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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 15/2002.....

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SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal :: Guwahati Bench
Guwahati

ORDER SHEET

APPLICATION NO. 15/2002

Applicant(s) Sri Prakash Ch. Rath.

Respondent(s) U.O. 1. & Ors.

Advocate for Applicant(s) Mr. B.K. Sharma, Mr. S. Sarma, Mr. U.K. Nair,
Miss. U. Das.

Advocate for Respondent(s) G.G.S.C. K.R. Chandhy, B.C.D. W
for Repts. 2, 3, 4 and 5.

Notes of the Registry	Date	Order of the Tribunal
<p>This is application in form C. F. for Rs. 50/- deposited vide IPO/BD No 7.8.8.5 Dated 22.11.2001</p> <p>Dy. Registrar</p> <p>Requisite 4 copies has been filed filed, one copy short.</p> <p>Slips taken, Notice prepared and sent to DLS for homologation Respondent No 1 to 5 by Regd AD on 29/11</p> <p>DINo 324 N 328 Dtd 8/2/02</p> <p>① Service report are still awaited.</p> <p>By 14/2/02</p>	<p>24.1.02</p> <p>mb</p>	<p>Order of the Tribunal</p> <p>Heard Mr. S. Sarma, learned counsel for the applicant.</p> <p>Issue notice as to why the application shall not be admitted.</p> <p>Also, issue notice as to why the impugned order No. F.No. 21- 06/93-Adm. II/05 dated 16.01.2002 transferring the applicant Dr. P.C. Rath from RRLRRS, Gerua, Assam to CRURRS, Hazaribag, shall not be suspended. Returnable by three weeks.</p> <p>Meanwhile, the operation of the above order dated 16.01.2002 shall remain suspended.</p> <p>List on 15.2.2002 for admission.</p> <p><u>K.C. Sharma</u> Member</p> <p><u>[Signature]</u> Vice-Chairman</p>

Order dtd 15/2/02
Communicated to the
Parties Counsel.

19/2

15.2.02

List on 15.3.03 to enable the respon-
dents to enable the respondents to file
written statement. In the meantime, the
interim order^{dated} 24.1.02 shall continue.

No written Statement
has been filed.

lm

14.3.02. 15.3.02

17.4.2002

Copy of the order
has been put to the
office for issuing the
order to the applicant
as well as to the
L/Adv. for the Respondent.
JES

Sumit copy

BeDon
A. V. V. V.
19/4/02

Vice-Chairman

Heard learned counsel for the parties.
Judgment delivered in open Court. Kept in
of the Administrative Tribunal. Not
separate sheets. Application is dismissed
of. No costs.

Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI-5.

O.A.No. 15 of 1998 2002

DATE OF DECISION..... 15.3.02

Shri Prakash Ch.Rath

(PETITIONER(S))

Mr.B.K Sharma, Mr.S.Sarma, Mr.U.K.Nair, Ms.U.P.Das
ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

Mr.K.N.Choudhury, Mr.B.C.Das.

ADVOCATE FOR THE
RESPONDENTS.

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

THE HON'BLE

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

Judgment delivered by Hon'ble VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 15 of 2002

Date of Order: This the 15th Day of March 2002.

HON'BLE MR.JUSTICE D.N.CHOUDHURY, VICE-CHAIRMAN

Shri Prakash Ch.Rath
S/O Shri A.Rath,
presently working as Scientist,
Sr.Scale in the Regional Rainted Lowland Rice Research
Station, Gerua-781102,
Kamrup, Assam.

... Applicant

By Advocate Mr.B.K.Sharma, Mr.S.Sarma,
Mr.U.K.Nair, Ms.U.Das.

-Vs-

1. Union of India
Represented by the Secretary to the Govt. of India,
Indian Council of Agricultural Research,
Krishi Bhawan, New Delhi-1.
 2. The Director General,
Indian Council of Agricultural Research,
New Delhi.
 3. The Director,
Central Rice Research Institute,
Cuttack (Orissa),
PIN-763006.
 4. The Officer-in-Charge
Regional Rainted Low land Rice Research Station,
Gerua-781102, Kamrup, Assam.
 5. Dr.B.N.Singh,
Director, Central Rice Research Institute,
Cuttack (Orissa),
PIN-763006.
- ... Respondents.

By Advocate Mr.K.N.Choudhury, Mr.B.C.Das.

O R D E R.

CHOUDHURY J.(VC):

By Order No.21-06/98-Admn.II/05 dated 16.1.2002
the applicant was transferred from RRLRRS, Gerua, Assam to
CRURRS, Hazaribag against the vacant post of Entomologist
with immediate effect until further orders. The applicant
assailed the legitimacy the order as arbitrary and discri-
minatory. The Respondents submitted their written statement.

contd/-


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In the written statement the Respondents have denied and disputed the claim of the applicant. Mr.S.Sarma, learned counsel appearing on behalf of the applicant stated and contended that the applicant was posted at Gerua on 26.4.99, prior to it was posted at Hyderabad. As per policy guidelines the applicant after completion his tenure ought to have been posted in his choice place of posting at Cuttack Head Quarter. The Respondents in ~~his~~^{his} written statement contended that the applicant was transferred at his own instance. It was also stated that the ^{arrangement} operation of the tenure posting of scientist is applicable where a Scientist is selected and posted against a post of the Main Institute is transferred to a Sub-Station can be for a period of 3-4 years and on the completion of the said period the concerned Scientist can be transferred back to the main Institute. The case of the applicant is in different nature. But when a person approaches for his transfer to the Main Institute, such a request is considered provided vacancy in the respective discipline of the concerned Scientist is available at the Main Institute. It appears that the impugned order of transfer was made at the request of the wife of the applicant made before the Deputy Director General, ICAR. The Deputy Director General in terms of the same request on 6.10.2001 made by the wife of the applicant, requested the Director to accommodate the applicant to the Main Institute Cuttack, Head quarter. Since the transfer order was made, ~~at the instance of the applicant there is~~^{at the instance of the applicant} no infirmity is discernible in the aforesaid order of the transfer.

contd/-

Mr. S. S. Sarma learned counsel for the applicant submitted that if the applicant accepts the transfer order from RRLRRS, Gerua, Assam to CRURRS, Hazaribag, in that event he would lose the right to be posted at Main Institute Cuttack in future. In my view the said apprehension of the applicant is based on total misapprehension. If the applicant is not interested for his transfer from RRLRRS, Gerua, Assam to CRURRS, Hazaribag and he wants to continue in his present place he may express his desire to the competent authority in that event the Competent authority may examine and consider his prayer as per law.

Subject to the observations made above the application stands dismissed. No order as to costs.


(D. N. CHOUDHURY)
VICE-CHAIRMAN

LM

Filed by: J
Bimal Chandra Das
Advocate.
15.3.02.

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

ORIGINAL APPLICATION NO. 15/2002.

Shri P.C. Rath ... Applicant.

- Versus -

Union of India & Ors. ... Respondents.

The Respondent Nos. 2, 3, 4 and 5 beg to file
their Written Statement as follows :-

- 1) That all the averments and submissions made in the Original Application are denied by the answering Respondents save what has been specifically admitted herein and what appears from the records of the case.
- 2) That with regard to the statement made in paragraph 4.1 of the Original Application (hereinafter referred to as the O.A.) the answering respondents have no comments to offer.
- 3) That with regard to the statement made in paragraphs 4.2 and 4.3 of the O.A. the answering respondents state that the applicant was originally selected for

contd.... p 2.

appointed as Scientist against the permanent vacancy in the discipline of Agricultural Entomology at Central ~~India~~ Rainfed Upland Rice Research Station (CRURRS), Hazaribagh and on completion of the training period, he was posted at CRURRS, Hazaribagh, but the applicant from the very beginning of his service career was reluctant to join at Hazaribagh on various pretext wanted his posting at the Headquarter of the Institute at Cuttack. Since there was no vacancy at the Headquarters, the applicant requested to post him at CRURRS, Kharagpur, West Bengal which was nearer to Cuttack. The above request was acceded since there was a vacancy available in the discipline of Estomology at CRURRS, Kharagpur.

Subsequently, the said Sub-Station located at I.I.T. Campus, Kharagpur was merged with the Sub-Station at Gerua, Kamrup, Assam and all the posts and staff members working at CRURRS, Kharagpur were merged with ^{RRLRS,} ~~CRURRS,~~ Gerua, Kamrup, Assam as per the decision of the competent Authority of the I.C.A.R. The applicant has totally misrepresented and mis-interpreted the concept of tenure posting of Scientists to Sub-Station. The operation of tenure posting of a Scientist is applicable where a Scientist is selected and posted against a post of the Main Institute is transferred to a Sub-Station subsequently there the tenure of the Scientist at the Sub-Station can be ^{for} a period of 3 - 4 years and on the completion of the

contd...

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3.

said period the concerned Scientist can be transferred back to the Main Institute. Had the contention of the applicant been true, then almost all the ^working Scientists who have been selected and posted against the vacancy of the Sub-Station could have been transferred to the Main Institute and as a matter the Sub-Stations would not have existed. But when a person approaches for his transfer to the Main Institute, such a request is considered provided vacancy in the respective discipline of the concerned Scientist is available at the Main Institute. There are much more senior persons working at the Sub-Stations who could also raise the question of tenure posting and ~~and~~ could have asked for their transfer to the Main Institute.

B.N.Singh

Besides the detailed vacancy position of Scientists at the Main Institute was also appraised to the Hon'ble Union Agricultural Minister on ^{the} his transfer issue of the applicant, who after due perusal of the records desired that the case of the applicant be taken into consideration when a vacancy is available at the Main Institute in his discipline. As a matter of fact the applicant was not posted at the Sub-Station on tenure assignment, on completion of which he can claim for his choice place of posting as his posting at the Sub-Station was permanent.

4) That with regard to the statement made in

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paragraph 4.4 of the O.A. the answering respondents state that due to the repeated request from the applicant on the issue of his transfer from Gerua, Assam there was a communication vide letter No. 11-25/99-1A.IV-2 dated 1.1.2002 to consider the transfer of the applicant from Gerua to either Headquarter at Cuttack or other Sub-Station. The Respondent No. 3 in honour of the instruction of the Higher Authority issued the transfer order dated ~~16.1.2002~~ 16.1.2002 transferring him from Gerua to CRURRS, Hazaribagh against an available vacancy as there was no vacancy available at the Main Institute at Cuttack in the applicant's discipline.

B.N.Singh

5) That with regard to the statement made in paragraph 4.5 of the O.A. the answering respondents beg to state that the respondents share the feeling with the applicant and condemn such a heinous crime and have every sympathy towards the applicant and his family. That Respondent as duty bound Govt. Servant have conducted preliminary departmental inquiry into the above incident and have taken all necessary steps to deal with such a situation and have issued orders as per Rule. The Respondent No. 5 had constituted the inquiry committee to inquire into the incident and furnished the report to the I.C.A.R. Headquarters for action as he is not the appointing authority. Therefore, the allegation of putting pressure

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on the police are baseless and far from the truth. Instead of understanding the difficulty of the respondents to transfer him to the Main Institute the applicant has defamed the respondent No. 5 with all sorts of allegation. The applicant's filing of Writ Petition before the Hon'ble Gauhati High Court is against the improper police inquiry which will take its own course and, as such, it will not be proper to comment upon it.

6) That with regard to the statement made in para 4.6 of the O.A. the answering respondents beg to state that there are authorities prescribed in the rule who are competent to take action and issue orders. As such the action taken by the Respondents against Dr. A.K. Sarial has nothing to do with the filing of the writ petition by the applicant because concerned papers have to be routed through various channel and before the respondents could know about the filing of the writ petition by the wife of the applicant, necessary order against Dr. A.K. Sarial had already been taken and communicated. Besides the circumstances under which the applicant was transferred from RRURRS, Gerua, Assam to GRURRS, Hazaribagh have already been stated. As such the allegation on the Respondent No. 5 about issuing the transfer order with an ulterior motive is baseless and far from truth. The applicant earlier could not be successful to get his desired transfer to the Main Institute at Cuttack even after putting pressure

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from higher authorities and when all are sympathetic towards him in view of the criminal allegation of his wife against the former Officer-in-Charge of the Sub-Station, he was hopeful to utilise the same to his advantage and get his transfer to the Main Institute. When his cherished goal could not be fulfilled due to non-availability of vacancy at the Main Institute, he has put the entire blame on the Respondent No. 5 by implicating him in person.

7) That with regard to the statement made in para 4.7 of the O.A. the answering respondents state that issue is purely personal and in that case the applicant can leave his wife in Orissa for sometime to complete her Ph.D Work.

8) That the answering respondents deny the correctness of the statement made in para 4.8 of the O.A. as the manner and circumstances under which the transfer order has been made has already been stated earlier. As such, there is no question of taking any vindictive attitude by the Respondent No. 5 towards the applicant as has been alleged. No proceeding is pending against the Respondent No. 5, as he has done no crime on his part, which will warrant any proceedings. It is the applicant who had met the Respondent No. 3/5 several times during his visit to Cuttack and requested for his transfer to the Main Institute in one or the other pretext. As he could not be successful

contd...

in getting a transfer to Cuttack even by bringing in political interference, he is trying to defame the Respondent No. 5 by way of baseless and frivolous allegation. There is no question of showing soft corner to any Officer whose conduct and moral character can be questioned. Hence, it was the Respondent No. 5, who had recommended for the removal of Dr. A.K. Sarial from the post of the Officer-in-Charge of the Sub-Station.

9) That with regard to the statement made in para 4:9 of the O.A. the answering respondents beg to state that the applicant was interested for his transfer and he should not bother about replacement which is the look out of the respondents. As already stated the applicant's original appointment was only against that particular vacancy of the CRURRS, Hazaribagh. Since he had personal problems (Mother's illness etc.) his case was once considered favourably and he was posted to a nearer place at CRURRS, Kharagpur. The applicant works in Entomology discipline. His case for transfer to a place can only be considered where a vacancy in the same discipline is available. In the instant case a vacancy in the discipline Entomology is available at CRURRS, Hazaribagh and there was no vacancy available in that discipline at the Main Institute at Cuttack. Hence, there was no other alternative available to the respondents except to transfer him to a

contd...

more convenient place of Hazaribagh since he was pressing hard for his transfer in the recent months as he has asthmatic problems, his son has bronchitis problems and his concern about his son's education. Hazaribagh is a dry place (very low humidity in comparison to Cuttack which has over 80-90 percent % humidity throughout the year) and its climate is good and with better educational facility there will be no problem for the applicant which he apprehends. In view of the above, there was no question of any ulterior motive on any body's part towards the applicant's transfer.

10) That with regard to the statement made in para 4.10 of the O.A. the answering respondents state that the respondents have all sympathy towards the family of the applicant. As such, they considered the request of the applicant for his transfer from Gerua, Assam to CRURRS, Hazaribagh where a vacancy in the discipline of Entomology is available. His transfer to the Main Institute at Cuttack could not be made due to non-availability of vacancy in his discipline and there was no other reason for non-consideration of transfer to Cuttack as has been alleged.

11) That with regard to the statement made in para 4.11 of the O.A. the answering respondents state that whenever the applicant visited Cuttack, all the time he requested the respondents No. 3/5 for his transfer to

contd....

Cuttack. On every occasion he had been told that his case would be considered whenever such an opportunity arises. But unfortunately Govt. of India has drastically reduced the staff strength of the Institute in all grades including Scientific grades. As such, no new recruitment was possible in the Scientific grade which would have otherwise facilitated for the transfer of the applicant. As regards the education of his son is concerned at Hazaribagh, there would be no problem for him in that regard as Hazaribagh Sub-Station even ~~for~~ School Bus facility for his son is available there. As regards transferring Scientists from the Headquarters to Gerua is concerned, it is submitted that Gerua Sub-Station has been recently started functioning and some Senior Scientist/Principal Scientist have been deputed to Gerua with a view to guide the young Scientists and for the setting and developing of the infrastructure for carrying out future research. Such Scientists can not be posted there permanently as they are borne in the cadre strength of the Main Institute and have specific research projects on ~~in~~ various specialized area to carry out at the Main Institute.

12) That with regard to the statement made in para 4.12 of the O.A. the answering respondents state that the original appointment of the applicant was against the specific vacancy of the Sub-station and his posting was

contd...

not on transfer which would warrant his choice place of posting after completion of the tenure. However, transfer of a person from the Sub-station to his desired place depends upon availability of vacancy. As the cadre strength has been reduced and there is very limited scope of vacancy at the Main Institute to facilitate the transfer of Sub-station Scientist to the Main Institute. Moreover, the applicant should also note that he is not a Central Govt. employee rather he is an ICAR employee. Since ICAR has adopted the Central Govt. Rules and regulation, he is entitled for the SDA etc. Besides, the tenure facts about his transfer to CRURRS, Hazaribagh has already been replied earlier as such there is no need to repeat the same.

13) That with regard to the statement made in para 4.13 of the O.A. the answering respondents state that the applicant has not brought out any specific reference, who have been favoured with Main Institute posting to facilitate a befitting reply. Since, he has not mentioned anything specifically nothing more can be said on this point.

14) That under the facts and circumstances stated above, it is respectfully prayed that the applicant is not entitled to any relief whatsoever and the original application is liable to be dismissed with cost and the stay order against the transfer of the applicant may be vacated.

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11.

VERIFICATION

I, Shri/Dr. Baij Nath Singh, son of
Bans Raj Singh, aged about 52 years, presently working
as Director, C.R.R.I., Cuttack-6 do hereby verify
that the statements made in paragraphs 1, 2, 3, 4, 5, 6, 7, 8,
9, 10, 11, 12 & 13 are true to my knowledge and those made
in paragraphs 14 ~~to~~ ~~is~~ are true to my legal
advice and I have not suppressed any material fact.

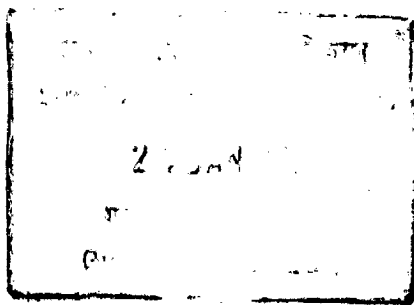
And I sign this verification on this, the 6th
day of March, 2002.

B.N. Singh

11/3/02

SIGNATURE
DIRECTOR

Central Rice Research Institute,
Cuttack-753006, Orissa.



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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case :

15/2002
O.A. No. of 2001

BETWEEN

Shri .Prakash. Ch. Rath..... Applicant.

AND

Union of India & ors..... Respondents.

I N D E X

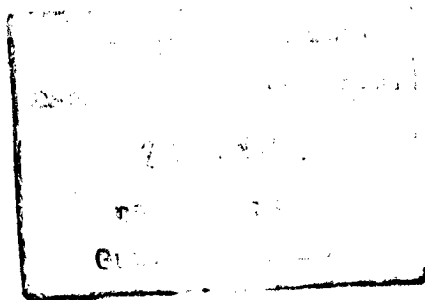
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Filed by : *Asha Das*

Regn.No. :

File : WS7\PRAKASH

Date :



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Filed by
the applicant through
Ulsha Das
Advocate
24/1/02

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under section 19 of the Central
Administrative Tribunal Act.1985)

O.A.No. 15 / 2002 of 2002

BETWEEN

Shri Prakash Ch.Rath
S/o. Shri A.Rath.
Presently working as Scientist,
Sr.Scale in the Regional Rainfed
Lowland Rice Research Station,
Gerua-781102, Kamrup, Assam.
..... Applicant.

VERSUS

1. Union of India,
Represented by the Secretary to the Govt.of India,
Indian Council of Agricultural Research,
Krishi Bhawan, New Delhi-1.
 2. The Director General,
Indian Council of Agricultural Research,
New Delhi.
 3. The Director,
Central Rice Research Institute,
Cuttack (Orissa),
PIN-763006.
 4. The Officer-in-Charge
Regional Rainfed Lowland Rice Research Station,
Gerua-781102., Kamrup, Assam.
 5. Dr.B.N.Singh,
Director, Central Rice Research Institute,
Cuttack (Orissa),
PIN-763006.
- Respondents.

PARTICULARS OF THE APPLICATION

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

This application is directed against the order
bearing No.21-06/98-Admn.II/05 dated 16.1.2002 issued by the
Respondent No.3 by which he has been sought to be

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transferred to Central Rainfed Upland Rice Research Institute, Hazaribag. The applicant has also preferred this application praying for an appropriate direction from this Hon'ble Tribunal for his choice place of posting at Central Rice Research Institute, Cuttak taking into consideration his representations.

2. LIMITATION:

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act.1985.

3. JURISDICTION:

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

4. FACTS OF THE CASE:

4.1. That the applicant is a citizen of India and as such he is entitled to all the rights, privileges and protection guaranteed by the Constitution of India and laws framed thereunder.

4.2. That the applicant has come before this Hon'ble Tribunal challenging the order of transfer dated 16.1.2002 issued by Respondent No.3 with a further prayer for his choice place of posting at Cuttak Head Quarter. The applicant got his appointment on 3.6.93 at Hyderabad centre and after completion of his training on 1.11.93 he joined the Central Rice Research Institute, Cuttack as a trainee.

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After successful completion of training in the institute he was given the posting in Khargpur Central Rainfed Lowland Rice Research Station (CRLRRS) Khargpur which is a sub-station of the said Institute. As per Rule a Scientist posted at sub-station after completion of his tenure is entitled to place his choice place of posting. The applicant is a permanent resident of Orissa and hence he placed his choice for Head Office, Orissa, but his prayer was not acceded to and on 26.4.99 he joined his present place of posting at Gerua on transfer.

Since the dates mentioned above are not in dispute, the applicant craves leave of this Hon'ble Tribunal to furnish those copies of the order at the time of hearing of the case.

4.3. That the applicant after joining the post of Scientist under the Respondent No.3 made several requests for his Transfer Posting at Cuttack Head Quarter taking into consideration the Agricultural Service Rules of ICAR. In those representations the applicant made categorical prayer regarding his transfer and posting to Cuttack Head Quarter (his home State) highlighting the fact that he has completed his tenure posting at Sub-Stations like Khargpur and Gerua. However, inspite of repeated request nothing came out positive from those representations.

A copy of one of such representations is annexed herewith and marked as Annexure-1.

4.4. That surprisingly enough the Respondent No.3 without considering his prayer for choice place of posting

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issued the impugned order dated 16.1.2002 by which again he has been sought to be posted to a Sub Station at Hazaribag.

A copy of the said impugned order dated 16.1.2002 is annexed herewith and marked as Annexure-2.

4.5. That the applicant begs to state that on 9.9.2001 the then Officer-in-Charge of Regional Rainfed Lowland Rice Research Station, Gerua, Shri A.K.Sarial attempted rape of the wife of the applicant. The applicant lodged an F.I.R. in the Hajo Police Station against the said Officer-in-Charge. Taking into consideration the aforesaid fact proceeding was initiated against said Shri Sarial and his service has been terminated by the competent authority. The aforesaid incident however made the applicant an unwanted person for the Respondent No.5. The Respondent No.5 during the course of criminal investigation against said Shri Sarial put undue pressure on the police authority and the applicant having found no other alternative to file Writ Petition before the Hon'ble Gauhati High Court bearing W.P.(C) No.8052/2001 challenging improper investigation by the I.O. of Hajo Police Station in case No.195/2001. In the said Writ Petition Respondent No.5 has been arrayed as Party Respondent. The Hon'ble High Court having found a prima-facie case was pleased to issue notice to all the Respondents vide it's order dated 26.11.2001.

A copy of the said order dated 26.11.2001 is annexed herewith and marked as Annexure-3.

4.6. That things started moving after the fitting of the aforesaid Writ Petition and the Respondent No.5 with an ulterior motive issued the impugned order dated 16.1.2002.

4.7. That the applicant begs to state that Mrs. Mitashi Rath, the wife of the applicant is presently residing with the applicant and after the aforesaid incident she is facing tremendous mental pressure. On the other hand she was doing her Ph.D. work in Orissa, but due to non posting of her husband, i.e. applicant, she could not complete her study. This was also a prayer before the concerned authority in the representation of the applicant but same yielded no result in positive.

4.8. That the applicant begs to state that the plain reading of the impugned order indicates the vindictive attitude of the Respondent No.5 who issued said impugned order dated 16.1.02 with a malafide intention to frustrate proceeding initiated against him as well as said Shri A.K.Sarial. In fact, Respondent No.5 has got a soft corner for Mr.A.K.Sarial Ex Officer-in-Charge.

4.9. That the applicant begs to state that the impugned order has been issued only to the applicant without any replacement. By the said impugned order the applicant is sought to be transferred to a post which is lying vacant since 18 years I.e, from inception of the said Station at Hazaribag. On the other hand as per the Agricultural Scientific Service Rules of ICAR, a Scientist after completion of 3 years of service will be transferred to a choice place of posting i.e. Head Quarter. Again Scientist

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posted at Sub Stations are also entitled to place their choice for Head Quarter after completion of his tenure in sub station. In the present case the applicant joined the post at Sub Station Khargpur on 24.8.94 and now he is working at Gerua. Both the stations are sub station and as per the service Rules, Gerua station is a hard station. Taking into consideration the agricultural Service Rules of ICAR, the applicant is entitled to get his choice place of posting at Cuttack Head Quarter where there are numbers of vacancies still in existence. However, the Respondent No.5 with an ulterior motive passed the impugned order, violating the aforesaid Rules.

A copy of the aforesaid Rules (extract) is annexed herewith and marked as Annexure-4.

4.10. That the applicant begs to state that as stated above the aforesaid sexual harassment, the wife of the applicant has lost her mental balance and it has become impossible for her to stay at Gerua and to face people. Highlighting the aforesaid fact applicant made several request for his transfer to his home town but instead of considering his case the Respondent No.5 issued the impugned order of transfer, adding insult to his injury. The CCS conduct Rules also provide the aforesaid relief to the victim of such harassment leaving it open for them to make representation for their transfer.

An extract of the said Rule is annexed herewith and marked as Annexure-5.

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4.11. That the applicant begs to state that earlier the Respondent No.3/5 made an oral assurance to the applicant for his posting at Cuttack Head Quarter and accordingly the son of the applicant was admitted in the St.Antonny's School at Cuttack but in absence of any favourable order of transfer there after , he had to abandon the said admission. That apart in the present place of posting at Gerua there is no such school to get his son's education. Presently the son of the applicant is 5 years old and in the event of his non transfer to his choice place of posting, he will suffer irreparable loss and injury. In fact the respondent No 5 has been transferring scientists from Head Quarter to sub stations like Gerua but after completion of their one year tenure postings are being made to Head Quarters but in the instant case the profece-norm has been violated.

4.12. That the applicant begs to state that he being a Central Govt employees and after his posting at N.E Region, is drawing SDA in terms of the O.M dated 14.12.83. It is pertinent to mention here that as per the said O.M dated 14.12.83, the applicant is also entitled to get his choice place of posting as he has completed his tenure posting at N.E Region. In fact the representations filed by the applicant praying for his choice place of posting is still pending consideration and the respondents mainly the respondent No 5 without considering his case, issued the impugned order dated 16.1.2002, illegally with a malafide intention to harass the applicant.

4.13. That the applicant begs to state that persons similarly situated like that of the applicant has been

X
✓

favoured with head quarter posting but the case of the applicant took a different turn because of the undue interference of the respondent No 5 in his transfer matter.

4.14. That the applicant begs to state that presently he is holding the post of Scientist Sr. Scale in the office of the RRLRRS Gerua and the respondent No 4 has not yet issued him any order of release. However, the respondent No 5 is pressurising the respondent No 4 for his release and at any moment the said respondent may issue the order of release to the applicant taking into consideration the impugned order dated 16.1.2002. In that view of the matter the applicant having no other alternative has come under the protective hands of this Hon'ble Tribunal seeking an appropriate relief and during the pendency of the present O.A, he also prays for an interim order directing the respondents not to give effect the order of transfer dated 16.1.2002 till the finalisation of the case. It is further stated that the present case is a fit case wherein Your Lordships would graciously be pleased to pass interim order as prayed above. In case the interim order as prayed for is not granted the O.A will be rendered infructuous and the applicant will suffer irreparable loss and injury.

4.15. That this application is filed bonafide and to secure ends of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action/inaction on the part of the respondents in not considering the case of the applicant for choice place of posting and in issuing the impugned order

dated 16.1.2002 is illegal and arbitrary and same depicts total non application of mind by the respondents.

5.2. For that the entire action on the part of the respondents mainly the respondents No 5 in issuing the impugned order dated 16.1.2002 is illegal, and same depicts malafide intention on his part. On this score alone the impugned order is liable to be set aside and quashed.

5.3. For that the issuance of the impugned order dated 16.1.2002 and non consideration of his case for choice place of posting is the net result of the proceeding pending initiated by the applicant against the respondents No 5 and from the impugned order itself it is clear that same has been issued as measure of punishment to harass the applicant and hence the said impugned action on the part of the respondents is liable to be set aside and quashed and further direction need be issued for choice place of posting of the applicant to Head Office at Cuttak taking into consideration the service Rules and guidelines holding the field.

5.4. For that the respondents ought to have considered the case of the applicant for his choice place of posting as has been done in case of others and having not done so the respondents have acted contrary to law and rules holding the field. On the other hand inspite of considering his case the respondents have issued the impugned transfer order dated 16.1.2002 with a malafide intention by issuing a cryptic order which is not sustainable in the eye of law.

5.5. For that in any view of the matter the action/inaction of the respondents are not sustainable in the eye of law and liable to set aside and quashed.

The applicant craves leave of the Tribunal to advance more grounds both legal as well as factual at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to them and there is no alternative remedy available to him.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER

COURT:

The applicant further declares that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant:-

8.1. To direct the respondents to issue necessary order of transfer to the applicant posting him to Head Quarter at Cuttak, taking into consideration his representation filed to that effect.

8.2. To set aside and quash the impugned order dated 16.1.2002 (Annexure-2).

8.3. Cost of the application.

8.4. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

Pending disposal of the application the applicant prays for an interim order directing the respondents not to give effect the impugned order dated 16.1.2002 (Annexure-2) and to allow the applicant to continue in his present place of posting at RRLRRS Gerua.

10.

11. PARTICULARS OF THE I.P.O.:

1. I.P.O. No. : 66 788851
2. Date : 28/11/01
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

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VERIFICATION

I, Shri Prakash Ch.Rath , son of Shri A.Rath, aged about 35 years, at present working as Scientist, Sr.Scale in the Regional Rainfed Lowland Rice Research station, Gerua-781102, Kamrup ,Assam, do hereby solemnly affirm and verify that the statements made in paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100 are true to my knowledge and those made in paragraphs 42 to 46, 49, 50 are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 23rd day of Jan. of 2002.

Signature.

Dr Prakash Chandra Rath

Annexure-1.

To

The Director, CRRI Cuttack-6

(Through proper channel).

Sub.: Transfer of Dr.P.C.Rath before academic session (2002-Feb) from Gerua to Cuttack-reg.

Sir,

With due respect and humble submission I would like to draw your sympathetic consideration and favourable orders that:

1. I have joined at RRIRRS Gerua, Assam on 26.4.99 and going to complete 3 years of service on 25.4.2002.
2. At Gerua I have already sacrificed two year of basic education of my child due to lack of education facility at Gerua.
3. At Gerua, my wife was compelled to discontinue her work for Ph.D in Oriya. She is a 1st class science graduate as well as 1st class M.A. in Oriya and continuing her Ph.D. under Utkal University.
4. My wife as well as myself were unable to look after our ailing parents at their urgent need, so that we have been deprived from our social obligation by remaining at Gerua.
5. Due to rape attempt of Dr.A.K.Sarial Ex-Officer-in-Charge of this station on my wife in my absence at Gerua, She has suffered a lot and got defamed in this locality. Till today, she has not forgotten that trauma and she deserves change of place to her native state through my transfer.
6. I had requested you several times for my transfer to

Attested
Alsha Das
Advocate



Cuttack which had not been listed and at the same time you had transferred other scientists from this place to Cuttack after their one year tenure which warrants me to remind you the discrimination and injustice made upon me.

7. There is a provision of rotation among the scientists of H.Q. and substation to avoid victimisation which has not been followed in my case. (As per the ARS Scientific Service Rule of ICAR which has been sent to you in my earlier application).

8. I have completed eight years of service in two regional stations of CRRRI at Kharagpur, W.B. and Gerua, Assam, which are far away from Cuttack.

9. I have worked about 3 years of service in N.E. Region and in remote locally area and should be transferred to my place of choice i.e. CRRRI Cuttack as per rule written in the Swamy's Hand Book-2000 page no.306 under the concession for serving in N.E. Region etc. (Enclosed).

10. I have worked in a very bad condition in the Regional stations at Kharagpur and Gerua, Assam where library, equipments and other infrastructural facilities are lacking for research.

11. I have comprised about three years of health problems of myself and family members at Gerua due to lack of good medical facility.

12. I have admitted my son in St. Antony School, Bidyadharpur, Cuttak in February 2001 which is known to you.

The above facts and grievances are genuine and warrant your quick attention for my transfer to Cuttack before Feb. 2002 without waiting for substitute and availability of post at Cuttack in public interest,

Attested
Alka Das
Advocate

otherwise, I will be compelled to appeal before the Hon'ble Court of Central Administrative Tribunal. Guwahati for the same.

Thanking you.

Yours faithfully

(P.C.Rath)

Scientist (SS) Entomology)

RRLRRS Gerua, Hajo, Kamrup, Assam-781102

Because of the urgency of the situation as explained above I am submitting advance copy to Director CRR I Cuttack DDG(CS) and DGICAR, Krishi Bhawan, New Delhi-110001.

Attested
Asha Das -
Advocate

ANNEXURE-2

Fax Msg. No. 69

Dated... 17/01/2002

No. of Pages... 1



CENTRAL RICE RESEARCH INSTITUTE
CUTTACK-753003 (ORISSA)

F.No.21-06/98-Adm.II/05

Dated 16.01.2002

OFFICE ORDER

Dr. P.C.Rath, Scientist (Sr.Scale) is hereby transferred from RRLRRS, Gerua, Assam to CRURRS, Hazaribag against the vacant post of Entomologist with immediate effect until further orders.

He is entitled for TTA and joining time as per rule.

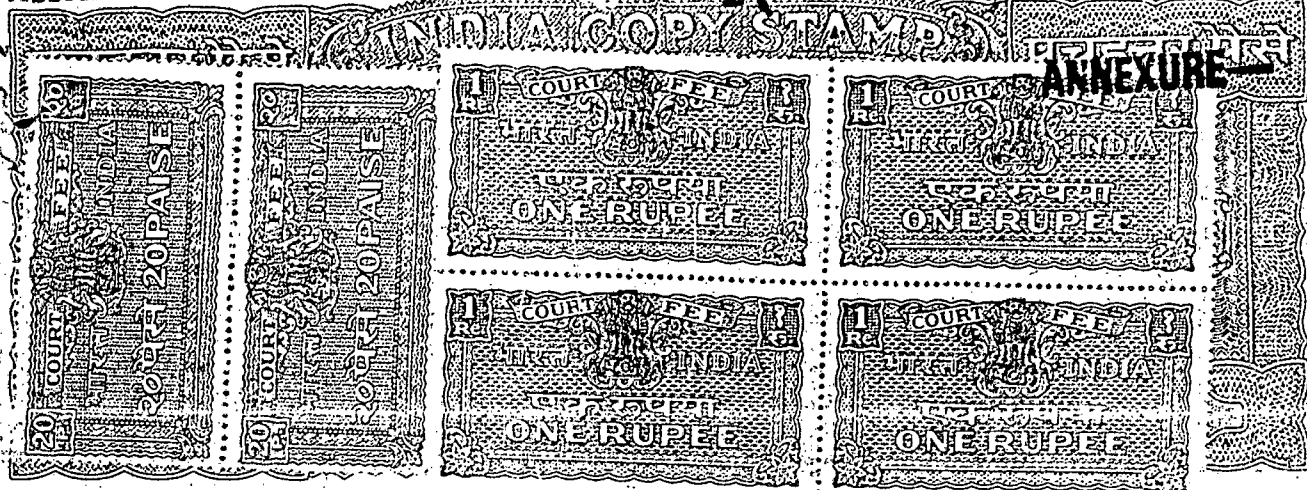
(B.N.Singh)
Director

Distribution:

1. Office Order Book
2. Dr. P.C.Rath, Scientist (Sr. Scale), RRLRRS, Gerua, Kamrup, Assam (Through OIC, RRLRRS, Gerua, Assam).
- ✓ 3. Officer-in-Charge, RRLRRS, Gerua, Kamrup, Assam. He should be relieved after submitting the Annual Report & completion of other data of trials conducted by him at the Station.
4. O.I.C., CRURRS, Hazaribag, Jharkhand with the request forward the joining report of the transferee.
5. Finance & Accounts Officer, CRRI
6. A.A.O., Adm.II/ B & C/ Stores/ Tech., CRRI
7. Director cell/ Jt Director cell/ Sr. A.O. Cell/ Confidential cell, CRRI
8. Personal file/Service Book.

Attested

Advocate.



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि दान को लिए प्रतिलिपि दिया था Date on which the copy was ready for delivery.	आवेदन पर प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
13.12.2001	13.12.2001	14.12.2001	14.12.2001	14.12.2001

IN THE GAUHATI HIGH COURT

(HIGH COURT OF ASSAM: NAGLAND: MEGHALAYA: MANIPUR: TRIPURA:
MIZORAM AND ARUNACHAL PRADESH.)

W.P.C. NO. 8052/2001.

Mrs. Mitashree Rath, aged about 28 years, Wife of Dr. P.C. Rath,
resident of Gerual in the district of Kamrup, P.S. Hajo, Assam.

..Petitioner.

-Vs-

1. The Union of India, represented by Secretary, Agriculture
Krikhi Bhawan, New Delhi.
2. The State of Assam, represented by its Secretary
, Home, Dispur, P.O. Guwahati- 5, Dispur, Assam.
3. Sri Bhabendra Nath Das, S.I. of Police, Investigating
officer in Hajo P.S. Case No. 195/2001, resided at Hajo at
present P.O. Hajo, Dist-Kamrup Assam.
4. Dr. B.N. Singh, Director, Central Rice Research Institute,
Cuttack Orissa, Pin- 753006.
5. Dr. A.K. Sarial, son of Officer in charge of the Regional
Rainfed low land Rice Research station, Situated at Gerual
Dist-Kamrup, Assam.

.. Respondents.

::PRESENT::

THE HON'BLE MR. JUSTICE A.K. PATNAIK,

For the petitioner :- Mrs. K. Deka, Mr. P. Deka, Mrs. B.U. Bhattacharjee

For the respondent :- CGSC, G.A. Assam.

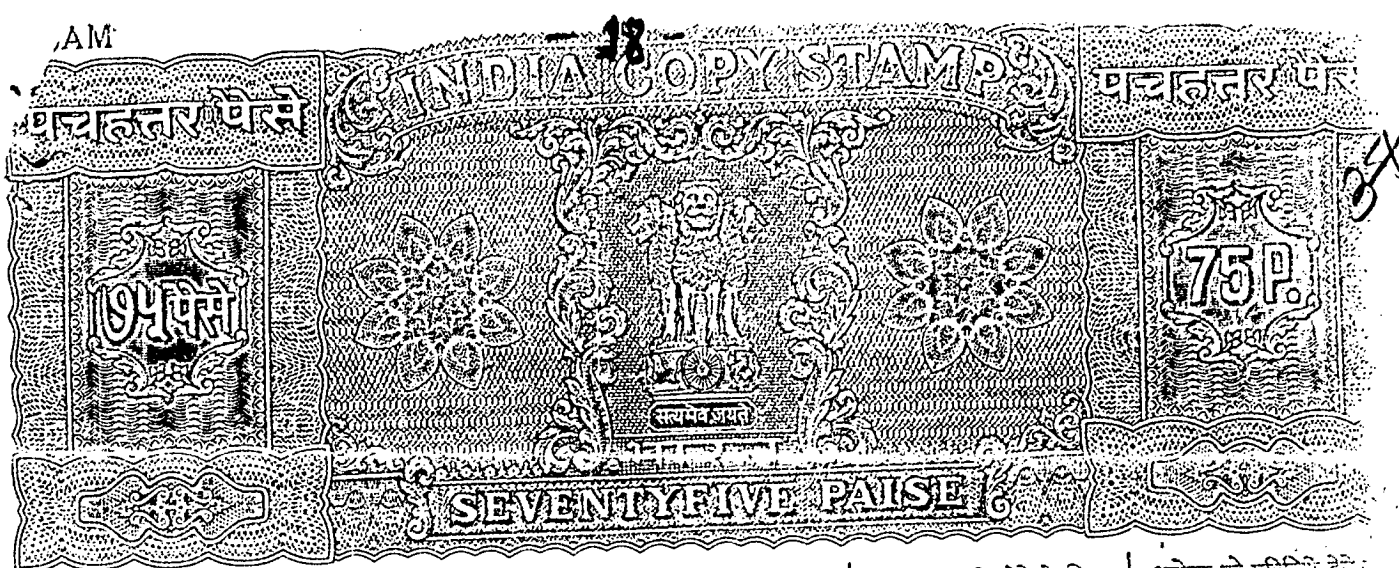
Date:-26.11.2001. O R D E R

Heard Ms. K. Deka, learned counsel for the petitioner and
Mr. R. Bora, GA Assam.

Contd ...2/-

Attested

Advocate.



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over copy to the applicant.

-2-

Let a Notice of motion issue calling upon the respondents to show cause as to why a Rule should not be issued as prayed for or why such further or other order should not be passed as to this court may seem fit and proper. Notice is made returnable within 6 weeks.

Mr. Bora accepts notice on behalf of the respondent No. 2. Mr. K.K. Mahanta CGSC, accepts notice on behalf of the respondent 1. The petitioner shall take steps for service of notice on the respondent Nos. 3, 4 and 5 by registered post with A/D by 30.11.20.

On the returnable date the respondent No. 4 will file an affidavit along with a copy of the enquiry report in the department proceeding said to have been initiated against the respondent No. 5.

Sd/-A.K.PATNAIK,
JUDGE.

Registered No. of Petition	241/80
Photostats by whom by	14/12
Read by	14/12
Computed by	14/12

CERTIFIED TO BE TRUE COPY
Krishna Kumar Sharma
Date 14.11.2021
Superintendent (Copying Section)
Gauhati High Court
Authorized U/S 76, Act I, 1872

Attested
Advocate.

14/11/2021



Compilation on
**Agricultural
Scientific
Service Rules**

Attested

[Signature]

Att. Secy.

m suresh kumar

pp brahmaji □ *m narasimha rao*

Chapter 5 TRANSFER POLICY

According to Rule 20 of the Rules for Agricultural Research Service, a scientist is liable to transfer to any place in India. A scientist is also required to serve a minimum period of time in backward or comparatively less developed area of the country, as may be determined and decided by the Controlling Authority. The question of evolving suitable guidelines for the transfer of scientists of ARS from one place to another has been considered, and it has been decided with the approval of the SFC/GB and the President, Indian Council of Agricultural Research that the following guidelines will be observed for making transfers of ARS Scientists from one Institute to another, and within the Institute with effect from 1.1.1980.

Criteria. The transfers of scientists will be made:

- to correct imbalance in the cadre strength of scientists in various disciplines at different Institutes, and also within an Institute including regional stations.
- to fill positions in high priority projects where direct recruitment through the Agricultural Scientists Recruitment Board may result in delay in the implementation of programmes.
- to utilize the experience of scientists in appropriate fields.
- to post scientists in backward or comparatively less developed areas in accordance with the provisions of Rule 20 (2) of the ARS Rules.
- for administrative reasons.

Categorisation of Stations

The stations in which the ICAR Institutes and centres are located have been categorised as A, B, C, D and E. For purposes of transfer A and B will form one group, C in second group, and D and E in third group.

Tenure of posting

The tenure of posting will normally be five years in the first group, four years in the second group, and three years in the third group. The scientist on completion of tenure of five years in the first group will be transferred to the third group, and on completion of three years tenure in the second group and then to the first group and so on.

any scientist working in second and third group i.e. category C, D and E stations does not want to be disturbed he may be allowed to continue in those stations. A scientist is required to spend at least a minimum of three years in group three stations i.e. Category D or E station during his entire career. Scientists over 55 years in age may not be disturbed from their existing places of work without their consent, as far as possible.

ICAR'S DECISIONS

(1) Transfer from difficult areas to a more favourable area in public interest. A scientist should be allowed to have a tenure of four years in difficult areas. He may be considered for transfer from the difficult areas after completion of four years to a more favourable area situated in categories A, B or C. The period of tenure for Category D and E station has been increased from 3 to 4 years as for continued research a minimum period of four years will be necessary. The transfer of a scientist from a difficult area after he completes his tenure of 4 years, is to be considered as in public interest. He will, therefore, be entitled to transfer TA, Joining Time etc.

(No. 3-2/78-Per. IV dated 14.06.1982)

4. Time of transfer

As far as possible transfers should normally be made by the end of March when the academic session of the schools and colleges will come to close so as not to disturb the education of the children.

5. Mode of transfer

Transfer will be made in the order of length of stay at a particular place, i.e. the scientists who have served longest in a station will be transferred first. The scientists who have served for a long period in stations included in the second and the third groups will be considered first for transfer. While computing the length of service for transfer the period already rendered in B, C and other areas should be taken into account. In case of inter-institutional transfer, Directors should be consulted or informed in advance. While transferring the scientists, consideration should be given to its effect on research programmes so that no programme is disrupted. Transfer not of a routine nature according to pattern, but on administrative/disciplinary grounds should be ordered by the Directors in the Centres/stations under them after getting the prior approval of the Director General, ICAR.

ICAR'S DECISIONS

Attested
[Signature]

Advocate

*Compilation of
Agricultural Scientists
Services Rules
of ICAR*

*by
M. Suresh Kumar
P. P. Brahmaj
M. Narasimha Rao*

*NIAARM
Rajendranagar
Hyderabad - 500030*

(1) Institute may develop guidelines for intra-institutional transfers. There is preconceived notion that in some Institutes transfers are being made for reasons other than the needs of the research programme. It has been decided by the Controlling Authority that, in the interest of uniformity of treatment, the Directors of the Institute who have Regional Station/Centres outside the headquarters of the Institute may develop guidelines for intra-institutional transfers in consultation with the Management Committee at the Institute. The guidelines evolved will be sent to the Council.

(No.8-16/76-Per.IV dated 28.02.1977)

(2) Transfers should be kept to the minimum, and resorted to only in the interest of work and in public interest. The question of transfer of scientists from one Institute to its Regional Stations/Centres and vice-versa is to be taken care of by the respective Institutes themselves, in accordance with the prescribed guidelines. In pursuance of Rule 20(2) of the ARS rules, scientists have to be posted in backward or less developed areas of the country where the Regional Stations/Centres of various Institutes are located. Sufficient emphasis has to be laid by the various Research Institutes on the necessity for bringing about intra-institutional transfers of scientists with research experience from the main Institute to their Regional Stations/Centres located in backward areas so that such Centres do not suffer for want of experienced scientific leadership, at least in key positions. As per para 5 of the guidelines, while transferring the scientists, consideration should be given to its effect on research programmes so that no programme is disrupted. The idea is that transfers should be kept to the minimum and resorted to only in the interest of work and in Public interest. For this purpose each Institute should prepare a list of scientists, who can be transferred to outstations or from one stations to another. Within this group, length of stay at a particular research station should be the criterion for determining the priority for transfer. It is obvious that Directors will have to use considerable discretion despite guidelines in first preparing the list of scientists who should be considered for transfers in a particular year and secondly to decide their posting. It would be advisable to have a committee at Institutes level to advise the Director in such matter and to ensure objectivity in decision making. In our transfer policy priority should be given to the posting of scientists in backward areas, out of those who have not served in backward/tribal/remote areas at any time in their career.

(No.8-16/76-Per.IV dated 18.07.1981)

(3) Director General to be apprised through a quarterly statement about the scientific staff transfers. The policy of the ICAR is to keep transfers of scientific staff to the minimum, to enable a scientist to advance in his/her career while continuing to work on problems relating to a particular crop, animal or area of agricultural study over an extended period of time. The cardinal principle is to let the scientist grow in their respective fields subject to administrative requirements. It has been noted that in spite of the above principles, in certain cases, scientists have been transferred quite frequently and at times have been asked to look after non-scientific jobs. As a result that their scientific output has suffered. Such a tendency should be discouraged and the above principles should be followed to the extent possible, commensurate with administrative exigencies. The Directors are competent to order intra-institutional transfers of scientific and technical staff, but DG would like to be apprised through a quarterly statement about the scientific/technical staff transferred from one place to the other within the Institute. In giving the statement, the place of previous posting and the length of posting at the station should also be indicated.

(No.8(16)/76-Per.IV dated 10.09.1984)

(4) Transfer of the officers/staff in Co-ordination Cells. In order to maintain continuity in respect of staff working in the Co-ordination Cells of the All India Co-ordinated Research Projects located at the Institutes and to avoid disruption of work due to frequent change of staff in Co-ordination Cells, the transfer of the officers/staff engaged on the work of the Co-ordination Cells may be resorted to only in exceptional circumstances. Even in such cases, the transfer may be done in consultation with the Project Co-ordinator.

(No.8-14/84-Per.IV dated 04.02.1985)

6. Discipline of the Scientist on transfer

The discipline of the scientist transferred shall be the same. Transfer of scientist engaged in extension work will be made in accordance to their knowledge of the local language.

7. Retention of accommodation

Scientists transferred to a station may be allowed to retain their residential accommodation at their place of posting before their transfer for a period of two months from the date of relief. Such scientists should also be allotted residential accommodation in the new Institutes within two months from the date of their joining.

8. Postponement of assessment for scientist not proceeding on

Attested
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transfer.

If a scientist transferred in accordance with this pattern to a station included in any of the Groups does not proceed on transfer or delays it for some reason or the other, his assessment for merit promotion or advance increments shall be deferred till he complies with the transfer orders. The period by which he delays the transfer will not be taken into account for computing the five years period of service for assessment.

9. Transfer committee

The transfer committee for inter institute transfer as approved by Director General will have the following officers at the Council's Headquarters.

- | | |
|---------------------------------------|-------------|
| (1) Director General, ICAR | .. Chairman |
| (2) Secretary, ICAR | .. Member |
| (3) Deputy Director General (S), ICAR | .. Member |
| (4) Deputy Director (Personnel), ICAR | .. Member |

The transfer committee shall consider the question of transfers according to the above mentioned pattern and on the recommendations of the Committee. The orders of transfer will be issued at least two months in advance to enable the scientists to make preparations for their movement. Representations received from the scientists or from the Directors on this matter will be considered by the Council. For considering cases of transfers from Institute to regional stations and vice-versa a similar committee will be set up the Director of each Institute. Representations against transfers received from the scientists will be considered by the Institute.

(No.8-16/76-Per.IV dated 23.02.1981)

10. List of scientists eligible for transfer

By the 31st March every year, the Directors of the Institutes shall forward the Headquarters a list of scientists who have become eligible for transfer. The list need not contain the names of the scientists who can be transferred according to this pattern by the Directors themselves from the Regional Station/Centres to the Headquarters of the Institute and vice-versa. There should, however be uniformity in intra-institutional transfers.

22 -

ICAR'S DECISIONS

(1) *Proforma for list of eligible scientists for transfer.* In order to consolidate the required information for submission to the Transfer Committee for consideration, two proformae have been devised which are given at the end of this Chapter. Proforma-I relates to the particulars of those scientists who are eligible for transfer on the basis of the revised guidelines. Proforma-II relates to grade/discipline wise cadre strength in respect of scientific posts as on 31st December of the year and the staff in position against these posts in each category as per para 2 of the guidelines.

(No.7(23)/81-Per.I dated 03.04.1981)

(2) *Restricting the number of scientists belonging to the state where an ICAR Institute is located.* It has been decided with the approval of the GB and the president, ICAR that the number of scientists posted at an Institutes/Centres/Stations should be as under.

- | | |
|--|----------------------|
| (a) Scientists belong to the state where the Institute/Centre/Station is located | .. not more than 50% |
| (b) Scientists belonging to the state neighbouring the state in which the Institute etc., is located | .. not more than 25% |
| (c) From other states | .. not less than 25% |

It has been decided that the above mentioned percentage shall be maintained subject, of course, to the availability of scientists required for various disciplines at an Institute/Centre/Station.

(No.8/7/86-Per.IV dated 28.04.1987)

11. Extraneous and outside pressures

Extraneous and outside pressures if brought upon the administration, against the transfers made according to the pattern, shall attract the provision of CCS(Conduct) Rules as applied to the Council's employees.

(No.8-16/76-Per.IV dated 17.11.1980)

PROFORMA (I)

Attested

Statement showing the list of Scientists who are eligible for inter-institutional transfer on the basis of the revised guidelines

Sl. No.	Name of the Scientist	Grade to which belongs	Discipline	Present place of posting
1	2	3	4	5

Length of service rendered by the Scientist at various Institutes/Stations/Centres categorised as A,B,C,D and E. This period will also include the period of the Non-ARS service

Group One Categorised as A&B stations	Group Two Categorised as C station	Group Three Categorised as D&E station
6	7	8

Recommendations of the Director to that effect that no Research Programmes will be disrupted in case the scientist is transferred to the other states

Remarks

9

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Note: This statement may be prepared in the order of length of service put by the scientist concerned i.e. to say that the scientist having longer period of posting will be shown first and so on.

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PROFORMA (II)

Statement showing grade/discipline wise cadre strength and the number of scientists who are in position as on

Sl. No.	Discipline	Sanctioned posts as per cadre strength			Sanctioned posts & not included in cadre strength		
		S-1	S-2	S-3	S-1	S-2	S-3
1	2	3	4	5	6	7	8

- * (i) Category A&B
- * (ii) Category C
- * (iii) Category D&E

Total posts sanctioned (Col.3&4)	Posts filled			Posts vacant			Remarks
	S-1	S-2	S-3	S-1	S-2	S-3	
9	10	11	12	13	14	15	16

*Note: Information may be given Centre/Station wise separately for each category indicated in the proforma as per the revised guidelines.

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- (a) enter into or contract a marriage with a person who has already a living spouse; or
- (b) enter into or contract a marriage with any person if the Government servant has a spouse living.

3. If an employee not governed by the Hindu Marriage Act, desires to contract a marriage while the spouse is living, he has to apply to the Government for permission to marry either under the personal law applicable to him or on other grounds. Such applications will be scrutinized by the competent authority as to the adequacy of the grounds for allowing an exception to Government's general policy and orders issued.

4. Any employee, governed by the Hindu Marriages Act, whose spouse is living cannot enter into or contract a second marriage unless the earlier marriage is terminated by means of divorce obtained from a competent Court of Law. Even a marriage which is legally null and void by reason of there being a spouse living at the time of the marriage, would disqualify the person concerned for appointment to/continuation in Government service.

5. A divorcee need not seek permission to contract a second marriage with a divorcee or a person having no spouse living.

6. When a Government servant marries or is married to a foreign national, the fact should be intimated to the Government.— *Rule 21 & GIDs (1) & (2).*

10. Dowry

1. Dowry prohibited.—A Government servant shall not—

- (a) give or take or abet the giving/taking the dowry.
- (b) demand any dowry directly or indirectly from the parent or guardian of a bride/bridegroom.— *Rule 13-A.*

2. "Dowry" defined.—Dowry means any property or valuable security given or agreed to be given either directly or indirectly—

- (a) by one party to a marriage to the other party; or
- (b) by the parents of either party to a marriage or by any other person to either party to the marriage or to any other person at or before or any time after the marriage in connection with the marriage.

It does not include dower or mahar under the Muslim personal law.— *Section 2, Dowry Prohibition Act, 1961 (Act 28 of 1961).*

"Valuable Security" denotes a document which is or purports to be a document whereby any legal right is created/extended/transferred/restricted/extinguished/released or whereby any person acknowledges that he lies under legal liability or has not a certain legal right.— *Section 30, Indian Penal Code (45 of 1860).*

3. Wedding Gifts.—Voluntary gifts given at the time of marriage to the bride/bridegroom are permissible; but a signed list of such presents should be maintained. The presents should be of a customary nature and their value

should be commensurate with the financial status of the giver.— *Section 3 (2) of Dowry Prohibition Act, 1961.*

4. Consequences of violation.—Any violation of the Dowry Prohibition Act by a Government servant will constitute a good and sufficient reason for instituting disciplinary proceedings against him, in addition to such legal action as may be taken against him in accordance with the provisions of the Act.

5. Dowry Death.—If a Government servant is involved in a case of "Dowry Death", it is a serious offence. For action to be taken, see under the subject "Suspension" in the Chapter "Discipline Rules".

11. Sexual Harassment of working women

[Swamy's — CCS (Conduct) Rules]

1. Sexual Harassment defined.—Unwelcome sexually determined behaviour, whether directly or by implication, such as:—

1. Physical contact and advances.
2. Demand or request for sexual favours.
3. Sexually coloured remarks.
4. Showing pornography.
5. Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

2. Unbecoming of a Government servant.—Any act of sexual harassment of women employees attracts the provisions of Rule 3 (1) (iii) of Conduct Rules as an act unbecoming of a Government servant and amounts to misconduct.

3. Criminal Proceedings.—If such an act of sexual harassment amounts to any specified offence under the Indian Penal Code or under any other law, complaint should be made to the appropriate authority for taking criminal action for such misconduct.

4. Complaint Mechanism.—An appropriate complaint mechanism should be created in every organization for redress of such complaints and time-bound treatment of the complaints should be ensured. Victims or witnesses should not be victimized or discriminated against while dealing with such cases.

5. Request Transfer.—The victims of sexual harassment have the option to seek transfer of the perpetrator or their own transfer.— *Rule 3-C.*

12. Assistance to Government servants in legal proceedings

[Swamy's — CCS (Conduct) Rules]

1. Matters unconnected with official duties.—Government will not give any financial assistance to a Government servant in the conduct of any legal proceedings on matters not connected with his official position or duties.

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