

01/100

3

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 235/2003.....

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SECTION OFFICER (Judl.)

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No: 235/2003

Misc Petition No: _____

Contempt Petition No: _____

Review Application No: _____

Applicants: - B. Gupta

Respondants: - U.O. 1, 2 and 3

Advocate for the Applicants: - Mr J. Gogoi

Advocate for the Respondants: -

Mr A. Bhattacharya

Case

Notes of the Registry	Date	Order of the Tribunal
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This application is in
form but not in time

22.10.2003

None appears for the applicant. List
case on 27.10.2003 for admission.

Confidential Petition is

filed / not filed

for its disposal

vide order No. 49 702788

Dated 18/10/03

Vice-Chairman

bb

Dr. Anil Kumar

27.10.2003

This is an application under
section 19 of the Administrative
Tribunals Act, 1985 assailing the
legitimacy of the order dated 10.10.2003
passed by the Sr.Accounts Officer
(Admn), Office of the Accountant General
(A&E), Assam. By order dated 10.10.2003
the respondents authority passed the
administrative order bearing no.208
consequent on re-organisation of the CA
Group, transferred and posted the
persons against their names. By the said
order the applicant was brought to CA 4
(existing CA 7 A), legitimacy of which is
assailed in this application by the
applicant on the ground that this is

Contd./2

Contd.

27.10.2003 contrary to the provisions mentioned in Office Procedure Manual. The applicant, Sri Bimalendu Gupta, appearing in person brought our attention to Para 9 of the said Manual which inter alia deprecated in keeping men in one section. The applicant inter alia contended that contrary to this instruction the respondents authority kept some of the persons in same seat and thereby contravened the provisions of the Office Memo.

Admittedly, none of the said persons, who were kept in the station/place for long, are impleaded as party respondents. Even otherwise mere violation of office procedure by itself cannot be a ground for judicial review under section 19 of the Administrative Tribunals Act, 1985 unless the same is violative of any statutory provisions or any constitutional provisions. No such infringement is discernible in the action of the respondents. The applicant, in course of his arguments, stated that the unhygienic condition at his new postion CA 7 is likely to effect his health since CA 7 is not air conditioned. That also cannot be a ground for intervention.

In this circumstances, we do not find any merit in this application and the same is liable to be dismissed.

The application is accordingly dismissed. The dismissal of the O.A. shall not, however, preclude the respondents to consider the resrepresentation filed by the applicant in his favour. The applicant may also submit a fresh representation within two weeks from the receipt of the order.

No order as to costs.

K.V. Prahladan
(K.V.Prahladan)
Member (A)

D.N. Chowdhury
(D.N.Chowdhury)
Vice-Chairman

18.11.2003

Copy of the order has been sent to the office for issuing the same to the applicant as well as to the respondents.

19/11

21/10/03
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

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

OA No--235-/2003

Sri Bimalendu Gupta applicant

Vs

Union of India & Ors Respondents

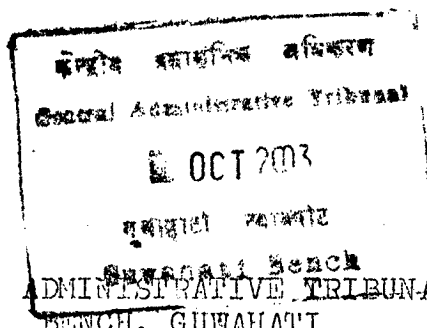
LIST OF DATE

SL. States of Particulars NO	Para No. Page No.	Annexure No. Page No.
1. The applicant transfer from Record(Central) Section after completion of 4 years of service on 26.5.2003 posted to pension-2 section & resumed duties since june 2003.	$\frac{1}{2}$	
2. The applicant prior to posting in CA-4 section which is existing of CA 7 section, which is full of dust pollution and accumulated dust by dumping of vouchers, unhygienic, non-ventilated & unhealthy to applicant health according to medical advise, admitting the same sitting arrangement has made in AO's chamber which is illegal & letter transferred to Record (Central) section after filling OA No. 245/2001 .	x2x $\frac{2}{3}$	
3. The applicant transfer from Record(C) section to pension-2 section on 30/5/2003 vide letter No. Nil dated Nil by Sr. Accounts officer Respondents No. 5, the applicant resumed in service in pension 2 section		$\frac{5}{3}$
4. The applicant was again arbitrarily, out of rule transfer vide order No. 208 dt. 10.10.03 & posted to CA-4s section which is unhealthy to applicant & applied to Respondent 4,5 to stay/ cancel the order & retain in pension 2 section.	$\frac{6,7}{5,6}$	$\frac{2}{14-16}$
5. The applicant submitted representation against transfer order dt. 10.10.03 on 14.10.03 to maintain status-quo against order dt. 10.10.03	$\frac{8}{6,7}$	$\frac{4,4A,5,6}{18-19,20-22}$

6. The applicant grievances on transfer has not placed to competent authority for consideration & cancellation of order dt. 10.10.03 & retain in pension 2 section as rule per rule. $\frac{11}{9}$
7. Transfer order cancelled/modified for Sri Apurba Chandra Sarma, SA on 15.10.03. 20-10-03, $\frac{8}{6-8}$ $\frac{3.3A}{17.17.1}$
8. Legal Ground $\frac{V-1,2}{9}$
9. Relief sought for $\frac{VIII}{10}$
10. Interim order sought for $\frac{VIII.(1)}{10, 11}$
11. Verification 12

Filed by applicant

Princedu Subramanian
through Advocate 21/10/03



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI

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

O.A No. _____/2003

Shri Bimalendu Gupta ... Applicant

-VS-

Union of India and Ors... Respondents

I N D E X

Sl.No.	Particulars	page.
1.	Application.	1-12
1A	Annexure-1 Transfer order extract dated 26.5.03 issued by Sr.Accounts officer dtd Ni.	13
2.	Annexure-2 Transfer order dtd 10.10.2003 issued by Senior Accounts officer	14-16
3.	Annexure-3 Modification of transfer order dated 10.10.2003 Admn No.208 i/c of Shri Apurba Ch Sarma Senior Accountant to CA -I	17
4.	Annexure-4 Medical advise dated 13.10.03 of Dr.D.C.Das english(Type)	18
5.	Annexure-4 A Medical advise dated 13.10.2003	19
6.	Annexure-5 Application dated 14.10.2003 addressed to Deputy Accountant General(Admn. Respondent-4)	20-21 22-23.
7.	Annexure-6 Application dated 14.10.2003 addressed to Sr.Accounts Officer i/c Admn. I and II	

FILEDBY

...
Advocate. 2/10/03

X
Filed by the
Bimalendu Gupta
applicant
through
Advocate
21/10/03

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

BETWEEN: Shri Bimalendu Gupta ... Applicant

-versus-

Union of India and Ors. ... Respondent

PARTICULARS OF APPLICANT:

- i) Name of the applicant : Shri Bimalendu Gupta
- ii) Name of father : Late Biswanath Gupta
- iii) Designation and office : Senior Accountant
in which employed : o/o the A.G. (A&E) Assam,
Beltola, Guwahati-29
- iv) Office Address : O/o the Accountant General
(A&E) Assam, Beltola,
Guwahati-29, Assam.
- v) Address for service : o/o the Accountant General
of notice : (A&E) Assam, Beltola,
Guwahati-29.

PARTICULARS OF RESPONDENTS:

- i) The Union of India, represented by
the Cabinet Secretary to the Govt.
of India, New-Delhi-1.
- ii) The Comptroller and Auditor General of India
Bahadur shah Zafar Marg, Indraprastha
H.P.O. Post bag No.7 New-Delhi-2.
- iii) The Accountant General (A&E) Assam,
Beltola, Guwahati-29, Assam.
- iv) The Deputy Accountant General (Administration)
O/o the Accountant General (A&E)
Assam, Beltola, Guwahati-29, Assam.
- v) The Senior Accounts officer
i/c Administration -I and II Bills
o/o the Accountant General (A&E) Assam
Beltola, Guwahati-29, Assam.
- vi) Asstt. Accounts officer, (Admn.-I)
o/o the Accountant General (A&E) Assam,
Beltola, Guwahati-29, Assam.
- vii) Asstt. Accounts officer, Pension-2 section
o/o the Accountant General (A&E) Assam,
Beltola, Guwahati-29, Assam.

contd.....2

I. Particulars of the Order/Orders against
which the application is made:

A. The Application is made against the following order/orders

A. Administration No.208 dated 10.10.2003 issued in
in consequent on re-organisation of the C.A.
Group, the following officials are transferred
and posted to the sections against their names.

B. Order No. Nil dated Nil issued by the Sr. Accounts
Officer i/c Administration, Bills regarding withdrawal
of Shri Bimalendu Gupta applicant from Record (Central)
Section and posted to Pension -2 section against the
withdrawal of Shri Paltan Mitra SCO

II. JURISDICTION OF THE TRIBUNAL:

The applicant declares that he is aggrieved
by the above order placed "A" against which he wants
redressal of his grievances to retain the applicant in the
Pension 2 section as per order stated in "B" above is within
the Jurisdiction of the tribunal.

III. LIMITATION.

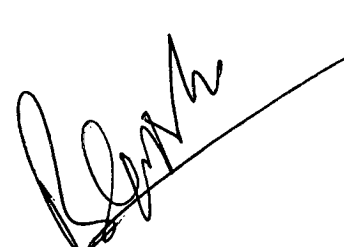
That the applicant further declare that the
application is within the Limitation of the periods.

IV. FACTS OF THE CASE:

1) That the applicant begs to state that the
applicant is a Senior Accountant working under the Respondent
No.III- the Accountant General(A&F) Assam, Guwahati-29 and
presently he was working in the Pension -2 section/ dealing with the
people of state where he was joining in June, 2003, after
releasing the applicant from Record section (Central) where applicant
was completing 4 years of service since 1999.

2) That the applicant begs to state that prior
to posing in the Record Section (Central) in 1999 he was
posted in C.A.7 B section under Compilation "Group in C.A.
Block (Compilation Block) which is full of dust, unhygienic

contd....3



unhealthy to applicant according to medical advise of the attending doctor of the applicant. During spell of works in compilation of accounts he was suffering from acute Chronic sinusitis since 1994 and undergone treatment under Allopathy doctor of the Medical collage. Due to non-improvement of the ailments the applicant compelled to change the mode of treatment and selected Homoeopathy treatment under Govt. Hospital doctor as attending doctor of the applicant Dr.D.C.Das. The matter of ailments and the un-hygenic condition, dust in the C.A Block, improper ventilation not healthful to the applicant aware to Respondent and withdrawn from the C.A. Section. But the Respondent No.4- Deputy Accountant General is very clear about the facts of medical advise and considering the dust pollution, un-hygenic and unhealthy condition of the C.A. Block (C.A.-7 section) the sitting arrangement of the applicant was made in the Chamber of the Senior Accounts officer i/c Shri Swadesh Das. During this period ^{applicant} was also placed in the Hindi Training from 27.9.98 to 12.11.98. which is compulsory for all the Central Govt. employees and the applicant passed the Hindi Examination. But the Respondent No. 4-Deputy Accountant General (Admn.) Respondent No.5-Senior Accounts officer, Admn and Respondent No.6-Asstt. Accounts officer i/c Admn.1 by mis-using their capacity of profession and Rules declare the period from 27.9.98 to 12.11.98 as dies non. The applicant was compelled to file OA No.245/2001 in this Hon'ble C.A.T. for redressal and justice. The Hon'ble Central Administrative Tribunal admitted the facts of the order dated 4.12.98 ^{wrong and} declared set aside and passed order on 28.11.2001. The Respondent No. 4-Deputy Accountant General (Admn.) admitted the part of the order dated 28.11.2001 as wrong and made payment but the part of the days between 27.9.98 to 12.11.98 the days related to Hindi training as remain same and the payment of pay etc does not made despite reminders.

c ontd....4.



3) That the applicant begs to state that the Respondent No. 4-Deputy Accountant General(Admn) under Respondent No. 3 and the Respondent No. 3 - the Accountant General(A&E) Assam, Guwahati-29 is not the competent authority/appellate authority or disciplinary authority of the applicant to decide on the matter. Due to wrong and by mis-use of power with influence and placement of the Respondent No. V & VI the Senior Accounts officer i/c Administration I & II and Asstt. Accounts officer Admn. 1 under Respondent No. 3 the Accountant General(A&E) Assam ^{has been} mis-guided them out of rule, to act, out of rule and illegally. The Respondents No. ~~3, 4~~ 3, 4 and 5 failed to apply mind on the Hon'ble C.A.T. order dated 28.11.2001 in OA No. 245/2001 on the very words and "set aside" and its application correctly. The words Set aside meant for annul and the meaning of annul means abolish, make void and declare invalid. ^{The Resp-4} modified the orders for their own interest ^{to} create financial hardship to applicant. The applicant repeatedly approached to the Administration for correct application of the Hon'ble C.A.T. order and Rules and pay the amount when the applicant was working in Record Central section. Suddenly ^{he} was transfer to Pension 2 section in June ¹⁹ without intimation and released from the section arbitrarily.

4.) That the applicant begs to state that during the works in the Record(Central) section ^{was} ~~the applicant~~ ^{he} trusted various nature of jobs in addition to ~~applicant's~~ ^{normal} works.

The applicant with his dedication to works with full satisfaction of the Respondent No. 3 and 4 completed his duties as allotted to him. Being satisfied with the normal and additional works according to records, the Respondent No. 3- the Accountant

General(A&E) Assam, Guwahati pleased and forwarded a hand sum amount for additional works as Honorarium in ^{the} last year.

As such there is no doubts about the ability of the works of the applicant, the transfer from the Record section ^{by Respondent No. 5}

^{out of rule} but the applicant completed the duties with full satisfaction of the Respondents during last 4 years services.

contd...5.



5) That the applicant begs to state that due to his release from Record(Central) section in 30.5.2003 the applicant resumed duties in Pension-2 Section under Pension and Fund Group from Administration Group on 2.6.2003 and where he was allotted duties/works of pension reporting related to employees of Assam Govt. The applicant was transferred and posted against Shri Paltan Mitra SCO withdrawn from Pension 2 section by the Respondent No.V vide letter No. Nil dated NIL with information to Branch officer and Section officer of Pension -2 and Record respectively. The Respondent No.v - Senior Accounts officer i/c Administration is not the competent Authority of transfer to any official of the Cadre of Senior Accountant as he is not the authority of appointment.

Copy of the transfer order dated Nil issued on the basis of extract is annexed herewith and the same is marked as Annexure-1.

6) That the applicant begs to state that suddenly it has come to knowledge of the applicant that the applicant is further transferred by the said Respondent No.V-Senior Accounts officer i/c Administration 1 and 2 by adopting the same manner ^{arbitrarily.} According to office procedure the employees are posted in the various sections for works by the Respondent No.4. The procedure adopted by the Respondent No.4 in regard to internal transfer and posting according to Rules the employees are only transferred who has completed 3/years of more service in the sections. There are huge numbers of employees are working in Pension-2, Administration I and II Loan section and others more than 5 years and above but the Respondent No. 4 and 5 failed to take any steps in regard to their transfer posting in any other section till date. Even the Respondent No.5-Senior Accounts officer i/c Administration and the Respondent No.6- Asstt. Accounts officer i/c Admn.I completing not only 3 months but more than 5 years of service in the same charges, ^{in the same section,} but the same procedure of Rule has not ^{been} applied in all respect equally in all cadre under Respondent 3 & 4.

contd....6.

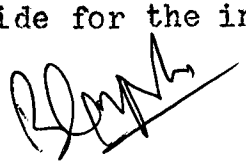


6.1 T That the applicant begs to state that the Respondent No.2- C.A.G. of India by his letter No.CG's No.584 - TA. A dated 30.07.1920 guided the function of the A.G. office regarding transfer/~~posting~~ of men from Section to Section and incorporated in the books namely "Office Procedure Manual". According to Office Procedure Manual-Chapter -1- para 9 runs as follows :

" The Respondent No.2, C.A.G. has depreceated the practice of keeping man in always in one Section which which is apt to lead to trouble when one or more of the few men who know the works take leave or Retire. Arrangement for periodical transfer need. It was decided no auditor should be allowed to remain in same seat more than 5 years without personal concerrance of the Accountant General and consistently with the interest of the Public service and obtain Accountant General's specific order if necessary to retain any Auditor more than 5 years".

6.2 The office procedure mannual published prior to 1984 and till date no publication has been made. Prior to 1984 theretis Accountant General office and after that the A.G.office divided in two parts one is A.G.(Audit) and the employees of this office called Auditor and A.G.(A&E) the employees called Accountant/Sr.Accountant and the O.P. manual is used in the both offices under Respondent No.2- C.A.G. of India.

6.3. That the Respondent No.2- C.A.G. by his order No. 2099- Admn-I/512-63 dated 28.8.1963 observed that their Section officer are kept on much too long in one particular section, good Officers are promoted as A.O. in public service as well as in their own interest it should be seen that they are not kept on for long in a particular section and they are given an opportunity to gain experience of works in various section/branches of A.G.Office and they should be posted in various section in rotation.Hence necessary arrangement should be made so that no Section officer normally remains in any particular section for more than two years" The same procedure has not been made in case of Respondent No.6-Asstt.Accounts officer/ i/c Section of Admn-I and Respondent No.5 by the Respondent No.3 and 4 as per Respondent No.2 order and by misuse of order,Rule the Resp. 3,4 and 5 deliverately transfer the applicant from Pension-2 section after complotion of 3 and half months by order dated 10.10.2003 of /of Respondent No.5 is a violation of Rule, which is not permissible beyond 5 years service in a section is Arbitrary, malafaide practice, and illegal and deserve cancellation of order dated 10.10.2003 in case of Applicant S.No.28 in first sight and set aside for the interest of justice.

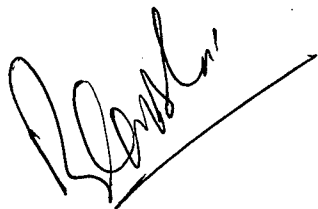


7) That the applicant begs to state that the Respondent No.3,4, 5 and 6 is very clear about the hazardous condition of the section C.A.7 and the same is unhealthy to applicant according to medical advises issued to them ~~only~~ in past (medical advise dated 9.2.1999) and the transfer to C.A.-4 the newly created instead of C.A.7 . the transfer ~~is~~ is not acceptable to the applicant and as such the Respondent has not yet issued the transfer order to the applicant is a part of mis-use of Rule and violation fundamental rights of the applicant. The applicant has been arbitrarily, vindictively and out of rule transferred from Pension -2 section of Pension Group to C.A.-4 newly re-organised ~~from~~ from C.A.7 vide Admn 1 order No.208 dated 10.10.2003 issued by the Senior Accounts officer i/c Administration, who is not the competent authority of transfer of a employee from section to section ~~from~~ under rule as well as the Respondent No.5, 6 failed to apply the same procedure i.e transfer and posting of employee from section to section and group to group equally. The Re-organisation of C.A.4 is from the existing employees working under various C.A.Groups as per order dated 10.10.03 those who were working in the C.A. more than 3 years and above but the inclusion of the applicant name as Sl. No.23 ~~as~~ as transfer from Pension 2 section to C.A. -4 within 3 months against withdrawal of 2 officials of C.A. Group Sl. No.61 and 62 against Sl. No.23 the transfer is not proper, illegal and out of rule as well as the transfer order dated 10.10.2002 is only to fulfill the interest of the Respondent No.5 and 6 not meant for, the transfer and posting in the interest of public as such the transfer order is illegal and liable to set aside.

copy of the transfer order dated 10.10.2003 is annexed and the same is marked as Annexure-2.

3) That the applicant has compelled to represent to the Respondent No.4-Deputy Accountant General (Admn.) under Respondent No.3-Accountant General (Asst) Assam against his wrongs.

contd...7



14
illegal and out of rule transfer order and ~~for~~ its cancellation and to maintain status quo on ~~the~~ earlier order issued vide No.Nil, dated Nil issued by the Senior Accounts officer i/c Administration as ~~Annexed~~ in Annexure-I. The applicant has just transferred to Pension 2 section in June 2003 and just completed 3 months and half, the reason behind the said transfer is a conspiracy because the Respondent No.4,5 and 6 are aware the transfer to C.A -4 newly created against C.A,7 is not acceptable by the applicant because of hazardous, dust pollution and unhealthy to applicant according to medical record available to Respondent No.4,5, and 6 and on refusal of the same may create some advantage to Respondents to harass the applicant, as such the representation submitted on 14th October, 2003 to Respondents has not yet decided and considered according to medical advise of the attending doctor Dr. D.C. Das advise dated 15.10.2003 specifically mentioned to avoid cold and dust due to chronic sinusitis, skin allergy. The applicant is under ~~long~~ under long treatment of the said doctor. The attending doctor of the petitioner is an Assistant Professor working under Assam Govt. Homoeopathic Collage and hospital, Guwahati and the treatment under Govt. hospital is entitled to applicant as per Govt. of India, Ministry of Health and family welfare O.M. No.S14025/7/2000-MS dated 28.3.2000 according to this order, the employee and their family members can take treatment in any of the Central Govt. hospital, state Govt. Hospitals and hospitals recognised by the State Govt./CGHS/CS(MA) Rules 1944 as well as the hospital fully funded by either the Central Govt or the state Govt. subject condition the reimbursement fixed by the C.S. (MA) Rules 1944/CGHS, but there is no doubt about the acceptance of medical advises but the delay on decision of cancellation of transfer order dated 10.10.2003 in respect of Sl. No.26 and retain in the same section i.e. Pension -2 is delayed. On the other hand modification in case of Shri Apurba Ch.Sarma Senior Accountant has already ^{been} made ~~AB~~

contd....8



by the Respondent No. 6, ²⁰⁻¹⁰⁻⁰³ Asstt. Accounts officer ~~Sr. Accounts Officer~~,
Admn by his order dated 15.10.2003, and modification has
also been ~~made in other cases~~ ^{Processed} reasons best known by them.
The Respondent No. 4 and 5 received the representation on 14-10-03
for cancellation of transfer order dated 10.10.2003
which is against Office Procedure of transfer posting
with in 3 and half months ^{not} permissible under Rule and the
said Rule has not applied ~~equally~~ ^{to} in case of all cadre
which includes Respondents No. 5 and 6 as such the said
transfer order is arbitrary, illegal and motivated and
deserve to be set aside as the transfer order has not
signed by the competent authority of appointment of the
cadre of Sr. Accountant as well as the transfer order is
not covered the transfer and posting in public interest.

copy of the modification letter in/respect
of Shri Apurba sharma Sr. Acctt. dated 15-10-03
20.10.2003 is annexed and the same is
marked as Annexure-3.3A;

9) That the applicant begs to state that the
applicant submitted the representation, to Respondent
No. 4-Deputy Accountant General (Admn.) and Respondent No. 5
Sr. Accounts officer in/c Administration 1 and 2 regarding
out of rule and illegal transfer of the applicant from
Pension 2 section to newly created C.A. 7 from existing
~~CA 7~~ CA 7 which is full of dust pollution and not
suit to the health of the applicant due to his ailments,
according to doctor ~~advise~~ ^{advice} dated 13.10.2003 specifically
advised to applicant to avoid cold, dust and remain
in well ventilated room, kept in action and Compelled to file ^{this}
application for justice.

Copy of the medical advise dated 13.10.03
is annexed herewith and the same is
marked as Annexure-4.

10) That the applicant begs to state that the
Respondent No. 4, 5 and 6 failed to take decision on the
Representation submitted by the applicant on 14.10.2003
for cancellation of the transfer order dated 10.10.2003
which is against Rule and the health condition of the
applicant and violation of fundamental right of the applicant.

Ramprasad

copy of the application dated 14.10.2003
is annexed herewith and the same is marked
as Annexure-5 and 6.

11) That the applicant begs to state that the Respondent No. 5 is not competent authority to take decision on transfer nor he is permitted/authorised to issue transfer order as per Office Procedure beyond completion of tenure or after completion of 3 and half months. As such the Respondent No. 5 and 6 mis-represented, misguide and mis-interpreted the facts of earlier transfer of the applicant in June 2003 and as such the Respondent No. 4 passed wrong order towards applicant and deserve cancellation and set aside of the order dated 10.10.2003 Annexure-2. which is against fundamental right of the applicant.

V. GROUND for Relief with legal provision:

1. That the applicant has just completed 3 and half months in Pension -2 section on transfer posting by the Respondent No. 5 Sr. Accounts officer Admn. vide letter No. Nil dated Nil by quoting order of Respondent No. 4 without intimation which is a violation of Rule 4. That the applicant is clear about Rules that the Respondents are not the appointing authority as such the authority has not empowered to Sign the sectional transfer without quoting provision of Rules. This is mala fide, motivated and intentional and deserve set a side the transfer order dated 10.10.2003 and retain the applicant in Pension -2 section for the tenure 3-5 years as deserved.

2.. That the applicant begs to state that irreparable loss have cause to the applicant health due to his re-transfer posting in CA-4 dust based and hazardous to applicant, Where as the same nature of works are ^{also} entrusted to other Senior Accountant/Accountant in well cleaned air condition room with high pay and honorarium and forced to work in Dust pollution based CA-4 section in CA Block is violation of fundamental rights of the applicant.

contd. ...10.



VI. DETAILS OF REMEDIES EXHAUSTED:

That the applicant begs to state that the available of all remedies to him under the rules availed by the applicant but inaction on the application dated 14.10.2003 in part of Respondent No.4,5 and 6 compelled to file this application to this Hon'ble Central Administrative tribunal for redressal when the applicant came to know about the partial favouritism of the Respondents in respect of stay /cancellation of transfer of Shri Apurba Kh. Samra, Senior Accountant and posted back to his earlier section C.A.I for equal justice and retain on stay and remain the applicant to the Pension -2 section to the extent as per Rule/Office Procedure according to which the other employees continuing the services in the section more than 5 years or more and justice.

VII. MATTER FOR PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT

That the applicant declare that the applicant did not file any case in any court in the same matter of illegal transfer and its stay and cancellation.

VIII. RELIEF SOUGHT FOR

In view of the above facts, the applicant prays for the following relief:

1. Necessary order passed directing the Respondent No.3 and 4 to set aside the impugned order dated 10.10.2003 which has not covered under Office procedure and Rule and not issued by the competent authority nor the order carry meaning of public interest or to maintain the status quo as per earlier order dated Nil, No Nil issued by Respondent No.5 under order dated 26.5.2003 and retain the applicant in Pension -2 section for the future.

VIII. INTERIM ORDER:

Pending final disposal/decision of the application the applicant prays for issuance of the following interim order:-



1. The interim order be passed directing the Respondent No.4 and 5 - Deputy Accountant General (Administration) under Respondent No.3 ^{to} stay operation of transfer order dated 10.10.2003 and not to release the applicant from Pension -2 section to the dust pollution, hazardous, non-ventilated section on the basis of the arbitrary order pending disposal of the applications.

THE PARTICULAR(S) OF I.P.O. IN RESPECT
OF APPLICATION FEES:

1. Number of IPO(s) for Rs.50/-: 9 G 702788
2. Name of issuing post office: Guwahati GPO
3. Date of issue : 10.10.2003
4. Post office at which payable: Guwahati
- 5.

LIST OF PARTICULARS:

As stated in the Index.

verification12.

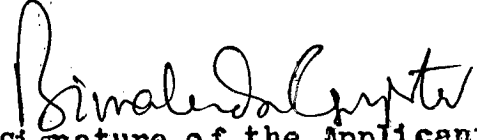
....



VERIFICATION

I, Shri Bimalendu Gupta son of late
Biswanath Gupta, age about 50 years by cast Hindu
by profession Govt. service under Central, Govt.
Resident of Borthakur Mill Road, Ulibari, Guwahati-7
do, hereby verify that the statement made in 1, 2, 3, 4
5, 7, and 8 paragraphs of this application are true
to my knowledge those made in paragraph 6, 9, 10 and 11
are based on records which I believe to be true and
the rest are humble submission before this Hon'ble
Tribunal.

AND I sign this verification this 21st
day of October, 2003.


Signature of the Applicant.

...

Annexure-I

13

OFFICE OF THE ACCOUNTANT GENERAL (A&E) ASSAM
MAIDAMGAON, BELTOLA, GUWAHATI 781 029

EXTRACT OF DY. ACCOUNTANT GENERAL (a)'S ORDER DATED 26.5.2003

Shri Bimalendu Gupta, Senior Accountant is withdrawn from Record (Central) and posted to Pension 2 Section against the withdrawal of Shri Paltan Mitra, SCO.

Posting of substitute in place of Shri Gupta will be issued later.


Senior Accounts Officer (A)

Copy for information to :

1. PS to the Accountant General
2. PA to the DAG(A)
3. Steno to the DAG(P&F)
4. Branch Officers of Pension 2 & Record (C)
5. Sectional Heads of Pension 2 & Record (C)
6. Posting file of Admn 1
7. AAO/Admn II

Certified to be
true copy
Ashattacharya
ADVOCATE

Annexure-2
21 14

OFFICE OF THE ACCOUNTANT GENERAL (A&E) ASSAM
MAIDAMGAON, BELTOLA, GUWAHATI 781 029

ADMN 1 ORDER NO. 208

Friday, October 10, 2003

Consequent on re-organisation of the CA Group, the following officials are transferred and posted to the sections mentioned against their names:

Sl. No	Name of the Official with designation Shri/Smt.	Section to which attached at present	Section to which posted now	Remarks
01	Torilla Kharkrang, SA	CA 1	Newly created CA 1 (existing CA 1,3 & 10 merged)	Sectional head of the section is being notified separately
02	Costarica Shadap, Acctl.	CA 1		
03	Irish Steven Rynjah, SA	CA 10		
04	Sathi Chakraborty, SA	CA 6		
05	Nageswar Shah, Acctl	CA 1		
06	Man Bahadur Ale, C/T	CA 2		
07	Shibendra Kr. Chakraborty, SA	CA 2	Newly created CA 2 (Existing CA 2,4,11 & 13 merged)	Sectional head of the section is being notified separately
08	Luciana Nongkynrih, SA	CA 10		
09	Bisnola Nongbri, SA	CA 3		
10	Francis X.Marbaniang, SA	CA 4		
11	Cameroon R.Khongvir, SA	CA 5		
12	Maheswari Haloi, C/T	CA 3		
13	Tanuka Dey, SA	CA 13	Newly created CA 3 (Existing CA 5,6,8,9 & 12 merged)	Sectional head of the section is being notified separately
14	Amrit Kumar Lama, SA	CA 5		
15	Bidhan Chakraborty, SA	CA 5		
16	Ilency Chyne, SA	CA 6		
17	Mistillian Synrem, SA	CA 13		
18	Anil Kumar Chakraborty, C/T	CA 7 C		
19	Shamsul M. Dympep, SA	CA 7 A	Newly created CA 4 (Existing CA 7 A)	Sectional head of the section is being notified separately
20	Imran Hussain, SA	CA 13		
21	Adhir Ch. Chanda, C/T	CA 7 C		
22	Dhrubajyoti Bhattacharjee, SA	CA 7 C		
23	Bimalendu Gupta, SA	Pension 2		
24	D. Sarma Kakoti, SA	CA 7 C		
25	Bednath Sarma, SA	CA 7 B	Newly created CA 5 (Existing CA 7 B)	Sectional head of the section is being notified separately
26	Imon Rebecca Bang, SA	CA 9		
27	Ramayan Singh, SA	CA 8		
28	Bluebell Ghashing, SA	CA 7 B		
29	Ramsewak Roy, SA	CA 7 B		
30	Umesh Ch. Baishya, C/T	CA 13		

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31	Christina Khati, SA	CA 10	Newly created	Sectional head of the section is being notified separately
32	Shyamdeo Pandit, SA	CA 10	CA 6	
33	Cyprian Madur, SA	CA 7A	(Existing CA 7 C)	
34	Acquila Pyngrop, SA	CA 7 A		
35	Adreena Lyngdoh, SA	CA 7 B		
36	Durga Basak, C/T	CA 11		
37	Rajeswar Medhi, SA	CA 7 B	Newly created	Sectional head of the section is being notified separately
38	Manjula Deb, SA	CA 2	PFA 15(B)	
39	Rama Kanta Paul, SA	CA 4		
40	Kul Bahadur Thapa, SA	CA 5		
41	Kiran Lal Joshi, SA	CA 6		
42	Pritam Singh Gurung, SA	CA 4		
43	Anjali Bhattacharjee, SA	CA 8		
44	Shyamal Karmakar, SA	CA 11		
45	Sumantra Choudhury, c/T	CA 5		
46	DilipSarma II, C/T	CA 10		
47	Jayashree Deka, SA	CA 7 C	Loan I Section	
48	Nilima Bhattacharjee, SA	CA 11		
49	Pratima Dutta Gupta, Actt	Loan III		
50	Mihir Das, Acclt	Loan III		
51	Baishakhee Bhattacharjee, SA	CA 7 A	Pension 4	
52	Swapna Kr. Das, SA	CA 6		
53	Durga Bahadur Chetri, C/T	CA 6		
54	Subrata Kumar Banerjee, SA	CA 7 B	Despatch	
55	Sunil Kumar Das II, SA	CA 12		
56	Primal Ch. Dey, SA	CA 5		
57	Jyotirmoy Goswami, SA	CA 3	Admn II	
58	Tushar Kanli Ghosh, SA	CA 9		
59	Sumitra Kharsing, SA	CA 12	GE 10	
60	Apurba Kumar Sarma, SA	CA 1	Pension 6	
61	Khepas Pahsyntiew, SA	CA 13	Pension 2	
62	Sujan Choudhury, SA	CA 11		
63	Biman Chandra Roy, SA	CA 13	Pension 3	
64	Biswanath Bhattacharjee, SA	CA 10		
65	Prakash Singh, SA	CA 7 A	Pension 1	
66	Sujit Kr. Dey, SA	CA 12	PFA 2	

67	Pradip Kumar Baruah, SA	CA 7 A	PFA 14	
68	Bharat Ch. Brahma, C/T	Despatch	Form Branch	
69	Sourjit Baruah, SA	PFA 6	Receipt	
70	Kaushik Ranjan Acharjee, SA	Receipt	Despatch	
71	Tapati Sengupta, SA	CA 2	PFA 6	
72	Haldinola Syenmah, SA	CA 8	Record (C)	

This order will come into force with immediate effect.

(Authority : DAG(A)'s order dated 8.10.2003 at p/53 n of File No. Admn 1/1-1/2003-04)

sd/-

Senior Accounts Officer (Admn)

Memo NO. Admn 1/1-1/2003-04/6028-41

Friday, October 10, 2003

Copy for information to :

1. The Secretary to the AG
2. The PS to the AG
3. The PA to the DAG(A)
4. The Sleno to the DAG(P&F)
5. The Sleno to the DAG(A/cs)
6. All Branch Officers concerned
7. AO/ Record Section
8. SO/Record – with a request to make necessary arrangement for re-arranging the sections.
9. All sectional Heads concerned – with a direction to intimate the date of release / date of joining of the officials from / in their sections
10. AAO/Admn II
11. AAO/CC
12. Hindi Officer – with a request to issue Hindi version of this order from his end
13. Admn 1 posting file
14. Admn 1 Order Book

Senior Accounts Officer (Admn)

*Certified to be
true copy
Asstt. Secy
ADVOCATE*

Annexure 3 24 17

OFFICE OF THE ACCOUNTANT GENERAL (A&E) ASSAM
MAIDAMGAON, BELTOLA, GUWAHATI 781 029

Wednesday, October 15, 2003

EXTRACT OF DAG(A)'S ORDER DATED 14.10.2003

1. In partial modification of Admn 1 Order No. 208 dated 10.10.2003, Shri Apurba Ch. Sarma, SA has been posted to CA 1 Section instead of PENSION 6 Section.
2. Smt. Sathi Chakraborty, SA stands withdrawn from CA 1 Section and posted to PRI/LB Section
3. Smt. Smriti Rani Das, SA is posted to Pension 6 Section in place of Shri Apurba Ch. Sarma, SA


Assistant Accounts Officer (Admn)

Copy for information to :

1. PA to DAG(A)
2. Steno to DAG(A/cs)
3. Steno to DAG(P&F)
4. Senior Accounts Officers concerned
5. Sectional Heads concerned
6. AAO/Admn II
7. Posting group of Admn 1

*Certified to be
true copy
Bhattacharya
ADVOCATE*

Annexure-3A

13(1)

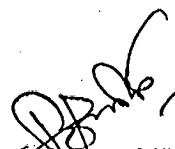
OFFICE OF THE ACCOUNTANT GENERAL (A&E) ASSAM
MAIDAMGAON, BELTOLA, GUWAHATI 781 029

Monday, October 20, 2003

EXTRACT OF DAG(A)s ORDER DATED 20-10-2003

Smti Baishakhi Bhattacharjee, Sr. Accountant is withdrawn from Pension-4 Section and posted to CA-4
Section with immediate effect.

Smti Dencynora Sharma Kakati, Sr. Accountant is withdrawn from CA-4 Section and posted to Pension-4
Section with immediate effect.


Sr. Accounts Officer (Admn)

Copy for information to:

1. PA to DAG(A)
2. Steno to DAG(P&F)
3. Branch Officer, Pension-4 & CA-4
4. Sectional Heads, Pension-4 & CA-4
5. Posting file of Admn1 Section

(Copy)

Ph. (0361) 2510755(R)

DR. D. C. Das, DHMS, MBS (Horn)

Trained in X-Ray (GMCH Guw)

Regd No. A88 & CCH-1525

Assistant Professor and

Head of the Deptt. of

Anatomy

S.J.N. Govt. Homoeopathic

Medical collage & Hospital

Panjabari, Guwahati-37,

Assam.

DAS HOMEO CLINIC

Ulubari, Guwahati-7

(Near Lachit Nagar A.S.T.C. Stopage)

Visiting Hours

Morning - 8-30 AM to 9-30 AM

Evening - 5.00 PM to 8 PM

Sunday - 10.00 AM to 1 PM

TO WHOM IT MAY CONCERN

This is to certify that Sri Bimalendu

Gupta is suffering from a Chronic

Stantities and skin allergy" repeatedly

since long and under my treatment.

He is advised to remain in well

ventilated room and avoid from cold and

dust.

s d/illegible 13/10/2003

Asstt. Professor

S J N Govt. Homoeopathic

Medical collage and Hospital

Panjabari, Guwahati-37.

....
Certified to be
true copy
Abhattacharya
ADVOCATE

Dr. D.C. Das, DHMS, MBS (Hom.)
Trained in X-Ray, (GMCH, Guw)
Regd. No. A-00 & CCH - 1525
Assistant Professor & Head, Deptt. of Anatomy:
S.J.N. Govt. Homoeopathic Medical
College & Hospital, Panjabari,
Guwahati-37, Assam

Annexure A
Ph. : (0361) 2510755 (R)
DAS HOMOEOPATHIC CLINIC
Ulubari, Guwahati-7
(Near Lachit Nagar A.S.T.C. Stopage)

VISITING HOURS

Morning— 8-30 A.M. to 9-30 A.M.
Evening— 5-00 P.M. to 8-00 P.M.
Sunday— 10-00 A.M. to 1-00 P.M.

TO WHOM IT MAY CONCERN.

This is to certify
that Sri Bimalendu Gupta
is suffering from "chronic
sinusitis and skin allergy"
repeatedly since long and
under my treatment.

He is advised to
prognath in well ventilated
room and avoid room cold &
dust.

Sb
13.10.2023.
Asstt. Professor
S J N Govt. Homoeopathic
Medical College & Hospital
Panjabari, Guwahati-37

Certified to be
true copy
Blattacharya
ADVOCATE

Annexure-5

To

The Dy. Accountant General
I/c Administration
O/o the AG(A&E) Assam
Guwahati-29

Subject: Sectional posting

Sir,

I beg to invite your attention to your letter No. Nil dated Nil as per extract of Dy. AG(a)'s order dated 26.5.2003 which was not intimated to me and the Accounts officer i/c Record (c) released on 30.5.2003 and accordingly I was posted to Pension -2 against the withdrawal of Sri Paltan Mitra, S C O after completion of more than 3 years service in Record(C) Section, where I was rewarded by A.G(A&E) Assam with satisfied on my additional works in addition to my normal works and rewarded by Honorarium a hand sum amounts. According to order I resumed in Pension 2 section on 01.06.2003.

2. In resuming duties in the Pension 2 section I was entrusted works of outstanding as well as present pension cases by the i/c Asstt. Accounts Officer of Pension 2 and according to allotment of works I was handed over 84 pension cases from June to September 2003 along with outstanding pension cases I was completed and disposed 118 pension cases as recorded in the pension 2 section.

3. That it was come to my knowledge that I was again posted by Sr. Accounts officer i/c Admn. 1 & 2 vide order No. 208 dated 10.10.2003 but the matter of posting not intimated to the undersigned. I like to mention here that the right to know is a right to the applicant.

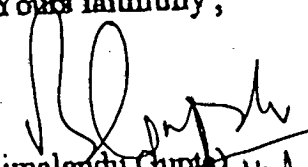
4. It is further mention here that I was already completed more than 10 years of services in the compilation of accounts in the accounts section since 1992 due to acute dust pollution and unhygienic condition of the accounting site I was attacked by illness like severe and chronic sinusitis, skin allergy and due to non improvement of ailments under Allopathy treatment I was compelled to take Homeopathy treatment under the Govt. doctor of Homeopathy collage and get some relief, in the same time I was posted to CA-7 section compilation worked in CA block which was full of dust pollution, hazardous and unhealthy condition and not suited to my health condition according to attending physician the matter reported to Asstt. Accounts officer i/c Admn. 1 for my withdrawal which was turn down by using the words in isolation as "Administrative reason" and denied to consider my application despite reminders. Apart from that by raising false statement on the basis of the statement of Asstt. Accounts officer and Sr. Accounts officer I was put in to financial hardship and harassment by order dated 4.12.98 and I was compelled to take shelter of law and filed Application being Numbered as OA No. 245/2001. The Hon'ble Central Administrative Tribunal admitted the application and declare your order dated 4.12.98 set aside on 28.11.2001 in OA No. 245/2001. The wrong use and mis-interpretation of C.A.T order dated 28.11.2001 and dis-obeying the order you have passed an order vide No. Admn

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1/PC/B-63/2001-2002/3409 dated 5.2.2002 modified the the Hon'ble C.A.T order dated 28.11.2002 and kept as usual and denied payment despite repeated reminders and I was deprived from justice even the Hon'ble C.A.T order.

5. The sudden withdrawn from Pension 2 section during 3 and half months vide order dated 10.10.2003 and posted to CA 7 a dust polluted section which is hazardous to my health is willful, intentional and conspiracy to wards me and the similar procedure has not been followed in case of officials continuing services more than 5 years in the existing sections. The facts best known by the Sr.Accounts Officer i/c Admn I and II. It was already known to you that I was suffering since long from chronic Sinusitis, skin allergy and under treatment of Govt. Homeopathy doctor of the Govt. Hospital and the advise of the attending doctors to avoid from cold and dust and remain in well ventilated room. As such I am not in a position to violate the advise of the attending doctor. The advise of the attending doctor Dr.D.C Das Asstt. Professor of Homeopathy collage dated 13.10.2003 is enclosed for your consideration and cancelled the withdrawal order dated 10.10.2003 and maintain status quo as per earlier order dated 26.5.2003 of DAG(Admn.) for the interest of the health of the applicant and to put better service. Your early decision in this regard is highly solicited and for justice. For this act of your kindness I shall ever pray.

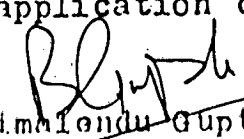
Dated 14th October 2003

Yours faithfully,


(Bimalendu Gupta)
Sr. Accountant
Pension -2 Section. 14/10/03

Copy for information and necessary action to:

1. The Accounts officer i/c Pension-2(local) the matter of transfer as per Sr.Accounts officer(Admn) order dated 10.10.2003 the matter placed to D.A.G.(Admn.) for review/cancellation of above order in case of Sl.No.23 and to retain in the same.
2. The Asstt. Accounts officer i/c Pension 2 with a request to take action according to application ~~dated 14.10.2003~~ application dated 14.10.2003 after getting clarification of D.A.G.
3. The Asstt.Accounts officer i/c Newly created 7-c section local for information and necessary action on the application dated 14.10.2003.


(Bimalendu Gupta)
Sr. Accountant
Pension-2. 14/10/03

...
Certified to be
true copy
Aslatacharya
ADVOCATE

To

The Sr. Accounts Officer
I/c Administration 1
O/o the AG(A&E) Assam
Guwahati-29

Subject: Sectional posting

Sir,

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3. That it ~~was~~ came to my knowledge that I was again posted by Sr. Accounts officer i/c Admn I & 2 vide order No. 208 dated 10.10.2003 but the matter of posting not intimated to the undersigned. I like to mention here that the right to know is a right to the applicant.

4. It is further mention here that I was already completed more than 10 years of services in the compilation of accounts in the accounts section since 1992 due to acute dust pollution and unhygienic condition of the accounting site I was attacked by illness like severe and chronic sinusitis, skin allergy and due to non improvement of ailments under Allopathy treatment I was compelled to take Homeopathy treatment under the Govt. doctor of Homeopathy collage and get some relief, in the same time I was posted to CA-7 section compilation worked in CA block which was full of dust pollution, hazardous and unhealthy condition and not suited to my health condition according to attending physician the matter reported to Asstt. Accounts officer i/c Admn 1 for my withdrawal which was turn down by using the words in isolation as "Administrative reason" and denied to consider my application despite reminders. Apart from that by raising false statement on the basis of the statement of Asstt. Accounts officer and Sr. Accounts officer I was put in to financial hardship and harassment by order dated 4.12.98 and I was compelled to take shelter of law and filed Application being Numbered as OA No. 245/2001. The Hon'ble Central Administrative Tribunal admitted the application and declare your order dated 4.12.98 set aside on 28.11.2001 in OA No. 245/2001. The wrong use and mis-interpretation of C.A.T order dated 28.11.2001 and dis-obeying the order you have passed an order which was against the law.

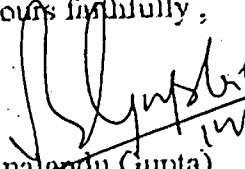
Received
14.10.03
S. C. O. Admn.

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24
31
1/PC/B-63/2001-2002/3409 dated 5.2.2002 modified the the Hon'ble C.A.T order dated 28.11.2002 and kept as usual and denied payment despite repeated reminders and I was deprived from justice even the Hon'ble C.A.T order.

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Dated 14th October 2003

Yours faithfully,


(Bimalendu Gupta)
Sr. Accountant
Pension -2 Section.

*Certified to be
true copy
Abhattacharya
ADVOCATE*