

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Gahita
5/12/17

FORM NO.4

(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWATHI BENCH ::::: GUNAHATI

Original

ORDER SHEET
APPLICATION NO.

65 OF 2001

Applicant (s) SWKdal guril

Respondent(s) U.O.I. 90ms

Advocate for Applicant(s) M. Chanda, N. Grawami, G. N. Chakraborty

Advocate for Respondent(s) case.

Notes of the Registry Date Order of the Tribunal

1. The application is in form 14.2.01
2. The application is admitted.
3. The application is listed for hearing on 14.3.01
4. Reference No. 56421982
5. Dated 8.1.2001
6. 14.2.01
7. Dy. Registrar
8. Attest
9. 14.2.01

Issue notice on the respondents as to why the application shall not be admitted and also as to why the interim order as prayed for shall not be granted. Returnable by 4 weeks.

In the meantime the impugned order 19.1.2000 so far as the application is concerned shall remain suspended till the returnable date. List on 14.3.01 for Admission.


Vice-Chairman

Service of Notice to be
served and issued to
the respondent side
No. 868-615 Dt.
22.2.2001.

1m

AC

15.2.01

14.3.01

Heard Mr. M. Chanda learned counsel for the applicant and also Mr. A. Deb Roy, Sr. C.G.S.C. for the respondents.

Application is admitted. Issue notice on the respondents. Call for records. Returnable by 6 weeks. List on 2.5.01 for orders.

In the meantime the interim order dated 14.2.01 shall continue.


Member

1. Copy of order 14.3.2001
issued to Mr. A. Deb
Roy, Sr. C.G.S.C.

1m

215

pass over to Mr. S. K. Chakraborty

MoA, 2001

(2)

4.5.2001

Written statement has been filed. The applicant may file rejoinder, if any, within two weeks. List on 18.5.01.

Vice-Chairman

nkm

18.5.01

Written statement has been filed. Three weeks time is allowed to the applicant to file rejoinder, if any.

List on 13.6.01 for order.

29.3.2001

Notice duly served now
Replies Nos. 4, 6, 8.

pg

LL Usha

Member

Replies

13.6.01

Written statement has been filed. Mr. M. Chanda learned counsel for the applicant prays for time to file rejoinder. List on 6.7.01 for filing of rejoinder.

30.4.2001

W/S has been submitted by the lm.

Replies

6.7.2001

Written statement has been filed. The applicant may file rejoinder, if any, within seven days. List the case for hearing on 25.7.01.

No. Rejoinder has been filed.

25.7.200125.7.2001

Vice-Chairman

No. Rejoinder has been filed.

nkm

25.07.01

Stand over on the prayer of the learned counsel for the applicant.

List on 01-08-2001 for hearing.

25.7.01

No. Rejoinder has been filed.

pg

Vice-Chairman

24.7.01

O.A. No. 65 of 2000

Notes of the Registry	Date	Order of the Tribunal
<p><u>10.8.2001</u></p> <p>Copy of the Judgment has been sent to the Office of the Vice-Chairman and to the Secretary as well as to the L.R.C. & S.C. with Respsd H.S.</p>	1.8.01	<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 order. No order as to costs.</p> <p>Member</p> <p>Vice-Chairman</p>

Notes of the Registry

Date

Order of the Tribunal

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./R.A. NO. 65 of 2001
of

1.8.2001
DATE OF DECISION

Sri Suklal Shil

APPLICANT(S)

Mr. M. Chanda

ADVOCATE FOR THE APPLICANT(S)

- VERSUS -

Union of India & Ors.

RESPONDENT(S)

Mr. A. Deb Roy, Sr. C.G.S.C.

ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE MR. JUSTICE D.N.CHOWDHURY, VICE-CHAIRMAN.

THE HON'BLE

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 ?
5. Judgment delivered by Hon'ble Vice-Chairman.



X

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 65 of 2001

Date of order : This the 1st day of August, 2001.

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

Sri Suklal Shil
Son of Laate Shanti Gopal Shil
resident of Aralia
P.O. & Village Aralia (Agartala)
District-Tripura (West)
working as Group D Sepoy
Agartala Customs Division
Agartala

...Applicant

By Advocate Mr. M. Chanda.

-versus-

1. Union of India
Through the Secretary to the
Government of India
Ministry of Finance,
Department of Revenue
New Delhi.

2. The Chairman
Central Board of Excise and Customs
Government of India
Ministry of Finance,
Department of Revenue,
New Delhi

...Respondents

By Advocate Mr. A Deb Roy, Sr. C.G.S.C.

O R D E R

CHOWDHURY J.(V.C.).

The controversy pertains to transfer and posting in this application. The applicant is a Group D Sepoy working in the department of Excise since 1981. During this course he served at Kamalpur, Sonamura and Agartala. It has been pleaded that the applicant served in Kamalpur which is an extremist prone area ~~more~~ ^{and} particularly Kamalpur is identified as disturbed area. By the impugned order of transfer and posting dated 19.1.2001 he has been transferred to Central EXcise Headquarters office Shillong which will cause great dislocation to a Grade IV employees. In the application the applicant has stated and contended about his personal problem that will be caused by virtue of his transfer.

2. Mr. A. Deb Roy, learned Sr. C.G.S.C. has stated that the applicant for last twenty years was working in the Customs and on principle as per policy it was felt to transfer him to Central Excise for posting.

3. Heard Mr. M. Chanda learned counsel appearing on behalf of the applicant. Per se the order of shifting a person from Customs to Central Excise cannot be faulted. Transfer of a Group D person from one state to another state is not unlawful but normally a Group D person who is a low paid employee as far as practicable should be considered for posting at the home state or at near to home. This is the only matter which can be looked into by the department and take care of by the department and not for the Tribunal to enter into this arena.

4. Under the facts and circumstances I am of the view that ends of justice will be met if a direction is given to the applicant to submit a representation narrating his grievances before the Commissioner, Central Excise and Customs, Shillong, so that the Commissioner or some other competent officers assigned by the Commissioner can look into the matter considering the situation of the applicant. Accordingly the applicant is directed to make an appropriate representation narrating his grievances before the Commissioner, Central Excise and Customs within a month from today. If such representation is filed, the Commissioner of Central Excise and Customs may himself examine the matter or assign any of the competent authority to examine the representation of the applicant and pass an appropriate order as per law, so that proper justice can be made to the applicant. The above exercise shall be completed by the respondents within two months from the date of receipt of the representation from the application.

Contd..

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

(K.K.SHARMA)
Member(A)


(D.N.CHOWDHURY)
Vice-Chairman

trd

12 FEB 2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH Guwahati Bench

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

Title of the Case : O.A. No. 65/2001

Sri Suklal Shil : Applicant

-vs-

Union of India & Ors. : Respondents

I N D E X

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6	4	Representation dt. 30.1.2001	25-28
7	5	Transfer policy dt. 30.6.94	29-32
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Date 12.2.2001

Filed by

Advocate

Suklal Shil

Filed by the applicant
Suklal Shil
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

O.A. No. 65 /2001

BETWEEN

Sri Suklal Shil
Son of late Shanti Gopal Shill
resident of Aralia
P.O. & Village Aralia (Agartala)
District-Tripura (West)
working as Group D Sepoy
Agartala Customs Division
Agartala

... Applicant

-AND-

1. Union of India
Through the Secretary to the
Government of India
Ministry of Finance,
Department of Revenue
New Delhi.
2. The Chairman
Central Board of Excise and Customs
Government of India,
Ministry of Finance,
Department of Revenue
New Delhi.

.... Respondents

Suklal Shil

3. Commissioner of Customs
15 Strand Road,
Calcutta.
4. Commissioner of Customs
N.E.Region
Shillong.
5. Shri K.K.Das,
Commissioner of Customs
N.E.Region
Shillong.
6. Commissioner of Central Excise,
N.E.Region,
Shillong.
7. Additional Commissioner (P&V)
Central Excise & Customs,
Shillong.
8. Assistant Commissioner,
Agartala Customs Division
Government of India
Agartala

---Respondents

Details of application

1. Particulars of ~~xxx~~ orders against which this application has been made.

This application is made against the impugned order of transfer and posting issued under Establishment Order No. 16/2001 dated 19.2.2001 whereby the applicant is sought

Smt. Lalita Saha

to be transferred and posted from Agartala Customs Division to Central Excise Hqrs. Office, Shillong during the middle of the academic session/course and praying for a direction upon the respondents to allow the applicant to continue in his present place of posting at Agartala till the academic session/course of his daughters are over.

2. Jurisdiction

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

3. Limitation

The applicant declares that the application is within the limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case

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

4.2 That your applicant appointed as Group D Sepoy in the Department of Excise in the year 1981. During his 20 years of service he was transferred and posted in different places on different occasions. The brief particulars of his transfer and posting and duration of stay are furnished hereunder for perusal of the Hon'ble Tribunal.

Sl. No.	Name of the Division	Unit	Post held	From	To
1	Agartala	Agartala	16.3.81	25.1.82	

Smt/ Smt Sh

1	2	3	4	5
2	Agartala	Sonamura	26.1.82	9.8.84
3	Agartala	Agartala	10.8.84	29.7.85
4	Dhalaigiait LCS	Kamalpur	30.7.85	31.7.95
5	Divisional Office	Agartala	1.8.95	24.4.97
6	D.H.P.Unit	Agartala	25.4.97	Till date

From the above it appears that the applicant was posted at Kamalpur for a long period about 10 years. In this connection it is relevant to mention here that Kamalpur is a extremist prone area more particularly Kamalpur is identified as disturbed area and is always under the threat of extremist groups such as NLFT, TNV and ATTF. It is also relevant to mention here that in the Kamalpur Land Customs Station only Group D sepoy is posted but no officer from the grade of Inspectors onwards is posted at Kamalpur since 1985 although in one or two occasions someone or two Inspectors were shown to have been posted at Kamalpur Land Customs Station and the said transfer and posting remained confined only in papers and this fact is well known to the higher authorities right from the Commissioner since 1993. No Inspector is posted even on temporary basis, however in the Divisional Office at Agartala a registrar used to be maintained showing posting of Inspectors on rotation basis deputing the Inspectors of Agartala Customs Division (DPF Unit) for a period of 7 days to 15 days and those Inspectors maintain their order book staying at Agartala. Therefore, it appears that life of officers right from Inspectors are more

Subd level Stat

precarious that the life of Group D Sepoy in the eye of the higher authorities. The applicant being a Group D employee is retained in the Kamalpur Extremest area for about 10 years and he has spent a very hard life at Kamalpur being the only Group D officially/physically working at the relevant point of time at Kamalpur. After submission of several representations the applicant is brought near Agartala in the year 1995. In fact the applicant joined at Agartala Division Office on 1.8.95 and he worked upto 14.4.97 in the aforesaid Division office at Agartala. The applicant was thereafter transferred and posted in the DHP Unit at Agartala in the month of April 1997 and since then he is working in the D.H.P Unit at Agartala.

4.3 That most surprisingly the Additional Commissioner (P&V) by the impugned order of transfer and posting order No. Estt.No. 16/2001 dated 19.1.2001 transferring the applicant from Agartala Customs Division, D.H.P. Unit to Central Excise Headquarter office at Shillong in the middle of the academic session/course of the applicant's children in total violation of the transfer and posting policy issued by the Govt. of India Department of Revenue, Board of Central Excise and Customs, New Delhi. In this connection it is connection it is relevant to mention here that the elder daughter of the applicant Miss Rupu Shill now promoted to Class XII and she is now reading in Class XII at B.R. Ambedkar ^{School} at Agartala and the final examination of class XII is going to be commended in the month of April, 2002 under the Board of Tripura Secondary Education. The younger daughter of the applicant Miss Juma Shill is going to appear in the

Sukhal Shill

final examination for class XIII/ commencing from March/April 2001 as such passing of the impugned order of transfer and posting during the middle of the academic session/course is contrary to the rule of law laid down by the Hon'ble Supreme Court in the case of Director of School Education Madras and Another Vs. O. Karuppa Thevan and Another reported in 1994 (2) SCC 666. It is further stated that the final examination of the eldest daughter of the applicant of Miss Rupa Shill under Tripura Board of Secondary education will commence in the month of March/April 2002. It will be difficult on the part of the applicant to shift his family at Shillong in the state of Meghalaya because the course and syllabus of Meghalaya Board is quite different than the Tripura Board. Moreover it will be difficult on the part of the applicant to maintain a separate establishment at Shillong being a low paid Group D employee. It is also relevant to mention here that in the month of October 1999 option was invited from the applicant regarding his choice of posting, the applicant vide his application dated 28.10.99 submitted option for three places around Agartala considering his smooth continuation of education of children but while the impugned order of transfer and posting was issued no weightage was given to his options and the impugned order of transfer and posting has now caused a threat to the academic career of his children and on that score alone the impugned order of transfer and posting is liable to be set aside and quashed and the Hon'ble Tribunal further be pleased to direct the respondents to allow the applicant to continue at the present place of

Contd...

Sub/ou/SW

Posting till completion of the academic session/course of his children i.e. upto March/April, 2002.

Copy of the impugned order of transfer and posting dated 19.1.2001, option letter dated 28.10.99, and option letter dated 22.9.2000 are annexed as Annexures-1, 2, & 3 respectively.

4.4 That your applicant come to learn from the concerned office that the impugned order of transfer and posting although passed on 19.1.2001 but the same was received by the Agartala Customs Division office on 23.1.2001 and the order of release in respect of the applicant is being processed by the Administrative Officer on 24.2.2001. The applicant however is availing leave w.e.f. 24.1.2001 and presently the applicant is on leave and no release order is handed over to him till filing of this application. However the applicant immediately after the transfer and posting order submitted a detailed representation on 30.1.2001 addressed to the Commissioner, Central Excise, Shillong praying inter alia for retention of the applicant in the present place of posting especially on the ground of smooth education of his children. In the said representation the applicant also prayed for sympathetic consideration for his retention at Agartala especially on the ground that he is a low paid Group D employee consisting of a big family having old aged mother, two daughters, younger unmarried sister and wife and also on the ground that his daughter Jhuma Shill is a candidate of Higher Secondary Final Examination

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which will be commenced in the month of March 2001 under the Tripura Board of Education and another daughter Miss Rupa Shill has already passed the test Examination in Higher Secondary and she will appear in the final examination in March 2002, under Tripura Board of Secondary Education. Therefore, it will cause hardships and loss of ~~economic~~ academic career prospect of his daughters and there is no male member who can look after his family members in absence of the applicant and also enclosed necessary school certificates of his daughters and prayed for retention at his present place of posting at Agartala but so far the applicant came to learn that his representation dated 30.1.2001 was not forwarded to the Commissioner, Central Excise, Shillong by the Administrative Officer, although the same was received by the Superintendent, Agartala office. In the compelling circumstances the applicant finding no other alternative sent an advance copy of representation dated 30.1.2001 to the Commissioner, Shillong for necessary action from the end of Commissioner, but unfortunately no communication is received from the respondents till filing of this instant application.

Copy of the representation dated 30.1.2001 is annexed as Annexure-4.

4.5 That your applicant further begs to state that the Government of India, Ministry of Finance, Department of Revenue, Central Board of Excise and Customs vide their letter No. F. No. A-35017/28/92-Ad.III-B dated 30.6.94 whereby the transfer guidelines regarding transfers of

Suklendu Shill

Group B, C and Officers in the attached subordinate offices under Central Board of Excise and Customs has been framed and direction was issued to all Principal Collectorate and Central Excise and Customs of the Head of Departments under Central Board of Excise and Customs for strict adherence of the instructions of transfer guidelines. In the said policy so far Group D staff is concerned instructions issued are as follows :

" II. Group 'D' staff-Group 'D' staff are also liable to be transferred anywhere within the Collectorate even though its jurisdiction extends more than one State. However, frequent transfer of Group D staff should be avoided."

and in sub para (i) of para VIII it is stated as follows :

" (i) General transfers should be effected at the end of the academic year and orders of transfer should be issued sufficiently in advance. Orders issued otherwise should contain reasons on record."

From above policy it is quite clear that frequent transfer of the Group D employee should be avoided and the said policy in fact framed considering the financial condition of the low paid Group D employees. In the instant case of the applicant he was transferred and posted in different places and the applicant also carried out the transfer and posting orders. At the present moment it will be extremely difficult on the part of the applicant to carry out the impugned order of transfer and posting dated 19.1.2001 at the cost of education of his children who are going to be appearing in the final examination of XII class under Tripura Board.

Suklal Shil

In this connection it is also relevant to mention here that the applicant categorically mentioned in his options that in view of his daughter's education his case may be considered for transfer and posting around Agartala, and he has also submitted three places for his posting at Agartala. But the said options were ignored while issuing the impugned order of transfer and posting. As such the fact of inviting options for posting has no meaning. Moreover in the instant ^{case} it appears that posting order is issued only on 19.1.2001 in violation of the clause laid down in the transfer and posting policy in sub para (i) of paragraph VIII of the said policy dated 30.6.1994 and no reason is assigned in issuing the impugned order of transfer and posting in respect of the applicant. Therefore it is stated that the order of transfer and posting has been passed in total violation of norms laid down in the transfer policy. Moreover the applicant being a low paid Group D employee it will be extremely difficult on his part to maintain double establishment with his meagre income. It is also relevant to mention here that in many case even the Commissioner Shri K.K. Das, Commissioner, took personal interest and got the order of transfer non-effective in respect of Group D officials. As for example, Shri Moloy Kumar Paul, a Group D official was transferred and posted from Agartala Divisional Office at Agartala to C.P.F. Division within the same station vide Establishment order No. 358/94 dated 19.9.94. Again Shri Moloy Kumar Paul transferred and posted from Agartala Customs Division to Manu L.C.S.

Suklal Sh

under Karimganj Customs Division was modified vide order No. 24/97 dated 5.6.97 and Sri Moloy Kumar Paul was retained upto December 1997 at Agartala. It is also relevant to mention here that Shri Moloy Kumar Paul vide order No. 15/99 dated 2.8.99 with the interference of Shri K.K. Das, Commissioner of Customs, N.E. Region is allowed to remain upto December 1999 in the Divisional Office Agartala Customs Division for the reason best known to Shri K.K. Das, Commissioner of Customs. The representation of Shri Moloy Kumar Paul was rejected by the Assistant Commissioner (P&V), Customs Headquarter, Shillong vide his letter No. C. No. II (3)3/Et/CC/Cell /Sh/98/884 (A) dated 10.3.2000 whereby the representation of Sri Moloy Kumar Paul, Sepoy dated 24.12.99 was rejected, vide his letter dated 24.12.99 and the said Moloy Kr. Paul was relieved from duty by 31.3.2000 as per the order dated 2.8.99. But most surprisingly Sri K.K. Das, Commissioner of Customs vide his order No. 13/2000 dated 24.8.2000 allowed Sri Moloy Kr. Paul to continue to his present place of posting at Customs Division at Agartala office under further order. Therefore, it appears that all transfer and posting orders in respect of Group D officials are being passed in the instructions of Shri K.K. Das, Commissioner. It also appear from the series of orders which were passed in favour of Shri Moloy Kr. Paul modifying the transfer order one after another since 1997 by Shri K.K. Das, Commissioner, on extraneous consideration. Therefore the present applicant cannot be discriminated in the matter of retention in the present place of posting on a bonafide ground and

Sankhalal Shil

nobel cause otherwise it would be violative of Article 14 of the Constitution when one Group D official is being favoured by passing series of modification order retaining Sri Moloy Kr. Paul in the Customs Division at Agartala i.e. as per his choice since 1995. It is also relevant to mention here that discretion cannot be exercised by the higher authority on pick and choose basis and arbitrarily and on that score alone the instant application is deserves to be allowed with costs.

Copy of the transfer and posting guidelines dated 30.6.94, Office orders dated 19.9.94, 19.5.97, 5.6.97, 2.8.99 and 10.3.2000 and 24.8.2000 are annexed as Annexures-5,6,7,8,9,10 and 11 respectively.

4.6 That your applicant submitted representation dated 20.1.2001 praying interalia for retention of the applicant in his present place of posting on the ground of smooth continuation of education of his daughters and also on the ground that being a low paid Group D employee it will be difficult to maintain a double establishment specially when the dependent ^{and children are} unmarried sister is also studying ~~maxim~~ at Agartala under the Board of Tripura, but unfortunately till filing of this application no communication is received from the authority. Finding no other alternative the applicant approaching the Hon'ble Tribunal for protection of his right and interest praying for a direction to the respondents to allow the applicant to continue in his present place of posting at least for the period till the academic session/course of his daughters are over.

Sukhalal Shy

4.7 That your applicant begs to state the Central Board of Customs and Central Excise, Government of India, Department of Revenue, New Delhi framed a specific transfer policy in respect of the employees working ~~under~~ under them. The said policy was issued under letter No. A-350/7/28/92 dated 30.6.94. In the said policy of transfer and posting in Para II it is stated that Group 'D' staff are also liable to be transferred anywhere within the collectorate even though its jurisdiction extends to more than one State. It is also stated that however, frequent transfers of Group D employee should be avoided. In the instant case of the applicant option was invited from the applicant by the respondents for his transfer and posting accordingly the applicant submitted his option preferring his posting in and around Agartala on the ground of smooth education of his daughters who are appearing in the XII final examination in the month of March/April 2001 and 2002 respectively. It is relevant to mention here that Hon'ble Supreme Court also observed in the case of Director of School Education Madras and Another Vs. O. Karuppa Thevan and another reported in 1994 (2) SCC(Supp) 666 that the transfer of an employee during the mid academic session should not be effected in absence of urgency and also ordered such transfer be restrained from being effected till the end of their academic session.

Copy of the judgement and order of the Apex Court referred to above is annexed as Annexure-12.

4.7 That your applicant further begs to state that there are longest stay ~~the~~ Group D Sepoys working in

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different offices at Agartala since last thirty to thirty five years namely Shri Badal Chakraborty and Ors. The details particulars of the longest staying Group D officials are furnished below :

1. Mr. Badal Chakraborty w.e.f 10.4.1966 at Agartala.
2. Mr. Manish Deb Barma w.e.f. 21.10.79 at Agartala.
3. Mr. Ratan Acharjee since 3.8.79
4. Mr. Sudam Chandra Dhar since 16.3.81 at Agartala.

The aforesaid Group D Sepoys were never transferred out of Tripura and serving around Agartala. Therefore passing of the impugned order of transfer and posting on pick and choose basis ignoring the fair policy of transfer and posting appears to be highly arbitrary, discriminatory and violative of Article 14 of the Constitution. In this connection it is further stated that Group D sepoy working in Agartala and other stations in the State of Tripura who are permanent resident of State of Meghalaya namely, Shri Moloy Kumar Paul, Biswajit Somp, Therefore there ~~xxx~~ is no difficulty on the part of of the administration to transfer any of the said Group D Sepoy named above, if there is any administrative exigency. The applicant being low paid employee it will be extremely difficult for him to maintain separate establishment leaving his family at Agartala for the sake of education of his children as mentioned in earlier paragraphs. But the respondents without considering his options for posting, arbitrarily passed the impugned order of transfer and posting and if the said impugned order is to carry out by the applicant at this critical juncture in that event it will cause irreparable loss to the education

Sudam Chandra Dhar

of his daughters as well as it will cause hardships to the applicant and his dependent family members.

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

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

5.1 For that the impugned order of transfer and posting dated 19.1.2000 has been issued during the middle of the academic session/course especially when the daughters of the applicant is going to be appeared in the XII class final ^{examination} which are going to be held in the month of March/April 2001 and 2002 respectively under the Tripura Board.

5.2 For that the applicant is a low paid Group D employee and it will be difficult on his part to maintain separate establishment leaving his dependent family members at this crucial stage in a far off place.

5.3. For that the syllabus/course between Tripura Board and Board of Meghalaya are not similar therefore it would not be possible on the part of the applicant to shift his family in Shillong.

5.4 For that the transfer order has been issued in total violation of the transfer policy/guidelines laid down by the Govt. of India, Ministry of Finance, Department of Revenue, Central Board of Excise and Customs.

Subhajit Saha

- 5.4 For that frequent transfer to a low paid employee like the applicant causes hardships.
- 5.5 For that the applicant submitted representation but the same is still pending before the Commissioner, N.E.Region, Shillong.
- 5.6 For that the dependent sister of the applicant is also studying under the Board of Tripura.
- 5.7 For that the order of transfer and posting dated 19.1.2001 has been issued mechanically ignoring the options submitted by the applicant in response to the option invited by the authority for choice/convenient transfer and posting for Group D employees.
- 5.9 For that the applicant has been discriminated in the matter of transfer and posting in comparison to other similarly situated Group D employee who cases were considered on different occasions by the Commissioner, Shri K.K.Das.
- 5.10 For that the order of release in respect of the applicant has been processed in total violation of the transfer/guidelines policy dated 30.6.94.
- 5.11 For that the order of transfer is contrary to the law laid down by the Hon'ble Supreme Court in the case of Director of School Education Madras and Ors. Versus O. Karuppa Thevan and Another reported in 1994 (2) Supp SCC 666.
- 5.12 For that the applicant is the only earning member of his family and it will be difficult to maintain double establishment on his part if the impugned order of transfer and posting dt. 19.1.2001 is to carry out.

Sukhal Shil

6. Details of remedies exhausted.

That the applicant states that he has no other alternative and other efficacious remedy than to file this application. Representation through proper channel as well as an advance copy has already been sent to the Commissioner, Customs, N.E.Region, Shillong but to no result.till filing of this application.

7. Matters not previous filed or pending with any other court or Tribunal.

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

8. Reliefs sought for :

In view of the facts and circumstances stated in paragraph 4 of this application, the applicant prays for the following reliefs :

8.1 That the Hon'ble Tribunal be pleased to set aside the impugned order of transfer and posting issued under Order No. 16/2001 dated 19.1.2001

(Annexure- 1) transferring the applicant from Agartala Customs Division to Central Excise Hqrs. Office, Shillong.

8.2 That the respondents be directed to allow the applicant to continue the applicant in his present place of posting at Agartala customs Division, Agartala till completion of academic session/course of his daughter.

Srikhal Shil

8.3 Costs of the Application.

8.4 Any other relief or reliefs to which the applicant is entitled to, as the Hon'ble Tribunal may fit and proper.

9. Interim order prayed for :

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

20 yr, of Name
place

9.1 Hon'ble Tribunal be pleased to stay the operation of the impugned order of transfer and posting issued under No. 16/2001 dated 19.1.2001 (Annexure- 1) so far as the applicant is concerned till the academic session/course of his daughter is over.

10.

This application is filed through advocate.

11. Particulars of I.P.O.

- i. I.P.O. No. : 56 421982
- ii. Date of Issue : 30.1.2001
- iii. Issued from : G.P.O., Guwahati.
- iv. Payable at : G.P.O., Guwahati.

12. Details of enclosures :

As stated in the Index.

Suklal Shd

VERIFICATION

I, Sri Suklal Shil, son of late Shanti Gopal Shil, aged about 46 years, resident of P.O. & Vill Aralia, Agartala, District Tripura West, do hereby verify that the statements made in paragraphs 1 to 4 and 6 to 12 in the instant application are true to my knowledge and those made in paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 13th day of February, 2001.

Suklal Shil

Signature

01-24 11:16:37 FROM:CENT.EXCISE.SHILLONG 0364226215

TO:0381228619

PAGE:1

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE : SHILLONG

ESTABLISHMENT ORDER NO.16/2001

Dated, Shillong the 18th January, 2001

Subject:- Estt. Transfer and posting of Group 'B' Officers
- Order / Regarding -

The following Group 'B' officers (Deputy) of Central Excise & Customs are hereby transferred and posted to the places mentioned against their names with immediate effect and until further orders.

Sl.No.	Name	From	To
01.	S/Shri Badal Ch.Roy	Cus.Hqrs.Office Shillong	C.Ex. Hqrs.Office Shillong
02.	D.B.Sunar	- do -	- do -
03.	O.Warjri	Pynursia P.P. Shillong Cus.Divn.	- do -
04.	B.D.Kalita	D.O. Guwahati Cus. Guwahati	D.O. Guwahati C.E. Guwahati
05.	T.Daimary	Mankachar L.C.S. Guwahati Cus.Div.	D.O. Dhubri C.Ex. Dhubri
06.	R.S.Sharma	Dhubri C.P.F. Guwahati Cus.Divn.	D.O. Guwahati C.E. Guwahati
07.	D.K.Rajkhowa	Mahendraganj ICS Guwahati Cus.Divn.	- do -
08.	G.K.Konwar	Baghmara P.P. Guwahati Cus.Divn.	D.O. Tezpur C.Ex. Tezpur
09.	Digen Ch.Bas	Tura P.P. Guwahati Cus.Divn.	Jagi Road Range Guwahati C.Ex. Divn.
10.	H.S.Timung	Nampong L.C.S. Dimapur Cus. Divn.	D.O. Jorhat C.Ex. Jorhat
11.	R.R.Deb Baidya	D.O. Dimapur Cus. Dimapur	Karimganj Range Silchar C.Ex. Divn.
12.	B.R.Boro	A/S Unit Dimapur Cus. Divn.	Sonari Range Jorhat C.Ex. Divn.
13.	P.R.Malakar	Numaligarh CPF Dimapur Cus. Divn.	Rangapara Range Tezpur C.Ex. Divn.
14.	Jogen Saikia	L.B.I. Dimapur Cus. Dimapur	D.O. Jorhat C.Ex. Jorhat
15.	Y.I.Singh	Sekmai P.P. Imphal Cus.Divn.	Imphal Range Silchar C.Ex. Divn.
16.	N.Tomcha Singh	Palitab CPF Imphal Cus. Divn.	- do -
17.	M.C.Das	Zawkhatar LCS Aizawl Cus. Divn.	C.Ex. Hqrs. Office Shillong

Attest
28/Jan

Contd....P/2....

21

20

3

..... 2.....

3.

4.

S/Shri

18. B.R.Buster

D.O. Karimganj Cus.
Karimganj

D.O. Silchar C.Ex.
Silchar

- do -

19. S.R.Das

- do -

Silchar-I Range
Silchar C.Ex. Divn.

20. R.K.Paul

- do -

Silchar-II Range
Silchar C.Ex. Divn.

21. K.K.Debnath

A/S Unit
Karimganj Cus. Divn.

Badarpur Range
Silchar C.Ex. Divn.

22. H.L.Deb

Sutarkandi ICS
Karimganj Cus. Divn.

- do -

23. J.M.Das

D.O. Karimganj Cus.
Karimganj

C.Ex. Hqrs. Office
Shillong

✓ 24. Amit Chakraborty

A/S Unit
Agartala Cus. Divn.

- do -

✓ 25. S.Bil

- do -

Dharm Nagar Range
Silchar C.Ex. Divn.

✓ 26. P.C.Butta

- do -

D.O. Guwahati C.Ex.
Guwahati

27. Kiranjit Pathak

Rangapara Range
Tezpur C.Ex. Divn.

Golaghat-I Range
Jorhat

28. Putul Ch. Bharali

Jorhat C.Ex. D.O.
Jorhat

C.Ex. Hqrs. Office
Shillong

29. Rubul Sonowal

Amingaon Range
Jorhat

The following Group 'D' Officers in the grade of Sepoys are here
by placed at the disposal of Commissioner of Cus-toms, N.E.R., Shillong.

Present Place of Posting

Sl.No. Name

S/Shri

01. K.N.Joshi
02. D.Dienjdhoh
03. B.P.Sikael
04. Rajkumar Shah
05. S.R.Roy
06. Hukul Roy
07. N.K.Singh
08. M.Chellam
09. Bhagwanlal Roy
10. Raja Ram Roy
11. Ambli Ram Deka
12. S.L.Srivastava
13. Girish Ch.Mali
14. D.K.Bania
15. N.H.Kalita
16. Md.R.Ahmed
17. Shah Alim Ahmed
18. Hopeson Shadang
19. Anil Ch.Das
20. Nikhil Seal

Central Excise Hqrs. Office, Shillong

- do -

21-

22

B2

..... 3

03.

01. 02.

S/shri

21. Robin Chandra Das
 22. B.Gonowal
 23. Prabhat Gogoi
 24. Chanam Shomen Singh
 25. J.L.Rajak
 26. Laliteswar Sharma
 27. D.Mandish
 28. Chandrika Bhagat

Central Excise Division,Tinsukia
 - do -
 Central Excise Division,Jerhat
 Central Excise Division,Jerhat
 Central Excise Division,Dhukri
 - do -
 Central Excise Division,Dighai
 Central Excise Division,Tezpur

C.NO.II(3)19/ET.IV/2000/

dated:..

Copy forwarded for information and necessary action to :-
 The Commissioner of Customs, N.E.R., Shillong.

1. The Additional Commissioner(Tech), Central Excise, Shillong.
 2. The Deputy/Assistant Commissioner of Central Excise

3. _____ Division. The copy meant for the concerned
 officer(s) is/are enclosed. Officers under your charge are to
 be relieved by 31.01.2001 (A/N).

4. The Deputy/Assistant Commissioner of Customs
 _____ Division. The copy meant for the concerned
 officer(s) is/are enclosed. Officers under your charge are to

21
 (B.THAMAR)
 ADDL.COMMISSIONER (P&V)
 CENTRAL EXCISE & CUSTOMS, SHILLONG

Afterward
B.Singh

TRANSFER PROFORMA

1. Name of the Officer with designation (Block Letters) : SUKLAL SHIL, SEPOY.

2.a) Date of apptt. in the Deptt. and grade. : 16th March 1981, SEPOY.

b) Date of apptt. in present grade : SEPOY.

c) Date of Birth : 15th January 1956.

3. Name of Home Town and State : Agartala TRIPURA.

4. HISTORY OF POSTING SINCE ENTRY

Sl.No.	Station	From	To
1. Div office Agartala	Agartala	16-3-81	25-1-82
2. Sonamwara L.e.s./PP.	Sonamwara	26-1-82	9-8-84
3. Div office	Agartala	10-8-84	29-7-85
4. Shalai gaon - L.e.s.	Kamalpur	30-7-85	31-7-95
5. Div office	Agartala	1-8-95	24-4-97
6. D.H.P. Unit	Agartala	25-4-97	TILL date.

5. Please indicate your choice of posting in Cen. Excise/Customs in order of preference.

- Agartala D.P.P.
- Mohanpur P.P.
- Akhawara L.P.S.

Station :- Agartala

Date :- 28-10-99

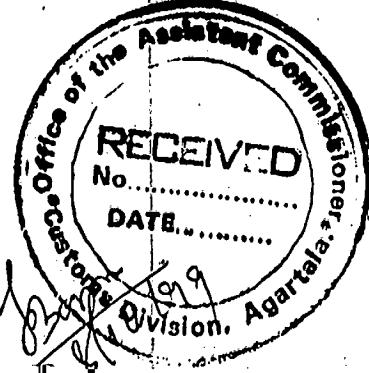
Suklal Shil
Signature of the Official. 28.10.99.

Forwarding Officer's comments :

- The particulars given above are verified and found to be correct.
- i)

Place :

Date :



Signature, name & Designation of the forwarding authority.

24

Annexure 3
24TRANSFER FORM

1. Name of the officer with designation : SUKLAL SIL SEPOX.
(In block letters)

2. Date of app't. in the deptt. & grade : 16 Mar 1981 Sepx.

3. Name of home town & State : Agartala, Tripura East.

4. History of posting since entry :

Sl.	Name of the Division	Name of the unit	Post Held From	To
1.	Agartala	Agartala	16. 3. 81	25. 1. 82
2.	Agartala	S. Orissa	26. 1. 82	9. 8. 84
3.	Agartala	Agartala	10. 8. 84	29. 2. 85
4.	DO Shuklal, L.C.S	Kamalpur	30. 7. 85	31. 7. 95
5.	Av. Office	Agartala	1. 8. 95	21. 4. 97
6.	S.H. P. Unit	Agartala	25. 4. 97	Till date.

5. Indicate your choice of posting in order of preference:

CENTRAL EXCISEBRIEF REASON

1.	
2.	
3.	

CUSTOMSBRIEF REASON

1. M. Dhanbad Customs P. P.	
2. Patnaiganj Customs P. P.	
3. Agartala Check Post.	

NOTE:- The choice of posting does not necessarily imply that the officer will be given a posting of his choice. Officers are liable to be transferred before completion of full term in the exigencies of service.

STATION : - AgartalaDATE : - 22. 9. 2001✓ Suklal Sil Sepx.Signature of official with designation.FORWARDING OFFICER'S COMMENTS

1) The particulars given above are verified and found to be correct.

Signature name & designation of
the forwarding authority

To,
The Commissioner,
Central Excise,
SHILLONG.

25
Raniganj - 6
35

Subject : Representation of Sri Suklal Shil, Sepoy, Customs Division, Agartala, for retention at Agartala.

Hon'ble Sir,

With profound respect, on being pricked by exasperating circumstances, I beg to refer Hqr. Establishment Order No. 16/2001 dated, Shillong, the 19th January, 2001, communicated under endorsement C. no. II(3)19/ET.IV/2000 dated Nil under which I have placed on transfer from Agartala Customs Division to Central Excise Hqrs. Office, Shillong and submit the following grim facts for favour of your sympathetic consideration.

- (A) That Sir, I am an ill paid sepoy, maintaining my family consisting of my old aged mother, my wife two daughters and younger un-married sister from the meagre income. It is not understood how and what circumstances I have been transferred from Agartala to Shillong when there is categorical direction of the Ministry to place/transfer the ill paid staff in and around their home posting and thus I felt that the administration is oblivious to the welfare of the poor paid sepoy by denying my fundamental right.
- (B) That Sir, one of my daughter namely Smt. Jhuma Shil is a candidate of Higher Secondary (+2) Stage Examination in Arts Group in the year 2001. The said examination is scheduled to be held in March, 2001 under Tripura Board of Secondary Education. Another daughter namely Smti. Rupa Shil has already appeared in the Higher Secondary (+2) Stage Test Examination in Arts Group this year and will appear Final Examination in March, 2002 under Tripura Board of Secondary Education. My transfer from Agartala to far away will harm severally my daughter's academic year. There is no male member in my family who can look after my family members in absence of me.
- (C) That Sir, there is no way to out to drag my family members to my new place of posting not I can leave them unattended.

Contd.....P/2.

= (2) =

Under the above circumstances, I fervently pray to your Judicious-self to consider my case by passing your valuable order retaining me at Agartala and for which act of your graciousness I shall remain ever grateful to you.

Enclosed one school certificate of my daughter snt. Juma Shil and Rupa Shil.

Yours faithfully,

Suklal Shil

(SUKLAL SHIL)

Sepoy, Custom Division, Agartala.
(Under Order of Transfer)

Advance copy
Submitted to the Commissioner.

around their home posting and thus I am unable to

27

3X

TO WHOM IT MAY CONCERN

Certified that Smt Rupa Shil, daughter of
Sri Sukhlal Shil, Vill:-Aralia, P.O.:-Aralia, Bishal-
gach, (W) Tripura, has been reading in this Institu-
tion and she has appeared in the H/S(+2) stage Exa-
mination (Arts) in ~~XX~~ ^{Test} year

I wish her success in life.

(A. W. Sankar)
(S. B. R.)
Head of Office & D.D.O.
Asstt. Headmaster
Dr. B. R. Ambedkar Vidya Bhawan

28
B8

TO WHOM IT MAY CONCERN

Certified that Smt Jhuma Shil, daughter of
Sri Sukhlal Shil, Vill:-Aralia, P.O :-Aralia, (W) Tripura
has been reading in this Institution and ~~MISS~~ she is
a Candidate of H/S (+2) stage Examination (Arts) in the
year 2001 who has already submitted the prescribed
form to appear the same.

I wish her success in life.

(Signature)
27/1/2001
(SWAPAN KAR)
B.Ed. (Hons.)
D.O.
Vidya Bhawan

No. A-39017/28/92-AD-III-B
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs

ΑΙΓΑΙΟΧΩΡΟ-Φ

Annexure 5

Annexure 7 of

New Delhi, the 30th June, 1994.

All Principal Collectors of
Central Excise and Customs.

All Director Generals/Marcotica Committee

All the Heads of Departments under
Central Board of Excise & Customs.

Subject : Transfer-Guidelines regarding posting and transfers of Group 'B' 'C' and 'D' officers in the attached & Subordinate offices under Central Board of Excise and Customs.

815

1. R. No. A 22015/20578-
Ad-III-B dt. 1.11.70.
2. E. No. A-22015/21/89-
Ad-III-B dt. 23.7.89.
3. E. No. A-35017/17/91-
Ad-III-B dt. 24.1.92
4. F. No. B-12014/4/92
Ad-III-B dt. 2.9.92.

In supersession of all previous instructions, as indicated in the margin, the following instructions/guidelines are issued in consolidated form for regulating the transfers and deputation of Group B, C and D officers in the various attached and subordinate offices under the Central Board of Excise & Customs:—

I. Group 'B' and Group 'C' Cefficiencies

(1) Period of stay at one station

(a) Executive Officers : The period of stay of an Officer at one station should normally be 4 years. Transfers may be made earlier if administrative requirements or compassionate grounds, so necessitate.

(b) Ministerial Officers : While Ministerial officers are also liable to transfer, like Executive Officers, routine transfer of Ministerial Officers from one station to another should be avoided. However, Ministerial officers are liable to be transferred from one charge to another at periodic intervals.

Contd. p. 2

II. Group 'D' staff in Group 'B1' staff are also liable to be transferred anywhere within the Collectorate even though its jurisdiction extends to more than one State. However, frequent transfers of Group D staff should be avoided.

III. Postings of husband - wife teams at the same station :-

Guidelines contained in Department of Personnel & Training's Office Memorandum No. 18034/7/86-Entt (A) dated 03.4.86 may be followed subject to administrative requirements/exigencies.

IV. The tenure of minimum charges and requirements of "Cooling Off" period :-

(1) Officers posted in any of the following charges as mentioned below, on completion of his/her normal tenure, be posted to a formation/organisation/assignment other than those mentioned here below :-

- (a) Airports,
- (b) I.C.C.R.T.
- (c) D.O.A.E.
- (d) NCB/ED (FIRN/ELB ETC.

The officers so posted in any of the aforesaid charges/organisation assignments will be required to complete the "Cooling Off" period of not less than two years before being considered for re-posting to any of the aforesaid charges.

V. (A) The power to relax the cooling off period etc.

The power to relax the "cooling off" period for an officer with reference to the charges mentioned in para IV will be exercised by the P.M. Colr./ Director General Concerned, in consultation with the Head of the Department of the Officer in question.

31

19 SEP - 26 -

24/10/

621

Annexure - (Contd.) 3 4 3

(b) The decision to extend the normal tenure

The decision to extend the normal tenure etc. will be governed by the provisions of recruitment rules and the DPO&T's guidelines on the tenure/deputation/executive instructions of the Board as the case may be.

VI. Transfers of Office bearers of the recognised Associations of Central Government Employees.

In regard to the transfers of Office bearers of the recognised Unions/Associations the instructions contained in the Department of Personnel & Training's O.M. No. 27/3/69-estt. (B) dated 8.4.1969 should be observed strictly read with future amendments, if any.

VII. Notwithstanding the instructions contained in paragraphs (i), (ii), (iii), the Heads of the Department will have full authority/power to transfer an officer on administrative/compassional grounds.

The Heads of the Department will also be the deciding authority as to what would constitute difficult posting depending on the local conditions and will be fully authorised to fix - tenure of posting of officers at those places, as deemed necessary for administrative requirements and exigencies of service.

VIII. General

(i) General transfers should be effected at the end of the academic year and orders therefor should be issued sufficiently in advance. Orders issued otherwise should contain reasons on record.

(ii) Officers who are due to retire within two years or so, may not be transferred from their state/district or from the proximity of the station where they propose to settle down after retirement. Those who are posted away from such a station may, if they so request be brought to the proximity of that

-20- 28-27-

2-21-

622-

Announcements (Contd.)

63-63

station within last one year or so of their service. All this will, however, be subject to administrative requirements.

(iii) For the purpose of transfer, the stay of an officer at a particular station should be computed with reference to the total period of his continuous stay at that station regardless of the different posts held by him there.

2. above instructions may please be followed scrupulously.

Please acknowledge the receipt of this letter.

Yours faithfully,

Sd/- (R.K. MITRA)
UNDER SECRETARY

Central Board of Excise & Customs

Copy to recognised Association/Unions of Group 'B', 'C' and 'D' staff.

Sd/- (R.K. Mitra)

(EXTRACT)

CUSTOMS & CASTE & EXCISE, SHILLONG

NOTIFICATION
PUBLISHED IN THE GAZETTE NO. 280/94
DATED SHILLONG, THE 19TH SEPT., 1994.

Subject.-Transfer posting and adjustment in the
Grade of Sepoy of Customs and Central
Excise, Collectorate, Shillong.-order reg.

The following transfer posting and adjustment in
the grade of Sepoy of Customs and Central Excise, Collectorate
Shillong is hereby ordered with immediate effect and until further
orders.

Sl.	Name	From	To	Re.
1.	N. P. Sharma No. 1	To continue at Hrs. Office Shillong.		
2.	Shagwanlal Rai	- do -		
3.	K. N. Joshi	- do -		
4.	Surender Giri	- do -		
5.	Subrata Paul	- do -		
6.	K. K. Pradhan	- do -		
7.	M. Challam	- do -		
8.	Colul Biswas	- do -		
9.	Santu Thapa	- do -		
10.	Sanjary Kr. Deb	Hrs. Office Shillong	Silchar C. Ex. Divl. Office	
11.	Prakash Ch. Ray	Bholaganj P.P. Shg. Cus. Divn.	Hrs. Office Shillong	
12.	Ram Bahadur Gurung	Sutarkandi L.C.S. Karianganj Divn.	- do -	
13.	Alok D. Sangma	Baynara P.P. Guwanati Cus. Divn.	- do -	
14.	Janarlal Bhattacharjee	Agartala Divl. Office	- do -	
15.	Raj Kumar Shah	- do -	- do -	
16.	R. B. Chetry	Khowaighat L.C.S. Agartala Divn.	- do -	
17.	P. S. Swer	Jowai P.P. Shg. Cus. Divn.	- do -	
18.	Raj Kumar Singh	Champai P.P. Aizawl Divn.	- do -	

Sl. No.	Name	From	To	Re
	S/ Shri			
183.	Dilip Debbarma		To continue at Agartala Customs Divisional office	
184.	Dulal Ch. Das	Udaipur C.P.W. Agartala Divn.	Agartala Divl. Office	
185.	Shri Sadharam Bala Das	Sonamura P.L. Agartala Divn.	- do -	
186.	Haridhan Sil	Agartala Divl. Office	Agartala C.P.W. Agartala Divn.	
187.	Maley Kr. Paul	- do -	- do -	
188.	Sibenra Roy	- do -	- do -	
189.	Goral Ch. Deb	Mohanpur P.L. Agartala Divn.	- do -	
190.	Alauddin Barbhuiyan	Mailshashar P.L. Agartala Divn.	- do -	
191.	Prantosh Ch. Dutta	Udaipur C.P.W. Agartala Divn.	- do -	
192.	Ratan Acharyee	Agartala Divl. Office	Agartala L.C.S. Agartala Divn.	
193.	Harinder Roy	- do -	- do -	
194.	Manoj Das		To continue at Bishalgarh P.L.	
			Agartala Divn.	
195.	Chandan Kr. Dey	Agartala Divl. Office	Bishalgarh P.L. Agartala Divn.	
196.	Hiralal Dey	Karinganj Divl. Office	Udaipur C.P.W. Agartala Divn.	
197.	Gopal Ch. Dey	Pishalgarh P.L. Agartala Divn.	- do -	
198.	Dilip Sharma	Agartala Divl. Office	- do -	
199.	Dipak M. Das		To continue at Srimantapur L.C.S.	
			Agartala Divn.	
200.	Manish Debbarma	- do -		
201.	Binoy Debbarma	Agartala P.L. Silchar Divn.	Sonamura P.L. Agartala Divn.	
202.	Dhiman Turkayastha	Karinganj Divl. Office	- do -	
203.	Setu Niah		To continue at Muhurighat L.C.S.	
			Muhurighat L.C.S. Agartala Divn.	
204.	Rutan Sengupta	Mohanpur P.L. Agartala Divn.	Muhurighat L.C.S. Agartala Divn.	

OFFICE OF THE COMMISSIONER OF CUSTOMS (PREVENTIVE)
NORTH EASTERN REGION
SHILLONG

ORDER NO. 19/1997

Dated, Shillong, the 19th May, 1997

Sub :- Transfer and Posting (rotation & adjustment) in the grade of Group 'D' Sepoys of the Commissionerate of Customs (Preventive), North Eastern Region, Shillong. Order regarding.

The following transfer and posting (rotation and adjustment in the grade of Group 'D' Sepoys of the Commissionerate of Customs (Preventive), North Eastern Region, Shillong are hereby ordered with immediate effect and until further orders.

Sl. No.	Name	place of posting	
		From	To
<i>S/ Shri:</i>			
1.	Moloy Paul	D.H.P. Unit Agartala Cus (P) Div	Manu LCS Katingang, Cus (P) Div
2.	Dilip Debbarma	Ayartala Air Port PP Agartala Cus (P) Div	D.H.P. Unit Agartala Cus (P) Div
3.	Amit Chakraborty	Divn'l Office Agartala Cus (P) Div.	-do-
4.	Prantosh Datta	-do-	-do-
5.	Dulal Das	-do-	Agartala Airport PP Agartala Cus (P) Div.
6.	Sibender Roy	D.H.P. Unit Agartala Cus (P) Div.	Dholaighat LCS Agartala Cus (P) Div.
7.	Setu Mia	Muhurighat LCS Agartala Cus (P) Div U/o of transfer to Agartala Range mda Order No. 86/97 dt. 11-4-97.	Retained at Muhurighat LCS
8.	Benoy Debbarma	Sonamura CPF Agartala Cus (P) Div	Divn'l Office, Agartala Cus (P) Div
9.	Smti Ratna Sril	Manu LCS Agartala Cus (P) Div U/O of transfer to Katingang Divn'l Office vide Order No. 86/97 dt. 11-4-97.	Retained upto Dec'97
10.	N. Tualsalang	Churachandpur P.P. Imphal Cus (P) Div U/O of transfer to Imphal Cus (P) Divn'l Off. vide Order No. 86/97 dt. 11-4-97.	Retained at Churachandpur P.P.

(Contd.....P/2).

Annexure-7

3/6
-:: 2 ::- 18

ANNEXURE-5

71. Ratan Acharjee

Agartala LCS
Agartala Cus (P) Div
U/O of transfer to
Dholiaghat LCS vide
O.No. 17/97 dt. 8-5-97

Divn'l Office,
Agartala Cus (P) Div

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Sd/-

(LALLUNGHNEMA)
COMMISSIONER OF CUSTOMS (PREVENTIVE)

C. NO. II(3)3/ET/CCP/CELL/SH/95/ 18/11-90 Dated :- 19-5-97

Copy forwarded for information and necessary action to :-

1. Shri/Smti Dipa Dev Baruah, Sepoy for compliance.
2. The Deputy Commissioner (P&V), Customs and Central Excise, Shillong.
3. The Deputy Commissioner of Customs (Prev), NER, Shillong.
4. The Assistant Commissioner of Customs (Preventive, Agartala Karianganj,) Copy meant for the concerned officer(s) is spare enclosed herewith for causing delivery.
5. The Assistant Commissioner of Central Excise, Silchar.
6. The PAO/ACAO(Accts), Customs and Central Excise, Shillong.
7. The A.O.(Customs), C.P.'s Hqrs. Office, Shillong.
8. The Branch-in-Charge, ET II & III/Accts/Con/Vig Branch Customs and Central Excise, Shillong.
9. The General Secretary, Customs and Central Excise Group 'D' Officers' Association, Shillong.
10. The Superintendent, Central Excise, Agartala Range.
11. Guard File.

N.B.:- Officers under transfer should be relieved immediately.

Unsingh

LALLUNGHNEMA 19/5

COMMISSIONER OF CUSTOMS (PREVENTIVE)
NO. 11 EASTERN REGION: SHILLONG

K.T.
No 16/697
8.

1129
16/6/97

OFFICE OF THE COMMISSIONER OF CUSTOMS (PREVENTIVE)
NORTH EASTERN REGION
:: SHILLONG ::

ORDER NO. 24/97

DATED, SHILLONG, THE 5TH JUNE, 1997.

Subject :- Transfer & posting(Rotation & adjustment) in the
grade of Group-'D' Sepoy of Commissionerate of
Customs(Preventive), North Eastern Region, Shillong
- Order regarding.

In partial modification of this office order No.
17/97 dtd. 8.5.97 & No.19/97 dtd. 19.5.97 issued under endt.
of Even No.1572-1608 dtd. 9.5.97 & No.1864-90 dtd.19.5.97
respectively, the following transfer & posting(rotation and
adjustment) in the grade of Sepoy of Commissionerate of Customs
(Preventive), North Eastern Region, Shillong are hereby ordered
with immediate effect and until further orders.

Sl. No.	Name	Places of posting	
		From	To
1.	S/ Shri " Dibiman Purkayastha Sonamura CPP	Agartala Cus(P)Divn. (U/O of transfer to Divl. Office, Agartala vide Order No.17/97 dtd.8.5.97.)	Retained upto Dec'97.
2.	" Moloy Paul	DEP Unit, Agartala Agartala Cus(P)Divn. (U/O of transfer to Manu LCS under Karinganj Cus(P)Division, vide Order No.19/97 dtd.19.5.97.)	Retained upto Dec'97
3.	" Indrajit Bhattacherjee	Khawai P.P. Agartala Cus(P)Divn. (U/O of transfer to Divl. Office, Agartala vide Order No.86/97 dtd.11.4.97)	Retained upto Dec'97
4.	" P. Haokip	Divl. (A.S & Marc/Intt) Aizawl Cus(P)Division.	Palit CPP Imphal Cus(P)Divn.
5.	" V. Jiani Singh	Divl. Office Aizawl Cus(P)Division.	Divl. Office Imphal Cus(P)Divn.

5/1
(LALLI GHOSH)
COMMISSIONER OF CUSTOMS (PREVENTIVE)

- : (2) : -

C. No. II(3)3/ET/CCP/CELL/33/95/ 2955-85

Dated: - 5.6.97

Copy forwarded for information & necessary action to :-

1. The Deputy Commissioner (P & V), Customs & Central Excise, Shillong.
2. The Deputy Commissioner (Prev.), CCP's Hqrs. Office, Shillong.
3. The Asstt. Commissioner, Customs (Preventive) Division, Agartala / Karimganj / Imphal / Guwahati / Aizawl / Dimapur / Shillong.
4. The ACAO (Accounts) / PAO, Customs & Central Excise, Shillong.
5. The A.O (Customs), Hqrs. Office, Shillong.
6. The Superintendent, DHP Unit, Agartala / Sonamura CPF.
7. The Superintendent, Pallei CPF, Pallei.
8. The Superintendent (A/S, Narc. & Intt.) Aizawl Customs (Prev.) Divn. Aizawl.
9. The Superintendent (Tech) Divl. Office, Imphal Customs (Prev) Divn. Imphal.
10. The Superintendent (Tech) Divl. Office, Karimganj Customs (Prev) Divn. Karimganj.
11. The Branch-in-Charge, ET. II & III / Accts. I & II / Confdl. Branch / CIU-VIG Branch, Customs & Central Excise, Shillong.
12. The General Secretary, Group-'D' Officers' Association, Shillong.
13. Guard File.
14. Shri _____ Sepoy for compliance.

Chowdhury
 (LALUJNGHENA) 5/6
COMMISSIONER OF CUSTOMS (PREVENTIVE)

C. No. II(3)3/ET/ACA/97/ 21/326(A) Date 11-6-97

Copy forwarded to the Supdt. (A.S), Customs (P), Agartala for information, along with Personal copy of Sri Krishan Bhattacharya, Sepoy for delivery to him.

Enclo. As stated

BC (B.C. DEY)
 Administrative Officer
 Customs Preventive Division
 Agartala.

OFFICE OF THE COMMISSIONER OF CUSTOMS
NORTH EASTERN REGION
SHILLONG

(D)(2)(c)
D-9

ORDER NO. 15/1999
Dated, Shillong, the 2nd August, 1999

Sub :- Transfer & Posting, Rotation and adjustment in the Grade of Group 'D' Sepoys - Orders reg.

In supersession of earlier orders, the following transfer and posting, rotation and adjustments in the Grade of Group 'D' Sepoys of Commissionerate of Customs, North Eastern Region, Shillong are hereby ordered with immediate effect and until further orders.

SL.NO.	NAME	PLACE OF POSTING	
		FROM	TO
S/Shri			
1. Moley Paul	DHP Unit Agartala Cus. Div (U/O of transfer to Kal- Lashahar P.P. under Karimganj Cus. Div. Vide O/No. 10/99 dt. 13-05-99)	Retained upto Dec'99 in the Divisional Office, Agartala Cus. Div.	
2. Dhruba Joshi	Khawaswyl CPF Aizawl Cus. Div (U/O of transfer to Divnl. Office, Aizawl vide O/No. 10/99 dt. 13-05-99)	Retained at Khawas- wyl CPF upto December'99 ✓	
3. Dipak Rn. Das	Moreh CPF Imphal Cus. Div	Cus. Hqrs. Office, Shillong.	

(K.K. DAS) 2
COMMISSIONER OF CUSTOMS
N.E.R., SHILLONG

C.NO. II(3)3/ET/CC/CELL/SH/98/3A28-50(5) Dated :- 05-08-91
Copy forwarded for information and necessary action to :-

1. The Commissioner of Central Excise, Shillong.
2. The Joint Commissioner (P&V), Customs and Central Excise, Shillong.
3. The Assistant Commissioner of Customs, Agartala/Karimganj/Aizawl/Imphal. Copy meant for the concerned officer is enclosed for causing delivery.
4. The Superintendent, Khawaswyl CPF/Dharmanagar CPF/ Moreh CPF.
5. The Superintendent, CC's Cell, Shillong.
6. The C.A.O., Customs and Central Excise, Shillong.
7. The AAO/PAO, Customs and Central Excise, Shillong.
8. The A.O.(Customs), Customs Hqrs., Shillong.
9. The Branch-in-Charge, ET.II & III/Accts/Confdl/Vig. Branch of Hqrs. Office, Shillong.
10. The General Secretary, Cus.&C.E. Gr.'D' Officers, Assn. Shg.
11. Shri _____, Sepoy.

(H.L.DRY) 5/8/91

ASSIST. COMMISSIONER OF CUSTOMS (P&V)

Annexure-10
S
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ANNEXURE-8



OFFICE OF THE COMMISSIONER OF CUSTOMS
NORTH EASTERN REGION
SHILLONG

C.No. II(3)/ET/CC/CELL/SH/98/884(A)

Dt. 16/03/2000

To

The Assistant Commissioner,
Agartala Customs Division.

Sub:- Relieve of Sri Moloy Paul, Sepoy - Regarding.

Sir,

I am directed to inform you that Commissioner of Customs, N.E.R., Shillong desires that Sri Moloy Kr. Paul, Sepoy presently posted in Customs Divisional Office, Agartala should be relieved by 31st March, '00 as per Order No. 15/99 dt. 2.8.99.

The representation of Sri Moloy Kr. Paul, Sepoy dt. 24.12.99
against him the assistant commissioner, Agartala Customs division vide his office letter C.No. II(3)/ET/ ACA/91/4554(A) dt. 24.12.99 has been rejected by Commissioner.

Yours faithfully,

(M. L. DEY)

Assistant Commissioner(P&I)
Customs Headquarter
N.E.R.U. SHILLONG

Annexure-II

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ANNEXURE

5

OFFICE OF THE COMMISSIONER OF CUSTOMS
NORTH EASTERN REGION
SHILLONG

ORDER NO. 13/2000

Dated, Shillong, the 24th August, 2000

Shri Moloy Kr. Paul, Sepoy, presently posted at Agartala Customs Divisional Office and under order of transfer to Kailasahar PP is posted to D.P.F., Agartala Customs Division with immediate effect and until further orders.

KL DAS
(K. K. DAS)
Commissioner Of Customs

C.No. II(3)1/ET/CC/CELL/SH/99/ 2669-83 (A)

DL. 25. 08. 2000

Copy forwarded for Information & necessary action to :-

1. The Joint Commissioner(P&V), Customs & Central Excise, Shillong.
2. The Assistant Commissioner, Agartala Customs Division.
3. The C.A.O./P.A.O., Customs & Central Excise, Shillong.
4. The A.O., Customs Hqrs., Shillong.
5. The Branch-in-charge Accts. I & II / ET II & III/ Confld./ CIU-Vigil. Br. Of Customs & Central excise, shillong.
6. Sri Moloy Kr. Paul, Sepoy for compliance.
7. The General Secretary, Gr. 'D' Officers Association, Customs & Central Excise, Shillong.
8. Guard file.

W.L. Dey
(W.L. Dey)
Assistant Commissioner(P&I)

25/8/2000

666 SUPREME COURT CASES 1994 Supp (2) SCC
transferees were being paid special pay in addition to their pay but the direct recruits were denied this privilege. This Court held that the denial of special pay to Class I direct recruits amounted to violation of Articles 14 and 16 of the Constitution and that they were entitled to special pay at the same rates at which it is paid to the transferred officers working in the Centre.

4. The learned counsel for the appellants has sought to distinguish this case on the ground that in that case this Court found that the special pay was not being paid to the transferred officials for compensating their displacements or for their qualifications but was being paid for the arduous and special nature of the functions to be discharged in the Telecommunication Research Centre. It has been urged that in the present case special pay was being paid to the officials appointed by way of transfer to enable them to encounter the problems due to the disturbance involved. The said explanation that has been put forward for grant of special pay to transferred officers cannot, however, be accepted. In Rule 1307 [FR 9 (25)] of the Indian Railway Establishment Code, Volume II, the expression "special pay" has been defined as under:

"Special pay. — Means an addition, of the nature of pay, to the emoluments of a post or of a railway servant, granted in consideration of —
(a) the specially arduous nature of duties; or
(b) a specific addition to the work or responsibility and includes non-practising allowance granted to doctors in lieu of private practice."

Moreover, the High Court has found that the averment in the writ petition with regard to the posts having arduous nature of duties was not controverted in the affidavit that was filed on behalf of the appellants in the writ petition in the High Court. In these circumstances, we find no basis for distinguishing the instant case from the case of *Telecommunication Research Centre Scientific Officers' (Class I) Assn.*

5. We, therefore, find no merit in this appeal and it is accordingly dismissed. No order as to costs.

1994 Supp (2) Supreme Court Cases 666

(BEFORE P.B. SAWANT AND N.P. SINGH, JJ.)

DIRECTOR OF SCHOOL EDUCATION,
MADRAS AND OTHERS

Appellants;

versus

O. KARUPPA THEVAN AND ANOTHER

Respondents.

Civil Appeal No. 546 of 1994, decided on January 31, 1994

A. Service Law — Transfer of employee — Transfer for exigencies of administration — Affording prior hearing in case of — Held, not necessary — Administrative Law — Natural justice — Hearing — Inapplicability of the principle of (Para 2)

B. Service Law — Transfer of employee — Employee's children studying in school — Transfer of such employee during mid-academic term — Propriety — In

41-

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81-35

667 A.M. VADI, INDIA TRADE PROMOTION ORGANISATION
absence of urgency such transfer restrained from being effected till the end of that academic year
(Para 2)

Appeal allowed

H.R/13371/SLA

ORDER

1. Leave granted. Heard both counsel.
2. The tribunal has erred in law in holding that the respondent employee ought to have been heard before transfer. No law requires an employee to be heard before his transfer when the authorities make the transfer for the exigencies of administration. However, the learned counsel for the respondent contended that in view of the fact that respondent's children are studying in school, the transfer should not have been effected during mid-academic term. Although there is no such rule, we are of the view that in effecting transfer, the fact that the children of an employee are studying should be given due weight, if the exigencies of the service are not urgent. The learned counsel appearing for the appellant was unable to point out that there was such urgency in the present case that the employee could not have been accommodated till the end of the current academic year. We, therefore, while setting aside the impugned order of the Tribunal, direct it is the appellant should not effect the transfer till the end of the current academic year. The appeal is allowed accordingly with no order as to costs.

d

1994 Supp (2) Supreme Court Cases 667

(BEFORE S.C. AGRAWAL AND M.K. MUKHERJEE, JJ.)

A.M. VADI

Appellant;

versus

INDIA TRADE PROMOTION ORGANISATION
AND ANOTHER

Respondents

Civil Appeal No. 713 of 1994 in SLP (Civil) No. 20597
of 1993, decided on February 4, 1994

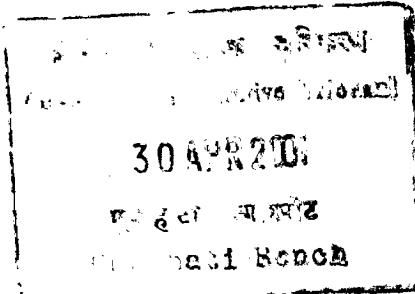
- A. Service Law — Appointment — Selection — Non-selection to a post abroad for want of adequate balance service to fulfil the condition to serve the employer for the requisite minimum period (two years in this case) after completing the normal tenure of such posting (three years in this case) abroad — High Court's interference in exercise of its writ jurisdiction, with such a decision of the Selection Committee — Held, the High Court could not find fault with the Selection Committee's decision for not curtailing the period of foreign service for a few months to accommodate the writ petitioner (herein Respondent 2) — Further, in a writ petition against non-selection on the said ground, the High Court could not examine the eligibility of the selected candidate — Constitution of India, Art. 226
- B. Service Law — Appointment — Selection — Non-selection — Selection Committee's decision regarding — Scope of judicial review — Constitution of India, Art. 226

Held:

The High Court in exercise of its jurisdiction under Article 226 of the Constitution was not justified in finding fault with the decision of the Selection Committee because in rejecting the candidature of Respondent 2 the Selection

Annexure - 12
Annexure 79 10

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI

O.A. NO. 65 OF 2001

Sri Suklal Shill

- Vs -

Union of India & Others.

- And -

In the matter of :

Written statement submitted by
the respondents.

The respondents Most Respectfully beg to submit
the written statement as follows :

1. That with regard to para 1 and 4, the respondents beg to ~~make~~ offer no comments.
2. That with regard to para 4.2, the respondents beg to state that it is pertinent to mention that Shri Suklal Shill completed a tenure of about 20 years in Customs without being in Central Excise, since it is felt that in principle, all staff should be offered reasonable opportunity of working both in Customs as well as Central Excise.

While the applicant was also fortunate to spend the entire length of his service till date in his home state at Agartala and nearby places, he is now released to Central Excise, and it is for the Central Excise authority to decide whether he merits posting again at Agartala under Central Excise.

VISCUS KEXO

3. That with regard to para 4.3, the respondents beg to state that the Estt. Order No. 16/2001 dated 19.1.2001, has been issued by the Additional Commissioner (P&V), Customs & Central Excise, Shillong, transferring the applicant to Central Excise, Shillong, ~~transferring the applicant~~ after being released from the Customs formation. It may be mentioned that the applicant has rendered service in Customs for about 19 years at a stretch and as such the respondent felt it necessary to release his in Central Excise Commissionerate. As regards educational problem for his daughters on being transferred it is needless to mention here that whosoever gets transferred find it convenient to give the excuse that their children's education is going to suffer. Transfer not necessary imply that the applicant should shifts his children to Shillong when they are going to appear final examination at Agartala. Regarding option as mentioned it may be stated that the same is a general circular issued by the Additional Commissioner (P&V) Customs & Central Excise, Shillong calling for option of those who have completed the tenure in the same station to be taken up for the Annual General Transfer as it is done every year and accordingly, after having seen his bio-data in Customs, it was necessary on the part of the Administration to release his name to Central Excise. It does not necessarily imply that the applicant will be given a posting of his choice. His contention on the matter is not sustainable.

4. That with regard to para 4.4, the respondents beg to state that the ~~comments may be obtained from Central~~ ^{will decide} Excise, Commissionerate regarding submission of representation for his retention as he has been transferred to Central Excise from customs

5. That with regard to para 4.5, the respondents beg to state that it may be mentioned that the applicant through his manipulative scheme could manage to stay well within the state of Tripura only during his long 19 years tenure in Customs. As mentioned earlier the applicant has served maximum period in Customs and it is upto the respondent who has got supreme power to decide whom to release/transfer from Customs to Central Excise and vice-versa. The allegation of the applicant is not substantiated by facts as there was no violation in the transfer.

6. That with regard to para 4.6, the respondents beg to state that the ~~matter may be considered by~~ comments may be obtained from Central Excise, as he has been transferred to Central Excise.

7. That with regard to para 4.7, the respondents beg to state that as mentioned above the Commissioner of Customs is the sole authority regarding transfer and posting of any staff at any time and place depending upon the Administrative exigency.

8. That with regard to para 5.1, the respondents beg to state that the ~~matter may be considered by~~ comments may be obtained from Central Excise.

9. That with regard to paras 5.2, and 5.3, the respondents beg to offer no comments.

10. That with regard to para 5.4, the respondents beg to state that there has not been any violation in the transfer order.

11. That with regard to para 5.5, 5.7 and 9, the respondents beg to state that the ~~applicant was transferred to~~ comments may be obtained from Central Excise, as per rule.

12. That with regard to para 5.10, the respondents beg to

-4-

12. That with regard to para 5.10, the respondents beg to state that there as not been any violation of the transfer guidelines etc.

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

I, Shri VISIELIE KEZO, DEPUTY COMMISSIONER OF CUSTOMS, being authorised do hereby solemnly declare that the statement made in this written statement are true to my knowledge, belief and information and I have not suppressed any material fact.

And I sign this verification on this day of April, 2001.

Kezo
24/4/01
Declarant