

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

ORDER SHEET

Original Application No. 12/2006

Misc. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicant(s) All India CPWD Staff Association

Respondent(s) W.O. 1 & 2 005

Advocate for the Applicants

Mr. Bijan Chakraborty
MS D. Seal

Advocate for the Respondent(s)

M. U. Ahmed MS CGSC

Rly St. Counsel

Notes of the Registry	Date	Order of the Tribunal
	17.1.06	present: The Hon'ble Srđ K.V. Sachidanandan, Vice-Chairman.

This application is in form
is filed/C Rs. 50/-
deposit 30
No. 26 G 317887
Date 5.1.06

16 Dy. Registrar 16.1.06

Steps Taken

The applicant is an association claims to be a registered one in CPWD Staff. Their grievance is that as per the transfer policy the rotational transfer has been implemented in the case of LDCs but the same has not been implemented in the case of UDCs and Head Clerks. Accordingly there is discrimination and the O.A. is filed on the said contentions.

When the matter comes up for admission, Mr. B. Chakraborty, learned counsel for the applicant submits that he would like to implead one person of the aggrieved association. Mr. M. U. Ahmed, learned ^{Adgl.} Sr. C.G.S.C. submits that he would like to submit a statement before admission. Let it be done post on 20.2.2006.

Vice-Chairman

bb

Notice duly served
on resp. nos. 1 to 6.

Contd.....

O.A. 12/2006

20.02.2006 Present : Hon'ble Sri K. V.
Sachidanandan, Vice-Chairman.

Mr. B. Chakrabarty, learned counsel for the applicants and Mr. M.U. Ahmed, learned Addl. C.G.S.C. for the respondents were present.

When the matter came up for hearing, counsel for the applicant submits that he would like to withdraw the application with liberty to approach the appropriate forum in case of necessity. The applicant is granted permission to withdraw the application with liberty to file fresh O.A. if necessary.

The application is dismissed on withdrawal. No order as to costs.

Vice-Chairman

17-2-06

Service completed.
No W/S filed.

For

23.2.06

Copy of the order
has been sent to
the D/Secy. for
issuing the order
to the applicant
as well as to the
Addl. C.G.S.C. for the
records.

23/2/06
M.U. Ahmed

7

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

Original Application No. 12/06

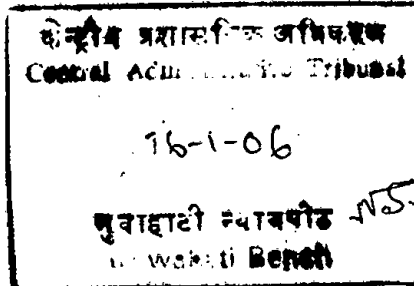
1. a) Name of the Applicant:- All India CPWD Sports Association
b) Respondants:- Union of India & Ors.
c) No. of Applicant(S):-
2. Is the application is the proper form:- Yes / No.
3. Whether name & description and address of the all the papers been furnished in cause title :- Yes / No.
4. Has the application 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/- 266 317887 dt 5.10.06.
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 annexure 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:

This application is in form.

SECTION OFFICER(J)

1/ DEPUTY REGISTRAR

16.10.06.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI

Original Application No 12/06

All India CPWD Staff Association

—Applicant

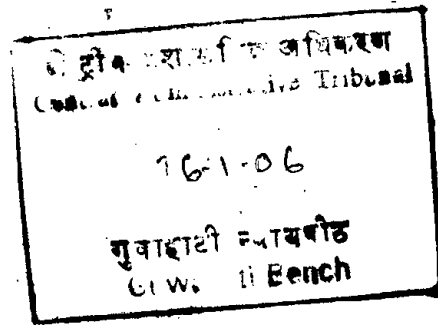
Vs

Union of India and Ors

—Respondents

SYNOPSIS OF THE CASE

The applicant association is a service association of CPWD Group B, C & D Ministerial Staff representing the interest of the members all over India. The transfer policy of the Ministerial staff namely Lower Division Clerk, Upper Division Clerks and head Clerks are governed and regulated by the CPWD Manual volume – I and in para 19 of the manual the general principles of transfer have been laid down. It is provided in the manual that the Ministerial staff of CPWD are liable to be transferred from one office to another within the same circle after completion of 5 years in one office and the superintending Engineer of the circle is entrusted to initiate and execute the rotational transfer of Ministerial Staff within his administrative control. However the authorities are not implementing the transfer policy laid down under the manual and the applicant association received many grievances of its member Ministerial Staff as regards causing prejudice to such members and in spite of several representation of the applicant association on the matter for proper implementation of transfer policy, the same has not been implemented as yet. Hence this application.



LIST OF DATES

1950 -The applicant association was established to promote service interests
Ministerial staff of CPWD all over India

9.9.2004;- The applicant association made representation before the authorities
for rotational transfer of Ministerial Staff of CPWD in terms with Rule 19 of
manual Vol-I

Annexure- A1, Page -13

6.10.2004 ; another representation made before the authorities for rotational
transfer of Ministerial Staff of CPWD.

Annexure A2 Page -14

14.10.2004 on representation of applicant association, the authorities held
meeting with the applicant association regarding transfer policy

Annexure B Page -15

19.11.2004 the applicant association made representation before the respondent
No 6 to implement the rotational transfer policy

Annexure C Page -18

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

(An application Under Section 19 of the
Administrative Tribunal Act, 1985)

O. A. NO. 12 05

All India CPWD Office Staff
Association having its
Registered Office at I. P.
Bhawan, New Delhi - 110002,
represented by Sri U. K. Paul,
Branch Secretary of the
Association, Guwahati Branch,
Guwahati.

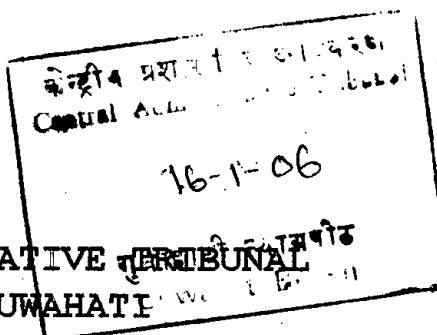
... Applicant

- Vs. -

1. Union of India
Represented by the Secretary
of Urban Development,
Nirman Bhawan, New Delhi-1.
2. Director General (Works)
CPWD, Nirman Bhawan,
New Delhi - 110001.
3. Additional Director General (ER)
CPWD, Nizam Palace, 234/4,
A.J.C. Bose Road, Kolkata- 20.
4. Chief Engineer (NEZ)
CPWD, Dhankhati,
Cleves Colony, Shillong-3.
5. Superintending Engineer (Co-ord)
Co-ordination Circle (ER)
CPWD, Nizam Palace, 234/4,
A.J.C. Bose Road, Kolkata- 20.
6. Superintending Engineer
Assam Central Circle-II,
CPWD, D.S. Mansion,
R.G. Baruah Road, Guwahati-5.

... Respondents

Contd....2



1. PARTICULARS OF THE REPRESENTATION AGAINST WHICH THE APPLICATION IS MADE

The Applicant Association made number of representation for immediate implementation of 5 year rotational transfer of Ministerial staff (Lower Division Clerk, Upper Division Clerk and Head Clerk) under the CPWD MANUAL Vol. I and lastly made representation on 19.11.2004, but the transfer policy under the manual has not been implemented. Hence this application .

2. JURISDICTION OF THE HON'BLE TRIBUNAL

The Applicant Association declares that the subject matter against which it wants redressal is within the jurisdiction of this Tribunal .

3. LIMITATION

The Applicant declares that the application is within the limitation prescribed under Section 21 of Administrative Tribunal Act .

4. FACTS OF THE CASE

1. That the Applicant Association is an all India level association of group B, C and D Ministerial staff of the Central Public Works Department having its head office at New Delhi .The association at present represents the interest of 90% of the group B, C and D Ministerial Staff of the CPWD staff all over India .The applicant association was established in the year 1950 . Earlier the name of the applicant association was Central PWD NON GAZETTED STAFF Association and subsequently the association

Contd....3

Branch Secretary
 All India CPWD & C. & S. Staff Association
 CPWD, Guwahati Branch
 Guwahati-21
 Uttam Kumar Paul

was renamed in the present form when the authorities created some gazetted posts in the rank of Grade B staff.

2. That the aim and objectives of the association has been laid down in the Memorandum of Association of the applicant association which mentions that the association shall strive for promotion and protection of the service interest of its members and to promote the welfare of the staff members of the association .The instant application is being filed by the Branch Secretary of the Guwahati Branch of the association after being duly authorised by the association in this regard

3. That the applicant association states that the transfer policy of the Ministerial staff namely Lower Division Clerks, Upper Division Clerks and Head Clerks are governed and regulated by the CPWD MANUAL Vol.-I . In para 19 of the Manual the general principle of transfer has been laid down which is quoted below for ready reference.

19. Ministerial staff (other than Office Superintendent) and Drawing Staff : The following general principles of transfer are followed in respect of these categories of staff:

- a. They are transferred from one office to another every 5 years within the same Circle. Such transfers are ordered by the Superintending Engineers concerned. Transfer from one station to another under this manual, where unavoidable, shall be made either by the Superintending Engineer (Co-ordination) or by the Superintending Engineer of the Circle concerned in

Contd....4

Uttam Kumar Paul
Branch Secretary
All India CPWD Officers Staff Association
CPWD, Guwahati Branch
Sub. No-21

consultation with the Superintending Engineer (Coordination) so that the latter can properly coordinate transfers from popular to unpopular station may be transferred after completion of three years if there is a vacancy at popular station and after four years, even if longest stayee who has completed his tenure of at least four years at the popular station is to be shifted.

- b. Transfers from one circle to another in the same station or in another station, if required, or where need arises to fill up a post outside a popular station, when such a post has fallen vacant due to some reasons, shall be made on the basis of longest continuous stay of individuals in all grades, the longest stayee being transferred first. Similarly, in bringing persons on transfer from an unpopular to a popular station, the same rule will apply. Transfers from one station to another shall normally be restricted to Upper Division Clerks, Head Clerks, Draughtsmen Grade I and Draughtsmen Grade II. Such transfers shall be made by the Superintending Engineer (Coordination) or by the Superintending Engineer concerned in consultation with him.

- c. Lower Division Clerks, Stenographers and Draughtsmen Grade III are not normally transferred from one station to another, Requests for transfer from one station to another in these Grades are discouraged but in a case where it has been decided to accede to the

Contd....5

Uttam Kumar Paul
Branch Secretary
All India CPWD Employees Staff Association
CPWD, Guwahati Branch
Guwahati-21

request of an individual for transfer to a popular station or a station of his choice on compassionate grounds, he may be accommodated against a clear vacancy. Such transfers are made by the Superintending Engineer (Coord.) of the Region concerned and the official concerned will not be entitled to TA/DA or joining time. The resultant vacancy in the post from which the individual is transferred may be filled up by direct recruitment in consultation with the Superintending Engineer (Coordination) if it is not possible for him to fill up the vacancy by transfer. For such transfers, the Superintending Engineer (Coord.) should maintain a waiting list of individuals who have requested for transfers and effect the transfers on the basis of first come first serve.

- d. For the purpose of operation of 5 years transfer rule, a Sub-Division located at a station other than its Divisional headquarters shall be treated as a separate office.
- e. Superintending Engineers have been empowered to grant exemption from transfer in individual cases up to a maximum period of one year provided that there are exceptionally strong reasons to justify grant of such an exemption.

4. That from the above rule provided in the Manual, it is discernable that the Ministerial staff of CPWD are liable to be transferred from one office to another within the same circle

Contd....6

Uttam Kumar Paul
Branch Secretary
All India CPWD Officers Staff Association
CPWD, Guwahati Branch
Guwahati-21

after completion of 5 years in one office. As regards the transfer, the Superintending Engineer of the circle is entrusted to initiate and execute the rotational transfer of Ministerial staff within his administrative control.

5. That however the Authorities are not implementing the transfer policy laid down under the Manual and the applicant association received many grievances of its member Ministerial staffs as regards causing prejudices to such members. The association took up the matter to the authorities and submitted number of representation for proper implementation of transfer policy mentioned herein above so that no such hardship is caused to the aggrieved Ministerial staff.

Copies of some of the representation are annexed herewith and marked as Annexure - A1, A2.

6. That pursuant to the grievances lodged in this regard by the applicant association the authorities held meeting with the applicant association and in the Minutes of the meeting, the assurance given by the authorities for proper implementation of transfer policy had been reflected.

A copy of the minutes of the meeting held on 14.10.2004 is annexed herewith and marked as Annexure -B

7. That the applicant association states that the authority duly implemented the rotational transfer of the Lower Division Clerks. However as regards the transfer on rotation of the Upper Division Clerks and Head Clerks under the control of Respondent no. 6, though order has been passed for implementation of transfer

Contd....7

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 Uttam Kumar Paul
 Branch Secretary
 All India C.P.W.O. Officers Staff Association
 CPWD, Guwahati Branch
 Guwahati-21

policy, the same has not been implemented at all and this has caused undue prejudice to some incumbents.

8. That the applicant states that under the rule an incumbent serving as Ministerial staff is to be transferred on completion of his 5 years posting at a particular office. However, as regards Upper Division Clerks and Head Clerks, there has been a large number of instances where the incumbents have completed much more than the tenure fixed under the manual but they have not been transferred and this is violative of the mandate of the aforesaid manual provided by the CPWD Manual Vol. I.

9. That the applicant states that the association has an object to look into and alleviate the grievances caused to the members. The applicant association has received a number of complains as regards non implementation of the rotational transfer scheme in case of some incumbents not due to any administrative reason but on some extraneous consideration. The applicant made yet again representation on 19.11.2004 before the Respondent no- 6 stating that the 5 years rotational transfer of Upper Division Clerks and Head Clerks had not been implemented properly as per the assurances provided in the Minute of the meeting held on 14.10.2004. However, till date no action has been taken in the matter and the transfer policy aforementioned has not been implemented as regards the Upper Division Clerks and Head Clerks staff. It is stated that it has been done by the Respondent no. 6 at the interest of some vested interest who are not inclined to get transferred from their present posting and this has caused serious prejudices to others.

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Utkarsh Kumar Paul
Branch Secretary
All India CPWD Officers Staff Association
CPWD, Guwahati Branch
Guwahati-21

A copy of representation dt. 19.11.2004 is annexed herewith and marked as Annexure - C

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS

i) For that the action of the authorities in failing to implement the Manual Rule as regards the rotational transfer of the Ministerial staff of the CPWD provided in the CPWD Manual Vol. I, causing grave prejudice to some Ministerial Staff at the interest of some other staff is motivated, malafide, illegal and unreasonable. Your applicant has got reason to belief that the authorities is resorting the colourable exercise of power to retain the staff of his choice over-tenure in one office at the cost of other staff and the same is not maintainable in law.

ii) For that the rule provided under the Manual has to be generally implemented in the interest of administration and the rule so provided are to be construed mandatory in nature and as such the inaction of the authority in implementing the rule as regards the Upper Division Clerks and Head Clerks staff is violative of the Manual Rule causing undue hardship to some incumbent at the undue interest of others. The authorities has deliberately avoiding to apply his mind with ill motive and as such inaction of Respondent No. 6 is bad in the eye of law.

iii) For that the applicant further states that it is settled proposition of law that similarly situated person are entitled for similar benefits. The motivated misadventure of authorities to retain handpicked officials of his choice in one office beyond prescribed tenure causing grave prejudice to some Ministerial Staff is not maintainable in law and is liable to be set aside.

Contd....9

Uttam Kumar Paul
Branch Secretary
All India CPW & Office Staff Association
CPWD, Guwahati Branch
Guwahati-21

iv) For that it is also settled that no authority has right to whimsically depart laid down rules and regulations on concocted and flimsy ground. For that the authorities are duty bound to implement the duty caste in the CPWD Manual as regards rotational transfer in true perspective more particularly as regards the transfer of the Upper Division Clerks and Head Clerks under Respondent No. 6 and that not having been done in letter and spirit, the action is bad in law.

v) For that the Respondent No. 6 should have maintained high standard of integrity and impartiality, being holding responsible post and ensure as far as it lies in his power that their behaviour gives no room to suggest that some staff have greater influence with him than others as per CCS (Conduct) Rule'1964 as contained in Govt. of India, M/o. Home Affair's O.M. No. 41(2/55(II)-Ests(A) dated 23rd April/1955. As per Govt. of India, D.O.P. and T.O.M. No. 11013/10/93-Estt (A) dated 6th October/1993 stressed that a Government employee must be impartial and must not show undue favour or illwill in his official dealings. If a Government employee is found to misuse his official position or to abet and connive at improper and illegal acts, he would render himself liable for disciplinary action for violation of Rule-3 of CCS (Conduct) Rules'1964.

vi) For that the inaction of the Respondent No. 6 in implementing the rule as regards the Upper Division Clerks and Head Clerks is violative of Manual rule causing undue hardship to some incumbent at the undue interests of others expose his partiality, illegality and favouritism and hence liable for prosecution for deliberate violation of CCS (Conduct) Rules'1964 in force.

Contd....10

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Uttam Kumar Paul

Branch Secretary

All India CPWD Office Staff Association
CPWD, New Delhi

6. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT

The applicant further declares that it has not previously filed any application , writ petition or suit regarding this matter in respect of which this application has been made ,before any court or any other authority or any other Bench of the Tribunal ,nor any such application, writ petition or suit is pending before any of them

7. PRAYER

In this premises aforesaid , it is , therefore , prayed that Your Lordship may be pleased to admit this application , issue notices to the Respondents to show cause as to why the rotational transfer policy , provided in para 19 of the CPWD Manual Vol. -I of the Ministerial staff shall not be properly implemented particularly as regards the Upper Division Clerks and Head Clerks of the CPWD under Respondent no- 6 and as to why appropriate action shall not be taken against Respondent No. 6 for his failure to initiate steps in proper implementation of the transfer policy as regards the Upper Division Clerks and Head Clerks staff under him, call for

Contd....11

15
Urban Kumar Paul
Branch Secretary
All India C P W O Office Staff Association
CPWD, Guwahati Branch
Guwahati-21

the entire record of the case and after hearing the parties , be pleased to allow this application with the aforesaid direction and/or pass necessary order as your Lordship may deem fit and proper

And for this, the applicant, as in duty bound, shall ever pray

9. INTERIM ORDER

The applicant has prayed for no interim order

10. Dose not arise.

11. PARTICULARS OF BANK DRAFT \ POSTAL ORDER IN RESPECT OF THE APPLICANT FEE.

- i) I .P . O. No. 266 317887
- ii) Date 5.1.06.
- iii) Issued by Guwahati Post Office
- iv) Payable at Guwahati

12. LIST OF ENCLOSURES

As stated in the index.

Uttam Kumar Paul
Branch Secretary
All India CPW & Office Staff Association
CPW & Office Staff Branch
Guwahati-21

VERIFICATION

I, Sri Uttam Kumar Paul, son of Sri S. K. Paul, aged about 34 years, Branch Secretary of Association, Guwahati Branch, am one of the applicant in this original application and other applicants have authorised me to sign this verification on their behalf and as such I do hereby verify that the statements made in paragraphs No. 1 to 12 are true to my knowledge and those made in paragraph nos. are matter of record and the statements made in paragraph nos. are believed to be true on legal advice and I have not suppressed not material fact.

And I sign this verification on this 18th day of January, 2006 at Guwahati.

Place - Guwahati
Date - 9.1.2006.

Uttam Kumar Paul
Branch Secretary
All India C.P.W.D. Office Staff Association
CPWD, Guwahati Branch
Guwahati-21

Applicant's Signature.

INDIA C.P.W.D OFFICE STAFF ASSOCIATION

[Recognized by Government of India under CCS (RSA)-Rules-1993]

(Representing Group-B, Group-C & Group-D Staff)

GUWAHATI BRACH

Central P.W.D., Guwahati-21

Tel. : 2550564

ANNEXURE- AE**Head Office :**

'C' Wing, Ground Floor,
Near Generator Room,
I.P. Bhawan, New Delhi-110 001

☎ : 3318168
3318461

Regional Office :

Room No. 2, Ground Floor,
2nd M.S.O. Building,
(Opp. Generator Room)
C.P.W.D., Nizam Palace,
234/4, A.J.C. Bose Road,
Kolkata-700 020

☎ : 2870401

Ref. No. : AIOSA/CPWD/GB/ 102

Dated, Guwahati 09/09/2004

**President :**

Sri N. Bhatta
Ph. : 2550564 (O)

**Branch Secretary :**

Sri U. K. Paul
Ph. : 2550086 (O)
2670354 (R)

**Vice President :**

Sri S. Gogoi
Ph. : 2201994 (O)

**Jt. Branch Secretary :**

Sri P. Kar
Ph. : 2550086 (O)
2132010 (R)

**Treasurer :**

Sri J. C. Mondal

✓ To
The Superintending Engineer
Assam Central Circle-II,
CPWD, Guwahati.

Subject:- (i) Rotational Transfer of Ministerial Staff
pertains to the administrative control of
ACC-II.

(ii) Non-entertaining unrecognized CPWD Staff
Association(EZ)

Sir,

In enticing your kind attention on the above-quoted subject it is regretted to inform that Ministerial Staff under your administrative control has not been rotated from Division to Circle & vice-versa on completion of 5(Five) years stipulated tenure in one office in terms with Rule-21 of CPWD Manual Vol.I. Over & above, A/Branch to C/Branch & vice-versa posting of M/Staff has not been executed till date in terms with Rule-19 of Manual Vol.I for the reason best known to you. As a result, non - execution of timely rotation has led to over-tenure retention of M/Staff not only in Divisions & Circle but also at A/Branch in violation of Manual Rules in forced CVC Guideline.

In this context, it has brought to our knowledge that unrecognized CPWD Staff Association(EZ) is going to interfere in the rotation process uninvitedly to suit its vested interest. The noteworthy fact is that the above-said Association has already lost its entity as recognized Association since CCS(RSA)Rules'1993 come into force i.e. 5th November/1993. The Hon'ble M/o U.D. & P.A. has not recognized the above-said Association till date under mandatory CCS(RSA)Rules'1993. In spite of that, the above-said unrecognized Association is trying to represent M/Staff illegally on the basis of expired Regd.No.1932 in violation of DG(W)/N.Delhi's time to time instructions.

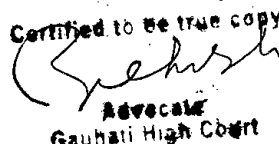
Keeping eye on the foregoing paras, it is earnestly requested that Rotational Transfer of M/Staff may please be executed impartially & evenhandedly without entertaining unrecognized CPWD Staff Association(EZ).

Thanking you,

Yours faithfully,



BRANCH SECRETARY

Certified to be true copy

Advocate
Guwahati High Court

Copy to:-

1. The Director General (W), CPWD, Nirman Bhawan, N.Delhi-11
2. The Addl. Director General(ER), CPWD, Nizam Palace, Kolkata-20
3. The Chief Engineer(NEZ), CPWD, Dhankheti, Shillong-3.
4. Sri R.K.Som, Regional Secretary(EZ), All India CPWD Office Staff Assoc., CPWD, Nizam Palace, Kolkata-20
5. Sri J.N.Antil, President, All India CPWD Office Staff Association N.Delhi.

BRANCH SECRETARY

-14- A/...

ALL INDIA C.P.W.D OFFICE STAFF ASSOCIATION

[Recognized by Government of India under CCS (RSA)-Rules-1993]

(Representing Group-B, Group-C & Group-D Staff)

GUWAHATI BRANCH

Central P.W.D., Guwahati-21

Tel. : 2550564

ANNEXURE-A2

Head Office :

'C' Wing, Ground Floor,
Near Generator Room,
I.P. Bhawan, New Delhi-110 001

☎ : 3318168

3318461

Regional Office :

Room No. 2, Ground Floor,
2nd M.S.O. Building,
(Opp. Generator Room)
C.P.W.D., Nizam Palace,
234/4, A.J.C. Bose Road,
Kolkata-700 020

☎ : 2870401

Ref. No. : AIOSA/CPWD/GB/ 107

Dated, Guwahati 06/10/2004

★
President :
Sri N. Bhatta
Ph. : 2550564 (O)

★
Branch Secretary :
Sri U. K. Paul
Ph. : 2550086 (O)
2670354 (R)

★
Vice President :
Sri S. Gogoi
Ph. : 2201994 (O)

★
Jt. Branch Secretary :
Sri P. Kar
Ph. : 2550086 (O)
2132010 (R)

★
Treasurer :
Sri J. C. Mondal

To

The Superintending Engineer
Assam Central Circle-II
CPWD, D.S.Mansion,
Guwahati-05

Subject :- Rotational Transfer of Ministerial Staff pertains to the administrative control of ACC-II.

Reference:- Our L/No.AIOSA/CPWD/GB/102 dt.09/09/2004.

Sir,

In continuation of our above-referred letter on the subject, it is once again reiterated that as per Manual Rules in force Ministerial Staff right from Head Clerk to LDC are liable to be transferred on completion of 5 years tenure in one office and LDC/UDC posted at Accounts Branch should be rotated to Correspondence Branch on completion of 3 years Accounts Branch tenure. The weightage and importance of Rotational Transfer can be better adjudged from the fact that this issue has debated at the Parliament several times. Even C.V.C. has intervened in the matter by issuing specific guidelines of rotating Ministerial Staff on completion of 3 years tenure at Accounts Branch due to sensitivity of the post.

It is quite disheartening to inform that you have maintained a surprising and suspicious silence on the matter till date despite having large numbers of staff are in queue for rotation. Your regressive approach on the matter demonstrates that you are trying to appease a few handpick staff of your choice through delaying tactics on one pretext or the other.

Keeping eye on the above, we demand rotation of Ministerial Staff right from Head Clerk to LDC within weekdays time without any prejudice. Otherwise, we will be forced to intervene in the matter as well as send the case to C.V.C. for thorough investigation.

Yours faithfully

o/c BRANCH SECRETARY

Copy to:-

1. The Chief Engineer (NEZ), CPWD, Dhankheti, Shillong-3 for favour of information & further necessary action please.
2. Sri J.N.Antil, President, All India CPWD Office Staff Association, N.Delhi.
3. Sri R.K.Som, Regional Secretary (EZ), All India CPWD Office Staff Association, Kolkata-20.

o/c BRANCH SECRETARY

Certified to be true copy


Advocate
Gauhati High Court

Minutes of the meeting chaired by Sri Ranjit Singh, Superintending Engineer, ACC-II, CPWD with All India C.P.W.D. Office staff Association, Guwahati Branch on 14.10.2004 at 9.30 AM in the Chamber of SE, ACC-II, Guwahati.

The followings were present (S/Sh)

Department side :

1. Ranjit Singh, S.E., ACC-II
2. M.Nazoruddin, O.S., ACC-II

Association side

1. N.Bhatta, Branch President
2. U.K. Paul, Branch Secretary
3. P.Kar, Jr. Secretary
4. P.K. Sarker, Member

At the outset, S.E., ACC-II welcomed the representatives of the Association who in turn introduced themselves to the S.E., ACC-II and thanked him for holding the meeting. The following issues thereafter came up for discussions.

1. Rotational Transfer of Ministerial Staff:

Association demanded immediate transfer of L.D.Cs and U.D.Cs, who have completed their prescribed tenure of 3 years in Accounts. S.E. appraised them about the acute shortage of L.D.Cs which creates hindrances in the rotational transfer of L.D.Cs. However, S.E. has assured to issue rotational transfer order very soon.

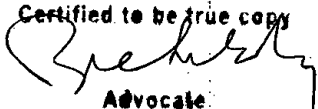
Regarding U.D.Cs, S.E. stated that U.D.Cs working in C/B have not completed even 2 years. On this Association pointed out that there is no tenure prescribed for C/B and tenure is fixed for A/B only. S.E. assured to look into this aspect and decision shall be taken very soon.

2. Rotational Transfer of Ministerial staff right from H.C. to L.D.Cs who have completed 5 years in one office.

Association demanded immediate transfer of Ministerial Staff right from Head Clerk to L.D.Cs who have completed more than 5 years in one office, as per provision in the Manual.

S.E. clarified 2 UDCs working as Cashier in P.D.-II and NAA PD have completed more than 5 years and thus due for transfer to another office. Their

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Advocate
Gauhati High Court

cases are delayed due to non-availability/non-joining of cashier. Association suggested to shift those cashier by making temporary arrangement. ~~It was decided~~
~~with the suggestion~~ ^{It was that} assured fresh option for cashier for P.D.-II and NAA PD are being invited and hopeful to fill up these posts very soon. Thereafter the said 2 UDCs shall be shifted to another office. Similarly other LDCs, UDCs also who have completed 5 years in one office shall be shifted very soon. Association suggested while selecting Cashier more people may be selected and in the offer letter a time limit be given to join duty, failing which the candidate next available in the selected panel may be offered. S.E. agreed to this.

Reacting to the Associations demand for the transfer of H.C., S.E. assured to do needful very soon considering the requirement and also in consultation with S.E.(Co-ordination), since one of H.C. is also performing the dual responsibilities due to paucity of staff.

3. Posting of Divisional Accountants :

Association stated that no Divisional Accountant is posted in any of the 3 divisions functioning under ACC-II and UDCs are forced to look after the work of Divisional Accountant in addition to their own work and that too, without any financial benefit. S.E. observed that matter shall be taken up with CCA and other higher authorities for immediate posting of J.A.O/AAO in all the 3 divisions.

4. Non-payment of D.P. in the Annual increment by P.D.-II.

Association pointed out that staff of P.D.-II do not get D.P. in Annual Increment accrued after 1.4.2004. S.E. assured to issue necessary directions to all E.Es under ACC-II very soon after consulting o/o C.E.(NEZ).

5. Inadequate office accommodation and basic facilities in ACC-II.

Association stated that present building was got on rent by ACC-II when the staff strength was only 6 nos. and now it is 20. The space is quite insufficient

and also not good in view of heavy water logging problem. Association also pointed out inadequate basic facilities like toilet etc. and also suggested providing a water cooler in the office. S.E. agreed to this and assured feasibility to shift the office to a better place shall be looked into.

6. Entertaining unrecognised Association.

Association produced document showing their recognition by the Ministry of Urban Development under RSA 1993 and raised objection over giving meeting to the ~~XXXX~~ unrecognised ~~XXXX~~ Associations ~~XXXX~~. S.E. observed that this aspect shall be examined during the meeting with the other Association and also confirmation will be sought from O/o DG(W) for names of recognised association.

The meeting thereafter ended with a vote of thanks to the Chair.


Govt. of India
Central Public Works Department
Assam Central Circle-II

No.24(5)/ACC-II/35

Date: 19/01/2005

Copy forwarded for information and/or necessary action to :-

1. A.D.G(ER), CPWD, Kolkata.
2. C.E(NEZ), CPWD, Shillong.
3. All E.Es under ACC-II, Guwahati.
- ✓ 4. Branch Secretary, All India CPWD Office Staff Association, CPWD, Bamunimaidan, Guwahati.
5. File No.9(1)/ACC-II/
6. Guard file.


Superintending Engineer
Assam Central Circle-II
CPWD, Guwahati-05.

ALL INDIA CPWD OFFICE STAFF ASSOCIATION**(Recognized by Govt. of India under CCS (RSA) Rules'1993)****(Representing Group-B, Group-C & Group-D Staff)****GUWAHATI BRANCH****HEAD OFFICE****I.P.BHAWAN,
NEAR GENERATOR ROOM
NEW DELHI-2****BRANCH OFFICE****NIRMAN BHAWAN,
BAMUNIMAIDAN,
GUWAHATI-781 021****REGIONAL OFFICE****2ND M.S.O.BUILDING,
NIZAM PALACE,
KOLKATA-20**

No.AIOSA/CPWD/GB/114

Date: 19/11/2004

To
Sri Ranjit Singh
Superintending Engineer (C)
Assam Central Circle-II
CPWD, Guwahati-5

Subject:- 5 years Rotational Transfer of Ministerial Staff (H/Clerk, UDC & LDC) & C/B to A/B & vice-versa rotation of UDC & LDC – Regarding.

Reference:- 1) Our Letter even No.102 dt.09/09/2004
2) Our Letter even No.107 dt.06/10/2004
3) Meeting held with you at your chamber on 14/10/2004

Sir,

In continuation of our above-referred letters, it is once again reiterated that Ministerial Staff right from H/Clerk to LDC are liable to be transferred from one office to another after completion of 5 years stipulated tenure in once office as per CPWD Manual Rules in force. Moreover, UDC & LDC are liable to be transferred from A/Branch to C/Branch & vice-versa on completion of 3 years stipulated tenure at A/Branch. In this regard, CVC has issued clear-cut guidelines governing all sensitive posts of CPWD which also includes A/Branch posting of Ministerial Staff. As such rotation of UDC/LDC from A/Branch to C/Branch & vice-versa on completion of 3 years A/Branch tenure is mandatory as per CVC guidelines in force, as Accounts post is sensitive one. Over & above, the 5 years Rotational Transfer right from H/Clerk to LDC is an issue that has rocked the India Parliament several times for impartial & even handed implementation of the same in CPWD. **The matter has been discussed at length in the meeting held with you on 14/10/2004 & you have agreed to implement the same as per Manual provision immediately.** In this connection, we appreciate your quick response so far rotations of LDCs are concerned. However, 5 years rotational transfer right from H/Clerk to UDC & A/Branch to C/Branch & vice posting of UDCs under your administrative control is still awaited due to reason best known to you leading to staff unrest at Guwahati station.

In this context, it is pertinent to point out that this Association has echoed whatever is inscribed in CPWD Manual Vol.I & has taken utmost care for evenhanded & impartial implementation of the Manualized Rotational Transfer rules in force without disturbing cordial relation in between Staff Members & Administration. However, this Association can in no way be remained a silent spectator for long at a time when administrative highhandedness/illegality unnecessarily fueling large-scale staff unrest surpassing all limits.

Keeping eye on the above, we demand immediate implementation of 5 years Rotational Transfer right from H/Clerk to UDC & A/Branch to C/Branch & vice-versa posting of UDC impartially & evenhandedly.

Yours faithfully,



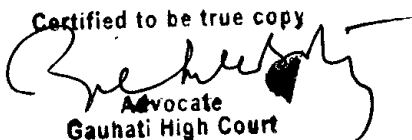
Branch Secretary

o/c All India CPWD Office Staff Association
Guwahati Branch, Bamunimaidan,

Guwahati-21

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Certified to be true copy


Advocate
Gauhati High Court

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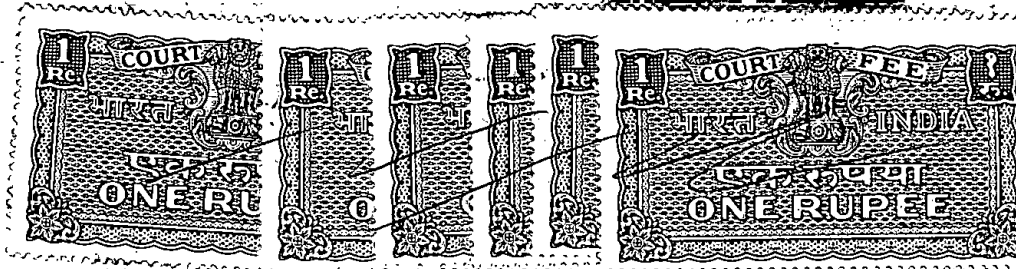
1. The Chief Engineer (NEZ), CPWD, Dhankheti, Shillong-3. In continuation of our letter even No. 102 dt.09/09/2004 & even No.107 dt.06/10/2004, it is once again requested to intervene in the matter immediately to set-right the same in accordance with CPWD Manual Vol.I Rules in force please.
2. Sri J.N.Antil, President, All India CPWD Office Staff Association, N.Delhi for information & necessary action please.
3. Sri R.K.Som, Regional Secretary (EZ), All India CPWD Office Staff Association, Kolkata-20.



s/c BRANCH SECRETARY

10.

DISTRICT:



VAKALATNAMA

C. A. T. Guwahati Bench
IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALYA, MANIPUR, TRIPURA,
ARUNACHAL PRADESH & MIZORAM)

014 NO. 12 of 06

All India CPWD staff Association

APPELLANT
PLAINTIFF/PETITIONER

VERSUS

Union of India

RESPONDENT
DEFENDANT/OPPOSITE PARTY

Know all men by these presents that the above named
applicant do hereby nominate, constitute and
appoint Shri Bijan Chakraborty, M.S. Seal
Advocate and such of the under mentioned Advocate(s) as shall
accept this Vakalatnama to be my/our true and lawful Advocate/Advocates to appear and act for
me/us in the matter noted above and in connection therewith and for that purpose to 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
acts so done by the said Advocate/Advocates as mine/ ours to all intents and purposes. In case of
non-payment of the stipulated fee in full, no Advocate will be bound to appear or act on my/our
behalf.

In witness whereof I/we hereto set my/our hand this 9th day
of January 2006

Received from
executant, satisfied
and accepted

Mr. Senior Advocate
will lead me / us in the case

Accepted

[Signature]
Advocate

Advocate

[Signature]
Advocate

26
Uttam Kumar Paul
Branch Secretary
All India CPWD Staff Association
CPWD, Guwahati Branch
Guwahati-21

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NOTICE

~~FROM~~ : Bijan Chakraborty, Advocate

Central Administrative Tribunal
Gauhati High Court, Guwahati, Bench.

TO: , Advocate

Gauhati High Court, Guwahati.

Ref : O.A.
WR(S) No. 12 / 05 06

All India CPWD Staff Association -- Petitioner

Versus

Union of India & ors -- Respondents

Sir,

Enclosed please find herewith a copy of the above noted case going to be filed today. Kindly accept notice on behalf of respondent no. 1

Copy received

Gautam Prasad
16.1.06

(Counsel for respondent no 1)

Yours faithfully

[Signature]
Advocate
Dated: 16.1.05

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MEMORANDUM OF APPEARANCE

Date : 17/11/86

To,

The Registrar

Central Administrative Tribunal
Bhangagarh, Rajgarh Road,
Guwahati.

IN THE MATTER OF :

O.A. No. 12 of 2006

All India CPWD office Staff Assocn.

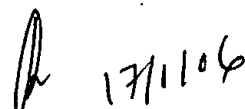
----- Applicant

- Vs -

Union of India & Others

----- Respondents

I, M. U. Ahmed, Addl. Central Govt. Standing Counsel, Central Administrative Tribunal, Guwahati, hereby enter appearance on behalf of the Union of India & Respondents Nos. 1 to 6 in the above case. My name may kindly be noted as Counsel and shown as Counsel for the Respondent/s.


(Motin Ud-Din Ahmed)
Addl. C.G.S.C.