

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓
O.A/T.A No. 40/2005

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SECTION OFFICER (Judl.)

FORM No. 4

(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O R D E R S H E E T

Original Application No. 40/05

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicants:- Badal Sarma

Respondents U. C. I. Gens.

Advocates for the Applicant M. Chanda, G. N. Chakrabarti, S. Nath
S. Chandhury

Advocates of the Respondents AGS.

Notes of the Registry	Date	Order of the Tribunal
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This application is in form
is filed/C.F. for Rs. 10/-
deposited vide P.O.
No. 206/116009
Dated 4.2.05

11c Dy. Registrar
17.2.05

Steps ^{not} taken with
envelops.

18.02.2005

Present & The Hon'ble Mr. K.V. Prah-
ladan, Member (A).

Heard Mr. M. Chanda, learned
counsel for the applicant.

The application is directed to
submit fresh representation to the
Chief Postmaster General, Assam
Circle within one week from the ~~issue~~
date of issue of this order. The
respondents on receipt of such
representation shall pass an order
that is lawful, fair and just within
four weeks from the date of receipt
of the representation.

Till the disposal of the
representation status quo shall be
maintained.

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

ICV Bodhraj
Member (A)

9.3.05

Copy of the order has
been sent to the Office
for issuing the same to
the applicant's Advocate
and to the Respondent.

9/3/05

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORIGINAL APPLICATION NO.....

40/05.....

- 1.(a) Name of the applicant: B. Sarma
- b) Respondents: Union of India & Ors.
- c) No. of Applicant:
2. Is the Applicant in the proper form: YES/NO
3. Whether name & designation and Address of all the papers been furnished in cause title: YES/NO.
4. Has the application been duly signed and verified : YES/NO
5. Have the copies duly signed : YES /NO
6. Have sufficient number of copies of the application been filed: YES/NO.
7. Whether all the annexures parties are impleaded: YES/NO.
8. Whether English translation of documents in the language: YES/NO
9. Is the application is in time : YES/NO.
10. Has the Vakalatnama/M. NO/ of Appearance/Authorisation filed: YES/NO.
11. Is the application by IPO/BD/ For Rs.50/- : 20/11/6009
12. Has the application as maintainable : YES/NO
13. Has the impugned order original duly attested been filed: YES/NO
14. Has the ligible copies of the annexures duly attested filed: YES /NO.
15. Has the Index of documents been filed all available : YES/NO
16. Has the required number of enveloped bearing full address of the Respondents been filed: YES/NO
17. Has the declaration as required by item 17 of the form: YES/NO
18. Whether the relief sought for arises out of the Single: YES/NO
19. Whether the interim relief is prayed for: YES/NO.
20. In case of condonation of delay is filed is it support: YES/NO.
21. Whether this case can be heard by SINGLE BENCH/DIVISION BENCH.
22. Any other points:
23. Result of the scrutiny with initial of the scrutiny clerk :
The application is in order

SECTION OFFICER

17.2.05
DEPUTY REGISTRAR

1 FEB 2005

गुवाहाटी न्याय क्षेत्र

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

O.A. No. 40 /2005

Shri Badal Sarma.

-Vs-

Union of India & Ors.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

- 1969- Applicant was initially appointed as Postal Assistant.
- 1981- Applicant was promoted to the post of Inspector of Post Offices.
- 2000- Applicant was further promoted to the cadre of Assistant Superintendent of Post Offices.
- 11.01.2002- Applicant while working as Assistant Superintendent of Post Offices at HQ Office, Dhubri, he was transferred and posted to Guwahati. (Annexure-I)
- 01.01.2003- Applicant sought to be transferred from Guwahati to Silchar. (Annexure-II)
- 11.03.2003- Applicant was transferred and posted from Guwahati to Goalpara after modification of transferred order dated 01.01.03. (Annexure-III)
- 31.12.2004- Respondents issued impugned order of transfer and posting, whereby the applicant has been sought to be transferred and posted at Silchar in a post which is going to be fall vacant on 28.02.05 due to retirement of one Shri C.M. Nath. (Annexure-IV)
- 10.01.2005- Applicant submitted a detailed representation praying interalia for retention in his present place of posting till his retirement on superannuation i.e. upto 28.02.2006. (Annexure-VI)
- 01.02.2005- Respondent No. 2 rejected the representation of the applicant in a most mechanical manner with a direction to the applicant to join to his new place of posting. (Annexure-VII)

Hence this Original Application before the Hon'ble Tribunal.

PRAYERS

Relief(s) sought for:

Shri Badal Sarma

4

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

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned transfer and posting order bearing letter No. Staff/3-23/2000/Ch.I dated 31.12.2004 (Annexure-IV) in respect of the present applicant, and further be pleased to set aside and quash the impugned order bearing letter No. Staff/1-441/88 dated 01.02.2005 (Annexure-VII).
2. That the Hon'ble Tribunal be pleased to direct the respondents to allow the applicant to continue in the present place of posting at Goalpara till his retirement on superannuation.
3. Costs of the application.
4. Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for.

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

1. That the Hon'ble Tribunal be pleased to stay the operation of impugned transfer and posting order bearing letter No. Staff/3-23/2000/Ch.I dated 31.12.2004 (Annexure-IV) in respect of the present applicant as well as impugned order bearing letter No. Staff/1-441/88 dated 01.02.2005 (Annexure-VII) till disposal of the Original Application.
-

Sri Badal Sarma

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

Filed by me applicant -
Juvenghi, Subrota Nath,
Advocate
17.02.2005

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

Shri Badal Sarma. : Applicant.

-Versus -

Union of India & Others: Respondents.

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Date : 17 02 05.

Filed by

Subrota Nath.
Advocate

Sri Badal Sarma

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O. A. No. _____/2005

BETWEEN

Shri Badal Sarma.

S/o- Late Manindra Lal Sarma.

Assistant Superintendent of Post Offices.

Goalpara Sub-Division, Goalpara.

P.O- Goalpara. Dist- Goalpara. Assam.

...Applicant

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India,
Department of Posts.
New Delhi- 110001.
2. Chief Postmaster General,
Assam Circle
Department of Posts.
Guwahati- 781001.
3. The Director of Postal Services
Assam Circle, Guwahati- 781001.
4. Asstt. Postmaster General (Staff)
O/o- The Chief Postmaster General,
Assam Circle, Guwahati- 781001.
5. R. Chakraborty.
Senior Postmaster General (Staff),
O/o- The Chief Postmaster General,
Assam Circle.
Guwahati- 781001.

... Respondents.

Shri Badal Sarma

DETAILS OF THE APPLICATION

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

This application is made against the impugned transfer and posting order bearing letter No. Staff/3-23/2000/Ch.I dated 31.12.2004 (Annexure-IV) which is passed in violation of professed norms and also against the impugned letter bearing No. Staff/1-441/88 dated 01.02.2005 (Annexure- VII) rejecting the prayer of the applicant for review of transfer and posting order dated 31.12.2004 and further praying for a direction upon the respondents to allow the applicant to continue in the present place of posting at Goalpara till his retirement on superannuation on 28.02.2006.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

The applicant further declares that this application is filed within the period of limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case.

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

4.2 That your applicant was initially appointed as Postal Assistant in the year 1969, thereafter he was promoted to the post of Inspector of Post offices in the year 1981, again he was promoted to the cadre of Assistant Superintendent of Post Offices during the year 2000, at Headquarter Office, Dhubri. The applicant is presently working as Asst. Superintendent of Post Offices at Goalapara.

Sne Badal Sharma

- 4.3 That your applicant while working as Assistant Superintendent of Post Offices (for short A.S.P.O) at HQ Office, Dhubri, he was transferred and posted to Guwahati vide order issued under Memo No. Staff/3-23/2000 dated 11.01.2002, the applicant carried out his transfer and posting order accordingly joined at Guwahati, pursuant to the order dated 11.01.2002. However, within a span of one year, the applicant was sought to be transferred from Guwahati to Silchar vide order bearing letter No. Staff/3-23/2000 dated 01.01.2003, however said transfer and posting order was subsequently modified vide memo No. Staff/3-23/2000 dated 11.03.2003, whereby the applicant was transferred and posted from Guwahati to Goalpara. The applicant carried out the transfer order dated 11.03.03 and joined his duty on 18.03.03 at Goalpara and till date he is serving at Goalpara in the capacity of A.S.P.O.

Copy of the order dated 11.01.02, dated 01.01.03 and 11.03.03 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- I, II and III respectively.

- 4.4 That it is stated that your applicant is due to retire on superannuation with effect from 28.02.2006 (A/N) and now he is left with only 1 year service in his credit. The applicant has an intention to settle down at Goalpara after his retirement on superannuation.
- 4.5 That most surprisingly, when the applicant is intending to settle down at Goalpara the respondents has issued the impugned order of transfer and posting under letter bearing No. Staff/3-23/2000/Ch.I dated 31.12.2004, whereby the applicant is now sought to be transferred and posted at Silchar in a post which is going to be fall vacant, due to retirement of one Shri C.M. Nath w.e.f. 28.02.2005, at Silchar. The

Sri Badal Karm

impugned transfer and posting order in respect of the applicant has been passed at the verge of his retirement, when only one year of service is left on his credit and on that score alone the impugned order of transfer and posting is liable to be set aside and quashed.

A copy of the impugned order of transfer and posting dated 31.12.2004 has been enclosed herewith for perusal of Hon'ble Tribunal and marked as Annexure-IV.

- 4.6 That it is stated that on a mere reading of the impugned transfer order dated 31.12.2004 it appears that none is posted at Goalpara, in the place of present applicant as such the post of A.S.P.O at Goalpara shall remain vacant in the event if applicant is required to carry out the impugned order of transfer and posting. Moreover, it is a routine transfer and as such there is no administrative exigency for transfer of the applicant from Goalpara to Silchar. Therefore the impugned order dated 31.12.2004 is liable to be set aside and quashed.
- 4.7 That it is stated that as per P & T Manual Volume IV, Rule 59 provide that ordinarily the tenure of posting of Assistant Superintendent of Post Offices in particular Division or Sub-Division is four years, whereas, it appears that the applicant transferred and posted atleast on four occasions within a span of 2/3 years, such repeated transfer and posting of a postal employee is in violation of the Rule contained in P & T Manual, itself is malafide and on that score alone the impugned order of transfer and posting dated 31.12.04 is liable to be set aside and quashed.

A copy of extract of Rule 59 of P & T Manual Vol. IV is enclosed herewith for perusal of Hon'ble Tribunal and marked as Annexure-V.

Sri Badal Barma

4.8 That your applicant being highly aggrieved with the impugned order of transfer and posting dated 31.12.04 submitted a detailed representation addressed to the Respondent No. 2, 3 and 4, wherein the applicant inter alia prayed for reconsideration of his order of transfer and posting dated 31.12.04 and also prayed for retention at the same place of posting at Goalpara till his retirement on superannuation i.e. upto 28.02.06. In the said representation dated 10.01.05 the applicant pointed out that he had joined at Goalpara only on 18.03.2003 and as such his tenure at Goalpara not yet completed and further stated that in the fag end of his service life he is trying to settle down at Goalpara by purchasing a plot of land. Moreover, the applicant has stated that he is a diabetic patient and he is suffering from heart disease and under the treatment of specialist doctor at Siliguri and Coachbihar as such the impugned transfer order has caused serious mental anxiety at the fag end of his service career. However the said representation of the applicant dated 10.01.05 has been rejected by the Respondent No. 2 in a most mechanical manner without application of mind vide impugned letter bearing No. Staff/1-441/88 dated 01.02.2005, wherein it is stated that the case of the applicant has been considered but his request for retention of 1 year more in present place cannot acceded to and further directed the applicant to join to his new place of posting. This decision of Respondent No. 2 is highly arbitrary, unfair and illegal and the same is in violation of professed norms, and as such the impugned order of transfer and posting dated 31.12.2004 as well as the impugned letter date 01.02.05 is liable to be set aside and quashed.

Copy of representation dated 10.01.05 and impugned letter dated 01.02.05 are enclosed herewith for perusal of Hon'ble Tribunal and marked as Annexure- VI and VII respectively.

Sd/- Badal Sharma

- 4.9 That it is stated that even the 5th Central Pay Commission also recommended to the Govt. of India that the Government employees should not be disturbed by way of transfer and posting when they have less than 3 years of service in their credit before retirement, whereas the present applicant is left with less than 1 year of service in his credit on 28.02.05 when the post of A.S.P.O at Silchar is going to fall vacant. The similar issue came up before the various benches of the learned Tribunal, in the case of S. Krishna Vs. Deputy Regional Director, ESI Corporation, Trichur and another, reported in 1991 (1) SLJ (CAT) 336 (Ernakulam) held that the applicant of that case is liable to be retained in the same place of posting at the fag end of his career unless his transfer is reconsidered by any other unavoidable administrative exigencies. In other case i.e. H.S. Ajmani Vs. State of M.P and Ors reported in (1989) 9 ATC 122 (Jabalpur), wherein it is held that frequent transfer of a Govt. employee is contrary to the Govt. instructions and so the said order is liable to be set aside and quashed. The applicant is a victim of frequent transfer and the impugned order is contrary to the Govt. instruction and there is no public interest involved where the sanction post of A.S.P.O at Goalpara shall remain vacant in the event of his posting at Silchar. Therefore, impugned order of transfer dated 31.12.2004 as well as impugned order dated 01.02.2005 are liable to be set aside and quashed.

Copy of judgment dated 23.11.1990 and a copy of judgment in the case of M.P Ajmani Vs. State of M.P passed by learned CAT are enclosed herewith for perusal of Hon'ble Tribunal and marked as Annexure-VIII & IX respectively.

- 4.10 That it is categorically stated that the applicant has not yet been released till filing of this application and he is discharging his duties as A.S.P.O at Goalpara, therefore the Hon'ble Tribunal be pleased to pass an interim order staying the

Sri Badal Sarma

operation of the impugned order of transfer and posting dated 31.12.04 till final disposal of the Original Application and further be pleased to pass further orders granting adequate relief to the applicant as prayed for, considering the fact and circumstances as stated above.

- 4.11 That it is stated that the Respondent No. 5 vested with the power of transfer and posting of the cadre of Assistant Superintendent of Post Offices on and behalf of the Chief Postmaster General, he is aware of the fact that the present applicant is retiring on superannuation w.e.f. 28.02.2006 he is further aware of the fact that the applicant has not yet completed even 2 years of service in the present post of posting at Goalpara, moreover Respondent No. 5 also aware that there is a specific provision in Rule 59 of the P & T Manual Vol. IV that tenure of the cadre of A.S.P.O is 4 years in a particular Division or Sub-Division even then the Respondent No. 5 with a malafide intention included his name in the routine transfer without any administrative exigency and at his instance the Chief Postmaster General without looking into the records and also without taking into consideration the above facts and circumstances has passed the impugned order of transfer dated 31.12.2004. It is pertinent to mention here that even after receipt of the impugned order of transfer order by the applicant, he has drawn the attention of the authority more particularly Respondent No. 2 as well as of Respondent No. 5 that he is retiring in the month of February 2006 vide his representation dated 10.01.2005 where the applicant has stated other problems but even then the Respondent No. 5 rejected the representation of the applicant with a non-speaking order without assigning any reason for rejection of his representation, therefore it is quite clear that the Respondent No. 5 acted with an ulterior motive and deliberately rejected the representation. It is also known to the respondent No. 5

Ba Badal Sarma

that within a span of 2 years altogether 4 transfer and posting order has been issued in respect of the applicant without any rhyme and reason and that too in violation of the Govt. instruction hence the impugned order of transfer dated 31.12.2004 as well as the letter dated 01.02.2005 are liable to be set aside and quashed.

It is further submitted that the impugned order dated 31.12.2004 has not yet been given effect to so far the applicant is concerned, with the view of intention that the post of A.S.P.O at Silchar is going to fall vacant w.e.f. 28.02.2005, therefore the Hon'ble Tribunal be pleased to stay the operation of the impugned order of transfer and posting dated 31.12.2004 in respect of the applicant.

4.12 That this application is made bonafide and for the cause of justice.

5. Grounds for relief(s) with legal provisions

5.1 For that, the impugned order of transfer and posting has been passed in violation of professed norms and also in violation of Rule 59 of P& T Manual Vol. IV, where the tenure of posting of A.S.P.O has been prescribed as 4 years in a particular Division or Sub-Division.

5.2 For that, applicant is retiring on superannuation w.e.f. 28.02.2006 and as such he is left with only 1 year of service in his credit on 1st March, 2005 when the post at Silchar is going to fall vacant, where the applicant is now sought to be posted from Goalpara.

Ru Badal Sarma

- 5.3 For that, transfer in the fag end of service career is contrary to the Govt. instruction, moreover repeated transfer and posting within a span of two years is malafide.
- 5.4 For that, applicant is in the verge of retirement and intending to settle down after retirement in the present place of posting at Goalpara and that too when none is posted in place of the applicant, as such the decision of the respondents to post him at Silchar in the fag end of service career is highly arbitrary, unfair and illegal.
- 5.5 For that, the impugned transfer and posting indicated in the order dated 31.12.2004 are in fact in routine nature and as such no administrative exigency or public interest involved in as much as in the case of posting of the present applicant at Silchar at the verge of retirement.
- 5.6 For that, no one is posted at Goalpara in place of applicant therefore in the event of his posting at Silchar in terms of the impugned order dated 31.12.2004 the post of A.S.P.O shall remain vacant at Goalpara, therefore there is no difficulty on the part of the respondents to accommodate the applicant for 1 more year at Goalpara till his retirement on superannuation.
- 5.7 For that, the applicant has been transferred and posted on 4 occasions within a span of 2 years in the cadre of A.S.P.O which is malafide and contrary to the provision laid down in Rule 59 of P & T Manual Vol. IV.
- 5.8 For that, the applicant is a diabetic patient and under constant treatment with the attending Physician therefore if transfer and posting at the verge of retirement is

Sri Badal Barma

unwarranted and the same is contrary to the Govt. policy as well as also contrary to the recommendation of the 5th Central Pay Commission made in this regard.

- 5.9 For that applicant submitted representation to the respondents authority but the same has been rejected in a most arbitrary manner without application of mind and also without assigning any reason, as such impugned order of transfer and posting dated 31.12.2004 and the impugned letter dated 01.02.2005 rejecting the representation of the applicant are liable to be set aside with cost.

6. Details of remedies exhausted.

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

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

The applicant further declares that he had not previously filed any application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for:

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

- 8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned transfer and posting order bearing letter No. Staff/3-23/2000/Ch.I dated

Sd/- Badel Sarma

31.12.2004 (Annexure-IV) in respect of the present applicant, and further be pleased to set aside and quash the impugned order bearing letter No. Staff/1-441/88 dated 01.02.2005 (Annexure-VII).

8.2 That the Hon'ble Tribunal be pleased to direct the respondents to allow the applicant to continue in the present place of posting at Goalpara till his retirement on superannuation.

8.3 Costs of the application.

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

9. Interim order prayed for.

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

9.1 That the Hon'ble Tribunal be pleased to stay the operation of impugned transfer and posting order bearing letter No. Staff/3-23/2000/Ch.I dated 31.12.2004 (Annexure-IV) in respect of the present applicant as well as impugned order bearing letter No. Staff/1-441/88 dated 01.02.2005 (Annexure-VII) till disposal of the Original Application.

10.
This application is filed through Advocates.

11. Particulars of the I.P.O.

i)	I. P. O. No.	: 209 116009
ii)	Date of Issue	: 4.2.05
iii)	Issued from	: G.P.O. Guwahati
iv)	Payable at	: G.P.O. Guwahati

12. List of enclosures.
As given in the index.

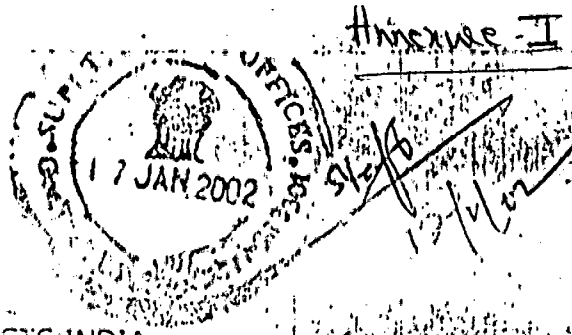
Dr. Badal Sarma

VERIFICATION

I, Shri Badal Sarma, S/o- Late Manindra Lal Sarma, aged about 59 years, presently working as Assistant Superintendent of Post Offices, Goalpara Sub-Division, Goalpara. P.O Goalpara. Dist- Goalpara. Assam, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 12th day of February, 2004.

Shri Badal Sarma



DEPARTMENT OF POSTS:INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL
ASSAM CIRCLE:GUWAHATI-781001

Memo No.Staff/3-23/2000

Dated Guwahati, the 11.1.2002.

With the approval of the competent authority, the following transfer / posting orders are issued in respect of Asstt Supdt. Posts to have immediate effect in the interest of service.

Sl.	Name of the Officer	Present posting	Posted on transfer	Remarks
1	Sri J.J.Sarma	SDIPOs Tinsukia	ASPOs (Dn) Dibrugarh	Vice Sri S.Suklabaidya tfd
2	Sri S.Suklabaidya	ASPOs(Dn) Dibrugarh	ASPOs (HQ) Silchar	Vice Sri Manik Das transferred
3	Sri Manik Das	ASPOs (HQ) Silchar	ASPOs (Dn) Guwahati	Against vacant post
4	Sri Girish Ch.Das	ASPOs Diphu & ASPOs Ghy designate	ASPOs (HQ) Dhubri	Vice Sri Badal Sarma transferred
5	Sri Badal Sarma	ASPOs (HQ) Dhubri	ASRM BD Cell Guwahati	Vice Sri Ramjay Biswas transferred
6	Sri Ramjay Biswas	ASRM BD Cell Guwahati	ASPOs (HQ) Guwahati	Vice Sri Rabindra Biswas transferred
7	Sri Rabindra Biswas	ASPOs (HQ) Guwahati	ASPOs (Inv) CO, Guwahati	Vice Sri Kutub Uddin Ahmed transferred
8	Sri Amarendra Sorn	SDIPOs Haflong & ASRM Ghy RMS designate	ASPOs (HQ) Jorhat	Against vacant post

The official at serial (2) and (4) are not entitled to any TA/TP for their transfer / posting as their transfer is made at their own request.

Usual charge report be sent to all concerned.

(S.Shyam)

Asstt. Postmaster General [Staff]
O/o the CPMG Assam Circle, Guwahati-781001
Contd.....

*True Copy
from
Advocate.*

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL: ASSAM CIRCLE:
GUWAHATI-781001.

No.Staff/3-23/2000

Dated at Guwahati the 01.01.03

The orders of the Chief Postmaster General, Assam Circle, Guwahati, in connection with transfers and postings of the following officials are issued in the interest of service to have immediate effect.

Sl No.	Name	Present place of posting	Future place of posting	Remarks
(1)	(2)	(3)	(4)	(5)
1	Sri N.C.Bhowmik	ASRM CRC, Guwahati	SAS,C.O. Guwahati	Vacant
2	Sri B.C.Paul	SAS,CO(Adhoc)	ASRM CRC, Guwahati(Adhoc)	Till Sri N.C.Paul reverts
3	Sri T.C.Kalita	SDI,Barpeta & approved for ASP	PM,Nalbari	Vice Sri K.Ahmed transferred
4	Sri K.Ahmed	PM,Nalbari	Manager SPC, Guwahati	Vice Sri Badal Sarma transferred
5	Sri P.C.Boro	ASP(HQ), Dibrugarh	ASP(HQ),Nalbari	VicSri L.K. Barman transferred
6	Sri L.K.Barman	ASP(HQ),Nalbari	ASP(PG), C.O.Guwahati	Vice Sri T.K. Choudhury transferred
7	Sri T.K.Choudhury	ASP(PG),C.O.	ASP(HQ),Guwahati	ViceSri R.J.Biswas transferred.
8	Sri S.Sanglary	SDI,North Lakhimpur & approved for ASP	ASRM GH RMS	Vacant
9	Sri Badal Sarma	Manager SPC,Guwahati		Allotted to R.O. against vacancy at ASP(HQ) DR & ASP(N) Silchar Sub Dn.
10	Sri Ramjay Biswas	ASP(HQ),Guwahati(U/S)	-	



(V.C.Roy),


Director of Postal Services(HQ),
Assam Circle,Guwahati-781001.

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for
Advt

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Copy for information and necessary action to :-

- 1 The PMG, Dibrugarh
- 2 The SSRM, Guwahati
- 3 The SPOS, Nalbari
- 4 The PM, Nalbari
- 5 The PM, Barpeta
- 6 The SPOS, Dibrugarh
- 7 The Postmaster, Dibrugarh
- 8 The APMG(INV), C.O., Guwahati
- 9 The ADPS(A/Cs), C.O. Guwahati
- 10 The Sr. Manager, BDC, Guwahati
- 11 The SPOS, Guwahati


For Chief Postmaster General,
Assam Circle, Guwahati-781001

Dated at Guwahati the 11.3.03

Sl. No	Name of the officials	Present unit	Posted on transfer	Remarks
1	Sri Badal Sarma	Manager, SPC, Guwahati	ASPOS, Goalpara	Vice Sri R.C.Rabha transferred
2	Sri Ram ch. Rabha	ASPOS, Goalpara	ASRM C/S Guwahati	Vice Sri J.C.Paul who will retire on superannuation on 31.3.03.

This is issued in partial modification of this office memo. of even no. dtd. 01-01-2003.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

1 Official concerned
2 The SPOS, Dhubri
3 The SPOS/SSRM, Guwahati
4 The AD(VCs), C.O., Guwahati
5 The PMG, Dibrugarh
6 PF of the official

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Sue's
Advocate

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Annexure - IV

DEPARTMENT OF POSTS
OFFICE OF THE

CHIEF POSTMASTER GENERAL: ASSAM CIRCLE: GUWAHATI 781 001

No. Staff/3-23/2000/ch.I

dated at Guwahati, the 31.12.2004

Subject :- Transfer and Posting orders of ASPOs / IPOs cadre

With due approval of the competent authority, the following officials in the cadre of ASPOs / IPOs are ordered to have immediate effect in the interest of service.

PART - A
(ASPOs CADRE)

Name of the official	Present place of posting	New place of posting
1. Sri Badal Sharma	ASPOs, Goalpara	ASRM, S-Dn, Silchar vice Sri C M Nath retiring on 28.2.2005
2. Sri B K Das	ASP (Dn), Dhubri	Postmaster, Dhubri HO (the HSG-I IPO line post of PM, Jorhat is diverted as PM HSG-I IPO line, Dhubri HO.)
3. Sri Gopal Bora	ASPOs Jorhat	ASP (Dn), Dhubri vice Sri Badal Sharma, transferred.
4. Sri B Haloi	ASPOs, North Lakhimpur	ASP (Hq), Tezpur vice Sri B. Kalita, transferred
5. Sri B Kalita	ASPOs (Hq), Tezpur	ASP (Dn), Jorhat vice Sri D. Dihingia, transferred
6. Sri D Dihingia	ASP (Dn) Jorhat	ASP, North Lakhimpur vice Sri B Haloi, transferred
7. Sri N N Sonowal	ASP (Dn), Tezpur	ASP(West), Guwahati (P) Dn vice Sri K Barman, transferred
8. Sri Khargeswar Barman	ASP(West) Guwahati	ASPOs (Dn), Tezpur vice Sri N N Sonowal.
9. Sri A Hye	IPO (PG) Nagaon	ASP (Dn) Guwahati on promotion vice Sri S B Bhattacharjee, transferred. (This is in partial modification of memo No. Staff/2-29/91, dtd. 25.2.2004)
10. Sri S B Bhattacharjee	ASP(Dn) Guwahati	DPM-I, Guwahati GPO

Contd page = 2

*True copy
for
Advocate*

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PART - B
(IPOs CADRE)

Name of the official	Present place of posting	New place of posting
1. Sri D K Chutia	IPOs, Pathsala	IPO Jorhat (North) vice Sri B Hazarika, transferred
2. Sri B Hazarika	IPOs, Jorhat (North)	IPOs North Lakhimpur vice Sri S Sanglari, transferred
3. Sri S Sanglari	IPOs, North Lakhimpur	IPOs Mariani vice Sri N R Saikia, transferred
4. Sri N R Saikia	IPOs, Mariani	SDI Kokrajhar vice Sri R Kamal Farid, transferred
5. Sri Rajkamal Farid	IPOs, Kokrajhar	IPOs Nalbari
6. Sri P K Dey	IPOs, Silchar	IPOs Sivasagar vice Sri D K Saikia
7. Sri D K Saikia	IPOs, Sivasagar	IPO(PG), Nagaon vice Sri A Hye, promoted to ASPOs cadre

All the officials may be relieved on local arrangement.

Usual charge reports may be sent to all concerned.

b
APMG (STAFF)
O/O THE CHIEF PMG
ASSAM CIRCLE : GUWAHATI

Copy to :

1. The Postmaster General, Dibrugarh Region, Dibrugarh
2. All SSPOs // SPOs in Assam Circle for necessary action.
3. Officials concerned.

b
APMG (Staff)
O/O the Chief PMG,
Guwahati 781 001

or-sub or branch postmaster, the notice will, when necessary, contain a sufficient description of the overseer to prevent possibility of personation.

ROTATION OF CHARGES

57. Ordinarily a Superintendent of Post Offices or Railway Mail Service should not remain in charge of the same Division for more than four years at a time, and an Assistant Director of Postal Services should not also occupy that post for more than four years at one stretch.

58. Every Superintendent of Post Offices should hold charge of a Railway Mail Service Division for at least four years, and every Railway Mail Service Superintendent should hold charge of a Postal Division for not less than four years.

NOTE.—The provisions of this rule do not apply to Superintendents who are above 45 years of age.

59. An Assistant Superintendent of Post Offices or R.M.S. and a Sub-Divisional Inspector (Postal) or R.M.S. should not ordinarily remain in the same Division, or Sub-Division, as the case may be, or at the same post for more than 4 years at a time.

While ordering transfer or promotion of the officials, care should be taken to ensure that they are not transferred to or posted in their home areas.

60. The following posts should not ordinarily be occupied by the same officials continuously at a time for more than the period shown against each:—

- | | | |
|--|-----|-----------|
| (1) Office Supervisors, Office of Superintendents | ... | } 4 years |
| (2) Investigating inspectors and Sorting inspectors in Circle Offices | ... | |
| (3) Section Supervisors of sections in Circle Offices | ... | } 4 years |
| (4) Postal Assistants in General Post Offices or First Class head post offices dealing with staff cases | ... | |
| (5) Office Assistants in offices of the Superintendents of post offices and Railway Mail Service except sorting assistants in offices of Superintendents, R.M.S. | ... | |
| (6) Postal Assistants working in the correspondence and accounts Branches of head post offices | ... | } 6 years |
| (6-A) Postal Assistants working in the Philatelic Bureau. | ... | |

NOTE.—The Divisional Supdt./PPM/Gazetted Postmaster working directly under the Head of the Circle may, at his discretion, order transfer of the staff working in the Philatelic Bureau any time before completion of the tenure of 6 years for administrative reasons.

(6-B) Foreign Post Units.

- | | | |
|---|-----|---------|
| (i) Group D Assistants and L.S.G. officials in all branches of foreign post (except Store M.O. & C.E.D. and Strong rooms) | ... | 4 years |
| (ii) Group D Assistants and L.S.G. officials in Store, M.O. & C.E.D. and Strong rooms. | ... | 2 years |

(6-C) LDCs/UDCs/Supervisory staff (i.e., Junior Accounts Officers and Accountants in SSG in SBCO/ICO in all offices (subject.....to rotation among themselves every year of LDCs/UDCs in offices with more than one LDC/UDC.)

- | | | |
|---|-----|------------|
| 7. Gazetted Postmasters, Non-gazetted Postmasters (H.S.G.) and non-gazetted sub-postmasters (L.S.G.) | ... | } 4 years |
| 8. Non-gazetted sub-postmasters (Time-scale) | ... | |
| (8-A) Departmental Branch Postmasters | ... | |
| 9. Public Relations Inspectors (Postal) | ... | } 1 year |
| (9-A) Postal Assistants in post offices having one Postal Assistant besides the sub-postmaster. | ... | |
| 10. Other Post Office Assistants (including Lower and Higher Selection Grade) who handle cash and valuables | ... | } 5 years* |
| 11. Postal Assistants employed at the Savings Bank and Money Order counters of Post Offices | ... | |
| Postal Assistants in charge of Sub-Accounts Department. | ... | 6 months. |

NOTE.—Not printed.

* Director-General's Orders.

In partial modification of the orders contained in this office letter No. 35,59/73-SB/SPB. I, dated 20-5-74, the Posts and Telegraphs Board has now decided that in order to increase the efficiency and have continuity in working, the clerks in Money Order and Savings Bank branches may be employed at the counters up to 3 years and this period may be extended further up to 4 years at the discretion of the Heads of the Circles. The overall tenure in (i) Head Offices and bigger sub-offices having full-time Savings Bank/SC clerks and in (ii) Head Offices having incentive scheme in SB/SC branch will, however, remain as 5 and 6 years respectively as mentioned in sub-para (c) and (d) of this office letter dated 20-5-74 referred to above.

[D.G., P & T, N.D. Letter No. 69/43/75-SPB. I dated 7-8-75]

- | | | |
|--|-----|----------|
| (12) Sorting Assistants in offices of Superintendents, R.M.S. | ... | 5 years |
| (13) Village postmen attached to offices having two or more village postmen | ... | 6 months |
| (14) Time-scale Accountants in Head Post Offices where there is more than one Head Post Office in a Division on the same scale of pay. | ... | 4 years |

NOTE.—Time-scale Accountants in Head Post Offices can be rotated with such Accountants in the Postal Divl. Offices also.

- | | | |
|---|-----|---------|
| (15) Sorting Assistants in Record Offices and Sub-Record Offices | ... | 4 years |
| (15-A) L.S.G. and H.S.G. Sorting Assistants in R.M.S. Offices | ... | 4 years |
| (16) Office Assistants in R.L.Os. who handle cash or valuables | ... | 1 year |
| (17) Office Assistants (including Cashiers and Storekeepers) in different section of MMS Organisation under the control of Gazetted Managers only | ... | 4 years |

98/607
20.5.74
R.M.S.

From :

Badal Sarma
Asstt. Supdt. Post Office
Goalpara Sub-Division, Goalpara

To,

1. The Chief Postmaster General
Assam Circle, Guwahati - 781001
2. The Director of Postal Services
Assam Circle, Guwahati - 781001
3. Asstt. Postmaster General (Staff)
O/O of the Chief Postmaster General
Assam Circle, Guwahati - 781001

(Through the Proper channel)

Sub : Prayer for stay order on the transfer/Posting order of
Sri Badal Sarma Asstt. Supdt. of Post Office from Goalpara
Sub-Division, Goalpara.

Ref. : Your Memo No. Staff/3-23/2000/ch-I dtd. 31-12-2004.

Hon'ble Sir/Madam,

In honourably acknowledging the receipt of your memo staff/3-23/2000/ch-I dt. 31-12-2004. I beg to lay the followings for your kind and sympathetic consideration.

That Sir/Madam, I took over the charge of the Asstt. Supdt. of Post offices, Goalpara Sub-Division, Goalpara on 18-03-2003 and discharging my duty with honesty and efficiently. I have not yet completed my tenure also.

That Sir/Madam, I rendering my service to the Department since 1969 in various capacities.

The date of my superannuation retirement is 28-02-2006 (A/N). Only one year remaining to complete my service life for ever.

That Sir/Madam, I have decided to settled at Goalpara after my retirement and accordingly. I am trying to acquiring a plot of land.

That Sir/Madam, I am a diabetic patient and now. I have been suffering from heart deceases and under the treatment of the Specialist Doctor of Cardiology/Diabetic at Siliguri and Coochbehar respectively.

Both the Doctors advice me to pass the day without tension as per as can. Now my pre-tenure transfer order at the fag-end of my retirement is pushed me in a heavy mental pressure and tension and might have cause of my sudden death at any stage.

*Touchy
fau
Ammake*

That Sir/Madam, with due apology. I would like to draw your kind attention that so far I remembered and belief I did not commit any fraud nor did anything which may lead to the subversive to the discipline for which my pre-tenure transfer at the fag-end of my retirement (Date of retirement is 28-02-2006) is highly warranted.

Considering the all actual facts and figure I would fervently request your kind consideration with the humble prayer to get me relief from such pre-tenure transfer at the fag end of my retirement and allow me to complete the period of one year i.e upto 28-02-2006 at the present place of working so that I may peacefully go on normal retirement.

With Profound Regards

Yours faithfully,

Dated - Goalpara the 10th Jan/2005

(BADAL SARMA)
Asstt. Supdt. of Post Office
Goalpara Sub-Division
Goalpara.

Advance Copy :-

1. **The Chief Postmaster General**
Assam Circle, Guwahati - 781001
2. **The Director of Postal Services**
Assam Circle, Guwahati - 781001
3. **Asstt. Postmaster General (Staff)**
O/O of the Chief Postmaster General
Assam Circle, Guwahati - 781001

(BADAL SARMA)
Asstt. Supdt. of Post Office
Goalpara Sub-Division
Goalpara.

DEPARTMENT OF POSTS:INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL
ASSAM CIRCLE:GUWAHATI

No.Staff/1-441/88

Dated at Guwahati the February 1, 2005.

To

The SPOs,
Dhubri.

Sub:- Transfer and posting in ASP/IPO cadre – case of Shri Badal Sarma, ASP, Goalpara Sub-Division.

Ref:- Your No.B-633 dated 19.1.05.

The representation dated 10.1.05 of Shri Badal Sarma, ASP, Goalpara Sub-Division is considered but his request for retention of one year more in his present post cannot be acceded to. The official may be informed accordingly and ask him to join in the new place of posting.

A.P.M.G. (Staff)
O/o the Chief Postmaster General
Assam Circle, Guwahati – 781 001

True Copy
Sms.
Advocate

In view of the foregoing, it can be safely stated that the impugned order of transfer is punitive in character and has been made in colourable exercise of powers. Further more, the impugned order would also seem to be tainted with malice in law. The same does not seem to have been made in the administrative exigencies but with a view to penalise the applicant. That being so, the impugned order is not legally sustainable.

[Ashok Kumar Mobey v. Union of India and others, 1991 (2) ATJ 266 (Chandigarh), date of judgment 4-3-1991.]

4. Frequent transfers, especially at the fag end of one's career, should be avoided on human factor, unless necessitated by administrative exigencies. —The fact which comes out rather startlingly in this case is that the applicant had been transferred by the respondent department at his own request from Kottarakara to Trichur as Deputy Accounts Officer by order, dated 29-5-1990. Hardly had the ink dried on that order when another order was passed on 31-5-1990, transferring him as Manager, Grade I, at the local office to Trichur. Since the applicant wanted a transfer at Trichur, as he had less than two years to retire, he readily came over to Trichur paying for the travel and other substantial expenses from his own pocket because the transfer being at his request, he was not allowed transfer T.A. and joining time. The applicant took charge of the post of Manager, Grade I, Trichur, on 1-6-1990 and was working there when by the impugned order, dated 26-10-1990, he was transferred and posted as Manager, Grade I, at Allappuzha. It appears to us harsh and high-handed if within less than five months of his transfer at his request, he is transferred out again to Allappuzha. It may be that the Employees' State Insurance Corporation (ESIC for short), did not issue any guidelines for transfer but it is a recognised policy in the Government of India that an official with less than two years of service should be allowed a posting of his choice and should not be transferred from that post within that period unless there are compelling administrative reasons. We cannot accept the argument of the learned counsel for the respondents that the administrative reason of manning the upgraded post at Allappuzha was so compelling that the applicant had to be posted there. If the post at Allappuzha needed an experienced officer and there was no other officer as good as the applicant, he could have been posted at Allappuzha when he was in Grade II. It is also surprising that the upgrading and downgrading of posts would not have been visualised at the time of transfer of the applicant to Trichur in May, 1990, when he was posted at Trichur. It is not the respondents' case that the applicant is the only Manager, Grade I, available in Kerala who only can manage the work at Allappuzha. On the other hand, his non-availability after his retirement within less than two years will leave the so-called important post at Allappuzha high and dry. It would, therefore, have been much better if a Manager with a longer length of service left before retirement had been handpicked for the post at Allappuzha. Another feature of this case which has disturbed us is the frequent transfers to which he has been subjected ever since 1968.

-23-
Annexure-VIII

Between 1968 and 1990, in the course of 22 years the applicant had been subjected to 26 transfer orders including the impugned order in this case. During the last one year from 8-9-1989, itself he has been subjected to four transfer orders. In the conspectus of the facts and circumstances and keeping in view the human factor that the applicant had already undergone more than his share of transfers and he has less than two years to retire, we set aside the impugned order of transfer to Allappuzha and direct the respondents that the applicant should be retained at Trichur in the grade of Manager, Grade I, till his retirement unless his transfer is necessitated by any other unavoidable administrative exigencies.

[S. Krishnan v. Deputy Regional Director, ESI Corporation, Trichur and another, 1991 (1) SLJ (CAT) 336 (Ernakulam), date of judgment 23-11-1990.]

5. Transfer based on allegations of misdemeanour, mala fide and cannot be sustained.—Obviously, the transfer of the applicant was not made in the exigency of service or public interest. That is why in the impugned order of transfer it is not mentioned that in the interest of public service the transfer of this applicant was made. From all what has been mentioned above, it is clear that the impugned transfer was *mala fide* and was a penal one. It is not understandable as to why no disciplinary action was taken against the applicant when he was alleged to be guilty of various misdemeanours instead of taking recourse to an order of transfer to drive him out of this particular circle. So, it is clear therefrom that the impugned order of transfer was based on extraneous considerations and for achieving an alien purpose or an oblique motive. Such being the position, it would amount to *mala fide* and colourable exercise of power. It is clear from the aforesaid that the transfer of this applicant was not made in normal course or in public or administrative interest but for other purpose. Such being the position, we have no hesitation to conclude that the said transfer order cannot be sustained and the same is liable to be set aside.

[N.K. Suparna v. Union of India and others, (1991) 15 ATC 1 (Bangalore), date of judgment 13-7-1990.]

6. Denial of right to represent against an order of transfer, not tenable.—It is stated in the impugned order of transfer, dated 4-12-1990, that no representation whatsoever will be entertained. This is contrary to the decision of the Supreme Court in Gujarat Electricity Board v. Amaram Sungomal Poshani [1989 (10) ATC 396; 1989 (2) SCC 602; 1989 SCC (L&S) 393], wherein the Supreme Court has observed as follows: "Whenever a public servant is transferred, he must comply with the order but if there be any genuine difficulty in proceeding on transfer it is open to him to make a representation to the competent authority for staying, modification or cancellation of the transfer order." In view of the above observations of the Supreme Court, the stipulation in the impugned order of transfer, dated 4-12-1990 that no representation whatsoever will be entertained, is not legally sustainable. Every Government servant,

Trichur
Date
Signature

provided to the members of the public, and there cannot be any cause for complaint or grievance if the transfers are intended for improvement in the efficiency of service to the public.

[S.N. Dutta and others v. The Chief General Manager, Telecommunications, Andhra Pradesh and others, 1989 (2) SLJ (CAT) 122 (Hyderabad): (1989) 11 ATC 117.]

12. Frequent transfers in breach of Government instructions cannot be sustained.—The petitioner entered service as an Excise Sub-Inspector on 7-2-1964. By an order, dated 15-6-1984, he was transferred from Raigarh to Shahdol. On 31-3-1985, he was transferred from Shahdol to Bilaspur. He was promoted as Excise Inspector by order, dated 11-12-1985. He was then posted at Lakhanadon district, on 17-1-1986. On 1-8-1987, he was attached and posted as In-charge, Seoni Distillery and is now being transferred from Seoni to Shivpuri in July, 1988. The petitioner contended that the normal period of an officer at a station was 3 years according to General Book Circular, Part VI. He has, however, been frequently transferred without any rhyme or reason and, therefore, the last order transferring him to Shivpuri being contrary to the Government instructions should be quashed.

Held: there could be no dispute that no Government servant has an absolute right to be at a place of posting for three years or is not removable before the completion of this period. However, the Government has prescribed this period to be the normal period by executive instructions and in the absence of statutory rules they are binding and effective.

The respondent could not show why the petitioner is being transferred frequently. All that is said in the return is that the transfers are for administrative convenience or administrative exigency. Use of these terms alone would not be sufficient. To accept the contention, some material should have been placed before the Tribunal. That is not done.

It was also said that there was a complaint against the petitioner at Seoni which was under investigation. An unproved complaint can hardly be a ground to justify frequent transfers. It has got then to be accepted that the petitioner is a victim of frequent transfers in breach of Government instructions.

It follows, therefore, that the petitioner's transfer to Shivpuri has to be set aside and the respondent is directed to continue the petitioner at Seoni as an Excise Inspector.

[H.S. Ajmani v. State of M.P. and others, (1989) 9 ATC 122 (Jabalpur).]

13. Sending order of transfer to place where the employee is transferred but had not joined, not sufficient.—As per Rule 12 of the Railway Servants (Discipline and Appeal) Rules, 1968, any order imposing a penalty passed by the disciplinary authority shall be communicated to the railway servant. By its letter, dated 17-11-1970 and 19-11-1971, the Railway Board made it clear that as far as possible the actual service of an order imposing penalty is desirable and, therefore, with a view to ensuring actual service

of such order on the person concerned the authority should explore all the possibilities of serving the order. Some such modes of actual service have been indicated in the Railway Board's letter. The first one is that where the railway servant is present in office the order should be served on him in person. In case of his refusal to accept the same the fact should be recorded in writing and signature of the witnesses in whose presence such refusal is made should be taken. The next mode is that when the railway servant is not present in office the order should be communicated to him at his last known address by registered post with acknowledgement due. In case where the order sent per registered post is returned undelivered by the postal authorities it should be pasted on the notice board of the railway premises in which the employee concerned was working last as well as in a place in the last noted local address of the railway servant.

We do not find that in the matter of serving the order imposing the penalty on the applicant the respondent authorities had explored any of the aforesaid modes faithfully. Instead of displaying the order of imposition of penalty at the notice board of the applicant's office it was sent to the office where he was transferred but where he had never joined. We are constrained to hold that the respondents had not acted lawfully in the matter of communicating the order, imposing the penalty, to the applicant. So, when neither the charge-sheet nor any notice of the enquiry proceeding and the order imposing penalty of removal from service had been served on the applicant, everything would be liable to be quashed. The order removing the applicant from service cannot be made effective as it was never served on him.

[Amal Kumar Parial v. Union of India and others, (1989) 11 ATC 679 (Calcutta).]

14. Transfer of Railway servant at the request of his widowed mother, not a case of Own Expenses Transfer entailing loss of seniority.—The petitioner was selected as an Assistant Teacher, Grade IV, in the Primary School, Khurda and was confirmed on 1-12-1962. It is the case of the respondents that while working at Khurda the petitioner had requested to the appropriate authority to transfer him to Eastern Railway near Asansol Division as he belonged to Haragram village near Burdwan but his said application was not considered at all. Subsequently, his widowed mother appealed to the General Manager, South Eastern Railway on 3-6-1966, for transferring the petitioner to Adra as he being the eldest son and the only earning member, his presence near the family after his father's death was essential. This appeal was granted by the competent authority and the petitioner was transferred to Adra division. Pursuant to the aforesaid order the petitioner joined the Boys' Primary School at Adra on 17-9-1966.

On 1-1-1982, the respondents prepared a provisional seniority list of Grade IV teachers, wherein the petitioner's position was shown as No. 16 as his seniority was counted from 17-9-1966, the date on which he was transferred to Adra. The petitioner preferred an appeal for rectification of the mistake in the provisional panel stating that his name in the panel

True copy
JMS
Kumar