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FORM NO. ②
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Original Application No. 10/06

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicant(s) Mrs. Anie Mathew

Respondent(s) U.O.P. Forms

Advocate for the Applicants M. Chanda, Mr. Chakrabarty
S. N. Chakraborty

Advocate for the Respondent(s) A.K. Chaudhury, Addl. C.G.S.C.
Rly. St. Counsel

Notes of the Registry

Date

Order of the Tribunal

10.01.2006 Present : Hon'ble Mr. Justice G. Sivarajan, Vice-Chairman.

This application in form
is filed.

dep. No. 260317707

D 23.12.05 O.S.

11/1/06

Heard Mr. M. Chanda, learned
counsel for the applicant and Mr. A.K.
Chaudhury, learned Addl. C.G.S.C. for
the respondents.

The applicant impugns an order
of May 2005. It is stated that ~~the~~ a
representation dated 19th July 2005
filed against the said order is pending.
Counsel for the applicant seeks for
order of status quo. Mr. A.K. Chaudhury
Addl. C.G.S.C. for the respondents
submits that the applicant impugns
an order of May 2005 that he will
ascertain the present situation. Post
on 13.2.2006. However, this will not
preclude the respondents from passing
order on the representation. Status
quo as on today will be maintained
till the disposal of the representa-
tion.

G. Sivarajan
Vice-Chairman

13.2.2006

Post on 15.4.2006.

Vice-Chairman

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15.02.2006. When the matter came up for hearing Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. for the respondents submits that since notice has not been ordered by this Tribunal, the respondents are yet take steps on the representation. This Court directs issue notice to the respondents. The respondents are directed to comply with the order dated 10.01.2006.

Post on 28.03.2006.

20/2/06 Co D/N^o=267 to 269
DF=1/3/06

Vice-Chairman

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① Service report
wanted

(P) No Reply has been
billed

20.03.2006

Learned counsel for the respondents submits that he would like to have some more time to file reply statement. Let it be done. In the meantime, learned counsel for the applicant is directed to find out the vacancy so as to consider the case of the applicant.

Postponed. Interim order shall continue till the next date.

order dt. 2013/07/06

isning to learned
advocates for both
the parties.

imb

24.04.2006

5 Further four weeks time is sought for to file reply statement by the respondents. Post on 24.5.2006. Interim order will continue till the next date.

Vice-Chairman

Served on resp. no. 2.

~~10/22/31~~ 10/6
No wks hrs been
[slept].

No wks hrs been
billed.

MS 21.4.06

ab
S.P. empty order
date 26.4.06 N.S 26/4/06

Vice-Chairman

OA 10/2006

Notes of the Registry

Date

Orders of the Tribunal

order dt. 24/5/06.
Issuing to learned
advocates for both
the parties.

(ccs
24/5/06)

24.05.2006

Mr. S. Nath, learned counsel
for the applicant wanted time to
file rejoinder.

Post on 16.06.2006. Interim
order will continue till such time.

23 - 5 - 06

No Writ has been
filed

mb

Vice-Chairman

16.6.2006

Further time is given to Mr. M
Chanda, learned counsel for the
applicant to file rejoinder. Post on
18.7.2006.

Interim order will continue
till the next date.

Pd. copy to order dt.

24/5/06

25.5.06

Writ filed by the
Respondent

bb

18.07.2006

Learned counsel for the appli-
cant wanted time to file rejoinder.
Let it be done.

Post on 04.08.2006. Interim
order will continue till the next
date.

order dt. 24/05/06.
Issuing to learned
advocate for both
the parties.

(ccs
25/5/06)

No rejoinder has
been filed.

mb

Vice-Chairman

15.6.06

order dt. 18/7/06 issuing
to learned advocates
for both the parties.

(ccs
19/7)

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O.A. 10/2006

Notes of the Registry

Date

Orders of the Tribunal

04.08.2006

Present: Hon'ble Sri K. V. Sachidanandan, Vice-Chairman
Hon'ble Sri Gautam Ray, Administrative Member.

order dt. 16/6/06
issuing to learned
advocate's for both
the parties.

Class
9/6/06

17-7-06

No Rejoinder has
been filed.

mb

S
Member

Vice-Chairman

18.8.2006

Mr. G. Baishya, learned Sr.C.G.S.
C. submits that he has received a
copy of the rejoinder filed by the
applicant.

The copy of the rejoinder will
be placed on record if it is otherwise
is in order. Four weeks time is given
the respondents for instruction on
the rejoinder. Post on 20.9.2006.

Interim order will continue till
such date.

Vice-Chairman

order dt. 4/8/06 issuing
to learned advocate's
for both the parties.

Class
4/8/06

No Rejoinder has
been filed.

bb

17.8.06

Order dt. 18/8/06 issuing
to both the parties.

Class
20/8/06

5
O-A 10/06

Notes of the Registry	Date	Order of the Tribunal
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23.8.06

20.9.2006

Rejoinder submitted
by the Applicant.

Dr.

Writ and Rejoinder
filed by the parties.

29
29.9.06.

bb

25.9.06

Rejoinder submitted
by the Applicant.

Dr.

order dt. 20/9/06
issuing to learned
advocate's for both
the parties.

26/9/06

Writ and Rejoinder
has been filed.

29
6.11.06.

order dt. 7/11/06
issuing to learned
advocate's for both
the parties.

7/11/06.

The case is ready
for hearing.

29
15.11.06.

Mr. G. Baishya, learned Sr. C.G.S.C.
submits counter reply to the rejoinder filed
by the applicant. Copy of the same received
by the counsel for the applicant Mr. M. Chanda.
Registry is directed to bring it in record
if the same is otherwise in order.
Post on 7.11.2006 for getting instruc-
tion by the counsel for the applicant.
Interim order to continue till the next date.

Vice-Chairman

7.11.06.

When the matter came up for hearing
the learned counsel for the parties has
submitted that pleadings are completed.
Post the matter for hearing on 16.11.06
Interim order shall continue till
the next date.

Vice-Chairman

lm

16.11.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

Heard in part. Mr. G. Baishya,
learned Sr. Central Government Standing
Counsel would like to take instructions as
to whether there is vacancy at Sukhoi in
Nagaland so as to accommodate the
Applicant. Let it be done. Post on
24.11.2006. Interim order will continue till
the next date.

Vice-Chairman

/mb/

29
15.11.06.

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- 6 -

OA-10/06

order of 16/11/06
issuing to
learned Advocate
for both the
parties.

Cost
16/11/06

24.11.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice - Chairman.

Heard learned Counsel for the
parties. Hearing concluded. Judgment
delivered in open Court, kept in separate
sheets. The Application is disposed of in
terms of the order. No order as to costs.

The case is ready
for hearing.

29/11/06

/mb/

Vice-Chairman

Received copy Respondent

Mr
Harikrishna A.R.
Assam Rifles
4/12/06

S/105
Certified copy of the
final order has
been collected by
IE L/122 for the
application 30.11.06

1/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

10/2006

O.A. No.

24.11.2006.

DATE OF DECISION

Mrs. Anie Mathew
.....

Applicant/s

Mr M. Chanda, Mr G.N. Chakrabarty, Mr S. Nath and Mrs. U. Dutta
..... Advocate for the
Applicant/s.

- Versus -

The Union of India
..... Respondent/s

Mr G. Baishya, Sr. C.G.S.C.
..... Advocate for the
Respondents

CORAM

HON'BLE SRI K.V. SACHIDANANDAN, VICE-CHAIRMAN
HON'BLE

1. Whether reporters of local newspapers may be allowed to see the Judgment ? Yes/No
2. Whether to be referred to the Reporter or not ? Yes/No
3. Whether to be forwarded for including in the Digest Being complied at Jodhpur Bench and other Benches ? Yes/No
4. Whether their Lordships wish to see the fair copy of the Judgment ? Yes/No

Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 10 of 2006.

Date of Order : This the 24th Day of November 2006.

The Hon'ble Sri K.V. Sachidanandan, Vice-Chairman.

Mrs. Anie Mathew,
W/o - Shri Abraham Mathew
Auxiliary Nurse cum Midwife
Assam Rifles Training Centre and School
Dimapur, Nagaland.

... Applicant

By Advocate: Mr M. Chanda, Mr G.N. Chakrabarty, Mr S. Nath
and Mrs. U. Dutta.

- Versus -

1. The Union of India
Represented by Secretary to the
Government of India,
Ministry of Home Affairs,
North Block, New Delhi - 110 001.
2. The Director General
Assam Rifles
Shillong - 793 011.
3. Commandant,
Assam Rifles Training Centre & School,
Dimapur.

... Respondents

By Advocate: Mr G. Baishya, Sr. C.G.S.C.

ORDER (ORAL)

K.V. SACHIDANANDAN (V.C.)

The Applicant is presently working as Auxiliary Nurse-cum-Midwife in the Assam Rifles Training Centre and School, Dimapur, Nagaland. Her grievance is that her daughter is studying in Class VII and her mother also requires care. The Applicant is a patient of cervical spondelities and also find it difficult to stay at a cold

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climate and her husband is serving as a pastor in the solitary post at ARTC& S, Dimapur. Now, she has been transferred vide impugned order dated 19.05.2005 to Manipur, which has challenged in this Application seeking the following reliefs:-

"That the Hon'ble Tribunal be pleased to set aside and quash the impugned order under Signal No. A 4488 dated 19.05.2005 (Annexure - 1) so far the applicant is concerned and further be pleased to direct the applicant to continue present post of posting in the same capacity in the light of the Govt. of India's policy decision issued through O.M. dated 12.06.1997 and O.M. dated 23.08.2004.

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

2. The Respondents have filed a detailed reply statement contending that earlier her case for posting was considered and therefore, she was given comfortable posting at Dimapur. But this time there is no vacancy at Dimapur. Hence, her case could not be considered.

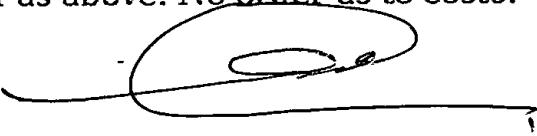
3. Heard Mrs. U. Dutta, learned Counsel for the Applicant and Mr G. Baishya, learned Sr. Central Government Standing Counsel for the Respondents.

4. The case of the Applicant is that she requires to be accommodated in the nearby composite Hospital, Sukhovi or in 31st Assam Rifles near around the Dimapur town to enable the applicant to look after her daughter as well as to tide over the other problems. This Court directed the Sr. Central Government Standing Counsel to take instructions as to whether there is any vacancy at Sukhovi. Today, when the matter came up for hearing, learned Sr. Central Government Standing Counsel submitted that there are two vacancies

at Sukhovi and if she makes representation, it will be considered by the Respondents. Mrs. U. Dutta, learned Counsel for the Applicant submitted that she has no objection if such a course is adopted.

5. In the interest of justice, this Court directs the Applicant to submit a comprehensive representation before the 3rd Respondent within a time frame of two weeks from today. On receipt of such representation, the 3rd Respondent shall consider and dispose of the same granting transfer to her at Sukhovi within two months thereafter. It is also made clear that the Respondents will not fill up one such post till the disposal of the representation.

6. The O.A. is disposed of as above. No order as to costs.


(K. V. SACHIDANANDAN)
VICE-CHAIRMAN

/mb/

It is proposed that the following
copy may be allowed to move
as an undisturbed specimen
to-day, on 10-1-06.

① O.A. 12006.

Mrs. Annie Mathew
- 85 -

Union of India no.

② Chiles
Ad. V.
10-1-1006.



CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

Original Application No. 10/06

1. a) Name of the Applicant: Anie Mathew
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. Is the application 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/- 286312297

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 sough 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.

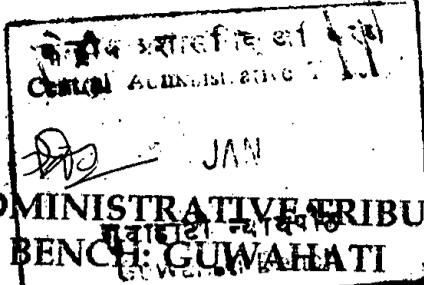
21. Whether this Case can be heard by Single Bench/Division Bench:

22. Any other pointd :-

23. Result of the Scrutiny with initial of the Scrutiny Clerk:
The application is in order 10.1.06

SECTION OFFICER(J)

1/c DEPUTY REGISTRAR



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O. A. No. 107/2006

Mrs.
Shri Anie Mathew.

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

19.05.2005- Impugned order of transfer and posting has been issued whereby applicant who is now working as Auxiliary Nurse cum Midwife in Assam Rifle Training Center and School Dimapur is sought to be transferred and posted at Chassad, Manipur in total violation of policy decision regarding transfer and posting of husband and wife issued by the Govt. of India through O.M dated 12.06.97 as well as dated 23.08.04 and also during the middle of the academic session since the son and daughter of the applicant are reading at Class X and VII respectively and they are appearing in the final examination in the month of March/April 2006 and the daughter of the applicant is studying under the State Board of Nagaland whereas the applicant is now sought to be transferred and posted in the State of Manipur.

(Annexure-1)

27.05.2005/ 30.05.2005- Applicant submitted representation for cancellation/ modification of the impugned transfer and posting order dated 19.05.05 so far applicant is concerned and the said representation is recommended by the Officer Commanding, ARTC Hospital Dimapur though his letter dated 30.05.05, however the said representation is still pending with the authority

(Annexure- 5, 6)

08.06.2005, 09.06.05- Applicant's representation dated 27.05.2005, has been recommended by the Commandant on 08.06.05 and the said representation was forwarded on 09.06.05 to the DGAR, Shillong.

(Annexure-7)

19.07.2005- Applicant submitted another representation for cancellation/ modification of the transfer and posting order issued under Signal dated 19.05.05 and also prayed for modification of the impugned transfer order by accommodating the applicant at CPO Hospital, Sukhov or at 31 Assam Rifle in and around Dimapur to enable her

ANIE MATHEW

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to look after children and also to overcome other problems such as medical problems of the applicant. The said representation is also pending with the authority. However, the applicant is still working at
(Annexure-9)

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 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 under Signal No. A 4488 dated 19.05.2005 (Annexure-1) so far the applicant is concerned and further be pleased to direct the applicant to continue present post of posting in the same capacity in the light of the Govt. of India's policy decision issued through O.M dated 12.06.1997 and O.M dated 23.08.2004.
2. 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 under Signal No. A 4488 dated 19.05.2005 (Annexure-1) so far the applicant is concerned till disposal of this application.

ANIE MARIE

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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. 10 /2006

Mrs. Anie Mathew. : Applicant.

-Versus-

Union of India & Ors. : Respondents.

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4.	2	Copy of O.M dated 12.06.97	13-14
5.	3	Copy of O.M dated 23.08.2004	-15-
6.	4	Copy of certificate dated 07.01.05.	-16-
7.	5	Copy of representation dated 27.05.2005 with recommendation dated 30.05.05.	17-18
8.	6	Copy of recommendation letter dated 08.06.05.	-19-
9.	7	Copy of forwarding letter dated 09.06.05	-20-
10.	8 (Series)	Copy of the CMO, ARTC letter dated 07.07.05 and medical certificate dated 19.07.05 and prescription dated 18.07.05 and earlier medical certificate dated 25.05.05.	21-22
11.	9	Copy of representation dated 19.07.05.	-23-
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Date: - 10.01.2006

Filed By:
Surajit Choudhury
 Advocate

Anie Mathew

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*Filed by the Applicant
Through Sarojit Choudhury
Advocate
on 10.01.2006*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O.A. No. 2006

BETWEEN:

Mrs. Anie Mathew,
W/o- Shri Abraham Mathew,
Auxillary Nurse cum Midwife,
Assam Rifles Training Center and School
Dimapur,
Nagaland.

—Applicant.

-AND-

1. The Union of India,
Represented by Secretary to the
Government of India,
Ministry of Home Affairs,
North Block,
New Delhi- 110001.
2. The Director General,
Assam Rifles,
Shillong- 793 011.
3. Commandant,
Assam Rifles Training Center & School
Dimapur.

..... Respondents.

ANIE MATHEW

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DETAILS OF THE APPLICATION

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

This application is made against the impugned transfer and posting order issued under Signal No. A 4488, dated 19.05.2005, so far the applicant is concerned whereby the applicant is now sought to be transferred and posted from Assam Rifles Training Centre and School Dimapur, Nagaland to 1st Assam Rifles, Chassad in the State of Manipur during the middle of the academic session and also in violation of the Govt. of India's O.M dated 12.06.1997 as well as O.M dated 23.08.2004, wherein it has been directed for posting of husband and wife in the same station and also praying for a direction upon the respondents to allow the applicant to continue in the same station in Dimapur in the light of the policy of the Govt. of India's O.M dated 12.06.97 as well as O.M dated 23.08.2004.

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 she is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

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4.2 That the applicant was initially appointed as Auxillary Nurse cum Midwife in Assam Rifles in the year 1991. During her service career she was transferred and posted in different places in the North Eastern Region. Initially applicant was posted at 21st Assam Rifles, Jwalamukhi in the state of Manipur, thereaftershe was transferred and posted to 9 Assam Rifles, Kimin in the state of Arunachal Pradesh, she was again transferred and posted at 16 Assam Rifles, Diphu in the state of Assam. However, while she was working at Diphu she was transferred and posted to Assam Rifles Training Center and School (for short ARTC & S), Dimapur where her husband Mr. Abraham Mathew is working in the same department as Religious Teacher (Pastor). Be it stated that the post holding by the husband of the applicant is the solitary post available in the Assam Rifles in ARTC & S Dimapur, as such there is no scope on the part of her husband to move any other place other than Dimapur in the state of Nagaland.

4.3 That your applicant while working as such at ARTC & S, Dimapur, the applicant received the impugned transfer order issued under Signal No. A 4488, dated 19.05.2005 issued by the Directorate Assam Rifles, Shillong whereby she is now sought to be transferred and posted at 1st Assam Rifles, Chassad in the State of Manipur during the middle of the academic session and also in violation of the Govt. India's instructions regarding posting of the husband and wife in the same station contained in the O.M No. 28034/2/97-Estt. (A) dated 12.06.1997 and O.M 28034/2/97-Estt. (A) dated 23.08.2004, since the husband of the applicant is also a Govt. servant working in the same department as Religious Teacher (Pastor) in ARTC & S, Dimapur in a solitary post available only at ARTC & S Dimapur. The impugned transfer order has been issued during the middle of the academic session. Be it stated that the elder son of the applicant Shri Jomaon Mathew is reading in Class X and the daughter of the applicant is Miss Jestina Mathew reading in Class VII under the Nagaland State Board

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at Dimapur and both the son and daughter are appearing in the Final examination scheduled to be held in the month of March/April, 2006.

It is relevant to mention here that there is no School for higher education at Chassad in Manipur, where the present applicant is sought to be transferred and posted so that the children of the applicant can continue their studies at Chassad apart from the other disabilities and that score alone the impugned order of transfer and posting issued under letter dated 19.05.2005 is liable to be set aside and quashed so far the applicant is concerned.

Copy of the impugned signal dated 19.05.2005, O.M dated 12.06.97 and dated 23.08.2004 and certificate dated 07.01.05 issued by the Principal ARTC & S High School are enclosed herewith for perusal of the Hon'ble Tribunal as Annexure- 1, 2, 3 and 4 respectively.

4.4 That your applicant immediately after receipt of the impugned transfer and posting order dated 19.05.2005 submitted a representation dated 27.05.2005 addressed to the DGAR, Shillong pointing out that her daughter is studying in Class VII and mother care is essential, and the applicant is a patient of cervical spondelities and also find it difficult to stay at a cold climate and her husband is serving as a pastor in the solitary post at ARTC & S, Dimapur and further requested to accommodate her in the nearby Composite Hospital, Sukhovi or in 31st Assam Rifles near around the Dimapur town to enable the applicant to look after her daughter as well as to tide over the other problems. The said representation was recommended by the OC, ARTC & S Hospital on 30.05.2005 and the same is still pending with the DGAR, Shillong. However, she is still working at Dimapur. The said representation of the applicant further recommended by the Commandant, ARTC & S on 08.06.2005 and it was forwarded to Headquarter, DGAR, Shillong vide Commandant's letter dated 9th June, 2005.

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Copy of the representation dated 27.05.2005 with recommendation dated 30.05.05 and recommendation letter dated 08.06.05 and forwarding letter dated 09.06.05 are enclosed for perusal of Hon'ble Tribunal as Annexure- 5, 6 and 7 respectively.

4.5 That your applicant further begs to say that she is suffering from Migrone with faint nerves and the ARTC Hospital Dimapur has referred her for medical treatment to the Civil Hospital, Dimapur and she is at present under the medical treatment at Dimapur. It is also advised by her attending Physician that she should stay in one climatic condition and in a place having medical facilities and it is further advised to avoid dwelling in hilly areas.

Copy of the CMO, ARTC letter dated 07.07.05 and medical certificate dated 19.07.05 and prescription dated 18.07.05 and earlier medical certificate dated 25.05.05 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 8 (Series).

4.6 That your applicant finding no response from the authority she has preferred another representation addressed to the DGAR, Shillong on 19.07.2005, in the said representation the applicant interalia prayed for modification/cancellation of her transfer and posting order issued under impugned Signal dated 19.05.2005 on the ground that her husband is working in Dimapur in the same department in a solitary post available in Dimapur and pointed out that she is under medical treatment at Dimapur Civil Hospital and her daughter is studying under the Nagaland Board so that change in the middle of the academic session is likely to cause adverse effect in continuation of the study of her daughter and further requested to accommodate the applicant either at CPO Hospital, Sukhov or at 31 Assam Rifles in and around Dimapur. However, the said representation is also pending with the DGAR, Shillong without any response. In such compelling circumstance applicant no other alternative approaching this

Hon'ble Court for protection of her valuable right and interest passing an appropriate order to allow her to continue in the present place of posting at Dimapur in the light of the policy of the Govt. of India contained in O.M dated 12.06.1997 as well as O.M dated 23.08.2004, where it has been directed by the Govt. of India to retain the husband and wife in the same station if the post exists in the appropriate level. Be it stated that post in the appropriate level are very much available at Dimapur as such there is no difficulty on the part of the respondents to allow her to continue in the present place of posting where her husband is also posted. Moreover, there is no urgency apart for effecting the impugned transfer order dated 19.05.05 during the middle of academic session since she has already been accommodated and retained till date after passing of the impugned transfer and posting order dated 19.05.2005.

Copy of the representation dated 19.07.05 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 9.

4.7 That it is stated that normally transfer and posting order should not be effected during the middle of the academic session, on a mere reading of the impugned order dated 19.05.2005 appears that it is a routine order as such there is no urgency to effect the impugned order of transfer and posting so far applicant is concerned. 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 signal dated 19.05.2005 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- 10.

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

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

5.1 For that, the impugned transfer and posting order under Signal dated 19.05.2005 has been issued in total violation of the Govt. of India's O.M dated 12.06.1997 as well as O.M dated 23.08.2004, wherein it has been directed that husband and wife should be posted invariably in the same station if the post at appropriate level exists.

5.2 For that, posts in the appropriate level exists at Dimapur as such transferring the applicant from ARTC & S Dimapur, Nagaland to Chassad, Manipur has been issued in violation of O.M dated 12.06.97 and 23.08.04.

5.3 For that, the impugned transfer and posting order has been issued during the middle of the academic session as because the son and daughter of the applicant are appearing in final examination in the month of March/April 2006 in Class X as well as in Class VII respectively. Moreover of the applicant is studying under the State Board of Nagaland whereas she is now sought to be posted in the State of Manipur.

5.4 For that, there is no educational facilities in the proposed place of posting at Chassad in Manipur for prosecution of the studies of children at higher classes.

5.5 For that, husband of the applicant is working in a solitary post of Pastor available only at Dimapur in ARTC & S and as such posting of the applicant is required to be considered in the same place at Dimapur in the light of the direction contained in the O.M dated 12.06.97 as well as O.M dated 23.08.04.

8
2

5.6 For that, applicant is suffering from migran with faint nerves and at present under the medical treatment at Civil Hospital Dimapur and needs constant medical treatment.

5.7 For that, applicant has submitted representation dated 27.05.2005 and dated 19.07.05 which were duly recommended by the Commandant for consideration of her representation but the same are still pending with the authority.

5.8 For that the applicant is still working at ARTC & S. Dimapur and the impugned order of posting dated 19.05.2005 has not been effected so far the applicant is concerned till filing of this case.

5.9 For that there is no urgency in effecting the impugned transfer and posting order dated 19.05.05 so far applicant is concerned since the same has been passed during the middle of the academic session.

6. Details of remedies exhausted.

That the applicant declares that she 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 she 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 under Signal No. A 4488 dated 19.05.2005 (Annexure-1) so far the applicant is concerned and further be pleased to direct the applicant to continue present post of posting in the same capacity in the light of the Govt. of India's policy decision issued through O.M dated 12.06.1997 and O.M dated 23.08.2004.
- 8.2 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. **Interim order prayed for:**

During pendency of 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 under Signal No. A 4488 dated 19.05.2005 (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. :
- ii) Date of issue :
- iii) Issued from :
- iv) Payable at :

12. **List of enclosures:**

As given in the index.

VERIFICATION

L Mrs. Anie Mathew, W/o- Shri Abraham Mathew, working as Auxillary Nurse cum Midwife, Assam Rifles Training Center and School, Dimapur, Nagaland, aged about 38 years, 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 10 th day of January 2006.

- ANIE MATHEW

ANIE

(Typed Copy)

Annexure- 1.

NR/01/21
DE SHG SER NO 210656

CORRECTED COPY

BR DTG 191730
FG DGAR (MED BR)
TO IGAR [NJIGARTSJ/CP HOSP/ARTC & S/ALL/RANGE/
INFO 2AR/23 AR/3AR/4AR/6AR/7 AR/40 AR/1 AR/38 AR/14 AR/
31 AR/21 AR/11 AR/13 AR/27 AR/30 AR/30 AR/12 AR/32 AR

BT

UNCLAS A4488

POSTING/TER STAFF NURSE/ANM [..]

FIRSTLY [..] FOLLG POSTING/TFR OF STAFF NURSE/ ANM HEREBY APPROVED

ONE [...] SMT LOLI KHAI TO COMMA STAFF NURSE OF 2 AR TO 23 AR [...]

TWO [...] SMT. AKHATARI MANTRA BEGUM COMMA STAFF NURSE OF 3 AR
TO 43 AR [...]

THREE L 1 SMT MERRY MATHAI COMMA STAFF NURSE OF 6 AR TO 43 AR [...]

FOUR 1 SMT GOI MAYA SAHAI COMM STAFF NURSE OF 7 AR TO 3 AR [..]

FIVE 5.1 SMT KG MARANG COMM STAFF NURSE OF 7 AR TO 40 AR [...]

SIX [...] SMT PURNAWATI CHHETRI COMMA STAFF NURSE OF 1 AR TO CP
HOSP [...]

SEVEN [...] SMT EATPTBUT HAUMAT COMMA ANM OF 1 AR TO 38 AR AND
ATI WITH ARTC AND S FOR ALL PURPOSE TILL AVAILABILITY OF
MD ACCN AT 38 AR [...]

EIGHT [13] SMT K. BUNGDDINA COMM. ANM OF 14 AR TO 31 AR [..]

NOTE: 1.1 SMITH ALICE TRIKEY COMM A STAFF NURSE OF 21 AR TO 2 AR

ELEVEN, 1.5MFT JHBNL BOY COMM A NM OF 40 AR TO 13 AR [.]

THE LIEUTENANT COLONEL BARAK BECK, COMM. STAFF NURSE OF 27 AR TO 31 AR [.]

A Dealed
Savit () Choochheat
P. 10.1.2006

THIRTEEN [...] SMT ALICE JOHN COMMA ANM OF 27 AR TO 30 AR [...]

FOURTEEN [...] SMT BASANTI DEVI COMMA STAFF NURSE OF 31 AR TO 1 AR
[...]

FIFTEEN [...] SMT P KAOKIP COMMA ANM OF 32 AR TO 21 AR [...]

SIXTEEN [...] SMT ANI MATHEW COMMA ANM OF ARTC AND S TO 1 AR AR
[...]

SEVENTEEN [...] SMT NIJORA NARZARY COMMA STAFF NURSE OF 12 AR [...]
REF 7 SECT LTR NO ROMAN ONE PT 11011/A-192/2005/310 DT 09
MAR 05 [...] EXTENSION GRANTED FOR SPELL OF ANOTHER ONE
TENURE UP TO MAR 2008 [...]

SECONDLY [...] MOV TO BE CARRTED OUT BY 10 MAY/JUN 2005 AND FWD
COMPLETION REPORT TO THIS DTE (MED BR) BY 15 MAY/JUN 2005
POSITIVELY [...]

THIRDLY [...] NO RPT NOT REPRESENTATION TO THIS EFFECT WILL BE
ENTERTAINED [...]

LASTLY [...] ALL ACK AND CONFIRM/-

BT

CFN A 4488

SD/RAVI

TOR- 1100/21/SHG/DNS

No. 28034/2/97-Estt.(A)
Government of India
Ministry of Personnel, Public Grievances & Pensions
(Department of Personnel & Training)

New Delhi, the 12th June 1997

OFFICE MEMORANDUM

Sub: Posting of husband and wife at the same Station.

The undersigned is directed to say that on the subject mentioned above, Government has issued detailed guidelines vide O.M. No. 28034/7/86-Estt.(A) dated 3.4.1986. The Fifth Central Pay Commission has now recommended that not only the existing instructions regarding the need to post husband and wife at the same station need to be reiterated, it has also recommended that the scope of these instructions should be widened to include the provision that where posts at the appropriate level exist in the organization at the same station, the husband and wife may invariably be posted together in order to enable them to lead a normal family life and look after the welfare of the children, especially till the children are 10 years of age.

2. The Government, after considering the matter, has decided to accept this recommendation of the Fifth Central Pay Commission. Accordingly, it is reiterated that all Ministries/Departments should strictly adhere to the guidelines laid down in O.M. No. 28034/7/86-Estt. (A) Dated 3.4.86 while deciding on the requests for posting of husband and wife at the same station and should ensure that such posting is invariably done, especially till their children are 10 years of age, if posts at the appropriate level exist in the organization at the same station and if no administrative problems are expected to result as a consequence.
3. It is further clarified that even cases where only the wife is a government servant, the concession elaborated in para 2 of this O.M. would be admissible to the government servant.

Abdul Ghaffar
Sajid Ghaffar
07.06.1997

4. These instructions would be applicable only to posts within the same department and would not apply on appointment under the Central Staffing Scheme.
5. A copy of this Department's OM No. 28034/7/86-Estt. (A) Dated 3.4.86 is enclosed for ready reference and guidance.
6. Hindi version of the OM is enclosed.

Sd/- Illegible
(Harinder Singh)
Joint Secretary to the Govt. of India
Tel. No. 301 1276

To

1. All Ministries/Departments of the Government of India.
2. Department of Women & Child Development.
3. The National Commission for Women, 4, Deendayal Upadhyay Marg, ITO, New Delhi.

October, 2004

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Swamy et al

knowledge of Hindi during their probation period, so that the candidates learn Hindi willingly during their probationary period.

4. The progress with regard to implementation of the recommendation of the Committee may be reported to the Department of Official Language.

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G.I., Dept. of Per. & Trg., O.M. No. 372/30/2004-AVD-III,
dated 13-8-2004

**Strengthening of Vigilance Machinery In Public Sector
Undertakings and grant of Incentives to Chief Vigilance Officers**

Ref. (i) DoPT's O.M. No. 378/3/98-AVD-III, dated 11-4-2000.
(ii) DoPT's O.M. No. 372/8/99-AVD-III, dated 18-1-2001.
(iii) DoPT's O.M. No. 372/5/2000-AVD-III, dated 14-6-2001.
(iv) DoPT's O.M. No. 372/5/2000-AVD-III, dated 5-9-2002.

The undersigned is directed to refer to this Department's O.M. No. 378/3/98-AVD-III, dated 11-4-2000 and also to the O.M.s under reference and to clarify that the grant of Special Allowance of 15% to CVOs posted in non-metropolitan cities is meant only for those Chief Vigilance Officers (CVOs) who opt for their grade pay. CVOs who opt for the pay of the post are not eligible to get special allowance.

319

G.I., Dept. of Per. & Trg., O.M. No. 28034/23/2004-Estt. (A),
dated 23-8-2004

Posting of husband and wife at the same station

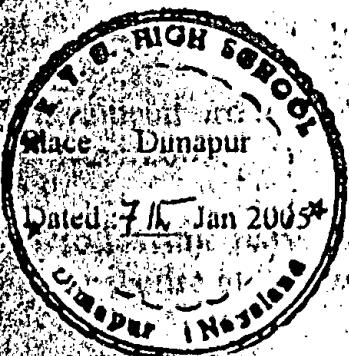
The undersigned is directed to say that the policy of the Government has been to give almost importance to the enhancement of women's status in all sectors and all walks of life. Keeping this policy in view, the Government had issued detailed guidelines about posting of husband and wife at the same station vide O.M. No. 28034/7/86-Estt. (A), dated the 3rd April, 1986 and O.M. No. 28034/2/97-Estt. (A), dated the 12th June, 1997 (Sl. Nos. 370 and 224 of Swamy's Annual, 1986 and 1997 respectively). Attention of the Government was drawn that the instructions contained in these Office Memoranda are not being followed in letter and spirit by the Ministries / Departments even when there were no administrative constraints. Accordingly, it is impressed upon all Ministries / Departments that the guidelines laid down in the aforesaid Office Memoranda are strictly followed while deciding the request for posting of husband and wife at the same station.

✓ 16.08.06
Swamy et al

B

TO WHOM IT MAY CONCERN

Thus is to certify that Ms. Jestina Mathew of class 7 VII and Master Jonon Mathew of class X are studying in AR High School, Dimapur. The school academic session is from April to March. The mother of these children is Mrs. Ante Mathew, serving in ARTC and School Hospital.



AR
Principal
ARTC High School
Dimapur, Nagaland

Abul Chaudhury
Supt. of School
03/10/06.

6018-ANM
Alice Mathew
ARTC & S (Hosp)
HQ : Dimapur (Nagaland)

6/1
6/2

Mahanideshalaya Assam Rifles
Directorate General Assam Rifles
(Medical Branch)
Shillong - 11

(Through proper channel)

SUB : REQUEST FOR EXTENSION DUE TO EXTREME COMPASSIONATE GROUND

Respected Sir,

With profound respect, I would like to request you the following for your kind consideration and favourable orders please.

That Sir, I have been ordered for posting to 1st Assam Rifles vide HQ DGAR sig No A 4488 dt 19 May 2005.

Sir, for the following reasons I have compel to approach your good honour for extension of one year tenure at this loc.

(a) My two school going children are staying with me :-

(i) My son studying in class X.

(ii) My daughter is studying in class VII and she is having 15 years of age. Mother's care is very much essential at this age and unable to take my daughter with me due to her study.

(b) I am a patient of Cervical Spondylitis is need help at every time and also find difficult in the cold climate.

(c) Moreover my husband is serving with this Centre and School as a Pastor and he has no any posting avenue due to non availability of any vacancy except ARTC & S.

Duo to above reason I may kindly be granted one year extension at this loc, so that I can serve with entire satisfaction of my superiors.

Sir, If it is not at all possible then my posting may kindly be diverted to Composite Hospital Sukhoni or 31 Assam Rifles from where I can look after my daughter as well as I can solve my personal difficulties and problem.

Contd 2/-

Alleged by
Alice Mathew
10.1.06

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I hope my request will be considered sympathetically and a favourable order will be issued at your earliest convenience.

Thanking you Sir.

Yours faithfully,

Anis Mathew

No 018 ANM

Anis Mathew

Place : Dimapur
Dated : 27 May 2005

RECOMMANDATION OF THE OC ARTC&S HOSPITAL ON THE
APPLICATION IN R/O NO. 018 ANM ANE MATHEW.

~~Recommended / Not recommended~~

Place : Dimapur
Dated : 30 May 2005

Varada
(K Varada)
Lt Col
OC ARTC & S Hosp

RECOMMENDATION OF THE COMMANDANT ASSAM RIFLES TRAINING CENTRE AND SCHOOL, DIMAPUR (NAGALAND) ON THE APPLICATION SUBMITTED BY SMT ANIE MATHEW, ANM REQUESTING FOR EXTENSION OF TENURE ON EXTREME COMPASSIONATE GROUND

Recommended/Not recommended


(A K Guptey)
Brig
Comdt, ARTC&S

Place: Dimapur

Dated : 2 Jun 2005

Accepted
by
Advocate
10.1.06

Tele No.243390 (Civil)
E-mail -digartcs@indiatimes.com

Assam Rifles Prashikshan Kendra
Avam School
Assam Rifles Training Centre
And School
PO : Dimapur (Nagaland)

68
I.36011/Menpower/2005-A/1721

09 Jun 2005

Mahanideshalaya Assam Rifles
Directorate General Assam Rifles
(Med Branch)
Shillong -793011

APPLICATION FOR EXTENSION OF TENURE
ON COMPASSIONATE GROUND

1. An application submitted by No.018 ANM Anie Mathew of this Centre and School requesting for extension of tenure on compassionate ground is enclosed herewith duly recommended by the Comdt ARTC&S for your further necessary action please.
2. Please ack.

(R)
(Rajeev Bharwan)
Maj
Adjt
For Comdt

lc
09/6

Encl:- As above

Copy to:-

Med Branch

:- For info w.r.t their SN No.II.36011/Med-28/2005/1600 dated 30 May 2005 please.

RAJ/***

*Dealed
Suraj Choudhury
10.1.06*

No. 015631

86

MEDICAL TREATMENT CERTIFICATE
CIVIL HOSPITAL DIMAPUR

This is to certify that Shri/Smt. ANNE MATHEW
Age: 56 years Sex: F Occupation: SERVICE
under medical treatment at Civil Hospital Dimapur under Regd. No. U.8.2.59
from 16/7/05 to 20/7/05 for days as an
outdoor/indoor patient for Migraine (diagnosis).

He/She is fit/not fit to resume his/her normal duties.

He/She is advised to take rest for stay in a warm
climatic condition in a place where medical facilities are available
and avoid travelling in hilly areas

Date: 20/7/05

Place: Dimapur

Name & Sign. of the Medical Officer
Dr. B. B. Deka
Civil Hospital Dimapur

CIVIL HOSPITAL : Dimapur

TICKET NO. 059

Date: 16/7/05

Registration No. 4

Mr. M. M. MAGEE

Sex: M

Age: 36

Date of Birth: 07/07/69

Time of Birth: 07:00 AM

Admitted
Buy 1st class
Leave 1st class
on 10.06.06

Dr. B. B. Deka
Civil Hospital Dimapur
1 month

Signature of Medical Officer

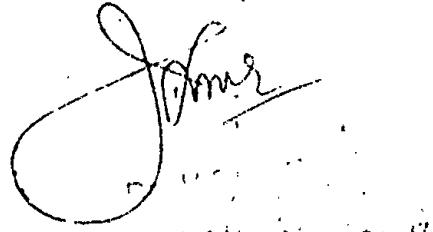
Jacob George M.D., D.M.
Assistant Professor of Neurology
Medical College, Kottayam

Residence:
Keerthi Gardens,
Near N.S.S. English Medium School
Gandhinagar, Kotta, Km-8
Ph: 2591949
Mobile: 94472 88221

Name: Annie Mathai Age/Sex: 36/F Date: 25/05/05
Drug allergies.....

Certificate

This is to certify that Mrs Annie Mathai
Medical Section, ARPC & S, Dimapur, Nagaland has
Vascular headache with trigeminal pain neck. She needs
treatment for a minimum period of 3-6 months.



Medical Reg. No. 21-57

രാവിലെ പരിശോധന ഫ്ലെ. നോയർ അസ്പി.
പരിശോധനയ്ക്ക് പരും തുണ്ട് ഫോൺിൽ വിളിച്ചു സമയം നിശ്ചയിക്കുക.
പരിശോധന 3.00 pm. - 6.00 pm. വരെ.

From :- Mrs Anie Mathew, ANM
Hospital, ARTC & S, Dimapur (Nagaland)
Pin - 797115

To :- Mahanideshalaya Assam Rifles
Directorate General Assam Rifles
(Medical Branch)
Shillong -793011

(Through proper channel)

Subject : **PRAYER FOR EXTENSION OF TENURE/POSTING ON COMPASSIONATE GROUND**

Sir,

1. With immense respect and humble submission, I have the honour to overt following few lines for your kind consideration and a deed help please.

2. That Sir, I the above named individual presently serving with ARTC and School, Dimapur since Aug 2002 with utmost dedication to satisfy my superiors and I have completed my tenure and stand posted to 1 Assam Rifles (CHASSAD) vide your Dte Sig No. A 4488 dated 19 May 2005. I would like to mov to the destination in due course but I regret and compel to represent the order since, I am suffering from MIGRONE WITH FAINT NERVES and facing lots of hardship to do my normal work. Hence, I am undergoing treatment at Civil Hospital, Dimapur and presently it brings some relief and I opted myself to go further treatment under the same doctor so that I can revive at the earliest for which I shall be posted in vicinity of the Dimapur to facilitate my treatment regularly (Photocopy of medical certificate is attached for your perusal please). In addition, I need company of my husband who since been posted with this Centre and School in the post of Subedar Pastor in case of any emergency raise in the coming days. Besides this, my daughter is also studying in Dimapur and would like to complete the academic session from the Nagaland Board so that change of board in next session shall not affect adversely in nick of hour. Hence, I may be retained at this loc for another one year or may posted to following units for my medical treatment :

(a) CPO Hospital, Sukhoi

(b) 31 Assam Rifles

3. In view of foregoing facts, I request your goodself that, my case may please be considered as genuine so that I can resolve my problems and discharge my duties enthusiastically and religously. I shall remain ever grateful to you forever for this act of your kindness to me and my needful family.

4. Thanking your Sir,

Yours faithfully,

Anie Mathew

(Mrs Anie Mathew, ANM)

Dated: 19 Jul 2005

*Desiit Choudhury
Advocie
01-10-06*

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 34 and 36 of the Constitution and that they were entitled to special pay at the same rate 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 [FR 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.*

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.S. SAWANT AND N.P. SINGH, JJ.)

DIRECTOR OF SCHOOL EDUCATION,

MADRAS AND OTHERS

Versus

O. KARUPPA THEVAN AND ANOTHER

Appellants;

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 the 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

absence of urgency such transfer restrained from being effected till the end of that academic year.

Appeal allowed

H.R/1337/ISLA

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. 20547
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 employee 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

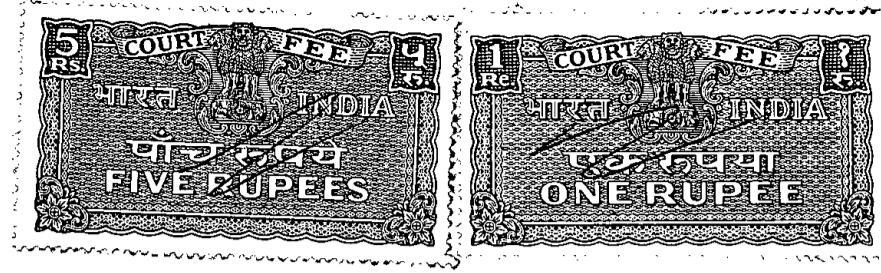
B. Service Law — Appointment — Selection — Non-selection — Selection Committee's decision regarding — Scope of judicial review — Constitution of India, Art. 226
Held:

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

Appealed
Savojit Ghoshchandra
Advocate

03.10.06

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ANIE MATHEEE

VAKALATNAMA

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWALIATI BENCH: GUWALIATI

O. A. No. 10 /2006

...Applicant(s)

Mrs. Anie Matheee.

-Vs-

Union of India v/s Ors. ...Respondent(s)

Know all men by these presents that the above named Applicant do hereby appoint, nominate and constitute Sri Manik Chanda, Sri Subrata Nath and Sri Surajit Chaudhury 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 10th day of January 2006.

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

Surajit Chaudhury
Advocate

Advocate

Manik Chanda
Advocate

NOTICE

From: S. Chaudhury Advocate
Central Administrative Tribunal.

To:

Mr. C. Basheer

Sr. C. G. S. C.

Central Administrative Tribunal, Gauhati

11

Ref: - Mrs. Faris Mathee - vs - C. O. I & Ors.

Sir. Enclosed kindly find herewith a copy of the O. A
as mentioned above.

This is for your kind information and necessary
action.

Kindly, acknowledge receipt of the same.

Received Copy.

S. C. G. S. C.
10.10.66

Sr. C. G. S. C.

Thanking You -
Yours faithfully
S. C. G. S. C.
S. Chaudhury
Advocate.

U. C.

In the Central Administrative Tribunal,
Guwahati.

DA 10/06

In the matter of :
O.A.No. 10 Of 2006

Mrs. Annie Mathew Applicant

Vs.

Union of India & ors.

Respondents

I, A. K. Chaudhuri, Addl. Central Govt. Standing Counsel, Central Administrative Tribunal, Guwahati, hereby enter appearance on behalf of the Union of India & Respondents Nos. 2 + 3 in the above case.

Given under my hand & seal on this the 15th day of Feb 2006.

A.K. Chaudhuri 15/2/06
(A.K. Chaudhuri)
Addl. C.G.S.C.

2 MAY 2006

गुवाहाटी न्यायपीठ
Guwahati Bench

43

Filed by
The respondents

through Grandananda
24.5.06

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,

GUWAHATI

O.A. NO. 10 OF 2006

Smti Anie Mathew

Applicant

-vs-

Union of India & Ors... Respondents

The written statement on behalf of
the Respondents above named-

WRITTEN STATEMENT OF THE RESPONDENTS

MOST RESPECTFULLY SHEWETH:

1. That with regard to the statements made in paragraph 1 of the instant application the answering respondents beg to state that the applicant was appointed as Midwife Auxiliary Nurse in 21 Assam Rifles vide letter No. II.14015/25-85/FA/A-2 (Med) dated 30 June, 1991. As per the appointment letter No. II.14015/25-85/FA/A-2 (Med) dated 30 June, 1991 issued to the petitioner and Ser 4 Chapter 24 of Swamy's Manual for DDOs and Heads of Offices Rule, an individual has to serve anywhere in Assam Rifles deployed in North Eastern Region or anywhere in India wherever Assam Rifles may be existing and liable to be transferred in 2-3 years.

Contd...P/-

A copy of the letter No.II.14015/25-85/FA/A-2(Med) dtd.30 under 1991 and a copy of Ser 4 Chapter 24 of Swamy's Manual for DDOs and Heads of Offices Rule are attached herewith as Annexure - 1 and 2.

2. That with regard to the statements made in paragraph 2 top 3 and 4.1 of the application the respondents beg to state that these are matter of records hence respondents have no comment.

3. That with regard to the statements made in paragraph 4.2 of the application the respondents beg to state that the details of previous service of above individual are submitted as under:

a) 21 Assam Rifles (at Jawalamukhi) from 10.7.1991 to 13.5.1994, the applicant served in 21 Assam Rifles. Thereafter on her request received vide Headquarters Inspector General Assam Rifles (North) letter No.1.122/1332/A dated 25 February 1994 for posting to 9 Assam Rifles where her husband was also serving she was posted to 9 Assam Rifles vide this Headquarters signal No. A 3488 dated 30 March, 1994.

A copy of the Headquarters Inspector General Assam Rifles (North) letter No. 1.122/1332/A dated 25 February 1994 and a copy of the

10/106

45

True visitors
1991 - Ranchpur. And with
Habu and - Nagaland. Jim Ruffo

holding Safety Post

Port to Dibrugarh and Assam Ranchpur

1992 - Assam and Nagaland

Dibrugarh to Maizam & Lengpui

38)

AS 27/10/70 + RPT.

AS 27/10/70 (A2).
AS 27/10/70 (A3).

Quli says that
can be accommodated

in Sikkim in Nagaland

not denied.

WST 2 alarm considered
application cancelled her accommodated
Per. 3 (V) WST (R)

- Const. with this
- if this achieves safety
- to young child age
- in school - not correct
- from Page with 9
- as far as possible
- Admits reason

Directorate General Assam Rifles Signal No. A3488 dated 30 March 1994 are attached herewith as Annexure - 3 and 4.

(b) 9 Assam Rifles (located at Kimine) from 14 May 1994 to 20 June 1998. Thereafter the applicant having completed over 4 years was posted to 16 Assam Rifles vide this Directorate Signal No. 3418 dated 12 December, 1997 when serving in 9 Assam Rifles. She requested this Headquarters vide Arunachal and Assam range letter No. 1.15014/10 Med/97-A/1341 dated 14 Jan, 1998 to allow her continuation with 9 Assam Rifles on the ground of education of her growing children and also because of her husband's posting. That her request for continuation in the same unit was approved and was intimated to the individual vide this Directorate Signal No. A 3427 dated 18 February, 1998 thereafter, she was retained there.

*Y. Polamis
S. Y. S. S. S. S.*
A copy of Directorate General Assam Rifles Signal No. A3418 dtd. 12 December, 1997, a copy of Headquarters Arunachal and Assam Range letter No. 1.15014/10 Med97-A/1314 dated 14 Jan 1998 and a copy of Directorate General Assam Rifles Signal No. A3427 dated 18 February, 1998 are annexed herewith as Annexure - 5, 6 and 7 respectively.

c) 16 Assam Rifles, (at Diphu/Dimapur/Sukhovi) from 21 June 1998 to 12 September, 2000.

d) That the applicant along with her husband has been posted at Assam Rifles Training Centre & School (at Dimapur) from 13 September, 2000 till date. The individual was now posted to 1 Assam Rifles (Chassad) vide this Headquarters Signal No. A 4488 dated 19 May, 2005 (Impugned order). It is submitted that Smti Latpibui Houmei, her reliever has already reported for duty on 17 June 2005 at Assam Rifles Training Centre and School at her place.

4. That with regard to the statements made in paragraph 4.3 of the instant application the respondents beg to state that as per para 2 of the Government of India Office Memorandum No. 28034//97 Estt(A) dated 12 June 1997 (Annexure 2 of OA) the posting of husband and wife serving in the same department is invariably done till the children are 10 years of age and if no administrative problem are expected to result as a consequence. In this case both the children of the applicant are above 10 years of age. The applicant has mentioned that there is no school in Chassad which is wrong and is misleading the Honourable Tribunal. It is worth mentioning here that Chassad has a Government High School upto Class X and more over Assam Rifles has its own

school upto Class IX where applicant has been posted to. It is further submitted that the applicant's requests have been acceded to whenever considered feasible and genuine. That she cannot be permitted to continue at her choice posting endlessly at the cost of other employees who have already completing their tenure in hard location and will be discriminated.

5. That the applicant is in the habit of seeking posting of choice without concern for other colleagues who are posted to hard stations. It is submitted with regard to statement made in para 4.4 of the application, the applicant has served in the same location for last eight years although in two different unit. That i Assam Rifles where she is now been posted has a family station and as well the climatic condition is and not cold as being made out by the applicant. The application forwarded by the applicant has been received by this Headquarters, which had mislead the recommending authority and kept them in dark, since the same has been submitted without mentioning her previous posting profile there on. In any event her son can continue to stay with his father who continues to be in the same station.

6. That with regard to the statements made in paragraph 4.5 of the application the respondents beg to state that the individual has contended that she is suffering from MIGRAINE WITH FAINT NERVE which are not

a serious disease. For any medical assistance she could approach RIMS located in Imphal State civil Hospital at, Utkhrul, both are nearby to her new unit. Specialist are also available for treatment of such ailments' diseases, and as such unit hospital is well equipped which the applicant is well aware.

7. That with regard to the statements made in paragraph 4.6 of the instant application the respondents beg to submit that the representation of the applicant dated 19.7.2005 have been considered in consultation with the Medical Directorate of Directorate General Assam Rifles and the same has been found to be lacking on merit.

8. That with regard to the statements made in paragraph 4.7 of the instant application the respondents beg to submit that the transfer of the applicant is just and in accordance with the policy on the subject. In any case since her continues to be at the same place no disturbance to the study of children is involved. More so, as upheld by the SC in number of cases transfer is an incidence of service and the right to employ an employee rest with the employer (Kendriya Vidyalaya Sangathan Vs Damodar Prasad Pandey (2004)/12 SCC 299).

9. That as regard to the statements made in paragraph 4.8 of the instant application the respondents

beg to submit that the applicant deliberately suppressed material information, the same is not bonafide and liable to be rejected solely on this score.

10. That with regard to the statements made in paragraph 5.1 to 5.9 of the instant application the respondents beg to state that as per Swamy's Manual for DDOs and Heads of Offices Rule Ser 4 (ii) Chapter 24, Cadre Controlling Authorities may not consider posting of the spouses at the same station but these are only guidelines and not a mandatory rule. The Government of India Office Memorandum No. 28034/2/97 Estt(A) dated 12 June 1997 has categorically mentioned that posting of husband and wife serving in the same department be carried out if no administrative problem results as a consequence. In any case applicant's both Children having completed 10 years of age, the said proviso is not attracted in her case. That the grounds set forth in the appeal are not good ground in law as well as on facts without any basis and have adequately been replied on by the respondents.

That in view of the facts mentioned above no ground in law is made out it is humbly prayed that the present OA lacks merit and is liable to be dismissed with costs.

11. That with regards to the statements made in paragraph 6 of the instant application the answering respondents have no comment.

12. That with regard to the statements made in paragraph 7 of the instant application, the answering respondents beg to state that the statement made by the applicant are within the personal knowledge of the applicant and therefore the respondent cannot admit or deny the same.

13. That with regard to the statements made in paragraph 8 of the instant application the answering respondents beg to state that the allegation raised by the applicant are all concocted, untrue and false and the respondent denies the same. The respondents beg to submit that the transfer of the applicant is just in accordance with the policy on the subject and the applicant is not entitled to any relief as sought for and the application is liable to be dismissed with cost.

14. That with regard to the statements made in paragraph 9 of the instant application the answering respondents beg to state that the allegation including other paras is not at all maintainable and is liable to be dismissed with cost.

VERIFICATION

I, Navneet Khanna... s/o Shri S.N. Khanna
 aged about 51 years, R/o Laitmukhah... Shillong.....
 District Shillong... and competent officer of the
 answering respondents, do hereby verify that the state-
 ment made in paras 2, 3(c) to 14 are true to my
 knowledge and those made in paras 1, 3(a)(b), being
 matters of record are true to my information derived
 therefrom which I believe to be true and the rests are
 my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this 20th day
 of May 2006 at Guwahati.

Signature
 (Navneet Khanna)
 Colonel
 Civil Law Officer
 1st Battalion General Assam Rifles

ANNEXURE - 15

Tele No : PABX 27510/550

Mahanideshalaya Assam Rifles
Directorate General Assam Rifles
Shillong-793011

II. 14015/25-85/FA/A-2(Med)

30 Jun 91

APPOINTMENT AS MID-WIFE/AUXILLIARY NURSE

1. Smti Aziz Maiti is hereby selected for appointment as Mid-wife/Auxilliary Nurse in 21 Assam Rifles against the existing Vacancy of higher post of Staff Nurse under the provision of GER-77 in the scales of pay Rs. 1200.30-1410-1800/- p.m. plus other allowances as admissible under the existing rules from time to time. The appointment is purely temporary and may be terminated with 1 (one) month's notice from either side.

2. Smti Aziz Maiti shall have to produce the following certificates before joining the post :-

- (a) Medical fitness certificate from Civil Surgeon or equivalent at the time of joining.
- (b) Educational and other certificates as proof of age and qualification.
- (c) A character certificate from a Class-I officer or first Class Magistrate at the time of joining the duty.

3. No TA/DA will be admissible for joining the duty.

4. Smti Aziz Maiti is liable to serve anywhere in Assam Rifles deployed in Assam, Meghalaya, Nagaland, Manipur, Mizoram, Tripura, Arunachal Pradesh and Sikkim or anywhere in India wherever Assam Rifles may be existing.

5. The appointment is subject to satisfactory Police verification and antecedents.

6. Smti Aziz Maiti will report for duty to Commandant 21 Assam Rifles, C/O 99 APO on or before 30 June, failing which this appointment letter will be treated as cancelled.

7. Overage in respect of Smti Aziz Maiti is hereby condoned. This has the approval of DGAR.

(P.S. Prakash)
(P.S. Prakash)

Lt. Col

Assistant Director (A)
for Director General Assam
Rifles

Fwd to :-

1. Smti Aziz Maiti
21 Assam Rifles, C/O 99 APO
Signal Officer

2. 21 Assam Rifles, C/O 99 APO
HO MP Range Assam Rifles
C/O 99 APO

3. Medical branch (Intern. 1)

4. Pers. file

5. Office copy

6. 21 Assam Rifles

*verified to be copy
R. S. S. Advocate*

(Refer to Para 3 of Med Br ION No
I.14015/Posting-ANM/Med-IV/2006
dt 06 Feb 06)

CHAPTER 24 TRANSFER

Under SR 2 (18) "transfer" means the movement of a Government servant from one headquarters station in which he is employed to another such station, either to take up the duties of a new post, or in consequence of a change of his headquarters. Generally, transfers are made in the public interest. In some cases, transfers are ordered at the request of the Government servant.

1. Transfers in the public interest

The following types of transfers fall in the category of transfers in the public interest:—

- (i) Transfers in the same grade within the prescribed zone or jurisdiction;
- (ii) Redeployment of surplus employees treated as transfer in the public interest; and
- (iii) Transfers on promotion.

2. Powers.— The authority delegated with administrative powers of transferring a category of officials within a jurisdiction is required to maintain a Seniority List of all such officials. Transfers are ordered in the public interest for administrative reasons periodically or as and when a situation arises. If a Head of Office has more than one office under his administrative control either at the same station or at different places he is empowered to transfer Group 'C' and Group 'D' staff to these offices. Specific powers delegated by the respective departments in regard to transfers are to be followed.

3. Service benefits.— Benefits such as seniority, pay fixation, T.A., etc., are admissible in the case of a transfer in the public interest. However, a surplus employee redeployed is not entitled to count past service for seniority in the post to which he is posted on redeployment vide Para. 11.1 of the Scheme.

4. General orders on transfer

(i) Tenure.— Among the various concessions granted to the employees posted to offices in the North-Eastern Region, etc., (see Chapter 31), the benefit of consideration for their transfer to the place of choice is available for persons who complete the prescribed tenure. A tenure of 3 years at a time for officers with service of 10 years or less and 2 years for others have been prescribed. Period of leave, training, etc., in excess of 15 days per year will be excluded in counting the tenure period. For postings at other places, there are no orders commonly applicable regarding tenure.

Certified to be true
Copy
Rao's Advocate

12-
Departmental orders, if any, on this subject have to be taken note of. In the absence of specific orders it is the general practice followed by many offices that at least a minimum period of 3 years should be completed at a particular station. Under the provisions contained in SRs "a transfer at his own request should not be treated as a transfer in the public interest unless the authority sanctioning the transfer, for special reasons which should be recorded, otherwise directs". If an official who has completed a reasonable period of tenure at a station requests for transfer to a particular station for personal reasons, his request may be considered and such transfer may be treated as a routine transfer in the public interest, under the discretionary powers vested with the transferring authority under SR 114.

(ii) *Posting of husband and wife at the same station.*— It is the policy of the Government that as far as possible and within administrative restraints, the husband and wife should be posted at the same station to enable them to lead a normal family life and to ensure the education and welfare of their children. As per the broad guidelines laid down by Government, the Cadre Controlling Authorities may consider posting of the spouses at the same station if they belong to the same Central Service. These guidelines are to be kept in mind when routine transfers are made or when postings on promotion are made. However, these are only guidelines and not mandatory.

[G.I., D.P. & Trg., O.M. No. 28034/7/86-Estt. (A), dated the 3rd April, 1986.]

(iii) *Concessions for SC/ST.*— As per Dept. of Per. & Trg., O.M. No. AB-14071/27/89-Estt. (RR), dated the 29th June, 1989, candidates belonging to SC/ST recruited to Groups 'C' and 'D' posts are to be posted, as far as possible, near their native place within the region subject to administrative convenience. Same principles may be followed in the matter of postings on promotion also wherever possible.

(iv) *Concessions for physically handicapped employees.*— Holders of Group 'C' and Group 'D' posts who have been recruited on regional basis and who are physically handicapped, may be given posting, as far as possible, subject to administrative constraints, near their native places within the region. Requests for transfer to or near their native places may also be given preference.

[G.I., D.P. & Trg., O.M. No. AB-14017/41/90-Estt. (RR), dated the 10th May, 1990.]

5. Transfers on own request

(i) *Transfer within the jurisdiction.*— As mentioned in Para. 1, an employee may be transferred within the zone or jurisdiction by the Competent Authority in the public interest. Sometimes the employee may ask for such a transfer on personal grounds. In such cases, the transfer, if allowed, is not treated as 'in the public interest'. In all orders of such transfer mention should be made that Travelling Allowance and Joining Time are not admissible.

-13-

APPX C
(Refer to para 4(a) of Med Br XION No
I.14015/Posting-ANM/Med-IV/2006 dt
dt 06 Feb 2006)

Headquarters
Inspector General
Assam Rifles (North)
c/o 99 APO

25 Feb 94

Manohideshwaran Assam Rifles
Directorate General Assam Rifles
(ABR/MDH)
DILMULKOT 793011

APPLICATIONS FOR POSTING

1. Applications for posting on compassionate grnds in
respect of following pers are submitted herewith duly
recommended for your further necessary action please :-

(a) Smti N Mani Devi, Staff Nurse - 7 Assam Rif
(b) Mrs Annie Mathew, ANM - 21 Assam Rif

(Randhir Sagar)
Maj
Offg JAD (A)
for IG Assam Rifles

Encl :- dry Sheets

Copy to :-

HQ MP Rg Assam Rifles
c/o 99 APO

- for info wrt their letters No
II.13028/A/94/693 and 692 dt
21 Jan 94.

My
B

Certified to be true
copy
Roshan Adw.

161

(10)

100

475 Minnie Mathew
ANM
Unit Hospital
215 Main Street
0/0 99-120

10

WILLIAM H. GOLDFEIN (Adm)

卷之三

卷之三

BRILLIANT

(through proper channel)

PRAYER FOR INT'L UNIT POSTING ON COMPASSIONATE GROUNDS

Respected Sir,

I Mrs Annie Mathew, ANM of 21 Assam Rifles have the honour to lay down the following few lines for your favour of action please.

That Sir, I am working with this unit since 1991 as an NM along with my husband No B/354143 Nk/CRL Abraham Mathew. Recently my husband has been posted out to 9 Assam Rifles via DGAR, Adm I order No. 1119013/4/93/ADM-I(B)/84 dated 01 Dec 93 and Now I am staying alone with my two kids of aged 4 years and 1 year.

I am facing hardship to look after my kids alongwith my duties. Hence I request you that kindly I may also be posted out to 9th RIFLES as I am unable to perform my duties peacefully alongwith my husband. (A.K. Singh)
Your kind and favourable action solicited. Thanking you
in anticipation. DIG, 9th RIFLES

Yours faithfully,

ANIE KATHLEEN

Mrs. Annie Mathew,

Dated: 07-3-1994
1994-1001-181

Digitized by srujanika@gmail.com

Certified to be
true copy

Boyer

15-
(7)
59

PART - I

RECOMMENDATION OF THE COMDT ON THE APPLICATION SUBMITTED
BY MR. BANISTER MATHEW, AN M FOR POSTING ON COMPASSIONATE
GROUND

Recommended/Not Recommended

Placed in Field

Dated 11 Jan 94

(Bhanwar Singh),
Col
Comit

PART - II

RECOMMENDATION OF THE DIGAR HQ MP RANGE AR

The request for her posting to 9 Assam Rifles
may be considered on merit.

Dated 11 Jan 94

AK Singh
(AK Singh)
Brig
DIG Assam Rifles

RECOMMENDATIONS ON BEHALF OF THE INSPECTOR GENERAL ASSAM RIFLES (N)

Recommended/Not Recommended

Placed in Field

Dated 11 Feb 94

*Controlled to be
sent free copy
B. 08/2/94*

R M Prabhakar
Comdt. (SG)
D.D. (Adm)
HQ IGAAR (North)
C/O 9 APO.

Appx 'D'
(Ref to Para 4(a) of MedBF ION No
I.14015/Posting-ANM/Med-IV/2006 dt
06 Feb 2006)

(12)

FROM THE DOME

DRG 301100

Digitized by

四四八

AG 14
3 May
1944

114

position/another staff name/Ans: (.) further to this Due A 2478
Ans 16 June year (.)

11.10.1 (.) following posting/modification in above posting
order appended (.)

122a (a) each twelve days thereafter during which the
air pressure is 10.4 AB minus third order harmonic

1990-1991: The first year of the new program.

above (a) and Rosemary Ruth Owen Staff Nurse
21 AM hereby passed to 10 AM (a)

charlie (.) and Isabella Alexander come staff where
8 AR posted to 9 AR with this the time big
horsing controlled (.) and now posted to 21
AR (.)

Delta: (.) Next 100 customers come 101-1000 26 AR posted
10 AR when this does 101d sig hereby cancelled (.)
and now posted to 4 AR (.)

2000 (.) Both Arctic Heliocore areas will be 22 AR
2000 posted to 9 AM the compensation group (.)

secondly (a) carry out new earliest and fed completion report
now by Am 3P without fail (a)

• *Any new legislation will be submitted*

Section 10.10

1880. 12. 12. 1880. 12. 12.

30 1989

Dareash Shaxera, AD (A)

Certified to be
true copy
R. S. G.

ANNEXURE -5

-17-

Appx'E'

(Refer to Para 4(b) of Med IR ION
No I.14015/Posting-ANM/Med-IV/200
dated 06 Feb 2006)

FROM : D GAR A BRANCH

DIYB :

UNCL 18

TO : AC & 4 Rg
NLR(S)

A 34 18

Info : 9 AR
16 AR

posting ANM (.) Smt And Mathew ANM 9 AR hereby posted to
16 AR (.) indl to be released by Jan 10 and completion report
be fwd by 15 Jan 98 positively (.) 9 AR only (.) relief
being provided seperately -

Co 1 RS Dhull, DD(A), A-I I Dated, Shillong the 12 Dec 97

Parry

Copy to :-

Col
OIC Monitor _____ h

Rec Branch(Adm-I) - for info wrt their ION No. I.17015/1/97/
(Internal) Adm-I/106 dt 07 Dec 97.

certified to be
One copy
Rao Adm.

ANNEXURE -6 ✓

Appx 'F'

(Refer to Para 4(b) of Med Br IC
No I.14015/Posting-ANM/Med-IV/28
2006 dated 06 Feb 2006)

Headquarters
Arunachal & Assam Range
Assam Rifles
C/O 99 APO

I.15014/10 Med/97-A/13611

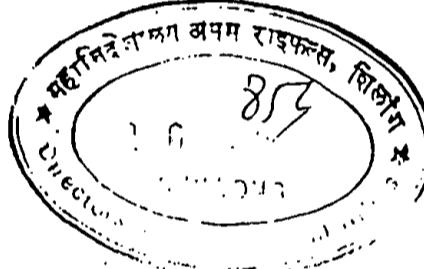
16 Jan. 98

Mahanideshalaya Assam Rifles
Directorate General Assam Rifles
(A branch)
Shillong - 793 011

APPLICATION : FWD OF

1. An application submitted by ANM of 9 Assam Rifles regarding Retention on compassionate ground is fwd herewith ~~for~~ duly recommended by the DIG Assam Rifles for your further action please.

2. Please ack.



Encl : 2 (two) only

6cm
(V Vasudevan)
Dy Comdt
offg DD(Adm)
for DIG Assam Rifles

Copy to :-

9 Assam Rifles
C/O 99 APO

for info with ref to their ltr
No 14014/29/97-A/727 dt 31 Dec 97.

Certified to be

free copy

Rajan
Adm.

Appx 'G'

(Refer to Para 4(b) of Med Br ION
No I.14015/Posting-ANM/Med-IV/2006
dt 06 Feb 2006)

From : DGAR A Branch
TO : AC & A Rg.
MLA(s)

DTG :

Unclass.

A 34 27

Info : 9 AR
16 AR

posting ANM (.) this Dte A 3418 Dec 12 last yr (.) p.251-
p.271-

your Roman one pt 15014/10 Med/97-A/1341 Jan 14 (.) retention
in c/o Smt Anil Mathew ANM stand posted to 16 AR hereby
approved upto Apr 30 on end grnd (.) indl to be released
by May 01 without fail and completion report be submitted
by May 05 positively

Shri SK Kar, SAQ, A-II Dated: Shillong the 18 Feb 98

h
SAC
TOR

Certified to be
true copy
Raoji Adv.

NOTICE

64

From :- Mr. G. Baishya
Sr. C.G.S.C., C.A.T

To, Mr. M. Chanda
Advocate, G.H.C

O.A.No. 10 of 2006

Smt. Annie Mathew
— Applicant

25.

Union of India & Ors.
— Respondents

Please find enclosed with a copy of written statement with annexures which is going to be filed on behalf of the Respondents aforesaid in connection with the aforesaid case.

Kindly acknowledge the receipt thereof.

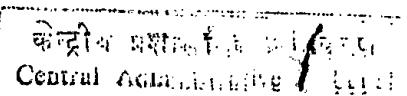
Thanking you.

Received Copy

Sub
24/5
Advocate

Yours faithfully

Rati Gogoi
Advocate

 केन्द्रीय अधिकारी बोर्ड Central Administrative Board 23/11/06 गुवाहाटी अधिकारी
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH: GUWAHATI

filed by the applicant
 In the matter of S. Unit
 65
 12/08/06

In the matter of:-

O.A. No. 10 of 2006

Mrs. Anie Mathew.
 -Versus-
 Union of India & Ors.

-And-
In the matter of:-

Rejoinder submitted by the applicant in reply to the written statements submitted by the respondents.

The applicant above named most humbly and respectfully begs to state as under; -

1. That with regard to the statements made in paragraph 1, 2 and 3 of the written statement the applicant categorically denies statements save and except those are matters of records.
2. That the applicant categorically denies the statements made in para 4, 5, 6, 7, 8, and 9 of the written statement and begs to state that husband of the applicant is serving as a Pastor in the solitary post at ARTC & S, Dimapur, therefore, the applicant sought her posting in the same station where her husband is posting as per the provisions laid down in the OM dated 12.06.1997 as well as OM dated 23.08.2004. Moreover, the applicant is suffering from Migraine with faint nerve as such she requires care of his husband which the applicant can avail only in the case of her posting in the same station or at any nearby station where husband of the applicant

is serving. Further, the statement of the respondents made in paragraph 4 of the written statement that there is Government School at Chassad at Manipur where daughter of the applicant can continue her study is not correct as because daughter of the applicant is reading at Class VIII under the Nagaland State Board and the applicant by the impugned order of transfer dated 19.05.2005 is now sought to be transferred at Chassad in the State of Manipur, which will cause disturbance in the study of the daughter of the applicant. Therefore, the contention of the respondents that the applicant has mislead the Hon'ble Tribunal is not correct and the applicant denies the same. Moreover, the respondents have not assigned any reason as to why it is difficult on the part of them to provide same station of posting of the applicant where her husband is working.

3. That the applicant categorically denies the statements made in para 10, 11, 12, 13 and 14 of the written statement and begs to state that the respondent have not denied the statement that there is no post available in the nearby Composite Hospital, Sukhovi or in 31st Assam Rifles near around the Dimapur town where the applicant prayed for her posting in her representation dated 27.05.2005. It is further stated that respondents have not stated the reason as to why the applicant could not be accommodate in the nearby Composite Hospital, Sukhovi or in 31st Assam Rifles which the applicant sought to be posted to stay in the same station with her husband as because his son and daughter both are reading at Nagaland under the Nagaland State Board. Therefore, the Hon'ble Tribunal be pleased to direct the respondents to accommodate the applicant either at Composite Hospital, Sukhovi or in 31st Assam Rifles in terms of the provisions laid down in OM dated 12.06.97 as well as OM dated 23.08.2004.

That in the facts and circumstances stated above the Original Application deserves to be allowed with costs.

VERIFICATION

I, Mrs. Anie Mathew, W/o- Shri Abraham Mathew, working as Auxillary Nurse cum Midwife, Assam Rifles Training Center and School, Dimapur, Nagaland, aged about 38 years, 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 18th day of August 2006.

Anie Mathew

Anie Mathew

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GAUHATI BENCH: GAUHATI

ORIGINAL APPLICATION NO 10 OF 2006

Smt Anie Mathew

..... Applicant

Versus

Union of India & others

..... Respondents

In the matter of :-

Reply of Rejoinder submitted by the Applicant.

The humble Respondents beg to submit the reply as follows:-

1. That with regard to statement made in para 1 of the Rejoinder Application, the contents of paras 1, 2 and 3 of the Written Statement are reiterated as correct.
2. That with regard to statements made in para 2 of the Rejoinder Application, the contents of para 4 and 6 of the Written Statement are reiterated as correct.
3. That with regard to statements made in para 3 of the Rejoinder Application, the contents of para 5 of the Written Statement is reiterated as correct.
4. That the answering respondent beg to state that the allegation raised by the applicant are all concocted, untrue and false and the respondent deny the same. The respondent beg to submit that the transfer of the applicant is just in accordance with the policy on the subject and the applicant is not entitled to any relief as sought for and the application is liable to be dismissed with cost.

That in view of the facts mentioned herein above it is humbly prayed that the present Original Application is not bonafide and is not legally sustainable and is liable to be dismissed with cost.

Filed by
the respondent
through *Sanam Singh*

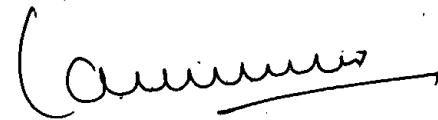
58
Sr. C. S. C.

VERIFICATION

69

I, Major S Salooja, S/o GP Capt SC Salooja aged about 38 years, r/o Laitmukrah, Shillong District Shillong and competent officer of the answering respondents, do hereby verify that the statement made in paras 1 to 4 are true to my knowledge and those of the paras _____ being matters of record are true to my information derived there from which I believe to be true and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this 18 the day of Sep 2006 at Guwahati



Signature

অ

মেঢ়া

A Chief Law Officer

গুৱাহাটী মুসল্য বিধি অধিকারী

H. No. 10, Dighi Lane, Guwahati - 781001

গুৱাহাটী মুসল্য বিধি অধিকারী, পৰিচয় - ৭৮১০০১

Notice

From- Mr. G. Baishya
Sr. CGSC, CAT

To, Sri M. Chander
Advocate, GHC

O.A. No. 10 of 2006

Shri Mathew

Applicant

VS-
Union of India & Ors

Respondent

Please find herewith a copy of reply of rejoinder which is going to be filed on behalf of the respondents in connection with the aforesaid case.

Kindly acknowledge the receipt thereof. Thanking you.

Yours faithfully

Received copy

Rati Gogoi

Feb. 2009
Advocate