

30/100 X
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 437/01

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* CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Application No. 437 /2001

Applicant(s) :- Prasenjit Mr. Roy

Respondent(s) :- M.O. I Form

Advocate for the Applicant :- M. Chatterjee, G.N. Chakraborty
Mr. A. Deb Roy

Advocate for the Respondent:- Mr. C.G.S.C.

Notes of the Registry	Date	Order of the Tribunal
This is application in form C. F. for Rs. 50/- deposited wide IP Dated 10.11.01	12.11.01	<p>The application is admitted. Call for the records.</p> <p>Issue notice to show cause as to why interim order as prayed for shall not be granted. Returnable by three weeks. Mr.A.Deb Roy, learned S.r.C.G.S.C. accepts notice on behalf of the respondents.</p> <p>Meanwhile, the order of transfer of the applicant from Jairampur to Khowai, dated 14.9.2001 shall remain suspended till the returnable date.</p> <p>List on 5/12/01 for order.</p>
Pl. comply and Dtd 12/11/01.		
Notice received and sent to DLS for long the respondent No 1 to 3 to Regd AD.	16/11/01	<p>Member</p>
DINo 4268 W 4270	5.12.01	<p>Respondents are allowed 4 weeks time to file written statement.</p> <p>List on 4.1.02 for written statement and order. Meanwhile, interim order dated 12.11.01 shall continue.</p>
No written statement has been filed.	3.1.02	<p>Member (J)</p> <p>Member (A)</p>

Order dtd 4/1/02
Communicated to
the parties Council.

bb
4/1/02

4.1.02

List on 5.2.02 to enable the
respondents to file written statement.
The interim order 12.11.01 shall
continue.

Usha
Member

Vice-Chairman

No written statement
has been filed.

BB
4.2.02

5.2.02

List on 6.3.2002 to enable the
respondents to file written statement.

Usha
Member

Vice-Chairman

Order dtd 6/3/02
Communicated to the
parties Council.

bb
6/3/02

6.3.02

List on 5.4.2002 to enable the Respondents to file written statement. In the meantime, interim order dated 12.11.2001 shall continue until further order.

No written statement
has been filed.

BB
6.4.02

5.4.02

List on 3.5.02 to enable the
respondents to file written statement.
In the meantime, the interim order dated
12.11.01 shall continue.

Vice-Chairman

Order dtd 5/4/02
Communicated to the
parties Council.

bb
5/4/02

lm

No written statement
has been filed.

3.5.2002

BB
2.5.02

No written statement filed so far. List
the case on 31.5.2002 for filing of written
statement.

In the meanwhile interim order dated
12.11.2001 shall continue.

Order dtd 3/5/02
Communicated to the
parties Council.

bb
6/5/02

bb

No W.S. has been
filed.

BB

30.5.02

Usha

XI Member

(3)

O.A. 437 of 2001

Notes of the Registry	Date	Order of the Tribunal
	31.5.02	List on 5.7.02 to enable the respondents to file written statement.
No. WLS has been bailed. <u>31/5/02</u>	1m 5-7.	Vice-Chairman Dated 20/6/02 setting at Agartala, the case is adjourned to 19/7/2002. Drs A.K.S 5/7/02
No. WLS has been bailed. <u>22.8.02</u>	19.7.02	Mr. A. Deb Roy, Sr. C.G.S.C. prays for time to file written statement. Prayer is accepted. List on 23.8.02 for orders.
No. WLS has been bailed. <u>19.9.2002</u>	1m 23.8.2002	IC (Shash) Member At the request made by Mr. A. Deb Roy learned Sr. C.G.S.C. four weeks time is allowed to the respondents to file written statement. List the case on 20.9.2002. Meanwhile interim order dated 12.11.2001 shall continue.
23.9.02 No. WLS submitted by the Respondent No. 2 <u>23.9.02</u>	bb 20.9.02	IC (Shash) Member Written statement has already been filed by the respondents. List the matter for hearing on 11.10.2002. The applicant may file rejoinder, if any. Meanwhile, interim order dated 12.11.2001 shall continue.
	mb	Vice-Chairman

Notes of the Registry | Date

Order of the Tribunal

11.10.02

On the prayer of Mr. M. Chanda learned counsel for the applicant case is adjourned to 22.11.02 for hearing.

lm

IC (Shan)

Member

22.11.02

The applicant has moved this application for setting aside the impugned order of transfer dated 14.9.2001 (Annexure 6) transferring him from Jairampur to P.W.D. Division, Arunachal Pradesh to Khowai Electrical Division No.x, Khowai Tripura with additional charge of Gas Therman Electrical Division Baramura, Tripura.

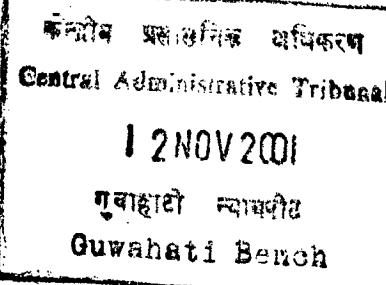
The applicant is working as Divisional Accounts Officer Grade I in the office of the Executive Engineer, Jairampur, P.W.D. Division, Tawang, Arunachal Pradesh. It is stated that the applicant has got six dependent family members including 95 years old widow mother. The family of the applicant is staying at Mariani in the District of Jorhat, Assam. The applicant has made representation dated 20.6.2000 praying for posting either at Deomali, Namsai or Maio or Rowing in order to enable him to take better medical care for his wife and other family members. The applicant has made another representation dated 27.1.2001 praying inter alia for his posting nearer his home town. The applicant is due to retire on 31.1.2004. The applicant has referred to the transfer guideline of the Comptroller and Auditor General of India, dated 19.4.2000 (Annexure 5) and has particularly referred to Sub paras (f) and (g) of the guidelines which is reproduced below:-

contd/-

IC (Shan)

Note of the Registry	Date	Order of the Tribunal
	22.11.02	<p>(f) "tenure of posting should normally be three years in a particular Division and six years at a particular station;</p> <p>(g) an officer should normally allowed to serve the last three years of his service life at a place of his choice even if it results in his stay in the same place etc. beyond the normal tenure."</p> <p>Mr.M.Chanda learned counsel for the applicant argued that the applicant is due for retirement having only two years two months service left in his credit as such the applicant should be considered to continue in his present place of posting or at least to his choice station in terms of transfer policy issued by the Comptroller and Auditor General of India.</p> <p>Heard Mr.A.Deb Roy, Sr.C.G.S.C. for the respondents. The respondents have filed their written statement. In the written statement it is stated that the applicant joined in the department on 1.10.1985 and during his entire service the applicant has served in Manipur for two years only and the rest of his period he served in the State of Arunachal Pradesh. It is also stated that transfer of Applicant has been done in public interest.</p> <p>I have gone through the records and heard submitted by learned counsel for the applicant as well as the learned counsel for the Respondents. The applicant has been transferred two years two months before his retirement. In view of the transfer policy issued by the C.A.G. of India, the applicant is entitled to continue either in the present place of posting or at least to his choice station last three years of service. The ends of justice will be met if the respondents are directed to dispose of the representation and to consider his case as per policy guideline dated 19.4.2000. Accordingly the respondents are directed</p> <p>N.U.Shah</p>
Y		
Y in the		

Note of the Registry	Date	Order of the TERNAL
<p><u>U.12-2001</u> Copy of the order has been sent to the Office for issuing the same to the applicant and to the L/DAO for the Deptt. of S</p>	22.11.02	<p>to dispose of the representation filed by the applicant as far as possible prefer- ably within 3 months from the date of receipt of this order. Till disposal of the representation the applicant shall not be disturbed from the present place of posting.</p> <p>The application is disposed of. There shall however, no order as to costs.</p> <p style="text-align: right;">K. C. Sharma Member</p> <p style="text-align: center;">1m</p>



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

Title of the case : O.A. No. 437 /2001

Sri Prasenjit Kumar Roy : Applicant

- Versus -

Union of India & Others: Respondents.

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Filed by

Sujitkosh

Advocate

Date 12.11.01

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
 GUWAHATI BENCH : GUWAHATI
 (An Application under Section 19 of the Administrative Tribunals Act,
 1985)

O.A. No. 437 /2001

BETWEEN

Sri Prasenjit Kumar Roy
 S/o Late Prabhat Kumar. Roy
 O/o of the Executive Engineer,
 Jairampur, P.W.D. Division,
 P.O. Jairampur, District-Changlang
 Arunachal Pradesh

..... Applicant

-AND-

1. The Union of India,
 (Through the Comptroller and Auditor General
 of India)
 New Delhi.
2. The Accountant General (A &E)
 Meghalaya etc.
 Shillong.
3. The Executive Engineer,
 Jairampur, P.W.D. Division,
 P.O. Jairampur,
 District-Changlang
 Arunachal Pradesh

..... Respondents.

Filed by the Sri Basejit
 Roy - Applicant
 through his pleader
 Advocate 12.11.01

Prasenjit Roy

DETAILS OF THE APPLICATION

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

This application is made against the impugned order of transfer and posting issued under letter No. ID. No. DA/Cell/42 dated 14.9.2001 whereby the applicant is sought to be transferred and posted from Jairampur to P.W.D. Division, Arunachal Pradesh to Khowai Electrical Division No. X, Khowai Tripura with additional charge of Gas Thermal Electrical Division, Baramura, Tipura, just before two years of retirement on superannuation from service in total violation of the rule/guidelines issued by the office of the Comptroller General of India, New Delhi under letter No. 394-NGE(App)/II-98 dated 19.4.2000 and also praying for a direction upon the respondents to allow him to continue in his present place of posting at Jairampur till the date of superannuation in the light of the order/direction contained in the letter dated 19.4.2000 passed by the Comptroller and Auditor General of India, New Delhi.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

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

4. Facts of the case.

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

4.2 That the present applicant serving as Divisional Accounts Officer Grade I in the office of the Executive Engineer, Jairampur, P.W.Division, Chanlang, Arunachal Pradesh

4.3 That the applicant initially appointed as LDC in the office of the Executive Engineer Hydro Electrical Division, Rowriah, Jorhat under the Chief Engineer, Department of P.W.D., Government of Arunachal Pradesh Thereafter the applicant was promoted as UDC. However during the year 1985 the applicant was appointed as Junior grade Divisional Accountant in the office of the Accountant General (Accounts), Meghalaya Shillong under the cadre controlling authority of Accountant General (Accounts) Meghalaya, Shillong and posted in the office of the Executive Engineer, P.W.D. Changlang, Arunachal Pradesh. The applicant thereafter transferred and posted in different places in the North eastern Region as Divisional Accountant under the Accountant General (AE) Meghalaya, Shillong on different occasions. The detail particulars of transfer and postings are furnished below :

Sl. No.	Name	Place of posting	Period of stay
1	Prasenjit Kumar Roy	Office of the Executive Engineer, Seppa	1.10.1985 to 18.9.1989
2	-do-	Office of the Executive Engineer, RW Division, Khonsa	1.10.1989 to 5.6.1993
3	-do-	Office of the Executive	15.6.1993 to 10.7.1994

Prasenjit M. Roy

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		Engineer, Imphal (E) Division, PWD Manipur	
4	-do-	Office of the Executive Engineer, P.W.Division,Daporijo, Arunachal Pradesh	11.7.1994 to May,1998
5	-do	Office of the Executive Engineer, Jairampur	8.7.1998 to till date

It is stated that the applicant carried out all the above transfers and postings as ordered by the office of the Accountant General (A & E) from time to time without any hesitation.

4.4 That your applicant has got six dependent family members including widow mother aged about 95 years old suffering from chronic old age diseases and requires constant medical care. The applicant is a permanent resident of Mariani in the district of Jorhat, Assam. The applicant vide his representation dated 20.6.2000 addressed to the Accountant General (AE), Meghalaya etc. Shillong praying inter alia that his case may kindly be considered for posting either at Deomali, Namsai or Maio or Rowing, in order to enable him to take better medical care for his wife who is suffering from various diseases/complications. The said representation dated 20.6.2000 was duly forwarded by the Executive Engineer, Jairampur Division, P.W.D., Arunachal Pradesh to the Accountant General (AE) Meghalaya etc. Shillong vide letter under No. JD/E-1/18/2000-00 dated 11.7.2000. Thereafter also the applicant submitted another representation on 27.1.2001 praying inter alia for his posting nearer his home town wherein it is stated that the mother of the applicant is suffering from various old age ailments and praying for his posting nearer to his hometown. The said representation is also forwarded by the Executive Engineer, Jairampur Division, P.W.D. vide his letter dated 8.2.2001 with the recommendation for sympathetic consideration.

Prasenjit ur Roys

Copy of the representation dated 20.6.2000, forwarding letter dated 10.7.2000, representation dated 27.1.2001, forwarding letter dated 8.2.2001 are annexed as Annexure 1,2,3 and 4 respectively.

4.5 That your applicant begs to state that the date of retirement on superannuation is first approaching i.e. on 31.1.2004. There is hardly two years service left in the credit of the applicant. In this connection it is relevant to mention here that the office of the Comptroller and Auditor General of India, New Delhi vide his letter bearing No. 394-NGE (APP)II-98 dated 19.4.2000 issued necessary instructions/orders/directions to all the Principal Accountant General/Accountant General dealt with the cadre of Divisional Accountants/Accounts Officer. In the said letter it is categorically stated that the need to evolve some clear defined norms and uniform transparent policy of transfer and posting of Divisional Accounts Officer. It is also observed in the said letter that though transfer is an incident of service of Divisional Accountant it should be affected in such a way that it causes minimum inconvenience to the individuals and at the same time it fulfills the administrative requirement and it is decided certain broad parameters for transfer and posting of Divisional Accounts Officer/Divisional Accountant which has been directed to be followed scrupulously and uniformly. In the said letter as per clause (g), it is stated that the officer should normally be allowed to serve the last three years of his service life at a place of his choice even if it results in his stay in the same place etc. beyond the normal tenure. The relevant portion of the letter dated 19.4.2000 is reproduced below :

“ (g) an officer should normally be allowed to serve the last three years of his service life at a place of his choice even if it results in his stay in the same place etc. beyond the normal tenure.”

Presented to Ray

In view of the above transfer policy laid down by the Comptroller and Auditor General of India, New Delhi and also in view of the repeated representation submitted by the applicant before the Accountant General (A & E) Shillong the applicant is entitled to continue either in the present place of posting or at least to his choice station.

Copy of the transfer policy dated 19.4.2000 issued by the Comptroller and Auditor General of India, New Delhi is annexed hereto and the same is marked as **Annexure-5**.

4.6 That most surprisingly, the Accountant General (A & E), Meghalaya, Shillong vide impugned transfer and posting order issued under letter No. E.O No. DA/Cell/42 dated 14.9.2001 the Accountant General (A&E) Meghalaya, Shillong ordered the applicant for posting from Jairampur, P.W.D. Division to Khowai Electrical Division No. X, Khowai, Tripura with additional charge of Gas Thermal Electrical Division Baramura, Tripura in the State of Tripura. This impugned order has been passed in a most arbitrary and mechanical way without taking into consideration the representation submitted earlier by the applicant on 20.6.2000 and 27.1.2001. It is further submitted that the impugned transfer and posting order has been issued in total violation of the policy norms laid down by the highest authority i.e. Comptroller and Auditor General of India, New Delhi, vide his letter dated 19.4.2000. It is relevant to mention here that the applicant has left only two years and two months service in his credit. As such the applicant has acquired a valuable and legal right for continuation in his present place of posting at Jairampur in view of the above transfer policy issued by the Comptroller and Auditor General of India, New Delhi dated 19.4.2000. In this connection it may also be stated that till filing of this application the applicant has not yet been released from the office of the Executive Engineer, Jairampur Division, P.W.D. and it is a fit case for the Hon'ble Tribunal to interfere with to protect the right and interest of the applicant. It would be evident from the impugned order

Yasenjit Roy

of transfer and posting dated 14.9.2001 that the same has been issued under the Accountant General's order at Page No. 9 Note dated 14.9.2001 of File No. AD/Cell/Finance-irregularities/Division. In this connection it is categorically stated that there is no allegation of financial irregularities against the applicant and no such communication has been received from the authority till filing of this application. It is relevant to mention here that the applicant while working in the office of the Executive engineer, PWD Division Jairampur submitted a detail complainant to the Superintending Engineer, Jairampur PWD, Jairampur against the then Executive Engineer, PWD, Jairampur alleging financial irregularities and violation of rules regarding irregularities diversion of fund to State Plan and also irregular payment to the tune of Rs. 16 lakhs in total violation of rules by the then Executive Engineer, Jairampur vide his letter no. PKRH/2000-2001/2008-11 dated Jairampur dated 23.6.2000 with a copy to the Accountant General, Meghalaya (A & E) Shillong for favour of his information and also to the Chief Engineer, (Eastern) Arunachal Pradesh, Itanagar and the applicant is now apprehending that the impugned transfer order has been passed at the instance of a vested circle working against the applicant in total violation of the Comptroller and Auditor General of India's circular dated 19.4.2000. The applicant urged to produce the same at the time of hearing.

A copy of the impugned transfer order dated 14.9.2001 is annexed hereto and marked as **Annexure-6**.

4.7 That the applicant further begs to state that immediately after receipt of the impugned order of transfer and posting dated 14.9.2001 the applicant submitted a detail representation addressed to the Accountant General, Arunachal Pradesh, Meghalaya, Shillong. In the said representation the applicant stated inter alia about his domestic problems and also prayed for his retention either at P.W.D., Jairampur or in any place nearer to his hometown on the ground that the date of

Manojit Singh Roy

retirement on superannuation is first approaching but the said representation is still pending with the Accountant General (A&E)), Meghalaya, Shillong without any reply.

A copy of the representation dated 15.10.2001 is annexed hereto and the same is marked as **Annexure-7**.

4.8 That it is stated that the applicant is on the verge of retirement and presently he has got six dependent family members including his son, daughters, wife and widow mother. Moreover the applicant is also intending to settle down in the State of Assam after his retirement on superannuation. As such the impugned transfer and posting at this stage will cause irreparable loss to the applicant. Therefore the Hon'ble Tribunal be pleased to stay the operation of the impugned transfer and posting order dated 14.9.2001 and further be pleased to direct the respondents to allow the applicant to continue the applicant at his present place of posting till the date of superannuation in terms of transfer policy dated 19.4.2000 issued by the Comptroller and Auditor General of India, New Delhi. It is further stated that the applicant is expecting his next promotion to cadre of Senior Accounts Officer very shortly and the Hon'ble Tribunal further be pleased to direct the respondents to allow the applicant to continue either in his present place of posting in the event of his promotion to the cadre of Senior Accounts Officer or any other place nearer to his hometown as prayed by the applicant in terms of his representation stated above.

4.9 That this application is made bona fide and for the cause of justice.

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

5.1 For that the applicant is on the verge of retirement having only two years two months service left in his credit as such the

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applicant is entitled to continue in his present place of posting or at least to his choice station in terms of transfer policy issued by the Comptroller and Auditor General of India, New Delhi dated 19.4.2000

5.2 For that For that the impugned transfer and posting order dated 14.9.2001 is violative of transfer policy issued by the office of the Comptroller and Auditor General of India.

5.3 For that the applicant submitted several representations for his retention at his present place of posting or any other suitable place nearer to his home town in order to tide over his domestic problem but the same has not been taken into consideration while passing the impugned order of transfer and posting.

5.4 For that the applicant having six dependent family members including the old aged widow mother of 95 years as such the transfer and posting in the far off place on the verge of retirement will cause irreparable loss to the applicant.

5.5 For that the applicant is still working in his present place of posting although he is on leave on medical ground and the applicant has not been released from duty till filing of this application.

6. Details of remedies exhausted.
That the applicant states that he has no other alternative and other efficacious remedy than to file this application.

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

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

8. Reliefs sought for :

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

- 8.1 That the Hon'ble Tribunal be pleased to set aside the impugned order of transfer and posting issued under letter No.DA CELL/42 dated 14.9.2001 (Annexure-6).
- 8.2 That the Hon'ble Tribunal further be pleased to direct the respondents to allow the applicant either to continue in his present place of Posting at Jairampur, P.W.Division, Arunachal Pradesh or to consider his posting nearer to his home town in terms of his option submitted through his representations.
- 8.3. Costs of the application.
- 8.4 Any other relief or reliefs to which the applicant is entitled to, as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

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

9.1 That the Hon'ble Tribunal be pleased to stay the operation of the impugned order of transfer and posting issued under letter No. DA CELL/42 dated 14.9.2001 (Annexure-6) till disposal of this application.

10. This application is filed through Advocates.

11. Particulars of the I.P.O.

i) I.P.O. No. : 64 788586
ii) Date of issue : 10.2.2001
iii) Issued from : G.P.O., Guwahati.
iv) Payable at : G.P.O., Guwahati.

12. List of enclosures.

As stated in the index.

Parasurajit w Roy

VERIFICATION

I, Prasenjit Kumar Roy, S/o Late Prabhat Kumar. Roy aged about 58 years, working as Divisional Accounts Office in the office of the Executive Engineer, Jairampur, P.W.D. Division, P.O. Jairamupur, District-Changlang Arunachal Pradesh do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 12thday of November, 2001.

Signature
Prasenjit Roy
Signature

Annexure-1

To

The Accountant General (A&E)
Meghalaya etc. Shillong

(Through the E.E. PWD, Jairampur)

Sub :Prayer for transfer.

Sir,

Most humbly and respectfully I beg to lay before you the following facts for favour of your kind consideration and sympathetic orders.

That Sir, I have been transfer from Daporijo P.W. Division and posted to Jairampur P.W. Division on 08.07.1998 since then, my wife have been suffering from various diseases accompanied with other complications as a result health of my wife has been reduced to a great extent. In short of the water/climate of Jairampur tells upon health of my wife. During her prolonged ailment I consulted the Doctors at Jairampur and ultimately they could not detect the actual disease. I accordingly with the permission of my superior authority came down to Dibrugarh number of time. The attending physician of Assam Medical College, Dibrugarh advice me to change the place for recovery of health of my wife.

In the circumstances stated above, I fervently and fervidly request you to kindly transfer me to any place in the plain area beyond the inner line preferably one of the places such as Deomali, Namsai, Changlang, Roing, Itanagar and Tezu etc. Further I bring to your kind notice that the date of retirement from my service on 31.01.2004 on superannuation, as such, kindly consider my case as prayed for sympathetically.

For which act of your kindness and magnificently I shall remain ever grateful to you.

Yours faithfully,
Sd/- Illegible
(P.K.ROY)
Divnl. Accounts Officer, Gr-I
O/o the Executive engineer,
Jairmapur P.W. Division,
(Arunachal Pradesh)

Certified to be true C.P.Y
Sujitshank
Advocate

Annexure-2

GOVERNMENT OF ARUNACHAL PRADESH
 OFFICE OF THE EXECUTIVE ENGINEER ; JAIRAMPUR DIVISION
 PWD ; AP :JAIRAMPUR - 792 121

No. JD/E-1/18/2000-01/2514 Dated Jairampur, the 10.7.2000

To

The Accountant General (A&E)
 Meghalaya, etc. Shillong.

Sub :Transfer

Sir,

With reference to above mentioned subject, a representation received from Sri P.K.Roy, D.A.O. Grd-I which is self explanatory is forwarded herewith for your further necessary action.

Enclo : As above.

Yours
 faithfully,
 Sd/- Illegible
 Executive Engineer
 Jairampur division,
 PWD : AP : JIRAMPUR

Certified to be true copy
 Sijithshash
 Advocate

No. JD/PKR-1/2000-01/7

Annexure-3
Dated Jairampur, the 27th Jan./2001

To

The Accountant General (A&E)
Shillong, Meghalaya etc.

(Through Proper Channel)

Sub : Transfer

Sir,

With due respect & humble submission I would like to place before you the following few lines with the hope that the same would meet with your kind & sympathetic consideration.

That Sir, I would be completing my tenure in my present place of posting very shortly & as such I am expecting my transfer after March. I will be retiring from service on 31.01/2004 on attaining the age of superannuation.

That Sir, during my entire service career I have served in Manipur & hard areas of Arunachal Pradesh like Seppa, Daporijo. I am having a large family consisting of six members including my old aged widow mother who is about 95 years of age & suffering from various ailments. Being the only son of my parent, it is my moral obligation to look after her at this stage. For quite sometime I am also suffering from diabetic. In this connection I have already submitted a representation which was forwarded by Executive engineer, Jairampur vide No. JD/E/18/2000-01/2514, dated 11.07/2000 (Copy enclosed).

Under the above circumstances, I would fervently request you benign authority to kindly consider my next posting in any Divisions of Arunachal Pradesh which is nearer to my native place from where I can look after my family being my last tenure before retirement.

Yours faithfully,

Sd/- Illegible
(P.K.Roy), DAO, Grd-I
Jairampur Division, PWD,
Jairampur : A.P

certified to be true copy
Sujitshoss
Advocate

Annexure-4

GOVERNMENT OF ARUNACHAL PRADESH
 OFFICE OF THE EXECUTIVE ENGINEER ; JAIRAMPUR DIVISION
 PWD ; AP :JAIRAMPUR - 792 121

No. JD/E-1/PF-455/2000-01/9121-22 Dated Jairampur, the 08.02..2001

To

The Accountant General (A&E)
 Shillong.

Sub: REPRESENTATION OF SHRI P.K.ROY, DAO GRD-I.

Sir,

A representation seeking for transfer received from shri P.K.Roy, DAO, Grd-I under Jairampur P.W.Division which is self explanatory, is forwarded duly recommendation for sympathetic consideration please.

Enclo : As stated above.

Yours faithfully,

(ER.K. WAHGE)
 Executive Engineer
 Jairampur Division, PWD,
 Jairampur

No. JD/E-1/PF-455/2000-01 Dated Jairampur, the 08.02..2001

1. Shri P.K.Roy, D.A.O. Grd-I, for information

Sd/- Illegible

(ER.K. WAHGE)
 Executive Engineer
 Jairampur Division, PWD,
 Jairampur

certified to be true COPY
 Sijitshash
 Advocate

Annexure-5

OFFICE OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA
NEW DELHI -110002

No. 394-NGE(App)/11-98

To

Dated 19.4.2000

All Pr. Accountants General/Accountant General
Dealing with the cadre of Divisional Accountants,

Sir/Madam,

The need to evolve some clearly defined norms and a uniform and transparent policy of transfer and posting of Divisional Accounts Officers/Divisional Accountant was being felt for sometime. Though transfer is an incidence of service of Divisional Accountant, it should be effected in such a way that it causes minimum inconvenience to the individuals and at the same time it fulfils the administrative requirements. It has, therefore, been decided to prescribed the following broad parameters for transfer and posting of Divisional Accounts Officers/Divisional Accountants which should be followed scrupulously and uniformly.

- (a) transfer and posting should normally be made once in a year and annual transfers should be timed properly so that these may not disturb the academic session.
- (b) list of Divisions likely to fall vacant during the year should be publicised well in advance.
- (c) Divisions should be properly graded by following the instructions issued in this regard from time to time and posting of officers should be made in the appropriately graded Divisions;
- (d) Option for posting in particular station(s) should be called for from the individuals and efforts should be made to accommodate the officers at the place of their choice, subject to availability of vacancy and on basis of seniority. The adverse comments given by the Inspecting Officer auditing the accounts of the Divisions, adverse remarks made by the Executive Engineers on the performance of the Divisional Accounts Officers/Divisional Accountants which are finally substantiated and the performance in proper and timely submission of accounts may also be kept in view;

certified to be true copy
Sijithosh
Advocate

(e) a transfer Committee comprising the Group Officer in charge of works Accounts and two other Indian Audit & Accounts Department officers of the rank of Sr. Dy. Accountant General/Dy. Accountant General, to be nominated by the Pr. Accountant General/Accountant General should be formed to consider the case of transfer.

(f) tenure of posting should normally be three years in a particular Division and six years at a particular station;

(g) an officer should normally allowed to serve the last three years of his service life at a place of his choice even if it results in his stay in the same place etc. beyond the normal tenure.

(h) a general order indicating transfers and postings of all officers should be notified in addition to individual posting orders that may be issued.

2. Dispensation of the set norms could be made only in every exceptional circumstances, to be recorded in writing, on account of extreme personal circumstances which are quite distinguishable.

Yours faithfully,

Sd/-

Asstt. Comptroller and Auditor General (N)

Annexure-6

OFFICE OF THE ACCOUNTANT GENERAL (A 7 E), MEGHALAYA ETC.
SHILLONG

No. No. DA Cell/42

14.9.2001

Dated : 14.9.2001

The following Officers/Officials are transferred and posted in the same capacity to the vacant Divisions mentioned below against their names with immediate effect.

So. No.	Name and Designation	Transferred from	Transferred to
1	Shri P.C.Borah Sr. A.O.	Khonsa P.W.D. Division, Arunachal Pradesh	Tumti Electrical Division, Jatanbari, Tripura with additional charge of Gumti Civil Division Jatanbari, Tripura
2	Shri P.K.Roy, DA-I	Jairampur P.W.D.Division, Arunachal Pradesh	Khowai Electrical Division No.X Khowai, Tripura with additional charge of Gas Thermal Electrical Division, Baramura, Tripura
3	Shri L.Tomba Singh, D.A.	Longding Division, P.W.D., Arunachal Pradesh	Sangram P.W.D. Division Sangram, Arunachal Pradesh

The transfer is in Public interest.

Authority : AG's orders at P/9N dated 14.9.2001 of file No.
DA Cell/Fin-irregularities/Division

Sd/-

Sr. Dy. Accountant General (Admn)

Memo No. DA Cell/1-11/2000-2002/Vol/Vol.II/58-72 Dated 14.9.2001/

18.9.2001

Copy to :-

1. The Executive Engineer, Jairampur, P.W.D.Division, Arunachal Pradesh is requested to release Shri P.K.Roy, D.A.O. I immediately without waiting for a substitute. Copy of the release order may please be sent to this office. He is also requested to write the C.R. of the relieved Divisional Accountant and submit it to the concerned State Sr. Deputy Accountant General for his review.
2. The Executive Engineer, Khowai Electrical Division, No. X, Khowai, Tripura. The date of joining of Shri P.K.Roy, D.A.O. I may please be intimated to this office.

certified to be true (OP)
Sujitshoss
Advocate

3. The Executive Engineer, Gas Thermal Electrical Division, Baramura, Tripura. The date of joining of Shri P.K.Roy, D.A.O I may please be intimated to the office.
4. The Executive Engineer, Khonsa P.W.D. Division, Arunachal Pradesh is requested to release Shri P.C.Borah Sr. D.A.O. immediately without waiting for a substitute. Copy of the release order may please be sent to this office. He is also requested to write the C.R. of the relieved Divisional Accountant and submit it to the concerned State Sr. Deputy Accountant General for his review.
5. The Executive Engineer, Gumti Electrical Division, Jatanbari, Tripura. The date of joining of Shri P.C. Borah, Sr. D.A.O. may please be intimated to this office.
6. The Executive Engineer, Gumti Civil Division, Jatanbari Tripura. The date of joining of Shri P.C.Borah, Sr. D.A.O. may please be intimated to this office.
7. The Executive Engineer, Longding Division P.W.D., Arunachal Pradesh is requested to release Shri L. Tomba Singh, D.A. immediately without waiting for a substitute. Copy of the release order may please be sent to this office. He is also requested to write the C.R. of the relieved Divisional Accountant and submit it to the concerned State Sr. Deputy Accountant General for his review.
8. The Executive engineer, Sangram P.W.D. Division Sangram, Arunachal Pradesh. The date of joining of Shri L.Tomba Singh, Divisional accountant may please be intimated to this office.
9. Shri P.K.Roy, D.A.O. I/o the Executive Engineer, Jairampur P.W.D. Division, Arunachal Pradesh. He is requested to submit his handing over/taking over memorandum to his Divisional Officer.
10. Shri P.C.Borah, Sr. D.A.O, O/o the Executive Engineer, Khonsa P.W.D. Division, Arunachal Pradesh. He is requested to submit his handing over/taking over memorandum to his Divisional Officer.
11. Shri L.Tomba Singh, Divisional Accountant O/o the Executive Engineer, Longding Division P.W.D., Arunachal Pradesh. He is requested to submit his handing over/taking over memorandum to his Divisional Officer.
12. Sr. deputy Accountant General (A&E), Tripura, Agartala.
13. Director of Accounts and Treasuries, Government of Arunachal Pradesh, Naharlagun, Arunachal Pradesh.
14. E.O. File.
15. P.C.File
16. S.C.File

Sd/- Illegible
 Sr. Accounts Officer,
 I/c DA Cell

Annexure-7

To:

The Accountant General(A&E)
Meghalaya etc. Shillong.

Sub : Prayer for transfer nearer to my home town, considering my last tenure.

Sir,

In inviting a reference to transfer Order No.E.O No. DA Cell/42 dated 14.9.2001, issued under Memo No. DA Cell/1-11/2000-2002/Vol-II/58-72 dated 18.9.2001,(Copy enclosed, enclo No.1.), regarding my transfer from Jairampur P.W.D. Division, Arunachal Pradesh to Khowai Electrical Division No.X, Khowai, Tripura, with additional charge of Gas Thermal Electrical Division, Baramura; Tripura, I am to bring to Your kind notice the following few facts for your kind consideration and sympathetic orders.

1. That Sir, I am due to retire from my service on 31.1.2004, i.e. just after 2 years 2 months and 15 days I will retire from service.
2. That Sir, During my entire Service career, I served in trouble ares in Manipur, far away from my home town and also interior places in Arunahal Pradesh. I am having a large family consisting of six members and having some domestic and family problems which are to be settled before my retirement. Moreover, I have my 95 years old aged other who is staying in my home town in Mariani, District-Jorhat, Assam. I being the only son of my parents, it is my moral obligation to look after my old mother who is suffering from different ailments of old age. I have been also suffering from diabetic for a long time.

I have submitted two representations dated 11.7.2000 and 8.2.2001(Copies enclosed, enclo No. 2 and 3) forwarded by Executive Engineer, Jairampur P.W.D. Whether I requested Your honour to transfer me nearer to my Home town. But instead of transferring me nearer to my home town, I have been transferred vide your order under reference, to a extreme Corner of Tripura, far away from my home town.

certified to be true ^{copy}
Sujit Ghosh
Advocate

In view of the fact stated above, I am to request you kindly to review my transfer order/case and retain me in Jairampur P.W.D., Jairampur, Aruncahal Pradesh as the place is nearest to my home town i.e. Moriani, District-Jorhat, Assam. If it is not Possible to consider my retention to Jairampur I may kindly be posted to any one of the following places i.e. Deomali, Miao, Roing in Aruncahal Pradesh, so that I may have my close contact with home to solve my various domestic/family problems before my retirement and also I could look after my old mother.

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

Enclo: As stated above

Yours faithfully,

Sd/- Illegible

(P/K.Roy).
Divisional accounts Officer,
P.W.D., Arunachal Pradesh
Jairampur

Dated the 15th October, 2001.

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C.G.S.C.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI.

(BENCH AT GUWAHATI)

IN THE MATTER OF
O.A. NO.437 of 2001

SHRI P. K. ROY,
APPLICANT

VERSUS,

THE UNION OF INDIA & OTHERS
RESPONDENTS.

IN THE MATTER OF

An affidavit in opposition on behalf of Respondent No.2 i.e.
the Accountant General (A&E) Meghalaya etc., Shillong.

WRITTEN STATEMENTS

The humble Respondent No.2 submit the written statement
as follows:-

1. That with regard to the statements made in paragraphs 1,2,3, 4.1 & 4.2 of the Application, the Respondent No.2 has no comments to offer.
2. That with regard to the statement made in the paragraph 4.3 the Respondent No.2 respectfully states that the Applicant is liable to transfer with the three States of Arunachal Pradesh, Manipur and Tripura under the Administrative control of the Accountant General (A&E) Meghalaya etc., Shillong. The Applicant joined in the department on 1.10.1985 and during his entire service career the Applicant has served in Manipur for two years only and the rest of his period he served in the State of Arunachal Pradesh.

Further in the appointment order dated 5.8.85 it was specifically mentioned that the applicant will be liable to transfer

to any offices in the States of Arunachal Pradesh, Tripura and Manipur.

(Appointment letter dated 5.8.85 is Annexed as Annexure- I)

3. That the statement made in paragraph 4.4 of the Application, the Respondent No.2 humbly state that the Applicant is under the Administrative Control of the Respondent No.2. Further the Applicant has no enforceable legal right of posting at a particular place of his choice. It is entirely for the employers to decide the place of posting of the Applicant.

4. That with regard to the statement made in paragraphs 4.5 of the Application, the Respondent No.2 humbly state that transfer of Applicant has been done in public interest.

5. That with regard to statement made in paragraphs 4.6 of the Application, the Respondent No.2 humbly state that his transfer has been done in public interest.

(Letter dated 21st & 22nd June 2000 is annexed as Annexure -II & III).

6. That the statement made in the paragraph 4.8 the Respondent No.2 respectfully stated in the Telegram No. DA Cell/977 dated 5.12.2001 has been sent to the Executive Engineer, Jairampur Arunachal Pradesh for retaining the Applicant in the same Division until further orders, this is with reference of stay order dated 12.11.2001 issued by C.A.T. Guwahati Bench.

7. That with regard to the content made in Paragraph 5. of the application regarding reliefs sought for and the ground for relief with legal provision the Respondent No.2 submit that the Applicant is not entitled to anyone of the relief sought for. It is settled law that transfer is an incident of service and employee has no vested right to get posted to a particular place and transfer cannot be avoided merely on ground of pendency of representation or personal difficulty.

Reliance is placed on Hon'ble Apex Court decision in the case of Gujarat State Electricity Board Vrs Almaram (1989) 10 ATC 396. It is also settled law that guidelines issued by Govt. do not confer upon an employee legally enforceable right. Transfers made in public interest are beyond judicial review.

(Annexed as Annexure – IV).

8. That with reference to the Statement made by the Applicant in Paragraphs 6 & 7 the Respondent No.2 has no comment to offer.
9. That with regard to the Statement made in Paragraph 8 of the Application regarding interim order, the Respondent No.2 submit that in view of the fact and circumstances of the case the interim order dated 12.11.2001 granted in this case deserves vacation forthwith and as such the Respondent pray that the same may be vacated.
10. That with regard to the Statement 9 of the Applicant regarding the operation of transfer and posting issued by Respondent No.2 has already been mentioned in the foregoing Paragraph.
11. That the Statement made in Paragraph 10 of the Applicant, the Respondent No.2 has no comment to offer.

VERIFICATION.

I, Shri S.A. BATHEN, Senior Deputy Accountant General (Admin) of the Office of the Accountant General (A&E), Meghalaya, Arunachal Pradesh and Mizoram, Shillong, do hereby solemnly declare that the Statements made above in the Written Statement are true to my knowledge, belief and information and I sign the verification on the _____
at Shillong.



DEPONENT

3