

100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 244/2005

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FORM NO. 4
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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Original Application No. 244/05

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicant(s): Dr. R. Choudhury

Respondent(s): WVI

Advocate for the Applicant(s): - Mr. A. K. Deka and A. K. Talukdar

Advocate for the Respondent(s): - Only counsel

Notes of the Registry	Date	Order of the Tribunal
This application is in form is filed/C. F. for Rs. 50/- deposited vide IPO/BD No. 206/158058	19.9.2005	Heard learned counsel for the parties.
Dated.....14.9.05.....		The application is disposed of at the admission stage itself. in terms terms of the order passed in separate sheets.
<i>Ans</i> Dy. Registrar		
1) Ans later 2) As per Request No. 1565 dated 15.9.05 avns deposit Rs. 25/- for Respondents 6.65 W.	mb	<i>Ans</i> Vice-Chairman
	15.9.05	
<i>Ans</i> No. 2649) or c. Reg.		

26.9.05
Copy of the Judgment has
been sent to the Office
for issuing the same
to the applicant as well
as to the Respondent by
post and a copy the
same also handed over to
the Rly. Standby Counsel.

Ans
Received two copies of
OA No. 244/05 & one
copy of judgment
on 19.9.05 or 21/9/05
25/9/05

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. Nos. 244/2005

DATE OF DECISION: 19.09.2005

Dr. Ramesh Chand

APPLICANT(S)

Mr. A.K. Bora, Mr. B.K. Talukdar

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

U.O.I. & Others

RESPONDENT(S)

Mr. J.L. Sarkar, S.C. Rly.

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the judgments?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether the judgment is to be circulated to the other Benches?

19
R. Jaiswar

Judgment delivered by Hon'ble Vice-Chairman.

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 244 of 2005

Date of Order : This the 19th day of September 2005.

The Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.

Dr. Ramesh Chand
Son of Sri Ram Milin
At present working as Divisional Medical Officer,
Hojai, Health Unit Hojai,
N.F. Railway, Hojai,
District - Nagaon, Assam.

... Applicant.

By Advocate : Mr. A.K. Bora, Mr. B.K. Talukdar.

• Versus -

1. The Union of India, Represented by the Secretary, Railway Ministry, New Delhi.
2. The Railway Board, Represented by the Secretary, Rail Bhawan, New Delhi - 110 001.
3. The Director General, Railway Health Services, New Delhi.
4. The General Manager, N.F. Railway, Maligaon, Guwahati - 781 011.
5. The General Manager (P), N.F. Railway, Maligaon, Guwahati - 781 011.
6. The Chief Personnel Officer, N.F. Railway, Maligaon, Guwahati - 781 011.
7. The Chief Medical Director, N.F. Railway, Maligaon, Guwahati - 781 011.
8. The Divisional Railway Manager, Lumding, N.F. Railway, Distt. - Nagaon, Assam.
9. The Divisional Personnel Officer, N.F. Railway, Lumding, Distt. - Nagaon, Assam.
10. The Chief Medical Superintendent, N.F. Railway, Distt. - Nagaon, Assam.

... Respondents.

By Advocate : Mr. J.L. Sarkar, Railway Standing Counsel.

ORDER (ORAL)SIVARAJAN. J. (V.C.)

The applicant is a Divisional Medical Officer, Health Unit Hojai, N.F. Railway in Assam. He wanted inter-railway transfer either to North East Railway or Northern Railway. He made representation in that behalf (Annexure - C) dated 10.09.2004 before the 2nd respondent. Since no action was taken on the said representation, the applicant filed O.A. No. 96/2005 before this Tribunal. The said application was disposed of by order dated 29.04.2005. Since the Railway Counsel has stated that the applicant has to make representation before the 4th respondent, the applicant was directed to file an application for transfer before the said respondent and the said respondent was directed to dispose of the same within a period of three months. The applicant had subsequently filed a Review Application No. 4/2005 stating that the matter relating to inter-railway transfer can be considered only by the 2nd respondent - Railway Board. In view of the above, the Tribunal by order dated 19.05.2005 directed the 4th respondent to forward the application to the 2nd respondent and the 2nd respondent was directed to dispose of the same as directed in the earlier order. The 4th respondent, however, had passed an order on 09.06.2005 and the same was communicated to the applicant alongwith covering letter dated 13/14-06.2005 (Annexure - F). Since the Tribunal had directed the matter to be considered by the 2nd respondent, the 4th respondent later forwarded the application with his report on 27/28-06-2005 (Annexure - F3). The Railway Board passed an order on 14.07.2005, which was communicated by the 4th respondent by communication

Q2a

dated 22.07.2005 (Annexure - G). The present application is for direction to the 2nd respondent to dispose of the annexure - C representation.

2. Mr. B.K. Talukdar, learned counsel for the applicant submitted that the applicant has made request for inter railway transfer on the ground that his wife is employed in U.P. State Government service and that circular/office memorandum dated 03.04.1986 (Annexure - I) and circular of 1997 etc. provide guidelines for transfer and posting of spouse in a particular station which aspect has not been considered by the respondents. Counsel submitted that the applicant has clearly stated that the request was made on that ground. Counsel further submitted that the respondents have applied the general instructions for serving in a particular railway for a minimum period of 10 years, which instructions cannot be applied to this case covered by office memorandum dated 03.04.1986.

3. Mr. J.L. Sarkar, learned standing counsel for the Railway submitted that in order to get transfer from one railway to another railway an employee of a particular railway has to serve for a minimum period of 10 years and that the respondents have clearly stated that the applicant's case will be considered in September 2006 when he completes the tenure of service in the N.F. Railway. Standing counsel also pointed out the dearth of doctors in the N.F. Railway, which also is one of the reasons for not considering the case of the applicant before expiry of 10 years.

4. I have considered the rival submissions. Admittedly, the applicant's case is based on circular issued by the DOP&T in the

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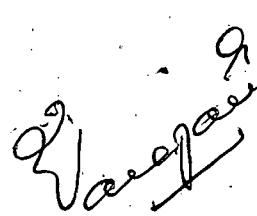
matter of posting of husband and wife who are employed in Central Government/Autonomous Body in the same place to enable them to take care of their children. Orders issued by the 4th and 2nd respondents does not show that the applicants case was considered in the light of the Government orders relating to posting of husband and wife in the same place. However, fact remains that the 4th respondent has clearly stated that apart from the fact that the applicant did not complete the 10 year tenure of service, there is dearth of doctors in the said place and that if the applicant is spared, it will be adversely affect the Railway Hospital in the N. F. Railway. In the normal course, when it is found that the respondents did not consider the claim of the applicant for a posting in U.P. where the applicant's wife is employed and the family is settled in the light of the office memorandum (Annexure - I) and the subsequent office memorandums, the Tribunal would have directed the respondents to consider the case of the applicant in the light of the Government orders. Now, since the respondents have stated that the applicant's service is required in the N.F. Railway for some more time due to dearth of doctors, I am of the view that this application can be disposed of at the admission stage itself with certain directions.

5. The 2nd respondent in the communication dated 22.07.2005 (Annexure - G) has stated that the applicant's fresh request will be considered on completion of the tenure in N.F. Railway by September 2006. In the circumstances, I direct the 2nd respondent to consider the case of the applicant for inter railway transfer in the light of the office memorandum of 1986 and subsequent office memorandums as and when the availability of the doctors are reasonably sufficient without insisting for completion of 10 years

Opz

service in the N.F. Railway in a sympathetic manner as directed in the Government orders itself. The applicant is directed to make a representation in that behalf before the 2nd respondent explaining the position regarding availability of required doctors in the N.F. Railway within a period of one month. The applicant may also bring the fact that some other doctors have been given transfer without sticking to the 10 year tenure rule. If such a representation is filed by the applicant the same will be considered by the 2nd respondent in a sympathetic manner in the light of the office memorandum (Annexure - I) and those referred to in Annexure - F1 also, within a period of three months from the date of receipt of the representation.

The O.A. is disposed of as above at the admission stage itself. The applicant will produce this order alongwith representation before the 2nd respondent for compliance.



(G. SIVARAJAN)
VICE CHAIRMAN

/mb/

14 SEP 2005

गुवाहाटी न्यायदीठ
Guwahati Bench

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

O. A. NO. 244 /2005.

Dr. Ramesh Chand ... Applicant.

- Vrs -

Union of India & Ors. ... Respondents.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

<u>Dates</u>	<u>Particulars</u>
6.9.96	- The applicant joined Railways in Grade-A Service at Alipurduar Junction Railway Hospital of N.F. Railway after being selected by U.P. S.C.
16.8.2000	- The application of the applicant praying for inter Railway Transfer from N.F.Rly. to North East Railway/Northern Railway.
3.1.2001	- The General Manager (P), N.F. Railway, Maligaon forwarded the application dtd. 16.8.2000 of the applicant to the Secretary, Railway Board, New Delhi.
10.9.2004	- The applicant again submitted an appeal through proper channel to the Railway Board, New Delhi.
29.4.2005	- The order passed by the Hon'ble Tribunal in O.A. No.96/2005 preferred by the applicant.
19.5.2005	- The order passed by the Hon'ble Tribunal in Review Application No.4/05 preferred by the applicant.

संविधान नियमित वकालती	संविधान नियमित वकालती
संविधान नियमित वकालती	संविधान नियमित वकालती
14 SEP 2005	14 SEP 2005
गुरुवारी वकालती	गुरुवारी वकालती
Wakati Bench	Wakati Bench

<u>Dates</u>	<u>Particulars</u>
9.6.2005	- Speaking order passed by the General Manager, N.F. Railway, Maligaon on the application dtd. 3.5.2005 filed by the applicant in obedience to the Hon'ble Tribunal's order dtd. 29.4.2005.
<u>27.6.2005</u> <u>28.6.2005</u>	- The General Manager (P), Maligaon N.F.Rly. forwarded the speaking order dtd. 9.6.2005 of the General Manager, N.F.Rly., Maligaon along with applicant's application dated 3.5.2005 and the copies of the orders dtd. 29.04.05 and 19.5.05 passed by the Hon'ble Tribunal in O.A. No. 96/05 and Review Application No. 4/05 respectively to the Secretary, Railway Board, New Delhi.
22.7.2005	- The General Manager (P), Maligaon N.F.Rly. has intimated the applicant that the applicant is not yet eligible for transfer out of N.F.Rly. as the applicant has not yet completed 10 years of service in N.F. Railway.
16.8.2005	- Railway Board's letter No. E(I&A)/2005/GS 1-1 dtd. 12.4.2005 regarding conduct of a Railway servant in relation to the proper maintenance of his family.

Filed by :

K. K. Tawarji
Advocate.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GUWAHATI BENCH:GUWAHATI.

14 SEP 2005

Guwahati Bench

O.A. NO. 244 /2005.

Dr. Ramesh Chand

Son of Sri Ram Milin.

At present working as Divisional Medical Officer,
Hojai, Health Unit Hojai, N.F.Railway, Hojai, District-
Nagaon, Assam.

Applicant.

- Versus -

1. The Union of India,
Represented by the Secretary, Railway Ministry, New Delhi.
2. The Railway Board,
Represented by the Secretary, Rail Bhawan, New Delhi-10001.
3. The Director General,
Railway Health Services, New Delhi.
4. The General Manager,
N.F.Railway, Maligaon, Guwahati-781011.
5. The General Manager (P), N.F.Railway,
Maligaon, Guwahati-781011.
6. The Chief Personnel Officer, N.F.Railway,
Maligaon, Guwahati-781001.
7. The Chief Medical Director, N.F.Railway,
Maligaon, Guwahati-781001.
8. The Divisional Railway Manager, Lumding,
N.F.Railway, Distt. Nagaon, Assam.
9. The Divisional Personnel Officer, N.F.Railway,
Lumding, Distt. Nagaon, Assam.
10. The Chief Medical Superintendent, N.F.Railway,
Distt. Nagaon, Assam.

Respondents.

The humble petition of the above named applicant.

Contd.

R. Chand
Fees paid by Applicant
Dr. R. S. Chandra & Through
Mr. P.K. Tawader
Advocate
6.9.05

R. Chaudhury
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MOST RESPECTFULLY SHEWETH:-

Details of the Application:-

1. Particulars of the order against which the application is made –
 - (i) Order of the Railway Board forwarded under their Letter No. E(O) III-2005/AE/275 dtd. 14.7.2005, communicated to the General Manager (P) Maligaon, Guwahati-11, rejecting the applicant's prayer for transfer.
 - (ii) Letter No. E/283/III/130 Pt.XI(O) dtd. 22.7.05, of the General Manager (P) Maligaon, Guwahati-11, communicated to the applicant.
 - (iii) For a direction to the Respondents 1 to 10 for posting the applicant forthwith in order to enable him to join either in North East Railway or Northern Railway to look after his minor daughter as his wife has been serving in an interior hospital of U.P.Govt.
 - (iv) For a direction to the Respondents No.2 to reconsider the case of the applicant in the light of the Railway Boards letter No.E(I&A) 2005/GS 1-1 dtd.12.4.05.
2. **Jurisdiction**
The applicant declares that the subject matter of the application is within the jurisdiction of the Hon'ble Tribunal.
3. **Limitation**
The applicant declares that the application is within the period of limitation under Section 21 of the Administrative Tribunal Act. 1985.

Contd.

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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 and privileges guaranteed under the Constitution of India including the rights of law of the land.

4.2- That the applicant at present has been serving as Divisional Medical Officer at Hojai, N.F.Railway, Health Unit, Hojai, in the district of Nagaon, Assam. His service is Grade-A in the Railway. He joined his service on 6.9.96 after Selection in U.P.S.C. at the Aliporduar, Railway Hospital of N.F.Railway. He got married in the middle of the year 2000 to a doctor who has been serving at Community Health Centre of the U.P.State Govt. at Fazilnagar in the district of Koshinagar of Uttar Pradesh. They are unable to visit each other because of long distance between their working places. As the applicant's wife has been serving at a remote rural place, she requires safety and protection from the applicant's side. Moreover, a daughter was born to them. The applicant cannot look after his daughter also due to distance of working place.

The applicant's wife service in U.P. State Govt.service. She cannot be transferred to Assam, for this reason. The applicant has sought Inter-Railway Transfer that is from N.F.Railway to North East Railway or Northern Railway, which will be nearer to his wife's working place.

A copy of the application is annexed hereto and marked as Annexure-A.

4.3 The General Manager (P) , N.F.Railway, Maligaon, forwarded his application on 3.1.2001 to the Secretary, Railway Board, New Delhi.

A copy of the said letter dtd. 3.1.2001 is annexed hereto and marked as Annexure-B.

4.4 The applicant has again preferred an Appeal petition on 10.9.2004 to the Secretary, Railway board, New Delhi, through proper channel.

A copy of the said appeal petition dtd. 10.9.2004 is annexed hereto and marked as Annexure-C.

4.5 That the applicant begs to state that as to applicant's appeal petition was not dispose of by the Respondents, the applicant preferred O.A. No.96/2005 before this Hon'ble Tribunal.

A copy of the order dtd. 29.4.05 is annexed hereto and marked as Annexure-D.

4.6 That thereafter the applicant again preferred a Review application No.4/05 before this Hon'ble Tribunal

A copy of the order dtd. 19.5.05 passed in Review application is annexed hereto and marked as Annexure-A.

4.7 That in obedience to the Hon'ble Tribunal's order dated 29.4.05 passed in O.A.No. 96/05, the applicant filed a representation on 3.5.05 before the General Manager, N.F.Railway, Maligaon.has informed the applicant about the facts of his representation dtd. 3.5.05.

Copies of the said correspondences are annexed hereto and marked as Annexure-F Series (F to F³).

4.8- That by letter No. E/283/III/130 Pt.XI(O), dtd. 22.7.05, the office of the General Manager (P), Maligaon, N.F.Railway, has informed the applicant that he is not eligible for transfer out of N.F.Railway due to non-completion of 10 years service in N.F.Railway.

A copy of the letter dtd. 22.7.05 is annexed hereto and marked as Annexure-G.

4.9- That the Railway Board has violated its our Circular No.E(I&A) 2005/GS 1-1 dtd. 12.4.05.

A copy of the circular dtd. 12.4.05 is annexed hereto and marked as Annexure-H.

4.10- That the Railway Board has also violated the terms and conditions of office Memorandum No. 28034/7/86-Estt.dtd. 3.4.86 issued by the Deptt. Of Personnel and Training).

A copy of the office memorandum dtd. 3.4.86 together with Railway Boards' letter dtd. 8.5.98 are annexed hereto and marked as Annexure-I Series (I to I²).

4.11- That the applicant begs to state that the following Doctors who joined in the N.F.Railway first, were transferred to other Railway even before completion of 3(three) years due to favoritism of the Railway Board.

(a) Dr. Jayanta Murmu.

Date of Joining= October/96 at N.F.Railway,

Date of Transfer- Nov/97 to South Eastern Railway.

Contd.

R. Chand

(b) Dr. Satendra Kumar.

Date of Joining – in the year 1997 at N.F.Railway,

Date of Transfer- in 1998 to Eastern Railway.

(c) Dr. Revathi.

Date of Joining – in the year 1997 in the N.F.Railway,

Date of Transfer- 2000 to Central Railway.

4.12- That the applicant begs to state that he has demanded justice but the same has been denied to him and he has no other alternative or efficacious remedies other than the instant application to this Hon'ble Tribunal.

4.13- This application is made bonafide and for ends of justice.

Grounds for beliefs with legal provisions:-

- 5.1 For that the Respondents have not transferred the applicant without any Rhyme and reasons, which caused immense hardships and mental depressions to the applicant.
- 5.2 For that the Respondents action is not justified and bad in law as well as in fact.
- 5.3 For that malice in law and malice in facts and the circumstances of the case.
- 5.4 For that the applicant is the sufferer for not transferring him either to North East Railway or Northern Railway, which cannot be common flagged under the guise of Administrative fairness.

5.5 For that the action of the Respondents is the result of arbitrariness, whimsical and unreasonable for not considering his appeal petition/representations in the light of their own circular, has unfringed the rights of the applicant guaranteed under Articles 14 and 16 of the Constitution of India.

5.6 For that the unjust and unfair treatment in the action of the Respondents is explicit.

5.7 For that deliberate violation of the guidelines of the Railway Ministry and office Memorandum of the Personnel Deptt.

(Annexure- H and I series).

5.8 For that in any other view of the matter, the applicant is entitled to the relief(s) sought for.

6. Details of the remedies exhausted:-

That the applicant declares that he has preferred representation dated 3.5.05 in obedience to the Hon'ble Tribunal's order but the same was rejected and there are no other efficacious remedies under any Rule and this Hon'ble Tribunal is the only forum to adjudicate the subject matter.

7. Matters no previously filed or pending with any other Court-

That, the applicant declares that he has not filed any case on the subject matter before any Court, forum or any other Institution. However, he preferred an appeal as stated above.

Contd.

8. Relief(s) sought for:-

Under the facts and circumstances, the applicant prays for the following relief-

8.1. The Respondent No.2 may kindly be directed to transfer the applicant from N.F.Railway to North East Railway or Northern Railway as per Railway Ministry's Guidelines(Annexure-H & I Series).

8.2. The Respondents may kindly be directed to dispose of the appeal petition dtd. 10.9.04 within a very short time.

8.3. Any other relief or relieves as the Hon'ble Tribunal may deem fit and proper. The above relieves are prayed for as the grounds stated in para 5 at above.

9. Interim Relief:-

During the pendency of this application, the applicant prays for the following interim relieves-

9.1 The transfer of the applicant immediately in order to enable him to join either in North East Railway or Northern Railway as his wife and minor daughter are passing through serious mental depressions.

9.2 Any other relief or relieves as the Hon'ble Tribunal may deem fit and proper. The above reliefs are prayed for on the grounds stated in para 5 at above.

10. That this application is filed through Advocate.

11. The particulars of postal order -

(i) I.P.O. No. 206.558058

(ii) Date of time 14.9.05

(iii) Issued from -

(iv) Payable at -

12. List of endorsee -

As per Index.

VERIFICATION

I, Dr. Ramesh Chand, son of Sri Ram Kilan, aged about 34 years, at present working as divisional Medical Officer, Hojai, N.F.Railway, Health Unit, Hojai, in the district of Nagaon, assam, do hereby verify that the statements in paragraphs 1,4, 6 to 12 are true to my knowledge and the statements made in paragraphs 2,3 & 5 are true to my legal advice and that I have not suppressed any material facts.

And I sign this verification on this th day of August, 2005 at Guwahati.

Ramesh
(DR. RAMESH CHAND)

Reference=A
Date, Alipurduar Junction,
16th August 2000.

From:
Dr.Ramesh Chand,
ADMO/APDI Rly.Hospital,
N.F.RAILWAY.

To,
THE SECRETARY (E),
RAILWAY BOARD,
RAIL BHAWAN,
NEW DELHI-110001.

(THROUGH PROPER CHANNEL)
SUB: REQUEST FOR CONSIDERING INTER RAILWAY TRANSFER FROM
NORTHEAST FRONTIER TO NORTHEASTERN/NORTHERN RAILWAY

Respected Sir,

I was posted at Alipurduar junction Railway Hospital of N.F.Railway after my selection in UPSC on 6th SEPT 1996.

I recently got married to a doctor who has been working at Community Health Centre Fazilgarh, Distt-Kushinagar in Uttar Pradesh State Govt. and this area falls in North Eastern Railway.

We are unable to visit each other because of long distance between our working places. Apart from this, my wife being in rural remote place require safety and protection from my side.

Here I would like to take advantage of railway establishment rule which states "Govt. of India(Depat. Of Personnel and Training) has reiterated that all Ministries/Department should strictly adhere to guidelines laid down in O.M.No.28034/7/86 Estt(A) dt.3.4.1986, while deciding request for posting of husband and wife at same station.

The railway board has also decided the aforeside guidelines as laid down by DOPT should be followed mutatis mutandis in case of Group A and Group B railway officers also subject to posts at appropriate level being available at relevant station and no administrative problem arise out of such position. (R.B.No.E(O)III 98/Pl./4 dt 8.5.1998) (N.R.S.No.11584)."

Under the above mentioned reasons please consider my request for inter railway transfer from Northeast Frontier to Northeastern/Northern Railway. I will be highly obliged to you.

Thanking you,

Yours Sincerely,

Ramesh
(Dr.Ramesh Chand).

Enclosures: 1. Appointment letter of
my wife Dr. Sunita Prasad.
2. Photo copy of Railway
Establishment rule.

B.K. Tareldar

NO. E/283/III/130/pt.XI(0).

Dated 03-03-2001.

To
The Secretary,
Railway Board,
New Delhi.

Sub: Request for inter Railway transfer
from N.P. Railway to N.E. Railway/
Northern Railway in respect of
Dr. Kawish Chand, DNO/N.P. Railway/
Rangupura.

An application received from Dr. Rajesh Chand, ADMO/N.P. Railway/Rangapara requesting for Inter Railway transfer from N.F. Railway to N.E. Railway/N. Railway is forwarded herewith for your disposal please. Dr. Rajesh Chand, ADMO/N.P. Railway has joined this Railway on 06.09.1996.

This liaison with the approval of General Manager/N.F. Railway/Maligou.

DA: -AB above.

(S.K. BIRHAWA)
M. C. P. O. (O).
FOR GENERAL MANAGER (P).

2011-12
B. K. Taeedan

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Annexure - ~~2~~ C

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Dr. Ramesh Chand,
DMO/HII,
N.E. Railway.

To,

The Secretary,
Railway Board,
New Delhi.

Through proper channel

SUB: Request for interrailway transfer from N.E. to N.E. Railway.

I am serving in this railway since September 1996. Presently I am posted as DMO/HII under Lumber Division.

My wife is serving under U.P. Govt and my father is suffering from IDDM with portal hypertension and grade IV varices and our three year old daughter requires my presence for her upbringing.

As I am posted to such far off place it is very difficult for me to manage my family. In view of such circumstances kindly consider my request sympathetically. I will be highly oblige to you. (Enclosing DOPT memo No. E(O)98 PL/4d18.5.96 regarding posting of husband and wife at same station).

Yours Sincerely,

R. —
10.2.98.

Submitted in triplicate.

R. —
9/04

General Secretary
B. K. T. All India

Answer = 2

(SEE RULE 4)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O R D E R S H E E T

Original Application No. 96/2005

Misc. Petition No.

Contempt Petition No.

Review Application No.

Applicant(s) Dr. Ramesh Chund

Respondents U.O.I & Ors.

Advocate(s) for the Applicant(s) A. K. Deka, B.K. Talukdar

Advocate(s) for the Respondents Railway Counsel

Notes of the Registry	Date	Order of the Day
	29/04/2005	<p>Present: Hon'ble Justice Sri G. Sivarajan, Vice-Chairman.</p> <p>Head Mr. B.K. Talukdar, learned counsel for the applicant and also Mr. S. Sarma, learned counsel for the respondents.</p> <p>According to the applicant, he filed an application-dated 10.09.2004 (Annexure - E) for Inter Railway Transfer from N.F. Railway to North East Railway ^{or} Northern Railway before the 1st Respondent. Mr. S. Sarma learned counsel for the Respondents submits that the applicant has to file application in that regard before the 4th Respondent. In the circumstances, the applicant is directed to file an application in that regard before the 4th Respondent.</p> <p style="text-align: right;">44</p>

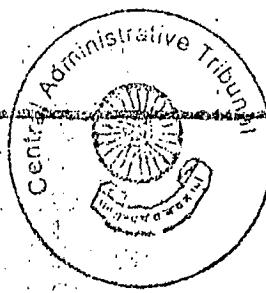


B. K. Talukdar

application for transfer before the 4th Respondent within a period of two weeks from today. If such application is filed the same will be disposed of in accordance with law by the 4th respondent within a period of three months from the date of receipt of copy of such application.

The O.A. is disposed of at the admission stage itself. 9

Sd/ VICE CHAIRMAN



Certified to be true Copy
সত্যিক প্রতিলিপি

(Signature)
Section Officer (J) 21/5/05
C.A.T. GUWAHATI BENCH
Guwahati 781005
(Signature) 2/5/05

Answare = E

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

ORDER SHEET

Original Application No. _____

Misc. Petition No. _____

Contempt petition No. _____

Review Application No. 4/05

Applicants. Dr. Ramesh Chand

Respondents. U. C. P. 904

Advocates for the Applicant. A.K. Bora, B.K. Talukdar

Advocates of the Respondents. Mr. S. Sharma, Railway Counsel

Notes of the Registry.	Dated	Order of the Tribunal
 certified to be true copy affair	19.5.05.	<p>present: Hon'ble Mr. G. Sivarajan, Vice-Chairman.</p> <p>The O.A. was disposed of by order dated 29.4.05 directing the applicant to file representation for inter-Railway transfer to the General Manager, N.F.Railway. The applicant has accordingly filed representation dated 3.5.2005 (Annexure 2) to the Review Application before the said authority.</p> <p>In this Review Application it is stated that since the request for inter-Railway transfer, the General Manager, N.F.Railway has no authority and that it is only Railway Board which has got the authority. Since there was earlier direction to the General Manager, N.F.Railway, if that authority feels that he has no jurisdiction certainly he has to forward the same to the competent authority for taking decision, in which case the said authority will ^{pass} order in the representation as directed in the main order.</p> <p>The Review Application is disposed of as above.</p> <p>I am B.K. Talukdar</p> <p>sd/VICE CHAIRMAN</p>

DR. RAMESH CHAND
 Section Officer (J)
 C.A.T. GUWAHATI BENCH
 Guwahati-781005

Ansawar = F

Northeast Frontier Railway

Office of the
General Manager (P),
Maligaon, Guwahati -11.

No. E/283/III/130 Pt.XI (O)

Dated: 13.06.2005

14

To
Dr. Ramesh Chand,
DMO/N.F. Railway Health Unit/Hojai,
Assam.

Sub: O.A. No. 96/2005 & Review Application No. 4/05
before Hon'ble CAT/GHY - Dr. Ramesh Chand -vs-
Union of India and others & your application
dated 03.05.2005 addressed to General Manager/
N.F. Railway, Maligaon.

A copy of order-dated 09.06.2005, passed by General Manager/N.F.
Railway in connection with above, is sent herewith for your information please.

The receipt of this letter along with the copy of aforesaid order may
please be acknowledged.

DA: As above.

Singh
(P.K. Singh)
Dy. CPO(Gaz)
for General Manager (P).

Confidential
Dr. A. Taleedwar

Answer = F/

ORDER

The matter relates to a Court Case before CAT/GHY, filed by Dr. Ramesh Chand, Divisional Medical Officer/N.F. Railway/Hojai, for his transfer from N.F. Railway to N.E. Railway/N. Railway.

The undersigned has carefully gone through the Hon'ble CAT/GHY's order dated 29.04.2005 in O.A. No. 96/2005 & order dated 19.05.2005 in Review Application No. 4/05 of Dr. Ramesh Chand -vs- Union of India and Others, with the direction to the General Manager/N.F. Railway to dispose of the application of Dr. Ramesh Chand, to be filed by him within a period of 02 weeks from the date of judgment and disposed of within 03 months' time and to forward the case to Railway Board if it is not within the competence of General Manager to decide the case. The undersigned has also gone through the application dated 03.05.2005 submitted by Dr. Chand, in pursuance of CAT/GHY's above direction, wherein he has requested for considering his request for transfer to N.E. Railway/N. Railway at an early date, stressing on the following points: -

- (1) That, his wife is a serving Doctor under Government of Uttar Pradesh at Community Health Centre, Fazilnagar.
- (2) That, he is having a female child of about 03 years of age.
- (3) That, his case for posting of Husband and wife at the same station should be considered, in terms of DOPT's O.M. No. 28034/7/86-Estt(A) dated 03.04.86 and No. 28034/2/97-Estt(A) dated 12.06.97 forwarded under Ministry of Railway's Order No. E(O)III 98 PL/4 dated 08.05.98.

The undersigned has perused the service records of Dr. Ramesh Chand and has found that Dr. Chand had joined this Railway on 06.09.1996 as ADMO (Group-'A'), being allotted to this Railway, and his 10 years tenure on N.F. Railway will be over on 05.09.2006.

As per Ministry of Railways, Railway Board, New Delhi's instructions contained in their letter No. E(O)III-2000/PL/02 dated 03.02.2000, all the Group-'A' officers of different Services, including Medical Services, originally allotted to N.F. Railway, can apply for transfer out of N.F. Railway to other Zonal Railways with 03 choices, after they complete the tenure of 10 years service in N.F. Railway, for final consideration by Ministry of Railways/Railway Board, New Delhi. The DOPT's Instructions contained in their O.M. No. 28034/7/86-Estt(A) dated 03.04.86 and No. 28034/2/97-Estt(A) dated 12.06.97 forwarded under Ministry of Railway's Order No. E(O)III 98 PL/4 dated 08.05.98 in regard to posting of Husband and Wife at the same station stipulates that such a request for posting of Husband and Wife at the same station may be considered, where it is feasible and also keeping in mind that no administrative problems arise out of such a posting.

(Contd....2)

B.K. Tawakdar
Certified to be true copy
B.K. Tawakdar

Name & no = F 2

-2-

The undersigned has carefully considered the application-dated 03.05.2005 of Dr. Ramesh Chand and after taking into account the acute shortage of Doctors on N.F. Railway, where there are at present more than 20 vacancies of Doctors causing major inconvenience to railway staff and is also an important item of outstanding complaints of the Unions & organised labour of N.F. Railway, decided that since Dr. Chand has already completed nearly 9 years service, his application for inter-railway transfer would normally have to be forwarded to Railway Board in next 6 - 9 months time, but his application dated 03.05.2005 is now forwarded to Board, pursuant to CAT/GHY's Order dated 19.05.2005 in Review Application No. 4/05, stipulating that his transfer order may be considered only on completion of 10 years of service in N.F. Railway, with posting of a suitable relief.

This disposes the appeal-dated 03.05.2005 of Dr. Ramesh Chand, DMO/N.F. Railway, Hojai.


(A.K. Sanwalka)
General Manager,
N.F. Railway.

19/6

Central Civil Service
B.M. Tatykdar
19/6

Annexure F 3

Northeast Frontier Railway

Office of the
General Manager (P),
Maligaon, Guwahati - 781 001.

Dated: 27.05.2005

No. E/283/III/130 Pt.XI (O)

To
The Secretary,
Railway Board,
New Delhi.

Sub: Request for inter-railway transfer of Dr. Ramеш
Chand, DMO/N.F. Railway, Hojai.

Dr. Ramesh Chand, a UPSC selected ADMO (Group-'A') of 1995 batch on being allotted to N.E. Railway, had joined this Railway on 05.06.1996.

2. Dr. Ramesh Chand, DMO/N.E. Railway had applied for Inter-railway transfer to N.E. Railway on 10.09.2004, on the ground of posting of husband and wife at the same place, as his wife is a serving Doctor under Government of Uttar Pradesh and they also have a Daughter of 3 years of age. The said application of Dr. Ramesh Chand was not forwarded by this Railway due to acute shortage of Doctors on this Railway.

3. Dr. Ramesh Chand had filed an O.A. No. 96/2005 before CAT/GHY against the decision of this Railway Administration, for not agreeing to forward the application to Railway Board. The CAT/GHY vide it's order dated 22.04.2005 on the above O.A. has passed orders that -- the applicant is directed to file an application before the 4th Respondent (i.e. GM/N.F. Railway) within a period of 2 weeks from the date of order and if such application is filed, the same will be disposed of in accordance with law by the 4th Respondent (i.e. GM/N.F. Railway) within a period of 3 months from the date of receipt of copy of such application. However, the CAT/GHY, vide it's subsequent order dated 19.05.2005 in a review application in the said O.A. has directed that if GM/N.F. Railway feels that he has no jurisdiction certainly, he has to forward the same to the Competent Authority (Railway Board) for taking decision. As per above direction of CAT/GHY, Dr. Ramesh Chand has submitted an application dated 03.05.2005 addressed to GM/N.F. Railway for his Inter-railway transfer to N.E. Railway/N. Railway. Based on the above orders of CAT/GHY, GM/N.F. Railway has passed a Speaking Order dated 09.05.2005, which has been served to Dr. Ramesh Chand, DMO/N.F. Railway, Hojai vide this Railway's letter of even number dated 13/14.06.2005.

4. In view of above, the application dated 03.05.2005 of Dr. Ramesh Chand, DMO/N.F. Railway/Hojai for inter-railway transfer, along with copies of CAGH/GHY's order on the above O.A. and also Speaking Order of GM/N.F. Railway dated 03.06.2005 are forwarded herewith for Board's kind information and necessary disposal please.

DM: As above.

16/05
(P.K. Singh)
Dy. CPO(Gaz)
for General Manager (P).

Copy to:- Ramesh Chand, DHO/N.E. Railway, Hojal.

for General Manager (P).

Hanswia G.

Northeast Frontier Railway

Office of the
General Manager (P),
Maligaon, Guwahati -11.

No. E/283/III/130 Pt.XI (O)

Dated: 22.07.2005

To
Dr. Ramesh Chand,
DMO/N.F. Railway,
Hojai.

Sub: Dr. Ramesh Chand, DMO/N.F. Railway - Request for
transfer to N.E. Railway or Northcprn Railway.

Ref: This Railway's letter of even number dated 27.06.2005.

Further to this Railway's letter mentioned above, it is intimated that your application dated 03.05.2005 for transfer to N.E. Railway or N. Railway was forwarded to Railway Board under this Railway's letter of even number dated 27.06.2005.

Railway Board vide their letter No. E(O)III-2005/AE/275 dated 14.07.2005 communicated that you have joined N.F. Railway on September 1996, is yet to complete the requisite tenure of 10 years on N.F. Railway and is not eligible for transfer out of N.F. Railway for the present & your fresh request may again be forwarded to them for consideration after you complete your tenure on N.F. Railway.

This is for your information please.

(S.K. Chowdhury)
APO(Gaz)
for General Manager (P).

C. K. Tareldar
B.

Arunakur = 4

3✓

8/11/4
Rev. 1/1
8/11/05
8/11/05

AEE / msd.

Circulate in
all
8/11/05

N. F. RAILWAY.

LAC - 615
No. E/53/0 Pt. VII (C).

Office of the
General Manager (P)
Maligaon, Guwahati-11.

dated 28-4-2005.

To
GM (CON)/MLG, AGM/MLG & Others.

Sub:- Conduct of a Railway servant in relation to the proper maintenance of his family.

A copy of Railway Board's letter No. E(L&A)2005/GS 1-1 dated 12.4.2005 (RME No. 62/2005) on the above mentioned subject is forwarded for information and necessary action please. This may be circulated widely amongst officers/staff under your control.

Sd/-
(F. Sarker)
SPG/MP & TAC
for General Manager (P)/MLG.

(Copy of Railway Bd's letter No. E(L&A)2005/GS 1-1 dt. 12.4.2005).

Sub:- Conduct of a Railway servant in relation to the proper maintenance of his family.

Instances of failure of Rly. servant to look after the proper maintenance of their families have come to notice of the Board. It has been noticed that in most cases, railway avoid to investigate these instances/complaints and to take suitable action thereon on the ground that these are private/personal affairs of the Railway servant and railway administration cannot interfere as much.

2. In this connection it is clarified that it is the responsibility of the railway employees to look after their families, failing which they can be taken up for violating RS (Conduct) Rules, 1968 for such conduct as unbecoming of a railway servant. Neglect by a railway employee of his wife and family in a manner unbecoming of railway servant should be regarded as good and sufficient reason to justify action being taken against him under Rule 6 of RS (L&A) Rules, 1968.

3. Instances/complaints of the failure of Railway employees to look after their families may, therefore, be investigated invariably and suitable action be taken in all these cases where the complaints are *prima facie* established during the investigation.

Please acknowledge receipt.

Sd/-
(R. Vijayan Nair)
Director Establishment (L&A)
Railway Board.

dated 16/8/05.

N. E/206/LAC/9/Ft. IV

Copy is forwarded for information and necessary action to:-

BRK. Tawardar
B.R.K. Tawardar
B.R.K. Tawardar

33

Answer = 1

NO.28034/7/86-Estt (A)
GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS
(DEPARTMENT OF PERSONNEL & TRAINING)

New Delhi dt: 3.4.86

OFFICE MEMORANDUM

Sub: Posting of Husband and Wife at the same station.

The question of formulation of a policy regarding the posting at the same place of husband and wife who are in Government service or in the service of Public Sector undertaking has been raised in Parliament and other forums on several occasions. Government's position has been that requests of Government servants and employees of public sector undertakings for posting at the same station usually receive sympathetic consideration and that such case is decided on merits, keeping in view the administrative requirements.

2. The Government of India have given the utmost importance to the enhancement of women's status in all sectors and all walks of life. Strategies and policies are being formulated and implemented by different Ministries of the Central Government to achieve this end. It has also considered necessary to have a policy which can enable women employed under the Government and the Public Sector Undertaking to discharge their responsibilities as wife/mother on the one hand and productive workers on the other, more effectively. It is the policy of the Government that as far as possible and within the constraints of administrative feasibility, the husband and wife should be posted at the same station to enable them to lead a normal life and to ensure the education and welfare of their children.

3 In Feb. 1976, the then Deptt. of Social Welfare had issued a circular DO letter to all Ministries and Departments requesting them to give serious consideration to the question of posting husband and wife of the same station. However, representations continue to be received by the Department of Women's Welfare in the Ministry of Human Resource Development from women seeking and intervention of that Department for a posting at the place, where their husbands are posted. It has, therefore, now been decided to lay down a broad statement of policy at least with regard to these employees who are under the purview of the Central Government/Public Sector undertakings. An attempt has, therefore, been made in the following paragraphs to lay down some guidelines to enable the cadre controlling authorities to consider the requests from spouses for a postings at the same station. At the outset, it may be clarified that it may not be possible to bring every category of employee within the ambit this policy as situations of husband/wife employment are varied & manifold. The guidelines given below are therefore illustrative and not exhaustive. Govt. desire that in all other cases the cadre controlling authority should consider such requests with utmost sympathy.

Contd... 2*i*

certificate
B. K. Tareldar

4. The classes of cases that may arise, and the guidelines for dealing with each class of case, are given below:-

i) Where the spouses belong to the same All India Service or two of the All India Services, namely, IAS, IPS and Indian Forest Service (Group 'A').

The spouses will be posted to the same cadre by providing for a cadre transfer of one spouse to the cadre of the other spouse subject to their not being posted by this process to their home cadre. Postings within the cadre will, of course, fall within the purview of the State Government.

ii) Where one spouse belongs to one of the All India Services and the other spouse belongs to one of the Central Services -

The cadre controlling authority of the Central Service may post the officer to the station, or if there is no post in that station to the state where the other spouse belonging to the All India Service is posted.

iii) Where the spouses belong to the same Central Service:

The cadre controlling authority may post the spouses to the same station.

iv) Where one spouse belongs to one Central Service and the other spouses belongs to another Central Service:

The spouse with the longer service at a station may apply to the appropriate cadre controlling authority and the same authority may post the said officer to the station, or if there is no post in that station to the State, where the other spouse belonging to the other Central Service is posted.

v) Where one spouse belongs to All India Service and the other spouse belongs to a Public Sector Undertaking:-

The spouse employed under the Public Sector undertaking may apply to the competent authority and said authority may post the said officer to the station, or if there is no post under the PSU in that station, to the state where the other spouse is posted.

vi) Where one spouse belongs to a Central Service and the other spouse belongs to PSU:-

The spouse employed under the PSU may apply to the competent authority and the said authority may post the officer to the station, if there is no post under the PSU in that station to the state where the other spouse is posted. If, however, the request cannot be granted because the PSU has no post in the said station/State then the spouses belonging to the Central Service may apply to the appropriate Cadre Controlling authority and the said authority may post the said officer to the station, or if there is no post in that station, to the State where the spouse employed under PSU is posted.

Answer to

- 3 -

vii) Where one spouse is employed under the Central Government and the other spouse is employed under the State Government.

The spouse employed under the Central Government may apply to the competent authority and the competent authority may post the said officer to the station of if there is no post in that station, to the State where the other spouse is posted.

5. As will be seen from the illustrations given above they do cover all possible categories of cases which may arise. In fact it is not possible to anticipate all the categories of cases. Each case, not covered by the above guidelines, will have to be dealt with keeping in mind the spirit in which those guidelines have been laid down and the larger objective of ensuring that a husband and wife are, as far as possible and within the constraints of administrative convenience, posted at the same station.

6. Ministry of Finance etc. are requested to bring the above instructions to the notice of all administrative authorities under their control and ensure compliance.

7. In so far as persons serving in Indian Audit and Accounts Department are concerned, these orders issue in consultation with the Comptroller and Auditor General of India.

8. This issues with the concurrence of the Department of Public Enterprises.

Sd/-
(AARTI KHOSLA)
Jt. Secy. to the Govt. of India

B. K. Tanneeru

Annexure = 2

GOVERNMENT OF INDIA (DESHAKAT SAMIKSHA)
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)
(RAILWAY BOARD)

NO. E(O)III 98 PL/4

New Delhi, dtd. 8.5.98.

The General Managers
All Indian Railways including Production Units
(As per Standard List ('A'))

SUB: Posting of Husband and Wife at the same
station - instructions in respect of
Group 'A' and 'B' Railway Officers.

The Fifth Central Pay Commission has recommended that
not only the existing instructions regarding the need to post
husband and wife at the same station need to be reiterated, but
the scope of these instructions should also be widened to include
the provision that where posts at appropriate level exist in the
organisation at the same station, the husband and wife may
invariably be posted together in order to enable them to lead
a normal family life and look after the welfare of the children
especially till the children are 10 years of age.

2. The extant instructions in regard to posting of husband
and wife at the same station are contained in Department of
Personnel and Training O.M. No. 28034/7/86-Estt(A) dated 3.4.86.
DOP&T vide their O.M. No. 28034/2/97-Estt(A) dated 12.6.97 have
conveyed Government's acceptance of Fifth Central Pay
Commission's recommendation on the subject and have reiterated
that guidelines laid down in their O.M. dated 3.4.86 should be
strictly adhered to while deciding on the requests of posting of
husband and wife at the same station.

3. Ministry of Railways have now decided that DOP&T's
guidelines as laid down in their O.M. No. 28034/2/97-Estt.(A)
dated 12.6.97 (copy enclosed) should be followed mutatis
mutandis in case of Group 'A' and 'B' Railway Officers also,
subject to posts at appropriate level being available at the
relevant station and no administrative problem arising out of
such postings.

4. Receipt of these instructions may be acknowledged.

Encl.: As above.

(A. C. BHAKSHI)
JOINT SECRETARY (G)
RAILWAY BOARD

Original
B.R. Tawarji
S.C.