

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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

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SECTION OFFICER (Judl.)

FORM NO. 4  
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

ORDERSHEET

Original Application : 196/2003

Misc Petition No. :

Contempt Petition No. :

Review Application No. :

Applicants:- A.K. Viswakarma

Respondents:- W.O. 208

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

Advocate for the Respondents:- Mr. B. Choudhury

Adv. SC

Notes of the Registry	Date	Order of the Tribunal
Application is in form but not in time. Contention Petition is filed. So filed C.F. or C.P. It is deposited under IPO/DP No 196/159494 Dated 26/8/03	27.8.03	Present: Hon'ble Mr. D.N. Chowdhury, Vice-Chairman and Hon'ble Mr. K.V. Prahaladan, Administrative Member. Heard learned counsel for the parties. 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. Meanwhile, the impugned order dated 22.8.03 shall remain suspended till the returnable date. List on 30.9.03 for admission.
ND steps:  <i>[Signature]</i> Dy. Registrar	27/8/03	<i>[Signature]</i> I.C. Bhattacharyya Member
Notice prepared & sent to Ds. for writing the respondent No 1 to 4 by Regd. A.I.D.		<i>[Signature]</i> Vice-Chairman
DINo <u>1865 to 1869</u>		
Dtd <u>11/9/03</u>	1m	
<i>[Signature]</i> 11/9/03		

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. employ order  
dated 29/9/03.

WS  
29/9/03

K.C. Pathak

Member

Order dated 29/9/03

bb

Sent to D/S for  
issuing the same,  
both the parties.

24.10.03

There is no Bench today.  
Agreed to 28.10.03.

Class  
29/9/03.

B70  
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.  
Agreed to 1.12.03.

B70  
by

18.12.2003

List on 7.2.2004 for ~~xx~~ admission.

mb

K.C. Pathak  
Member (A)

No. Wts has been  
billed.

Zy  
23.3.04

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.

Icr Poddar  
Member

No. Wts has been  
billed.

nkm

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

Icr Poddar  
Member (A)

No. Wts has been  
billed.

bb

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

Icr Poddar  
Member (A)

No. Wts has been  
billed.

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.

Icr Poddar  
Member (A)

Wts filed by the  
Respondents.

mb

8.6.04 List time as above before the District Court Bench. List on 14.6.04.

8.6.04

Four week time is allowed for

8.6.04 filing of written statement. List on 13.7.04 for orders.

Icr Poddar  
Member (A)

6-8-04

Wts for Second Billed

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.

*LCR Palash*

Member (A)

27.8.04  
w/s have been filed

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.

*LCR Palash*

Member (A)

30.9.04  
w/s filed by  
the respondents.

mb

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

*LCR Palash*

Member (A)

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

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

*LCR Palash*

Member (J)

9.3.05  
Copy of the final  
order has been sent  
to the D/sec for  
issuing the same to  
The Appellant by Post  
and a copy of the  
same handed over to  
the L sec for the  
Respondent.

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.

*LCR Palash*

Member (A)

*LCR Palash*

Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

196/2003.

O.A. / R.A. NO.

DATE OF DECISION 17.02.2005.

Shri Ajoy Viswakarma ..... APPLICANT(S)

Mr. G.K. Bhattacharyya ..... ADVOCATE FOR THE  
APPLICANT(S).

-VERSUS -

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

Dr. M. C. Sarma ..... ADVOCATE 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

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 196 of 2003.

Date of Order : This the 17<sup>th</sup> Day of February, 2005.

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

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

Shri Ajoy Biswakarma,  
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):**

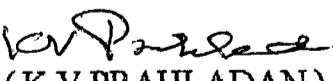
Validity of order dated 22.8.2003 transferring the applicant from Badarpur to Bongaigaon and requiring the applicant to hand over the charge is questioned in the present O.A.

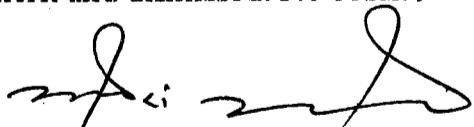
2. Initially the applicant was transferred vide order dated 22.1.2003 against which he filed representation for cancellation of the said order which was agreed

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 ~~had~~ prayed for. The respondents in their reply have stated that the applicant has already served 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 ~~had~~ 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

9

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 -

*Sikhamani 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. 196 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.../-

Ajoy Kumar Biswakarma  
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 ~~was~~ ~~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.../-

*Aman*

joined service under the NF Railway on 1.8.76 as Electric Fitter (Grade-III). Thereafter, the applicant in recognition of his faithful and commendable 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.../-

*Abdul*

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 ANNEXURE-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.../-

*Ans*

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.../-

*Ansar*

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 stage 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.../-

*Ansari*

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.../-

*Azaad*

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.../-

*Amrit*

10. DOES NOT ARISE.

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

(i) I.P.O NO 9G159494

(ii) Date 26.8.03

(iii) Issued by G.P.O.

(iv) Payable at Guwahati

12 LIST OF ENCLOSURES:

As per index.

Contd.../-

*Ansari*

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 4 are true to my personal knowledge and the statements made in paragraph Nos. 3, 4, 5, and 6 are believed 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.../-

ANNEXURE - I

H. P. Policing  
OFFICE COPY

On being found custable for the part of Sr. Auction  
Begalpur(1100) & p. no. 7050-11500/- Date 4.3.1960/2024,  
Socotra Barrimor(1100) under 132/7/1964 in p. no. 6922-10500/-  
visc this office remitted of over amount 4100 22.6.93  
to Dabir recorded to office of Sr. Auction Wazirpur(1100)  
in p. no. 7050-11500/- and posted to 4048/DPD under Sr. 222/  
120 against chitong recovery.

Remittance upon his previous p. no. 7050-11500/-  
to 218 of Dabir for recovery and remitted to the extent  
of his sum of Shri Dabir Rao SC(1100)/TUK to p. no. 418/694-  
Circular to being recorded as per above.

This document with the approval of competent authority.

(A. S. Bhatia)  
SFO/84/33.

For General Manager(P)/P.M.G.M.

No. P/256/50(1100)

Dated: 24.8.93.

Copy forwarded for information and necessary action. P.M.G.M.

1. Dabir/110.
2. GM/110.
3. B.M.(P)/110.
4. Sr. 222/120.
5. D.P.D/110.
6. A.P.O/110.
7. Staffs concerned.

Aug 21/89

For General Manager(P)/P.M.G.M.

Attested by:  
B. D. Choudhury  
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 RNY vice. ~~Sr. 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 21-01-2003.

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.

Help  
to be sent to  
S.S.E / E.L.I / B.P.B  
1/1/03

Attested by  
B. N. Dhangaji  
Adt  
of 18

For General Manager (P)

-13-

ANNEXURE-III

23

N. F. RAILWAY

( OFFICE ORDER )

Shri Ajay Kr. Vishwakarma, SSE(P)/BPP 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 BPP as per his request.

This issued with the approval of CEE/MLG.

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

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

Dated: 23/4/03.

Copy forwarded for information & necessary action to:-

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

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

R. A/S/184  
25/4/03

Attested by  
Boudhury  
A.D.

27/8

N.E.Railway.

No.EL/254/LM/Misc/1317

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

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.

Sr.DEE/Lumding.

Attested by  
B. S. Dandwate

प्रतिनिधि प्राचार निक अधिकारी  
Central Administrative Tribunal

19 JUL 2004

गुवाहाटी न्यायालय  
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH, GUWAHATI.

IN THE MATTER OF

OA 196 OF 2003

Shri A.K.Viswakarma

Applicant

Versus

Union of India represented  
by G.M., N.F.Railway and  
others

Respondents

AND

IN THE MATTER OF

Written statement on behalf of respondents  
The answering respondents most respectfully

SHEWETH :

1. That the answering respondents have received a copy of the application filed and have gone through the same and have understood the contents thereof. Save and except those statements which are specifically admitted hereinbelow or those which are borne on records all other averments/allegations as made in the application are emphatically hereby denied and the applicant is put to the strictest proof thereof.

2. That for the sake of brevity meticulous denial of each and every allegation/statement made in the application has been avoided. However, the answering respondents have confined their replies to those points/allegations/averments of the applicant which are found relevant for enabling a proper decision on the matter.

3. That the application suffers from want of a cause of action as transfer of a subordinate staff from one place of posting to another, it is respectfully submitted, is a part of the routine and normal part of the administrative process needed for ensuring smooth running of the administration. Such routine transfers ordered at periodical intervals may not be questioned, especially because the applicant already served in his place of posting for more than four years before issue of the order for transfer(dated 21.01.2003).

As far as the personal difficulties of the applicant is concerned, it is submitted that the respondents

(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

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✓

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.

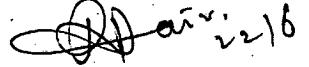
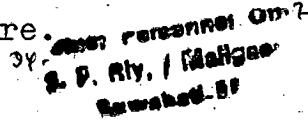
And for this act of kindness the respondents shall as in duty bound ever pray.

(4)

VERIFICATION

I, Shri R. AAIVU, aged about 39 years, son of late S. Rama Samy, 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.

—   
Signature.   
Dy. <sup>Joint Personnel Officer</sup>  
S. P. Aly. / Maligaon  
Assisted-BB