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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

FROM No. 4
(SEE RULE 42)

**GENERAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:**

ORDER SHEET

Original Application No.

164 , 2002

Mise Petition No.

Contempt Petition No.

Review Application No.

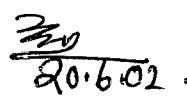
Applecants. Jai Nath Singh

-Vs-

Respondant(s) horizon

Advocate for the Appellant(s) Mr B. Malakan & R. Das

Advocate for the Respondent(s) Close -

Notes of the Registry	Date	Order of the Tribunal
	24.5.02	Heard Mr. B. Malakar, learned counsel for the applicant.
This is an application for C.E. for the 501 direction No. 1. TG 454961		Issue notice to show cause as to why the application shall not be admitted. Returnable by four weeks.
Dated ... 14/5/2002 By, Registrar		Pendency of this application shall not preclude the respondents to consider the representation submitted by the applicant before the CWC on 7.5.2002.
WB 23/5/02		List on 21.6.2002 for admiss ion.
Notice preferred and sent to 3 for giving the respondents 182 days Regd. Add. Dated 28/5 D/N No 1558 Wb Dtd 29/5/02.	mb	 Vice-Chairman
2 service report were still awaited.		
 20.6.02		

(2)

O.A. 164 of 2002

21.6.02

Heard Mr. B. Malakar learned counsel appearing on behalf of the applicant and Mr. A. Deb Roy, Sr. C.G.S.C for the respondents.

Application is admitted. Call for records. Returnable by four weeks.

List on 25.7.02 for orders.

① Service report are still awaited.

~~30~~
18/6/02.

1m

K. K. Shar
Member

(2)

O.A. 164 of 2002

3

Notes of the Registry	Date	Order of the Tribunal
After Scouting of the case written statement not yet filed by the respondent	19.7.02 1m 26.7.02	Written statement has been filed. Case is ready for hearing. List for hearing on 26.7.02. K C Shar Member
<i>By 25.7.02</i>		
<i>WS submitted by the Respondents</i>	6.9.02 1m 4.10.2002	Mr. A. Deb Roy, Sr. C. G. S. C. states that the written statement has been sent for setting and he prays for adjournment. Prayer is allowed. List on 6.9.02 for orders. K C Shar Member
<i>TD</i>		
<i>80. 9. 02</i>		
<i>WS submitted by the Respondents</i>	4.10.2002 bb	Written statement has been filed. List the case for hearing on 15.11.2002. K C Shar Member
<i>TD</i>		
<i>5/11</i>		
	20.12.2002	Due to Circuit sitting at Shillong, the case is adjourned to 20/12/2002 20/12/2002. Mr A. K. Ver 15/11/02
	nkm	Mr R. Das, learned counsel for the applicant, prays for an adjournment on the ground that he has received a copy of the written statement only today. Prayer allowed. List for hearing on 28.1.2003. K C Shar Member

2
O.A.No.164/2002

Notes of the Registry

Date

Order of the Tribunal

28.1.2003. Single bench did not sit today.
The case is adjourned to 28/2/2003.

W.L.S has been listed.

28/3/03

28/2

Adjourned to 18/3/2003.

Mr.
M.P.

18/3

The case is adjourned to 31/3/2003.

M.D.
A.R.

31.3.2003

None appears for the applicant. List the case on 1.4.2003 again for hearing.

Monkax

Vice-Chairman

bb

1.4.2003

On the prayer of Mr. R. Das, learned counsel for the applicant, list the matter on 2.4.2003 for hearing.

mb

Vice-Chairman

2.4.2003

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

NS
7/4/03

Pl. copy of order
dated 2.4.03

16.4.2003
Copy of the Judgment
has been sent to the Office
for issuing the same to
the applicant as well
as to the L.D.A.D. for its
records.

nkm

Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / XXXX No. 164 of 2002

2.4.2003
DATE OF DECISION

Shri Jainath Singh APPLICANT(S).

Mr B. Malakar and Mr R. Das ADVOCATE FOR THE
APPLICANT(S).

- VERSUS -

The Union of India and others RESPONDENT(S).

Mr A. Deb Roy, Sr. C.G.S.C. ADVOCATE FOR THE
RESPONDENT(S).

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

THE HON'BLE

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

Judgment delivered by Hon'ble Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.164 of 2002

Date of decision: This the 2nd day of April 2003

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

Shri Jainath Singh
W/C Khalasi
NISD/CWC/Jang,
Under Executive Engineer,
CWC, Itanagar.

.....Applicant
By Advocates Mr B. Malakar and Mr R. Das.

- versus -

1. The Union of India, represented by the
Superintending Engineer,
CWD/NE Inv. Circle,
Shillong.
2. The Executive Engineer/NEID-III,
CWC, Itanagar.Respondents
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....

O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

The issue relates to transfer and posting. By order dated 10.4.2002 the applicant who is working as Work Charged Khalasi in the North Eastern Investigating Division No.III, CWC, Jang was transferred to Chawngte under Serchhip Sub Division, NEID-II, Aizwal. The applicant in this application assailed the legitimacy of the aforementioned order of transfer as arbitrary and discriminatory.

2. Mr B. Malakar, learned counsel for the applicant, fairly stated that the applicant duly complied with the order of transfer and joined in his place of posting and

submitted that the applicant did not impute any malafide on the part of the respondents. His only grievance is confined to his posting in Chawngte near the Bangladesh border which is a hard area. The learned counsel for the applicant contended that he opted for Alipurduar, but the authority did not consider his application for his posting in the proper perspective.

3. Mr A. Deb Roy, learned Sr. C.G.S.C., on the other hand stated that the applicant's case was duly considered. In addition, permission from the Ministry of Environment and Forests could not be obtained for conducting survey and investigation in areas falling under wild life sanctuaries and reserved forest coming under the jurisdiction of MSTLC Investigation Sub Division headquartered at Alipourduar. Consequently, work requirement was also reduced. Therefore, in these circumstances it was not considered appropriate to further strengthen the workcharged manpower.

4. Upon hearing the learned counsel for the parties and on consideration of the materials on record no illegality, as such has been committed in transferring and posting the applicant at Chawngte under Serchipp Sub Division, NEID-II, Aizawl. But then, the authority should not slam the door for posting the applicant at Alipurduar. If in future any vacancy arises, the authority should consider the applicant's case when vacancy arises at Alipurduar and consider his posting at Alipurduar, unless the applicant intimates his change of mind for posting at Alipurduar.

5. With the above observation, the application stands disposed of. There shall, however, be no order as to costs.

(D. N. CHOWDHURY)
VICE-CHAIRMAN

ñkm

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IN THE CENTRAL ADMINISTRATIVE TIRIBUANL
GUWAHATI BENCH : GUWAHATI.

164
O.A. No. ~~165~~ /2002.

Jai Nath Singh .. Applicant

vs.

Union of India & ors .. Respondents
(CWC)

I N D E X

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Filed by -
J. A. Barbhuyan
Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :GUWAHATI BENCH
GUWAHATI.

Application under Section 19 of
the Central Administrative Tribunal
Act, 1985.

Date of filing :

Registration No. :

Signature

Registrar.

Sri Rajainath Singh
W/C Khalasi,
NISD/CWC/Jang, Under

Executive Engineer, CWC/
Itanagar.

Filed by -
Jainath Singh
Shro:
Ranbir Dutt
Advocate
(4/57/02)

...APPLICANT.

Vs.

1. Union of India, represented by the Superintending Engineer/CWD/NE Inv. Circle, Shillong.
2. The Executive Engineer/NEID-III, CWC/Itanagar.

... Respondents.

1. PARTICULARS OF THE APPLICANT :
 - i) Name : Sri Jainath Singh
 - ii) Father's name : Late Ramsagar Singh
 - iii) Designation and office which employed. : W/C Khalasi, NISD/CWC|Jang.
 - iv) Particular for service of notice : As at (iii) above.
2. PARTICULARS OF THE RESPONDENTS
 - i) Name and designation of the respondents. : Union of India, represented by the Superintending Engineer/CWC, Noarth East Inv. Circle, Shillong.
 2. The Executive Engineer, NEID-III/CWC, Itanagar.

J Singh

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3.

ii) Office address of the : As above
respondents

iii) Address for service : As above
notide

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

Transfer order No. NEIC/2009/Vol.VII/2001 dated
10.4.2002 transferring the applicant from Jang in
Arunachal Pradesh to Chawngte in Mizoram.

4. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the subject matter of
the application is within the jurisdiction of this
Tribunal.

5. LIMITATION :

The applicant further declares that the application
is within the limitation in Section 21 of the
Central Administrative Tribunal Act, 1985.

6. FACTS OF THE CASE :

1) That the applicant is working as Work Charged
Khalasi in the Central Water Commission. He was appointed
as such on 16.8.88 in the scale of pay of Rs. 750-932/-
per month.

2) The applicant since the date of his appointment
was working in the North Eastern region more particularly
in the interior part of Mizoram and Meghalaya till 1996

J. Singh

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4.

wherefrom he had been posted at Alipurduar in
Manas-Sankosh-Tessta Link Canal sub-division on
3.11.96.

3. That after serving for about 17 months, the applicant was again transferred on 31.3.98 to Jang in the Tawang District of Arunachal Pradesh along with some others. The applicant is a low paid employee and with such small income he is to maintain his families living at Bihar. Being hard hitted due to financial crunch, his wife submitted a representation to the Union Minister, Water Resource Development for transfer of the applicant to Bihar Circle.

4. That the matter came to be known to the Respondent No. 2, the applicant was asked to desist from such activities failing suitable disciplinary action would be taken. This was issued vide Memo No. NEID-III/Adm-10(11)/2001/4437 dated 31.8.2001.

A copy of the said Memo is annexed hereto and marked as Annexure - I.

5. That the present transfer order has been issued by the Respondent No. 1 from one Division to another by way of punishment. It is punishment in the sense that Jang is a far remote area from the plains in difficult hilly terrain wherefrom he has been sent to a far distant place so that he cannot keep any

J. Singh

5.

liason with his family. The applicant requested for his transfer to Bihar Circle and instead he has been shunted out to eastern most part of the country.

A copy of the transfer order is annexed hereto and marked as Annexure - II.

6. That after the transfer aforesaid the applicant has again been posted at Serchhip far remote area from Aizawl.

A copy of the order is annexed hereto and marked as Annexure - III.

7. That the applicant begs to state that the Respondent No. 2 issued a circular on 18.12.2001 whereby options were invited from work charged staff having completed three (3) years at one station for choice of posting on the basis of suitability of staff concerned for requirement of works. Such options for choice of posting was invited by 31.01.02 and the applicant exercised his option for choice posting at Alipurduar. By the circular even temporary staffs, casual labourers were allowed such option. But the Respondent No. 2 ignoring such option and in violation of the circular recommended to the Respondent No. 1 for his transfer to Mizoram which is malafide.

A copy of the Circular is annexed hereto and marked as Annexure - IV.

J Singh

6.

8). That the applicant further begs to state that he has submitted an application to the Respondent No. 1 for his stay at Jang on the ground that on earlier occasion while he was working at Khanman drilling site he was attacked with Malaria and was on the verge of death and he got redovered after a struggle. The applicant met Respondent No. 1 and also furnished to the Respondent No. 1 an application of one Sri A H Barbhuyan, we at Jang who hails from Silchar and who made a request that Sri Barbhuyan be given the posting at Aizawl which will be nearer to Silchar and would be convenient to him. The applicant requested that in his place Sri Barbhuyan be brought to Aizawl. But this request that has been laughingly turned down.

Copies of the applications are annexed hereto and marked as Annexures V & VI respectively.

9). That on the above facts and circumstances, the applicant has filed this application for interference by the Tribunal with the transfer order.

7. LEGAL GROUND :

(i) As per rule, the NE Region is treated as a tenure area. An employee of Central Government posted in this region is said to have tenure posting. The tenure posting is prescribed as follows :

FIXED TENURE :

T Singh

- i) For staff with service of
10 years of less - 3 years
- ii) For staff with more than
10 years service - 2 years

On the above prescription, the applicant having spent more than 14 years in NE region is not required to be posted again on tenure.

The transfer order is violative of the Circular issued by the Respondent No. 2 and the applicant is entitled to his choice posting at Alipurduar.

8. RELIEF SOUGHTS :

Under the circumstances, the applicant prays for the following reliefs :

a) That the transfer order being issued in violation of law so far it relates to the applicant shall not be given effect to and the order be reversed or modified ; and the applicant be given his choice posting at Alipurduar in accordance with the circular.

8.A Interim Relief :

Pending finalisation of the case the applicant may not be released from Jang. He is not yet released.

b) Any relief which the Hon'ble Tribunal may deem fit and proper.

J Singh

9. REMEDIES EXHAUSTED

The applicant has availed the remedies available to him.

10. MATTER NOT PENDING WITH ANY OTHER COURT OR TRIBUNAL.

The applicant declares that the subject matter of the application is not pending before any Court of law or any authority or any Bench of the Tribunal.

11. PARTICULARS OF THE EX IPO.

No. of the IPO : 7G-549461
 Name of issuing PO : Guwahati
 Post Office where payable : Guwahati

12. DETAILS OF INDEX.

An index in duplicate consisting of details of documents to be relied upon is enclosed.

13. LIST OF ENCLOSURES :

- i) Memorandum issued to the applicant
- ii) Transfer order dated 10.4.02
- iii) Posting order issued by the Executive Engineer/ Aizawl on 16.4.2002.
- iv) Office Memo dated 4.12.2001
- v) Representation of the applicant
- vi) Representation of A.H. Barbhuyan.



VERIFICATION

I, Sri Jainath Singh Work Charged Khalasi under Executive Engineer, Central Water Commission, Itanagar working at Jang, the applicant, do hereby verify that the statements made in paragraphs 1 to 6 (I, II, III, VII and VIII) 7 to 13 are true to my knowledge and those made in paragraphs 6 (IV and VI) being matters of records are true to my ^{information} knowledge.

Jainath Singh
Signature

Guwahati :

CONFIDENTIAL

Government of India
 Central Water Commission
 North Eastern Inv. Divn. No.III
 Post Box No. 144, Itanagar (AP)

NO. NEID-III/Adm-10(iij)/2001/4437

Date: 31.8.2001

OFFICE MEMORANDUM

It has been informed that you have been approaching higher offices on service matters through Smt. Chinta Devi, your wife. This tantamounts to violation of Rule 20(3) of CCS Conduct Rules.

You are hereby advised to desist from such type of activities in future failing which suitable disciplinary action shall be taken against you.

(A. G. Majumdar)
 Executive Engineer

To

✓ Shri Jainath Singh,
 W/C Khalasi,
 Through Assistant Engineer,
 Nyukcharong Inv. Sub Division,
 Central Water Commission,
 Jang (Arunachal Pradesh).

True copy
 N.W.

GOVERNMENT OF INDIA
 CENTRAL WATER COMMISSION
 NORTH EASTERN INVESTIGATION CIRCLE
 JAMIR MINSION, NONGSHILLONG
 SHILLONG

Annexure - II

No. NEIC/2009/Vol.VII/2001/1366-73

Dated the:- 10-4-2002

OFFICE ORDER

The following Khalasis working presently under North Eastern Inv. Division No.III, CWC, Itanagar are hereby transferred to Chawngte Site under Serchhip Sub Division of North Eastern Inv. Division No.II, Aizwal with immediate effect in public interest.

<u>S.No.</u>	<u>Name & Designation</u>	<u>From</u>	<u>To</u>
	S/Shri		
1.	Sailesh Kumar Das, Kh	MSTLCISD-I CWC, Alipurduar	Chawngte under Serchhip Sub- Divn. of NEID-II, Aizwal
2.	Manglamba Singh, Kh	-do-	-do-
3.	Barkha Marandi, Kh	-do-	-do-
4.	K.K.Das. Kh	-do-	-do-
5.	J.N.Singh, Kh	NISD, CWC, Jang	-do-
6.	P.P Dutta Purkayastha, Kh	-do-	-do-
7.	R.B. Das, Kh	-do-	-do-
8.	Shivjee Pandit, Kh	KISD, CWC Chapakhwa	-do-

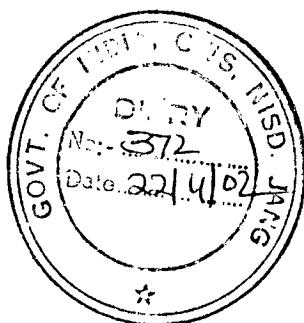
C. L. Wadhawan
 C. L. Wadhawan
 Superintending Engineer

Copy to:-

1. The Superintending Engineer, (C) B&BB, CWC, Shillong.
2. The Executive Engineer, NEID-III, CWC, Itanagar, with the instruction to relieve the above staff immediately. All relevant service record etc be sent early.
3. The Executive Engineer, NEID-II, CWC, Aizwal, with the instruction to issued further order immediately. The joining of official be intimated.
4. The Assistant Engineer, MSTLCISD-I, CWC, Alipurduar All the official may be relieved immediately
5. The Assistant Engineer, NISD, CWC, Jang, Under NEID-III
6. The Assistant Engineer, KISD, CWC, Chapakhwa under NEID-III, Itanagar.

✓ 7. Personal Concerned

8. Office Order



True copy
 R. D. S.

Gram : NEIDIV : Aizawl

Phone / Fax : (0389) 357266

GOVERNMENT OF INDIA
 CENTRAL WATER COMMISSION
 NORTH EASTERN INVESTIGATION DIVN.II
 JALSHAKTIPURAM, ZEMABAWK
AIZAWL - 796017, (MIZORAM)

No. NEID-II/WC/Estt-6/2002/1689 - 96

Dated the 18/4/2002

OFFICE ORDER

In Pursuance of Superintending Engineer, NEIC, CWC, Shillong's Office Order No. NEIC/2009/Vol.VII/2001/1366-73 dated 10.4.2002, the following WC, Khalasi who have been transferred from NEID-III, CWC, Itanagar to this division for investigation work of Chawngte minor irrigation scheme in public interest are hereby reposted to minor irrigation site of chawngte group under MHISD, CWC, Serchhip with immediate effect.

1. Shri Sailesh Kumar Das, WC, Khalasi
2. Shri Manglamba Singh, WC, Khalasi
3. Shri Barkha Marandi, WC, Khalasi
4. Shri K.K.Das, WC, Khalasi
5. Shri J.N.Singh, WC, Khalasi
6. Shri P.P.Dutta Purkayastha, WC, Khalasi
7. Shri R.B.Das, WC, Khalasi
8. Shri Shivjee Pandit, WC, Khalasi


 (R.D. Deshpande)
 Executive Engineer

Copy to :-

1. The Superintending Engineer, NEIC, CWC, Shillong for information please.
2. The Executive Engineer, NEID-III, CWC, Itanagar for information & necessary action please.
3. The Assistant Engineer, MHISD, CWC, Serchhip for necessary action.
4. The Assistant Engineer, (HQ) / NEISD-III, CWC, Aizawl for necessary action.
5. Accounts Branch
6. Personal file (8 copies)
7. Person concerned (8 copies) through Executive Engineer, NEID-III, CWC, Itanagar
8. Guard file

2 NO. 98
 RD
 23/4/02
 JE

Annexure-IV

13/28

// The letter No.NEID-III/Adm-5/6182-87 Dated 04.12.2001,
received from the Executive Engineer,CNC,NEID-III, Itanagar //

* * *

C I R C U L A R

It has been decided to have a reshuffling of the work-charged Staff who have completed more than 3(three) years at one station by end of the current financial year. The reshuffling shall be on basis of suitability of the concerned staff for requirement of our works.

Choice places under the Division may, accordingly, be obtained from each staff member and submitted to this office by 31-01-2002.

Casual labourers with temporary status may also exercise their willingness like-wise.

Sd/-

(A.G. Majumdar)
Executive Engineer

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

No.NISD/CNC/JANG/3/2001/3002-06,

Dated : 18th Dec., 2001.

Copy for circulation & information among staff under this Sub-division, through the concerned J.E./Site-in-charges :-

1. Notice Board, NISD, CNC, Jang, Tawang distt. (A.P.).
2. Muruga Bridge G.D&S site, C.W.C.
3. China Bridge G.D&S site, C.W.C.
4. Tawang Chu G&D site, C.W.C. (Near Yusum village)
5. RA-III G&D Site, CNC, (Jaswant Garh), Jang.

A. Kulandai Vel
(A.KULANDAIVEL)
ASSISTANT ENGINEER.

True copy
Paris

14 9

Annexure - V.

From : J.N. Singh,
Wickhalasic CWC
NISD JANG

To

The Superintending Engineer
NEIC, CWC
Shillong

(Through proper channel)

Sub : Transfer order to Chawngte under
Serchhip Sub-Divn. of NEID-II Aizawl.

Ref : NEIC/2009/Vol-VII/2001/1366-73
dt. 10.4.02.

Sir,

With reference to the above cited office order
I am under transfer to minor Irrigation Site of Chawngte
group under MHISD, CWC, Serchhip under NEID-II Aizawl.

As it is very far from my native I am interested
to continue to work at NISD, Jang instead of New Transfer
posting place as above.

Further I want to bring your kind notice that
when I was worked in Mizaram, Khanmon Drilling site during
the year 1991, I suffered in Malaria and escaped from death.

Hence, I request you kindly cancel the above
orders and allow me to work continuously at NISD, Jang.

Yours faithfully,

Sd/- 7.5.02

(J.N. SINGH)
W/C Khalasi, CWC
NISD, JANG

True w/ N

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v

Annexure - VI

From :

A.H. Barbhuiya
W/C Khalasi CWC
NISD, JANG

To

The Superintending Engineer
NEIC, CWC
Shillong.

(Through proper channel)

Sub : Request letter for posting to NEID-II,
Aizawl.

Sir,

As I am native of Silchar I am willing to
go on transfer to NEID-1, Silchar or NEID-II, Aizawl.

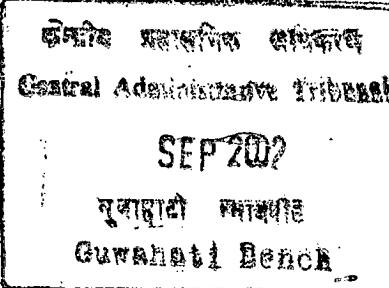
I came to know, some of the Khalasis of
NEID-III Itanagar have been posted to Chawngte site under
Sercchip Sub Division of North Eastern Inv. Division No.II,
Aizawl. If any one is not interest to go there my name
may be considered for posting to that place.

Yours faithfully,

Sd/- 4.5.02

(A.H. BORBHUIYA)
W/C Khalasi CWC,
NISD, Jang.

*True copy
now*



Filed by

(A. DEB ROY)

Sr. C. C. S. C.

C. A. T. Guwahati Bench

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHTI**

OA No. 164 OF 2002

APPLICANT	: SHRI JAI NATH SINGH
	V/S
RESPONDENTS	: (1) SUPERINTENDING ENGINEER, NORTH EASTERN INVESTIGATION CIRCLE, CENTRAL WATER COMMISSION, SHILLONG (MEGHALAYA)
	(2) EXECUTIVE ENGINEER, NORTH EASTERN INV. DIVISION-III, CENTRAL WATER COMMISSION, ITANAGAR (ARUNACHAL PRADESH)

Counter Affidavit on behalf of the Respondents.

I, Dhirendra Kumar Tiwary son of Shri G.S. Tiwary resident of Chimpur, Itanagar (Arunachal Pradesh) working as Executive Engineer, North Eastern Investigation Division-III, Central Water Commission in the Department do hereby solemnly affirm and state on oath :-

1. That the deponent is working as Executive Engineer and he has been authorised to file this counter reply on behalf of respondents and as such he is fully conversant with the facts of the case deposed hereunder.

(1)

- 17 -

2. That the answering respondent has read over the content of the original application filed by the applicant, has understood the content thereof and he is submitting preliminary observations and parawise reply as under :-

PRELIMINARY OBSERVATIONS :

3. The applicant who was working as Regular Workcharged Khalasi under Nyukcharong Investigation Sub Division, Central Water Commission, Jang (Arunachal Pradesh) has filed application under Section 21 of the CAT Act, 1985. The application has sought relief that the transfer order, issued in violation of law so far it relates to the applicant, shall not be given effect to and the order be reversed or modified and the applicant be given his choice posting at Alipurduar as ascertained by the circular No. NEID-III/Adm-5/6182-87 dt. 4.12.2001 issued by Executive Engineer, North Eastern Investigation Division-III, Central Water Commission, Itanagar.

4. The applicant was appointed in North Eastern investigation Division No.I, Central Water Commission, Silchar (Assam) under North Eastern Investigation Circle, Central Water Commission, Shillong w.e.f. 16.08.1988 and continuously working under same unit..

5. The applicant was transferred by the Superintending Engineer, North Eastern Investigation Circle, Central Water Commission, Shillong competent authority from one division to another division in public interest and has already been relieved of his duties and also TTA/Pay advance has been paid to him as requested by him vide his applications dated 22.05.2002 (**Annex.I** and **Annex.II**). Subsequently, on his relief from Nyukcharong Investigation Sub Division, Jang on 31.05.2002 (A.N.), the applicant has already joined his duties at his new place of posting on 12.06.2002 (F.N.) (**Annex.XI**)

Parawise reply to OA No.164/2002 are as under :

Para-1 to 5 :

Needs no reply.

Para-6 :

Facts of the case :

Para-6(1) :

That with regard to para 6(1), the respondents have no comments to offer, being matter of record.

Para-6(2) :

That with regard to para 6(2), the respondents have no comments to offer, being matter of record.

Para-6(3) :

That with regard to para 6(3), the respondents state that on transfer from North Eastern Investigation Division No.I, Central water Commission, Silchar (Assam), the applicant was posted in the Sub-Division MSTLCISD-I, Central Water Commission, Alipurduar (West Bengal) w.e.f. 04.11.1996 functioning under North Eastern Investigation Division No.III, Central Water Commission, Itanagar. He was subsequently

transferred to Nyukcharong Investigation Sub Division (NISD), Central Water Commission, Jang within the same division owing to administrative exigencies and requirement of works. He joined at NISD Jang on 26.06.1998. The petitioner approached higher offices on service matters through Smt. Chinta Devi, his wife. This is tantamount to violation of Rule 20(3) of CCS (Conduct) Rules 1964. Hence, a office memorandum was issued to him vide O.M. No. NEID-III/Adm-10(iii)/2001/4437 dated 31.8.2001(**Annex.III**) advising him to desist from such activities.

Para-6(4) : That with regard to para 6(4), the respondents state that the facts have already been mentioned in reply to Para-6(3) above.

Para-6(5) : That with regard to para 6(5) the averments made are denied. The respondents state that the transfer from NISD Jang to North Eastern Investigation Division-II, Aizawl has been made in public interest as per administrative exigencies and requirement of works within the jurisdiction of North Eastern Investigation Circle, Shillong. The statement of the applicant that he has been transferred from one division to another division as punishment is false, misleading and trying to substitute the directive of the Tribunal by his own words. Transfer is an event in the service career and not a punishment.

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As per provisions of the Rules, each Circle is a Unit for seniority and other service matters of Work Charged personnel in each categories of staff. Furthermore, as a policy followed by the Deptt normally no transfer of Work Charged employee is allowed from one Unit (Circle) to another. The request of the applicant for transfer to some Circle in Bihar was not found feasible on administrative grounds.

Para-6(6) That with regard to para 6(6), the respondents state that the facts are mentioned in reply to para 6(5) above.

Para-6(7) : That with regard to para 6(7), the respondents state that the applicant has not annexed the copy of his option for choice posting at Alipurduar as a supporting document and hence his statement can not be accepted contents. In any case, ascertaining choice of posting doesn't bind the competent authority to transfer an employee to his indicated choice place of posting. In addition, permission from Ministry of Environment and Forests could not be obtained for conducting survey and investigation in areas falling under wild life sanctuaries and reserved forest coming under the jurisdiction of MSTLC Inv. Sub Divn- headquartered at Alipurduar. Consequently, work requirement are very reduced at present. As such, it is not considered appropriate to further strengthen the workcharged manpower. Moreover, overall 33

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workcharged staff had applied for posting at Alipurduar in response to the Circular No. NEID-III/Adm-5/6182-87 dated 4.12.01 (**Annex.IV**). Transfers are, in general, effected on the basis of the requirement of exigencies to the requirement of work and administrative requirement. The name of the applicant has been recommended for transfer to other division with seven other persons according to the exigencies of works and administrative requirement and were according to the prevailing workcharged staff service rules. Hence, allegation of malafide intention is baseless and therefore, denied. The rules and guidelines issued by the department from time to time has not been violated in effecting transfer of the applicant.

Para-6(8) :

That with regard to para 6(8), the respondents state that the petitioner has submitted an application dated 07.05.2002 (**Annex.V**) requesting for his retention at Jang. At the same time Shri A.H. Barbhuiya, Workcharged Khalasi also submitted an application dated 07.05.2002 (**Annex.VI**) separately expressing his willingness to be transferred to North Eastern Inv. Divn-I, CWC, Silchar or North Eastern Inv. Divn-II, CWC, Aizawl. These applications were received by Assistant Engineer, Nyukcharong Investigation Sub Division, Jang on 14.05.02 and by the respondent on 22.05.02

vide AE, NISD, Jang's letter No. NISD/CWC/Jang/WC/Estd/Vol.VII/491 dated 14.05.2002 (**Annex.VII**). Both the applications were forwarded to the competent authority vide letter No. NEID-III/WC/PF-136/2770-71 dt. 31.5.2002 (**Annex.VIII**). Thus, the statement submitted by the petitioner that his request has been turned down by the Executive Engineer, North Eastern Investigation Division-III, CWC, Itanagar respondent No.2 is baseless and attempts to mislead the Hon'ble Tribunal.

In the meantime, the Applicant applied for TTA Advance vide his letter dt. 22.05.2002 (**Annex.I**). He was subsequently relieved from Jang on 31.05.2002 in pursuance of the said transfer order.

Para-6(9) : That with regard to para 6(9) the respondents state that transfer of the petitioner has been made in public interest on administrative exigencies and requirement of work following the prevailing service rules for Work Charged employees.

Para-7 : That with regard to para 7, the respondents state that workcharged establishment refers to those whose pay, allowances etc. are directly chargeable to "Works".

Workcharged staff is employed on the actual execution of specific work, sub-works of a specific work etc. and question

of posting again tenure place is not applicable in the case of the applicant as he is working under North Eastern Investigation Circle, Central Water Commission, Shillong and can be posted within the jurisdiction of Circle office in public interest/administrative exigencies in the North Eastern States where works are in progress/investigation. The Circle office is a Unit, as per service rules, for workcharged establishment for the purpose of maintaining their seniority/promotion/transfer within the jurisdiction of the Unit (Circle).

The tenure fixed by the Government applies to those Central Government employees who are posted from outside North Eastern Region to within the N E region whereas the applicant was appointed under North Eastern Investigation Circle, Central Water Commission, Shillong and his services were required under the Works Site of a specific work or sub-works of a specific work within the jurisdiction of Circle Office. The statement submitted by the applicant is wrong and is intended to mislead the Hon'ble CAT.

Para-8 : That with regard to para 8, the respondents state that the transfer order has been issued in public interest based on administrative exigencies and requirement of work. The petitioner has already been relieved of his duties w.e.f. 31.05.2002 (A.N.) vide Office order No. NISD/CWC/Jang/

2000/479-83 dt. 10.5.2002(**Annex.IX**) and also paid TTA/Pay advance on his own request vide applications dated 22.05.2002 (**Annex.I** and **Annex.II**) and sanctioned vide office order No. NEID-III/Adm-88/2844-47 dt. 4.6.2002 (**Annex.X**). The applicant has already joined at his new place of posting (**Annex.XI**).

The request of the petitioner for choice posting at Alipurduar is misleading in nature as stated in reply to Para 7 above and which may not be accepted. As such, the claims of applicant is devoid of any merit, the relief sought for by the Applicant may not be entertained.

Para-8(A) : That with regard to para 8(A), the respondents state that the petitioner has already been relieved from his duties and joined at his new place of posting as stated in reply to para 8 above. As such the interim relief sought for by the Applicant may not be entertained and petition dismissed.

Para-9 : The applicant has not availed of all departmental remedies available.

Para-10 to 13 : No comments to offer being matter of record.

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PRAYER

In view of the submissions made herein above, the averments made by the petitioner in the instant OA are devoid of any merit and not maintainable under the law. Hence, it is prayed that, this Hon'ble Tribunal be pleased to dismiss the said OA with costs.



DEPONENT

Date :

Place :

THROUGH THE GOVT. COUNSEL

VERIFICATION

I, Dhivendra Kumar Tiwary..... Presently working as Executive Engineer, NEID-III, CWC..... being duly authorised and competent to swear and sign this verification, do hereby solemnly affirm and state that the statements made in Para 6(9) is true to my knowledge and belief, those made in Para 6(1), 6(2), 6(3), 6(4), 6(5), 6(6), 6(7) and 6(8) being matter of records, are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed/concealed any material facts.

And I sign this verification on this the day of 2002 at Guwahati.


DEPONENT

To

The Executive Engineer
NEID-III, CWC
ITANAGAR

From.

J.N. SINGH
Wife Khalasi
Murchugabridge
GDS SITE
NISD, JANG

11/11/2002
Through proper channel.

Sub: T.T.A Advance for J.N. Singh
Wife Khalasi Reg.

Ref: NEIC/2002/vol-VII/2001/1366-73
Dated 10-4-2002 from SE NEIC Shillong.

1) NEID-II/WC/EST-6/2002/1689-96
dated 16/4/02 from EE NEID-II Aizawl.

Sir, With reference to the above cited letter, I am under Transfer to MHSID Sechhip under NEID-II, CWC, Aizawl. I request you kindly sanction me Rs. 10,000 (Rupees Ten thousand) only for enable me to proceed to Sechhip. The details of family members and TTA claim details are given below.

Details of family members:

- 1) J.N. Singh self -
- 2) Soni Chinta Devi wife.
- 3) Jai Shankar Kumar Son 17 1/2 years.
- 4) Vijay Shankar Kumar Son 16 years

Details of T.T.A claim

S.NO.	Details	Distance	No of fare	Rate	Amount
1)	Jang to Tezpur	330 Km.	4	250.00	1000.00
2)	Tezpur to Guwahati	220 Km	4	85.00	340.00
3)	Guwahati to Aizawl	325 Km	4	70.00	280.00
4)	Aizawl to Sechhip	50 Km	4	15.00	60.00
		110 Km	4	15.00	60.00
					3170.00
					3624.00
					5000.00
					11,510.00

90% of Total amount Rs. 10,359.00
Say. 10,000/-

Yours faithfully

J.N. Singh

J.N. SINGH
Wife Khalasi
Murchugabridge GDS site.
NISD, CWC, ITANAGAR.

✓ 25/11/02

(B)

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ANNEX - II

From

J. N. SINGH
w/c Kholasi
Murree bridge
GDS site
NISD, CNC, SPNC

To

The Executive Engineer
NEID-II CNC
MANGAR

Through proper channel
Sub: Pay advance for Sh. J.N. Singh
w/c Kholasi - Reg.

Ref - i) NEIC/2001/vol. VII / 2001 / 1366-73
dated - 10-4-2002 from SE, NEIC Shillong
ii) NEID-II/HC/ESTN. 6/2002 / 1684-96 dated
16-4-02 from EE NEID-II, Aizawl.

Sir,
With reference to the above cited
letters, I am, under transfer to NISD Serchhip
under NEID-II CNC, Aizawl, I request you kindly
sanction me Rs. one month basic pay Rs. 344
Rs. 3170.00 as pay advance at the earliest.

Yours faithfully
J. N. SINGH
w/c Kholasi
Murree bridge GDS site
NISD, CNC, Jang.

✓ 23/10/02

~~Annexure~~ *SL*

29-
ANNEX - III
SL

Government of India
Central Water Commission
North Eastern Inv. Divn. No. III
Post Box No. 144, Itanagar (AP)

NO. NEID-III/Adm-10(iii)/2001/4437

Date: 31.8.2001

OFFICE MEMORANDUM

It has been informed that you have been approaching higher offices on service matters through Smt. Chinta Devi, your wife. This tantamounts to violation of Rule 20(3) of CCS Conduct Rules.

You are hereby advised to desist from such type of activities in future failing which suitable disciplinary action shall be taken against you.

31/8/01
(A. G. Majumdar)
Executive Engineer

To

✓ Shri Jainath Singh,
W/C Khalasi,
Through Assistant Engineer,
Nyukcharong Inv. Sub Division,
Central Water Commission,
Jang (Arunachal Pradesh).

// The letter No.NEID-III/Adm-5/6182-87 Dated 04.12.2001,
received from the Executive Engineer,CWC,NEIL-III, Itanagar //

* * *

C I R C U L A R

It has been decided to have a reshuffling of the work-charged Staff who have completed more than 3(three) years at one station by end of the current financial year. The reshuffling shall be on basis of suitability of the concerned staff for requirement of our works.

Choice places under the Division may, accordingly, be obtained from each staff member and submitted to this office by 31-01-2002.

Casual labourers with temporary status may also exercise their willingness like-wise.

Sd/-

(A.G. Majumdar)
Executive Engineer

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No.NISD/CWC/JANG/3/2001/3002-01,

Dated : 18/1 Dec., 2001.

Copy for circulation & information among staff under this Sub-division, through the concerned J.E./Site-in-charges :-

1. Notice Board, NISD, CWC, Jang, Tawang distt.(A.P.).
2. Muruga Bridge G.D&S site, C.W.C.
3. China Bridge G.D&S site, C.W.C.
4. Tawang Chu G&D site, C.W.C. (Near Yusum village)
5. RA-III G&D Site, CWC, (Jaswant Garh), Jang.

A. Kulandaivel
(A.KULANDAIVEL)

ASSISTANT ENGINEER.

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From

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ANNEX-V

J.N. Singh
W/C Khalasi CWC
NISD. JANG

To

The Superintending Engineer,
NEIC, CWC
Shillong

"Through proper channel"

Sub: Transfer, Order to Chawngte
under Serchhip Sub-Divn. of NEID-II, Aizawl

Ref: NEIC/2009/ Vol VII/ 200/ 1366-73 dt. 10/1/02

Sir,

With reference to the above cited
order I am under transfer to minor
Irrigation Site of Chawngte group under MHSID,
CWC, Serchhip under NEID-II Aizawl

As it is very far from my native,
I am interested to continue to work at NISD,
Jang instead of New transfer posting place
as above.

Further, I want to bring your kind
notice that when I was worked in Mizoram,
Khammon Drilling site during the year 1991.
I suffered in Malaria and escaped from
death.

Hence, I request you kindly
cancel the above orders and allow
me to work continually at NISD. Jang.

Yours faithfully

July 15/02

(J. N. SINGH)
W/C Khalasi CWC
NISD. JANG.

2/10/02
M

Form. 32

A. H. Barabhuuya
W/C Khalasi CWC
NISD. Jang

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To

The, Superintending Engineer
NEIC, CWC, Shillong

(Through proper channel)

Sub: Request letters for posting
to NEID-II, Aizawl.

Sirs:

As I am native of Silchar, I am
willing to go on transfer to NEID-I
Silchar or NEID-II Aizawl.I came to know, some of the
Khalasis of NEID-II Itanagar have been
posted to Chawngte site under SeirchipSub. Division of North Eastern Inv. Divi-
sion No. II, Aizawl. If any one is not
interested to go, hence my name
may be considered for posting
to that place.

Yours faithfully

Abdul Hammam Barabhuuya
(A. H. BARBHUUYA)
W/C Khalasi CWC
NISD. JangS/ Inform
me
now

OFFICE OF
THE ASSISTANT ENGINEER
Nyukcharong Investigation
Sub-Division
Central Water Commission
Jang, Tawang Dist.
(Arunachal Pradesh)

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ANNEX - VII

No. NISD/CWC/JANG/W/C.-Estt/Vol.VII/491

Dt. 14 th May, 02

To

The Exe. Engineer,
CWC/NEID-III,
Itanagar.

Sub: Application for transfer of w/c. staff- reg.

-000-

Sir,

Please find enclosed herewith application for transfer received from the following w/c. Khalasi working under this sub-division for information.

S/Sri

1. J.N.Singh 2. S A.H.Barbhuiya

Sri J.N.Singh, w/c. Khalasi is under order of transfer to Serchhip under EE,CWC,NEID-II, Aizawl vide SE,CWC,NEIC, Shillong's Office Order no. NEIC/2009/Vol.VII/2001/1366-73 dt. 10.04.2002 and has stand relieved on 31/05/02 vide this office O.O.No.NISD/CWC/JANG/2000/16/Vol.II/479-83 dt. 10/05/02.

E-ncl: As above in duplicate

RL-7273

Urgent
EC-II
PL putup
CM/275
275

Yours faithfully,

A. Kulandaivel
(A.Kulandaivel)
Assistant Engineer

34
43

Government of India
Central Water Commission
North Eastern Inv. Division No. III
P.O. Box No. 144, Itanagar : (A.P.)

No. NEID-III/WC/PF-136/ 2772-71

Dated : 31.5.2002

To

The Superintending Engineer,
North Eastern Investigation Circle,
Central Water Commission,
Shillong-140 (MEGHALAYA).

Sub :-

Application of Shri J.N. Singh, Work Charged
Khalasi regarding his transfer from Nyukcharong
Investigation Sub-Division, C.W.C., Jang (A.P.)
to Chawngte site under NEID-II, C.W.C., Aizawl
(Mizoram).

Sir,

An application dtd. 7.5.2002 addressed to the
Superintending Engineer, North Eastern Investigation Circle,
Central Water Commission, Shillong has been received from
Shri J.N. Singh, Work Charged Khalasi attached to Nyukcharong
Inv. sub-Division, Central Water Commission, Jang (Arunachal
Pradesh) to Chawngte Site under North Eastern Inv. Division
No. II, Central Water Commission, Aizawl (Mizoram) vide your
O.O. No. NEIC/2009/Vol-VII/2001/1366-73 dtd. 10.4.2002. He
has requested for cancellation of his transfer.

An another application dtd. 7.5.02 from Sh. A.H.
Borbhuiya, Work Charged Khalasi in which he has requested to
transfer him to NEID-II, CWC, Aizawl. Both the letter are
forwarded for further necessary action please.

Encl : As above.

Yours faithfully,

O/C

26/5
(D.K. TIWARY)
EXECUTIVE ENGINEER V/CD/5

Copy to the Assistant Engineer, NISD, CWC, Jang for information
w.r. to his letter No. NISD/CWC/JANG/WC/Estt./Vol.VII/491
Dtd. 14.5.2002.

O/C

26/5
(D.K. TIWARY)
EXECUTIVE ENGINEER V/CD/5

O/D
26/5/02

(20) 35

Government of India
 Central Water Commission
 Office of the Assistant Engineer
 Nyukcharong Investigation Sub Division
 Jang (Arunachal Pradesh)

No. NISD/CWC/Jang/2000/ 16/ Vol-II) 479-83

Dt. 10/5/2002

OFFICE ORDER

Consequent upon transfer from this Sub-division to MHISD, Serchip vide office order No. NEIC/2009/Vol.VII/2001/1366-73 Dt. 10.4.2002 of the Superintending Engineer, North Eastern Investigation Circle, CWC, Shillong and further reposting orders issued by the Executive Engineer, North Eastern Inv. Divn. No.II, CWC, Aizawl, the following Workcharged Khalasis of this Sub-division are stand relieved on 31.05.2002 (A.N.) with instruction to report for duty at Minor Irrigation Site of Chawngte Group under MHISD, CWC, Serchip.

1. Shri J.N. Singh, W/C Khalasi
2. Shri R.B. Das, W/C Khalasi
3. Shri P.P. Dutta Purkayastha, W/C Khalasi

A. Kulandaivel
 (A. Kulandaivel)
 Assistant Engineer

Copy to:

1. The Executive Engineer, North Eastern Inv. Divn.No.III, CWC, Itanagar for information please.
2. The Assistant Engineer, MHISD, CWC, Serchip for information and necessary action.
3. The Junior Engineer, G&D Site, Muruga Bridge, NISD, CWC, Jang for information and necessary action.
4. The Junior Engineer, G&D Site near Yusum village, NISD, CWC, Jang for information and necessary action.
5. Person concerned (three copies) through concerned Junior Engineer.

Eel

On 20/5
Ex 27/5



GRAM : CENTWATER : ITANAGAR

PHONE : 0360-

ANNEX - X

GOVERNMENT OF INDIA
CENTRAL WATER COMMISSION
NORTH EASTERN INVN. DIVISION NO. III
P.B. no. 144, ITANAGAR : 791111 (A.P.)

No. NEID-III/Adm-88/284M-47

Dated the 6th June 2002

OFFICE ORDER

In exercise of the powers vested to the undersigned under G.F.R. 222 & 223 (R&E) 1963, the following advances is hereby sanctioned to Shri J.N. Singh, W/C Khalasi who is under transfer from Nyuckcharong Invn. Sub-Division, CWC., Jang to Serchip Site Under Executive Engineer, NEID-II, CWC, Aizawl vide Superintending Engineer, North Eastern Inv. Circle, CWC., Shillong's Office order No. NEIC/2009/Vol-VII/2001/1366-73 dt. 10.4.2002.

1. Transfer T.T.A. Advance	Rs. 6,000/-
2. Pay Advance	Rs. 3170/-

Rupees six thousand one hundred and forty only.

The T.T.A advance are to be adjusted from his TTA bill in lump-sum.

Pay advance is recoverable in three monthly instalment.

(D. K. Tiwary)
Executive Engineer.

Copy to:-

1. The Executive Engineer, NEID-II, CWC., Aizawl.
2. The Assistant Engineer, NISD., CWC., Jang with reference to his letter No. NISD/CWC/Jang/2002/Vol/12/529 dt. 24.5.2002.
3. Accounts Branch, NEID-III, CWC., Itanagar (2 copies)
4. Shri J.N. Singh, W/C Khalasi.
5. Personal File.

GOVERNMENT OF INDIA
CENTRAL WATER COMMISSION
NORTH EASTERN INVESTIGATION DIVN. II
ZEMABAWK, AIZAWL-796017 (MIZORAM)

No. NEID-II/WC/Estt-6/2002/2875-83

Dated, the 25th June 2002

OFFICE ORDER

Consequent upon their transfer in public interest from NEID-III, CWC, Itanagar to MHISD, CWC, Serchhip (Chawngte Minor Irrigation Schemes site) under NEID-II, CWC, Aizawl vide Superintending Engineer, NEIC, CWC, Shillong's Office Order No. NEIC/2009/Vol-VII/2001/1366-73 dated 10.4.2002 and subsequent reposting order No. NEID-II/WC/Estt-6/2002/1689-96, dated 16.4.2002 the following W/C staff have joined their duty at Chawngte Minor Irrigation Scheme site, Chawngte under MHISD, CWC, Serchhip on the date as shown against each.

	<u>Name of official & Designation</u>	<u>Date of joining</u>
1.	S/Shri K.K. Das, WC, Khalasi	01.06.2002 (FN)
2.	Shivjee Pandit, WC, Khalasi	01.06.2002 (FN)
3.	J.N. Singh, WC Khalasi	12.06.2002 (FN)
4.	Manglamba Singh, WC, Khalasi	17.06.2002 (FN)
5.	R. B. Das, WC Khalasi	17.06.2002 (FN)

(R. D. Deshpande)
Executive Engineer

Copy to :

1. The Superintending Engineer, NEIC, CWC, Shillong.
2. The Executive Engineer, NEID-III, CWC, Silchar. The Service book of the above W/C staff may kindly be sent to this Office for further necessary action along with CL a/c. for the year 2002.
3. The Assistant Engineer MHISD, CWC, Serchhip.
4. The Assistant Engineer (HQ) / NEISD-III, CWC, Aizawl.
5. Accounts Branch.
6. Service book of the person concerned.
7. Person concerned
8. Personal file
9. Guard file.