

50/100

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 304/2005

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SECTION OFFICER (Judl.)

*Signature*  
07/11/17

FORM NO. @  
(See Rule 42 )  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH.

ORDER SHEET

Original Application No. 304/05

Misc. Petition No. \_\_\_\_\_

Contempt Petition No. \_\_\_\_\_

Review Application No. \_\_\_\_\_

Applicant(s) Binay Kr. Mishra

Respondent(S) H.O. I Gauhati

Advocate for the Applicants R.D. Lal, Min M. Jha

Advocate for the Respondent(S) \_\_\_\_\_

CGSC

Rly. St. Counsel

Notes of the Registry Date \_\_\_\_\_ Order of the Tribunal

6.12.2005

This application is in form

is filed/C.F. Rs. 50/-

deposited with P.C./P.D.

No. 26.6.317234

Dated 5.12.05

Deen  
Dy. Registrar

NS  
5.12.05

Slips taken with  
envelops.

mb

8.12.05

NS

bb

Mr. R.D. Lal, learned counsel for the applicant is present.

In the nature of the case notice to Government counsel for the State of Assam has to be served. Mr. Lal, counsel for the applicant submits that this may come up day after tomorrow. Post on 8.12.2005.

NS  
Vice-Chairman

At the request made on behalf of the Govt. Counsel for the State of Assam, the case is adjourned to 9.11.05

NS  
Vice-Chairman

9.12.05.

Heard Mr. R.D. Lal assisted by Ms. M. Jha learned counsel for the applicant and Mrs. M. Das learned Government counsel for the State of Assam. The Government counsel has placed before me an order dated 7.12.05 suspending the applicant pending disciplinary action. Mr. Lal, counsel for the applicant submits that this order has been passed after filing of the application and that the applicant would like to impugn the said order.

Post the matter on 13.12.05.

In the meantime status quo as on to-day will be maintained.

Vice-Chairman

Received Copy of  
Order dt 9/12/05  
Manjula Jha  
Advocate for  
the Applicant  
9/12/05

12.12.05

Im

13.12.2005 Present : Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.

An amendment  
petition has been filed.  
The Counsel for the petitioner  
alongwith ~~the~~ newly filed  
this petition No. 160/05.

Mrs. M. Das, learned Govt. Advocate for the State of Assam submits that Sri Jitendra Kr. Doley, APS, Superintendent of Police, FRRO in respect of Nalbari and Barpeta District with H.Q. at Barpeta though transferred as per notification dated 20.10.2005 and attempt to join in the post held by the applicant could not take charge since the applicant was absent in the station. Mr. R.D. Lal, learned counsel for the applicant submits that this statement is incorrect and the applicant is very much in the station.

The respondents are directed to produce the relevant files before this Tribunal to enable the Tribunal to pass an order in the M.P. for stay.

Post on 20.12.2005. Status quo order passed on 09.12.2005 shall continue in the meantime.

Issue copy of this order to the counsel for the applicant and counsel for the State Govt.

Ru

Contd

18/12/05  
On behalf of  
Manjula Jha  
Sri Kumar Jha

20.12.2005

At the request of learned counsel for the parties, the case is adjourned to 21.12.2005 as first case.

Mr. M. Das, learned State Govt. Advocate for the State of Assam has placed before the Bench the records in relation to transfer and suspension of the applicant. The same is retained in the Bench.

  
Vice-Chairman

mb

21.12.2005

Heard Mr.R.D.Lal, Sr.counsel assisted by Ms.M.Jha, learned counsel for the applicant, Mr.A.K.Chaudhuri, learned Addl.C.G.S.C. for the 1st respondent and Mrs.M.Das, learned Govt. Advocate for the State of Assam.

Post on 23.12.2005 for orders.

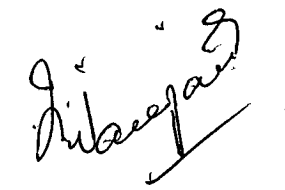
  
Vice-Chairman

bb

23.12.2005


Judgment delivered in open Court kept in separate sheets. The application is disposed of in terms of the order.

Issue copy of this order to the parties urgently.

  
Vice-Chairman

lm

Received copy  
Judgment for  
respondent No.3

  
(M. Das, Sr. Govt. Advocate)  
Law Cell  
D.S.P. Office

Received copy of  
the judgment  
of the order  
HMA-167/94/PT/VII  
16/12/2005  
Govt. Adv. Assam.

5.1.06  
Copy of the order  
has been sent to the  
Office for 1st respondent  
The same to the Addl.  
C.G.S.C. for the Respondent  
for

CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH.

O.A. No. 304 of 2005

DATE OF DECISION: 23.12.2005.

Shri Binay Kr. Mishra

APPLICANT(S)

Shri R.D.Lal & Miss M. Jha

ADVOCATE FOR THE  
APPLICANT(S)

- VERSUS -

U.O.I. & Ors

RESPONDENT(S)

Mr.A.K.Chaudhuri, Addl.C.G.S.C.  
Mrs M.Das, Govt. Advocate Assam

ADVOCATE FOR THE  
RESPONDENT (S)

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

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?

Judgment delivered by Hon'ble Vice-Chairman

*G. Sivarajan*

6

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.304 of 2005.

Date of Order: This the 23rd Day of December, 2005.

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

Sri Binay Kr. Mishra, IPS  
Son of Sri Jagdish Mishra,  
Commandant in 5<sup>th</sup> Assam Police Bn.  
Sontilla, Haflong, District N.C.Hills.  
Assam.

... Applicant

By Advocate Mr R.D.Lal & Miss M.Jha.

- Versus -

1. Union of India,  
represented by the Secretary,  
Ministry of Home Affairs,  
Govt. of India, New Delhi.
2. State of Assam,  
Represented by the Home Commissioner,  
Department of Home (A), Govt. of Assam,  
Dispur, Guwahati.
3. Assam Police Head Quarters,  
represented by the Director General of Police,  
Assam, Ulubari, Guwahati-7.
4. The Home Commissioner,  
Govt. of Assam, Dispur, Guwahati.

... Respondents

By Shri A.K.Choudhuri, Addl.C.G.S.C for respondent No.1 &  
Mrs M.Das, Govt. Advocate, Assam for respondents No.2, 3 and 4.

**ORDER**

**SIVARAJAN J.(V.C)**

The applicant, a senior IPS officer of 1988 batch, being aggrieved by an order dated 20.10.2005 passed by the Assam State Government (communicated to the applicant vide wireless message (Annexure 1) transferring him from 5<sup>th</sup> A.P.Bn, Sontilla, Haflong to FRRO, Barpeta and Nalbari District and its affirmation by the Government rejecting the representation dated 31.10.2005 communicated by wireless message dated 22.11.2005(Annexure-II) has filed this O.A on 5.12.2005 challenging the said orders. The matter came up for admission on 6.12.2005. Since there was no representation for the State the matter was adjourned to 8.12.2005

*[Signature]*

for ensuring service of notice to the Government Advocate. On 8.12.2005 Mrs M.Das, Govt. Advocate took time for instruction and the case was adjourned to 9.12.2005. On that day Mrs M.Das, learned Government Advocate has placed before the Bench a copy of an order dated 7.12.2005 suspending the applicant from service pending disciplinary proceedings. The Government Advocate submitted that the suspension order was passed for non compliance of the directions issued in Annexure I and II orders pending disciplinary proceedings. Mr R.D.Lal, learned counsel for the applicant then took time to amend the O.A. by challenging the suspension order as the same is integrally connected with the transfer order. The case was accordingly adjourned to 13.12.2005. It was also ordered that status quo as on that day will be maintained. The applicant thereafter has filed an amended O.A impugning the suspension order also alongwith an application for allowing the amendment. A copy of the same was also served on the respondents. On 13.12.2005 the respondents were directed to produce the relevant files and the matter was posted to 20.12.2005. Since disputed questions of facts are involved in respect of certain relevant matters the counsel for the parties were asked as to whether notice can be issued to the respondents in the O.A as amended so as to enable them to file their reply to the various averments in the O.A and for the applicant to file reply to the same. Counsel for the applicant then insisted for interim orders in the meantime. It is felt that in the nature of the allegations interim order, if any, can be passed only after reaching a prima facie satisfaction after hearing the parties on the merits. At this stage the counsel for parties are agreed that this O.A. can be disposed of at the admission stage itself based on the averments in the O.A, the documents accompanying the O.A and the files produced by the State Government. Accordingly Mr R.D.Lal, assisted by Miss M.Jha, learned counsel for the applicant, Mr A.K.Choudhuri, learned Addl. C.G.S.C for the 1<sup>st</sup> respondent and Mrs. M.Das, learned Government Advocate for the other respondents were heard.



2. Mr R.D.Lal has raised three main contentions for impugning the transfer order viz :-

i) (a) The applicant is a cadre officer holding a cadre post governed by the IPS (Cadre) Rules 1954 (for short 'the Rules'). Under the said Rules (Rule 8) a cadre officer cannot be posted to an ex cadre post so long as a cadre post is available. The applicant is transferred in violation of the said rules to a non cadre post which is illegal. Counsel has relied on the order dated 9.8.2004 in Civil Writ Petition No.18931 of 2003.

b) A cadre post cannot be held by an ex cadre officer so long as a cadre officer is available for filling up the said post. Counsel relied on the provisions of Rule 8 ad 9 of the Rules. The officer who is transferred to the post held by the applicant is an Ex cadre officer which is contrary to the rules. The respondents had never found the applicant unsuitable for holding the cadre post which he held nor did they hold that the services of the non cadre officer is absolutely necessary in the post held by the applicant.

ii) Vindictiveness/malafides on the part of the respondent. Instance pointed out is that the incumbent of the 3<sup>rd</sup> respondent for whom the services of one Hitesh Pathak, a cook in the 5<sup>th</sup> APBN, where the applicant was the Commandant was spared, was serving in the residence of the daughter and son-in-law of the said officer at Chennai which according to the applicant who, according to him, a stickler for discipline, was illegal. The cook was immediately brought to Assam, kept him under suspension and also initiated disciplinary action against him. This has provoked the 3<sup>rd</sup> respondent which resulted in the transfer of the applicant.

iii) The transfer order is in violation of the guidelines issued in the office Memorandum No.ABP 116/01/4 dated 4.2.2002 issued by the Government of Assam (annexure IV). He submits that for transfer of an officer before the expiry of the tenure period of 3 years there must be proper justification and grounds may be recorded in writing for the transfer and orders issued only after getting approval of the Chief Minister for such transfer (vide para 2 of Annexure IV). He also referred to para 3 of the said

*Jpt*



memorandum which specifically refers to the decision of the High Court in W.P.(C) No.5216/91 dated 16.8.2001 directing strict compliance of the memorandum. The said memorandum in the last paragraph insists for strict compliance. He also relied on the decision of the C.A.T, Ahmedabad Bench in D.R.Sengal vs. Chief Post Master General, (1991) 15 ATC 36 and other cases in support.

In regard to the suspension order it is stated that no reasons are stated in the suspension order and therefore it is bad.

3. Mrs M.Das, learned Government Advocate for the State of Assam made the following submissions..

i) The O.A is bad for joinder of different causes of action under Rule of the CAT (Procedure) Rules.

a) There is no inhibition in transferring a cadre officer to an ex-cadre post. On the other hand Rule 8(2) of the Rules shows that it can be done in certain circumstances.

b) An Ex-cadre Officer can be appointed to a cadre post initially for a period of three months and upto six months with the approval of the Central Government as evident from Rule 9 itself. The decision of the Punjab and Haryana High Court relied on by the applicant is not applicable in so far as the transfer of the applicant. The transfer of the ex-cadre officer to a cadre post is a different matter.

ii) The Mala fides has been alleged against the incumbent of the 3<sup>rd</sup> respondent. He is not made party which is a necessary pre requisite for considering the issue of malafides. The transfer order is not made by the 3<sup>rd</sup> respondent. It is made by the State Government. No malafides has been alleged against the State Government which passed the impugned orders.

iii) The guidelines issued by the State Government relied on by the applicant has been followed. The transfer order was issued only with the approval of the Chief Minister as could be seen from the files.

iv) The applicant inspite of the transfer order passed on 20.10.2005 did not choose to report in the transferred station even after the

rejection of his representation by the Government and communicated by Annexure II wireless message dated 22.11.2005 in spite of specific direction to report for duty in the transferred station. He also prevented the other officer who is transferred to the post held by the applicant initially by his absence from the station and later by his protracting tactics. It is in the circumstance that for the gross indiscipline, the applicant is kept under suspension pending disciplinary proceedings.

4. I will first dispose of the first contention taken by Mrs M.Das, learned Government Advocate viz. maintainability of the application. Rule 10 of the CAT (Procedure) Rules provide that an application shall be based up in a single cause of action and may seek one or more reliefs provided that they are consequential to one another. In the instant case the applicant has approached this Tribunal against the transfer order. Subsequently the order of suspension was issued that too for non compliance of the transfer order. According to me since the suspension order is integrally connected with the transfer order this application can be maintained even under Rule 10. I hold accordingly.

5. I will now dispose of the contention regarding malafides on the part of the incumbent of the 3<sup>rd</sup> respondent. He is not made a party by name so as to enable him to have an opportunity against the allegation made against him personally. Further, the transfer order is passed by the Government as could be seen from Annexure-I itself apart from the notification issued in that regard. There is no allegation of malafides against the Government. In the circumstances I do not find it worthwhile to consider the allegation regarding malafides alleged by the applicant in this proceedings. I hold accordingly.

6. Now I will turn to the tall contention that the applicant, a cadre officer cannot be transferred to an Ex-cadre post and vice-versa. Regarding the transfer of an Ex-cadre officer to a cadre post Rule 8 and 9 of the Rules are significant. The Supreme Court had considered the scope of the said

*gpt*

provision in Syed Khalid Rizvy and others vs. Union of India & Ors. 1993 Supp. (3) SCC 575, wherein para 14 it is held as follows :

"The cadre Rules, thus, enjoin the State Government that only a cadre officer should be appointed to a cadre post. Where the cadre officer is not available then, temporary appoints, by operation of Regulation 8 of the Promotion regulations read with Rule 9 of the Cadre Rules, could be resorted to and appointments are made by the State Government or its delegates to cope up with the administrative exigencies of the select list officers in the order or even among the select list officers de hors the order. When both cadre officers or select list officers are not available, then only non select list officers could be temporarily appointed. However, it is mandatory that the State Government should report forthwith to the Central Government together with the reasons to make such appointments. The condition precedent is that the post shall not last for more than three months, if it exceeds three months, then the prior concurrence of the Central Government is mandatory. If it lasts more than six months it should be with the consultation of the UPSC and the Central Government should post the UPSC with those facts and should implement the advice so tendered by the UPSC. The State Government should act accordingly to the directions of the Central Government. The compliance of these steps are mandatory to make temporary appointment legitimate and transitory arrangement a legal one. For violation thereof, the Central Government is entitled to give directions to the State Government to terminate the service of such temporary officer and the State Government should abide by such direction and give effect to it. The leeway and liberty given to the State Government under Regulation 8 of Promotion Regulations read with Rule 9 of the Cadre Rules is only to cope up with administrative exigencies but it became a breeding ground to distort the operation of the Rules which should scrupulously be eschewed and avoided." (emphasis supplied)

Relying on the said decision of the Supreme Court a Division Bench of the Punjab and Haryana High Court in its order dated 9.8.2004 in Civil Writ Petition No.18931/2003 (copy of the order placed by the applicant's counsel) where a decision was given by the High Court to the State Government to transfer non cadre officers from the cadre posts of IPS strictly in accordance with the provisions of IPS (Cadre) Rules 1954. Even under Rule 8 of the Rules cadre posts have to be filled by cadre officers. The cadre officer can

*[Signature]*

also hold ex-cadre posts. But a non cadre officer can hold a cadre post under Rule 9 only in the exceptional circumstances specified in Rule 9 (1) (a) which says that if there is no suitable cadre officer available for filling the vacancy and further provides that when a suitable officer becomes available the person who is not a cadre officer, shall be replaced by the cadre officer. Even in such cases the maximum period which an ex cadre post can be held by an ex cadre officer without the approval of the Central Government is only three months. The applicant, when he has received the transfer order (Annexure-1), had made a representation dated 31.10.2005 pointing out the aforesaid facts but the same was flatly rejected without assigning any reasons. This is the situation.

7. The other tall contention of the applicant is that the office Memorandum (Annexure-IV) which specifically provides for proper justification and recording reasons for making a transfer before the expiry of 3 years term is given a go by while transferring the applicant after completing 8 months only. Regarding the strict compliance of the said requirement Government Memorandum (Annexure-IV) referring to High Court decision insists for strict compliance. Later decisions of the Hon'ble Gauhati High Court in Prasanna Kumar Nath vs. State of Assam & Ors. decided on 16.12.2004, 2005 (4) GLT 348 considered the very same office Memorandum. Paragraphs 13 and 14 of the judgment reads thus :

"The note was endorsed to the Chief Minister on 29.7.2004 and the Chief Minister on the same very date approved the same without assigning any reason. Such approval assigned by the Chief Minister directing the Commissioner of the departmental to proceed in the matter, does not indicate any reason for the same which is against the own guidelines framed by the State Government and implementation of which has been emphasized time and again. As per the said guidelines, laid down by Office Memorandums dated 4.2.2002 and 22.5.2002 (Annexure-9 and 10 to the Writ Petition), whenever public interest demands that an officer should be transferred from his place of posting even before completion of three years in the place, proper justification and ground may be recorded in writing for the transfer. In the Office Memorandum dated 4.2.2002 while reiterating the guidelines laid down

*SPA*

in earlier office Memorandum dated 19.9.1992, the decision of this court in the case of Dayal Das vs. State of Assam and others passed in WP(C) No.5216/2001 directing compliance of the guidelines has also been referred to. By the Office Memorandum dated 22.5.2002 strict compliance of the earlier guidelines has been emphasized and direction has been issued not to make any exception under any circumstances.

In reference to the aforesaid Office Memorandum, learned counsel for the respondent No.5 argued that they are only directory and not mandatory. There is no dispute in respect of the same. However, the question arises as to what for such guidelines are framed. Is it only to violate the same and then to say that those guidelines are not mandatory. Guidelines are always guidelines and not like statutory rules. However,, the State Government itself framing the guidelines are bound to act within the parameters of the said guidelines with the justified exception here and there."

In Dilip Kumar Saikia vs. State of Assam and others decided on 30.8.2004, 2005 (4) GLT 371 also, considering the office Memorandum, it was held as follows :

"It is true that those guidelines cannot be said to be mandatory, but are only directory. But at the same time it is also equally true that the respondents cannot ignore the same without assigning any reason more particularly in the context in which the impugned transfer order was issued."

The following observations in the decision of the Supreme Court in K.B. Shukla and others vs. Union of India & Ors., (1979) 4 SCC 673 are apposite

"The responsibility for good administration is that of the government. The maintenance of an efficient, honest and experienced administrative service is a must for the due discharge of that responsibility. Therefore, the government alone is best suited to judge as to the existence of exigencies of such a service, requiring such appointments by transfer. The terms "exigency" being understood in its widest and pragmatic sense as a rule, the Court would not judge the propriety or sufficiency of such opinion by objective standards, save where the subjective process of forming it, is vitiated by mala fides, dishonesty, extraneous purpose, or transgression of the limits circumscribed by the legislation."

*Spd*

8. The Government Advocate has placed before the Bench the files leading to the transfer and suspension of the applicant and I have perused the same but I do not propose to discuss the details contained there in this order in view of the course which I propose to adopt here in below.

According to me, the contentions raised by the applicant in regard to the transfer of the applicant to an ex-cadre post and the transfer of the other officer to a cadre post as well as the violation of the office memorandum (Annexure-IV) are matters to be considered by the Government objectively particularly when the applicant has made a representation against the transfer. The Government has chosen to reject it outright. This, according to me, was not justified. In the circumstances the appropriate course to be adopted is to direct the Government to consider the representation dated 31.10.2005 afresh in the light of the decisions discussed herein above and in the light of the observations made in this order. I do so. A decision in the matter will be taken by the Government within two months from the date of receipt of the order by a speaking order.

9. The matter does not end here. The respondent had issued an order suspending the applicant from service pending disciplinary action against the applicant. The reason stated by the Government Advocate, on instructions, is that the applicant in spite of repeated directions has not complied with the transfer order and that he also prevented the other officer from taking charge in the transferred post. It is seen that the applicant on receipt of the order rejecting his representation against the transfer order had file Writ Petition W.P.(C) No.8083/05 on 25.11.2005 and withdrew the same on 30.11.2005. Thereafter he filed the present O.A on 5.12.2005. There was no order of stay of transfer either from the Hon'ble High Court or from this Bench. In the absence of a stay order a high officer of a disciplined force should have joined the transferred post and pursued his remedies which is a settled position. The applicant under one pretext or the other failed to do so. I find from the records that step for suspension of the

*[Signature]*

applicant was initiated long prior to the filing of the O.A. It was deferred only because the applicant has informed the pendency of the Writ Petition in the High Court. After the withdrawal of the Writ Petition there was no bar in passing the suspension order. The order clearly specified that the suspension was pending disciplinary proceedings. There is no infirmity in the suspension order for not assigning any other reason.

10. According to me, the applicant being a disciplined officer (even according to him) since he was not able to get a stay order either from the Government or from the High Court should have first complied with the transfer order and pursued his remedy. Now the fact remains that the other officer pursuant to transfer order after the suspension of the applicant from service has joined in the post held by the applicant. The applicant has to join in the transferred post immediately on receipt of this order. Having regard to the fact that the applicant is being asked to join in the transferred post as above his suspension order need not be continued. The same may be revoked forthwith. However, it is left to the Government to decide as to whether, in the circumstances of the case, the contemplated disciplinary proceedings should be pursued. The above course now adopted is only as an interim measure until a decision is taken by the respondent on the question of transfer as directed in this order earlier. I make it clear that no final view on the merits has been taken in this order.

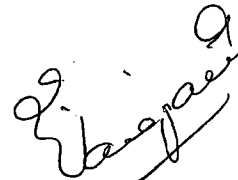
However, this will not conclude the matter. The applicant a "famous stickler for discipline as also honesty, integrity and sincerity" (inverted portion self styled in para 6.7 of the amended O.A) took the cudgel against a poor cook Mr Hitesh Pathak, if the allegation are accepted, a victim of the circumstances, to sack him knowing fully well that he is not at all responsible. The very purpose of the applicant continuing in the 5<sup>th</sup> APBN is to complete the disciplinary proceedings against the cook though the said cook was transferred from the 5<sup>th</sup> APBN to 16<sup>th</sup> APBN. This attitude of the applicant will certainly be prejudicial to fair play in action. Therefore it is necessary that the disciplinary proceedings, if any, pending against Mr

*lps*

Hitesh Pathak, must be entrusted to some other officer. In the meantime the applicant is interdicted from proceedings with the disciplinary action against the said cook. The Government will also be free to decide whether the disciplinary action against Mr Hitesh Pathak should be pursued at all.

I am sure that the Government will apply its wisdom and take a practical view in the matter as directed so that the matter is not precipitated further.

The O.A is disposed of as above.



( G.SIVARAJAN )  
VICE CHAIRMAN



DISTRICT : N.C. HILLS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI

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

Original Application /05

Sri Binay Kr Mishra, IPS

S/o Sri Jagdish Mishra,

Commandant in 5<sup>th</sup> Assam Police Bn.

Sontilla, Haflong, District N.C. Hills

Assam. ....Applicant

- Versus -

Union of India & Ors

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## LIST OF DATES

- |          |                                                                                                                                                |
|----------|------------------------------------------------------------------------------------------------------------------------------------------------|
| 24.2.05  | Applicant took charge as Commandant 5 <sup>th</sup> A.P.Bn, Sontilla, Haflong.                                                                 |
| 21.10.05 | Applicant received Wireless Message regarding his transfer from 5 <sup>th</sup> A.P.Bn, Sontilla, Haflong to FRRO, Barpeta & Nalbari District. |
| 31.10.05 | Applicant submitted representation to Govt. of Assam, requesting to rescind his transfer order issued on 20.10.05                              |
| 22.11.05 | Applicant received a WT message intimating that the said representation of the petitioner is rejected.                                         |
| 7.12.05  | Applicant was placed under suspension with immediate effect vide Govt. Notification No. HMA. 167/94/Pt VII/21: dt.7/12/05                      |
| 8.12.05  | Applicant received WT message regarding his suspension from service at 8.30 p.m. on 8.12.05                                                    |

## SYNOPSIS

The Applicant herein is an IPS officer who on 24.2.05 joined as Commandant 5<sup>th</sup> Bn., Sontilla, Haflong. The Applicant has been served with a wireless message No. FA/III-9/VOL-XXX/05/85 dated 21.10.05 AAA aiming at his transfer from his present station as Superintendent of Police FRRO (Foreigner's Registration and Reporting Officer) having jurisdiction of Nalbari and Barpeta districts with Headquarter at Barpeta. It is worth mentioning here that an IPS officer is a Cadre Officer and that the Cadre Post are manned only by IPS Officers. This system that the Cadre Posts shall be held by the Cadre Officers are guided by the provisions enshrined in the IPS (Cadre) Rules 1954. Applicant in this Application is challenging the proposed order of transfer from Sontilla to Barpeta on the ground that he is a Cadre Officer and at present he is holding a Cadre Post and by the proposed order of transfer he has been transferred to a non-

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Cadre Post as S.P., FRRO (Foreigner's Registration and Reporting Officer) in respect of Nalbari and Barpeta districts which is a non Cadre Post. It is worth mentioning here that his reliever is a non-Cadre Officer and he has been holding a non-Cadre Post as S.P. FRRO in respect of Nalbari and Barpeta district o which post your humble Applicant has been ordered to be transferred vide the aforesaid wireless message. The other ground on which the Applicant is banking upon is that the present transfer from one post to another post has arisen out of the personal vindictiveness of the transferring authority in the sense that the domestic enquiry against one Cook who reportedly was sent for work at Chennai in the house of the daughter and son-in-laws of Respondent No.3 at Chennai and who for long five (5) years drew pay and allowances from the state exchequer, i.e., from the 5<sup>th</sup> A.P. Bn. Sontilla, has been charge-sheeted and a departmental enquiry against him is going on and this matter has become a bone of contention in between the transferring authority and the Applicant and as result of that the Applicant has become a victim of circumstances. The third ground on which Your humble Applicant is banking upon is that the Policy of the State Govt. is to retain one officer at one station is normally for 3 (three) years unless and until some emergent situation emerges compelling the transferring authority to transfer one officer before expiry of the period of three years but in the present case the Applicant is being transferred just after eight months of his service there. It is submitted that the transfer has not been made bonafide or in the interest of good governance or in the interest of justice or in public interest.

The Applicant after receiving the wireless message of his proposed transfer dated 21/10/05 had preferred an appeal before the Respondent No. 4 on 30/10/05 but the same has been rejected and communicated to him through a wireless message on 22/11/05.

That thereafter the Applicant filed the present Original Application but while the said Original Application was still pending for Admission, the Respondent No.2 malafiedly placed the Applicant under suspension for non

compliance of the Order of Government, vide Govt. Notification No. HMA 167/94/Pt. VII/21: dt. 7.12.05.

That the prayer of the humble Applicant is that the order of transfer, the rejection of Appeal and the Order of suspension of the Applicant from service dt. 21.10.05, 22.11.05 & 7.12.05 respectively may be set aside & quashed and pending disposal of the present Original Application the operation of the above said 3 (three) impugned Order be stayed.

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Filed by the petitioner  
through Manjushree  
Adhikari  
12/12/05.

**DISTRICT: N.C. HILLS**

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

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

**Original Application 304/05**

**1. Particulars of the applicant:**

Sri Binay Kr Mishra, IPS  
S/o Sri Jagdish Mishra,  
Commandant in 5<sup>th</sup> Assam Police Bn.  
Sontilla, Haflong, District N.C. Hills  
Assam.

**2. Particulars of the Respondents:**

**i. Union of India**

Represented by the Secretary  
Ministry of Home Affairs,  
Govt. of India, New Delhi.

**ii. State of Assam**

Represented by the Home Commissioner,  
Department of Home (A), Govt. of Assam,  
Dispur, Guwahati.

**iii. Assam Police Head Quarters,**  
represented by the Director General of Police,  
Assam, Ulubari, Guwahati-7.

**iv. The Home Commissioner.**

Govt. of Assam, Dispur, Guwahati.

Binay Kumar Mishra

3. Particulars of the Order against which the application is made:

- i. The application is directed against the order of transfer of the petitioner sent through Wireless message No.FA/III-9/VOL-XXX/05/85 dated 21.10.05 AAA containing Govt. Notification No. AAA No. HMA 167/94/Pt.VII/7 (formal transfer order has not been received by the petitioner).the order was passed by DGP Police, Assam Police Head quarter, Ulubari, Guwahati -7.
- ii. Rejection of appeal of the applicant Sri Binay Kr Mishra, IPS before the Home Commissioner, Govt. of Assam, Dispur Guwahati communicated to the petitioner through wireless vide Govt. Notification No. HMA/167/94/PL-VII/II dated 22.11.05.
- iii. Orders by the Governor of Assam vide Govt. Notification No. HMA 167/94/Pt. VII/21 : dt. 7.12.05 issued by the Respondent No. 2 placing the Applicant under suspension with immediate effect communicated to your Applicant vide WT message No. FA/XXII/746/31 dt. 8.12.05.

4. Jurisdiction of the Tribunal:

The applicant declares that the application is within the jurisdiction of this Hon'ble Tribunal

5. Limitation:

The applicant declares & submits and that this application filed by the applicant is well within the time limit prescribed under section 21 of Central Administrative Tribunal Act 1985.

6. Facts of the case:

- 6.1 That the Applicant is a citizen of India. He is a senior I.P.S. officer of 1988 batch and he is holding a Cadre Post with seniority of Selection Grade. At present he is holding the post of

Binay Kumar Mishra

Commandant, 5<sup>th</sup> Assam Police Bn., Sontilla, Haflong and he is entitled to all the rights and privileges as guaranteed under the Constitution of India and the Laws, Rules and Policy Decisions made thereunder.

6.2 That Your humble Applicant is an IPS Officer and after serving at different stations, as also in National Crime Records Bureau (N.C.R.B.), New Delhi, the Applicant on 24.2.05 joined as ✓ Commandant 5<sup>th</sup> Assam Police Battalion, Sonitilla, Haflong. That it is respectfully submitted that Your humble Applicant has been served with a wireless message No.FA/III-9/VOL-XXX/05/85 dated 21.10.05 AAA aiming at his transfer from his present station as Superintendent of Police F R R O (Foreigner's Registration and Reporting Officer) having jurisdiction of Nalbari and Barpeta districts with Headquarters at Barpeta. It is worth mentioning here that an IPS officer is a Cadre Officer. It is also worth mentioning that the cadre posts are manned only by IPS officers. This system that the Cadre Posts shall be held by the Cadre Officers are guided by the provisions enshrined in the IPS (Cadre) Rules – 1954 and the details have been enumerated in Rule 8 and 9 of the aforesaid Rules. Since Rule 8 and 9 of I.P.S. Service (Cadre) Rules – 1954 are relevant in this case and hence quoted hereunder as follows:

***“Rule – 8 Cadre posts to be filled by cadre officers [Cadre and ex-cadre post to be filled by cadre officers;***

***(1) Save as otherwise provided in these rules, every cadre post shall be filled by a cadre officer.***

***(2) A cadre officer shall not hold an ex-cadre post in excess of the numbers specified for the concerned State under Item 5 of the Schedule to the Indian Police Service (Fixation of Cadre Strength) Regulations, 1955.***

*Binay Kumar Mishra*

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- (3) *The State Govt. may, with the prior approval of the Central Government appoint a cadre officer to hold an ex-cadre post in excess of the number specified for the concerned State in Item 5 of the Schedule to the Indian Police Service (Fixation of Cadre strength), Regulations, 1955 and, so long as the approval of the Central Government remains in force, the said ex-cadre post shall be deemed to be an addition to the number specified in Item 5 of the said Schedule.];*

**Rule - 9. Temporary appointment of non-Cadre officers to Cadre Posts.**

- (1) *A cadre post in State shall not be filled by a person who is not a cadre officer except in the following cases, namely:-*

- (a) *if there is no suitable cadre officer available for filling the vacancy :*

*Provided that when a suitable cadre officer becomes available, the person who is not a cadre officer, shall be replaced by the cadre officer;*

*Provided further that if it is proposed to continue the person who is not a Cadre officer beyond a period of three months, the State Government shall obtain the prior approval of the Central government for such continuance ;*

- (b) *if the vacancy is not likely to last for more than three months:*

*Provided that if the vacancy is likely to exceed a period of three months, the State Government shall obtain the prior approval of the Central Government for continuing the*

*Binary Kumar Mishra*



*person who is not cadre officer, beyond the period of these months.*

2. *A cadre post shall not be filled by a person who is not a cadre officer except in accordance with the following principles, namely:-*

*(a) if there is a select List in force, the appointment or appointments shall be made in the order of the names of the officers in the select List;*

*(b) if it is proposed to depart from the order of names appearing in the select list, the State Government shall forthwith make a proposal to that effect to the Central Government together with reasons therefore and the appointment shall be made only with the prior approval of the Central Government;*

*(c) if a select list is not in force and it is proposed to appoint a non-select list officer, the State Government shall forthwith make a proposal to that effect to the Central Government together with reasons therefore and the appointment shall be made only with the prior approval of the Central Government."*

3. *Where a cadre post is likely to be filled by a person who is not a cadre officer for a period exceeding 6 months, the Central Government shall report the full facts to the Union Public service commission with the reasons for holding that no suitable officer is available for filling the post and may in the light of the advice given by the Union Public Service Commission give suitable directions to the State Govt. concerned."*

*Bhargava Kumar Sharma*

6.3 That it is respectfully submitted that Your humble Applicant in this application is challenging the proposed order of transfer from Sontilla to Barpeta on the ground that he is a Cadre Officer and at present he is holding a Cadre Post and by the proposed order of transfer he has been transferred to a non-Cadre Post as S.P., FRRO (Foreigner's Registration and Reporting Officer) in respect of Nalbari and Barpeta districts which is a non-Cadre Post. It is worth mentioning here that his reliever is a non-Cadre Officer and he has been holding a non-Cadre post as S.P. FRRO in respect of Nalbari and Barpeta districts on which post Your humble Applicant has been ordered to be transferred vide the aforesaid wireless message. Furthermore, the SP FRRO is also being transferred from his post only after eleven (11) months of his positing as SP FRRO. It is submitted that there is a catena of decision in this matter that a Cadre Officer cannot be transferred to a non-Cadre Post.

R3 The other ground on which the Applicant is banking upon is that the present transfer from one post to another post has arisen out of the personal vindictiveness of the transferring authority in the sense that the domestic enquiry against one Cook who reportedly was sent for work at Chennai in the house of the daughter and son-in-law's of Respondent No.2 at Chennai and who for long five (5) years drew pay and allowances from the state exchequer, i.e. from the 5<sup>th</sup> A.P. Bn. Sontilla, has been charge-sheeted and a departmental enquiry against him is going on and this matter has become a bone of contention in between the transferring authority and the petitioner and as a result of that the petitioner has become a victim of circumstances. The Applicant begs to submit that he is narrating the details of this case in another paragraph.

The third ground on which Your humble Applicant is banking upon is that the Policy of the State Govt. is to retain one officer at one station is normally for 3 (three) years unless and until some emergent situation emerges compelling the transferring authority to

Biswajit Kumar Mishra

transfer one officer to transfer one officer before the expiry of the period of three years but in the present case the Applicant is being transferred just after eight months of his service there. It is submitted that the transfer has not been made bonafide or in the interest of good governance or in the interest of justice or in public interest.

6.4. That the Applicant most respectfully submits that while the present O.A. was still pending the Respondent No. 2 most arbitrarily, illegally with malafide intentions and with a view to scuttling any decision which was to be passed by this Hon'ble Tribunal, issued order vide Govt. Notification No. HMA 167/94/Pt. VII/21 dt. 7/12/05 placing the Applicant under suspension from service with immediate effect and the order was intimated to the Applicant vide WT message No. FA/XXII/746/31 dt. 8.12.05.

That it is pertinent to mention here that the Respondent No. 2 issued the said Order of suspension dt. 7.12.05 knowing fully well that an Application is pending before this Hon'ble Tribunal, which came up in the list on 6.12.05 at admission stage however the case was fixed for 8.12.05 so as to afford an opportunity to the state Govt. to place its own part of the fact. That again on 8.12.05 when the case came up the Ld. Counsel for the State Govt. had to take adjournment and therefore the case was fixed on 9.12.05.

6.5. The humble Applicant always appeared in the Hon'ble Tribunal with clean hands as at the time of filing Writ Petition in Hon'ble Gauhati High Court he gave due information to the Govt. in writing and when he had to file an Application before this Hon'ble Tribunal he again on 5.12.05 informed the Govt. of his filing the Application before this Hon'ble Tribunal. It is submitted that the Govt. was in the know in the matter that the Applicant had filed an Application before this Hon'ble Tribunal on 5.12.05. from the

*Binay Kumar Mishra*

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conduct of the Respondent it transpires that the Respondent never appeared in the court with clean hands and he had virtually a desires to interfere with the Orders to be passed by this Hon'ble Tribunal. The present order of suspension from service of the Applicant is a clear testimony of the fact that the Govt. had definitely interfered ✓ with the order to be passed by this Hon'ble Tribunal and hence the order of suspension from service as well as the order of transfer of the Applicant are borne with malafide intention and hence both the orders are liable to be set aside and quashed.

6.6 That it is respectfully submitted that the story of the Cook of 5<sup>th</sup> A.P. Bn., Sontilla, Haflong is that the Respondent No.2 is entitled for one cook. But he was pleased to avail of the services of two cooks. Out of the services of two cooks, he was pleased to send one cook to work in his son-in-law's house at Chennai in Tamil Nadu. His pay and allowances were drawn by different persons by writing the name of that cook. Nearly Rs. 2,50,000/- was drawn as his pay and allowances from the public exchequer through the 5<sup>th</sup> A.P. Bn, Sontilla.

6.7 That your humble Applicant who is famous as a stickler for discipline as also for his honesty, integrity and sincerity came to ✓ know of this misdeed after his joining duties on 24.2.2005 and immediately thereafter he came to know that one cook of his battalion is working in a private house in Chennai. On the orders of the petitioner, the cook had to come to Assam. He was put under suspension from service. However, the order of the suspension from service was vacated by the Respondent No.2 very next day. Thereafter the cook was transferred to A.P. Bn. No.16 and the file of his departmental proceeding was also sent to that battalion. But the Commandant of that battalion has sent back all the records of the departmental proceeding to the 5<sup>th</sup> A.P. Bn. for enquiry.

*Binary Kumar M. S.*

6.8 That it is respectfully submitted that the Respondent No.2 is to retire from service on and from 31.12.05. He desires that the Applicant should not remain the disciplinary authority of the departmental proceeding of that cook. It is in the background of this departmental proceeding that the petitioner has been transferred from 5<sup>th</sup> A.P. Bn. to FRRO, Barpeta. If this order of transfer is carried out, there is every chance that the departmental proceeding of the cook shall not be carried out to its logical end and in this way the facts relating to the unauthorized absence of the cook and the persons involved in this act shall always remain shrouded in mystery and obscurity for all time to come and the money spent from the public exchequer in such a wrong deed shall never be recovered. Still more, the private party and many others will also go scot free.

6.9 That it is respectfully submitted that the order of transfer of the Applicant is malafide in nature and it has been done specially with a view to scuttling the due process of law which, if executed, could have stopped many ills in the police administration. It is submitted that the departmental enquiry of the aforesaid cook with the zeal of a missionary for bringing the evil deeds to the limelight of the public view and to the view of the administration is of prime importance in this age of mal-administration, nepotism, favouritism, bribing and corruption, etc. and that is what Your humble Applicant had been trying to do inspite of all hurdles and difficulties. It is submitted that it is never neet and proper on the part of the State to transfer such an officer to any other place at such a time and in such a way.

6.10 It is submitted that the order of suspension from service is so cryptic in nature that it does not reveal the circumstances or the reasons or the causes leading to such penal actions. The order of suspension from service is not a speaking order at all and hence the said order is liable to be set aside and quashed.

*Brijay Kumar Mishra*

6.11 That it is respectfully submitted that the order of the transfer <sup>+ the Order of Suspension from Service</sup> of the Applicant is arbitrary, capricious in nature and hence liable to be set aside and quashed.

6.12 That it is respectfully submitted that the Applicant after receiving the wireless message of his proposed transfer, had preferred an appeal before the Respondent No.3 but the same has been rejected and communicated to him through a wireless message.

6.13 That it is respectfully submitted that the order of transfer could cause financial hardships to the Applicant as the approval of the Central Govt. has not come for the retention of the FRRO and the State Finance Department has not cleared the budget for giving the pay and salary to the officers.

6.14 That it is respectfully submitted that the proposed order of transfer and the order of suspension from service of the Applicant is not at all sustainable in the eye of law or facts of the case and hence liable to be set aside and quashed.

6.15 That the Applicant is filing herewith the following documents (Xerox copies) as annexures I to X of the petition and the same are as follows: -

ANNEXURE-I is the photocopy of wireless message sent vide No. FAa/III-9/VOL-XXXI/05/85 dated 21.10.05

ANNEXURE-II is the photocopy of wireless message containing Govt. Notification No. HMA/167/94/PL-7/II dated 22.11.05.

ANNEXURE-III is the photocopy of the representation by the petitioner to the Respondent No.4 dated 31.10.05.

ANNEXURE-IV is the photocopy of the Office Memorandum No. ABP.116/01/4 dated 4.2.2002 issued by the Govt. of Assam stating the policy of Transfer of Govt. officials.

Brijay Kumar Mishra

ANNEXURE-V is the photocopy of the order of suspension of the 'Cook' Hitesh Pathak vide Memo No. Bn.5/R/9/05/393/23 dated 9<sup>th</sup> June'05.

ANNEXURE-VI is the photocopy of the Order passed by the DIG (Admn) Assam, Guwahati, vide memo No. FB/1/64/99/91 dated 10.6.05 revoking the order of suspension of the Cook – Hitesh Pathak.

ANNEXURE-VII is the photocopy of the show cause notice issued to the Cook Sri Hitesh Pathak vide memo No. Bn.5/R/09/05/4207 dt. 17.6.05.

ANNEXURE-VIII is the photocopy of the order passed by the DIG (AP) ordering transfer of the Cook Hitesh Pathak to 16 AP (IR) issued vide memo No. TAP/F/8/Grade-IV/Pt.II/04/556 dtd 16.6.05.

ANNEXURE-IX is the photocopy of the news article published dated 30.5.05 in a local newspaper "Asomiya Pratidin" and translated copy of the same.

ANNEXURE-X is the photocopy of the news article published dated 9.6.05 in a local newspaper "Asomiya Pratidin" and translated copy of the same.

ANNEXURE-XI is the photocopy of the news article published dated 12.11.05 in a local newspaper "Dainik Purvoday" and translated copy of the same.

ANNEXURE-XII is the photocopy of the order of suspension from service dt. 7.12.05<sup>issued</sup> by the Respondent No. 2.

ANNEXURE-XIII is the photocopy of the WT message dt. 8.12.05 received by the Applicant.

6.16 That it is respectfully submitted that it is a fit case in which the order of transfer, the order of the rejection of his appeal and the Order of suspension ought to be quashed for the ends of justice.

*Brijay Kumar Mishra*

6.17 That it is respectfully submitted that the order of transfer and the order of the rejection of the appeal of transfer and the Order of suspension from service are not at all sustainable in law and hence liable to be set aside and quashed.

6.15 That the prayer for justice is before the departmental authorities.

6.16 That the applicant prayed for justice but the same has been denied to him.

6.17 That the Applicant has got no other efficacious remedy and the remedy prayed for is just, proper and adequate.

7. Grounds for relief with legal provision:

7.1 For that the respondents have erred in law as well as in facts in transferring the applicant from his present place of posting i.e. as Commandant of 5<sup>th</sup> AP Bn Sontila, Haflong to S.P.F.R.R.O Nalbari and Barpeta District.

7.2 For that the respondents have erred in law as well as in fact by rejecting the appeal of the applicant in gross violation of the Provisions of law and without showing any ground thereon.

7.3 For that the Respondent have erred in law as well as in fact by placing the Applicant under suspension from service vide the Govt. Notification No. HMA 167/94/Pt. VII/21 dt. 7.12.05 knowing fully well that the present Original Application is subjudice before this Hon'ble Tribunal.

7.4 For that the Order of the order of suspension from service is so cryptic in nature that it does not reveal the circumstances or the reasons or the causes leading to such penal actions. The

*Bisay Kumar Mishra*



order of suspension from service is not a speaking order at all and hence the said order is liable to be set aside and quashed.

- 7.5 For that the IPS (Cadre) Rules 1954 is clear with regard to the status of an IPS Officer who is a cadre Officer and since your humble application is an IPS Officer of 1988 batch and since he is holding a senior rank among IPS Officers Rule 8 and 9 of the IPS (Cadre) Rules 1954 is applicable to him.
- 7.6 For that by the impugned orders Rules 8 and 9 of IPS (Cadre) Rule 1954 which are mandatory in value have been blatantly violated by the respondent and hence the impugned order of transfer and rejections of appeal may be quashed.
- 7.7 For that in any view of matter the order passed for transferring the applicant and rejection of the appeal <sup>and suspension from service</sup> cannot stand if the <sup>case</sup> is decided on merit.
- 7.8 For that there is no other alternative or efficacious remedy available to the applicant and the justice prayed for is just, proper and adequate.
- 7.9 That this petition is being filed bonafide and in the interest of justice.

8. Details of remedies exhausted:

That the Applicant declares that he has exhausted all the remedies available to him, except to approach this Hon'ble Tribunal at this stage. After the W.T message of transfer was served on him he preferred an appeal before the Home Commissioner Govt. of Assam, Dispur, Guwahati, which was rejected by the said authority.

*Binay Kumar Mishra*

9. Matters not previously filed or pending in any court or tribunal:

✓ That the Applicant states that he filed a writ petition before the Hon'ble Gauhati High Court, on 25/11/05 which was withdrawn by the Applicant on 30/11/05, and as such the Applicant declares that no case is pending before any court or Tribunal regarding the same subject matter.

10. Relief sought for:

Under the facts and circumstances the Applicant prays for the following reliefs:

- i. The Order of transfer of the Applicant sent through Wireless message No.FA/III-9/VOL-XXX/05/85 dated 21.10.05 AAA containing Govt. Notification No. AAA No. HMA 167/94/Pt.VII/7 (formal transfer order has not been received by the petitioner) passed by DGP Police, Assam Police Head quarter, Ulubari, Guwahati - 7(annexure-I) be set aside and quashed.
- ii. The Order of rejection appeal of the applicant Sri Binay Kr Mishra, IPS before the Home Commissioner, Govt. of Assam, Dispur Guwahati communicated to the petitioner through wireless vide Govt. Notification No. HMA/167/94/PL-VII/II dated 22.11.05. (Annexure-II) be set aside and quashed.
- iii. The Order of the Respondent No.2 vide Govt. Notification No. HMA 167/94/Pt. VII/21 dt. 7.12.05, placing the Applicant under suspension from service be set aside and quashed.
- iv. Pending disposal of the O.A., the operation of the above impugned orders dt. 21.10.05, 22.11.05 and 7.12.05 be stayed.

*Binay Kr Mishra*

v. Any other relief or relief's the applicant is entitled to get may kindly be granted to him.

11. Particulars of the IPO:

I.P.O.No. 26 G 317234

Date: 2.12.05

Payable at Guwahati

12. List of enclosures: As stated above.

Bisay kmo Misho

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VERIFICATION

I Sri Binay Kumar Mishra, Son of Sri Jagdish Mishra, aged about 43 years, by caste Hindu, by profession Service at present working as Commandant in 5<sup>th</sup> A.P. Battalion, Sonitilla, Haflong, District- N.C. Hills, Assam, do hereby solemnly affirm and state as follows:

- (1) That I am the petitioner in the accompanying petition and am I am fully conversant with the fact and circumstances of the case and as such I am competent to swear and sign this affidavit.
- (2) That the annexures annexed to the writ petition are true copies of its original supplied by the petitioner.
- (2) That the statement made in this affidavit and those made in paragraphs 6.8 - 6.14, and are true to my knowledge and those made in paragraphs 6.1 - 6.7, 6.15. are matters of record and the rest are my humble submissions before this Hon'ble Court.

And I sign this affidavit on this the 12<sup>th</sup> day of December 2005 at Guwahati.

Identified by:

Binay Kumar Mishra  
DEPONENT

Manoj Kumar Sin  
Advocate's ~~Clerk~~

Subscribed and sworn to before me on this 12<sup>th</sup> day of December 2005 at Guwahati.

APPRO

APPRO

APPRO

RCVED/001.RCV 22/10/05 10:12

LINE 2

ANNEXURE - I

MCC825 105/OCT/22 10:17

ZCZC

Q9 STL

.MCC01

TKS DE NR 9495/97 GR 300

TO S/SHRI PANKAJ SARMA APS SP K/ANGLONG/KRISHNA DAS APS SP BORDER  
GHTY/ B K MISRA IPS CO 5TH AP BN SONTILA/JITENDRA KR DOLEY  
APS SP FRRO HQ BARPETA

INFO ADGP (B) GHTY/ ADGP TAP GHTY/ DIG CR DIFHU/ DIG CWR GHTY/  
SP BPTA

FROM POLICE GHTY AAA

==  
NO FA/III-9/VOL-XXXI/05/85 DATED 21/10/05 AAA  
THE FOLLOWING TRANSFER AND POSTING ORDERS HAVE BEEN ISSUED VIDE GOVT  
NOTIFICATION DATED 20/10/2005 AAA NO HMA 501/2004/48 SRI PANKAJ SARMA  
APS SP K/ANGLONG DIST IS TRANSFERRED AND POSTED AS SP (B) GHTY  
VICE SRI KRISHNA DAS APS TRANSFERRED AAA NO HMA 501/2004/48(A) SHRI  
KRISHNA DAS APS SP B GHTY IS TRANSFERRED AND POSTED AS SP K/ANGLONG  
DIST VIDE SHRI PANKAJ SARMA APS TRANSFERRED AAA NO HMA  
167/94/PT-VII/7. SHRI B K MISRA IPS CO 5TH AP BN SONTILA IS  
TRANSFERRED AND POSTED AS SP FRRO IN RESPECT OF NALBARI AND BARPETA  
DIST WITH HQ AT BARPETA VICE SHRI JITENDRA KR DOLEY APS  
TRANSFERRED AAA NO HMA 167/94/PT-VII/7(A) SRI JITENDRA KR DOLEY APS  
SP FRRO IN RESPECT OF NALBARI AND BARPETA DISTRICT WITH HQ AT BARPETA  
IS TRANSFERRED AND POSTED AS CO 5TH AP BN SONTILA VICE SHRI B K MISRA  
IPS TRANSFERRED AAA FOR INFORMATION AND NECESSARY ACTION AAA

TH1 2300/21

STOYACMAHANTA/

===

NNNN NNNN

.....cut here.....

# POLICE RADIOGRAM ANNEXURE-II

## ASSAM POLICE RADIO ORGANISATION

-18-

REG. NO.

400

CALL	PRIORITY	TRANS INSTRUCTION	NR	GR
IN	XXX	Trx	1172	125
OUT				

ABOVE THIS LINE FOR USE OF RADIO STAFFS ONLY

TO SRI B. K. Mishra S.P.B. C.O. 5th APBN STL  
 INFO SRI D. K. Dolay APS. Supdt. FRRO. BPTA.  
 FROM Home Secy. Assam.

ORIGINATOR'S NUMBER	DATE	IN REPLY TO	DATE	SECURITY CLASSIFICATION
NO- HMA/167/94/PL-VII/11			Date = 22-11-05	

= Ref. yr. representation dated 31-10-2005 that has been rejected & you are directed to hand over the charge of Commandt. 5th APBN STL to SRI D. K. Dolay APS. immediately @ failing which Deptl. proceeding will be initiated against you @ SRI D. K. Dolay APS. S.P. FRRO. BPTA. is directed to take over charge of Commandt. 5th APBN STL immediately @

R/ 1530/22 1440/22  
 1525/22  
 Singh

PRIORITY	ORIGINATOR'S SIGNATURE & DESIGNATION BELOW THIS LINE FOR USE OF RADIO STAFFS ONLY			T.O.O. T.H.T.
TIME IN READER	DATE	TIME OUT SENDER	DATE	

— 16 — 17 — 19 —  
**ANNEXURE - III 45**

THE OFFICE OF THE 5TH ASSAM POLICE BATTALION, SONTILLA, HAFLONG

Dated : 31-10-05

To,

The Home Commissioner,  
Govt. of Assam, Dispur,  
Guwahati - 6

Sub : Representation.

Respected Sir,

This is my honour to inform that I had joined 5th A. P. BN., Sontilla on 24-02-05. The Unit was without a regular Commandant for eight months and I had to make sincere efforts to bring things in order.

2. On 21-10-05 I learnt to my utter shock and disbelief, that I was transferred and posted as S.P. FRRO, Barpeta. I have barely completed six -seven months in the present place of posting and was running the affairs of the unit smoothly. With this development, all officers and men working under my command are thoroughly demoralised which is not good for the Police Force.
3. The post of S.P. FRRO is a non-cadre one and, therefore, being a senior IPS Officer (1988-RR) with seniority of selection grade, I should not have been given this posting at all. Moreover, it is learnt that the Govt. of India has not issued a fresh order for retention of various posts of SP FRRO's including the Barpeta one. No doubt, I may have to face problem in getting my pay slip and salary etc.
4. Moreover, the enquiry against cook Hitesh Pathak, who was reportedly sent to Chennai by DGP Mr. P.V. Sumant, is at a crucial stage and my presence is very much required to unearth the truth and bring the enquiry to its logical end.
5. In view of the above, it is requested that my transfer order issued vide Govt. order dated 20-10-05 is rescinded at the earliest and I am allowed to continue at my present place of posting.

Thanking you.

Yours faithfully,

(Binay Misra)  
Commandant  
5th A.P. Bn.  
Sontilla, Haflong.

- 20 -  
#8 - Annexure - IV 94

GOVERNMENT OF ASSAM  
DEPARTMENT OF PERSONNEL ::: PERSONNEL (B)  
DISPUR ::: GUWAHATI

No. ABP. 116/01/4

Dated Dispur, the 4th February, 2002.

OFFICE MEMORANDUM

Subject : POLICIES OF TRANSFER OF GOVERNMENT OFFICIALS

As per State Government's standing O.M No. ABP. 40/91/117 dated 19-9-92 the transferable officers and staff should normally be transferred only upon completion of 3 years of service at one place. But an officer need not necessarily be transferred when he completes 3 years in one station if the interest of public does not demand so.

In the said O.M it has also been stipulated that whenever public interest demands that an officer should be transferred from his place of posting even before completion of 3 years in the place, proper justification and ground may be recorded in writing for the transfer and orders issued only after getting approval of the Chief Minister for such a transfer.

However, in practice it has been observed that such stipulation of taking prior approval of Chief Minister is not always obtained while making transfer and posting of Government officials and for which litigation often takes place. The Hon'ble Gauhati High Court in its recent order dated 16-8-2001 in Writ Petition W.P(C) No. 5216/2001 (Shri Dayal Das-Vs-State of Assam and others) has directed the respondents to comply with this provision as measure to check arbitrary transfer of Government officials before completion of normal tenure of 3 years.

It is, therefore, reiterated that all concerned should strictly adhere to the instructions/guidelines issued vide State Government O.M quoted above and not to violate the provisions of the said Office Memorandum.



19 - 21 - 5  
-: (2) :-

Memo No. ABP. 116/01/4-A : Dated Dispur, the 4th Feb., 2002.

Copy to :-

- 01) Commissioner & Secretary to the Governor of Assam, Dispur.
- 02) Commissioner & Secretary to the Chief Minister, Assam.
- 03) PS to Ministers/Ministers of State, Assam.
- 04) PS to Chief Secretary, Assam.
- 05) Chairman, Assam Administrative Tribunal, Guwahati.
- 06) Chairman, Assam Board of Revenue, Guwahati.
- 07) PS to Additional Chief Secretary, Assam.
- 08) All Principal Secretaries/Commissioner & Secretaries/  
Secretaries to the Government of Assam.
- 09) All Heads of Departments.
- 10) All Commissioners of Divisions.
- 11) All Deputy Commissioners.
- 12) Secretary, Assam Public Service Commission,  
Jawaharnagar, Guwahati - 22.
- 13) Principal Secretary, Karbi Anglong Autonomous Council,  
Diphu / Rabha Hasong Autonomous Council, Dudhnoi,  
Goalpara District / Mising Autonomous Council, Gogamukh,  
North Lakhimpur / Lalung (Tiwa) Autonomous Council,  
Morigaon.
- 14) All Sub-Divisional Officers.
- 15) Secretary, Assam Legislative Assembly, Dispur.

By order etc.,

Deputy Secretary to the Government  
of Assam, Personnel (B) Department

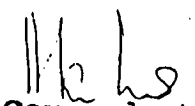
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OFFICE OF THE COMMANDANT :: 5TH A.P. BATTALION :: SONTILLA ::  
:: ASSAM :: N.C. HILLS ::

**'O R D E R'**

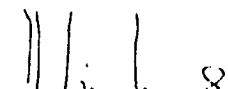
Cook Hitesh Pathak was deputed to DGP's Bungalow at Guwahati w.e.f. 18.8.1999 but was not found at his place of posting by the pay disbursing Officer on 20.5.2005 when the pay disbursing officer went to Guwahati, the Cook was not found available for receiving his pay. Later, as per instructions of A.I.G.P. (Admn.), Assam, Guwahati, pay was handed over to his wife at his village Nathkuchi, P.S.-Patacharkuchi on 21.5.2005. A news item appeared in a local Assamese daily on 30.5.2005 according to which he appears to be out of State without knowledge of this BN HQ.

In view of seriousness of the matter, Cook Hitesh Pathak is placed under suspension with immediate effect for gross negligence of duty. He will get S/A as per admissible rule pending Departmental enquiry against him.

  
 Commandant,  
 5th A.P. Battalion, Sontilla,  
Assam, N.C. Hills.

Memo.No. BN5/R/9/05/1121 Dated, Sontilla, the 2<sup>nd</sup> June/2005.  
 Copy for kind information to :-

1. The Home Commissioner, Assam, Dispur, Guwahati,
2. The Director General of Police, Assam, Guwahati,
3. The Addl. Director General of Police, (TAP),  
 Assam, Guwahati.

  
 Commandant,  
 5th A.P. Battalion, Sontilla,  
Assam, N.C. Hills.

\*\*\*\*\*

22-23-  
ANNEXURE - V/ 47

ASSAM POLICE HEADQUARTERS  
ULUBARI :::::::::: GUWAHATI

Memo No. FB/1/64/99/91, Dated Guwahati the 10th June/2005.

T. : : Shri B.K. Mishra, IPS,  
Commandant, 5th A.P. Battalion,  
Sontilla.

Sub : : SUSPENSION ORDER OF COOK HITESH PATHAK  
OF 5TH A.P. BATTALION, SONTILLA.

Ref. : : Your Memo No. Bn. 5/P/9/05/3921-23,  
dtd. 4/6/2005.

With reference to the above, I am directed to forward herewith the following observation made by the Director General of Police, Assam for your information and necessary action.

"The Cook Hitesh Pathak in question is on deputation with the Director General of Police, Assam. There has been no complaint now of his absence from duties from the Director General of Police, Assam. Moreover, making a newspaper report the basis for such as order is not justified.

The above suspension order, is therefore, revoked and the above order of suspension is treated as null and void abinitio and is set aside.

The period affected by the above wrong order, now set-aside, will be treated as on duty and regularised accordingly".

Please take necessary action accordingly and confirm.

*Sei*  
10/06/05  
Deputy Inspector General of Police, (Admn)  
Assam, Guwahati.

Memo No. FB/1/64/99/91-A, Dated Guwahati the 10th June/2005.  
As directed copy forwarded to :-

- 1) The Addl. Director General of Police, (TAP), Assam, Guwahati for information.
- 2) The Guard file for record.

*Sel/-*  
Deputy Inspector General of Police, (Admn)  
Assam, Guwahati.

- 22 - 24 - (2) 48

OFFICE OF THE COMMANDANT :: 5TH A.P.BN :: N.C.HILLS :: ASSAM ::  
:: S O N T I L L A ::

Memo.No. BN5/R/09/05/4267 Dated, Sontilla, the 17 th June/05.  
To,

Cook Hitosh Pathak, of 5th A.P.BN,  
S/O Late Basanta Kr. Pathak,  
Vill- No.1 Nathkuchi,  
P.S.-Patacharkuchi,  
Dist.-Borpetta,  
C/O, O/C Patacharkuchi P.S.

Sub :- SHOW CAUSE NOTICE.

You are hereby required to Show cause U/S-7 of police Act (Act-V 1861) read with rule 66 of the Assam police Manual Part-III and article 311 of the constitution of India as to why any of the penalties prescribed therein should not be inflicted upon you based on the following charges extracted from the statement of allegation enclosed herewith.

CHARGES.

1. You were deputed to the residence of D.G.P. Assam at Guwahati on verbal instructions w.e.f. 18.8.1999 under proper command certificate but were found frequently absent from the place of posting. you remained unauthorized absent for 10(ten) time during your stay in Guwahati consisting of total 328 days and this was treated as L.W.P. as per instructions received from A.P.HQr, Guwahati time to time out of which longest period was 96 days L.W.P. for unauthorized absence w.e.f. 20-3-2002 to 23-6-2002. In the last instance a W.T. message was received on 29-12-2004 from the DGP, Assam asking to holdover your pay for your unauthorized absence w.e.f. 27-12-2004 and accordingly your pay was heldup. Subsequently on further instruction your unauthorized absence period w.e.f. 27-12-2004 to 6-1-2005 was treated as L.W.P. (for 11 days).

2. On 20-5-2005 you were found absent from your place of posting by pay disbursing officer Hav/clk Tapas Sinha when he had gone to Guwahati for disbursing salary of BN, personnel posted there. As per instruction from this BN Head quarter the pay disbursing officer declined to make payments. But later on verbal instructions of AIG(A), Assam, Guwahati, salary was handed over to your wife on 21-5-2005 at the address mentioned above who also signed the pay roll on your behalf.

Contd ..... 2-

SS/5/2006

3. On earlier occasions also you were not found physically present at DGP, Assam's residence at Guwahati and your pay was handed over to staff present there, M.T staff of DGP office and even to your family members as per verbal instructions. This is also corroborated from the fact that your pay rolls bear signatures of various persons on different occasions.

4. You were reported to be outside state without knowledge of this BN HQ and approval or permission of the competent authority. This was also highlighted by a section of the media. Further, a W.T message was sent on 4-6-2005 through O/C. Patacharkuchi P.S. at your home address informing that you had been placed under suspension and therefore asked to report at this BN HQ, but you failed to turn up so far which further substantiates above claim.

Remaining in a disciplined police force you have violated the normal discipline and tarnished the image of this unit through such act of negligence and indiscipline which render you unfit to be retained in a disciplined police force.

You are, therefore, charged with gross negligence of duty, remissness and misconduct.

The list of prosecution witness and documents proposed to be relied upon for proving the charges and the Statement of allegation are enclosed herewith. If during enquiry it is felt necessary to examine the prosecution witnesses and the documents in the interest of proper and thorough enquiry the same will be done by the Enquiry officer with intimation to you.

You should submit your written statement in defence within 10(ten) days from the date of receipt of this Communication provided you do not intend to inspect the documents which have relevancy with the issue under enquiry. In case you intend to inspect these documents you should write to the undersigned for the same within 7(seven) days from the date of receipt of this notice and thereafter submit your explanation within 10(ten) days from the date of completion of inspection of the documents.

Your written statement stating whether you desire to be heard in person be submitted to the undersigned within the period specified above failing which the enquiry into the charge will be conducted in ex-parte.

Contd..... 3.



1/4/5000

If the disciplinary authority decides to appoint an Enquiry Officer to enquire into the charges you will be allowed to present your case if you so desire with the assistance of any other Govt. servant approved by the Disciplinary Authority but will not be allowed to engage any legal practitioner unless the disciplinary authority so permits.

*W. H. S.*  
Commandant,  
5th A.P. BN, Sontilla,  
Assam, N.C. Hills

\*\*\*\*\*

1/4/50

OFFICE OF THE ADDL. DIRECTOR GENERAL OF POLICE (DGP) ASSAM,  
ULUBARI : GUWAHATI.

/// ORDER ///

In the interest of public service the following transfer and posting order's are made with immediate effect.

- 1) Cook Hitesh Pathak of 5th A.P. Battalion, Sontilla is transferred and posted to 16th A.P.(IR) Battalion, vice Cook Nirmal Das is transferred.
- 2) Cook Nirmal Das of 16th A.P.(IR) Battalion is transferred and posted to 5th A.P. Battalion, Sontilla in place of Cook Hitesh Pathak of 5th A.P. Battalion.

SL 2 will move 1st and they should be released/absorbed accordingly.

Deputy Inspector General of Police (A),  
Assam, Ulubari, Guwahati.

Memo No. DGP/F/8/Grade-IV/Pt-II/04/556  
Copy to :-

dtd. 16-6-05.

- 1) The Deputy Inspector General of Police (A), Assam, Guwahati for favour of kind information.
- 2) The Commandant, 5th A.P. Battalion, Sontilla, for information and necessary action. He is directed to release Cook Hitesh Pathak of his unit on paper to join 16th A.P. (IR) Battalion, as ordered and send his LPC/S.S to the C.O. 16th AP(IR) Battalion, accordingly.
- 3) The Commandant, 16th AP(IR) Battalion, Dornapur for information and necessary action.
- 4) Guard file for record.

Deputy Inspector General of Police (A)  
Assam, Ulubari, Guwahati.

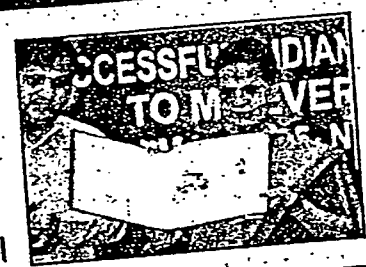
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10391  
19/6/05  
A. Suble/Pro. Suble.  
19/6/05  
29

চৰকাৰ।  
ব্যৰ্থতাৰে শাসনৰ অন্তিম  
গ চৰকাৰ।



বিশ্বশক্তি হোৱাৰ  
ত্যাগান এইড্ছ।  
কৰ পিচত লেবাননত নিৰ্বাচন।



# অসমীয়া প্ৰতি দিন

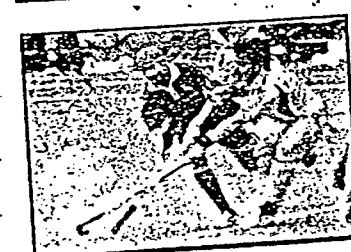
Internet: [www.pratidinassam.com](http://www.pratidinassam.com)  
TECH/RNP/GH-16/2003-05  
REGN. NO. 53902/95

গুৱাহাটী সংস্কৰণ \* / Guwahati Edition \*  
গুৱাহাটী, ডিব্ৰুগড়, লখিমপুৰ আৰু বঙাইগাঁৱৰ পৰা প্ৰকাশিত

১১শ বছৰ, সংখ্যা ৮৬  
১৫ জেঠ, ১৯২৭শক  
সোমবাৰ, ৩০ মে'  
ASOMIYA PRATIDIN  
MAY 30, 2005  
১২ পৃষ্ঠা  
মূল্য: ৪.০০ টকা



৮  
নেন' প্ৰযুক্তিৰ বিকাশে  
আনিছে যুগান্তৰৰ বতৰা।  
অত্যাচাৰ মানুহৰ সহজাত প্ৰবৃত্তি।



১১  
ক্ৰিজষ্টাৰ্ছৰ বিদায়, ডেভেনপট  
প্ৰথমেই কোৰ্টাৰত।  
মালয়েছিয়াৰ বিৰুদ্ধে ধৰাশায়ী ভাৰত।

## ডিজিগি সূমন্তৰ কাণ্ড চেন্নাইৰ জী-জোঁৱাইৰ ঘৰৰ বান্ধনিশালত অসম আৰক্ষীৰ বান্ধনি



সৰকাৰী সা-সুবিধাৰ অপব্যৱহাৰৰ অভিযোগ উঠিছে।  
সৰকাৰী নিয়ম অনুসৰি আৰক্ষীৰ শীৰ্ষ বিষয়াসকলে  
ভাগৰে তলতীয়া কৰ্মচাৰীক বান্ধনি, মানী হিচাপে  
নাভ কৰে। সেইমৰ্মে আৰক্ষী সঞ্চালকপ্ৰধান সূমন্তেও  
গান্ধীৰ প্ৰতি পক্ষম, আৰক্ষী ■ শেষাংশ দহ পৃষ্ঠাত

প্ৰতিদিন সংবাদ, গুৱাহাটী,  
২৯ মে' : ৰাজ্যখনৰ একাংশ  
শীৰ্ষস্থানীয় আৰক্ষী বিষয়াই  
চৰকাৰৰ প্ৰদত্ত সা-সুবিধাসমূহ  
ৰাজ্যৰ বাহিৰত থকা  
তেওঁলোকৰ আত্মীয়-স্বজনলৈ  
হস্তান্তৰিত কৰাৰ এক অশুভ  
প্ৰসংগবাই গা কৰি উঠিছে।  
ৰাজ্যৰ আৰক্ষী সঞ্চালকপ্ৰধান  
পি ভি সূমন্তে ক্ষেত্ৰতেই এই

## অসমীয়া প্ৰতিদিন

### চেন্নাইৰ জী-জোঁৱাইৰ ঘৰৰ

■ প্ৰথম পৃষ্ঠাৰ পৰা বেটেলিয়নৰ পৰা হিভেশ পাঠক আৰু জনৈক চেত্ৰী নামৰ  
দুজন বান্ধনি পাইছিল। অগপৰ শাসনকালত ৰাজ্যৰ আৰক্ষী সঞ্চালকপ্ৰধান হৈ  
থকা সময়তে এই বান্ধনি দুগৰাকীৰ মাজৰ হিভেশ পাঠকক সূমন্তে চেন্নাইত থকা  
তেওঁৰ জী-জোঁৱাইৰ ঘৰত বান্ধনি খাটিবলৈ চালান দিয়ে। যোৱা চাৰি বছৰে  
চেন্নাইত থকা হিভেশ পাঠকৰ ঘৰ নলবাৰী জিলাৰ টিহুত। আত্মীয়-স্বজন এৰি  
চেন্নাইত থকা পাঠকৰ পৰিয়ালে অৱশ্যে সময়ে সময়ে দৰমহাখিনি পাই আছে।  
শেহতীয়াতকৈ অসম আৰক্ষীৰ এই লোকজন ছুটীত ঘৰলৈ উভতিছে। কিন্তু  
শীৰ্ষস্থানীয় আৰক্ষী বিষয়া এজনে ৰাজ্যৰ বাহিৰত থকা জী-জোঁৱাইৰ আলপৈচান  
ধৰা কামত চৰকাৰী কৰ্মচাৰী নিয়োগ কৰা বিষয়টোৰে আৰক্ষী বিভাগৰে বিভিন্ন  
মহন্তত দৃষ্টিকটুভাৱে ধৰা দিছে।



তি আৰু

## DAILY NEWSPAPER ASOMIYA PARTIDIN

(Translated Copy dated May,30,2005)

MISDEED OF DGP SUMANTA

The cook of Assam Police is cooking in the house of daughter and Son-in-law at Chennai. It is a common practice amongst most of the high ranking officers of the state to share the facilities bestowed upon them with their relative living outside the state.

There is a complain against P.V. Samanta for grossly misuse of his powers. As per the Govt. rules High Ranking Officers of the Police Deptt are entitled to get lower ranking employees like cook and gardener etc. In this way DGP Sumanta got two cook named Hitesh Pathak and Janaik Chetri from 5<sup>th</sup> A.P. Battalion of Assam Police. During the AGP regime as a DGP of the State among the two cooks he sent Hitesh Pathak to cook in the residence of daughter and Son-in-law. He is living in Chennai since last 4 years. He belongs to Tihu in Nalbari District. Though Hitesh has been living in Chennai without his relatives but his family members are getting his pay etc from time to time. At last the man of the 5<sup>th</sup> Assam Police has come back home on leave but the local Head officers of the Police has caught sight of this Public servant for working under the daughters and son-in-law and different section of the Police deptt has come to know of this matter with a bitter taste.

residence of DGP's relative's house. The said servant of Hitesh Pathak has created sharp reaction of some of the members of the said Department.



*Translated copy*

**DISSATISFIED SUMANT: POLICE COOK OF DAUGHTER'S HOUSE  
SUSPENDED.**

Pratidin New: Guwahti: 8<sup>th</sup> June

“Khai Karshala dalat uthil, Kathi chelekar maran milil”

The said phrase came to be true in respect of Hitesh Pathak an employee of 5<sup>th</sup> AP Bn, Haflong. Hitesh Pathak, who was serving the duty of cook sincerely at the residence of DGP's daughter and Son -in-law for nearly 4 years was suspended.

The reason behind the suspensions of this lower grade employee of Assam Police is that the news of his serving as a cook in the house and relative of DGP was published in Newspaper. The Higher Rank Police Officer immediately suspended Hitesh Pathak from service. While Hitesh Pathak was serving as a cook in the residence of the daughter and Son-in-law of DGP Sumant at Chennai, it came to the notice of the public. Sumant agitated and to save his skin in this respect, he initiated an enquiry through a DSP. After involvement of the DGP in the whole issue, it is already clear as to what his subordinate Officer will investigate in the said issue.

Complying with the order of the DGP, Cook Hitesh Pathak worked at the residence of DGP's relative's house but the said suspension of Hitesh Pathak has created sharp reaction on some of the employees of the said Department.

## डीजीपी के पसंदीदा बावर्ची को 'तंग' करने की सजा कमांडेंट को

▼ पूर्वोदय संवाददाता  
गुवाहाटी, १२ नवंबर। देहज में बावर्ची! न गुना न देखा। वह भी कोई छोटा-भोटा नहीं पुलिस वाला रसोइया। असम पुलिस बटालियन के बावर्ची द्वारा बनाए छाने पर जब बेटी उंगलियां चाट रही है तो बाप के रुतवे पर उंगलियां भी उठ रही हैं। जनाव-चुप रहिए। बाप दमदार नदीवाला है। पुलिस का रसोइया मेहनताना असम सरकार से लेता है, छाना चेन्नई में बनाता है। गलत है? तो क्या कर लोगे।

असम पुलिस के एक कमांडेंट ने भी कहा गलत है। लेकिन इस कमांडेंट को एतना उठाने पर मिली सजा। सेवा मैडल छीन लिया गया। वेइज्जत कर, रुतवे से नीचे के नान-कैडर पद पर तबादला कर दिया गया। संशेग में कहे तो हिम्मत से सच्चा बोलने वाले आईपीएस पुलिस अधिकारी पर दुरा आला अधिकारी ने उंगलियां उठाई हैं। असम के पुलिस महानिदेशक पीवी सुमंत पर इन आरोपों की मौज्रा है। राज्य के हाफलांग से ▼ शेष पृष्ठ दो पर

तैदुलकर अपनी पूरी खाली में थे। उन्होंने चांभड़ा बास की गंद पर अपनी पारी का एक बेहतरीन शाट लगाया लेकिन वह अपनी बेहतरीन गुरुआत को कायम नहीं रख पाए और जोयता को एक धीमी गंद पर अपना विवेक गंवा बैठे। तैदुलकर ने ३१ रन बनाए। इसके बाद धोनी ने अपना राहुल द्रविड़ के साथ समझदारी के साथ खेलते हुए भारत को जीत की मंजिल के एकदम नजदीक तक पहुंचा दिया। हालांकि धोनी ने धैर्य के साथ बल्लेबाजी करने की कोशिश की लेकिन वह ऐसे खिलाड़ी नहीं हैं जो बंध सके। कुछ ही रन में उनका धैर्य जवाब दे गया और उन्होंने श्रीलंकाई गेंदबाजों के छपके छुड़ा दिये। उन्होंने मनचाहे ढंग से उन्हें हर तरफ पीटा और सिर्फ ७२ गेंदों पर ८० रन बना दिए। वह उस समय उगुल चंदना की गेंद पर तिलन समर्थी के हाथों लपक लिए गए जब भारत को जीत के लिए सिर्फ पांच रन की जरूरत थी। द्रविड़ ४८ गेंदों पर ३१ रन बनाकर नाबाद रहे। उन्होंने अपनी उपयोगी पारी में दो चौके लगाए। भारत को जीत दिलाने वाला रन भी उन्होंने ही बनाया।

### डीजीपी के पसंदीदा...

बारह कि.मी. दूर सोनतली में स्थित पांचवीं असम पुलिस बटालियन में हितेश पाटक रसोइया के तौर पर नियुक्त था। पुलिस महानिदेशक ने रसोइए को चेन्नई स्थित अपनी बेटी के घर पर रसोइया बनाकर भेज दिया। कानून को टेंना दिखाने हुए पाटक महोदय लगातार पिछले पांच वर्षों से बतन असम सरकार से ले रहे थे और तब पुलिस महानिदेशक की बेटी के घर पर दे रहे थे। क्या भनाल कि विगत पांच वर्षों में किसी पुलिस अधिकारी की हिम्मत भी हुई हो, जो इस मामले पर कुछ कह सके। नौकरी बचानी है तो आंखें बंद कर कहो...हां जी... आंके सर...

मामला जब संबंधित आईपीएस अधिकारी बी.के. मिश्रा की निगाह में आया तो मालूम पड़ा कि रसोइये पाटक का बतन अन्य रसोइया यशवन्तलाल सोनार प्राप्त करके पाटक की मोहतरमा यानी घरवाली को नियमित देता रहा है। घटना की छानबीन के आदेश हुए। दोनों रसोइए भांगड़े घोषित किए गए। डीजीपी सुमंत महोदय की राह पाकर दोनों रसोइए कान में तेल डालकर आदेश की छिल्लियां उड़ाते रहे। बारंबार सूचना पर भी चेन्नई से रसोइया बटालियन में वापस नहीं लौटा। अंततः कमांडेंट मिश्रा ने दोनों को मीथरा से निलंबित कर दिया। पुलिस महानिदेशक ने इसे चुनौती माना। अपने विशेष अधिकार का प्रयोग करते हुए दोनों रसोइयों के निलंबन को स्थगित कर दिया। हेकड़ी की हद तक जाकर उन्हें १६ आईआरवी बटालियन में नियुक्त भी कर दिया। (आफू संदेश - थाली: क्या यह लांग!) क्या आपने कभी सुना है या देखा है कि धोर के घर पुलिस जाकर पड़ती हो। "हां... चोर भाई... क्या आप यह बताने का कष्ट करेंगे कि क्या आपने चोरी की है?" हमारे पुलिस महानिदेशक ने निर्देश जारी किया कि अगर रसोइयों का बयान लेना है तो जांच अधिकारी स्वयं हाफलांग से गुवाहाटी आकर रसोइयों से पूछताछ करें। डीएसपी यानि उप पुलिस अधीक्षक पद का जांच अधिकारी हुए रसोइयों से उनके सम्मुख हाजिर होकर पूछे, "छाना कहाँ बना रहे थे?"

वहिए! अभी तो नियम-भंगन की बहुत रीं बार्ते ऐसी हैं, जो पुलिस महानिदेशक के काम के तरीकों से गुदगुदी पैदा करती हैं। अब जनाव रसोइया पांच वर्ष चेन्नई में कान कर असम वापस लौट आया है। पर बतन लेने वह कुछ नहीं आता है। बटालियन का हवलदार बरपेटा गिले के पाटाचारुचुकी थाना के अंतर्गत उसके गांव बतन देकर आ रहा है। इस कार्य के लिए तस्ते का थिराया सरकार तो देती नहीं है। बेचारे हवलदार को अपने पाकेट से खर्चा भुगतान पड़ रहा है।

अब बारी थी-कमांडेंट मिश्रा को तबक लिखाने की। पूर्व पुलिस महानिदेशक

हिरकृष्ण डका द्वारा बहादुर स्वरूप प्रदान बहादुरी का मेडल छीन लिया गया। यहां भी कानून की ऐसी की तैसी की गई। न कारण बताया गया, न ही पूछे जाने पर जवाब दिया गया। महज सात महीने की कमांडेंट के पद पर से मिश्रा को वॉरिया-विस्तर समेटने का आदेश भी प्राप्त हो गया। इन्हें हिदायत दी जा चुकी है कि बरपेटा स्थित एकआआओ विभाग में पुलिस अधीक्षक का पद भार संभालें। आपको जानकारी दे दें कि यह पद आईपीएस अधिकारियों हेतु नहीं बल्कि 'नान कैडर' अफसरों के लिए होता है। खैर मिश्रा जी, ओछल में सिर दिए हो मूसल से क्या डटना। वो रसोइये के छाने का स्वाद ले रहे हैं। आप पुलिसिया छीज का स्वाद भोग रहे हैं। उनके मुंह का स्वाद बिगाड़ने की सजा भुगतिए।

मामला असम से निकलकर दिल्ली तक जा पहुंचा है। भारत सरकार का गृह मंत्रालय तथा मुख्य सतर्कता आयुक्त इस घटनाक्रम पर हतप्रभ है। असम सरकार से पूरे घटनाक्रम की जानकारी मांगी गई है। और इस बीच खबर आई है कि भारत सरकार के मंत्रालयों द्वारा मांगी गई सूचना पर राज्य सरकार सहम गई है। कमांडेंट मिश्रा को आदेश मिला है कि फिलहाल वे अगले आदेश तक १५वीं असम पुलिस बटालियन के कमांडेंट के पद पर बने रहें।

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Translated copy

DAINIK PUBODAYA 11<sup>TH</sup> NOVEMBER, 2005

## COMMANDANT PUNISHED FOR TEASING DGP'S

### FAVOURATE COOK

Nobody seen or heard "A cook in dowry," that is not so small but a "Police Cook" when the daughter was licking up her figure with taste, for food made by a cook of Assam Police Battalion then finger could be pointed out at the reputation of the father, Sir keep quiet father is a High Ranking police Official. The cook of Assam Police Battalion is getting his salary from Assam Govt and is cooking food at Chennai. This is wrong? So what! One of the commandants of the Assam Police Battalion also said that this is wrong. But this officer was punished for raising objection over the matter. His 'Seva medal' was withdrawn, He was humiliated and reduced in rank and got transferred to Non-cadre post.

In short if it said other higher officers raised their fingers against the IPS Officer who spoke the truth with courage. There are several allegations against DGP P.V. Sumant.

Hitesh Pathak was appointed as cook in 5<sup>th</sup> Assam Police Battalion at Sontoli, 12 Km away from Hatlong, Assam. The DGP Assam police sent the cook Hitesh Pathak to Chennai at the place of his daughter and son-in-law. By violating the provision of law. Hitesh Pathak was drawing his salary from Assam Govt and was serving at the place of DGP's daughter and son-in-law's house for nearly 4/5 years. No Police Officer showed any sign of courage to say any thing over this matter.

"Fear of Dismissal from service by the authority then close your eyes" and say "Yes Sir" "OK Sir".

Then the matter came to the notice of concerned Police officer Sri B.K. Mishra that constable Yash Bahadur Sonar is collecting the pay of cook Hitesh Pathak and paying to his wife from time to time. An enquiry was ordered by the said officer. This two cook was declared "Absconding". Because of becoming favorite cook

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of DGP Mr. P.V.Samanta they were violating the order of the officer. Several intimation were given to them but they did not come back. Then the Commandant Mishra dismissed them from service. The DGP took it as a challenge before him. By misusing his power suspended the dismissal of two cook and posted them to 16 IR Battalion. *Clear message say what will you do?*

Have you seen that the police enter in to the house of thief and asked "can you take pain to say that you have robbed the house"?

Then the DGP ordered that if the enquiry officer wants to take the evidence of the cook then he must come from the Haflong to Guwahati himself and conduct the enquiry here. DSP means Deputy Superintendent of Police ranking of inquiry officer came in front of the cook and asked "what did you cook".

Just wait .Now the Rules and Procedure of the Police have to follow which is so funny. Now the cook after spending 5 years in Chennai came back to Assam. He does not come to draw his salary by himself. The Havildar of the 5<sup>th</sup> Assam Police Battalion collect and pay his salary to his native village near the Patherkuchi Police Station. For this work Havildar was not paid any extra fare. But the poor Havildar had it pay from his own Pocket.

Now it is the time for teaching a good lesson to Commandant Mishra . DGP's commendable Seva Medal was ordered to be withdrawn from Mishra which was given to him by former DGP Hari Krishan Deka. There is also gross misuse of Law. No show cause notice was served, No question was answered when asked by the authority. Within 7 month he was asked to pack up to his Bag and Baggage while holding the post of Commandant. He was informed that he will have to take over the charge of Superintendent of Police of Barpeta in FRRO department. This is for every bodies information that this post is not meant of IPS cadre post but for the post of Non-cadre Officer. Since Mishra has agitated against the higher official he has to get the bitter taste of that officer.

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This matter has reached from Assam to Delhi. This information stunned the Ministry of Home Affairs and Information and Vigilance Commission and the report was asked from the Assam Govt.

In the meantime the Assam Govt was petrified to hear the news from the Ministry of Home of Affairs. The Commandant Mr. Mishra got the Govt. Notification to hold the post of Commandant of 15<sup>th</sup> Assam Police Battalion until further orders..

ORDERS BY THE GOVERNOR OF ASSAM

NOTIFICATION

Dated Dispur, the 7<sup>th</sup> December, 2005

No.HMA.167/94/Pt.VII/21 : Pending drawal of departmental proceedings Shri B.K. Mishra, IPS, Commandant, 5<sup>th</sup> APBn, Sontilla is placed under suspension with immediate effect.

Sd/- V.B.Pyarelal  
Commissioner & Secretary to the Govt. of Assam,  
Home (A) Department

Memo No.HMA.167.94/Pt.VII/21-A,Dated Dispur, the 7<sup>th</sup> December, 2005  
Copy to:

1. Commissioner & Secretary to Chief Minister, Assam, Dispur.
2. PPS to Chief Minister, Assam, Dispur.
3. PS to Minister of State, Home & Political, Assam, Dispur.
4. SO to Chief Secretary, Assam, Dispur.
5. PS to Addl. Chief Secretary, Home & Political, Dispur.
6. The Accountant General, Assam, Maidamgaon, Beltola, Guwahati-29.
7. The Under secretary to the Govt. of India, Ministry of Home Affairs, New Delhi-110001.
8. The Under secretary to the Govt. of Meghalaya, Home (P) Department, Shillong.
9. The Director General & Inspector General of Police, Assam, Ulubari, Guwahati-7 for information and necessary action.
10. Shri J.K. Doley, APS, is directed to take over the charge of Commandant, 5<sup>th</sup> APBn., Sontilla, immediately.
11. Shri B.K. Mishra, IPS, (under suspension), C/O D.G.P., Assam, Ulubari, Guwahati-7.

By order etc.

( P. Barua )

Deputy Secretary to the Govt. of Assam,  
Home (A) Department.



APRO

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LINE 2

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XXX NR 427 GR 130

TO SHRI B.K. MISRA IPS. COMMANDANT 5TH APBN SONTILLA AAA

INFO ADGP TAP GHTV/ SHRI J.K. DOLEY APS. COMMANDANT (DESIGNATE) 5TH

APBN SONTILLA AAA

FROM POLICE GHTV AAA

NO FA/ XXII/ 746/391 DTD 8 12 05

===

GOVT. HAVE ISSUED THE FOLLOWING ORDERS VIDE NOTIFICATION DTD 7-12-05 AAA NO HMA. 167/94/PT. VII/ 21 PENDING ORAWAL OF DEPARTMENTAL PROCEEDINGS SHRI B.K. MISRA, IPS COMMANDANT 5TH APBN SONTILLA IS PLACED UNDER SUSPENSION WITH IMMEDIATE EFFECT AAA FOR SHRI J.K. DOLEY APS CAMP SONTILLA ONLY AA HE IS REQUESTED TO TAKE OVER THE CHARGE OF COMMANDANT 5TH APBN SONTILLA IMMEDIATELY AS ORDERED BY THE GOVT. AAA

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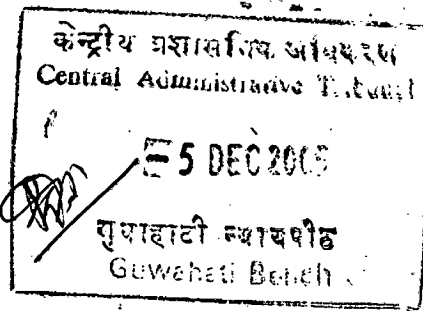
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Annexure-XIII  
APRO

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*Signature*



DISTRICT : N.C. HILLS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH, GUWAHATI

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

Original Application 304 /05

Sri Binay Kr Mishra, IPS

S/o Sri Jagdish Mishra,

Commandant in 5<sup>th</sup> Assam Police Bn.

Sontilla, Haflong, District N.C. Hills

Assam. .... Applicant

- Versus -

Union of India & Ors

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LIST OF DATES

- 24.2.05            Applicant took charge as Commandant 5<sup>th</sup>  
A.P.Bn, Sontilla, Haflong.
- 21.10.05           Applicant received Wireless Message regarding  
his transfer from 5<sup>th</sup> A.P. Bn. Sontilla, Haflong to  
FRRO, Barpeta & Nalbari District
- 31.10.05           Applicant submitted representation to Govt. of  
Assam, requesting to rescind his transfer order  
issued on 20.10.05
- 22.11.05           Applicant received a WT message intimating that  
the said representation of the petitioner is  
rejected.

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SYNOPSIS

The Applicant herein is an IPS officer who on 24.2.05 joined as Commandant 5<sup>th</sup> Bn., Sontilla, Haflong. The Applicant has been served with a wireless message No.FA/III-9/VOL-XXX/05/85 dated 21.10.05 AAA aiming at his transfer from his present station as Superintendent of Police FRRO (Foreigner's Registration and Reporting Officer) having jurisdiction of Nalbari and Barpeta districts with Headquarter at Barpeta. It is worth mentioning here that an IPS officer is a Cadre Officer and that the cadre posts are manned only by IPS officers. This system that the Cadre Posts shall be held by the Cadre Officers are guided by the provisions enshrined in the IPS (Cadre) Rules - 1954. Applicant in this Application is challenging the proposed order of transfer from Sontilla to Barpeta on the ground that he is a Cadre Officer and at present he is holding a Cadre Post and by the proposed order of transfer he has been transferred to a non-Cadre Post as S.P.,FRRO (Foreigner's Registration and Reporting Officer) in respect of Nalbari and Barpeta districts which is a non-

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Cadre Post. It is worth mentioning here that his reliever is a non-Cadre Officer and he has been holding a non-Cadre post as S.P. FRRO in respect of Nalbari and Barpeta districts on which post your humble Applicant has been ordered to be transferred vide the aforesaid wireless message. The other ground on which the Applicant is banking upon is that the present transfer from one post to another post has arisen out of the personal vindictiveness of the transferring authority in the sense that the domestic enquiry against one Cook who reportedly was sent for work at Chennai in the house of the daughter and son-in-law's of Respondent No.3 at Chennai and who for long five (5) years drew pay and allowances from the state exchequer, i.e. from the 5<sup>th</sup> A.P. Bn. Sontilla, has been charge-sheeted and a departmental enquiry against him is going on and this matter has become a bone of contention in between the transferring authority and the Applicant and as a result of that the Applicant has become a victim of circumstances. The third ground on which Your humble Applicant is banking upon is that the Policy of the State Govt. is to retain one officer at one station is normally for 3 (three) years unless and until some emergent situation emerges compelling the transferring authority to transfer one officer to transfer one officer before the expiry of the period of three years but in the present case the Applicant is being transferred just after eight months of his service there. It is submitted that the transfer has not been made bonafide or in the interest of good governance or in the interest of justice or in public interest.

The Applicant after receiving the wireless message of his proposed transfer dated 21/10/05, had preferred an appeal before the Respondent No.4 on 30/10/05 but the same has been rejected and communicated to him through a wireless message on 22/11/05.

That the prayer of the humble applicant is that the order of transfer and the rejection of appeal may be set aside and quashed.

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Binay Kumar Mishra

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DISTRICT : N.C. HILLS  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI

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

Original Application    304 /05

1. Particulars of the applicant:

Sri Binay Kr Mishra, IPS  
S/o Sri Jagdish Mishra,  
Commandant in 5<sup>th</sup> Assam Police Bn.  
Sontilla, Haflong, District N.C. Hills  
Assam.

2. Particulars of the Respondents:

- i. Union of India  
*represented by Secretary  
Ministry of Home Affairs  
Govt of India, New Delhi*

- ii State of Assam

Represented by the Home Commissioner,  
Department of Home (A), Govt. of Assam,  
Dispur, Guwahati.

iii Assam Police Head Quarters,  
represented by the Director General of Police,  
Assam, Ulubari, Guwahati-7.

- iii. The Home Commissioner.

Govt. of Assam, Dispur, Guwahati.

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3. Particulars of the Order against which the application is made:

i. The application is directed against the order of transfer of the petitioner sent through Wireless message No.FA/III-9/VOL-XXX/05/85 dated 21.10.05 AAA containing Govt. Notification No. AAA No. HMA 167/94/Pt.VII/7 (formal transfer order has not been received by the petitioner).the order was passed by DGP Police, Assam Police Head quarter, Ulubari, Guwahati -7

ii. Rejection of appeal of the applicant Sri Binay Kr Mishra, IPS before the Home Commissioner, Govt. of Assam, Dispur Guwahati communicated to the petitioner through wireless vide Govt. Notification No. HMA/167/94/PL-VII/II dated 22.11.05.

4. Jurisdiction of the Tribunal:

The applicant declares that the application is within the jurisdiction of this Hon'ble Tribunal

5. Limitation:

The applicant declares & submits and that this application filed by the applicant is well within the time limit prescribed under section 21 of Central Administrative Tribunal Act 1985.

6. Facts of the case:

6.1 That the Applicant is a citizen of India. He is a senior I.P.S. officer of 1988 batch and he is holding a Cadre Post with seniority of Selection Grade. At present he is holding the post of Commandant, 5<sup>th</sup> Assam Police Bn., Sontilla, Haflong and he is entitled to all the rights

Binay Kr Mishra

and privileges as guaranteed under the Constitution of India and the Laws, Rules and Policy Decisions made thereunder.

6.2 That Your humble Applicant is an IPS Officer and after serving at different stations, as also in National Crime Records Bureau (N.C.R.B.), New Delhi, the Applicant on 24.2.05 joined as Commandant 5<sup>th</sup> Assam Police Battalion, Sonitilla, Haflong. That it is respectfully submitted that Your humble Applicant has been served with a wireless message No.FA/III-9/VOL-XXX/05/85 dated 21.10.05 AAA aiming at his transfer from his present station as Superintendent of Police F R R O (Foreigner's Registration and Reporting Officer) having jurisdiction of Nalbari and Barpeta districts with Headquarters at Barpeta. It is worth mentioning here that an IPS officer is a Cadre Officer. It is also worth mentioning that the cadre posts are manned only by IPS officers. This system that the Cadre Posts shall be held by the Cadre Officers are guided by the provisions enshrined in the IPS (Cadre) Rules - 1954 and the details have been enumerated in Rule 8 and 9 of the aforesaid Rules. Since Rule 8 and 9 of I.P.S. Service (Cadre) Rules - 1954 are relevant in this case and hence quoted hereunder as follows:

***"Rule - 8 Cadre posts to be filled by cadre officers [Cadre and ex-cadre post to be filled by cadre officers;***

- (1) ***Save as otherwise provided in these rules, every cadre post shall be filled by a cadre officer.***
- (2) ***A cadre officer shall not hold an ex-cadre post in excess of the numbers specified for the concerned State under Item 5 of the***

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*Schedule to the Indian Police Service (Fixation of Cadre Strength) Regulations, 1955.*

- (3) *The State Govt. may, with the prior approval of the Central Government appoint a cadre officer to hold an ex-cadre post in excess of the number specified for the concerned State in Item 5 of the Schedule to the Indian Police Service (Fixation of Cadre strength), Regulations, 1955 and, so long as the approval of the Central Government remains in force, the said ex-cadre post shall be deemed to be an addition to the number specified in Item 5 of the said Schedule.];*

**Rule - 9. Temporary appointment of non-Cadre officers to Cadre Posts.**

- (1) *A cadre post in State shall not be filled by a person who is not a cadre officer except in the following cases, namely:-*

*(a) if there is no suitable cadre officer available for filling the vacancy :*

*Provided that when a suitable cadre officer becomes available, the person who is not a cadre officer, shall be replaced by the cadre officer;*

*Provided further that if it is proposed to continue the person who is not a Cadre officer beyond a period of three months, the State Government shall obtain the prior approval of the Central government for such continuance ;*



Binay Kumar Mishra

(b) If the vacancy is not likely to last for more than three months:

Provided that if the vacancy is likely to exceed a period of three months, the State Government shall obtain the prior approval of the Central Government for continuing the person who is not cadre officer, beyond the period of these months.

2. A cadre post shall not be filled by a person who is not a cadre officer except in accordance with the following principles, namely:-

(a) If there is a select List in force, the appointment or appointments shall be made in the order of the names of the officers in the select List;

(b) If it is proposed to depart from the order of names appearing in the select list, the State Government shall forthwith make a proposal to that effect to the Central Government together with reasons therefore and the appointment shall be made only with the prior approval of the Central Government;

(c) If a select list is not in force and it is proposed to appoint a non-select list officer, the State Government shall forthwith make a proposal to that effect to the Central Government together with reasons therefore and the appointment shall be made only with the prior approval of the Central Government."

3. Where a cadre post is likely to be filled by a person who is not a cadre officer for a period exceeding 6 months, the Central Government

Dr. Jay Kumar Mishra

*shall report the full facts to the Union Public service commission with the reasons for holding that no suitable officer is available for filling the post and may in the light of the advice given by the Union Public Service Commission give suitable directions to the State Govt. concerned."*

6.3 That it is respectfully submitted that Your humble Applicant in this application is challenging the proposed order of transfer from Sontilla to Barpeta on the ground that he is a Cadre Officer and at present he is holding a Cadre Post and by the proposed order of transfer he has been transferred to a non-Cadre Post as S.P., FRRO (Foreigner's Registration and Reporting Officer) in respect of Nalbari and Barpeta districts which is a non-Cadre Post. It is worth mentioning here that his reliever is a non-Cadre Officer and he has been holding a non-Cadre post as S.P. FRRO in respect of Nalbari and Barpeta districts on which post Your humble Applicant has been ordered to be transferred vide the aforesaid wireless message. Furthermore, the SP FRRO is also being transferred from his post only after eleven (11) months of his positing as SP FRRO. It is submitted that there is a catena of decision in this matter that a Cadre Officer cannot be transferred to a non-Cadre Post.

The other ground on which the Applicant is banking upon is that the present transfer from one post to another post has arisen out of the personal vindictiveness of the transferring authority in the sense that the domestic enquiry against one Cook who reportedly was sent for work at Chennai in the house of the daughter and son-in-law's of Respondent No.3 at Chennai and who for long five (5) years drew pay and allowances from the state exchequer, i.e. from the 5<sup>th</sup> A.P. Bn. Sontilla, has been charge-sheeted and a departmental enquiry against him is going

on and this matter has become a bone of contention in between the transferring authority and the petitioner and as a result of that the petitioner has become a victim of circumstances. The Applicant begs to submit that he is narrating the details of this case in another paragraph.

The third ground on which Your humble Applicant is banking upon is that the Policy of the State Govt. is to retain one officer at one station is normally for 3 (three) years unless and until some emergent situation emerges compelling the transferring authority to transfer one officer to transfer one officer before the expiry of the period of three years but in the present case the Applicant is being transferred just after eight months of his service there. It is submitted that the transfer has not been made bonafide or in the interest of good governance or in the interest of justice or in public interest.

6.4 That it is respectfully submitted that the story of the Cook of 5<sup>th</sup> A.P. Bn., Sontilla, Haflong is that the Respondent No.3 is entitled for one cook. But he was pleased to avail of the services of two cooks. Out of the services of two cooks, he was pleased to send one cook to work in his son-in-law's house at Chennai in Tamil Nadu. His pay and allowances were drawn by different persons by writing the name of that cook. Nearly Rs. 2, 50,000/- was drawn as his pay and allowances from the public exchequer through the 5<sup>th</sup> A.P. Bn, Sontilla.

6.5 That your humble Applicant who is famous as a stickler for discipline as also for his honesty, integrity and sincerity came to know of this misdeed after his joining duties on 24.2.2005 and immediately thereafter he came to know that one cook of his battalion is working in a private house in Chennai. On the orders of the petitioner, the cook had

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Bijay Kumar Mishra

to come to Assam. He was put under suspension from service. However, the order of the suspension from service was vacated by the Respondent No.3 very next day. Thereafter the cook was transferred to A.P. Bn. No.16 and the file of his departmental proceeding was also sent to that battalion. But the Commandant of that battalion has sent back all the records of the departmental proceeding to the 5<sup>th</sup> A.P. Bn. for enquiry.

6.6 That it is respectfully submitted that the Respondent No.3 is to retire from service on and from 31.12.05. He desires that the Applicant should not remain the disciplinary authority of the departmental proceeding of that cook. It is in the background of this departmental proceeding that the petitioner has been transferred from 5<sup>th</sup> A.P. Bn. to FRRO, Barpeta. If this order of transfer is carried out, there is every chance that the departmental proceeding of the cook shall not be carried out to its logical end and in this way the facts relating to the unauthorized absence of the cook and the persons involved in this act shall always remain shrouded in mystery and obscurity for all time to come and the money spent from the public exchequer in such a wrong deed shall never be recovered. Still more, the private party and many others will also go scot free.

6.7 That it is respectfully submitted that the order of transfer of the Applicant is malafide in nature and it has been done specially with a view to scuttling the due process of law which, if executed, could have stopped many ills in the police administration. It is submitted that the departmental enquiry of the aforesaid cook with the zeal of a missionary for bringing the evil deeds to the limelight of the public view and to the

Binary know nothing

view of the administration is of prime importance in this age of mal-administration, nepotism, favouritism, bribing and corruption, etc. and that is what Your humble Applicant had been trying to do inspite of all hurdles and difficulties. It is submitted that it is never neet and proper on the part of the State to transfer such an officer to any other place at such a time and in such a way.

6.8 That it is respectfully submitted that the order of the transfer of the Applicant is arbitrary, capricious in nature and hence liable to be set aside and quashed.

6.9 That it is respectfully submitted that the Applicant after receiving the wireless message of his proposed transfer, had preferred an appeal before the Respondent No.3/ but the same has been rejected and communicated to him through a wireless message.

6.10 That it is respectfully submitted that the order of transfer could cause financial hardships to the Applicant as the approval of the Central Govt. has not come for the retention of the FRRO and the State Finance Department has not cleared the budget for giving the pay and salary to the officers.

6.11 That it is respectfully submitted that the proposed order of transfer of the Applicant is not at all sustainable in the eye of law or facts of the case and hence liable to be set aside and quashed.

6.12 That the Applicant is filing herewith the following documents (Xerox copies) as annexures I to XI of the petition and the same are as follows :-

Binary name Hitesh

ANNEXURE-I is the photo copy of wireless message sent vide No. FAa/III-9/VOL-XXXI/05/85 dated 21.10.05

ANNEXURE-II is the photocopy of wireless message containing Govt. Notification No. HMA/167/94/PL-7/II dated 22.11.05.

ANNEXURE-III is the photocopy of the representation by the petitioner to the Respondent No.4 dated 31.10.05.

ANNEXURE-IV is the photocopy of the Office Memorandum No. ABP.116/01/4 dated 4.2.2002 issued by the Govt. of Assam stating the policy of Transfer of Govt. officials.

ANNEXURE-V is the photocopy of the order of suspension of the 'Cook' Hitesh Pathak vide Memo No. Bn.5/R/9/05/393/23 dated 9<sup>th</sup> June'05.

ANNEXURE-VI is the photocopy of the Order passed by the DIG (Admn) Assam, Guwahati, vide memo No. FB/1/64/99/91 dated 10.6.05 revoking the order of suspension of the Cook - Hitesh Pathak.

ANNEXURE-VII is the photocopy of the show cause notice issued to the Cook Sri Hitesh Pathak vide memo No. Bn.5/R/09/05/4207 dt. 17.6.05.

ANNEXURE-VIII is the photocopy of the order passed by the DIG (AP) ordering transfer of the Cook Hitesh Pathak to 16 AP (IR) issued vide memo No. TAP/F/8/Grade-IV/Pt.II/04/556 dtd 16.6.05.

ANNEXURE-IX is the photocopy of the news article published dated 30.5.05 in a local newspaper "Asomiya Pratidin" and translated copy of the same.

ANNEXURE-X is the photocopy of the news article published dated 9.6.05 in a local newspaper "Asomiya Pratidin" and translated copy of the same.

ANNEXURE-XI is the photocopy of the news article published dated 12.11.05 in a local newspaper "Dainik Purvoday" and translated copy of the same.

6.13 That it is respectfully submitted that it is a fit case in which the order of transfer and the order of the rejection of his appeal ought to be quashed for the ends of justice.

6.14 That it is respectfully submitted that the order of transfer and the order of the rejection of the appeal of transfer are not at all sustainable in law and hence liable to be set aside and quashed.

6.15 That the prayer for justice is before the departmental authorities.

6.16 That the applicant prayed for justice but the same has been denied to him.

6.17 That the Applicant has got no other efficacious remedy and the remedy prayed for is just, proper and adequate.

7. Grounds for relief with legal provision:

7.1 For that the respondents have erred in law as well as in facts in transferring the applicant from his present place of posting i.e. as Commandant of 5<sup>th</sup> AP Bn Sontila, Haflong to S.P.F.R.O Nalbari and Barpeta District.

7.2 For that the respondents have erred in law as well as in fact by rejecting the appeal of the applicant in gross violation of the Provisions of law and without showing any ground thereon.

Binary Kumar Mishra

7.3 For that the IPS (Cadre) Rules 1954 is clear with regard to the status of an IPS Officer who is a cadre Officer and since your humble application is an IPS Officer of 1988 batch and since he is holding a senior rank among IPS Officers Rule 8 and 9 of the IPS (Cadre) Rules 1954 is applicable to him.

7.4 For that by the impugned orders Rules 8 and 9 of IPS (Cadre) Rule 1954 which are mandatory in ~~nature~~ have been blatantly violated by the respondent and hence the impugned order of transfer and rejections of appeal may be quashed.

7.5 For that in any view of matter the order passed for transferring the applicant and rejection of the appeal cannot stand if the case is decided on merit.

7.6 For that there is no other alternative or efficacious remedy available to the applicant and the justice prayed for is just , proper and adequate.

7.7 That this petition is being filed bonafide and in the interest of justice.

8. Details of remedies exhausted:

That the Applicant declares that he has exhausted all the remedies available to him, except to approach this Hon'ble Tribunal at this stage. After the W.T message of transfer was served on him he preferred an appeal before the Home Commissioner Govt. of Assam, Dispur, Guwahati, which was rejected by the said authority.



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Binay Kumar Mishra

9. Matters not previously filed or pending in any court or tribunal:

That the Applicant states that he filed a writ petition before the Hon'ble Gauhati High Court, on 25/11/05 which was withdrawn by the Applicant on 30/11/05, and as such the Applicant declares that no case is pending before any court or Tribunal regarding the same subject matter.

10. Relief sought for:

Under the facts and circumstances the Applicant prays for the following reliefs:

- i. The Order of transfer of the Applicant sent through Wireless message No.FA/III-9/VOL-XXX/05/85 dated 21.10.05 AAA containing Govt. Notification No. AAA No. HMA 167/94/Pt.VII/7 (formal transfer order has not been received by the petitioner) passed by DGP Police, Assam Police Head quarter, Ulubari, Guwahati -7(annexure-I) be set aside and quashed.
- ii. The Order of rejection appeal of the applicant Sri Binay Kr Mishra, IPS before the Home Commissioner, Govt. of Assam, Dispur Guwahati communicated to the petitioner through wireless vide Govt. Notification No. HMA/167/94/PL-VII/II dated 22.11.05. (Annexure-II) be set aside and quashed.
- iii. Any other relief or reliefs the applicant is entitled to get may kindly be granted to him.

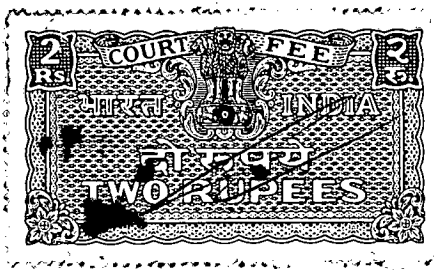
11. Particulars of the IPO:

I.P.O.No. 266 317234

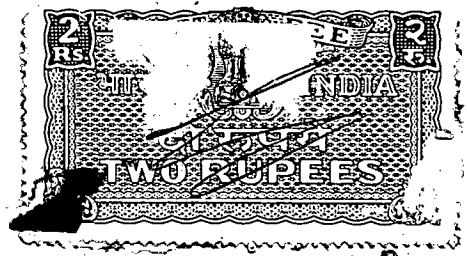
Date: 2<sup>nd</sup> Dec'05

Payable at Guwahati

12. List of enclosures: As stated above.



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### AFFIDAVIT

I, Sri Binoy Kr Mishra, , aged about 43 years, Son of Sri Jagdish Mishra, IPS Officer, by caste Hindu, by profession service, at present working as Commandant in 5<sup>th</sup> A.P. Battalion, Sontilla, Haflong, District N.C.Hills, , Assam, do hereby solemnly affirm and state as follows :

1. That I am the petitioner in the accompanying petition and am fully conversant with the facts and circumstances of the case and as such I am competent to swear and sign this affidavit.

3 That the annexures annexed to the writ petition are true copies of its original supplied by the petitioner.

2. That the statements made in paragraphs 6.6 - 6.7 are true to my knowledge, those made in paragraphs 6.1 - 6.5, 6.12 are true to my information derived from records and the rest are my humble submission made before this Hon'ble Court.

And I sign this affidavit on this 2<sup>nd</sup> day of November 2005 at Guwahati.

Identified by :

*Manjusha Jha*  
Advocate ~~at Bar~~

*Binay Kumar Mishra*  
DEPONENT

Solemnly affirmed & state by the Deponent who is identified by the Advocate on this 2<sup>nd</sup> day of Dec, 2005.  
X X

*5/11/05*  
(M. U. Ahmed)

APRO

RCVED/001.RCV 22/10/05 10:12

LINE 2

ANNEXURE - I

MCC825 105/OCT/22 10:17

ZCZC

Q9 STL

.MCC01

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TKS DE NR 9495/97 GR 300

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TO S/SHRI PANKAJ SARMA APS SP K/ANGLONG/KRISHNA DAS APS SP BORDER  
 GHTY/ B K MISRA IPS CO 5TH AP BN SONTILA/JITENDRA KR DOLEY  
 APS SP FRRO HQ BARPETA  
 INFO ADGP (B) GHTY/ ADGP TAP GHTY/ DIG CR DIPHU/ DIG CWR GHTY/  
 SP BPTA

FROM POLICE GHTY AAA

==

NO FA/III-9/VOL-XXXI/05/85 DATED 21/10/05 AAA

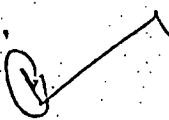
THE FOLLOWING TRANSFER AND POSTING ORDERS HAVE BEEN ISSUED VIDE GOVT  
 NOTIFICATION DATED 20/10/2005 AAA NO HMA 501/2004/48 SRI PANKAJ SARMA  
 APS SP K/ANGLONG DIST IS TRANSFERRED AND POSTED AS SP (B) GHTY  
 VICE SRI KRISHNA DAS APS TRANSFERRED AAA NO HMA 501/2004 /48(A) SHRI  
 KRISHNA DAS APS SP B GHTY IS TRANSFERRED AND POSTED AS SP K/ANGLONG  
 DIST VIDE SHRI PANKAJ SARMA APS TRANSFERRED AAA NO HMA  
 167/94/PT-VII/7. SHRI B K MISRA IPS CO 5TH AP BN SONTILA IS  
 TRANSFERRED AND POSTED AS SP FRRO IN RESPECT OF NALBARI AND BARPETA  
 DIST WITH HQ AT BARPETA VICE SHRI JITENDRA KR DOLEY APS  
 TRANSFERRED AAA NO HMA 167/94/PT-VII/7(A) SRI JITENDRA KR DOLEY APS  
 SP FRRO IN RESPECT OF NALBARI AND BARPETA DISTRICT WITH HQ AT BARPETA  
 IS TRANSFERRED AND POSTED AS CO 5TH AP BN SONTILA VICE SHRI B K MISRA  
 IPS TRANSFERRED AAA FOR INFORMATION AND NECESSARY ACTION AAA

THI 2300/21

STBYACMAHANTA/

==

NNNN NNNN

Recd. 

.....cut here.....

Certified to be true copy

Manjusha  
 Jyoti

APRO

APRO

APRO

16 -

**POLICE RADIOGRAM ANNEXURE-II**  
**ASSAM POLICE RADIO ORGANISATION**

REG. NO. 400

	CALL	PRIORITY	TRANS INSTRUCTION	NR	GR
IN		XXX	Trx	1172	125
OUT					

ABOVE THIS LINE FOR USE OF RADIO STAFFS ONLY

TO SRI B. K. Mishra S.P.B. C.O. 5th APBN. STL  
INFO SRI J. K. Dolay APS. Supdt. FRRO. BPTA.  
FROM Home Secy. Assam.

ORIGINATOR'S NUMBER	DATE	IN-REPLY-TO	DATE	SECURITY CLASSIFICATION
NO-HMA/167/94/PL-VII/11			Date	= 22-11-05

= Ref. yr. representation dated 31-10-2005 that has been rejected & you are directed to hand over the charge of Commandt. 5th APBN. STL. to SRI J. K. Dolay APS. immediately & failing which Deptl. proceeding will be initiated against you & SRI J. K. Dolay APS. S.P. FRRO. BPTA. is directed to take over charge of Commandt. STL. APBN. STL. immediately.

R/ 1530/22 1440/22  
1525/22  
Singh

PRIORITY	ORIGINATOR'S SIGNATURE & DESIGNATION BELOW THIS LINE FOR USE OF RADIO STAFFS ONLY			T.O.O. T.H.I.
TIME IN READER	DATE	TIME OUT	DATE	
		SENDER		

CONFIDENTIAL

Mishra

-16-      -17-  
ANNEXURE - III 81

THE OFFICE OF THE 5TH ASSAM POLICE BATTALION, SONTILLA, HAFLONG

Dated :31-10-05

To,

The Home Commissioner,  
Govt. of Assam, Dispur,  
Guwahati - 6

**Sub : Representation.**

Respected Sir,

This is my honour to inform that I had joined 5th A. P. BN., Sontilla on 24-02-05. The Unit was without a regular Commandant for eight months and I had to make sincere efforts to bring things in order.

2. On 21-10-05 I learnt to my utter shock and disbelief, that I was transferred and posted as S.P. FRRO, Barpeta. I have barely completed six -seven months in the present place of posting and was running the affairs of the unit smoothly. With this development, all officers and men working under my command are thoroughly demoralised which is not good for the Police Force.
3. The post of S.P. FRRO is a non-cadre one and, therefore, being a senior IPS Officer (1988-RR) with seniority of selection grade, I should not have been given this posting at all. Moreover, it is learnt that the Govt. of India has not issued a fresh order for retention of various posts of SP FRRO's including the Barpeta one. No doubt, I may have to face problem in getting my pay slip and salary etc.
4. Moreover, the enquiry against cook Hitesh Pathak, who was reportedly sent to Chennai by DGP Mr. P.V. Sumant, is at a crucial stage and my presence is very much required to unearth the truth and bring the enquiry to its logical end.
5. In view of the above, it is requested that my transfer order issued vide Govt. order dated 20-10-05 is rescinded at the earliest and I am allowed to continue at my present place of posting.

Thanking you.

Yours faithfully,

(Binay Misra)  
Commandant  
5th A.P. Bn.  
Sontilla, Haflong.

*Carriage to Do from 07/11/05*  
*Harjinder*

Annexure - IV - 18 - 82

GOVERNMENT OF ASSAM  
DEPARTMENT OF PERSONNEL ::: PERSONNEL (B)  
DISPUR ::: GUWAHATI

No. ABP. 116/01/4

Dated Dispur, the 4th February, 2002.

OFFICE MEMORANDUM

Subject : POLICIES OF TRANSFER OF GOVERNMENT OFFICIALS

As per State Government's standing O.M No. ABP. 40/91/117 dated 19-9-92 the transferable officers and staff should normally be transferred only upon completion of 3 years of service at one place. But an officer need not necessarily be transferred when he completes 3 years in one station if the interest of public does not demand so.

In the said O.M it has also been stipulated that whenever public interest demands that an officer should be transferred from his place of posting even before completion of 3 years in the place, proper justification and ground may be recorded in writing for the transfer and orders issued only after getting approval of the Chief Minister for such a transfer.

However, in practice it has been observed that such stipulation of taking prior approval of Chief Minister is not always obtained while making transfer and posting of Government officials and for which litigation often takes place. The Hon'ble Gauhati High Court in its recent order dated 16-8-2001 in Writ Petition W.P(C) No. 5216/2001 (Shri Dayal Das-Vs-State of Assam and others) has directed the respondents to comply with this provision as measure to check arbitrary transfer of Government officials before completion of normal tenure of 3 years.

It is, therefore, reiterated that all concerned should strictly adhere to the instructions/guidelines issued vide State Government O.M quoted above and not to violate the provisions of the said Office Memorandum.

Confidential to be kept copy

*Manjusha*  
1/2/02

(2)

Memo No. ABP. 116/01/4-A : Dated Dispur, the 4th Feb., 2002.

Copy to :-

- 01) Commissioner & Secretary to the Governor of Assam, Dispur.
- 02) Commissioner & Secretary to the Chief Minister, Assam.
- 03) PS to Ministers/Ministers of State, Assam.
- 04) PS to Chief Secretary, Assam.
- 05) Chairman, Assam Administrative Tribunal, Guwahati.
- 06) Chairman, Assam Board of Revenue, Guwahati.
- 07) PS to Additional Chief Secretary, Assam.
- 08) All Principal Secretaries/Commissioner & Secretaries/  
Secretaries to the Government of Assam.
- 09) All Heads of Departments.
- 10) All Commissioners of Divisions.
- 11) All Deputy Commissioners.
- 12) Secretary, Assam Public Service Commission,  
Jawaharnagar, Guwahati - 22.
- 13) Principal Secretary, Karbi Anglong Autonomous Council,  
Diphu / Rabha Haseng Autonomous Council, Duhnoi,  
Goalpara District / Mising Autonomous Council, Gogamukh,  
North Lakhimpur / Lalung (Tiwa) Autonomous Council,  
Morigaon.
- 14) All Sub-Divisional Officers.
- 15) Secretary, Assam Legislative Assembly, Dispur.

By order etc.,

Deputy Secretary to the Government  
of Assam, Personnel (B) Department

-x-

OFFICE OF THE COMMANDANT :: 5TH A.P. BATTALION :: SONTILLA ::  
 :: ASSAM :: N.C. HILLS ::

**'ORDER'**

Cook Hitesh Pathak was deputed to DGP's Bungalow at Guwahati w.e.f. 18.8.1999 but was not found at his place of posting by the pay disbursing Officer on 20.5.2005 when the pay disbursing officer went to Guwahati, the Cook was not found available for receiving his pay. Later, as per instructions of A.I.G.P. (Admn.), Assam, Guwahati, pay was handed over to his wife at his village Nathkuchi, P.S.-Patacharkuchi on 21.5.2005. A news item appeared in a local Assamese daily on 30.5.2005 according to which he appears to be out of State without knowledge of this BN HQ.

In view of seriousness of the matter, Cook Hitesh Pathak is placed under suspension with immediate effect for gross negligence of duty. He will get S/A as per admissible rule pending Departmental enquiry against him.

*[Signature]*  
 Commandant,  
 5th A.P. Battalion, Sontilla,  
 Assam, N.C. Hills. *[Initials]*

Memo.No. BN5/R/9/05/7212, Dated, Sontilla, the 2<sup>nd</sup> June/2005.

Copy for kind information to :-

1. The Home Commissioner, Assam, Dispur, Guwahati,
2. The Director General of Police, Assam, Guwahati,
3. The Addl. Director General of Police, (TAP),  
 Assam, Guwahati.

*[Signature]*  
 Commandant,  
 5th A.P. Battalion, Sontilla,  
 Assam, N.C. Hills. *[Initials]*

\*\*\*\*\*

Certified to be true copy

*[Signature]*  
 40/10/05



- 18 -

- 21 -  
85

ANNEXURE - VI

ASSAM POLICE HEADQUARTERS  
ULUBARI :::::::::: GUWAHATI

Memo No. FB/1/64/99/91, Dated Guwahati the 10th June/2005.

T.I. : Shri B.K. Mishra, IPS,  
Commandant, 5th A.P. Battalion,  
Sontilla.

Sub : SUSPENSION ORDER OF COOK HITESH PATHAK  
OF 5TH A.P. BATTALION, SONTILLA.

Ref. : Your Memo No. Bn. 5/P/9/05/3921-23,  
dtd. 4/6/2005.

With reference to the above, I am directed to forward herewith the following observation made by the Director General of Police, Assam for your information and necessary action.

"The Cook Hitesh Pathak in question is on deputation with the Director General of Police, Assam. There has been no complaint now of his absence from duties from the Director General of Police, Assam. Moreover, making a newspaper report the basis for such as order is not justified.

The above suspension order, is therefore, revoked and the above order of suspension is treated as null and void abinitio and is set aside.

The period affected by the above wrong order, now set-aside, will be treated as on duty and regularised accordingly".

Please take necessary action accordingly and confirm.

*Sei*  
10/06/05  
Deputy Inspector General of Police, (Admn)  
Assam, Guwahati.

Memo No. FB/1/64/99/91-A, Dated Guwahati the 10th June/2005.  
As directed copy forwarded to :-

- 1) The Addl. Director General of Police, (TAP), Assam, Guwahati for information.
- 2) The Guard file for record.

Sel/-

Deputy Inspector General of Police, (Admn)  
Assam, Guwahati.

Controlled to the C.O.

*Manjusha*  
10/06/05

197 Annexure - VII - 22 - 86

OFFICE OF THE COMMANDANT :: 5TH A.P.BN :: N.C.HILLS :: ASSAM ::  
:: S O N T I L L A ::

Memo.No. BN5/R/09/05/4207 Dated, Sontilla, the 17 th June/05.

To,

Cook Hitesh Pathak, of 5th A.P.BN,  
S/O Late Basanta Kr. Pathak,  
Vill- No.1 Nathkuchi,  
P.S.-Patacharkuchi,  
Dist.-Borpetta,  
C/O, O/C Patacharkuchi P.S.

Sub :- SHOW CAUSE NOTICE.

You are hereby required to show cause U/S-7 of police Act (Act-V 1861) read with rule 66 of the Assam police Manual Part-III and article 311 of the constitution of India as to why any of the penalties prescribed therein should not be inflicted upon you based on the following charges extracted from the statement of allegation enclosed herewith.

CHARGES.

1. You were deputed to the residence of D.O.P. Assam at Guwahati on verbal instructions w.e.f. 18.8.1999 under proper command certificate but were found frequently absent from the place of posting. you remained unauthorised absent for 10(ten) time during your stay in Guwahati consisting of total 328 days and this was treated as L.W.P. as per instructions received from A.P.HQr, Guwahati time to time out of which longest period was 96 days L.W.P. for unauthorised absence w.e.f. 20-3-2002 to 23-6-2002. In the last instance a W.T. message was received on 29-12-2004 from the DGP, Assam asking to holdover your pay for your unauthorised absence w.e.f. 27-12-2004 and accordingly your pay was heldup. Subsequently on further instruction your unauthorised absence period w.e.f. 27-12-2004 to 6-1-2005 was treated as L.W.P. (for 11 days).

2. On 20-5-2005 you were found absent from your place of posting by pay disbursing officer Hav/clk Tapas Sinha when he had gone to Guwahati for disbursing salary of BN, personnel posted there. As per instruction from this BN Head quarter the pay disbursing officer declined to make payments. But later on verbal instructions of AIG(A), Assam, Guwahati, salary was handed over to your wife on 21-5-2005 at the address mentioned above who also signed the pay roll on your behalf.

*P. file*  
*21/5/2005*  
Contd ..... 2-

3. On earlier occasions also you were not found physically present at DGP, Assam's residence at Guwahati and your pay was handed over to staff present there, M.T staff of DGP office and even to your family members as per verbal instructions. This is also corroborated from the fact that your pay rolls bear signatures of various persons on different occasions.

4. You were reported to be outside state without knowledge of this BN HQ and approval or permission of the competent authority. This was also highlighted by a section of the media. Further, a W.T message was sent on 4-6-2005 through O/C. Patacharkuchi P.S. at your home address informing that you had been placed under suspension and therefore asked to report at this BN HQ, but you failed to turn up so far which further substantiates above claim.

Remaining in a disciplined police force you have violated the normal discipline and tarnished the image of this unit through such acts of negligence and indiscipline which render you unfit to be retained in a disciplined police force.

You are, therefore, charged with gross negligence of duty, remissness and misconduct.

The list of prosecution witness and documents proposed to be relied upon for proving the charges and the Statement of allegation are enclosed herewith. If during enquiry it is felt necessary to examine the prosecution witnesses and the documents in the interest of proper and thorough enquiry the same will be done by the Enquiry officer with intimation to you.

You should submit your written statement in defence within 10 (ten) days from the date of receipt of this communication provided you do not intend to inspect the documents which have relevancy with the issue under enquiry. In case you intend to inspect these documents you should write to the undersigned for the same within 7 (seven) days from the date of receipt of this notice and thereafter submit your explanation within 10 (ten) days from the date of completion of inspection of the documents.

Your written statement stating whether you desire to be heard in person be submitted to the undersigned within the period specified above failing which the enquiry into the charge will be conducted in ex-parte.

Contd..... 3.

If the disciplinary authority decides to appoint an Enquiry Officer to enquire into the charges you will be allowed to present your case if you so desire with the assistance of any other Govt. servant approved by the Disciplinary Authority but will not be allowed to engage any legal practitioner unless the disciplinary authority so permits.

*[Signature]*  
Commandant,  
5th A.P. BN, Sontilla,  
Assam, N.C. Hills *[initials]*

\*\*\*\*\*

*[Handwritten]*  
Sent 1/4/50 0016

25  
28  
Annexure-VIII  
89  
19/6  
OFFICE OF THE ADDEL. DIRECTOR GENERAL OF POLICE (AP) ASSAM,  
ULUBARI : GUWAHATI.

/// ORDER ///

In the interest of public service the following transfer and posting order's are made with immediate effect.

- 1) Cook Hitesh Pathak of 5th A.P. Battalion, Sontilla is transferred and posted to 16th A.P.(IR) Battalion, vice Cook Nirmal Das is transferred.
- 2) Cook Nirmal Das of 16th A.P.(IR) Battalion is transferred and posted to 5th A.P. Battalion, Sontilla in place of Cook Hitesh Pathak of 5th A.P. Battalion.

SL 2 will move 1st and they should be released/ absorbed accordingly.

Deputy Inspector General of Police (AP),  
Assam, Ulubari, Guwahati.

Memo No. DAP/F/8/Grade-IV/Pt-II/04/546

dtd. 16-6-05.

Copy to :-

- 1) The Deputy Inspector General of Police (A), Assam, Guwahati for favour of kind information.
- 2) The Commandant, 5th A.P. Battalion, Sontilla, for information and necessary action. He is directed to release Cook Hitesh Pathak of his unit on paper to join 16th A.P (IR) Battalion, as ordered and send his LPC/S.S to the C.O. 16th AP(IR) Battalion, accordingly.
- 3) The Commandant, 16th AP(IR) Battalion, Jor-  
monipur for information and necessary action.
- 4) Guard file for record.

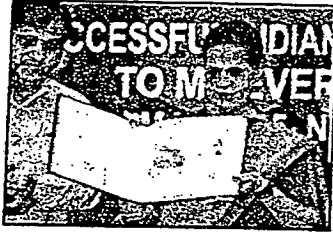
Deputy Inspector General of Police (AP)  
Assam, Ulubari, Guwahati.

1039  
19/6/05  
29  
Certified to be true copy  
Mangincha

গীন চৰকাৰ।  
ব্যৰ্থতাৰে শাসনৰ অন্তিম  
গ চৰকাৰ।



বিশ্বশক্তি হোৱাৰ  
তাহান এইডছ।  
কৰ পিচত লেবাননত নিৰ্বাচন।



অসমীয়া

# প্রতিদিন

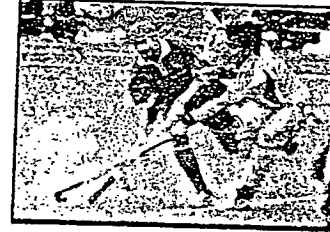
Internet: www.pratidinassam.com  
TECH/RNP/GH-16/2003-05  
REGN. NO. 53902/95

গুৱাহাটী সংস্কৰণ \* / Guwahati Edition  
গুৱাহাটী, ডিব্ৰুগড়, লখিমপুৰ আৰু বঙাইগাঁৱৰ পৰা প্ৰকাশিত

১১শ বছৰ, সংখ্যা ৮৬  
১৫ জেঠ, ১৯২৭শক  
সোমবাৰ, ৩০ মে'  
ASOMIYA PRATIDIN  
MAY 30, 2005  
১২ পৃষ্ঠা  
মূল্য: ৪.০০ টকা



৮  
নেন' প্ৰযুক্তিৰ বিকাশে  
আনিছে যুগান্তৰৰ বতৰা।  
অত্যাচাৰ মানুহৰ সহজাত প্ৰবৃত্তি।



১১  
ক্ৰিজষ্টাৰ্ছৰ বিদায়, ডেভেনপৰ্ট  
প্ৰথমেই কোৱাৰ্টাৰত।  
মালয়েছিয়াৰ বিৰুদ্ধে ধৰাশায়ী ভাৰত।

ডিজিপি সূমন্তৰ কাণ্ড

চেন্নাইৰ জী-জোঁৱাইৰ  
ঘৰৰ বান্ধনিশালত

অসম আৰক্ষীৰ বান্ধনি



প্ৰতিদিন সংবাদ, গুৱাহাটী,  
২৯ মে' : ৰাজ্যখনৰ একাংশ  
শীৰ্ষস্থানীয় আৰক্ষী বিষয়াই  
চৰকাৰৰ প্ৰদত্ত সা-সুবিধাসমূহ  
ৰাজ্যৰ বাহিৰত থকা  
তেওঁলোকৰ আত্মীয়-স্বজনলৈ  
হস্তান্তৰিত কৰাৰ এক অশুভ  
পৰম্পৰাই গা কৰি উঠিছে।  
ৰাজ্যৰ আৰক্ষী সঞ্চালকপ্ৰধান  
পি ভি সূমন্তৰ ক্ষেত্ৰতেই এই

চৰকাৰী সা-সুবিধাৰ অপব্যৱহাৰৰ অভিযোগ উঠিছে।  
চৰকাৰী নিয়ম অনুসৰি আৰক্ষীৰ শীৰ্ষ বিষয়াসকলে  
প্ৰভাগৰে তলতীয়া কৰ্মচাৰীক বান্ধনি, মালী হিচাপে  
লাভ কৰে। সেইমৰ্মে আৰক্ষী সঞ্চালকপ্ৰধান সূমন্তেও  
শাসনভুত থকা পঞ্চম, আৰক্ষী ■ শেষাংশ দহ পৃষ্ঠাত

অসমীয়া প্ৰতিদিন

চেন্নাইৰ জী-জোঁৱাইৰ ঘৰৰ

■ প্ৰথম পৃষ্ঠাৰ পৰা ৰেটেলিয়নৰ পৰা হিভেশ পাঠক আৰু জনৈক চেত্ৰী নামৰ  
দুজন বান্ধনি পাইছিল। অগপৰ শাসনকালত ৰাজ্যৰ আৰক্ষী সঞ্চালকপ্ৰধান হৈ  
থকা সময়তে এই বান্ধনি দুগৰাকীৰ মাজৰ হিভেশ পাঠকক সূমন্তে চেন্নাইত থকা  
তেওঁৰ জী-জোঁৱাইৰ ঘৰত বান্ধনি খাটিবলৈ চালান দিয়ে। যোৱা চাৰি বছৰে  
চেন্নাইত থকা হিভেশ পাঠকৰ ঘৰ নলবাৰী জিলাৰ টিহুত। আত্মীয়-স্বজন এৰি  
চেন্নাইত থকা পাঠকৰ পৰিয়ালে অবশ্যে সময়ে সময়ে দৰমহাখিনি পাই আছে।  
শেহতীয়াকৈ অন্তিম আৰক্ষীৰ এই লোকজন ছুটীত ঘৰলৈ উভতিছে। কিন্তু  
শীৰ্ষস্থানীয় আৰক্ষী বিষয়া এজনে ৰাজ্যৰ বাহিৰত থকা জী-জোঁৱাইৰ আলপৈচান  
ধৰা কামত চৰকাৰী কৰ্মচাৰী নিয়োগ কৰা বিষয়টোৱে আৰক্ষী বিভাগৰে বিভিন্ন  
মহলত দৃষ্টিকটুভাৱে ধৰা দিছে।

28

ASOMIYA PRATIDIN



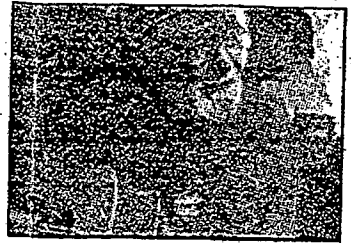
অসমীয়া

# প্ৰতিদিন

১১শ বছৰ, সংখ্যা ৯৬  
২৫ জেঠ, ১৯২৭ শক  
বৃহস্পতিবাৰ, ৯ জুন  
ASOMIYA PRATIDIN  
JUNE 9, 2005  
১২ পৃষ্ঠা  
মূল্য : ৪.০০ টকা

Internet: www.pratidinassam.com  
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উজবেকিস্তানত ইছলামিক বিদ্ৰোহ।  
ভিয়েটনাম ইৰাক আৰু কালজয়ী গীত।  
ব্ৰিটেইনত ব্ৰঞ্জ যুগৰ অস্ত্ৰভাণ্ডাৰ।

৮

১১

২০১১ বিশ্বকাপ : এককভাৱে  
দাবী জনাব ভাৰতে!  
১৫ জুনৰ পৰা ৰাষ্ট্ৰীয় ক্ৰীড়াৰ প্ৰস্তুতি।



যুদ্ধবিৰতি আৰু

তৰ বাবে ভাৰতলৈ  
আমেৰিকাই।  
পাব ভাৰতে।

বিতুষ্ট সুমন্ত

## জীৱ ঘৰৰ 'ৰান্ধনি পুলিচ' নিলম্বিত

প্ৰতিদিন সংবাদ, গুৱাহাটী, ৮  
জুন : 'খাই কাৰ্শনা ডালত উঠিল,  
কাঠী চেলেকাৰ মৰণ মিলিল'  
প্ৰবচন ফাকি কাৰ্যত সত্য প্ৰমাণিত  
হ'ল হাফলঙত থকা পঞ্চম  
আৰক্ষী বেটেলিয়নৰ কৰ্মচাৰী  
হিতেশ পাঠকৰ ক্ষেত্ৰত। ৰাজ্যৰ  
আৰক্ষী সঞ্চালকপ্ৰধানৰ চেম্বাইনত  
থকা জী-জোঁৱাইৰ ঘৰত সুদীৰ্ঘ  
চাৰি বছৰ কাল

দহ পৃষ্ঠাত

## জীৱ ঘৰৰ 'ৰান্ধনি পুলিচ' নিলম্বিত

■ প্ৰথম পৃষ্ঠাৰ পৰা নিষ্ঠাসহকাৰে ৰান্ধনিৰ কাম কৰা  
হিতেশ পাঠক অলপতে চাকৰিৰ পৰা নিলম্বিত হৈছে।  
অসম আৰক্ষীৰ তলৰ পৰ্যায়ৰ এই কৰ্মচাৰীজন নিলম্বিত  
হোৱাৰ কাৰণ হ'ল বিভাগটোৰ শীৰ্ষ বিষয়াৰ আত্মীয়ৰ  
ঘৰত গেবাৰি খটা ঘটনা বাতৰি কাকতত প্ৰকাশ পোৱাটো।  
আৰক্ষী সঞ্চালকপ্ৰধান সুমন্তৰ জী-জোঁৱাইৰ চেম্বাইনত  
বান্ধবনত হিতেশ পাঠকে ৰান্ধনিৰ কাম কৰা ঘটনা  
বাইজৰ দৃষ্টিগোচৰ হোৱাত ক্ষুব্ধ হৈ পৰা শীৰ্ষ স্তৰীয়  
আৰক্ষী বিষয়াজনে তড়ালিকে আৰক্ষীৰ লোকজনক  
চাকৰিৰ পৰা নিলম্বিত কৰে। আনকি নিজৰ লজ্জা  
ঢাকিবলৈ সুমন্তে এই ঘটনা সন্দৰ্ভত উপ-আৰক্ষী অধীক্ষক  
পৰ্যায়ৰ বিষয়া এজনৰ হতুৱাই তদন্ত কৰোৱাৰো যোজা  
চলাইছে। সমগ্ৰ বিষয়টোত আৰক্ষী সঞ্চালকপ্ৰধানগৰাকী  
নিৰ্ভে জড়িত হৈ থকাৰ পাচত তেওঁৰ তলতীয়া বিষয়া  
এজনে কি তদন্ত কৰিব সেয়া ইতিমধ্যে স্পষ্ট হৈছে। শীৰ্ষ  
বিষয়াজনৰ আদেশ মানি তেওঁৰ আত্মীয়ৰ ঘৰত ৰান্ধনিৰ  
কাম কৰা হিতেশ পাঠক নামৰ আৰক্ষীৰ লোকজনক  
চাকৰিৰ পৰা নিলম্বিত কৰা ঘটনাই বিভাগটোৰ একাংশ  
কৰ্মচাৰীৰ মাজত প্ৰতিক্ৰিয়াৰ সৃষ্টি কৰিছে।

Certified to be true copy

Muzinda

## DAILY NEWSPAPER ASOMIYA PARTIDIN

(Translated Copy dated May,30,2005)

### MISDEED OF DGP SUMANTA

The cook of Assam Police is cooking in the house of daughter and Son-in-law at Chennai. It is a common practice amongst most of the high ranking officers of the state to share the facilities bestowed upon them with their relative living outside the state. There is a complain against P.V. Samanta for grossly misuse of his powers. As per the Govt. rules High Ranking Officers of the Police Deptt are entitled to get lower ranking employees like cook and gardener etc. In this way DGP Sumanta got two cook named Hitesh Pathak and Janaik Chetri from 5<sup>th</sup> A.P. Battalion of Assam Police. During the AGP regime as a DGP of the State among the two cooks he sent Hitesh Pathak to cook in the residence of daughter and Son-in-law. He is living in Chennai since last 4 years. He belongs to Tihu in Nalbari District. Though Hitesh has been living in Chennai without his relatives but his family members are getting his pay etc from time to time. At last the man of the 5<sup>th</sup> Assam Police has come back home on leave but the local Head officers of the Police has caught sight of this Public servant for working under the daughters and son-in-law and different section of the Police deptt has come to know of this matter with a bitter taste.



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**DISSATISFIED SUMANT: POLICE COOK OF DAUGHTER'S HOUSE  
SUSPENDED.**

Pratidin New: Guwahti: 8<sup>th</sup> June

“Khai Karshala dalat uthil, Kathi chelekar maran milil”

The said phrase came to be true in respect of Hitesh Pathak an employee of 5<sup>th</sup> AP Bn, Haflong. Hitesh Pathak, who was serving the duty of cook sincerely at the residence of DGP's daughter and Son-in-law for nearly 4 years was suspended.

The reason behind the suspensions of this lower grade employee of Assam Police is that the news of his serving as a cook in the house and relative of DGP was published in Newspaper. The Higher Rank Police Officer immediately suspended Hitesh Pathak from service. While Hitesh Pathak was serving as a cook in the residence of the daughter and Son-in-law of DGP Sumant at Chennai, it came to the notice of the public. Sumant agitated and to save his skin in this respect, he initiated an enquiry through a DSP. After involvement of the DGP in the whole issue, it is already clear as to what his subordinate Officer will investigate in the said issue.

Complying with the order of the DGP, Cook Hitesh Pathak worked at the residence of DGP's realtive's house but the said suspension of Hitesh Pathak has created sharp reaction on some of the employees of the said Department.

# पूर्वोदय

सही दिशा, सही खबर  
गुवाहाटी-जोरहाट से एक साथ प्रकाशित

## डीजीपी के पसंदीदा बावची को 'तंग' करने की सजा कमांडेंट को

▼ पूर्वोदय संवाददाता  
गुवाहाटी, २२ नवंबर। दहेज में बावची! न गुना न देखा। वह भी कोई छोटा-मोटा नहीं पुलिस वाला रसोइया। असम पुलिस बटालियन के बावची द्वारा बनाए जाने पर जब बेटी उंगलियां चाट रही है तो बाप के स्तन पर उंगलियां भी उठ रही हैं। जनान-चुप रहिए। बाप दमदार बर्दावाला है। पुलिस का रसोइया मेहनताना अस्म भस्कर गो लेता है, खाना नेन्दा में बनाता है। गलत है? तो क्या कर लोगे!

असम पुलिस के एक कमांडेंट ने भी कहा गलत है। लेकिन इस कमांडेंट को एतना उठाने पर गिली सजा। रोया मैडल छीन लिया गया। वेइज्जत कर, स्तन से नीचे के नाम-कैडर पद पर तबादला कर दिया गया। संशेप में कहें तो हिम्मत से सच्चा बोलने वाले आईपीएस पुलिस अधिकारी पर दूगरे आला अधिकारी ने उंगलियां उठाई हैं। असम के पुलिस महानिदेशक पीवी सुमंत पर इन आगेपों की नोक़ार है। रज्ज के हाफलांग से ५ शेष पृष्ठ दो पर

तेंदुलकर अपनी पूरी खाली में थे। उन्होंने चामिंडा बास की गैर पर अपनी पारी का एक बेहतरीन शाट लगाया लेकिन वह अपनी बेहतरीन शुरुआत को कायम नहीं रख पाए और जोयसा की एक धोनी गेंद पर अपना विधेयत गंवा बैठे। तेंदुलकर ने ३९ रन बनाए। इसके बाद धोनी ने कप्तान राहुल द्रविड के साथ समझौतारी के साथ खेलने हुए भारत को जीत की गंजिल के एक्स्ट्रा नवदीक तक पहुंचा दिया। हालांकि धोनी ने धीरे के साथ बल्लेबाजी करने की कोशिश की लेकिन वह ऐसे खिलाड़ी नहीं हैं जो बंध सकें। कुछ ही रन में उनका धैर्य जवाब दे गया और उन्होंने श्रीलंकाई मैदानों के उनके छुड़ा दिए। उन्होंने सनचरें रन से उन्हें हर तक पांटा और सिर्फ ७२ गेंदों पर आठ चौकों और तीन छक्के की मदद से ८० रन बना दिए। वह उस समय उभल चंदता की गेंद पर तिलन समर्थीय के हाथों लपक लिए गए जब भारत की जीत के लिए सिर्फ पांच रन की बचत थी। प्रविड ४८ गेंदों पर ३१ रन बनाकर तबादल रहे। उन्होंने अपनी उपयोगी पारी में दो चौके लगाए। भारत को जीत दिलाने वाला रन भी उन्होंने ही बनाया।

### डीजीपी के पसंदीदा...

बाहर कि.मी. दूर सोनतली में स्थित पांचवीं असम पुलिस बटालियन में हिंसा पाठक रसोइया के तीर पर नियुक्त था। पुलिस महानिदेशक ने रसोइया को चेन्नई स्थित अपनी बेटी के घर पर रसोइया बनाकर भेज दिया। कानून की रक्षा दिखाने हुए पाठक महोदय लगातार पिछले पांच वर्षों से केवल असम सरकार से ले रहे थे और तब पुलिस महानिदेशक की बेटी के घर पर ले रहे थे। क्या मजाल कि बिलकुल पांच वर्षों में बिलकुल पुलिस अधिकारी की हिम्मत भी हुई हो, जो इस मामले पर कुछ कह सकें। नीकरी बचानी है तो अंतर्ध्वंस कर कहो...हो जो... ओंके सर...

मामला जब संबंधित आईपीएस अधिकारी को के. मिश्रा की निगाह में आया तो मालूम पड़ा कि रसोइया पाठक का घरेलू अन्य रसोइया यशचंद्रा सुरास प्रभाव करके पाठक की मोहलामा वाली घरवाली को नियमित देता रहा है। घटना की छानबीन के आदेश हुए। दोनों रसोइया भगाईं घोषित किए गए। डीजीपी सुमंत महोदय की राह पाकर दोनों रसोइया बदन में तेल डालकर आदेश की खिलाफत उड़ाते रहे। बारंबार सूचना पर भी चेन्नई से रसोइया बटालियन में कायम नहीं लौटा। अंततः कमांडेंट मिश्रा ने दोनों को नीकरी से तिलकित कर दिया। पुलिस महानिदेशक ने इसे चुनौती माना। अर्धन चिलम अधिकारी का प्रयोग करने हुए दोनों रसोइयों के निवेदन को मंजूर कर दिया। हेकड़ी की हद तक जाकर उन्हें १२ आईआरबी बटालियन में नियुक्त भी कर दिया। 'असम सरकार-धोनी' क्या कर सकते! क्या आपने कभी गुना न दे पा देता है कि चीर के घर पुलिस जाकर पृच्छा हो। "हां...चोर भाई... क्या आप घर बसाने का कष्ट करेंगे कि क्या आपने चोरी की है?" हमारे पुलिस महानिदेशक ने निर्देश जमा किया कि अगर रसोइया ने ऐसा करने का कोशिश किया तो उसे तुरंत गिरफ्तार कर ले। गुवाहाटी आकर रसोइयों से पृच्छाएं करें। डीएसपी यासि उप पुलिस अधीक्षक पद का जांच अधिकारी हुए रसोइयों से उनके सम्पूर्ण हाजिर होकर पूछे, "खाना कहाँ बना रहे थे?"

उत्तरों! अभी तो निधन-कानून की बहुत सी बातें ऐसी हैं, जो पुलिस महानिदेशक के काम के तरीके से गुवाहाटी पैदा करती हैं। अब कानून रसोइया पांच वर्ष चेन्नई में बसाने पर असम वापस लौट आया है। पर घरेलू की वजह से नहीं आया है। रसोइया का...

तेंदुलकर डेका द्वारा बहादुर स्वरूप प्रदान बहादुरी का मेडल छीन लिया गया। यहाँ भी कानून की ऐसी की तैली की गई। न कारण बताया गया, न ही पूछे जाने पर जवाब दिया गया। महज सात महाने की कमांडेंट के पद पर से मिश्रा को बर्खास्त-विलस समेटने का आदेश भी प्राप्त हो गया। इन्हें हिदायत दी जा चुकी है कि बरपेटा स्थित एफआरआरओ विभाग में पुलिस अधीक्षक का पद भार संभालें। आपको जानकारी दे दें कि यह पद आईपीएस अधिकारियों हेतु नहीं बल्कि 'नान कैडर' अधिकारियों के लिए होता है। छैर मिश्रा जो, ओउल में तिर दिए हो मूसल से क्या डरना। वो रसोइय के खाने का स्वाद ले रहे हैं। आप पुलिसिया खोज का स्वाद भोग रहे हैं। उनके भुह का स्वाद दिगाइन की सजा भुगतिए।

मामला असम से निकलकर दिल्ली तक जा पहुँचा है। भारत सरकार का गृह मंत्रालय तथा मुख्य सतर्कता आधुनिक इस घटनाक्रम पर हतप्रभ है। असम सरकार से पूरे घटनाक्रम की जानकारी मांगी गई है।

और इस बीच खबर आई है कि भारत सरकार के मंत्रालयों द्वारा मांगी गई सूचना पर राज्य सरकार सहम गई है। कमांडेंट मिश्रा को आदेश मिला है कि फिलहाल वे अगले आदेश तक १५वीं असम पुलिस बटालियन के कमांडेंट के पद पर बने रहें।

Certified to Do the work  
Mangisha

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Translated Copy

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DAINIK PUBODAYA 11<sup>TH</sup> NOVEMBER, 2005

## COMMANDANT PUNISHED FOR TEASING DGP'S FAVOURATE COOK

Nobody seen or heard "A cook in dowry" that is not so small but a "Police Cook" when the daughter was licking up her figure with taste, for food made by a cook of Assam Police Battalion then finger could be pointed out at the reputation of the father, Sir keep quiet father is a High Ranking police Official. The cook of Assam Police Battalion is getting his salary from Assam Govt and is cooking food at Chennai. This is wrong? So what! One of the commandants of the Assam Police Battalion also said that this is wrong. But this officer was punished for raising objection over the matter. His 'Seva medal' was withdrawn, He was humiliated and reduced in rank and got transferred to Non-cadre post.

In short if it said other higher officers raised their fingers against the IPS Officer who spoke the truth with courage. There are several allegations against DGP P.V. Sumant.

Hitesh Pathak was appointed as cook in 5<sup>th</sup> Assam Police Battalion at Sontoli, 12 Km away from Haflong, Assam. The DGP Assam police sent the cook Hitesh Pathak to Chennai at the place of his daughter and son-in-law. By violating the provision of law. Hitesh Pathak was drawing his salary from Assam Govt and was serving at the place of DGP's daughter and son-in-law's house for nearly 4/5 years. No Police Officer showed any sign of courage to say any thing over this matter.

"Fear of Dismissal from service by the authority then close your eyes" and say "Yes Sir" "OK Sir".

Then the matter came to the notice of concerned Police officer Sri B.K. Mishra that constable Yash Bahadur Sonar is collecting the pay of cook Hitesh Pathak and paying to his wife from time to time. An enquiry was ordered by the said officer. This two cook was declared "Absconding". Because of becoming favorite cook

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of DGP Mr. P.V.Samanta they were violating the order of the officer. Several intimation were given to them but they did not come back. Then the Commandant Mishra dismissed them from service. The DGP took it as a challenge before him. By misusing his power suspended the dismissal of two cook and posted them to 16 IR Battalion. *Clear message say what will you do?*

Have you seen that the police enter in to the house of thief and asked "can you take pain to say that you have robbed the house".?

Then the DGP ordered that if the enquiry officer wants to take the evidence of the cook then he must come from the Haflong to Guwahati himself and conduct the enquiry here. DSP means Deputy Superintendent of Police ranking of inquiry officer came in front of the cook and asked " what did you cook".

Just wait .Now the Rules and Procedure of the Police have to follow which is so funny. Now the cook after spending 5 years in Chennai came back to Assam. He does not come to draw his salary by himself. The Havildar of the 5<sup>th</sup> Assam Police Battalion collect and pay his salary to his native village near the Patherkuchi Police Station. For this work Havildar was not paid any extra fare. But the poor Havildar had it pay from his own Pocket.

Now it is the time for teaching a good lesson to Commandant Mishra . DGP's commendable Seva Medal was ordered to be withdrawn from Mishra which was given to him by former DGP Hari Krishan Deka. There is also gross misuse of Law. No show cause notice was served, No question was answered when asked by the authority. Within 7 month he was asked to pack up to his Bag and Baggage while holding the post of Commandant. He was informed that he will have to take over the charge of Superintendent of Police of Barpeta in FRRO department. This is for every bodies information that this post is not meant of IPS cadre post but for the post of Non-cadre Officer. Since Mishra has agitated against the higher official he has to get the bitter taste of that officer.

This matter has reached from Assam to Delhi. This information stunned the Ministry of Home Affairs and Information and Vigilance Commission and the report was asked from the Assam Govt.

In the meantime the Assam Govt was petrified to hear the news from the Ministry of Home of Affairs. The Commandant Mr. Mishra got the Govt. Notification to hold the post of Commandant of 15<sup>th</sup> Assam Police Battalion until further orders..