

50/100  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

M.P-136/02 order sheet pg-1

INDEX

Disposed Date-11/10/02

O.A/T.A No. B08/02.....

R.A/C.P No.....

E.P/M.A No. 136/02.....

1. Orders Sheet O.A- B08/02..... Pg..... 1 ..... to..... 3 .....
2. Judgment/Order dtd. 11/10/2002..... Pg..... 1 ..... to..... 16. Dismissed  
common order, 307, 308, 309, 310/02
3. Judgment & Order dtd..... Received from H.C/Supreme Court
4. O.A..... B08/02..... Pg..... 1 ..... to..... 19 .....
5. E.P/M.P..... 136/02..... Pg..... 1 ..... to..... 2 .....
6. R.A/C.P..... 11/1..... 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.)

( SEE RULE -4 )

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI

ORDER SHEET

Original Application No : 308 /2002

Misc. Petition No. \_\_\_\_\_

Contempt Petition No. \_\_\_\_\_

Review Application No. \_\_\_\_\_

Applicant (s) J. Debbaran

-Vs-

Respondent (s) UDI 208

Advocate for the Applicant (s) Mr. U.B. Saha, M.K. Misra

Advocate for the Respondent(s) Z D.C. Naith

CAS

Notes of the Registry	Date	Order of the Tribunal
application is in order. It is time to issue notice is 11.15.2002 10.1.2002 00/232 19/9/02  Dp. Regd. 23/9/02	23.9.02	<p>Issue notice to show cause as to why this application shall not be admitted. Returnable by four weeks.</p> <p>Also issue notice to show cause as to why interim order as prayed for shall not be granted. Mr.A. Deb Roy, learned Sr.C.G.S.C. accepts notice. Returnable by 26.9.02.</p> <p>List on 26.9.02 for show cause.</p> <p>1m</p> <p>ICU Shaha Member</p> <p>Vice-Chairman</p>

Notices prepared and  
sent to D.Section for  
issuing of the same  
to the respondent  
through speed post.  
Vide D.N.

24.9.02

26.9.2002

Heard Mr.U.B.Saha, learned Sr. counsel for the applicant assisted by Mr M.K.Mishra at length. Earlier notices were issued to the respondents to show cause as to why an interim order would not to be passed. No return so far filed.

Considering the facts and circumstances of the case and also the nature of the order for transfer and posting of the applicant, the operation of the impugned order dated 10.9.2002 shall remain suspended till the next date. Let the respondents submit its return on or before 10.10.2002. The matter shall again be posted for admission on 10.10.2002. In view of the suspension of the impugned order the respondents are directed to allow the applicant to work in his post prior to posting.

The respondents may come for modification of the order in the meantime.

*Chetan*  
26.9.02

bb

Member

Vice-Chairman

26.9.02 Heard Mr. U.B.Saha, learned Sr. counsel for the applicant assisted by Mr. M.K.Mishra at length. Earlier Notices were issued on the respondents to show cause as to why an interim order would not be passed. No return so far is filed.

Considering the facts and circumstances of the case and also the nature of the order for transfer and posting of the applicant and other attending circumstances, we are of the opinion that an interim order is called for. We accordingly order upon the respondents to keep in abeyance the impugned Memo No.viz/1-4/2002-2003 dated 10.9.2002 transferring the applicant from Agartala. The impugned order of transfer shall remain suspended in the meantime.

Let the respondents submit its objection/statement in writing, if any. The case shall be posted again on 10.10.2002 for admission and further orders. It would also <sup>be</sup> open to the respondents to come up for modification/vacation of the interim order, if they are so advised.

K. I. Sharmin  
Member

  
Vice-Chairman

mb

10/10/2002. Heard Mr. U.B.Saha, learned Counsel for the applicant Mr. A. Debroy, S.n.c.g.s.c. for the respondents.

Hearing Concluded.

Judgment Reserved.

Mo,  
A. Debroy  
10/10/02

M

8.11.2002

Copy of the Judgment  
has been sent to  
The D.G. for I&T  
The same to the Govt.  
Advocate.

11.10.02

Judgement delivered in open  
Court kept in separate sheets. The  
application is dismissed in terms  
of the order. No order as to costs.

Memberships

Vice-Chairman

mb

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No.307 of 2002  
Original Application No.308 of 2002  
Original Application No.309 of 2002

And

Original Application No.310 of 2002

With

Misc. Petition No.133 of 2002 (In O.A.No.307/2002)

Date of decision: This the 11th day of October 2002

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

The Hon'ble Mr K.K. Sharma, Administrative Member

1. O.A.No.307/2002

Smt Aniva Dutta, Postal Assistant,  
Wife of Sri Tirthankar Chowdhury,  
Joynagar, Agartala.

2. O.A.No.308/2002

Sri Janardhan Debnath, Postal Assistant,  
Resident of Sripalli, Badharghat,  
Arunchatinagar, Agartala.

3. O.A.No.309/2002

Sri Haru Dasgupta, Postal Assistant,  
Resident of Bhattapukur,  
Arunchatinagar, Agartala.

4. O.A.No.310/2002

Smt Ajita Dutta, Postal Assistant,  
Wife of Sri Prabal Dutta,  
Jagannath Bari Road, Agartala. ....Applicants

By Advocates Mr U.B. Saha, Mr M.K. Misra and  
Mr D.C. Nath.

- versus -

1. The Union of India, represented by the Secretary, Ministry of Communication, Government of India, New Delhi.
2. The Director General, Posts, Dak Bhawan, New Delhi.
3. The Chief Postmaster General, North Eastern Circle, Shillong.
4. The Director of Postal Service (Head Quarters), Office of the Chief Postmaster General, North Eastern Circle, Shillong.
5. The Director, Postal Services, Agartala Division, Agartala.

6. Smt Trishaljit Sethi,  
Wife of Sri K.S. Sethi,  
Director of Postal Services,  
Agartala Division, Agartala.

7. Sri Lalhluna,  
Director Postal Services (Head Quarters),  
Office of the Chief Post Master General,  
Shillong.

8. Sri B.R. Haldar,  
Asstt. Director,  
Office of the Chief Post Master General,  
Shillong. ....Respondents

By Advocates Mr A. Deb Roy, Sr. C.G.S.C. and  
Mr B.C. Pathak, Addl. C.G.S.C.

.....  
O R D E R

CHOWDHURY. J. (V.C.)

The issue is identical in all the four O.A.s concerning the legitimacy of the impugned order dated 10.9.2002 transferring the four applicants from Agartala Postal Division. The text of the order is reproduced below:

"The Chief Postmaster General, North Eastern Circle, Shillong hereby ordered the transfer/posting of the following officials of Agartala Postal Division under Rule 37 of P&T Manual Vol.IV to have immediate effect and in the interest of service.

Sl. No.	Name of official and Present place of posting	Postal Division to which posted on transfer
1.	Shri Janardhan Debnath, PA, Agartala HO	Meghalaya Division
2.	Shri Haru Das Gupta, PA, Agartala HO	Meghalaya Division
3.	Smti Aniva Dutta, PA, Agartala HO.	Dharmanagar Division
4.	Smti Ajita Dutta, PA, O/O DPS Agartala	Dharmanagar Division

The above four (4) officials who are being transferred out of Agartala Postal Division should be relieved within 14th September 2002 positively. If they are not relieved within the stipulated date, they will be deemed to have been relieved.

The Sr. Supdt. of P.O.s, Meghalaya Division, Shillong will immediately issue the posting order in respect of Shri Janardhan Debnath and Shri Haru Das Gupta. The Supdt. of P.O.s, Dharmanagar Division will also immediately issue the posting order in respect of Smti Aniva Dutta and Smti Ajita Dutta."

The applicants assailed the order of transfer as arbitrary, discriminatory and unlawful vitiated by improper exercise of power.

2. In view of the commonality of the factual matrix, the facts mentioned in O.A.No.307 of 2002 are referred to hereinbelow for the purpose of adjudication of all the four applications:

The applicant in O.A.No.307/2002 claimed to be the Treasurer of the Agartala Division, Branch of All India Postal Employees Union, Group C; the applicant in O.A.No.308/2002 similarly claimed to be the President of Agartala Division, Branch of All India Postal Employees Union, Group C; the applicant in O.A.No.309/2002 claimed to be the Divisional Secretary of Agartala Division, Branch of All India Postal Employees Union, Group C and the applicant in O.A.310/2002 claimed to be the Vice-President of Agartala Division, Branch of All India Postal Employees Union, Group C. The applicants, inter alia pleaded about the General Strike of Postal Employees that took place from 5.12.2000 to 18.12.2000 for fulfilling the economic demand of the employees of the Postal Department. It was also stated that the aforementioned strike was declared illegal by the authority, but due to mass employees participation, the authority could not initiate any disciplinary action against the Postal Employees including the applicants. The respondent No.6 joined as a Director of Postal Services, Agartala Division on 20.12.2000. According to

the.....

the applicants the respondent No.6, on her joining as such tried to interfere in the Trade Union activities of the applicant's Association/Union work and threatened the Postal Groups C and D employees, who are the members of the Union. The applicants also referred to the incident that took place on 5.8.2002. It was also pleaded that on 29 and 30 July 2002 the respondent No.6 as Director, Postal Services, Agartala Division issued chargesheets to Shri Mrinal Kanti Das, Postal Assistant and Shri Kanti Ranjan Debbarma, Deputy Post Master, Agartala Head Office. It was stated that for the aforementioned action of the respondent No.6 the general employees of the Postal Department, Agartala Division expressed their unhappiness. According to the applicants a delegation of ten members of the All India Postal Employees Union Group C and D and National Union of Postal Employees Group C and D met the respondent No.6 in her Chamber at 11.00 A.M. under the leadership of the applicants and others with a request to withdraw the chargesheets issued under the relevant rules against the two employees. The respondent No.6 misbehaved with the Union leaders including the applicants and threatened them at the discussion. The applicants also referred to a communication dated 6.8.2002 sent by the respondent No.6 addressed to the Chief Secretary, Government of Tripura. According to the applicants the allegations made by the respondent No.6 against the applicants and the associates in the letter dated 6.8.2002 were false and fabricated and the same was done only to harass the applicants and the members of the Union to dissuade them from continuing with their Union activities for the interest of the

Postal.....

Postal employees. It was also pleaded that on the information received from the respondent No.6, the Chief Post Master General, N.E. Circle, Shillong sent two officers, namely the Director, Postal Services (HQ), Office of the Chief Post Master General and an Assistant Director of the Office of the Chief Post Master General for an enquiry about the alleged incident that took place on 5.8.2002. The two officers came to Agartala on 29.8.2002 and discussed with the applicant and other employees who were in the delegation at the time of discussions in the chamber of the respondent No.6. According to the applicants after enquiry nothing was found, however, surprisingly by the impugned order dated 10.9.2002 the applicants were illegally transferred. Hence the present applications assailing the impugned order of transfer as violative of Rules 37 and 37A of the P&T Manual and F.R. 15. The applicants also assailed the order of transfer as arbitrary, discriminatory and malafide and contended that the said order was not passed in public interest.

3. We issued notice on the respondents on 23.9.2002 and also issued notice as to why interim order should not be granted. On the returnable date, i.e. 26.9.2002 we passed an interim order keeping in abeyance the impugned Memo dated 10.9.2002 and ordered the respondents to submit written statement/objection in writing. Accordingly, the matter was posted to 10.10.2002 for admission. The respondents submitted written statement opposing the applications and also submitted a Misc. Petition No.133/2002 in O.A.No.307/2002 praying for vacation and/or modification of the interim order dated 26.9.2002.

4. We have heard Mr U.B. Saha, learned Sr. counsel for the applicants, assisted by Mr M.K. Misra, Advocate, at length. We have also heard Mr A. Deb Roy, learned Sr. C.G.S.C. as well as Mr B.C. Pathak, learned Addl. C.G.S.C. appearing on behalf of the respondents. The learned Sr. counsel for the applicants took pain in placing before us the materials on record in support of his case. The learned Sr. Counsel also referred to the provisions of Rule 37 of the P&T Manual as well as the provisions of F.R. 15 and 22. Referring to the factual constituents, the learned Sr. counsel for the applicants submitted that the impugned order was passed as a measure of punishment and the alleged allegations mentioned in the complaint were the foundation of the order of transfer which was *per se* punitive in character. The learned Sr. counsel submitted that the order of transfer was grounded on malafide and extraneous considerations and therefore, the same was liable to be set aside and quashed. The learned Sr. counsel had also drawn our attention to the judgment rendered by the Ahmedabad Bench of the Tribunal and submitted that the Ahmedabad Bench by judgment and order dated 21.12.1995 in O.A.Nos.250, 267, 268 of 1994 and like cases held that the department itself had kept in abeyance the operation of Rule 37 itself and therefore, the impugned order of transfer in those cases were set aside and quashed. The learned Sr. counsel also referred to the decision rendered by the Gauhati High Court in Lilaram Bora Vs. Union of India and others, reported in 1982 (1) GLR 366; Ramzan Ali Ahmed Vs. Taiyab Ali Ahmed, reported in 1998(2) GLT 242 and Nikunja Ch. Deka Vs. Assam Agricultural University and others, reported in 1992 (2) GLT 555.

5. The learned counsel for the respondents opposing the claim of the applicants referred to the facts mentioned in the written statement as well as to the Misc. petition No.133/2002 praying for vacation of the interim order. The learned counsel for the respondents submitted that the impugned order of transfer was passed due to administrative exigency so that the administration could run smoothly and subserve the public interest. Mr A. Deb Roy, learned Sr. C.G.S.C., stated that the transfer of a Government servant is an incidence of the service and that a Government servant does not possess a right not to be removed from a place of posting. The Tribunal inexcercising power under Section 19 of the Administrative Tribunals Act, 1985 is not to act as an Appellate Authority. Mr B.C. Pathak, learned Addl. C.G.S.C., referring to the fact situation, submitted that the impugned order was passed on administrative grounds and since the said order was not violative of the statutory rules or consitutional provisions, the Tribunal would refrain from interfering with the administrative decision passed by the authority bonafide. Mr B.C. Pathak also sought to distinguish the cases referred to by the learned Sr. counsel for the applicants.

6. Transfer is always understood and construed as an incidence of service and therefore, it does not result in any alteration of the conditions of service. F.R. 15 (a) empowers the authority to transfer a Government servant from one post to another; provided that except- (1) on account of inefficiency or misbehaviour, or (2) on his written request, a Government servant shall not be transferred substantively to, or, except in a case

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covered by Rule 49, appointed to officiate in a post carrying less pay than the pay of the permanent post on which he holds a lien. or would hold a lien had his lien not been suspended under Rule 14. But then, all powers must conform to the norms enshrined in Article 14 of the Constitution of India. Non-arbitrariness is an essential ingredient of Article 14 of the Constitution. A malafide exercise of power or for that matter arbitrary exercise of power or a transfer order passed malafide is obviously unlawful. The order is to be tested in the context of the fact situation. Chapter II of the P&T Manual Vol.IV regulates the transfer and posting. Under Rule 37 all officials of the department are liable to be transferred to any part of India unless it is expressly ordered otherwise for any particular class or classes of officials. Transfers should not, however, be ordered except when advisable in the interests of public service. Postmen, village postmen and Class IV servants should not, except for very special reasons, be transferred from one district to another. All transfers must be subject to the conditions laid down in Fundamental Rules 15 and 22. Under Rule 37-A transfers should generally be made in April of each year so that the education of school going children of the staff is not dislocated. In emergent case or cases of promotion these restrictions will naturally not be applicable.

7. Mr U.B. Sahay, the learned Sr. counsel for the applicants particularly emphasised the complaint lodged by the respondent No.6 by her communication dated 6.8.2002 addressed to the Chief Secretary and also to the note submitted by the Inquiry Officer and the Director of Postal Services dated 5.9.2002. It would be appropriate

in this context to refer to the communication dated 6.8.2002 submitted by the respondent No.6 to the Chief Secretary, which reads as follows:

"This is to report to you the ugly incident involving gherao and assault on Director Postal Services, Agartala on 5th August 2002:

On 5th Aug I went to my office at around 10 A.M. A little thereafter, the union leaders, Mr Janardan Debnath and Mr Haru Dasgupta and others came to my chamber and demanded that the charge sheet issued by the department to Shri Kanti Debbarma Deputy Post Master, must be withdrawn immediately as he is due to retire soon. I explained that the power to withdraw a charge sheet is vested with the Chief Post Master General (Chief PMG) who is at Shillong. They were however very vociferous and insistent, upon which I suggested that a representation may be submitted which I could forward to the Chief PMG for necessary action. They refused to do so, and insisted upon me to withdraw it at once.

At this stage, I spoke on phone to the Director Postal Services (HQ) in the o/o Chief PMG Shillong who also spoke to Shri Janardan Debnath explaining to him that they may submit a representation to his office through the DPS Agartala. To this also, they did not agree and became more agitated and started shouting slogans and using objectionable language.

Thereafter (another 5 minutes or so) I got up and walked towards the door. Shri Haru Dasgupta and another employee (an Extra Depttl Stamp Vendor - union leader of the ED Agents- posted at Secretariate Post Office whose name I can't recall) blocked the door physically, and two ladies Smt Aniva Dutta and Smt Ajita Datta held me by the upper arms and dragged me into another room. I was so taken aback, that I screamed loudly, crying for help. Nevertheless, they forced me into a corner of the room and illegally detained me there.

I also saw that outside my chamber, in the corridor, there were about 100 odd people stationed. In this room several ladies and men gheraoed me. Mr Haru Dasgupta repeatedly taunted me and gave inciting speeches against me with wrongful and malicious statements. From time to time, Shri Janardan Debnath would come to me and give ultimatum to sign the papers for withdrawing the charge sheet. He said that as soon as I sign it, I will be allowed to go. I just kept quiet each time.

I then went towards the window and on seeing some police constables below, I shouted and screamed for help, beating the window grills with my hands to draw their attention. I may mention that the West Police Station is right opposite the Head Post Office and the office of DPS, but no one came from the police station to help. At this Mrs Aniva

Datta told me caustically 'Madam, this is Tripura. No police will come to help you' I suppose this statement speaks volumes about the state of affairs.

At around 1-30 P.M. again, Mr Janardan Debnath came up to me and said to me in a confidential tone that the situation is reaching boiling point and if I don't sign the papers immediately, it will explode and no one will be in a position to protect me from the crowd outside.

Gradually, the situation changed for the worse. The postal staff started leaving the room and in their place dangerous looking men and women gathered around me. I sensed that the situation is becoming more tense and mortally dangerous for me, so when Mr Janardan Debnath came to me again, I requested to be allowed to speak to the Chief PMG so that I may be able to sign the papers for withdrawal of the charge sheet. Thereafter, I spoke to the Chief PMG who at first did not agree. It was only after I convinced him that I was in grave danger, he said that I could sign whatever was necessary for my safety and security. I then signed the papers withdrawing the charge sheet, and only then, was I allowed to go.

I am deeply tormented and shocked by this incident and appeal to your kind self to take necessary action in the matter. The safety and security of the Centrl govt. officers posted in Tripura is the responsibility of the State Govt. In fact, I fear for my life and that of my family including my two small children, and I humbly submit for necessary security for self and family. It is due to this deep sense of fear and shock and fearing for the safety of my children that I have not lodged a formal FIR with the police. As a lady officer serving with sincerity and dedication in this far flung North Eastern Region of the country and working hard to improve the Postal Services in the State, this incident came as the most fearful inightmare to me."

The learned Sr. counsel for the applicant also brought to our notice the communication sent by respondent No.6 addressed to the Chief Post Master General, N.E. Circle, Shillong drawing the attention of the Chief Post Master General. In the aforesaid communication, the respondent No.6 reported her version of the events that took place on 5.8.2002. In the said communication the respondent No.6 only reflected the apprehension of the Director of Postal Services, Agartala (respondent No.6) because of the events that took place. Admittedly, the Union leaders

who approached the respondent No.6 on 5.8.2002 demanded for withdrawal of the chargesheet issued against one of the Deputy Postmaster, who was due to retire soon. In the communication the respondent No.6 also narrated what transpired on that day which was similar to that reflected in her communication addressed to the Chief Secretary on 6.8.2002. Some of the passages of the communication addressed to the Chief Post Master General are reproduced below:

".....  
I explained that the 'disciplinary cases' are totally beyond the purview of the unions and moreover the power to withdraw a charge sheet is vested with the Chief PMG who is at Shillong. They were however very vociferous and insistent, upon which I suggested that a representation may be submitted which I could forward to the Chief PMG for consideration. They refused to do so, and insisted upon me to withdraw it at once and their protests also starting taking an ugly turn.

.....  
Thereafter (another 5 minutes or so) I got up and walked towards the door. Shri Haru Dasgupta and another employee (an Extra Depttl(GDS) Stamp Vendor- union leader of the ED Agents- posted at Secretariat Sub Post Office whose name I can't recall) blocked the door physically, and two ladies Smt Aniva Dutta (who works in Accounts branch of Agartala HO) and Smt Ajita Datta (Divisional office) held me by the upper arms and dragged me into another room. I was so taken aback, that I screamed loudly, crying for help. Nevertheless, they forced me into a corner of the room and illegally detained me there.

I also saw that outside my chamber, in the corridor, there were about 100 odd people stationed. In this room several ladies and men gheraoed me. Mr Haru Dasgupta repeatedly taunted me and gave inciting speeches against me with wrongful and malicious statements. This continued for quite some time. From time to time, Shri Janardan Debnath would come to me and give ultimatum to sign the papers for withdrawing the charge sheet. He said that as soon as I sign it, I will be allowed to go.

I then went towards the window and on seeing some police constables below, I shouted and screamed for help, beating the window grills with my hands to draw their attention. I may mention that the West Police Station is right opposite the Head Post Office and the office of DPS, but no one came

from.....

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from the police station to help. At this, Mrs Aniva Datta told me caustically 'Madam, this is Tripura. No police will come to help you.' I suppose this statement speaks volumes about the state of affairs.

At around 1.30 P.M. again, Mr Janardan Debnath came up to me again and said to me in a confidential tone that the situation is reaching boiling point and if I don't sign the papers immediately, it will explode and no one will be in a position to protect me from the crowd outside.

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Mr Saha also referred to Annexure F, annexed in M.P.No.133/2002. The same was a communication dated 9.8.2002 addressed to the Chief Postmaster General, N.E. Circle, Shillong by the Member (Personnel). By the said communication the Member suggested certain remedial steps like cancellation of any orders got signed/issued from DPS under duress and threat. Mr Saha submitted that by the said communication, the authority, in fact directed the appropriate authority to take punitive measure against the applicants. No such direction is discernible from the said communication. The said communication only reflects the reaction in response to the events that took place on 5.8.2002. The Member (Personnel) only offered some of his suggestions. As a matter of fact the authority on its own also caused an enquiry into the whole matter as reflected in Annexure B of the written statement. The administrative enquiry only posited the factual situation as was found by the Inquiry Officer. The said enquiry was not relating to any enquiry on misconduct. It was only an enquiry on the events that took place on 5.8.2002, which was reported by the respondent No.6.

9. The order of transfer was passed on administrative exigency to bring order and harmony. The order in question, in the fact situation cannot be held to be an order that was passed as a punitive measure. In Lilaram Bora (Supra), the High Court interferred because the order of transfer was made based on the complaint which was the foundation of the order. The aforesaid case was distinct from the present case. Here the applicants were transferred on administrative grounds. In Lilaram Bora's case the High Court had succinctly observed that had there been a case of undesirability of the applicant's stay at the Gauhati Airport for administrative reason (harmony among the staff posted at one place.....), the conclusion might have been different as was indicated in the judgment. No law requires an employee to be heard before his/her transfer for the exigencies of administration. Reference Director of School Education, Madras Vs. O. Karuppa Thevan and another, reported in 1996 (1) SLR 225 (226). Admittedly, the transfers of the applicants are not in violation of F.R. 15 and 22. So long a transfer is made on account of exigency of administration and not from a higher post to a lower post the transfer would be a valid one and not open to attack on the ground of Articles 14 and 16 of the Constitution of India. (Reference: E.P. Rayappa Vs. State of Tamil Nadu, reported in 1974 (2) SLR 348). The transfer did not involve any reversion to attract interference by the Tribunal. The impugned order of transfer was seemingly passed bonafide and no discernible grounds are assigned to contradict the bonafide. We are also not pursuaded to accept the arguments of Mr Saha to the effect that Rule 37 is no more in operation. Mr Saha did not dispute that

no such order was passed by the authority deleting Rule 37 from the statute rules. The decision rendered by the Ahmedabad Bench of the Tribunal in O.A.No.250/1994 and like cases referred to by Mr Saha are distinguishable on facts. As per the judgment, the transfers were not within their own cadre and within the limits prescribed for such cadre. The decision rendered by the High Court in Nikunja Deka's case (Supra) involved a transfer passed malafide since the petitioner in that case was not in the good books of the Vice Chancellor and the Vice Chancellor wanted to get rid of him from the campus at Jorhat. The case referred in Ramzan Ali Ahmed (Supra) is a case on facts. Transfer of the appellant in the said case jeopardised the applicant's tenure of service. That was a case in which the transfer was made from a non-plan school to a plan school. That was also a proven case of colourable exercise of power.

8. Mr U.B. Saha, the learned Sr. counsel for the applicants, also submitted that each of the applicants are office bearers of the Union and as per the policy of the Government the applicants ought not to have been transferred out from Agartala. The learned Sr. counsel also submitted that the applicants only sought to ventilate their grievances and that all of them acted in discharge of their trade union activities. We find it difficult to accept the plea of Mr Saha justifying its right. There are more ways of killing a cat than by chocking it with cream. Trade Union activities is also to be confined within the parameters of law by which each citizen is protected. Trade activities are not above law, such stir are also required to conform to law, keeping in mind the peace and dignity of each individual. The

official guidelines guide, law only binds. On the given facts and circumstances, the authority only took the impugned measure to bring peace and harmony in the establishment.

10. Though we uphold the order of transfer on the facts and circumstances of the case, we have given our anxious consideration on the plea of the applicants, namely Smt Aniva Dutta in O.A.No.307 of 2002 and Smt Ajita Dutta in O.A.No.310 of 2002. Both the applicants are ladies who are having their families at Agartala. In the circumstances, we are of the opinion that those two applicants, namely Aniva Dutta and Ajita Dutta may submit their representations ventilating their grievances before the competent authority and if they make such representations within two weeks from the date of receipt of this order, the authority may sympathetically consider their grievances and pass appropriate order, keeping in mind the administrative exigencies. In such eventuality, the authority shall consider their representations preferably within a month from the date of receipt of such representations. Till completion of the aforesaid exercise in respect of the applicants in O.A.No.307/2002 and O.A.No.310/2002, the stay of the order of the transfer shall continue in respect of those two applicants.

11. Needless to recite that the Courts or Tribunals are not Appellate Forums to decide on transfers of officers on administrative grounds. As was observed by the Supreme Court in State of M.P. and another Vs. S.S. Kourav, reported in (1995) 3 SCC 270; "It is for the administration.....

: 16 :

administration to take appropriate decision and such decisions shall stand unless they are vitiated by malafides or extraneous consideration without any factual background.'

12. On evaluation of the facts and the factual matrix, we are of the opinion that the impugned order of transfer was passed on administrative ground and the same was passed bonafide. The impugned transfer order is not vitiated by arbitrariness or malafide exercise of power.

13. Subject to the observations made above, the applications stands dismissed and the interim order dated 26.9.2002 stands vacated in respect of O.A.No.308/2002 and O.A.NO.309/2002.

NO order as to costs.

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Sd/ VICE CHAIRMAN  
Sd/ MEMBER (ADM)

nkm

23rd

## FORM I

### APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNAL ACT, 1985

O. A. 308 of 2002

Sri Janardhan Debnath      Applicant  
Versus  
Union of India and others      Respondent

#### INDEX

<u>Sl. No.</u>	<u>Description of documents relied upon</u>	<u>Page No.</u>
1.	Application	1-10
2.	Annexure 1 : Copies of the letter dt 14.05.2002 & 07.03.2002	12-13
3.	Annexure 2 : Copies of the FIR and the letter dt. 06.08.2002	14-17
4.	Annexure 3 : Copy of the transfer order dt. 10.09.2002	18
5.	Annexure 4 : Copy of the letter dt. 23.08.90	19
6.	Vokalatnama	20
7.	Letter to the Central Government Standing Counsel	21

*Janardhan Debnath*  
Signature of the Applicant

#### FOR USE IN TRIBUNAL OFFICE

Date of filing

or

Date of receipt by post

Registration No.

Signature for Registrar

File by  
Janardhan Debnath  
through  
Manoj Kumar  
Advocate  
23/9/2002

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

Original Application

of 2002

Sri Janardhan Debnath, Postal Assistant  
Son of Late Hriday Debnath  
resident of Sripalli, Badharghat, Arundhatinagar - 799003  
Agartala

..... Applicant

VERSUS

1. Union of India  
represented by the Secretary to  
the Ministry of Communication  
Government of India  
New Delhi - 110 001
2. The Director General, Posts  
Dak Bhawan,  
New Delhi - 110 001
3. The Chief Postmaster General  
North Eastern Circle  
Shillong - 1
4. The Director of Postal Services (Head Quarters)  
Office of the Chief Post Master General,  
North Eastern Circle  
Shillong-1
5. The Director, Postal Services  
Agartala Division,  
Agartala-799001

*Jenudben Sethi*

23

6. Smt Trishaljit Sethi  
Wife of Sri K. S. Sethi  
Director of Postal Services  
Agartala Division  
Agartala-799001
  
7. Sri Lalhlunna,  
Director Postal Services (Head Quarters)  
Office of the Chief Post Master General  
Shillong-1
  
8. Sri B. R. Haldar  
Asst. Director  
Office of the Chief Post Master General  
Shillong-1

..... Respondents

### **DETAILS OF APPLICATION**

#### **1. PARTICULARS OF THE ORDER AGAINST WHICH THE IS MADE.**

The application is directed against the office Memo No. viz/1-4/2002-2003 dated 10.09.2002 issued by the Director of the Postal Services (Hq.), office of the Chief Post Master General, Ne Circle, Shillong.

#### **2. JURISDICTION OF THE TRIBUNAL**

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the tribunal.

#### **3. LIMITATION**

The applicant further declares that the application is within limitation period as prescribed in Section 21 of the Administrative Tribunal Act, 1985.

*J. Chondru Sethi*

24

17

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#### 4. FACTS OF THE CASE

- 4.1 That the applicant is a Citizen of India and working under the Department of Post of Union of India and at present working at Agartala Head Post Office under the Director of Postal Services, Agartala Division.
- 4.2 That the applicant was appointed on 08.06.1970 and subsequently promoted to the post of Postal Assistant. After his appointment he is rendering his service to the satisfaction of the Departmental authority from the date of appointment till date. The applicant did never face any disciplinary proceeding and / or any other punishment or caution rather he was commended several times for his devotion and efficiency.
- 4.3 That it is stated that the employees working under the Director of Postal Services, Agartala Division are members of various employees Organization namely National Federation of Postal employees, Federation of National Postal Organization and Bharatiya Postal Employees Federation. The applicant is the President of Agartala Division, Branch of All India Postal Employees Union, Group-C which is federated with the National Federation of Postal Employees registered under the Trade Union Act, 1926. The applicant is the General Secretary of the Tripura State Committee of Central Government Employees as Leader of Staff side, Regional Joint Consultative Machinery, North Eastern Circle, Shillong for negotiation with the authorities regarding the problem faced by the Group-C & Group-D employees of Postal Services of North Eastern Circle.
- 4.4 That from 5th December to 18th December, 2000 there was a General Strike of Postal Employees all over India called by Joint Action Committee comprising of Federation of National Postal Organization, Bharatiya Postal Employees Federation and National Federation of Postal Employees federated body of All India Postal Employees Union Group-C & Group-D took the leadership in that strike for fulfilling the economical demand of employees of the Postal Department. It is to be mentioned here that the aforesaid strike was declared illegal by the authority, but due to mass employees participation, the authority could not initiate any disciplinary action against the Postal Employees including the applicant. On 20th December, 2000, Smti Trishaljit Sethi, (Respondent No. 6 herein) joined as the Director, Postal Service, Agartala

*Jonon Ran Debarma*

being transferred and posted. After her joining as the Director, Postal Service, Agartala Division, she tried to interfere in the Trade Union activities of the applicant's Association / Union work and threatened the Postal Group-C and Group-D employees who are the members of applicant's Union and also told the applicant and Sri Haru Dasgupta, Smti Aniva Dutta of Agartala of Head Post Office and Ajita Dutta of D.P.S. Agartala Office to give up their Union activities and failing which the aforesaid employees including the applicant would have to face the dire consequences and she would not spare anybody, if necessary she would take-up the matter with the authority for transferring the applicant and his followers Group-C & Group-D employees outside the State of Tripura. She (Respondent No. 6) also misbehaved with the Group-C & Group-D employees who belong to the Union of the Applicant.

- 4.5 That regarding the misbehaviour and misdeeds of Smti Trishaljit Sethi, Director, Postal Service, Agartala Division with the Group-C & Group-D Postal Employees belonging to Applicant's Union were also taken-up by the applicant's Union with the Secretary, Ministry of Communication, Department of Posts as well as the Chief Post Master General, North Eastern Circle, Shillong. Copies of the letter dt. 14.05.2002 and 07.03.2002 are annexed hereto and marked as **Annexure 1** collectively.
- 4.6 That on 29th & 30th July, 2002 said Smti Trishaljit Sethi, Director, Postal Service, Agartala Division issued charge-sheets to Sri Mrinal Kanti Das, Postal Assistant and Sri Kanti Ranjan Debbarma, Dy. Post Master, Agartala Head Office. Regarding the action taken by Smti Sethi (Respondent No. 6) against the aforesaid persons the general employees of the Postal Department, Agartala Division expressed their unhappiness.
- 4.7 That on 05.08.2002 a delegation of 10 members of All India Postal Employees Union Group-C & Group-D and National Union of Postal Employees Group-C & Group-D met with said Smti Trishaljit Sethi, Director, Postal Service, Agartala Division in her chamber at 11.00 AM under the leadership of the applicant and Sri Pradip Chakraborty, Partha Chakraborty, Sri Haru Dasgupta, Aniva Dutta and Smti Ajita Dutta with a request to withdraw the charge-sheets issued under the relevant Rules against the aforesaid 2 (two) employees. At the time of discussion said Smti Trishaljit Sethi, the Director, Postal Service, Agartala Division (Respondent No. 6) misbehaved with the Union Leaders including the applicant and threatened them. After the completion

*General Secretary*

of the discussion she (Respondent No. 6) ultimately dropped the charge-sheet in question.

4.8 That on 6th August, 2002 said Smti Trishaljit Sethi (Respondent No. 6) made a false and fabricated allegation to the Chief Secretary, Government of Tripura, Agartala against the applicant and his associates namely Sri Haru Dasgupta, Aniva Dutta and Ajita Dutta, copy of which was given to the Principal Secretary to His Excellency the Governor of Tripura and Secretary to the Hon'ble Chief Minister. The Chief Secretary, Government of Tripura sent the aforesaid letter to the Superintendent of Police, West Tripura and who subsequently transmitted the same to the Officer In-charge, West Agartala Police Station and which was ultimately treated as F.I.R against the applicant and his associates. It is to be stated here that the allegations, made by Smti Trishaljit Sethi, Director, Postal Service, Agartala Division (Respondent No. 6) against the applicant and his associates in her letter dated 06.08.2002, are false and fabricated and was done only to harass the applicant and the members of his Union with an ulterior motive, so that they can not continue their union activities for the interest of the Postal Employees. It is stated that the employees assembled in the Chamber of Smti Trishaljit Sethi, Director Postal Service, Agartala Division (Respondent No. 6) neither misbehaved with her nor used any objectionable language as alleged in the letter dated 6th August, 2002 by Smti Trishaljit Sethi, Director, Postal Service, Agartala Division to the Chief Secretary of the State of Tripura. Despite that on the basis of the said FIR, a case under Section 342 / 353 / 506 / 34 IPC being West Agartala P. S., Case No. 172/02 against the applicant and against Sri Haru Dasgupta and even the said two female employees were not spared. Consequently the applicant had to obtain bail against the said false case.

A photocopy of the F. I. R. form along with the copy of the letter dated 06.08.2002 which has been taken as complain are annexed herewith and marked as **Annexure 2** collectively.

4.9 That Smti Trishaljit Sethi, Director, Postal Service, Agartala Division (Respondent No. 6) also informed the Chief Post Master general, N. E. Circle, Shillong regarding the alleged incident of 05.08.2002 and in response thereto, as it appears the Post Master general of N. E. Circle, Shillong sent 2 (two) officers namely Mr. Lalhauna, Director, Postal Service (Head Quarter), Office of the Chief Post Master General

*Jananwar Debnath*

and Mr. B. R. Halder, Asst. Director of the office of the Chief Post Master General, Shillong for an enquiry about the alleged incident happened in the office chamber of Smti Trishaljit Sethi, Respondent No. 6 and accordingly the aforesaid 2 (two) officers came to Agartala on 29/08/2002 and they discussed with the applicant and other employees who were in the delegation at the time of discussion in the chamber of Smti Sethi (Respondent No. 6). After enquiry they found nothing against the applicant and his associates in the delegation and hence the authority did not find any reason for taking any disciplinary action against them. But on 10/09/2002 vide office Memo No. Viz/1-4/2002-2003 the applicant was all on a sudden transferred from Agartala Postal Division to Meghalaya Postal Division under Rule 37 of P & T Manual.

A copy of the transfer order dated 10.09.2002 is annexed hereto and marked as **Annexure 3**.

- 4.10 That it is stated that the impugned transfer order was issued not for any public interest but as there was a hitch/bad blood between the Respondent No. 6 namely Smti Trishaljit Sethi, the Director, Postal Service, Agartala Division and the applicant and his associates Union members, who were in the delegation on 05/08/2002 and as the applicant was an eyesore of Smti Trishaljit Sethi (Respondent No. 6) and he was a Union activist, he has been sought transferred, previously also she threatened the applicant that she would transfer him outside the State of Tripura if the applicant did not act to her dictate. It is also stated that the basic reason behind the transfer of the applicant and deemed release order (**Annexure 3** herein) issued by the authority only to satiate vengeance of Smti Trishaljit Sethi (Respondent No. 6) against the applicant not for any public interest but for extraneous consideration and as such said transfer and deemed release order is unreasonable, unfair and malafide and violative of Article 14 of the Constitution of India and as such liable to be set-aside.
- 4.11 That the transferring authority misused its power by transferring the applicant from Agartala Postal Division to Meghalaya Postal Division in the guise of interest of service. It is also stated that, if, the Hon'ble Tribunal be pleased to crack the shell of innocuousness which wraps the order of transfer and the deemed release order (**Annexure 3**) then the Hon'ble Tribunal would find the real purpose behind issuing the impugned transfer and deemed release order.

Jorardan Sethi  
28

4.12 That though in the Rule 37 of the P & T Manual the word public interest is used for achieving a definite meaning and objective. In the impugned transfer order there is nothing regarding the public interest but in the interest of service. It is stated that interest of service always may not be the public interest, therefore, the Hon'ble Tribunal may call for the relevant files from which the transfer order is originated and the files relating to the enquiry done by the aforesaid 2 (two) Officers Sri Lalhluna, Director, Postal Service (H.Q) and Mr. B. R. Halder, Asst. Director, office of the Chief Post Master general regarding the alleged incident of 05/08/2002 in the chamber of Smti Trishaljit Sethi (Respondent No. 6). It is further stated that applicant's service is only transferable within the Agartala Postal Division, not outside that. As such the Respondent No. 4 has no competence over the service of the applicant and even he can not issue the order of transfer under Rule 37, P & T Manual.

4.13 That according to Rule 37A of the P & T Manual the general transfer of an employee of the Postal Department has to be made in the month of April of the relevant year, so that an employee should not be transferred during the academic session of their wards. It is stated that one of the son of the applicant is prosecuting 3 years' Degree Course whereas another daughter is a student of final year of B. E. (Electrical) in the Tripura Engineering College. Due to the impugned order of transfer of the applicant is issued in the middle of the academic session his wards as aforesaid will suffer irreparable loss which can not be compensated in any way and the family life of the applicant will be ruined. It is further stated that the aforesaid Rule 37 of the P & T Manual has no application, so far the applicant is concerned as the authority subsequently modified the condition of service and the transfer liability of the applicant is within the Agartala Postal Division. Any transfer including the impugned transfer order of applicant beyond the Agartala Postal Division is unfair, unreasonable, illegal and violation of statutory provision and hence liable to be dismissed. A copy of the letter dt. 23.08.90 is annexed hereto and marked as **Annexure-4**.

4.14 That the impugned transfer having been punitive in nature it has been issued contrary to the provision of F.R 15 and as such it has been issued in violation of rules.

4.15 That the Respondent No. 7 collusively with Respondent No. 6 has issued the impugned transfer order to achieve circuitously what could not be achieved fairly and legally. To quench vengeance the impugned transfer order has been issued, not for any

*Janathen Devaraj*

other purpose.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS

- (i) For that the impugned transfer order has been issued in violation of rules vis-a-vis Rule 37 and 37A of the P & T Manual and F.R. 15 and as such it is liable to quashed.
- (ii) For that the impugned transfer order has been issued malafide not in the public interest or in the interest of the service and as such is liable to set aside and quashed.
- (iii) For that the impugned transfer order is punitive in nature and as such it violates the provision F. R 15 and as such in liable to be set aside and quashed.
- (iv) For that the impugned transfer order has been issued by an authority having no control or superintendence / competence over the services of the applicant.
- (v) For that the impugned transfer order has been issued on extraneous consideration and it veil to lifted it would reveal that the said order has been issued to satiate personal vendetta of the Respondent No. 6
- (vi) For that the impugned transfer order couched with the deemed release order is liable to be set-aside and quashed.
- (vii) For that the rest would be submitted orally at the time of hearing.

6. DETAILS OF THE REMEDIES EXHAUSTED

The applicant declares that since the impugned order contains the order of transfer as well as of the deemed release he was not in a position to submit a representation to the higher authority and he was faced with imminent effect.

7. MATTER NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any court or any other authority of any other Bench of the Tribunal nor

*Janardhan Jhakat*

30

any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT

In view of the facts mentioned in para 4 above the applicant prays for the following reliefs :

(a) This Hon'ble Tribunal be pleased set aside and / or quash the impugned office memo no. viz/1-4/2002-2003 dt. 10.09.2002 issued by the Director of Postal Services (Hq.), office of the Chief Post Master General, N.E. Circle, Shillong forth with and in no time.

(b) This Hon'ble Tribunal be pleased to direct the Respondent and each of them to allow the applicant resume his duties on the previous place of posting i.e. in the place from where the Applicant has been sought to be transferred with special leave for the intervening period of the deemed release and the day of resumption.

(c) This Hon'ble Tribunal be pleased to pass further order or orders, direction or directions as deem fit and proper having regard to the circumstances of the case.

9. INTERIM ORDER, IF ANY PRAYED FOR

Pending final decision on the application, the applicant seeks the following interim relief :

This Hon'ble Tribunal be pleased to stay the impugned office memo no. viz/1-4/2002-2003 dated 10.09.2002 (Annexure 3 to the application) and to allow the applicant to resume duties in the previous place of posting

10. PARTICULARS OF BANK DRAFT FILED IN RESPECT OF THE APPLICATION

FEE

*State Bank of India Draft No. 965384 dt. 19.07.2002  
of Rs. 50/-*

11. LIST OF ENCLOSURES

1. Bank draft
2. Copies of the application for service - 8 nos.
3. File size Envelop 8 nos.
4. Vokalatnama

### VERIFICATION

I, Shri Janardhan Debnath, son of Late Hriday Debnath, age 53 years, working as the Postal Assistant (Incharge Speed Post) in the Agartala Head Post Office, resident of Sripally, Badharghat, P. O. Arundhatinagar, Agartala 799003 do hereby verify that the contents of paras 4.1 to 4.9 are true to my personal knowledge and paras 4.10 to 4.15 is believed to be true on legal advice and that I have not suppressed any material fact.

Date : 21, 09. 2002

Place : Agartala

*Janardhan Debnath*  
Signature of the applicant

11  
32

To  
The Registrar  
Central Administrative Tribunal  
Guwahati Bench  
Guwahati

Form II  
(See Rule 4 (4))

**RECEIPT SLIP**

Receipt of the application filed in the Central Administrative Tribunal, Guwahati Bench by Sri Janardhan Debnath working as the Postal Assistant in the Agartala Head Post Office residing at Sripally, Badharghat, P. O. Arundhatinagar, Agartala-799003 is hereby acknowledged.

For Registrar  
Central Administrative Tribunal  
Guwahati Bench

## NATIONAL FEDERATION OF POSTAL EMPLOYEES

D-7, Samru Place, Postal Staff Quarters,  
Mandir Marg, New Delhi-110001

Ref. No. PF- 48/Tripura

Dated.....14.5.2002....

TO

Smt. Aparna Mohile,  
Member (I&FS),  
Postal Services Board,  
New Delhi - 110 001.

Sub.: High handed and vindictive attitude of Director of Postal Services Agartala.

Madam,

This Federation is very much constrained to say that the working atmosphere in Agartala has reached the worst condition due to high handed and vindictive attitude of the Director of Postal Services, Agartala for your kind perusal we are enclosing copies of resolution as also copies of documents we have received from Agartala.

The perusal of the same will reveal that the D.P.S. is challenging the expertise of the medical practitioners that too even without referring the employees for second medical opinion.

- ii) The D.P.S. is acting against the union leaders affiliated to NFPE.
- iii) The employees going on leave on production of M.C. are not allowed to resume duties after expiry of leave when they come to join with a certificate of fitness.
- iv) The officials taking leave of one day to attend the customary and ritual ceremony are treated "dies-non".
- v) The D.P.S. is doing so many things for which she is not authorised under the rules.

The atmosphere is so surcharged that it may burst into resitance at any moment, we apprehend, jeopardising the smooth functioning of the Postal Services. Before the situation reaches such a stage, this Federation requests you to kindly intervene and do the needful so that the high handed attitude of the Dps is abandoned and cordial relation with the staff is restored.

Yours faithfully,

Encl:As above.

Copy to :

- 1-2. General Secretary-PIII, P-IV, E.D. Union
- 3-4. Divl. Secretary, P-III, P-IV, Agartala-799001.
- 5-6. Divisional Secretary E.D./ Circle Secretary E.D. Union
- 7-8. Circle Secretary P-IV/ P-III N.E. Circle

*Sharma*  
(DES RAJ SHARMA )  
Offg. Secretary General

This is to certify that  
this is the original  
copy of the document  
sent to you.

No.NEC/P-III/Agartala

Dated Shillong the 07/02/2002.

To,  
Sri Vijay Chitale  
Chief Postmaster General,  
N. E. Circle,  
Shillong-793 001.

## Sub:- Anti employees attitude/manner of the D.P.S. Agartala

Sir,

It has been reported that the D.P.S. Tripura is initiating anti staff/union gesture at Agartala.

An example to the above, will speak of her unexpected and unjust attitude towards the staff/union which is not at all tenable.

Two of the staff of Radhakishorepur proceeded on leave on medical ground. On expiry of the leave, when they went to join with fitness certificates they were not allowed to join their duties on that day. When they went on leave on medical ground the DPS, Agartala forwarded those medical certificates produced to the medical board for second opinion. During the period of leave the medical board did not call them, and thus not allowing the officials to join their duties is not permissible according to rule in existence.

On 2<sup>nd</sup> March, 2002, the Divisional Secretary, Sri Haru Dasgupta and four other members visited Radhakishorepur for an organising tour in connection with mobilisation for the 14<sup>th</sup> March, 2002 union programme and when they came to know about the fact, discussed detail with the Postmaster, Radhakishorpur and the letter allowed the officials to join their duties on 05<sup>th</sup> March, 2002.

Amazingly, the D.P.S. Aartala called Haru Dasgupta for explanation as why Sri Haru Dasgupta had met the Postmaster, Radhakishorpur and discussed threat and the reply of which to be furnished within seven days of time. Never in anywhere, A Secretary has so far been asked for explanation if he undertakes tour programmes for organisation matter which is an infringement of the democratic right.

Having been disgruntled by the derogatory behavior and animus of the DPS, Agartala, a delegation of the staff met the DPS to urge for immediate annulment of the said letter of explanation to the Divisional Secretary, but surprisingly within moments, Police arrived at the spot and the DPS left the place with police escort, which was unwarranted and cannot be defended.

Therefore, you are requested kindly to advise the DPS Agartala to forbear from this type of anti employee/anti union designed attitude henceforth and revoke the said letter of explanation forthwith so that situation does not turn from bad to worse and the cordial relation between the staff and the administration be maintained.

A line in reply with suitable action is solicited.

St. P. Y. T.

The President - Agartala (RAMANI BHATTACHARYYA)  
The Divisional Secretary - Agartala  
General Secretary - P. B. CHANDRA  
Secretary General - P. B. CHANDRA

This is to certify that  
This document is to  
copy of the original  
Sister et al. and Associate.



asons for delay in reporting by the Complainant/Informant

9. Particulars of properties stolen/involved (Attach separate sheet, if required)

10. Total value of properties stolen/involved

11. Inquest Report/U. D. Case No., if any

12. F. I. R. Contents : (Attach separate sheets, if required)

The original type Complaint which was received from SP (West) and office is treated as F.I.R which is reproduced / enclosed here with.

Ans  
19.9.02

Date Examiner,  
Central Copying Department  
and Judicial Magistrate's Court  
Court Room, Agra

13. Action taken : Since the above report reveals commission of offence(s) as mentioned at Item No. 2 registered the case and took up the investigation

/directed... Regd. No. ... Rs. ... on behalf of ...  
to take up the investigation/transferred to ... ... ... ...  
point of jurisdiction.

F. I. R. read over to the Complainant/Informant, admitted to be correctly recorded and a copy given to the Complainant/Informant free of cost.

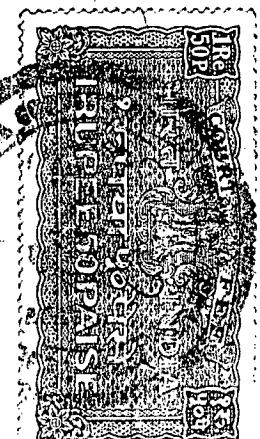
Signature/Thumb impression of the  
Complainant/Informant

The Signature of the Complainant  
has already reflected in the  
original complaint.

TOPA-12-8-98-3,50,000-J. C. No. 7522.

Nivesh Dey  
Ans. Ex-11  
22.8.02

Name : Nivesh Dey  
Rank : 8.9.02 Police  
Number, if any : A-1000-11  
22.8.02



Compared by  
Rahul

This is to certify  
that this document  
is a copy of the  
original and correct.

No 7211-08/02

16/8

16

To,

The Chief Secretary,  
Govt of Tripura,  
Agartala.

**ANNEXURE-2**

DD: 6th Aug 2002

23-8-02

Subject:- Gherao and assault on Director Postal Services, Agartala on 5<sup>th</sup> August 2002

Sir,

This is to report to you the ugly incident involving gherao and assault on Director Postal Services, Agartala on 5<sup>th</sup> August 2002:

On 5<sup>th</sup> Aug I went to my office at around 10 AM. A little thereafter, the union leaders, Mr. Janardan Debnath and Mr Haru Dasgupta and others came to my chamber and demanded that the charge sheet issued by the department to Shri Kanti Debbarma Deputy Post Master, must be withdrawn immediately as he is due to retire soon.

I explained that the power to withdraw a charge sheet is vested with the Chief Post Master General (Chief PMG) who is at Shillong. They were however very vociferous and insistent, upon which I suggested that a representation may be submitted which I could forward to the Chief PMG for necessary action. They refused to do so, and insisted upon me to withdraw it at once.

At this stage, I spoke on phone to the Director Postal Services (HQ) in the o/o Chief PMG Shillong who also spoke to Shri Janardan Debnath explaining to him that they may submit a representation to his office through the DPS Agartala. To this also, they did not agree and became more agitated and started shouting slogans and using objectionable language.

Thereafter (another 5 minutes or so) I got up and walked towards the door. Shri Haru Dasgupta and another employee (an Extra Deptl Stamp Vendor -union leader of the ED Agents- posted at Secretariat Post Office whose name I can't recall) blocked the door physically, and two ladies Smt. Aniva Dutta and Smt Ajita Datta held me by the upper arms and dragged me into another room. I was so taken aback, that I screamed loudly, crying for help. Nevertheless, they forced me into a corner of the room and illegally detained me there.

I also saw that outside my chamber, in the corridor, there were about 100 odd people stationed. In this room several ladies and men gheraoed me. Mr Haru Dasgupta repeatedly taunted me and gave inciting speeches against me with wrongful and malicious statements. From time to time, Shri Janardan Debnath would come to me and give ultimatum to sign the papers for withdrawing the charge sheet. He said that as soon as I sign it, I will be allowed to go. I just kept quiet each time.

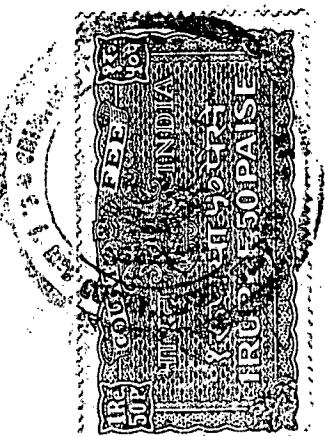
I then went towards the window and on seeing some police constables below, I shouted and screamed for help, beating the window grills with my hands to draw their attention. I may mention that the West Police Station is right opposite the Head Post Office and the office of DPS; but no one came from the police station to help. At this, Mrs. Aniva Datta

hnd  
19.9.02

Chief Examiner,  
Central Copying Department  
and Judicial Magistrate's Court  
Shillong, Assam.

Compared by  
Ranjan Debnath

Janardan Debnath  
Haru Dasgupta  
Aniva Dutta  
Ajita Datta



17

told me caustically 'Madam, this is Tripura. No police will come to help you.' I suppose this statement speaks volumes about the state of affairs.

At around 1.30 P.M. again, Mr. Janardan Debnath came up to me and said to me in a confidential tone that the situation is reaching boiling point and if I don't sign the papers immediately, it will explode and no one will be in a position to protect me from the crowd outside.

Gradually, the situation changed for the worse. The postal staff started leaving the room and in their place dangerous looking men and women gathered around me. I sensed that the situation is becoming more tense and mortally dangerous for me, so when Mr. Janardan Debnath came to me again, I requested to be allowed to speak to the Chief PMG so that I may be able to sign the papers for withdrawal of the charge sheet. Thereafter, I spoke to the Chief PMG who at first did not agree. It was only after I convinced him that I was in grave danger; he said that I could sign whatever was necessary for my safety and security. I then signed the papers withdrawing the charge sheet, and only then, was I allowed to go.

I am deeply tormented and shocked by this incident and appeal to your kind self to take necessary action in the matter. The safety and security of the Central govt. officers posted in Tripura is the responsibility of the State Govt. In fact, I fear for my life and that of my family including my two small children, and I humbly submit for necessary security for self and family. It is due to this deep sense of fear and shock and fearing for the safety of my children that I have not lodged a formal FIR with the police. As a lady officer serving with sincerity and dedication in this far flung North Eastern Region of the country and working hard to improve the Postal Services in the State, this incident came as the most fearful nightmare to me.

Thanking you,

Yours Faithfully

*T. Sethi*  
(Mrs. T. Sethi)  
Director Postal Services  
Agartala, Tripura

Copy to:

1. Principal Secretary to the Governor of Tripura, for the kind information of His Excellency, The Governor of Tripura.
2. Secretary to Chief Minister, Tripura, for the kind information of Honourable Chief Minister.

Received on 22.8.02  
at 1830 hrs. from Smt (Wmt)  
effice and reqd sent out  
PS case No - 172/02 v/s - 342/  
353/506/34 9re

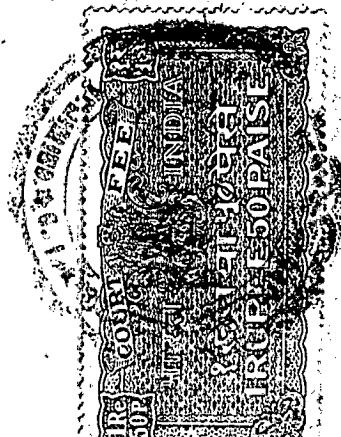
Nivesh Dey  
Hm. wmt v/s  
22.8.02

Not

certify of ~~RECORDED TO THE GOVT~~  
and 19.9.02  
Chief Examiner,  
Criminal Copying Department  
and Judicial Magistrate's Court  
West Bengal, Agartala

Compared &  
19.9.02

This is to certify of the  
true copy of the  
said document of the  
State of Tripura, Agartala



DEPARTMENT OF POSTS  
OFFICE OF THE CHIEF POSTMASTER GENERAL:N.E.CIRCLE:SHILLONG

Memo No. Vig/1-4/2002-2003

Dated Shillong, the 10-9-2002

(18)

The Chief Postmaster General, North Eastern Circle, Shillong hereby ordered the transfer/posting of the following officials of Agartala Postal Division under Rule-37 of P&T Manual Vol.IV to have immediate effect and in the interest of service.

Sl. no.	Name of official and present place of posting	Postal Division to which posted on transfer
1	Shri Janardhan Debnath, PA, Agartala HO	Meghalaya Division
2	Shri Haru Das Gupta, PA, Agartala HO	Meghalaya Division
3	Smti Aniva Dutta, PA, Agartala H.O.	Dharm Nagar Division
4	Smti Ajita Dutta, PA, O/O DPS Agartala	Dharm Nagar Division

The above four (4) officials who are being transferred out of Agartala Postal Division, should be relieved within 14<sup>th</sup> September 2002 positively. If they are not relieved within the stipulated date, they will be deemed to have been relieved.

The Sr. Supdt. of P.Os, Meghalaya Division, Shillong will immediately issue the posting order in respect of Shri Janardhan Debnath and Shri Haru Das Gupta. The Supdt. of P.Os, Dharm Nagar Division will also immediately issue the posting order in respect of Smti Aniva Dutta and Smti Ajita Dutta.

(LAJHLUNA)  
Director of Postal Services(Hq)

Copy to :-

- 1) The D.P.S., Agartala.
- 2) The Sr. Supdt. of Post Offices, Meghalaya Division, Shillong.
- 3) The Supdt. of Post Offices, Dharm Nagar.
- 4) The Sr. Postmaster, Shillong GPO.
- 5) The Postmaster, Agartala/Dharm Nagar.
- 6) The officials concerned.

Director of Postal Services(Hq)  
N.E. Circle, Shillong

This is to certify that  
This is a copy of the original  
copy of the document  
Dated 10-9-2002  
Chandru Ram  
Advocate

19  
ANNEXURE 4

C O P Y

Copy of the Dte. letter No. 20-12/90-SPB-I dated 23-8-90 addressed to all heads of Postal Circles.

Sub :- Deletion of transfer liability clause from Appointment offer.

Sir,

As per long standing practice and convention, there is a clause in the initial appointment letters of the employees of the department of Posts to the effect that they can be transferred anywhere in the country under special circumstances.

2. Since in actual fact a vast majority of Group C and Group D employees are never subjected to the transfer liability implied in this clause, it is felt that such a condition is not necessary in the appointment orders.

3. The matter has been considered carefully in consultation with the Ministry of Law. It is hereby ordered that no clause or condition relating to transferability anywhere in the country, under special or general circumstances, should from now on be mentioned in the appointment orders issued to Group C and Group D employees of the Department of Posts. Such a clause existing in the case of the employees already in service also is hereby cancelled with immediate effect and their appointment order would also stand so modified with effect from the date of issue of this letter.

4. It is also directed that these orders may be given wide publicity and also got noted by all the Group C and Group D staff. Necessary entry in this behalf may also be made in their Service Books, in due course.

5. Please acknowledge receipt.

6. Hindi version will follow.

Yours faithfully,

sd/-

(R. KRISHNAMOORTHY)  
ASSTT. DIRECTOR GENERAL (SPB)

No. B1-431/R

sd at Agt & Ro (10) 9-90

To (1) All PMS & SPMS in Agt & Ro.

(2) All SDIPOS in Agt & Ro.

For information

Director Postal Services  
Tiruchirappalli  
Annamalai Jyoti M.

This is to certify that  
this is the original copy  
of the document.

DEPARTMENT OF POSTS  
OFFICE OF THE CHIEF POSTMASTER GENERAL:N.E.CIRCLE:SHILLONG.

No. Staff/41-2/90

Dated Shillong, the 6-9-90

TO

(1) The Director of Postal Services,  
Aizawl/Agartala/Imphal/Kohima/Itanagar.  
(2) The Supdt. of P.Os. Shillong/Dharmanagar.  
(3) The Supdt. P.S.D., Guwahati/Silchar.  
(4) The Manager, R.L.O., Shillong.  
(5) All Group Officers, C.O., Shillong.  
(6) The Sr. Postmaster, Shillong G.P.O.  
(7) The J.A.C. (Bgt), C.O., Shillong.  
(8) The Dealing Shares, Staff Section, C.O., Shillong.

SUB :- Deletion of transfer liability clause from  
Appointment offer.

Sir,

A copy of the D.G. Posts, New Delhi's letter  
No. 20-12/90-SPB-I dated 23-8-90 on the above mentioned  
subject is sent herewith for your information, guidance  
and necessary action.

Kindly acknowledge receipt.

Yours faithfully,

*.....* ( L. Munga ) 6/9/90  
Asstt. Postmaster General (S&E)

Encl: As above

Copy to :-

1) The Circle Secretary, P-III, C/O Sr.  
Postmaster, Shillong G.P.O.  
2) The Circle Secretary, P-IV & Postman,  
C/O Supdt. of P.Os, Shillong.  
3) The Circle Secretary, All India Postal  
Administrative Union, C/O Chief P.M.G.,  
Shillong-793001.

*.....* 6/9/90  
For Chief Postmaster General,  
N.E. Circle, Shillong.

K. D. D.