

5/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 40/2002

R.A/C.P No.

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6/11/17
22/11/17

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. OA 40/2002

Applicant(s)

S. Chakraborty

Respondent(s)

Union of India & Ors.

Advocate for Applicant(s)

Mr. B.K. Sharma, Mr. S. Sarma
Mr. M. Nair & Mrs. M. Dey

Advocate for Respondent(s)

CSC

Notes of the Registry

Date

Order of the Tribunal

This is application in Form
C.F. for No. 50/1 deposited
vide 11/2/02 74-5509/13
Dated 7-2-2002

Dr. Registrar
11/2/02

11.2.02

Application is admitted. Issue
Notice. Mr. B.C. Pathak, learned Addl.
C.G.S.C. accepts notice on behalf of
the respondent nos. 1 to 4.

Prayer for interim order is
rejected.

Notice returnable on 18.3.2002.
List the matter on 18.2.2002 for
further orders.

Member *K. U. Sharma*

Vice-Chairman *[Signature]*

trd

18.3.02

List on 23.4.2002 to enable the
Respondents to file written statement.

Member *K. U. Sharma*

Vice-Chairman *[Signature]*

mb

Shikha Lata, Notice for
Respondent No 1 to 4 received by
Mr. B.C. Pathak, Addl. C.S.C.

13/2/02

Received
for 13-2-2002

Respondent Nos- Sent by to
D/S for their the same by
Regd. A/D.

13/2/02

D/No 469

Dtd. 15/2/02

Photocopies made out
of order since 11/2/02

m.

(2)

O.A.No.40/2002

No. Written Statement
has been filed.

22.4.02.

No. Written Statement
has been filed.

23.5.02.

No. Written Statement
has been filed.

20.6.02.

No. Written Statement
has been filed.

28.6.02.

23.4.2002 List the case on 22.5.2002 on the
prayer made by Mr.B.C.Pathak,
learned Addl.C.G.S.C. for the
respondents for filing of written
statement.

Vice-Chairman

bb

24.5.02 No written statement so far
filed though time granted. List on
21.6.2002 to enable the Respondents
to file written statement.

Vice-Chairman

mb

21.6.02 At the request of Mr.A.Deb
Roy, Sr.C.G.S.C..three weeks time
is allowed for filing of written
statement. List on 18.7.02 for
orders.

Member

lm

5,7.2002 Mr S. Sarma, learned counsel for the
(Agartala) applicant and Mr A. Deb Roy, learned
Sr. C.G.S.C. for the respondents.

The matter relates to
transfer, posting and adjustment.

By order dated 14.12.2001

transfer, posting and adjustment of
Superintendent Gr. 'B' were ordered,
by which the applicant was also sent
from Agartala Customs Division to
Dhekiajuli Range, Tezpur Central Excise
Division. By another order dated
19.12.2001 the Annual General Transfer
order No.61/2001 was issued transferring,

posting and adjustment

P.T.O.

Notes of the Registry	Date	Order of the Tribunal
	5.7.02	<p>posting and rotating in the grade of Superintendent Gr. 'B' of Customs, North Eastern Region, whereby the applicant was also affected by such transfer.</p> <p>The transfer order dated 14.12.01 was assailed in O.A. No.483 of 2001. By order dated 24.12.2001 this Bench in the aforementioned O.A. directed the respondents to dispose of the representation of the applicant expeditiously. By impugned order dated 30.1.2002 the representation was disposed of pursuant to the order of the Tribunal.</p> <p>Perused the pleadings and considered the materials on record. The impugned order has been passed as a routine order in course of administration. There is no breach of any statutory provisions, nor does it appear to be vitiated by any arbitrariness. The order is passed seemingly on administrative exigency.</p> <p>In the facts and circumstances of the case there is no justification for any judicial review.</p> <p>The application is accordingly dismissed. No order as to costs.</p>

Received copy
Higher Dns.
6/8/02

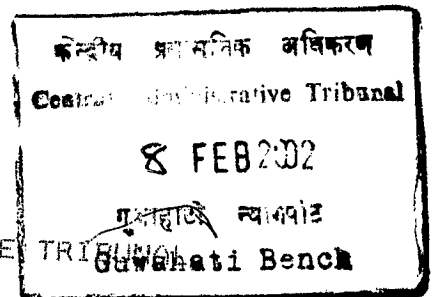
Order dtd 5/7/02
Commited to the
Anties Counsel
by
14/8.

nkM

(D.N. CHOWDHURY)
VICE CHAIRMAN

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Notes of the Registry	Date	Order of the Tribunal
<p>[Faint, illegible text in the first column, likely bleed-through from the reverse side of the page.]</p>	<p>[Faint, illegible text in the second column, likely bleed-through from the reverse side of the page.]</p>	<p>[Faint, illegible text in the third column, likely bleed-through from the reverse side of the page.]</p>



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

O. A No. 40 /2002

BETWEEN

Shri Samir Chakraborty

... Applicant.

- AND -

Union of India & Ors.

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Filed by Asha Das
Advocate:

Filed by
the applicant through
Alsha Das. X
Advocate
8/2/02

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

O. A No. 40 /2002.

BETWEEN

Shri Samir Chakraborty,
son Late J.C. Chakraborty, Chittaranjan
Road, P.O. Agartala College, Tripura
West, Agartala-799004.

... Applicant.

- AND -

1. Union of India, represented by the
Secretary to the Government of India,
Ministry of Finance, New Delhi-1.
 2. The Commissioner of Customs, North
Eastern Region, Shillong.
 3. The Assistant Commissioner, Customs
Division, Agartala.
 4. The Commissioner of Central Excise,
M.G.Road Shillong.
 5. Shri S.Ganguly Supdt.
Dhekiajuli Range,
Tezpur Central Excise Division. Tezpur.
- ... Respondents.

DETAILS OF THE APPLICATION.

1. PARTICULARS OF ORDER AGAINST WHICH THIS APPLICATION IS
MADE.

This application is directed against the orders
vide No. 191/2001 dated 14.12.2001 issued by the
Commissioner of Central Excise M.G.Road, Shillong, by which
the Applicant who is presently holding the post of Leave
Reserve Agartala under the Agartala Customs Division is
sought to be transferred to Dhekiajuli Range, Tezpur Central

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Excise Division. Tezpur. This application is also directed against the order dated 19.12.2001 issued by the Commissioner of Customs, NER, Shillong, by which his service has been placed under the disposal of disposal of Commissioner of Central Excise, Shillong. The applicant has also challenged the order dated 30.1.2002 by which the representation filed by the applicant has been disposed of.

2. LIMITATION

That the Applicant declares that the instant application has been filed within the limitation period prescribed under Section 21 of the Central Administration Tribunal Act, 1985.

3. JURISDICTION OF THE TRIBUNAL

The Applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE

4.1 That the Applicant is a citizen of India and as such he is entitled to all the rights and privileges as guaranteed under the Constitution of India and laws framed thereunder.

4.2. That the Applicant is presently working as Leave Reserve, Agartala Customs Division. While he was working as Supdt. (Anti Smuggling), in the office of the Agartala Customs Division, the Commissioner of Customs NER, Shillong,

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issued an order dated 26.6.2001 by which he has been sought to be transferred to CPF Badarpur Unit. The said order of transfer dated 26.6.2001 was the subject matter of O.A No 243/2001, and this Hon'ble Tribunal was pleased to dismiss the said O.A being infructuous taking into consideration the subsequent transfer orders. In the said O.A No 243/2001 the applicant has challenged the order of transfer dated 26.6.2001 on the ground that same has been issued as a measure of punishment. In fact the written statement filed by the respondents reveals the fact that the order of transfer dated 26.6.2001 has been issued on receipt of some complaint. Enquiry has been made to find out the truth of said allegations but no opportunity was provided to the present applicant. It is pertinent to mention here that the Hon'ble Tribunal while admitting the said O.A 243/2001 passed an interim order 6.7.2001 suspending the operation of the transfer order dated 26.6.2001. The respondents during the pendency of the said O.A issued another order dated 14.12.2001 by which the applicant has been sought to be transferred to Tezpur, during the currency of the aforesaid interim order dated 6.7.2001. The said order dated 14.12.2001 has been followed by another order dated 19.12.2001 issued by the Commissioner of Customs NER Shillong by which his service has been placed under the disposal of Commissioner of Central Excise, Shillong. Through this application the Applicant has challenged the action of the Respondents in issuing the impugned transfer order dated 14.12.2001 by which he has been transferred to Dhekiajuli Range, Tezpur Central Excise Division, and the order dated 19.12.2001 by which his service has been placed

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under the disposal of Commissioner of Central Excise. The issuance of the impugned orders is a net result of detection of a huge number of phensedyl cough linctus amounting rupees about 16 lakhs. The aforesaid impugned orders have been issued at the behest of certain interested group to frustrate the investigation. Finally the Respondent No. 2 acting on those complaints issued the impugned orders dated 14.12.2001 and 19.12.2001 which is baseless and liable to be set aside and quashed. The applicant challenging these two orders preferred O.A No. 483/01 and on the day of its Admission i.e, 24.12.2001, the Hon'ble Tribunal was pleased to dispose of the said O.A directing the respondents to dispose of the representation filed by the applicant. Pursuant to the said directive the respondents have now issued an order dated 30.01.02 by which the representation filed by the applicant has been disposed of taking into consideration certain irreverent facts. Now the applicant having no other alternative has come before this Hon'ble Tribunal seeking appropriate relief.

4.3. That the Applicant is presently holding the post of Leave Reserve Agartala Customs Division and he joined the said post in the month of July 2001. By now the Applicant has completed about only few months of service in the said division. It is pertinent to mention here that the applicant was working as Suptd of Anti Smuggling under Agartala Customs Division. Taking into consideration certain baseless complaint and with a malafide intention he was transferred to Badarpur CPF Unit. The applicant preferred O.A 243/2001 before the Hon'ble Tribunal and the Hon'ble

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Tribunal was pleased to stay the operation of the said transfer order dated 26.6.2001 by passing an interim order dated 6.7.2001. The respondents without taking into consideration the said interim order passed an order placing the applicant as Leave Reserve. The applicant challenged the order of transfer dated 26.6.2001 on the ground that same has been issued at the behest of some interested circle in connection with seizure of huge amount of Phynsedyl. The respondents have filed their written statement in the said O.A and the allegation made in that context came to light.

The applicant craves leave of the Hon'ble Tribunal to relay and refer upon the statement made in the O.A No 243/2001 and the written statement filed in that O.A.

A copy of the said order dated 26.6.2001 is annexed herewith and marked as ANNEXURE-1.

4.4. That the Applicant begs to state that the respondents have thereafter issued another order dated 14.12.2001 by which the applicant has been sought to be transferred to Tezpur, during the currency of the aforesaid interim order dated 6.7.2001. The said order dated 14.12.2001 has been followed by another order dated 19.12.2001 issued by the Commissioner of Customs NER Shillong by which his service has been placed under the disposal of Commissioner of Central Excise, Shillong. Although the orders have been stated to be issued on administrative ground but same has been issued pursuant to some complaint lodged by the Respondents.

N

Copies of the impugned orders dated 14.12.2001 and 19.12.2001 are annexed herewith and marked as ANNEXURE-2 & 3.

4.5. That as stated above the interested group of officers in collusion with the respondents lodged complaints against the Applicant with a prayer to transfer him out from Agartala. It is pertinent to mention here that the Applicant detected a huge quantity of phensedyl cough linctus amounting rupees about 16 lakhs which were about to export to Bangladesh illegally. On such detection made by the Applicant the Respondents issued direction to the Applicant to investigate into the matter. Pursuant to such direction Applicant started investigation by issuing summons to the suspected persons involved in the case. However, the other Respondents started creating obstruction in the said investigation carried out by the Applicant for the reason best known to them. To that effect the said Respondent lodged some complaint against the Applicant and same has resulted in issuance of the impugned transfer orders. The applicant challenging the legality and validity of the aforesaid orders dated 14.12.2001 and 19.12.2001 preferred O.A No 483 of 2001 and on the day of its admission the Hon'ble Tribunal was pleased to dispose of the said O.A directing the respondents to dispose of the representation filed by the applicant.

A copy of the said judgment and order dated 24.12.2001 passed in O.A No 483/01 is annexed herewith and marked as ANNEXURE-4.

4.6. That the applicant begs to state that the earlier

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O.A 423/01, wherein he challenged the order dated 26.6.01, came up for hearing on 1.2.2002 and the Hon'ble Tribunal taking into consideration the subsequent transfer orders dated 14.12.2001 and 19.12.2001 and the Judgment and order dated 24.12.2001 passed in O.A No 483 of 2001, was pleased to dismiss the said O.A being infructuous.

The applicant inspite of his best effort could not collect the copy of the said Judgment and order dated 1.2.2002 passed in O.A 423/01 and hence craves leave of the Hon'ble Tribunal to produce the same at the time of hearing of the case.

4.7. That the Applicant begs to state that presently the investigation is going under him and there is every likelihood of getting hold the entire network involved in the said smuggling of phensedyl. However, in the event of issuance of the impugned order, the investigation work will be jeopardized. Surprisingly enough now move is going on to allot the said assignments to some other officials by the Respondents. From the above series of action it is clear that the impugned order has been issued at the behest of Respondents. It is noteworthy to mention here that the Respondents have issued the impugned order basing on the complaint made by the interested group without providing any opportunity of hearing to the Applicant.

4.8 That the Applicant begs to state that he was holding the post of Supdt. (Anti Smuggling) under the Custom Division, Agartala since February 2000 and after the issuance of the interim order he has been placed as Leave Reserve, by now he has completed only 4 months of service in

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the said division. But the Respondent, No. 2 has issued the impugned order only to the Applicant without taking into consideration the said period of service. On the other hand persons senior to the present Applicant who by now has completed more than 4 years of service are still continuing in their service without any disturbance. It is further stated that the impugned order has been issued only to frustrate the investigation conducted by the Applicant.

4.9. That the Applicant begs to state that the issuance of the impugned order speaks volume of malafide against the Respondents. In fact the issuance of the aforesaid impugned orders is a net result of the complaint made by the Respondents. Enquiry report submitted by the respondents will reveal the correctness of the facts stated above.

4.10. That the Applicant begs to state that after the issuance of the impugned order the Applicant visited the office of the Respondents but the said Respondents have shown their helplessness in absence of any order from this Hon'ble Tribunal. Being aggrieved by the impugned orders dated 14.12.2001 and 19.12.2001, the applicant preferred representations to the concern authority but nothing has been communicated to him in positive. However, after passing of the judgment and order dated 24.12.2001 in O.A 483/2001, the respondents have issued an order dated 30.1.2002, by which the representation filed by him has been disposed of.

Copies of the representations and the impugned order dated 30.1.2002 are annexed herewith and marked as ANNEXURES- 5 & 6 and 7.

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4.11. That the applicant begs to state that in the respondents in the impugned order dated 30.01.02 while narrating the facts has stated that against the applicant vigilance cases are being contemplated and he has misused his official power. Apart from the above it has also been alleged in the said impugned order dated 30.1.2002, that he unauthorisely approves the reserved price of seized goods. The respondents taking into consideration the above facts and other events like Terrorist Attack in USA; Bangladesh intrusion at Pyrdiwah Meghalaya ,attack on Parliament, terrorist activities in N E Region it has been decided that the applicant can not be posted at Agartala any more as there is doubt in his integrity. The applicant in this context begs to state that prior to issuance of the impugned order he was not aware of those facts and till date nothing has been communicated to him as such. These allegations are totally baseless and taking into consideration those facts the respondents have sought to transfer him out of from Agartala as measure of punishment which is not permissible under the law holding the field. On this score alone the impugned orders are liable to set aside and quashed.

4.12. That the Applicant begs to state that after the issuance of the impugned order wherein there has been a direction also for his release, but the Applicant is yet to handover the charge. In fact till date he is holding the said post of Leave Reserve under Agartala Customs Division. Presently the Applicant is on tenure posting and by now he has completed about few months of service. As per the procedure prevalent in the Custom Divisions and taking into

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consideration the transfer guideline holding the field, the Applicant is entitled to place his option after completion of three years of service. However, in the event of his aforesaid transfer to Dhekiajuli Range Tezpur as has been sought to be done by the Respondents, he will lose his opportunity to place his option for choice place of posting. It is noteworthy to mention here that there are numbers of vacancies in the office of the Respondents to allow the Applicant to continue in his present place of posting but the Respondents with a malafide intention has issued the impugned order which is not sustainable in the eye of law and liable to be set aside and quashed. The applicant highlighting his grievances has preferred two representations dated 4.2.2002 and 5.2.2002 but same is yet to be disposed of.

Copies of the representations are annexed herewith and marked as ANNEXURES 8 AND 9 .

4.13. That the Applicant begs to state that presently he is holding the post of Leave Reserve Agartala Custom Division and till date he has not handed over the charge pursuant to the aforesaid impugned orders dated 14.12.2001. and 19.12.2001 The Applicant further begs to state that under his custody there are certain arms and ammunition and for that only he placed his inability to hand over charge to a person who has no authority to hold the said post. In that view of the matter the Applicant prays for an interim order directing the Respondents not to give effect the impugned orders dated 14.12.2001, 19.12.2001 and 30.1.2002 till disposal of this OA. If the interim as prayed for is not granted the Applicant will suffer irreparable

loss and injury.

4.14. That this application has been filed bonafide and secure ends of justice.

5. GROUND WITH LEGAL PROVISIONS

5.1 For that the action/inaction on the part of the Respondents in issuing the impugned orders dated 14.12.2001, 19.12.2001, and 30.1.2002 are illegal, arbitrary and violative of the principles of natural justice and hence same is liable to be set aside and quashed.

5.2 For that the Respondent have acted illegally in issuing the impugned order dated 14.12.2001, 19.12.2001 and 30.1.2002 by which the Applicant has been sought to be transferred to Tezpur Division solely basing on complaints made by the Respondents as well as some others.

5.3 For that the Respondents while issuing the impugned orders dated 14.12.2001, 19.12.2001 and 30.1.2002 failed to take into consideration the fact that there are numbers of senior officials who have completed their tenure. The Respondents ought to have transferred the seniormost officer instead of the present Applicant who has completed only 4 months of service in his present place of posting. Therefore the impugned order is not sustainable in the eye of law and same is violative of principle of natural justice.

5.4 For that the impugned order has been issued at the behest of Respondents as well as some other interested parties, and same has been issued by the Respondents basing on some complaint respondents and others, without serving/affording

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any reasonable opportunity to the present Applicant to place his say in the matter and therefore the aforesaid impugned order of transfer is punitive in nature and liable to be set aside and quashed.

5.5 For that in any view of the matter the action/inaction on the part of the Respondents is not sustainable in the eye of law and liable to be set aside and quashed.

The Applicant craves leave of this Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of this case.

6. DETAILS OF THE REMEDIES EXHAUSTED.

That the Applicant declares that they have exhausted all the possible departmental remedies towards the redressal of the grievances in regard to which the present application has been made and presently they have got no other alternative than approached this Hon'ble Tribunal.

7. MATTER PENDING WITH ANY OTHER COURTS

That the applicants declares that the matter regarding this application is not pending in any other Court of Law or any other authority or any other branch of the Hon'ble Tribunal.

8. RELIEF SOUGHT:

Under the facts and circumstances stand above the Applicant prays that the instant application be admitted, records be call for and upon hearing the parties on the cause or causes that may be shown and on perusal of records be pleased to grant the following reliefs.

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8.1 To set aside and quashed the impugned orders dated 14.12.2001, 19.12.2001 and 30.1.2002 allowing the Applicant to remain posted at Agartala Custom Division as Supdt of Anti Smuggling under Customs Division.

8.2 Cost of the application.

8.3 Any other relief/reliefs to which the present Applicant are entitled to under the facts and circumstances of the case and as may be deemed fit and proper by the Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of this application the Applicant prays for an interim order directing the Respondents not to give effect the impugned orders dated 14.12.2001, 19.12.2001 and 30.1.2002 and to allow him continue in his present place of posting as Supdt. at Custom Division, Agartala.

10. THE APPLICATION IS FILED THROUGH ADVOCATE:

11. PARTICULARS OF THE POSTAL ORDER :

- (i) I.P.O. No.: 7 6 550 913
(ii) Date: 7/2/02
(iii) payable at Guwahati

12. LIST OF ENCLOSURES :

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VERIFICATION

I, Shri Samir Chakraborty, aged about 54 years, son Late J.C. Chakraborty, Chittaranjan Road, P.O. Agartala College, Tripura West, Agartala-799004 do here by solemnly affirm and state that the statement made in this application from paragraph 2, 3, 4, 48-49, 411, 413, 414 & 5 to 12 are true to my knowledge and those made in paragraphs 1, 42, 43-46, 410, 412 are matters records of records informations derived therefrom which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

And I sign this verification on 7th day of Feb. 2002.

Signature.

Samir Chakraborty

OFFICE OF THE COMMISSIONER OF CUSTOMS
NORTH EASTERN REGION
SHILLONG

ORDER NO. 28/2001

DATED, SHILLONG, THE 26TH JUNE, 2001

Subj:- Transfer & posting in the grade of Superintendent,
Group-'B' of Commissionerate of Customs, N.E.R.,
Shillong on administrative grounds -Order regarding.

Shri Samir Chakraborty, Superintendent (Anti-smuggling)
of Agartala Customs Division is hereby transferred & posted
to Badarpur CPF Unit under Karimganj Customs Division on
administrative grounds.

Shri Chakraborty, Superintendent stands relieved
on 26-06-2001 afternoon.

Sd/-
(Z. TOCHHAWNG)
COMMISSIONER OF CUSTOMS

G.No. II(3)14/ET/CC/CELL/SH/2001/3044-55(A)

Dated:- 26-06-2001

Copy forwarded for information & necessary action to :-

1. The Commissioner of Central Excise, Shillong.
2. The Additional Commissioner (P&V), Customs & C.Ex., Shillong.
3. The Additional Commissioner (Tech), Central Excise, Shillong.
4. The Deputy Commissioner (P&I), Customs Hqrs. Office, Shillong.
5. The Deputy Assistant Commissioner, Customs Division, Agartala
Karimganj/Aizawl/Imphal/Dimapur/Guwahati/Shillong.
6. The Chief Accounts Officer, Customs & Central Excise, Shillong.
7. The Administrative Officer, Customs Hqrs. Office, Shillong.
8. The P.A.O., Customs & Central Excise, Shillong.
9. Shri Samir Chakraborty, Superintendent for compliance.
10. The Branch-in-Charge, ET II & III/Accts. I & II/Confidential,
CIU-VIG Branch of Customs & Central Excise Hqrs. Office,
Shillong.
11. The General Secretary, Group-'B' Executive Officers Assn.,
Customs & Central Excise, Shillong.
12. Guard File.

Mol 26/6
(Z. TOCHHAWNG)
COMMISSIONER OF CUSTOMS

Attested

[Signature]
Advocate.

ANNEXURE—

- 16 -

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Kach
25/12/07
SECRET

COMMISSIONER OF CUSTOMS NORTH EASTERN REGION SHILLONG

MG Road (Northbrook Road), Shillong - 793 001, Meghalaya.
Phone: 0364-229007/210103. Fax: 0364-229007. E-mail: cusehg@sancharnet.in

ORDER NO. 61/2001

Dated, Shillong, the 19th, December, 2001

Subject:- Annual General Transfers, postings and rotations in the grade of Superintendents Group 'B', Commissionerate of Customs, North Eastern Region, Shillong- order regarding.

The following transfers, postings and rotations in the grade of Superintendent Group 'B' of Commissionerate of Customs, North Eastern Region, Shillong are hereby ordered with immediate effect and until further orders

Sl. No.	Name of the officer	Place of posting		Remarks
		From	To	
(1)	(2)	(3)	(4)	(5)
1	S/Shri M. K. Bose.	Computer, Welfare, A/E Dhubri Central Excise Division.	Dhubri CPF, Guwahati Division.	Vice B. Sarkar released to Central Excise
2	Abhijit Ghosh.	Tech. Branch Dhubri Central Excise Division	Ghasumara LCS Guwahati Division.	Vice I. Halim released to Central Excise
3.	P. S. Das	Tech./Sta. Branch Agartala Division	Sonamura CPF Agartala Division	Vice S. K. Roy released to Central Excise
4.	Parosh Debnath.	Dharmadagar Range Silchar Central Excise Division	Tech./Sta. Branch Agartala Division	Vice P. S. Das
5.	B. Patir.	Service-Tax Range -II Guwahati Central Excise Division	Law/Disposal Aizawl Division	Vice D. N. Doley released to Central Excise.
6	D. R. Saha.	BRPL-II Range Dhubri Central Excise Division	Law/Disposal Guwahati Division.	Vice J. Lama released to Central Excise

Attested

W. S.
Advocate.

(1)	(2)	(3)	(4)	(5)
7.	P. R. Mullick.	<u>Audit Branch</u> Central Excise Hqrs. office Shillong	<u>Bedarpur CPF</u> Karimganj Division	Against vacancy
8.	Ranjit Bhattacharjee	<u>Silchar-I Range</u> Silchar Central Excise Division	<u>Silchar CPF</u> Karimganj Division	Vice J. C. Das No.2
9.	A. B. Dutta.	<u>A/E Unit</u> Tezpur Central Excise Division	<u>Moroh LCS</u> Imphal Division	Against vacancy
10.	S. Ganguly.	<u>Dhekiajuli Range</u> Tezpur Central Excise Division	<u>Mahendraganj LCS</u> Guwahati Division	Vice R. K. Sharma Released to Central Excise
11.	Biren Saikia.	<u>RBC Range</u> Guwahati Central Excise Division	<u>A/S. Narc./Intt.</u> Imphal Division	Vice K. N. Daimary released to Central Excise.
12.	Biman Dhar.	<u>PBC-II Range</u> Guwahati Central Excise Division	<u>Teoh./Sta.Branch</u> Aizawl Division	Vice K. Ahmed released to Central Excise.
13.	P. K. Das. I	<u>Hqrs. Audit Unit</u> Guwahati	<u>A/S. Narc./Intt.</u> Aizawl Division	Vice A. Bhattacharjee.
14.	Debojyoti Mishra.	<u>TSK-I Range</u> Timpukia Central Excise Division	<u>Karimganj Steamerhat & Ferry Station</u> Karimganj Division	Vice A. Chakraborty released to Central Excise
15.	G. K. ... Sharmabaral	<u>Dibrugarh-II Range</u> Dibrugarh Central Excise Division.	<u>Lumding CPF</u> Dimaapur Division	New creation.
16.	Kisalay Des.	<u>Audit Branch</u> Central Excise Hqrs. office, Shillong	<u>Sutarkandi LCS</u> Karimganj Division	Vice J.. Dey released to Central Excise
17.	R. K. Das.	<u>Bornora LCS</u> Shillong Division	<u>Law/Disposal</u> Dimaapur Division.	Vice P. B. Nag released to Central Excise
18.	J. R. H. Diengdoh.	<u>Hqrs. & Estt.</u> Customs Hqrs. Office, Shillong	<u>Bornora LCS</u> Shillong Division	Vice R. K. Das.
19.	M. Marbaniang	<u>Tezpur CPF</u> Guwahati Division.	<u>Hqrs. & Estt.</u> Customs Hqrs. Office, Shillong	Vice J. R. H. Diengdoh
20.	P. K. Sinha Choudhury.	<u>Dawki LCS</u> Shillong Division	<u>Dharmanagar CPF</u> Karimganj Division	Vice R. C. Dey released to Central Excise
21.	A. Bhattacharjee	<u>A/S. Narc./Intt.</u> Aizawl Division	<u>Dawki LCS</u> Shillong Division	Vice P. K. Sinha Choudhury.

Advocate

(1)	(2)	(3)	(4)	(5)
22.	J. C. Das No. 2	Silchar CPE, Karimganj Division	Tech./Adm. Branch Karimganj Division	Vice J. C. Das Not released to Central Excise
23.	A. Swamy.	Divisional Office Imphal Division	Law/Disposal Imphal Division	Vice M. Baruah.
24.	M. Baruah.	Law/Disposal Imphal Division	Tech. CPE Guwahati Division.	Vice M. Marbaniang.

Representations if any, should be submitted within 15(fifteen) days from the date of receipt of this order.

Sd/-
(DD Ingty)
Commissioner

C.NO.II(3)14/ET/CC/CELL/SH/2001/ 7750 - 809(A)

Dated:- 19.12.2001

Copy forwarded for information and necessary action to:-

1. The Commissioner of Central Excise, Shillong.
2. The Commissioner (Appeal), Customs & Central Excise, Guwahati.
3. The Additional Commissioner(P&V), Customs & Central Excise, Shillong.
4. The Additional Commissioner(Tech.), Central Excise, Shillong.
5. The Deputy Commissioner/ Assistant Commissioner, Customs/ Central Excise Division (all)
6. _____ Copy meant for the concerned officer is/are enclosed for causing delivery.
7. The Assistant Director(Comm.), Hqrs. Office, Shillong.
8. The Chief Accounts Officer., Customs & Central Excise, Shillong.
9. The Sr. P. S. to Commissioner Customs, North Eastern Region, Shillong.
10. The Pay Accounts Officer., Customs & Central Excise, Shillong.
11. The Administrative Officer(Customs), Hqrs. Office, Shillong.
12. The Superintendent(All), Hqrs. office, Shillong.
13. The Branch-in-charge, ETII & III/Accts. I & II/ Confidential / CIU -cum-VIG of Customs & Central Excise, Shillong.
14. S/Shri _____ Superintendent for compliance.
15. The General Secretary, Group 'B' Executive Officers Association Customs & Central Excise, Shillong.
16. Guard File.

(S. K. Das)
Assistant Commissioner(P&I)

Attested
Advocate.

The following officers in the grade of Superintendent, Group 'B' of Commissionerate of Customs, North Eastern Region, Shillong are hereby placed at the disposal of Commissioner of Central Excise, Shillong.

SL. NO.	NAME	PRESENT PLACE OF POSTING
01.	P. B. Nag.	Law/Disposal, Dimapur Customs Division.
02.	J. Lama.	Law/Disposal, Guwahati Customs Division.
03.	I. Halim.	Ghasuapara LCS, Guwahati Customs Division.
04.	R. C. Dey.	Dharmanagar CPF, Karimganj Customs Division.
05.	S. K. Roy.	Sonamura CPF, Agartala Customs Division.
06.	J. C. Das. (No. 1)	Tech/Adjn, Karimganj Customs Division.
07.	K. Ahmed.	Tech./Sta., Aizawl Customs Division.
08.	S. Chakraborty.	Leave Reserve, Agartala Customs Division.
09.	Alok Chakraborty.	KSFS, Karimganj Customs Division.
10.	D. N. Doley.	Law/ Disposal, Aizawl Customs Division.
11.	K. N. Parimany.	A/S, Imphal Customs Division.
12.	C. I. D.	Forwarded to Karimganj Customs Division
13.	R. K. Sharma.	Mahendraganj LCS, Guwahati Customs Division.
14.	B. Sarkar.	Dhubri CPF, Guwahati Customs Division.

15/12/01
Assistant Commissioner (P&O)

Attested

[Signature]

Advocate.

GOVERNMENT OF INDIA

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE

M.G. ROAD, SHILLONG - 792 001

ESTABLISHMENT ORDER NO. 191/2001
DATED SHILLONG THE 14th DEC 2001

Subject: Establishment Annual General Transfer, Posting and Adjustment in the grade of Superintendent- order regarding

The following transfer, posting and adjustment orders in the grade of Superintendent Gr 'B' are hereby ordered with immediate effect and until further orders.

S. N O	NAME	FROM	TO	REMARKS
01	P.B.Nag	Law/Disposal, Dibrugarh Customs Division	Technical Branch Dibrugarh C.Ex.Division	Vice R.N.Pegu
02	J.Lama	Law/Disposal, Guwahati Customs Division	Audit Branch C.Ex.Hqs. Office Shillong	Vice P.R.Mullick
03	I.Haun	Ghasuapara LCS, Guwahati Customs Division	Hqs. Audit Unit, Guwahati	
04	R.C.Dey	Dharmamagar C.P.F., Karimganj Customs Division	Dharmamagar Range, Silchar C.Ex.Division	Vice Parash Deb Nath
05	S.K.Roy	Sonamura C.P.F., Agartala Customs Division	Control Room, C.Ex.Hqs. Office Shillong	Vice K.Lalngurawa
06	J.C.Das (No-1)	Tech/Adm., Karimganj Customs Division	A/E Unit, Tezpur C.Ex.Division	Vice A.B.Dutta
07	K.Ahmed	Tech/Sis., Aizawl Customs Division	A/E Unit, Dhubri C.Ex.Division	Vice M.K. Bose.
08	S.Chakraborty	Leavee Reserve, Agartala Customs Division	Dhakaajuli Range, Tezpur C.Ex.Division	Vice S.Ganguli
09	Alok Chakraborty	KSIS, Karimganj Customs Division	Silchar - I Range, Silchar C.Ex.Division	Vice R.Bhattacharjee
10	D.N.Doley	Law/Disposal, Aizawl Customs Division	NOR Range, Guwahati C.Ex.Division	Vice C.M.Chakraborty
11	K.N.Daimary	A/S, Imphal Customs Division	BRPL-II Range, Dhubri C.Ex.Division	Vice D.R.Saha
12	Jalal Dey	Sulakandi LCS, Karimganj Customs Division	CIU-cum-VIC Br., C.Ex.Hqs. Office, Shillong	Vice C.Hauzal
13	R.K.Sharma	Mahendraganj L.C.S., Guwahati Customs Division	Service - Tax Range-II, Guwahati C.Ex.Division	Vice B.Pal
14	B.Sarkar	Dhubri C.P.F., Guwahati Customs Division	Technical Branch, Dhubri C.Ex.Division	Vice A.Ghosh
15	C.M.Chakraborty	NOR Range, Guwahati C.Ex.Division	PBC-II Range, Guwahati C.Ex.Division	Vice Biman Dhar
16	C.Hauzal	CIU-cum-VIC Br., C.Ex.Hqs. Office, Shillong	Audit Branch, C.Ex.Hqs. Office Shillong	Vice K.Das
17	A.K.Choudhury	A/E Unit, Dibrugarh C.Ex.Division	RBC Range, Guwahati C.Ex.Division	Vice Biren Saikia
18	Sudip Dey	Tezpur Range, Tezpur C.Ex.Division	Technical Branch, Tezpur C.Ex.Division	Vice J.C.Das
19	J.C.Das	Technical Branch, Tezpur C.Ex.Division	Tezpur Range, Tezpur C.Ex.Division	Vice Sudip Dey
20	H.R.Saha	A/E Unit, Silchar C.Ex.Division	Technical Branch, Silchar C.Ex.Division	Vice Subodh Dhar
21	Subodh Dhar	Technical Branch, Silchar C.Ex.Division	A/E Unit, Silchar C.Ex.Division	Vice H.R.Saha
22	S.P.Chakraborty	Bymtial Range, Shillong C.Ex.Division	Hqs Audit Unit, Guwahati	Vice P.K.Das
23	R.Lalngurawa	Control Room, C.Ex.Hqs. Office Shillong	Bymtial Range, Shillong C.Ex.Division	Vice S.P.Chakraborty

Am
W
Chatterjee

R.N.Pegu

Technical Branch, Dibrugarh
C.Ex.DivisionDd. Guwahati
Range, Dibrugarh
C.Ex.DivisionVice
G.K.Sharmaboral

N.B.: Representation if any should reach this office latest by 01.01.2002.

S/d

(Z.TOCHHAWNG)
COMMISSIONER
CENTRAL EXCISE
SHILLONG

The following Superintendents are hereby placed at the disposal of Commissioner of Customs (NER), Shillong for posting.

Sl. NO	NAME	PRESENT PLACE OF POSTING
01	Kisakry Das	Audit Branch, C.Ex. Hqs Office, Shillong
02	S. Ganguly	Dhekiajuli Range, Tezpur Central Excise Division
03	A.B.Dutta	Anti Evasion Unit, Tezpur C.Ex. Division
04	Biren Suikia	RBC Range, Guwahati C.Ex. Division
05	B. Palit	Service Tax Range-II, Guwahati C.Ex. Division
06	Biman Dhar	PBC-II Range, Guwahati C.Ex. Division
07	P.K.Das	Hqs. Audit Unit, Guwahati
08	Debojyoti Mishra	Tinsukia -I Range, Tinsukia C.Ex. Division
09	G.K.Sharmaboral	Dibrugarh-II Range, Dibrugarh C.Ex. Division
10	P.R.Mullick	Audit Branch, C.Ex.Hqs Office, Shillong
11	Abhijit Ghosh	Technical Branch, Dhubri C.Ex. Division
12	M.K.Bose	Computer, Wellare, A/E, Dhubri C.Ex. Division
13	D.R.Saha	HRPL-II Range, Dhubri C.Ex. Division
14	Paresh Debnath	Dharmamajr Range, Silchar C. Ex. Division
15	Ranjit Bhattacharyya	Silchar -I Range, Silchar C.Ex. division.

C.NO.II(3)33/ET III/2001 / 50785-860

Dated:

19 DEC 2001

The Copy forwarded for information & necessary action to:-

1. The Commissioner of Customs (NER), Shillong.
2. The Commissioner (Appeals), Guwahati.
3. The Additional Commissioner (Tech), C.Ex.Hqs. Office, Shillong.
4. The Deputy/Assistant Commissioner _____ C.Ex.Division. The copy(s) meant for the concerned officer(s) is/are enclosed.
5. The Deputy/Assistant Commissioner _____ C.Ex.Hqs. Office, Shillong. The copy(s) meant for the concerned officer(s) is/are enclosed.
6. The CAO/PAO of Hqs. Office, Shillong.
7. Sri _____ for compliance.
8. Accounts I&II/CIL/Com-VIG/Confidential Branch of C.Ex.Hqs Office, Shillong.

e/c ADDITIONAL COMMISSIONER (TECH)
CUSTOMS & CENTRAL EXCISE
SHILLONG

SHILLONG

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Appelcation No: 483 /2001

Appelcant(s) :- S. Chakraborty

Respondant(s) :- U. O. I. Govt

Advocate for the Appellicant :- B. K. Sharma, S. Sarma, Mr. U. P. A.

Advocate for the Respondant :- Call

Notes of the Registry

Date

Order of the Tribunal

24.12.01

Heard Mr. S. Sarma, learned counsel
for the applicant.

The matter pertains to an order of
transfer dated 14.12.2001 by which the
applicant was transferred to Dhokiajuli
Range of Central Excise. The applicant
has already submitted a representation
before the Commissioner Central Excise,
North Eastern Region, Shillong as well as
Commissioner Central Excise, Shillong.
In this circumstances, we are of the view
that ends of justice would be met if a
direction is issued on the said authority
to examine and decide the case in
accordance with law. The said respondents
are directed to dispose of the represen-
tation as per law as early as possible
preferably within one month from today.
Till the completion of the exercise the
impugned order shall kept in obedience.

The application accordingly stands
disposed of. No order as to costs.



TRUE COPY
সত্যকপি

Position of the
Central Admin. Tribunal
Guwahati Bench
গুৱাহাটী ন্যায়ালয়

Attested
hsm
Advocate.

Sd/VICE CHAIRMAN
Sd/MEMBER (Admn)

- 23 -

ANNEXURE- 5 a

To
The Commissioner of Customs,
North Eastern Region,
Shillong.

~~Through proper Channel.~~

Sir,

Subject: Representation against release
to Central Excise -

Most respectfully, I beg to submit the
following for favour of your kind consideration.

1. That vide Order NO. 01/2001 dated 19.12.2001 I have been placed at the disposal of the Commissioner of Central Excise, Shillong.
2. That Commissioner of Central Excise, Shillong vide Order No. 21/2001 dated 14.12.2001 transferred me to Dhekiajuli, under Tezpur Division.
3. That I was transferred to Badarpur C.P.F. from Agartala on administrative ground vide order No. 28/2001 dated 26.6.2001 of the Commissioner of Customs, Shillong.
4. That the Honourable Central Administrative Tribunal, Guwahati Bench stayed the transfer order on "administrative ground" vide order dated 6.7.2001 in C.A. NO. 243/2001. The case is subjudice. A copy of the C.A. ^{order is enclosed herewith.}
5. That my tenure of posting at Agartala has not yet been completed. Only two years I have completed at Agartala.

In the circumstances stated above, I would request your honour kindly to ^{keep my name} my release to Central Excise, and retain me at Agartala Customs Division and for this act of kindness, I shall remain ever grateful to you.

Yours faithfully,

(Signature) 20.12.2001
(Sanjit Chakraborty)
Superintendent.

Dated 20.12.2001.

Attested

Encl: One

(Signature)
Advocate.

- 24 -

ANNEXURE— 6

30

To
The Commissioner,
Central Excise Commissionerate,
Shillong - 793 001.

Through proper Channel.

Sir,

Subject: Representation against transfer from
Agartala to Dhekiajuli, Tezpur Divn.

Most respectfully, I beg to submit the
following representation for favour of your kind
consideration.

2. That I have been transferred to Dhekiajuli,
under Tezpur Division vide Estt. Order No. 21/2001 dated
14.12.2001.
3. That I was transferred to Bpadan C.P.F. on
administrative ground vide ^{order} No. 28/2001 dated 26.6.2001
of the Commissioner of Customs, N. E. R. Shillong.
4. That O.A. No. 243/2001 was filed in the
Honourable Central Administrative Tribunal, Guwahati
Bench against the transfer order dated 26.6.2001 which
was stayed by the Honourable CAT, a photocopy of the
CAT's order dated 6.7.2001 is annexed hereto as Annexure-I
for your kind perusal. The case is sub-judice.
5. That my tenure of posting at Agartala has not
yet been completed. Only I have completed two years of my
stay at Agartala.

Under the circumstances stated above, I would
request your honour kindly to retain me Agartala for
and for this act of kindness, I shall remain ever grateful
to you.

Attested
[Signature]
Advocate.

Encl- One

Yours faithfully,
[Signature] 20.12.2001
(Samir Chakraborty)
Superintendent.

OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE
SHILLONG

C.No. II (10)A/3/CIU-VIG/2001/

Dated:-

To

Shri Samir Chakraborty,
Superintendent (Leave Reserve)
Customs Division,
Agartala.

Customs to CE
19/12
30/11

Subject:- Representation dated 20.12.2001 addressed to Commissioner Customs, Shillong Against Order No. 61/2001 dated 19.12.2001 and representation dated 20.12.2001 addressed to Commissioner of Central Excise for retention at Agartala.

In pursuant to CAT order dated 24.12.2001 in O.A. No. 483/2001 filed by you, both the Commissioner of Central Excise and Commissioner of Customs met on 28.01.2002 to consider, as per law, your above representations dated 20.12.2001. Both the Commissioners, while examining your representations, observed that you were transferred to Badarpur CPF from Agartala vide Order No. 28/2001 dated 26.06.2001 for the following reasons given , in brief, below :-

- i) vigilance cases were being contemplated to be initiated against you ;
- ii) mis-use / abuse of your position as Superintendent (A.S) as you interfered with the work of other formations and sections which have not been officially assigned to you and
- iii) you had un-authorisedly approved reserved price for sale of perishable and non-perishable seized goods.

However, CAT vide order dated 06.07.2001 in O.A. No. 243/2001 stayed the transfer Order dated 26.06.2001.

Subsequently, during the course of Annual General Transfer of Officers in the grade of Superintendents and in keeping with the condition that only officer of proven integrity are to be considered for transfer to Customs, your name was considered for release to Central Excise. In pursuance of this release order dated 19.12.2001, Commissioner, Central Excise, Shillong vide his Order No. 21/2001 dated 14.12.2001 transferred you to Dhekiajuli Range under Tezpur Central Excise Division.

Both the Commissioners were unanimous in concluding, that in the wake of the September 11 incidents and the Bangladesh intrusion into India at Pyrdiwah, Meghalaya, the attack on the Parliament coupled with the North East being highly terrorist prone and sensitive, only officers of proven integrity are to be placed at the disposal of Commissioner of Customs, who vide sub Section 2(a) of Section 11 of Customs Act, 1962 also has the charge of maintenance of the security of the India. In view of the above there was no option but to post you out of Customs Division, Agartala and order your subsequent placement in Central Excise, which was indeed in public interest.

Attested
W. S. An
Advocate.

Both the Commissioners have gone through the history of your postings. It was noted that in a career spanning more than 35 years, you have been posted in the Agartala Division for a total period of more than 29 years.

In view of the above factual position, both the Commissioners were unanimous in concluding that your posting was in public interest and that the representation dated 20.12.2001 filed by you does not merit consideration as per existing norms and the law, and are of the view that the Order No. 21/2001 dated 14.12.2001 need not be modified.

[Signature]
30.01.02

(B. THAMAR)
ADDITIONAL COMMISSIONER (P&V)
CUSTOMS & CENTRAL EXCISE :: SHILLONG

C.No. II (10)A/3/CIU-VIG/2001/

Dated:- 30/1/2002

Copy forwarded for information and necessary action to :-

1. The Commissioner of Customs, N.E.R., Shillong.
2. Deputy Commissioner, Customs Division, Guwahati.
3. Assistant Commissioner, Customs Division, Agartala. The copy meant for the concerned officer is enclosed for delivery.
4. Superintendent, Law Branch, Headquarters Office, Central Excise, Shillong.
5. Superintendent, Law Branch, Divisional Office, Central Excise, Guwahati.
6. Shri Samir Chakraborty, Superintendent (Leave Reserve), Customs Division, Agartala.
7. Administrative Officer (Establishment), Hqrs. Office, Central Excise, Shillong.
8. Guard File.

(B. THAMAR)
ADDITIONAL COMMISSIONER (P&V)
CUSTOMS & CENTRAL EXCISE :: SHILLONG

Atteste:

[Signature]
Advocate.

To
The Additional Commissioner (P&V),
Customs & Central Excise ,
Shillong.

Through proper channel.

Sir,

Subject: Representation dated 20.12.2001 addressed
to the Commissioner of Customs against
Order No.61/2001 dated 19.12.2001 and
representation dated 20.12.2001
addressed to the Commissioner of Central
Excise ,for retention at Agartala :-

.....

Kindly refer to your letter C.No.II(10)A/3/CIU-
VIG/2001 /1273-80 dated 30.1.2002 on the subject mentioned
above. Most respectfully , I beg to submit the following
for favour of your kind consideration:-

2. Para i) I have nothing to say as my authority is the
best judge to decide.

Para ii) I beg to state that it is not mentioned where
I interfered with the work of other formations
and sections. But from my own idea I beg to state
that I was given Charge of Administrative Office
by the Commissioner of Customs, Shillong vide
order No.14/2000 dated , Shillong the 20th
September ,2000. A photocopy of the order is
annexed hereto as Annexure I for kind perusal.

Annexure-I

Attested
[Signature]
Advocate.

Contd.....P/2

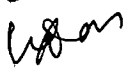
Page- 2

iii) The Annexure 'L' for fixation of reserve price was done and approved by the Asstt. Commissioner of Customs ,Agartala on basis of Annexure-L prepared by Shri Sanjib Chakraborty and Shri A.L.Thomas ,Inspectos in respect of Bisalgarh P.P. as they were given charge of the unit by the Assistant Commissioner during leave vaccancy. In isolated cases , I may have approved the reserve price of perishable goods of my power vide Ministry's letter EXX F.NO.715/14/81/-LC(AS) dated 14.10.1981 , a photocopy of which is annexed hereto as Annexure-II. The same was done on the request of 2 Inspectors posted at Bisalgarh P.P. in good faith which was also subsequently approved by the Asstt. Commissioner. The Bisalgarh Customs P.P was placed under me by the Commissioner of Customs ,Shillong as communicated by the Deputy Commissioner (P&I) Shillong vide his letter C.NO.II(8)4/Con/CC/CELL/SH/01/1553(A) dated 10.4.2001 , a photocopy of which is annexed hereto as Annexure-III.

Annexure-IIAnnexure-III.

3. During 37 years of my service no report about my integrity was given by my superior in the light of the G.I.M.H.A.O.M.NO.51/4/64-Estt.(A) dated the 21st June ,1965 in respect of the officers whose integrity is doubtful or suspicious.

cpntdd....p/3

Attested

 Advocate.

The incidents of September 11 ,Bangladesh intrusion, attack on the Indian parliament coupled with North East terrorist activities have no bearing on my official duty or personal life .As regards sub-section 2(a) of section 11 of Customs Act ,1962 , this is only for prohibition of imports/ex ports of goods to be notified in the official gazette . Therefore, such observation on me , such as maintenance of security of the country , I should not be posted in Customs , is not applicable to me.

4. AS regards of posting in Agartala Division , I beg to state that I have been promoted from L.D.C. to the post of Superintendent during this 37 years of service now I have grown up to the age of 55 years and I have spent my entire youth in the service of the deptt. At this old age it is very difficult to stay away to such far distance .

In the circumstances , I pray to your honour kindly to consider my representation in view of the facts stated above and for this act of kindness I shall remain ever grateful to you.

Encls: 3

Yours faithfully,

(Samir Chakraborty)

Superintendent (L/R)

Customs Division, Agartala.

Received
H. M.
Advocate.

SEP-2000 17:35 FROM: ASST COM CUSTOM G-1 0361 580124
 0-26-00 12:29 FROM: COMMISSIONER, CUSTOMS 0364-243140

TO: 0364225007

TO: 0361 580124

PAGE: 01

P: 1

PAGE: 01



OFFICE OF THE COMMISSIONER OF CUSTOMS
 NORTH ZONE, SHILLONG

ORDER NO. 14/2000

Dated, Shillong, the 20th September, 2000

Sri Hetal Day, Administrative Officer, presently posted at Agartala Customs Division is hereby transferred as Administrative Officer, Agartala Customs Division. He should be relieved within 15 days from the date of this order.

Sri Samir Chakrabarty, Superintendent, Adjudication Branch, Agartala Customs Division is to hold additional charge as Administrative Officer of the Division until further orders.

(K. K. DAS) 20.9.2000
 SUPERINTENDENT OF CUSTOMS

C.No. II(3)10/ET/CC/CELL/814/20 3811-27(A)

DT. 20.9.2000

Copy forwarded for information and necessary action to:

1. The Commissioner, Central Excise, Shillong.
2. The Joint Commissioner (P&D), Customs & Central Excise, Shillong.
3. The Deputy Commissioner, Agartala Customs Division.
4. The Deputy Commissioner, Agartala Customs Division.
5. The C.A.O., Customs & Central Excise, Shillong.
6. The P.A.O., Customs & Central Excise, Shillong.
7. The Branch-in-charge, ET II & III, Asst. I & II, CHJ-VIG Br. Of Customs & Central Excise, Shillong.
8. Sri Hetal Day, Administrative Officer, Agartala Customs Division for compliance.
9. Sri Samir Chakrabarty, Superintendent, Adjudication Br., Agartala Customs Division for compliance.
10. The General Secretary, Gr. 'D' Superintendents Association, Customs & Central Excise, Shillong.
11. The Guard File.

(M. L. DEY) 20/9/2000
 ASSISTANT COMMISSIONER (P&D)
 CUSTOMS HEADQUARTERS
 N.E.R. SHILLONG

23
 22

Copy of Para 2.35 of the 44th Report of the Public Accounts Committee (7th Lok Sabha) for the year 1980-81 regarding delays in disposal of seized chemicals/drugs.

RECOMMENDATION OF THE COMMITTEE:

2.35. Another disquieting feature of the present case is that there was further delay of over one year (June 1977 to June 1978) during which period the Customs authorities consulted the various testing laboratories to first determine the identity of the goods and then for ascertaining its life expectancy. The Committee are now informed that as a result of audit objection, Government have issued instructions on 27th December, 1979 that in cases where the description or the date of manufacture of a chemical/drug is not available, utmost care, precaution and expedition should be exercised to ascertain from Drug Control authorities not only the identity, purity and potency of the drug/chemical at the time of seizure but also the life expectancy of the seized drug/chemical. The Committee expect that these instructions will be scrupulously followed.

199. Copy of MOF(DR) F.No.715/14/81-LC(AS) dt.14.10.1981.

Sub: Seized/confiscated perishable goods - Disposal of - Fixing of monetary limits of various classes of Officers of Customs.

The undersigned is directed to refer to Para 2.34 of the 44th Report of the Public Accounts Committee (7th Lok Sabha) for the year 1980-81 (Copy enclosed) wherein it has been stated that as time is the essence in the disposal of perishable goods, the Committee would like the Government to review the existing provisions and consider delegation of powers of disposal in such cases to local Customs Units themselves up to appropriate financial limits.

2. In this connection, the Board vide their instructions No.2/16/56-LCI dated 16.11.1956* and 8/1/61-LCI dated 11.7.1961 have already issued instructions regarding delegation of powers to officers for disposal of perishable goods. The matter has been considered again in the light of the recommendations of the Public Accounts Committee and it has been decided in partial modification of the orders quoted that various categories of officers of Customs can now dispose of seized confiscated perishable goods even before adjudication to the extent indicated below:-

- (i) Superintendent of Customs/.. Rs.2,500/- ✓
Central Excise
- (ii) Asstt. Collector of Customs/..Rs.25,000/-
Central Excise
- (iii) Dy. Collector of Customs/.. Rs.1,00,000/-
Central Excise
- (iv) Addl. Collectors/Collectors.. of Customs/Central
Excise. Unlimited

3. It is again stressed that utmost expedition must be adopted for disposal of perishable goods so that no deterioration leading to loss of their value takes place.

(*Sl.No.5)

Handwritten signature and initials at the bottom left corner.

of Para 2.34 of the 44th Report of the Public Accounts Committee (Lok Sabha) for the year 1980-81 regarding seized/confiscated perishable goods - Disposal of - Fixing of monetary limits of various classes of Officers of Customs.

2.34 The Committee are also surprised to find that even though the Supdt (Godown) had solicited orders of the Collector on 9 September, 1975 and 23 October, 1975 for disposal of goods on the ground that they were of a perishable nature, no orders for disposal were issued. Instead, the Supdt (Godown) was informed that the case was likely to be adjudicated and the former should await adjudication orders. Subsequent events show that emphasis was laid on prosecution of the offenders and no orders were passed about disposal of goods, although the instructions issued by the Ministry of Finance, themselves provide that perishable goods can be disposed of even before adjudication. The Member

(Anti-Smuggling) conceded during evidence that "there has been some sort of lack of implementation in certain cases. This is one such case". As the time is the essence in the disposal of perishable goods, the Committee would like the Government to review the existing provisions and consider delegation of powers of disposal in such cases to the local Customs Units themselves upto appropriate financial limits.

200. Copy of MOF(DR) F.No.549/8/80-LCI dt.18.12.81.

Sub: Disposal of seized/confiscated drug formulations - Instructions regarding.

In am directed to say, that the Drugs Controller (India), Directorate General of Health Services, New Delhi has been consulted by the Ministry regarding disposal of seized/confiscated drug formulations.

2. Drug formulations would ordinarily fall in two categories. The first category would consist of such seized/confiscated drug formulations which are labelled in accordance with the provisions of the Drugs and Cosmetics Act and Rules framed thereunder. The Drug Controller (India) has advised that if the samples drawn from the seized/confiscated consignments of such formulations are found to be of standard quality then the goods may be released for use in hospitals only.

3. The second category would consist of seized/confiscated formulations which are not labelled in accordance with the provisions of the Drugs and Cosmetics Act and Rules made thereunder. The Drugs Controller (India) has opined that such formulations would be deemed to be "mis-branded" drugs under this Act. Further, it would ordinarily not be possible to relabel such products as the information to be given on the label would have to be provided by the manufacturer. He has, therefore, advised that such seized/confiscated drug formulations falling in the category of 'mis-branded' drugs should be destroyed.

4. It has, therefore, been decided that seized/confiscated drug formulations should be disposed of in accordance with the advice of the Drugs Controller (India) as stated above. In this connection, attention is invited to Ministry's instructions No.545/1/78-LCI, dated 21.12.1978 in which it was emphasised that the Assistant Drug Controllers should be consulted without fail at different stages from the time of seizure till disposal particularly in regard to identification of the medicine/drug, its physical condition and quality and valuation. Further, that a certificate should be obtained from the competent

Attested

[Signature]

Advocate.

- 33 -

A HUNDRED

111

SVC

CONFIDENTIAL

COMMISSIONER, CUSTOMS 0394-223440

TO: 039128519

PAGE: 01

C.NO.II(8)A/CON/CC/CELL/SH/01/ 1553 (A) Dated:- 10.04.2001

To

(S)

11/4/2001

The Assistant Commissioner,
Customs Division,
Agartala

Subject: Function of Bishalgarh Customs
Preventive Post. - Rg.

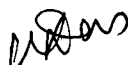
...

Please refer to your office letter C.NO.II(39)9/CON/
ACA/96/164(C) dated 28.2.2001 on the above subject.

2. I am directed to inform you that, Commissioner of
Customs, N.E.R. Shillong has approved that Bishalgarh Customs
P.P. office shall be under control of the Divisional Office (A/S),
and the present office may be shifted to a suitable place if
available.

(V. KEZO)
DEPUTY COMMISSIONER (P&I)
N.E.R. SHILLONG

Attested



Advocate.

8 set
To
The Additional Commissioner (P&V),
Customs & Central Excise,
Shillong.

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ANNEXURE-9 10

Sir ,

Subject:- Representation dated 20.12.2001 -Reg :

It has been stated in your letter C.NO.II(10)
A/3/CIU-VIG/2001/1273-80 dated 30.1.2002 that I was transferred
to Badarpur CPF vide Order No.29/2001 dated 26.6.2001 for
the following reasons :-

- 1) Vigilance cases were being contemplated
to be initiated against you ,
- ii) Mis-use /abuse of your position as Superintendent
(A.8) as you interfered with the work of
other formations and sections which have not
officially assigned to you and
- iii) You had unauthorisedly approved reserved price
for sale of perishable and non perishable
seized goods.

2. Above stated transfer were stayed by CAT vide
order dated 6.7.2001 in O.A.No243/2001 .

3. You have stated that " Officers of proven integrity "
are to be considered for transfer to Customs ", my name
was considered for release to Central Excise i.e. I was not
belonging to " proven integrity " as per your personal views.

4. You have stated in the said letter that on the

contd...p/2

Attended
W.D.
Advocate.

ground of :-

- 1) September 11 incidents(?)
- ii) Bangladesh intrusion into India at Pyrdiwah,
- iii) Attack on parliament

only officers of proven integrity are to be posted at the disposal of Commissioner of Customs according to your views having relation to sub section 2(a) of Customs Act 1962. According to which position, there was no option but to post me out of Customs.

6. You have stated that out^{of} 35 years of service, I was at Agartala division for 29 years. I was promoted to the Inspector's post in 1979. Accordingly I have completed 21 years of transferable job out of which I was out of Agartala Division for 4 years. But there are other officers having 26 years of transferable job with only 4 years transfer out of Agartala division. But such officers have been retained at Agartala.

6. What you have stated in para 1 above, regarding cause of my transfer to Badarpur C.P.F. are wholly unauthorised/illegal and inadmissible according to Rules according to which all transfers made in the interest of public service but you transferred me on "administrative ground" on unproved allegations as stated above and according to your personal opinion having malice and vindictiveness.

7. As stated in para 3 above, Govt. of India has not prescribed by any Rule or order that "only officers of proven integrity are to be transferred to Customs".

contd....p/3

REC-2
WDM
Admission

It is your invention/personal opinion having no basis in Govt.rules and orders as such it is illegal/vindictive/malicious in as much as it determines me as of unproven integrity , not established by appropriate rules prescribed by the department . It also determines all the other officers of Agartala division are of " proven integrity".But they have not been so determined according to established rules and procedures , it is only your personal opinion full of bias which are not to be sustained. In as much as A.C.R. of several such officers bear several adverse remarks on their work and integrity which have been conveniently forgotten by you.

8. What incident of September 11 (?) has not been mentioned in you letter ,Bangladesh intrusion in Pyrdiwah, Meghalay took place early in 2001 , Indian parliament was attacked on 13.12.2001 .You have stated that for those reasons only " Officers of proven integrity" are to be posted in Customs vide sub-section 2(a)of Section 11 of Customs Act,1962.But Govt.of India ,has not issued any order or instruction vesting you with the power to decide that only Officers of " proven integrity " are to be posted in Customs for the above stated reasons .Section 11 of Customs Act 1962 relates to import/export of goods of any specified description according to notification by the Govt. of India in official Gazettee.It has no relation with my transfer to Dhokiajuli for security of India ,You have referred to the section irrelevently. CAT ordered that my representation against transfer to Dhokiajuli shall be considered as per law but you have not considered it as per law as have been stated above .Law stands that my transfer to Dhokiajuli was stayed by the CAT and you were bound by rules to honour the order of CAT as per my prayer in the representation but you have dishonoured the order of CAT and failed to observe Rule

contd....P/4

You are , therefore, requested to consider my
prayer according to law so that I may pray to the CAT
accordingly.

Dated , Agartala ,
the 5th of Feb'002

Yours faithfully,

Samir Chakraborty 5.2.002
(Samir Chakraborty)

Superintendent of Customs ,
Agartala.

Attested

W. S. S.
Advocate.