

5/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No....19/2003.....

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

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

1. Orders Sheet.O.A-19/03.....Pg.....1.....to.....2.....
2. Judgment/Order dtd.04/02/2003.....Pg....No.....Report order disposed.....
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A....19/03.....Pg.....1.....to.....12.....
5. E.P/M.P.....Pg.....to.....
6. R.A/C.P.....Pg.....to.....
7. W.S.....Pg.....to.....
8. Rejoinder.....Pg.....to.....
9. Reply.....Pg.....to.....
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.)

(SEE RULE - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET

Original Application No. :

19/03

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicant(s):

Bishwanath Panigrahi

- Vs. -

Respondent(s):

H.O.T. Taty

Advocate for the Applicant(s): C. Borthakur, R.K. Datta, V.J. Sankar

Advocate for the Respondent(s): Mr. C. A. Ray

Notes of the Registry	Date	Order of the Tribunal
This application is in form but not in time. Complainant P. Panigrahi filed / No. 101 C.R. for Rs. 5/- deposited vide JPO/BP No. 26605/02 Dated..... 3.2.03	04.02.2003	<p>Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.</p> <p>The Hon'ble Mr. S.K. Hajra, Administrative Member.</p> <p>This is an application under section 19 of the Administrative Tribunals Act., 1985 assailing the order dated 30.01.2003 passed by the respondents transferring the applicant from Dibrugarh Doordarshan Kendra to Mathura Doordarshan Kendra. The applicant was assailed the said order as arbitrary and discriminatory. That apart, the applicant also contended that the impugned transfer order will cause ^{acute} hardships and serious complications on transfer.</p>
		<p>Admittedly, the applicant had filed a representation before the authority as far back on 31-01-2003. The said representation was filed by applicant before the Director General, Prasar Bharati, New Delhi who is the competent authority to take care of</p>

Contd/-

(2)

V. Contd/-
04.02.2003 the situation.

We have heard Mr. C. Baruah, the Sr. learned/counsel for the applicant and also Mr. A. Deb Roy, learned Sr. C.G.S. C. for the respondents. Considering the facts and circumstances of the case we are of the opinion that ends of justice will be met if a direction is issued to the respondents to consider the representation of the applicant and pass a reasoned order with utmost expedition. The applicant may also file a fresh representation narrating his grievances within seven days from today. If such representation is filed by the applicant, the respondents are directed to deal with the same and pass a appropriate order within a month from the date of receipt of the said representation. Till the completion of the said exercise the impugned order dated 30.01.2003 shall remain suspended.

6.3.2003
Copy of the order
has been sent to the
Office for issuing
the same to the applicant
as well as to the Sr. C.G.S.

Subject to the observation
made above, the application is disposed
of. No order as to costs.

Samit Kelley
Member

Vice-Chairman

mb

3 FEB 2003

Guwahati Bench

Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GUWAHATI BENCH.

(An Application under Section 19 of the Administrative
Tribunal Act, 1985)

Title of the Case : O.A. No. 19 /2003.

Sri Bishnu Ranjan Borah. _____ Applicant.

-Versus-

Union of India & others. _____ Respondents.

I N D E X

SL.NO.	PARTICULARS	PAGE NO.
1.	PETITION	1 to 8
2.	ANNEXURE - A	9
3.	ANNEXURE - B	10 to 11
4.	ANNEXURE - C	12
5.		

Date:

3-2-03

Filed by.

Uday Jyoti Saha
Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH; GUWAHATI.

O.A. No. 19 / 2003

Sri Bishwa Ranjan Barah _____ Applicant(s)

- VS -
Union of India & Ors _____ Respondent(s)

<u>ANNEXURE</u>	<u>CONTENTS OF THE DOCUMENTS</u>	<u>PAGE NO.</u>
	Original Application	1 to 8
A.	On 30-01-2003 the Applicant received a latter No. 14(1)1/2002-51(Part) issued by the Dy. Director(ABMN) where by the applicant was transferred to Deendarshan Kendra Mathura from Deendarshan Kendra Dibrugarh.	9
B.	Copy of the representation submitted by the applicant for cancellation of the transfer order on 31.1.2003.	10-11
C.	Copy of the order No. 35/20/2001-SI Dtd 2.8.01 - 12. where by canceled to 2(Two of applicants) seniors on the ground that transfer of Production Assistant from one zone to another creates linguistic problem.	12.

VAKALATNAMA

Date:- 3.2.2003

Place:-Guwahati

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH.

(An Application under Section 19 of the Administrative
Tribunal Act, 1985)

O.A. No. 19 /2003.

Sri Bishnu Ranjan Borah.

^{late}
S/O - Gangaram Borah.

Resident of East Milan Nagar.

P.O. - C.R. Building.

District - Dibrugarh, Assam.

...Applicant.

-Versus-

1. Union of India.

Represented by the Secretary,
Government of India, Ministry of
Information and Broadcasting, New
Delhi-110001.

2. Director General.

Prasar Bharati, Doordarshan
Bhawan, New Delhi.

Filed by - 6
Bishnu Ranjan Borah
Through
Lokayukt, Sankha

X
Yogmoy Ghosh
Bihar Government

3. Deputy Director (Administration).

Prasar Bharati, Doordarshan
Bhawan, New Delhi.

4. Deputy Director General.

North East, Guwahati.

5. Director.

Doordarshan Kendra, Dibrugarh.

... Respondents

Details of the Application:

1. Particular of order against which the application is made.

This application is made against the Transfer Order from Dibrugarh Doordarshan Kendra to Mathura Doordarshan Kendra vide letter No.14(1)1/2002-SI(Part), dated 30-01-2003.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

The application declares that the application has been filed within the Limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985.

Bardhwan Singh Borah

Facts of the Cases.

- I. That the applicant is a citizen of India and a permanent resident of Dibrugarh Town in the district of Dibrugarh, Assam and as such he is entitled to all the rights and privileges guaranteed by the Constitution of India and the laws framed thereunder.
- II. That the applicant has been working at Dibrugarh Doordarshan Kendra as Production Assistant and his wife Smti. Minati Borah is also working there at. The applicant further states that he has a blind unmarried sister and two orphan nephews who are fully dependent on him and needs assistance all the time and the parents of the applicant also expired long back.
- III. That, on 30-01-03 the applicant received a letter No.14(1)1/2002-51(Part), dated 30-01-2003 issued by Deputy Director (Administration) whereby he was transferred to Doordarshan Kendra Mathura from Doordarshan Kendra Dibrugarh i.e., outside the North East Zone with reference to the Directorate Order No.43/2002-SI, dated 19-09-2002. The copy of the said letter dated 19-09-2002 is neither served on the

applicant nor copy of the said letter is traceable in the office of DDK, Dibrugarh.

A copy of the letter dated 30-01-03 issued by the Deputy Director (Administration) is annexed as

ANNEXURE - A.

IV. That, the applicant states that on receiving the said letter dated 30-01-2003, on 31-01-2003 the applicant immediately submitted a representation for cancellation of the transfer order stating the hardships and problems on being transferred to a far distance place.

A copy of the representation dated 31-01-2003 is annexed as

ANNEXURE - B.

V. The applicant further states that two of his seniors Production Assistant Sri Sirajul Hussain and Sri Prafulla Kalita were earlier transferred to Doordarshan Kendra Mathura vide order No.35/20/2000-SI, dated 02-08-2001 subsequently their transfer orders were cancelled on the ground that transfer of Production Assistant from one Zone to another creates linguistic problems. As such

these two seniors are still working in Doordarshan Kendra Dibrugarh.

A copy of the transfer order dated 02-08-2001 is annexed as ANNEXURE - C.

VI. That, the applicant states that Mathura is outside the Zone where the applicant is working and same linguistic problem is there. Further, non serving of order dated 19-09-2002 to the petitioner also suggest that the respondent authorities wants to conceal the initiation of process of transfer to outside zone i.e., to Mathura. The applicant has firm belief that the transfer of the applicant is not in public interest but the process of transfer was considered on same entrances consideration. The applicant will certainly face great difficulty as Production Assistant at Mathura due to the linguistic problem. As per the circular of the Central Government also both the husband and wife are to be stationed in the same place.

5. Relief Sought For:

In the facts and circumstances as mentioned above the applicant prays for the following relief:

The transfer order given by the Deputy Director (Administration), Prasar Bharati transferring the applicant from Doordarshan Kendra Dibrugarh to Doordarshan Kendra Mathura may be cancelled.

6. Interim Relief Prayed For:

During pendency of this application the applicant prays that the respondent authorities may be directed to stay the transfer of the applicant to Mathura order dated 30-01-2003 and may be allowed to continue at Dibrugarh Doordarshan Kendra.

7. The above relief are sought for on the following among others:-

G R O U N D S

A) For that the applicant states that the Government should always consider the hardships that may be caused in transferring its employee. In the instant case the applicant has a blind unmarried sister and two orphan nephews fully dependent on him and needs assistance all the time. Therefore, the said impugned order dated 30-01-03 is liable to be cancelled.

B) For that, the applicant further states that his wife is also working in Doordarshan Kendra Dibrugarh and as per Government Circular both

12
Rishabhavini
C

the husband and wife are to be stationed in the same place. Therefore, the said transfer order is liable to be cancelled.

C) For that, there cannot be any public interest involve in transferring the applicant from Doordarshan Kendra Dibrugarh to Doordarshan Kendra Mathura. As the letter dated 19-09-2002 is not served on the applicant the respondent authorities are duty bound to produce the records to show the initiation o the transfer process of the applicant to notify the order of transfer. Else, the impugned transfer order is liable to be cancelled.

D) For that, the transfer order of the two senior Production Assistants were earlier cancelled on the ground that they were transferred outside the North East Zone where there is every likelihood of facing linguistic problems. As such the applicant who is also working as Production Assistant at Dibrugarh, Assam is transferred to Mathura, may be allowed to continue at Dibrugarh. Therefore, the transfer order is liable to cancelled or quashed.

E) For that, the applicant submits that the transfer is made on entrances grounds and not

in public interest. Therefore, the impugned order of transfer is liable to be quashed.

8. That, the applicant declares that the matter regarding which the present application is made is not pending in any other Court.

Particulars of the Bank Draft/IPO in respect of the application fee.

VERIFICATION

I, Sri Bishnu Ranjan Borah, son of Gangaram Borah, aged about 40 years, resident of East Milan Nagar, P.O.- C.R. Building district Dibrugarh do hereby verify that the statements made in paragraphs 1 to 8 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 3rd day of February, 2003.

Bishnu Ranjan Borah.

-9-

ANNEXURE - A

PRASAR BHARATI
 DIRECTORATE GENERAL: DOORDARSHAN
DOORDARSHAN BHAWAN, NEW DELHI

No 14(1)/2002-S1 (Part)

Dated: 30.1.2003

CORRIGENDUM

Reference this Directorate's order No 43/2002-S.1 dated 19.9.2002 issued on file of even number

2 The transfer of Shri B R Borah, Production Assistant may be read as under:-

SL No	NAME & DESIGNATION	FROM	TO
1	SHRI B R BORAH	DDK. DIBRUGARH	DDK. MATHURA

3 Necessary correctness may be carried out by all the concerned. The other terms remain unchanged

V.K.Walia

(V.K.Walia)
 Dy. Director (Admn.)
 Ph. 23386745

Copy to -

1. Official concerned (through DDK, Dibrugarh.)
2. Director, Doordarshan Kendra, Agartala/ Ahmedabad/Bathulley/Guwahati
3. Mathura Pondicherry Shillong, Shantiniketan/Thrissur/Jalpaiguri/Itanagar, Director, Doordarshan Kendra, Dibrugarh. Director, DDK, Dibrugarh is hereby directed to achieve Shri B R Borah immediately with the direction to report for jury at DDK, Mathura. A compliance report of relieving of Shri Borah should reach this Directorate not later than by 5.2.2003.
4. AO Doordarshan, Delhi, Chennai Mumbai/Guwahati/Kolkata.
5. Office order folder Guard file

Attested
J. B. S.
Advocate

(ex) G.D.

-10-

Date: 31-01-03

To
The Director General,
Prasar Bharati,
Doordarshan Bhawan,
New Delhi.

Through: The Director, Doordarshan Kendra Dibrugarh,
Assam.

Sub:- Prayer for cancellation of Transfer Order.

Sir,

I have the honour to state that I have been serving in Dibrugarh Doordarshan Kendra as Production Assistant. I have received the order of my Transfer to Mathura Doordarshan Kendra vide letter No.14(1)1/2002-81 (Part).

Sir, I have been working at Dibrugarh Doordarshan Kendra, where my wife Smti. Minati Bora is also working. I have a 7 years old son now studying in Class-I in Vivedananda Kendra Vidyalaya, his annual examination is scheduled in March 2003.

I have a blind unmarried sister fully dependent on me as my parents have already expired. There is no other persons in our family to look after her. Further I have two orphan nephews dependent on me, one of whom is edict, under treatment under my care. It is worth to mention that two other staff of Dibrugarh Doordarshan viz. 1) Sirajul Hussain and 2) Sri Prafulla Kalita both seniors to me whom transferred to Mathura in September, 2001, vide letter No.35/20/2000-SI, dated 02-08-2001, but till date they have been continuing their services at Dibrugarh Doordarshan

Attested
J. B. Kalita
Advocate

Kendra and have not joined to the new assignment of Mathura.

Further one Binu Prova Doley, Property Assistant of Dibrugarh Doordarshan, who has been maintaining a hostile attitude against me for long time has assaulted me on 22-02-2002 in presence of the Director In-Charge and many others staff of Doordarshan Kendra, against whom a case is pending in Judicial Court.

Further the said Smti. Binu Prova Doley, after assaulting me has lodged a false complaint against me to the Police, accordingly a case has also been registered in the Court of District Judge, Dibrugarh.

Now, I am to attend Court in the cases. At the event of my transfer, it will not be possible on my part to attend the Court on dates fixed, resulting further complicity in the Judicial proceedings.

Under the circumstances, I most humbly pray to your honour with folded hands to consider my prayer and cancel my transfer order, allowing me to work at Dibrugarh to manage the house hold and other problems stated hereinabove.

With regards.

Yours faithfully,
Sd/-Illegible.
(Biswa Ranjan Bora)
Production Assistant,
Doordarshan Kendra
Dibrugarh.

Copy to:-

1. D.D.G., NE, Guwahati.
2. Dy. Director (Administration) New Delhi.
3. Director, Doordarshan Kendra, Dibrugarh.

Sd/-Illegible.
(Biswa Ranjan Bora)

ANNEXURE - C

-12-

PRASAR BHARATI
DIRECTORATE GENERAL DOORDARSHAN
DOORDARSHAN BHAVAN, NEW DELHI.

No. 35/20/2000-S.I

Dated: 2.8.2001

OFFICE ORDER - 16/2001-S.I

(S60)
QX-611

The following officials are hereby transferred with immediate effect.

Sl. No.	Name and Designation	From	To
1.	Shri Shirajul Husain, Prod. Asstt	DDK, Dibrugarh	DDK, Mathura
2.	Shri Pritiwalla Kalita, Prod. Asstt.	DDK, Dibrugarh	DDK, Mathura
3.	Shri P.P.Selvam, F/V Editor	DDK, Delhi	DDK, Mathura
4.	Shri G.M.Bhatt, Floor Manager	DDK, Srinagar	DDK, Mathura
5.	Shri Madan Sharma, Floor Asstt.	DDK, Delhi	DDK, Mathura

2. The above employees may be relieved immediately by the concerned Kendras.

3. This issues with the approval of Competent Authority.

R.K.Singh
(R.K.Singh)
Director (Admin.)

Copy to:-

1. Officials concerned (Through Kendra)
2. Director, DDK, Delhi/ Mathura/ Dibrugarh /Srinagar.
3. Pay & Accounts Offices, Doordarshan, New Delhi/Calcutta.
4. Reference folder/ Guard file.

for Director General.

Attested
G.Bairwa
Advocate