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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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FORM NO. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWALIATI BENCH

ORDER SHEET

Original Application : 200/2003

Mise Petition No. :

Contempt Petition No. :

Review Application No. :

Applicants:- Sri Niranjan Das

Respondents:- 601 & 028

Advocate for the Applicants:- Mr. S. Sonoma, M.R.C. Das.

Advocate for the Respondents:- CGSC

Notes of the Registry	Date	Order of the Tribunal
This application is in form but not in time. Cognoscition Petition is filed / not filed C. F. for Rs. 50/- deposited vide IPO/DO No. 9.G.15948 dated 26/8/2003.	29.8.03	Present: Hon'ble Mr. Justice D. N. Chowdhury, Vice-Chairman and H. M. Mr. K. V. Bhattacharjee, 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. Returnable by four weeks.
Notice prepared & sent to Dls for him the respondent No 1 to 5 by Regd. A/D. DINo 1872 W 1874 Dtd 3/9/03	18/8/03	Issue notice on the respondents to show cause as to why the transfer and posting order bearing No. Staff/3-4/92 Ch. II, dated 26.6.2003 from Supdt. NESD, Guwahati to Sr. PM, Silchar HQ, shall not be suspended. In the meantime, the impugned order dated 26.6.2003 shall remain suspended till the returnable date.
		List on 19.9.03 for Admission.
		Vice-Chairman

Pl. comply order
dated 19/9/03

19.9.03 List on 26.9.03 for Admission.
The interim order shall continue.

✓
29/9/03

KV Redden
Member

1m

No. reply has been
rec'd.

26.9.2003 List again on 7.11.2003 for
admission. In the meantime, interim
order dated 29.8.2003 shall continue.

✓
26.9.03

Vice-Chairman

Pl. comply order
dated 26/9/03

mb

✓
26/9/03

7.11.03

Mr. Bench today,
Adjourned to 10.12.03.

By
h

Order dated 26/9/03

Communicated to the
parties counselled.

2.1.2004

Heard Mr. S. Sarma, learned
counsel for the applicant and also Mr.
A. Deb Roy, learned Sr. C.G.S.C. for
the respondents.

Order dt. 2/11/03, Sent to
D/Section for issuing
to L/Advocates of both the
parties.

Car
8/11/04

The O.A. is admitted. List on
12.2.2004. The respondents may file
written statement, if any. Interim
order dated 29.8.2003 shall continue.

KV Redden
Member (A)

10.2.04

mb

W/S submitted
by the respondents.

5.3.2004

On the prayer of counsel for the
applicant, the case is adjourned. List
on 15.3.2004 for hearing. Interim order
dated 29.8.2003 shall continue.

DR

KV Redden
Member (A)

Pl. comply order dated
15/3/04.

mb

15.3.2004

On the plea of counsel for the applica-
nt, the case is adjourned. List on 8.4.2004
for hearing. Interim order dated 29.8.2003
shall continue.

Order dt. 15/3/04 sent to
D/Section for issuing to
both the parties.

Car
15/3/04

mb

KV Redden
Member (A)

8.4.2004 On the plea of counsel for the applicant, the case is adjourned. List on 28.4.2004 for hearing.

WLS has been listed.

[Signature]
Member (A)

3D
27.4.04

mb

28.4.2004 On the plea made by Mr.A.Deb Roy, learned Sr.C.G.S.C. the case is adjourned and again listed on 5.5.2004 for hearing.

[Signature]
Member (A)

bb

21.5.04 5.5.2004

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

[Signature]
Member (A)

nkm

copy of the final order has been sent to the D.P.C.C. for serving the same to the applicant as well as to the Sr.C.G.S.C for the respon.

AS

ay 9/6

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./RXX. No. 111 200 of 2003

DATE OF DECISION 5.5.2004

Shri Niranjan Das

.....APPLICANT(S).

Mr. S. Sarma and Ms U. 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. K.V. PRAHLADAN, ADMINISTRATIVE MEMBER

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 Member

long

(4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.200 of 2003

Date of decision: This the 5th day of May 2004

The Hon'ble Mr K.V. Prahladan, Administrative Member

Shri Niranjan Das
Superintendent of Post Offices,
Nalbari-Barpeta Division,
Nalbari.

.....Applicant

By Advocates Mr S. Sarma and Ms U. Das.

- versus -

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Communication, Department of Posts, Dak Bhawan, New Delhi.
2. The Chief Postmaster General Assam Circle, Meghdoot Bhawan, Guwahati.
3. The Director, Postal Services, Assam Circle, Meghdoot Bhawan, Guwahati.
4. The Asstt. Post Master General (Staff), Office of the Chief Post Master General, Assam Circle, Guwahati.
5. The Superintendent of Post Offices, Darrang Division.

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....

O R D E R (ORAL)

K.V. PRAHLADAN, ADMINISTRATIVE MEMBER

This application is for quashing of the order of transfer of the respondents dated 26.6.2003, Annexure-4, transferring the applicant from the post of Superintendent NESD, Guwahati to the post of Sr. Post Master, Silchar Head Office. The applicant had been earlier transferred from Nalbari-Barpeta Division to the post of Superintendent NESD, Guwahati vide order dated 22.1.2003. This order was

Dw

confirmed with some modification by the respondents vide order dated 3.2.2003, Annexure-6. Both the transfer orders dated 21.2.2003 and 3.2.2003 were challenged before this Tribunal in O.A.No.21 of 2003. The said O.A. was finally dismissed by the Bench vide order dated 28.2.2003 (as there was no merit in the application).

2. The present O.A. is against the order dated 26.6.2003 by which the applicant has been transferred from Guwahati to Silchar Head Office as Post Master. The applicant had earlier by interim order dated 7.2.2003 in O.A.No.21/2003 got a stay against the transfer order dated 22.1.2003. The applicant also claimed that the charge report dated 5.2.2003 was arbitrary ^{and issued} with malafide intentions. The applicant has also not got his salary since the implementation of the order dated 5.2.2003, Annexure-7 to the written statement. The respondents, however, claimed that the applicant was relieved on 5.2.2003 before the receipt of the interim order dated 7.2.2003.

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

4. The transfer orders dated 22.1.2003 and 3.2.2003 have been decided by this Bench vide order dated 28.2.2003 in O.A.No.21/2003. The crux of the matter is whether the order of transfer dated 26.6.2003 is legitimate, just and fair. This order was issued since the applicant did not join Guwahati as per the order of transfer dated 22.1.2003. In O.A.No.21/2003 this Bench observed as follows:

".....it is difficult to hold that the transfer order of the applicant emanated from any improper motive....."

This judgment had gone into the entire matter relating to the transfer orders dated 22.1.2003 and 3.2.2003. In O.A.

No.200/2003 the transfer order dated 26.6.2003 was stayed vide interim order dated 29.8.2003. However, since his relief by order dated 5.2.2003 the applicant has not joined as Senior Post Master, Silchar. Therefore, the applicant with effect from 5.2.2003 has not joined duty till date. It appears that the transfer order was passed in exigency of administrative requirements. We cannot attribute any improper motive in the action of the respondents.

5. The applicant is accordingly directed to join the post of Senior Post Master, Silchar Head Office as per the transfer order dated 26.6.2003 and the respondents shall within a period of one month of his joining at Silchar consider his case for transfer to the place of his choice after giving him an oral hearing. Since the applicant has less than one year to retire, the respondents may take a compassionate view. The period of absence may be regulated by giving him leave for which he is eligible as per rules and provided he applies for it.

6. Subject to the observations made above, the application stands dismissed. No order as to costs.


(K. V. PRAHLADAN)
ADMINISTRATIVE MEMBER

28 APR 2004

गुवाहाटी न्यायालय
Guwahati Bench

9
Filed by
the applicant through
Niranjan Das
Advocate
27/4/04

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI.

DA NO: 200 of 2003

Shri Niranjan Das

Applicant

vs

Union of India & Others

Respondents

Rejoinder submitted by the Applicant against the Written Statement.

The applicant with due respect and honour begs to submit the rejoinder, which may be treated as a part of the original application and subsequent evidences.

BRIEF HISTORY OF THE CASE

That, there is no dispute regarding the status and joining and the conditions of transfer order dated 22.01.2003 except that, the transfer was premature and without any cause and before tenure of minimum four years and, beyond the provisions of rules for tenure/rotational transfers.

That it is a fact that, the representation dated 23.01.2003 was in pursuance of rules and provisions that, an officer retiring within two years, his claims must be finalised and settled before retirement. In fact this legal position has been affirmed by the 5th Pay Commission Recommendation. As such, the said representation dated 23.01.2003 with the option for going on Voluntary retirement within one year and more specifically mentioned to have effect in the early part of 2004. As such the formal notice of three months was given under notice dated 02.12.2003 (Annexure:I) which has not been accepted by the competent authority without any cause and reasons as intimated by the Chief P.M.G, Assam Circle, Guwahati under his no: Staff/1-

343/88 (Loose) dated 08.03.2004 (Annexure:II).

That, the cause and object of the representation dated 27.01.2003 made in connection with the transfer order dated 22.01.2003 was very reasonable keeping in view the sympathetic consideration on alternative decision by accommodating the officer transferred from Jorhat and who is belonging to Guwahati to have better efficiency to both the officers. In fact a preconceived interest was told to be involved for the said officer posted there which has subsequently been learned from the reasonable and believable sources of the authority.

That, the decision on both the representation dated 23.01.2003 and dated 27.01.2003 were not at all intimated to the applicant though stated to be issued vide no: Staff/1-343/88/Pt.I dated 04.02.2003 which has not been received as yet. Thus the instance of issue of the said letter may either be bogus or illusory at the moment of cause keeping in view the modus operandi of the cause that, the modified order of transfer dated 03.02.2003 issued earlier and the decision of the representation dated 27.01.2003 issued to be latter and on 04.02.2003 appears to be useless, futile and a routine nature has had peculiar and distinguish odd features in the interest of justice. In fact, both the letters have not been received by the applicant which may be shown with reasons and evidences by the respondents.

That, in the transfer order dated 22.01.2003 wherein it was directed that, Shri K.C.Sarma will first move to Darrang Division and the applicant have had the fourth turn, but for the modified order dated 03.02.2003 which was not received as yet and the applicant was not informed of the said modification of the transfer order by any sources. Shri

K.C.Sarma while was at Guwahati and in the said complex of the office of the authority for issuing the orders might have received the copy of the order on any day either on 3rd or 4th day of February 2003, but the means and cause of receipt of the said order at Nalbari are quite different and the report of Shri K.C.Sarma on 05.02.2003 and assuming charge of SPOFs Nalbari which was belonging to the applicant and at his absence unilaterally is quite subversive to the basic rules and conduct of business except for other cause and reasons and under principles of administration of justices.

That, the applicant being the head of the division, has had free movements to any where in the division to attend any sort of duty including Court cases where those are pending and likely to be involved if necessary with permission of the authority keeping of the view of the urgency and the nature of the duties. Thus for urgency of the Court case causing a contempt proceedings against the Chief P.M.G. and the SPOFs Nalbari filled by one Shri H.Kakati, PA, Barpeta H.O. and the telephonic call by the C.G.S.C/Addl.C.G.S.C. the applicant had to rush to Guwahati on the fast morning on 05.02.2003 and meet them on 05.02.2003 itself and also discussed with the senior C.G.S.C. Gauhati High Court for other cases pending with him and taken an application dated 05.02.2003 for granting advance of fees to him. (A copy of the application dated 05.02.2003 is marked as Annexure:III). Thus the assertion and contention that, the applicant was absent without intimation to his where about is reasonably false, arbitrary and an intentional bad idea against the applicant. Hence, Shri K.C.Sarma who was to relieve the applicant from the

charge could not wait for a single day or for any information till evening when the applicant returned to head quarter and did office works in the office chamber on 05.02.2003 in the evening, but he assumed the charge unilaterally and leaving the head quarter as informed to the applicant by the relevant staff, has violated the code of conduct and principles of natural justices. The fort nightly Diary of February 2003 of the officer (Applicant) and the disposal of the files by the staff on 05.02.2003 can easily be examined to prove the presence of the applicant on 05.02.2003. This sort of enquiry is not far from the reaches of the respondent and the applicant equally which can easily be established. (A copy of Diary of 1st fortnight of February 2003 dated 19.02.2003 marked as Annexure IV)

That, in fact the post was not vacant but to accommodate the officers of specific class, it was utilised as such with the order dated 26.01.2003 without any information or service of any copy of the said order to the applicant as yet.

The applicant begs to submit the parawise rejoinder as follows:-

i. That, with regard to the written statement made in para i that, the status and the condition of the transfer order dated 22.01.2003 is admitted. But it is not admitted that, the applicant was relieved on 05.02.2003 for the cause and reasons that, he was actively on duty at Hon'ble Gauhati High Court Guwahati including Hon'ble CAT, Guwahati with the Sr. C.G.S.C/Addl. C.G.S.C. and returned back to head quarter on the day in the evening and did office works in the chamber. The performance of duty was noted in the fort

nightly diary for February 2003 and the disposal of files as noted by the staff of Divisional office on their disposal diaries. A letter dated 05.02.2003 from Mr. Chinmoy Choudhury, Advocate Gauhati High Court and Sr. C.G.S.C which will speak itself the condition of rendering service of the applicant at Gauhati High Court. (Copy of the letter dated 05.02.2003 marked as Annexure: III). Despite interim order dated 07.02.2003 in OA No: 21/2003 restraining to give effect to the transfer order dated 22.01.2003 and 03.02.2003, there was no subsequent orders from the respondents. Thus, the respondents appear to that they did not obey the orders of the Hon'ble CAT, which remains cipher in the long run. There was no reply or action taken to the representation so made under direction of the Hon'ble CAT under judgment/order dated 28.02.2003 under OA No: 21/2003 released on 27.03.2003 and the representation dated 28.03.2003 happens to be in time and received by the responding authority on 03.04.2003 has had no order till date. Thus, while there was no condition of relief of the applicant from the post of SPOFs Nalbari. Hence, there was no question of joining as Supdt. NESD, Guwahati up to 25.06.2003. There was little consideration or importance of the post but for the importance which was held to the officers to accommodate and thereby the issue of the transfer order dated 26.06.2003 was manipulated without service/giving any copy of the order to the applicant.

That, the judgment order dated 26.02.2001 under OA No: 135/1999 has impact of direction for (i) straight promotion and posting to Accounts service cadre (ii) payment of duty pay and allowances from 13.11.1975 to 04.04.1978 and (iii) payment of outstanding TA Bills against which the WP(C) No:

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6796/2001 of the Hon'ble Gauhati High Court is nothing but a routine prevention to the legitimate claims of the applicant. The impact has been such that, the applicant has qualified in the P&T Accounts service examination, Part: I November 1972 and P&T Accounts service examination Part: II May 1975 and the completion of the prerequisite training from 02.05.1975 to 09.11.1975 which made him illegible to be promoted to the Accounts service cadre but for the delay with so much hanky-panky etc since then. The Hon'ble CAT Gauhati under OA No: 135/1999 has given clear direction to (i) promote the applicant in the Accounts service cadre with retrospective effect from the date it was due and from the date and with reference to the date of promotion of his junior, (ii) regularization of the service for the period from 13.11.1975 to 04.04.1978 treating the same as on duty with full pay and allowances and (iii) payment of outstanding TA Bills. In view of the fact, and directions the cause of appeal in the Hon'ble Gauhati High Court is nothing but adopting a delaying practice to settle the claims contrary and vis-a-vis that, justice delayed means justice denied since 1972.

2. That, with regard to para 3 of written statements the applicant begs to submit that there is no dispute regarding the transfer except that, the transfer in the interest of public service is punitic in character which has not been specific against whom but in fact the transfer order was issued in the interest of services which may be examined rightly now. The guidelines are valuable which may not be neglected and the exercise of prerogative of the competent authority should be equally fair, judicious and impartial to all officers or sections and where there is different there

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is the urge of justices and demand of legalities.

That, the terms and conditions of the transfer order dated 22.01.2003 was ipso facto valid but it was not settled under order dated 28.02.2003 under OA No: 21/2003 keeping in view the pendency of any order High Cou for the cause of the interim order dated 07.02.2003 and the representation dated 28.02.2003. The impact of the OA No: 135/1999 is still open to consider the due promotions in the Accounts service cadre and the cause of storing under WP(C) No: 6796/2001 indefinitely at the mere cost of the Govt. is nothing but a delaying tactic.

3. That, with regards to para 4 of the written statement the applicant begs to submit that, the condition of the option dated 23.01.2003 was an ultimatum to settle the claims of the Govt. officer retiring within two years under the provisions of rules and the time bound conditions have been imposed in the notice dated 02.12.2003. The applicant was not informed with the letter dated 04.02.2003 which appears to be made to fill up the gap of the specific schedule of action.

The judgment/order dated 26.02.2001 has had definite bearing and impact keeping in view the direction to promote the applicant to Accounts service cadre and the maintenance of the transfer dated 22.01.2003 and dated 03.02.2003 has had direct conflict with the statuesque order under WP(C) No: 6796/2001 of the Hon'ble Gauhati High Court having reference to an earlier round of litigation where in the Hon'ble Tribunal has directed for further continuance of service in Accounts cadre.

4. That with regard to para 5 of the written statement the applicant begs to submit that, the instinct of

direction of the Hon'ble CAT under OA No: 21/2003 for not precluding the applicant to represent has been exercised with the representation dated 28.03.2003 which is pending for reasonable orders with duty bound considerations with speaking orders. Seemingly the cause and reasons of the transfer order dated 06.02.2003 was not communicated to the applicant as yet and the cause of inviting any representation against such act of preconceived notion would be a negative motive only.

5. That, with regard to para 6 of the written statement the applicant begs to submit that, despite valid grounds and reasonable conditions as mentioned in the representation dated 27.01.2003, the request for retention was considered but not acceded to, because the officer posted there has been arranged with preconceived understanding as detailed in the brief history of the case and the receipt of the letter dated 04.02.2003 is still awaited. The alternative arrangement made under order dated 03.02.2003 was not informed to the applicant as yet. The respondents are at liberty to prove the service of the order dated 03.02.2003 before forenoon of 05.02.2003 at Nalbari and the means of communication to establish the veracity of truth. Shri K.C.Sarma was to relieve the applicant and he was not authorised to assume charge unilaterally on 05.02.2003 forenoon as he has done at the absence of the applicant at head quarters with duty at out station as detailed above in the brief history of the case and in other paras of this rejoinder. It is imperative that, none but an officer of immoral character and criminal conduct can sponsored such illegal action of assuming charge by an officer who has been arranged to relief another officer

unless the later is contacted or the post is otherwise lying vacant. The illegality was not within any rules and provisions and to speak of the common principles of natural justices. There was no requirement or necessity to assume charge illegally or unilaterally. It is not at all true that the applicant was aware of the order. The assertion is very shabby and immoral character which can not be a feature of action in the Govt. administration.

6. That, with regard to para 8 of the written statement the applicant begs to submit that OA No:135/1999 has held the clear and binding directives to promote and further continuance of service in Accounts cadre. The created bar with WP(C) No: 6796/2001 in the Hon'ble Gauhati High Court is nothing but a routine exercise of making delay and imposition of internal and mental harassment to the mind of the applicant and also delaying in settlement of the promotions and the claims. The impact of the transfer order dated 22.01.2003, dated 03.02.2003 and also dated 26.06.2003 has violated the judgment/orders dated 26.02.2001 on OA No:135/1999 to the extend that, the present transfer to a post other than Accounts cadre is against the direction for further continuance of service in Accounts cadre and statuesque order maintained under WP(C) No: 6796/2001 has had direct conflict with the transfer orders.

7. That, with regard to para 9 of the written statement the applicant begs to submit that there is guidelines and directions for Govt. servants who are at the verge of retirement to be not disturbed with any transfer and who may be accommodated more suitably to the home town or nearest station and maintenance of the said conditions have to be generally adhere to as in the judgment/order dated

28.02.2003 under OA No: 21/2003. Despite direction to consider the facts and circumstances, the proposed assertion that, an officer of PSS, Group-B is liable to be transferred anywhere in the circle can not but be an act of clear violation of the Guidelines and the principles of Govt. directions. There is no dispute on the receipt of the transfer order dated 22.01.2003 against which there was representation dated 27.01.2003 and the reply to which is still awaited. The introduction of OA No: 21/2003 was not only for the cause of order dated 22.01.2003 but primarily for the cause of order dated 03.02.2003 and for the cause of defamation of insulting on assuming of charge of the post belonging to the applicant by the relieving officer on 05.02.2003 forenoon when the applicant was in fact on active duty. This illegal actions have been beyond any rules and principles and least and act of criminal and immoral character as it has been conspicuous of the mention that there was no any illegal motive behind the action on the part of the authority. It is a shabby assertion of the administration that the applicant remained out of head quarter soon after receipt of the order to avoid transfer of charge. This is likely to damage the image of a Department of honest character. It is imperative that, the authority has issued the modified order dated 03.02.2003 and the criminally alleged relief by assuming the charge on 05.02.2003 forenoon unilaterally has had the clear feature of pre-judicial understanding with preconceived notion to entertain personal gain by the authority issuing the order, which was not received at all. Thus for those improper assertion of conditions and facts it has been vitally clear that the authority issuing the orders dated 22.01.2003,

dated 03.02.2003 and dated 26.06.2003 has had illegal motive and malafide intention behind this action of illegal and criminal nature.

10. That, with regard to para 10 of the written statement, the applicant begs to state that the judgment /order dated 28.02.2003 in OA no: 21/2003 holds direction in addition to the dismissal which, will not preclude the applicant to represent to the authority and the authority is duty bound to consider it as per law and with speaking order. The order dated 28.02.2003 has been released on 27.03.2003 and the representation has been made on 28.03.2003 and the necessary order on which is still awaited. (A copy of the representation dated 28.03.2003 marked as Annexure: VI)

That , it is a fact that the order dated 07.02.2003 in OA no: 21/2003 was duly served on 10.02.2003 whence from the applicant was affected. The applicant was only active duty on 05.02.2003 and the cause of assuming the charge of the permanent incumbent (Applicant) by the relieving officer instead of relieving from his charge is illegal and involved with the act of criminal notion and appears to be very odd in the interest of justices. The respondents as the authority must have had the basic principle to maintain equal and fair administration of justice rightfully visa-vis the maintenance of court's order and the failure to which is definitely a willful refusal on the part of the respondents.

11. That, with regard to para 11 of the respondents the applicant begs to submit that, the respondents while pleaded in MP-15/2003 that, since the relieving officer has assume the charge, there is no question of stay to be maintained as in the interim order dated 07.02.2003 in OA

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no: 21/2003. However, in this para of the written statement it has been apparent that, while the Hon'ble Tribunal after examination of the whole issue dismiss the original application in the judgment/order dated 28.02.2003 released on 27.03.2003 and the interim order has no effect there after means and includes this date. The simultaneous observation as a part of the judgment/order dated 28.02.2003 it was that, the dismissal of the case will not preclude the official to represent and the respondents are duty bound to consider it as per law with speaking order which has been complied with the rightful representation dated 28.03.2003 and the necessary order on which is still awaited. Thus, the affect of the interim order dated 07.02.2003 was rightfully remaining binding till the issue of the required order by the respondents.

12. That, with regard to the para 13 of the written statement the applicant begs to submit that, while the applicant was on active duty on 05.02.2003 at an outstation, he is supposed to be at the head quarter (Nalbari) for the day and returning back to the head quarter and office and cause of doing official performances does not means to loss his where about for the day. Thus the act of assuming charge on 05.02.2003 by the relieving officer for the cause of issue of order dated 03.02.2003 which the applicant did not receive is illegal and invalid in the interest of logic and justices.

As such, it is very much fluctuating to hold the assertion that, the applicant remained absent since then without information and having the knowledge of his reliever proceeding to Nalbari to relieve him. This sort of assertion that proceeding to Nalbari to relieve him is not only false

but also hypothetical and very much odd estimation in the interest of justices. The disposal of the 1st fort-nightly Diary for February 2003 will speak itself the where about of the applicant during the period. (As on Annexure: IV)

13. That, with regard to para 14 of the written statement the applicant begs to submit that, the respondents have had the tendency to deny the real facts and causes and rather tendency to believe and make affords to false and lies without any hesitation and principles. The cause of the applicant has no relation with Mr. M. Ali and while there was judgment /order dated 07.02.2003 and 26.02.2003 in OA no: 21/2003 and any order on representation dated 28.03.2003 was pending and the statement that, the post was vacant from 05.05.2003 is not based on facts as no such post can be lying vacant. The modified order dated 26.06.2003 was not informed to the applicant and the basis cause of this order was to accommodate the specific class of officers only. The applicant submit further that, there was no prayer or representation for Guwahati and the other District of Nalbari-Barpeta division is his (Applicant) home town and the present residence may be changed at any time for which the sympathy, to have no hardship to him (Applicant) as expressed by the respondents merely is nothing but then cause of shading fcrocodiles tearF against the interest of the applicant and to divert the circumstances or atmosphere with sympathetic colour only.

14. That, with regard to para 15 of the written statement the applicant begs to submit that, for the cause of an earlier litigation under OA no:135/1999 pending for decision under WP(C) no: 6796/2001 in the Hon'ble Gauhati High Court, the present case under OA no: 21/2003 of the

Hon'ble CAT, Guwahati was dismissed without merit for the said cause. However, the observation to be a part of judgment/order dated 28.02.2003 directing the submission of a representation of the applicant made on 28.03.2003 is still pending for subsequent order..

15. That with regard to para 18 of the written statement the applicant begs to submit that, while the conditions and request of the other officers could be considered what was the exception to make a bar or special feature not to consider the request of the applicant during the time on 24/25.03.2003. When the representation dated 28.03.2003 is pending for subsequent order, the genuine issue of the letter no: Vig/5/IV/2003 dated 24/25.03.2003 is doubtful and the delivery may not be at the given address when the applicant was ill for his eye operation on 19.03.2003 and under treatment and restriction to movement and was lying at his present residence at Guwahati. It is relevant that an official from Circle Office was directed to visit my residence at Guwahati and to deliver some letters during the early part of April, 2003 and he was told to give it when the applicant gets recovery from illness. Thus, the contention or assertion of the respondents that, the whereabouts of the applicant remained unknown is totally false and shabby for the cause of facts, reasons and circumstances.

16. That, with regards to para 19 of the written statement the applicant begs to submit that, it is quite irrelevant that for the cause of holding the date of retirement on 28.02.2005 and the cause of dismissal of the case in OA no: 21/2003 the applicant had to join as Supdt. NESD, Guwahati as stated to be lying vacant from 05.03.2003 and simultaneously once in para 14 of the written statement

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stating the said post to be vacant from 05.05.2003 holds difference in the statement. Moreover, the respondents who seem to be very lenient to the position of retirement of the applicant on 28.02.2005 with consideration for his last leg of service, he was transferred to Guwahati had to be dependable under the position of a vacancy and the applicant being the senior most in the cadre has to be ordered to join at a vacant post of Sr. Postmaster, Silchar H.O. under dated 26.06.2003 at the verge of his retirement despite the rules and provision as discussed in OA no: 21/2003 for the Govt. servants and contrary to such circumstances the action of the respondents appears to be malafide, intentional and subversive to the principles of natural justices.

It is a fact that, the applicant on hearing the cause of his farther transfer as Sr. Postmaster at Silchar H.O. personally attended at NESD, Guwahati could get a photocopy of the said order in the last part of August, 2003 and then caused to file a case under OA no: 200/2003 and the interim order dated 28.08.2003 obtained and submitted to the DPS, Assam Circle, Guwahati personally in time. It is fact that, there were numerable letters from all sources have been delivered to the applicant during the period but, the only cause of non delivery of the said order/letter dated 26.06.2003 and the blame that, the officer did not try to communicate with the authority nor inform his where about, is really very unreasonable and shameful in the interest of justices.

17. That, with regard to para 20 of the written statement the applicant begs to submit that, the wrongful assertion that, he was relieved on 05.02.2003 (F/N) at Nalbari is totally and factually false and incorrect. The

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cause and situation have been well explained in the brief history of the case and in para 7 of this rejoinder. The contention that, after availing the due joining time the officer was to join in the post as order but he has not done nor submitted any leave application apart from giving his information of where about is in total violation of the interim order in OA no: 21/2003 dated 07.02.2003. The drawal and disbursement of pay and allowances since February 2003 is legally and circumstantially due for making service interruption to render active service since 10.02.2003 by delivering the order dated 07.02.2003 in time. This domain is under the concept of judiciary and the lacunae and the cause of harassment by the respondents on the plea of alleged relief on 05.02.2003 (F/N) by assuming the charge by the relieving officer under his criminal conspiracy. On the other hand the applicant was on active service on 05.02.2003 and under provision of casual leave, holiday and Sunday and attending for the cause of duty to conduct a recruitment test on 09.02.2003 of PA cadre could not be held and lastly be taken by the other officer allegedly holding the charge who caused the criminal conspiracy for the cause of non issue of subsequent order occasioned for the interim order dated 07.02.2003 in OA no: 21/2003 since 10.02.2003 for active duty.

18. That, with regard to para 21 of the written statement the applicant begs to submit that, the *prima facie* cause of remaining the impact of earlier litigation under OA no: 135/1999 with statuesque order dated 29.09.2001 in WP(C) no: 6796/2001 of the Hon'ble Gauhati High Court, the further dispute regarding the authority to issue orders of transfer at this stage has been considered in OA no: 21/2003 and

order dated 28.02.2003 of the Hon'ble CAT, Guwahati in the light of the policy guideline which is meant to act as a guidance is normally be adhered to but for infringement of the guideline will however ipso-facto not make the transfer order void. Hence, for want of merit the application has been dismissed but with simultaneously observation of directing the applicant to make a representation having made on 28.03.2003 is still pending for order from the respondents.

That, the applicant is not trying to reopen the issue for the cause of transfer. However, the cause of wanting relief and the status of the applicant appears to be still standing as Supdt. of post offices Nalbari-Barpeta Division. The cause of non execution of interim order dated 07.02.2003 in OA no: 21/2003 and non issuing of subsequent order to settle the anomaly of assuming charge with criminal conspiracy by the reliving officer who is now at set free has been the prime cause of the litigation. While the applicant who was holding the charge and on active duty on 05.02.2003 has been made with untold miseries with non payment of duty pay and allowances since February, 2003 till date. The status of the representation dated 28.03.2003 will show itself the contrary condition of correct receipt of the representation by the office of the respondents. (As in Annexure: VI)

The order dated 07.02.2003 admitted to be received by the respondents on 10.02.2003 was not taken in to execution and the cause of actual relief or non relief could have been verified from the disposal of the office works including counter signatures of large no of Bills on 05.02.2003 by the applicant and the submission of the Diary

for the 1st fort-night of February, 2003 (As in Annexure:IV)
Instead, the tag of war for this simple cause is nothing but a harassing instrument under the exercise of the official powers of the respondents at the report of criminal conspiracy of the relieving officer rather to adopting so such insolvent information and falsified statement suppose to damage the image of the department.

4
✓

VERIFICATION

I, Niranjan Das, aged about 58 years, at present working as Supdt. of Post Offices, Nalbari-Barpeta Division, Nalbari, do hereby solemnly affirm and verify that the statements made in paragraphs 2, 3, are true to my knowledge and those made in paragraphs 1, 4, 5, -18, are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 27th day of April of 2004.

Signature.

Niranjan Das.

To,
The Director General,
Department of Posts,
Dak Bhawan, New Delhi-110 001

(Through Proper Channel)

Dated Guwahati the December 02, 2003.
Sub: Voluntary Retirement under Rule 48(I)(a) and
(1-A)(a). of CCS(Pension) Rules 1972.

Hon'ble Sir/Madam,

I have the honour, profound respect and humble submission to state that, under the principle and instinct of honesty and sincerity that have had and despite much disastrous struggle for survival and denial of avenues, I have been very much happy to get the opportunity to establish an honest, bright and value based service oriented career to do service for 40 years which I don't like to have to be presently de-valuated or clouded under the ridiculous tend of injustices to which I have no compromise.

Now, therefore, under careful understanding and conscious exercise of prudence and in continuation of option dated 23.01.2003, I have decided to go on Voluntary Retirement under the provisions that –

Whereas under Clause 1(a), read with Clause (1-A)(a) of Rule 48 of CCS(Pension) Rules 1972, it has been that, at any time after a Govt. servant has completed 30 year's qualifying service, he may retire from service, provided that, a Govt. servant shall give a notice in writing to the Appointing Authority, at least three months before the date on which he wishes to retire, provided further to be read with (1-A)(a) that, a Govt. servant referred to in Clause (a) of the first proviso to sub-rule (1) may make a request in writing to the Appointing Authority to accept notice of less than three months giving reasons there for and I pray on the ground, which happens to be for personal inconvenience and the inclining to have the retirement as early as possible.

And, therefore, under the said reasons and circumstances, I like to tender this notice for Voluntary Retirement to have effect from April 02, 2004 which may kindly be accepted and do arrangement for granting benefits of retirement in time.

And for this act of your great kindness, I shall be ever grateful.

Yours faithfully,

Niranjan Das
(Niranjan Das)
Supdt. of Post Offices,
Nalbari-Barpeta Division,
Nalbari-781 335,
Residence: Kalimandir Path, Dhirenpara
Guwahati-781 025, Assam.

Copy to:

The Chief Postmaster General, Assam Circle, Meghdoot Bhawan, Guwahati-1, for information and necessary action.

Attested

W.D.D.

carb

Niranjan Das
(Niranjan Das)

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Annexure - 2
Recd/AD

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL
ASSAM CIRCLE : GUWAHATI.

No. Staff/1-343/88(loose)

Dated at Guwahati the March 8, 2004

To

✓ **Shri Niranjan Das**
Former Supdt. of Posts
Nalbari-Barpeta Dn. and
Sr.PM Silchar HO(Designate)

✓ Residence—Kalimandir Path, Dhirenpara, Guwahati-25

Sub:- Notice for Voluntary Retirement w.e.f. 2-4-2004(F/N)—Case of Sri Niranjan Das,
Former SPOs Nalbari

I am directed to inform you that your notice dtd. 2-12-2003 for Voluntary
retirement w.e.f. 2-4-2004 has not been accepted by the competent authority

✓
(B.Radhika Chakravarty)
A.P.M.G. (Staff)
For the Chief Postmaster General
Assam Circle, Guwahati - 781 001

Attested

W.B. Das

Advocate.

Chinmoy Ghoshdury

ADVOCATE
GAUHATI HIGH COURT

Gunomoy Bhawan
Rajgarh 1st by Lane (West)
East Sarania
Guwahati - 781 003
Phone: 545964

Date: 05.02.2003

To:

DAI Superintendent of Post offices

Nalbari Barakata Division

Nalbari

Sub: Filing of Affidavit in the High Court Case filed by Swapna Kalita against Union of India.

Sir,

In the above Subject of affidavit in opposition is being prepared for filing the same before the High Court in the case. You are therefore requested to remit an amount of Rs. 2500/- (Rupees two thousand five hundred) as advances to meet the expenditure required for preparing and filing the same.

Also, please furnish all relevant documents amounting to Rs. 100/- which may have bearing on final decision of the case.

W
05/02/03

Attested
Chinmoy Ghoshdury
Advocate

Yours faithfully
Chinmoy Ghoshdury
Advocate
Central Bar Council
Guwahati

FORT NIGHTLY DIARY FOR THE 1ST HALF : February, 2003

Superintendent of Post Offices: Naibari-Barpeta Division : Naibari

01-02-03 : Availed holiday.

(Saturday)

02-02-03 : Availed Sunday.

(Sunday)

03-02-03 : At HQ. Attended office and did office works.

(Monday)

04-02-03 : Attended office and did office works.

(Tuesday) Visited Naibari HO and taken stock of the arrear works and found to be somewhat satisfactory.

05-02-03 : Dep Naibari 0800 Arr Guwahati 1100

(Wednesday) Dep Guwahati 1700 Arr Naibari 2000

Proceeded to Guwahati and contact the Sr CGSC Guwahati, and discuss with the case filed by Ms Swapna Kalita Vs UOI and also discuss with the Addl. CGSC CAT for the contempt case filed by H. M. Kakati who called me to meet urgently. Then met the Sr CGSC Mr C. Choudhury, discuss with him the about the case of Ms Swapna Kalita Vs UOI & others and taken the application for grant of advance.

Then returned to HQ and did office works upto late night in the chamber.

06-02-03 : Availed casual leave.

(Thursday)

07-02-03 : Availed casual leave.

(Friday)

08-02-03 : Attended to official works.

(Saturday)

09-02-03 : Attended office, due to and for the cause of the written test, for recruitment of PAs which has been conducted by Mr. K.C. Sarma Dy SRM, Ghy RMS, as he told of obtaining the question papers.

Then halted.

10-02-03 : Attended office and did office works.

(Monday)

11-02-03 : Attended office and did office works.

(Tuesday)

12-02-03 : Attended office and did office works.

(Wednesday)

Attested

N. D. Baruah
Advocate

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13-02-03 : Attended office and did office works.
(Thursday) CPMG Dak has been opened by Shri K.C. Sharma, Dy SRM(HQ)

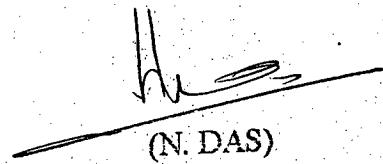
14-02-03 : Attended office and did office works.
(Friday)

15-02-03 : Availed holiday
(Saturday)

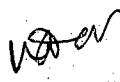
No E2 SP/Diary/2003

Date 19-02-03

Submitted to : The Director Postal services
Assam Circle, Guwahati-781001.


(N. DAS)
Superintendent of Post offices
Nalbari-Barpeta Division
Nalbari-781335.

Attest


Advocate

Date: 28/02/03

To,
 The Chief Post Master General
 Department of Post
 Guwahati-1

Sub:- Prayer for modification/cancellation of the
 orders of transfer dated 22.1.2003 and 3.2.2003.

Sir,

With due deference and profound submission I beg to lay
 the following few lines for your kind consideration and
 necessary thereof.

That while I was working as Supdt. of Post Offices,
 Nalbari-Barpeta Division, Nalbari, I received a
 communication vide memo no. Staff/3-4/92/CH.II dated
 22.1.2003 by which I was transferred to the post of
 North-East Stamp Depot, Guwahati. The aforesaid order
 was modified by another order dated 3.2.2003 by which
 Sri K.C. Barma was directed to move first.

That my present place of posting and the Post was the
 subject matter of my earlier round of litigation
 wherein the Hon'ble Tribunal has directed for my
 further continuance of service in accounts cadre,
 however, the said directives are yet to be complied
 with. The Department instead of complying moved the
 Hon'ble High Court wherein status quo was directed to
 be maintained. Even if under the present fact situated
 the Hon'ble High Court's order is to be honoured, ~~the~~
~~Department is to be honoured,~~ the Department is
 required not to disturb me from my present place of
 posting. Seemingly the orders dated 22.1.2003 and
 3.2.2003 is in direct conflict with said status quo
 order.

That Sir, I raising a grievance against the aforesaid
 orders dated 22.1.2003 and 3.2.2003 moved the Hon'ble
 Tribunal but the Hon'ble Tribunal refused to accept my
 plea and dismissed the OA as the matter is under sub-
 judice in the Hon'ble High Court as reflected in it's
 judgment. Taking into consideration the peculiar facts
 situation of the case I pray Your honour to modify the
 aforesaid two orders in question immediately as same
 being in violation of the status quo order passed by
 the Hon'ble High Court. Since the matter is under sub-
 judice in the Hon'ble High Court and I have ^{been} arrayed as
 the party respondent, I would have no other option to
 defend my case and since these transfer orders are
 subsequent development relating to that proceeding more
 particularly the status quo order passed by the Hon'ble
 High Court I may have to highlight these facts before
 the Hon'ble High Court.

Attested

[Signature]

Advocate.

17.

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In that view of the matter and to remove/minimise the legal complications I request Your honour to modify/cancel the orders dated 22.1.2003 and 3.2.2003 so far as it relates to my transfer, till disposal of the writ petition (c) No. 6796/01 and to pass necessary order in this regard.

Thanking you.

Yours Faithfully

Niranjan Das
(Niranjan Das)

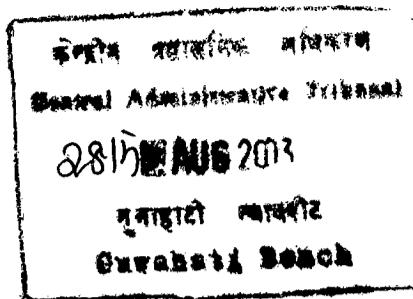
Copy to:-
Director of Postal Services
Guwahati-781001

RI 5200
2/4/03

The C. P. M. G.
Department of Posts
Guwahati - 781001
Assam Circle
General
3 APR 2003
3/4
10.4.03

Attested

W. Das
Advocate



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case : D.A. No. 800 of 2003

BETWEEN

Shri Niranjan Das Applicant.

AND

Union of India & ors..... Respondents.

I N D E X

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5.	Annexure-3	32
6.	Annexure-4	33
7.	Annexure-5	34, 35
8.	Annexure-6	36
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12.	Annexure-10	44
13.	Annexure-11	45, 46

Filed by : Nisha Das
Advocate

File no: \WS7\NIRADAS

Regn. No. :

Date :

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SYNOPSIS:

The issue involved in the case is relating to the transfer of the applicant to a post other than Accounts Service cadre. The applicant is a qualified person for the Accounts Service cadre to which he has opted. The applicant is presently serving in the cadre of Postal Supdt. Service, since April, 1995. But, while he has opted for Accounts Service cadre, the respondents ought to have posted him in the Accounts Service cadre in the post of Director Accounts or any equivalent post. In fact, the Hon'ble Central Administrative Tribunal, Guwahati vide its judgment and order dated 26.02.2001, issued the direction towards posting of the applicant in the Accounts Service cadre. The said judgment and order is yet to be implemented and in course of submission of the O. A. no: 21/2003, the respondents have furnished a copy of the interim order dated 27.09.2001 under W.P. (C) no: 6796/2001 of the Hon'ble Gauhati High Court, Guwahati where it was found interalia that t Statusquo with regard to the impugned judgment as on today shall hold the field and has had no stay order and thereby the respondents have had no authority to disturb, as they have done to the applicant by means of the pre-mature transfer from Nalbari-Barpeta Division, once to as Supdt. NESD, Guwahati and subsequently there from as Sr. Postmaster, Silchar H.O. while both the posts are not of the Accounts Service cadre. Thus, the respondents are seemed to be doing the violation of the conditions and rules of transfer, directions of the Hon'ble Tribunal. Guide line of instruction of the Govt. to be considered at the verge of retirement of Govt. servants and the principles of natural justices at large.

The respondents have either neglected or refused to execute the order dated 07.02.2003 issued in O.A.no: 21/2003 by not restraining the respondents no: 5 to hold the dual Charges one at Nalbari and other at Guwahati. The failure of the respondents to issue the subsequent order in the matter and the position and status of the applicant to be restored has been clear and conspicuous. The irregular instruction of the respondents has caused to influence the subordinate Drawing and Disbursing Officer and insistence on wrong procedure in the maintenance of accounts affecting non drawal and disbursement of Duty Pay and allowances of the applicant since February, 2003 and thereby causing financial hardship and harassment to the applicant. Thus, the impact of the order of the Hon'ble Tribunal issued in O.A.no: 21/2003 happens to be cipher.

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

(An application under section 19 of the Central Administrative Tribunal Act, 1985)

O.A. No. 200 of 2003

BETWEEN

Shri Niranjan Das,
Superintendent of Post offices,
Nalbari-Barpeta Division,
Nalbari-781 335.

-AND-

***** Applicant

1. The Union of India,
Represented by Secretary to the
Ministry of Communication,
Department of Posts,
Dak Bhawan,
New Delhi-110 011.

2. The Chief Postmaster General,
Assam Circle,
Meghdoct Bhawan,
Guwahati-780 001.
(Assam)

3. The Director Postal Services,
Assam Circle,
Meghdoct Bhawan,
Guwahati-780 001.
(Assam)

4. The Asstt. Post Master General (Staff),
O/O The Chief P.M.G,
Assam Circle,
Guwahati-780 001
(Assam)

5. The Supdt. of Post Offices,
Darrang Division,
Assam Circle,
Guwahati-780 001
(Assam) ***** Respondents

PARTICULARS OF THE APPLICATION

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

This application is directed against the order under Memo no: Staff/3-4/92.Ch.II dated 26.06.2003 issued by the Chief Postmaster General, Assam Circle, Guwahati by

Filed by
the applicant through
the pleader
Advocate

28/8/03

which the applicant has been sought to be transferred to Cachar Division, in the capacity of Senior Postmaster, Silchar H.O. vis---vis the order bearing no: Staff/3-4/92.Ch.II dated 22.01.2003 to Guwahati in the capacity of Supdt. North Eastern Stamp Depot, Guwahati, violating the directions contained in the judgment and order in O.A. no: 21/2003 and O.A.no: 135/1999 respectively and also violating the provisions and condition of rules of transfer and maintenance of Accounts.

2. LIMITATION:

The applicant declares that, the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act, 1985.

3. JURISDICTION:

The applicant further declares that, the subject matter is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights , privileges and protection as guaranteed by the Constitution of India and the laws framed there under.

4.2. The applicant is presently having the status by holding the post of Supdt. of Post offices, Nalbari-Barpeta Division. The applicant has joined in the said post on 11.10.1999 and generally to remain for four years and to complete the normal or rotational tenure usually or

otherwise promoted and transferred to the higher cadre as and when necessary and due in the channel of promotions. The applicant was due and ready for promotion either to Group A under the channel of present cadre or to Accounts cadre with more higher posts by virtue of passing the P&T Accountants Service Examinations, Part.I, November, 1972 and Part.II, May, 1975 and completion of the pre-requisite practical training for both the parts simultaneously from May, 1975 to November, 1975 and was awaiting for his promotions in due time as directed by the Hon'ble Tribunal in O.A. No.135/99. The applicant was not at all due for normal or rotational transfer, but for this pre-mature transfer without any cause and reasons. The applicant is still not considered for promotion to Accounts cadre despite the judgment and order dated 26.02.2001 in O.A.no: 135/1999 from the Hon'ble Central Administrative Tribunal, Guwahati with direction to the respondents that the applicant be posted in the Accounts cadre from the date when his junior was so promoted in the Accounts cadre with all consequential service benefits.

A copy of the judgment and order dated 26.2.2001 is annexed herewith and marked as Annexure-1.

4.3. That the applicant was pursuing the implementation of the said judgment and order dated 26.02.2001 but for yielding no result and the matter situated as such submitted his option dated 23.01.2003 for voluntary retirement in the early part of 2004 which is yet to accepted by the authority. In the said O.A.no: 135/1999 between Shri

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Niranjan Das and the Union of India & Others, the Chief Postmaster General, Assam Circle, Guwahati the respondent nos 3, has to adhere to the impact of the judgment and order dated 26.02.2001 and cause for implementation. On the other hand and in the mean time the respondent no: 3 has issued an order dated 22.01.2003 on behalf of the respondent no: 2 by which the applicant has been sought to be transferred to the post of Supdt. North Eastern Stamp Depot, Guwahati. It is stated that, as per the judgment and order dated 26.02.2001 passed in the O.A. no: 135/1999 the respondent ought to post the applicant as Director Accounts or in any equivalent posts taking in to consideration the position of the applicant in the merit list of the Accounts Service Examinations. In fact the posts to which the applicant is now sought to be transferred i.e. Supdt. N.E.S.D, Guwahati and the Senior Postmaster, Silchar H.O. are the posts which are other than Accounts cadre.

Copies of the letter dated 23.1.93 and the order dated 22.1.2003 are annexed herewith as Annexure-2 & 3 respectively.

4.4 That the applicant begs to state that in the present place of posting he has not yet completed his normal tenure of four years or the cause of rotational transfer and the respondent No.4 issued another order dated 26.6.03 transferring him to Silchar as Sr. Post Master and as such the authority could not have issued the order of transfer dated 22.01.2003 and 26.06.2003. That, the applicant as such submitted a application dated 27.01.2003 to the Chief

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Postmaster General, Assam Circle, Guwahati to the condition and circumstances of the applicant as narrated in the representation and prayed for consideration to modify the orders dated 22.01.2003 to the extent relevant and to allow him to continue in the present post till completion of the tenure or the date of voluntary retirement which one is earlier.

Copies of the order dated 26.6.2003 and the representation dated 27.01.2003 are annexed herewith as Annexure 4 & 5 respectively.

4.5. That the applicant, while was anxiously awaiting to get the order of transfer with modification in his favour or a suitable reply by virtue of his said representation dated 27.01.2003 with genuine causes and circumstances which is still awaited. In fact, and to the utter surprise of the applicant and in the modification of the order of transfer subsequently issued on 03.02.2003 to the extent that once Shri K.C.Sarma, Deputy Supdt. Guwahati R.M.S, Guwahati who was ordered to be transferred to the post of Supdt. of Post Offices, Darrang Division, Tezpur in the original order of transfer dated 22.01.2003 was arranged under order dated 03.02.2003 to relieve the applicant and hold the dual charge of the Supdt. of Post offices, Nalbari-Barpeta Division and his present post simultaneously without any necessity, cause and reasons at the event of standing order of transfer dated 22.01.2003. In fact, the applicant was not communicated with the said order dated 03.02.2003 till now, but he collected a copy of the said order from the office of

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the authority. That the said Shri K.C.Sarma assumed the charge of the Supdt. of Post Offices, Nalbari-Barpeta Division, Nalbari on 05.02.2003, illegally and unilaterally and violating the stipulated condition of the order, when the applicant was on duty at the outstation and at the Gauhati High Court, Guwahati on official duty and glaringly till now in the said status being not relieved and handing over the charges of the Supdt. of Post Offices, Nalbari-Barpeta Division, Nalbari to anybody.

A copy of the said order dated 3.2.2003 is annexed herewith and marked as Annexure-6.

4.6. That, the applicant begs to state that, the impact or imperative to the said order dated 03.02.2003 involved to be that Shri K.C.Sarma was to relieve the applicant, but the involvement was not that, he could assume the charge at the absence of the incumbent of the post on duty else where and also at the cause of non receipt of any order by him. Thus the action of the said Shri K.C.Sarma, who neglected the cause of rules, provisions and convention and also the authority who uses to keep their eyes close or has indulging the cause directly or indirectly are equally appear to do total violation of the provision of Article 311 of the Constitution of India by not granting reasonable opportunity to the applicant.

4.7. The applicant begs to state that, the respondent no: 2, who was a party to the O.A. no: 135/1999, knowing fully well about the said judgment and order dated

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26.02.2001 issued the impugned orders dated 22.01.2003, 03.02.2003 and 26.06.2003 which are contemptuous in nature. The respondent no: 2, is therefore, liable to be punished for his willful and deliberate violation of the judgment and order dated 26.02.2001, rules and conditions of transfer and provisions of the Constitution of India and lastly the coherent principles of natural justices.

4.8. The applicant begs to state that, action on the part of the respondents in issuing and causing action to the said impugned order of transfer is illegal and in violation of the judgment of this Hon'ble Tribunal. Apart from that, the consistent actions of the authorities by snatching away the authority, power, function and privileges of a Govt. servants of dignity being a Head of Postal Divisions under the Central Govt. without rendering him an opportunity to receive his order of transfer, and assuming the charge by a junior officer of the cadre tends to be an illegality which have been caused with an ulterior motive, intention and act of prejudices appear to be in total violation of the provision of the Constitution of India by not granting him an opportunity and natural justices, conditions, and guidelines holding the field.

4.9 That, the applicant being aggrieved with the cause of unfair treatment in the official status and condition of services of a Govt. servant by other capitulated event came before this Hon'ble Tribunal by filling an DA no: 21/2003 seeking an immediate and urgent relief against the said impugned orders with a further prayer for passing an interim order directing the respondents not to give effect to the said impugned orders of transfer dated 22.01.2003 and

03.02.2003 so far as it relates to the applicant. Though the impact was in positive, the respondents refused to execute and adhere to the directions and the cause of relief to the applicant remained cipher.

4.10. That, the applicant begs to state that the Hon'ble Tribunal after favourable considerations of the cause, reasons and circumstances has granted and issued an interim order dated 07.02.2003 that, in the mean time, in the facts and circumstances of the case the respondents are ordered not to give effect the order dated 22.01.2003 transferring and posting the applicant SPOFs Nalbari-Barpeta Division, Nalbari to the post of Supdt. NESD, Guwahati and order dated 03.02.2003 posting Shri K.C.Sarma, DSRM (HQ), O/O the SSRM/GH to hold the charge of SPOFs Nalbari-Barpeta Division, Nalbari till the next date. In fact, order dated 07.02.2003 was communicated to the respondents immediately and in time. That the respondents did not obey, execute and adhere to the said order dated 07.02.2003 and Shri K.C.Sarma who assumed the charge of SPOFs Nalbari-Barpeta Division, Nalbari on 05.02.2003 unilaterally and illegally and he was supported to continue for other cause and reasons. Thus the position and status of the applicant happen to be eluded itself, save and except that, his status is maintained under the provision of law and the cause of judiciary.

4.11. That the applicant begs to state that, the respondents in their misc. petition against O.A. no: 21/2003 being a petition for vacating interim order dated 07.02.2003 interalia the statement and prayer has been as much as that Shri K.C.Sarma, while has taken the charge of the Supdt. of

Post offices, Nalbari-Barpeta Division, Nalbari on 05.02.2003, the question of staying the orders dated 22.02.2003 and 03.02.2003 not to be acted upon now at this stage. The fact remains that, in the said order dated 03.02.2003, Shri K.C.Sarma was ordered to relieve the applicant, but who instead of relieving has assumed the charge illegally, laying the position of the applicant jeopardised.

A copy of the order dated 7.2.2003 is annexed herewith and marked as Annexure-7.

4.12. That the applicant begs to state that, in the Misc. petition no: 15/2003 in connection with O.A.no: 21/2003 to be a deponent has understanding that the respondents had full knowledge of the intent and purport of the order dated 07.02.2003 passed by this Hon'ble Tribunal in O.A.no: 21/2003 and under the circumstances the respondents ought not have proceeded to violate the same. Such action on the part of the respondents clearly indicates the lack of their respect towards the decision passed by this Hon'ble Tribunal. Further, such action of the respondents also reveals the arbitrary, vindictive and malafide attitude adopted by the respondents to the applicant.

A copy of the said Judgment and order dated 28.2.2003 is annexed herewith and marked as Annexure-8.

4.13. That, the applicant begs to state that, on 05.02.2003 he was very much on duty and discharging the duties of the Supdt. of post offices Nalbari-Barpeta Division. In fact no charge was taken over from him nor the applicant handed over the charge of the post held by him to any persons. That the respondents in furtherance of the vindictive attitude adopted towards the applicant have with a view to frustrate the express direction of this Hon'ble Tribunal proceeded to show that, Shri K.C.Sarma proceeded to take over the charge of the post held by the applicant. Assuming, though the charge of the post held by the applicant was taken over by Shri K.C.Sarma on 05.02.2003, it was the bounded duty of the respondents to issue orders in terms of the directions passed by this Hon'ble Tribunal vide order dated 07.02.2003 restoring the position and status of the applicant.

4.14. That the applicant begs to state that, the impugned orders of transfer have not been issued in any public interest or in view of any administrative exigencies. It appears that, the said orders have only been issued and executed allegedly and illegally to ousts the applicant from the post correctly being held by him and thereby causing hardship to him favouring the persons of choice at any cost.

4.15. That the applicant begs to state that, this Hon'ble Tribunal vide O.A.no: 21/2003 under judgment and order dated 28.02.2003 has given to reveal that, the respondents did not submit any written statement and an application for vacation of the interim order dated 07.02.2003 and in the said application the respondents

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sought to justify the transfer order. In addition the respondents also produced the records under directions in the Hon'ble Tribunal. That, there arises no dispute that it is a settled law that, transfer is the condition of service. Never the less, it is imperative that, every transfer of Govt. servants must fulfill generally the four-fold, conditions i.e. the interest of services, interest of public services, interest of Administrative ground and the interest of Govt. servants request and the interest of public service is above all and it is punitive in nature. That, there are kinds of transfer such as general transfer, tenure transfer or rotational transfer, Rule 38 transfer, mutual transfer and a transfer on Administrative ground etc. That, it has been conspicuous that, the purpose of this order of transfer dated 22.01.2003 for seven officers was for the interest of services. Out of this seven officers, save and except the applicant, five have completed the normal tenure as well as station tenure and other one at sl 2, may be for other reasons but the ground is given the one and the same. In fact, two officers among those seven have been exempted from the arena of the said order dated 22.01.2003 and covered them by a modification order in the long run.

4.16. That the applicant begs to state that, he neither has completed his normal tenure of four years nor has had any request for transfer and was discharging his duties and managing the services with satisfaction of the authorities and the public at large. And, therefore, there was no cause of transfer in the interest of services and the cause of representation dated 27.01.2003 remained to be without any reply or any consideration. That the syndrome of the

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transfer order dated 22.01.2003 was itself indicative to the cause of arbitrary malafide and prejudicial interest and the issue of the subsequent order dated 03.02.2003 was nothing but a ruse, obviously to transfer out the applicant from Nalbari-Barpeta Division and the tenor of the order itself indicated that Shri K.C.Sarma was allowed to hold dual charge both at the head quarter and at Nalbari and thereby allowing others to be posted in their respective places save and except the applicant.

4.17. That the applicant begs to state that, the O.A. no: 135/1999 disposed on 26.02.2001 was not brought to execute till January, 2003 and so the applicant submitted his representation dated 23.01.2003 and the said transfer order in alternate has been passed in malafide only with a view to punish the applicant. As per the said O.A. no: 135/1999 and judgment and order dated 26.02.2001 of this Tribunal, the applicant was to be promoted and shifted to the Accounts cadre and his seniority was given to be as per directions of the Tribunal. Moreover, since there was no reply or instance of implementation of the said judgment and order and on the contrary there has been an unfair consideration with a pre-mature transfer dated 22.01.2003 to the applicant. Hence the applicant naturally approached before the Tribunal with O.A. no: 21/2003 under appraisal and contention that the perusal of the verdict on the O.A. no: 135/1999 the applicant has only to be promoted to Accounts cadre. On the contrary the respondents has submitted that the judgment and order dated 26.02.2001 is under examination by the Hon'ble Gauhati High Court, in the WP no: 6796/2001 inter alia with the order dated 27.09.2001

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t status quo with regard to the impugned judgment as on today shall hold the field, but did not stay the judgment to be implemented and the applicant should not be disturbed from the position and status. Now, therefore it has been apparent that, for the cause of the transfer order by the time has violated the order of the Hon'ble Gauhati High court and thereby the transfer orders were surely, arbitrary, malafide and punitive in nature.

A copy of the order dated 27.9.2001 is annexed herewith and marked as Annexure-9.

4.18. That, the applicant begs to state that, the respondent by an order issued on 30.04.2003, the original place of posting at s1:1 & 2 of the original order of transfer dated 22.01.2003 placed before this Hon'ble Tribunal and decided to be not void have been modified including an inclusion of an officer at his request but the case of the applicant was not considered and thereby the judgment order dated 28.02.2003 under O.A.no: 21/2003 of this Tribunal happens to be remaining cipher, keeping in view the action of the respondents with discrimination and partiality in the pattern of administration of fair and equal justices.

A copy of the order dated 30.4.2003 is annexed herewith and marked as Annexure-10.

4.19. That, the applicant begs to state that, since he is on the verge of retirement and as per the policy guideline he should not be transferred and this has been viewed by this Hon'ble Tribunal under O.A.no: 21/2003 and it being as much as that the policy guideline is only meant to act as guideline which is normally and generally be adhere to. That inspite of clear policy and guideline of the Govt. and also the observation of this Tribunal the respondents did not care to follow and issued an order of transfer dated 26.06.2003 by which the applicant is again been transferred and posted as Sr. Postmaster, Silchar H.O. under Cachar Division. The applicant has no official knowledge of the transfer order dated 26.06.2003 as no copy of the order thereof was given to him. The personal enquiry at NESD office it is found that the Supdt. PSD, Guwahati is arranged to manage the duties of the Supdt. NESD but no copy of the said order issued there for, has been given to the applicant. Thus the intention, motive and action of the respondents appear to be arbitrary, malafide, prejudicial and punitive oriented in nature. In the condition and circumstances, the Hon'ble Tribunal has had the impugn to exercise the natural interference to arrest an evade the transfer order dated 26.06.2003 visa-vis the order dated 22.01.2003 equally.

4.20. That the applicant begs to state that the Postmaster, Nalbari H.O. was the drawing and disbursing officer of the applicant, who uses to make payment of the financial liabilities. There is clear rules and convention that, as and when an officer is shifted on transfer to an

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other office of disbursement and jurisdiction, the Last Pay certificate is furnished as soon as the officer is relieved from the office of origin and joined in the office to which transferred. In fact, in this case applicant has had no occasion to be relieved or did not hand over the charge for relief to anybody. This has been conspicuous from the entry in the Last Pay certificate no: A2/LPC-outgoing/NLB/2003 dated 27.03.2003 in para 4, that Shri Das held the charge of the Supdt. of post offices, Nalbari-Barpeta Division up to the afternoon of the 4th day of February, 2003 and Shri K.C.Sarma DSRM (HQ), O/O SSRM/GH Division, Guwahati took over the charge of the SPOFs Nalbari vide SSRM, GH Division Memo no: B2/7/Group B, dated 03.02.2003, where there is indication in the copy given at sl:2 to the Supdt. of Post offices Nalbari-Barpeta Division, that this is in compliance to his telephonic talk on 27.03.2003 (F/N) which transpires that, the action of the respondents were beyond rules, procedures and thereby preventive to get the Duty pay and allowances happened to be not disbursed and pending since February, 2003. The action and direction of the respondents is found to be prerogative and influential to the subordinate disbursing officer and Postmaster, Nalbari H.O.

A copy of the L.P.C. is annexed
herewith and marked as Annexure-11.

4.21. That the applicant begs to state that, by virtue of the interim order dated 07.02.2003 under O.A.no: 21/2003 of this Hon'ble Tribunal, the affect of both this transfer orders dated 22.01.2003 and 03.02.2003 was stayed, but the notion was that, the Shri K.C.Sarma was not restrained from

holding the dual charge who claimed to assume the charge of the Supdt. of post offices, Nalbari-Barpeta Division on 05.02.2003 illegally and unilaterally. Moreover, for the cause of the observation of this Tribunal in O.A. no: 21/2003 and making the fate of the representation dated 28.03.2003 is still outstanding. As a result, the applicant is facing serious financial hardship with the members of the family. The cause and reasons of keeping the applicant technically out of functional duty for no fault of his. This has the attraction of the principle and provision of the verdict of the judgments on the subject and matter that, "No work No pay rule will not be applicable when an employee is kept out of work for no, fault of his".

4.22. That the application has been made bonafide and to secure ends of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that, the action/inaction on the part of the respondents in issuing the impugned transfer order dated 26.06.2003 vis-a-vis dated 22.01.2003 is illegal and violative of the judgment orders dated 26.02.2001 and 28.02.2003 and as such the same is liable to be set aside and quashed.

5.2. For that, the respondents have acted in violation of the judgment in O.A.no: 135/1999 and in O.A.no: 21/2003 and interim order of the Hon'ble Gauhati High Court under WP no: 6796/2001 in issuing the impugned orders and as such same is not tenable and liable to be set aside and quashed.

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5.3. For that, the impugned orders dated 26.06.2003
visa-vis dated 22.01.2003 have been passed by the
respondents without any authority and in contravention of
various guidelines holding the fields.

5.4. For that, illegal prorogation and involvement of
influence to sub ordinate to the proper maintenance of
Accounts procedure on the part of the respondents are
without any authority and prejudicial in the interest of
natural justice and be condemned.

5.5. For that, the improper tactics adopted by the
respondents by not giving the copy thereof on official
orders to the relevant Govt. servants has been common and
frequent which is bad in eye of law and ensure to be
communicated.

5.6. For that, the cause of issue of Last Pay
Certificate be brought to the provision of rules and the
Duty Pay and Allowances since February, 2003 be drawn and
disbursed from the original office of disbursement declaring
that one issued earlier be set aside and quashed.

5.7. For that, in any view of the matter the impugned
orders passed by the respondents are not sustainable in the
eye of law and liable to be set aside and quashed.

The applicant craves of the Hon'ble Tribunal to
advance more grounds both legal as well as factual at the
time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that, he has exhausted all the remedies available to him and there is no alternative remedy available to him.

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

That the applicant further declares that he has not filed previously any application, Writ petition or Suit regarding the grievances in respect of which this application is made before any court or any other bench of the Tribunal or any other Authority nor any such application, Writ petition or Suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully and humbly pray that, the instant application be admitted, records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of the records be granted the following reliefs to the applicant.

8.1. To set aside and quashed the impugned orders dated 26.06.2003 vis-a-vis 22.01.2003 and to allow the applicant all the benefits described in judgments dated 26.02.2001.

8.2. To direct the respondents to implement the judgment and order dated 26.02.2001 to the exclusions of the provisions in O.A.no: 135/1999 within or beyond the purview of the notion rested to the Hon'ble Gauhati High Court under W.P. no: 6796/2001.

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8.3. To direct the respondents to implement the judgment and order dated 28.02.2003 passed in O.A.no: 21/2003 to draw and disburse the Duty pay and allowances since February, 2003 with reasonable compensation.

8.4. To draw up suo-moto contempt proceedings against the respondents for their willful and deliberate violation of the judgment and orders dated 26.02.2001 and 28.02.2003 passed in O.A.no: 135/1999 and 21/2003 respectively.

8.5. Cost of the application.

8.6. Any other relief/relieves to which the applicant is entitle to under the facts and circumstances of the case as deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

Under the facts and circumstances of the case, the applicant prays for an interim order suspending the impugned order dated 26.06.2003 and 22.01.2003 to the extent relevant so far the applicant is concerned and immediate drawal and disbursement of Duty Pay & Allowances since February, 2003 pending disposal of the O.A.

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11. PARTICULARS OF THE IPO:

- a. IPO no: 96 159486
- b. Date of issue: 26/8/03
- c. Payable at: Guwahati

12. LIST OF ENCLOSURES:

As stated in the index.

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VERIFICATION

I, Shri Niranjan Das, aged about 59 years, at present working as Supdt. of Post Offices, Nalbari-Barpeta Division, Nalbari, do hereby solemnly affirm and verify that the statements made in the paragraphs 2, 3, 4, 1, 4, 7-4, 10, 4, 13-4, 16, 4, 19, 4, 21 & are true to my knowledge and those made in 5 to 12 paragraphs 1, 4, 2-4, 6, 4, 11, 4, 12, 4, 17, 4, 18, 4, 20 are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any materials facts of the case.

And I, sign on this the 27th day of August of 2003.

Niranjan Das,
Deponent

ANNEXURE- 1

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original; Application No. 135 of 1999.

Date of Order : This the 26.2.2001

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

The Hon'ble Mr K.K.Sharma, Administrative Member.

Shri Niranjan Das,
Superintendent of Railway Mail Service,
Guwahati-781001. Applicant

By Advocate Shri S.Sarma.

- Versus -

Union of India & Ors. Respondents.

By Shri A.Deb Roy, Sr.C.G.S.C. for Respondent No.3.
and Shri B.C.Pathak, Addl.C.G.S.C. for Respondents
No.1,2,4,5 & 6.

O R D E R

K.K.SHARMA, ADMINISTRATIVE MEMBER

In this application the applicant has prayed for setting aside the Order No.4-5/91-SPB.II dated 27.4.1998 of Director Staff, Department of Posts. The applicant has claimed the following reliefs :

1. Direction to the respondents to promote the applicant in the Accounts Cadre with retrospective effect from the date the same was due.
2. Regularisation of service for the period 13.11.75 to 4.4.78 treating the same as on duty and
3. Payment of outstanding T.A.bills.

2. The applicant joined the P&T Department as a Time Scale Clerk on 9.6.64. He later on qualified as Inspector with effect from 23.1.73, Accountant on 27.1.72. He was appointed as Assistant Superintendent of Post Offices with effect from 29.11.85 and he is at present working as Superintendent of Railway Mail Services. While the applicant

11/1/2001

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Attested
N Das
Advocate

was working as Inspector of Post Offices he was declared successful in P&T Accountants Service Examination Part I in November 1972. By Memo No. Staff A-21/Pt.1/72 dated 26.9.73 option was called for from the applicant seeking for his willingness for P&T Junior Accountants Service. The applicant was placed at serial No.58 in the list of successful candidates for Junior Accountants Service. The applicant gave his conditional willingness asking for time upto the next Part II examination to be held in November 1973. The respondent No.4 conveyed through Senior Superintendent of Post Offices, Kamrup Division that the applicant should categorically give his willingness to come over to P&T Accountants cadre and the same should be unconditional. The applicant by his letter dated 15.11.73 conveyed his categorical willingness for the P&T Accountants Service. The applicant also made a request for allowing him to appear in the P&T Accountants Service Examination Part-II to be held in November 1973. However, hall ticket was not issued to him. The respondents No.4 under his Memo No. SIA-186/Pt-1/Trg. dated 22.5.74 issued a training programme for the applicant stating that the applicant could not be relieved for training till the substitute was appointed in his place. Arrangement for reliever in his post was made in 1975 and he was released for training with effect from 2.5.75. The applicant qualified in the Part II examination. The applicant was directed to undergo a training for four weeks at DET, Guwahati from 29.9.75. The applicant successfully completed the training. After completion of the training the applicant came back to Barpeta and took up the matter with the authorities and also indicated about his reporting to the office for duty on 13.11.75 at Divisional Office, Guwahati. For want of specific posting the applicant was not granted pay and allowances for the months of

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November and December 1975. By Memo No.B-85 dated 15.1.76 the Superintendent of Post Offices, Goalpara Division posted the applicant as a Clerk at Dhubri Head Post Office. It is stated that this order was without jurisdiction as the applicant prior to his joining for training was working as Inspector of Post Offices at Barpeta and on completion of training he was liable to be posted as Senior Accounts Officer. The applicant made a grievance before the Director General of P&T vide his representation dated 23.1.76. The respondent No.4 vide his order under Memo No. Staff/118/1/76 transferred the applicant as T.S.Clerk of Dhubri Head Office Goalpara Division to Kamrup Division under Rule 37 of P&T Manual Vol.IV. The said order was punitive in nature. The applicant's pay and allowances were also withheld. In the meanwhile the applicant was under treatment and applied for and leave 60 days leave on medical ground was granted on half average time pay for some and also leave not due for some period. The period from 13.11.75 to 15.1.76 was treated as dies-non. The applicant made several representations. It was informed to him that since the Vigilance case was pending against him he could not be promoted as Junior Accountant and he forfeited his claim for posting back as Inspector of Post Offices having opted to come over to the Accountant Cadre. In response to the representations of the applicant the respondent No.4 by his memo No. Staff/9/3/76 dated 22.3.76 held the applicant a qualified Inspector of Post Offices and posted him as Inspector of Post Offices at Jorhat. As regards the departmental proceeding the respondent No.4 ordered a de novo proceeding and enquiry was completed in the year 1989 and for that matter the P&T Directorate allowed the applicant to be posted as Inspector of Post Offices and the disciplinary proceeding drawn against him was set aside. The applicant was again issued a charge sheet and that case was finalised in the year 1982 with award of stoppage of one increment. The

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appeal as well as the review petition against the penalty was dismissed. The postmaster General, Shillong vide his letter No. Staff/AA-2937 dated 24.7.84 gave clearance to the P&T Directorate, New Delhi for posting the applicant in the Accountants cadre with the fixation of seniority of November 1972 batch. By order dated 13.11.85 the applicant was promoted as Assistant Superintendent of Post Offices.

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The respondent No.4 sent a detail/report to the Director General, P&T, New Delhi vide letter No. Staff/1-343/88 dated 5.12.90 in connection with the promotion of the applicant to the P&T Accountant's Cadre. The Director General had already issued posting order of the applicant under the General Manager, Railway Electrification Circle, Nagpur.

However, the applicant could not be relieved because of pendency of the departmental proceeding. The Superintendent of Post Offices, Darrang Division, Tezpur by a letter dated 15.5.92 informed the applicant that his representation dated 31.3.90 had been rejected on the ground that it was belated. The applicant approached the Tribunal by filing O.A.No.107/93 praying for a direction to promote the applicant in the Accountants Cadre with retrospective effect. By order dated 19.8.97 this Tribunal directed the respondent No.2 to consider the representations filed by the applicant and decide the matter including the recommendation of the respondent No.3 dated 5.12.90 within a period of 3 months.

The applicant accordingly submitted his representation dated 27.8.97. The representation of the applicant was rejected by order dated 27.4.98 on the ground that disciplinary proceeding was pending against the applicant and as such he could not be allowed to join in the Accounts cadre and also the applicant accepted the promotion in the cadre of Inspector of Post Offices and as such promotion in the Accounts line was neither logical nor can be justified by the principle of natural justice and the claim was belated.

1011.5 Shahnawaz

Attested
Vasan
Advocate

The applicant has challenged the order dated 27.4.98 as illegal. It is claimed that the grounds for rejection of the applicant's claim are unsustainable and the applicant has prayed for quashing of the order and for promotion in the Accounts cadre from the date his immediate junior was promoted. He also prayed for consequential service benefits including the pay and allowances.

3. The respondents have filed their written statement. In their written statement the factual position has been accepted. It is submitted that though the applicant had reported for duty to Accounts on 18.11.75 but no posting could be given to him because no orders had been received from the P&T Directorate for his posting as Junior Accounts Officer and secondly, as vigilance proceeding had been initiated against him which was related to appointment of a Postman while he was officiating as IPOs Barpeta. The matter was taken up with the Directorate and it was informed that as the applicant had opted to come over to the Accountant cadre, he had no claim for posting as IPO and had to be sent back to his substantive post of Clerk and posting of him in the Accounts cadre would be considered after the finalisation of disciplinary case. The applicant however did not join as Clerk either at Dhubri or Guwahati Head Post Office. He was charge sheeted and subsequently awarded the penalty of reduction of pay. As the applicant did not resume his duty as Clerk the order of punishment remained in operation. By another communication dated 29.10.77 the Directorate explained the position that as punishment had been awarded the applicant could not be promoted to the Accountants cadre and that the applicant had forfeited his claim for posting as IPO on account of his option for Accounts cadre. Therefore the applicant had to join his substantive post of Clerk. On receipt of a legal

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Advocate

notice from the applicant ~~the~~ in August 1977 the Directorate re-examined the earlier decision and ordered his posting as IPO. There was some confusion about the Vigilance proceeding against the applicant and the same was reviewed by the Postmaster General who remitted it to SPO, Jorhat for de novo proceeding. After the de novo proceeding had been initiated it was found that Postmaster General as head of the department had no reviewing powers as that power was vested with only Member(A) of the P&T Board. The proceeding was accordingly reviewed by the Member(A) and it was observed that the officer had never joined as Clerk on his ~~reversion~~ which was subsequently considered as irregular. The Member(A) set aside the punishment order awarded by the SSPOs Guwahati and directed de novo initiation of departmental proceeding. The de novo proceeding was initiated on 8.4.82 and concluded with award of stoppage of one increment for one year from 29.2.84. The appellate authority confirmed the punishment. The period of absence from 13.11.75 to 4.4.78 was regularised by grant of leave of the kind due and some portion as 'Dies Non.' The disciplinary case which arose against the official stood as bar for his promotion.

4. Mr S. Sarma, learned counsel for the applicant submitted
that the applicant had been making his claim for appointment in
the Accountants cadre having qualified for the same by passing
the Part-I examination in 1973 and Part-II in 1975. The
respondents have arbitrarily denied the applicant's claim for
appointment in the Accountants cadre on filmsy ground of
pendency of departmental proceeding. The departmental proce-
dning initiated against the applicant could have continued
even after his posting in the Accountants cadre, as the
Accountants cadre was also a part of the P&T department. He
submitted that applicant was a victim of numerous arbitrary

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actions taken against him by the department. The officers concerned had acted without jurisdiction. The department had recommended the promotion of the applicant in the Accountant's cadre on 30.8.85. Mr Sarma also submitted that the applicant was willing to come to the Accounts cadre even at this stage. Mr Deb Roy, learned Sr.C.G.S.C on the other hand submitted that the applicant had not given unconditional willingness to opt for the Accountants cadre after passing the Part-I examination. He wanted to wait for the result of the Part-II examination. On completion of training the applicant refused to join his substantive post of Clerk. The applicant also remained absent from duty from 13.11.75 to 4.4.78 which has been regularised by way of granting leave. The applicant is not entitled to any pay and allowances for this period of absence. He submitted that the payment of T.A bills for the period from May 1975 to November 1975 has been accepted on the submission of the duplicate bill by the applicant. It is the applicant who had not submitted the duplicate bill.

5. We have heard the parties at length and has given due consideration to their submissions. Certain undisputed facts are noted as under :

- i) While acting as IPO the applicant qualified in the Accountants examination,
- ii) He gave his option for Accounts service,
- iii) Because of reliever could not be arranged by the respondents he was not immediately released for training and was sent for training only in 1975. After completion of training the applicant reported at Barpeta and not receiving any posting orders he reported for duty on 13.11.75 at Divisional Office, Guwahati, where also he was not allowed to join and
- iv) On 15.1.76 he was posted as a Clerk, which the applicant claims was without jurisdiction as he had gone

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for training from the post of IPO and he could not have been asked to join in a lower post. The applicant made numerous representations which received casual attention.

6. We have gone through the impugned order dated 24.4.98 and find that there was no clarity of thought regarding the applicant's case as can be seen from the following paragraphs of the impugned order dated 24.4.98, which are re-produced below :

"7. There are two key issues which need to be considered in the context of this case.

- a) Was the applicant due for promotion as JAO in November 1975 after completion of JAO Training and
- b) Was the official correctly posted as clerk in November 1975 instead of being posted as IPO, when he was not posted as JAO.

10. The Circle office recommended promotion of the official in the accounts line on 30.8.85. However, the specific reason for not issuing orders to post the applicant in the accounts line cannot be ascertained now. It is seen from the correspondence exchanged that finally orders were issued vide Dte. order No.18-5-/88-SEA dated 30.9.88 posting him as JAO under GM Rly. Electrification, Circle Nagpur byt the official was not relieved as disciplinary cases were pending.

11. There is no denying the fact that Shri Nirajjan Das had qualified in the JAO Examination. However, in view of the different disciplinary proceedings pending against Shri Das at various points of time, he could not be allowed to join the Accounts line on the basis of his passing the JAO Examination."

From the discussion above it is clear that the applicant was qualified to be posted in the Accountants cadre having passed Accounts examination and having given his willingness. The respondents were not in a position to post him in the Accounts cadre on account of disciplinary proceeding pending against him. No authority has been produced before us to show that the pendency of disciplinary proceeding was a part for appointing the applicant to the Accountant's cadre. In the absence of any authority to support the respondents claim the action in

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Attested
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Advocate.

not posting the applicant in the Accounts cadre is considered arbitrary and the same cannot be supported. The respondents are directed to accept the applicant's offer for appointment to the Accounts cadre from the date his juniors have been posted in the Accounts cadre and to give the applicant consequential benefits of promotion as per rules. The acceptance of promotion to IPOs cadre would not stand in the way of the applicant's posting/promotion in the Accounts cadre as the acceptance of promotion in the IPOs cadre was not within his control. The applicant's request on first ground is accordingly accepted.

7. The next claim of the applicant is with regard to the regularisation of the period from 3.11.75 to 4.4.78. There is no dispute that after successfully completing the Accounts training the applicant reported for joining duty. He reported at Barpeta, his previous place of posting and not finding any posting order there reported to the Divisional Headquarters at Guwahati, where also he was not allowed to join. In these circumstances it cannot be said that the applicant has absented himself from duty. He was not given a posting. The respondents were also not clear where he had to be posted as IPO or as a Clerk. As the absence during the period cannot be attributed to the applicant but the action on account of the respondents it would be unreasonable to deny the applicant his dues for this period. As the absence during the period was not on applicant's account he is liable to his dues for the period. The respondents are directed to treat the period from 3.11.75 to 4.4.78 as 'on duty' and to pay the wages due to him during this period. The second claim of the applicant is accordingly allowed.

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Advocate.

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8. The last claim of the applicant is with regard to the payment of T.A.Bills for the period from 2.5.75 to 9.11.75. As per order dated 22.4.98 the respondents have accepted the applicant's claim subject to submission of duplicate bills. The applicant may make a claim for the T.A due to him by submitting duplicate bills. The respondents are accordingly directed to consider the applicant's claim as per rules.

9. The application is treated as allowed. There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (Adm)

Certified to be true Copy

ମାନ୍ୟ ଅଧିକାରୀ

20/3/01

Section Officer (A)

ମାନ୍ୟ ଅଧିକାରୀ (ମାନ୍ୟ ଅଧିକାରୀ
Chairman Administration Tribunal)

ମାନ୍ୟ ଅଧିକାରୀ (ମାନ୍ୟ ଅଧିକାରୀ
Chairman Administration Tribunal
ମାନ୍ୟ ଅଧିକାରୀ, ମାନ୍ୟ ଅଧିକାରୀ)

20/3/01

PG

Adv
Advocate

भारतीय डाक

भारतीय डाक



INDIA POST

To



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कार्यालय
डाक अधीक्षक
नलबारी बरपेटा डाकमंडल

नलबारी- 781335

OFFICE OF THE
SUPERINTENDENT OF POST OFFICES
NALBARI BARPETA DIVISION
NALBARI-781335

The Chief Postmaster General
Assam Circle, Guwahati-781001.
Meghdoot Bhawan, Guwahati-1.

Dated at Nalbari the 23rd January, 2003.

Sub: Option for Voluntary Retirement.

Sir,

I beg most humbly and respectfully to state that, I have been frustrated for not having the legal and prospective department promotions to the cadre of choice, by passing Departmental Examination of 1972, to which the door is open to the authorities.

The impact of two consecutive legal judgments is yet to be implemented by granting (i) National promotion, with pay and allowances in the Accounts line, (ii) Regularisation of the period from 13-11-75 to 04-04-78, as on duty and grant of duty pay and (iii) TA bills of 1975, consequent of which two Advances of Rs.500/- each are outstanding, and also the leave adjustment at credit as on 04-04-78.

I understand that still there have been some injustices and partiality in the administration of justices even at the fag ends of the service career, and to the contrary unfilled aspiration on promotional avenues. Now to keep the balance of peace and, lest some other jealousy arises to cripple the career from any corner, I have decided carefully and consciously to go on "Voluntary Retirement" during the early part of 2004 or otherwise evicted by the Mercy of God. The probable date will be intimated by the formal notice under the Provisions of Rules.

However, under the instruction from the Directorate that the service book and relevant matters in respect of Gazetted Officers be completed within two years of services, and on that understanding this has been given as a matter of information.

I understand that this will be my last tenure in the service and let God be pleased to favour me to work, with careful understanding, in the periphery of works of the Division, made conducive, after my long struggle of 3 years with the review of work culture of the staff, especially at the Head Offices, by gearing up the machinery to pull up the arrear works somewhere since 1991 to slightly present position and to conclude my career, with the normal tenure of 4 years, by the beginning of 2004 or otherwise promoted to the Accounts cadre.

I hope and request to favour the completion and examination of my service records for which, I shall be grateful.

Yours faithfully

Niranjan Das
(N. DAS)
Supdt. of Post Offices
Nalbari Barpeta Division
Nalbari-781335

✓ Das
1-1-2003

DEPARTMENT OF POSTS: INDIA
 OFFICE OF THE CHIEF POSTMASTER GENERAL
 ASSAM CIRCLE : GUWAHATI-781001

Memo No. Staff/3-4/92/Ch.II

Dated at Guwahati, the 22.1.03

The Chief Postmaster General, Assam Circle, Guwahati is pleased to issue the following transfer/posting orders in PSS Group-B cadre to have immediate effect in the interest of service.

Sl	Name of the officer	Present posting	Posted on transfer	Remarks
1	Sri M.Ali	Supdt: NESD, Guwahati	SPOs, DibrugarhDn Dibrugarh	Vice Sri G.C.Hazarika transferred
2	Sri G.C.Hazarika	SPOs, Dibrugarh Dn., Dibrugarh	DSRM[HQ] O/o the SSRM/GH	Vice Sri K.C.Sarma transferred
3	Sri K.C.Sarma	DSRM[HQ] O/o the SSRM/GH	SPOs, Darrang Dn. Tezpur	Vice Sri B.Hazarika transferred
4	Sri B.Hazarika	SPOs, Darrang Dn., Tezpur	SPOs, Goalpara Dn., Dhubri	Vice Sri B.K.Marak transferred
5	Sri B.K.Marak	SPOs, Goalpara Dn., Dhubri	SPOs, SivasagarDn Jorhat.	Vice Sri S.Das transferred
6	Sri S. Das	SPOs, Sivasagar Dn., Jorhat	SPOs, Nalbari-Bpt Dn. Nalbari	Vice Sri N.Das transferred
7	Sri Niranjan Das	SPOs, Nalbari-Bpt Dn Nalbari	Supdt. NESD Guwahati	Vice Sri M.Ali transferred

2. Sri K.C.Sarma will move first.

3. Usual charge report be sent to all concerned.



(A.V.C. Roy)

Director of Postal Services[HQ]
 O/o the CPMG, Assam Circle, Guwahati-1

Contd.....2

Attested**Advocate**

DEPARTMENT OF POSTS:INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL:ASSAM CIRCLE:
GUWAHATI-781001.

No. Staff/3-4/92 Ch.II

Dated at Guwahati the 26.6.2003.

XO

Sub :- Transfer and posting in Postal Service Gr 'B' Grade.

In pursuance of Directorate, New Delhi letter No.9-1/2003-SPG dt. 13.6.03, the Chief Postmaster General, Assam Circle, Guwahati is pleased to issue the following transfer and posting orders to have immediate effect.

PART - A

Sl.No.	Name of the Officer	Present place of posting	Posted on transfer in Assam Circle	Remarks
1	Sri B.B.Roy Choudhury at Sl. No.5 of the Dte.letter	W.B.Circle	Supdt. NESD, Guwahati	Vice Sri N.Das transferred.

PART - B

Sl.No.	Name of the Officer	Present place of posting	Posted on transfer	Remarks
1	Sri Niranjan Das	Supdt. NESD, Guwahati	Sr.PM, Silchar HO	Terminating adhoc arrangement.

Relevant charge reports be sent to all concerned in due course.

Sd/-

(B.Radhika Chakravarty)

A.P.M.G.(Staff)

For Chief Postmaster General,
Assam Circle, Guwahati-781001.

Copy to :-

1. The Director General(SPG), Dak Bhawan, New Delhi w.r.to above cited letter.
2. Officer concerned.
3. The Chief PMG, W.B.Circle, Kolkata-12.
4. The DA(P) Kolkata/DDA(P), Guwahati
5. The Supdt. NESD/PSD, Guwahati.
6. The SSPOS, Silchar
7. The Sr.PM, Silchar H.O.
8. The PMG, Dibrugarh.
9. PF of the officer.
10. O/C.

For Chief Postmaster General,
Assam Circle, Guwahati-781001.

Attested
by
Advocate.

To

The Chief Postmaster General,
Assam Circle, Guwahati,
Meghdoot Bhawan, Guwahati-781 001

- 34 -

1/1/2003 - 5

Dated Nalbari the January 27, 2003

Sub: Pre-mature Transfer and prayer for modification of Transfer order to permit continuance.

Ref: Circle office Memo No:Staff/3-4/92/Ch.II, Dated 22.01.03

Sir,

I beg most humbly and respectfully to state that, I have been surprised of my Prematured Transfer, despite my normal tenure to be had up to 2003-2004, and it appears to be without any cause and reasons.

That sir, it has been a fact that I have taken enough troubles to make the works of the Division, up to date causing a review of the "Work Culture" among the staff, and for the rest I have taken some ideal plan and Scheduled programme to increase the trend of Revenues, having no general prospect, keeping in view the bottle-neck of the communication and location of the offices in this Division against which it was told to others of following my ways and means, in the last conference of the Heads of the Divisions, despite the Serious phenomenon of arrear works in both the Head offices of the Division. Now the position has been improved to much extent that has had at the time of my joining in this Division.

That sir, I had a mind of going on "Voluntary Retirement" by the early part of the year 2004 for some other reasons and taken all the stringent measures for works to make ease the last year of my service in the Division. I have been self happy and proud of the efficiency by managing the works of the offices of the Division even at the heavy shortage of staff and also never failed to fulfill the various targets fully and also reasonably advanced to the extent possible and did, not less than other Divisions.

That sir, now for the cause of the Pre-mature transfer in the same cadre which is reasonably forbidden under the provisions at the verge of retirement, to a new office, for such a little period, the service proficiency and efficiency to the nature of work, will be totally meaning less and useless rather I may have had some other troubles keeping in view the trend and nature of works.

U.D.A.
Advocate

In this connection, I like to mention that I apprised to the local highest authorities personally on 03.01.2003 for the cause of an information considering transfer that I have had from elsewhere in advance, with clear intention of my "Voluntary Retirement" and have had my ardent request to allow me to complete the full tenure at the verge of my retirement in the Division. Here, I have managed to have the duty to some extent easy because of my duty bound struggle for work management for the last three years. In this connection my option for "Voluntary Retirement" submitted in the mean time may kindly be referred to and allow the continuance to complete the tenure like other officers in the circle to have a parity of justices.

I, therefore, fervently pray and hope that my prayer will be considered and favoured for the interest of Natural Justices for which I shall be ever grateful.

Yours faithfully

Niranjan Das,

(Niranjan Das)

Superintend of Post Offices,
Nalbari-Barpeta Division,
Nalbari-781 335

2003-01-03
Niranjan Das

Advocate

DEPARTMENT OF POSTS:INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL
ASSAM CIRCLE:GUWAHATI-781001

Memo No. Staff/3-4/92/Ch.II Dated at Guwahati, the 3.2.03

In partial modification of this office memo of even number dated 22.1.03, it is ordered that Shri K.C.Sarma, DSRM[HQ], O/o the SSRM, Guwahati will relieve Sri N.Das, SPOs, Nalbari immediately. Sri Sarma will hold dual charge without any extra remuneration till regular incumbent joins at Nalbari.

2. On being relieved, Sri N.Das will join as the Supdt. NESD/Guwahati as ordered.



A.C. Roy

Director of Postal Services [HQ]
 O/o the CPMG, Assam Circle, Guwahati

Copy to :-

- 1. The officers concerned.
- 2. The SSRM GH Dn, Guwahati
- 3. The SPOs, Nalbari.
- 4-5. The Postmaster, Nalbari/HRO RMS Guwahati.
- 6. P/Fs of the officers.
- 7. The DDA(P), Guwahati.
- 8. Spare.

For Chief Postmaster General
 Assam Circle, Guwahati-781001

D. D. D.
W. C. Roy
1/2003

(SEE RULE - 4)

37

GENERAL ADMINISTRATIVE TRIBUNAL
GUWAHATI DIVISION
REGISTRATION

1-1
1-2
7/2003

SEARCHED

Original Application No. 521 / 2003
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant(s): Sri Niranjan Dm.

Respondent(s): U. C. E. S. D. M.

Advocate for the Applicant(s): Mr. U.K. Nair

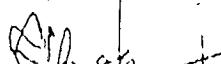
Advocate for the Respondent(s): Mr. G. D. Dm.

CASE

Notes of the Registry	Date	Order of the Tribunal
	17.2.2003	<p>Heard Mr. U.K. Nair, learned counsel for the applicant.</p> <p>Issue notice to show cause as to why the application shall not be admitted, returnable by three weeks.</p> <p>Also issue notice to show cause as to why interim order as prayed for shall not be granted, returnable by three weeks.</p> <p>In the meantime, in the facts and circumstances of the case, the respondents are ordered not to give effect the order dated 22.1.2003 transferring and posting the applicant, SPOs, Nalbari Barpeta Division, Nalbari to the post of Supdt. NESD, Guwahati and order dated 3.2.2003 posting the Sri K.C. Sarma, DSRM (HQ) o/o the SSRM/CH to hold the charge of SPCs, Nalbari Barpeta Dvn, Nalbari and till the next date.</p> <p>List on 7.3.2002 for admission.</p>

Decision to be taken on

Existing orders



Deputy Administrator (A)
Central Administrative Tribunal
Guwahati

SD/VICE CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.21 of 2003

Date of decision: This the 28th day of February 2003

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

Shri Niranjan Das
Superintendent of Post Offices,
Nalbari Barpeta Division,
Nalbari.Applicant
By Advocates Mr U.K. Nair and Mr S.K. Das.

- versus -

1. The Union of India, represented by
The Secretary to the Government of India,
Ministry of Communication,
Department of Posts,
New Delhi.
2. The Chief Postmaster General
Department of Posts,
Guwahati, Assam.
The Director of Postal Services, Headquarter,
Guwahati, Assam.Respondents
By Advocate Mr A.K. Chaudhury, Addl. C.G.S.C.

.....
O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

By Memo No. Staff/3-4/92/Ch.II dated 22.1.2003 the
Chief Post Master General, Assam Circle, Guwahati issued
an order for transfer/posting of different officers. By
the said order the applicant who was holding the post of
Superintendent of Post Offices, Nalbari-Barpeta
Division, Nalbari was transferred and posted as
Superintendent, North East Stamp Depot, Guwahati
alongwith other officers. By a separate order dated
3.2.2003 the earlier order dated 22.1.2003 was partially

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modified and it was ordered that the DSRM (HQ), Office of the SSRM, Guwahati who was transferred and posted as SPOs, Darrang Division was modified and the said officer was directed to hold dual charge without any extra remuneration till a regular incumbent joined at Nalbari. By the aforementioned order it was also ordered that the applicant should join as Superintendent, North East Stamp Depot, Guwahati on being relieved by the officer mentioned. The legitimacy of the aforesaid action is assailed in this application as arbitrary and discriminatory.

2. The respondents did not submit any written statement as such. However, the respondents filed an application for vacation of the interim order dated 7.2.2003, whereby the transfer of the applicant was stayed. In the said application the respondents sought to justify the transfer order. Mr A.K. Chaudhuri, learned Addl. C.G.S.C., submitted that the said application may be treated as written statement. In addition, the respondents also produced the records before me.

3. I have heard Mr U.K. Nair, learned counsel for the applicant at length and also Mr A.K. Chaudhuri, learned Addl. C.G.S.C. Admittedly, the applicant holds a post which is transferable in nature. The employer's discretion for transfer and posting of an employee is also not under dispute. Mr Nair, however, submitted that the said transfer order has been passed malafide, only with a view to punish the applicant for asserting his right in O.A.No.135 of 1999 disposed of on 26.2.2001.

*Accested
for
Advocate*

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The learned counsel for the applicant submitted that as per the said Judgment and Order of this Tribunal the applicant was to be shifted to the Accounts Cadre and his seniority was to be determined in the Accounts Cadre and promotion was to be given as per direction of the Tribunal. Mr A.K. Chaudhuri, however, submitted that the Judgment and Order of the Tribunal referred to above is under examination by the High Court in W.P.(C) No.6796 of 2001. Mr U.K. Hair, however, submitted that the High Court did not stay the Judgment of the Tribunal though the High Court only passed a status quo order.

4. I have given my anxious consideration in the matter. However, considering the pleadings and the materials on record, more particularly the records produced by the respondents it is difficult to hold that the transfer order of the applicant emanated from any improper motive. Seemingly, the said order was passed under administrative ground though a little modification was made by a later order dated 3.2.2003. The impugned order of transfer as such cannot be faulted. Mr Nair contended that the order dated 3.2.2003 is only a ruse, obviously to transfer out the applicant from Nalbari-Barpeta Division by allowing Shri K.C. Sarma to relieve the applicant at Nalbari. Mr Nair submitted that the tenor of the order itself indicated that Shri K.C. Sarma was allowed to hold dual charge both at the Headquarter as well as Nalbari and thereby he continued to hold the post both at the Headquarters as well as at Nalbari and also thereby allowing others to be posted in their respective places save and except the applicant. On perusal of the order it appears that

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the said order was passed as a temporary measure to take steps to relieve the applicant to join the post of North East Stamp Depot and therefore, the contention of Nair does not hold water. Mr Nair lastly submitted that the applicant was on the verge of retirement and as per the policy guidelines the applicant ought not to have been disturbed on the verge of his retirement. The policy is only meant to act as a guidance which is normally adhered to. Infringement of the guidance will, however, ipso facto not make the transfer order void. Therefore, ~~in this consideration~~ ~~application~~ and the application is accordingly dismissed. The dismissal of the application shall not, however, preclude the applicant to submit representation ~~for his posting at his hometown before retirement and if such representation is made the authority is, undoubtedly, duty bound to consider the same and pass a speaking order as per law.~~

5. Subject to the observation made above the application stands dismissed. There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN

TRUE COPY

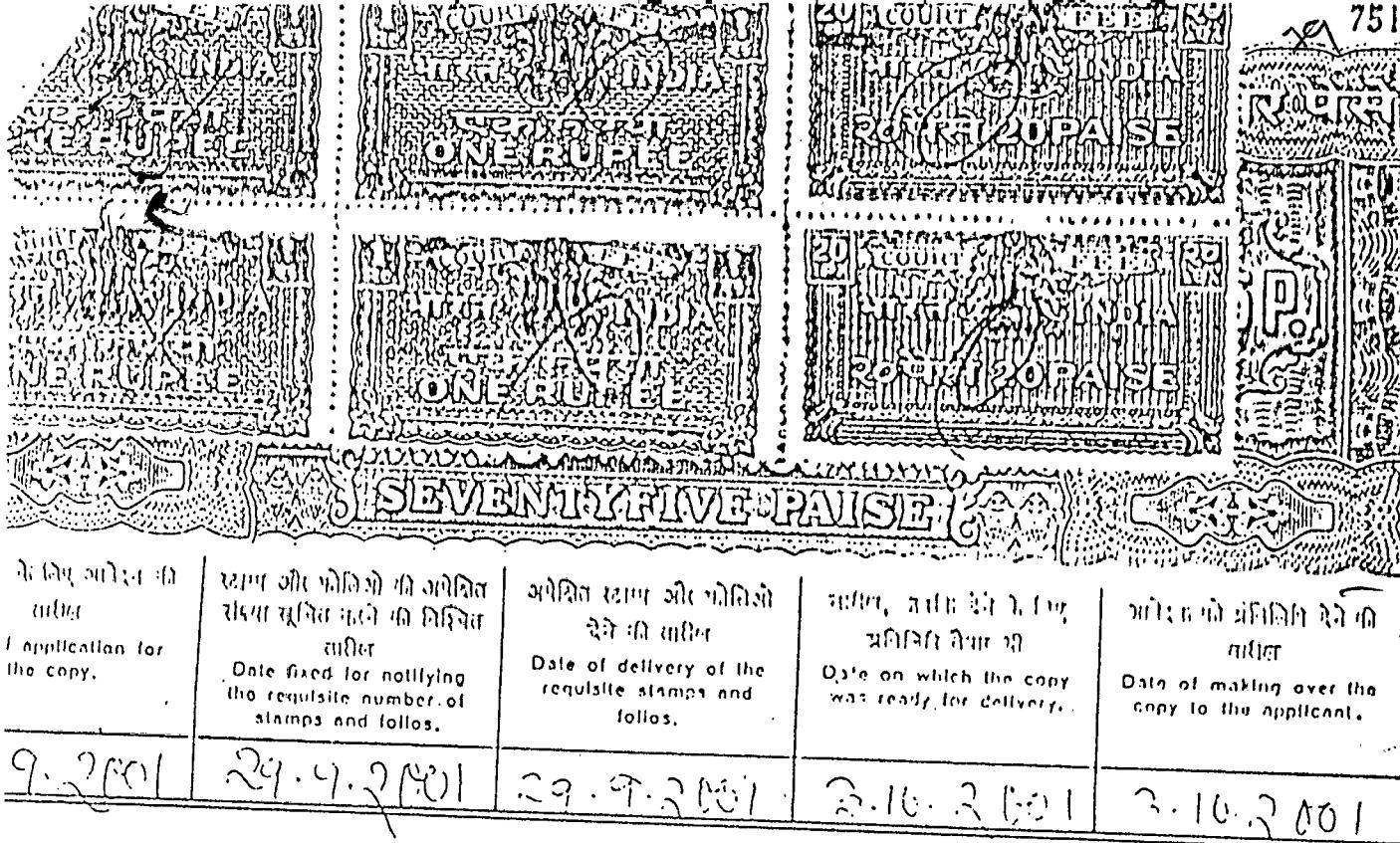
5/2/2003

Section Officer (Judicial)
Central Administrative Tribunal
Delhi Court, New Delhi

K/26/3/2003

nkm

RECEIVED
26/3/2003



1. अप्पे अप्पे का नाम नाम Application for the copy.	2. आप्पे जीर्ण निर्दिष्ट नंबर का निर्दिष्ट तारीख Date fixed for notifying the requisite number of stamps and folios.	3. अप्पे निर्दिष्ट आप्पे जीर्ण निर्दिष्ट तारीख Date of delivery of the requisite stamp and folios.	4. आप्पे जीर्ण निर्दिष्ट नंबर प्रसिद्धि दिया गया Date on which the copy was ready for delivery.	5. आप्पे निर्दिष्ट नंबर का नाम नाम Date of making over the copy to the applicant.
9.9.2001	29.9.2001	29.9.2001	2.10.2001	2.10.2001

INTHE GAUHATI HIGH COURT
 (HIGH COURT OF ASSAM:NAGALAND:MEGHALAYA:MANIPUR: TRIPURA:
 MIZORAM AND ARUNACHAL PRADESH)

H.P.C. NO. 6796/2001.

Union of India, represented by Chief Post Master
 General Assam Circle, Ghy.

-Vs-

..Petitioner.

Shri Niranjan Das, Superintendent of Railway Mail
 Services, Ghy.

..Respondents.

..PRESENT:

THE HON'BLE MR. JUSTICE JN SARMA
 THE HON'BLE MR. JUSTICE AH SAIKIA
 For the petitioner :- Mr. Bipul Sarma
 For the respondent:-

Date:-27.9.2001. ORDER

Heard Mr. B. Sarma, learned advocate for the
 petitioner.

Let a rule issue calling upon the respondents to show
 cause as to why a writ should not be issued as prayed for
 and/ or why such further order or other orders shall not be
 passed as to this court may seem fit and proper.

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Steps shall be taken by registered
Post Office or by hand.

Status quo with regard to the impugned
judgment, etc. on behalf of the party.

Sd/-

A. H. Sarker

Sd/-

Scalge.

G. M. Sarker

- Judge

Registered 1.7.5.11.

Copy of the

3-10-2001

Attested
W. H. Sarker
Advocate

DEPARTMENT OF POSTS: INDIA
 OFFICE OF THE CHIEF POSTMASTER GENERAL
 ASSAM CIRCLE: GUWAHATI-781001

No. Staff/3-4/92/Ch. II

Dated Guwahati, the 30.4.2003.

Sub:- Transfer and posting in PS Group-B cadre.

In partial modification of memo of even number dated 22.1.03, the following transfer and posting orders in PS Group-B cadre are issued to have immediate effect in the interest of service.

Sl	Name of the officer	Present posting	Posted on transfer	Remarks
1	Sri M.Ali	Supdt NESD, Guwahati	DSRM, O/o the SSRM/GH	Against vacant post
2	Sri G.C.Hazarika	SPOS, Dibrugarh	SPOs, Dhubri	Against vacant post
3	Sri Atul Bora	SRM(Stg) Guwahati RMS	SPOs, Dibrugarh	Vice Sri G.C.Hazarika transferred

2. Sri Atul Bora, SRM(Stg), Guwahati will not get TA/TF as the transfer is at his own request.

3. Sri M.Ali, after joining as DSRM, Guwahati will also look after the work of SSRM, Guwahati in addition to his own without any extra remuneration. He will hand over the charge of NESD, Guwahati to Sri R.Rabha, Supdt PSD, Guwahati as ordered vide CO/Guwahati letter of even number dated 24.4.03 immediately.

Usual charge report be sent to all concerned.

SD/-
(B.Radhika Chakravarthy)

Asstt. Postmaster General [Staff]

O/o the CPMG, Assam Circle, Guwahati-1

Copy for information and necessary action to :-

1. The PMG, Dibrugarh Region, Dibrugarh.
2. The SSRM GH Division, Guwahati.
3. The SPOs, Dibrugarh/Dhubri.
4. The Supdt PSD/NESD, Guwahati.
5. The DDA(P), Guwahati.
6. The HRO-RMS GH Division, Guwahati.
7. Officers concerned.
8. P/Vs of the officials.
9. Sparc.

V)
For Chief Postmaster General
Assam Circle, Guwahati-781001

Attested

*Weller
Advocate.*

10

- 45 - Last Pay Certificate

Last pay certificate of Shri Nirayan Das offg SPOS/Nalbari on his transfer to DBSD/Guwahati vide Co/Off no. Staff/3.4/92/Ch II dtd 03.02.2003.

2. Shri Das has been paid with his pay and allowances up to 31.01.2003 upto 28.02.2003 at the following rates,

Pay	@ Rs. 10,000.00 pm.	Deductions:	
DA	@ 5200.00 pm.	CGEGLS premium	1860.00
HRA	@ 500.00 pm.	GPF Cont.	5000.00
SCA	@ 200.00 pm.	PLI premium	34.00
TE	@ 200.00 pm.	against Pol no 366511-?	
		H/Rent Recovery	10.00
		Assam P/Tan	140.00
		HBA int	650.00
		Scooter adv int.	143.00

3. His GPF off no C/65297 is maintained by the DDA(P) Guwahati

4. Shri Das held the charge of office of the Supdt of Post offices, Nalbari Barpeta Dn upto the afternoon of the 4th day of February of two thousand three, following which, on the forenoon of 5th day of February of two thousand three, Shri K.C. Sarma DSRM (HQ) & the SSRM 'GH' Dn Guwahati took over the charge of SPOS/Nalbari vide SSRM 'GH' Dn memo no B2/71 Group B dtd 03.02.2003.

5. Shri Das is entitled to admissible TA/TP for his transfer.

6. Following are the Govt dues/recoveries lying outstanding against Shri Das.

(i) Int on Scooter advance Rs 672.00 out of total int calculated Rs 3399.00 on original advance of Rs 10,000.00 drawn under HRO/GH no 49/9/95 is still outstanding and recoverable in monthly instalments of Rs 143.00 each till final adjustments.

(ii) TA advance of Rs 500.00 drawn under BPE bill no B99/5/75

Vose
(iii) TA advance of Rs 500.00 drawn under BPE bill no B72/1/75

63

(iv) Int'l payable Rs 17,725.00 Spi HBA as per original Sanction memo stands recovered. Photocopy of fresh Int'l calculation made vide DA (D) Kolkata Letter no HBA/ Assam/PA (M) - 11-660 A dtd 12-03-2012 is enclosed herewith. Residual amounts, if stands due, may be recovered from the officer on affirmation from Co GM.

PBB33 Webster (4493-1)
(L-1334) 44933813854

NO A2 | LPG outgoing | NIB | 2003

Dated at Nalbari the 27.03.2003

Copy in duplicate to

The Supdt. of North eastern Stamp Depot, Guwahati for favour of
Kind disposal.

2. The Suptt of Pos. Nalbari Parpetta, Dr. Nalbari T81335
for favour of information. This is seen in compliance to his
telephonic talk on 27.03.2003 (P/N).

Post Master (HSG-1)
Nalbari-781335

Received
1/23/01
Advocate

46

84

Q.D.R.

Filed by

6/2104
(A. D. E. R. R. Y.)
Sr. C. C. T. C.
C. A. T., Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

O.A. NO. 200 OF 2003

Shri Niranjan Das.

..... Applicant.
- Versus -

Union of India & Ors.

..... Respondents.

In the Matter of :

Written Statements submitted by the
respondents.

The respondents beg to submit a brief
history of the case which may be
treated as a part of the written
statement.

(BRIEF HISTORY OF THE CASE)

Shri Niranjan Das, PS Group-B Officer and the
applicant in this O.A. joined as Superintendent of Post Offices,
Nalbari on 11.10.99. The Officer was ordered to be transferred
from Nalbari to the post of Superintendent NESD, Guwahati after
completion of more than 3 years at Nalbari vide Co, Guwahati
No. Staff/3-4/92/Ch.II dated 22.1.03 (Annexure -1). The Officer
submitted representation dated 23.1.03 for voluntary retirement
and on 27.1.03 for retention at Nalbari. Both the representations

Contd.....

were considered by the competent authority and disposed of informing him vide Staff/1-343/88-Pt.I dated 4.2.03 (Annexure-2) that his request for voluntary retirement would be considered on receipt of a formal notice for 3 months and the request for retention at Nalbari was not acceded to in the interest of service. In partial modification of transfer order dated 22.1.03, an order was issued on 3.2.03 (Annexure-3) directing Shri K.C.-Sarma, DSRM(HO) to relieve Shri N. Das and to hold the charge temporarily and directing the applicant to join at his new station on being relieved. Shri K.C. Sarma reported at Nalbari on 5.2.03 accordingly to relieve Shri Das. But Shri Das was found absent without intimation to his whereabouts. As Shri N. Das did not join the post assigned to him vide order dated 22.1.03 (Annexure-1) and dated 3.2.03 (Annexure-3) and the said post cannot be kept vacant for uncertainty period another transfer order was issued on 26.6.03 (Annexure-4) and posted him as Sr. PM, Silchar HO which is now manned by adhoc promotion.

Copy of order dated 22.1.03 is annexed herewith marked as Annexure-1.

Copy of disposal order dated 4.2.03 is annexed herewith and marked as Annexure-2.

Copy of order dated 3.2.03 is annexed herewith and marked as Annexure-3.

Copy of transfer order dated 26.6.03 is annexed herewith and marked as Annexure-4.

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The respondents beg to submit the para-wise written statement as follows :-

1. That with regard to the statement made in para 1, of the application the respondents beg to state that Shri Niranjan Das, PS Group-B Officer joined as Superintendent of Post Offices, Nalbari-Barpeta Division on 11.10.99. The officer was ordered to be transferred as the Superintendent NESD Guwahati vide C.O., Guwahati memo No. Staff/3-4/92/Ch.II dated 22.1.03 (Annexure-1) i.e. after more than 3 years. The officer was relieved from the post of Superintendent of Post Offices, Nalbari on 5.2.03. As the officer did not join the designated post of Superintendent, NESD, Guwahati upto 25.6.03 and as the said post cannot be kept vacant indefinitely jeopardising the important job attached to it, another transfer and posting order was issued vide C.O., Guwahati letter No. Staff/3-4/92/Ch.II dated 26.6.03 (Annexure-4) on posting of an officer in the vacant post of the Superintendent NESD, Guwahati. The OA No. 135/99 mentioned by the applicant relates to claim for posting in Accounts Cadre Service. The case is at present under scrutiny of the Hon'ble High Court in W.P.(C) No. 6796/2001 filed by the respondents against the judgement of the Hon'ble Tribunal.

Copy of Judgement and Order dated 28.2.03 is annexed herewith and marked as Annexure -5.

Copy of interim order dated 27.9.01 passed by the Hon'ble High Court is annexed hereto and marked as Annexure -6.

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2. That with regard to paras 2, 3 and 4.1, of the application, the respondents beg to offer no comments.

3. That with regard to the statement made in para 4.2, of the application, the respondents beg to state that the applicant joined as Superintendent of Post Offices, Nalbari on 11.10.99 and completed more than 3 years. The officer was transferred from Nalbari in the interest of service vide the order dated 22.1.03 in the administrative as well as the public service interest. The rotational transfer policy is a guideline to be taken into consideration while issuing the transfer/posting orders. However, the competent authority has the prerogative to transfer his subordinates before completion of the tenure in the interest of administration and public services. The issue relating to the order dated 22.1.03 has been well settled in the order dated 28.2.03 in OA No. 21/03. As regards the CAT case O.A. No. 135/99 filed by the applicant to claim promotion in Accounts Cadre line (JAO & above), the case is now before the Hon'ble High Court in WP (C) No. 6796/2001 as discussed in the para-1 above.

4. That with regard to the statement made in para 4.3, of the application the respondents beg to state that the application dated 23.1.03 received from Shri N. Das, (applicant) former Superintendent of Post Offices, Nalbari for voluntary retirement from Govt. Service was not specific and supported by a time bound notice in writing as per rules. A formal notice for 3 months is required as per rule to seek permission

-5-

for voluntary retirement. This was not exercised by the applicant. AS such no action was called for on it. The officer was informed vide CO, Guwahati letter No. Staff/1-343/88/Pt.II dated 4.2.03 accordingly (Annexure-2). The judgement/order in O.A. No. 135/99 deals with separate issue and the same being presently under examination of the Hon'ble High Court, have no bearing with the matter raised with regard to the transfer/postings of the applicant.

5. That with regard to the statement made in para 4.4, of the application, the respondents beg to state that the matter relating to the transfer/posting order dated 22.1.03 has already been examined by the Hon'ble Tribunal and disposed of vindicating the action of the responding authorities in the judgement/order dated 28.2.03 in O.A. No. 21/2003. The applicant has not submitted any representation so far in regard to the order dated 26.6.03 by which the applicant has been posted as the Sr. PM, Silchar HO.

6. That with regard to the statement made in para 4.5, of the application, the respondents beg to state that the representation dated 27.1.03 of the applicant was considered by the CPMG, Guwahati but his request for retention was not acceded to. This was informed vide Staff/1-343/88/Pt.II dated 4.2.03 (Annexure-2). It was necessary to arrange the relieve and initiate the movement of the officers under order of transfer. Shri K.C. Sarma, DSRM, o/o the SSRM/Guwahati was ordered to relieve Shri N. Das (applicant) immediately vide the order

-6-

dated 3.2.03. Accordingly Shri Sarma joined as Superintendent of P0s, Nalbari on 5.2.03 (F/N). Shri N. Das was found absent on 5.2.03 without any information and prior permission from the competent authority. In this circumstances, the officer ordered to relieve the applicant immediately had to assume the charge of the applicant, who failed to turn up at Nalbari till date to formalize his transfer of the charge. It is not true that he was unaware of the order.

Copy of charge Report dated 5.2.03 of Shri K.C.

Sarma is annexed herewith and marked as Annexure-7.

7. That with regard to the statement made in para 4.6, of the application the respondents beg to state that as stated in the same para 4.5 above.
8. That with regard to the statement made in para 4.7, of the application, the respondents beg to state that the judgement/order in O.A. No. 135/1999 is presently under examination of the High Court in WP(C) No. 6796/2001. The issue involved in the said O.A. and the writ petition has no relation with the issue raised in the present O.A. as discussed in the para 1 above. There is no any violation of the judgement/order dated 26.2.01 in the O.A. No. 135/99.
9. That with regard to the statement made in para 4.8, of the application the respondents beg to state that the transfer order was issued in the interest of service. As the officer is in PS Gr. B Cadre and the respondent is competent to transfer him to any place within the circle, the transfer order dated 26.6.03

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was issued keeping in view the requirement of the services and to run the administration smoothly. The order dated 22.1.03 was duly received by the applicant on 27.1.03 and he put his signature on the relevant invoice in token of having seen it. Moreover, the applicant filed the O.A. No. 21/03 after getting the copy of the said order. On the other hand, the applicant remained out of headquarters soon after receipt of the order obviously to avoid transfer of the charge. In this circumstances, the administration had to arrange his relieve vide the order dated 3.2.03 to ensure movement of the officers under order of transfer expeditiously. There was no any illegal motive behind this action on the part of the authority.

10. That with regard to the statement made in para 4.9, of the application, the respondent beg to state that the O.A. No. 21/2003 was disposed by the Hon'ble Tribunal vide order dated 28.2.03 dismissing the application. The interim order dated 7.2.03 in the said O.A. was received by the respondents on 10.2.03 only. As the relieving officer assumed the charge on 5.2.03, there was no opportunity to give effect to the interim order. There was no willful refusal on the part of the respondents.

11. That with regard to the statement made in paras 4.10 & 4.11, of the application, the respondents beg to state that the same as stated in the para 4.9 above.

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It is further added that the respondents filed an MP No. 15/03 in the said O.A. The Hon'ble Tribunal considered the whole issue and passed the judgement on 28.2.03 dismissing the application. The interim order had no effect thereafter.

12. That with regard to the statement made in para 4.12, of the application, the respondents beg to state that same as stated in the para 4.9 above.

13. That with regard to the statement made in para 4.13, of the application, the respondents beg to state that the applicant was found absent from the Headquarters (Nalbari) on 5.2.03 without informing his whereabouts. Shri K.C. Sarma, DSRM(HQ) who was directed to relieve the applicant and hold the charge of Nalbari Division had to assume the charge to give effect of the order dated 3.2.03. The applicant remained absent since then without information and authority though he was very much in knowledge of his reliever proceeding to Nalbari to relieve him.

14. That with regard to the statement made in para 4.14, of the application, the respondents beg to state that the averments of the applicant are denied as unfounded. The applicant was to join at NESD, Guwahati vice Shri M. Ali transferred. Shri M. Ali joined on 5.5.03 in his new assignment. The post of Superintendent NESD, Guwahati remained vacant w.e.f. 5.5.03. As the post cannot be kept vacant for indefinite period, the modified order dated 26.6.03 was issued in the interest of service. It may be added

that Guwahati is the home town of Shri Niranjan Das (applicant). As such, the transfer from Nalbari to Guwahati vide order dated 22.1.03 would not have caused hardship to him. As the applicant failed to join as the Superintendent, NESD, Guwahati, it became necessary to post another officer in the vacant post to maintain the service.

15. That with regard to the statement made in para 4.15, of the application, the respondents beg to state that the transfer of the applicant vide order dated 22.1.03 was made purely in the interest of service and for exigencies of the administration. The Hon'ble Tribunal has already examined the issue in O.A. No. 21/2003 and upheld the action of the respondents dismissing the O.A. having no merit.

16. That with regard to the statement made in para 4.16, of the application, the respondents beg to state that same as stated in the paras 4.1 and 4.15 above.

17. That with regard to the statement made in para 4.17, of the application, the respondents beg to state that same as stated in the paras 4.1, 4.2, 4.8, 4.15 above.

18. That with regard to the statement made in para 4.18, of the application, the respondents beg to state that in partial modification of memo No. Staff/3-4/92/Ch.II dated 22.1.03, a revised order was issued vide even number dated 30.4.2003 (Annexure-8). The officer at serial 1 and 2 are from Guwahati. One PS Group-B officer Shri Atul Boara requested for Dibrugarh without TA/TP as his home town is at Jorhat. Accordingly

in partial modification order was issued on 30.4.2003. Keeping in view the interest of service uppermost and considering his last leg of service, he was transferred to Guwahati (to his home place). There was no cause to agitate against the order of transfer/posting as the Superintendent NESD, Guwahati. But the applicant did not join in his new assignment inspite of verdict of the Hon'ble Tribunal in O.A. No. 21/2003. The applicant was directed to join in his new assignment by honouring the verdict of the Hon'ble CAT vide letter No. Vig/5/IV/2003 dated 24/25.3.2003 (Annexure-9). The said communication was returned undelivered due to absence of the applicant in the given address. The whereabouts of the applicant remained unknown.

Copy of revised order dated 30.4.03 is annexed herewith and marked as Annexure-8.

Copy of order dated 24/25.3.03 is annexed herewith and marked as Annexure -9.

19. That with regard to the statement made in para 4.19, of the application, the respondents beg to state that as per date of birth (1.3.45), the applicant will retire on 28.2.2005. As the O.A. No. 21/2003 of CAT, Guwahati has been dismissed the officer should have joined as the Superintendent NESD, Guwahati as ordered. As the post of Superintendent NESD Guwahati is lying vacant from 5.3.03 and the applicant did not join and the post of Superintendent NESD, Guwahati cannot be kept vacant indefinitely, another officer has been posted in that post and the applicant has been ordered to join at vacant post of Sr. PM, Silchar HO

vide No. Staff/3-4/92/Ch.II dated 26.6.03 in the interest of service. A copy of transfer order dated 26.6.03 was sent to Shri N. Das through the Superintendent NESD, Guwahati (copy enclosed), but the same has been returned undelivered due to his absence. It is further added that the applicant has not tried to communicate with the authority nor informed his whereabouts.

20. That with regard to the statement made in para 4.20, of the application, the respondents beg to state that the applicant was relieved on 5.2.03 (F/N) at Nalbari. After availing the due joining time as applicable, the officer was required to join his new assignment i.e. Superintendent NESD, Guwahati as ordered. But he has not done so nor submitted any leave application apart from not giving information of his whereabouts. As the applicant has not joined at NESD, Guwahati, drawal of pay and allowances from February '03 does not arise. The applicant has been remaining absent without information to the competent authority till date.

21. That with regard to the statement made in para 4.21, of the application, the respondents beg to state that the issue of transfer of the applicant from Nalbari has already been settled by the Hon'ble Tribunal in its order dated 28.2.03 in O.A. No. 21/2003. The applicant is trying to reopen the issue which is not permissible in the eye of law. As regards the representation dated 28.3.2003, no such representation was received by the respondents.

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22. That with regard to para 4.22, of the application, the respondents beg to offer no comments.

23. That with regard to the statement made in paras 5.1 to 5.7, of the application the respondents beg to state that for the grounds and facts stated above, the applicant has no cause to challenge the transfer orders and the application is liable to be rejected.

24. That with regard to paras 6 & 7 of the application, the respondents beg to offer no comments.

25. That with regard to the statement made in paras 8.1 to 8.6, of the application, the respondents beg to state that for the grounds and facts stated above, the applicant's claim for the relief is not justified and liable to be rejected.

26. That with regard to the statement made in para 9, of the application, the respondents beg to state that for the ground and reasons stated above, the interim order prayed for is not justifiable. Hence the application is liable to be dismissed.

27. That with regard to paras 10, 11 and 12, of the application, the respondents beg to offer no comments.

Verification

-13-

V_E_R_I_F_I_C_A_T_I_O_N_

I,

Su Phonsuado Nai

, being authorised

do hereby solemnly affirm and declare that the statements made in this written statement are true to my knowledge and information and I have not suppressed any material facts.

And I sign this verification on this 10th day
of April, 2003.

Phonsuado Nai
Declarant.

Asstt. Postmaster General (Vig.)
O/o the Chief Postmaster General
Assam Circle, Guwahati-781001

ANNEXURE - I

Copy

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AK

DEPARTMENT OF POSTS:INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL
ASSAM CIRCLE : GUWAHATI-781001.

Memo No. Staff/3-4/92/Ch.II

Dated at Guwahati, the 22.1.03

The Chief Postmaster General, Assam Circle, Guwahati is pleased to issue the following transfer/posting orders in PSS Group-B cadre, to have immediate effect in the interest of service.

Sl	Name of the officer	Present posting	Posted on transfer	Remarks
1	Sri M.Ali	Supdt NESD, Guwahati	SPOs, DibrugarhDn, Dibrugarh	Vice Sri G.C.Hazarika transferred
2	Sri G.C.Hazarika	SPOs, Dibrugarh Dn., Dibrugarh	DSRM[HQ] O/o the SSRM/GH	Vice Sri K.C.Sarma transferred
3	Sri K.C.Sarma	DSRM[HQ] O/o the SSRM/GH	SPOs, Darrang Dn. Tezpur	Vice Sri B.Hazarika transferred
4	Sri B.Hazarika	SPOs, Darrang Dn., Tezpur	SPOs, Goalpara Dn., Dhubri	Vice Sri B.K.Marak transferred
5	Sri B.K.Marak	SPOs, Goalpara Dn., Dhubri	SPOs, SivasagarDn Jorhat.	Vice Sri S.Das transferred
6	Sri S. Das	SPOs, Sivasagar Dn., Jorhat	SPOs, Nalbari-Bpt Dn. Nalbari	Vice Sri N.Das transferred
7	Sri Niranjan Das	SPOs, Nalbari-Bpt Dn Nalbari	Supdt. NESD Guwahati	Vice Sri M.Ali transferred

2. Sri K.C.Sarma will move first.

3. Usual charge report be sent to all concerned.


H.C. Roy
Director of Postal Services [HQ]
O/o the CPMG, Assam Circle, Guwahati-1

Contd.....2

Copy to :-

1. The Postmaster General, Dibrugarh Region, Dibrugarh for information and necessary action.
2. The officers concerned.
3. The SSRM GH Division, Guwahati.
4. The SPOs, Dibrugarh/Tezpur/Dhubri/Nalbari/Jorhat.
5. The Supdt. NESD, Guwahati.
6. The Postmaster, Dibrugarh/Tezpur/Dhubri/Nalbari/Jorhat.
7. The HRO RMS GH Division, Guwahati.
8. The DDA(P), Guwahati.
9. The Sr.PS to CPMG // PA to DPS[HQ], C.O. Guwahati.
10. Spare.


For Chief Postmaster General
Assam Circle, Guwahati-781001

DEPARTMENT OF POSTS:INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL:ASSAM CIRCLE:
GUWAHATI-781001.

No.Staff/1-343/88/Pt-II

Dated at Guwahati the February 4, 2003

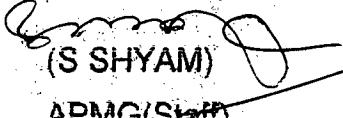
Sri Niranjan Das
SPOs Nalbari

Sub:- Application for voluntary retirement and retention at Nalbari—Case of Sri Niranjan Das SPOs Nalbari.

Ref:- Your two representations dtd.23-01-2003 and 27-01-2003

With reference to your above cited representations I am directed to inform you that

- 1) Your application for voluntary retirement is not on specific cause or plain term. Moreover, you have not given formal notice for 3 months. As such further action may be taken on receipt of formal notice
- 2) Your request for retention at Nalbari cannot be acceded to at present.


(S SHYAM)

APMG(Staff)

For Chief PMG, Assam circle
Guwahati-781001

A (5)

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DEPARTMENT OF POSTS:INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL
ASSAM CIRCLE:GUWAHATI-781001

Memo No. Staff/3-4/92/Ch.II Dated at Guwahati, the 3.2.03

In partial modification of this office memo of even number dated 22.1.03, it is ordered that Shri K.C.Sarma, DSRM[HQ], O/o the SSRM, Guwahati will relieve Sri N.Das, SPOs, Nalbari immediately. Sri Sarma will hold dual charge without any extra remuneration till regular incumbent joins at Nalbari.

2. On being relieved, Sri N.Das will join as the Supdt. NESD/Guwahati as ordered.



(V.C. Roy)

Director of Postal Services [HQ]
O/o the CPMG, Assam Circle, Guwahati

Copy to :-

1. The officers concerned.
2. The SSRM GH Dn, Guwahati
3. The SPOs, Nalbari.
- 4-5. The Postmaster, Nalbari/HRO RMS Guwahati.
6. P/Fs of the officers.
7. The DDA(P), Guwahati.
8. Spare.



For Chief Postmaster General
Assam Circle, Guwahati-781001

ANNEXURE - 5

DEPARTMENT OF POSTS:INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL:ASSAM CIRCLE:
GUWAHATI-781001

No.Staff/3-4/92 Ch.II

Dated at Guwahati the 26.6.2003,

Sub :- Transfer and posting in Postal Service Gr 'B' Grade.

In pursuance of Directorate, New Delhi letter No.9-1/2003-SPG dtd. 13.6.03, the Chief Postmaster General, Assam Circle, Guwahati is pleased to issue the following transfer and posting orders to have immediate effect.

PART - A

Sl.No.	Name of the Officer	Present place of posting	Posted on transfer in Assam Circle	Remarks
1	Sri B.B.Roy Choudhury at Sl. No.5 of the Dte.letter	W.B.Circle	Supdt. NESD, Guwahati	Vice Sri N.Das transferred.

PART - B

Sl.No.	Name of the Officer	Present place of posting	Posted on transfer	Remarks
1	Sri Niranjan Das	Supdt. NESD, Guwahati	Sr.PM, Silchar HO	Terminating adhoc arrangement.

Relevent charge reports be sent to all concerned in due course.

(B.Radhika Chakravarty)

A.P.M.G.(Staff)

For Chief Postmaster General,
Assam Circle, Guwahati-781001.

Copy to :-

1. The Director General(SPG), Dak Bhawan, New Delhi w.r.to above cited letter.
2. Officer concerned.
3. The Chief PMG, W.B.Circle, Kolkata-12.
4. The DA(P) Kolkata/DDA(P), Guwahati
5. The Supdt. NESD/PSD, Guwahati.
6. The SSPOS, Silchar
7. The Sr.PM, Silchar H.O.
8. The PMG, Dibrugarh.
9. PF of the officer.
10. O/C.

For Chief Postmaster General,
Assam Circle, Guwahati-781001.

ANNEXURE-5

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103

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.21 of 2003

Date of decision: This the 28th day of February 2003

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

Shri Niranjan Das
Superintendent of Post Offices,
Nalbari Barpeta Division,
Nalbari.Applicant
By Advocates Mr U.K. Nair and Mr S.K. Das.

- versus -

1. The Union of India, represented by
The Secretary to the Government of India,
Ministry of Communication,
Department of Posts,
New Delhi.
2. The Chief Postmaster General
Department of Posts,
Guwahati, Assam.
3. The Director of Postal Services, Headquarter,
Guwahati, Assam.Respondents
By Advocate Mr. A.K. Chaudhury, Addl. C.G.S.C.

O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

By Memo No.Staff/3-4/92/Ch.II dated 22.1.2003 the
Chief Post Master General, Assam Circle, Guwahati issued
an order for transfer/posting of different officers. By
the said order the applicant who was holding the post of
Superintendent of Post Offices, Nalbari-Barpeta
Division, Nalbari was transferred and posted as
Superintendent, North East Stamp Depot, Guwahati
alongwith other officers. By a separate order dated
3.2.2003 the earlier order dated 22.1.2003 was partially



modified and it was ordered that the DSRM (HQ), Office of the SSRM, Guwahati who was transferred and posted as SPOs, Darrang Division was modified and the said officer was directed to hold dual charge without any extra remuneration till a regular incumbent joined at Nalbari. By the aforementioned order it was also ordered that the applicant should join as Superintendent, North East Stamp Depot, Guwahati on being relieved by the officer mentioned. The legitimacy of the aforesaid action is assailed in this application as arbitrary and discriminatory.

2. The respondents did not submit any written statement as such. However, the respondents filed an application for vacation of the interim order dated 7.2.3003, whereby the transfer of the applicant was stayed. In the said application the respondents sought to justify the transfer order. Mr A.K. Chaudhuri, learned Addl. C.G.S.C., submitted that the said application may be treated as written statement. In addition, the respondents also produced the records before me.

3. I have heard Mr U.K. Nair, learned counsel for the applicant at length and also Mr A.K. Chaudhuri, learned Addl. C.G.S.C. Admittedly, the applicant holds a post which is transferable in nature. The employer's discretion for transfer and posting of an employee is also not under dispute. Mr Nair, however, submitted that the said transfer order has been passed malafide, only with a view to punish the applicant for asserting his right in O.A.No.135 of 1999 disposed of on 26.2.2001.

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The learned counsel for the applicant submitted that as per the said Judgment and Order of this Tribunal the applicant was to be shifted to the Accounts Cadre and his seniority was to be determined in the Accounts Cadre and promotion was to be given as per direction of the Tribunal. Mr A.K. Chaudhuri, however, submitted that the Judgment and Order of the Tribunal referred to above is under examination by the High Court in W.P.(C) No.6796 of 2001. Mr U.K. Hair, however, submitted that the High Court did not stay the Judgment of the Tribunal though the High Court only passed a status quo order.

4. I have given my anxious consideration in the matter. However, considering the pleadings and the materials on record, more particularly the records produced by the respondents it is difficult to hold that the transfer order of the applicant emanated from any improper motive. Seemingly, the said order was passed under administrative ground though a little modification was made by a later order dated 3.2.2003. The impugned order of transfer as such cannot be faulted. Mr Nair contended that the order dated 3.2.2003 is only a ruse, obviously to transfer out the applicant from Nalbari-Barpeta Division by allowing Shri K.C. Barma to relieve the applicant at Nalbari. Mr Nair submitted that the tenor of the order itself indicated that Shri K.C. Barma was allowed to hold dual charge both at the Headquarter as well as Nalbari and thereby he continued to hold the post both at the Headquarters as well as at Nalbari and also thereby allowing others to be posted in their respective places save and except the applicant. On perusal of the order it appears that

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the said order was passed as a temporary measure to take steps to relieve the applicant to join the post of North East Stamp Depot and therefore, the contention of Nair does not hold water. Mr Nair lastly submitted that the applicant was on the verge of retirement and as per the policy guidelines the applicant ought not to have been disturbed on the verge of his retirement. The policy is only meant to act as a guidance which is normally adhered to. Infringement of the guidance will, however, ipso facto not make the transfer order void. Therefore, on this consideration I do not find any merit in this application and the application is accordingly dismissed. The dismissal of the application shall not, however, preclude the applicant to submit representation for his posting at his hometown before retirement and if such representation is made the authority is, undoubtedly, duty bound to consider the same and pass a speaking order as per law.

5. Subject to the observation made above the application stands dismissed. There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN

nkm

300000
2/3/03
Section Officer (Judicial)
Central Administrative Service
Central Secretariat



ANNEXURE - B			
1 के लिए आवेदन की तारीख of application for the copy.	रटाप और फोलिओ की अपेक्षित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित रटाप और फोलिओ देने की तारीख Date of delivery of the requisite stamps and folios.	कापी, ग्राही देने की तारीख प्रतिलिपि देतार भी Date on which the copy was ready for delivery.
9.9.2001	24.9.2001	29.9.2001	3.10.2001

INTHE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM:NAGALAND:MEGHALAYA:MANIPUR: TRIPURA:
MIZORAM AND ARUNACHAL PRAESH)

W.P.C. NO. 6796/2001.

Union of India, represented by Chief Post Master
General Assam Circle, Ghy.

..Petitioner.

-Vs-

Shri Niranjan Das, superintendent of Railway Mail Services, Ghy.

..Respondents.

::PRESENT::

THE HON'BLE MR. JUSTICE JN SARMA

THE HON'BLE MR. JUSTICE AH SAIKIA

For the petitioner :- Mr. Bipul Sarma

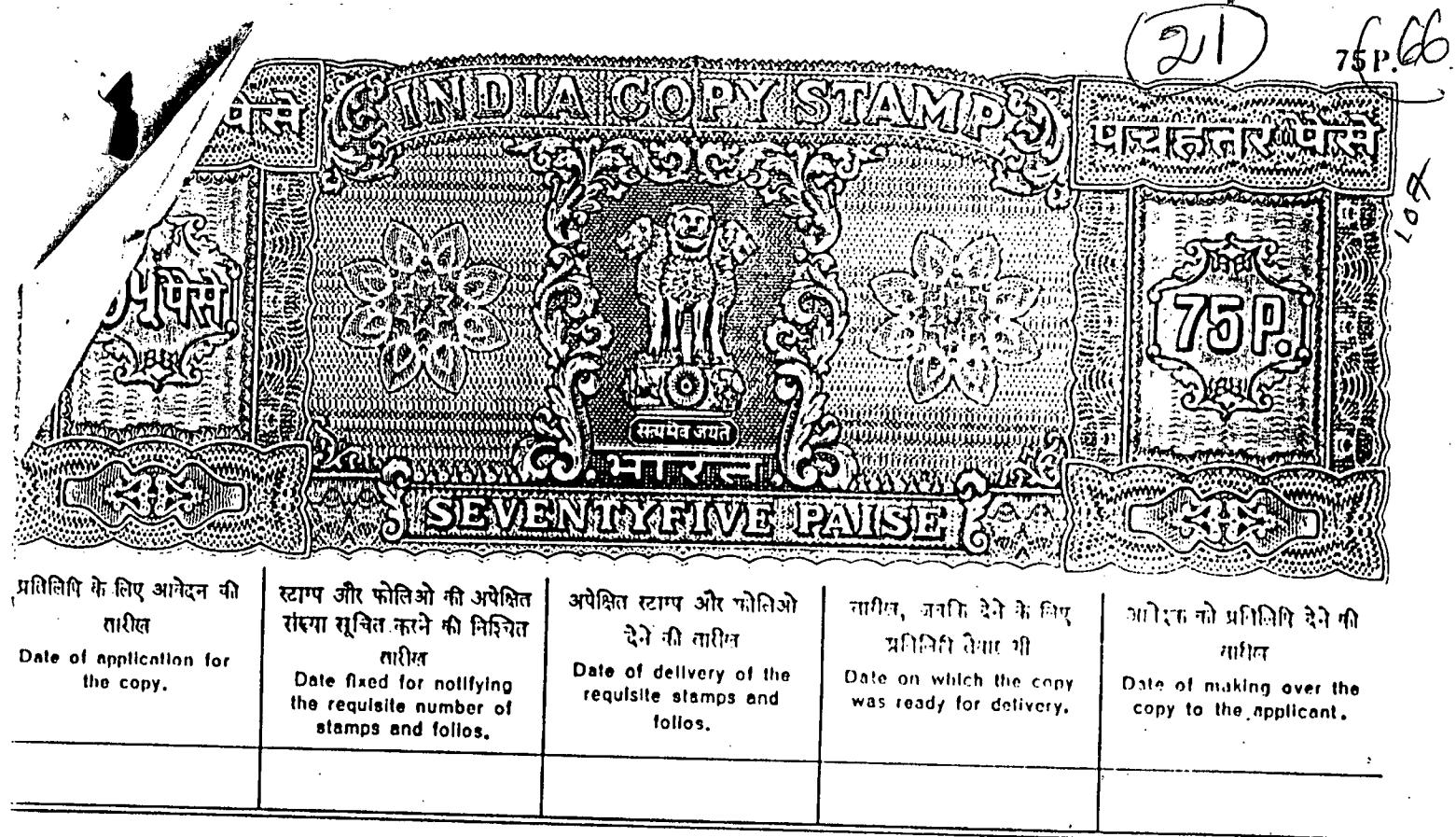
For the respondent:-

Date:-27.9. 2001. O R D E R

Heard Mr. B. Sarma, learned advocate for the petitioner.

Let a rule issue calling upon the respondents to show cause as to why a writ should not be issued as prayed for and/ or why such further order or other orders shall not be passed as to this court may seem fit and proper.

Contd...2/-



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Steps shall be taken by registered post and/or by hand.

Status quo with regard to the impugned judgment as on today shall hold the field.

Sd/-A.H. SAIKIA.

Sd/-JN SARMA,

JUDGE.

JUDGE.

Registered No. 61

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and witnessd. *K. M. Singh*
Date 3rd of Oct. 1881.
Subj. (Copyng Section)
Gardiner H. Scott
Authorized U/s 36, Act 1, 1872

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ANNEXURE-7

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DEPARTMENT OF POSTS, INDIA
Office of the Superintendent of Post Offices :: Nalbari Barpeta Division
Nalbari-781335

CHARGE REPORT

Certified that the charge of the Superintendent of Post Offices, Nalbari Barpeta Division, Nalbari was assumed by Shri K.C. Sarma on the forenoon on 05-02-2003 in accordance with the Chief PMG, Guwahati Memo No. Staff/3-4/92/Ch-II dtd. 03-02-2003.

Karma
Relieving Officer
05-02-03

No. B/A-29/Ch-II

Date :: 05-02-2003

Copy to:

1. The Chief PMG(Staff), Assam Circle, Guwahati for favour of information w.r.t his Memo No. Staff/3-4/92/Ch-II dtd. 03-02-2003.
2. The SSRMs, Guwahati Division for information.
3. The HRO (A/Cs), RMS, Guwahati Division for information
4. The DDA(P), Guwahati-781003 for information.
- 5-6. The Postmaster, Nalbari/Barpeta HO for information.
- 7-8. The Officers concerned.
- 9-10. The P/F of Officers.
- 11-12. Spare.

Karma
Supdt. of Post Offices
Nalbari Barpeta Division
Nalbari-781335
05-02-03

ANNEXURE-8

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DEPARTMENT OF POSTS:INDIA

OFFICE OF THE CHIEF POSTMASTER GENERAL

ASSAM CIRCLE:GUWAHATI-781001

No. Staff/3-4/92/Ch.II

Dated Guwahati, the 30.4.2003.

Sub:- Transfer and posting in PS Group-B cadre.

In partial modification of memo of even number dated 22.1.03, the following transfer and posting orders in PS Group-B cadre are issued to have immediate effect in the interest of service.

Sl	Name of the officer	Present posting	Posted on transfer	Remarks
1	Sri M.Ali	Supdt NESD, Guwahati	DSRM, O/o the SSRM/GH	Against vacant post
2	Sri G.C.Hazarika	SPOs, Dibrugarh	SPOs, Dhubri	Against vacant post
3	Sri Atul Bora	SRM(Stg) Guwahati RMS	SPOs, Dibrugarh	Vice Sri G.C.Hazarika transferred

2. Sri Atul Bora, SRM(Stg), Guwahati will not get TA/TP as the transfer is at his own request.

3. Sri M.Ali, after joining as DSRM, Guwahati will also look after the work of SSRM, Guwahati in addition to his own without any extra remuneration. He will hand over the charge of NESD, Guwahati to Sri R.Rabha, Supdt PSD, Guwahati as ordered vide CO/Guwahati letter of even number dated 24.4.03 immediately.

Usual charge report be sent to all concerned.

(B.Radhika Chakravarthy)

Asstt. Postmaster General [Staff]
O/o the CPMG, Assam Circle, Guwahati-1

Copy for information and necessary action to :-

1. The PMG, Dibrugarh Region, Dibrugarh.
2. The SSRM GH Division, Guwahati.
3. The SPOs, Dibrugarh/Dhubri.
4. The Supdt PSD/NESD, Guwahati.
5. The DDA(P), Guwahati.
6. The HRO RMS GH Division, Guwahati.
7. Officers concerned.
8. P/Fs of the officials.
9. Spare.

For Chief Postmaster General
Assam Circle, Guwahati-781001

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ANNEXURE - 9

DEPARTMENT OF POSTS, INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL;
ASSAM CIRCLE, GUWAHATI-781001

NO. Vig/5/IV/2003

Dtd.at Guwahati the 24-3-2003

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To, Pego

Shri N.Das,
Supdt.NESD,Guwahati(designate),
C/o the Supdt.of Post Offices,
Nalbari-781335

Subject:- OA No.21 of 2003 filed by Shri N.Das.

The above mentioned OA was dismissed by the Hon'ble Tribunal vide its judgement/order Passed on 28-2-2003. A copy of the judgement/order is sent herewith for your information.

I am therefore, directed to ask you to join in your new assignment as the Supdt.NESD Guwahati which is home town posting as ordered with out further delay in view of the order passed By the Hon'ble Tribunal.

Enclo;- AA


(S. Shyam)

APMG(Vig.)

O/o the CPMG

Assam Circle, Guwahati-781001

Copy to:-

1. The Supdt.of P.Os, Nalbari-781335 for information. A copy of the CAT's judgement/Order Dtd.28-2-03 is enclosed.
2. The Staff Branch, C.O,Guwahati alongwith a copy of the CAT's judgement/Order for Necessary action.
3. Sri Niranjan Das, Dhirenpara,Guwahati—25.

Sel —

For Chief Postmaster General,
Assam Circle, Guwahati-781001