

30/10/00
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

✓ (DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

FORM NO.4
(See Rule 42)

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

Original ORDER SHEET
APPLICATION NO 92 OF 2001

Applicant (s) K. K. Malakar

Respondent(s) U.O.I Govt

Advocate for Applicant(s) K.N. Chandhury, B.C.Das

Advocate for Respondent(s) case.

Notes of the Registry	Date	Order of the Tribunal
This application is in form but not in due Consideration Petition is filed on the side M.R. No. 56422526 for its side Dated 18.2.2000	1.3.2001	By an order No.03/2000 dated 28.1.2001 the Commissioner of Customs North Eastern Region, Shillong transferred the applicant from Dowki L.C.S to Central Excise, Shillong. At the relevant time the applicant was working as Inspector at Dowki L.C.S. The aforementioned order placing the applicant Shri K.K.Malakar at the disposal of the Commissioner, Central Excise was assailed before the Tribunal in O.A.44/2000. The respondents contes- ted the same and stated that as per the policy guidelines the applicant was transferred from Customs and Central Excise. It was inter alia stated that since the applicant has completed more than 9 years in Customs department he was required to be transferred in the light of the guidelines. The Tribunal considering the respective claims declined to intervene the aforesaid transfer order. Therefore,

1301
Dy. Registry
2001

contd..

1.3.2001 the order placing the applicant at the disposal of the Commissioner, Central Excise was upheld. As a consequence the concerned authority was to take steps for ^{the} release of the applicant from Dawki L.C.S and to place him with the disposal of Commissioner, Central Excise. While things rested at that stage the impugned order dated 16.2.2001 was passed transferring the applicant from Dawki L.C.S to Nampong L.C.S by the Commissioner of Customs, N.E. Region, Shillong. Apparently the order seems to be in ^{congruous} contrarious in view of the earlier decision that was taken by the respondents for placing the applicant at the disposal of the Commissioner, Central Excise.

Heard Mr K.N. Choudhury, learned Sr. counsel appearing for the applicant and also Mr A. Deb Roy, learned Sr. C.G.S.C for the respondents.

We are of the opinion that the respondents instead of transferring the applicant as a Customs Officer ought to have taken necessary steps to release the applicant at the disposal of the Commissioner, Central Excise for necessary posting. In our view the aforesaid order was passed due to some misgivings. Be that as it may, we are of the opinion that ends of justice will be met if a direction is issued on the respondents No. 2 and 3 to pass necessary orders for posting the applicant under the Commissioner of Central Excise on his release from the Customs department. We accordingly direct the respondents to take necessary follow up action as directed and till then the operation of the order dated 16.2.2001 transferring the applicant from Dawki L.C.S to Nampong L.C.S shall be kept in abeyance insofar as it relates to the applicant until further order is passed to that effect by the concerned authority.

Notes of the Registry	Date	Order of the Tribunal
<p>2.3.2001</p> <p>copy of the order has been sent to the Spec. for issuing the same to the L/Admrs - for the parties.</p> <p>SS</p>	<p>1.3.2001</p> <p>pg</p>	<p>The application is accordingly disposed of. There shall, however be no order as to costs.</p> <p>K. K. Sharma Member</p> <p>L. Vice-Chairman</p>

Notes of the Registry	Date	Order of the Tribunal

केन्द्रीय प्रशासनिक न्यायालय
Central Administrative Tribunal

1 FEB 2001

गुवाहाटी न्यायालय
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GU-WAHATI BENCH ::
AT GUWAHATI.

(An application under section 19 of the Administrative
Tribunal's Act, 1985)

Title of the Case : Original Application No. 92/2001.

Kshitendu Kumar Malakar Applicant.

- Versus -

Union of India & Ors. Respondents.

I N D E X

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For use in Tribunal's Office.

Date of Filing : 1.3.2001

Registration No. : 92/2001

REGISTRAR :

Kshitendu Kr. Malakar

2
Filed by:
Bimal Chandra Deka
Advocate
1. 3. 2001.

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

ORIGINAL APPLICATION NO.

92/2001

BETWEEN :

Kshitendu Kumar Malakar,
Son of Shri Kshirod Ranjan Malakar,
Roypatti, Karimganj,
Dist. - Karimganj, (Assam).

.... APPLICANT.

- And -

1) Union of India

Represented by the Secretary,
Department of Finance,
New Delhi.

2) Commissioner of Customs,

N.E. Region, Shillong.

3) Commissioner of Central Excise,

Shillong.

.... RESPONDENTS.

DETAILS OF APPLICATION :

1. Particulars of Order against which the Application has been made :

contd... p 2.

Kshitendu. Kr. Malakar

This application is made against the Order No. 05/2001 dated 16.02.2001 issued by the Commissioner of Customs, North-Eastern Region, Shillong transferring the Applicant from Dawki LSC under Shillong Customs Division to Nampong LSC under Dimapur Customs Division.

2. Jurisdiction :

The applicant declares that this Hon'ble Tribunal has got jurisdiction to adjudicate the matter in regard to which this application is made.

3. Limitation :

The applicant further declares that this application is well within the period of limitation prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4. Facts of the Case :

4.1) That the applicant is a citizen of India and a permanent resident of the State of Assam in the district of Karimganj (Assam). The applicant joined the then Customs and Central Excise Department in the year 1984 as an Inspector. From 1984 to 1994 the applicant served the Agartala Customs Division in different Units. In 1994, the

contd... p 3.

applicant was transferred to Karimganj Customs Division. Thereafter vide Order No. 4/99 dated 9.04.1999 issued by the Respondent No. 2, the applicant was transferred from Karimganj Division to Dawki LSC. It is pertinent to state herein that the applicant neither represented nor opted for the transfer, but complied with the said order. Barely after six months the applicant has again been transferred from Dawki LSC to Bholaganj LSC vide Order No. 22/99 dated 16.11.1999, issued by Respondent No. 2.

A copy of the Order dated 16.11.1999 is annexed hereto and is marked as Annexure - I.

4.2) That the applicant states that the Office of the Respondent No. 2 vide C. No. II(26)20/ET-III/95 dated 21-9.1999 has issued a Circular governing Annual General Transfer of Superintendents/Inspector Grade 6. As per the said Office Order/Circular, Inspector who have been posted continuously in the Divisional Office, Ranges, LSC/preventive post for a period of six years and above, three years and two years respectively will be due for transfer. From the above office order it can be gathered that the applicant who is working as Inspector in Land Custom Station at Dawki can be transferred only after two years. It would also be seen that the applicant worked for five years from 1994 to April, 1999 at Karimganj Division. This is the professed norms and this is what has been incorporated in the Office Order dated 21.9.1999. The Respondents must justify their

contd... p 4.

departure from such professed norms. It would thus be seen that the aforesaid transfer order dated 16.11.1999 has been issued in violation of the guidelines noted above.

A copy of the said Office Order dtd. 21.9.99 issued by the Office of the Respondent No. 2 is annexed hereto and marked as Annexure - II.

4.3) That the applicant states that apart from violating the guidelines issued by the Respondent No. 2, the Respondents have also violated the professed norms governing transfer in passing the aforesaid Order. It is brought to the notice of this Hon'ble Tribunal that the applicant's parents who are aged persons are staying at Karimganj. Both the parents are suffering from old age ailments and are under medical treatment and are not in a position to move to out. In this connection it would also be pertinent to mention that the applicant was transferred from Agartala Division to Karimganj Division in public interest and not at the option or request of the applicant. Therefore, having regard to the above guidelines, the Respondents are duty bound to allow the applicant to complete his tenure of two years at Dawki LSC.

4.4) That the applicant states that the applicant served the department with utmost sincerity and devotion and there is no blemish what-so-ever in his service career.

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Kshitinda. Kr. Malakar

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Recently the applicant has been selected for Superintendent scale of pay under Assured Career Progression Scheme by the B.P.C.

4.5) That the applicant states that the Respondents while issuing the aforesaid order of transfer violated the professed norms formulated by the Department in the matter of transfer. As pointed out above, barely after six months of joining at Dawki, the applicant has again been transferred. The applicant never represented before the authority or opted for Dawki, which is 400 KM away from Karimganj. Yet the applicant complied with the order and joined at Dawki LSC. Having joined the Respondents must allow the applicant to complete the tenure. Such action on the part of the authority cannot be in the public interest. Atleast the Authority must justify the departure from the guidelines by producing the records.

4.6) That being aggrieved by the impugned order of the transfer, the applicant filed a representation to the Respondent No. 2 through proper channel on 19.11.1999, praying for recalling the order and prayed for allowing him to complete his tenure at Dawki LSC in terms of the Office Order dated 21.9.1999.

A copy of the representation dtd, 19.11.99 is annexed hereto and is marked as Annexure- III.

contd....

Kshitendu. Mr. Malakar

4.7) That the applicant states that the authority did not consider the representation filed by the applicant. Situated at thus the applicant had no option but to approach this Hon'ble Tribunal by way of filing O.A. No. 417/99. In the said Original Application the applicant pressed into service all the grounds mentioned above. This Hon'ble Tribunal being *prima facie* satisfied about the δ illegality committed by the authority in passing the order No. 22/99 dated 16.11.1999 was pleased to dispose of the O.A. No. 417/99 vide order dated 13.12.1999 with direction to the Respondents to dispose of the representation dated 19.11.99 submitted by the applicant by a speaking order. It was also ordered that till disposal of the representation the applicant shall be allowed to continue in his present place of posting, i.e. Dawki LSC Liberty was also given to the applicant to approach this Hon'ble Tribunal if he still feels aggrieved.

A copy of the said Order dated 13.12.1999 passed in O.A. No. 417/99 is annexed hereto and is marked as Annexure - IV.

4.8) That after passing of the order dated 19.12.99 in O.A. No. 417/99, the applicant immediately served a copy thereof before the respondents for compliance. But till date the respondents have not disposed of the representation. At least till date the respondents have not communicated anything to the applicant in this regard.

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KShitendra. Mr. Malakar

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4.9) That while the matter rested at this the applicant was shocked and surprised to receive the Order No. 03/2000 dated 28.01.2000 issued by the respondent No. 2 by which the services of the applicant has been placed at the disposal of the respondent No. 3, that too, in a different department.

A copy of the said Order No. 03/2000 dated 28.01.2000 is annexed hereto and is marked as Annexure - V.

4.10) That the applicant challenged the legality of the Order No. 3/2000 dated 28.1.2000 in O.A. No. 44/2000. It was contented that the respondents without complying with the order dated 13.12.1999 passed in O.A. No. 417/99 could not have passed the order dated 28.1.2000. However, relying upon Order No. 1/93 dated 16.6.1993 issued by the Principal Collector, Customs and Central Excise, it was contented by the respondents that the applicant having completed more than 4 years in Customs Formation is due for transfer to Central Excise Formation. Although an interim order was passed on 8.2.2000, but the O.A. No. 44/2000 filed by the applicant came to be dismissed on 9.2.2001.

A copy of the said Judgement and Order dated 9.2.2001 passed in O.A. No. 44/2000 is annexed hereto and is marked as Annexure - VI.

4.11) That from the Judgement dated 9.2.2001, it is

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Kshitindu. Kr. Malakan

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evident that this Hon'ble Tribunal approved the action of the Respondents in transferring the applicant from Customs to Central Excise Formation. In this regard the Hon'ble Tribunal Tribunal relied upon the order No. 1/93 dated 16.6.93. As a matter of fact the respondent No. 2 is not competent to pass any order in respect of the applicant as the applicant was transferred to Central Excise Formation. Moreover, it was the stand of the respondent No. 2 in the Written Statement filed in Original Application No. 44/2000 that the applicant was released from the Custom Formation. Pursuant to the Judgement dated 9.2.2001 it was for the Respondent No. 3 to issue necessary order for posting of the applicant.

4.12) That while the matter rested at this the Respondent No. 2 most ~~secret~~ surreptitiously passed the impugned order No. 5/2001 dated 16.2.2001 whereby the applicant has been transferred from Dawki ICS under Shillong Customs Division to Nampong ICS under Dimapur Customs Division.

A copy of the said order dated 16.2.2001 is annexed hereto and is marked as Annexure - VII.

4.13) That the applicant states that if the applicant is to be retained in Customs Formation as is sought to be done, then the stand taken by the respondents that the applicant has been transferred to Central ^Excise Formation

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Kshitizda, Mr. Malakan

on completion of 4 years tenure in Customs loses all its force. As a matter of fact this Hon'ble Tribunal having approved the plea of the respondents that the applicant cannot be retained in Customs Formation, it is not open to the respondent No. 2 to retain the applicant again in Customs. This Hon'ble Tribunal did not interfere with the Order dated 28.1.2000 as according to this Hon'ble Tribunal the said Order is in confirmity with order No. 1/93 dated 16.6.1993. Therefore, keeping in view the Judgement dated 9.2.2001 passed in Original Application No. 44/2000 the applicant is deemed to be in Central Excise and the only exercise that is left is to give a posting order to the applicant by the respondent No. 3.

4.14) That under the facts and circumstances stated above this Hon'ble Tribunal may be pleased to set aside the impugned order of transfer dated 16.02.2001 in so far as the applicant is concerned.

4.15) That this application has been filed bona fide and in the interest of justice.

5. Grounds for relief with legal provisions :

5.1) For that the respondents committed manifest error of law apparent on the face of the records in passing the order dated 16.2.2001 which is inconsistent with the

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Kshitindra Kr. Malakar

stand taken by the respondents in Original Application No. 44/2000. Therefore the impugned order is legally not sustainable.

5.2) For that the respondents having taken the plea in Original Application No. 44/2000 to the effect that the applicant has been rightly transferred to Central Excise Formation in view of Order No. 1/93 dated 16.6.93, it is not open to the respondent No. 2 to retain the applicant in Customs especially after the order dated 9.2.2001 was passed in Original Application No. 44/2000 by which the order dated 28.1.2000 transferring the applicant to Central Excise has been upheld.

5.3) For that in view of the Judgement dated 9.2.2001 passed in Original Application No. 44/2000 the applicant is deemed to have been transferred to Central Excise. Moreover, the respondent No. 2 could not have passed the impugned order dated 16.2.2001 after having taken the stand in Original Application No. 44/2000 that the applicant has been released from Customs. In any case it is for the respondent No. 3 to pass necessary order for posting of the applicant in Central Excise. Therefore, the impugned order is ex facie arbitrary and legally not sustainable.

5.4) For that the applicant has been discriminated

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in the matter of transfer and posting in violation of the aforesaid office order dated 21.9.1999.

5.5) For that the impugned order is legally not sustainable as admittedly the same is violative of the aforesaid office order and professed norms, in as much as the applicant has not completed his tenure posting at Dawki LCS.

5.6) For that the action of the Respondents in not disposing of the representation dated 19.11.1999 and communicating the result of the applicant is also violative of the law laid down by the Apex Court. It is true that transfer orders can be issued in administrative exigency but is effecting such transfers, the Authority is bound to take note of the guidelines governing such transfers. Further, if any representation is filed, the same has to be disposed of having regard to the guidelines as well as the hardship faced by the Government Servant. The same having not been done, the impugned order is legally not sustainable.

5.7) For that the respondents have violated administrative fair play and has displayed abject arbitrariness in passing the impugned order.

6. Details of remedies exhausted :

That the applicant begs to state that he

contd...

Kshitendu Kr. Malakan

has exhausted all the remedies available to him and there is no other alternative remedy than to approach the Hon'ble Tribunal by way of filing this application.

7. Matters not previously filed or pending before any other court :

That the applicant further begs to declare that he has not previously filed and writ petition/application or suit before any court or authority or any other Benches of the Hon'ble Tribunal regarding the grievances for which this application has been made and nor they are pending before any of them.

8. Relief sought for :

Under the facts and circumstances, the applicant prays 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 the records be further pleased to grant the following relief.

8.1) To set aside and quash the impugned Order No. 05/2001 dated 16.2.2001 issued by Commissioner of Customs, North Eastern Region, Shillong, Respondent No. 2 as far as applicant is concerned.

contd....

Kshitindu. Mr. Malakan

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13.

8.2) To direct the Respondent No. 3 to issue necessary order for posting of the applicant under Central Excise Formation.

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 as may be deemed fit and proper.

9. Interim Order prayed for :

Pending disposal of the application the applicant prays that the impugned order No. 05/2001 dated 16.2.2001 as far as applicant is concerned be suspended.

10. The application is filed through Advocate.

11. Particulars of the I.P.O.

- i) I.P.O. No. : 5G 422526
- ii) Date of Issue : 28.2.2001
- iii) Issued from : Guwahati.
- iv) Payable at : Guwahati.

12. List of Enclosures :

As stated in the Index.

VERIFICATION

Kshitejdev, Kr. Malakar

VERIFICATION

I, Shri Kshitendu Kumar Malakar, Son of Shri Kshirod Ranjan Malakar, aged about 45 years, resident of Roypatti, Karimganj in the district of Karimganj, Assam do hereby solemnly verify that the statement made in paragraphs 4.3, 4.4, 4.5, 4.8, 4.11, 4.13, 4.14, and 4.15 are true to my knowledge, those made in paragraphs 4.1, 4.2, 4.6, 4.7, 4.9, 4.10 and 4.12 being matters of records are true to my information derived therefrom and the rest are my humble submissions before the Hon'ble Tribunal and I have not suppressed any material facts of the case.

And I sign this verification on this 27th day of February, 2001 at Guwahati.

Kshitendu. Ks. Malakar

APPLICANT



OFFICE OF THE COMMISSIONER OF CUSTOMS
NORTH EASTERN REGION
SHILLONG

ORDER NO. 22 / 1999

Dated, Shillong the 16th November, 1999.

Sub:- Transfer & Postings, Rotation & Adjustments in the Grade of Inspectors of Commissionerate Of Customs, North Eastern Region, Shillong - Orders Regarding.

Sl.No	Name Of The Officer	Place Of Posting
1.	R.K. Dorendrejit Singh	From Moreh C.P.E. Imphal Customs Division To Law Branch Guwahati Customs Division
2.	M. Mahanta	Anti-Smuggling Unit, Aizawl Aizawl Customs Division To Khawzawl C.P.E. Aizawl Customs Division
3.	Ms. T. Shylla	Hqrs. Prev. Unit Customs Hqr., Shillong To Anti-Smuggling Unit Shillong Customs Division
4.	Ms. Karabi Das	Anti-Smuggling Unit Guwahati Customs Division To Hqrs. Prev. Unit Customs Hqr., Shillong
5.	Ms. V. Muivah	Anti-Smuggling Unit Shillong Customs Division To Anti-Smuggling Unit Guwahati Customs Division
6.	W.I.K. Singh	Bafat P.P. Shillong Customs Division To Technical Branch Imphal Customs Division
7.	B.B. Tiwari	Technical Branch Shillong Customs Division To Dawki I.C.S. Shillong Customs Division
8.	Raj. Sharma	Shillabazar I.C.S. Shillong Customs Division To Pallet C.P.E. Imphal Customs Division
9.	Bikash Chakrabarty	Khawzawl C.P.E. Aizawl Customs Division To Hqrs. Narcotic Cell Customs Hqr., Shillong

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BE TRUE COPY
R. C. Das
APR 2002

Sl.No	Name Of The Officer	Place Of Posting	
		From	To
10.	Kapil Nath Sharma	Hqrs. Prev. Unit Customs Hqr., Shillong	Disposal Unit Customs Hqr. Shillong
11.	Lalthanlianna	Anti-Smuggling Unit Aizawl Customs Division	Hqr. Narcotic Cell Customs Hqr. Shillong
12.	A.S. Phambuh	Borsora L.C.S. Shillong Customs Division	Balat P.P. Shillong Customs Division
13.	Netra Prasad Joshi	Bholaganj L.C.S. Shillong Customs Division	Dawki L.C.S. Shillong Customs Division
14.	K.K. Malakar	Dawki L.C.S. Shillong Customs Division	Bholaganj L.C.S. Shillong Customs Division
15.	S.K. Chaliha	Dawki L.C.S. Shillong Customs Division	Pymursla P.P. Shillong Customs Division
16.	M. Laloo	Anti-Smuggling Unit Shillong Customs Division	Shellabazar L.C.S. Shillong Customs Division
17.	R.K. Debendra Singh	A.P.R.O. Imphal Customs Division	Hqrs. Narcotic Cell Customs Hqr., Shillong
18.	Swaroop Sharma	Disposal Unit Customs Hqr., Shillong	Hqrs. Prev. Unit Customs Hqr., Shillong
19.	A.K. Nandi	Hqrs. Prev. Unit Customs Hqr., Shillong	Anti-Smuggling Unit Shillong Customs Division
20.	Rajib Chakrabarty	Badarpur C.P.I. Katinganj Customs Division	Hqrs. Prev. Unit Customs Hqr., Shillong

All the officers named above should be relieved and join on or before 30. 11. 99.

2 Nos
 (K. K. DAS) 16.11.99.
 COMMISSIONER OF CUSTOMS
 NORTH EASTERN REGION
SHILLONG

*CERTIFIED
 TO BE TRUE COPY
 B. C. DAS
 ADVOCATE*

C.No. II(3)1/ET/CC/CELL/SII/99/ 5505-62

Dt. 16.11.99

Copy forwarded for information and necessary action to :-

1. The Commissioner of Central Excise, Shillong.
2. The Joint Commissioner(P&V), Customs & Central Excise, Shillong.
3. The Joint Commissioner(Feeh), Customs & Central Excise, Shillong.
4. The Assistant Commissioner(P&I), Customs Hqr. Office, Shillong.
5. The Deputy/Assistant Commissioner of Customs _____ (ALL). Copy meant for the concerned officer(s) is/are enclosed herewith for causing delivery.
6. The C.A.O., Customs & Central Excise, Shillong.
7. The P.A.O., Customs & Central Excise, Shillong.
8. The Administrative Officer(CUS), Customs Hqr. Office, Shillong.
9. The Superintendent _____ (ALL).
10. The Superintendent, Customs Hqr. Office, Shillong.
11. The Branch-in-charge, ET. II & III/ Accts. I & II/ Confidential/ Vigilance Branch of Customs & Central Excise, Shillong.
12. Shri/Smti R. K. Dyer/drajit Singh, Inspector, for compliance.
13. The General Secretary, Group 'C' Executive Officers Association, Customs & Central Excise, Shillong.
14. Guard File.

.....
(M. L. DEY) 6/11/99

ASSISTANT COMMISSIONER(P&I)
CUSTOMS HEADQUARTER
N.E.R. :::: SHILLONG

GERTIFIED
BE TRUE COPY
R. C. Das
ADV. CATE

ANNEXURE I II

CUSTOMS & CENTRAL EXCISE : SHILLONG

C.No.II(26)/ET-III/95/ 60975-1037 dated 23 Sep 1999

To

The Assistant Commissioner () Cus./ C.Ex.
Hqrs Office, Shillong
The Assistant Commissioner of Cus., Shillong Div (A)
The Assistant Commissioner of Cus., _____
The Superintendent() _____

Subject : Option for Annual General Transfer of
Superintendent/ Inspector Grade-C/Reg.

Action is being initiated for the Annual General Transfer of Superintendents and Inspectors posted in Customs and Central Excise Commissionarates, Shillong.

Superintendents who have been posted in the same station, Section/Office and in Customs & Central Excise for continuous period of 4(four) to 6(six) years, 2(two) years and 4(four) years respectively will be due for transfer.

Similarly, Inspectors who have been posted continuously in the Divisional Office, Ranges (out-side Divisional Office), L.C.S/P.P.S, Customs formations and in office of the Commissioner of Central Excise/ Customs Hqrs Office, Shillong for a period of 6(six) years and above, 3(three) years, 2 (two) years, 4 years and 6(six) years to 8 (eight) years respectively will also be due for transfer.

It is, therefore, requested to forward the options of officers for posting in Customs & Central Excise in order of preference for next posting indicating the reasons therefor. Options in the prescribed proforma (enclosed) should reach this office on or before 31.10.99. Options received after 31.10.99 will not be taken into consideration for Annual General Transfer of 1999. It is, therefore, requested to take personal initiative to send the options to this office on or before 31.10.99. While forwarding the proforma it may be ensured that the same is duly verified by the Head of Office.

Please acknowledge receipt.

sd/-

(B. THAMAR)

TO CERTIFIED
BE TRUE COPY
B. C. D.
ADVOCATE

To

The Commissioner of Customs
North Eastern Region, Shillong.

Sub-Representation against sudden transfer and prayer for retention.

Respected sir

Most humbly and respectfully, I lay the following few lines before your sagacious mind for sympathetic consideration.

That Sir, I am an Inspector and have been transferred from Karimganj Division to Dawki L.C Station as per order of the Commissioner of Customs vide his office order no 4/99 Dated 09.04.99, communicated under endorsement no II(3)I/ET/CC/CELL/SH/99 Dated 04.04.99. It is pertinent to mention that I have neither represented nor opted for this unit, but complied with the order of the administration.

It is shocking that once again I am ordered to be transferred to Bholaganja LCS in term of the order no 22/99 Dated 16.11.99 of the Commissioner of customs, Shillong and that too within a spell of 6 months for no apparent reason. It is irony of fate that I am transferred on public interest to Dawki and I have complied with the order and once I settled my family score, I am again transferred to Bholaganja, which has brought me severe hardship.

In this regard, I like to mention that the transfer policy formulated by you and communicated to this office vide Shillong Division Cno II(27)1/ET/AC(SH)/Cus-DIV/95/799-801 Dated 14.10.99 forwarding the memo of the Joint Commissioner (P&V) no II(26)20/ETIII/95/60975-1037 Dated 23 Sept. 99 has categorically enunciated the transfer policy and it was made 2 years criteria for a station posting and moreover, those who are ripe for the transfer were given option to submit their choice of posting. I have neither completed 2 years nor given a chance to submit an option, as I do not come under any criteria for transfer. I have consciously not done any wrong in my works nor my superior ever noticed anything adverse, hence I do not deserve punishments by way of frequent transfers, while others more senior were not touched.

That sir, I feel aggrieved by the frequent transfers, not in consonance with the transfer policy and feel denied of equitable justice, as some will be transferred based on policy and option, hence I lodge my grievance before your honour for sympathetic consideration.

Under the circumstances, I fervently pray to your good self to kindly retain me at my present place of posting at Dawki or else I may be allowed to move to the appropriate authority for seeking justice.

Yours faithfully
K. K. Malakar
(K. K. Malakar)
Inspector, Dawki LCS

Copy forwarded to

- 1) The Asstt. Commissioner of customs, Shillong Division with the request not to relieve till the decision of the representation.
- 2) The Superintendent Dawki LCS with the similar request not to relieve till decision of the representation. (K. K. Malakar)

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ADVOCATE

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 412/99

OF 199

Applicant(s) *Kabitendu Deomar Malakar*Respondent(s) *Union of India and others*Advocate for Applicant(s) *Mr. K.N. Choudhury*Advocate for Respondent(s) *Mr. P. Bhattacharjee**Ms. B. Das**C.G.S.C.*

Notes of the Registry	Date	Order of the Tribunal
	13.12.99	<p>Present : Hon'ble Mr Justice D.N. Baruah, Vice-Chairman.</p> <p>The applicant has approached this Tribunal challenging the frequent transfer orders. According to the applicant within months he was transferred from one place to another for the second time, which has caused great hardship to the applicant and the members of his family. He submitted Annexure-III representation dated 19.11.1999 but as nothing was done and the transfer order was going to be implemented the applicant has approached this Tribunal.</p> <p>Heard Mr K.N. Choudhury, learned counsel for the applicant and Mr B.C. Pathak, learned Addl.C.G.S.C for the respondents. It is true that frequent transfers cause dislocation and hardship to the members</p>

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Notes of the Registry

Date

Order of the Tribunal

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13.12.99

of the family. The rule also suggests that a person normally should not be transferred within 2 to 3 years. However on the prayer of the employee transfer can be made prior to that also. The impugned transfer order does not indicate any such emergent nature. On considering the submissions of the learned counsel for the parties I feel that the authority should dispose of the representation as early as possible, at any rate, within a period of one month from the date of receipt of this order and communicate the same to the applicant. While disposing of the representation the authority shall look to the relevant rules and various decisions of the apex court and pass a reasoned order. Till disposal of the representation the applicant shall be allowed to continue in his present place of posting. If the applicant is still aggrieved he may approach this Tribunal.

The application is disposed of. No order as to costs.

Sd/- VICE CHAIRMAN.



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प्रमाणित प्रतिलिपि

Mon 10/12/99
Deputy Registrar (S)
Central Administrative Tribunal
Guwahati Bench

18/12/99

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B. C. DAS
ADVOCATE



OFFICE OF THE COMMISSIONER OF CUSTOMS
NORTH EASTERN REGION
SHILLONG.

ORDER No. 03/2000
Dated, Shillong the 28th January, 2000.

Subject: Transfer and posting, rotation and adjustment in the grade of Inspectors – Orders Regarding.

The following transfer and posting, rotation and adjustment in the grade of Inspectors of Commissionerate of Customs, North Eastern Region, Shillong are hereby ordered with immediate effect and until further orders.

Sl. No.	Name of the Officer	Place of posting.	
		From	To
01.	S/Shri Balaram Pegu.	Sibsagar Range. Jorhat C. Ex. Division	Agartala Airport. Agartala Customs Division.
02.	Dulal Bhowmick.	Agartala Range. Silchar C. E. Div.	Do
03.	S. Mazumdar.	Do	DHP Unit Agartala Customs Division.
04.	S. K. Chakraborty.	Do	Disposal Unit Agartala Customs Division.
05.	M. L. Choudhury.	Do	Technical Branch Agartala Customs Division.
06.	S. Misra.	Makum Range Tinsukia C. Ex. Division.	Do
07.	M. Banik.	Agartala Range Silchar C. E. Div.	DHP Unit Agartala Customs Division.
08.	Ratan Chakraborty.	Khawai L.C.S. Agartala Customs Division.	Agartala L.C.S. Agartala Customs Division.

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09.	D. Mazumdar.	Sabroom L.C.S. Agartala Customs Division.	DHP Unit, Agartala Customs Division.
10	A. T. Livingstone.	Agartala Range. Silchar C. E. Division.	Do
11.	A. Choudhury.	DHP Unit Agartala Customs Division.	Khowaighat L.C.S. Agartala Customs Division.
12.	B. Bhattacharjee.	Bishalgarh P.P. Agartala Customs Division.	Srimantapur L.C.S Agartala Customs Division.
13.	B. H. Dutta.	Muhurighat L.C.S. Agartala Customs Division,	Bishalgarh P.P. Agartala Customs Division.
14.	D. Modak.	Statistics Branch Central Excise Hqrs. Shillong	Sabroom P.P. in addition Monubazar P.P.
15.	Babul Mazumdar.	Divisional A/E Unit Guwahati	Muhurighat L.C.S. Agartala Customs Division.
16.	Dongginiian	Lunglei P.P. Aizawl Customs Division.	Khazawl C.P.F. Aizawl Customs Division.
17.	P. K. Neihsial	A.P.R.O. Customs Hqrs. Shillong	A.P.R.O. Aizawl Customs Division.
18.	M. Guit.	Serchip P.P. Aizawl Customs Division.	Disposal Branch Aizawl Customs Division.
19.	L. H. Feihrem.	Silchar C.P.F. Karimganj Customs Division	A/S Unit. Aizawl Customs Division.
20.	T. Ginkhanmong	A.P.R.O. Aizawl Customs Division.	Khawzawl C.P.F. Aizawl Customs Division.
21.	L. Hmar.	Khawzawl C.P.F. Aizawl Customs Division.	Serchip P.P. Aizawl Customs Division.
22.	A. Bhuyan.	Technical Branch. Dimapur Customs Division.	Anti - Smuggling Unit Dimapur Customs Division.
23.	C. Baruah.	Tinsukia III Range Tinsukia C. E. Division.	Law/Disposal Branch. Dimapur Customs Division
24.	G. Sime.	Nampong L.C.S. Dimapur Customs Division.	Anti - Smuggling Unit Dimapur Customs Division.

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25.	L. Happyson.	A/S Unit Dimapur Customs Division.	Nampong L.C.S. Dimapur Customs Division.
26.	P. K. Taye.	Law/Disposal Unit. Dimapur Customs Division.	A/S Unit Dimapur Customs Division.
27.	P. L. Saikia.	Tinsukia II Range Tinsukia C. E. Division.	Technical Branch. Dimapur Customs Division.
28.	Ajoy Ghosh.	Audit Branch. Guwahati C. Ex.	A/S Unit. Guwahati Customs Division.
29.	H. C. Sharma.	Nagaon Range. Guwahati C. Ex. Division.	Tezpur C.P.F. Guwahati Customs Division.
30.	Madan Baruah.	Lamding Range. Guwahati C. Ex. Division.	Ghasuapara L.C.S. Guwahati Customs Division.
31.	Ms. Karabi Das.	A/S Unit. Guwahati Customs Division.	Technical Branch Guwahati Customs Division.
32.	G. C. Mandal.	Barpeta Road Range Guwahati C. Ex. Division.	Mankachar P.P. Guwahati Customs Division.
33.	P. D. Kakaty.	A/S Unit. Guwahati Customs Division.	I.C.D. Amingoan, Guwahati Customs Division.
34.	N. Nandi.	Jagiroad Range Guwahati C. Ex. Division.	Tezpur C.P.F. Guwahati Customs Division.
35.	J. M. Bora.	A.P.R.O. Guwahati Customs Division.	Anti Smuggling Unit Guwahati Customs Division.
36.	B. R. Boro.	Chapaguri A/E Dhubri C. Ex. Division	Daranga L.C.S. Guwahati Customs Division.
37.	D. Deka.	Tura C.P.F. Guwahati Customs Division.	Dalu P.P. Guwahati Customs Division.
38.	D. K. Mahanta.	Dalu P.P. Guwahati Customs Division.	Tura C.P.F. Guwahati Customs Division.
39.	Swapan Das.	P.B.C. I Range. Guwahati C. Ex. Division.	A.P.R.O. Guwahati Customs Division.
40.	D. Chakraborty.	I.C.D. (DEEC) Amingoan Guwahati Customs Division.	A/S Unit. Guwahati Customs Division.

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41.	D. P. Bora.	Golaghat Range Jorhat C. Ex. Division.	Customs Divisional Office Guwahati
42.	Arvind Kr. Singh	C.C. Cell Hqrs. Office Shillong	A/S Unit Guwahati Customs Division.
43.	C. K. Chanda.	Dhubri C. Ex. Division	Baghmara L.C.S. Guwahati Customs Division.
44.	Ramendu Dutta.	O/o. the Commr. of Appeals Guwahati.	Mahendragang P.P. Guwahati Customs Division.
45.	P. Mahanta.	DEEC (I.C.D) Amingoan Guwahati Customs Division.	Disposal Unit Guwahati Customs Division.
46.	R. Pathak.	A/E Unit Dhubri C. Ex. Division.	Rangia C.P.F. Guwahati Customs Division.
47.	A. Dutta.	A/S Unit Guwahati Customs Division.	Law Branch Guwahati Customs Division.
48.	Bhagirath Baruah.	C. Ex. Hqrs. Audit. Guwahati	A/S Unit. Imphal Customs Division.
49.	Stephen M. Thang.	Disposal Unit. Aizawl Customs Division.	Moreh C.P.F. Imphal Customs Division.
50.	S. Chakma.	Jowai P. P. Shillong Customs Division.	Do
51.	T. K. Singh	Dhalai P. P. Karimganj Customs Division.	Do
52.	K. R. Nath.	Valuation/Audit Branch, Dhubri C. Ex. Division.	A/S Unit. Imphal Customs Division.
53.	G. Panmei	Daranga L.C.S. Guwahati Customs Division.	Palol C.P.F. Imphal Customs Division.
54.	Sheikhi Laloo	C. Ex. Range. Shillong	Do
55.	N. Meiraba.	Anti Smuggling Unit, Imphal Customs Division.	Churachandpur P.P. Imphal Customs Division.
56.	T. Nungshi Singh	Technical Branch, Imphal Customs Division,	Anti Smuggling Unit, Imphal Customs Division.

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	M. K. Goswami.	C.C. Cell, Customs Hqrs. Shillong.	Sutarkandi L.C.S. Karimganj Customs Division.
58.	P. L. Sinha.	Nagoan Range. Guwahati C. Ex. Division.	Ferryghat L.C.S. Karimganj Customs Division.
59.	Ms. C. Shome.	Silchar II Range. Silchar C. Ex. Division.	Technical Branch, Karimganj Customs Division.
60.	Salil Bhattacharjee.	Tinsukia I Range. Tinsukia C. Ex. Division.	Anti Smuggling Unit, Karimganj Customs Division.
61.	D. Roychoudhury.	Borpata Range. Guwahati C. Ex. Division.	Silchar C.P.F. Karimganj Customs Division.
62.	Jayanta Banik.	Technical Branch. C. Ex. Guwahati	Anti Smuggling Unit, Karimganj Customs Division.
63.	Abdul Rouf.	Nagoan Range. Guwahati C. Ex. Division.	Badarpur C.P.F. Karimganj Customs Division.
64.	T. C. Mahanta.	Jorhat Range. Jorhat C. Ex. Division	Do
65.	A. Roychoudhury.	Silchar C.P.F. Karimganj Customs Division.	Dhalai C.P.F. Karimganj Customs Division.
66.	S. Sen.	Anti Smuggling Unit, Karimganj Customs Division,	Dharmanagar C.P.F. Karimganj Customs Division.
67.	B. C. Nath.	Chapaguri A/E. Dhubri C. Ex. Division.	Bhanga P.P. Karimganj Customs Division.
68.	Ms. S. Bhattacharjee.	Silchar Range. Silchar C. Ex. Division	Technical Branch, Karimganj Customs Division.
69.	B. Bhattacharjee.	A/E. Unit, Silchar C. Ex. Division	Fulertal C.P.F. Karimganj Customs Division.
70.	T. C. Roy.	Badarpur Range. Silchar C. Ex. Division	Tillabazar P. P. Karimganj Customs Division.
71.	P. Chakraborty.	P.B.C. Range, Guwahati C. Ex. Division	Silchar C.P.F. Karimganj Customs Division.
72.	H. Das.	Ferryghat L.C.S. Karimganj Customs Division.	Dharmanagar C.P.F. Karimganj Customs Division.
73.	N. N. Roy.	Do	A.P.R.O. Karimganj Customs Division.

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74.	B. B. Das.	A.P.R.O. Karimganj Customs Division.	Ferryghat L.C.S. Karimganj Customs Division.
75.	Sujit Bhattacharjee.	Law Branch Customs Hqrs. Shillong.	Ferryghat L.C.S. Karimganj Customs Division.
76.	Tapas Bhattacharjee	C. Ex. Audit, Shillong.	Silchar C.P.F. Karimganj Customs Division..
77.	G. P. Das.	Mangaldoi Range. Tezpur C. Ex. Division.	Do
78.	Ms. V. Muivah.	A/S Unit Shillong Customs Division.	Disposal Unit Customs Hqrs. Shillong.
79.	Ms. K. P. Laloo.	Inspection Cell, C. Ex. Shillong.	Hqrs. Prev. Unit, Shillong.
80.	A. M. Paul.	C. Ex. Hqrs. Audit Branch, Shillong.	Customs Tech./Adj. Hqrs. Shillong.
81.	G. C. Sharma.	C. Ex. Technical Branch Guwahati.	Bholaganj L.C.S. Shillong Customs Division.
82.	Ranabir Chakraborty.	P.B.C. II Range. Guwahati C. Ex. Division.	C.C. Cell, Customs Hqrs. Shillong.
83.	D. K. Chetri.	Ichamati P. P. Shillong Customs Division.	Customs Hqrs. Law Branch, Shillong.
84.	V. Angami.	Appeal Branch, C. Ex. Hqrs. Shillong.	Ichamati P. P. Shillong Customs Division.
85.	Sandip Dutta.	Customs Hqrs. Prev. Unit, Shillong.	C. C. Cell, Customs Hqrs. Shillong.
86.	A. Pothmilong.	C. Ex. Hqrs. Audit Branch Shillong.	Jowai C.P.F. Shillong Customs Division.
87.	P. K. Saikia.	Nagoan Range. Guwahati C. Ex. Division.	A.P.R.O. Customs Hqrs. Shillong.
88.	R. V. Basaimoit.	Customs Statistics Branch Hqrs. Shillong.	Customs Hqrs. Prev. Unit. Shillong.
89.	Bikram Shankar.	C. Ex. Hqrs. Shillong.	Do
90.	S. P. Dam Roy.	Telecom Wing Customs Hqrs. Shillong.	Customs Statistics Branch Hqrs. Shillong.

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ADVOCATE

91.	Ms. K. M. Syiemlich.	CIU-VIG Branch C. Ex. Shillong.	Anti Smuggling Unit Shillong Customs Division.
92.	D. Rynthathiang	Custom Hqrs. Prev. Unit, Shillong	Customs Technical Branch Shillong Customs Division.
93.	T. Longkumer	Anti Smuggling Unit Dimapur Customs Division.	Law/Disposal Unit, Dimapur Customs Division.

Sd/-
(K. K. DAS)
COMMISSIONER OF CUSTOMS
NORTH EASTERN REGION
SHILLONG

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BY
B. C. DAS

- 29 -

IMPHAL CUSTOMS DIVISION

24. Sri	L.N. Kham	Anti Smuggling Unit.
25. "	A. K. Chakrabarty	Moreh C.P.F.
26. "	T.O. Haokip	Churachandpur P.P.
27. "	L. H. Haokip	Moreh C.P.F.
28. "	T. C. Ngulkhomang	Anti Smuggling Unit.
29. "	P. Roben Singh	Technical Branch.
30. "	R. K. Surchandra Singh	Pallei C.P.F.
31. "	L. Simte	Moreh C.P.F.
32. "	C. Zomingliana	Churachandpur P.P.

KARIMGANJ CUSTOMS DIVISION

33. Sri	H. P. Roy	Technical Branch
34. "	R. K. Das	Silchar C.P.F.
35. "	J. Mazumdar	Anti Smuggling Unit.
36. "	J. G. Paul	Badarpur C.P.F.
37. "	P. P. Kujar	Dharmanagar C.P.F.
38. "	Alokesh Dey	Do
39. "	T. B. Bhattacharjee	Ferryghat L.C.S.
40. "	P. Borbora	Badarpur C.P.F.
41. "	R. Chakrabarty	Anti Smuggling Unit.
42. "	S. K. Dulta	Bhanga P.P.
43. "	S. Deb	Sutarkandi L.C.S.
44. "	P. Ghosh	Technical Branch.
45. "	B. K. Bhattacharjee	Fulcral C.P.F.
46. "	M. P. Acharyee	Tillabazar P.P.

CUSTOMS HEADQUARTERS OFFICE

47. Sri	Swarup Sharma	Disposal Br.
48. Ms.	T. Shylla	Hqrs. Prev Unit
49. Sri	Swapan Kr. Roy	Technical Branch.

Sd/-
 (K. K. DAS)
 COMMISSIONER OF CUSTOMS
 NORTH EASTERN REGION
SHILLONG

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 R. C. Das
 Advocate

The following officers in the grade of Inspectors of Commissionerate of Customs, North Eastern Region, Shillong are hereby placed at the disposal of Commissioner of Central Excise, Shillong

AGARTALA CUSTOMS DIVISION

1. Sri G.C. Debbarma	Agartala Airport P.P.
2. " S. K. Debnath	Do
3. " Kartick Sarkar	Anti Smuggling Unit.
4. " D. Chakrabarty	Disposal unit
5. " C. Biswas	Technical Branch
6. Mrs. R. R. Bhowmik	Technical Branch
7. Sri T. K. Sen	Anti Smuggling Unit.
8. " R. Hazarika	Agartala L.C.S.
9. " J. Das	Sonamura C.P.F.
10. Mrs. P. Biswas	Anti Smuggling Unit.

AIZAWL CUSTOMS DIVISION

11. Sri Laltawnliana	Khawzawl C.P.F.
----------------------	-----------------

DIMAPUR CUSTOMS DIVISION

12. Sri L. Krelo	Anti Smuggling Unit.
13. " A. K. Das	Law & Disposal

GUWAHATI CUSTOMS DIVISION

14. Sri S. K. Saha	Anti Smuggling Unit.
15. " B.K. Saikia	Law Branch.
16. " N. R. Choudhury	Ghasuapara L.C.S.
17. " D. J. Sinha	Technical Branch.
18. " A. Hussain	Ghasuapara L.C.S.
19. " J. B. Sharma	Mankachar P.P.
20. " N. Bhattacharjee	ICD Amingaon
21. " H. Goswami	Tezpur C.P.F.
22. " S. Goswami	Disposal Unit.

SHILLONG CUSTOMS DIVISION

✓ 23. Sri K.K. Malakar	Dawki L.C.S.
24. " A. Adhikari	Bholaganj L.C.S.

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ANNEXURE-VI

-31-

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 44 of 2000

Date of decision : This the 9th day of February, 2001.

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

Kshitendu Kumar Malakar,
Son of Shri Kshirod Ranjan Malakar,
Roypatti, Karimganj,
District : Karimganj (Assam).

...Applicant

By Advocate Mr. B.C.Das

-Versus-

1. Union of India,
Represented by Secretary,
Department of Finance,
New Delhi.
2. Commissioner of Customs,
N.E.Region, Shillong.
3. Commissioner of Central Excise,
Shillong

...Respondents

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

O R D E R (ORAL)

SHARMA K.K., MEMBER (A).

In this application the applicant has challenged the order of transfer No.3/2000 dated 28.1.2000 issued by the Commissioner of Customs, Shillong transferring the applicant from Dawki Land Customs Station to Central Excise, Shillong.

2. The applicant joined the Customs and Central Excise Department in the year 1984. From 1984 to 1994 the applicant served the Agartala Customs Division in different units. In 1994 he was transferred to Karimganj Customs Division vide order No. 4/99 dated 9.4.99. The applicant was transferred from Karimganj Division to Dawki Land Customs Station within six months vide order No. 22/99 dated 16.11.99 the applicant was transferred from Dawki Land Customs Station to Bholaganj Land Customs

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ADVOCATE*

Station. It is claimed that the respondent No.2 issued a circular on 21.9.99 giving the transfer guidelines. As per the said circular Inspectors who had been posted continuously in LCS/ Preventive post were due for transfer after two years. As such the applicant who was working at Land Customs Station, Dawki could be transferred only after two years. It is stated that the transfer order dated 16.11.99 has been issued in violation of the guidelines issued by the respondent No.2. It is stated that the parents of the applicant are staying at Karimganj and they are not keeping good health and they are under medical treatment. The applicant has two school going children. As the transfer is made in the mid year the same will effect their academic career. The applicant had never represented before the respondents for posting at Dawki. The applicant prays that he should be allowed to complete his tenure at Dawki. The applicant made a representation dated 19.11.99 with respondent No.2 through proper channel. The said representation is still pending. As the respondents did not consider the representation dated 19.11.99 the applicant approached this Tribunal by filing O.A. 417/99. By order dated 13.12.99 this Tribunal gave direction to the respondents to dispose of the representation of the applicant dated 19.11.99 within one month by staying the order of transfer. Till disposal of the representation, the applicant was allowed to continue in his present place of posting. While the applicant was expecting the disposal of his representation he was surprised to receive the impugned order No. 3/2000 dated 28.1.2000 by which the services of the applicant have been placed at the disposal of Collector of Central Excise. The applicant has challenged this order alleging that it is irregular.

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ADVOCATE

arbitrary and malafide especially when the representation filed by the applicant is still pending for disposal. It is claimed that the applicant cannot be transferred to any place without disposing the representation dated 19.11.99. The applicant has prayed for setting aside the impugned order of transfer dated 28.1.2000.

2. Shri B.C.Das, learned counsel appearing on behalf of the applicant argued that as per the transfer policy which has been placed at Annexure-2 to the O.A. the Inspector working in Land Customs Station would be due for transfer only on completion of two years at a station. As the applicant was posted at Dawki on 9.4.99 on transfer he was not due for transfer.

3. The respondents have filed written statement. Shri Deb Roy learned Sr. C.G.S.C. argued that Customs and Central Excise are the two branches of the same department. As per the transfer policy Inspectors are due for transfer after four years in one branch. The applicant has completed nine years in customs with a break of four months. The children of the applicant are studying at Karimganj and not staying with the applicant at Dawki. His parents are also not staying with him. He pointed out that transfer of the applicant to Shillong would not be in any way inconvenient to the applicant as Karimganj, where his family stays, is nearer to Shillong than Dawki or Bholaganj. He referred to Annexure 1 to the written statement which is the order dated 16.6.93 of Principal Collector of Customs and Central Excise, Calcutta laying down the established policy of the department. As per the guidelines Inspectors of Customs and Central Excise work for a period not exceeding four years in one branch and with a maximum of two years within one station. He submitted that the applicant has been

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ADVOCATE*

working in Customs department for more than nine years. If the applicant has been transferred to the Central Excise Department on completion of nine years the transfer cannot be considered arbitrary, as it is as per the established policy of the department. He submitted that two years posting at a station should be within the limit of ⁴₄ years in either branch of the Department. He also argued that the transfer of the applicant was made as per the transfer guidelines of Department and it cannot be said to be in violation of the order of the Tribunal passed in O.A. No. 417/99 dated 13.12.99. He also relied on the decision of this Tribunal in O.A. 231/99 dated 24.11.99 in the case of Shri Pranab Sikdar Vs. U.O.I & Ors. which was also a case of transfer from Customs wherein the Tribunal held that "the period of stay in a particular station according to the guidelines dated 30.6.1994 is normally 4 years. But premature transfer of an employee can be directed by a competent authority if administratively required. The administrative necessities are best known to the authority concerned and he is the best judge how to meet such necessities."

4. I have considered the submissions made by the learned counsel for the applicant as well as for the respondents. It is seen that the applicant has completed more than 9 year in customs department and as per the terms and guidelines issued by the Principal Collector of Customs and Central Excise the normal stay in one branch of the department is four years. Having completed nine years in customs department the applicant was overdue for transfer. The applicant has been transferred after a long stay in customs department. Such order of transfer cannot be called arbitrary/mala fide. The personal difficulties mentioned by the applicant in

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the application have been disputed by the respondents, as his family has not been staying with him. The transfer has been made as per the policy laid down by the Principal Collector of Customs and Central Excise, Calcutta. The respondent No. 2 has issued the transfer order within the guidelines/policy laid down by the Principal Collector, Customs and Central Excise as such the same cannot be called arbitrary. As such interference of the Tribunal is not required with the transfer order dated 28.1.2000 so far as the applicant is concerned.

The application is accordingly dismissed. There

will however, be no order as to costs.

Sd/- Member (A)

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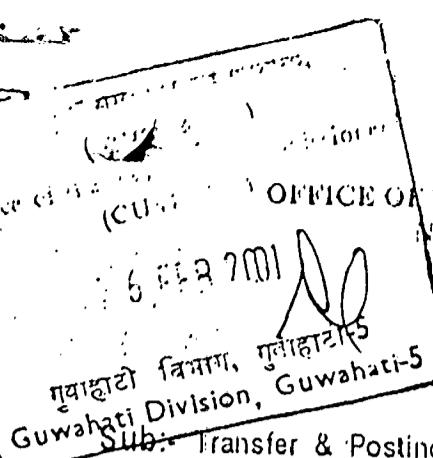
प्रमाणित प्रतिलिपि

M. J. M.
02/01
Deputy Registrar
Central Administrative Tribunal
Guwahati Bench
27/2/2001

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ADVOCATE



ORDER NO. 05/2001

Dated, Shillong, (the 16th February, 2001).

Sub:- Transfer & Posting, Rotation & Adjustments in the Grade of Inspector of Commissionerate of Customs, N.E.R, Shillong - Orders Regarding.

The following transfer & postings, rotation & adjustments in the grade of Inspector of Commissionerate of Customs, North Eastern Region, Shillong are hereby ordered with immediate effect and until further orders :-

SI	Name of the Officer	Place of Posting	
		From	To
1.	S/Shri W. H. K Singh	DISPOSAL UNIT Imphal Customs Division	MOREH C.P.F. Imphal Customs Division
2.	S. Chittaranjan Singh	ANTI-SMUGGLING UNIT Imphal Customs Division	MOREH C.P.F. Imphal Customs Division
3.	K K. Malakar	DAWKI L.C.S. Shillong Customs Division	NAMPONG L.C.S. Dimapur Customs Division
4.	W.T. Lothia	ANTI-SMUGGLING UNIT Aizawl Customs Division U/o of transfer to DISPOSAL UNIT Aizawl Customs Division	ANTI-SMUGGLING UNIT Dimapur Customs Division
5.	Tuanzakhup	ANTI-SMUGGLING UNIT Dimapur Customs Division	DISPOSAL UNIT Aizawl Customs Division
6.	T. Munglei	BHANGA P.P. Katinganj Customs Division U/o of transfer to Old Raghna Bazar LCS	LAW BRANCH Katinganj Customs Division
7.	M. Karmakar	ANTI-SMUGGLING UNIT Dimapur Customs Division	HALLIDAYGANJ P.P. Guwahati Customs Division
8.	L. Happyson	TECH./STS./ADJ. BRANCH Dimapur Customs Division U/o of Transfer to Nampong L.C.S.	DIBRUGARH C.P.F. Dimapur Customs Division

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ADVOCATE

- 37 -

Sl No.	Name of the Officer S/SI	Place of Posting	
		From	To
9.	R. K. Dorendrajit Singh	MOREH C.P.F. Imphal Customs Division U/o of transfer to Law Branch, Guwahati Customs Division	BAGHIMARA P.P. Guwahati Customs Division
10.	R. Pathak	DHUBRI C.P.F. Guwahati Customs Division	A.C.C. BORJHAR Guwahati Customs Division
11.	S. Adani	KOHIMA P.P. Dimapur Customs Division	ANTI-SMUGGLING UNIT Guwahati Customs Division
12.	T. C. Roy	BADARPUR RANGE Silchar Central Excise Division	KOHIMA P.P. Dimapur Customs Division
13.	Jagadish Das	B.R.P.L. Range I Dhubri Central Excise Division	MAHENDRAGANJ P.P. Guwahati Customs Division

16/2/01
(K. K. Das)

COMMISSIONER OF CUSTOMS

All the above officers are to be relieved with immediate effect.

C.NO. II(3) 16/ET/CC/CELL/SH/2000/ 954 - 903 (A)

Dt. 21.02.2001

Copy forwarded for information & necessary action to :-

1. The Commissioner of Central Excise, Shillong .
2. The Additional Commissioner(P&V), Customs & Central Excise, Shillong .
3. The Additional Commissioner(Tech.), Central Excise, Shillong
4. The Deputy / Assistant Commissioner of Customs Division _____.
5. The C.A.O., Customs & Central Excise, Shillong .
6. The P.A.O., Customs & Central Excise, Shillong .
7. The Administrative Officer, Customs Hqrs., Shillong .
8. The Sr. P.A. to Commissioner, Customs.
9. The Superintendent _____.
10. The Branch-in-charge of ET. II & III, Accts. I & II, Confidential/ Vigilance Branch of Customs & Central Excise, Shillong .
11. Sri R. Pathak _____, Inspector, _____ for compliance.
12. The General Secretary Group 'C' Executive Officers Association, Customs & Central Excise, Shillong .
13. The Guard File.

16/2/2001
(V. KEZO)
Deputy Commissioner(P&I)
Customs Headquarters
N.E.R. :::: SHILLONG

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R. C. Das
ADVOCATE