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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 13/2002

R.A/C.P No.

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SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal :: Guwahati Bench
Guwahati

ORDER SHEET

APPLICATION NO. 13/2002

Applicant(s) B. P. Uraide

Respondent(s) UOI & ors.

Advocate for Applicant(s) Mn M. Chandra, Mrs N.D. Goswami

Advocate for Respondent(s) Mn G.N. Chakraborty

Adm. Case - A.K. Choudhary

Notes of the Registry	Date	Order of the Tribunal
<p>This is application in form C. F. for Rs. 50/- deposited vide IP <u>1/ 667908390</u> Dated ... <u>17.01.02</u> <u>[Signature]</u> Dy. Registrar</p> <p>No steps. <u>NS</u> <u>18/01/02</u></p> <p>Steps taken. Notice prepared and sent to Dls for filing the response No. 1 to 5 by Regd. H.D. <u>29/1/02</u> D/No <u>301 L-304</u> Dtd <u>4/2/02</u></p> <p>① Service report will still awaited.</p> <p>② No. show cause reply have been filed. <u>[Signature]</u> <u>5.2.02</u></p>	<p>18.1.02</p>	<p>Heard learned counsel for the parties.</p> <p>Issue notice to show cause as to why the application shall not ^{be} admitted. Returnable 2 weeks List on 6.2.02 for Admission.</p> <p>Meanwhile, the operation of the impugned Order No. 15-39/99/Estt dated 31.10.2001, Annexure -3 transferring the applicant from North Eastern Regional Centre, An.S.I. Shillong to Eastern Regional Centre, An.S.I. Kolkata is stayed till the next date, so far the applicant is concerned.</p> <p><u>[Signature]</u> Member</p>

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Order dtd. 6/2/02
Communicated to the
Karties Council.

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6.2.02

Written statement has been
filed. The case may now be listed for
hearing. The applicant may file
rejoinder, if any, within 10 days from
today.

List on 1.3.2002 for hearing.
In the meantime, interim order dated
18.1.2002 shall continue.

Vice-Chairman

4.2.2002

mb

W/s Submitted 1.3.2002
by the Respondent No. 1, 2,
3 and 4.

A prayer has been made on behalf
of the applicant for adjournment. The case is
adjourned. List it on 8.3.02 for hearing. The
applicant may file rejoinder, if any.

Vice-Chairman

nk m

8.3.2002

Mr. S.K. Medhi, learned counsel
appearing for the applicant requests for
adjournment on personal ground.
Mr. A.K. Chaudhury, learned Addl. C.G.S.C.
for the respondents submits that as it
is a transfer matter only a short
adjournment should be given.

After hearing both the counsel the
case is adjourned and listed for hearing
on 13.3.2002.

Member

Rejoinder by the
applicant has been
submitted to the original
application.

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BBB

O.A.13 of 2002.

Notes of the Registry	Date	Order of the Tribunal
	8.3.2002	<p>Mr.S.K.Medhi, learned counsel appearing for the applicant requests for adjournment on personal ground. Mr.A.K.Chaudhury, learned Addl.C.G.S.C. for the respondents submits that as it is a transfer matter only a short adjournment should be given.</p> <p>After hearing both the counsel the case is adjourned and listed for hearing on 13.3.2002.</p> <p style="text-align: right;">K.C.Shah Member</p>
	13.3.	<p>Heard Mr. S.K. Medhi, learned Counsel for the applicant & Mr. A.K. Chaudhury, Addl. C.G.S.C. for the respondents. The case is adjourned. Hearing concluded. Judgment reserved.</p> <p style="text-align: right;">M.L. A.K. Chaudhury 13.3.</p>
<p>Recd. copy. AK Chaudhury Addl C.G.S.C. 21/3/02</p> <p>26.3.2002</p> <p>Copy of the order has been sent to the office for filing the same to the applicant by post and one has already been submitted over to the Addl. C.G.S.C. in the Registry.</p> <p>sl</p>	20.3.02	<p>Judgment delivered in open Court. Kept in separate sheets. Application is dismissed. No costs.</p> <p style="text-align: right;">K.C.Shah Member</p>

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Notes of the Registry

Date _____

Order of the Tribunal

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 13 of 2002.

Date of Decision 20.3.2002

Sri Bhaskar Pralhad Urade

Petitioner(S)

Sri S.K. Medhi

Advocate for the
Petitioner(s)

-Versus-

Union of India & Ors.

Respondent(s)

Sri A.K.Choudhury, Addl.C.G.S.C

Advocate for the
Respondent(s)

THE HON'BLE

MR K.K.SHARMA, ADMINISTRATIVE MEMBER

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 : Admn. Member.

K. K. Sharma

X

CENTRAL ADINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 13 of 2002.

Date of Order : This the 20th Day of March, 2002.

THE HON'BLE MR K.K.SHARMA, ADINISTRATIVE MEMBER.

Sri Bhaskar Pralhad Urade
Son of Sri Pralhad Urade
Working as Anthropologist (Physical)
Anthropological Survey of India,
North Eastern Region Mawblei,
Shillong-793021. Applicant

By Advocate Sri S.K.Medhi.

- Versus -

1. Union of India,
represented by the Secretary to the
Government of India,
Ministry of Tourism & Culture,
Shastri Bhawan, New Delhi.
2. The Director,
Anthropological Survey of India,
27 J.L.Nehru Road,
Kolkata-700 016.
3. Sri Arun Kumar Singh,
Head of Office,
Anthropological Survey of India,
27 J.L.Nehru Road,
Kolkata-700 016.
4. Dr Bibhas Dhar,
Head of Office and Anthropologist(Cultural)
Anthropological Survey of India,
N.E.R.Centre, Mawblei,
Shillong-793021. ... Respondents

By Advocate Sri A.K.Choudury, Addl.C.G.S.C.

O R D E R

K.K.SHARMA, MEMBER(A)

In this application the applicant has challenged
the impugned Order No. 15-39/99/Estt. dated 31.10.2001
(Annexure-III) transferring the applicant from North

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contd..2

East Regional Centre, An.S.I., Shillong to Eastern Regional Centre, An.S.I., Kolkata. The applicant has also made a prayer for a direction to post the applicant to his choice station at Nagpur.

2. The applicant was appointed as Antropologist (Physical) on 1.5.1995, which is a class I post. He was transferred in the same capacity to North East Regional Centre, Shillong on 20.1.98. While the applicant was on leave from 29.10.2001 to 11.1.2002 the respondents issued the impugned transfer order transferring him to Kolkata. The applicant got the transfer order on 15.11.2001 and on 16.11.2001 he made a representation. The applicant was informed by a letter dated 14.12.2001 (Annexure-V) that his representation had been rejected. He also received a telegraphic message on 17.1.2002 directing him to join at Kolkata. Hence this application challenging the legality and validity of the impugned transfer order. The applicant has referred to Office Memorandum No. 20014/2/83/E.IV dated 14.12.1983 which entitles the officers to get a choice place posting after completing their tenure in North Eastern Region. Reference was also made to the Memorandum dated 22.7.98 which also reiterated the same position as in the O.M. dated 14.12.83. It is stated that as the applicant had completed nearly 4 years in the N.E. Region he was entitled to a choice station of posting. The respondents intimated the applicant that

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his prayer for transfer to Nagpur could not be acceded to as there was no vacancy at Nagpur. The applicant has stated that one Anthropologist(P) posted at Nagpur is willing to accommodate the applicant if he is transferred to Derhradun. The transfer order has been challenged on the ground that the same has been made at the behest of respondent No.4 under whom the applicant was posted. The transfer order was issued when the applicant was on leave. The respondent No.4 was harrassing the applicant since long on minor issues. There was no vacancy at Kolkata and the vacancy has been created by transferring another Abthropologist and no substitute has been posted in the applicant's place. The respondents have acted arbitrarily in rejecting the applicant's request for transfer to Nagpur. The transfer order is challenged on the ground that it was mala fide.

3. Mr S.K.Medhi, learned counsel appearing on behalf of the applicant referring to the guidelines for posting and transfer of employees of the Anthropological department (copy of which has been annexed as Annexure-V to the written statement) argued that for Shillong there was a tenure of 4 years and submitted that "an officer who has completed his term at Port Blair or Shillong and is seeking transfer will be given special preference in the matter of posting at the Head Office the Eastern India Regional Office

16/11/2017

or any other office of their choice." In deserving cases, such a transfer may be effected even by transferring in incumbent who has completed not less than 5 years at the office concerned. Referring to para 5 of the guidelines he submitted that the applicant was engaged in important research work and as per the guidelines he should be given time to complete the research work.

4. The averment made on behalf of the applicant that the transfer has been made on mala fide ground has been disputed by Mr A.K.Choudhury, learned Addl.C.G.S.C. The respondents have also filed written statement. It is stated in the written statement that applicant has been transferred from Shillong to Kolkata in public interest. It is stated that the applicant has alleged harassment on the part of respondent No.4 who is the head of office at Shillong. Mr A.K.Choudhury, learned Addl.C.G.S.C submitted that the transfer order has been passed by the Eastern Regional Office Kolkata and has not been made by respondent No.4, as such there was no mala fide in transfer. The applicant had nearly completed 4 years and was due for a transfer. Referring to the circular relied on by the applicant Mr Choudhury submitted that the circular is not mandatory and only for giving a choice posting as far as possible. The fact that there was no vacancy at Nagpur is not disputed. The

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applicant could not be accommodated at Nagpur by transferring some other officer from Nagpur. The applicant had never made any representation for transfer to a place of his choice station. The request was made only after passing of the transfer order. Personal ground cannot be a reason for granting a transfer. The larger interest of the organisation has to be considered while making the transfers. Mr Choudhury also referred to the Gauhati High Court decision in Gurnam Singh vs. Union of India & Ors., reported in 2000(3) GLT 150 and Mrs Silpi Bose and others vs. State of Bihar, reported in AIR 1991 SC 532 in support of his submission that the Tribunal should not interfere with a transfer order unless mala fides are proved.

5. I have heard learned counsel for the parties at length and also perused the documents filed with the application. The fact that there is no vacancy at Nagpur where the applicant wanted a posting has not been disputed. Therefore no illegality can be inferred if the applicant's request for transfer to Nagpur is not accepted. The applicant was completing 4 years at Shillong and as per transfer guidelines he was due for a transfer. The transfer guidelines also mentioned that an officer completing 4 years in Shillong can be posted to the Head office or Eastern Regional office or any other office of his choice. As the applicant

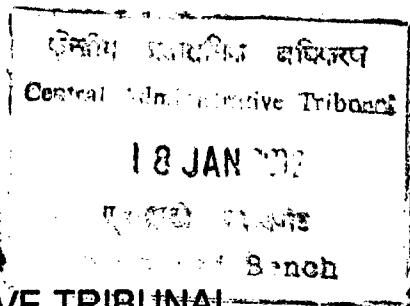
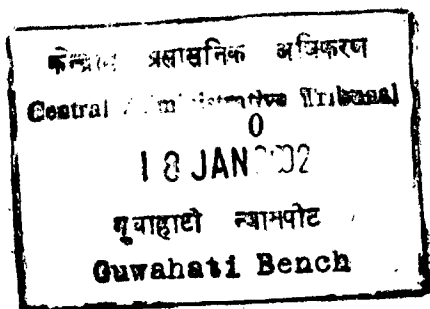
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could not be posted to the place of his choice, namely, at Nagpur the posting of the applicant to the Eastern Regional office is as per the transfer guidelines. The applicant has alleged mala fide on the part of respondent No.4 and the transfer has been made by the Eastern Regional office, Kolkata and not by respondent No.4 and therefore no illegality or irregularity is found in the impugned transfer order and the same calls for no interference.

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


(K.K.SHARMA)

ADMINISTRATIVE MEMBER



13

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Filed by me applicant
M. Chandra Adv.

(An Application under Section 19 of the Administrative Tribunals Act,
1985)

Title of the case : O.A. No. 13 /2002

Sri Bhaskar Pralhad Urade : Applicant

- Versus -

Union of India & Others: Respondents.

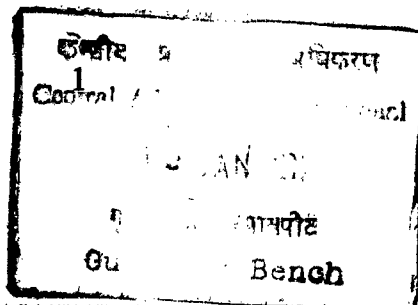
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Date : 18.1.2002

Filed by


Advocate



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

(An Application under Section 19 of the Administrative Tribunals Act,
1985)

O.A. No.13...../2002

BETWEEN

Sri Bhaskar Pralhad Urade
Son of Sri Pralhad Urade
Working as Anthropologist (Physical)
Anthropological Survey of India
North Eastern Region, Mawblei,
Shillong-793021

.....Applicant

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Tourism & Culture
Shastri Bhawan,
New Delhi.
2. The Director
Anthropological Survey of India
27 J.L.Nahru road,
Kolkata-700 016
3. The Sri Arun Kumar Singh
Head of Office
Anthropological Survey of India,
27 J.L.Nahru road,
Kolkata-700 016

Bhaskar Pralhad Urade

4. Dr. Bibhas Dhar,
Head of Office and Anthropologist (Cultural)
Anthropological Survey of India,
N.E.R, Centre, Mawblei,
Shillong-793021

.....Respondents.

DETAILS OF THE APPLICATION

1. Particulars of order against which this application is made.

This application is made against the impugned Office Order of transfer and posting issued under order No. 15-39/99/Estt. Dated 31.10.2001 whereby the applicant is sought to be transferred from North Eastern Regional Centre, Shillong and posted at Eastern Regional Centre, Kolkata, when the applicant is due for posting at his choice station as per professed norms of the Government laid down in Office Memorandum dated 14.12.1983, 1.12.1988 and 22.7.1998, and praying for a direction upon the Respondents for posting of the applicant at his choice station in terms of the O.M. dated 14.12.1983, 1.12.1988 and 22.7.1998.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

The applicant further declares that this application is filed within the limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

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, protections and privileges as guaranteed under the Constitution of India.

Bhaskar Pralhad Wade

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P. 9. of 12

4.2 That your applicant is a M.Sc. in Anthropology and was initially appointed under the respondent department as Research Associate (Physical) and joined in Southern Research Centre (S.R.C) at Mysore on 1.5.1995. Subsequently, he was selected for the post of Anthropologist (Physical) through the U.P.S.C. on 21.3.1996 and eventually he had joined in the capacity of Anthropologist (P) under North Eastern Regional Centre (NERC), Shillong on 20.1.1998 where he is still continuing.

4.3 That the applicant begs to state that the Government of India, Ministry of Finance, Department of Expenditure, granted certain improvement and facilities to the Central Government civilian employees who are posted in the North Eastern Region vide O.M. No.20014/3/83-E.IV dated 14.12.1983 issued by the Government of India, Ministry of Finance, Department of Expenditure. In terms of the aforesaid O.M., the Central Government civilian employees who are saddled with All India transfer liability, are entitled to choice station posting after serving for a fixed tenure in the N.E. Region. The relevant portion of the O.M. dated 14.12.1983 issued by the Government of India is reproduced below:

"Subject : Allowances and facilities for civilian employees of the Central Government serving in the states and Union Territories of North Eastern Region- improvements thereof.

The need for attracting and retaining the services of competent officers for service in the North Eastern Region comprising the states of Assam, Meghalaya, Manipur, Nagaland, Tripura and the Union Territories of Arunachal Pradesh and Mizoram has been engaging the attention of the Government of some time. The Government had appointed a committee under the

Bhaskar Pralhad Urale

chairmanship of Secretary, Deptt. Of Personnel and Administrative reforms, to review the existing allowances and facilities admissible to the various categories of civilian central Government employees serving in this region and to suggest suitable improvements, the recommendations of the committee have been carefully considered by the Government and the President is now pleased to decide as follows :

i. Tenure of posting/deputation.

There will be a fixed tenure of posting of 3 years at a time for officers with services of 10 years or less and of 2 years of service at a time for officers with more than 10 years of service, periods of leave, training etc, in excess of 15 days per year will be excluded in counting the tenure period of 2/3 years. Officers on completion of the fixed tenure of service mentioned above, may be considered for posting to a station of their choice as far as possible. The period of deputation of the Central Government employees to the States/Union territories of the North Eastern Region will generally be for 3 years which can be extended in exceptional cases in exigencies of public service as well as when the employees concerned is prepared to stay longer. The admissible deputation allowance will also continue to be paid during the period of deputation so extended."

Copy of the O.M. dated 14.12.1983 (extract) and copy of the O.M. dated 22.07.1998 are annexed hereto as Annexure 1 and 2 respectively.

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- 4.5 That the

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(Copy of Memorandum dated 14/18.12.2001 and telegram dated 2.11.2001 are annexed hereto as **Annexure V and VI** respectively.

4.8 That Your applicant begs to state that there is one Sri Gopal Kisan, Anthropologist (P) stationed at Nagpur who is willing to go to Dehradun and in the event of consideration of his prayer, this applicant can be accommodated at Nagpur in the resultant vacancy.

4.9 That the applicant further begs to state that the proposed transfer of the applicant has been done on extraneous reasons only at the behest of Dr. Bibhas Dhar, Head of Office (H.O.O) and Anthropologist (Cultural) who has been harassing the applicant since long back on minor issues leading to unpleasant issues on different occasions which are known to the Respondent No.2 also. The transfer order was suddenly issued without any reason and that too immediately after the applicant proceeded on leave which clearly proves the intention of the Respondents. It is pertinent to mention that in order to transfer the applicant in a planned way, the respondents created one vacancy at Kolkata by transferring one Sri B.N.Sarkar, Anthropologist (P) from Eastern Regional Centre, Calcutta, in the same building, under the same impugned order dated 31.10.2001.

4.10 That the applicant most humbly submits that by transferring the applicant to Kolkata and rejecting his prayer for his transfer to Nagpur i.e. his choice station, the Respondents have acted in an arbitrary, unjust and unfair manner with mala fide intention and finding no other ways, the applicant is approaching the Hon'ble Tribunal for protection of his rights and interests and praying for setting aside the

Bhaskar Pralhad Wade

impugned order and a direction upon the respondents for transferring him to Nagpur i.e. his choice station.

4.11 That this application is made bonafide and for the cause of justice.

5. Grounds for relief(s) with legal provisions.

- 5.1 For that the applicant has completed more than 4 years of service in N.E.R., i.e. at North Eastern Regional Centre, Shillong and is now entitled to his choice station posting in accordance with the criteria laid down by the Government of India's O.M. dated 14.12.1983, 1.12.1988 and O.M. dated 22.7.1998.
- 5.2 For that the applicant has acquired a valuable and legal right for immediate transfer to a station of his choice on completion of about 4 years of service in the North Eastern Region in terms of O.M. dated 14.12.1983 and O.M. dated 22.07.1998 of Government of India.
- 5.3 For that the respondents by issuing the impugned order of transfer dated 31.10.2001, and not considering his application for choice station posting simply demonstrated their vindictive attitude towards the applicant and their action is arbitrary, mala fide ill motivated and devoid of any principle of justice.
- 5.4 For that the applicant has got genuine family problems which he stated in his representation for consideration of Respondents.
- 5.5 For that the applicant is saddled with All India transfer liability which is one of the criteria for having choice station posting.

Bhaskar Pruthi Urahi

- 5.6 For that the Hon'ble Tribunal was pleased to grant such prayer earlier in identically situated case.

6. Details of remedies exhausted.

That the applicant states that he has no other alternative and other efficacious remedy than to file this application.

7. Matters not previously filed or pending with any other court.

The applicant further declares that he had not previously filed any application, Writ Petition or Suit regarding the matter in respect of which this application has been made before any court or any other authority or any other Bench of the Tribunal nor any such application, Writ Petition or Suit is pending before any of them.

8. Reliefs sought for :

Under the facts and circumstances stated above, the applicant humbly prays that your Lordships be pleased to issue notice to the respondents to show cause as to why the reliefs sought for by the applicant shall not be granted, call for the records of the case and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following reliefs :

- 8.1 That the impugned order of transfer issued under letter No. 15-39/99/Estt. dated 31.10.2001(Annexure- III) issued by the Respondents No.3 be set aside and quashed as far as the applicant is concerned.
- 8.2 That the respondents be directed to issue order of transfer & posting in respect of the applicant to a station of his choice i.e. Nagpur as prayed for, in the light of the O.M. dated 14.12.1983 issued by the Government of India.

Bhaskar Pralhad Khad

8.3 That the respondents be directed to allow the applicant to continue to work in his present place of posting till consideration of his posting at his choice station i.e. at Nagpur.

8.4 Costs of the application.

8.5 Any other relief or reliefs to which the applicant is entitled to, as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

During pendency of this application, the applicant prays for the following relief :-

9.1 That the Hon'ble Tribunal be pleased to stay the operation of the impugned order No. 15-39/99/Estt. dated 31.10.2001 (Annexure- III) till final disposal of this application so far as the applicant is concerned.

9.2 That the respondents be directed to allow the applicant to continue to work in his present place of posting till consideration of his posting at his choice station i.e. at Nagpur.

10. This application is filed through Advocates.

11. Particulars of the I.P.O.

i) I.P.O. No. : 66790839.
ii) Date of issue : 17.01.2002
iii) Issued from : G.P.O., Guwahati.
iv) Payable at : G.P.O., Guwahati.

12. List of enclosures.

As stated in the index.

Bhanwar Pralhad Thade

VERIFICATION

I, Sri Bhaskar Pralhad Urade, Son of Sri Pralhad Urade aged about 33 years, working as Anthropologist (Physical) Anthropological Survey of India, North Eastern Region, Mawblei, Shillong 793021, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 18th day of January, 2002.

Bhaskar Pralhad Urade

Annexure-1

No. 20014/2/83/E.IV
Government of India
Ministry of Finance
Department of expenditure

New Delhi, the 14th Dec '83

OFFICE MEMORANDUM

Subject : Allowances and facilities for civilian employees of the Central Government serving in the states and Union Territories of North Eastern Region-improvements thereof.

The need for attracting and retaining the services of competent officers for service in the North Eastern Region comprising the states of Assam, Meghalaya, Manipur, Nagaland, Tripura and the Union Territories of Arunachal Pradesh and Mizoram has been engaging the attention of the Government of some time. The Government had appointed a committee under the chairmanship of Secretary, Deptt. Of Personnel and Administrative reforms, to review the existing allowances and facilities admissible to the various categories of civilian central Government employees serving in this region and to suggest suitable improvements, the recommendations of the committee have been carefully considered by the Government and the President is now pleased to decide as follows :

i) Tenure of posting/deputation.

There will be a fixed tenure of posting of 3 years at a time for officers with services of 10 years or less and of 2 years of service at a time for officers with more than 10 years of service, periods of leave, training etc, in excess of 15 days per year will be excluded in counting the tenure period of 2/3 years. Officers on completion of the fixed tenure of service mentioned above, may be considered for posting to a station of their choice as far as possible. The period of deputation of the Central Government employees to the States/Union territories of the North Eastern Region will generally be for 3 years which can be extended in

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exceptional cases in exigencies of public service as well as when the employees concerned is prepared to stay longer. The admissible deputation allowance will also continue to be paid during the period of deputation so extended.

Sd/- S.C. MAHALIK

Joint Secretary to the Government of India

Annexure-2

F. No. 11(2)/97-E.II(B)
Government of India
Ministry of Finance
Department of Expenditure

New Delhi dated July 22, 1998

OFFICE MEMORANDUM

Subject : Allowances and facilities for civilian employees
Of the Central Government serving in the states
and Union Territories of North Eastern Region
and in the Andaman & Nicobar and Lakshadweep
Groups of Islands - recommendations of the Fifth
Central Pay Commission.

With a view to attracting and retaining competent officers for service in the North-Eastern Region, comprising the territories of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura, orders were issued in this Ministry's O.M. No. 20014/3/83-E.IV dated December, 14, 1983 extending certain allowances and other facilities to the Civilian Central Government employees serving in this region. In terms of paragraph 2 thereof, these orders other than those contained in paragraph 1(iv) *ibid* were also to apply *mutatis mutandis* to the Civilian Central Government employees posted to the Andaman & Nicobar Islands. These were further extended to the Central Government employees posted to the Lakshadweep Islands in this Ministry's O.M. of even number dated March 30, 1984. The allowances and facilities were further liberalised in this Ministry's O.M. No. 20014/16/86/E.IV/E.II (B) dated December 1, 1988 and were also extended to the Central Government employees posted to the North Eastern Council when stationed in the North Eastern Region.

2. The Fifth Central Pay Commission have made certain recommendations suggesting further improvements in the allowances and facilities admissible to the Central Government employees, including Officers of the All India Services, posted in the North Eastern Region.

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They have further recommended that these may also be extended to the Central Government employees, including Officers of the All India Services, posted in Sikkim. The recommendations of the Commission have been considered by the Government and the President is now pleased to decide as follows :

(i) Tenure of Posting/Deputation

The provisions in regard to tenure of posting/deputation contained in this Ministry's OM No. 20014/3/83-E.IV dated December 14, 1983 read with O.M. No. 20014/16/86-E.IV/E.II(B) dated December, 1 1988, shall continue to be applicable.

(ii) Weightage for Central Depurations/Training Abroad and Special Mention in Confidential Records

The provisions contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983, read with O.M. No. 20014/16/86-E-IV/E.II(B) dated December 1, 1988, shall continue to be applicable.

Sd/-
(N. SUNDER RAJAN)
Joint Secretary to the Government of India

Kind attention Dr. B. Sarkar,
Anthropologist & Head of
An.S.I., Shillong.



ANNEXURE - III
No. 15-39/99/Estt.
Anthropological Survey of India
Government of India
27, Jawaharlal Nehru Road
Kolkata - 700 016

Shri Urade has to be
called back from leave
and release him on
the date: 31st October, 2001
16th Nov

OFFICE ORDER

The Director, Anthropological Survey of India, is pleased to transfer the following Officers in the same post in public interest.

Sr. No.	Name & Designation	From	Transferred To
1.	Dr. B.N. Sarkar Anthropologist(Physical)	Eastern Regional Centre, An.S.I., Kolkata.	Head Office, An.S.I., Kolkata.
2.	Shri B.P. Urade Anthropologist(Physical)	North East Regional Centre, An.S.I., Shillong.	Eastern Regional Centre, An.S.I., Kolkata.

- Dr. Sarkar should take over the charge of the post at the Head Office of the Survey at Kolkata on or before 9.11.2001. Shri Urade should take over the charge of the post at the Eastern Regional Centre, Kolkata of this Survey positively by 16.11.2001 but not before 9.11.2001.
- Shri Urade is entitled for necessary TA and Joining time as admissible under the rules. Dr. Sarkar is entitled for Joining time as per admissible rules.

(ARUN KUMAR SINGH)
HEAD OF OFFICE

No.15-39/99/Estt.

Dated : 31st October, 2001

Copy to :

- Dr. B.N. Sarkar, Anthropologist(P), Anthropological Survey of India, Kolkata.
- Shri B.P. Urade, Anthropologist (P), Anthropological Survey of India, North-East Regional Centre, Shillong.
- Head of Office, Eastern Regional Centre, Anthropological Survey of India, Kolkata/Head of Office, North-East Regional Centre, Anthropological Survey of India, Shillong, are requested to release them accordingly.
- Pay & Accounts Officer, Pay & Accounts Office, Department of Culture 5, Dr. Rajendra Prasad Sarani, (8th floor), Kolkata-700 001.
- PA to DASI/PA to JD/PA to DD(C)/HO/JAO/DDO.
- Estt/Accts/PMI/General/Stores/Lib.
- Personal files/ Service book/ Office Order book/ Hindi Cml,

(ARUN KUMAR SINGH)
HEAD OF OFFICE

AH
Chh
Adv

Recd.
hpf
Nov. 15, 2001

NO
submit it

FAX

Annexure-IV

Regd. Letter

To

The Director
Anthropological survey of India,
27, Jawaharlal Nehru Road,
Calcutta-16.

(Through Proper Channel)

Subject : Change of posting of transfer from ERC, Calcutta to CRC, Nagpur -
regarding.

Sir,

With reference to Office Order No. 15-39/99/Estt. dated 31st Oct. 2001, I most humbly submit the following lines on the above cited subject for your kind consideration.

Sir, after a month or so I am going to complete my tenure of serving in the most difficult centre, i.e. NERC, Shillong of this Survey. As per Governments provision after serving in the most difficult/tough Station, I may please be transferred to ASI, CRC, Nagpur instead of ERC, Calcutta.

As a matter of fact my age old parents are depending on me and they stay quite far from me and I understand my responsibilities specially in the hour of need. I had brought to you kind notice when I was serving in SRC, Mysore about this fact. Keeping this view in mind I may kindly be transferred to C.R.C. Nagpur instead of ERC, Calcutta of this Survey.

I hope, you will consider my request sympathetically for the act of which I shall remain grateful to your authority.

This is for your information and n/a please.

Yours faith fully,

Sd/- Illegible

(B.P. Urade)

A(P)

On leave

C/o Perfect Tailors

Main Road Allapalli

Geh. Aheri

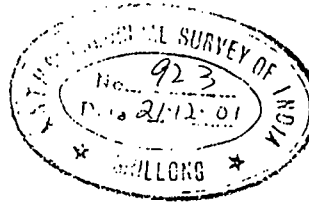
Distt. Gadchiroli-442703

(Maharashtra)

Attended
On
Ad V

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ANNEXURE - II

SPEED POST



No.15-39/99/Estt.

Dated: 14-12-2001

18

MEMORANDUM

From:

The Director
Anthropological Survey of
India
Govt. of India
27, Jawaharlal Nehru Road
Calcutta-16.

To

Shri B P Urade
Anthropologist (Physical)
North East Regional Centre
Anthropological Survey of India
Mawblei, Block-B, Madanriting
Shillong-793 021.

With reference to his application dated 16-11-2001, the undersigned is directed to inform Shri B P Urade, Anthropologist (Physical) that his request for change his place of posting from the Eastern Regional Centre, Calcutta to the Central Regional Centre, Nagpur has carefully been considered by the competent authority but it cannot be acceded to, as there is no vacancy where he can be posted.

Shri Urade is further informed that the authority has taken a serious view for non-compliance of the order vide Office Order of even number dated 31-10-2001. He is, therefore, requested to explain under what circumstances he has failed to comply with the order of the competent authority. The explanation should reach to the undersigned on or before 31-12-2001 positively.

Shri Urade is also informed that since he has failed to carry out the order of the competent authority, he is requested to report for duty in the same post at the Eastern Regional Centre, Calcutta by 5th January, 2002 failing which an appropriate action as willful insubordination or disobedience for non-compliance of the superior authority's order will be taken against him.

(ARUN KUMAR SINGH)
HEAD OF OFFICE

No.15-39/99/Estt.

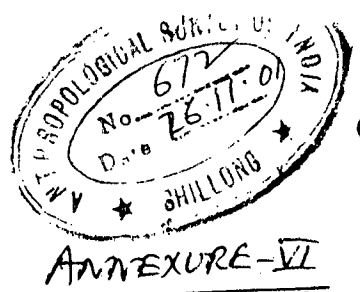
Dated: 14th December, 2001

Copy to:-

The Head of Office, North East Regional Centre,
Anthropological Survey of India, Mawblei, Block-B, Madanriting
Shillong. He is requested to release Shri Urade from his
Regional Centre accordingly.

(ARUN KUMAR SINGH)
HEAD OF OFFICE

26/11/01
TELEGRAM
STATE/EXPRESS



TO

SHRI B.P. URADE (ON LEAVE)
C/O PERFECT TAILORS
MAIN ROAD
P.O. ALLAPALLI - 442 703
TEHSIL-BHORI AHERI
DIST-GADCHIROLI
MAHARASHTRA

JOIN ERC, KOLKATA ON TRANSFER WITHIN 16TH
(SIXTEEN) NOVEMBER, 2001 (.) LETTERS FOLLOWS (.)

ANTHROPOS
SHILLONG

(B. DHAR)

Head of Office
Anthropological Survey of India
Government of India
North East Regional Centre,
Shillong-793001

N.T.T.
No. 1-334/98/Estt.

Dated : November, 2, 2001.

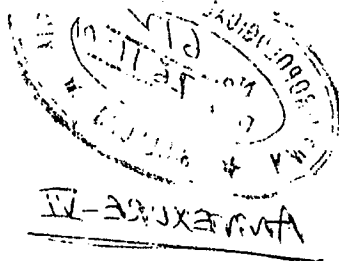
Post Copy in confirmation to Shri B.P. Urade (On leave),
C/O. Perfect Tailors, Main Road, P.O. Allapalli-442 703,
Tehsil-Bhori, District-Gadchiroli, Maharashtra.

Aheri

(B. Dhar)

Head of Office
Anthropological Survey of India
Government of India
North East Regional Centre,
Shillong-793001

AHAR
Dhar
AS



STATE/EXPRESS
TELEGRAM

TO

MAHARASHTRA
DIST-GADCHIROLI
TEHSIL-BHAT
P.O. ALAPALI - 442 703
MAIN ROAD
C/O PERFECT TAILORS
SHRI B.P. URDE (ON LEAVE)

12/11/01
12/11/01
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12/11/01
12/11/01

(SIXTEEN) NOVEMBER, 2001 (.) LETTERS FOLLOWS (.)
JOIN BRC, KOIKATA ON TRANSFER WITHIN 15TH

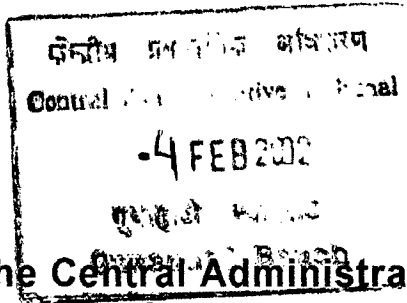
SHILLONG
ANTHROPOS

Head of Office
Anthropological Survey of India
Government of India
North East Regional Centre
Shillong 783001
(B. Dhar)

N.T.T.
No. I-334/98/Estt.
Dated : November, 20 2001.

Post Copy in confirmation to Shri B.P. Urde (On leave),
C/O Perfect Tailors, Main Road, P.O. Alapali-442 703,
Tehsil-Bhat, District-Gadchiroli, Maharashtra.

Head of Office
Anthropological Survey of India
Government of India
North East Regional Centre
Shillong 783001
(B. Dhar)



In the Central Administrative Tribunal
Guwahati Bench
Guwahati

21-356 -

In the matter of :-
O.A. No. 13 of 2002
B.P. Urade

- Applicant

Vs

Union of India & On
- Respondents

Written Statement for and on behalf of the Respondent Nos. 1, 2, 3 and 4.

I, Dr. Bibhash Dhar, Head of Office and Anthropologist (Cultural), Anthropological Survey of India, North East Regional Centre, Mawblei, Shillong, do hereby solemnly affirm and say as follows :-

1. That I am the Head of Office and Anthropologist (Cultural), Anthropological Survey of India, N.E.R. Centre, Shillong and Respondent No. 4 in the above case and as such fully acquainted with the facts and circumstances of the case. I have gone through a copy of the application served on me and have understood the contents thereof. Save and accept whatever is specifically admitted in the written statement, the other statements and contentions may be deemed to have been denied. I am authorised to file this written statement on behalf of all the respondents.
2. That at the outset the respondents beg to give to brief history of the case.

(i) That the applicant was offered appointment to the post of Anthropologist (Physical) by the Govt. of India, Department of Culture, New Delhi vide No. F. 12-12/95-LLB. II dated 31.3.1997 (Annexure-I) and it was clearly mentioned in the offer that "the offer of appointment carries with it the liability to serve in any part of India" [Clause 2(C) of said order as referred above Annexure-I]. The applicant accepted the offer of appointment to the post of Anthropologist (P) and joined vide his application dated 15.4.1997 (Annexure-II).

(ii) That the applicant has been transferred from the North East Regional Centre, Anthropological Survey of India, Shillong to the Eastern Regional Centre of the Survey of Kolkata in public interest vide office order No. 15-39/99/Estt. Dated 31.10.2001 and he was directed to report for duty positively by the 16th November 2001 (vide Annexure-III). It is reiterated herein that the transfer of the applicant from Shillong to Kolkata has been made by the Head of the Department (Respondents No. 2) in the interest of the organisation and due to administrative exigencies, and also

Gubman Singh
GUT No. 11/2001
Para 9.

Shiehi Bora
AIR-1959-532 SC
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strengthen the Laboratory of the Eastern Regional Centre of the Survey at Kolkata. It is humbly submitted before the Hon'ble Tribunal that the applicant was transferred as per the transfer policy of the public at large and the administrative exigencies. The guide line of transfer policy of the Survey as approved by the Govt. of India is annexed hereto as Annexure-~~IV~~ III.

- (iii) That it is submitted before the Hon'ble Tribunal that the applicant was directed to report for duty in the post of Anthropologist (Physical) at the Eastern Regional Centre, Anthropological Survey of India, Kolkata within the 16th November, 2001. But the applicant did not carry out the order of the competent authority instead he submitted an application on the 16th November, 2001 with the request to change his place of posting from Kolkata to Nagpur. So, it was his intention not to comply with the competent authority's order. Therefore, it was clearly reflected in his application for his willful insubordination or disobedience and non-compliance of the superior authority's order.
- (iv) That the applicant was directed again to report for duty at the Eastern Regional Centre of the Survey at Kolkata by 5th January, 2002 vide Memorandum No. 15-39/99/Estt. dated 18.12.2001. But he did not carry out the order instead he filed an application before the Hon'ble Tribunal Guwahati challenging the transfer order.
3. That with regard to the statements made in paragraph 1 of the application the respondent beg to state that the applicant failed to understand the meaning of the orders 14.12.1983 & 22.7.1998 (Annexure IV & V) wherein it has been stressed that on completion of the fixed tenure of service at a place of the North-East Region of India, an employee becomes eligible for transfer and the competent authority may consider to transfer and post the concerned employee to a station of his choice as far as possible. But this is not mandatory and he can be accommodated to his choice station subject to administrative constraints.
4. That the respondents have no comments to the statements made in paragraph 2,3 and 4.1 of the application.
5. That the statements made in paragraph 4.2 of the application are matter of record.
6. That with regard to the statements made in para 4.3 of the application the respondents beg to state that the rule referred to by the applicant under the head, tenure of posting/deputation unambiguously indicates that posting of an employee on transfer to his place of choice is not mandatory or compulsory. Such request may only be considered as far as possible.
7. That with regard the statements made in para 4.4 of the application the respondent beg to state that first part of the paragraph is a matter of record but regarding the 2nd part what he was planning cannot be predicted by others.

8. That with regard the statements made in para 4.5 of the application the respondent beg to state that it is a matter of record.
9. That with regard the statements made in para 4.6 of the application the respondent beg to state that the representation of the applicant was duly considered by the competent authority but could not be acceded to as there was no vacancy at Nagpur.
10. That with regard the statements made in para 4.7 of the application the respondent beg to state that matter of records. The memorandum No.15-39/99/Estt. dated 18.12.2001 and a copy of the telegram had to be handed over to the applicant on 17.1.2002 after he joined in the office on expiry of his leave, because the applicant had refused to receive either of the above orders earlier sent to his home address. The Applicant has misrepresented the fact before the Hon'ble Tribunal which is unbecoming on the part of a Group-A (Gazetted) officer.
11. That with regard the statements made in para 4.8 of the application the respondent beg to state that this claim of the Applicant is beyond his jurisdiction. This para is another example of the arrogance and non-challant attitude of the Applicant towards the official rules and procedures. Instead of complying with the order of the competent authority he wants that some other employee should be transferred to make room for the Applicant.
12. That with regard the statement made in para 4.9 of the application the respondent beg to state that transfer orders in respect of officers are issued as per approval of the Director, Anthropological Survey of India in the interest of research and smooth functioning of the administration as well. The allegation that the transfer order was issued suddenly is a wild guess of the Applicant. The allegation of the Applicant that the transfer order has been issued on the behest of the Head of Office, Shillong who has allegedly been harassing the Applicant since long back on minor issues is totally baseless and untrue. On the contrary it is the Applicant who is in the habit of insubordination of the office orders issued by the competent authority and harassing the administration in every possible manner. The present Head of Office has taken the charge of the Head of Office, with effect from 3.4.2001, therefore, harassing the Applicant by the present Head of Office since long back is completely misleading, baseless and unfounded allegation.
13. That with regard the statement made in para 4.10 of the application the respondent beg to state that the prayer of the Applicant was duly considered by the competent authority but could not be acceded to because of non-availability of vacancy at Nagpur. The position was duly communicated to the applicant vide this office Memorandum No.15-39/99/Estt. dated 18.12.2001. (Annexure-3). Therefore, question of any arbitrary, unjust, unfair and malafide acts does not arise. The prayer of the applicant deserves to be summarily rejection by the Hon'ble Tribunal.
14. That with regard the statement made in para 4.11 of the application the respondent beg to state that the application has been filed with misleading statements and malafide intention to harass the

competent authority and disrupt the smooth functioning of administration.

15. That with regard the statement made in para 5.1 of the application the respondent beg to state that the applicant has made a false statement by stating that he has completed more than 4 years in the North-East Regional Centre, Shillong. The applicant has just completed four years at Shillong on 19.1.2002. Therefore, claim of the applicant that he has completed more than 4 years at Shillong is a misleading statement. As per Govt. order, referred to by the applicant, he is only eligible to get transfer.
16. That with regard the statement made in para 5.2 of the application the respondent beg to state that the Govt. order as referred to by the applicant does not confer any right to an employee to get transfer to a place of his choice, instead it provides only some guidelines which may be followed in possible cases as far as practicable.
17. That with regard the statement made in para 5.3 of the application the respondent beg to state that there is no truth in the applicants statement that "not considering his applications". He never made any application for transfer. But only after receiving the transfer order, he made an application for posting at Nagpur. His application was duly considered but his request could not be acceded to due to reasons of non-availability of vacancy at the place of choice of the applicant which was duly communicated to him. This was done as per the existing norms of the Govt. organisation. The Question of any vindictive attitude on the part of the Respondents and violation of Natural Justice does not arise.
18. That with regard the statement made in para 5.4 of the application the respondent beg to state that the respondents are to oversee that the Govt. servant who has taken oath to perform official duties as per the norms and procedures should function for the overall interest of the Govt. organisation. Personal matter cannot come on way to such official duties.
19. That with regard the statement made in para 5.5 of the application the respondent beg to state that transfer of the applicant from the North-East Regional Centre, Shillong to the Eastern Regional Centre, Kolkata is in accordance with the terms and conditions of the All India Transfer liability. Posting at the place of choice is not a right, it may be considered only as far as possible.
20. That with regard the statement made in para 5.6 of the application the respondent beg to state that as the applicant has shown insubordination to the order of the Govt. on a personal ground, granting the prayer of the applicant would encourage other employees of the organisation to disobey official orders which would work against the overall smooth running of the research and administration of the whole organisation. The applicant has neither mentioned the order number nor given any copy of Hon'ble Tribunal's order passed earlier, as stated in his application.
21. That with regard the statement made in para 6 of the application the respondent beg to state that the statement made in paragraph

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applicant

6 of the application is absolutely false. The ~~application~~ has made one representation to the Respondent, to which the No.3 communicated that the request of the application can not be acceded to. In absence of any evidence that all the remedies available under the set norms and procedures of the Govt. have been exhausted, the claim of the applicant is unfounded and hence deserves to be rejected summarily.

22. That with regard the statement made in para 7 of the application the respondent beg to state that it is a matter of record.
 23. That with regard the statement made in para 8, 8.1, 8.2, 8.3 of the application the respondent beg to state that under the facts and circumstances stated in the foregoing paras the application and the prayer for relief of the applicant may be rejected summarily.
 24. That with regard the statement made in para 8.4 of the application the respondent beg to state that the applicant, a Group-A (Gazetted) officer has disobeyed the Govt. order and has failed to comply with such order even after issuance of a reminder by the Respondents. This has set an adverse example before the other employees. The act of the applicant is unbecoming, being a Group-A (Gazetted) officer. The application deserves to be dismissed without granting any cost.
 25. That with regard the statement made in para 8.5 of the application the respondent beg to state that in view of the reasons stated at the para 24 above the relief sought for by the applicant may be rejected summarily.
 26. That with regard the statement made in para 9, 9.1, 9.2 of the application the respondent beg to state that in the interest of the smooth functioning of the Govt. organisation towards implementation of the research and administrative programmes and also not to provide with an example to the other employees which might encourage them to show their insubordination towards Govt. orders, the application may be dismissed forthwith and the relief sought for by the applicant may be rejected summarily. The applicant may be directed to comply with the transfer order issued by the competent authority, immediately.
 27. That with regard the statement made in para 10, 11, 12 of the application the respondent beg to state that it is a matter of record.
 28. That the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with cost.
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VERIFICATION

I, Dr. Bibhash Dhar, Head of Office and Anthropologist (Cul) of the Anthropological Survey of India, North-East Regional Centre, Mawblei, Shillong being authorised and competent to sign this verification do hereby solemnly affirm and state that the statements made in paragraph 1, 4-6, 8, 11, 14 + 27 of the written statement are true to my knowledge, those made in paragraphs 2, 3, 7, 9, 10, 12, 13 + 15

being matter of record are true to my information derived there from which I believe to be true and those made in the rest are humble submission before the Hon'ble Tribunal. I have *not* suppressed any material facts.

And I sign the verification on this 2nd day of February, 2002 at Guwahati



DEPONENT

नामालय अध्यक्ष

Head of Office

भारतीय मानव विज्ञान सर्वेक्षण

Anthropological Survey of India

भारत सरकार

Government of India

उत्तर पूर्व क्षेत्रीय केन्द्र

NERC

शिलांग-793001

Shillong 793001

A-4

ANNEXURE I

ANNEXURE-139

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Regal.

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Shri Sona
25/3/97
15/4/97

No.F.12-17/95-LTB.II
Government of India
Ministry of Human Resource Development
Department of Culture

New Delhi, 3/ March, 1997.

Subject : Recruitment to the posts of two Anthropologists(Physical) in the Anthropological Survey of India, Ministry of Human Resource Development, Department of Culture, New Delhi.

On the recommendations of the Union Public Service Commission, New Delhi, the President is pleased to offer the post of Anthropologist(Physical) to Shri Bhaskar Pralhad Urade, Research Assistant(P) in the Anthropological Survey of India on initial pay to be fixed according to rules in the scale of pay of Rs.2200-75-2800-EB-100-4000/- plus usual allowances at the rates admissible and subject to other conditions laid down in the relevant rules.

2. The terms of appointment of Shri Urade are as under:-

- The appointment of Shri Urade will be on purely temporary basis and Shri Urade will be on probation for a period of two years which may be extended, if necessary, and will be liable to discharge or revert to his substantive post as the case may be, in case probation period is not satisfactorily completed.
- The offer of appointment carries with it the liability to serve in any part of India.
- Other conditions of service will be governed by the relevant rules and orders in force from time to time.
- The offer of appointment is subject to verification of character antecedents, Medical Examination report from the competent authorities and B.Sc & M.Sc. degree certificates.

3. If Shri Urade accepts the offer on the above mentioned terms and conditions for his appointment as Anthropologist(P), he should communicate his acceptance to the Director, Anthropological Survey of India, 27, Jawaharlal Nehru Road, Calcutta within one month from the date of issue of this order. His appointment will take effect from the date he assumes the charge of his duty in the Anthropological Survey of India in response to the order of appointment to be issued by them after the completion of formalities as mentioned in para 2(d) above. If no reply is received within the prescribed period, the offer will stand cancelled.

Sd/-

(J.R. AGGARWAL)

UNDER SECRETARY TO THE GOVT. OF INDIA

Shri Bhaskar Pralhad Urade
Research Associate(P)
Anthropological Survey of India
Southern Regional Centre
2963, Gokulam Road, V.V. Mohalla
Mysore - 570002.

Anthropologist
Anthropological Survey of India
Government of India
N. E. Region
SHILLONG

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ANNEXURE II

To
The Director
Anthropological Survey of India
27, Jawaharlal Nehru Road,
Calcutta - 700016.

Through proper channel

Sir,

Sub : Recruitment to the post of Two Anthropologist
(Physical) regarding.

With reference to letter No. F.12-17/95-LIB.II dated 31 March, 1997 from Govt. of India, Ministry of Human Resource Development, Department of Culture, New Delhi. I would like to inform you that, I thankfully accepts the offer on the terms and conditions laid down in the said letter for the above mentioned post.


Further, I request you to kindly send letters to the Karnataka Medical Examination Board, Bangalore (To, The Directorate of Health Services, Govt. of Karnataka, Anand Rao Circle, Bangalore-9) so as to enable me to undergo medical examination at Govt. K.R. Hospital, Mysore, at an early date.

Sir, my humble request to you to kindly send me the communication by Registered post at official address.

I hereby enclosing the offer of appointment from the Ministry of H.R.D., Dept. of Culture for your kind perusal and necessary action.

Mysore,
Dated 15th April, 1997

Yours faithfully,


Anthropologist
Anthropological Survey of India
Government of India
N. E. Regional Centre
SHILLONG

Sd/-
BHASKAR PRAHLAD URADE
R.A.(P)
Anthropological Survey of India
S.R. Centre
V.V. Mohalla,
Mysore - 570002

Annexure ~~II~~ III
9

ANNEXURE - V

(1)

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Guidelines for posting and transfer of the employees of the Anthropological Survey of India, as approved by Government in Letter No. F.11-13/77-CAI(I) dated 30th March, 1977 and No. F.11-50/83-OH.I dated 14th September, 1983, are modified as follows:-

1. All new research recruits shall ordinarily start their term at offices outside Calcutta (which includes the Eastern India Station). The Eastern India Regional Office will be treated, except in this case, as a field station.
2. Transfer from Regional/Field Offices shall be effected only after substitutes have been provided and posted, which will ensure that the Regional/Field Office which is the main agency of the field survey is not weakened at any cost;
3. Officers shall ordinarily be liable for transfer on completion of a period of 5 years at an office, except at Port Blair in which case a period of service lasting 3 years and except at Shillong where a term of 4 years will suffice for transfer. An officer who has completed his/her term as above at Port Blair or Shillong and is seeking a transfer will be given special preference in the matter of posting at the Head Office, the Eastern India Regional Office or any other office of their choice. In deserving cases, such a transfer may be effected even by transferring an incumbent who has completed not less than 5 years at the Office concerned.
4. All officers of the Survey liable to be transferred shall ordinarily be transferred from one field office to another or to the Head Office and vice-versa after he or she has spent 5 years at a particular office. This may be a routine transfer which under normal circumstances should not be avoided. All Officers should serve at least two terms outside the Head Office, during service career.
5. Officers engaged in research work shall not be transferred unless the project on which he or she is engaged has been completed and report thereon submitted to the Regional Officer or Supervisor to his satisfaction and accepted by the Head Office, according to a time bound programme, which under no circumstances shall exceed the time limit of six months, after the transfer has become due.
6. In case of promotion of officers engaged in research work, the Head Office shall ensure that the promotees engaged on a project do not suffer. If considered necessary, they will be allowed to take charge of the higher post at the place of their original posting and continue as such till such time as the project on which they are engaged is completed according to a time bound programme not exceeding six months. They may also be brought on a temporary transfer to complete the project again under a time bound programme, not exceeding the time limit mentioned above.
7. Among the officers seeking change to Calcutta (which includes the Eastern India Office) or any other place of their choice, those who have put in a longer period of service outside Calcutta shall be given priority.
8. Husband and wife working in the Survey should be posted at the same station as far as practicable.

Anthropologist
Anthropological Survey of India
Government of India
N. E. Regional Centre
SHILLONG
2/12/82

9. An officer who has been offered and has accepted a posting on promotion at a place outside Calcutta must join there and shall not continue to stay or be shown in Calcutta against a field post.

10. A list of eligible officers who have opted for transfer from one field office to another or from a field office to the headoffice and vice-versa shall be prepared at the beginning of the calendar year by the Head Office according to their seniority and merit and a panel be drawn up accordingly with the approval of the administrative Ministry. They will ordinarily be transferred during the months fixed according to their place in the panel.

11. Notwithstanding anything contained in clauses 1-10 above, the Head of the Department, in his discretion, may transfer at any time, any officer in public interest or on compassionate ground, but in all such cases it shall be ensured that the projects in hand are completed and that no posts are transferred. Any such transfer should, however, be brought to the notice of the administrative Ministry.

N.B. The word 'Officer' in the above guidelines connotes both Gazetted and non-Gazetted Officers of Groups A, B, C & D.

Attended
P. M. S. S. I.
2/12/50
Anthropologist
Anthropological Survey of India
Government of India
N. E. Regional Centre
SHILLONG

Annexure-1

11
Annexure IV
43

NO. 20614/2/83/E.IV
Government of India
Ministry of Finance
Department of Expenditure

New Delhi, the 14th Dec 83

OFFICE MEMORANDUM

Subject: Allowances and facilities for civilian employees of the Central Government serving in the states and Union Territories of North Eastern Region-improvements thereof.

The need for attracting and retaining the services of competent officers for service in the North Eastern Region comprising the states of Assam, Meghalaya, Manipur, Nagaland, Tripura and the Union Territories of Arunachal Pradesh and Mizoram has been engaging the attention of the Government of some time. The Government had appointed a committee under the chairmanship of Secretary, Deptt. of Personnel and Administrative Reforms, to review the existing allowances and facilities admissible to the various categories of civilian Central Government employees serving in this region and to suggest suitable improvements. The recommendations of the committee have been carefully considered by the Government and the President is now pleased to decide as follows:

1) Tenure of posting/deputation.

There will be a fixed tenure of posting of 3 years at a time for officers with services of 10 years or less and of 2 years of service at a time for officers with more than 10 years of service, periods of leave, training etc. in excess of 15 days per year will be excluded in counting the tenure period of 2/3 years. Officers on completion of the fixed tenure of service mentioned above, will be considered for posting to a station of their choice as far as possible. The period of deputation of the Central Government employees to the states/union territories of the North Eastern Region will generally be for 3 years which can be extended in

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22/10/83
Anthropologist
Anthropological Survey of India
Government of India
N.E. Regional Census
SHILLONG

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22/10/83

12 Annexure 78 49 8

Sl. No. 11(7)/97-E.II(B)
Government of India
Ministry of Finance
Department of Expenditure

New Delhi dated July 22, 1998

OFFICE MEMORANDUM

Subject : Allowances and facilities for civilian employees of the Central Government serving in the States and Union Territories of North Eastern Region and in the Andaman & Nicobar and Lakshadweep Groups of Islands - recommendations of the Fifth Central Pay Commission.

With a view to attracting and retaining competent officers for service in the North-Eastern Region, comprising the territories of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura, orders were issued in this Ministry's O.M. No. 20014/3/83-E.IV dated December, 14, 1983 extending certain allowances and other facilities to the Civilian Central Government employees serving in this region. In terms of paragraph 2 thereof, these orders other than those contained in paragraph 1(iv) *ibid* were also to apply *mutatis mutandis* to the Civilian Central Government employees posted to the Andaman & Nicobar Islands. These were further extended to the Central Government employees posted to the Lakshadweep Islands in this Ministry's O.M. of even number dated March 30, 1984. The allowances and facilities were further liberalised in this Ministry's O.M. No. 20014/14/86/E.IV/E.II (B) dated December 1, 1988 and were also extended to the Central Government employees posted to the North Eastern Council when stationed in the North Eastern Region.

The Fifth Central Pay Commission have made certain recommendations suggesting further improvements in the allowances and facilities admissible to the Central Government employees, including Officers of the All India Services, posted in the North Eastern Region.

Attended
27/7/98
Anthropologist
Anthropological Survey of India
Government of India
N. E. Regional Centre
SHILLONG

A H. W. J.
Chen
27/7/98

7 MAR 2002

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O. A. NO. 13 OF 2002

Shri Bhaskar Pralhad Urade

VS

Union of India & Ors.

Filed by
45-
Bhaskar Pralhad Urade
Applicant
Through
Sanjay Kumar Meadhi, Advocate
7.3.2002

...APPLICANT

...RESPONDENTS

Rejoinder by the applicant to the original application

I, Shri Bhaskar Pralhad Urade, s/o Shri P. Urade, aged about 33 years, at present residing at Shillong do hereby solemnly affirm and say as follows:

1. That I am the applicant in the instant application. A copy of the written statement filed for and on behalf of the respondent no. 1, 2, 3 and 4 has been served upon my counsel. I have gone through the same and understood the contents thereof. Since the said written statement contains averments which are incorrect, the present rejoinder is being filed.
2. That with regard to the statements made in paragraph 2 (i) of the written statement, your applicant states that though he had immediately accepted the offer of appointment of Anthropologist (P) made vide order dated 31.3.97, immense delay was caused by the respondent no. 2 in allowing your applicant to join and he could ultimately join the post only on 20.1.98. In this regard, your applicant had made a representation to the President of India on the inordinate delay. It may be mentioned that prior to joining as Anthropologist (P), your applicant was working as Research Associate (Physical) in the Southern Regional center, Mysore since 1.5.95. Though few posts of Anthropologist (P) were lying vacant at Mysore itself, your applicant was not posted at Mysore.
3. That the statements made in paragraph 2 (ii) of the written statement are absolutely incorrect and categorically denied. It is denied that the transfer of your applicant has been made in the interest of the organization and due to administrative exigencies and to strengthen the laboratory of the Eastern Regional Centre of Survey at Kolkata, as has been alleged. In this connection it may be mentioned that the ERC at Kolkata is

an old office and many expert officers are working there and the laboratory is not a fresh one. Further, Dr. B N Sarkar, Anthropologist (Physical) was sent for special training and not your applicant. Lastly, there is no other senior Anthropologist (Physical) at Shillong.

Annexure III of the written statement containing the guidelines for posting and transfer of the employees of the Anthropological Survey of India may be referred to. Paragraph 3 of the said guidelines makes it abundantly clear that an officer serving at Shillong for a period of 4 years and is seeking a transfer will be given special preference to a place of his choice. Clause 2 of the said guidelines specifically states that transfer from the Regional / field offices shall be affected only after substitutes have been provided and posted. Clause 5 specifies that officers engaged in Research work shall not be transferred unless the project on which he is engaged have been completed and report thereon submitted to the Regional officer and accepted. In the instant case, all the aforesaid clauses have been blatantly violated. Even before your applicant had completed a tenure of 4 years at Shillong, the impugned order of transfer was issued when your applicant was on leave. No opportunity or request was sought for from your applicant with regard to posting at a place of his choice.

There is no substitute to replace your applicant at Shillong in the post of Anthropologist (P).

Lastly, your applicant being in the midst of a Research work on a project of National importance namely "Growth and Development of Children: Bio Cultural Perspective." Your applicant is the regional co-ordinator of the said project in which 4 officers of the Centre are actively engaged and vide the impugned order, the interest of the scientific work would be adversely affected. The said project is a 3 phase one and the second phase is in progress.

4. That the statements made in paragraph 2(iii) of the written statement are incorrect and categorically denied. It is categorically denied that your applicant has the intention of willful insubordination or disobedience and of non-compliance of the superior authority's order. The impugned order was passed when your applicant was on leave and it came as a bolt from the blue. Immediately, on receiving the same, your applicant submitted an application in which he had the earliest opportunity to express

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Shankar Prasad - Made

his choice of posting as Nagpur. It may be mentioned that your applicant has to look after his ailing parents who are at his home State - Maharashtra and Nagpur is the nearest Regional Centre. Your applicant reiterates that the impugned order is vitiated by bias and mala fide and not in the interest of public service and the organization.

5. That the statements made in paragraph 2(iv) of the written statement clearly reflects the vindictive attitude of the respondent authorities whereby your applicant approaching this Tribunal for justice has been deprecated.

6. That the statements made in paragraph 3 of the written statement are incorrect and hence denied. By their own admission in Annexure III to the written statement wherein the guidelines for transfer and posting has been stated, the impugned transfer is in gross violation of the said guidelines. Further, discrimination writ large on the face of the records in as much as, your applicant has been meted out with hostile discrimination vis-a-vis the other officers / employees. In this connection, your applicant begs to cite a few examples:

- a) That Dr. Debashish Basu, working as Research Associate (Physical) in North Eastern Centre, Shillong was transferred to Field Station, Ranchi in June 2000 but not yet released from this office. No action was taken against him even when the same order was not carried out by him.
- b) That Sri Chandan Ghosh was working as Assistant Statistician in this regional center and he was transferred to Head Office kolkata without completion of his tenure in N. E. Region.
- c) That Dr. Bibhas Dhar, Anthropologist (Cultural) was transferred from NERC, Shillong to Central Sub Regional Center, Jagdalpur on 23.11.1998 and was transferred back within a year or so to NERC, Shillong on 18.9. 2000 by the respondent No. 2 even when he did not complete his tenure of 5 years as stated in the transfer policy.
- d) That Dr. R.K. Saha was working as Anthropologist (Cultural) in this Regional center since November 1998. On promotion as Superintending Anthropologist (Cultural) in October 2000, he was given order to join in NERC, Shillong. But within a short period of 2

months he was asked by the respondent No. 2 and 3 over telephone to send an application for transfer to head Office, Kolkata through fax and within no time Dr. Saha was transferred from NERC Shillong to Head Office, Kolkata in November 2000 without completion of tenure of service in N.E. Region.

Thus it becomes abundantly clear that it is only in the case of your applicant that he is sought to be treated in an unfair and discriminatory manner. Further, there is no intelligible distinguishing feature from the examples cited above and your applicant and thus the said differentiation is bad in law and liable to be interfered with.

7. That the statements made in paragraph 4 and 5 of the written statement, your applicant reiterates the statements made in paragraphs 2, 3, 4.1 and 4.2 of the application.

8. That the statements made in paragraph 6 of the written statement are incorrect and hence denied. As stated earlier, the guidelines regarding transfer and posting which has been referred to by the respondent as Annexure III makes it clear that the same has been violated in all respects. Even assuming but not admitting that transfer to a place of his choice is not mandatory and would only be considered as far as possible, the discrimination meted out to your applicant has elaborately been stated in paragraph 6 above. That apart, no substitute has been posted in place of your applicant. Further, your applicant being in the midst of a Research Project, the impugned transfer would be detrimental to the interest of the organization.

9. That with regard to the statements made in paragraphs 7 and 8 of the written statement, your applicant states that while he was on Earned / Medical leave at his home town in Maharashtra from 29.10.2001 to 11.1.2002, he was shocked to receive the impugned order of transfer on 15.11.2001 and immediately thereafter, on the earliest opportunity, your applicant expressed his choice of posting on transfer to be Nagpur so as to enable himself to look after his ailing parents. Since, an order of transfer is generally made on completion of 4 years, which your applicant would have completed on 20.1.2002, there was no occasion to submit an application for transfer before time.

4/5
Bhaskar Prasad Nade

10. That the statements made in paragraph 9 of the written statement are incorrect and hence denied. It is categorically denied that the representation dated 16.11.2001 of the application was duly considered by the competent authorities. In this connection, your applicant states that a further representation dated 26.11.2001 was made whereby it was requested that he may be transferred to the Central Regional Centre Nagpur so that he can take care of his aged parents who are dependant on him or otherwise be permitted to continue in the same Regional Centre. However, the authorities without any application of mind rejected the said request as the authorities had a vindictive attitude towards your applicant.

A copy of the letter dated 26.11.2001 is annexed hereto and marked as Annexure VII.

11. That the statements made in paragraph 10 of the written statement are incorrect and and hence denied. It is denied that your applicant had refused to receive the order dated 18.12.2001 and the telegram, as has been alleged. It is categorically denied that your applicant has misrepresented anything before this Hon'ble Tribunal. The remark / allegation of unbecoming on the part of a Group A (Gazetted) officer is absolutely incorrect and the same has been made with a mala fide intention. This Hon'ble Tribunal may direct the respondent authorities to withdraw the said remark.

12. That the statements made in paragraph 11 of the written statement are incorrect and and hence denied. The suggestion given by your applicant of accommodating him at Nagpur in place of Shri. Gopal kishan who is willing to go to Dehradun cannot be said arrogance and "non - challant" attitude of your applicant towards the official rules and procedure. On the other hand, the statements made in paragraph 11 of the written statement would reveal the rigid and arrogant stand of the respondent authorities.

13. That the statements made in paragraph 12 of the written statement are incorrect and your applicant reiterates the statements made in paragraph 4.9 of the application. It is reiterated that the impugned transfer of your applicant without asking the place of his choice has been done at the behest of the respondent no. 4. It may be mentioned that the respondent no. 4 has been indulging in malpractices to which your applicant

had time and again objected. The malpractices relate to administrative lapses as well as financial irregularities.

Your applicant was a member of the Committee constituted for acquisition of land and building for the office where he had made certain observations in the file which was not to the liking of the respondent no. 2. It may be mentioned that the initial assessment was Rs. 72,67,669/- on 8.3.98 when the Office of the Custom And Central Excise wanted to buy the same building. However, the same has been increased to about Rs. 1.8 crores without any reason. The same was reported by your applicant to the Secretary, Ministry of Tourism and Culture, Government of India.

Though the respondent no. 4 is looking after the post of Head of Office, he is holding an equivalent post and rank to that of your applicant. The said respondent no. 4 had locked the toilet attached to your applicant's room for more than 2 days in June 2001 causing humiliation to your applicant.

The respondent no. 4 appointed a Group B officer- Shri. R. Th. Varte, Assistant Anthropologist as officer-in-charge of the Physical section who is junior to your applicant both in rank and post to harass and humiliate your applicant.

Lastly, after this Hon'ble Tribunal had stayed the impugned transfer vide order-dated 18.1.2002, a copy of the said order was furnished to the respondent including the respondent no. 4 on 21.1.2002. However, in defiance of the same, the respondent no. 4 vide order dated 25.1.2002 asked your applicant to return all the Government articles - physical Anthropology instruments, Statistical instruments, Library books etc within 3 days out of which 26th and 27th January 2002 were holidays. Being faced with the aforesaid situation, your applicant wrote letter dated 28.1.2002 to the respondent no. 4 whereby it was requested that a peon should be arranged through whom the articles could be returned. The stay order by this Hon'ble Tribunal was once again brought to the notice of the respondent no. 4.

Copies of the letters dated 25.1.2002 and 28.1.2002 is annexed hereto and marked as Annexure VIII and IX respectively.

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Bhaskar Bhallad Mode

15. That the statements made in paragraphs 15, 16, 17, 18, 19 and 20 of the written statement are incorrect and hence denied. Your applicant reiterates the ground stated in paragraphs 5.1, 5.2, 5.3, 5.4, 5.5 and 5.6 of the application. It is reiterated that the impugned transfer is in gross violation of the guidelines and is vitiated by bias and malafide.

16. That the statements made in paragraph 21 of the written statement are incorrect. The representation of the application has not been duly considered and has been replied to in a most mechanical manner.

17. That the statements made in paragraph 23, 24 and 25 of the written statement are incorrect and hence denied. The relief sought for in paragraph 8 of the application are just, adequate and complete.

18. That the statements made in paragraph 26 of the written statement are incorrect and this Hon'ble Tribunal being prima facie satisfied has already been pleased to stay the impugned order of transfer.

19. That the statements made in paragraph 28 of the written statement are incorrect and hence denied. Your applicant has approached the Hon'ble Tribunal in the interest of justice.

20. That your applicant submits that the impugned order of transfer being in the gross violation of the guidelines and being discriminatory, unfair and unreasonable, this Hon'ble Tribunal may be pleased to set aside and quash the same.

VERIFICATION

I, Shri Bhaskar Pralhad Urade, s/o Shri P. Urade, working as Anthropologist (Physical), Anthropological Survey of India, North Eastern Regional Centre, Shillong do hereby solemnly affirm and verify that the statements made in the present rejoinder are true to my knowledge, record and information which I believe to be true. I have not suppressed any material facts. And, I sign this Verification on this 5th day of March, 2002.

Bhaskar Pralhad Urade

Regd. Letter

Dt. 26.11.2001

To

The Director,
Anthropological Survey of India,
27, Jawaharlal Nehru Road,
Calcutta - 16

Through Proper Channel

- Ref : 1. Telegram dated 9.11.2001 from H.O. Shillong received on 22.11.2001
2. Memorandum No. 1-334/98/Estt dated 12.11.2001 from H.O. Shillong received on 24.11.2001
3. My appeal dated 16.11.2001 for change of posting from ERC, Calcutta to CRC, Nagpur

Sir,

With reference to above mentioned references I request you to kindly transfer me from NERC, Shillong to CRC, Nagpur of this Survey. As per Govts. provision after serving in the most difficult/tough station, I may please be given desirable regional centre/place of posting, otherwise I may be permitted to continue in the same regional centre.

Further, at present I am on leave and taking care of my aged parents since they are depending on me. After sometime I will report for duty.

This is for your kind information and necessary action please.

Address for communication :

B.P. Urade
At - Pipri Deshpande,
Post - Gowardhan, Teh - Gondpipri
Dist - Chandrapur
(Maharashtra) - 441226

Yours faithfully,

Sd/-
(B.P. Urade)
A(P)
On leave

Anthropological Survey of India,
North East Regional Centre,
Mawlnai Block-B, Madanrting,
Shillong - 793 021.

No. 5-97/5/193

Dated : January 25, 2002.MEMORANDUM

From :

Head of Office
Anthropological Survey of India
Government of India
North East Regional Centre
Shillong 793001

To
Shri B.P. Urade,
Anthropologist (P),
Anthropological Survey of India,
NERC, Shillong - 793 021.

With reference to this office Memo of even number dated 15-01-2002, the undersigned again request you to kindly return the Government articles, viz. Physical anthropological instruments, statistical instruments/articles, store articles and Library books as per the enclosed list within 3 (three) days to this office.

List enclosed: 1 copy

(B. Dhar)

Head of Office
Anthropological Survey of India
Government of India
North East Regional Centre
Shillong 793001

No. 5-97/5

Dated : January 25, 2002.

Copy for information to :-

The Director, Anthropological Survey of India, 27, Jawahar-
lal Nehru Road, Kolkata - 700 016.

(B. Dhar)

Head of Office
Anthropological Survey of India
Government of India
North East Regional Centre
Shillong 793001

Recd
12/1
25.01.2002
At 12.30 pm

To

Head of Office,
Anthropological Survey of India,
NERC, Mawblei,
Shillong - 21

Sir,

With reference to office memo No.5/97/5/193 dated 25.01.2002 forcing me to return the Office articles which are of daily use, I am to request you to kindly arrange a peon through whom I can return the same as there is no peon attached to me. Strangely, I was given only one day to return the office article since 26 & 27 January, 2002 were closed holidays.

Further I would like to state that kindly refer my stay order granted to me against my impugned transfer order from NERC, Shillong to ERC, Kolkata by the Hon'ble CAT, Guwahati. Despite submitting a copy of stay order arbitrarily compelled to return the office property with what purpose and intention I do not understand. I may kindly be informed where should I sit and how do I perform my office duty so long I am here in this office.

This is for your information and necessary action.

Shillong, 28.01.2002

(B.F.Urade)

Anthropologist (P)
ASI, NERC, Shillong