

50/100
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.

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^{in file box}

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SECTION OFFICER (Judl.)

Shalini
6.12.03

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 Panday

Respondent (s) U. O. I. Town

Advocate for Applicants (s) Adil Ahmed

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

Notes of the Registry | Date | Order of the Tribunal

This application is in form
but not in time. Condonation
Petition is filed but filed vide
M. P. C. P.
for Rs 5/- deposited vide
IPO/2001/69792409
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.

Vice-Chairman

Step Received
DatedWTS
15/5/2001

nkm

WTS
17/5/2001

20.6.01

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

I C Usha
Member

23/5/01
Notice prepared and sent to
D/Is. for issuing the respondent
No 182 by Regd Ad. vide
D/No 193/An 34 dttd 29/5/01

lm

Dated
28/5/01

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

M/s
19.6.01

11.7.01

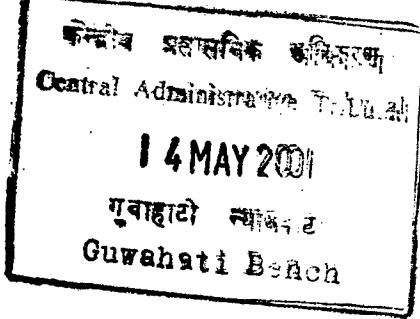
Copy of the order dated
11.7.01 sent to D. Section
for issuing of the same
to The learned Advocate
of the parties.

34
12.17.09

Heard Mr. A. Ahmed learned counsel 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 as infructuous. The copy of the office order bearing No. G-26032/1/2001, S & D (G) dated 28.5.01 is kept on records.

Vice-Chairman

1m
JNS
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. 1 OF 2001.

Sri Babu Lal Pandey -Applicant.

-Versus-

The Union of India & Others

-Respondents.

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Filed by
Advocate. (Abul AHMED)

P.L. by
Sri Babu Lal Pandey
coplicant
through
(Adv. Atmmed)
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:

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.

JK

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.

SC

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 ^{is} 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

JK

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] 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

fit

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:

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 deemed 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. 6G792409

Date Of Issue 9.5.2001

Issued from Guwahati

Payable at Guwahati

12. LIST OF ENCLOSURES:

As stated above.

Verification.

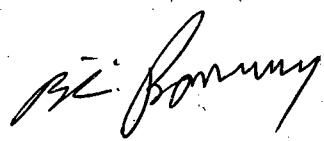
VERIFICATION

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 (Admin) 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
Advocate

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

Dr. J. K. BARUAH
S.K. Medical Consultant
Specialized in Traditional Medicine (Homoeo)
Specialized in best Diseases
Phone: 0361-2552222
Reg. No. 23701/AMC

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. : 508276
TIME : 5 P.M. TO 8 P.M.

- 11 -

ANNEXURE - B

Mr./Mrs./Master/Miss

Complaints/Symptoms :

B. R. Pandey

(Age: 50 yrs.)

SC 34, Dm

To Dr. and my son

This is to certify that Dr. B. R. Pandey
is suffering from Asthmatic Bronchitis
with Hepatitis. He is under my treatment
and is now advised to take rest for
one month off. 5/4/2001.

Dr.
5/4/2001.
(Dr. J. K. Barua)
M. B. B. S. M. D. M. S.

Investigation/s :

Attested
B. R. Pandey