

5/100
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

Respondent(s) :- UOI & others

Advocate for the Applicant :- Mr B.K. Sharma, S. Surma
Mr U.K. Nair

Advocate for the Respondent :- Addl. Case. A.K. Choudhury

Notes of the Registry	Date	Order of the Tribunal
This is application in form C. F. for Rs. 50/- deposited vide IPO/BD No 64788504 Dated 27/9/2001 <i>By, Registrar</i>	25.10.01	<p>Heard Sh. B.K. Sharma t. 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.</p> <p>List on 19/11/2001 for order.</p> <p>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>
Notice refiled, Respondent No.1 received by Shri A.K. Choudhury, Addl. Case. Respondent No.2 to 4 sent to DSC before 11.11.2001 by Registered A.D.		<i>IC (U) Sharma</i> Member
DINo - <u>4164 to 4166</u> Dtd - <u>8/11/01</u>		
No. written statement has been filed.	19.11.01	<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>
		<i>IC (U) Sharma</i> Member
		<i>Vice-Chairman</i>
	1m	

(2)

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.

No written statement has been filed.

List again on 18.1.02 for order.

30
17-1-02.

I C Usha
Member

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

mb
18.1.02

Notice of the respondent No.4
could not be 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.

I C Usha
Member

No.4 has been
filed.

30
21-2-02

lm

22.2.02

Notice 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.

I C Usha
Member

No.5: Written statement
has been filed.

30
26-3-02

lm

27.3.02

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

No.5 has been
filed.

30
11-4-02

Vice-Chairman

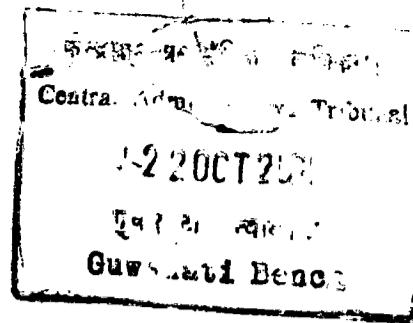
mb

B

O.A. 428 of 2001

Notes of the Registry	Date	Order of the Tribunal
	12.4.02	<p>Mr. S. Sharma 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>12.4.02 1m</p> <p>Member</p>

Notes of the Registry	Date	Order of the Tribunal



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.

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 16.10.2001 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:

Y. Surya Narayana
Applicant

Through
Unni Krishnan
Advocate.

Handwritten signature

X

- 2 -

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

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. 48/2001 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

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. 1317/2000 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 11.9.2001, 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 11.9.2001. 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

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

4.10 That the Applicant is now surprised 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. 4 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 their 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 ad 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 said 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. Inspite 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 remained 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 :

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. : 6G 788504
- ii) Date : 27.9.2001
- iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

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VERIFICATION

I, Shri Y. Surya Narayana, aged about 37 years, son of Shri M. Kullayappa, DFO, Karimganj Division, Karimganj, do hereby solemnly affirm and verify that the statements made in paragraphs 1 to 3, 4'1, 4'2, 4'3, 4'4, 4'5, 4'6, 4'9, 4'11, 4'12, 4'13, 4'14, 4'15, 4'16 4'17, 4'18, 4'19, 4'20, 4'21, 4'22, 4'23, 4'24, 4'25, 4'26, 4'27 are true to my knowledge ; those made in paragraphs 4'7, 4'8, 4'10 and 4'12 are true to my information derived from records and the rests are my humble submissions before the Hon'ble Tribunal.

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

Y. Surya 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 continuation of earlier Govt. order
Notification No. FRE. 2/91/pt. XX/119-A dtd. 12-7-2001, Shri C
R. Bhowra, IFS, is transferred and posted as Divisional
Forest Officer, Central Assam Afforestation Division, Hojai
Hojai with effect from the date of taking over charge
vice Shri 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, IFS transferred.

NO. FRE. 66/90/190-B

On relief, Shri P S Das, IFS, 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, Bhamnigaon with effect from the
date of taking over charge vice Shri Nagen Das, IFS,
transferred.

NO. FRE. 66/90/190-C

On relief, the services of Shri Nagen
Das, IFS, Divisional Forest Officer, Kamrup West
Division, Bhamnigaon is in the interest of public
service are placed at the disposal of Karbi
Anglong Autonomous Council. Duly for his posting
as Divisional Forest Officer, Hamron Division, Kamrup
vice Shri A C Barma already transferred.

Page 2

Attested
Anu. Mohr
Advocate

NO. FRE.66/90/190-D : In modification of earlier Govt.

Notification No. FRE.3/90/pt. II/208-A dtd. 22.8.2001 Shri
V. Sugyanarayanan, IFS, Divisional Forest Officer, Dibrugarh
Division, Dibrugarh is in the interest of public service
transferred and posted as Divisional Forest Officer, Dibrugarh
Division, Karimganj with effect from the
date of taking over charges of service. Shri A. K. Das transferred.

As Divisional Forest Officer, Dibrugarh.

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

As Divisional Forest Officer, Dibrugarh.

Sd/- A. K. Das

Shri A. K. Sugyanarayanan, IFS, Divisional Forest Officer,
Karimganj Division, Karimganj, Joint Secretary to the Govt. of Assam,
Forest Department, Dibrugarh.

Memo No. FRE.66/90/190-promoted Dibrugarh the 11-9-2001.

By order of the Government.

Copy to :

1. The Accountant General (A. G.), Assam, Maitripath, Sototal, Guwahati-29.
2. The Principal Chief Conservator of Forests, Assam, Rangbari, Guwahati-3.
3. The Chief Conservator of Forests (wildlife), Assam, Zuhabari, Guwahati-3.
4. The Chief Conservator of Forests (territorial) Assam, Panbazar, Dibrugarh-1.
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, Central Assam Circle, Guwahati-1 Northern Assam Circle, Tezpur/Eastern Assam Circle, Jorhat/Wester Assam Circle, Kokrajhar/Kaziranga Autonomous Council, Diphu.

contd...

-20-

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To

The **Govt. The Director, Kaziranga National Park, Bokakhat.**
Forest Department, Dispur

**9. The Principal Secretary, Karbi Anglong Autonomous council,
Guwahati, for supply of information and necessary action.**

**10. Shri A. C. Das, Divisional Forest Officer, Central Assam P.O-01
Reference: Application for transfer order.**

**11. Shri P. S. Das, IFS, Divisional Forest Officer, Nameruk
Kaziranga National Park, Assam, for supply of information & sympathetic action
Division Bokakhat, in**

**That sir, I have been functioning as Director to move Kaziranga
Forest Division and I have to submit the following facts
Division Bokakhat, in
Immediately after handing over charge to field
Director Kaziranga National Park.**

**12. Shri Naren Das, IFS, Divisional Forest Officer, State of Assam
Kamrup West Division, Bhamunimadam, Gaon,
joining the Forest Department, I have been normally discharging my duties as Divisional
Forest Officer (DFO), Bhamunimadam, Gaon, after disposal of C. of work
filled by me due to non receipt of charge in time. Though I had joined in the Bhamunimadam
Division.**

**13. Shri Y. Suryanarayana, IFS, Divisional Forest Officer,
Digboi Division, Digboi,
That sir, on being posted in Divisional Forest Officer (DFO) in my office I have
completed Shri A. K. Das, Divisional Forest Officer, Karmangj
Division, Krimangj.**

**14. Shri C. R. Deorukhobora, DFO c/o Principal Chief Conservator of Forests, Assam, Rehbari, Guwahati-8,
materially suffered due to the order and if at this short notice I am again transferred it will be injustice up to me.**

**15. The P. S. to Minister, Forest Assam, Dispur, Guwahati-6
for information of the Chief Secretary, Assam, Guwahati-6.**

**16. The P. S. to the Chief Secretary, Assam, Dispur, Guwahati-6
for information of the Chief Secretary, Assam, Dispur, Guwahati-6.
I am discharging my duties and I am in favour of publication without
authorisation.**

**17. The P. S. to the Chief Secretary, Assam, Dispur, Guwahati-6
for information of the Chief Secretary, Assam, Dispur, Guwahati-6.
I am discharging my duties and I am in favour of publication without
authorisation.**

**18. The Deputy Director, Assam, Govt. Press, Bhamunimadam,
Guwahati-2, for favour of publication of the above
Notification in the next issue of the Assam Gazette.**

19. Personal file of the officers.

**Information in case of damage to his educational career since academic
examination of the school is going on and the exam. By order of the
Govt. of Assam, Press, Bhamunimadam, scheduled to be held
by Dec. 2001.**

sd/-

Joint Secretary to the Govt.

of Assam, Forest Department,

Dispur.

ASSM SCHEDULE L (PART I) FORM NO. 22

ATTENTION :-

MR. UNNIKRISHNA NAIR

2b

FOREST DEPARTMENT, ASSAM

ADVOCATE.

CERTIFICATE OF TRANSFER OF CHARGE OF THE OFFICE OF & Digboi ---
CONSERVATOR OF FORESTS - Digboi - - - DIVISION.DATED DIGBOIThe 14 Sept. 2001

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

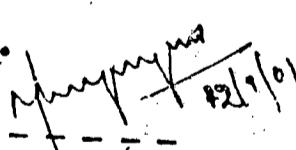
I received the sum of Rupees - - - - -
the cash balance, as shown by the Cash Book on this date. I have examined
all the office books and found them posted upto date.

I have received the needful vouchers belonging to the accounts of
the current month, and have made myself acquainted with all outstanding
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 10616 - - - to - - - 10620 - - The counterfoils
of the previous cheques have been written up.

Countersigned.



Y. SURYANARAYANA IFS
12/9/01

Conservator of Forests



AMAL CH. SARMAN
12/9/01

Conservator of Forests

Relieved Officer

Relieving Officer.

Attested
Anni Krishnan
Advocate

W.T.MESSAe

TO, THE DIVISIONAL FOREST OFFICER
KARIMGANJ DIVISION,
KARIMGANJ.

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

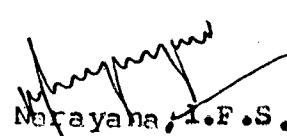
KINDLY REFER GOVT. NOTIFICATION NO. F.R.E. 66/90/
190-L DATED ELEVEN SEPTEMBER TWO THOUSAND ONE AND INTIMATE
A CONVENIENT DATE TO HAIDOVER CHARGE OF THE KARIMGANJ
DIVISION TO ME (.)

DIVISIONAL FOREST OFFICER
DIGBOI DIVISION.

Memo No. AD/EB33(a)/2878

dtd. 13-7-2001

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


Y. Surya Narayana, I.F.S.
Divisional Forest Officer,
Digboi Division.

RC

Attested
Anu. for
Advocate

- 23 -

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To,

The Divisional Forest Officer,
Korimganj Division,
Korimganj.

Sub:- Joining Report.

Reff:- Govt. Notification No. File. 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 17.9.2001.
Please intimate the date for handing
over of the charge of Korimganj 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 (R)
Assam, Dibrugarh for information.

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


(Y. Surya Narayana, IFS)

Appested
for
Advocate

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

ORDER SHEET

Misc APPLICATION NO ...1A... OF 2001.
W.O.A. 296/2000

Applicant (s) Santimukta Barnali Tami

Respondent (s) Union of India Tami

Advocate for Applicance (s) Mr. N. Datta, Mr. D.K. Das

Advocate for Respondent (s) C.G.S.C, Mrs. M. Datta, G.A. Adcox

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 9.13.1995 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
Ani. Datta
Advocate

26.6.2001

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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 ensure 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.

Continued to be true Copy
Santosh Biswakarma

W/27/6/11

Section Officer (J)

Central Govt. Employees
Central Administrative Tribunal
District Registrar
Guwahati Bench, Guwahati-8
Assam, India, 781008

W/27/6/11

Sd/VICE CHAIRMAN
Sd/MEMBER (Alm)

In the matter of :

Sri Amrit Kumar Das,

son of late Bonuram Das,

aged about 4 years.,

presently posted as Divisional

Forest Officer, Karimganj Division,

Karimganj, a resident of Karim-
ganj Town, District-Karimganj.

Assam.

..Petitioner

-w-

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, Rupnagar, Guwahati

contd...

-28-

-21-

-4-

4. Sri Y. Surya Narayan, IFS,

Divisional Forest Officer,

Dibrugarh Division, Dibrugarh.

BEFORE

17/1/2001

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 part, the writ petitioner is a member of State Forest Service while the private respondents pertains to Indian Forest Service (IFS Cadre) Rules, 1968.

17.9.2001 provides that an officer belonging to Indian Forest (Con. 1.) 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 position of law was interpreted.

The question, therefore, is whether the post of D.F.O. at Karimganj is a 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 also came 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 remains 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. 145/2001 directing out of Ex. No. 107/2000 where directions were given not to alter the status of the writ petitioner until further order. It appears that the said interim order was passed by the Learned Tribunal

17. **Writ Petition No. 21 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 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.**

St. L. B. W. 2

• Neddy

2727 (A).
10/11/81

CERTIFIED TO BE TRUE
Date 20th of Oct 1877
Superintendent (C. S. May)
Cathedral High Church
Architect U. S. G. C. I. B.

10/10/2011

प्रतिलिपि में लिए आवेदन की
तारीख
Date of application for
the copy.

राटाप और फोलिओं की आवश्यित
संख्या घुचित करने की निर्दिष्ट
तारीख:
Date fixed for notifying
the requisite number of
stamps and folios.

अपेक्षित राटाप और फोलिओ
देने की तारीख
Date of delivery of the
requisite stamps and
folios.

तारीख, जबकि देने के लिए
प्रतिलिपि तैयार थी
Date on which the copy
was ready for delivery.

आवेदक को प्रतिलिपि देने की
तारीख
Date of making over the
copy to the applicant.

31/3/2000

31/3/2000

374/2000

374/2000

374/2000

2 - 32 -

ANNEXURE- 6

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

Appeal from

WA

Civil Rule

No.

131

of 2000

A. K. Das

Appellant

Petitioner

versus

State of Assam & Ors

Respondent

Opposite-Party

Appellant
For
Petitioner

N. M. Latkar
N. Choudhury
S. C. Roy

Respondent
For
Opposite-Party

G. A. Assam

Attested
Anu. Bish
Advocate

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-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

(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

ting by Office or
Advocate.

Sl.
No.

Date

Office Notes, Reports, Orders
or proceeding with Signature.

BEFORE

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

131-3-2000

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
Senior 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.E.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.

Noting by Office or
Advocate.

Sl. No. Date

Office Notes, Reports, Orders
or proceeding with signature.

21.3.2000

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 said order was directed to report back to the Conservator of Forest to assume duties in his earlier post.

~~20.12.99~~ 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 Officer or Advocate	Serial	Date	Office notes, reports, orders, or with signature, proceeding
		31.3.2000	
1. In position as D.F.O., Karimganj Division.			
<p>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.</p> <p>Shri B.K. Sharma, learned counsel for the respondent No.6 submitted that the Respondent No.6 and (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 Sarma submitted that the post of D.F.O., Karimganj is a cadre post and it cannot be filled up by any non-cadre officer. According to him the appellant</p>			

Noting by Office or Advocate

Serial
No.

Date

Office notes, reports, orders or proceeding
with signature31.3.2000

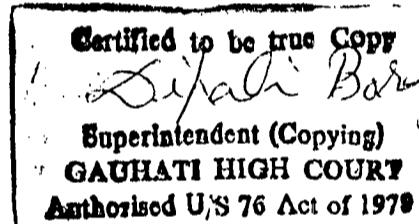
is a non-cadre officer and not eligible for posting as D.F.O., Karimganj. At this stage we consider it expedient to refer to the provisions of Rule 8 and 9 of the IFS Cadre Rules. Rule 8 provides for posting of a cadre officer in a cadre post only. Rule 9 permits temporary appointment of non-cadre officer 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, ^{may} be required to pass

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>

S. T. Biswas
Judge

S. P. Prakash Kumar
Chief Justice



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. F.R.E. 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
Anil Jorhat
Advocate

41-

ANNEXURE - 8

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

for favour of your
kind information &
necessary action

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

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

(Y. Surya Narayana)

Affested
Anu. for
Advocate

A/2

NO. A.M.P. 1007/1/10
GOVERNMENT OF ASSAM
DEPARTMENT OF PERSONNEL (PERSONNEL: A)
ASSISTANT SECRETARIAT::CIVIL:::DISPUR
GUWAHATI-781 006
:::99

ANNEXURE- 9

OFFICE MEMORANDUM

Dated Dispur, the 27th October, 1993.

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

Reference is invited to Government OM. NO. A.M. 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. A.P. 66/92/73 dated 15-6-1992, NO. 33F. 91/84/1, dated 3-12-1984 and NO. A.M. 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..

Aftered
Amrit
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 any 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.

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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.
.....

Kalita

-AS-

NO. AAP.166/93/Pt/5
GOVERNMENT OF ASSAM
DEPARTMENT OF PERSONNEL (PERSONNEL)::
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 retaenred 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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Attested
Anu. Bodh
Advocate

- 2 -

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. L.A.D. 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 Depts.
15. All Administrative Departments.
16. Chief Executive Member, North Cachar Autonomous Council, Haflong/Karbi Anglong Autonomous Council, Diphu/Bodoland Autonomous Council, Kokrajhar.

By order etc.,

By order etc.,
(P. K. GUPTA)

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

2/7

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

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Dispur, the 10th October, 2001.

NO.FRE. 100/2001/26 :- The transfer order issued vide 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.B. 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, Rehbari, Guwahati-8.
- 3) The Chief Conservator of Forests (Territorial), Assam, Panbazar, Guwahati-1.
- 4) The Chief Conservator of Forests (Wildlife), Assam, Rehbari, 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, Rehbari, 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, Dhamunimaidam, 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.,

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

.....

Attested
Anu. Moh
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).
Dispur.

... Respondents.

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

ORDER

K.K.SHARMA (MEMBER ADMIN.) :

By this application under Section 19 of
the Administrative Tribunals Act, 1995, 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.

Attested
Kun. Das
Advocate

W. W. Shar...

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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 pray^{er} 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 have 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

W.L.Usha

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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.Qas, 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} to 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

स्वाधिक अधिकारी

W.S. 15/10/2001

Sd/-MEMBER (Adm)

Action Officer (S)

सामुदाय अधिकारी (स्वाधिक अधिकारी)
Central Administrative Tribunal

कर्मसुख स्वाधिक अधिकारी
Guwahati Bench, Guwahati-8
प्राकृति अधिकारी, अधिकारी-8

15/10/2001