

GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

5

✓ O.A.T.A No. 129/2001
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E.P/M.A No.

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SECTION OFFICER (Judl.)

FORM NO.4
(See Rule 42)

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

ORDER SHEET
APPLICATION NO 129 OF 2001

Applicant (s) *Dr. K-K. Dey.*

Respondent(s) *UOI & ONS.*

Advocate for Applicant(s) *Mr. N. Dutta, S.C. Biswas &*

Advocate for Respondent(s) *Mr. K. Bhattacharya*

Case

Notes of the Registry Date Order of the Tribunal

This application is in form
but no *denotation*
Petition *side*
M.P. *side*
for its *side*
IPO/EO *64 792/61*
Dated *3-04-2001*

4,4,2001

Heard Mr N. Dutta, learned
counsel for the applicant. The
application is admitted. Issue
notice as to why interim order as
prayed for shall not be granted,
returnable by three weeks. List
for orders on 2.5.01. Meanwhile
status quo as on today shall be
maintained.

[Signature]
Vice-Chairman

*Requisites not
yet filed by the
advocate.*

*W.S.
11/4/01*

nk m

314101

*W.S.
6/4/01*

10.4.01

2-5

passover to 4-4-2001

*Mr
A.R. 2-5*

*Service of Notice
issued to the
respondents vide No.*

1323-1326 Dt.

11-4-01

4.5.2001

Four weeks time allowed to the
respondents to file written statement.
List for orders on 8.6.01.

[Signature]
Vice-Chairman

*W.S. has been filed in
behalf of the R. 3 and 4.*

*W.S.
21/5/2001*

nk m

8.8.01

On request of Mr. A. Deb Roy, Sr. C.G.S.C. 4 weeks time is allowed to file the written statement.

List on 5-7-2001 for order.

ICU Sharma
Member

Written statement filed on behalf of R.No. 3 & 4.

mb

5.7.01

List on 17.8.01 to enable the respondent to file written statement.

ICU Sharma
Vice-Chairman

3/16.8.01

lm

17.8.01

At the request of Mr. A. Deb Roy, Sr. C.G.S.C. 4 weeks time is allowed to file written statement. List on 14.9.01 for filing of written statement and further orders.

Written statement filed on behalf of R.No. 3 & 4. Other respondent not yet filed.

ICU Sharma
Member

3/13.9.01

lm

14.9.01

List on 17/10/01 to enable the respondents to file written statement.

ICU Sharma
Vice-Chairman

16.10.2001

mb

17.10.01

Written statement has been filed. Three weeks time is allowed to the applicant to file rejoinder, if any. List on 28.11.01 for order.

Computer reply of the been submitted by the Respondent No-1.

No. rejoinder has been filed.

pg

28.11.01

Written statement has been filed. The learned counsel for the applicant prays for 2 weeks time to file rejoinder. List on 13.12.01 for order.

ICU Sharma
Member

No. rejoinder has been filed.

3/27.11.01

3/12.12.01

mb

ICU Sharma
Member

Notes of the Registry	Date	Order of the Tribunal
	13.12.01	<p>Written statement has been filed by the respondents. Sri S.K.Biswas, learned counsel for the applicant states that he will also file the rejoinder today. The case may be listed for hearing. List on 23.1.02 for hearing.</p> <p style="text-align: right;">K. U. Sharma Member</p>
14.12.2001 Rejoinder against W/S has been submitted by the Dept. 3 & 4.	mb 23.1.02	<p>At the request of Mr.K.Bhattacharjee learned counsel for the applicant case is adjourned to 13.2.02 for hearing.</p> <p style="text-align: right;">K. U. Sharma Member</p>
The case is ready for hearing.	lm 13.2.02	<p>Heard learned counsel for the parties. Hearing concluded. Judgement delivered in the open court, kept in separate sheets. The application is disposed of in terms of the observations made in the order. No costs.</p> <p style="text-align: right;">K. U. Sharma Member</p>
14.3.2002 Copy of the Judgement has been sent to the office for issuing the same to the applicant as well as to the Add. C.S.S.C. for the Registry.	22.1.02. trd	

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./R.A. No. 129/2001 of

DATE OF DECISION 13.2.2002

Dr. Krishana Kumar Dey APPLICANT(S)

Mr. K. Bhattacharjee ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

Union of India & Ors. RESPONDENT(S)

Mr. B.C. Pathak, Addl. C.G.S.C. ADVOCATE FOR THE RESPONDENTS.

THE HON'BLE

THE HON'BLE MR. K.K. SHARMA, MEMBER (A).

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Member (A).

K. K. Sharma

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 129 of 2001.

Date of decision : This the 13th day of February, 2002.

Hon'ble Mr. K.K.Sharma, Member (A).

Dr. Krishna Kumar Dey, MBBS, M.S., FAIS,
Consultant in Surgery,
Son of Sri Monmohan Dey
General Hospital
Nahar Lagan, Arunachal Pradesh.

....Applicant

By Advocate Mr. K. Bhattacharjee.

-versus-

1. Union of India,
(Represented by the Secretary to the
Govt. of India, Ministry of Health
and Family Welfare, Department
of Health, Nirman Bhawan,
New Delhi).
2. Under Secretary, Govt. of India,
Ministry of Health and Family Welfare,
Department of Health, Nirman Bhawan.
3. Govt. of Arunachal Pradesh,
Represented by Secy. Health and
Family Welfare, Arunachal Pradesh.
Nahar Lagan.
4. Director of Health Service
Arunachal Pradesh,
Nahar Lagan.

...Respondents

By Advocate Mr. B.C.Pathak, Addl.C.G.S.C. on behalf of
Respondent NOS. 1 & 2.

O R D E R (ORAL)

K.K.SHARMA, MEMBER (A).

In this application the applicant has challenged the order of transfer bearing No. A.22012/13/98-CHS IV dated 20.1.1999 transferring the applicant from Arunachal Pradesh to Safdarjung Hospital, New Delhi as well as the order No. MEST-91/213(VolIII) dated 27.2.2001 by which the

K. K. Sharma

Contd..

applicant has been relieved from the post of consultant (Surgery), Arunachal Pradesh. The applicant joined the Assam Health Service in the year 1971. Subsequently he joined the service under the Government of Arunachal Pradesh in the year 1979. Thereafter the applicant was selected for the Central Health Service through Union Public Service Commission and was posted in Arunachal Pradesh as Surgical Specialist with effect from 3.7.1981. Since then the applicant has been continuing in that post. By letter dated 16.12.1998, Government of Arunachal Pradesh informed the Department of Health, Govt. of India with reference to the letter dated 2.9.1998 that it would not be feasible to release Dr. K.K.Dey, Consultant (Surgery) on transfer from the State of Arunachal Pradesh at present in the interest of public service. By another letter dated 9.3.1999 the Govt. of Arunachal Pradesh reminded the Ministry of Health and Family Welfare, Department of Health, Govt. of India, and requested them to consider the request of the applicant for continuing in Arunachal Pradesh. The Government of Arunachal Pradesh has already passed the order dated 27.2.2001 with reference to the Govt. of India, Ministry of Health and Family Welfare, Department of Health, letter dated 20.1.1999 releasing the applicant from the present post. However, the applicant is continuing in the same post on the basis of an interim order dated 4.4.2001 passed by the Tribunal.

2. Heard Mr. K. Bhattacharjee learned counsel for the applicant and Mr. B.C.Pathak, learned Addl. C.G.S.C. appearing on behalf of the respondent nos. 1 and 2. Mr. Bhattacharjee has argued that the applicant is a Central Government employee and the State Government is

K. Bhattacharjee

Contd..

incompetent to release him unless and until his parent department recall the service of the applicant. Mr. Bhattacharjee further argued that the applicant has only five months service left in his credit, therefore he should not be disturbed from his present posting. Mr. Bhattacharjee referred to the recommendation of the 5th Central Pay Commission to the effect that Central Government employees due for retirement on superannuation should be posted to a place nearer to their home town and as the applicant intends to settle down in Assam he should not be disturbed at the fag end of his service. In support of his submission Mr. Bhattacharjee also referred to a decision rendered by the Patna Bench of the Tribunal in O.A. No. 311 of 1995 decided on 18.7.1996.

3. The respondent no.1 has filed its written statement supported by documents.

Respondent nos. 3 and 4 have also filed their written statement. Mr. B.C.Pathak, learned Addl. C.G.S.C. for the respondent nos. 1 and 2 submitted that till 1993 there was no Arunachal Pradesh Health Service Cadre and in 1993 when the State Government created their own Health Service Cadre option was called for from the applicant for being absorbed in the Arunachal Pradesh Health Service. The applicant did not take any step for being absorbed in the State Health Service. Accordingly the Govt. of Arunachal Pradesh wrote a letter dated 15.9.1998 (Annexure-II to the written statement) to the Ministry of Health & Family Welfare, Govt. of India, for repatriation of 15 Central Health Service Officers including the applicant. Mr. Pathak, learned Addl.C.G.S.C. further referred to the communication dated 15.6.1999 made by the Under Secretary to the Govt. of India, Ministry of Health & Family Welfare

K. Ushar

Contd..

to the Secretary, Deptt. of Health & Family Welfare, Govt. of Arunachal Pradesh to ascertain whether the State Government was willing to retain the service of the applicant in the State. Shri Pathak argued that as the applicant belongs to the Central Health Service and the Central Health Ministry is the cadre controlling authority and the State Health Service did not want to retain the applicant, he was posted to Safdarjung Hospital, New Delhi. He further submitted that there was no irregularity in the order of transfer and posting dated 20.1.1999.


4. There is no doubt that the applicant belongs to the Central Health Service and had been recruited to the post of Consultant (Surgery) in Arunachal Pradesh. After 1993 the position has changed and after the creation of State Health Service there had been pressure from the State Health Service Officers to repatriate the Central Health Service Officers. The applicant was given option for absorbing in the State Health Service. However the applicant did not opt for the State Health Service. The State Govt. is not willing to retain the applicant in Arunachal Pradesh. The applicant is a Central Health Service Officer holding a specialist's post. The intention of the State Government was known to the applicant. He has not opted for absorption in the State Health Service. No fault can be found with the order dated 20.1.99 and 27.2.2001. However the fact is that the applicant is due for retirement on superannuation in July 2002. In the written statement submitted by the respondent no.1 it is contended that the applicant has submitted a representation dated 28.3.2001 and it is also contended that the Government is unable to take any favourable decision on the said representation of the applicant.

K. C. Sharma

Contd..

5. Considering the facts and circumstances of the case and on hearing of the learned counsel for the parties I am of the opinion that end of justice will be met if a direction is given to the Respondent nos. 1 & 2 to take a decision on the representation of the applicant submitted on 28.3.2001 within a period of one month from the date of receipt of a certified copy of this order by a reasoned order taking into consideration the fact that the applicant is retiring from service on superannuation on 31.7.2002 and communicate the decision to the applicant. It is also made clear that till completion of the above process the applicant shall not be disturbed from his present posting.

6. With the observations made above, the application is disposed of. There shall, however, be no order as to costs.


(K.K.SHARMA)
Member (A)

12

केन्द्रीय प्रशासनिक अधिकरण
 Central Administrative Tribunal
 3 APR 2001 220
 गुवाहाटी न्यायपीठ
 Guwahati Bench

APPENDIX -A

Form :

Form :

An Application Under Section 19 of the Administrative Tribunal Act, 1985.

O.A. 129/2001.

Title of the Case : Dr.K.K.Dey

....Appellant.

-VS-

Union of India &

Ors.

....Respondents.

I N D E X

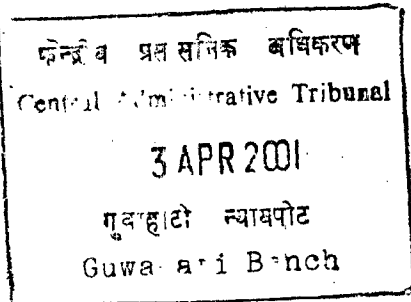
Sl.No.	Description of document	relied upon	Page No
1.	Notification dated 4th August 1981 -		- 10
2.	Letter dated 2.9.98 -		- 11
3.	Letter dated 16th December 1998 -		- 12
4.	Order dated 20th January 1999 -		- 13
5.	Letter dated 9th March - 1999 -		- 14
6.	Order dated 27th Feb. - 2001 -		- 15
7.	Representation dt- 28/3/2001.	Dr. K. K. Dey. Signature of Appellant.	- 16-17

For use in Tribunal's Office :

Date of Filing :

Signature 
 for Registrar. 31/4/01

In the Central Administrative Tribunal,
Gauhati Bench.



18
Filed by Dr. K. K. Dey
through his advocate
H. Chakraborty

Dr. Krishna Kumar Dey, MBBS, M.S., FAIS
Consultant in Plastic Surgery
S/O Sri Monmohan Dey
General Hospital
Nahar Lagan, Arunachal Pradesh.

....Appellant.

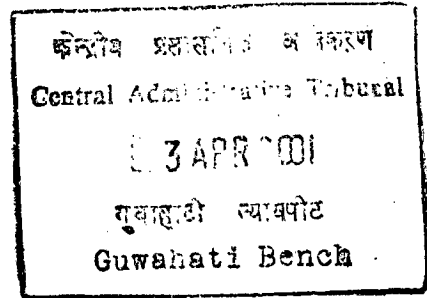
-VS-

1. Union of India,
(Represented by the Secretary
to the Govt. of India, Ministry of
Health and Family Welfare
Department of Health, Nirman Bhawan,
New Delhi.
2. Under Secretary, Govt. of India
Ministry of Health and Family Welfare,
Department of Health, Nirman Bhawan,
3. Govt. of Arunachal Pradesh
Represented by Secy. Health and
Family Welfare, Arunachal Pradesh,
Nahar Lagan.
4. Director of Health Service
Arunachal Pradesh,
Nahar Lagan.

..... Respondents.

contd....2

Dr. K. K. Dey.



- 2 -

Details of the Application :

1. Particulars of the order against which the application is made :-

(a) Order No.A22012/13/98 CHS IV dated 20th January, 99 issued by Under Secretary to the Govt. of India directing the respondent No.3 to release the applicant from his duty immediately to report for duty at Safdarjang Hospital , New Delhi.

(b) Order No.MEST 91/213(Vol.II) dated 27-2-2001 issued on 12-3-2001 by Secy.Health Govt. of Arunachal Pradesh whereby the appellant is shown to be released from the post Consultant (Surgery) in pursuance to order No.A 22012/13/98 CHS IV dated 20th January, 1999.

2. Jurisdiction of the Tribunal :

The applicant declare that ,the subject matter of the Order against which he wants redressal is within the jurisdiction of the tribunal.

3. Limitation :

Applicant further declares that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunal Act, 1985.

Dr. K. K. Dey.

contd.....3

3472001
Lunch

- 3 -

4. Facts of the Case :

(i) That the applicant who joined the service under Assam Health Service -A at Aizwl in the year 1971, and subsequently he joined the service under the Govt. of Arunachal Pradesh (UT) in the year 1979 Ist Feb. as a Surgical Specialist (Non-Central Health Service post) on adhoc basis with effect from 1-2-79,

(ii) That ~~xx~~ while he was serving at Arunachal Pradesh (the then Union Territory) on seeing the advertisement of the Union Public Service Commission, the appellant applied for the posts advertisement and appeared in interview accordingly. On 4th August, 1981 a Notification No. A12025(i)/68/78 CHS-III was published in the Gazettee of India wherein it was published that on the recommendation of the U.P.S.C. the President of India was pleased to appoint the applicant in the Specialist Grade-II of the Central Health Service and posted him as Surgical Specialist in Arunachal Pradesh w.e.f. 3rd July, 1981. Thereafter the appellant was rendering his service with utmost sincerity and dedication for which the petitioner was awarded Gold Medal by the Arunachal Government.

(A copy of the order dated 4th August, 1981 annexed hereto as Annexure-I).

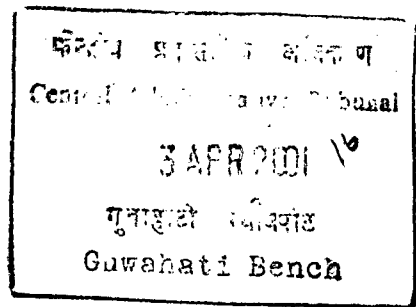
contd.....4

Dr. K. K. Dey.

Retg. on 31.7.02
Pension Paper
Before perching
(15)

Dr. K. K. Dey
(15)

Dr. K. K. Dey
will want they will
call him back.



- 4 -

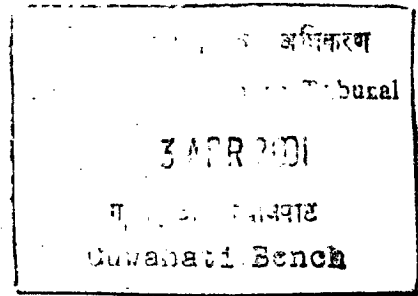
(iii) That the applicant states that on 2nd September, 1998 respondent No.2 issued a letter to the Secretary Deptt.of Health Govt.of Arunachal Pradesh Itanagar requesting them to intimate whether the Govt.of Arunachal Pradesh have any objection in transferring the appellant to Delhi.In this regard the Special Secretary Health & F/Welfare of the Govt.of Arunachal Pradesh had intimated the respondent No.2 that it would not be feasible to release the appellant on transfer from the State of Arunachal Pradesh at present in the Public interest and the appellant was retained by ~~the~~ the Govt.of Arunachal Pradesh.

(Copies of the letter dated 2nd Sept.98 & 16th Dec.98 of the Govt.of A.P.is annexed hereto as Annexure-II).

(iv) That on 20th January, 1999 the appellant received an order No.22012/13/98 CHS IV dated 20-1-99 issued by the respondent No.2 by which the appellant was transferred to Safdarjang Hospital New Delhi Consultant (Surgery) and directed the Govt.of Arunachal Pradesh to release the appellant against which the appellant filed a representation dated 9th March'99 to the respondent No.2 through respondent No.3 and till date there is no reply to the said representation.

contd.....5

Dr. K. K. Dey.



(Copies of the Order dated 20-1-99 and letter dated 9/3/99 are annexed hereto as Annexure-III Series)

(v) That the appellant states that after submission of his representation dated 9th March, 99 before the authority against the order dated 20th January, 99 the respondent No.3 did not release him rather retained him and forwarded his representation with a request to consider the appeal of the petitioner sympathetically. As there was no reply to it he was allowed to continue. But without any reason and to the surprise of the appellant the respondent No.3 issued an order on 12/3/2001 suo-moto releasing the appellant from the post of Consultant (Surgery) in pursuance to order dated 20th March, 99.

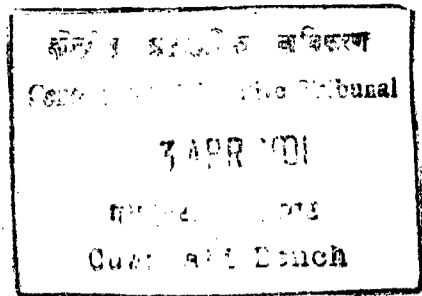
(A copy of the order dated 27-2-2001 issued on 12-3-2001 is annexed hereto as Annexure-IV).

(vi) That the appellant states that on getting the order of release he had filed a representation dated 28/3/2001 before the respondent No.2 for consideration of his case and as on date he had not been released.

(A copy of the representation dated 28/3/2001 is annexed hereto as Annexure-V).

contd.....6

Dr. K. K. Dey



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5. Grounds for relief with legal Provisions :

i) For that the sudden release of applicant from the post of Consultant (Surgery) of Arunachal Pradesh in pursuant to order dated 20th January, 99 is bad in law and as such the impugned order is liable to be set aside.

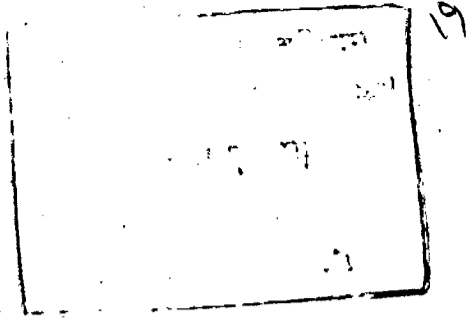
ii) For that the applicant who had rendered more than 22 years of service and one year four months left for his superannuation has an expectation that he would be allowed to go on superannuation from the said place of posting .But the same had been denied to him.

iii) For that it is a settled law that a person who is to retire should not be disturbed from his last place of posting within three years of his superannuation .In the instant case the petitioner has only one year 4 months of service. As such the impugned order of his release is liable to be set aside.

iv) For that the appellant who had been ordered to be transferred twice before i.e. 2nd Sept. 98, and 20th January, 1999 by his authority were not acted upon by the Govt. of Arunachal Pradesh with an object to retain his service. But the sudden release of the appellant before the fague end of his service career has caused great prejudiced

contd.....7

Dr. K.K. Dey.



not only to the petitioner but also to the family members including his 92 years old ailing father who needs constant care. As such the issue of such order is not in consonance to law.

(vi) For that there is a recommendation in the 5th Pay Commission (which had been accepted and adopted by the Central Govt.) That no Central Government servant should not be transferred within the last three years of his service posting particularly from near home town and in the instant case the appellant had only 1 year 4 months service to his retirement. The release of the appellant from the said place of posting at this juncture is contrary to the recommendation of the 5th Pay Commission.

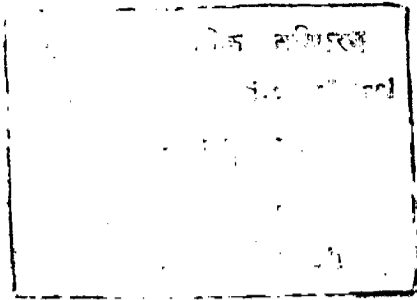
For that the service jurisprudence demands that before repatriation to his parent Body a formal order of posting to be communicated to the employee from his parent Body. But it would show from the order dated 27-2-2001 that the appellant was released on the order dated 20th January, 1999 that too after the lapse of two years and as such the said order of release is non tenable in the eye of law.

6. Details of remedies exhausted

Applicant declares that he had availed all the remedies available to him under the relevant rules.

contd.....8

Dr. K. K. Dey



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

The applicant declares that he had not previously filed any application/Writ petition or suit regarding the matter in respect of which this application has been made before any Court or any other authority or any other Bench of the Tribunal.

8. Relief Sought :

13 Respondents may be ordered/directed to retain the appellant at his present place of posting till the date of his superannuation on ~~xxx~~ 31-7-2002 and/or not to give effect of the said impugned orders.

9. Interim order if any prayed for :

Respondents may be directed not ~~to~~ give effect of the impugned orders dated 20/1/99 and 27/2/2001 issued by respondents nos 2 and 3 respectively.

10. In the event of application being sent by the Regd. post etc : Not applicable.

11. Particulars of Postal order :-

of P.O.No G 792161 filed in respect of application fee dated 34.2.01 issued by ~~Gwahati~~ Guwahati Head Post office fees of Rs.50 payable at Guwahati is annexed hereto.

12. List of enclosures :

(a) Annexure-s 1 to 5

: Dr. K.K. Sengupta

contd..Verification

Verification

I, Dr. Krishna Kumar Dey, S/O Sri Monmohan Dey,
Consultant (Surgery) under C.H.S.C/O Ministry of Health
and Family Welfare (Department of Health) New Delhi
do hereby verify that the contents in the paragraphs
1, 4, 6, 7 — of the application are true to
my personal knowledge and paragraphs 2, 3, 5 are believed
to be true on legal advice and that I have not suppressed
any facts.

Dr. K. K. Dey.

Signature.

TO BE PUBLISHED IN PART I, SECTION 2 OF THE GAZETTE OF INDIA

No.A.12025(i)/68/78-CHS.III
GOVERNMENT OF INDIA
MINISTRY OF HEALTH AND FAMILY WELFARE
(DEPARTMENT OF HEALTH)

NEW DELHI, dated the

4 AUG 1981

NOTIFICATION

On the recommendation of the Union Public Service Commission the President is pleased to appoint Dr. Krishna Kumar Dey in the Specialist Grade II of the Central Health Service and to post him as Surgical Specialist, Arunachal Pradesh on probation with effect from the forenoon of the 3rd July, 1981 till further orders.

J Singh

(JOGINDAR SINGH)
UNDER SECRETARY

To
The Manager,
Government of India Press,
Faridabad. (alongwith Hindi version).

4 AUG 1981

No.A.12025(i)/68/78-CHS.III, dated the
copy to:-

1. The A.G. for Assam, Meghalaya, Arunachal Pradesh etc. Shillong alongwith a copy of the charge assumption report forwarded for information and necessary action.
2. The Secretary, U.P.S.C., New Delhi w.r.t. his letter No.F.1/398/80-RE, dt. 10.10.80.
3. The Secretary, Deptt. of Medical & Health Services, Govt. of Arunachal Pradesh, Itanagar.
4. Dr. K.K.Dey, Surgical Specialist, U/O Secretary (Medical) Govt. of Arunachal Pradesh.
5. The Director of Health Service, Arunachal Pradesh, New Itanagar w.r.t. his letter No.Mest-78/10. dated 14.7.1981.
6. Guard file/Personal file.
7. C.H.S V Section.
8. Hospital Section.

all copies

all copies
Medical Department
Armed Forces

J Singh

UNDER SECRETARY

155

Annex II
CONFIDENTIAL
m
v

11

Supdt
M. J. J.
P. I. put up
J. M/S

No.A.32012/13/98-CHS IV
Government of India
Ministry of Health & Family Welfare
(Department of Health)

Nirman Bhavan, New Delhi
Dated the Aug.. 98

2nd Sep, 1998

To

The Secretary,
Deptt. of Health,
Govt. of Arunachal Pradesh,
Itanagar.

Subject:- Transfer of Dr. K.K. Dey, Consultant (Surgery) to Delhi
- regarding.

Sir,

I am directed to request you to please intimate whether the Administration have any objection in transferring Dr. K.K. Dey, Consultant (Surgery) to Delhi.

Yours faithfully,

H.N. YADAV

(H.N. YADAV)
Under Secretary to the Govt. of India
Ph. No. 301 3968

15/9/98
925

DHS

attached
14/9

Dr. No. - 12612
14/9/98

12
Arunachal Pradesh
1591
24

GOVERNMENT OF ARUNACHAL PRADESH
HEALTH & F.W DEPARTMENT
ITANAGAR

HOME NO. BEST-78/10
Dated Itanagar, 16th Dec. '98

To

The Under Secretary
Ministry of Health & F.W.
Govt of India.
(Deptt of Health)
Brihan B-hawan.
New Delhi -

Subj

Transfer of Dr. K. K. Dey, Consultant (Surgery)
to Delhi - Home No. BEST-78/10

Sir,

In inviting a reference to your letter
No. A-32012/13/90-GHS-IV dated 2nd September '98
on the subject, I am directed to inform you that
it will not be feasible to release Dr. K. K. Dey,
Consultant (Surgery) on transfer from the State
of Arunachal Pradesh at present in the interest
of public service.

Yours faithfully,

(A Koyu)
Special Secretary
(Health & F.W)
Govt of Arunachal Pradesh
Itanagar.

Home No. BEST-78/10
Dated Itanagar, 16th Dec. '98

Copy to:-

Dr. K. K. Dey, Consultant (Surgery),
General Hospital, Foharicoun for
information.

attested
Attested
A. K. Dey

Medical Superintendent
Genl. Hosp.
Foharicoun

(Signature)
Special Secretary
(Health & F.W)
Govt of Arunachal Pradesh
Itanagar.

13

Arunachal Pradesh
H.I.
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No.A.22012/13/98-CHS IV
Government of India
Ministry of Health & Family Welfare
(Department of Health)

Nirman Bhavan, New Delhi
Dated the 20th Jan., 99.

O R D E R

The President is pleased to order the transfer of Dr. K.K. Dey an officer of SAG level of the Non-Teaching Specialist Sub-cadre of Central Health Service presently working as Consultant(Surgery) in the Govt. of Arunachal Pradesh to Safdarjung Hospital, New Delhi as Consultant(Surgery) in public interest with immediate effect and until further orders.

H. N. YADAV

(H.N. YADAV)
Under Secretary to the Govt. of India
Ph. No. 301 3968

Copy to :-

1. The Secretary, Department of Health, Govt. of Arunachal Pradesh, Itanagar. Dr. K.K. Dey may please be relieved of his duties immediately with instructions to report for duty to the Medical Superintendent, Safdarjung Hospital, New Delhi. His charge relinquishment report, in triplicate, may please be sent to this Ministry in due course.

2. The Medical Superintendent, Safdarjung Hospital, New Delhi. Three copies of his charge assumption report, may please be sent to this Ministry in due course.

3. Dr. K.K. Dey, Consultant(Surgery), Govt. of Arunachal Pradesh, Health & Family Welfare Department, Itanagar.

4. PPS to MOS/PPS to Secretary(H)/PPS to DGHS/PPS to AS(H).

5. JS(DG)/Dir.(CHS).

6. CHS I/II/III/V Sections.

7. Order Register.

Recd on 17/2/99 (A.P.)
all-also
17/2/99
17/2/99

CHS I/II/III/V
17/2/99

-14 Amem P11

GOVERNMENT OF ARUNACHAL PRADESH
DEPARTMENT OF HEALTH AND FAMILY WELFARE
ITANAGAR

NO. MEST-78/10

Dated Itanagar, the 9 th March '99.

To

The Under Secretary,
Government of India,
Ministry of Health & Family Welfare,
(Department of Health),
Nirman Bhawan,
New Delhi.

Sub:- Transfer of Dr. K.K. Dey, Consultant (Surgery) to Delhi, (CHS Officer)

Sir,

I am to forward herewith a representation No. KKD/PER-01/99 dated 8-3-99 (in original) on the subject mentioned above which is self-explanatory for favour of sympathetic consideration of Government of India.

In this context a reference has already been made with Government of India vide this Government letter No. MEST-78/10 dated 16-12/98 (copy enclosed for ready reference) reply of which has not yet been received by this Government.

It will be highly appreciated if the appeal of Dr. K.K. Dey is sympathetically considered and necessary orders issued accordingly.

Yours faithfully,

(G. Koyu),
Secretary (Health & F.W.)

Memo No. MEST-78/10

Copy to:-

Dated Itanagar, the ___ th March '99.

Dr. K.K. Dey, Consultant (Surgery), General Hospital,
Naharlagun.

(G. Koyu),
Secretary (Health & F.W.)

attached
with
Adv. attached
by

Stamp: *General Hospital Naharlagun*

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Ann (1V)

GOVERNMENT OF ARUNACHAL PRADESH
DEPARTMENT OF HEALTH AND FAMILY WELFARE
ITANAGAR

R R R R

No. MRF-91/213(Vol-II)

Dated Itanagar, the 27/2/2001.

Consequent upon refusal of Dr. K. F. Dey consultant (Surgery) who is borne from CMS Service for absorption in Arunachal Pradesh, Health Services the Governor of Arunachal Pradesh is pleased to release him from the post of consultant (Surgery) of Arunachal Pradesh with the direction to report to Safdarjung Hospital, New Delhi for his further posting in accordance with the Government of India order No. A.22012/13/90-CMS-IV dated 20th Jan'99

(S/- T. Tolah
Secretary (Health & F.W)
Govt. of Arunachal Pradesh
ITANAGAR

No. MRF-91/213 Vol-IV
Copy to :-

Dated Itanagar, the 12/03/2001.

1. The Secretary to Governor, Rajbhavan.
2. The Commissioner to the Hon'ble Chief Minister, Arunachal Pradesh, Itanagar.
3. The FR to Hon'ble Minister, (Health & F.W), Arunachal Pradesh, Itanagar.
4. The FR to Hon'ble Minister of State, (Health & F.W), Arunachal Pradesh, Itanagar.
5. The Under Secretary to the Govt. of India Ministry of Health & Family Welfare, Nirman Bhavan, New Delhi.
6. To the Medical Superintendent, Safdarjung Hospital New Delhi.
7. The Director of Health Service, Arunachal Pradesh, Koharijogun for information and necessary action.
8. The Chief Medical Officer, General Hospital, Koharijogun to release the concerned Officer with immediate effect.
9. The Deputy Commissioner Papum Pore, Dist Tupa, Arunachal Pradesh, Itanagar.
10. Personal File of Officer concerned.
11. Office copy.
12. Spare copy.

*all shes
Nehru*

(T. Koniya)
Deputy Secretary (Health & F.W)
Govt. of Arunachal Pradesh
ITANAGAR

Ann - 2
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To,

The Under Secretary, Ministry of Health & Family welfare,
Govt. of India, (Department of Health),
Nirman Bhawan, New Delhi.

Subject: Transfer of Dr. Krishna Kumar Dey, Consultant in Surgery (CHS.)
to New Delhi.

Sir,

With reference to the Govt. of A.P. Memo. No. MEST-91/213-Vol.IV dated 12.3.2001, I have the honour to state that my posting in Safdarjung Hospital, New Delhi was ordered by the Ministry of Health & Family Welfare, Govt. of India during September/98 vide Ministry's letter No.A-32012/13/98 CHS IV dated 2.9.98. But on that occasion the Govt. of Arunachal Pradesh requested the Govt. of India for my retention in Arunachal Pradesh in the interest of public service vide Govt. of AP's letter No.MEST-78/10 dated 16.12.98. Subsequently while forwarding my representation dated 8.3.99 the Govt. of A.P. had again requested the Govt. of India Ministry of Health & Family welfare (Deptt. of Health) for my continued posting in A.P. Since I have not opted for absorption in A.P. the Govt. of A.P. has now suddenly issued my release order referred to above, directing me to report to Safdarjung Hospital, New Delhi without any further reference/orders of the Ministry of Health & Family Welfare, (Deptt. of Health), G.O.I.

In this connection I would like to invite a reference to my earlier representation dated 8.3.99 and to state that my father aged 92 years has been keeping very indifferent state of health and therefore my presence with him is very much essential. So, it is not possible on my part to join in New Delhi at this juncture leaving my ailing father all alone without any care as there is no other dependable person to look after him.

Under the circumstances I would like to request you to kindly consider my case sympathetically for my continuous posting in A.P. till my superannuation as 31.7.2002. Moreover, my wife has been serving as ward sister at General Hospital, Naharlagun (Itanagar) Arunachal Pradesh and in the event of my transfer at this juncture there will be complete dislocation of whole family as she will not be able to continue alone with domestic problems with her poor state of health.

In this connection it may also be mentioned here that it has been stipulated in the Govt. of India Ministry of Health & F.W., (Deptt. of Health) order No.A-32012/1/94 - CHS IV dated 30.9.1997 that the post of consultant in surgery has been created as personal to me. Since the post of consultant of surgery in A.P. is personal to me there may not be any difficulty to continue to hold in the said post by me in A.P. till my retirement.

at hand
K. K. Dey
Addn

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In view of the circumstances explained above, my prayer for retention in Arunachal Pradesh till the date of my retirement may kindly be considered on extreme compassionate ground and from all cannons of natural justice since I have already put in 22 years of service in Arunachal Pradesh with dedication and perfect satisfaction of the authorities concerned.

I fervently request for an early action in the matter and favourable orders of the Ministry of Health & Family Welfare (Deptt. Of Health), Government of India with copies to all concerned.

1 to 1- The Secretary (Health + Family Welfare) Govt. of A.P. Itanaga. for information + n/a please

Yours faithfully,

K. K. Dey
28-03-02

(Dr K. K. Dey)

Consultant in Surgery, (CHS)
General Hospital, Naharlagun.
Arunachal Pradesh- 791 110.

केन्द्र व प्रशासनिक अधिकरण
Central Administrative Tribunal
21 MAY 2001
गुवाहाटी न्यायपोस्ट 231
Guwahati

-18-

Filed by the Respondent
Through
Hrishikesh Roy
Senior Govt. Advocate
Arunachal Pradesh
18/5/2001

9/5/2001
18/5/2001

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH

ORIGINAL APPLICATION NO. 129/2001

IN THE MATTER OF :

Written Statement for and on behalf of the respondent Nos. 3 and 4, The Government of Arunachal Pradesh and the Director of Health Services, Arunachal Pradesh.

-And-

IN THE MATTER OF :

Original Application No. 129/2001
Dr. K. K. Dey Applicant

-Vs-

Union of India & Others... Respondents

The Written Statement of the Respondent Nos. 3 and 4

MOST RESPECTFULLY SHEWETH :

(1) That there is no cause of action in the present application and hence it is liable to be rejected.

(2) That the application, in its present form is not maintainable and is barred by the doctrine of estoppel, waiver and acquiescence.

(3) That the application suffers from suppression of material facts which were within the knowledge of the applicant.

....2.....

Nallapragada Venkatesh Suryanarayana

Bollopogoda Venkatesa Sanyal
18/5/81

- (4) That the application is barred by the law of limitation.
- (5) That the application is devoid of merit in as much as, the applicant does not have any legal right against repatriation of his parent department as it is a settled principle of law that a ~~deputat~~ deputationist do not have any claim for absorption in the borrowing department. In any case, the applicant himself did not opt to be absorbed in the State services.
- (6) That without prejudice to the preliminary objections raised hereinabove, the answering respondents beg to traverse the various contentions of the application paragraph-wise as hereinunder. Be it stated herein that save and except the statements of the application which are specifically admitted hereinafter, the rest are denied.
- (7) That the statements made in paragraphs 4(i) and 4(ii) of the application being matters of records of the case, the answering respondents do not admit anything which is not borne out of the said records. It may be mentioned that the appointment of the applicant as surgical specialist in Arunachal Pradesh was in the cadre of Central Health Services as at that period (1981) Arunachal Pradesh was a Union Territory.
- (8) That the statements made in paragraph 4(iii) of the application are incorrect and hence denied. It may be mentioned that the Arunachal Pradesh service was constituted in 1990 and the applicant never opted

for absorption in the said service. The letters annexed to the application as Annexure I and II were issued on the request of the applicant to allow him time to prepare himself for his repatriation to the Central Health Services. In this connection, it may be mentioned that the petitioner was ^{not} given the option for absorption in the State services. However, the petitioner vide option form dtd 8/12/91 had opted not to be absorbed in the State services which was final.

A copy of the option dtd 8/12/91 is annexed hereto and marked as Annexure A

(9) That with regard to the statements made in paragraph 4(iv) of the application, the answering respondents state that as the applicant is a member of the Central Health Services (CHS), there is no scope for the state Govt to allow him to continue in service in the department of Health and Family Welfare. Allowing the same would be in defiance of the order of his cadre controlling authority for the posting of the applicant at Safdarjung Hospital, New Delhi. The answering respondents further state that vide letter dtd 15/9/98 a list of officers in the CHS cadre was given who did not exercise option for absorption in the State Govt. The name of the applicant figures against Sl.No.1 of the said list.

A copy of the letter dtd 15/9/98 is annexed hereto and marked as Annexure B

(10) That the statements made in paragraph 4(v) of the application are incorrect and hence denied. It is denied that the applicant has been released suo moto,

Ballalprasad Venkatesh Subramanyam
18/5/81
18/5/81

Ballepragada Venkateswara Srinivasan
Party
Hon/5/81

as has been alleged. The applicant having submitted his final option not to be absorbed in the State service, the answering respondents have followed the order passed by the Govt. of India.

(11) That with regard to the statements made in paragraph 4(vi) of the application, the answering respondents state that there is no cadre post of CHS under the Govt. of Arunachal Pradesh and on requisition by the parent department, the applicant has been released. The statement made by the applicant that he has not been released is incorrect and hence denied.

(12) That the grounds mentioned in paragraph 5 of the application are not tenable in law and hence not liable for consideration by this Hon'ble Tribunal. It may be mentioned that there is no post of Consultant (Surgery) in the cadre structure of Arunachal Pradesh Health Services. The applicant has been released according to the transfer order issued by the competent authority.

The ground taken regarding not to disturb a person from his last place of posting within 3 years of superannuation is without any basis. The guidelines of the State Govt. regarding ~~the~~ transfer issued vide order dtd 2/6/98 do not give such provisions.

It is denied that the Govt. of Arunachal Pradesh had any object to retain the applicant in the State.

:-- 5 --:

It may also be mentioned that the Govt. of India vide letter dtd 4/4/2001 has written to the State Govt. to forward the charge relinquishment report of the applicant at the earliest.

A copy of the letter dtd 4/4/2001 is annexed hereto and marked as Annexure C.

(13) That the relief sought for by the applicant is unjustified and untenable in law and the facts of the case.

(14) That is is humbly submitted that the applicant already having been released, this Hon'ble Tribunal may vacate the order of status-quo for the interest of justice.

(15) That is is humbly submitted that from the facts and circumstances narrated above, this Hon'ble Tribunal may be pleased to reject the present application.

*Pool of rejected Venkateswara Temple employees
18/12/2001*

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VERIFICATION

I, Sri Bollapragada Venkata Suryanarayana ^{son}
of Sri P. Rama Rao presently posted
as Assistant Engineer 2 (Lm) ; D-H-S. Govt. of Arunachal
pradesh do hereby solemnly affirmed say that the
statements made in the Written Statement are true to
my knowledge , belief and record and I sign this
Verification on this 18th day of May 2001.

Bollapragada Venkata Suryanarayana
SIGNATURE 18/5/01

I, DR. L. K. DEY M.S.
holding the post of Surgical Specialist (N.F. Selection grade) do hereby elect to be absorbed in the Arunachal Pradesh Health Service. I shall retain the present Central Health Services scale of pay as personal to me till I vacate my present post. If absorbed I shall not be entitled to any future revision of the Central Health Services pay scaled.

I agree to the termination of my service with the Central Government with effect from the date of my absorption in the Arunachal Pradesh Health Service subject to the approval of the Government of India.

The option hereby exercised by me is final and will not be subject to any subsequent date.

I agree to be on deputation in Arunachal Pradesh Govt of India and Arunachal Pradesh.

Date : 0.12.91

Name DR. KATSHANA KUNAR DEY

Signature [Signature]

Designation Surgical Specialist
(N.F. Selection grade)

General Hospital, Naharlogun
NAHARLOGUN (7911)
A.P.

§§§§§§§

Handwritten: 2/4/98
CONFIDENTIAL REGISTERED
ANNEXURE B
8
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SS-

GOVERNMENT OF ARUNACHAL PRADESH
CORPORATE OF HEALTH SERVICES : NAHARLAGUN

Na. Naharlagun, the 15th. September '98.

Shri H.N. Yadav,
Under Secretary to the Govt.
of India,
Ministry of Health & Family Welfare,
Nirman Bhavan,
New Delhi - 110011.

REPATRIATION OF CHS OFFICERS WORKING IN ARUNACHAL PRADESH.

The following CHS Officers are still working in Arunachal Pradesh:-

1. Dr. K K Dey, Consultant Surgeon.
2. Dr. M S Pangling, C.M.O .
3. Dr. K. Nishing, CMO.
4. Dr. (Mrs.) C. Pegu(Ete), CMO.
5. Dr. Ati Moyeng, CMO (NFSG).
6. Dr. M. Lego, S.M.O.
7. Dr. Tamar Niru, CMO.
8. Dr. (Mrs.) N. Niru, CMO.
9. Dr. P.K. Deeri, C.M.O.
10. Dr. (Mrs.) S. Choudhury Deeri, CMO.
11. Dr. Saibal Bhattacharjee, SMO.
12. Dr. S.C. Bhattacharjee, CMO.
13. Dr. D.N. Thengal, C.M.O.
14. Dr. B.R. Deeri, S.M.O.
15. Dr. J. Sharma, CMO.

These doctors did not exercise options for absorption to Arunachal Pradesh Health Service (APHS). The State Government has decided not to absorb any more CHS officer into the State Health Service.

There has been resentment amongst the APHS doctors for continuation of the CHS officers in the State for various reasons.

It is therefore, requested that necessary action for immediate repatriation of the above named CHS Officers from Arunachal Pradesh to their parent cadre.

Yours faithfully,

Handwritten signature

ANNEXURE - C

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No.A.22012/13/98-CH 3.IV
Government of India
Ministry of Health and Family Welfare
(Department of Health)

.....

Nirman Bhawan, New Delhi

Dated the 4th April, 2001

To

The Secretary (Health & F.W.),
Government of Arunachal Pradesh,
Health and Family Welfare Deptt.,
ITANAGAR

Subject:- Release of Dr. K.K. Dey, Consultant (Surgery) from
Govt. of Arunachal Pradesh regarding.

.....

Sir,

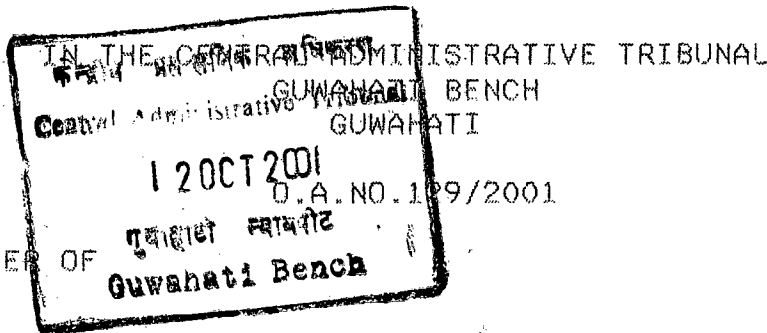
I am directed to refer to your letter No.MEST-91/
213-Vol.II dated the 12th March, 2001 on the subject mentioned
above and to request that the charge relinquishment report
in respect of Dr. K.K. Dey, Consultant (Surgery) may please
be sent to this Ministry at the earliest.

Yours faithfully,

D.R. Sharma

(D.R. SHARMA)
UNDER SECRETARY TO THE GOVT. OF INDIA

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IN THE MATTER OF

Dr. K.K. Dey
(By Sh. N. Dutta, Advocate)

Applicant

Vs.

Union of India & Ors
(by Shri B.C. Pathak, Advocate)

Respondents

COUNTER REPLY OF THE RESPONDENT NO.1
=====

Brief facts of the case
=====

The applicant joined Central Health Service in Arunachal Pradesh Govt. as Specialist Grade II (Surgeon) on 3.7.81 and was promoted to Specialist Grade I (Surgeon) on 1.12.91 and was further promoted to Super-time Administrative Grade as Consultant (Surgery) w.e.f. 8.10.97 and is continuing there till date.

2. Prior to 1993, Arunachal Pradesh was a participating unit of Central health Service and all the medical and public health posts under Arunachal Pradesh were Central Health Service posts and Ministry of Health & Family Welfare was Cadre Controlling Authority.

3. Thereafter Arunachal Pradesh Govt. has started a State health Cadre in 1993 and CHS doctors who opted for State Health Cadre of Arunachal Pradesh were absorbed in the State Health Cadre.

4. This Ministry had requested Govt. of Arunachal Pradesh vide letter dt.2.9.98 to intimate whether the State Govt. had any objection in transferring the applicant to Delhi (Annexure-I).

1993 - St Govt had their own cadre

The Arunachal Pradesh Govt. vide their letter dt.15.9.98 had informed that 15 CHS officers are still working in the State (Annexure-II). These doctors did not exercise options for absorption to Arunachal Pradesh Health Services. The State Govt. has also decided not to absorb any more CHS officers into the State Health Services as there has been resentment amongst the Arunachal Pradesh Health Service doctors of continuation of the CHS officers in the State for various reasons. The Arunachal Pradesh Govt. had also intimated that necessary action for immediate repatriation be made of these CHS officers to their parent cadre. The name of Dr.K.K. Dev figured at Sr.No.12 of the list. (Annexure-II ~~6~~).

5. On receipt of the letter from the State Govt., orders for posting 14 officers belonging to GDMO cadre were issued vide letter dt.8.12.98 (Annexure-III). Since the applicant belonged to the Non-Teaching Specialist Sub-cadre and hence in his case the transfer orders were issued separately. The applicant was transferred to Safdarjang Hospital, New Delhi vide order dt.20.1.99 (Annexure-IV).

6. In response to transfer order, the applicant has intimated that his immediate transfer outside Arunachal Pradesh will cause difficulties to him and other family members. The applicant had requested not to transfer him from Arunachal Pradesh (Annexure-V). The applicant has also sent a copy of Arunachal Pradesh Govt.'s letter dt.16.12.98 wherein it was informed that

it will not be feasible to release the applicant on transfer from the State Govt. of Arunachal Pradesh at present in the public interest (Annexure VI). The State Govt. subsequently vide their letter dt.9.3.99 forwarded another representation dt.8.3.99 of Dr.K.K. Dey requesting that he may not be transferred out from Arunachal Pradesh immediately, for sympathetic consideration (Annexure-VII).

7. Vide letter dt.15.6.99 (Annexure VIII), the Govt. of Arunachal Pradesh was requested that if the State Government wants to retain the applicant in the State, specific clear proposal with their comments may be sent to the Ministry. However inspite of reminders dt.27.9.99, 11.11.99, 28.12.99, 27.3.2000 & 26.5.2000, no reply has been received from the State Government.

8. As the applicant did not opt for absorption in Arunachal Pradesh Health Services, the State Govt. has released the applicant from the post of Consultant (Surgery) of Arunachal Pradesh with the direction to report to Safdarjang Hospital, New Delhi vide their order No.MEST-91/213-Vol.IV dt.12.3.2001 (Annexure IX). Thereafter a representation dt.28.3.2001 from the applicant was received in the Ministry. Since the State Govt. has released the applicant vide their order

No.MEST-91/213(Vol.II) dt.27.2.2001 with the directions to report to Safdarjang Hospital, New Delhi, Government of India is unable to take a favourable decision on the representation dt.28.3.2001 of the applicant.

PARAWISE COMMENTS

- PARA 1 (a) & (b) - Matter of record. Hence no comments.
- Para 2 & 3 Matter of record.
- Para 4(i) & (ii) Matter of record. Hence no comments.
- Para 4 (iii) Matter of record.
- Para 4 (iv) The position submitted in the brief facts of the case are reiterated.
- Para 4 (v) No comments. The submissions made in the brief facts of the case are reiterated.
- Para 4 (vi) As the applicant did not opt for absorption in Arunachal Pradesh Health Services, the State Govt. has released the applicant from the post of Consultant (Surgery) with the direction to report to Safdarjang Hospital.

GROUNDS

Para 5(i) to (vi) The submissions made in the brief facts of the case are reiterated.

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Para 6 to 9 No comments. The submissions made in para 4(iv) and brief facts of the case are reiterated.

In view of the submissions made above, no case has been made out by the applicant in his favour and hence the O.A. deserves to be dismissed.

It is prayed accordingly.



(D.R. SHARMA)
DEPUTY SECRETARY TO THE GOVT. OF INDIA
MINISTRY OF HEALTH & FAMILY WELFARE

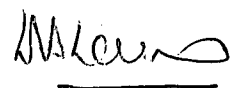
Through

Shri B.C. Pathak
Government Counsel.
'Udayan', 1st Floor
Ganeshguri, R.G.B. Road.
Guwahati-781005

Verification
=====

I, D.R. SHARMA working as Deputy Secretary to the Govt. of India, Ministry of Health & F.W., New Delhi do hereby solemnly affirm and state that the contents of the above counter reply are true and correct to the best of my knowledge derived from the official records and no material has been suppressed therefrom.

Verified accordingly on the 12 day of ^{octo}~~September~~, 2001



(D.R. SHARMA)
DEPUTY SECRETARY TO THE GOVT. OF INDIA

-6- S.N.2 32

Annexure-I 44 (1)

Recd thro
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2/9/88

CONFIDENTIAL

No.A.32012/13/98-CHS.IV
Government of India
Ministry of Health & Family Welfare
(Department of Health)

Nirman Bhavan, New Delhi
Dated the Aug. 1988

2nd Sep, 1988

To
The Secretary, Health Welfare,
Deptt. of Health,
Govt. of Arunachal Pradesh,
Itanagar.

Subject:- Transfer of Dr. K.K. Dey, Consultant (Surgery) to Delhi
- regarding.

Sir,

I am directed to request you to please intimate whether the
Administration have any objection in transferring Dr. K.K. Dey
Consultant (Surgery) to Delhi Government of India
Ministry of Health & Family Welfare
(Department of Health) Yours faithfully,

CONFIDENTIAL

Nirman Bha (M.N. NAYADAV)
Under Secretary to the Govt. of India
Ph. No. 301 3968

Mans

The Secretary,
Deptt. of Health,
Govt. of Arunachal Pradesh,
Itanagar.

Subject:- Transfer of Dr. K.K. Dey, Consultant (Surgery) to Delhi
- regarding.

Annexure-I

CONFIDENTIAL

I am directed to request you to please intimate whether the
Administration have any objection in transferring Dr. K.K. Dey
Consultant (Surgery) to Delhi Government of India
Ministry of Health & Family Welfare
(Department of Health) Yours faithfully,

Nirman Bha (M.N. NAYADAV)
Under Secretary to the Govt. of India
Ph. No. 301 3968

2nd Sep, 1988

GOVERNMENT OF ARUNACHAL PRADESH
DIRECTORATE OF HEALTH SERVICES : NAHARLAGUN

No: MEST- 74/83 Dtd. Naharlagun, the 15th. September '98.

To

Shri H.N. Yadav,
Under Secretary to the Govt.
of India,
Ministry of Health & Family Welfare,
Nirman Bhavan,
New Delhi - 110011.

Sub:- REPATRIATION OF CHS OFFICERS WORKING IN ARUNACHAL PRADESH.

Sir,

The following CHS Officers are still working in Arunachal Pradesh:-

1. Dr. K K Dey, Consultant Surgeon.
2. Dr. M S Panging, C.M.O .
3. Dr. K. Nishing, CMO.
4. Dr. (Mrs.) C. Pegu (Ete), CMO.
5. Dr. Ati Moyong, CMO (NMSG).
6. Dr. M. Lego, S.M.O.
7. Dr. Tamar Niru, CMO.
8. Dr. (Mrs.) N. Niru, CMO.
9. Dr. P.K. Deori, C.M.O.
10. Dr. (Mrs.) S. Choudhury Deori, CMO.
11. Dr. Saibal Bhattacharjee, SMO.
12. Dr. S.C. Bhattacharjee, CMO.
13. Dr. D.N. Bhengal, C.M.O.
14. Dr. B.R. Deori, S.M.O.
15. Dr. J. Sharma, CMO.

These doctors did not exercise options for absorption to Arunachal Pradesh Health Service (APHS). The State Government has also decided not to absorb any more CHS officer into the State Health Service.

There has been resentment amongst the APHS doctors for continuation of the CHS officers in the State for various reasons.

It is therefore, requested that necessary action for immediate repatriation of the above named CHS Officers from Arunachal Pradesh to their parent cadre.

Yours faithfully,

[Signature]

(Dr. G. Yemcha)
15/9/98

S(CMS II)
10/98

17/9

22/9/98
12/10

12/10/98

34

46

1

No.A.22012/41/98.CHS.II

Government of India

Ministry of Health and Family Welfare

New Delhi, the 28th Dec., 98

ORDER

The President is pleased to order the transfer of the following SMOs/CMOs/CMO (NFSG) of Central Health Service in public interest with immediate effect:-

S.No.	Name of the officer	Present place of posting	Transferred to
1.	Dr. M.S. Panging, CMO	Arunachal Pradesh	Assam Rifles
2.	Dr. K. Nishing, CMO - A - 11 87/w	-do-	-do-
3.	Dr. (Mrs.) C. Pegu, CMO - A - 11 87	-do-	-do-
4.	Dr. Ati Moyong, CMO (NFSG) Depubld	-do-	-do-
5.	Dr. M. Lego, SMO - A - 11 87/w	-do-	-do-
6.	Dr. Tamar Ninu, CMO	-do-	-do-
7.	Dr. P.K. Deori, CMO	-do-	-do-
8.	Dr. (Mrs.) S.C. Deori, CMO	-do-	-do-
9.	Dr. (Mrs.) N. Ninu, CMO - A - 11 87/w	-do-	-do-
10.	Dr. Saibal Bhattacharjee, SMO	-do-	-do-
11.	Dr. S.C. Bhattacharjee, SMO	-do-	-do-
12.	Dr. D.N. Thangal, CMO	-do-	-do-
13.	Dr. B.R. Deori, SMO	-do-	-do-
14.	Dr. J. Sharma, CMO	-do-	-do-

GNCT, Delhi

Name of the officer	Present place of posting	Transferred to
Dr. M.S. Panging, CMO	Arunachal Pradesh	Assam Rifles
Dr. K. Nishing, CMO	-do-	-do-

UNDER SECRETARY TO THE GOVT. OF INDIA

- X The charge relin-
- X quishment/assumpti-
- X on reports in dup-
- X licate in r/o above
- X mentioned drs. may
- X pl. be sent to this
- Ministry.

1. Director, of Health Services, Govt. of Arunachal Pradesh, Naharlagun, w.r.t. their letter No. MEST-74/83 dt. 15.9.98.
2. DG, Assam Rifles, Shillong - 793 011.
3. Doctors concerned, c/o Dir. of Health Services, Govt. of Arunachal Pradesh, Naharlagun.

Secretary (M) Health Services, Government of India, Health Services, Delhi

M. M. M.

sent place Transferred to

-9-

25

(12)

Annexure IV

No.A.22012/13/98-CHS IV
 Government of India
 Ministry of Health & Family Welfare
 (Department of Health)

Nirman Bhavan, New Delhi
 Dated the 20th Jan, 99

ORDER

The President is pleased to order the transfer of Dr. K.K. Dey, an officer of SAG level of the Non-Teaching Specialist Sub-cadre of Central Health Service presently working as Consultant(Surgery) in the Govt. of Arunachal Pradesh to Safdarjung Hospital, New Delhi as Consultant(Surgery) in public interest with immediate effect and until further orders.

H.N. YADAV

(H.N. YADAV)

Under Secretary to the Govt. of India
 Ph. No. 301 3968

Copy to :-

1. The Secretary, Department of Health, Govt. of Arunachal Pradesh, Itanagar. Dr. K.K. Dey may please be relieved of his duties immediately with instructions to report for duty to the Medical Superintendent, Safdarjung Hospital, New Delhi. His charge relinquishment report in triplicate may please be sent to this Ministry in due course.

2. The Medical Superintendent, Safdarjung Hospital, New Delhi. Three copies of his charge assumption report may please be sent to this Ministry in due course.

ORDER

3. Dr. K.K. Dey, Consultant(Surgery), Govt. of Arunachal Pradesh, Health & Family Welfare Department, Itanagar. Dr. K.K. Dey, an officer of SAG level of the Non-Teaching Specialist Sub-cadre of Central Health Service presently working as Consultant(Surgery) in the Govt. of Arunachal Pradesh to Safdarjung Hospital, New Delhi as Consultant(Surgery) in public interest with immediate effect and until further orders.

6. CHS I/II/III/V Sections.

7. Order Register.

H.N. YADAV

(H.N. YADAV)

Under Secretary to the Govt. of India
 Ph. No. 301 3968

Mew

Copy to :-

1. The Secretary, Department of Health, Govt. of Arunachal Pradesh, Itanagar. Dr. K.K. Dey may please be relieved of his duties immediately with instructions to report for duty to the Medical Superintendent, Safdarjung Hospital, New Delhi. His charge relinquishment report in triplicate may please be sent to this Ministry in due course.

2. The Medical Superintendent, Safdarjung Hospital, New Delhi. Three copies of his charge assumption report may please be sent to this Ministry in due course.

ORDER

3. Dr. K.K. Dey, Consultant(Surgery), Govt. of Arunachal Pradesh, Health & Family Welfare Department, Itanagar. Dr. K.K. Dey, an officer of SAG level of the Non-Teaching Specialist Sub-cadre of Central Health Service presently working as Consultant(Surgery) in the Govt. of Arunachal Pradesh to Safdarjung Hospital, New Delhi as Consultant(Surgery) in public interest with immediate effect and until further orders.

-10-

S 105

Annexure II

13

To

H.N. Yadav, to the Government of India
Under Secy. to the Government of India
Ministry of Health & Family Welfare
New Delhi. (Deptt. of Health)

Ph. No. 301 3968

Sub:- Transfer outside of Arunachal Pradesh.

Str,

I beg to refer to the Government of India's order
no. A.22012/13/98-CHS IV dated. 20/1/99 on the above men-
tioned subject and to enclose herewith a copy of our
Govt. letter NO. MEST-78/10 Dated. 16th Dec '98 for favour
of your information and needful action please. Hope you
have received the copy addressed to you by this time.

Yours faithfully

[Signature]
18/2/99

Dr. K.K.Dey
consultant in surgery (CHS)
General Hospital, Naharlagun
Arunachal Pradesh

Encl: Original self copy.

Sub:-

Str

I beg to refer to the Government of India's order
no. A.22012/13/98-CHS IV dated. 20/1/99 on the above men-
tioned subject and to enclose herewith a copy of our
Govt. letter NO. MEST-78/10 Dated. 16th Dec '98 for favour
of your information and needful action please. Hope you
have received the copy addressed to you by this time.

Yours faithfully

Dr. K.K.Dey
consultant in surgery (CHS)
General Hospital, Naharlagun
Arunachal Pradesh

Sub:-

Str

I beg to refer to the Government of India's order

L-525/US (CHS)
23/5/99

680/199-CHS-12
25/2/99

[Signature]

-11- 27 Annexure-VI

GOVERNMENT OF ARUNACHAL PRADESH
HEALTH & F&W DEPARTMENT
ITANAGAR

No:NEST-78/10
Dated Itanagar, 16th Dec. '98

To

The Under Secretary,
Ministry of Health & FW,
Govt of India,
(Deptt of Health)
Nirman B-hawan,
New Delhi -

Sub: Transfer of Dr K K Dey, Consultant (Surgery)
To Delhi - regarding.

Str,

In inviting a reference to your Letter No. A-32042/15/98-CHS-IV dated 2nd September '98 on the subject, I am directed to inform you that it will not be feasible to release Dr K K Dey, Consultant (Surgery) on transfer from the State of Arunachal Pradesh at present in the interest of public service.

No:NEST-78/10
Dated Itanagar, 16th Dec. '98
Yours faithfully,

The Under Secretary, (G Koyu)
Ministry of Health & FW, Special Secretary
Govt of India, (Health & FW)
(Deptt of Health) Govt of Arunachal Pradesh
Nirman B-hawan, Itanagar.
New Delhi

Memo No. NEST-78/10 | 1583 Dtd Itanagar, 16th Dec. '98

Copy to: - Transfer of Dr K K Dey, Consultant (Surgery)
Dr K K Dey, Consultant (Surgery),
General Hospital, Naharlagun for
information.

In inviting a reference to your Letter No. A-32042/15/98-CHS-IV dated 2nd September '98 on the subject, I am directed to inform you that it will not be feasible to release Dr K K Dey, Consultant (Surgery) on transfer from the State of Arunachal Pradesh at present in the interest of public service.

No:NEST-78/10
Dated Itanagar, 16th Dec. '98
Yours faithfully,

The Under Secretary, (G Koyu)

72 38 Annexure-11/17/99

GOVERNMENT OF ARUNACHAL PRADESH
DEPARTMENT OF HEALTH AND FAMILY WELFARE
ITANAGAR

NO.MEST-78/10

The Under Secretary to the Govt. of India, Dated Itanagar, the 7th March '99.
Family Welfare, (Deptt. of Health),
Nirman Bhawan,
New Delhi.

To

The Under Secretary, Health & F.W.,
Government of India, (A.P. Pradesh)
Ministry of Health & Family Welfare,
(Department of Health),
Nirman Bhawan, to Saktarjung Hospital
New Delhi, as Consultant in Surgery.

Sub:-

Transfer of Dr. K.K. Dey, Consultant (Surgery) to Delhi. (CHS Officer)

Sir,

I am to forward herewith a representation No. KKD/PER-01/99 dated 8-3-99 (in original) on the subject mentioned above which is self-explanatory for favour of sympathetic consideration of Government of India.

In this context a reference has already been made with Government of India vide this Government letter No. MEST-78/10 dated 16-12/98 (copy enclosed for ready reference) reply of which has not yet been received by this Government.

It will be highly appreciated if the appeal of Dr. K.K. Dey is sympathetically considered and necessary orders issued accordingly.

Yours faithfully,
G. Koyu
Secretary (Health & F.W.)

Transfer of Dr. K.K. Dey, Consultant (Surgery) to Delhi. (CHS Officer)

Memo No. MEST-78/10 dated 16-12/98 (copy enclosed for ready reference) which has not yet been received by this Government.
Dated Itanagar, the 17th March '99.
Dr. K.K. Dey, Consultant (Surgery), General Hospital, Naharlagun.

In this context a reference has already been made with Government of India vide this Government letter No. MEST-78/10 dated 16-12/98 (copy enclosed for ready reference) reply of which has not yet been received by this Government.

It will be highly appreciated if the appeal of Dr. K.K. Dey is sympathetically considered and necessary orders issued accordingly.

CHS-IV
629/99/231
17/3

129-CHS-17
3073285

24-3-99

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No. KKD/12250/99

LET. TEL. OM
07

To

The Under Secretary to the Govt. of India, Ministry of Health & Family Welfare, (Deptt. of Health), NIRMAL BHAWAN, NEW DELHI.

(Through the Secretary, Health & FW, Govt. of Arunachal Pradesh)

Sub : Transfer to Safdarjung Hospital New Delhi as Consultant in Surgery.

Ref : 1) Your Order No. A.22012/13/98-CHS-IV, dtd 20th Jan'99.
2) My letter Dtd. 18/02/99 with a copy of letter No. MEST 78/10 dtd 16/12/98 from the Spl. Secretary, Health & FW, Govt. of Arunachal Pradesh, Itanagar.

Sir,

In response to above mentioned subject and reference may I bring to your kind attention that my father aged about 90 years is staying with me for most of the times because of his old aged problems. As our permanent residence is in Assam he can frequently visit me or else I can attend him as need to be at our residence in Assam.

(Through the Secretary, Health & FW, Govt. of Arunachal Pradesh)

My wife is also working as Staff Nurse in the General Hospital, Naharlagun. My immediate transfer outside Arunachal Pradesh will cause difficulties to her and other family members.

Ref : 1) Your Order No. A.22012/13/98-CHS-IV, dtd 20th Jan'99.
2) My letter No. A.22012/13/98-CHS-IV, dtd 18/02/99 with a copy of letter No. MEST 78/10 dtd 16/12/98 from the Spl. Secretary, Health & FW, Govt. of Arunachal Pradesh, Itanagar.

So, I shall request you to consider my case favourably not to transfer me out immediately for which I shall remain ever grateful to you.

Yours faithfully,

Sir,

M. K. Dey

M. K. Dey
(Dr. K. K. Dey)

and reference may I bring to your kind attention that my father aged about 90 years is staying with me for most of the times because of his old aged problems. As our permanent residence is in Assam he can frequently visit me or else I can attend him as need to be at our residence in Assam.

(Through the Secretary, Health & FW, Govt. of Arunachal Pradesh)

My wife is also working as Staff Nurse in the General Hospital, Naharlagun.

S. No. 8

Annexure VIII

No. A.22012/13/98-CHS.IV
Government of India
Ministry of Health & F.W.
(Deptt. of Health)

Nirman Bhavan, New Delhi
Dated the 5th June, '99.

The Secretary,
Deptt. of Health & F.W.,
Govt. of Arunachal Pradesh,
ITANAGAR.

Subject: Transfer of Dr. K.K. Dey, Consultant (Surgery) to
Delhi - regarding.

Sir,

I am directed to refer to your letter No. MEST-78/10 dated 9.3.1999 on the subject mentioned above and to invite your attention to the letter No. MEST/74/83 dated 15.9.1998 (copy enclosed) wherein the State Government had informed the Ministry that necessary action for immediate repatriation be made of Central Health Service Officers for their parent cadre and the name of Dr. K.K. Dey is also in this list. Accordingly, necessary orders for posting of Central Health Service doctors were issued. If the State Government wants to retain Dr. K.K. Dey in the State, specific clear proposal with comments may please be sent to this Ministry.

Yours faithfully,

(H.N. YADAV)
Under Secretary to the Govt. of India
Ph. No. 301 3968

The Secretary,
Deptt. of Health & F.W.,
Govt. of Arunachal Pradesh,
ITANAGAR.

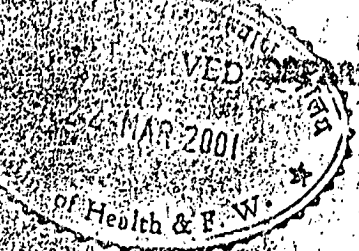
Subject: Transfer of Dr. K.K. Dey, Consultant (Surgery) to
Delhi - regarding.
Mess

Sir,

I am directed to refer to your letter No. MEST-78/10 dated 9.3.1999 on the subject mentioned above and to invite your attention to the letter No. MEST/74/83 dated 15.9.1998 (copy enclosed) wherein the State Government had informed the Ministry that necessary action for immediate repatriation be made of Central Health Service Officers for their parent cadre and the name of Dr. K.K. Dey is also in this list. Accordingly, necessary orders for posting of Central Health Service doctors were issued. If the State Government wants to retain Dr. K.K. Dey in the State, specific clear proposal with comments may please be sent to this Ministry.

Yours faithfully,

(H.N. YADAV)
Under Secretary to the Govt. of India
Ph. No. 301 3968



GOVERNMENT OF ARUNACHAL PRADESH
DEPARTMENT OF HEALTH AND FAMILY WELFARE
ITANAGAR

ORDER

MS. 91/213 (Vol-II)

Dated Itanagar, the 27/2/2001.

Consequent upon refusal of Dr. K. K. Day consultant (Surgery) who is borne from CHS Service for abortion in Arunachal Pradesh, Health Services the Governor of Arunachal Pradesh is pleased to release him from the Post of consultant (Surgery) of Arunachal Pradesh with the direction to report to Safdarjung Hospital, New Delhi for his further posting in accordance with the Government of India order No. A.22012/13/98-CHS-IV dated 20th Jan '99

↓
p/4/1
27

GOVERNMENT OF ARUNACHAL PRADESH
DEPARTMENT OF HEALTH AND FAMILY WELFARE
ITANAGAR
Sd/- T. Taloh
Secretary (Health & F.W)
Govt. of Arunachal Pradesh
Itanagar

MS. 91/213 Vol-IV
Copy to 1-

Dated Itanagar, the 12/3/2001.

1. The Secretary to Governor, Rajbhawan, Itanagar, the 27/2/2001.
2. The Commissioner to the Hon'ble Chief Minister, Arunachal Pradesh, Itanagar.
3. The PS to Hon'ble Minister, (Health & F.W), Arunachal Pradesh, Itanagar.
4. The PS to Hon'ble Minister of State, (Health & F.W), Arunachal Pradesh, Itanagar. Pradesh is pleased to release him from the Post of consultant (Surgery) in Arunachal Pradesh Health Services the Govt. of India Ministry of Health & Family Welfare, Nirman Bhawan, New Delhi. further posting
5. The Under Secretary to the Govt. of India Ministry of Health & Family Welfare, Nirman Bhawan, New Delhi.
6. To the Medical Superintending, Safdarjung, Hospital, New Delhi.
7. The Director of Health Service, Arunachal Pradesh, Naharlagun, for information and necessary action.
8. The Chief Medical Officer, General Hospital, Naharlagun to release the concerned Officer with immediate effect.
9. The Deputy Commissioner Papum Pare, Dist. Yupia, Arunachal Pradesh, Itanagar.
10. Personal File of Officer concerned.
11. Office copy.
12. Spare copy.

Handwritten notes and signatures on the left margin.

Handwritten signature: M. Now

Dated Itanagar, the 12/3/2001

Additional text and signatures at the bottom of the page, including a signature of T. Koniyan.

54

13

Before the Central Administrative Tribunal
Gauhati: Assam

Original Application 129 of 2001

IN THE MATTER OF:-

1. Dr. K.K. Dey.

-Applicant

-VERSUS-

Union of India and others.

-Respondents

Rejoinder against the written statements filed by
Respondents Nos. 3 and 4.

MOST RESPECTFULLY SHEWETH -

1. That a copy of the written statement have been served upon me and after going through the written statement I intend to file a rejoinder against the said written statement.

2. That with regard to the statement made in paragraph 1 to 4 the applicant states that there is a cause of action, the application is maintainable and is not bound by the limitation as alleged in the Written Statement.

3. That with regard to the statement made in paragraph 3 of the Written Statement the applicant states that there is no suppression of material facts to his knowledge as alleged in the Written Statement.

4. That with regard to the para 5 of the written statement the appellant states that these are the matter of records and there is no comment on it.

5. That with regard to the paragraph 8 of the written statement the appellant desires the correctness of the same and reiterate the statement so made in paragraph 4(III) of O.A.129 of 2001.

6. Thus with regard to the paragraph 9 of the w/s the appellant states that the allegation so made in the said paragraph are hereby denied and state that, it is the respondent who vide his letter dtd. 16/12/98 (Annexure II series of OA), has restrained the applicant from being released.

7. That with regard to the statement made in paragraph 10 of w/s the appellant denies the correctness of the same and reiterated the statements of paragraph 4(5) of the O.A. and further submits that the letter dtd. 9th March/99 (Annexure III of O.A.) issued by Secretary (Health) Govt. of Arunachal Pradesh would go to show that the respondents desired to retain the appellant inspite of the order dated 28th Jan/99.

8. That with regard to statements paragraph 11 of the w/s the answering appellant reiterate the statement so made in paragraph 4(VI) of the application and state that though the order of release was given but the charge has not yet been handed over till today.

9. That with regard to the statements made in paragraph 12 of the w/s the answering appellant reiterates the statements made in para 5 of the O.A. and states that the ground so taken therein are good grounds and are tenable in law.

10. That with regard to the statement made in para 13 & 14 the answering appellant states that the relief sought by appellant are tenable in law and justifiable

5

under the facts and circumstance of the case and further reiterate the Hon'ble Tribunal has rightly passed an order of Status-quo as the charges has not yet been handed over as it is evident from the letter dtd.5/11/2001 issued by Chief Medical Officer, General Hospital Naharlagun.

A copy of the letter dtd. 5/11/2001 is annexed hereto marked as ANNEXURE-VI.

11. That the appellant submits that vide order dtd. 30th Sept.1997 the appellant was appointed to the post of Consultant in Surgery in Arunachal Pradesh, Itanagar which is a supertime grade of the non-teaching specialities (Sub-Cadre) of the C.H.S. and thereafter the Govt. of Arunachal Pradesh availed his service in the said post. It is pertinent to mention that when the parent deptt. has called for the appellant to reparastrate to his parent deptt. the respondents for the benefit of the public service retained him and at present when the appellant is in the verge retirement and left with 7 (Seven) months the respondents are now showing their cold shoulders to his grievances on some extraneous consideration who has rendered more than 22 years of service under the respondent and the appellant reiterated the relief sought for in original application and as such the written statement is liable to be rejected.

Verification

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

I, Dr. Krishna Kanta Dey, Son of Sri Monmohan Dey Consultant Surgery under C.G.S.C. under Ministry of Health of F.W., Govt. of India, New Delhi at present under Arunachal Govt. do hereby solemnly verify the statements made in paragraphs 1,2,3,4,5,6,7,8&9 are true to my knowledge and those made in para 10 is matter of records, rest are humble submission.

I Sign this verification on this day of December 2001.

Dr. Krishna Kumar sey

GOVERNMENT OF ARUNACHAL PRADESH
OFFICE OF THE CHIEF MEDICAL OFFICER :: GENERAL
HOSPITAL :: NAHARLAGUN.

NO. PF-75/83/2545-46

Dated Naharlagun, the 5th Nov' 2001.

TO,

Dr. K.K. Dey,
Consultant in Surgery,
General Hospital,
Naharlagun,

Sub.:- Date of Retirement from Govt. Service.

Sir,

As per Service Book's record the date of your retirement from Govt. Service is due on 31/7/2002.

This is for your information and necessary action.

Yours faithfully,

(Dr. T. Basar)
Chief Medical Officer,
General Hospital, Naharlagun.

Memo. No. PF-75/83/

Dated Naharlagun, the 5th Nov' 2001.

Copy to:-

The Director of Health Service, A.P.
Naharlagun for information.

(Dr. T. Basar)
Chief Medical Officer,
General Hospital, Naharlagun.