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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No. 443/2001

R.A/C.P No.

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Application No. 443/2001

Applicant(s) :- T.V. Reddy

Respondant(s) :- U.O.I Govt

Advocate for the Applicant :- B.K. Sharma, O.K. Nair

Advocate for the Respondant :- case

| Notes of the Registry | Date | Order of the Tribunal |
|---|------------|---|
| This application is form C. F. for Rs. 50/- deposited vide P. 11/168-288.50 Dated ... 27.9.2001 By Regd. AM. | 16.11.2001 | Heard Mr B.K. Sharma, learned Senior Counsel for the applicant and also Mr D.K. Das, learned counsel for the Caveator/respondent No.4. The application is admitted. Call for the records. Mr A.K. Choudhury, learned Addl. C.G.S.C. accepts notice on behalf of respondent No.1. The applicant shall take steps for service of notice on respondent Nos.2 and 3 in course of the day. |
| Pl. County order Dtd. 16.11.2001. | 16/11/2001 | List this case alongwith O.A.No.440/2001 on 5.12.01. The parties may exchange their written statements before 5.12.01, on which date this matter shall come up for orders. |
| File returned today to 19/11/01 | 19/11/01 | Heard Mr B.K. Sharma, learned Sr. Counsel for the applicant and also Mr A.K. Choudhury, learned Addl. C.G.S.C. and Mr D.K. Das, learned counsel for the private respondent. Considering the facts and circumstances we order the parties to maintain status quo as on 15.11.2001. |
| Notice preferred and sent to A.B. for filing the Respondent No.2 to 4 by Regd. AM. Dtd. 19/11/01 | 19/11/01 | <div>nk m</div> <div>Member</div> |
| DINo. 427/1573 Dtd. 19/11/01 | | <div>Vice-Chairman</div> |

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29.11.2001

is submitted

by the Report. No. 4.

[Signature]

Order dtd 5/12/01
Communicated to the
Parties Concerned.

10/12/01

Written statement
filed on behalf of
R No-4, other respond,
not yet filed.

24/12/01

Order dtd. 20/12/01
Communicated to Mrs.
M. Das, Mr. S. Sarma, Mr.
A.K. Choudhury, Addl. C.S.C.

[Signature]

5.12.01

Heard Mr. S. Sarma, learned
counsel for the applicant and also Mrs.
M. Das, learned counsel for the State
of Assam and Mr. D. K. Das, learned couns-
el for the respondent No. 4 and Mr. A. K.
Choudhury, learned Addl. C. G. S. C. for
the respondent No. 1.

Respondent No. 4 has filed the
written statement. Other respondents
are yet to file written statement.

List on 20.12.01 for hearing.
The other respondents may file written
statement.

U C Meanwhile, status quo as per
order dated 16.11.01 shall continue.

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. The State
Government shall also produce the records before
the Tribunal on the next date. The interim order
dated 16.11.2001 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.

[Signature]
Member

[Signature]
Vice-Chairman

nkm

8.1.02

Pass over and list it again on 10.1.2002
for hearing.

[Signature]
Member

[Signature]
Vice-Chairman

mb

(01) Heard Mr B. B. Sharma, learned Counsel for the
applicant & Mr. M. Das, learned Counsel, Govt. of
Assam ~~represented~~ and also A. K. Choudhury,
learned Counsel for Central Govt. Records
Produced by Mrs. M. Das.
Hearing concluded.

Judgment reserved.

A. K. Choudhury
(01)

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| Notes of the Registry | Date | Order of the Tribunal |
|--|--------------------------|---|
| <p>19/2/02</p> <p>Copy of the Judgment has been sent to the office for passing the order to the applicant as well as to the L/Adm for the receipt.</p> | <p>21.1.02</p> <p>mb</p> | <p>Judgment delivered in open court, kept in separate sheets. The application is dismissed in terms of the order. No order as to costs.</p> <div style="display: flex; justify-content: space-around; align-items: flex-end;"> <div data-bbox="821 524 1125 658"> <p><i>[Signature]</i> Member</p> </div> <div data-bbox="1220 537 1492 658"> <p><i>[Signature]</i> Vice-Chairman</p> </div> </div> |

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PROCEEDINGS

| Notes of the Registry | Date | Order of the Tribunal |
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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 21st day of January 2002

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

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

1. 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.

- 7 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.

.....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.

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.

.....

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

9 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

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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.

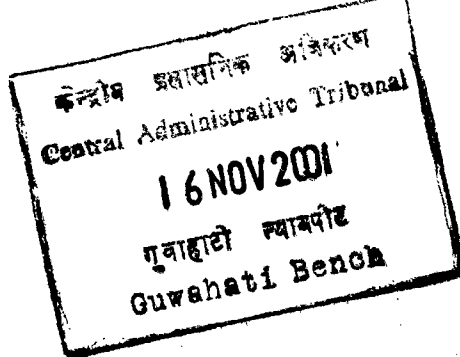
13. In the circumstances the impugned order of transfer dated 4.9.2001 is not sustainable in law and accordingly the order No.FRE.68/2001/Pt.I/3A as well as the order No.FRE.68/2001/Pt./3B are set aside and quashed. In view of our quashing of the order dated 4.9.2001 so far the transfer of the applicant 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.

Sd/VICE CHAIRMAN

Sd/MEMBER (Admn)



THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH
GUWAHATI

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

Title of the case : O.A. No. 443 of 2001

Sri T.V. Reddy

...

Applicant

- Versus -

The Union of India & Ors.

...

Respondents

I N D E X

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For use in Tribunal's Office :

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| Date of filing | 16.11.2001 |
| Registration No. | O.A 443/2001 |
| REGISTRAR | |

THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH
GUWAHATI

O.A. No. 443 of 2001

BETWEEN

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

... Applicant

- AND -

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-6.
3. The Secretary to the Government of
Assam, Department of Forests, Dispur,
Guwahati-6.
4. Shri Susanta Nayak under order of
posting as Working Plan Officer,
Upper Assam Circle, Jorhat C/O
P.C.C.F., Assam, Rehabari, Guwahati-8.

... Respondents

DETAILS OF APPLICATION

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

This application is directed against a
notification dated 9.11.2001 purportedly modifying an
earlier notification dated 4.9.2001 by which the
Applicant was posted as DFO, Dhubri Division, Dhubri on
transfer from Kokrajhar and the Respondent No. 4 was
posted as Working Plan Officer, Upper Assam Circle,
Jorhat.

[Signature]

Files By:
Shri T.V. Reddy.
... Applicant
Through
Unni Krishnan Nair,
Advocate

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. LIMITATION :

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

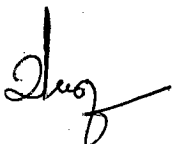
4. FACTS OF THE CASE :

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

4.2 That the Applicant is a direct recruit IFS officer and belongs to the Joint Cadre of Assam Meghalaya. Presently, he is holding the post of DFO, Dhubri Division, Dhubri to which post he was recently transferred by a notification dated 4.9.2001 issued by the Government of Assam in the Forest Department, the Applicant was transferred from Kokrajhar to Dhubri. By the said notification, the Respondent No. 4 was transferred from Dhubri Division and was posted as Working Plan Officer, Upper Assam Circle, Jorhat.

A copy of the said notification dated 4.9.2001 is annexed as ANNEXURE-1.

4.3 That pursuant to the said notification dated 4.9.2001, the Applicant has joined as DFO, Dhubri Division and he has been working as such till this very



date, It will be pertinent to mention here that prior to the issuance of the notification dated 4.9.2001, the Applicant was serving as DFO, Haltugaon Division, Kokrajhar with additional charge of Working Plan Division, Kokrajhar and in that capacity he has rendered about five years of service.

4.4 That pursuant to the notification dated 4.9.2001, the Applicant has been released from Haltugaon Division, Kokrajhar and he has joined at Dhubri on 10.9.2001. In this connection, it is stated that on 10.9.2001, the Applicant was at Dhubri on official duty as he was summoned by the Chief Conservator of Forests (Territorial) and the Conservator of Forests, Western Assam Circle in connection with the visit of the Forest Minister in places like Dhubri, Bongaigaon and Kokrajhar which fall under the Western Assam Circle. The Applicant as per the said direction of the higher authorities and in the exigencies of services had gone to Dhubri and was at Dhubri on 10.9.2001. On the same date, the Applicant took over charge of the post of DFO, Dhubri Division as per advice of the said higher authorities and in presence of the Conservator of Forests. Such a course of action had to be adopted in view of the absence of regular DFO at Dhubri. Be it stated here that Dhubri is an inter-State border division.

4.5 That pursuant to the joining of the Applicant at Dhubri, he has since shifted his family to Dhubri and his two children are admitted into schools at Dhubri.

[Signature]

The Applicant has been appointed as Zonal Officer, Mahamaya Development Block.

Copies of the documents pertaining to the statements made above are annexed as ANNEXURE-2 series.

4.6 That the Respondent No. 4 has made a grievance before this Hon'ble Tribunal in respect of the transfer order dated 4.9.2001 by filing O.A. No. 379/2001. This Hon'ble Tribunal has been pleased to issue notice on the said application and the Respondent No. 4 has already submitted his written statement. While issuing notice by its order dated 19.9.2001, this Hon'ble Tribunal has provided that in the meantime, the Respondent No. 4 be allowed to occupy the official quarter in which his family members are allegedly staying.

4.7 That in O.A. No. 379/2001, the Respondent No. 4 has admitted that pursuant to the transfer notification dated 4.9.2001, the Applicant has already assumed charge at Dhubri Division and he has been discharging his duties as DFO, Dhubri Division. However, it now appears that there was a purpose behind to pray for an interim order to allow him to retain the official accommodation at Dhubri. After issuance of the notice dated 19.9.2001 by this Hon'ble Tribunal, the Respondent No. 4 initiated a move to get the transfer order dated 4.9.2001 modified and/or cancelled towards reposting of him at Dhubri once again. Although it was whispered in the office of the Applicant that such a

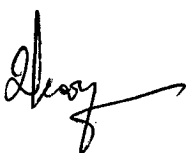


move is on, he did not believe the same inasmuch as he could not even conceive of that immediately after issuance of the transfer notification dated 4.9.2001 and taking over of charge by the Applicant at Dhubri, the official Respondents would yield to the pressure allegedly mounted by the Respondent No. 4.

4.8 That during his official visit to the office of the Respondent No. 3, the Applicant enquired about the alleged move launched by the Respondent No. 4 and to his utter surprise, he could come to know that already a notification dated 9.11.2001 has been issued modifying the earlier notification dated 4.9.2001 reversing the earlier transfer order. Immediately thereafter, the Applicant submitted a representation and the Government in the Department of Forests in consideration of the same was pleased to stay the notification dated 9.11.2001, realising the mistake towards issuance of the same. The same was done by way of issuance of notification dated 12.11.2001. In the representation, the Applicant highlighted as to how he has completed almost five years of hard posting at Kokrajhar and that he has taken over charge at Dhubri Division and also that his children have already been admitted into schools at Dhubri.

Copies of the notifications dated 9.11.2001 and 12.11.2001 are annexed as ANNEXURES-3 and 4 respectively.

The Applicant was totally nervous after having come to know about the notification dated 9.11.2001 and



he submitted the representation dated 12.11.2001 without retaining a copy of the same. As such a direction may be issued to the official Respondents to produce a copy of the same if and when required for perusal of the Hon'ble Tribunal.

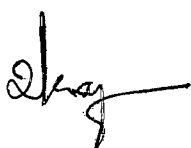
4.9 That as already stated by the Applicant as well as the Respondent No. 4 himself has admitted that pursuant to the transfer order dated 4.9.2001, the Applicant has taken over charge of Dhubri Division and he has been continuing there. He has already brought his family to Dhubri and his children have been admitted into schools at Dhubri. The Applicant has also been appointed as Zonal Officer of Mahamaya Development Block.

4.10 That when the matter rested thus and the things were continuing smoothly as stated above, it was whispered in the office of the Applicant at Dhubri that the Respondent No. 4 has been trying hard to get the order of transfer dated 9.11.2001 modified. However, the Applicant did not believe the same inasmuch as his posting at Dhubri was a routine transfer after serving at Kokrajhar for about five years. He was also holding the additional charge of Working Plan Division, Kokrajhar. Contrary to his such bonafide belief and expectation, the Applicant could come to know that in fact the move initiated by the Respondent No. 4 has been materialised by way of the impugned notification dated 9.11.2001. Immediately thereafter, the Applicant submitted a representation urging for



cancellation of the said notification in view of the fact that he has taken over charge at Dhubri Division only recently and that it will be to his great hardship if at this juncture he is again transferred from Dhubri. Considering the said representation, the official Respondents were pleased to issue the notification dated 12.11.2001 staying the notification dated 9.11.2001 until further order.

4.11 That in the meantime, the Respondent No. 4 has filed O.A. No. 440/2001 challenging the validity of the notification dated 12.11.2001 and this Hon'ble Tribunal has been pleased to stay the same by its order dated 15.11.2001. The Applicant has filed an application in the said O.A. praying for vacating the said interim order dated 15.11.2001. The Applicant craves leave of this Hon'ble Tribunal to refer and rely upon the said application as well as the W.S. filed in O.A. No. 379/2001 filed by the Applicant. It is stated that the notification dated 9.11.2001 has not been issued in any public interest, but has been issued to serve the interest of the Respondent No. 4 who inspite of the transfer order dated 4.9.2001 has not joined his new place of posting and after filing O.A. No. 379/2001 has all along been trying to get the said transfer order dated 4.9.2001 modified. Such a move on his part is because of his vested interest at Dhubri and under no circumstances, he wants to go from Dhubri. This is precisely the reason as to why in O.A. No. 379/2001 while admitting that the Applicant has already taken over charge at Dhubri Division and as such not praying



for stay of the transfer order dated 4.9.2001, but at the same time, prayed for innocuously permitting him to retain the official accommodation at Dhubri on the ground of stay of his family members there. However, his daughter is not studying at Dhubri, but has been studying at Kalimpong. This was a calculated move on the part of the Respondent No. 4 inasmuch as by retaining the accommodation at Dhubri, he could pursue the matter regarding his reposting at Dhubri. Now by the notification dated 9.11.2001, the move initiated by the Respondent No. 4 has been materialised.

4.12 That the Applicant was kept in complete dark towards issuance of the notification dated 9.11.2001. The official Respondents ought not to have modified the earlier transfer order dated 4.9.2001 which was already acted upon so as to accommodate the Respondent No. 4. If for any reason, the official Respondents decided to accommodate the Respondent No. 4 once again at Dhubri, they ought to have considered the case of the Applicant as well and before passing the order dated 9.11.2001, he also ought to have been heard instead of passing the said order behind his back.

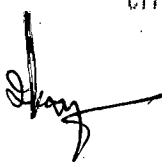
4.13 That above are the reasons as to why the official Respondents on a reconsideration of the entire matter passed the notification dated 12.11.2001 staying the notification dated 9.11.2001. The Applicant will be put to great hardship if he is once again transferred from Dhubri within two months of his joining there. He has already taken over charge at Dhubri Division and his family is now settled there.

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His children are at mid-academic session and it will be difficult for the Applicant to once again shift his children to another place. However, in case of the Respondent No. 4, there is no such difficulty. The notification dated 9.11.2001 having been issued to accommodate the Respondent No. 4 as per his initiative and having not been issued in any public interest, same is not sustainable. The official Respondents having realised the mistake committed towards issuance of the notification dated 9.11.2001 has issued the subsequent notification dated 12.11.2001.

4.14 That the Applicant has preferred an application against the interim order dated 15.11.2001 passed in O.A. No. 440/2001 preferred by the Respondent No. 4 making a grievance against the notification dated 12.11.2001 and if in the meantime, the order dated 9.11.2001 is allowed to stand, the Applicant will suffer irreparable loss and injury and it will amount to allowing the Respondent No. 4 to achieve something illegally which he could not achieve by way of an interim order while filing O.A. No. 379/2001.

4.15 That the Applicant states that the Respondent No. 4 has not joined at Dhubri pursuant to the impugned notification dated 9.11.2001. The Applicant was not at all apprised of the notification dated 9.11.2001 till he visited the office of the Respondent No. 3 on 12.11.2001. It was only at that time, he was apprised of the notification dated 9.11.2001 and immediately thereafter, he submitted his representation urging for



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cancellation of the notification dated 9.11.2001 pointing out the difficulties he would face along with his family members in case of implementation of the notification dated 9.11.2001. The Government in the Forest Department in consideration of his such representation has been pleased to issue the notification dated 12.11.2001 and there is nothing wrong in the same.

4.16 That the Applicant states that he has been continuing as DFO, Dhubri Division till this very date and the notification dated 9.11.2001 has not been implemented. The charge of the post of DFO, Dhubri Division has not been given to the Respondent No.4 firstly because the said notification is yet to be officially received by the Applicant and he has also not been asked to hand over charge to the Respondent No. 4. On the other hand, after the notification dated 12.11.2001, there is no question of handing over charge to the Respondent No. 4.

4.17 That the Applicant states that to the best of his knowledge, the notification dated 9.11.2001 was issued backdated and the same did not have the approval of the competent authority. The relevant file will bear the testimony of the same for which the same may be called for.

4.18 That the balance of convenience lies in favour of the Applicant towards passing the interim order as has been prayed for. If the prayer made in this application is not granted, he will suffer irreparable loss and

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injury. As already stated above, it is the Respondent No. 4 at whose behest and interest, the notification dated 9.11.2001 has been issued and the same has not been issued in any public interest, but has been issued showing favour to the Respondent No.4. This being the position, the interim order prayed for is liable to be granted.


5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that on the face of it, the impugned order dated 9.11.2001 is not sustainable and realising the mistake committed towards issuance of the same, the Government in the Forest Department was pleased to issue the notification dated 12.11.2001 which has been stayed by this Hon'ble Tribunal reviving the impugned notification dated 9.11.2001.

5.2 For that the impugned notification dated 9.11.2001 having been issued at the behest of the Respondent No. 4, same is not sustainable and liable to be set aside.

5.3 For that the Applicant having already taken over charge as DFO, Dhubri Division pursuant to the Government notification dated 4.9.2001, there was no occasion to issue the impugned notification to the reverse the process only to accommodate the Respondent No. 4.

5.4 For that the impugned notification dated 9.11.2001 could not have been issued without giving an opportunity to the Applicant to have his say in the matter, more particularly, in view of the fact that



the earlier transfer notification dated 4.9.2001 has already been implemented and his family has settled down at the new place of posting.

5.5 For that the Respondent No. 4 instead of carrying out his transfer and posting pursued the matter with the official Respondents for his reposting at Dhubri and the official Respondents ought not to have yielded to the undue influence brought upon them by the Respondent No. 4 towards issuance of the impugned notification dated 9.11.2001.

5.6 For that although the official Respondents are empowered to modify its own order, but the same ought to be done by following the principles of natural justice, more particularly, when in the instant case, the earlier notification is hardly two months old and the Applicant has settled down at Dhubri with his family members.

5.7 For that if the impugned notification dated 9.11.2001 is allowed to stand, it will seriously tell upon the education of the children of the Applicant who have already been shifted to Dhubri and admitted into schools at Dhubri.

5.8 For that the impugned notification ought not have been issued without allowing the Applicant to complete his normal tenure of posting.

5.9 For that the official Respondents could not have resorted to the impugned action without giving any hearing to the Applicant and considering the hardship



that he would stand to face in view of the changed circumstances.

5.10 For that the official Respondents ought to have considered the balance of convenience while issuing the impugned notification dated 9.11.2001.

5.11 For that the impugned transfer order having been issued at the behest of the Respondent No. 4 and the same being not in any public interest, it is liable to be set aside and quashed.

5.12 For that in any view of the matter, the impugned order is not sustainable and liable to be set aside.

6. DETAILS OF REMEDIES EXHAUSTED :

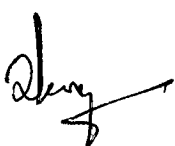
The Applicant declares that he has no other alternative and efficacious remedy except by way of filing this application.

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

The Applicant further 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 the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT FOR :

Under the facts and circumstances stated above, the Applicant prays that this application be admitted, records be called for and notice be issued to the Respondents to show cause as to why the reliefs sought



for in this application should not be granted 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 impugned notification dated 9.11.2001 (Annexure-3).

8.2 To direct the Respondents to allow the Applicant to continue at Dhubri till completion of his normal tenure there.

8.3 Cost of the application.

8.4 Any other relief or reliefs to which the Applicant may be entitled and as may be deemed fit and proper by the Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR :

Under the facts and circumstances of the case, the Applicant prays for an interim order of stay of the notification dated 9.11.2001 (Annexure-3). If the interim order prayed for is not granted, the Applicant alongwith his family members will suffer great hardship.

10.

The application is filed through Advocate.

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

i) I.P.O. No. : 66 788507

ii) Date : 27.9.01

iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.


Verification.....

Shrey

VERIFICATION

I, Shri T. Venudhar Reddy, aged about 41 years, son of T. Gopal Reddy, presently working as DFO, Dhubri Division, Dhubri, do hereby solemnly affirm and verify that the statements made in paragraphs 1 to 3, 4.1, 4.2, 4.3, 4.4, 4.5, 4.7, 4.8 to 4.18 and 5 to 12 are true to my knowledge ; those made in paragraphs 4.6 are true to my information derived from records and the rests are my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this the 16 th day of November 2001.


(T. VENUDHAR REDDY)

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

ORDERS BY THE GOVERNOR

NOTIFICATION

Dated Dispur, the 4th September, 2001.

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. Bezbaruah, 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.

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

Contd...P/2..

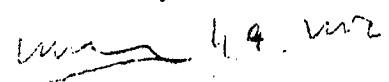
Attested
Anni
Advocate

Memo No. FRE. 68/2001/Pt.I/3-D, Dated Dispur, the 4th September, 2001.

Copy to :-

- 1) The Accountant General (A&E), Assam, Maidamgaon, Beltola, Guwahati-29.
- 2) The Principal Chief Conservator of Forests, Assam, Rehabari, Guwahati-8.
- 3) The Chief Conservator of Forests (Wildlife), Assam, Rehabari, 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 Narengi Road, Guwahati- 24.
- 7) The Conservator of Forests, Western 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. Reddy, IFS, Divisional Forest Officer, Haltugan Division, Kokrajhar.
- 10) Shri S. Nayak, IFS, Divisional Forest Officer, Dhubri Division, Dhubri.
- 11) Shri M.K. Yadav, IFS, Working Plan Officer, Upper Assam Circle, Jorhat.
- 12) Shri M.N. Duara, Divisional Forest Officer, Jorhat Division, Jorhat.
- 13) Shri R.C. Goswami, Divisional Forest Officer, Bureau of Investigation and Economic Offences, Assam, Guwahati.
- 14) Shri P. Roy, IFS, Deputy Director, Manas Tiger Project, Barpeta Road.
- 15) Shri G.N. Borbaruah, ACF attached to Divisional Forest Officer, Dhubri Division, Dhubri.
- 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, Bamunimaidam, 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.,


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

.....

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ANNEXURE - 2 (SERIES)

Bk. No.

Sl. No. 5152

HAPPY CONVENT SCHOOL

DHUB

Name

T. Sushant Raut

Class

Q

Roll

Sec

| DETAILS | Rs. | P. |
|--|------|----|
| 1. Admission fee ✓ | | |
| 2. Tuition fee for the month of Jan to Oct | 1150 | 00 |
| 3. Music, Dance & Art etc. | 1400 | 00 |
| 4. Examination fees | | |
| 5. Session fee (yearly) | | |
| 6. Conveyance. | | |
| 7. Medical (yearly) | | |
| 8. Library (yearly) | | |
| 9. Games (yearly) | | |
| 10. Development Charges (yearly) | | |
| 11. Misc/Cont. (yearly) | | |
| Total | 2550 | 00 |

Rupees

Two thousand five hundred only.

Date—

Signature of Accountant

Bk. No.

Sl. No.

5151

HAPPY CONVENT SCHOOL

DHUBRI

Name T. Shiveri Rally

Class I Roll Sec

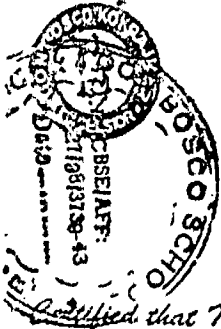
| DETAILS | | Rs. | P. |
|---------------------------------------|--------|-------|----|
| 1. Admission fee | ✓ | | |
| 2. Tution fee for the month of Jan to | Oct/01 | 11 50 | 00 |
| 3. Music, Dance & Art etc. | | | |
| 4. Examination fees | | 13 50 | 00 |
| 5. Session fee (yearly) | | | |
| 6. Conveyance. | | | |
| 7. Medical (yearly) | | | |
| 8. Library (yearly) | | | |
| 9. Games (yearly) | | | |
| 10. Development Charges (yearly) | | | |
| 11. Misc/Cont. (yearly) | | | |
| Total | | 25 00 | 00 |

Rupees Two thousand five hundred only.

Date—

Signature of Accountant [Signature]

Attested
Tuni
Advocate.



DON BOSCO SCHOOL

KOKRAJHAR, (BAC), ASSAM

☎ : (03661) 70879

| | |
|-----------------|-----|
| Book No. | 1 |
| Certificate No. | 081 |

TRANSFER CERTIFICATE

Certified that Master/Miss T. Shikari Reddy son/daughter of Sri/Smt. T. Venkatar Reddy an inhabitant of Habitat of Forest Colony, P.O. Kokrajhar, District Kokrajhar left the school on the 17th October, 2001.

His/Her date of birth on that date according to the Admission Register was 22 day 4 month 96 year.

He/She was reading in class I and had / had 2 passed the Annual Examination for promotion to class II.

All sum due by his/her upto March 2002 have been paid.

Character Good

Reason for leaving the School :

- ☒ Unavoidable Change of Residence
- ☐ Ill Health
- ☐ Completion of the School Course
- ☐ Minor Reason

Date: 17-10-2001

PRINCIPAL

Principal,
Don Bosco School,
Kokrajhar 83378

KENDRIYA VIDYALAYA SANGATHAN

GAUHATI REGION

केन्द्रीय विद्यालय संगठन (गोहाटी संभाग)

Name of School Kendriya Vidyalaya Kokrajbari

विद्यालय का नाम

स्तक सं० 841

क्रम संख्या 84073

प्रवेश संख्या

Book No. /88...SL. No.

ADMISSION No. 1086

1. छात्र का नाम Name of the Pupil THUDI SUSHRUT REDDY.2. पिता/प्राप्तकर्ता का नाम Father's/Guardian's Name THUDI VENUDHAN REDDY.3. राष्ट्रियता Nationality Indian

4. क्या छात्र अनुसूचित जाति/अनुसूचित जनजाति से सम्बन्धित है

Whether the candidate belongs to Scheduled Caste or Scheduled Tribe -NO-

5. विद्यालय में प्रथम प्रवेश की तिथि कक्षा सहित

Date of first admission in Vidyalaya with class 5-4-97, class-I.

6. जन्म तिथि प्रवेश पंजीकरण रजिस्टर के अनुसार

Date of birth (in Christian Era) according to Admission Register Thudi first March N.H.
(अंकों में) (in figures) 31-3-92 (शब्दों में) (in words)

7. कक्षा जिसमें छात्र ने अध्ययन किया है (अंकों में)

Class in which the pupil last studied (in figures) nine & two.(शब्दों में) (in words) Fifth std.

8. स्कूल/बोर्ड वार्षिक परीक्षा जिसमें सम्मिलित हुआ परिणाम सहित

School/Board Annual Examination last taken with result

9. क्या उसी कक्षा में अनुत्तीर्ण, यदि हाँ, पहली बार/दूसरी बार

Whether failed, if so once/twice in the same class

10. विषय Subject studied All compulsory subject As per KVS syllabus.

अनिवार्य Compulsory

ऐच्छिक Elective

11. क्या उच्च कक्षा में प्रोन्नति के योग्य है, यदि हाँ तो किस कक्षा के लिए

Whether qualified for promotion to higher class, if so to which class -NO-(शब्दों में) (in words) Studying in class-5 (Fifth std) 2001-02

12. किस महीने तक स्कूल को देय शुल्क दिया

Month upto which school's dues paid up to December '2001

13. गुरु मुक्ति एवं प्रस्तुति

Any fee concession availed of, if so, the nature of such concession

14. विद्यालय के कार्य दिवसों की कुल संख्या Total No. of working days

15. कुल दिन विद्यार्थी उपस्थित रहा Total No. of working days present 238 meetings

16. क्या एन० सी० सी०/स्काउट/गाइड रहा (विवरण दिया जाय)

Whether NCC Cadet/Boy Scout/Girl Guide (details may be given)

17. खेल जिनमें भाग लिया, अन्येतर क्रियाएँ जिनमें छात्र ने प्रायः भाग लिया (उपलब्ध के स्तर को व्यक्त किया जाए)

Games played or extra curricular activities in which the pupil usually took part (mention achievement level therein)

18. सामान्य चाल चलन General Conduct. Good19. स्वीकृति के लिये अर्चना की तिथि Date of application for certificate 17-10-200120. प्रमाण पत्र जारी करने की तिथि Date of issue of certificate 17-10-200121. विद्यालय छोड़ने का कारण Reasons for leaving the school Transfer of father.

22. अन्य विवरण Any other remarks

N.K. SardaAshtoka Kumar Brahma
DTT (Humarita)Rajendra
Principal

हस्ताक्षर शिक्षाध्यापक

Sig. of class teacher

हो निरीक्षक (पूरा नाम एवं पद)

Checked by

Prepared by P. Sarda (full name and designation)Principal 29/1

(Signature)

Kendriya Vidyalaya

Gauhati Region

(XI) Name of Zone : MAHAMAYA DEV. BLOCK.
 Name of Zonal Officer : Shri. T. V. Reddy, IFS
 Divisional Forest Officer,
 Dhubri

| <u>Name of G.P.</u> | <u>Name of Nodal Officer</u> |
|---------------------|--|
| 1. Mahamaya | Imdadul Haque, Sr. G. S. Mahamaya |
| 2. Bagribari | Smti. L. Das, C.O., Bagribari |
| ✓ 3. Panbari | M. Hussain, J. E., PHE, Bagribari |
| 4. Jalabila | M. K. Mazumdar, S. K., Bagribari |
| 5. Sadhuvasa | Azad Ali, J. E., Mahamaya Block |
| 6. Saltari | Mrs. S. Bhuyan, CDPO, Mahamaya |
| 7. Sankosh | A. U. Ahmed, D.I. of Schools, Bilasipara |
| 8. Barkanda | D. Chakraborty, J. E., P.W.D. (B) |
| 9. Tushpara | D. Roy, SDFDO, Bilasipara |
| 10. Kadamtola | A. J. Khan, Inspector, F&CS, Bilasipara |
| 11. Sonamoyee | L. Chakraborty, Inspector, F&CS, Bilasipara |
| ✓ 12. Gobardhanpara | Mukul Talukdar, J. E., PHE, Bilasipara |


 Deputy Commissioner,
 Dhubri.

- 23 -

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ANNEXURE-3

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 dtd. 4.9.2001 in respect of Shri S. Nayak, IFS, he is reposted 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, IFS, 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.

Sd/-

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

*Attested
Advocate*

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 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 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-B Dated Dispur the 12th Nov. 2001

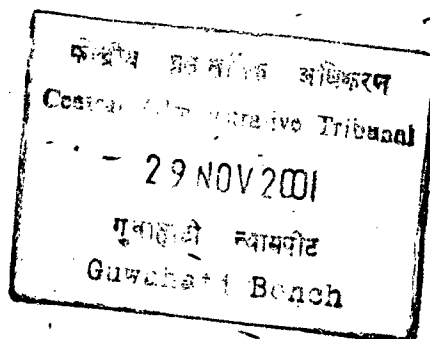
Copy forwarded to :

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 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, Dhubri Division, Dhubri.
12. The Registrar, Central Administrative Tribunal, Bhangaghar, Guwahati-5.
13. P.S. to Minister, Forests, Assam, Dispur for favour of information of Minister, Forests.
14. The Deputy Director, Assam Govt. Press, Bamunimaidam, Guwahati-21 for favour of publication of the notification in the next issue of the Assam Gazette.
15. Personal files of the officer.
16. Shri M.K. Yadav, IFS, Working Plan Officer, Upper Assam Assam Circle, Jorhat.

By order etc.

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

Attested
Ann: for
Advocate



Filed by Respondent No. 4
through Delegation of
Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:::GUWAHATI BENCH

O.A.No.443/2001

Shri T.V.Reddy ... Applicant.

-Versus-

The Union of India & Ors.

... Respondents.

Written Statement on behalf of the Respondent
No.4, Shri Susanta Nayak.

The above named Respondent begs to state as follows :

1. That the answering Respondent has gone through the copy of the OA as served on him and has understood the contents thereof. Save and except the statements which are specifically admitted herein below, other statements made in the OA are categorically denied. Further, the statements which are not borne out of records are also denied.
2. That with regard to the statements made in paragraphs 4.1 and 4.2 the respondent does not admit anything contrary to the relevant records.
3. That with regard to the statements made in paragraph 4.3 and 4.4 the answering Respondent states that while he was undergoing a compulsory training at Dehradun, as per instructions received from the Govt., the order dated 4.9.2001 was issued in a most surreptitious manner behind the back of the Respondent

Contd.....2

and the applicant herein took over charge of the post of DFO, Dhubri Division, in a most unbecoming fashion.

4. That with regard to the statements made in paragraph 4.5 the answering Respondent reiterates the fact that he had merely completed a little over one years service in his place of posting of Dhubri and his family and children are undergoing immense hardships and trauma due to mid Term Transfer.

5. That the statements made in paragraph 4.6 being matters of record are admitted by the answering Respondents in so far as they are not contrary to the records.

6. That the statements made in paragraph 4.7 of the O.A. are categorically denied by the answering Respondent as the same are mere presumptions drawn by the applicant.

7. That while denying the contentions statements made in paragraph 4.8, the answering Respondents deems it pertinent to mention that vide letter dated 11.9.2001, the wife of the answering Respondent, Smt.Giani Nayak, made a representation before the Respondent No.3 to modify/cancel the transfer order dated 4.9.2001 of the answering Respondent and in due consideration of the same,

the authority concerned passed the order dated 9.11.2001, whereby the earlier notification dated 4.9.2001 was modified.

A copy of the representation dated 11.9.2001 made by thr.wife of the Respondent is annexed herewith and marked as Annexure-A.

The answering Respondent ~~further~~ further denies that the order dated 12.11.2001 once again staying the order dated 9.11.2001 was passed by the authorities due to realisation of the mistakes. The said order dated 12.11.2001 was in fact passed solely of the dictate and behest of the Commissioner and Secretary of the Chief Minister, Assam as has been evident from Annexure-V of the O.A. No.440/2001 filed by the answering Respondent before this Hon'ble Tribunal.

7. That with regard to the statements made in paragraph 4.9, the Respondent has no comments to offer.

8. That while categorically denying the statements made in paragraphs 4.10, the answering Respondent reiterates what has been stated herein above and craves leave of this Hon'ble Tribunal to refer to and rely upon the statements and averments

made in O.A.No.379/2001 and O.A.No.440/2001.

9. That the answering Respondent denies the statements made in paragraph 4.11 in so far as the same are contrary to the records. The Respondent further states that by making ~~his~~ allegations against him, the applicant is trying to shift the onus ~~on~~ as to the Respondent whereas it is evident from Annexure-V of O.A.No.440/2001 that the applicant has not approached the Hon'ble Tribunal with clean hands.

10. That with regard to the statements made in paragraphs 4.12 and 4.13 the Respondent while denying the same, reiterates the fact that the order dated 12.11.2001 has been passed in a most arbitrary, unfair and illegal manner, at the dictates of the Commissioner and Secretary to the Chief Minister, Assam for the sole purpose of accomodating the Applicant herein, as will be evident from Annexure-V of O.A. No.440/2001.

11. That with regard to the statements made in paragraphs 4.14, 4.15 and 4.16 the Respondent states that the same are mere repetitions and this Hon'ble Tribunal by staying the operation of the order dated 12.11.2001 and thereby reviving the order dated 9.11.2001 has acted in a most judicious manner, finding a clear malafide exercise of powers and the Vice of dictation Principle.

12. That with regard to the statements made in paragraph 4.17, the Respondent has no comments to offer. However, the Respondent seriously disputes the fact that documents that are confidential could have been perused by the applicant.

13. That the answering Respondent submits that this Hon'ble Tribunal has rightly interfered in the matter since there has been a colourable exercise of power to illegally accomodate the applicant herein. While reiterating and reaffirming the statements and contentions made by the answering Respondent in paragraphs 4.14, 4.15 and 4.16 of O.A.No.440/2001, the Respondent submits that none of the grounds urged on behalf of the applicant in paragraph 5 of this O.A. are sustainable in law and accordingly the applicant is not entitled to the relief sought for in the O.A. The Applicant has preferred the O.A. with the sole intention of creating a confusing state of affairs and the same is *devoid*..... of any material ground to ~~warrant~~ warrant Judicial ~~intervention~~ intervention. Under the facts and circumstances of the case, the O.A. is not maintainable in the eyes of law and is liable to be dismissed in limine and with cost.

Verification

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 residing at Dhubri town, do hereby solemnly affirm and verify that the statements made in paragraphs 1 To 5 are true to my knowledge, those in paragraphs 7, 8, 9 To 13, 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 28th day of November, 2001 at Guwahati.

Susanta Nayak

Signature

To,

The Secretary to the Govt. of Assam,
Forest Department, Dispur,
Guwahati-6.

Sub :- Prayer for cancellation of transfer order
of Sri S. Nayak, IFS, D.F.O.

Sir,

With due respect, I beg to state that my husband Sri S. Nayak, IFS, Divisional Forest Officer, Dhubri Division has been suddenly transferred from Dhubri to Jorhat Working Plan, Upper Assam Circle, while he is undergoing compulsory training at Dehradun. He has joined as D.F.O., Dhubri only on 7th July/2001 but within a short period of his service he has been transferred again vide Govt. notification No. FRE.68/2001/Pt-I/^{3-B dt. 11.7.2001} This frequent transfer has caused these location in settling in a particular place it is also not known the reason for is sudden transfer while he is performing his duties to his satisfaction in day-to-day activities. Further it may be pointed out that my husband has already served under Working Plan Division Now again he has been transferred to Working Plan Upper Assam Circle. This has violated the Govt. adopted policy as no one should be transferred before completion as 3 years service in a place.

It may further be pointed out that due to his posting at Dhubri our only daughter has been admitted to the nearest place V.I.Z. at Kalimpong with a view to look after her time to time as in when required under the above circumstances, I would perverently request you kindly to modify or cancel the transfer order of my husband as deem proper.

Yours faithfully,

Giani Nayak 11.7.2001

Mrs Giani Nayak
Wife of Sri Susanta Nayak, IFS,
Divisional Forest Officer,
Dhubri Division.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

D.A. No. 443/2001

IN THE MATTER OF :

D.A. No. 443/2001

Shri T.V. Reddy

... Applicant

-VERSUS-

Union of India and others

... Respondents.

- AND -

IN THE MATTER OF :

Written statement on behalf of
the State of Assam - the Respon-
dent No. 2 and the Secretary to
the Govt. of Assam - Respondent
No. 3 in the above D.A. No.
443/2001

(Written statement on behalf of the Respon-
dent Nos. 2 and 3)

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

Contd...P/2..

51
Filed by -
the State of Assam & another
Respondent No. 2 and 3
through -
Manginder Das
Sr. Asst. Secretary
(St. of Assam)
CAT 9/1/02

57

-: 2 :-

1. That I am the Joint Secretary to the Govt. of Assam, Forest Department. Copies of the above application have been served upon the Respondent Nos. 2 and 3. I perused the same and understood the contents thereof. I am acquainted with the facts and circumstances of the case. I am authorised to file this written statement on behalf of the respondent Nos. 2 and 3. That 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 herein after are to be deemed as denied.

2. That in regard to the statements made in paragraph 4.1 of the application the answering respondent has nothing to make comment on it.

3. That the answering respondent has admitted the statements made in paragraph 4.2 of the application.

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Contd...P/3..

4. That with regard to the statements made in paragraph 4.3 of the application, it is stated that the applicant at present is working as Divisional Forest Officer, Dhubri Division, Dhubri. Prior to that he was working as the Divisional Forest Officer, Haltugaon Division, Kokrajhar with additional charge of working Plan Division, Kokrajhar for about five (5) years.

5. That with regard to the statements made in paragraph 4.4 of the application the answering respondent states that in pursuance of transfer order dated 4.9.2001 and Govt. letter dated 13.9.2001 under No. FRE. 68/2000/Pt/15 the applicant handed over the charge of Haltugaon Division on 18.9.2001 to Shri B.N. Patiri, Divisional Forest Officer, Social Forestry Division, Kokrajhar. He took over charge of Dhubri Division on 10.9.2001 from Shri G.N. Bezbaruah, A.C.F., who was in-charge of Dhubri Division due to the training of Shri S. Nayak, IFS, Divisional Forest Officer, Dhubri Division at Dohradun.

Contd...P/4..

6. That with regard to the statements made in paragraph 4.5 of the application the answering respondent has nothing to make comment on it.

7. That the answering respondent admits the statements made in paragraph 4.6 of the application.

8. That with regard to the statements made in paragraph 4.7 of the application the answering respondent has nothing to make comment on it.

9. That with regard to the statements made in paragraph 4.8 of the application it is stated that the transfer order of Shri S. Nayak dtd. 4.9.2001 has been modified vide Notification dated 9.11.2001 under No.FRE. 68/2001/Pt/22 and Shri Nayak was re-posted at Dhubri Division and the applicant Shri T.V. Reddy, I.F.S. was transferred from Dhubri Division to Jorhat as Working Plan Officer vide order No.FRE. 68/2001/Pt/22-A, dated 9.11.2001.

Considering the representation of the applicant on the ground that he took over

Contd...P/5..

58

-: 5 :-

the charge of Divisional Forest Officer, Dhubri Division, Dhubri on 10.9.2001 after serving for nearly five (5) years in a difficult place like Kokrajhar as Divisional Forest Officer, Haltu-gaon Division, Kokrajhar and shifted his family to Dhubri the modification order dated 9.11.2001 was stayed vide Govt. Notification No. FRE. 68/2001/Pt/24 dated 12.11.2001.

10. That with regard to the statements made in paragraph 4.9 of the application the answering respondent has nothing to comment on it.

11. That with regard to the statements made in paragraphs 4.10 ; 4.11 ; and 4.12 of the application the answering respondent begs to state that considering the representation dated 12.11.2001 of the applicant the modification order dated 9.11.2001 has been stayed vide Govt. Notification dated 12.11.2001. Being aggrieved by the said stay order dated 12.11.2001 the Respondent No. 4 approached this Hon'ble Tribunal by filing O.A. No. 440/2001 and the said application is still pending before this Hon'ble Tribunal.

Contd...P/6 ..

12. That with regard to the statements made in paragraphs 4.13 and 4.14 of the application the answering respondent has nothing to make comment on it.

13. That in regard to the statements made in paragraph 4.15 of the application it is stated that his representation was considered by the Govt. and accordingly the transfer order dated 9.11.2001 was stayed vide Govt. order dated 12.11.2001.

14. That with regard to the statements made in paragraph 4.16 of the application it is stated that the applicant is holding the post of Divisional Forest Officer, Dhubri Division. As the matter is pending before this Hon'ble Tribunal, no further direction has been issued by the Govt. after its Notification dated 12.11.2001.

15. That the allegations made in the paragraph 4.17 of the application are totally false and baseless.

Contd...P/7..

VERIFICATION

I, Shri Alok Khare, Joint Secretary to the Govt. of Assam, Forest Department do hereby states that the statements made in paragraphs 1 to 8 and 11 to 14 are true to my knowledge and those made in paragraph 9 are true to my information being matters of records 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 day of January, 2002.

Alok Khare

DEPONENT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

D.A. No. 443/2001

IN THE MATTER OF :

D.A. No. 443/2001

Shri T.V. Reddy

... Applicant

-VERSUS-

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- AND -

IN THE MATTER OF :

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the State of Assam - the Respon-
dent No. 2 and the Secretary to
the Govt. of Assam - Respondent
No. 3 in the above D.A. No.
443/2001

(Written statement on behalf of the Respon-
dent Nos. 2 and 3)

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

Contd...P/2..

Filed by: -
The State of Assam & or
Respondent No. 2 & 3
Shri Alok Khare
Sr. Govt. Administrative
(St. of Assam)
CAT 9/1102

12

-: 2 :-

1. That I am the Joint Secretary to the Govt. of Assam, Forest Department. Copies of the above application have been served upon the Respondent Nos. 2 and 3. I perused the same and understood the contents thereof. I am acquainted with the facts and circumstances of the case. I am authorised to file this written statement on behalf of the respondent Nos. 2 and 3. That 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 herein after are to be deemed as denied.

2. That in regard to the statements made in paragraph 4.1 of the application the answering respondent has nothing to make comment on it.

3. That the answering respondent has admitted the statements made in paragraph 4.2 of the application.

*

Contd...P/3..

-: 3 :-

4. That with regard to the statements made in paragraph 4.3 of the application, it is stated that the applicant at present is working as Divisional Forest Officer, Dhubri Division, Dhubri. Prior to that he was working as the Divisional Forest Officer, Haltugaon Division, Kokrajhar with additional charge of working Plan Division, Kokrajhar for about five (5) years.

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Considering the representation of the applicant on the ground that he took over

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10. That with regard to the statements made in paragraph 4.9 of the application the answering respondent has nothing to comment on it.

11. That with regard to the statements made in paragraphs 4.10 ; 4.11 ; and 4.12 of the application the answering respondent begs to state that considering the representation dated 12.11.2001 of the applicant the modification order dated 9.11.2001 has been stayed vide Govt. Notification dated 12.11.2001. Being aggrieved by the said stay order dated 12.11.2001 the Respondent No. 4 approached this Hon'ble Tribunal by filing D.A. No. 440/2001 and the said application is still pending before this Hon'ble Tribunal.

Contd...P/6 ..

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13. That in regard to the statements made in paragraph 4.15 of the application it is stated that his representation was considered by the Govt. and accordingly the transfer order dated 9.11.2001 was stayed vide Govt. order dated 12.11.2001.

14. That with regard to the statements made in paragraph 4.16 of the application it is stated that the applicant is holding the post of Divisional Forest Officer, Dhubri Division. As the matter is pending before this Hon'ble Tribunal, no further direction has been issued by the Govt. after its Notification dated 12.11.2001.

15. That the allegations made in the paragraph 4.17 of the application are totally false and baseless.

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I, Shri Alok Khare, Joint Secretary to the Govt. of Assam, Forest Department do hereby states that the statements made in paragraphs 1 to 8 and 11 to 14 are true to my knowledge and those made in paragraph 9 are true to my information being matters of records 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 day of January, 2002.

Alok Khare

DEPONENT