

30/100

7

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 89/2002.....

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

E.P/M.A No......

1. Orders Sheet. OA-89/02.....Pg. 1.....to 3.....
2. Judgment/Order dtd. 08/11/2002.....Pg. 1.....to 3 disposed
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A.....89/02.....Pg. 1.....to 24.....
5. E.P/M.P.....Pg.....to.....
6. R.A/C.P.....Pg.....to.....
7. W.S. submitted by the Respondent Pg. 1.....to 14.....
8. Rejoinder. submitted by the Applicant Pg. 1.....to 8.....
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.)

FORM NO. 4
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.
GUWAHATI.

ORDER SHEET.

Original No. 89 / 12002
Misc. Petition No. 32
Contempt Petition No.
Review Application No.

Applicant(s) P. P. Kuricakose Shai

Respondent(s)

Advocate for Applicant(s) M. Adil Ahmed

Advocate for Respondent(s) Case-

Notes of the Registry	Date	ORDER OF THE TRIBUNAL
<p>Application in form C.F. No. 50/- disposed by 1/4 54785 Dated 26.02.2002</p> <p>Dr. Registrar (B/O) 1m</p>	15.3.02	<p>Heard learned counsel for the parties. Application is admitted. Issue notice on the Respondents. Call for records. Return- able by four weeks. List on 24.4.02 for filing of written statement and fur- ther orders.</p> <p>Vice-Chairman</p>
<p>Steps taken</p> <p>Notice prepared and sent to DIs for filing the response No 1 to 4 by Regd A.D. 22/3/02</p> <p>D/No 1035 W/1038 Dtd 3/4/02</p>	24.4.2002	<p>List the case on 22.5.2002 enabling the respondents to file written statement.</p> <p>Vice-Chairman</p>
<p>No written statement has been filed.</p> <p>20 23/4/02</p>	24.5.02	<p>List again on 21.6.2002 to enable the respondents to file written statement.</p> <p>Vice-Chairman</p>

(2)

O.A. 89 of 2002

No. Written statement
has been filed.

21.6.02

At the request of Mr. A. Deb Roy
Sr.C.G.S.C. 3 weeks time is allowed
for filing of written statement.

List on 7.8.02 for orders.

31
23.5.02

No. Written statement
has been filed.

lm

K. L. Sharma
Member

9.8.02

Written statement has been filed.

The case is ready for hearing. List on
23.8.2002 for hearing.

31
20.6.02

2.7.02

mb

W/S submitted
by the Respondents.

23.8.2002

Mr A. Ahmed, learned counsel for
the applicant, has made a request for
accommodation on account of his
personal difficulty. List the case on
27.9.02 for hearing.

K. L. Sharma
Member

nkm

20.9.02

The matter was already posted for
hearing. In the circumstances, no further
order is necessary at this stage. List
the matter on 27.9.2002 for hearing.

23.9.02

Rejoinder submitted
by the applicant.

31

mb

27.9.02

At the request of learned counsel,
for the parties case is adjourned to
8.11.02 for hearing.

31
Vice-Chairman

K. L. Sharma
Member

lm

Notes of the Registry

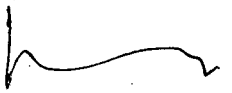
Date

Order of the Tribunal

8.11.02

Heard counsel for the parties.
Judgment delivered in open Court, kept
in separate sheets.

The application is disposed of in
terms of the order. No costs.


Vice-Chairman

bb

25.11.2002
Copy of the Judgment has
been sent to the Dyce
for issuing the order to
the applicant as well
as to the add. CGS.C.
JES

Notes of the Registry	Date	Order of the Tribunal

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./~~XXX~~ No. 89 of 2002... ~~XXX~~

DATE OF DECISION. 8.11.2002:.....

Shri Puthen Purakal Kuriakose Shai APPLICANT(S)

Mr. A. Ahmed. ADVOCATE FOR THE APPLICANT(S)

-VERSUS-

Union of India & Others. RESPONDENT(S)

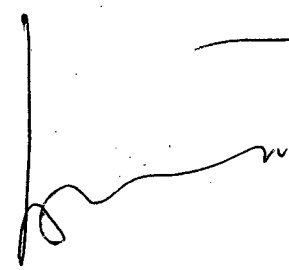
Mr. B.C. Pathak, Addl. C.G.S.C. ADVOCATE FOR THE
RESPONDENT(S)

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

THE HON'BLE

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

Judgment delivered by Hon'ble Vice-Chairman.



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.89 of 2002.

Date of Order : This the 8th Day of November, 2002.

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

Shri Puthen Purakal Kuriakose Shai
Assistant Central Plantation Crop
Research Institute (Indian Council of
Agricultural Research), Kahikuchi
Guwahati-781017, District:-Kamrup, Assam. . . . Applicant.

By Advocate Mr.A.Ahmed.

- Versus -

1. The Union of India
Represented by the Secretary
to the Government of India
Ministry of Agriculture
New Delhi.
2. The Director General
Indian Council of Agricultural Research
Krishi Bhawan, New Delhi.
3. The Secretary
Indian Council of Agricultural Research
Krishi Bhawan, New Delhi.
4. The Director
Central Plantation Crops Research Institute
Indian Council of Agricultural Research
Kasaragod - 671 124, Kerala. . . . Respondents.

By Mr.B.C.Pathak, Addl.C.G.S.C.

O R D E R

CHOWDHURY J.(V.C.):

By order dated 3.1.2002 the applicant an Assistant working in the CPCRI Regional Station, Kayangulam was transferred to CPCRI Research Centre, Kahikuchi. By the same order one Sri T.E.Janardhanan, Assistant, CPCRI Research Centre, Kahikuchi was transferred to CPCRI Regional Station, Kayangulam. The legitimacy of the said order is assailed by the applicant

Contd./2

as arbitrary and discriminatory.

1. In the application the applicant stated that T.E.Janardhanan was infact appointed on the basis of willingness of the said officer to be posted at Kahikuchi. Mr.A.Ahmed, learned counsel for the applicant referred to the circular dated 2.3.2001 whereby the Administrative Officer, CPCRI, Kasaragod invited that one post of Assistant (UR) in the scale of pay of Rs.5500-175-9000 was to be filled up at CPCRI Research Centre, Kahikuchi on the basis of Limited Departmental Competitive Examination scheduled to be held from 9-10 April, 2001 confined to Upper Division Clerks. The said circular also indicated that only those UDCs who are eligible and willing to appear for the examination and are willing to be posted at Kahikuchi was to submit their willingness in writing through proper channel. Sequal to the aforesaid circular T.E.Janardhanan, UDC was appointed as UDA at CPCRI Regional Centre, Kahikuchi. Mr.Ahmed pleaded the impugned order was passed malafide with a view to accommodate T.E.Janardhanan at CPCRI Regional Station, Kayangulam at the cost of the applicant.

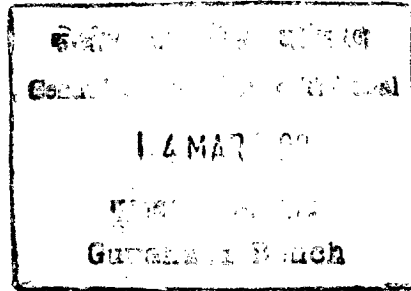
2. Mr.B.C.Pathak, learned Addl.C.G.S.C. referring to the written statment stated that the applicant was transferred because of some irregularities in the maintenance of personal file, service book, leave account etc. Mr.Pathak referred to memo dated 16.2.2002 indicating the irregularities, whereby the applicant was also asked to show cause as to why disciplinary proceeding

was not to be initiated against him. Mr. Pathak submitted that transfer and posting is an incident of service and the applicant has no right to continue in a particular post. Transfer and posting, no doubt, is in the domain of the employer, but the power is to be exercised lawfully and reasonably. Transfer order is not to be used as punitive measure. Enquiry as to the irregularities and to the departmental lapses cannot be the ground for transfer and posting. The applicant has already spent for about five years tenure in the N.E. Region. The applicant in the representation also indicated that he served in the State of Nagaland from 9.12.77 to 14.12.82. Though the transfer and posting is an incident of service, it, no doubt brings some affliction to the family.

Considering all the aspects of the matter I am of the opinion that ends of justice will be met, if a direction is issued to the applicant to submit a fresh representation before the respondents ventilating all his grievances. Accordingly the applicant is directed to submit a fresh representation before the respondents narrating all his grievances within a period of fifteen days from the receipt of the order. If such representation is made, the respondents shall take care of the situation and pass necessary order thereon as per law preferably within a period of two months from the receipt of the representation.

Subject to the observations made above, the application is disposed. No order as to costs.

(D.N.CHOWDHURY)
VICE CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE
CENTRAL ADMINISTRATIVE TRIBUNAL ACT 1985)

ORIGINAL APPLICATION NO. 89 OF 2002.

Shri Puthen Purakal Kuriakose Shai

-Applicant.

-Versus-

The Union of India & Others

-Respondents

I N D E X

Sl.No.	Particulars	Page No.
1.	Application	1 to 12
2.	Verification	13
3.	Annexure- A	14
4.	Annexure- B	15
5.	Annexure- C	16
6.	Annexure- D	17
7.	Annexure- E	18
8.	Annexure- F	19
9.	Annexure- G	20
10.	Annexure- H	21
11.	Annexure- I	22
12.	ANNEXURE - J	23 to 24

Filed by
Advocate

(Adv. AHMBO)

-1-

Filed by
Shri P.P. K. Shai
through J.L. Applicant
(Asst. Adm. Bd.)
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

(AN APPLICATION UNDER SECTION OF 19 OF THE
CENTRAL ADMINISTRATIVE TRIBUNAL ACT 1985)

ORIGINAL APPLICATION NO. 89 OF 2002.

BETWEEN

Shri Puthen Purakal Kuriakose Shai
Assistant Central Plantation Crop
Research Institute (Indian Council of
Agricultural Research) Kahikuchi,
Guwahati-781017, District-Kamrup, Assam
-Applicant.

-AND-

1. The Union of India represented by the
Secretary to the Government of India
Ministry of Agriculture, New Delhi.
2. The Director General,
Indian Council of Agricultural Research
Krishi Bhawan, New Delhi.
3. The Secretary,
Indian Council of Agricultural Research
Krishi Bhawan, New Delhi.
4. The Director,
Central Plantation Crops Research
Institute, Indian Council of

P.K. SHAI

Agricultural Research, Kasaragod-
671124-Kerala.

- Respondents.

11 DETAILS OF THE APPLICATION

11 PARTICULARS OF THE ORDER AGAINST WHICH
THE APPLICATION IS MADE:

This application is made against impugned order No. F. No. 4(5)/2000-Estt-I dated 03-01-2002 issued by the Office of the Respondent No. 4 by which the applicant was transferred from Kayangulam to Kahikuchi (Assam).

21 JURISDICTION OF THE TRIBUNAL

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

31 LIMITATION

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

41 FACTS OF THE CASE:

Facts of the case in brief are given below:

P.K. SHAI

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

4.2] That your applicant was appointed under the Respondents 09-12-1977 and joined at Indian Council of Agricultural Research Complex, NEH Region at Nagaland Centre in the state of Nagaland. The applicant served there for 5(five) years, i.e., till 1982. After that the applicant was transferred to Karnataka State, and thereafter at Kerala State and lastly he was posted at Kayamkulam.

4.3] That your, applicant begs to state that he has unblemished service for last 25 years. He has served the Council sincerely and honestly. Now he is aged about 50 years.

4.4] That your humble applicant begs to state that he was transferred to Kahikuchi (Assam) from Kayamkulam on 3rd January 2002 vide Order F. No. 4(5)/2000-Estt-1 issued by the Office of the Respondent No. 4 vice Sri T E Janardhanan Assistant on probation who was transferred to Kayamkulam.

Annexure-A is the photocopy of order F No. 4(5)/2000-Estt-1 dated 03-01-2002.

P.K. SHAH

1977-5
9/12/77 to 14/12/82

4.5] That your applicant begs to state that being aggrieved by the said transfer order he filed representations dated 05-01-2002 and 08-01-2002 before the Respondent No. 4 for re-consideration of his transfer to Kahikuchi (Assam). The said representations were rejected by the Respondent No.4 vide F No. 4(5)/2000-Estt-1 dated 28-01-2002. In the said rejection order the Respondent No. 4 directed your applicant to join immediately at Kahikuchi (Assam). Accordingly, your applicant joined at Kahikuchi on 02-02-2002.

It is also pertinent to mention here that in the said post at Kahikuchi where applicant joined was earlier held by one Sri T.E. Janardhanan Assistant on probation. In this regard one circular No. F. 4(157)/77-Estt.I dated 02-03-2001 issued by the Office of the Respondent No. 4. In the said circular it has been clearly stated, those U.D.C. who are eligible and willing to appear for the post of Assistant and are also willing to be posted at Kahikuchi may submit their willingness in writing through proper channel. Sri Janardhanan opted the option for the post at Kahikuchi and he was selected through Departmental limited competitive examination held on 09th and 10th April 2001 vide Office Order No. F. 4(13)/2000-Estt. I dated 24-05-2001. Accordingly, he joined at Kahikuchi on 09-07-2001. He was on probation for 2(two) years from the date of joining.

P.K. SHAH

Annexures-B and C are the photocopies of representations dated 05-01-2002 and 08-01-2002 respectively.

Annexure-D is the photocopy of rejection order F No. 4(5)/2000-Estt-I dated 28-01-2002.

Annexure-E is this photocopy of Circular F. No. 4(15)/77-Estt. I dated 02-12-2001.

Annexure- F is the photocopy of Office Order No. F 4(13)/2000-Estt. I dated 24-05-2001.

Annexure-G is the photocopy of joining report dated 09-07-2001 of Sri T E Janardhanan at Kahikuchi (Assam).

4.6] That your applicant begs to state that from the above it clearly appears that the Respondents, particularly, the Respondent No. 4 issued the transfer order of the applicant to accommodate his interested person at Kayamkulam by violating all the norms under Service Rule. The person who has been transferred in place of your applicant has not completed his probation period at Kahikuchi for two years. He was transferred within the 5(five) months from the date of joining at Kahikuchi on probation. Moreover Mr. Janardhanan opted his option for willingness to serve at Kahikuchi through his

P.K. SHAI

written assurance to the Respondents. As such, finding no alternative your applicant is compelled to approach this Hon'ble Tribunal for seeking justice in this matter.

4.71 That your applicant begs to state that your applicant's wife is also working as Senior Grade Lecturer in the Department of Chemistry under the Baselius College at Kottiyam (Kerala) and they three children, their eldest daughter is student of H. S. final year and his one son is studying at Class-VIII and youngest daughter is studying at Class-IV. They are studying with their own vernacular medium. As per the Government of India Office Memorandum No. 28034/2 /97 Estt (A) dated 12-06-1997 issued by the Department of Personnel & Training the husband and wife may invariably be posted together at the same station. In this connection your applicant is entitled to get the benefit of husband and wife posting at the same station. But the Respondents have deprived your applicant by transferring him from Kayamkulam (Kerala) to Kahikuchi (Assam).

Annexure-~~H~~ is the photocopy of certificate dated 06-03-2002 issued to the applicant's wife.

Annexure-~~H~~ is the photocopy of Memorandum No. 28034/2 /97 Estt (A) dated 12-06-1997 issued by the Department of Personnel & Training.

P.K. SHARMA

4.8] That your applicant begs to state that he is ^{Suffering from} chronic diabetic and blood pressure (Hypertension) due which the concerned doctor has advised him to avoid mental stress and to avoid tedious journey.

Annexure-J is the photocopy of medical discharge certificate dated 24-01-2002 issued by the Medical College Hospital, Gandhi Nagar, Kottayam.

4.9] That your applicant submits that the Respondents have deliberately and intentionally discriminated applicant by rejecting his representations for reconsideration of his transfer order. As such, the rejection order is liable to be set aside and quashed.

4.10] That your applicant submits that he has got reason to believe that the Respondents are resorting the colorable exercise of power to accommodate their interested persons in their favorable place.

4.11] That your applicant submits that the action of the Respondents is mala fide, illegal and with a motive behind.

4.12] That your applicant submits that the action of the Respondents by which the applicant has been deprived of his legitimate rights is arbitrary. It is further stated that the Respondents have acted with a mala-fide

P.K. SHAI

intention only to deprive the applicant from his legitimate rights.

4.13] That your applicant submits that the action of the Respondents is highly illegal, improper, whimsical and also against the policy adopted by the Government of India.

4.14] That your applicant submits that the Respondents have violated the fundamental rights of the applicant.

4.15] That in view of the facts and circumstances it is a fit case for interference by the Hon'ble Tribunal to protect the interest of the applicant and his family members.

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

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1] For that, due to the above reasons narrated in detail the action of the Respondents is in prima facie illegal, mala-fide, arbitrary and without jurisdiction.

5.2] For that, the Respondents have not considered the case of the applicant to

P. K. SHAI

accommodate their own interested person at their own favourable place by violating all the norms under the Service Rule. As such, the impugned transfer order and also rejection letter of the applicant is liable to be set aside and quashed.

5.3] For that, it is settled proposition of law that when the same principle have been laid down in given cases, all the persons who are similarly situated should be granted the same benefit.

5.4] For that, the Respondents have violated the Article 14, 16 and 21 of the Constitution of India.

5.5] For that, the action of the respondents is arbitrary, mala-fide and discriminatory with an ill motive.

5.6] For that, in any view of the matter the action of the respondents are not sustainable in the eye of law and as well as fact.

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

6. DETAILS OF REMEDIES EXHAUSTED :

P.K. SHAH

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

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

That the applicant further declares that he has not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other Court, authority, nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicants most respectfully prayed that your Lordship may be pleased to admit this application, call for the records of the case, issue notices to the Respondents as to why the relief and relives sought for by the applicant may not be granted and after hearing the parties and the cause or causes that may be shown your Lordships may be pleased to dispose up this application on the admission stage and may be

P.K. SHAJ

pleased to direct the Respondents to give the following relives:

8.1] That the Hon'ble Tribunal may be pleased to set aside and quashed the impugned transfer order of the applicant issued by the Respondent No. 4 vide F. No. 4(5)/2000-Estt-I dated 03-01-2002.

8.2] That the Hon'ble Tribunal may be pleased to quashed the impugned rejection letter F. No. 4(5)/2000-Estt.I dated 28-01-2002.

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

8.4] Cost of the case.

9] INTERIM ORDER PRAYED FOR :

The applicant most respectfully prays at this stage your applicant do not want any interim order but if your Lordship may deem fit and proper may pass any order or orders.

10] Application Is Filed Throgh Advocate.

P. K. SHAH

12] Particulars of I.P.O.:

I.P.O. NO. 76547805

Date Of Issue 26.2.2002

Issued from Guwahati C.P.O.

Payable at Guwahati C.P.O.

13] LIST OF ENCLOSURES:

As stated above.

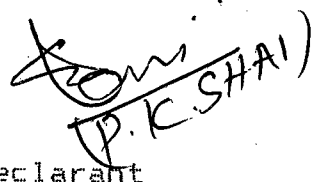
...Verification.

P.E. SHAI

VERIFICATION

I, Sri Puthen Purakal Kuriakose Shai,
Assistant Central Plantation Crop Research
Institute (Indian Council of Agricultural
Research) Kahikuchi Guwahati 781017, District-
Kamrup, Assam, do hereby solemnly verify that the
statements made in paragraphs 4.1, 4.2, 4.3, 4.6, —
— are true to my knowledge those
made in paragraphs 4.4, 4.5, 4.7, 4.8 —
— are being matters of records
are true to my information derived therefrom
which I believe to be true and those made in
paragraph 5 are true to my legal advice and I
have not suppressed any material facts.

And I sign this verification today on this
the 16th day of March 2002.


Declarant

CENTRAL PLANTATION CROPS RESEARCH INSTITUTE
(Indian Council of Agricultural Research)
Kasaragod-671 124, Kerala

F.No.4(5)/2000-Estt-I

Dated 3rd January, 2002OFFICE ORDER

Director has been pleased to transfer the following administrative staff to the stations indicated against each with immediate effect.

Sl. No.	Name and Designation	Station where working at present	Station to which transferred
01	Shri P.K. Shai, Assistant	CPCRI Regional Station, Kayangulam	CPCRI Research Centre, Kahikuchi
02	Sri T.E. Janardhanan, Assistant	CPCRI Research Centre, Kahikuchi	CPCRI Regional Station, Kayangulam
03	Sri M. John, Assistant	CPCRI Regional Station, Kayangulam	CPCRI Research Centre, Kidu along with post

Since the transfer of the above officials is in public interest, they will be entitled to Transfer TA/Joining time etc. as per rules.

Sri P.K. Shai, Assistant shall move first and take over charge from Sri T.E. Janardhanan, Assistant at Research Centre, Kahikuchi. Sri Janardhanan, Assistant shall be relieved subsequently.

Recd.
15/1/02

4(031)/2000-Gen
P.2(177)/96-1284
15/1/02

K. Khan 3-1-02
(Kadar Nawaz Khan)
Administrative Officer

Distribution:

1. Shri P.K. Shai, Assistant, CPCRI Regional Station, Kayangulam through Head
2. Shri T.E. Janardhanan, Assistant, CPCRI Research Centre, Kahikuchi through Scientist Incharge
3. Shri M. John, Assistant, CPCRI Regional Station, Kayangulam through Head
4. The Head, CPCRI Regional Station, Kayangulam/Vittal/Minicoy
5. The SIC, CPCRI Research Centre, Kannara/Hirchally/Mohitnagar/Kahikuchi/Kidu
6. SFAO, CPCRI, Kasaragod
7. AFAO, CPCRI Regional Station, Kayangulam/Vittal
8. AAO(Bills/Stores/Cdn/Estt-II), CPCRI, Kasaragod
9. PS to Director/PA to SAO/Conf/PMT

Att. 21
GS + 1
12/1/02

Advance copy

21

T
The Director
(CPCRI, Kasaragod- 671124

Through Head, CPCRI, RS, Kayamkulam
Sub: Transfer to CPCRI Research Centre, Kahikochi-reg
Ref: Hq O.O. No 4(5)/2000-Estt. 1 dated 3rd January 2002

Respected Sir,

I humbly submit the following few lines for favour of your kind sympathetic consideration.

That Sir, I joined in Council's Service on 9-12-77 and I was posted in various stations as shown below.

<u>Name of the Instt./Station</u>	<u>Period</u>	<u>Duration</u>	<u>Remarks</u>
1 ICAR Research complex for NEH Region, Nagaland Centre, Nagaland State	9-12-77 to 14-12-82	5 years	North Eastern Region(remote area)
2 CPCRI RS, Vittal, Karnataka State	15-12-82 to 22-05-82	5 months	
3 CPCRI Seed Farm Kidu, Karnataka State	22-5-82 to 17-5-83	2 years	Remote area
4 CPCRI Kasaragod	18-5-83 to 6-4-87	4 years	
5 CPCRI, RS Vittal Karnataka State	8-8-94 to 24-3-98	4 years	
6 CPCRI Oil Palm Palode, Trivandrum	25-3-98 to 4-7-98	4 months	Remote area
7 CPCRI RS Kayamkulam	5-8-98	3 years- continuing.	

During my 25 years of service in ICAR, I was posted to 7 Stations which include 5 years service in the Nagaland State and 2 years at Seed farm Kidu. My wife is employed in the M.G University, Kottayam, my eldest daughter is studying in +2 final year and preparing for the Entrance Examination 2002. My Son is studying in Class VIII and youngest daughter is in Class IV. At this stage if I am transferred to Research Centre Kahikochi, Assam, the children's Education will be spoiled.

So I humbly request your goodself to review my transfer order issued. For your kindness myself and my children will ever grateful to you.

Yoursfaithfully

(P.K. SHAI)
Assitant CPCRI RS,
Kayamkulam

Place: Kayamkulam
Date : 5-1-02

Advance Copy to:-

- 1) The Director CPCRI, Kasaragod for kind information
- 2) The Administrative Officer CPCRI Kasaragod for kind information

Atty
J.S. ———
Adwte

To: The Director,
CPCRI, Kasaragod - 671 124

Subject: The following for leave (Through Proper channel) for

Sub: Transfer to CPCRI Research Centre, Kahikochi - reg.

Respected Sir,

In continuation of my representation dated 5-01-02, may I take this opportunity to express my genuine difficulties for favour of your kind consideration.

That sir, 14-12-82

At this peculiar situation, if I am transferred to CPCRI RC, Kahikochi, Assam, the education of my children will be spoiled. As I stated earlier my eldest daughter is preparing for Entrance Examination 2002 and other two children are studying in lower classes.

I have put unblemished service of 25 years and served the Council sincerely and honestly. Moreover, I have served the places like Nagaland State, Kidu (Karnataka State) Palode, Tharuvanthapuram, Vittal (South Karnataka) etc.

Now I am aged 50 years and become a chronic diabetic patient. I have to check up my blood periodically and has to take medicines regularly. Due to Diabetic and Blood Pressure Doctor has advised to avoid mental stress and to avoid tedious journey.

In view of my since about 25 years, I humbly request your good self look into my difficulties and permit me to continue at CPCRI RS, Kayangulam which is nearest to my home town or kindly permit me to continue till this academic year is upto April 2002.

Place: Kayangulam,
Date: 8th Jan.02.

Thanking you sir,
Yours faithfully,

Yours faithfully,

My eldest daughter is

(P.K. SHAIK) Asst

CPCRI RS, Kayangulam,
Kerala State will

Yours faithfully

P.K. SHAIK

Asst. Director,
Kayangulam

Attest
J.L.

17

ANNEXURE - D

S. No. 4
20

CENTRAL PLANTATION CROPS RESEARCH INSTITUTE
(Indian Council of Agricultural Research)
Kasaragod - 671 124, Kerala

F.No.4(5)/2000-Estt-I

BY FAX

Date: 28 JAN 2001

The Head
CPCRI Regional Station
Kayangulam

Sub: Transfer of Shri PK Shai, Asst. to CPCRI RC, Kahikuchi -- reg.
Ref: 1) This office order of even No. dated 3.1.2002
2) This office letter of even No. dated 8.1.2002
3) Your letter No.PF.448/Admn. Dated 17.1.2002.

Sir,

With reference to the above, I am directed to inform that the representation of Shri PK Shai, Asst. forwarded vide your letter referred at (3) above, was considered carefully and the Competent Authority is of the view that there is no further ground to review his transfer case. The decision already intimated vide this office letter of even No. dated 8.1.2002 still holds good.

Shri Shai may be informed accordingly and directed to join duty at Kahikuchi immediately on expiry of the admissible joining time.

Yours faithfully,

K Khan
28/1/01
Administrative Officer

Copy to: The Scientist in-charge, CPCRI Research Centre, Kahikuchi.

Attended
JS
Admn

170
1(16)/25-Bst
2/3/01

ANNEXURE E

CENTRAL PLANTATION CROPS RESEARCH INSTITUTE
(Indian Council of Agricultural Research)
Kasaragod - 671 124, KERALA

No. F 4(157)/77-Estt.I

Dated 2nd March, 2001.

CIRCULAR

One post of Assistant(UR) in the scale of pay of Rs. 5500-175-9000 is to be filled up at CPCRI Research Centre, Kahikuchi, (Assam) on the basis of Limited Departmental Competitive Examination scheduled to be held from 9-10 April, 2001 confined to Upper Division Clerks with at least 3 years of regular service in the grade as on 21.3.2001.

Those UDCs who are eligible and willing to appear for the examination and are willing to be posted at Kahikuchi may submit their willingness in writing through proper channel so as to reach this office on or before 21.3.2001. Copy of the syllabus is enclosed herewith.

The schedule of examination is given below:

Venue: CPCRI, Kasaragod.

<u>Date & Time</u>	<u>Subject</u>	<u>Duration</u>
09.04.2001 AM	Paper I: Noting & Drafting, Precis Writing	2 Hours
09.04.2001 PM	Paper II: Office procedure and practice generally and also specifically with reference to the ICAR	2 Hours
10.04.2001 AM	Paper III: General knowledge of the Constitution of India and Machinery of Govt. Practice and procedure in Parliament.	2 Hours
10.04.2001 PM	Paper IV: General Financial Rules & Service Rules	2 Hours

K Khan 3.3.01
(KADAR NAWAZ KHAN)
Administrative Officer

Copy to:

- 1 All the Regional Stations/Research Centre/Seed Farm under CPCRI
- 2 For circulation to all UDCs at Hqrs.
- 3 The Sr. Fin & Accounts Officer, CPCRI, Kasaragod
- 4 Notice Board.

rayi

Atk
J8
Adm to

19

ANNEXURE-F

CPCRI (ICAR) Research Centre
Kahikuchi, Gudwahalli-781017

CENTRAL PLANTATION CROPS RESEARCH INSTITUTE

(Indian Council of Agricultural Research)

Kasaragod-671 124, Kerala

File No.

Date

Dated 24th May, 2001

No.F.4(13)/2000-Estt.1

OFFICE ORDER

Based on the Limited Departmental Competitive Examination held on 9th and 10th April, 2001 and on the recommendation of the DPC met on 24.5.2001, Director has been pleased to appoint Sri TE Janardhanan, UDC, CPCRI Kasaragod to the post of Assistant in the scale of pay of Rs. 5500-175-9000 at CPCRI Research Centre, Kahikuchi with effect from the date on which he reports for duty in the post. His pay in the promoted post will be fixed as per rules, for which he has to exercise his option within one month from the date of joining the post.

He will be on probation for a period of two years from the date of his joining the post. The period of probation shall be extended at the discretion of the Competent Authority. Failure to complete the period of probation to the satisfaction of the Competent Authority will render him liable to be reverted to the post of UDC. He will be entitled to Transfer TA, Joining time etc. as per rules for joining the post at Kahikuchi.

As regards other conditions of service, he will be governed by the rules and orders issued by the ICAR, from time to time. He should report for duty at CPCRI Research Centre, Kahikuchi within 20 days of receipt of this order, failing which the appointment will be treated as cancelled. In the case of declining the promotion, he will be debarred from considering for promotion against Limited Departmental Competitive Examination quota, for a period of one year from the date of cancellation of the order.

K Khan 24/5/01
(Kadar Nawaz Khan)
Administrative Officer

To

Sri TE Janardhanan,
Upper Division Clerk
CPCRI, Kasaragod - thru' proper channel

Copy to:

1. The Senior Fin & Accounts Officer, CPCRI, Kasaragod.
2. The Scientist-in-Charge, CPCRI Research Centre, Kahikuchi
3. All Regional Stations/Research Centres under CPCRI
4. Asst. Administrative Officer(Estt.I/Cdn/Estt.II/Bills/Stores), CPCRI, Kasaragod
5. PS to Director/PMT/Conf/KVK/Hindi Cell
6. Personal file/Pension file/ The Secretary(Staff Side), IC

ravi

Attch
is
Amu

- 20 -

Submitted

ANNEXURE-G 27
C.R.I. (IC) Research Centre
Kahikuchi, Guwahati-781019

Sl. No. 603.

File No. 32(31)/2007-1

Date 27/7/07.
4(13)/2000

Ref: Office Order No. F
Estt-I dt. 24-5-2001

With reference to the office Order
cited, I have reported for duty to the post
of Assistant with effect from 215 July, 2001 (FN)
at CPERI, Res. Centre, Kahikuchi. I opt to fix
my pay in the promoted post of Assistant
with effect from my date of reporting, i.e.
21-7-2001.

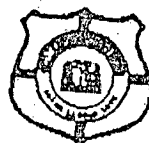
J. J. (w.)
27/7/07

Janardhanan IE
UDC.

ATTN
J. J.
J. J.

~~20~~
-21-

ANNEXURE - G H₃₀



Basilius College Kottayam

A Post Graduate Institution of Orthodox Church with Faculties of Arts,
Science and Commerce Affiliated to Mahatma Gandhi University

Phone: 0481

563918 (Office)
565958 (Personal)
575699 (Residence)
565968 (Fax)

E-mail: basellus@md3.vani.net.in

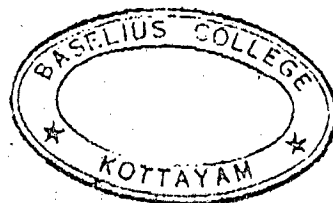
PRINCIPAL
Prof. E. JOHN MATHEW

Kerala
Pin 686 001

Date: 6-3-2002

C E R T I F I C A T E

This is to Certify that
Smt. Neenamma John, W/o Sri. P.K. Shai is
working as selection Grade Lecturer in the
Department of Chemistry in this college which
is affiliated to Mahatma Gandhi University,
Kottayam, Kerala State.



PRINCIPAL

Att. to
[Signature]
[Signature]

ANNEXURE - 1

Copy of Office Memorandum No. 28034/2/97-Estt (A) dated 12th June, 1997 received from Ministry of Personnel, Public Grievances & Pensions (DOPT).

SUBJECT: Posting of husband and wife at the same station.

The undersigned is directed to say that on the subject mentioned above, Government had issued detailed guidelines vide O.M.No.28034/7/86-Estt. (A) dated 3.4.86. The Fifth Central Pay Commission has now recommended that not only the existing instructions regarding the need to post husband and wife at the same station need to be reiterated, it has also recommended that the scope of these instructions should be widened to include the provision that where posts at the appropriate level exist in the organisation at the same station, the husband and wife may invariably be posted together in order to enable them to lead a normal family life and look after the welfare of the children, especially till the children are 10 years of age.

2. The Government, after considering the matter, has decided to accept this recommendation of the Fifth Central Pay Commission. Accordingly, it is reiterated that all Ministries/Departments should strictly adhere to the guidelines laid down in O.M.No.28034/7/86-Estt. (A) dated 3.4.86 while deciding on the requests for posting of husband and wife at the same station and should ensure that such posting is invariably done, especially till their children are 10 years of age, if posts at the appropriate level exist in the organisation at the same station and if no administrative problems are expected to result as a consequence.

✓ 3. It is further clarified that even in cases where only the wife is a government servant, the concession elaborated in para 2 of this O.M. would be admissible to the government servant.

4. These instructions would be applicable only to posts within the same department and would not apply on appointment under the Central Staffing Scheme.

5. A copy of this Department's O.M. No.28034/7/86-Estt. (A) dated 3.4.86 is enclosed for ready reference and guidance.

sd/-

(HARI DER SINGH)

JOINT SECRETARY TO THE GOVT. OF INDIA
Tel.No. 301 1276

Handwritten signature and initials



മെഡിക്കൽ കോളേജ് ഹോസ്പിറ്റൽ

MEDICAL COLLEGE HOSPITAL
GANDHINAGAR, KOTTAYAM - 686008

DISCHARGE CARD

Name: P.K. Shan Age: 50 Sex: M
I.P.No: 2330 Unit: N/M

Date of Admission: 20/1/02 Date of Discharge: 24/1/02

Diagnosis: Weakness of Small Muscles of the left leg - Numbness of the left foot in dorsum, sole.

Clinical Notes: S1 Radiculopathy, left posterior tibial nerve in tarsal tunnel syndrome

Investigations: S1 Radiculopathy, left posterior tibial nerve in tarsal tunnel syndrome

Treatment: Admitted with numbness of the left foot and leg - 1 1/2 yr. loss of grip of the clasp - 6/12

Advice: Sensory loss from the dorsum of left foot and lower 1/3 of the left leg

Signature of M.O.

(ഈ കാർഡ് സി ക്യാഷ്യറുടെ അടുത്തടുത്തുള്ള ഓഫീസിലെ ഡോക്ടർമാർക്ക് മാത്രമേ ഉപയോഗിക്കാവൂ.)
No. Dipita Srinivasan

Attch
J.S. Anur

22 24-

32

FBS 108mg

PPBS 158mg

N.C.V. Shows

Prolonged onset latency of test

Proteinuria absent compared with repeat

Adm

Reviewed with MRP

W/m R

Start
1/2
1/2

2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::: GUWAHATI

Filed by 89
B. C. Pathak
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench : Guwahati

O.A. NO. 89 OF 2002

Shri Puthen Purakal Kuriakose Shai

..... Applicant.

- Versus -

Union of India and others.

..... Respondents.

(Written Statements of the abovenoted respondents
are as follows :

1. That a copy of the O.A. No. 89/2002 (referred to as the "application") has been served on the respondents. The respondents have gone through the same and understood the contents thereof. The interest of all the respondents being similar, they have filed the common written statements.
2. That the statements made in the application, which are not specifically admitted by the respondents, are hereby denied.
3. That before traversing the various paragraphs of the application, the answering respondents give a brief history of the case as under :


Certain irregularities in the maintenance of personal file, service book, leave account and major lapses in following such procedure were noticed while conducting

V. P. George
Director,
Central Plantation Crops

the verification of files by the Internal Work Study Unit which visited the CPCRI Regional Station, Kayangulam, where the applicant was working, during November 2001,

Since the irregularities pointed out by the Committee are of serious in nature a preliminary enquiry was conducted by the Asstt. Administrative Officer (Stores), CPCRI, Kasaragod who was nominated by the Director as per Office Order No. 7(2 XIM/2001-Conf. Dated 11.12.2001. The Inquiring Authority has submitted the report on 31.12.2001. In his report, the Inquiring Authority has concluded that "the maintenance of files by Shri P.K. Sahi (applicant) is far from satisfactory and it appears that he has developed certain vested interest by adopting delaying tactics in disposal of papers and shifting of Shri Shai from Regional Station, Kayangulam will help boost the morale of other staff members".

A Committee consisting of the Vigilance Officer, Administrative Officer etc. Under the Chairmanship of the Director met on 2.1.2002 to review the preliminary enquiry report and the competent authority has taken the decision to shift the staff involved in the manipulation of records of CPCRI Regional Station, Kayangulam including the applicant pending finalization of disciplinary action. Accordingly the following officials were shifted from CPCRI Regional Station, Kayangulam :-


Director,
Central Plantation Crops
Research Institute, Kasaragod.

Shri P.K. Shai, : To CPCRI Research Centre, Kahikuchi
(Applicant)

Shri M.B. Renukumar, : To CPCRI, Kasaragod
Tech. Officer (T5)

The above officials reported for duty at the respective station.

A show cause notice was issued to the above officials including the applicant, through Memorandum No. 7(2) KIM/2001-Confl. dated 16.02.2002 with direction to furnish the reply within 7 days from the date of receipt of Memo. The applicant through his submission dated 2.3.2002 has requested extension of time for a further period of 15 days to furnish the reply, which was granted. Accordingly he has submitted the explanation through his letter dated 6.3.2002 which was forwarded by the Scientist Incharge, Research Center, Kahikuchi vide letter No. 2(31)/02-Pers dated 6.3.2002.

The explanation furnished by the applicant is under consideration of the Competent Authority.

Para-wise comments :

4. That with regard to the statements made in para 1 of the application the respondents stated that the applicant was shifted from CPCRI Regional Station, Kayangulam pending finalization of the disciplinary proceedings initiated as per Memorandum No. 7(2) KIM/2001-Confl. dated 16.02.2002 (copy enclosed and marked as Annexure - R₁). The explanation furnished by the applicant is being examined by the

V. Rajagopal
Director,
Central Plantation Crops
Research Institute, Kasaragod

Competent Authority for taking further necessary action.

(A copy of the explanation submitted by the applicant is enclosed and marked as Annexure -R2).

5. That with regard to the statements made in para 2 of the application the respondents stated that it is submitted that the subject matter of the order No. F.4(5)/2000-Estt.I dated 3.1.2002 issued by the competent authority from CPCRI, Kasaragod (Annexure- A of the O.A.) against which the applicant wants redressal is not within the jurisdiction of the Hon'ble Tribunal.

6. That with regard to the statements made in para 3 of the application the respondents stated that it is submitted that the subject matter of the instant application is not within the limitation prescribed under Section 21 of the Administrative Tribunal Act 1985.

A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all remedies available to him under the relevant service rules as to redressal of grievances. A personnel shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances. The applicant in the subject matter has not availed of all the remedies as per provision contained under Section 20 (Sub clause (1) and (2) and Section 21 clause (a) and (b). In the O.A. though the applicant impleaded the Secretary to the Govt. of India, the Director General, Indian Council of

J. Rajan
Director,

Central Plantation Crops
Research Institute, Kasaragod.

of Agricultural Research, the Secretary, Indian Council of Agricultural Research as 1st, 2nd and 3rd Respondents respectively he has not preferred any appeal to any authorities against the order passed by the 4th Respondent.

7. That with regard to the statements made in para 4.1, of the application the respondents beg to offer no comments.

8. That with regard to the statements made in para 4.2, of the application the respondents beg to state that the applicant was initially appointed at ICAR Research Complex, NEH Region. He was transferred to Central Plantation Crops Research Institute (under 4th Respondent) at his own request.

9. That with regard to the statements made in para 4.3, the respondents stated that as mentioned in the 1st para of this reply statement a disciplinary case has been contemplated against him and he has been transferred to Research Centre, Kahikuchi pending finalization of the disciplinary proceedings.

10. That with regard to the statements made in para 4.4, of the application the respondents beg to state that as mentioned in the preceeding para the applicant was shifted from Regional Station, Kayangulam based on a preliminary enquiry conducted on the irregularities explained in the ~~xxxxx~~ above paragraph. Shri T.E. Janardhanan, who was working as Assistant at CPORI Research Centre, Kahikuchi was transferred to Regional Station, Kayangulam as a substitute arrangement in the place of the applicant.


Director,

Central Plantation Crops
Research Institute, Kasaragod

11. That with regard to the statements made in para 4.5 the respondents stated that the representation dated 5.1.2002 of the applicant was considered by the 4th respondent but the same was not acceded to since the transfer was made based on a complaint and the report of preliminary inquiry.

12. The transfers were made in public interest within the powers delegated to this Respondent. Shri T.E. Janardhanan is still on probation in his post under CPCRI and there is no restriction to transfer a probationer to other units of CPCRI in public interest. The action taken by this Respondent is therefore in order.

12. That with regard to the statements made in para 4.6 the respondents stated that the allegations made by the applicant that his transfer to Research Centre, Kahikuchi was made to accommodate the interested persons of the Respondent by violating all the norms etc are misconceived and not tenable in view of the reason explained in the above paragraphs.

13. That with regard to the statements made in para 4.7 of the application the respondents stated that it is submitted that the applicant was transferred to Research Centre, Kahikuchi as a preliminary action to initiate disciplinary proceedings against him. The OM referred to by the applicant is only a general guidelines to be made applicable as far as possible, for those spouses working in the same department. As admitted by the applicant his wife is working in a private college at Kottayam (Kerala).


J. Rajan
Director

14. That with regard to the statements made in para 4.8 to 4.16 of the application the respondents stated that the circumstances under which the applicant was transferred to Research Centre, Kahikuchi are explained in the above paragraphs. The allegation of the applicant that the action of this Respondent is malafide, illegal and with a motive behind, arbitrary etc. are baseless and hence denied. The applicant is to be put to strict proof for the above allegations. To allege malafide, there must be clear and cogent evidence to support such allegation and malafide can not be alleged unless such allegations are brought by name.

15. That with regard to the statements made in para 5.1 to 5.6 of the application the respondents beg to state that none of the ground put forward by the applicant are tenable in law in view of the reasons mentioned in the preceding paragraph, and hence, the application is liable to be dismissed with cost.

16. That with regard to the statements made in para 6 and 7, the respondents stated that it is submitted that the application is not maintainable in view of the following reasons :-

1. The subject matter of the order issued by the competent authority against which the applicant want redressal is not within the jurisdiction of the Hon'ble Tribunal.


Director,
Central Plantation Crops
Research Institute, Kasaragod,

ii. The subject matter of the instant applicant is not within the limitation prescribed under Section 21 of the Administrative Tribunal Act 1985 as detailed in para 3 above.


17. That with regard to the statements made in para 8.1 to 8.4 of the application the respondents stated that none of the relief sought for by the applicant is maintainable in view of the following reasons :

i. The applicant has not availed of all the remedies as per provision contained under Section 20 - Sub clause (1) and (2) and Section 21 (clause a and b). Though the applicant impleaded Respondent 1 to 3 as party he has not submitted any appeal to them on the subject matter.

ii. The transfer of the applicant is a preliminary action for initiating disciplinary proceedings as per Annexure R-1 of this reply statement. The action of the respondents are well within power and rules and law is well settled in this regard.

In view of the facts submitted above the O.A. may be dismissed with cost.

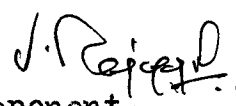
In the premises aforesaid, it is therefore, prayed that Your Lordships would be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records, shall further be pleased to dismiss the application with cost.


Director,
Central Plantation Crops
Research Institute, Kasaragod

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

I, [✓]Shri/Dr. V. Rajagopal, presently working as [✓]Director, Central Plantation Crops Research Instt. being competent and duly authorised to sign this verification do hereby solemnly affirm and state that the statements made in para 1, 2, 3, 5 to 16 and 17 - are true to my knowledge and belief, there made in para - 4 - being matter of records, are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this 27th day of June, 2002 at Guwahati.


Deponent.

निदेशक
केन्द्रीय रोपण फसल अनुसंधान संस्थान
पो. कुडुल, कासरगोड - ६८१ १२४
Director
Central Plantation Crops Research Institute
P. O. KUDLU, KASARAGOD-671124

CENTRAL PLANTATION CROPS RESEARCH INSTITUTE
(Indian Council of Agricultural Research)
Kasaragod-671 124, Kerala

No. 7(2)KLM/2001-Confl.

Dated 16th February, 2002

MEMORANDUM

WHEREAS certain irregularities in the maintenance of personal files, Service Book, Leave account etc. at CPCRI Regional Station, Kayangulam were noticed while verifying the files by the work study committee visited the Regional Station during November 2001.

AND WHEREAS a preliminary enquiry was conducted on the alleged irregularities and a report thereof submitted by Inquiring Authority.

AND WHEREAS on a careful consideration of the report it is observed that the maintenance of personal files, Service Book, Leave Account etc. by Shri P.K. Shai, Dealing Assistant is far from satisfactory and showed vested interest by adopting delaying tactics in disposal of papers as is evident from the following observations:-

1. On transfer from CARI Port Blair Sri Renukumar reported for duty at Kayangulam on 25.7.1990. He was in the habit of availing leave quite frequently and as on 31st December 1990 EL at his credit was Nil and HPL 15 days. During the period 1996- 2000 though he has availed 199 days EL/Commuted Leave in 84 spells as reflected in the attendance register only 85 days were debited in the leave account leaving 114 days of EL/commuted leave unaccounted/undebited for which leave applications are not available in the Personal file.
2. He was not prompt in submitting the leave applications for sanction resulting accumulation of leave applications. The leave applications submitted by Sri Renukumar during Feb - May 2000 were put up in May 2000 and the applications of June - August were put up only in October 2000. His leave account is seen recast as per note No.F.1/2000-Confl. Dated 29.9.2000 w.e.f. 1.1.96 and entries made in leave account page No.26-30 of Vol. II and page No.24-26 of Vol.III. The entries thus recast in page No.26 - 30 of Vol. II are not attested by any Officer while its continuation volume in page No.24-26 are attested by AAO. The revised entries also are not free from mistakes. While double entries for the leave taken on 26.10.1999 are made in page No.24 (Vol. III in two places, no entry for the leave taken on 16.11.2000 is made in page No.26). Also instead of debiting one day leave taken on 29.11.2000 one day is added (credited) in the leave account (Page No.26). The same mistakes are repeated in SB (page No.5 of Vol. III). The

earlier entries made in the SB (Page No.5 to 10 of Vo. II) are neither cancelled nor any reference made for re-writing the certificate of leave entries in Page No.15 to 21 of Vo. II, and again in Page No.5 to 9 of Vo. III. Blank rubber stamp certificates of leave are seen affixed indiscriminately in Page No.13 of Vol. II.

3. It is a grave concern to note that after regularizing the leave availed by Shri Renukumar for the period from 30.5.96 to 24.9.99 duly granted by the Head on 7.12.2000, another set of leave applications of Sri Reunkumar for the period from 19.9.2000 to 12.4.2001 (26 spells) were put up by Shri Shai, Dealing Hand on 5.5.2001 in a separate folder. The AAO certified the admissibility of leave in each applications and he himself has granted the entire spell of leave on 20.8.2001 without submitting to the Competent Authority. The AAO has not been delegated powers to grant leave to Group B Officers which fact should have been brought to the notice of AAO by the Dealing Hand.
4. The leave applications of Mr. Renukumar are scattered in various folders without proper chronological order or linking of leave applications with joining reports, thus creating the possibility of missing or destruction of mounting leave applications on the part of Dealing Assistant.

By his above act Shri Shai has shown lack of devotion to duty and doubtful integrity violating the provision of Rules (1) (i) and (ii) of CCS (Conduct) Rules.

Shri P.K. Shai Assistant, is therefore, directed to show cause why disciplinary action should not be taken against him for the above lapses. His explanation through proper channel should reach the undersigned within 7 days from the date of receipt of this Memorandum.


DIRECTOR

To

Shri P.K. Shai,
Assistant

CPCRI, RC, Kothikachhi, through the Scientist Incharge



Central Plantation Crops Research Institute

(Indian Council of Agricultural Research)

RESEARCH CENTRE
KAHIKUCHI, GUWAHATI-781017 (Assam)



Telegram: Research Guwahati-17

☎ : (0361) 840251

Fax (0361).....

No. 2(32)/02-Pers.

FAX/CONFIDENTIAL

Date 06th March 02.

To

The Director,
CPCRI, Kasargod - 671 124.

Sub: Maintenance of Personal files, Service Book, Leave account etc.

Ref: HQ Memorandum No. 7(2)KIM/2001-Conf1. dt. 16-02-02, Director,
CPCRI, Kasargod (received here on 26th Feb. 02)

2. This office letter of even no. dt. 2nd March. 02.

Sir,

With reference to the above, I am to forward herewith a representation dt. 6-03-02 received from Shri PK Shai, Assistant of this Centre for favour of your consideration and further necessary action.

Encls:

As stated.

Yours faithfully,

(Signature)
(AK Roy)
Scientist in Charge

-13-

46

To

The Director,
CPCRI, Kasargod - 671 124.

(Through proper channel)

Sub: Maintenance of person/files, service book, leave account etc-
reply regarding.

Ref: 1. HQ Memorandum No. 7(2)KLM/2001-Conf1. dt. 16-02-02, Director,
CPCRI, Kasargod.

2. This office letter/Fax of even no. dated: 02-03-02

Respected Sir,

In continuation of my submission dated: 02-3-02 forwarded to
Hqs vide reference cited (2), I most humbly submit the following
facts for favour of your kind consideration and sympathetic action.

That Sir,

The preliminary Enquiry conducted by the Inquiry Committee
by Dr. JJ Solomon sir, Shri K. Thampi, then Asst. Admn. Officer &
Shri B. Ismail Sahab AFAO there is no indication of the irregular-
ities of the Dealing Assistant regarding the missing of the leave
application of Shri B. Renukumar, Technical Officer. However a
further Committee had made some verification and irregularities
are pointed. None of the Committee had taken any evidence or en-
quired the matter with me and not given me a chance to express
my views regarding the above allegations.

On the basis of the Memorandum issued to me I am submitting
the perwise reply for favour of information.

Para - I

It is stated that the leave applications were missed during
the period from 1996 to 2000. I joined at CPCRI RS, Kayangulan on
5th August 98 and posted to Estt. Section in the 1st week of Sept. 98.
It indicates prior to my joining at RS Kayangulan applications were
mission. Moreover the Inward Register for the above period reveals
that no leave applications / joining report had entered in the Inward
Register and hence there is no chance to reach to the Dealing Asst.

Para - II

During the enquiry period and afterwards also the personal
file & Service Books were in the safe custody of the then AAO for
considerable period and afterwards also hence delay occurred for
putting up the applications.

Para - III

Due to non-availability of Service Book as stated above,
Dealing Assistant was compelled to open a separate folder for
put up the application to the competent authority.

Para - IV

Though the application was kept separately no application
missed/misplaced from me.

In case any delay happened, it is only because of heavy work
load in the Estt. Section such as Recruitment of Field Investi-
gators, Senior Research Fellow, Research Associate in various major
Schemes such as NATP, DBT, Entomology, Nematology, Soil Science etc
and also Establishment/recruitment of Krishi Vigyan Kendra.

(P. IC SHAH)

Contd-2

- 2 -

It is a known fact to all my superior officers that I attend the office from 8.30 and leave the office at 5.30 and hardly take 30 mts off for launch. Till today I have been executing my duties very sincerely and honestly. My service records for the last 24 years reveals my sincere and unblemished service rendered to this Institution.

In view of the facts and circumstances stated above, it is very clear that I am no way connected/responsible for the above allegations framed on me. Now I have got few more years service and request your honour to make free from all kinds of mental torture and tension.

Dt. 6th March 02
Place: Kahikuchi

Yours faithfully,

Shai
(PK Shai)

Assistant,
CPCR RC, Kahikuchi

23
- 1 -
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH AT GUWAHATI.

ORIGINAL APPLICATION NO. 89 OF 2002.

B E T W E E N

Sri Puthen Purakal Kuriakose Shai
- Applicant

-AND-

The Union of India & Ors.
-Respondents.

IN THE MATTER OF:

Rejoinder submitted by the
applicant against written
statement filed by the Respon-
dents.

The humble applicant above named
filed the rejoinder as follows:

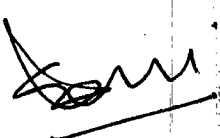
1] That with regard to written statement
made by the Respondent in paragraph No.1 and 2
the applicant has no comment.

Filed by
Shri Puthen Purakal Kuriakose Shai
Applicant
through
[Signature]
(ADIL AHMED)
58
Advocate 20.2.2002

Seni

23 That with regard to written statement made by the respondent in paragraph No.3 the applicant begs to state that it is false statement and also suppression of real fact before the Hon'ble Tribunal. The irregularities and missing of leave application in respect of Sri M. B. Renu Kumar, Technical Assistant CPCRI Regional Station Kayangulam for the period from 01-01-1996 to 31-03-2000 was inquired by high level committee consisting of Dr. J.J. Solomon Principle Scientist (Now acting as head of CPCRI Regional Station Kayangulam), Sri B. Ismail Sahib Assistant Finance and Account Officer, Sri K. Thampi Assistant Administrative Officer. The committee met on 19th and 20th June 2000 and verified all the relevant records including Service Book inward register etc. The report of the committee was approved by the Head of Station on 29-09-2000. No memo explanation etc. was issued to the applicant after the inquiry committee submitted its report to the competent authority.

It is pertinent to mention here that as per ICAR Hand Book Of 'DISCIPLINARY MATTERS' chapter IX paragraph IV it has been stated "The task of Inquiry Officer in three fold, viz., to document, to analyze and to conclude whether the charges framed are proved or not proved. He is not expected to suggest the quantum of punishment for the simple reason that the decision regarding the acceptance of the findings and imposition of penalties, if any, is the prerogative of the Disciplinary Authority."



3] That with regard to the statements made in paragraph No. 4 of the written statement made by the respondents the applicant begs to state that these are false and hence denied by the applicant. After a lapse of seventeen months the work-study committee pointed out the said irregularities and memo was issued vide No. 7(2)KLM/2001-CONFL dated 16-02-2002 to the applicant by the Respondents after joining of the applicant at Central Plantation Crops Research Institute, Kahikuchi. Most surprisingly, during the entire period, i.e., from June 2000 to November 2001 no Memo or Show-Cause Notice was issued to the applicant by the Respondents. In response to the Memorandum dated 16-02-2002 your applicant submitted para-wise reply on 06-03-2002 before the Director, Central Plantation Crops Research Institute, Kasaragod through proper channel. As per decision taken by the Second Meeting of IX IJC on 09-04-2002 at Central Plantation Crops Research Institute, Regional Station, Vittal under the Chairmanship of Dr. V Raja Gopal, Director, CPCRI it has been held that "The Approval from the Competent authority in ICAR would be obtained before implementing the decision of works study report wherever required. But, in the instant case, the Directors of the Institute are not delegated powers to conduct work-study, hence, the said report has no legal status.

Annexure-K is the photocopy of relevant portion of the minutes of Second Meeting of IX IJC held on 09-04-2002 at The Central Plantation Crops Research Institute, Regional Station, Vittal under the Chairmanship of Dr. V Raja Gopal, Director, CPCRI.

4] That with regard to the statements made in paragraph No.5 & 6 of the written statement made by the respondents the applicant begs to state that these are not correct and hence denied by the applicant. The applicant has availed his all remedies before filing this Original Application. The representation of the applicant for reconsideration of his transfer was rejected by the competent authority vide Annexure-D of the Original Application.

5] That with regard to the statement made in paragraph No. 7 of the written statement the applicant has no comment to offer.

6] That with regard to the statement made in paragraph No. 8 of the written statement made by the respondent the applicant begs to state that these are not correct and hence denied by the applicant. The tenure of posting of Central Government Employee in N E Region is fixed by the Govt. of India Office Memorandum issued from time to time. As such, the applicant after completion of his fixed tenure at N E Region he was posted to Kayangulam, Karala.

Soni

7] That with regard to the statement made in paragraph No. 9 of the written statement made by the respondent the applicant begs to state that the transfer cannot be a punishment or under the C C S Rules. As such, the impugned transfer order is illegal and mala fide and liable to be set aside and quashed. If the said transfer is punishment than the Respondents ought to have issued show-cause notice to the applicant before transferring him to Kahikuchi.

8] That with regard to the statement made in paragraph No. 10 & 11 of the written statement made by the respondent the applicant begs to state that these are not correct and hence denied by the applicant.

9] That with regard to the statement made in paragraph No. 12 of the written statement made by the respondent the applicant begs to state that these are not correct and hence denied by the applicant. Sri T. E. Janardhanan was posted against the vacancy vide Circular No. F. 4(157)/77-Estt-1 dated 02-03-2001 (Annexure-E of the Original Application.) In the said circular it has been clearly stated that person who are willing to be posted at Kahikuchi may apply for the said post. Sri T E Janardhannan opted the option and he joined at Kahikuchi on 09-07-2001.

Sri

10] That with regard to the statement made in paragraph No. 13 to 17 of the written statement made by the respondents the applicant begs to state that these are not correct and hence denied by the applicant.

In view of the above, the written statements submitted by the Respondents are not correct and also misleading to the Hon'ble Tribunal. The applicant begs to state that the impugned transfer order 03-01-2002 issued by the office of the Respondent No. 4 is illegal, mala fide and liable to be set aside and quashed.


Sam

VERIFICATION

I, Sri Puthan Purakal Kuriakose Shai, Assistant Central Plantation Crop Research Institute (Indian Council of Agricultural Research) Kahikuchi Guwahati 781017, District Kamrup, Assam, do hereby solemnly verify that the statements made in the above paragraphs No.1 to 10 are true to my knowledge, belief and information.

And I sign this verification today on this the 20th day of September 2002 at Guwahati.

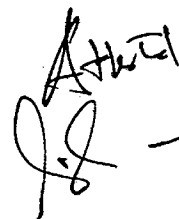
~~Declarant~~


(P.K. SHAI)
(DECLARANT)

-8-
Agenda items to be included in the 2nd meeting of IX IJC to be held on 09.04.2002
at CPCRI Regional Station, Vittal.

ANNEXURE - K

IX.2.1:	<p><u>Delay in constitution of IJC:</u></p> <p>The tenure of VIII IJC was expired in June 2001. However, the IX IJC has been constituted only on 4.01.02 i.e. after a lapse of 7 months, whereas ICAR has issued repeated instruction to take action to set up IJC in time. Common issues concerning the employees could not be addressed in the IJC due to the undue delay in constituting new IJC. It is requested that such an undue delay in constituting fresh IJC may be avoided.</p>	<p>The matter was discussed at length and it was decided to initiate the action for constitution of new IJC/Grievance cell etc. at least 6 months in advance of expiry of tenure of such bodies. (Item dropped)</p>
IX.2.2:	<p><u>Conduct of administrative work Study:</u></p> <p>It is understood that, based on the report submitted by the work study team, the office is contemplating action to re-deploy certain posts in the cadre of AAO/PA to Centres like Kahikuchi, Mohitnagar, Kidu. The ICAR is having a work study unit which undertakes work studies in the Institute and HQrs. to assess the man power requirement on the basis of the approved mandate of the Institute. Such work study is conducted systematically by adopting the parameters approved by the GOI in assessing individual work load. Here, the additional posts in the cadre of Supdt./Assistant were created during Vth plan period for HQrs. and Regional Station, Kayangulam/Vittal based on the recommendations of work study team headed by Shri Bedi, Sr. Analyst, ICAR, which may be referred. As we have conducted the work study unscientifically and non-systematically its recommendations may not be approved and implemented. It is also brought before the Chairman, IJC, that Directors of the Institutes are not delegated powers to conduct work study and the report now being considered by us has no legal status.</p>	<p>The staff side pointed out that the work study conducted at the Institute level has no validity to re-deploy personnel from one Centre to another along with posts and the Director is empowered to re-distribute the work among the sanctioned strength of the respective Centres.</p> <p>The Chairman stressed the need of a work study taking into account the changes occurred in the recent years. It was again pointed out by the staff side that in such a situation the ICAR which is the authorized authority should have been requested to take up a fresh work study. The official side were very firm on their opinion that assessment of work load, re-distribution and re-deployment of staff as per requirement comes within the purview of Director who is head of institution and informed that the approval from the Competent Authority in ICAR would be obtained before implementing the decision of the Work Study Report wherever required.</p>


 A. H. Patel
 Secretary