

FORM NO. 4

(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. _____

Misc. Petition NO. _____

Cobtempt petition No. _____

Review Application No. 4/05

Applicants. Dr. Ramesh Chand

Respondents. U.O.P. GUM

Advocates for the Applicant. A.K. Bosa, B.K. Talukder

Advocates of the Respondents. Mr. S. Sarma, Railway Counsel.

Notes of the Registry	Dated	Order of the Tribunal
<p>This Review application has been filed by the Counsel for the petitioner UO 22(3) (4) of the C.A.T. Act, 1985 and C.A.T. (Procedure) Rules, 1987.</p> <p>As per Circulation order dated 18.5.05 of the Hon'ble V.C. at page this Review petition laid before the Hon'ble Const for further order.</p> <p><i>for Section Officer</i></p>	19.5.05.	<p>Present: Hon'ble Mr. G. Sivarajan, Vice-Chairman.</p> <p>The O.A. was disposed of by order dated 29.4.05 directing the applicant to file representation for inter-Railway transfer to the General Manager, N.F. Railway. The applicant has accordingly filed representation dated 3.5.2005 (Annexure 2) to the Review Application before the said authority.</p> <p>In this Review Application it is stated that since the request^{is} for inter-Railway transfer, the General Manager, N.F. Railway has no authority and that it is only ^{the} Railway Board which has got the authority. Since there was earlier direction to the General Manager, N.F. Railway, if that authority feels that he has no jurisdiction certainly he has to forward the same to the competent authority for taking decision, in which case the said authority will ^{pass} order in the representation as directed in the main order.</p> <p>The Review Application is disposed of as above.</p>

*Recd by
Bail
27/5
Boudhwar Dui
20.5.05 lm*

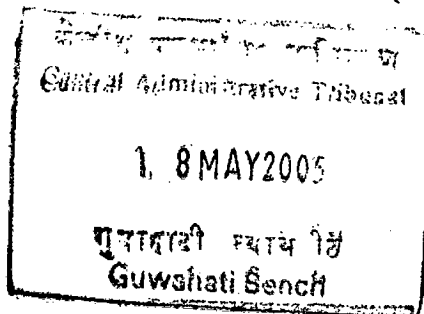
G. Sivarajan
Vice-Chairman

26.5.05

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Copy of the order
alongwith the Review
applicant has been
sent to the D/Sec.
for return of the
to the G.M.N.F.Rly.
Maligaon.

Yls.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :
GUWAHATI BENCH : GUWAHATI.

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D. K. Sen
18.5.2005

Review Application No. 4 of 2005.

In O.A. No. 96/2005.

Dr. Ramesh Chand .. Petitioner/Applicant.

- Vrs -

Union of India & Ors. .. Opposite Parties/Respondents

IN THE MATTER OF :

An application under Section 22(3)(f) of the Central Administrative Tribunal Act, 1985 and Rule 17 of the Central Administrative Tribunal (Procedure) Rules, 1987 for review of the order dated 29.4.2005 passed in O.A. No. 96/2005 by this Hon'ble Tribunal.

The application of the above-named petitioner/applicant.

MOST RESPECTFULLY SHEWETH :

1. That the petitioner/applicant filed O.A. No. 96/2005 in this Hon'ble Tribunal praying for the applicant's transfer from North Frontier Railway to North East/Northern Railway as the applicant is unable to look after his 3 years old daughter as well as the safety of his doctor/wife who is working in an interior place in the district of Kushinagar, U.P. from his place of posting at Hojai in the district of Nagaon, Assam.

2. That the learned Railway Counsel appeared for the opposite parties/respondents and submitted before the Hon'ble Tribunal that the petitioner/applicant had to file an application in that regard before the 4th respondent and accordingly the Hon'ble Tribunal was pleased to direct the petitioner/applicant to file an application before the 4th respondent within a period of two weeks from the day that is from 29.4.2005.

Further, the Hon'ble Tribunal also pleased to direct the 4th respondent, that is, the General Manager, North Frontier Railway, Maligaon to dispose of the petitioner/applicant's application in accordance with law if such application is filed by the petitioner/applicant within time allowed by the Hon'ble Court.

3. That, in obedience to the Hon'ble Tribunal's direction dtd. 29.4.2005, the petitioner/applicant filed an application before the General Manager, N.F. Railway, Maligaon on 5.5.2005.

4. That the Hon'ble Tribunal was pleased to dispose of the O.A. No.96/2005 on the same day, that is on 29.4.2005 at the admission stage itself.

5. That, the petitioner/applicant has come to know that the General Manager, N.F. Railway has no power of inter-Railway transfer which power vests only on the opposite party/Respondent No.2, Railway Board. The petitioner inspite of his due diligence and care, could not object the submissions made by the learned Railway Counsel before the Hon'ble Tribunal at the time of admission of the O.A..

6. That the petitioner prefers this Review application amongst others the following :-

- G R O U N D S -

(i) For that under the facts and circumstances of the case, the Hon^{ble} Tribunal will be graciously pleased to review directing the respondent No.2 the Secretary, Railway Board, Railway Bhaban, New Delhi to consider the inter-Railway transfer of the petitioner on being forward of the application of the petitioner/applicant to the Secretary, the Railway Board, Rail Bhawan, New Delhi-110001 by the General Manager, N.F. Railway, Maligaon according to law as the General Manager, N.F. Railway has got no power for such transfer of the petitioner.

(ii) For that in any view of the matter, the petitioner/applicant is entitled to get relief as sought in O.A. No.96/2005 where the applicant prayed for a direction to the Secretary, Railway Board for inter-Railway transfer.

(iii) For that if the Hon^{ble} Tribunal does not consider this application and modify/review the order as prayed for, the petitioner would suffer irreparable loss and injury, as the Secretary, Railway Board will keep pending the consideration, not having any specific direction to him as per the order dtd. 29.4.2005.

7. That this petition has been made bonafide and for proper adjudication of the matter.

In the premises aforesaid, it is therefore, prayed that Your Lordships would be graciously pleased to modify/review

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the order dtd. 29.4.2005 passed in O.A.
No. 96/2005 as prayed for directing the
Secretary, Railway Board, Rail Bhaban, New
Delhi to consider the inter-Railway transfer
of the petitioner from N.F.Railway to North
East or Northern Railway within a stipulated
time and/or pass such further or other order
that Your Lordship may deem fit and proper.

- AND -

For this act of kindness, the petitioner as
in duty bound, shall ever pray.

Contd... P.5. Affidavit...

A F F I D A V I T

I, Dr. Ramesh Chand, son of Sri Ram Milan, aged about 33 years, at present working as Divisional Medical Officer, Hojai N.F. Railway, Health Unit, Hojai in the district of Nagaon, Assam, do hereby solemnly affirm and swear that the statements made in this petition and in paragraphs-1, 3 and 5 are true to my knowledge and belief and those made in paragraphs 2 and 4 being matters of record are true to my information derived therefrom and the rest are my humble submissions before this Hon'ble & Tribunal. I have not suppressed any material fact of the case.

And I sign this affidavit on this 18 th day of May, 2005 at Guwahati.

Identified by me -

B.K. Talukdar
18-5-2005
Advocate.

DR. RAMESH CHAND
DE P O N E N T.

Solemnly affirmed and signed before me by the deponent who is identified by Sri B.K. Talukdar, Advocate, on this 18 th day of May, 2005 at Guwahati.

MAGISTRATE. Advocate

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Annexure - 1

(SEE RULE 41)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O R D E R S H E E T

Original Application No. 96/2005
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____
Applicant(s) Mr. Ramesh Chund
Respondents U.O. 1 & Ors.
Advocate(s) for the Applicant(s) A. K. Dora, B.K. Talukdar
Advocate(s) for the Respondents Railway Counsel

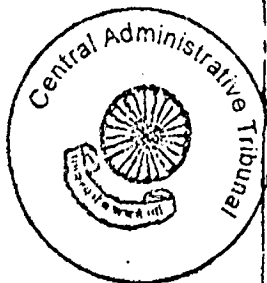
Notes of the Registry

Date

Order of the T.

29/04/2005

Present: Hon'ble Justice Sri G. Sivarajan,
Vice-Chairman.



Head Mr. B.K. Talukdar, learned
counsel for the applicant and also Mr. S.
Sarma, learned counsel for the
respondents.

According to the applicant, he
filed an application-dated 10.09.2004
(Annexure - E) for Inter Railway
Transfer from N.F. Railway to North
East Railway ^{by or} and Northern Railway
before the 1st Respondent. Mr. S. Sarma
learned counsel for the Respondents
submits that the applicant has to file
application in that regard before the 4th
Respondent. In the circumstances,
the applicant is directed to file an

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



The O.A. is disposed of at the admission stage itself. - 9

Sc/VICE CHAIRMAN

Certified to be true Copy
নথীকৃত প্রতিলিপি

[Signature]
Section Officer (J) 215105
C.A.T. GUWAHATI BANCH
Guwahati-781005
2/9/05

[Signature]
B.K. G. S. S. S.
Admission

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Annexure - 2 ↑

Dated :- 3-5-2005.

To,

The General Manager,
N.F. Railway, Maligaon,
Guwahati-11.

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

Ref. : O.A. No.96/2005.

Order dated 29.4.2005 (copy of the order enclosed)
of Central Administrative Tribunal, at Guwahati.

Sir,

With respect and humble submissions, I beg to
lay before you the following few lines for favour of your
kind consideration and necessary action.

That Sir, I am serving in the Railway since
the year 1996 and presently I have been posted as DMO at
Hojai under Lumding Division of N.F. Railway.

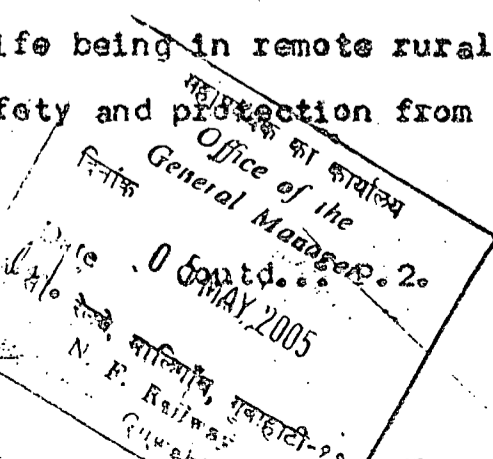
That Sir, I got married in the year 2000 and
out of the marriage wedlock a female child was born to us,
and now my child is about 3 years of age.

That Sir, my wife is serving under U.P. Government
who is a Doctor, ^{she} has been serving at Community Health
Centre, Fazilnagar in the District of Kashinagar of the
State of Uttar Pradesh.

That Sir, because of my working place is at a
long distance from the working place of my wife, we are
unable to visit each ~~of~~ other and as a result of which
our minor child could not be taken proper care for her
development as well as our child has been deprived from
due affection from her parents.

That Sir, as my wife being in remote rural place
she also requires proper safety and protection from her
husband i.e. from my side.

Reading copy of
5/5/05



That Sir, I would like to draw your Honour's attention to the Railway Establishment Rule which states "Govt. of India (Deptt. of Personnel and Training) has reiterated that all Ministries/Department should strictly adhere to guidelines laid down in O.M. No.28034/7/86/Estt.(A) dated 3.4.86 while deciding request for posting of Husband and wife in same station.

That Sir, the Railway Board has also decided to act on the aforesaid guidelines of the Govt. of India to be followed in case of Group-A and Group-B Railway Officers also subject to post at appropriate level being available at relevant station and no administrative problems arise out of such position vide Railway Board No.E(O)III98/PL/4 dated 8.5.98 (Copy is enclosed).

That Sir, it may be pertinent to note herein that in the Notification dtd. 8.5.98 of the Railway clearly says that in case of children less than 10 years the posting of husband and wife in the same station is mandatory for consideration of request transfer as the case of mine.

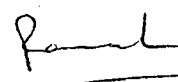
That Sir, in view of the aforesaid circumstances I fervently submit and prayed that my transfer from N.F. Railway to the North East/Northern Railway may be considered at an early date.

That Sir, I have been pursuing/praying for my said transfer such a long time, but as the authority did not considered such a long time, I have to approach the Hon'ble Tribunal by filing the aforesaid case, where the Hon'ble Tribunal directed to consider my application under said guidelines as mentioned above, (copy of the order of the Tribunal is enclosed).

Under the above circumstances, it is therefore, prayed that Your Honour would be pleased to consider my request of transfer from N.F. Railway to the North East Railway/ Northern Railway at an early date and for which act of kindness, I shall be duty bound to pray Your Honour for ever.

Yours faithfully,

Dated :-
03.05.2005.


3.05.05
(DR. RAMESH CHAND)
Dm of HSI.

1. Cal Order C.A. No-96/05 dat - 29.4.05
2. Birth Certificate my daughter
3. Memo No E (C) III.98 PL/4 Group (A) letter date 8.5.98
4. Appointment letter my wife date- 5.5.98
5. Copy of writ Petition No. 96/2005.