

FORM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET.

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

In O.A. 167/04

Name of the Applicant(s) Narayan Singh

Name of the Respondent(s) no 9 & son

Advocate for the Applicant Mr G K Bhatta, B Chandra, Kamal Singh

Counsel for the Railway/C.G.S.C. Cy St.

OFFICE NOTE	DATE	ORDER OF THE TRIBUNAL
<p>This R.A. has has filed by the counsel for the applicant - He reviewed the order D-6.10.04 passed in no no. 82/04 in OA 167/04 by the Single Bench judge Hon'ble Mr. Justice R K Batta, V.C.</p> <p>The case may be placed before the same Bench.</p> <p>The case is checked & found in order. Submitted.</p> <p>24/11/04</p> <p>DR</p>	<p>3.11.04</p> <p>pg</p> <p>10.11.2004</p>	<p>Present : The Hon'ble Mr Justice R.K. Batta, Vice-Chairman.</p> <p>Heard Sri G.K.Bhattacharyya, learned counsel for the petitioner.</p> <p>Issue notice to respondents. Returnable on 10.11.2004. Sri S.Sengup- ta, learned counsel for the respondents notice on behalf of the respondents.</p> <p>R- Vice-Chairman</p> <p>Mr G.K. Bhattacharyya, learned counsel for the applicant states that order dated 6.10.2004 was passed on the assumption that the applicant has been relieved with effect from 16.1.2004 and he states that the applicant has not been relieved till date. In view of this the review application has to be allowed with</p> <p>R- contd.....</p>

10.11.2004


(1) Steps taken
on 9/11/04.

(2) Notice & order
dt. 3/11/04 sent
to D/section
for issuing to
resp. No- 1 to 5,
by regd. A/D post.

nk m

directions that the applicant shall
not be relieved till the next date in
O.A.No.167/2004.

The application stands disposed
of accordingly.



Vice-Chairman

~~Ca~~
9/11/04.

Recd copy
11/11/04
Applicant

Received
Copy on 18.11.2004
18/11/2004
Railway Advoca-
Quarrel

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH
GUWAHATI

REVIEW APPLICATION NO. 15 /2004 in MP 82/04

IN ORIGINAL APPLICATION NO. 167/04

Shri Narayan Singh ..Applicant

-Versus-

Union of India & Ors. ...Respondents

INDEX

<u>Sl.No.</u>	<u>Particulars</u>	<u>Page Nos.</u>
1.	Petition	1 to 7
2.	Verification	8
3.	Affidavit	9
4.	Annexure - 1	10
5.	Annexure - 2	11
6.	Annexure - 3	12
7.	Annexure - 4	13
8.	Annexure - 5	14
9.	Annexure - 6	

Filed by:

Bikram Choudhury.
Advocate 2.11.04

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

GUWAHATI

REVIEW APPLICATION NO. 15 /2004 (in MP & M)
IN ORIGINAL APPLICATION NO. 167/04

58
Narayan Singh
Filed by the applicant
through Bikanar Choudhury
Advocate
2.11.04.

IN THE MATTER OF:

An application under Section 22 of the Administrative Tribunals Act, 1985 read with Rule 17 of the Central Administrative Tribunal (Procedure) Rules, 1987.

-AND-

IN THE MATTER OF:

An application for reviewing the order dated 6.10.2004 passed in Miscellaneous Petition No. 82 of 2004 in O.A. 167 of 2004.

-AND-

IN THE MATTER OF:

Shri Narayan Singh
S/o Late Bhola Singh
Head Commercial Clerk (Goods),
New Guwahati Goods Office,
N.F. Railway, Railway Quarter No.
DS-329/F, Bamunimaidan, Guwahati-21.

...Applicant

-Versus-

Contd..P/-

[2]

1. Union of India,
represented by the General
Manager, N.F. Railway, Maligaon,
Guwahati-781011.
2. Chief Commercial Manager,
N.F. Railway, Maligaon,
Guwahati - 781011.
3. The Chief Personnel Officer,
N.F. Railway, Guwahati-781011.
4. The Divisional Railway Manager,
N.F. Railway, Lunding.
5. The Divisional Commercial Manager
N.F. Railway, Guwahati-11.

...Respondents/


Opp. parties

The applicant above named-

MOST RESPECTFULLY BEGS TO STATE:

1. That the applicant is a Railway employee working as Head Commercial Clerk (Goods) in the New Guwahati Goods Office of the N.F. Railway for many years. Since the date of his joining service the applicant has discharged his duties with sincerity and dedication and there was not any adverse ever communicated to him.

Contd..P/-



2. That the applicant while working as such, on 24.1.2004 was served with an order No. E/39-20(C) (T) Pt-II dated 16.1.2004 issued by the Divisional Railway Manager(P), N.F. Railway, Lumding transferring him from New Guwahati Goods Office to Karimganj.

A copy of the order dtd. 16.1.2004 is annexed herewith as Annexure - 1.

3. That immediately on receipt of the transfer order the applicant submitted a representation to the Respondent No. 4 with the prayer to cancel the transfer order in view of the problem to be faced by the applicant for such transfer just at the fag end of his career. In the representation, the applicant categorically highlighted the instruction communicated by the Railway Board vide Circular No. E(NG) 61/TR2/16 dated 21.8.61 that an employee due to retire within a period of two years should be normally excluded from the purview of the orders regarding periodical transfer. The applicant states that he is going to retire on 30.6.2005.

Copies of the representation and Railway Board circular are annexed herewith as Annexures-2 and 3 respectively.

Contd.:P/-

4. That thereafter the applicant received letter No ES/136/N(T) dated 19-4-2004 from the office of Division Railway Manager (P) whereby the Respondent No. 5 has turned down his representation dated 2.2.2004. Thereafter on 29.4.2004, the applicant submitted an appeal before the Respondent No. 4 detailing all aspect for cancellation of transfer order and again on 16.5.2004 the applicant submitted another appeal before the Respondent No. 4 for canceling the transfer order since there was no response from the authorities with regard to the appeal dated 29.4.04.

5. That the office of the Respondent No. 4 vide letter No. ES/136-N (T) dated 2-7-2004 informed the applicant that the appeal submitted by the applicant for cancellation of the transfer order has been regretted by the competent authority.

6. That the applicant being aggrieved by the action of the authorities is not canceling the transfer order the applicant filed an original application before this Hon'ble Tribunal which was registered and numbered as O.A.No. 167/04.

On 30.8.2004, the case cameup for admission and the Hon'ble Tribunal after hearing both sides admitted the appeal and issued notice to the parties returnable within four weeks and to list the case on 6.10.2004 for orders and to consider for interim order.

Contd...P/-



Copy of the order dated 30-8-2004 is annexed herewith as Annexure-4.

7. That on 4.10.2004 the case came for orders along with the Miscellaneous Petition No. 82/04 with the prayer to maintain status-quo till finalisation of the O.A. No. 167/2004 and/or till disposal of the disciplinary proceeding which was initiated during the pendency of the original application as it will be difficult for him to come down to Guwahati from Karimganj in every stage of the proceeding.

The Hon'ble Tribunal after hearing both side took the view that the applicant was released from his posting from 16.1.2004 and as such it was not possible to grant status-quo order as sought for by the applicant and accordingly rejected the application.

A copy of the order dated 4-10-2004 is annexed herewith as Annexure-5.

8. That the applicant begs to state that on 4.10.2004 when the case came up for orders the Counsel for the applicant could not place before the Tribunal that the applicant has not being released from his present place of posting.

9. That the applicant begs to state that it will be apparent from letter dtd. 2.7.2004 (Annexure-G of the

Contd..P/-

original application) that till the filing of the original application he was not released from his present place of posting and more over he has been receiving his salary as Head Commercial Clerk (Goods) at New Guwahati which fact will be clear from the pay-slip of the applicant for the month of August and September, 2004.

Copies of the pay-slips are annexed herewith as Annexure-6.

10. That the applicant begs to state that the fact that the applicant has not been released from the present place of posting could not be placed before this Hon'ble Tribunal by the counsel for the applicant and unless the order dated 4-10-2004 is not reviewed the applicant will suffer irreparable loss and injury and as such this is a fit case before the Hon'ble Tribunal to review the order dated 4.10.2004 taking into consideration that the applicant has not been released from his present place of posting till date and also the fact that the applicant has got less than 10 months to retire from service.

11. That this application has been file bonafide and for the justice.

It is therefore prayed that your Lordship would be pleased to consi-

Contd..P/-

[7]

der what is stated above and review the order dated 4.10.2004 (Annexure-5) passed in Miscellaneous Application No.82/04 in the original Application No.167/04 and direct the authorities that status-quo be maintained and/or pass any order/orders as your Lordship may deem fit and proper.

And for this Act of kindness, the applicant as in duty bound shall ever pray.

Contd..P/-

AFFIDAVIT

I, Shri Narayan Singh, Son of Late Bhola Singh, aged about 59 years, resident of Railway Quarter No.DS-329/F Bamunimaidan, Guwahati-21 in the district of Kamrup, Assam do hereby solemnly affirm and declare as follows:

1. That I am the applicant in this petition and as such I am well conversant with the facts and circumstances of the case and I swear this affidavit.

2. That the statements made in this affidavit and in paragraphs 1, 4, 5, 8, 10 and 11 of the petition are true to my knowledge, those made in paragraphs 2, 3, 6, 7 and 9 being matters of record are true to my information derived therefrom which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this affidavit on this 2nd day of November, 2004 at Guwahati.

Narayan Singh

DEPONENT

Identified by:
Bikram Choudhury
Advocate

Solemnly affirmed and declared before me by the deponent who is identified by Sri *Bikram Choudhury* Advocate, on this 2nd day of November, 2004 at Guwahati.

Subhakar Das
REGISTERED *Advocate*

OFFICE ORDER.

Office of the
Divil. Rly. Manager (P),
Lundin, dt. 16/1/2004.

The following transfer/postings are ordered for rigid implementation, with immediate effect.

1. Shri. Sankar Kanti Biswas (UR) CS(Goods)/NCC in scale Rs. 6500-10500/- is hereby withdrawn from IIC(Goods) > Shri. Biswas is to be utilised temporarily by DMR GHY.
2. Shri. Manoj Kr. Barman (UR), IIC(Goods)/NCC in scale Rs. 5000-8000/- is hereby transferred and posted at DMR vice existing vacancy in this same pay and scale on Administrative ground.
3. Shri. Harayan Singh (UR), IIC(Goods)/NCC in scale Rs. 5000-8000/- is hereby transferred and posted at KXJ vice existing vacancy in his same pay and scale on administrative ground.
4. Shri. Babul Kr. Dey (UR), Sr. CC(Goods)/NCC in scale Rs. 4000-6000/- is hereby transferred and posted at GPN Rlyg administrative ground.

SINO 1 is not entitled to get T/pass, joining time, CTC, etc. as per extant rule. SINO 2, 3, and 4 are eligible to get T/pass, joining time, CTC etc as per extant rule.

This is for the information of the concerned staff.

(S. Mukherjee, APO/1/LMR)
For Divil. Rly. Manager (P),
N.F. Railway: Lundin.

No. E-39-20(45)(T) Pt. II dated 16/01/2004.

Copy forwarded for information and necessary action to:-

1. Staff concerned through proper channel
2. ARM/GHY (3) DCM/GHY (4) APO/GHY
3. CS(Goods)/NCC. He is advised to spare the above named staff to carry out their transfer and posting order immediately under intimation to this office.
6. SS/DMR, SS/RXJ, (3) RAC/BPB (9) AM/BPB (10) OS/ET/BILL
10. OS/Comm/LMG (12) DCM/LMR (13) GM(P)/MLC (14) CCM/PIV/MLC

(S. Mukherjee, 16/01/04)
For Divil. Rly. Manager (P),
N.F. Railway: Lundin.

AKRAO/-

Attested by
R. Chakravarty
2-11-04

ANNEXURE-2

-10-

DRM | NFRly | Lunding
(Through Proper channel)

Ref:- E 39-20(GC)(T) P.H dt. 16.01.2004.

Sub:- Request for cancellation of Transfer order.

Sir,

In the reference cited above, I beg to state that I have been ordered to be transferred from NGC to KXJ. In this connection I beg to state that I am due to retire from service in the month of June 2005. This transfer order is a big blow to me at the fag end of my service when I am left with less than one and half years to attain my superannuation. I shall be greatly disturbed at this juncture if I carry out this transfer order. Moreover, there is provision in the Railway Board vide circular No. D:E(G) 61 TRD/6 dt. 21.8.61 that an employee due to retire within a period of two years should be excluded from the purview of transfer order.

I, therefore, request you to arrange cancellation of my transfer order to save me from the purview of uncalled for harassment.

Sir, it is for your information and satisfaction that I am not attached with any public work for the last one year.

Yours faithfully,

Narayan Singh
02/2/04

(Narayan Singh)
IID.CC/G/NGC

Forwarded to
DPIA/NGC

Advance copy with reverence to :

- 2/2/04
- (1) DRM | NFR | LMG (by post)
 - (2) GM(P) | NFR | Maligaon
 - (3) Branch Secretary | NFR | EU | NGC Branch.
 - (4) Branch Secretary | NFR | MU | NGC Branch.

Recd. 2 copies of appeal.

2/2/04
2-2-04

Attested by
R. S. Maligaon
Adv.
2-11-04

(Copy Circulated for E.C. Sec)

AN-2111 50461

New Delhi, dt. 21-8-61

DE(11)512R2/16.

The General Managers,
All Indian Railways.

Sub: Periodical transfer of staff.

Board had issued orders from time to time about the periodical transfer of Station Masters, Commercial Clerks etc. who come in frequent contact with the public. They cannot have considered the matter further and have decided as follows:-

- (1) The chain of transfer orders should not be long; transfers should be ordered in such a way that the chain does not involve more than three or four persons as far as possible in order that delays in carrying out the orders by one person will not affect the transfer of a number of persons.
- (2) An employee who is transferred from one station to another should be given weightage for priority in the matter of allotment of quarters at the new station to the extent of the period of his stay at the previous station provided his name had been on the waiting list at that station.
- (3) ~~An employee who is transferred to a new station should be normally excluded from the rotation of orders regarding periodical transfers.~~
- (4) Merely (technical transfer) to a new headquarters whereby the concerned employee continues to serve on the same section should be avoided as such transfers will result in the employee continuing to have contact with the same public.

Sd/-
(M. V. Jayaraman)
Asstt. Director, East
Railway Board.

Certified to be true copy.

Witnessed by
R. Chandrasekhar
Adm.
2-11-04

- 12 -

ANNEXURE - 4
69

FORM NO. 1
(PART 2)

CENTRAL ADMINISTRATIVE TRIBUNAL
DELHI

ORDER SHEET

Org. App/ Misc. App/ Cont. App/ New App. 167/04

O.A.

Name of the Applicant(s) Narayan Singh

Name of the Respondent(s) U.O.I. 90m

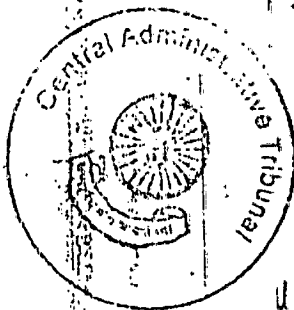
Advocate for the Applicant K.K. Biswas

Counsel for the Railway/ C.R.C.

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL



30.8.2004 - Heard Mr. K.K. Biswas, learned counsel for the applicant and also Mr. S. Sengupta, learned counsel for the Railways.

The application is admitted. Issue notice to the parties. Returnable by four weeks. List on 4.10.2004 for orders.

Sd/MEMBER(ADM)

Verified to be true Copy
Rajendra Singh

[Signature]
6/9/04

Section Officer (A)
CENTRAL ADMINISTRATIVE TRIBUNAL
DELHI

Attested by
[Signature]
Adv.
2-11-04

-13-

SL.No. 198

ANNEXURE-5

FORM No. 3
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GENERAL BENCH

ORDER SHEET

Orig. App/Misc. Petn/Cont. Petn/Rev. Appl 82/04

In 'O.A. 167/04

Name of the Applicant(s) Narayan Singh

Name of the Respondent(s) H. C. S. Gans

Advocate for the Applicant K. K. Biswas

Counsel for the Railway/C.G.S.C. ✓

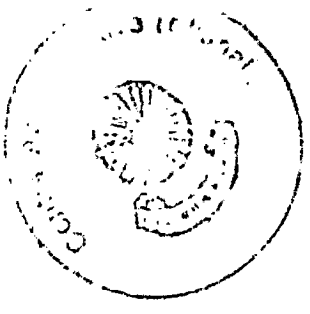
OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

6.10.2004

present : The Hon'ble Mr. Justice R.K. Batta, Vice-Chairman.



Heard Mr. K.K. Biswas, learned Advocate for the applicant and also Mr. S. Sengupta, learned Advocate for the respondents.

The applicant was released with effect from 16.1.2004. In view of this, it is not possible to grant status quo order sought by the applicant in this application.

The application is accordingly rejected.

Sd/ VICE CHAIRMAN

Certified to be true Copy

Section Officer

[Signature]
11.10.04

Section Officer (J)

C.A.T. GUWAHATI BENCH

Guwahati, 11.10.04

11/11/10

Attested by

[Signature]
2.11.04

WHALE FORMS

EDP CENTRE/LMG/NFR NGC

AUGUST 2004 UNIT 55189

DEPT: COMHL

SRLNO 11

V/NOS. LE5427C/LE208C 09 09 04

ALLOC: 09 0230

NARAYAN SINGH

PAY.

* 6800.00 PF-SUBCRPTN. * 850.00

GROSS PAY*11697.00

D.P-VCPC

* 3400.00 V.P.F. * 2000.00

DEDUCTN* *3118.00

DESG: HGC

D.A.

* 1122.00 RENT. * 98.00

NET PAY RS*8579.00

PFNO: 01763462-NC

N.HLDAY ALL * 140.00 GROUP INS. * 30.00

DUTY DAYS: 31 L-DAYS: 0

SCA * 160.00 AP TAX * 140.00

CASH PAY* *8579.00

TRANSPORT ALL* 75.00

SIGNATURE

EDP CENTRE/LMG/NFR NGC

SEPTEMBER 2004 UNIT 55189

DEPT: COMHL

SRLNO 11

V/NOS. LE5427C/LE208C 05 10 04

ALLOC: 09 0230

NARAYAN SINGH

PAY.

* 6800.00 PF-SUBCRPTN. * 850.00

GROSS PAY*11697.00

D.P-VCPC

* 3400.00 V.P.F. * 2000.00

DEDUCTN* *3118.00

DESG: HGC

D.A.

* 1122.00 RENT. * 98.00

NET PAY RS*8579.00

PFNO: 01763462-NC

N.HLDAY ALL * 140.00 GROUP INS. * 30.00

DUTY DAYS: 30 L-DAYS: 0

SCA * 160.00 AP TAX * 140.00

CASH PAY* *8579.00

TRANSPORT ALL* 75.00

SIGNATURE

Attested by.
Shrawan
Adv.
2-11-04