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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No. 155/2004

R.A/C.P No.

E.P/M.A No.

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10. Any other Papers.Pg.to
11. Memo of Appearance.
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13. Written Arguments.
14. Amendment Reply by Respondents.
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16. Counter Reply.

SECTION OFFICER (Judl.)

FORM No.4
(SEE RULE 12)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

✓
Org.App./MiscPetr/Cont.Petr/Rev.Appl.....155/04.....

Name of the Applicant(s) In O.A.....*Smt. Bharati Roy Choudhury*

Name of the Respondent(s).....*Union of India & Sons*

Advocate for the Applicant *Mr. M. Chandi, Mr. G.N. Chakraborty*

Counsel for the Railway/CGSC.....*Mr. S. Nath, G.C.C.*

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

26.7.04

Present : The Hon'ble Shri K.V.Prahladan,
Administrative Member.

This application is in form
is filed/C.F. for Rs. 50/-
deposited vide IPCBD
No. 115-4220692
Dated 17.04

N. S. Deb
21/7/04
1/C.D. Registrar

*Supp taken with
Envelope.*

The applicant is working as LDC in the office of the LAO(A), Silchar who has been transferred to the office of the Controller of Defence Accounts, Guwahati vide order dated 28.4.2004, Annexure-1. The applicant has stated about her difficulties likely to be caused due to her transfer from Silchar to Guwahati as her elder daughter is studying Degree Course at Silchar and younger daughter is studying in HS final year at the same place. She has therefore prayed that the transfer order may be deferred till completion of the academic year. She has also represented her case to the Controller of Defence Accounts Guwahati on 11.5.2004 vide Annexure-3.

Heard Sri M.Chanda, learned counsel for the applicant and Sri A.Deb Roy, learned Sr.C.G.S.C for the respondents at length.

Considering the facts and circumstances of the case, the respondents are directed to consider the request of the applicant with utmost sympathy for the problems explained by her

that is fair, just and equitable
26.7.04 and a reasonable reply/shall be given
to her representation within one month
from the date of receipt copy of this
order. Status quo shall be maintained
till completion of the above exercise.

O.A. is accordingly disposed of.
No order as to costs.

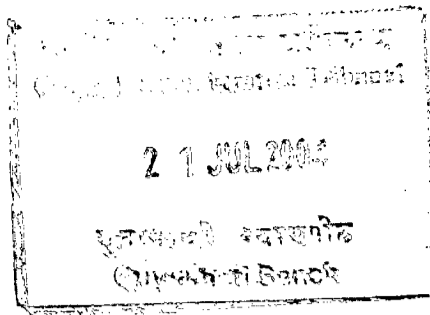

Member (A)

pg

11.8.04

Copy of the order
has been sent to
the Dy Sec. for
drawing the same
to the applicant
as well as to the
D.C.S.C. for the
respn.

13/8



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH::
GUWAHATI

(An Application under section 19 of the Administrative
Tribunals Act 1995)

OA No...../04

BETWEEN

Bharati Roy ChoudhuryApplicant

-And-

The Union of India & othersRespondents

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Date: 20.7.04

Filed by

Sujit Ghosh

(Sujit Kumar Ghosh)
Advocate

Bharati Roy choudhury

Filed by:-
Bharati Roy Choudhury
... applied
through:-
Surjit Ghosh - Advocate
28.4.04

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH:
GUWAHATI

(An Application under section 19 of the Administrative
Tribunals Act 1985)

OA No...../04

BETWEEN

Bharati Roy Choudhury
C/o Late Ashutosh Roy Choudhury
Rangerkhari, PO- Silchar-5
Dist- Cachar
.....Applicant

-And-

1.The Union of India
Represented by the Secretary to the Govt.
of India, Ministry of Defence, New Delhi.
2. The Controller of Defence Accounts
Udayan Vihar, Narangi, Guwahati-781171
3. Assistant Controller of Defence
Accounts (Admn)
Udayan Vihar, Narangi, Guwahati-781171

.....Respondents

DETAILS OF THE APPLICATION

1.Particulars of order against which this application is made:

This application is made against the impugned transfer
Office Order No. 46 dated 28.4.2004 issued in violation of
professed norm by the Respondent no.3 whereby the applicant has
been sought to be transferred from the office of the LAO (A), to the

Bharati Roy Choudhury

MO CDA, Guwahati in violation of the professed policy of the respondents.

2. Jurisdiction of the Tribunal

The applicant declares that the subject matter of this application is well within jurisdiction of this Hon'ble Tribunal.

3. Limitation

The applicant further declares that this application is filed within the Limitation prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4. Facts of the Case:

4.1 That the applicant is a citizen of India and a permanent resident of Assam.

4.2 That the applicant was initially appointed as LDC in the office of the respondent no.2. While working as LDC in the office of the Respondent no.2 at Guwahati she married one Shri Arun Singh who was also working in the same office. Out of their wedlock two daughters were born. The elder one Shri Priya Roy Choudhury is reading in Degree Part-II in Cachar College at Silchar.

4.3 That your applicant states that the husband of the applicant soon after her marriage started torturing on her both physically and mentally for which the applicant had to file a divorce proceeding before the appropriate court and the same was eventually decreed in favour of the applicant. Thereafter the former husband of the applicant started harassing her in the office premises itself. Finding no other alternative applicant approached the respondent no.2 for her transfer to Silchar, i.e., her hometown and the authority was kind enough to allow her prayer in consideration of the grave circumstances. Since then the applicant has been working at Silchar and has her daughters are also prosecuting their studies there. But she has been surprised to receive an order-dated 28.4.2004 whereby she has been sought to be transferred to Guwahati again although said Arjun Singh is still working at Guwahati in the same office and the circumstances

Bharati Roy Choudhury

under which the authorities were pleased to transfer the applicant to Silchar still continue to exist. Moreover, applicant has undergone surgery on 27.2.04 and therefore, it is very difficult for her to shift to any other place. The elder daughter of the applicant is studying in the Degree course at Silchar and another daughter studying in HS final year at the same place. Their final examination is going to be held in March, 2005 and there is no scope on the part of applicant to transfer her daughter from Assam University to Gauhati University as the impugned transfer order has been issued on 28.4.2004 during the middle of the academic session is violation of norms and guideline of the Union of India.

4.4 That it is categorically submitted that the proposed transferred order was issued on 28.4.2004 from LAO(A) Silchar to MO CDA Guwahati which is a routine transfer order. There is no administrative exigency and /or public interest involved in the matter. After issuance of the transfer order applicant submitted an application on 6th May 2004 before the respondent no.3 seeking personal intervention for redressing her grievances but till date no order has yet been passed on the same. However, she has not been released from the present place of posting. There after applicant submitted a representation on 11.5.2004 before the respondent no.3 praying for deferment of the transfer order for 6months on the ground of health condition and also on the ground of daughters education as impugned transfer order was issued during the middle of the academic session but respondents did not pass any order as yet. Under such circumstances, out of tension at her convalescing stage the applicant fell sick on 16.6.2004 necessitating her to go on medical leave and she is still on leave.

Copies of impugned order dated 28.4.2004, seeking personal interview letter dated 6.5.2004 and representation dated 12.5.2004 are annexed hereto and are marked as Annexure-1, 2 and 3 respectively.

4.5 That it is stated that the impugned transfer and posting order has been issued as devoid of any urgency or public interest.

Bharati Roy Choudhury

The same is based on non application of mind and is contrary to the policy of the respondents. Moreover, the impugned order has adverse effect on the applicant under the facts and circumstances mentioned hereinabove.

4.6 That this application is made bonafide and in the interest of justice.

5. GROUNDS FOR RELIEF (S) WITH LEGAL PROVISION:

5.1 For that, shifting of the family more particularly shifting of the Children's at this circular stage is difficult and the same will cause irreparable loss and injury to the education of the children.

5.2 For that the applicant has been transferred under the impugned order dated 28.4.2004 while the two daughter of applicant are going to appear in H.S. final year examination and B.Sc. final examination respectively at Silchar Under the Assam University and applicant being a lady it is not possible for her to shifting the family at Guwahati.

5.3 For that the circumstances, which necessitated the respondents to transfer the applicant at Silchar being still in existence and the respondents being aware of it the impugned order posting the applicant at Guwahati, again should not have been passed.

5.4 For that the applicant has no hesitation to carry out the transfer except the Guwahati as her divorced husband working at Guwahati office but praying for deferment of the said posting order till the academic session is over.

5.5 For that as no option has been invited, no opportunity is provided notifying the vacancy position and no effort is made to consider the choice posting by calling options as required under the Rule/Transfer policy and as such the impugned order is liable to be set aside and quashed.

5.6 For that the impugned transfer and posting order has been issued in total violation of the professed norms without recording any reasons for departure from the set norms as required under the rule.

Bharati Roy choudhury

5.7 For that it is obligatory on the part of the respondents to consider the welfare of the children of the Government Employee and for smooth continuation of the education of the children of the applicant.

6. Details of Remedies Exhausted.

That your applicant states that she has no other alternative and efficacious remedy that to file this application.

7. Matter not previously filed or pending with any other court/Tribunal.

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

8. Reliefs sought for:

Under the facts and circumstances of the case the applicant prays that the impugned order dated 28.4.2004 be set aside and quashed and the respondents be directed to allow the applicant to continue in her present place of posting till the final examinations of her daughters are over and/or may pass such further or other order or orders as this Hon'ble Tribunal may deem fit and proper.

9. Interim relief sought for:

During pendency of this application, the respondents may be directed to stay the operation of the impugned transfer order dated 28.4.2004 and to maintain status quo as regard to the service of the applicant.

10. That this application is filed through advocate.

11. Particulars of the IPO

- (i) IPO No.....
- (ii) Date of Issue:.....
- (iii) Issued from: G.P.O. Guwahati.
- (iv) Payable at: G.P.O. Guwahati.

12. List of enclosures:

As stated in the Index.

Bharati Roy choudhury

VERIFICATION

Bharati Roy Choudhury C/o Late Ashutosh Roy Choudhury
Rangerkhari, PO- Silchar-5 Dist- Cachar do hereby verify that the
statements made in paragraphs 1 to 4 and 6 to 12 are true to my
knowledge and those made in paragraph 5 are true to my legal
advice and I have not suppressed any material fact.

And I sign this verification on this the 2nd day of July 2004
at Guwahati.

Bharati Roy Choudhury
Signature

Office of the Controller of Defence Accounts
Udayan Vihar, Narangi, Guwahati - 781 171

Part II OO No: 46

Dated: 28/4/2004

Subject: Transfer: DAD Estt.

The following transfers are ordered.

S/No	Name, Grade & A/C No	Office from which transferred	Office where posted	Date of relief	Remarks
1	2	3	4	5	6
1	Smt. B R Choudhury, Peon, 8334080 R/CLK	LAO (A) Silchar	MO CDA Guwahati	7/5/2004	With TA & JT
2	Smt. Indira Sarkar, Peon, NYA 8337482	LAO (A) Silchar	MO CDA Guwahati	7/5/2004	With TA & JT
3	Shri. Khargeswar Deka, Farash, 8335408	MO CDA Guwahati	LAO (A) Silchar	7/5/2004	With TA & JT

Note: -

1) Proper handing/taking over may be carried out in prescribed format before relief of the individuals and confirmation should be sent to AN/I Section of MO Guwahati.

2) Date of relief to be adhered to strictly and should not be deferred on account of representation or otherwise.

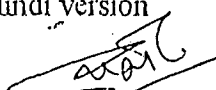
Authority: ON No: AN/IA/25/L-VII, dated 15/4/2004

File No: AN/IA/25/L-VI

Sd/-xxx
(Pankaj Hazarika)
ACDA (Admin)

Distribution: -

- 1) The C.G.D.A., West Block - V, ... for information
R. K. Puram, New Delhi-110066
- 2) The PCDA (P) Allahabad ... for information
- 3) The JCDA (Fund) Meerut ... for information
- 4) The LAO (A) Silchar ... 3 copies, 1 copy for each of
the individuals at S/No:1 & 2
- 5) The GE Silchar ... Advance of TA/DA is autho-
rised for S/No:1&2 from his
Cash Assignment of GE Silchar
- 6) The AAO GE Silchar ... for information
- 7) The O i/c, ... 2 copies, 1 copy for each of
AN/IV Section (Local) the individuals at S/No: 3
- 8) The O i/c, ...
AN/IB, AN/II (Gp.-I), AN/II (Gp.-II)
& AN/III Section (All Local) ... for information
- 9) Hindi Cell ... for Hindi version
- 10) PC File
- 11) O.O File


(S. Nath)

Certified to be true copy
Anjishresh
Advocate

- 8 - AN 12

Office of the Controller of Defence Accounts
Udayan Vihar, Narangi, Guwahati-781171

Part II 00 No-677

Dated: 20/2/2004

Subject: Result of Departmental Examination for promotion of Gp.-'D' to Record Clerk held on 16/1/2004

The following individuals have been declared successful in the departmental examination conducted on 16/1/2004 at CDA Guwahati for promotion of Gp.-'D' employee to Record Clerk.

Roll No	Name, Grade & A/C No	Marks	Office where serving
1	2	3	4
265	Shri N. N. Singh, Fleon, A/C No NYA	58	MO CDA Guwahati
267	Shri T. C. Das, Peon, A/C No 8335396	45	MO CDA Guwahati
278	Smt. B. R. Choudhury, Peon, A/C No 8334080	41	LAO (A) Silchar

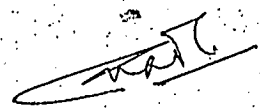
Authority: CGDA Training Division letter no. TD/SAS/16501/01/04/~~res~~ dated 01/2004

File No: AN/IC/727/DE/Prom/Vol.-III

— sd —
(Pankaj Hazarika)
ACDA (AN)

Copy forwarded to: -

- | | | |
|----|-----------------------------|----------|
| 1) | PCDA (P) Allahabad | 2 copies |
| 2) | O/c - AN/IV Section (Local) | 2 copies |
| 4) | LAO (A) Silchar | 1 copy |


(S. Nath)
Accounts Officer (AN)

- 9 -

To

The C.D.A.,
(AN/IA Sec.)
Udayan Vihar, Narangi,
Guwahati- 781 171

(Through Proper Channel)

Subject :- Request for seeking personal interview with the Hon'ble C.D.A.

Respected Sir,

With due honour and humble submission, I am to state that vide your Part-II O.O. No.46 dt.28-04-04, I have been posted to the office of the C.D.A. Guwahati and is to be relieved on 07-05-2004.

In view of the difficulties being faced by me in the day to day life and is being posted out from this station, I am intending to express my grievances to the Hon'ble C.D.A. in person.

As such, I may kindly be permitted to see the C.D.A. in person and oblige.

Thanking you, in anticipation, Sir.

Yours faithfully,

Bharati Roy Choudhury

Dated, at Silchar
The 6th May' 2004.

Ms. Bharati Roy Choudhury
R/Cik
A/C No.8334080

Authentic copy
Sigitshuk
Shivak

M

ANNEXURE-3

To,

The C.D.A
Guwahati.~~Through proper channel~~

Subject: Prayer for deferment for 6 month.

Respected Sir,

With due respect and humble submission I beg to state that I have been posted out to C.D.A Guwahati vide Pt-II Office Order No 46 DT. 28-04-04.

That Sir, due to following unavailable circumstances I am not in a position to leave my present station i.e, Silchar.

That Sir, I have got operated for Gold Bladder stone and as per attending physician I had to take rest for some time. With this view I have already taken personnel interview with honorable C.D.A. but my request has not been acceded to due to some administrative reasons. More over both of my daughter are studying in I.I.S. final year and B.Sc.

In view, of the forgoing facts I have no other alternative but approach your good self to be kind enough to give me for 6 months deferment, so as to enable to recovery health and completion of daughters studies for the act of which I shall remain ever grateful to your and obliged.

Thanking you Sir in anticipation.

Dated:- 11/5/2004

Yours faithfully.

Bharati Roy Chowdhury

(Bharati Roy Chowdhury)
Record Clerk, A/C No:-8334080

certified to be true copy
Sriyutshash
Admical

my