

07/00

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 412/2001.....

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SECTION OFFICER (Judl.)

FORM No.4
(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:GUWAHATI.

ORDERS SHEET

APPLICATION NO.

412, 2001

Applicant(s) S.K. Yadav

Respondent(s) U.O.I. Govt

Advocate for the Applicant: Md. Adil Ahmed

Advocate for the Respondent: Cafe

Notes of the Registry	Date	Order of the Tribunal
		(See Rule 42)

9.10.01

Issue notice as to why the applica-

This application is in form of CENTRAL ADMINISTRATIVE TRIBUNAL
but not in the Consolidation Petition shall not be admitted. Returnable
Petition is filed. It is filed vide

by two weeks.

M.P. No. X C.E.

for R. S. No. 100 vide

IPO/BD No. 6978808/

Dated..... 8.10.2001

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

C. accepts notice on behalf of the
respondents.

List on 21/11/01 for admission.

By. Registrar

PO

NS

9/10/2001

U.C. Shaha

Member

Vice-Chairman

2
O.A. 412 of 2001

19.12.01

List on 16.1.02 to enable the respondents to file written statement.

No. written statement has been filed.

By
13.1.02

lm

(2) Disbursement

Vice-Chairman

Disbursement not received

16.1.02

List on 13.2.02 to enable the respondents to file written statement.

No. written statement has been filed.

By
12.2.02

JAILBIRAT BHATTACHARJEE, JAHANPUR, JHARKHAND, JHARAI, JAHANPUR, JHARKHAND

18.2.02

Written statement has already been filed to-day.

The applicant may file rejoinder if any within 2 weeks.

List on 1.3.02 for orders.

Member

14.2.2002

W/S submitted on behalf of Respondent nos. 1 to 5.

PD

lm

1.3.2002

Written statement has been filed. The case may be listed for hearing on 27.3.02. The applicant may file rejoinder, if any, within two weeks from today.

Vice-Chairman

No. rejoinder has been filed.

By
26.3.02

nk m

27.3.02

Heard counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets.

The application is allowed in terms of the order. No order as to costs.

Vice-Chairman

16.4.2002
Copy of the Judgment has been sent to the Office for issuing the same to the applicant by Post and the same has already been handed over to his Addl. Cllr. for his report on 10.4.2002.

pg

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 412/2001 & 431/2001.

Date of Decision..... 27-3-2001

S/Sri Sushil Kumar Yadav and Bipin Kumar

Petitioner(s)

Sri A. Ahmed.

Advocate for the
Petitioner(s)

Versus-

Union of India & Ors.

Respondent(s)

Sri B.C.Pathak, Addl.C.G.S.C (O.A.412/2001)

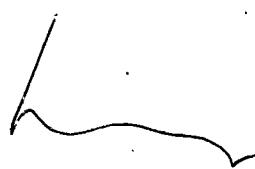
Sri A.K.Choudhury, Addl.C.G.S.C (O.A.431/2001)

Advocate for the
Respondent(s)

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

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

Judgment delivered by Hon'ble : Vice-Chairman



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original application No. 412 of 2001 and 431 of 2001.

Date of Order : This the 27th Day of March, 2002.

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

Shri Sushil Kumar Yadav (O.A.No. 412/2001).
Junior Engineer (Civil)
Demagiri Central (Mtc) Sub Division,
Central Public Works Department,
Demagiri Mizoram

and

Shri Bipin Kumar, (O.A.431/2001).
Office of the Assistant Engineer,
I.B.B.R. (Mtc) Sub Division, CPWD,
Mela Road, Malugram,
Silchar-2.

By Advocate Sri A.Ahmed.

- Versus -

1. Union of India,
represented by the Secretary to
the Government of India,
Ministry of Urban Affairs,
New Delhi.
2. The Director General (Works)
C.P.W.D., Nirman Bhawan,
New Delhi-11.
3. The Superintending Engineer (Co Ordination)
Circle, C.P.W.D., Eastern Region,
Nizam Palace, Kolkata-20.
4. The Executive Engineer,
Indo Bangladesh Border Road, (Mtc),
Division, C.P.W.D., Malugram,
Silchar, Assam.
5. The Assistant Engineer,
Demagiri Central (Mtc) Sub-Division,
C.P.W.D., Demagiri, Mizoram.
6. The Assistant Engineer,
I.B.B.R (Mtc) Sub Division,
C.P.W.D., Mela Road, Malugram,
Silchar-2. . . . Respondents.

By Sri H.C.Pathak, Addl.C.G.S.C. (O.A.412/2001)

Sri A.K.Choudhury, Addl.C.G.S.C (O.A.431/2001)

O R D E R

CHOWDHURY J.(V.C)

Both the applications involve common facts and
common question of law and therefore both are taken up
for hearing together.

2. The applicant in O.A.412/2001 is a Junior Engineer (Civil) in the Central Public Works Department. Presently he is working at Demagiri Central (Mtc). Sub Division, C.P.W.D, Demagiri, Mizoram under respondents No.4 and 5. The applicant in O.A.431/2001 is also working as a Junior Engineer (Civil) in Indo Bangladesh Border Road (Mtc) Sub-Division, C.P.W.D, Malugram, Silchar-2 under respondents No.4 and 5. By order No.21(1)SE(c)/JE(c)/ER/CPWD/CAL/2001/444 dated 31.5.2001 the two applicants were posted out and transferred in their respective place of posting. The applicant in O.A.412/2001 by the said order was transferred to Kolkata. By the same order the applicant in O.A.431/2001 was also transferred to DCD/Dhanbad vice Shri R.N.Singh promoted by the said order issued by the respondent No.3. Despite the transfer order passed by the aforesaid order the respondents in a most illegal fashion failed to give effect to the said orders so far these two applicants are concerned, contended the applicants. It was pleaded that since the order was passed affecting about 57 persons there was no justification for not giving effect to the transfer of these two applicants. The applicants are similarly placed like that of other officers but in a most arbitrary fashion the respondents failed to adhere to the order of transfer so far as the applicants were concerned contended the applicants. The applicants also contended that as per office memorandum dated 14.12.83 the applicants were entitled to be posted to the place of their choice on completion of their tenure.

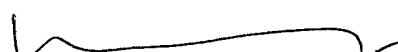
3. The respondents contested the claim and stated that office memorandum dated 14.12.83 was not applicable and therefore these two applicants are not entitled for the benefit of the said circular. It was also stated that

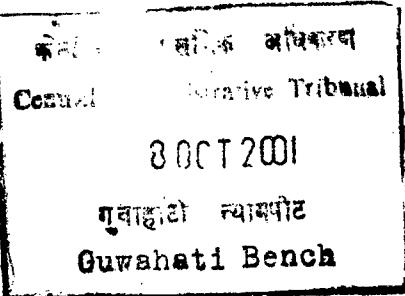
after issuance of the transfer order dated 31.5.2001 the respondents No.3 issued another order vide Memo No.21(7)/SE(C)/ER/CPWD/GEN/KOLKATA/2001/714 dated 28.9.2001 whereby it was ordered that all transfer posting order of Group C and D staff including the Junior Engineers from Eastern Region to North Eastern Region and vice versa already issued but not implemented was to be kept in abeyance with immediate effect till further order. The respondents also pleaded that applicants could not be released from their present place of posting due to exigencies of service as the applicants were deputed to look after the works of maintenance of International Border Roads which could not be left un attended due to National security reasons. The respondents also pleaded that Silchar Maintenance Division of CPWD was responsible to maintain the Indo Bangla Border Roads in three States viz, Mizoram, Meghalaya and Tripura covering a total length of 183 Kms. In O.A.412/2001 it was stated that the Division was new one started functioning from 1998 with 13 numbers of sanctioned strength of Junior Engineers. Out of 13 posts only five junior Engineers were posted. After completion of tenure order of transfer for three Junior Engineers were issued by respondent No.3 out of five posts and accordingly they were released. Only two Junior Engineers were in position to look after the entire jurisdiction under the division. Therefore their posting out would undoubtedly affect the movement of the B.S.F personnel and causing threat to the national security.

4. I have heard Mr A.Ahmed, learned counsel for the applicants and Mr B.C.Pathak, learned Addl.C.G.S.C for respondents in O.A.412/2001 and Mr A.K.Choudhury, learned

Addl.C.G.S.C for the respondents in O.A.431/2001 at length. Admittedly the transfer order was issued as far back as May 2001. When the transfer orders were passed on 31.5.2001 the respondents were well aware about the situation and the fact that these applicants were working in the North Eastern Region. On the pretext of non availability of persons one is not at liberty not to give effect to its own decision rendered by it. The communication dated 28.9.2001 keeping the matter in abeyance was issued as a purely stop gap arrangement. The said order also cannot dilute the order of transfer dated 31.5.2001. I do not find any justifiable reason for not giving effect to the transfer order for these two applicants. On the pretext of want replacement the authority cannot procrastinate a lawful order. Considering all the aspects of the matter, I do not find any discernible reason for sitting over the matter as regards the posting out of these two applicants on the purported ground of non availability of substitutes. It was the responsibility of the respondents to take steps for finding out the surrogate. The inaction on the part of the respondents in not giving effect to the transfer order in the set of circumstances cannot be legally sustained. The respondents are directed to take all out effort to give effect to the order of transfer dated 31.5.2001 with utmost expedition and at any rate within a period of two months from the date of receipt of this order, in respect of the applicants.

Both the applications are accordingly allowed. There shall, however, be no order as to costs.


(D.N.CHOWDHURY)
VICE CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

(AN APPLICATION UNDER SECTION OF 19 OF THE
CENTRAL ADMINISTRATIVE TRIBUNAL ACT 1985)

ORIGINAL APPLICATION NO. 412 OF 2001.

Shri Sushil Kumar Yadav, -Applicant.

-Versus-

The man of India & Others, -Respondents.

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 Filed by
 Advocate (Adv. Arunima)

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Filed by
Shri Sushil Kumar Yadav
Applicant
Thang J.D.
(Adv.)
Advocate

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

(AN APPLICATION UNDER SECTION OF 19 OF THE
CENTRAL ADMINISTRATIVE TRIBUNAL ACT 1985)

ORIGINAL APPLICATION NO. OF 2001.

BETWEEN

Shri-Sushil Kumar Yadav
Son of Shri Ram Ayodhya
Junior Engineer (CIVIL)
Indo- Bangladesh Border Road (Mtc)
Division
Demagiri Central (Mtc)- Sub-Division
Central Public Works Department
Demagiri Mizoram.
-Applicant.

-AND-

1. The Union of India represented by the Secretary to the Government of India Ministry of Urban Affairs New Delhi.
2. The Director General (Works) central Public works Department, Nirman Bhawan New Delhi- 110011.
3. The Superintendent Engineer (Co-ordination) Circle Central Public

Shri

Works Department Eastern Region,
Nizam Place Kolkata -20.

4. The Executive Engineer Indo-Bangladesh Border Road (Mtc) Division, Central Public Works Department, Malugram Silchar Assam, Pin 788002.
5. The Assistant Engineer, Demagiri Central (Mtc) Sub-Division Indo-Bangladesh Border Road Demagiri Central Public Works Department, P.O. Demagiri, District- Lunglai Mizoram.

-Respondents.

DETAILS OF THE APPLICATION

- 1) Particulars of the order against with the Application is made,

This application is not made against any specific order but it is made for seeking a direction from this Hon'ble Tribunal Directing the respondents of posting from Demagiri to Kolkata as per transfer order issued by the respondent No.3 Vide his office order F No. 21(I) SE(c)/JE(c)/ER/ CFWD/CAL/ 2001/444 Dated 31-05-2001 at Annexure-C.

Signature

2) JURISDICTION OF THE TRIBUNAL

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

3) LIMITATION

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

4) FACTS OF THE CASE

Facts of the case in brief are given below:

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

4.2) That your applicant was appointed as Junior Engineer (Civil) in Central Public Works Department. Now he is working as Junior Engineer (Civil) Demagiri Central (Mtc) Sub-Division Indo-Bangladesh Border Roads Demagiri Mizoram under the Respondent No. 4 & 5.

Pratap

4.3] That your humble applicant begs to state that he has already completed his tenure and posting at North Eastern Region. He is entitled to choice place of posting as per Government of India; Ministry of Expenditure office Memorandum No. 20014/83 E.IV dated 14.12.83. The Respondent No. 2 has also issued an office Memorandum dated 10th December 1997 regarding tenure of office and Staffs posted in the North Eastern Region. It has also stated in the said office Memorandum that due to law and order situation prevailing in the North Eastern Region the tenure of posting of officers and Staffs of the Central Public Works Department posted in the North Eastern Region will be 2 (two) years irrespective of length of their service.

Annexure-A is the photocopy of office Memorandum dated 14th December 1983.

Annexure-B is the photocopy of office Memorandum dated 10th December 1997 issued by the office of the Respondent No. 2.

4.4] That your applicant begs to state that he was transferred to Kolkata B.C.D.-1/CAL vice one D.K. Choudhury (Promoted) vide office order F No. 21(I)S.E.(C)/JE(C)/ER/CPWD/CAL/2001/444 dated 31.5.2001 issued by the Respondent No. 3.

Rehan

Annexure-C is the photocopy of office order F No. 21(I) S.E.(C)/JE(C)/ER/CPWD/CAL/2001/444 dated 31.5.2001 issued by the Respondent No. 3.

4.5] That your applicant begs to state that he approached the Respondent No. 4 & 5 for early release and also enable him to join in his new place of posting at Kolkata as per transfer order dated 31.5.2001 issued by the Respondent No. 2. But the respondent No. 4 & 5 did not released him from his present place of posting. He has also filed representation dated 15.6.2001 and 21.9.2001 before the Respondent No. 3 & 4. But till today the respondents did not take any steps for early release of the applicant as such your applicant as such your applicant is compelled to approach this Hon'ble Tribunal for seeking justice.

Annexure-D & E is the photocopies of representations submitted by the applicant on 15.6.2001 & 21.9.2001.

4.63 That your applicant begs to state that the Respondent No. 2 has issued an office Memorandum dated 12.4.2001 regarding compliance of transfer orders. In this office Memorandum it has been states that the practice of not relieving the officer, pending decision on the representations and

S. Rayamajhi

Withholding their transfer is viewed seriously; and competent authority has decided that all officers under transfer must be relieved forthwith. Their representation if any will be considered only after they join new place of posting.

Annexure-F is the photocopy of office Memorandum dated 12th April 2001 issued by the Respondent No. 2.

4.7) That your applicant submits that the Respondents have deliberately and intentionally discriminated applicant by not releasing him from present place of posting to Kolkata in spite of his clear transfer order dated 31.5.2001. As such, it is a fit case for giving adequate direction to the Respondents by the Hon'ble Tribunal to release the applicant immediately in compliance to the transfer order dated 31.5.2001 issued by the Respondent No. 3.

4.8) That your applicant submits that, he has got reason to believe that the Respondents are resorting the colorable exercise of power to accommodate their interested persons in their favorable place.

4.9) That your applicant submits that the action of the Respondents is mala fide, illegal and with a motive behind.



4.10] That your applicant submits that the action of the Respondents by which the applicant has been deprived of his legitimate rights is arbitrary. It is further stated that the Respondents' have acted with a mala-fide intention only to deprive the applicant from his legitimate rights.

4.11] That your applicant submits that the action of the Respondents is highly illegal, improper, whimsical and also against the policy adopted by the Government of India.

4.12] That in view of the facts and circumstances it is a fit case for interference by the Hon'ble Tribunal to protect the interest of the applicant and his family members.

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

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1] For that, due to the above reasons narrated in detail the action of the Respondents is in *prima facie* illegal, mala-fide, arbitrary and without jurisdiction.

5.2] For that, the Respondent has not considered his or her own guideline regarding release of person when he is transferred. As



such, there is no jurisdiction in denying the said benefit to the applicant.

5.3] For that, the Respondents have violated the Article 14, 16 and 21 of the Constitution of India.

5.4] For that, the action of the respondents is arbitrary, mala-fide and discriminatory with an ill motive.

5.5] For that, in any view of the matter the action of the respondents are not sustainable in the eye of law and as well as fact.

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

6. DETAILS OF REMEDIES EXHAUSTED :

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

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



That the applicant further declares that he has not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other Court, authority, nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicants most respectfully prayed that your Lordship may be pleased to admit this application, call for the records of the case, issue notices to the Respondents as to why the relief and relives sought for by the applicant may not be granted and after hearing the parties and the cause or causes that may be shown your Lordships may be pleased to dispose up this application on the admission stage and may be pleased to direct the Respondents to give the following relives:

8.1) That the Respondents, particularly the Respondent No 4 & 5 may be directed by the Hon'ble Tribunal to release the applicant from the present place of posting at Demaguti Mizoram to Kolkata as per transfer order F No. 21(I)S.E.(C)/JE(C)/ER/CPWD/CAL/2001/444 dated 31.5.2001 at Annexure-C.

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

9.] INTERIM ORDER PRAYED FOR :

The applicant most respectfully prays for interim order from this Hon'ble Tribunal directing the Respondent No. 4 & 5 to release the applicant from his present place of posting as per office order F No. 21(I)S.E. (C)/JE(C)/ER/CPWD/CAL/2001/444 dated 31.5.2001 issued by the Respondent No. 3.

10.] Application Is Filed Through Advocate.

12.] Particulars of I.P.O.:

I.P.O. NO. 66788081

Date Of Issue 6.10.2001

Issued from Guwahati G.P.O.

Payable at Guwahati

13.] LIST OF ENCLOSURES:

As stated above.

...Verification.

Shyam

VERIFICATION

I, Shri Sushil Kumar Yadav, son of Sri Ram Ayodhya, Junior Engineer (Circle) Indo-Bangladesh Border Road (Mtc) Division Demangiri Central (Mtc) Sub-Division, Central Public Works Department, do hereby solemnly verify that the statements made in paragraphs are true to my knowledge, 4.1, 4.2,

4.5 — those made in paragraphs 4.3, 4.4, 4.5 — are being matters of records are true to information derived therefrom which I believe to be true and those made in paragraph 5 are true to my legal advice and rest are my humble submissions before this Hon'ble Tribunal I have not suppressed any material facts.

And I sign this verification today on this the 8th day of October, 2001 at Guwahati.

Sushil Kumar yadav.
Declarant

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- 13 -

ANNEXURE - A

No. 20014/3/83-D-IV

Government of India

Ministry of Expenditure

Now, Delhi, the 14th Dec. '83

Copy of Min. of Def. O.M. No. 4419/83/D.Civ-I

dt. 11.1.89

OFFICE MEMORANDUM

Subject: Allowance and Facilities for civilian
employees of the Central Govt. servants
in the states and Union Territories of
the North Eastern Region - Improvement
thereon

The need for attracting and retaining the
services of competent officers for service in the
North Eastern Region comprising the States of Assam,
Meghalaya, Manipur, Nagaland and Tripura and the
Union Territories of Arunachal Pradesh and Mizoram
has been engaging the attention of the Govt. for
some time. The Govt. had appointed a committee
under the Chairmanship of Secretary, Department of Per-
sonnel and Administrative Reforms, to review the

Adhikari
S

existing allowances and facilities admissible to the various categories of civilian Central

Govt. Employees serving in this region and to suggest suitable improvement. The recommenda-

tions of the committee have been carefully considered by the Govt. and the president is now pleased to decide as follows:

(i) Tenure of Posting/deputations:

There will be a fixed tenure of posting of 3 years at a time for officers with service

of 10 years or less and of 2 years at the time

for officers with more than 10 yrs. of service.

Periods of leave, training, etc. In cases of

15 days per year will be excluded in counting the tenure period of 2/3 years. Officers, on completion

of the fixed tenure of service mentioned above,

may be considered for posting to station of their

choice as far as possible.

The period of deputation of the Central Govt. employees to the states/Union Territories of the North Eastern Region will generally be for 3 years.

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which can be extended in exceptional cases in
of public services as well as when
when the employee concerned is prepared to stay
longs. The admissible deputation allowances will
also be continue and be paid during the period
of deputation or extended.

(ii) Weightage for Central deputation/training
abroad and special mention in confidential
records.

Satisfactory performances of duties for the
prescribed tenure in the North Eastern shall
be given due recognition in the case of eligible
officers in the

(a) promotion in cadre posts.

(b) Deputation to Central tenure posts, and

(c) courses of training abroad.

The general requirement of at least three
years services in a cadre post between two Central

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Ans
Date

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tenure deputation may be extended to two years in deserving cases of meritorious services in the North East.

A specific entry shall be made in CB of all employees who rendered a full tenure of service in the North Eastern Region to that effect.

gud (iii) special (duty) allowances

gud Central Govt. civilian employees who have All India transfer liability will be granted a special (duty) allowance at the rate of 25 per cent of basic pay subject to a ceiling of Rs. 400/- per month on joining any station in the North Eastern Region. Such of those employees who are exempt from payment of income tax will, however, not eligible for this special (duty) allowances.

Special (duty) allowances will be in addition to any special pay and/or deputation (duty) allowances already being drawn subject to the condition that the total of such special (duty) allowances like special compensatory (remote locality) allowances

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construction allowances and project allowances
will be drawn separately.

(iv) Special Compensatory Allowances

Assam and Meghalaya.

The rate of the allowances will be 5% of
basic pay subject to a minimum of Rs.50/- p.m.
admissible to all employees without any pay
limit. The above allowances will be admissible
with effect from 1.7.82 in the case of Assam.

2. Manipur

The rates of allowances will be as follows

for the whole of Manipur :-

Pay upto Rs. 20/- Rs. 40 p.m.

Pay upto Rs. 20/- Rs. 15% of basic pay

subject to maximum of
Rs. 150/- p.m.

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Adm G

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Tripura

The rates of the allowance will be admissible as follows:-

a) Difficult areas 25% of pay subject

to a minimum of

50/- and a maximum

of 150/- p.m.

b) Other areas

Pay upto Rs.2.0/- Rs.40/- p.m.

pay above Rs.20/- 15% of basic pay

subject to a maximum

of Rs.150/- p.m.

There will be no change in the existing rates of special compensatory allowances admissible in Arunachal Pradesh, Nagaland and Mizoram and the existing rate of Disturbance allowances admissible in specified areas of Mizoram.

(v) Traveling allowances on first appointment

The relaxation of the present rules (BR-103) that the existing allowance is not admissible for

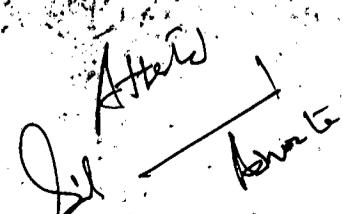
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journeys enlisted connection with initial appointment, in case of journeys for initial appointment to a post in the North Eastern Region for travelling allowances limited to by bus fare/second class rail fare for road/mailing in case of first 400 kms. for the Govt. servant himself. Will be available.

(vi) travelling allowances for journey on transfer.

In relaxation of orders below SR-11, on transfer to a station in the North-Eastern Region, the family of the Govt. servant does not accompany him, the Government servant will be paid travelling allowances on tour for self only for transit period to join the post, and will be permitted to carry personnel effects upto 1/3 of his entitlement at Govt. cost or have a equivalent of carrying 1/3rd of his entitlement of the difference in weight of the personnel effects actually carrying and 1/3rd of his entitlement as the case may be in view of the cost of transportation of baggage. In case the family accompanies the

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After
JL. 
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Govt. servant on transfer, the Govt. servant will be entitled to the existing admissible travelling allowances including the cost of transportation as charges of the admissible weight of the baggage actually carried. The above provisions will also apply for the return journey on transfer back from the North Eastern Region.

(vii) Road mileage for transportation of personnel effects

In the relevance of order, below S.R. 110 for transportation of the personnel effects on transfer between two different stations in the North Eastern Region, higher rate of allowances admissible for transportation in 'A' class cities subject to the actual expenditure incurred by the Govt. servant will be admissible.

(viii) Joining time with leave

In the case of Govt. servants on proceeding on leave en route from a place of posting in North Eastern Region, the period of travelling excess of two days

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from the station or portug to outside that region will be known as joining time. The outside will be admissible on return from term.

(ix) Leave arrangement

1. Govt. will allow the officer his family belonging at the station to go to the selected place of residence. The family will have the option to avail the same. Also leave travel concession of journey to home town once in a block period of 3 years or to avail thereof, facility of travel for himself once a year from the station of posting in North Eastern region to his home town or place where the family is residing and the facility for the family (restricted to his wife and two dependant children only) who will be travel once a year to the employee at the station of posting in the North Eastern region. In case the

the cost of travel for the initial stage (400 kms will be borne by the officer.

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Officers drawing pay of Rs.2250/- or
above and their families i.e., spouse and two
dependent children (to 18 yrs. for boys and 24 yrs.
for girls) will be allowed to travel between
Imphal/Silchar/Agartala and Calcutta and vice-
versa, while performing journeys mentioned in the
preceding paragraph.

(x) Children Education Allowances/Postal
Subsidy)

Where the children do not accompany the
Govt. servant to the North Eastern Region, Children
Education Allowances upto class XII will be
admissible in respect of children studying at the
last station of posting of the employee concerned.
Of any other station where the children reside without
any restriction of pay drawn by the Govt. servant.
If children studying in schools are put in hostels
at the last station of posting or any other
station, the Govt. servant concerned will
be given hostel subsidy without other restrictions.

2. The above orders except ~~the~~ in sub para (iv)
will also be mutatis mutandis apply to Central Govt.
employees posted to Andaman and Nicobar Islands.

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3. These orders will take effect from 1st Nov. 93 and will remain in force for a period of three years upto 31st Oct. 1986.

4. All existing special allowance, facilities and concessions extended by any special orders by the Ministries/Departments of the central Govt. to their own employees in the North Eastern Region will be withdrawn from the date of effect of the orders contained in this office memorandum.

5. Separate orders will be issued in respect of other recommendation of the committee referred to in paragraph 1 as and when decisions are taken by them by the Govt.

6. In so far as persons serving in the India Audit & Accounts Deptt. are concerned, these orders issue after consultation with Comptroller and Auditor General of India.

sd/-
(S.C. Mahalik)
Jt. Secy. to the Govt. of India

After
J.S. Advocate

No. 29/1/97-EC I
Government of India
Directorate General of Works
Central Public Works Department

Nirman Bhawan, New Delhi.
Dated the 10 December, 97.

OFFICE MEMORANDUM

Subject :- Tenure of officers and staff posted in North-Eastern Region.

It has been decided by the Director General of Works, Central Public Works Department, New Delhi, after taking into consideration the prevailing law and order situation in the North Eastern States, that the tenure of posting of officers and staff of C.P.W.D. posted in North Eastern Region will be two years irrespective of their length of service.

The decision will be reviewed after one year depending upon the law and order situation prevailing at that time.

(B.B.SINGH)
DY DIRECTOR OF ADMIN.

To

All Chief Engineers (Civil) and (Elect.) /Superintending Engineers (Civil) and (Elect.) and Executive Engineers (Civil) and (Elect.) in C.P.W.D./P.W.D. including Valuation, App. Authority, I.T. Department, Ministry of E&F etc.

SD
OK
20/12
Self copy to PCB

SL. R.R
31/12

Attn
J.S
Adm

MOST IMMEDIATE/ OUT TODAY
Office of the Superintending Engineer, Co-ordination, CPWD, Eastern Region, Nizam Palace, 39
Kolkata - 700 020

F.NO. : 21(1)SEC/JE/ER/CPWD/CAL/2001 / 144

DATE : 31.5.2001

OFFICE ORDER

The Chief Engineer, EZ-I, CPWD, Kolkata is pleased to order the transfer/posting of the following Junior Engineers (Civil) with immediate effect in public interest :-

Sl. No.	Name	From	To	Remarks
1.	Ajit Kumar Roy	CCC-II/CAL	CCC-II/CAL	Retention granted up to 07/2002
2.	M. Chakraborty	SE(P)/EZ-II/CAL	SE(P)/EZ-II/CAL	Retention granted up to 03/2002
3.	K. Majumdar	V.CELL/CAL	CCC-I	Vice Kanchan Nandi & retention granted up to 03/2002
4.	S. R. Jana	CCC-VII/CAL	CCD/GUWAHATI	Vice Arvind Kumar
5.	S. K. Chakraborty	V.CELL/CAL	V.CELL/CAL	Retention granted up to 03/2002
6.	P. Bhadra	V.CELL/CAL	PG-II/GHY	Vice S. K. Tiwari
7.	M. K. Sikdar	CCC-II/CAL	MCD/Shillong	Vice M. K. Pandey
8.	A. Bhadra	Appropalito Authority, IT Deptt. Kolkata	Appropalito Authority, IT Deptt. Kolkata	Retention granted up to 03/2002
9.	K. Nandy	CCC-II/CAL	IGU/Itanagar	Vice K. Swarnakar
10.	S. Sardhu	SE(P)/EZ-II/CAL	ICD/Barabat	Vice M. Paul already transferred
11.	S. Sen Sharma	SE(P)/EZ-II/CAL	ACC-II/Guwahati	Vice V. C. Haidu
12.	Bimal Kr. Das	CCC-II/CAL	MCD/III/MALDA	Vice Bimal Kr. Bimal
13.	P. C. Bora	IGU/Itanagar	HAZDP/Guwahati	Vice Bharat Kumbhar
14.	Dipesh Pradhan	BCD-III/BBSR	AMD/Agartala	Vice S. K. Singh
15.	Purnendu Misra	BCD-III/BBSR	BCD-III/BBSR	Retention granted upto 03/2002
16.	Ajay Kumar	SE(P)/EZ-II/Patna	SE(P)/EZ-II/Patna	Retention granted upto 03/2002 Transferred to 'A' Region
17.	U. K. Singh	PGO-III/PATNA	CBM/COOCHBEHAR	Vice U. K. Sardar
18.	Ashok Kr. Singh	BCD/IBUZ/SHILLONG	SE(P)/EZ-II/Patna	Vice Surendra Kumar
19.	M. P. Lala	IGU/IMALDA	SE(P)/IMALDA/SHILLONG	Vice M. P. Lala & Retention granted up to 03/2003 as 'A' station
20.	P. K. Dutta	KCD-II/Gishtianagar	CCC-III/Kolkata	Vice B. Talukder (Promoted)
21.	Kamal Swarnakar	ICD/ISLAMPUR	V. Cell/Kolkata	K. Majumdar
22.	D. K. Rakshit	ICD/ISLAMPUR	MCD/CAL	Vice B. Mukherjee
23.	Pallab Kr. Saha	MCD-III/MALDA	MCD-III/MALDA	Vice M. P. Lala & Retention granted up to 03/2003 as 'A' station
24.	M. K. Singh	CCBC-II/COOCHBEHAR	PGO-III/PATNA	Vice U. K. Saha (Promoted)
25.	Chandan Das	PD-II/Guwahati	MCD-III/MALDA	Vice H. C. Bora
26.	S. K. Tiwari	PD-II/Guwahati	CCC-III/CAL	Vice B. K. Das
27.	S. B. Srivastava	MCD/SHILLONG	MCD/SHILLONG	Retention granted up to 03/2002
28.	Javed Anwar Khan	MCD/SHILLONG	SHILLONG/SHILLONG (HQ. Itanagar)	Vice Kumar Lal Babu already transferred
29.	Manoj Kr. Pandey	MCD/SHILLONG	CCD-IV/Kolkata (Silcharmpur)	Vice Divender Kumar
30.	Smt. B. K. Kumar	IGU/IZPUR	ICD/IZPUR	Transferred to Region 'A'
31.	B. P. Deori	AAWD/Guwahati (Doomdooma)	AAWD/Guwahati (Doomdooma)	Retention granted up to 03/2003
32.	Karan Bir	AMD/Agartala	AMD/ Agartala	Retention granted upto 03/2002 Transferred to 'A' Region

RE-AD Office of the Superintending Engineer, Co-ordination, Eastern Region, CPWD, Nizam Palace, Kolkata - 700 020

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33.	Sikandar K. Singh	AMO/Agarata	SE(P)/EZ-II/Patna	Vice S. P. Singh
34.	Arvind Kumar	GCD/GUWAHATI	RCD/RANCHI	Vice Rajkumar (Promoted)
35.	Hemchandra Dora	MCD/IMPHAL	(Jamshedpur)	Vice Chandan Das
36.	Niwas Prasad	MCD/IMPHAL	P.O.-III/GUWAHATI	Vice Jitendra Kumar
37.	Promod Kumar	MCD/IMPHAL	PCC/Patna	Retention granted up to 03/2003.
38.	Rakesh Kumar Singh	MCD/IMPHAL	MCB/IMPHAL	Transferred to 'A' Region
39.	Vinod K. Singh	MCD/SHILLONG	RCD/RANCHI	Vice P. Manjhi (Promoted)
40.	Anil Kumar	NAPD/Guwalati	MCD/SHILLONG	Retention granted up to 03/2003.
40.	Naveen Prakash	AMO/Agarata	NAPD/Guwalati	Transferred to 'A' Region
41.	Arvind K. Singh	TCU/AGARTALA	COD/ICAL	Vice C. Chowdhury
42.	Bharat Kumbhia	NAPD/Guwalati	BCD/IBBSR	Retention granted up to 03/2002.
43.	Khagen Deka	IMD/ITRA	(Sambalpur)	Transferred to 'A' Region
44.	Ranjit Kumar Das	IMD/ITRA	GCD/GUWAHATI	Vice R. Dora (Promoted)
45.	Kartar Singh	AMO/Agarata	GCD/GUWAHATI	Existing Vacancy
46.	Utkal Mal Meolia	AMO/Agarata	AMO/Agarata	Retention granted up to 03/2002.
47.	Shindeep Kumar	AWB/Guwalati	AWB/Guwalati	Transferred to 'A' Region
48.	Bipin Kumar	SMD/SILCHAR	BCD/IBBSR	Retention granted up to 03/2002.
49.	Radheyshyam Yadav	AMO/AGARTALA	AMO/AGARTALA	Transferred to 'A' Region
50.	Bhiron Sharma	ACC/I/Guwalati	ACC/I/Guwalati	Vice R. H. Singh (Promoted)
51.	Amitava Paul	SCD/SILCHAR	SCD/SILCHAR	Vice N. Prakash, Retention granted up to 03/2003.
52.	Ujjalashri Dasswa	ICU/AGARTALA	BCD/IBBSR	Retention granted up to 03/2003.
53.	Avinash Kumar	IMD/ITRA	BCD/IBBSR	Vice Badal Das
54.	Manoj Diwakar	IMD/ITRA	BCD/IBBSR	Vice S. N. Saha (Promoted)
55.	Rajib Kumar	IMD/ITRA	BCD/IBBSR	Vice S. C. Sinha
56.	B. Mukherjee	ND/ICAL	BCD/IBBSR	Vice D. Kumar (Promoted)
57.	Y. P. Shah	CCD-II/ICAL	BCD/IBBSR	Vice Animesh Mullick
58.	C. Chowdhury	CCD-V/ICAL	Val. Cell/Kolkata	Vice P. Bhadra
59.	A. K. Manna	V. CELL/ICAL	CCD-V/ICAL	Vice S. R. Jana
60.	M. K. Mondal	RCO-II/Kolkata	SE(P)/EZ-I	Amarendra Dutta
61.	D. Datta	ND/ICAL	CCD-IV/ICAL	Vice P. P. Ghosh, (With TA DA, Joining time etc.)
62.	P. Prodhan	CCD-IV/ICAL	CCD-IV/ICAL	Vice P. Prodhan
63.	Animesh Mullick	CCD-II/ICAL	SE(P)/EZ-I	P. Biswas (Promoted)
64.	P. P. Ghosh	CCD-IV/ICAL	CCD-III/ICAL	Vice R. C. Bid
65.	Amarendra Dutta	SE(P)/EZ-II/ICAL	Val Cell/ICAL	Vice P. Roy already promoted
66.	Badal Kr. Das	CCD-VI/ICAL	V. Cell/ICAL	Vice A. K. Manna
67.	Bijon Kr. Das	CCC-II/ICAL	CCD-II/ICAL	Vice M. H. Roy (promoted)
68.	M. H. Chakraborty	CCD-V/ICAL	CCD-V/ICAL	Vice Y. P. Shah
69.	R. C. Bid	SE(P)/EZ-II/ICAL	CCD-IV/ICAL	Retention granted up to 03/2002
70.	Amod Kumar	BCD-II/IBBSR	V. CELL/ICAL	Vice M. K. Sikdar
71.	S. R. Sahoo	BCD-III/IBBSR	BCD-III/IBBSR	Vice S. K. Prasad (Promoted)
72.	T. K. Mukherjee	(Chirbatta)	(Chirbatta)	Vice T. M. Routh
73.	E. M. Routh	BCD-II/IBBSR	BCD-II/IBBSR	Vice P. C. Behra
74.	S. Kundu	(Chirbatta)	BCD-II/IBBSR	Vice S. R. Sahoo
75.	Vipin K. Gupta	CCD/GANGTOK	CCD/GANGTOK	Vice Vipin K. Gupta
76.	S. P. Saha	CCD/GANGTOK	V. Cell/ICAL	Vice S. Kundu
		SE(P)/EZ-III/Patna		Existing Vacancy

READ Office of the Superintending Engineer, Co-ordination, Eastern Region, CEWL, Durbar Palace, Kolkata - 700 020

Afftd
J. Routh
S. Routh

77. Surontra Kumar	SE(P)EZ-II/Patna	PCD-II/PAINA	Vice S. C. Sali (Promoted)
78. Jitendra Kumar	PCCPATNA	PCD-II/PAINA	Vice S. K. Singh (promoted)
79. S.C.Sinha	DCD/UTTANBĀD	DCD/UTTANBĀD	Vice K. K. Pandey (Promoted)
80. R. Rajak	SMC-SILIGURI	SCD/IBDZ/SILIGURI	Vice Ashok Kr. Singh
81. Sanjay Prabhakar	MCD-II/MAHIPUR	PCD-II/PAINA	Vice D. K. Singh
82. V. C. Naidu	ACC-II/GUJARI	BCD-II/BBSR	Vice S. R. Sahoo Existing Vacancy
83. T. K. Patra	JCD/IEZPUR	BCD-I/BBSR (Kendrapara)	Vice D. K. Chowdhury (Promoted)
84. B. K. Yadav	DMD/BILDAK	KMP	Against existing vacancy
85. B. P. Boso	CCC-II/CAL	KED-II/Krishnanagar	Vice S. K. Sinha
86. Miss D. Sarda	CBMD/COOCHBEHR	BCC/BBSR	Vice J. K. Mukherjee
87. Sri S. K. Sinha	BCC/BBSR	BCD-II/BBSR	

Note :

In terms of DGW, CPWD, New Delhi's O.M. No. A-22015/72/2000-ec-VI dated 9.8.2000, unless otherwise specified, the Junior Engineers Under order of transfer and posting shall immediately proceed to their respective place of posting and all the controlling officers shall relieve the officials under order of transfer at the earliest with waiting for substitute. The relief of officials should not be delayed by the controlling officers for any reason. The cases, where officials under orders of transfer are not relieved within 30 days, will be brought to notice of the Director General of Works for taking action against the defaulting controlling officers.

2. Whenever a Junior Engineer (Civil/Electrical) is posted in a particular Division/Circle/Zone, the controlling officer must accept the joining report and in case of non-availability of the particular post, an intimation may be given to this office. This has become necessary to avoid regularization of waiting period of Junior Engineers (Civil/Electrical).

3. Due to increase in the normal tenure at soft stations, it is very likely that there will be Junior Engineers in excess of sanctioned strength in some offices, which is unavoidable. All Superintending Engineers & Executive Engineers are therefore requested to accept the joining reports of Junior Engineers concerned who, on their transfer, submit their joining report to them. If something they want to say, they may take up the matter later with this office. All Chief Engineers, Superintending Engineers and Executive Engineers are requested to ensure that the Junior Engineers (Civil/Electrical) under orders of transfer are relieved within a time frame of 30 days to enable them to join their new places of posting and the relief of such officials should not be held up for any reason whatsoever.

4. If even the Junior Engineers (Civil/Electrical) are not relieved, they will automatically stand relieved at the end of the month immediately following the month of issue of transfer orders and they will not be eligible to draw pay and allowances from their present office thereafter unless their transfer order are cancelled/modified or further instructions issued by this office or the Director General of Works, CPWD, New Delhi.

Copy to :

[Signature]
Superintending Engineer, Co-ordination /

Director Works (E.R.)

1. The Director General of Work, CPWD, New Delhi.
2. The Addl. Director General (E.R), CPWD, Kolkata.
3. All Chief Engineers (Civil), CPWD of Eastern Region.
4. All Superintending Engineers (Civil) i/c Superintending Engineers (P & A) of CPWD Eastern Region.
5. All Executive Engineers (Civil) of CPWD, Eastern Region.
6. The concerned officials through respective controlling officers.
7. The Regional Secretary, CPWD Junior Engineers' Association, Kolkata.

(S. ROY)
Engineering Assistant to Superintending Engineer, Co-ordination

Attn: (S. Roy)
Ansata

Dated
15.06.01.

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ANNEXURE - D 3^b

To,

The Executive Engineer
IBBR(M+) DIV, CPWD,
Maligram, Sitalch. - 2.

(Through Paper channel)

Sub:- Regarding relieve of S. K. yadav, (JE) under
DCMSD, Demagiri.

Ref:- 21(1) SE(C) / JE (C) / ER / CPWD / CAL / 2001 / 444
dt - 31.05.2001.

Sir,

I have the honour to bring your
kind information that with reference to above
cited letter I have been transferred from
SMD Sitalch. to CSD-I, Calcutta vide S.N.O. 84
of transfer order.

So I therefore request you to
relieve me as early as possible at your
end please.

This is for kind information and
necessary action please.

Thanking you.

Yours faithfully

S. K. yadav 15/06/2001.
S. K. yadav, JE (C)
DCMSD, Demagiri
(MIZORAN)

Attested
S. K. yadav
Attest

Dated 24.09.2001

- 29 -

ANNEXURE - E 3X

To,
The Superintending Engineer,
Coordination Circle (EZ),
CPWD, Nizam Palace,
234/4 A. J. C. Bose Road,
Calcutta-20.

(Through Proper Channel)

Sub:- Regarding relieve of S. K. Yadav, J.E.(c) under SMD Silchar-2.
Ref:- F.No.21(1)/SE(C).ER/CPWD/CAI/2001/444 Dt:-31.5.2001 of the
Superintending Engineer, co-ordination Circle Calcutta-20.

Sir,

I have been transferred from Silchar maintenance division Silchar to CCD-1 Calcutta vide S.No.84 of the transfer order cited above. I have already approach to my superior for my relieve. But in connection with that I received a letter from Assistant Engineer/DCMSD/Demagiri dt.27.8.2001 referring the letters of Executive Engineer, IBBR (M),Division ,Silchar, and Superintending Engineer, I.B.B.R. Maintenance Circle, C.PWD, Silchar-788002, which conclude that it is not possible for them to relieve me without substitute.

Sir, Demagiri is one of the remotest place of the North Eastern India where even no accommodation and medical facilities are available and also have law and order problem. So I cannot keep my family there. My father who is nearly 70 years old needs proper care at this stage but I cannot keep him with me at a place like Demagiri.

So, I request you to look into the matter personally and see that transfer order already issued by you may be implemented immediately wither by posting a substitute or by making dual charge arrangement within the Circle level or other wise as deem it.

This is for your kind information and necessary action please.

Enclosures: A letter of AE/DCMSD/Demagiri,
Along with reference letters of SE/
IBBR(M)/Circle/ Silchar & EE/IBBR
(M) Divn. CPWD, Sil-2.

Yours faithfully,

S. Kumar
(SUSHIL KUMAR YADAV)
Junior Engineer (c)
DCMSD/Demagiri,
Mizoram.

Copy to : The Zonal Secretary, Junior Engineers Association, Nizam Palace, CPWD, Calcutta-20, for information and necessary action at your end please.

(SUSHIL KUMAR YADAV)

Att'd
file *Ansata*

No.23/6/2001-EC.I
GOVERNMENT OF INDIA
DIRECTORATE GENERAL OF WORKS
CENTRAL PUBLIC WORKS DEPARTMENT

Nirman Bhavan, New Delhi-110011
Dated the 12th April, 2001
OFFICE MEMORANDUM

Subject:- Compliance of transfer orders issued by Directorate General of Works,
C.P.W.D.

It is seen that transfer orders issued by this Directorate are not complied promptly due to one reason or other. Many a times a representation is forwarded by Controlling Officer and under this plea the officer is not relieved.

The practice of not relieving the officers, pending decision on the representations and withholding their transfer is viewed seriously and competent authority has decided that all officers under transfer must be relieved forthwith. Their representation if any will be considered only after they join new place of posting.

- It is also decided that officer under transfer should not be sanctioned leave preparatory to join new posting.

It will be the responsibility of respective Controlling Officers to adhere to above guidelines

(J.L. CHUGH) 12/4/01
DY. SECRETARY (ADMN.)

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1. All Additional Directors General of CPWD/Engineer-in-Chief, PWD.
2. All Chief Engineers(Civil) &(Elect.), including PWD, Appropriate Authority/ Valuation/Ministry of Environment & Forests etc.(The above guidelines are to be Circulated to all lower formations for strict compliance.)

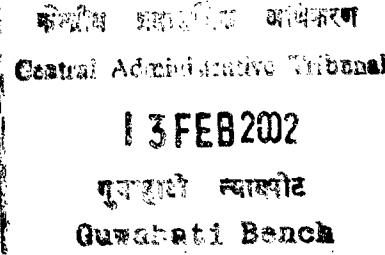
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File No. 6
B. C. Pathak (21-2-02)
Adv. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench : Guwahati

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI.

O.A. NO. 412 /2001

Shri Sushil Kumar Yadav

..... Applicant .

- Vs -

Union of India & Ors.

..... Respondents .

(Written Statements filed for and on behalf
of the Respondent No. 1 to 5).

Written Statements of the abovenoted respondents
are as follows :-

1. That a copy of the O.A. No. 412/2001 (referred to as the "application") has been served on the respondents. The respondents have gone through the said application and understood the contents thereof. The interest of all the respondents being similar, common written statements are fitted for all of them.
2. That the statements made in the application, which are not specifically admitted, are hereby denied.
3. That with regard to the statements made in para 1 of the application, the answering respondents state that the transfer order issued by the competent authority vide

Office Order F. No .21(1)SE(c)/AJE(c)/ER/CPWD/CAL/2001/444 dated 31.5.2001 (Annexure-C in O.A.) has been superseded and kept in abeyance by the office order of the same authority issued by F. No.21(7)/SE(c)/ER/CPWD/GEN/KOLKATA/2001/714 dated 28.9.2001. Hence, there is no cause of action for the instant application and the same is liable to be dismissed with cost.

A copy of the said office order dated 28.9.2001 is annexed as Annexure - R1.

4. That with regard to the statements made in para 2 and 3, of the application, the respondents state that as there is no cause of action, there remains nothing to comment on such issues.
5. That the respondents have no comments with regard to the statements made in para 4.1 and 4.2 of the application.
6. That with regard to the statements made in para 4.3 of the application, the respondents state that the O.M. dated 14.12.83 is a policy guideline on certain matters for those officials posted to North Eastern Region. One of such incentives is that an official posted to N.E. Region shall be on tenure of 2/3 years as the case may be and he may be and he may be considered for posting to station of their choice "as far as possible". Such period of deputation can be extended in case of exigencies of public service. Moreover this O.M. dated 14.12.83 is not a statutory Rule annexure dated 14.12.83 is not mandatory in nature . The O.M. dated 10.12.97 is an executive order

without any force of law.

In this connection, the respondents also state that the law relating to the transfer and posting is now well-settled in a series of decisions pronounced by the Hon'ble Apex Court of the country. The ratio of such decisions are that the Court or the Tribunal shall not interfere with the order of transfer passed by the competent authority unless such transfer order is issued in violation of statutory rules or malafide. Mere non-observance of guidelines/policy or executive order can not be a ground for such interference. It has also observed by the Hon'ble Supreme Court that the Tribunal can not sit in appeal over transfer order. The Court will also not make any roving enquiry to find malafide and/or unless malafide is proved there shall not be any ground for interference. The question of personal problems like illness, children's education, financial difficulties etc. are not to be decided by the Court and such matters are to be taken up by the official with the administration/employer. As provided in the Fundamental Rules, the whole time of a government servant is at the disposal of the government which pays him and he may be employed in any manner required by the proper authority.

It is also made clear here that the applicant being posted in the N.E. Region from his initial posting and not being transferred from outside or reposted/retransferred, the provisions of the O.M. dated 14.12.83 is not applicable to him and he is not entitled to seek any relief on the basis of the said O.M.

The relevant portion of the O.M. dated 14.12.83
is annexed as Annexure - R₂.

7. That with regard to the statements made in para 4.4, the respondent state that the Respondents No.3 issued the transfer order of the applicant as mentioned but subsequently Respondent No.3 issued another order vide No.21(7)/SE(C)/ER/CPWD/GEN/KOIKATA/2001/714, dated the 28.9.2001 ordering that all the transfer/posting orders for group 'C' & 'D' staff including the Junior Engineers from Eastern Region (Region-B.1) to North Eastern Region (Region-B.2) & vice versa already issued but not implemented shall be kept in abeyance with immediate effect till his further order.

8. That with regard to the statements made in para 4.5 the applicant state that the applicant could not be released from his present place of posting due to the exigencies of public services as the applicant was deputed to look after the maintenance works of International Border Z Security Roads and which could not be left unattended due to the National Security reasons.

9. That with regard to the statements made in para 4.6, the respondents state that the memorandum dated 12.4.2001 as stated by the applicant is applicable to the persons who have been transferred and represented for change of transfer order or cancellation thereof as mentioned that their representation will be considered only after they joins in their new place of posting and not applicable in the case of applicant.

10. That with regard to the statements made in para 4.7, the respondents state that the applicant Shri Sushil Kumar Yadav, JE(Civil) had join in IBER (Maintenance) Division, CPWD, Tura on 21.5.99 (FN) on fresh appointment and there after in this division on 24.5.99 and working under Dimagiri Central Maintenance Sub-Division IBBR, CPWD, Dimagiri. As he is looking after the works of Indo-Bangla Border Roads maintenance in Mizoram State, the roads along the International Borders for patrolling by B.S.F. for checking infiltrators and smugglers from Bangladesh & hence is of the strategic importance.

The Silchar Maintenance division of CPWD is of course responsible to maintain the Indo Bangla Border Roads in three states of North Eastern Region Viz- Mizoram, Tripura and Meghalaya covering a length of about 185 Kms. Since this division is newly created and started its functioning only with effect from 1998 having 13 numbers of sanctioned strength of Junior Engineer (Civil) but being the newly created division, the posting of required staff are in progress and hence out of 13 numbers Junior Engineers (Civil), 5 numbers were in position. After completion of tenure, the order of transfer for 3 nos. Junior Engineers (Civil) out of posted 5 numbers were issued by Respondent No.3 during June/2000 and accordingly they have been relieved. One Junior Engineer (Civil) was posted against this division but not yet joined. Therefore, only 2 Junior Engineers (Civil) were in position to look after the works of the entire jurisdiction under this division and in this way, if the Border patrolling Roads are left unattended which may effect the movement of the B.S.F. personnel and causing

threat to the National security.

Under this compelling circumstances and considering the exigencies of Public services, the applicant could not be released.

Further Respondent No.3 vide his order No.21(7)/
SE(C)/ER/CPWD/GEN/KOLKATA/2001/714 issued on dated 28.9.2001
as stated above, ordering that, all the transfer/posting orders
of group 'C' & 'D' including Junior Engineers from Eastern
Region (Region B.1) to North Eastern Region (Region B-2) and
vice versa already issued but not implemented shall be kept
in abeyance with immediate effect untill his further order.

11. That with regard to the statements made in para 4.8,
the respondents state that it is denied that the applicant has
not been relieved by the department to accommodate their choice-
able person in their favourable place. This is baseless and
misleading.

12. That with regard to the statements made in para 4.9,
it is denied that the action of the department is malafied/
illegal and with a motive behind. Rather it is submitted that
the applicant could not be relieved under compelling circum-
stances as explained above.

13. That with regard to the statements made in para 4.10
and 4.11 of the application, the respondents state that as
explained ~~st~~ hereinabove, the respondents acted bonafide in the
public interest on administrative reasons and exigencies involving

sensitive issued of larger interest. Hence, allegations are denied.

14. That with regard to the statements made in para 4.12 and 4.13 the respondents state that the applicant has no right which may justify interference of this Hon'ble Tribunal and the application filed with ulterior motive to procure undue benefit is liable to be dismissed with cost.

15. That with regard to the statements made in para 5.1 to 5.5 of the application, the answering respondents state that the grounds shown by the applicant are not tenable in law and also under the given facts of the case. Hence, the application is liable to be dismissed as devoid of any merit.

16. That with regard to the statements made in para 6 and 7, the respondents state that the applicant had failed to take up his case if any, with the departmental authority and filed the case without such alternative remedy, hence the application is liable to be dismissed.

17. That with regard to the statements made in para 8.1, 8.2 and 9 of the application, the respondents state that under the facts and circumstances of the case, provisions of law and rules, the applicant is not entitled to any relief whatsoever as prayed for and the application is liable to be dismissed with cost as devoid of any merit.

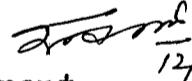
In the premises aforesaid, it is therefore prayed that Your Lordships would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records shall further be pleased to dismiss the application with cost.

Verification

VERIFICATION

I, Shri Ram Kishan Solanki, presently working as the Executive Engineer, IB&R (Mtee. Division CPWD, Silchar, being duly authorised and competent to sign this verification, do hereby solemnly affirm and state that the statements made in para 1, 2, 4, 5, 7 to 17 are true to my knowledge and belief, those made in para 3 and 6 being matter of records, are true to my information derived ~~therefrom~~ therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this 12th day of February, 2002 at Guwahati.


12/02/02
Deponent. Executive Engineer,
I. B. B. R. (M) Division.
C.P.W.D. Silchar.

GOVERNMENT OF INDIA
OFFICE OF THE SUPERINTENDING ENGINEER, CO-ORDINATION, CPWD, EASTERN REGION
NIZAM PALACE, KOLKATA-700020

O: 21(7)/SE(C)/ER/CPWD/GEN/KOLKATA/2001/

DATED : 21.9.2001

OFFICE ORDER

1. Consequent to the bifurcation of Eastern Region (Region 'B') in to Eastern Region (Region B.I) and North Eastern Region (Region B.II) vide DGW, CPWD, New Delhi's OM no. 14/2/91-ECIV(C) dated 18.9.2001, and instructions contained therein that all transfers from Eastern Region (Region B.I) to North Eastern Region (Region B.II) and vice versa will fall in the category of Inter Regional Transfers. It is hereby ordered that all transfer/posting orders of Group 'C' and Group 'D' staff including the Junior Engineers from Eastern Region (Region B.I) to North Eastern Region (Region B.II) and vice versa already issued by this office but not implemented so far, shall be kept in abeyance with immediate effect till further orders.

2. All the staff who are willing to remain in the North Eastern Region (Region B.II) are hereby requested to submit their willingness within 15(fifteen) days of issue of this order. Transfer of such staff shall be confined to North Eastern Region (Region B.II).

3. As per DGW, CPWD, New Delhi's OM dated 18.9.2001 mentioned above, those staff of North Eastern Region who do not indicate their willingness for the North Eastern Region (Region B.II), will be transferred to Eastern Region (Region B.I) on seniority basis subject to availability of vacancy and availability of substitute staff for North Eastern Region. The said staff are, therefore, requested to submit their willingness for transfer to Eastern Region (Region B.I) within 15 (fifteen) days of issue of this order.

4. Those staff of Eastern Region (Region 'B') who are willing to get transferred from Eastern Region (Region B.I) to North Eastern Region (Region B.II) may submit their willingness in prescribed proforma immediately for approval of the Inter Regional Transfer by the competent authority.

5. All the Controlling Officers are hereby requested to send the details of unimplemented transfer orders for immediate necessary action at this end.

6. The above order shall take effect from the date of issue.

RECORDED / M/s. OM/

C.P.W.D. Silchar-8

Dy. No - 16/EP/9

Date -

22/10/01

(D. More) 28/10/01
Superintending Engineer (Co-ordination)

Copy to:-

1. Director General of Works, CPWD, New Delhi.
2. Additional Director General (ER), CPWD, Kolkata
3. Director of Administration, CPWD, Nirman Bhawan, New Delhi w.r.t the telephonic discussion held on 26.9.2001.
4. All Chief Engineers (Civil & Elec.) of Eastern Region (Region B.I) and North Eastern Region (Region B.II) of CPWD.
5. All Superintending Engineers (Civil & Elec.) i/c Superintending Engineers (P&A) of Eastern Region (Region B.I) and North Eastern Region (Region B.II) of CPWD
6. All Executive Engineers (Civil & Elec.) of Eastern Region (Region B.I) and North Eastern Region (Region B.II) of CPWD.
7. All recognised Unions & Associations of CPWD, Nizam Palace, Kolkata
8. All Co-ord sections of Co-ord Circle.

Urgent on 5/10

(D. More)

Superintending Engineer (Co-ordination)

B/S

22/10/01

10/10

3—
No. 20014/3/83-E.IV
Government of India
Ministry of Finance
Department of Expenditure

New Delhi, the 14th December, 1983.

Annexure R 2

W

OFFICE MEMORANDUM

Subject: Allowances and facilities for civilian employees of the Central Government serving in the States and Union Territories of North-Eastern Region - improvements thereof.

The need for attracting and retaining the services of competent officers for service in the North-Eastern Region comprising the States of Assam, Meghalaya, Manipur, Nagaland and Tripura and the Union Territories of Arunachal Pradesh and Nagaland has been engaging the attention of the Government for some time. The Government has appointed a Committee under the Chairmanship of Secretary, Department of Personnel & Administrative Reforms, to review the existing allowances and facilities admissible to the various categories of civilian Central Government employees serving in this region and to suggest suitable improvements. The recommendations of the Committee have been carefully considered by the Government and the President is now pleased to decide as follows:

(i) Tenure of posting/deputation

There will be a fixed tenure of posting of 3 years at a time for officers with service of 10 years or less and of 2 years at a time for officers with more than 10 years of service. Periods of leave, training, etc., in excess of 15 days per year will be excluded in computing the tenure period of 2/3 years. Officers, on completion of the fixed tenure of service mentioned above, may be considered for posting to a station of their choice as far as possible.

The period of deputation of the Central Government employees to the States/Union Territories of the North-Eastern region will generally be for 3 years which can be extended in exceptional cases in exigencies of public service as well as when the employee concerned is prepared to stay longer. The admissible deputation allowance will also continue to be paid during the period of deputation so extended.

(ii) Allowance for Central deputation/training abroad and assignment in confidential records

Qualifying performance of duties for the

....2/-....

- 3 -

prescribed tenure in the North East shall be given due recognition in the case of eligible officers in the matter of -

- (a) promotion in cadre posts;
- (b) deputation to Central tenure posts; and
- (c) courses of training abroad.

The general requirement of at least three years service in a cadre post between two Central tenure deputations may also be relaxed to two years in deserving cases of meritorious service in the North East.

A specific entry shall be made in the C.R. of all employees who render a full tenure of service in the North Eastern Region to that effect.

(iii) Special (Duty) Allowance

Central Government civilian employees who have all India transfer liability will be granted a Special (Duty) Allowance at the rate of 25 per cent of basic pay subject to a ceiling of Rs.400/- per month on posting to any station in the North Eastern Region. Such of those employees who are exempt from payment of income tax will, however, not be eligible for this Special (Duty) Allowance. Special (Duty) Allowance will be in addition to any special pay and/or Deputation (Duty) Allowance already being drawn subject to the condition that the total of such Special (Duty) Allowance plus special pay/Deputation (Duty) Allowance will not exceed Rs.400/- p.m. Special Allowances like Special Compensation (Remote Locality) Allowance, Construction Allowance and Project Allowance will be drawn separately.

(iv) Special Compensation Allowance

1. Areas and Magistrate

The rate of the allowance will be 5% of basic pay subject to a maximum of Rs.50/- p.m. admissible to all employees without any pay limit. The above allowance will be admissible with effect from 1.7.1982 in the areas of Nagaland.

2. Value

The rate of allowance will be as follows for the whole of Manipur :-

Pay upto Rs.800/-

Rs.10/- p.m.

Pay above Rs.260/-

15% of basic pay subject to a maximum of Rs.150/- p.m.

- 3 -