

501/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 20/2005

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SECTION OFFICER (Judl.)

Seal
01/11/2017

FORM NO. 4

FORM RULE 42

CENTRAL ALIYU TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

20/2005

Original Application No.

Misc. Petition No.

Contempt Petition No.

Review Application No.

Applicants: - Chamda Nath Sarkar

Respondents: - Wives of Jader SS

Advocates for the Applicant: Mr. Chamda M.G.N. Choudhury

Advocates of the Respondents: Mr. S. Nath A.K. Choudhury

Notes of the Registry Date: 27.1.2005 Order of the Tribunal

27.1.2005

Present: The Hon'ble Mr. K.V. Prahladan, Member (A).

This application is in form
is filed P. for Rs. 50/-
dated 17.1.2005
No. 2005/135-637

Dated: 16/2/05

1/2 Dy. Registrar

Heard Mr. M. Chamda, learned
counsel for the applicant and also
Mr. A.K. Chaudhury, learned counsel
for the Respondents No. 3 and 4.

The application is admitted,
call for the records. Issue notice
to the parties, returnable within
four weeks.

Till the returnable date
the order dated 17.1.2005 shall be
kept in abeyance.

List on 28.02.2005 for orders.

K.V. Prahladan
Member (A)

Steps taken

on 16/2/05

mb

28.02.2005

Present: The Hon'ble Mr. K.V.
Prahladan, Member (A).

Heard Mr. M. Chamda, learned
counsel for the applicant and
Mr. A.K. Chaudhury, learned couns-
el for the respondents.

Four weeks time is given to
the respondents to file written
statement. List on 1.4.2005 for

Notice & order sent
to D/section for
issuing to resp. Nos.
1 to 6, by regd. A/D
post. (6/2/05)

28.02.2005 Present : The Hon'ble Mr. K.V. Prahладan, Member (A).

Heard Mr. M. Chanda, learned counsel for the applicant and also Mr. A.K. Chaudhuri, learned counsel for the respondents.

List on 01.04.2005 for filing written statement.

Interim order dated 27.1.2005 shall continue till next date.

Member (A)

Notice returned from
resp. No - 1.

mb

~~21/3/05~~ Sixtyx2005. Present: The Hon'ble Mr. Justice S. Sivaranjan, Vice-Chairman.

Notice duly served
on resp. No - 6.

01.04.2005 Present : The Hon'ble Mr. Justice S. Sivaranjan, Vice-Chairman.

Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. for the respondents seeks time for filing written statement. Mr. M. Chanda, learned counsel for the applicant submits that the interim order passed by this Tribunal has not been complied with. It is for the applicant to file appropriate affidavit on his behalf.

Post on 27.4.2005. Interim order dated 27.1.2005 shall continue till next hearing.

Vice-Chairman

order dt. 1/4/05
issuing to learned
advocate's for both
the parties.

mb
27.4.05

Mr. M. Chanda, learned counsel for the applicant is present. Mr. A.K. Choudhury, learned Addl. C.G.S.C. seeks further time for filing written statement.

List on 1.6.05 for order. Interim order will continue till 1.6.05.

Vice-Chairman

26-4-05
No. 405 for Served
27.4.05
M. Choudhury order on
27.4.05
25.4.05

04.20/2005

P-3

Notes of the Registry

Date

Orders of the Tribunal

order dt. 27/4/05
issuing to learned
advocates for both the
parties.

(c)
29/4/05

26.5.2005

List the case before the
next Division Bench on 2.6.2005.
Interim order shall continue.

ICV Parkash
Member

25-5-05

no W.S. filed
Sd/for.

by

1.6.05

Respondent No 4 submits
the affidavit in opposition
on behalf of the Respondent
Nos 3, 3 & 6.

2.6.05

The learned counsel for the
applicant is absent. Mr. A.K.
Choudhury, Addl. C.G.S.C. submits
that the written statement has
already been filed. Post the
matter for hearing on 20.6.05.

Member

Vice-Chairman

1m

2.6.04

The applicant has been posted
to a place of his choice. The O.A.
has become infructuous. However,
the admissible amount including
T.A./D.A. will be paid as expedi-
tiously. O.A. is accordingly
disposed of.

ICV Parkash
Member

R. V. S.
Vice-Chairman

7.6.05

Copy of the order
handed over to the
Advocates for the
parties.

SS

*B. Choudhury
Addl. C.G.S.C.
7/6/05*

Notes of the Registry

Date

Orders of the Tribunal

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

O.A. No. 20 /2005

Sri Upendra Nath Sarkar

-Vs-

Union of India & Ors.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

19.04.2000- Transfer policy issued by the Auditor and Comptroller General, India with the instruction for strict compliance. (Annexure-VII)

05.11.2003- Applicant transferred and posted from I&FC Division, Itanagar to Pasighat Drilling Division I&FC. (Annexure-I)

19.11.2003- Representation submitted by the applicant for review of his posting order and prayed for posting at Itanagar or nearby places. (Annexure-II)

24.11.2003- Representation rejected by the senior Dy. A.G (Admn) and directed for immediate compliance of the posting order dated 5.11.03. (Annexure-III)

03.12.2003- Applicant submitted representation for reconsider of his posting order around the Capital Complex at Itanagar on the ground that applicant is in verge of retirement. (Annexure-IV)

28.01.2004- Applicant joined at Pasighat Drilling Division Pasighat.

08.03.2004- Impugned order of transfer and posting dated 08.03.04 has been passed after a lapse of 40 days after joining at new station at Pasighat in total violation of transfer policy dated 19.04.2000. By the impugned order applicant is sought to be transferred from Pasighat to Jaitanbari, Tripura. (Annexure-VI)

08.04.2004- Applicant preferred O.A No. 89/2004 which was disposed of with a direction to consider case of the applicant within 2 months and till such time transfer order dated 08.03.04 shall be kept in abeyance.

X

(Annexure-VIII).

12.04.2004- Applicant submitted representation enclosing a copy of the order dated 08.04.04, which was forwarded by the Executive Engineer, Pasighat. (Annexure-IX & X)

26.10.2004- Applicant preferred Misc. Petition No. 109/04 under Rule 24 of CAT (Procedure) Rule, 1987 praying for a direction upon the respondents for implementation of the order dated 08.04.04 and the Hon'ble Tribunal was pleased to issue notice upon the respondents and also pleased to pass an interim order of status quo. (Annexure-XII)

10.11.2004- Executive Engineer, Pasighat apprised the Chief Engineer I&FCD the factual position of transfer and posting of the applicant. Annexure-XI)

19/18.11.04- Sr. DAG (Admn) informed the learned Counsel of the applicant that case of the applicant was considered but not agreed to. (Annexure-XIII)

24.12.2004- Chief Engineer, I & FCD, Itanagar issued a Fax message directing the Executive Engineer, Pasighat for immediate release of the applicant. (Annexure-XIV)

05.01.2005- Applicant submitted a detail representation to the Sr. DAG (Admn.) Meghalaya. (Annexure-XVI)

17.11.2005- Executive Engineer, Pasighat issued impugned order of release of the applicant, whereby the applicant is released w.e.f 17.1.05 with the instruction to join him to Gumti Electrical Division, Jatanbari, Tripura. (Annexure-XV).

P R A Y E R S

Relief(s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

1. That the impugned order of transfer and posting issued under letter No. E.O. No. D.A Cell/120 dated 08.03.2004 be set aside and quashed so far the applicant is concerned.

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2. That the Hon'ble Tribunal be pleased to set aside and quash the impugned order bearing letter No. DA Cell/Court Case/UJNS/2004/1132 dated 18/19.11.2004.
3. That the Hon'ble Tribunal further be pleased to set aside and quash the Fax message containing order dated 24.12.2004 and release order dated 17.01.2005.
4. That the Hon'ble Tribunal be please to direct the respondents to allow the applicant to continue in the present place of posting at Pasighat Drilling Division I&FC or in any vacant Division as indicated above till his retirement on superannuation in terms of clause (f) and (g) of the transfer policy dated 19.04.2000 issued by the Comptroller and Auditor General, Govt. of India.
5. That the Hon'ble Tribunal be pleased to direct the respondents to treat the applicant as on duty w.e.f. 18.01.2005 till the date of reinstatement.
6. Costs of the application.
7. Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for.

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

1. That the Hon'ble Tribunal be pleased to stay the operation of the impugned transfer and posting order dated 08.03.2004, letter dated 18/19.11.2004, impugned order dated 24.12.04 and release order dated 17.11.2005 in respect of the applicant till disposal of the Original Application.

A

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

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

Title of the case : O. A. No. 2005

Sri Upendra Nath Sarkar. : **Applicant**
- Versus -
Union of India & Others: **Respondents.**

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Filed by

Subrata Nath
Advocate

Date : 27.01.05

Upendra Nath Sarkar

1
Filed by the applicant
through: Subrata Nath
Advocate
27.01.05

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O. A. No. 20 /2005

BETWEEN

Sri Upendra Nath Sarkar.

S/o- Late Radhanath Sarkar.
Sr. Divisional Accounts Officer,
Drilling Division, I & FC,
Pasighat,
Arunachai Pradesh.

... Applicant.

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Finance,
New Delhi.
2. The Comptroller and Auditor General of India,
New Delhi.
3. Accountant General (A & E)
Meghalay Etc.
Shillong.
4. Sr. Dy. Accountant General (Admn)
O/o- The Accountant General (A&E),
Shillong.
5. Executive Enginner,
I&FC, Drilling Division,
Pasighat, Arunachal Pradesh.
6. Shri K. Bathow.
Sr. Dy. Accountant General (Admn)
O/o- The Accountant General (A&E)
Shillong.

... Respondents.

Upendra Nath Sarkar

DETAILS OF THE APPLICATION

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

This application is made against the impugned order issued under letter bearing No. E.O. No. D.A Cell/120 dated 08.03.2004 issued by the Sr. DAG (Admn) and also against the order directing to release the applicant issued by the Chief Engineer, IFCD, Itanagar vide impugned Telegram dated 24.12.2004 and order of release dated 17.01.2005, thereby direction of this Hon'ble Tribunal to review the case of the applicant for transfer and posting has been violated and the order containing direction for release has been passed in violation of Hon'ble Tribunal's order dated 08.04.2004 as well as in violation of subsequent order passed by this Hon'ble Tribunal on 26.10.2004 in M.P. No. 109/2004, whereby the Hon'ble Tribunal was pleased to pass an order of status quo which is still in force. The applicant further praying that learned Tribunal be pleased to pass a direction upon the respondents for review of the transfer and posting of the applicant in any of the vacant Division in and around Pasighat/Itanagar in the State of Arunachal Pradesh namely as in the Capital Division 'A', Itanagar, Naharlagan Electrical Division, Roing PWD Division, Roing RWD Division, Roing Electrical Division in the light of the direction contained in the transfer policy dated 19.04.2000. Be it stated that the applicant is transferred and posted in the existing place of posting only after a lapse of 2 months after carried out the transfer and posting order and joined at Pasighat I & FC, Pasighat in violation of transfer policy dated 19.04.2000.

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

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 your humble applicant was initially appointed as Divisional Accountant (D.A) on 05.02.1973 under the Accountant General Meghalaya etc, Shillong. Then he was promoted as Divisional Accountant, Selection grade and subsequently as Divisional Accounts Officer Grade-II on 01.01.1986. Thereafter, the applicant was further promoted to the grade of Divisional Accountants Officer Grade-I on 01.01.1990. At present the applicant is working as Senior Divisional Accounts Officer w.e.f 01.01.1997.
- 4.3 That the applicant since his joining in the respondent department has been transferred very frequently within and outside of the state and he had worked at different places in different capacities as desired and ordered by the respondent departments. A chronological details of his postings along with his tenure of services have been furnished hereunder; -

Upendra Nath Barman

<u>Place of Posting</u>	<u>Period</u>
1) Jatanbari (Tripura)	- 1974-78
2) Gumti Project Division-I	
3) Gumti Electrical Division (All in the state of Tripura)	
4) Tirap CPWD, Jairampur Div. II Arunachal Pradesh	- August, 1978 - - May, 1982.
5) Agartala Civil Division-4 at Agartala (Tripura).	- 1982-1985
6) Agartala Electrical Division (Tripura)	- 1985-Feb'88
7) Capital Electrical Division, Itanagar, Arunachal Pradesh	- Feb'88-1991
8) Roing Electrical Division Arunachal Pradesh	- 1991-1995
9) Kalaktang PWD Division Arunachal Pradesh	- 1995-97
10) Itanagar IFC Division, Arunachal Pradesh	- 1997-Dec'2003.
11) Pasighat Drilling Division, I & FC	- 28.01.04 to till date.

4.4 That while serving at I&FC Division, Itanagar the applicant was again transferred and posted to Passighat Drilling Division, I&FC vide order bearing No. E.O No. DA Cell/85 dated 05.11.2003, issued by the respondent No.4.

(Copy of the order dated 05.11.2003 is annexed hereto for perusal of Hon'ble Tribunal as Annexure-I)

4.5 That thereafter the applicant submitted one representation on 19.11.2003 to the respondent No.4 through proper channel describing his ill-health and physical

condition and prayed for reconsideration of his transfer case and further praying for his transfer to any division within the Capital Complex of Itanagar in order to enable him to continue his ongoing treatments. He also explained that he was due to retire on April, 2007 and prayed for sympathetic consideration of his case.

(Copy of the representation dated 19.11.2003 enclosed herewith for perusal of Hon'ble Tribunal and marked as Annexure-II). ↴

4.6 That surprisingly the prayer of the applicant was rejected vide order No. E.O No. DA CEII/1167 dated 24.11.2003 stating that "his retention in the same division is not agreed to" and he was further directed to report for duty at Pasighat Drilling Division immediately as per order dated 05.11.2003.

(Copy of order dated 24.11.2003 is annexed hereto for perusal of Hon'ble Tribunal as Annexure-III).

4.7 That thereafter the applicant submitted another representation on 03.12.2003 emphasising that he did not pray for his retention in the same division in his earlier representation dated 19.11.03 as mentioned in the rejection order dated 24.11.2003 but instead he had requested to post him in any division in the Capital Complex and as such he again prayed for the same vide his representation dated 03.12.2003.

(Copy of the representation dated 03.12.2003 is annexed hereto for perusal of Hon'ble Tribunal as Annexure-IV).

4.8 That the applicant however did not get any consideration whatsoever even inspite of his serious ailments and his retirement approaching and as such he joined at Passighat Drilling Division on 28.01.2004 as per order dated 05.11.2003 and his joining report was forwarded by the respondent No.5 to the respondent No.3 vide letter bearing No. IFC/Drilling/PF-83/2004-05/ dated 31.01.2004.

(Copy of the letter dated 31.01.04 is annexed hereto for perusal of Hon'ble Tribunal and marked as Annexure- V)

4.9 That surprisingly within 40 (forty) days of his joining at Pasighat, the respondent No.4 again issued another transfer order Vide No. E.O No. DA CELL/120 dated 08.03.2004 wherby the applicant has been sought to be transferred from Pasighat to Jatanbari in Tripura in an arbitrary and unjust manner.

(Copy of impugned order dated 08.03.2004 is annexed hereto for perusal of Hon'ble Tribunal as Annexure-VI)

4.10 That the applicant most humbly begs to state that as per the professed policy of the respondent department as evident from the letter No. 394-NGE (App)/11-98 dated 19.04.2000 of the respondent No.2, the following parameters are to be followed for transfer and posting of Divisional Accounts Officer/Divisional Accountants; -

“--- (f)- tenure of posting should normally be three years in a particular Division and six years at a particular station.

(g) an officer should normally allowed to serve the last three years of his service life at a place of his choice even if it results in his stay in the same place etc. beyond the normal tenure”.

In addition to the above some other conditions have been laid down under item sl. No. (b), (d), (e) and (h) also of the said letter dated 19.04.2000. But surprisingly all those professed norms have been violated by this impugned order dated 08.03.2004.

(Copy of the letter dated 19.04.2000 is annexed hereto for perusal of Hon'ble Tribunal as Annexure-VII).

4.11 That the applicant begs to submit that he had earlier served in many places as or when ordered as shown in para 4.3 hereinabove without any grievance or

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complaint but this time he had prayed for consideration of his case on genuine ground for which he submitted relevant medical certificates etc. also but he was denied any consideration. The respondents acted on extraneous considerations and transferred the applicant without paying any humanitarian considerations which smacks malafide and which is arbitrary, illegal, unjust, unfair and violative of the principles of natural justice.

4.12 That due to non-consideration of his prayer the applicant has been put to a seriously distressed condition at the fag end of his service tenure even to the extent of interrupting proper treatment of his ailments. As such finding no other alternative the applicant is approaching this Hon'ble Tribunal seeking for justice and it is a fit case for the Tribunal to interfere with and to protect the legitimate right and interest of the applicant by setting aside the impugned transfer order dated 08.03.2004 and directing the respondents to retain the applicant at his present place of posting i.e. at Pasighat.

4.13 That your applicant in such compelling circumstances approached this Hon'ble Tribunal through O.A. No. 89/2004 (U.N Sarkar Vs. U.O.I & Ors.) with the following prayers: -

“ 8.1. That the impugned order of transfer and posting issued under letter No. E.O. No. D.A Cell/120 dated 08.03.2004 be set aside and quashed so far the applicant is concerned.

8.2 That the Hon'ble Tribunal be please to direct the respondents to allow the applicant to continue in the present place of posting at Pasighat Drilling Division I&FC or in any adjacent places near Itanagar till his retirement on superannuation in terms of clause (f) and (g) of the transfer policy

dated 19.04.2000 issued by the Comptroller and Auditor General, Govt. of India

8.3 Costs of the application.

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

The said Original Application came up for admission on 08.04.2004, the learned Tribunal on perusal of the material on record and also after hearing the parties was pleased to dispose of the said Original Application with the following direction: -

" Mr. Chanda, learned counsel for the applicant stated that the impugned transfer order is contrary to the transfer policy dated 19.04.2000. The applicant is also retiring within three years. In the circumstances, the case of the applicant is required to be considered by the authority. Therefore, I direct the respondents to consider the case of the applicant as per transfer policy dated 19.4.2000 within two months from the date of receipt of this order. Till the completion of the aforesaid exercise the transfer order dated 8.3.2004 shall be kept in abeyance so far the applicant is concerned.

The application is accordingly disposed of. No order as to costs."

A copy of the order dated 08.04.2004 is enclosed hereto for perusal of the Hon'ble Tribunal as Annexure- VIII.

4.14 That your applicant further begs to say that immediately after passing of the order dated 08.04.2004 by this Hon'ble Tribunal, the same was communicated to the respondents by submitting detailed representation dated 12.04.04 enclosing therewith a copy of the Hon'ble Tribunal's order dated 08.04.04, wherein the applicant inter alia prayed for reconsideration of his transfer and posting in the light of the direction passed by the Hon'ble Tribunal in it's order dated

08.04.2004 and also interms of transfer policy guideline dated 19.04.2000. The applicant further prayed for his retention in the existing place of posting at Pasighat. The said representation was forwarded by the Executive Engineer, Pasighat vide his letter bearing No. IFC/Drilling/PF-82/2004-05 dated 12.04.04.

Copies of the representation dated 12.04.04 and forwarding letter dated 12.04.04 are enclosed herewith for perusal of the Hon'ble Tribunal as Annexure-IX & X respectively.

4.15 That it is stated that the applicant finding no response from the authority submitted series of representations for reconsideration of his transfer and posting in the light of the transfer policy since he is in the verge of retirement and only left with about 2 years of service in his credit.

4.16 That the Executive Engineer, Drilling Division, Pasighat vide his letter bearing No. IFC/Drilling/PF-2004-05 dated 10.11.04, wherein the Executive Engineer appraised the Chief Engineer I & FC, the factual position so far case of the present applicant regarding transfer and posting and the Executive Engineer is of the opinion that since the order dated 08.04.04 as well as the order dated 26.10.04 passed in Misc. Case No. 109/04 are still in force as such it would not be prudent to release the applicant without considering his case as per direction contained in the order of the learned Tribunal. In paragraph 2 of the said letter it is specifically stated by the Executive Engineer that the contention of the Accountant General's letter dated 15.04.04 is factually not correct.

A copy of the letter dated 10.11.04 is enclosed hereto for perusal of the Hon'ble Tribunal as Annexure-XI.

rependra Maiti, locum

4.17. That your applicant further begs to state that finding no favourable response regarding review of his transfer and posting as per direction contained in the learned Tribunal's order dated 08.04.2004 preferred a Misc. Petition under Rule 24 of the Central Administrative Tribunal (Procedure) Rule, 1987 praying for a direction upon the respondent for implementation of the order dated 08.04.2004 passed in O.A. No. 89/04. Said Misc. Petition came up for consideration before the learned Tribunal on 26.10.2004 and the Hon'ble Tribunal after hearing the parties was pleased to issue notice upon the respondents and also pleased to pass an interim order of status quo in favour of the applicant and the said interim order is still in force. The Misc. petition came up before the learned Tribunal on number of occasions but till date no written statement filed by the respondents Union of India.

Copy of the Hon'ble Tribunal's order dated 26.10.04 passed in Misc. Petition No. 109/04 is enclosed hereto for perusal of Hon'ble Tribunal as Annexure- XII.

4.18 That most surprisingly Sr. DAG (Admn) informed the learned Counsel of the applicant vide letter bearing No. DA Cell/Court Case/UNS/2004/1132 dated 19.11.2004 that on receipt of a Lawyer's Notice dated 15.10.2004 it is stated that case of the applicant was considered but not agreed to and further it is alleged that the applicant had served more than 13 years in the State of Arunachal Pradesh and keeping in view the guidelines dated 19.04.2000 is transferred to Tripura is found to be justified, in order and still stands. On a mere perusal of the impugned letter dated 19/18.11.2004 that the case of the applicant has not at all considered in terms of the direction passed by the learned Tribunal and no order has been passed by the authority in compliance of the direction passed by the learned Tribunal on 08.04.2004. The letter dated 19/18.11.04 is contemptuous in nature

and the same has been passed in total disregard of the order passed by the learned Tribunal's order dated 08.04.04 as well as order dated 26.10.04.

Copy of the impugned letter dated 19/18.11.04 is enclosed hereto for perusal of the Hon'ble Tribunal as Annexure- XIII.

4.20. That it is stated that the learned Tribunal while passing the order dated 08.04.04 has taken into consideration the earlier impugned order dated 24.11.03 (Annexure-III of the O.A. No. 89/04) while disposing the aforesaid Original Application. Therefore it is obligatory on the part of the respondents and review the transfer and posting order of the applicant as per direction passed by this Hon'ble Tribunal dated 08.04.04 in O.A. No. 89/04 as well as the order dated 26.10.04 passed in M.P. No. 109/04.

4.21 That it is stated that the Chief Engineer, I & FCD, Itanagar issued a Fax message directing the Executive Engineer, Drilling, Pasighat for immediate release of the applicant to report his new place of posting pursuant to the A.G's letter dated 16.12.2004 and 17.12.04. The said Fax message has been issued at the instance of the Accountant General (A&E), Meghalaya. In this connection it may be stated that neither the AG (A&E), Meghalaya nor the Sr. DAG passed any order, reconsidering the case of the applicant in compliance of the learned Tribunal's Order dated 08.04.2004. It is pertinent to mention here that although the respondent No. 3 and 4 received the notices in Misc. Petition No. 109/04 but no written statement has been filed before the learned Tribunal, inspite of receipt of notices, therefore it appears that respondent No. 3 and 4 exercising it's power in total violation of the order of the learned Tribunal, and creating pressure upon the Chief Engineer for release of the applicant as evident from the impugned Fax message dated 24.12.2004 when the orders of the learned Tribunal are still in

force and on that score alone the impugned letter dated 19/18.11.04 as well as order of release contained in Fax message dated 24.12.04 and order of release dated 17.01.2005 are liable to be set aside and quashed.

A copy of the impugned order of release communicated through Fax message dated 24.12.04 is enclosed hereto for perusal of Hon'ble Tribunal as Annexure-XIV.

4.22 That it is stated that Hon'ble Court has passed the order on 08.04.04 in O.A No. 89/04 as well as order dated 26.10.04 passed in M.P. No. 109/04 but the respondents instead of considering the direction passed by the learned Tribunal have passed the impugned order dated 18/19.11.04 as well as Fax message dated 24.12.04 directing to release the applicant, which are contemptuous in nature. It is ought to be mentioned here that one more post of Sr. Divisional Accounts Officer is also going to fall vacant on 31st January, 2005 at Roing Electrical Division, Pasighat due to retirement on superannuation of Sri T.D. Ghose the present Sr. Divisional Accounts Officer, therefore there is no difficulty on the part of the respondents to accommodate the applicant in the present place of posting alternatively at PHE Division, Pasighat. Moreover, there are at least 6 posts of Sr. Divisional Accounts Officer are available in the following places, where the present applicant could be accommodated:

1. Capital Division 'A' Itanagar.
2. Naharlagun Electrical Division.
3. Roing PWD Division.
4. Roing RWD Division.
5. Roing Electrical Division.

Since no action has been initiated by the respondents for compliance of the order dated 08.04.04 as well as order dated 26.10.04 in M.P. No. 109/04 passed

by this Hon'ble Tribunal, therefore finding no other alternative the applicant is approaching this Hon'ble Court seeking justice and it is a fit case for the Hon'ble Tribunal to interfere with and to protect the legitimate right and interest of the applicant by setting aside the impugned order dated 19/18.11.04 as well as Fax message containing order of release dated 24.12.04 and directing the respondents to retain the applicant in any other vacant Division as indicated above.

4.23 That it is stated that the Executive Engineer, Drilling Division issued the impugned order of release vide letter bearing No. IFC/Drilling/PF.83/2004-05/64-46 dated 17th Jan'2005, whereby the applicant is released w.e.f. 17.01.2005 with the instruction to join him at Gumti Electrical Division, Jatanbari, Tripura pursuant to the AG (A&E) Shillong's order dated 08.02.04 and 16.12.04. The aforesaid release order has been passed by the Executive Engineer following the direction contained in the order of the AG (A&E) Shillong's letter dated 16.12.04 and 26.10.04 in total violation of the Hon'ble Tribunal's order dated 08.04.2004 and dated 26.10.04 without reconsidering the case of the applicant for his transfer and posting in terms of the direction contained in judgment and order dated 08.04.2004.

A copy of the impugned order dated 17.01.05 is enclosed hereto for perusal of Hon'ble Tribunal as Annexure-XV.

4.24 That your applicant submitted a detail representation to the Sr. DAG (Admn) Meghalaya wherein the applicant stated that pursuant to the order of Govt. of Tripura dated 28.12.04, the Tripura State Electricity Corporation Ltd. has been constituted and registered as a Public Ltd. Company, it has been decided by the Govt. of Tripura that Tripura State Electricity Corporation Ltd. would start functioning from January 1st, 2005. It is further indicated in the order dated

28.12.2004 of the Power department of the Govt. of Tripura that the Tripura State Electricity Corporation Ltd. and Power Department would prepare a transfer scheme for assets and liabilities and personnel of Power Department alongwith financial restructuring plant at the earliest. It is also decided by the Govt. of Tripura that operational control of all assets relating to generation, transmission and distribution and it's allied activities is transferred to Tripura State Electricity Corporation Ltd. and the aforesaid order would be effective from 1st January 2005.

In view of the aforesaid order of the Govt. of Tripura, Department of Power there is no justification on the part of the Accountant General (A&E), Meghalaya to release the applicant for reporting for duty in the Gumi Electrical Division, Jatanbari, Tripura. Since all the assets and liabilities of the Gumi Electrical Division, stood transferred to the Tripura State Electricity Corporation Ltd w.e.f. 1st January, 2005 and this position already intimated by the Govt. of Tripura to Accountant General vide it's order dated 28.12.2004 and the said factual position has already been brought to the notice of the Sr. DAG (Admn), Shillong by the applicant through his representation dated 05.01.05. The applicant further stated in the said representation that he has some personal difficulties and domestic problems, more over he has left with only 2 years service in his credit since he is retiring on superannuation in the month of March, 2007, but to no result.

Copy of the order dated 28.12.04 and representation dated 05.01.05 are enclosed hereto for perusal of Hon'ble Tribunal as Annexure-XVI & XVII respectively.

Neendra Nath Sarkar

4.25 That it is stated that the respondent No. 2 and 3 knowing fully well that an application under Rule 24 of the CAT (Procedure) Rule, 1987 has been preferred by the applicant for implementation of the order dated 08.04.04 is pending before the Hon'ble Court where the Hon'ble Court was pleased to pass an interim order of status quo way back on 26.10.2004 and the notices of the said order as well as copy of the interim order dated 26.10.2004 were duly served upon the respondent No. 2 and 3, thereafter order of release issued by the Executive Engineer, Drilling Division, I&FCD, Pasighat w.e.f. 17.01.2005 vide impugned order dated 17.1.2005 at the instance of the respondent No. 2 and 3 which would be evident from the A.G's letter dated 16.12.2004 referred in the impugned order dated 17.1.2005 even when interim order of learned Tribunal is very much in force, therefore it can rightly be said that respondent No. 2 and 3 have acted with malafide intention in as much as the applicant has been released from Drilling Division, Pasighat at the instance of respondent No. 2 and 3 and therefore stringent action is liable to be imposed upon the respondent No. 2 and 3 for willful and deliberate violation of the order of learned Tribunal.

4.26 That it is stated that although the impugned order dated 17.01.05 has already been issued by the Executive Engineer, Drilling Division, I&FCD, Pasighat but the applicant has not yet handed over the charge of the said Division in view of the stay order dated 08.04.2004 as well order dated 26.10.04 which are still in force, therefore the applicant is deemed to be in service in the Drilling Division, Pasighat. It is further submitted that the respondents Union of India after receipt of notice dated 26.10.04 passed in M.P. No. 109/04 has not preferred to file any application for vacation/modification of interim order of status quo passed by the Hon'ble Court on 26.10.04.

In the circumstances stated above the Hon'ble Tribunal be pleased to stay the operation of order of release dated 17.11.04 as an interim measure and further be pleased to set aside and quash the impugned order on the ground stated above.

4.26 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 applicant has been transferred under the impugned order within 40 days of his joining at Pasighat on extraneous consideration, which smacks malafide.
- 5.2 For that, the applicant had earlier been transferred very frequently and he worked at different places in Arunachal Pradesh and Tripura.
- 5.3 For that, the impugned transfer order is violative of the professed norms of the respondent department.
- 5.4 For that, the action of the respondents are arbitrary, unfair, unjust and violative of the principles of natural justice, in as much as in passing the release order dated 17.01.2005.
- 5.5 For that, the applicant is at the verge of his retirement having left only about 2 years of service in his credit as such he is squarely covered by the transfer policy dated 19.04.2000 issued by the Comptroller and Auditor General of India.
- 5.6 For that, the applicant only prayed for his retention in and around the Capital in order to facilitate his ongoing treatment and also agreed for his posting under any division but even that has been denied to him.

5.7 For that, the interim order dated 08.04.04 as well as dated 26.10.04 in Misc. Petition No. 109/04 are still in force as such the impugned order dated 19/18.11.04 as well as impugned order containing direction for release through Fax message dated 24.12.04 issued by the Chief Engineer, IFCD, Itanagar at the instance of respondent No. 2 without reconsidering the case of the applicant in terms of the direction contained in the order dated 08.04.04 passed by this Hon'ble Tribunal amount to contempt of court as such the impugned orders are void ab initio and also without having any jurisdiction.

5.8 For that large numbers of posts in the cadre of Sr. Divisional Accounts Officer are lying vacant in the state of Arunachal Pradesh under the administrative control of A.G (A&E) Meghalaya.

5.9 For that in view of the Govt. of India's order dated 28.12.04 there is no justification to release the applicant with the instruction to report at Gumti Electrical Division, Jatanbari, Tripura since the entire assets and liabilities of the said Division has already been transferred to Tripura State Electricity Corporation LTD. and as a result power of the Accountant General towards the maintenance and supervision of Accounts has already been seized w.e.f. 01.01.2005.

6. **Details of remedies exhausted.**

That the applicant states that he has exhausted all the remedies available to him and there is no other alternative and efficacious remedy than to file this application.

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

The applicant declares that he had filed O.A No. 89/04 before this Hon'ble Tribunal which was disposed of in favour of the applicant and M.P. No. 109/04 before this Hon'ble Tribunal which is pending for consideration before this Hon'ble Tribunal and further declares that no such 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 is pending before any of them.

8. Relief(s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

- 8.1 That the impugned order of transfer and posting issued under letter No. E.O. No. D.A Cell/120 dated 08.03.2004 be set aside and quashed so far the applicant is concerned.
- 8.2 That the Hon'ble Tribunal be pleased to set aside and quash the impugned order bearing letter No. DA Cell/Court Case/UNS/2004/1132 dated 18/19.11.2004.
- 8.3 That the Hon'ble Tribunal further be pleased to set aside and quash the Fax message containing order dated 24.12.2004 and release order dated 17.01.2005.
- 8.4 That the Hon'ble Tribunal be please to direct the respondents to allow the applicant to continue in the present place of posting at Pasighat Drilling Division I&FC or in any vacant Division as indicated above till his retirement on superannuation in terms of clause (f) and (g) of the transfer policy dated 19.04.2000 issued by the Comptroller and Auditor General, Govt. of India.

8.5 That the Hon'ble Tribunal be pleased to direct the respondents to treat the applicant as on duty w.e.f. 18.01.2005 till the date of reinstatement.

8.6 Costs of the application.

8.7 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 stay the operation of the impugned transfer and posting order dated 08.03.2004, letter dated 18/19.11.2004, impugned order dated 24.12.04 and release order dated 17.11.2005 in respect of the applicant till disposal of the Original Application.

10.

This application is filed through Advocates.

11. Particulars of the I.P.O.

i)	I. P. O. No.	: 209135637 .
ii)	Date of Issue	: 28.11.04 ,
iii)	Issued from	: S. Po. S. v. o o a h a t i ,
iv)	Payable at	: S. Po. S. v. o o a h a t i ,

12. List of enclosures.

As given in the index.

VERIFICATION

I, Shri Upendra Nath Sarkar S/o Late Late Radhanath Sarkar, aged about 57 years, working as Sr. Divisional Accounts Officer, Drilling Division, I & FC, Pashighat, 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.

27/4
And I sign this verification on this the 1 day of January 2005.

Upendra Nath Sarkar

~~ANNEXURE - I~~
REGISTERED POST

OFFICE OF THE ACCOUNTANT GENERAL (A&E) MEGHALAYA ETC.,
SHILLONG.

ANNEXURE - I

E.O. NO.DA CELL/85

Dated:- 10.10.2003

Smti Subithy Nandy, Sr.DAO Pasighat Drilling Division I&FC Pasighat, Arunachal Pradesh is transferred and posted in the same capacity to I&FC Division Itanagar vice Sri Upendra Nath Sarkar, Sr.DAO I&FC Division Itanagar, Arunachal Pradesh is withdrawn and posted in the same capacity to Pasighat Drilling Division I&FC with additional charge of Pasighat I&FC Division Pasighat, Arunachal Pradesh, with immediate effect.

Authority:- A.G.'s order at P/18th dated 30.10.2003 of file No.DA Cell/1-14/2001-02/Vol.III

Ans
Sr. Dy.Accountant General (Admn)

Memo No.DA Cell/1-14/2001-02/Vol.III/1060-68

Dated:- 10.10.2003

Copy to:-

1. Chief Engineer, Irrigation and Flood Control Department, Govt. of Arunachal Pradesh, Itanagar.
2. Executive Engineer, Irrigation and Flood Control Division, Itanagar, Arunachal Pradesh for information and necessary action. The date of release of Shri Sarkar, Sr.DAO from the division and joining of Smti Subithy Nandy, Sr.DAO in the division may please be intimated to this office early.
3. Executive Engineer, Pasighat Drilling Division I&FC Pasighat, Arunachal Pradesh is requested to release Smti S.Nandy, Sr.DAO to enable her to join in a new place of posting and date of joining of Shri Sarkar may be intimated to this office.
4. Smti Subithy Nandy, Sr.DAO, Pasighat Drilling Division I&FC Pasighat, Arunachal Pradesh for information
5. Shri Upendra Nath Sarkar, Sr.DAO I&FC Division Itanagar, Arunachal Pradesh and to intimate the date of joining in the new place of posting at an earliest.
6. The Executive Engineer, I&FC Division Pasighat, Arunachal Pradesh.
7. E.O. File.
8. P.C. File.
9. S.C. File.

Done by
11/10/03
Sr. Accounts Officer,
H/c DA Cell

To

The Sr. Dy. Accountant General (Admn)
O/O A.G (A&E) Meghalaya etc.
Shillong.

(Through proper channel)

Sub :- Representation for re-consideration the transfer.

Ref :- Memo No. DACELL/1-14/2001-02/Vol-III/1060-68
Dtd. 5/11/03.

Sir,

With humble request I beg to lay following lines for sympathetic consideration at your end.

That sir, I am suffering from Diabetic and Hypertension since last 15 Years. At present I am under the treatment of Dr. N. Saikia, Associated Professor of Endocrinology of Guwahati Medical College since Feb' 2002 and I have to visit to Guwahati frequently at least four times in a Year for my treatment.

That sir the transfer for Pasighat is a shock to me when I received the order since it is very far from Guwahati and my health condition as very poor at present and does not permit me to perform long journey.

I am to state that I am due for retirement in April' 2007 that is just after 3 Years. This will be my last tenure of posting.

Sir, in view of above I servently request for reconsideration of my transfer to any Division within capital complex of Itanagar for this last tenure and to save my life from agony. The doctors prescription of Guwahati Medical College from Feb' 2002 to till date are enclosed for sympathetic consideration at your end.

Yours faithfully,

K. Sarker
(U.N. Sarker JSR.DAO
IGFC-Division,
Itanagar.

Date 10.11.03

OFFICE OF THE ACCOUNTANT GENERAL (A & E) : MEGHALAYA ETC.,
SHILLONG :: 793001.

E.O No.DA CELL/1167

Dated 24-11-2003.

The representation dated 19th November 2003 of Shri U.N.Sarkar Sr.D.A.O. I & F.C. Division Itanagar Arunachal Pradesh regarding retention in the same division has been considered, but not agreed to. Shri Sarkar is directed to report to the Executive Engineer, Pasighat Drilling Division, I & F.C. Pasighat, Arunachal Pradesh with additional charge of I & F.C. Pasighat, A.P. immediately as per order vide this office letter E.O. No. D.A.Cell/85 dated 5-11-2003.

The transfer is in public interest.

Authority :- Sr.D.A.G (Admin)'s order dated 21-11-2003 at p/20 n of file
No.D.A.Cell/1-14/2001-2002/Vol-III/

Sr. Deputy Accountant General(Admin)

24 NOV 2003

Memo No.D.A. Cell/1-14/2001-02/Vol -III/1168-1173

Dated 24-11-2003

Copy forwarded for information and necessary action to :-

1. The Chief Engineer, Irrigation & Flood Control Department, Govt of Arunachal Pradesh, Itanagar.
 2. The Executive Engineer, Pasighat Drilling Division, I & F.C. Pasighat, A.P. He is requested to intimation the date of joining of Shri U.N.Sarkar, Sr.D.A.O.
 3. The Executive Engineer, I & F.C. Division, Itanagar, A.P. to intimation the date of release of Shri U.N.Sarkar, Sr. D.A.O from the division.
 4. Shri U.N.Sarkar, Sr.D.A.O o/o the E.E. I & F.C. division, Itanagar to intimation the date of joining in the new place of posting at an earliest.

5. E.O. file
 6. P.C. file
 7. S.C. file

24 NOV 2003
 Sr. Accounts Officer
 i/c D.A. Cell.

(Through proper channel)

Dtd. 3/12/03

To

**The Sr. Deputy Accountant General (Admin)
Office of the A.G. (A&E)
Meghalaya etc. Shillong.**

Sub:-

Representation for reconsideration of Transfer.

Ref:-

Your memo No.DA. all /1-14/2001-02 Vol-III/1168-73, Dtd. 24/11/03

Sir;

With due respect, I beg to state as follows.

1

That Sir, I am suffering from Diabetic mellitus since last 15 years followed by hyper tension and I have to consult with my physician at Guwahati normally at an interval of two months regularly. The condition of my health is very weak and I have been advised to my physician not to perform long journey.

2.

That Sir, I am due for retirement in April'2007 and this will may be my last tenure of posting.

Considering all above I requested you to reconsider my posting to any division in capital complex of Arunachal Pradesh vide my letter dtd. 19/11/03 which was not considered by mentioning that "retention in the same division is not agreed to", as communicated vide your memo no. as mentioned above. In this connection it is stated that I requested you to post me in any division in capital complex, but I never request you for retention in the same division.

Under the circumstances, I fervently again request you for reconsideration of my transfer to any division in capital complex for this last tenure and to save my life from agony.

Yours faithfully,

(U.N. Sarkar) Sr. DAO,
I&FC Division: Itanagar.

Advance copy to:-

1. The Sr. DAG (Admn), O/O the AG (A&E) Meghalaya, Shillong for early action.

(U.N. Sarkar) Sr. DAO,
I&FC Division: Itanagar.

GOVERNMENT OF ARUNACHAL PRADESH
OFFICE OF THE EXECUTIVE ENGINEER I&FC, DRILLING DIVISION
:: PASIGHAT ::

NO. IFC/Drilling/IF-83/2004-05/
Dated: Psg, the 31th/1/2004.

To:

The Accountant General (A & E)
Meghalaya Arunachal Pradesh
DA Cell.
3-H.T.L.O.N.G.

Sub:- Joining Report of Sri U.N. Sarkar, Sr. DAO

Ref:- Order No. DA Cell/65 dtd. 5th/Nov'2003.

Sir,

It is to inform you that Sri U.N. Sarkar, Sr. DAO has joined under the establishment of the Executive Engineer I&FC, Drilling Division, Pasighat on dtd. 28/1/2004 (F/N) Vide Order No. under reference.

This is for favour of your information and necessary action please.

Yours faithfully,

(Mr. V.N. PALIY)
Executive Engineer
I&FC, Drilling Division
: Pasighat :

Memo NO. IFC/Drilling/IF-83/2004-05/486-88 Dtd: 31/1/2004.

Copy to:-

1. The Chief Engineer I&FC, MP Deptt, Itanagar for favour of information please.
2. The Superintending Engineer, I&FC, Circle Itanagar for favour of information please.
3. Office Copy.

403 31-1-04
Executive Engineer
I&FC, Drilling Division
:: Pasighat ::

OFFICE OF THE ACCOUNTANT GENERAL (A&E) MEGHALAYA ETC., SHILLONG.

E.O. No. D.A. Cell/120

Dated:- 8-3-2004

The following Sr. Divisional Accounts Officers and Divisional Accounts Officer Grade-I & II are transferred and posted to the Divisions noted against each as shown below.

They are requested to submit their handing over memorandum to their Divisional Officers under intimation to this office.

The Divisional Officers/Controlling Officers are requested to release the Officials concerned falling under them latest by 9th April 2004 under intimation to this office and to forward a formal letter and taking over charge report of the officials concerned to this office at an early date.

The transfer is in public interest.

SL No	Name & Designation	Present Division	Division Transfer to	REMARKS
1.	Shri P.C.Borah, Sr.DAO	O/o the Ex.Engineer, Gumti Electrical Division Jatanbari, Tripura, Addl.charge of Gumti Civil Division (Power) Jatanbari	O/o The Executive Engineer, Pasighat Drilling Division, I& FC, with addl. Charge of Pasighat I&FC Division, Pasighat vice Shri U.N.Sarkar, Sr.DAO	Shri P.C.Borah will move first to release Shri Sarkar.
2.	U.N.Sarkar, Sr.DAO,	O/o the Ex. Engineer Pasighat Driling Division, I&FC, with addl. charge of Pasighat I&FC, Division,Pasigaht	O/o the Ex. Engineer Gumti Electrical Division, Jatanbari, Tripura, with additional Charge of Gumti Civil Division, (Power), Jatanbari, vice Shri P.C.Borah	
3.	A.Pharami, DAO-I,	O/o the Ex.Engineer Gas Thermal Civil Division (Power), Rokia, Tripura, addl. charge of Gas Thermal (Elect.) Division, Rokia.	O/o the Ex. Engineer Building Project Division No.IV PWD, Imphal, vice L.Shanti Kumar Singh, DAO-I	Shri Pharami will move first to release Shri L.Shanti Kr. Singh.
	L.Shanti Kumar Singh, DAO-I	O/o the Ex.Engineer Building Project Division No.IV PWD, Imphal	O/o the Ex. Engineer Gas Thermal Division, (Power) Rokia, Tripura, Addl.Charge of Gas Thermal (Electrical) Division Rokia. Vice A.Pharami.	

5.	L.Thoiba Singh, DAO-I	O/o The Ex.Engineer Agartala Division No.V, PWD, Agartala.	O/o The Ex. Engineer Imphal Electrical Division No.III Manipur vice Shri N.Kumarjit Singh, DAO-I	Shri L.Thoiba Singh will move first to release Shri N.Kumarjit Singh.
6.	N.Kumarjit Singh, DAO-I	O/o The Ex. Engineer Imphal Elect. Division No.III, Imphal	O/o The Ex. Engineer Agartala Division No.V, PWD, Agartala vice Shri L.Thoiba Singh.	
7.	Bhabesh Chakraborty, DAO-I	O/o The Ex.Engineer Ziro Elect Division A.P.	O/o The Ex.Engineer Electrical Divn No.IV Udaipur vice M. Sanajoaba Singh already transferred	
8.	Anindya Kr. Das, DAO-II	O/o The Ex.Engineer RWD Seppa, A.P.	O/o The Ex.Engineer Ziro Electrical A.P. vice Bhabesh Chakraborty, DAO-I transferred	Shri Anindya Kr.Das will move first to release Shri B.Chakraborty.
9.	D.Roy Choudhury, Sr.DAO	O/o The Ex.Engineer Capital 'A' Division, PWD, Itanagar'	O/o Chief Engineer, PWD Imphal, with additional charge of Building Division No.I PWD Imphal, vice Shri M.Heramani Singh, DAO-II	
10	M.Heramani Singh, DAO-II	O/o the Chief Engineer, PWD Imphal and additional charge Building Divn No.I PWD Imphal	Capital 'A' PWD, A.P. vice D.Roy Choudhury transferred	Shri M.H.Singh, will move first to release Shri D.Roy Chouhdhury
11.	A.Kanungoe, DAO-I	O/o The Ex.Engineer Paisghat Electrical Division, Pasighat, AP	O/o The Ex.Engineer Highway South PWD, Imphal, Vice Shri A.Binode Kr. Sharma, DAO-I	
12.	A.Binode Kr. Sharma, DAO-I	O/o The Ex.Engineer Highway South PWD, Imphal	O/o The Ex.Engineer Pasighat Elect Divn A.P. Vice A.Kantungoe,DAO-I	Shri A.Binode Kr.Sharma, will move first to relese Shri A.Kanungoe.
13.	D.Khamzachin, DAO-II	O/o The Ex.Engineer N.H. No.II PWD Imphal additional charge N.H. Divn No.I PWD,Imphal	O/o The Ex.Engineer Rig Divn PHE, Agartala vice P.C.Das, Sr.DAO	Shri D.Khamzachin will move first to release Shri P.C.Das
14.	P.C.Das, Sr.DAO	O/o The Ex.Engineer Rig Divn PHE Agartala	O/o The Ex.Engineer N.H. No.II PWD Imphal additional charge N.H. Divn No.I PWD,Imphal	

15.	A.Halo, Sr.DAO	O/o The Ex. Engineer Banderdewa PWD, A.P.	O/o The Ex. Engineer Jairampur PWD A.P. vice K.C. Das, DAO-I relieved of additional Charge.	
16.	D.B.Choudhury Sr.DAO	O/o The Ex.Engineer I&FM Divn No.II Agartala	O/o The Ex.Engineer Imphal Elect Divn No.I vice L.Shamjai Singh, DAO-I	
17.	L.Shyamjai Singh, DAO-I	O/o The Ex.Engineer Imphal Elect Divn No.I	I&FM Divn No.II Agartala vice D.B. Choudhury, Sr.DAO	Shri L.Shyamjai Singh will move first to release Shri D.B.Choudhury.
18.	D.N.Mohan, DAO-I	O/o The Ex. Engineer Seppa PHE, A.P.	O/o The Ex. Engineer Changlang PWD vice K.C.Das, DAO-I	Shri D.N. Mohan will move first to release Shri K.C.Das
19.	K.C.Das, DAO-I	O/o The Ex. Engineer PWD Changlang, AP	O/o The Ex.Engineer PHE Division No.IV, Agartala.	
20.	S.C.Ghosh, DAO-I	O/o The Ex.Engineer Tawang PWD,AP	O/o The Ex.Engineer Electrical Division No.III, Agartala.	
21.	J.P.Sinha, Sr.DAO	O/o The Ex.Engineer Roing RWD, A.P.	O/o The Ex.Engineer Tawang PWD, A.P. Vice S.C.Ghosh,DAO-I	Shri J.P.Sinha will move first to release Shri S.C.Ghosh.
22.	J.K.Lahiri, Sr.DAO	O/o The Ex.Engineer Pasighat PWD	O/o The Ex.Engineer Tawang Elect Divn vice N.C.Barman DAO-I	J.K.Lahiri will move first to release Shri N.C. Barman.
23.	N.C.Barman, DAO-I	O/o The Ex.Engineer Tawang, Elect. AP	O/o The Ex.Engineer Kailasahar PWD, vice Shri B. Chakraborty, Sr.DAO	
24.	Birajendu Chakraborty, Sr.DAO	O/o The Ex.Engineer Kailashahar PWD, Tripura	O/o The Ex.Engineer Northern Divn PWD Dharmanagar vice S.Nag, Sr.DAO	Shri B.Chakraborty will move first to release Shri S.Nag.
25.	Shyamalendu Nag, Sr.DAO	O/o The Ex.Engineer Northern Divn PWDDharmanagar	O/o The Ex.Engineer Thoubal PHE, with additional charge of PWD Thoubal Manipur vice P.Manglem Singh, Sr.DAO	
26.	P.Manglem Singh, Sr.DAO	O/o The Ex.Engineer Thoubal PHE Manipur with additional charge PWD Thoubal Divn. Manipur	O/o The Ex.Engineer Hayuliang Electrical A.P. Vice Swapan Kr. Chakraborty	P.Manglem Singh will release Shri S.Kr.Chakraborty

27.	Swapan Kr. Chakraborty, DAO-I	O/o The Ex.Engineer Hayuliang Electrical Divn A.P.	O/o The Ex.Engineer Electrical Divn I&FC PWD Imphal	
28.	Sajal Kanti Choudhury, DAO-I	O/o The Ex.Engineer Along RWD, A.P.	O/o The Ex.Engineer Building Divn IFC Imphal	
29.	Ashim Kr. Bhattacharjee, DAO-I	O/o The Ex.Engineer Khonsa PWD A.P.	O/o The Ex.Engineer Road Task Force Divn No.I PWD Imphal	
30.	Ch. Naba Kr. Singh, DAO-I	O/o The Ex.Engineer Task Force Divn IFC, Manipur	O/o The Ex.Engineer Khonsa PWD A.P, Vice A.K.Bhattacharjee	Shri Ch.Naba Kr. Singh will move first to release Shri A.K.Bhattacharjee
31.	O.Manihar Singh, DAO-I	O/o the Ex.Engineer, Roing PHE,AP	Churachandpur Electrical, Division Manipur	
32.	M.H.Angami, DAO-I	O/o The Ex.Engineer Bishnupur PWD, Manipur.	O/o The Ex.Engineer M.I. Division No.I (valley) Imphalpuit, Imphal	
33.	Abhijit Kr. Das, DAO-I	O/o The Ex.Engineer Elect Divn No.I, Agartala	O/o The Ex.Engineer Bomdila, P.H.E., Arunachal Pradesh	
34.	A.Roy Choudhury, DAO-I	O/o The Ex.Engineer Naharlagun PWD, A.P.	O/o The Ex.Engineer Imphal West I&FC, Vice H.Yaishkul Singh	
35.	H.Yaishkul Singh, DAO-I	O/o The Ex.Engineer Imphal West PHE, Manipur	O/o The Ex.Engineer Naharlagun PWD, A.P. Vice A.Roy Choudhury	Shri H.Yaishkul Singh will move first to release Shri A.Roy Choudhury.
36.	Hamendra Ch. Das, DAO-I	O/o The Ex.Engineer Basar PWD A.P. addl. Charge of Basar I&FC	O/o The Ex.Engineer Building Divn IFC PWD, Imphal	✓

(Authority:- AG's order dated 4.3.2004. at p/101th off No.DA Cell/2-36/99-2002/Vol.V)

Sd/-
Sr. Accountant General (Admn).

ANNEXURE VII

Annexure A

3

OFFICE OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA
NEW DELHI -110002

No. 394-NGE(APP)/11-2000

Dated 19.4.2000

To

All Pr. Accountants General/Accountant General
Dealing with the cadre of Divisional Accountants.

Sir/Madam,

The need to evolve some clearly defined norms and a uniform and transparent policy of transfer and posting of Divisional Accounts Officers/Divisional Accountant was being felt for sometime. Though transfer is an incidence of service of Divisional Accountant, it should be effected in such a way that it causes minimum inconvenience to the individuals and at the same time it fulfils the administrative requirements. It has, therefore, been decided to prescribe the following broad parameters for transfer and posting of Divisional Accounts Officers/Divisional Accountants which should be followed scrupulously and uniformly.

- (a) transfer and posting should normally be made once in a year and annual transfers should be timed properly so that these may not disturb the academic session.
- (b) list of Divisions likely to fall vacant during the year should be publicised well in advance.
- (c) Divisions should be properly graded by following the instructions issued in this regard from time to time and posting of officers should be made in the appropriately graded Divisions;
- (d) Option for posting in particular station(s) should be called for from the individuals and efforts should be made to accommodate the officers at the place of their choice, subject to availability of vacancy and on basis of seniority. The adverse comments given by the Inspecting Officer auditing the accounts of the Divisions, adverse remarks made by the Executive Engineers on the performance of the Divisional accounts Officers/Divisional Accountants which are finally substantiated and the performance in proper and timely submission of accounts may also be kept in view;

Certified to be true copy
S. P. Bhattacharya
Advocate

(e) a transfer Committee comprising the Group Officer In-charge of Works Accounts and two other Indian Audit & Accounts Department officers of the rank of Sr. Dy. Accountant General/Dy. Accountant General, to be nominated by the Pr. Accountant General/Accountant General should be formed to consider the case of transfer.

(f) tenure of posting should normally be three years in a particular Division and six years at a particular station;

(g) an officer should normally be allowed to serve the last three years of his service life at a place of his choice even if it results in his stay in the same place etc. beyond the normal tenure.

(h) a general order indicating transfers and postings of all officers should be notified in addition to individual posting orders that may be issued. Dispensation of the set norms could be made only in every exceptional circumstances, to be recorded in writing, on account of extreme personal circumstances which are quite distinguishable.

Yours faithfully,

Sd/-

Asstt. Comptroller and Auditor General (N)

Certified to be true
S. T. GUWAHATI BRANCH

Section Officer (S)
S. T. GUWAHATI BRANCH
Guwahati 781 001

CENTRAL ADMINISTRATIVE TRIBUNAL
RAJATI BENCH.

ORDER SHEET

Org.App/ Misc.Petn/Cont.Petn/ Rev.Appl. 89/2004

In O.A.

Name of the Applicant(s) Sri Bipendra Nath Sarkar

Name of the Respondent(s) C.I.O. I. B.M.

Advocate for the Applicant Mr. M. Chandi Mr. G.N. Chakrabarty

Counsel for the Railway/ C.S.C. Mr. S. Nath & Mr. S. Choudhury

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

8.4.2004; Present : The Hon'ble Mr. K.V. Prahladan, Member (A).



The applicant who is a Sr. Divisional Accounts Officer was transferred and posted at office of the Ex. Engineer Pashighat Driling Division, J&FC with additional charge of Pasighat I&FC, Division, Pasighat by order dated 5.11.2003. Only after completion of 2 months at Pasighat Driling Division, he was further sought to be transferred by order dated 8.3.2004 to office of the Ex. Engineer, Gumti electrical Division, Jatanbari, Tripura with additional charge of Gumti Civil Division, (Power), Jatanbari within a span of two months. Being aggrieved the aforesaid order the applicant approach this Hon'ble Tribunal.

Contd/-

8.4.2004 Heard Mr. M. Chanda, learned counsel for the applicant and also Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents.

Mr. Chanda, learned counsel for the applicant stated that the impugned transfer order is contrary to the transfer policy dated 19.4.2000. The applicant is also retiring within three years. In the circumstances, the case of the applicant is required to be reconsidered by the authority. Therefore, I direct the respondents to consider the case of the applicant as per transfer policy dated 19.4.2000 within two months from the date of receipt of this order. Till the completion of the aforesaid exercise the transfer order dated 8.3.2004 shall be kept in abeyance. So far the applicant is concerned.

The application is accordingly disposed of. No order as to costs.

Sd/MEMBER(ADM)

...Certified to be true Copy

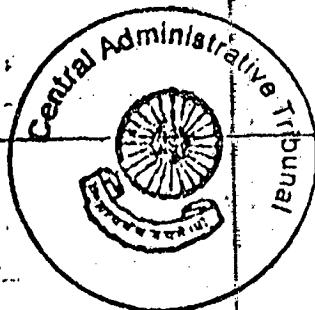
महाराजा अमिताली

Section Officer (S)

C.A.T. GUWALIATI BRANCH

Guwahati, Assam

16/8/04



Dated, Pasighat the 12th April'2004

To

*The Comptroller & Auditor General of India,
10 - Bahadur Shah,
Jafor Marg.,
New Delhi - 110 002.*

(Through Proper Channel)

**Sub:- Judgment and Order dated 08-04-2004 in O.A.No.89 of 2004 of
CAT, Guwahati; implementation of:-**

Sir,

Most humbly and respectfully, I beg to enclose herewith a copy of the judgment and order dated 08-04-2004 passed by the Hon'ble Central Administrative Tribunals (CAT) in O.A.No.89 of 2004 pertaining to the order No.E.O. No.DA Cell/120 dated 08-03-2004 issued by the Office of the Accountant General, Meghalaya etc. transferring me from Pasighat (Arunachal Pradesh) to Jatanbari in the State of Tripura (copy enclosed). The said judgment and order is self-detailed and in compliance with the said judgment, I beg to submit this representation and lay the following facts before your Honour for your kind and sympathetic considerations.

That Sir, pursuant to the transfer Order No.DA Cell/85 dated 05-11-2003 of AG, Meghalaya etc, Shillong, I joined on 28-01-2004 at Pasighat under Pasighat Drilling Division in Arunachal Pradesh as Sr. Divisional accounts Officer with additional charge of IFCD.

That after receipt of the transfer and posting order dated 05-11-2003, I have submitted a detailed representation on 19-11-2003 for review of posting order and prayed for posting at Itanagar or nearby places on the sole ground that I am retiring on superannuation during the year 2007 and only 3 years service is left in my credit, but unfortunately the said representation was rejected by the Sr. Dy. AG (Admn.) and directed me for immediate compliance of the order dated 05-11-2003. the undersigned accordingly joined at Pasighat under Pasighat Drilling Division with additional charge of Pasighat IFC only on 28-01-2004.

Copy of my posting order dated 05-11-2003, representation order 19-11-2003 and Senior DAG's letter dated 24-11-2003 are enclosed herewith for your ready reference.

That Sir, prior to my joining at Pasighat, I was working at Itanagar IFC Division and I was having some serious ailment and have been undergoing medical treatment at Itanagar.

That Sir, surprisingly within only 2 months of my joining at Pasighat, I have now been transferred again from Pasighat (Arunachal Pradesh) to Jatanbari (Tripura) under Order No.DA Cell/120 dated 08-03-2004 issued from the Office of the AG, Meghalaya etc., when I am in verge of retirement and left with only three years of service in my credit. As per transfer policy circulated from your end on 9th April'2000, the undersigned is entitled to a choice station posting at the fag end of my service career. However in compliance with the Senior DAG's transfer and posting order dated 05-11-2003, I have joined at Pasighat on 28-01-2004 when my representation was rejected on 24-11-2003 by the Sr. Dy. AG.

That Sir, my proposed transfer from Pasighat AP to Jatanbari, Tripura vide order dated 08-03-2004 is in utter violation of the transfer norms prescribed in your letter No.394-NGE (APP)/11-98 dated 19-04-2000 to the following counts:-

- (a) No option was taken from me prior to issuance of the above stated transfer order as required under clause (d) of your letter dated 19-04-2000.
- (b) Completion of Tenure of posting in a station / division prior to transfer as specified in clause (I) of your letter dated 19-04-2000 have also not been complied with. I have neither completed 6 years at my existing station i.e. Pasighat nor 3 years in the Division and have joined at Pasighat only 2 months back.
- (c) The directive as in clause (g) of your letter has also not been followed in spirit and I have now been transferred away from my place of posting, where I have joined only 2 months back, when I am left with only 3 years of service.
- (d) No reasons for deviation from the professcs norms have been recorded as required in terms of clause 2 of your letter dated 19-04-2000.

That Sir, my present transfer from Pasighat (A.P.) to Jatanbari (Tripura) is contrary to all the norms laid down by your Honour in your letter dated 19-04-2000 and as such is, arbitrary and violative of the transfer policy.

That Sir, I have a unmarried daughter at my home and my transfer to Jatanbari (Tripura) now will deprive me of discharging my parental care for settlement at this stage, which has become a matter of serious mental agony for me.

Under the circumstances stated above, I pray your Honour kindly to implement the Judgment of the CAT and be gracious enough to consider my case with utmost compassion and modify the said transfer order and allow me to continue at my existing station i.e. Pasighat till my retirement on superannuation and for this act of your fountains of Justice I shall remain ever grateful to you.

Enclo:-

1. Judgment and Order dated 08-04-2004
2. Earlier transfer and posting order dated 05-11-2003
3. Representation dated 19-11-2003
4. Rejection Order dated 24-11-2003
5. Copy of transfer Order dated 08-03-2004.

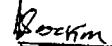
Yours faithfully,


(U.N. Sarkar)
Sr. DAO, IFCD, Drilling Division,
Pasighat, Arunachal Pradesh.

Dated:-12-04-2004

Advance Copy to:-

- i) The Comptroller & Auditor General of India, 10 - Bahadur Shah, Jafar Marg., New Delhi - 110 002 for favour of early information please.


Sr. DAO, IFCD, Drilling Division,
Pasighat, Arunachal Pradesh.

GOVERNMENT OF ARUNACHAL PRADESH
OFFICE OF THE EXECUTIVE ENGINEER:DRILLING DVN
IRRIGATION AND FLOOD CONTROL DEPARTMENT
FAST SIANG DISTRICT::PASIGHAT

No. IFC/Drilling/PF-82/2004-05

Dated, Pasighat the 12th April'2004

To

*The Comptroller & Auditor General of India,
10 - Bahadur Shah,
Jafor Marg.,
New Delhi - 110 002.*

Sub:-

Reconsideration of Transfer.

[Through the Accountant General (A&E) Meghalaya, Shillong]

Sir,

I am submitting herewith a representation received from Sri U.N.Sarkar, Sr. DAO for retention of his service under this Division on following mentioned genuine ground.

1. Sri Sarkar who is posted under this Division & join on 28th January'2004 is holding the dual charges of Drilling Division, as well as Civil Division of I&FC Department and managed the financial / accounts matter smoothly in proper manner.
2. Sri Sarkar is due for retirement on April'2007 and also suffering from diabetic mellitus & hyper tension & being regularly attended by the specialist of General Hospital Pasighat and Guwahati Medical College.

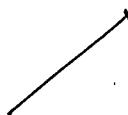
In the event of transfer of Sri Sarkar from Pasighat may effect smooth Govt. work of the two Divisions (Specially related to Accounts & Financial) and also disrupt his routine medical checkup and may effect his efficiencies also.

Keeping in view of the above genuinity, it is therefore requested to kindly consider for retention of service of Sri Sarkar under this Division.

Enclo:-

As above.

Yours faithfully,


(Er. V.N.Pandey)
Executive Engineer,
Drilling Division,
I&FCD: Pasighat.

Memo No. IFC/Drilling/PF-82/2004-05/

Copy to:-

1. Sri U.N.Sarkar, Sr. DAO for information.
2. Office Copy.

Dated:-12-04-2004

103/2-4/05
Executive Engineer,
Drilling Division,
I&FCD: Pasighat.

GOVERNMENT OF ARUNACHAL PRADESH
 OFFICE OF THE EXECUTIVE ENGINEER; DRILLING DVN
 IRRIGATION AND FLOOD CONTROL DEPARTMENT
EAST SANG DISTRICT: PASIGHAT

No. IFC/Drilling /PF-83/2004-05
 Dtd. Pasighat, the 10th Nov'2004.

To

**The Chief Engineer,
 Irrgn & Flood Control Deptt.,
 Govt. of Arunachal Pradesh,
 Itanagar-791111.**

Sub:- Transfer and posting of Sr.DAO thereof.

Ref:- No.SIFCD-51/2000/2008, dated Itanagar the 29th Oct'2004

Sir ,

I beg to narrate the happenings on the subject mentioned above as follows:-

1. Shri U.N.Sarkar, Sr.DAO joined in this Division on 28.1.04 and on 31.3.04 another transfer order issued by A.G. (A&E) Meghalaya Shillong Vide No.DA Cell/120, dtd.8.3.04 was received by this office wherein Shri Sarkar has been transfer and posted to Gumti Electrical Division, Jatanbari, Tripura, South. This was the busy period of closing of financial year and every body was busy for the purpose leaving all other aspects as less important as per general norm.

On 9.4.04 an order No.89/2004, dated 8:4.04 of Hon'ble CAT, Guwahati was received (copy enclosed) wherein the A.G. was directed by the Hon'ble CAT to reconsider the case of Shri Sarkar within two months and till the completion of aforesaid exercise the transfer order dt. 8.4.04 has been kept in abeyance in respect of Shri Sarkar. The A.G. did not paid heed to the Hon'ble CAT's order resulting delay in settlements of the case.

2. On 25.10.04 Shri Probin Chandra Bora, Sr.DAO, came to Pasighat and submitted his joining report (copy enclosed) to this Division and left Pasighat on 27.10.04 (it is understood). From April'04 to 25.10.04 no communication was received from either side. In this circumstances the question of non acceptance of joining report of Shri Bora before 15.10.04 does not arise at all and hence the contention of Para-2 of A.G's letter dt.15.4.04 is far from the factual events.

3. What have been stated above, it may be seen that the happenings so developed is quite normal and natural way as per procedure and legal aspect of law and there is no other way left behind to think otherwise at any level and at any state. In this

connection another order of the Hon'ble CAT No.109/04 dt.26-10-04 on this issue is enclosed herewith for further information and necessary action please.

As the transfer order dt.8.3.04 has been kept abeyance by the Hon'ble CAT, Guwahati vide No.89/2004, dt. 8.4.04 and read with no.109/04 dt. 26-10-04 and so long the CAT orders are in force it will not be worthwhile to release Sri Sarkar.

Further instructions in this regard is solicited please.

Enclo:-

As above.

Yours faithfully,

(Er.V.N.Pandey)
Executive Engineer,
Drilling Division,
I&FCD: Pasighat.

4B

FORM NO. 4
(SEE RULE 42).CENTRAL ADMINISTRATIVE TRIBUNAL
GUJARATI BENCHORDER SHEET.

Org. App/Misc. Petn/Cont. Petn/Rev. App..... 109/04.....

In O.A. 89/04

Name of the Applicant(s) Supendra Nath sarkarName of the Respondent(s) U. O. T. Tong.Advocate for the Applicant M. Chanda, C.N. Chakrabarty, S. Nath

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

OFFICE NOTE	DATE	ORDER OF THE TRIBUNAL
	26.10.2004	<p>Heard Mr.M.Chanda, learned counsel for the applicant.</p> <p>Issue notice to the respondents to show cause as to why the M.P. shall not be admitted. List after two weeks.</p> <p>List on 24.11.2004. In the mean while interim order passed dated 8.4.04 passed in O.A.89/2004 shall continue till the next date.</p>
24.11.04.	BB	<p>Present: Hon'ble Mr.K.V.Prahladan, Administrative Member.</p> <p>List the matter on 16.1.05 for orders. Status quo shall be maintained.</p>

Sd/MEMBER(ADM)

24.11.05
S. Nath
Supendra Nath sarkar
Central Administrative Tribunal
Guarati Bench
Mumbai
Mumbai 400 001
Maharashtra
India

u9

Speed Post

**OFFICE OF THE ACCOUNTANT GENERAL ((A&E) MEGHALAYA ETC.,
SHILLONG.**

No. DA Cell/Court Case/UNS/2004/1132

19 NOV 2006
Dated:- 18.11.2004

To

Shri Manik Chanda
Advocate,
Bye Lane- 7, Lachitnagar,
Guwahati- 781 007.

Sub:- Transfer of Shri U.N.Sarkar, Sr.DAO

Sir,

I am to invite a reference to the notice dated 15-10-2004 served for non-compliance of the order of the Hon'ble Central Administrative Tribunal dated 8.4.2004. As per order of the Hon'ble Tribunal dated 8.4.2004, the case of Shri U.N.Sarkar was considered but not agreed to. In this connection it may be stated that Shri U.N.Sarkar had served in the state of Arunachal Pradesh for more than 13 years. In the interest of public service and also keeping in view of Headquarters' guidelines dated 19.4.2000, his transfer to Tripura is therefore found to be justified, in order and still stands.

Yours faithfully,

Sr. Dy. Accountant General (Admn)

50

(THROUGH FAX MESSAGE)

TO :: EE :: IFCD :: (DRILLING) PASIGHAT
 FR :: CE :: IFCD :: ITANAGAR

NO. IFC/1/105/95 DTD. 24TH DECEMBER '2004 IN PURSUANCE OF GOVT.
 U.O. NO. SIFCD-05/2003 (GENERAL)/199 DTD. 17.12.2004 AND AG SHILLONG
 LETTER NO DA CELL/ANNUAL TRANSFER/2002-03/1617 DTD. 16/12/2004 (COPY
 ENCLOSED) RELEASE SHRI U. N. SARKAR SR. DAO TO REPORT HIS NEW
 PLACE OF POSTING (:)

dd
 24/12/04

EXECUTIVE ENGINEER (HQ)
 For Chief Engineer
 IFCD: Itanagar

Memo No. IFC/1/105/95

Dated Itanagar the 24th December '2004

Copy to :-

1) The Secretary (IFCD) Itanagar for information please.

Copy by post in confirmation:

The Executive Engineer, Irrigation and Flood Control Division (Drilling),
 Pasighat for information and further necessary action please.

URGENT

File
on file

28/12/04

U.D.C.
Put up pl
28/12/04

dd
 24/12/04

EXECUTIVE ENGINEER (HQ)
 For Chief Engineer
 IFCD: Itanagar

GOVERNMENT OF ARUNACHAL PRADESH
 OFFICE OF THE EXECUTIVE ENGINEER: DRILLING DIVISION
 IRRIGATION AND FLOOD CONTROL DEPARTMENT
PASIGHAT

No.IFC/Drilling/PF.83/2004-05/

Dated:- 17th Jan'2005

ORDER

In pursuance of Govt. of Arunachal Pradesh, Itanagar U.O.No.SIFCD-05/2003(General)/199, dated 17.12.04 and CE,IFCD, Itanagar WT Message No.IFC/1/105/95/9077, dated 13.1.05 and AG(A&E) Shillong vide Order No.DA Cell/120, dated 8.2.04 and letter No.D.A.Cell/Annual Transfer/2002-03/1617, dated 16.12.04, Sri U.N.Sarkar, Sr.DAO is hereby released from this establishment w.e.f. 17.1.2005 (A/N) to enable him to join at his new place of posting, under the Office of Executive Engineer, Gumti Electrical Division, Jatanbari, Tripura.

Sd/-

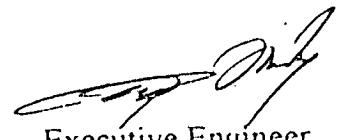
Er.D.K.Padung
 Executive Engineer
 Drilling Division,I&FCD
Pasighat

Memo No.IFC/Drilling/PF.83/04-05/64/46

Dated:- 17th Jan'2005

Copy to:-

1. The Accountant General(A&E) Shillong for favour of information please.
2. The Chief Engineer,I&FCD,Itanagar for favour of information please.
3. The Executive Engineer, Gumti Electrical Division, Jatanbari, Tripura for information and necessary action please.
4. The Executive Engineer, I&FC Division, Pasighat for information and necessary action please.
5. Sri U.N.Sarkar, Sr.D.A.O., for information & necessary action please.
6. Pay Bill Section, Local. LPC of the Officer may be issued accordingly.
7. Office Copy/Spare Copy.


 Executive Engineer
 Drilling Division,I&FCD
Pasighat

OPERATIONALISATION OF TRIPURA STATE ELECTRICITY CORPORATION LIMITED (TSECL) - ORDER ISSUED

POWER DEPARTMENT

G.O. No. 1

(File No. 10(326)-CEE/Pr-II-2004(S) /594-654

Dated : December 28 , 2004.

Read : G.O. No. 1(3)-CAB/2004, dated December 24, 2004.

(File No. 10(326)-CEE/Pr-II-2004(S)

ORDER

Tripura State Electricity Corporation Limited (TSECL) has been constituted and registered as a public limited company. It has been decided that the Tripura State Electricity Corporation Limited (TSECL) will start functioning from January 1, 2005.

To make the corporation functional, Governor of Tripura, in exercise of power conferred by sections 131 and 133 of the Electricity Act 2003 and all other enabling powers in this respect, is pleased to lay down the following arrangements for functioning of the Tripura State Electricity Corporation Limited (TSECL).

- (a) For the financial year 2004-05, revenue received from sale of electricity will be credited to Revenue Head of Government of Tripura. This arrangement will continue till March 31, 2005.
- (b) Salary bills of all employees will be drawn from Treasury till March 31, 2005.
- (c) In case of Plan and Non-salary expenditure money will be placed to the corporation in lumpsum to meet day today expenditure.
- (d) Plan fund allotted by Finance Department and not spent by Power Department shall be accounted for and centrally drawn by Power Department and placed with Corporation for implementation of plan schemes.
- (e) All employees of Power department are deputed to Tripura State Electricity Corporation Limited (TSECL) without any deputation allowances. Service condition of these employees

-44-

all concerned to be governed by rules and regulations by
which were governed as on December 31, 2004.

(i) Tripura State Electricity Corporation Limited (TSECL) and Power Department will prepare a transfer scheme for assets and liabilities and personnel of power department alongwith financial restructuring plan at the earliest.

(ii) Operational control of all assets relating to generation, transmission & distribution and its allied activities is transferred to Tripura State Electricity Corporation Limited (TSECL).

This order will be effective from January 1, 2005.

28/12/04
(S.K. Rakesh)
Secretary, Power.
Government of Tripura

To
The Chairman and Managing Director, Tripura State Electricity Corporation Limited (TSECL), Tripura, Agartala.
The Chief Engineer (Electrical), Department of Power.

Copy to :

1. The Secretary to the Governor, Tripura, Agartala.
2. The Secretary to the Chief Minister, Tripura, Agartala
3. Office of the Vice Chairman, State Planning Board, Tripura, Agartala.
4. Office of the Ministers, Tripura, Agartala
5. Office of the Chief Secretary, Tripura, Agartala.
6. The Accountant General, Tripura, Agartala.
7. Office of the Chairman, State Electricity Regulatory Commission (SERC), Tripura, Agartala.
8. Principal Secretary / All Commissioner / Secretary, Govt. of Tripura, Agartala.
9. All Head of Departments, Tripura, Agartala.
10. All Treasury Officers / Sub Treasury Officers, Tripura

28/12/04
(S.K. Rakesh)
Secretary, Power.
Government of Tripura

No.UNS/Transfer/Posting/2004-05
Dated:- 05.01.05

To

Shri R.N.Tripathy,
Secretary General,AIF,
DA/DAO's Association,
53-C/12-D Pt. Motilal Nehru Road,
Belvedere Press Compound,
Allengarh, Allahabad - 211002.

Sub:-

Implementation of the Judgment of Hon'ble CAT, Guwahati.

Dear Comrade,

I am enclosing herewith a copy of my representation dt. 12.4.04 addressed to Hon'ble C&AG of India on the subject mentioned above which is self explanatory, but nothing have been heard on the issue as yet.

To this it is stated that the Accountant General (A&E) Meghalaya etc. Shillong neither has complied the order of the Hon'ble Cat, nor filed writ petition against the order but to create pressure on the local administration for my relief wrote a letter vide no.DO Cell/Annual Transfer/2002-03/956, dt.15.10.04 (copy enclosed) to Shri Ashok Kumar, Chief Secretary, Govt. of Arunachal Pradesh. The Chief Secretary asked my Executive Engineer to furnish the factual happenings as developed and my Executive Engineer furnished the details in this regard. Further instructions yet to be received from the Chief Secretary.

Meanwhile the AG(A&E) wrote another letter vide DO No.DA Cell/Annual Transfer/2002-03/1017, dt.16.12.04 addressed to Shri Otem Dai, Financial Commissioner to the Govt. of Arunachal Pradesh (copy enclosed) to relieve me immediately. In consequence of which my Executive Engineer has been instructed by the Chief Engineer, I&FCD Itanagar vide Fax Message dt.24.12.04(copy enclosed) to relieve me although the date of next hearing of my case 89/04, dt.8.4.04 has been fixed on 15.1.05 in the court of Hon"ble CAT, Guwahati.

It is further stated that AG(A&E) Meghalaya etc. Shillong wrote a letter to Shri Manik Chanda, my advocate (copy enclosed) in reference to the notice dt.15.10.04 for non-compliance of the order of Hon"ble CAT, dt.8.4.04 mentioning as the case of Sri U.N.Sarkar had served in the State of Arunachal Pradesh for more than 13 years. In the interest of the public service and also keeping view of Headquarters guidelines dt. 19.4.2000, his transfer to Tripura is therefore found to be justified in order and still stands.

In this connection it is stated that from 12/74 to 8/78, I served in same Jatanbari, the most interior place of Tripura in the same Civil and Electrical Division. Again from 4/82 to 10/88, I was posted in Agartala Division IV and Agartala Electrical Division. Thus I completed 4 tenures in Tripura, but the fact has not been mentioned in the letter. Moreover, no where it is mentioned that maximum period of service can be rendered in a particular State and no State has

been declared as Superior/Inferior and some are allowed to serve more than 20/25 years also in a particular State.

From the facts mentioned above, it may be seen that no solid and justified grounds are available against my transfer order dt.8.3.04 in support of Transfer Policy, except the will of the Authority the reasons of which are best known to him, resulting mental tension, financial sufferings since last one year though only 2 years of service is left behind at my credit.

It is further stated that Tripura Electricity Corporation Ltd. comprise of all Electrical Wings of the State has been constituted which registered as a Public Company and started functioning w.e.f. 1.1.05 vide order No.F10(326-CEE/P.2/2004(s)/2594-654, dt.28-12-04 in consequence of which services of DA/DAO from AG's side no longer is required there and my posting in Gumti Electrical Divisions, Jatanbari is required to be reconsidered.

Under the circumstances, I request you to take up the matter with Hon'ble C&AG of India for implementation the judgment of the Hon'ble CAT, Guwahati, so that I may be posted in Capital Divisions "A", Itanagar, Electrical Division Naharlagun, PW Division Roing, RWD Roing, Electrical Division Roing as Shri T.D.Ghose, DAO-I will be retired on superannuation on 31.01.2005 from Roing Electrical Division to enable me to serve my last 2 years of service. I will be grateful if you will take up the matter.

Sincerely Yours,

Dated:- (U.N.Sarkar)
Sr.D.A.O.,
I&FC Drilling Division
Pasighat.(A.P.)

7 JUN 2005

গুৱাহাটী বৰ্ষান্বিত
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI.

IN THE MATTER OF

IN O.A. NO. 20/2005

UPENDRA NATH SARKAR

*Filed by:
Anup Kumar Choudhury
16/6/05*

APPLICANT

VERSUS

THE UNION OF INDIA & OTHERS

RESPONDENT

WRITTEN STATEMENT.

The humble Respondent No.4 submits the Affidavit in opposition on behalf of Respondent No.2, 3 and 6 as follows:

1. That with reference to the Statements made in the Paragraphs 4.1. & 4.2 of the application, the Respondent humbly submits that he has no comments to offer.
2. That with reference to the statement made in the paragraph 4.3 of the application the Respondent No.4 humbly submits that the applicant has accepted the terms of his appointment order at para 9 that " He /She will be liable to serve anywhere in Assam, Arunachal Pradesh, Nagaland, Tripura, Manipur and Meghalaya and Mizoram, i.e. anywhere under the audit jurisdiction of the A.G. Assam, Meghalaya, Nagaland etc., inclusive of his own office".

Copy of the Appointment order No.WMI/5-1/69-70/4390 dated 18.1.1973 – is enclosed as Annexure -I.

3. That with reference to the statements made in the paragraph 4.4. & 4.5. of the application, the Respondent No.4 humbly submits that he has no comments to offer.

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C. A. T.
Guwahati
Addl. Central Govt. Standing Counsel

4. That with reference to the statements made in the paragraph 4.6. & 4.7 4.8. & 4.9 of the application the Respondent No.4 humbly submits that he has no comments to offer.
5. That with reference to the Statement made in Paragraph 4.10 of the Application, the Respondent No.4 humbly submits that the meeting of the Annual Transfer Committee is generally held during the month of January/February every year and the cases of Divisional Accountants/ Divisional Accounts Officers who have completed or due to complete 3(three)years or more period of service in the same division are placed before the Transfer Committee for consideration of their transfer. Accordingly transfer orders are issued to the Sr. Divisional Accounts Officers / Divisional Accounts Officers Grade I and Grade II in the interest of public service. It is well settled in law that transfer is an incidence of service and the scope of judicial review in transfer is limited to the extent that a transfer order is liable to be challenged only if it is malafide, made for extraneous consideration and / or is arbitrary. Individual personal problems have no relevance and have to be considered by department, and not by courts (Shilpa Bose Vs State of Bihar AIR 1991 SC 532). Reliance is also placed on the judgement of the Supreme Court in NHPC Vs Shri Bhagwan (2001) 8 SCC 574, SBI Vs Anjan Sanyal (2001) 5 SCC 508 and Public Services Tribunal Bar Association Vs State of U.P.(2003) 4 SCC 104.
6. That with reference to the statements made in the paragraphs 4.11. & 4.12 of the application the Respondent No.4 humbly submits that he has no comments to offer.
7. That with reference to the statements made in the paragraphs 4.13 & 4.14 of the application the Respondent No.4 humbly submits that, based on the orders of the Hon'ble Tribunal dated 8.4.2004 passed in O.A No.89/2004, the case of the Applicant was reconsidered by the Competent Authority but could not be acceded to as because the Applicant had served more than 13 years in the state of Arunachal Pradesh. Further as per para 9 of the appointment order, which was accepted by the applicant, the applicant is liable to serve anywhere in

Assam, Arunachal Pradesh, Nagaland, Tripura, Manipur and Meghalaya and Mizoram, inclusive of his own office.

8. That with reference to the statement made in the paragraph 4.15 & 4.16 of the application the Respondent No.4 humbly submits that he has no comments to offer.
9. That with reference to the statement made in the paragraph 4.17 of the application the Respondent No.4 humbly submits that, the Written Statement in M.P. No.109/2004 in O.A.No.89/2004 was forwarded to the Standing Counsels for submission to the Hon'ble Court. However, the Hon'ble Tribunal's order dated 16.2.2005 passed in M.P.No.109/2004 in O.A. No.89/2004 has mentioned that " there is no justification to keep the present M.P. pending, particularly when the said order dated 17.1.2005 has been stayed, in the aforementioned O.A. Accordingly the MP is disposed of."

Copy of the Hon'ble Tribunal's order dated 16.2.2005 is enclosed as Annexure-II

10. That with reference to the statements made in the para 4.18 of the Application the Respondent No.4 humbly submits that, the Hon'ble Tribunal's Order dated 8.4.2004 was received in this office and given top priority to consider the Applicant's case, but due to some unforeseen and unavoidable administrative reasons beyond our control, the decision could not be taken within the stipulated time. Meanwhile, a notice dated 15.10.2004 received from the Applicant's lawyer regarding case in question. By that time, the case was considered and the decision on the matter was communicated to Petitioner's Lawyer vide this office letter No.DA Cell/Court Case/UNS/2004/1132 dated 18.11.2004, in compliance with the Hon'ble Tribunal's order dated 8.4.2004.

Copy of letterNo.DACell/CourtCase/UNS/2004/1132 dated 18.11.2004 – is enclosed as Annexure -III.

11. That with reference to the statement made in the paragraphs 4.20 & 4.21 of the Application, the Respondent No. 4 humbly submits that he has no comments to offer.
12. That with reference to the statement made in the paragraphs 4.22 of the Application, the Respondent No. 4 humbly submits that,

in para No.3 of Miscellaneous Petition No.109/2004 in OA No.89/2004 , the Applicant had requested for consideration to accommodate him in any of the following divisions in Arunachal Pradesh :-

1. Miao Electrical Division
2. Deomali Electrical Division
3. Deomali I&FCD
4. Changlang RWD
5. Changlang PHED
6. Namsai PHED

As his first choice was Miao Electrical Division, in partial modification of the transfer order E.O.No.DA Cell/120 dated 8.3.2004 and in supercession of all earlier orders in connection with transfers & postings of DAs, this office has sympathetically considered his case and transferred and posted him to the O/o the Executive Engineer, Miao Electrical Division, Department of Power,Miao,Arunachal Pradesh, which was his first choice of posting as Sr. Divisional Accounts Officer. As the case of the Petitioner has already been considered and he has been posted according to his first choice of posting, i.e, in the O/o the Executive Engineer, Miao Electrical Division, Department of Power,Miao,Arunachal Pradesh, the Respondent has taken all necessary steps to mitigate the grievance of the Applicant.

(MP No.109/2004 in OA No.89/2004 – Annexure IV

& E.O.No.DA Cell/5 dated 5.5.2005 – Annexure V)

13. That with reference to the statement made in paragraph 4.23 of the application , the Respondent No.4 humbly submits that he has no comments to offer.
14. That with reference to the statement made in the paragraph 4.24 of the Application, the Respondent No. 4 humbly submits that, no formal communication has been received from the Govt. of Tripura, regarding conversion of Department of Power in to Tripura State Electricity Corporation Ltd., and services of the Sr.DAOs/DAOs & DAs in the corporation body is not required.
15. That with reference to the statement made in the paragraphs 4.25 & 4.26 of the Application, the Respondent No. 4 humbly submits that,

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the Respondent has taken all necessary steps to mitigate the grievance of the Applicant and sympathetically considered his case by posting him to the O/o the Executive Engineer, Miao Electrical Division, Department of Power, Miao, Arunachal Pradesh, which was his first choice of posting as Sr. Divisional Accounts Officer.

16. That with reference to the Statements made in paragraphs 5, 6, 7, 8 & 9 the Respondent humbly submits that he has no comments to offer.

In view of the aforesaid facts stated above and in the interest of justice it is therefore, most respectfully prayed that your Lordship would be pleased to admit the closure the petition and direct the Applicant to join his new place of posting in the O/o the Executive Engineer, Miao Electrical Division, Miao, Arunachal Pradesh which was first choice of Division for posting.

VERIFICATION.

I, Shri S.A. Bathew, Sr.Dy. Accountant General (Admn) of the Office of the Accountant General (A&E) Meghalaya, Arunachal Pradesh, and Mizoram, Shillong, do hereby solemnly declare that the statements made above in the Written Statements are true to my knowledge, belief and information and I sign the verification on the 30th May 2005 at Shillong.



DEPONENT.

Identified by

ADVOCATE

क्ष उप प्रान्त एकार (प्रशासन)
S. A. Account General (Admn)
प्रान्त एकार (प्रशासन) का कार्यालय, मेघालय, मणिपुर, असम
व अ.ए.सी.एस. (एस.) मेघालय, असम, अ.ए.सी.एस. (एस.)

Solemnly affirmed and sworn before me this day the _____
May 2005, by the deponent above named on being identified by Shri
_____, Advocate.

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REGISTERED.

OFFICE OF THE
ACCOUNTANT GENERAL: AS SAM: MEGHALAYA: NAGALAND: MANIPUR: TRIPURA:
ARUNACHAL PRADESH & MIZORAM: :: SHILLONG-1.

NO.WMI/5-1/69-70/ 4390

Dated, Shillong, the 1973.

from :- The Accountant General,
Assam, Meghalaya etc.
Shillong.

To

Shri Upendra Nath Sarkar *8 JUN 1973*
P.O. Alibazar Dh. Goalpara
Assam

On having passed the initial Recruitment Examination to the cadre of Divisional Accountants, held in March'72, you are appointed a temporary Divisional Accountant (on Probation) in the scale of Pay of Rs. 180-10-290-EB-15-380-EB-15-440/- plus dearness and other allowances as may be sanctioned by the Government of India from time to time. The appointment is subject to the following conditions :-

1. That you are declared fit for Govt. Service on Medical Examination by the Civil Surgeon/ Surgeon Superintendent, Civil Hospital, Shillong. This will be arrange by this office. You will be allowed to join only on receipt of the Certificate of fitness by the Civil Surgeon/ Surgeon Superintendent, Civil Hospital, Shillong. You will pay the Examination fee to the Civil Surgeon/ Surgeon Superintendent, Civil Hospital, Shillong and after joining the duties claim re-imbursement on production of receipt.

2. The appointment is purely temporary and may be terminated at any time after giving notice for one month without assigning any reason. If you want to resign you will have to give notice for one month. You should understand that your service will be governed by the Central Civil Service (Temporary Service) Amendment Rules, 1965 as amended from time to time.

3. You will have to fill up the form annexed and produced a certificate of character in the enclosed form from the Head of the Educational Institution last attended duly attested by a Subsidiary Magistrate (A Certificate from an Educational Authority or an Honorary Magistrate will not suffice).

4. No travelling allowance will be allowed for joining the appointment.

5. You should produce the Original Matriculation/ H.S.C.L.C. and other University Certificates and Diploma and also the Registration Card of the Employment Exchange, if any. In case the convocation of the University is still to be held, you should produce a provisional Diploma obtained from the University. A Marksheets will not be regarded as sufficient. If you are a displaced person you

Contd. p/2

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-(2)-

you should produce a satisfactory evidence of being a bonafied displaced person. In the case of persons migrating after 16.10.1952 only a migration certificate will be accepted. You will also have to produce a Certificate showing that you have registered yourself as a Citizen of India.

6. If you claim to be a member of a Schedule Caste/Tribes you should also produce a certificate from the Deputy Commissioner or the Sub-Divisional Officer of the area in which you have been residing that you belong to a Schedule Caste/Schedule Tribe in the prescribed form.

7. During the period of training you will be entitled pay at the rate of Rs. 180/- P.M. under the rules and other allowances admissible. First increment will be allowed on your taking over charge as regular Divisional Accountant after passing the Divisional Test Examinations.

8. You will be on probation for 3 Years/2½ Years (Maximum) (2 years for training and one year for trial as Divisional Accountant/six to eighteen months for training and one year for trial as Divisional Accountant in case of Departmental recruit).

9. You are liable to serve anywhere in Assam, Arunachal Pradesh, Nagaland, Tripura, Manipur and Meghalaya and Mizoram, i.e. any where under the audit jurisdiction of the A.G., Assam, Meghalaya and Nagaland etc. inclusive of his own office.

10. Your retention in the cadre of the Divisional Accountant of the A.G., Assam Meghalaya & Nagaland etc. will require the passing of Departmental Examination called "Divisional Test Examination" which will be held in accordance with the departmental regulations. Normally three chances are allowed to candidates for such Examination and will depend on the availability of vacancies in the Cadre of the Divisional Accountants of the Accountant General, Assam, Meghalaya, Nagaland etc.

11. You will not be allowed to hold the charge of a qualified Divisional Accountant until you complete the prescribed training and pass the Divisional Test Examination as referred to in para 10 above.

12. During the period of probation you will not be allowed to sit for any other examination or to apply for any other employment.

13. This appointment will be treated as cancelled if you do not report to this office (W.M.I Section) within 15 days of the receipt of this letter.

AMC
Sr. Deputy Accountant General (W&E)



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Annexure-II
13
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET.

..... 109 / 04

..... 109 / 04

In O.A.

89 / 04

Name of the Applicant(s) Rupendra Nath Sarker

Name of the Respondent(s) U.O.I. Govt.

Advocate for the Applicant H. Chandra, G.N. Chakrabarty, S.N. Mitra

Address of the Respondent Central Railway/C.G.S.C.

OFFICE NO/CD

DATE

ORDER OF THE TRIBUNAL

16.2.2005 Present: The Hon'ble Mr. M.K. Gupta,
Member (J).

By the present M.P. the applicant has sought direction to the respondents to implement the order dated 8.4.2004 passed in C.A. No.89 of 2004, whereby the respondents were directed to consider the applicant's request for retention in his present place of posting in terms of transfer policy dated 19.4.2000 within a specified time and till the completion of the ^{and} exercise, the transfer order dated 8.3.2004 was ordered to be ~~left~~ ^{made} ~~disposed~~ ^{of}. It is the contention of the ~~the~~ applicant that instead of complying with the said direction, respondents released ~~the~~ him vide order dated 17.1.2005, which is a subject matter before this Tribunal in O.A. No.20 of 2005.

Such being the case, there is no justification to keep the present M.P. pending, particularly when the said order dated 17.1.2005 has been stayed, in the aforementioned O.A.. Accordingly the M.P. is disposed of.

TRUE COPY

N.C.P. 29.3.05
Section Officer (J)
C.A.T. GUWAHATI BENCH
Court. No. 05

SD/MEMBER (J)

Speed Post

OFFICE OF THE ACCOUNTANT GENERAL ((A&E) MEGHALAYA ETC.,
SHILLONG.

No. DA Cell/Court Case/UNS/2004/1132

Dated:- 18.11.2004

To

Shri Manik Chanda
Advocate,
Bye Lane- 7, Lachitnagar,
Guwahati- 781 007.

Sub:- Transfer of Shri U.N.Sarkar, Sr.DAO

Sir,

I am to invite a reference to the notice dated 15-10-2004 served for non-compliance of the order of the Hon'ble Central Administrative Tribunal dated 8.4.2004. As per order of the Hon'ble Tribunal dated 8.4.2004, the case of Shri U.N.Sarkar was considered but not agreed to. In this connection it may be stated that Shri U.N.Sarkar had served in the state of Arunachal Pradesh for more than 13 years. In the interest of public service and also keeping in view of Headquarters' guidelines dated 19.4.2000, his transfer to Tripura is therefore found to be justified, in order and still stands.

Yours faithfully,




Sr. Dy. Accountant General (Admn)

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Annexure IV.

(61)

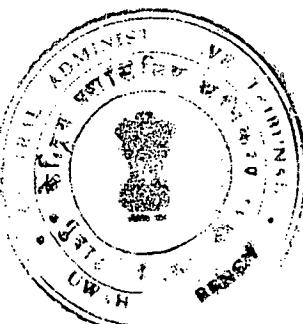
FORM NO. 4
(SEE RULE 42)CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCHORDER SHEET.

Org. App/Misc. Petn/Cent. Petn/Rev. Appl..... 109/04

In O.A. 87/04

Name of the Applicant(s) Supendra Nath SarkarName of the Respondent(s) U. O. I. Tong.Advocate for the Applicant M. Chanda, C.N. Chakrabarty, S. Nath

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

OFFICE NOTE	DATE	ORDER OF THE TRIBUNAL
	26.10.2004	<p>Heard Mr.M.Chanda, learned counsel for the applicant.</p> <p>Issue notice to the respondents to show cause as to why the H.P. shall not be admitted. List after two weeks.</p> <p>List on 28.11.2004. In the mean, while interim order passed dated 8.4.04 passed in C.A.29/2004 shall continue till the next date.</p>

Sd/MEMBER(ADM)

TRUE COPY

S. Chakrabarty

Supendra Nath Sarkar
24/11/04

Section Officer (O)

Guwahati Bench / Central Admin.
Central Administrative Tribunal
Guwahati Bench - Guwahati
Assam - India

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

M.P. 109/09
In the matter of:

O.A No. 89/2004

Shri Upendra Nath Sarkar

-Vs-

Union of India & Ors.

-And-

In the matter of:

Non-compliance of Hon'ble Tribunal's
Order dated 08.04.2004 passed in O.A No.
89/2004.

-And-

In the matter of:

An application under Rule 24 of Central
Administrative Tribunal (Procedure) Rule
1987, praying for a direction upon the
Respondents for implementation of the order
dated 08.04.2004 passed in O.A No. 89/04.

-And-

In the matter of:

Sri Upendra Nath Sarkar.

Sr. Divisional Accounts Officer, Drilling
Division, I & FC, Pashighat, Arunachal
Pradesh,

-----Applicant.

-AND-

1. The Union of India,

Represented by the Secretary to the
Government of India,

Ministry of Finance,

New Delhi.

2. The Comptroller and Auditor General of India,
New Delhi.

3. Accountant General (A & E) 67
Meghalay Etc.

Shillong.

4. Sr. Dy. Accountant General (Admn)
O/o- The Accountant General (A&E),
Shillong.

5. Executive Engineer,
I&FC, Drilling Division,
Pasighat, Arunachal Pradesh.

6. Shri K. Bathow.
Sr. Dy. Accountant General (Admn)
O/o- The Accountant General (A&E),
Shillong.

.. Respondents.

The humble petitioner above named-

Most respectfully Sheweths:-

1. That your applicant being highly aggrieved with the impugned transfer and posting order dated 08.03.2004, whereby the applicant is sought to be transferred and posted from the office of the Executive Engineer Passighat Drilling Division to the Office of the Executive Engineer, Gumti Electrical Division, Jatanbari, South Tripura only after 2 months of his posting and joining at Passighat in the state of Arunachal Pradesh in violation of professed norms laid down in the transfer policy dated 19.04.2000 issued by the Comptroller and Auditor General, New Delhi. The said Original Application was registered as O.A. No. 89/04.

2. That the aforesaid Original Application came up for consideration before this Hon'ble Tribunal and this Hon'ble Tribunal on perusal of the materials on record was pleased to dispose of the Original Application with a direction upon the respondents to re-consider the case of transfer and posting of the applicant in terms of the transfer policy dated 19.04.2000 within 2 months from the date of receipt of the order of the Hon'ble Tribunal and till completion of the aforesaid exercise the transfer and posting order dated 08.03.2004 shall be kept in abeyance so far the applicant is concerned. Be it stated that the applicant has less than 3 years service in his credit. In fact the applicant is retiring within 2 and $\frac{1}{2}$ years from the Govt. service. It is categorically submitted that the applicant submitted a detailed representation alongwith the Court order to the respondent No.2 through respondent No. 3 after receipt of the Hon'ble Court's order dated 08.04.2004 interalia praying for his retention in the present place of posting at Passighat or in any adjacent places near Itanagar till his retirement on superannuation in terms of Clause (f) and (g) of the transfer policy dated 19.04.2000 issued by the Respondent No.2.

A copy of the order dated 08.04.04 and a copy of the transfer policy dated 19.04.2000 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure-A & B respectively.

3. That it is stated that Hon'ble Court has passed the order on 08.04.04 but till date no action is initiated for consideration of the case of the present applicant and no decision has been communicated to the applicant in terms of the order dated 08.04.04 passed by this Hon'ble Court in O.A. No. 89/04. It is ought to be mentioned here that one more post of Sr. Divisional Accounts Officer is also going to fall vacant on 30th November 2004 at PHE Division, Passighat due to retirement on superannuation of Sri M.C. Paul the present Sr. Divisional Accounts Officer, therefore there is no difficulty on the part of the respondents to accommodate the applicant in the present place of posting alternatively at PHE Division, Passighat. Moreover, there are at least 6 posts of Sr. Divisional Accounts Officer are available in the following places, where the present applicant could be accommodated:

1. Miao Electrical Division.
2. Deomali Electrical Division.
3. Deomali IFCD.
4. Changlang RWD.
5. Changlang PHED.
6. Namsai PHED.

Since no action has been initiated by the respondents for compliance of the order dated 08.04.04 passed by this Hon'ble Tribunal, therefore finding no other alternative the applicant is approaching this Hon'ble Court for further direction upon the

respondents for compliance of the order of the learned Tribunal and to pass further order under Rule 24 of Central Administrative Tribunal (Procedure) Rule, 1987 for compliance of the order of the learned Tribunal.

4. That this application is made bonafide and for the interest of justice.

In the facts and circumstances stated above the Hon'ble Tribunal be pleased to direct the respondents to implement the order dated 08.04.2004 with immediate effect and further be pleased to direct the respondents to reconsider the case of the applicant for retention in the present place of posting or alternatively to accommodate in any vacant Division in any adjacent places as indicated above and till such consideration the transfer and posting order dated 08.03.04 shall not be given effect to in respect of the present applicant.

And further be pleased to pass any other order or orders as deem fit and proper in respect of the present applicant

VERIFICATION

I, Shri Upendra Nath Sarkar S/o Late Late Radhanath Sarkar, aged about 57 years, working as Sr. Divisional Accounts Officer, Drilling Division, I & FC, Pashighat, Arunachal Pradesh, aged about 57 years, do hereby verify that the statements made in Paragraph 1 to 4 are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the th day of October, 2004.

A handwritten signature in black ink, appearing to read "Shri Upendra Nath Sarkar".

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CENTRAL ADMINISTRATIVE TRIBUNAL
JATANBARI, TRIPURA.

ORDER SHEET

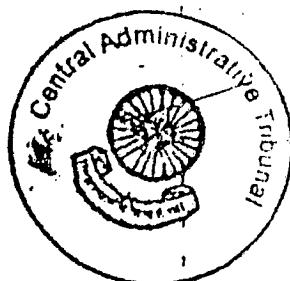
Org.App./Misc.Petn/Cont.Petn/ Rev.Appl. 89/2004

In O.A.

Name of the Applicant(s) Sri Bipendran Nath SarkarName of the Respondent(s) L.D.O.I. B.M.D.Advocate for the Applicant Mr. H. Chanda, Mr. G.N. Chakraborty
Advocate for the Respondent Mr. S. Nath, Mrs. ChoudhuryCounsel for the Helpline/ O.A.C. ...

OFFICE NOTE | DATE | ORDER OF THE TRIBUNAL

8.4.2004; Present : The Hon'ble Mr. K.V. Prahладан, Member (A).



The applicant who is a Sr. Divisional Accounts Officer was transferred and posted at office of the Ex. Engineer Pasighat Drilling Division, J&FC with additional charge of Pasighat J&FC, Division, Pasighat by order dated 5.11.2003. Only after completion of 2 months at Pasighat Drilling Division, he was further sought to be transferred by order dated 8.3.2004 to office of the Ex. Engineer, Gumti electrical Division, Jatani, Tripura with additional charge of Gumti Civil Division, (Power), Jatani within a span of two months. Being aggrieved the aforesaid order the applicant approach this Hon'ble Tribunal.

Contd/-

8.4.2004

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

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Mr. Chanda, learned counsel for the applicant stated that the impugned transfer order is contrary to the transfer policy dated 19.4.2000. The applicant is also retiring within three years. In the circumstances, the case of the applicant is required to be reconsidered by the authority. Therefore, I direct the respondents to consider the case of the applicant as per transfer policy dated 19.4.2000 within two months from the date of receipt of this order. Till the completion of the aforesaid exercise the transfer order dated 8.3.2004 shall be kept in abeyance. so far the applicant is concerned.

The application is accordingly disposed of. No order as to costs.

Sd/MEMBER(ADM)

..... Certified to be true Copy

M. Deb Roy

S. Deb Roy
8/4/04
Section Officer (SI)
C.A.T. GUWALIGI BRANCH
Guwahati, Assam

H.S.
8/4/04

OFFICE OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA
NEW DELHI - 110002

No. 394-HGE(ADD)/11-2000

Dated 19.4.2000

To

All P.M. Accountants General/Accountant General
Dealing with the cadre of Divisional Accountants.

Sir/Madam,

The need to evolve some clearly defined norms and a uniform and transparent policy of transfer and posting of Divisional Accountants Officers/Divisional Accountant was being felt for sometime. Though transfer is an incidence of service of Divisional Accountant, it should be effected in such a way that it causes minimum inconvenience to the individuals and at the same time it fulfills the administrative requirements. It has, therefore, been decided to prescribe the following broad parameters for transfer and posting of Divisional Accountants Officers/Divisional Accountants which should be followed scrupulously and uniformly.

- (a) transfer and posting should normally be made once in a year and annual transfers should be timed properly so that these may not disturb the academic session.
- (b) list of Divisions likely to fall vacant during the year should be publicised well in advance.
- (c) Divisions should be properly graded by following the instructions issued in this regard from time to time and posting of officers should be made in the appropriately graded Divisions.
- (d) Option for posting in particular station(s) should be called for from the individuals and efforts should be made to accommodate the officers at the place of their choice, subject to availability of vacancy and on basis of seniority. The adverse comments given by the Inspecting Officer auditing the accounts of the Divisions, adverse remarks made by the Executive Engineers on the performance of the Divisional Accounts Officers/Divisional Accountants which are finally substantiated and the performance in proper and timely submission of accounts may also be kept in view.

certified to be true copy
S. Bhattacharya
Advocate

AMC/Ch

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a transfer Committee comprising the Group Officer in-charge of Works Accounts and two other Indian Audit & Accounts Department officers of the rank of Sr. Dy. Accountant General/Dy. Accountant General, to be nominated by the Pt. Accountant General/Accountant General should be formed to consider the case of transfer.

(f) tenure of posting should normally be three years in a particular Division and six years at a particular station;

(g) an officer should normally be allowed to serve the last three years of his service life at a place of his choice even if it results in his stay in the same place etc. beyond the normal tenure.

(h) a general order indicating transfers and postings of all officers should be notified in addition to individual posting orders that may be issued.

Dispensation of the set norms could be made only in every exceptional circumstances, to be recorded in writing, on account of extreme personal circumstances which are quite distinguishable.

Yours faithfully,

Sd/-

Asstt- Comptroller and Auditor General (N)

certified to be true

Signature

Section Officer (S)
T. GUWALIYA BRANCH
Guwahati, Assam

16/7/61

JKC

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Forwarded - 2

Speed Post.

OFFICE OF THE ACCOUNTANT GENERAL (A&E) MEGHALAYA ETC.,
SHILLONG.

E.O. No.DA Cell/5

Dated :- 5.5.2005.

In partial modification of this office annual transfer order No.E.O. No. DA Cell/120 dated 8.3.2004, Shri Upendra Nath Sarkar, Sr.DAO O/o the Executive Engineer, Drilling Division, I&FC, Pasighat, Arunachal Pradesh with additional charge of the O/o the Executive Engineer, I&FC, Pasighat, Arunachal Pradesh is hereby posted to the O/o the Executive Engineer, Miao Electrical Division, Department of Power, Miao, Arunachal Pradesh with immediate effect.

The Transfer is in public interest.

(Authority:- AG's order dated 5.5.2005).

Sd/-
Sr.Dy. Accountant General (Admn)

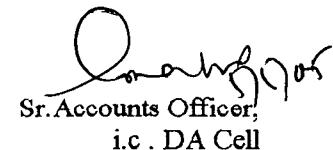
Memo No.DA Cell/Annual Transfer/2005/96-116

Dated:- 6.5.2005

Copy forwarded for information and necessary action to:-

1. The Chief Engineer, I&FC Department, Govt. of Arunachal Pradesh, Itanagar.
2. The Chief Engineer, Department of Power, Govt. of Arunachal Pradesh, Itanagar.
3. The Executive Engineer, Pasighat Drilling Division, Pasighat, Arunachal Pradesh. He is requested to intimate the date of release of Shri Sarkar, Sr.DAO.
4. The Executive Engineer, I&FC Division, Pasighat, Arunachal Pradesh.
5. The Executive Engineer, Miao Electrical Division, Department of Power, Miao, Arunachal Pradesh.
6. Shri U.N. Sarkar, Sr.DAO O/o The Executive Engineer, Pasighat Drilling Division, I&FC, Pasighat, Arunachal Pradesh. He is requested to intimate the date of his joining in the new division.
7. Shri Th. Lalkamnong, DAO-II O/o the Executive Engineer, I&FC, Bordumsa, Arunachal Pradesh.
8. the Executive Engineer, I&FC, Bordumsa, Arunachal Pradesh.
9. E.O. Book.
10. Spare Copy.




Sr. Accounts Officer,
i.c. DA Cell