

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 156/2002

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

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

1. Orders Sheet O.A- 156/02 ..... Pg..... 1 ..... to..... 4 .....
2. Judgment/Order dtd. 21/03/2003 ..... Pg..... 1 ..... to..... 3 ..... ~~disposed~~
3. Judgment & Order dtd..... Received from H.C/Supreme Court
4. O.A..... 156/02 ..... Pg..... 1 ..... to..... 10 .....
5. E.P/M.P..... N/L ..... Pg..... to.....
6. R.A/C.P..... N/L ..... Pg..... to.....
7. W.S. ~~filed by the Respondents~~ ..... Pg..... 1 ..... to..... 21 .....
8. Rejoinder ..... Pg..... to.....
9. Reply ~~Applicant~~ ..... Pg..... 1 ..... to..... 26 .....
10. Any other Papers ..... Pg..... to.....
11. Memo of Appearance .....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal :: Guwahati Bench  
Guwahati

ORDER SHEET

APPLICATION NO. 156 /2002

**Applicant(s)**

G. C. Bordoloi

Respondent(s)

U. S. 1 tons

Advocate for Applicant(s) Mr. S. Hunder, Mr. A. Hali

Advocate for Respondent(s) CGSC

Notes of the Registry	Date	Order of the Tribunal
This is in response to F. for B. 50/ dip. No APO/1/ No 56433550 dated 16.5.2002  Dr. Huda DR	22.5.02	Heard Mr. S.Huda, learned counsel for the Applicant and also Mr. S.Sarma, learned counsel appear- ing on behalf of Mr. B.K.Sharma, learned Sr. Standing Counsel for the Railway.
Steps taken alongwith envelops. 22/5/02 DR		Issue notice to show cause as to why the application shall not be admitted.
File copy of order dated 22.5.2002.  DR 22/5/02		Also, issue notice to show cause as to why the impugned order No. 016/02 (Stenographer) vide No. E/283/30 Pt.XXV(Q) dated 8.5.2002 issued by APO/Admn. for General Manager (p) <del>shall</del> <sup>not</sup> be suspended. Returnable by two weeks.
Notice prepared and sent to DIS for my the President No. 182 Regd. A/D. (One by hand) DR 22/5/02		Till the returnable date the operation of the impugned order shall remain suspended.
D/No 1464/65 D/d 22/5/02	mb	List on 7.6.2002 for admission.
		Vice-Chairman

show cause why not  
been filed.

By  
6.6.02

7.6.2002

Heard Mr. S. Huda, learned counsel  
for the applicant and Mr. S. Sarma,  
learned counsel appearing for the  
respondents.

After hearing the learned counsel  
for the parties, the application is  
admitted. Call for the record.

List the case for ~~fixation~~ further  
order on 12.7.2002.

Meanwhile interim order dated  
22.5.2002 shall continue.

IC (Usha  
Member

bb

12.7.2002

Mr. Sengupta, learned counsel  
appearing on behalf of the respondents  
prays for time for filing of written  
statement. Prayer accepted.

Later Mr. S. Huda, learned counsel  
appeared and stated that he could not  
appear in the case in time as the Cause  
List shows different counsel for the  
applicant. Mr. Huda stated that he has  
filed the Vakalatnama and requested that  
his name alongwith the name of Mr. A. Hai  
should be shown as Advocates for the  
applicant. Prayer accepted.

List the case for order on 16.8.  
2002. Interim order dated 22.5.2002 shall  
continue.

K (Usha  
Member

bb

16.8.02

No written statement  
has been filed.

By  
29.8.02

Prayer has been made on behalf  
of Mr. S. Sengupta learned counsel for the  
Railway, praying for two weeks time  
for filing of written statement.  
Mr. S. Huda learned counsel for the  
applicant has no objection. List  
on 30.8.02 for orders.

1C (Usha  
Member

3  
3  
O.A. 156/2002

Notes of the Registry	Date	Order of the Tribunal
	30.8.02	The Respondents are yet to file written statement though time kine granted. List again on 27.9.2002 for order. In the meantime, interim order dated 22.5.2002 shall continue to operate
mb		Vice-Chairman
Photocopies machine is out of order. Due to the order is not communicated to the parties concerned	27.9.02	Prayer has been made on behalf of Mr. S. Sengupta learned Railway counsel for adjournment of the case. No written has been filed. Four weeks time is allowed to the respondents to file written statement. List on 15.11.02 for orders. In the meantime, the interim order dated 22.5.02 shall continue.
10/10/02		I C Usha Member
written statement filed by the respondents	15/11	Due to circuit sitting at Shillong, the case is adjourned to 22/11/2002.
30/11/02	22.11.02	None appears for the parties. List on 20.12.02 for orders.
20.12.2002	1m	I C Usha Member
WLS has been filed	20.12.2002	Written statement has been filed. List for hearing on 31.1.2003.
30.1.03		I C Usha Member
	31.1.	Adjourned to 11/2/2003 for hearing

4

O.A.No.156/2002

Notes of the Registry Date

Order of the Tribunal

16.2.03

Rejoinder admitted.  
My the applicant in  
rejoinder to WJS.

11.2.2003

Put up the matter again on  
21.3.2003 for hearing. The  
respondents may file reply to the  
rejoinder in the meantime. The  
interim order dated 22.5.2002 shall  
continue.

*[Signature]*

Order dtd. 11/2/03  
Communicated to the  
parties concerned.

nkm

*21/2*

21.3.2003

*[Signature]*  
Vice-Chairman

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

27.3.2003  
Copy of the Judgment  
has been sent to the  
Office for issuing the  
same to the applicant  
as well as to the Ady.  
8th day of March.

mb

*[Signature]*  
Vice-Chairman

*[Signature]*

6

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

156  
O.A. / R.A. NO. . . . . of 2002.

21-3-2003.  
DATE OF DECISION . . . . .

Sri G.C. Bordoloi . . . . . APPLICANT(S).

Sri S. Huda . . . . . ADVOCATE FOR THE  
APPLICANT(S).

- VERSUS -

Union of India & Ors. . . . . RESPONDENT(S).

Sri S. Sengupta, Rly. standing counsel.

ADVOCATE FOR THE  
RESPONDENT(S).

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

THE HON. BLE

1. Whether Reporters of local papers may be allowed to see the judgment ? *Yes*
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 ? *No*

Judgment delivered by Hon'ble Vice-Chairman

X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 156 of 2002.

Date of Order : This the 21st Day of March, 2003.

The Hon'ble Mr Justice D.N.Chowdhury, Vice-Chairman.

Sri G.C.Bordoloi,  
Central Gotanagar, Maligaon,  
Guwahati-II.

...Applicant

By Advocate Sri S.Huda.

- Versus -

1. The Union of India,  
represented by the Secretary,  
Ministry of Railways,  
Government of India, Rail Bhawan,  
New Delhi.

2. The General Manager(P),  
N.F.Railway, Maligaon,  
Guwahati-II.

...Respondents

By Sri S.Sengupta, Railway standing counsel.

O R D E R (ORAL)

CHOWDHURY J.(V.C)

The issue relates to transfer and posting. The applicant at the relevant time was holding the post of PS-II under the CCO, N.F.Railway, Maligaon. By office order No.016/02 dated 8.5.2002 he was transferred and posted under ADRM, Lumding with immediate effect. The legitimacy of which is under challenge before this Tribunal.

2. Mr S.Huda, learned counsel appearing for the applicant has raised numerous grounds including the question of propriety in issuing an isolated transfer order in the mid academic session.

3. The respondents submitted its written statement denying and disputing the claim of the applicant. According to the respondeants the transfer order was passed

in the public interest and the applicant as a loyal railway servant is to accept this order.

4. I have heard Mr S.Huda, learned counsel for the applicant and Mr S.Sengupta, learned Railway standing counsel for the respondents at length. Mr Sengupta, the railway standing counsel submitted learned that the transfer is an incident of service and there cannot be any bar in transferring one employee from one post to another. The contention has no doubt substance but at the same time in the area of exercise of discretion by the competent authority, it must be informed with reasons. Any action which is devoid of reasonableness amounts to arbitrary exercise of power. I do not intend to delve into the issue further in view of the fact that the matter is to go back to the authority for reconsideration. The applicant had already submitted representation before the authority requesting for reconsideration of his transfer order on 9.5.2002. In the said application the applicant has indicated about his personal and other problems in view of the transfer order. The authority that passes the order of transfer and posting has also the power to reconsider the same, keeping in view the administrative exigency as well as the personal problem of the applicant. Mr S.Sengupta, learned Railway standing counsel submitted that his request for reconsideration of his transfer order was dealt with and the department had rejected his prayer by communication dated 21.5.2002. The order dated 21.5.2002 rejecting the appeal of the applicant is a cryptic order and the same was passed without assigning any reason. It has only indicated that his prayer for retention at Maligaon was not considered by the competent authority though the applicant has indicated his own grievance in his appeal dated 9.5.2002 and which also indicated the likely affect

of his transfer. These are the area which are to be addressed by the authority. In the circumstances the order dated 21.5.2002 cannot be legally sustainable. Taking into account all the facts and circumstances and also to meet the ends of justice, the applicant is directed to prefer a fresh representation before the authority narrating his grievances within two weeks from today and if such representation is made within the aforesaid period, the authority shall fairly reconsider the same and pass a reasoned order thereon within three months from the date of receipt of the same. Till completion of the aforesaid exercise the interim order dated 22.5.2002 shall remain operative.

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

( D.N.CHOWDHURY )  
VICE CHAIRMAN

10  
 Gopal Ch. Bordoloi  
 14 X 1933  
 Gopal Ch. Bordoloi  
 Debonali Deka

DISTRICT : KAMRUP

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
 GUWAHATI BENCH, GUWAHATI.

ORIGINAL APPLICATION no. 156 /2002

Shri G.C. Bordoloi ... APPLICANT.

- Versus -

The Union of India & Ors... RESPONDENTS.

I N D E X

<u>Sl. No.</u>	<u>Particulars</u>	<u>Page No.</u>
1.	Original Application	1 to 7
2.	Verification	8
3.	Annexure- 1	9
4.	Annexure-2	10
5.	Annexure-3	

Filed by -

*Abdul Hai, 18-5-2002*  
 Abdul Hai, Advocate.

1  
Gopach. Bokhia  
1-1-2017  
A. S. D. & Co.  
Advocates  
16-5-2012

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH, GUWAHATI.

IN THE MATTER OF :

SHRI G.C.BORDOLOI,  
Son of Late Kjit Bordoloi, resident  
of Central Gotanagar, Maligaon,  
Guwahati-11.

APPLICANT.

-VERSUS-

1. The Union of India,  
represented by the Secretary,  
Ministry of Railways, Government  
of India, Railway Bhawan, New  
Delhi.

2. The General Manager (P),  
N.F.Railway, Maligaon,  
Guwahati-11.

RESPONDENTS.

DETAILS OF THE CASE:

(i) PARTICULARS OF THE ORDER ETC.AGAINST  
WHICH THE APPLICATION IS MADE :

12  
Gopal Ch. Baruah  
(2)

The application is directed against the transfer order dated 8.5.2002 issued by the A.P.O./Administration for General Manager (P), N.F.Railway, Maligaon, transferring the applicant from Maligaon, Guwahati to Lamding without any rhyme and reason.

(2) JURISDICTION :

The Applicant declared that the Hon'ble Tribunal is the appropriate forum for judicious adjudication of the grievances of the applicant.

(3) LIMITATION :

The applicant declared that this application is filed within the time limit prescribed for filing such application.

(4) FACTS OF THE CASE :

(I) That the applicant begs to state that he is attached with the C.C.O./Maligaon.

(II) That the applicant begs to state that he joined as a Junior Stenographer initially at Lamding and thereafter he has been promoted to different grades in the service and ultimately he was promoted to the post of C.A. to Divisional Operating Superintendent at Lamding. Thereafter he was transferred to Maligaon with promotion as C.A. with effect from 29.11.1988. The consideration of transferring an

13  
Lalchand Gombak

employee is based on the seniority. A senior person generally is not transferred unless there is an exceptional circumstances. In this connection, the applicant begs to state that he is quite senior in the service and is on the verge of retirement. Again an employee is transferred whenever a promotion is given. In the case of the applicant, there is no promotion.

(III) That the applicant begs to state that he filed a Writ Petition before the Hon'ble Gauhati High Court along with others assailing some action in the public interest, which was numbered as WP(C)No.5648/2000. The authority concerned took it otherwise and as a retaliation the impugned order of transfer order got issued without any rhyme and reason as some interested agencies have been working behind the back of the applicant for wrongful gain.

(IV) That the applicant begs to state that his eldest son is presently studying in Class X and the other children of the applicant are minor school going children. The children of the applicant are in the midst of the academic session and the eldest son of the applicant is approaching the threshold of the High School Leaving Certificate Examination and in such situation if the impugned transfer order is given effect to, the academic cause of the applicant's children would be jeopardized much. He is from the Schedule <sup>Tribe</sup> Gaste Community and he was at Lumding more than  $12\frac{1}{2}$  years. He is not to be transferred leaving the juniors.

13  
Gopal Chandra

(4)

If at this stage the applicant is at all required to move there will be dislocation in the existing set up and there will be a great hardship and inconvenience on the part of the school going children of the applicant.

That the applicant begs to state that his wife is also presently suffering from various diseases and she is undergoing treatment under some specialist at Guwahati and if the applicant is at all required to move, there will be dislocation in the treatment of his wife.

Applicant craves your Lordships indulgence to produce medical certificate in connection with the ailment of his wife at the time of hearing of this application if so advised.

(V) That the applicant begs to state that under the facts and circumstances as stated above, the applicant is not in a position to move to Lajmding due to the illness of his wife, and as such, the applicant filed an appeal/representation before the General Manager (P) NF Railways Maligaon on 9.5.2002 praying for reconsideration of his case and for stay of the transfer order. But the same is lying pending before the authority concerned without any action.

A photocopy of the transfer order dated 8.5.2002 and a copy of the appeal/representation dated 9.5.2002 are annexed herewith and marked as Annexures-1 and 2 to this application.

15  
*Gopal Ch. Baruah*

(5)

(VI) That the applicant begs to pray that the Respondents may be directed not to give effect to the impugned transfer order on the grounds of academic dislocation and illness of the wife of the applicant.

(5)RELIEF SOUGHT FOR ON K;THE GROUNDS :

(a) That the Railways Administration/authority concerned has passed the impugned transfer order because of being a party to the Writ Petition (Civil) No.5648/2000, which is lying pending before the Hon'ble Gauhati for final disposal, which is bad in law, and as such, the impugned transfer order is liable to be set aside and quashed for the ends of justice.

(b) For that if the impugned order of transfer is allowed to stand then there will be an irreparable loss and injury to the minor school going children of the applicant as they are in the midst of academic session and their examination is approaching and his wife will suffer for want of medical attention for no fault of their own.

(c) For that the respondents authorities should have considered the appeal/representation dated 9.5.2002. But the aforesaid appeal/representation has not been disposed of and is lying pending without any action, which is in violation of the principle of natural justice and the procedure established by law and in violation of the provisions of Articles 14 and 21 of the Constitution of India, and as such, the impugned

16  
*Lopach. Borki*

(6)

transfer order dated 8.5.2002 is liable to be set aside and quashed for the ends of justice.

**(6) GROUND OF EXHAUSTION OF REMEDY, IF ANY :**

The applicant has already filed appeal/representation dated 9.5.2002 before the authority concerned claiming alteration/modification and/or stay of the impugned transfer order dated 8.5.2002 and thus the applicant has exhausted all the remedies by filing appeal/representation before the Respondents concerned.

**(7) MATTER NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURTS :**

The applicant declares that he has not filed any suit nor any writ petition before any Court nor any such suit nor writ petition is pending anywhere.

**(8) INTERIM ORDER PRAYED FOR:**

Pending final disposal of the Original Application, this Hon'ble Tribunal may be pleased to stay the operation of the impugned transfer order dated 8.5.2002 (ANNEXURE-1)

**(9) RELIEF SOUGHT FOR :**

(7)

*Gobal Ch. Bardsor*

It is, therefore, prayed that your Lordship may be pleased to admit this application, call for the records of the case, issue notice to the Respondents to show cause as to why a direction should not be issued to them directing them to dispose of the appeal/representation dated 9.5.2002 (Annexure-II) and further prayed that the applicant may be allowed to work at Maligaon in his original post and place thereby paving the way to complete the academic session and examinations of the school going children of the applicant and to take proper medical attention of the wife of the applicant for the ends of justice.

(10) PARTICULARS OF THE I.P.O.

I.P.O. No. - 56433550

Date - 16-5-2002

Payable at -

(11) LIST OF DOCUMENTS :

As stated in the Index.

18

(8)

VERIFICATION

I, Shri G.C.Bordoloi, son of Late Ajit Bordoloi, resident of  
Railways Quarter No. 54/A, Central Gotanagar, Maligaon, Guiwahati-11,  
aged about 49 years, by profession as stated herein above, do hereby  
verify that the statements made in this application are true to my personal  
knowledge and belief.

I sign this verification on this the 16 th day of May, 2002  
at Guwahati.

*Gopal Ch. Bordoloi*  
16-5-2002

Annex-1

9

NORTHEAST FRONTIER RAILWAY

OFFICE ORDER NO. 016/02 (Stenographer)

Shri G.C.Bardoloi, PS-II in scale Rs.6500-10,500/- attached to CCO/MLG is hereby transferred in his existing capacity and posted under ADMM/IMG with immediate effect against existing vacancy.

This issues with the approval of Competent Authority.

*Malignam to Lms*

( S. DEVI )  
APO/Adm.  
for General Manager (P).

No. E/233/30 Pt. XXV (Q)

Malignam, dt'd. 08-05-2002



Copy forwarded for information and necessary action to:-

1. CCM/MLG, CCO/MLG, FA & CMO/MLG & CFO/IR/MLG.
2. ADMM/IMG.
3. APO/T/MLG.
4. DRM (P)/IMG.
5. EA to CCM/MLG.
6. Staff concerned.

U

08-5-02

for General Manager (P).

certified to be  
true copy  
Shri  
AS/locator  
16-5-2002

\*\*\*\*\*

To  
General Manager(P),  
N.F.Railway/Maligaon.  
Guwahati-781011.

10 Dt : 9.5.2002.

Anx-2

(Thro : CCO/N.F.Railway:Maligaon).

Sir,

Sub: -Request for reconsideration of my transfer  
Order from Maligaon to Lumding(as PS Gr.II  
attached to ADRM/Lumding).

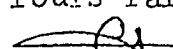
Ref: -GM(P)/N.F.Railway:Maligaon's Office Order  
No.E/283/30 Pt.XXV(Q) dated-08.05.2002.

With due respect, I would like to state the following few facts in brief against the above office order for kind information and favourable orders please :-

- 2.0 That Sir, after my transfer (on promotion) from Lumding to Maligaon as PA in scale Rs.2000-3200/- (now revised to Rs.6500-10500/-), I have been working as PA (now redesignated as PS Gr.II) with full satisfaction to the Officers with whom I was posted/attached.
- 2.1 But, suddenly and surprisingly, without any discussion with my present controlling officer (i.e. CCO) the above order has been issued which is really a bolt from the blue, inspite of having many juniors to me in the scale Rs.6500-10,500/- and at the same time inspite of having clear vacancies in this scale at Maligaon Zonal HQs.
- 3.0 It is, of course, not very pertinent to mention here that I do belong to reserved community (i.e. ST); but it is fact that the above order seems to be issued only to harass a reserved community employee as I have got 2/3 school-going children in my present place of working (i.e. at Maligaon area) and it is almost the middle session of the academic year which will hamper the children morally.
- 3.1 Had the above order been issued on promotion, then the matter would have been separate.

In view of the above facts, I would like to request you to kindly reconsider my case and arrange my posting against some other post in Maligaon HQs if not possible to retain with CCO.

Yours faithfully,

  
(G.C. BORDOLOI)  
PS Gr.II attached  
to C.C.O.  
Maligaon.

certified to be  
true copy  
Shri  
D. D. D. D.  
16-5-2002

OCT 2002

Guwahati Bench  
Guwahati

(HB)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH,  
GUWAHATI.

File No. :  
Sukanta Sarangi  
Rajib, Advocate  
Guwahati  
27.9.2002

IN THE MATTER OF :

O.A. No. 156 of 2002

Sri G. C. Bardoloi .... Applicant

Vs.

1. The Union of India.

2. The General Manager (P),

N.F. Railway, Maligaon. .... Respondents.

- AND -

IN THE MATTER OF :

Written Statement for and on behalf of the  
respondents.

The respondents most respectfully beg to <sup>s</sup>eweth as  
under :

1. That, the respondents have gone through the copy of  
the application submitted by the applicant and have understood  
the contents of the same.

2. That, the applicant has got no valid cause of action  
for filing the present application.

3. That, the application suffers from defect of suppre-  
ssion of fact/truth and defects of mis-representation and  
hence the application is liable to be dismissed in limine.

The applicant has deliberately abstained from disclosing the fact that he expressed his unwillingness to carry out the urgent work entrusted to him in the Maligaon Railway Head Quarter office by the Head of the Department (i.e. Chief Commercial Manager) of the Commercial Department of the N.F. Railway, in which Department the applicant serves.

4. (i) That, the applicant has got no right for filing the present application. It is an accepted principle that in the public service transfer is an incidence of service and there is no bar in transferring staff/employees from one place to another place (station) where the employees service can be fruitfully used and where he can be properly fitted without loss of seniority or prospects etc. and which does not involve civil consequences. The Government has in the circumstances had to make the best possible choice it can, keeping in view the larger interest of the Administration.

(ii) The present application relates to transfer of the applicant from Maligaon Railway Head quarter to Lumding office in his existing capacity/post and also in same scale of pay and on administrative convenience/interest, with approval of the competent authority.

(iii) The present application is not maintainable in its present form.

5. That, except those statements/averments of the applicant in this application, which are borne on records or are specifically admitted hereunder, all other averments/allegations of the applicant are denied herewith and the applicant is put to strictest proof of those statements which are not admitted.

6. That, the respondents have been advised to confine their replies only on those points/allegations in the application which have got direct bearing for a proper decision in the case. The other allegations are also denied herewith.

7. That, the transfer is an incidence of service. As a government servant, the applicant is liable to be transferred to any place of the Railways where his services are sought to be utilised by the Railway administration in view of work interest and he should have moved and carried out the office order without creating hurdles/office discipline. He had ample scope to ventilate his grievances, if there be any genuine one, to the proper authorities for due consideration and redressal of such grievances. But the applicant instead of carrying out the order has filed the present Original Application.

The present application (O.A.) is thus premature and is liable to be dismissed.

8. That, with regard to events/allegations as made at paragraphs 4.I, 4.II and 4.III of the application, it is submitted that nothing are accepted as correct except those which are borne on records or are specifically admitted hereunder. It is correct that :-

i) At the time of issuing the transfer order he was attached to Chief <sup>claims</sup> Commercial Officer, N.F. Railway, Maligaon's office in Chief Commercial Manager, N.F. Railway, Maligaon office.

ii) He worked as Junior Stenographer at Lunding and subsequently transferred to Maligaon on promotion as C.A.O.

iii) His date of birth is on 1.1.53 as per his declaration and accordingly he is due to retire normally w.e.f. 31.12.2012 on superannuation and

iv) He belongs to S.T. Community; and

v) He worked in Luming for more than 12½ years.

His present attempt to frustrate/void the transfer order on different pleas like :

i) He being a member of Scheduled Caste community, cannot be transferred. ~~As his children are school going he cannot be transferred in the middle of the session.~~

ii) As his children are school going he cannot be transferred in the middle of the session.

iii) His alleged involvement in some Public Interest Litigation before High Court, Guwahati (W.P.(C) No.6648/2000) is the cause of his transfer etc. etc.

are completely not acceptable.

It is submitted that there is no nexus between any Court case and the present transfer. The applicant has been posted in a place and post which is suitable to the aptitude and ability of the employee where his service can be profitably utilised. Further, even in his appeal dated 9.5.2002 submitted before the Administration against the transfer order, he never cited the present cause i.e. the so mentioned Court case as stated by him (about which the transferring authority have no knowledge or concern), and, this shows the irrelevancy

15

and incorrectness of his submissions and also about the after-thought statements only to justify the unjustified claim for rescinding/quashing the valid transfer order. His contention, that the transfer order could be a justifiable one had it been issued for his promotion as is well apparent from his following writings to the superior officer on 8.5.2002 (a copy of which has been annexed as Annexure-2 to the application) :

"3.1 - Had the above order been issued on promotion then the matter would have been separate."

is quite unacceptable and hence denied.

The above contention of the applicant clearly shows his main intention and reasons for contesting/objection to this valid transfer. It is submitted that the transfer of any staff is not confined to cases of promotion only and the applicant's contentions in this regard are quite incorrect, untenable and hence are denied herewith. It is also wrong to state that the transfer order was issued by APO/Administration. In fact it was issued under the signature of APO/Administration for General Manager(P) after due approval of competent authorities.

It is also emphatically denied that :

- i) Consideration of transferring an employee is based on seniority only; or
- ii) He is on the verge of retirement; or
- iii) The impugned order dated 8.5.2002 was passed without rhyme and reason; or
- iv) Some interested agencies have been working behind the back of the applicant for wrongful gain; or
- v) That, transfer order was issued as a retaliation of any so quoted Public Interest Litigation before the Hon'ble High Court, Guwahati as alleged.

9. That, with regard to averments at paragraphs 4.IV of the application it is submitted that none of his contention/allegation made in this paragraph are admitted. The plea of school going children or sickness etc. or Scheduled Caste status etc. cannot be valid grounds for frustrating the valid order of transfer passed in his case with the approval of the competent authorities. All these pleas are his personal grounds and the respondents have no knowledge as to the genuineness of such pleas. However, it is submitted that :

- (a) Lumding is within the state of Assam and not far off from Guwahati or Malignaon, and is within the reach of about four and half an hour by train journey.
- (b) All facilities like medical and educational etc. are already available in Lumding Division. All necessary arrangements for treatment of Railway staff and their family members are made by the Lumding Hospital authority and the N.F. Railway administration whenever need arises. Moreover, the Railways' Central Hospital, Malignaon is not far off.
- (c) To cover the school session etc. Railway employee can also retain the Railway accommodation at his old station with permission as to cover the school session. There are also provisions for subsidised hostel arrangements from Railway administration's side.
- (d) In the Railways, there are a good number of Scheduled Caste and Scheduled Tribe working hands in various posts including Supervisory Cadres and if no transfer of these staff from one place to another can be

made on work interest, it will create hurdles and great difficulty in the smooth functioning of the Railway Organisation and work management at various places. In the instant case, his place of posting is situated within his home state, Assam.

There is no guarantee that staff belonging to any castes including reserved categories should be kept at one particular places for years together and on medical or educational etc. grounds. At this particular place (Maligaon) he has already continuously served for more than 12 years.

Further, it is for the competent authorities/Supervisory Authorities to judge as to which staff is to be placed in what place and position etc. for getting optimum return from their services, and, for their proper and right-ful utilisation/deployment in consideration of the aptitude and capabilities of each staff and also existing vacancy position in different places in the Railway.

The contentions of the applicant as put forward in this paragraph are quite unacceptable in view of what have been described herein above and in the foregoing paragraphs of this Written Statement.

10. That, with regard to averments/statements of the applicant at paragraph 4.V of the application it is to submit that prior to his transfer, all aspects of the case was considered by the authorities, and, even after receiving his appeal the same was

thoroughly gone through and necessary reply rejecting his request, was furnished to him under General Manager(P), Maligaon's letter No.E/203/30/Pt.XXV(Q) dated 21.5.2002.

11. That, with regard to averments at paragraph 4.VI of the application it is submitted that the contention of the applicant for not giving effect to the impugned transfer order cannot be accepted and legally tenable under Rules and Laws. The personal inconveniences etc. cannot be the ground for frustrating the valid transfer order issued in the case. As discussed in foregoing paragraphs of this Written Statement, the Railway Administration has scheme for all welfare measures for looking after the education and well being of the family members of the Railwaymen.

It is also to mention herein that the impugned order was passed keeping in mind all aspects as mentioned by the applicant and as warranted under the circumstances and best work management and that after receipt of the impugned order dated 8.5.2002, the applicant was already spared from CCM/ Maligaon's office for joining at Lumding under ADRM/Lumding, N.F. Railway vide CCO/N.F. Railway, Maligaon's letter No.C/316/1/P.V/2002-02 dated 9.5.2002. As he reported sick and joined on 24.5.2002 <sup>instant</sup> the order could be served on him only on 24.5.02. In the meantime, he filed in the present O.A. and Stay Order was passed by the Hon'ble Tribunal.

After receipt of the Hon'ble Tribunal's Stay Order, necessary instruction vide letter No.E/170/LC/NS/185/2002 dated 29.5.2002 has already been issued in obedience to the Hon'ble Tribunal's Order suspending the operation of the Order

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of transfer No.C/316/1/Pt.V/2002 dated 9.5.2002 and thus the Hon'ble Tribunal's Stay Order has been complied with.

12. That, with regard to grounds as stated in paragraph 5 and relief claimed at paragraphs 8 and 9 it is submitted that in view of what have been submitted in the foregoing paragraphs of the written statement, none of the grounds etc. as put forward by the applicant are sustainable and the relief as prayed for in paragraphs 8 and 9 of the application are also not admissible in view of the fact of the case.

However, from the following submissions it would be apparent that his contentions are unfounded/untenable :

- (i) It is also reiterated/submitted that it is quite a wrong representation that there has been any nexus between any writ petition (PIL Case) before the Hon'ble High Court and the present transfer of the applicant.
- (ii) The applicant has not come before the Hon'ble Tribunal with clean hands. He has tried to suppress/mislead the Hon'ble Tribunal by not mentioning his own specific denial/unwillingness to carry out office work entrusted to him by the Head of the Commercial Department of the Railways to which Department he is attached.
- (iii) That, the Order of transfer was passed on work interest/public interest and on administrative ground and also with a view to maintain/retain office discipline etc. in this Government Organisation. His writing dated 8.5.2002 as mentioned

herein before clearly conveys the message of unwillingness to work in CCM's office at Railway HQ, Maligaon.

(iv) During his working in the Head quarter, he failed to respond to the order/instruction of the Head of the Department of the Commercial Department i.e. CCM/N.F. Railway, Maligaon, who requisitioned his service alongwith another C.A. (Confidential Asstt.) for attending to the urgent work necessitated consequent on

(a) Retirement of Shri Bendopadhye who was going to retire on 31.5.2002 and

(b) Grant of leave to Shri B. Sonowal, CS to CCM who was proceeding on leave for one week due to the old age ailment of his father.

But, the applicant flatly refused to respond to such call/order and to co-operate with the Administration in the way of management of urgent work in Head quarter office, from which office the working of the entire N.F. Railway's Commercial Department including Divisional offices are controlled.

It was thus necessary to make proper re-adjustment of staff and placement, taking into consideration the aptitude and inclination. It was considered that the applicant could be suitably utilised in the Divisional office and thus the impugned order had to be issued purely on work and administrative

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interest, posting the applicant at Lumding Divisional office in the same scale of post and pay etc. In view of his clear writing and expression of unwillingness to carry out office work as ordered/ instructed by the Head of the Commercial Department in the Head quarters office, it was clear that he <sup>Carry on like</sup> was unwillingness to work directed by the Head of the Department of the N.F. Railways Commercial Department at Head quarters office, Maligaon.

V) It is also to submit herein that the Railway Administration has right to make re-adjustment of staff on basis of work-need etc. considerations and suitability of staff and there has been no illegality etc. in taking such steps.

In response to the CCM/N.F. Railway, Maligaon's Order dated 7.5.2002, he replied as under, which is quite un-expected from staff put against sensitive and confidential post in the Head quarter offices -

Extracts:

" 8.5.2002 "

Since the post of P.S. Grade-I attached to CCM is Group B and scale is different from P.S. Grade II (N.C.), I am not willing to work as Ordered.

Moreover, the question of claiming dual charge allowance is there. On the other hand my previous claim for Honorarium

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in respect of visit of High Powered Review Committee on RCT's is still pending because of P. Branch Ruling since May/June, 2001.

This is for kind information please.

Sd/- G.C. Bardelei

P.A. to CCO.

EA/CCM

C.C.M.

(v) The applicant belongs to the Stenographer category which is a Head quarter Controlled post under CCM/N.F. Railway, Maligaon and their services can be transferred anywhere in the N.F. Railway and the suitability for retention or posting any staff of this category is a matter for decision by the appropriate authority. There has been no violation of the statutory provisions in issuing the transfer order of an unwilling staff (Shri Bardelei) from Maligaon to Lundia <sup>(in)</sup> which place he worked prior to his transfer to Maligaon) which is nothing but an adjustment of staff against appropriate post. The transfer is an incidence of service and no stigma has been put against him and his transfer has been made in the same grade <sup>category</sup> and same scale of pay with full seniority and prospect and he will get all benefits of travelling/Transfer allowances also besides other benefits granted to a transferee from one place to another.

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His such refusal/disinclination to carry out the instruction of the Head of the Department tantamounts to out-rage on office ethics and discipline and the sacred aspect of the post he occupied, and if such acts are allowed to continue, it would set up bad precedent and send wrong signal. If he had any genuine grievance, then it could be sorted out even afterwards, but, not in the manner he has done while working in such an important post in the Head quarter office where no urgent work can be kept waiting or can be neglected.

(vii) His contentions of suffering irreparable loss etc. are quite unfounded and inadmissible since the transfer will involve no Civil consequences and there are medical and school facilities etc. at Lumbding also and there are schemes for subsidised hostel and other facilities for education etc. of the children of the transference staff besides facilities for retention of Railway accommodation at old station till school session period etc. and that Guwahati is within the reach of Lumbding with about 4 to  $4\frac{1}{2}$  hrs. Rail journey.

(viii) There has been no violation of natural Justice or Articles 14 and 21 of the Constitution of India and the representation of the applicant has already been disposed of with proper reply vide letter dated 21.5.2002 as stated herein before.

(ix) That, the present transfer is nothing but an order by which proper person/employee has been sought to be placed in the proper post/ places on work consideration and organisational interest so that office work may run smoothly and efficiently without hindrances etc.

(x) There is no question or cause for setting aside the impugned order of transfer passed in the case of the applicant on 8.5.2002.

(xi) That there is no error in law and on facts in the case.

(xii) Railways are public utility service and in the larger interest and for smooth functioning of this organisation, the authorities on whom the responsibility for running this organisation smoothly has been entrusted, had to take certain steps which are decided on work consideration/public interest etc.. The place of individual inconvenience of any employee if any should not be an over-riding effect on valid, legal and proper administrative order, especially when the pleas forwarded by the applicant are not tenable at all.

(xiii) That transfer has been made within the state of Assam and in public interest and on work consideration.

(H) 25/1/2013  
DY

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(xiV) That, the applicant has been in a particular place at Maligaon for more than 12 years and his normal date of superannuation is 31.12.2012 i.e. he is supposed to be in service for nearly 10 years more as seen from verification portion of the application.

(xV) That, the impugned transfer order is quite legal, valid and proper and is neither unauthorised nor without jurisdiction, nor malafide; nor in violation of any statutory/mandatory rule and as such does not suffer from any vice or infirmity etc.

13. That the photo copies of the following documents are annexed herewith for ready perusal as Annexures.

(1) Annexure-A. - Photo copy of the application of CS/te CCM/Maligaon for grant of 10 days leave from 8.5.2002 to 17.5.2002 on ground of his mother's ailment and bearing following endorsement on same by CCM himself - "CCO's P.S. and CA/Dy.CCM/Cl. to attend as Sri Borkopadhye is retiring on 31.5.02 and will practically not be available.

Sd/- CCM  
7.5.02

(2) Annexure-B. - Photo copy shows own writing of the applicant Sri Berdelei dated 8.5.2002 addressed to EA/CCM and CCM expressing unwillingness to work as ordered and adducing some pleas etc.

(3) Annexure-C. - Photo copy of the Office Order No. 016/02 (Stenographer) dated 8.5.2002 transferring service of the applicant Sri Bordelei to Lundia in his existing capacity and scale of pay with the approval of competent authority.

(4) Annexure-D. - Photo Copy of the Letter No.E/283/30/Pt.XXV(Q) dated 21.5.2002 of General Manager(P)/Maligaon showing that the request of Sri Bedelei for his retention at Maligaon/HQ has not been acceded to.

14. That, all actions in the case have been taken on work interest and are quite legal, valid and proper.

15. That, the answering respondents crave leave of the Hon'ble Tribunal to permit them to file additional Written Statement, in case the same is found to be necessary, for ends of Justice.

16. That, under the facts and circumstances of the case as stated/submitted above, the instant application is not maintainable and is liable to be dismissed.

..... Verification

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VERIFICATION

I, Shri C. Saikia son of  
Shri B. K. Saikia aged about 38 years  
by occupation service, at present working as Dy. CPO/HQ,  
Malgao of the N. F. Railway Adminis-  
tration do hereby solemnly affirm and state that the  
statements made at paragraphs 1 and 6 are  
true to my knowledge and those made at paragraphs 8, 9,  
10, 11 and 13 are ~~my~~ <sup>based on</sup> informations as gathered  
from records which I believe to be true and the rest are  
my humble submissions before the Hon'ble Tribunal.

  
FOR AND ON BEHALF OF  
UNION OF INDIA.

Dy. CPO/HQ  
Dy. / Signer  
Circular-17

ANNEXURE - A.

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1/5/02

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VIP

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To  
The Chief Commercial Manager,  
Northeast Frontier Railway,  
Maligaon.

Sir,

Sub:- Prayer for sanction of 10(ten) days'  
LAP w.e.f. 8th May/02.

I am in urgent need of 10(ten) days' LAP w.e.f.  
8th May/02 to 17th May/02 as I have been receiving  
continuous phone call since the last one week from  
my native home that my father is lying bed ridden with  
serious ailment due to old age and he is very eager  
to see me at this stage.

2. In view of the above, kindly grant me 10(ten)  
days' LAP as mentioned above to enable me to see my  
ailing father at Tinsukia.

3. Shri R.K.Bondopadhyay, PS-I/CCM will resume ~~his~~ his  
duty on 13.05.02. Shri Ganesh Chakraborty, CA/Dy.CCM(Cl.)  
may be asked to remain at HQ for three days i.e. 8th,  
9th & 10th May/02.

4. A leave Application Form, duly filled in, is  
enclosed herewith.

Enclo: One Leave Application  
Form.

Yours faithfully,

By - Sd/  
( B. SONOWAL )  
CS to CCM.  
Maligaon.

Maligaon,  
dt. 07.05.02.

Leave 10 days  
and CCM will remain  
to attend as  
Shri Bandopadhyay is practically not  
be available  
31/5/02

7/5/02

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8/5/2002

Since the post of PS Grade-I attached to CCM is Group-B and scale is different from PS Grade-II (NG), I am not willing to work as ordered. Moreover, the question of claiming dual charge allowance is also there. On the other hand, my previous claim for Honorarium in respect of visit of High Powered Review Committee on RCTs is still pending because of P/Branch's ruling since ~~the~~ May/June, 2001. -

This is for kind information  
please.

EA/CCM



PA/CCO

CCM.

9/5/02  
DISPATCHED  
S.P.B./N.F. R.I.  
11/5/02

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120  
NORTH EAST FRONTIER RAILWAY

OFFICE ORDER NO. 016/02 (Stenographer)

One SMC Manager, PS-II in coal, max. 20,000/-  
attached to CCO/IMG is hereby transferred to his existing  
capacity and posted under ADM/IMG with immediate effect  
against existing vacancy.

This issues with the approval of Competent Authority.

( 8.05.02 )  
APD/Admin.  
for General Manager (P).

016/02/02 P.L.XXV (G)

Balligand, dtg. 08-05-2002

COPY FORWARDED FOR INFORMATION AND RECORDING ACTION TO—

1. CCO/IMG, DCO/MLG, FA & CDO/MLG & CFO/ID/MLG.
2. ADM/IMG.
3. APD/PS/MLG.
4. DDCP/MLG.
5. DA & DO/MLG.
6. STAFF concerned.

8.5.02

For General Manager (P).

of

16/5/02

ANNEXURE - 'D'

11/3/02  
DISPATCHED  
S.P.D./R.Y. M.G.  
12/1/02

Ex-Ex-Ex-Ex-Ex-Ex

Office of the  
General Manager (P)  
N.F.Rly/Maligaon

No. E/2002/31/12. EXP/01

to : Maligaon, 21-5-2002

To :

Shri G.C. Bordoloi,  
PSU/002/002 under ADPM/MLG

Subs. Request for reconsideration of transfer order  
from Maligaon to EMG-Appal submitted by  
Shri G.C. Bordoloi, PSU.

Re: Your appeal dated 8.5.2002.

Your request for retention at Maligaon/HQ has not  
been considered by the Competent Authority.

This is for your information please.

( S. Devi )  
APO/A  
for General Manager (P)/MLG

Copy to: ADPM/EMG for information and necessary action.

10/11/2002  
( S. Devi )  
APO/A  
for General Manager (P)/MLG

dr

b  
12/11/02

Case No. 1549  
Date 10/2/2003  
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FER 2003  
पुस्तकालय  
GUWAHATI : : GUWAHATI.

Mr. H. K.  
Advocate

10.2.2003

IN THE MATTER OF :

O.A. No. 156 of 2002

Sri G. C. Berdelei

... Applicant.

- Vs -

1. The Union of India,

2. The General Manager (P),

Northeast Frontier Railway

Maligaon : Guwahati.

... Respondents.

AND

IN THE MATTER OF :

Reply to the Written Statements for and on  
behalf of the applicant.

The Applicant most respectfully beg to sheweth  
as under :

- 1.0 That the applicant has gone through the copy of the Written Statements submitted by the Respondents and has understood the contents of the same.
- 2.0 That the applicant would like to reiterate and say that the applicant has been abruptly transferred to Lumding without having any valid cause rather the same has been inflicted on the applicant on complete mala-fide.
- 3.0 That, with regard to the statements made by the Respondents in paragraphs Nos. 3 & 4 of the Written Statements, the applicant would like to state that the respondents have gone to the extent of saying that the applicant has suppressed deliberately his unwillingness to carry out urgent work entrusted to him in the

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Maligaon Railway Zonal Hd.Qrs Office by the Head of the Department i.e. Chief Commercial Manager (CCM) of the Commercial Department of Northeast Frontier Railway, in which department the applicant serves. This statement of affairs was based on a fact that requires to be explained to your kind honour for its appreciation in its real perspectives. The applicant is a disciplined employee and he has been serving under the Chief Claims Officer (i.e. the Controlling Officer of the applicant) since ~~19.10.2000~~ 19.10.2000 only. The applicant, while serving under the Chief Claims Officer, he was earlier put to shoulder an important work with the High Powered Review Committee on the Railway Claims Tribunals during its visit to the Northeast Frontier Railway Zonal Hd.Qrs at Maligaon/Guwahati between 24-6-2001 and 27/28-6-2001 or with the Chief Commercial Manager in a normal course of duties in addition to his works under the Chief Claims Officer. On 8.5.02, the applicant received a copy vide Annexure-A to the Written Statements in which a Note as appended below, directing the applicant to attend the duties performed by one Shri Bandopadhyay, PS Grade-I (Gaz./Group-B) attached to Chief Commercial Manager. After seeing the Note on 8.5.02, the applicant immediately informed Chief Commercial Manager through the Executive Asstt. to Chief Commercial Manager in good faith that the post of PS Grade-I attached to Chief Commercial Manager is Group-B (Gazetted) and scale is different (higher) from PS Grade-II, which is Group-C (Non-Gaz.) post. He is not willing to work on the question of having Dual Charge Allowance, besides his other earlier claims for honorarium in respect of visit of the High Powered

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Review Committee on the Railway Claims Tribunals has been pending because of Personnel Branch's ruling since 11.5 May/June:2001. This Note, although sent to the Executive Asstt. to Chief Commercial Manager, it was not his intention to flout the order but done in good faith so as to bring it to the notice of the Chief Commercial Manager for having received his earlier dues. This Note, however, to his belief, did not antagonise the Chief Commercial Manager and the Chief Commercial Manager, at no point of time, has asked the applicant to comply the directions but in contrary, he was forced to go to Lumding on transfer without assigning any reason on the same date vide Office Order No.016/02(Stenographer) issued vide endorsement No. -- E/283/30-Pt.XXV(Q) dt-08/05/2002. From this, the applicant has reason to think that the Chief Personnel Officer has managed this Transfer Order through C.C.M. in the matter of W.P.(C) No.5648/2000 in which the applicant is one of the ~~applicants~~ <sup>Petitioners</sup>. But, now, from the Written Statements it transpires that because of expressing unwillingness in carrying out a job of a ~~Non~~ Gazetted Post by the applicant, a Non-Gazetted staff, the order has been made, transferring the applicant to Lumding. This transfer has been made out without holding enquiry and the transfer is, therefore, is a Penal one and it is stigma on the career of services of the applicant and the transfer order is, therefore, mala-fide and on extraneous grounds.

Besides the above, the applicant, during his service career after transfer from Lumding on 12/12/1988

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at Maligaon Zenal Hd.Qrs Office he had been facing transfer after transfer which he obeyed without any objection as a disciplined-employee. The copies of all the Transfer Orders made during his Service and before joining as PS Gr.II to Chief Claims Officer, are annexed herewith and the same are marked as Annexures: 1, 2, 3, 4, 5, 6, 7, 8, in flagrant violation of the Railway Board's various letters including the following letters:

- (1) E(SCT)70CM15/3 dt-19.11.70.
- (2) E(SCT)4CM15/58 dt-14.01.75.
- (3) 78-E(SCT)15/25 dt-06.07.78  
and
- (4) E(SCT)/1/43 dated-24.12.85.

The applicant being the ST-employee, has been transferred without having strong reasons. Extracts of the relevant paragraphs of Railway Board's Master Circular No.24 on the subject - Transfer of Group-C & D Railway Servants (including the SC/ST Group-C & D Railway Servants) issued vide Railway Board's Letter No.E(NG)/1/90/TR/46 dt-8.4.91 and circulated by the Chief Personnel Officer : Northeast Frontier Railway : Maligaon/Guwahati vide No. 195G/2/24/MS(C)'B' dt-15/02/1995 (the latest circular on the matter) is enclosed as Annexure 14.

More so, in case of lapses, such as - gross ~~deliberate~~ indiscipline, proper investigation and enquiry is paramount need as so as to warrant action against the employee.

4.0 That with regard to the statements made in paragraphs 5, 6, 7 & 8 by the Respondents in the Written Statements, the applicant begs to reiterate and say that transfer of an employee belonging to Class-III category is not like that of Class-II & Class-I categories. On the otherhand, the SC/ST employees in Class-III

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categories deserves consideration in terms of the extent rules/procedures and policies of the Government.

5.0 That with regard to the circumstances ~~xxxvin~~ shown in paragraph No.9 of the Written Statements of the Respondents, the applicant begs to state that the action has become discriminatory, arbitrary and unfair in transferring a public servant from one place to another. Transfer will cause ~~xxxpart~~ irreparable harm and will upset the family. This transfer has been affected by way of punishment though under face of it, it may bear the insignia of innocence. Transfer is not the substitute for a proper disciplinary action and in fact, whenever there is a serious allegation against the Govt. servant, he should not be transferred but his conduct properly investigated and appropriate disciplinary action taken, if necessary. Besides these, transfer in Mid-Session of Schools should be avoided as held by the Hon'ble Supreme Court in case of ATC 1994(2499). Repeated transfer of an employee is also illegal as held by one of the Hon'ble CATs. All these have been evaded in the Written Statements made by the Respondents. Moreover, the Respondents have gone to the extent of saying that 'transfer is an incidence of services and one can be transferred to anywhere at the whims and pleasure of the Respondents.'

The Railway is a big Establishment spread over with different Zones/Divisions having many grades/scales of the employees. The services of the Gazetted posts are distinct and separate than that of the Non-Gazetted services. In addition to these, the SC/ST do form different

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feeling as per the "Brochure on Reservation for Scheduled Castes & Scheduled Tribes in Services : 7th edition/1987" published by the Ministry of Personnel, Public Grievances and Pensions (Deptt. of Personnel & Training) : Govt. of India at page-287 in para No.2 on the subject of Harassment and Discrimination against the SCs & STs employees in the Central Govt. Services, inter-alia, it has been pointed out that the SCs & STs Officers/Officials after appointment are subjected to harassment of and discrimination on the grounds of their social origin. It has further been pointed out that the SC/ST Officials are sometimes transferred to far off places and also placed to face insignificant situations/positions.

6.0 That with regard to the statements made by the Respondents in paragraph No.10 of his Written Statements, the applicant begs to state that the reply to his Representation (of 9-5-02) has been communicated to the applicant on 10/6/02 only i.e. after receipt of the Hon'ble Tribunal's Interim Order of 22/5/02 although the letter was of dated-21/5/02. General Manager (P)/N.F. Railway : Maligaon (i.e. Chief Personnel Officer) is the signatory in the matter of rejection of the Representation of the applicant and General Manager (P) is the appropriate authority to place the SC or ST employees in a proper manner quite following the rules/procedures laid down in the Brochures and in Railway Board's Circulars issued from time to time in respect of welfare of the SC/ST employees. More so, the transfer of the SC/ST employees to other distant places is not warranted to do without any strong reasons. In the Written Statements

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of the Respondents, all these things have been very cunningly evaded by the Respondents, whereas - as per Railway Board's Circular Nos.E(SCT)68CM15/5 dated- 31.1.69, E(SCT)70CM15/11 dt-16.9.70 & E(SCT)70CM15/11 dt-25.5.74, in addition to Sr. Personnel Officer (Reservations), Chief Personnel Officer (i.e. the Respondent) is the Chief Liaison Officer in the Northeast Frontier Railway Zone for smooth implementation of the policies with regard to the benefit of the SCs/STs employees. A copy of the same is annexed herewith and marked as Annexure: 15. This rejection has been made most mechanically and capriciously without considering the aspects of the laid down policies/rules and procedures enshrined vide Railway Board's circulars and the Brochures for Reservations in the Railway Services and the constitutional provisions.

7.6 That with regard to the statements made by the Respondents in paragraph Nos.11 & 12 in the Written Statements, the applicant begs to state that to divert the infirmities of the transfer order, the Respondents have gone to twist the matter of transfer only to gain an advantage over the arbitrary action of the Respondents.

The applicant has been settled at Maligaon/Guahati and for better educational facilities to the children, he has been enduring all these obstacles, but the present arbitrary and malicious action of the administration has gone to cripple him more and more and it is neither feasible nor desirable that such transfer should uproot his family causing irreparable harm to an emp-

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loyee and drive him into desperation. There is no administrative exigencies and it is of extraneous consideration and its very existence is in doubt.

The Applicant emphatically begs to submit that the PS Grade-II, a Non-Gazetted post and is not a Sensitive one and the Statements made in the Written Statements about the conduct of the applicant in furnishing a Note claiming dual charge allowance or unpaid allowances - cannot be attributed as having raising unexpected claim from the administration. The applicant never comes under the purview of the Sensitive Post as has been circulated by the Chief Personnel Officer himself vide local Circular No.195G/2/24 (MS)(C) 'B' dt-15/2/95 (the latest circular on the subject) - since the applicant is the employee under the Personnel Department and the Sensitive Post held by the staff mentioned in the circular has not mentioned about the applicant's category as Sensitive Post. This reply has been made on imaginary grounds only to gain an advantage of their arbitrary actions ~~or~~ <sup>of</sup> the transfer.

8.0 That with regard to the statements made by the Respondents in para No.13 of the Written Statements, the applicant would like to state that he has no comments.

9.0 That with regard to the statements made by the Respondents in para No.14 in the Written Statements, the applicant begs to reply that the order of transfer is without valid reasons and the same is tainted with mala-fide & arbitrary action.

10.0 That with regard to the statements made by the Respondents in para No.15 of his Written Statements, the Applicant begs to say that he has no comment.

11.0 That with regard to the Statements made by the Respondents in para No.16 of ~~the~~ his Written Statements, the applicant begs to state and submit that the instant application is maintainable and the impugned order of the Transfer vide Order No.616/02(Stenographer) issued by the General Manager(P): N.F.Railway : Maligaon/Guwahati, vide endorsement No.E/283/30-Pt.XXV(Q) dt-8.5.2002 is liable to be quashed.

(Contd...10/Verification)

VERIFICATION:

I, Sri G. C. Berdelei, Son of Late Rajit Berdelei, resident of Railway Quarters No.54/A, Central Ghatanager : Maligaon/Guwahati-11, aged - about 49 years, by profession as stated hereinabove, do hereby verify that the statements made in this application are true to my personal knowledge and belief.

I sign this verification on this the 7th day of February, 2003 at Maligaon : Guwahati.

*G.C.Berdelei*  
Maligaon  
7/2/03

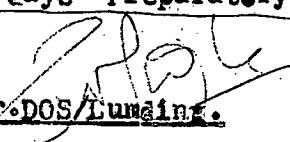
No.T/MISC/LM.

To : Sri G.C.Bardolei,  
C.A. to Sr.DOS/Lumding  
(at office).

Office of the  
Divl.Rly. Manager/Offg.,  
Lumding.  
Date: 29.11.88.

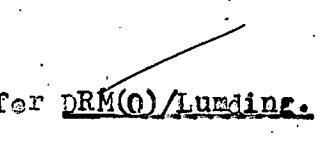
Sub:-Sparing on premotion.

In terms of CPO/Maligaon's O/order No.E/283/30 Pt.XXII(Q) dt-11.10.88 and DRM(P)/Lumding's O/order No.E/283/30/LM(Q)Pt.I dated 3-11-88 and 28-11-88, you are hereby spared from this office ~~to~~ to ~~execute~~ carry out premotion order as CA in scale Rs.2000-3200/- (RP) under CME/Maligaon in the afternoon of 29.11.88 and directed to report to CME/Maligaon after the expiry of 10 days' Preparatory Leave w.e.f.30.11.88 which has been sanctioned.

  
Sr.DOS/Lumding.

Copy for information and necessary action to:-

- 1). ~~Exxx~~ C.P.O. and C.B.E./Maligaon.
- 2). D.R.M.(P)/~~Exxx~~ Lumding for information please. He is requested to issue LPC and necessary pass to cover his journey from Lumding to Kamakhya station.
- 3). Three spare copies to DRM(P) for ET, ET Bill and Pass Sections.
- 4). D.A.O./Lumding.
- 5). OQ Section/Lumding.

  
for DRM(Q)/Lumding.

\*\*\*\*\*

ANN- 2

(13)  
50

cd. at  
orders on

12/88  
Gobindan

N. F. Railway.

Office of the  
General Manager(W),  
Maligaon,  
Guwahati-11.

No. W/PNC/HQ/CA/CE/W-8.

Dated 12.12.88.

Shri G.C.Bardoloi,  
Confld. Asstt.  
at Maligaon HQ.

Sub:- Joining Report.

Ref:- Your No. dt.12.12.1988.

With reference to your joining report  
dated 12.12.88, you are hereby re-directed  
to report to CPO/Maligaon for further posting.  
This is as per order of CBE on date.

13/12  
(P.S.Rao)  
PA to CE  
for GENERAL MANAGER(W).

Recd. at  
9/40 hrs on  
13/12/88.  
30

ULF  
31

L. L. Paliwal.

EXAMINER-IN-CHIEF  
OFFICER GENERAL

The following transfer and posting are ordered with immediate effect.

1. Sri R. Nadesan, OA(2000-3200) attached to ONG/MLG is transferred in his existing pay and scale and posted attached to AGM vice Sri R.K. Paul, OA (2000-3200).
2. Sri R.K. Paul, OA (2000-3200) to AGM is hereby transferred in his existing pay and scale and posted as OA (2000-3200) attached to OMS/MLG vice Smt. P. Lakra, OA(2000-3200) who has already been transferred to OGD/C/MLG vice this office order No. E/283/30 Pt.XXII (Q) dated 7.12.88.
3. Sri S.C. Bardekar (ST) OA(2000-3200)(1600-2660) to Sx. DOB/UMG who has been approved for the post of OA(2000-3200) and reported for duty on 12.12.88 is appointed to officiate as OA(2000-3200) and posted attached to ONG/MLG. This is the partial modification of this office order of even number dated 11.10.88.

This issues with the approval of CPO/Admin.

for Chief Personnel Officer:MLG.

No. E/283/30 Pt.XXII (Q).

Malligaon, dated 12.12.1988.

Copy forwarded for information and necessary action to:-

1. PA & CAO/Malligaon.
2. OMS/Malligaon.
3. OGS/Malligaon.
4. AGM.
5. DPM(P)/MLG.
6. Staff concerned.
7. CME/P/MLG.
8. CCS/P/MLG.
9. ARB/GOB.

*Address*

for Chief Personnel Officer:MLG.

sd/- 12.12.88

Recd. at 1 to  
hrs on 14/12/88.

-14-

ANNEX

N.F. RAILWAY  
OFFICE ORDER

45

In partial modification of this office order of even number dated 12.12.88, the following transfers and postings are order with immediate effect.

1. Shri N.Nadeshan, CA(2000-3200/-) attached to CWE/MLG is posted as CA to CME in existing pay and scale vice Shri N.N.Baisnab CA to CME.
2. Sri N.N.Baisnab CA to CME is posted as CA to ACM vice Shri H.K.Paul, CA (2000-3200/-).
3. Shri H.K.Paul, CA to ACM is transferred and posted as CA to CMS.
4. Shri G.C.Bordoloi CA in scale (1600-2660/-) of Sr. DOS/Luming,

Who has reported for duty on 12.12.88 is appointed to officiate as CA (2000-3200/-) and posted attached to CWE/MLG. vice Sri N.Nadeshan.

This issues with the approval of G.M.

for CHIEF PERSONNEL OFFICER

No. E/283/30 Pt.XXII(6)

Malgao, dated: 14.12.88

Copy forwarded for information and necessary action to:-

1. FA & CAO/MLG.
2. CWE/MLG.
3. CCS/MLG.
4. ACM
5. DRD(P)/LMG.
6. Staff concerned.
7. CME/P/MLG.
8. APO/GAZ.
9. CCS(P)/MLG.

Ansawer

for CHIEF PERSONNEL OFFICER  
N.F.RAILWAY, MANGAON

JR

-0000-

ANN - 5

(65)  
5

N.E. RAILWAY

Office of the  
Chief Mech. Engineer  
Maligaon  
Guwahati-11

OFFICE NOTE  
No. R-77/1/1(R)

Dated: 23.12.88

Shri G.C. Bordoloi, who has recently  
reported in GM's office as GM in scale Rs.  
2000-3200/- is posted under OSD(G)-II/Hq  
Shri B.P. Basu with immediate effect.

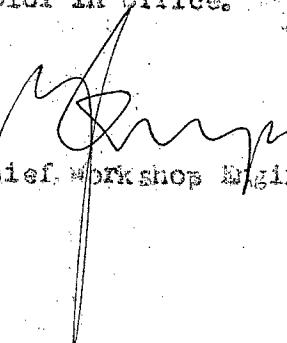
This issues with the approval of  
OSD(G)-II/Hq and also of GM.

Chief Workshop Engineer

Copy to OSD(G)-II/Hq for information.

Copy to SPO/mR for information & n/a.

✓ Copy to Shri GC Bordoloi in office.

  
Chief Workshop Engineer

ANNEX

47

R. R. RAILWAY.

OFFICE ORDER.

In partial modification of this office order dt. even No. dt. 10.12.1948  
dt 14.12.48, the following transfers and postings are ordered with immediate  
effect.

1. Shri G. C. Bhattachari, OA in scale Rs.200-320/- (B) now working in  
CBO's office is hereby transferred in his existing pay and scale and posted  
as OA (Rs.200-320/- (B) ) attached to O&M/10 vice Shri G. C. Bhattachari.
2. Shri B. K. Paul, OA in scale Rs.200-320/- (B) attached to 401 is  
transferred in his existing pay and scale and posted as OA (Rs.200-320/- (B) )  
attached to O&M/10 vice Shri G. C. Bhattachari.
3. Shri D. K. Bhattachari, OA in scale Rs.200-320/- (B) ) attached to O&M  
is transferred in his existing pay and scale and posted as OA (Rs.200-320/-  
(B) ) attached to 401 vice Shri D. K. Paul transferred.

This comes with the approval of CBO/ADM.

for Chief Personnel Officer,  
R. R. Ry/Chittagong.

No. 9/32/29 R.R.R.W.

Chittagong, dated 29.12.48.

Copy forwarded for information and necessary action to—

1. RA & O&M/10.
2. ADM/10.
3. O&M/10/10.
4. O&M/10.
5. O&M/10.
6. ADM/10/10.
7. Staff concerned.

for Chief Personnel Officer,  
R. R. Ry/Chittagong.

even. 10/12.

48

N.F. Railway.

OFFICE ORDER.

In partial modification of this Office Order of even number dated 12.12.88, 14.12.88 and 29.12.88, the following transfer and postings are ordered with immediate effect.

1. Shri G.C. Bordoloi, CA in scale Rs.2000-3200/- (RP) working in CME's Office, who is under order of transfer to OSD/G/1/MLG is now posted in CE's Office attached to CBE/MLG vice Shri B.K. Sen.
2. Shri B.K. Sen, Ad-hoc, CA (2000-3200/-) attached to CBE/MLG is transferred in his existing pay and scale and posted as CA (Rs.2000-3200/-) attached to CPLO on temporary measure vice Shri H.P. Seal, CA reported sick.
3. Shri A.P. Barua, CA (Rs.1800-2660/-) now working as CA in scale Rs. 1600-2660/- attached to OSD/G/1/ is allowed to continue to work as CA till further orders.

This issues with the approval of C.P.O.

for Chief Personnel Officer,  
N.F.Railway, Maligaon.

No.E/283/30 Pt.XXII

Dated 10-01-1989.

Copy forwarded for information and necessary action to:-

- 1) FA & CAO/MLG.
- 2) OSD/G/1/MLG.
- 3) APM/MLG
- 4) CME/MLG.
- 5) APD/G&S.
- 6) CPLO/MLG.
- 7) APD/G&S.
- 8) APO/E-I.
- 9) Staff concerned.

Recd. at  
11/35 hrs  
10/1/89

Debhamoni 10/1/89  
for Chief Personnel Officer,  
N.F.Railway, Maligaon.

NORTH EAST FRONTIER RAILWAY

Headquarters Office,  
(Works Branch)  
Maligaon  
10 January, 1989.

No. W/PNO/HQ/1A/CE/W-8

Shri G.C. Bordoloi, CA

Recd. at  
1450 hours  
10/1/89

Sib: Your joining Report dt. 10.1.89. -

Ref: CPO/MLG's O.O. No. E/283/30 Pt.XXII  
dated 10.1.1989.

.....

You are hereby directed to report to CPO/MLG  
for further posting.

*S. Bordoloi* PA/CE  
Chief Bridge Engineer,  
Maligaon.

Copy to CPO/Maligaon. A note in connection with posting  
of C.As as per above mentioned Office Order has separately  
been addressed to him.

*✓* Chief Bridge Engineer.

Office of the  
General Manager (Market)  
Malgana.

Dt:-02.05.96.

To  
Shri G.C. Borkar,  
PA to CPO/MG.

In terms of GM(v)/MG's Office Order No. 018/96  
(STENOPHONY) issued under endorsement No. 3/281/96 Pt. XXIV (c)  
dated-01.05.96, you are hereby released from this office in  
the afternoon of date(2/5/96) to carry out transfer order as  
PA to CPO(A)/MG in your existing Pay and Scale(2000-3200/-).

for General Manager (Market).

No. 4/PHO/MG/1(A)/C8/M-2/Pt. II is dated, 2nd May/1996.

Copy forwarded for information and necessary action to -

1. CPO/MG.
2. PA to CPO/MG.
3. Dy. CPO(A)/MG.
4. SPV (E & PG)/MG.
5. EA to CPO for information of CPO(A).
6. ADO (MOC.)
7. GS (H)
8. OS (E).
9. OS (E).

for General Manager (Market).

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(COPY)

S.E.Railways

ST

OFFICE ORDER NO. 009/97 (STENOGRAFHER).

In terms of MM(P)'s O.O.No.009/97 (STENOGRAFHER) issued under even No. dated-2/6/97, Sri S.C. Berdelei, PA to CPO(A) in scale Rs.2000-3200/- (RP) is hereby spared from this office w.e.f. from 5/6/97 (AN) and directed to report to CPTM/MLG.

Sd/-  
for General Manager (P)/MLG.

No. E/283/30/Pt.XXIV(Q), Maligaon : dated 5/6/97.

Copy forwarded for information and necessary action to-

1. PA & CAO/MLG.
2. CPTM/MLG.
3. SHO(T)
4. EQ Bill (Pt.II).
5. Staff concerned.

Sd/-  
for General Manager (P)/MLG.

NOTIFICATION ISSUED BY C.G.S.OFFICE ORDER NO. 615 09 (Grammerized)

1. C.R. Billed Q. O.C. PA (6500-10500) attached to CGO/MLG to be transferred in his existing pay scale and posted under CGO/MLG with immediate effect.

2. C.R. O.C. Corridor (65) PA in scale R.6500-10500/- attached to CGO to be transferred in his existing pay scale and posted under CGO/MLG vice Act 10, 1. ABCD.

CGO agrees with the approval of competent authority.

for General Manager (D)/MLG

10.9.99/30 Pt. 54V. (D)

Reference, dated 21.9.1999

Copy forwarded for information and necessary action  
CGO

1. PA & CGO/MLG
2. CGO, CGO/MLG
3. CGO/D. CGO/DC
4. CGO concerned

21.9.99  
for General Manager (D)/MLG

(No Joining was given because  
of same Bill Unit).

Training Report given to  
CFTM could not be traced out.

(5) N. F. Railway

Ans

Office of the  
General Manager(Mech.)  
Maligaon, Guwahati-11.

(53)

63

No. M-77/1/1/Pt.I(R).

Dated: 21/09/2000.

To : GM(P)/MLG.

Sub :-

Ref :- GM(P)/MLG's letter No. E/283/  
30/Pt. XXII/A/Q dated 30.3.2000.

In reference to the above the CME has already  
passed the following order and case was sent to GM(P).

"Sri Bardalei is not acceptable in this  
Department."

This is for your information and necessary  
action please.

21/9/00  
Secy. to C.M.E.

(2)

N.F.Railway

54

OFFICE ORDER NO.043/2000 (STENOGRAPHER).

In terms of GM(P)'s O/Order No.042/2000 (STENOGRAPHER) issued vide endorsement of even No. dated 17/18.10.2000, Sri G.C. Bordoloi, PA is spared from this office w.e.f. 18.10.2000 (AN) and directed to report to CCO/Maligaon for posting as PA to CCO/MLG.

for General Manager (P)/MLG.

No. E/283/30-Pt.XXII/A(Q) :: Maligaon dated-18.10.2000.

Copy forwarded for information and n/action to -

- 1). PA & CAO/Maligaon.
- 2). CCO/Maligaon. Shri GC Bordoloi has already availed 6 days Casual Leave and One day's R.M. during the current year (upto 18.10.2000).
- 3). SPO(BILL).
- 4). APO(T)/MLG.
- 5). Staff concerned.

  
for General Manager (P)/MLG.

[ ]  
Wanted in, we are  
approv.

Extracts of Para No.9.5 of Railway Board's Letter  
No.E(MS)/1/90/TR/46 dt-8.4.91 and circulated by  
Chief Personnel Officer/NorthEast Frontier Railway,  
Maligaon vide letter No.1950/2/24(MS)(C)'B' dated  
15/02/1995 (the latest circular on transfer of  
Group-C & D Railway Servants).

"9.5: The employees belonging to Scheduled Castes  
and Scheduled Tribes should be transferred very  
rarely and for very strong reasons only. Posting  
of the employees belonging to these communities  
on their initial appointment/promotions/transfer  
should as far as practicable be confined to their  
native district or adjoining districts or places  
where the Railway Administration can provide the  
quarters subject to their eligibility."

-----  
Ref: Railway Board's letters -

1. No.E(SCT)70CM15/3 dated-19.11.76.
2. E(SCT)74CM15/58 dated - 14.1.75.
3. 78-E(SCT)15/25 dated- 6.7.78 and
4. 85-E(SCT)1/43 dated- 24.12.85.

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copied from:-

"Brochure on Reservation for Scheduled Castes and Scheduled Tribes in Railway Services." (3rd Edn. 1985).

**CHAPTER-XXV**

**Liaison Officers and Senior Personnel Officers (Reservations) - Duties and functions.**

**25.1 Liaison Officer:-**

The following shall function as the Chief Liaison Officers in the Ministry of Railways and on the Indian Railways etc.:-

(i) Ministry of Railways : Jt. Secretary/Railway Board.

(ii) Zonal Railways:

(1). The Chief Personnel Officer: Central Railways: Bombay.

(2). The Chief Personnel Officer: Eastern Railways: Calcutta.

(3). The Chief Personnel Officer: Northern Railway: New Delhi.

(4). The Chief Personnel Officer: N.E.Railway/Gorakhpur.

(5). The Chief Personnel Officer: N.W.Railway/Gauhati.

(6). The Chief Personnel Officer: Southern Railway: Madras.

(7). The Chief Personnel Officer: S.C.Railway: Secunderabad.

(8). The Chief Personnel Officer: S.E.Railway: Cal.

(9). The Chief Personnel Officer: Western Railway: Bombay.

(iii). Other Establishments:

(10). The Deputy C.P.O./Chittaranjan Locomotive Works, Chittaranjan.

(11). The Deputy C.P.O./Diesel Locomotive Works, Varanasi.

(12). The Deputy C.P.O./I.C.F. Perambur: Madras.

(13). The Deputy D.G./RDSO : Lucknow.

(14). The Railway Liaison Officer : New Delhi.

Authority: Railway Board's L/No. E(SCT)68CM15/5 dated-31st January/1969).

25.2 The CLOs will be assisted at the appropriate level by Asstt./SPOs/DPOs who will exercise a periodical check of the rosters - say, once in 6 months and a Report in the matter should be sent to the Liaison Officer on each Railway on a regular intervals pointing out the discrepancies if any and the steps taken to rectify the same.

(Authority: Rly. Board's No. E(SCT)68CM15/5 dt-31.1.69. & E(SCT)70CM15/11 dt-16.9.70.)

25.3 These Officers will specially be responsible for :-

(1) ensuring due compliance by the Subordinate appointing authorities that the orders and instructions pertaining to the reservation of vacancies in favour of the SCs & STs and other benefits admissible to them.

25.5 Submission of LO's Report to General Manager:

The Liaison Officers should invariably submit their Annual Inspection Report to the General Manager pointing out defects, if any, and the remedial steps taken in this connection so as to ensure that the subject of Constitutional safeguards provided for the SCs and STs receive attention at the highest level at the Zonal Railways etc.

25.6 Submission of the Chief Liaison Officer's Report to the Railway Board :-

A copy of each of the Annual Inspection Report submitted by the Chief Liaison Officer to the General Manager also indicating the action taken by the General Manager on the Report shall be furnished to the Railway Board latest by 30th September each year.

Rly. Board's L/Mo.E(SCT)70CM15/11 dated-25.05.1974

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