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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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Dismissed. Date-26/09/2001

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O.A/T.A No. 90/2001

R.A/C.P No.....

E.P/M.A No. 127/2001

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SECTION OFFICER (Judl.)

FORM NO.4  
(See Rule 42)

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

CONFIRM ORDER SHEET  
APPLICATION NO 90 OF 2001

Applicant(s) Man Braham Chhuti

Respondent(s) U.C.I term

Advocate for Applicant(s) S.S. Sarma, V.K. Kurzamri

Advocate for Respondent(s) CASL

Notes of the Registry	Date	Order of the Tribunal
in form written vide P Date 26/03/01 27-2-2001 F.D. Register 27-3-2001	28.2.2001	Heard Mr. S. Sarma, learned counsel for the applicant. The application is admitted. Call for the records. Issue notice as why the order No. RC(P)6/88 dated 23/24.10.2000 transferring the applicant, Shri M.B. Driver (T-1) from ICAR Umiam to ICAR Research Complex Basar and the order No. RC(P)6/89 dated 27.11.2000 relieving the applicant for joining at Basar, Arunachal Pradesh, shall not be suspended. Returnable by three weeks. In the meantime, the aforesaid transfer order shall remain suspended. List it on 21.3.01 for orders.

Service of Notice  
is given to the  
respondents vide O.  
No. 856 to 858 dttd 7/3/01

nkm

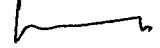
NS  
21/3/01

Vice-Chairman

✓  
V ✓  
O.A. 90 of 2001.

21.3.01 List after four weeks enabling the respondents to file written statement. In the meantime the interim order dated 28.2.2001 shall continue.

Fix the matter on 25.4.2001 for further orders.

  
Vice-Chairman

trd

25.4.2001 Four weeks time allowed to the respondents to file written statement. List for orders on 30.5.01.

  
Vice-Chairman

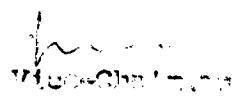
nkm

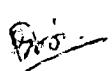
No written statement has been filed.  
The applicant may file rejoinder, if any, within three weeks time from today.  
List on 11.7.2001 for orders.

  
Vice-Chairman

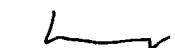
bb

11.7.01 List on 20.7.01 to enable the respondents to file written statement.

  
Vice-Chairman

11.7.2001  
nkm  
All the Respondents  
20.7.01  


The pleadings are completed. List the case for hearing on 3.8.01.

  
Vice-Chairman

lm

(3)

3

O.A. No.90 of 2001

Notes of the Registry	Date	Order of the Tribunal
	3.8.01	Adjourned to 31.8.2001 on the prayer of the counsel for the applicant. List on 31.8.2001 for hearing.
W/s has been filed.  30/8/01	trd	
	31.8.	Adjourned to 6.9.2001 B/M A.R.N.
Rejoinder submitted to the W/s.	6.9.01	On the request of Mr.S.Sarma, learned counsel for the applicant, the case is adjourned to 14/9/01 for hearing.
12.9.2001		
	14.9.01	
	14.9.01	Mr.B.C.Das counsel for the respondents stated that he obtained necessary instructions raised in the rejoinder and also obtained instructions as salary are paid to the applicant. The case is accordingly adjourned to 26/9/01 for hearing.
25.9.01	mb	
25.9.01	26.9.01	Judgment delivered in open Court. Kept in separate sheets. Application is disposed of. No costs.
7.12.2001		
copy of judgment has been sent to the office for filing the same to the applicant as well as to L/BM for its records		

Notes of the Registry	Date	Order of the Tribunal

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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 90 of 2001

Date of Decision. 26.9.01

**Sri Man Bahadur Chhetri**

Petitioner(s)

**Mr.S.Sarma, Mr.U.K.Goswami**

Advocate for the  
Petitioner(s)

-Versus-

**Union of India & Ors.**

Respondent(s)

**Mr.K.N.Choudhury**

**Mr.B.C.Das**

Advocate for the  
Respondent(s)

THE HON'BLE **MR.JUSTICE D.N.CHOUDHURY, 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 ?

Judgment delivered by Hon'ble : **VICE-CHAIRMAN**



X

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

Original Application No.90 of 2001

Date of order: This the 26th Day of Sept, 2001

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

1. Shri Man Bahadur Chetri

Driver, T-1

In the office of the ICAR Research Complex for  
NEH Region, Barapani, Meghalaya .

... Applicant

By Advocate Mr.S.Sarma, Mr.W.K.Goswami.

-Vs-

1. Union of India,

Represented by the Secretary to the Govt of India,  
Ministry of Agriculture, Krishi Bhawan, New Delhi.

2. The Director General ,

Indian Council of Agricultural Research, ICAR,  
Krishi Bhawan, New Delhi

3. The Director, ICAR,

ICAR Research Complex for NEH Region,  
Barapani, Meghalaya .

... ... Respondents.

By Advocate Mr.K.N.Choudhury, Mr.B.C.Das

O R D E R.

CHOWDHURY, J(VC):

Vide order dated 23rd October 2000 the applicant  
Shri Man Bahadur Chetri, Driver T-I working at ICAR Research  
Complex for NEH Region, was transferred from ICAR Borapani  
to ICAR, Basar(AP) and in his place Shri Harka Bahadur, Driver,  
Arunachal Pradesh ICAR Research Complex, NEH Region, Basar  
was posted. The legitimacy of the said order is assailed  
in this case as arbitrary and discriminatory.

Mr.S.Sarma learned counsel appearing on behalf of  
the applicant strenuously argued that the impugned order

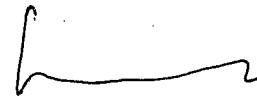
contd/-2

of transfer is arbitrary and discriminatory and violative of Article 14 of the Constitution. The impugned order of transfer of the applicant was passed as a measure of punishment for the alleged misconduct as stated by the respondents in the written statement.

Mr. B. C. Das learned counsel appearing on behalf of the respondents, on the other hand contesting the claim of the applicant stated that the order of transfer was made for administrative exigency.

Upon hearing the learned counsel for the parties I am not inclined to disturb the transfer order dated 23rd October 2000 at this stage. The applicant may however, submit a detailed representation for reconsidering the order of transfer on the grounds mentioned in the application, on his joining at Basar. The authority shall take measure for regularising his leave and to release his salary on his joining in the office. The respondents shall also release an advance of above Rs. 15,000/- to meet the expenses in connection with his transfer. If the applicant make an application for his transfer to Barapani or at Siliguri the respondents may sympathetically consider the same and pass a reasoned order. The direction is given only for the reasons that the applicant is a Group D employee and such the transfer causes severe hardship to the members of his family. The respondents shall consider the case of the applicant expeditiously preferably within two months from the date of his joining at Basar.

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

  
(D.N. CHOWDHURY)  
VICE-CHAIRMAN

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Title of the case : O.A. No. 90 of 2001

BETWEEN

Shri Man Bahadur Chhetri ..... Applicant.

AND

Union of India & ors. ..... Respondents.

I N D E X

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Filed by : U.K.Goswami Regn.No. :

File : MAN Date :

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

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

O.A.No. .... 90 of 2001

BETWEEN

Shri Man Bahadur Chhetri,  
Driver, T-1.  
In the Office of the ICAR Research Complex For NEH Region,  
Barapani, Meghalaya.

..... Applicant.

VERSUS

1. Union of India,  
Represented by the Secretary to the Govt.of India,  
Ministry of Agriculture, Krishi Bhawan, New Delhi.

2. The Director General,  
Indian Council of Agricultural Research, ICAR.  
Krishi Bhawan, New Delhi.

3. The Director, ICAR.  
ICAR Research Complex for NEH Region,  
Barapani, Meghalaya.

..... Respondents.

PARTICULARS OF THE APPLICATION

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

This application is directed against the order date 24.10.2000 transferring the applicant from ICAR Barapani to ICAR Basar, (A.P). This application is also directed against the order dated 27.11.2000 (received by the applicant on 13.2.2001) relieving him w.e.f, 30.11.2000.

2. LIMITATION:

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act.1985.

v.O.  
Filed by:  
Ujjal Krishan  
Advocate  
28-2-2001

**3. JURISDICTION:**

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

**4. FACTS OF THE CASE:**

4.1. That the present applicant is aggrieved by the order dated 24.10.2000 issued by the respondents transferring him from ICAR Barapani to ICAR Basar (A.P) at the feg end of his service career. just after the receiving the said order dated 24.10.2000 the applicant preferred a representation to the concerned authority for consideration of his case but same yielded no result in affirmative except assurances from the higher authority. The applicant thereafter was performing his duties and suddenly he received an envelope containing its registration date as 13.2.2001 issued from the office of the respondents. In the said envelope he found a letter dated 27.11.2000 relieving him from his present place of posting pursuant to the said order of transfer dated 24.10.2000 w,e,f, 30.11.2000. The applicant made several request but some did not yield any result in affirmative . Hence the present application seeking appropriate relive against the aforesaid arbitrary action on the part of the respondents.

This is the crux of the matter for which the present applicant has come before the Hon'ble Tribunal seeking redressal against his grievances.

4.2. That the applicant is a citizen of India and as such he is entitled to all the rights and protections as guaranteed by the constitution of India and Laws framed thereunder.

4.3. That the present applicant is an ex service man. After serving 24 years of Defence service, the applicant joined the services under the respondents as Driver T-1. The applicant

served under the respondents as Driver T-1 to the satisfaction of all concerned, and at no point of time there has been any complaint from any higher officials.

4.4 That surprisingly enough, the respondents have handed over an order dated 24.10.2000 to the applicant, transferring him from his present place of posting to the ICAR Basar, A.P. The applicant made several representations to the concerned authority both oral as well as written making a prayer for modification of the said order dated 24.10.2000.

A copy of the said order dated 24.10.2000 is annexed herewith and marked as ANNEXURE-1.

4.5. That the applicant as stated above made several representations to the concerned authority for consideration of his case both oral as well as written but apart from assurances he has not been issued with any order considering his case. The applicant kept on performing his duties till the mid part of February 2001 and till that time no order relieving him from his service has been issued on him.

Copies of the said representations are annexed as ANNEXURE-2 colly.

4.6. That the applicant as stated above made several representations before the respondents highlighting his grievances and also made a prayer for modification of the said order dated 24.10.2000 . The applicant apart from his other grievances made it clear before the respondents regarding his age and remaining length of service.

4.7. That the applicant as stated above has been serving as Driver T-1 under the respondents till the mid part of the month of February 2001. The respondent authority also took his attendance in the prescribed register showing his duty period. In the mid part of February he received a registered envelope

bearing the date of such registration as 13.2.2001, containing a letter dated 27.11.2001 relieving him from his service w.e.f, 30.11.2000 and an amount of 15,000.00 has been sanctioned to him as advance in absence of any such prayer from him.

A copy of the said order dated 27.11.2000 and the envelope are annexed herewith as ANNEXURE-3 Colly.

4.8. That the applicant as stated above is an Ex-Serviceman and after serving 24 years of defence service he joined the services under the respondents. Presently the applicant has got only 3 years of service in his credit and at the beg end of his service career he has been sought to be transferred to place which is a tenure place of posting/hard station. The applicant has got his permanent establishment in Meghalaya and his three unmarried daughters are now studying under Meghalaya Board of Education. Apart from that the wife of the applicant is a cardiac patient. The applicant highlighting his entire grievances made

4.9. That the applicant begs to state that presently he is drawing his pension from Shillong and in case he is transferred to the Basar (A.P.) it would not be possible for him to draw the pension and same will tell upon his financial condition. on the other hand as stated above the applicant has got only 3 years of service left in his credit and at that point of time he wants to remain with his family members. The respondents knowing fully well all the facts have issued the order of transfer only to harass him and the said action of the respondents is in direct contradiction of various guidelines issued by the respondents from time to time.

4.10. That the applicant could come to know that the post of the applicant will be filled up by a casual driver which is per se illegal and arbitrary. The fact is apparent from the impugned

order dated 24.10.2000 itself since nobody has been given posting against his post. The applicant also could come to know that the respondents have issued the impugned order without any authority and same has been issued without any approval from the higher authority.

4.11. That the applicant begs to state that the respondents have acted arbitrarily in issuing the order of transfer and the subsequent order of release, that too to accommodate a casual driver replacing a regular one. Till date the applicant has not been paid his salary for the month of January and February although he has performed his duties. The applicant in this view of the aforesaid facts prays for an interim order directing the respondents not to give effect the order of transfer dated 24.10.2000 till the disposal of the application.

#### 5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action on the part of the respondent in issuing the impugned order is illegal and same depicts non application of mind and hence the same is liable to be set aside and quashed.

5.2. For that the respondents have issued the order of transfer without any authority and same being an order contradictory to the various guidelines issued by the Govt of India from time to time, is liable to be set aside and quashed.

5.3. For that the non-disposal of the representation filed by the applicant is arbitrary and illegal and on the said ground itself the action of the respondents are liable to be set aside and quashed.

5.4. For that the applicant having a very little service period left in his credit and hence his case for retention in ICAR Barapani, is required to be considered.

5.5. For that in any view of the matter the action/inaction of the respondents are not sustainable in the eye of law and liable to set aside and quashed.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to them and there is no alternative remedy available to him.

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

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

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant:-

8.1. To direct the respondents to issue necessary modification to the orders dated 24.10.2000 and 27.11.2000 retaining the applicant in ICAR Barapani.

8.2. To direct the respondents to pay the due salary to the applicant.

8.3. Cost of the application.

8.4. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deemed fit and proper.

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9. INTERIM ORDER PRAYED FOR:

Pending disposal of the application the applicant prays for an interim order directing the respondents not to give effect to the order of transfer and relieving orders dated 24.10.2000 and 27.11.2000 till the disposal of this application, and allow the applicant to continue in his present place of posting.

10. \*\*\*\*\*

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

1. I.P.O. No. : 26 503697
2. Date : 27.2.2001
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

*caut*

VERIFICATION

I, Shri Man Bahadur Chhetri, son of Shri Ram Bahadur Chhetri, aged about 57 years, at present working as Driver (T-I) do hereby solemnly affirm and verify that the statements made in paragraphs 2, 3, 4.2, 4.3, 4.6, 49-41165-12... are true to my knowledge and those made in paragraphs 1, 4.1, 4.4, 4.5, 4.7, 4.8... are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 28<sup>th</sup> day of February of 2001.

Signature.

Man Bahadur Chhetri

INDIAN COUNCIL OF AGRICULTURAL RESEARCH  
ICAR RESEARCH COMPLEX FOR N.E.H. REGION  
UMROI ROAD, UMIAM-793103.

ap. RC(P96/88. Dated the Umiam 23rd October, 2000.

O R D E R

In the interest of public service, the Director, ICAR Research Complex for N.E.H. Region, Umiam is pleased to transfer the following Drivers with immediate effect.

Name and Designation	From	To
1. Shri.M.B.Chetri, Driver (T-I)	ICAR Research Complex for NEH Region, Umiam.	Arunachal Pradesh Centre, ICAR, Research Complex for NEH Region, Basar.
2. Shri.Harka Bahadur, Driver,	Arunachal Pradesh, ICAR Research Complex for NEH Region, Basar.	ICAR Research Complex for NEH Region, Umiam.

( M.J.Kharmawphlang )  
Administrative Officer

Copy for information and necessary action to:-

1. Finance and Accounts Officer, ICAR Research Complex for NEH Region, Umiam.
2. Asstt. Administrative Officer, (Estt) ICAR Research Complex for NEH Region, Umiam.
3. Shri.M.B.Chetri, Driver (T-I), ICAR Research Complex for NEH Region, Umiam.
4. Shri.Harka Bahadur, Driver, ICAR Research Complex for NEH Region, Arunachal Pradesh Centre, P.O. Basar, Arunachal Pradesh.
5. Joint Director, Arunachal Pradesh Centre, ICAR Research Complex for NEH Region, P.O. Basar, Arunachal Pradesh Centre.
6. Recruitment Cell.
7. Personnel file of Shri.Harka Bahadur, Driver.

R.K.D.  
23/10/2k.

\*\*\*

Attested  
Abdullah  
P.S. Officer

To

The Director

ICAR Research Complex for NEH Region,  
Umroi Road, Umium-793103.

(Through proper channel)

Sub: Transfer to Arunachal Pradesh Centre.

Sir,

In referring to your order No.RC(P)6/88 dated 23rd October 2000 transferring me to Arunachal Pradesh Centre, Basar. I am to state the following few lines in this connection for favour your sympathetic consideration.

- (1) That Sir, my wife is suffering from diabetic and high blood pressure since long and undergoing treatment in Shillong with the specialists concerned at Military Hospital, Shillong.
- (2) That Sir, my three daughters are studying in different schools/College in Meghalaya.
- (3) That Sir, I am constructing a house at Siliguri which is started and it will require at least one year to complete the house.
- (4) That Sir, I am a defence petitioner and getting pension from Shillong as per Defence Rules and it can not be transferred to Basar.
- (5) That Sir, I shall be retiring after 3 years and I am old in age and have physical problem for which treatment is going on here.

Under the above circumstances, I pray to your honour to kindly re-consider my case of transfer and cancel the same so that I can save my family members by staying with them at least

*Mr. M. S. Walgama  
Advocate*

for 3 years.

Dated Umiam the 1st Nov. 2000.

Yours faithfully

(M.B.Chettri)

Driver T-I, ICAR, Umiam.

1.11.2000

ANNEXURE-

(REMINDER - I)

To

The Director

ICAR Research Complex for NEH Region,  
Umroi Road, Umium-793103.

(Through proper channel)

Sub: Transfer to A.P. Centre.

Sir,

With reference to the subject captioned above, I would like to state that I am very much aggrieved for the fact that I have been transferred to A.P. Centre inspite of the fact that I have submitted my petition to cancel the transfer order wherein I have put forward the very many problems; the personal problems, family problems, my health problems, the health problems of my family members and many other problems I am confronted with as shown in my petition dated 1.11.2000.

In this regard, I pray your goodself to kindly reconsider my case that the transfer may be canceled for which I shall ever pray.

Yours faithfully

(M.B.Chetri)

Driver

7.12.2000.

(THROUGH PROPER CHANNEL)

*Attended  
With your  
protest*

ANNEXURE-

(REMINDER - II)

To

The Director

ICAR Research Complex for NEH Region,  
Umroi Road, Umium-793103.

Meghalaya

(Through proper channel)

Sub: Transfer to Arunachal Pradesh Centre.

Sir,

With reference to the subject cited above, I have the honour to state that I have submitted request application dated 1st Nov.2000, reminder dated 7.12.2000 and Medical Certificate dated 29.12.2000 to consider the cancellation of my transfer, ICAR Arunachal Pradesh Centre Basar (A.P.) on stated grounds.

I am sorry to inform you that I am not getting any replies from you Sir, till date and my daily attendance is cut in the Attendance Register without giving any proper reasons in the month of January 2001.

Further I am to inform you that I have submitted a Medical Certificate of Civil Hospital, Shillong of Eye Specialist Doctor.

Further I am to inform you that I served several All over India in Military Service for 24 (twenty four) years leaving my family members. My three years of service is left and I may kindly be allowed to serve remaining three years of service without disturbing me and my family members as per Government provisions.

I humbly request you Sir, to kindly reconsider my transfer to ICAR Basar Centre (A.P.) in keeping in view of

*M. H. S. S.  
W. H. G. W.  
P. D. S. C. A.*

requested applications stated above.

An early reply is awaited from you Sir at earliest date.

Thanking you.

Yours faithfully

(M.B.Chetri)

Driver,

Dated, Shillong

the 22.1.2001.

TC  
The Director,  
ICAR Research Complex,  
Umiam, Meghalaya.  
(Through Proper Channel).

Sub : request for reconsideration of my transfer to  
A.P. Centre.

Ref : 1) My application dated 1.11.2000.  
2) My reminder No.1 application dated 7.12.2000.  
3) My reminder No.2 application dated 22.1.2001.

Sir,

I have the honour to inform you that I surprised to know from cashier that your name is not in salary bill whereas as I have attended my duty in the vehicle, ICAR Barapani in the month of January, 2001 as per attendance register of the vehicle cell. One line was drawn in the attendance register without any signature for which I have informed you Sir vide my reminder application dated 22.1.01.

Again, I am to inform you that I have served the Nation all part of the Country even in very difficult area of the Country and fought against Pakistan War in the year 1965 and 1971 in Armed Forces, 57 years of age does not allow me to move from one place to another place. Remaining three years of service at the time of retirement is allowed me to serve at ICAR Barapani as per grievances provided by the Government.

Further, I would like to draw your kind information that I have following difficulties to move from ICAR Barapani to Arunachal Pradesh Centre, Basar(A.P.).

1) That Sir, three years of my service is left and it is very painful for me to go on a transfer with luggage in age of 57 years old.

2) It is very difficult to change the pay address to draw the military pension again and again.

contd..2...

Attended  
At Your  
private

- 3 -

3. My three unmarried daughter are studying at school/ college of Shillong in the course of Meghalaya, State which courses are not teaching by the Arunachal Pradesh.

I can not leave my three unmarried daughter alone at ICAR colony Barapani for their studies.

4. Treatment of my ill wife is going on at Shillong for which facilities are not available at Arunachal Pradesh, Centre, Basar.

5. It is very risky to my life as well as office duty to attend in full tension and leaving alone at Arunachal Pradesh Centre, Basar( A.P ).

7. If I was forced to join at Arunachal Pradesh Centre, Basar, something goes wrong with my family members my life at A.P. Centre, Basar and also office duties, responsibilities will go to the office or officer.

Keeping in view of the above mentioned facts, family and personal problems, I humbly request you Sir, kindly to reconsider my transfer to Arunachal Pradesh Centre Basar, (A.P.).

An early reply in this regard is awaited from you Sir, at the earliest date.

Thanking you,

Yours faithfully,

Dated,  
the \_\_\_\_\_ 2001.

( *M. B. C HETRI* )  
DRIVER - T

*Mr. B. C. HETRI*  
DRIVER - T

INDIAN COUNCIL OF AGRICULTURAL RESEARCH  
ICAR RESEARCH COMPLEX FOR N.E.H. REGION  
UMIAJ ROAD, UMIAM-793103:

BR

No. RC(P)6/88.

Dated the Umiam 27th November, 2000.

O\_R\_D\_E\_R

In pursuance of this Office order of even number dated 24/10/2000, the Director, ICAR Research Complex for NEH Region, Umiam is pleased to relieve Shri. M.B. Chetri, Driver (T-1) with effect from 30.11.2000 (A.M.) so as to enable him to join at his new place of posting at Arunachal Pradesh Centre, ICAR Research Complex for NEH Region, P.O. Basar.

Sanction is also accorded to the grant of an advance of Rs. 15,000/- (Rupees fifteen thousand) only to enable him to meet the expenditure in connection with his Transfer.

*JK*  
( M.J. Kharmanphlang, )  
Administrative Officer,

Copy for information and necessary action to:-

1. Finance & Accounts Officer, ICAR Research Complex for NEH Region, Umiam.
2. Asstt. Administrative Officer, (East) ICAR Research Complex for NEH Region, Umiam.
3. Shri. M.B. Chetri, Driver (T-1), ICAR Research Complex for NEH Region, Umiam. This has a reference to his application dtd. 1.11.2000 and it is intimated that the same could not be considered due to Administrative reason.
4. Joint Director, Arunachal Pradesh Centre, ICAR Research Complex for NEH Region, P.O. Basar, Arunachal Pradesh.
5. Vehicle Coordinator, ICAR Research Complex for NEH Region, Umiam.
6. Recruitment Cell, for information and necessary action.
7. Sr. P.A. to Director, for kind information of the Director.

*Shastri  
M. J. Kharmanphlang  
Administrator*

\*\*\*

रजिस्टरेड / REGISTERED

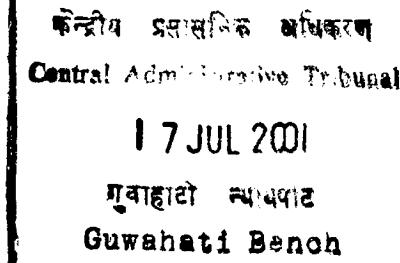
10663

13/2/01

W. S. Voss (T-1)

5521-12-12 Chelmsford 13/2/01  
Delafield Type II No 144  
1002 1003 1004 1005 1006 1007 1008  
1009 1010 1011 1012 1013 1014 1015  
1016 1017 1018 1019 1020 1021 1022

Accepted  
W. G. Larson  
D. S. Cole



File by  
Bimal Chandra Das  
Advocate  
17.7.01

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

ORIGINAL APPLICATION NO. 90/2001.

Shri Man Bahadur Chettri ... Applicant.

- Versus -

Union of India & Ors. ... Respondents.

The Respondent No. 3 begs to file their Written Statement as follows :-

1. That all the averments and submissions made in the Original Application are denied by the answering Respondent save and except what has been specifically admitted herein and what appears from the records of the case.

2. That with regard to the statement made in paragraph 1 of the Original Application ( hereinafter referred to as the O.A. ) the answering respondents beg to state that the order dated 27.11.2000 was given to the applicant personally and upon his refusal to accept the aforesaid letter it was served upon through the peon book on 1.12.2000 which too was not received by them.

2.

Thereafter the applicant was issued another order No. RC(P) 6/88 dated 19.12.2000 in partial modification of order dated 27.11.2000 whereby it was communicated that the services of the applicant has been & relieved w.e.f. 31.12.2000 ( A.N.) and further an amount of Rs. 15,000/- has been released as TA which may be received from the Cashier of the Institute. But the applicant has refused to accept the same and thereafter when the same was sent through the peon book on 21.12.2000 the applicant even refused to receive the aforesaid orders. Later on both these orders were sent to the applicant through registered post at his residence. In this connection it would be pertinent to state that the applicant suppressed these relevant facts in the Original Application. On this count alone the Original Application is liable to be dismissed.

Relevant extract of the Peon Book and the letter dated 19.12.2000 are annexed hereto and are marked as ANNEXURES - R1 & R2.

3. That with regard to the statement made in paragraph 2 of the Original Application the answering respondents state that the applicant vide his communication dated 29.12.2000 had communicated to the respondent No. 3 referring the transfer order as well as the release order that due to his indisposition he is unable to proceed to Arunachal Pradesh Centre, Basar to join at his

30

3.

new place of posting. Pursuant thereto the applicant submitted an application dated 30.12.2000 for medical leave w.e.f. 30.12.2000 to 8.1.2001 for 10 days along with the Medical certificate and advice of the AMA for 10 days rest. As a matter of fact it is clearly proved that the applicant was well aware about his release order and especially the order dated 19.12.2000, which he did not receive deliberately and vide which he was relieved w.e.f. 31.12.2000 (A.N.). In this connection it would also be relevant to state that till date the applicant has not produced any fitness certificate/application praying for extension of leave or joining report. It may also be noted that the applicant was released w.e.f. 31.12.2000 and the interim order of this Hon'ble Tribunal dated 28.2.2001.

Copies of letter dated 29.12.2000, 30.12.2000 with medical certificates, Form of Application for Leave and Doctor's Prescription are annexed hereto and are marked as Annexures - R3, R4, R5 and R6 respectively.

4. That with regard to the statement made in paragraph 3 of the Original Application the answering respondent has no comments to offer.

5. That with regard to the statement made in paragraph 4.1 of the O.A. the answering respondents beg

contd....

to state that the order dated 24.10.2000 was issued whereby the applicant was transferred to Basar, Arunachal Pradesh. The representation filed by the applicant on 1.11.2000 was rejected by the Competent Authority on Administrative Ground and the same was communicated to him on 27.11.2000. However, the order No. RC(P) 6/88 dated 27.11.2000 was modified and in partial modification another order No. RC(P) 6/88 dated 19.12.2000 was issued whereby the applicant is deemed to be relieved w.e.f. 31.12.2000 (A.N.) from ~~the~~ his present place of posting. Thus the question of the applicant performing duties beyond 31.12.2000 (A.N.) does not arise. The applicant proceeded on leave by simply leaving an application for 10 days medical leave w.e.f. 30.12.2000 to 8.1.2001 along with unfit certificate provided by AMA and till date neither the applicant has extended the leave nor reported alongwith his fitness certificate for resuming his duties. However, if at all he was declared fit which is not known to the institute he should have proceeded to join at his new place of posting at Arunachal Pradesh Centre, Basar in lieu of his communication dated 29.12.2000 (Annexure-R3). It is denied by the answering respondent that all of a sudden on 13.2.2001 he received the order dated 27.11.2000 relieving the applicant w.e.f. 30.11.2000. In fact, the Office had issued two orders relieving the applicant, first one was issued on 27.11.2000 and the other one was issued on 19.12.2000 in partial modification of order

contd....

5.

dated 27.11.2000 relieving the applicant w.e.f. 31.12.2000 (A.N.). The applicant had refused to accept both the orders and so both the orders were sent at his residence by registered post. The applicant was very well aware of the subsequent order dated 19.12.2000 as would be evident from the letter dated 29.12.2000 ( Annexure - R3 ). Therefore, the pretence of the applicant may not be of any avail. Further when the competent authority disposed of the representation dated 1.11.2000 vide letter dated 22.11.2000, the question of disposal of reminder stated to have been filed by the applicant does not arise. It is thus evident that the applicant has resorted to falsehood and suppression of material fact.

6. That with regard to the statement made in paragraph 4.2 of the O.A. the answering respondents have no comments to offer.

7. That with regard to the statement made in paragraph 4.3 of the O.A. the answering respondents deny the averments of the applicant that he has served under the respondents as Driver T-1 to the satisfaction of all concerned. There are instances of gross misconduct on the part of the applicant and complaints about non-performance of emergency duties and incidents of his insubordination.

contd....

6.

Copies of the aforesaid complaints and the reply are annexed hereto and are marked as ANNEXURE - R 7, R 8 and R 9 respectively.

8. That with regard to the statement made in paragraph 4.4 of the O.A. the answering respondents beg to state that the representation dated 1.11.2000 was examined and was rejected by the competent Authority on Administrative grounds.

9. That the answering respondents deny the correctness of the statement made in paragraph 4.5 of the O.A. as it is absolutely misconceived. The applicant was informed vide order dated 27.11.2000 that his representation dated 1.11.2000 for cancellation of transfer order dated 23/24.10.2000 could not be acceded to due to the Administrative grounds. Regarding the applicant's performance of duty upto mid February, the respondents beg to state that he had proceeded on Medical Leave w.e.f. 30.12.2000 for 10 days i.e. prior to the date of his release from present place of posting to Arunachal Pradesh Centre, and till date neither he has submitted any fitness certificate provided by AMA, if any, for resuming his duties nor he has applied for extension of the leave. As a matter of fact the applicant is absent unauthorisedly from ~~the~~ his duty nor he has proceeded to join at I.C.A.R., A.P. Centre, Basar after availing

contd....

7.

medical leave. Thus the averment of the applicant that till mid part of February, 2001 he performed his duties and till that time no relieving order was issued is a false statement made on oath. The applicant's letter dated 29.12.2000 ( Annexure - R 3 ) belies his own stand. Therefore, this aspect~~s~~ of the applicant's conduct needs to be viewed seriously by this Hon'ble Tribunal.

10. That with regard to the statement made in paragraph 4.6 of the O.A. the answering respondents beg to state that it is incorrect that the applicant has made several representation. Only one representation dated 1.11.2000 was submitted which was replied to vide letter dated 27.11.2000. The remaining letters dated 7.12.2000, 22.1.2001 and 16.2.2001 are reminders to letter dated 7.11.2000. Since, the representation dated 1.11.2000 was rejected by the competent Authority, the question of disposing the reminders does not arise.

11. That with regard to the statement made in paragraph 4.7 of the O.A. the answering respondents beg to state that the applicant performed his duties till 29.12.2000 and thereafter he applied for medical leave w.e.f. 30.12.2000 to 8.1.2001. In terms of his letter dated 29.12.2000 the applicant ought to have proceeded to A.P. Centre, his new place of posting as in the meanwhile, he was released from Barapani w.e.f. 31.12.2000, vide Order dated 19.12.2000. That apart, the Medical Leave availed by the applicant also expired on 8.1.2001.

8.

Thus the question of the applicant remaining on duty till mid part of February, 2001 does not arise. The respondents have never taken his attendance in the Attendance Register beyond 31.12.2000 (A.N.). But such is the arrogance of the applicant that he has unauthorisedly and forcibly signed the Attendance Register from 8.1.2001 to 31.1.2001 and from 1.2.2001 to 15.2.2001. The order dated 27.11.2000 was sent to the applicant by registered post only when he refused to receive it. The amount of Rs. 15,000/- was sanctioned to him as T.A. Advance to avoid any inconvenience to the applicant in proceeding to join at his new place of posting i.e. at I.C.A.R., A.P.C. Centre, Basar.

12. That with regard to the statement made in paragraph 4.8 of the O.A. the answering respondents beg to state that it is not true that the applicant has got his permanent establishment in Meghakaya because he has drawn House Building Advance for constructing a house at Siliguri. The other points raised by the applicant cannot be considered on the aforesaid Administrative grounds.

A copy of the said representation dated 1.11.2000 is annexed hereto and is marked as ANNEXURE - R 10.

13. That with regard to the statement made in

contd....

paragraph 4.9 of the O.A. the answering respondents do not agree that the applicant cannot draw his pension if he joins at Basar and further the respondents have never insisted that he should not remain with his family. It is denied by the respondents that the transfer order has been issued to harrass the applicant or in contravention of various guidelines issued by the respondents from time to time. It is for the applicant to plea and establish violation of any such guidelines governing transfer.

14. That with regard to the statement made in paragraph 4.10 of the O.A. the answering respondents beg to state that the driver who is to replace the applicant is a permanent T-1 Driver working in the Institute and not a Casual Driver as stated by the applicant. The Director of the Institute is fully a T-1 technician (driver) and this transfer competent to transfer/order has been issued with the approval of the competent authority and in the exigencies of Administration.

15. That with regard to the statement made in paragraph 4.11 of the O.A. the answering respondents beg to state that they have not acted in any arbitrary manner as has been alleged by the applicant in issuing the transfer as well as release orders. On the other hand the applicant has behaved in an irresponsible manner

32

10.

and had even refused to receive the official communication. As a matter of fact the applicant has resorted to conduct which can be termed as insubordination and tried to even mislead this Hon'ble Tribunal and has suppressed material facts regarding his relieving order w.e.f. 31.12.2000 vide order dated 19.12.2000. He has also mislead this Hon'ble Tribunal with the information that the person who will replace him is a Casual Driver. As pointed out above the applicant's reliever is a permanent T-1 Driver of the Institute.

A copy of the order dated 13.12.1999 is annexed hereto and is marked as Annexure-R11.

16. That under the facts and circumstances stated above, it is respectively submitted that the application is devoid of any merit and the same deserves to be dismissed with cost.

VERIFICATION ....

VERIFICATION

I, Dr. Narendra Deo Verma, Son of Munilal Verma, aged about 57 years, presently working as Director, Indian Council of Agricultural Research, Research Complex for N.E.H. Region do hereby verify that the statements made in paragraphs 1, 4, 5, 6, 8, 9, 10, 11, 13 and 14 are true to my knowledge and those made in paragraphs 2, 3, 7, 12 and 15 being matters of records of the case are true to my information derived therefrom which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.

I sign this verification on this the day of July, 2001 at Guwahati.

Narendra Deo Verma

निदेशक / Director

भा. कृ. अनु. प.-उ. पूर्वी पर्वतीय अनुसंधान परिसर.

ICAR Research Complex For N.E.H. Region.

उमियम, मेघालय

Umiam, Meghalaya

SIGNATURE

PEON BOOK 19

- 12 -

PEON BOOK 19

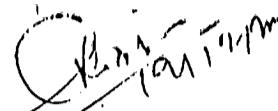
ANNEXURE - R-1

ICAR RESEARCH COMPLEX FOR N.E.H. REGION  
UMIAM, UMIAJ, UMANAM, UMANAM

MO

O R D E R

In partial modification to this Office Order of even number dtd.27.11.2000, Shri.M.D.Chettri, Driver (T-1) is hereby relieved of his duties with effect from 31.12.2000, so as to enable him to join his new place of posting at Basar, Arunachal Pradesh Centre. Other points of the earlier order dtd.27.11.2000 remain same.

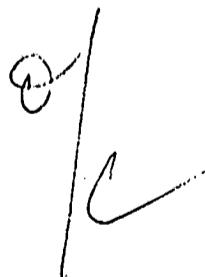
  
(G. Sinha)  
Asstt. Administrative Officer,  
(Admn)

Copy for information and necessary action to:-

1. Finance & Accounts Officer, ICAR Research Complex for N.E.H. Region, Umiam.
2. Asstt. Administrative Officer, (Ett), ICAR Research Complex for NEH Region, Umiam.
3. Shri.M.B.Chettri, Driver (T-1), ICAR Research Complex for N.E.H. Region, Umiam. An amount of Rs.15,000/- (Rupees fifteen thousand)only has been released as T.T.A. which may be received from the Cashier of this Institute.
4. Joint Director, Arunachal Pradesh Centre, ICAR Research Complex for NEH Region, P.O. Basar, Arunachal Pradesh.
5. Vehicle Coordinator, ICAR Research Complex for NEH Region, Umiam.
6. Recruitment Cell, ICAR Research Complex for NEH Region, Umiam for information and necessary action.
7. Sr.P.A. to Director, for kind information of the Director.

xkd.

\*\*\*



To

The Director  
ICAR Khar. complex,  
Uniam. (Through proper channel)

Sub:- Transfer to AD centre

Sir,

I am to refer to the transfer and release order issued by this office and I would like to inform you that due to indisposition I am not able to join at the new place of Posting as AD-Centre. Copies of the medical certificates are attached herewith for your kind information.

yours faithfully

(<sup>13/4</sup>  
N. B. CHETRI)  
DRIVER

Enclo:- xerox copies of:-  
 ① Medical Certificate  
from Dr A.K. <sup>DR. A.K.</sup> Dangal  
 ② from Medical Officer  
ICAR.

Dated Uniam,  
The 29<sup>th</sup> Dec 2000.

posting  
Mr. put up  
Uniam  
Uniam  
21.12.2000

ড়. বি.পি. চক্রবর্তী  
Dr. B.P. Chakraborty  
বিকাশপাত্রী  
Medical Officer

ভাৰত অনুসংক্ষা উত্তৰ পূর্বী পৰ্বতীয় পৰিসৰ  
ঢমেই হেড, বাঢ়াপানো ৭৯৩১০৩  
ICAR Research Complex for N.E.H. Region,  
Umroi Road, Barapani - 793103  
নং 64304

- 15 -

মনোনী নং ১৩

Certified that Mr. B. Chakraborty  
has been under  
suffering and undergoing  
treatment for Low Tension  
Glossitis.

He is advised by the  
eye specialist to rest  
him every 15 days.

Sh. No. 13 -  
He is advised to avoid  
much movement and  
physical strain and refrain driving  
till further order.

বিকাশপাত্রী / Medical Officer  
ভাৰত অনুসংক্ষা পৰ্বতীয় অনুসংপ্রান পৰিসৰ  
ICAR Research Complex for N.E.H. Region  
ঢমেই, মণ্ডালয়  
Umroi, Meghalaya

Dr. K. Dass, M.B.B.S, M.S.

Chair of Contact Lens Foundation (India)  
Research Scholar Juntendo University, Tokyo &  
Institute of Clinical Ophthalmology, Kyoto (Japan)  
Eye Surgeon and contact lens Specialist  
Senior Surgeon, Central Mobile unit  
Civil Hospital, Shillong

TELEPHONE

Hosp. : 234100  
Clinic : 227689

-16-

CONSULTATIONS BY APPOINTMENT  
PHONE :- 221310

Dr. M. B. Dass

Re

① Glaucopic eye -

(dys. due -)

② Vitiligo - 20

11 - 12

Adv.

Check up -

15 days of Medicine

PLEASE BRING THIS PRESCRIPTION ON YOUR NEXT VISIT

To

The ADG(A)

ICMR Res Complex

Umiam (Through proper channel)

Sub:- Grant of leave on medical ground

Sir,

I would like to request you to kindly grant me leave on medical ground w.e.f. 30-12-2003 to 08-01-2004. The medical certificate is attached herewith for favour of your kind information and necessary action.

Yours faithfully

© Dated 30.12.2003  
(M B CHETR)

Driver

~~Refine~~  
The regular vehicle  
Coordinated is on tour  
when he come back  
will be back  
within 15 days  
Refugee  
31.12.2003

अवकाश के लिए आवेदन पत्र  
Form of Application for Leave

(दखें अनुसूत नियम 216)

(See Supplementary Rule 216)

टिप्पणी : नं. 1 से 11 तकी राजपत्रित / अराजपत्रित अवेदकों द्वारा भरी जाए।

NOTE : Items 1 to 11 must be filled in by all applicants whether gazetted or non-gazetted.

1. आवेदक का नाम  
Name of applicant

Shri M. B. Chettri

2. लागू अवकाश नियम

Leave rules applicable

As per Rules

3. पद

Post held

4. विभाग/कार्यालय एवं अनुसार

Department, Office and Section

ICAR Complex Vehicle Cell

5. वेतन

Pay

Rs 4560/-  
As per admissible

6. घरान किराया भता, घरान मता या अन्य प्राप्त प्रतिपूरक भता  
House rent allowance, conveyance allowance,  
or other compensatory allowance drawn in the  
present post

7. अवकाश की प्रकृति, अवधि तथा किस तारिख से अपेक्षित है ?

Nature and period of leave applied for and date  
from which required

Medical Leave w.e.f.

30<sup>th</sup> Dec 2000 (10) days  
to 8<sup>th</sup> Jan 2001

8. अवकाश से पहले तथा शाद में जाने वाले रविवार तथा

शुद्धियाँ

Sundays & Holidays, if any proposed to be  
prefixed / suffixed to leave

9. अवकाश लेने का आधार

Ground on which leave is applied for

Medical Certificate

Enclose on Medical

Leave 10 (ten) days

w.e.f. 30<sup>th</sup> Dec 2000

8<sup>th</sup> Jan. 2001 only

11. में क्लॉक वर्ष..... के लिए अवकाश पाया गया पुरिया पात्र  
करना चाहता हुं / नहीं चाहता।

I Proposed/do not propose to avail myself of  
leave travel concession for the block years  
.....during the ensuing leave.

12. (क) मैं शब्दन देता हूं कि अवकाश की समाप्ति या उपर्युक्त दोनों में से बायकुल होने की स्थिति में अंसेत वेतन पर छुट्टी, परिवर्तित छुट्टी तथा  
अंसेत वेतन पर छुट्टी के अवकाश वेतन के अन्तर को लीटा देंगा जो पुर्णांकित अवकाश नियमावली 1933 के सं. नि. 81 (ए) (ii)

नियम II (ग) (iii) के अंतर्गत पापत नहीं है।  
I undertake to refund the difference between the leave salary drawn during leave on average  
pay/comminuted leave and that admissible during leave on half average pay/half pay leave, which

(ख) मैं वयन देता हूँ कि ऐचिक सेवा निवृति या सेवामुक्ति के अवसर पर, या जनशक्ति में अदेय छूटी के बावजूद आधे वेतन पर छूटी अर्जित कर लेता अदेय छूटी के दोगां प्राप्त अवकाश वेतन का लौटाने का वयन देता हूँ जो पुनरायित अवकाश नियमावली 1933 के वित्तीय धर्मिय (ग) / नियम (घ) के अंतर्गत देय नहीं है।

I undertake to refund the leave salary drawn during 'leave not due' which would not have been admissible had F.R. 81 (c) / Rule II (d) of the revised leave Rules, 1933 not been applied, in the event of my voluntary retirement or resignation from service at any time until I earn half pay leave not less than the amount of leave not due availed of by me.

तारिक

Date

आवेदन कर्ता के हस्ताक्षर

Signature of applicant

13. नियंत्रण अधिकारी की टिप्पणी और / या रिफरेंस

Remarks and / or recommendation of the Controlling Officer.

तारिक

Date

हस्ताक्षर

Signature

### CERTIFICATE REGARDING ADMISSIBILITY OF LEAVE

(राजपत्रित अधिकारियों के लिए अधिकारीकृत दस्तावेज़)

(By Accountant General in the case of Gazetted Officer)

14. प्रमाणित किया जाता है कि

Certified that

दिन का

(अवकाश प्रकृति)

for

(Nature of leave)

from

to

(Period)

दि

से दि

तक

नियमों के अंतर्गत देय है।

is admissible under rule

Rules.

of the

हस्ताक्षर

Signature

पदनाम

Designation

15. स्वीकृति प्राप्तिकारी का आदेश

Order of sanctioning authority.

दिनांक

Date

हस्ताक्षर

Signature

पदनाम

Designation

यदि आवेदनकर्ता प्रतिपूरक भत्ता प्राप्त कर रहा है तब स्वीकृति प्राप्तिकारी पक्ष जो सम्मिलित करें कि अवकाश की समिति पर आवंटक की उसी पद पर या समान गति वाले पद पर लौटाने की सामाजिका है।

If the applicant is drawing any compensation:

the sanctioning authority should state whether on

ড়. বি.পি. চক্রবর্তী  
Dr. B.P. Chakraborty

চিকিৎসাধিকারী  
Medical Officer

প.ক. অনু.প.কা. উত্তর পূর্বী পরিসর

ঢমোই হেড, বাঙালী ৭৯৩১০৩

ICAR Research Complex for NEIL Region,  
Umroi Road, Barapani - 793103

৪X  
৪304

S. W. B. Cachar

S. W. B. Cachar  
Informed. I cert. C. W.  
immediate effect for 10 days.  
With regards to treatment

F. U. S.

27/12/3000  
চিকিৎসাধিকারী / Medical Officer  
প.ক. অনু.প.কা. উত্তর পূর্বী পরিসর.  
ICAR Research Complex for N.E.L. Region,  
Umroi, Meghalaya  
Umroi, Meghalaya

(ENGLISH TRANSLATION)

ANNEXURE - R VII.

5/10/94

Sir,

I, DVR M.B. Chetry committed mistake, that is why I am sorry for it. In future I shall follow your order. So apologise me to-day.

Yours faithfully,

Sd/- M.B. Chetry.

Date 5-10-94

-21(A)-

14

କାନ୍ତି

9

51

Dr. M. B. Shaffer 2012

Step 7  $\frac{1}{10000}$   $\frac{1}{21}$   $\frac{1}{100}$   $\frac{3}{11000}$   $\frac{2}{21}$   $\frac{1}{10000}$

காலை முதல் வார் 3-11-51

3/11/51

45 31 81161 042  $\rightarrow$  1251821

Accepted

80. 51094

3-11(4) ~~2011~~ 3-11(4) ~~2011~~

100

(16) M. B. exhibited

—22—

TO

The Director  
ICAR Research Complex for NEH region.  
Umiam.

Date-26/9/00

Subject :- Negligence of emergency duty by Driver.

Sir,

Most respectfully I like to state the following few words for your kind and sympathetic consideration.

That sir, my wife was very seriously ill on 27th of Sept/2000 at about 11:45 P.M. Seeing the condition of my wife the Medical Officer of ICAR advised immediate emergency hospitalization at Shillong. (Copy enclosed)

We contacted the Vehicle Co-ordinator for a vehicle on payment basis. He advised us to contact Shri M.B.Chetri, the driver on duty.

But when we requested Shri M.B. Chetri he refused to go. So we had to wait till morning to get a private vehicle and admit my wife in very serious condition.

Now, I want to confirm whether there is provision for emergency duty for Driver or not. And if there is provision, then how the Driver can refuse it in case of medical emergency.

I shall be grateful if you kindly enquire the matter through some officer and take necessary action. If something happens to my wife then the whole matter will be a complicated one.

With regards.

Copy to:-

Vehicle Co-ordinator for  
favour of information and  
necessary action please.

Yours faithfully.

*Khiros Sangma*  
( Khiros Sangma )  
T.S.M. Estate Cell.  
ICAR Research Complex  
Umiam.

Vehicle

DC/word/21

was absent from 11.11.2000 to 25.11.2000  
that time I even suffering from fever  
and also I got some problem in my right leg and  
I can't walk nicely that time that's why  
I can't submit my leave application too.

On 10.11.2000 I take vehicle no. AR-08 725  
at silling and it was break down bcoz  
of some problem for it because when I  
was ready to go to silling I already  
arrived mobilization in vehicle no. AR-08 725  
This has been caused bcoz fire which  
don't think so because vehicle is a  
thing not a natural thing that's where it  
break down how can I know.

iii) On 25.11.2000 I refused to perform an urgent  
medical duty to silling hospital there is  
some reason that those drivers who treat  
those vehicles they went tour in working days  
why they can't go holiday period in urgent  
duty.

Date: 19.12.00

(AAC  
(M.B.Chbezi))

DVR T I

19.12.  
B. J. D. P. A. N. C.

To

The Director,  
ICAR Research Complex for NEH Region,  
Umroi Road, Umiam-793103.

(Through proper channel.)

Sub:- Transfer to Arunachal Pradesh Centre.

Sir,

In referring to your order No. RC(P)6/88 dated 23rd October 2000 transferring me to Arunachal Pradesh Centre, Basar. I am to state the following few lines in this connection for favour your sympathetic consideration.

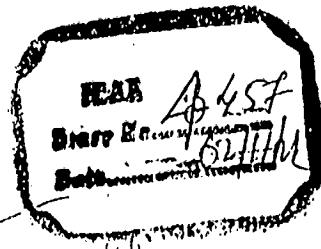
- (1) That Sir, my wife is suffering from diabetic and high blood pressure since long and undergoing treatment in Shillong with the specialists concerned at Military Hospital Shillong.
- (2) That Sir, my three daughter are studying in different School/Collage in Meghalaya.
- (3) That Sir, I am constructing a house at Siliguri which is started and it will require at least one year to complete the house.
- (4) That Sir, I am a defence pensioner and getting pension from Shillong as per Defence Rules and it cannot be transferred to Basar.
- (5) That Sir, I shall be retiring after 3 years and I am old in age and have physical problem for which treatment is going on here.

Under the above circumstance, I pray to your honour to kindly re-consider my case of transfer and cancel the same so that I can save my family members by staying with them at least for 3 years.

Yours faithfully,

(M.B. Chetri.)  
Driver T-1, ICAR, Umiam.

Dated Umiam the 1st Nov '2000.



Copy to : Admin. Officer ✓

ICAR Admin. Officer

Basirganj

C.K.  
Pl. put up  
11/11/2000

INDIAN COUNCIL OF AGRICULTURAL RESEARCH  
ICAR RESEARCH COMPLEX FOR N.E.H. REGION  
UMIAM-793 103

No. RC(R)5/92

Dt. The 13th Dec., 1999.

ORDER

As Per the recommendation of the DPC constituted vide this office order of even No. dated 9.12.99, the following Administrative, Technical and Supporting staff of the Institute are hereby declared having satisfactorily completed their probationary period/confirmed in their grades with effect from the date shown against each :-

Sl. No.	Name of the Incumbent(Shri/Smt.)	Name of centre and Designation	Date of completion of probation	Date of confirmation.
SIKKIM				
1	Bhagawati Prasad	Tech. Asstt(T-II-3)	already cleared	14.12.95
2	A.K.Sachan	L.S. Farm Manager(T-II-3)	18.02.95	18.02.96
3	Mithilesh Tiwari	Trg. Asstt.(T-4) Home Sc.	09.01.97	09.01.98
UMIAM				
5	Sushil Kr. Sharma	Tech. Asstt(T-II-3)	already cleared	17.11.95
6	Akhil Ranjan Roy	Tech. Asstt(T-II-3)	already cleared	17.11.95
7	Chinadra Shekhar Singh	Tech. Asstt(T-II-3)	already cleared	17.11.95
8	Drulson Rangslang	Tech. Asstt(T-II-3)	already cleared	18.11.95
9	Tandra Bhattacharya	Trg. Asstt.(T-4) Home Sc.	01.06.96	01.06.97
10	Rakesh Kumar	Tech. Asstt(T-4)	13.02.97	13.02.98
11	Arupjyoti Deka	Tech. Asstt.(T-II-3)	07.07.96	07.07.97
12	Neelam Singh	Tech. Asstt(T-II-3)	15.10.98	15.10.99
13	Hrishikesh Chanda	Jr. clerk	01.11.96	01.11.97
14	Purnima Deb	Jr. clerk	08.11.96	08.11.97
15	M.M.Nongkhlaw	Jr. clerk	01.11.96	01.11.97
16	B.Naripam	Jr. clerk	19.11.96	19.11.97
17	Nyamila L. Lomodeli	Driver #	already cleared	25.05.95
18	Gopinad Malakar	Driver #	05.05.95	05.05.96
19	Marcos Mowlong	Driver	17.04.99	—
20	H.J.S.Bhutroy	SS Gr.I	27.09.93	27.09.94
21	Ashima Begum	SS Gr.I	02.09.94	02.09.96
22	Donald Wahlang	SS Gr.I	15.09.95	15.09.96
23	N.Lakhiat	SS Gr.I	30.08.98	30.08.99
MANIPUR				
24	B.K.Sharma	Livestock Farm Manager(T-II-3)	already cleared	19.11.95
NAGALAND				
25	H.D.Singh	Trg. Asso.(T-6) Hort.	24.11.96	24.11.97
26	V.Kenny Nalco	Trg. Asso..(T-6) Home Sc.	24.11.96	24.11.97
27	W.Rajen Singh	Trg. Asso..(T-6)An.Sc.	26.11.96	26.11.97
28	A.K.Khan	Trg. Asso..(T-6)Agro	04.02.97	04.02.98
29	Avinash Chandra	Trg. Asstt..(T-1)Agro.	04.08.96	04.08.97
30	Joseph Kikon	Lab. Asstt (T-2)	27.02.99	—
31	Neren Jamir	Fishery Asstt(T-1)	27.02.99	—
32	Kechom N. Rengma	Met. Observer(T-1)	27.02.99	—
33	Rokolhou Chasse	Fieldman(T-1)	27.02.99	—
34	Visiekolie Sale	Fieldman(T-1)	27.02.99	—

—CONT'D.—

(3)

35	Solelhou Piehyu	Stockman(T-1)	27.02.99	-
36	K.K.S.Lumini	Driver(T-1)	05.03.99	-
37	Sato Naleo	Driver(T-1)	05.03.99	-
38	R.K.Sinha	Power Tiller Operator(T-1)	05.03.99	-
39	Neizevillo Nakliro	Jr.Streno	22.02.99	08.12.96
40	Topati Chakraborty	Hindi Typist	08.12.95	27.03.99
41	Rekha Christopher	S.S.Gr.I	27.03.97	27.03.99
42	Narayan Poudel	SS Gr.I	27.03.98	30.08.99
43	Moamongala Ao	SS Gr.I	30.08.98	-
ARUNACHAL PRADESH				
44	Bharti Saloi	Trg. Asstt.(T-4) Home Sc.	01.03.97	01.03.98
45	Rahul singh	Fieldman(T-1)	already cleared	16.03.95
46	Om Prakash	Fieldman(T-1)	already cleared	16.03.95
47	Jagot Ch. Kochi	Fieldman(T-1)	already cleared	16.03.95
48	R.B.Sukla	Met. Observer(T-1)	16.03.94	16.03.95
49	Naresh Kumar	Stockman(T-1)	16.03.94	16.03.95
50	II.B.Chetri	Driver(T-1)	05.11.97	05.11.98
51	Labanya Gogoi	SS Gr.I	23.07.94	23.07.95
52	Bimal Ch. Das	Safaiwala	29.09.97	29.09.98
53	Sikoli Ram	Safaiwala	29.09.97	29.09.98
TRIPURA CENTRE				
54	Ashit Chakraborty	Farm Manager(T-6)	18.05.97	18.05.98
55	Ram Murti	Tech. Asstt(T-II-3)	already cleared	17.11.95
56	Ram Narayan	Tech. Asstt(T-II-3)	05.05.95	05.05.96
MIZORAM CENTRE				
57	Girish Narayan Singh	Met. Observer(T-1)	already cleared	10.9.95
57	Smt. Thanga Zuali	Safaiwala	01.06.96	01.06.97

# T-1 w.e.f. 29.6.96

Sd/-

( N. D. Verma )

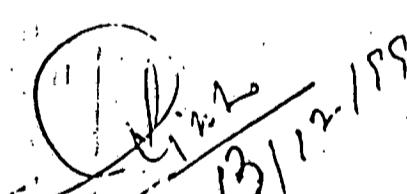
Director

Dt. The 13th Dec., 1999.

Memo No. RC(R)/5/92

Copy to,

1. All the Joint Directors of Centres/KVK In-charge, Tura
2. All Heads of Divisions /Sr.Farm Manager of Hqs/ All A.A.Os of Hqs.
3. Finance & Accounts Officer.
4. Personal file/Service Book.
5. All the persons concerned by name.

  
 ( G. Sinha )  
 Asstt. Admin. Officer

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संघीय प्रशासनिक अधिकार अदायक  
Central Administrative Tribunal

10 SEP 2001

गुवाहाटी न्यायालय  
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

D.A. No. 90 of 2001

M.B. Chhetri.  
.....Applicant.

Vs

U.O.I & Ors.  
..... Respondents.

REJOINDER TO THE WRITTEN STATEMENT FILED BY THE RESPONDENTS  
NO.3.

1. That the applicant has received the copy of the statement filed by the respondent No.3 and have gone through the same and understood the contentions made therein. Save and except the statements which are not specifically admitted hereinbelow, rests may be treated as total denial and the respondents are put to be strictest proof thereof.
2. That with regard to the statement made in para 1 of the written statement the applicant offers no comment on it.
3. That with regard to the statement made in para 2 of the written statement the applicant denies the correctness of same and begs to state that no copy has been served on him. The statement regarding serving the copy through the Peon Book is also not correct. On 1.12.2000, the applicant was on tour to Aizawl and hence the statement is not true at all. The applicant has not yet accepted the amount of Rs.15,000/- from the respondents. At that point of time the applicant was on official tour to Aizawl , and

55  
Dated 10/9/2001  
Advocate  
Algha

question of serving him on 1.12.2000 does not arise. The respondents knowing fully well that fact has made statement contrary to records and for which they are liable for contempt of Court's Proceeding.

A copy of the Log Book (Extract) is annexed  
herewith and marked as Annexure- RJ-1.

4. That with regard to the statement made in para 3 of the written statement the applicant while denying the contentions made therein, begs to state that even prior to issuance of the impugned order dated 27.11.2000, from a reliable source, he could come to know the fact that at any moment he would be released to A.P. Centre and hence on 1.11.2000 itself he made a request to the respondents for consideration of his case. The aforesaid fact will be revealed from this representation dated 22.1.2001 (Annexure-2). It is further stated that unless a copy of impugned order is not served, the question of transferring him does not exist. As per official records/Register, the applicant was in service up to 13.2.2001 but the respondents thereafter has not allowed him to work even after the interim order. The respondents have preferred a M.P. for vacation of his said interim order but till date no modification has been made by the Hon'ble Tribunal. The respondents have violated the said interim order dated 28.2.2001 and the applicant has not been paid his salary since January 2001.

5. That with regard to the statement made in para 4 of the written statement the applicant offers no comments on it.

6. That with regard to the statement made in para 5 of the written statement the applicant while denying the statement therein begs to state that the modified copy of the order has not been served on him officially. In fact, said Sri Harka Bahadur (Driver) who was sought to be posted in place of the applicant has also made a prayer that he may be kept in A.P. Centre and the applicant could come to know that in his case impugned order has been modified. Hence the question of transferring the applicant does not arise.

Applicant craves leave of the Hon'ble Tribunal for a direction to the respondents to produce the relevant documents at the time of hearing of the case.

7. That with regard to the statement made in para 6 of the written statement the applicant offers no comment on it.

8. That with regard to the statement made in para 7 of the written statement the applicant denies the correctness of the same and begs to state that admittedly, the respondents have issued the impugned order as a measure of punishment which is not permissible in the eye of law. It is categorically stated that pursuant to Annexure-R-8 complaint, the respondents have initiated action to transfer the applicant to A.P Centre as a measure of punishment. On this score alone the impugned orders are liable to be set aside and quashed.

9. That with regard to the statement made in para 8 of the written statement the applicant denies the correctness of the same and begs to state that no copy has been served on him.

10. That with regard to the statement made in para 9 of the written statement the applicant while denying the contentions made therein and begs to state that rejection of representation by the respondents are illegal. The person sought to post in place of the applicant has been relieved in his place and hence the question of transferring the applicant does not exist. The action of transfer orders (impugned orders) started after receiving the Annexure-R-8 complaint made by one Sri Khiros Sangma, Estate Cell, ICAR against the applicant. From the above it is clear that the action on the part of the respondents in issuing the order has got a direct relation with the aforesaid Annexure-R-8 complaint and therefore it can be termed as an order of transfer with stigma/ punitive action.

11. That with regard to the statement made in para 10 and 11 of the written statement the applicant begs to state that the action on the part of the respondents in disposing of his representation is illegal and the said order dated 27.11.2000 is a non speaking one. Other rejection orders have not been served upon the applicant officially. Applicant was on leave and after the expiry of leave period he has not allowed to draw his salary since January 2001. the applicant has got only 3 years of service left in his service career and at this feg end at his service career the impugned action may cause irreparable loss and injury.

12. That with regard to the statement made in para 12 of the written statement the applicant begs to state that he has now been settled permanently at Shillong. However, due to the problem for owning landed property at Meghalaya, the

applicant started his construction at his native place at Siliguri.

13. That with regard to the statement made in para 13 of the written statement the applicant begs to state that as per recommendation of 5th Central Pay Commission recommendation, the employees should not be made to transfer at the fag end at his service career. The same principles is applicable in the present case.

14. That with regard to the statement made in para 14 of the written statement the applicant begs to state that by the impugned order dated 23/24-12-2000 applicant was sought to be transferred to Basar (A.P.) and one Shri Harka Bahadur, Driver (Basar, AP) was supposed to place in his present place of work. But said Sri Harka Bahadur made several requests to the concerned authority for not transferring him to ICAR, Barapani, Meghalaya and now the applicant could come to know that the concerned authority has considered his prayer and order has been issued to retain him at Basar (AP). Taking in to consideration the aforesaid fact, the impugned orders automatically has lost its force and has became infructious.

15. That with regard to the statement made in para 15 and 16 of the written statement the applicant while denying the statement made therein begs to state that presently Sri P.C.Chowdhury T-3 Tractor Driver and Sri Madhey, Chowkidar, who are not authorised to drive the vehicle, has been allowed to handle the same violating the Rules. However, Sri Harka Bahadur, Driver, is a qualified person to handle the

vehicle but taking in to his retention at Basar, now both Mr. Choudhury and Madhey has been handling the vehicle on adhoc basis.

16. That taking in to consideration the facts and circumstances, the applicant prays that the impugned orders may be set aside and quashed and release his salary w.e.f. January 2001.

VERIFICATION

I, Shri Man Bahadur Chhetri, son of Shri Ram Bahadur Chhetri, aged about 57 years, at present working as Driver (T-I) do hereby solemnly affirm and verify that the statements made in paragraphs 1, 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16..... are true to my knowledge and those made in paragraphs 3, 4, 17, 18, 19, 20..... are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 10<sup>th</sup> day of Sept of 2001.

Signature.

Man Bahadur Chhetri

4 copies  
CAR NO. 2

CAR LOG

BOOK NO. 2

DATE	CAR NO. & DRIVERS NAME	T.O. No.	Petrol Issued Litres Cash/memo No. & Date	JOURNEY COMMENCING FROM		
				Place	Time	Km. Reading
3	4	5	6			
11/17/2000	M. B. Chhatani	251	30 B	Barapani	8 AM	847916
11/18/2000	— do —	— do —	— do —	— do —	9 PM	84516
11/20/2000	— do —	10	— do —	— do —	84783	84783
11/21/2000	— do —	30	— do —	830 AM	84846	84846
11/23/2000	K. NATH	— do —	— do —	— do —	11 PM	85036
11/25/2000	M. B. Chhatani	— do —	— do —	— do —	85133	85133
11/26/2000	— do —	30 + 33	— do —	8 AM	85188	85188
11/27/2000	— do —	— do —	Colaship	11 AM	85516	85516
11/29/2000	— do —	30 + 33	Aizawl	9 AM	85601	85601

MONTH OF			JOURNEY ENDING AT			Total Dist. Km. Run as [Col 9 - Col 6]	O.T. Hours	Official or Personal	Signature of the person using the car
7	8	9	10	11	12	13			
Shillong and Dutia	630 PM	84516	—	—	—	—	—	Official	D. R. Verma D. R. Verma (S-1)
Gumhati and back	915 PM	84783	—	—	—	—	—	Official	—
Shillong and back	—	84846	—	—	—	—	—	Official	D. R. Verma (S-1)
Gumhati and back	11 PM	85036	—	—	—	—	—	Official	—
Shillong and back with Sop Dutia	—	85133	—	—	—	—	—	Official	—
Colaship	9 PM	85516	—	—	—	—	—	Official	—
Aizawl	630 PM	85601	—	—	—	—	—	Official	—
Aizawl Local Duty	8 PM	85671	—	—	—	—	—	Official	—

NO. .... 3

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## CAR LOG

## BOOK

MONTH OF ..... 19