

FORM NO. @
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

O R D E R S H E E T

Original Application No. 3/2006

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicant(s) Swadhin Ch. Deka

Respondent(s) U. O. I. 90M

Advocate for the Applicants Mr. M. Chanda, Mr. S. Nath

Advocate for the Respondent(s) _____

CGSC

Dy. St. Counsel

Notes of the Registry Date

Order of the Tribunal

The application is admitted. 5.1.06
is filed/C.P. is as u.
deposited 25
No. 269 317794
Dated 23.12.06

Deeps
Dy. Registrar

PPS

Heard Mr M.Chanda, learned counsel
for the applicant and Miss U.Das, ex
learned Addl.C.G.S.C for the respondents

The application is disposed of in
terms of the order recorded/separately at the
admission stage itself.

AGT

Member

D. S. G.
Vice-Chairman

Received
Usha Das
Addl.C.G.S.C
6/1/06

pg.

6.1.06
C.C. of the Inst. has
been collected by the
Adv. for the applicant
and a copy of the same
handed over to the Addl.
C.G.S.C for the Registry.

BB

Contd.

39
✓
CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH.

O.A. No. 3 of 2006.

DATE OF DECISION: 05.01.2006

Sri Swadhin Chandra Deka,

APPLICANT(S)

Mr. M. Chanda

ADVOCATE FOR THE
APPLICANT(S)

- VERSUS -

Union of India & Ors.

RESPONDENT(S)

Miss Usha Das, Addl.C.G.S.C.

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR JUSTICE G. SIVARAJAN, VICE CHAIRMAN,
THE HON'BLE MR.N.D.DAYAL, ADMINISTRATIVE MEMBER,

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

1 2 3
Judgment delivered by Hon'ble Vice-Chairman.
✓ ✓ ✓
Signature

3

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.

Original Application No. 3 of 2006.

Date of Order : This the 5th Day of January, 2006.

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

THE HON'BLE MR H.D.DAYAL, ADMINISTRATIVE MEMBER

Shri Swadhin Chandra Deka,
S/o Late Khargeshwar Deka,
Branch Manager,
Branch Office,
Employees State Insurance Corporation,
Haibargaon, Khutikotia,
A.R.B.Road, Nagaon,
Assam.

... Applicant

By Advocate Mr M.Chanda.

- Versus -

1. The Union of India,
Represented by Secretary to the
Government of India,
Ministry of Labour and Employment,
New Delhi.
2. The Director General,
Employees State Insurance Corporation,
Panchdeep Bhawan,
C.I.G.Road,
New Delhi-110002.
3. The Joint Director, E.I.,
Employees State Insurance Corporation,
Panchdeep Bhawan,
C.I.G.Road,
New Delhi-110002.
4. The Regional Director,
Employees State Insurance Corporation,
Assam, Bamunimaidan,
Guwahati-781021. ... Respondents

By Advocate Miss U.Das, Addl.C.G.S.C.

O R D E R

SIVARAJAN J. (V.C)

The applicant, it is stated, is now working as Branch Manager, Grade II at Branch Office, Nagaon in the department of Employees State Insurance Corporation. The

YD

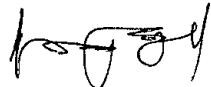
applicant, alongwith 169 officers, was promoted on ad hoc basis to the post of Assistant Director/Manager Grade I/Section Officer in the pay scale of Rs.6500-10500/- and posted them in the places noted in the order dated 19.10.2005 (Annexure-1). Since the promotions were only on ad hoc basis and without any benefit of seniority or eligibility for promotion to next higher grade, the applicant, it is stated, did not want to avail the ad hoc promotion at present as otherwise it will cause dislocation of his family in many ways. Therefore, the applicant, it is stated, has made a representation (Annexure-3) before the 2nd respondent on 27.10.2005. Since there was no response from the said respondents, the present application is filed.

2. We have heard Mr M.Chanda, learned counsel for the applicant and Miss U.Das, learned Addl.C.G.S.C appearing for the respondents. We are of the view that this application can be disposed of at the admission stage itself, in that the applicant's representation (Annexure-3) is now stated to be pending before the 2nd respondent. We accordingly direct the 2nd respondent to pass a reasoned order on the representation, Annexure-3 within a period of one month from the date of receipt copy of this order, if the same has not already been disposed of. If the representation (Annexure-3) has already been disposed of the order will be communicated to the applicant immediately. If the applicant makes any additional representation within 7 days from today forgoing his ad hoc promotion that shall also be considered alongwith Annexure-

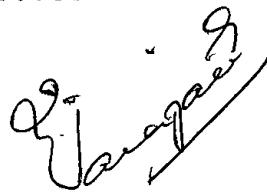
9pt/

3 representation as directed herein above. Till communication of the decision on the representation indicated above the status quo shall be maintained.

The application is disposed of as above.



(N. D. DAYAL)
ADMINISTRATIVE MEMBER



(G. SIVARAJAN)
VICE CHAIRMAN

Before CAT Court
Delhi.

It is prayed that my application
permitted to move, one
urgent application
to-day on 5-1-2006.

① O.A. /2006.

S.C. Tucker

-VS-

Union of India, Govt.

Franklin

for
S.C.

Mark Chandy
Advocate
5/1/2006

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

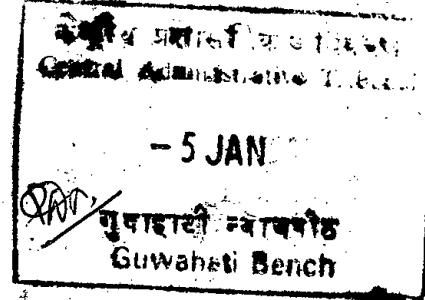
Original Application No. 3/2006

1. a) Name of the Applicant: - S. C. Deka
b) Respondents: - Union of India & Ors.
c) No. of Applicant(S): -
2. Is the application in the proper form: - Yes / No.
3. Whether name & description and address of the all the papers been furnished in cause title: - Yes / No.
4. Has the application been duly signed and verified: - Yes / No.
5. Have the copies duly signed: - Yes / No.
6. Have sufficient number of copies of the application been filed: Yes / No.
7. Whether all the annexure parties are impleaded: - Yes / No.
8. Whether English translation of documents in the Language: - Yes / No.
9. Has the application is in time: - Yes / No.
10. Has the Vokatlatnama/Memo of appearance /Authorisation is filed: Yes / No.
11. Is the application by IPO/BD/for Rs.50/- 26/6/317794
12. Has the application is maintainable: Yes / No.
13. Has the Impugned order original duly attested been filed: Yes / No.
14. Has the legible copies of the annexurea duly attested filed: Yes / No.
15. Has the Index of the documents been filed all available: Yes / No.
16. Has the required number of enveloped bearing full address of the respondents been filed: Yes / No.
17. Has the declaration as required by item 17 of the form: Yes / No.
18. Whether the relief sought for arises out of the Single: Yes / No.
19. Whether interim relief is prayed for: - Yes / No.
20. Is case of Condonation of delay is filed is it Supported: Yes / No.
21. Whether this Case can be heard by Single Bench/Division Bench
22. Any other pointd: -
23. Result of the Scrutiny with initial of the Scrutiny Clerk:
The application is in order.

SECTION OFFICER(J)

Meena
DEPUTY REGISTRAR

W.T.



**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI**

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

O. A. No. 3 /2006

Shri Swadhin Chandra Deka.

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

- 19.10.2005- Impugned order of adhoc promotion has been passed by the respondent Corporation, whereby applicant is promoted to the post of Manager Gr. I/Section Officer/Asstt. Director on adhoc basis with the specific condition that in the event of availing adhoc promotion seniority benefit in the promotional grade shall not be conferred. Name of the applicant is placed at Sl. No. 169 of the said impugned order. (Annexure-1)
- 26.10.2005- Impugned promotion order dated 19.10.2005 has been communicated to the applicant through Regional Director's letter dated 26.10.05. (Annexure-2)
- 27.10.2005- Applicant submitted representation surrendering his adhoc promotion on the ground that Son/daughter of the applicant are prosecuting their studies in School and Colleges and they are going to appear in the final examination in the month of March 2006 and as such transfer on adhoc promotion will cause irreparable loss and injury during the middle of academic session. The representation is still pending with the authority and the applicant is apprehending release without considering his representation. (Annexure-3)

Hence this application.

P R A Y E R S

Relief (s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the

Swadhin Ch. Deka

records of the case and issue notice to the respondents to show cause as to why the relief (s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned order No. 500 of 2005, bearing letter No. A33/12/1/97-E. I Col. II dated 19.10.2005 (Annexure-1) so far the applicant is concerned.
2. That the Hon'ble Tribunal be pleased to direct the respondents to allow the applicant to continue in the present post of posting in the same capacity.
3. Costs of the application.
4. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for

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

1. That the Hon'ble Tribunal be pleased to stay operation of the impugned order No. 500 of 2005, bearing letter No. A33/12/1/97-E.I Col. II dated 19.10.2005 (Annexure- 1) so far the applicant is concerned till disposal of this application.

Savathin Ch. Dher

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

Title of the case : O.A.No. /2006

Shri Swadhin Chandra Deka. : Applicant.

-Versus-

Union of India & Ors. : Respondents.

INDEX

Sl. No.	Annexure	Particulars	Page No.
1.	—	Application	1-10
2.	—	Verification	-11-
3.	1	Copy of the impugned promotion order dated 19.10.2005.	12 - 15
4.	2	Copy of the communication letter dated 26.10.2005.	- 16 -
5.	3	Copy of representation dated 27.10.2005.	- 17 -
6.	4	Copy of judgment and order dated 31.01.1994.	- 18 -

Filed By:

Date:

Advocate

Swadhin Chandra

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O.A. No. 1/2006

BETWEEN:

Shri Swadhin Chandra Deka,
S/o- Late Kargeshwar Deka,
Branch Manager,
Branch Office,
Employees State Insurance Corporation,
Haibargaon, Khutikotia
A.R.B Road, Nagaon.
Assam.

Applicant.

-AND-

1. The Union of India,
Represented by Secretary to the
Government of India,
Ministry of Labour and Employment,
New Delhi- 110001.
2. The Director General,
Employees State Insurance Corporation
Panchdeep Bhawan,
C.I.G. Road,
New Delhi- 110002.
3. The Joint Director, E. I.
Employees State Insurance Corporation,
Panchdeep Bhawan,
C.I.G. Road,
New Delhi- 110002.
4. The Regional Director,
Employees State Insurance Corporation,
Assam, Bamunimaidan,
Guwahati- 781021.

..... Respondents.

filed by neapplicant
through: Subrata Nah.
Advocate
05.01.2006

Swadhin Ch. Deka

2 ✓

DETAILS OF THE APPLICATION

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

This application is made against the impugned order No. 500 of 2005, bearing letter No. A33/12/1/97-E.I Col. II dated 19.10.2005, so far the applicant is concerned whereby the applicant has been promoted to the post of Astt. Director on adhoc basis and now sought to be transferred to West Bengal without considering the representation of the applicant dated 27.10.2005, whereby applicant surrendered his conditional adhoc promotion due to personal and domestic problems and apprehending arbitrary release of the applicant without considering his representation.

2. Jurisdiction of the Tribunal:

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

3. Limitation:

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

4. Facts of the case:

- 4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.
- 4.2 That the applicant is now working as Branch Manager, Grade- II at Branch Office, Nagaon in the department of Employees State Insurance Corporation.
- 4.3 That the respondent No. 3 issued the impugned office Order No. 500 of 2005 bearing letter No. A33/12/1/97-E.I Col. II dated 19.10.2005, whereby officers working in the grade of Insurance Inspector/Manager Gr. II/

Superintendent have been promoted to the grade of Assistant Director/ Manager Gr. I/Section Officer on adhoc basis. In the said office order dated 19.10.2005 the applicant has been placed at Sl. No. 169 and he has been ordered for posting on adhoc promotion in the state of West Bengal from the state of Assam. The order of adhoc promotion is conditional.

Copy of the impugned order dated 19.10.2005 is enclosed herewith for perusal of the Hon'ble Tribunal as Annexure- 1.

- 4.4 That it is stated that in the impugned promotion order dated 19.10.2005 the applicant along with others is promoted on adhoc basis to the post of Manager Gr. I and most surprisingly some conditions have been imposed in the impugned promotion order dated 19.10.2005, which are as follows:

"The promotion of all the above mentioned officers is ordered purely on temporary and adhoc basis. They may be reverted to their lower post without any notice or assigning any reason therefore. The adhoc promotion shall not confer on them any right to continue in the post or for regular promotion in future. The period of service rendered by them on adhoc basis in the grade/cadre will count neither for seniority in the grade/ cadre nor for eligibility for promotion to the next higher grade/cadre."

From the conditions imposed above it is quite clear that in the impugned order dated 19.10.2005 the promotion of the applicant to the grade of Manager Gr. I is purely on temporary and adhoc basis and the applicant may be reverted to lower post without any notice or assigning any reason thereof further applicant is not entitled to benefit of seniority even.

It is relevant to mention here that on a mere reading of the promotion order it appears that large numbers of posts are available in the department to the cadre of Manager Gr. I/Section Officer/ Asstt. Director in

Saadhin Ch. Deka

the scale of Rs. 6,500-10,500/- but even then the respondents Union of India resorted to adhoc promotion policy against the large scale vacancies with the clear terms that no seniority benefit will be conferred to the adhoc promotees and on the other hand they are being order for transfer from one state to another state in a most arbitrary manner. The practise of adhoc promotion is being always discouraged by the Govt. of India by issuing necessary instructions from time to time. Moreover, while issuing the adhoc promotion order no option was sought for from the applicant.

- 4.5 That your applicant after receipt of the impugned office order dated 19.10.2005 communicated through Regional Director's letter bearing No. 43-A 22/15/2004-Estt. dated 26.10.2005, wherein name of the applicant is placed at Sl. No. 169 of the adhoc promotion order dated 19.10.2005, after receipt of the promotion order the applicant submitted a representation on 27.10.2005 addressed to the Director General, ESIC, New Delhi (Respondent No. 2) and in the said representation the applicant has surrendered his adhoc promotion due to domestic problems as well as on the ground that 3 of his son/daughters are prosecuting their studies in Schools and Colleges in the state of Assam and their final examination are scheduled to be held in the month March 2006, therefore, it would be difficult on his part to avail the adhoc promotion at this critical juncture.

It is relevant to mention here that son of the applicant Shri Bhaskar Jyoti Deka is reading in Class X and appearing in the final examination scheduled to be held in the month of March 2006 and his daughter Smti. Papari Deka is studying in T.C Higher Secondary Schools in Assamease medium in Class XII, she is also appearing in the final examination scheduled to be held on March 2006 and his elder son Shri Rupam Deka, reading in B.SC 2nd year in Arya Vidyapith College as such it will be difficult on his part to accept the adhoc promotion during the middle of the academic session. More particularly when his wife is suffering from

Sonu Deka

5

gynecological problems and it will be difficult on her part to manage the affairs of the family alone.

In such compelling circumstances stated above the applicant has decided to surrender his adhoc promotion and accordingly submitted his representation on 27.10.2005.

Copy of the communication letter dated 26.10.2005 and representation dated 27.10.2005 are enclosed herewith for perusal of Hon'ble Court as Annexure- 2 and 3 respectively.

- 4.6 That your applicant begs to say that he has every right to refuse a conditional adhoc promotion order and accordingly he has submitted his representation assigning valid reasons for surrendering his promotion as such the authority cannot compel the applicant to accept a conditional promotion order. It is learnt from a reliable source that the Regional Director, ESIC following the instruction of the Headquarter Office, New Delhi and also without considering the representation submitted by the applicant going to release him shortly without providing any further opportunity to represent his case before the higher authority. In such compelling circumstances apprehending his unilateral release approaching this Hon'ble Court to protect his right and interest by passing an appropriate order/interim order or direction upon the respondents to allow the applicant to continue in the present place of posting and not to insist the applicant to join in the adhoc promotional post in the state of West Bengal for the reasons indicated above.
- 4.7 That it is stated that as per the Govt. instruction a Government employee is entitled to refuse his regular/adhoc promotion and in such event his case is not liable to be considered for further promotion at least for a period of 1 year. It would be evident from the instruction containing for refusal of promotion from Swamy's Complete Manual on Establishment and Administration for Central Government Offices, wherein it is clearly laid

Swarajit Ch. Dikha

down that a Govt. employee if refuses his promotion after the same is offered to him in that event his juniors may be considered for such promotion and no fresh offer of appointment on promotion shall be made in such cases for a period of one year from the date of refusal of such promotion or till a vacancy arises. However, the above-mentioned policy shall not apply where adhoc promotion against short-term vacancies are refused.

It is further submitted that representation of the applicant is still pending with the authority without any decision.

- 4.8 That your applicant beg to say that large numbers of junior employees are available in the Corporation may be interested for availing adhoc promotions in the short term vacancies and the department very well could offer such adhoc promotion to the junior employees available and serving in the cadre of the applicant in ESIC..
- 4.9 That your applicant further begs to say that when large-scale vacancies are available in the grade of Manager Gr. I/Section Officer/Asstt. Director, there is no justification for considering the promotion of the applicant on adhoc basis without holding DPC and imposing arbitrary conditions not to confer benefit of seniority in the event of availing adhoc promotion. In one hand the respondents Corporation trying to utilize the services of the applicant on adhoc basis and on the other hand respondents are denying seniority in the grade that too when large scale regular posts are available in the department, therefore there is no justification on the part of the respondent Corporation to resort to adhoc promotion to deny the legitimate benefit of promotion to the applicant and other similarly situated employees and on that score alone the Hon'ble Court be pleased to direct the respondents to consider his representation and allow him to continue in the present place of posting in the same capacity.

4.10 That your applicant beg to say that the impugned order has been issued during the middle of academic session and the impugned order is of routine nature and there is no urgency and as such there is enough scope on the part of respondent Corporation to offer such adhoc promotion to the junior employees of the Corporation and allow the applicant to continue in the present place of posting. In this connection the applicant begs to rely on the judgment and order of the Hon'ble Supreme Court in the case of Director of School Education -Vs- O. Karuppa Thevan and another, reported in 1994 Supp (2) SCC 666.

In the circumstances stated above the impugned order dated 19.1.2005 is liable to be set aside and quashed so far the applicant is concerned.

A copy of the judgment and order dated 31.01.1994 passed by the Hon'ble Supreme Court is enclosed herewith for perusal of the Hon'ble Court as Annexure- 4.

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

5. Grounds for relief (s) with legal provisions:

- 5.1 For that, the applicant has a legal right to refuse a conditional adhoc promotion order on his personal ground or domestic ground, where in the adhoc promotion a specific condition has been imposed not to confer seniority benefit in the promotional grade.
- 5.2 For that, there is no justification on the part of the respondent Corporation to resort to large scale adhoc promotion when vacancies are very much available in the Corporation.
- 5.3 For that, denial of seniority benefit in the event of availing adhoc promotion is a arbitrary condition imposed unilaterally by the Corporation which is contrary to the instructions issued by the Govt. of

India from time to time discouraging the Govt. department not to adopt adhoc promotion policy.

- 5.4 For that, no ground has been assigned for not holding regular DPC and also no ground is assigned for not issuing promotion order on regular basis inspite of existence of regular vacancies.
- 5.5 For that, large numbers of juniors are available in the department of ESIC who may be interested to avail the adhoc promotion without benefit of seniority.
- 5.6 For that, the son and daughters of the applicant are prosecuting their studies in the School/College and their final examinations are scheduled to be held in the month of March 2006, therefore transfer on adhoc promotion during the middle of academic session shall cause irreparable loss and injury to the education of the children which is not sustainable.
- 5.7 For that, applicant has submitted representation surrendering the promotion due to domestic and personal problem and also due to educational problems of the children but the same has not been considered by the authority and the same is now pending before the authority but at the same time it is learnt from a reliable source that the authority is likely to issue unilateral release order without considering the representation of the applicant.
- 5.8 For that there is no urgency of affecting the impugned adhoc promotion order.
- 5.9 For that applicant is apprehending issuing of unilateral release order without considering the representation.

6. Details of remedies exhausted.

Sachin Chakma

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

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

The applicant further declares that he had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. **Relief (s) sought for:**

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

- 8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned order No. 500 of 2005, bearing letter No. A33/12/1/97-E. I Col. II dated 19.10.2005 (Annexure-1) so far the applicant is concerned.
- 8.2 That the Hon'ble Tribunal be pleased to direct the respondents to allow the applicant to continue in the present post of posting in the same capacity.
- 8.3 Costs of the application.
- 8.4 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. **Interim order prayed for:**

Swarajin Ch-DK

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

9.1 That the Hon'ble Tribunal be pleased to stay operation of the impugned order No. 500 of 2005, bearing letter No. A33/12/1/97-E.I Col. II dated 19.10.2005 (Annexure- 1) so far the applicant is concerned till disposal of this application.

10.

11. Particulars of the I.P.O

i) I.P.O No. : 26 G 317794
ii) Date of issue : 23.12.05
iii) Issued from : G. P. O. Guwahati
iv) Payable at : G Po. Guwahati.

12. List of enclosures:

As given in the index.

Seo/Thin Ch. DMR

VERIFICATION

I, Shri Swadhin Chandra Deka, S/o- Late Kargeshwar Deka, aged about 55 years, working as Branch Manager, in the office of Branch Office, Employees State Insurance Corporation, Haibargaon, Khutikotia, A.R.B Road, Nagaon, Assam, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the day of January 2006.

Swadhin Ch. Deka



HEADQUARTERS
EMPLOYEES' STATE INSURANCE CORPORATION
PANCHDEEP BHAVAN: C.I.G. ROAD: NEW DELHI-110002
<http://esic.nic.in>

- 12 -

Annexure-1

912

PA CELL 2

DATE 10/10/05

26.10.05

Coram. A.M.

No. A33/12/1/97-E.I Col. II

Dated : 19.10.2005

OFFICE ORDER No. 500 OF 2005

The Director General is pleased to order the promotion of the following officers in the grade of Insurance Inspector (in the pay scale of Rs.5500 - 9000/-) to the grade of Assistant Director / Manager Gr. I / Section Officer (in the pay scale of Rs.6500 - 10500) on adhoc basis and post them as follows:-

SL. No.	Name of the Officer / S/Shri/Smt.	Present place of posting as I.I / Mgr. Gr.II / Supdt.	Region/Sub-Region/Office in which posting is now ordered as Asst. Director / Section Officer / Manager Gr.I on adhoc basis
1.	Ashok Kumar Parida	Karanataka	Karanataka
2.	W. Suresh Manuel	Coimbatore	Coimbatore
3.	Nizamuddin	Karnataka	Andhra Pradesh
4.	Bhagwan Singh	Jharkhand	West Bengal
5.	B.K. Sinha	Bihar	Bihar
6.	Jugal Barua	Assam	West Bengal
7.	DK Sarkar	West Bengal	West Bengal
8.	RN Mohrana	Orissa	West Bengal
9.	KK Kureel	Uttar Pradesh	Noida
10.	VK Roda	Delhi	Hqrs.
11.	VK Taneja	D(M)D	D(M)D
12.	M. Kalaiyahān	Tamil Nadu	Karanataka
13.	S.Jayaraj	Tamil Nadu	Tamil Nadu
14.	Pankaj Kumar	Delhi	Hqrs.
15.	J. Shiva Shankar	Andhra Pradesh	Andhra Pradesh
16.	Baldev Raj	Uttar Pradesh	Uttar Pradesh
17.	A.K.Nim	Delhi	Hqrs.
18.	M.Koodalingam	Coimbatore	Kerala
19.	M.Doral	Karnataka	Goa
20.	Jaglal Chaudhary	Jharkhand	Jharkhand
21.	Rāmulu	Andhra Pradesh	Andhra Pradesh
22.	D.Sugumaran	Karnataka	Karanataka
23.	S.K.Chaturvedi	Hqrs.	Hqrs.
24.	P.N.Bhasin	Delhi	Hqrs.
25.	Ram Swaroop Kunharia	Rajasthan	Delhi
26.	Ramesh Chander - II	Delhi	Madhya Pradesh
27.	Mrs. Saroja Ashokan	Pune	Pune
28.	Amarjeet Kumar	Punjab	Punjab
29.	D.N.Dhalgaria	Gujarat	Gujarat
30.	S.S.Hirani	Gujarat	Gujarat
31.	Chander Sen	D(M)D	D(M)D
32.	Saheb Ram Singh	Delhi	Hqrs.
33.	Anil Kr. Rastogi	Delhi	Hqrs.
34.	M.A.Hafees	Andhra Pradesh	Andhra Pradesh
35.	G.Pandey	Orissa	West Bengal
36.	Har Shah	Uttar Pradesh	Uttar Pradesh
37.	S.K.Srivastava	Madhya Pradesh	Chattisgarh
38.	C.B.Gandhi	Gujarat	Gujarat
39.	N.C.Purani	Gujarat	ESICM Hospital, Ahmedabad
40.	Kusum Vohra	Hqrs.	Hqrs.
41.	Kanwaljit Singh	Delhi	Delhi
42.	V.L.Joshi	Madhya Pradesh	Madhya Pradesh
43.	Daljit Kaur Mavi	Punjab	Punjab
44.	D.K.Sharma	Rajasthan	Madhya Pradesh

Approved
Smt.
Advocate
5/1/06

13

45.	Narain Dass	Rajasthan	Rajasthan
46.	Abdul Quodeos	Delhi	Hqrs.
47.	Vilayati Lal	Delhi	Hqrs.
48.	Anil Kumar Khanna	Hqrs.	Mumbai
49.	N.K.Basher	Gujarat	Gujarat
50.	J.K.Parmar	Gujarat	Gujarat
51.	R.K.Sharma	Delhi	Hqrs.
52.	R.S.Rohilla	Haryana	Hqrs.
53.	Mrs. V.K.Pathak	Hqrs.	D(M)D
54.	S.C.Kulshrestha	Uttar Pradesh	Uttar Pradesh
55.	Satpal	Hqrs.	Hqrs.
56.	Harish Chander	Haryana	Haryana
57.	Sunil Kumar	Haryana	Hqrs.
58.	Hoshidar Singh	Haryana	Hqrs.
59.	Kiran Kohli	Delhi	Delhi
60.	Shubhkaran	Punjab	Himachal Pradesh
61.	Tarsem Pal	Haryana	Haryana
62.	K.S.Minhaz	Haryana	Pune
63.	Sat Pal Bansal	Haryana	Pune
64.	Neelam Puri	Haryana	Mumbai
65.	S.G.Teher	Andhra Pradesh	Andhra Pradesh
66.	Suresh Pal Singh	Rajasthan	West Bengal
67.	P.N.Sahoo	Orissa	Orissa
68.	G.C.Rout	Orissa	West Bengal
69.	Shiv Shankar Lal Srivastava	Uttar Pradesh	Uttar Pradesh
70.	Upendra Bajaj	Madhya Pradesh	Madhya Pradesh
71.	Baldev Singh	Punjab	ESICM Hospital, Bari Brahma (Jammu)
72.	Smt.L.B.Shah	Gujarat	Gujarat
73.	Smt.A.S.Chaurasia	Gujarat	Gujarat
74.	Ladu Ram Rana	Rajasthan	Rajasthan
75.	P.R.Kudal	Rajasthan	Rajasthan
76.	B.C.Godika	Rajasthan	West Bengal
77.	Mrs. B. Nag	Assam	West Bengal
78.	A.Shyama Prasad	Karnataka	Karnataka
79.	U.Vasantha Kr. Shenoy	Karnataka	Karnataka
80.	Ram Kr. Dwivedi	Uttar Pradesh	Uttar Pradesh
81.	K.Sreenivasan	Kerala	Kerala
82.	M.V.Krishnan	Kerala	Kerala
83.	P.Balakrishnan Nair	Kerala	Kerala
84.	J.P.S.Malik	Haryana	West Bengal
85.	V.Srinivasa	Karnataka	Karnataka
86.	D.B.Bhende	Mumbai	Mumbai
87.	R.A.Pillai	Pune	Pune
88.	A.B.Manivatkar	Nagpur	SRO, Aurangabad
89.	M.P.Gangurde	Mumbai	Mumbai
90.	M.S.Dhaware	Pune	Pune
91.	V.D.Pinjarkar	Nagpur	Mumbai
92.	R.G.Waghmare	Mumbai	Mumbai
93.	N.S.Bodhere	Mumbai	Mumbai
94.	V.P.Nalavede	Pune	Pune
95.	M.P.Chankapure	Nagpur	Mumbai
96.	B.P.Gaigwal	Pune	Pune
97.	Shankar Lal Anjana	Madhya Pradesh	Madhya Pradesh
98.	A.Pondyaranjan	Madurai	Tirunelveli
99.	C.N.Chauhan	Gujarat	Gujarat
100.	J.Boro	Assam	West Bengal
101.	S.Venkatarathnam	Andhra Pradesh	Andhra Pradesh
102.	P.S.Verma	Haryana	West Bengal
103.	Rameshwar Das	Punjab	ESICM Hospital, Ludhiana
104.	S.R.Mago	Delhi	Delhi
105.	N.K.Sahu	DMD	DMD
106.	Santosh Malhotra	DMD	Mumbai
107.	Prem Lata	Hqrs.	Mumbai

108.	Rama Dhamija	Hqrs.	Mumbai
109.	M.C.Nag	Assam	West Bengal
110.	Raj Kumar Sabharwal	Delhi	Hqrs.
111.	Praveen Sehgal	Gujarat	Gujarat
112.	A.K. Sagi	Delhi	Pune
113.	Alluri Venu Gopal	Andhra Pradesh	Andhra Pradesh
114.	C.P. Wadhwa	Hqrs.	West Bengal
115.	N.K. Luthra	Hqrs.	West Bengal
116.	Rajiv Kumar Choudhary	Mumbai	Mumbai
117.	Jyoti Prasad	Bihar	Bihar
118.	Meenakshi Nanda	Delhi	Pune
119.	P.M. Khale	Madhya Pradesh	Madhya Pradesh
120.	Vinay Kumar Sharma	Delhi	West Bengal
121.	K.Padmaavathy	Tamil Nadu	Salem
122.	Sushil Sachdeva	Delhi	West Bengal
123.	S.S.Dalal	Haryana	Tamil Nadu
124.	P.K. Bhatnagar	Delhi	Delhi
125.	Manish Gupta	D(M)D	West Bengal
126.	K.K. Malhotra	Hqrs.	Hqrs.
127.	P.M. Narayandas	Karnataka	Karnataka
128.	M.G. Parihar	Gujarat	Gujarat
129.	K.N. Jotwani	Gujarat	Gujarat
130.	Kakali Das	Andhra Pradesh	Andhra Pradesh
131.	I.G. Pillai	Gujarat	ESICM Hospital, Ahmedabad
132.	B.C. Mehta	Gujarat	Mumbai
133.	Om Prakash Dhingra	Delhi	West Bengal
134.	Vijay Kumar	Delhi	West Bengal
135.	Pankaj Kumar	Bihar	West Bengal
136.	Savita R. Suresh	Delhi	West Bengal
137.	Rajendra R. Pillai	Nagpur	West Bengal
138.	Prasun Kumar Sinha	Mumbai	SRO Aurangabad
139.	Rohtas Singh	SC	Mumbai
140.	Majmudar P. Keshav Lal	SC	West Bengal
141.	Kalidas Sajjan	SC	Mumbai
142.	Girish Kumar Kain	SC	West Bengal
143.	Vijay Bokalia	SC	West Bengal
144.	Champak Biswas	SC	Hqrs.
145.	Azad Singh	SC	West Bengal
146.	Jyoti Parkash	SC	West Bengal
147.	Ajay Kumar Mahan	SC	Goa
148.	Premdas Jaiswara	SC	Tamil Nadu
149.	P.K. Krishnan Kutty	SC	Uttar Pradesh
150.	V. N. Sarojini	SC	Kerala
151.	C. Gopinathan	SC	Kerala
152.	Krishna Das	SC	Kerala
153.	S. Palaninathan	SC	West Bengal
154.	Amarjeet Singh	SC	Tamil Nadu
155.	S. Dhandapani	SC	Punjab
156.	Ram Prasad	SC	Punjab
157.	Mool Chand	SC	Coimbatore
158.	Jai Prakash	SC	Coimbatore
159.	Phool Singh Giroh	SC	Delhi
160.	Vikramjit Singh	SC	Delhi
161.	Ran Singh	SC	Delhi
162.	Baldev Singh	SC	Andhra Pradesh
163.	B. Gnana Kumar	SC	ESICM Hospital, Bari
164.	Hari Krishan	SC	Brahma, Jammu
165.	J. B. Ram	SC	Andhra Pradesh
166.	Bhola Ram	SC	Haryana
167.	Balvant Ram	SC	Jharkhand
168.	Ram Swaroop Jarwal	SC	West Bengal
169.	S.C. Deka	SC	Tamil Nadu
170.	B.C. Rahi	SC	Mumbai
			West Bengal
			West Bengal

The promotion of the officers will take effect from the date of their assumption of charge.

The promotion of all the above mentioned officers is ordered purely on temporary and adhoc basis. They may be reverted to their lower post without any notice or assigning any reason therefor. The adhoc promotion shall not confer on them any right to continue in the post or for regular promotion in future. The period of service rendered by them on adhoc basis in the grade/cadre will count neither for seniority in the grade/cadre nor for eligibility for promotion to the next higher grade/cadre. The pay of all these officers on promotion will be fixed in the pay scale of Rs.8,500 - 10,500/- under the normal rules.

The transfers/postings of all these officers have been ordered in public interest and they are entitled to TAV/TAV/DA/Joining Time as admissible under the rules, wherever applicable.

The officers posted to regions which are different from their present ones will be relieved from their present posts by their present controlling officers concerned only after they receive communications regarding their places of postings from the Regional Directors/ Directors/ Joint Directors i/c of the Regions/Sub-Regions to which they are posted. The orders indicating the placement of officers who are posted in other Regions/ Sub-Regions shall be issued by the respective Regional Directors/ Directors/ Joint Director i/c within a week from the date of issue of this order.

The Regional Directors may utilize the services of the senior-most officers available in their regions in the cadre of Asstt. Directors/ Managers Gr.I as Asstt. Directors in the Regional Office as per this Office Order No. 316 of 2005 dated 30.6.2005 in file No. A -22 (13) 1/2004-E I.

The charge reports may be sent to all concerned in due course.

(Hindi version follows)

C/S/131505
(R. NATARAJAN)
JOINT DIRECTOR E. I

To,

1. The officers concerned.
2. All officers of the Headquarters.
3. All the Regional Directors.
4. All the Directors / Joint Directors i/c of the Sub-Regional Offices.
5. All the Medical Superintendents of ESIC Hospitals and ESIC Model Hospitals.
6. D(M)Delhi/D(M) Noida/Director, ESI Hospital, KK Nagar/Director (FWP), New Delhi
7. The concerned Joint Directors (Fin.) and Dy. Directors (Fin.)
8. The Librarian, Hqrs. Office
9. Official Language Branch, Headquarters for Hindi version.
10. Copy to personal files/ Guard file/ Spare copy.

EMPLOYEE STATE INSURANCE CORPORATION
MANAGEMENT OFFICE MONEY SYSTEM RESEARCH
CIRCUIT 21

ED-45-12219201-1044.

Dated 26.10.1903

4 copy of the High Office Order No 600 of 2003 issued
on 13/12/1977-EA. Cat. II dated 19-10-2003 regarding procedure
of filing of FIR in connection with any information and message as per.

(A G M U N I T E R)
DEPUTY ATTORNEY
GENERAL INSPECTION

1. 2nd J. Berndt, Spdt., R.O., KTG, Guntersbl.
 2. 1st B. Keg, Spdt., R.O., KTG, Guntersbl.
 3. 2nd J. Berndt, Ddt., R.O., KTG, Juchat.
 4. 1st G. A. Juchat, Ddt., R.O., KTG, Engen.

Attested
Mr.
Advocate
S/ [initials]

To,

The Director General,
E.S.I.Corporation,
Panchdeep Bhawan, C.I.G.Road,
New-Delhi-110002.

Through the Regional Director ,E.S.I.C. N.E.Region,Guwahati.

Subject:-

Prayer for consideration for surrender promotion on transfer.

Sir,

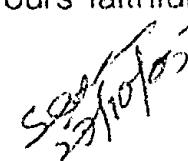
Kindly refer to Hqr. Office order No. 500 of 2005 issue vide lett No. A.33/12/1/97 E.I. Col.11 dated 19.10.05 regarding promotion to the post of Asstt.Director, an adhoc basis.

In this connection, I have the honour to state that Sir, (1) my wife has been suffering from gynocological disorders since long time, and it will be very much difficult to leave her alone at this stage. (2) That Sir, my youngest son is studying in class X who will be appearing in the CBSE final examination to be held in March /2006. (3) That Sir, my daughter studing in Class XII , She will be appearing in the final Examination to be held on March ,2006 . Therefore it will be difficult to leave them at this stage.

In view of the above, I would like to request you kindly to consider my case and allow me to surrender the promotion on transfer at present.

Attested
Dr. B.
Advocate
5/1/06

Yours faithfully,


Shri Swadhin Deka.
Branch Manager
Guwahati.

666

SUPREME COURT CASES 1994 Supp (2) SCC

transfer were being paid special pay in addition to their pay but the direct recruits were denied this privilege. This Court held that the denial of special pay to Class I direct recruits amounted to violation of Articles 14 and 16 of the Constitution and that they were entitled to special pay at the same rates at which it is paid to the transferred officers working in the Centre.

4. The learned counsel for the appellants has sought to distinguish this case on the ground that in that case this Court found that the special pay was not being paid to the transferred officials for compensating their displacements or for their qualifications but was being paid for the arduous and special nature of the functions to be discharged in the Telecommunication Research Centre. It has been urged that in the present case special pay was being paid to the officials appointed by way of transfer to enable them to encounter the problems due to the disturbance involved. The said explanation that has been put forward for grant of special pay to transferee officers cannot, however, be accepted. In Rule 1307 [F.R. 9 (25)] of the Indian Railway Establishment Code, Volume II, the expression "special pay" has been defined as under:

"Special pay.— Means an addition, of the nature of pay, to the emoluments of a post or of a railway servant, granted in consideration of—

- (a) the specially arduous nature of duties; or
- (b) a specific addition to the work or responsibility and includes non-practising allowance granted to doctors in lieu of private practice."

Moreover, the High Court has found that the averment in the writ petition with regard to the posts having arduous nature of duties was not controverted in the affidavit that was filed on behalf of the appellants in the writ petition in the High Court. In these circumstances, we find no basis for distinguishing the instant case from the case of *Telecommunication Research Centre Scientific Officers' (Class I) Assn.*¹

5. We, therefore, find no merit in this appeal and it is accordingly dismissed. No order as to costs.

1994 Supp (2) Supreme Court Cases 666

(BEFORE P.B. SAWANT AND N.P. SINGH, JJ.)

DIRECTOR OF SCHOOL EDUCATION,

MADRAS AND OTHERS

Versus

Appellants:

O. KARUPPA THEVAN AND ANOTHER

Respondents.

Civil Appeal No. 546 of 1994, decided on January 31, 1994

A. Service Law — Transfer of employee — Transfer for exigencies of administration — Affording prior hearing in case of — Held, not necessary — Administrative Law — Natural justice — Hearing — Inapplicability of principle of (Para 2)

B. Service Law — Transfer of employee — Employee's children studying in school — Transfer of such employee during mid-academic term — Propriety — In

Attested
Dr. S. N. S.
Advocate
S. I. O. S.

J. S. GUCAM, VADI v. INDIA TRADE PROMOTION ORGANISATION
absence of urgency such transfer restrained from being effected till the end of that academic year,

667

(Para 2)

H.R/13371/SLA

ORDER

1. Leave granted. Heard both counsel.

2. The tribunal has erred in law in holding that the respondent employee ought to have been heard before transfer. No law requires an employee to be heard before his transfer when the authorities make the transfer for the exigencies of administration. However, the learned counsel for the respondent, contended that in view of the fact that respondent's children are studying in school, the transfer should not have been effected during mid-academic term. Although there is no such rule, we are of the view that in effecting transfer, the fact that the children of an employee are studying should be given due weight, if the exigencies of the service are not urgent. The learned counsel appearing for the appellant was unable to point out that there was such urgency in the present case that the employee could not have been accommodated till the end of the current academic year. We, therefore, while setting aside the impugned order of the Tribunal, direct that the appellant should not effect the transfer till the end of the current academic year. The appeal is allowed accordingly with no order as to costs.

1994 Supp (2) Supreme Court Cases 667

(BEFORE S.C. AGRAWAL AND M.K. MUKHERJEE, JJ.)

A.M. VADI

Appellant;

Versus

INDIA TRADE PROMOTION ORGANISATION
AND ANOTHER

Respondents.

Civil Appeal No. 713 of 1994 in SLP (Civil) No. 20597
of 1993, decided on February 4, 1994

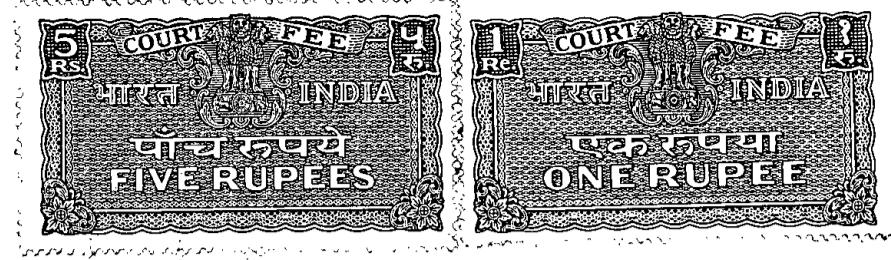
A. Service Law — Appointment — Selection — Non-selection to a post abroad for want of adequate balance service to fulfil the condition to serve the employer for the requisite minimum period (two years in this case) after completing the normal tenure of such posting (three years in this case) abroad — High Court's interference in exercise of its writ jurisdiction, with such a decision of the Selection Committee — Held, the High Court could not find fault with the Selection Committee's decision for not curtailing the period of foreign service for a few months to accommodate the writ petitioner (herein Respondent 2) — Further, in a writ petition against non-selection on the said ground, the High Court could not examine the eligibility of the selected candidate — Constitution of India, Art. 226

B. Service Law — Appointment — Selection — Non-selection — Selection Committee's decision regarding — Scope of judicial review — Constitution of India, Art. 226

Held:

The High Court in exercise of its jurisdiction under Article 226 of the Constitution was not justified in finding fault with the decision of the Selection Committee because in rejecting the candidature of Respondent 2 the Selection

28



VAKALATNAMA

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWALIATI BENCH: GUWALIATI

O. A. No. 1/2006

...Applicant(s)

Sri Swadher Chandra Deka

-Vs-

Union of India & others.

...Respondent(s)

Know all men by these presents that the above named Applicant do hereby appoint, nominate and constitute Sri Manik Chanda, Sri G. N. Chakraborty and Sri S. Hali, Advocate(s) and such of below mentioned Advocate(s) as shall accept this VAKALATNAMA to be my/our true and lawful Advocate(s) to appear and act for me/us in the above noted case and for that purpose to do all acts whatsoever in that connection including depositing or drawing money, filing 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 such acts to be mine/our for all intents and purposes. In case of non-payment of the stipulated fee in full, no Advocate(s) shall be bound to appear and/or act on my/our behalf.

In witness whereof, I/We hereunto set my/our hand on this the 5th day of January 2006

Received from the Executant, Mr. Subodh Deka And accepted
satisfied and accepted. Senior Advocate will lead me/us in the case.

Advocate

Advocate

Advocate

29
S. N. Chakraborty
Ch. Sekai

30

NOTICE

From:-

Subrata Nath.
Advocate.

To. Shri G. Baishya,
Sr. C.G.S.C

Sub:- O. A. No. —/06 (Shri Swadhin Ch. Deka-
—Vs. U.O. I Lors.).

Sir, find please enclosed herewith a copy of
the O.A. This is for your kind information
and necessary action. Please acknowledge
receipt.

Received

(G. Baishya).
Sr. C.G.S.C.

Yours Sincerely

Subrata Nath.

Advocate

03/10/06