

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

3

(DESTRUCTION OF RECORD RULES, 1990)

MP-34/2004 - ordersheet pg-1

Disposed - date - 17/05/2004

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petition copy pg-1 + 8

O.A/T.A No. 33/2004

R.A/C.P No.....

E.P/M.A No. 15/2004

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2
SECTION OFFICER (Judl.)

FORM NO. 4
(SEE RULE 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

✓ ORDER SHEET

Org.App/ Misc. Petn/Cont. Petn/ Rev. Appl.

33/04

In O.A.

Name of the Applicant(s) Sri Haragoleinda Bhak

Name of the Respondent(s) Business of Indra Son.

Advocate for the Applicant Mr. A. C. Sarma, Mr. S. Saikia

Counsel for the Railway/ C.G.S.C. Mr. H. Sarma

CSO

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

17.2.2004

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

The O.A. is admitted. Call for
the records. Issue notice to the
parties. Returnable by ~~two~~ weeks.

List on 9.3.2004 for orders.

I.C. Deka
Member (A)

Notice & order dt. 17/2/04
Sent to D/ Section for
issuing to respondent
Nos 1 to 4. along with
M.P. 15/04, on dt. 27/2/04.
Call
3/3/04.

The respondents are given four
weeks time to file written statement.
Fix the case for hearing on 12.4.04.

I.C. Deka
Member (A)

6.5.04
Q/s Submitted by
the Respondents.

Q/s

17.5.2004

Mr. S. Saikia, learned

counsel for the applicant prays
 for withdraw the application sinc
 the applicant joined at Hyderabad
 Therefore, the application is
 dismissed as infructuous.

21.5.04

Copy of the order
 has been sent to
 the D/sec. for
 issuing the same
 to the Applicant
 as well as to the
 Mr. C.G.S.C. for the
 respo.

1/6/04

mb

K. P. Padmanabhan
 Member (A)

Received
 on behalf of
 Shri A. Deb Ray
 S. C. G. S. C.

1
 G. M.
 01/06/04

IN THE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL,
GAUHATI BENCH.

O. A. No. 33/2004

BETWEEN
Sri Hargobinda Pathak.

... Applicant.

-Versus-

Union of India & others.

... Respondents.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION:

1. This application relates to the order of the applicant. Applicant is working as Meteorologist Grade-I in Regional Meteorological Centre (RMC), Guwahati. He is also holding the charge of Welfare Officer.	
2. The Meteorological employees under RMC, Guwahati were getting S.D.A.(Special Duty Allowance) all of them having actual All India transfer liability.	ANX - 1 (Page - 17) Date : 31-03-2000
3. Subsequently respondent authority decided to withdraw the SDA against which the RMC employees formed adhoc committee taking the applicant as its Secretary and filed representations etc.	
4. The respondent authority became annoyed with the applicant for the same and transferred him to Jaipur vide Fax message dated 05-06-02	ANX - 2 (Page - 18) Date : 05-06-02
5. Respondent authority calls for explanation from the applicant for his involvement in SDA issue	ANX - 4 (Page - 20) Date: 08-07-02
6. Applicant challenged the transfer order through O.A. No.246/02 filed before this Hon'ble Tribunal mainly on the ground of malafide stating clearly that applicant was transferred only for his involvement in SDA issue	
7. This Hon'ble Tribunal vide order dated 31-01-02 held the transfer order as malafide and	ANX - 6 (Page - 22) Date: 31-01-03

set aside the same. Hon'ble Tribunal came into findings that the applicant was transferred only for his involvement in SDA issue.	
8. The respondent authority has challenged the above order before the Hon'ble Gauhati High Court in W.P. (C) No.5789/03 which is pending.	ANX - 7 (Page - 32) Date: 01-08-03
9. The respondent authority again issued warning letter to the applicant on 25-11-03 for applicant's representation regarding SDA.	ANX - 8 (Page - 35) Date: 25-11-03
10. The applicant apprehended punitive action and submitted representations for protection of his service career on 28-11-03 & 19-12-03	ANX - 9 (Page - 36) Date : 28-11-03 ANX - 10 (Page - 37) Date: 19-12-03
11. Applicant having completed qualifying service appeared assessment interview for promotion to the cadre of Director on 25-01-04	ANX - 11 (Page - 41) Date: 15-01-04
12. Some officers having not completed qualifying service have been selected for promotion but the applicant have been transferred from RMC, Guwahati to M.C. Hyderabad with common office order dated 10-02-04	ANX - 12 (Page - 42) Date : 10-02-04
13. The applicant has challenged the legality and propriety of his transfer order on the ground of malafide as it has been issued for the second time for the same reason of applicant's involvement with the SDA issue. The transfer order is also illegal on the ground as the respondent authority has preferred writ petition against the earlier order dated 31-01-03 which shows that the respondent is sticking to their earlier transfer order of applicant. Hence, the present transfer order cannot be issued. Transfer order is also illegal as it has been issued without any interest of public service.	

IN THE

COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

16th FEB 2004

O.A. No. 33/2004.

BETWEEN

Sri Haragobinda Pathak, ... Applicant

- Vs -

Union of India & Ors. Respondents.

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Filed by -

Smit Sainia.

Advocate, Guwahati

IN THE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH.

O.A. No. 33 /2004

BETWEEN

Sri Hargobinda Pathak, Met. Gr.-I

S/O – Late Ghana Kanta Pathak.

India Meteorological Department,
Regional Meteorological Centre,
Guwahati-15.

...Applicant.

-AND-

1. The Union of India, represented by the Secretary, Department of Science & Technology, Government of India, New Delhi.
2. The Director General of Meteorology, India Meteorological Department, Mausam Bhawan, Lodi Road, New Delhi-3.
3. The Deputy Director General of Meteorology (Administration & Stores), India Meteorological Department, Mausam Bhawan, Lodi Road, New Delhi-3.

Contd.

File No. 33
Date of filing: 16/2004
Hargobinda Pathak
through. Contd. 1
Proc. No. 16/2004

4. The Deputy Director General of Meteorology, Regional Meteorological Centre, L.G.B. Airport, Guwahati-15.

...Respondents.

DETAILS OF APPLICATION:-

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

The instant application is made challenging the following orders:-

Office order bearing No. A 32013(DIR)/17/2002-E.1. dated 10-02-04 issued by the Deputy Director General of Meteorology (Administration & Stores) for Director General of Meteorology, New Delhi in respect of the transfer of the applicant from Regional Meteorological Centre (R.M.C.), Guwahati to M.C. Hyderabad.

2. JURISDICTION OF THE TRIBUNAL:-

The applicant declares that the subject matter of the instant application for which he wants redressal is within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATION:-

The applicant further declares that the application is within the limitation period under Section 21 of the Administrative Tribunal Act, 1985.

Hargolinda Ferreira

4. FACTS OF THE CASE: -

4(I) That, the applicant is a citizen of India and, as such, he is entitled to all the rights, protections and privileges guaranteed under the Constitution of India.

4(II) That, the applicant is belonged to the Schedule Caste community and, as such, he is also entitled to the special protections and privileges as guaranteed to the members of the Schedule Caste community by the Constitution of India.

4(III) That, the applicant is a post-Graduate in Mathematics and he joined the India Meteorological Department in 1974 at Meteorological Centre, Guwahati which was later on upgraded to Regional Meteorological Centre (R.M.C.) and worked there till 1983. In March, 1983, the applicant was transferred to Meteorological Office, Mohanbari in the district of Dibrugarh on his promotion as Scientific Assistant and worked there till 1987 and he was again transferred back to Guwahati in December, 1989. The applicant was transferred to Agartala on direct appointment as Profession Assistant which is a second class gazetted Group-B post for which the applicant was selected by the U.P.S.C.

4(IV) That, in 1992 the applicant was selected as Meteorological Grade-II by U.P.S.C. which is a Class I post of Indian Meteorological Service and the applicant was posted at Pune Weather Section. In 1993 the applicant was transferred to Meteorological Office, Indira Gandhi International Airport, New Delhi. Thereafter in 1995 the applicant was transferred to Regional

Haregbinda Pathak

Meteorological Centre (R.M.C.), Guwahati and he was subsequently promoted to the post of Meteorologist Grade-I which is a Senior Class-I post.

4(V) That, in addition to the duties as Meteorologist Grade-I, the applicant has also been given the additional charge of Weather Officer without any financial benefit and the applicant is discharging his duties with all sincerities and devotions.

4(VI) That, the employees of the Meteorological Department were getting special duty allowance (SDA) as they have got all India transfer liability.

A copy of the above letter dated 31-03-02 issued by the respondent No.3 is annexed as
ANNEXURE - 1.

4(VII) That, suddenly the respondent authority informed that local employee of North East region working in the Meteorological Department will not get the SDA and it was ordered that amount of SDA paid after 20-09-94 are to be recovered.

4(VIII) That, all the local employees Meteorological Department working in the North East region felt aggrieved by the aforesaid decision taken by the respondent authority and the employees decided to ventilate their grievances before the authority through representation and the employees formed the ad-hoc committee for the same. The applicant also being the Welfare

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Hargolinda Pathak

Officer could not but be involved with the said programme of the employees for placing demand for SDA before the respondent authority.

4(IX) That, as the applicant on the pressure of the employees was to function as Secretary of the adhoc committee for SDA, he was to sign representation on behalf of all the employees and he was also to make telephonic talk etc. with the higher authority in this regard. But the respondent authorities particularly the respondent No.3 became annoyed with the applicant and he presumed as if the applicant was the force behind instigating their employee to demand SDA. The respondent No.3 even once, over phone, charged the applicant for formation of adhoc committee and also threatened the applicant to affect the service career.

4(X) That, the applicant out of apprehension resigned the post of Secretary of adhoc committee for SDA but till then the respondent No.3 issued a Fax message on 05-06-02 transferring the applicant from Regional Meteorological Centre (R.M.C.), Guwahati to M.C. Joypur and it was mentioned in the Fax message that the applicant is to be relieved immediately and not to be granted any kind of leave.

A copy of the above Fax Message is annexed as
ANNEXURE - 2.

4(XI) That, the applicant could come to know that getting the above transfer order the respondent No.4 informed the respondent

Contd:-

Hargolinda Gathak

No.3 about the necessity of the service of the applicant at Regional Meteorological Centre (R.M.C.), Guwahati and requested him to cancel the transfer order of the applicant. Subsequently, the respondent No.3 vide his Fax message dated 07-06-02 deferred the transfer order of the applicant for two months till 07-08-02.

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Jitangdolinda Pathak

A copy of the above letter is annexed as
ANNEXURE - 3.

4(XII) That, the respondent No.3 vide his office Memorandum dated 08-07-02 asked the applicant to explain under which and what authority he was formed the adhoc committee and why his action be not interpreted as being instigation of staff subversion of discipline and encouragement to illegal unauthorised organisation.

A copy of the above letter is annexed as
ANNEXURE - 4.

4(XIII) That, the applicant submitted his explanation denying the allegations. However, the applicant was asked to be relieved on 07-08-02 vide office order dated 30-07-02.

A copy of the above order is annexed as
ANNEXURE - 5.

4(XIV) That, getting no alternative the applicant submitted an application being No.O.A.246/2002 before this Hon'ble Tribunal challenging the legality and propriety of the aforesaid transfer order

particularly on the ground of malafide alongwith other grounds. It was clearly pleaded by the applicant in his application that the transfer order was issued as a vindictive measure only because of his involvement with the SDA issue. The Hon'ble Tribunal while admitting the application was also pleased to stay the impugned transfer order.

4(XV) That, the Hon'ble Tribunal after hearing of the application in presence of both the parties was pleased to allow the application vide final order dated 31-01-03 and set aside the impugned Fax message dated 05-06-02 as well as the order dated 30-07-02 regarding transfer of the applicant. The Hon'ble Tribunal while passing the above order came to the findings that the applicant was transferred only because of his involvement in SDA issue without there being any public interest.

A copy of the above order is annexed as
ANNEXURE - 6.

4(XVI) That, the applicant could come to know from reliable source that the respondent authority has filed a Writ Petition being No. W.P. (C) 5789/03 before the Hon'ble Gauhati High Court against the above order of this Hon'ble Tribunal and the above writ petition is still pending for disposal. But no notice of the writ petition has yet been received by the applicant.

A copy of the order dated 01-08-03 passed in W.P. (C) No.5789/03 is annexed as ANNEXURE - 7.

Ho. C. G. O. G. M. D. A. S. P. T. R. C.

Harjeetinder Pathak

4(XVII) That, the applicant having been posted in North East region on transfer from outside the region and he having actual All India transfer liability which is the main criteria for grant of SDA, he individually submitted representations before the authority for grant of SDA but the Director and L.A.C.D, Deputy Director General of Meteorology, Regional Meteorological Centre, Guwahati who came from New Delhi on tour and assumed charge of L.A.C.D., Deputy Director General of Meteorology, Regional Meteorological Centre, Guwahati only on 20-11-03, suddenly issued an office Memo on 25-11-03 against the applicant with some allegations and threatening disciplinary action because of applicant's representation for SDA. It has also been alleged in the said letter that refusal to draw salary is an act of indiscipline and the behaviour of the applicant is not only contemptuous in nature to the Hon'ble Court, but also to the Government and its senior officers, although in fact the applicant has never refused to draw salary and the matter regarding entitlement of SDA to the employees of Regional Meteorological Centre (R.M.C.), Guwahati is still pending before the Hon'ble Gauhati High Court in W.P. (C) No.696/04. The applicant has been even warned through the above office Memorandum without issuing any prior show cause notice to him.

A copy of the above letter is annexed as
ANNEXURE - 8.

4(XVIII) That, the applicant submitted his reply in response to the aforesaid memo vide his letter dated 28-11-03 that he never

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refused to accept salary and he in his individual capacity still feels that he is entitled to get SDA as per standing Government order.

A copy of the above letter is annexed as
ANNEXURE - 9.

4(XIX) That, the Director who came from New Delhi on tour to look after the current duties of Deputy Director General of Meteorology, Regional Meteorological Centre, Guwahati soon left for New Delhi after a few days of issuing the above warning letter to the applicant. During his stay here at Regional Meteorological Centre (R.M.C.), Guwahati as Deputy Director General of Meteorology, L.A.C.D. the applicant personally met him to know about the reason for issuing the warning letter and the applicant was told by him that it was issued on the direction of Headquarter, Deputy Director General of Meteorology (Administration & Stores), New Delhi. That it may be mentioned here that the same Headquarter Deputy Director General of Meteorology (Administration & Stores), New Delhi issued the earlier malafide transfer order to the applicant which was already set aside by the Hon'ble Tribunal as mentioned above and the same Headquarter Deputy Director General of Meteorology (Administration & Stores), New Delhi also directed Sri D. Sinha the Director/Deputy Director General of Meteorology, L.A.C.D., Regional Meteorological Centre, Guwahati over telephone on 27-10-03 to initiate action against the applicant by serving memo for claiming SDA by the applicant. This telephone talk was received by the Director/Deputy Director General of Meteorology, L.A.C.D. - D. Sinha while the applicant alongwith

Hargolinde Patole

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two other officers were discussing some official matter in the office chamber of the Director/Deputy Director General of Meteorology, L.A.C.D., Regional Meteorological Centre, Guwahati. The applicant made all this matters clear through his letter dated 19-12-03 addressed to the Director/Deputy Director General of Meteorology, L.A.C.D., Regional Meteorological Centre, Guwahati Sri D. Sinha through which he was to request for protection of his service career out of his apprehension due to the office Memorandum dated 25-11-03 as mentioned above.

A copy of the above letter is annexed as
ANNEXURE - 10.

4(XX) That, the applicant having been qualified for consideration for promotion to the next higher cadre of Director he was called for the assessment interview vide respondent's letter dated 15-01-04 and he accordingly, appeared before the assessment interview on 25-01-04 and he was expecting selection on the basis of satisfactory performance made by him in the interview.

A copy of the aforesaid call letter is annexed as
ANNEXURE - 11.

4(XXI) That, while the applicant was expecting for his promotion to the higher cadre of the Director, the respondent No.3 on behalf of the respondent No.2, have issued the office order vide No.A.32013(DIR)17/2002-E1 dated 10-02-04 by which as many as 35 other persons have been promoted to the post of Director and to

Haragolinda Pathak

the utter surprise of the applicant, the applicant has been simply transferred in his own Grade from Regional Meteorological Centre (R.M.C.), Guwahati to M.C. Hyderabad with immediate effect.

A copy of the above order is annexed as
ANNEXURE - 12.

4(XXII) That, as per Indian Meteorological Service (Group-A post) Recruitment Rules, 1978 as amended upto date one has to complete 5 years service in the feeder cadre for being eligible for consideration for promotion to the post of Director, but the promotion order mentioned above shows that some persons viz. Sl.4, 5, 7, 8 & 10 whose names appears at Sl.460, 454, 477, 486 & 491 respectively of the extended seniority list of Meteorologist Grade-I as on 01-10-2001 have not completed 5 years qualifying service in the feeder cadre. That apart some juniors to the applicant have also been promoted to the post of Director which shows that the applicant has been illegally deprived of his due promotion. However, the applicant is not challenging the promotion orders in the present application which is confined only to his transfer order and the applicant reserves his right to challenge the entire selection process including all relevant matters through a separate application to be submitted before the Hon'ble Tribunal.

A copy of the extended seniority list has been annexed as ANNEXURE - 13.

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4(XXIII) That, being aggrieved with the impugned transfer order the applicant prefers this application before this Hon'ble Tribunal on the following grounds.

5. GROUNDS OF RELIEF WITH LEGAL PROVISIONS:

5(1) For that, the impugned transfer order dated 14-02-04 issued by the respondent No.3 for respondent No.2 transferring the applicant from Regional Meteorological Centre (R.M.C.) to M.C. Hyderabad in the same capacity is illegal and malafide and, as such, it is liable to be quashed.

5(2) For that, the transfer order has been issued alongwith a promotion order of some other officer depriving the promotion to the applicant and, as such, the impugned order is liable to be quashed.

5(3) For that, the transfer order has been issued without any interest of service and even without posting any reliving hand or even applicant is also not to relieve anybody at Hyderabad and, as such, it is liable to be quashed.

5(4) For that, the impugned transfer order is nothing but a clear malafide action on the part of the respondents particularly the respondent No.3 for the second time only because of the applicant's repeated claim for the SDA. This matter has become amply clear from the letter dated 25-11-03 (Annexure - 8) issued by the Director, L.A.C.D., Deputy Director General of Meteorology on tour

Contd..

Haroldvinde Rathore

at Regional Meteorological Centre (R.M.C.), Guwahati which was issued on the direction of respondent No.3 and as such the impugned transfer order is liable to be quashed.

5(5) For that, the respondent authority has committed a wrong in issuing the present impugned transfer order while at the same time they have challenged the Judgment and Order of this Hon'ble Tribunal dated 31-01-03 before the Hon'ble Gauhati High Court by which, it is very much clear that the respondent authorities is still sticking to their earlier transfer order by which the applicant was transferred from R.M.C., Guwahati to M.C. Jaipur and as such the present impugned transfer order is liable to be quashed.

5(6) For that, the impugned transfer order has not disclosed any reason so as to justify the interest of public service behind the transfer order and, as such, it is liable to be quashed.

5(7) For that, the impugned transfer order has also directed that all officers are to be relieved immediately without delay and once relieved no correspondence/ applications etc. will be entertained in the reliving office but be routed by individual through reporting office which itself proves the malafide nature of the transfer order and, as such, it is liable to be quashed. However, the applicant has not yet been relieved from his present charge.

5(8) For that, the impugned transfer order is out and out is a malafide transfer order and that is only because of applicant's repeated demand for the SDA. And therefore, it is liable to be

Contd..

Mangolima Pathak

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Rathore
Jagatendra

quashed. It amounts to punishment without any fault of the applicant.

5(9) For that, if the applicant is compelled to carry out the impugned transfer order it will cause serious injustice to him and it will put him in serious troubles.

5(10) For that, in any other view of the matter the impugned transfer order is liable to be quashed.

6. DETAILS OF REMEDIES EXHAUSTED:

That the impugned transfer order being intended to be given immediate effect no representation could be filed. Moreover, it is also mentioned in the transfer order that the officers should be relieved immediately and no correspondence/application is to be entertained in the reliving office.

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

The applicant further declares that he has not previously filed any application, Writ Petition or any other proceeding before any court of law or any other authority and/or other Bench of this Hon'ble Tribunal regarding the matter in respect of which the instant application is filed and no such application, writ petition or writ is pending before any court.

8. RELIEF SOUGHT FOR:

In view of the facts and circumstances stated above it is most respectfully prayed that this Hon'ble Tribunal may be pleased to admit this petition and upon hearing on the cause or causes that may be shown by the respondents be pleased to grant the following ruling:-

To set aside the impugned transfer order issued vide office Order No.A.32013(DIR)/17/2002-E1 dated 10-02-04 (Annexure - 12) issued by the Deputy Director General of Meteorology (Administration & Stores) for Director General of Meteorology, New Delhi so far it relates to the transfer of the applicant from R.M.C., Guwahati to M.C. Hyderabad.

9. INTERIM RELIEF PRAYED FOR:

This Hon'ble Tribunal may be pleased to stay the impugned transfer order of the applicant as issued vide office Order No.A.32013(DIR)/17/2002-E1 dated 10-02-04 transferring the applicant from R.M.C., Guwahati to M.C. Hyderabad.

10. PARTICULARS OF THE IPO:

1. I.P.O. No.: - *SSG 378365*.
2. DATE : - *15-2-04*
3. PAYABLE AT GUWAHATI.

11. LIST OF ENCLOSERS:

As stated in the Index.

VERIFICATION:

I, Sri Haragobinda Pathak, son of Late Ghanakanta Pathak, the applicant of the instant application do hereby solemnly affirm and verify that the statements made in above in the accompanying application in paragraphs 1 to 4 (xxii), 6 and 7 are true to best of my knowledge which I belief to be true and the rest are my humble submission before the Hon'ble Tribunal and I have not suppressed any material facts.

And I sign this verification on this 16 th day of February, 2004 at Guwahati.

•
Haragobinda Pathak

DEPONENT

Haragobinda Pathak

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Am 1

INDIA METEOROLOGICAL DEPARTMENT
(Bharat Mausam Vigyan Vibhag)

Sub : Special Duty Allowance (SDA) to the Central Government Employees posted in North Eastern Region.

Ref : DST letter No.5-3/97-CDN dated 24th March, 2000.

.....

Special Duty Allowance (SDA) is paid to all categories of officers and members of staff of this department posted in the North Eastern Region according to the conditions laid down in the Ministry of Finance (Department of Expenditure) O.M. No.11(3)/95-E.II(B) dated 12.1.96 and clarificatory O.M. No.20014/3/83-E.II dated 20.4.1987 as they have actual 'All India Transfer liability'.

2. Accordingly there are no pending CAT/ Court cases in so far as this department is concerned.

SANJAY

(S. NIRANJAN)
Dy. Director General of Meteorology
(Administration & Stores)
for Director General of Meteorology

DST (Shri Hemohinder Singh, U.S.)

DCM UOI No. CW-30000 dt. New Delhi-3; the 31st March, 2000.

Copy to : 1. DDCM, RNC, Guwahati (Shri Dhanna Singh).
2. Met. Incharge, CSO Shillong (Shri S.C. Sahu).
3. DDCM RNC, Calcutta, (Shri P.K. Misra).

This is in continuation of DCM UOI No. CW-30000(pt) dated 27/3/2000.

Mr S. L. Saha

(MIR SINGH SAHNI)
for D. - G. - M.

DCM UOI No. CW-30000 dt. New Delhi-3; the 31 March, 2000.

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F. D. DIGHI PASS

FAX MESSAGE

DATED: 5.6.2002

FROM: DDGM NEW DELHI
 TO: DDGM (RMC) GUWAHATI (DR. KANTI PRASAD)

NO. 22012/Met.Gr.I&II/7/2002-E.I. DATED 5.6.2002. IT HAS BEEN DECIDED TO TRANSFER SHRI HARGOBIND PATHAK, MET. GR. I FROM RMC GUWAHATI TO M. JAIPUR UNDER OFFICE OF DDGM (RMC) NEW DELHI. HE MAY BE RELIEVED IMMEDIATELY AND MAY NOT BE GRANTED ANY KIND OF LEAVE OVER AND ABOVE JOINING TIME DUE TO EXIGENCIES OF SERVICE. USUAL JOINING TIME T/A/ DA ALLOWED AS PER RULES. KINDLY ACKNOWLEDGE.

(J.S. Arya)

Dy. Director General of Meteorology
(Administration & Stores)

for D. C. M.

Copy of Shri H. Pathak Met.

S/1/02

Certified to be true.
 Wm. m.
 D.S.R.
 16/2/02

FROM : DDGM(A&S)

PHONE NO. : 91 11 4621472

JUN. 07 2002 05:23PM PJ

Annex - 3

~~SECRET~~
FAX MESSAGE

DATED : 7.6.2002

FROM : DGM NEW DELHI

TO : DDGM (RMC) GUWAHATI (DR. KANTI FRASAD)

NO. A.22012/Met.Gr.I&II/7/2002-E.I. DATED 7.6.2002. KINDLY REFER TO RC
GUWAHATI FAX MESSAGE NO. GH-E-00241 DATED 5.6.2002 IT HAS BEEN
DECIDED TO DEFER THE TRANSFER SHRI HARGOBIND PATHAK FOR TWO
MONTHS. HE MAY BE RELIEVED ON 7.8.2002. KINDLY ACKNOWLEDGE.

Qm/0
(J.S. Arya)
Dy. Director General of Meteorology
(Administration & Stores)

for D. G. M.

Received on 7.6.2002

DR

7.6.2002

certified to be true
When
Adv.
6/2/04

सं०

भारत सरकार
 भारत मीसम विज्ञान विभाग
 मीसम विज्ञान के महानिदेशक का कार्यालय
 मीसम भवन, लोदी रोड़
 नई दिल्ली-११०००३
 तार का पता :
 महामीसम, नई दिल्ली



NO.
 GOVERNMENT OF INDIA
 INDIA METEOROLOGICAL DEPARTMENT
 OFFICE OF THE
 DIRECTOR GENERAL OF METEOROLOGY
 MAUSAM BHAVAN, LODI ROAD
 NEW DELHI-110003
 Telegraphic Address :
 DIRGENMENT, NEW DELHI

दिनांक/Date.....

CONFIDENTIAL
No.A22026/III/2000-E.I.

Dated : 21st July, 2002

Office Memorandum

With reference to his application dated 22.5.2002, Shri Hargobind Pathak, Met. Gr-I, is now called upon to explain under which and what authority he has formed the committee and why his action be not interpreted as being instigation of staff, subversion of discipline and encouragement to illegal unauthorized organization.

Reply may be sent within ten days of receipt of this letter failing which it will be assumed that Shri Pathak accepts the misdemeanour stated above and action will be taken as deemed fit.

(J.S. Arya)
 Dy. Director General of Meteorology
 (Admin. & Stores)
 for Director General of Meteorology

Shri Hargobind Pathak,
 Met. Gr-I,
 through RMC Guwahati

certified to be true
 Wm
 BDR.
 16/2/02

GOVERNMENT OF INDIA
 INDIA METEOROLOGICAL DEPARTMENT
 OFFICE OF THE DEPUTY DIRECTOR GENERAL OF METEOROLOGY
REGIONAL METEOROLOGICAL CENTRE, GUWAHATI-781015

No GH-X-00010/26/10

Dated 26/7/2002

OFFICE ORDER

In pursuance of DGM New Delhi Fax No A-22012/Met Gr-I and II/7/2002-E-I Dated 5-6-02 and even No dated 7-6-02 and 29-7-02, following transfer is ordered in the interest of public service.

Serial	Name & Designation	From	To	Date of relief	Date of Joining
1	✓ Shri Hargobind Pathak, Met Gr-I	RMC Guwahati	M.C. Jaipur	7-8-02 (AN)	After availing usual joining time.

Shri Pathak, Met-I should submit his charge relinquishment report (in quadruplicate) and surrender his P.I.C, locker key, library books and any other Government articles in his possession before he submits his charge relinquishment report.

DDGM
 36/7/02
 (B B DAS)
for DDGM(RMC) Guwahati

Copy to 1) DGM New Delhi for information & necessary action.
 2) RMC New Delhi for information & necessary action.
 3) M.C. Jaipur for information & necessary action. His joining report may be sent to this office immediately by speed post.

RMC GH-T UOI NO GH-X-00010/

DDGM
 36/7/02
 (B B DAS)
for DDGM(RMC) Guwahati

Dated 7/7/2002

Copy to :- 1) Service Book/TA/Pay/AMSS/GS(OT)/Leave/Pension seat for information and necessary action.

2) Secretary, G.O.A, RMC Guwahati for information.

DDGM
 36/7/02
 (B B DAS)
for DDGM(RMC) Guwahati

RMC GH-T UOI NO GH-X-00010/

Dated 7/7/2002

*certified to be true
 Wm
 Adv
 16/07/02*

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 246 of 2002.

Date of Order : This the 31st Day of January, 2003.

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

Sri Hargobinda Pathak,
Meterologist Grade-I,
India Meterological Department,
Regional Meterological Centre,
Guwahati-15.

....Applicant

By Advocate Sri A.C.Sarma.

- Versus -

1. Union of India,
represented by the Director General,
of Meterology, India Meterological
Department, Mausam Bhawan,
Lodi Road, New Delhi-3.

2. The Deputy Director General of
Meterology (Administration & Stores)
India Meterological Department,
Mausam Bhawan, Lodi Road,
New Delhi-3.

3. The Deputy Director General of Meterology,
Regional Meterological Centre,
L.G.B.Airport,
Guwahati-15.

....Respondents

4. Sri A.K.Choudhury, Addl.C.G.S.C.

ORDER

CHOWDHURY J. (V.C)

The O.A has arisen and are directed against the impugned order dated 5.6.2002 as well as the order dated 30.7.2002 passed by the respondents.

2. A thumb nail sketch germane for the adjudication of the O.A is adambrated herein below :

The applicant was at the relevant time holding the post of Meterologist Grade-I, a senior Class-J post under the respondents and posted at Guwahati. While he was

certified to be true

W.D. 2/1/03

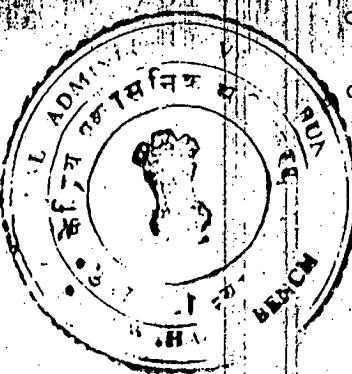
29
serving the impugned fax message dated 5.6.2002 was issued communicating the decision of the respondents. The full text of the message is reproduced below :

"No.A.22012/Met.Gr.I&II/7/2000 DATED 5.6.2002. It has been decided to transfer Shri Hargobinda Pathak, Met.Gr-I from RMC, Guwahati to M.C.Jaipur under office of DDGM (RMC) New Delhi. He may be relieved immediately and may not be granted any kind of leave over and above joining time due to exigencies of service. Usual joining time TA/DA allowed as per rules. Kindly acknowledge."

dt 11.6.2002

The applicant submitted a representation before the Director General of Meteorology followed by another representation dated 17.2.2002 for stay and cancellation of the transfer order. Failing to get appropriate remedy from the respondents the applicant knocked the door of this Tribunal assailing the legality and validity of the order transferring the applicant as arbitrary and discriminatory.

The applicant pleaded that the impugned order of transfer was passed with improper motive and as a retaliating measure for the steps taken by him as a Secretary of the adhoc committee for continuing Special Duty Allowance (SDA) to all IMD officers working in North Eastern Region. According to applicant the said order was just passed arbitrarily to get rid of the applicant from the office. The applicant pleaded that the employees serving in the Meteorology department in the North Eastern Region were althroughout getting SDA. However, by order dated 15.4.2002, the respondent No.2 issued a communication



informing that in view of the decision rendered by the apex Court dated 20.9.1994 the persons other than North Eastern domicile would only be eligible for the SDA and advised the authority to recover the arrear paid to the persons from the ineligible IMD officers. The applicant pleaded that the employees of the R.M.C, Guwahati formed an adhoc committee and he was made Secretary to deal with the matter of withdrawal of SDA though he was unwilling for the job. The applicant also pleaded that as a had Secretary of the ad hoc Committee he / submitted a representation before the Director General, Meteorology dated 22.5.2002 requesting for review and cancellation of the Headquarters order dated 15.4.2002 in respect of recovery/discontinuation of SDA to IMD officers serving in the North Eastern Region. The applicant also pleaded that on 28.5.2002 he apprised the grievance of the officers of RMC, Guwahati to the respondent No.2 against recovery orders. According to him the discussion was not cordial and as a matter of fact he was threatened to punitive action. The applicant reported the matter to the President of ad hoc Committee by his communication dated 28.5.2002 which was annexed with this application as Annexure-5. The applicant further pleaded that in pursuance of the plea made by the respondent No.3 the respondent No.2 had communicated his decision deferring the transfer order of the applicant for two month. The applicant tendered his resignation on 10.6.2002 from the post of Secretary of the

ad hoc Committee for SDA. By order dated 8.7.2002 the applicant was asked by the respondent No.2 to explain under what authority he had formed the committee and directed him to submit his reply within the time specified. The applicant submitted his reply dated 16.7.2002 informing that he was no longer a Secretary or a member of the said ad hoc committee. By communication dated 30.7.2002 he was asked to relieve his duty on 7.8.2002. The applicant contended that the transfer order was passed with improper motive and malafide intention.

4. The respondents contested the claim of the applicant and submitted its written statement. In the written statement the respondents stated that the applicant was transferred on public interest and the transfer order did not have any connection with SDA. It was also stated that the applicant himself admitted his involvement to subvert discipline by forming illegal association. The respondents also stated that the transfer was a part of department's strategy to provide Meteorological officers wide experience by working different parts of India. The applicant had spent 7 years provide in Guwahati. Applicant's posting to Jaipur would give him an opportunity to gain experience of Meteorology in dry, arid and semi arid region. The respondents contended that the order was passed bonafide and in the public interest and therefore the application is deserved to be dismissed.



The respondents in support of their contention referred to the decision rendered by the Supreme Court in Mrs Silpi Bose & Ors. vs. State of Bihar & Ors., reported in AIR 1991 SC 532, Gujarat Electrical Board and another vs. Atmaram, reported in AIR 1989 SC 1433 and also in Rejendra Roy vs. Union of India & Ors., reported in 1994(5) SLR 153 and the decision of the Central Administrative Tribunal, Jaipur Bench rendered in O.A.443/2002 disposed of on 23.10.2002 in R.C.Gupta vs. Union of India & Ors.

5. I have heard Mr A.C.Sarma, learned counsel appearing for the applicant and Mr A.K.Choudhury, learned Addl.C.G.S.C for the respondents at length. I fully endorse the argument advanced by Mr Choudhury that a Government servant does not have any vested right to continue in a particular place. Transfer is an incident of service. The employer is the master and it is only the authority to make a choice as regard the place of posting. An order of posting and transfer where it is made on public interest it is required to be given effect to. The discretion of posting and transfer undoubtedly is vested in the employer but discretion must be exercised fairly and reasonably. Arbitrary exercise of discretionary power cannot be countenanced under the law and the Court or Tribunal will be within its right to exercise judicial power of review to uphold the rule of law. In the instant case though the Tribunal called for the records leading to passing of the impugned order dated 5.6.2002, the respondents failed to produce the records though time was granted to the learned counsel for the respondents to that extent. Admittedly the impugned transfer order was passed in isolation and the said officer in Class-I post was transferred without any other replacement. The order

indicated that the applicant was transferred from RMC Guwahati to MC Jaipur. The order was not a routine transfer. What was the ostensible logic behind the transfer of the applicant that was not mentioned save and except the reasons made in the written statement. The applicant was elected/nominated as Secretary of the ad hoc Committee. The applicant as a Secretary of the ad hoc Committee also submitted a representation to the Director General of Meteorology. The applicant specifically pleaded about the intensity of the conversation that took place between him and the DDG, Meteorology. According to the applicant the telephonic discussion was disappointing which ended abruptly. In the written statement the respondents did not deny about the telephonic conversation with respondent No.2. The respondents however stated that in the said conversation the applicant was informed about pending of Court orders and rest of the part as fabricating and imagination of the applicant. To that extent no such record was produced by the respondents. On the other hand in Annexure-5, the communication dated 8.7.2002 is a contemporaneous document recording the events that took place on that time on receipt of the application submitted by the applicant. The said application that was submitted by the applicant as a Secretary of the ad hoc Committee which was not taken very kindly. The full text of the communication is reproduced below:

"With reference to his application date 22.5.2002, Shri Hargobind Pathak, Met.Gr-I, is now called upon to explain under which and what authority he has formed the committee and why his action be not interpreted as being instigation of staff, subversion of discipline and encouragement to illegal unauthorised organisation.

Reply may be sent within ten days of receipt of this letter failing which it will be assumed that Shri Pathak

accepts the misdemeanour stated above and action will be taken as deemed fit."

As would be evident the aforementioned communication was sent in response to the application submitted by the applicant as a Secretary of the ad hoc Committee. The relevant document including File No.A-22012/MET.GR-I&II/7/2002 as well as the File mentioned in the communication dated 8.7.2002 bearing No.A22026/111/2000-E.1 was however not produced before me. As discussed earlier the impugned order of transfer per se did not disclose any reason though in the written statement the respondents asserted that the order was passed on public interest.

6. The order dated 5.6.2002 also revealed some short of compelling reason for transfer of the applicant. The order itself indicated that the applicant was to be relieved immediately and was not to be granted any kind of leave over and above the usual joining time as per rules. At the instance of the Deputy Director General by fax message dated 7.6.2002 the authority decided to defer the transfer for two months, which was however subsequently cancelled.

The reasons impelling the transfer order in isolation was not made known to the Mr Sarma, the learned counsel for the applicant submitted that the authority obviously used the power of transfer as a retaliatory measure for formation of ad hoc Committee though obtestensible reason was shown as public interest. Mr Sarma, the learned counsel particularly referred, to the pleadings as well as the show cause notice dated 8.7.2002 by which the authority took exception to submission of their grievance by the representation dated 22.5.2002. The learned counsel submitted that by joining

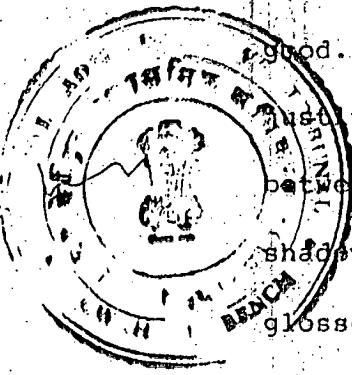
civil service a citizen cannot be bereft of his fundamental right guaranteed by the Constitution. At any rate the said association was formed within the ambit of law to ventilate the grievance of the employees, from which the applicant finally resigned in view of the reactions of the respondents.

7. Upon consideration of the materials on record it is difficult to rule out the contention of the applicant that the order was passed not as a retaliatory measure because of formation of the ad hoc Committee in which the applicant among others was also a member and submitted representation was as a Secretary. No reason as such/also assigned as to the pressing public interest to transfer a Government officer who was equally holding a responsible post in the Regional Meteorological Centre at Guwahati. What was the compelling reason to immediately transfer out the applicant from RMC Guwahati and send him to MC Jaipur without even trying to find out a substitute.

Mr A.K.Choudhury, learned Addl.C.G.S.C referring to the written statement submitted that the order of transfer was made in public interest and since the transfer is an incident of service the Tribunal should refrain from interference in the transfer order and referred to the decisions mentioned earlier. I have perused the judgment of the apex Court referred to above. All these decisions are the decisions on the facts situation. In Gujrat Electrical Board the Supreme Court was dealing with a discharge of a Government servant from service for unauthorised absence and his failure to join duties. In Mrs Silpi Bose and others (supra), the appellants were teachers in Primary School. On the request of the appellants they were transferred to the place where their husbands were posted

by the District Education Establishment Committee. The respondents challenged the validity of the order before the High Court by means of a Writ Petition under Article 226. The High Court allowed the petition. In the aforementioned case the Supreme Court observed that "if the competent authority issued transfer orders with a view to accommodate a public servant to avoid hardship, the same cannot and should not be interferred by the court merely because the transfer order were passed on the request of the employees concerned." Similarly the decision rendered in Shri Rajendra Roy is distinguishable in facts.

9. An administrative decision is impaired by illegality if it contravens any provisions of law. Such decision is also flawed where it pursues an objective other than that for which the power to take the decision is made. Discretion is reposed on the public authority to do public good. Discretion, Coke said is "Scire per legem quod sit iustum" it is a Science or understanding to discern between falsity and truth, between right and wrong, between shadows and substance, between equity and colourable glosses and pretence and not to do according to their wills and private affections" (Keighley's case (1609) 10 Co. Rep 139, a. 140 a). A public authority is confided with discretionary power for attainment of public good and public interest. Where such power is exercised according to one's whims and Caprice, such exercise of power vitiated by illegality. Exercise of administrative discretion also be faulted if it is exercised on extraneous purpose. Similarly an administrative action is flawed if it pursues collateral objects.



3X

De Smith, Woolf & Jowell in "Judicial Review of Administrative Action" pithily dealt with the subject as follows :

"The principle has been expressed in different ways. Sometimes it is said that decision-makers should not pursue "collateral objects", or that they should not pursue ends which are outside the "objects and purposes of the statute". On other occasions it is said that power should not be "exceeded" or that the purposes pursued by the decision-makers should not be "improper", "ulterior", or "extraneous" to those required by the statute in question. It is also said that irrelevant consideration should not be taken into account in reaching a decision. All these terms of course 'run into each other' and 'overlap'.

However, the designation of a purpose as 'improper' is distinct because of its connotation of moral impropriety. In most cases where the term 'improper' has been employed, the decision-maker either knowingly pursues a purpose that is different from the one that is ostensibly being pursued, or the motive behind the decision is illicit (based for example on personal factors such as revenge or prejudice). Because, therefore, of its adverse moral imputation, the notion of improper purposes is more akin to that of bad faith (a notion which directly imputes motives involving dishonesty, fraud or malice) which is considered in Chapter 13 below as an instance of the ground of the 'unreasonable' exercise or abuse of power."

On overall consideration of the matter it is difficult to sustain the order of transfer ^{sub} vide fax message dated 5.6.2002 as well as the order dated 30.7.2002 as lawful. The aforementioned orders are thus liable to be set aside and accordingly ~~not~~ set aside.

The application is accordingly allowed. No order as to costs.

Sd/ VICE CHAIRMAN

Document Officer (3)
RECEIVED 11/11/03

प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित राशि तारीख की निश्चितता Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित राशि और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए अपेक्षित तिथि नहीं Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
12/2/04	12/2/04	12/2/04	12/2/04	12/2/2004

IN THE GAUHATI HIGH COURT

(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram & Arunachal Pradesh)

CIVIL APPELLATE SIDE

Appeal from

Civil Rule

W.P.(C) No. 5789 of 2003

Appellant

Petitioner

The Union of India & Ors

Versus

Sri. Hargobinda Pathak

Respondent

Opposite Party

Appellant For	Mr. C. Choudhury	Appellant Petitioner	Sr. C.G.S.C
Respondent For		Opposite Party	

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4

Certified to be true.

W.B.
Adv.

- AND -

IN THE MATTER OF

1. Union of India

Represented by the Director General of
Meteorology, India Meteorological
Department, Mausam Bhawan,
Lodi Road, New Delhi - 3

2. The Deputy Director General of

Meteorology (Administration &
Stores) India Meteorological
Department, Mausam Bhawan, Lodi
Road, New Delhi - 3

3. The Deputy Director General of

Meteorology, Regional
Meteorological Centre, L. G. B.
Airport, Guwahati - 15

--- Petitioners

- Versus -

Sri Hargobinda Pathak

Met. Grade - I

S/o Late Ghana Kanta Pathak

India Meteorological Department

Regional Meteorological Centre

Guwahati - 15

--- Respondents

The humble petition of the petitioners

abovenamed

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
	2	3	4
			BEFORE
			THE HON'BLE THE CHIEF JUSTICE THE HON'BLE MR. JUSTICE I.A. ANSARI
	1-8-03		<p>Heard Mr. C. Chowdhury, learned counsel for the appellant.</p> <p>Issue notice to the respondent to show cause as to why the application (W.B.(c) No. 5789/03) should not be admitted as prayed for, and why such further or other orders should not be passed as to this court may seem fit and proper.</p> <p>The notice is made returnable after four weeks. Steps to be taken by three days.</p>
			<p>Heard Mr. C. Chowdhury, learned counsel for the appellant- petitioner on stay matter.</p> <p>The application for stay is rejected.</p>

sd/ P. P. Mukherjee
Chief Justice

CERTIFIED TO BE TRUE COPY
 Date 12th day of Feb. 1969.
 Superintendent (Copying Section)
 Gauhati High Court
 Authorised U.P. 76, Feb 1, 1872

Ref. No. 3657
Date 21/1/69

GH-X-00010 / 5396

No.

App-8

10/11/03

Government of India
India Meteorological Department
Regional Meteorological Centre
LGBI Airport, Guwahati - 781 015

25-11-2003

Date



OFFICE MEMORANDUM

With reference to his application dated 10-10-2003 Shri H. Pathak, Meteorologist Gr.-I is intimated that refusal to draw salary is an act of indiscipline and will invite disciplinary proceedings under CCS (CCA) Rules.

Shri H. Pathak, Meteorologist Gr.-I is further advised that SDA issue has been ruled upon by Supreme Court and subsequent Govt. order on the subject. His behaviour is, therefore, not only contemnous in nature to the Hon'ble Court but also to the Government and its Senior Officers. Shri H. Pathak, Meteorologist Gr.-I is warned not to constantly indulge in such behaviour.

Shri H. Pathak, Meteorologist Gr.-I to please acknowledge receipt of this
O.M.

(L.R. Meena)

Director & LACD DDGM
Regional Meteorological Centre, Guwahati

To:

Shri H. Pathak, Meteorologist Gr.-I
RMC Guwahati

Certified to be true.

W.M.

Dec 1.

16/12/03

Ans - 9

Sri H.Pathak, Met-Gr-I
RMC Guwahati,
Dated 28.11.2003

Respected Sir,

Respectfully, I do hereby acknowledge receipt of your OM No. GH-X-00010/5396 dated 25.11.2003.

Sir, I have not refused salary so far. But I expressed my genuine claim of SDA through the applications dated 8.5.2002, 10.6.2003, 30.9.2003, 10.10.2003, 6.8.2003, 3.11.2003 and 14.11.2003 which are still pending under your kind disposal.

Sir, I do agree that Supreme Court Verdict can be considered as ruled upon, but it is to be implemented for Central Government Employees having similar service conditions only, even in the same department and accordingly I am still possessing the eligibility criteria for drawl of SDA. Even the subsequent Govt. Order dated 29.5.2002 from MF & DE, where Supreme Court verdicts are ruled into, did not make me ineligible for drawl of SDA (Ref : para-2 & 5 of the OM). Neither the OM, nor the Court verdicts says that Central Govt. employees belonging to NE region are not entitled for SDA, even though individual employee possess all India transfer liability. It is clear from this fact that by discontinuing SDA from my salary department has violated the provisions contained in Article 14 & 16, as well as equal pay Doctrine.

Sir, being a Senior Officer, as well as Welfare Officer of this RMC Guwahati, I am definitely bearing responsibility and to that effect I have not done any thing wrong for which an warning Office Memorandum has to be served to me. I shall be happy to know the specific charges for which you have observed my behavior as contemnous in nature to Hon'ble Court as well as to Government and also how I have constantly indulging in such behavior ? Sir, Since SDA had been discontinued unilaterally by HQ from the salary of all Officers and staff of RMC Guwahati including me, on the ground that we belong to NE region, I submitted certain facts based on Govt. orders and court verdicts only, for your kind reference and consideration.

Sir, instead of penalizing me by confidential process, for claiming SDA with genuine grounds, I earnestly request to you kindly review the entire SDA issue, taking it in a broad perspectives for the interest of officers and staff of RMC Guwahati as whole. It will generate better working environment for rendering better Meteorological services in this remote and hard localities of NE region, where Govt. Of India had been extending the existing allowances and facilities to all categories of Central Govt. Civilian Employees since 1983 on-wards for their services in this region, vide Govt. orders of 1983, 1988 and 1998, duly approved by President of India.

I fervently request you to kindly reconsider genuine claim of SDA and expunge the charges brought against me.

Thanking you

H. Pathak
(H. Pathak, Met.Gr.I)

To
The DDGM,
RMC Guwahati-781015,
Dated 28.11.2003.

Confidential

To

The DDGM (Kind Attention to Sri D.Sinha, Director/DDGM, LACD)
Regional Meteorological centre,
Guwahati-781015

Sub: Request protection for Service carrier-- reconsider continuation SDA.
Ref: Your OM dated 25.11.2003 and my reply dated 28.11.2003 there upon.

Sir,

In continuation of my application dated 28.11.2003, I would like to inform you that I am apprehending an insecurity in my service carrier, after receipt of Office Memorandum (OM) issued by Sri L.R. Meena, Director, IMD New-Delhi on tour to Look After Current Duties of DDGM, RMC Guwahati. The OM was issued on 25.11.2003, after he had assumed charge of DDGM, LACD on AN of 20.11.2003. Practically I was working under him only for two full working days with my absolute integrity prior to receipt of the OM. The OM was issued referring to my application dated 10.10.2003 regarding request for drawl of SDA along with my salary of Oct., 2003, as refusal of salary. While issuing the OM, he did not consider my other applications lying pending under your kind perusal.

When I had personally met him, he conveyed me that the OM was issued on the directive of HQ, DDGM(A&S), New-Delhi. Sir, reference can also be made in this respect that prior to it, DDGM (A&S) HQ, New-Delhi had also directed you to initiate action against me by serving OM for the claim of SDA, over telephone on 27.10.2003, at 1310 hours IST. The telephonic call was received by you, when we were discussing some official matters along with other officers, S/Sri D.K.Handique, Met-I and G.C. Bhattacharjee, AM I in your official chamber. From all these facts, it is clear that the OM was issued on back ground directive of DDGM (A&S), HQ, New-Delhi. The truth will be best known to you.

Sir, in another occasion, I had been ordered for transfer to MC Jaipur by fax message dated 5.6.2002 and the order was issued by DDGM(A & S). Prior to the issue of the transfer order, I was threatened by him for punitive action over telephone on 28.5.2002, followed by issue of OM dated 8.7.2002 referring the application dated 22.5.2002 regarding the claim of SDA. My request for cancellation of transfer and recommendation of DDGM RMC Guwahati for my stay at Guwahati were ignored by HQ New-Delhi. However, Hon'ble CAT Guwahati Bench observed the transfer order as malafied in nature and my pray for stay at Guwahati was upheld. But the said transfer order has not yet been cancelled, even though I expressed my apology to the department for the situation warrant me to approach legal authority vide my application dated 22.5.2003 & 18.6.2003. It is clear that for all such actions, the back ground directive of DDGM(A&S) cannot be ignored.

I am submitting herewith another example of background directives and unilateral decisions of DDGM(A&S), which has strong bearing with my present case. A close perusal of discontinuation orders of SDA dated 15.4.2002, 29/30-7-2002, 3.10.2002 and

certified the true
M/S
15/2/84

26.8.2003 reflects the facts and submitted before you for you reference and consideration of my case.

- SDA had been paying by department since 1983, based on Govt orders duly approved by President of India, with interim review of it time to time (Ref. DGM UOI NO GW-30000(PT) Dated 27-2-1992 and GW-30000(PT)/7902 Dated 31-3-2000). However, the payment of SDA had been continued after every review to all IMD officials irrespective of place of residence. The departmental decisions for continuation of SDA might have been taken by number of departmental highest authorities i.e. the then DDGM and DGM only, after due consideration of Govt. orders. The review order Dated 31-3-2000 is an clarification to Government that all IMD officials are eligible for SDA, as per Govt. orders remaining in force in the department. This departmental decision had been issued under the directive of present DGM, Dr R.R.Kelkar only and discontinuation of SDA under his directive now is not convincing.
- The discontinuation order SDA Dated 15-4-2002, issued by DDGM (A&S), was superceded subsequently by order dated 29/30-7-2002 issued by him only enclosing with an order from MF&DE No 11(5)/97-E-III(B) Dated 29-5-2002. But it was not implemented. A subsequent order was issued vide TP message dated 3-10-2002, with post copy issued by Director (Admin) reviewing the same content of order dated 15-4-2002 only. It reflects clearly that the back ground directive of DDGM (A & S) had only been worked, is this respect.
- The departmental criteria framed in DGM UOI NO GW-30000(PT)/4838 Dated 26-8-03 is a complete distortion of court verdict. Such criteria has not also been seen in any Govt orders, so far issued. DDGM and DDGM (LACD), RMC Guwahati had always been suggesting for continuation of SDA for all IMD officials serving in this NE region. But all these suggestions were ignored by HQ. The back ground directive of HQ was so force full that one senior officer of RMC Guwahati had to submit application for volunteer retirement. The matter will be best known you. As such orders dated 3-10-2002 and 26-8-2003 are clearly an unilateral decision of HQ managed by DDGM (A&S) in direct or indirect forms. A question arises now, whether the approval of present DGM had been obtained before issuing of such orders or not. If prior approval had obtained also, a complete miss briefing of Govt. orders and supreme court verdicts had been placed before DGM for obtaining his kind approval.

Sir, I do apology for making such statement before you in this respect. But the situation has warrant me to express these fact and I belief, my statement possesses wattage and requires due consideration to find out the truth. Actually, payment of SDA to Govt. employees has been continuing by the Government after reviewing the existing facilities and allowances of Govt. employees, since 1983 duly approved by President of India. These were further reviewed in subsequent years, 1988 &1998 and continued without change of basic criteria. Sudden discontinuation of SDA from the salary of IMD officials has not only discriminated them from their genuine financial benefits provided by Government, but also caused an financial hardship to them including me. As per provisions contained in GI, MHA, OM No.180/54-Ests (A) dated 23.3.1955(copy enclosed), if the implementation of Govt. order makes financial hardship to employees,

- 39 -

an amendment may be done duly **authenticated by President of India**. Any amendment of Govt. order is to made as per GI, MHA OM No. F.4/3/57-Ests(A) dated 13.4.1957 (Copy enclose) as in original way without making extra interpretation. This authentication of President is necessary. Otherwise, there will be violation of Article 77 of constitution (Copy enclosed). Since there is no directives from Government for discontinuation of SDA from salary of eligible IMD officials after clarification from the department vide letter dated 31.3.2000, there is still scope for the department to review its discontinuation orders dated 3.10.2002 & 26.8.2003 within the purview of Govt. orders and SDA may be allowed to all IMD officials including me, working under you, irrespective of place of residents.

From all these facts stated above and the issue of OM dated 25-11-2003 is not necessary. The issue of OM in hurry by an official on tour from HQ New Delhi as well as his oral expression, it has confirmed that the background directive from DDGM (A&S) got priority. It possess also a different motive and particularly intends to harm my service carrier, by any means. It appears to me as an act of revenge of DDGM (A&S) against me and I hope you will definitely realise it. There is no doubt that for this purpose, he has fully utilised his official status either by oral instructions over telephone or by written order in the name of office order to subordinate office and officers.

Sir, I would like to inform you in contrast that I am maintaining sincerity and devotion in my duties working under you. I undertook a remote tour to Mankachar area, near Bangladesh Border for on the spot study of Tornado which was occurred on 22-4-2003. I undertook the said tour as per your order, when no other officers were willing to undertake the said tour. I had also undertaken another tour to Cherrapunji for taking over land for M.O. Cherrapunji from Govt of Meghalaya on 16-7-2003. I never use to deny any additional duties allotted to me. I had been also engaging myself for popularizing the Meteorological services in this NE region. I delivered special lectures in seminar at Guwahati University as well as at RMC in WMO day or National Science day celebration.. I had also submitted an synopsis in GU for registration in Ph.D course and my subject is to develop the Synoptic Model for Weather forecasting over NE region.

On the other hand sir, whatever I did for genuine claim of SDA for officers and staff of RMC Guwahati, being an welfare officer, it reflected the welfare part for the officials working under you only. The activities undertaken in this respect, were knowledgeable to then DDGM, RMC Guwahati also. After receipt of discontinuation order dated 15.4.2002 from HQ issued by DDGM(A&S), a letter dated 22.5.2002 was issued by me as Secretary, Ad-hoc committee Safe-Guarding SDA. The then, DDGM, RMC Guwahati also recommended for continuation of SDA for all Officers and Staff of RMC Guwahati while forwarding this application dated 22.5.2002 to HQ. But administrative action was only taken against me by issuing sudden transfer order to Jaipur by DDGM (A&S) New Delhi.

Now, when I have appraised my genuine claim of SDA in my individual capacity, instructions have been seen started issuing by DDGM (A&S) to take punitive action against me, in various ways and means, even through official on tour. Sir, such action of departmental highest administrative authority, is itself contrary to and violative of CCS(Conduct) rule. In other sense, CCS(Conduct) Rule 3-C-(26) provides me to claim SDA against the invalid departmental orders issued vide dated 3-10-2003 and 26-8-2003

for discontinuation of SDA from my salary, as I am eligible for same as per existing Government orders. As such my claim for SDA cannot be contemnous of court or Government as referred in OM dated 25-11-2003 issued by an official on tour and issue of such OM is appeared unreasonable. As per CCS(Conduct) rule, my pray for the claim of SDA should have been considered suitably within stipulated period of time (Ref : GI, MHA OM No. 25/34/68-Estt.(A) dated 20.12.1968, copy enclosed), instead of issuing OM to me. It is surprised to note that I had been advised by you as per directive of HQ vide your UOI NO GH-E-00941 /Loosc/3726 Dated 1-10-2003 to file writ petition in Hon'ble Supreme court for the claim of SDA. This advice was issued to me against my prayer for permission to higher administrative authority, as I was not convinced with the departmental discontinuation order dated 15-4-2002, 3-10-2002 and 26-8-2003. Such advices are contrary to CCS(Cunduct) rule, against my pray for higher authority lying pending under your perusal.

Sir, I am also a senior officer in this RMC holding the portfolio of Welfare officer and even looked after current duties of DDGM RMC Guwahati in earlier occasions. The warning OM was issued directly by an official on tour without giving me scope for explanation. At least, I could have been conveyed by him, if my claim of SDA does not permit by Government orders, before issuing the warning OM directly.

Sir, I do apology to express before you that the departmental discontinuation order of SDA from my salary has violated the provision contained in article 14 & 16, as well as equal pay doctrine. These orders have also bye passed the Govt. of orders approved by President of India, as well as distorted the Apex court verdicts and CAT verdict. Sir, the issue of OM by an official on tour clearly reflects the vindictive action against me only at this stage .

I do also apology before you for the situation warrant me to mention about the unilateral decision of DDGM (A & S), Sri J.S.Arya, HQ, New Delhi frequently. It is only because, I have no alternative remained with me now except to prove the truth of conscious bias action taken against me by HQ, even through an official on tour from HQ New Delhi, under the directive of DDGM (A&S) New Delhi. You will well understand now the back ground facts and directives, how the entire SDA issue has wrapped me around, when I have been placing my genuine claim only before you for your kind consideration.

My fervent appeal to you is that you will kindly reconsider my case and wave off the charges against me, on the facts submitted above before you. I also request you to kindly take necessary action regarding continuation of SDA along with my salary with payment of arrears for Nov, 2002 onwards.

Thanking You,

Encl : Govt. orders dated 23.3.1955, 13.4.1957
20.12.1968 & CCS(C) rule-3C(26)

Yours Faithfully,

RMC Guwahati
Dated, 19.12.2003

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Axx-11/10/11

SPEEDPOST

No. A32013/(Dir)/17/2002-E.I.
India Meteorological Department
Office of the Director General of Meteorology
Lodi Road, New Delhi-110003

4058

SPEED POST

Dated : the 11/1/2004

16

To,

Shri Har Gopal Pathak,
Meteorologist Grade-I
through RMC Guwahati

Sub : Assessment interview for consideration for promotion to the cadre of
Director under Flexible Complementing System

Sir,

I am to inform you that the Board of Assessment for selection of eligible Meteorologist Grade-I for promotion to the cadre of Director under Flexible Complementing System will meet on 23rd to 25th January 2004 in this office. An interview is an essential part of the selection process as per the Recruitment Rules.

2. You will be interviewed by the Assessment Board on 25th January, 2004. Accordingly, you are requested to report Mausam Bhavan, Lodi Road, New Delhi at 0800 Hrs on 25.1.2004. You are requested to report at the Scheduled date and time and punctuality has to be maintained in this regard. In case you do not report within the stipulated time, your case will not be considered by the Assessment Board.

3. You should bring with you evidence of your scientific contribution and achievement.

4. You will be treated on duty and paid TA/ DA as per rules by your office.

5. Kindly acknowledge receipt of this office letter and also confirm that you will appear before the Board at the date and time mentioned above.

Yours faithfully,

(Satish Kumar)

Asstt. Met. Gr.I(Gaz. Ent.)

for Director General of Meteorology

certified to be true
M/s
ADV.
10/2/04

No. A32013(DIR)/17/2003-E.L.
India Meteorological Department
Office of the Director General of Meteorology
Lodi Road, New Delhi-110003

Dated, the 10th Feb, 2004.

OFFICE ORDER

The President is pleased to approve the appointment of the under mentioned Meteorologist, Grade I (Scientist C) of India Meteorological Department as Director (Scientist D) (scale Rs.12000-16500) in the order given below with immediate effect or from the date they assume charge as Director (Scientist D) whichever is later and until further orders. Their places of posting are indicated against their names.

S.No.	Name (S/Shri)	Present place of posting	Posting on promotion as Director
(1)	(2)	(3)	(4)
1	SH. R.K. DASGUPTA	RMC Kolkata	RMC Kolkata
2	SMT. S.S. BASARKAR	DDGM (SI) Pune	DDGM (SI) Pune
3	SH. S.S. MONDAL (SC)	DDGM (Agrimet) Pune	DDGM (Agrimet) Pune
4	DR. HARI SINGH	DDGM (U) New Delhi	DDGM (U) New Delhi
5	DR. G.C. BASU	RMC Kolkata	RMC Kolkata
6	SH. DEVENDRA PRADHAN	DDGM (U) New Delhi	DDGM (U) New Delhi
7	DR. V. RAJESWARA RAO	DGM's Office, New Delhi	DGM's Office, New Delhi
8	SH. S.K. JAIN	DDGM (U) New Delhi	DDGM (U) New Delhi
9	SH. S.C. BHAN	MO Chandigarh	MO Chandigarh
10	SH. G.K. MOHANTY	RMC Kolkata	RMC Kolkata
11	SH. G.C. DESHNATH	RMC Kolkata	RMC Kolkata
12	SH. J.P. GUPTA	RMC Chennai	RMC Chennai
13	SH. B.P. YADAV	DGM's Office, New Delhi	DGM's Office, New Delhi
14	SH. JAYANTA SARKAR	ADGM(R) Pune	ADGM(R) Pune
15	DR. NABANSU CHATTOPADHYAY	DDGM (Agrimet) Pune	DDGM (Agrimet) Pune
16	SH. K. SANTHOSH	MO Thiruvananthapuram	DGM's Office, New Delhi (EMRC)
17	SH. SOUMENDU SENGUPTA	RMC Kolkata	RMC Kolkata
18	SH. A.K. SRIVASTAVA	ADGM(R) Pune	ADGM(R) Pune
19	DR. PULAK GUHATHAKURTA	ADGM(R) Pune	ADGM(T) Pune
20	SH. SOMENATH DUTTA	DDGM (WF) Pune	DDGM (WF) Pune
21	DR. SANJIB BANDYOPADHYAY	RMC Kolkata	RMC Kolkata
22	SH. M. MOHAPATRA	MO Bhubaneswar	RMC Cuttack
23	DR. (MRS) MEDHA KHOLE VINAYAK	DDGM (WF) Pune	DDGM (WF) Pune

Contd.

verified to be true
by
Adv.
16/2/04

-2-

24	DR. R.K. JENAMANI	DGM's Office New Delhi	DGM's Office New Delhi
25	DR. ANUPAM KASHYAP	DDGM (Agrimet) Pune	DDGM (Agrimet) Pune
26	MS. RANJU MADAN	DDGM (U) New Delhi	DDGM (U) New Delhi
27	SH. K.C. SAI KRISHNAN	DDGM (U) New Delhi	DDGM (U) New Delhi
28	SH. K.S. HOSALIKAR	RMC Murbad	CGO Shillong
29	DR. D.S. PAI	ADGM(R) Pune	ADGM(R) Pune
30	SH. Y.K. REDDY	MC Hyderabad	CDR Machilipatnam
31	SH. DEVENDRA SINGH	DGM's Office New Delhi	DGM's Office New Delhi
32	SH. S. BALACHANDRAN	RMC Chennai	RMC Chennai
33	SH. G. SURESH	DGM's Office New Delhi	DGM's Office New Delhi
34	SH. K.N. MOHAN	DDGM (SI) Pune	DDGM (SI) Pune
35	SH. MANIK CHANDRA (SC)	DDGM (JI) New Delhi	DDGM (JI) New Delhi

2. On joining of Shri Devendra Pratap at RMC Kolkata on promotion as Director (Scientist D), Shri S.K. Kundu, Director stands relieved on transfer to DDGM(U)'s Office in New Delhi on the same forenoon/afternoon.

3. On joining of Shri G.K. Mukherji at MC Srinagar on promotion as Director (Scientist D), Shri Ejaj Ahmed, Met. Gr.I stands relieved on transfer to DGM's Office, New Delhi (Hydrology Section) on the same forenoon/afternoon.

4. On joining of Shri K.S. Hosalikar at CGO Shillong on promotion as Director (Scientist D), Shri S.C. Sabu, Director stands relieved on transfer to MC Bhubaneswar on the same forenoon/afternoon.

5. On joining of Shri S.C. Sabu, Director at MC Bhubaneswar on transfer, Shri R. Asokan, Director stands relieved on transfer to RMC Chennai on the same forenoon/afternoon.

6. Shri Hargobind Pathak, Met. Gr.I is transferred from RMC Guwahati to MC Hyderabad with immediate effect.

7. Shri Dal Singh, Met. Gr.I is transferred from HF Agra to DGM's Office, New Delhi (Sat. Met. Division) with immediate effect.

8. Shri S.B. Thyagi, Met. Gr.I stands transferred to HF Agra and will look after the work of FMO Agra in addition to his regular charge of HF Agra.

9. Shri B.L. Verma, Director is transferred from DGM's Office, New Delhi (Sat. Met. Section) to MC Chandigarh with immediate effect.

10. The promotions will be effective only from the day they assume charge as Director in the offices indicated against their respective names above under Column 4.

Contd.

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11. All officers are to be relieved immediately without delay. Once relieved no correspondence/ application etc will be entertained in the relieving office but be routed by individual through reporting officer.
12. The promotees should give options for fixation of their pay within one month of their assuming charge as Director in terms of DOPT Notification No. 1/10/89-Estt(Pay-I) dated 30.8.89 circulated wide DGM No. A.26027/11/89-E.I. dated 1.9.90.
13. Their seniority will be fixed according to the rules.

13. Their seniority will be fixed according to the rules.

1888 Aug 1

Director General of Meteorology
(Administration & States)

for Director General of Meteorology

Copy forwarded to:

1. The Secretary (for a/c Shri T.K. Gupta, Under Secretary), Department of Science & Technology, New Mehrauli Road, New Delhi.
2. The Senior Accounts Officer, PAO, IMD, Lodi Road, New Delhi.
3. The Accounts Officer, PAO, IMD, Pune/Chennai/Kolkata.
4. The Hon'ble Secretary, IMD Gazetted Officers' Association, Lodi Road, New Delhi (5 copies).

S.S. Ghosh

Meteorologist (Establishment)
for Director General of Meteorology

Copy to

1. Shri/ Smt./ Dr. _____ Meteorologist Gr.I through _____
2. ADGM (R) Pune
3. DDGM (W) Pune/ DDGM (SI) Pune/ DDGM (T) New Delhi/ DDGM (Agrimet) Pune
4. DDGM RMCs : Mumbai/ Kolkata/ Chennai/ New Delhi/ Nagpur/ Guwahati
5. MGs : Hyderabad/ Bhubaneswar/ Thiruvananthapuram/ Chandigarh/ Srinagar
6. CDR : Machilipatnam FMO Agra/ III Agra/ CSK Shillong

The charge relinquishment/ assumption report may be kindly sent to this office soon after the officer(s) relinquish or assume charge as the case may be.

They may be kindly sent to the
of the case may be.

Copy to :

Vigilance Sec / Gaz. (Bills) / Sat. Met. Sec / NHAC / EMRC / Seismo. Sec / Hydrology Section. The enclosed Office Order may be handed over to the officers concerned under acknowledgement.

No. A.32013(DIR)/17/2002-B.I

Dated : 10.02.2004

S. K. Datta
(S. K. Datta)
Asstt. Met. Dir (E.I. Section)

— 46 —
Smt. B. D.
Chair - 13
SV

ADGM (R) Pune

DDGM (WF) Pune/ DDGM (SI) Pune/ DDGM (Ag) Pune/

DDGM (U) New Delhi

DDGM RMC : Mumbai/ Kolkata/ Chennai/ Nagpur/ Guwahati/ New Delhi

Directors : PAC Kolkata

Met. I/C : CSO Shillong/ CATC Bamrauli

Sub : Extension of seniority list of officers in the cadre of Meteorologist Gr.I.

1. Seniority list of officers in the cadre of Meteorologist Grade I as on 01.01.98 was earlier circulated vide this office UOI No. A.23021/1/98-E.I. dated 8th April, 1999 (last S.No. 420, Shri N.K. Jangle).

2. The seniority list of Met. Gr.I circulated vide this office UOI of even No. dated 8.3.2002 and was subsequently cancelled vide this office order of even number dated 23.4.2002.

3. The present extended seniority list contains appointments made in the cadre of Meteorologists Grade I upto October 2001. The seniority of the officers have been fixed on the basis of their positions in the respective select lists.

4. If any person, whose name appears in this seniority list has any objection against seniority position assigned to, he/she may represent to DGM in writing within two months from the date of issue of this list. If no objections are received within the stipulated period, the list will be treated as final for all purposes.

5. The details in respect of officers posted under your establishment may kindly be verified and mistakes/ omissions, if any, may be brought to the notice of this office.

Kindly acknowledge the receipt.

(J.S. Arya)

Dy. Director General of Meteorology

(Admin. & Stores)

for Director General of Meteorology

2/2001-E.I.

Dated : 8.10.2002

3882 07

Certified to be true.

W.M.

Adv.

10/10/02

Copy forwarded to

Met. Centres : Ahmedabad/Bhubaneswar/ Patna/ Bangalore/ Hyderabad/ Bhopal/
Thiruvananthapuram/ Chandigarh/ Jaipur/ Lucknow/ Srinagar

FMO's : Ahmedabad/ Asansol/ Jalpaiguri/ Patna/ Hyderabad/ Agra/
Lucknow/ Safdarjung

CWC : Visakhapatnam

CDR : Paradeep/ Karaikal/ Machlipatnam/ Goa/ Visakhapatnam/
Srigananagar/ Cochi

Met. Offices : Goa/ Agartala/ Mohanbari/ Ranchi/ Palam/ Safdarjung/ Kolkata

Multimet Radar : Bhubaneswar/ Mangalore/ Jodhpur

P.M.L.O. : Cochi/ Marmagao

G.S. Sethi

(G.S. Sethi)
for D. G. M.

DGM UOI No. A.23021/2/2001-E.I.

Dated : 8 / 10 . 2002

Copy to :

NHAC/ Telecom. Sec./ Seismo. Sec./ Sat. Met. Sec./ Hydrology Sec./ O-Section/
Publication Sec./ Planning Sec./ CPU/ G.S./ E(2) Sec./ Vigilance Cell/ Welfare
Sec./ SC&ST Cell/ CACC/ Hindi Sec./ E(3) Sec. at H.Q.

R. Kaur

(R. Kaur)
Admin. Officer (E.I. Sec.)

No. A.23021/2/2001-E.I.

Dated : 8 / 10 . 2002

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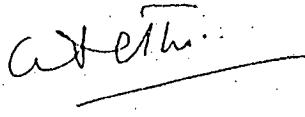
No. A23021/2/2001-E.I.
India Meteorological Department
Lodi Road, New Delhi-110003

Extended Seniority List of Meteorologist Grade I (as on 1.10.2001)

S.NO.	NAME	Date of Birth	Date of entry into Govt. service	Date of appointment in the grade	REMARKS
421	SH. R.C. GUPTA	30-Sep-57	15-Jul-80	24-Dec-98	
422	SH. INDERJEET VERMA	13-Oct-64	30-Jan-91	23-Dec-98	
423	SH. H.A.K. SINGH (ST)	18-Jul-64	30-Jan-91	10-Dec-98	
424	SH. M.S. TOMAR	18-Jan-52	20-Oct-93	14-Dec-98	
425	SH. A.K. SRIVASTAVA	15-Feb-60	20-Jul-93	10-Dec-98	Service counted w.e.f. 13.6.85
426	DR. (MS.) KAMALJEET RAY	08-Dec-66	20-Oct-93	10-Dec-98	
427	SH. PULAK GUHATHAKURTA	03-Jan-63	20-Jul-93	10-Dec-98	
428	MS. K. SATHI DEVI	04-Aug-63	20-Jul-93	10-Dec-98	
429	SH. SOMNATH DUTTA	21-Aug-65	20-Oct-93	10-Dec-98	
430	SH. SANJIB SEN	20-Oct-62	20-Oct-93	10-Dec-98	
431	DR. SANJIB BANDOPADHYAY	10-Dec-63	20-Jul-93	10-Dec-98	
432	SH. M. MOHAPATRA	12-Aug-65	20-Oct-93	10-Dec-98	
433	DR. (MS.) KHOLE MEDHIA VINAYAK	12-May-67	20-Jul-93	10-Dec-98	Service counted w.e.f. 7.2.91
434	DR. RAJENDRA KUMAR JENAMANI	16-May-68	20-Oct-93	10-Dec-98	
435	DR. ANUPAM KASHYAPI	07-Mar-64	20-Jul-93	10-Dec-98	
436	MS. RANJU MADAN	30-Jun-66	20-Jul-93	10-Dec-98	
437	SH. K.C. SAI KRISHNAN	25-Jan-67	20-Jul-93	10-Dec-98	
438	SH. K.S. HOSALIKAR	01-Jan-65	20-Oct-93	10-Dec-98	
439	DR. D. SIVANANDA PAI	07-May-67	20-Oct-93	10-Dec-98	
440	SH. SHIV GANESH (SC)	20-Jun-60	29-Nov-89	10-Dec-98	
441	SH. Y.K. REDDY	03-Sep-61	20-Oct-93	10-Dec-98	
442	SH. A.J. MATHEW	30-Jul-62	20-Oct-93	21-Dec-98	
443	SH. HARGOBIND PATHAK (SC)	01-Mar-52	20-Feb-74	10-Dec-98	
444	SH. B.K. BISWAS (SC)	16-Nov-52	01-Jun-85	10-Dec-98	
445	SH. DEVENDRA SINGH	05-Jan-64	20-Jul-93	10-Dec-98	
446	SH. S. BALACHANDRAN	26-Feb-65	20-Jul-93	10-Dec-98	Service counted w.e.f. 7.9.89
447	SH. M.L. SAHU	31-May-64	20-Oct-93	10-Dec-98	Service counted w.e.f. 29.4.87
448	SH. G. SURESH	23-Jun-67	20-Oct-93	10-Dec-98	Service counted w.e.f. 20.12.89
449	SH. K.N. MOHAN	12-Aug-67	20-Oct-93	10-Dec-98	
450	SH. MANIK CHANDRA (SC)	06-Feb-64	20-Jul-93	11-Dec-98	

451	SH. RAHUL SAXENA	22-Jun-66	20-Oct-93	28-Sep-00	
452	SH. K. SEETHARAM	06-Dec-62	20-Oct-93	28-Sep-00	
453	SH. PRAVESH CHANDER	01-Apr-46	14-Jul-69	11-Jan-01	
454	DR. G.C. BASU	30-Dec-48	05-Jul-72	08-Jan-01	
455	SH. A.K. ACHARYA	25-Nov-46	30-Jun-72	08-Jan-01	
456	SH. M.K. MALHOTRA	15-Aug-44	24-Feb-67	08-Jan-01	
457	SH. N.G. DAS	27-Nov-42	12-Dec-69	08-Jan-01	
458	SH. G.P. BHASKARAN NAIR	03-Jun-45	01-Apr-67	08-Jan-01	
459	SH. MEHFOOZ ALI	10-Jul-52	10-Sep-82	08-Jan-01	
460	DR. HARI SINGH	08-Jun-55	02-Nov-82	08-Jan-01	
461	MS. S.G. APTE	07-Sep-46	06-Nov-67	08-Jan-01	
462	SH. R.P. UNIYAL	25-Nov-49	25-Nov-70	09-Jan-01	
463	SH. D.N. TALPATRA	28-Dec-49	19-Nov-71	08-Jan-01	
464	SH. R.K. ROUT	15-May-44	10-Oct-69	08-Jan-01	
465	SH. N.P. BHATNAGAR	30-Dec-49	29-Oct-82	08-Jan-01	Service counted w.e.f. 14.11.77
466	SH. B.V.S. AMATYA	28-Jun-44	26-Dec-67	08-Jan-01	
467	SH. L.A. SIDDIQUI	15-Jul-51	31-Jul-82	08-Jan-01	
468	SH. VIJAY SINGH	01-Jan-49	14-Jan-83	08-Jan-01	Service counted w.e.f. 8.5.73
469	SH. S.H.A. NAQVI	11-Dec-44	01-Aug-69	08-Jan-01	
470	SH. B.K. BEDI	02-Jan-45	11-Aug-69	08-Jan-01	
471	SH. Y.A. CHOPDA	8-Jah-47	01-Aug-70	08-Jan-01	
472	SH. V. L. PRASADA RAO	14-Jun-52	16-Aug-76	22-Jan-01	
473	SH. OM PRAKASH KESHWANI	14-Aug-52	10-Jan-83	30-Apr-01	
474	SH. C.M. PURANIK	09-Apr-47	12-Aug-68	08-Jan-01	
475	SH. K.S. GAHARWAR	26-Jan-50	29-Sep-82	08-Jan-01	Service counted w.e.f. 22.1.71
476	SH. T.K. CHAKRABORTY	31-May-50	28-Feb-70	08-Jan-01	
477	DR. V. RAJESHWARA RAO	10-Feb-51	26-Apr-82	8-Jan-01	
478	SH. S.B. GAONKAR	14-Sep-53	20-Jan-75	31-Jan-01	
479	SH. V. MOHAMMED YUNUS	01-Jun-51	02-Dec-75	08-Jan-01	
480	SH. D.K. HANDIQUE	01-Jun-50	05-Sep-73	08-Jan-01	
481	SH. M.L. SUTRADHAR (SC)	20-Mar-43	31-Dec-73	08-Jan-01	
482	SH. SARABJIT SINGH	03-May-44	07-Apr-65(AN)	08-Jan-01	
483	SH. RAJENDRA KUMAR SHARMA	15-Aug-54	04-Aug-84	29-Jan-01	
484	SH. RAM KRISHAN SHARMA	10-May-43	29-Mar-83	08-Jan-01	
485	SH. P.C. CHATURVEDI	08-Aug-49	02-Sep-82	12-Feb-01	
486	SH. S.K. JAIN	15-Jun-54	30-Oct-82	09-Feb-01	
487	SH. VINOD KUMAR	01-Jan-52	18-Apr-84	08-Jan-01	
488	SH. CHOKEY LAL GAUTAM	01-May-52	21-Jan-75	08-Jan-01	
489	SH. CHATTAR SINGH	01-Oct-52	19-Jul-83	19-Jan-01	
490	SH. SUBASH CHANDRA DAS	20-Dec-51	27-Apr-73	08-Jan-01	
491	SH. G.K. MOHANTY	20-Sep-53	25-May-76	08-Jan-01	

492	SH. MAYAKANT JHA	03-Jan-44	25-May-66	08-Jan-01	
493	SH. D. VISWESWARA RAO	20-Dec-48	29-Sep-83	19-Jan-01	
494	SH. M.V. JANKIRAMYA	15-Sep-51	29-Dec-75	08-Jan-01	
495	SH. BAL CHAND RAM	26-Dec-53	19-Sep-83	11-May-01	
496	SH. VIJAY BARAPATRA (ST)	12-Jul-55	25-Jun-84	08-Jan-01	
497	SH. K. KHALID (ST)	12-Nov-42	16-Feb-68	8-Jan-01	
498	SH. C.M. PIPAL	18-Jul-43	26-Sep-69	08-Jan-01	
499	SH. K.C. CHAUNKAR (SC)	12-Dec-41	1-Sep-84	8-Jan-01	Retired w.e.f. 31.12.2001
500	SH. P.L. KEDARE (SC)	10-Jun-46	07-Nov-69	08-Jan-01	
501	SH. MANMOHAN SINGH SANDHU (SC)	13-Nov-63	08-Nov-89	27-Aug-01	
502	SH. BIKRAM SINGH (ST)	10-Jan-71	14-Oct-95	27-Jul- 01(AN)	
503	SH. SURENDER PAUL (ST)	04-Nov-69	13-Sep-95	30-Jul-01	


 (G.S. Sethi)
 Director (Gaz. Establishment)
 for Director General of Meteorology

केन्द्रीय नियन्त्रण नियम
Central Board of Planning

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI
गुवाहाटी बैठक
Guwahati Bench

O.A. NO 33 OF 2004

Shri Hargobind Pathak

Filed by

15/04
(A. DEB ROP)
Sr. C. T. C.
C. A. T. Guwahati Bench

.....Applicant

-VS-

Union of India & Ors.

..... Respondents

In the matter of:

Written statement submitted by
the respondents.

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

(BRIEF HISTORY OF THE CASE)

1 (A). Shri Hargobind Pathak, Met Gr-I the applicant joined this department at RMC Guwahati on 20-2-1974 as Senior Observer. In the year 1992, he was selected as Met Gr-II through UPSC which is a direct recruit Group 'A' post. After completion of one year Met Gr-II training at DDGM (WF) Pune office, he was posted to Indira Gandhi

International Airport, New Delhi as Met Gr-II and was posted back to DDGM (RMC) Guwahati on 24-12-1995. After continuous stay of 7 years at RMC Guwahati he was transferred to M.C. Jaipur on 5-6-02 which was set aside by Hon'ble Tribunal, Guwahati Bench.

The India Meteorological Department is a scientific department which largely works on an operational mode. The service of all officers and members of staff in IMD are transferable anywhere in India as this department has many field/operational offices all over the country. All the officers and members of staff at the time of joining the department have given an undertaking to service the department anywhere in the country.

The applicant has spent 24 years of his service in North East region. He was transferred to M.C. Jaipur due to exigencies of services. This is the first time when he was being transferred out of North East region after his joining at Guwahati, in December, 1995.

He was advised to desist from activities under purview of Conduct Rules. Services of all officers are governed under Conduct Rules. The charges regarding his transfer to Jaipur against the department are baseless and there is no malafide intention of the department. On the request of DDGM (RMC) Guwahati transfer of the applicant was deferred for two months.

The applicant filed an O.A No 246/2002 in CAT Guwahati against his transfer from Guwahati to Jaipur. The transfer order was set aside by the Tribunal vide judgment delivered on 31-1-2003 in O.A No 246/2002. The judgment was challenged by the department before the Hon'ble High Court of Guwahati vide WP(C) No 5789/2003 which is still to be adjudicated and passed. An application was also filed by the department for stay against the order of the Hon'ble Tribunal which was rejected by the Hon'ble High Court vide its order dated 1-8-2003.

The applicant has now been transferred from RMC Guwahati to M.C. Hyderabad vide order No A-32012(DIR)/17/2002-E-1 dated 10-2-2004 which has been challenged by the applicant before the Hon'ble Tribunal in the present application. On transfer the reliving order issued vide No GH-5-00242/847 Dated 11-2-2004 was also received by the applicant on 18-2-2004. The MA 15/2004 filed by the applicant for stay of the transfer order was taken by this Hon'ble Tribunal on 27-2-2004 and passed an interim order for maintaining status quo till next date of hearing which was fixed on 12-4-2004.

PARAWISE COMMENTS:-

1. That with regard to paras 1 to 3 and 4 (i), 4(ii) and 4 (iii) of the application the respondents beg to offer no reply.
2. That with regard to the statement made in para 4 (iv) of the application the respondents beg to submit that the applicants statement that he was posted in weather section at Pune is denied. The applicant was actually undergoing one year ab-initio training which was a pre-service condition for Met Gr-II trainee.
3. That with regard to the statement made in para 4 (v) of the application the respondents beg to submit that the applicant was assigned duties of Welfare Officer but he indulged in the formation of illegal association to fight out Special Duty Allowance(SDA) issue and misused his official position in agitating for the Officers/staff in its favour posted at the station and created unfavourable conditions for office decorum and discipline. Welfare officer is to implement such welfare measures as may be provided from time to time by Govt and does not mean that he can form an illegal association or become the Secretary of any association in the name of the welfare of employees. The statement that he was selected as Secretary of Special Duty allowance(SDA) committee inspite of his unwillingness is not convincing. How a Group 'A' officer can be forced to become a Secretary of an illegal association is beyond any normal reasoning. By this argument tomorrow the applicant may argue that he was forced to become

leader of some anti national outfit and therefore, should be allowed to carry out anti-national activities. The argument lacks common sense and is devoid of all merit.

4. That with regard to paras 4 (vi) to (vii) of the application the respondents beg to submit that the issue raised by the applicant has no relevance to the main issue. As Special Duty Allowance issue has already been settled by Hon'ble Tribunal Guwahati on 23-5-2003. The applicant is misleading the court by mingling Special Duty Allowance(SDA) issue with his transfer. Moreover there is no Special Duty Allowance(SDA) issue as it has already been adjudicated by Hon'ble Tribunal Guwahati. As per the decision officials belonging to NE Region are not entitled to Special Duty Allowance (SDA).
5. That with regard to the statement made in para 4 (viii) of the application the respondent beg to submit that stoppage of Special Duty Allowance (SDA) was made as per Supreme Court judgment dated 20-9-94. Inspite of this Sri Pathak formed an illegal association against Supreme Court's judgment for the payment of Special Duty Allowance (SDA) to local staff of RMC Guwahati.
6. That with regard to the statement made in para 4 (ix), of the application the respondents beg to submit that the applicant was pressurized by the employees to function as Secretary is incorrect. Being a senior Group 'A' officer, the applicant must not have acted in this manner which clearly establishes the conduct unbecoming of Government Servant.
7. That with regard to the statement made in paras 4 (x) and (xi) of the application, the respondents beg to submit that an year back he was transferred to M.C. Jaipur in the public interest. His transfer was deferred for two months. Instead of proceeding on transfer the applicant filed the O.A No246/02 in the Hon'ble Tribunal challenging his transfer to M.C. Jaipur.

8. That with regard to the statement made in paras 4 (xii) and 4 (xiii) of the application the respondents beg to submit that as per rule association are formed with the prior approval of Government. The applicant has thus violated CCS(Conduct) Rules. He also instigated the staff on the Special Duty Allowance (SDA) issue and formed an illegal association. It was, therefore, necessary to issue office memorandum dated 8-7-02 to applicant for such activities which is considered to be unbecoming of a Government servant.

Applicant is unnecessarily co-relating the transfer order dated 30.07.2002 with the office memorandum dated 8.7.02 issued in connection with formation of illegal unauthorized association.

9. That with regard to the statement made in para 4 (xiv) of the application the respondents beg to state that the applicant's transfer and Special Duty Allowance (SDA) issue is just a matter of coincidence. On the other hand respondent had no malafide intention behind his transfer which was ordered only in public interest. The applicant is intentionally co-relating these two issues with a sole motive to mislead the Hon'ble Tribunal. It clearly shows that Sri Pathak wants to remain posted in North East Region, on one or the other pretext.

10. That with regard to the statement made in paras 4 (xv) to 4 (xvi) of the application the respondents beg to state that the impugned order passed by Hon'ble CAT Guwahati on 31-1-2003 in OA NO 246/02 has been challenged by respondent in Hon'ble High Court, Guwahati being bad in law as it does not stipulate applicant's period of stay at Guwahati i.e. whether is to be kept posted for whole service life at this station.

11. That with regard to the statement made in para 4 (xvii), of the application the respondent beg to submit that Special Duty Allowance (SDA) issue raised by applicant is irrelevant to the main issue of this O.A. The applicant is unnecessarily

dragging other issues which had no relevance with the main issue under consideration before the Hon'ble Tribunal.

12. That with regard to the statement made in para 4 (xviii) of the application the respondents beg to submit that in his application dated 10-10-2003 the applicant has stated that there remains no alternative for me except to convey my decision that it will be difficult on my part to accept salary for Oct, 2003 without Special Duty Allowance (SDA). Since refusal to receive salary is against the rule and hence the OM dated 25-11-2003 was issued to the applicant as a warning to desist from such acts.
13. That with regard to the statement made in para 4 (xix) of the application the respondents beg to submit that the allegation made by applicant against DDG(A&S) are baseless and denied. It is submitted that the OM dated 25-11-2003 was issued by respondent to the applicant to restrain him from indulging in illegal activities of unauthorized association/contemperous behaviour etc.
14. That with regard to the statement made in paras 4 (xx) to 4 (xxi) of the application the respondents beg to submit that the case of the applicant for promotion to the cadre of Director (Scientist D) was duly considered by the Assessment Board on 25-01-04 but as per their recommendation Sri Pathk was assessed as "not yet fit for promotion".
15. That with regard to the statement made in para 4 (xxii), of the application the respondents beg to submit that this has no relevance with main issue of this OA regarding applicants transfer. However, seniority list in the cadre of Meteorologist Grade-I was issued in accordance with DOPT guidelines and in consultation with the Government.
16. That with regard to the statement made in para 4 (xxiii), of the application the respondents beg to submit that there is no illegality in transfer order issued to

applicant. Instead of approaching the Hon'ble Tribunal the applicant could have joined Hyderabad on transfer, the applicants next promotion is of Director in pay scale of Rs 12000-375-16500. He may become the individual in charge of any of the sub-offices in IMD. Rather he should set example to his junior by abiding by the Office Orders issued in public interest.

17. That with regard to the statement made in para 5 (i), & (ii) of the application the respondents beg to submit that regarding transfer of the applicant there is no illegality/malafide intention as alleged by the applicant. The transfer was effected in public interest as per requirement/situation arise at the station/sub-office of the department as a whole. That the applicant is holding Class-I post and is having liability to serve anywhere in India, can be even transferred in the same post.

A true copy of applicant's undertaking to serve any where in India is annexed herewith and marked as Annexure-R-1

18. That with regard to the statement made in paras 5 (iii) and 5 (iv), of the application the respondents beg to submit that the applicant has been transferred without any interest of service is vehemently denied as one vacancy has fallen vacant due to transfer of Sri Y.K. Reddy from Hyderabad to Cyclone Detection Radar, Machilipatnam, in this cycle of transfer order vide A-32013 (Dir)/17/2003-E-I Dated 10-2-04 (Annexure-12 of O.A)

19. That with regard to the statement made in para 5 (v) of the application the respondents beg to submit that CAT impugned order dated 31-1-2003 which was challenged in Hon'ble High Court vide WP(C) No 5789/03 and that the transfer order to Hyderabad is issued in Feb, 2004. There is a gap of one year. Moreover, the impugned order passed by this Hon'ble Tribunal on 31-1-2003 in O.A No 246/02 has been challenged by respondent before Hon'ble High Court of Guwahati being bad in Law as it does not stipulates applicant's period of stay at

Guwahati i.e. whether is to be kept for whole service life at this station. Therefore, it is baseless to relate present issue with earlier transfer order to Jaipur.

20 That with regard to the statement made in para 5 (vi) of the application the respondents beg to submit that the applicant was transferred on exigencies of service alongwith other 15 officers.

21 That with regard to the statement made in para 5 (vii) of the application the respondents beg to submit that none of the officers except the applicant has gone to Court. The applicant has enjoyed stay at Guwahati about ten years and wants to stay at the station on one or the other pretext by raising various issues specially Special Duty Allowance (SDA). Being Class-I officer with All India Transfer Liability can not claim to ~~stay~~ for ever at the same station. •

Generally it is observed that the officers on transfer take long leaves just to avoid their transfer and some times they brings some political pressure or outside influence to bear upon their superior authority for cancellation of their transfers or for their choice of posting. In addition to this the delaying in joining may also causes administrative problems and hampers function of the office. To avoid this situation the officers were ordered to be relieved immediately.

22 That with regard to the statement made in para 5 (viii) of the application the respondents beg to submit that the applicant is again and again linking the Special Duty Allowance (SDA) issue with his transfer with a sole motive to misguide and obtain undue sympathy from the Hon'ble Tribunal. This OA is, therefore liable to be dismissed being devoid of merit.

23. That with regard to the statement made in paras 5 (ix) & (x) of the application the respondents beg to submit that OA of the applicant is devoid of merit and the Hon'ble Tribunal may be pleased to dismiss the same with cost as the applicant is

linking this transfer with his old one when he was transferred to Jaipur a year a back. Moreover, the transfer is an incidence of service and officers are to be transferred to meet the operational requirements of the department by posting suitable officials. In this connection Apex court has also held in its recent judgment in civil appeal No 1010-1011 of 2004 (by a bench of Justice Arijit Pasayat and Doraiswamy Raju), the right to transfer any employee any where in public interest. In the instant case the applicant has about 10 years continuous stay at the station as a Class I officer. In view of above the Hon'ble Tribunal may be pleased to quash the present OA.

24. That with regard to paras 6 & 7 of the application the respondents beg to offer no reply being matter of record.
25. That with regard to the statement made in para 8, of the application the respondents beg to submit that in view of submission made above this Hon'ble Tribunal may be pleased to dismiss this OA which is devoid of all merits.
26. That with regard to the statement made in para 9 of the application the respondents beg to state that in view of Apex court decision the applicant is not entitled to seek even any interim relief in the present O.A.

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Verification.....

VERIFICATION

I, T.C. Manchanda working as Deputy Director General of Meteorology, Regional Meteorological Centre, Guwahati being authorized do hereby solemnly affirm and declare that the statements made in paragraphs 1(A) ~~to 16 and 18 to 26~~ are true to my knowledge based on the records of the case which I believe to be true and those made in paragraphs ¹⁷ are true to my information and I have not suppressed any material fact.

And I sign this verification on this 30th day of April, 2004.

T.C. Manchanda
30/4/04

Declarant.

Annexure - R-1

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FORM - II

UNDERTAKING AS REQUIRED IN PARA 1(8) OF THE D.G.M.

O.M. No. E(I) 00360 dated 6-7-92

I shall be prepared to serve anywhere in India or near India where the India Meteorological Department has or may establish an office or observatory according to exigencies of service.

Signature:

H. Pathak
(H. PATHAK)

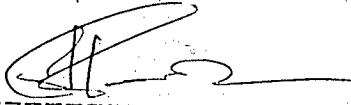
Met. gr II
Met. gr II

Station : D.D.G.F (W.F.)

Dated: 20.7.92

Certificate of Transfer of Charge

Certified that I have on the forenoon/afternoon of this day 17.04.2004 assumed/relinquished charge of the office of the Met-Gen I (Name of the Post),
M.C. Hyderabad (Name of the Office) in pursuance of order No. DEMAND A-32018 (DIR) 17/2004-E.T. dated 10.2.04, on promotion/retirement/transfer to/from RMC Gwalior

Station: M.C Hyd Signature of the Officer: 

Date : 17.04.2004 Name in Block letter: HARGOBINDA PATHAK
Designation: Met Gen I
