

50/100  
**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No.....45/2005

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SECTION OFFICER (Judl.)

01/11/17

4/1/3  
FORM NO.4  
(SEE RULE 42)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

ORDER SHEET

Original Application No. 15/05

Misc. Petition No.

Contempt Petition No.

Review Application No.

Applicants: Ajit Chakraborty  
U. O. T. Sons

Respondents

Advocates for the Applicant Mr. S. S. Anna, Mr. U.K. Nair  
B. Sharma, Arun C.

Advocates of the Respondents Cafe

Notes of the Registry

Date

Order of the Tribunal

File application No. 15/05  
is P.C.C.F. 15/05  
d. pos. Jyoti P. S.  
No. 206/116084

Dated 21/12/04

*22/12/05*  
S/o  
J. D. Dy. Registrar

22.02.2005

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

Heard Mr. U.K. Nair, learned counsel for the applicant and also Mr. G. Rahul, learned counsel for the respondents.

The application is admitted, call for the records. Issue notice to the respondents.

List on 4.3.2005 for orders.  
Interim prayer shall be considered on the next date.

Steps taken on

28/2/05

*28/2*

mb

*K. V. Prahladan*  
Member (A)

Notice of order  
sent to D/section  
for issuing to  
resp. Nos. 1, 2 & 3  
by regd. A/D post.

*U.P. D/No. 31360 315*  
*28/2/05 DT= 28/2/05*

4.3.2005 Present: Hon'ble Justice Shri G. Sivarajan, Vice-Chairman  
Hon'ble Shri K.V. Prahladan, Administrative Member.

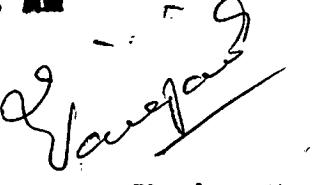
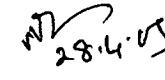
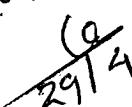
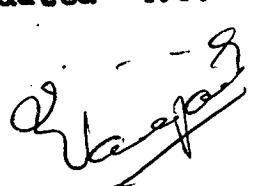
Heard Mr U.K. Nair, learned counsel for the applicant and Mr G. Rahul, learned counsel for the respondents. Learned counsel for the respondents submits that the transfer was made in public interest and that even the appointment order provides for transfer of the applicant to different places under the ICAR. Learned counsel for the respondents also submits that he has got all the relevant files. Learned counsel for the applicant then submits that the transfer is made malafide. He further submits that the Hon'ble High Court, finding that there is a prima facie case, granted stay and the applicant continued in the same post notwithstanding the relieve order dated 5.1.2005. The learned counsel for the applicant submits that the Writ Petition was withdrawn on the ground that the applicant has not approached this Tribunal at the first instance. Taking into account of the circumstances of the case we are of the view that the respondents must be directed to file a written statement in the matter. We accordingly adjourn the case to 15.3.05. In the meantime the applicant will be allowed to hold the post of Farm Manager (T-6), Poultry Division.

The written statement should be filed on or before 14.3.2005.

*14/3/05*  
Member

*22/3/05*  
Vice-Chairman

nkm

Notes of the Registry	Date	Orders of the Tribunal
order dt. 15/3/05 issued to both the parties.	15.03.2005	Present : The Hon'ble Mr. Justice G. Sivarajan Vice-Chairman. The Hon'ble Mr. K.V. Prahladan, Administrative Member.  Mr. G. Rahul, learned counsel for the respondents submits that some more time is required for filing <del>xx</del> written statement. Accordingly, post the matter on 31.03.2005. Interim order dated 4.3.2005 shall continue.
<u>30-3-05</u> no w/s to be filed	31.3.2005	 I.C.V. Prahladan Member (A) Vice-Chairman
<u>26-4-05</u> no w/s to be filed	27.04.2005	Mr. S. Sarma, learned counsel for the applicant and Mr. G. Rahul, learned counsel for the respondents were present. Post on 27.4.2005. Written statement if any, in the meantime.  Vice-Chairman
fil. simple order dated 27.4.05  28.4.05	27.04.2005	Mr. G. Rajul, learned counsel for the respondents is present. Ms. B. Devi, learned counsel appearing on behalf of Mr. U.K. Nair, learned counsel for the applicant submits that two weeks time is required for filing <del>x</del> rejoinder. Post on 13.5.2005. Interim order dated 4.3.2005 shall continue.
order dt. 27/4/05 issuing to learned advocates for both the parties.  29.4.05	13.5.2005	 written At the request of Mr. S. Sarma, learned counsel for the applicant the case is adjourned to 16.5.2005.  Vice-Chairman
w/s filed by the Respondent Nos. 1, 2 and 3. 		I.C.V. Prahladan Member Vice-Chairman

Notes of the Registry	Date	Orders of the Tribunal
<u>1/2-5-05</u> no responses have been received from the respondents.	16.5.2005	Learned counsel for the parties are present. Adjourned to 2.6.2005 for hearing. Respondents will make available the relevant records on that day.
<u>17.5.05</u> A. responder submitted by the applicant.	2.6.05	On the request of MR G.Rahul, learned counsel for the respondents the case is adjourned to 14.6.05.
<u>Case is ready for hearing.</u>	14.06.2005	Mr. S. Barma, learned counsel for the applicant seeks for a short adjournment. Learned counsel for the respondents has no objection. Post on 21.6.2005 for hearing.
<u>The case is ready for hearing.</u>	30.6.2005	post before the Single Bench on 1.7.2005.
<u>29.6.05</u>	1.7.2005	Heard Mr. U.K. Nair, learned counsel for the applicant and Mr. G. Rahul, learned counsel appearing for the ICAR. The transfer order at Annexure-8 shows that the applicant, Farm Manager (Poultry) of Tripura Centre is transferred to Manipur Centre with immediate effect. It is not clear

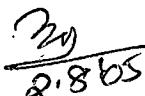
Contd.

1.7.2005 either from the transfer order or from the written statement filed by the respondents as to whether there is an existing post of Farm Manager (Poultry) at Manipur Centre or a post of Farm Manager has been created to accommodate the applicant prior to the transfer. Since there is no answer to this either in the transfer order or in the written statement, I am of the view that the respondents must be directed to file an additional affidavit explaining the said position. Accordingly, there will be a direction to the respondents to file an additional affidavit explaining the same.

Post on 3.8.2005.


 Vice-Chairman

The case is ready for hearing as regard W.L.S and rejoinder.


 2.8.05

bb

3.8.2005

Heard Mr. U.K. Nair, learned counsel for the applicant and Mrs. R.S. Choudhury, learned counsel assisted by Mr. G. Rahul, learned counsel for the respondents.

Hearing concluded. Judgment reserved.


 Member


 Vice-Chairman

bb

18.8.2005

Judgment delivered in open Court, kept in separate sheets. The application is allowed in terms of the order passed in separate sheets. No order as to costs.


 Member


 Vice-Chairman

mb

23.8.05  
copy of the Judgment handed over to the L.A.D. for the parties.

**CENTRAL ADMINISTRATIVE TRIBUNALGUWAHATI BENCH.**

O.A. No. 45 of 2005.

DATE OF DECISION: 18-08-2005.

Dr. Asit Chakrabarty

APPLICANT(S)

Shri S.Sarma & U.K.Nair

ADVOCATE FOR THE  
APPLICANT(S)

- VERSUS -

I.C.A.R. & Others

RESPONDENT(S)

Shri K.N.Choudhury, Mrs R.S.Choudhury &  
G. Rahul

ADVOCATE FOR THE  
RESPONDENT(S)

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

THE HON'BLE MR K.V.PRAHLADAN, ADMINISTRATIVE MEMBER

No | 1. Whether Reporters of local papers may be allowed to see the judgments?

Yes | 2. To be referred to the Reporter or not?

Yes | 3. Whether their Lordships wish to see the fair copy of the judgment?

Yes | 4. Whether the judgment is to be circulated to the other Benches?

*Ans*

Judgment delivered by Hon'ble Administrative Member

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

Original Application No. 45/2005

Date of Order : This the 18th day of August 2005.

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

The Hon'ble Mr. K.V. Prahladan, Administrative Member.

Dr. Asit Chakrabarty,  
Son of Shri Adhir Chakraborty,  
Resident of Dhaleswar, Agartala,  
Tripura. .... Applicant

By Advocate S/Shri S.Sarma & U.K.Nair.

- Versus -

1. Indian Council of Agricultural Research,  
Represented by Director General,  
I.C.A.R Complex,  
Pusa Road, New Delhi-12.

2. The Director, I.C.A.R (R.C)  
For N.E.H. Region, Umroi Road,  
Umiam, Meghalaya-793103.

3. The Joint Director, I.C.A.R. (R.C)  
For N.E.H. Region,  
Tripura Centre, P.O. Lembucherra-799210.  
P.S. Sidhai, Dist. West Tripura .... Respondents

By Senior Advocate Mr K.N.Choudhury and Mrs  
R.S.Choudhury & G.Rahul.

**O R D E R**

**K. V. PRAHLADAN, MEMBER (A)**

The applicant was appointed as Farm Manager  
(T-6) Poultry at Lembucherra, Tripura under the Indian  
Council of Agricultural Research (ICAR), NEH Region,  
Barapani, Meghalaya vide order dated 18.4.95 (Annexure-D). The applicant completed his Ph.D in 1999. The

applicant claims that under the Government of India Project, "All India Coordinated Research Project on Poultry" (AICRP), Lembucherra, Tripura was set up as the Centre for North Eastern States. Therefore the post of Poultry Manager (T-6) was specifically created for the Lembucherra Centre. The applicant was appointed under the AICRP Poultry Scheme. The applicant states that he has undergone advanced training course in Poultry Production and Management. He also claims that the Centre at Lembucherra is the only Centre for poultry Research and Management in North East. He states that he is the only person equipped to manage the post of Farm Manager, Poultry. The applicant has pointed out many acts of omission and commission on the part of Respondents, like denying him use of staff car to attend a farmers meet, not permitting him to attend a workshop on "Transfer of Technology in Dairying" as well as threatening him with dire consequences.

2. The applicant says he was shocked to receive his relieving order dated 5.1.2005 at 4 P.M. on the same date of issue (Annexure-6). The transfer order dated 3.1.05(Annexure-8) was served upon him on 12.1.05 only. He approached the Gauhati High Court (Agartala Bench) in W.P. (C) No.13 of 2005. He also filed a Misc. Application being C.M. Application No.11 of 2005 in the said Writ Petition. The Hon'ble High court stayed the relieving order of the applicant dated 5.1.05. The Writ

Petition was withdrawn on the ground that the applicant had not approached this Tribunal in the first instance.

3. The applicant claims that the Respondents want to use all the sanctioned funds as per his whims and caprices. So he wants the applicant out of the Lembucherra Centre. The applicant also has claimed that there is no facility as well as post of Farm Manager (T-6) at the Manipur Centre of the ICAR. The applicant claims that the transfer order was issued at the instance of Respondent No.3. The applicant says that the order of 3.1.05 and 5.1.05 are arbitrary, malicious, vindictive, whimsical and capricious and issued without any application of mind.

4. The respondents say that the applicant has been appointed as a Farm Manager (T-6) Poultry on a temporary basis vide order of 18.4.93 (Annexure-2). The appointment of the applicant was to ICAR and not to any specific Centre. As per clause 4 of the above order the applicant's headquarter was to be Tripura for the time being with transfer liability to any ICAR organisation anywhere in the country. The applicant had been adjusted against a vacant post under VII plan and not under AICRP in poultry as claimed by him. The respondents also claim that the applicant has nothing to do with research activities. The respondents also claim that they trained the applicant in poultry management with a view to use his expertise in other

*bw*

ICAR centers in North East. The respondents claim that the Director, ICAR is vested with the authority to transfer any official under him in public interest. It was in exercise of such powers that the applicant was transferred to Manipur in public interest. There is also no truth in the claim of the applicant that he was served with order of 5.1.05 first and then served order dated 3.1.05.

5. In the additional affidavit filed by the respondents with regard to the order of this Tribunal dated 1.7.05 whether a post of Farm Manager existed at Manipur or a post of a Farm Manager had been created there. The respondents in reply to the above order of this Tribunal has stated that the Director, ICAR has the full power to transfer an employee from one post to another as well as decide where his headquarters shall be. As per ICAR order dated 31.3.05 (Annexure-II to additional affidavit) :

*lwp*

"The matter regarding delegation of powers for redeployment of posts from one Institute to the other Institute has been under consideration of Council for quite some time. It has now been decided with the approval of the President of the Council that D.G., ICAR will be empowered to approve redeployment of a post from one Institute to another Institute with the FA's concurrence and within the Institute these decisions will be taken by the Director of the Institute."

Thus redeployment from one Institute to another will be under the control of the DG, ICAR. Intra institute transfers will be with Director of the Institute.

6. Heard both the learned counsel for the applicant and learned counsel for the respondents. The contention of the applicant basically are three, (i) He has been appointed as an expert in Farm Management at Tripura, (ii) There are no post of Farm Manager at Manipur and (iii) his transfer is arbitrary, vindictive, unfair and done without application of mind. The contention of the respondents are also basically three. (i) The appointment order of the applicant has contained the clause regarding transfer to any institute under ICAR anywhere in India, (ii) the management of the ICAR is vested with inter institute and intra-institute transfers in public interest and (iii) the services of the applicant is required to run the Manipur Centre. In the face of the conflicting claims above a close scrutiny of some of the official documents enclosed appears necessary. In the transfer order dated 3.1.05 the applicant is not only transferred, but also stands relieved with effect from 5.1.05. It is difficult to understand the logic of a transfer order of 3.1.05 where the officer transferred, but not handed over charge, already stands relieved with effect from 5.1.05. How can the applicant stand relieved on 5.1.05 by an order dated 3.1.05. This shows

*bwd*

that the respondents were apparently very keen to see the back of the applicant from Tripura as quickly as possible. In reply to the order of this Tribunal dated 1.7.05 on whether a post of Farm Manager existed or were to be created at Manipur, the Additional Affidavit has kept a complete silence. Instead the respondents have explained at length the authority of the ICAR management to transfer any employee to anywhere where their organisation exists. One of the grounds for judicial review of administrative action is "irrationality" (DDA v VEE Electricals Engg., AIR 2004 SC 2001). The transfer order of 3.1.05, on the face of it, appears totally irrational. The silence of the Respondents on whether a post of Farm Manager, Poultry (T-6) exists or is being created at Manipur shows that there is no post there and hence the transfer of a specialist in Poultry management to a place where neither any equivalent post exists nor any utilization of his expertise possible again points to the apparently high "irrationality" in the decision making process leading to the issuance of the transfer order. It also appears to be a misuse of powers by the respondents. Learned counsel for the respondents filed an additional Affidavit on 17.8.2005. According to this Affidavit, a post of Farm Manager (T-6) in the ICAR, Research Complex for NEH Region, Manipur Centre, Imphal has already been lying vacant since September, 2002.

The said vacancy has arisen due to the transfer of one Dr. B. K. Sarma who was initially appointed to the post of Training Associate T-6 (Agro). On a close reading of the Additional Affidavit it is found that the post of Farm Manager T-6 (Agro) at the Manipur Centre looks after the subject of Agronomy. The Shorter Oxford English Dictionary has defined Agronomy as "the management of land, rural economy". It is not understood how an expert in Poultry management can be posted to the post which deals with Agronomy.

7. In view of the above given factors, the office order dated 3.1.05 and 5.1.05 therefore, is apparently arbitrary, irrational and therefore unsustainable in law and liable to be quashed. The same are accordingly set aside and quashed. The applicant shall be allowed to continue in the post of the Farm Manager (T-6) Poultry at Lembucherra, Tripura.

The application thus stands allowed. No order as to costs.

*KV.Prahladan*  
( K.V.PRAHLADAN )  
ADMINISTRATIVE MEMBER

*G.Sivarajan*  
( G.SIVARAJAN )  
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

IN THE MATTER OF:

Original Application No. 45 of 2005

Asit Chakravorty

...Applicant

-Vs-

I. C. A. R. & ors

-AND-

IN THE MATTER OF:

An additional affidavit filed on behalf of the Respondents for bringing on records the fact that the applicant has been transferred against a vacant post in the grade of T-6.

ADDITIONAL AFFIDAVIT

I, Dr Dinesh Chandra Saxena, son of Late S. C. Saxena, aged about 57 years, presently serving as Senior Scientist (Agronomy), Indian Council of Agricultural Research (Regional Centre) for NEH Region, Umiam, Meghalaya, do hereby solemnly affirm and state as follows :

1. That I have been duly authorized by the Director of the Indian Council of Agricultural Research (Regional Centre) for NEH Region, Umiam, Meghalaya, to file this instant affidavit for bringing on records of the present case the fact that the applicant who was transferred to the Manipur Centre from Tripura Centre vide order dated 03.01.2005 was in fact transferred against an existing vacant post of Farm Manager in the T-6 grade.
2. That a post of Farm Manager T-6 in the ICAR, Research Complex for NEH Region, Manipur Centre, Imphal has been lying vacant since September 2002. The said vacancy had arisen by virtue of transfer of one Dr. B. K. Sarma who was initially appointed to the post of Training Associate T-6 (Agro) in the year 1990. The said Dr. B. K. Sarma was later on upgraded to Grade T-7 under the Career Progression Scheme and as such it may be stated herein that the grade of T-7 was personal to him as he was allowed the time scale in terms of

Filed by  
The Respondents  
through  
Chakravorty

Ms. R. S. Choudhury  
Advocate  
17/8/05

Rule 6.6 and 7.2 of the Technical Service Rules of the ICAR. This implies that although Dr. B. K. Sarma's scale of pay was upgraded to scale of T-7, yet he continued to serve in the post of Grade T-6 to which he was originally appointed.

A copy of the appointment order dated 28.11.1990 of Dr.B.K.Sharma and his relieving order dated 07.09.2002 are annexed herewith and marked as **ANNEXURE-I & II** respectively.

3. That the applicant who is now transferred to the Manipur Centre in the T-6 grade shall be adjusted against the aforesaid post of Farm Manager T-6 which has been lying vacant due to transfer of Dr. B. K. Sarma in the year 2002. It is stated that no other incumbent has been appointed against the said vacancy till date. It is most respectfully submitted that this Hon'ble Tribunal may be pleased to take into account the instant affidavit while adjudicating upon the issues involved in O.A. No.45/2005.
4. That the statements made in this paragraph and in paragraphs 1 and 3 (partly) hereinabove are true to my knowledge and those made in paragraphs 2 and 3(partly) are true to my information derived from records which I believe to be true and rest are my humble submissions before this Hon'ble Tribunal.

And I sign this additional affidavit on this 17 day of August.2005 at Guwahati

*Dinesh Chandra Sarma*

Identified by

DEPONENT

# ANNEXURE - T

INDIAN COUNCIL OF AGRICULTURE RESEARCH  
ICAR Research Complex for N.E.H. Region  
Umroi Road, Darjeeling, Meghalaya

No. RC(P) 46/81

Dated Barapani, the 28th Nov. '90.

## OBITUARY

The Director, ICAR Research Complex for NEH Region, Barapani is pleased to appoint Shri B. K. Sarmah temporarily to the post of Trg. Associate, T-6 (Agron.) in the scale of pay Rs.2200-75-2000-EB-100-4000/- p.m. plus usual allowances as admissible in ICAR under the ICAR Research Complex for N.E.H. Region, Manipur Centre with effect from the forenoon of 26.3.90 on the terms and conditions contained in this Complex Memo. No. RC(E) 7/89 dated 16.3.90. His Hqrs. will be at K.V.K., Manipur Centre, Imphal until further orders.

Shri B. K. Sarmah will draw pay at the initial stage of Rs.2200/- p.m. with effect from 26.3.90 (F.N.).

*S. K. S.*  
Administrative Officer

### Copy to :-

1. The Finance & Accounts Officer, ICAR Research Complex for N.E.H. Region, Barapani.
2. Shri B. K. Sarmah, Trg. Associate, T-6 (Agron.), K.V.K., Manipur Centre, ICAR Research Complex for N.E.H. Region, P.O. Babupara, Imphal, Manipur.
3. The Joint Director, Manipur Centre, ICAR Research Complex for N.E.H. Region, P.O. Babupara, Imphal, Manipur. with reference to his letter No. ARC(P) 18/90/578 dated 6.6.90/9.7.90 and 23.8.90. The fixation of pay will be done within a short time.
4. The Dealing Hand (Recd.), ICAR Research Complex for N.E.H. Region, Barapani.

*Q/A*  
Certified to be true copy

*Rakhee Sironthi Chowdhury*  
ADVOCATE

# ANNEXURE-II

ICAR RESEARCH COMPLEX FOR NEH REGION  
MANIPUR CENTRE, LAMPHELPAT,  
IMPHAL-795 004

10/9/02-

No. ARC(P)/18/90/

Date 7<sup>th</sup> Sept. 2002.

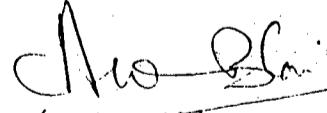
## OFFICE ORDER

In compliance with ICAR, New Delhi letter No. 31(Sr.Sci.)6/99 Per II dated 20<sup>th</sup> Aug. 2002, Dr. B.K.Sharma, T-7(Agro.) & Farm Manager i/c, ICAR Research Complex for NEH Region, Manipur Centre, Imphal is hereby relieved of his duties at Manipur Centre on the afternoon of 7<sup>th</sup> Sept. 2002 to enable him to join for duty in the post of Senior Scientist (Agril.Extn.) at Zonal Co-ordinating Unit, TOT Project, Zone III, ICAR Research Complex for NEH Region, Barapani.

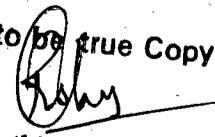
(A.B.Rai)  
Joint Director

Memo No. ARC(P)18/90/ 553 Dt 7<sup>th</sup> Sept 2002  
Copy to :-

1. Dr B.K.Sharma, T-7 (Agronomy) and Farm Manager i/c, ICAR Research Complex for NEH Region, Manipur Centre, Imphal along with No Dues certificate, certificate of transfer charge for information and necessary action.
2. The Director, ICAR Research Complex for NEH Region, Umroi Road, Umiam - 739103, Meghalaya along with No Dues Certificate and certificate of transfer charge for information
3. FAO, ICAR Research Complex for NEH Region, Umroi Road, Umiam - 739103, Meghalaya along with No Dues Certificate and certificate of transfer charge for information
4. Zonal Co-ordinator, Zonal Co-ordinating Unit, TOT Project, Zone-III, ICAR Research Complex for NEH Region, Barapani for information.
5. KVK i/c ICAR Research Complex for NEH Region, Manipur Centre, Imphal for information.
6. Shri N.Arunkumar Singh, T-6 (Agril.Extn.) ICAR Manipur Centre, Imphal for information and taking over the charge from Dr B.K.Sharma, T-7 (Agron.) as per procedure.
7. Bill Section, ICAR Research Complex for NEH Region, Manipur Centre, Imphal.

  
(A.B.Rai)  
Joint Director i/c

19997  
10/9/02

  
Certified to be true Copy  
Rakesh Srivastava Chowdhury  
ADVOCATE

**DELEGATION OF POWERS**

1	2	3	4
4.	Power to transfer a lien (FR 14-B)	Full powers; provided that he is authorised to make appointments to both the posts concerned	
5.	Power to transfer an employee from one post to another (FR 15)	Full	
6.	Power to fix the pay and allowances of a Council's servant treated as on duty (FR 20)	Full powers for all employees posted at the Institute unless otherwise directed irrespective of the fact whether Director is empowered to make substantive appointment to the post or not subject to following GOI/ ICAR instructions issued from time to time	
7.	Power to sanction annual increments (FR 24)	Full powers to allow normal increments unless there is an order to withhold the same for which sanction of the competent authority is necessary.	
8.	Power to allow an employee to draw increment next above the Efficiency Bar (FR 25)	The increment next above the EB will also be released after the sanction of the competent authority	
9.	Power to allow an employee to count extraordinary leave for increments (FR 26)	Full in cases where Director is the competent authority to sanction extraordinary leave (order dt 30.1.87)	
10.	Power to grant premature increment on a time scale of pay (FR 27)	Grant of higher initial pay on initial appointment not exceeding 5 increments in the case of direct recruits only, provided appointment is to the post created under own powers	

Complex For N.E.H. Regions

Uttaranchal  
Meghalaya

Attested  
Chairman on 05/01/2000  
Jalalpur Paryavaran Paryavaran

2	3	4
11. Power to reduce the pay of an officiating employee (FR 35)	Full powers if he is empowered to make an officiating appointment in the post concerned	
12. Power to sanction the undertaking of work for which an honorarium is offered and the grant or acceptance of an honorarium (FR 46(b))	Full power up to a maximum of Rs 2,500 in each case. In the case of recurring honorarium this limit applies to the total of the recurring payments made to an individual in a year (order dt 30.1.87)	
13. Power to appoint a Council's employee to hold temporarily or to officiate in more than one post and to fix the pay of subsidiary posts and the amounts of compensatory allowance to be drawn (FR 49)	Full powers provided he is empowered to appoint a Council's servant permanently to each of the posts concerned	
14. Power to retain a Council's employee other than ministerial servants, in service after the age of 58 years (FR 56(a))	Full powers in the case of employees of non-Gazetted status provided the extensions are limited to the period of one year at a time. This is subject to orders issued by Ministry of Home Affairs from time to time	The powers delegated against items 14, 15 & 16 will be exercised subject to observance of the procedure and restrictions contained in Govt. of India, Min. of Home Affairs O.M.No. 26/11/68- Esst. (B) dated 17.6.69 and such other restrictions as are imposed from time to time
15. Power to require a medical certificate of fitness before	Full, if he is empowered to grant leave	

19

DELEGATION OF POWERS

1	2	3	4
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return from leave  
(FR 71)

16. Power to sanction  
casual leave

3

4

Full, including for himself

17. Power to sanction  
Earned Leave  
(SR 206 & 208)

Full powers to grant  
leave including special  
disability leave, excepting  
for himself provided no  
officiating arrangements  
are involved in respect  
of posts which the Director  
is not competent to fill up.  
(This includes sanctioning  
of study leave and extra  
ordinary leave for pursuing  
higher studies. The exercise  
of this power will be subject  
to observance of all relevant  
rules of Govt. of India/  
Council in this regard)  
(Order dt. 4.2.93)

18. Power to extend  
leave (FR 73)

Full powers, provided the  
original leave was sanc-  
tioned by the Director and  
the employee on his return  
will be under his adminis-  
trative control.

19. Power to sanction  
transfer to foreign  
service in India  
(FR 110(c))

Full powers in the  
case of employees  
for whom Director is  
the appointing authority

20. Power to fix pay in  
foreign service

Full powers subject to  
observance of rules and  
orders issued by Ministry  
of Finance/Home Affairs

21. Power to sanction  
the undertaking of  
work for which a

Up to a maximum of  
Rs 2,500 in each case  
except in their own

Subject to the  
conditions laid down  
(SR 11 & 12)

Attested  
Original  
2/11/02  
RJ (P.T.) / Asst. Admn. Officer (Admn.)  
Complex 57, Sector 53, N.E.H. Region,  
Mizoram

1	2	3	4
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fee is offered and the acceptance of fee (SR 11)

cases for which Council's approval is necessary. In the case of recurring fees, the limit would apply to the total amount of recurring payment made to an individual in a year

22. Power to decide the shortest of two or more routes (SR 30(b))

Full powers for journeys within their jurisdiction

23. Power to allow mileage allowance to be calculated by a route other than the shortest or cheapest (SR 31)

Full powers for journeys within their jurisdiction, provided that the selection of such route is in the interest of the Council

TA by longer route is not admissible in cases where the journey cannot be performed by the shortest route due to non-availability of reserved accommodation of the entitled class by that route

24. Power to decide in cases of doubt or hardship, the class of steamer accommodation to which a Council's employee is entitled (SR 42)

Full

25. Power to sanction travel by air (SR 48(b) (ii))

The Directors of IARI, IVRI and NDRI and deemed universities will have full power. The Director of other Institutes will have power in respect of tour journeys on the routes for which general permission is granted by orders issued by Govt. from time to time. This power may be

Attested  
M. M. L.  
M. M. L. (M. M. L.)  
Asst. Admn. Officer  
Complex for N.E.H. Region  
Meghalaya

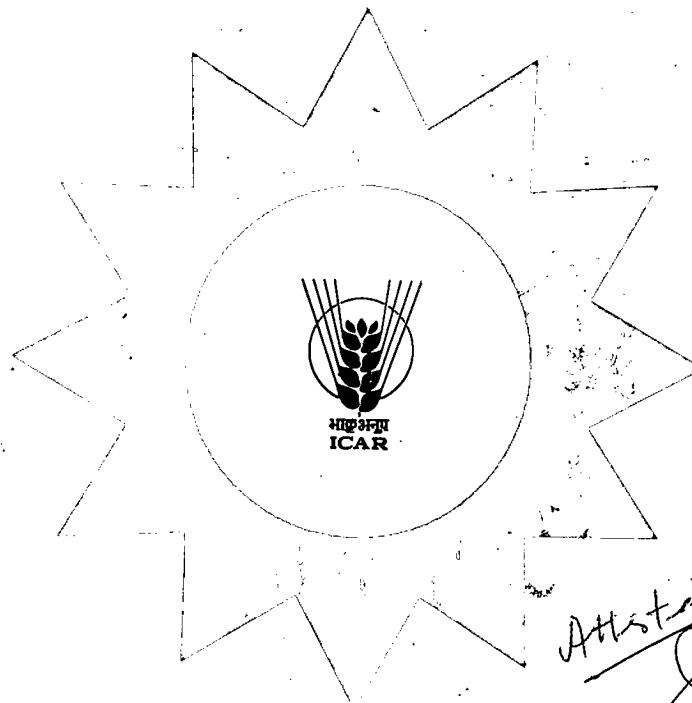
1 2

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4

			excrcised in respect of the officers of the grade for whom the general permission is given Order dt. 4.2.93 No. 6-2/90 Cdn (A&A)
26.	Power to sanction of refund of cancella- tion charges on air ticket (including himself)	Full, subject to the conditions mentioned in Govt. of India/Min. of Finance OM No. 19028/5/76 E IV- (B) dt. 21.1.77, ICAR order dt. 30.1.87	
27.	Power to prescribe Headquarters of the Council's employees (SR 59)	Full powers	<i>Adm. 5/76</i> <i>21/1/77</i> <i>Adm.</i> <i>Complex for N.E.H. Region</i> <i>ICAR</i> <i>Complex for N.E.H. Region</i> <i>ICAR</i>
28.	Power to define the limits of Council's employees' sphere of duty (SR 60)	Full powers	
29.	Power to decide whether a particular absence is absence on duty (SR 62)	Full powers	
30.	Power to restrict the frequency and duration of journeys (SR 63)	Full powers	
31.	Power to grant exemp- tions from the rule limiting a halt on tour to 10 days (SR 73)	Full to the extent and subject to the conditions prescribed by Govt. of India/ ICAR from time to time	
32.	Power to allow the actual cost of maintain- ing a camp during a	Full powers	

# DELEGATION OF POWERS



*Attested*  
*Chintan*  
*34/07/05*

स. प्रसा. अधिकारी (प्रसा.) / Asst. Admin. Officer (Admn)  
भा. कृ. अनु. प.उ. पूर्ण पर्वतीय अनुसंधान परिसर.

INDIAN COUNCIL OF AGRICULTURAL RESEARCH  
NEW DELHI

### Schedule III

Powers\* delegated to the Directors of Research Institutes/Laboratories [vide ICAR letter No. F. 11(4)/75-Cdn (A&A) dt. 1.4.1977 (Appendix I) and modified vide Order No. 6-2/90-Cdn (A&A), dt. 4.2.1993, 28.5.1993 and 29.3.1994, OO No. 6-3/92-Cdn (A&A) dt. 28.7.1992]

S. No.	Nature of power	Extent of power	Remarks
1	2	3	4
<b>I Powers under Fundamental Rules and Supplementary Rules:</b>			
1.	Grant of special pay to LDC/UDC/Asstt..appointed to perform the duties of Cashier	Full powers including allowing special pay for a period of 30 days and above subject to the provisions in FR & SR and other conditions laid down by the Govt. of India, Ministry of Finance, and rates prescribed for the purpose from time to time	Full powers including allowing special pay for a period of 30 days and above subject to the provisions in FR & SR and other conditions laid down by the Govt. of India, Ministry of Finance, and rates prescribed for the purpose from time to time Officer (Admin) / Asstt. Admin. Officer (Admin) प.उ. पूर्वी पर्वतीय अनुसूचना परिसर. Arch Complex For N.E.H. Regions ललितपुर, Meghalaya
2.	Power to dispense with medical certificate of fitness before appointment to Council's Service in individual cases (FR 10)	Full powers in the case of employees for whom Director is the appointing authority	Full powers in the case of employees for whom Director is the appointing authority
3.	Power to suspend a lien (FR 14)	Full powers, provided the Director is authorised to make appointment to the post on which the lien is held	Full powers, provided the Director is authorised to make appointment to the post on which the lien is held

\* The powers will also be exercised by the following:-

- (i) Project Director, ICAR Research Complex for NEH Region, Shillong.
- (ii) Project Director for All-India Co-ordinated Research Project for Dryland Agriculture, Ambedkar Hyderabad.
- (iii) Project Director for All-India Co-ordinated Rice Improvement Project, Hyderabad.
- (iv) OSD, Central Staff College for Agriculture, Hyderabad.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

IN THE MATTER OF :

Original Application No. 45 of 2005

Asit Chakravorty

...Applicant

Fixes By:

The Respondents

Through

Hon. R.S. Choudhury  
Advocate  
03/08/05

-Vs-

I. C. A. R. & ors

-AND-

IN THE MATTER OF :

An additional affidavit / written statement filed on behalf of the Respondents pursuant to the direction of this Hon'ble Tribunal vide order dated 01.07.2005.

ADDITIONAL AFFIDAVIT / WRITTEN STATEMENT

I, Dr Kamal Malla Bujarbaruah, son of Late Annada Malla Bujarbaruah, aged about 54 years, presently serving as the Director, Indian Council of Agricultural Research (Regional Centre) for NEH Region, Umiam, Meghalaya, do hereby solemnly affirm and state as follows :

1. That the aforesaid Original Applicant came up for hearing on 01.07.2005. During the course of arguments, it transpired that the applicant had been transferred to the post of Farm Manager (Poultry) at Manipur Centre. However, it was not evident as to whether there was an existing post or a post of Farm Manager had been created to accommodate the applicant prior to transfer. This Hon'ble Tribunal directed the Respondents to file an additional affidavit to explain the said position vide order dated 01.07.2005. Hence this additional affidavit / written statement is being filed to place on record the information so desired by this Hon'ble Tribunal.

2. That the respondents state that as has been stated in the written arguments submitted earlier by the Respondents, transfer orders of all incumbents serving in ICAR are inter-institutional and not inter-post. It is further stated that the ICAR follows an Annual Direct Recruitment Plan whereby posts in various Cadres / Grades are sanctioned to the 'Institute' concerned. In the present case the 'Institute' at Borapani being the Head Quarters for all the 7 States, the sanctioned posts are granted to the Regional Centre / Institute of Borapani.

A copy of the ARDP Scheme for 2002-2003 for the T-6 Grade is annexed herewith and marked as  
**ANNEXURE-I**

3. That thereafter, such sanctioned posts are placed at the disposal of the Directors of the Institutes. As per the Powers delegated to the Directors of Research Institute vide ICAR letter No. F.11 (4)/75-Cadre (A&A) dated 01.04.1977 and the modifications so issued thereafter, the Director of an Institute has been granted the full power to transfer an employee from one post to another as per Powers granted under Fundamental Rules and Supplementary Rules in Schedule III of the said Notification. It is further pertinent to note that the Director has also been fully empowered as per clause 27 of the said delegated powers, to prescribe the headquarters of the Councils employees. It is therefore evident that once the posts are sanctioned for the Institute, it is the prerogative of the Director of the Institute to place any incumbent / employee at any of the Regional Centres. As such, although the applicant was initially appointed against the post Farm Manager (T-6) Poultry for the Tripura Centre, his services now being required at the Manipur Centre for continuation of the Jayvigyan Programme, he has been transferred and posted at Manipur. Infact, the advertisement so issued by the Director was in itself very specific about the number and place of posting being subject to change. As such, the applicant having accepted the terms and conditions of the advertisement as well as the appointment order is therefore estopped from challenging the same only because the said transfer is not to his convenience.

4. That the deponent / answering respondent further states that subsequent to the filling of the present Original Application the ICAR vide Office Order under F-No.6-1/2004-CDNCA&A) dated 31.03.2005 has further clarified the matter relating to the delegation of powers for redeployment of posts from one Institute to other Institute. The said notification categorically states that "It has now been decided with the approval of the President of the Council that Director General, ICAR will be empowered to approve re-deployment of a post from one Institute to another Institute with the Financial Adviser's

concurrence and within the Institute these decisions will be taken by the Director of the Institute."

As such no ambiguity remains regarding the powers of the Director to transfer /post / deploy an employee at any of the centres or to place the post at the disposal of whichever Centres of the Institute.

A copy of the said office order dated 31.03.2005 is annexed herewith and marked as **ANNEXURE-II**

5. That the statements made in this paragraph and in paragraphs 1, 3 (Pt)..... hereinabove are true to my knowledge and those made in paragraphs 2, 3 (Pt), 4..... are true to my information derived from records which I believe to be true and rest are my humble submissions before this Hon'ble Tribunal.

And I sign this additional affidavit on this 29<sup>th</sup> day of July 2005 at Guwahati

Identified by



DEPONENT

(31D)

ADRP 2002-03  
GROUP 'A' POSTS  
TECHNICAL

Post	Name of the Institute / Hqrs.	Sanctioned Strength*	Vacancies arisen*	Vacancies approved to be filled up	Number of posts abolished	Revised Sanctioned Strength
1-8 (Rs.10000-15200)	IARI	02	01	00	01	01
CPPRO (Rs.10000-15200)	ICAR HQ	01	01	01	00	01
1-7 (Rs.10000-15200)	NIRJAFT	01	01	00	01	00
	IISADI	05	01	01	00	05
	RC PATNA	03	02	00	02	01
1-6 (Rs.8000-13500)	CMFRI	16	04	00	04	12
	CIFA	12	02	00	02	10
	ILRI	03	03	00	03	00
	CPCRI	11	02	00	02	09
	CARIPB	07	01	01	00	07
	NDRI	46	04	00	04	42
	CIRG	05	01	00	01	04
	CARI, IZT	09	01	00	01	08
	CSSRI	04	02	00	02	02
	NBSSLUP	20	01	00	01	19
	CAZRI	22	01	00	01	21
	RC Barapani	32	03	01	02	30
	RC PATNA	04	02	00	02	02
	IARI	26	01	00	01	25
	IGFRI	05	01	00	01	04
	DOR	01	01	00	01	00
	NAARM	08	01	00	01	07
	ICAR HQ	14	01	00	01	13
GRAND TOTAL		257	38	04	34	223

OTHERS GROUP 'A' POSTS

Name of the post	Name of the Institute	Sanctioned Strength*	Vacancies arisen*	Vacancies approved to be filled up	Number of posts abolished	Revised Sanctioned Strength
Law Officer (Rs.8000-13500) / Admin. Cat.	IARI	01	01	01	00	01

COMBINED CADRE OF AO and F&AO

Name of the post	Total Sanctioned Strength	Vacancies arisen	Vacancies approved to be filled up	Number of posts abolished	Revised Sanctioned Strength
Combined Cadre	147	02	02	00	147

\* Based on the information furnished by the Institute / SMD concerned.

**Certified to be true copy**

*Rakhee Srauthia Chowdhury*  
ADVOCATE

*✓ (Rakhee)*

INDIAN COUNCIL OF AGRICULTURAL RESEARCH  
KRISHI BHAWAN : NEW DELHI

F.No. 6-1/2004-CDN(A&A)

Dated: 31.3.2005

OFFICE ORDER

The matter regarding delegation of powers for redeployment of posts from one Institute to the other Institute has been under consideration of the Council for quite some time. It has now been decided with the approval of the President of the Council that D.G., ICAR will be empowered to approve re-deployment of a post from one Institute to another Institute with the FA's concurrence and within the Institute these decisions will be taken by the Director of the Institute.

(B.L. JANGIRA)  
DIRECTOR (FINANCE)

DISTRIBUTION:

1. All Directors of ICAR Research Institutes/NRCs/PDs/Bureaux.
2. All Finance and Accounts Officers of ICAR Research Institutes/ NRCs/PDs/Bureaux.
3. All Officers/Sections in ICAR Krishi Bhawan including KAB-I&II.
4. N.D., NATP.
5. P.P.S. to Chairman, ASRB.
6. P.S. to A.S. & F.A., ICAR/NARE.
7. Secretary(staff side), CJSC/Secretary (admin side), HJSC, ICAR.
8. Guard file.
9. Spare copies (25).

SPB  
SP 21/3/05  
Lk  
1. brief up.

OO  
21/4/05

AO

523

SRB  
for nfa pl.  
SPB  
02/5/05

Certified to be true Copy

Rakhee Sravastha Chowdhury  
ADVOCATE

130

## NOTICE

From: Mrs. R. S. Chowdhury,  
Advocate

To, Mr. U. K. Nair,  
Advocate

Sub: O.A. No. 45/2005

Sri Asit Chakraborty ... Applicant

- VERSUS -

I.C.A.R. and ors. ... Respondents

Sir,

Please find herewith a copy of additional affidavit filed by the respondents.  
Kindly acknowledge receipt of the same.

Thanking you,

Yours faithfully,

  
(Mrs. R. S. Chowdhury),  
Advocate

Received copy

u. k. nair  
(u. k. nair)  
3/8/05

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Filed by  
The Respondent  
Thengy Jyotanu Pahal  
Advocate  
V/7/05

O.A. No. 45/2005

Shri Asit Chakraborty

-Vs-

I.C.A.R. and ors

**WRITTEN SUBMISSION ON BEHALF OF THE RESPONDENTS**

**I. FACTS:**

1. The Indian Council of Agricultural Research, hereinafter referred to as ICAR in short, issued an advertisement inviting application for two posts of Farm Manager in the grade of T. – 6. Although, in the advertisement it was mentioned that the original places of posting would be Lembucherra in Tripura and Basar in Arunachal Pradesh, it was specifically mentioned in the said advertisement itself under the heading "General Information" at Clause 13 that "The number of posts and places of posting are subject to change".

**(Annexure 1, page 19 of O.A.)**

2. The applicant applied pursuant to the aforesaid advertisement and on being selected, the ICAR issued an offer of appointment vide Memorandum No. RC(R) 14/94 dated 18.04.95 inter alia laying down the terms and conditions. At clause 4 of the said terms and conditions it was specifically laid down as under:

" His/Her headquarters will be at Tripura Centre for the present, but he/she will be liable to serve in any Institute and/or Office of the Indian Council of Agricultural Research, located any where in India".

It is pertinent to state at this stage that the applicant was given the said offer of appointment by adjusting him against the vacant post of Farm Manager (T-6) Poultry under KVK VIIth Plan. It was further mentioned in the said offer of appointment that if the said offer is acceptable as per the terms and conditions laid out he should intimate his acceptance to the Director immediately and report for duty before the Joint Director, ICAR, Tripura Centre.

**(Annexure-2, Page 20 of O.A.)**

3. In the meantime, in the Manipur Centre, "NATP Project on Jay Vigyan for household food and nutritional security under MM-III (Poultry)" was initiated and the same achieved sufficiently good results. However, the Project was scheduled to expire on 31.12.2004. Considering the results achieved under the said Project and the impact that was created, a proposal was mooted for continuance of the said Project. It was also considered expedient to support the said Project from the Institution side. Under this circumstances deliberations and discussions took place and considering the administrative exigencies and public interest involved, it was decided to transfer the applicant from Lembucherra, Tripura to Manipur. Consequently the Director, who is the competent authority, in public interest, issued the Order No. RC(P) 8/95 dated 03.01.2005 transferring the applicant to the Manipur Centre w.e.f. 05.01.2005. (**Annexure-8 page 29 of O.A.**).

Pursuant thereto the Joint Director, ICAR, Tripura Centre issued the order dated 05.01.2005 relieving the applicant from ICAR, Tripura Centre to enable him to join at ICAR, Manipur Centre (**Annexure-6, page 26 of O.A.**)

## **II. CONTENTIONS OF THE APPLICANT WITH SUBMISSIONS OF THE RESPONDENTS IN REPLY THERETO.**

1. The primary contention of the applicant is that he was appointed as Farm Manager (T-6), Poultry at Lembucherra, Tripura and therefore he cannot be transferred out of the Tripura Centre.

### **Reply:**

(a) The offer of appointment itself, particularly the terms and conditions laid down therein makes it clear that the applicant is liable to be transferred to any Institute of ICAR located anywhere in India. The applicant has willingly and being fully aware and conscious accepted the said offer of appointment. Hence, the application itself is hit by the doctrines of waiver, estopped and approbation and reprobation.

#### **(i) Waiver:**

Having been fully aware that his appointment carries with it the liability of being transferred to any Institute in India and having willingly accepted the same the applicant has waived his right to question the validity of the transfer Order dated 03.01.2005

on the ground as indicated above. The application of this doctrine has been crystallized and categorically laid down in a catena of Judgement by the Apex Court including the once given below:

AIR 1957 SC 425 pr. 8 and 9

AIR 1976 SC 2428 pr. 11, 14 and 15

AIR 1986 SC 1043 pr. 23

(1995) 3 SCC 486 pr. 9, 10 and 17

AIR 1978 SC 28

(ii) Estoppel:

The applicant having accepted the offer of appointment with the terms and conditions laid down therein have intentionally caused the ICAR to act upon such acceptance. As such, the applicant cannot be allowed to question the liability of transfer to any other Institute in India. In other words the applicant is estopped from questioning the order of transfer dated 03.01.2005. For better appreciation of this submission of the Respondents, reference may be made to Section 115 of the Indian Evidence Act, 1872.

(iii) Approbation-Reprobation:

The applicant having accepted all the other terms and conditions of the offer of appointment he cannot be allowed to question his liability to be transferred. As per the terms and conditions laid down in clause 4 of the offer of appointment dated 18.04.95.

2. The Second contention of the applicant is that the Order of transfer dated 03.01.2005 is vitiated by malafides.

**Reply:**

The applicant has miserably failed to substantiate, let alone established as to how the transfer order dated 03.01.2005 is vitiated by malafides. The applicant has made mere vague allegations and insinuations. The Hon'ble Supreme Court in the case of Rajendra Roy -vs- Union of India and another reported in (1993) 1 SCC 148 has categorically held at even to draw an inference of malafides/malice there must be a firm foundation of facts pleaded and established. Such inference cannot be drawn on the basis of insinuations and vague allegations. As such, the said contention of the

applicant as indicated above has no legs to stand on and the same is liable to be rejected outright.

3. The third contention of the applicant is that order of transfer dated 03.01.2005 is a cryptic one and it does not disclose to which post the applicant has been transferred to in the Manipur Centre.

**Reply:**

Firstly be it submitted that transfer orders of all incumbents serving in ICAR are inter Institutional and not inter post. This aspect of the matter will be clear from another Order passed in respect of another employee of ICAR annexed to the Written Statement as Annexure-A at page 8 therein. Moreover, as has been indicated herein above, the applicant has been transferred to Manipur Centre in order to facilitate a Poultry Project undertaken by the Manipur Centre. The transfer order has apparently been issued keeping in mind the administrative exigencies and public interest. The answering respondents at the stage humbly beg to rely on the settled position of law that has been further reiterated and crystallized in the case of Union of India and ors –Vs- S.L Abbas reported in (1993) 4SCC 357 wherein the Apex Court held that “Who should be transferred where, is a matter for the appropriate authority to decide”. In the instant case the Director, ICAR NEH Region is apparently the appointing authority. In terms of the Handbook of Technical Services, ICAR and the Director has been vested with full powers to transfer an employee. As such, the answering respondents humbly submit that the applicant has failed to make out any case necessitating interference with the transfer order dated 03.01.2005. Hence the Original Application is liable to be dismissed by vacating the interim order passed in favour of the applicant.

21 FEB 2005

ગુજરાતી પાત્ર માટે

Gujarati Report

THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH  
GUWAHATI

Q.A. No. 45 of 2005

Sri Asit Chakraborti

... Applicant

- Vs -

ICAR & Ors.

... Respondents

### S Y N O P S I S

The applicant has by way of this application assailed the arbitrary and illegal action on the part of the Respondent authorities in proceeding to issue an order of transfer dated 3.1.2005, by which he is being sought to be transferred to the ICAR, Research Centre for the N.E.H Region, Manipur Centre, Imphal.

The applicant who was specifically selected and appointed as Farm Manager(T-6) Poultry against a post available and created for the purpose of Poultry Management and Production at the ICAR, Research Centre for the N.E.H Region, Tripura Centre, Lembucherra, is being now sought to be transferred out of the said post without any justification and the said transfer is opposed to public interest. It may be mentioned here that in addition there being no mention of the post to which the applicant has been transferred to in the order dated 3.1.2005, there is no project for poultry management and production in operation at the Manipur

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Centre and there exists no post of Farm Manager(T-6) Poultry at the Manipur Centre. The post of Farm Manager(T-6) Poultry exists only at the Tripura Centre and the Poultry project as is currently on at the said centre is for the whole of the North Eastern Region.

The applicant had earlier approached the Hon'ble Gauhati High Court (Agartala Bench) by way of a Writ Application and the said Hon'ble Court was pleased to stay the effect and operation of the order by which the applicant was sought to be relieved from the post currently being held by him. The applicant however withdrew the said writ application with liberty to approach this Hon'ble Court and as such this Original Application.

THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH  
GUWAHATI

Case No. of 2005

Sri , Asit Chakraborti

... Applicant

- Vs -

I C A R & Ors.

... Respondents

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Filed by: U. K. Nair

Advocate.

THE CENTRAL ADMINISTRATIVE TRIBUNAL: :GUWAHATI BENCH  
GUWAHATI

D.A. No. 45 of 2005

BETWEEN

Dr. Asit Chakrabarti  
Son of Shri Adhir Chakraborty,  
Resident of Dhaleswar; Agartala,  
Tripura.

.....Applicant

-AND-

1. Indian Council of Agriculture Research,

Represented by Director General,  
I.C.A.R. Complex,  
Pusa Road, New Delhi-12.

2. The Director, I.C.A.R. (R.C)

For N.E.H. Region, Umroi Road, Umiam,  
Meghalaya-793103

3. The Joint Director, I.C.A.R. (R.C)

For N.E.H. Region,  
Tripura Centre, P.O: Lembucherra-799216.  
P.S: Sidhai, Dist: West Tripura.

.....Respondent

filed by:  
Dr. Asit Chakrabarti  
(Applicant) 38  
through:  
Arun Choudhury  
Advocate

DETAILS OF THE APPLICATION.

1. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:-

The present application is preferred against the arbitrary and illegal action on the part of the authorities in issuing orders dated 3.1.05 (received by the applicant on 12.1.05) and 5.1.05 transferring and posting the applicant to ICAR Research Centre for NEH, Manipur Centre, Imphal, without any justification and in a most arbitrary, malicious, unfair and vindictive manner.

2. JURISDICTION OF THE TRIBUNAL :

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

3. LIMITATION :

The Applicant further declares that the application is filed within the limitation period 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 a permanent resident in the State of Tripura and as such he is entitled to all the rights, protections and privileges guaranteed under the Constitution of India and the laws framed thereunder.

- 3 -

4.2 That the applicant is presently working as Farm Manager (Poultry) T-6, ICAR Research Complex for North Eastern Region, Tripura Centre, Lebucherra and he was specifically selected and appointed against the post currently being held by him.

4.3 That your applicant states that he is a Master Degree holder in Vety.Science and while pursuing his Pg Course the applicant came across an advertisement issued by the Respondent No. 2, inviting applications for the posts of Farm Manager- T-6 (Poultry/Agronomy). The advertisement was issued specifically for the post of Farm Manager(T-6) Poultry available at Lebucherra(Tripura). The applicant accordingly applied for the post of Farm Manager (T-6) Poultry and appeared in the selection conducted for the same.

A copy of the said advertisement is annexed as Annexure - 1.

4.4 That your applicant states that on being selected, the applicant was vide Memorandum dated 18.4.93 offered appointment as Farm Manager (T-6) Poultry. The applicant accepted the offer of appointment and joined his services as Farm Manager(T-6) -Poultry at the ICAR Research Complex, Tripura Centre, Lebucherra.

A copy of the said Memorandum dated 18.4.93 is annexed as Annexure-2.

4.5 That your applicant states that the Government of India had with the view to develop Layer & Broiler Poultry Birds and thereby uplift the Rural economy, initiated a Project under the name & style "All India Co-ordinated Research Project on Poultry". (herein after referred to as the project for the sake of brevity). Under the said Project, centres were opened at various parts of the Country and the centre for the North Eastern Region was set up at Lembucherra - Tripura. The post of Farm Manager (T-6), Poultry as advertised wide the Annexure-I advertisement was created specifically under the said project. As such the post of Farm Manager (T-6 Poultry) being specifically created for the Tripura Centre and the applicant being appointed on selection for the said post which is under the AICRP on poultry scheme, is an integral part of the said poultry project.

4.6 That your applicant states that, since the date of his joining as Farm Manager (T-6) Poultry, the applicant has been discharging the duties entrusted to him to the best of his abilities. The Respondents with a view to better equip the applicant in the line of work he was engaged, deputed him from time to time to undergo Advanced Training in Poultry Production & Management. In this connection mention may be made of the Advanced Training in Poultry Production & Management underwent by the Applicant at the Central Poultry Training Institute, Bangalore. It may be mentioned here that in the entire North East, there is

only one centre existing for Poultry Research & Management and the applicant is the only person equipped to manage the post of Farm Manager (T-6) Poultry created and available for the centre opened at Lembucherra under the said project.

4.7 That your applicant states that due to his joining as Farm Manager (T-6) Poultry in the year 1993, he had to abandon his Ph.D Course mid way and could not complete the same at that point of time. As such the applicant on receipt of permission, proceeded in the year 1999 to undergo his Phd Course from Assam Agriculture University, and completed the same in the year 2003. On completion of his Ph.D course, the applicant rejoined his duties as Farm Manager (T-6) Poultry at the Tripura Centre and vide communication dated 13.6.03 intimated the authorities about the same and prayed for assigning to him proper facilities for discharge of his duties.

A copy of the communication dated 13.6.03 is annexed as Annexure - 3.

4.8 That your applicant states that in the month of December 2002, the respondent no - 3 had joined the ICAR (Research Centre) for NEH Region, Tripura Centre as its in-charge. On rejoining of the applicant after completion of his Ph. D course, the respondent no - 3 treated the applicant in a step-motherly manner and created hurdles on the path of the applicant preventing him from discharging his duties in the manner as

required. As per the dictates of the respondent no -3, the applicant was continued to be denied even the basic minimum service facilities and the repeated requests as made by the applicant failed to move the respondent no - 3. Although, the applicant was the in-charge of the poultry section, the respondent no -2 all along unnecessarily interferred with the functioning of the poultry section.

4.9 That your applicant states that the vindictive attitude as adopted by the respondent no -3 was further compounded on 31.12.2004, when the applicant requested him for the Official vehicle to attend a farmers meet at his home town Kamalpar, the respondent No. 3 denied to him access of the vehicle on the ground that the applicant refused to invite the respondent No. 3 as a guest lecturer for the said meet. The respondent No. 3 thereafter threatned the applicant with dire consequence including transferring him to another state. Unable to bear the continuous and systematic discrimination and the mental torture being inflicted upon him by the respondent No. 3, the applicant vide his communication dated 31-12-04 brought the discriminations being meted out to him to the notice of the respondent No. 2.

A copy of the communication dated 31-12-04 is annexed hereto and marked as Annexure - 4.

4.10 That your applicant states that in continuation of the vindictive attitude as adopted

against him by the respondent No. 3, the applicant was denied permission to attend a workshop "On Transfer of Technology in Dairying". On permission being sought by the applicant for attending the said workshop, the respondent No. 3 vide his communication dated 7-2-2005 denied permission to the applicant to attend the said workshop on the ground that the applicant having been appointed for looking after the poultry section, the workshop in question would not be helpful to him as well as to the institute. The denial of permission to the applicant to attend a workshop on a subject other than poultry would clearly go to show that the applicant was specifically selected and appointed to work on poultry projects and not for any other projects.

A copy of the communication dated 7-2-05 is annexed hereto and marked as Annexure - 5.

4.11 That your applicant states that poised thus he was shocked and surprised to receive on 5-1-2005 at around 4 p.m an office order by which he was stated to have been relieved of his duties with immediate effect to enable him to report for duty to the ICAR Research Complex, Manipur Centre, Imphal. The said order was stated to have been issued in pursuance to a order dated 3-1-05 issued by the respondent No. 2. It may be mentioned here that a copy of the Order dated 3-1-05 was never served upon the applicant and at that relevant point of time the applicant was sought to be

releived of his duties only by way of issuance of the order dated 5-1-05.

A copy of the order dated 5-1-05 is annexed hereto and marked as Annexure - 6.

4.12 That being aggrieved by the issuance of the order dated 5-1-05, the applicant assailed the same by way of a writ application being WP(C) No. 13/05 filed before the Hon'ble Gauhati High Court (Agartala Bench). The applicant also filed a Misc. application being C. M Application No. 11/05 in the said writ application praying for staying the effect and operation of the said order dated 5-1-05. The Hon'ble court vide order dated 7-1-05 after appreciating the contentions as advanced by the applicant, more specifically the contention that the applicant was specifically interviewed against a post advertised only for Tripura Centre and that there exists no post of Farm Manager, Poultry at the Manipur Centre, proceeded to stay the effect of the said order dated 05.01.05. In view of the orders passed by the Hon'ble Court, the applicant continued as the Farm Manager (T-6 Poultry), Tripura Centre.

A copy of the said order dated 7.1.2005 is annexed as Annexure-7

4.13 That the applicant states that the order of transfer dated 3.1.05 as issued by the respondent no -2 was served upon him on 12.01.05 only. The order of transfer is a cryptic one and does not disclose the

post to which he has been transferred to. In a most arbitrary manner the order of transfer also proceeds to relieve the applicant within one day from the date of issuance of the order. Immediately on receipt of the impugned order dated 03.01.05, the applicant vide his representation dated 07.02.05 prayed before the respondent no -2 for cancellation of the same and to allow him to continue in his present place of posting.

Copies of the order dated 03.01.05 and the representation dated 07.02.05 are annexed as Annexure - B and 9 respectively.

4.14 That your applicant states that the impugned order dated 3-1-2005 and 5-1-05 have not been issued in any public interest but has so issued basing on extraneous considerations and is the result of the pressure mounted upon the authorities by respondent No. 3 to see the ouster of the applicant from the Tripura Centre. The respondent No. 3 has all along been trying to have total control over the poultry section of Tripura Centre and the applicant was the hindrance in the path of fulfilment of his intentions and by getting the order dated 3.1.2005 issued, the Respondent No. 3 has succeeded in his intention to have full control over the Poultry section. The grants being received under the said project for the Tripura Centre would now be totally under his control and he can utilise the same as per his whims and caprices. It may be mentioned here that huge sums of money are being sanctioned to

the Tripura Centre under the AICRP on poultry scheme and it is the control of this very account that is the foundation for the transfer of the applicant with such haste and in clear violation of the nature of appointment of the applicant. In this connection it is stated as the scientist he was working in the Poultry section of Tripura Centre has also been transferred out and this aspect of the matter could be clear from the communication dated 29.01.95 made by the respondent as I for release of funds for AICRP for poultry scheme for Tripura Centre for the year 1994-95.

A copy of the communication dated 29-1-95 is annexed hereto and marked as Annexure 14A.

4.15 That your petitioner states that, as stated hereinabove, the post of Farm Manager (T-6 Poultry) was specifically created under the AICRP Scheme for the Tripura Centre and the same was advertised mentioning this aspect of the matter. The applicant was specifically selected and appointed for the said post at the Tripura Centre and thereafter he was deputed for advance Training in Poultry production and Management. The Tripura centre is the only centre in the entire North East Region created and set-up for research into various aspects of Poultry Management and Production and the post of Farm Manager Poultry exist only at the said Centre. As such, the transfer of the applicant to Manipur where there is no facility and/or post of Farm Manager (T-6) Poultry existing, cannot under any

circumstances be stated to be a transfer in the interest of Public Service. The services of the applicant is indispensable at the Tripura Centre and there is none in the region to replace the petitioner as an expert in Poultry farming. Further, the transfer of the applicant to a project other than poultry is also contrary to the steps hitherto before taken by the respondent no -3 in denying permission to the applicant to attend workshops other than poultry.

4.16 That the applicant states that the impugned order of transfer has been issued at the instance of the Respondent No. 3 who bought upon the authorities pressure to get the applicant ousted from the Tripura Centre. There is no justification for the issuance of the impugned order dated 3-1-65 and the issuance of the same is opposed to public interest.

4.17 That your applicant submits that the impugned order dated 3-1-65 and the order dated 5-1-65 are arbitrary, outrightly malicious, vindictive, whimsical, capricious, unfair and has been issued without any application of mind. The impugned order dated 3-1-65 is the result of the relentless lobbying against the applicant by respondent No. 3. The impugned order dated 3-1-65 can be justified only by reasons other than relevant and bonafide. There is malice in law as well as in facts.

4.18 That your applicant submits that the fact that the impugned order has been issued without any

justification is further borne from the fact that no regular incumbent has been posted to man the post of Farm Manager (T-6, Poultry) at the Tripura Centre. As such it is clear that the only intention behind the issuance of the impugned order dated 3.1.05 is to somehow see the ouster of the applicant from the Tripura Centre and thereby facilitate the respondent no -3 to have a free hand in the affairs of the poultry section of the Centre including using the funds available according to his whims and caprices.

4.19 That your applicant states that in view of the facts and circumstances of the case, it is a fit case wherein Your Lordship would be pleased to pass an interim direction as has been prayed for, failing which the petitioner stands to face irreparable loss and injury.

4.20 That your applicant states that in the event of Your Lordships being pleased to stay the effect and operation of the impugned order dated 3-1-05 and 5-1-05, the balance of convenience would be maintained in favour of the applicant in as much as your applicant is still discharging his duties as Farm Manager (T-6 Poultry) Tripura Centre. The impugned order having not been issued in any public interest, the same has got no legs to stand, further the applicant having specifically been selected and appointed for the post of Farm Manager (T-6 Poultry), he could not have been transferred to a centre where the post of Farm Manager (T-6 Poultry) does not exist.

4.21 That your applicant states that the writ application as filed by the applicant before the Hon'ble Gauhati High Court (Agartala Bench), has been withdrawn by him on 17.2.2005 with liberty to approach this Hon'ble Tribunal for redressal of his grievances and as such this application.

4.22 That this application is filed bonafide for securing the ends of justice.

**5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :**

5.1 For that the impugned order dated 3.1.05 and 5.1.05 are on the face of it ex-facie illegal, arbitrary, malicious and have been so issued without any application of mind.

5.2 For that the impugned order dated 3.1.05 and 5.1.05 are arbitrary, malicious, unfair, vindictive, capricious and has been so issued without any justification. Accordingly, the impugned orders are liable to be set-aside and quashed.

5.3 For that the applicant having been selected and appointed as farm manager (T-6 Poultry) specifically for the Tripura centre, he could not have been picked up for transfer out of the said centre, moreso to a centre, i.e. Imphal where no project of poultry management and production is currently under-way and wherein the post of farm manager (T-6 poultry) is not in existence.

5.4 For that manner and method in which the impugned order dated 03.01.05 has been issued clearly goes to show that the only intention behind the issuance of the same is to somehow see the ouster of the applicant from the Tripura Centre and thereby please the respondent no -3 who has been relentlessly lobbying against the applicant. Non-application of mind is writ large on the face of the order dated 03.01.05.

5.5 For that the impugned order dated 03.01.05 is a cryptic one and does not disclose the post to which the applicant is being transferred to and such a omission is deliberate inasmuch as there exists no posts of Farm Manager Poultry in Manipur Centre and the applicant in view of his selection and appointment specifically for a post of Farm Manager (Poultry) could not have been posted against any other post in any other subject.

5.6 For that in any view of the matter, the impugned orders dated 3.1.2005 and 5.1.2005 are not sustainable and liable to be set aside and quashed.

**6. DETAILS OF REMEDIES EXHAUSTED :**

The Applicant declares that he has no other alternative and efficacious remedy except by way of filing this application.

**7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT :**

The Applicant further declares that the writ application being W.P. (C) No. 13 of 2005 as filed by him before the Hon'ble Gauhati High Court, Agartala Bench, has been withdrawn and no other application, writ petition or suit in respect of the subject matter of the instant application is pending before any other Court, authority or any other bench of this Hon'ble Tribunal.

**8. RELIEFS SOUGHT FOR :**

Under the facts and circumstances stated above, the Applicant prays that this application be admitted, records be called for and notice be issued to the Respondents to show cause as to why the reliefs sought for in this application should not be granted and upon hearing the parties and on perusal of the records, be pleased to grant the following reliefs :

8.1 To set aside and quash the impugned order dated 3.1.2005 and 5.1.2005 (Annexure- 8 and 6 respectively).

8.2 To direct the Respondent authorities to forbear from giving effect to the impugned orders dated 3.1.2005 and 5.1.2005, with further direction to the respondent authorities to allow the applicant to continue as Farm Manager (T-6) Poultry, ICAR, Research Complex for N.E.Region, Tripura Centre, Lembucherra.

8.3 Cost of the application.

8.4 Any other relief/reliefs that the applicant is entitled to.

**9. INTERIM ORDER PRAYED FOR :**

Pending disposal of this application, the Applicant prays that Your Lordships would be pleased to stay the effect and operation of the impugned orders dated 3.1.2005 and 5.1.2005 (Annexure- 8 and 6 respectively).

**10. \*\*\*\*\***

The application is filed through Advocate.

**11. PARTICULARS OF THE I.P.O. :**

- i) I.P.O. No. : 206556084
- ii) Date : 21/12/05.
- iii) Payable at : Guwahati.

**12. LIST OF ENCLOSURES :**

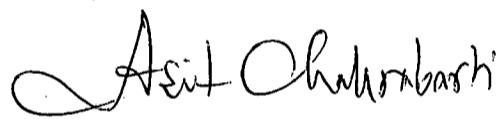
As stated in the index.

\*\*\*\*\* Verification/-

## VERIFICATION

I, Dr. Asit Chakrabarti, aged about 41 years, son of Shri Adhir Chakrabarti, presently resident of Dhaleswar, Agartala, in the district of West- Tripura, do hereby solemnly affirm and verify that the statements made in paragraphs 1, 2, 3, 4-1, 4-2, 4-5, 4-6, 4-7, 4-8, 4-9, 4-12 (lauhy), 4-13, 4-14, 4-15, 4-16, 4-18, 4-20, 4-22 and 5 to 12 are true to my knowledge ; those made in paragraphs 4-3, 4-4, 4-10, 4-11 and 4-12 (lauhy) are true to my information derived from records and the rests are my humble submissions before the Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 18 th day of February, 2005.



D E P O N E N T

## INDIAN COUNCIL OF AGRICULTURAL RESEARCH

### UMROI ROAD: BARAPANI : MEGHALAYA.

The Director, ICAR Research Complex for N.E.H. Region, Barapani invites applications from Indian Nationals for following Technical posts:-

1. **Farm Manager T-6**(Poultry/Agronomy) - 2 posts (1 for SC)

a) Place of posting -Poultry (Lembucherra-Tripura) and for agronony- Basar (Arunachal pradosh).

2. **Technical Officer T-6** (Entomology) - 2 posts (Unreserved) a) Place of posting - ICAR Barapani.

3. **Extension Officer T-6**(Extension) - 1 (one for ST) a) Place of posting - ICAR Barapani.

I) **Essential Qualification** : (i) Bachelor's Degree in relevant field. (ii) Five Years' experience of Extension/Training and development in that relevant field.

II) **Desirable Qualification** : (i) Master's degree in the concerned subject. (ii) Knowledge of local language. (iii) Research experience in rodent for the post Technical Officer (Entomology).

4. **Training Associate (T-6)** - 14 (fourteen) posts (Reserved for SC-7(seven) and for ST-2 (two) a) Place of posting- Home Science (KVK-Tripura/KVK-Tura/KVK-Nagaland/KVK-Sikkim) Animal Science (KVK-Tripura/KVK-Tura/KVK-Sikkim/KVK-Arunachal Pradesh). Agronomy(KVK-Tripura) Crop Production (KVK-Tura/TTC-Nagaland) Agril. Communication (TTC-Nagaland) Horticulture (TTC-Nagaland/KVK-Arunachal Pradesh)

I) **Essential Qualification** : i) Bachelor's degree in the relevant field. (ii) Five Years' experience of extension/training, and development in the relevant field.

II) **Desirable Qualification** : i) Master's degree in the concerned subject. (ii) Knowledge of local language.

5. **Technical Assistant (T-4)**- Fishery - one post (Reserved for SC) a) Place of posting - ICAR Barapani.

I) **Essential Qualification** : i) Bachelor's degree in Fishery Science. (ii) Three years' experience in Extension/Training/Development Research in the field.

II) **Desirable Qualification** : - M.Sc. in Zoology with Fishery as Special subject /Fishery Science.

6. **Artist (T-4)** -1 (one) post (Un-reserved)

a) Place of posting -ICAR Barapani (Extension)

I) **Essential Qualification** : i) Bachelor's degree in Fine Arts. (ii) Three years experience in Art works relating to Agril. Extension.

7. **Training Assistant (T-4)**-6 (six) posts (Reserved for SC-2 (two) and for ST-2 (two)

i) Place of posting - Agronomy-(KVK-Nagaland) Home Science - (KVK-Arunachal Pradesh/KVK-Tripura Agril. Engineering -(KVK-Sikkim) A.V.Aids (Extn.) -KVK-Tura. Horticulture (K.V.K.-Tura).

ii) **Essential Qualification** : i) Bachelor's degree in the relevant field.

iii) **Desirable Qualification** : i) Master degree in the relevant field. (ii) Knowledge of local language.

The scale of pay for all T-6 posts is Rs. 2200-75-2800-EB-100-4000/- p.m. and for all T-4 posts is Rs. 1640-60-2600-EB-75-2900/- p.m.

#### GENERAL INFORMATION

1. Age limit for the T-6 grade posts bearing scale of pay of Rs. 2200-4000/- is 35 years. For T-4 grade posts bearing scale of pay of Rs. 1640-2900/-is 30 years as on 1.1.93. Age relaxation 5 years shall be allowed to Scheduled Caste and Scheduled Tribe candidates and other expected categories like Ex-serviceman etc. as per rule framed and instructions issued from time to time by the Indian Council of Agricultural Research/Govt. of India. There will be no age limit for the employees of ICAR.

2. Candidates applying for the posts carrying scale of pay or Rs.2200-4000/- and Rs. 1640-2900/- will have to pay an application fee of Rs. 20/- (Twenty) only in the form of Crossed Indian Postal Order drawn in the name of Director ICAR Research Complex for N.E.H. Region, Barapani payable at GPO, Shillong. Candidates belonging to SC/ST community are fully exempted from paying application fee.

3. The posts are temporary, but likely to continue for indefinite period. Intending candidates should submit their applications giving advertisement no., name of post (discipline wise), item No. etc., as per the application format given below:-

4. All posts carry usual allowances, pensionary and other benefits as per Central Govt. Rules mutatis-mutandis followed in ICAR from time to time. The posts are non-government.

*Certified to be true Copy*

*Advocate*

## ANNEXURE

5. Persons who are already serving in Govt. and semi-Government organisation/Public Sector Undertaking/Autonomous organisations etc. should apply through their present employers.
6. Candidates called for interview for the posts bearing pay scale of Rs. 1640-2900/- and above, and unemployed Scheduled Caste/Scheduled Tribe candidates for all the posts will be paid travelling expense equivalent to Second-class railway fare.
7. Original certificates and marksheet should not be submitted alongwith the application, but should be brought II and when called for interview. Attested copies of certificates about age, educational qualifications, experiences and caste etc. should, however, be submitted alongwith the application.
8. A passport size photograph duly attested by a Gazetted Officer should invariably be enclosed with the application.
9. Separate application alongwith separate postal orders and photograph should be sent if a candidate wants to apply for more than one category of post.
10. When called for interview, the candidates will have to appear before a Selection Committee at a place and date (s) to be notified in due course.
11. Applications received late and incomplete form will not be considered. No correspondence will be entertained with the candidates. Mere fulfilment of requirements as laid down in the advertisement will not rest any right in the candidates for disqualification of the candidate for the post applied for.
12. Preference will be given to the candidates belong to Ex-servicemen and physically handicapped and those from North Eastern Hill Region.
13. The number of post and places of posting are subject to change.
14. The last date for receipt of the application is two weeks (15 days) from the date of advertisement.
15. The applications complete in all respect should reach the Administrative Officer, ICAR Research Complex for N.E.H. Region, Umroi Road, Barapani-783 103, Meghalaya within the date specified as above.  
**ONLY INDIAN NATIONAL NEED APPLY.**

### APPLICATION FORMAT

- a) Advertisement No.
- b) Post applied for (giving serial number)
- c) Name in full (Block letters)
- d) Father's/Husband's name
- e) Full Address
- i) Address for correspondence (with pin code in English)
- ii) Permanent address (with pin)
- f) Nationality
- g) Marital status (Single or married)
- h) Whether belongs to SC/ST, Ex-serviceman/physically handicapped (Attest the copies of such certificates from the competent authority should be enclosed with the application)
- i) Date of birth (in Christian Era as recorded in the Matriculation/School leaving Certificate)
- j) Age as on 1.1.1993
- k) Educational qualification (From Matriculation/HSLC onwards in details with attested copies of relevant certificates) and marksheet
- l) Experience if any (with attested copies of certificates)
- m) Employment Exchange Registration No.
- n) Postal order No., date and value
- o) List of documents attached.

N.B.: The application should be neatly typed in English or Hindi language. I do hereby declare that all statements made in the application are true, complete and correct to the best of my knowledge and belief. In the event of any information being found false or incorrect, my candidature/application may be cancelled/terminated without any notice.

davp 1047(2)93

(Full signature of the candidate)

EN25/36

Certified to be true

Advocate

INDIAN COUNCIL OF AGRICULTURAL RESEARCH  
ICAR RESEARCH COMPLEX FOR N.E.H. REGION  
BARAPANTI : 793103, MEGHALAYA

ANNEXURE

IO. RC(R) 14/24

Dated Barapanti, the 18th April 1995

MEMORANDUM

The Director, ICAR Research Complex for N.E.H. Region is pleased to offer a temporary post of Farm Manager (T-6) Poultry to Sh/ Mr. Adit Chakraborty on the following terms and conditions :-

1. The post is temporary and carries the pay scale of Rs. 2200-75-2800-EB-100-4000/- p.m. On appointment he /She will draw at the initial stage of Rs. 2200-4000/- ~~xxx~~ in the above time scale. He/She will be entitled to draw such allowances (dearness allowances & house rent allowances etc.) as are admissible to other staff of corresponding grade and status under ICAR.
2. Grant of pay, leave travelling and other allowances are regulated by the Indian Council of Agricultural Research, Mutatis-Mutandis in accordance with the principle of Fundamental and Supplementary Rules and such other rules and orders as are issued by the Government of India from time to time.
3. The post is non Government but pensionable . He/She will be governed by the Indian Council of Agricultural Research Pension Rules which are based Mutatis-Mutandis or the liberalised pension Rules of the Government of India, as amended , clarified or modified from time to time.
4. His/Her headquarters will be at Tripura Centre for the present , but he/she will be liable to serve in any Institute and /or office of the Indian Council of Agricultural Research, located anywhere in India.
5. He/She will be on probation for a period of two years from the date of his/her joining the post, which may be extended at the discretion of the competent authority. Failure to completion of the probationary period to the satisfaction of the competent authority will render him/her liable to be discharged from service.
6. His/Her appointment may be terminated without assigning any reason by one month's notice on either side under Rules 5 of the Central Civil Service (Temporary Service) Rules 1965 , as applicable mutatis-mutandis to the employees of the Council. During the probation , however, the appointing authority may terminate the service of the appointee without prior notice and without the payment of salary in lieu thereof.
7. His/her appointment will be subject to the conditions that he /she is declared medically fit for service by the prescribed medical authority.
8. On appointment, he/she will be required to take an oath of allegiance to the Constitution of India or make solemn affirmation to that effect, as in the form enclosed.
9. Certified to be true Adit Chakraborty He/She will submit a declaration regarding his/her marital status, as in the form enclosed . In the event of his/her having already more than one wife living or being married to a person having already another wife living the appointment will be subject to his/her being exempted from the

on enforcement of the laws of recruitment in this behalf.

His/her appointment under the Council will be considered to be a fresh appointment and he/she will not be entitled to any travelling and /or conveyance allowances for joining the post at ICAR Research Complex for NEH Region, Tripura.

Other conditions of service will be governed by relevant rules and orders which may be issued from time to time by the ICAR.

He/she should state whether he/she is serving or is under obligation to serve another Central Government Department, as State government or public authority. He/She should also state whether he/she applied for or is being considered for posts elsewhere.

If any declaration given or information furnished by him/her proves to be false or if he/she is found to have willfully suppressed any material information, he/she will be liable to removal from service and such other action may be deemed necessary.

He/she should produce the original certificates in respect of his/her educational qualifications and age and caste etc.

The appointment is made provisionally at present, subject to verification and acceptance of their original certificates in regard to their educational qualifications/age/caste etc.

In case of SC/ST or OBC, relevant certificate should be produced at the time of joining.

In case the post is acceptable to Sh./Asst Chakraborty on terms and conditions mentioned above he/she should intimate his/her acceptance to the Director immediately and report for duty to the Jt. Director, ICAR Res. Complex, Tripura Centre after obtaining the medical fitness certificate from a Medical Board within 30 (Thirty) days from the date of issue of the offer failing which the offer will automatically stand cancelled.

Constituted by the DHS of respective state.

Copy to :-

By Read Post

Dr. Asst Chakraborty,

Dptt. of Livestock Prod.

ASSTT. ADMINISTRATIVE OFFICER. (A)

Management, College of Vety. & An. So.,

P.O. Mannuthy,

Dist. Trichur,

Kerala - 680651.

*10/10/95*  
( M. J. KHAIRAWALIANG )

To:-

1. The Jt. Director, ICAR Res. Complex for NEH Region, Tripura Centre.
2. Finance & Account Officer, ICAR Research Complex for NEH Region.
3. Barapani. Shri Asst Chakraborty has been adjusted against the vacant post of Farm Manager (T-6) Poultry under KVK VIIth Plan.
4. Superintendent (Admn)
5. Dealing Head (RO).

Certified to be true

*AMR*

*AMR*

Annexure - 3.

No. F1/FM(P)/P-73/02-03/193 Dated 13-6-03

To

The Joint Director  
ICAR Research Complex For NE Region  
Tripura Centre, Lambucherra

Sub: Prayer for sitting arrangement and duty register- regarding.

Respected Sir,

Most humbly I would like to inform you that I have joined again in Tripura Center after completion of my Ph. D. study.

A suitable sitting arrangement may be provided for me and an Office order to look after the day to day work with specific duty may kindly be intimated at your earliest convenience.

Thanking you,

Yours faithfully

Sd. Illigible  
(Asit Chakraborti)  
Farm Manager (T-6)  
Poultry Division.

Verified to be true C. V.

*DML*

Advocate

D.O. LETTER



INDIAN COUNCIL OF AGRICULTURAL RESEARCH  
ICAR RESEARCH COMPLEX FOR N.E.H. REGION  
TRIPURA CENTRE, LEMBUCHERRA, TRIPURA (WEST)  
PIN- 799210

No. F1/FM (P)/P-5/2004/61

Dated- 31-12-2004

From:  
Dr. Asit Chakrabarti, Ph.D.  
Farm Manager (T-6)  
Poultry Division

To  
Dr. K.M. Bujarbaruah, Ph.D.  
Director  
ICAR Research Complex for NEH Region  
Umroi Road, Umiam, Meghalaya- 793103

Sub: Misbehaviour by Joint Director (Dr. N.P. Singh), ICAR (RC), Tripura Centre, Lembucherra- Regarding

Respected Sir,

Most humbly with due respect I would like to inform you the following facts for your kind information and necessary action.

1. That, on 31<sup>st</sup> December, 2004 at 2:30 pm Joint Director (Dr. N.P. Singh) called me in his chamber and asked me why I have requested him for a vehicle to attend a Farmer's meet at my home town Kamalpur, Dhalai District in Tripura. He was insisting to ask him as a guest lecturer in the Farmer's meet. When I denied and told him that the invitation is depends on the organizing committee, he become annoyed, started abusing me in slang language and threatened me to transfer in another state and also spoil my carrier. I tried my best to cool him down but in vain, rather he was furious and shouted to kick me out from his chamber.
2. That, due to mental torture, unruly behaviour and slang abuse i felt a great humiliation by Joint Director, Tripura Centre and compelled me to write a D.O. Letter to you.
3. That, this type of behaviour is very common for Dr. N.P. Singh, Joint Director, Tripura Centre and during last two years of his tenure list of victims includes-

Certified to be true

One

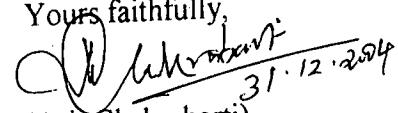
Advocate

1. Sri Kishore Dehbarma, Sr. Stenographer
2. Sri Suranjan Dehbarma, Sr. Assistant
3. Sri Bikram Dehbarma, Technical Officer (T-5)
4. Sri Joy Harijon, Safaiwala
5. Sri Kanu Roy, Driver (T-3) and so on and some of the cases are under proceedings of ICAR and SC/ST commission and the last victim is I till date.

Under the circumstances I pray for your kind intervention in to the matter and find out the actual cause of harassment by Dr. N.P. Singh to his subordinates and a suitable solution may kindly be sorted out at your earliest convenience.

An early action is requested for.

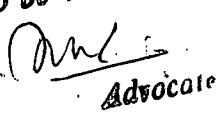
Yours faithfully,

  
31.12.2004  
(Asit Chakrabarti)

---

Phone No. Ph.09436129011 (M) 0381-400047/2865537(O). 2229276 ® Fax: 0381-  
2865201/2865537(O)

*Certified to be true Copy*

  
Advocate



INDIAN COUNCIL OF AGRICULTURAL RESEARCH  
ICAR Research Complex for N.E.H. Region  
Tripura Centre, P.O. Lembucherra-799 210  
Tripura West

Dr. N.P. Singh,  
Joint Director

Ph. No 240 0047, 2865 537(O), 235 3725 (R)  
Fax 0381-2865537  
Gram: AGRICOMPLEX

No.F. RC/TC(G-13)/05/ 6396

Dated : 07.02.05.

To

✓ Dr. Asit Chakraborti,  
Farm Manager (Poultry) T-6,  
ICAR Research Complex for NEH Region,  
Tripura Centre, Lembucherra - 799 210 (TRIPURA).

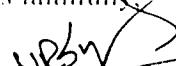
Sub : Participation in Workshop - regarding.

Ref : Your letter No. F1/FM(P)/P-6/2005 /117 dated 04.02.2005.

Sir,

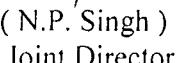
With reference to your letter no. and dated cited above. I would like to inform you that this workshop is arranged for the persons, who are entrusted with transfer of technology in Dairying. Since you are looking after the poultry section, therefore this workshop will not be helpful for you as well as our Institute. Moreover, you have already attended two workshop during 2004 . Therefore, your application is hereby return in original.

Yours faithfully,

  
N.P.S  
7/21/05  
( N.P. Singh )  
Joint Director.

Copy to :

- 1) PA to Director, ICAR Research Complex for NEH Region, Umiam, Barapani, Meghalaya for information.
- 2) Personal File of Dr. Asit Chakraborti, Farm Manager (Poultry) T-6, ICAR Research Complex for NEH Region, Tripura.

  
( N.P. Singh )  
Joint Director.

*Certified to be true*  
*Amrit*  
*Advocate*

सर्व शिक्षा अभियान

सर्व धर्म सर्व धर्म

Annexure - 6.

No. RC/ IC (P-69)/ 95/ 6250

5 January 2005

OFFICE ORDER

In pursuance of the Order No RC (P) 8/95 dated 03.01.2005 of the Director, ICAR (RC) for NEH Region, Umiam Dr. Asit Chakraborti, Farm Manager T-6 (Poultry) of this Centre stands relieved of his duties in the interest of public service with effect from the afternoon of 05.01.2005 to enable him to report for duty immediately to the joint Director, ICAR (RC) for NEH Region, Manipur Centre, Imphal, Manipur.

(N.P.SINGH)  
Joint Director.

To

Dr. Asit Chakraborty, Farm Manager T-6 (Poultry), ICAR (RC) for NEH Region, Tripura Centre, Lembucherra for information and strict compliance.

Copy for information to:-

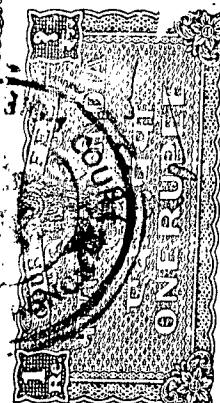
1. The Director, ICAR (RC) for NEH Region, Umroi Road, Umiam, Meghalaya 793103.
2. The joint Director, ICAR (RC) for NEH Region, Manipur Centre, P.O. Lamphalpat, Imphal, Manipur.
3. The senior Administrative Officer, ICAR (RC) for NEH Region, Umiam.
4. The Finance & Accounts Officer, ICAR (RC), Umiam.
5. Dealing Assistant (Pay Bills etc.), ICAR (RC), Tripura Centre.
6. The cashier-in-charge, ICAR (RC), Tripura Centre.
7. Dr. S.K. Ghosh, Scientist SS (AR) & In-charge of Poultry discipline including AICRP on Poultry, ICAR (RC), Tripura centre.

(N.P.SINGH)  
Joint Director

*Certified to be true*

*DWZ*  
Advocate

C.M. APPLN. NO. 11 OF 2005 IN  
W.P. (G) NO. 13 OF 2005

Noting by Office or Advocate	Serial No.	Date	Office notes, reports orders or proceedings with signature
			<p style="text-align: center;">BEFORE THE HON'BLE MR.JUSTICE A. B. PAL</p> <p>07-01-05 Heard Mr. D. K. Biswas, learned counsel for the petitioner.</p> <p>This is a prayer for staying the operation of the impugned office order dated 5-1-05 (Annexure-3 to the writ petition) by which the petitioner has been relieved of his duties with effect from the afternoon of 5-1-05 in pursuance of the order No.RC(P)8/95 dated 3-1-05 with direction to report for duties immediately to the Joint Director, ICAR (RC) of NEH Region, Manipur Centre, Imphal, Manipur.</p> <p>Mr. Biswas submits that the petitioner has not received the order in pursuance to which the impugned office order has been passed by the Joint Director of Lambucherra Centre. The grievance of the petitioner is that he was appointed as Firm Manager (T-6 Poultry) and posted in Lambucherra and, in fact, he was interviewed against the post advertised only for the Lambucherra Centre, Tripura (Annexure-2). The further submission of Mr. Biswas is that there exists no post for Firm Manager, Poultry in Manipur Centre where he was directed to report. The very nature of the order issued on 5-1-05 relieving him from</p>
<p><b>CERTIFIED TO BE A TRUE COPY</b></p> <p><i>[Signature]</i></p> <p>As... Gauhati High Court Agartala Bench, Agartala. Authorised U/S. 76, Act of 1872</p> <p><i>[Signature]</i></p> <p>Sub: 10.01.05 Gauhati High Court Agartala Bench.</p> <p></p>			

**COMPARED BY**

*[Signature]*  
10-1-05

*Certified to be true copy*

*[Signature]*  
Advocate

*contd-P/3*

Serial  
No.

Date

Office notes, reports orders or proceedings  
with signatureNoting by Office or  
Advocate

the afternoon of that very date smacks of certain purpose which is not consistent with the interest of public service.

Having regard to the aforesaid submission, let this impugned order dated 5-1-05 (Annexure-3) be stayed till the returnable date.

List it along with the main petition.

Sd/- A.B. PAZ

JUDGE

Q 10.01.05

Gangetic High Court,  
Agartala Bench,

Certified to be true (Copy)

Advocate

COMPARED

10-1-05  
Signature

Received on  
12/01/2005  
10.45 am.  
D. Chakraborty  
12/01/2005  
Farm Manager (Poultry)

INDIAN COUNCIL OF AGRICULTURAL RESEARCH  
ICAR RESEARCH COMPLEX FOR N.E.H. REGION  
UMROI ROAD, UMIAM -793103 ( MEGHALAYA )

No. RC(P)8/95.

Dated Umiam, the 3rd Jan, 2005.

OFFICE ORDER

In public interest, Dr. Asit Chakraborty, Farm Manager (Poultry) of Tripura Centre is hereby transferred to Manipur Centre, with immediate effect. Accordingly Dr. Chakraborty stands relieved from Tripura Centre with effect from 05.01.2005 (A.N.).

Sd/- K.M. Bujarbaruah,  
Director

Memo No. RC(P)8/95. Dated Umiam, the 3rd Jan, 2005.

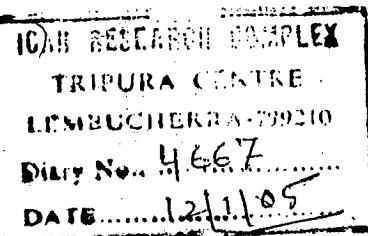
Copy for information to :-

1. Dr. Asit Chakraborty, Farm Manager, ICAR Research Complex for NEH Region, Tripura Centre P.O. Lembucherra West Tripura for necessary action.
2. The Joint Director, Tripura Centre, ICAR Research Complex for NEH Region, P.O. Lembucherra, West Tripura for necessary action and to submit compliance report.
3. The Joint Director, Manipur Centre P.O. Lamphalpat Manipur Centre for information and necessary action.
4. The Finance and Accounts Officer, ICAR Research Complex for NEH Region, Umiam
5. Recruitment Cell, ICAR Research Complex for NEH Region, Umiam.

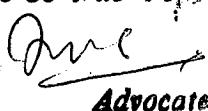
  
( M.K. Jain )  
Sr. Administrative Officer

rkd/-

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Certified to be true (Copy)

  
Advocate



INDIAN COUNCIL OF AGRICULTURAL RESEARCH  
ICAR RESEARCH COMPLEX FOR N.E.H. REGION  
TRIPURA CENTRE, LEMBUCHERRA, TRIPURA (WEST)  
PIN- 799210

No. F1/FM (P)/P-9/2005/182

Dated- 07-02-2005

From:

Dr. Asit Chakrabarti, Ph.D.  
Farm Manager (Poultry) T-6

To

Director  
ICAR Research Complex for NEH Region  
Umroi Road, Umiam, Meghalaya- 793103

(Through proper channel)

Sub: Prayer for Cancellation of Transfer Order - Regarding.

Ref: 1. No.RC/TC (P-69)/95/6250, Dated, the 5<sup>th</sup> January, 2005  
2. No.RC (P) 8/95, Dated- Umiam, the 3<sup>rd</sup> /4<sup>th</sup> January, 2005

Respected Sir,

With reference to the cited above letters I Would like to inform you that the biased transfer and release order was handed over to me on 12.01.2005 at 10.45am and 05.01.2005 at 4.00pm, respectively. The nature of the order correlates with misbehavior by Joint Director(RC), Tripura Centre including threatening of transfer and spoiling my carrier, which was communicated to you vide D.O. Letter bearing No. F1/FM (P)/P-5/2004/61, dated, 31.12.2004. On that letter I also requested you for kind intervention in to the matter to find out the actual cause of harassment by Dr. N.P.Singh to his subordinates (includes five other employees of ICAR, Tripura Centre) and a case is also pending under National SC/ST commission for harassment of local people and requested for a suitable solution in this regard.

But, my utter surprise the order of '**Stand relieved**' without serving transfer order to the incumbent of a Group 'A' officer and without proper instruction of handing over charge, cash etc disrespect and dishonour the Service Rule and Regulations of Government of India which are followed by ICAR *mutatis-mutanis*.

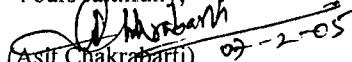
Under the circumstances I fervently request you to cancel my transfer order without further delay to save the name and fame of ICAR and to put forward the CCS (Conduct) Rules of Government of India which is followed by ICAR *mutatis-mutanis*.

I therefore, fervently request you to consider my prayer for cancellation of intentionally biased transfer order at your earliest convenience and thereby oblige me.

An early action will be highly appreciated.

Thanking you,

Yours faithfully,

  
(Asit Chakrabarti) 07-2-05

Copy to-

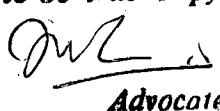
The Director General, Indian Council of Agricultural Research, Pusa, New Delhi-1100012  
for kind information and necessary action, please.

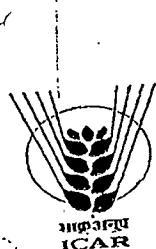
  
(Asit Chakrabarti) 07-2-05

Phone No. 0381-2400047/2865537(O), 2229276 @/ 09436129011(M)/ Fax: 0381-2865201/2865537(O)

ICAR RESEARCH COMPLEX
TRIPURA CENTRE
LEMBUCHERRA-799210
Diary No. 08/2005
DATE 08/02/2005

**Certified to be true Copy**

  
Advocate



ICAR Research Complex for N.E.H. Region  
Tripura Centre, P.O. Lembuchierra - 799210  
West Tripura.



AICRP on POULTRY (Dev. of Rural Poultry)

No. RC/TC(T-3)/2004/ 6352

29 January 2005.

To

The Director,  
Project Directorate on Poultry,  
Rajendranagar,  
Hyderabad - 500030.

Sub: Request to release of fund for the AICRP on Poultry, Tripura Centre for 2004-05.

Sir,  
With reference to your letter No.12-2(8)/2003-07/A&A dt. 22.12.2004, I would like to say that due to transfer of concerned Scientist Dr. M. Niranjan, the demand for fund for the current financial year (2004-05). However, I would request you kindly to release the allotted fund for Rs.50.00 lakh (Rupees fifty lakh) and place the same to the Director, ICAR (RC) for NEH Region, Umroi Road, Umiam, Meghalaya - 793103 under intimation to this end. The break-up of the demand is as mentioned below. The AUC for 2003-04 is being sent on receipt the reconciled Statement of Expenditure for 2003-04 from our Complex's H.Qrs., Umiam duly signed by the F&AAO and countersigned by the Director.

1. Recurring contingency . . . . . Rs.15.00 lakh  
2. Non-recurring contingency . . . . . Rs.35.00 lakh  
(for renovation of different sheds/building  
and repairing the approach roads)

Encl. As stated

Yours faithfully,

(N. P. SINGH)  
Joint Director

Copy to Dr. S. K. Ghosh, Scientist SS(AR) & In-charge of AICRP on Poultry, ICAR (RC), Tripura Centre, for information.

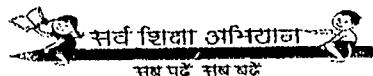
NPS  
29/1/05

(N. P. SINGH)  
Joint Director

OJC

Phone No. (0381) 400047, 2865537, 2865354 (Off). (0381) 2353725 (Res.-JD)  
Fax - (0381) 2865537; 2865201, E-mail: narendraprataps @ Yahoo.co.in.

Concluded on 29/1/05  
Dated  
Lavocat



28 APR 2005

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Guwahati Bench

Original Application No. 45 of 2005

Filed by  
Respondent Nos 1, 2 and  
3  
Through  
Jyoti Bora  
Advocate  
69

27/4/05

IN THE MATTER OF :

A written statement filed on behalf of the Respondents No. 1, 2 and 3 of the Original Application No. 45 of 2005.

WRITTEN STATEMENT

I, Dr Kamal Malla Bujarbaruah, son of Late Annada Malla Bujarbaruah, aged about 54 years, presently serving as the Director, Indian Council of Agricultural Research (Regional Centre) for NEH Region, Umiam, Meghalaya, do hereby solemnly affirm and state as follows :

1. That I have been impleaded as the Respondent No. 2 in the instant case and a copy of the Original Application has been served upon me. I have gone through the copy of the Original Application and have understood the contents thereof. I am well acquainted and fully conversant with the facts and circumstances of the instant case and as such, I am competent to file this written statement. I have been duly instructed to file this written statement on behalf of the Respondents No. 1 and 3 also.
2. That save and except these statements and averments made in the Original Application, which have been specifically admitted herein below, the rest shall be deemed to have been denied by the answering respondents. However, the answering respondents deny anything, which is contrary to the records of the instant case.
3. That with regards to the statements made in paragraphs 1 to 3 of the Original Application, the answering respondent does not have any comments to offer and denies anything that is contrary to the records of the instant case.
4. That with regard to the statements made in paragraph 4.1 of the Original Application, the answering respondents have no comments to offer.

Kamal Malla Bujarbaruah

5. That with regard to the statements made in paragraph 4.2 to 4.5 of the Original Application, the answering respondent humbly begs to state that the applicant was appointed as Farm Manager (T-6) Poultry on a temporary basis vide Order dated 18.04.1993 under No. RC(R)14/94 (Annexure – 2 to the Original Application). The said appointment Order most categorically stated that the appointment of the applicant was into the ICAR and not to any of its specific centre. The Clause 4 of the said Order clearly spelt out that the Head Quarter of the applicant will be at Tripura Centre for present and he will be liable to serve in any Institute and/or Office of the Indian Council of Agricultural Research, located anywhere in India. The appointment Order further disclosed that the applicant has been adjusted against the vacant post of Farm Manager (T-6) Poultry under KVK VIIth Plan.

As such, the answering respondent most respectfully begs to state that the contentions sought to be raised by the applicant to the effect that the applicant was specifically and exclusively selected to the aforesaid post in Tripura Centre of ICAR is absolutely incorrect and misleading.

The contentions raised by the applicant in paragraph 4.5 of the Original Application to the effect that the post of Farm Manager (T-6 Poultry) is specifically created for Tripura Centre and the applicant was appointed on selection to the said post which is under the AICRP on poultry scheme is absolutely incorrect and misleading.

Infact, the post of Farm Manager (T-6 Poultry) was sanctioned in VII Plan under KVK which is clearly mentioned in the appointment letter of the applicant and not under the AICRP in Poultry as has been claimed by him. Under the AICRP, R & D activities are taken up which can be performed by Scientists and not by Technical Staff. The R & D activities of this project in question is being looked after by other persons and the applicant has nothing to do with research activities.

6. That with regard to the statements made in paragraph 4.6 of the Original Application, the answering respondents humbly beg to state that the respondents have always encouraged the applicant in getting himself trained in Poultry Management. Infact, the respondents got the applicant trained in Poultry Management with a view that his services would be utilised for

✓ development of other Poultry Projects, which are likely to be initiated in other centres of ICAR in N.E. Region. Infact, another project on poultry was started at ICAR, Manipur Centre under the Jay Vigyan Programme launched by the then Hon'ble Prime Minister of India and the project was being run with the help of additional staff on ad hoc basis and provision was only for a period of 3 years. Since the ad hoc staff have been removed and seeing the utility of the project and the demand of the same for the development of the local farmers the project is now managed by deploying other staff within the ICAR itself. The Respondent No. 2 decided to utilise the expertise and experience gained by the applicant and as such decided to transfer the applicant to ICAR, Manipur Centre in public interest. This aspect of the matter can amply be borne out from the records of the instant case which the answering respondent craves leave of this Hon'ble Tribunal to produce at the time of hearing.

7. That with regard to the statements made in paragraph 4.7 of the Original Application, the answering respondent humbly begs to state that it is a fact that the Respondents have always tried to encourage the applicant in improving his academic qualification in the subject in which he qualified with a view that the Respondents will be able to make a beneficial use of the services of the applicant in public interest. But the applicant has refused to act in public interest and has approached this Hon'ble Tribunal inter alia praying for interfering with his Order of transfer which was infact issued for the benefit of the poultry project of the ICAR, Manipur Centre.

8. That with regard to the statements made in paragraphs 4.8, 4.9 and 4.10 of the Original Application, the answering respondents most categorically deny the correctness of the same in toto. However, the answering respondent deems it pertinent to bring to the notice of this Hon'ble Tribunal that the applicant is working under the administrative control of the Respondent No. 3, who is the Joint Director of the Centre and it is the duty of the Joint Director to monitor the activities of each employee under him and not only the applicant. The applicant has resorted to such misleading statements only with a view to impress upon this Hon'ble Tribunal to interfere with his Order of transfer. The statements made by the applicant have got no bearing upon the merits of the instant case. The allegation of the applicant that his desire to attend the workshop on transfer of Technology in Dairy was turned down by the respondents only for the simple reason that the applicant is serving in the field of poultry Farm and any workshop on Dairy would not have been helpful for

the applicant. However, the Respondents have always encouraged the applicant in undergoing anything in his own field. The applicant's contention that the denial of permission to the applicant to attend a workshop on a subject other than poultry would clearly show that he was specifically selected for poultry is his mere conjecture and surmises and is not based upon any relevant records.

9. That with regard to the statements made in paragraphs 4.11 and 4.12 of the Original Application, the answering respondent categorically denies the correctness of the same. The answering respondent humbly begs to state that the applicant was transferred vide Order dated 03.01.2005 (Annexure – 8 of the Original Application) to ICAR Research Complex, Manipur Centre, Imphal in public interest. The allegation of the applicant that he was first served with his relieve Order dated 05.01.2005 prior to the service of his Order of transfer is absolutely baseless and concocted. Although, the applicant had challenged his relieve Order dated 05.01.2005 before the Hon'ble Gauhati High Court (Agartala Bench) by way of a writ petition yet the same was rejected upon being pointed by the Respondents herein that the applicant had other efficacious alternative remedy available to him and the proper forum before which the applicant ought to have approached in the Central Administrative Tribunal, Guwahati Bench. It is pertinent to mention herein that the Hon'ble High Court while rejecting the said writ petition i.e. W.P. (C) No. 13/2005 had never extended the interim protection initially granted in favour of the applicant herein. Needless to mention herein that the Hon'ble High Court had suspended the operation of the Relieve Order dated 05.01.2005 only and the applicant did not even bother to challenge the transfer Order dated 03.01.2005 in the said writ proceedings. The answering respondent further begs to state that the interim order dated 07.01.2005 passed by the Hon'ble High Court is an ex parte order. As such, the very fact of developing a Poultry Project in the ICAR, Manipur Centre could not be placed before the Hon'ble Court by the Respondent authorities at the time of passing of the said Order by the Hon'ble High Court.

10. That with regard to the statements made in paragraphs 4.13 to 4.16 of the Original Application, the answering respondents most categorically deny the correctness of the same. The answering respondents deny the allegation that the transfer Order is a cryptic one and does not disclose the post to which the applicant has been transferred. The answering respondent in this regard deems

it pertinent to state that the transfer of an incumbent working in the ICAR is always inter institutional and the transfer order never discloses to which post the incumbent has been transferred. As such, there is no element of arbitrariness in the Transfer Order of the applicant.

A specimen copy of transfer order of another incumbent is annexed herewith and marked as ANNEXURE-A

The answering respondents most categorically deny the allegation of the applicant that his transfer was initiated at the behest of the Respondent No. 3. The applicant has resorted to making such kinds of baseless allegations only with the purpose of impressing upon this Hon'ble Tribunal to interfere with his Order of transfer. The Respondent No. 3 has got no desire to have full control of the Poultry Section as the Respondent No. 3 being the Joint Director of the centre already has the full administrative control of the centre. The transfer Order in question has been issued by the Respondent No. 2, who is the Director of the ICAR and has been vested with full powers to transfer an incumbent working under him in public interest. Such power is vested upon the Respondent No. 2 by virtue of the "Delegation Of Power" of the ICAR. The Respondent No. 2 in exercise of such powers has transferred the applicant to the Manipur Centre for reasons stated hereinabove.

The answering respondent craves leave of this Hon'ble Tribunal to refer to and rely upon the "Delegation of Powers" of the ICAR at the time of hearing of the instant case.

The answering respondent most categorically denies the contention of the applicant that the services of the applicant are indispensable at the Tripura Centre and there is no one competent enough to replace the applicant. The answering respondent admits the fact that the applicant is highly qualified in poultry farm management and as such, his services are more required in public interest at the Manipur Centre of ICAR. The transfer Order of the applicant was never issued at the instance of the Respondent No. 3.

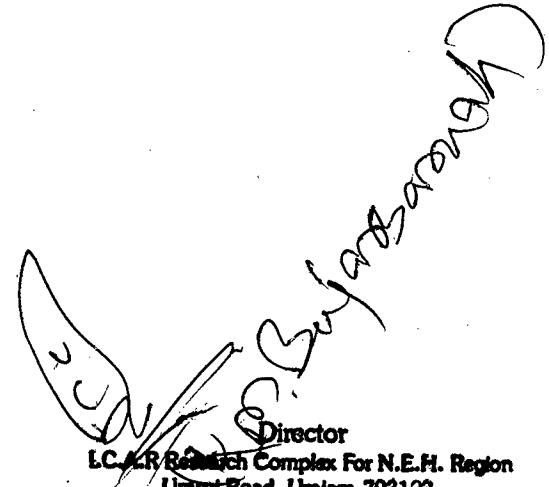
11. That while denying the statements made in paragraphs 4.17 to 4.20 of the Original Application, the answering respondent humbly begs to state that

according to the applicant all the allegations which have been so made are attributable to the Respondent No. 3, whereas the Transfer Order of the applicant was issued by the Respondent No. 2 who is the Director of the ICAR and is fully empowered by the Rules to transfer any incumbent working under him. The answering respondent deems it pertinent to reiterate herein that the Respondent No. 2 has exercised his power to transfer the applicant to the Manipur Centre in Public Interest. It is a settled position of law that for a transfer Order to be interfered with by a Court of law the malafides must be based on firm foundation of facts, which has to be specifically pleaded and established. Mere insinuations and suggestions are not sufficient to make out a case of malafides necessitating interference with an order of transfer. In the instant case the applicant has miserably failed to plead and establish any malafides against the transfer order itself, which has been issued by the Respondent No. 2. There is no nexus between the allegations of the applicant and his transfer order, which has been issued absolutely in public interest. As such, this Hon'ble Tribunal may be pleased to dismiss the instant application as not maintainable.

12. That with regard to the statements made in paragraph 4.21 of the Original Application the answering respondent deems it pertinent to state that although the writ petition filed by the applicant before the Hon'ble Gauhati High Court (Agartala Bench), assailing his relive order dated 05.01.2005 was withdrawn by him on 17.02.2005 yet there was no interim protection granted to him for the intervening period before he approached this Hon'ble Tribunal.
13. That the with regard to the statements made in paragraph 4.22 of the Original Application, the answering respondent categorically denies that the instant application has been filed bonafide and for the ends justice.
14. That none of the grounds averred to in the instant Original Application are valid or legally tenable grounds. The applicant has miserably failed to establish any case in his favour necessitating any interference at the hands of this Hon'ble Tribunal and as such this Hon'ble Tribunal may be pleased to dismiss the instant Original Application as no maintainable

VERIFICATION

I, Dr. Kamal Malla Bujarbaruah son of (Late)A.M Bujarbaruah aged about 54 years, presently working as Director, I.C.A.R. Research Complex for N.E.H Region do hereby verify that the statements made in paragraphs 1 to 4,5 ( partly),6 to 9,11 to 14 of the written statement are true to my knowledge and those made in paragraphs 5(partly) and 10 are true to my knowledge derived from records and rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.



Dr. Kamal Malla Bujarbaruah  
Director  
I.C.A.R. Research Complex For N.E.H. Region  
Umro Road, Umiam-793133.

DEPONENT

ANNEXURE - A

## INDIAN COUNCIL OF AGRICULTURAL RESEARCH

ICAR Research Complex for N.E.H. Region  
Umroi Road, Umiam – 793103, Meghalaya

No. RC(P)86/85

Dated Umiam, the July, 2004

ORDER

The Director, ICAR Research Complex for N.E.H. Region, Umiam, Meghalaya is pleased to transfer Shri Durgesh Chanda, Lab Asstt. (T-3), ICAR Research Complex for N.E.H. Region, Mizoram Centre, Kolsaib, Mizoram to ICAR Research Complex for N.E.H. Region, Nagaland Centre, Khanakhuru, Nagaland in the interest of public Service with immediate effect.

He will be entitled for T.T.A. & joining time etc. to report for duty at Nagaland Centre.

Sd/- Illegible  
(S. Sinha)  
Asstt. Administrative Officer (Admn.)

To

Shri Durgesh Chanda  
Lab Asstt. (T-3),  
ICAR Research Complex for NEH Region,  
Mizoram Centre,  
Kolasib - 796 081,  
Mizoram.

Copy for information and necessary action to: -

1. The Finance & Accounts Officer, ICAR Research Complex for NEH Region, Umiam, Meghalaya.
2. The Joint Director, ICAR Research Complex for NEH Region, Nagaland Centre, Khanakhuru, Nagaland.
3. The Joint Director, ICAR Research Complex for NEH Region, Nagaland Centre, Khanakhuru, Nagaland.
4. The Dealing Asstt. (Rectt. Cell)

**Certified to be true Copy**

*S. Sinha*

**SHARMILA DAS  
ADVOCATE**

INDIAN COUNCIL OF AGRICULTURAL RESEARCH  
ICAR Research Complex for N.E.H. Region  
Umrot Road, Umiam-793103, Meghalaya

No. RCP(P)86/85

Dated Umiam, the 26th March, 1986.

To

Q H D E R

The Director, ICAR Research Complex for N.E.H. Region, Umiam, Meghalaya is pleased to transfer Shri Durgesh Chanda, Lab. Asstt. (T-3), ICAR Research Complex for N.E.H. Region, Mizoram Centre, Kolasib, Mizoram to ICAR Research Complex for N.E.H. Region, Nagaland Centre, Khanakhuru, Nagaland in the interest of public service with immediate effect.

He will be entitled for T.T.A. & joining the etc. to report for duty at Nagaland Centre.

Re:

(S. Sinha)  
Asstt. Administrative Officer (Um.)

To

Shri Durgesh Chanda,  
Lab. Asstt. (T-3),  
ICAR Research Complex for NEH Region,  
Mizoram Centre,  
Kolasib-796 081,  
Mizoram.

Copy for information and necessary action to:-

1. The Finance & Accounts Officer, ICAR Research Complex for NEH Region, Umiam, Meghalaya.
2. The Joint Director, ICAR Research Complex for NEH Region, Mizoram Centre, Kolasib, Mizoram.
3. The Joint Director, ICAR Research Complex for NEH Region, Nagaland Centre, Khanakhuru, Nagaland.
4. The Dealing Asstt. (Recd. Cell).

Of copy

Certified to be true Copy

S.Das.

SHARMILA DAS  
ADVOCATE

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A No. 45/2005

Filed by :  
The Applicant  
Jharghati  
Uoni Krishnan Nam  
Advocate 16.05.05

IN THE MATTER OF

A rejoinder on behalf of the applicant to  
the written statement filed by the  
respondents No. 1, 2 and 3.

Rejoinder

1. That I have been served with a copy of the written statement under reply and on perusal of the same; I have understood the contents thereof. I am well acquainted and fully conversant with the facts and circumstances of the case and as such competent to file this rejoinder.
2. That save and except the statements that are specifically admitted herein below, all the averments made in the written statements are categorically denied by the applicant. The applicant further does not admit the statements not borne out of and/or contrary to the records of the case.
3. That with regard to the statements made in paragraph - 5 under reply, your deponent denies the same and reaffirms and reiterates the statements made in 4.2 to 4.5 of the original application. It is further stated that the

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advertisement preceding the appointment of the applicant clearly specified that the post of T-6 (poultry) was specifically meant for Lembucherra, Tripura. The applicant having been appointed against a specific post, he could not have been transferred and posted out from the said post in as much as in the entire North East there is only one center i.e. at Lembucherra, existing for Poultry Research and Management.

It is denied that the applicant is not equipped to undertake R & D activities under the project in question and that the applicant has got nothing to do with research activities. It is stated that the applicant has all the requisite qualification and expertise to undertake R & D activities. The applicant has been involved in the R & D activities in the said center.

4. That with regard to statement made in paragraph – 6 under reply, your deponent denies the same and reiterates and reaffirms the averments made in paragraph 4.6 of the original application. The illegality committed in transferring the applicant at the behest of respondent No. 3 is now being sought to be justified by contending that the applicant was transferred to manage a project of poultry started at ICAR'S Manipur Center. It is the categorical stand of the applicant that no post of Farm Manager T –6 (poultry) exist at the Manipur Center and it is for this reason that the order of transfer as well as the order of release passed in case of the applicant does not reflect the post to which he has been transferred.

5. That with regard to statement made in paragraph – 7 under reply, Your deponent denies the same and states that he was forced to come under the protective hands of your Lordships, in view of the fact that he was sought to be transferred basing on extraneous consideration and malafide intentions. There exists no public interest in the issuance of the impugned order of transfer and the

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same is the result of the pressure brought upon the respondent authorities by the respondent no. 3.

6. That with regard to statement made in paragraph - 8 under reply, your applicant denies the same and reiterates and reaffirm the statements made in paragraphs 4.8, 4.9 and 4.10 of the original application. It is further stated that the respondent no. - 3 had all along been creating hurdles in the path of discharge of duties by the applicant. The applicant has not for the first time raised grievances against the respondent no. 3 before this Hon'ble Tribunal but had brought the discriminations meted out to him to the notice of respondent no -2 vide communication dated 31.12.2004 (Annexure - 4 to the original Application). It is this communication and the pressure brought upon the respondent authorities by the respondent no. 3 that in fact led to the issuance of the impugned order of transfer.

7. That with regard to the statements made in paragraph - 9 under reply, your deponent denies the same and reiterates and reaffirms the statement made in the paragraphs 4.11 and 4.12 of the original application. It is reiterated that on 05.01.05 the applicant was sought to be relieved from his post by the respondent no - 3 without however serving upon the applicant a copy of the impugned transfer order-dated 03.01.05. The impugned order of transfer dated 03.01.05 was served upon the applicant only on 12.1.05. It is stated that the writ application preferred by the applicant before the Hon'ble Gauhati High Court, Agartala Bench was closed on the ground of jurisdiction and not on merits of the application. Immediately on disposal of the said writ application, the applicant at the earliest opportunity approached this Hon'ble Tribunal assailing the impugned order of transfer dated 03.01.05 and the order dated 05.01.05.

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8. That with regard to the statements made in paragraph - 10 under reply, your deponent denies the same and reiterates and reaffirms the statement made in the 4.13 to 4.16 of the original application. It is stated that the post to which the applicant was being transferred was not mentioned in the impugned order of transfer only because of the reason that in the Manipur Center has no post of Farm Manager T-6 (poultry) existed.

It is denied that the impugned order of transfer was not issued at the instance of the respondent no -3. The impugned order of transfer is the result of the vindictive attitude adopted by the respondent No. -3 and the pressure brought upon the authorities by the respondent no. -3 for furtherance of his malafide intentions to see the ouster of the applicant from the Tripura Center.

The contentions of the respondents that the services of the applicant is not indispensable at the Tripura Centre is categorically denied and it is stated that at present there is no person available to man the post of Farm Manager T-6 (poultry) at the Tripura center and the transfer of the applicant would seriously effect the running of the poultry project at Tripura. As such the impugned order of transfer is clearly opposed to public interest.

9. That with regard to the statements made in paragraph - 11 under reply, your deponent denies the same and reiterates and reaffirms the statements made herein above and in paragraph 4.17 to 4.20 of the original application. Records would reveal that the actual intention behind the issuance of the impugned order of transfer was to accommodate the request made by the respondent no. -3. The facts and circumstances as existing and as have been set forth in the original application would conclusively show that the impugned order of transfer is the result of the vindictive attitude adopted by the respondent No. -3 against the applicant.

10. That with regard to the statements made in paragraph - 12 under reply, your deponent denies the same and states that with the passing of the interim direction by this Hon'ble Tribunal protecting the service interest of the applicant after hearing all the parties, the contentions made in the paragraph under reply has lost its force.

11. That with regard to the statements made in paragraph - 13 and 14 under reply, your deponent denies the same and states that he has been successful in making out a *prima-facie* case requiring the interference of this Hon'ble Tribunal in the matter. It is a fit case where in this Hon'ble Tribunal would be pleased to set aside and quash the impugned order of transfer and thereby allow the original application filed by the applicant.

..... VERIFICATION

### VERIFICATION

I, Dr. Asit Chakrabarti, aged about 41 years, Son of Shri Adhir Chakrabarti, applicant in O.A. No. 45 of 2005 presently resident of Dhalawar, Agartala, in the District of West Tripura, do hereby solemnly affirm and verify that the statements made in paragraphs 1, 2, 3, 4, 5, 6, 7, 8 and 9 -

\_\_\_\_\_ are true to my knowledge  
those made in paragraphs \_\_\_\_\_

\_\_\_\_\_ are true to my information  
derived from records and the rests are my humble  
submissions before the Hon'ble Tribunal. I have not  
suppressed any material facts.

And I sign this verification on this the  
11th day of May, 2005.

*Asit Chakrabarti*

DEPONENT.