondent No.5 served in the Territorial Division for more than six years and it was suggested for his posting in a different wing other than Territorial Division. The Secretary to the Government of Assam, however, put up his proposal for posting the applicant as Divisional Forest Officer, Working Plan Officer, Jorhat and for transfer of respondent No.5 as Divisional Forest Officer, Dhubri. The Secretary in his note also did not take note of the fact as was mentioned in the office note that the applicant completed only one year at Dhubri. The Secretary, Government of Assam, Forest Department, however, in his note mentioned that

respondent.....

respondent No.5 completed four years at Haltugaon, but why he was proposed as Divisional Forest Officer, Dhubri despite the note given below is not discernible. At any rate, the Minister approved the proposal. In fact there was nothing so far for approval of the proposal of posting of respondent No.5 at Dhubri since the Hon'ble Minister himself ordered the Secretary, Forest Department for posting the respondent No.5 at Dhubri by his endorsement dated 27.7.2001. His approval dated 1.9.2001 was only reiteration of his direction to the Secretary for posting the respondent No.5 as Divisional Forest Officer at Dhubri. As per the Notification dated 4.9.2001 Shri R.C. Goswami, Divisional Forest Officer, Bureau of Investigation and Economic Offences, Assam on his release by Political (Vigilance Cell) Department was to join as Deputy Director, Manas Tiger Project, Barpeta Road and to move first and take over charge from Shri P. Roy, Deputy Director, Manas Tiger Project and P. Roy on his release as Deputy Director, Manas Tiger Project was posted at Haltugaon Division and was to take over charge from Shri T.V. Reddy, respondent No.5, Divisional Forest Officer, Haltugaon Division, Kokrajhar. On his relief by Shri P. Roy, the respondent No.5, transferred and posted as Divisional Forest Officer, Dhubri Division, was to take over charge vice Shri S. Nayak (applicant) transferred.

7. In normal course an official order was to be assiduously adhered to. Curiously, Shri T. V. Reddy - the respondent No.5, made an application before the Secretary, Forest Department, dated 5.9.2001 for modification of the reliever. In his representation the respondent No.5 suggested for allowing him to hand over the charge of Haltugaon Division and additional charge of Working Plans Division, Kokrajhar to Mr R.N. Boro, ACF, Haltugaon Division as first move and to take over the charge of Dhubri Division from Mr Bezbaruah, ACF, who was holding the charge then. The representation was seemingly addressed to the Secretary, Forests, directly on 5.9.2001 at Guwahati and the Secretary, Forests, promptly endorsed the representation to the Joint Secretary on 5.9.2001. The office processed the matter and put up the matter before the Secretary on 12.9.2001. The Secretary proposing to allow the respondent No.5 to hand over the charge.....

charge to Divisional Forest Officer, Social Forestry, Kokrajhar Division to enable him to join at Dhubri. The Secretary accepted the proposal and accordingly a communication was sent to the applicant by the Joint Secretary, Government of Assam allowing him to hand over charge of the Haltugaon Division to Divisional Forest Officer, Social Forestry Division Kokrajhar, Shri B.N. Patiri. The wife of Shri S. Nayak (applicant) submitted a representation before the Government of Assam through the Secretary, Forests, for modifying the order of transfer, more particularly before completion of the tenure and on the ground of hardship. The representation was duly processed. As was mentioned earlier the office note clearly pointed out that the transfer was made within a short period and accordingly the representation required consideration. The Secretary discussed the matter with the Hon'ble Minister, Forests, and thereafter put up a note before the Minister of Forests. The Minister of Forests in the note stayed the order of transfer of the applicant and the respondent No.5 was posted as Working Plan Officer, Upper Assam Circle, Jorhat. Accordingly Government Notification was issued on 9.11.2001 modifying the transfer order dated 4.9.2001 and reposting the applicant as Divisional Forest Officer, Dhubri by taking over charge vice respondent No.5 and also transferring and posting the respondent No.5 as Working Plan Officer, Upper Assam Circle, Jorhat. Three days after the said order was stayed, at the instance of the Hon'ble Minister as was mentioned earlier, the Minister in fact ordered for cancellation of the Notification of transfer of Shri Reddy from Dhubri to Jorhat.

8. The power of transfer and posting is, no doubt reposed on the employer. Public interest is the guiding factor. But, nonetheless, a public authority while acting in public interest is required to act fairly, reasonably and consistently. Powers are conferred for public purposes upon trust, not absolutely. It is meant to be used for valid and lawful purpose. Powers entrusted upon the public authority thus must be used reasonably, on good faith and on proper perspectives. Power is not entrusted for abuse or misuse. Indiscriminate use of power cannot be countenanced, where the case ought to be considered on their own merits.

Admittedly.....

Admittedly, there is no dispute that the Government adopted a policy for allowing its officers to be stationed for a period of three years. However, policies are policies, they are not mandatory. But then, a professed policy or a professed norm is not to be disregarded indiscriminately without any valid consideration. In the instant case decision to transfer and post the respondent No.5 was, in fact taken by the Minister on 27.7.2001 on an application directly received from the respondent No.5 through his P.S. No public interest is discernible for his posting at Dhubri on 27.7.2001. When the matter was sent to the Department, the Department in its note clearly indicated that the applicant was yet to complete his full stint. He completed only one year and one month at Dhubri on 6.8.2001. His transfer from Dhubri was cited as premature in that office note. On the other hand it was suggested for considering the transfer and posting of respondent No.5 as Working Plan Officer, Upper Assam Circle, Jorhat. The Secretary, Forests, also in his note totally overlooked those facts and proposed for posting the applicant, Divisional Forest Officer as Working Plan Officer, Upper Assam Circle, Jorhat. The Secretary also did not take note of the fact that the respondent No.5 served in Territorial Division for six years and therefore, a suggestion was made for considering his posting in a different wing. Those considerations were, undoubtedly, relevant considerations. But, perhaps the Secretary, Forests, instead of taking note of the relevant considerations was more persuaded by the endorsement of the Minister dated 27.7.2001 in the representation of the respondent No.5 dated 27.7.2001 addressed to the Chief Conservator of Forests, a copy of which was sent to the Minister, wherein the Minister indicated his mind for posting the respondent No.5 at Dhubri. In our view the Secretary, Forests, abdicated his discretion. While yielding to the request of the respondent No.5, the authority even overlooked the conduct rules and allowed a sub-ordinate officer to trample over the rules. Service Conduct Rules command civil servants to maintain absolute integrity, devotion to duty and to do nothing which is unbecoming of a Government servant. A civil servant is entrusted with the lawful discretion and individual judgment was given a go by in this fashion.

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9. We have already mentioned about how the relieve order on transfer was modified at the instance of the respondent No.5. The authority of the respondent No.5 is somewhat also reflected in the communication sent by the Deputy Commissioner dated 12.11.2001 addressed to the applicant in Annexure V of O.A.No.440 of 2001, which reads as follows:

"The Commissioner and Secretary to Chief Minister has informed telephonically that the transfer order posting you as D.F.O., Dhubri Forest Division, Dhubri has been cancelled.

You are therefore instructed not to take over charge as D.F.O. Dhubri Division and wait for further instructions from the Government."

10. It was somewhat curious that though definite allegations on the part of the respondents, particularly respondent Nos.3 and 5 were made with sufficient particulars and they had ample opportunity and time to file their written statement the allegations against those respondents remained unanswered. Where malafides are alleged it is necessary that the persons against whom such allegations are made should come forward to answer to refute or deny such allegations, or otherwise such allegations remain unrebutted and the Court or Tribunal in such cases be constrained to accept the allegations so remaining unrebutted and unresponded on the test of probability.

11. The legality and validity of the action of the respondents is to be judged in the light of the facts emerged. The impugned action of the respondents including the order of transfer are only to be assessed in the framework of the events mentioned. As alluded earlier in exercising discretion the authority cannot preclude fair and genuine consideration. The decision making process must reflect absence of prejudice and partiality of the decision maker. The decision making process for all intents and purposes must be fair, candid and just, not arbitrary, capricious and bias. Discretion is not unfettered. Reasons given must show that the authority acted lawfully without taking into account factors those are legally irrelevant. Where a power is granted for a purpose if

it.....

it is exercised for a different purpose then it can be said that power is not validly exercised. As indicated the order of transfer dated 4.9.2001 was preceded by an earlier order dated 27.7.2001 passed by the Minister concerned for posting the respondent No.5 at Dhubri. No reasons as such is reflected as to why the respondent No.5 was chosen to be posted at Dhubri. A decision is arbitrary if it is lacking ostensible logic or comprehensible justification. We have already mentioned about the noting given in the file for posting the aforesaid respondent in a place other than Dhubri. The reasons assigned by the department in the office note cannot be said to be irrational or unfair. At least no other weighty considerations were assigned as to the posting of the respondent at Dhubri, more so when the tenure of the applicant was incomplete. No reasons were assigned at any stage for disregarding the relevant considerations mentioned in the office note those were required to be taken into account. If in the exercise of discretion, power has been influenced by considerations that cannot be taken into account or by the disregard of relevant considerations required to be taken into account, a Tribunal or Court will normally hold that power has not been validly exercised. Admittedly, it is the Government which introduced the tenure of three years. It has its own meaning. It is also in consonance with the principle of legitimate expectation. The policy of the Government generated an entitlement for legal certainty. A person should be able to rely on such representations/policies. No doubt, it can act contrary to the policy, but there must be good and weighty reasons. No reasons, not to speak of good reasons are discernible for cutting short the tenure of the applicant at Dhubri. A decision based on considerations which have given manifestly inappropriate weight on the relevant considerations is patently arbitrary in the absence of comprehensible reasons. It also goes contrary to the principles of equality enshrined in Article 14 of the Constitution, which prohibits unjust and unfair decisions amongst equals. Inconsistency of the policy may also amount to an abuse of power where it disregards the legitimate expectations. It is also violative of the equality clause. Equality and arbitrariness.....

arbitrariness cannot stand together, two antithetical images. We have also indicated that the transfer order of the applicant was stayed by order dated 9.11.2001 by the Minister and posted respondent No.5 as Working Plan Officer, Jorhat and in the light of the order a Notification was issued by the Government on 9.11.2001 modifying the transfer order dated 4.9.2001 in respect of the applicant and reposted as Divisional Forest Officer, Dhubri Division and similarly, the respondent No.5 was transferred and posted as Working Plan Officer, Upper Assam Circle, Jorhat with effect from the date he takes over charge. IN quick succession the order dated 9.11.2001 was stayed on 12.11.2001 on the telephonic instruction of the Minister on 11.11.2001 till the return of the Minister. We have mentioned about the order made by the Hon'ble Minister, Forest Department of 17.11.2001 on the body of the application for cancelling the Notification of transfer order of the respondent No.5. No reasons are discernible for the subsequent stay of the order and thereafter the said order was followed by the order of the Minister mentioned in the application of respondent No.5.

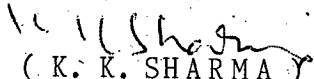
12. Indiscriminate use of power cannot be countenanced, where the case is required to be considered on its own merits. All powers have their legal limits. Decisions which are capricious or extravagant cannot be said to be legitimate - "Malafide exercise of power and arbitrariness are different lethal radiations emanating from the same vice; in fact the latter comprehends the former. Both are inhibited by Articles 14 and 16 " - as was observed by Justice P.N. Bhagwati as he then was, in E.P. Royappa, Petitioner Vs. State of Tamil Nadu and another, reported in AIR 1974 SC 555. Where the operative reason is not lawful or relevant or extraneous and inconsistent, it amounts to malafide action and hit by Articles 14 and 16 of the Constitution of India.

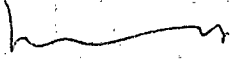
13. In the circumstances the impugned order of transfer dated 4.9.2001 is not sustainable in law and accordingly the order No.FRE.68/2001/Pt.I/3A as well as the order No.FRE.68/2001/Pt./3B are set aside and quashed. In view of our quashing of the order dated 4.9.2001 so far the transfer of the applicant as Working Plan Officer, Jorhat is concerned, the order dated 12.11.2001 referred to in O.A.No.440 of 2001 stands

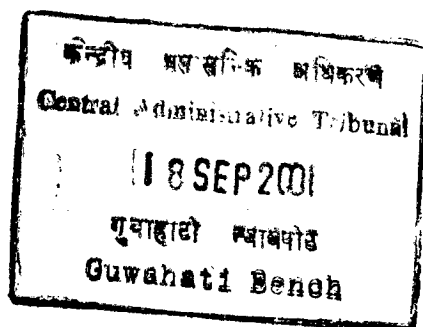
modified.....

modified. For the same reasons we do not find any merit in the application in O.A.No.443 of 2001 and accordingly the same is dismissed.

14. With the above observations all the three applications accordingly stands disposed of. No order as to costs.


(K. K. SHARMA)
ADMINISTRATIVE MEMBER


(D. N. CHOWDHURY)
VICE-CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,
GUWAHATI

O.A. NO. 379 /2001.

SRI SUSANTA NAYAK, IFS.
-Vs-
THE UNION OF INDIA AND OTHERS.

I N D E X

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Filed by :-


(ADVOCATE)

23
Filed by Applicant
through Delay; +
Admitted. 18/9/2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI, BENCH,
GUWAHATI

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

O.A.NO. 379 OF 2001

BETWEEN

Sri Susanta Nayak, IFS,
Son of Late Dr. Amarendra Nayak,
Divisional Forest Officer,
Dhubri Division, District-Dhubri. Applicant.

-Versus-

1. The Union of India,
represented by the Secretary to
the Government of India, Ministry
of Environment and Forest, New
Delhi.
2. The State of Assam, represented by
the Commissioner & Secretary to the
Govt. of Assam, Department of Forest,
Dispur, Assam.
3. The Joint Secretary to the Govt. of Assam,
Department of Forest, Dispur, Guwahati-6.
4. The Principal Chief Conservator of
Forest, Assam, Rehabari, Guwahati-781008.

Contd.....2.

5. Sri T.V.Reddy, IFS,
Divisional Forest Officer, Haltugaon
Division, Kokrajhar,
District-Kokrajhar.

..... Respondents.

DETAILS OF APPLICATION

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

The present application is directed against the order issued under Memo No.FRE.68/2001/Pt-I/3-B dated 4.9.2001 by which the Applicant has been transferred from his present place of posting in a most surreptitious, arbitrary, unfair and illegal manner.

2. JURISDICTION OF THE TRIBUNAL :

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

3. LIMITATIONS :-

The applicant declares that the present application has been filed within the Limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

Contd.....3.

S. Nayak

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, and privileges guaranteed under the Constitution of India and the laws framed thereunder.

4.2. That the Applicant is an IFS Officer and he belongs to the 1998 batch of the Assam-Meghalaya Joint Cadre of the Indian Forest Service(IFS). The applicant had initially joined service in the year 1978 on being selected to the Assam Forest Service(AFS) by the Assam Public Service Commission and was posted as working plan Officer, Kokrajhar. Thereafter, in course of his service, the applicant was, from time to time, transferred and posted at various places all over the State of Assam in which posts the Applicant had duly joined and rendered his service with utmost sincerity and without any blemish to his reputation. The applicant was selected for the IFS Cadre in the year 1998 while he was working as the Divisional Forest Officer, Central Assam Afforestation Division, Hojai.

4.3. That by an order issued by the respondent No.2 under Memo No.FRE.3/90/Pt-II/191 dated 24.4.2000 the applicant was transferred from the post of Divisional Forest Officer, Central Assam Afforestation Division,

Contd.....4.

Hojai and posted as Divisional Forest Officer, Dhubri Division. Pursuant to the aforesaid order dated 24.4.2000, the applicant took over charge of the Dhubri Division on 7.7.2000.

A copy of the aforesaid order dated 24.4.2000 is annexed hereto and marked as ANNEXURE-I.

4.4. That while the applicant was rendering his services as Divisional Forest Officer (here-in-after referred to as DFO) Dhubri, by a letter No.FRE.52/96/203 dated 27.7.2001 issued by the respondent No.3 the applicant along with three other IFS Officers were asked to attend a professional skills upgradation training to be held from 14.8.2001 for a period of 10(ten) weeks at the Indira Gandhi National Forest Academy, Dehradun. Be it stated herein that participation in the said Training Programme to be held at Dehradun was made compulsory for all the four officers including the applicant.

A copy of the letter dated 27.7.2001 is annexed hereto and marked as ANNEXURE-II.

4.5. That pursuant to the aforesaid letter dated 27.7.2001, the applicant handed over charge of the

7.7.2000
Jai A DFO
Dhubri Divn

P. Nayak

Dhubri Division on 13.8.2001 for a period of ten weeks to Sri G.N.Bezbaruah, the Seniormost Assistant Conservator of Forest of the Division, as directed by the said letter dated 27.7.2001 and proceeded to Dehradun for attending the said Training Programming.

4.6. That while the applicant was undergoing training at Dehradun, as aforesaid by a Notification issued by the respondent No.3 under Memo No.FRE.68/2001/Pt.I/3-B dated 4.9.2001, the applicant was transferred from the post of DFO Dhubri Division and posted as Working Plan Officer, Upper Assam Circle, Jorhat and in his place the respondent No.5 who is presently holding the post of Divisional Forest Officer, Haltugaon Kokrajhar was posted.

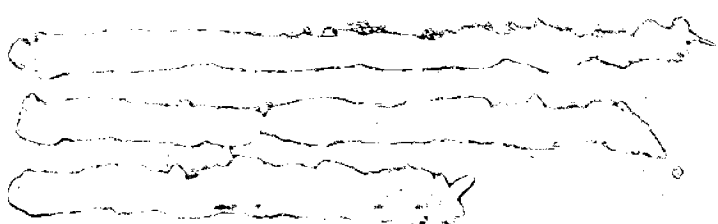
A copy of the Notification dated 4.9.2001 is annexed hereto and marked as ANNEXURE-III.

4.7. That as the aforesaid transfer order dated 4.9.2001 was issued in a most surreptitious manner behind the back of the applicant while he was undergoing the Training programme at Dehradun, hence the applicant had no knowlege of the said order untill 8.9.2001. However, the applicant was shocked to learn about the said transfer order dated 4.9.2001 particularly in view of the fact that he had merely

- 6 -

completed a little over one year's service in his present place of posting at Dhubri.

4.8. That immediately having come to know about the impugned order dated 4.9.2001, the applicant rushed back to Dhubri on 10.9.2001 and ^{his wife} submitted a written representation dated 11.9.2001 to the respondent authorities praying for stay of the impugned transfer order dated 4.9.2001 inter-alia on the grounds that he ^{husband.} had merely completed one year in the present place of posting and his minor daughter was in her mid-academic sessions. Hence he should be allowed to complete his full term in his present place of posting. However, the said representation submitted by the applicant has evoked no response till today.



4.9. That in the meanwhile, the respondent No.5 who had been transferred and posted in place of the applicant by the impugned order dated 4.9.2001 is claiming to have purportedly taken over charge of the Office of D.F.O, Dhubri Division in the morning of 10.9.2001 from Sri G.N.Bezbaruah, Assistant Conservator of Forest, even while the applicant was away from Dhubri

S. Noyak

Contd.....7.

in connection with the aforesaid training programme. Be it stated herein that the applicant had earlier handed over charge of Dhubri Division to Sri G.N. Bezbaruah for a period of 10 (ten) weeks only for the purpose of attending ~~on~~ Training programme for IFS Officers held at Dehradun.

4.10. That by the impugned notification dated 4.9.2001 as many as four officers including the present applicant were transferred wherein one Sri P. Roy, IFS, who was transferred and posted in place of the respondent No.5 was supposed to moved first ^{and} on relief by Sri P. Roy, the respondent No.5 was to join at Dhubri. However, the applicant has learnt from reliable sources that Sri P. Roy is yet to relieve the respondent No.5 from his present post of DFO, Haltugaon Division, Kokrajhar. But notwithstanding that by going against the very transfer order dated 4.9.2001, the above-named respondent No.5 had made an attempt to forcefully and illegally take over charge of the DFO, Dhubri Division even prior to ^{his} ~~his~~ relief from Kokrajhar and the respondent No.5 is now claiming to have succeeded in his illegal attempt of taking over charge of the said Division on 10.9.2001 which date falls on a Sunday.

S. Nayak

4.11. That as already stated above the impugned transfer order dated 4.9.2001 has been issued in a most

Contd.....8.

surreptitious manner behind the back of the applicant while he was attending a Training Programme ~~and~~ at Dehradun. The manner in which the said order has been issued in so far as the applicant is concerned, and the immediate forceful and illegal follow up actions taken by the respondent No.5 for implementation of the said transfer order smacks of a well laid out design to oust the applicant from his present post in a most unfair, arbitrary and illegal manner so much so that the applicant has been precluded from making timely representations before the respondent authorities.

4.12. That the applicant respectfully begs to state that the claim of the respondent No.5 regarding the purported taking over of charge on 10.9.2001 is not supported by any Govt. order to that effect nor does the same has any reasonable basis. Further, 10.9.2001 being a Sunday, the claim of the respondent No.5 as regards taking over charge on that day is absolutely illegal and cannot have the sanction of law.

4.13. That the applicant states that as per the policy decision of the Government the normal tenure of posting at one place is three years and if for any reason an incumbent is required to be transferred before completion of three years, then the reasons for such transfer is required to be recorded. However, in the case of the Applicant no such

Contd.....9.

- 9 -

reasons whatsoever, has been assigned and he has been made the victim of the circumstances only for accomodating the respondent No.5.

4.14. That the applicant further states that the respondent No.5 on the basis of his purported taking over of charge on 10.9.2001 is now making preparation, to enter the official quarter of the D.F.O, Dhubri which is presently in the occupation of the Applicant and his family. If the respondent No.5 succeeds in forcibly occupying the official quarter on the basis of such purported taking over charge then the applicant and his family members would suffer irreparable loss and injury.

Further in view of the confusion created as a result of the purported taking over charge as claimed by the respondent No.5, there is a strong possibility that the applicant might be deprived of his salary and allowance on due time. The applicant, therefore, prays for the protection of this Hon'ble Tribunal in this regard.

4.15. That the Applicant states that going by sequence of events leading to the order dated 4.9.2001 and the purported taking over of charge as claimed by the respondent No.5 it is crystal clear that the

Contd.....10.

aforesaid transfer order dated 4.9.2001 is politically motivated and is founded on arbitrary, illegal and colourable exercise of power for collateral purposes. The same has not been issued in public interest but only to accomodate the respondent No.5 at the cost of the Applicant. The transfer order reflects both malice in law and ~~fact~~ as well as facts and the same has been issued with an oblique purpose to reach ^{harassment and} injury to the applicant. Further it is also stated that in the instant case no such urgency is there so as to warrant immediate transfer of the applicant from Dhubri. Hence this is a fit case where this Hon'ble Tribunal may be pleased to interfere with the order of transfer dated 4.9.2001 and pass appropriate interim orders.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1. For that prima facie the impugned order of transfer of the applicant is not sustainable in law and hence is liable to be set aside and quashed.

5.2. For that the impugned order not having been issued in any public interest but only with a view to accomodate the respondent No.5, the same is liable to be quashed and set aside.

5.3. For that the impugned order dated 4.2.2001 is politically motivated and the same has been issued

Contd.....11.

- 11 -

malafide and in illegal and arbitrary exercise of powers for achieving collateral purposes and hence the same is liable to be set aside.

5.4. For that the impugned order of transfer is unreasonable, unfair, capricious and violative of the applicant's fundamental rights guaranteed under Article 14 and 16 of the Constitution of India. The applicant has been discriminated without any reasonable basis or justification and as such the impugned order is liable to be quashed and set aside.

5.5. For that the impugned order of transfer being in violation of the Government professed norms in the matter of transfer of officials, the same is not sustainable in law.

5.6. For that there being malice in law as well as fact it is a fit case for this Hon'ble Tribunal to interfere with the impugned order.

5.7. For that in any view of the matter the impugned order is not sustainable in law.

The Applicant crave leave of this Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of this case.

Contd.....12.

S. Noyal

6. DETAILS OF THE REMEDIES EXHAUSTED :

The applicant declares that he has no other alternative and efficacious remedy except by way of filing this application. He is seeking urgent and immediate relief.

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

The applicant declares that no other application, Writ petition or suit in respect of the subject matter of the instant application is filed before any other Court, Authority or any other Bench of this Hon'ble Tribunal 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 applicant prays that this application be admitted, records be called for and notices be issued to the respondents to show cause as to why the reliefs sought for in this application should not be granted and upon hearing the parties and on perusal of the records be pleased to grant the following reliefs.

8.1. To set aside and quash the (Annexure-III) Notification dated 4.9.2001 and allow the applicant to continue in the present post.

Contd....13.

Dr. N. K.

8.2. Cost of the application.

8.3. Any other relief/reliefs to which the Applicant is deemed entitled to under the law and equity.

9. INTERIM ORDER PRAYED FOR :

Under the facts and circumstances of the case of the Applicant, it is most respectfully prayed that the Hon'ble Tribunal may be pleased to stay/suspend the effect and operation of the Annexure-III Notification dated 4.9.2001 in so far as the applicant is concerned with a further direction that the applicant be allowed to continue in his present post.

10.

The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O :

J-Nayak

i)x	I.P.O. NO	: 66788305
ii)	Date	: 17-9-2001
iii)	Payable at	: Guwahati.

12. LIST OF ENCLOSURES :

As stated in the index.

Contd.....14.

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

I, Sri Susanta Nayak, aged about 46 years, Son of Late Dr. Amarendra Nayak, presently working as Divisional Forest Officer, Dhubri Division, Dhubri do hereby solemnly affirm and verify that the statements made in paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10. are true to my knowledge, those in paragraphs 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, are true to my information derived from records and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this Verification on this the 18th day of September, 2001 at Guwahati.

Deponent

Susanta Nayak

GOVERNMENT OF ASSAM
FOREST DEPARTMENT :: DISPUR

ORDERS BY THE GOVERNOR
NOTIFICATION

Dated Dispur, the 24th April, 2000

NO.FRE.3/90/Pt.II/191 : The transfer of Shri S. Nayak, IFS, Divisional Forest Officer, Central Assam Afforestation Division, Hojai as Divisional Forest Officer, Dhubri Division made vide Notification No.FRE.8/96/Pt/71-B, dtd.29.11.99 which was stayed vide Notification No.FRE.8/96/Pt/75, dtd. 6-1-2000 is hereby vacated.

NO.FRE.3/90/Pt.II/191-A : In modification of this department Notification No.FRE.8/96/Pt/67-D, dtd. 5-11-99, Shri A.C. Das, Divisional Forest Officer, Dhubri Division, Dhubri is in the interest of public service transferred and posted as Divisional Forest Officer, Central Assam Afforestation Division, Hojai with effect from the date of taking over charge vice Shri S. Nayak, IFS transferred.

Sd/-A.B.Md.Eunus,
Joint Secretary to the Govt. of Assam,
Forest Department, Dispur

Memo No.FRE.3/90/Pt-II/191-B, Dated Dispur, the 24th April, 2000

Copy to :-

1. The Accountant General (A&E) Assam, Beltola, Guwahati-29.
2. The Principal Chief Conservator of Forests, Assam, Guwahati-8.
3. The Chief Conservator of Forests (T) Assam, Panbazar, Guwahati-1
4. The Chief Conservator of Forests (SF) Assam, Guwahati-24.
5. The Chief Conservator of Forests (WL) Assam, Guwahati-8.
6. The Chief Conservator of Forests, Research, Education and Working Plan, Assam, Guwahati-24.
7. The Conservator of Forests concerned.
8. Shri S. Nayak, IFS, D.F.O., Central Assam Afforestation Division, Hojai.
9. Shri A.C. Das, D.F.O., Dhubri Division, Dhubri. He will make first move.
10. Shri J. Sarma, D.F.O., Kamrup West Division, Bamunigaon
11. The Senior most Asstt. Conservator of Forests, Dhubri Division, Dhubri.
12. P.S. to the Chief Minister (Minister in-charge of Forest) for information of the Chief Minister.
13. P.S. to the Minister of State Forest for information of the Minister.
14. The Deputy Director, Assam Govt. Press, Bamunimaidan, Guwahati-21 for publication in the next issue of the Assam Gazette.
15. Personal file of the officers.

By order etc.,

Joint Secretary to the Govt. of Assam,
Forest Department, Dispur

Regd. No. 2591

4/5/2000

TRAINING
FIXED DATE 14-8-2001GOVERNMENT OF ASSAM
FOREST DEPARTMENT ::DISPUR

NO. FRE. 52/96/203,

Dated Dispur, the 27th July, 2001.

From : Shri A.B.Md. Eunus, ACS,
Joint Secretary to the Govt. of Assam.TO : The Principal Chief Conservator of Forests,
Assam, Rehabari, Guwahati-8.Sub : I.F.S. - Professional Skill upgradation training
for I.F.S. officers promoted from S.F.S. at
Indira Gandhi National Forest Academy, Dehradun
from 14-8-2001.

Ref : Your letter No-FG.24/34/IFS/Training, dtd. 29.6.2001.

Sir,

With reference to the letter cited above, I am directed to say that following 4(four) I.F.S. are allowed to attend the abovementioned training at Indira Gandhi National Forest Academy, Dehradun scheduled to be held from 14-8-2001 for a period of 10(ten) weeks.

- 1) Shri B.B. Nobia, IFS, DCF(Publicity), attached to the Principal Chief Conservator of Forests, Assam, Guwahati-8.
- 2) Shri S. Nayak, IFS, Divisional Forest Officer, Dhubri Division, Dhubri.
- 3) Shri A.S. Laskar, IFS, Divisional Forest Officer, Hailakandi Division, Hailakandi.
- 4) Shri P. Ketoky, IFS, Instructor, North East Forest Rangers' College, Jalukbari, Guwahati-14.

Shri S. Nayak, Divisional Forest Officer, Dhubri Division, Dhubri and Shri A.S. Laskar, Divisional Forest Officer, Hailakandi Division, Hailakandi will hand over charge to their respective Senior most A.C.F. of the Division.

An amount of Rs.1,20,000/- only has already been sanctioned vide Govt. letter No.FRE.52/96/198, dtd. 19-7-2001 being the course fee in respect of the 4 officers @Rs.30,000/- per participant. They will have to undergo the training without fail and no other chance will be given to them as informed by the Ministry of Environment and Forests. In case any one fails to join, necessary action will be taken under relevant rules.

Yours faithfully,

27/7/2001
Joint Secretary to the Govt. of Assam,
Forest Department, Dispur

Contd...p/2...

Memo No. FRE. 62/96/203-A, Dated Dispur, the 27th July, 2001.

Copy to :-

1. The Director, Indira Gandhi National Forest Academy, Dehradun, P.O. New Forest, Dehradun-248006.
2. Shri R. Sanhwal, Under Secretary to the Govt. of India, Ministry of Environment and Forests, Paryavaran Bhawan, C.G.O. Complex, Lodhi Road, New Delhi-110003.
3. The Chief Conservator of Forests (Territorial) Assam, Panbazar, Guwahati-1.
4. The Conservator of Forests, Western Assam Circle, Kokrajhar/Southern Assam Circle, Silchar.
5. The Principal, North East Forest Rangers' College, Jalukbari, Guwahati-14.
6. Officers concerned. He is requested to attend the training without fail.

By order etc.,

[Signature]
Joint Secretary to the Govt. of Assam,
In Forest Department, Dispur

Attested
[Signature]

GOVERNMENT OF ASSAM
FOREST DEPARTMENT : : : : : DISPUR.

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Dispur, the 4th September, 2001.

NO.FRE. 68/2001/Pt.I/3 :- Shri P. Roy, IFS, Deputy Director, Manas Tiger Project, Barpeta Road is in the interest of public service transferred and posted as Divisional Forest Officer, Hailuagaon Division, Kokrajhar, with effect from the date of taking over charge vice Shri T.V. Reddy, IFS transferred.

Shri P. Roy, IFS is also allowed to hold the charge of the Working Plan Division, Kokrajhar in addition to his own duties.

NO.FRE. 68/2001/Pt.I/3-A :- On relief, in the interest of public service Shri T.V. Reddy, IFS, Divisional Forest Officer, Hailuagaon Division, Kokrajhar is transferred and posted as Divisional Forest Officer, Dhubri Division, Dhubri with effect from the date of taking over charge vice Shri S. Nayak, IFS transferred.

Shri G.N. Bozbaruah, ACF is hereby relieved of the dual charge.

NO.FRE. 68/2001/Pt.I/3-B :- Shri S. Nayak, IFS, Divisional Forest Officer, Dhubri Division, Dhubri is in the interest of public service transferred and posted as Working Plan Officer, Upper Assam Circle, Jorhat with effect from the date of taking over charge vice Shri M.K. Yadav, IFS already transferred. The Divisional Forest Officer, Jorhat Division is hereby relieved of the additional charge of Working Plan Officer.

NO.FRE. 68/2001/Pt.I/3-C :- On having been released by Political (Vigilance Cell) Department from the post of Divisional Forest Officer, Bureau of Investigation and Economic Offences, Assam, Guwahati Shri R. C. Goswami, is in the interest of public service transferred and posted as Deputy Director, Manas Tiger Project, Barpeta Road with effect from the date of taking over charge vice Shri P. Roy, IFS transferred.

Sd/- A.B. Md. Eunus,
Joint Secretary to the Govt. of Assam,
Forest Department, Dispur.

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Accepted

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Memo No. FRE. 68/2001/Pt.I/3-D, Dated Dispur, the 4th September, 2001.

Copy to :-

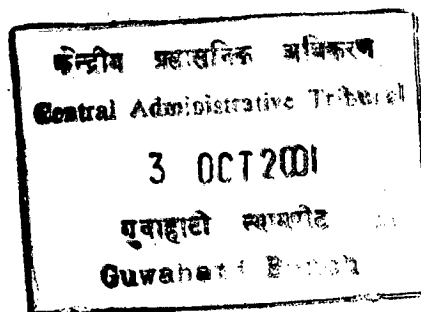
- 1) The Accountant General (A&E), Assam, Naldimgaon, Daltola, Guwahati-29.
- 2) The Principal Chief Conservator of Forests, Assam, Rahabari, Guwahati-8.
- 3) The Chief Conservator of Forests (Wildlife), Assam, Rahabari, Guwahati-0.
- 4) The Chief Conservator of Forests (Territorial), Assam, Panbazar, Guwahati-1.
- 5) The Chief Conservator of Forests (Research, Education and Working Plan), Assam, Guwahati-24.
- 6) The Chief Conservator of Forests (Social Forestry), Assam, Zoo Marginal Road, Guwahati- 24.
- 7) The Conservator of Forests, Western Assam Circle, Kokrajhar/ Central Assam Circle, Guwahati-1/ Eastern Assam Circle, Jorhat/ Field Director, Tiger Project, Barpeta Road.
- 8) The Conservator of Forests,
- 9) Shri T.V. Raddy, IFS, Divisional Forest Officer, Maltagaon Division, Kokrajhar.
- 10) Shri S. Nayak, IFS, Divisional Forest Officer, Dhubri Division, Dhubri.
- 11) Shri M.K. Yadav, IFS, Working Plan Officer, Upper Assam Circle, Jorhat.
- 12) Shri M.N. Dura, Divisional Forest Officer, Jorhat Division, Jorhat.
- 13) Shri R.L. Goswami, Divisional Forest Officer, Bureau of Investigation and Economic Offences, Assam, Guwahati.
- 14) Shri P. Roy, IFS, Deputy Director, Manas Tiger Project, Barpeta Road.
- 15) Shri G.N. Bezbaruah, ACF attached to Divisional Forest Officer, Dhubri Division, Dhubri.
- 16) The P.S. to the Minister, Forest, Assam, Dispur, Guwahati-6 for information of the Minister.
- 17) The P.S. to the Chief Secretary, Assam, Dispur, Guwahati-6 for information of the Chief Secretary.
- 18) The Deputy Director, Assam Govt. Press, Damanimaldam, Guwahati-21 for favour of publication of the above Notification in the next issue of the Assam Gazette.
- 19) Personal File of the officers.

By order etc.,

Joint Secretary to the Govt. of Assam,
Forest Department, Dispur.

.....

Attended
DS



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

O.A No. 379/2001

Shri Susanta Nayak

...Applicant

versus

Union of India & Ors.

...Respondents

Written statement on behalf of Respondent No. 5
Shri T.V. Reddy.

The above named Respondent begs to state as follows:

1. That the answering Respondent has gone through the copy of the OA as served on him and he has understood the contents thereof. Save and except the statements which are specifically admitted hereinbelow, other statements made in the OA are categorically denied. Further the statements which are not born on records are also denied. 2. That with regard to the statements made in paragraphs 4.1 to 4.6 of the OA, the answering Respondent does not admit anything contrary to the relevant records.

3. That with regard to the statements made in paragraph 4.7 of the OA, the answering Respondent denies that the order of transfer dated 4.9.2001 has been issued in a most surreptitious manner behind the back of the Applicant. As regards the contention that the Applicant has merely completed a little over one year's of service at Dhubri, the answering Respondent begs to

state that he (the Respondent) has served about 5 years at Kokrajhar as DFO, Haltugaon Division. He was also holding the additional charge of Working Plan Division, Kokrajhar. It may not be out of place to mention here that a posting in a place like Kokrajhar is always considered to be a hard posting in view of the situation prevailing there. The Respondent had to serve there under hostile circumstances. It was only after completion of nearly 5 years of service in such a difficult station, the Respondent has been transferred to his present place of posting at Dhubri. Be it further stated here that the answering Respondent is senior to the Applicant, their year of allotment being 1987 and 1998 respectively.

4. That with regard to the statements made in paragraph 4.8 of the OA, while denying the contentions raised therein, the Respondent reiterates and reaffirms the statements made hereinabove. As regards the contention of completing only one year of service at Dhubri by the Applicant, the answering Respondent states that a Government officer can always be transferred in the exigencies of service and in administrative necessity and the same cannot be faulted with unless the same is founded on malafide exercise of power and/or in violation of any statutory rules. None of the circumstances exist in the instant case and the transfer order in question is a routine transfer and has been made in the exigencies of service and in the interest of the administration. As regards the plea of "mid-academic session" of his minor daughter, the

answering Respondent states that to the best of his knowledge, the daughter of the Applicant is studying in a residential school at Kalimpong. It is denied that the applicant has submitted any representation as alleged by him.

5. That while denying the allegations made in paragraphs 4.9 and 4.10 of the OA, the answering Respondent begs to state that it is a fact that he has taken over charge of the Dhubri Division on 10-9-2001. In this connection it is stated that on 10-9-2001, the answering Respondent was at Dhubri on official duty as he was summoned by the Chief Conservator of Forest (Territorial) and the Conservator of Forest, Western Assam Circle in connection with the visit of the Forest Minister to the places like Dhubri, Bongaigaon and Kokrajhar which fall under the Western Assam Circle. The applicant as per the said direction of the said higher authority and in the exigencies of service had gone to Dhubri and was at Dhubri on 10-9-2001. On the same date, the answering Respondent took over charge of the post of DFO, Dhubri Division as per advice of the said higher authorities and in the presence of the Conservator of Forest. Such a course of action had to be adopted in view of the absence of regular DFO at Dhubri. Be it stated here that Dhubri is an inter-state border division. Thus it is denied that the respondent took over charge forcefully and illegally.

As regards the release of the answering Respondent from Kokrajhar, it is stated that the order

of transfer does not indicate anything in this regard. On the other hand by the order of transfer itself the ACF Sri G.N. Bezbaruah who was holding the charge of Dhubri Division, has been relieved of his dual charge and accordingly the Respondent took over charge of the same on 10-9-2001 and he has been functioning as such since then with due intimation to the Government in the Forest Department and the PCCF, Assam. It is denied that 10-9-2001 was a Sunday, which infact was a Monday. However, it is stated that handing over and taking over of charge is permissible even on holidays in an executive post like DFO.

6. That the answering Respondent categorically denies the allegations made in paragraph 4.11 and 4.12 of the OA and reiterates and reaffirms the statements made hereinabove. As explained above there is no forcefull and illegal follow up action on the part of the Respondent as has been alleged. There is also no any well laid out design to oust the Applicant from his post in a most unfair, arbitrary and illegal manner as has been alleged. The statement that the Applicant has been precluded from making timely representation is totally incorrect inasmuch as he is at liberty to make representation and as per his own statement made in paragraph 4.8 of the OA, he has infact made a representation which runs counter to his statement. It will be pertinent to mention here that after the Respondent took over charge of Dhubri Division as per the arrangement made as stated above, the Government of Assam in the Forest Department has by its letter dated

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13.9.2001 allowed the Respondent to hand over charge of Haltugan Division, Kokrajhar to one Shri B.N. Patiri, DFO, Social Forestry Division, Kokrajhar which the Respondent has accordingly done on 18.9.2001 and the same has been intimated by letter dated 18.9.2001. This was only a formal follow up action pursuant to taking over charge of Dhubri Division by the Respondent on 10.9.2001.

Copies of the letters dated 13.9.2001 and 18.9.2001 are annexed as Annexure-1 and 2 respectively.

7. That the answering Respondent denies the correctness of the statements made in paragraphs 4.12 and 4.13 of the OA. The position has been fully explained above. There is no illegality in taking over charge on 10.9.2001 and the same was done as per the instruction of the higher authorities and in the exigencies of service. It is further reiterated that 10.9.2001 was not a Sunday but was Monday. Be that as it may, there is no bar in taking over charge even on holidays involving executive posts like DFO. As regards the plea of completion of tenure of posting, the answering Respondent states that the same is not mandatory and a Government officer can always be transferred in the interest of the administration and in the exigencies of service.

8. That with regard to the statements made in paragraph 4.14 of the OA, the answering Respondent states that he has not made any preparation to enter into the official

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accommodation as has been alleged. Presently the said accommodation is under lock and key and is not under any use since the family of the Applicant is not residing there. On the other hand the Respondent has hired a rented house and staying in the said rented house with his family consisting of his wife and two minor children. Arrangements have also been made for admission of the children of the Respondent at Dhubri. This being the position the interim order passed by this Hon'ble Tribunal as regards the occupation of the quarter by the Applicant is required to be vacated. In case of any genuine difficulty, arrangement can also be made by way of accommodating the Applicant to keep his luggage if any, in a portion of the said official accommodation under his lock and key, till such time he completes his training course at Dehradun.

9. That the answering Respondent categorically denies the correctness of the statements made in paragraph 4.15 of the OA. It is denied that the order of transfer is politically motivated and is founded on arbitrary, illegal and colourable exercise of power for collateral purpose. It is also denied that the transfer order has not been issued in public interest, but has been issued to accommodate the Respondent. It is also denied that the transfer order reflects both malice in law as well as of facts. After serving at Kokrajhar nearly for 5 years, the Applicant has joined his new place of posting at Dhubri and there is no illegality in his such transfer.

10. That the answering Respondent submits that the impugned order of transfer having not been issued in malafide exercise of power or in violation of any statutory rule, the Hon'ble Tribunal will be reluctant to interfere with the same. None of the grounds urged on behalf of the Applicant in para 5 of the OA is sustainable in law and accordingly the Applicant is not entitled to the reliefs sought for in the OA. The Applicant has preferred the OA entirely on a wrong notion of the matter and the same has been preferred by way of taking a chance for favourable consideration. Under the facts and circumstances the OA is not maintainable and liable to be dismissed in limine and with cost.

Verification

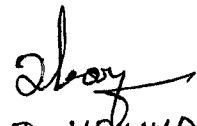
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VERIFICATION

I Shri T.V. Reddy, Divisional Forest Officer, Dhubri Division, Dhubri, son of late T. Gopal Reddy, aged about 41 years, the Respondent No. 5 in the above noted O.A. No. 379/2001, do hereby verify and state that the statement made in paragraphs 1,2,3,4,5,7,8,9 and 10 are true to my knowledge and those made in paragraphs 6 are being matters of records are true to my information.

And I sign this verification on this 2nd day of October, 2001.


(T. VENUDDHAR REDDY)

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19/9/2001 28

ANNEXURE - 1

GOVERNMENT OF ASSAM
FOREST DEPARTMENT : : : : : DISPUR.
EEEEEEEEEE

NO.FRE. 68/2001/Pt/15. Dated Dispur, the 13th September, 2001.

From :- Shri A.B. Md. Eunus, ACS,
Joint Secy. to the Govt. of Assam.

To :- Shri T.V. Reddy, IFS,
Divisional Forest Officer, Haltugan Division,
Kokrajhar.

Sub :- Govt. Notification No.FRE.68/2001/Pt.1/3-A,
dtd. 4.9.2001 - Handing over charge.

Ref :- Your letter dtd. 5.9.2001.

Sir,

With reference to the letter cited above, I am directed to say that you are hereby allowed to hand over charge of the Haltugan Division and Working Plan Division, Kokrajhar to Shri B.N. Patiri, Divisional Forest Officer, Social Forestry Division, Kokrajhar.

Yours faithfully, -

Joint Secretary to the Govt. of Assam,
Forest Department, Dispur.

Memo No.FRE. 68/2001/Pt/15-A, Dated Dispur, the 13th September, 2001.

Copy to :-

- 1) The Accountant General (A&E), Assam, Maidamgaon, Beltola, Guwahati-29.
- 2) The Principal Chief Conservator of Forests, Assam, Rahabari, Guwahati-8.
- 3) The Chief Conservator of Forests (Territorial), Assam, Panbazar, Guwahati-1.
- 4) The Chief Conservator of Forests (Social Forestry), Assam, Zoo Harengi Road, Guwahati-24.
- 5) The Conservator of Forests, Western Assam Circle, Kokrajhar.
- 6) The Conservator of Forests, Lower Assam Social Forestry Circle, Bongaijgon.
- 7) Shri B.N. Patiri, Divisional Forest Officer, Social Forestry Division, Kokrajhar. He is allowed to take over charge of Haltugan Division and Working Plan Office, Kokrajhar from Shri T.V. Reddy, IFS and to hold till joining of officer posted on regular basis.
- 8) Personal File of the officers.

By order etc.,

Joint Secretary to the Govt. of Assam,
Forest Department, Dispur.

Attested

Advocate.

OFFICE OF THE DIVISIONAL FOREST OFFICER, HALTUGAON DIVISION, KOKRAJHAR.

Memo No. B/13/50/Eatt/Charge/2311-4

Dated- 18/9/2001

To,

The Commissioner and Secretary
the Govt. of Assam, Forest Deptt.,
Assam, Dispur, Guwahati-6.

Sub :-

Handing over/Taking over charge of Divisional
Forest Officer, Haltugan Division, Kokrajhar.

Ref :-

Govt. Letter No. FRE.68/2001/Pt/15, dt. 13.9.2001.


Sir,

In accordance to the above quoted letter I
have the honour to inform you that I have taken over the charge
the office of the Divisional Forest Officer, Haltugan Division
Kokrajhar from Sri T.V.Reddy, IFS on the forenoon/afternoon of
18th Sept/2001 as per ^{Govt.} G.O.P.B. Order quoted under reference.

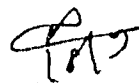
The certificate of transfer of charge is
enclosed herewith for favour of your kind information and
necessary action.

Encls :- As above.

Yours faithfully,


Divisional Forest Officer,
Haltugan Division, Kokrajhar.

Copy togetherwith a copy of handing over and
taking over of charge of the Divisional Forest Officer, Kokrajhar
forwarded to the Accountant General (A&E), Assam, Belitola, Guwahati
28 for favour of his kind information and necessary action.


Divisional Forest Officer,
Haltugan Division, Kokrajhar.

Memo No. B/13/50/Eatt/Charge/2311-4

Dated- 18/9/2001

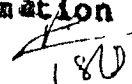
Copy to : 1. The Principal Chief Conservator of
Forests, Assam, Rahaberi, Guwahati-8.

2. The Chief Conservator of Forests (T), Assam, K
Kocharihat, Guwahati-1.

3. The Conservator of Forests, Western Assam
Circle, Kokrajhar for favour of their kind information and
necessary action.

Attested

Advocate.


Divisional Forest Officer,
Haltugan Divn, Kokrajhar.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH
D.A. No. 379/2001

Filed by :-
State of Assam &
--- Respondent nos
2 and 3
through
Mr. Alok Khare
Joint Secy.
Govt. of Assam
C.A.T. 19/12/01

In the matter of :

D.A. No. 379/2001,

Sri Susanta Nayak

..... Applicant

-Vs-

Union of India and others

..... Respondents.

- AND -

In the matter of :

Written Statement on behalf of the
State of Assam, the respondent No. 2
and the Joint Secretary to the Govt.
of Assam, Forest Department, the
respondent No. 3 in the above D.A.
No. 379/2001.

(Written Statement on behalf of the Respondents
Nos. 2 and 3 to the application filed by the
applicant).

I, Sri Alok Khare Son of Shri D. C.
Khare at present, Joint Secretary to the Govt.
of Assam, Forest Department, Dispur, Guwahati-6
do hereby solemnly state as follows :-

1. That I am the Joint Secretary to the
Government of Assam, Forest Department. A copy
of the above application had been served upon
me. I perused the same and understood the
contents thereof. I am acquainted with the facts
and circumstances of the case. I do not admit
any of the allegations/averments made in the

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the application which are not supported by records. Any of the statements which are not specifically admitted hereinafter are to be deemed as desired. I am also authorised to file this Written Statement on behalf of the Respondent No.2.

2. That in regard to the statements made in paragraph 4.1 of the application the answering respondent has nothing to make comment on it.

3. That in regard to the statements made in paragraph 4.2 of the application, it is stated that the applicant was initially appointed as State Forest Service Officer. Thereafter he was appointed to Indian Forest Service in the year of 2000 by way of promotion. The year of allotment of the applicant is yet to be assigned.

A copy of the Government Notification dated 6-3-2000 is annexed hereto and marked as Annexure-'A'.

4. That in regard to the statements made in paragraphs 4.3, 4.4, 4.5, and 4.6 the humble respondent admitted the statements made thereon.

5. That in regard to the statements made in paragraph 4.7 of the applications the humble answering respondent begs to state that the transfer order of the applicant was made purely on administrative reasons and in the interest of public service.

It is a fact that the applicant has completed one year 2 months on the date of issuance of his transfer order dated 4-9-2001.

Contd...P/3..

6. That in regard to the statements made in paragraph 4.8 of the application the answering respondent begs to state that the transfer order of the applicant dt. 4.9.2001 has been modified vide notification dt. 9.11.2001 under No. FRE. 68/2001/Pt/22 and the applicant was re-posted at Dhubri Division and T.V. Reddy I.F.S. has been transferred from Dhubri Division to Jorhat as Working Plan Officer.

Considering the representation of Smt. G. Nayak W/O Sri S. Nayak the Govt. initially modified the order dt. 4-9-2001 vide order dt. 9.11.2001 but reviewed the same and issued orders vide notification dt. 12.11.2001 staying the order dt. 9.11.2001 on representation from Sri T.V. Reddy on the ground that he took over the Charge of Divisional Forest Officer, Dhubri Division, Dhubri on 10.9.2001 after serving for nearly 5 years in a difficult place like Kokrajhar as Divisional Forest Officer, Haltugaon Division, Kokrajhar and shifted his family to Dhubri.

A copy of the modification order dt. 9-11-2001 and copy of notification No. FRE. 68/2001/Pt/24, dt. 12-11-2001 are annexed hereto and marked as Annexure-'B'.

7. That in regard to the statements made in paragraph 4.9 of the application it is stated that the Respondent No. 5 Sri T.V. Reddy has taken over charge of Dhubri Division on 10-9-2001 (FN) from Sri G.N. Bezbaruah, Asstt. Conservator of Forests who was additional charge

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charge of Divisional Forest Officer, Dhubri Division, Dhubri since the applicant was in training at Dehra-Dun.

A photo copy of taking over charge is annexed hereto and marked as Annexure-C.

8. That in regard to the statements made in paragraph 4.10 of the application the answering respondent begs to state that the Respondent No.5 Sri Reddy handed over charge of Haltugaon Division, Kokrajhar on 18-9-2001 to Sri B.N. Patiri, Divisional Forest Officer, Kokrajhar (Social Forestry) Division, Kokrajhar.

9. That in regard to the statements made in paragraphs 4.11, 4.12 and 4.13 of the application it is stated that the Government of Assam, Forest Department issued an order dt. 12.11.2001 under No.FRE.68/2001/Pt/24 whereby stayed the earlier modification order dt. 9.11.2001 under No.FRE.68/2001/Pt/22, and No.FRE.68/2001/Pt/22-A.

Against the above stay order the applicant approached the Hon'ble Central Administrative Tribunal, Guwahati Bench by filing an original application being No.440/2001. In the said application the Hon'ble Tribunal was pleased to pass an order dt.15.11.2001 by issuing notice and making returnable by two weeks. Further, the Hon'ble Tribunal was pleased to suspend the operation of order No.FRE.68/2001/Pt/24 dated 12.11.2001 till the next date.

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Copy of the stay of transfer
(modification) order dt. 12-11-2001 issued
by the Forest Department , Govt. of Assam
is annexed herewith and marked as
Annexure-D.

10. That in regard to the statements made in paragraph 4.14 of the application the Hon'ble Central Administrative Tribunal has already passed an order dt. 19.9.2001 allowing the applicant to occupy the official quarter in which family members are staying at Dhubri. This order dt. 19.9.2001 of this Hon'ble Tribunal will be strictly complied with.

11. That in regard to the statements made in paragraph 4.15 of the application it is stated that the transfer of a Government employee is a condition of service. The Government employees whose services are transferable are required to serve at any place in the interest of public service and administrative exigency. Normally, the Government employees should not be transferred before completion of 3 years but in exigency of services and in the interest of public service one may be transferred before completion of the said period of 3 years.

12. That the answering respondent respectfully submits that none of the grounds mentioned in the application is valid ground of law.

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

I, Sri Alok Khare, Joint Secretary to the Govt. of Assam, Forest Department do hereby state that the statements made in paragraphs 1,2,3,4,5,7, 8 and 10 are true to my knowledge and those made in paragraphs 6 and 9 are true to my information being matters of records which I believe to be true and the rests are humble submissions before this Honble Tribunal.

I have not suppressed any material fact. I have signed this verification on this 18th day of December, 2001.

Alok Khare

Joint Secretary to the Govt. of
Assam, Forest Department, Dispur

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ORDERS BY THE GOVERNOR

NOTIFICATION

Dated, Dispur, the 06th March, 2000

NO.FRE.125/91/449 : The following notification issued by Govt.of India, Ministry of Environment and Forests is republished for general information of all concerned.

" Notification No.17013/02/99_IFS-II, Dated 28th

February, 2000 of Govt.of India Ministry of Environment and Forests".

NOTIFICATION

In exercise of the powers conferred by sub-rule (1) of rule 8 of the Indian Forest Service (Recruitment) Rules, 1966 read with sub-regulation (1) of regulation 9 of the Indian Forest Service (Appointment by Promotion Regulation) 1966, the President of India is pleased to appoint the undermentioned seven officers of the State Forest Service of Assam to the Indian Forest Service with immediate effect and to allocate them to the Assam-Meghalaya Joint Cadre of Indian Forest Service under sub-rule (1) of rule 5 of the Indian Forest Service (Cadre) Rules, 1966.

<u>S.No.</u>	<u>Name of Officer</u>	<u>Date of Birth</u>
01	Sh. Nagen Das	01-06-1943
02	Sh. N. K. Sarma	01-05-1947
03	Sh. H. K. Saikia	01-02-1947
04	Sh. P. S. Das	02-12-1952
05	Sh. S. Nayak	19-02-1955
06	Sh. P. N. Bordoloi	17-02-1955
07	Sh. A. S. Jaskar	01-03-1954

Sd/- R. Sanchwal,
Under Secretary to the Govt. of India

(A. B. Md. Eurus)
Joint Secretary to the Govt. of Assam,
Forest Department, Dispur

Contd...P/2...

Memo No. F.E.125/96/449-A, Dated Dispur, the 06th March, 2000

Copy to -

1. The Accountant General (AGF) Assam, Beltola, Maidamgaon, Guwahati.
2. The Principal Chief Conservator of Forests, Assam, Guwahati-24.
3. The Secretary to the Govt. of Meghalaya, Forest and Environment Department, Shillong.
4. The Principal Chief Conservator of Forests, Meghalaya, Shillong.
5. The Chief Conservator of Forests (SF) Assam, Guwahati-24.
6. The Chief Conservator of Forests (WL) Assam, Rehabari, Guwahati-8.
7. The Chief Conservator of Forests (T) Assam, Panbazar, Guwahati-1.
8. The Chief Conservator of Forests, Research, Education and Working Plan, Assam, Guwahati-24.
9. Shri R. Sanchaul, Under Secretary to the Govt. of India, Ministry of Environment and Forests, Paryavaran Bhavan, C.G.O. Complex, Lodhi Road, New Delhi-110003.
10. The Director, Indira Gandhi National Forest Academy, Dehradun, P.O.-New Forest, Dehradun-248006.
11. The Director, Lal Bahadur Shastri National Academy of Administration, Mussoorie.
12. The Conservator of Forests -
13. Personnel (A) Department, Dispur.
14. P.S. to the Chief Minister, Assam, Dispur for information of the Chief Minister.
15. P.S. to the Minister of State Forests, Assam, Dispur for information of the Minister.
16. P.S. to the Chief Secretary, Assam for information of the Chief Secretary.
17. Sri Nagen Das, D.F.O., Karimganj Division, Karimganj.
18. Sri N.K. Sarma, DCF attached to Conservator of Forests, Central Southern Assam S.F. Circle, Guwahati-1.
19. Sri H. K. Saikia, DCF (Motivation & Extension) attached to the Principal Chief Conservator of Forests, Assam, Guwahati-8.
20. Sri P.S. Das, D.F.O., Eastern Assam, Wildlife Division, Bokakhat.
21. Sri Z. Niyak, D.F.O., Central Afforestation Division, Hojai.
22. Sri P. N. Bordoloi, D.F.O., Jorhat Division, Jorhat.
23. Sri R. S. Iskar, D.F.O., Maitakandi Division, Maitakandi.
24. The Deputy Director, Assam Govt. Press, Bamunimaidan, Guwahati-21 for publication in the next issue of the Assam Gazette.
25. Personal file of the officers.

By order etc.,

[Signature]
Joint Secretary to the Govt. of Assam,
Forest Department, Dispur

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Annexure - 13

GOVERNMENT OF ASSAM
FOREST DEPARTMENT ;:: DISPUR

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Dispur, the 09th Nov. '2001.

- NO.FRE.68/2001/Pt/22 : In modification of the transfer order issued vide Notification No.FRE.68/2001/Pt-1/3-B, dtd. 4-9-2001 in respect of Shri S. Nayak, IFS, he is reposted as Divisional Forest Officer, Dhubri Division, Dhubri with effect from the date of taking over charge vice Shri T.V. Reddy, IFS.
- NO.FRE.68/2001/Pt/22-A : Shri T.V. Reddy, IFS, Divisional Forest Officer, Dhubri Division, Dhubri is in the interest of public service transferred and posted as Working Plan Officer, Upper Assam Circle, Jorhat with effect from the date he takes over charges vice Shri M.K. Yadav, IFS, already transferred.

Sd/- A.B.Md. Eunos,
Joint Secretary to the Govt. of Assam,
Forest Department, Dispur

Memo No.FRE.68/2001/Pt/22-B, Dated Dispur, the 09th Nov. '2001.
Copy forwarded to :-

1. The Accountant General(A&E) Assam, Beltola, Guwahati-29.
2. The Principal Chief Conservator of Forests, Assam, Rehabari, Guwahati-8.
3. The Chief Conservator of Forests(Territorial) Assam, Panbazar, Guwahati-1.
4. The Chief Conservator of Forests(Wildlife) Assam, Rehabari, Guwahati-8.
5. The Chief Conservator of Forests(Social Forestry) Assam, Guwahati-24.
6. The Chief Conservator of Forests, Research, Education and Working Plan, Assam, Guwahati-24.
7. The Conservator of Forests, Western Assam Circle, Kokrajhar/ Eastern Assam Circle, Jorhat.
8. The Divisional Forest Officer, Jorhat Division, Jorhat.
9. Shri M.K. Yadav, IFS, Working Plan Officer, Upper Assam Circle, Jorhat.
10. Shri S. Nayak, IFS, C/O Divisional Forest Officer, Dhubri Division, Dhubri.
11. Shri T.V. Reddy, IS, Divisional Forest Officer, Dhubri Division, Dhubri.
12. P.S. to Minister, Forests, Assam, Dispur for favour of information of Minister, Forests.
13. The Deputy Director, Assam Govt. Press, Bamunimaidam, Guwahati-21 for favour of publication of the notification in the next issue of the Assam Gazette.
14. Personal files of the officers.

By order etc.,

Joint Secretary to the Govt. of Assam,
Forest Department, Dispur

Annexure - C

GOVERNMENT OF ASSAM

OFFICE OF THE DIVISIONAL FOREST OFFICER: DHUBRI DIVISION:::
D.H.B.R.I.

NO.B/13/19/4411-47

Dated, Dhubri the 10-9-2001.

To
The Commissioner and Secretary to the Govt.
of Assam, Forest Department, Dispur,
Gawahati-6.

Sub:- Taken over the charge of the office of the
D.F.O. Dhubri Division.

Ref:- The Govt. notification. No FRE.68/2001/Pt-1/3A
dt. 4-9-2001.

Sir, With reference to the above, I have the honour
to inform you that to-day the forenoon of 10th
Sept/2001, I have taken over the charge of the
office of the Divisional Forest Officer, Dhubri Division
from Shri G.N. Bezbaruah, Senior most Asstt. Conservator
Forests.

The certificate of the transfer of charge of
office of the Divisional Forest Officer, Dhubri Division
enclosed herewith.

Enclo:- As above.

Yours faithfully,

(T.V.Reddy, I.F.S)
Divisional Forest Officer,
Dhubri Division.

Copy alongwith a copy of transfer of charge is
forwarded for favour of kind information and necessary
action to :-

(1) The Accountant General, (A & E) Assam, Maidam
Beltola, Gawahati- 29.

(2) The Treasury Officer, Dhubri, The Branch
Manager, S.B.I. Dhubri, Apex Bank, Dhubri.

(T.V.Reddy, I.F.S)
Divisional Forest Officer,
Dhubri Division.

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Annexure - D - 10 - 62

GOVERNMENT OF ASSAM
FOREST DEPARTMENT :::: DISPUR

ORDERS BY THE GOVERNOR

NOTIFICATION-

Dated Dispur, the 12th Nov.'2001.

NO.FRE.68/2001/Pt/24 : Without prejudice to the pendency of the O.A. No.379/2001 in the Hon'ble Central Administrative Tribunal, Guwahati, the transfer and posting order issued vide Govt. Notification No.FRE.68/2001/Pt/22, dated 9-11-2001 and No.FRE.68/2001/Pt/22-A, dtl. 9-11-2001 in respect of Shri S. Nayak, IFS, Deputy Conservator of Forests and Shri T.V. Reddy, IFS, Deputy Conservator of Forests are hereby stayed until further orders.

Sd/- A.B.Md. Eunus,
Joint Secretary to the Govt. of Assam,
Forest Department, Dispur

Memo No.FRE.68/2001/Pt/24-A, Dtd., Dispur, the 12th Nov.'2001.
Copy to :-

1. The Accountant General (A&E) Assam, Belitola, Guwahati-29.
2. The Principal Chief Conservator of Forests, Assam, Rehabari, Guwahati-8.
3. The Chief Conservator of Forests (Territorial) Assam, Panbazar, Guwahati-1.
4. The Chief Conservator of Forests (Wildlife) Assam, Rehabari, Guwahati-8.
5. The Chief Conservator of Forests (Social Forestry) Assam, Guwahati-24.
6. The Chief Conservator of Forests, Research, Education and Working Plan, Assam, Guwahati-24.
7. The Conservator of Forests, Western Assam Circle, Kokrajhar / Eastern Assam Circle, Jorhat.
8. The Deputy Commissioner, Dhubri District, Dhubri.
9. The Divisional Forest Officer, Jorhat Division, Jorhat.
10. Shri S. Nayak, IFS, C/O Principal Chief Conservator of Forests, Assam, Rehabari, Guwahati-8.
11. Shri T.V. Reddy, IFS, Divisional Forest Officer, Hailuigaon Division, Kokrajhar. *Shubh*
12. The Registrar, Central Administrative Tribunal, Shangagarh, Guwahati-5.
13. P.S. to the Minister, Forests, Assam, Dispur for favour of information of the Minister.
14. The Deputy Director, Assam Govt. Press, Bamunimaidam, Guwahati-21 for publication in the next issue of the Assam Gazette.
15. Personal file of the officer.
16. Shri M.K. Yadav, IFS, Working Plan Officer, Upper Assam Circle, Jorhat.

By order etc.,

Joint Secretary to the Govt. of Assam,
Forest Department, Dispur