

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

✓ (DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓  
O.A/T.A No. 172/01  
R.A/C.P No. ....  
E.P/M.A No. ....

1. Orders Sheet..... O.A .....Pg. 1 .....to 2 .....
2. Judgment/Order dtd. 11.7.01 .....Pg. X .....to 11 *Separate order in file* .....
3. Judgment & Order dtd. ....Received from H.C/Supreme Court
4. O.A..... 172/01 .....Pg. 1 .....to 11 .....
5. E.P/M.P.....Pg. ....to.....
6. R.A/C.P.....Pg. ....to.....
7. W.S.....Pg. ....to.....
8. Rejoinder.....Pg. ....to.....
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.)

*kalik*  
6.12.13

FORM NO.4  
(See Rule 42 )

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

ORDER SHEET

*Original* APPLICATION NO ..... *172* OF 2001.

Applicant (s) *Babulal Pandey*

Respondent (s) *V. O. I. Form*

Advocate for Applicants (s) *Adil Ahmed*

Advocate for Respondent (s) *Carl*

Notes of the Registry	Date	Order of the Tribunal
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This application is in form  
but not in the ~~Condonation~~  
Petition ~~to~~ not filed vide  
M. F. No. .... C. F.  
for Rs. ... vide  
IPO/... *69 292409*  
Dated *9.5.2001*

16.5.2001

Heard Mr A. Ahmed, learned counsel  
for the applicant. Issue notice returnable  
by four weeks. Also issue notice as to why  
the interim order as prayed for shall not  
be granted returnable by four weeks. List  
for orders on 20.6.01. Meanwhile status quo  
as on today shall be maintained.

*[Signature]*  
Vice-Chairman

nkm

*WS 17157201*  
20.6.01

None appears on behalf of  
the applicant. List on 6.7.01  
for orders.

lm

*IC Ushan*  
Member

*Steps received*  
*[Signature]*

*WS 15757201*

*23/5/01*

Notice prepared and sent to  
D/S. for issuing the respondent  
No 182 by Regd A.D. vide  
D/No *1934534* dtd *29/5/01*

*to*  
*28/5/01*

- ① Service report are  
still awaited.
- ② No. show cause has been  
filed.

*29*  
*19.6.01*

11.7.01

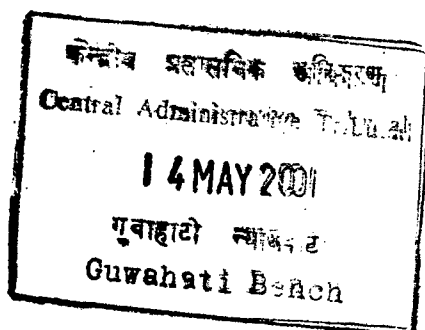
Heard Mr.A.Ahmed learnedcounsel for the applicant and also Mr.A.Deb Roy, Sr.C.G.S.C. for the respondents. It appears that the impugned transfer order dated 19.3.2001 transferring the applicant from Guwahati to Imphal is cancelled vide order dated 28.5.2001 Application is accordingly dismissed <sup>as</sup> infructuous. The copy of the office order bearing No.G-26032/1/2001 S & D (G) dated 28.5.01 is kept on records.

Copy of the order dated 11.7.01 sent to D. Section for issuing of the same to the learned Advocate of the parties.

*[Signature]*  
12.7.01

*[Signature]*  
Vice-Chairman

lm  
NS  
12/7/01



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH AT GUWAHATI.  
(AN APPLICATION UNDER SECTION 19 OF THE  
CENTRAL ADMINISTRATIVE TRIBUNAL ACT, 1985)

ORIGINAL APPLICATION NO. OF 2001.

Sri Babu Lal Pandey -Applicant.  
-Versus-  
The Union of India & Others  
-Respondents.

I N D E X

Sl.No.	Particulars	Page No.
1	Application —	1 to 8
2.	Verification —	9
3.	Annexure-A —	10
4.	Annexure-B —	11

Filed by

Advocate.

(Abul AHMED)

Filed by  
Shri Babu Lal Pandey -  
applicant  
through J.L.L.  
(As per Annex)  
Associate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH AT GUWAHATI.  
(AN APPLICATION UNDER SECTION 19 OF THE  
CENTRAL ADMINISTRATIVE TRIBUNAL ACT, 1985)

ORIGINAL APPLICATION NO. OF 2001.

B E T W E E N

Sri Babu Lal Pandey, Peon  
Office of the Regional Deputy  
Director, Song and Drama Divi-  
sion, Ministry of Information and  
Broadcasting, Government of India  
N.E.R., Guwahati Centre, P.D.  
Chaliha Road, Guwahati-3.

- Applicant

-AND-

1] The Union of India, represented  
by the Secretary to the Govern-  
ment India, Ministry of Informa-  
tion and Broadcasting, New Delhi.

2] The Regional Deputy Director,  
Song and Drama Division, Ministry  
of Information and Broadcasting,  
Government of India N.E.R.,  
Guwahati Centre, P.D. Chaliha  
Road, Guwahati-3.

- Respondents.

DETAILS OF THE APPLICATION:

JP

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

This instant application is directed against illegal and arbitrary transfer of the applicant vide Office Order No. A-22016/1/1995-S & D (G)/2402 dated 19-03-2001, issued by the Respondent No. 2.

2. JURISDICTION OF THE TRIBUNAL

The applicant declares that the subject matter of the instant application is within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATION

The applicant further declares that the subject matter of the instant application is within the limitation prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE

Facts of the case in brief are given below:

4.1 That your humble applicant a citizen of India and as such, he is entitled to all the rights and privileges guaranteed under the Constitution of India.

*jsk*

4.2. That your applicant is Group-D Low paid employee and he is working as Peon in the Office of the Regional Deputy Director, Song & Drama Division, Ministry of Information and Broadcasting, Government of India, N.E.R. Guwahati Centre, Guwahati.

4.3. That your applicant begs to state that he was transferred from Guwahati to Imphal vide Office Order No. A-22016/ 1/1995-S & D (G)/2402 dated 19-03-2001 issued by the Respondent No. 2.

Annexure-A is the photocopy of Office Order No. A-22016/ 1/1995-S & D (G)/2402 dated 19-03-2001 issued by the Respondent No. 2.

4.4 That your applicant begs to state that he has minor daughter who is studying at Class-V standard in Assamese Medium School. The transfer order which has been issued by the Respondent No. 2 at the time of mid-session of his minor daughter.

4.5 That the applicant begs to state that he is also suffering from Asthma and he is under treatment of Medical Specialist. He has been advised by the concerned Doctor to take rest.

Annexure-B is the photocopy of above said medical certificate issued by the Senior Medical consultant.

16

4.6 That the applicant begs to state that being a Group-D low paid employee and it is not possible for the applicant for taking his family at Imphal. It may be stated that his daughter <sup>w</sup> studying in an Assamese Medium School as such it is not possible for the applicant to transfer his daughter to any school at Imphal. If, the transfer order is not quashed then he will suffer much as he has to maintain his family and himself in two different places which is not possible for a Group-D poor and low paid employee. The applicant apprehends that at any time he may be released from Guwahati to Imphal. As such, the applicant is approaching before this Hon'ble Tribunal for seeking justice.

4.7 That your applicant begs to state that ever since his entry to the service of this department he has been rendering his devotional and sincere service to all the concerned higher authorities with ought most satisfaction. There is no blemish from any quarter in any point of time in his entire service life.

4.8 That your applicant submits that it is not possible for the applicant to stay alone at Imphal, Manipur leaving his wife and children at Guwahati. There is none to look after his family.

4.9 That your applicant submits that the Respondents have issued the transfer order in violation of Government Circular and Policy



regarding posting of Group-D employee. Your applicant has got reasonable belief that the Respondents are resorting a colourable exercise of power to accommodate their interested person.

4.10.1 That your applicant further submits that the action of the Respondents is highly illegal, improper, whimsical and also against the policy adopted by the Government of India regarding posting of Group-D employee.

4.11 That in view of the facts and circumstances it is a fit case for passing an interim order protecting the interest of the applicant and his family members including his minor children.

4.12 That this application is filed bona fide and for the interest of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1 For that, due to the above reasons narrated in details the passing of the transfer order of the applicant in prima facie is illegal, mala fide, arbitrary and without jurisdiction and hence the same is liable to be set aside and quashed.

5.2 For that, the action of the Respondents is highly illegal, arbitrary and also violative of the Government Policy regarding

fil

transfer of Group-D employee.

5.3 For that, the action of the Respondents is in total violation of the Articles 14, 16 and 21 of the Constitution of India.

5.4 For that, the action of the Respondents is arbitrary, mala fide and discriminatory with an ill motive and as such, the impugned transfer orders at Annexure-A is liable to be set aside and quashed.

5.5 For that, the Respondents before transferring the applicant ought to have considered the transfer policy of the Government of India in this matter and as such, the impugned transfer order is bad in the eye of law and is liable to be set aside and quashed.

5.6 For the, in any view of the matter the action of the respondents are not sustainable and hence the same is liable to be set aside and quashed.

The applicant craves leave of this Hon'ble Tribunal to advance further grounds at the time of hearing of this instant application.

6. DETAILS OF REMEDIES EXHAUSTED:

BC

That there is no other alternative and efficacious remedy available to the applicants except invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

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

That the applicants further declare that they have not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other Court, 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 applicants most respectfully prayed that your Lordship may be pleased to admit this application, call for the records of the case, issue notices to the Respondent as to why the Impugned Transfer order dated 19-03-2001 issued by the Respondent No. 2 may not be quashed and after hearing the parties and the cause or causes that may be shown your Lordship may be pleased to direct the Respondents to give the following reliefs.

8.1 That the impugned order of Transfer dated 19-03-2001 transferring the applicant from Guwahati to Imphal is liable to be set aside.

8.2 Cost of the application:

8.3 To pass any other relief or reliefs to which the applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of the applicant most respectfully prays for interim order by way of suspending the order of Transfer from Guwahati to Imphal vide order dated 19-03-2001 (Annexure-A) issued by the Respondent No. 2.

10. Application Is Filed Through Advocate.

11. Particulars of I.P.O.:

I.P.O. NO.

66792409

Date Of Issue 9.5.2001

Issued from Guwahati

Payable at Guwahati.

12. LIST OF ENCLOSURES:

As stated above.

... Verification.

72

## VERIFICATION

I, Sri Babu Lal Pandey, Peon Office of the Regional Deputy Director, Song and Drama Division, Ministry of Information and Broadcasting, Government of India N.E.R., Guwahati Centre, P.D. Chaliha Road, Guwahati-3 do hereby solemnly verify that the statements made in paragraphs 4.1, 4.2, 4.4, 4.6,

4.7 — are true to my knowledge those made in paragraphs 4.3, 4.5

— are being matters of records are true to my information derived therefrom which I believe to be true and those made in paragraph 5 are true to my legal advice and I have not suppressed any material facts.

And I sign this verification today on this the 14th day of May 2001 at Guwahati.



Declarant.

No. A-22016/1/95-S&D(G)/2402  
Song & Drama Division  
Ministry of Information & Broadcasting  
Government of India  
N.E.R : Guwahati Centre.

P.D. Chaliha Road  
Guwahati - 3  
Date : 19/3/2001 ✓

OFFICE ORDER

The following transfer and posting in the grade of Group 'D' Staff of Song & Drama Division Guwahati and Imphal Centre has been made with immediate effect.

<u>Sl.No.</u>	<u>Name of Employees</u>	<u>Present posting</u>	<u>New place of Posting</u>
01.	Shri. Babu Lal Pandey Peon,	Guwahati	Imphal
02.	Shri. K. Purno Sharma Peon,	Imphal	Guwahati

The above transfer / posting of the concerned Group 'D' employees above are ordered in public interest and as such they are entitled to get all transfer benefits.

(N.N. SINGH)  
Regional Dy. Director.

Copy to :-

1. The Dy. Director ( Admn) Song & Drama Division, Soochna Bhawan, C.G.O Complex, Lodhi Road, New Delhi - 3.
2. The Producer, Song & Drama Division, Palace Compound, Imphal.
3. The Pay & Account Officer, Doordarshan, Guwahati.
4. Administrative Officer, Song & Drama Division, Guwahati.
5. Personal File.
6. Guard File.

Attested  
- [Signature] -  
Advocate

[Signature]  
(N.N. SINGH)  
Regional Dy. Director.

Dr. J. K. BARUAH  
SR Medical Consultant  
Specialised in Transfusion Medicine (Bombay)  
Specialised in Chest Diseases  
Phone: 2827513  
Residence: 282716/16/16

Chamber :  
LIFE PHARMACY COMPLEX  
Ulubari Chariali  
8.00 P.M. To 9.30 P.M.  
Guwahati- 781 007

ASSAM MEDICAL STORE  
Ulubari Chariali  
Guwahati-781 007  
Phone No. : 500276  
TIME : 5 P.M. TO 8 P.M.

ANNEXURE - B

Mr./Mrs./Master/Miss

B. R. Pandey

(Age 50 yrs)

Complaints/Symptoms :

To Administer my Concom.

This is to certify that Sh. B. R. Pandey  
is suffering from Asthmatic Paroxysms &  
Viral Hepatitis. He is under my treatment  
and is now advised to take rest for  
one month etc. 5/4/2001.

Don  
5/4/2001  
(Dr. J. K. Baruah)  
Medical Officer

Investigation/s :

As Hst  
As WBC  
As RBC