

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

ORDER SHEET

Original Application No. \_\_\_\_\_

Misc. Petition NO. \_\_\_\_\_

14/05 in O.A 20/05

Contempt petition No. \_\_\_\_\_

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

Applicants. Upendron Nath Sarkar

U.O.T. (TUM)

Respondents. \_\_\_\_\_

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

Advocates of the Respondents. Cafe

Notes of the Registry	Dated	Order of the Tribunal
This Contempt petition has been filed by the Counsel for the petitioner praying for initiation of a Contempt proceeding against the alleged Contemner for non-compliance of order dated 27.1.2005 passed by this Hon'ble Tribunal in O.A 20/05, dated before the Hon'ble Court for final result:	12.4.05.	Present: Hon'ble Mr. G. Sivarajan, Vice-Chairman. Hon'ble Mr. K. V. Prahладan, Administrative Member.
For filing before the Hon'ble Court for final result:	12.5.2005	Notice to the Respondents. Affidavit if any will be filed within one month. Personal appearance is dispensed with for time being. Post the matter on 12.5.2005.
For Section office	mb	<i>2/5/05</i> Mr. J. L. Sarkar, learned counsel and Mr. A. K. Chaudhuri, learned Addl. C.G.S.C. for the respondents seek time for adjournment. Post on 26.5.2005.

*2/5/05*  
K. V. Prahладan  
Member

*2/5/05*  
Vice-Chairman

Steps taken on  
19/4/05.  
19/4  
Notice & order sent to D/Section for issuing to resp. Nos. 1,2 & 3 by regd. A/D post.  
D/Nos. 609 to 611 dt. 25/4/05.

Notice duly served  
on resp. No - 1

26.5.2005

Reply to show cause notice is  
filed by respondent No.2. List the  
case before the Division Bench on  
2.6.2005.

*K. P. Dasgupta*  
Member

bb

Notice duly served  
on resp. No - 3

*6/5/05*

25-5-05

1. Notice duly served on  
R.w. 1 & 3.

2. Notice from R. 2 await

3. no reobj. filed

*br*

2.6.05

In spite of this order dated 27.1.05  
27.1.05 passed in O.A. No. 20 of 2005  
the petitioner has been relieved.

Mr. A.K. Choudhury, Addl. C.G.S.C submits  
that the applicant wanted to favourable  
posting and he is posted in Miao-Elec-  
trical Division, Arunachal Pradesh  
which has already been granted.

Mr. M. Chanda learned counsel for the  
applicant submits that the matter can  
be closed.

Contempt Petition accordingly  
closed.

*Vice-Chairman*

Member

Reply submitted  
by the Respondent No.2

2.6.05

Interim order was passed in the  
pending O.A. to ~~keep~~ in abeyance the  
order dated 17.1.05 in the main  
application. In spite of this order  
the petitioner has been relieved. To-  
day the matter came up for considera-  
tion. Mr. A.K. Choudhury, Addl. C.G.S.C  
submits that the applicant wanted to a  
favourable posting and he is posted  
in Miao, Arunachal Pradesh, which has  
already been granted. Mr. M. Chanda learn-  
counsel for the applicant submits that  
the matter can be closed. Mr. S.K. Ghose  
learned counsel for Respondent No. 1 &  
has no grievance.

The C.P. is accordingly closed.

*Q. D. D. D.*  
Vice-Chairman

*K. P. Dasgupta*  
Member

2.6.05  
Reply filed by  
all Contemners

*1m*

*R. K. D.*  
15/6

Copy of the order  
handed over to the L.D.A.  
in the parties.

11 APR 2005

গুৱাহাটী ব্যোৱাহী  
Guwahati Bench

Filed by the petitioner  
Bengali Subroto Nath  
Advocate  
11.04.05

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

(An Application under Section 17 of the Administrative Tribunals Act, 1985)

Contempt petition No. 14 /2005

In O.A No. 20 of 2005.

In the matter of:

Mr. Upendra Nath Sarkar.

----- Petitioner.

-Versus -

Union of India and Others.

----- Alleged Contemnors.

-And -

In the matter of:

An application under Section 17 of the Administrative Tribunals Act, 1985 praying for initiation of a Contempt proceeding against the alleged contemnors for non-compliance of the interim order dated 27.01.2005 passed in O.A.No.20/2005.

-And -

In the matter of:

Mr. Upendra Nath Sarkar.

Sr. Divisional Accounts Officer,  
I & FC Drilling Division,  
Pasighat, Arunachal Pradesh.

... Petitioner.

-Versus-

1. Sri G. Ate.  
Chief Engineer (I & CD), Itanagar,  
Arunachal Pradesh.
2. Shri K. Bethow.

Sr. Dy. Accountant General (Admn),  
Office of the Accountant General (A&E).

Shillong.

3. Shri D.K. Pandey,  
Executive Engineer,  
I&FCD, Drilling Division  
Pasighat,  
Arunachal Pradesh.

..... Alleged Contemnors.

The humble petitioner above named-

Most respectfully sheweth:-

1. That your petitioner being highly aggrieved with the impugned order of transfer and posting order dated 17.01.05 preferred before this Hon'ble Tribunal through O.A. No. 20/05, the said Original Application came up for admission before this Hon'ble Tribunal on 27.01.2005 and this Hon'ble Tribunal on perusal of material on records and also hearing the parties was pleased to stay the operation of the impugned order dated 17.01.2005.

A copy of the order dated 27.01.05 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure-1.

2. That your petitioner immediately after receipt of the interim order dated 27.01.05, submitted the to the Respondent No. 3 on 31.01.2005 but the said order has not been complied with and thereafter, although the applicant attending the office regularly but not allowed to work though the interim order dated 27.01.05 received by the Respondent No. 3/alleged contemnor alongwith the representation of the applicant dated 31.01.05, in the said representation the applicant interalia prayed for compliance of the interim order of the learned Tribunal and also requested to allow him to resume to his duties but to no result.

A copy of the representation dated 31.01.05 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure-2.

3. That it is stated that the petitioner initially approached this Hon'ble Tribunal challenging the validity of the impugned order of transfer and posting dated 08.03.04, whereby the petitioner is sought to be transferred and posted from Pasighat Drilling Division, Arunachal Pradesh in the office of the Executive Engineer, Gumi Civil Electrical Division, Jatanbari, Tripura, with the additional charge of Gumi Civil Division, Jatanbari (Power), only after 2 month of his joining in the new place of posting at Pasighat when the minimum tenure of posting is 3 years as per transfer policy guideline dated 19.04.2000, moreover, as per transfer policy dated 19.04.2000 an employee who is retiring within a period of 3 years is not liable to be transferred rather entitled to serve the last 3 years of the service life at a place of his choice even if it is result in his stay in the same place etc., beyond the normal tenure but in the instant case the impugned transfer order has been passed in violation of the aforesaid transfer policy. It is ought to be mentioned here that the impugned order of transfer has been issued by the respondents after 2 months of joining in the present place of posting at Pasighat, earlier the applicant was working as Sr. DAO, I & FC Division, Itanagar, Arunachal Pradesh and the applicant joined at Pasighat pursuant to the transfer order dated October' 2003 and order dated 05.11.2003. In fact petitioner joined at Pasighat on 28.01.04 and immediately thereafter the impugned transfer order dated 28.01.04 was passed.
4. That your petitioner thereafter approached this learned Tribunal through O.A. No. 89/04 challenging the transfer order dated 08.03.04 which was passed in violation of the transfer policy. The Hon'ble Tribunal disposed of the said O.A. No. 89/04 on 08.04.04 with the direction to the respondents to consider the case of the

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applicant as per transfer policy dated 19.04.2000 since the applicant in the verge of retirement having less than 3 years of service.

A copy of the order dated 08.04.04 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure-3.

5. That your petitioner submitted the order of the Hon'ble Tribunal through proper channel vide representation dated 12.04.04 and also vide representation dated 10.11.04 but the alleged contemnors did not consider the case of the petitioner in the light of the order dated 08.04.04.

Copy of the representation dated 12.04.04 and 10.11.04 are enclosed herewith and marked as Annexure-4 and 5 respectively.

6. That it is stated that finding no reply from the authorities the petitioner filed a Misc. Petition before this Hon'ble Tribunal which was registered as M.P. No. 109/04 under Rule 24 of the Central Administrative Tribunal (Procedure) Rule 1987 for implementation of the order dated 08.04.04 passed in O.A. No. 89/04. The Hon'ble Tribunal while issuing notice on the said Misc. Petition on 26.10.04 also passed an interim order to maintain status quo, when the said interim order was in force the alleged contemnors passed the impugned order dated 17.01.05 releasing the applicant from the post of Sr. Divisional Accounts Officer, Pasighat Division. Being aggrieved with the impugned order dated 17.01.05 the petitioner preferred another Original Application which is registered as O.A. No. 20/05. The said Original Application came before this Hon'ble Tribunal on 27.01.05, the Hon'ble Tribunal after hearing the parties has admitted the Original Application and also granted an interim order of stay of the impugned order dated 17.01.05.

The petitioner immediately after receipt of the interim order dated 27.01.05 submitted the same to the alleged contemnor No. 3 through

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representation dated 31.01.05 for compliance of the Hon'ble Tribunal's order and also with the prayer to allow him to resume his duties in compliance of the Hon'ble Tribunal's interim order of the learned Tribunal but surprisingly although the applicant attending the office regularly after 31.01.05 but the alleged contemnors deliberately and willfully not allotting any work to the applicant and salary is also not paid thereafter. Such action of the respondents is deliberate and willful, therefore Hon'ble Tribunal be pleased to initiate contempt proceeding against the alleged contemnors and further be pleased to impose punishment upon the respondents/ alleged contemnors.

That it is stated that although the alleged contemnor/respondent No. 1 was not a party in the Original Application No. 20/05 but he has been impleaded as respondent/contemnor No.1 on the ground as because he has directed the alleged contemnor No. 3 and such action of the alleged contemnor No. 1 is in violation of the learned Tribunal's interim order passed in O.A. No. 89/2004 as well as interim order passed by the learned Tribunal on 26.10.2004 in M.P. No. 109/04. It is categorically submitted that alleged contemnor No. 2 deliberately violated the order/interim order passed by this learned Tribunal and as such punishment is liable to be imposed on alleged contemnor No. 2.

It is a fit case for initiation of a contempt proceeding against the alleged contemnors.

Under the facts and circumstances stated above, the Hon'ble Tribunal be pleased to initiate Contempt proceeding against the Alleged Contemnors for willful non-compliance of the interim order dated 27.01.2005 in O.A. No.20/2005

and be pleased to impose punishment upon the  
alleged contemnors in accordance with law and  
further be pleased to pass any other order or orders  
as deemed fit and proper by the Hon'ble Court.

And for this act of kindness the petitioner as in duty bound shall ever pray.

## AFFIDAVIT

I, Shri Upendra Nath Sarkar, S/o- Late Radhanath Sarkar, aged about 57 years, presently working as Sr. Divisional Accounts Officer, I & FC Drilling Division, Pasighat, Arunachal Pradesh, do hereby solemnly declare as follows: -

1. That I am the petitioner in the above contempt petition and as such I am well acquainted with the facts and circumstances of the case and also competent to sign this affidavit.
2. That the statement made in para 1 to 6 are true to my knowledge and belief and I have not suppressed any material fact.
3. That this Affidavit is made for the purpose of filing contempt petition before the Hon'ble Central Administrative Tribunal, Guwahati Bench for non-compliance of the Hon'ble Tribunal's order dated 27.01.2005 passed in O.A. No.20/2005.

And I sign this Affidavit on this 11<sup>th</sup> day of April 2005.

Identified by  
Swagat Choudhury  
Advocate

Upendra Nath, Sarkar  
Deponent

The above named deponent solemnly affirmed and declared before Shri Subrata Nath, Advocate on 11<sup>th</sup> day of April '05, who is identified by Shri Swagat Choudhury, Advocate.

Subrata Nath.  
Advocate  
11.04.05

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DRAFT CHARGE

Laid down before the Hon'ble Central Administrative Tribunal, Guwahati for initiating a contempt proceeding against the contemnors for willful disobedience and deliberate non-compliance of order of the Hon'ble Tribunal dated 27.01.2005 passed in O.A. No. 20/2005 and to impose punishment upon the alleged contemnors for willful disobedience and deliberate non-compliance of order dated 27.01.2005 of the Hon'ble Tribunal.

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FORM NO. 4

GEN. RULE 421

GENERAL BENCH  
GUWAHATI BRANCH

ORDER SHEET

20/2005

Original Application No.

Mass Petition No.

Contempt Petition No.

Review Application No.

Applicants: - Subhadra Nath Sarkar  
Respondents: - Ministry of India 883

Advocates for the Applicant: M. Chanda, A.K. Chaudhury  
M. S. Mal

Advocates of the Respondents: - OSC

Notes of the Registry Date: - order of the Tribunal

27.1.2005

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

Heard Mr. M. Chanda, learned counsel for the applicant and also Mr. A.K. Chaudhury, learned counsel for the Respondents No. 3 and 4.

The application is admitted, call for the records. Issue notice to the parties, returnable within four weeks.

Till the returnable date the order dated 17.1.2005 shall be kept in abeyance.

List on 28.02.2005 for orders.



WRITTEN COPY

Sd/MEMBER (A)

*[Signature]*  
27.3.05

General Secretary  
Central Administrative Tribunal  
8th Floor, 8th Floor  
Guwahati - 781001  
Assam  
India

True copy  
for Advocate

Annexure-II  
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To

The Executive Engineer,  
I&FC, Drilling Division  
Pasighat,  
Arunachal Pradesh.

Sub:- Order dated 27.01.05 in O.A. No. 20/2005 passed by the  
Hon'ble CAT, Guwahati; Implementation of:

Sir,

Respectfully I am enclosing herewith a copy of the order dated 27.01.05 of the Hon'ble CAT, Guwahati passed in O.A. No. 20/2005 whereby the release order dated 17.01.05 has been ordered to be kept in abeyance. In view of the said order of the Hon'ble Tribunal, I may kindly be allowed to resume my duties in compliance with the order, and accordingly I am reporting hereby for attending my duties.

This is for your kind implementation of the order of the Hon'ble Tribunal and taking appropriate action so as to enable me to perform my normal duties.

Encl: Order dated 27.01.05.

Yours faithfully

Upendra Nath Sarkar

(UPENDRA NATH SARKAR)

Sr. Divisional Accounts Officer,  
I&FC Drilling Division,  
Pasighat, Arunachal Pradesh.

Date: 31 - 1 - 05.

True Copy  
Advocate

Annexure-III

CENTRAL ADMINISTRATIVE TRIBUNAL  
JALPAJI BENCH.

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) I.P.O. I. M. O.

Advocate for the Applicant Mr. M. Chanda Mr. G.N. Chakraborty  
Advocate for the Respondent Mr. S. Nath & Mr. S. Chaudhury

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

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

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

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

Contd/-

To be typed  
for  
reference

Contd/-

8.4.2004

Heard Mr. M. Chanda, learned counsel for the applicant and also Mr. A. Deb Roy, learned Sr. 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)

Mortified to be true Copy

अमानित अस्तित्व

8/4/04

Section Officer (J)  
C.A.T. GUWALIATI BRANCH  
Guwahati-781005

8/4/04

Dated, Pasighat the 12th April'2004

To

*The Comptroller & Auditor General of India,  
10 - Bahadur Shah,  
Jafor Marg.,  
New Delhi - 110 002.*

*(Through Proper Channel)*

Sub:- Judgment and Order dated 08-04-2004 in O.A.No.89 of 2004 of  
CAT, Guwahati; implementation of:-

Sir,

Most humbly and respectfully, I beg to enclose herewith a copy of the judgment and order dated 08-04-2004 passed by the Hon'ble Central Administrative Tribunals (CAT) in O.A.No.89 of 2004 pertaining to the order No.E.O. No.DA Cell/120 dated 08-03-2004 issued by the Office of the Accountant General, Meghalaya etc. transferring me from Pasighat (Arunachal Pradesh) to Jatanbari in the State of Tripura (copy enclosed). The said judgment and order is self-detailed and in compliance with the said judgment, I beg to submit this representation and lay the following facts before your Honour for your kind and sympathetic considerations.

That Sir, pursuant to the transfer Order No.DA Cell/85 dated 05-11-2003 of AG, Meghalaya etc, Shillong, I joined on 28-01-2004 at Pasighat under Pasighat Drilling Division in Arunachal Pradesh as Sr. Divisional accounts Officer with additional charge of IFCD.

That after receipt of the transfer and posting order dated 05-11-2003, I have submitted a detailed representation on 19-11-2003 for review of posting order and prayed for posting at Itanagar or nearby places on the sole ground that I am retiring on superannuation during the year 2007 and only 3 years service is left in my credit, but unfortunately the said representation was rejected by the Sr. Dy. AG (Admn.) and directed me for immediate compliance of the order dated 05-11-2003. the undersigned accordingly joined at Pasighat under Pasighat Drilling Division with additional charge of Pasighat IFC only on 28-01-2004.

Copy of my posting order dated 05-11-2003, representation order 19-11-2003 and Senior DAG's letter dated 24-11-2003 are enclosed herewith for your ready reference.

That Sir, prior to my joining at Pasighat, I was working at Itanagar IFC Division and I was having some serious ailment and have been undergoing medical treatment at Itanagar.

That Sir, surprisingly within only 2 months of my joining at Pasighat, I have now been transferred again from Pasighat (Arunachal Pradesh) to Jatanbari (Tripura) under Order No.DA Cell/120 dated 08-03-2004 issued from the Office of the AG, Meghalaya etc., when I am in verge of retirement and left with only three years of service in my credit. As per transfer policy circulated from your end on 9th April'2000, the undersigned is entitled to a choice station posting at the fag end of my service career. However in compliance with the Senior DAG's transfer and posting order dated 05-11-2003, I have joined at Pasighat on 28-01-2004 when my representation was rejected on 24-11-2003 by the Sr. Dy. AG.

*To the Comptroller & Auditor General*

14

That Sir, my proposed transfer from Pasighat AP to Jatanbari, Tripura vide order dated 08-03-2004 is in utter violation of the transfer norms prescribed in your letter No.394-NGE (APP)/11-98 dated 19-04-2000 to the following counts:-

- (a) No option was taken from me prior to issuance of the above stated transfer order as required under clause (d) of your letter dated 19-04-2000.
- (b) Completion of Tenure of posting in a station / division prior to transfer as specified in clause (I) of your letter dated 19-04-2000 have also not been complied with. I have neither completed 6 years at my existing station i.e. Pasighat nor 3 years in the Division and have joined at Pasighat only 2 months back.
- (c) The directive as in clause (g) of your letter has also not been followed in spirit and I have now been transferred away from my place of posting, where I have joined only 2 months back, when I am left with only 3 years of service.
- (d) No reasons for deviation from the processes norms have been recorded as required in terms of clause 2 of your letter dated 19-04-2000.

That Sir, my present transfer from Pasighat (A.P.) to Jatanbari (Tripura) is contrary to all the norms laid down by your Honour in your letter dated 19-04-2000 and as such is, arbitrary and violative of the transfer policy.

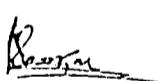
That Sir, I have a unmarried daughter at my home and my transfer to Jatanbari (Tripura) now will deprive me of discharging my parental care for settlement at this stage, which has become a matter of serious mental agony for me.

Under the circumstances stated above, I pray your Honour kindly to implement the Judgment of the CAT and be gracious enough to consider my case with utmost compassion and modify the said transfer order and allow me to continue at my existing station i.e. Pasighat till my retirement on superannuation and for this act of your fountains of Justice I shall remain ever grateful to you.

Enclo:-

1. Judgment and Order dated 08-04-2004
2. Earlier transfer and posting order dated 05-11-2003
3. Representation dated 19-11-2003
4. Rejection Order dated 24-11-2003
5. Copy of transfer Order dated 08-03-2004.

Yours faithfully,

  
( U.N.Sarkar )  
Sr. DAO, IFCD, Drilling Division,  
Pasighat, Arunachal Pradesh.

Advance Copy to:-

Dated:-12-04-2004

- i) The Comptroller & Auditor General of India, 10 - Bahadur Shah, Jafar Marg., New Delhi - 110 002 for favour of early information please.

  
Sr. DAO, IFCD, Drilling Division,  
Pasighat, Arunachal Pradesh.

GOVERNMENT OF ARUNACHAL PRADESH  
OFFICE OF THE EXECUTIVE ENGINEER DRILLING DIV  
IRRIGATION AND FLOOD CONTROL DEPARTMENT  
EAST SIANG DISTRICT: PASIGHAT

No. IFC/Drilling /PF-83/2004-05  
Dtd. Pasighat, the 10<sup>th</sup> Nov'2004.

To

**The Chief Engineer,  
Irrgn & Flood Control Deptt.,  
Govt. of Arunachal Pradesh,  
Itanagar-791111.**

Sub:- Transfer and posting of Sr.DAO thereof.

Ref:- No.SIFCD-51/2000/2008, dated Itanagar the 29<sup>th</sup> Oct'2004

Sir ,

I beg to narrate the happenings on the subject mentioned above as follows:-

1. Shri U.N.Sarkar, Sr.DAO joined in this Division on 28.1.04 and on 31.3.04 another transfer order issued by A.G. (A&E) Meghalaya Shillong Vide No.DA Cell/120, dtd.8.3.04 was received by this office wherein Shri Sarkar has been transfer and posted to Gumti Electrical Division, Jatiabari, Tripura, South. This was the busy period of closing of financial year and every body was busy for the purpose leaving all other aspects as less important as per general norm.

On 9.4.04 an order No.89/2004, dated 8.4.04 of Hon'ble CAT, Guwahati was received (copy enclosed) wherein the A.G. was directed by the Hon'ble CAT to reconsider the case of Shri Sarkar within two months and till the completion of aforesaid exercise the transfer order dt. 8.4.04 has been kept in abeyance in respect of Shri Sarkar. The A.G. did not paid heed to the Hon'ble CAT's order resulting delay in settlements of the case.

2. On 25.10.04 Shri Probin Chandra Bora, Sr.DAO, came to Pasighat and submitted his joining report (copy enclosed) to this Division and left Pasighat on 27.10.04 (it is understood). From April'04 to 25.10.04 no communication was received from either side. In this circumstances the question of non acceptance of joining report of Shri Bora before 15.10.04 does not arise at all and hence the contention of Para-2 of A.G's letter dt.15.4.04 is far from the factual events.

3. What have been stated above, it may be seen that the happenings so developed is quite normal and natural way as per procedure and legal aspect of law and there is no other way left behind to think otherwise at any level and at any state. In this

*True copy  
Ranu Bhattacharya  
Advocate*

concerning another order of the Hon'ble CAT No.109/04 dt.26-10-04 on this issue is enclosed herewith for further information and necessary action please.

As the transfer order dt.8.3.04 has been kept abeyance by the Hon'ble CAT, Guwahati vide No.89/2004, dt. 8.4.04 and read with no.109/04 dt. 26-10-04 and so long the CAT orders are in force it will not be worthwhile to release Sri Sarkar.

Further instructions in this regard is solicited please.

Enclo:-

As above

Yours faithfully,

( Er.V.N.Pandey )  
Executive Engineer,  
Drilling Division,  
I&FCD: Pasighat.

1) 6 MAY 2005

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : GUWAHATI.

IN THE MATTER OF

CONTEMPT PETITION No.14/2005  
IN OA. No 20/2005

SHRI UPENDRA NATH SARKAR

PETITIONER

VERSUS

THE UNION OF INDIA & OTHERS

RESPONDENT

Show Cause on behalf of the Respondent No.2

I, Shri S.A Bathew, Sr.Deputy Accountant General (Admn)  
O/o the Accountant General (A&E) Meghalaya, Arunachal  
Pradesh,Mizoram, Shillong do hereby solemnly affirm and say  
as follows:

1. That I beg to state that I am impleaded as Respondent No.2 in the above  
Contempt Petition No.14/2005
2. That at the outset the Respondent No.2 beg to state that he has never had  
any intention to wilfully disobey or violate any order of this Hon'ble Tribunal  
and if it is deemed that it is so, the Respondent tenders his unqualified  
apology.
3. That with reference to the statements made in paragraph 1 of the Contempt  
Petition, the answering Respondent humbly submits that he has no  
comments to offer as the same are matter of records.
4. That with reference to the Statements made in Paragraph No.2 of the  
Contempt Petition, the answering Respondent humbly submits that he has  
no comments to offer.

Filed by

S. A. Bathew - O.P. No.2

through -

Shriy Kumar Chacko  
Advocate

25/5/05

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5. That with reference to the Statement made in paragraphs No.3 of the Contempt Petition, the answering Respondent humbly submits that, based on the order of Hon'ble Tribunal dated 8.4.2004 passed in OA No.89/2004, in the interest of public service in the case of Shri Upendra Nath Sarkar, Sr.DAO, was re-considered but could not be considered as the Petitioner had served more than 13 (thirteen) years in the state of Arunachal Pradesh.

Further the Petitioner as per terms of his appointment order at para 9 has also accepted that "He /She will be liable to serve anywhere in Assam, Arunachal Pradesh, Nagaland, Tripura, Manipur and Meghalaya and Mizoram, i.e. any where under the audit jurisdiction of the A.G. Assam, Meghalaya, Nagaland etc., inclusive of his own office".

Copy of the Appointment order No.WMI/5-1/69-70/4390 dated 18.1.1973 - Annexure -I.

6. That with reference to the Statements made in paragraph 4 of the Contempt Petition, the answering Respondent humbly submits that the Hon'ble Tribunal's Order dated 8.4.2004 was received in this office, and given top priority to consider the Petitioner's case, but due to some unforeseen and unavoidable administrative reasons beyond our control, the decision could not be taken within the stipulated time. Meanwhile, a notice dated 15.10.2004 received from the Petitioner's lawyer regarding case in question. By that time, the case was considered and the decision of this was communicated to Petitioner's Lawyer vide this office letter No.DA Cell/Court Case/UNS/2004/1132 dated 18.11.2004, in compliance with the Hon'ble Tribunal's order dated 8.4.2004.

Copy of letter No.DACell/CourtCase/UNS/2004/1132 dated 18.11.2004 - Annexure -II.

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7. That with reference to the Statements made in paragraphs 5 & 6 of the Contempt Petition, the answering Respondent humbly submits that, in para No.3 in Miscellaneous Petition No.109/2004 in OA No.89/2004 (copy of the M.P. No. 109/2004 in OA No.89/2004 is enclosed as Annexure -III) filed by the Petitioner, the Petitioner has requested for consideration to accommodate him in any of the following divisions in Arunachal Pradesh :-

1. Miao Electrical Division
2. Deomali Electrical Division
3. Deomali I&FCD
4. Changlang RWD
5. Changlang PHED
6. Namsai PHED

As his first choice was Miao Electrical Division, in partial modification of the transfer order E.O.No.DA Cell/120 dated 8.3.2004 and in supercession of all earlier orders in connection with transfer & posting of DAs, this office has sympathetically considered his case and transferred and posted him to the O/o the Executive Engineer, Miao Electrical Division, Department of Power,Miao, Arunachal Prdcsh, which was his first choice of place of posting as Sr. Divisional Accounts Officer. As the case of the Petitioner has already been considered and he has been posted according to his 1<sup>st</sup> choice of posting, i.e, in the O/o the Executive Engineer, Miao Electrical Division, Department of Power,Miao, Arunachal Pradesh, this office has taken all necessary steps to mitigate the grievance of the Petitioner.(Copy of the Transfer order dated 5.5.2005 is enclosed as Annexure IV). In view of the facts stated above, the Hon'ble Tribunal may kindly consider to closure of the Contempt Petition No.14/2005 in OA No.20/2005

(MP No.109/2004 in OA No.89/2004 – Annexure III  
& E.O.No.DA Cell/5 dated 5.5.2005 – Annexure IV)

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8. That the answering Respondent begs to submit that in view of the aforesaid facts the Hon'ble Tribunal will be pleased to close the Contempt Petition.

AFFIDAVIT

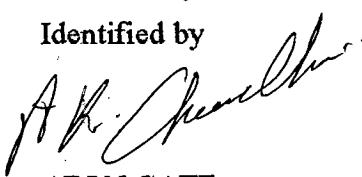
I, Shri S.A. Bathew, Sr.Dy. Accountant General (Admn) of the Office of the Accountant General (A&E) Meghalaya, Arunachal Pradesh, and Mizoram, Shillong, do hereby solemnly declare that the statements made above in the Written Statement are true to my knowledge, belief and information, and I sign the verification on the 24<sup>th</sup> day of May 2005.



DEPONENT.

का. ए. बथेव  
स्र. ए. अकाउंटेंट गेनरल (ए.ए.)  
मेघालय, अरुणाचल प्रदेश और मिजोरम  
दिनांक: 24 मई 2005  
लगातार अकाउंटेंट गेनरल (ए.ए.)

Identified by



ADVOCATE

Solemnly affirmed and sworn before me this day the 24<sup>th</sup>  
May 2005 by the deponent above named on being identified by Shri  
A. K. Chembalpuri, Advocate.

*M. M. D.*  
Advocate  
24/5/05

OFFICE OF THE  
ACCOUNTANT GENERAL: AS SAM: MEHALAYA: NAGALAND: MANIPUR: TRIPURA:  
ARUNACHAL PRADESH & MIZORAM :: SHILLONG - 1.

NO.WMI/5-1/69-70/ 4390

Dated, Shillong, the 1972.

From :- The Accountant General,  
Assam, Meghalaya etc.  
Shillong.

To

Shri Upendra Nath Sarkar  
Radhanath Sarkar  
P.O. Aghorapuri, D.I. Goalpara.

Acc. No. 1

On having passed the initial Recruitment Examination to the cadre of Divisional Accountants, held in March' 72, you are appointed a temporary Divisional Accountant (on Probation) in the scale of Pay of Rs. 180-10-290-1B-15-380-1B-15-440/- plus dearness and other allowances as may be sanctioned by the Government of India from time to time. The appointment is subject to the following conditions :-

1. That you are declared fit for Govt. Service on medical Examination by the Civil Surgeon/ Surgeon Superintendent, Civil Hospital, Shillong. This will be arrange by this office. You will be allowed to join only on receipt of the Certificate of fitness by the Civil Surgeon/ Surgeon Superintendent, Civil Hospital, Shillong. You will pay the Examination fee to the Civil Surgeon/ Surgeon Superintendent, Civil Hospital, Shillong and after joining the duties claim re-imbursement on production of receipt.

2. The appointment is purely temporary and may be terminated at any time after giving notice for one month without assigning any reason. If you want to resign you will have to give notice for one month. You should understand that your service will be governed by the Central Civil Service (Temporary Service) Amendment Rules, 1965 as amended from time to time.

3. You will have to fill up the form annexed and produced a certificate of character in the enclosed form from the Head of the Educational Institution last attended duly attested by a Subsidiary Magistrate (A Certificate from an Educational Authority or an Honorary Magistrate will not suffice).

4. No travelling allowance will be allowed for joining the appointment.

5. You should produced the Original Matriculation/ H.S.C. and other University Certificates and Diploma and also the Registration Card of the Employment Exchange, if any. In case the convocation of the University is still to be held, you should produced a provisional Diploma obtained from the University. A Marksheets will not be regarded as sufficient. If you are a displaced person you

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you should produce a satisfactory evidence of being a bonafied displaced person. In the case of persons migrating after 16.10.1952 only a migration certificate will be accepted. You will also have to produce a Certificate showing that you have registered yourself as a Citizen of India.

6. If you claim to be a member of a Schedule Caste/ Tribes you should also produce a certificate from the Deputy Commissioner or the Sub-Divisional Officer of the area in which you have been residing that you belong to a Schedule Caste/Schedule Tribe in the prescribed form.

7. During the period of training you will be entitled pay at the rate of Rs. 180/- P.M. under the rules and other allowances admissible. First increment will be allowed on your taking over charge as regular Divisional Accountant after passing the Divisional Test Examination.

8. You will be on probation for 3 Years/2½ Years (Maximum) (2 years for training and one year for trial as Divisional Accountant/six to eighteen months for training and one year for trial as Divisional Accountant in case of Departmental recruit).

9. You are liable to serve anywhere in Assam, Arunachal Pradesh, Nagaland, Tripura, Manipur and Meghalaya and Mizoram, i.e. any where under the audit jurisdiction of the A.G., Assam, Meghalaya and Nagaland etc. inclusive of his own office.

10. Your retention in the cadre of the Divisional Accountant of the A.G., Assam Meghalaya & Nagaland etc. will required the passing of Departmental Examination called "Divisional Test Examination" which will be held in accordance with the Departmental Examination which will be held in accordance with the Departmental Regulations. Normally three chances are allowed to candidates for such Examination and will depend on the availability of vacancies in the Cadre of the Divisional Accountants of the Accountant General, Assam, Meghalaya, Nagaland etc.

11. You will not be allowed to hold the charge of a qualified Divisional Accountant until you complete the prescribed training and pass the Divisional Test Examination as referred to in para 10 above.

12. During the period of probation you will not be allowed to sit for any other examination or to apply for any other employment.

13. This appointment will be treated as cancelled if you do not report to this office (W.M.I Section) within 15 days of the receipt of this letter.

*W.M.I*  
Sr. Deputy Accountant General (W&E)

\*\*\*\*\*

*Attested*  
*Atul. C. G. S. O.*

Speed Post

OFFICE OF THE ACCOUNTANT GENERAL ((A&E) MEGHALAYA ETC.,  
SHILLONG.

No. DA Cell/Court Case/UNS/2004/1132

Dated:- 18.11.2004

To

Shri Manik Chanda  
Advocate,  
Bye Lane- 7, Lachitnagar,  
Guwahati- 781 007.

Sub:- Transfer of Shri U.N.Sarkar, Sr.DAO

Sir,

I am to invite a reference to the notice dated 15-10-2004 served for non-compliance of the order of the Hon'ble Central Administrative Tribunal dated 8.4.2004. As per order of the Hon'ble Tribunal dated 8.4.2004, the case of Shri U.N.Sarkar was considered but not agreed to. In this connection it may be stated that Shri U.N.Sarkar had served in the state of Arunachal Pradesh for more than 13 years. In the interest of public service and also keeping in view of Headquarters' guidelines dated 19.4.2000, his transfer to Tripura is therefore found to be justified, in order and still stands.

Yours faithfully,

Sr.Dy.Accountant General (Admn)

Attested  
MK Chanda  
Addl. S.G.S.C.

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

ORDER SHEET

Cont. Post / Rev. Add. 109. / 104

In O.A.

89104

Applicant(s) Supersafe Tools Inc. San Fran

Name of the Applicant: M. Chandra, G+1 Chhatrapathy, S Nal

THE EASTERN RAILWAY/C.G.S.C.

COLLEGE OF POLITICAL SCIENCE

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DATE

ORDER OF THE TRIBUNAL

16.2.2005 Present: The Hon'ble Mr. M.K. Gupta,  
Member (J)\*

By the present M.P. the applicant has sought direction to the respondents to implement the order dated 8.4.2004 passed in O.A. No.89 of 2004, whereby the respondents were directed to consider the applicant's request for retention in his present place of posting in terms of transfer policy dated 19.4.2000 within a specified time and till the completion of the <sup>paid</sup> exercise, & the transfer order dated 8.3.2004 was ordered to be ~~suspended~~ <sup>kept pending</sup>. It is the contention of the ~~xxx~~ applicant that instead of complying with the said direction, respondents released ~~the~~ him vide order dated 17.1.2005, which is a subject matter before this Tribunal in O.A. No.20 of 2005.

Such being the case, there is no justification to keep the present M.P. pending, particularly when the said order dated 17.1.2005 has been stayed, in the aforementioned O.A. Accordingly the M.P. is disposed of.

TRUE COPY

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Section Officer C.A.T. GUWAHATI BANCH  
C.A.T. GUWAHATI BANCH  
General 105

SD/MEMBER (J)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

ORDER SHEET.

109/04

Org. App/Misc. Petn/Cent. Petn/Rev. Appl.....

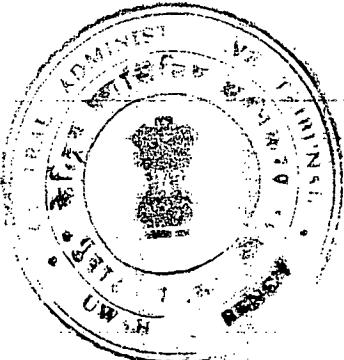
In O.A. 89/04

Name of the Applicant(s) Supendra Nath Sarkar

Name of the Respondent(s) W. O. I. Tong.

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

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

OFFICE NOTE	DATE	ORDER OF THE TRIBUNAL
	26.10.2004	<p>Heard Mr. M. Chanda, learned counsel for the applicant.</p> <p>Issue notice to the respondents to show cause as to why the H.P. shall not be admitted. List after two weeks.</p> <p>List on 28.11.2004. In the mean while interim order <del>passed</del> dated 8.4.04 passed in O.A. 89/2004 shall continue till the next date.</p>

Sd/MEMBER(ADM)

TRUE COPY

Sub: \_\_\_\_\_

Section Officer (L)

Section Officer / Section Officer  
Central Administrative Tribunal  
Section Officer Guwahati  
Section Officer, Guwahati

24/10/04

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

## GUWAHATI BENCH: GUWAHATI

M.P. 109/09  
In the matter of:

O.A No. 89/2004

Shri Upendra Nath Sarkar

-Vs-

Union of India &amp; Ors.

-And-

In the matter of:Non-compliance of Hon'ble Tribunal's  
Order dated 08.04.2004 passed in O.A No.  
89/2004.

-And-

In the matter of:An application under Rule 24 of Central  
Administrative Tribunal (Procedure) Rule  
1987, praying for a direction upon the  
Respondents for implementation of the order  
dated 08.04.2004 passed in O.A No. 89/04.

-And-

In the matter of:

Sri Upendra Nath Sarkar,

Sr. Divisional Accounts Officer, Drilling  
Division, I & FC, Pasighat, Arunachal  
Pradesh,

-----Applicant.

-AND-

1. The Union of India,

Represented by the Secretary to the  
Government of India,

Ministry of Finance,

New Delhi.

2. The Comptroller and Auditor General of India,  
New Delhi.
3. Accountant General (A & E) 10  
Meghalay Etc.
4. Sr. Dy. Accountant General (Admn)  
O/o- The Accountant General (A&E),  
Shillong.
5. Executive Engineer,  
I&FC, Drilling Division,  
Pasighat, Arunachal Pradesh.
6. Shri K. Bathow.  
Sr. Dy. Accountant General (Admn)  
O/o- The Accountant General (A&E),  
Shillong.

.. Respondents.

The humble petitioner above named-

Most respectfully Sheweths:-

1. That your applicant being highly aggrieved with the impugned transfer and posting order dated 06.03.2004, whereby the applicant is sought to be transferred and posted from the office of the Executive Engineer Passighat Drilling Division to the Office of the Executive Engineer, Gumti Electrical Division, Jatanbari, South Tripura only after 2 months of his posting and joining at Passighat in the state of Arunachal Pradesh in violation of professed norms laid down in the transfer policy dated 19.04.2000 issued by the Comptroller and Auditor General, New Delhi. The said Original Application was registered as O.A. No. 89/04.

2. That the aforesaid Original Application came up for <sup>ob</sup> consideration before this Hon'ble Tribunal and this Hon'ble Tribunal on perusal of the materials on record was pleased to dispose of the Original Application with a direction upon the respondents to re-consider the case of transfer and posting of the applicant in terms of the transfer policy dated 19.04.2000 within 2 months from the date of receipt of the order of the Hon'ble Tribunal and till completion of the aforesaid exercise the transfer and posting order dated 08.03.2004 shall be kept in abeyance so far the applicant is concerned. Be it stated that the applicant has less than 3 years service in his credit. In fact the applicant is retiring within 2 and  $\frac{1}{2}$  years from the Govt. service. It is categorically submitted that the applicant submitted a detailed representation alongwith the Court order to the respondent No.2 through respondent No.3 after receipt of the Hon'ble Court's order dated 08.04.2004 interalia praying for his retention in the present place of posting at Pasighat or in any adjacent places near Itanagar till his retirement on superannuation in terms of Clause (f) and (g) of the transfer policy dated 19.04.2000 issued by the Respondent No.2.

A copy of the order dated 08.04.04 and a copy of the transfer policy dated 19.04.2000 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure-A & B respectively.

3. That it is stated that Hon'ble Court has passed the order on 08.04.04 but till date no action is initiated for consideration of the case of the present applicant and no decision has been communicated to the applicant in terms of the order dated 08.04.04 passed by this Hon'ble Court in O.A. No. 89/04. It is ought to be mentioned here that one more post of Sr. Divisional Accounts Officer is also going to fall vacant on 30<sup>th</sup> November 2004 at PHE Division, Passighat due to retirement on superannuation of Sri M.C. Paul the present Sr. Divisional Accounts Officer, therefore there is no difficulty on the part of the respondents to accommodate the applicant in the present place of posting alternatively at PHE Division, Passighat. Moreover, there are at least 6 posts of Sr. Divisional Accounts Officer are available in the following places, where the present applicant could be accommodated:

1. Miao Electrical Division.
2. Deomali Electrical Division.
3. Deomali IFCD.
4. Changlang RWD.
5. Changlang PHED.
6. Namsai PHED.

Since no action has been initiated by the respondents for compliance of the order dated 08.04.04 passed by this Hon'ble Tribunal, therefore finding no other alternative the applicant is approaching this Hon'ble Court for further direction upon the

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respondents for compliance of the order of the learned Tribunal and to pass further order under Rule 24 of Central Administrative Tribunal (Procedure) Rule, 1987 for compliance of the order of the learned Tribunal.

4. That this application is made bonafide and for the interest of justice.

In the facts and circumstances stated above the Hon'ble Tribunal be pleased to direct the respondents to implement the order dated 08.04.2004 with immediate effect and further be pleased to direct the respondents to reconsider the case of the applicant for retention in the present place of posting or alternatively to accommodate in any vacant Division in any adjacent  
places as indicated above and till  
such consideration the transfer and  
posting order dated 08.03.04 shall not be given effect to in respect of the present applicant.

And further be pleased to pass any other order or orders as deem fit and proper in respect of the present applicant

**VERIFICATION**

I, Shri Upendra Nath Sarkar S/o Late Late Radhanath Sarkar, aged about 57 years, working as Sr. Divisional Accounts Officer, Drilling Division, I & FC, Pashighat, Arunachal Pradesh, aged about 57 years, do hereby verify that the statements made in Paragraph 1 to 4 are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the <sup>th</sup> day of October, 2004.

Attested  
W.M.C. S.G.S.C.

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CENTRAL ADMINISTRATIVE TRIBUNAL  
JURISDICTIONAL JURISDICTION

## ORDER SHEET

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

In O.A.

Name of the Applicant(s) Sri Upendra Nath SarkarName of the Respondent(s) C.O.I. BoardAdvocate for the Applicant Mr. H. Chanda Mr. G.N. Chakraborty  
Advocate for the Respondent Mr. S. N. Mukherjee, Mrs. Chanda

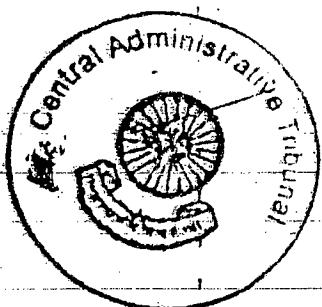
Counsel for the Railway/ C.R.C.

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

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



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

Contd/-

8.4.2004

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Heard Mr. M. Chanda, learned counsel for the applicant and also Mr. A. Deb Roy, learned Dr. 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)

Certified to be true copy

महाराष्ट्र सरकार

Section Officer (SI)  
C.A.T. GULABJI BANCHI  
Gunahari, 8/105

8/4/04

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OFFICE OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA  
NEW DELHI -110002

No. 394-HGE(Adv)/11-2000

Dated 19.4.2000

To

All Ph. Accountants General/Accountant General  
Dealing with the cadre of Divisional Accountants.

Sir/Madam,

The need to evolve some clearly defined norms and a uniform and transparent policy of transfer and posting of Divisional Accounts Officers/Divisional Accountant was being felt for sometime. Though transfer is an incidence of service of Divisional Accountant, it should be effected in such a way that it causes minimum inconvenience to the individuals and at the same time it fulfils the administrative requirements. It has, therefore, been decided to prescribe the following broad parameters for transfer and posting of Divisional Accounts Officers/Divisional Accountants which should be followed scrupulously and uniformly.

- (a) transfer and posting should normally be made once in a year and annual transfers should be timed properly so that these may not disturb the academic session.
- (b) list of Divisions likely to fall vacant during the year should be publicised well in advance.
- (c) Divisions should be properly graded by following the instructions issued in this regard from time to time and posting of officers should be made in the appropriately graded Divisions;
- (d) Option for posting in particular station(s) should be called for from the individuals and efforts should be made to accommodate the officers at the place of their choice, subject to availability of vacancy and on basis of seniority. The adverse comments given by the Inspecting Officer auditing the accounts of the Divisions, adverse remarks made by the Executive Engineers on the performance of the Divisional Accounts Officers/Divisional Accountants which are finally substantiated and the performance in proper and timely submission of accounts may also be kept in view;

Certified to be true copy  
S. J. S. Hosh  
Advocate

- (e) ~~a transfer Committee comprising the Group Officer In-charge of Works Accounts and two other Indian Audit & Accounts Department officers of the rank of Sec. Dy. Accountant General/Dy. Accountant General, to be nominated by the Pr. Accountant General/Accountant General should be formed to consider the case of transfer.~~
- (f) ~~tenure of posting should normally be three years in a particular Division, and six years at a particular station;~~
- (g) ~~an officer should normally be allowed to serve the last three years of his service life at a place of his choice even if it results in his stay in the same place etc. beyond the normal tenure.~~
- (h) ~~a general order indicating transfers and postings of all officers should be notified in addition to individual posting orders that may be issued.~~

Dispensation of the set norms could be made only in every exceptional circumstances, to be recorded in writing, on account of extreme personal circumstances which are difficult distinguishable.

Yours faithfully,

3d/-

50/-

Asstt. Comptroller and Auditor General (N)

certified to be true.

Section Officer (S)  
T. GUWALIATI BANCH  
Guwahati, 8/1949

Attested  
J. K. Cleaver  
Addl. C. G. S. G.

*Forward - IV*

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Speed Post

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OFFICE OF THE ACCOUNTANT GENERAL (A&E) MEGHALAYA ETC.,  
SHILLONG.

E.O. No.DA Cell/5

Dated :- 5.5.2005.

In partial modification of this office annual transfer order No.E.O. No. DA Cell/120 dated 8.3.2004, Shri Upendra Nath Sarkar, Sr.DAO O/o the Executive Engineer, Drilling Division, I&FC, Pasighat, Arunachal Pradesh with additional charge of the O/o the Executive Engineer, I&FC, Pasighat, Arunachal Pradesh is hereby posted to the O/o the Executive Engineer, Miao Electrical Division, Department of Power, Miao, Arunachal Pradesh with immediate effect.

The Transfer is in public interest.

(Authority:- AG's order dated 5.5.2005).

Sd/-  
Sr.Dy.Accountant General (Admn)

Memo No.DA Cell/Annual Transfer/2005/96-116

Dated:- 5.5.2005

Copy forwarded for information and necessary action to:-

1. The Chief Engineer, I&FC Department, Govt. of Arunachal Pradesh, Itanagar.
2. The Chief Engineer, Department of Power, Govt. of Arunachal Pradesh, Itanagar.
3. The Executive Engineer, Pasighat Drilling Division, Pasighat, Arunachal Pradesh. He is requested to intimate the date of release of Shri Sarkar, Sr.DAO.
4. The Executive Engineer, I&FC Division, Pasighat, Arunachal Pradesh.
5. The Executive Engineer, Miao Electrical Division, Department of Power, Miao, Arunachal Pradesh.
6. Shri U.N. Sarkar, Sr.DAO O/o The Executive Engineer, Pasighat Drilling Division, I&FC, Pasighat, Arunachal Pradesh. He is requested to intimate the date of his joining in the new division.
7. Shri Th. Lalkamnong, DAO-II O/o the Executive Engineer, I&FC, Bordumsa, Arunachal Pradesh.
8. the Executive Engineer, I&FC Bordumsa, Arunachal Pradesh.
9. E.O. Book.
10. Spare Copy.

*[Signature]*  
Sr. Accounts Officer,  
i.c. DA Cell

To,

Mr. M. Chanda

Advocate

C.A.T.

Guwahati

Ref. : C.P. No. 14 of 2005

U. N. Saikia

-Versus-

Union of India & Ors.

Sir,

Please take notice that the respondents in the above case have filed a written statement in the above case.

Kindly acknowledge receipt.

Yours faithfully,

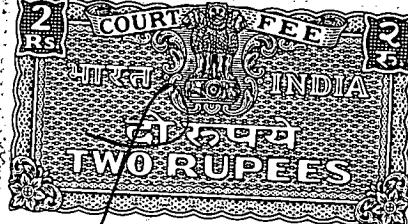
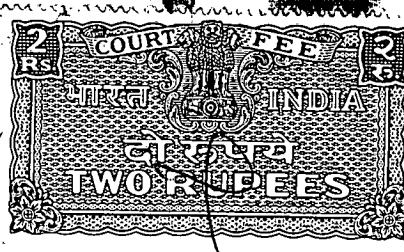
W.K. Chanda 26/3/03

Addl. C.G.S.C.

Received copy

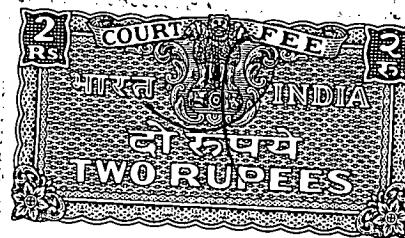
S. N. Chanda  
Advocate

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## VAKALATNAMA

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :: GUWAHATI.



IN OA. NO.20/2005

CONTEMPT PETITION No 14/2005.

SHRI UPENDRA NATH SARKAR  
PETITIONER

-VERSUS-

THE UNION OF INDIA & OTHERS  
RESPONDENT

Know all men by these presents that the above-named Respondent No.2 (Shri S.A.Bathew) do hereby nominate, constitute and appoint Shri A.K.Chaudhuri, Advocate and such of the under-mentioned advocates as shall accept this Vakalatnama to be my/our true and lawful Advocate to appear and act for me/us in the matter noted above and in connection therewith and for that purpose to do all acts whatever in that connection including depositing or drawing money, filling in or taking out papers, deeds of composition etc. for me/us and on my/our behalf and I/We agree to ratify and confirm all acts so done by the said Advocate as mine/ours to all intents and purpose. In case of non-payment of the stipulated fee in full no Advocate will be bound to appear or set on my/our behalf.

I witness whereof I/We here unto set my/our hand this  
the 24<sup>th</sup> day of May, 2005

### ADVOCATES:-

Anup Kr. Choudhuri

Bijan Kr. Acharyya

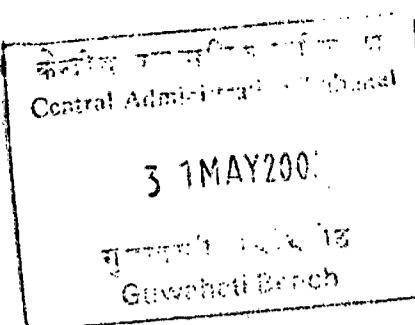
M.U.Ahmed

Miss Usha Das

Received from the Executent and Accepted.

*Anup Kumar Choudhuri*  
Advocate. 26/5/05

116  
Shri Anup Kumar Bathew  
विविचक उप महालेखाकार (प्रशासन)  
Sr. Executive Assistant General (ADMN)  
महालेखाकार का कारबिल्य (ले.व.ह.)  
Office of the Accountant General (A & E)  
संविचार, दस्तावेज़ विभाग  
Meghalaya, c.c.c. ...along



Dist- Papum Para (Arunachal Pradesh)

**In the Central Administrative Tribunal, Guwahati Bench,  
Guwahati**

**In the matter of:**

**Contempt Petition No. 14/2005**

**Sri Upendra Nath Sarkar**

**-Vs-**

**Union of India & others**

**-And-**

**In the matter of:**

**An affidavit in opposition on  
behalf of respondent No.1 (Sri  
Gaken Ete)**

**AFFIDAVIT-IN-OPPOSITION**

I Shri Gaken Ete aged about 44 years son of  
Sri B. Ete resident of Itanagar in the district of  
Papum Para, Arunachal Pradesh do hereby solemnly affirm and  
say as follows:

1. That I am the respondent No.1 in this case and am  
acquainted with the facts and circumstances with thereof. A  
copy of the contempt petition has been served on me and  
having gone through the same I have noted the contents  
thereof.
2. That before giving parawise reply to the statements made  
in the contempt petition I say that the allegations levelled  
against me in the present contempt petition of deliberately  
disobeying the orders of this Tribunal by me are not correct and  
I stoutly deny the same. I say that being a senior officer of the  
government of Arunachal Pradesh shouldering the  
responsibility of the rank of Chief Engineer I take special care  
and attention to see that the order of this Hon'ble Tribunal or  
any other court or courts are duly complied with so that the

message of the Rule of Law prevail over everybody and all spheres of life. I neither can imagine of myself violating any judicial order nor do I afford any subordinate of mine to do the same. However, if any of my commission or omission made in this regard appears to be not in total compliance of or it appears to be at variance with any order or direction of this Hon'ble Tribunal, the same may kindly be considered as unintentional lapse on my part and the same may be condoned by accepting this affidavit as unconditional apology.

3. That I say that the petitioner who is an employee of the office of Accountant General was posted on deputation as Senior DAO in the department of Irrigation and Flood Control (here in referred to as 'the IFCD). By an order dated 5.11.2003 passed under the authority of the Accountant General the petitioner was transferred from Itanagar to Pasighat which he did not readily comply and after a lapse of about 2 month he finally joined on 28.1.2004 as Senior DAO in the Pasighat Drilling Division under IFCD. On 8.3.2004 another order was passed by the same office withdrawing the petitioner from deputation under Government of Arunachal Pradesh and thereby transferring him to Gumti Electrical Division in Tripura. This time also the petitioner did not comply with the order and approached this Hon'ble Tribunal through OA No. 89/2004 challenging the legality and validity of transfer order dated 8.3.2004 on the ground that the same is in violation of Officer Memorandum dated 19.4.2000. This Hon'ble Tribunal by order dated 8.4.2003 was pleased to disposed of the OA .with a direction to consider representation of the petitioner objectively and till such consideration is made it was directed that the status quo should be maintained. It appears from records that the concerned authority namely the Accountant General, Meghalaya etc. considered the representation of the petitioner and vide letter No. DA Cell/Court Cases/UNS/2004/11342 dated 18.11.2004 the petitioner was informed by the officer of Accountant General that his request was not agreed to and his transfer to the state of Tripura was found to be justified in the interest of public service.

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A copy of the order dated 8.3.2004, 8.4.2004 and letter dated 18.11.2004 are annexed hereto and are marked as Annexure- A, B and C respectively.

4. That I say that by the aforesaid transferred order dated 8.3.2004 as many as 36 officers were transferred by the Accountant General ( A & E), Meghalaya, Arunachal Pradesh and Mizoram and the name of the petitioner appeared at Sl. No. 2 of the said order vice one Sri P. C. Borah, Sr.DAO, Gumti Electrical Division. Who was supposed to move first to release the petitioner. The said reliever appeared before the Executive Engineer, Pasighat but he could not be allow to take over charge from the petitioner in view of the interim order passed by this Tribunal on 8.4.2004. The Accountant General took up this matter with the Chief Secretary Arunachal Pradesh vide his DO Letter dated 15.10.2004 holding the Chief Engineer and Executive Engineer for non-implementation of his order. It appears thereafter, the order rejecting representation of the petitioner was disposed of and the same was communicated to the petitioner. The interim direction contained in the order dated 8.4.2004 of this Hon'ble Court stood complied with and satisfied thereby and hence the interim suspension of the transfer order dated 8.3.2004 came to an end thereby. But it appears that in the mean time the petitioner filed an MP before this Hon'ble Tribunal complaining of non disposal of his representation and thereupon by order dated 26.10.2004, this Hon'ble Tribunal was pleased to issue notice upon the respondents fixing 24.11.2004 as next date and it was observed that in the mean while interim order dated 8.4.2004 shall continue till next date. On 24.11.2004 the matter was directed to be listed on 16.1.2005 for orders and status quo directed to be maintained in the interim. But before the aforesaid order dated 24.11.2004 was passed by this Hon'ble Tribunal the petitioner and his counsel were separately informed by the Sr. Deputy Accountant General ( Admn.) by letter dated 18.11.2004 that the representation of the petitioner is no longer pending and the same had already been rejected after due consideration as per direction of the Hon'ble Tribunal. Thus it would appear

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that both the OA NO.89/2004 as well as MP 109/2004 became infructuous thereby. But as the full facts were not placed before this Hon'ble court either on 24.11.2004 or 16.1.2005, this Hon'ble Tribunal was under impression that the representation of the petitioner is still pending. Be that as it may, after receipt of the orders dated 18.11.2004 as well as the copy of the letter dated 18/19.11.2004 addressed to the learned counsel of the petitioner, the answering respondents No.3 was naturally of the view that the original interim order dated 8.4.2004 no longer continues and as such in view of the strong observation made against the conduct of the answering respondent No. 1 and 3 in the aforesaid DO letter dated 15.10.2004 addressed to the Chief Secretary by the Accountant General, the respondent No.3 released the petitioner on 17.1.2005 and allowed Sri P.C. Borah to take over charge at Pasighat. Thus neither the answering respondent No.1 nor answering respondent No.3 had any intention to violate or to disobey the order of this Hon'ble Tribunal and as such the contempt petition filed against them may kindly be rejected.

Copies of order dated 26.10.2004, 24.11.2004 and the D. letter dated 15.10.2004 are annexed hereto and are marked as Annexures- D and E respectively.

5. That I say that having realized that the earlier OA as well as the Misc. Case had become infructuous, the petitioner filed a fresh OA before this Hon'ble Tribunal on 27.1.2005 through OA No. 20/2005 challenging, inter alia, the appellate order dated 18/19.11.2004 rejecting his representation against transfer order dated 8.3.2004 his release order dated 17.1.2005 and also made a further prayer for allowing him to continue either at Pasighat or at any other vacant Division till retirement. By order dated 27.1.2005 this Hon'ble court was pleased to keep the release order dated 17.1.2005 at abeyance but in view of facts and circumstances of the case your Lordship did neither pass any order staying the transfer order dated 8.3.2004 nor any other order for releasing Sri P.C. Borah who is currently holding the post of Sr.DAO at Pasighat since 17.1.2005. However, in the mean time the Accountant General

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has passed a fresh order of transfer on 5.5.2005 posting the petitioner at the vacant post of Sr.DAO in the office of the Executive Engineer, Miao Electrical Division at Miao, Arunachal Pradesh. Thus the order dated 8.3.2004 in so far as it relates to the petitioner does no longer exist.

Copies of order dated 27.1.2005 and 5.5.2005 are annexed hereto and are marked as Annexure- 5 and 6 respectively.

6. That by order dated 27.1.2005, this Hon'ble Tribunal was pleased not to issue any mandatory direction to the answering respondents as prayed for in the OA No.20/2005 and as such there is no question of violating or disobeying the same. The contempt petition, therefore, is devoid of any cause of action and as such the same is liable to be dismissed.

7. That with regard to the statements made in paragraph 1 of the contempt petition I say that the petitioner stood released from the post of Sr.DAO with effect from 17.1.2005 (A/N) and Sri P.C.Borah took over charge of the post on and since the same date and as such order dated 27.1.2005 keeping the release order dated 17.1.2005 is virtually infructuous in the absence of any positive direction to release Sri. P.C. Borah to re-induct the petitioner more so when the orders dated 8.3.2004 and 18/19.11.2004 continue to remain in force.

8. That the allegation made in paragraph 2 of the contempt petition that the interim order dated 27.1.2005 passed by this Hon'ble Tribunal has not been complied with is not correct and the same is hereby denied. I say that there is no direction in said order for doing or not doing anything and such the petitioner cannot complain of any non-compliance.

9. That the allegation made in paragraph 3 of the contempt petition that the transfer order dated 8.3.2004 is violative of guideline-dated 19.4.2000 is not correct. It is apparent on the face of record that the transfer order was made in the public interest and there is no allegation of mala fide/ malice in law in this matter. Besides, there is no interim order suspending or staying the order-dated 18/19.11.2004 whereby the representation of the petitioner was considered and disposed of

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Answer etc

upholding his transfer. Both these orders, however, have became infructuous as the prayer of the petitioner for posting him at any vacant Division has been allowed by order dated 5.5.2005 and he has accordingly joined.

10. That with regard to the statements made in paragraphs 4 and 5 of the contempt petition I say that the direction of this Hon'ble Tribunal to consider the representation of the petitioner was duly considered by the appropriate authority. The allegation that the same was not considered is incorrect which I hereby deny.

11. That with regard to the statements made in paragraph 6 of the contempt petition I say that this Hon'ble Tribunal kept the release order dated 17.1.2005 at abeyance on 27.1.2005 without , however, allowing the prayer of the petitioner to put him back in the post from where he was released or for staying his transfer order. In the absence of any such direction, the petitioner could not have been engaged by answering respondents inasmuch as the petitioner is not an employee of the State of Arunachal Pradesh at all and was deputed only by the Accountant General who being the lending authority was pleased to withdraw his employee after he had been on deputation for a period over 13 years and this Hon'ble Tribunal thought it fit not to interfere with such action. The respondents being borrowing authority has no jurisdiction to retain an employee when the lending authority takes him away in the absence of any positive direction of this Hon'ble Tribunal. The allegation of deliberate and willful action of the respondents and submission for drawing up of contempt proceeding against them etc. are not tenable or correct either in fact or in law.

That with regard to the second sub paragraph of paragraph 6 of the contempt petition I say that I have not taken any action in violation of the order passed by this Hon'ble Tribunal in OA NO.No. 89/2004 or any order dated 26.10.2004 in MP No. 109/2004 arising out of the said OA NO.in any way. The petitioner was released only after the direction contained in order dated 8.4.2004 in OA NO.No. 89/2004 was duly and

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Deben  
Gupta (ETC)

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entirely complied with by the concerned authority, namely, the Accountant General.

12. That the contempt petition being devoid of any substance is liable to be dismissed.

13. That the statements made in paragraph ..1..2..6..7..12.. above are true to my knowledge, the same made in paragraphs ..3..4..5.....being matters of records are true to my information and the rest are my humble submission before this Hon'ble Tribunal.

Signed this affidavit on this the 24th day of May 2005 at Itanagar.

Identified by

Sujitshash  
Ahuja.

Deponent

Deben  
Gupta (ETC)

Attested.

Police No. 24151208  
Judicial Magistrate  
First Class  
Itanagar

## OFFICE OF THE ACCOUNTANT GENERAL (A&amp;E) MEGHALAYA ETC, SHILLONG.

O. No. D.A. Cell/120

238)

7/4/04

Dated:- 8-3-2004

The following Sr. Divisional Accounts Officers and Divisional Accounts Officer Grade-I & II are transferred and posted to the Divisions noted against each as shown below.

They are requested to submit their handing over memorandum to their Divisional Officers under intimation to this office.

The Divisional Officers/Controlling Officers are requested to release the Officials concerned under them latest by 9<sup>th</sup> April 2004 under intimation to this office and to forward a formal letter and taking over charge report of the officials concerned to this office at an early date.

The transfer is in public interest.

SL No	Name & Designation	Present Division	Division Transfer to	REMARKS
1.	Shri P.C.Borah, Sr.DAO	O/o the Ex.Engineer, Gumlji Electrical Division Jatanbari, Tripura, Addl.charge of Gumlji Civil Division (Power) Jatanbari	O/o The Executive Engineer, Pasighat Drilling Division, I& FC, with addl. Charge of Pasighat I&FC Division, Pasighat vice Shri U.N.Sarkar, Sr.DAO	Shri P.C.Borah will move first to release Shri Sarkar.
2.	U.N.Sarkar, Sr.DAO,	O/o the Ex. Engineer Pasighat Drilling Division, I& FC, with addl. charge of Pasighat I&FC, Division,Pasighat	O/o the Ex. Engineer Gumlji Electrical Division, Jatanbari, Tripura, with additional Charge of Gumlji Civil Division, (Power), Jatanbari, vice Shri P.C.Borah	
3.	A.Phamati, DAO-I,	O/o the Ex.Engineer Gas Thermal Civil Division (Power), Rokla, Tripura, addl. charge of Gas Thermal (Elect.) Division, Rokla.	O/o the Ex. Engineer Building Project Division No.IV PWD, Imphal, vice L.Shanti Kumar Singh, DAO-I	Shri Phamati will move first to release Shri L.Shanti Kr. Singh.
4.	L.Shanti Kumar Singh, DAO-I	O/o the Ex.Engineer Building Project Division No.IV PWD, Imphal	O/o the Ex. Engineer Gas Thermal Division, (Power) Rokla, Tripura, Addl.Charge of Gas Thermal (Electrical) Division Rokla. Vice A.Phamati.	

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5.	L.Tholba Singh, DAO-I	O/o The Ex.Engineer Agartala Division No.V, PWD, Agartala.	O/o The Ex. Engineer Imphal Electrical Division No.III Manipur vice Shri N.Kumarjit Singh, DAO-I	Shri L.Tholba Singh will move first to release Shri N.Kumarjit Singh.
6.	N.Kumarjit Singh, DAO-I	O/o The Ex. Engineer Imphal Elect. Division No.III, Imphal	O/o The Ex. Engineer Agartala Division No.V, PWD, Agartala vice Shri L.Tholba Singh.	
7.	Bhabesh Chakraborty, DAO-I	O/o The Ex.Engineer Ziro Elect Division A.P.	O/o The Ex.Engineer Electrical Divn No.IV Udaipur vice M. Sanajoaba Singh already transferred	
8.	Anindya Kr. Das, DAO-II	O/o The Ex.Engineer PWD Seppa, A.P.	O/o The Ex.Engineer Ziro Electrical A.P. vice Bhabesh Chakraborty, DAO-I transferred	Shri Anindya Kr.Das will move first to release Shri B.Chakraborty.
9.	D.Roy Choudhury, Sr.DAO	O/o The Ex.Engineer Capital 'A' Division, PWD, Itanagar	O/o Chief Engineer, PWD Imphal, with additional charge of Building Division No.I PWD Imphal, vice Shri M.Heramani Singh, DAO-II	
10.	M.Heramani Singh, DAO-II	O/o the Chief Engineer, PWD Imphal and additional charge Building Dlvn No.I PWD Imphal	Capital 'A' PWD, A.P vice D.Roy Choudhury transferred	Shri M.H.Singh, will move first to release Shri D.Roy Choudhury
11.	A.Kanungoe, DAO-I	O/o The Ex.Engineer Paisighat Electrical Division, Pasighat, A.P	O/o The Ex.Engineer Highway South PWD, Imphal, Vice Shri A.Binode Kr. Sharma, DAO-I	
12.	A.Binode Kr. Sharma, DAO-I	O/o The Ex.Engineer Highway South PWD, Imphal	O/o The Ex.Engineer Pasighat Elect. Divn A.P. Vice A.Kanungoe, DAO-I	Shri A.Binode Kr.Sharma, will move first to release Shri A.Kanungoe.
13.	D.Khamzachin, DAO-II	O/o The Ex.Engineer N.H. No.II PWD Imphal additional charge N.H. Divn No.I PWD, Imphal	O/o The Ex.Engineer Rig Divn PHE, Agartala vice P.C.Das, Sr.DAO	Shri D.Khamzachin will move first to release Shri P.C.Das
14.	P.C.Das, Sr.DAO	O/o The Ex.Engineer Rig Divn PHE Agartala	O/o The Ex.Engineer N.H. No.II PWD Imphal additional charge N.H. Divn No.I PWD, Imphal	

5.	A.I.Baitoi, Sr.DAO	O/o The Ex. Engineer Bunderdewa PWD, A.P.	O/o The Ex. Engineer Jatrapur PWD A.P. vice K.C. Das, DAO-I relieved of additional Charge.	
6.	D.B.Choudhury Sr.DAO	O/o The Ex. Engineer I&FM Divn No.II Agartala	O/o The Ex. Engineer Imphal Elect Divn No.I vice L.Shamjal Singh, DAC-I	
7.	L.Shyamjal Singh, DAO-I	O/o The Ex. Engineer Imphal Elect Divn No.I	I&FM Divn No.II Agartala vice D.B. Choudhury, Sr.DAO	Shri L.Shyamjal Singh will move first to release Shri D.B.Choudhury.
8.	D.N.Mohan, DAO-I	O/o The Ex. Engineer Seppa PHE, A.P.	O/o The Ex. Engineer Changlang PWD vice K.C.Das, DAC-I	Shri D.N. Mohan will move first to release Shri K.C.Das
9.	K.C.Das, DAO-I	O/o The Ex. Engineer PWD Changlang, AP	O/o The Ex. Engineer PHE Division No.IV, Agartala.	
10.	S.C.Ghosh, DAO-I	O/o The Ex. Engineer Tawang PWD,AP	O/o The Ex. Engineer Elect. & I Division No.III, Agartala.	
11.	J.P.Sinha, Sr.DAO	O/o The Ex. Engineer Roing PWD, A.P.	O/o The Ex. Engineer Tawang PWD vice S.C.Ghosh,DAO-I	Shri J.P.Sinha will move first to release Shri S.C.Ghosh.
12.	J.K.Lahiri, Sr.DAO	O/o The Ex. Engineer Pasighat PWD	O/o The Ex. Engineer Tawang Elect Divn vice N.C.Barman DAO-I	J.K.Lahiri will move first to release Shri N.C. Barman.
13.	N.C.Barman, DAO-I	O/o The Ex. Engineer Tawang, Elect. AP	O/o The Ex. Engineer Kailashahar PWD, vice Shri B.Chakraborty, Sr.DAO	
14.	Benjendu Chakraborty, Sr.DAO	O/o The Ex. Engineer Kailashahar PWD, Tripura	O/o The Ex. Engineer Northern Divn PWD Dharmapagar vice S.Nag, Sr.DAO	Shri B.Chakraborty will move first to release Shri S.Nag.
15.	Shyamalendu Nag, Sr.DAO	O/o The Ex. Engineer Northern Divn PWD Dharmanagar	O/o The Ex. Engineer Thoubal PHE, with additional charge of PWD Thoubal Manipur vice P.Manglem Singh, Sr.DAO	
16.	P.Manglem Singh, Sr.DAO	O/o The Ex. Engineer Thoubal PHE Manipur with additional charge PWD Thoubal Divn. Manipur	O/o The Ex. Engineer Hayullang Electrical A.P. Vice Swapan Kt. Chakraborty	P.Manglem Singh will release Shri S.Kr.Chakraborty

17. A.I.Baitoi, Sr.DAO  
O/o The Ex. Engineer  
Bunderdewa PWD  
A.P.

D.B.Choudhury  
Sr.DAO

O/o The Ex. Engineer  
I&FM Divn No.II  
Agartala

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1. Swapen Kr. Chakraborty, DAO-I	O/o The Ex. Engineer Hayullang Electrical Divn A.P.	O/o The Ex. Engineer Electrical Divn PWD Imphal	
2. Sohel Kruti Choudhury, DAO-I	O/o The Ex. Engineer Along RWD, A.P.	O/o The Ex. F. Building Divn PWD Imphal	
3. Ashim Kr. Bhattacharjee, DAO-I	O/o The Ex. Engineer Khonsa PWD A.P.	O/o The Ex. P. and Task Force Divn No.1 PWD Imphal	
4. Ch. Naba Kr. Singh, DAO-I	O/o The Ex. Engineer Task Force Divn IFC, Manipur	O/o The Ex. Engineer Khonsa PWD / P. Vice A.K. Bhattacharjee	Shri Ch. Naba Kr. Singh will move first to release Shri A.K. Bhattacharjee
5. O. Manilur Singh, DAO-I	O/o the Ex. Engineer, Roing PHE, A.P.	Churachandpur Electrical Division Manipur	
6. M.L. Angamli, DAO-I	O/o The Ex. Engineer Itanagar PWD, Manipur	O/o The Ex. Engineer M.L. Division I.C.I (valley) Lamphelpat, Imphal	
7. Abhijit Kr. Das, DAO-I	O/o The Ex. Engineer Elect Divn No.1, Agartala	O/o The Ex. Engineer Bomdila, Arunachal P. & T. Arunachal Pradesh	
8. A. Roy Choudhury, DAO-I	O/o The Ex. Engineer Naharlagun PWD, A.P.	O/o The Ex. Engineer Imphal West PWD Vice ILYAishkul Singh	
9. ILYAishkul Singh, DAO-I	O/o The Ex. Engineer Imphal West PHE, Manipur	O/o The Ex. Engineer Naharlagun PWD, A.P. Vice A. Roy	Shri ILYAishkul Singh will move first to release Shri A. Roy Choudhury
10. Hemendra Ch. Das, DAO-I	O/o The Ex. Engineer Basar PWD A.P. addl Charge of Basar I&FC	O/o The Ex. Engineer Building Divn PWD, Imphal	

(Authority:- AG's order dated 4.3.2004. at p/I01<sup>th</sup> off : No.DA Cell/2-36/99-2002/Vol.1)

Sd/-  
Sri. ... Accountant General (Admn).

(A)

(6) T-

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CURE-A

(A)

ANNEXURE-B

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CENTRAL

DIVISIONAL

ACCOUNTS

## ORDER DRAFT

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

In O.A.

Name of the Applicant (s). Smt. Zijendra Nath Sarkar.

Name of the Respondent (s). 210167614

Advocate for the App. of Mr. M. Chanda, Mr. G.N. Chakrabarty, Mr. S.N. Chakrabarty

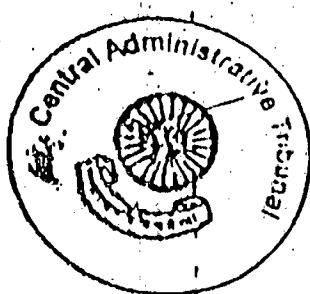
Counsel for the Railway/ O.A.

## OFFICE NOTE

Date

ORDER OF THE TRIBUNAL

8.4.2004 Present to The Hon'ble Mr. K.V. Prahladan, Member (A).



The applicant who is a St. Divisional Accounts Officer was transferred and posted at office of the Ex. Engineer Panighat Drilling Division, IAFC with additional charge of Panighat IAFC, Division, Panighat by order dated 9.11.2003. Only after completion of 2 months at Panighat Drilling Division, he was further sought to be transferred by order dated 8.3.2004 to office of the Ex. Engineer, Gumbi electrical Division, Jataniabari, Tripura with additional charge of Gumbi Civil Division (Power), Jataniabari within a span of two months. Being aggrieved the aforesaid order the applicant approach this Hon'ble Tribunal.

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A.D.R.

Contd/-

Contd:-

8.3.2004

5/13 - 82  
(73) 29  
Held Mr. M. Chanda, learned  
counsel for the applicant and also  
Mr. A. Deb Roy, learned Mr.  
C.A.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  
settling within three years. In the  
circumstances, the case of the  
applicant is required to be  
reconsidered by the authority.  
Therefore, it directs 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)

Notified to be true Copy  
Holding & File

5/13/4104

Section Officer (S1)  
C.A.T. GUWALIET BRANCH  
Guru Nanak Dev

5/13/4104

ANNEXURE-C

ANNEXURE-XIII

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Speed Post

OFFICE OF THE ACCOUNTANT GENERAL (A&E) MEGHALAYA ETC.,  
SHILLONG.

No. DA Cell/Comt Case U.N.S. 2004/132

19 NOV 2004  
Dated:- 18.11.2004

To

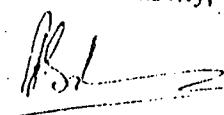
Shri Manik Chanda  
Advocate,  
Bye Lane- 7, Lachitnagar,  
Guwahati- 781 007.

Sub:- Transfer of Shri U.N.Sarkar, Sr.DAO

Sir,

I am to invite a reference to the notice dated 15-10-2004 served for non-compliance of the order of the Hon'ble Central Administrative Tribunal dated 8.4.2004. As per order of the Hon'ble Tribunal dated 8.4.2004, the case of Shri U.N.Sarkar was considered but not agreed to. In this connection it may be stated that Shri U.N.Sarkar had served in the state of Arunachal Pradesh for more than 13 years. In the interest of public service and also keeping in view of Headquarters' guidelines dated 19.4.2000, his transfer to Tripura is therefore found to be justified, in order and still stands.

Yours faithfully,



Sr.Dy.Accountant General (Adm.)

True copy  
Sripad  
Arunachal

(15)

APRIL, 2004

FORM NO. 4  
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

ANNEXURE-D (B)

ORDER SHEET

Original Appeal No. 89/04  
In O.R. 89/04

No. of the Appendix(s) Appendix 19th Section

Name of the Respondent(s) W. O. I. Gang

Advocate for the Respondent M. Chatterjee, S.N. Chakrabarty, S.Nath  
Counsel for the Railway/C.G.S.C.

OFFICE NO. 6	DATE	ORDER OF THE TRIBUNAL
	26.10.2004	<p>Notice to Mr. Chatterjee, Counsel for the Respondent,</p> <p>Issue notice to the Respondent to show cause as to why the H.P. shall not be admitted. List after two weeks.</p> <p>List on 24.11.2004. In the event of no interim order passed dated 26.10.2004 passed in O.R. 89/2004 shall continue till the next date.</p>
bb	24.11.04.	<p>Present: Hon'ble Mr. K. V. Prakadan, Administrative Member.</p> <p>List the matter on 16.1.05 for orders. Status quo shall be maintained.</p>

Sd/MEMBER(ADM)

26.10.04  
Present: Hon'ble Mr. K. V. Prakadan, Administrative Member  
List the matter on 16.1.05 for orders. Status quo shall be maintained.

True copy  
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16  
For kind attention of Smt S. Lal,  
EO to CS, IFCD, Sta.

114  
ADU

ANNEXURE-E  
14/12/04  
132

FORM NO. 4  
(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

ORDER DATE

Opp. 14/12/04 Sd. Ketu/Com. P. M. 109/04

In O.A. 89/04

Name of the Applicant(s) Upendra Nath Sarkar

Name of the Respondent(s) Mr. O. T. Gang

Advocate for the Applicant M. Chordia, C.N. Chakrabarty, S. Nath  
Counsel for the Railway/C.o.A.C.

OFFICE	DATE	ORDER OF THE TRIBUNAL
	24.11.04	Present: Hon'ble Mr. K. V. Prahladan, Administrative Member. List the matter on 16.1.05 for orders. Status quo shall be maintained.

Sd/MEMBER(ADM)

TRUE COPY  
K. V. Prahladan

Section Officer (J)  
C.A.T. GUWAHATI BENCH  
Gauhati-781004

True copy  
Biplob  
Arun



OFFICE OF THE ACCOUNTANT GENERAL (A&E),  
MEGHALAYA, MIZORAM & ARUNACHAL  
PRADESH, SHILLONG - 793 001  
PHONE NO 0364-2223191 (O) FAX 0364-2223103

**E.R.SOLOMON**  
**Accountant General**

D.O.DA CELL/Annual Transfer/2002-03/956  
Dated:- 15.10.2004

Dear Shri,

Sri Probin Ch. Borah, Sr.DAO Office of the Executive Engineer, Gumti Electrical Division, Jatanbari was transferred to the office of the Executive Engineer, Pasighat Drilling Division I & F.C., Arunachal Pradesh vice Sri U.N.Sarker Sr.DAO.

Accordingly, on being relieved from the Office of the Executive Engineer, Gunti Electrical Division, Jatanbari, Tripura, on 10.9.2004, Sri Probin Ch. Borah, Sr.DAO was not allowed to join in Pasighat because the Executive Engineer of this division did not relieve Sri Sarkar, Sr.DAO was not relieved. Further Shri Sarkar moved the CAT Guwahati and the latter stayed his order of transfer.

In this connection, will you please recall the case of Shri D.N.Mohan who was transferred and posted to relieve Shri K.C.Das. Because the latter approached the CAT Guwahati, a stay order was obtained and the orders of this office were kept in abeyance. Now Shri Mohan has moved the Hon'ble Gauhati High Court and the latter has stayed the stay order of the Hon'ble Tribunal and I understand that Shri K.C.Das has since been relieved to join his new assignment in Tripura.

All these difficulties have arisen because the Chief Engineers and concerned Executive Engineers have acted arbitrarily and not allowed the implementation of orders issued by this office. This is a cause for concern and led to difficulties in the administration of these cadres. It is felt that vested interests exist in the Public Works Division and accounts officials who should be independent have abrogated their authority and colluded to strangle the framework of transparency and accountability.

I request that you direct the concerned Chief Engineers and Executive Engineers to pass orders for the immediate relief of Shri Sarkar.

Yours Sincerely,

Sri Ashok Kumar,  
Chief Secretary to the Govt. of Arunachal Pradesh,  
Itanagar, Arunachal Pradesh.

True copy  
Luisa Shabot  
A.D.

218

AG/AA/6/1

SPEEDY Post

154  
154

Memo No. DA Cell/Annual Transfer/2002-03/957

Copy to :-

✓ Shri G. Koyu, Commissioner and Secretary to the Govt. of Arunachal Pradesh, Public Works Department with the request that this matter be kindly looked into. He may issue direction to the concerned Chief Engineer and Executive Engineer to relieve Shri Sarkar at once.

Dated:-

S  
Accountant General.

SL No. 11

(135)

FORM NO. 4

GURU RAMPAL JI  
GURU RAMPAL JI  
GURU RAMPAL JI

OR D E C S H E E T

20/2005

Original Application No.

Misc. Petition No.

Contempt Petition No.

Review Application No.

Applicants - Ishwara Nath Sarkar

Respondents - Union of India 88

Advocates for the Applicants - Mr. Chanda, Mr. G.N. Choudhury

Mr. S. Nath

Advocates of the Respondents - CSC

Notes of the Party Date Order of the Tribunal

27.1.2005 Present: The Hon'ble Mr. K. V. Mahajan, Member (A).

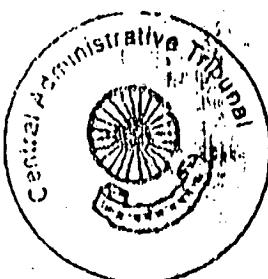
Heard Mr. M. Chanda, learned counsel for the applicant and also Mr. A.K. Chaudhury, learned counsel for the Respondents No. 3 and 4.

The application is admitted, call for the records. Issue notice to the parties, returnable within four weeks.

Till the returnable date the order dated 17.1.2005 shall be kept in abeyance.

List on 28.02.2005 for orders.

Sd/MEMBER(ADM)



certified to be true  
प्राप्ति निर्धारित

Section Officer (S)

GURU RAMPAL JI

JANMASHANTI BANCH

New Delhi-110003

16/01/2005

True copy  
Sunita Shinde  
ADM

Recd. by 1100..... 2/25  
Date 2/2/2005.....

20  
ANNEXURE - H  
136Speed PostOFFICE OF THE ACCOUNTANT GENERAL (A&E) MEGHALAYA ETC.,  
SHILLONG.

E.O. No.DA Cell/5

Dated :- 5.5.2005.

In partial modification of this office annual transfer order No.E.O. No. DA Cell/120 dated 8.3.2004, Shri Upendra Nath Sarkar, Sr.DAO O/o the Executive Engineer, Drilling Division, I&FC, Pasighat, Arunachal Pradesh with additional charge of the O/o the Executive Engineer, I&FC, Pasighat, Arunachal Pradesh is hereby posted to the O/o the Executive Engineer, Miao Electrical Division, Department of Power, Miao, Arunachal Pradesh with immediate effect.

The Transfer is in public interest.

(Authority:- AG's order dated 5.5.2005).

Sd/-

Sr.Dy.Accountant General (Admn)

Memo No.DA Cell/Annual Transfer/2005/96-116

Dated:- 6 MAY 2005

Copy forwarded for information and necessary action to:-

1. The Chief Engineer, I&FC Department, Govt. of Arunachal Pradesh, Itanagar.
2. The Chief Engineer, Department of Power, Govt. of Arunachal Pradesh, Itanagar.
3. The Executive Engineer, Pasighat Drilling Division, Pasighat, Arunachal Pradesh. He is requested to intimate the date of release of Shri Sarkar, Sr.DAO. *ref*
4. The Executive Engineer, I&FC Division, Pasighat Arunachal Pradesh.
5. The Executive Engineer, Miao Electrical Division, Department of Power, Miao, Arunachal Pradesh.
6. Shri U.N. Sarkar, Sr.DAO O/o The Executive Engineer, Pasighat Drilling Division, I&FC, Pasighat, Arunachal Pradesh. He is requested to intimate the date of his joining in the new division.
7. Shri Th. Lai Kamnong, DAO-II O/o the Executive Engineer, I&FC Bordumsa, Arunachal Pradesh.
8. the Executive Engineer, I&FC Bordumsa, Arunachal Pradesh.
9. E.O. Book.
10. Spare Copy.

*Omamalgor*  
Sr. Accounts Officer,  
i.c. DA Cell

## \*\*\* COMMUNICATION REPORT \*\*\*

NAME : MAHARAJA TELECOM SERVICE  
ID : 91 0361 2639786  
DATE / TIME : 10:13 05/11/05

REMOTE ID. (NAME) : 2222479  
TRANSMITTED TOTAL PAGE(S) : 00  
TRANSMITTED ERROR PAGE(S) :  
RECEIVED TOTAL PAGE(S) : 01  
COMMUNICATION RESULT : O.K.  
COMMUNICATION DURATION : 01:12

Dist East Siang (Arunachal Pradesh) 31 MAY 2011

গুৱাহাটী বিধায়ক বৰ্ষ  
Guwahati Bench

In the Central Administrative Tribunal, Guwahati Bench,  
Guwahati

In the matter of

Contempt Petition No. 14/2005

Shri Upendra Nath Sarkar

- Vs -

Union of India & others

- And -

In the matter of :

An affidavit in opposition behalf  
of respondent No.3

(Dengom Kaling Padung)

Filed by  
Dengom Kaling Padung  
through Lijithkoh 30.5.05

**AFFIDAVIT – IN- OPPOSITION**

I Shri Dengom Kaling Padung, aged about 36 years son of Shri Tadang Padung resident of Pasighat in the district of East Siang, Arunachal Pradesh do hereby solemnly affirm and say as follows :-

1. That I am the respondent No. 3 in this case an am acquainted with the facts and circumstances with thereof. A copy of the contempt petition has been served on me and having gone through the same I have noted the contents thereof.
2. That before giving para wise reply to the statement made in the contempt petition I say that the allegations leveled against me in the present contempt petition of deliberately disobeying the orders of this Tribunal by me are not correct and I stoutly deny the same. I say that being an officer of the government of Arunachal Pradesh shouldering the responsibility of the rank of Executive Engineer I take special care and attention to see that the order of this Hon'ble Tribunal or any other court or courts are duly complied with so that the

message of the Rule of Law prevail over everybody and all spheres of life. I neither can imagine of myself violating any judicial order nor do I afford any subordinate of mine to do the same. However, if any of my commission or omission made in this regard appears to be not in total compliance of or it appears to be at variance with any order or direction of this Hon'ble Tribunal, the same may kindly be consider as unintentional lapse on my part and the same may be condoned by accepting this affidavit as unconditional apology.

Dayom Kaling Padmy

3. That I say that the petitioner who is an employed of the office of Accountant General was posted on deputation as Senior DAO, in the department of Irrigation & Flood Control (her in referred to as the IFCD). By an order dated 5/11/2003 passed under the authority of the Accountant General the petitioner was transferred from Itanagar to Pasighat which he did not readily comply and after a lapse of about 2 months he finally joined on 28/1/2004 as Senior DAO in the Pasighat Drilling Division under IFCD. On 8/3/2004 another order was passed by the same office withdrawing the petitioner from deputation under Government of Arunachal Pradesh and thereby transferring him to Gumti Electrical Division in Tripura. This time also the petitioner did not comply with the order and approached this Hon'ble Tribunal through OA No. 89/2004 challenging the legality and validity of transfer order dated 8/3/2004 on the ground that the same is in violation of office Memorandum dated 19/4/2000. This Hon'ble Tribunal by order dated 8/4/2003 was pleased to disposed of the OA with a direction to consider representation of the petitioner objectively and till such consideration is made it was directed that the status quo should be maintained. It appears from the records that the concerned authority namely the Accountant General, Meghalaya etc. considered the representation of the petitioner and vide letter No. DA Cell/Court Cases/UNS/2004/11342 Dated 18/11/2004 the petitioner was informed by the officer of Accountant General that his request was not agreed to and his transfer to the state of Tripura was found to be justified in the interest of public service.

- 3 -

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A copy to the order dated 8/3/2004, 8/4/2004 and letter dated 18/11/2004 are annexed hereto and are marked as Annexure- A, B and C respectively.

Jeyom Kalim Poring

4. That I say that by the aforesaid transferred order dated 8/3/2004 as many as 36 officers were transferred by the Accountant General ( A & E), Meghlaya, Arunachal Pradesh and Mizoram and the name of the petitioner appeared at Sl.No. 2 of the said order vice one Shri P.C. Borah, Sr. DAO, Gumti Electrical Division, who was supposed to move first to release the petitioner. The said reliever appeared before the Executive Engineer, Pasighat but he could not be allow to take over charge from the petitioner in view of the interim order passed by this Tribunal on 8/4/2004. the Accountant General took up this matter with the Executive Secretary Arunachal Pradesh vide his DO Letter dated 15/10/2004 holding the Executive Engineer for non implementation of his order. It appears thereafter, the order rejecting representation of the petitioner was disposed of and the same was communicated to the petitioner. The interim direction contained in the order dated 8/4/2004 of this Hon'ble court stood complied with and satisfied thereby and hence the interim suspension of the transfer order dated 8/3/2004 came to an end thereby. But it appears that in the mean time the petitioner filed an MP before this Hon'ble Tribunal complaining of non disposal of his representation and thereupon by order dated 26/10/2004, this Hon'ble Tribunal was pleased to issue notice upon the respondent fixing 24/11/2004 as next date and it was observed that in the mean while interim order dated 8/4/2004 shall continue till next date. On 24/11/2004 the matter was directed to be listed on 16/1/2005 for orders and status quo directed to be maintained in the interim. But before the aforesaid order date 24/11/2004 was passed by this Hon'ble Tribunal petitioner and his counsel were separately informed by the Sr. Deputy Accountant General (Admn) by letter dated 18/11/2004 that the representation of the petitioner is no longer pending and the same had already been rejected after due consideration as per direction of the Hon'ble Tribunal. Thus it would appear that both the OA No. 89/2004 as well as MP 109/2004 became in fructuous thereby. But as the full facts were not placed before this

Hon'ble Court either on 24/11/2004 or 16/1/2005, this Hon'ble Tribunal was under impression that the representation of the petitioner is still pending. Be that as it may, after receipt of the orders dated 18/11/2004 as well as the copy of the letter dated 18/19/11/2004 addressed to the learned counsel of the petitioner, the answering respondent No. 3 was naturally of the view that the original interim order dated 8/4/2004 no longer continues and as such in view of the strong observation made against the conduct of the answering respondent No.1 and 3 in the aforesaid DO letter dated 15/10/2004 addressed to the Executive Secretary by the Accountant General, the respondent No. 3 released the petitioner on 17/1/2005 and allow Shri P.C. Borah to take over the charge at Pasighat. Thus neither the answering respondent No. 1 nor answering respondent No.3 had any; intention to violate or to disobey the order of this Hon'ble Tribunal and as such the contempt petition file against them may kindly be rejected.

Copies of order dated 26/10/2004, 24/11/2004 and the letter dated 15/10/2004 are annexed hereto and are marked as Annexures D and E respectively.

5. That I say that having realized that the earlier OA as well as the Misc. Case had become in-fructuous; the petitioner filed a fresh OA before this Hon'ble Tribunal on 27/1/2005 through OA No. 20/2005 challenging. Inter alia, the appellate order dated 18/19/11/2004 rejecting his representation against transfer order date 8/3/2004 his release order dated 17/1/2005 and also made a further prayer for allowing him to continue either at Pasighat or at any other vacant Division till retirement. By order dated 27/1/2005 this Hon'ble court was pleased to keep the release order dated 17/1/2005 at abeyance but in view of facts and circumstances of the case your Lordship did neither pass any order staying the transfer order dated 8/3/2004 nor any other order for releasing Shri P.C. Borah, who is currently holding the post of Sr. DAO at Pasighat since 17/1/2005. However, in the mean time the Accountant General has passed a fresh order of transfer on 5/5/2005 posting the petitioner at the vacant post of Sr. DAO in the office of the Executive Engineer, Miao Electrical

Deputy Kalraj Patwary

Division at Miao, Arunachal Pradesh, thus the order dated 8/3/2004 in so far as it relates to the petitioner does no longer exist.

Copies of order date 27/1/2005 and 5/5/2005 are annexed hereto and are marked as Annexure- **F** and **G** respectively.

6. That by order dated 27/1/2005, this Hon'ble Tribunal was pleased not to issue any mandatory direction to the answering respondents as prayed for in the OA No. 20/2005 and as such there is no question of violating or disobeying the same. The contempt petition, therefore, is devoid of any cause of action and as such the same is liable to be dismissed.

7. That with regard to the statements made in paragraph 1 of the contempt petition I say that the petitioner stood released from the post of Sr. DAO w.e.f. 17/1/2005 (A/N) and Shri P.C. Borah took over the post on and since the same date and as such order dated 27/1/2005 keeping the release order dated 17/1/2005 is virtually in fructuous in the absence of any positive direction to release Shri P.C. Borah to re induct the petitioner more so when the orders dated 8/3/2004 and 18/19/11/2004 continue to remain in force.

8. That the allegation made in paragraph 2 of the contempt petition that the interim order dated 27/1/2005 passed by this Hon'ble Tribunal has not been complied with is not correct and the same is hereby denied. I say that there is no direction in said order for doing or not doing anything and such the petitioner cannot complain of any non compliance.

9. That the allegation made in paragraph 3 of the contempt petition that the transfer order dated 8/3/2004 is violative of guideline dated 19/4/2000 is not correct. It is apparent on the face of record that the transfer order was made in the public interest and there is no allegation of mala fide/ malice in law in this matter. Besides, there is no interim order suspending or staying the order-dated 18/19/11/2004 whereby the representation of the petitioner was consider and disposed

Dengom Kalim Parung

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of upholding his transfer. Both these orders, however, have became in-fructuous as the prayer of the petitioner for posting him at any vacant Division has been allowed by order dated 5/5/2005.

Dy. Comm. Nalini Dr. Dang

10. That with regard to the statements made in paragraphs 4 and 5 of the contempt petition. I say that the direction of this Hon'ble Tribunal to consider the representation of the petitioner was duly considered by the appropriate authority. The allegation that the same was not considered is incorrect which I hereby deny.

11. That with regard to the statements made in paragraph 6 of the contempt petition I say that this Hon'ble Tribunal kept the release order dated 17/1/2005 at abeyance on 27/1/2005 without, however, allowing the prayer of the petitioner to put him back in the post from where he was released or for staying his transfer order. In the absence of any such direction, the petitioner could not have been engaged by answering respondents inasmuch as the petitioner is not an employee of the State of Arunachal Pradesh at all and was deputed only by the Accountant General who being the lending authority was pleased to withdraw his employee after he had been on deputation for a period over 13 years and this Hon'ble Tribunal thought it fit to interfere with such action. This respondents being borrowing authority has no jurisdiction to retain an employee when the lending authority takes him away in the absence of any positive direction of this Hon'ble Tribunal. The allegation of deliberate and willful action of the respondents and submission for drawing up of contempt proceeding against them etc. are not tenable or correct either in fact or in law.

That with regard to the second sub paragraph of paragraph 6 of the contempt petition I say that I have not taken any action in violation of the order passed by this Hon'ble Tribunal in OA NO. No. 89/2004 or any order dated 26/10/2004 in MP No. 109/2004 arising out of the said OA NO. in any way. The petitioner was released only after the direction contained in order dated 8/4/2004 in OA NO. No. 89/2004 was duly and entirely complied with by the concerned authority, namely the Accountant General.

12. That the contempt petition being devoid of any substance  
is liable to be dismissed.

13. That the statements made in paragraph 12.4.6.12...  
above are true to my knowledge, the same made in paragraphs  
13.4.5... being matters of records are true to my information and  
the rest are my humble submission before this Hon'ble Tribunal.

Signed this affidavit on this the 24th Day of May 2005  
at Pasighat.

Identified by

Surjilshash  
Adm. cat.

Deyom Kaling Padung  
Executive Engineer  
Deponent  
I & FCD Division  
Pasighat.

## OFFICE OF THE ACCOUNTANT GENERAL (A&amp;E) MEGHALAYA ETC., SHILLONG.

S.O. No. D.A. Cell/120

2381

7/4/04

Dated:- 8-3-2004

The following Sr. Divisional Accounts Officers and Divisional Accounts Officer Grade-I & II are transferred and posted to the Divisions noted against each as shown below.

They are requested to submit their handing over memorandum to their Divisional Officers under intimation to this office.

The Divisional Officers/Controlling Officers are requested to release the Officials concerned among them latest by 9<sup>th</sup> April 2004 under intimation to this office and to forward a formal letter and taking over charge report of the officials concerned to this office at an early date.

The transfer is in public interest.

SL No	Name & Designation	Present Division	Division Transfer to	REMARKS
1.	Shri P.C.Borah, Sr.DAO	O/o the Ex.Engineer, Guml Electrical Division Jatanbari, Tripura, Addl.charge of Gunit Civil Division (Power) Jatanbari	O/o The Executive Engineer, Pasighat Drilling Division, I& FC, with addl. Charge of Pasighat I&FC Division, Pasighat vice Shri U.N.Sarkar, Sr.DAO	Shri P.C.Borah will move first to release Shri Sarkar.
2.	U.N.Sarkar, Sr.DAO,	O/o the Ex. Engineer Pasighat Drilling Division, I&FC, with addl. charge of Pasighat I&FC, Division,Pasighat	O/o the Ex. Engineer Guml Electrical Division, Jatanbari, Tripura, with additional Charge of Gunit Civil Division, (Power), Jatanbari, vice Shri P.C.Borah	
3.	A.Phamani, DAO-I,	O/o the Ex.Engineer Gas Thermal Civil Division (Power), Rokta, Tripura, addl. charge of Gas Thermal (Elect.) Division, Rokta.	O/o the Ex. Engineer Building Project Division No.IV PWD, Imphal, vice L.Shanti Kumar Singh, DAO-I	Shri Phamani will move first to release Shri L.Shanti Kr. Singh.
4.	L.Shanti Kumar Singh, DAO-I	O/o the Ex.Engineer Building Project Division No.IV PWD, Imphal	O/o the Ex. Engineer Gas Thermal Division, (Power) Rokta, Tripura, Addl.Charge of Gas Thermal (Electrical) Division Rokta. Vice A.Phamani.	

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5.	L.Thoiba Singh, DAO-I	O/o The Ex.Engineer Agartala Division No.V, PWD, Agartala.	O/o The Ex. Engineer Imphal Electrical Division No.III Manipur vice Shri N.Kumarjit Singh, DAO-I	Shri L.Thoiba Singh will move first to release Shri N.Kumarjit Singh.
6.	N.Kumarjit Singh, DAO-I	O/o The Ex. Engineer Imphal Elect. Division No.III, Imphal	O/o The Ex. Engineer Agartala Division No.V, PWD, Agartala vice Shri L.Thoiba Singh.	
7.	Bhabesh Chakraborty, DAO-I	O/o The Ex.Engineer Ziro Elect Division A.P.	O/o The Ex.Engineer Electrical Divn. No.IV Udalpur vice Mr. Sanjaoaba Singh already transferred	
8.	Anindya Kr. Das, DAO-II	O/o The Ex.Engineer RWD Seppa, A.P.	O/o The Ex.Engineer Ziro Electrical A.P. vice Bhabesh Chakraborty, DAO-I transferred	Shri Anindya Kr.Das will move first to release Shri B.Chakraborty.
9.	D.Roy Choudhury, Sr.DAO	O/o The Ex.Engineer Capital 'A' Division, PWD, Itanagar	O/o Chief Engineer, PWD Imphal, with additional charge of Building Division No.I PWD Imphal, vice Shri M.Heramani Singh, DAO-II	
10	M.Heramani Singh, DAO-II	O/o the Chief Engineer, PWD Imphal and additional charge Building Divn No.I PWD Imphal	Capital 'A' PWD, A.P. vice D.Roy Choudhury transferred	Shri M.H.Singh, will move first to release Shri D.Roy Choudhury
11.	A.Kanungoe, DAO-I	O/o The Ex.Engineer Paisighat Electrical Division, Pasighat, AP	O/o The Ex.Engineer Highway South PWD, Imphal, Vice Shri A.Binode Kr. Sharma, DAO-I	
12.	A.Binode Kr. Sharma, DAO-I	O/o The Ex.Engineer Highway South PWD, Imphal	O/o The Ex.Engineer Pasighat Elect. Divn A.P. Vice A.Kanungoe, DAO-I	Shri A.Binode Kr.Sharma, will move first to release Shri A.Kanungoe, Shri
13.	D.Khamzachlu, DAO-II	O/o The Ex.Engineer N.H. No.II PWD Imphal additional charge N.H. Divn No.I PWD,Imphal	O/o The Ex.Engineer Rig Divn PHE, Agartala vice P.C.Das, Sr.DAO	Shri D.Khamzachlu will move first to release Shri P.C.Das
14.	P.C.Das, Sr.DAO	O/o The Ex.Engineer Rig Divn PHE Agartala	O/o The Ex.Engineer N.H. No.II PWD Imphal additional charge N.H. Divn No.I PWD,Imphal	

5/10/2018 - 285

5. A.Baloi, Sr.DAO	O/o The Ex. Engineer Banderdewa PWD, A.P.	O/o The Ex. Engineer Jatrapur PWD A.P. vice K.C. Das, DAO-I relieved of additional Charge.	
6. D.B.Choudhury Sr.DAO	O/o The Ex. Engineer I&FM Divn No.II Agartala	O/o The Ex. Engineer Imphal Elect Divn No.I vice L.Shamjal Singh, DAO-I	
7. L.Shyamjal Singh, DAO-I	O/o The Ex. Engineer Imphal Elect Divn No.1	I&FM Divn No.II Agartala vice D.B. Choudhury, Sr.DAO	Shri L.Shyamjal Singh will move first to release Shri D.B.Choudhury.
8. D.N.Mohan, DAO-I	O/o The Ex. Engineer Seppa PHE, A.P.	O/o The Ex. Engineer Changlang PWD vice K.C.Das, DAO-I	Shri D.N. Mohan will move first to release Shri K.C.Das
9. K.C.Das, DAO-I	O/o The Ex. Engineer PWD Changlang, AP	O/o The Ex. Engineer PHE Division No.IV, Agartala.	
10. S.C.Ghosh, DAO-I	O/o The Ex. Engineer Tawang PWD,AP	O/o The Ex. Engineer Electrical Division No.III, Agartala.	
11. J.P.Sinha, Sr.DAO	O/o The Ex. Engineer Roing PWD, A.P.	O/o The Ex. Engineer Tawang PWD vice S.C.Ghosh,DAO-I	Shri J.P.Sinha will move first to release Shri S.C.Ghosh.
12. J.K.Lahiri, Sr.DAO	O/o The Ex. Engineer Pasighat PWD	O/o The Ex. Engineer Tawang Elect Divn vice N.C.Barman DAO-I	J.K.Lahiri will move first to release Shri N.C. Barman.
13. N.C.Barman, DAO-I	O/o The Ex. Engineer Tawang, Elect. AP	O/o The Ex. Engineer Kathashahar PWD, vice Shri B. Chakraborty, Sr.DAO	
14. Brijendra Chakraborty, Sr.DAO	O/o The Ex. Engineer Kathashahar PWD, Tripura	O/o The Ex. Engineer Northern Divn PWD Dharmanagar vice S.Nag, Sr.DAO	Shri B.Chakraborty will move first to release Shri S.Nag.
15. Shyamalendu Nag, Sr.DAO	O/o The Ex. Engineer Northern Divn PWD Dharmanagar	O/o The Ex. Engineer Thoubal PWD, with additional charge of PWD Thoubal Manipur vice P.Manglem Singh, Sr.DAO	
16. P.Manglem Singh, Sr.DAO	O/o The Ex. Engineer Thoubal PHE Manipur with additional charge PWD Thoubal Divn Manipur	O/o The Ex. Engineer Hayullang Electrical A.P. vice Swapan Kr. Chakraborty	P.Manglem Singh will release Shri S.Kr.Chakraborty

1. Swapna Kr. Chakraborty, DAO-I	O/o The Ex.Engineer Hailiang Electrical Divn A.P.	O/o The Ex.Engineer Electrical Divn Imphal PWD	
2. Sajal Kanti Choudhury, DAO-I	O/o The Ex.Engineer Along RWD, A.P.	O/o The Ex.Engineer Building Divn Imphal	
3. Ashim Kr. Bhattacharjee, DAO-I	O/o The Ex.Engineer Khonsa PWD A.P.	O/o The Ex.Engineer PWD Task Force Divn No.1 PWD Imphal	
4. Ch. Naba Kr. Singh, DAO-I	O/o The Ex.Engineer Task Force Divn IFC, Manipur	O/o The Ex.Engineer Khonsa PWD Vice A.K.Bhattacharjee	Shri Ch.Naba Kr. Singh will move first to release Shri A.K.Bhattacharjee
5. O. Monilbar Singh, DAO-I M.L.Angamli, DAO-I	O/o the Ex.Engineer, Roing PHE A.P O/o The Ex.Engineer Itanagar PWD, Manipur	Churachandpur Electrical Division Manipur O/o The Ex.Engineer M.L. Division No.1 (valley) Lamphelphi, Imphal	
6. Abhijit Kr. Das, DAO-I	O/o The Ex.Engineer Elect Divn No.1, Agartala	O/o The Ex.Engineer Bomdila, Arunachal PWD	
7. A.Roy Choudhury, DAO-I	O/o The Ex.Engineer Naharlagun PWD, A.P.	O/o The Ex.Engineer Imphal West PWD Vice H.Yaishkul	
8. H.Yaishkul Singh, DAO-I	O/o The Ex.Engineer Imphal West PHE, Manipur	O/o The Ex.Engineer Naharlagun PWD, A.P. Vice A.Roy Choudhury	Shri H.Yaishkul Singh will move first to release Shri A.Roy Choudhury.
9. Hemendra Ch. Das, DAO-I	O/o The Ex.Engineer Basar PWD A.P. addl. Charge of Basar I&FC	O/o The Ex.Engineer Building Divn PWD, Imphal	

Authority:- AG's order dated 4.3.2004. at p/101<sup>W</sup> off N.O.A. Cell/2-36/99-2002/Vol. IV

Sd/-  
Sri Amritpal Singh General (Adm).

(A) 125 (A) 125  
CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

ANNEXURE-B

Order Sheet  
Org. App/ Misc. Petn/ Cont. Petn/ Rev. App. 89/2004

In O.A.

Name of the Applicant(s) Smt. Bipenda Nath Sarkar.

Name of the Respondent(s) Ex. O. I. B.R.M.

Advocate for the App/Re. Mr. M. Chanda Mr. G.N. Chakrabarty  
Counsel for the Railway/ M.R.B.

OFFICE NOTE

DATE

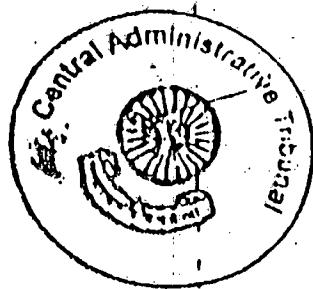
ORDER OF THE TRIBUNAL

8.4.2004 Present is The Hon'ble Mr. K.V. Prakadan, Member (A).

The applicant who is a Sr. Divisional Accounts Officer was transferred and posted at office of the Ex. Engineer Panighat Drilling Division, IAFB with additional charge of Panighat IAFB, Division, Panighat by order dated 9.11.2003. Only after completion of 2 months at Panighat Drilling Division, he was further sought to be transferred by order dated 8.3.2004 to office of the Ex. Engineer, Gumbi electrical Division, Jantanbari, Tripura with additional charge of Gumbi Civil Division (Power), Jantanbari within 8 span of two months. Being aggrieved the aforesaid order the applicant approach this Hon'ble Tribunal.

True copy  
Srijithsh  
Adeeb

Handd/-



Contd -  
8.4.2004

8/13

(13)  
REG

Heard Mr. M. Chanda, learned counsel for the applicant and also Mr. A. Deb Roy, learned Mr. C.G.B.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 retiting 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)

Notified to be true Copy  
Nalini 8/4/04

Section Officer (SI)  
C.A.T. GULMARG HAC  
Gumhargadws

16/5/04  
8/4/04

ANNEXURE-C

ANNEXURE-XIII

JP

Speed Post

OFFICE OF THE ACCOUNTANT GENERAL (A&E) MEGHALAYA ETC.,  
SHILLONG.

No. DA Cell/Court Case U.N.S. 2004/1132

19 NOV 2004  
Dated:- 18.11.2004

To

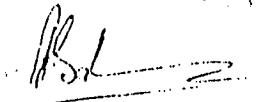
Shri Manik Chanda  
Advocate,  
Bye Lane- 7, Lachitnagar,  
Guwahati- 781007.

Sub:- Transfer of Shri U.N.Sarkar, Sr.IAO

Sir,

I am to invite a reference to the notice dated 15-10-2004 served for non-compliance of the order of the Hon'ble Central Administrative Tribunal dated 8.4.2004. As per order of the Hon'ble Tribunal dated 8.4.2004, the case of Shri U.N.Sarkar was considered but not agreed to. In this connection it may be stated that Shri U.N.Sarkar had served in the state of Assam/Armed Forces for more than 13 years. In the interest of public service and also keeping in view of Headquarters' guidelines dated 19.4.2000, his transfer to Tripura is therefore found to be justified, in order and still stands.

Yours faithfully,



Sr. Dy. Accountant General (Adm.)

True copy  
Bijulbhash  
Advocate

15  
ORD. NO. 4  
(SEC. RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL  
KOLKATA BENCH

15  
MURIA, 2004

ANNEXURE-D

ORDER SHEET

OR. NO. 4/2004/CA/Gen/Pass/Recd. Appl. No. 109/04

In date 89/04

Name of the Applicant(s) Abendro Nath Sarker

Name of the Respondent(s) U.O.I. Gang

Advocate for the Applicant M. Chanda, S.N. Chakrabarty, S.Nath

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

OFFICE NO/C.	DATE	ORDER OF THE TRIBUNAL
	20.10.2004	Notified Mr. Chanda, learned pleader for the applicant. Issue notice to the respondent to show cause as to why the U.O.I. shall not be admitted. List after two weeks. List on 24.11.2004. In the meanwhile interim order passed dated 9.10.04 passed in OR. 89/2004 shall continue till the next date.
bb	24.11.04.	Present: Hon'ble Mr. K.V. Prahladan, Administrative Member. List the matter on 16.1.05 for orders. Status quo shall be maintained.

Sd/MEMBER(ADM)

True copy  
Signature  
Ahuwal

For kind attention of Smt S. Lah.  
EO to C.E, IFCD, Smt.

2/16

(Ht)

RCU

14/12/04

ANNEXURE-E

FORM NO. 4  
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

ORDER PLEA.

O.P. No. 87/04 Date/Case No. 107/04

In O.A. 87/04

Name of the Applicant(s) Supendra Nath Sarkar

Name of the Respondent(s) H. O. T. Gang

Address for the Applicant M. Chander, C.N. Chakrabarty, S. Nain  
Collected from the Railway/C.A.B.C.

OFFICE NO/	DATE	ORDER OF THE TRIBUNAL
	24.11.04	Present: Hon'ble Mr. K. V. Prahladan, Administrative Member. List the matter on 16.1.05 for orders. Status quo shall be maintained.

Sd/MEMBER(ADM)

TRUE COPY  
S. SARKAR

29/11/04  
Section Officer (S)  
C.A.T. GUWAHATI BENCH  
Guwahati-781008

True copy  
Bijulbhasha  
Advocate



17 ANNEXURE - F  
10 59

OFFICE OF THE ACCOUNTANT GENERAL (A&E),  
MEGHALAYA, MIZORAM & ARUNACHAL  
PRADESH, SHILLONG - 793 001  
PHONE NO 0364-2223191 (O) FAX 0364-2223103

E.R.SOLOMON  
Accountant General

D.O.DA CELL/Annual Transfer/2002-03/956  
Dated:- 15.10.2004

Dear Shri,

Sri Probin Ch. Borah, Sr.DAO Office of the Executive Engineer, Gumti Electrical Division, Jatanbari was transferred to the office of the Executive Engineer, Pasighat Drilling Division I & F.C., Arunachal Pradesh vice Sri U.N.Sarkar Sr.DAO.

Accordingly, on being relieved from the Office of the Executive Engineer, Gumti Electrical Division, Jatanbari, Tripura, on 10.9.2004, Sri Probin Ch. Borah, Sr.DAO was not allowed to join in Pasighat because the Executive Engineer of this division did not relieve Sri Sarkar, Sr.DAO was not relieved. Further Shri Sarkar moved the CAT Guwahati and the latter stayed his order of transfer.

In this connection, will you please recall the case of Shri D.N.Mohan who was transferred and posted to relieve Shri K.C.Das. Because the latter approached the CAT Guwahati, a stay order was obtained and the orders of this office were kept in abeyance. Now Shri Mohan has moved the Hon'ble Gauhati High Court and the latter has stayed the stay order of the Hon'ble Tribunal and I understand that Shri K.C.Das has since been relieved to join his new assignment in Tripura.

All these difficulties have arisen because the Chief Engineers and concerned Executive Engineers have acted arbitrarily and not allowed the implementation of orders issued by this office. This is a cause for concern and led to difficulties in the administration of these cadres. I feel that vested interests exist in the Public Works Division and accounts officials who should be independent have abrogated their authority and colluded to strangle the framework of transparency and accountability.

I request that you direct the concerned Chief Engineers and Executive Engineers to pass orders for the immediate relief of Shri Sarkar.

Yours Sincerely,

Sd/-

Sri Ashok Kumar,  
Chief Secretary to the Govt. of Arunachal Pradesh,  
Itanagar, Arunachal Pradesh.

2/11/04  
2/11/04

True copy  
Rajesh  
Adm.

2-1

Memo No.DA Cell/Annual Transfer/2002-03/957  
Copy to :-

Copy to :-

Copy to :-  
✓ Shri G.Koyu, Commissioner and Secretary to the Govt. of Arunachal Pradesh, Public Works Department with the request that this matter be kindly looked into. He may issue direction to the concern Chief Engineer and Executive Engineer to relieve Shri Sarkar at once.

Dated:-

SPURRED Post

### **Accountant General.**

52/No. 11

(C5) 15

FORM NO. 4

GATE RULERS 422  
CHINCHILLAND TURMERIC HONEY

ORDER SHEET

20/2005

Original Application No.

Misc. Petition No.

Contempt Petition No.

Review Application No.

Applicants - Subinda Nath SarkarRespondents - Ministry of India 89Advocates for the Applicants - R. K. Chanda, Mr. G. N. Chaudhury

Mr. S. Ray

Advocates of the Respondents - OSC

Order of the Tribunal

Notes of the Registry Date - 27.1.2005 Present: The Hon'ble Mr. K. V. Shah

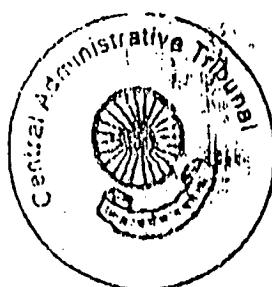
dan, Member (A).

Heard Mr. M. Chanda, learned counsel for the applicant and also Mr. A.K. Chaudhury, learned counsel for the Respondents No. 3 and 4.

The application is admitted, call for the records. Issue notice to the parties, returnable within four weeks.

Till the returnable date the order dated 27.1.2005 shall be kept in abeyance.

List on 28.02.2005 for orders.



Sd/MEMBER(ADM)

Certified to be true copy  
Smt. S. Ray

Section Officer (S)

CHINCHILLAND TURMERIC HONEY

JANUARY 2005

18/01/05

18/01/05

True copy  
Smt. S. Ray  
AdvocateDate 2/2/2005  
2/2/2005

20

ANNEXURE - H

Speed PostOFFICE OF THE ACCOUNTANT GENERAL (A&E) MEGHALAYA ETC.,  
SHILLONG.

E.O. No.DA Cell/5

Dated :- 5.5.2005.

In partial modification of this office annual transfer order No.E.O. No. DA Cell/120 dated 8.3.2004, Shri Upendra Nath Sarkar, Sr.DAO O/o the Executive Engineer, Drilling Division, I&FC, Pasighat, Arunachal Pradesh with additional charge of the O/o the Executive Engineer, I&FC, Pasighat, Arunachal Pradesh is hereby posted to the O/o the Executive Engineer, Miao Electrical Division, Department of Power, Miao, Arunachal Pradesh with immediate effect.

The Transfer is in public interest.

(Authority:- AG's order dated 5.5.2005).

Sd/-  
Sr.Dy.Accountant General (Admn)

Memo No.DA Cell/Annual Transfer/2005/96-116

Dated: 5 MAY 2005

Copy forwarded for information and necessary action to:-

1. The Chief Engineer, I&FC Department, Govt. of Arunachal Pradesh, Itanagar.
2. The Chief Engineer, Department of Power, Govt. of Arunachal Pradesh, Itanagar.
3. The Executive Engineer, Pasighat Drilling Division, <sup>14/5/05</sup> Pasighat, Arunachal Pradesh. He is requested to intimate the date of release of Shri Sarkar, Sr.DAO.
4. The Executive Engineer, I&FC Division, Pasighat, Arunachal Pradesh.
5. The Executive Engineer, Miao Electrical Division, Department of Power, Miao, Arunachal Pradesh.
6. Shri U.N. Sarkar, Sr.DAO O/o The Executive Engineer, Pasighat Drilling Division, I&FC, Pasighat, Arunachal Pradesh. He is requested to intimate the date of his joining in the new division.
7. Shri Th. Lalkamnong, DAO-II O/o the Executive Engineer, I&FC, Bordumisa, Arunachal Pradesh.
8. the Executive Engineer, I&FC Bordumisa, Arunachal Pradesh.
9. E.O. Book.
10. Spare Copy.

*Omamalay*  
Sr. Accounts Officer,  
i.c. DA Cell

*True copy*  
*Signature*  
*Address*

## \*\*\* COMMUNICATION REPORT \*\*\*

NAME : MAHARAJA TELECOM SERVICE  
ID : 31,0361 2639786  
DATE/TIME : 10:13 05/11/05

REMOTE ID. (NAME) : 2222479  
TRANSMITTED TOTAL PAGE(S) : 00  
TRANSMITTED ERROR PAGE(S) :  
RECEIVED TOTAL PAGE(S) : 01  
COMMUNICATION RESULT : O.K.  
COMMUNICATION DURATION : 0000.000