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**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

ORDER SHEET

Application No. 428 /2001

Applicant(s) :- Y. S. Narayana

Respondant(s) :- UOI & ors.

Advocate for the Applicant :- Mr B.K. Sharma, S. Surma  
Mr L.K. Navin

Advocate for the Respondant :- Addl. C.S.C. A.K. Choudhury

Notes of the Registry	Date	Order of the Tribunal
<p>This is application in form C. F. for Rs. 50/- deposited vide IPO/20 No 64788504 Dated 27/10/2001 <u>Dr. Registrar</u></p> <p>Notice prepared, Respondent No.1 received by Sri A.K. Choudhury, Addl. C.S.C., Respondent No. 2 to 4 sent to Dls for views the same by Regd. Adv.</p> <p>D/N No <u>4164 to 4166</u> Dtd <u>8/11/07</u></p> <p>No written statement has been filed. <u>3</u> <u>12/12/01</u></p>	<p>25.10.01</p> <p>19.11.01</p>	<p>Heard Sh. B.K. Sharma &amp; After hearing Shri D.K. Das, counsel for respondent no.4 and Shri A.K. Das Choudhury, learned Addl. C.G.S.C. for respondent No.1, the application is admitted. Issue notice to show cause as to why interim order as prayed for shall not be granted. List on 19/11/2001 for order. pendency of this application shall not be a bar on the respondents in taking step for implementation of the order dated 11.9.2001 in so far as it concerned to the applicant.</p> <p>Prayer has been made on behalf of Respondent No.2 Mr.Y.K. Phukan, learned State Government Advocate and Mr.A.K. Choudhury, learned Addl. C.G.S.C. for Respondent No.1 for filing of written statement. Prayer is allowed. List on 13.12.01 for orders.</p>

K.C. Sharma  
Member

K.C. Sharma  
Member

Vice-Chairman

mb

lm

13.12.01

Sri A.K.Choudhury, learned Addl. C.G.S.C. appearing for the respondent No. 1, submits that written statement will be filed by the State of Assam, respondent No.2.

List again on 13.1.02 for order.

No written statement  
has been filed.

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17.1.02.

mb

Notice of Respondent No.4  
returned due to address  
not known.

18.1.02

Notice of the respondent No.4  
could not/served due to non-availability  
of proper address. The applicant should  
ensure the service of the application  
and the Respondent No.4. No written  
statement has been filed by the respon-  
dent No. 2 and 3. List on 22.2.02 for  
orders.

K. Ushar  
Member

No. wks has been  
filed.

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21.2.02

lm

22.2.02

Noticer on the Respondents No4  
could not be served due to non-availa-  
bility of proper address. No written  
statement has been filed by the Respon-  
dent No.2 & 3. Ms.U.Das learned counsel  
for the applicant prays for adjournment.  
Prayer is allowed. List on 27.3.02 for  
orders.

K. Ushar  
Member

lm

27.3.02

Seven days time is allowed to Mr. B.  
K. Sharma, learned Sr. counsel for the  
applicant for obtaining necessary instructi-  
ons. List on 12.4.2002 for orders.


Vice-Chairman  
Vice-Chairman

mb

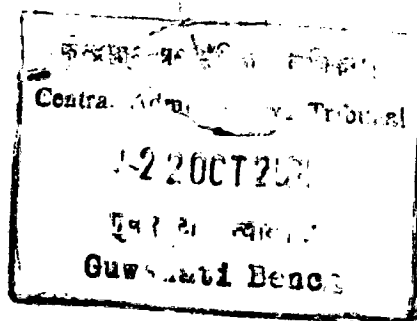
No. wks has been  
filed.

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11.4.02

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Notes of the Registry	Date	Order of the Tribunal
	12.4.02	<p>Mr.S.Garma learned counsel for the applicants submits that the applicant has got the reliefs as prayed for in the application and he wants to withdraw the application. Accordingly, application is disposed of on withdrawal. Liberty is given to the applicant to file fresh application if he aggrieved.</p> <p style="text-align: right;">   Member </p>

[illegible]



THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH  
GUWAHATI

O.A. No. 428 of 2001

Shri Y. Surya Narayana

... Applicant

- Versus -

Union of India & Ors.

... Respondents

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Filed by : U.K. NAIR

Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. No. \_\_\_\_\_ of 2001

BETWEEN

Shri Y. Surya Narayana, IFS  
Divisional Forest Officer, Karimganj  
Division, Karimganj.

... Applicant

AND

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Forest, New Delhi.
2. The State of Assam, represented by the Chief Secretary, Dispur, Guwahati-6.
3. The Secretary to the Government of Assam, Department of Forest, Dispur, Guwahati-6.
4. Shri Amrit Kumar Das, presently holding the post of DFO, Karimganj Division, Karimganj (under order of transfer to Northern Assam Circle, Tezpur.)

... Respondents

DETAILS OF APPLICATION

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

The OA is directed against Notification dated 10.10.2001 temporarily staying the Notification dated 11.9.2001 by which the Respondent No. 4 was transferred to Northern Assam Circle, Tezpur from Karimganj.

2. JURISDICTION OF THE TRIBUNAL :

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

FILED BY: b  
Y. Surya Narayana,  
Applicant  
Through  
Unni Krishnan Nair  
Advocate.

3. LIMITATION :

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

4. FACTS OF THE CASE :

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

4.2 That the Applicant is a direct recruit IFS Officer and is allocated to the Assam-Meghalaya Joint Cadre. Prior to the issuance of the transfer order in question, he was holding the post of DFO, Digboi Division, Digboi. By the transfer Notification in question dated 11.9.2001, he has been transferred from Digboi to Karimganj in place of the Respondent No. 4 Shri Amrit Kumar Das who has been transferred and posted as DCF attached to Conservator of Forest, Northern Assam Circle, Tezpur.

A copy of the transfer Notification dated 11.9.2001 is annexed as Annexure-1.

4.3 That pursuant to the said order of transfer in terms of which the transfer of the Applicant becomes effective with effect from the date of taking over charge vice Shri A.K. Das (Respondent No. 4), the Applicant has joined at the transferred place of posting on 17.9.2001 by submitting his joining report.

Prior to that the Applicant handed over his charge, at Digboi to one Shri Amal Chandra Sarma, DFO who has been transferred to Digboi by an earlier Notification. The Applicant had to hand over charge to him on 12.9.2001 and on his release from Digboi, he sent a WT Message to the Respondent No. 4 referring to the transfer Notification making a request therein to intimate the convenient date of taking over and handing over of charge.. Since nothing was intimated and the Applicant stood released from Digboi in the meantime, the Applicant moved to Karimganj and joined there submitting his joining report on 17.9.2001.

Copies of the charge report at Digboi dated 12.9.2001, WT Message dated 13.9.2001 and joining report dated 17.9.2001 are annexed as Annexure-2, 3 and 4 respectively.

4.4 That even after the said joining at Karimganj on 17.9.2001, the Applicant has not been handed over charge by the Respondent No. 4. In the meantime the Respondent No.4 moved the Hon'ble Gauhati High Court by filing a writ petition bearing No. WP(C) No. 6636/2001 making a grievance against his transfer from Karimganj to Tezpur. The Hon'ble Court after hearing the parties has been pleased to reject the prayer for interim order, by its order dated 17.9.2001. While doing so the Hon'ble Court has referred to an earlier order dated 31.3.2000 of the Division Bench concerning the Respondent No. 4 and passed in Writ Appeal No. 131/2000. In the order the Hon'ble Court has also

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referred to the order dated 26.6.2001 passed in MC No. 144/2001 in OA No. 296/2000 (Jatindra Sarma & Ors. - vs- Union of India and Ors.) In the writ petition filed by the Respondent No. 4 it has been pointed out that a contempt notice has been issued by this Hon'ble Tribunal in CP No. 40/2001 wherein violation of the order dated 26.6.2001 passed in MC No. 144/2001 in OA No. 296/2000 has been alleged.

Copies of the orders dated 26.6.2001, 17.9.2001 and 31.3.2000 are annexed as Annexure-5, 5A & 6 respectively.

4.5 That inspite of the said order dated 17.9.2001, neither the official Respondents nor the Respondent No. 4 have taken any steps enabling the Applicant to take over charge at Karimganj formally. Although he has joined at Karimganj on 17.9.2001, in absence of any handing over of charge by the Respondent No. 4, he has not been able to function and discharge his duties there. Making a grievance against such a position the Applicant has represented to the higher authorities including the Respondent No. 3, but the same has not yielded any result so far.

Copies of the representations dated 27.9.2001 and 4.10.2001 are annexed as Annexure-7 and 8 respectively.

4.6 That inspite of the aforesaid position and rejection of interim prayer, the Respondent No. 4 has not yet handed over charge to the Applicant and the official Respondents have also not done anything in the

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matter. In such a situation normally the Government issues order permitting the incumbent to take over charge unilaterally. However, in the instant case no such order has yet been passed. In this connection Office Memorandum dated 27.10.93 and 2.7.2001 may be referred to by which it has been emphasised that a Government servant must arrange to hand over charge within 10 (ten) days of receipt of the order of the transfer.

Copies of the Memorandums dated 27.10.93 and 2.7.2001 are annexed as Annexure-9 and 10 respectively.

4.7 That on an earlier occasion, the Respondent No. 4 had filed WP(C) No. 27/2000 making a grievance against cancellation/stay of his transfer to Karimganj. The said writ petition was dismissed by the learned Single Judge by order dated 16.3.2000 on the ground that in the meantime the incumbent at Karimganj namely Shri Nagen Das has been promoted to IFS and the said post being an IFS cadre post, the Applicant cannot be posted against the said post. Being aggrieved, the Applicant preferred writ appeal No. 131/2000 and the same was disposed of by an order dated 31.3.2000. By the said order, the Division Bench of the Hon'ble High Court while holding that since the Respondent No. 4 had already joined at Karimganj, that position need not be disturbed, also issued a direction to the State Government to re-examine the matter in respect of the Respondent No. 4/Applicant and the Respondent therein.

Till such time, it was ordered that the Respondent No. 4 be allowed to continue at Karimganj.

4.8. That it appears that neither in the OA No. 296/2000 including MC No. 144/2001 nor in the CP No. 40/2001, the Respondent No. 4. has mentioned about the said developments and passing of orders by the Hon'ble Gauhati High Court. As stated above, the Respondent No. 4 being aggrieved by his transfer from Karimganj to Tezpur vide Notification dated 11.7.2001, has approached the Hon'ble Gauhati High Court by filing WP(C) No. 6636/2001 making a prayer therein to set aside and quash the said Notification dated 11.7.2001. An interim prayer was also made and the same has been rejected.

4.9 That the Applicant states that the post of DFO, Karimganj Division is a cadre post and the Respondent No. 4 is not entitled to hold the post in terms of Rule 8 and 9 of the IFS (Cadre) Rules. This has also been so held by the Division Bench of the Hon'ble Gauhati High Court in terms of which the said Respondent No. 4 cannot continue in the post beyond three months. However, he has been allowed to continue there in violation of the Hon'ble Court's order. Now even after issuance of the transfer Notification and release of the Applicant from Digboi and joining at Karimganj, the Respondent No.4 is still being allowed to continue at Karimganj by the official Respondents without taking into consideration the orders of the Hon'ble Court. This is in clear violation of the said orders of the

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Hon'ble Court for which they are liable for contempt of court proceeding.

4.10 That the Applicant is now suprised to come across the notification No. FRE 100/2001/26 dated 10.10.2001 (copy yet to be served on him), by which the Annexure-1 transfer Notification dated 11.9.2001 in respect of the Respondent No. 4 has been stayed temporarily.

A copy of the said Notification dated 10.10.2001 is annexed as Annexure-11.

4.11 That the Applicant had earlier filed OA No. 417/2001, interalia, praying for a direction to the official Respondents to implement the transfer order dated 11.9.2001 entitling the Applicants to take over charge, if necessary even unilaterally. The said OA was filed on 11.10.2001 without any hast idea and knowledge of the existence of the aforesaid Notification dated 10.10.2001. A copy of the said Notification is yet to be served on the Applicant. The copy of the same purportedly marked to the Applicant has been shown sent to him under C/O the PCCF, Assam, although the official Respondents are fully aware that the Applicant pursuant to his transfer to Karimganj has joined there on 17.9.2001 ought to have been marked to the Applicant at his Karimganj address.

4.12 That the said OA No. 417/2001 has been disposed of at the motion stage itself by order dated 12.10.2001, directing the official Respondents to implement the Annexure-1 transfer order dated 11.9.2001, within 1

week.

A copy of the said order dated 12.10.2001 is annexed as Annexure-12.

4.13 That the Applicant on obtaining a copy of the said order dated 12.10.2001 submitted the same to the official Respondents with the request to take necessary follow up action. It was at that stage, the Applicant was told about passing of the order dated 10.10.2001, existence of which was not known to the Applicant and no copy of the same was served on him, as stated above.

4.14 That immediately thereafter, the Applicant inquired about the order dated 10.10.2001 and collected a copy of the same from the office of the Respondent No. 3 on 16.10.2001 and now has filed this OA making a grievance against the same. The Applicant has also filed a Review Application in OA No. 417/2001 (since disposed of bring it to the notice of the Hon'ble Tribunal about the said order dated 10.10.2001.

4.15 That by the said Notification dated 10.10.2001, it is the transfer of the Respondent No. 4 which has been stayed and not the transfer of the Applicant who has already been released from Digboi and has joined at Karimganj. However, in view of the fact that the Respondent No. 4 has not handed over charge to the Applicant, the Applicant has not been able to function as DFO, Karimganj. the said order dated 10.10.2001 is per-se illegal in view of the facts narrated above. The official Respondents can not victimize the Applicant in this manner and in the process cannot violate the

order of the Hon'ble High Court and the provision of the IFS (Cadre) Rules.

4.16 That the Applicant has come to know that the Respondents No. by referring to the contempt notice issued vide order dated 14.9.2001 in Civil Rule No. 40/2001 wherein violation of the order dated 26.6.2001 passed in MC No. 144/2001 (OA No. 296/2000) has been alleged, has given an impression and pressurised the official Respondents that he cannot be transferred from Karimganj nor any IFS officer can be posted to Karimganj in view of the said order dated 26.6.2001 and that this is precisely the reason as to why the Hon'ble Tribunal has issued the notice of contempt. The Applicant states that such an interpretation projected by the Respondent No. 4 is wholly unwarranted. It will be pertinent to mention here that many of the Applicants in OA No. 296/00 including the Applicant No. 1 therein have been transferred from there original place of posting, but none of them has objected to the same taking recourse to the order dated 26.6.2001. An exception has been sought to be made by the Respondent No. 4 while doing so, he has not mentioned anything either in the MC No. 144/2000 or in CP no. 40/2001 about the aforesaid developments.

4.17 That the Applicant states that in view of the provisions of IFS (Cadre) Rules and the orders of the Hon'ble Court and even otherwise also, the Respondent No. 4 cannot continue at Karimganj. His continuance at Karimganj in violation of the provisions of the said

Rules and the orders of the Hon'ble Court. The order dated 26.6.2001 and the issuance of contempt notice as stated above cannot be projected to be an impediment against the transfer of the Respondent No. 4. The Respondent No. 4 has very factfully thwarted the transfer order dated 11.9.2001 projecting the aid orders of the Hon'ble Tribunal, which is an abuse of the process of law. The order dated 26.6.2001 cannot be made to operate and/or be interpreted contrary to the provisions of the Rules and the decisions of the Hon'ble Court, including the Apex Court. Mere transfer of the Respondent No. 4 does not change his status and position. Any other interpretation of the order dated 26.6.2001 will only mean continuance of the Applicant therein in their respective place of posting indefinitely.

4.18 That the Applicant states that the transfer Notification has not been modified and/or cancelled. There is also no change to the cadre Notification of 1995. However, there is a move to cancel the transfer Notification in favour of the Respondent No. 4 inspite of the aforesaid developments and orders of the Hon'ble Court. If the transfer Notification is allowed to be modified and/or modified by the official Respondents, retaining the Respondent No. 4 at Karimganj at the cost of the Applicant who is a cadre officer, same will be violative of the Cadre Rules and the orders of the Hon'ble Court. In such a situation an appropriate interim order is called for in the matter.

4.19 That the sequence of events as narrated above clearly establish the inaction on the part of the official Respondents for the reasons best known to them. It is most respectfully stated that neither the order dated 26.6.2001 passed in MC No. 144/2001 in OA No. 296/2000 nor the issuance of Contempt Notice by order dated 14.9.2001 in CP No. 40/2001 puts any impediment towards releasing the Respondent No. 4 enabling the Applicant to take over charge at Karimganj. The Applicant is now hanging and each days delay in taking over charge will seriously tell upon the service career of the Applicant. Be it stated here that during the period the Applicant is not in charge of any office, he is not entitled to the benefit of special duty allowance. In spite of his release from Digboi and joining at Karimganj, he has not been able to discharge his duties and he has been put to a humiliating situation.

4.20 That the Applicant states that the official Respondents cannot be oblivious of the situation that has been created by the Respondent No. 4 by not handing over charge to the Applicant. This is a fit case for issuing a direction to the Respondent No. 4 to hand over charge to the Applicant immediately failing which issuance of further direction to take over charge unilaterally by the Applicant. In any case the Applicant cannot be kept hanging in the manner as has been done in the instant case.

4.21 That the Applicant cannot be deprived of the cadre post at karimganj at the cost of a non-cadre



officer like that of the Respondent No. 4 who is a State Forest Service officer. After the order of the Hon'ble High Court, the official Respondents cannot allow the Respondent No. 4 to function as DFO, Karimganj Division which is a cadre post. It is a case of perpetual violation of the orders of the Hon'ble Court for which the official Respondents are liable for contempt of court proceeding.

4.22 That the Applicant states that all his efforts to get the charge at Karimganj have gone in vain and the official Respondents have turned a deaf ear to the prayer of the Applicant to take appropriate action in the matter enabling the Applicant to take over charge at Karimganj, if necessary, even unilaterally. Such inaction on the part of the official Respondents has forced the Applicant to come under the protective hands of this Hon'ble Tribunal more particularly in view of the order dated 18.10.2001.

4.23 That the Applicant states that in any view of the matter the impugned action/inaction on the part of the Respondents is not sustainable and liable to be interfered with by this Hon'ble Tribunal.

#### 5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that the action/inaction on the part of the Respondents is prima facie illegal and liable to be interfered with by the Hon'ble Tribunal.

5.2 For that the Applicant having already been released

from Digboi and he having joined at Karimganj, the Respondent No. 4 is duty bound to hand over charge to the Applicant and on his failure to do so the official Respondents are duty bound to order taking over of charge by the Applicant unilaterally, but instead they have issued the impugned Notification dated 10.10.2001 which is per-se illegal.

5.3 For that the Hon'ble High Court having not interfered with the order of transfer after apprising all the developments that have taken place before this Hon'ble Tribunal, the official Respondents are duty bound to make arrangement for unilateral taking over of charge by the Applicant on failure of the Respondent No. 4 to hand over charge to the Applicant.

5.4 For that the action/inaction on the part of the official Respondents as well as the Respondent No. 4 being in clear violation of the orders of the Hon'ble Court, they are liable for contempt of court proceedings an appropriate order/direction towards implementation of the said orders of the Hon'ble Court.

5.5 For that the official Respondents by their own inaction cannot nullify their own circulars which were issued keeping in mind the situation which has been created in the instant case.

5.6 For that the official Respondents ought to have considered the plight of the Applicant and passed appropriate order enabling him to take over charge from the Respondent No. 4 instead of delaying the matter at

the sweet will of the Respondent No. 4 giving him time to make an endeavor to get the order of transfer modified so that he can remain posted at Karimganj which if materialised will be in violation of the orders of the Hon'ble Court.

5.7 For that in any view of the matter, the action/inaction on the part of the Respondents and the impugned Notification dated 10.10.2001 is not sustainable and the Applicant is entitled to the reliefs sought for in this OA.

6. DETAILS OF REMEDIES EXHAUSTED :

The Applicant declares that he has exhausted all the remedies available to him there is no alternative remedy available to him in law.

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

The Applicant further declares that he has notified any application, writ petition or suit regarding the matter in respect of which this applicant has been made before any Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT FOR :

Under the facts and circumstances and in the premises aforesaid the OA be admitted records be called for an upon hearing the parties on the cause or causes that may be shown and on perusal of the records be pleased to grant the following reliefs :

- 15 -

8.1 To set aside and quash the Notification dated 10.10.2001 (Annexure-1) with the further direction to the Respondent No. 4 to hand over charge to the Applicant forthwith pursuant to the transfer Notification dated 11.9.2001.

8.2 To direct the official Respondents to make arrangement forthwith entitling the Applicant to take over charge at Karimganj from the Respondent No. 4 in case of his failure to hand over charge to the Applicant towards implementation of the order of transfer dated 11.9.2001.

8.3 To direct the Respondents not to modify the order of transfer dated 11.9.2001 allowing the Respondent No. 4 to be remained posted at Karimganj.

8.4 Cost of the application.

8.5 Pass any other order/orders or give direction/directions as may be deemed fit and proper under the facts and circumstances of the case to give complete and full relief to the Applicant.

9. INTERIM ORDER PRAYED FOR :

In the facts and circumstances stated above, the Applicant prays for an interim relief by way of a direction to the official Respondents to make arrangement forthwith enabling the Applicant to take over charge from the Respondent No. 4 as DFO, Karimganj Division, Karimganj and to stay further operation of the Notification dated 10.10.2001 (Annexure-1) and/or

any other interim relief or reliefs to which the Applicant may be entitled to and/or as may be deemed fit and proper by this Hon'ble Tribunal.

10. ....

The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O. :

- i) I.P.O. No. : 69 788504
- ii) Date : 27.9.2001
- iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

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Y. Suresh Narayana  
(DEPONENT)

GOVERNMENT OF ASSAM  
FOREST DEPARTMENT : DISPUR

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Dispur, the 11th September, 2001

No.FRE.66/90/190 : In modification of earlier Govt. Notification No.FRE.2/91/pt.III/119-A dtd.12.7.2001, Shri C R Bhobora, IAS, is transferred and posted as Divisional Forest Officer, Central Assam afforestation Division, Hojai with effect from the date of taking over charge vice Sri AC Das transferred.

No.FRE.66/90/190-A : In the interest of public service, Shri A C Das, Divisional Forest Officer, Central Assam Afforestation Division, Hojai is transferred and posted as Divisional Forest Officer, Eastern Assam Wildlife Division, Bokakhat with effect from the date of taking over charge vice Shri P S Das, IAS transferred.

No.FRE.66/90/190-B : On relief, Shri P S Das, IAS, Divisional Forest Officer, Eastern Assam Wildlife Division, Bokakhat is in the interest of public service transferred and posted as Divisional Forest Officer, Kamrup West Division, Bamunigaon with effect from the date of taking over charge vice Shri Nagen Das, IAS, transferred.

No.FRE.66/90/190-C : On relief, the services of Shri Nagen Das, IAS, Divisional Forest Officer, Kamrup West Division, Bamunigaon is in the interest of public service are placed at the disposal of Karbi Anglong Autonomous Council Diphu for his posting as Divisional Forest Officer, Hamren Division, Hamren vice Sri A C Sarma already transferred.

Attested  
Anni Bar  
Advocate

NO. FRK.66/90/190-D : In modification of earlier Govt. Notification NO. FRK.3/90/pt. II/208-A dtd. 22.8.2001 Shri Y. Suryanarayan, IFS, Divisional Forest Officer, Dighoi Division, Dighoi is in the interest of public service transferred and posted as Divisional Forest Officer, Koringan Division, Koringan with effect from the date of taking over charges vice Shri A. K. Das transferred.

NO. FRK.66/90/190-E : In relief, Shri A. K. Das, Divisional Forest Officer, Koringan Division, Koringan is in the interest of public service transferred and posted as DFO attached to Conservator of Forests, Northern Assam Circle, Tezpur with effect from the date of taking over charges vice Shri C. R. Bhobora whose transfer order has been modified.

SD/-A. B. Md Eunus.

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

Memo NO. FRK.66/90/190-F dated Dispur the 11-9-2001

Copy to :

1. The Accountant General (A & E), Assam, Maidamgaon, Bortol, Guwahati-29.
2. The Principal Chief Conservator of Forests, Assam, Rehbari, Guwahati-8.
3. The Chief Conservator of Forests (wildlife), Assam, Rehbari, Guwahati-8.
4. The Chief Conservator of Forests (territorial), Assam, Panbazar, Guwahati-10.
5. The Chief Conservator of Forests (social forestry), Assam, Zoo Borengi Road, Guwahati-24.
6. The Chief Conservator of Forests (Research, Education and working plan), Assam, Guwahati-24.
7. The Conservator of Forests, Central Assam Circle, Guwahati-1 Northern Assam Circle, Tezpur/Eastern Assam Circle, Jorhat/Western Assam Circle, Kokrajhar Karbi Anglong Autonomous Council, Diphu.

contd...



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25

- to the Govt. of Assam.
8. The Director, Kaziranga National Park, Bokakhat.
9. The Principal Secretary, Karbi Anglong Autonomous Council, Diphu, for information and necessary action.
10. Shri A. C. Das, Divisional Forest Officer, Central Assam Afforestation Division, Hojai.
11. Shri P. S. Das, IFS, Divisional Forest Officer, Central Assam Afforestation Division, Bokakhat. He is directed to move first immediately after handing over charge to field Director, Kaziranga National Park.
12. Shri Nagen Das, IFS, Divisional Forest Officer, Kamrup West Division, Bamunimadham, Gauhati.
13. Shri Y. Suryanarayan, IFS, Divisional Forest Officer, Dighoi Division, Dighoi.
14. Shri A. K. Das, Divisional Forest Officer, Kamrup Division, Krimganj.
15. Shri C. R. Baruah, IFS, c/o Principal Chief Conservator of Forests, Assam, Rehbari, Gauhati-8.
16. The P. S. to Minister, Forest Assam, Dispur, Gauhati-6 for information of the Chief Secretary.
17. The P. S. to the Chief Secretary, Assam, Dispur, Gauhati-6 for information of the Chief Secretary.
18. The Deputy Director, Assam, Govt. Press, Bamunimadham, Gauhati-2, 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.

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

CERTIFICATE OF TRANSFER OF CHARGE OF THE OFFICE OF & Sy. DIGBOI DIVISION.  
CONSERVATOR OF FORESTS

DATED DIGBOI  
The 14th Sept. 2001.

I Certify that I received charge of the Digboi Division  
from Sri Y. Suryanarayana. I.F.S.  
on the forenoon of this 12th day of Sept. 2001.

I received the sum of Rupees \_\_\_\_\_  
the cash balance, as shown by the Cash Book on this date. I have examined  
all the office books and found them posted upto date.

I have received the needful vouchers belonging to the accounts of  
the current month, and have made myself acquainted with all outstandings  
and liabilities on account of the Department.

I have examined the live and dead stock, as well as the books, maps  
office records and furniture at head quarters, and have examined the  
depot registers, which I have found posted upto date.

I have received \_\_\_\_\_ Cheque Book number \_\_\_\_\_  
unused, as well as cheque Book No. 2213 containing  
cheques Nos 110616 to 110650. The counterfoils  
of the previous cheques have been written up.

Countersigned.

[Signature] 12/9/01

(Y. SURYANARAYANA) I.F.S.  
Conservator of Forests

Relieved Officer

Relieving Officer.

Attested  
[Signature]  
Advocate

[Signature] 12/9/01  
(AMAL CH. SARMAH)  
Conservator of Forest

W.T.MESSAG

TO, THE DIVISIONAL FOREST OFFICER  
KARIMGANJ DIVISION,  
KARIMGANJ

FROM, Y. SURYA NARAYANA, IFS  
DIVISIONAL FOREST OFFICER,  
DIGBOI DIVISION.

KINDLY REFER GOVT. NOTIFICATION NO. FRE.66/90/  
190-D DATED ELEVEN SEPTEMBER TWO THOUSAND ONE AND INTIMATE  
A CONVENIENT DATE TO HANDOVER CHARGE OF THE KARIMGANJ  
DIVISION TO ME (.)

DIVISIONAL FOREST OFFICER  
DIGBOI DIVISION.

Memo No. *AFLE 33(a)/2878* dtd. 13-9-2001

Copy to the A.F.R.O. Digboi Police Station,  
Digboi with a request to transmit the above message  
early.

*[Signature]*  
Y. Surya Narayana, I.F.S.  
Divisional Forest Officer,  
Digboi Division.

*OC*

....

*Attested  
Anis Bork  
Advocate*

To,

The Divisional Forest Officer,  
Karinganji Division,  
Karinganji.

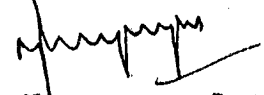
Subj:- Joining Report.

Re:- Govt. Notification No. F.R. 66/90/190-D  
dtd. 11-9-2001.

Sir,

With reference to the subject cited above,  
I have joined in my duties in the forenoon of 17.09.2001.  
----- . I have intimate the date for handing  
over of the charge of Karinganji Division to the undersigned  
at an early date.

Yours faithfully,



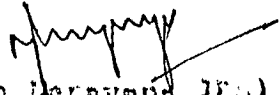
( Y. Surya Narayana, IFS )

Copy to the Principal Secretary to the Govt.  
of Assam, Forest Department, Dispur, Guwahati for favour of  
your kind information and necessary action.

Copy to the Principal Chief Conservator of  
Forests, Assam, Guwahati for information.

Copy to the Chief Conservator of Forests (T)  
Assam, Guwahati for information.

Copy to the Conservator of Forests, Southern  
Assam Circle, Dibrugarh, Dibrugarh for information.



( Y. Surya Narayana, IFS )

Attested  
Am: Sub  
Advocate

...

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH GUWAHATI

ANNEXURE-5

ORDER SHEET

Misc APPLICATION NO ... 111A ... OF 2001.  
W.O.A. 296/2000

Applicant (s) Jatinidra Baruah & Son

Respondent (s) Union of India & Son

Advocate for Applicants (s) Mr. N. Dutta, Mr. D.K. Das

Advocate for Respondent (s) C.G.S.C., Mrs. M.D.N., G.A. Anam

26.6.2001



By this application the applicants have prayed that the operation of the letter dated 27.4.2001 issued by the Director General of Forests and Special Secretary, Ministry of Environment and Forests, Government of India, may be suspended during the pendency of the O.A. In the O.A. the applicants have challenged the Notification dated 9.11.1995 by which the Central Government has fixed the cadre strength and has earmarked twentytwo posts of Deputy Conservator of Forests, (Territorial) for the members of the Indian Forest Service. The contention of the learned counsel

Attested  
Tuni Sobh  
Advocate

- 25 -

26.6.2001



Certified to be true Copy  
प्रमाणित प्रतिलिपि

N<sup>o</sup> 27/6/2001

Section Officer (J)

आयुक्त न्यायाधीश, केंद्रीय न्यायाधीश  
Central Administrative Tribunal  
केंद्रीय प्रशासनिक न्यायालय  
Gurukul Bench, Gurukul-3  
गुरुकुल न्यायालय, गुरुकुल-3

HS 27/6/2001

for the applicant is that if the letter dated 27.4.2001 is given effect, the O.A. shall be rendered infructuous and the applicants will suffer irreparable loss and injury. On the other hand, Mr B.C. Pathak, learned Addl. C.G.S.C., has submitted that by the letter dated 27.4.2001 the State Government has been only asked to have the territorial divisions notified and communicate the same to the Ministry to enquire that only cadre officers are posted to the cadre posts. It is submitted that Notification in pursuance to the impugned letter has not yet been issued and there is no likelihood of any immediate injury to the applicants.

We have considered the rival submissions made by the learned counsel for the parties and perused the impugned letter. As the Notification dated 9.11.1995 is under serious challenge before this Tribunal and the letter dated 27.4.2001, now impugned, is only a consequential step, in our opinion, it shall be just and proper to protect the interest of the applicants so as their position may not be disturbed as a consequence to the letter dated 27.4.2001. The application is accordingly disposed of with a direction that though Notification regarding territorial division may be issued in pursuance of letter dated 27.4.2001, however, the position of the applicants vis-a-vis their status shall not be altered until further orders.

SD/VICE CHAIRMAN  
SD/ MEMBER (ADM)

10/9/2001 10/9/2001 20/9/2001 20/9/2001  
 Date of making copy to the applicant:

ANNEXURE- 5A

-26-

IN THE DISTRICT COURT  
 OF THE DISTRICT OF BANGALORE  
 CIVIL APPELLATE SIDE

FILE NO.

91701/2001 NO. 6636/2001.

Plaintiff/Petitioner(s)

- 2001 AD 115

- Versus -

The State of Mysore  
 6 Thos

Respondent Opp. Party (s).

Plaintiff  
 Defendant(s)  
 Party(s)

1/ B. Roy. Co. Mysore  
 1/ K. K. 115  
 3. Shyam

G. A. Mysore

By Officer's Serial Date Office Note, Reports, Orders of Proceedings with Signature.

Mr. SK Zan

Advocate for the  
 Plaintiff

20/9

Attested  
 Anu: Broke  
 Advocate.

32

-27-

In the matter of :

Sri Amrit Kumar Das,  
son of late Monuram Das,  
~~aged about 42 years,~~  
presently posted as Divisional  
Forest Officer, Karimganj Division,  
Karimganj, a resident of Karim-  
ganj Town, District-Karimganj,  
Assam.

.. Petitioner

-v-

1. State of Assam,  
represented by the Commissioner  
& Secretary to the Government  
of Assam, Department of Forests,  
Dispur, Guwahati-6.

2. Joint Secretary to the  
Government of Assam, Department  
of Forest, Dispur, Guwahati-6.

3. The Principal Chief  
Conservator of Forests,  
Assam, Ishigari, Guwahati

cont'd....



-28-

-21-

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-4-

4. Sri Y. Surya Narayan, IFS,  
Divisional Forest Officer,  
Digboi Division, Digboi.

The humble

BEFORE

17.11.2021

THE HON'BLE MR. JUSTICE D. BISWAS

Heard Mr. A. Roy, Learned Counsel for the petitioner.

Issue notice of motion.

Returnable within six weeks.

Mr. Talukdar, Learned State Counsel accepts notice on behalf of Respondents No. 1, 2 and 3.

Mr. B.K. Sarma, Learned Senior Counsel appears on behalf of Respondent No.4/Caveator.

The caveat is discharged.

Also heard on interim prayer.

It appears that the writ petitioner who has been working as Divisional Forest Officer, Karimganj Division has been transferred and posted as Deputy Conservator of Forests attached to the office of the Conservator of Forests. In his place, the private Respondent, an officer in the cadre of Indian Forest Service has been transferred.

It would appear that the transfer of both the officers have been passed in interest of public service and the transfer of the writ petitioner although made in within a period of two years cannot be said to be vitiated for want of evidence of malafide or other extraneous consideration. That apart, the writ petitioner is a member of State Forest Service while the private respondents pertain to Indian Forest Service. Rule 8 and 9 of the Indian Forest Service (IFS Cadre) Rules, 1955

17.9.2001 provides that an officer belonging to Indian Forest Service has to be posted against cadre post with the exception that an officer of non-cadre post may also be posted temporarily for a period of three months. This matter also came up for consideration before this Hon'ble Court in Writ Appeal No.131/2000 where the above provision of law was interpreted.

The question, therefore, is whether the post of D.F.O., Karimganj is non-cadre post. Even if it is so, the writ petitioner cannot insist on his continuance at Karimganj. The decision given in Writ Appeal No.131/2001 arising out of W.P.(C) No.27/2000 was on the ground that the post of D.F.O. at Karimganj is a cadre post and the writ petitioner of W.P.(C) No.27/2000 ought not to have been posted there. This Court has also come to the conclusion that there is no bar in posting a non-cadre officer temporarily for a period of three months only. In other words, the fact that the post of D.F.O. at Karimganj is a cadre post remain unassailed. Therefore, transfer and posting of the private respondent at Karimganj cannot be said to be in violation of the provisions of the Rules.

Mr. Roy, further relied upon an order passed by the Central Administrative Tribunal on 26.6.2001 in Miscellaneous Application No. 144/2001 arising out of C.A. No. 144/2001 where directions were given not to alter the status of the writ petitioner until further orders. It appears that the said interim order was passed by the Learned Tribunal

17.11.2001  
(11.11.01)

with reference to a Government of India direction contained in the letter dated 27.4.2001 directing reconsideration of the notification dated 9.11.95 which specifies the cadre and non-cadre posts. This direction of the learned Tribunal cannot stand on the way of transfer of the writ petitioner. The writ petitioner, obviously is posted against a cadre post which he is not entitled to beyond the period of three months. Therefore, his transfer to a post to which he is entitled cannot be termed as bad in law. Therefore, the prayer for stay of the order of transfer is rejected. The respondent State, however, shall be at liberty to pass appropriate orders with regard to posting of the writ petitioner and the private respondent as and when the notification of 1995 stands amended.

SL D. B. S. W. R.  
11.11.01

6727(A).  
c/c/cf

CERTIFIED TO BE TRUE	
Kishna K. K. K. K.	
Date	20.11.2001
Superintendent	(C. B. S. W. R.)
C. B. S. W. R.	
Authorized U.P. 76, C. B. S. W. R.	

20/11/2001

प्रतिनिधि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिनिधि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिनिधि देने की तारीख Date of making over the copy to the applicant.
3/3/2000	3/3/2000	3/4/2000	3/4/2000	3/4/2000

2-32-

ANNEXURE- 6

THE GAUHATI HIGH COURT  
(High Court of Assam Nagaland, Meghalaya, Manipur, Tripura,  
Mizoram & Arunachal Pradesh)  
CIVIL APPELLATE SIDE

Appeal from  
Civil Rule

WA-

No 13/ of 2000.

A. K. Das

Appellant  
Petitioner

Versus

State of Assam + Ors

Respondent  
Opposite-Party

Appellant  
For  
Petitioner  
N. M. Lohia  
N. Choudhury  
S. C. Roy

Respondent  
For  
Opposite-Party  
GA. Assam

Attested  
Anil Kumar  
Advocate

-33-

Sri Amrit Kumar Das,  
Son of Late Manu Ram Das,  
Presently posted as Divisional Forest  
officer, Karimganj Division, Karimganj  
(Assam)

... Appellant/Writ Petitioner

- Versus -

1. State of Assam,
2. Commissioner and Secretary to  
the Government of Assam,  
Department of Forest, Dispur,  
Guwahati- 6.
3. Joint Secretary to the Govt.  
of Assam, Deptt. of Forests, Dispur,  
Guwahati - 6.
4. Principal Chief Conservator of  
Forests, Assam, Rehabari,  
Guwahati- 8.
5. Conservator of Forests,  
Southern Assam Circle, Silchar.

contd...p/2



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-8-

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( 2 )

6. Nagen Das,

DCF ( Monitoring Cell)

Attached to Principal Chief

Conservator of Forests, Guwahati-8.

... Respondents.

IN THE MATTER OF :

W.P.(C) No. 27 /2000

Sri Amrit Kumar Das - Petitioner.

-Versus -

State of Assam & Others v Respondents.

B

ing by Office or  
Advocate.

Sl. No.	Date	Office Notes, Reports, Orders or proceeding with Signature.
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BEFORE

HON'BLE THE CHIEF JUSTICE MR. BRIJESH KUMAR  
HON'BLE MR. JUSTICE D. BISWAS

31-3-2000

Biswas J.

In this appeal the judgment and order dated 16.3.2000 passed by the learned Single Judge dismissing the W.P(C) No.27/2000 is challenged.

We have heard Shri N.M.Lahiri, learned Sen or counsel assisted by Shri N.Choudhury for the appellant and also Shri B.K.Sharma, learned counsel appearing for the Respondent No.6. Also heard Shri B.C.Das, learned Addl Sr. Govt Advocate, Assam.

The controversy in this appeal centres around the posting of the appellant as Divisional Forest Officer, Karimganj. By order dated 25.11.99 the appellant who was posted as Deputy Conservator of Forests (Monitoring Cell) attached to Chief Conservator of Forest was transferred as D.F.O., Karimganj vice Shri Nagen Das, respondent No.6. In pursuance of the said order of transfer the petitioner was released on 4.12.99. This order of transfer dated 25.11.99 was cancelled by the State Government by an order dated 6.12.99 and thereafter, by another notification dated 16.12.99 the order dated 6.12.99 was cancelled and in consequence..

23



Noting by Office or Advocate.

Sl. No.

Date

Office Notes, Reports, Orders or proceeding with Signature.

1.3.2000

thereof  
consequence/ the initial order of transfer passed on 25.11.99 stood revived. The petitioner went to Karimganj to take over charge. However, he was allegedly not allowed to take over charge to assume duties as D.F.O. He sent a W.T. Message to the Chief Conservator of Forest on 18.12.99 requesting for necessary direction to enable him to take over charge. The Joint Secretary to the State Government by an order dated 28.12.99 allowed the petitioner to take over charge of Karimganj Division unilaterally with immediate effect. The petitioner accordingly took charge of the office of D.F.O., Karimganj with effect from 29.12.99 (F.N.). It is pertinent to mention here that the State Government on the same date i.e. 29.12.99 sent a W.T. Message intimating government's decision permitting the Respondent No.6 to continue at Karimganj Division until further orders. The appellant by the same order was also directed to report back to the Conservator of Forest to assume duties in his earlier post.

~~On 28.12.99~~ The aforesaid development indicate without any shadow of doubt that the transfer of the appellant passed on 25.11.99 was given effect to before the order dated 29.12.99 could be communicated. The appellant is accordingly

in the ....

20

being by / or  
Advocate

Serial

Date

Office notes, reports, orders, or proceeding  
with signature.

31.3.2000

in position as D.F.O., Karimganj Division.

From the factual background as highlighted above, we do not find any impropriety on the part of the appellant in taking over charge as D.F.O., Karimganj pursuant to the order dated 25.11.99. It is not discernable from the record that the State Government superseded the initial order of transfer passed on 25.11.99. We, therefore, of the opinion that till this stage there has been no illegality, irregularity or impropriety on the part of the appellant in taking over charge as per order dated 25.11.99. The Charge Report (Annexure-7) available on record shows that the appellant took-over charge unilaterally as per Govt. Notification dated 28.12.99. We find no reason to doubt this charge-report which was forwarded to the Government immediately after taking over in pursuance of the Government order dated 28.12.99.

Shri B.K. Sharma, learned counsel for the respondent No.6 submitted that the Respondent No.6 and 6 six) other officers have in the meantime been appointed to the Indian Forest Service by notification dated 6.3.2000. Since the respondent No.6 now pertains to Indian Forest Service, his posting will have to be made in compliance of the provisions of Rules 8 and 9 of the Indian Forest Service Cadre Rules. Referring to Annexure - 6, a letter written by the Principal Chief Conservator of Forest, Shri Sharma submitted that the post of D.F.O., Karimganj a cadre post and it cannot be filled up by any non-cadre officer. According to him the appellant

Noting by Officer or Advocate

Serial  
No.

Date

Office notes, reports, orders or proceeding  
with signature

31.3.2000

is a non-cadre officer and not eligible for posting as D.F.O., Karimganj. At this stage we consider it expedient to refer to the provisions of Rule 8 and 9 of the IFS Cadre Rules, Rule 8 provides for posting of a cadre officer in a cadre post only. Rule 9 permits temporary appointment of non-cadre officer to a cadre post for a period not exceeding three months on certain exigencies specified therein. Therefore, the provision of Rules 8 and 9 do not absolutely bar posting of a non-cadre officer to a cadre post for a period of three months. Although the reason to allow the appellant, a non-cadre officer, to hold a cadre post is not available on record and, yet, the State Government has passed the order posting the appellant to a cadre-post, we would like to leave this matter for re-examination with direction to the Respondents to pass appropriate orders in accordance with the provisions of law.

From what is stated above, we would like to conclude that we do not find any illegality or impropriety on the part of the appellant in taking over charge as D.F.O., Karimganj. However, the State Government is to re-examine the matter in the light of the provisions of Rules 8 and 9 and to pass appropriate orders and till then the appellant shall be allowed to function as D.F.O., Karimganj. The State Government, in view of the appointment of 7 officers including the Respondent No.6 to the Indian Forest Service, <sup>may</sup> will be required to pass

Contd....

by office or Advocate.	Serial	Date	Office notes, reports, orders, or proceeding with signature.
	31.3.2000		<p>fresh orders with regard to their posting to cadre post. The grievance of the Respondent No.6 that he has been posted to a non-cadre post will be taken care of by the State Government in the above exercise.</p> <p>Subject to the above observations, the appeal stands finally disposed of with no order as to costs.</p>

*Sd/- T. Biswas*  
Judge

*Sd/- Prateek Kumar*  
Chief Justice

Certified to be true Copy  
*Sipali Baruah*  
 Superintendent (Copying)  
 GAUHATI HIGH COURT  
 Authorized U/S 76 Act of 1979

3/7/2000

*Sd/-* 3/4/2000

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ANNEXURE-7

To,

27.09.2001

The Conservator of Forests,  
Southern Assam Circle,  
Silchar.

Sub:- Non - handing over of charge of Karimganj Div. by Shri A.K. Das

Ref:- Govt. Notification No. FRE. 66/90/190-D Dt. 11.09.2001  
My joining report Dt. 17.09.2001

Sir,

I have the honour to inform you that already 10 (ten) days have elapsed and yet Shri A.K. Das has not handed over the charge of Karimganj Div. to the undersigned in pursuance of the Govt. order referred to above.

This is for favour of your kind information and necessary action.

Yours faithfully

( Y. Surya Narayana )

Copy to the Principal Chief Conservator of Forests, Assam Guwahati

for favour of your  
kind information &  
necessary action

to the Chief Conservator of Forests, (T) Assam, Guwahati

( Y. Surya Narayana )

Copy to the Secretary, Forests Deptt. Govt. of Assam Dispur ....

for favour of his  
kind information &  
necessary action

( Y. Surya Narayana )

Attested  
Sunil Kumar  
Advocate

-41-

ANNEXURE-46

4.10.2001

To,

The Secretary,  
Forest Deptt. Govt. of Assam  
Dispur.

Sub:- Non - handing over of charge of Karimganj Div. by Shri A.K. Das

Ref:- Govt. Notification No. FRE. 66 / 90 / 190 - D Dt. 11.09.2001  
My joining report Dt. 17.09.2001  
My letter no. nil Dt. 27.09.2001

Sir,

I have the honour to bring to your kind notice that Shri A.K.Das, D.F.O. Karimganj has not yet handed over the charge in pursuance of the Govt. order referred above even after fortnight of my joining at Karimganj.

This is for favour of your kind information and necessary action.

Yours faithfully

( Y. Surya Narayana )

Copy to the Principal Chief Conservator of Forests, Assam Guwahati

to the Chief Conservator of Forests, (I) Assam, Guwahati

copy to the Conservator of Forests, S.A.C., Silchar.

for favour of your  
kind information &  
necessary action

( Y. Surya Narayana )

Attested  
Ani Bora  
Advocate

OFFICE MEMORANDUM

Dated Dispur, the 27th October, 1993.

Subject :- Handling over and taking over charge on transfer and representation on service matters.

Reference is invited to Government OM.NO.AAA.12/51/2, dated 28-6-1951 wherein it has been clearly laid down that a Government servant must arrange to hand over charge within 10(ten) days of the receipt of the orders of transfer and proceed to his/her new place of posting after availing of the admissible joining time. Any delay in complying with orders of transfer without specific permission of the authority who issued the order of transfer will be punishable as an act of gross indiscipline.

It has also been made clear in OM.NO.HMJ.67/72/99 dated 13-10-1972 that violation of orders of transfer and posting sometimes put the Government in a very embarrassing position compelling the Government to alter, cancel or modify the orders. Since orders of transfer and posting are issued in the interest of Public service, if the orders are not complied with the very idea behind such action of Government gets defeated. Therefore, such orders should be complied with without any loss of time. Government will take a serious view of cases of violation of the orders.

In this connection, Government instructions vide NO.ABF. 66/92/73 dated 15-6-1992, NO.ABF.91/84/1, dated 3-12-1984 and NO.AAA. 102/89/73, dated 15-12-1992 may also be referred to. However, in spite of clear instruction issued by the Government from time to time, a good number of officers keep submitting representations repeatedly. It is also observed that many officers after receipt of the transfer orders instead of proceeding to join their new place of posting approach verbally or in writing directly Ministers and other Political personalities, non-officials and even to the Chief Minister and try to get their transfer orders cancelled/Stayed/modified. This practice on the part of the officers of not carrying out the orders of the Government and addressing representation to the authorities who are not immediate superior or not at all concerned with the transfer, is against all norms of discipline and in violation of the Government instructions and provisions of Assam Civil Services (conduct) Rules, 1965. Some very junior officers have been submitting

Contd.2..

Attested  
Advocate

representation direct to the Secretary, Personnel Department or Chief Secretary in connection with his/her service matters by-passing his/her Controlling Authorities in violation of the instructions of the Government and of the Provisions of the Assam Civil Services (conduct) Rules, 1965, Government have taken a serious view on the matter.

It is seen that even wives, fathers, mothers and other relatives of the officers sometimes submit representations concerning service matters of the particular officers to the Ministers, non-officials and even to the Chief Minister and other Political personalities with hope of getting representation which the officer had himself made and which had been turned down reconsidered. This practice again is obviously un-desireable and should be strongly discouraged. All officers are duty bound to work in any part of the state as per Government orders.

In such cases the claim of the officer that he himself did not seek the intervention of a Minister, or M.P. or M.L.A. or any other person on his behalf will not be accepted and there will be presumption of officer's involvement in the matter unless the contrary is proved by him.

Whether in any matter connected with his/her service right on conditions, and officer wishes to prefer a claim or to seek redress of grievances, the proper course for him is to address his immediate official superior or Head of his office, or such authority at the lowest level as is competent to deal with the matter.

Whenever a representation/request written or verbal asking for the cancellation/modification of transfer and posting orders of a particular officer is received in violation of the Government instructions/Circulars, it will be presumed that the official affected by it, has in fact, prompted such Political personalities/non-officials/outsiders to make such request and will invite disciplinary action including suspension against such officials automatically.

It is again impressed upon to all concerned to strictly follow the Government instructions and to join their new place of posting within 10 (ten) days of the receipt of the transfer orders after availing admissible joining time. For any violation of the Government instructions, disciplinary action including suspension will be initiated against them. An adverse entry will also be recorded in their ACR, if Government/Controlling officers feel that and M.P., M.L.A., Minister or any other outside person has approached Government on his behalf and such entry will act as negative factor for the purpose of promotion.

contd...3...



- 3 - 44 -

confirmation, crossing of efficiency bar, etc.

The receipt of this communication should be acknowledged.

Sd/ K.S.RAO  
Addl. Chief Secretary to the Govt. of Assam  
.....

Memo NO.AAP.166/93/10-A::::::::::Dated Dispur, the 27th October, 1993.  
Copy forwarded to:-

1. All Special Commissioner & Special Secretaries/Commissioners & Secretaries/Secretaries to the Government of Assam.
2. All Commissioners of Divisions, Assam.
3. All Deputy Commissioners.
4. All Heads of Deptts/All Administrative Departments.
5. The Principal Secretary, Karbi-Anglong District Autonomous Council/ N.C.Hills District Council.
6. All Chief Executive of Public Enterprises.
7. All Sub-Divisional Officers (Civil)

They are requested kindly to bring it to the notice of all officers and particularly to ACS officers to strictly follow the Government instructions.

By order etc.,

Sd/- NIRANJAN GHOSE  
Secretary to the Govt. of Assam  
Personnel (A) Deptt. Dispur.  
.....

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ANNEXURE-10

NO.AAP.166/93/Pt/5  
GOVERNMENT OF ASSAM  
DEPARTMENT OF PERSONNEL (PERSONNEL::A  
ASSAM SECRETARIAT:::CIVIL:::DISPUR  
GUWAHATI-781 006  
::::

OFFICE MEMORANDUM

Dated Dispur, the 2nd July/2001.

Sub.: Handing over and taking over charge on transfer and representation on service matters.

It has been observed that officers, when transferred in the interest of public service and for administrative reasons, often show their reluctance to hand over charge. Either they proceed on leave by submitting a leave application only (and to proceed on leave without sanction is unauthorised leave) or some such officers prefer appeal for stay of such transfer orders directly to Ministers, other Political personalities, non-officials and even to Chief Minister seeking stay/cancellation of such transfer orders. Such actions are in clear violation of Govt. instructions and provisions of the Assam Civil Services (Conduct) Rules, 1965.

Government desires that such unhealthy practice should be stopped forthwith. No leave is to be sanctioned when an officer applies for leave before handing over charge. For officers of the rank of Joint Secretary and above, if such leave applications are received, leave should not be sanctioned without the approval of Chief Minister/Chief Secretary. Representations for stay/cancellation of transfer orders received through channels other than official, will not be taken cognisance of.

In enclosing a copy of Govt. OM.NO.AAP.166/93/10, dated 27-10-93, containing detailed instructions on the subject, it is reiterated that the officers under orders of transfer, should strictly follow the Govt. instructions and to join their new place of posting within 10(ten) days on receipt of transfer order after availing admissible joining time. Failure on the part of the officer to comply with such orders, will lead to appropriate action against them in terms of Government instructions mentioned above.

Sd/- P.K. BORA.  
CHIEF SECRETARY TO THE GOVT. OF ASSAM  
.....

Memo NO.AAP.166/93/Pt/5-A:::Dated Dispur, the 2nd July/2001,  
Copy to:-

1. The Commissioner & Secretary to the Governor of Assam, Dispur.
2. The PPS to Chief Minister, Assam, Dispur.
3. The PS to Speaker, Assam Legislative Assembly, Dispur.

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Contd..2..

*G F*  
*K R*  
*12/7*  
*Attested*  
*Advocate*

4. The PS to Chief Secretary, Assam, Dispur.
5. PS to Addl. Chief Secretary, Assam, Dispur.
6. All Principal Secretaries/Commissioner & Secretaries/Secretaries to the Govt. of Assam.
7. All Commissioners of Divisions. *LAD Guwahati*
8. The Chairman, Assam Administrative Tribunal, Guwahati.
9. The Chairman, Assam Board of Revenue, Guwahati.
10. The Secretary, Assam Public Service Commission, Jawaharnagar, Ghy-22.
11. The PS to All Ministers/Ministers of state.
12. The Accountant General (A&E), Assam, Maidamgaon, Beltola, Ghy-29.
13. The Accountant General (Audit), Assam, Maidamgaon, Beltola, Ghy-29.
14. All Heads of Dep'ts.
15. All Administrative Departments.
16. Chief Executive Member, North Cachar Autonomous Council, Diphu/Hafalong/Karbi Anglong Autonomous Council, Diphu/Bodoland Autonomous Council, Kokrajhar.

By order etc.,

*[Signature]*  
(P. K. GUPTA)

Joint Secretary to the Govt. of Assam  
Personnel Deptt., Dispur

*[Stamp]*

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ANNEXURE-11.

GOVERNMENT OF ASSAM  
FOREST DEPARTMENT ::::: DISPUR.  
10/10/2001

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Dispur, the 10th October, 2001.

NO.FRE. 100/2001/26 :- The transfer order issued vido Govt. Notification No.FRE. 66/90/190-E, dtd. 11.9.2001 in respect of Shri A.K. Das, Divisional Forest Officer, Karimganj Division is hereby stayed temporarily and untill further order.

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

Memo No.FRE. 100/2001/26-A, Dated Dispur, the 10th October, 2001.  
Copy to :-

- 1) The Accountant General (A&E), Assam, Maidamgaon, 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, Zoo Narengi Road, Guwahati-24.
- 6) The Chief Conservator of Forests (Research, Education and Working Plan), Assam, Guwahati-24.
- 7) The Conservator of Forests, Southern Assam Circle, Silchar.
- 8) Shri A.K. Das, Divisional Forest Officer, Karimganj Division, Karimganj.
- 9) Shri Y. Suryanarayan, IFS, DCF, C/O Principal Chief Conservator of Forests, Assam, Rehabari, Guwahati-8.
- 10) The P.S. to the Minister, Forest, Assam, Dispur, Guwahati-6 for information of the Minister.
- 11) The Deputy Director, Assam Govt. Press, Damanimaidam, Guwahati-21 for favour of publication of the above Notification in the next issue of the Assam Gazette.
- 12) Personal File of the officers.

By order etc.,

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

.....

Attested  
Anni: hndh  
Advocate

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.417 of 2001.

Date of Order : This the 12th Day of October, 2001.

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

Shri Y.Surya Narayana, IFS  
Divisional Forest Officer, Karimganj  
Division, Karimganj. . . . Applicant.

Mr.B.K.Sharma, Mr.S.Sarma, Mr.U.K.Nair &  
Ms.U.Das.

- Vs -

1. Union of India  
Represented by the Secretary  
to the Government of India  
Ministry of Forest  
New Delhi.
2. The State of Assam  
Represented by the Chief Secretary  
Dispur, Guwahati-6.
3. The Secretary to the Government  
of Assam, Department of Forest  
Dispur, Guwahati-6.

4. Shri Amrit Kumar Das, presently  
holding the post of DFO, Karimganj  
Division, Karimganj (under order  
of transfer to Northern Assam Circle  
Tezpur.

. . . Respondents.

By Mrs.M.Das, Advocate Govt. of Assam for  
Respondent No.2.

### ORDER

K.K.SHARMA (MEMBER ADMN.) :

By this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for implementation of order dated 11.9.2001, whereby the applicant has been transferred and posted as Divisional Forest Officer, Karimganj Division, Karimganj with effect from the date of taking over the charge.

2. The applicant is an Indian Forest Service Officer and was holding the charge of D.F.O., Digboi.

Contd.. 2

Attested  
Ann: bsd  
Advocate

11/11/2001

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By order dated 11.9.2001 the applicant has been transferred as mentioned above. The applicant was relieved on 12.9.2001 by Sri Amal Chandra Sarma, who was posted as D.F.O, Digboi. The applicant has joined in his place of posting namely, Karimganj on 17.9.2001, but the charges had not yet been handed over to the applicant by Mr. A.K.Das, D.F.O, Karimganj, who is a member of State Forest Service. It has been stated that though Mr.Das is not an Indian Forest Service Officer he is holding a cadre post. Mr.A.K.Das had filed a petition before the Hon'ble Gauhati High Court which was numbered as WP(C) No. 6636/2001 and the Hon'ble High Court turned down the interim prayer of the applicant for stay of the order of transfer.

3. Mr.B.K.Sharma, learned senior counsel for the applicant has stated that the transfer order dated 11.9.2001 has not been amended or cancelled so far. The respondent No.4 has refused to hand over the charge to the applicant. Mr.Sharma has referred to the Annexure 9 and 10 being as Office Memorandum dated 27th October, 1993 and 2nd July, 2001 issued by the Secretary to the Govt. of Assam, Personnel (A) Deptt. and Chief Secretary to the Govt. of Assam, wherein it has been emphasised that the process of handing over charges should be completed within 10 days of passing the transfer order. He has submitted that the action of the respondents in not handing over the charge is violative of the order of the Hon'ble High Court as well as the Office Memorandums dated 27th October, 1993 and 2nd July, 2001. The applicant has also made representation dated 27.9.2001 and 4.10.2001 (Annexure-7 and 8 to the application) to the Conservator

of Forests, Southern Assam Circle, Silchar and Secretary Forest Deptt. Govt. of Assam, Dispur. It is stated that the applicant has not got any reply so far.

4. I have also heard Mrs. M.Das, learned counsel appearing for the Government of Assam. She admitted that the transfer order dated 11.9.2001 has not been cancelled so far.

5. Having heard the counsel for the parties and gone through the documents filed with the application it is clear that the applicant has been transferred from the post of D.F.O, Digboi to D.F.O, Karimganj Division, Karimganj. The applicant has already been relieved with the charge of D.F.O, Digboi on 12.9.2001 and has also reported at Karimganj Division on 17.9.2001. The applicant has followed the order passed in his case. There is no material produced before me to show that the applicant has no right to the post of D.F.O, Karimganj. The applicants representations have not been acted upon. In the circumstances, direction should be given to the respondent Nos. 2 & 3 to carry out the order dated 11.9.2001, so far as it relates to the applicant. Accordingly I direct the said respondents to carry out the said order within one week from the receipt of the order. Considering the importance and urgency of the matter and as the parties have no objection, the matter is disposed of as the admission stage. No order as to costs.



Certified to be true Copy

प्रमाणित प्रतिलिपि

Sd/-MEMBER (Adm)

Section Officer (J)

आनुमान अधिकारी (न्यायिक शाखा)  
Central Administrative Tribunal

केन्द्रीय प्रशासनिक अधिकरण  
Guwahati Bench, Guwahati-8  
गुवाहाटी न्यायपीठ, गुवाहाटी-8

15/10/2001