

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

5-
O.A/T.A No. 275/2005

R.A/C.P No.

E.P/M.A No.

1. Orders Sheet..... OAPg. 1to 4
2. Judgment/Order dtd. 21.03.2007Pg. 1to 17
Index OA 115 117 172 269 275 311 106
3. Judgment & Order dtd.Received from H.C/Supreme Court
4. O.A..... 275/2005Pg. 1to 17
5. E.P/M.P.....Pg.to.....
6. R.A/C.P.....Pg.to.....
- ✓ 7. W.S.....Pg. 1to 9
8. Rejoinder.....Pg.to.....
9. Reply.....Pg.to.....
10. Any other Papers.....Pg.to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

Kahb
06.11.17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Original Application No. 275/05

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicant(S): R.K. Barman

Respondant(S): UOI & Ors.

Advocate for the Applicant(S): Mr. K. Bhattacharjee

Advocate for the Respondant(S): Mr. M.K. Mazumdar
Mr. G. Baishya, Sr. C.G.S.C.

Notes of the Registry	Date	Order of the Tribunal
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9.11.2005

Heard Mr.K.Bhattacharjee, learned counsel for the applicant and also Mr. G.Baishya, learned Sr.C.G.S.C. for the respondents.

Since similar application has already been admitted (O.A.269/2005) this application is also admitted. The respondents are directed to file written statement within six weeks. post this case before the next Division Bench alongwith O.A.269/2005.

In the meanwhile there will be an interim stay of transfer order of the applicant till the next date.

[Signature]
Vice-Chairman

bb

20.12.2005

Mr. M.K. Mazumdar, learned counsel for the applicant is present. Mr. G. Baishya, learned Sr. C.G.S.C. for the respondents seeks for further time for filing written statement. Post on 2.2.2006. Interim order dated 9.11.05 shall continue in the meantime.

[Signature]
Vice-Chairman

mb

This application is in form
is filed/C.F. 1/1/05

deposited vide IPO/BD

No. 266 318593

Dated 2.10.05

[Signature]
Dy. Registrar

Rs. 10/- deposit for R. No. 627

Vide Receipt No. 2687 dat 01.11.05

NO steps

[Handwritten note]

9.11.05

[Signature]
9.11.05

Steps taken on
resp. Nos. 2 to 7.

[Signature]
14/11/05

Notice & order
sent to D/section
for issuing to
resp. Nos. 2 to 7
by regd. A/D post

16/11/05. D/No = 1606 to
16/11
Dt = 17/11/05.

2.2.2006

Mr. M.K. Mazumdar, learned counsel is present for the applicant. Mr. M.U. Ahmed, learned Addl. C.G.S.C. submits that he would like to have some more time to file reply statement. Let it be done.

post on 28.2.2006.

Another steps for
resp. No-1 received
on 22/11/05.

22/11/05

Notice & order
sent to D/section
for issuing to
resp. No-1 by
regd. A/D post.

22/11/05

D/No = 1637

DT = 23/11/05

Notice duly
served on resp.
No 5, 2 & 7.

28/11

- ① Notice duly served.
On R.No. 2, 5 & 7.
other respondents
are still awaited.

19.12.05

Order dtd 20-12-05
received on behalf of
G. Baishya, Sr. CGSC

Ritesh Gogoi
Advocate

21-12-05

1-2-06

No. Wls have been
billed.

No Reply has been
billed. 27.2.06

bb

28.2.2006

Mr. G. Baishya, learned Sr. C.G.S.C. submits that reply statement has already been filed. Let it be brought on record if otherwise is in order.

Mr. M.K. Mazumdar, learned counsel for the applicant submits that O.A Nos. 116/05, 117/05, 174/05 and 269/05 are posted before Division Bench and requested that this case being identical to the said cases may also be posted on 9.3.2006 before the Division Bench along with the said cases. post, the case on 9.3.2006 along with the identical cases before the DB. In the meantime, the applicant is at liberty to file rejoinder, if any.

Vice-Chairman

bb

8-3-06

① No Rejoinder has
been filed.

By

9.3.05

Mr K.Bhattacharya, learned counsel
for the applicant submits that he would
like to complete the pleadings and some
time is sought. Time allowed.

post on 4.4.06 for order.

Vice-Chairman(J)

Vice-Chairman(A)

pg

4.4.06.

Post the matter before the next
available Division Bench.

Vice-Chairman

lm

10.8.2006

Mr.K.Bhattacharjee, learned counsel
for the applicant is represented and adj-
ournment is sought on his behalf. post
after a month.

Member (A)

Vice-Chairman

bb

12.3.07.

post the matter on 13/3.07.

Member

Vice-Chairman

lm

13.3.2007

Heard Mr.K.Bhattacharjee, learned
counsel for the Applicant and
Mr.M.U.Ahmed, learned Addl. C. G. S. C.
for the Respondents. Hearing concluded.

Order is reserved.

Member (A)

Vice-Chairman


/bb/

BA.275/05

13.3.2007

Heard Mr.K.Bhattacharjee, learned counsel for the Applicant and Mr.G.Baishya, learned Sr. C. G. S. C. for the Respondents. Hearing concluded.

Order is reserved.



Member (A)


Vice-Chairman

/bb/

21.3.07.

Judgment delivered in open Court. Kept in separates sheets. Application is dismissed. No costs.


Member


Vice-Chairman

lm

*Recd
Baishya
Sr. C. G. S. C.
28.3.07*

29.3.07

*Copy has been
collected by the
Adv. for the
Applicant.*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

.

O.A. No.116/05, 117/05, 174/05, 269/05, 275/05 & 31/06.

DATE OF DECISION: 21.03.2007

Shri Premtosh Dutta & Ors.

.....Applicant/s

Mr.K. Bhattacharjee

..... Advocate for the
Applicant/s

- Versus -

Union of India & Ors.

.....Respondent/s

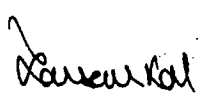
Shri G.Baishya, Sr.C.G.S.C, M.U.Ahmed and
Miss U.Das, Addl.C.G.S.C.

.....Advocate for the
Respondents

CORAM

THE HON'BLE MR. K.V. SACHIDANANDAN, VICE CHAIRMAN
THE HON'BLE MR. TARSEM LAL, ADMINISTRATIVE MEMBER

1. Whether reporters of local newspapers may be allowed to see the Judgment? Yes/No
2. Whether to be referred to the Reporter or not? Yes/No
3. Whether to be forwarded for including in the Digest Being complied at Jodhpur Bench & other Benches ? Yes/No
4. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No


Vice-Chairman/Adm. Member

X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.116/05, 117/05, 174/05, 269/05,
275/05 & 31/06.

Date of Order: This the 21st day of March, 2007.

HON'BLE MR. K.V.SACHIDANANDAN, VICE-CHAIRMAN

HON'BLE MR.TARSEM LAL, ADMINISTRATIVE MEMBER

Sri Premtosh Dutta, (O.A.116/2005)
Son of Late T.K.Dutta
S.F.A (V) Office of the AO/SSB/Bongaigaon
Shastri Road, Ward No.10
P.O. North Bongaigaon,
Dist. Bongaigaon.

Sri Bimal Chakraborty (O.A.117/2005)
Son of Late D. Chakraborty
S.F.A(V) Office of the AO/SSB/Bongaigaon, Shastri Road,
Ward No.10, P.O.North Bongaigaon, Dist.Bongaigaon.

Sri Ankaji Sherpa (O.A.174/2005)
Son of late P.D.Lama
S.F.A (V) Office of C.O., S.S.B
Bangajang Camp Jang
Dist. Tawang, Arunachal Pradesh.

Sri Haridas Sarkar (O.A.269/2005)
O/O the Area Organiser, SSB
Bongaigaon
Sri R.K.Saha (O.A. 269/2005)
O/O Area Organiser, SSB
Falakata

Sri Ram Kishore Barman (O.A.275/2005)
O/O the Area Organiser, SSB *S/O Late A.S.Barman
Falakata Vill: Sriram Para, P.O. Srirampara
P.S. & Dist. Jalpaiguri.

Sri Himangshu Kumar Roy Podder (O.A.31/2006)
S/o Late Khagendra Nath Roy Podder
Vill Dol Govinda, P.O.Citaldala
Dist. Coochbehar

Sri Pradip Basak, (O.A.31/2006)
S/o Late Kali Kumar Basak
Vill. Madhyapar (Near Girls School Road)
P.O. Dhupguri, Dist. Jalpaiguri

....Applicants

By Advocate Mr K. Bhattacharjee

1. Union of India,
represented by the Director General,
Sashastra Seemabal, East Block V
R.K.Puram, New Delhi-110066.
2. Ministry of Home Affairs,
Represented by Secretary to the
Govt. of India, New Delhi.
3. Director General,
Sashastra Seemabal, East Block-V,
R.K.Puram, New Delhi-110066.
4. Assistant Director,
O/O Director General,
Sashastra Seemabal, East Block-V
R.K.Puram, New Delhi-110066.
5. Inspector General,
FTR, HQR. S.S.B, MHA, Guwahati.
6. Area Organiser (H.Q)
FTR, HQRSSB, Guwahati.
7. Area Organiser, SSB,
Bongaigaon, Assam.
8. Area Organiser, SSB,
Falakata, West Bengal
9. Sr.Veterinary Officer,
S.S.B, East Block-V,
R.K.Puram, New Delhi-110066.Respondents

By Sri G.Baishya, Sr.C.G.S.C, in O.A.Nos.275/2005 &
31/2006.
M.U.Ahmed, Addl.C.G.S.C in O.A.116/05, 117/05 & 174/05.
Miss U. Das, Addl.C.G.S.C in O.A.269/2005.

ORDER

TARSEM LAL, MEMBER (A)

Since common questions of law and facts are involved, all the six cases are being disposed of by this common order with the consent of the parties.

2. This case is regarding transfer/postings of Senior Field Assistant (Veterinary) for posting at Pup Rearing Centre Gorakhpur vide order dated 5.10.2005.

3. The applicants have stated that they joined in the post of Constable on different dates under the Command of Director General, SSB. Subsequently they were appointed afresh as Senior Field Assistant (Veterinary) under SSB (Para Veterinary Staff) Recruitment Rules 1989 which is a civil post in the pay scale of Rs.975-25-1150-EB-30-1600/-. The duties of the applicants under the said rule are to look after the treatment of sick animal, documentation of Veterinary Hospital Dispensary and have to undergo BASIC CONDENSED COURSE known as Veterinary Assistant Course.

4. The Chief Veterinary Officer in order to select some candidates for the post of Dog Handler issued a circular among the workers who are willing to join the new post and in that connection the applicants declined to join the post of Dog Handler which is a post for combative personnel.

5. The Director General, SSB has approved the postings of Veterinary staff alongwith posts with immediate effect in public interest. The officials were directed to be relieved immediately so as to report to Pup Rearing Centre, Gorakhpur on or before 24th October, 2005. The incumbents approached the Guwahati Bench of the Tribunal vide O.A.No. 117/2005 to mitigate their

grievances by challenging the order dated 5.10.2005. By order dated 26.5.2005 the Tribunal maintained the status quo. The relevant portion of the order is quoted below :

"Status quo as on today regarding transfer of the applicant issued vide orders dated 17.2.2005 and 5.4.2005 shall be maintained till the next date."

6. In the present applications the applicants have prayed for the following reliefs :

- (1) This Hon'ble Tribunal may be pleased to call for the records pertaining to transfer of the applicants in the post of Senior Field Assistant (Veterinary) to a combat post and consequently to direct the respondents not to release the applicants along with the post and also to declare that the order dated 5.10.2005 is illegal and void.

7. The respondents have filed a detailed written statement denying the contention of the applicants. It has been stated that applicants were initially appointed as Constable(GD) and were subsequently appointed afresh as Senior Field Assistant (Veterinary) in the scale of Rs.975-25-1150-EB-30-1660/- in pursuance of Para Veterinary Recruitment Rule circulated vide Cabinet Secretariat Notification No.12018/30/88-DO.I dated 31.3.1989. Their services were utilized for treatment of sick animal and documentation of Veterinary hospital/dispensary works. After the administrative control of the Organisation has been shifted from Cabinet Secretariat to Ministry of Home Affairs w.e.f. 15.1.2001, the role of the

organisation has been changed and it has now been assigned with the mandate to guard the Indo Nepal Border and Indo Bhutan Border and therefore SSB as on date has become a Border Guarding Force. With the change in role of the organisation from Stay Behind Role to that of a Border Guarding Force, the old area of operations have been closed and new offices/Battalions have been opened all along with Indo-Nepal and Indo-Bhutan Border.

8. For better performance of the duties, the Govt. of India has sanctioned Dog Squad to SSB to carry out operational duties in the border areas. As the Organisation has independent veterinary staff, it is primarily, the veterinary staff only who will raise and maintain the Pups and Dogs in changed circumstances. The Veterinary Cadre is the most suited and trained staff to look after the health, breeding, training, handling and maintenance of the dogs.

9. After having been trained in rearing and breeding of pups to the veterinary cadre personnel they are fully competent to perform their newly assigned duties. The rearing and breeding of pups is the primary job of the Para-Vety Staff. Moreover, during the service career every individual has to undergo certain departmental courses for improvement of efficiency and making them professionally equipped to meet the needs

and objectives of the Organisation as the Force has competent and independent Veterinary Staff.

10. Accordingly SFAs(V) were withdrawn and attached temporarily with the newly created Pup Rearing Centre at Gorakhpur. The applicants have been transferred along with Post as SFA(V) in public interest and nowhere it has been mentioned in the order dated 5.10.05 that the applicants have been posted as Dog Handlers. Nowhere it has been mentioned whether the Dog Handling is a part of the duty of veterinary cadre, which can only be performed by the trained existing Para Veterinary cadre. The applicants had been transferred in public interest to fulfill and discharge operational commitments urgently required at the border. Neither the nomenclature nor the cadre of the applicants has been changed. This is a mere apprehension on the part of the applicants. The rearing and breeding of pups is primary job of the Vety/Para-Vety Cadre/Staff. Moreover, during the service career every individual has to undergo certain departmental courses for improvement of efficiency and making them professionally equipped to meet the needs and objectives of the Organisation. They have been transferred in the same capacity in public interest along with the post. It is not correct that the applicants have been transferred from the post of SFA(V) to a combatant post but they have been


transferred along with post in public interest and after transfer also they will be governed by the same rules.

11. We have heard Mr. K. Bhattacharjee, learned counsel for the applicants in all the O.A. and Mr. G. Baishya, learned Sr. C.G.S.C, Mr. M.U. Ahmed, learned Addl. C.G.S.C and Miss U. Das, learned Addl. C.G.S.C for the respondents in the respective O.As. and perused the documents.

12. Mr. K. Bhattacharjee, learned counsel for the applicants submitted that the applicants are governed under Chapter IV clause 30 of the Indian Veterinary Council Act 1984 and their service conditions cannot be changed under an administrative order. They were originally recruited as Senior Field Assistant (Vety) which is a separate cadre and cannot be deployed as Dog Handler which is a combatant post. The learned counsel made us to traverse through various documents to establish that Senior Field Assistant (Vety) is a separate cadre. He repeatedly emphasized that separate cadre is not synonymous with a separate service but a particular group of officials in a department. He further pleaded that the applicants are not willing to join the services of Dog Handlers and they have not given their willingness for the same. Therefore, they may either be allowed to continue to perform their

present duties till they are retired or may be declared surplus in the service.

13. The learned counsel for the respondents on the other hand persuasively argued that the applicants are not governed under the "Indian Veterinary Council Act 1984." They were not qualified to be registered under the Council Act. In fact the doctors who are practicing are governed under the above statutory Act. The Sr. Field Assistant (Vety) had joined as Constables and on technical resignation from the post were appointed as Sr. Field Assistant (Vety) under the SSB (Para Veterinary Staff) Recruitment Rules 1989. Since the applicants had not obtained their veterinary qualification from any of the institutions of India as included in the first schedule (clause 15 of the Act), they are not governed by the Indian Veterinary Council Act 1984. The learned counsel further pleaded that in view of the above position, it was misnomer to say that Senior Field Assistant (Vety) are governed under the Statutory Rules. The counsel further pleaded that the decisions cited by the applicant's counsel are not squarely applicable in these cases, since their cadre has not been changed in any way but only additional duty was entrusted upon them. Therefore, the O.A may be dismissed with cost.



14. The learned counsel further pleaded that Sr. Field Assistant (Vety) are not a separate cadre and continue to be governed under the SSB (Para Veterinary Staff) Recruitment Rules 1989. They have been deployed for taking care of animals and are being sent on training for a period of six months. He emphasized that it was entirely within the domain of the employer to deploy officials any jobs for which they are more suitable according to their qualifications, experience and expertise. Their job, pay scales are not being changed.

15. We have given our due consideration to the arguments, pleadings, evidence and materials placed on record in these cases. Admittedly the applicants were appointed as Constable under the Director General, SSB and thereafter appointed as Senior Field Assistant(Vety) (SFA(V) for short) and posted at different stations under the respective Area Organisers. The applicants served as Constables for 6 years and according to them they were appointed afresh as SFA(V) which is a civil post in the pay scale of Rs.975-1600/-. The applicants have been appointed afresh as SFA(V) in pursuance of the Para Veterinary Recruitment Rules circulated by Cabinet Secretariat Notification dated 31.3.89. Their services were utilized for treatment of sick animal and documentation of Veterinary hospital/dispensary works. The

administrative control of the Organisation has been shifted from Cabinet Secretariat to Ministry of Home Affairs with effect from 15.1.01, the role of the organisation has been changed and it has now been assigned with the mandate to guard the Indo Nepal Border and Indo Bhutan Border and therefore SSB as on date has become a Border Guarding Force. With the change of role of the organisation from 'Stay Behind Role' to that of a Border Guarding Force, the old area of operations have been closed and new offices/Battalions have been opened all along with Indo Nepal and Indo Bhutan Border. For better performance of the duties, the Government of India has sanctioned Dog Squad to SSB to carry out operational duties in the border areas. As the Organisation has independent veterinary staff, it is primarily, the veterinary staff only who will raise and maintain the pups and Dogs as primarily, in changed circumstances, the Veterinary Cadre is the most suited and trained staff to look after the health, breeding, training, handling and maintenance of the dogs. Willingness for the training was called for and the said notification is re-produced below :

"All SAOs are informed to obtain willingness of SFA(Vety) under their respective area for undergoing Dog handlers Course, at the earliest, so as to intimate their names for further detailment from Frontier

Headquarter, Guwahati. The matter may be treated urgent."

The qualifications of the applicants were Matriculate and they have served as Constable and they were appointed as SFA(Vety) which is a civil post as per Veterinary Staff Recruitment Rules and the duty assigned to them was the treatment of sick animal and documentation of Veterinary hospital/dispensary works and they had to undergo 6 months Basis Condense Course known as Veterinary Assistants Course. The applicant are not Graduate or diploma holder in Veterinary Science, therefore it will be necessary to evaluate whether the SFA (V) are covered by the Indian Veterinary Council Act 1984. In the preamble of the Act it is stated that 'An Act to regulate veterinary practice and to provide, for that purpose, for the establishment of a Veterinary Council of India and State Veterinary Councils and the maintenance of registers of the veterinary practitioners and for matters connected therewith. Whereas it is expedient to make provision for the regulation of veterinary practice and to provide, for that purpose, for the establishment of a Veterinary Council of India and State Veterinary Councils and the maintenance of registers to persons qualified to engage in veterinary practice for the whole of India for matters connected therewith or ancillary thereto. As per definition of

(12)

the Act a person who registered to get enrolled as a Member of the Council. Register means a register maintained under this Act. Registered Veterinary Practitioner means a person whose name is for the time being duly registered in a register. Veterinary institution means any University or other institution within or without India which grants degrees, diplomas or licences in veterinary science and animal husbandry. Chapter IV of the Privileges of Registered Veterinary Practitioners shows as under :

"Subject to the conditions and restrictions laid down in the Act, every person whose name is for the time being borne on the Indian Veterinary practitioners register shall be entitled according to his qualifications to practise as a veterinary practitioner and to recover in due course of law in respect of such practice any expenses, charges in respect of medicaments and other appliances or any fees to which he may be entitled.

Right of persons who are enrolled on the Indian veterinary practitioners register - No person, other than a registered veterinary practitioner, shall -

(a) hold office as veterinary physician or surgeon or any other like office (by whatever name called) in Government or in any institution maintained by a local or other authority;

(b) practise veterinary medicine in any State."

On going through Schedule 2 of the Act 6 months Condense Course underwent by the applicants do not qualify them to become a veterinary practitioner as defined in the Act nor they have any right to register

themselves in the Indian Veterinary Council. At best they may be permitted as veterinary technician since they are not Graduate or diploma holders. Therefore, on the close scrutiny of the said Act we are of the view that SFA(V) as that of applicants are not covered under the Indian Veterinary Council Act 1984. They have actually been appointed under the SSB Para Veterinary Staff Recruitment Rules 1989, which is a civil post. They have not also been appointed as Dog Handler but they are being sent for training at Pup rearing centre, Gorakhpur for better performance of their duties. Therefore, the contention of the applicants that they are governed under the Indian Veterinary Council Act 1984 will not hold good and the questions remains is whether their service conditions can be changed under administrative orders or not. From the above discussions we are of the view that the applicants are not governed by any statutory provision and they are not entitled to get any statutory protection as claimed by them.

17. The learned counsel for the applicants has relied on the following decisions :

- (i) Netai Pada Chakraborty & Anr. vs. U.I.O. & Ors., reported in 2005(1)SLJ (CAT)191,
- (ii) Jaboolal Choudhury vs. State of Arunachal Pradesh & Ors, reported in (2004)1 GLR 393

(iii) Dilip Kumar Ghosh & Ors. vs. Chairman & Ors, reported in AIR 2005 SC 3485

(iv) K.P.Sudhakaran & Anr. vs. State of Kerala & Ors. reported in AIR 2006 SC 2138 and canvas for the position that

where Statutory Rules govern the field, prior executive instruction cease to apply, circular cannot override the rules occupying the field and administrative instructions cannot be allowed to operate particularly when it is in contradiction to the statutory Recruitment Rules.

16. We are in respectful agreement with the propositions canvas by the applicants but to say that these are not squarely applicable in these cases. In those cases the applicants are not under protection of any statutory rules therefore, the ratio will not fit in these cases. What we find from the above is that since the cadre of the applicants have not been changed in any way but the only additional duty was entrusted to them and the SFA(V) is not a separate cadre and covered by SSB Para Veterinary Staff Recruitment Rules. They have been sent for training for six months. We are of the view that this is entirely within the domain of the administration according to their qualification, experience and expertise. Their job, pay scales have not been changed.

17. The learned counsel for the respondents also pleaded that this case has already been adjudicated by Hon'ble High Court, Allahabad and the Hon'ble Court has decided as under

"....The sum and substance of the order issued on 26.12.2005 is a direction to the petitioner to undergo dog-handling course commencing with effect from 2.1.2006. Through the impugned order, the rank, post or scale of the petitioners is not going to be changed. The petitioners, who are members of Sashastra Seema Bal, have been directed to undergo specialized training in handling of dogs. Merely sending on training cannot be said to be change of cadre or reduction in rank. This action may not adversely affect the service conditions of the petitioners. Accordingly, no legal right of the petitioners has been infringed by the impugned order. No interference is required.

The Writ petition is dismissed."

18. It is well settled law that judicial interference is limited to testing whether the administrative action has been fair and free from the taint of unreasonableness and has substantially complied with the norms or procedure set for it by rules of public administration. The above view has been taken by the Hon'ble Supreme Court in **Fertilizer Corporation, Kamgar Union vs. Union of India, (1981) 1 SCC 568.**

19. The Hon'ble Supreme Court has further held in case of **Tata Cellular vs. Union of India, (1994) 6 SCC 651**, that the duty of the court is to confine itself to the question of legality. Its concern should be :

1. Whether a decision making authority exceeded its powers?
2. Committed an error of law,
3. committed a breach of the rules of natural justice,
4. reached a decision which no reasonable tribunal would have reached or,
5. abused its power."

The Supreme Court has again held in a case of **Union of India vs. Flight Cadet Ashish Rai, (2006) 2 SCC 364** as under :

"There should be judicial restraint while making judicial review in administrative matters. Where irrelevant aspects have been ignored and the administrative decisions have nexus with the facts on record, there is no scope for interference. The duty of the court is (a) to confine itself to the question of legality; (b) to decide whether the decision making authority exceeded its powers; (c) committed an error of law; (d) committed breach of the rules of natural justice; and (e) reached a decision which no reasonable tribunal would have reached; or (f) abused its powers. Administrative action is subject to control by judicial review....":

Hon'ble Supreme Court has further held in **V. Ramana vs. A.P. SRTC, (2005) 7 SCC 338** that 'the common thread running through in all these decisions is that the court should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards.'

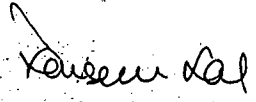
20. From the above it appears that the Senior Field Assistant (Vety) are not governed under Indian

Veterinary Council Act 1984. They have actually been appointed under the SSB (Para Veterinary Staff) Recruitment Rules 1989 which is a civil post. They have also not been appointed as Dog Handler but they are being sent for training on Pup Rearing Centre at Gorakhpur for better performance of their duties. Therefore, administrative authorities have taken action with bonafide intention in the interest of the State.

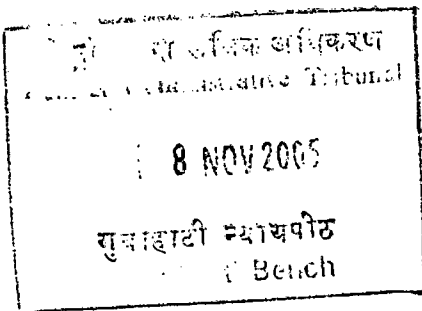
21. In view of the discussions made above and the settled law position all the Original Applications are dismissed.

The interim orders dated 26.5.2005 passed by this Tribunal under which the orders dated 17.2.2005 and 5.4.2005 were stayed will stand vacated.

In the conspectus facts and circumstances there will be no order as to costs.


(TARSEM LAL)
ADMINISTRATIVE MEMBER


(K.V.SACHIDANANDAN)
VICE CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI

ORIGINAL APPLICATION NO. 275/2005

Sri Ram Kishore Barman APPLICANT

- VERSUS -

Union of India & OthersRESPONDENTS

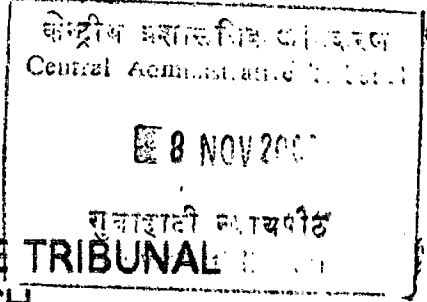
DATE AND SYNOPSIS OF THE CASE IN THIS APPLICATION :

<u>DATE</u>	<u>SYNOPSIS OF THE CASE</u>
19.2.1986	Applicant appointed as Constable in G.D. Falakata, Dist: Jalpaiguri under the Director General of Security, SSB/New Delhi.
30.4.1991	Applicant submitted technical resignation for the post of Constable.
1.5.1991	Applicant appointed as SFA (Vet) at Matha Bhangra under Cooch Bihar. Thereafter transferred to Jalpaiguri and thereafter to Falakata
7.10.2005	Impugned transfer order passed by the Staff Officer (Admn), SHQ,SSB, Bongaigaon transferring to PUP Rearing Centre, Gorakhpur along with post.

And being aggrieved by the transfer order file this appeal

Filed by the Applicant

Ram Kishore Barman.



CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 275/2005

Sri Ram Kishore Barman

Vs.

Union of India & Ors.

I N D E X

Sl. No.	Particulars	Pages
1.	Original Application	1 -10
2.	Verification	11
3.	Annexure - 1	12
4.	Annexure - 2	13-14
5.	Annexure - 3	15
6.	Annexure - 4	16
7.	Annexure - 5	17

Filed by

Advocate

2

8 NOV 2005

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI

ORIGINAL APPLICATION NO. 275/2005

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

(For use of Tribunal Office)

Signature :

Date :

Original Application No. 275 of 2005

I. PARTICULARS OF THE APPLICANT :

1. Sri Ram Kishore Barman
x S/O Late A.S. Barman
Village: Sriram Para, P.O: Srirampara
P.S: Jalpaiguri
Dist: Jalpaiguri x
O/O the Area Organiser, SSB
Falakata

II. PARTICULARS OF THE RESPONDENTS :

1. Union of India
Represented by the Director General
Sashastra Seemabal, East Block V
R.K.Puram, New Delhi - 110 066.
2. Ministry of Home Affairs
Represented by the Secretary to the
Govt. of India, New Delhi - 110066.
3. Director General
Sashastra Seemabal, East Block V

Ram Kishore Barman

Filed by the Applicant
Through M.K. Majumdar
Advocate
8/11 Nov: 05

R.K.Puram, New Delhi - 110 066.

4. Assistant Director
O/O Director General
Sashastra Seemabal, East Block V
R.K.Puram, New Delhi - 110 066.
5. Area Organiser, (HQ)
FTR HQRSSB, Gauhati.
6. Staff Officer (Admn)
SHQ, SSB, Bongaigaon.
7. Area Organiser, SSB
Falakata, West Bengal.

III. PARTICULARS OF THE ORDER (S) AGAINST WHICH APPLICATION IS MADE :

1. This application is made against the order No.1/10/Estt/02/Vol-VI/86 dated 7.10.2005 issued by the Staff Officer, (Admn), SHQ, SSB, Bongaigaon by which the present applicant is sought to be posted to PUP Rearing Centre, Gorakhpur pursuant to FHQ Order No.1/SSB/A-4/2005(1)-PT-6602-6666 dated 5.10.2005.

2. JURISDICTION OF THE TRIBUNAL

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

3. LIMITATION

That the applicant declares that the present application is made within the period of limitation

Ram Kishore Barman.

under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE:

i. That the applicant is a civilian employee under the authority of SSB and at present posted in the district of Jalpalguri under the supervision and control of Area Organiser FTR, HOR, SSB, Gauhati and as such entitled to all rights and privilege guaranteed under the Constitution of India and the relevant service rules framed thereunder.

ii. That the applicant joined in the post of Constable on 19.2.1986 at Falakata under the command of the D.G. S.S.B.

iii. That after serving for 6 years in the post as Constable and on technical resignation from the post on 30.4.1991 he was appointed as Senior Field Assistant (Veterinary) on 1.5.1991 under the SSB (Para Veterinary Staff) Recruitment Rules, 1989 which is a civil post in the pay scale of Rs.975-25-1150-EB-30-1600. That since joining in the new civil post he has been continuing as such.

A copy of the order of technical resignation dated 30.4.1991 and the memorandum of appointment dated 10.4.1991 are annexed as Annexures - 1 & 2 respectively.

iv. That the applicant states that the post of the Senior Field Assistant (Veterinary) is a purely civilian post

Learn Rishore Barman.

and is guided by the para-veterinary Staff Recruitment Rules, 1989 to look after the treatment of sick animal, documentation of Veterinary Hospital Dispensary and have to undergo BASIC CONDENSED COURSE, known a Veterinary Assistant Course.

- v. That the applicant states that on 3rd September, 2004 the Chief Veterinary Officer issued a Memorandum No.99/Vet/SSB/2003/VC-3.39-41 whereby It is stated to select and intimate the names of SFA (Vet.) working in the department who are relatively young and have aptitude to care and handle dogs for working as Dog Handler SSB in the Battalion. It was also proposed to impart a preliminary training in Dog handling to the selected SFA (Vet) at a central location by the SSB (Vet).

A copy of the memorandum dated 3.9.2004 is annexed herewith as Annexure - 3.

- vi. The Concerned Area Organiser was also requested to intimate the names of only those persons who are having interest in pets like dog so that they could be put into the course for getting their services in the near future. In that connection the present applicant expressedly declined to join in the post of Dog Handler, which is a post for combative personnel.
- vii. That the applicant states that in some other cases the Area Organiser, SSB, Bongaigaon issued circular dated 17.2.2005 received from the Headquarters

Ram Mishore Barman.

whereby some 8 posts were reallocated in public interest and were transferred from Bongaigaon to some other places and the incumbent have already approached this Tribunal by challenging the order of transfer and this Hon'ble Tribunal on consideration of facts and circumstances has stayed the order of transfer in O.A. No117/2005 by order dated 27.5.2005.

A copy of the order is annexed herewith as Annexure - 4.

viii. That the applicant states that pursuant to the filing of the O.A.s before the Hon'ble Tribunal by some other similarly situated persons the authority is now issuing transfer order to the SFA Staff using some different wordings intending to mean that the present applicant and others are transferred as per the direction of the D.G.S.S.B. alongwith the post so that the present applicant may not have any grievance of raising objections for their transferring to the PUP Rearing Centre at Gorakhpur for Dog Handling.

ix. That the applicant states that as mentioned in earlier para that the authority initially issued the memorandum dated 3.9.2004 requesting the Area Organisers to select and intimate the names of SFA (Vet) for handling dogs and in that regard an training was also required to be imparted. As such the apprehension that has arose in the mind of the

Ram Kishore Barman.

present applicant is not a baseless and the trend of the transfer order that now been issued is only to provide a shadow on their ultimate motive.

- x. That the applicant being similarly situated has approached this Tribunal to mitigate his grievance against the order dated 7.10.2005 whereby he has been transferred with post to report Pup Rearing Centre, Gorakhpur on or before 24th October, 2005 on the ground that he has joined the post of civilian and his transfer to the post of Dog Handler in a separate unit maintained by combative personnel cannot be equated with the post of civilian.

A copy of the order dated 7.10.2005 is annexed herewith as Annexure - 5.

5. GROUNDS

- I. For that the applicant was never called for any interview or training as was the case of other persons and as such the sudden transfer order dated 7.10.2005 to the PUP rearing Centre, Gorakhpur is bad in law.
- II. For that the respondents ought to have given a reasonable opportunity to the applicant before issuing any order, which is adverse to the service conditions and thereby violated the principles of natural justice, which is the basic tenant of administrative law.
- III. For that the order dated 7.10.2005 issued by the Staff Officer, (Admn), SHQ, SSB,

Ram Kishore Barman.

Bongaigaon pursuant to the HQ Order No. FHQ Order No.1/SSB/A-4/2005(1)-PT-6602-6666 dated 5.10.2005 is only meant for transferring the applicant at any cost to the PUP Rearing Centre, Gorakhpur to fulfill the intention of the memorandum dated 3.9.2004 and as such liable to be set aside.

- IV. For that the applicant by filing representation intended to ensure that since the transfer order dated 7.10.2005 specifically speaks of transfer alongwith post, he may not be engaged as Dog Handler on joining at Gorakhpur PUP Rearing Centre to which the authority simply declined to give any assurance. And as such it is clear it is clear that irrespective of the mode of transfer intention of the authority is clear to utilize his service as Dog Handler, which is against the service conditions of SFA (Vet). And as such the order is liable to be dismissed.
- V. The applicant may be permitted to urge other grounds at the time of hearing.

6. DETAIL OF REMEDIES EXHAUSTED :

- I. The applicant declare that he earller represented against the proposal of selection and accordingly they were excluded, but since passing of the order by the Staff Officer, (Admn), SHQ, SSB, Bongaigaon dated 7.10.2005 pursuant to Headquarters Order

Ram Kishore Barman.

dated 5.10.2005 for this short period he could not prefer any appeal but to approach this Tribunal for there is no other alternative or equally efficacious remedy except to approach this Hon'ble Tribunal exercise of its jurisdiction under Section 19 of the Administrative Tribunals Act, 1985.

7. MATTER NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT:

The applicants declare that they have not filed any Writ Petition or petition or application before any other Court or any Bench.

8. RELIEF SOUGHT FOR :

For the reasons stated above, the applicant hereby prays that this Hon'ble Tribunal may be pleased to call for the records pertaining to transfer of the applicants in the post of Senior Field Assistant (Veterinary) to a combat post and consequently to ensure that the said post may not be reallocated as a post of Dog Handler which is a combat post and also to declare that the Original order passed by the Head Quarters is illegal and void and also to direct the respondents not to release the applicant along with the post.

9. INTERIM ORDER IF ANY SOUGHT FOR :

Pending finalisation of the O.A. the applicant herein prays that this Hon'ble Tribunal may be pleased to direct the respondents no to give effect to the order

Ram Kishore Barman.

dated 7.10.2005 and or not to release the applicant from the present place of posting before ensuring that his service will not be utilized as Dog Handler and such order other for further orders as it deem fit and proper.

10. PARTICULARS OF THE POSTAL ORDER :

- a) IPO No.26G 318593 Dated 7.10.2005
For Rs.50/-
- b) Envelopes with acknowledgement
- c) Vakalat
- d) Material papers as per index

11. LIST OF ENCLOSURES

As stated in the index.

Ram Kishore Barman.

VERIFICATION

I, Sri Ram Kishore Barman, son of Late A.S. Barman, aged about 40 years, resident of Village - Sriram Para, P.O. - Srirampara & Jalpaiguri, District - Jalpaiguri, West Bengal, do hereby verify that the statements made in paragraph 1, 4, 5 and 6 to 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.

I sign this verification on this the 8th day of November 2005 at Guwahati.

Ram Kishore Barman.

- 12 -

Government of India
Directorate General of Security,
Office of the Commandant,
Group Centre, SSB, Palakata,
PO: Palakata, Jalpaiguri, W.B.

Q P R R

Consequent upon accepting the technical resignation tendered from the post of Constable (GD) w.e.f. 30.4.91 A.E. by the following personnel of this Group Centre on being their selection for the post of SSB (Veterinary) on "Transfer basis" in the pay scale of Rs. 975-25-1150-BS-30-1660 are relieved from their duties in the G.C. SSB, Palakata w.e.f. 30.4.91 A.E. for joining their new place of posting as noted against their names in pursuance of the Divisional Organiser, NBS Division, SSB, Siliguri Memo. No. II/2/60/89(111), dated 10.4.91 and Memo. No. II/2/60/89(114), dated 23.4.91 and struck off strength of the G.C. w.e.f. the same date i.e. 30.4.91 A.E.

1. 76452 Ct. Digan Ch. Deb Nath - CO's Office Siliguri.
2. 80590 Ct. Man Nishore Barmah - CO's Office Mathabhangha.
3. 80606 Ct. Achir Ch. Paul - CO's Office Jalpaiguri.
4. 80059 Ct. Tul Ch. Barmah - CO's Office Coochbehar.

The benefits of their past service will be admissible to them under Article 418(b) of CER and 26(2) of CCS (Pension) Rules, 1972.

Self/
Commandant,
Group Centre, SSB
Palakata.

No. I/D/16(L) 11872

Dated 30.4.91.

Distribution:-

1. The Divisional Organiser, SSB, NBS Div., Siliguri.
2. The Area Organiser, SSB Jalpaiguri.
3. The Area Organiser, SSB Coochbehar.
4. The Circle Organiser, SSB, Siliguri, Mathabhangha, Jalpaiguri, and Coochbehar.
5. Individual concerned.

Internal:

1. The DDO, SSB Palakata (along with 4 copies of NDC)
2. Quarter Master, GC SSB Palakata.
3. S.P.C., GC SSB Palakata.
4. The Coy. Commanders A/B Coys.
5. SI Adj..

Self/
Commandant

21/4 (SRA) ret.
418
Personal File of
Sgt. Achir Chandra Paul
(SFA C. No. 1)

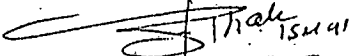
10
Forwarded to duty
on 7.5.91 (FM)
11/5/91

Signature of Subordinate
M. K. Mahindran

P-3

32

- (ii) They would not get any protection of the emoluments drawn by them as Constable. Their pay would be fixed under the normal rules with reference to their pay in the present cadre in the Group Centre.
 - (iii) They would not be made permanent immediately on their transfer as their permanency would be dependent upon their seniority in the grade of Sr. Field Assistant (Veterinary) and availability of permanent posts.
 - (iv) They will be required to undergo training courses prescribed for the Sr. Field Assistant (Veterinary) by the Department from time to time and complete the same successfully.
 - (v) Their seniority will be as per the merit drawn by the Selection Board/D.P.C. which is based on the date of their joining SSB as Constable.
3. Before being released from concerned Group Centre, the candidate will submit their "Technical Resignation" to the concerned Commandants. No joining time will be admissible as envisaged under MR-105 read with note below GOI decision 44).

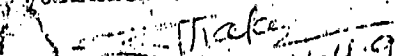

 Area Organizer (Staff)
 SSB/MB&S Division, Siliguri.

TO

No. 80590CT, Ram Kishore Barman,
 C/O: Group Centre, SSB, Falakata
 Po: Falakata, Dist. Jalpaiguri.

Copy to :-

1. The Director of Accounts, Cab. Secretariat, New Delhi for information and necessary action.
2. Assistant Director (SEA), SSB Directorate, New Delhi w.r.t. their Memo No. 6/SSB/A2/89(9)-541, dtd. 15/29-1-90.
3. Area Organizer, SSB/Cooh Behar/Jalpaiguri/Darjeeling/Sikkim. They will intimate about the date of joining etc. to this office immediately.
4. Copy to the Commandant, Group Centre, SSB, Falakata/Ranidanga/Sikkim for information. The Commandants should release the concerned constables immediately with direction to report to their respective places of posting. They will also obtain "Technical Resignation" from the concerned individual before release.
5. To the Veterinary Surgeon, Divisional Organizer's Office, SSB, MB&S Division, Siliguri for information & necessary action.
6. The Accounts Officer, Divisional Hq., Siliguri for information and necessary action.
7. The Sub Area Organizer, SSB, Siliguri/Darjeeling/Jalpaiguri/Dinhat/Mathbhat/Gangtok/Mamch/Kalimpong for information.
8. The Circle Organizer, SSB, Siliguri/Mal/Cooh Behar for information.


 Area Organizer (Staff)
 SSB/MB&S Division, Siliguri.

NO.99/Vet/SSB/2003/VC-339-41
 Government of India
 Ministry of Home Affairs
 O/O the Director General, SSB
 East Block-V, R.K.Puram
 New Delhi -66.

Dated:- the 3rd Sept.2004

MEMORANDUM

Subject - SELECTION OF DOG HANDLERS (DH) FROM THE
 STRENGTH OF S.F.A.(VET)

It is requested to select and intimate the names of S.F.A. (Vet) working in your Frontier who are relatively young and have an aptitude to care and handle dogs for working as Dog Handlers in SSB.

During the current financial year we have a requirement of 112 Dog Handlers @ 8 Dog Handlers per Battalion x 14th Battalions where the Dog Squads will be established in the first phase. These S.F.A.(Vet) will have to undergo six mnths training at BSF, Academy, Tekanpur once the pups are purchased.

It is also proposed to impart a preliminary training in Dog Handling to the selected S.F.A.(Vet) at a central location by the SSB Vets. Further directions for conducting the preliminary training will be issued by the Force HQ. in due course after selection of Dog Handlers.

The matter may please be treated as urgent and may be dealt on priority.

Sd/- Illegible
 (DR. SHASHI RANJAN)
 Chief Veterinary Officer (SG)

To
 The Inspector General
 FTR.HQRS. Lucknow/Patna/Guwahati

PTO

Contd.2

- 2 -

Memo No.VII/10/TRG/2004-05/302-307

Dated the 21/9/2004

Copy forwarded to :-

The Area Organiser, SSB, Falakata/Bongaigaon/Kokrajhar/Tamulpur/
/Bomdila. They are requested to intimate the names of
 SFA(Vety), who are young, energetic and having interest in pets like dogs,
 so that they could be put into the course as mentioned above for getting
 their services in the near future. This may be treated as most urgent.

Sd/- Illegible
 Area Organiser (HQ)
 FTR HQR SSB Guwahati.

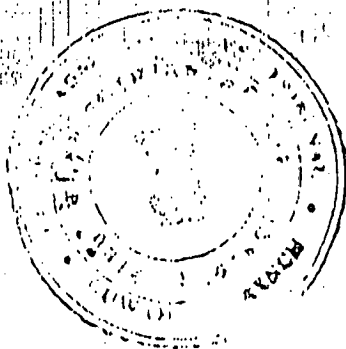
*Copy forwarded to
 Mr. M. K. Das*

FORM NO. 1
(SEE RULE 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. 117/65
Misc. Petition NO. _____
Contempt Petition No. _____
Review Application No. _____
Applicants. Prisonal Chakrabarti
Respondents. U.O.I. Gons
Advocates for the Applicant. K. Bhattacharjee, P.K. Sharma
Advocates of the Respondents. Case

Notes of the Registry	Dated	Order of the Tribunal
	26.5.2005	<p>Present: The Hon'ble Mr.K.V.Prahladan, Administrative Member.</p> <p>Heard Mr.K.Bhattacharjee, learned coun- sel for the applicant, Mr.M.U.Ahmed, learne Addl.C.O.S.C. is present for the respondent</p> <p>Issue notice to show cause as to why this application shall not be admitted. Lis on 27.6.2005 for admission. In the meanwhile respondents shall produce Special Service (Para-Veterinary) Staff Recruitment Rules, 1989 and the Special Service Bureau (Para- Veterinary) Staff) Amendments Rules, 1990.</p> <p>Status quo as on today regarding trans- fer of the applicant issued vide orders dat 17.2.05 and 5.4.2005 shall be maintained till the next date.</p>



TRUE COPY

NS 27.5.05

SECRETARY (A)

Central Administrative Tribunal

Guwahati Bench

Guwahati Bench

Guwahati Bench

Sd/- Hon'ble M(A)

Copy to be
MUM

C O P Y

- 17 -

ANNEX B IV

FAX

TO : A.O. BEN/FKT/RANGIA THROUGH CONCERNED EN
FM : SHQ BGN

NO. 1045

DT. 7/10/05

FOLLOWING SFA(V) HAVE BEEN APPROVED FOR TRANSFER ALONG WITH
POST TO PUP REARING CENTRE, GORAKHPUR VIDE FHQ ORDER NO.1/
SSB/A-4/2005(1)-PT-6602-6656 DTD. 5/10/05 (.)

- GA 269/05
- 1) HARIDAS SARKAR OF A.O. BGN
 - 2) RAM KISHORE BARMAN A.O. FKT
 - 3) R.K. SAHA
 - 4) Rushal Sahariya A.O. RANGIA
 - 5) DIPAN KAKATI

THEY SHD BE RELIEVED SO AS TO REPORT TR CENTRE CORAKHPUR
ON OR BEFORE 24/10/05 (.) CFM RELEASE (.)

Sd/- 7/10/05

STAFF OFFICER(ADMN)
SHQ,SSB, BONGAIGACH

No. 1/10/Estt/02/Vol-VI/86
Govt. of India (MHA)
Office of the Area Organiser,
SSB, Falakata.

Dated the 13th October, 2005.

Copy to :-

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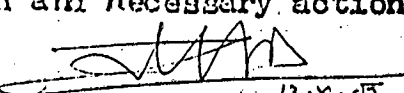
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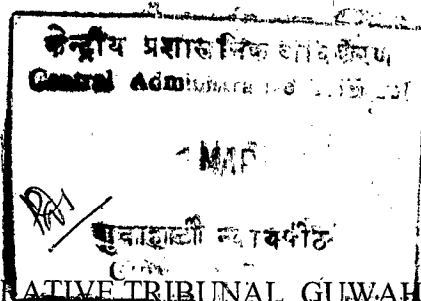
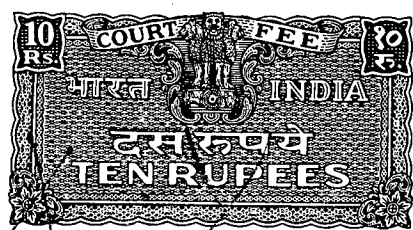
The Circle Organiser, SSB, Kumargranduar for
information & necessary action.

Shri Ram Kishore Barmen, SFA(V) of CO/Kumargram-
duar for information and necessary action.

Shri Ranjit Kr. Saha, SFA(V), O/o the AO, SSB,
Falakata for information and necessary action.


Area Organiser,
SSB, MHA, Falakata.

Copy to Shri
MHA



42
Filed by my Respondent
through Guwahati
28.2.06 Sr Case

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH
GUWAHATI

O.A. NO. 275 OF 2005

Ram Kishore Barman

..... Applicant

- Vs -

Union of India and Others


..... Respondents

The Written Statement on behalf of the
Respondents above named –

WRITTEN STATEMENT OF THE RESPONDENTS

MOST RESPECTFULLY SHEWETH :

1. That with regard to the statements made in Paragraph 1 of the application the respondents beg to state that the allegation of the applicant that they are being posted as Dog Handler vide order dated 5.10.2005 is factually incorrect. A perusal of the Order would reveal that the applicants are being transferred and posted to the new locations and are not being posted as Dog Handler. They will remain as SFAs(V) only i.e. their original designation and will perform duties of handling of Dogs in addition to other duties.


Inspector General
Frontier Head Quarter
Sasbastra Seema Bal, (MHA)
Guwahati

Contd.....page-2

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2. That with regards to the statements made in paragraph 2 and 3 of the application the respondents beg to state that those are matter of records and the respondents do not admit anything which are not borne out of records.

3. That with regards to the statements made in Paragraph 4.i to 4.iv of the application the respondents beg to state that those are matter of records and the respondents do not admit anything which are not borne out of records.

4. That in respect of the statements made in the paragraph 4.v of the application, the respondents beg to state that those are incorrect and hence denied. The real state of affairs is that after the administrative control of the organisation was shifted from Cabinet Secretariat to Ministry of Home Affairs, w.e.f. 15.1.2001 the role of the Organisations has been changed and it has now been assigned the mandate to guard Indo-Nepal Border and Indo-Bhutan Border. It is further submitted that as on date, Sashastra Seema Bal is a Border Guarding Force. With the change of role of the Organisation from that of a stay behind role to that of a Border Guarding Force, the old areas of operation have been closed and new offices/battalions have been opened/deployed all along the Indo Nepal and Indo-Bhutan Borders. For performance of the Border Guarding duties, the Ministry of Home Affairs, had sanctioned Dog Squad for each Battalion. Since the department had a professionally trained veterinary cadre, the initial work of rearing of Pups was assigned to the Senior Field Assistants (Veterinary) who were competent and were further to be trained to handle this job. As per the operational requirements, in National Interest and for the security of the Nation, it is the Veterinary Staff only who will have to cater to the veterinary needs of the Department. Accordingly SFA (V) were withdrawn and attached temporarily with the newly created Pup Rearing Centre in Training Centre, Gorakhpur. The action of the respondents is in order and in the interest of the Nation as well. Moreover, the nature of duties of dog handling being performed by the veterinary cadre are very much within the sphere of their charter of duties. As the SSB has a professionally trained cadre initially to look after the Dogs the professionally trained veterinary cadre was the most suited cadre to undertake the said job and the nature of duties of the veterinary cadre also corresponded with the dog handling.



Inspector General
Frontier Head Quarter
Sashastra Seema Bal, (MHA)
Guwahati

Contd.....page-3


44

5. That with regards to the statements made in para 4 vi of the application the respondents beg to state that since the job of SFA(V) is related to provide veterinary services management and training of Dogs is related to this cadre only and the para veterinary staff liked FA(V), SFA(V) are the most suitable persons to handle the pups/dogs as this cadre is a professionally trained cadre created for catering to the veterinary needs of the organisation.

6. That with regard to the statements made in paragraph 4.vii of the application the respondents beg to state that those are incorrect and untrue and hence denied by the Respondents. The factual position regarding this paragraph is that the claim of the applicant that in other similar related cases, the Hon'ble Tribunal has granted stay is denied being factually incorrect. In OA NO. 117 of 2005 titled Bimal Chakraborty - Vs - UOI and others pending adjudication in the Hon'ble CAT, Guwahati Bench, orders of maintaining of status quo were passed by the Hon'ble Court and prior to receipt of this order, the applicant Shri Bimal Chakraborty had been relieved from Bongaigaon Area to 1st Bn Didihat. With respect to case filed by Premtosh Dutta and Ankaji Sherpa the respondents state that the position is similar and no stay order was granted by the Hon'ble Tribunal in respect of transfer of applicants and posted to the new locations and not being posted as Dog Handler.

7. That with regards to the statements made in Paragraph 4.viii of the application the respondent beg to state that those are false, fabricated and concocted and the same are denied. It is denied that applicant is transferred to the post of Dog Handler. The applicants are being transferred as SFAs(V) only, however, they have been asked to perform duties related to Dog handling because the applicants are a part and parcel of the professionally trained veterinary cadre which the SSB has.

8. That with regards to the statements made in para 4. ix of the application the respondents beg to state that those are false, incorrect and concocted and hence denied. It is reiterated here that after the administrative control of the organisation had been shifted from Cabinet Secretariat to Ministry of Home Affairs, w.e.f. 15/1/2001 the role of the Organisation has been changed and it has now been assigned the mandate to guard Indo-Nepal Border and Indo Bhutan Border. It is further submitted that as on date, Sashastra Seema Bal is a Border Guarding Force. With the change of role of the Organisation from that of a



Inspector General
Frontier Head Quarter
Sashastra Seema Bal, (MHA)
Guwahati

Contd.....page-4

stay behind role to that of a Border Guarding Force, the old areas of operation have been closed and new offices/battalions have been opened/deployed all along the Indo Nepal and Indo Bhutan Borders. For performance of the Border Guarding duties, the Ministry of Home Affairs had sanctioned Dog Squad for each Battalion. Since the department had a professionally trained veterinary cadre, the initial work of rearing of Pups was assigned to the Senior Field Assistant (Veterinary) who were competent and were further to be trained to handle this job. As per the operational requirements, in National Interest and for the security of the Nation, it is the Veterinary Staff only who will have to cater to the veterinary needs of the Department. Accordingly SFA(V) were withdrawn and attached temporarily with the newly created Pup Rearing Centre in Training Centre, Gorakhpur. The action of the respondents is in order and in the interest of the Nation as well. Moreover, the nature of duties of dog handling being performed by the veterinary cadre are very much within the sphere of their character of duties. As the SSB has a professionally trained cadre initially to look after the Dogs the professionally trained veterinary cadre was the most suited cadre to undertake the said job and the nature of duties of the veterinary cadre also corresponded with the dog handling.

9. That with regards to the statements made in para 4.x of the application the respondents beg to state that the same are false, fabricated and concocted statements and hence denied the Respondents. The Respondents reiterated here that the allegation that they are being transferred to the post of Dog Handler is denied being factually incorrect. The applicants are being transferred as SFAs(V) only, however, they have been asked to perform duties related to Dog Handling because the applicants are a part and parcel of the professionally trained veterinary cadre which the SSB has.

10. That with regards to the statements made in para 5.I of the application the respondents beg to state that the applicant have been transferred in public interest to fulfill and discharging operational commitments urgently required at the Border. Moreover, the sphere of the job very much encompasses Dog Handling. Being a highly trained professional basically it is the veterinary cadre which has to perform the job of Dog Handling as Dogs are also part and parcel of the veterinary set up.


Inspector General
Frontier Head Quarter
Sasbasta Secima Bal, (MHA)
Guwahati

Contd.....page-5


11. That with regards to the statements made in para 5.II of the application the respondents beg to state that the allegation of the applicants that the orders are adverse to the service conditions and violate the principle of natural justice are basically wrong. The applicants have been asked to undertake the work which is within the sphere of working of the Veterinary set up.

In this regard judgment order dated 16/1/2006 pronounced by the Hon'ble Allahabad High Court, Lucknow Bench in a similar case WP No. 252/06 titled Pravinder Kumar & another Vs UOI & ors where the petitioner was ordered to undergo Dog Handling Course and Hon'ble High Court observed that there was no infringement of legal rights of the petitioner is annexed herein and marked as Annexure - R-1

12. That with regards to the statements made in paragraph 5.III to 5.V of the application the respondents beg to state that the grounds set forth in these paragraphs are baseless and have basically no legal standing and hence denied by the Respondents. This is not a case where the designation of the applicants have been changed. The applicants are very much part of the Para Veterinary Staff and are fully civilian in nature. Neither the nomenclature nor the cadre of the applicants have been changed. This is a mere apprehension on the part of the applicants. The Respondents submit that none of the grounds of the instant application is maintainable in law as well as on facts of the case and as such the application is liable to be dismissed.

13. That with regards to the statements made in paragraphs 6 of the application the answering respondents have no comment.

14. That with regards to the statements made in paragraph 7 of the instant application the respondents beg to state that the statements made by the applicant are within the personal knowledge of the applicants and therefore the Respondents cannot admit or deny the same.



Inspector General
Frontier Head Quarter
Sagarstra Secy Bld. (MHA)
Guwahati

Contd.....page-6

48

15. That with regards to the statements made in Paragraph 8 of the application the Respondents beg to state that the allegation raised by the applicants by way of relief sought that the applicants have been transferred from the post of SFA(V) to a Combatant Post is false and incorrect and hence the same is denied. The Respondents beg to submit that the applicants even on transfer remain SFA(V) and are governed by the same Cadre Rule. The apprehension that they have become combatant is denied outright and the applicant is not entitled to any relief as sought for and the application is liable to be dismissed with cost.

16. That with regards to the statements made in paragraph 9 of the application the respondents beg to state that the application including other paras is not at all maintainable and is liable to be dismissed with cost.


Inspector General
Frontier Head Quarter
Onabstra Secilla Bdl, (MHA)
Guvahati

V E R I F I C A T I O N

I, Shri Mohit Lal Chaudhuri, Son of Late M.M. Chaudhuri aged about 59 years, at present serving as Inspector General, Frontier SSB, Guwahati and competent officer of the answering respondents, do hereby verify that the statement made in paras 1 to 10, 12 to 16 are true to my knowledge and those made in paras 11 being matters of record are true to my information derived therefrom which I believe to be true and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this 22nd day of Feb. 2006 at Guwahati.

Identified by

Arshman

Advocate

Date : 22-2-06.

SIGNATURE

Inspector General
Frontier Head Quarter
Cachassin Seema Bdt, (MHA)
Guwahati

Solemnly affirmed and declared before me by the deponent who identified by Shri Azadur Rahman, Advocate on this 22nd day of Feb...... 2006 at Guwahati.

16
22.2.06.

MAGISTRATE : GUWAHATI

Code No. :
G r o u p : Service Single
District : Bahraich.

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD,
LUCKNOW BENCH, LUCKNOW:

WRIT PETITION NO. 257 (S/S) of 2006

1. Parvinder Kumar son of Sri Mast Ram
resident of Village - Sjun, District - Chamba,
Himanchal Pradesh, S.F.A(V) in Area Organiser
S.S.B. Nanpara Mahipurwa, District Bahraich.
2. Mangal Singh Negi son of Brang Sukh Negi,
Resident of Village Taling, District - Kianar,
Himachal Pradesh, Posted as S.F.A. (V) in the
office of Area Organiser Area Paliya, Gourifanta.
- Petitioners.

Versus

1. Union of India through Secretary Home
Affairs, New Delhi.
2. Director General, S.S.B., East Block -V,
R.K. Puram, New Delhi.
3. Inspector General of Sema Shashastra Bal
Kenderiya Bhawan, Aliganj, Lucknow.

..... Opposite parties.

20183240
D. No. 252 (S/S) of
Parvinder Kumar
Vs.
Union of India

Hon'ble Rakesh Sharma, J.

This case has come up for admission today.

Heard learned counsel for the parties and perused the record.

The sum and substance of the order issued on 26.12.2005 is a direction to the petitioners to undergo dog-handling course commencing with effect from 2.1.2006. Through the impugned order, the rank, post or scale of the petitioners is not going to be changed. The petitioners, who are members of Sashastra Seema Bal, have been directed to undergo specialized training in handling of dogs. Merely sending on training cannot be said to be change of cadre or reduction in rank. This action may not adversely affect the service conditions of the petitioners. Accordingly, no legal right of the petitioners has been infringed by the impugned order. No interference is required.

The writ petition is dismissed.

16.1.2006
LN/-

TRUE COPY

BVR-ec



High Court, Lucknow
LUCKNOW



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02/008

Remitted