

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

M.P-259/2001 order Pg-1  
disposed date-16/11/2001

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

ORDER SHEET

Appelcation No. 440 /2001

Applicant(s) :- S. Nayak

Respondant(s) :- W.O.I - 90m

Advocate for the Applicant :- Mr. D.K. Das, S. Shyam

Advocate for the Respondant :- C.A.S.C. & Jnt. advocati, Assam

Notes of the Registry	Date	Order of the Tribunal
<p>This is application in form C. F. for Rs. 50/- disposed vide IP / 64.790151 Dated .... 13.11.2001 By Dy. Registrar</p> <p>Notice for appeal filed Sent to DLS for from the Respondent No. 2 W 6 by Regd A.D. Respondent No. 11. Received by A.K. Choudhury 19/11/07</p> <p>D1 No. 4274 &amp; 4279 Dtd 19/11/07</p>	15.11.01	<p>Heard Mr. D.K. Das, learned counsel for the applicant. The application is admitted. Call for the record. Issue notice as to why interim order suspending the order No. FRE.68/2001/ Pt./24 dated 12.11.01 shall not be passed. Returnable by two weeks. Mr. A.K. Choudhury, learned Addl. C.G.S.C., accepts notice on behalf of the respondents no.1. The applicant shall take step for service of notice for other respondents. In the meantime, the operation of order no. FRE.68/2001/Pt./24 dated 12.11.01 shall remain suspended till the next date. List on 5/12/01 for order.</p>

Member

Vice-Chairman

mb

5.12.01

Heard Mr.D.K.Das, learned counsel for the applicant as well as Mrs.M.Das, for the respondent Nos. 2 and 3, Mr.S.Sarma, learned counsel for the respondent No.6 and Mr.A.K.Choudhury, learned Addl. C.G.S.C. for respondent No.1

The respondents are yet to file written statement. One week's time is allowed to the respondents to file written statement.

List on 20.12.01 for hearing. Endeavour ~~xx~~ shall be made to dispose of the same at the next date.

Meanwhile, interim order dated 15.11.01 shall continue. It has been stated that the applicant has not been getting his salary. The State Govt. may consider this grievance of the applicant as per Rules.

Member(J)

Member(A)

mb

20.12.2001

Let the matter be listed again for hearing on 8.1.2002. By that time the respondents, more particularly the State of Assam is directed to file the written statement. ~~and also to produce the records at the hearing~~ The interim order dated 15.11.2001 shall continue.

A copy of the order be furnished to Mrs M. Das, learned Government Advocate, Assam in course of the day for taking necessary steps.

Member

Vice-Chairman

nk m

8.1.02

Pass over and list it on 10.1.2002 for hearing. The interim order dated 15.11.2001 shall continue.

Member

Vice-Chairman

mb

10.1

Heard Mr. D.K. Das Learned Counsel for the applicants Mrs M. Das, learned Counsel Govt. of Assam, Mr M.K. Sharma, learned counsel appearing for respondent No. 6 & also Mr. A.K. Choudhury, Addl C.G.S.C. Hearing concluded. Judgment reserved. A.K. Choudhury

Order dtd 5/12/01  
Communicated to  
Sri. A.K. Choudhury, Addl. C.G.S.C.  
D.K. Das Adv.  
S. Sharma,  
Mrs. M. Das Govt. Adv. Ass.

G/No \_\_\_\_\_  
Dtd \_\_\_\_\_  
8/12/01.

21.12.2001

Copy of the order  
dtd. 20.12.2001 has been  
sent to the office for  
issuing the same to  
the Govt. Advocate,  
Assam. (Mrs. M. Das)

4544 D. 21.12.2001.  
48

Order dtd. 20/12/01  
Communicated to the  
Ladies Commr. & Mrs. M. Das.  
G.D. Desai.

Notes of the Registry	Date	Order of the Tribunal
<p><i>W. 15/2/02</i></p> <p><i>Recd copy.</i></p> <p><i>Atk Chinnell</i></p> <p><i>Addl Cg SC</i></p> <p><i>18/2/02</i></p> <p><i>19.2.2002</i></p> <p><i>Copy of the Judgment has been sent to the Office for being sent to the applicant as well as to the L/Sec. in the respn.</i></p>	<p>21.1.02</p> <p>mb</p>	<p>Judgment delivered in open court, k in separate sheets. The application is disposed <sup>of</sup> in terms of the order. No order as to costs.</p> <p><i>ICU Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>

Notes of the Registry	Date	Order of the Tribunal

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.379 of 2001

With

Original Application No.440 of 2001

And

Original Application No.443 of 2001

Date of decision: This the 21<sup>st</sup> day of January 2002

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

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

I. O.A.No.379/2001

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

.....Applicant

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

- versus -

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

.....Respondents

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

II. O.A.No.440/2001

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

.....Applicant

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

- versus -

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

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

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

.....Responenents

III. O.A.No.443/2001

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

.....Applicant

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

- versus -

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

.....Respondents

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

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

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

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

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

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

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

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

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

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

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



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

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

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

Government.....

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

4. An officer of the Government cannot claim any right to any particular post. He is required to serve anywhere in India, unless the transfer order is passed in contravention of the statutory rules.

There is no dispute that the discretion of transfer and posting of officers is vested on the State Government, but all power has its own limits.

An unfettered discretion is what the Courts refuse to countenance.

Statutorily, all power is to be exercised reasonably and in good faith

for proper purposes only on lawful considerations. The power is to be

exercised for valid and lawful purpose. Unfettered governmental discretion

is an anathema. There is no dispute at the Bar on the legal principle.

What is in dispute is as to the respective assessment of facts. On perusal

of the materials on record it appears that the applicant in O.A.No.379/2001

vide order dated 29.11.1999 was transferred from the post of Divisional

Forest Officer, Central Assam Afforestation Division, Hojai and posted

as Divisional Forest Officer, Dhubri Division. The said order of transfer

and posting dated 29.11.1999 was stayed on 6.1.2000. Subsequently, it

was vacated and the applicant was thereafter posted as Divisional Forest

Officer, Dhubri Division. The applicant took over charge of the Division

on 7.7.2000. The applicant alongwith three other officers was sent to

attend the professional skills upgradation training programme at the Indira

Gandhi National Forest Academy, Dehradun scheduled to be held from

14.8.2001 for a period of ten weeks. In that view of the matter the

applicant handed over the charge of the Division on 13.8.2001 for a period

often weeks to the seniormost Assistant Conservator of Forests of the

Division as directed by the communication dated 27.7.2001 and proceeded

for.....

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

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

"Secy Forests

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

Sd/-

27/7/2001

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

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

Division.....

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

applicant.....

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

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

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

notice.....

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

"Secy. Forests

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

Sd/-

17/11/2001

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

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

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

respondent.....

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

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

charge.....

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

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

Admittedly.....



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

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

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

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

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

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

it.....

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

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

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

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

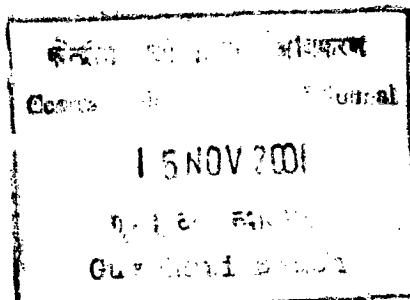
modified. For the same reasons we do not find any merit in the application in O.A.No.443 of 2001 and accordingly the same is dismissed.

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

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Sd/ VICE CHAIRMAN

Sd/ MEMBER (Admin)



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH, GUWAHATI.

O.A.NO. 440 OF 2001

BETWEEN :

Sri Susanta Nayak, IFS. .... Applicant.

-Versus-

The Union of India & Ors..... Respondents.

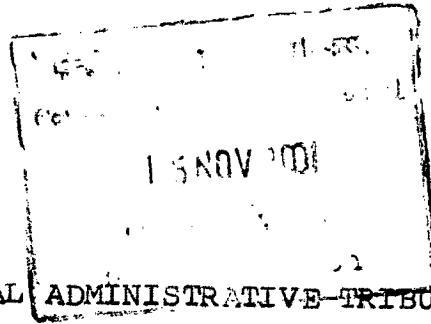
I N D E X

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Filed by :-

S. Shyam

( S.SHYAM )  
Advocate



Filed by US:-  
Applicant  
Writ: S. S. Sharma  
At: 15/11/01

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,  
GUWAHATI.

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

O.A.NO.                      OF 2001

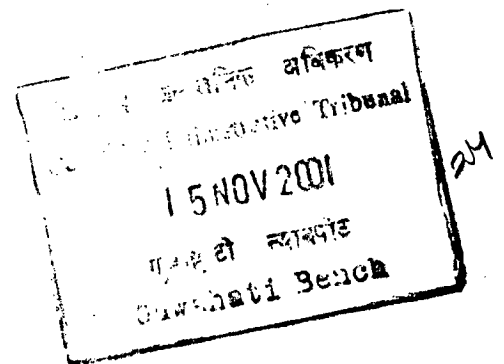
BETWEEN

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

-Versus-

1. The Union of India,  
represented by the Secretary to  
the Government of India, Ministry  
of Environment and Forest,  
New Delhi.
2. The State of Assam, represented  
by the Secretary to the Govt.  
of Assam, Department of Forest,  
Dispur, Assam.
3. Sri M.G.V.K. Bhanu, IAS,  
Commissioner & Secretary to  
the Chief Minister, Assam, Dispur,  
Guwahati-781006.

Contd.....2.



4. The Principal Chief Conservator of  
Forest, Assam, Rehabari, Guwahati-781008.
5. The Deputy Commissioner, Dhubri,  
District - Dhubri.
6. Sri T.V.Reddy, IFS,  
Divisional Forest Officer,  
*Under posting as Working Plan*  
~~Haltugan Division, Kokrajhar,~~  
*Officer, Upper Assam Circle, Jorhat.*  
District - ~~Kokrajhar~~. *Jorhat.*

..... Respondents.

DETAILS OF APPLICATION

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

The present application is directed against the orders issued under Memo No.FRE.68/2001/Pt/24 dated 12.11.2001 and order under Memo No.DC.4/2001/202 dated 12.11.2001 by which the transfer order dated 9.11.2001 in respect of the Applicant has been stayed and/or cancelled in a most illegal, arbitrary and unfair manner.

2. JURISDICTION OF THE TRIBUNAL :

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

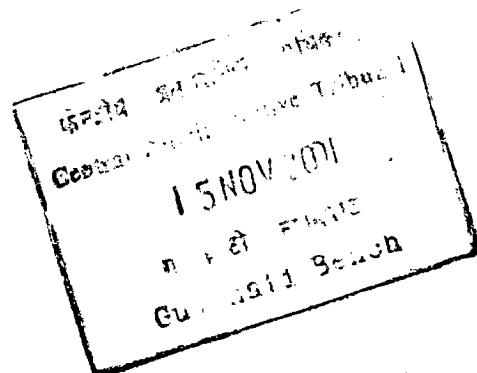
3. L I M I T A T I O N :

The applicant declares that the present

Contd.....3.

J. K. Rayat





application has been filed within the Limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

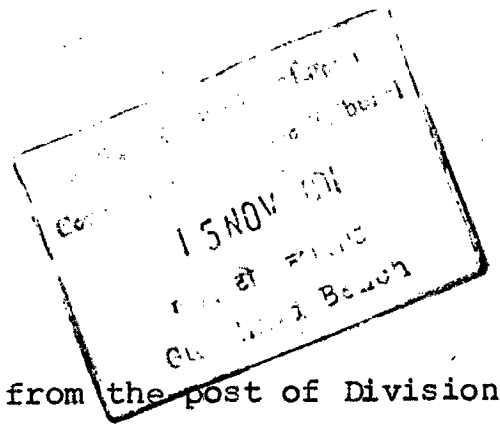
4.1. That the Applicant is a citizen of India and as such he is entitled to all the rights, and privileges guaranteed under the Constitution of India and the laws framed thereunder.

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

4.3. That by an order issued by the respondent No.2 under Memo No.FRE.3/90/Pt-II/191 dated 24.4.2000

Contd.....4.

S. Nayak.



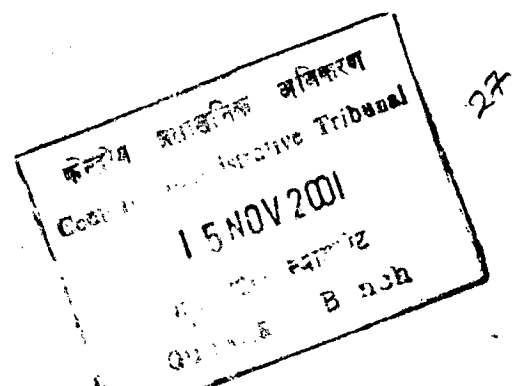
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the applicant was transferred from the post of Divisional Forest Officer, Central Assam Afforestation Division, Hojai and posted as Divisional Forest Officer, Dhubri Division. Pursuant to the aforesaid order dated 24.4.2000, the applicant took over charge of the Dhubri Division on 7.7.2000.

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

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

S. Nayak.



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

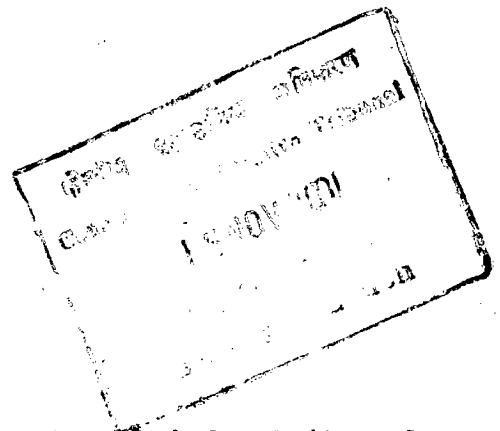
4.6. That as the aforesaid transfer order dated 4.9.2001 was issued in a most surreptitious manner behind the back of the applicant while he was undergoing the Training programme at Dehradun, hence the applicant had no knowledge of the said order till 8.9.2001. However, the applicant was shocked to learn about the said transfer order dated 4.9.2001 particularly in view of the fact that he had merely completed a little over one year's service in his present place of posting at Dhubri.

4.7. That immediately having come to know about the aforesaid transfer order dated 4.9.2001, the applicant rushed back to Dhubri and submitted representations dated 11.8.2001 before the authorities praying for stay of the aforesaid transfer order. However, the said representation having <sup>evoked</sup> ~~asked~~ no response, the applicant herein had challenged the legality and validity of the aforesaid transfer order dated 4.9.2001 by instituting O.A.No.379 of 2001 before this Hon'ble Tribunal.

4.8. That by an order dated 19.9.01 passed in the aforesaid O.A.No.379 of 2001, this Hon'ble Tribunal was pleased to issue notices upon the respondents. By

S. Nayak.

Contd.....6.



the said order dated 19.9.01 this Hon'ble Tribunal was also pleased to issue Notices on the interim prayer made by the applicant for stay of the order dated 4.9.2001 with a further direction that the applicant be allowed to occupy the official quarter in which his family members were staying at Dhubri. The aforesaid O.A.No.379 of 2001 is still pending disposal before this Hon'ble Tribunal.

A copy of the order dated 19.9.01 passed in O.A.No.379 is annexed hereto and marked as ANNEXURE - II.

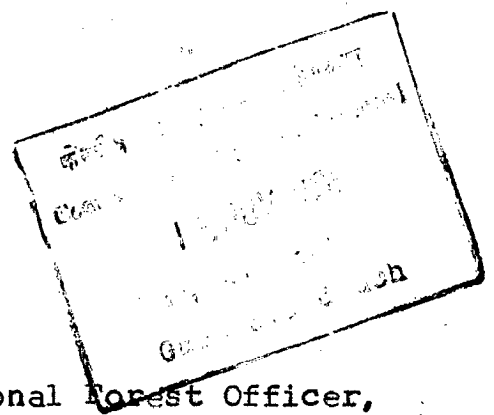
4.9. That during the pendency of the aforesaid O.A.No. 379 of 2001 before this Hon'ble Tribunal, the aforenamed respondent ~~Ne~~ <sup>authorities</sup> by an order issued under Memo No.FRE.68/2001/Pt/22 dated 9.11.2001 modified the earlier transfer order dated 4.9.2001 issued in respect of ~~the~~ applicant and ~~reported~~ the applicant herein as Divisional Forest Officer, Dhubri Division, Dhubri with effect from the ~~date~~ of taking over charge vice Sri T.V.Reddy, IFS i.e. the respondent No.6

A copy of the order dated 9.11.2001 is annexed hereto and marked as ANNEXURE-III.

4.10. That pursuant to the aforesaid order dated 9.11.2001, the applicant herein has already joined

Contd.....7.

S. Nayak.



in the Office of the Divisional Forest Officer, Dhubri Division on 13.11.2001 and submitted his joining report.

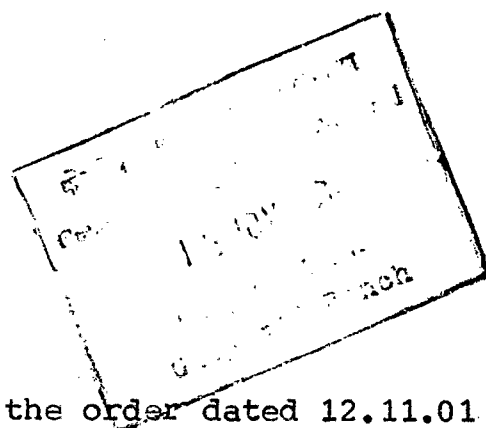
4.11. That subsequently however, to his utter shock and dismay the applicant has come to know that by a Government Notification issued under Memo No. FRE.68/2001/Pt/24 dated 12.11.2001 the earlier transfer order dated 9.11.2001 in respect of the applicant has been stayed until further orders absolutely without assigning no reasons thereof.

A copy of the Order dated 12.11.2001 is annexed hereto and marked as ANNEXURE - IV.

4.12. That later on by another Notification issued by the Respondent No.5 under Memo No. D.C.4/2001/202 dated 12.11.01 the applicant was informed that the respondent No.3 had telephonically informed the respondent No.5 that the transfer order posting the applicant at Dhubri Forest Division has been cancelled and as such the applicant herein was instructed not to take over charge of the Dhubri Division. It is, however, stated that save and except the aforesaid letter dated 12.11.01 issued by the respondent No.5, the applicant is not aware of any Govt. Notification cancelling the transfer order dated 9.11.01.

Contd....8.

S. Nayak.



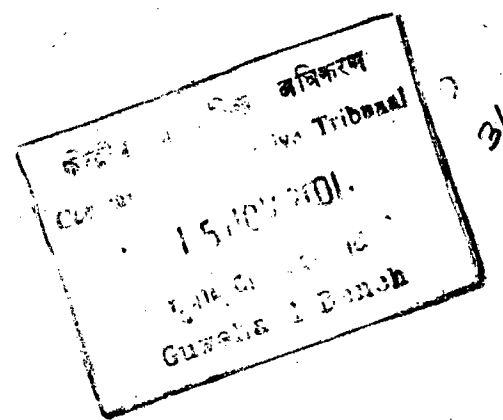
A copy of the order dated 12.11.01 issued by the respondent No.5 is annexed hereto and marked as ANNEXURE-V.

4.13. That it is respectfully stated that the impugned Notifications dated 12.11.01 has been issued in hot haste without assigning any cogent reason and in a most illegal and arbitrary manner with the malafide intention to harass the applicant. Further said Notification is not prompted by the interest of Public Service but the same has been issued only to subserve the private interest of the respondent No.6 and hence the same are not sustainable in law and liable to be quashed and ~~set~~ aside by this Hon'ble Tribunal.

4.14. That it is amply evident from the order dated 12.11.01 issued by the respondent No.5 that the aforesaid transfer order dated 9.11.2001 posting the applicant at Dhubri Forest Division has been stayed and/or cancelled in hot haste only at the interference and dictation of the respondent No.3 who is not at all directly concerned with the transfer and posting of the Forest Departmental Officials. It is further stated that the impugned Govt. Notification dated 12.11.2001 and the order dated 12.11.2001 issued by the respondent No.5 are not only illegal,

Contd.....9.

S. Nayak.



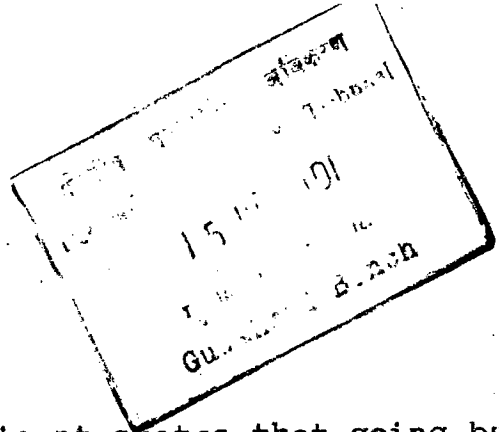
- 9 -

arbitrary and unreasonable but the same are also hit by the vice of dictation of the respondent No.3 who is not directly concerned with the transfer and posting of the applicant or for that matter, with the affairs of the Department of Forest, Govt. of Assam.

4.15. That it is respectfully submitted that the impugned Notification dated 12.11.01 and the order dated 12.11.01 issued by the respondent No.5 staying and/or cancelling the transfer order dated 9.11.01 are not guided by sound administrative discretion or interest of Public Service but the same has been issued in hot haste for extraneous considerations for colateral purposes and with a malafide intention only under the dictation of the respondent No.3. It is pertinent to state herein that the applicant has learnt from reliable sources that the above-named respondent No.3 has been repeatedly using his official position and <sup>clout</sup> ~~clut~~ in the Government in influencing last minute changes in the transfer orders issued in respect of the Forest Departmental official only to subserve his private interest and the applicant has further learnt that the respondent No.3 has similarly interfered with a series of transfer & postings in the Forest Department that took place in the recent past.

Contd....10.

S. Nayak.



4.16. That the applicant states that going by the sequence of events leading to the orders dated 12.11.01 it is crystal clear that the impugned orders have been issued under the dictation and interference of the respondent No.3. The impugned orders reflect both malice in law as well as fact, and the same has been issued with a oblique purpose to reach injury to the Applicant.

4.17. That the applicant respectfully states that pursuant to the transfer order dated 9.11.01 the applicant has already joined ~~as~~ as D.F.O, Dhubri Division on 13.11.01 under the circumstances narrated above. As such if the impugned orders<sup>h/k</sup> dated 12.11.01 are not forthwith interfered with by this Hon'ble Tribunal then in that event it will give rise to a lot of confusion and contradiction thereby seriously affecting the service conditions of the applicant and thus cause serious prejudice to his interest. Hence this is a fit case where this Hon'ble Tribunal may be pleased to pass appropriate interim orders in the interest of Justice.

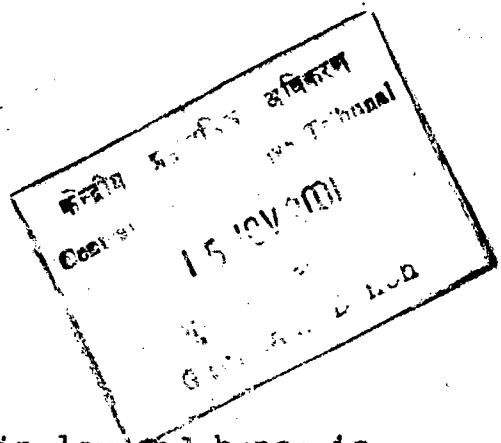
5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1. For that prima-facie the impugned order having been issued under the dictation of the respondent No.3 who is not directly concerned with the affairs of the Forest Department, Govt. of Assam,

Contd.....11.

S. Nayak.





the same are not sustainable in law and hence is liable to be set aside and quashed.

5.2. For that the impugned order not having been issued in any public interest but only at the dictat of the respondent No.3 with a view to accommodate the respondent No.6, the same is liable to be quashed and set aside.

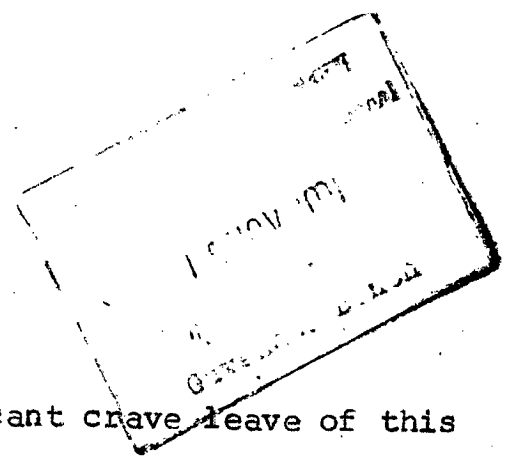
5.3. For that the impugned order, dated 12.11.01 have been issued without assigning any cogent reasons and in malafide, illegal and arbitrary exercise of powers for achieving collateral purposes and hence the same is liable to be set aside.

5.4. For that the impugned orders<sup>both</sup>, dated 12.11.01 are unreasonable, unfair, capricious and violative of the applicant's fundamental rights guaranteed under Article 14 and 16 of the Constitution of India. The applicant has been discriminated without any reasonable basis or justification and as such the impugned orders are liable to be quashed and set aside.

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

5.6. For that in any view of the matter the impugned orders are not sustainable in law.

S. No 79/K



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

6. DETAILS OF THE REMEDIES EXHAUSTED :

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

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

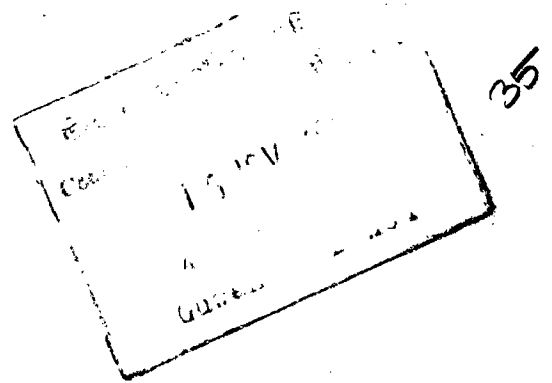
The applicant declares that no other application, Writ petition or suit in respect of the subject matter of the instant application is filed before any other Court, Authority or any other Bench of this Hon'ble Tribunal nor any such application, Writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR :

Under the facts and circumstances stated above, the applicant prays that this application be admitted, records be called for and notices be issued to the respondents to show cause as to why the reliefs sought for in this application should not be granted

Contd....13.

S. Nayak



and upon hearing the parties and on perusal of the records be pleased to grant the following reliefs.

8.1. To set aside and quash the Notification dated 12.11.01 and the order dated 12.11.01 and allow the applicant to continue in the present post at Dhubri Forest Division.

8.2. Cost of the application.

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

9. INTERIM ORDER PRAYED FOR :

Under the facts and circumstances of the case of the Applicant, it is most respectfully prayed that the Hon'ble Tribunal may be pleased to stay/suspend the effect and operation of the Notification dated 12.11.01 and the order dated 12.11.01 (Annexure-IV & V) in so far as the applicant is concerned with a further direction that the applicant be allowed to continue in his present post at Dhubri.

10. The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O :

- i) I.P.O. NO. : 64 790/51  
ii) Date : 13.11.2001  
iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the index.

Contd....14.

S. Nayak.

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

I, Sri Susanta Nayak, aged about 46 years,  
Son of Late Dr. Amarendra Nayak, presently working as  
Divisional Forest Officer, Dhubri Division, Dhubri,  
do hereby solemnly affirm and verify that the state-  
ments made in paragraphs 1, 2, 3, 4, 1, 4, 2, 4, 3, 4, 4, 4, 6, 4, 7, 4, 8, 4, 10, 4, 13, 4, 14  
4, 15 to 4, 17.  
are true to my knowledge, those in paragraphs 4, 5, 4, 9,  
4, 11, 4, 12, are true to my information derived  
from records and the rest are my humble submissions  
before this Hon'ble Tribunal.

And I sign this Verification on this the 15<sup>th</sup>,  
day of November, 2001 at Guwahati.

Susanta Nayak

GOVERNMENT OF ASSAM  
FOREST DEPARTMENT  
DISPUR

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Dispur, the 4th September, 2001.

NO.FRE. 60/2001/Pt.I/3 :- Shri P. Roy, IFS, Deputy Director, Manas Tiger Project, Barpeta Road is in the interest of public service transferred and posted as Divisional Forest Officer, Hailuogang Division, Kokrajhar, with effect from the date of taking over charge vice Shri T.V. Reddy, IFS transferred.

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

NO.FRE. 60/2001/Pt.I/3-A :- On relief, in the interest of public service Shri T.V. Reddy, IFS, Divisional Forest Officer, Hailuogang Division, Kokrajhar is transferred and posted as Divisional Forest Officer, Dhubri Division, Dhubri with effect from the date of taking over charge vice Shri S. Nayak, IFS transferred. Shri G.N. Bozbaruah, ACF is hereby relieved of the dual charge.

NO.FRE. 60/2001/Pt.I/3-B :- Shri S. Nayak, IFS, Divisional Forest Officer, Dhubri Division, Dhubri is in the interest of public service transferred and posted as Working Plan Officer, Upper Assam Circle, Jorhat with effect from the date of taking over charge vice Shri M.K. Yadav, IFS already transferred. The Divisional Forest Officer, Jorhat Division is hereby relieved of the additional charge of Working Plan Officer.

NO.FRE. 60/2001/Pt.I/3-C :- On having been released by Political (Vigilance Cell) Department from the post of Divisional Forest Officer, Bureau of Investigation and Economic Offences, Assam, Guwahati Shri R. C. Goswami, is in the interest of public service transferred and posted as Deputy Director, Manas Tiger Project, Barpeta Road with effect from the date of taking over charge vice Shri P. Roy, IFS transferred.

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

Contd...p/2...

16 19 38

Assam No. FR. 68/2001/Pt.1/J-0, Dated 25.09.2001, 4th September, 2001.

Copy to :-

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

By order etc.,

14

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

.....

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI.

ORDERS SHEET

Original APPLICATION NO. 379/2001

Applicant (s) Susanta Nayak  
Respondent(s) W.O.I 90m  
Advocate for the Applicant: Mr. A. Roy, Mr. D.K. Dm  
Advocate for the Respondent: case

Notes of the Registry	Date	Order of the Tribunal
	19.9.01	Heard counsel for the parties. Issue notice as to why the application shall not be admitted. Returnable by four weeks. Also, issue notice as to why the interim order as prayed for shall not be granted. Returnable by two weeks. Mr.B.C.Pathak, learned Addl.C.G.S.C. Mrs.H.Das, counsel for the State and Mr.S.Sarma, learned counsel accepts notice for respondent Nos. 1, 2 & 3 and 5 respectively. In the meantime, the applicant shall be allowed to occupy the official quarter in which his family members are staying at Dhubri. List on 3/10/01 for admission.
Certified to be true Copy प्रमाणित प्रतिलिपि		Sd/VICE CHAIR



Section Officer (A)  
आचार्य अधिकारी (अ)  
Central Administrative Tribunal  
Guwahati Bench, Guwahati  
19/9/2001

19/9/2001

GOVERNMENT OF ASSAM  
FOREST DEPARTMENT : : DISPUR

## ORDERS BY THE GOVERNOR

## NOTIFICATION

Dated Dispur, the 09th Nov. '2001.

NO.FRE.68/2001/Pt/22 : In modification of the transfer order issued vide Notification No.FRE.68/2001/Pt-1/3-B, dtl. 4-9-2001 in respect of Shri S. Nayak, IFS, he is ~~repeated as Divisional Forest Officer, Dhubri Division, Dhubri~~ with effect from the date of taking over charge vice Shri T.V. Reddy, IFS. ✓

NO.FRE.68/2001/Pt/22-A : Shri T.V. Reddy, IFS, Divisional Forest Officer, Dhubri Division, Dhubri is in the interest of public service transferred and posted as Working Plan Officer, Upper Assam Circle, Jorhat with effect from the date he takes over charges vice Shri M.K. Yadav, IFS, already transferred.

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

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

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

By order etc.,

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



18

ANNEXURE - IV

GOVERNMENT OF ASSAM  
FOREST DEPARTMENT :::: DISPUR

ORDERS BY THE GOVERNOR

-NOTIFICATION-

✓

Dated Dispur, the 12th Nov. '2001.

NO.FRE.68/2001/Pt/24 : Without prejudice to the pendency of 2  
the O.A. No.379/2001 in the Hon'ble Central Administrative Tribunal, Guwahati, the transfer and posting order issued vide Govt. Notification No.FRE.68/2001/Pt/22, dated 9-11-2001 and No.FRE.68/2001/Pt/22-A, dtl. 9-11-2001 in respect of Shri S. Nayak, IFS, Deputy Conservator of Forests and Shri T.V. Reddy, IFS, Deputy Conservator of Forests are hereby stayed until further orders.

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

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

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

By order etc.,

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

12/11/00

20

ANNEXURE -

V

OFFICE OF THE DEPUTY COMMISSIONER OF DHUBRI DIST.: : DHUBRI.  
(CONFIDENTIAL BRANCH)

12/11/00 No. 1/2001/202  
Dated, 12/11/00 the

By,

Shri S. Nayak, D.F.O.  
~~Director.~~

11/10

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

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

12/11/00  
Deputy Commissioner  
Dhubri.

11/11/00

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH

O.A. NO. 440/2001

In the matter of :

O.A. No.440/2001

Sri Susanta Nayak

..... Applicant

-Vs-

Union of India and others

..... Respondents.

- AND -

In the matter of :

Written Statement on behalf of the

State of Assam the Respondent No.2

in the above O.A. No. 440/2001.

( Written Statement on behalf of the State of  
Assam , the respondent No.2 ).

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

1. That I am the Joint Secretary to  
the Government of Assam, Forest Department.  
A copy of the above application had been served  
upon the respondent No.2. I perused the same

Contd...P/2...

33  
Filed by :-  
The State of Assam  
Respondent No. 2

Manjinder Das  
For. Secy. Advocate  
( St. of Assam )  
CAT 9/102

and understood the contents thereof. I am acquainted with the facts and circumstances of the case. I do not admit any of the allegations/averments made in the application which are not supported by records. Any of the statements which are not specifically admitted hereinafter are to be deemed as denied. I am authorised to file this written statement on behalf of the respondent No.2.

2. That with regard to the statements made in paragraph 4.1 of the application the answering respondent has nothing to make comment on it. He however does not admit any statements which are contrary to records.

3. That with regard to the statements made in paragraphs 4.2, 4.3, 4.4 and 4.5 of the application the answering respondent has admitted the statements made therein.

4. That with regard to the statements made in paragraph 4.6 of the application it is stated that the applicant is holding a transferable post and transfer of a Government employee is a condition of service.

Contd....P/3...

The Government employees whose services are transferable are required to serve at any place in the interest of public services and administrative exigency. The applicant was transferred in the interest of public service. Further, it is stated that the Govt. is competent to transfer a Govt. servant from one place to another without giving prior intimation.

5. That with regard to the statements made in paragraph 4.7 of the application the answering respondent begs to state that no representation made by applicant as stated has been received by department concerned. However, a representation dated 11-9-2001 made by Smt. Giani Nayak wife of the applicant was received and accordingly that was considered by the Government.

Considering the representation of Smt. G. Nayak W/O Sri S. Nayak the Government initially modified the order dated 4-9-2001

Contd...P/4...

42

- ( 4 ) -

vide order dated 9-11-2001 but reviewed the same and issued orders vide notification dated 12-11-2001 staying the order dated 9-11-2001 on representation from Sri T. V. Reddy on the ground that he took over the charge of Divisional Forest Officer, Dhubri Division, Dhubri on 10-9-2001 after serving for nearly 5 years in a difficult place like Kokrajhar as Divisional Forest Officer, Haltugaon Division, Kokrajhar and shifted his family to Dhubri.

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

6. That with regard to the statements made in paragraph 4.8 of the application the answering respondent has nothing to comment on it.

Contd...P/5...

7. That the statements made in paragraph 4.9 of the application are admitted by the answering respondent.

8. That with regard to the statement made in paragraph 4.10 of the application it is stated that the applicant vide his letter dated 13.11.2001 submitted the joining report.

9. That with regard to the statements made in paragraph 4.11 of the application it is stated that the modification order dated 9.11.2001 whereby the applicant ~~was~~ reported as Divisional Forest Officer, Dhubri Division, Dhubri has been stayed by the Govt. vide order No.FRE.68/2001/Pt/24, dated 12-11-2001 i.e. before the submission of joining report. In any case submission of joining report is not sufficient. Formal, handing over and taking over of charge is required, before a person can discharge the duties in respect of charge post assigned to him. In the instant case, no

Contd...P/6...

handing over and taking over of charge took place. In any case, the reposting order under Govt. Notification No.FRE.68/2001/Pt/22, dated 9-11-2001 was stayed on 12/11/2001 itself by Govt. order No.FRE.68/2001/Pt/24, dated 12-11-2001 before petitioner could submit joining report.

10. That with regard to the statements made in paragraph 4.12 of the application the answering respondent has nothing to make comment on it except for the fact that stay order about which petitioner claims ignorance is enclosed by petitioner along with application in instant case before Hon'ble court.

11. That with regard to the statements made in paragraph 4.13 of the application, it is stated that although the transfer order dated 4.9.2001 of the applicant was modified vide order 9.11.2001 but said order was stayed by the Government

Contd...P/1..



on the reason that Sri T.V. Reddy who served for about five (5) years as Divisional Forest Officer, Haltugaon Division, Kokrajhar had assumed charge of the office of the Divisional Forest Officer, Dhubri Division two (2) months ago and further he had shifted his family to Dhubri.

12. That the answering respondent deny the correctness of the statements made in paragraph 4.14 of the application.

13. That with regard to the statements made in paragraph 4.15 of the application, the answering respondent has nothing to make comment on it except for the fact that stay order dated 12.11.2001 was issued on representation filed by Shri T.V. Reddy.

14. That with regard to the statements made in paragraph 4.16 of the application it is stated that it is not correct that the order dated 12.11.2001 was issued at the interference and dictation of the Respondent No.3 .

15. That with regard to the statement made in paragraph 4.17 of the application it is stated that the applicant had submitted his joining report on 13.11.2001. Formal handing over and taking over charge of Division did not take place. Since the posting order of the applicant has been stayed vide notification dated 12-11-2001, the respondent No.6 Sri T.V. Reddy, IFS has been holding the charge of Dhubri Division.

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

Contd...P/9..

- ( 9 ) -

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

I, Sri Alok Khare, Joint Secretary  
to the Government of Assam, Forest Department  
do hereby state that the Statements made in  
paragraphs 1 to 8 and 10 to 15 are true to  
my knowledge and those made in paragraph 9  
are true to my information derived there  
from which I believe to be true and the  
rests are humble submissions before  
this Hon'ble Tribunal.

I have not suppressed any  
material fact. I have signed this  
verification on this 9<sup>th</sup> day of  
January, 2002.

*Alok Khare*

DEPONENT

Annexure - A

52

GOVERNMENT OF ASSAM  
FOREST DEPARTMENT :::: DISPUR

ORDERS BY THE GOVERNOR

-NOTIFICATION-

Date: Dispur, the 12th Nov. '2001.

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

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

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

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

By order etc.

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

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GURUHATI BENCH

**O.A. NO. 440/2001**

In the matter of :

**O.A. No. 440/2001**

**Sri Susanta Nayak**

..... Applicant

**-VS-**

**Union of India and others**

..... Respondents.

**- AND -**

In the matter of

Written Statement on behalf of the  
State of Assam the Respondent No.2  
in the above O.A. No. 440/2001.

( Written Statement on behalf of the State of  
Assam , the respondent No.2 ).

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

1. That I am the Joint Secretary to the Government of Assam, Forest Department. A copy of the above application had been served upon the respondent No.2. I perused the same

Contd...P/2...

5

Filed by: -  
The State of Assam  
-- Res per cent no. 2  
Strength --  
Manningham Das  
Tr. Govt. Advocate  
(St. of Assam)  
CAT 9/1/02

and understood the contents thereof. I am acquainted with the facts and circumstances of the case. I do not admit any of the allegations/averments made in the application which are not supported by records. Any of the statements which are not specifically admitted hereinafter are to be deemed as denied. I am authorised to file this written statement on behalf of the respondent No.2.

2. That with regard to the statements made in paragraph 4.1 of the application the answering respondent has nothing to make comment on it. He however does not admit any statements which are contrary to records.

3. That with regard to the statements made in paragraphs 4.2, 4.3, 4.4 and 4.5 of the application the answering respondent has admitted the statements made therein.

4. That with regard to the statements made in paragraph 4.6 of the application it is stated that the applicant is holding a transferable post and transfer of a Government employee is a condition of service.

Contd....P/3...

The Government employees whose services are transferable are required to serve at any place in the interest of public services and administrative exigency. The applicant was transferred in the interest of public service. Further, it is stated that the Govt. is competent to transfer a Govt. servant from one place to another without giving prior intimation.

5. That with regard to the statements made in paragraph 4.7 of the application the answering respondent begs to state that no representation made by applicant as stated has been received by department concerned. However, a representation dated 11.9.2001 made by Smt. Giani Nayak wife of the applicant was received and accordingly that was considered by the Government.

Considering the representation of Smt. G. Nayak W/O Sri S. Nayak the Government initially modified the order dated 4.9.2001

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- ( 4 ) -

vide order dated 9-11-2001 but reviewed the same and issued orders vide notification dated 12-11-2001 staying the order dated 9-11-2001 on representation from Sri T. V. Reddy on the ground that he took over the charge of Divisional Forest Officer, Dhubri Division, Dhubri on 10-9-2001 after serving for nearly 5 years in a difficult place like Kokrajhar as Divisional Forest Officer, Haltugan Division, Kokrajhar and shifted his family to Dhubri.

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

6. That with regard to the statements made in paragraph 4.8 of the application the answering respondent has nothing to comment on it.

Contd...P/5...



7. That the statements made in paragraph 4.9 of the application are admitted by the answering respondent.

8. That with regard to the statement made in paragraph 4.10 of the application it is stated that the applicant vide his letter dated 13.11.2001 submitted the joining report.

9. That with regard to the statements made in paragraph 4.11 of the application it is stated that the modification order dated 9.11.2001 whereby the applicant was reported as Divisional Forest Officer, Dhubri Division, Dhubri has been stayed by the Govt. vide order No.FRE.68/2001/Pt/24, dated 12-11-2001 i.e. before the submission of joining report. In any case submission of joining report is not sufficient. Formal, handing over and taking over of charge is required, before a person can discharge the duties in respect of charge post assigned to him. In the instant case, no

Contd...P/6...

58

- ( 6 ) -

handing over and taking over of charge took place. In any case, the reposting order under Govt. Notification No.FRE.68/2001/Pt/22, dated 9-11-2001 was stayed on 12/11/2001 itself by Govt. order No.FRE.68/2001/Pt/24, dated 12-11-2001 before petitioner could submit joining report.

10. That with regard to the statements made in paragraph 4.12 of the application the answering respondent has nothing to make comment on it except for the fact that stay order about which petitioner claims ignorance is enclosed by petitioner along with application in instant case before Hon'ble court.

11. That with regard to the statements made in paragraph 4.13 of the application, it is stated that although the transfer order dated 4.9.2001 of the applicant was modified vide order 9.11.2001 but said order was stayed by the Government

Contd...P/1..

59

on the reason that Sri T.V. Reddy who served for about five (5) years as Divisional Forest Officer, Haltugaon Division, Kokrajhar had assumed charge of the office of the Divisional Forest Officer, Dhubri Division two (2) months ago and further he had shifted his family to Dhubri.

12. That the answering respondent deny the correctness of the statements made in paragraph 4.14 of the application.

13. That with regard to the statements made in paragraph 4.15 of the application, the answering respondent has nothing to make comment on it except for the fact that stay order dated 12.11.2001 was issued on representation filed by Shri T.V. Reddy.

14. That with regard to the statements made in paragraph 4.16 of the application it is stated that it is not correct that the order dated 12.11.2001 was issued at the interference and dictation of the Respondent No.3 .

Contd...P/8..

60

- (8) -

15. That with regard to the statement made in paragraph 4.17 of the application it is stated that the applicant had submitted his joining report on 13.11.2001. Formal handing over and taking over charge of Division did not take place. Since the posting order of the applicant has been stayed vide notification dated 12-11-2001, the respondent No.6 Sri T.V. Reddy, IFS has been holding the charge of Dhubri Division.

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

Contd...P/9...

61  
- ( 9 ) -

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

I, Sri Alok Khare, Joint Secretary  
to the Government of Assam, Forest Department  
do hereby state that the Statements made in  
paragraphs 1 to 8 and 10 to 15 are true to  
my knowledge and those made in paragraph 9  
are true to my information derived there  
from which I believe to be true and the  
rests are humble submissions before  
this Hon'ble Tribunal.

I have not suppressed any  
material fact. I have signed this  
verification on this 9<sup>th</sup> day of  
January, 2002.

Alok Khare

DEPONENT

GOVERNMENT OF ASSAM  
FOREST DEPARTMENT :::: DISPUR

ORDERS BY THE GOVERNOR

NOTIFICATION-

Dated Dispur, the 12th Nov. '2001.

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

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

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

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

By order etc.,

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