

50/100

3

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 132/2002.....

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SECTION OFFICER (Judl.)

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

ORDER SHEET

Original No. 132 / 2002
 Misc. Petition No.
 Contempt Petition No.
 Review Application No.

Applicant(s) Kamala Kanti Patowary

Respondent(s) U.O.I & Others

Advocate for Applicant(s) Debojit Bhattacharjee

Advocate for Respondent(s) Addl. C.G.S.C. A.K. Chandray

Notes of the Registry	Date	ORDER OF THE TRIBUNAL
-----------------------	------	-----------------------

1.5.2002
 76574402

26.4.02
 Dy. Registrar

Steps taken w.r.t. mtr envelopes.

[Signature]

1.5.2002

Admit, call for the records.
 Pendency of this application shall not preclude the applicant to make a representation as well the respondents to review/modify the order of transfer.
 List the case for order on 31.5.2002.

[Signature]
 Vice-Chairman

bb

Received one part (A) and Notice prepared and sent to D/S for mtr. the respondent No 1 to 3 by Regd. No. 10/815/02

31.5.02

List again on 5.7.2002 to enable the Respondents to file written statement.

[Signature]
 Vice-Chairman

DINo 13966/98
 Dtd 9/5/02

mb

Service report are still awaited

5/7

Mtr account sitting at Agartala, the case is adjourned to 19/7/02.

[Signature]
 A.K. Chandray

30.5.02

N
1

9.7.2002

W/s submitted
by the respondent Nos.
1, 2 and 3.

~~19.7.02~~

~~Application for adjournment.~~

~~Chaudhary learned JUDGE.~~

~~four weeks time is allowed for
filing of written statement
thereon~~

[Signature]

19.7.02

Written statement has
been filed. The case may now be
listed for hearing on 23.8.02.
In the meantime the applicant may
file rejoinder if any, within two
weeks.

[Signature]
Member

23.8.2002

Judgment dtd 23/8/02
Communicated to the
applicant & the parties
counsel. *[Signature]*

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

[Signature]
Member

nkm

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./~~XXX~~No...132.....of 2002

DATE OF DECISION. 23.8.2002.....

Shri Kamala Kanta Patowary APPLICANT(S)

Mr Debajit Bhattacharyya and
Ms U. Das ADVOCATE FOR THE APPLICANT(S)

-VERSUS-

The Union of India and others RESPONDENT(S)

Mr A.K. Chaudhuri, 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 Administrative Member

U U Sharma

5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.132 of 2002

Date of decision: This the 23rd day of August 2002

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

Shri Kamala Kanta Patowary,
Upper Division Clerk,
State Forest Service College,
Burnihat, Assam.

.....Applicant

By Advocates Mr Debajit Bhattacharyya and
Ms U. Das.

- versus -

1. The Union of India, through the
Inspector General of Forest,
Ministry of Environment and Forest,
New Delhi.

2. The Director,
Forest Education,
Directorate of Forest Education,
P.O.- New Forest, Dehradun.

3. The Principal,
State Forest Service College,
Burnihat, Assam.

.....Respondents

By Advocate Mr A.K. Chaudhuri, Addl. C.G.S.C.

.....

O R D E R (ORAL)

K.K. SHARMA (ADMINISTRATIVE MEMBER)

The application is against the order of transfer dated 20.11.2000 transferring the applicant from State Forest Service College-Cum-Research Centre, Burnihat to Eastern Forest Rangers College, Kurseong and also against the order dated 20.3.2002 relieving the applicant from Forest Service College, Burnihat.

2. The applicant joined service as Lower Division Clerk in the State Forest Service College-Cum-Research Centre, Burnihat, Assam on 19.7.1983. On promotion in 1993 as Upper Division Clerk, the applicant continued at the same station. By order dated 20.11.2000 the applicant has been

10 Usha

transferred to Eastern Forest Rangers College, Kurseong. He made representation dated 18.12.2000 to the Director of Forest Education, Dehradun through the Principal, State Forest Service College, Burnihat. This was followed by a representation to the Under Secretary, Government of India, Ministry of Personnel, P.G. and Pension, Department of Personnel and Training, New Delhi dated 28.9.2001. In the representation to the Department of Personnel and Training, the applicant mentioned that apart from being a reserved category employee he was also a handicapped person. The respondents called for explanation of the applicant for making representation directly to the higher authority and also for not giving information about his being a handicapped person at the time of employment. Ultimately, by order dated 20.3.2002, Annexure XIII, the applicant was informed that it was not possible to retain him at Burnihat.

3. Mr D. Bhattacharyya, learned counsel for the applicant, argued that the applicant has four school-going children and that his transfer to Kurseong would affect the education of his children, who are studying in Assamese Medium School. He also argued that the applicant being a member of the Scheduled Caste Community is entitled to the benefit for being posted in the hometown. The applicant's transfer from Burnihat to Kurseong, according to the learned counsel for the applicant, was malafide.

4. The respondents submitted their written statement. Mr A.K. Chaudhuri, learned Addl. C.G.S.C., argued on behalf of the respondents. The learned Addl. C.G.S.C. referring to the written statement, submitted that the applicant had been serving at the same station from the date of his

joining.....

K. Ushaha

joining, i.e. 19.7.1983. Reacting to the submission of the learned counsel for the applicant that there were three other Upper Division Clerks at Burnihat and that one of them could be transferred, Mr A.K. Chaudhuri argued that it was for the respondents to consider as to who should be transferred. Mr A.K. Chaudhury further argued that the O.M. dated 20.6.1989 regarding the benefit given to SC employees (Annexure 4 to the written statement) only stated that as far as possible the reserved category employees should be given postings near their hometown. It was argued that the Forest Rangers College at Kurseong is the nearest to the State Forest Service College, Burnihat. It was also stated that there was no Upper Division Clerks at Kurseong while there were three Upper Division Clerks at Burnihat. The transfer was made on administrative grounds to fill up the existing vacancy in that place and it did not call for cancellation of the transfer order.


5. I have carefully considered the submissions made on behalf of the parties. Normally, the Tribunal does not interfere with transfer orders unless the transfers are totally malafide. Upon the submissions made by the learned counsel for the parties, I do not find any malafide in the transfer order. The transfer has been made to fill up the vacancy at Kurseong. The nearest place for transfer from Burnihat is Kurseong. If the applicant is transferred to the nearest place from his previous station it cannot be said to be arbitrary. The applicant has been continuously rendering service at the same station for the last nineteen years. On this count also the transfer cannot be called malafide. The respondents had no personal bias against the applicant and his transfer has been made for administrative

convenience.....

IC UShah

convenience. The transfer order dated 20.11.2000 does not call for any interference.

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


(K. K. SHARMA)
ADMINISTRATIVE MEMBER

nkm

one copy
only
4/5/2002

28 APR 2002
GUWAHATI

9

29 APR 2002
GUWAHATI BENCH

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

GUWAHATI.

O. A. No. 132 of 2002.

Sri Kamala Kanta Patowary Applicant

- Versus -

Union of India & Ors Respondents

I N D E X

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Filed by -

Debjit Bhattacharya
Advocate. 26.6.02

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

O.A. No. 132 of 2002.

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Filed by the applicant
through
Debjit Bhattacharya -
Advocate 26/10/02

1. Particulars of the Applicant.

Sri Kamala Kanta Patowary
Upper Division Clerk
State Forest Service College
Burnihat, Assam.

2. Particulars of the Respondents.

1. Union of India
Through the Inspector General of Forest
Ministry of Environment and Forest
Paryavaran Bhawan
C.G.O. Complex, Lodi Road,
New Delhi - 3.
2. The Director, Forest Education,
Directorate of Forest Education,
P.O. - New Forest, Dehradun.
3. The Principal,
State Forest Service College,
Burnihat, Assam.

3. Particulars of the orders against
WHICH THE application is made.

1. Order No. 2-74/2000- DFT/3704 dated 20.03.2002 passed
by the Director, Directorate of Forest Education, Dehradun.
2. Order No. 2-74/2000- DFT/2810-15 dated 20.11.2000 passed
by the Director, Forest Education, Directorate of Forest
Education, Dehradun.

Contd: P/2

4. Jurisdiction

The applicant declares that the subject-matter for which this application is made is within the jurisdiction of the Hon'ble Tribunal.

5. Limitation

The applicant declares that the application is within the period of limitation.

6. Facts of the case

a. That the applicant is a citizen of India. He belongs to Schedule Caste community and he is also a physically handicap person. At present, the applicant is working as Upper Division Clerk in the Office of the Principal, State Forest Service College, Burnihat, Assam.

A copy of the Schedule Caste Certificate and Physically Handicap Certificate are annexed as ANNEXURE - I and II to this application.

b. That the applicant was initially appointed as Lower Division Clerk in the Office of the Principal and Head of Research State Forest Service College-cum-Research Centre, Burnihat, Assam on 19.07.1983 and subsequently his service was regularised giving effect from his date of joining on 16.01.1987.

c. That during the year 1993, the applicant was promoted to the post of Upper Division Clerk by the Director of Forest Education, Dehradun, and since then he has been working as U.D.C. in the Office of the Principal, State Forest Service College, Burnihat, Assam.

d. That the applicant states that, on 20.11.2000, the Director, Forest Education, vide Order No. 2-74/2000-DFT-2810-15, transferred the applicant to Eastern Forest Rangers College at Kurseong, in view of the reviewing of the existing strength of Directorate of Forest Education.

A copy of the Order No. 2-74/2000-DFT-2810-15 dated 20.11.2000 is annexed as ANNEXURE-III to this application.

Annex 14
Dekhi - 14
VI - In. of F. Ed

e. That the applicant states that, immediately after receiving the transfer Order, he made an prayer before the Director of Forest Education, through the Principal Forest Service College, Burnihat, wherein he has clearly stated that if the said transfer order is not cancelled, his 4 (four) children would suffer badly since all of his four children are studying in Assamese medium School and as there is no Assamese medium School available in Kurseong, he would be unable to provide them proper education. Moreover, there is no other male member in his home who can look after and guide his children in his absence. The applicant further states that in his representation before the Director he also stated that he is a member of Schedule Caste Community and being a Physically Handicap person, is entitled to be posted near his native place. But, the same was not all considered by the Director, Forest Education.

A copy of the said representation dated 18.12.2000 is annexed as ANNEXURE - IV, to this application.

f. That on 02.02.2001, the Director Forest Education again issued an Order No. 2-74/2000-DFT/3505-06, wherein he directed the Principal, State Forest Service College, Burnihat, to relieve the applicant immediately so as to enable him to join at Eastern Forest Rangers College, Kurseong, and it is further stated in the said Order that further correspondence regarding this matter shall be dealt seriously.

A copy of the Order No. 2-74/2000-DFT/3505- 06 dated 2.2.2001 is annexed as ANNEXURE- V, to this application.

g. That the applicant states that finding no alternate way, as the Director Forest Education was repeatedly making orders to the Principal, State Forest Service College, Burnihat to relieve the applicant, he made an application on 28.09.2001 to the Under Secretary, Government of India, Ministry of Personnel, P.G. & Pension, Deptt of Personnel & Training at New Delhi. In the said application the applicant submitted that he is a member of S.C. Community, as well as a handicap person and as such entitled to the benefits in case of transfer available to such persons. Moreover, as his children are studying in Assamese medium School, their educational career shall be spoiled if he is transferred to Kurseong as there is no Assamese school in Kurseong. It is further stated in the said application that the Under Secretary may be pleased to request the

Director, Forest Education to consider his case. The applicant further states that the Under Secretary to the Govt. of India, Ministry of Environment & Forest, on receipt of the said application, to that Ministry by DOPT issued instruction to the DFE to consider the applicants case but the DFE rather on 9.11.2001 issued an order vide No. 2-74/2000- DFT/2300-01 and thereby asked the applicant to clarify and explain why he has made direct & correspondence to the higher authority. The applicant on receipt of the abovementioned order sent his explanation to the DFE and explained why he had made correspondence to the higher authority.

A copy of the letter issued by the Under Secretary to the Govt. of India, Ministry of Environment and Forest to the Director Forest Education, Dehradun, the Order No. 2-74/2000-DFT/2300-01 dated 9-11-2001 by the DFE and the explanation submitted by the applicant are annexed as ANNEXURE- VI, VII and VIII to this application.

h. That the applicant states that again in the month of December 2001, the Director Forest Education issued an order vide no. 2-74/2000-DFT/2929 dated 28th/31st Dec' 2001 seeking explanation from the applicant why he did not submit Handicap Certificate at the time of his appointment.

A copy of the order dated 28th/31st Dec' 2001 is annexed as ANNEXURE- IX to this application.

i. That the applicant states that again on 5th February, 2002, the Director, Forest Education issued another Order vide No.2-74/2000-DFT/3353 to the Principal, State Forest Service College, Bunnihat and again directed him to submit the Handicap Certificate in respect of the applicant alongwith explanation of the applicant ' why the Handicap Certificate was not submitted by him at the time of appointment '

A copy of the said Order is annexed as ANNEXURE - X, to this application.

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j. That the applicant states that on 12.02.2002 the Principal, State Forest Service College, Burnihat vide letter No. SFSC/BHT/15-02/Pt-III/244 directed him to submit in explanation why Handicap Certificate was not submitted by him at the time of appointment.

A copy of the letter dated 12.02.2002 issued by the Principal, State Forest Service College, Burnihat is annexed as ANNEXURE- XI, to this application.

k. That the applicant states that on receipt of the letter from Principal State Forest Service College, Burnihat, he submitted his explanation to the Principal explaining that at the time of joining he was not aware of the fact that Handicap person are also entitled to some reservations and concessions. But subsequently after joining when he came to know about such reservations and concessions he immediately submitted Handicap Certificate to his Office for necessary action. Further, he again along with his explanation submitted copies of Handicap Certificate for necessary action by the concern authority.

A copy of the explanation above referred is annexed as ANNEXURE- XII, to this application.

l. That the applicant states that the Principal State Forest Service College, Burnihat on 21.2.2002 forward the explanation of the applicant along with Handicap Certificate to the Director, Forest Education, Dehradun for necessary action. But again on 20.03.2002, the Director, Forest Education, issued an Order vide No. 2-74/2000-DFT/3704 wherein he directed the Principal, State Forest Service College, Burnihat to relieve the applicant so that he can join in the Eastern Forest Rangers College at Kurseong. In the said Order it is also mentioned that after examination of explanation submitted by the applicant it was ~~formed~~ found that he can not be retain at State Forest Services College at Burnihat.

A copy of the Order dated 20.3.2002 No. 2-74/2000-DFT/3704 is annexed as ANNEXURE- XIII, to this explanation.

m. That the applicant states that as per Deptt. of Personnel & Training, O.M. No. AB-14071/27/89-Estt.(RR) dated 29th June, 1989 and D.P. & Trg. OM No. AB- 14017/41/90- Estt.(RR) dated the 10th May, 1990, the applicant being a Schedule Caste as well as physic-

ally handicap is entitled to be posted near his native place within the region subject to administrative convenience.

n. That the applicant states that the Director, Forest Education, Dehradun, did not give due importance to the fact that the applicant being to Schedule Caste community and he is also a physically handicap person. Moreover, the Director also had not considered the issue of the education of the children of the applicant.

o. That applicant states that there are 3(three) posts of U.D.C. in the State Service Forest College at Burnihat. But from the very ~~beginning he became the target~~ of the Director for the reason only known to him. Though he has explained his difficulties if he is transferred at any place outside this region but the Director is insisting the Principal to relieve the applicant and directed him to join at Kurseong.

7. GROUNDS

1. For that the Respondents have not taken into consideration the fact that the applicant is a person who belongs to the Schedule Caste Community and as such entitled to be posted near his native place within the region as per Dept. of Personnel and Training, M.O. No. AB-14071/27/89-Estt. (RR) dated 29th June 1989. Moreover, the applicant is also physically handicap person. So, considering these aspect the Respondent ought not have passed the impugned Order dated 20.03.2002. The impugned Order therefore suffers from malice in law and in fact and as such liable to be set aside.
2. For that the applicant has made representation before the Respondent.2 who without disposing off the same put pressure on the Respondent No.3 to relieve the applicant which clearly reflect the malafide intention of the Respondent No.2, and as such the impugned order dated 20.03.2002 can not sustain.

- 16
3. For that in the event of the transfer of the applicant outside this region shall cause serious damage to the educational carrier of his 4 (four) children, as they are studying in Assamese medium school. This fact was never considered by the Respondent No. 2, while passing the impugned order dated 20.3.2002 which clearly shows non-application of mind and as such liable to be set-aside.
 4. For that the impugned order is arbitrary, irrational, unfair and unreasonable and as such liable to be set aside.

8. Details of the remedies exhausted

The applicant filed his representation against the impugned Order dated 20.11.2000, which has not been disposed off rather various explanation when sought from the applicant on the grounds that why he made direct communication with the higher authority and why he has not submitted Handicap Certificate at the time of his appointment. But when the applicant gave proper explanation of all the above queries the respondent no.2 passed the impugned order dated 20.03.2002 and directed the respondent no.3 to relieve him and also observed that after examination of the explanations of the applicant it was found that he can not be retained at Burnihat. So, there is no other remedy available to the applicant.

9. Matter not pending in any other Courts

The applicant declares that the matter is not pending in any other Court of Law.

10. Relief sought

The applicant prays that the Hon'ble Tribunal may be pleased :

1. To set-aside the impugned order dated 20.03.2002 (ANNEXURE-XIII).
2. To set-aside the Order dated 20.11.2000 (ANNEXURE-III).
3. To declare that the applicant should be retained at State Forest Service College, Burnihat, Assam.
4. To pass any other Order/Orders as the Hon'ble Tribunal may deem fit and proper.

11. Interim Order if any prayed :

In the interim, the respondents may be directed not to give effect to the Order dated 20.3.2002 (ANNEXURE- XII).

12. Particulars of the I.P.O.

I.P.O. No. ----- 76 574402
Date ----- 26.4.02
Issued from ----- G.P.O. Guwahati
Payable at ----- G.P.O. Guwahati

VERIFICATION

I, Sri Kamala Kanta Patowary, son of Late Biopal Chandra Pathak, resident of Burnihat, Assam, do hereby verify that the statement made in the paragraphs 1, 2, 6(m), 6(n), 7, 8, 9, 10, are true to my knowledge and those made in the paragraphs 3, 4, 5, 6(a), 6(b), 6(c), 6(d), 6(e), 6(f), 6(g) are true to my information derived from Official records, and rest are my humble submission before this Hon'ble Tribunal and I sign this verification on the 26th day of April, 2002, at Guwahati.

Sri Kamala Kanta Patowary

(True Copy)
FORM OF CASTE CERTIFICATE

This is to certify that Shri Kamala Kanta Patowary,
son of Late Bipal Ch. Pathak, of Village Orgal Mauza Baje
District Kamrup of the State/Union Territory Assam
belongs to the Patni Caste which is recognised as a Scheduled
Caste.

Under:-

- The Constitution (Scheduled Caste) Order, 1950.
- The Constitution (Scheduled Tribes) Order 1950.
- The Constitution (Scheduled Caste) Order (Union Territorial) Order, 1951.
- The Constitution (Scheduled Tribes (Union Territorial) Order, 1951.

Shri Kamala Kanta Patowary and his family ordinarily
resides in Village Orgal of district Kamrup of the State
Assam.

Place Gauhati
State Assam
Date 23-7-79

Sd/-Illegible
Signature & Designation of
Issuing Officer
Sub-Divisional Scheduled Caste
Development Board, Gauhati

Countersigned

Sd/-Illegible
12-5-80
CAC for DC

Deputy Commissioner
Sub-Divisional Officer

N.B:- Please delete the words which are not applicable. The
term 'ORDINARILY RESIDES' shall have the same meaning
as section of the Representation of the people act, 1951

....

Attested
Deputy
Secretary
26/7/02
Advocate.

Calligraphic signature
Medical Officer
Consolidated Training
Institute, Bymat
Meghalaya

অস্বাস্থ্য শিক্ৰিক বিচাৰ কাৰ্য্যালয়ঃ গুৱাহাটী চিকিৎসা মহাবিদ্যালয়ঃ গুৱাহাটী।
OFFICE OF THE DEPARTMENT OF ORTHOPAEDICS : GAUHATI MEDICAL COLLEGE
GUWAHATI.

শাৰীৰিক অক্ষমতাৰ প্ৰমাণ পত্ৰ।
PHYSICALLY HANDICAPPED CERTIFICATE

ক্রমিক নং
Sl. No.

প্ৰাৰ্থনা কৰি নিম্নোক্ত কাৰণত শ্ৰী / শ্ৰীমতী.....
শ্ৰী.....
পাৰ্শ্ব / মূৰ.....

পিতা.....
মাতা.....
পিতৃ/মাতৃৰ নাম.....
After Examination this Physically handicapped certificate has been issued to Shri/Smti
Santibhola Kamli Pukuria Son/Daughter of Shri/Smti
Village/Town Barsoi P. O. Manakuli District Kamrup

অক্ষমতাৰ কাৰণঃ
Cause of disability

প্ৰাৰ্থনা কৰি নিম্নোক্ত কাৰণত শ্ৰী / শ্ৰীমতী.....
প্ৰাৰ্থনা কৰি নিম্নোক্ত কাৰণত শ্ৰী / শ্ৰীমতী.....
প্ৰাৰ্থনা কৰি নিম্নোক্ত কাৰণত শ্ৰী / শ্ৰীমতী.....

অক্ষমতাৰ কাৰণঃ
Cause of disability

অক্ষমতাৰ কাৰণঃ
Cause of disability

চিহ্নিত অক্ষমতাৰ শতাংশঃ
Percentage of permanent disability

25% (Twenty Five Percent)

প্ৰাৰ্থনা কৰি নিম্নোক্ত কাৰণত শ্ৰী / শ্ৰীমতী.....
Signature of Candidate

অস্বাস্থ্য শিক্ৰিক বিচাৰ কাৰ্য্যালয়ঃ গুৱাহাটী চিকিৎসা মহাবিদ্যালয়ঃ গুৱাহাটী।
Signature of Orthopaedic Surgeon

তাৰিখ / তারিখঃ 11/11/2011

Designation / বিভাগ নাম
Department
Deptt. of Orthopaedic Surgery
Gauhati Medical College

সীল / মোহৰ

Attested
27/11/2011
Deputy Collector
(Assam)

Attested
Deputy Collector
Assam
26/11/2011

Government of India,
Ministry of Environment & Forests,
Directorate of Forest Education,
P.O. New Forest,
Dehra Dun

No.2-74/2000-DFT/2.S/0-15

Dated 20th November, 2000

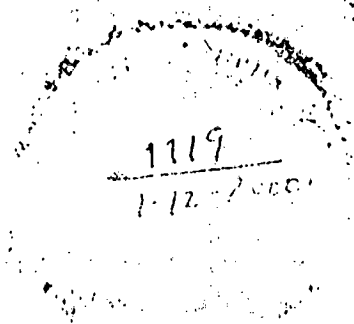
OFFICE ORDER

In view of reviewing the existing strength of the Directorate of Forest Education vide order No.2-1/91-DFT (Vol.II)742-16 dated 21st July, 2000, Shri K.K.Patowary, Upper Division Clerk, is hereby transferred to Eastern Forest Rangers College, Kurseong, with immediate effect.

(JARNAIL SINGH)
DIRECTOR FOREST EDUCATION

DISTRIBUTION:-

1. The Principal, State Forest Service College, Burnihat, for information and necessary action. He is requested to relieve Shri K.K. Patowary, Upper Division Clerk, immediately to report for duty at Principal, Eastern Forest Rangers College, Kurseong.
2. The Principal, State Forest Service College, Dehra Dun.
3. The Principal, State Forest Service College, Coimbatore.
4. The Principal, Eastern Forest Rangers College, Kurseong.
5. Guard File.
6. Copy to File No.2-1/91-DFT



Attn: Jarnail Singh
24/11/02

The Director of Forest Education,
Ministry of Environment & Forests,
P.O. New Forest, Dehradun (U.P.)

Date _____ th Dec/2000

(Through Principal, State Forest Service College,
Bumihat)

Sub:- Prayer for cancellation of Transfer order of the
applicant from Bumihat to Eastern Forest Rangers'
College, Kurseong.

Ref:- 1. Your letter No. 2-74/2000-DFT/2810-15/
dated 20-11-2000.
2. This office letter No. SFSC/BHT/15-02/(part. III)923
dated 8-12-2000

Sir,

With reference to your order No. cited above, I
have the honour to lay before you the following few lines
for favour of your kind consideration and sympathetic action.

That sir, I am working in the State Forest Service
College, Bumihat as Upper Division Clerk since April/93. It may
be stated that I am living in Bumihat with my family members
including my four minor children. As per your order cited
above, I have been transferred to Eastern Forest Rangers'
College, Kurseong which will be a great ~~and~~ curse to my
children as my four children are reading in Assamese medium
School. It is learnt that there is no Assamese medium school
in my transfer place of Kurseong wherein my children can
complete their school education. Under the circumstances it
is not at all possible on my part to keep my family along-
with myself as because the educational life of my children
will be hampered. On the other hand if I leave my family in
my native village, there is no male person to look after my
family and to guide them in my absence.

That sir, it may also be stated that I belongs to a
Scheduled Caste Community and I am a Physically Handicapped
person. A copy of the handicapped issued by the Registrar,
Guwahati Medical College, Hospital enclosed herewith for your
kind notice.

contd...2...

Attested
Debjit Nathacharya
A.O. No. 1
28/4/02

13

22

That sir, under the above circumstances, I fervently request your honour to be kind enough to cancel the above transfer order. Any transfer in my part from the existing place will cause immense difficulties and will be harmful to my children who all are reading in Assamese medium School.

I hope you will consider my case sympathetically and on humanitarian ground.

Yours faithfully,

Encl: Handicapped certificate

[Signature]
18/12/2020

(K.K. Patowary)
Upper Division Clerk
State Forest Service College
Burnihat.

o/c

11

ANNEXURE - V

23

Government of India,
Ministry of Environment & Forests,
Directorate of Forest Education,
P.O. New Forest,
Dehra Dun.

No.2-74/2000-DFT. / 3505-06

Dated 2nd February, 2001.

✓

The Principal,
State Forest Service College,
Burnihat.

Sub: Relieve S/Shri K.K.Patowary, U.D.C. and Ragen Rabha, Assistant Curator, State Forest Service College, Burnihat.

Ref: 1. Your letter No.SFSC/BHT/15-02/KKP/931 dated 18.12.2000
2. --- No.SFSC/BHT/15-02/Pl.III/58 dated 10.1.2001.

With reference to your letter on the subject mentioned above. You are hereby instructed to relieve the following officials immediately in the interest of the Government and to report for duty in the new place of posting:-

<u>Sl.No.</u>	<u>Name of the official</u>	<u>Place of Posting</u>
1.	Shri K.K.Patowary, U.D.C.	Eastern Forest Rangers College, Kurseong.
2.	Shri Ragen Rabha, Assistant Curator.	D.F.E.'s Office.

Please note any further correspondence made in this respect shall be dealt seriously.

JSSD
(JARNAIL SINGHI)
DIRECTOR FOREST EDUCATION.
02/02/2001

Copy to the Principal, Eastern Forest Rangers College, Kurseong, for information with reference to his No.4/2001-EFRC/14 dated 1.1.2001 and No.58/2001-EFRC/14 dated 16.1.2001. He is also instructed to relieve Shri B.P. Lama, Steno Grade-II, as soon as Shri K.K.Patowary report for duty..

DIRECTOR FOREST EDUCATION.

Attested
Debjit Bhattacharya
Acharjee
26/4/02

135

ANNEXURE-VI

24

Telegram PARYAVARAN
NEW DELHI

REGISTERED

Telephone
E-Mail Address

F.NO.2-59/2001-FE

भारत सरकार
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS
परावरण भवन, सी.ओ. कॉम्प्लेक्स
PARYAVARAN BHAVAN, C.G.O. COMPLEX
लोदी रोड, नई दिल्ली 110003
LODHI ROAD, NEW DELHI-110003

Dated the 5th Oct., 2001.


To
The Director,
Directorate of Forest Education,
P.O. New Forest,
Dehra Dun-248 006.

Subject:- Request for posting SC/ST and PH persons in their region of their native place.

Sir,

I am directed to enclose herewith the application (in original) of Sh. K.K.Patowaki, UDC at State Forest Service College, Burnihat regarding above cited subject forwarded to this Ministry by DOPT; surplus cell for sympathetic consideration. Action taken may please be intimated to the Ministry as early as possible..

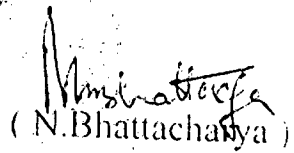
Yours faithfully,



(N.Bhattacharya)

Under Secretary to the Govt. of India

Copy to: Sh. K.K.Patowaki, UDC, state forest Service College, Burnihat(Assam).



(N.Bhattacharya)

Under Secretary to the Govt. of India

Attache
Dehradun - Burnihat
Adhuri
26/4/02

भारत सरकार
Government of India
पर्यावरण एवं वन मंत्रालय
Ministry of Environment & Forests
वन शिक्षा निदेशालय
Directorate of Forest Education
डाक घर : नव वन
P.O. New Forest
देहरादून - 248 006 (उत्तरांचल)
Dehra Dun - 248 006 (Uttaranchal)

पंजीकृत
REGISTERED

सं. No. 2-74/2000-DFT/ 23.00 - 01

दिनांक / Dated 9 नवम्बर / November, 2001

To

Shri K.K. Patowari, UDC
State Forest Service College,
Burnihat - 793 101. (Assam).

(Through : Principal, S.F.S. College, Burnihat)

Sub: Making correspondence direct with the higher authority and violation of established norms of due process by Shri K.K. Patowari, UDC, State Forest Service College, Burnihat - Reg.

It has been observed that you have made correspondence direct with the higher authority i.e. Under Secretary, Government of India, Ministry of Personnel, P.G. & Pension, Department of Personnel and Training, New Delhi vide your representation Dated 28-9-2001. You have violated the established norms of due process. As per Chapter 55 'Petitions to President' Part II para 5 "Every petition shall be submitted to the prescribed authority through the Head of the Office or Department to which the petitioner belongs or belonged, and shall be accompanied by a letter requesting the prescribed authority to transmit it to the President."

You may clarify the position why you have made direct correspondence with the higher authority violating the established norms of due process.

Your explanation should reach to this office by 30th November, 2001. positively.

Director,
Forest Education

Attested
Debanjit Bhattacharya
Ade. Secy
26/11/02

ANNEXURE - VIII

FROM : SHRI KAMALA KANTA PATOWARY, U.D.C.
STATE FOREST SERVICE COLLEGE, BURNIHAT

Dated _____ th Dec/2001

TO

The Director of Forest Education,
Ministry of Environment & Forests,
P.O. New Forest, Dehradun 248006

(THROUGH PROPER CHANNEL)

Sub:- EXPLANATION

Ref:- Your letter No. 2-74/2000-DFT/2300-01,
dated 9th November/2001

Sir,

I have the honour to inform you that I am in receipt of your above letter and noted the contents thereof and beg to state that I belongs to Scheduled Caste Community and Physically Handicapped person and therefore when I received transfer order from the Directorate of Forest Education, Dehradun, I wrote to your honour to stay my transfer order and the letter was send to your honour through the Principal of our College as per Chapter 55 'Petitions to President' Part II Para 5 . And my said letter was forwarded by the Principal, State Forest Service College, Burnihat vide his letter No. SFSC/BHT/15-02/KKP/931, dated 18-12-2000.. And since then your honour send several letters thereafter to our Principal to releaseme from Burnihat College only . Then I was compelled by correspondance to write a letter as per verbal discussion with the Under Secretary as there is concession for SC/ST and Physically Handicapped. As per Deptt. of Personal and Training O.M.No. AB-14071/27/89-Estt. (RR) dated 29th June/1989 and G.I. Deptt. of Personal and Training O.M.No. AB-14017/41/90-Estt. (RR) dated 10th May/1990. And as such I have not violated the Established Norms of due process.

I hope and request your honour would be kind enough to consider my case sympathetically for which act of your kindness, I would be remain ever grateful to you.

Yours faithfully,

(K.K. Patowary)
U.D.C.

State Forest Service College
Burnihat

Debiyul Patowary
A. D. S. G. S. C.
26/12/2001

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ANNEXURE-IX

Confidential

27

*in K.K. Patowari
to explain
27/12/02*

Government of India
Ministry of Environment & Forests
DIRECTORATE OF FOREST EDUCATION
P.O. New Forest, Dehradun - 248 00

No.2-74/2000-DFT/2929

Dated 28th December, 2001
31/12

To

The Principal,
State Forest Service College,
Burnihat - 793 101.

Sub : **Relieve of Shri K.K. Patowari, Upper Division Clerk, State Forest Service College, Burnihat.**

Ref : Your letter No.SFSC/BHT/15-02(Pt.III)/1581, Dated 30th November, 2001.

Please refer your letter mentioned above. It appears from the documents submitted by you that Shri K.K. Patowari was appointed to the post of L.D.C. on 27-7-1983 but he was issued Handicap certificate by a Professor of Orthopaedic Surgery, Gauhati Medical College on 22-1-1982. The certificate of Handicap is required to be issued by the Medical Board and percentage should also to be mentioned in the certificate. Shri K.K. Patowari, U.D.C. may also be asked to explain the reasons why the Handicap Certificate was not submitted by him at the time of appointment.

[Signature]
28/12/2001

Director,
Forest Education

राज्य वन सेवा आयोग
State Forest Service College
14/1/02
दिनांक/Date...14/1/2002

*Attested
Debijit Bhattacharya
Advocate
26/1/02*

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ANNEXURE-2

28

राज्य वन सेवा महाविद्यालय
State Forest Service College
हायवे सं. ... No 249
फाईल नं. ...
दिनांक ... 12/2/2002

Reminder/Urgent

Government of India
Ministry of Environment & Forests
Directorate of Forest Education
P.O. New Forest, Dehra Dun - 248 006 (Uttaranchal)

Dated 5th February, 2002

No. 2-74/2000-DFT/ 3353

To

The Principal,
State Forest Service College,
Burnihat - 793 101.

Sub : Relieve of Shri K.K. Patowari, Upper Division Clerk, State Forest Service College, Burnihat.

Ref : This Office Letter No.2-74/2000-DFT/2929, Dated 28/31 December, 2001.

Your attention is invited to this office letter dated 28/31st December, 2001 on the subject mentioned above. You were requested to forward the Certificate of Handicap issued by the Medical Board to Shri K.K. Patowari, U.D.C. with his explanation 'why the Handicap Certificate was not submitted by him at the time of appointment'. The same has not been received so far. You may please send the required documents by 28-02-2002 positively, failing which action, as deem fit, will be taken by this office with regard to relieving of Sh. K.K. Patowari, U.D.C. as per letter of November 20, 2000.

(Signature)
5-2-2002

DIRECTOR,
FOREST EDUCATION.

S. Roy

*V.K. Patowari
do explain
why the certificate
was not produced
at the time of appnt?*

*Attested
Debit - Bhattacharya
Advocate
24/4/02*

10 ANNEXURE-XI 29

No. SFSC/BHT/15-02/Pt. III/244
Government of India
Ministry of Environment and Forests
State Forest Service College, Burnihat.

Assam.

Date 12/02/2002

To

Sri K.K. Patowary, UDC,
S.F.S. College, Burnihat.

Sub:- Relieve of Sri K.K. Patowari, U.D.C, S.F.S. College,
Burnihat, Assam.

I am directed by the Director of Forest Education Dehradun to forward the Certificate of Handicap issued by the Medical Board to you alongwith your explanation 'Why the Handicap Certificate was not submitted by you at the time of appointment.

As such you are hereby asked to submit the desired information as stated above as early as possible so that the documents may be forwarded by 28/02/2002.

Principal
State Forest Service College
Burnihat: Assam.

-000-

Attested
Deputy - Principal
A. K. Borah
12/11/02

To

The Principal,
State Forest Service College,
Burnihat, Assam.

Dated:- 19/12/02

Sub:- Explanation with Handicapped Certificate

Ref:- Your letter No. SFSC/BHT/15-02/Pt. III/244
dated 12-02-2002

Sir,

With reference to your letter No. cited above, I have the honour to inform you that I have been submitted Scheduled Caste Certificate at the time of my appointment. At that time I am as a newcomer it was not known to me about reservation and concession for the handicapped person. Nobody from this office told me for the same. After my appointment reading some rule book I found about reservation and concession for the handicapped persons in service. Then Immediately I submitted the handicapped certificate to my office for taking necessary action.

However Sir, as directed by you vide your above referred letter, I am again submitting herewith the handicapped certificate duly attested by the Principal, State Forest Service College, Burnihat which was issued by the Registrar, Office of the Department of Orthopaedics, Guwahati Medical College, Guwahati who is the competent authority of Orthopaedic department of Guwahati Medical College, Guwahati to issue the handicapped certificate and also produced a handicapped certificate issued by Dr. Biswajit Barooah, MS (Orth) Professor of Orthopaedic Surgery, Guwahati Medical College for favour of kind necessary action.

Yours faithfully,

Encl: Handicapped certificate
two nos

[Handwritten Signature]
19/12/02

(K.K. Patowary)
U.D.C.

State Forest Service College
Burnihat

State Forest Service College
Burnihat

19/12/02

[Handwritten Signature]
Deputy Secretary
26/12/02

DR : ANNEXURE - XIII.

31

Confidential

Government of India
Ministry of Environment & Forests
DIRECTORATE OF FOREST EDUCATION
P.O. New Forest, Dehradun - 248 00

No.2-74/2000-DFT/3704

Dated 20 March, 2002

To

The Principal,
State Forest Service College,
Burnihat - 793 101.

Sub: Forwarding petition submitted by Shri K.K. Patowari, Upper Division Clerk, State Forest Service College, Burnihat.

Ref: Your letter No.SFSC/BHT/15-02(Pt. III)/297,
dated 21st February, 2002.

Please refer your letter mentioned above. The explanation submitted by Shri K.K. Patowari, Upper Division Clerk, State Forest Service College, Burnihat has been examined and it is found that it will not be possible to retain him at State Forest Service College, Burnihat.

You are, therefore, advised to relieve Shri Patowari, U.D.C. immediately as per this office order No.2-74/2000-DFT/2810-15, dated 20th November, 2000 and direct him to report to the Principal, Eastern Forest Rangers College, Kurseong in the interest of public service.

Director,

Forest Education

Copy to the Principal, Eastern Forest Rangers College, Kurseong -- 734 220. He is advised to arrange accommodation etc. for Shri Patowari and pay etc. may be drawn from April, 2002 at Eastern Forest Rangers College, Kurseong.

Director,

Forest Education

राज्य वन विभाग
State Forest Service College
बुर्निहाट
दिनांक 26/4/02

Debjit Bhamshing
Adwathi
26/4/02

9
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

In the matter of :

O.A. No.132 OF 2002

Kamala Kanta Patowary Applicant

Vs.

Union of India & Others Respondents

Reply on behalf of the respondents No. 1, 2 and 3.

I, Elusing Meru , Principal, State Forest Service College, Burnihat, Assam do hereby solemnly affirm and say as follows:

1. That I am the Principal, State Forest Service College, Burnihat, Assam and Respondent No. 3 in the case and as such acquainted with the facts and circumstance of the case. I have gone through a copy of the application served on me and have understood the contents thereof. Save and except whatever as specifically admitted in this written statement the other contentions and statements may be deemed to have been denied. I am competent and authorised to swear and file the written statements on behalf of respondents No. 1, 2 and 3.

Union of India & others
- Petition
32
through:-
Anup Kumar Choudhury
M.L. Choudhury

Elusing Meru
Principal,
State Forest Service College
Burnihat, (Assam)

33

2. That the respondents beg to state that the contents of para 1, 2, 4 and 5 of the application are matters of record hence no comments.

3. That with regard to the statements made in paragraph 6(a) of the application the deponent begs to state that these are the matters of record hence no comments. However, it is pertinent to mention here that as far as the fact, of the applicant being handicapped is concerned, it may be seen from Physically handicapped certificate issued by the Office of the Department of Orthopedics, Guwahati Medical College, Guwahati dated 11.4.91, the percentage of permanent disability is 25%. It is also pertinent to mention here that the certificate so submitted by him to the Principal, State Forest Service College, Burnihat should have been from the Medical Board constituted for the purpose as required under the Rules.

4. That the deponent begs to state that the statements made in paragraphs 6(b), 6(c) and 6(d) of the application are admitted these being a matters of record.

5. That with regard to the statements made in para 6(e) of the application the respondents beg to state that are admitted to the extent that subsequent upon the issue of the order No. 2-74/2000-DFT/2810-15 dated 20.11.2000 (Annexure -I), a representation was received from the applicant and the request made in the application was not acceded to on the following grounds :

Ehsing Memu
Principal,
State Forest Service College
Burnihat, (Assam)

- (i) Education of the children cannot be taken as a ground to avoid transfer. But still the transfer does not come in way of the education of the applicant's children.
- (ii) While transferring the applicant, care has been taken to post him at a destination nearest to his current posting. The transfer order was purely issued keeping in mind the administrative convenience to run the colleges efficiently and smoothly in the Public interest.
- (iii) A Government servant (the applicant) cannot and should not try to get away or find excuses to avoid transfer order and showing disobedience by virtue of belonging to some particular community.

(iv) Since the percentage of permanent disability in the case of applicant is 25%, which is considered mild as per Rules, hence, his disability factor does not and should not come in way of obeying his transfer orders from the superior and he cannot take benefit of provisions for physically handicapped as per rules since the percentage of disability is less than 40% which is considered as mild disability as per Appendix

-15 Nov 2000 - on leave

who can be transferred

- S.C. - as far as possible -
 - to nearest -

- 3 posts -

Chasing Menu
 Principal,
 State Forest Service College
 Burnihat, (Assam)
 From 1983

"Combined report of the three committees recommending uniform set of definitions, authorities for certification and standard tests for visual, hearing and speech and locomotor disabilities"

G.I., Ministry of Welfare Notification No. 4-2/83-HW-III, dated 6.8.1986, (Annexure-2).

(v) Before transferring the applicant, it was ensured that it will create least or no inconvenience to the applicant and with due regard to the mandate of the Directorate of Forest Education and in Public interest. The Eastern Forest Rangers College, Kurseong is the only nearest College under the jurisdiction of the Government of India, Ministry of Environment and Forests, Directorate of Forest Education, Dehradun where Shri K.K. Patowari has been transferred.

7. That with regard to the statements made in para 6(f) of the application the respondents ~~are~~ beg to state that are admitted.

8. That with regard to the statements made in the para 6(g) are admitted to the extent that a representation dated 28.9.2001 was made by the applicant to the Under Secretary to the Government of India, Ministry of Personnel, P.G. and Pensions, Department of Personnel and Training, New Delhi . The said representation dated 28.9.2001 of Shri Patowari

Ehsang Mann
Principal,
State Forest Service College
Barnihat, (Assam)

violated the established norms of the due process. As per chapter 55 of 'Swamy's complete Manual on Establishment and Administration for Central Government Offices, 2000'-

Petitions to the President Part II para 5 -

"Every petition shall be submitted to the prescribed authority through the Head of the Office or Department to which the petitioner belongs or belonged, and shall be accompanied by a letter requesting the prescribed authority to transmit it to the President".

An explanation of the applicant was called vide letter No. 2-74/2000-DFT/2300-01 dated 9.11.2001 (Annexure-3). In response, the applicant sent his explanation dated 5.12.2001 to the Director Forest Education stating reference to two Office Memorandums of Deptt. of Personnel and Training (a) No. AB-14 017/27/89-Estt.(RR) dated 20th June, 1989 and (b) No. AB-14 017/41/90-Estt.(RR) dated 10th May 1990 (Annexure-4 & 5). The applicant further stated that he has not violated any norms. It is pertinent to mention here that as required under rules as stated above, the application to the Under Secretary, Ministry of Personnel, P.G. and Training (Department of Personal and Training) by Shri Patowari should have been sent through the Head of Department (Director Forest Education) which is under the control of Government of India, Ministry of Environment and Forests and it was not done so in this case. The explanation of the applicant is enclosed as Annexure - 6.

E. Lusing Menn
Principal,
State Forest Service College
Burnihat, (Assam)

It is pertinent to mention here that the applicant has taken support and derived strength from Government of India, Deptt. of Personnel and Training (a) O.M. No. AB-14017/27/89-Estt. (RR) dated 20th June, 1989. (Sub SC/ST candidates recruited for groups 'C' & 'D' Posts, be given posting near their native places) and (b) O.M. No. AB-14017/41/90-Estt.(RR) dated 10th May, 1990 (Sub : Posting of physically handicapped candidates near their native places). The relevant contents of the aforesaid O.M.s are reproduced as under :-

Which states as (a) para 2." The recommendation has been examined carefully . It may not be possible or desirable to lay down that holders (belonging to SC/ST) of Group 'A' and Group 'B' posts who have All India transfer liability should be posted near their native places. It has, however, been decided that in the case of holders of Group 'C' and 'D' posts who have been recruited on regional basis and who belong to Scheduled Tribes may be given posting as far as possible, subject to administrative constraints near their native places within the region".

XXXX

XXXX

XXXX

XXXX

(b) "However, in the case of holders ^{of} Group 'C' and 'D' posts who have been recruited on regional basis and who are physically handicapped such persons may be given posting, as far as possible, subject to administrative constraints, near their native places within the region."

XXXX

XXXX

XXX

XXXXXX

Chusing Mera
 Principal,
 State Forest Service College
 Eurnihat, (Assam)

As per the provisions of the above mentioned O.Ms, it may be seen that it is clearly mentioned that the holders of Group 'C' & 'D' posts who have been recruited on regional basis and belonging to Scheduled Tribes category ~~or~~ Physically Handicapped, such persons may be given posting as far as possible subject to administrative constraint near their native places. In the case of Shri K.K. Patowary, he has neither been recruited on regional basis nor a Scheduled Tribe and the degree of disability is also less than 40% which is considered to be mild as per rules. Sincere attempt has been made to transfer him as near as possible to his native place in the Government interest. The Eastern Forest Rangers College, Kurseong, where Shri K.K. Patowary has been transferred, is the only nearest institution/college under the jurisdiction of the Government of India, Ministry of Environ-ment and Forests, Directorate of Forest Education, Dehradun. It is also to point out here that as per the appointment order No. 134/87-PFC/15-02 dated 16.01.1987 (Annexure-7), it is clearly mentioned in the terms of the appointment order that the appointment carries with it the liability to ~~serve~~ serve in any part of India.

However, sincere attempts have been made by this Directorate to maintain officials as far as possible near the native places and it is only under serious administrative constraints that Shri K.K. Patowary has been ordered to be posted at Eastern Forest Rangers College, Kurseong. As far as the provisions of the O.M. dated 10.5.1990 are concerned, it is again reiterated that the benefits of the aforesaid

Ahusing Menu
 Principal,
 State Forest Service College
 Bamnihat, (Assam)

their mild disability, they are not put in a position that neither they are able to get the facility of job reservations nor are eligible other wise for entering into services in the general category".

XXX XXX XXX XXX

" The degree and extent of disability of the 3 types, namely, visual, hearing and orthopaedic, will be indicated as follows :-

- a. Mild less than 40%
- b. Moderate 40% and above
- c. Severe 75% and above
- d. Profound/Total 100%"

XXX XXX XXX XXX

However, his subsequent application to be considered as Physically Handicapped, cannot be considered since the percentage of disability in case of the applicant is only 25%. Hence, it does not come in the way as regards transfer of the applicant is concerned. Due to above reasons, the explanation of the applicant was not considered. It is also pertinent to highlight here that the applicant has been given enough time since the issue of the transfer order No.2-74/2000-DFT/2810-15, dated 20th November 2000 (Annexure-1).

9. That with regard to the statements made in para 6(h) of the application the respondents beg to stated that the contentions made by the applicant in para are admitted being matter of record. However, the letter No. ~~2-74/2000-DFT/2810-15~~

Easing Menu
Principal,
State Forest Service College
Burnihat, (Assam)

2-74/2000-DFT/2929, dated 28/31 st December, 2001 (Annexure-8) was issued in order to intimate that a certificate from the Medical Board was essential as per the Government of India, Ministry of Welfare's Notification No. 4-2/83-HW.III, dated 6.8.1986 and he was asked to explain why the physically Handicapped Certificate was not produced prior to his appointment. The said letter is in no way related to the transfer of the applicant.

10. That with regard to the statements made in para 6(i) as stated are admitted, they being a matter of record. However, the letter No.2-74/2000-DFT/3353 dated 05.02.2002 (Annexure-9) was issued by the Director Forest Education to the Principal, State Forest Service College, Burnihat which was only a reminder to obtain and forward the required documents.

11. That with regard to the statements made in para 6(j) as stated are a matter of record hence need not be commented upon.

12. That with regard to the statements made in para 6(k) as stated are admitted upto the extent that the applicant has submitted his explanation vide letter dated 19.2.2002 through the Principal, State Forest Service College, Burnihat and that in response to the same, Director Forest Education vide letter No.2-74/2000-DFT/3704-05 dated 20.03.2002 (Annexure-10) had examined the explanation and decided that it would not be possible to retain the applicant at the State

Eusing Menu
 Principal,
 State Forest Service College
 Burnihat, (Assam)

State Forest Service College, Burnihat and the Principal, State Forest Service College, Burnihat was advised to relieve Shri K.K. Patowary immediately as per the then Director, Forest Education's Office Order No. 2-74/2000-DFT/2810-15, dated 20.11.2000 (annexure-1) in Public interest.

13. That with regard to the statements made in para 6(1) as stated are admitted being a matter of record. However, it is pertinent to highlight here that since 20.11.2000 when the transfer order was first issued to the applicant, by one way or the other he seems to be insistent upon dis-obeying the orders of the Head of Department (Respondent No.2). This shows utter negligence on the part of the applicant to avoid Government duty by not joining at the new place of posting in Public interest. Hence the order No. 2-74/2000-DFT/3704-5, dated 20.3.2002 was issued.
14. That with regard to the statements made in para 6(m) are not admitted for reasons already explained in para 6(g).
15. That with regard to the statements made in para 6(n) as stated are denied since the applicant's transfer order dated 20.11.2000 and 20.3.2002 were issued after considering all relevant factors already explained in the preceding paras. During the review of the then existing strength by the then Director Forest Education, it was observed that there was no Upper Division Clerk at Eastern Forest Rangers College, Kurseong and at State Forest Service College, Burnihat there were three Upper Division Clerks. It is also humbly submitted that the education of the children cannot form basis for preventing oneself from being transferred.

Principal,
State Forest Service College
Burnihat, (Assam)

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16. That with regard to the statements made in para 6(o) as stated are baseless and not admitted. The said order dated 20.11.2000 has been made keeping in view the administrative convenience to the Government and not a result of a personal bias. The applicant does not accrue the right of blaming the superiors and pointing towards other posts of UDGs who were not transferred, because transfers are need based and done for administrative convenience to serve in the public interest. This clearly indicates that the applicant has undermined the authority of the Government of India, Ministry of Environment and Forests, Directorate of Forest Education, Dehradun.

17. That with regard to the statements made in ~~para~~ para 7(1), it is submitted that the applicant cannot rely upon and take benefit from (1) O.M. No. AB-14 017/27/89-Estt(RR) dated 20th June, 1989 & (2) No. AB-14 017/41/90-Estt.(RR), dated 10th May, 1990 because the applicant has not been recruited on regional basis and sincere attempt has been made by the Director Forest Education to retain him at the current posting as far as possible. It is only on account of administrative constraints that the transfer order has been issued in case of the applicant. As far as the disability of the applicant is concerned it is less than 40% which is considered to be mild as per rules, hence the application of the applicant was not considered. As regards the benefits that can be derived by a person (Government servant) by virtue of being disabled, it has clearly been

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 Principal,
 State Forest Service College
 Burnihat, (Assam)

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mentioned in Appendix 15 "Combined report of the three committees recommending uniform set of definitions, authorities for certification and standard tests for visual, hearing and speech and locomotor disabilities G.I. Ministry of Welfare Notification No.4-2/83-HW-III, dated 6th August, 1986", (Annexure-2) 'under sub heading concessions/facilities which may be offered to Disabled Persons' and that the committee recommends that if a person has the degree of disabilities below 40% in a particular category, no such benefits/concessions may be given. The applicant has not been recruited on regional basis, hence the benefits/concessions provided for, are not attracted in this case. Keeping in view the disability of the applicant, he has been posted to Eastern Forest Rangers College, Kurseong which is nearest in respect of the jurisdiction of the Respondent No.2.

The terms and conditions of the appointment order of the applicant also states clearly that the appointment carries with it the liability to serve in any part of India. The applicant has accepted appointment in agreement to all the terms and conditions mentioned in the order no. 134/87-PFC/15-02 dated 16.1.1987. Therefore, the order dated 20.11.2000 and 20.3.2002 are good in law and issued in the exercise of administrative convenience.

18. That with regard to the statements made in reply to ground 7(2) it is submitted that the contentions of the applicant that the order in question reflects malafide intentions of the Respondent no.2, is baseless and hence

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 Principal,
 State Forest Service College
 Burnihat, (Assam)

denied. The order dated 20.3.2002 was issued only after considering the representation of the applicant. The applicant has been given enough opportunity to obey the order but the applicant is ~~try~~ trying to evade and violate the order by putting forth one reason or the other and hence creating administrative constraints to Respondent no. 1 and 2 . The order is good in law and has been issued keeping in view administrative convenience and in public interest.

19. That with regard to the statements made in ~~p~~ reply to the ground 7(3) & 7(4), it is submitted that the contentions made by the applicant are denied. It is also kindly submitted that the order dated 20.3.2002 has been issued taking into consideration all the factors as already explained in the preceding paras.

20. That with regard to the statements made in para 8 are denied being baseless. It is kindly submitted that the order dated 20.11.2000 and 20.3.2002 have been issued considering all the factors as per rules in vogue, administrative convenience as a result of review of strength of the Directorate and in the public interest.

It is pertinent to mention here that the appointment order No. 134/87-PFC/15-02 dated 16.1.1987 of the applicant clearly mentions that the applicant would be required to serve any where in the country. The applicant has gladly

Elusing Menu
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 State Forest Service College
 Burnihat, (Assam)

accepted the conditions mentioned thereof in the aforesaid order. It is also submitted that in the appointment order it is mentioned that if any declaration given or information furnished by the candidate proves to be false or if the candidate is found to have willfully suppressed any material information, he will be liable to removal from service and such other action as Government may deem necessary. In case of the applicant, it is reiterated that at the time of appointment, he has suppressed the facts that he is physically handicapped.

21. That with regard to the statements made in para 9 as stated can not be commented upon for want of knowledge.

22. That w it is humbly submitted that the case of the applicant is liable to be dismissed on the following grounds :

i. The orders dated 20.11.2000 and dated 20.3.2002 has been issued keeping in view the administrative convenience in the interest of Government of India.

ii. The order has been issued purely in the public interest.

iii. The order has been issued on 20.11.2000 and the applicant has shown total negligence and disrespect towards the orders from the superiors without any valid reasons. It may be seen that the applicant has been given enough time to obey the orders. It is also submitted that the said orders in question have been issued giving due consideration

Elusing Menu

Principal,
State Forest Service College
Barnihat, (Assam)

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to all the factors provided for by the rules in vogue .

23. That the deponent begs to state in view of the submissions made above, it is humbly prayed that the application of the applicant may be dismissed with costs, and the applicant is not entitled to any relief ~~sought~~ sought for the application .

Verification.....

Eusing Merru.

Principal,
State Forest Service College
Bumihat, (Assam)

VERIFICATION

I, Elusing Meru, presently working as Principal, State Forest Service College, Burnihat, Assam, being duly authorized and competent to sign this verification, do hereby solemnly affirm and state that the statements made in para 1 + 2

are true to my knowledge and belief and those made in para 3 - 22 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 facts.

And I sign this verification on this 4th day of July 2002, at Guwahati.

Elusing Meru
DEPONENT
**Principal,
State Forest Service College
Burnihat, (Assam)**

ANNEXURE - 1

18

12/11/00

Government of India,
Ministry of Environment & Forests,
Directorate of Forest Education,
P.O. New Forest,
Dehra Dun.

No.2-74/2000-DFT. / 28/10-15-

Dated 20th November, 2000

OFFICE ORDER

In view of reviewing the existing strength of the Directorate of Forest Education vide order No.2-1/91-DFT (Vol.II)742-46 dated 21st July, 2000, Shri K.K.Patowary, Upper Division Clerk, is hereby transferred to Eastern Forest Rangers College, Kurseong, with immediate effect.

BSP
(JARNAIL SINGH)
DIRECTOR FOREST EDUCATION. *dc*

DISTRIBUTION:-

1. The Principal, State Forest Service College, Burnihat, for information and necessary action. He is requested to relieve Shri K.K. Patowary, Upper Division Clerk, immediately to report for ~~at~~ ^{duty} at Principal, Eastern Forest Rangers College, Kurseong.
2. The Principal, State Forest Service College, Dehra Dun.
3. The Principal, State Forest Service College, Coimbatore.
4. The Principal, Eastern Forest Rangers College, Kurseong.
5. Guard File.
6. Copy to File No.2-1/91-DFT.

Attended
MK Chandra
Addl. Control Officer
Standing Committee

APPENDIX-15

COMBINED REPORT OF THE THREE COMMITTEES
RECOMMENDING UNIFORM SET OF DEFINITIONS,
AUTHORITIES FOR CERTIFICATION AND STANDARD
TESTS FOR VISUAL, HEARING AND SPEECH
AND LOCOMOTOR DISABILITIES

G.I., Min. of Welfare, Notification No. 4-2/83-HW. III,
dated the 6th August, 1986

List of the Members of the Committees at Annexure 1.

Introduction

India is a vast country with variable, social, cultural, geographical and economic background. Despite breakthrough in health services, a number of disabilities continue to appear due to polio communicable and congenital diseases, increased industrialization and mechanization, vehicular traffic leading to locomotor disabilities; Vitamin-A deficiency, cataract and infectious injuries, nutritional deficiency leading to visual loss; ear infection, external injuries, noise pollution contributing to hearing loss. These are the three major disabilities which manifest themselves as a result of one or more of such factors.

2. Government of India are providing a large number of facilities and concessions to disabled persons. In order to provide these facilities and concessions it is imperative that a standard definition of these disabilities is decided upon. Consequent to recommendation of the National Council for Handicapped Welfare, the Committees under the chairmanship of Director-General of Health Services met for the adoption of standard set of definitions which should be uniformly applicable throughout the country.

The exercise of evolving a uniform set of definitions should not however, be construed to mean that no definitions have been set forth at present. Definitions of these three major disabilities which are prevalent at present for extending various concessions and facilities to handicapped are given in Annexure II.

Recommended Definitions

Physical impairment leads to functional limitation and functional limitation leads to disability. Physical impairment, functional limitation and disability have been defined by WHO and this Committee would recommend adopting this classification, which is as follows:—

- (i) **Impairment:** An impairment is a permanent or transitory psychological, or anatomical loss and/or abnormality. For example, a missing of effective part, tissue organ or 'Mechanism' of the body, such as an amputated limb, paralysis after

polio, myocardial infarction, cerebrovascular thrombosis, restricted pulmonary capacity, diabetes, myopia, disfigurement, mental retardation, hypertension, perceptual disturbance.

- (ii) **Functional limitation:** Impairment may cause functional limitations which are the partial or total inability to perform those activities necessary for motor, sensory, or mental functions within the range and manner of which a human being is normally capable such as walking, lifting loads, seeing, speaking, hearing, reading, writing, counting, taking interest in and making contact with surroundings. A functional limitation may last for a short time, a long time, be permanent or reversible. It should be quantifiable whenever possible. Limitations may be described, as 'Progressive' or 'regressive'.
- (iii) **Disability:** Disability is defined as an existing difficulty in performing one or more activities which, in accordance with the subject's sex and morative social role, are generally accepted as essential, basic components of daily living such as self-care, social relations and economic activity. Depending in part on the duration of the functional limitation, disability may be short-term, long-term or permanent.

Medically, disability is physical impairment and inability to perform physical functions normally. Legally, disability is a permanent injury to body for which the person should or should not be compensated.

The disability can be divided into 3 periods—

- (i) Temporary total disability is that period in which the affected person is totally unable to work. During this time he may receive orthopaedic, ophthalmological, auditory or speech or any other medical treatment.
- (ii) Temporary partial disability is that period when recovery has reached the stage of improvement so that person may begin some kind of gainful occupation.
- (iii) Permanent disability applies to permanent damage or loss of use of some part/parts of the body after the stage of maximum improvement from any medical treatment has been reached and the condition is stationary.

The classifications and various concessions being recommended are for the permanent disability only.

Evaluation and Assessment of Visual Disabilities

The group recommended the classification of visual impairment/disability may be categorised in four groups for considering various concessions to visually handicapped.

The question regarding one-eyed person was considered at length. The Committee is of the view that the guidelines recommended for evaluation

of visual loss of persons who have lost one eye but have the other eye normal should be totally unambiguous. The Committee feels that such persons may not be clubbed with other visually handicapped so that facilities/concessions available to severely/profoundly visually handicapped and totally blind are not eroded. If one eyed persons are clubbed with severely/profoundly visually handicapped and totally blind persons, the Committee feels that most of the concessions especially jobs reserved for the blind persons shall go to one-eyed persons as their visual loss is minimal compared to other 2 categories and in this manner most of the Government offices/public sector undertakings will be fulfilling the quota but in actual practice will not be giving jobs to totally blind and persons with severe visual loss. The Committee, however, feels that it should be made clear that loss of one eye will not be considered as a disqualification on medical grounds unless a particular post is of such a technical nature that it requires of a person the use of both the eyes or three dimensional vision. The Committee also recommends that if a person has been declared unfit due to some temporary visual loss/defect, it should not be construed to mean as disabled if such a temporary impairment in the opinion of a Medical Board can be overcome with treatment or visual aids.

Guidelines for evaluation and categorisation of visual disabilities are given in Annexures III and IV.

Evaluation and Assessment of Hearing and Speech Disability

The Committee recommended that the definitions which are internationally accepted and have been adopted by WHO may be adopted in this country also for evaluation and categorisation of hearing and speech loss.

The recommended classification and guidelines for evaluation of hearing loss are given in Annexure V. The Committee also considered various facilities/concessions which may be given to hearing handicapped persons and suggestions of the facilities which may be offered to the hearing handicapped for rehabilitation are also given in Appendix V.

Evaluation and Assessment of Orthopaedic Disabilities

The Committee recommends that Kessler's method may be taken as a general guideline for evaluating orthopaedic disability. Since issues have been raised regarding the quantification of degree of disability, the authorised Medical Board may also consult any other suitable method and use Kessler's method as a basic guideline.

The Committee is aware that there are other methods of quantification which are at variance with the Kessler's guidelines. However, Kessler's guidelines for evaluation of various degrees of disability, it is expected, would hold good for most of the time. The individual Medical Board could take into consideration other methods which may help the Board in evaluating disability in an individual case.

The Authorities to give Certification

A permanent disability certificate will be issued by a board duly constituted by the Central and the State Governments. It is recommended that a Medical Board for evaluation of disability should be available minimum at the district level. It is also recommended to have at least 3 members in the Board, out of which at least one should be a specialist in the particular field for assessing locomotor visual/hearing and speech disability, as the case may be.

It is also recommended that the competent authority may also appoint an appellate medical board to resolve any disputes.

Concessions/Facilities which may be offered to Disabled Persons

Keeping in view the set of definitions and the categorisation being recommended, various Ministries/Departments and the State Governments shall have to also specify the facilities and concessions which would be available to different categories of the handicapped. The Committee recommends that if a person has the degree of disability below 40% in a particular category no such benefits/concessions may be given to such a person. All other categories may be extended concessions/facilities like scholarships, job reservation, aids and appliances either free of cost or at concessional rates, conveyance allowance, etc. For hearing handicapped the Committee recommends that 3 language formula may be revised so that the hearing handicapped have to study one language only.

Ministry of Social and Women's Welfare may make out proposals based on these recommendations with the appropriate Ministry for necessary modifications in the policy of 3 language formula.

The Committee also recommended that Ministry of Health and Family Welfare may also take up amending medical standards for necessary relaxations in respect of mild handicapped in all the categories so that on account of their mild disability, they are not put in a position that neither they are able to get the facility of job reservations nor are eligible otherwise for entering into services in the general category. The medical rules may also indicate in clear terms that loss of one eye will not be considered a disqualification unless the particular post is of such a technical nature that it requires of a person the use of both the eyes or three-dimensional vision. The same Medical Board at the district level may examine suitability or otherwise of one eyed person for a particular post.

The degree and extent of disability of the 3 types, namely, visual, hearing and orthopaedic, will be indicated as follows:—

(a) Mild	...	...	...	less than 40%
(b) Moderate	...	...	...	40% and above
(c) Severe	...	...	...	75% and above
(d) Profound/Total—				100%

For persons suffering from cardio pulmonary diseases there may be no reservations in jobs. These persons may, however, be considered for extending other concessions such as exemption in typing, etc.

The Director-General of Health Services, Ministry of Health and Family Welfare, will be the final authority, should there arise any controversy/doubt regarding the interpretation of the definitions/classifications/evaluation tests, etc.

Only those persons who have disability more than 40% and above shall be eligible for registration in Employment Exchanges in the category of handicapped and considered against jobs in public sector reserved for the physically handicapped.

ANNEXURE I

Composition of Committees to recommend standard definitions of Disabilities

Dr. D.B. Bisht, Chairman
Director-General of Health Services, (of all the three
Ministry of Health and Family Welfare, Committees)
Nirman Bhawan, New Delhi.

On Visually Handicapped

1. Dr. Madan Mohan, Member
Head Deptt. of Ophthalmology,
All India Institute of Medical Sciences, New Delhi.
2. Dr. G.H. Gidwani, Member
Assistant Director-General of Health Services,
Ministry of Health and Family Welfare,
Nirman Bhawan, New Delhi.
3. Shri R.S. Srivastava, Member
Joint Director, Directorate General of
Employment and Training, Ministry of Labour,
Shram Shakti Bhavan, New Delhi.
4. Director, Member
National Institute for the Visually Handicapped,
Rajpur Road, Dehradun (represented by
Shri S.R. Shukla, Assistant Director).
5. Dr. G. Venkataswami, Member
Arvind Eye Hospital, Madurai, Tamil Nadu.
6. Dr. J.M. Pahwa, Member
Chief Medical Officer, Gandhi Eye Hospital,
Aligarh.
7. Shri Harcharanjit Singh, Member-Secretary
Under Secretary,
Ministry of Social and Women's Welfare.

On Hearing Handicapped

1. Dr. G.H. Gidwani, Member
Assistant Director-General Health Services,
Ministry of Health and Family Welfare,
Nirman Bhavan, New Delhi.
2. Shri R.S. Srivastava, Member
Joint Director, Directorate General of
Employment and Training, Ministry of Labour,
Shram Shakti Bhavan, New Delhi.
3. Dr. S.K. Kacker, Member
All India Institute of Medical Sciences,
New Delhi.
4. Dr. M. Nithya Seelan, Member
Director,
All India Institute of Speech and Hearing, Mysore.
5. Dr. N. Rathna, Member
Director, Ali Yavar Jung Institute of Hearing
Handicapped, Haji Ali Park, Mahalaxmi,
Bombay-400 034.
(represented by Dr. M.N. Nagaraja,
Dy. Director in the meeting on 25-6-1984)
6. Shri Harcharanjit Singh, Member-Secretary
Under Secretary, Ministry of Social and
Women's Welfare, New Delhi.

On Orthopaedically Handicapped

1. Dr. G.H. Gidwani, Member
Assistant Director-General of Health Services,
Ministry of Health and Family Welfare,
Nirman Bhavan, New Delhi.
2. Shri R.S. Srivastava, Member
Joint Director, Directorate General of
Employment and Training, Ministry of Labour,
Shram Shakti Bhavan, New Delhi.
3. Dr. Narendra Kumar, Member
Indian Council of Medical Research,
Ansari Nagar, New Delhi.
4. Director, Member
National Institute of Orthopaedically Handicapped,
B.T. Road, Bon Hoogly, Calcutta.
5. Dr. A.K. Mukherjee, Member
Director, All India Institute of Physical Medicine
and Rehabilitation, Haji Ali Park,
Bombay.

Confidential

भारत सरकार
Government of India
पर्यावरण व वन विभाग
Ministry of Environment & Forests
वन शिक्षा निदेशिका
Directorate of Forest Education
पता : नयाँ बजार
P.O. New Forest
दुर्गा - 248 006 (उत्तरांचल)
Dehra Dun - 248 006 (Uttaranchal)

पंजीकृत
REGISTERED

VI.No.2-74/2000-DFT/ 23, 24 / दिनांक / Dated 9 नवम्बर / November, 2001

To
Shri K.K. Patowari, UDC
State Forest Service College,
Burnihat - 793 101, (Assam).

(Through : Principal, S.F.S. Collogo, Burnihat)

Sub: Making correspondence direct with the higher authority and violation of established norms of due process by Shri K.K. Patowari, UDC, State Forest Service Collogo, Burnihat - Rog.

It has been observed that you have made correspondence direct with the higher authority i.e. Under Secretary, Government of India, Ministry of Personnel, P.G. & Pension, Department of Personnel and Training, New Delhi vide your representation Dated 28-9-2001. You have violated the established norms of due process. As per Chapter 55 'Petitions to President' Part II para 5 "Every petition shall be submitted to the prescribed authority through the Head of the Office or Department to which the petitioner belongs or belonged, and shall be accompanied by a letter requesting the prescribed authority to transmit it to the President."

You may clarify the position why you have made direct correspondence with the higher authority violating the established norms of due process.

Your explanation should reach to this office by 30th November, 2001 positively.

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Director,
Forest Education

Attended
AK Choudhary
Addl. Control Officer
Standing Officer

ANNEXURE-3

ANNEXURE-VI

54

Telegam PARYAVARAN

NEW DELHI

REGISTERED

1999

Telephone

E-Mail Address

F.NO.2-59/2001-FE

GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT AND FORESTS
PARYAVARAN BHAVAN, C-5 C COMPLEX
LODHI ROAD, NEW DELHI-110003
Dated the 5th Oct., 2001.

To
The Director,
Directorate of Forest Education,
P.O. New Forest,
Dehra Dun-248 006.

Subject:- Request for posting SC/ST and PH persons in their region of their native place.

Sir,

I am directed to enclose herewith the application (in original) of Sh. K.K.Patowaki, UDC at State Forest Service College, Burnihat regarding above cited subject forwarded to this Ministry by DOPT, surplus cell for sympathetic consideration. Action taken may please be intimated to the Ministry as early as possible..

Yours faithfully

(N.Bhattacharya)
Under Secretary to the Govt. of India

✓ Copy to: Sh. K.K.Patowaki, UDC, state forest Service College
Burnihat(Assam).

N.Bhattacharya
(N.Bhattacharya)
Under Secretary to the Govt. of India

Annexure-4

COPIES OF ORDERS—S.C./S.T.

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3. In this connection, it is clarified that only such SC/ST/OBC candidates who are selected on the same standard as applied to general candidates shall not be adjusted against reserved vacancies. In other words, when a relaxed standard is applied in selecting an SC/ST/OBC candidates, for example in the age-limit, experience, qualification, permitted number of chances in written examination, extended zone of consideration larger than what is provided for general category candidates, etc., the SC/ST/OBC candidate are to be counted against reserved vacancies. Such candidates would be deemed as unavailable for consideration against unreserved vacancies.

[G.I., Dept. of Per. & Trg., O.M. No. 36011/1/98-Estt. (Res.), dated 1-7-1998.]

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G.I., Dept. of Per. & Trg., O.M. No. AB-14017/27/89-Estt. (RR), dated 20-6-1989

Subject:—Examination Centres/Interview Boards for recruitment should be set up where SC/ST candidates are concentrated.

The undersigned is directed to say that a Committee of Members of Parliament which examined various matters relating to representation of Scheduled Castes and Scheduled Tribes in Government services have made the following recommendation:—

“Recruitment Boards be sent tribal concentration areas such as Santhal Parganas in Bihar where Scheduled Tribe candidates are available in large number.” Government have carefully examined the recommendation and have decided as follows:—

- (a) Wherever recruitment is made on the basis of competitive examinations, centres for examination should be set up at all places where a sizeable number of tribal candidates appear at the examination in addition to the usual centres of examination.
- (b) Where selection is made by interview, the Recruitment Boards should be sent to places where there is a concentration of candidates belonging to Scheduled Tribes.

2. These instructions may also be communicated to subordinate formations and recruitment agencies under the control of Ministries/Departments.

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G.I., Dept. of Per. & Trg. O.M. No. AB-14017/27/89-Estt. (RR), dated 20-6-1989

Subject:—SC/ST candidates recruited for Groups ‘C’ and ‘D’ posts, be given posting near their native places.

The undersigned is directed to say that a Committee of Members of Parliament, which examined matters relating to representation of Scheduled

Castes and Scheduled Tribes in Government services, has recommended that tribals should, as far as possible, be posted near their native place.

2. The recommendation has been examined carefully. It may not be possible or desirable to lay down that holders (belonging to SC/ST) of Group 'A' and Group 'B' posts who have All India transfer liability should be posted near their native places. It has, however, been decided that in the case of holders of Group 'C' and Group 'D' posts who have been recruited on regional basis and who belong to Scheduled Tribes may be given posting as far as possible, subject to administrative constraints near their native places within the region.

3. Suitable instructions may also be issued to all subordinate units.

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G.I., Dept. of Posts, Letter No. 66-47/84-SPB. I (Pt.), dated 3-8-1989;

G.I. Dept. of Telecom, Letter No. 11-14/88-NCG, dated 4-8-1989;

Dept. of Telecom, Lr. No. 1-62/85-NCG (Vol. II), dated 10-2-1992;

Dept. of Posts, Lr. No. 37-50-91-SPB. I, dated 6-1-1993 and Dept. of

Telecom, Lr. No. 10-5/94-CSE, dated 21-7-1995.

Subject:—Roster for promotion under Time-Bound One Promotion Scheme — Implementation of the judgment of Hon'ble Supreme Court of India in Writ Petition Nos. 1003-1005 of 1984.

I am directed to invite a reference to Directorate Letter No. 31-26/83-PE-I (of Dept. of Posts) No. 1-71/83-NCG (of Dept. of Telecom), dated 17-12-1983, vide which Time-Bound One Promotion Scheme was introduced. Under the said Scheme, an employee is to be placed in the next higher grade after completion of 16 years of service, subject to fitness.

2. In Para. 6 of the TBOP Scheme (effective from 30-11-1983) it has *inter alia* been mentioned that for promotion TBOP Scheme the normal orders relating to reservations for SC/ST communities will not apply unless any specific order in this regard is subsequently issued. It has been under consideration of the Department to provide SC/ST employees some additional advantage for promotion under TBOP Scheme. The direction of the Supreme Court of India in this connection that the advantage should be commensurate with similar advantages enjoyed by the SC/ST employees in other departments of the Government of India has also been kept in view.

3. After careful examination of all related aspects of the matter in consultation with the Department of Personnel and Training and Ministry of Finance, it has been decided that a special roster should be maintained for promotion under the Time-Bound Promotion Scheme. If sufficient number of candidates belonging to SC/ST communities having 16 years of service do not become available for promotion against the points reserved for them in the roster, to the extent of shortfall SC/ST candidates will be given promotion even if they do not have 16 years of service subject to the condition that they have rendered minimum period of service laid down in the relevant

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Attended
A.K. Choudhary
Add. Secy. (Genl. Insp.)
Reserve Commn.

COPIES OF ORDERS—PHYSICALLY HANDICAPPED

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The applicability of the reservation will, however, be limited to the promotions being made to those posts that are identified as being capable of being filled/held by the appropriate category of physically handicapped.

2. Each of the three categories of the physically handicapped persons will be allowed reservation at one per cent each. Though the reservations will be effective only in those posts that are identified as being capable of being held by the appropriate category of the physically handicapped persons, the number of vacancies that will be reserved for the physically handicapped persons when promotions are being made to such identified posts will be computed by taking into account the total number of vacancies that arise for being filled by promotion in a recruitment year both in the non-identified as well as identified posts. If the appropriate category of the physically handicapped persons are not available in the feeder grade from which promotion is being made to the next higher grade of the identified posts, then an *inter se* exchange will be permitted, subject to the conditions that—

- (i) the post to which promotion is to be made is one that can be held by the category of the physically handicapped persons available in the feeder grade; and
- (ii) the reservation so exchanged is carried forward to the next three recruitment years after which the reservation shall lapse.

3. Ministry of Finance, etc., are requested to give immediate effect to these orders.

In the Department of Posts.—The Roster points for the physically handicapped for the purposes of promotion have not yet been decided. However, the benefit of reservation for the physically handicapped may be allowed in the different modes of promotion in respect of each feeder grade, if the post to which the promotion is being made is a post identified for the physically handicapped.

The total reservation for physically handicapped against outsiders as well as departmental quota should not exceed the prescribed limit of 3%. Therefore, if there are more than one feeder cadre, to the higher post, the 3% quota to be filled by physically handicapped may be divided equally among the different feeder cadres. In case a candidate belonging to physically handicapped is not available in the particular feeder grade, the identified post may be filled up by *inter se* exchange.

[G.I., Dept. of Posts, Lr. No. 20-30/89-SPB-I, dated -6-1992.]

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G.I., Dept. of Per. & Trg., O.M. No. AB-14017/41/90-Estt. (RR),
dated 10-5-1990]

Subject:— Posting of physically handicapped candidates near their native places.

The undersigned is directed to say that a suggestion has been made that physically handicapped candidates appointed under the Government should

preferably be posted in their native places or at least in their native district. The matter has been examined carefully. It may not be possible or desirable to lay down that physically handicapped employees belonging to Group 'A' or Group 'B' who have All India transfer liability should be posted near their native places. However, in the case of holders of Group 'C' or Group 'D' posts who have been recruited on regional basis and who are physically handicapped, such persons may be given posting, as far as possible, subject to administrative constraints, near their native places within the region.

2. Requests from physically handicapped employees for transfer to or near their native places may also be given preference.

3. Suitable instructions may also be issued to all subordinate units.

31

G.I., Dept. of Per. & Trg., O.M. No. 31011/4/91-Estt. (A),
dated 9-7-1991

Subject:— LTC for escort accompanying physically handicapped employee.

The undersigned is directed to say that the Staff Side in National Council (JCM) had proposed that additional reimbursement may be allowed to the single handicapped Government servants for an escort accompanying them on the journeys under the LTC Scheme. The matter has been carefully considered and it has been decided that LTC facility could be allowed for an escort who accompanies a handicapped Government servant on the journey, subject to the following conditions:—

(1) Prior approval of the Head of the Department concerned is obtained on each occasion.

(2) The nature of physical disability of the Government servant is such as to necessitate an escort for the journey. In case of doubt, the decision of the Head of the Department will be final.

(3) The physically handicapped Government servant does not have an adult family member.

(4) The Government servant and the escort avail of the concession, if any, in the rail/bus fare as might be extended by Railways/State Roadways authorities in such cases.

(5) Any other person who is entitled to LTC does not accompany the handicapped Government servant on the journey.

2. Ministries and Departments are requested to bring the above decision to the notice of all concerned.

32

G.I., Dept. of Posts, Lr. No. 15-62/92-WL/Sports, dated 26-2-1993

Subject:— Financial assistance from the Postal Welfare Fund to orthopaedically handicapped employees for purchase of mechanized/motorized tri-cycle.

Attended
M. C. Chakraborty
Addl. Control Officer
Standing Control

ANNEXURE-6

ANNEXURE-VIII

FROM : SHRI KAMLA KANTA PATOWARY, U.D.C.
STATE FOREST SERVICE COLLEGE, BUMIHAT

Dated _____ th Dec/2001

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TO

The Director of Forest Education,
Ministry of Environment & Forests,
P.O. New Forest, Dehradun 248006

(THROUGH PROPER CHANNEL)

Sub:- EXPLANATION

Ref:- Your letter No.2-74/2000-DFT/2300-01,
dated 9th November/2001

Sir,

I have the honour to inform you that I am in receipt of your above letter and noted the contents thereof and beg to state that I belongs to Scheduled Caste Community and Physically Handicapped person and therefore when I received transfer order from the Directorate of Forest Education, Dehradun, I wrote to your honour to stay my transfer order and the letter was send to your honour through the Principal of our College as per Chapter 55 'Petitions to President' Part II Para 5 . And my said letter was forwarded by the Principal, State Forest Service College, Bumihat vide his letter No. SFSC/BHT/15-02/KKP/931, dated 18-12-2000. . And since then your honour send several letters thereafter to our Principal to release me from Bumihat College only . Then I was compelled by correspondance to write a letter as per verbal discussion with the Under Secretary as there is concession for SC/ST and Physically Handicapped. As per Deptt. of Personal and Training O.M.No.AB-14071/27/89-Estt.(RR) dated 29th June/1989 and G.I.Deptt.of Personal and Training O.M.No.AB-14017/41/90-Estt.(RR) dated 10th May/1990. And as such I have not violated the Established Norms of Due process.

I hope and request your honour would be kind enough to consider my case sympathetically for which act of your kindness I would be remain ever grateful to you.

Yours faithfully,

(K.K.Patowary)
U.D.C.

State Forest Service College
Bumihat

[Handwritten Signature]
ADM. Control Dept.
Planning Council.

ANNEXURE-7

No.134/87-PFC/15-02

GOVERNMENT OF INDIA

OFFICE OF THE PRINCIPAL AND HEAD OF RESEARCH
STATE FOREST SERVICE COLLEGE-CUM-RESEARCH CENTRE, BURNIHAT
A S S A M

Dated Burnihat the 16th Jan/87

O R D E R

The Services of Shri Kamala Kanta Patowary appointed vide this office order No.4295/83-PFC/15-02, dt.19-7-83 in the scale of pay Rs. 260-6-290-EB-326-8-366-EB-8-390-10-400/- p.m. on temporary basis is hereby regularised from the date of joining subject to good police verification and medical fitness certificate. The appointee will also be entitle to draw the allowances at the rate admissible under and subject to the condition laid down in rules and orders governing the grant of such allowances in force in time to time.

2. The terms of appointment are as follows:-

- (i) The appointment is temporary and will not confer any title to permanent employment.
- (ii) The appointment is purely provisional pending the issue of eligibility certificate in the candidate's favour and shall stand cancelled in the event of such certificate being refused. The candidate is required to give a written undertaking in the form attached.
- (iii) The appointment may be terminated at any time during the period of probation without assigning any reason and thereafter on one month's notice given by either side, viz. the appointee or the appointing authority, without assigning any reason. The appointing authority, however reserves the right of terminating the services of the appointee forthwith or before the expiration of the stipulated period of notice and on such termination, the Government servant shall be entitled to claim a sum equivalent to the pay and allowances for the period of notice or the unexpired portion thereof.
- (iv) He will be on probation for a period of two years from the date of his appointment which may be extended or curtailed at the discretion of the competent authority. If no action is taken by the competent authority within the period of two years in respect of the probation period it shall be deemed to have been extended until further orders. The appointee will be required to serve at BURNIHAT or any other Centre of the Institute. The appointment carries with it the liability to serve in any part of India.
- (v) Other condition of service will be governed by the relevant rules and orders in force from time to time.

3. The appointment will be further subject to:-

- (i) Production of a certificate of fitness from the Chief Medical Officer/Civil Surgeon, who is being addressed in this matter by this office.

A Hested

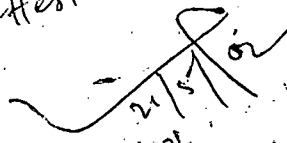
Principal
State Forest Service College
Burnihat, Assam
Contd...2.

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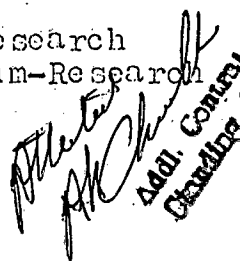
- (ii) Submission of a declaration regarding marriage in the form enclosed and in the event of the candidate having more than one wife living, or being married to the person having more than one wife living, the appointment will be subject to his being exempted from the enforcement of the requirement in this behalf.
- (iii) Taking of an Oath of allegiance/faithfulness to the constitution of India (or making of a solemn affirmation to that effect) in the prescribed form.
- (iv) Production of the following original certificates:-
 - (a) Degree/Diploma/Certificates of educational and other technical qualifications with attested copies thereof.
 - (b) Certificate of age.
 - (c) Character certificate in the prescribed form:-
 - (i) Attested by District Magistrate of Sub-Divisional Magistrate or their superior Officers (for Group 'C' post).
 - (ii) From a Gazetted Officer or Magistrate (for Group 'D' post).
 - (d) Certificate in the prescribed form in support of candidate's claims to belong to a scheduled Caste/Scheduled tribe community.
 - (e) Discharge certificate in the prescribed form of previous employment, if any.
 - (f) Attestation Form duly filled (attached) with passport size photograph.
 - (g) Personal date of candidate's relatives duly filled in prescribed form (attached).
 - (h) Declaration Home Town for the purpose of leave travel concession (form attached).
 - (i) Declaration of particulars of Hindi qualification in the prescribed form in duplicate (form attached).

4. If may please be stated whether the candidate is serving under obligation to serve, another Central Government, Department, a State Government, or a public authority.

5. If any declaration given or information furnished by the candidate proves to be false or if the candidate is found to have wilfully suppressed any material information, he will be liable to removal from service and such other action as Government may deem necessary.

Attested

 Principal,
 State Forest Service College
 Burnihat, (Assam)

Sd/- (S.N. Kalita)
 Principal and Head of Research
 State Forest Service Collegecum-Research
 Centre, Burnihat, Assam.


 Addl. Control Govt.
 Charitng Council

ANNEXURE-8 ANNEXURE-19

Confidential

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Government of India
Ministry of Environment & Forests
DIRECTORATE OF FOREST EDUCATION
P.O. New Forest, Dehradun - 248 00

Handwritten notes:
to the Principal
for the purpose
of the letter

No.2-74/2000-DFT/2929

Dated 28th December, 2001

To

The Principal,
State Forest Service College,
Burnihat - 793 101.

Sub: Relieve of Shri K.K. Patowari, Upper Division Clerk, State Forest Service College, Burnihat.

Ref: Your letter No.SFSC/BHT/15-02(Pl.III)/1581, Dated 30th November, 2001.

Please refer your letter mentioned above. It appears from the documents submitted by you that Shri K.K. Patowari was appointed to the post of L.D.C. on 27-7-1983 but he was issued Handicap certificate by a Professor of Orthopaedic Surgery, Gauhati Medical College on 22-1-1982. The certificate of Handicap is required to be issued by the Medical Board and percentage should also to be mentioned in the certificate. Shri K.K. Patowari, U.D.C. may also be asked to explain the reasons why the Handicap Certificate was not submitted by him at the time of appointment.

Handwritten signature and date:
28/12/2001

Director,
Forest Education

राज्य न्याय सेवा आयोग द्वारा
State Forest Service College
Burnihat
द्वारा
दिनांक 28/12/2001

Handwritten signature: P. K. Choudhary
**Attn: Central Govt
Reading Council**

ANNEXURE-9

- 3267

Reminder/U r g e n t

Government of India
Ministry of Environment & Forests
Directorate of Forest Education
P.O. New Forest, Dehra Dun - 248 006 (Uttaranchal)

No. 2-74/2000-DFT/ 3353

Dated 5th February, 2002

To

The Principal,
State Forest Service College,
Burnihat - 793 101.

Sub: Relieve of Shri K.K. Patowari, Upper Division Clerk, State Forest Service College, Burnihat.

Ref: This Office Letter No.2-74/2000-DFT/2929, Dated 28/31 December, 2001.

Your attention is invited to this office letter dated 28/31st December, 2001 on the subject mentioned above. You were requested to forward the Certificate of Handicap issued by the Medical Board to Shri K.K. Patowari, U.D.C. with his explanation 'why the Handicap Certificate was not submitted by him at the time of appointment'. The same has not been received so far. You may please send the required documents by 28-02-2002 positively, failing which action, as deem fit, will be taken by this office with regard to relieving of Shri K.K. Patowari, U.D.C. per letter of November 20, 2000.

5-2-2002
DIRECTOR, etc

FOREST EDUCATION

Attended
M.K. Choudhary
M.M. Central Govt.
Examining Council

ANNEXURE-10 ANNEXURE - XIII

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Confidential

Government of India
Ministry of Environment & Forests
DIRECTORATE OF FOREST EDUCATION
P.O. New Forest, Dehradun - 248 00

Inform. by Admin. progressive report

No.2-74/2000-DFT/ 3709 Dated 20 March, 2002

To

The Principal,
State Forest Service College,
Burnihat - 793 101.

Sub: Forwarding petition submitted by Shri K.K. Patowari, Upper Division Clerk, State Forest Service College, Burnihat.

Ref: Your letter No.SFSC/BHT/15-02(Pl. III)/297, dated 21st February, 2002.

Please refer your letter mentioned above. The explanation submitted by Shri K.K. Patowari, Upper Division Clerk, State Forest Service College, Burnihat has been examined and it is found that it will not be possible to retain him at State Forest Service College, Burnihat.

You are, therefore, advised to relieve Shri Patowari, U.D.C. immediately as per this office order No.2-74/2000-DFT/2810-15, dated 20th November, 2000 and direct him to report to the Principal, Eastern Forest Rangers College, Kurseong in the interest of public service.

Director,
Forest Education

Copy to the Principal, Eastern Forest Rangers College, Kurseong - 734 220. He is advised to arrange accommodation etc. for Shri Patowari and pay etc. may be drawn from April, 2002 at Eastern Forest Rangers College, Kurseong.

रि. नं. 3709/2000-74/2
दि. 20 मार्च 2002
श्री क.क. पाटवारी
उप. वि. क्लर्क
राज्य वन सेवा कालेज
बुर्निहाट

Director,
Forest Education

Attended
PK Chakrabarti
Asst. Control Comm.
Examining Council