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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No... 83/2005

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SECTION OFFICER (JUDI.)

ORDER SHEET

Original Application No.

83/2005

Misc. Petition No.

Contempt petition No.

Review Application No.

Applicants. Sri Badal SarmaRespondents. U.O.I & ORS.

Advocates for the Applicant.

MR M Chanda, S. Nath and S. Chaudhury

Advocates of the Respondents.

C.G.S.C. A.K. Chaudhury

Notes of the Registry	Dated	Order of the Tribunal
This application is in form is filed/C.P. for Rs. 10/- deposited vide I.P.C./BD No. 20G/116804 Dated 15.3.05 <i>Recd 29/3/05</i> By Dy. Registrar	30.3.2005	<p>Present : The Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.</p> <p>Heard Mr. M. Chanda, learned counsel for the applicant and also Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. for the respondents.</p> <p>Issue notice to show cause as to why this application shall not be admitted.</p> <p>Since the applicant seeks for stay the respondents are directed to furnish the circumstances under which the applicant is sought to be transferred.</p> <p>There is already an interim order staying the transfer of by this Tribunal (Annexure - X) till the disposal of the representation. In the circumstances, further action pursuant to Annexure - IV dated 13.12.2004 as affirmed by order dated 18.3.2005 (Annexure-XIII) will stand deferred till the next date if the applicant <u>is</u> already relieved.</p>

Post on 26.4.2005 for admission.

G. Sivarajan
Vice-ChairmanNotice duly served
on resp. No - 1*9/4/2005*
25-4-05
S. M. - *25-4-05*

28.4.05. Mr. M. Chanda learned counsel for the applicant is present. Mr. A. K. Choudhury, learned Addl. C.G.S.C. takes notice on behalf of the Respondents and seeks for further time.

Post the matter on 11.5.05.

Interim order dated 30.3.05 still continue till date.

E. Jagar
Vice-Chairman

order dt. 28/4/05
issuing to learned
advocates to both
both the parties. lm

ll
29/4/05

10-5-05
Notice-dated, served, on
29/4/05 and given to both
the parties.

11.5.2005

Mr. A. K. Chaudhury, learned Addl. C.G.S.C. seeks for some more time for filing written statement. Mr. S. Nath, learned counsel for the applicant submits that the interim order must be continued.

Post on 8.6.2005. Interim order dated 30.3.2005 will continue till date.

E. Jagar
Vice-Chairman

ll
order dt. 11.5.05
issuing to both
the parties.

bb

11.5.2005
8.6.05

Mr. A. K. Chaudhury, learned Addl. C.G.S.C. wants further time to file written statement.

List on 6.7.05 for admission.

Interim order dated 30.3.2005 shall continue till next date.

E. Jagar
Vice-Chairman

ll
Order dt. 8/6/05
issuing to both
the parties.

9/6/05
pg

6.7.2005

Mr. S. Nath, learned counsel for the applicant is present. Mr. A. K. Chaudhury, learned Addl. C.G.S.C. for the respondents submits that written statement is being filed today. Post on 08.08.2005 for hearing. Rejoinder, if any, in the meantime.

ll
No. written statement
has been filed.

5.7.05

6.7.05

WTS filed by the
Respondent Nos. 1, 2, 3, 4 & 6.
No. rejoinder has been filed.

5.7.05
mb

E. Jagar
Vice-Chairman

08.08.2005

Post on 12.9.2005.

K. R. Balakrishnan

Member

Vice-Chairman

mb

2.9.05

Heard counsel for the parties.

Hearing concluded. Judgment delivered in open Court, kept in separate sheets. Application is disposed of in terms of the order. No costs.

Vice-Chairman

pg

12.9.05
 Copy of the
 Judgment has been
 sent to the D/Secy
 for deciding the
 same to the applicant
 as well as to the
 Addl. CAGC.

VCh

R. K. Chauhan
 16/9/05

CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH.

O.A. No. 83 of 2005.

DATE OF DECISION: 02.09.2005

Sri Badal Sarma

APPLICANT(S)

Mr. M. Chanda.

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

Union of India & Ors.

RESPONDENT(S)

Mr. A.K. Chaudhuri, Addl. C.G.S.C.

ADVOCATE FOR THE
RESPONDENT(S)

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

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

Judgment delivered by Hon'ble Vice-Chairman.

G. Sivaranjan

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 83 of 2005.

Date of Order: This, the 2nd Day of September, 2005.

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

Shri Badal Sarma,
Son of late Manindra Lal Sarma,
Assistant Superintendent of Post Offices,
Goalpara Sub-Division, Goalpara,
P.O. Goalpara, Dist. Goalpara, Assam. Applicant

By Advocate Shri M. Chanda.

- Versus -

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

By Shri A.K.Chaudhuri, Addl.C.G.S.C.

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

Heard Mr M.Chanda, learned counsel for the applicant, Mr A.K.Chaudhuri, learned Addl. C.G.S.C for the respondents and also perused the pleadings in this case.

2. The applicant is an Assistant Superintendent of Post Offices, Goalpara Sub division, Goalpara in Assam. He has filed this O.A seeking to set aside the transfer and posting order dated 31.12.2004 (Annexure-IV) in respect of him. He has also sought to set aside the order dated 1.2.2005 (Annexure-VII) and order dated 18.3.2005 (Annexure-XIII). By the order dated 31.12.2004 the applicant was transferred from Goalpara to Silchar in a retirement vacancy. Though the applicant had filed a representation seeking for permission to continue in the said place for one more year the same was rejected by communication dated 1.2.2005 (Annexure-VII). The applicant had earlier approached this Tribunal by filing O.A.40/2005 which was disposed of by order dated 18.2.2005. Subsequently the applicant has filed a representation dated 21.2.2005 (Annexure-XII) which was disposed of by order dated 18.3.2005 (Annexure-XIII). It is stated therein that there was a serious complaint against the applicant regarding non-compliance of orders from his superior authority in connection with compassionate appointment case at Balarbhita Branch Office, investigation into the complaint revealed that there was serious intentional lapse on the part of the applicant displaying insubordination and conduct which is not above board. It is also stated that the Superintendent of Post Offices,

Ep/

Dhubri initiated disciplinary proceeding against the applicant for his misconduct and non performance of duty assigned to him to achieve targets on various plan activities and awarded punishment of stoppage of increment from his pay vide order dated 11.1.2005. Another disciplinary action is contemplated against the official for his omissions and commissions. It is stated that in view of all these circumstances it is necessary to shift the applicant from the present place of posting in the interest of smooth and efficient functioning of Goalpara Postal Sub Division. Written statement filed by the respondents is also to the above effect.

3. Mr M.Chanda, learned counsel for the applicant submits that only 5 months more is left for the applicant to retire from the service and that the applicant is continuing in the same place by virtue of the interim order passed by the Tribunal on 30.3.2005. Counsel submits that the respondents have no case that the applicant had tampered with any official document in his possession and that the applicant will not do any such thing during the remaining 5 months also. Mr A.K.Chaudhuri, learned Addl.C.G.S.C on the other hand submits that if the applicant is allowed to continue in the same place there is every likelihood of his tempering the records which may eventually affect the disciplinary proceeding pending.

4. I do not propose to go into the merits of the transfer order. As already noted, the transfer order is dated 31.12.2004. The present disciplinary proceeding, even according to the impugned order, is subsequent thereto. So far, the applicant has been continuing in the same place notwithstanding the transfer order and no instance of tempering

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with the records has been brought to my notice. Having regard to the fact that the applicant has got only 5 months more to retire, I am of the view that the applicant must be allowed to continue in the same place till his retirement. If the respondents find that the applicant is tempering with the records while in office certainly, it is for them to take appropriate action in that regard, for which this order will not stand against them.

The O.A is disposed of as above. No costs.


(G. SIVARAJAN)
VICE CHAIRMAN

29 MAR 2005

गुवाहाटी न्यायसीँठ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

O.A. No. 83 /2005

Shri Badal Sarma.

-Vs-

Union of India & Ors.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

1969- Applicant was initially appointed as Postal Assistant.

1981- Applicant was promoted to the post of Inspector of Post Offices.

2000- Applicant was further promoted to the cadre of Assistant Superintendent of Post Offices.

11.01.2002- Applicant while working as Assistant Superintendent of Post Offices at HQ Office, Dhubri, he was transferred and posted to Guwahati. (Annexure-I)

01.01.2003- Applicant sought to be transferred from Guwahati to Silchar. (Annexure-II)

11.03.2003- Applicant was transferred and posted from Guwahati to Goalpara after modification of transferred order dated 01.01.03. (Annexure-III)

31.12.2004- Respondents issued impugned order of transfer and posting, whereby the applicant has been sought to be transferred and posted at Silchar in a post which is going to be fall vacant on 28.02.05 due to retirement of one Shri C.M. Nath. (Annexure-IV)

10.01.2005- Applicant submitted a detailed representation praying interalia for retention in his present place of posting till his retirement on superannuation i.e. upto 28.02.2006. (Annexure-VI)

01.02.2005- Respondent No. 2 rejected the representation of the applicant in a most mechanical manner with a direction to the applicant to join to his new place of posting. (Annexure-VII)

February 2005- Applicant filed O.A. No. 40/2005 before this Hon'ble Tribunal.

18.02.2005- This Hon'ble Tribunal passed it's order dated 18.02.05 in O.A. No. 40/05 directing the Respondents to consider fresh representation of the applicant within four weeks. (Annexure-VIII)

21.02.2005- Applicant submitted fresh representation for consideration as directed by the Tribunal. (Annexure-IX)

18.03.2005- Applicant's representation rejected by the Respondents stating that his transfer was based on disciplinary action resulting into punishment

Sri Badal Sarma

imposed on him vide order dated 11.01.05 and dated 28.01.05 which were appealed against by the applicant and is pending for decision. As such the proposed transfer appears to be punitive in character which was made on the plea of interest of service. Hence the transfer is malafide, colourable exercise of power, tainted with malice in law and legally not sustainable.

(Annexure-XIII, XIV, XV, XVI, XVII)

Hence this Original Application before the Hon'ble Tribunal.

P R A Y E R S

Relief(s) sought for:

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

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned transfer and posting order bearing letter No. Staff/3-23/2000/Ch.I dated 31.12.2004 (Annexure-IV) in respect of the present applicant, and further be pleased to set aside and quash the impugned order bearing letter No. Staff/1-441/88 dated 01.02.2005 (Annexure-VII) and impugned order No. Staff/1-441/88 dated 18.03.05 (Annexure-XIII).
2. That the Hon'ble Tribunal be pleased to direct the respondents to allow the applicant to continue in the present place of posting at Goalpara till his retirement on superannuation.
3. Costs of the application.
4. Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for:

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

1. That the Hon'ble Tribunal be pleased to stay the operation of impugned transfer and posting order bearing letter No. Staff/3-23/2000/Ch.I dated 31.12.2004 (Annexure-IV) in respect of the present applicant as well as impugned order bearing letter No. Staff/1-441/88 dated 01.02.2005 (Annexure-VII) and impugned order No. Staff/1-441/88 dated 18.03.05 (Annexure-XIII) till disposal of the Original Application.

Sri Badal Sarma

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O. A. No. 83 /2005

BETWEEN

Shri Badal Sarma.
S/o- Late Manindra Lal Sarma.
Assistant Superintendent of Post Offices.
Goalpara Sub-Division, Goalpara.
P.O- Goalpara. Dist- Goalpara. Assam.

...Applicant.

-AND-

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

... Respondents.

Shri Badal Sarma

DETAILS OF THE APPLICATION

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

This application is made against the impugned transfer and posting order bearing letter No. Staff/3-23/2000/Ch.I dated 31.12.2004 (Annexure-IV), which is passed in violation of professed norms, (2) the impugned letter bearing No. Staff/1-441/88 dated 01.02.2005 (Annexure- VII) rejecting the prayer of the applicant for review of transfer and posting order dated 31.12.2004 and (3) the impugned order No. Staff/1-441/88 dated 18.03.2005 (Annexure- XIII), and further praying for a direction upon the respondents to allow the applicant to continue in the present place of posting at Goalpara till his retirement on superannuation on 28.02.2006.

2. Jurisdiction of the Tribunal.

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

3. Limitation.

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

4. Facts of the Case.

- 4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.
- 4.2 That your applicant was initially appointed as Postal Assistant in the year 1969, thereafter he was promoted to the post of Inspector of Post offices in the year 1981, again he was promoted to the cadre of Assistant Superintendent of Post

Sri. Dadasal Sarma

Offices during the year 2000, at Headquarter Office, Dhubri. The applicant is presently working as Asst. Superintendent of Post Offices at Goalpara.

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

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

4.4 That most surprisingly, when the applicant is intending to settle down at Goalpara the respondents has issued the impugned order of transfer and posting under letter bearing No. Staff/3-23/2000/Ch.I dated 31.12.2004, whereby the applicant is now sought to be transferred and posted at Silchar in a post which is going to fall vacant, due to retirement of one Shri C.M. Nath w.e.f. 28.02.2005, at Silchar. The impugned transfer and posting order in respect of the applicant has been passed at a time when the applicant is in the verge of his retirement, when only one year of

Dr. Badal Karma

service is left on his credit and on that score alone the impugned order of transfer and posting is liable to be set aside and quashed. The applicant is to retire on 28.02.2006 (A.N).

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

4.5 That it is stated that on a mere reading of the impugned transfer order dated 31.12.2004 it appears that none is posted at Goalpara, in the place of present applicant as such the post of A.S.P.O at Goalpara shall remain vacant in the event if applicant is required to carry out the impugned order of transfer and posting. Moreover, it is a routine transfer and as such there is no administrative exigency for transfer of the applicant from Goalpara to Silchar. Therefore the impugned order dated 31.12.2004 is liable to be set aside and quashed.

4.6 That it is stated that as per P & T Manual Volume IV, Rule 59 provide that ordinarily the tenure of posting of Assistant Superintendent of Post Offices in particular Division or Sub-Division is four years, whereas, it appears that the applicant transferred and posted atleast on four occasions within a span of 2/3 years, such repeated transfer and posting of a postal employee is in violation of the Rule contained in P & T Manual itself is malafide and on that score alone the impugned order of transfer and posting dated 31.12.04 is liable to be set aside and quashed.

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

4.7 That your applicant being highly aggrieved with the impugned order of transfer and posting dated 31.12.04 submitted a detailed representation addressed to the

Sri Badal Barma

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

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

4.8 That it is stated that even the 5th Central Pay Commission also recommended to the Govt. of India that the Government employees should not be disturbed by way

En'g. Dadasal Sarma

of transfer and posting when they have less than 3 years of service in their credit before retirement, whereas the present applicant is left with less than 1 year of service in his credit on 28.02.05 when the post of A.S.P.O at Silchar is going to fall vacant. The similar issue came up before the various benches of the learned Tribunal, in the case of S. Krishna Vs. Deputy Regional Director, ESI Corporation, Trichur and another, reported in 1991 (1) SLJ (CAT) 336 (Ernakulam) held that the applicant of that case is liable to be retained in the same place of posting being at the fag end of his career unless his transfer is reconsidered by any other unavoidable administrative exigencies. In other case i.e. H.S. Ajmani Vs. State of M.P and Ors reported in (1989) 9 ATC 122 (Jabalpur), wherein it is held that frequent transfer of a Govt. employee is contrary to the Govt. instructions and so the said order is liable to be set aside and quashed. The applicant is a victim of frequent transfer and the impugned order is contrary to the Govt. instruction and there is no public interest involved where the sanction post of A.S.P.O at Goalpara shall remain vacant in the event of his posting at Silchar. Therefore, impugned order of transfer dated 31.12.2004 as well as impugned order dated 01.02.2005 are liable to be set aside and quashed.

In a similarly situated case, this Hon'ble Tribunal also vide its judgment and order dated 08.04.2004 in O.A. No. 89/2004 (Upendra Nath Sarkar -Vs- Union of India & Ors.) held that the transfer order challenged in that Original Application being contrary to the transfer policy and the applicant therein being in the verge of retirement within three years, the case of the applicant required to be reconsidered and as such directed the Respondents of the said Original Application to consider the case of the applicant within two months. This case is also similarly situated and as such merits consideration.

Sre. Radal sarm

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Copy of judgment dated 23.11.1990. a copy of judgment in the case of M.P Ajmani Vs. State of M.P passed by learned CAT and a copy of judgment dated 08.04.04 are enclosed herewith for perusal of Hon'ble Tribunal and marked as Annexure-VIII, IX & X respectively.

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

Sre. Badal Salma

issued in respect of the applicant without any rhyme and reason and that too in violation of the Govt. instruction hence the impugned order of transfer dated 31.12.2004 as well as the letter dated 01.02.2005 are liable to be set aside and quashed.

4.10 That having failed to get justice, the applicant approached this Hon'ble Tribunal through O.A. No. 40/2005 for protection of his rights and interests and prayed for quashing of the impugned order dated 31.12.2004 (Annexure-IV) and impugned letter dated 01.02.2005 (Annexure-VII) with further prayer for directing the Respondents to allow the applicant to continue in his present place of posting at Goalpara till his retirement which is on 28.02.06 and is only few months away from now.

The Hon'ble Tribunal vide its order dated 18.02.05 in O.A. No. 40/05 directed the present applicant to file a fresh representation to the Chief Post Master General, Assam Circle within one week of the date of issue of the order and further directed that the Respondents on receipt of such representation shall pass an order that is lawful, fair and just within four weeks from the date of receipt of the representation and also ordered to maintain status quo till the disposal of the representation.

(Copy of the Tribunal's order dated 18.02.05 is enclosed herewith for perusal of Hon'ble Tribunal and marked as Annexure-XI).

4.11 That thereafter the applicant submitted his fresh representation on 21.02.05 as directed by this Hon'ble Tribunal, enclosing therewith a copy of this Hon'ble Tribunal's order dated 18.02.05 aforesaid. In his representation, the applicant narrated about his retirement which is only few months away and also his other

Dre Badal Sarma

problems including his health condition etc. and prayed for reconsideration of his proposed transfer and allowing him to continue at his present place of posting at Gopalpara.

(Copy of the representation dated 21.02.05 is enclosed herewith for perusal of Hon'ble Tribunal and marked as Annexure-XII).

4.12 That on receipt of the representation dated 21.02.05 aforesaid, the Respondent No. 6 has issued the impugned order No. Staff/1-441/88 dated 18.03.2005, rejecting the representation and informing the applicant that his proposed transfer has been order following the complaints of serious lapses, insubordination, bad conduct and unsatisfactory performance etc. on the part of the applicant, and further stating about a punishment imposed earlier on the applicant vide order dated 11.01.05 and a disciplinary action contemplated against the applicant.

(Copy of impugned order dated 18.03.05 is enclosed herewith for perusal of Hon'ble Tribunal and marked as Annexure-XIII).

4.13 That the applicant most respectfully begs to state that the Respondents, in a bid to harass the applicant earlier, framed some unfounded charges against the applicant and imposed a penalty of stoppage of one increment for one year vide order dated 11.01.05. The applicant appealed against the order of punishment vide his representation dated 26.02.05 but in the meantime, the Respondents cancelled the order of punishment dated 11.01.05 vide subsequent order dated 28.01.05 whereby the punishment was modified to reduction of pay and some fresh charges were labeled against this applicant. The applicant thereafter submitted his appeal dated 17.03.05 against the new order dated 28.01.05 as well. The decision of the appellate authority is still pending. As such the matter is still undecided and this

Sir Badal Sarma

has got no relevance to the proposed transfer order as taken pleas of by the Respondents now, in their impugned letter dated 18.03.05 since this is entirely a different case of disciplinary action which stands on its own merit and shall be decided as per rules and through the process of law only.

(Copy of order dated 11.01.05, appeal dated 26.02.05, order dated 28.01.05 and appeal dated 17.03.05 are enclosed herewith for perusal of Hon'ble Tribunal and marked as Annexures-XIV, XV, XVI and XVII respectively).

4.14 That the applicant most respectfully begs to submit that in the impugned transfer order dated 31.12.04 (Annexure-IV) it has been categorically mentioned that the said transfer is in the interest of service which was submitted before this Hon'ble Tribunal also by the Respondents. But in the very face of the impugned order dated 18.03.05 (Annexure-XIII), now issued by the Respondents, and on a mere reading of the said order, it is abundantly clear that the said transfer order is punitive and not in the interest of service but on the ground of alleged bad conduct of the applicant. It is relevant to mention here that in the event of bad conduct of an employee if any, the proper course of action in law is disciplinary action prescribed under law which in the instant case, has already been initiated and is pending before the respondents, as stated in Para 4.13 hereinabove. As such the proposed transfer of the applicant from Goalpara to Silchar on the ground of misconduct and that too in a clandestine manner in the name of "interest of service" is malafide, vindictive, colourable exercise of power and malice in law, and hence the impugned order of transfer is liable to be quashed and set aside forthwith.

Sri Basudeb Barma

4.15 That the applicant most respectfully begs to submit that it is the settled position of law that an order of transfer on the ground of misconduct or misdemeanour of an employee is malafide and unsustainable in law.

In Ashok Kumar Mcbey -Vs- Union of India and Ors, the Chandigarh Bench of the Hon'ble Tribunal vide its judgment and order dated 04.03.1991 has held that order of transfer of an official motivated by his indiscipline and immoral activities, is punitive in character, colourable exercise of power and tainted with malice in law and such order is legally not sustainable.

In N.K. Suparna -Vs- Union of India & Ors, the Bangalore Bench of this Hon'ble Tribunal vide its judgment and order dated 13.07.1990 has held that transfer based on allegations of misconduct is malafide and penal one and can not be sustained in law and liable to be set aside.

The case of this applicant also stands on the same footing as those stated above which is evident from the impugned letter dated 18.03.2005 of the respondents and as such is liable to be set aside and quashed.

(Copy of judgments dated 04.03.91 and dated 13.07.90 are enclosed herewith for perusal of Hon'ble Tribunal and marked as Annexures-XVIII and XIX respectively).

4.16 That the applicant most humbly begs to state that the impugned transfer order dated 31.12.2004 has not yet been given effect in respect of the applicant and the applicant is still working as A.S.P.O, at his present place of posting at Goalpara and apprehends that he may be relieved soon from Goalpara unless the Hon'ble Tribunal be pleased to interfere with the case immediately for protecting the rights and interests of the applicant.

Dr. Badal Sarma

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

5. Grounds for relief(s) with legal provisions

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

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

5.3 For that, transfer in the fag end of service career is contrary to the Govt. instruction, moreover repeated transfer and posting within a span of two years is malafide.

5.4 For that, applicant is in the verge of retirement and intending to settle down after retirement in the present place of posting at Goalpara and that too when none is posted in place of the applicant, as such the decision of the respondents to post him at Silchar in the fag end of service career is highly arbitrary, unfair and illegal.

5.5 For that, the impugned transfer and posting indicated in the order dated 31.12.2004 are in fact in routine nature and as such no administrative exigency or public interest involved in as much as in the case of posting of the present applicant at Silchar at the verge of retirement.

Sri Badal Sarma

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5.6 For that, no one is posted at Goalpara in place of applicant therefore in the event of his posting at Silchar in terms of the impugned order dated 31.12.2004 the post of A.S.P.O shall remain vacant at Goalpara, therefore there is no difficulty on the part of the respondents to accommodate the applicant for 1 more year at Goalpara till his retirement on superannuation.

5.7 For that, the applicant has been transferred and posted on 4 occasions within a span of 2 years in the cadre of A.S.P.O which is malafide and contrary to the provision laid down in Rule 59 of P & T Manual Vol. IV.

5.8 For that, the applicant is a diabetic patient and under constant treatment with the attending Physician therefore if transfer and posting at the verge of retirement is unwarranted and the same is contrary to the Govt. policy as well as also contrary to the recommendation of the 5th Central Pay Commission made in this regard.

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

5.10 For that the impugned transfer has been made on the alleged grounds of bad conduct of the applicant but in the name of "interest of service", which as per the settled position of law, is malafide, punitive in character, tainted with malice in law, colourable exercise of power and unsustainable in law.

6. Details of remedies exhausted.

Ran Badal Sarma

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

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

The applicant further declares that he had not previously filed any application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal save and except the O.A. No. 40/2005 before this Hon'ble Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for:

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

- 8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned transfer and posting order bearing letter No. Staff/3-23/2000/Ch.I dated 31.12.2004 (Annexure-IV) in respect of the present applicant, and further be pleased to set aside and quash the impugned order bearing letter No. Staff/1-441/88 dated 01.02.2005 (Annexure-VII) and impugned order No. Staff/1-441/88 dated 18.03.05 (Annexure-XIII).
- 8.2 That the Hon'ble Tribunal be pleased to direct the respondents to allow the applicant to continue in the present place of posting at Goalpara till his retirement on superannuation.
- 8.3 Costs of the application.

Sri Badal Karma

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

9. Interim order prayed for.

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

9.1 That the Hon'ble Tribunal be pleased to stay the operation of impugned transfer and posting order bearing letter No. Staff/3-23/2000/Ch.I dated 31.12.2004 (Annexure-IV) in respect of the present applicant as well as impugned order bearing letter No. Staff 1-441/88 dated 01.02.2005 (Annexure-VII) and impugned order No. Staff/1-441/88 dated 18.03.05 (Annexure-XIII) till disposal of the Original Application.

10.

This application is filed through Advocates.

11. Particulars of the I.P.O.

i)	I. P. O. No.	: 206 JJ 6804
ii)	Date of Issue	: 15. 03. 05.
iii)	Issued from	: G.P.O, Guwahati
iv)	Payable at	: G.P.O, Guwahati

12. List of enclosures.

As given in the index.

Re: Badal Dasmal

VERIFICATION

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

And I sign this verification on this 29th day of March, 2005.

Shri Badal Sarma

ANNEXURE - I

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

Memo No. Staff/3-23/2000

Dated Guwahati, the 11.1.2002:

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

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

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

Useful charge report can sent to all concerned.

(S. Shyam):

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

Copy to
Sarpanch
on 29.3.06

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

No. Staff/3-23/2000

Dated at Guwahati the 01.01.03

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

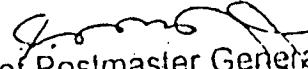
Sl. No.	Name	Present place of posting	Future place of posting	Remarks
(1)	(2)	(3)	(4)	(5)
1	Sri N.C.Bhowmik	ASRM CRC, Guwahati	SAS,C.O. Guwahati	Vacant
2	Sri B.C.Paul	SAS,CO(Adhoc)	ASRM CRC, Guwahati(Adhoc)	Till Sri N.C.Paul reverts
3	Sri T.C.Kalita	SDI,Barpeta & approved for ASP	PM,Nalbari	Vice Sri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


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

*One copy of the
order is forwarded
to the Addl. Adm.
on 29.3.03*

Copy for information and necessary action to :-

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


For Chief Postmaster General,
Assam Circle, Guwahati-781001.

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

Memo No. Staff/ 3-23/2000

Dated at Guwahati the 11.3.03

With the approval of the competent authority the following transfer and posting orders are issued to have immediate effect.

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

The official at Sl.2 will not get TA/TP as the transfer order is issued at his own request.

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

62 (r)

(S.SHYAM)
A.P.M.G.(Staff)
For Chief Postmaster General,
Assam Circle, Guwahati-781001.

Copy to :-

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

For Chief Postmaster General,
Assam Circle, Guwahati-781001.

Same kept file
Suryit Singh
on 29.3.03

DEPARTMENT OF POSTS

OFFICE OF THE

CHIEF POSTMASTER GENERAL: ASSAM CIRCLE: GUWAHATI 781001

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

dated at Guwahati, the 31.12.2004

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

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

PART - A
(ASPOs CADRE)

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

Contd page 2

Guwahati
Sriji B. Bhattacharjee
Dated 29.3.05
on 29.3.05

PART - B
(IPOs CADRE)

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

All the officials may be relieved on local arrangement.

Usual charge reports may be sent to all concerned.

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

Copy to :

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

APMG (Staff)
O/O the Chief PMG,
Guwahati 781001

From :

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

To,

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

(Through the Proper channel)

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

Ref. : Your Memo No. Staff/3-23/2000/ch-1 dtd. 31-12-2004.

Hon'ble Sir/Madam,

In honourably acknowledging the receipt of your memo staff/3-23/2000/ch-1 dt. 31-12-2004. I beg to lay the followings for your kind and sympathetic consideration.

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

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

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

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

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

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

*Free of all trouble
Sarit Choudhury
29.3.05*

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

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

With Profound Regards

Yours faithfully,

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

Dated- Goalpara the 10th Jan/2005

Advance Copy:-

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

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

(15)

ANNEXURE-VII

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

No. Staff/1-441/88

Dated at Guwahati the February 1, 2005.

To

The SPOs, Dhubri, Goalpara Sub-Division

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

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

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

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

Copy to Smt. Ghoshal
 on 29.3.05

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

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

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

Final copy ready
Surjit Singh
3.05
on 21

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ANNEXURE-X

CENTRAL ADMINISTRATIVE TRIBUNAL,
PRIVATE DIVISION.

ORDER SHEET

Org. App/ Misc. Petn/ Cont. Petn/ Rev. Appl. 89/2004

In O.A.

Name of the Applicant(s) Sri Upendra Nath Sarkar

Name of the Respondent(s) U.O.I. & others

Advocate for the Applicant Mr. M. Chanda & Mr. G.N. Chakraborty

Counsel for the Railway/ C.G.S.C.

OFFICE NOTE

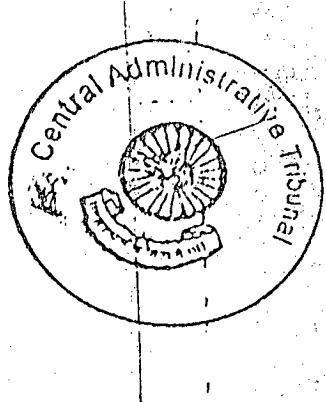
DATE

ORDER OF THE TRIBUNAL

On 8.4.2004 Present : The Hon'ble Mr. K.M. Prahladan, Member (A).

The applicant who is a Sr. Divisional Accounts Officer was transferred and posted at office of the Ex. Engineer, Parbatpur Drilling Division, TAPC with additional charge of Parbatpur TAPC, Division, Parbatpur by order dated 5.11.2003. Only after completion of 2 months at Parbatpur drilling division, he was further sought to be transferred by order dated 8.3.2004 to office of the Ex. Engineer, Gunti Electrical Division, Jantanbari, Tripura with additional charge of Gunti Civil Division, (Power), Jantanbari within a span of two months. Being aggrieved the aforesaid order the applicant approach this Hon'ble Tribunal.

Free copy issued
day of Advt.
on 29.3.05.



Contd/-

8.4.2004

Heard Mr. M. Chanda, learned counsel for the applicant and also Mr. A. Deb Roy, learned Sir, C.G.S.C. for the respondents.

Mr. Chanda, learned counsel for the applicant stated that the impugned transfer order is contrary to the transfer policy dated 19.4.2000. The applicant is also retiring within three years. In the circumstances, the case of the applicant is required to be reconsidered by the authority. Therefore, I direct the respondents to consider the case of the applicant as per transfer policy dated 19.4.2000 within two months from the date of receipt of this order. Till the completion of the aforesaid exercise the transfer order dated 8.3.2004 shall be kept in abeyance, so far the applicant is concerned.

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

Sd/MEMBER (ADM)

Borified to be true Copy

Shri B. B. Bhattacharya

Section Officer (SI)

C.A.T. GUWALIATI BANCH
Guwahati-781005

16/4/04

ANNEXURE - XI

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

ORDER SHEET

Original Application No. 40/05

Misc. Petition No. - - - - -

Contempt Petition No. - - - - -

Review Application No. - - - - -

Applicants - - - - - Badal Salma

Respondents - - - - - U.C.I. Govt.

Advocates for the Applicant M. Chanda, G.N. Chakrabarty, S. Nath
S. Chaudhury

Advocates of the Respondents - - - - - S.G. S.

Notes of the Registry Date - - - - - Order of the Tribunal

18.02.2005 Present & The Hon'ble Mr. K.V. Prabhudan, Member (A).

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

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

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

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

Sd/MEMBER (A)

To

The Chief Post Master General,
Assam Circle,
Department of Posts,
Guwahati-110001

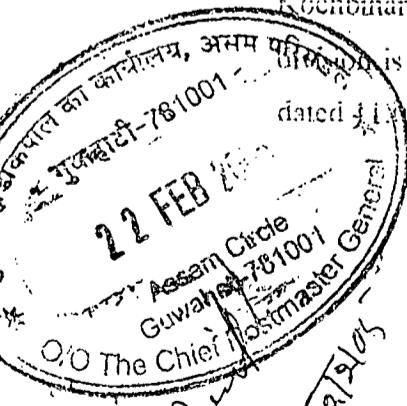
Date : 21.2.05

Sub:- Order dated 18.02.05 in O.A. No. 40/2005 passed by the Hon'ble CAT, Guwahati: Implementation of:

Respected Sir:

I am enclosing herewith a copy of the order dated 18.02.05 of the Hon'ble CAT, Guwahati passed in O.A. No. 40/2005, whereby the Hon'ble Tribunal is pleased to disposed my with the direction, to reconsider my order of transfer and posting issued under letter no. Staff/B-23/2000/CH.I dated 31.12.2004, whereby, the undersigned is sought to be transfer and posted from Goalpara to Silchar. It is relevant to mention here that I am in the verge of retirement and about one year service is left in my credit, therefore finding no other alternative. I have approached the Learned CAT Guwahati Bench praying for a direction to review my transfer order, allowing me to continue in the present place of posting at Goalpara till my retirement on superannuation. The said Original Application was registered as 40/2005 and the same was disposed of by the Learned CAT with the direction to pass a lawfull order within a period of four weeks from the date of receipt of the said order. Hence the present representation.

I respectfully beg to say that I am retiring on superannuation w.e.f 28.02.2006, therefore hardly one year service is left in my credit. Moreover I have decided to settle down in the present place of posting at Goalpara after my retirement, therefore I need to make necessary arrangement for settling down at Goalpara for which my retention at Goalpara is necessary. Moreover I am suffering from acute diabetic and heart diseases and therefore under constant treatment with my attending physician. Moreover I use to go for medical check up under the specialist doctor of cardiology diabetic at Siliguri and Kochbihar. I also like to mention here that maximum tenure in a particular division or sub division is four years and I have been posted at the present place at Goalpara vide order dated 18.03.2003 and reported for duty on 18.03.2003 and since then, I am working at



True copy
Surjya Choudhury
Adm. Officer
01-29-3-05

Goaipara, therefore it is less then two years. I am working at Goaipara. Therefore in the circumstances as stated above does not call for a further posting at Silchar at the lag end of my service career. Moreover at present I am in bereavement since my mother was expired.

In the circumstances I request you to reconsider my case and pass necessary order in favour of the undersigned, allowing me to continue at the present place of posting at Goaipara till my retirement on superannuation, in compliance with the order passed by the learned tribunal on 18.02.2005. a copy of the original application is enclosed for your kind perusal.

Encl: Order dated 18.02.05.

Copy of the Original Application.

Yours faithfully

(Badal Sharma)
Assistant Superintendent of Post Offices

DEPARTMENT OF POSTS
OFFICE OF THE CHIEF POSTMASTER GENERAL: ASSAM CIRCLE: GUWAHATI-1

No. Staff/1-441/88

dated at Guwahati the 18.03.2005

Subject: - CAT, Guwahati Bench Order dated 18.2.2005 in OA No. 40/2005 - consideration of representation of Shri Badal Sarma, Asstt. Supdt Posts, Goalpara for retention of his posting at Goalpara.

O R D E R

Shri Badal Sarma, Asstt. Supdt Posts, Goalpara was ordered to be transferred and posted as Asstt. Supdt RMS, S-Division, Silchar vide No. Staff/3-23/2000/Ch-I, dated 31.12.2004 issued by the O/O the Chief Postmaster General, Assam Circle, Guwahati in the interest of service on administrative ground. He submitted a representation on 10.1.2005 requesting for retention at his present place of posting i.e. Goalpara. The representation was considered but rejected by the appropriate authority vide letter dated 1.2.2005 on the ground of administrative exigencies and interest of service.

2. Being aggrieved, the petitioner filed an application before the Hon'ble Tribunal, Guwahati Bench vide OA No. 40/2005 to assail the orders dated 31.12.2004 and 1.2.2005 mentioned above. The Hon'ble Tribunal was pleased to dispose off the application at admission stage itself on 18.2.2005 with direction to the applicant to submit fresh representation to the Chief Postmaster General, Assam Circle, Guwahati within one week from the date of issue of the order. The respondents on receipt of such representation shall pass an order that is lawful, fair and just within four weeks from the date of receipt of the representation.
3. In pursuance of order of the Hon'ble Tribunal, Sri Badal Sarma has submitted the present representation on 21.2.2005 which was received in this office on 22.2.2005.

*Free loop
Sujit Ghoshal
on 29.3.05.*

The undersigned has considered the representation carefully. There was a serious complaint against the petitioner regarding non-compliance of orders from his superior authority in connection with compassionate appointment case at Balarbhit Branch Office. Investigation into the complaint revealed that there was serious intentional lapse on the part of the petitioner displaying insubordination and conduct which is not above board. Report of unsatisfactory performance of the petitioner was also received. Meanwhile, the Supdt of POs, Dhubri initiated disciplinary action against the petitioner for his misconduct and non performance of duty assigned to him to achieve targets on various plan activities and awarded punishment of stoppage of increment from his pay vide an order dated 11.1.2005. Moreover, another disciplinary action is contemplated against the official after further investigation into various omissions and commissions of the petitioner. In view of this, it is necessary to shift the petitioner from the present place of posting in the interest of smooth and efficient functioning of Goalpara Postal Sub Division

5. The grounds stated in the representation for stay of the transfer order cannot be acceded to, as the petitioner was ordered to be transferred and posted at Silchar in the interest of service on administrative grounds. The undersigned finds no reason therefore to interfere with the order of the competent authority transferring the petitioner at Silchar and REJECT the representation of the petitioner for granting him to continue in the present place of posting at Goalpara.

To,
Sri Badal Sarma
Asstt. Supdt Posts
Goalpara Sub Division
Goalpara 783101

(S K DAS)
Chief Postmaster General
Assam Circle, Guwahati-1

DEPARTMENT OF POSTS, INDIA
OFFICE OF THE SUPERINTENDENT OF POST OFFICES
GOALPARA DIVISION :: DHUBRI - 783 301.

Memo No. B-633

Dated at Dhubri the 11-01-2005

In this office memo of even no dated 29-10-04, it was proposed to take action against Shri Badal Sarma, ASPOs, Goalpara Sub-Divn, Goalpara under Rule-16 of CCS(CCA) Rules 1965. Statement of imputation of misconducted or misbehaviour on which action is proposed to be taken against him was as follows :-

That said Shri Badal Sarma while working as ASPOs Goalpara Sub-Division, Goalpara during the period from 18-03-03 onwards has failed to comply with works and Divl. Head's instructions time to time on the matters detailed below :-

(1) There was RPLI target for Rs. 2 Crore allotted to Goalpara Sub-Divn. during the year 2003-04. But of which Shri Sarma could have collected business for Rs. 28 lakhs 35 thousand from 15-06-03 to 30-01-04. Shri Sarma has failed to procure all of RPLI business Rs. 1 Crore 71 lakhs 65 thousand as on 31-03-04. The performance of B. Sarma was far less than that of other units of this Divn. This type of performance on his part has hampered the Divn to touch the target fixed by C.O/Guwahati.

(2) Three PSSKs were ordered to open at Kharuvaj, Bapurvita and Gossidubi within stipulated period but Shri Sarma has failed to open the PSSKs within the time frame.

(3) Pocharchar B.O. in a/c with Salmar South S.O. was ordered on 01.10.03 to open but it was opened on 29.11.03 approx after 2 months. Shri Sarma has failed to forward documents & other reports after opening the B.O. on 29.11.03 till 30.01.04.

(4) Approved compassionate appointment case of Shri Birbal Ram Rabidas S/O Late Banua Ram Rabidas Ex. GDS MC Bolavita B.O. as GDS MC Balabhitia B.O. was not formally till today and failed to follow instructions time to time and request for his absorption.

(5) There was shortage of cash at Baida B.O. Rs. 12053.69 and SB fraud Rs. 12500/- in Baida SB a/c No. 951309 detected on 07.03.03 Shri Sarma has been directed to inquire the matter on 07.03.03 reminded on 15.07.03, 18.07.03, 30.07.03, 12.08.03 & 28.08.03, 20.10.03, 17.12.03 & 24.01.04 with guideline to deal the case with Deptl Rules & procedure. But Shri Sarma has failed to furnish any conclusive report except an incomplete report on 23.09.03. SB fraud claim case was not dealt properly and badly delayed for submission to C.O.

(6) During inspection of Baladmar S.O. 18.12.03, it has been ordered vide memo No. B2/GP Sub-Dn/H dated 17.05.04 to terminate the arrangement made by one Group- 'D' Official namely Jinal Abedin Pramanik from Jaleswar S.O. w.e.f. 04.09.03 to work as L.R Postman at Baladmar S.O. in contravention of Rules & without permission from competent authority. But Shri Sarma has failed to comply with order till date.

By doing such said Shri B. Sarma has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. Servant in contravention of Rule 3 (1) (i) (ii) (iii) of CCS (Conduct) Rules, 1964.

Shri Badal Sarma was given an opportunity to submit his defence representation if any against the proposal within 10 days from the date of receipt of the said memorandum. Shri Badal Sarma had received the said memorandum on 29.11.04 and submit a WRITTEN REQUEST ON 27.11.04 praying 10 days more time to submit his defence representation. Shri Badal Sarma had submitted his defence representation finally on 06.12.04 which was received by this office on 13.12.04.

Spec. letter no. 11
Sarit Jit
on 29.3.05

Contd ... 2 ...

(:::: 2 ::::)

In his written defence representation Shri Sarma has stated the following.

" I am submitting my representation on the each item of charges labelled against me by you for sympathetic and judicious consideration.

1) Item -1 :- I tried my level best to fulfil the target of RPLI business for the year 2003-04 and accordingly I motivated and educated the Branch /Sub Postmaster concerned (Ex-Officio Agent) to perform the RPLI business in maximum numbers. I personally conducted the RPLI Melas at Jaleswar also. I achieved the RPLI business Rs. Seventy lakhs sixty thousand upto 30-03-04.

Most of the villagers were express their dissatisfaction on the RPLI business saying that they are not able to get their premium book not before 2/3 months after submitting their new proposal and mature/death claim are also not being settled even after elapse of years. Whereas LICL and other Insured companies promptly settled their claim. I would like to draw your kind attention on the complaint of one Smt. Pista Eliatum who complaint that she had submitted one death claim in respect RPLI R-AS-HO-EA 16/64 on 18-06-04 is yet to be settled. Even though I left no stone unturned to achieve the goal but reached to achieve 71 lakhs.

Accordingly I believe I did my duty with full devotion. So far the term of business these may be varied : Place to place and time to time. The matter was reported to you vides this office letter A-1/Sub/Dn/GP dtd 24-05-04 in respect to your letter no B-633 dtd 21-04-04.

2) Item -2 :- Regarding opening of PSSK at Kharuva, Bapu vita and Gossaidubi with a view to open the PSSK as directed by you in your various office memos; I personally attended the spot, but due to 'non availability' either the selected candidates or the G.P./President/Secy for accommodation and supply furniture etc. I could not open those PSSK forthwith. But opened during the financial year. The matter was verbally informed to you in course of your visit to Goalpara MDG and on your instruction lastly I opened those PSSK by directing O/S mail Goalpara. A written report for non opening of Gossaidubi PSSK was duly submitted to you vide ASPO/GP office letter A-1/PSSK/98.99 dtd 08-03-04. The joining charge report (ACG-61) of the candidate duly submitted to you end. No further quaries was made with the undersigned for non fulfillment of any item on that subject.

3) Item No. 3 :- The Pocharchar B.O. was ordered to open by diversion and redeployment of the Post/man of the EDIA Patakata B.O. The EDIA Patakata on being direct to open the Pocharchar B.O. he expressed that he has no home/land at Pocharchar area. So it would not possible on his part to act as BPM at Pocharchar immediately and prayed some time to manage room for Post office etc. To reach the Pocharchar area from Salmara south has to cross 4(Four) times of river Brahmaputra and 3 (three) chars on the river Brahmaputra. This position duly discussed with you in your visit at Goalpara and on your instructions the B.O. was opened by directing O/S Mail on 29-11-03. (during annual plan 2003-04). The date of joining of the candidate duly informed you through ACG-61 and the whole matter reported to you vide ASPO/GP letter No A1/Sub-Dn/GP in response to your office letter no B-633 dtd 21.04.04. and, there by I attended the all quaries time to time.

4) Item No. 4 :- The Circle Office Guwahati was instructed in letter approval memo No. Staff /12-29/2002 dtd 10-11-2003 that the approved applicant will be required to produce original certificate, specially certificates for educational Qualification, date of birth etc. which should be verified personally by the appointing authority regarding their genuiness before appointing/verifying them on being production of school certificate (having passed class IX and promoted to class X) issued by the Head master Chakla High School, Chakla Bashiabari by Shri Birbal Ram Rabidas. I observed that Shri Birbal Ram Rabidas not able to write his name including his father name in English and doubt arises on the veracity of certificate. I referred the matter to the Inspector of School vide this office letter No. A2/Balabhatta dtd 11-02-04 and followed by reminder dtd 22-06-04. Meantime the O/S mails Goalpara directed to meet with the Headmaster Chakla High School (Venture) Bashiabari to obtain his comment on that certificate. The O/S Goalpara reported that he with the Headmaster along with the BPM Dibrugarh.

(:::: 3 ::::)

The Headmaster Chokla High School (Venture) reported that Shri Birbal Ram Rabidas was not the regular student of the school. The T/C was issued on humanitarian ground as well as to get the Govt. job. On being refusing to make appointment on the basis of so called school certificate (without countersignature of the I/S or D/I) Shri Birbal Ram Rabidas submitted another certificate with the help of Shri Rajab Ali Mondal, P/A Goalpara MDG and Shri Mukul Ch Das of P/A Goalpara from the Headmaster Kharakhowa M.V. School on 06-07-04 having passed class-VII (shown as left 31-12-92) and after verification of that certificate from the Headmaster Kharakhowa on 13-09-04 Shri Birbal Ram Rabidas was appointed provisionally vide this office letter No A2/Balabhitia dtd 20-10-04. Due submission of false certificate by Shri Birbal Ram Rabidas and to comply with the instruction of the C.O. and to process the complete cycle. Some more time was spent. The matter was duly reported to you vide ASPOs Goalpara letter No A-1/Sub-Divn/ GP dtd 25-05-04 in Para-4.

Item No. 5 :- Shortage of Govt. cash Rs. 12053.69 at Baida B.O. and the fraud Rs. 12500/- in Baida SB a/c No. 951309.

a) As per Baida B.O. daily account dtd 02-09-03 a sum of Rs. 11982.69 as Govt. cash was kept with Shri Utpal Rabha the BPM Baida B.O. and absconded on 03-09-03. A detailed report in this regard duly submitted to you vide A2/baida dtd 23-09-03 and the fact again explained to you vide A-1/Sub-Divn/GP dtd 24-05-04 in reply to you letter No B-633 dtd 21-04-04. It appears from the approved annual Inspection/2004 by C.O. that you were inspected the Baida B.O. on 19-12-03. Due want of specific Guide line from the appointing Authority I failed to proceed further but not left the self exertion to recover those Govt. money and ultimately I able to recover those amount of Rs. 11982.69 from father of Shri Utpal Rabha on 08-07-04 and credited as UCR at Baida B.O.

b) Fraud in Baida B.O. SB a/c No 951309 in the name of Lakshmi Bala Rabha was cropped out during the year 2000 repeat 2000 and relevant P/books was taken by you on 22-06-00 after long correspondence in various style you were ascertained the total fraud; Rs. 12500/- (8000/-+4500) in that pass book under reference had taken place vide your office letter F1/Misc/10/03-04 dtd 02-08-04 and order to obtain fresh written statement claim paper without date from the claimant but the cases lying with you and yet to be settle. In both the cases a series of reply dtd 23-09-03, 10-11-03, 12-01-04, 28-05-04, 28-08-04 and 1-09-04 were given to you. In the statement you were shown the issue of reminder dtd 15-07-03 and 18-07-03. Justification of such type of correspondence may kindly be examined to generally 4/5 days time is required to get a letters from your end to Goalpara. Considering the above fact I would like to say that I did do my duty with full devotion sincerely and not dishonour or violation of any departmental rules.

Item 6 :- Regarding arrangement in the LR Postman at Baladnari S.O. against permanent -LR vacant post :- On scrutinizing the Divisional and the sub-divisional guidance of Postman establishment it appears that as follows - Postman(pmt) :- 11. Temporary = Nil Permanent LR= 2 on getting the vacant of those LR (Permanent) post I proposal to you to reconcile the actual staff strength (i.e. Postman cadre) under this sub-division and sought for necessary instruction to filled up those post in offg capacity till Qualified Postman available vide letter B2/Staff-Corr dtd 20-10-03. As per allegation in the same nature in your letter B-633 dtd 21-04-04 the undersigned explained the fact elaborately and prayed for supply a copy of Ruling/Ruling for early execution of your order. Saying this being the distant Sub-Division the undersigned had a little scope to get the upto date Rule/Ruling of the Department. In this connection this office letter A-1/Sub-Divn/GP dtd 25-05-04 & 24-05-04 may kindly be referred to. Due to non getting any instruction/Guideline on that fact the undersigned terminated that arrangement vide this office letter A-1/baladnari dtd 30-04-04. I would like to draw your kind attention that explain all these 4-5 months to you from B-633 dtd 21-04-04 vide this office letter A-1/Sub-Divn/GP dtd 24-05-04 & 25-05-04 respectively.

(2004 : 000)

In honouring/admitting your supremacy I would like to draw the following for your judgement and comparison with statement of imputation of misconduct or misbehaviour against Shri B. Sarma ASPOs Goalpara Sub-Divn, Goalpara dtd 29-10-04.

a) Most of the SB Pass books opened at Sub-Offices and Branch Offices under the Goalpara Sub-Divn, are running without posting of Annual interest from 1997 -98 and thereby the members of the public are disheartening due non getting of their annual interest and wherever possible they were closing the account or discontinued their account leaving marginal amount and making transaction with the bank etc. After creation of Mukhya Dak Ghat the task of the H.O. has been decentralized. But MDG Goalpara are not also doing that work i.e. calculation /posting of interest in Pass book. Recently I collected 82 numbers of pass books from the Bhalukdubi area forwarded to the Postmaster Goalpara MDG for posting of Annual Interest. But the Postmaster Goalpara MDG returned the SB Pass Books without posting of due Annual Interest with remarks that they are no obliged. Repeat obliged to do the work vide office letter No SB/Misc/corr/04-05 dtd 07-01-04 endorsing copy to you. It appears that the SOs has to deal with that case under SB manual Vol-I Rule-76 and any violation on the part of the supervision in all spare had to pushed under CCS (Conduct) Rule 3 (2). I placed only one example before you for your kind attention and equal judgement.

b) The Office of the Asstt. Supdt. of Post Offices Goalpara Sub-Division was duly inspected by the Authority concerned in due date. During the year 2002 and 2003 but the undersigned has not yet favoured with their inspection report till this date. I would also like to draw your kind attention on the DGP letter No 17-3/92-Inspn. Ind 02-07-92 with the prayer for equal judgement. That sir, I have to go on superannuation retirement on 28-02-2006 (A/N) in normal course. I would like to say that neither I dishonour nor violated any departmental Rule/Ruling so far knowledge and believe rather I did my duty with full devotion.

Therefore I fervently request your kind honour kindly to consider to drop the whole charges labeled against me and hope consider my prayer for the last few days of my long service file.

With regards."

Sd/-

(BADAL SARMA)
Asstt. Supdt. of P.O.
Goalpara Sub-Divn,
Goalpara

I have gone through the representation of Shri Badal Sarma very carefully and studied the case personally with the following observation -

(1) The Argument put forward has no relevancy with the procurement of RPLI business target fixed for Rs. 2 Crores. he has collected proposals for Rs. 60 Lakhs 5 thousand during the year 2003-04.

(2) PSSKs at Kharuvaj, Bajpurvita & Gossaidubi were opened on 06.01.04, 08.01.04 and 04.03.04 out of time limit 31-10-03, 15-11-03 & 10-11-03 respectively. The PSSKs were ordered to be opened by this office on 07-10-03, 03-11-03 & 30-10-03 but these were opened after gap of 3, 2 & 4 months respectively. The argument put forward has no relevancy on the ground for opening the PSSKs.

(3) Pacharchar B.O. opened on 29-11-03 after 2 months from date of order 01-10-03. Argument put forward due geographical situation of the area has no relevancy with the opening of B.O. as the proposal for opening of the B.O. was came after due verification through him.

(मुमुक्षु)

(4) Approved case of compassionate ground of appointment was delayed without any information to Divl. Office and failed to inform position time to time and kept this office in ignorance. This office had to issue letters and reminder frequently to him about position of appointment. His argument was irrelevant and found no justification in delay appointment of the approved case. The candidate has joined after gap of more than 1 year on 23.11.2004 since issue of order dtd 19.11.2003.

Shri Badal Sarma utterly failed to discharge his own duty and responsibility with in the frame of Depl. Rules & regulations and deserves punishment. But considering his prayer for exoneration and with the hope that he would rectify such defects and shortcomings in the days to come I take a lenient view of the case and award the following punishment to meet the end of justice.

O R D E R

I Shri G. C. Hazarika, Supdt. of Post Offices, Goalpara Division, Dhubri do hereby award Shri Badal Sarma Assistant Superintendent of Post Offices, Goalpara Sub-Division, Goalpara with the punishment of stoppage of increment for 1(One) year with effect from date of next increment when falls due without cumulative effect.

Sd/-

(G. C. Hazarika)
Supdt. of Post Offices
Goalpara Divn. Dhubri
783 301.

Copy to :-

1. Shri Badal Sarma, ASPOs, Goalpara Sub-Division, Goalpara.
2. The Postmaster, Dhubri H.O.
3. Punishment Register.
4. CR file of the Official.
5. PF of the Official.
6. Office copy & Spare.

G. C. Hazarika 11-1-05
(G. C. Hazarika)
Supdt. of Post Offices
Goalpara Divn. Dhubri
783 301.

To,

The Director of Postal Services (H.O.)
Assam Circle, Meghitud Bhaban,
Guwahati-781001

(Through Proper Channel)

Appellant : Shri Badal Sarma, Asst. Supdt. of Post Offices,
Goalpara Sub- Division, Goalpara.

Appeal against the order passed by Shri G.C. Hazarika, Supdt. of Post Offices, Goalpara Division, Dhubri on 11-01-05 against the appellant imposing punishment of stoppage of increment for one year with effect from the date of next increment when falls due without cumulative effect.

Hon'ble Sir,

With due respect and humble submission, I beg to lay the following for your kind consideration, Justice and with the prayer for setting aside the order of Sri G.C. Hazarika Supdt. of Post Offices Goalpara Division Dhubri Memo No. B-633 dtd. 11-01-2005 imposing punishment on me.

That Sir, the memo no of the said Sri G.C. Hazarika learned Supdt. of Offices Goalpara Division Dhubri No. B-633 dtd. 11-01-2005 imposing punishment of stoppage of due increment of mine for one year was received by me on 20-01-2005 and the same is quoted herewith.

That said Shri Badal Sarma while working as ASPOs Goalpara Sub-Division, Goalpara during the period from 18-03-03 onwards has failed to comply with works and Division. Head's instructions time on the matters detailed below :-

1. There was RPLI target for Rs. 2 Crore allotted to Goalpara Sub-Division the year 2003-04. But of which Sri Sarma could have collected business for Rs. 28 lakhs 35 thousand from 15-06-03 to 31-01-04. Shri Sarma has failed to procure all of RPLI business Rs. 1 Crore 71 lakhs 65 thousand as on 31-03-04. The performance of B. Sarma was far less than that of other unit of this Division. This type of performance on his part has hampered the Division to touch the target fixed by C.O./ Guwahati.

2. Three PSSKs were ordered to open at Kharuvaj, Bapurvita and Gossaidubi within stipulated period but Shri Sarma has failed to open the PSSKs within time frame.

3. Pocharchar B.O. in a/c with Salmara South S.O. was ordered on 01-10-03 to open but it was opened on 29-11-03 approx. after 2 months Shri. Sarma has failed to forward documents & other reports after opening the B.O. On 29-11-03 till 30-01-04.

4. Approved compassionate appointment case of Shri Birbal Ram Rabidas S/O Late Banua Ram Rabidas Ex. GDSMC Bolarvita B.O. as GDSMC Balarbhita B.O. was not formally till today and failed to follow instructions time to time and request for his absorption.

5. There was shortage of cash at Baida B.O. Rs. 12053.69 and SB fraud Rs. 12500/- in Baida SB a/c No. 951309 detected on 07-03-03 Shri Sarma has been directed to inquire the matter on 07-03-03 reminded on 15-07-03, 18-07-03, 12-08-03 & 28-08-03, 20-10-03, 17-12-03 & 24-01-04 with guideline to deal the case with Dept. Rules & procedure. But Shri Sarma has failed to furnish any conclusive report except and incomplete report on 23-09-03 SB fraud claim case was not dealt properly and badly delayed for submission to C.O.

Contd..... Page 2

*Same copy of file by
Sarjat Ghoshal
on 29.3.05*

(2)

6. During inspection of Baladmar S.O. 18-12-03, it has been ordered vide memo No. B2/GP Sub-Dn/11 dated 17-05-04 to terminate the arrangement made by one Group-'D' Official namely Jinal Abedin Pramanik from Jaleswar S.O. w.e.f. 04-09-03 to work as LR Postman at Baladmar S.O. in contravention of Rules & without permission from competent authority. But Shri Sarma has failed comply with order till date.

By doing such said Shri B. Sarma has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. Servant in contravention of Rule 3 (1) (i) (ii) (iii) of CCS (Conduct) Rules 1964.

Shri Badal Sarma was given an opportunity to submit his defence representation if any against the proposal within 10 days from the date of receipt of the said memorandum. Shri Badal Sarma had received the said memorandum on 20-11-04 and submit a WRITTEN REQUEST ON 27-11-04 praying 10 days more time to submit his defence representation. Shri Badal Sarma has submitted his defence representation finally on 06-12-04 which was received by this office on 13-12-04.

That Sir my representation against those charges were duly submitted in time and the same is Quoted herewith.

Item - 1 : I tried my best to fulfil the target of RPLI business for the year 2003-04 and accordingly I motivated and educated the Branch/Sub Postmaster concerned (Ex-Office Agent) to perform the RPLI business in maximum numbers. I personally conducted the RPLI Mela at Jaleswar also. I achieved the RPLI business Rs. Servently lakhs sixty thousand upto 30-03-04.

Most of the villagers were express their dissatisfaction on the RPLI business saying that they are not able to get their premium book not before 3/4 months after submitting their new proposal and mature/death claim are also not being settled even after elapse of years. Whereas LICL and other Insured companies promptly settled their claim. I would like to draw your kind attention on the complaint of one Smt. Piara Khatun who, complaint that she has submitted one death claim in respect RPLI R-AS-HO-EA 16/64 on 18-06-04 is yet to be settled. Even though I left no stone unturned to achieve the goal but reached to achieve 71 lakhs. Accordingly I believe I did my duty with full devotion. So far the term of business these may be varied. Place to place and time to time. The matter was reported to you vide this office letter A-1/Sub/Dn/GP dtd 24-05-04 in respect to your letter no B-633 dtd 21-04-04

Item - 2 : Regarding opening of PSSK at Kharuvaj, Bapurvita and Gossaidubi with a view to open the PSSK as directed by you in your various office memos I personally attended the spot but due non availability either the selected candidates or the G.P. President/Secy. for accommodation and supply furniture etc. I could not opened those PSSK forthwith. But opened during the financial year. The matter was verbally informed to you in course of your visit to Goalpara MDG and on your instruction lastly I opened those PSSK by directing O/S mail Goalpara. A written report for non opening of Gossaidubi PSSK was duly submitted to you vide ASPOS/GP office letter A-1/PSSK/98-99 dtd. 08-03-04. The joining charge report (ACG-61) of the candidate duly submitted to your end. No further quarries was made with the undersigned for non fulfilment of any item on that subject.

Item No. 3 : The Pocharchar B.O. was ordered to open by diversion and redeployment of the Post of the EDDA Patakata B.O. The EDDA Patakata on being direct to open the Pocharchar B.O. he expressed that he has no home/land at Pacharchar area. So it would not possible on his part to act as BPM at Pocharchar immediately and prayed some time to manage room for Post Office etc. To reach the Pocharchar area from Salmara south has to cross 4 (four) times of river Brahmaputra and 3 (three) chars on the river Brahmaputra. This position duly discussed with you in your visit at Goalpara and on your instructions the B.O. was opened by directing O/S Mail on 29-

(3)

11-03 (during annual plan 2003-04). The date of joining of the candidate duly informed you through ACG-61 and the whole matter reported to you vide ASPOs/GP letter No A1/Sub-Dn./GP in response to your office letter no B-633 dtd. 21-04-04 and there by I attended the all queries time to time.

Item No. 4 : The Circle Office Guwahati was instructed in letter approval memo No. Staff 12-29-2002 dtd 10-11-2003 that the approved applicant will be required to produce original certificate, specially certificates for educational Qualification, date of birth etc. which should be verified personally by the appointing authority regarding their genuineness before appointing them on being production of school certificate (having passed class-IX and promoted to class X issued by the Head master Chakla High School, Chakla Bashbari by Shri Birbal Ram Rabidas. I observed that Shri Birbal Ram Rabidas not able to write his name including his father name in English and doubt arises on the veracity of certificate. I referred the matter to the Inspector of School vide this office letter No. A2/Balarbhita dtd. 11-02-04 and followed by reminder dtd. 22-06-04 Meantime the O/S mails Goalpara directed to meet with the headmaster Chakla High School (Venture) Bashbari to obtain his comment on that certificate. The O/S Goalpara reported that he met with the Headmaster along with the BPM Bashbari.

The Headmaster Chakla High School (Venture) reported that Shri Birbal Ram Rabidas was not the regular student of the school. The T/C was issued on humanitarian ground as will as to get the Govt. job. On being refusing to make appointment on the basis of so called school certificate (without countersignature of the I/S or D/I) Shri Birbal Ram Rabidas submitted another certificate with the help of Shri Rajab Ali Mondal, P/A Goalpara MDG and Shri Mukul Ch. Das of P/A Goalpara from the Headmaster Kharaikhowa M.V. School on 06-07-04 having passed class - VII (shown as left 31-12-92) and after verification of that certificate from the Headmaster Kharaikhowa on 13-09-04. Shri Birbal Ram Rabidas was appointed provisionally vide this office letter No A2/Balarbhita dtd. 20-10-04. Due submission of false certificate by Shri Birbal Ram Rabidas and comply with the instruction of the C.O. and to process the complete cycle. Some more time was spent. The matter was duly reported to you vide ASPOs Goalpara letter No A-1/Sub-Divn/GP Dtd 25-05-04 in Para - 4:

Item No. 5 : Shortage of Govt. cash Rs. 12053 at Baida B.O. and the fraud Rs. 12500/- in Baida SB a/c No. 951309.

(a) Fraud in Baida B.O. SB a/c No. 91309 in the name of Lakshmi Bala Rabha was cropped out during the year 2000 repeat 2000 and relevant P/books was taken by you on 22-06-00 after long correspondence in various style you were ascertained the total fraud. Rs. 12500/- (8000 + 4500) in that pass book under reference has taken place vide your office letter ED/Misc/ 10-03-04 dtd 02-08-04 and order to obtain fresh written statement claim paper without date from the claimant but the cases lying with you and yet to be settle. In both the cases a series of reply dtd 23-09-03, 10-11-03, 12-01-04, 28-05-04, 28-08-04 and 01-09-04 were given to you. In the statement you were shown the issue of reminder dtd 15-07-03 and 18-07-03. Justification of such type of correspondence may kindly be examined to generally 4/5 days time is required to get a letters from your end to Goalpara. Considering the above fact I would like to say that I did do my duty with full devotion sincerely and not dishonour or violation of any departmental rules.

(b) As per Bida B.O. daily account dtd 02-09-03 a sum of Rs. 11982.69 as Govt. cash was kept with Shri Utpal Rabha the BPM Baida B.O. and absconded on 03-09-03. A detailed report in this regard duly submitted to you vide A2/baida dtd 23-09-03 and the fact again explained to you vide A-1/Sub-Dn./GP dtd 24-05-04 in reply to you letter No B-633 dtd 21-04-04. It appears from the approved annual Inspection/2004 by C.O. that you were inspected the Baida

(4)

B.O. on 19-12-03. Due want of specific Guide line from the appointing Authority I failed to proceed further but not left the self exertion to recover those Govt. money and ultimately I able to recover those amount of Rs. 11982.69 from father of Shri Utpal Rabha on 08-07-04 and credited as UCR at Bida B.O.

Item No. 6 : Regarding arrangement in the LR Postman at Baladmar S.O. against permanent LR vacant post :- On scrutinizing the Divisional and the sub-divisional gradation list of Postman establishment it appears that as follows :- Postman (pmnt) - 11. Temporary - Nil Permanent L.R - 2 on getting the vacant of those LR (Permanent) post I proposed to you to reconcile the actual staff strength (i.e. Postman cadre) under this sub-division and sought for necessary instruction to filled up those post in offg. capacity till Qualified. Postman available vide letter B2/Staff-Corr dtd 20-10-03. As per allegation in the same nature in your letter B-633 dtd 21-04-04 the undersigned explained the fact elaborately and prayed for supply a copy of Ruling/Ruling for early execution of your order. Saying this being the distant Sub-Division the undersigned had a little scope to get the upto date Rule/Ruling of the Department. In this connection this office letter A-1/Sub-Div/GP dtd 25-05-04 & 24-05-04 may kindly be referred to. Due to non getting any instruction/Guideline on that fact the undersigned terminated that arrangement vide this office letter A-1/baladmar dtd 30-04-04. I would like to draw your kind attention that explained all those facts in reply to your letter B-633 dtd 21-04-04 vide this office letter A-1/Sub-Div/GP dtd 24-05-04 & 25-05-04 respectively.

In honouring/admitting your supremacy I would like to draw the following for your judgement and comparison with statement of imputation of misconduct or misbehaviour against Shri B. Sarma ASPOs Goalpara Sub-Divn. Goalpara dtd 29-10-04.

(a) Most of the SB Pass books opened at Sub-Offices and Branch Offices under the Goalpara Sub-Divn, are running without posting of Annual interest from 1997-98 and thereby the members of the public are disheartening due non getting of their annual interest and wherever possible they were closing the account or discontinued their account leaving marginal amount and making transaction with the bank etc. After creation of Mukhya Dak Ghar the task of the H.O. has been decentralized. But MDG Goalpara are not also doing that work i.e. calculation/posting of interest in Pass book. Recently I collected 82 numbers of pass books from the Bhalukdubi area forwarded to the Postmaster Goalpara MDG for posting of Annual Interest. But the Postmaster Goalpara MDG returned the SB Pass Books without posting of due Annual Interest with remarks that they are not obliged. Repeat obliged to do the work vide office letter No. SB/Misc/corr/04-05 dtd 07-01-04 endorsing copy to you. It appears that the SOs has to dealt that case under SB manual Vol-I Rule-76 and any violation on the part of the supervision in all spare had to be pushed under CCS (Conduct) Rule 3 (2). I placed only one example before you for your kind attention and equal judgement.

(b) The Office of the asstt. Supdt. of Post Offices Goalpara Sub-Division was duly inspected by the Authority concerned in due date during the year 2002 and 2003. But the undersigned has not yet favoured with their inspection report till this date. I would also like to draw your kind attention on the DGP letter No 17-3/92-Inspn. Dtd 02-07-92 with the prayer for equal judgement.

That Sir, I have to go on superannuation retirement on 28-02-2006 (A/N) in normal course. I would like to say that neither I dishonour nor violated any departmental Rule/Ruling so far knowledge and believe rather I did my duty with full devotion.

Therefore I fervently request your kind honour kindly to consider to drop the whole charges labelled against me and hope consider my prayer for the last few days of my long service life.

Sd -

(BALA SARMA)

Asstt. Supdt. of P.Os

Goalpara Sub-Division

Goalpara

Contd.....Page 5

(5)

The observation of the Supdt. of Post office Goalpara Division Dhubri on my Representation was declared as follows :—

1. The Argument put forward has no relevancy with procurement of RPLI business target fixed for Rs. 2 Crores he has collected proposals for Rs. 60 Lakhs 5 thousand during the year 2003-04.

2. PSSKs at Kharuvaj, Bapurvita & Gossaidubi were opened on 06-01-04, 08-01-04 and 04-03-04 out to time limit 31-10-03, 15-11-03 & 10-11-03 respectively. The PSSKs were ordered to be opened by this office on 07-10-03, 03-11-03 & 30-10-03 but these were opened after gap of 3, 2 & 4 months respectively. The argument put forward has no relevancy on the ground for opening the PSSKs.

3. Pacharchar B.O. opened on 29-11-03 after 2 months from date of order 01-10-03. Argument put forward due geographical situation of the area has no relevancy with opening of B.O. as the proposal for opening of the B.O. was came after due verification through him.

4. Approved case of compassionate ground of appointment was delayed without any information to Divi. Office and failed to inform position time to time and kept this office in pressure. This office has to issue letters and reminder frequently to him about position of appointment. His argument was irrelevant and found no justification in delay appointment of the approved case. The candidate has joined after gap of more than 1 year on 23-11-2004 since issue of order dtd 19-11-2003.

ORDER

I Shri G.C. Hazarika, Supdt. of Post Offices, Goalpara Division, Dhubri do hereby award Shri Badal Sarma Assistant Superintendent of Post Offices, Goalpara Sub-Division, Goalpara with the punishment of stoppage of increment for 1 (one) year with effect from date of next increment when falls due without cumulative effect.

Sd/-

(G.C. Hazarika)

Supd. of Post Offices
Goalpara Divn. Dhubri

783301

That Sir in preferring the appeal against he said order of Sri G.C. Hazarika Supdt. of Post Office Goalpara Division Dhubri which is wrong is a much as the Disciplinary Authority passed the order of punishment without considering the fact and material on records.

That Sir, the learned disciplinary Authority pushed me in same burden of pretty and numerous charges by utilizing his official power for some personal reason.

That Sir the punishment order consider is a pre-determined and the disciplinary Authority is closed in mind towards natural justice.

That Sir my superannuation retirement is due on 28-02-2006.

The punishment order is complete denial/violation of rule 16 (1-A) of CCS (CCA) rule 1965.

The appellant begs to state as follows :—

1. That Shri G.C. Hazarika, Supdt. of Post Offices, Goalpara Division Dhubri proposed to take action against the appellant and as many as 7 pretty charges were framed against him

2. That the appellant was asked to submit his reply against said seven charges which the appellant did discussing his defences elaborately against all charges.

(6)

3. That after receiving reply submitted by the appellant the said Supdt. whimsically without applying his mind and without following legal procedure and without giving him an opportunity of being heard, without making any enquiries and violating natural justice passed the impugned order of punishment of stoppage of increment for one year with effect from the date of next increment when falls due without cumulative effect.

Being aggrieved and dissatisfied by said order the appellant prefers this appeal on the following grounds :-

(i) for as regards charge No. 1 the appellant gave reasons as to why he could not achieve his target fixed on him. The appellant personally conducted the RPLI Meals in different places in which the villagers expressed that they were not in favour of depositing money in the Post Offices pointing out certain genuine drawbacks of the Department. Inspite of that the appellant could achieve 71 Lakhs. The said drawbacks of the Postal Department were mentioned in his reply against this charge. But inspite of removing said drawbacks the said Supdt. considered said drawbacks as irrelevants.

(ii) for as regards opening of PSSK at Kharuvaj, Bapurvita and Gosaidubi the appellant tried his best to open said three PSSKs within stipulated period. Though the appellant failed to open said three PSSKs within said stipulated period but he succeeded to open them within the financial year. He stated in his reply about his failure to open said three PSSKs within stipulated period. The appellant met respective Presidents of Gaon Panchayat several times for free accommodation and free furniture etc. The Presidents and the villagers could not provide the appellant free accommodation and free furniture within the stipulated period. With great effort by the appellant the said three PSSKs could be opened within the financial year. It is not easy to motivate the public to provide free accommodation, furniture within a short time fixed by the higher authority. The Supdt. ought to have considered the field reality.

(iii) for as regards charge No. 3 the B.O at Pocharchar could not be opened on 01-10-03 but the same was opened on 29-11-03 after about 2 months. To reach Pocharchar from Salmara south one has to cross Brahmaputra in four different places after passing three chars of Brahmaputra on foot. The appellant met the B.O. EDDA Patakata several times who told the appellant that he had no home/Land at Pocharchar and as such he was not in position to act as BPM in Pocharchar immediately. he sought time again and again to act as BPM at Pocharchar. The matter was reported to learned Supdt. When he came to Goalpara on tour. The difficulty in arriving Pocharchar and the inability of the EDDA Patakata to open B.O. at Pocharchar within stipulated time was considered as irrelevant. The opening of said B.O. was duly reported to the said learned supdt.

(iv) For as regards appointment of Shri Birbal Ram Rabidas who submitted a school certificate regarding his educational qualification stating that he had passed class IX examination and promoted to class X from the Head Master Chakla High School (venture one). On verification it is found that he could not write his name and his father's name in English properly. And on enquiry the Head Master, Chakla High School submitted that Shri Birbal Ram Rabidas was not the regular student of his school. The certificate was issued on request and on humanitarian ground, for obtaining Govt. Job the case was duly referred to the Inspector of School Goalpara for comments on that certificate Shri Birbal Ram Rabidas produced another certificate from M V School Kharikhawa on 06-07-04 which shows that he passed class VI from said school and on verification from the head Master of said school on 13-09-04 Shri Birbal Ram Rabidas was appointed provisionally on 20-10-04. Due to the submission of false certificate by Shri Birbal Ram Rabidas the appellant was compelled to make an enquiry regarding the genuineness of the certificate on the instructions of the C. Post Master General Office in the approve memo of Shri Birbal Ram Rabidas and as a result he could not be appointed in time. The said delay was not due to the negligence of the appellant but due to the submission of false certificate by Shri Birbal Ram Rabidas. The matter was duly reported to

(7)

the said learned Supdt. His letter No. A/X-22 dtd. 19-10-04 addressed to Birbal Ram Rabidas confirm appellant's contention.

(v) for as regards charge No. 5 and 6 the said Supdt. could not find any fault of the appellant and as such he maintained silence without making any remarks.

(vi) for that the appellant will get an increment in the month of August, 05 and he will retire on 28-02-06 and as such the stoppage of increment for one year is likely to affect adversely the amount of pension of the appellant which requires an inquiry in sub-rules 1-A of rule 16 of C.C.S. (C.C.A) Rules. For not following the above provisions of the rule 16 (1-A) punishment i.e. stoppage of increment for one year passed by said Supdt. is void and ineffective in law.

It is, therefore, prayed that your honour be to pleased to consider the appeal favourably and sympathetically and exonerate the appellant from said punishment.

For this act of kindness your appellant will remain ever grateful to you.

Yours faithfully,

Dated Goalpara 26 Feb/2005

(BADAL SARMA)
Asstt. Supdt. of P.Os
Goalpara Sub-Division
Goalpara.

Advance copy to :-

The Chief Post Master General,
Assam Circle Meghdoott Bhawan,
Guwahati - 781001

DEPARTMENT OF POSTAL INDIA
OFFICE OF THE SUPERINTENDENT OF POST OFFICES
GOALPARA DIVISION: DHUBRI - 783 301.

Memo No. B-633

Dated at Dhubri the 28-01-2005

In this office memo of even no dated 29-10-04, it was proposed to take action against Shri Badal Sarma, ASPOs, Goalpara Sub-Divn, Goalpara under Rule-16 of CCS(CCA) Rules 1964. Statement of imputation of misconducted or misbehaviour on which action is proposed to be taken against him was as follows :-

That said Shri Badal Sarma while working as ASPOs Goalpara Sub-Division, Goalpara during the period from 18-03-03 onwards has failed to comply with works and Divl. Head's instructions time to time on the matters detailed below :-

(1) There was RPLI target for Rs. 2 Crore allotted to Goalpara Sub-Divn. during the year 2003-04. Out of which Shri Sarma could have collected business for Rs. 28 lakh 35 thousand from 15.06.03 to 30.04.04. Shri Sarma has failed to procure all of RPLI business Rs. 1 Crore 71 lakhs 65 thousand as on 31-03-04. The performance of B. Sarma was far less than that of other units of this Divn. This type of performance on his part has hampered the Divn to touch the target fixed by C.O/Guwahati.

(2) Three PBSEs were ordered to open at Kharuvi, Bapuverita and Gossidubi within stipulated period but Shri Sarma has failed to open the PBSEs within the time frame.

(3) Pochattachar B.O. in a/c with Salmara South S.O. was ordered on 01.10.03 to open but it was opened on 29.11.03, approx after 2 months. Shri Sarma has failed to forward documents & other reports after opening the B.O. on 29.11.03 till 30.01.04.

(4) Approved compassionate appointment case of Shri Birbal Rani Rabidas S/O Late Banua Ram Rabidas Ex. GDS, MC Bolarvita B.O. as GDS MC Balarbhita B.O. was not formally till today and failed to follow instructions time to time and request for his absorption.

(5) There was shortage of cash at Baida B.O. Rs. 12053.69 and SB fraud Rs. 12500/- in Baida SB a/c No. 951309 detected on 07.03.03, Shri Sarma has been directed to inquire the matter on 07.03.03 reminded on 15.07.03, 18.07.03, 30.07.03, 12.08.03 & 28.08.03, 20.10.03, 17.12.03 & 24.01.04, with guideline to deal the case with Deptl Rules & procedure. But Shri Sarma has failed to furnish any conclusive report except an incomplete report on 23.09.03. SB fraud claim case was not dealt properly and badly delayed for submission to C.O.

(6) In the Post During inspection of Baladmarai S.O. 18.12.03, it has been ordered vide memo No. B2/CP/Sub-Div/1 dated 17.05.04 to terminate the arrangement made by one Group- 'D' Official namely Faizal Abedin Pramanik from Jaleswar S.O. w.e.f. 01.09.03 to work as LR Postman at Baladmarai S.O. in contravention of Rules & without permission from competent authority. But Shri Sarma has failed to comply with order till date.

By doing such said Shri B. Sarma has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. Servant in contravention of Rule 3 (1) (i) (ii) (iii) of CCS (Conduct) Rules, 1964.

Shri Badal Sarma was given an opportunity to submit his defence representation if any against the proposal within 10 days from the date of receipt of the said memorandum. Shri Badal Sarma had received the said memorandum on 20.11.04 and submit a WRITTEN REQUEST ON 27.11.04 praying 10 days more time to submit his defence representation. Shri Badal Sarma had submitted his defence representation finally on 06.12.04 which was received by this office on 13.12.04.

Contd.:..2...1

Spec. Asstt.
Sajit Ghoshal
on 29.3.05

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In his written defense representation Shri Sarma has stated the following.

" I am submitting my representation on the each item of charges labelled against me by you for sympathetic and judicious consideration.

1. Item-1 :- I tried my best to fulfil the target of RPLI business for the year 2003-04 and accordingly I motivated and educated the Branch /Sub Postmaster concerned (Ex-Officio Agent) to perform the RPLI business in maximum numbers. I personally conducted the RPLI Melas at Jaleswar also. I achieved the RPLI business Rs. Seventy lakhs sixty thousand upto 30-03-04.

Most of the villagers were express their dissatisfaction on the RPLI business saying that they are not able to get their premium book not before 3/4 months after submitting their new proposal and mature/death claim are also not being settled even after elapse of years. Whereas IICL and other insured companies promptly settled their claim. I would like to draw your kind attention on the complaint of one Smt. Pista Chetan who complaint that she had submitted one death claim in respect RPLI R-AS-HO-LA 16/64 on 18-06-04 is yet to be settled. Even though I left no stone unturned to achieve the goal but reached to achieve 71 lakhs. Accordingly I believe I did my duty with full devotion. So far the term of business these may be varied. Place to place and time to time. The matter was reported to you vide this office letter A1/Sub/Dn/GP dtd 24-03-04 in respect to your letter no B-633 dtd 21-04-04.

2) Item-2 :- Regarding opening of PSSK at Kharuvaj, Bapu vita and Gossaidubi with a view to open the PSSK as directed by you in your various office memos I personally attended the spot but due to 'non availability' either the selected candidates or the G.P. President Secy for accommodation and supply furniture etc. I could not open those PSSK forthwith. But opened during the financial year. The matter was verbally informed to you in course of your visit to Goalpara MDG and on 'your' instruction lastly I opened those PSSK by directing O/S mail Goalpara. A written report for non opening of Gossaidubi PSSK was duly submitted to you vide ASPOs/GP office letter A1/PSSK/98-99 dtd 08-03-04. The joining charge report (ACG-61) of the candidate duly submitted to your end. No further quaries was made with the undersigned for non fulfillment of any item on that subject.

3) Item No. 3 :- The Pocharchar B.O. was ordered to open by division and redeployment of the Post/mean of the EDDA Patakata B.O. The EDDA Patakata on being direct to open the Pocharchar B.O. he expressed that he has no homeland at Pocharchar area. So it would not possible on his part to act as BPM at Pocharchar immediately and prayed some time to manage room for Post-office etc. To reach the Pocharchar area from Salinara south has to cross 4 (Four) times of river Brahmaputra and 3 (three) chas on the river Brahmaputra. This position duly discussed with you in your visit at Goalpara and on your instructions the B.O. was opened by directing O/S Mail on 29-11-03. (during annual plan 2003-04). The date of joining of the candidate duly informed you through ACG-61 and the whole matter reported to you vide ASPOs/GP letter No A1/Sub-Dn/GP in response to your office letter no B-633 dtd 21-04-04 and there by I attended the all quaries time to time.

4) Item No. 4 :- The Circle Office Guwahati was instructed in letter approval memo No. 5/Staff/12-29/2002, dtd 10-11-2003 that the approved applicant will be required to produce original certificate, specially certificates for educational Qualification, date of birth etc. which should be verified personally by the appointing authority regarding their genuineness before appointing them on being production of school certificate (having passed class-IX and promoted to class-X) issued by the Head master Chakla High School, Chakla Bashbari by Shri Birbal Ram Rabidas. I observed that Shri Birbal Ram Rabidas not able to write his name including his father name in English and doubt arises on the veracity of certificate. I referred the matter to the Inspector of School vide this office letter No. A2/Balaibhuta dtd 11-02-04 and followed by reminder dtd 22-06-04. Meantime the O/S mails Goalpara directed to meet with the Headmaster Chakla High School (Venture) Bashbari to obtain his comment on that certificate. The O/S Goalpara reported that the Headmaster agrees with the O/S on this.

Contd 3

The Headmaster Challa High School (Ventral) reported that Shri Birbal Ram Rabidas was not the regular student of the school. The T/C was issued on humanitarian ground as well as to get the Govt. job. On being refusing to make appointment on the basis of so called school certificate (without countersignature of the 1/3 or D/I) Shri Birbal Ram Rabidas submitted another certificate with the help of Shri Rajab Ali Mondal P/A Goalpara MDG and Shri Mukul Ch Das of P/A Goalpara from the Headmaster Kharaihawa M.V. School on 06-07-04 having passed class-VII (shown as 1st 31-12-92) and after verification of that certificate from the Headmaster Kharaihawa on 13-09-04 Shri Birbal Ram Rabidas was appointed provisionally vide this office letter No A2/Balabhitia dtd 20-10-04. Due submission of false certificate by Shri Birbal Ram Rabidas and to comply with the instruction of the C.O. and to process the complete cycle. Some more time was spent. The matter was duly reported to you vide ASPOs Goalpara letter No A-1/Sub-Divn/GP dtd 25-05-04 in Para-4.

Item No. 5 :- Shortage of Govt. cash Rs. 12053.69 at Baida B.O. and the fraud Rs. 12500/- in Baida SB a/c No. 951309.

a) As per Baida B.O. daily account dtd 02-09-03 a sum of Ru. 11982.69 in Govt. cash was kept with Shri Utpal Rabha the BPM Baida B.O. and absconded on 03-09-03. A detailed report in this regard duly submitted to you vide A2/baida dtd 23-09-03 and the fact again explained to you vide A-1/Sub-Divn/GP dtd 24-05-04 in reply to you letter No B-633 dtd 21-04-04. It appears from the approved annual Inspection/2004 by C.O. that you were inspected the Baida B.O. on 19-12-03. Due want of specific Guide line from the appointing Authority I failed to proceed further but not left the self exertion to recover those Govt. money and ultimately I able to recover those amount of Rs. 11982.69 from father of Shri Utpal Rabha on 08-07-04 and credited as UCR at Baida B.O.

b) Fraud in Baida B.O. SB a/c No. 951309 in the name of Lakshmi Bala Rabha was cropped out during the year 2000, repeat 2000 and relevant Pbooks was taken by you on 22-06-00, after long correspondence in various style you were ascertained the total fraud. Rs. 12500/- (8000/- 4500) in that pass book under reference had taken place vide your office letter FD/Misc/10/03,04 dtd 02-08-04 and order to obtain fresh written statement claim paper without date from the claimants but the cases lying with you and yet to be settle. In both the cases a series of reply dtd 23-09-03, 10-11-03, 12-01-04, 28-05-04, 28-08-04 and 1-09-04 were given to you. In the statement you were shown the issue of reminder dtd 15-07-03 and 18-07-03. Justification of such type of correspondence may kindly be examined to generally 4/5 days time is required to get a letters from your end to Goalpara. Considering the above fact I would like to say that I did do my duty with full devotion sincerely and not dishonour or violation of any departmental rules.

Item. 6 :- Regarding arrangement in the LR Postman at Baladuari S.O. against permanent -LR vacant post :- On scrutiny, the Divisional and the sub-divisional gradation of Postman establishment it appears that as follows - Postman(pmt) = 11. Temporary = Nil Permanent LR= 2 on getting the vacant of those LR (Permanent) post I proposal to you to reconcile the actual staff strength i.e. Postman cadre) under this sub-division and sought for necessary instruction to filled up those post in offg. capacity till Qualified Postman available vide letter B2/Staff-Corr dtd 20-10-03. As per allegation in the same nature in your letter B-633 dtd 21-04-04 the undersigned explained the fact elaborately and prayed for supply a copy of Ruling/Ruling for early execution of your order. Saying this being the distant Sub-Division the undersigned had a little scope to get the upto date Rule/Ruling of the Department. In this connection this office letter A-1/Sub-Divn/GP dtd 25-05-04 & 24-05-04 may kindly be referred to. Due to non getting any instruction/Guideline on that fact the undersigned terminated that arrangement vide this office letter A-1/Baladuari dtd 30-04-04. I would like to draw your kind attention that explained all those facts in reply to your letter B-633 dtd 21-04-04 vide this office letter A-1/Sub-Divn/GP dtd 24-05-04 & 25-05-04 respectively.

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Date 01.10.04
Page 01 of 03
Date 01.10.04

(::::A ::::)

In honouring/admitting your supremacy I would like to draw the following for your judgement and comparison with statement of imputation of misconduct or misbehaviour against Shri B. Sarma ASPOs Goalpara Sub-Divn, Goalpara dtd 29-10-04.

a) Most of the SB Pass books opened at Sub-Offices and Branch Offices under the Goalpara Sub-Divn, are running without posting of Annual interest from 1997 -98 and thereby the members of the public are disheartening due non getting of their annual interest and wherever possible they were closing the account or discontinued their account leaving marginal amount and making transaction with the bank etc. After creation of Mukhya Dak Ghar the task of the H.O. has been decentralized. But MDG Goalpara are not also doing that work i.e. calculation /posting of interest in Pass book. Recently I collected 82 number of pass books from the Bhalukdubi area forwarded to the Postmaster Goalpara MDG for posting of Annual Interest. But the Postmaster Goalpara MDG returned the SB Pass Books without posting of due Annual Interest with remarks that they are no obliged. Repeat obliged to do the work vide office letter No SB/Misc/corr/04-05 dtd 07-01-04 endorsing copy to you. It appears that the SOs has to dealt that case under SB manual Vol-1 Rule-76 and any violation on the part of the supervision in all space had to pushed under CCS (Conduct) Rule 3 (2). I placed only one example before you for your kind attention and equal judgement.

b) The Office of the Asstt. Supdt. of Post Offices Goalpara Sub-Division was duly suspected by the Authority concerned in due date. During the year 2002 and 2003 but the undersigned has not yet favoured with their inspection report till this date. I would also like to draw your kind attention on the DGP letter No 17-3/92-Inspn. Dtd 02-07-92 with the pray for equal judgement. That sir, I have to go on superannuation retirement on 28-02-2006 (A/N) in normal course I would like to say that neither I dishonour nor violated any departmental Rule/Ruling so far knowledge and believe rather I did my duty with full devotion.

Therefore I fervently request your kind honour kindly to consider to drop the whole charges labeled against me and hope consider my prayer for the last few days of my long service file.

With regards,

Sd.

(BADAL SARMA),

Asstt. Supdt. of P.Os

Goalpara Sub-Divn,

Goalpara

I have gone through the representation of Shri Badal Sarma very carefully and studied the case personally with the following observation -

(1) The Argument put forward has no relevancy with the procurement of RPLI business target fixed for Rs. 2 Crores. he has collected proposals for Rs. 60 Lakhs 5 thousand during the year 2003-04.

(2) PSSKs at Kharuvaj, Bapurvita & Gossaidubi were opened on 06.01.04, 08.01.04 and 04.03.04 out of time limit 31-10-03, 15-11-03 & 10-11-03 respectively. The PSSKs were ordered to be opened by this office on 07-10-03, 03-11-03 & 30-10-03 but these were opened after gap of 3, 2 & 4 months respectively. The argument put forward has no relevancy on the ground for opening the PSSKs.

(3) Pacharchar B.O. opened on 29-11-03 after 2 months from date of order 01-10-03. Argument put forward due geographical situation of the area has no relevancy with the opening of B.O. as the proposal for opening of the B.O. was came after due verification through him.

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(contd.)

(1) Approved case of compassionate ground of appointment was delayed without any information to Divl. Office and failed to inform position time to time and kept this office in pressure. This office had to issue letters and reminder frequently to him about position of appointment. His argument was irrelevant and found no justification in delay appointment of the approved case. The candidate has joined after gap of more than 1 year on 23.11.2004 since issue of order dtd 19.11.2003.

Shri Badal Sarma utterly failed to discharge his own duty and responsibility with in the frame of Deptl Rules & regulations and deserves punishment. But considering his prayer for exoneration and with the hope that he would rectify such defects and shortcomings in the days to come I take a lenient view of the case and award the following punishment to meet the end of justice.

O. R. D. E. R

I Shri G. C. Hazarika, Supdt. of Post Offices, Goalpara Division, Dhubri do hereby order that the pay of Shri Badal Sarma be reduced by 3(three) stages from Rs. 18100/- to Rs. 7500/- in the time scale of pay Rs. 6500/- -200-10500/- for a period of 3(three) months w.e.f. 01-02-2005. It is further directed that Shri Badal Sarma will earn increments of pay during the period of reduction and that on the expiry of this period, the reduction will not have the effect of postponing his future increment of pay.

This is in cancellation of this office memo of even no dated 11-01-2005.

Sd/-

(G. C. Hazarika)
Supdt. of Post Offices
Goalpara Divn. Dhubri
783 301.

Rege
Copy to :-

1. Shri Badal Sarma, ASPOs, Goalpara Sub-Division, Goalpara.
2. The Postmaster, Dhubri H.O.
3. Punishment Register.
4. CR file of the Official.
5. PF of the Official.
6. Office copy & Spare.

Received 28/1/2005
(G. C. Hazarika)
Supdt. of Post Offices
Goalpara Divn. Dhubri
783 301.

The Director of Postal Services (H.Q)
Assam Circle, Meghdut Bhawan,
Guwahati - 781001
(Through Proper Channel)

Appellant :- Shri Badal Sarma, Asst. Supdt. of Post Offices,
Goalpara Sub-Division, Goalpara.

Appeal against the order in memo No. - B-633 dt.
28-01-05 passed by Shri G.C. Hazarika, Supdt. of
Post Office, Goalpara Division, Dhubri against the
appellant imposing punishment i.e. reduction of pay
by 3 (three) stages from Rs. 8100/- to Rs. 7500/- in
the scale Rs. 6500-200-10500 from 01-02-05 by
cancelling his own order dt. 11-01-05.

Hon'ble Sir,

That the humble appellant Shri Badal Sarma, Asst. Supdt. of Post Office,
Goalpara Sub-Division, Goalpara Most Respectfully Sheweth :-

1. That the appellant received that memo No. B-633 dtd. 28-01-05 on 07-02-2005.
2. That Shri G.C. Hazarika, Supdt of Post Offices, Goalpara Division, Dhubri by his order Dt. 28-01-05 imposing punishment on the appellant of reduction of his pay in three stages from Rs. 8100/- to Rs. 7500/- in the scale 6500-200-10500 from 01-02-05 by cancelling his own order which was passed on 11-01-05.
3. That said learned Supdt of Post Offices on previous occasion proposed to take action against the appellant and framed as many as 7 charges which appear petty in nature vide his office memo No. B-633 Dt. 29-10-04.
4. That the appellant submitted his defence statement in writing refuting all said charges stating all connected factor and facts.
5. That though the appellant should have been discharged from said charges the said Supdt. of Post Offices passed an order imposing punishment in the form of stoppage of one increment for one year from the date of next increment vide Rule 11(iv) in memo No. B-633 Dt. 11-01-05 in violation of CCS (CCA) Rule, 1965/sub Rule 16(1-A).
6. That said learned superintendent cancelled his previous order i.e stoppage of one increment for one year from the date of next increment and passed a fresh order reduced by 3 (three) stage of basic pay from Rs. 8100/- to Rs. 7500/- in the scale 6500-200-10500/- for a period of three months with effect from 01-02-2005.
7. That the date of next increment of appellant is due on August 2005 and my date of superannuation retirement on 28-02-2006 (A/N)
8. That under CCS (CCA) Rule 1965 and Rule 130 of P & T manual Vol. III the

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*Free copy
Sanjib Choudhury
Adarsh
on 29.3.05*

(2)

Disciplinary Authority cannot himself revise/cancel his previous order of imposing penalty and cannot substitute said order by any fresh order imposing different punishment without submitting second charge sheet violating the provision of CCS (CCA) Rule 1965 and the Department Rule.

9. That under the CCS (CCA) Rule it is also indicate that the second charge sheet cannot be issued on same allegation cancelling first one where the first one had been replied to by the employee

10. That under above Rules the Disciplinary Authority cannot substitute fresh punishment after cancelling his previous order imposing punishment against the appellant on the same allegation.

Your humble appellant prays that your honour will be pleased to quash the entire proceedings imposing two type of punishment on same allegation after cancelling the previous one by the Disciplinary Authority.

And your appellant as in duty bound shall ever pray.

Yours faithfully,

Date - Goalpara
the 17th March/05

(BADAL SARMA)
Asstt. Supdt. of P.Os
Goalpara Sub-Division
Goalpara.

Advance copy to -
The Director Postal Services (H.Q)
Assam Circle Meghdoot Bhawan,
Guwahati - 781001

(BADAL SARMA)
Asstt. Supdt. of P.Os
Goalpara Sub-Division
Goalpara

23

Transfer

1. No case-law on transfer lays down any rule or principle on transfer in absolute sense.—Both the parties have cited case-law extensively. From these cases it is sought to be established by the petitioners that (i) Scheduled Caste employee should not be transferred far away from their native places; (ii) administrative instructions are binding on the Government; (iii) transfer for accommodating respondents in contradiction of the guidelines for transfer is against law; (iv) it is not sufficient to merely assert that the action was taken for administrative reasons but natural justice requires cogent reasons to be assigned; and (v) an order of transfer of an officer simply to retain another officer whether in public interest or administrative exigency, is held to be *mala fide* and the court is competent to interfere even if they had no civil or evil consequences would follow from the said order. The respondents have cited cases to establish that (i) in the absence of specific instances of *mala fides*, orders of transfer are not subject to judicial review; (ii) transfer on administrative grounds while not transferring others, though the latter had stayed for longer period than the former, are upheld to be legal; (iii) apart from rotational transfers, the competent authority has a right to order transfers in public interest even without giving them opportunity to show cause against such a transfer; and (iv) transfer is an inc. tence of service and an employee has no right to be posted at any particular place.

On a perusal of the Judgments it cannot be said that any particular judgment lays down any rule or principle in absolute sense for either sanctioning an absolute right on the part of the Government to transfer its employees or prohibiting such transfers altogether. Each judgment derives its conclusion from specific facts and on the basis in some cases of rules or instructions specifically detailing the circumstances on which such restraint is placed or discretion exercised is to be guided. The alignment of the judgments to the facts and circumstances of the present case is of greater importance than going by any particular judgments which emphasise different aspects of the merits of their cases.

[D.R. Sengai v. Chief Postmaster-General, 1991 (1) ATJ 243 (Ahmedabad), date of judgment 19-1-1990.]

2. Transfer in violation of prescribed guidelines, invalid.—The relevant guidelines relating to the posting policy for the civilian officers of the Military Engineering Service which are in force from April 1988, are produced by the respondents. Clause 15 thereof provides that executive

tenures will generally be $2\frac{1}{2}$ to 3 years and that the final authority to extend/curtail the tenure will be the ADGE (Pers.) in respect of officers up to and including Superintending Engineer level and equivalent. However, it is also prescribed that organisational and functional requirements will be overriding consideration for posting.

Admittedly the applicant is holding an executive tenure. He was posted to Bombay only in May 1988, so that on the date of the impugned transfer, viz., 30-5-1990, he had not completed the prescribed period of $2\frac{1}{2}$ to 3 years. There is no case for the respondents that there has been a curtailment of the tenure by the competent authority as required under Clause 15 of the guidelines. Nor is there a plea in the reply that the transfer was with regard to any organisational or functional requirement. There is only a bald plea that the transfer was made "keeping in view the interest of the State". As such the plea of the applicant that here has been a violation of the guidelines specified in Clause 15 has to be accepted.

Counsel for the respondents submitted that as these guidelines are not statutory, it is not open to the applicant to pray for the relief alleging violation of the same. It is difficult to accept this submission. It is clear from the posting policy enunciated in the guidelines that it was with a view to evolve a comprehensive posting policy covering all aspects of posting that the relevant guidelines were issued. The respondents cannot, after laying down the guidelines, make postings in flagrant violation of the same, taking shelter under the plea that they have no statutory force.

When the transfer itself is made in violation of prescribed guidelines and has not been proved to be on account of any organisational and functional requirement, the plea of the applicant that the order is *mala fide* and is in colourable exercise of power can safely be accepted.

[R. Jayaraman v. Union of India and others, (1991) 17 ATC 151 (New Bombay), date of judgment 30-8-1990.]

✓ 3. Order of transfer of an official motivated by his indiscipline and immoral activities, punitive and not sustainable.—The facts of the instant case are undisputed. The applicant has been transferred either because of the various complaints made by him against his superior officers or because of his indiscipline, disobedience or the questionable and immoral behaviour. The transfer has been made on administrative grounds and in the interest of State, but the transfer is motivated by the indiscipline and immoral activities of the applicant, and is made as a punitive measure. It is admitted by the respondents that disciplinary proceedings were contemplated against the applicant, when it was found that he had made baseless, frivolous and malicious complaints against the Garrison Engineer. The proper course of action for the respondents would have been to proceed with the disciplinary enquiry under the CCS (CCA) Rules, 1965, and impose the punishment upon the applicant if he is found guilty of the charges.

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

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

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

*Final copy ready
Surjit Choudhary
Adarsh
on 29.3.05*

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

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

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

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

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

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI

IN THE MATTER OF :-

O.A. No. 83 of 2005

Shri Badal Sarma .. Applicant

- Versus -

Union of India & others .. Respondent

WRITTEN STATEMENT FOR AND ON BEHALF OF
RESPONDENT NOS. 1, 2, 3, 4 & 6.

I, B. Radhika Chakravarthy, Asstt. Postmaster General (Vig),
Office of the Chief Postmaster General, Assam Circle, Guwahati-
781001 do hereby solemnly affirm and say as follows :

1. That I am the Asstt. Postmaster General (Vig), Office of the Chief Postmaster General, Assam Circle, Guwahati-1 and as such fully acquainted with the facts and circumstances of the case. I have gone through a copy of the application and have understood the contents thereof. Save and except whatever is specifically admitted in this written statement the other contentions and statement may be deemed to have been denied. I am authorized to file the written statement on behalf of all the respondents.
2. That the respondents beg to place the Brief history of the case as follows :-
 - i) Shri Badal Sarma, ASP joined as ASP Goalpara Sub Division, Goalpara on 18-03-2003. He was ordered to be transferred as ASRM 'S' Division, Silchar vide Circle Office, Guwahati Memo

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*Union of India & on
- Respondent
through:-
Anup Kumar Choudhuri*
Addl. Central Govt. Standing Counsel
G. A. No. 6/7/05
Guwahati

No. Staff/3-23/2000/Ch.I dated 31-12-2004 (Annexure – I). On getting the said order the applicant submitted a representation dated 10-01-2005 requesting to retain him in the present post. But his request for retention of one year in the present post could not be acceded to and the applicant was informed vide Circle Office, Guwahati letter No. Staff/1-441/88 dated 01-02-2005 (Annexure – 2).

- ii) In pursuance of Circle Office, Guwahati Memo No. Staff/3-23/2000/Ch.I dated 31-12-2004, Superintendent of POs, Dhubri issued the transfer and posting order vide Memo No. B/A-9/III dated 04-01-2005 (issued on 05-01-2005) (Annexure – 3) with the direction to applicant to hand over the charge to Shri Tankeswar Swargiary, SDI (P) Bongaigaon and get himself relieved.
- iii) Accordingly, Shri T. Swargiary attended Goalpara on 24-02-2005 to take the charge of ASP Goalpara Sub Division from the applicant. The applicant was on medical leave. Shri Swargiary contacted the applicant over phone and mobile, it was informed that he will not hand over the charge for the time being as intimated vide SDI (P) Bongaigaon letter No. A-1/Misc/ Corr/04-05 dated 24-02-2005 (Annexure – 4).
- iv) In the meantime, the applicant filed an application before the Hon'ble Tribunal, Guwahati Bench vide OA No. 40/2005 praying to stay the operation of the transfer and posting order No. Staff/3-23/2000/Ch.I dated 31-12-2004 and No. Staff/1-441/88 dated 01-02-2005 (Annexure 1 & 2). The Hon'ble Tribunal, Guwahati Bench was pleased to dispose off the application at admission stage itself on 18-02-2005 (Annexure – 5) with direction to the applicant to submit fresh representation to the Chief Postmaster General, Assam Circle, Guwahati within one week from the date of issue of the order. The respondents on receipt of such representation shall pass an order that is lawful, fair and just within four

Contd....P/3

weeks from the date of receipt of the representation. In pursuance of the order of the Hon'ble Tribunal, the applicant submitted the representation on 21-02-2005 which was received in this office on 22-02-2005. The Chief Postmaster General, Assam Circle, Guwahati considered the representation carefully. The grounds stated in the representation for stay of the transfer order could not be acceded to, as the applicant was ordered to be transferred and posted at Silchar in the interest of service on administrative grounds. Hence, the competent authority rejected the representation of the petitioner for granting him to continue in the present place of posting at Goalpara vide Memo No. Staff/1-441/88 dated 18-03-2005 (Annexure - 6).

- v) The Superintendent of Post Offices, Dhubri again directed Shri T Swargiary, SDI (P) Bongaigaon to relieve the applicant, ASPOs Goalpara Sub Division by 31-03-2005 positively vide letter No. B/A-9/III dated 28-03-2005. Accordingly, Shri T Swargiary, SDI (P) Bongaigaon went to Goalpara on 31-03-2005 to take the charge from the applicant. But he could not meet the applicant on the said date as he was out of station. Shri T. Swargiary again went to Goalpara on 01-04-2005 to take the charge of the ASPOs Goalpara Sub Division from the applicant. But the applicant refused to make over the charge to him stating that the transfer case is under consideration of the court.
- vi) The Hon'ble Tribunal, Guwahati Bench in OA No. 83/2005 on 30-03-2005 ordered that order issued vide CO Guwahati Memo No. Saff/1-441/88, dated 18-03-2005 will stand deferred till next date if the applicant is not already relieved. In view of interim order of the Hon'ble Tribunal as above the applicant has not been relieved pending disposal of the application.

3. That with regard to the statements made in paragraph 1 of the application are admitted only to the extent of the facts supported and based on records.
4. That the respondents have no comments to the statements made in paragraphs 2, 3, 4 and 4.1 of the application.
5. That with regard to the statements made in para 4.2 of the application are admitted only to the extent of the facts supported and based on records.
6. That with regard to the statements made in paragraph 4.3 of the application are admitted only to the extent of the facts supported and based on records. It is submitted that the transfer and posting of the applicant mentioned in this para of OA were routine exercise necessitated in the interest of service on administrative grounds.
7. That with regard to the statements made in paragraphs 4.4 of the application, the respondents beg to state that the applicant was transferred from the present post as there were certain matters regarding alleged omissions and commissions on the part of the applicant in his official duties which required a thorough investigation. In order to prevent tampering of official records and documents or not to influence the course of investigation in any manner which is permissible in terms of guidelines contained in para (3) (c) of Chapter 3 of CCS (CCA) Rules, 1965 (Annexure-7), it is considered to shift the official from present place of posting.
8. That with regard to the statements made in paragraph 4.5 of the application, the respondents beg to state that in pursuance of CO Guwahati Memo No. Staff/3-23/2000/Ch.I dated 31-12-2004, the SP Dhubri vide letter No. B/A-9/III dated 04-01-2005 (Annexure – 3) issued relieving order with the direction to the applicant to hand over the charge of the

Contd... P/5

office to Shri T Swargiary, SDI (P) Bongaigaon and get himself relieved. So non-filling up and keeping the post vacant as pointed by the applicant is a plea.

9. That with regard to the statements made in paragraph 4.6 of the application, the respondents beg to state that as noted in para 4.4 of the application was transferred with the approval of the competent authority from Goalpara in the interest of service, which do not fall within the purview of tenure transfer and posting, as per para 16 of guidelines issued from the Directorate (Postal) vide letter No. 141-4/98-SPB.II dated 23-02-1998 (Annexure – 8).
10. That with regard to the statements made in paragraphs 4.7 of the application, the respondents beg to state that the applicant was ordered to be transferred and posted as Asstt. Superintendent RMS 'S' Division, Silchar vide memo No. Staff/3-23/2000/Ch.I dated 31-12-2004 issued by the office of the Chief Postmaster General, Assam Circle, Guwahati in the interest of service on administrative grounds. He submitted a representation on 10-01-2005 requesting for retention at this present place of posting i.e., at Goalpara. The representation was considered but rejected by the appropriate authority vide CO Guwahati letter No. Staff/1-441/88 dated 01-02-2005 (Annexure-2), on the ground of administrative exigencies and interest of service as per para 16 and 17 of the guidelines issued vide Directorate (Postal) letter No. 141-4/98-SPB.II dated 23-02-1998 (Annexure-8).
11. That with regard to the statements made in paragraphs 4.8 of the application, the respondents beg to state that the applicant was transferred in the interest of service on administrative grounds. Question of keeping the

Contd...P/6

post vacant does not a rise, as the SDI (P) Bongaigaon was ordered to take over the charge of the Sub Division to relieve the applicant, as narrated in para 8 above.

12. That with regard to the statements made in paragraphs 4.9 of the application, the respondents beg to state that the transfer order was issued in the interest of service and there was no violation of Govt, instruction. Guidelines issued vide para 16 & 17 of Directorate (Postal) New Delhi letter No. 141-4/98-SPB.II dated 23-02-1998 (Annexure-8) stipulates that the transfers can be made in the interest of services and on administrative needs.

13. That with regard to the statements made in paragraph 4.10 of the application, the respondents beg to state that the applicant filed an application before the Hon'ble Tribunal, Guwahati Bench vide OA No.40/2005 to assail the orders dated 31-12-2004 and 01-02-2005 mentioned at para No. 4.7 of the OA (Para 10 above). The Hon'ble Tribunal was pleased to dispose off the application at admission stage itself on 18-02-2005 with direction to the applicant to submit fresh representation to the Chief Postmaster General, Assam Circle, Guwahati within one week from the date of issue of the order. The respondents on receipt of such representation shall pass an order that is lawful, fair and just within four weeks from the date of receipt of the representation. In pursuance of order of the Hon'ble Tribunal, the applicant had submitted the representation on 21-02-2005 which was received at CO Guwahati on 22-02-2005. The competent authority has considered the representation carefully. There was a serious complaint against the petitioner regarding non-compliance of orders from his superior authority in connection with compassionate appointment case at Balarbhita Branch Post Office. Investigation into the complaint revealed that there was serious

Contd...P/7

intentional lapse on the part of the applicant displaying insubordination and conduct which is not above board. Report of unsatisfactory performance of the petitioner was also received. The Superintendent of POs, Dhubri awarded punishment of reduction of his pay for three stages for a period of three (3) months without cumulative effect, vide an order dated 28-01-2005 (Annexure-9), for his misconduct and non-performance of duty assigned to him to achieve targets on various plan activities. Moreover, another disciplinary action is contemplated against the applicant – after further investigation into various omissions and commissions of the petitioner. In view of this, it is felt necessary to shift the applicant from the present place of posting in the interest of smooth and efficient functioning of Goalpara Postal Sub Division. Hence, rejected the representation of the applicant for granting him to continue in the present place of posting at Goalpara.

14. That with regard to the statements made in paragraph 4.11 of the application, the respondents beg to state that the retention of the applicant at Goalpara is considered to be against the public interest as narrated in above paragraphs.
15. That with regard to the statements made in para 4.12 of the application, the respondents beg to state that the representation dated 21-02-2005 of the applicant was rejected by competent authority as his stay at Goalpara Postal Sub Division, will deteriorate the works there as discussed in para No. 13 above.
16. That with regard to the statements made in paragraphs 4.13 of the application, the respondents beg to state that the applicant was punished earlier vide Superintendent of POs, Dhubri Memo No. B-633 dated 11-01-2005 with order of stoppage of increment for one year which stands revised vide order dated 28-01-2005 (Annexure-9) stated in foregoing

Contd...P/8

paras. This is quite related to his transfer as the same speaks of the unsatisfactory performance of the applicant as ASP Goalpara Sub Division which is considered to be a sensitive post.

17. That with regard to the statements made in paragraph 4.14 of the application, the respondents beg to state that the applicant was transferred in the interest of service on administrative ground, as omissions and commissions on the part of the applicant while discharging his official duties required a thorough investigation. In order to prevent tampering of official records and documents or not to influence the course of investigations in any manner which is permissible in terms of guidelines contained in para (3) (c) of Chapter 3 of CCS (CCA) Rules 1965 (Annexure-7), retention of the applicant at Goalpara is considered as undesirable. Hence, the order is neither vindictive nor colourable exercise of power rather numbers of questions were pin pointed on the performances of the applicant as Asstt. Superintendent of Post office of Goalpara Sub Division for which it is considered necessary to shift the applicant from Goalpara in the interest of service on administrative grounds.

18. That with regard to the statements made in paragraph 4.15 of the application, the respondents beg to state that the transfer of the applicant was made in the interest of service, for smooth and efficient functioning of Postal Sub Division, as already narrated in the above noted paras.

19. That with regard to the statements made in paragraphs 4.16 of the application, the respondents beg to state that as per judgement/order of the Hon'ble Tribunal on 18-02-2005 in OA No.40/05, the representation of the applicant was disposed of rejecting his representation dated 21-02-2005 for granting him to continue in the present place of posting at Goalpara as narrated in para 13 above.

Contd...P/9

20. That with regard to the statements made in paragraph 4.17 of the application, the respondents beg to state that the Hon'ble Tribunal will be pleased to reject the application as the application of the applicant is not justified.

21. That the respondents have no comments to the statements made in paragraph 5 of the application.

22. That with regard to the statements made in paragraph 5.1 of the application, the respondents beg to state that in respect of rotational transfer and posting, Rule 59 of P & T Manual Vol-IV stipulates that an Asstt. Superintendent of Post Offices should not ordinarily remain in the same Sub Division more than 4 (four) years at a time. But retention in a post for 4 years depends upon the administrative needs and when the competent authority is personally and fully satisfied about the need for the same as per Rule 62 of P & T Manual Vol. IV (Annexure-10).

23. That with regard to the statements made in paragraph 5.2 of the application, the respondents beg to state that the said transfer was issued to fill up the post of Asstt. Superintendent of RMS 'S' Division, Silchar which fell vacant on retirement of the incumbent, by posting the applicant, keeping in view the exigencies attached to the post involving operation and supervision of mail management in the Division.

24. That with regard to the statements made in paragraph 5.3 of the application, the respondents beg to state that the applicant was transferred in the interest of service on administrative grounds as omissions and commissions on the part of the applicant while discharging his official duties required a thorough investigation. This is necessitated in order to prevent tampering of officials records and documents or not to influence the course of investigation in any manner which is permissible in terms of guidelines contained in para (3) (c) of Chapter 3 of CCS (CCA) Rules, 1965 (Annexure-7).

Contd...P/10

25. That with regard to the statements made in paragraph 5.4 of the application, the respondents beg to state that the arrangement for relieve of the applicant from the post of Asstt. Superintendent of Post Office, Goalpara Sub Division made vide SP Dhubri letter No. B/A-9/III dated 04-01-2005 (Annexure-3) with the direction to the applicant to hand over the charge to Shri Tankeswar Swargiary, SDI (P) Bongaigaon and get himself relieved.

Accordingly, Shri T Swargiary attended Goalpara on 24-02-2005 to take the charge of ASP Goalpara Sub Division from the applicant. The applicant was on medical leave. Shri Swargiary contacted the applicant over phone and mobile, it was informed that he will not hand over the charge for the time being as intimated vide SDI (P) Bongaigaon letter No. A1/Misc/Corr/04-05 dated 24-02-2005 (Annexure-4).

26. That with regard to the statements made in paragraphs 5.5 of the application, the respondents beg to state that the transfer order was issued in the interest of service on administrative grounds as narrated in foregoing paras.

27. That with regard to the statements made in paragraph 5.6 of the application, the respondents beg to state that the post of Asstt. Superintendent of Post Offices, Goalpara Sub Division was not kept vacant as narrated in para 25 above.

28. That with regard to the statements made in paragraphs 5.7 of the application, the respondents beg to state that as discussed in para 22 above.

29. That with regard to the statements made in paragraphs 5.8 of the application, the respondents beg to state that on transfer to Silchar the applicant will not face difficulties in medical treatment as a Departmental Dispensary, Medical College, other more treatment facilities with renowned physicians are available at Silchar, which are not available at Goalpara.

Contd.....P/11

30. That with regard to the statements made in paragraph 5.9 of the application, the respondents beg to state that the representation of the applicant dated 21-02-2005 was considered by the competent authority and his request to stay at Goalpara could not be acceded to showing the reasons as narrated in para 13 and 15 above.

31. That with regard to the statements made in paragraphs 5.10 of the application, the respondents beg to state that the allegation on the performance of the applicant as Asstt. Superintendent of Post Offices, Goalpara Sub Division is under investigation. So for proper investigation on the allegation as well as in order to prevent tampering of official records and documents or not to influence the course of investigation in any manner, it is considered to shift him from the present place of posting as narrated in para No. 7 above.

32. That the respondents have no comments to the statements made in paragraph 6 of the application.

33. That with regard to the statements made in paragraph 7 of the application are admitted only to the extent of the facts supported and based on records.

34. That with regard to the statements made in paragraphs 8 and 8.1 of the application, the application is liable to be rejected.

35. That with regard to the statements made in paragraphs 8.2 of the application, the respondents beg to state that the application for stay of the applicant in the present place of posting is liable to be rejected as there is no merit on the facts and ground as stated above.

36. That with regard to the statements made in paragraph 8.3 of the application, the application is to be rejected.
37. That with regard to the statements made in paragraph 8.4 of the application, the respondents beg to state that in view of foregoing paras no relief is admissible.
38. That the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with costs.

VERIFICATION

I, B Radhika Chakravarthy, presently working as Asstt. Postmaster General Vig), Office of the Chief Postmaster General, Assam Circle, Guwahati-781001 being duly authorized and competent to sign this verification do hereby solemnly affirm and state that the statements made in paragraphs 1, 3, 4, 5, 21 + 32 of the application are true to my knowledge and belief, those made in paragraphs 2, 6-20, 29 - 31 being matters of record are true to my information derived there from and those made in the rest are humble submission before the Hon'ble Tribunal. I have not suppressed any material facts.

AND I sign this verification on this the 20th day of June, 05

B. Radhika

DEPONENT

DEPARTMENT OF POSTS

OFFICE OF THE

CHIEF POSTMASTER GENERAL: ASSAM CIRCLE: GUWAHATI 781 001

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

dated at Guwahati, the 31.12.2004

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

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

PART - A
(ASPOs CADRE)

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

Contd page = 2

Staff
P. viswanath
02/11/2005

PART - B
(IPOS CADRE)

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

All the officials may be relieved on local arrangement.

Usual charge reports may be sent to all concerned.

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

Copy to :

Guwahati

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

Attested
JPK Chakraborty
 Addl. G. G. S. O.

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



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Annexure-2

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

No. Staff/1-441/88

Dated at Guwahati the February 1, 2005.

To

✓ The SPOs,
Dhubri.

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

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

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

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

Starts
of put up
ceo
3/2/2005

Attested
M. S. G. S. G.

DEPARTMENT OF POSTS, INDIA
OFFICE OF THE SUPERINTENDENT OF POST OFFICES
GOALPARA DIVISION, DHUBRI - 783 301

No. B/A-9 / III

Dated at Dhubri the 04-01-2005

In pursuance of the C.O. Guwahati memo No. Staff /3-23/2000/Ch-1 dated 31-12-2004 the Orders of transfer and posting of the following Officials in ASPOs/IPOs cadre are issued in the interest of service to have immediate effect.

Sl No.	Name of Official	Present place of working	New place of posting
1	Shri Badal Sarma	ASPOs (Sub-Divn) Goalpara	ASRM, S-Dn. Silchar vice Shri C. M. Nath retiring on 28-02-2005
2	Shri Badal Kr. Das	ASPOs(Dn), Dhubri	Postmaster, Dhubri H.O. (The HSG-I IPO line post of PM, Jorhat I.O. is diverted as PM, HSG-I IPO line, Dhubri).
3	Shri Gopal Bora	ASPOs, Jorhat	ASP(Dn), Dhubri vice Shri B. K. Das transferred.
4	Shri N. R. Saikia	IPOs, Mariani	SDI(P), Kokrajhar vice Shri R. Kamal Farid transferred.
5	Shri Raj Kamal Farid	IPOs, Kokrajhar	IPOs, Nalbari.

Shri Badal Sarma will be relieved of the charge of ASRM and get himself relieved of the charge of Sub-Divn. of ASPOs, Goalpara and get himself relieved. Shri Tankeswar Swarghary will look after the Sub-Divn. of ASPOs, Goalpara in addition to his own without any extra remuneration until further orders.

Shri B. K. Das will get himself relieved handing over the charge to Shri Ashok Kumar Das, SDI(P), Dhubri who will look after the works of ASPOs (Divn), Dhubri in addition to his own duties without any extra remuneration until further orders.

Usual charge report should be sent to all concerned.

Attested
A. C. G. S.
A. C. G. S.

Present
(G. C. Hazarika)
Supdt. of Post Offices
Goalpara Divn. Dhubri
783 301.

Contd. 2...

18

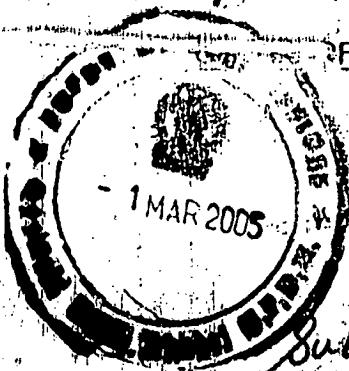
(... 2 ...)

Copy to

1. The Postmaster, Dhubri / Kokrajhar H.O.
2. The Chief Postmaster General (Staff), Assam Circle, Guwahati- 781001.
3. The SDI(P), Dhubri. He will kindly relieve Shri Badal Kr. Das immediately and look after the works of ASPOs (Du), Dhubri in addition to his own duties until further orders.
4. The SDI(P), Bongaigaon. He will kindly relieve Shri Badal Sarma on 18-02-05 positively and look after his works in addition to his own duties until further orders.
5. The Officials concerned.
6. The Supdt. of Post Offices, Jorhat / Sibsagar/ Nalbari.
7. Personnel Files.
8. Office copy.
9. Spare.

General 51105
(G. C. Hazarika)
Supdt. of Post Offices
Coalpara Divn. Dhubri
783 301.

No A-1/mis/conn/04-05 dated at Bongalgao
the 24/2/105



1 MAR 2005
C.A.P. Guwahati, dated 19/1/2005. OA No. 104215
consideration of representation of Sub-Divisional Head
Post's Gopalgao for retention of his posting at Gopalgao
Post's Gopalgao for retention of his posting at Gopalgao

Sub-Division of Badul Baruwa ASP-Gopalgao

Sub-Division

ORDER

Ref. No. B/A of 9/1/05 Dated at Bongalgao the 5/1/05
from the Postmaster General dated 31.12.2004 is read by the Sub-Divisional Head

Staff/3-23/2000/C. dated 31.12.2004 is read by the Sub-Divisional Head
Postmaster General, Guwahati in the interest of service
with refer to your letter no. cited above

Sir
I referred to your letter no. cited above
requesting for retention of his present posting at Gopalgao
reaffirmed at Gopalgao. Sub-Division to take the charge of ASP-Gopalgao
to take the charge of ASP-Gopalgao Sub-Division
from the Sub-Divisional Head Badul Baruwa ASP-Gopalgao Sub-Division
He was on medical leave, besides I contact with
him by telephone and mobile, he was not found
over the charge for the time being

Planned to take his admission stage itself on 15.2.2005

With a fresh representation to the Sub-Divisional Head Guwahati on 22.2.2005
Postmaster General, Guwahati with one note from Postmaster General

of issue of the order to the respondent on receipt of such
shall pass an order that is lawful, fair and just within the
date of receipt of the representation.

In pursuance of order of the Hon'ble Tribunal, Sub-Divisional Head
submitted the present representation on 21.2.2005 which was received in
this office on 22.2.2005

Inspector of Posts
Bongalgao Sub-Division
Bongalgao-783380

Sub-Divisional Head

FORM NO.4

RULE 42)

ADMINISTRATIVE TRIBUNAL
HATI BENCH

ORDER SHEET

40/05

Original Application No.

Misc. Petition No. -

Contempt Petition No. -

Review Application No. -

Applicants -

Badal

Sarma

U. O. T. - 903

Respondents -

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

Advocates of the Respondents -

C.G.S.

Date -

Order of the Tribunal

18.02.2005

Present is The Hon'ble Mr. K.W. Brah
Ladan, Member (A).Heard Mr. M. Chanda, learned
counsel for the applicant.

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

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

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

Sd/MEMBER (A)

P.T.O.

CENTRE

18/02/2005
Assam

Guwahati 781001

O/T The Chief Postmaster General

(5)

2

- 2 -

DD. 14-3-05

Memo No. 394

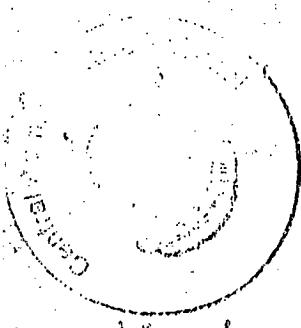
Copy for information and necessary action to:

1) Mr. M. Chanda, Advocate, Gauhati High
Court, Gauhati.

2) The Chief Postmaster General,
Assam Circle, Department of Posts,
Gauhati. 781001

Section Officer (S)
10.3.05

AS
S/3



DEPARTMENT OF POSTS
 OFFICE OF THE CHIEF POSTMASTER GENERAL: ASSAM CIRCLE: GUWAHATI-1

No. Staff/1-441/88

dated at Guwahati the 18.03.2005

Subject: - CAT, Guwahati Bench Order dated 18.2.2005 in OA No. 40/2005 - consideration of representation of Shri Badal Sarma, Asstt. Supdt Posts, Goalpara for retention of his posting at Goalpara.

ORDER

Shri Badal Sarma, Asstt. Supdt Posts, Goalpara was ordered to be transferred and posted as Asstt. Supdt RMS, S-Division, Silchar vide No. Staff/3-23/2000/Ch-I, dated 31.12.2004 issued by the O/O the Chief Postmaster General, Assam Circle, Guwahati in the interest of service on administrative ground. He submitted a representation on 10.1.2005 requesting for retention at his present place of posting i.e. Goalpara. The representation was considered but rejected by the appropriate authority vide letter dated 1.2.2005 on the ground of administrative exigencies and interest of service.

2. Being aggrieved, the petitioner filed an application before the Hon'ble Tribunal, Guwahati Bench vide OA No. 40/2005 to assail the orders dated 31.12.2004 and 1.2.2005 mentioned above. The Hon'ble Tribunal was pleased to dispose off the application at admission stage itself on 18.2.2005 with direction to the applicant to submit fresh representation to the Chief Postmaster General, Assam Circle, Guwahati within one week from the date of issue of the order. The respondents on receipt of such representation shall pass an order that is lawful, fair and just within four weeks from the date of receipt of the representation.
3. In pursuance of order of the Hon'ble Tribunal, Sri Badal Sarma has submitted the present representation on 21.2.2005 which was received in this office on 22.2.2005.

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4. The undersigned has considered the representation carefully. There was a serious complaint against the petitioner regarding non-compliance of orders from his superior authority in connection with compassionate appointment case at Balarbhita Branch Office. Investigation into the complaint revealed that there was serious intentional lapse on the part of the petitioner displaying insubordination and conduct which is not above board. Report of unsatisfactory performance of the petitioner was also received. Meanwhile, the Supdt of POs, Dhubri initiated disciplinary action against the petitioner for his misconduct and non performance of duty assigned to him to achieve targets on various plan activities and awarded punishment of stoppage of increment from his pay vide an order dated 11.1.2005. Moreover, another disciplinary action is contemplated against the official after further investigation into various omissions and commissions of the petitioner. In view of this, it is necessary to shift the petitioner from the present place of posting in the interest of smooth and efficient functioning of Goalpara Postal Sub Division.

5. The grounds stated in the representation for stay of the transfer order cannot be acceded to, as the petitioner was ordered to be transferred and posted at Silchar in the interest of service on administrative grounds. The undersigned finds no reason therefore to interfere with the order of the competent authority transferring the petitioner at Silchar and REJECT the representation of the petitioner for granting him to continue in the present place of posting at Goalpara.

To,

Sri Badal Sarma
Asstt. Supdt Posts
Goalpara Sub Division
Goalpara 783101

SKD
(S. K. DAS)
Chief Postmaster General
Assam Circle, Guwahati-1

*SKD
Addl. C.G.S.C.*

suspension in the following circumstances by the competent authority by invoking the provisions of sub-rule (1) of Rule 10 of the CCS (CCA) Rules, 1965:—

- (i) If the Government servant is arrested in connection with the registration of the police case, he shall be placed under suspension immediately irrespective of the period of his detention.
- (ii) If he is not arrested, he shall be placed under suspension immediately on submission of a police report under sub-section (2) Section 173 of the Code of Criminal Procedure, 1973, to the Magistrate, if the report *prima facie*, indicates that the offence has been committed by the Government servant.

{ G.I., Dept. of Per. & Trg., O.M. No. 11012/8/87-Est. (A), dated the 22nd June, 1987. }

(3) Limiting number of suspended officials and periods of suspension to the minimum.—In spite of a series of instructions issued from time to time for limiting the number of officials under suspension and also reducing the periods of suspension, it is observed that quite a good number of officials continue under suspension for prolonged durations. In order to keep the number of officials under suspension to the barest minimum and also to reduce the period of suspension to the minimum possible term, the following instructions on the subject are being reiterated for guidance and strict compliance:—

(a) An official may be placed under suspension only in the following circumstances:—

- (i) to (iv) Same as in Instruction (1).
- (v) Where the public servant is suspected to have engaged himself in activities prejudicial to the interest of the security of the State.

(b) Even in the above circumstances, an official may be placed under suspension only in respect of misdemeanour of the following type:—

- (i) to (v) Same as on Note (b) of Instruction (1).
- (c) While placing an official under suspension the competent authority should consider whether the purpose cannot be served by transferring the official from his post to a post where he may not repeat the misconduct or influence the investigations, if any, in progress. If the authority finds that the purpose cannot be served by transferring the official from his post to another post then he should record reasons therefor before placing the official under suspension.

(d) In case where an official is deemed to have been placed under suspension under Rule 10 (2) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, as soon as the official is released from police custody, the competent authority should consider the case to decide whether the continuance of the official under suspension is absolutely

*B. T. C.
A. K. Chaturvedi
G. S. G.*

SI/066

Annexure-8

25

23 FEB 1998

NO. 141-4/98-SPB-II
GOVERNMENT OF INDIA
MINISTRY OF COMMUNICATIONS
DEPARTMENT OF POSTS
DAK BHAVAN, SANSAJ MARG,

DATED AT NEW DELHI THE 23rd FEB. 1998.

To

1. All Chief Postmasters General,
2. All Postmasters General,
3. Controller of Foreign Mail, Bombay,
4. Director, Postal Staff College, Ghaziabad,
5. Chief General Manager, Postal Life Insurance, New Delhi
6. Director, Postal Life Insurance, Calcutta,
7. All Directors, Postal Training Centres.

Subject:- Rotational transfers policy guidelines for the year 1998-99.

Sir,

A reference is invited to this Office letter No. 141-4/97 SPB-II dated 19.2.1997 laying down the guidelines for rotational transfers for the year 1997-98. It has been decided that the policy guidelines as laid down in the following paragraphs should be adopted for ordering rotational transfers for the year 1998-99.

1. All Sub Postmasters of single-handed post offices must be shifted on completion of their tenure positively even if it involves moving out of station of their present postings. Those completing tenure by 30.9.98 should be considered for transfer.
2. Sub Divisional Inspectors and ASPOs in charge of sub divisions including their counterparts in the RMS will be treated at par with single-handed Sub Postmasters and those completing their tenure by 30.9.98 should be considered for transfer.
3. Officials and officers falling in other categories should be transferred on completion of their prescribed post-tenure within the same stations to the extent possible. Where it is not possible to do so without shifting some of them outside their present stations, those who had completed their tenure on 30.9.1997 may be posted outside their present stations.

4. It has been seen that in some places officials belonging to different cadres are waiting since long for their posting to particular stations and it has not been possible to concede their request for one reason or other. In order to accommodate long-pending requests for posting to such stations, such transfers may be ordered in really deserving cases by transferring out of such stations officials who have the longest stay at the station concerned. Such transfers in respect of non gazetted officials may, however, be kept to the minimum and should be ordered only with the approval of the Regional P.M.G. or the Chief Postmaster General as the case may be.
5. Whenever any official/officer is sent out of a station on administrative grounds or due to rotation, he will be transferred on the criterion of longest stay at the station.
6. S.B.C.O. staff constitutes a circle cadre. In order, however, to minimise their hardship, their rotational transfers may be confined as far as possible within the same division or to the neighbouring divisions subject to the exceptions as in para 4 above.
7. The station tenure for gazetted officers is normally four years which may be extended upto six years in individual cases in public interest. The powers for extending the station tenure beyond 4 years in respect of gazetted officers will be exercised by the Directorate.
8. Gazetted officers and non gazetted supervisory staff such as, ASPOs, IPOS, IRMS etc. should not be transferred except in administrative interest from a post unless they have completed at least one year in their post. In other words, the period of one year shall continue to be taken as the minimum required period for officers/officials seeking such transfers. Leave of any kind exceeding 15 days will not be counted while computing this period.
9. The crucial date for computing the completion or otherwise of the tenure will be 30th of September.
10. Transfers may not be effected save in exceptional circumstances (which will include administrative necessity) in the middle of the academic session.

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- 3 -

11. Transfers will be effected sufficiently in advance of the commencement of the academic year. Officials who are due to complete their tenure by 30th September in any year should be transferred in the preceding April-June period or the following December-January period depending upon the academic session. Those who are completing tenure after the 30th of September should be considered in December of the year or in April-June of the following year depending upon the starting date of the academic session.
12. Extension of post tenure for all non gazetted staff may be allowed in deserving cases for a period of six months by the Regional PMSG and to gazetted officers up to the STS level by the Head of the Circle.
13. Those due to retire by 31.3.99 should not be shifted unless there are very special reasons.
14. In respect of circle cadres where transfers/postings are done by the Regional PMSG, Chief PMSG must ensure that all reallocation's in the said cadres to various Regions are finalised and conveyed to the Regional PMSG concerned by 15.3.98 so that while considering rotational transfer orders it is possible for them to take the same into account.
15. In the case of officers on deputation to other Ministries/Deptts. at the same station, tenure will be computed in accordance with instructions contained in Directorate order no. 141-214/96-SPB-II dated 3.12.1996.
16. Transfer in the interest of service may be ordered with the approval of the competent authority even though they do not fall within the purview of the above guidelines.
17. While ordering transfers, administrative needs of a particular division/office/region should be kept in view.
18. As far as possible effort should be made to utilise the expertise of computer-trained personnel by transferring them to post offices equipped with M.P.C.M. and other technological aids. If a computer trained official cannot be substituted by another official of similar skill, an exemption from rotational transfers may be given by the concerned Regional P.M.G./C.P.M.G..

- 4 -

19. Retransfer of an officer/official to the station from which he was transferred should not be normally considered for a period of two years. In other words, an officer/official should spend a minimum of two years at the station to which he is transferred before he can be considered eligible for retransfer. Two-year break is, however, only a minimum condition and it will not entitle an officer/official to claim retransfer to the old station in preference to others who have spent longer periods outside. Retransfer after a break of two years may be considered on administrative as well as compassionate grounds. In such cases, on retransfer, an officer/official will count his tenure at the old station afresh for the purpose of further rotational transfer. Retransfer before completion of two years may be considered only in extreme public interest or on extreme compassionate grounds in exceptional cases with the approval of the Heads of the Circle. No request for retransfer will be considered with respect to any officer/official who does not join the station assigned to him.

20. As regards posting of working couples at the same station, the same should be allowed if it is administratively convenient.

21. The aforesaid instructions may please be read in conjunction with the relevant rules contained in the Chapter-II of P&T Man. Vol. IV. Hindi version would follow in due course.

Yours faithfully,

Parmanand
 (A.K. KAUSHAL)
 ASSTT. DIRECTOR GENERAL (SPN)

Copy to:-

1. P.P.S. to Secretary (Post).
2. P.S. to Member (P) / Member (O) / Member (D) / Sr. DDG (CPT & Phil.).
3. P.S. to J.S. & F.A. / Secretary (Postal Services Board).
4. All Dy. Directors General, Directors and Assistant Directors General in the Directorate.
5. Officer-in-charge, A.P.S. Record Office, Kamptee.
6. All recognised Unions/Associations & Federations.

Parmanand
 (A.K. KAUSHAL)
 ASSTT. DIRECTOR GENERAL (SPN)

Parmanand
 (A.K. KAUSHAL)
 ASSTT. DIRECTOR GENERAL (SPN)

DEPARTMENT OF POSTS, INDIA
OFFICE OF THE SUPERINTENDENT OF POST OFFICES
GOALPARA DIVISION : DHUBRI - 783 301.

5688
31.1.04

On

7-2-05

Memo No. B-633

Dated at Dhubri the 28-01-2005

In this office memo of even no dated 29-10-04, it was proposed to take action against Shri Badal Sarma, ASPOs, Goalpara Sub-Divn, Goalpara under Rule-16 of CCS(CCA) Rules 1965. Statement of imputation of misconduct or misbehaviour on which action is proposed to be taken against him was as follows :

That said Shri Badal Sarma while working as ASPOs Goalpara Sub-Division, Goalpara during the period from 18-03-03 onwards has failed to comply with works and Divl. Head's instructions time to time on the matters detailed below :

- (1) There was RPLI target for Rs. 2 Crore allotted to Goalpara Sub-Divn. during the year 2003-04. But of which Shri Sarma could have collected business for Rs. 28 lakhs 35 thousand from 15-06-03 to 30-01-04. Shri Sarma has failed to procure all of RPLI business Rs. 1 Crore 71 lakhs 65 thousand as on 31-03-04. The performance of B. Sarma was far less than that of other units of this Divn. This type of performance on his part has hampered the Divn to touch the target fixed by C.O/Guwalati.
- (2) Three PSSKs were ordered to open at Kharuvaj, Bapurvita and Gossidubi within stipulated period but Shri Sarma has failed to open the PSSKs within the time frame.
- (3) Pocharchar B.O. in a/c with Salmara/South S.O. was ordered on 01.10.03 to open but it was opened on 29.11.03 approx after 2 months. Shri Sarma has failed to forward documents & other reports after opening the B.O. on 29.11.03 till 30.01.04.
- (4) Approved compassionate appointment case of Shri Birbal Ram Rabidas S/O Late Banua Ram Rabidas Ex. GDS MC Balarvita B.O. as GDS MC Balarbhita B.O. was not formally till today and failed to follow instructions time to time and request for his absorption.
- (5) There was shortage of cash at Baida B.O. Rs. 12053.69 and SB fraud Rs. 12500/- in Baida SB a/c No. 951309 detected on 07.03.03 Shri Sarma has been directed to inquire the matter on 07.03.03 reminded on 15.07.03, 18.07.03, 30.07.03, 12.08.03 & 28.08.03, 20.10.03, 17.12.03 & 24.01.04 with guideline to deal the case with Deptl Rules & procedure. But Shri Sarma has failed to furnish any conclusive report except an incomplete report on 23.09.03. SB fraud claim case was not dealt properly and badly delayed for submission to C.O.
- (6) During inspection of Baladmar S.O. 18.12.03, it has been ordered vide memo No. B2/GP Sub-Dh/II dated 17.05.04 to terminate the arrangement made by one Group- 'D' Official namely Jainal Abedin Pramanik from Jaleswar S.O. w.e.f. 04.09.03 to work as LR Postman at Baladmar S.O. in contravention of Rules & without permission from competent authority. But Shri Sarma has failed to comply with order till date.

By doing such said Shri B. Sarma has failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Govt. Servant in contravention of Rule 3 (1) (i) (ii) (iii) of CCS (Conduct) Rules, 1964.

Shri Badal Sarma was given an opportunity to submit his defence representation if any against the proposal within 10 days from the date of receipt of the said memorandum. Shri Badal Sarma had received the said memorandum on 20-11-04 and submit a WRITTEN REQUEST ON 27.11.04 praying 10 days more time to submit his defence representation. Shri Badal Sarma had submitted his defence representation finally on 06.12.04 which was received by office on 13.12.04.

Contd....2....

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In his written defence representation Shri Sarma has stated the following.

" I am submitting my representation on the each item of charges labelled against me by you for sympathetic and judicious cohsideration :

1) Item -1 :- I tried my label best to fulfil the target of RPLI business for the year 2003-04 and accordingly I motivated and educated the Branch /Sub Postmaster concerned (Ex-Officio Agent) to perform the RPLI business in maximum numbers. I personally conducted the RPLI Melas at Jaleswar also. I achieved the RPLI business Rs. Seventy lakhs sixty thousand upto 30-03-04.

Most of the villagers were express their dissatisfaction on the RPLI business saying that they are not able to get their premium book not before 1/2 months after submitting their new proposal and mature/death claim are also not being settled even after elapse of years. Whereas LICL and other Insured companies promptly settled their claim. I would like to draw your kind attention on the complaint of one Smt. Piara Khatun who complaint that she had submitted one death claim in respect RPLI R-AS-HO-EA 16/64 on 18-06-04 is yet to be settled. Even though I left no stone unturned to achieve the gool but reached to achieve 71 lakhs. Accordingly I believe I did my duty with full devotion. So far the term of business these may be varied . Place to place and time to time. The matter was reported to you vide this office letter A-1/Sub/Dn/GP dtd 24/05/04 in respect to your letter no B-633 dtd 21-04-04.

2) Item -2 :- Regarding opening of PSSK at Kharuvaj , Bapurvita and Gossaidubi with a view to open the PSSK as directed by you in your various office memos I personally attended the spot but due non availability either the selected candidates or the G.P. President/Secy for accommodation and supply furniture etc. I could not opened those PSSK forthwith. But opened during the financial year. The matter was verbally informed to you in course of your visit to Goalpara MDG and on your instruction. lastly I opened those PSSK by directing O/S mail Goalpara. A written report for non opening of Gossaidubi PSSK was duly submitted to you vide ASPOS/GP office letter A-1/PSSK/98-99 dtd 08-03-04. The joining charge report (ACG-61) of the candidate duly submitted to your end. No further quaries was made with the undersigned for non fulfillment of any item on that subject.

3) Item No. 3 :- The Pocharchar B.O. was ordered to open by diversion and redeployment of the Post//man of the EDDA Patakata B.O. The EDDA Patakata on being direct to open the Pocharchar B.O. he expressed that he has no home/land at Pocharchar area . So it would not possible on his part to act as BPM at Pocharchar immediately and prayed some time to manage room for Post office etc. To reach the Pocharchar area from Salinara south has to cross 4(Four) times of river Brahmaputra and 3 (three) chars on the river Bramaputra . This position duly discussed with you in your visit at Goalpara and on your instructions the B.O. was opened by directing O/S Mail on 29-11-03. (during annual plan 2003-04). The date of joining of the candidate duly informed you through ACG-61 and the whole matter reported to you vide ASPOS/GP letter No A1/Sub-Dn/GP in response to your office letter no B-633 dtd 21.04.04 and there by I attended the all quaries time to time.

4) Item No 4 :- The Circle Office Guwahati was instructed in letter approval memo No. Staff /12-29/2002 dtd 10-11-2003 that the approved applicant will be required to produce original certificate, specially certificates for educational Qualification, date of birth etc. which should be verified personally by the appointing authority regarding their genuineness before appointing them on being production of school certificate (having passed class-IX and promoted to class X issued by the Head master Chakla High School . Chakla Bashbari by Shri Birbal Ram Rabidas. I observed that Shri Birbal Ram Rabidas not able to write his name including his father name in English and doubt arises on the veracity of certificate. I referred the matter to the Inspector of School vide this office letter No. A2/Balarbhit dtd 11-02-04 and followed by reminder dtd 22-06-04. Meantime the O/S mails Goalpara directed to meet with the Headmaster Chakla High School (Venture) Bashbari to obtain his comment on that certificate. The O/S Goalpara reported that he with the Headmaster along with the BPM Bashbari.

(3)

The Headmaster Chakla High School (Vegture) reported that Shri Birbal Ram Rabidas was not the regular student of the school. The T/C was issued on humanitarian ground as well as to get the Govt. job. On being refusing to make appointment on the basis of so called school certificate (without countersignature of the I/S or D/L) Shri Birbal Ram Rabidas submitted another certificate with the help of Shri Rajab Ali Mondal P/A Goalpara MDG and Shri Mukul Ch Das of P/A Goalpara from the Headmaster Kharakhowa M.V. School on 06-07-04 having passed class-VII (shown as left 31-12-92) and after verification of that certificate from the Headmaster Kharakhowa on 13-09-04 Shri Birbal Ram Rabidas was appointed provisionally vide this office letter No A2/Balabhitia dtd 20-10-04. Due submission of false certificate by Shri Birbal Ram Rabidas and to comply with the instruction of the C.O. and to process the complete cycle. Some more time was spent. The matter was duly reported to you vide ASPOs Goalpara letter No A-1/Sub-Divn/GP dtd 25-05-04 in Para 4.

Item No. 5 :- Shortage of Govt. cash Rs. 12053.69 at Baida B.O. and the fraud Rs. 12500/- in Baida SB a/c No. 951309.

a) As per Baida B.O. daily account dtd 02-09-03 a sum of Rs. 11982.69 as Govt. cash was kept with Shri Utpal Rabha the BPM Baida B.O. and absconded on 03-09-03. A detailed report in this regard duly submitted to you vide A2/Baida dtd 23-09-03 and the fact again explained to you vide A-1/Sub-Dn/GP dtd 24-05-04 in reply to you letter No B-633 dtd 21-04-04. It appears from the approved annual Inspection/2004 by C.O. that you were inspected the Baida B.O. on 19-12-03. Due want of specific Guide line from the appointing Authority I failed to proceed further but not left the self exertion to recover those Govt. money and ultimately I able to recover those amount of Rs. 11982.69 from father of Shri Utpal Rabha on 08-07-04 and credited as UCR at Baida B.O.

b) Fraud in Baida B.O. SB a/c No 951309 in the name of Lakshmi Bala Rabha was cropped out during the year 2000 repeat 2000 and relevant P/books was taken by you on 22-06-00 after long correspondence in various style you were ascertained the total fraud. Rs. 12500/- (8000 + 4500) in that pass book under reference had taken place vide your office letter FD/Misc/10/03-04 dtd 02-08-04 and order to obtain fresh written statement claim paper without date from the claimant but the cases lying with you and yet to be settle. In both the cases a series of reply dtd 23-09-03, 10-11-03, 12-01-04, 28-05-04, 28-08-04 and 1-09-04 were given to you. In the statement you were shown the issue of reminder dtd 15-07-03 and 18-07-03. Justification of such type of correspondence may kindly be examined to generally 4/5 days time is required to get a letters from your end to Goalpara. Considering the above fact I would like to say that I did do my duty with full devotion sincerely and not dishonour or violation of any departmental rules.

Item 6 :- Regarding arrangement in the LR Postman at Baladmar/S.O. against permanent -LR vacant post :- On scrutinizing the Divisional and the sub-divisional gradation of Postman establishment it appears that as follows - Postman(pmt) = 11. Temporary = Nil Permanent LR= 2 on getting the vacant of those LR (Permanent) post I proposal to you to reconcile the actual staff strength (i.e. Postman cadre) under this sub-division and sought for necessary instruction to filled up those post in offg. capacity till Qualified Postman available vide letter B2/Staff-Corr dtd 20-10-03. As per allegation in the same nature in your letter B-633 dtd 21-04-04 the undersigned explained the fact elaborately and prayed for supply a copy of Ruling/Ruling for early execution of your order. Saying this being the distant Sub-Division the undersigned had a little scope to get the upto date Rule/Ruling of the Department". In this connection this office letter A-1/Sub-Dn/GP dtd 25-05-04 & 24-05-04 may kindly be referred to. Due to non getting any instruction/Guideline on that fact the undersigned terminated that arrangement vide this office letter A-1/baladmar dtd 30-04-04. I would like to draw your kind attention that explained all those facts in reply to your letter B-633 dtd 21-04-04 vide this office letter A-1/Sub-Dn/GP dtd 24-05-04 & 25-05-04 respectively.

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24/11/04

In honouring/admitting your supremacy I would like to draw the following for your judgement and comparison with statement of imputation of misconduct or misbehaviour against Shri B. Sarma ASPOs Goalpara Sub-Divn, Goalpara dtd 29-10-04.

a) Most of the SB Pass books opened at Sub-Offices and Branch Offices under the Goalpara Sub-Divn, are running without posting of Annual interest from 1997-98 and thereby the members of the public are disheartening due non getting of their annual interest and wherever possible they were closing the account or discontinued their account leaving marginal amount and making transaction with the bank etc. After creation of Mukhya Dak Ghar the task of the H.O. has been decentralized. But MDG Goalpara are not also doing that work i.e. calculation & posting of interest in Pass book. Recently I collected 82 numbers of pass books from the postin Bhalukdubi area forwarded to the Postmaster Goalpara MDG for posting of Annual Interest. But the Postmaster Goalpara MDG returned the SB Pass Books without posting of due Annual Interest with remarks that they are no obliged. Repeat obliged to do the work vide office letter No SB/Misc/corr/04-05 dtd 07-01-04 endorsing copy to you. It appears that the SOs has to dealt that case under SB manual Vol-I Rule-76 and any violation on the part of the supervision in all spare had to pushed under CCS (Conduct) Rule 3 (2). I placed only one example before you for your kind attention and equal judgement.

b) The Office of the Asstt. Supdt. of Post Offices Goalpara Sub-Division was duly inspected by the Authority concerned in due date. During the year 2002 and 2003 but the undersigned has not yet favoured with their inspection report till this date. I would also like to draw your kind attention on the DGP letter No 17-3/92-Inspn. Dtd 02-07-92 with the prayer for equal judgement. That sir, I have to go on superannuation retirement on 28-02-2006 (A/N) in normal course. I would like to say that neither I dishonour nor violated any departmental Rule/Ruling so far knowledge and believe rather I did my duty with full devotion.

Therefore I fervently request your kind honour kindly to consider to drop the whole charges labeled against me and hope consider my prayer for the last few days of my long service file.

With regards."

Sd/-

(BADAL SARMA)
Asstt. Supdt. of P.Os
Goalpara Sub-Divn,
Goalpara

I have gone through the representation of Shri Badal Sarma very carefully and studied the case personally with the following observation –

- (1) The Argument put forward has no relevancy with the procurement of RPLI business target fixed for Rs. 2 Crores. he has collected proposals for Rs. 60 Lakhs 5 thousand during the year 2003-04.
- (2) PSSKs at Kharuvaj, Bapurvita & Gossaidubi were opened on 06.01.04, 08.01.04 and 04.03.04 out of time limit 31-10-03, 15-11-03 & 10-11-03 respectively. The PSSKs were ordered to be opened by this office on 07-10-03, 03-11-03 & 30-10-03 but these were opened after gap of 3, 2 & 4 months respectively. The argument put forward has no relevancy on the ground for opening the PSSKs.
- (3) Pacharchar B.O. opened on 29-11-03 after 2 months from date of order 01-10-03. Argument put forward due geographical situation of the area has no relevancy with the opening of B.O. as the proposal for opening of the B.O. was came after due verification through him.

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(4) Approved case of compassionate ground of appointment was delayed without any information to Divl. Office and failed to inform position time to time and kept this office in pressure. This office had to issue letters and reminder frequently to him about position of appointment. His argument was irrelevant and found no justification in delay appointment of the approved case. The candidate has joined after gap of more than 1 year on 23.11.2004 since issue of order dtd 19.11.2003.

Shri Badal Sarma utterly failed to discharge his own duty and responsibility with in the frame of Deptl. Rules & regulations and deserves punishment. But considering his prayer for exoneration and with the hope that he would rectify such defects and shortcomings in the days to come I take a lenient view of the case and award the following punishment to meet the end of justice.

O R D E R

I Shri G. C. Hazarika, Supdt. of Post Offices, Goalpara Division, Dhubri do hereby order that the pay of Shri Badal Sarma be reduced by 3(three) stages from Rs. 8100/- to Rs. 7500/- in the time scale of pay Rs. 6500/- -200-10500/- for a period of 3(three) months w.e.f 01-02-2005. It is further directed that Shri Badal Sarma will earn increments of pay during the period of reduction and that on the expiry of this period, the reduction will not have the effect of postponing his future increment of pay.

This is in cancellation of this office memo of even no dated 11-01-2005.

OPC

G.C.Hazarika (G. C. Hazarika) 28/1/2005
Supdt. of Post Offices
Goalpara Divn. Dhubri
783.301.

Copy to :-

1. Shri Badal Sarma, ASPOS, Goalpara Sub-Division, Goalpara.
2. The Postmaster, Dhubri H.O.
3. Punishment Register.
4. CR file of the Official.
5. PF of the Official.
6. Office copy & Spare.

RE/AD
No. 5688 dtd
31.01.05

G.C.Hazarika
G.C.Hazarika

G.C.Hazarika (G. C. Hazarika) 28/1/2005
Supdt. of Post Offices
Goalpara Divn. Dhubri
783.301.

when necessary, contain a sufficient description of the overseer to prevent possibility of personation.

ROTATION OF CHARGES

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

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

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

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

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

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

- (1) Head clerks of Superintendents
- (2) Investigating inspectors and sorting inspectors in Circle Offices } 4 years
- (3) Head clerks of sections in Circle Offices

(4) Clerks in General Post Offices of first class head post offices dealing with staff cases

(5) Time-scale clerks in offices of the Superintendents of post offices and Railway Mail Service except sorting clerks in offices of Superintendents, R.M.S.

(6) Clerks working in the correspondence and accounts Branches of head post offices

(6-A) Time-scales clerks working in the Philatelic Bureau

4 years

NOTE.—The Divisional Supdt./PPM/Gazetted Postmaster working directly under the Head of the Circle may at his discretion, order transfer of the staff working in the Philatelic Bureau any time before completion of the tenure of 4 years for administrative reasons.

(6-B) *Foreign Post Units*

(i) Class IV, Time Scale Clerks and L.S.G. officials in all branches of foreign post (except Store M.O. & C.E.D. and strong rooms)

4 years

(ii) Class IV, Time Scale Clerks and L.S.G. officials in Store, M.O. & C.E.D. and Strong rooms

2 years

(6-C) LDCs/UDCs/Supervisory staff (i.e. Junior/Senior Accountants and Accountants in SSG in SBCO/ICO in all offices (subject to rotation among themselves every

year of LDCs/UDCs in offices with more than one LDC/UDC).

(7) Non-gazetted head postmasters

(8) Non-gazetted sub-postmasters

(8A) Departmental Branch Postmasters

(9) Town Inspectors

(9A) Clerks in post offices having one clerk besides the sub-postmaster

(10) Other post office clerks (including Lower and Higher Selection Grade) who handle cash valuables 1 year

(11) Clerks in charge of savings bank and sub-accounts departments 6 months

NOTE.—The Divisional authorities may in their discretion extend the tenure up to two years of the staff working in the Savings Bank, Branch of the Head offices and sub-offices not lower in status than the I.S.G.

(12) ✓ Sorting clerks in offices of Superintendents, R.M.S. 5 years

(13) Village postmen attached to offices having two or more village postmen 6 months

(14) Time-scale Accountants in Head Post Offices where there is more than one Head Post Office in a Division on the same scale of pay. In single handed offices, the Sub-postmaster will invariably be transferred every three years 4 years

NOTE.—The Scale Accountants in Head Post Offices can be rotated with such Accountants in the Postal Divl. Offices also."

(15) Sorters in Record Offices and Sub-Record Offices : 4 years

(15A) L.S.G. and H.S.G. Sorters in R.M.S. offices 4 years

(16) Clerks in R.L.Os. who handle cash or valuables 1 year

(17) Clerks (including cashiers and Stores-keepers) in different section of MMS Organisation under the control of Gazetted Managers only 4 years

(18) Cashiers in Telegraph Engineering Divisions, Telegraph Offices, T.R.A.Os., P. & T. Training Centres, Mail Motor Service, Office of Accounts Officer, Stores and Workshops, Organisations under the Additional Chief Engineer, T. & D. Circle, and in Postal Store Depots. 4 years

(19) "H.S.G. and L.S.G.", officials and clerks in the Postal Stores Depots not declared as independent units 4 years

NOTE.—The period may be extended upto six years in the case of clerks at the discretion of the Supdt. of the Stores Depot concerned.

✓ 60-A. A clerk in circle and Administration officer should not ordinarily remain in the same section for more than four years at a time except in the case of mail and sorting section and PLI Section where he should not ordinarily remain for more than five years at a time.

60-B. Clerks including Lower Selection Grade Clerks in the subordinate units of the Telegraph Stores Organisation should not ordinarily remain in the same section for more than four years at a time.

60-C. *Deleted.*

- 20-32

✓ 60-D. No clerk, including Selection Grade Clerk, in Telephone Revenue Accounts Offices should be allowed to remain in one Section for more than a period of four years at a time. In exceptional cases, heads of offices will have discretion to extend the said period by one year.

✓ 61. An officer should not ordinarily be brought back to the same Division, Sub-division or post until the lapse of an interval equivalent to the maximum period for which the post may be held as fixed in the above rules.

✓ 61-A. Except when a longer tenure of service against a post has been specifically prescribed or is authorised by orders of the Head of the Circle in any special contingency, no official shall be retained in the same branch, in the case of a First Class Head Office or in the same office, in the case of other post offices, for more than 5 years and shall not be eligible for posting back to the same branch or office, as the case may be until after three years of the date of his last posting there.

✓ 62. The rotation orders contained in Rules 59 to 61 above in so far as they relate to officials mentioned therein should be followed strictly and any deviation therefrom should not be allowed unless the Head of the Circle is personally and fully satisfied about the need for the same. u6/No

62-A. In addition to any personal requests for transfer which may be made the considerations: —

(a) of affording the staff an equitable opportunity of availing themselves of the facilities for better technical knowledge and experience in larger exchanges or services in better stations;

(b) of retaining suitable officials in duties the continuance in which might enable their utilisation to the best advantage of the service; and

(c) of meeting the General needs of administration should be kept in view by the competent authorities.

62-B. The provisions of Rules 62-A will apply *mutatis mutandis* to Telephone Monitors also.

TELEGRAPH TRAFFIC

POWERS

63. Transfers at Government expense of any members of the Traffic Branch from one circle to another require the prior sanction of the Director-General. Transfers without relief, or exchanges between the officers of the Telegraph Traffic Services, Class II, of one Circle and those of another, at the expense of the applicants, may be ordered by the Head of the Circle concerned but the formal sanction of the Director-General should be obtained in each case. Exchange of stations between the non-gazetted officers of the Traffic Branch of one Circle and those of another, involving no expense to Government, may be ordered by the Heads of the Circles concerned and in such cases the formal sanction of the Director-General is not necessary but a report should be submitted for information. Temporary transfers of telegraphists from one Circle to another for a period not exceeding three months require the prior sanction of the Director-General and can only be sanctioned in cases in which there is no leave due to the official.

TELEGRAPH MASTERS AND TELEGRAPHISTS

64. In order to avoid expense to Government and hardship to the signalling staff, transfers should be reduced to the minimum compatible with the necessity:—

- (1) of providing telegraph masters with charges of offices,
- (2) of periodically relieving men at unhealthy or exceptional stations,

AK Chaudhury