

30/10/02

3

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Balds  
28/11/07

FROM No. 4  
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 214/2002  
Misc Petition No. \_\_\_\_\_  
Contempt Petition No. \_\_\_\_\_  
Review Application No. \_\_\_\_\_

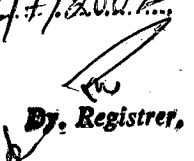
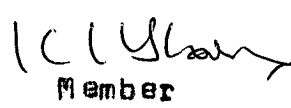



Applicants. Nripendra Debbar

-Vs-

Respondant(s) Union of India & ors.

Advocate for the Applicant(s) Mr. B. Malakar, Up. R.Ders.

Advocate for the Respondant(s) C.A.S.C.

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form but not in time. Contention Petition is filed / not filed C.F. for Rs. 50/- deposited vide D.O/ED No. 76-576016</p> <p>Date <u>2/7/2002</u></p> <p> By, Registrar,</p>	<p>10.7.02</p> <p>mb</p>	<p>Heard Mr. B. Malakar, learned counsel for the applicant and also Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents.</p> <p>List the matter on 26.7.2002 for admission.</p> <p> Member</p> <p> Vice-Chairman</p>
	<p>26.7.02</p> <p>mb</p>	<p>Heard Mr. B. Malakar, learned counsel for the applicant and also Mr. A. Deb Roy, learned Sr. C.G.S.C. for the Respondents.</p> <p>List on 12.8.2002 for admission.</p> <p> Member</p> <p> Vice-Chairman</p>

12.8.02 Mr. B. Malarka, learned counsel for the applicant wants the matter to be adjourned. Accordingly, the case is adjourned. List again on 16.8.2002 for admission.

*K. C. Sharm*  
Member

mb

16.8.02 Heard Mr. B. Malakar learned counsel for the applicant and Mr. A. Deb Roy, Sr. C.G.S.C. for the Respondents.

Application is admitted. Call for records. Returnable by four weeks. List on 6.9.02 for hearing.

The learned counsel for the respondents wants to hear the case after 15 days. He assured that within the 15 days the applicant will not be disturbed from his present post.

List on 6.9.02 for hearing.

*W/S filed on 6.9.2002*  
*A. K. Roy*  
*6.9.*

lm

*K. C. Sharm*  
Member

*6.9. Pass over to 9.9.2002*

*M/S*  
*A. K. Roy*  
*6.9.*

9.9.2002

Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is dismissed. No order as to costs.

*[Signature]*  
Vice-Chairman

nkm

*Judgment did 9.9.02*  
*Communicated to the*  
*Applicant & the parties*  
*court.*  
*[Signature]*

4

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A./~~xxx~~No.214.....of 2002

DATE OF DECISION..9.9.2002.....

Shri Nripendra Deka

APPLICANT(S)

Mr B. Malakar and Mr R. Das

ADVOCATE FOR THE APPLICANT(S)

-VERSUS-

The Union of India and others

RESPONDENT(S)

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


ADVOCATE FOR THE  
RESPONDENT(S)

THE HON'BLE MR JUSTICE D.N. CHOWDHURY, VICE-CHAIRMAN

THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches .

Judgment delivered by Hon'ble Vice-Chairman



5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.214 of 2002

Date of decision: This the 9th day of September 2002

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

Shri Nripendra Deka,  
Telgraphman under CS/CTO,  
Panbazar, Guwahati.

.....Applicant

By Advocates B. Malakar and Mr R. Das.

- versus -

1. The Union of India, represented by the  
Chief General Manager,  
Bharat Sanchar Nigam Limited,  
Ulubari, Guwahati.

2. The Divisional Engineer (Admn.),  
Office of the General Manager,  
Bharat Sanchar Nigam Limited,  
Kamrup, Guwahati.

.....Respondents

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

.....

O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

This is an application assailing the order dated 18.3.2002. On successful completion of the Initial Course Training of Telecom Mechanic at CTTC, Guwahati from 1.7.1996 to 23.8.1996 the applicant was appointed as Telecom Mechanic on temporary basis in the pay scale of Rs.4500-125-7000 nad posted at Hatigarh Exchange under the D.E.(OCB), Dispur against a sanctioned post. The legitimacy of the said order was assailed in O.A.No.137 of 2002. This Tribunal by order dated 1.5.2002 disposed of the said O.A. directing the applicant to submit a detailed representation for consideration of his case by the authority. Thereafter the applicant filed a Review

Application which was registered and numbered as R.A.No.2 of 2002 for review of the order dated 1.5.2002 in O.A. No.137/2002. In fact there was no scope for review under Section 22(f) of the Administrative Tribunals Act, 1985. However, the authority was directed to dispose of the representation of the applicant. On the same issue the applicant has again preferred the present application assailing the aforementioned order of transfer. It seems on the same issue the applicant has been filing one application after another which was disposed of by the Tribunal by order dated 1.5.2002.

2. The respondents submitted their written statement and stated that the representation of the applicant was finally disposed of vide order dated 1.8.2002.


3. I have heard Mr R. Das, learned counsel for the applicant and Mr A. Deb Roy, Sr. C.G.S.C. at length. In the written statement the respondents have also stated that by the impugned order dated 18.3.2002 the applicant was posted at Hatigarh Exchange since there was no vacancy of Telecom Mechanic at CTO, Guwahati. The applicant further pressed his claim for being posted at CTO, Guwahati on the score that the by the transfer order the respondents sought to curtail the trade Union activities of the Union of which the applicant is the Chairman. The respondents stated that as per the policy, transfer of an officer, attached with Unions, from one office to another in the same station/Headquarter would not hamper the trade union activities.

4. I have given my anxious consideration in the matter. On overall consideration of the matter no illegality is discernible in posting the applicant at

Hatigarh.....

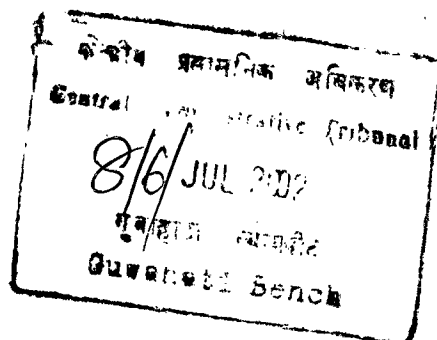
Hatigarh Exchange on promotion.

5. The application is accordingly dismissed. There shall, however, be no order as to costs.



( D. N. CHOWDHURY )  
VICE-CHAIRMAN

nkm



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : GUWAHATI.

Original Application No. 214 / 2002.

Nripendra Deka

... Applicant

Vs.

Union of India

... Respondents

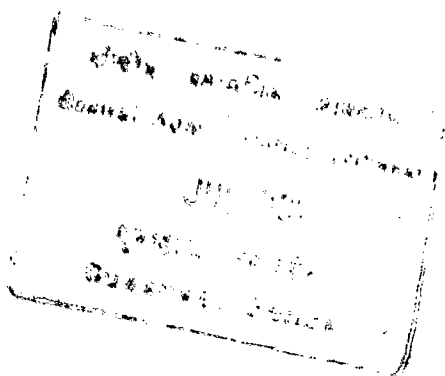
I N D E X

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Filed -

*Ratul Das*  
Advocate.





Filed by -

NaiPendek Deka

- Applicant

Through -

Ratul Day -

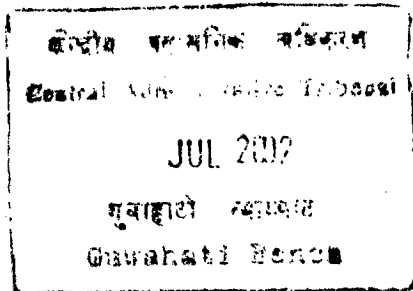
Admo Cde

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : GUWAHATI

An application under Section  
19 of the Central Administrative  
Tribunal Act, 1985.

Date of filing :

Regn. No. :



Sri Nripendra Deka,  
Telegraphman, under CS/CTO/  
Panbazar, Guwahati.

..... Applicant

Vs.

Union of India & Ors  
( Telecom )

... Respondents

1. Particulars of the applicant :

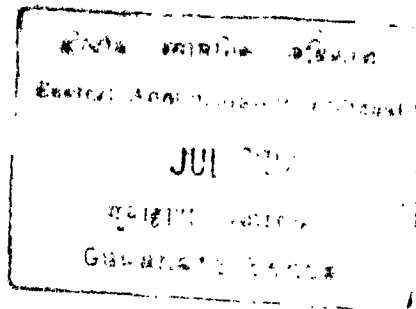
- i) Name : Sri Nripendra Deka  
ii) Father's Name : Late  
iii) Designation and : Telegraphman under CS/CTO/  
office which Panbazar, Guwahati.  
employed.

iv) Address for Service : -do-  
of notice.

2. Particulars of the :  
Respondents.

- i) Name & designation : Union of India, Represented by  
the Chief General Manager, Bharat  
Sansar Nigam Lt. S R Bora Lane,  
Ulubari (2) Divisional Engineer  
(Adm) office of the GM/BSNL/Kamrup,  
Guwahati.
- ii) Office address of : As above  
the respondents
- iii) Address for Service : As above  
of notice.

N Deka



3. Particulars of the order against which the application is made :

Order No. GMT/Estt-301/01-02/344 dated 18.3.2002.

4. Jurisdiction of the Tribunal

The applicant declares that the subject matter of the application is within the jurisdiction of this Tribunal.

5. Limitation :

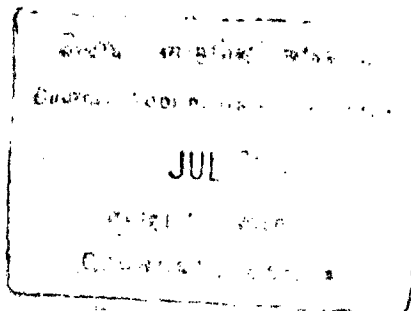
The applicant further declares that this application is within the limitation prescribed under section 21 of the Act.

6. Facts of the Case :

I) The applicant was working as Telegraphman under the respondent No. 2 and is presently posted at Central Telegraph office, Panbazar, Guwahati. The applicant is a Trade Union Activist and is the elected President of the NUTE Line Staff & Gr. D and the acting circle Secretary of Assam Circle of the NUTE LS & Gr. D.

II) That the applicant's promotion was long over due but the Respondent authority on the pretext of a departmental enquiry kept the promotion withheld for which the applicant came before the Tribunal filing an OA which was registered and numbered OA 301 of 2002. The Hon'ble Tribunal vide order dated

*W. D. Dey*



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11.7.2001 allowed the application and then only the case of the applicant for promotion was considered.

- iii) That the Respondent No. 2 vide order dated 18.3.2002 issued the promotion order promoting the applicant to the post of Telecom Machanic retrospectively w.e.f. 17.8.99. By the same order, the applicant has been posted in Hatigarh Exchange under D.E. (OCB)/Dispur against a Sanctioned post.

A copy of the order is annexed hereto this application and marked Annexure - A.

- iv) That the applicant begs to state that the Respondent no. 2 vide order dated 6.10.99 issued promotion order to a number of similarly situated person some of whom were junior to the applicant. They are -

- (a) Sri Dulal ch. Baishya
- (b) Sri R K Barua
- (c) Sri Gobinda Talukdar
- (d) Sri Rohit ch. Das
- (e) Sri Prafulla ch. Deka

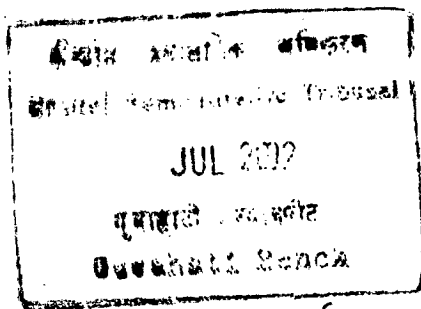
All these persons were posted under CS/CTO panbazar bringing them from outside. Now that the promotion order of the applicant has been belatedly issued the applicant has been shunted out from his original place of work. although there is vacant posts of Telecom mechanics at CTO.

*N. B. Das*

A copy of the said order is annexed hereto this application and marked Annexure - B.

- v) That the applicant further begs to state that more than 10 such phone mechanics have been kept engaged by the Respondent No. 2 in administrative work, under him. This matter was brought to the notice of the authority by the Union side but no action has yet been taken.
- vi) That the applicant respectfully submits that transfer being an incident of service and the applicant cannot challenge such order if it is done in the interest of service. But the present case will not come within that purview for the reasons that -
  - a) Junior persons have been allowed to work at CTO transferring the applicant to a newly sanctioned post even in the face of existing vacancy - Further some phone mechanics have been kept engaged by the respondent no. 2 in administrative work.
  - b) The transfer order is, therefore, intentional and malafide.
- vii) That the applicant has been a trade Union Activists. He was All India Joint General Secretary of the National Union of Telegraph Employees, Line Staff

W. A. K.



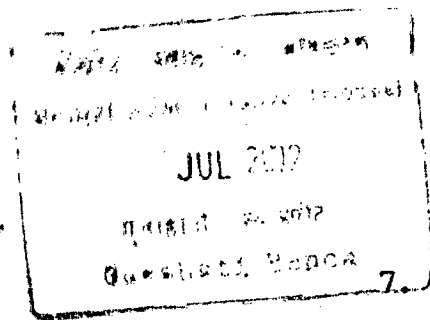
6.

and Group D. With the creation of BSNL, the number of Unions are being reduced and only these Unions with larger numbers will survive and for that there will be head counting. The applicant who is presently elected as Chairman of NUTE LS & Gr. D and Acting Secretary, Assam Circle is being sent out to curb his activities. Under the instruction of DOT elected an Office bearer of a Trade Union is not disturbed during his tenure as such Office bearer. But in the present case this has been violated. The transfer order is, therefore, punitive.

A copy of DOT's instruction is annexed hereto for perusal by the Hon'ble Court as Annexure - C.

- viii) That so far posting of the applicant on promotion as Phone Mechanic is concerned, it is stated that it is not a routine promotion. It is promotion in the restructured cadre which is created as a result of merger of one Group - D and one line staff. The employee in such restructured cadre gets only the pay scale. Therefore, the applicant cannot be sent out to a newly sanctioned post. The respondent authority has transferred him out of grudge because of the fact that the posting which was required to be made on 6.10.99, was denied the same on some vague grounds and only as per court's order the applicant has been given the posting and posted elsewhere.

*N. Decker*



- ix). That the DOT vide letter No.272/94-TE. II(iv) dated 31.8.94 has laid down the guideline to be followed in the matter of officiating arrangement in respect of restructured cadre Phone Mechanics. In this letter, it has been provided -

"(C)(i). It may so happen that some of the senior officials either in the basic grade or in BCR/OTBP Grade in a particular station may not be working in a NT area whereas a junior in the list might have been considered for officiating in the first instance by virtue of his occupying a NT Post. In such cases, if any representation is received from the senior official concerned, such representation can be considered favourably, if the official can be accommodated by replacing the juniors most official already officiating/occupying the restructured cadre post as that station as per the first order. No transfer from one station to another should be restored for such officiating/occupying arrangement. (Circulated by AGMT/Trivandrum).

A copy of the letter is annexed hereto and marked as Annexure -D.

- (x) That the applicant has submitted a representation which has not been disposed as yet inspite of CAT's order. In the event of his transfer the activities

*Adena*

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of the Union will suffer. The CTO being the Headquarter of all lines staff and Gr. D, they could not be mobilised to keep the registration of union in tact. This has been brought to the notice of the authority by the central union leaders which may kindly be seen. A copy of the representation is annexed hereto

1/8 and marked Annexure - E together with CAT's order and the recommendation as annexure - E & E1

Legal ground.

The applicant's transfer cannot sustain on the ground -

- (i) Persons junior to him have been retained in the Headquarters and the applicant sent out to a newly sanctioned post.
- (ii) by the transfer order it is sought to curtail the trade union activities of the union of which he is the Chairman and the circle Secretary.

The transfer order being malafide and punitive the same is required to be set aside.

8. Relief Sought.

Under the circumstances, the order dated 18.3.02 so far it relates to the posting of the applicant at Hatigarh Exchange be set and do and the applicant be allowed to work at CTO Office.

9. Interim Order.

Pending disposal of the application, the impugned order dt. 18.3.02 may be suspended.

N. D. Singh



JUL  
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10. Remedies Exhausted.

The applicant declares that he has availed remedies available to him.

11. Matter not pending before any other Court or Tribunal.

The applicant declares that the subject matter of this application is not pending before any other court of Tribunal.

12. Particulars of I.P.O.

No. of the I P O      76-576616  
Name of issuing post office      Gunshali  
post office which payable      Gunshali

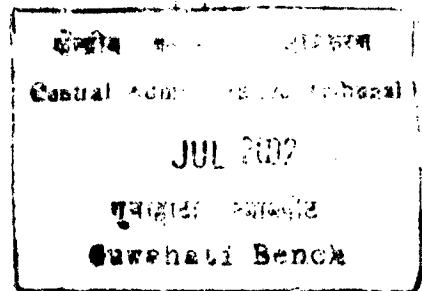
13. Particular of Index.

An index in duplicate containing details of documents relied upon is enclosed.

14. List of Annexures :

- a) Annexure - A the order impugned
- b) Annexure - B, the Promotion order retaining juniors in the Hq. drawn from out-side.
- c) Annexure - C DOT's instruction.
- d) Annexure - D representation.
- e) Annexure - E CAT's order.
- f) Annexure - E, recommendation.

W.D. Singh



9.

V E R I F I C A T I O N

I, Shri Nripendra Deka, the applicant above named do hereby verify that the statements made in paragraphs 1,2,3,4,5,6 ( 1,II, V, W6, VII ) 7,8,9,10,11,12,13,14 are true to my knowledge and those made in paragraphs 6 (III, IX, VIII ) being matter of records are true to my information derived there from which I believe to be true and the rest are my humble submission.

*Nripendra Deka*  
Signature.

(10<sup>20</sup>)

OFFICE OF THE GENERAL MANAGER (BSNL)  
KAMRUPOUR DISTRICT, GUWAHATI-781 007.

Memo No. GMT/EST-301/01-02/344  
Dated at Guwahati-7, the 18<sup>th</sup> March 2001

On successful completion of Initial Course Training of Telecom Mechanic at CTC, Bharalumukhi, Guwahati from 01-07-96 to 23-08-96, Shri Nripendra Deka, T.Men is hereby appointed as "Telecom Mechanic" on temporary basis in the pay scale of Rs. 4500-125-7000/- p.m. plus usual allowances as admissible to the BSNL Employees, w.e.f. from 17.08.1999 and posted in Hatigarh Exchange under D.E.(OCB)/Dispur against the sanctioned posts.

Sd/-  
( N.BHASKARAN )  
Divisional Engineer (Admin)

Copy to:

- 01
- 02
- 03
- 05-06
- 07
- 08
- 09

- The Chief General Manager(BSNL), Assam Circle, Guwahati for favour of information.
- The DE/CTO, Panbazar. He is requested to release the official under intimation to all concerned.
- The D.E.(OCB)/Dispur. He is requested to intimate the date of joining as soon as the official reports.
- The Officials concerned. (DE/CTO)
- Service Book/Personal File of the officials.
- The in-charge, Hatigarh Exchange.
- E-3.
- Spare.

*[Signature]*  
For GM(BSNL)/Kamrup/GH-7

*[Signature]*

certified to be true copy  
Ratul Das  
Advocate.

DEPARTMENT OF TELECOMMUNICATIONS  
OFFICE OF THE GENERAL MANAGER, TELECOMMUNICATIONS  
KAMRUP TELECOM. DISTRICT  
GUWAHATI-781 017

Memo No. GMT/EST-301/'99-2000/116  
Dated at Guwahati-7, the 6th October '99.

In partial modification to this office Memo No. GMT/EST-301/'99-2000/89 Dtd. 15.09.99, the following orders are issued by changing place of posting.

Sl. No.	Name of the Official	Design.	Original Working Place	Present posting as P.M.	Modified posting as P.M.
01(28)	Sri Hari Charan Nath	Teleg. Man	DE(CTO)/GH.	SDOT/Kam. Changsari	SDOT/Kam. Changsari
02(29)	" Bipin Ch. Baishya	-do-	-do-	SDOP/Kala.	DE/CTO.
03(30)	" Jogen Ch. Kalita	-do-	-do-	SDE(Elec) I/D.	-do-
04(31)	" Mahadev Das	-do-	-do-	SDOP/Kala.	-do-
05(32)	" Chandra Kt. Kakati	BCR/Peon	DE(MW/Mtc.)	DE(Instln) DE(Inst tln.) GH.	200-Rd.
06(35)	" Sushim Ch. Sarma	Teleg. Man	DE(CTO)/GH.	-do-	-do-
07(36)	" Jamini Kt. Das-I	-do-	-do-	SDE(Elec) O/D	DE/CTO.
08(41)	" Suren Tamuly	-do-	-do-	SDOP/C-I	North-GH. under SDOT/Kam.
09(43)	" Ananda Kr. Sarma	-do-	-do-	SDE(Elec) I/D.	DE/CTO.
10(46)	" F.R. Marak	-do-	-do-	North-GH. under SDOT/Kam.	-do-
11(48)	" Dibakar Sarma	-do-	-do-	SDE(Elec) I/D.	-do-
12(53)	" M.C. Basumatary	-do-	-do-	SDOP/Panjabari	Jorabat under SDOT/Kam.
13(57)	" Dulal Ch. Baishya	-do-	-do-	SDOP/Adabari	DE/CTO.
14(61)	" R.K. Baruah	-do-	-do-	SDOP-I/Dispur	-do-
15(62)	" Gobinda Talukdar	-do-	-do-	SDE(Elec) I/D	-do-
16(63)	" T.K. Das-II	-do-	-do-	Kamapur under SDOT/RMY.	SDOP/NMT.
17(64)	" Rohit Ch. Das	-do-	-do-	SDOP-I/Dispur	DE/CTO.
18(72)	" Prafulla Ch. Deka	-do-	-do-	SDE(Elec) I/D	-do-

Sd/-  
Divisional Engineer (Admin)  
O/C the G.M.T.D. Guwahati-7

Copy to :  
01-03 The DE(CTO)/(Installation/Kamrup/GH)/(MW-Mtce.)  
01-05 The DE(CTO)/(Kamrup)/(Panjabari)

True copy  
Ratul Das  
Associate

FEDERATION OF NATIONAL TELECOM ORGANISATIONS.

T-16, ATUL GROVE NEWDELHI 110001.

To  
All FWC Members,  
All Circle Secretaries,  
FNTD Affiliates.

Dear Colleagues,

A compilation of instructions on trade union facilities released by the Department of Telecom vide its no:10-12/87-SRT dated 5.5.87 is enclosed for your reference.

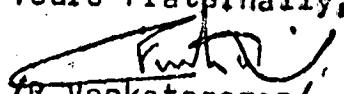
This compilation incorporates all the modified and new instructions issued by the Department from time to time. It is an upto date one keeping all instructions issued till 31.3.1987.

I am sure that this compilation will help you in all respects in your day to day discharge of trade union activities.

I request you to take earnest steps to get additional copies cyclostyled at your end and circulate it to the Divisions/branches under your jurisdiction, so as to equip the Divisional/Branch secretaries with the latest instructions and provisions on trade union facilities.

With best wishes,

Yours fraternally,


  
/R. Venkataraman/  
Secretary General.

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ALL CIRCLE SECRETARIES TO NOTE

1. Please ensure proper and timely remittance of quota/foreign service fund of Re.1/- and PTI Affiliation fee to Sri. R.C.P. Singh, Financial Secretary, FNTD.
2. Please respond to the request of the Federation by sending the list of branch secretaries of your jurisdiction to enable the Federation to despatch the Journal.
3. Please furnish the information asked by the Federation regarding the representation of the FNTD in quality Circle at various places.
4. PLEASE KEEP YOUR RECORDS ON MEMBERSHIP OF FNTD AND BE IN READINESS TO ACCEPT THE VERIFICATION OF MEMBERSHIP.

  
/R. VENKATARAMAN/  
Secretary General.

True copy  
Ratul Das  
Advocate

Pension contribution to be made by recognised unions in respect of serving Government employees on foreign service with them may be waived. The concession is limited to not more than two serving employees at a time. As regards leave salary contributions, no objection to waive them if the unions agree to bear the leave salary and if the employees concerned agree to forego their claim for leave from Government in respect of foreign service period.  
(86-4/75-SPB-II dated 22.11.1975)

## VI IMMUNITY FROM TRANSFER

1. a) Concession of immunity from transfers from the Head Quarters of recognised unions/Associations is applicable to their office bearers during the first year of their elections to the offices of Executive or General Secretary, Asst. Secretary and Financial Secretary (or treasurer) of Class. III or Class. IV Union whether they are All India, Circle, Divisional (if the constitution and by-laws of the central union permit opening of such branches)
- b) If there are several office bearers with the same designation the concession applies during the first year of the office to only one of each category, i.e. Chief executive or General Secretary, Secretary, Asst. Secretary and Financial Secretary (or treasurer) as may be nominated by the Unions.
- c) The concession ceases to be applicable to the above union office bearers on promotion to higher posts.
- d) With the mutual goodwill between the Union and the local officers and subject to the administrative convenience, the office bearers elected to above said offices of the union may stay at the Head Quarters station even longer than one year.
- e) If the office bearers working at other stations are elected to these offices, i.e. Chief executive or General Secretary, Secretary, Asst. Secretary and Financial Secretary (or Treasurer) they may be brought on temporarily transfer to the Head-Quarters of the Union during the first year of election and may be retained there even for longer than one year but with the goodwill between the unions and the local officers and subject to administrative convenience only.
- f) The concession are not guaranteed and cannot be claimed as a matter of right. They are always subject to administrative exigencies.

(69-18/70-SPB-I dated 7.12.1970)

2. The orders regarding grant of immunity from transfers to union office bearers should be followed strictly except on administrative grounds. Bringing the chief executive of the unions to their head quarters should also be followed if an appropriate post in which the Chief Executive could be posted, is available (69-52/72-SPB-I dt 23.3.73)
3. Where it is not possible to observe the general principles laid down in the instructions on the concessions of immunity from transfer, a report should be sent to the Directorate indicating the circumstances under which it is not possible to extend the facility even in the first year of term of office with the Union.  
(69-52/72-SPB-I dated 2.1.1974)

4. Subject to the administrative exigencies, this concession of immunity from transfer may be granted for the 2nd year also to the office bearers of such of the Unions/Associations whose constitution provides Conference/elections in two years, instead of annually.  
(69-7/77-SPB-I dated 20.4.1977)

GOVERNMENT OF INDIA  
DEPARTMENT OF TELECOMMUNICATIONS  
OFFICE OF THE CHIEF GENERAL MANAGER TELECOM  
KERALA CIRCLE, TRIVANDRUM

\*\*\*\*\*

To:  
All Heads of SSAs, etc.  
Kerala Circle.

No. STA/40-5/Rlgs/II/94(1) dated at TVM the 29.2.96

Sub:- Officiating arrangements in respect of restructured cadre Phone Mechanics - Issue of guidelines - reg.

Ref:- 1. DOT/ND letter No.27-2/94-TE.II(4v) dtd.31.8.94 communicated vide CGMT, Kerala Circle, Trivandrum letter No.ES/4-1/Rlgs/94 dtd. 5.10.94

2. This office letter No.ES/4-1/Rlgs/94 dtd.10.8.94 regarding Identification of New Technology areas

In continuation to this office letters cited above, the following guidelines regarding implementation of officiating arrangement against restructured posts of Phone Mechanics, are issued for further necessary action. Necessary arrangements may be made to give officiating in restructured cadre to the officials, who are performing the duties, subject to the condition that they actually work in New Technology areas, as defined in DOT letter No.27-10/93-TE.II dtd. 2.8.94 communicated vide CGMT, Kerala Circle, Trivandrum letter No.ES/4-1/Rlgs/94 dtd. 10.8.94 identifying New Technology areas.

2. IDENTIFICATION OF OFFICIALS WORKING IN NT AREAS:-

2.1 The officials in the form of Wireman/Wireman presently working in NT areas as indicated in CGMT, Trivandrum letter No.ES/4-1/Rlgs/94 dtd. 10.8.94 may be identified. To facilitate this identification, all such officials should be listed as follows:-

- (a) Serial Number
- (b) Name of the official
- (c) Designation

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True  
Ratul Das  
Adm. cate



(d) Whether the post occupied by him is identified as new technology post.

(e) Whether the official is eligible to officiate as per conditions laid down in this circular.

2.2 Only Linemen/Wiremen eligible for Phone Mechanic appointment can be considered for officiating arrangements in the New Technology post as per seniority.

2.3 NOTE: Since the scale of OTBP Linemen/Wiremen is less than the Phone Mechanic scale, these officials are also eligible to officiate.

2.4 (a) List all eligible officials as mentioned in the above paras who are occupying the NT posts as per their seniority.

(b) Fill up the available vacant posts with those officials as per seniority and to the extent vacant posts are available on as is where is basis. Among them, basic grade officials will be on officiating arrangement. The BCR officials occupying NT posts will not be disturbed. A list of such officials who are occupying new technology posts, and are included in one of the sanctioned vacant posts, will be kept on record with the dates from which they are occupying the NT position (Refer prescribed format in Annexure). They will not be given any new designation nor will be given any monetary benefits until any order contrary thereto is received from Directorate.

Case-1 : Number of officials more than number of posts.

All the basic cadre OTBP officials occupying NT posts and falling within the range of vacant posts will be straight away placed on officiating order on as is where is basis without any displacement. All the BCR officials occupying NT posts and fall within the field of consideration in the list will be dealt with as per note under para 2.4(a) above.

Case-2 : Number of posts more than number of officials

The unfilled vacant posts can also be considered for officiating/occupying arrangement by left out



-15- 24

senior most officials who are not occupying any NT posts but otherwise eligible. This can be done subject to the condition the senior most eligible officials are suitable for performing the duties of the NT post. However, there should not be any shifting from one station to another for such officiating/occupying arrangement.

(c)(i) It may so happen that some of the senior officials either in the basic grade or in BCR/OTBP grade in a particular station may not be working in a NT area whereas a junior in the list might have been considered for officiating in the first instance by virtue of his occupying a NT post. In such cases, if any representation is received from the senior official concerned, such representation can be considered favourably, if the official can be accommodated by replacing the junior most official already officiating/occupying the restructured cadre post in that station as per the first order. No transfer from one station to another should be resorted to for such officiating/occupying arrangement.

If the claimant happens to be a basic grade official or OTBP Linemen/Wiremen, then he/she gets officiating placement. If the claimant happens to be BCR official, a record of his occupancy of the NT post from that date is kept as per prescribed format for the purpose of any future monetary benefit. There will not be any immediate monetary benefit or change in designation as in case above.

## 2.5 Filling up vacancies arising due to transfer, etc.

As and when any officiating official vacates his post due to transfer/retirement, etc. such vacancies may be filled, if necessary by transferring the senior most official from list, in the same station, to the NT post. His/Her status in the NT post as regards the officiating arrangement will depend upon his/her grade viz. basic grade/BCR/OTBP, as discussed in the earlier paras.

## 2.6 Posting after completion of training:

(a) Whenever a trained official becomes available for appointment in the restructured cadre, he should be accommodated in an unfilled vacant post in that cadre if available at that time.

-17-

-4-

(b) If no vacant post is available, then the following procedure is suggested.

(i) The junior-most official officiating in or occupying the new technology post should vacate the post for accommodating the trained official.

(ii) It is not necessary that the trained official should be posted only in the station/exchange in which the junior most gets reverted from or vacates the restructured post. He may be accommodated at any place in the SSA as per the operational requirements and as decided by Head of SSA.

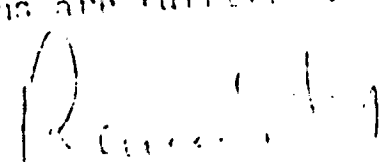
## 2.7 Formalities

(1) To fulfil the technical formalities all such officiating arrangement should be at the first instance for a maximum of 180 days.

The officiating arrangement will be subject to usual verification like vigilance clearance/disciplinary clearance, etc. and provision of SC/ST reservation as per rulings.

2.8 If any senior officiating official refuses to go for restructured cadre training when his/her turn comes, for any reasons, he/she will be reverted immediately and will be barred from officiating arrangement again. Permanent debarring can be relaxed to one year under exceptional circumstances by Head of SSA.

2.9 The officiating can be commenced with immediate effect provided all the above conditions are fulfilled.

  
(V.R. RAMESH)  
Asstt. General Manager (Admin)  
For CGMT, Trivandrum

Encl: As above

Copy to:-

- |                  |   |                |
|------------------|---|----------------|
| 1. ST-B Section  | } | O/O CGMT, Trn. |
| 2. Estt. Section |   |                |
| 3. HRD Section   |   |                |

(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

ORDER SHEET

Original Application No. \_\_\_\_\_  
Misc Petition No. \_\_\_\_\_  
Contempt Petition No. \_\_\_\_\_  
Review Application No. 2 2002 MA.137/2002

Applicants. Nripendra Deka

-Vs-

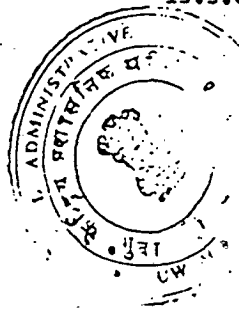
Respondant(s) H. O. I. Gom

Advocate for the Applicant(s) B. Malakar, R. Das

Advocate for the Respondant(s) Cafe

Notes of the Registry	Date	Order of the Tribunal
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15.5.02



This is an application praying for review of the order though in fact the application is not a review application under the rules. ~~This~~ This is not an application for review but the same is for clarification of our earlier order dated 1.5.2002. By the said order we dismissed the application and directed the applicant to make a detailed representation before the authority narrating his grievances. If such representation is made, the respondents shall consider the same on its own merit by the authority. The dismissal of the application shall not preclude the respondents on considering the representation. If any representation is filed by the applicant the respondents shall consider the same on merit. The application is thus disposed of.

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21/5/02

Section Officer (J)  
आयुक्त (अ) (प्रशासनिक शाखा)  
Central Administrative Tribunal  
Guwahati Bench, Guwahati

SD/ VICE CHAIRMAN

True copy  
Ratul Das  
Advocate

48 -

ANNEXURE - E

To  
The Chief General Manager  
Assam Telecom circle (BSNL)  
Ulubari, Guwahati-781007

dtd. 11-6-02

Sub:- Prayer for retention at CTO Guwahati

Sir,

I have the honour to state that I have been promoted as Telecom Mechanic ~~Grade~~ (The Telecom Mechanic is the Restructured cadre) and by the same order I have asked to join at Hatigaon Exchange and accordingly I have been released from the strength of CTO Guwahati.

1. Sir, in this connection, I state that the staff ~~side~~ side in the meeting of the Departmental council of JCM held on 11.1.1994 decided the posts of Telecom Mechanics would be upgraded SSA wise/Telegraph Division wise and before entering the restructure cadre option was taken for willingness to move over to the restructured cadres and I was opted for traffic Division only.

2. I am the central office bearer of the Federation, present circle secretary of NUTE LS&Gr-D, Assam circle, Local secretary of CTO Guwahati branch and executive body member of All Assam Central, Semi-Central Karmachari Parishad from Telecom side.

3. As per DoT's letter No. 10-12/87-SRT dtd. 5.5.1987, the office bearers of the union be given some immunity in transfer matter.

4. Further, the recognition of trade unions declared by BSNL are being given with higher number of members and BSNL decided transfer of Gr-C and Gr-D employees are deferred with effect from 01/06/2001 till the verification process is over, vide BSNL Lr, No. BSNL/1/SR/2000(Pt) dtd 11.7.01.

So, at this stage if I am transferred out of the head quarter my activity as an union office bearer will suffer much. In that view of the matter my retention at CTO Guwahati may kindly be considered.

5. Some persons junior to me have been retained at CTO Guwahati on that ground that they were promoted in 1999, My promotion was delayed not for my fault but for the omission of the Department. Total 16 similar persons have been kept engaged under DE/CTO Guwahati and about 10 Telecom Mechanics are working in GMT, Kamrup office. In that view of the matter my retention at CTO Guwahati deserve consideration.

Under the above, I fervently request that my retention at CTO Guwahati may kindly be considered and order dtd 18.3.02 may kindly be revised.

In this connection, I am enclosed a copy of CAT's order in O.A.No. 137/02 and No.R.A.2/02.

Yours Faithfully

Enclosers:- Two Copy pf CA. orders.

( Nripendra Deka )  
T/Mech , CTO Guwahati

True Copy....  
Ratul Das  
Admocate



Bharat Sanchar Nigam Limited.  
Department of Telecommunications  
Office of the Chief General Manager, Telecommunications  
Assam Circle, Ulubari, Guwahati - 781 007.

STES-13/20/Pt III/14

Dated the 11<sup>th</sup> June, 2002

To

The General Manager,  
Kamrup Telecom. District,  
Guwahati.

Kindly find enclosed a representation in original regarding retention at CTO, Guwahati, case of Shri Nripendra Deka, Telephone Mechanic, CTO, Guwahati alongwith enclosures i.e. order of Hon'ble CAT, Guwahati in OA No. 137/2002.

You are requested to do the needful and dispose of the case at your end.

Encl: a: a:

(T. Mag)

Dy. G.M (Admn)

True Copy

Natun Das

Advocate

## -21- BHARAT SANCHAR NIGAM LIMITED

(A GOVERNMENT OF INDIA ENTERPRISE) 21

213-Indraprastha Hotel, Ashok Road

New Delhi-110 001

No. BSNL/1/SR/2002

Dated 24-06-2002

To

The Chief General Manager

Assam

Telecom. Circle

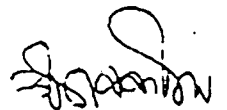
Gauhati

Subject: Redressal of grievances of National Union of BSNL workers  
Association / Federation, BSNL Union /

Kindly find enclosed a copy of the letter No 4/NU/CHG/2002.  
Dated 03-06-02 from F.N.T.O. Union  
On the above subject.

2. It is requested that the matter may be examined and your detailed  
parawise comments furnished at the earliest.

Encl. As above



(O.P. Mogha)

Jt. DDG (SR), BSNL HQs.

True copy  
Ratind Das,  
Associate



# NATIONAL UNION OF BSNL WORKERS

(Regd. No. 4897)

**K. THOMAS JOHN**

President

**K. VALLINAYAGAM**

General Secretary

(email: vallinaayagam82@hotmail.com)

T-16, Ash Grove, New Delhi - 110 001, 011-3723202, 3358189, 3358991

Ref: 2/FNTD/DIR/2002

Date: 24.6.2002.

To

Shri Shabbir Ahmed,  
Director, MRD, BSNL,  
NEW DELHI.

Sir,

**SUB: REQUEST FOR CANCELLATION OF TRANSFER FOR  
SHRI N. DEKA, VP, FNTD, GUWAHATI.**

In continuation of my personal discussion with you on 20.6.2002 on the above subject. I request you to arrange for the cancellation of the transfer orders issued to Shri Nripen Deka, VP, MUBSNLU, Assam Circle Guwahati. It is not out of place to point out that when other Officials have been retained at CTD, Guwahati on this P.N. posting, Shri N. Deka has been disturbed with some motive as explained to you in person.

Once again I request to intervene and cause cancellation of the above transfer.

With regards,

Yours faithfully,

*Sd*

(K. VALLINAYAGAM)  
GENERAL SECRETARY MUBSNLU

Sn. N. Deka G.H.

Way as June 6pm  
Ratul Des  
Advocate

23-30

FORM NO. 4

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH,  
GUWAHATI.

ORDER SHEET

Original No. 107/2002  
Misc. Petition No.             
Contempt Petition No.             
Review Application No.           

Applicant(s) Nirpendra Deka

Respondent(s) U.O.T & Others.

Advocate for Applicant(s) B. Malakar, Ratul Das

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

Notes of the Registry

Date

ORDER OF THE TRIBUNAL

1.5.2002

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

This is an application assailing the legitimacy of the order dated 16.3.2001 posting the applicant at Hatigrah Exchange under D.E.(OCB)/Dispur. By the aforesaid order the applicant was appointed as Telecom Mechanic on temporary basis in the pay scale of Rs.4500-12000/- on successful completion of Initial Course Training of Telecom Mechanic at CTTC, Bimalamukh, Guwahati from 1.7.96 to 23.8.96 and he was posted at Hatigrah Exchange under D.E.(OCB)/Dispur against the sanctioned posts.

The applicant by representation dated 5.4.2002 requested the Divisional Engineer (Admn.) to post him at CTO, Guwahati itself. In the said communication he has referred to an order where by 16 Telecom Mechanic were allowed to stay at CTO, Guwahati.



Contd./2



Contd.

Mr.B.Malakar, learned counsel appearing for the applicant submitted that the applicant being a protected workman and a Trade Union activist, he ought to have not been transferred. I have also heard Mr.A. Dev Roy, learned Sr.C.G.S.C. for the respondents.



Upon hearing the learned Advocates for the parties and on considering all the aspects of the matter I am of the considered opinion that ends of justice will be met, if a direction is issued to the applicant to make a detailed representation before the authority narrating his grievances. If such representation is made, the respondents shall consider

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the same on its own merit and pass necessary order thereon as per law.

The application thus stands dismissed.

No costs.

Sd/VICE CHAIRMAN

N3  
13/9/02

Section Officer (J)  
श्री. आदित्य (न्यायिक शाखा)  
Central Administrative Tribunal  
उच्च न्यायालय अदालत  
Jashil Bench, Guwahati  
अदालत, गुवाहाटी