

50/100

3

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓ O.A./T.A No. 80/2004.....

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SECTION OFFICER (Judl.)

FORM NO. 4

(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Org.App/ ~~Misc. Petn/Cont. Petn/~~ Rev.Appl. 80/04

In O.A.

Name of the Applicant(S) Sri Vijay K. Bhattacharya

Name of the Respondent(S) Govt. of Assam

Advocate for the Applicant Mr S. Sarma, Mrs W-Das & B-Dai

Counsel for the Railway/ C.G.S.C. Case.

OFFICE NOTE	DATE	ORDER OF THE TRIBUNAL
	2.4.2004	Present: The Hon'ble Shri K. V. Prahladan, Member (A). Heard Mr.S.Sarma, learned counsel for the applicant and also Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents. The applicant has been transferred from Guwahati to Lucknow. The applicant will be allowed to retain the Nagpur Govt. quarter till the end of December 2004 by paying normal licence fee because both his children are studying at Nagpur and their academic career will be adversely effected, if they are to vacate the Nagpur Govt. quarter allotted to the applicant. The transfer order dated 30.3.04 will be given effect to when the applicant rejoins duty after attending

Contd.

Contd.

2.4.2004 to obligatory religious ceremonies
connected with his mother's death.

The O.A. is disposed of accordingly.

22.4.04

copy of the order
has been sent to the
Officer for issuing
the fine to the Officer
for the parties.

bb

ICV P. S. S. S. S.
Member (A)

8.6.04

Received copy of the
application for respondents
No. 3.

R. N. S. S. S.

W P (C) NO. 1662 OF 2005.

BEFORE

THE HON'BLE MR. JUSTICE HRISHIKESH ROY.

29.05.2008.

Heard Mr. H Rahman, learned Asstt. SGI appearing for the petitioner.

It appears that the impugned order of the learned Central Administrative Tribunal permits the applicant/respondent, herein, to retain the Govt. quarter till December, 2004 by paying normal license fee.

As the life of the impugned order is already over, nothing survives in the instant writ petition and accordingly the same is ordered to be closed.

SD/- H. Foy.
JUDGE.

Memo No. HC.XXI.

13,068-74

F.M. Dtd.

6/6/08

Copy forwarded for information and necessary action to:-

1. The Union of India, represented by the Secretary to the Govt. of India, Ministry of Water Resources, Shram Shakti Bhawan, New Delhi.
2. The Chairman, Central Ground Water Board, Jam Nagar House, Managing Road, New Delhi, - 110011.
3. The Director (Admn), Central Ground Water Board, N.H. IV, Faridabad, Haryana.
4. The Regional Director, Central Ground Water Board, North Eastern Region, Near Rajesh Bhawan, Tarunnagar by Lane-1 Guwahati-5.
5. The Regional Director, Central Ground Water Board, North Eastern Region, Near Rajeev Bhawan, Tarun Nagar, Bye Lane No.1.
6. The Assistant Estate Manager, Ministry of Urban Development N.E. Building, Civil Lines, Nagpur.
7. The I/C Deputy Registrar, Central Administrative Tribunal, Guwahati Bench Rajbarh Road, Lhangagarh, Guwahati- 781005. He is requested to acknowledge the receipt of the following records. This has a reference to his letter No. CAT/GRY/68/2001/Jud1/251 Date 05.04.2005.

Enclos-

C.A. 80/04 Part 'A'

By order

Asstt. Registrar (B)
Guwahati High Court, Guwahati.

7/6/08

IN THE GAUHATI HIGH COURT

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

CIVIL APPELLATE SIDE

Appeal from

Civil Case

W. P. C

No. 1662

5

Appellant

Petitioner

The Union of India & Ors.

Versus

Shri Vijay Kumar Bhardwaj

Respondent

Opposite Party

Appellant

For

Petitioner

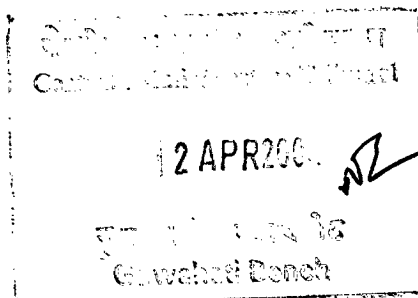
Mr. H. Rahman

(S. C. S. C.)

Respondent

For

Opposite Party



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case : O.A. No. 80 of 2004

BETWEEN

Shri Vijay Kr. Bharadwaj..... Applicant.

AND

Union of India & ors..... Respondents.

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Filed by : Alsha Das.

Regn.No.:

File :C:\WS7\VIJAY

Date :

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case : O.A. No. 80 ... of 2004

Shri Vijay Kr. Bharadwaj..... Applicant.

-VS-

Union of India & ors..... Respondents.

SYNOPSIS

That the applicant while was working as Scientist-D in Nagpur, received an order of transfer in the month of February 2002 and immediately he carried out the said order of transfer and on 20.2.2002 he joined the office of the respondent no.4 at Guwahati. The applicant only after serving 2 years at Guwahati he has been served with an order bearing no.2310/PF/10-54/CGWB/NER/ESTT/04 dated 30.03.2004 by which the applicant has been informed that he has been transferred from Central Ground Water Board, North Eastern Region (CGWB,NER) to Central Ground Water Board, North Region, (CGWB,NR) Lucknow vide CHQ. office order no.254 of 2004 dated 19.3.2004 and also requested to apply for TTA advance, that day itself, that is 30.3.2004 so that he could be relieved from the office latest by 2nd April, 2004. The order of transfer has been issued illegally only to harass the applicant without giving him reasonable time. That is why the applicant has come before this Hon'ble Tribunal praying for an urgent appropriate relief.

1

Filed by
The applicant through
Usha Das,
Advocate
21/4/04

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

D.A.No.80..... of 2004

BETWEEN

Sri Vijay Kr. Bhardwaj
Scientist- 'D' (Chem)
Central Ground Water Board,
North Eastern Region,
Tarun Nagar, Bye Lane-1.
Guwahati-781005.

..... Applicant.

- AND -

1. The Union of India.
Represented by the Secretary to the
Govt. of India.
Ministry of Water Resources.
Shram Shakti Bhawan,
New Delhi.

2. The Chairman
Central Ground Water Board
Jam Nagar House
Managing Road, New Delhi-110011.

3. The Director (Admm)
Central Ground Water Board
N.H.IV, Faridabad,
Haryana,

4. The Regional Director
Central Ground Water Board,
North Eastern Region,
Near Rajib Bhawan,
Tarun Nagar, Bye Lane-1
Guwahati-5.

5. Sri A. R. Bakshi
Regional Director
Central Ground Water Board,
North Eastern Region,
Near Rajib Bhawan,
Tarun Nagar, Bye Lane-1
Guwahati-5.

..... Respondents.

PARTICULARS OF THE APPLICATION

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

This application has been made against the order dated 30.03.2004 by which the applicant has been informed that he has been transferred from CGWB, NER to CGWB, NR, Lucknow vide office order no.254 of 2004 dated 19.3.2004.

2. LIMITATION:

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act.1985.

3. JURISDICTION:

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

4.1. That the applicant is a citizens of India and as such he is entitled to all the rights, privileges and protection as guaranteed by the Constitution of India and laws framed thereunder.

4.2. That the applicant while was working as Scientist-D in Nagpur, received an order of transfer in the month of February 2002 and immediately he carried out the said order of transfer and on 20.2.2002 he joined the office of the respondent no.4 at Guwahati. The applicant only after serving 2 years at Guwahati he has been served with an order

bearing no.2310/PF/10-54/CGWB/NER/ESTT/04 dated 30.03.2004 by which the applicant has been informed that he has been transferred from Central Ground Water Board, North Eastern Region (CGWB,NER) to Central Ground Water Board, North Region, (CGWB,NR) Lucknow vide CHQ. office order no.254 of 2004 dated 19.3.2004 and also requested to apply for TTA advance, that day itself, that is 30.3.2004 so that he could be relieved from the office latest by 2nd April, 2004. The order of transfer has been issued illegally only to harass the applicant without giving him reasonable time. That is why the applicant has come before this Hon'ble Tribunal praying for an urgent ^{and} appropriate relief.

Copies of the order dated 30.3.2004 alongwith the order dated 19.3.2004 annexed herewith and marked as Annexure-1 & 2 respectively.

4.3. That the applicant begs to state that at the time of transfer from Nagpur to Guwahati the applicant applied for TTA alongwith a request for extending the period of 6 months for drawal of the same. However, these representations have been forwarded by the respondent No.5 belatedly to frustrate the claim of the applicant. The applicant submitted number of representation for extending the period of submission of TTA Bills. But most of the representations were never forwarded by the Respondent No.5 only to frustrate the claim of the applicant. The applicant on 17.2.2002 submitted his TTA Bills but for the reasons best known to the said authority the aforesaid TTA Bills were not settled. The applicant without any other alternative had to approached this Hon'ble Tribunal by way

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of filing OA No.96/03 for finalisation of the aforesaid TTA bills. This Hon'ble Tribunal after hearing to the parties to the proceeding on 25.2.2004 was pleased to dispose of the said OA directing the respondents to take a final decision regarding TTA bills of the applicant within one month from the date of receipt of the copy of the order. The aforesaid judgment and order dated 25.2.2004 passed in OA No.96/03 by this Hon'ble Tribunal was dully communicated by the applicant on 27.2.2004. Now more than one month is over from passing the order of this Hon'ble Tribunal, but same is yet to be complied with. The Respondents with a malafide intention instead of settlement of the TTA bills of the applicant has been served with a copy of order of transfer and to apply for TTA.

Copies of the judgment and order passed in OA No.96/03 and the communication letter dated 27.2.2002 are annexed herewith and marked as Annexure-3 and 4 respectively.

4.5. That the applicant begs to state that prior to issuance of the order dated 30.3.2004 the applicant received an information regarding his mother's serious illness and she expired on 1.4.2004 at 6.30 A.M. at Indoor and after hearing the sad demise of his mother he had to leave for his home town, that is Indor and on this reason alone the order of transfer can not be made effective because it is impossible for the applicant to join CGWB, NR, Lucknow.

4.6. That the applicant begs to state that the applicant has joined the CGWB, NER only on 20.2.2002 and he

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has not completed his three years at Guwahati and again the respondents with a malafide intention has transferred him from Guwahati to Lucknow on public interest. It is pertinent to mention here that the impugned order of transfer has been passed unilaterally and no one has been posted in his place. It is stated that during his service tenure he had occasion to serve various places through out the country and he never raised any grievances against the authority before any court of law. As the applicant has got only about 3 years of service so this is the last chance of making a prayer ^{now} for choice place of posting ,

4.7. That the applicant begs to state that applicant is now at the verge of retirement and only about 3 years of service is left. As per 5 the pay commission recommendation a Govt. Servant should not disturb his present place of posting and if he is required to transfer than he should be transferred to his Home town. During his long service the applicant ^{was} ~~has~~ never posted at his home town in such an eventuality if the applicant is required to be transfer from Guwahati than he should transferred to his Home Town, that is Indore (Madhya Pradesh). Since the applicant has not completed his tenure at Guwahati he did place his choice place of posting. The respondent NO.5, Mr. A.R.Bakshi, the Regional Director, CGWD,NER only with a malafide intention has transferred the applicant from Guwahati to Lucknow with immediate effect before completion of his tenure at Guwahati.

4.8. That the applicant begs to state that after the transfer of the applicant from Nagpur to Guwahati the family of the applicant is staying at Nagpur in Govt. Quarter and

in case of the transfer from Guwahati to Lucknow the applicant has to vacate the Nagpur Quarter where the son and daughter of the applicants are studying. Their academic session will be completed in the month of December 2004. In the event of the transfer of the applicant it will be effected adversely on the academic career of his son and daughter. That is why the applicant prays for an interim order to stay the operation of the transfer order dated 19.3.2004 and reliving order dated 30.3.2004.

4.9. That the applicant begs to state that the order of transfer has been issued unilaterally and no one has been posted in his place. The applicant is holding a responsible post and he has some outstanding works like writing of ACRs of his subordinate officers. The Respondent No.5 Sri A.R.Bakshi is trying to harass the applicant because his earlier case was allowed by the Hon'ble Tribunal and same is yet to be complied with. The Respondents have passed the impugned transfer order illegally only to frustrate the claim of the applicant regarding TTA Bills.

4.10. That the applicant begs to state that the applicant's home State is Madhya Pradesh (Indor) and his initial posting was at Jodhpur (Rajasthan) and in the event of his posting at Guwahati he is entitled to some benefit like SDA ^{and choice place of posting} as per the OM dated 14.12.83 and on transfer from Guwahati to Outside NER before completion of his tenure he will be deprived of such benefits.

The applicant craves leave of this Hon'ble Tribunal to produce the OM dated 14.12.83 at the time of

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hearing of this case.

4.11. That the applicant begs to state that the order of transfer has been issued hurriedly and the Respondent No.4 with a malafide intention has issued the impugned order only to harass applicant showing the transfer on public interest. That is why the applicant prays before this Hon'ble Tribunal for quashing and setting aside of the illegal order dated 30.3.2004 by which the applicant has been informed that he has been transferred from CGWB, NER to CGWB, NR Lucknow vide CHQ office order no.254 of 2004 dated 19.3.2004.

4.12. That this application has been filed bonafide and to secure ends of justice.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action of the Respondents in transferring the Respondents in transferring the applicant from CGWB, NER to CGWB, NR Lucknow being illegal, arbitrary and violative of settled position of law is liable to be set aside and quash.

5.2. For that the action of the respondents in transferring the applicant from the present place of posting before completion of his tenure is per se illegal and arbitrary and liable to be set aside and quash.

5.3. For that the Respondents have illegally transferred the applicant from the present place of posting

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without giving him the opportunity to place his choice place of posting is per se illegal and liable to set aside and quash.

5.4. For that the mother applicant has expired on 1.04.2004 at 6.30 A.M. and for that it is not possible for him to carry out the orders of transfer dated 19.3.2004 and 30.3.2004 and on this score alone the impugned orders are liable to be set aside and quash.

5.5. For that the family of the applicant is staying in the Govt. quarter at Nagpur and the Children of the applicant are studying at Nagpur and their academic session will be completed in the month of December 2004 and on this ground the impugned order may be set aside and quash.

5.6. For that as per the Fifth Pay Commission recommendation a person who is at the verge of retirement should not be disturbed from his present place of posting, if he needs to transfer than he should be posted at his home town. On this ground along these orders of transfer is per se illegal, arbitrary and violative of statutory provisions of law.

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

The applicant craves leave of the Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of the case.

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6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to them and there is no alternative remedy available to him.

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

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

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant:-

8.1. To set aside and quash the impugned orders dated 30.3.2004 and dated 19.3.2004.

8.2. To direct the respondents not to give effect of the orders of transfer dated 30.3.2004 and 19.3.2004 as the mother of the applicant has expired on 1.4.2004 and he had to leave for Nagpur, Madhya Pradesh, his native place.

8.3. To direct the respondents not to give effect the transfer orders and to give his option for choice place of posting.

8.4. To direct the respondents not to give effect the orders of transfer of the applicant as the 5th pay commission recommendation as the applicant has got only about 3 years of service.

8.5. Cost of the application.

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

9. INTERIM ORDER PRAYED FOR:

During pendency of this application the applicant prays for an interim order to stay the operation of the impugned transfer orders dated 19.3.2004 and 30.3.2004 till finalisation of this OA.

10.

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

1. I.P.O. No. : 116 378662
2. Date : 16/3/04
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

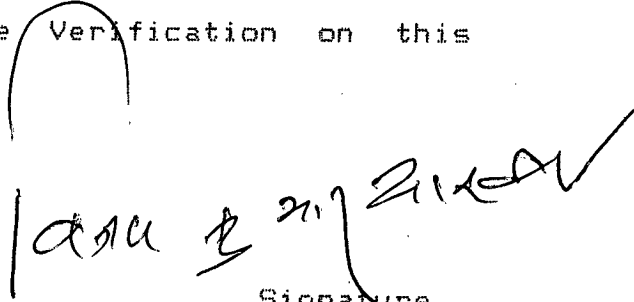
18

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VERIFICATION

I, Sri Vijay Kumar Bharadwaj , aged about 56 years, at present working as Scientist Grade-D(Chem) in the office of the Regional Director, Central Ground Water Board, North Eastern Region, Near Rajib Bhawan, Tarun Nagar, Guwahati, I hereby solemnly affirm and verify that the statements made in paragraphs 2, 3, 4, 4A - 4C & 5 to 12 are true to my knowledge and those made in paragraphs 1, 42, 43, are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 1st day of April of 2004.


Signature.

12 - 310 Annexure - 1
NO _____/PF/10-54/CGWB/NER/ESTT/04
Government of India,
Central Ground Water Board, W
North Eastern Region,
C.S.Road, Tarun Nagar,
Bye Lane No.1
Guwahati-5

Dated:- 30-3-04

To,

Shri V.K.Bhardwaj,
Scientist 'D'
(Chemist)
Central Ground Water Board,
North Eastern Region,
Guwahati-5

Sub: Transfer order from CGWB,NER to CGWB,NR,Lucknow.

Ref: CHQ's No.3-551/78/ESTT/1585-dt.19.3.2004.

Sir,

With reference to the above, I am directed to inform you that you have been transferred from this office to CGWB,NR, Lucknow, vide CHQ office order No.254 of 2004 dated.19.3.2004.

In view of this you are requested to apply for TTA advance, to day, 30.3.2004, so that you can be relieved from this office latest by 2nd April, 2004.

Yours faithfully,

N.K. Basumatari
(N.K.BASUMATARI) 30.3.04
ADMINISTRATIVE OFFICER
FOR REGIONAL DIRECTOR

Copy For information to:

1. The Officer-in-Charge (Technical Section), CGWB,NER,Guwahati.
2. PA to R/D,NER,CGWB,NER,Guwahati.
3. The Office Supdt.CGWB,NER,Guwahati.
4. Accounts Section,CGWB,NER,Guwahati.

(N.K.BASUMATARI)
ADMINISTRATIVE OFFICER
FOR REGIONAL DIRECTOR

Attchd
Uda
Advocate.

Confidential

No. 12.5/4/RDNER/CGWB/PA/03
Government of India
Central Ground Water Board
North Eastern Region
Tarun Nagar
Guwahati-781005

March 29, 2004

To
Shri V.K. Bhardwaj, SC-D
Central Ground Water Board
North Eastern Region
Guwahati-781005

Sub : ACR for the period 01.4.2003 to 31.03.2004

Sir,


Enclosed please find the blank form of ACR for the period 01.4.2003 to 31.03.2004 of the following Officers. Part-II of the form will be filled up by the officers himself.

You are requested to complete the part-III at your end and submit the same to the undersigned.

1. Shri P.K. Konwar, Asstt. Chemist 01.04.2003 to 31.03.2004
2. " K. Maruti Prasad, Asstt. Chemist 10.12.2003 to 31.03.2004

Encl : as above

Yours faithfully


(A.R. Bakshi)
Regional Director

Received ACR
K. MARUTI PRASAD
10.12.2003
w.k.

Attested
by
Advocate.

Original Application No. 96 of 2003.

Date of Order : This, the 25th Day of February, 2004.

THE HON'BLE SHRI SHANKER RAJU, JUDICIAL MEMBER.

Sri Vijay Kr. Bhardwaj
Scientist - 'D' (Chem)
Central Ground Water Board
North Eastern Region
Tarun Nagar, Bye Lane-1
Guwahati-781005.

. . . . Applicant.

By Advocates Mr.S.Sarma & Ms.U.Das.

- Versus -

1. Union of India
Represented by the Secretary
to the Government of India
Ministry of Communication
Shram Shakti Bhawan
New Delhi.
2. The Chairman
Central Ground Water Board
Jam Nagar House
Managing Road, New Delhi-110001.
3. The Director (Admn)
Central Ground Water Board
N.H.IV, Faridabad
Haryana.
4. The Regional Director
Central Ground Water Board
North Eastern Region
Near Rajib Bhawan
Tarun Nagar, Bye Lane-1
Guwahati-5.

. . . . Respondents.

By Mr.A.Deb Roy, Sr.C.G.S.C.

O R D E R (ORAL)

SHANKER RAJU, MEMBER(J):

I have heard Ms.U.Das, learned counsel for the applicant, and also Mr.A.Deb Roy, learned Sr.C.G.S.C. for the respondents.

The respondents are yet to take a final decision for payment of TTA bills of the applicant. Taking note of S.R.194 (A) the right of a Government servant to travelling allowance, including daily allowance, is to be forfeited or deemed to have been relinquished if the claim

Contd./2

Advocate

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is not preferred within one year from the date on which it became due.

3. Admittedly, the bills became due on 20.2.2002 and the claim was preferred on 26.12.2002, which is within one year. Accordingly, respondents are directed to take a final decision regarding TTA bills of the applicant within one month from the date of receipt of copy of this order.

The O.A. stands disposed of accordingly. No costs.

SO/MEMBER (J)

TRUE COPY
सिद्धि

[Signature]
27/2/04
Section Officer (J)
C.A.T. GUWAHATI RANCH
Guwahati-781005
[Signature]
27/2

Attorney
[Signature]
Attorney

To,

The Regional Director
C.A.W.D., NEE,
Guwahati (Assam)

Sul D.A. No. 96 of 2003

Sir,
Kindly find enclosed
the copy of cash order (Rs. 2,200/-)
which is self explanatory with
is submitted for n/a & fr
Record please.

Ec. As above.

1/11/04
27/1/04
C/C

Yours faithfully
(1/11/04) 301

27/2/2004

Sr-D (ch)

1/11/04