

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 196/2003

R.A/C.P No.

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SECTION OFFICER (Judl.)

FORM NO.4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWALATI BENCH

ORDER SHEET

Original Application : 196/2003

Misc Petition No. : _____

Contempt Petition No : _____

Review Application No: _____

Applicants:- A K. Prasadakanna

Respondents:- UNIONS

Advocate for the Applicants:- Mr. G.K. Bhattacharyya

Advocate for the Respondents:- Ms. B. Choudhury

Rly. SC

Notes of the Registry	Date	Order of the Tribunal
<p>Application is in form but not in time. Contempt Petition is filed / not filed C F or Rs 50 deposited vide IPO/DA No. 96/59494 Dated 26/8/03.</p> <p><u>[Signature]</u> By. Registrar</p> <p>NO steps.</p> <p>Notice prepared & sent to all for filing the respondents No 1 to 4 by Regd. A.S.</p> <p>D/No <u>1865 to 1869</u></p> <p>Dtd <u>1/9/03</u></p> <p><u>11/9/03</u></p>	<p>27.8.03</p>	<p>Present: Hon'ble Mr.D.N.Chowdhury, Vice-Chairman and Hon'ble Mr.K.V. Prahaladan, Administrative Member.</p> <p>Heard learned counsel for the parties.</p> <p>Issue notice on the respondents to show cause as to why the application shall not be admitted and also to show cause as to why the impugned order No.EL/254/LM/Misc/1317 dated 22.8.03 transferring the applicant from Badarpur to New Bongaigaon, (Annexure IV), shall not be suspended.</p> <p>Meanwhile, the impugned order dated 22.8.03 shall remain suspended till the returnable date.</p> <p>List on 30.9.03 for admission.</p> <p><u>[Signature]</u> Member</p> <p><u>[Signature]</u> Vice-Chairman</p>

(2)

O.A.196/2003

29.9.2003

List the matter on 24.10.2003 for admission.

In the meantime respondents shall file their reply.

Interim order dated 27.8.2003 shall continue until further order.

Pl. comply order dated 29/9/03.

MS
29/9/03

Order dated 29/9/03
Sent to D/S for
issuing the same,
both the parties.

bb

cc
29/9/03.

24.10.03

There is no Bench today.
Adjourned to 2-8-10-03.

B/o
by

28.10.03

On the prayer of Mr B.C.Pathak on behalf of Mr S.Sengupta, learned Railway standing counsel four weeks time to file written statement. Prayer allowed.

List on 14.11.03 for order. Interim order dated 27.8.03 shall continue until further orders.

Order dated 28/10/03
Sent to D/Section for
issuing to both the
parties.

Class
7/11/03.

Vice-Chairman

pg

14.11.03

no Bench today.
Adjourned to 1-12-03.

B/o
by

18.12.2003

List on 7.2.2004 for admission.

1 cr Bhattad
Member (A)

mb

No. w/s has been
biked.

23
23.3.04

No. w/s has been
biked.

24
24.4.04

No. w/s has been
biked.

5
5.5.04

No. w/s has been
biked.

7
7.6.04

19.7.04
w/s filed by the
respondents.

20

5-8-04

w/s has been biked
by

1.3.2004 Heard Mr B. Choudhury,
learned counsel for the applicant.
The O.A. is admitted. List the
matter on 24.3.04 for orders.

10
Member

nkm

24.3.2004 None appears for the applicant. post
the matter on 5.4.2004 for order.

10
Member (A)

bb

5.4.2004 Four weeks time is given to the
respondents to file written statement.
List on 6.5.2004 for orders.

10
Member (A)

mb

6.5.2004 Four weeks time is given to the
respondents to file written statement
on the plea of counsel for the respondents
List on 8.6.2004 for orders.

10
Member (A)

mb

~~8.6.04~~ List the case before Division
Bench. List on 14.6.04.

~~8.6.04~~

Four week time is allowed for

bmk

Member (A)

8.6.04

Four weeks time is allowed for
filing of written statement. List on
13.7.04 for orders.

10
Member (A)

lm

6.8.2004 On the plea of counsel for the respondents two weeks time is given to the respondents to file written statement. List on 30.8.2004 for orders.

[Signature]
Member (A)

mb

30.8.2004 List on 1.10.2004 for hearing. A copy of the written statement may be given to the learned counsel for applicant by the respondents.

[Signature]
Member (A)

mb

1.10.2004 On the plea of learned counsel for the applicant, list on 19.11.2004 for hearing.

[Signature]
Member (A)

mb

16.02.2005 Present : The Hon'ble Mr. M.K. Gupta
Judicial Member.

List before the Division
Bench tomorrow i.e., 17.02.2005.

[Signature]
Member (J)

mb

17.02.2005 Heard learned counsel for the applicant. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. The application is dismissed in terms of the order. No costs.

[Signature]
Member (A)

[Signature]
Member (J)

27.8.04
w/s has been filed
[Signature]

30.9.04
w/s filed by
the respondents.

[Signature]
Case is ready for hearing.
[Signature]

Recd.

ML

9/3/05

9.3.05

Copy of the final order has been sent to the D/Sec. for issuing the line to the Applicant by P.S. and a copy of the line handed over to the L. for the Respondent.

[Signature]

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./R.A.No. 196/2003.

DATE OF DECISION 17.02.2005.

Shri Ajoy ViswakarmaAPPLICANT(S)

Mr. G.K. BhattacharyyaADVOCATE FOR THE
APPLICANT(S).

-VERSUS -

U.O.I. & Ors.RESPONDENT(S)

Dr. M. C. SarmaADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. MR. M.K. GUPTA, JUDICIAL MEMBER.

THE HON'BLE MR. MR. K.V. PRAHLADAN, MEMBER (A).

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 Member (J).

W
[Signature]

X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 196 of 2003.

Date of Order : This the 17th Day of February, 2005.

THE HON'BLE MR M.K.GUPTA, JUDICIAL MEMBER

THE HON'BLE MR K.V.PRAHLADAN, ADMINISTRATIVE MEMBER

Shri Ajoy Viswakarma,
Son of Shri Sarjoo Prasad Biswakarma,
Resident of Railway Power House,
Badarpur, District Karimganj.

.....Applicant

By Senior Advocate Sri G.K.Bhattacharyya.

- Versus -

1. Union of India,
Represented by the General Manager,
N.F. Railway, Maligaon. Guwahati-11.
2. General Manager (P)
N.F.Railway, Maligaon, Guwahati-11.
3. Senior Divisional Electrical Engineer,
N.F.Railway, Lumding,
Dist. - Nagaon, Assam.
4. Assistant Divisional Electrical Engineer,
Badarpur, N.F.Railway, Badarpur

... Respondents

By Dr M.C.Sarma, Railway standing counsel (not present)

ORDER (ORAL)

M.K.GUPTA, MEMBER(J):

Validity of order dated 22.8.2003 transferring the applicant from Badarpur to Bongaigaon and requiring the applicant to hand over the charge is questioned in the present O.A.

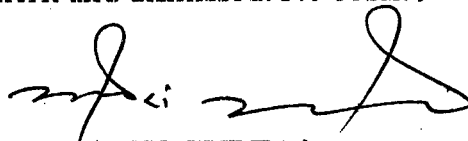
2. Initially the applicant was transferred vide order dated 22.1.2003 against which he filed representation for cancellation of the said order which was agreed

to and by the order dated 23.4.2003 the said transfer order was cancelled. Subsequently the applicant was transferred once again which is the subject matter of the present O.A.

3. We have perused the pleadings and heard Shri G.K.Bhattacharyya, learned senior counsel for the applicant assisted by Shri B.Choudhury as well as perused the pleadings of the respondents as none appeared for the respondents. It is an undisputed fact that the applicant on an earlier occasion submitted representation and made a prayer that he should be retained for 2 years at the same station due to some family difficulties. Though his request was acceded but he was not allowed to continue to stay for 2 years at the same station which he ^Q had prayed for. The respondents in their reply have stated that the applicant has already served ^Q in his place of posting for more than four years before issue of transfer order dated 21.1.2003. It is further contended that applicant was wrong in presuming that he would be retained at the same place for two years for which he ^Q ~~was~~ represented. Retention of the applicant beyond a certain period was not possible as it affected a chain of transfers routinely carried out at periodical intervals based on tenure of posting. Two years period as prayed for initially by the applicant has expired as on date. That being the case, we do not find any justification for the applicant that he should be retained permanently in a place of posting.

Accordingly present O.A. is without any merit and dismissed. No costs..


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER


(M.K.GUPTA)
JUDICIAL MEMBER

SYNOPSIS AND LIST OF DATES .

O. A. No. 196 /2003.

Sri A. K. Viswakarma. ... Applicant.

-Vs-

Union of India & Ors. ... Respondent.

- 1.8.76 : Applicant joined Railway Service as Electric Fitter (Grade-III) .
- : Promoted to higher ranks .
- 24.8.99 : Promoted to the post of Section Engineer(Elec.) as per this Hon'ble Tribunal's order dated 19.2.98 in O.A. 7/93 .

Annexure-I, Page - 11

- 24.01.03 : Received first transfer order dated 21.1.03 transferring the applicant to New Bongaigaon .

Annexure-II, Page- 12

- 28.01.03 : Submitted representation before the authorities for modification and cancellation of the order dated 21.1.03 and for retaining him at Badarpur for 2 years.
- 23.04.03 : Received order from Respondent No.2 cancelling the earlier transfer order dated 21.1.03 and retaining him at Badarpur at his own request .

Annexure- III, Page - 13

- 22.8.03 : Received impugned transfer order transferring and posting him at New Bongaigaon.

Annexure-IV, Page - 14

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH
AT GUWAHATI.

(An application U/s 19 of the Administrative Tribunal Act,
1985)

ORIGINAL APPALICATION NO. 196 OF 2003

Shri Ajoy Kumar Viswakarma Petitioner.
Versus
The Union of India & Ors. Respondents.
CODE :
CATEGORY:
BENCH : D/B

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Filed by -

Bikram Choudhury.
27-8-03
Advocate.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH
AT GUWAHATI.

(An application U/s. 19 of the Administrative Tribunal
Act, 1985)

ORIGINAL APPLICATION NO. 1916 OF 2003

Shri Ajoy Viswakarma,
son of Shri Sarjoo Prasad Biswakarma,
Resident of Railway Power House,
Badarpur, District Karimganj.

...APPLICANT

-VERSUS-

1. The Union of India,
Represented by the General Manager,
N.F.Railway, Maligaon, Guwahati-11.
2. General Manager (P),
N.F.Railway, Maligaon, Guwahati.
3. Senior Divisional ~~Manager~~ &
Electrical Engineer, Lumding,
District Nagaon, Assam.
4. Assistant Divisional Electrical
Engineer, Badarpur.

...RESPONDENTS

Contd.../-

11
Ajoy Kumar Viswakarma
Filed by the applicant through
Bikram Choudhury, Advocate
27.8.03.

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

(i) Order No. EL/254/LM/Misc/1317 dtd. 22.8.03 issued by the Respondent No.3 transferring and posting the applicant immediately under divisional Electrical Engineer (W) New Bongaigaon.

(ii) Action of the authorities in again meting out arbitrary treatment to the applicant after taking into consideration his representation made by the earlier transfer order no.E/254/50/(ELEC)/Pt-1 dated 21.1.03.

2. JURISDICTION

The applicant declares that the subject matter of the orders against which he wants redressal is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION.

The applicant further declares that the ~~has~~ ~~filed~~ ~~an~~ application is ~~within the limitation~~ under section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE

1. That the applicant begs to state that he

Contd.../-

Arav

joined service under the NF Railway on 1.8.76 as Electric Fitter (Grade-III). Thereafter, the applicant in recognition of his faithful and commandable service was promoted to the next higher ranks and at present working as Senior Section Engineer (Electrical) at Badarpur. Since the date of his joining service the applicant has been discharging his duties faithfully and there was not any adverse against him.

2. That while working as such, officers junior to the applicant was promoted to the rank of electric charge man Group-B, superseding the applicant. Thereafter, the applicant submitted representations at various level. But there was no response. Being aggrieved the applicant filed an original application before this Hon'ble Tribunal which was registered and numbered as O.A. No. 7/93 claiming seniority and promotion over his junior and to be considered for subsequent promotion as per the correct seniority list. This Hon'ble Tribunal by order dtd. 19.2.98 disposed off the original application directing that the respondent to reconsider the claim of the applicant within 3 months and if decision is in favour of the applicant the respondent shall give their rightful dues accordingly.

3. That in pursuance to the order dtd. 19.2.98 passed by this Hon'ble Tribunal in O.A. No. 7/93 the

Contd.../-

Handwritten signature

Respondent authorities promoted the applicant to the post of Section Engineer (electrical) and gave the applicant the benefit of proforma seniority and fixation to the extent of his junior Sri Subir Das by Office order No.E/254/50(Elec) dtd. 24.8.98.

However, till date there has been several correspondence with the authorities but the arrear payment due after fixation has not been paid as yet.

A copy of aforesaid order dated 24.8.99 is annexed herewith and marked as ANNEX-URE-I.

4. That while working as such the applicant on 24.1.2003 received Office Order No. E/254/50 (Elec)/Pt-I dtd. 21.1.03 transferring and posting the applicant to Bongaigaon in his existing pay and scale.

A copy of the aforesaid order dtd. 21.1.2003 is annexed herewith and marked as ANNEXURE-II.

5. That the applicant begs to state that his old ailing father aged around 90 years is staying with him and he is getting better medical facility in Silchar. Moreover, his younger dependent brother has undergone a major operation in the stomach area recently.

Contd.../-

Handwritten signature

As such on receiving the transfer order dtd. 21.1.03 on 24.1.03 (Annexure-II) the applicant on 28.1.03 submitted a representation before the respondent authority stating the above facts with the prayer for cancellation of the transfer order and that he be retained at Badarpur for 2 years.

The authorities considering the genuine difficulties faced by the applicant the respondent no. 3 by Office Order No.E/254/50(elec) Pt-I dtd. 23.4.03 cancelled the earlier transfer order dtd. 21.1.03 and retained him at Badarpur as per his request.

A copy of the aforesaid order dtd. 23.4.03 is annexed herewith and marked as ANNEXURE-III.

6. That thereafter the applicant was shocked and surprised when he received the impugned order No.EL/254/LM/Misc/1317 dtd. 22.8.2003 issued by the Respondent no. 3 transferring and posting the applicant to New Bongaigaon with immediate effect.

A copy of the aforesaid impugned order dated 22.8.2003 is annexed herewith and marked as ANNEXURE-IV.

Contd.../-

Handwritten signature

7. That the applicant begs to state that when he received the earlier transfer order he made representation specifically stating the difficulties in carrying out the transfer order at this sage and transfer order be modified and he be retained at Badarpur for at two years and accordingly, the same was modified. As such the impugned transfer order is arbitrary and the applicant has been advised that he has a good chance of succeeding in the application and as such unless some interim orders are passed the applicant will suffer irreparable loss and injury. The applicant further states that he has not handed over charge till date.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:

i) For that the impugned transfer order was passed in a most arbitrary manner without jurisdiction and as such the impugned orders are bad in law and is liable to be set aside and quashed.

ii) For that the applicant on receiving the earlier transfer order made representation before the authorities stating his personal difficulties and to retain him at Badarpur for two years till the problems are removed and the authorities after due consideration cancelled the earlier transfer order and as such it is not now open to the authorities to go back after giving

Contd.../-

Shree

due consideration to his earlier representation and retained him at Badarpur for 2 years and as such the impugned transfer order is bad in law and liable to be set aside.

iii) For that, in any view of the matter, the impugned action of the authorities is bad in law and is liable to be set aside.

6. DETAILS OF REMEDY EXHAUSTED

The applicant has got no remedy under the Rules.

7. MATTER NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT/TRIBUNAL

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

Contd.../-

Adarsh

8.

PRAYER:

It is, therefore, prayed that Your Lordships would be pleased to admit the application, call for the entire records of the case, ask the respondents to show cause as to why the impugned transfer order dtd. 22.8.03 (Annexure-IV) should not be quashed and set aside and after perusing the causes shown, if any and hearing the parties, set aside the impugned order dtd. 22.8.2003 (Annexure-IV) and/or pass such further or other order or orders as Your Lordships may deem fit and proper. ✓

9.

INTERIM ORDER, IF ANY PRAYED FOR:-

It is, further prayed that pending disposal of the application, Your Lordships would be pleased to stay the operation of the impugned transfer order dtd. 22.8.2003 (Annexure-IV) and/or pass such further or other order or orders as Your Lordships may deem fit and proper.

And for this act of kindness, the applicant as in duty bound shall ever pray.

Contd.../-

Anwar

10. DOES NOT ARISE.

11. PARTICULARS OF BANK DRAFT/POSTAL ORDER IN
RESPECT OF THE APPLICATION FEE

(i) I.P.O NO 96159494.

(ii) Date 26.8.03.

(iii) Issued by G.P.O.

(iv) Payable at Guwahati

12 LIST OF ENCLOSURES:

As per index.

Contd.../-

Paul

VERIFICATION

I, Shri Ajoy Kumar Viswakarma, son of Sri Sarjoo Prasad Viswakarma, aged about 48 years, resident of Railway Power House, Badarpur, District Karimganj do hereby verify that the statements made in paragraph Nos. 1, 2 and 7 are true to my personal knowledge and the statements made in paragraph Nos. 3, 4, 5, and 6 are believe to be true on legal advice and that I have not suppressed any material fact.

Place : Guwahati

Date : 27-8-03

Ajoy Kumar Viswakarma
Signature of the Applicant.

Contd.../-

- 11 -

ANNEXURE - I

M. V. DALLANT
OFFICE ORDER

On being found suitable for the post of Sr. Section Engineer (Elec) in scale D. 7450-11500/- and A.S. Mookarna, Section Engineer (Elec) under MBP/ED in scale D. 6902-10500/- also this office memorandum of even number dated 22.6.93 is hereby promoted to officiate as Sr. Section Engineer (Elec) in scale D. 7450-11500/- and posted as MBP/ED under Sr. MBP/ED against existing vacancy.

Consequent upon his promotion to SRE (Elec) (7450-11500/-) benefit of professional seniority and fixation to the extent of his junior Shri Subir Das SRE (Elec) / MBP as per CAS/MBP's sanction is being allowed retrospectively.

This action with the approval of competent authority.

(A. Srinia)
SFO/Engg.
For General Manager (P) / Malabar.

No. P/256/50 (Elec)

Dated: 24.8.99.

Copy forwarded for information and necessary action to:-

1. MBP/ED.
2. CAS/ED.
3. MBP(P)/ED.
4. Sr. ED/ED.
5. MBP/MBP.
6. AFO/ED.
7. Staff exchange.


For General Manager (P) / Malabar.

Attested by
Shondhury
27/8

OFFICE ORDER

The following transfer, promotion and posting are ordered with immediate effect.

- 1) Promotion and posting order in favour of Sri Ram Sundar Mistry (SC), SE (Elect) / BOE under DEE / KIR to SSE (Elect) under DEE / W / NBQ issued under this office order of even number dt. 3/4 -12-2002 is hereby cancelled.
 - 2) Sri S.R. Chakraborty, SE (Elect) under DEE / W / NBQ who is empanelled for promotion to the post of Sr. Section Engineer (Elect) in scale of Rs.7450 - 11500/- vide this office memorandum of even number dtd. 2/4-12-2002 is hereby promoted to officiate to the post of Sr. Section Engineer (Elect) in scale Rs. 7450 - 11500/- and posted under DEE / W / NBQ against existing vacancy.
 - 3) Sri P.S Pandit, SE (Elect) under DEE / KIR who is empanelled for promotion to the post of Sr. Section Engineer (Elect) in scale Rs.7450 - 11500/- vide this office memorandum of even number dtd. 2/4-12-2002 is hereby promoted to officiate to the post of Sr. Section Engineer (Elect) in scale Rs.7450 - 11500/- and posted at RNY under DEE / APDJ against existing vacancy.
 - 4) Sri Subodh Ch. Das, (SC), SE (Elect) under DEE / W / NBQ who is empanelled for promotion to the post of Sr. Section Engineer (Elect) in scale Rs.7450 - 11500/- vide this office memorandum of even number dtd. 2/4-12/2002 is hereby promoted to officiate to the post of Sr. Section Engineer (Elect) in scale Rs.7450 - 11500/- and posted under Sr. DEE / LMG vice Sri A.K. Biswakarma transferred to DEE / W / NBQ item no. 6.
 - 5) Sri A.C. Barman, SSE (Elect) / BNGN under DEE / APDJ is hereby transferred in his existing pay and scale and posted under DEE / W / NBQ against existing vacancy.
 - 6) Sri A.K. Vishakarma, SSE (Elect) under Sr. SDEE / LMG is hereby transferred in his existing pay and scale and posted at BNGN vice ~~Sri A.C. Barman~~ transferred to DEE / W / NBQ item no. 5.
- Note: Item No. 5 & 6 are not entitled to transfer pass, transfer allowance and joining time etc. as their transfer are own request.
- This issues with the approval of CEE / MLG.

(N.N. THAKUR)
SPO / EST.
FOR GM (P) / MLG

MLG DTD 2/-01-2003.

No. E / 254 / 50(Elec) / Pt-I

Copy forwarded for information and necessary action to :-

- | | | |
|-------------------|---------------------|------------------------------|
| 1) FA & GAO / MLG | 2) CEE / MLG | 3) DRM (P) / LMG, APDJ, KIR. |
| 4) Sr. DEE / LMG. | 5) DEE / W / NBQ | 6) DEE / APDJ, KIR. |
| 7) APO / NBQ | 8) Staff concerned. | |

For General Manager (P)

Hd/Cr.

TO SE sent to
SSE / BNGN / BPPB
24/1/03

Attested by
@Rundhury
Adm
07/8

-13-
N. E. RAILWAY

(OFFICE ORDER)

Shri Ajay Kr. Vishwakarma, SSE(P)/BFB who was under order for transfer to BNGN as per his own request vide this office order of even number dt 21/22/1/2003 is hereby cancelled and now he is retained at BFB as per his request. 23

This issued with the approval of CEE/MIG.

(N.N. THAKUR)
SFO/TEST
for GENERAL MANAGER(P)/MIG.

NO.E/254/50(Elec)Pt.I

Dated: 23/4/03.

Copy forwarded for information & necessary action to:-

1. CEE/MIG, 2. FA & CAO/MIG, 3. DRM(P)/LMG, APDJ,
4. Sr.DRM/LMG, 5. DEE/APDJ. 6. Staff concerned.

17/4/03
23/4/03
for GENERAL MANAGER(P)/MIG.

R.E/S/254
25/4/03

Attested by
Boudhwar
Adv.
27/8

- 14 -
N.E. Railway.

Office of the
Sr. Divisional Elect. Engineer
Lumding, dated: 22.8.2003.

No. EL/254/LM/Misc/1317.

ADEE/BPB.

Sub: Transfer of Shri A.K. Biswakarma, SSE/P/BPB to NBQ under DEE/NBQ.

As per GM/P/MLG's Office Order No. E/254/50(Elect) Pt. I dated 18.8.2003, Shri A.K. Biswakarma, SSE/BPB has been transferred and posted under DEE/W/NBQ. Shri A.K. Biswakarma, will hand over charge of SSE/Elect./BPB including Stores and all confidential documents to Shri A. Fazal, SE/BPB with immediate effect. Shri A. Fazal, SE/BPB will henceforth sign all documents, contractual works and stores matters till further order.

Sr. DEE/Lumding.

Copy to :

- ✓ 1. Shri A.K. Biswakarma, SSE/Elect./BPB. He is advised to hand over the charge of the post of SSE/Elect./BPB along with Stores to Shri A. Fazal, SE/Elect./BPB.
2. Shri A. Fazal, SE/Elect./BPB. He is advised to look after the work of SSE/Elect./BPB till further order.

P. J. A.
(Q. J. S. O.)
Sr. DEE/Lumding.

Attested by
Bhadracharya

15-
25
Filed by
19/7/04
D.M.C. Ganga
By. Counsel.
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C. B. HW. / M. H. /
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(2)

gave due consideration to these and retained him at his previous place of posting at Badarpur for a further period of over seven months from January, 2003 at his request. The order dated 22.08.2003 had to be issued when it became necessary for smooth running of the administration and as part of a chain of transfers as indicated in the order. The transfer order was thus a routine periodical exercise with strictly bonafide intentions.

It is therefore submitted with respect that the application merits dismissal at the threshold for want of any worthwhile cause of action.

4. That the application suffers from wrong representation and lack of understanding of the circumstances and facts relating to the matter.

5. That the application suffers from want of any merits as will be clear from the facts stated in the parawise remarks below:-

PARAWISE REMARKS

6.1. That as regards paras 4.1, 4.2 and 4.3, the respondents have no remarks to offer and puts the applicant to the strictest proof of his claims.

6.2. That as regards para 4.4, the answering respondents beg to state that the order for transfer was part of the periodical, essential and routine change in the administrative set up required for the smooth running of the administration.

6.3. That as regards para 4.5 it is submitted that when the applicant brought the matter of personal difficulties to the notice of the respondents, due consideration was given and the applicant was retained at his previous place of posting for the time being. However, it will be appreciated that retention of the applicant beyond a certain period was not possible as it affected a chain of transfers routinely carried out at periodical intervals based on tenure of posting.

6.4. That as regards para 4.6 the answering respondents beg to state that the transfer order dated 22.08.2003 was issued after considering the fact that the applicant had stayed at his place of posting for more than the usual tenure of three years; in point of fact the applicant had worked at the post for more than four years. Thus, the

(3)

transfer order was considered quite appropriate and the applicant has no reason to question the same.

6.5. As regards para 4.7 the answering respondents deny that the transfer order was arbitrary. As stated above, the transfer was part of the normal administrative routine. Because the applicant had already spent more than four years at his place of posting, namely at Badarpur, the transfer order was justified on grounds of administrative necessity and as tenure posting of three years is considered reasonable and essential for efficient running of the administration.

✓ Moreover, by his own admission, the applicant's transfer order dated 21.01.2003 was cancelled on 23.04.2003 on account of his representation which mentioned his family difficulties. However, while the respondents gave due consideration to his representation, the applicant was wrong in assuming that he would be retained at his previous place of posting for the two years he represented for. By the time his fresh transfer order was issued on 22.08.2003 seven months had already expired and this period was considered sufficient for the applicant to settle his personal problems in a satisfactory way.

It is therefore urged that no more time be allowed to the applicant to stay at his present place of posting and that he should be asked to carry out his transfer to Bongaigaon without any further delay.

And for this act of kindness the respondents shall as in duty bound ever pray.

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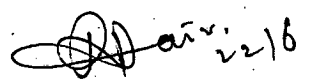
(4)

VERIFICATION

I, Shri R. AAIVU, aged about 39 years, son of Late S. Ramasamy, at present working as Dy. Chief Personnel Officer, N.F. Railway, Maligaon, do hereby solemnly affirm that the statements made in paragraphs 1,2 and 3 are true to my knowledge and those made in paragraphs 4,5 and 6 are true to my information derived from records which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the _____ day of June, 2004.

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Signature. 

Dy. Chief Personnel Officer
S. P. Ry. / Maligaon
Reviewed by