

30/100

4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 75/2003.....

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SECTION OFFICER (Judl.)

(RULE - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. 75/03

Misc. Petition No. /

Contempt Petition No. /

Review Application No. /

Applicant (S) R.A Singh

- Vs. -

Respondent (s) - h.O.I. Jom

Advocate for the applicant (s) S. Sarma, Mrs H. Das.

Advocate for the respondent (s) cafe.

Notes of the Registry	Date	Order of the Tribunal
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This application is in form but not in time. Condonation Petition is filed / not filed. C.F. for Rs. 50/- deposited vide IPO/BP No 21 E 326054 Dated 1.2.03 4

8.4.2003

Heard Mr. S. Sarma, learned counsel for the applicant and also Mr. A.K. Choudhury, learned Addl. C.G.S.C. for the respondents.

Issue notice to show cause as to why the application shall be admitted. Also, issue notice to show cause as to why interim order as prayed for shall not be granted. Returnable by three weeks

List on 2.5.2003 for admission and further orders.

In the meantime, the order No.910127/409/753/EIC(L) dated 10.10.2001 transferring the applicant from G.E.Narangti to CWE(AF) Barauli and order bearing No. 1001/5/403/EIE dated 2.4.2003 shall remain suspended till the returnable date.

Vice-Chairman

mb

Steps taken along with
envelops.

Paro

Notice prepared and sent to all
for hearing the respondents No.
1 to 4 by Regd. A/S.

27/4/03

DINo 6916/694 dated 16/4/03.

2.5.2003

Heard Mr. S. Sarma, learned counsel for the applicant and, also Mr. A.K. Choudhury, learned Addl. C.G. S.C. for the respondents.

No reply so far filed by the respondents. On the prayer of Mr. A.K. Choudhury, learned Addl. C.G.S.C. for the respondents further four weeks time is allowed to the respondents to file reply. List on 11.6.2003 for admission. In the meantime, interim order dated 8.4.2003 shall continue.

Vice-Chairman

mb

11.6. Single bench did not sit today.
The case is adjourned to 13.6.03.

ALD
BL

13.6.2003

Written statement has been filed by the respondents. The application is admitted. Call for the record. No fresh notice need to be issued. The case may now be listed for hearing on 18.7.2003. The applicant may file rejoinder, if any, within two weeks from today.

List again on 18.7.2003 for hearing. In the meantime, interim order dated 8.4.2003 shall continue.

Vice-Chairman

mb

18.7.2003

Adjourned on the prayer of learned counsel for both the parties.

List again on 13.8.2003 for hearing.

Vice-Chairman

mb

Order dtd 2/5/03
Communicated to the
Karties Council.

6/5/03.

23.5.03

W/s Submitted
by the Respondent Nos 1, 2,
3 & 4.

23.5.03

No. rejoinder has
been filed.

23.5.03
23.5.03

Pl. comply the
order dated 13.6.03.

NB
13/6/03.

Order dtd. 13/6/03
Communicated to the
Karties Council.

17/6

16.7.03

Rejoinder filed
by the applicant.

16.7.03

13.8.2003 On the prayer of Mr. S. Sarma, learned counsel for the applicant the case is adjourned to obtain instruction on the matter. List on 26.9.2003 for hearing.

W/S and rejoinders
has been filed.

20
25.9.03


Vice-Chairman

mb

26.9.2003 Adjourned on the prayer of learned counsel for the applicant. List on 14.11.2003 for hearing.


Vice-Chairman

mb

29.10.03 Heard Mr S.Sarma, learned counsel for the applicant and also Mr A.K. Choudhury, learned Addl.C.G.S.C for the respondents. Mr Sarma stated that the impugned order bearing No.91027/409/753/EIC(L) dated 10.10.2001 has already been cancelled by the authority by their communication dated 20.9.03. A copy of the same communication is placed before us and kept on record. By the said order the earlier impugned order is withdrawn.

Upon hearing learned counsel for the parties and on perusal of the order we dismiss the application as infructuous.


Member

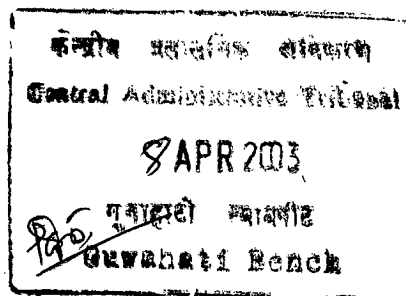

Vice-Chairman

pg

Received copy
AK Choudhury
4/11/03

18.11.2003

Copy of the order
has been sent to
the office for
stamping the rule to
the L/Advocate
for the applicant.
H.S.



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case : O.A. No. 75 of 2003

BETWEEN

Shri Ram Ahsish Singh. Applicant.

AND

Union of India & ors. Respondents.

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Filed by : Asha Das

Regn.No.:

File : C:\WS7\RAM

Date :

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL.

GUWAHATI BENCH

Title of the case : O.A. No. 75 of 2003

BETWEEN

Shri Ram Ahsish Singh. Applicant.

AND

Union of India & ors. Respondents.

GIST OF THE CASE.

The applicants in the instant case is aggrieved by the order dated 10.10.2001 transferring him to Bamrauli and the order dated 2.4.2003 releasing him from his present place of posting to carry out the said order of transfer. The applicant on 26.12.2000 preferred a representation for his transfer on compassionate ground to U.P. (home town). The respondents acting on the said representation issued an order dated 10.10.2001 transferring the applicant to CWE (AF) Bamrauli. The applicant after having seen the condition laid down in the said order regarding his seniority, preferred a representation dated 12.11.2001 praying for cancellation of the order dated 10.10.2001. The aforesaid representation was followed by another representation dated 2.4.2003 for withdrew of the request as the situation/circumstances under which the application dated 26.12.2000 was made has been changed. Those representations however never respondent to those representations. In the mean time the respondents have issued an order releasing the applicant from the office of the G.E. Narangi to CWE Bamrauli, without taking consideration to his representations filed praying for cancellation / withdrawal of request made for transfer. This is the crux of the matter for which the applicant has filed the O.A.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

O.A.No. 75 of 2003

Filed by *
the applicant through
Usha Das.
Advocate
8/4/03

BETWEEN

Ram Ashish Singh,
Duftry, (OTP),
In the office of the G.E. Narangi
P.O. Satgaon.
Dist. Kamrup.
Assam.

.....Applicant.

..... Applicant.

- AND -

1. The Union of India.
Represented by Secretary to the
Govt. of India.
ministry of Defence.
2. The Engineer in Chief .
Army Head Quarter
DHQ. P.O.
New Delhi.
3. The Head Quarter
Central Command
Lukhnow - 226002.
4. The Garrison Engineer
Narangi.
P.O. Satgaon, Guwahati-781027
Kamrup (Assam).

..... Respondents.

PARTICULARS OF THE APPLICATION

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

This application is directed against the order
bearing No. 910127/409/ 753/EIC(L) dated 10.10.2001,
transferring the applicant from G.E.Narangi to the office of
the CWE (AF) Bamrauli and order bearing No. 1001/5/403/EIE

Ram Ashish Singh

dated 2.4.2003 relieving him from duty w.e.f. 16.4.2003.

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 of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

4.1. That the applicants in the instant case is aggrieved by the order dated 10.10.2001 transferring him to Bamrauli and the order dated 2.4.2003 releasing him from his present place of posting to carry out the said order of transfer. The applicant on 26.12.2000 preferred a representation for his transfer on compassionate ground to U.P.(home town) . The respondents acting on the said representation issued an order dated 10.10.2001 transferring the applicant to CWE(AF) Bamrauli . The applicant after having seen the condition laid down in the said order regarding his seniority, preferred a representation dated 12.11.2001 praying for cancellation of the order dated 10.10.2001. The aforesaid representation was followed by another representation dated 2.4.2003 for withdrew of the request as the situation/circumstances under which the application dated 26.12.2000 was made has been changed. Those representations however never respondent to those

Ram Ashish

representations. In the mean time the respondents have issued an order releasing the applicant from the office of the G.E. Narangi to CWE Bamrauli, without taking consideration to his representations filed praying for cancellation / withdrawal of request made for transfer.

4.2. That the applicant is the citizen of India and as such he is entitled to all the right, protection and privileges as guaranteed under the constitution of India and Laws framed thereunder.

4.3. That the applicant is presently working as Duftry (OTP) in the office of the G.E. Narangi. The applicant was initially appointed as peon in the year 1969 and he joined the post on 1.1.1969 in the office of the G.E. Narangi. By now the applicant has completed about 34 years of service with utmost devotion and sincerity. The applicant belongs to Uttar Pradesh wherein he has got some property. At that relevant point of time mother of the applicant was in a bed ridden condition and his presence was required. The applicant highlighting these factual aspect made a prayer through his representation dated 26.12.2000 praying for his posting in a nearby station namely Gorekhpur, Allahabad or Banaras. The respondents exceeding to his representation issued an order dated 10.10.2001 transferring the applicant from GE, Narangi to CWE (AF) Bamrauli.

A copy of the representation dated 26.12.2000 and the order dated 10.10.2001 are annexed herewith and marked as ANNEXURE-1& 2 respectively.

Ram Ashish Singh

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4.4. That the applicant on receipt of the Annexure-2 order dated 10.10.2001 could come to know that in the event of his transfer he would lose his seniority. Immediately on receipt of the said order he preferred a representation dated 12.11.2001 praying for cancellation of the order dated 10.10.2001. However till date the respondents have not issued any order canceling the order dated 10.10.2001. The respondents have not even intimated regarding the fate of the representation.

A copy of the said representation dated 12.11.2001 is annexed herewith and marked as ANNEXURE-3.

4.5. That the applicant is still continuing in the capacity of Duftry Under GE, Narangi as he was not released pursuant to the Annexure-2 order dated 10.10.2001. In the mean time mother of the applicant expired and the applicant intimated the fact to the concerned authority. To that effect the applicant preferred a representation dated 2.4.2003 highlighting the fact that the prime reason as to seeking transfer on compassionate ground is no longer in existence and with a prayer to allow him to continue in the present place of posting.

A copy of the representation dated 2.4.2003 is annexed herewith and marked as ANNEXURE-4.

4.6. That the applicant was shocked when he received the impugned communication from the office of the respondent No.4 that is GE, Narangi releasing him from the office of the GE, Narangi to CWE(AF), Bamrauli w.e.f. 16.4.2003. To that

Ramkish Singh

effect the said respondent issued an order bearing No.1001/5/403/EIE dated 2.4.2003.

A copy of the said order is annexed herewith and marked as ANNEXURE-5.

4.7. That the applicant begs to state that the Annexure-2 order dated 10.10.2001 has been passed illegally imposing the condition that the applicant will have to loose his seniority in the vent of such transfer. The respondents being the model employer ought to have taken into consideration the fact that since the order of transfer dated 10.10.2001 has been passed to take consent from the applicant. It is further stated that the condition imposed in the impugned communication dated 10.10.2001 under the facts and circumstances of the case can be treated as inconcinable contract. The applicant immediately on receipt of the order dated 10.10.2001 preferred respondents to the authority concerned praying for cancellation of the aforesaid order but same evoked no result in positive. The applicant in fact was never intimated about the fact that in the event of his transfer his seniority would be altered . Apart from that the condition prevailing for issuance of such order of transfer is no longer in existence and as such the respondents ought to have been canceled the order dated 10.10.2001 without any delay.

4.8. That the applicant states that the impugned order of transfer was issued on 10.10.2001 but it was never implemented but the authority without taking any consent as required issued the impugned order dated 2.4.2003 releasing from his present place of posting. The respondents even after repeated requests have not canceled the aforesaid

Ram Ashish Singh

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order of transfer and the order was kept inoperative for a long time and infact since the cause for compassionate transfer is no longer in existence it is open for the applicant to intimate the concerned authority regarding cancellation of the prayer for compassionate transfer. It is therefore the action on the part of the respondents in issuing the order of transfer as well as the consequential order of release taking into consideration the circumstance is illegal and liable to be set aside and quashed.

4.9. That the applicant states that since order of transfer was issued not in public interest, the concerned authority ought to have canceled the same when the request was withdrawn. It is stated that since the order of transfer has been issued affecting his seniority, the respondents prior to issuance of the said order of transfer ought to have informed the applicant regarding such condition. The applicant presently is holding the post of Deftry in the office of the Respondent No.4 and till date he has not been relieved in terms of the impugned orders dated 10.10.2001 and 2.4.2003. It is therefore the applicant prays for an interim order directing the respondents not to release him by suspending the operation of the impugned orders date 10.10.2001 and 2.4.2003.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action/inaction on the part of the Respondents have acted illegal in issuing the impugned orders dated 10.10.2001 and 2.4.2003 in transferring the applicant without his consent and as such same are liable to

Rama Ashish Singh

be set aside and quashed.

5.2. For that the respondents have acted illegally in issuing the impugned transfer order dated 10.10.2001 imposing condition detrimental to his seniority without affording any reasonable opportunity of hearing and as such same is not sustainable and liable to be set aside and quashed.

5.3. For that the respondents have acted illegally in not acceding to his prayer for cancellation of his request for transfer and as such the impugned orders are liable to be declare void ab initio and liable to set aside and quashed.

5.4. For that since the orders of transfer have been issued acceding to the request of the applicant any order passed affecting his service conditions without prior intimation is not sustainable and liable to be set aside and quashed.

5.5. For that in any view of the matter the impugned action of the respondents are not sustainable in the eye of law and liable to be set aside and quashed.

The applicant craves leave 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 them and there is no

Ram Arvish Singh

alternative remedy available to him.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER

COURT:

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 other 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 prayed 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 records, be grant the following reliefs to the applicant:-

8.1. To direct the Respondents to set aside and quashed the impugned orders dated 10.10.2001 and 2.4.2003 with a further direction to be respondents to allow him to continue in his present place of posting.

8.2. Cost of the application.

8.3. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deemed fit and proper.

Ram Ashish Singh

9. INTERIM ORDER PRAYED FOR:

Pending disposal of this application the applicant prays for an interim order directing the Respondents not to give effect the impugned orders of transfer dated 10.10.2001 and 2.4.2003 with a further direction to the respondents to allow him to continue in his present place of posting.

10.

11. PARTICULARS OF THE I.P.O.:

1. I.P.O. No. : 21 E 3200548(4)
2. Date : 1.2.03
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

Ram Ashish Singh

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VERIFICATION

I, Sri Ram Ashish Singh, aged about 54 years, S/O Late M. Singh, at present working as Duftry (OTP) in the office of the GE, Narangi do hereby solemnly affirm and verify that the statements made in paragraphs 2, 3, 4, 2, 4, 7 - 4, 9, 2, 5 to 12..... are true to my knowledge and those made in paragraphs 1, 4, 1, 4, 3, 4, 4, 4, 5, 4, 6 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 8th day of April of 2003.

Signature.

Ram Ashish Singh

From : MES/224407

Shri Ram Ashish Singh, Duftry(OTP)

C/o : GE Narangi

PO : Satgaon, Dist : Kamrup

Guwahati-781027 (Assam)

ATTACHMENT - 1

To

The E-in-C's Branch
AHQ New Delhi
Delhi

(Through proper channel)

SUBJECT : POSTING/TRANSFER ON EXTREME COMPASSIONATE GROUNDS

Respected Sir,

I would like to mention the following few lines for your kind information and sympathetic favourable action please :-

(a) I was appointed as Peon on 01 Jan'1969 and was posted to GE Narangi wef the same date.

(b) I have put in 31 years of service within this division to the entire satisfaction of my superiors.

(c) I belong to Uttar Pradesh state wherein I have some property and due to the ill health of my mother who is now 85 years old, the land is lying idle and barren.

(d) My mother as mentioned above is also not capable of moving around and most of the time is bed ridden with no one to care for her. I am thus depriving her of her legitimate dues in her last stage of her life.

(e) My wife who is staying with me is suffering from "Acute Asthmatic" ~~problem~~ problems and though I have tried all ways and means to get her cured, I have failed. The physician who is looking after her has advised immediate change of station in order to ensure that she is fully cured. (Medical certificate is enclosed in original).

2. In view of the above facts, may I request your esteem HQ to kindly consider my posting on extreme compassionate grounds to either of the following station so that this humble employee can be relieved off the stress/mental tension that has been disturbing me for the last couple of years :-

(a) Gorakhpur

(b) Allahabad

(c) Bagraas

3. For the above acts of kindness, this ~~humble~~ humble low paid employee of yours shall be ever duty bound.

Thanking you in anticipation.

Yours faithfully,

Station : Narangi

Dated : 26 Dec'2000

(MES/224407 Shri Ram Ashish Singh,
Duftry(OTP)

Affected
VOM
Advocate.

HQ Central Command
Lucknow - 226 002

910127/409/12/EIC(I)

10 Oct 2001

Chief Engineer
HQ Eastern Command
Calcutta-21

CE (AF) Allahabad

CE Shillong zone

INTER COMMAND POSTING/TRANSFER ON COMPASSIONATE
GROUND/MUTUAL BASIS : SUBORDINATES

1. The following inter command posting has been approved by
E-in-C's Branch, Army HQ New Delhi :-

Ser NO	MES No, Name and Design	Posted		Remarks
		From	To	
		<u>EASTERN COMMAND</u>		<u>CENTRAL COMMAND</u>
1.	MES/224407 Shri Ram Ashish Singh GE Naryangi Duftry (OTP)		CWE (AF)	To move Bamrauli Northwith (Items one only)

Authority : E-in-C's Branch, Army HQ letter no
79550/Basic/EIC(I) dt 03 Oct 2001

- The move will be carried out at the expense of the individual.
- The move will be completed in direct correspondence between
formation concerned.
- The individual will be informed that he will recon his
from the date of reporting the duty in the new unit or estab
as per revised instruction contained in Ministry of Defence Lett
No 28(8)/87/D(App) dated 29 Jun 75 reproduced in CPRO 73/75 and
CPRO 11/75.

(R.D Barthwal)
Major
SO2 (pers)
for Chief Engineer

Copy to :-

CWE (AF) Bamrauli, GE Naryangi, NARONGI
DCDA Guwahati, CDA Lucknow

Internal :-

EID(1), EID(2), EIR and posting order folder.

DK/**

Advocate

- 12-A -

19
Annexure - 3

To
The E in C
Army H.Q
New Delhi

Sub: Cancellation of the order Dtd. 10/10/01.

Sir,

With due respect I beg to state that by the order dtd. 10/10/01 I have been transferred to Bamrauli C.W.E. (AF) with a condition that I may be Junior in that Unit. I do not want to be a Junior by Transfer.

So I pray that the transfer order may be cancelled and to keep me in GE, Narangi.

Faithfully Yours,

Sd/-

Sri Ram Ashish Singh

Duftry,
G. E. Narangi.

Received
WOM
Advocate

To

The Engineer-in-Chief
Army Headquarters
DHQ-P.O.,
New Delhi-11

(Through proper channel)

CANCELLATION OF POSTING/TRANSFER ON
COMPASSIONATE GROUND

Respected Sir,

With due respect I beg to lay the following
few lines for sympathetic consideration pl :-

- (a) That sir, I am an employee of GE Narangi
and performing my duties as Duftry (OTP)
since my appointment.
- (b) That sir, due to some unavoidable circumstances
I had applied for compassionate posting/transfer
during Dec 2000 and accordingly my posting to
choice station has been ordered by your HQ
during Oct 2001.
- (c) That sir, it is ~~am~~ regretted to inform you
that the ground on which I had applied for
posting i.e. my mother was aged and suffering
from illness and my wife was suffering from
asthma. Sir, my mother has been expired at
my native place and my wife is now cured.
- (d) That sir, I had a plot of land at Narangi
which has been captured by other pers and
a case has been filed ~~xxx~~ and the same
has not yet been settled till date.

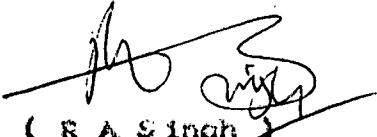
In view of above, I request your honour to consider
my case based on my earlier application and above facts
cancelling my posting order on humanitarian ground.

For this act of kindness I shall remain ever
grateful to you.

Yours faithfully,

Station: Narangi

Dated: 2 Apr 03


(R A Singh)
Duftry (OTP)
MES/224407

Approved
W.D.M.
4/4/03

Tele Mily : 6060.

Garrison Engineer Narangi
PO : Satgaon, Dist : Kamrup
Guwahati-781027 (Assam)

1001/5/403 /EIE

02 Apr 2003.

MES/224407 Shri
Ramashish Singh,
Duftry (OTP).POSTING/TRANSFER ON COMPOSITIONATE GROUND : DUFTRY

1. You are hereby permanently transferred to CWE (AF) Bamrauli Allahabad on compassionate grounds.

Auth :- HQ CEEC Eastern Command letter No.
131305/CL-IV/19/Engrs/EIC(I) dt
22 Oct 2001.

2. You will be relieved from this office (on 16 Apr 2003 (AN) and will report to your new unit/duty station after availing usual joining/journey period.


3. Advance of TA/DA may be had on application.

4. You will submit the following before leaving from this office :-
(a) Ration card if any (b) Departure report (c) CGHS Card
(d) Clearance certificate from all concerned.

5. Identity Card issued by this office be surrendered at your new Unit/Fmn for further action.

6. It will be noted that your pay and allowances for the month of May 2003 and onwards will be claimed/paid by your new unit/formation only after physically report there for duty.

7. Certified that the above named individual is not involved in any disp/c of I/SPE cases.


(DN Arya)
EE

Garrison Engineer

Distribution :-

1. HQ CEEC Kolkata
2. HQ CFSZ Shillong
3. HQ CWE Shillong
4. CDA Narangi
5. CWE (AF) Bamrauli Allahabad
6. JUDA (F) Meerut
7. AAO Shillong
8. AAO GE Narangi/ AAO BSO Narangi
9. CDA Patna
10. HQ CEEC Lucknow
11. HQ CE (AF) Bamrauli

DETAILS OF LEAVEEPL - 30 Days HPL - 20
S/L - 15 R/H - 2 daysFor CWE (AF) Bamrauli Allahabad
Details of pay & Ailcas

Basic Pay	-	3605/-
DA	-	1983/-
SCA	-	80/-
TPT	-	75/-
Cyclostyling	-	20/-
ailcas		
WA	-	30/-

DEDUCTION

GPF Subs	Rs.	500/-
CGEGIS	Rs.	15/-
CGHS	Rs.	40/-

534736-F
GPF A/No. 1961002

DOB : 04.6.49.

DNI : Pay fix not yet done.


Advocate

- 15 -

Union of India & Ors.
through 22
Anup Kumar Choudhary
M.A. Central Govt
Candling Centre
22.5.03

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

গুৱাহাটী বেঞ্চ
Guwahati Bench

In the matter of :-

O.A. No. 75 of 2003

Shri Ram Ashish Singh.. Applicant

- Versus -

Union of India & Ors.

... Respondents

Written statements for and on behalf of

Respondents Nos. 1,2,3 and 4.

I, D N Arya, Garrison Engineer, Narangi, Satgaon, Guwahati-27 do hereby solemnly affirm and say as follows :-

1. That I am the Garrison Engineer, Garrison Engineer, Narangi, Satgaon, Guwahati- 27 and as such fully acquainted with the facts and circumstances of the case. I have gone through a copy of the application and have understood the contents thereof. Save and except whatever is specifically admitted in this written statement the other ~~statements~~ contents and statements may be deemed to have been denied. I am authorised to file the written statements on behalf of all the respondents.

2. That with reference to the statements made in paragraph 1 of the application, the respondents beg to state that the posting order was issued in the interest of the applicant and based on his appeal only. Accordingly Movement Order relieving him on 16-4-2003 was issued.

3. That the respondents have no comments to the statements made in paragraph 2,3, of the application.

4. That reference to the statements made in paragraph 4.1 of the application, the respondents beg to state that the applicant had applied for posting to his home town on extreme compassionate grounds such as wife's sickness, ill health of mother, to look after land etc. (enclosed as Annexure-I by the applicant) on 26-12-2000.

DP

(D.N. Arya. I D S.E ,

E. F.

Garrison Engineer Narangi.

Contd...p/2-

Accordingly, Respondent was pleased enough to consider his case and necessary order to this effect was issued under HQ Central Command letter No. 910127/409/753/E1C(I) dtd. 10 Oct 2001 with a direction to move forthwith to his choice station (enclosed as Annexure-2 by applicant). On receipt of the order the applicant requested for deferment of above posting order upto Apr 2002 and again respondents considered his case as desired by him.

The applicant had never informed the respondent that all his grievance had been solved till 2-4-2003 i.e. the date of which movement order has been served on him to relieve him for joining at his station. In fact the applicant has been making representation every time to gain time on one plea or other. His representation dtd. 22-4-2002 i.e. enclosed as Annexure - I is which he has produced a copy of executive Magistrate order dtd. 18 Sep 1989 (i.e. 13 years after the happening). The representation of the individual dtd. 12 Nov 2001 as ~~mentioned~~ mentioned by applicant is enclosed as Annexure-II. It can be seen from above application that the individual had not asked for cancellation of posting order but only requested for deferment of posting order till 30-4-2002 due to various reasons and same was considered by respondents. Therefore the contention of the applicant is totally false and misleading as there is no mention of seniority etc. Moreover, the applicant while submitting his application for compassionate posting had given a certificate that he will abide by the existing rules governing leave, seniority etc. So it can be seen that the applicant was already aware of the rules regarding seniority etc. at the time of initial application itself.

It is a known fact Guwahati area is very humid through out the year. As per Dr. K.C. Sharma, SDM & HO Assam Health Services certificate dated 22-12-2000 the wife of the applicant is allergic to the damp condition of the area and for complete relief she is advised to remain in a dry atmosphere and should be shifted at the earliest (Certificate annexed as Annexure-III) Even during Nov 2001 the applicant vide his application dated 12-11-2001 states that his wife is undergoing treatment in Civil Hospital and her recovery would take time, which clearly spells out that even after a lapse of 12 months the applicants wife was still ill and the climate of Assam was not suitable for her. All of a sudden now the applicant states that his problem has been solved which is contradictory to the Doctor's observation and

contd....p/3-

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Garrison Engineer Narangi.

findings because the weather condition of Guwahati has not changed.


Further more the applicant is pointing out that his mother is no more which he should have informed the Deptt. as his mother is shown as dependent as per official records and if she is no more than who is looking after his property at his native place now. It can therefore be seen from the above that the applicant is bringing out false reason with no concrete evidence and is misguiding the Hon'ble Court with false reasons for his vested interest.

5. That with reference to the statements made in paragraph 4.2 of the application, the respondents beg to state that the applicant is no doubt entitled to the right, protection and privileges of the Constitution of INDIA, but not by misleading acts or unfair means as in this instant case.

6. That with reference to the statements made in paragraph 4.3 of the application, the respondents beg to state that as brought out here-in-before the transfer order was issued on the request of the applicant after due consideration of his various so called problems and pleas. He has therefore been posted to his choice station.

7. That with reference to the statements made in paragraph 4.4. of the application, the respondents beg to state that it is not at all sustainable keeping in view that the applicant was well aware of the fact and undertaking to this effect was submitted by him while applying for the compassionate posting. Further as brought out earlier in para 4.1 no such application was submitted by the applicant. Your honour may be pleased to please call for evidence as it appears that the applicant is producing false and forged documents before the court which is a criminal offence and same be dealt with ~~xx~~ strongly. Further more after submission of necessary undertaking the so call application does not have any relevance.

8. That with reference to the statements made in paragraph 4.5 of the application, the respondents beg to state that the fact that the applicant had requested for a deferment on various ground upto Apr 2002 was the main cause in non-


(D. N. Arya. I.D.S.E)
E. E.
Garrison Engineer Narangi.

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implementation of the order dated 10-10-2001. Thereafter when he was about to be relieved he preferred another appeal dated 22-4-2002 on the plea that a court case was pending in the Court of Executive Magistrate, Guwahati and his posting may be cancelled. Thereby indicating that ground of his appeal dated 12-11-2001 and dated 2-4-2003 are false.

Copy of the applicant's application dated 2-4-2003 is marked as Annexure-IV.

9. That with reference to the statements made ~~xx~~ in paragraph 4.6 of the application, the respondents beg to state that the respondent after considering all pros and cons issued the movement order was served to honour the order dated 10-10-01 for the fulfillment of the request of the applicant.

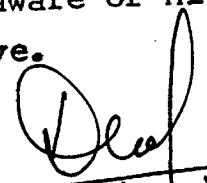
10. That with reference to the statements made in paragraph 4.7 of the application, the respondents beg to state that no illegal or arbitrary orders were passed and the allegation is totally baseless nor justified. The order dated 10-10-2001 was issued only on the request of the applicant and only after scrutinizing all undertaking such as loosing of seniority, move on own expense, move without joining time, move within 07 days after receipt of order etc.

The above undertaking duly signed by the applicant are marked as Annexure - V & VI, ~~xxx~~.

Applicant's request for cancellation of the order dated 22-4-2002 was made at a very belated stage Nevertheless was considered and rejected by the competent Respondent. Thus your kind Honour would be pleased to note that no Injustices or illegal action was contemplated on the applicant.

11. That with reference to the statements made in paragraph 4.8 of the application, the respondents beg to state that the orders were not implemented immediately due to the fact that vide application dated 12 Nov 2001 the applicant had sought for deferment upto Apr 2002 which was subsequently granted. This fact is also highlighted in para 4.5 here-in-before.

12. That with reference to the statements made in paragraph 4.9 of the application, the respondents beg to state that the order was issued on the request of the Applicant, thus the same is considered in the interest of public. Further the applicant was aware of his loss of seniority as explained under para 4.7 above.


(D. N. Arya. I.D.S.E.)

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Tarrison Engineer Narang.

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The applicant after seeing that all his flimsy pleas had gone in vain he has dragged the Deptt. to litigation for no fault of the respondent and rather to gain certain benefit by unfair means.

13. That with reference to the statements made in paragraph 5.1 to 5.5 of the application, the respondents beg to state that contents are far from facts. No illegal or arbitrary orders have been issued by the respondent. The applicant was well aware that he would loose his seniority as and when he reports to his choice station.


14. That with reference to the statements made in paragraph 6 of the application the respondent beg to state that the respondent submit that all requests of the applicant except that of the cancellation of the order dtd 10-10-2001 were not with by the respondent as such the question of any sort of grievances should not have arose. Moreover, for his own interest in the form of full recovery of wife's illness and utilization of his land, which is lying barren in the applicant's native place, any sane human would have move forthwith.

The pray of the respondent is that the matter be set aside and the applicant be directed to proceed on transfer keeping in view the interest and safety of his wife and land.

15. That the respondents beg to state that the statements made in paragraph 7 of the application are matters of record.

16. That with reference to the statements made in paragraph 8 of the application, the respondents beg to state that the applicant has unnecessary dragged the State to the Court without any valid reasons. The case of land disputes (i.e. grounds put forth by the applicant for cancellation of order dtd. 10-10-2001) seems to be pending since 1989 and the present status whether the same is still under progress or has been disposed off is not known to the respondent (Copy of case No. 1015/89 ~~xx~~ as submitted by the applicant to the Office of the respondent is annexed as Annexure-VII). If the case is yet to be disposed off, then the necessary of the application for compassionate posting to his home town should have not arisen.

The applicant seeking cancellation of his request


(D. N. Arya, I.D.S.E.)
E. E.
Garrison Engineer Narangl.

Contd....p/6-

(6)

for posting when his wife can only be completely cured if shifted to a dry station does not seem to be in order.

17. That the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with costs.

VERIFICATION

I, D N Arya, presently working as Garrison Engineer, Garrison Engineer, Narangi, Satgaon, Guwahati -27 being duly authorised and competent to sign this verification do hereby solemnly affirm and state that the statements made in paragraphs 1, 3, 5, & 13-16 of the application are true to my knowledge and belief, those made in paragraphs 2, 4, 6, 8-12 being matter of record are true to my information derived there from and those made in the rest are humble submission before Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 20th day of May, 2003.

Dayanand Arya

Deponent
(D. N. Arya D.S.E.)

E. E.

Garrison Engineer Narangi.

From :

MS/224497 Shri Ram Ashish Singh
Baftry (OTF)
Barrison Engineer, Harangi Division
Bategon Post, Kaurup District,
Gwahati - 781 027

To :

The Chief Engineer
HQ Central Command
Lucknow - 226 002

(Through proper channel)

AND FURTHER TRANSFER ON COMPASSIONATE
DEPARTMENT OF POSTING TILL ACADEMIC YEAR

Respected Sir,

1. With due respect and humble submission I lay down the following few lines for your kind consideration and favourable orders please.

2. Sir, I am under orders of posting to CTE (AF) Barruall as per your HQ Posting Order No 910127/409/753/HQ(D) dated 18 Oct 2001 and presently unable to move from this location to new duty station as per the facts enumerated below :-

(a) My son Anil Kumar Singh undergoing education at Guwahati College and his final examination will be held during Mar - Apr 2002. Also my daughter also studying in 12th Std and her annual examination falls during Mar - Apr 2002. Hence my presence is very essential to monitor them to secure good marks in their respective examination.

(b) Apart from this my wife is also undergoing treatment at civil hospital and it will take time to recovery from the sickness. It is essential for me to stay here till her recovery.

3. In view of the above facts, I request your kind honour to consider my case and defer my posting till April 2002 please.

4. By your act of kindness, I and my family members will ever remain you Sir.

5. Thanking you in anticipation.

Yours faithfully,

Dated : 12 November 2001

(MS/224497 Shri Ram Ashish Singh
Baftry (OTF))

Copy to :-

HQ CE Eastern Command (Engg Branch)
HQ CE (AF) Allahabad
HQ CE Shillong Zone
HQ CTE (AF) Barruall
HQ CTE Shillong
CE Harangi Division

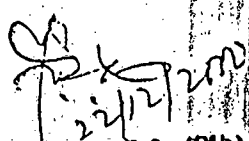
for information and
similar action please.

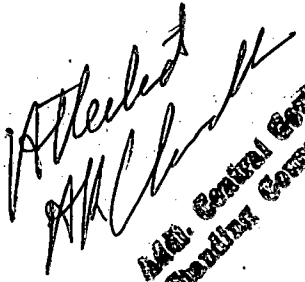
Dr. K. C. Sarma, M. B. B. S., P. G. T. Gen. Surg. (Dib.)
S. D. M. & H. O. A. H. S. (GOVT. OF ASSAM), REGD. NO. 5064 (A. M. C.)
Ex-Dy-Suptd. Guwahati Medical College Hospital.
Experienced in Gen. Medicine, Maternity & Child-Health

Residence:
Natun Sarania
Gandhibasli
Guwahati - 3
☎ : 634549 (R)

Date 22/12/2000

This is to certify that
Mrs. Swarnali Devi S/o, wife of
Mr. Ramashis Singh of Patgaon, Guwahati
Assam has been under my treatment
for Recurrent episodes of Bronchial Asthma
since few months.
She has been suffering from this
ailment due to allergic reaction of the
cold and damp climate of this locality.
For complete relief of her
allergic reaction she is advised to
remain in a dry atmosphere which
may be suitable for her health condition
at an early date.


Dr. K. C. Sarma, M.B.B.S. (Dib.)
Sub-Divisional Medical & Health Officer,
Assam Health Service (Regd. No. 5064 AMC)


A.M.C. Central Comd.
Standing Counsel.

The Engineer-in-Chief
Army Headquarters
DHQ-P.O.,
New Delhi-11

(Through proper channel)

CANCELLATION OF POSTING/TRANSFER ON
COMPASSIONATE GROUND

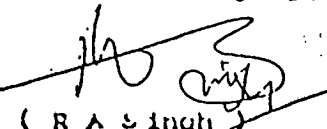
Respected Sir,

With due respect I beg to lay the following
few lines for sympathetic consideration pl :-

- (a) That sir, I am an employee of GR Narangul
and performing my duties as Duftry (OTP)
since my appointment.
- (b) That sir, due to some unavoidable circumstances
I had applied for compassionate posting/transfer
during Dec 2000 and accordingly my posting to
choice station has been ordered by your HQ
during Oct 2001.
- (c) That sir, it is ~~am~~ regretted to inform you
that the ground on which I had applied for
posting i.e. my mother was aged and suffering
from illness and my wife was suffering from
asthma. Sir, my mother has been expired at
my native place and my wife is now cured.
- (d) That sir, I had a plot of land at Narangul
which has been captured by other persons and
a case has been filed ~~xxx~~ and the same
has not yet been settled till date.

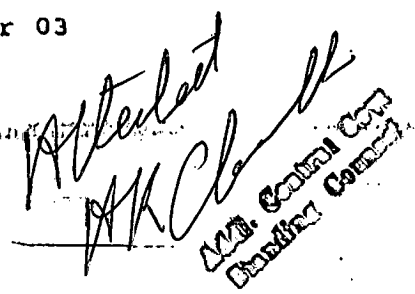
In view of above, I request your honour to consider
my case based on my earlier application and above facts
cancelling my posting order on humanitarian ground.

For this act of kindness I shall remain ever
grateful to you.

Yours faithfully,

(R A Singh)
Duftry (OTP)
MS/224407

Stations: Narangul

Dated: 2 Apr 03


A.K. Chandra
Joint. Central Comd
Bombay Command

1. The following information is being furnished to you for your information and guidance.

CANCELLATION OF POSTING/TRANSFER ON COMPASSIONATE GROUND

1. The following information is being furnished to you for your information and guidance.

2. The following information is being furnished to you for your information and guidance.

3. The following information is being furnished to you for your information and guidance.

4. The following information is being furnished to you for your information and guidance.

5. The following information is being furnished to you for your information and guidance.

6. The following information is being furnished to you for your information and guidance.

7. The following information is being furnished to you for your information and guidance.

8. The following information is being furnished to you for your information and guidance.

9. The following information is being furnished to you for your information and guidance.

10. The following information is being furnished to you for your information and guidance.

has not yet been settled till date.

In view of the above, you are requested to consider the same and take necessary action.

Yours faithfully,

Signature

11

Annexure V

25

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APPENDIX 'A'

CERTIFICATE

MES/224407 Shri/Smt Ram Ashish Singh Desig Duffry (OTP) agree that the seniority in the category held by me at the time of move to my new station will reckon from the day I report to my new duty station as contained in Raksha Mantrilaya 26(6) 67/D(eppts) dt 29 Jan'73 reproduced in CORO 73/73)

Station : Narangi

Dated : 30 Dec 2000

(Signature of the applicant)

MES No : 224407

Name : Ram Ashish Singh

Designation : Duffry (OTP)

COUNTERSIGNED

Garrison Engineer

UNDERTAKING CERTIFICATE

Certified that I, MES/224407 Shri/Smt Ram Ashish Singh, Desig Duffry (OTP) am willing to move to any station in GE (A/F) Gorakhpur, GE Allahabad, GE Banarash if vacancy/volunteers is not available in any choice station.

Station : Narangi

(Signature of the applicant)

MES No : 224407

Name : Ram Ashish Singh

Designation : Duffry (OTP)

COUNTERSIGNED

(D. N. Arya, I.D.S.E.)

E E

Annexure VI (26)

C E R T I F I C A T E

RR4407

1. MES/ NAV Name Shri/Smt Ram Ashish Singh Desig Duty (OTP)
of (Name of Unit) GE Narangi am willing to travel at my own
expenditure when transferred on compassionate grounds. I agree to
abide by the existing rules governing leave, seniority and so.

[Handwritten signature]

(Signature of applicant)

FILES No : RR4407

Name : Ram Ashish Singh

Designation : Duty (OTC)

Annexure VII

CERTIFICATE BY THE CC UNIT

- (a) Certified that I am satisfied of the genuineness of the grounds on which Shri/Smt Ram Ashish Singh, Duffry (OTP) was applied for posting to the station(s) of his/her choice.
- (b) Certified that in respect of the posting order and after ascertaining the availability of the vacancy from the receiving unit Shri/Smt Ram Ashish Singh, Duffry (OTP) will be relieved within 7 days.

[Handwritten signature]

Station : Narangi

Dated : 30 Dec'20

(D: N: Arya, I:D:S:E)

EE

Garrison Engineer
Garrison Engineer
Officer commanding
Unit/Establishment

Patented
W. H. Chalk
Adm. Control Com.
Handling Council

13
Annexure 27
IN THE COURT OF SHRI B.R. KATHKATIA, EXECUTIVE MAGISTRATE, GUWAHATI.

Case No. 1015th/89

U/S 145/146 Cr.P.C.

Sri Dina Dayal Sarma
3/O Sri Mahabir Sarma
No. 1 Madgharia,
P.S. Noonmati

..... 1st party

-Versus-

1. Sri Ramjit Singh
2. Sri Ramasis Singh
3. Sri Rampriti Singh
All are sons of Unknown
Vill. No. 1 Madgharia
P.S. Noonmati

..... 2nd party

Copy of order passed by the Executive Magistrate, Guwahati.

DATE

ORDER

The case received on transfer from the ADM (K), Guwahati. Perused the petition supported by an Land Revenue Advocate. receipt filed by the 1st party. Heard the learned

I am satisfied that there is every likelihood of breach of peace between the parties concerning the land as mentioned in the schedule given below and now, I draw up a proceeding U/S 145 Cr.P.C. and direct both the parties to appear before this Court on the next date fixed alongwith the written statement and other connected documents in support of their respective claims over the disputed land.

In view of emergency nature the disputed land as mentioned in the schedule is hereby ordered to be attached U/S 146 Cr.P.C. prohibiting entry of both the parties to prevent breach of the peace.

O/C, Noonmati P.S. is directed to execute the attachment order and report compliance.

Schedule of the D/L

A plot of land measuring 2(two) Katha covered by Big No. 45 of Village No. 1 Madgharia under Beltola mouza.

For 30/9/89
Sd/-B.R. KATHKATIA

Executive Magistrate,
Guwahati.

No. 1417

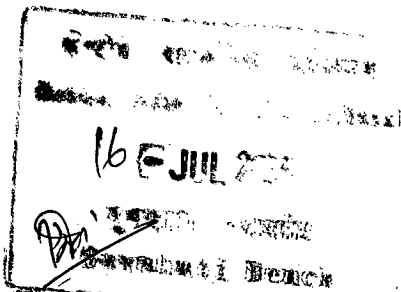
Dated : 18/9/89

Copy to the O/C, Noonmati P.S. for information and necessary action. He is directed to execute the order and report compliance.

Executive Magistrate,
Guwahati.

18/9/89

Attested
H.K. Choudhary
Dist. Commr. Guwahati



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.No. ... 75 of 2003

Ram Ashish Singh

-VS-

Union of India & Ors.

REJOINDER FILED BY THE APPLICANT AGAINST THE WRITTEN
STATEMENT FILED BY THE RESPONDENTS.

1. That the applicant has received a copy of Written Statement and has gone through the same. Save and except the statement which are specifically admitted herein below, rests may be treated as total denial. The statements which are not borne on record are also denied and the respondents are put to the strictest proof thereof.

2. That with regard to the statement made in para 1 of the Written Statement the applicant do not admit anything contrary to the records.

3. That with regard to the statement made in para 2, 3 & 4 of the Written Statement the applicant states that he preferred his appeal on 16.12.2000 highlighting the fact that his mother was ill and at the last stage of her life with a request to transfer him to a nearby station from his native place at U.P. The authority after considering his appeal issued an order approximately after one year transferring him to Bamrauli. His order of transfer was kept in abeyance acting on his representation dated 12.11.2001 wherein he made a specific prayer withdrawing his such

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Filed by
the applicant through
Ashish Bas
Advocate
20/6/03

request. However, surprisingly enough the respondents issued the impugned communication dated 16.4.2003 releasing him from his present place of posting in terms of the order of transfer dated 10.10.2001 after about $1\frac{1}{2}$ year from the issuance of such order of transfer. The applicant did not know about the terms and condition of request transfer, but when he saw the order dated 10.10.2001 he could come to know that he would loose his seniority in the new station. The respondents in fact took some undertaking at the time of forwarding his application (Annexure-1). Those undertaking certificates although signed by the applicant, but those were in a prescribed format and the applicant being a Group-D employee having little knowledge about those official rules and regulations signed those certificates. In fact, the applicant was happy while he received the order of transfer dated 10.10.2001, but subsequently he was made to understand that he would loose his seniority of about 33 years of service, he represented to the concerned authority for cancellation of the order of transfer. In fact, the order of transfer was not made effective for about $1\frac{1}{2}$ year. In the mean time mother of the applicant expired and he while intimating the fact once again reiterated his stand and the respondents on the same releasing him w.e.f. 16.4.2003 from his present place of posting.

4. That with regard to the statement made in para 5 to 17 of the Written Statement the applicant while reiterating and reaffirming the statement made above as well as the OA denies the correctness of the same and for the sake of brevity begs to rely and refer upon the statements made above without any further repetition.

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- 3 -

5. That the applicants states that admittedly the applicant was transfer acting on his request in the interest of the applicant but after issuance of the order of transfer he withdrew it. The respondents delayed the matter in issuing the order of transfer of the applicant and the circumstances under which he made this application since no longer in existence, the applicant reiterated his stand, but instead of canceling the order of transfer the respondents with an intention to harass the applicant issued the order of release.

In view of the above facts and circumstances the applicant prays before this Hon'ble Tribunal for setting aside of the order of transfer dated 10.10.2001 along with the order of release dated 2.4.2003 directing the respondents not to transfer him from his present place of posting.

12

- 4 -

(31)
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VERIFICATION

I, Sri Ram Ashish Singh, aged about 54 years, S/O Late M.Sing, at present working as Duftry (OTP) in the office of the GE, Narangi do hereby solemnly affirm and verify that the statements made in paragraphs 1 to 5 are true to my knowledge and those made in paragraphs 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 20th day of June of 2003.

Ram Ashish Singh
Signature.