

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

3

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 1/64/01.....
R.A/C.P No.....
E.P/M.A No.....

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SECTION OFFICER (Judl.)

Salita
6/12/17

uitrecoo

FORM NO. 4
(See Rule 42)

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

ORDER SHEET

APPLICATION NO ... 164 ... OF 2001.

Applicant (s) Sri Prafulla Ch. Das.

Respondent (s) WOI LONS.

Advocate for Applicants (s) Mr G. Choudhury, J. Samanta,
S.M. Dasmuch

Advocate for Respondent (s) G. G. S.

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

12.5 - Passover to 4.5.2001.

Mr
A. K. J.
2.5 -

This application is in form

but not in the format of petition

Petition is filed vide

M. P. No. C.R.

for Rs. 50/- deposited vide

IPO/BD No 64 792306

Dated.... 28/04/2001

Dy. Registrar

WS 30/4/2001

Requirements not yet filed.

4-5.2001

Notice is prepared
and sent to D/Secretary
for issuing to the
Respondents No. 1 to 5,
1686 to 1690 dtd. 4/5/2001.

WS
4/5/2001

trd

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

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

Heard Mr. Gautam Choudhury, learned
counsel for the applicant.

Issue notice on the respondents as to
why the application shall not be admitted.
Returnable on 23.5.2001. In the meantime
status quo as on today shall be maintained.
List on 23.5.2000 for further orders.

K. K. Sharma

Member

Vice-Chairman

List after four weeks to enable
the respondents to file written statement.
In the meantime the interim order dated
3.5.01 shall continue.

List on 27.6.2001 for orders.

Vice-Chairman

2
Copy of order dtd 23/5/01.
Communicated to the parties
Complaint filed D/L No
2063464 dtd 7/6/01
b/4/6/01.

O.A. 164 of 2001

27.6.01

(2)
The respondents are yet to file the written statement. Mr. A. Deb Roy Sr. C.G.S.C. has prayed for time to receive instructions and to file the written statement. List on 27.7.01 for orders.

Vice-Chairman

① Service report are still awaited.
② No. written statement has been filed.

lm

Zg
26.6.01

27.7.01

Service is not completed. List on 22.8.01 for orders.

ICUShan
Member

No. written statement has been filed.

lm

Zg
26.7.01

22.8.01

On the prayer Mr. A. Deb Roy, learned Sr. C.G.S.C. four weeks time is allowed to enable the respondents for filing written statement. List on 21.9.2001 for written statement and further orders.

ICUShan
Member

No. lols has been filed.

trd

Zg
21.9.01

List on 16/11/01 to enable the respondents to file written statement.

Vice-Chairman

mb

4.10.01

perused the application and also heard Mr G. Choudhury, learned counsel for the applicant. Mr Choudhury has stated that he has been instructed not to press the application.

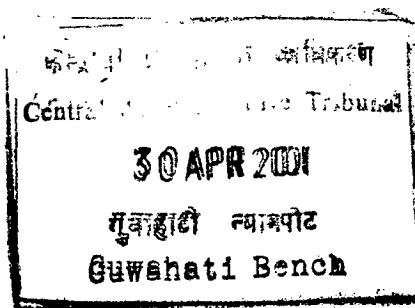
The O.A. is accordingly stands dismissed on withdrawal. No order as to costs.

Vice-Chairman

11.10.2001
Copy of the order has been sent to the Office for Society. The same to the LAs for the applicant as well as to the respondents. b.

etb

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH AT GUWAHATI



O.A. NO. OF 2001.

Sri Prafulla Ch. Das.

.....APPLICANT

-VERSUS-

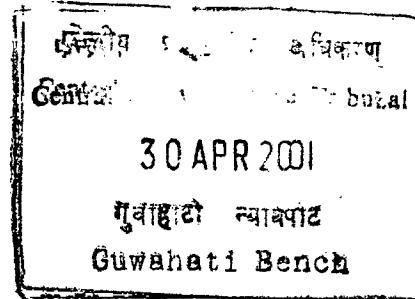
Union of India & Ors.

.....RESPONDENT.

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Filed by
Jyoti Sarm
Advocate



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH AT GUWAHATI

Q.A. NO. OF 2001.

An application Under Section-19 of the
Central Administrative Tribunal Act, 1985
as amended upto date.

IN BETWEEN

Sri Prafulla Chandra Das

Son of

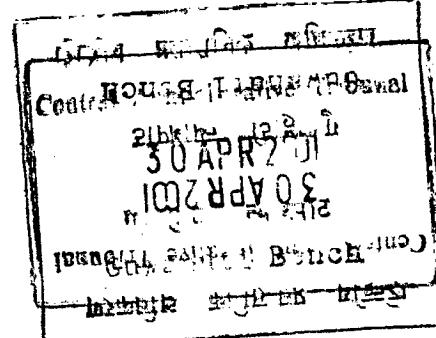
**Upper Divison Assistant, 31 Assam Rifles,
Dist. Sonitpur, Assam.**

.....APPLICANT

-VERSUS-

1. The Union of India
(Through the Secretary to the Govt.
of India, Ministry of Home Affairs,
New Delhi.)
2. The Secretary to the Govt. of India,
Ministry of Home Affairs,
Govt. of India, New Delhi.
3. The Director General of Assam
Rifles, H.Q. Shillong (Meghalaya)
Shillong-11

Conid.



4. The Commandant
31 Assam Rifles, Lokhre
C/o 99 APO
Dist : Sonitpur (Assam)

5. Captain/Major
Adjit 31 Assam Rifles
C/o 99 APO
Dist. : Sonitpur (Assam)

.....RESPONDENTS

1. Particular of the order Against which this application is made
 - A. Order No. A-5178 dated 06-11-2000.
 - B. Order No. I-24011/(II)/A-2K/1793 dated 27-12-2000 issued by Captain Adj. 31 Assam Rifles

2. JURISDICTION OF THE TRIBUNAL

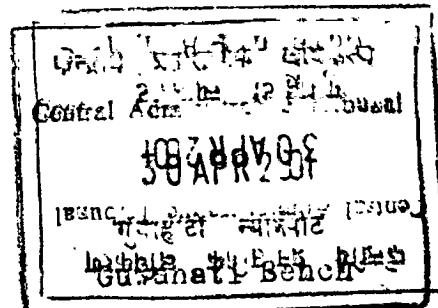
The application declares that the subject matter of the order against which he wants to redressal is within the Jurisdiction of the Hon'ble Tribunal.

3. LIMITATION

The applicant further states that the application is within the limitations period prescribed under 21 of the Central Administrative Tribunal Act, 1985.

Contd.....

for Prabilla chandhi das



(3)

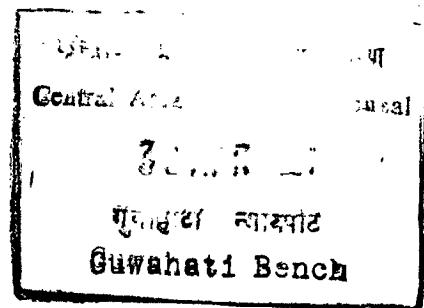
4. FACTS OF THE CASE

1. That the petitioner is a citizen of India and is a resident of Sonitpur and is presently posted as Upper Division Assisted 31 Assam Rifles, C/O 99 A.P.O. and being a citizen of India is entitled to all the protection, rights and privileges guaranteed to a citizen of India under Part-III of the Constitution of India and other relevant laws of the land.
2. That you petitioner states that after the matriculation examinations he applied for and was appointed as L.D.A. in the 31 Assam Rifles vide HQ IGAR order No A/V-A/7-68/103 of 18-4-68.

A photocopy of the abstract of Service Book is annexed hereto and is marked as Annexure-I.

3. That after being posted as Lower Division Assistant your petitioner continued to render service to the Assam Rifles organisation and in the course of his service he was transferred to various places within the entire north Eastern States. He engages himself to the utmost satisfaction of his seniors.
4. That in course of time your petitioner was promoted to the post of Upper Division Assistant and posted to 30 Assam Rifles at Sikkim. Your petitioner being an honest official at the Department continue to discharge duties with utmost sincerely. After completion of tenure of posting at 30 Assam Rifles your petitioner was again transferred

Sri Prabhat Chandra Das
Contd.....



(4)

to 21 Assam Rifles at Lokra in the District of Sonitpur. Your petitioner immediately joined there and got admitted his son Mr. Dipankar Das in Kendriya Vidyalaya at Lokra.

5. That your petition states that on 6/4/2000 vide sig. No.A5178 your petitioner was again transferred to 8 Assam Rifles situated at Manipur. Being aggrieved with the said transfer order Your petitioner immediately on 16-11-2000 submitted a representation before the Mahanirbhar Assam Rifles praying for deferment of transfer order dated 6-11-2000 till his promotion is released as he is expecting his next promotion by December, 2000.

A photocopy of the said representation is annexed hereto and is marked as Annexure-2.

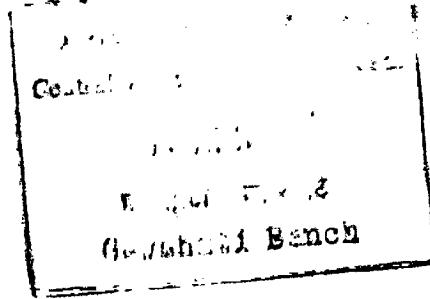
6. That your petitioner was expecting a positive response from the authority. But the authority vide order No. I-24011/(ii)A-2K/1793 dated 27-12-2000 issued under the signature of Captain/Adjutant refused to defer the transfer after 30-4-2001.

A photocopy of the said order dated 27-12-2000 is annexed hereto and is marked as Annexure-3

7. That Your petitioner states that immediately after posting at 31 Assam Rifles. Your petitioner got admitted his son at Kendriya Vidyalaya, Lokra. Though his son after admitted in Kendriya Vidyalaya Lokra started

Contd.....

Sri Prabhu Chandra Das



(5)

living his father i.e. the petitioner, the wife and other family members of the petitioner are not living with him. They are still living at village.

8. That your petitioner further states that your petitioner himself is a patient of Chronic Bronchial Asthama and Hypertension. He is presently undergoing treatment for the same. Medical Officer of 31 Assam Rifles is giving treatment to him and advised the petitioner to avoid hilly terrain place and cold and damp element.

A photocopy of the medical certificate is annexed hereto and is marked as Annexure-4.

9. That your petitioner states that your petitioner as several occasion approached the authority and requested him to take necessary steps to stop the transfer at this stage. But the authority never paid any heed to his request and directed 31 Assam Rifle to release the petitioner by 1st of May, 2001 to join in his new place of posting at 8 Assam Rifles. Vide the said order it is also made clear that no further extension of time will be given to the petitioner to join his new place of posting.

10. That you petitioner states that authority never considered the petitioner's health problem. If the petitioner is required to go to his new place of posting he might face serious consequence because doctor strictly advised him to avoid cold and damp element.

11. That you applicant states that Your applicant is expecting his next promotion by the month of June, 2001. As per prevailing norms immediately on promotion in cumbent always posted in different place.

Contd.....

for Palmla chandru das

(6)

So if your applicant move to 8 Assam Rifles pursuant to order of transfer dated again within a period of one year Your petitioner shall have to be on transfer. This will cause serious inconvenience to the applicant, in as much as his son who is appearing final examination of will lost the company of father and will have to stay at Tezpur alone.

12. That your petitioner submits that if the impugned order is not set aside and the respondents are not directed to let the petitioner remain in 31 Assam Rifles, the petitioner will suffer irreparable loss and injury which can not be compensated in terms of money and the balance of convenience also lies in favour of the petitioner.

13. That the applicant approaches that the applicant has got no other alternative remedy except approaching this Hon'ble Tribunal.

14. That this application is made bonafide and for the interest of Justice.

5. RELIEF SOUGHT FOR

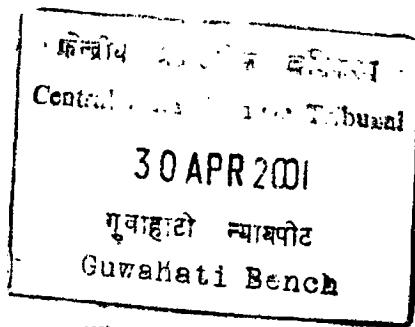
Under the facts and circumstances stated in this application the applicant prayes for the following reliefs :-

1. That to direct the respondents more particularly the respondents not to enforce the order I 24011/(ii)/A-2K/1793 dated 27-12-2000 against the applicant.

The above reliefs are prayed for an amongst other the following :

Contd.....

Sri Rabha Chandan Das



G R O U N D S

- (i) For that the authority failed to consider the representation dated 16/11/2000 filed by the applicant in its proper perspective.
- (ii) For that the reason shown by the authorities for issuing the impugned order is not maintainable and is untenable in law.
- (iii) For that the authorities acted in a most negligent manner by forcing the applicant to join in his new place of posting at 8 Assam Rifles.
- (iv) For that the authorities have referred in law as well as in fact while passing the impugned order No.A 5178 dated 6/11/2000 and No. 1.24011/(ii)/A-2K/1793 dated 27/12/2000 transferring the petitioner from 31 Assam Rifles to 8 Assam Rifles.

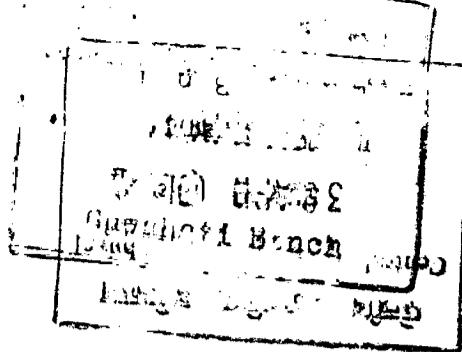
6. INTERIM RELIEF PRAYED FOR

Under the facts and circumstances the application prayed for the following reliefs during the pendency of the application :

- (i) That the respondents be directed not to enforce the order of transfer No.24011/(ii)/A-2K/1793 dated 27/12/2000.
- (ii) That the applicant declares that there is no other remedy under any rule and the Hon'ble Tribunal is the only forum to grant the relief to the applicant.

Contd.....

Sri Prabhakar Choudhury, Das



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(8)

(iii) That the applicant further declares that there is no other forum save and except filing this application before the Hon'ble Tribunal.

7. PARTICULARS OF THE ORDER IN RESPECT OF THE APPLICANT.

- i) Number of India Postal Order. 6G 792306
- ii) Name of the office which issued the postal order. G.P.O. ^{Gandhi}
- iii) Date of issue at Indian Postal Order. 28/6/2001
- iv) Post office which payable H.P.O., ^{Gandhi}
- v) Amount of postal order Rs 50/-

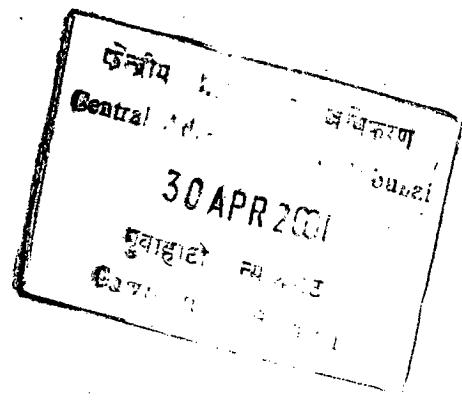
8. DETAILS OF THE INDEX

An index in duplicate containing the details of the documents to be relied on is enclosed hereto.

9. LIST OF ENCLOSURES

As per index

Sri Prabhade chandre, Das



(9)

VERIFICATION

I, Sri Prafulla Ch. Das, son of Late L. Das, resident of Tezpur in the district of Sonitpur, Assam, do hereby verify the statements made in paragraphs 1 to 99 true to my knowledge and belief.

And I sign this verification on the 30th day of April, 2001.

Sri Prafulla Chandra Das

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ABSTRACT OF SERVICE BOOK

Appointed as LDA temporary in the office of the
Comdt 5 AR vide HQ IGAR order No. A/W-A/7-68/103 of 18
Nov 68 at the Scale of pay Rs 125/- -4-145-EB-4-165-
EB-5-200 PM wef 2 Dec 1968 (FN)

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ANNEXURE I

कप्तान/मेजर
Capt/Maj
एजेंट ३१ असम राइफल्स^१
Adjt 31 Assam Rifles

From : Sri Prafulla Ch Das, UDA
31 Assam Rifles
C/O 99 APO

To : Mahanideshalaya Assam Rifles
Directorate General Assam Rifles
Rec Br (Adm)
Shillong - 11

(Through Proper Channel)

REQUEST FOR RETENTION OF POSTING TRANSFER

Sir,

1. With reference to your Dte posting order Sig No.A 5178 of 06.11.2000. I have the honour to submit following prayers for your due consideration please.

2. That Sir, I was posted to this Bn from 30 Assam Rifles (Sikkim) wef 12 Apr 1998 and thus it may be seen that normal tenure of 3 years service as in vogue has not completed as yet. Moreover Sir my eldest Son Mr Dipankar Das is studing in Class XI at KV Lokra. He has not completed his session of 2000-2001 as yet and my posting at this stage will the ruin his studies as he is staying with me alone whereas my remaining family members incl my wife are residing at home. Also I am promotion zone and expecting my promotion is due during Dec 2001, which may involve a posting again within a year.

3. Therefore, I earnestly, request your honour to defer my posting till my promotion is released.

4. For this act of your kindness I shall remain ever grateful to you.

Yours faithfully,

Dated : 16 Nov 2000

(Shri Prafulla Ch Das)

SERVICE NOTE

'A' BRANCH

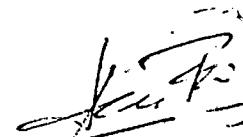
I.24011/(ii)/A-2K/1793

Dated 27 Dec 2000

DEFERMENT OF POSTING

1. Ref our service note No. I.24011/(ii)/A-2000/1729 dated 20 Dec 2000.

2. The case for deferment of posting in respect of Shri P C Das, UDA has been granted extension of tenure upto 30 Apr 2001 by HQ DGAR. Individual be released on report to 8 AR on 01 May 2001. No further extention will be granted. You are requested to instruct the above individual to submit clearence certificate to this branch on due date.



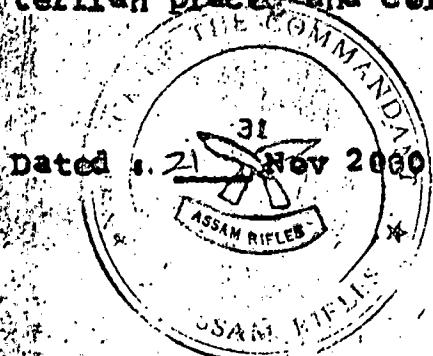
(Aman Puri)
Capt
Adjt

Fwd to : Fin Branch

TO WHOM IT MAY CONCERN

1. This is to certify that Shri Prafulla Chandra Das, UDA of 31 Assam Rifles is under my treatment.

2. He is diagnosed to be a case of BRONCHIAL ASTHMA and HYPERTENSION since long and advised to avoid hilly terrian places and cold and damp climate.



(Dr D J Lahon)

MO
31 Assam Rifles
विकास अधिकारी
Medical Officer
31 Assam Rifles
31 Assam Rifles