

01/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal :: Guwahati Bench
Guwahati

ORDER SHEET

APPLICATION NO. 9/2002

Applicant(s) *Sri Sushanta K. Mondal.*Respondent(s) *The Union of India & ors.*Advocate for Applicant(s) *Mr. Adil Ahmed.*Advocate for Respondent(s) *C.G.S.C.*

| Notes of the Registry | Date | Order of the Tribunal |
|--|-------------------|--|
| This is an application in Form C. F. for Rs. 50/- deposit of suit P.W.D No 66788080 Dated 16/10/2001. | 15.1.02 | Heard learned counsel for the parties. |
| Dy. Registrar | | Issue notice to show cause as to why the application shall not be admitted. Returnable by two weeks. List on 1.2.02 for Admission. Meanwhile, status quo to continue. |
| 1 copy has been filed. | 1.2.02 16/1/02 | <i>U. Bhattacharya</i> Member Vice-Chairman |
| Pls. be advised. Notice referred and sent to D/s for informing the respondent No. 1 to 2 by Regd. A.R.S. Respondent No. 3 by S.H. message. | 1m | Respondents are yet to file the written statement. Mr. B.C. Path- ak, learned Addl. C.G.S.C., on the other hand prays for time to file the written statement. |
| 16/1/02 | | The application is admitted. Respondents may file written state- ment within 4 weeks from today. |
| Sl No 95 to 97 Dtd. 16/1/02 | | List on 1.3.2002 for order. In the meantime, interim order dated 15.1.2002 shall remain operative. |
| Order dtd. 11/2/02 communicated to the parties concerned. | mb 6/2/02 | <i>U. Bhattacharya</i> Vice-Chairman |

O.A. 9 of 2002

15.2.02

List on 22.2.02 to enable the respondents to file written statement.

No. written statement has been filed.

3/2
21/2/02

lm

22.2.02

At the request of Mr. B.C. Pathak, learned Addl. C.G.S.C. four weeks time is allowed for filing of written statement. List on 27.3.02 for orders.

Vice-Chairman

ICU

Member

lm

No. written statement has been filed.

1.3.2002

Written statement has not been filed as yet. The respondents are allowed further four weeks time to file their written statement. List for orders on 5.4.02.

3/2
4/4/02

nkm

Vice-Chairman

5.4.02

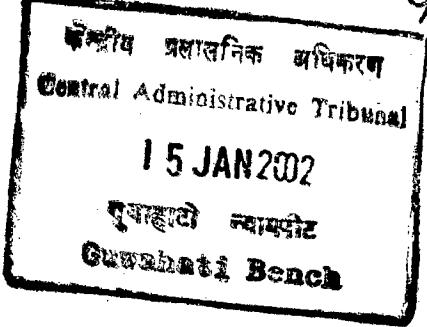
Heard Mr. A. Ahmed learned counsel appearing on behalf of the applicant and also Mr. B.C. Pathak, learned Addl. C.G.S.C., it appears that the impugned order dated 8.1.2002 will modify by order dated 26.3.2002. Copy of the order is placed on record. Accordingly, application is stands dismissed as infructuous.

Vice-Chairman

lm

O.A. 9 of 2002

| Notes of the Registry | Date | Order of the Tribunal |
|---|--------|---|
| 9.4.2002 Copy of the order has been sent to the D/sec. for issuing the same to the Advocates for the parties. | 5.4.02 | Heard Mr.A.Ahmed learned counsel appearing on behalf of the applicant and also Mr.B.C. Pathak, learned Addl.C.G.S.C., it appears that the impugned order dated 8.1.02 transferring and posting of the applicant from Guwahati to Jammu will stand ^{stoped} modified order dated 26.3.2002. Copy of the order is placed on records. Accordingly, application stands dismissed as infructuous. |
| 26/3/02 | lm | Vice-Chairman |
| Notes of the Registry | Date | Order of the Tribunal |



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

GUWAHATI BENCH AT GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE CENTRAL
ADMINISTRATIVE TRIBUNAL ACT, 1985)

ORIGINAL APPLICATION NO. 9 OF 2002.

Sri Sushanta Kumar Mandal -Applicants.

-Versus-

The Union of India & Others

-Respondents.

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Filed by
Signature
Advocate: (Adv. AHMED)

- 1 -

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH AT GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE CENTRAL
ADMINISTRATIVE TRIBUNAL ACT 1985)

ORIGINAL APPLICATION NO. OF 2002.

B E T W E E N

Sri Sushanta Kumar Mandal, (on
Leave), Son of Late Arjun Mandal,
Motor Transport Driver (Ordinary),
Office of the Executive Engineer,
Central Ground Water Board, Ministry
of Water Resources, Government of
India, Division -VII, Zoo Road,
Guwahati-781024.

- Applicant.

-AND-

- 1] The Union of India, represented by
the Secretary to the Government
India, Ministry of Water Resources,
Shram Shakti Bhawan New Delhi-
110001.
- 2] The Director (Administration),
Central Ground Water Board,
Faridabad, Haryana, NH-IV,
PIN-121001.

S. K. Mandal

3) The Executive Engineer,
Central Ground Water Board,
Ministry of Water Resources,
Government of India, Division-VII,
Zoo Road, Guwahati-781024.

- Respondents.

DETAILS OF THE APPLICATION:

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

This instant application is directed against illegal and arbitrary transfer of the applicant from Guwahati to Jammu (J&K) and also relieved order issued by the Respondent No. 3 vide No. CGWB/DIV.VII/Estt/P-507/2002-865 dated 08-01-2002 (Office Order No. 25 of 2001) at ANNEXURE-A

2. JURISDICTION OF THE TRIBUNAL

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

3. LIMITATION

The applicant further declares that the subject matter of the instant application is within the limitation prescribed under Section 21 of the Administrative Tribunal Act, 1985.

S. K. Mandel

4. FACTS OF THE CASE

Facts of the case in brief are given below:

- 4.1 That your humble applicant is a citizen of India and as such, he is entitled to all the rights and privileges guaranteed under the Constitution of India.
- 4.2. That your applicant is working as Motor Transport Driver (Ordinary Grade) in the Office of Respondent No. 3. He belongs to Group-II and also Scheduled Caste Community.
- 4.3 That your applicant begs to state that he was appointed and posted at Tripura Office on August, 1989 and he was transferred to Guwahati Division-VII under the Respondent No. 3.
- 4.4 That your applicant begs to state that ever since his entry to the service of this Department he has been rendering his devotional and sincere service to his higher authorities with ought most satisfaction. There is no blemish from any quarter in any point of time in his entire service life.
- 4.5 That your applicant begs to state that he was on Earned Leave from 10-12-2001 to 28-12-2001 and also out of station due to Medical problem of his family. Now he has

S.K. Mandal

already applied for extension of his leave. But when he came to Guwahati for extension of his leave he found an Office Order at his residence by which he was stand 'Relieved' by the Respondent No. 3 from his Office and also directed him to report for duty to the office of the Executive Engineer, Central Ground Water Board, Division-VIII, Jammu. The Order was issued vide letter No. CGWB/DIV.VII/ESTT/P-507/ 2002-865 dated 08-01-02. But most surprisingly, he did not received any transfer order from the Respondents regarding his transfer to Jammu.

Annexure - A is the photocopy of the letter No. CGWB/DIV.VII/ESTT/P-507/ 2002-865 dated 08-01-02.

4.6 That the applicant begs to state that his wife is suffering from serious Cardio logical problem and she was referred to Guwahati Medical College Hospital by the Doctor of C.G.H.S. Guwahati and she is under regular treatment.

Annexure-B is the photocopy of CGHS, Guwahati Patient referral slip.

4.7 That the applicant begs to state that his old aged widow mother, aged about 85 years is staying with him and she is suffering

S.K. Mawduh

for various old age ailments. His two minor sons are aged about 7 years and 5 years respectively are taking education in an Assamese Medium School. There is nobody to look after them except your applicant.

4.8 That the applicant begs to state that being a low paid Group-E employee it is not possible for the applicant for taking his family at Jammu. It is also not possible for the applicant to transfer his sons to another School of different medium. Apart from this the applicant cannot maintain two establishments at two different places. As such, the applicant is approaching before this Hon'ble Tribunal for seeking justice.

4.9 That your applicant begs to state that there sufficient vacancies are available at Guwahati and also in the Office of the Respondent No. 3.

4.10 That your applicant submits that the Respondents have issued the transfer order in violation of Government Circular and Policy regarding posting of Group - C & D employees. Your applicant has got reasonable belief that the Respondents are resorting a colourable exercise of power and also the impugned transfer order was not received by the applicant, most surprisingly, he came to know about his transfer order from his relieved order issued by the Respondent No.3.

S. K. Mandef

4.11 That your applicant further submits that the action of the Respondents is highly illegal, improper, whimsical and also against the policy adopted by the Government of India regarding posting of Group-C & D employees.

4.12 That in view of the facts and circum-stances it is a fit case for passing an interim order protecting the interest of the applicant and his family members.

4.13 That this application is filed bona fide and for the interest of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1 For that, due to the above reasons narrated in details the passing of the Relieved order of the applicant in *prima facie* is illegal, *mala fide*, arbitrary and without jurisdiction and hence the same is liable to be set aside and quashed.

5.2 For that, the action of the Respondents is highly illegal, arbitrary and also violative of the Government Policy regarding transfer of Group-C & D employees.

5.3 For that, the action of the Respondents is in total violation of the Articles 14, 16 and 21 of the Constitution of India.

S.K. Mansel

5.4 For that, the action of the Respondents is arbitrary, mala fide and discriminatory with an ill motive and as such, the impugned Relieved order at Annexure-A is liable to be set aside and quashed.

5.5 For that, the Respondents before transferring the applicant ought to have considered the transfer policy of the Government of India in this matter and as such, the impugned relieved order is bad in the eye of law and is liable to be set aside and quashed.

5.6 For the, in any view of the matter the action of the respondents are not sustainable and hence the same is liable to be set aside and quashed.

The applicant craves leave of this Hon'ble Tribunal to advance further grounds at the time of hearing of this instant application.

6. DETAILS OF REMEDIES EXHAUSTED:

That there is no other alternative and efficacious remedy available to the applicants except invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

S.K. Marwah

That the applicants further declare that they have not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other Court, authority, nor any such application, writ petition or suit is pending before any of them.

B. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicants most respectfully prayed that your Lordship may be pleased to admit this application, call for the records of the case, issue notices to the Respondent as to why the Impugned Relieved order dated 08-01-2002 issued by the Respondent No. 3 may not be quashed and after hearing the parties and the cause or causes that may be shown your Lordship may be pleased to direct the Respondents to give the following relieve.

8.1 That the impugned order of Relieved Order dated 08-01-2002 transferring the applicant from Guwahati to Jammu is liable to be set aside.

8.2 Cost of the application.

8.3 To pass any other relief or reliefs to which the applicant may be entitled and as may be deemed fit and proper by the Hon'ble Tribunal.

S.K. Mandel

9. INTERIM ORDER PRAYED FOR:

Pending disposal of the applicant most respectfully prays for interim order, by way of suspending the order of Relieve from Guwahati to Jammu vide order dated 08-01-2002 (Annexure-A) issued by the Respondent No.3.

10. Application Is Filed Through Advocate.

11. Particulars of I.P.O.:

I.P.O. NO. 66788080

Date Of Issue 6.10.2001

Issued from Guwahati, G.P.O.

Payable at Guwahati

12. LIST OF ENCLOSURES:

As stated above.

.. Verification.

S.K. manohar

VERIFICATION

I, Sri Sushanta Kumar Mandal, (on Leave), Son of Late Arjun Mandal, Motor Transport Driver (Ordinary), Office of the Executive Engineer, Central Ground Water Board, Ministry of Water Resources, Government of India, Division -VII, Zoo Road, Guwahati-781024 do hereby solemnly verify that the statements made in paragraphs 4.7, 4.8, 4.1 to 4.4, 4.9 — are true to my knowledge those made in paragraphs 4.5, 4.6

— are being matters of records are true to my information derived therefrom which I believe to be true and those made in paragraph 5 are true to my legal advice and I have not suppressed any material facts.

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

Sushanta K. Mandal

Declarant.

ANNEXURE - A

NO.CGWB/DIV.VII/ESTT/P-507/2002- 8.C.C

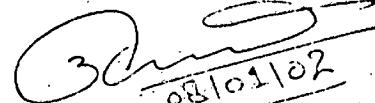
Government of India,
Central Ground Water Board,
Division VII, Zoo Road,
Guwahati-24

Dated: 8-1-02

// OFFICE ORDER NO. 25 OF 2001//

In compliance with Central Head Quarter, Faridabad O.O.No.848 of 2001, issued under Letter No. 4-4180/89-Min-Estt. 9077 dt. 9.11.2001 sri S.K.Mandal, Driver(OG) is hereby Stand'RELIEVED' from this division w.e.f. 8-01-02 (R.N.) on the eve of his transfer with the direction to report for duty to the Executive Engineer, Central Ground Water Board, Division-VIII, Jammu.

Since his transfer has been ordered in public interest he is entitled to TA/DA and Joining Time as admissible under the rules.

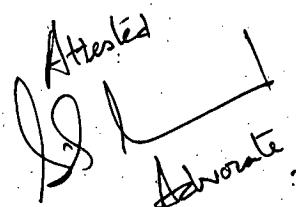

R. K. SHUKLA
08/01/02
EXECUTIVE ENGINEER

DISTRIBUTION:-

1. Person concerned :Sri S.K.Mandal . Driver (OG) CGWB, Div.VII, Guwahati.
2. The Director, (Admn.) CGWB, NH-IV, Faridabad.
3. The Pay & Accounts Officer, CGWB, NH-IV, Faridabad.
4. The Regional Director, CGWB, NER, Guwahati.
5. The Executive Engineer, CGWB, Div.VIII, Jammu.
6. Office order file.
7. AEE-I/A, T&HO, Stock Section, Cashier, F/mar.

.....

//BK//

Attested

Advocate

S.No 307

CGHS GUWAHATI
PATIENT REFERRAL SLIP

Disp.No. 3

Token Card No.:

: 9127

Ref. No. 13306
& Date: 29/12

Name of the patient

: Mrs. Samanta Mandes

Name of card holder

: Mr. Sri S. K. Mandes

Office of employment
with Address

: CGWB

Residential address of :
the beneficiary

Provisional diagnosis : Polyuria, Polydipsia, Polyphagia

Referred to :

Gynaecologist & Gynecologist

No. 01

Dr. H. K. Sonowal / M. B. B. S. M. D.
Signature of referring
doctorName: Guwahati / 34
Designation: O/H

9/12/06

Attested

Advocate