

30/100

6

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

M.P-173/2001 ordersheet pg-1

INDEX

Dismissal. Date-26/09/2001

petition copy pg-1 to 6

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

R.A/C.P No.

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

1. Orders Sheet. O.A-90/2001 Pg. 1 to 3 date 26/09/01
2. Judgment/Order dtd. 26/09/2001 Pg. 1 to 2 Dismissal
3. Judgment & Order dtd. Received from H.C/Supreme Court
4. O.A. 90/2001 Pg. 1 to 18
5. E.P/M.P. 127/2001 Pg. 1 to 4
6. R.A/C.P. NIL Pg. to
7. W.S. Filed by the Respondents No. 2 Pg. 1 to 26 Disposed
8. Rejoinder. Filed by the Applicant Pg. 1 to 9
9. Reply Pg. to
10. Any other Papers Pg. to
11. Memo of Appearance
12. Additional Affidavit
13. Written Arguments
14. Amendment Reply by Respondents
15. Amendment Reply filed by the Applicant
16. Counter Reply

SECTION OFFICER (Judl.)

FORM NO.4
(See Rule 42)

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

ORDER SHEET
Original APPLICATION NO 90 OF 2001

Applicant (s) Man Babu Chhtri

Respondent(s) U.C.I. Term

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

Advocate for Respondent(s) C.A.S.

Notes of the Registry	Date	Order of the Tribunal
-----------------------	------	-----------------------

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 of 23/24.10.2000 transferring applicant, Shri M.B. Driver (T-1) from ICAR Co. Umiam to ICAR Research Complex Basar and the order No.RC(P)6/8 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 of 21.3.01 for orders.

Vice-Chairman

nkm

2/3/01

in form
26503697
27.2.2001
By Registrar

7.3.2001

Service of Notice
issued to the
respondents vide D.
No. 856 of 2001 dated 7/3/01

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.

30.5.01

No written statement has so far 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

lm

20.7.01

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

Vice-Chairman

lm

Notes of the Registry	Date	Order of the Tribunal
W/s has been filed. 30/8.01 trd	3.8.01	Adjourned to 31.8.2001 on the prayer of the counsel for the applicant. List on 31.8.2001 for hearing. Vice-Chairman
12.9.2001 Rejoinder submitted to the Wfs.	31.8.01 trd	Adjourned to 6.9.2001 On the request of Mr.S.Sarma, learned counsel for the applicant, the case is adjourned to 14/9/01 for hearing. Member
	6.9.01	Mr.B.C.Das counsel for the respondents stated that he ^{needs time to} obtained necessary instructions raised in the rejoinder and also obtained ^{to whether salaries} instructions as salary are paid to the applicant. The case is accordingly adjourned to 26/9/01 for hearing. Vice-Chairman
The case is ready for hearing. 25.9.01	14.9.01 mb	Judgment delivered in open Court. Kept in separate sheets. Application is disposed of. No costs. Vice-Chairman
7.12.2001 copy of budget has been sent to the office for fixing the amount to the applicant as well as to L/A for the report	26.9.01 mb	

4
Notes of the Registry

Date

Order of the Tribunal

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.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 ?

Judgment delivered by Hon'ble : VICE-CHAIRMAN



7

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 Bhwan, 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

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

Sl. No.	Particulars	Page No.
1.	Application	1 to 7
2.	Verification	8
3.	Annexure-1	9
4.	Annexure-2	10-16
5.	Annexure-3	17 & 18
6.	Annexure-4	
7.	Annexure-5	
8.	Annexure-6	
9.	Annexure-7	

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

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

12

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 feg 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. GROUND 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.

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.

mae

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 2,3,4.2,4.3,4.6,4.9-4.11,4.5-12... 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 28th 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:

mp.RC(P06/88.

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.

Attended
M. J. Kharmawphlang
P. S. S. S. S.

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 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

Attested
W. J. J. J.
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, Umiam-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)

*Attached
Wg
P.O. 000000*

22

ANNEXURE-

(REMINDER - II)

To

The Director

ICAR Research Complex for NEH Region,

Umroi Road, Umiam-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

Attested
W. S. G. M. S.
Advocate

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.

24

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 where 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 leave 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, Bazar (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
by 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.

1 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. CHETRI
DRIVER - T-1
)

Recd
10/11/01

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

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.

(M.J. Kharmaphiang)
27/11/2000
Administrative Officer,

Copy for information and necessary action to:-

1. Finance & 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-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.

Attended
W. J. Kharmaphiang
27/11/2000

5484

20

REGISTERED

10663

5484 M B Chettr

15/2/01

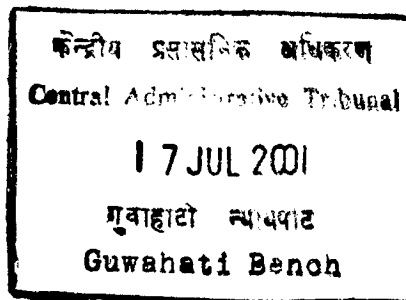
Quadrant No Type II No 14

ICAR RGR Dist Dohrai

Uman Road Uman 793103

प्रेषण अनुभाग / Despatch Section
पा. क. अनु. प-३४ पर्या. पर्वतीय अनुसंधान परिसर.
ICAR Research Complex for N.E.H. Region
दिसियम मेघालय
Uman, Meghalaya

Attested
W. G. Goswami
Advocate



Filed by:
Binai Chandra Das
Advocate.
17-7-01

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

ORIGINAL APPLICATION NO. 90/2001.

Shri Man Bahadur Chetri ... 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.

contd... p 2.

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 ~~is~~ 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 had 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

contd... p 3

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. 30.12.2000. 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 prayed 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 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 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? Centre, Basar.

12. That with regard to the statement made in 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 Meghalaya 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....

9.

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

contd....

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 respectfully submitted that the application is devoid of any merit and the same deserves to be dismissed with cost.

VERIFICATION

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

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

Date	Name and address	Contents	Peon's Name	Time	Receiver's Signature
	Letter from RA H. H. Hagan Mechanic T-4				39 1/23/10
1/10/24	Director Representation of 1-11-24 submitted by SA M. B. Chetani, Dine				0 1/11/24

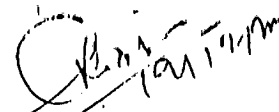
PEON BOOK 19

ANNEXURE - R-1

Date	Name and address	Contents	Peon's Name	Time	Receiver's Signature
1/12/2001	SA M. B. Chetani (1) no Re (C) 6/88, dt 27.11.24		Shivraj but Vijayendra W. H. Hagan Handover to A. A. Chetani 2/11/2001	5 11/11/2001	
2/11/2001	(2) no Re (C) 6/88, dt 17.12.24				11/11/2001

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-I) 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,
(Admin)

Copy for information and necessary action to:-

1. Finance & Accounts Officer, ICAR Research Complex for N.E.H. Region, Umiam.
2. Asstt. Administrative Officer, (Estt), 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.

rkd.

*



The Director
ICAR Res. Complex,
Umiam. (Through proper channel)

Sub:- Transfer to A.P. Centre

Sir,

I am to refer to the transfer and release orders 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 at A.P. Centre. Copies of the medical certificates are attached herewith for your kind information.

yours faithfully

Encls:- Xerox copies of:-

- ① Medical Certificate from Dr A.K. Singh
- ② from Medical Officer ICAR.

(M.B. CHETRI)
DRIVER

Dated Umiam,
The 29th Dec 2000.

Re: Jining
H. put up to
to vehicle vehicle
coordinates.

1/1/2001

डॉ. बी.पी. चक्रवर्ती

Dr. B.P. Chakraborty

चिकित्साधिकारी
Medical Officer

भा.क.अनु.प.का उत्तर पूर्वी पर्वतीय परिसर

उमरोई रोड, बड़ापानी 793103

ICAR Research Complex for NEH Region,

Umroi Road, Barapani - 793103

☎ 64304

-15-
42

In case M. B. Chohi

Certified that M. B. Chohi has been under suffering and undergoing treatment for Low Tension Glaucoma.

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

She is advised to avoid much of movement and physical strain and rest further.

चिकित्साधिकारी / Medical Officer
भा.क.अनु.प.का उत्तर पूर्वी पर्वतीय अनुसंधान परिसर.
ICAR Research Complex for NEH Region.
उमियन, मेघालय
Umiam, Meghalaya

R. K. Das. M.B.B.S. M.S.

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

TELEPHONE

Hosp. : 224100
Clinic : 227089

CONSULTATIONS BY APPOINTMENT
PHONE :- 221310

-16-

43

Dr M. B. Chatter

R

Q

Glaucoma in sh -
1 day

Q

Vitrectomy - 20

Dr S. K.

Low Tension

Glaucoma

Adv.

Check up ev

15 days

Medication

from

Dr. Das

at

the

hospital

at

the

PLEASE BRING THIS PRESCRIPTION ON YOUR NEXT VISIT

To

The AAU(A)

2C-AE Res Complex

Amman (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 30-12-2k to 08-11-2000. The medical certificate is attached herewith for favour of your kind information and necessary action.

Yours faithfully,

(M B CHETRI)
30.12.2000

Driver

Rajiv

The regular vehicle Coordinator is on tour when he come back put up to him.

Rajiv
31.12.2000

अवकाश के लिए आवेदन पत्र
Form of Application for Leave

(द्वितीय अनुसूची नियम 216)

(See Supplementary Rule 216)

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 *Driver*
4. विभाग/कार्यालय एवं अनुभाग
Department, Office and Section *ICAR Complex Vehical Cell*
5. वेतन
Pay *RS 4560/-*
6. मकान किराया भत्ता, वाहन भत्ता या अन्य प्राप्त प्रतिपूर्क भत्ता
House rent allowance, conveyance allowance, or other compensatory allowance drawn in the present post *AS per admissible*
7. अवकाश की प्रकृति, अवधि तथा किस तारीख से अपेक्षित है ?
Nature and period of leave applied for and date from which required *Medical Leave w.e.f. 30th Dec 2000 (10) ten days to 8th Jan 2001*
8. अवकाश से पहले तथा बाद में जाने वाले दिवस तथा छुट्टियाँ
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. 30th Dec 2000 to 8th Jan 2001 only*
10. पिछले अवकाश से लौटने की तारीख तथा उस अवकाश की प्रकृति और अवधि
Date of return from last leave, and the nature and period of that leave
11. मैं ब्लॉक वर्ष..... के लिए अवकाश यात्रा सुविधा प्राप्त करना चाहता हूँ / 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 यद्यन देता हूँ कि अवकाश की समाप्ति या उसके दौरान में सेवानुसार होने की स्थिति में औसत वेतन पर छुट्टी, परिवर्तित छुट्टी तथा अन्य वेतन पर छुट्टी के अवकाश वेतन के अंतर को लौटा दूंगा जो पुनर्गठित अवकाश नियमावली 1933 के सं. नि. 81 (घ) (ii) नियम II (ग) (iii) के अंतर्गत प्राप्त नहीं है।
I undertake to refund the difference between the leave salary drawn during leave on average pay/commuted leave and that admissible during leave on half average pay/half pay leave, which

(ख) मैं वचन देता हूँ कि ऐच्छिक सेवा निवृत्ति या सेवानिवृत्ति के अवसर पर या जबकि मैं अर्द्ध छुट्टी के बराबर आधे वेतन पर छुट्टी अर्जित कर लेता अर्द्ध छुट्टी के दौरान प्राप्त अवकाश वेतन को लौटाने का वचन देता हूँ जो पुनर्हित अवकाश नियमावली 1933 के क्लियर 8 नियम (ग) / नियम (घ) के अंतर्गत देय नहीं हैं।

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

आवेदनकर्ता के हस्ताक्षर
Signature of applicant

13. नियंत्रण अधिकारी की टिप्पणी और / या सिफारिश
Remarks and / or recommendation of the Controlling Officer.

तारिक
Date

हस्ताक्षर
Signature

पदनाम
Designation

अवकाश की देयता का प्रमाण पत्र
CERTIFICATE REGARDING ADMISSIBILITY OF LEAVE
(राजपत्रित अधिकारियों के लिए महालेखाकार द्वारा)
(By Accountant General in the case of Gazetted Officer)

14. प्रमाणित किया जाता है कि दिन का (अवकाश प्रकृति)
Certified that

(Nature of leave)
for from to

(Period)
दि से दि तक नियमों के अंतर्गत देय है।
is admissible under rule of the Rules.

दिनांक
Date

हस्ताक्षर
Signature

पदनाम
Designation

15. स्वीकृति प्राधिकारी का आदेश
Order of sanctioning authority

दिनांक
Date

हस्ताक्षर
Signature

पदनाम
Designation

यदि आवेदनकर्ता प्रतिपूर्क भत्ता प्राप्त कर रहा है तब स्वीकृति प्राधिकारी यह भी समझाए कि अवकाश की समष्टि पर आवेदक की उसी पद पर या समान भत्ते वाले पद पर लौटने की सम्भावना है।
If the applicant is drawing any compensatory allowance the sanctioning authority should state whether on

डॉ. बी.पी. चक्रवर्ती
Dr. B.P. Chakraborty

चिकित्साधिकारी
Medical Officer

भा.क.अनु.प.का उत्तर पूर्वी पर्यटन परिसर
उमरोई रोड, बड़ापानी 793103

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

☎ 643014

47

Dr. B.P. Chakraborty
observed severe
mild effect for 10 days
with marginal treatment
for P.U.S.

27/12/2008
चिकित्साधिकारी / Medical Officer
भा. क. अनु. प. - 3. पूर्वी गोंय अनुसंधान परिसर.
ICAR Research Complex for N.E.H. Region,
उमियन, मेघालय
Umiam, Meghalaya

(ENGLISH TRANSLATION)

ANNEXURE - R VII.

5/10/94

Sir,

I, DVB 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)-

4A

श्री

जोग जी

१२

(51)

श्री D.V.R. M. B. Chhetri व्यापारी

गहरी व्यापार इस विषय आका हो बाकी

माग लाने आदिन दो आपका ये हुकुम

आ सही पाहण व्यक्त गा आता

मुझे ज्ञात कर दिया

Accepted

do
5/10/94

आपका आगवाया

(11)

M. B. Chhetri

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 wheather 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
fevour of information and
necessary action please.

Yours faithfully.

(Khiros Sangma)

T.S.M. Estate Cell.

ICAR Research Complex
UMIAM.

PC/VOM/2-1

I was absent from 11/11/2000 to 25.4.2000
because that time I was 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 cannot submit my leave application too.

(4)

On the 10.5.2000 I take vehicle NO. AR-08725
at upper shillong and it was break down there.
I am not responsible for it because when I
was ready to go to upper shillong I already
poured mobil oil in vehicle NO. AR 08725.
This has been caused heavy financial
don't think so because vehicle is a natural
thing not a natural thing than where it
break down how can I know.

iii) On 25.5.2000 I refused to perform an urgent
medical duty to shillong hospital there is a
some reason that those drivers who have
has vehicle they went tour in working days.
Why they can't go holiday period in urgent
duty.

Date: 12.6.2000

(Mac
(M.B. Chhetri)
DVR: T I
i c H R.
Bastepane

(H)

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.

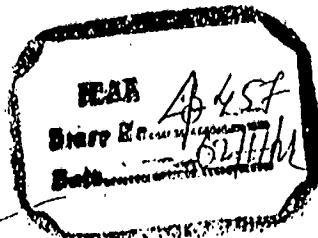
- (1) That Sir, my wife is suffering from diabetic and high blood pressure since long and undergoing treatment in Shillong with the specialists concerned at Military Hospital Shillong.
- (2) That Sir, my three daughter are studying in different School/Collage in Meghalaya.
- (3) That Sir, I am constructing 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 cancell the same so that I can save my family embers by staying with them at least for 3 years.

Dated Umiam the 1st Nov '2000.

Yours faithfully,

(M.B. Chettri.)
Driver T-I, ICAR, Umiam.



Copys to :
Admn. Officer
ICAR Asst. Secy.
Bengaluru

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

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

-25-

53

No. RC(R)/5/92

Dt. The 13 th Dec., 1999.

O R D E R

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
		UNIAM		
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(T4)	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.Nongkhaw	Jr. clerk	01.11.96	01.11.97
16	B.Narayan	Jr. clerk	19.11.96	19.11.97
17	Hemanta Lyndoh	Driver #	already cleared	25.08.95
18	Gopinath Malakar	Driver #	05.05.95	05.05.96
19	Marcos Mowlong	Driver	17.04.99	—
20	H.J.S.Buhtoy	SS Gr.I	27.09.93	27.09.94
21	Ashima Begum	SS Gr.I	02.09.94	02.09.96
22	Donald Walilang	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 Naleo	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 Chise	Fieldman(T-1)	27.02.99	—
34	Visickolie Sale	Fieldman(T-1)	27.02.99	—

35	Solelhou Pienyu	Stockman(T-1)	27.02.99	-
36	K.K.S. Lumni	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	Neizovillo Nakliro	Jr Steno.	22.02.99	08.12.96
40	Tnpati 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. Koch	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	H.B. Chettri	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 Murthi	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. /

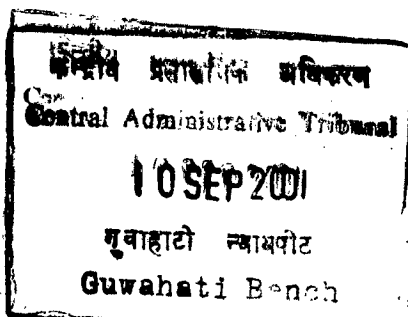
Memo No. RC(R)/5/92

Dt. The 13th Dec., 1999.

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. Admn. Officer



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Filed by
Alsha Das
Advocate
10/9/2001

O.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

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 feg 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 become 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.Choudhury 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, 16..... are true to my knowledge and those made in paragraphs 3, 4, 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 10th day of ...Sept of 2001.

Signature.

Man Bahadur Chhetri

4 copies

CAR LOG

CAR NO. 2

BOOK NO.

ANNEXURE - RJ-1

DATE	CAR NO. & DRIVER'S NAME	T.O. Hours	Petrol issued Litres Cashmemo No. & Date	JOURNEY COMMENCING FROM		
1	2	3	4	Place	Time	Km. Reading
17/200	M.B. Chhetri		30	Barapada	8 AM	84416
18/200	do			do	8 AM	84516
19/200	do			do		84783
20/200	do	10		do		84846
21/200	do	30		do	830 AM	85036
22/200	K. NATH			do		85133
23/200	M.B. Chhetri			do		85188
24/200	do	30+33		do	8 AM	85516
25/200	do			Colaship	11 AM	85601
26/200	do			AIZAWL	9 AM	
27/200	do					
28/200	do					
29/200	do					

MONTH OF

JOURNEY ENDING AT

Place	Time	Km. Reading	Total Km. Run [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 back	630 PM	84516			Official	
Gowhati and back	915 PM	84783			Official	
Shillong and back		84846			Official	
Gowhati and back	11 PM	85036			Official	
		85133				
Shillong and back		85188				
Colaship	9 PM	85516				
AIZAWL	630 PM	85601				
AIZAWL LOCAL Duty	8 PM	85671				

CAR LOG

3

CAR No. & DRIVER'S NAME	Petrol Issued Litres Cashmemo No. & Date	JOURNEY COMMENCING FROM		
		Place	Time	Km. Reading
2	30	4	5	6
19 B. Chhetri	30+27 M.O.L. 1/2	HAZAWL	8:55 AM	85671
de	30	de	0	86076
de		de		86137
de		de		86253

BOOK

MONTH OF

JOURNEY ENDING AT			Total Km. Run [Col. 9-Col. 6]	O. T. Hours	Official or Personal	Signature of the person using the car
Place	Time	Km. Reading				
7	8	9	10	11	12	13
Burapani	1030 PM	86076				
Shillong and back	830 PM	86137				
Sohra & back		86253			Dr.	
Shillong and back		86313				