

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

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

ORDER SHEET

Org. App./Misc Petn/Cont. Petn/Rev. Appl..... 40/04.....

In O.A.....

Name of the Applicant(s) .. Mr. B. Karimakar.....

Name of the Respondent(s) ... Mr. B. I. Agom  
 Advocate for the Applicant M. Chanda, G.N. Chakrabarty, S. Chaudhury  
 S. Nath

Counsel for the Railway/CGSC.....

OFFICE NOTE	DATE	ORDER OF THE TRIBUNAL
This application is in form is GROUP 4 C.P. No. 110337496 Dated 31.12.2003  By. L. C. A. D.P.	26.5.2004	Heard Mr. G.N. Chakrabarty, learned counsel for the applicant.  The application is admitted, call for the records. Issue notice to the parties, returnable within four weeks.  List on 30.6.2004 for orders.
Steps received on 7/6/04.	3.8.2004	The Director of Accounts & Treasuries, Govt. of Arunachal Pradesh, Naharlagun has informed that he is not at all controlling authority in respect of Divisional Accounts. Therefore, he is exempted from the O.A. 40/2004. Registry is directed to struck off the name.  List on 7.9.2004.
Notice & order Sent to D/ Section for issuing to respondent nos- 1 to 6, by regd. with A/D post.  7/6/04.	mb	K. D. Dabral Member (A)
D/Memo No = 1025 to 1030, dt. 11/6/04.  15/6/04.	mb	K. D. Dabral Member (A)

A/D card return  
from respondent  
no. 3.

(C)  
22/6/04.

A/D card return  
from resp. No. 1.  
vide letter NO.  
12/7/04 DA/TRY/08/2002/637  
dated 1.7.04 is in.

'C' file.

22/7/04

7.9.04. Present: Hon'ble Mr. K. V. Prahladan,  
Administrative Member.

Heard Mr. M. Chanda learned  
counsel for the applicant and Mr. A.  
Deb Roy, Sr. C.G.S.C. for the Respondents.

The applicant was working as  
U.D.C. in the office of the Executive  
Engineer, P.W.D., Anini Division in  
Arunachal Pradesh. The applicant  
applied for the post of Divisional  
Accountant as advertised and the applicant  
was selected and joined as Divisional  
Accountant under Damporijo P.W.D.  
in Arunachal Pradesh.

The applicant submitted representation  
on 20.6.2000 (Annexure B)  
to the Respondent/playing for  
his transfer from the post of Divisional  
Accountant, Damporijo to the post  
of Divisional Accountant at Roing for  
treatment of his ailing wife and education  
of his children, but not considered.

However, the Respondents are  
directed to dispose of the Representation  
with utmost sympathy within a  
period of six weeks from the date of  
receipt of this order.

Accordingly, the O.A. is disposed  
of. No order as to costs.

I.C.V. Prahledan  
Member

DR  
If approved the letter under  
reference may be listed before  
the Hon'ble Member for orders on  
3.8.04.

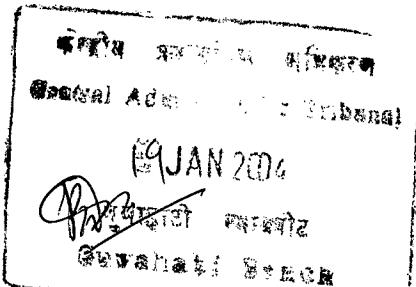
lm

3.8.04  
I.C.V. Prahledan  
Hon'ble Member (A) 218/637

sol)

13.9.04  
copy of the order has  
been sent to the Dsec.  
for sending the same to the  
applicant as well as to the  
Sr. C.G.S.C. for the records

SS: AG 1579



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : GUWAHATI

O. A. No. 40 / 2004

Sri Lani Bhusan Karmakar.

... Applicants

-Versus-

Union of India & Others

... Respondents

Lists of dates and synopsis of the case

<u>Date</u>	<u>Synopsis of particulars in the application</u>
20.1.98	Respondent no.2 issued one Circular No.DA CELL-2/9/97-98/Vol.II/245 dated 20.01.1998 inviting applications from the candidates who were willing to serve as Divisional Accountants in public works Department of Arunachal Pradesh for a period of one year on deputation basis.  The applicant who was then working as U.D.C in the office of the executive Engineer, P.W.D, and Anini Division in Arunachal Pradesh applied for the post of Divisional accountant as advertised.
10.3.99	The applicant was selected and joined as Divisional Accountant under Domporio P.W.D in Arunachal Pradesh.
18.6.99	Applicant submitted representation to respondent no.2 praying for his transfer from the post of DA, Domporio to the post of DA at Roing for facilitating the treatment of his ailing wife

Lani Bhusan Karmakar

and education of his son and daughter, but not considered.

20.6.00, 24.5.01, 5.05.02- Applicant being under compelling circumstances submitted further applications for transfer but no response.

27.7.03      Applicant submitted medical certificate in support of his prayers but no response. Hence this application before the Hon'ble Tribunal.

6.8.03      The applicant submitted another medical certificate for treatment under Sadiya Civil Hospital.

### PRAYER

- 8.1. That the respondents be directed to consider the case of the applicant and transfer him from Dumperijo to Roing/Namsai as Divisional Accountant.
- 8.2. Costs of the application.
- 8.3. Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Lami Shum Posomcan.

F JAN 2004

Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

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

Title of the case : O. A. No 40 /2004

Sri Lani Bhusan Karmakar. Applicant

Versus –

Union of India &amp; Others: Respondents.

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Filed by

Surjitsheohey  
Advocate

Date 13.1.2004

Lani Bhusan Karmakar.

Filed by the Applicant  
Surjitsheohey  
Advocate  
on 13.1.2004.

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI**

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

O. A. No. 40 /2004

**BETWEEN**

Shri Lani Bhushan Karmakar/  
S/o late Kshetra Mohan Karmakar.  
Working as Divisional accountant  
In the office of Executive engineer  
Public Works department  
Domporigo Division, Dist.Upper Subansiri,  
Arunachal Pradesh.

Applicant

**-AND-**

1. The Union of India,  
Represented by the Comptroller and Auditor General of  
India,  
PO, Bahadur Shah Zafar Marg,  
New Delhi-110003
2. The Accountant General (A&E)  
Arunachal Pradesh, Meghalaya, Assam etc.  
Shillong-793001
3. The state of Arunachal Pradesh,  
Represented by the secretary to the Government of  
Arunachal Pradesh,  
Public Works department,  
Itanagar.

6/9/04  
vide order

St. 318/04  
resp. No. 1

of the O.A.  
40/04 is

hereby sent to the  
Naharlagun.

resp. No. 1  
partly resp.

6/9/04

The Director of Accounts and Treasuries,  
Government of Arunachal Pradesh,  
Naharlagun.

Lani Bhushan Karmakar.

5. The executive Engineer,  
Public Works Department  
Dumporijo division,  
Upper Subansiri District,  
Arunachal Pradesh.

6. The Commissioner (Finance)  
Government of Arunachal Pradesh,  
Itanagar

... Respondents.

DETAILS OF THE APPLICATION

1. Particulars of order(s) against which this application is made.

This application is made not against any particular order but against non-consideration of the matter of transfer of the applicant from Dumporijo to Roing in the state of Arunachal Pradesh, which the applicant prayed due to non-availability of required medical facilities for the treatment of his wife and non-availability of educational facilities for his children at Dumporijo.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

*Laminaliwal Karmakar*

The applicant further declares that this application is filed within the limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case.

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

4.2 That the applicant is working at present as Divisional Accountant in the office of the Executive Engineer, public works department c, Domporio division, Upper Subansiri District, Arunachal Pradesh.

It is stated that the state of Arunachal Pradesh does not have any independent accounts cadre of its own to man the accounts set up under its various department. As such the state puts requisition to the Respondent No.2 for selecting and appointing the staff of Accounts Cadre, namely DA/DAO etc. from amongst the existing office staff serving under various departments of the state. The Respondent No.2 selects candidates on behalf of the state and on their selection the said candidates are posted against the various posts of Accounts Cadre under the state. The salary and allowances of those candidates are also paid from the State exchequer but such appointments of the candidates are made on Deputation basis. It is thus evident that though the candidates are from the state and on their selection against the posts of Accounts cadre they are again posted under the state but having been posted as

deputationist, they are under the Administrative Control of Respondent No.2.

4.3 That as per the procedure stated above, the Respondent No-2 vide Circular bearing No.DA CELL-2/49/97-98/Vol.II/245 dated 20.01.1998 invited applications from the candidates who were willing to serve as Divisional Accountant in Public Works Department for a period of one year on deputation basis. The applicant, who was then serving in the office of the Executive Engineer, P.W.D, Anini Division, had applied for the said post and thereafter was selected to the post of Divisional Accountant on deputation basis on 10.03.1999.

4.4 That the applicant was initially appointed as Lower division Clerk in the year 1972 in the office of the then Executive Engineer, PWD (civil). He was then promoted as Upper Division Clerk in 1984 and posted under PWD, Anini Division and eventually was selected to the post of Divisional Accountant (On Deputation) as stated above on 10.03.1999 and posted at Dumperijo is working till now. Altoutgh his deputation to the post of Divisional Accountant was initially for a period of one year but subsequently the term had been extended. It is thus evident that though the applicant is basically an employee of the state of Arunachal Pradesh and has been serving functionally under the state but he is under the administrative control of Respondent No.2

4.5 That having served for all these years as Divisional accountant on deputation, the applicant has now opted for his permanent absorption under the proposed new

Lami Bhutan Tawang

Accounts set up under the state of Arunachal Pradesh which is in process and his case of permanent absorption is now pending before the Hon'ble Gauhati High Court. It is pertinent to state here that the transfer of entire Accounts cadre of Arunachal Pradesh from the administrative control of Respondent No.2 to the control of the State of Arunachal Pradesh is in process and is going to be implemented soon.

4.6 That it is stated that the wife of the applicant has been suffering from heart diseases along with other ailments and high blood pressure and needs constant care of a cardiologist which is not available at Dumperijo. This apart, his daughter and son are obtaining their higher education at Roing since such facilities are not available at Dumperijo. As such the applicant has been facing great difficulties in getting proper medical aids for his ailing wife and higher education of his children at Dumperijo.

4.7 That being constrained as stated above, the applicant submitted one representation to the Respondent No.2 on 18.06.1999 praying for his transfer as Divisional Accountant from Dumperijo to Roing (R.W.Division) for securing the treatment of his ailing wife and education of his children at Roing. Subsequently he submitted three more representations on 20.06.2000, 24.05.2001 and 25.05.2002 respectively with the same prayer aforesaid but unfortunately his prayer has not been considered as yet.

(Copy of representations dated 18.06.1999, 20.06.2000, 24.05.2001 and 25.05.2002 are annexed hereto as Annexure-A, B, C and D respectfully)

Lamjhuwan Karmakar.

4.8 That the condition of his wife being worsening she had to be hospitalized in Sadiya Civil Hospital in June, 2003 and the medical and Health officer, Sadiya civil Hospital has prescribed to contact a cardiologist immediately and his certificate dated 27.07.2003 was submitted to the Respondent No-2 reiterating the prayer of the applicant for his transfer from Dumperijo to Roing/Namsai but with no result.

(Copy of medical certificate dated 27.07.2003 is annexed hereto as Annexure-E)

4.9 That due to his endless anxieties over these years, the applicant himself has also developed cardiac problems and has been undergoing medical treatment under Sadiya Civil Hospital. The attending medical and health officer, Sadiya civil Hospital has advised the applicant to avoid strenuous vehicular journey, climbing steps/hilly places and to be under medical supervision. The applicant submitted the certificate dated 06.08.2003 of the M and H.O also to the respondent and prayed for his transfer, but with no consideration whatsoever.

(Copy of medical certificate dated 06.08.2003 is annexed hereto as Annexure-F)

4.10 That the applicant most respectfully begs to submit that due to non-consideration of his prayer of transfer from Dumperijo to roing/Namsai. the applicant has been risking the life of his ailing wife due to lack of her proper medical treatment and has also been failing to discharge his parental responsibilities and care in respect to the education of his children. As such

Lamjhusem Karmela.

finding no other alternative, the applicant is approaching this Tribunal for protection of his right and interest and it is a fit case for the Hon'ble Tribunal to interfere with and to direct the respondents to consider the prayer of transfer of the applicant on compassionate ground.

4.11 That this application is made bonafide and for the cause of Justice.

5. Grounds for relief(s) with legal provisions.

5.1 For that, the wife of the applicant is a serious heart patient with hypertension and needs care of a cardiologist. The applicant himself is also a Cardiac patient and has been advised to avoid strenuous vehicular journey and climbing steps or hilly places.

5.2 For that, there is no facilities for treatment of Heart diseases of his wife and himself and also no facilities for higher education of the son and daughter of the applicant at Dumperijo.

5.3 For that his prayer of transfer to Roing/Namsai if granted, will enable the applicant to save the life of his ailing wife as well as of his own and to discharge his parental responsibilities in the matter of his children's education.

5.4 For that it is difficult for the applicant to maintain two establishments at Dumperijo and Roing with such meager income in these hard days.

5.5 For that, the applicant has already served for more than four years at Dumperijo and having been in a

*Lami Shuson Karmakar.*

helpless and SOS situation, has been praying time and again for his transfer from Dumperijo to Roing/Namsai.

5.6 For that, the case of applicant is a fit case for being considered on compassionate ground.

6. Details of remedies exhausted.

That the applicant states that he has no other alternative and other efficacious remedy than to file this application. His all efforts and representations failed to have any consideration.

7. Matters not previously filed or pending with any other Court.

The applicant further declares that he had not previously filed any application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for:

Under the facts and circumstances stated above, the applicant most humbly prays that the Hon'ble Tribunal be pleased to grant the following reliefs: -

8.1 That the respondents be directed to consider the case of the applicant and transfer him from Dumperijo to Roing/Namsai as divisional Accountant.

8.2 Costs of the application.

Lami Bhutan Karmakar.

8.3 Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

During pendency of this application, the applicant prays for the following relief: -

9.1 That the Hon'ble Tribunal be pleased to restrain the respondents that pendency of this application shall not be a bar for the respondents for considering the prayers of the applicant.

10. ....

This application is filed through Advocates.

11. Particulars of the I.P.O.

i) I. P. O. No. : JJG 387496  
ii) Date of Issue : 31.12.2003.  
iii) Issued from : G. P. O  
iv) Payable at : Guwahati.

12. List of enclosures.

As given in the index.

VERIFICATION

I, Shri Lani Bhushan Karmakar S/o late Kshatra Mohan Karmakar, aged about years, Office of the executive Engineer, Public Works Department, Dumperijo Division, Dist-Upper Subansiri, Arunachal Pradesh do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 12<sup>th</sup> day of Janeuary, 2004.

Lani Bhushan Karmakar

To,

ANNEXURE-A

The Accountant General (A&E)  
 D.A. Cell Section.  
 Meghalaya, Mizoram & A.P.  
Shillong-793 001

Subs:

Prayer for Transfer to Roing. R.W. Division

Sir,

May I with due honour lay before you the following few lines in anticipation of your judicious review and benign consideration please.

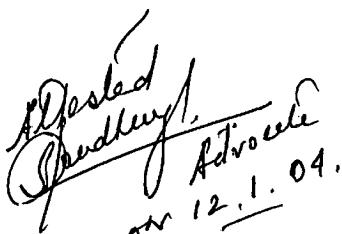
That Sir, I was appointed as D.A. vide order No. DA.Cell/2-49/94-95/2455-2462 dt. 11.3.99 and posted to Dumperijo P.W. Divn. Dumperijo, Arunachal Pradesh accordingly I have joined on 12.5.99(R/N).

That Sir, my wife is a patient of heart with high Blood Pressure along with allied disease and there is no education institution to educate my eldest daughter who now reading in Class XII in commerce stream in Roing Higher Secondary school, there is no such facilities in Dumperijo Hr. Secondary school. Similarly there is no school to admit my son who is now reading in class XI of V.K.V. School at Roing. I am constrained to urge you to consider the case of my transfer to Roing R.W. Divn. enable me to settle domestic scores.

Given the difficulties highlighted herein above, may I except sir that your goodness will consider my case sympathetically and hence oblige.

Yours faithfully

  
 ( L.B.Karmakar )  
 Divisional Accountant  
 Dumperijo P.W. Division  
Dumperijo, A.P. (AMP SHILLONG)

  
 Posted  
 Roing  
 on Advocate  
 on 12.1.04.

No. LBK/DUM/2000-2001/Camp-Shillong/01 Date : 20.06.2000

To

The Accountant General (A&E)  
D.A. Cell Section  
Meghalaya, Mizoram & Arunachal Pradesh  
Shillong - 793 001.

Sub : PRAYER FOR TRANSFER TO ROING R.W. DIVISION.

Sir,

May I with due honour lay before you the following few lines in anticipation of your judicious review and benign consideration please.

That Sir, I was appointed as D.A. vide Order No. DA.Cell/2-49/94-95/2455-2462 dt.11.03.1999 and posted to Dumperijo P.W. Division Dumperijo, Arunachal Pradesh accordingly I have joined on 12.05.1999 (F/N).

That Sir, my wife is a patient of heart with high Blood Pressure along with allied disease as per Doctor's advise my presence is always required moreover I am also high blood pressure patient. At present my son reading in Class - XII at Higher Secondary School at Roing/ I have to attend Roing for welfare my family in every alternative month. Dumperijo to Roing very long distance that journey for me very difficult. I am constrained to urge you to consider the case of my transfer to Roing R.W. Division enable me to settle domestic scores.

Given the difficulties highlighted herein above, may I except Sir that your goodself will consider my case sympathetically and hence oblige.

Yours faithfully,

(L.B. KARMAKAR)  
Divisional Accountant  
Dumperijo P.W. Division  
Dumperijo, Arunachal Pradesh  
(Camp Shillong).

L. There is no such facilities

in Dumperijo for the community for

Advocated  
Sreedhery  
Advocate  
on 12.1.04.

13  
ANNEXURE-C

No.I.BK/DUM/2001-02/1

Date: 24-5-2001

To,

The Accountant General (A&E)  
D.A. Cell Section  
Meghalaya, Mizoram & Arunachal Pradesh  
Shillong-793001.

Sub

Prayer for Transfer to Roing P.W. Division.

Sir,

May I with due honour lay before you the following few lines in anticipation of your judicious review and benign consideration please.

That Sir, I was appointed as D.A. vide order No. DA.Cell/2-49/94-95/2455-2462 dt.11-03-1999 and posted to Dumperijo P.W. Division, Dumperijo, Arunachal Pradesh accordingly I have joined on 12-05-1999 (F/N).

That Sir, my wife is a patient of heart with high Blood Presser along with allied disease as per Doctor's advice my presence is always required moreover I am also high blood pressure patient. At present my son reading in Class-XII at Higher Secondary School at Roing in Science stream there is no such facilities in Dumperijo Hr. Secondary School. I have to attend Roing for welfare my family in every alternative month. Dumperijo to Roing very long distance that journey for me very difficult. I am constrained to urge you to consider the case of my transfer to Roing P.W./R.W. Division enable me to settle domestic scores, moreover I have already complete my tenure.

Given the difficulties highlighted herein above, may I except Sir that your goodself will consider my case sympathetically and hence oblige.

Yours faithfully

*(Signature)*  
(L.B.KARMAKAR) 24/5/2001  
Divisional Accountant  
Dumperijo PWD Division  
Dumperijo, Arunachal Pradesh.

*Alleged  
Sudhakar  
Advocate  
on 12.1.04.*

ANNEXURE-D

14  
No. L.BK/DMJ/2002-03/

Dated, 9.5.2002

To,

The Accountant General (A&E)  
D.A. Cell Section  
Meghalaya, Mizoram & Arunachal Pradesh.  
Shillong-793001

Subject- Prayer for transfer to Roing/Namoni Division.

Sir,

May I with due honour lay before you the following few lines in anticipation of your judicious review and benign consideration please.

That sir, I was appointed as D.A. vide order No. DA Cell/2-49/94-95/2455-2462 Dtd 11.03.1999 and posted to Dumperijo PWD Division, Dumperijo, Arunachal Pradesh accordingly I have joined on 12.5.99(F/N).

That sir, my wife is a patient of heart with high blood presser along with allied disease as per doctor's advise my presence is always required moreover at present I am also of heart with high blood presser patient. I have to attend Roing for welfare of my family in every alternative month. Dumperijo to Roing very long distance that journey for me difficult. I am conatined to urge you to consider the case of my transfer to Roing/Namoni, PWD, R&D, PHED, IFCD and Power/Electrical Division enable me to settle domestic ecres.

Given the difficulties highlighted herein above, may I except sir that your goodself will consider my case sympathetically and hence oblige.

Yours Faithfully,

*L.B. Karmakar*  
( L.B. Karmakar )  
Divisional Accountant  
Dumperijo PWD Division, AP  
Dumperijo.

*Advised  
Pandey  
Advocate  
on 12.1.03.*

Dr. A. J. Sakhia  
Medical & Health Officer

SADIYA CIVIL HOSPITAL  
Chapakhowa  
842206

Rx

To whom it may concern

This is to certify that Mrs. Ila Karmakar 52 yrs W/o Mr. L.B. Karmakar was under my treatment from 26/6/03 to 26/7/03 due to Hypertension & CCF & LBBB as indoor patient in Sadiya Civil Hospital. Considering her nature of the disease, she is advised to avoid strenuous vehicular journey, climbing stairs and hilly places. She is also advised to consult with a cardiologist as early as possible.

27.7.03  
Dr. A. J. Sakhia  
Medical and Health Officer  
Sadiya Civil Hospital

Alleged  
Defender  
Advocate  
on 12.1.04.

Pb  
ANNEXURE-F

Dr. A. Saikia  
Medical Officer

SADIYA CIVIL HOSPITAL  
Chapakhowa  
P. 42206

Rx

To whom it may concern

certified that Mr. L.B. Karmakar  
an inhabitant of Sadiya (N.E) has been  
suffering from cardiac problem (I.H.D)  
with hypertension for last 6 years for  
which he is under my treatment and  
periodic checkup. Considering his nature  
of the ailment, he is advised to avoid  
strenuous vehicular journey, climbing  
steps and hilly places.

He is also advised to stay in  
medical supervision and periodic B.P.  
check up.

6/5/03  
Dr. A. G. Saikia  
Medical and Health Officer  
Sadiya Civil Hospital

A. Saikia  
Saikia  
Advocate  
on 12.1.04.