

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Case No. Application No. 14/2001 (5447/2001)

Applicant(s) :- Y. S. Narayana

Respondent(s) :- 101.228

Advocate for the Applicant :- Mr. B. K. Sharma, S. Sengar, U. K. Nain

Advocate for the Respondent :- CSE

Notes of the Registry	Date	Order of the Tribunal
This R.A. has been filed with a prayer for order dated 12.10.2001 passed in O.A. 417/2001 of the Hon'ble Tribunal, Heard before Hon'ble Court for orders	25.10.01	Both these R.A.'s are taken together, as the issue involved is the same. The R.A. 13/2001 had been fixed moved by the respondent No. 4 in O.A. 417/2001. The O.A. 417/2001 was decided on 12.10.2001 at the admission stage by granting relief to the applicant. The applicant had prayed for implementation of the order of transfer dated 11.9.2001. The applicant in O.A. 417/2001 has moved R.A. No. 14/2001 stating that the applicant came to know that the order dated 11.9.2001 had been stayed by the State of Assam by order dated 10.10.2001 so far as it related to Shri A.K. Das respondent No. 4. In view of this development in both the R.A.'s, prayer has been made for review of the order dated 12.10.2001 in O.A. 417/2001. The applicant has prayed for review of the order dated 12.10.2001 passed in O.A. 417/2001.
<i>22/10/2001</i> SD (1)		Heard Shri B.K. Sharma, learned counsel for the applicant and also Mr. D.K. Das, learned counsel for the respondent No. 4. The respondent No. 4 Shri A.K. Das also moved R.A. 13/2001 on
		Contd. /-

25.10.01

18.10.01 and it has also been listed

on 27.11.2001. The R.A. 13/2001 is also taken up for hearing today. The learned counsel for the respondent No.4 has no objection if R.A. 13/2001 which was fixed on 27.11.2001 to be taken up today. As there is some development in respect of the order in O.A. 417/2001 and the transfer order dated 11.9.2001 has been stayed by the respondent No.4 Govt. of Assam, the ~~xxxxx~~ review application is accepted. The order passed in O.A. 417/2001 is set aside. The order allowing status quo to be maintained passed on 18.10.2001 in R.A. 13/2001 is also vacated.

The R.A.'s are disposed of as above. There shall be no order as to costs.

JK Ullah
Member

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नियन्त्रित प्रशासनिक अधिकारी
Central Administrative Tribunals
22 OCT 2001
गुवाहाटी बैच
Guwahati Bench

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File D B4

Shri Y. Suryanarayana,
Petitioner
Through;
S. Sarma,
Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Review Application No. 14 /2001
In O.A. No. 417 of 2001
(Disposed of on 12.10.2001)

IN THE MATTER OF :

An application under Section
22(3)(f) of the Administrative
Tribunals Act, 1985.

- AND -

IN THE MATTER OF :

O A No. 417/2001

Shri Y. Suryanarayana,

...Applicant

- Vs -

The Union of India & Ors.

... Respondents

- AND -

IN THE MATTER OF :

Order dated 12.10.2001 passed in OA
No. 417/2001

- AND -

IN THE MATTER OF :

Shri Y. Surya Narayana, IFS

Divisional Forest Officer, Karimganj

Division, Karimganj.

... Petitioner

- vs -

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Forest, New Delhi.

2. The State of Assam, represented by the Chief Secretary, Dispur, Guwahati-6.

3. The Secretary to the Government of Assam, Department of Forest, Dispur, Guwahati-6.

4. Shri Amrit Kumar Das, presently holding the post of DFO, Karimganj Division, Karimganj (under order of transfer to Northern Assam Circle, Tezpur.)

... Respondents

The humble petition of the Petitioner abovenamed.

MOST RESPECTFULLY SHEWETH:

1. That the Petitioner as the Applicant had filed OA NO. 417/2001 making a grievance against non-implementation of a transfer Notification dated 11.9.2001 effectively, as a consequence of which, even after his release from his original place of posting at Digboi and joining the new place of posting at Karimganj, he was unable to function as DFO, Karimganj

due to the apathy shown by the official Respondents as well as the Respondent No. 4 in not arranging handing over of charge to the Applicant.

Instead of repeating the contentions raised in the OA, the Applicant craves leave to refer & rely upon the statements made therein.

2. That this Hon'ble Tribunal having found a strong prima facie case in favour of the Petitioner, was pleased to dispose of the OA by its order dated 12.10.2001 directing the official Respondents to implement the transfer order dated 11.9.2001.

A copy of the order dated 12.10.2001 is annexed as Annexure-1.

3. That the Petitioner had filed OA on 11.10.2001 and at that time and even on 12.10.2001, when the OA was moved, was not aware of issuance of a Notification dated 10.10.2001 by which the transfer of the Respondent No. 4 has been temporarily stayed.

A copy of the order dated 10.10.2001 is annexed as Annexure-2.

4. That the copy of the order dated 10.10.2001 is yet to be served on the Petitioner. A copy of the same purportedly marked to the Petitioner has been shown sent to him under C/o PCCF, Assam, although the official Respondents are fully aware that the Petitioner pursuant to his transfer to Karimganj has

joined there on 17.9.2001. The copy of the Notification dated 10.10.2001 ought to have been marked to the Petitioner at his Karimganj address. This has resulted in non receipt of the order dated 10.10.2001 and consequently filing of OA No. 417/2001 without the least ideal and knowledge of the existence of the said order dated 10.10.2001.

5. That after the order dated 12.10.2001, the Petitioner could obtain a certified copy of the same on 15.10.2001 and submitted the same to the official Respondents with the request to take necessary follow up action. It was at that stage, the Petitioner was told about issuance of the order dated 10.10.2001, existence of which was not known to the Petitioner and no copy of the same was served on him.

6. That immediately thereafter the Petitioner enquired about the order dated 10.10.2001 and collected a copy of the same from the office of the Respondent No. 3 on 16.10.2001. He has filed an OA making a grievance against the same. Since the Petitioner was in complete dark about the order dated 10.10.2001, he could not bring it to the notice of the Hon'ble Tribunal while filing and moving OA No. 417/2001.

7. That in view of the above, a review of the order dated 12.10.2001 is called for. The Petitioner could not applying his due diligence come to know about the order dated 10.10.2001, but for which could have annexed the same in the OA making a grievance against

the same. There was no occasion for the Petitioner to get a copy of the same before filing and moving OA No. 417/2001. As stated above it was only on 16.10.2001, the Applicant could get a copy of the said order dated 10.10.2001. Such a discovery has now lead to filing of the present Review Application, on amongst others, the following

GROUNDs:

- (I) For that the Applicant being not aware of the order dated 10.10.2001, copy of which is yet to be served on him, could not make any grievance against the same, while filing OA No. 417/2001.
- (II) For that a copy of the order dated 10.10.2001 having been marked to the Applicant in a wrong address, the Applicant not to speak of receiving a copy of the same before 11.10.2001 or 12.10.2001, has not been served with the same till today and consequently could not bring it to the notice of the Hon'ble Tribunal while filing and moving OA No. 417/2001.
- (III) For that the official Respondents ought to have marked the copy of the order dated 10.10.2001 to the Karimganj address of the Petitioner, they being in full knowledge of the fact of the Petitioner joining there on 17.9.2001. However, in any case, the Petitioner could not have received a copy of the same, before filing and moving OA No. 417/2001.
- (IV) For that a review of the order dated 12.10.2001

passed in OA No. 417/2001 is called for in view of the aforesaid discovery of the new and important matter, namely the order dated 10.10.2001 which the Petitioner after the exercise of due diligence, was not within his knowledge on the date filing and moving the OA No. 417/2001 i.e. on 11.10.2001 and 12.10.2001 respectively.

(V) For that the aforesaid facts and circumstances lead to passing of the order dated 12.10.2001 in OA No. 417/2001 resulting in an error apparent on the face of the order.

(VI) For that although by the order dated 10.10.2001, the transfer of the Respondent No. 4 has been stayed, but the transfer and joining of the Petitioner at Karimganj on 17.9.2001 has not been interfered with by the order dated 10.10.2001. However, the order dated 10.10.2001 having a relation with the transfer and joining of the Petitioner, a review of the order dated 12.10.2001 is called for.

(VII) For that in any view of the matter the order dated 12.10.2001 could not have been passed in view of existence of the order dated 12.10.2001 of which the Petitioner had no knowledge ad accordingly a review of the same is called for to grant appropriate relief to the Petitioner.

8. That this review application has been filed under the facts and circumstances stated above and the same

has been filed bonafide and to secure the ends of justice.

In the premises aforesaid, it is most respectfully prayed that the Hon'ble Tribunal may be pleased to review the order dated 12.10.2001 passed in OA No. 417/2001 and/or be pleased to pass such further order/orders as the Hon'ble Tribunal may deem fit and proper.

And for this act of kindness, the Petitioner as in duty bound shall ever pray.

Certificate.....

CERTIFICATE

I Shri S. Sarma, Advocate for the Applicant
certify that the above are good grounds for review and
I undertake to support them at the time of hearing of
the application.

S. Sarma

S. Sarma
Advocate.

Affidavit....

AFFIDAVIT

I, Shri Y. Surya Narayana, aged about 37 years, son of Shri M. Kullayappa, DFO, Karimganj Division, Karimganj, do hereby solemnly affirm and declare as follows :

1. That I am the Petitioner in the accompanying petition and as such I am fully conversant with the facts and circumstances of the case.
2. That the statements made in this affidavit and those made in paragraphs 1, 2, 3, 4, 5, 6 and 8 are true to my knowledge and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this affidavit on this the 20th day of October, 2001.

Identified By

Usha Devi

Advocate

Y. Surya Narayana

DEPONENT

Solemnly affirmed and declared
before me by the deponent
on this 20th day of October, 2001

Anni 2001

Advocate

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 417 of 2001.

Date of Order : This the 12th Day of October, 2001.

HON'BLE MR. K.K.SHARMA, ADMINISTRATIVE MEMBER.

Shri Y.Surya Narayana, IFS
Divisional Forest Officer, Karimganj
Division, Karimganj. Applicant.

Mr.B.K.Sharma, Mr.S.Sarma, Mr.U.K.Nair &
Ma.U.Das.

- Vs -

1. Union of India
Represented by the Secretary
to the Government of India
Ministry of Forest
New Delhi.
2. The State of Assam
Represented by the Chief Secretary
Dispur, Guwahati-6.
3. The Secretary to the Government
of Assam, Department of Forest
Dispur, Guwahati-6.
4. Shri Amrit Kumar Das, presently
holding the post of DFO, Karimganj
Division, Karimganj (under order
of transfer to Northern Assam Circle,
Dispur. Respondents.

By Mr.M.Das, Advocate Govt. of Assam for
Respondent No.2.

ORDER

K.K.SHARMA (MEMBER ADMN.) :

By this application under Section 19 of
the Administrative Tribunals Act, 1995, the applicant
has prayed for implementation of order dated 11.9.2001,
whereby the applicant has been transferred and posted
as Divisional Forest Officer, Karimganj Division,
Karimganj with effect from the date of taking over
the charge.

2. The applicant is an Indian Forest Service
Officer and was holding the charge of D.F.O., Digboi.

11/18/01

Attested
Anu. Saha
Advocate

Contd.. 2

By order dated 11.9.2001 the applicant has been transferred as mentioned above. The applicant was relieved on 12.9.2001 by Sri Amal Chandra Sarma, who was posted as D.F.O, Digboi. The applicant has joined in his place of posting namely, Karimganj on 17.9.2001, but the charges had not yet been handed over to the applicant by Mr. A.K.Das, D.F.O, Karimganj, who is a member of State Forest Service. It has been stated that though Mr.Das is not an Indian Forest Service Officer he is holding a cadre post. Mr.A.K.Das had filed a petition before the Hon'ble Gauhati High Court which was numbered as WP(C) No. 6636/2001 and the Hon'ble High Court turned down the interim pray^{er} of the applicant for stay of the order of transfer.

3. Mr.B.K.Sharma, learned senior counsel for the applicant has stated that the transfer order dated 11.9.2001 have not been amended or cancelled so far. The respondent No.4 has refused to hand over the charge to the applicant. Mr.Sharma has referred to the Annexure 9 and 10 being as Office Memorandum dated 27th October, 1993 and 2nd July, 2001 issued by the Secretary to the Govt. of Assam, Personnel (A) Deptt. and Chief Secretary to the Govt. of Assam, wherein it has been emphasised that the process of handing over charges should be completed within 10 days of passing the transfer order. He has submitted that the action of the respondents in not handing over the charge is violative of the order of the Hon'ble High Court as well as the Office Memorandums dated 27th October, 1993 and 2nd July, 2001. The applicant has also made representations dated 27.9.2001 and 4.10.2001 (Annexure-7 and 8 to the application) to the Conservator

CC Utkarsh

Contd.. 3

of Forests, Southern Assam Circle, Silchar and Secretary Forest Deptt. Govt. of Assam, Dispur. It is stated that the applicant has not got any reply so far.

4. I have also heard Mrs. M. Das, learned counsel appearing for the Government of Assam. She admitted that the transfer order dated 11.9.2001 has not been cancelled so far.

5. Having heard the counsel for the parties and gone through the documents filed with the application it is clear that the applicant has been transferred from the post of D.F.O, Digboi to D.F.O, Karimganj Division, Karimganj. The applicant has already been relieved with the charge of D.F.O, Digboi on 12.9.2001 and has also reported at Karimganj Division on 17.9.2001. The applicant has followed the order passed in his case. There is no material produced before me to show that the applicant has no right to the post of D.F.O, Karimganj. The applicants representations have not been acted upon. In the circumstances, direction should be given to the respondent Nos. 2 & 3 to carry out the order dated 11.9.2001, so far as it relates to the applicant. Accordingly I direct the said respondents to carry out the said order within one week from the receipt of the order.

Considering the importance of the matter and ^{urgency} and the parties have no objection, the matter is disposed of at the admission stage. No order as to costs.

Certified to be true (S)

প্রাপ্তি প্রতিপাদিত
15/10/2001

Sd/- MEMBER (Adm)

Section Officer (S)
সর্বসম্মত প্রতিপাদিত (স্বাক্ষর কুসুমা)
Central Administrative Tribunal
কেন্দ্রীয় প্রশাসনিক অধিকার
Guwahati Bench, Guwahati-8
প্রাপ্তি প্রাপ্তি প্রতিপাদিত, প্রাপ্তি

15/10/2001

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GOVERNMENT OF ASSAM
FOREST DEPARTMENT :::::: DISPUR.

ORDERS BY THE GOVERNOR

Annexe-2

NOTIFICATION

Dated Dispur, the 10th October, 2001.

NO.FRE. 100/2001/26 :- The transfer order issued vide Govt.

Notification No.FRE. 66/90/190-E, dtd. 11.9.2001 in respect of Shri A.K. Das, Divisional Forest Officer, Karimganj Division is hereby stayed temporarily and untill further order.

Sd/- A.B. Md. Eunus,
Joint Secretary to the Govt. of Assam,
Forest Department, Dispur,

Memo No.FRE. 100/2001/26-A, Dated Dispur, the 10th October, 2001.

Copy to :-

- 1) The Accountant General (A&E), Assam, Maidamgaon, Beltola, Guwahati-29.
- 2) The Principal Chief Conservator of Forests, Assam, Rehabari, Guwahati-8.
- 3) The Chief Conservator of Forests (Territorial), Assam, Panbazar, Guwahati-1.
- 4) The Chief Conservator of Forests (Wildlife), Assam, Rehabari, Guwahati-8.
- 5) The Chief Conservator of Forests (Social Forestry), Assam, Zoo Narengi Road, Guwahati-24.
- 6) The Chief Conservator of Forests (Research, Education and Working Plan), Assam, Guwahati-24.
- 7) The Conservator of Forests, Southern Assam Circle, Silchar.
- 8) Shri A.K. Das, Divisional Forest Officer, Karimganj Division, Karimganj.
- 9) Shri Y. Suryanarayan, IFS, DCF, C/O Principal Chief Conservator of Forests, Assam, Rehabari, Guwahati-8.
- 10) The P.S. to the Minister, Forest, Assam, Dispur, Guwahati-6 for information of the Minister.
- 11) The Deputy Director, Assam Govt. Press, Bamunimaidam, Guwahati-21 for favour of publication of the above Notification in the next issue of the Assam Gazette.
- 12) Personal File of the officers.

By order etc.,

Joint Secretary to the Govt. of Assam,
Forest Department, Dispur.

Attested
Anil Kumar
Advocate