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4  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

(SEE RULE 42)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O R D E R S H E E T

original Application No. 96/2005

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

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

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

Applicant(s) Dr. Ramesh Chand

Respondents U.O. I & Ors.

Advocate(s) for the Applicant(s) A. K. Bora, B.K. Talukdar

Advocate(s) for the Respondents Railway Counsel

Notes of the Registry	Date	Order of the T
This application is in form is filed/C.P. No. 10/ deposited via P. ED No. 209 160390 Dated 25.4.05.....  He Dy. Registrar <i>[Signature]</i>	29/04/2005	Present: Hon'ble Justice Sri G. Sivarajan, Vice-Chairman.  Head Mr. B.K. Talukdar, learned counsel for the applicant and also Mr. S. Sarma, learned counsel for the respondents.
Steps taken with envelopes  <i>[Signature]</i>		According to the applicant, he filed an application-dated 10.09.2004 (Annexure - E) for Inter Railway Transfer from N.F. Railway to North East Railway <sup>by</sup> <del>and</del> Northern Railway before the 1st Respondent. Mr. S. Sarma learned counsel for the Respondents submits that the applicant has to file application in that regard before the 4th Respondent. In the circumstances, the applicant is directed to file an <i>[Signature]</i>

2.5.05

Copy of the order  
has been sent to the  
O.P.C. for issuing  
the same to the L.A. Advocates  
for the parties and a  
copy of the order  
alongwith application  
has been also sent to  
O.P.C. for issuing the  
Respondent by Post.

*Sub.**Devi*

Bandana  
Advocate  
u.5.05

application for transfer before the 4th Respondent within a period of two weeks from today. If such application is filed the same will be disposed of in accordance with law by the 4th respondent within a period of three months from the date of receipt of copy of such application.

The O.A. is disposed of at the admission stage itself.

*W. J. Joseph*  
Vice-Chairman

/mb/

O.A 96/05

3

18.5.05

19x5x25.

May 1circularly be seen at flag A.

~~Post to the Ex-Officer-in-Charge~~

An application has been filed by the Counsel for the petitioner u/s 22(3)(f) of the Central Administrative Tribunal Act, 1985 and Rule 17 of the C.A.T (Procedure) Rules, 1987 for review of the order dated 29.4.05 passed in O.A 96/05 by this Hon'ble Tribunal.

The same may be placed before the Hon'ble V.C. for circulation and if approved the same will be registered as review application.

DR (C) 4/1 <sup>Transcribed into</sup> <sup>18/5/05</sup>

Hon'ble Vice-chairman

Put this before the Bench tomorrow in a Supplementary list.

~~2 c 8  
Date  
18-5-05~~

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH:  
GUWAHATI.

DR. RAMESH CHAND

O.A. NO. \_\_\_\_\_/2005.

Dr. Ramesh Chand..... Applicant.

-Versus-

Union of India & Ors..... Respondents.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION:-

6.9.1996- The applicant joined Railways in Grade-B service at Aliporduar, Junction Railway Hospital of N.F.Railway after being selected in UPSC.

16.8.2000- The application of the applicant for inter Railway transfer from N.F.Railway to North East Railway/Northern Railway.

16.8.2000- The Chief Medical Superintendent, Aliporduar Junction forwarded the applicant's application dated 16.8.2000 to the DRM(P), Gazetted/APDJ.

29.8.2000- The DRM/B/APDJ, NFR forwarded the application of the applicant to the General Manager(P) N.F.Railway, Maligaon.

3.1.2001- The General Manager (P), N.F.Railway, Maligaon has forwarded the applicant's application to the Secretary, Railway Board ,New Delhi.

10.9.2004- Application of the applicant to the Secretary, Railway Board,New Delhi.

20.9.2004- The DRM(P), Lumding forwarded the applicant's application to the Deputy CPO/CAZ, Maligaon, N.F.Railway

17.11.2004- The letter of DRM(P), Lumding to the applicant.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH:  
GUWAHATI.

*Filed by Petitioner  
DR. RAMESH CHAND THONG  
P.K. Maledar Advocate  
6  
2614105*

O.A.NO. 96 /2005.

Dr. Ramesh Chand,  
Son of Sri Ram Milan,  
At present working as Divisional Medical  
Officer/Hojai, Health Unit, Hojai, N.F.Railway,  
Hojai, District Nagaon, Assam.

.....APPLICANT.

-Versus-

1. The Union of India,  
Represented by the Secretary, Railway Ministry,  
New Delhi.
2. The Railway Board, Represented by its  
Secretary, Rail Bhawan, New Delhi-10001,
3. The Director General, Railway Health Services,  
New Delhi.
4. The General Manager, N.F.Railway,  
Maligaon, Guwahati-781011.
5. The General Manager (P), N.F.Railway,  
Maligaon, Guwahati-781011.
6. The Chief Personnel Officer, N.F.Railway,  
Maligaon, Guwahati-781011.
7. The Chief Medical Director, N.F.Railway,  
Maligaon, Guwahati-781011.
8. the Division Railway Manager, Lumding,  
N.F.Railway, District-Nagaon, Assam.
9. The Divisional Personnel Officer, N.F.Railway,  
Lumding, District-Nagaon, Assam.
10. The Chef Medical Superintendent, N.F.Railway,  
District-Nagaon, Assam.

RESPONDENTS.

The humble petition of the above named applicant-

MOST RESPECTFULLY SHEWETH:-Details of the Applicant.

1. Particulars of the order against which the application is made –

The application is made :-

(I) For direction to the Respondents, 1 to 10 for posting the applicant forthwith in order to enable him to join either in North East Railway or Northern Railway to look after his children as his wife has been serving in an interior hospital of U.P. Government.

(II) For taking necessary action forthwith on the letter dd.

17.11.2004 issued by the D.R.M.(P), Lumding addressed to the applicant.

(III) For disposing of appeal petition/application of the applicant dated 10.9.2004.

2. Jurisdiction:-

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

3. Limitation:-

The applicant declares that the application is within the period of limitation under Section 21 of the Administrative Tribunal Act.1985.

4. Facts of the cases:-

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

4.2- That the applicant at present has been serving as Divisional Medical Officer at Hojai, N.F.Railway, Health Unit, Hojai, in the district of Nagaon, Assam. His service is B Grade in the Railway. He joined his service on 6.9.1996, after selection in U.P.S.C. at the Alipurduar Railway Hospital of N.F.Railway. He got married in the middle of the year 2000 to a doctor who has been working at Community Health Centre, Fazinagar, in the district of Kashinagar of Uttar Pradesh- State Govt. They are unable to visit each other because of long distance between their working places. As the applicant's wife has been serving in rural remote place, she requires safety and protection from the applicant's side. Moreover,

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a daughter was born to them. The applicant cannot look after his daughter also due to distance of working place.

The applicant's wife's service is in U.P. State Govt. service. She cannot be transferred to Assam. For this reason the applicant has sought Inter-Railway Transfer. That is, from N.F.Railway either to North East Railway or Northern Railway which will be nearer to his wife's working place.

A copy of the application is annexed herewith and marked as Annexure-A.

4.3- The Chief Medical Superintendent, Aliporduar, junction forwarded the application on 16.8.2000 to the D.RM.(P)/Gazetted/APDJ.

A copy of the said letter dtd. 16.8.2000 is annexed herewith and marked as Annexure-B.

4.4- The DRM(P)/APDJ, forwarded the application on 29.8.2000 to the General Manager(P), N.F.Railway, Maligaon.

A copy of the said letter dtd. 29.8.2000 is annexed herewith and marked as Annexure-C.

4.5- The General manager(P), N.F.Railway, Maligaon forwarded his application on 3.1.2001 to the Secretary, Railway Bard, New Delhi.

A Copy of the said letter dtd. 3.1.2001 is annexed herewith and marked as Annexure-D.

4.6- The applicant has again preferred an appeal petition on 10.9.2004 to the Secretary, Railway Board, New Delhi. Through proper channel.

A copy of the said appeal petition dtd. 10.9.2004 is annexed herewith and marked as Annexure-E.

4.7- The DRM(P), Lumding forwarded his appeal petition on 20.9.2004 to the Deputy CPO/CAZ, Maligaon, N.F.Railway.

A copy of the said letter dated 20.9.2004 is annexed herewith and marked as Annexure-F.

4.8- The DRM(P), Lumding has intimated the applicant by his letter dated 17.11.2004 that the applicant's appeal petition was not forwarded to the Secretary, Railway Board, New Delhi by the General Manager(P), Maligaon, N.F.Railway.

A copy of the said letter dtd. 17.11.2004 is annexed herewith and marked as Annexure-G.

4.9- That the applicant begs to state that he has demanded justice but the same has been denied to him and he has no other alternative or efficacious remedies other than the instant application to this Hon'ble Tribunal.

4.10- This application is made bonafide and for the ends of justice.

5. Grounds for beliefs with legal provisions:-

5.1- For that the Respondents have not transferred the applicant without any rhyme and reasons, which caused immense hardships and mental depressions to the applicant.

5.2- For that the Respondents' action is not justified and bad in law as well as in fact.

5.3- For that malice in law and malice in facts and circumstances of the case.

5.4- For that the applicant is the sufferer for *not* transferring him either to North East or Northern Railway, which cannot be common flagged under the guise of Administrative fairness.

5.5- For that the action of the Respondents is the result of arbitrariness and whimsical and unreasonable delay in disposing the appeal petition/representation has infringed the rights of the applicant guaranteed under Article 14 and 16 of the Constitution of India.

5.6- For that the unjust and unfair treatment in the action of the Respondents is explicit.

5.7- For that deliberate violation of the guidelines of the Railway Ministry issued under its office Memo No.E(P)III 98 PL/4, dtd. 8.5.98 by the Respondents (Annexure-H).

5.8- For that in any other view of the matter , the applicant is entitled to the relief(s) sought for.

6. Details of the remedies exhausted:-

That, the applicant declares that he has preferred appeal dtd. 10.9.004 without any result and there are no other efficacious remedies under any Rule and this Hon'ble Tribunal is the only Forum to adjudicate the subject matter.

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

That, the applicant declares that he has not filed any case on the subject matter before any court, forum or any other institution. However, he has preferred an appeal as stated above.

8. Reliefs sought for :-

Under the facts and circumstances, the applicant prays for the following reliefs-

8.1 The Respondent No.2 may kindly be directed to transfer the applicant from N.F.Railway either to North East or Northern Railway as per Railway Ministry's guidelines(Annexure-H).

8.2 The Respondents may kindly be directed to dispose of the appeal petition dated 10.9.2004 within specific time.

8.3 Any other relief or reliefs as the Hon'ble Tribunal may deem fit and proper. The above reliefs are prayed for on the ground stated in para 5 at above.

9. Interim Relief:-

During the pendency of this application, the applicant prays for the following interim reliefs

- 9.1- The transfer of the applicant is considered immediately in order to enable him to join either in North East or Northern Railway as his wife and minor daughter are passing through serious mental depressions.
- 9.2- Any other relief or reliefs as the Hon'ble Tribunal may deem fit and proper. The above reliefs are prayed for on the grounds stated in para 5 at above.
10. The application is filed through the advocates.
11. The Particulars of postal orders-
  - i) IPO No.-
  - ii) Date of Issue-
  - iii) Issued from-
  - iv) Payable at-
12. List of Enclosures-  
As per index.

DR. RAMESH CHAND

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VERIFICATION

I, Dr. Ramesh Chand, son of Sri Ram Milan, aged about 33 1/2 years, at present working as Divisional Medical Officer, Hojai, N.F.Railway, Health Unit, Hojai, in the district of Nagaon, Assam, do hereby verify that the statements made in paragraphs 1,4,6 to 12 are true to my knowledge and the statements made in paragraphs 2,3 & 5 are true to my legal advice and that I have not suppressed any material facts.

And I sign this verification on this the 25th day April, 2005 at Guwahati.

Dr. RAMESH CHAND  
Signature.

Reference = A 13  
Dated, Alipurduar Junction,  
16th August 2000.

From

Dr. Ramesh Chaudhary,  
ADMO/ATDIN Ry. Hospital,  
N.F.RAILWAY.

To,

THE SECRETARY (E),  
RAILWAY BOARD,  
RAIL BHAWAN,  
NEW DELHI-110001.

(THROUGH PROPER CHANNEL)

SUB: REQUEST FOR CONSIDERING INTER RAILWAY TRANSFER FROM  
NORTHEAST FRONTIER TO NORTHEASTERN/NORTHERN RAILWAY

Respected Sir,

I was posted at Alipurduar junction Railway Hospital of N.F.Railway after my selection in UPSC on 6<sup>th</sup> SEPT 1996.

I recently got married to a doctor who has been working at Community Health Centre Fazilnagar, Dist-Kushinagar in Uttar Pradesh State Govt. and this area falls in North Eastern Railway.

We are unable to visit each other because of long distance between our working places. Apart from this, my wife being in rural remote place require safety and protection from my side.

Here I would like to take advantage of railway establishment rule which states "Govt. of India(Dep't. Of Personnel and Training) has reiterated that all Ministries/Department should strictly adhere to guidelines laid down in O.M.No.28034/7/86 Estt(A) dt.3.4.1986, while deciding request for posting of husband and wife at same station.

The railway board has also decided that aforesaid guidelines as laid down by DOPT should be followed mutatis mutandis in case of Gr. 'A' and Group 'B' railway officers also subject to posts at appropriate level being available at relevant station and no administrative problem arise out of such position (R.B.No.E(O)III 98/P)/4 dt 8.5.1998) (N.R.S.No.11584)."

Under the above mentioned reasons please consider my request for inter railway transfer from Northeast Frontier to Northeastern/Northern Railway. I will be highly obliged to you.

Thanking you,

Yours Sincerely,

Ram

(Dr. Ramesh Chaudhary).

Enclosures: 1. Appointment letter of  
my wife Dr. Sunita Prasad.  
2. Photo copy of Railway  
Establishment rule.

Certified to do true copy  
B.K. Talukdar  
Advocate

10 Hankar - B 14

N. F. RAILWAY.

No. H/EG/2/Gazetted.

To  
DRM(P)/Gazetted/APDJ.

Office of the  
Chief Medical Supdt.  
Alipurduar Junction.

Dated, 16.8.2000.

Sub: Prayer for transfer from N.F.Rly.  
to N.E./Northern Railway.

Dr. Ramesh Chand, ADMO/APDJ has submitted application dated, 16.8.2000 for his transfer from N.F.Railway to N.E./Northern Railway. The application in triplicate is sent to you for necessary action please.

DA: One in triplicate.

Chief Medical Supdt.  
Alipurduar Junction.

COPY TO: Dr. Ramesh Chand, ADMO/APDJ for information  
please, This is in reference to his application  
dated, 16.8.2000.

D Singh 16/8/2000  
Chief Medical Supdt.  
Alipurduar Junction.

GENL. TO BE FILED COPY

B.K. Talukdar  
Advocate

No. EG/28(Dr.RC)/AP/13

N.F.Railway

Annexe = C

Office of the  
DRM(P)/APDJ  
Date. 27.8.2000.

To,  
The General Manager (P)  
N.F.Rly, Malignon

Sub: Application of Dr. Ramesh Chand ADMO/APDJ for transfer  
from N.F.Rly to NE/Northern Railway

Dr. Ramesh Chand, ADMO/APDJ has submitted an application address to secretary (E), Railway Board, Rail Bhavan, New Delhi 110001, for his transfer from N.F.Railway to NE/N.Railway which is sent herewith in duplicate for further disposal from your end please.

This issues with the approval of DRM/APDJ

DA: As above

For DRM(P)/APDJ  
NFR

Copy to: Dr. Ramesh Chand ADMO/APDJ  
CMS/APDJ : For information please

For DRM(P)/APDJ  
NFR

Certified to be true copy

B.K. Talukdar

Answer me = 0

NO. E/283/III/130/Pt.XI(0).

Dated 03-03-2001.

To  
The Secretary,  
Railway Board,  
New Delhi.

Sub: Request for inter Railway transfer  
from N.P. Railway to N.E. Railway/  
Northern Railway in respect of  
Dr. Kavosh Chand, ADMO/N.P. Railway/  
Rangpur era.

An application received from Dr. Ramonh Chand, ADMO/N.P. Railway/Rangapara requesting for Inter Railway transfer from N.P. Railway to N.E. Railway/N. Railway is forwarded herewith for your disposal please. Dr. Ramonh Chand, ADMO/N.P. Railway has joined this Railway on 06.09.1996.

Menager/N.F. This is done with the approval of General  
Railway/Malgou.

DA: ~AB above

45 & Che  
( S.K. SINHA )  
M. C. P. O. (G).  
FOR GENERAL MANAGER (P).

Entitled to be true copy  
B.K. Talukdar

13 Annexure = E

Dr. Ramesh Chand,  
DMO/HJI,  
N.F.Railway.

To,

The Secretary,  
Railway Board,  
New Delhi.

Through proper channel

SUB: Request for interrailway transfer from N.F. to N.E.Railway

I am serving in this railway since September 1996. Presently I am posted as DMO/HJI under Lumber Division.

My wife is serving under U.P. Govt and my father is suffering from IDDM with portal hypertension and grade IV varices and our three year old daughter require my presence for her upbringing.

As I am posted to such far off place it is very difficult for me to manage my family. In view of such circumstances kindly consider my request sympathetically. I will be highly oblige to you. (Enclosing DOPT memo No. E(O)98 PL/4dt8.5.96 regarding posting of husband and wife at same station).

Yours Sincerely,

Submitted in triplicate.

R. H. K. 19/04/04

R. H. K. 19/04/04

Certified to be true copy  
B. K. Taliuddar

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B

ANNEXURE-F

N.F. Rly

Office of the DRM(P)

Dt. 20.9.04

No. E/Dond/Hjr/Up(O)RC

To,

The Dy.CPO/CAZ, Maligaon, N.F. Rly.

Sub:- Application for transfer to N.F. Rly  
submitted by Dr. R. Chand, DMO/Hojai.

Dr. Ramesh Chand, DMO/Hojai has submitted application for transfer to N.F. Rly as his wife is working in U.P. (Kaslinagar). His application has been forwarded by CMS with a charge that in case the application is considered a suitable relief is required to spare him.

This has the approval of DRM.

( N.B. Das)  
APO II

Copy to:-

Dr. R. Chand, DMO/Hojai

Dr. N.C. Rabha, CMS/

Sd/- Illegible,

DRM(P)

*B.K. Taliukdar*

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ANNEXURE-G

N.F. Rly

O/O the DRM(P) Lumding

No. E/DMO/Hji/UP(O)RC Dt. 17.11.04.

To,

Dr. Ramesh Chand,  
DMO/HOJAI.

Sub:- Application for transfer.

Ref:- GM(P) Mili/No. E/283/III/130 Pt XI(O)

dt. 28/29.10.04.

In reference to the above GM(P) Mili has intimated this office that "since there is at present shortage of doctors over N.F. Rly the application submitted by you cannot be forwarded. However, if position improves after joining of UPSC selected doctors. Your application may be forwarded to Rly Board.

This is for your information.

Sd/- Illegible,

( N.B. Das )

Copy to:- CMS/Lumding

G. D. S. D. S.  
B. K. Talukdar  
A. S. S.

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Annexure = H

GOVERNMENT OF INDIA (BHARAT SAMIKSHA)  
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)  
(RAILWAY BOARD)

NO. E(O)III 98 PL/2

New Delhi, dtd. 8.5.97

The General Managers

All Indian Railways including Production Units  
(as per Standard List ('A'))

Su: Posting of Husband and Wife at the same  
station instructions in respect of  
Group 'A' and 'B' Railway Officers.

The Fifth Central Pay Commission has recommended that  
not only the existing instructions regarding the need to post  
husband and wife at the same station need to be reiterated, but  
the scope of these instructions should also be widened to include  
the provision that where posts at appropriate level exist in the  
organisation at the same station, the husband and wife may  
invariably be posted together in order to enable them to lead  
a normal family life and look after the welfare of the children  
especially till the children are 10 years of age.

2. The extant instructions in regard to posting of husband  
and wife at the same station are contained in Department of  
Personnel and Training O.M. No. 28034/7/86-Estt(A) dated 3.4.86.  
DOP&T vide their O.M. No. 28034/2/97-Estt(A) dated 12.6.97 have  
conveyed Government's acceptance of Fifth Central Pay  
Commission's recommendation on the subject and have reiterated  
that guidelines laid down in their O.M. dated 3.4.86 should be  
strictly adhered to while deciding on the requests of posting of  
husband and wife at the same station.

3. Ministry of Railways have now decided that DOP&T's  
guidelines as laid down in their O.M. No. 28034/2/97-Estt.(A)  
dated 12.6.97 (copy enclosed) should be followed mutatis  
mutandis in case of Group 'A' and 'B' Railway Officers also,  
subject to posts at appropriate level being available at the  
relevant station and no administrative problem arising out of  
such postings.

4. Receipt of these instructions may be acknowledged.

Encl.: As above.

( A. C. BAKSHI )  
JOINT SECRETARY (G)  
RAILWAY BOARD.

Confidential Copy

B. K. Tawaray

Attn: G