

50/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 4/2005

R.A/C.P No.....

E.P/M.A No.....

1. Orders Sheet..... Pg. 1..... to 3.....
2. Judgment/Order dtd 22.6.2005 Pg. 1..... to 4.....
3. Judgment & Order dtd..... Received from H.C/Supreme Court
4. O.A..... Pg. 1..... to 31.....
5. E.P/M.P..... Pg..... to.....
6. R.A/C.P..... Pg..... to.....
7. W.S..... Pg. 1..... to 13.....
8. Rejoinder/objection..... Pg. 1..... to 5.....
9. Reply..... Pg..... to.....
10. Any other Papers..... Pg..... to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET
APPLICATION NO.4/05
OF 199

Applicant(s) Mr. B. Sarma -

Respondent(s) Mr. G. S. -

Advocate for Applicant(s) Mr. G. Mandal
Mr. M. H. Barbhayun

Advocate for Respondent(s) Mr. G. S. -

Notes of the Registry	Date	Order of the Tribunal
<p>110.G57 D. 5-1-04 An. 50</p> <p>1/05 Dy. Registrar b</p> <p>Notice & order sent to D/Section for issuing to resp. Nos. 1, 2 & 3 regd. A/D and resp. Nos 4, 5, 6 received by hand. Copy 11/01/05 - D/No-102 Dt. 12/01/05.</p>	07.01.2005	<p>Heard Mr. M.H. Barbhayun, learned counsel for the applicant.</p> <p>The application is admitted, call for the records. Issue notice to the respondents. Returnable within two weeks.</p> <p>The applicant shall furnish a copy of the application to the learned counsel for the respondents.</p> <p>List on 19.01.2005 for orders.</p> <p>Interim prayer will be considered on 19.01.2005.</p> <p>mb</p> <p>K. P. Chakrabarti Member (A)</p>

Notes of the Registry	Date	Order of the Tribunal
<u>19.1.05</u> <i>S/R Answered</i> <i>for</i>	19.1.05	<p>Present: The Hon'ble Mr. Justice R.K. Batta, Vice-Chairman.</p> <p>Mr. M.U. Mandal, learned counsel for the applicant and Mr. A. Deb Roy, learned counsel for the respondents were present.</p> <p>Mr. A. Deb Roy states that respondents have instructed him to seek two months time to file reply. Two months' time is granted. In the meantime, however, respondents shall not implement the order of transfer dated 10.9.2004 in respect of the applicant only till the next date.</p> <p>List on 18.3.2005.</p> <p><i>R</i></p> <p>Vice-Chairman</p>
<i>Received Order 18/3/05 Respondent</i>	18.3.05	<p>On the prayer of Miss U.Das, learned Addl.C.G.S.C six weeks time is allowed to file written statement. Stay order dated 19.1.05 shall continue.</p> <p>List on 29.4.05 for order.</p> <p><i>KV Prakash Member</i></p>
<u>17-3-05</u> 1 no. reply has been 2 filed. 4 s/s. answer. <i>DR</i>	29.4.2005	<p>Mr. M.U. Mandal, learned counsel for the applicant is present. Ms. U. Das, learned counsel for the respondent submits that written statement has been filed today. Counsel for the applicant submits that he shall file rejoinder. Post on 20.5.2005. Interim order dated 19.1.2005 shall continue till 20.5.2005.</p> <p><i>DR</i></p> <p>Vice-Chairman</p>
<u>Order dt. 18/3/05</u> issuing to learned Advocate's both the parties. <i>CW</i> <u>18/3/05.</u> <i>DR</i> <i>18/3/05 18/3/05 (Amendment)</i>	28.4.05	
<u>28-4-05</u> 1 no. reply has been filed. <i>DR</i>		

3
O.A. 4/2005

O.A 4/2005

Office Note	Date	Tribunal's Order
<u>3.5.05</u> Wts submitted by the Respondents. <i>Ch.</i>	20.5.2005	List for hearing on 17.6.2005. Interim order dated 19.1.2005 shall continue till 17.6.2005. <i>K. D. Bhattacharya</i> Member
order dt. 29/4/05 issuing to learned advocates for both the parties. <i>9/5/05</i> <i>By S. Bhattacharya</i> <i>Ch. 5/05</i> <i>(Applicant).</i>	17.6.2005	Mr. M. H. Borbhuyan, learned counsel on behalf Mr. M. U. Manda, learned counsel for the applicant sought for adjourn- ment. Post on 22.6.2005 for hearing. <i>K. D. Bhattacharya</i> Member
<u>19-5-05</u> No rejoinder has been filed. <i>S.</i>	22.6.2005	Heard Mr. U. Mandal, learned counsel for the applicant and Ms U. Das, learned Addl. C.G.S.C. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is disposed of. <i>K. D. Bhattacharya</i> Member
<u>20.5.05</u> An objection filed by the applicant against the Respondent No. 3. <i>Das</i>	nkm	<i>K. D. Bhattacharya</i> Member
Wts has been filed. <i>220</i> <i>16.6.05</i> <i>Received</i> <i>U. K. Das</i> <i>15/7/05</i> <i>Received</i> <i>U. K. Das</i> <i>15/7/05</i> <i>Received</i> <i>U. K. Das</i> <i>15/7/05</i> <i>Received</i> <i>U. K. Das</i> <i>15/7/05</i> <i>Received</i> <i>U. K. Das</i> <i>15/7/05</i>		<i>K. D. Bhattacharya</i> Vice-Chairman

Office Note	Date	Tribunal's Order

6

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. /XXXX/ No. 4 of 2005

DATE OF DECISION 22.6.2005

Shri Bhubaneswar Sharma APPLICANT(S)

Mr U. Mandal and Mr M.H. Barbhuyan ADVOCATE FOR THE
APPLICANT(S).

-VERSUS -

Union of India and others RESPONDENT(S)

Ms U. Das, Addl. C.G.S.C. ADVOCATE FOR THE
RESPONDENT(S).

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

THE HON'BLE MR. K.V. PRAHLADAN, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether the judgment is to be circulated to the other Benches ?
Judgment delivered by Hon'ble Vice-Chairman

8

CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH

Original Application No.4 of 2005

Date of Order: This the 22nd day of June, 2005

The Hon'ble Shri Justice G. Sivarajan, Vice-Chairman.

The Hon'ble Shri K.V. Prahladan, Administrative Member.

Shri Bhupaneswar Sharma,
S/o Late, Rajani Kanta Sharma,
Village- Branghati, P.O. Branghati,
P.S.- Kya, Dist. Kamrup, Assam.

.....Applicant

By Advocates Mr U. Mandal and Mr M.H. Barbhuyan.

- versus -

1. The Union of India, represented by the Secretary, Government of India, Department of Directorate of Advertising & Visual Publicity, Ministry of Information & Broadcasting, New Delhi-110001.
2. The Director of Advertising & Visual Publicity, Ministry of Information & Broadcasting, Government of India, B. Block, Barracks K.G. Marg, New Delhi-110001.
3. The Deputy Director (ADM), Directorate of Advertising & Visual, Ministry of Information & Broadcasting, Government of India, New Delhi.
4. The Regional Officer, Directorate of Visual Publicity, Ministry of Information & Broadcasting, Nabin Nagar, Jonapath, Guwahati-24.
5. The In Charge, Research Officer, Directorate of Visual Publicity, Ministry of Information & Broadcasting, Nabin Nagar, Jonapath, Guwahati-24.
6. The Asstt. Editor, Directorate of Advertising & Visual Publicity, Ministry of Information & Broadcasting, Nabin Nagar, Jonapath, Guwahati-24.Respondents

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

ORDER (ORAL)

SIVARAJAN. J. (V.C.)

The applicant, a Helper under the respondent No.4 in the Regional Office, Directorate of Visual Publicity, Ministry of Information and Broadcasting, Guwahati, was transferred from that office to Kohima as per order dated 10.9.2004 (Annexure-5). The applicant then filed a representation (Annexure-6) before the respondent No.2. Later he filed O.A.No.223 of 2004 before this Tribunal which was disposed of by order dated 29.9.2004. The Tribunal directed the appropriate authority to consider the appeal for cancellation/modification of the transfer order within ten days. The said direction was complied with by order dated 5.10.2004 (Annexure-9). The request of the applicant was rejected. The applicant challenges the said order in this O.A. Interim order was passed on 19.1.2005 as follows:

"In the meantime, however, respondents shall not implement the order of transfer dated 10.9.2004 in respect of the applicant only till the next date."

This order is extended from time to time and is in force even today.

2. According to the applicant he has got personal problems like education of his children, illness of his wife etc., apart from the fact that this transfer is made in the month of September.

3. The respondents have filed a written statement wherein it is stated that one Shri Diwan Singh, Chowkidar, Field Exhibition Office, DAVP, Kohima to DAVP, New Delhi made a request for his transfer in the light of the Circular regarding choice posting. After completion of the required service in the North Eastern Region he

8/2

was given a posting to New Delhi. It is further stated that there is acute shortage of staff at DAVP headquarters as well as its field offices located all over India and that the applicant has been transferred to Kohima in public interest. The personal problems projected by the applicant in his representation were also considered; it is stated.

4. We have heard Mr U. Mandal, learned counsel for the applicant and Ms U. Das, learned Addl. C.G.S.C. for the respondents. They made submissions on the lines of respective pleadings of the parties. Learned counsel for the applicant has also relied on a decision of the Supreme Court in B. Varadha Rao Vs. State of Karnataka and others, AIR 1986 SC 1955 (para 6) and submitted that low paid employees cannot be transferred particularly during unscheduled time which will disturb the education of their children. Ms U. Das, on the other hand, submits that the applicant was transferred only on public interest and that too after completion of a considerable period at the same station, i.e. Guwahati.

5. We have considered the rival submissions. Admittedly, the transfer of the applicant is in the months of September. He has stated that his children are in the middle of the academic session. This Bench, as already noted, has stayed the transfer of the applicant. He is now continuing in the same place. Now the education of his children are in the mid session. In the circumstances, having regard to the fact that an interim order has been issued and that the respondents might have filled up the vacancy at Kohima (Ms U. Das, on instructions, submits that the post is still vacant), we direct the applicant to make a representation pointing out the peculiar circumstances within one month from today. If any such

9/4

representation is filed, the respondents will consider the same and take a decision in the matter within a period of two months thereafter. Having regard to the education of the children of the applicant (if the same is properly established with materials) the respondents, as far as possible, will defer the transfer of the applicant till 31.3.2006.

6. The O.A. is disposed of as above. The applicant will produce this order alongwith the representation as directed for compliance.

7. The interim order already passed will continue till the disposal of the matter as directed.

KV Balasubramanian
(K.V. PRAHLADAN)
ADMINISTRATIVE MEMBER

G. Sivarajan
(G. SIVARAJAN)
VICE CHAIRMAN

nkm

105

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI
BENCH, GUWAHATI.

O.A. No. 4 /05.

B E T W E E N

Sri Bhuneswar Sharma Applicant.

-VERSUS-

The Union of India & Ors. Respondents.

-INDEX-

<u>Sl.No.</u>	<u>Particulars of the documents</u>	<u>Pages</u>
1.	Application	
2.	Verification	
3.	Annexure 1	
4.	do 2	
5.	do 3	
6.	do 4	
7.	do 5	
8.	do 6	
9.	do 7	
10.	do 8	
11.	do 9	
12.	do 10	
13.	do 11	
14.	do 12	
15.	do 13	

Filed by


7/1/05
Advocate.

Shri-Bhuneswar Sharma

Filed by the
Applicant through
M. H. Baruwayan
Advocate.

7/11/05
12

CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH
GUWAHATI.

O.A. No. 4 /05.

Sri. Bhubaneswar Sharma
S/o. Late. Rajani Kanta Sharma
Vill:-Branghati
P.O. Branghati
P. S. Kya, Dist. Kamrup, Assam.

.....Applicant.

-VERSUS-

1. The Union of India,
represented by the Secretary,
Govt. of India, Deptt. Of
Directorate of Advertising &
Visual Publicity, Ministry of
Information & Broadcasting
New Delhi-100-1.

2. The Director of Adve-
rtising & Visual Publicity,
Ministry of Information &
Broadcasting Govt. of India,
B. Block, Barracks K.G. Marg,
New Delhi-110001.

3. The Deputy Director (ADM)
Directorate of Advertising &
Visual, Ministry of Infor-
mation & Broadcasting, Govt.
of India, New Delhi.

Sh. Bhubaneswar Sharma
47

4. The Regional Officer of Directorate of Visual Publicity Ministry of Information & Broadcasting, Nabin Nagar, Jonapath, Guwahati-24.

5. The In Charge, Resource Officer of Directorate of Visual Publicity Ministry of Information & Broadcasting Nabin Nagar, Jonapath, Guwahati-24.

6. The Asst. Editor of Directorate of Advertising & Visual Publicity Ministry of Information and Broadcasting, Nabin Nagar, Jonapath, Guwahati-24.

..... Respondents.

DETAILS OF APPLICANT.

1. Particular of the order against which the application is made.

The instant application is directed against the illegal, malafide and arbitrary action of respondents authorities whereby the applicant is transferred from Regional office, Guwahati to FEO, Kohima against the vacant post of Chowkidar that

Shri. Bhupen Singh Sarmah

too in violation of the circular issued the Govt. of India in respect of grade IV employee. The impugned transfer order dated 10.9.04 and impugned order dated 5.10.04 issued by the Deputy Director of Advertising and Visual publicity, Ministry of Information & Broadcasting, B-Block Barracks, K.G.Marg, New Delhi-11000. By the impugned order, the applicant is also demoted to the post of Chowkidar from the post of helper and transferred to Kohima from Guwahati whereas the post which was held by the applicant is lying vacant.

The applicant declares that subject matter of application is within the jurisdiction of this Hon'ble Tribunal and also the applicant is rendering within the jurisdiction of the same.

3. Limitation.

The applicant further declares that the application is filed within the limitation period provided under Section 21 of the Administrative Tribunal Act, 1955.

4. Facts of the case.

4.1 That the applicant is a citizen of India and a permanent resident of village Branghati P.O.Branghati, P.S. Kya in the district of Kamrup, Assam and as such he is entitled to get all sorts of rights, privileges, benefits and protections guaranteed by the Constitution of India and other laws of the land.

Shri Bhupen Kumar Sarmah

4.2 That the applicant has been working as helper in the office of the Regional office, Guwahati under Govt. of India, Directorate of Advertising & Visual Publicity, Ministry of Information and Broadcasting Regional Office at Guwahati with effect from 19.12.83 to 18.5.88. There after his service has been regularized as helper from 10.5.88 and he has been entrusted with the job of diarising receipt and despatches and also he is entrusted to operate the photo state Machine having been trained by the officials of M/s. Modi Zerox since 15.3.90. The applicant has been discharging his duties as allotted by the authorities and entrusted with the same job very sincerely and also with satisfaction of all concerned. The applicant has been regularised in his service by order dated 10.5.96 and he joined his service on 19.5.88 since and then he has been working as helper to the satisfaction of all without any break and any blemish whatsoever.

A photo copy of the certificate dt. 17.5.85 is annexed herewith and marked as **Annexure-1**.

A photo copy of the certificate dat. 4.10.90 is annexed herewith and marked as **Annexure-2**.

A photo copy of the order dated 27.5.88 is annexed herewith and marked as **Annexure-3**.

Shri Bhulwer Singh
Sahman

A photocopy of the joining report dtd.9.5.88 is annexed herewith and marked as **Annexure-4**.

4.3 That on 10.9.04 the respondent No.4 issued an order whereby the applicant has been transferred to FEO Kohima against the vacant post of Chowkidar from Regional office Guwahati by demoting from helper to Chowkidar in violation of the Govt. Circular wherein it is provided that no 4th grade employee can be transferred from one state to other state and as much the impugned order is illegal, malafide, arbitrary, discriminatory and without jurisdiction and the same is liable to be set aside and quashed.

A photocopy of the impugned order dated 10.9.204 is annexed herewith and marked as **Annexure-5**.

4.4. That on 21.9.04 the applicant has filed an appeal /representation to the Director of Advertising and Visual Publicity, Ministry of Information and Broadcasting, Govt. of Indian, B.Block Barracks, K.G.Marg New Delhi-110001 requesting him to set aside and quashing the impugned order dt.10.9.04 highlighting all his grievances in the said appeal/representation. Despite of pendency of the appeal, the respondents has pressured to leave Guwahati for joining at Kohima as per the transfer order. The respondents

Sri Bhupen Gohain

authorities had not taken any action on the said appeal and as such the applicant is in a very critical position who can not leave Guwahati by leaving his wife sons and daughters who is suffering from various deceased since long back.

A type copy of the appeal /representation dt. 21/9/04 is annexed herewith and marked as **Annexure-6.**

4.5 That the applicant's brother namely Bibnod Sharma has been suffering from mental decease and there and there is none to look after his brother in his house. The wife of the applicant is a serious patient of diabetise and heart decease and the applicant is the only person who is to take look after her family. One Ranjan Sharma son of the applicant has been suffering from neurological problems and as such the petitioner would not leave Guwahati under any circumstances. The applicant has submitted a representation on 30.9.04 and 28.10.04. to the respondents as per the order dtd.29.9.04 passed in O.A.223/04 along with medical certificate with the copy of the order dtd.29.9.04. Certificate and order relevant documents has passed on perverse order behind the applicant without recording any reason and as such the same is illegal and liable to set aside and quashed. Moreover Sri.Rema Devi is reading in class-III Sri. Ranjan Sharma is reading in Class-V and Himashree Devi is reading

Sub
Sd/-

Sub
Sd/-

in Class-VI and in the mids session of the applicant cannot leave the station from Guwahati to Kohima which will effect the studies of his minor sons and daughter and as such the impugned transfer order dt.10.9.04, ^{and} 5.10.04 are liable to be set aside and quash on the humatarian grounds also.

Copies of the medical certificates and documents are annexed herewith and marked as **Annexure-7 Series.**

A copy of the order dated 29.9.04 passed in O.A. No.223/04 is annexed herewith and marked as **Annexure-8.**

A copy of the order dated 5.10.04 is annexed herewith and marked as **Annexure-9.**

A copy of the representation dtd.28.10.04 is annexed herewith and marked as **Annexure-10.**

Copies of the Medical Certificate are annexed herewith and marked as **Annexure-11 & 12** respectively.

Copies of the postal receipt and Fax Message are annexed herewith and marked as **Annexure-13.**

Shri- Bhulbenamay Sedman

4.6 That the applicant begs to state that the petitioners minor sons and daughters are reading in class III, V and VI in Assamese medium school respectively and as such it is not possible on the part on the part of the applicant to go to Kohima in the sessions of study period and as such the transfer order has been passed without application of mind which has caused serious prejudice on the applicant and as such the impugned transfer order is liable to be set aside and quashed.

4.7 That the applicant begs to state that the impugned transfer order has been issued by the respondent to accommodate one Diwan Sing Chowkidar FEO Kohima who has been transfer from Kohima to New Delhi against the post of helper and as such the impugned transfer in on extraneous consideration that too without recording any valid reason and also not in the public interest.

4.7 A That the applicant has preferred an application challenging the transfer order dtd. 10.9.04 and this Hon'ble Tribunal was to dispose of the O.A. No. 223/04 directing the respondents to dispose of the representation dtd. 21.9.2004 within 10 days. Accordingly, the applicant on 28.10.04 has submitted the copy of the order to the respondents along with the order dtd. 29.9.04 with all relevant documents including medical certificate but no order has been passed on the said representation till date. The

Subrata Bhattacharya

respondents has interestingly passed an order on 5.10.04 stating that his case can not be considered but no reason is recorded in the impugned order dtd. 5.10.04 that without having the applicant and also not recording the reference of the order dtd. 29.9.04 passed in O.A. No. 223/04 which is illegal, arbitrary, malafide, perverse, based on non-applicable of mind and as such the impugned orders dtd. 10.9.04 and 5.10.04 are bad in law and the same are liable to be set aside and quashed.

4.8. That the applicant begs to state that all the employees are transferred to other home state except the applicant and SL.No.1 one R.C.Deka and as such the impugned transfer order is passed on malafide intension which is illegal, arbitrary, discriminatory and not tenable in the eye of law and the same is liable to be set aside and quashed.

4.9. That considering the facts and circumstances of the case, the impugned order dtd. 10.9.04 may kindly be stayed otherwise the petitioner and his wife, school going children his handicapped son and his brother who is suffering mental disorder which would suffer irreparable loss, hardships and injustice.

4.10. That this application has been filed bonafide and to secure the ends of justice.

20
S. Bhattacharya
S. Bhattacharya

Shri. Bhattacharya
S. Bhattacharya

5. Ground for relief with legal provisions:-

5.1 For that the impugned transfer order dt. 10.9.04 is passed an extraneous grounds just to accommodate one Diwan Sing who is resident of New Delhi is transferred for Kohima to New Delhi and the applicant to Kohima from Guwahati that too without assigning any valid reason and without any public ^{interest}; and as such the same is arbitrary, malafide, illegal discriminatory and without jurisdiction and the same is liable to be set aside and quashed.

5.2 For that the impugned order is passed without application of mind has caused serious prejudice to the applicant minor son and daughter who are studying in Assamese medium school and in the minds of sessions the applicant can not move to Kohima with his family members. The impugned orderes dtd.10.9.04 and the order .5.10.04 are perverse illegal, arbitrary, malafide and based on non-application of mind and the same are liable to set aside and quashed.

5.3 For that the applicant is a grade-IV employee as helper who has been transferred as Chowkidar to Kohima from Guwahati and it is not possible him to stay at Kohima with his little earning being as grade-IV employee. Moreover, the wife of the applicant is a Govt. employee of the state of Assam and there is govt. circular where it is provided that if both husband and wife were

Shri Bhupen
Sarma

employee of the Govt. they should live together and as such the impugned transfer order is in violation of the govt. circular, rules and guidelines and the same is liable to be set aside and quashed.

5.4 For that the wife of the applicant is diabetic and heart patient who is undergoing her treatment. One Ranjan Sharma is handicapped son of the applicant and the brother of the applicant is suffering from mental disorder and as such it is critical position it is impossible for the applicant to leave for Kohima and as such the impugned transfer order is bad in law and liable to be set aside and quashed. The order dtd. 5.10.04 is based on non-application of mind which passed behind the application without considering the medical certificate and the same is liable to be set aside and quashed.

5.5 For that the impugned order is not given effect the applicant is not yet released from his post at Guwahati and there is none in the cadre of grade IV employee at Guwahati and as such balance of convenience in favour of the applicant and as such the impugned transfer order dtd.10.9.04 is liable to be set aside and quashed.

5.6 For that in any view of the matter the impugned transfer order and the order dated 5.10.04 are liable to be set aside and quashed.

✓
Gadman

Shri - Bhupen -

The applicant craves leave of the Hon'ble Tribunal to advance more grounds both factual as well as legal at the time of hearing of the case.

6. Details of the remedies exhausted.

The applicant declares that he has no other alternative and efficacious remedy except by way of filing this application.

7. Matters not previously filed or pending before any other court.

The applicant further declares that no other application, writ petition or suit in respect of the subject matter of any other court, Authority or any other Bench of the Hon'ble Tribunal for any such application writ petition or suit is pending any of them.

8. Relief sought for.

Under the facts and circumstances stated above, the applicant prays that your Lordships would be pleased to admit this application, call for the records issue a rule to respondents to show cause as to the relief sought for in this application should not be granted and upon hearing the parties and on perusal of the records, be pleased to grant the following reliefs.

8.1 To direct the respondents No.2 and 3 to set aside and quash the impugned transfer order dtd. 10.9.04 and 5.10.04 issued by the respondent No.3 and the Deputy Director (Admn) Advertising & Visual Publicity, Ministry of Information and Broadcasting, Govt. of India, New Delhi-110001.

Shri Bhupender Singh
Sahrawat

8.2 To direct the respondents to allow the applicant to discharge his duties as Helper at Guwahati R.O. in pursuance to the appointment letter on medical ground.

8.3 Any other relief/relies to which the appointment so entitled to.

9. Interim order prayed for:

Pending disposal of this application the applicant prays that your Lordships would be pleased to stay the operation of the impugned transfer order dtd.10.9.2004, and 5.10.04 and also the direct the respondents not to release the applicant as helper from Regional office, Guwahati and also direct the respondents to allow the applicant to discharge his duties as helper at Regional officer, Guwahati on medical ground and /or be pleased to pass an status quo order in respect of transfer order in the interest of justice.

Further be pleased to direct the respondents that there shall be no bar to cancel/modify the impugned order during pendency of this application.

10. This application is filed through Advocates.

11. Particulars of the I.P.O.

I. I.P.O. No. 206-110457

II. Date 5-1-05

III. Payable at Guwahati.

12. List of enclosures.

As state in the Index.

24
Shri
Dhruvendra Sahani

5
Shri

VERIFICATION

I, Sri. Bhubneshwar Sharma, aged about 42 years, son of late. Rajani Kanta Sharma, resident of vill. Branghati, P.O.Branghati, P.S.Kya, Dist. Kamrup, Assam do hereby solemnly affirm and declare and verify that the statement made in paragraphs 1,2,3,4.1, 4.5,to 4.0 are true to my knowledge, those made in paragraphs 4.2, 4.3,4.4, and 11 are derived from the records and the rest are my humble submissions before this Hon'ble Tribunal.

And I sing this verification on this 6th January, 2005 at Guwahati.

Sri Bhubneshwar Sharma

तार : "एड्वाइजुल"

विज्ञान प्रोग्राम प्रतिवार्षिक दिवस

GOVERNMENT OF INDIA

**DIRECTORATE OF ADVERTISING & VISUAL PUBLICITY
MINISTRY OF INFORMATION & BROADCASTING
REGIONAL OFFICE :: GUWAHATI.**

N

मुक्त विज्ञानी-110001

МЕДИАКОМПАНИИ

Gauhati the, 17th May, 85

TO WHOM IT MAY CONCERN

This is to Certify that Shri Bhubanaswar Sharma is working in this Office as helper on daily wage basis for more than two years. He is very obedient, Sincere and hard working.

I wish him success in life.


(S.N. TRIKHA^N)
Research Officer.

Initial Approval

Certified to be true
by John A. Adams

ANNEXURE 2

2

GOVERNMENT OF INDIA
D. A. V. P., MIN. OF I & B
REGIONAL OFFICE
HATIGARH, ZOO-NARENGI ROAD,
GUWAHATI-781024

1 NO. PB/JD/1/1990-91/2279

Date: 04.10.90

TO WHOM IT MAY CONCERN

This is to certify that Shri Bhubneswar Sarma worked in this office as Daily-wage Helper from 19.12.83 to 18.05.88. He was regularised as Helper from 10.05.88. He was entrusted with the job of diarising receipt and despatches from May, 1990 onwards. He also operates the office Photostat machine (after being trained by the officials of M/s Modi Xerox) since 15.03.90. All these jobs are done by Shri Sharma satisfactorily.

He is an honest and sincere worker and bears good moral character.

I wish him success in life.

(H.T. KHUMA)

St. DIRECTOR, D.A.V.P.
G.O.M. of India,
Guwahati

✓ 4/10/90

Certified to be true copy
by
A. D. W.

No. A-20012/9.88-exh. (A)

Government of India

Directorate of Advertising & Visual Publicity
Ministry of Information & Broadcasting

Block, K.C. Marg,
New Delhi - 110 001,
the 27th May, 1988.

ORDER

Shri Bhupaneswar Sama is appointed to the post of Helper in the pay scale of Rs. 750-12-670-EB-14-940 in this Directorate with effect from 19th May, 1988 (F.N) in a temporary capacity until further orders, and posted at the Regional Office, Guwahati.

Shri Sama will be on probation for a period of two years from the date of his appointment to the post which may be extended at the discretion of the appointing authority.

(S.L. Singla)
Deputy Director (Admn.)

Copy to:-

1. Shri Bhupaneswar Sama, Helper, Regional Office, Guwahati.
2. J.D., Guwahati.
3. A.O (Cash) (2 copies). Shri Sama has been medically examined and found fit. His date of birth is 01.01.1962.
4. Budget/G.A&A.O (B.III) T.A. Section.
5. Establishment Section/P&S Section, Confidential Assistant.
6. Pay and Accounts Officer, DAVP etc., K.C. Marg, New Delhi.
7. Assistant Director (O) Shri K.L. Vasudeva.
8. Reference folder/Carbon file ward 110.
9. File no. A-12011/15/SP/Exh. V/1
10. Spare copies (10).

(A.C. Datta)
Supervisor

K. Murthy/28.5.88/

Amritava Bhattacharya

20/5/88

copy

Carried to be free
by Adv.

GOVERNMENT OF INDIA
DIRECTORATE OF ADVERTISING & VISUAL PUBLICITY
MINISTRY OF INFORMATION & BROADCASTING
REGIONAL OFFICE: GUWAHATI

Hogigarh,
Zoo-Narangi Road,
Guwahati-781024

Sub: Submission of joining report.

Ref: Your Memo, no. A-12011/15/87-Exh(A) dt. 5.5.88.

With reference to your above, Shri Bhubneshwar Sarma, Helper has joined his duty today forenoon (the 19th May, 1988). His joining report (in the prescribed format from Hqs.) alongwith other forms duly filled in are sent herewith for doing the needful.

Enclos: 1) Joining report

in prescribed form.

2) Form of immovable property
in duplicate.

3) Declaration of Home town form.

4) Form/declaration of new entrants
to Government service (Annexure - III)

5) Form containing information about close relatives.

6) Form affirming allegiance to the Government of India.

7) Photocopy of 13. L.C. Pass certificate.

(J. N. Phukan)

Research Officer,
for Joint Director.

Shri S. L. Singla, Dy. Director (Admn), DAVP, New Delhi
U.O. No. GHT/RU/LST/2/83-89/ 7628 dt. 19.5.88

Report

Join

copy

be true

Certified to be true
by
Adv.

GOVERNMENT OF INDIA
DIRECTORATE OF ADVERTISING & VISUAL PUBLICITY
MINISTRY OF INFORMATION & BROADCASTING
B-BLOCK BARRACKS, K.G. MARG,

19

Annexure 5

ORDER

New Delhi HQ 001, dated September 10, 2004

1163

The following posting/transfer in the grade of Chowkidars/Helpers are ordered with immediate effect.

S. No	Name of the employee and present posting	New Posting	Remarks
1.	Shri R.C. Deka, Helper, RO, Guwahati	FEO, Tura against the vacant post of Chowkidar	Shri R.C. Deka will move first.
2.	Shri Zakir Hussain, Chowkidar, FEO, Tura	DAVP, Hqrs. New Delhi against the vacant post of Helper	
3.	Shri Diwan Singh, Chowkidar, FEO, Kohima	DAVP, Hqrs., New Delhi against the vacant post of Helper	Shri Sharma will move first.
4.	Shri Bhubneshwar Sharma, Helper, RO, Guwahati	FEO, Kohima against the vacant post of Chowkidar	
5.	Shri N.K. Paul, Chowkidar, FEO, Ranchi	FEO, Kolkata	Shri Sudhir Roy will move first
6.	Shri Sudhir Roy, Chowkidar, FEO, Kolkata	FEO, Ranchi vice Shri N.K. Paul	
7.	Shri Sribash Saha, Helper, RO, Guwahati	FEO (FW), Kolkata	

2. Shri Sribash Saha, Helper; Shri Diwan Singh, Shri Zakir Hussain and Shri N. K. Paul Chowkidars will not be entitled for TA/DA/Joining time, etc. since their transfer is being made on their own request.

3. This issues with the approval of Director, DAVP.

Puran Singh
(PURAN SINGH)
DEPUTY DIRECTOR (ADMN.)
TELE NO. 23386768

Copy to:

1. Persons concerned.
2. PAO DAVP etc., New Delhi
3. PAO, Doordarshan, Guwahati
4. RO, Guwahati
5. FEOs, Tura/Kohima/Kolkata/Ranchi;
6. AO (Cash)/TA/ Budget Section;
7. Admin.-I/II/III/GA/Vig Sections
8. PA to Director/JD (Exh.)/CEO/RO, New Delhi.
9. AD(OL) for Hindi version of the Order.
10. Spare copies (5)

certified to be true copy
by
Adv.

To,

The Director of Advertising & Visual Publicity Ministry of Information & Broad Casting Govt. of India, B. Block, Barracks, K.G.Marg.
New Delhi-110001.

Sub: - An appeal for Cancellation/Modification of the transfer order dated 10.9.04

Date. 26.9.04

Sir,

I have the honour to state that I have been working in the office of the Directorate of Advertising Visual Publicity under the Regional office, Guwahati since 1983 as Helper. I have been transferred from Guwahati to Kohima by its order-dated 10.9.04 as chaukidar from Helper just to accommodate one Diwan Singh who has been transferred to Delhi from Kohima who is a resident of Delhi. Moreover my wife has been suffering from diabetes, my one son is handicapped, and one son and two daughters are reading in class III, V, and VII respectively in a Assamese Medium schools and in the mids of sessions if I go to Kohima they will suffer from studies which would cause serious prejudice to my family members. One of my brother is suffering from mental diseases and there is none to look after my family members.

Therefore your request to cancel the said transfer order dated 10/9/04 in the interest of justice.

Yours faithfully

(Bhubneshwar Sharma)
S/o.Lt. Rajanikanta Sharma
Vill. & P.O. Branghati
P.S. Kya.
Dist. Kamrup, Assam.

certified to be true copy
My
Advocate

THE NEW
ASSAM X-RAY & CLINICAL LABORATORYDANISH ROAD, PANBAZAR
GUWAHATI-781001Working Hours
From 7.30 A. M. to 7.30 P. M.

REPORT FORM

Name of Patient Mrs. Basanti Barkotoky.Referred by Dr. D.K. Kakoti, M.B.B.S, M.D., F.I.A.S, M.S.Specimen Blood for Sugar (R).

Nature of Examination

1. Haemoglobin	gm% (Sahli)	11. V. D. R. L.	
2. Total R. B. C	per c mm	12. Kahn	
3. Total W. B.C.	13. ABO Blood Group	
4. Platelets Count	Rh Blood Group	
5. M. P.	14. Blood Sugar (F)	mg%
6. Diff. Count	<u>Blood Sugar (R)</u>	380 mg% (90-130 mg%)
Poly	%	<u>Blood Sugar (P.P.)</u>	mg%
Lympho	%	15. Blood Urea	mg%
Mono	%	16. Blood Cholesterol	mg%
Eosino	%	17. Blood Uric Acid	mg%
Others	%	18. Serum Bilirubin	mg%
7. E. S. R.	mm 1st hr (Westergren)	Total Bilirubin	mg%
8. P. C. V.		Direct Bilirubin	mg%
M. C. V.		19. Serum Protein Fraction	
M. C. H.		Total Protein	gm%
M. C. H. C.		Albumin	gm%
Others		Globulin	gm%
9. B. T.		20. S. G. O. T.	Units/ml
C. T.		21. S. G. P. T.	Units/ml
10. Sputum		22. Serum Creatinine	mg%
<u>Urine for Sugar (R): (++)</u>		23. Alkaline Phosphatase	KA Units
		24. R. A. Factor	
		25. A. S. O. titre	
		26. Australia Antigen	

Date

Pathologist

15/12/03

NOTE FOR MEDICO-LEGAL PURPOSE

Whole Body C.T. Scan ♦ Ultra Sound ♦ Color Doppler ♦ X- Ray ♦ Computerised Pathological Lab ♦ Digital E.C.G

Name : Mast. Ranjan Sarmah, 11 Yrs/ Male R. No - 02
Referred by : Dr.(Mrs) Bandana Baruah MD.
Dated : 11-Jun-03

HAEMOGRAM :

Test	Result	Normal range
Haemoglobin	10.93 gm /dl	men : 13.5 -18 g/dl.
WBC Count (TC)	7,100/Cumm	4,000 - 11,000 /Cumm.

DIFFERENTIAL W.B.C. COUNT

Neutrophils	61 %	40-75 %
Lymphocytes	35 %	31-45 %
Eosinophils	01 %	16-06 %
Monocytes	03 %	16-10 %
Basophils	00 %	00-01 %

Lab. Technologist

Hony. Consultant Pathologist

[IN BOLD FOR MEDICO LEGAL PURPOSE]

◆ Whole Body C.T. Scan ◆ Ultra Sound ◆ Color Doppler ◆ X- Ray ◆ Computerised Pathological Lab ◆ Digital F.C.G

Name : Mast. Ranjan Sarmah. ✓ 11 Yrs/ Male R. No - 02
 Referred by : Dr.(Mrs) Bandana Baruah MD
 Dated : 11-Jun-03

URINE ROUTINE EXAMINATION**Physical :**

Colour : Pale yellow
 Appearance : Clear
 Sediment : Not seen
 Sp. Gravity : 1.020

Microscopic :

Epithelial Cells : (+)
 Pus cells : 4-5/HPF
 RBCs : Not seen.
 Casts : Nil.

Chemical :

Reaction : Neutral
 Glucose(reducing substances)

Bacteria : Not seen.

Crystals

Fasting :
 PP :
 Random : Nil
 Albumin : Nil
 Acetone :
 Bile pigment :
 Bile salt :
 Uric acid :
 Urates :
 Cal. Oxalate :
 Triple phos. :
 Am. Phosphate : (+)
 Cal. Carbonate : (+)

Others

Lab. Technologist

Hony. Consultant Pathologist

Whole Body C.T. Scan ♦ Ultra Sound ♦ Color Doppler ♦ X- Ray ♦ Computerised Pathological Lab ♦ Digital F.C.G

Name : Mast. Ranjan Sarma. 11 Yrs/Male
Referred by : Dr. (Mrs) Bandana Baruah, MD
Dated : 13-Jun-03

R. No - 02

URINE FOR CULTURE AND SENSITIVITY

Aerobic culture of Urine incubated at 37 ° c for 48 hrs reveals no growth of any organism.

Lab Technologist

Hony. Consultant Pathologist

25- Oct

Am-7

Dr. M. Sarma
M.B.B.S., D.C.P.
Guwahati Medical Collage

Regd. No. 7442
Date 21/09/2004

To Whom It May Concern:

This is to certify that, Mrs. Basanti Borkotoky, wife of Mr. Bhubneshwar Sarma, (an employee of D.A.V.P.; Nabin Nagar, Guwahati) has been suffering from diabetes mellitus since for 2/3 years. She had also developed other secondary complication leading to peripheral neuritis & occasional diabetic comas; so, she is advised to stay along with an attendant to take care of her.

Sd/Illegible
21/9/04
Asstt. Professor
Dept. of Microbiology
Guwahati Medical Collage.

copy
Certified to be true
My Advocate -

(SEE RULE 46)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

26

Annex 8 M^X

Annexure - 8

223/04

Original Application No.

Alsc. Petition No.

Contentious Petition No.

Review Application No.

Applicants: Shahidul Islam Sharma

Respondents: M. S. I. T. Sons Z. Hossain
M. U. Mandal Shahidul Islam

Advocate for the Applicants: M. U. Mandal
Adv. Shahidul Islam

Advocate for the Respondents: CAC

29.09.2004 Present : The Hon'ble Mr. Justice R.K. Batta, Vice-Chairman.

Heard Mr. A. Ahmed, learned Advocate for the applicant.

The applicant has been transferred from Guwahati to Kohima which is challenged by him in this application. The applicant has averred that he has filed an appeal for cancellation/modification of the transfer order. In view of this, application can be disposed of by giving direction to appropriate authority to consider the said appeal/representation dated 21.09.2004 for cancellation/modification of transfer. The appropriate authority shall take decision in the matter within ten (10) days of the receipt of this order.

The application is disposed of accordingly.

Sd/ VICE CHAIRMAN

ONE COPY

W.S. 30/9/04

Certified to be true copy
by Adv.

38

MOST IMMEDIATE
BY SPEED POST

DIRECTORATE OF ADVERTISING AND VISUAL PUBLICITY
(ADMN.IV SECTION)

No. C-30019/4/2004-Admn.IV

Dated: 5-10-2004

OFFICE MEMORANDUM

Subject: Transfer of Shri Bhubneshwar Sharma, Helper from R.O., DAVP,
Guwahati to FEU, Kohima.

Reference representation dated 21-9-04 received from Shri Bhubneshwar
Sharma, Helper for cancellation of his transfer from Guwahati to Kohima.

2. The request of Shri Sharma has been considered. It has not been found possible
to cancel/modify his transfer from Guwahati to Kohima. He is, therefore, directed to
report to FEU, Kohima within permissible joining time.

3. It may be clarified that Shri Sharma has not been transferred as Chowkidar as
indicated by him in his representation. He would continue to hold the post of Helper.

This issues with the approval of Director:DAVP.

Puran Singh

(PURAN SINGH)
DY. DIRECTOR (ADMN.)

✓ Shri Bhubneshwar Sharma, (through Regional Office, DAVP, Guwahati)
Helper,
Regional Office, DAVP, Guwahati.

copy

to be read

My

Adv.

Certified

REG-D/AD

Annexure - 10

To,

1. The secretary to the Govt of India, Department of Directorate of Advertising & visual publicity, Ministry of information & Broad casting, Shastri Bhawan, New Delhi- 110001.
2. The Director of DAVP, PTI. Building 3rd floor, Parliament Street, Ministry (I & B), New Delhi-110001.
3. The Deputy Director (Adm) DAVP Ministry (I & B) Govt of India, K.G. Marg, New Delhi-110001.
4. The Regional Officer, DAVP Ministry (I & B) Nabin Nagar, Janapath, Guwahati - 781024.
5. The In-charge Research Officer, DAVP Ministry (I & B) Nabin Nagar, Janapath, Guwahati - 781024.
6. The Assistant Editor, DAVP Ministry (I & B) Nabin Nagar, Janapath, Guwahati - 781024.

Ref : Fax Message dtd 1.10.04

Date 28.10.04

Sub : Submission of the order dts 29.09.04 passed in O.A No. 223/04 by Hon'ble CAT.

Sir,

I am submitting the above noted order for your kind consideration as per the terms and condition of the order and cancell/modif the transfer order dtd. 10.09.04 in view of difficulties narrated in representation dts. 21.09.2004.

Therefore, you are requested to do needful as per the above noted order and this oblige.

Yours faithfully

Bhubaneswar Sharma
(Mr. Bhubaneswar Sharma)
Vill+ Post. Baranghati
P.S Kaya
Dist . Kamrup

Copy enclosed :

1. Order dts 29.09.04
passed O.A. No. 223/04

Certified to be true
copy
by
Adv.

Annexure - II

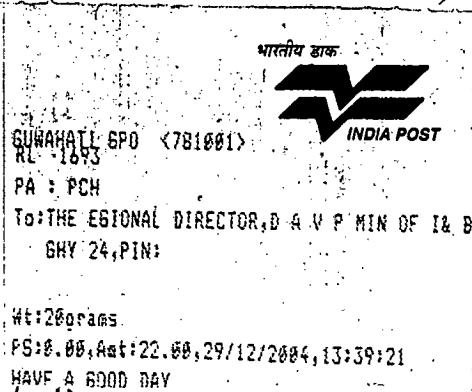
MEDICAL CERTIFICATE

Not Valid for Medicolegal Purpose

This is to certify that Mr./Mrs. Bhubaneswar Sarma 42 yrs
Vill Borangati Po Borangati Ps Koya
Dist Kauny (Assam)

is/was under my treatment due to Hypertension & PS (3 GB Pathay)

Since From 27/9/2004 to 11/11/2004, He/She is/was advised rest for
that period. He/She is fit to resume his duties
regularly W.e.f., He is not cured upto now
and He is further advised to take rest
for another 2 (two) month w.e.f. 12/11/2004



Date 11/11/2004

b ap
11/11/2004
Signature: Dr. Kharupetra J. H.C.
Darrang, Assam

copy
Certified to be true
Amrit
Advocate

MEDICAL CERTIFICATE

Not Valid for Medicolegal Purpose

This is to certify that Mr./Mrs. Bhubaneswar Sahoo 42^{Yrs},
 Vill Baranghati P. Baranghati Ps. Kayra
 Dist. Kaunjp (Assam)
 is/was under my treatment due to Hypertension Ps.

Since From 27/9/2004 He/She is/was advised rest for
15 days. He/She is fit to resume his duties
 regularly W. e. f. 30/9/2004 he does not recover up to
 date for which he is advised to take
 rest for another one month W.e.f. 12/10/2004.

Date _____

09
11/10/2004
Dr. M & HO
Signature PHE
Darrang, Assam

certified to issue copy
by
adv.

CONFIRMATION REPORT

PHONE NUMBER

01123739083

DATE & TIME DURATION TX/RX PAGE RESULTS

NOV 02 15:52 01/22 TX 01 OK

Annexeure - 13

✓

भारतीय डाक



INDIA POST

GUWAHATI G.P.O. (781001)

RL-AD 3928

PA : MOON

To:THE REGIONAL OFFICER,
GHY, PIN:781024

Wt:20grams

PS:0.00,Amt:25.00,28/10/2004,13:56:34

HAVE A GOOD DAY

भारतीय डाक



INDIA POST

GUWAHATI G.P.O. (781001)

RL-AD 3929

PA : MOON

To:THE DIRECTOR OF DAVP,
DELHI, PIN:110001

Wt:20grams

PS:0.00,Amt:25.00,28/10/2004,13:56:52

HAVE A GOOD DAY

भारतीय डाक



INDIA POST

GUWAHATI G.P.O. (781001)

RL-AD 3930

PA : MOON

To:THE ASSTT EDITOR,
GHY, PIN:781024

Wt:20grams

PS:0.00,Amt:25.00,28/10/2004,13:57:11

HAVE A GOOD DAY

भारतीय डाक



INDIA POST

GUWAHATI G.P.O. (781001)

RL-AD 3931

PA : MOON

To:THE IN CHARGE RESEAR,CH OFFICER
GHY, PIN:781024

Wt:20grams

PS:0.00,Amt:25.00,28/10/2004,13:57:26

HAVE A GOOD DAY

भारतीय डाक



INDIA POST

GUWAHATI G.P.O. (781001)

RL-AD 3932

PA : MOON

To:THE SECY TO THE GOVT, OF INDIA
NEW DELHI, PIN:110001

Wt:20grams

PS:0.00,Amt:25.00,28/10/2004,13:57:52

HAVE A GOOD DAY

भारतीय डाक



INDIA POST

GUWAHATI G.P.O. (781001)

RL-AD 3933

PA : MOON

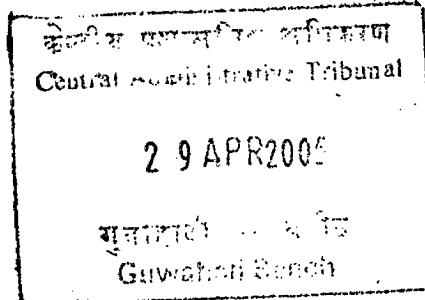
To:THE DY DIRECTOR,
NEW DELHI, PIN:110001

Wt:20grams

PS:0.00,Amt:25.00,28/10/2004,13:58:07

HAVE A GOOD DAY

copy
Certified to be true
M
Achhs.



**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI**

ORIGINAL APPLICATION NO. 4 OF 2005

Shri Bhuneshwar Sharma ... Applicant

VS

Union of India and Ors. Respondents

WRITTEN STATEMENT FILED BY THE RESPONDENTS

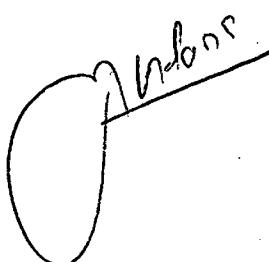
- 1) That the respondents have received a copy of the Original Application and have gone through the same and have understood the conditions thereof. Save and except the statements, which are specifically admitted herein below, rests may be treated as total denial. The statements which are not borne on record are also denied and the applicant is put to the strictest proof thereof.
- 2) That with regard to the statement made in paragraph 1 of the OA the respondents while denying the contentions made therein beg to state that there is no illegal, malafid or arbitrary action on the part of the respondents in transferring the applicant from Regional Office, DAVP, Guwahati to Field Exhibition Office, DAVP, Kohima. It is also denied that the applicant has been demoted to the post of Chowkidar. In fact, he has been

11

Undone

transferred as Helper and will continue to draw salary in the same scale and will perform his duties attached to the post.

- 3) That with regard to the statements made in paragraph 2, 3 and 4 of the OA, the respondents offer no comment on the same.
- 4) That with regard to the statement made in paragraph 4.1 of the OA, the respondents beg to offer no comments on the same.
- 5) That with regard to the statement made in paragraph 4.2 of the OA, the respondents beg to state that same being matter of facts, hence offer no comments on the same.
- 6) That with regard to the statement made in paragraph 4.3 of the OA the respondents while denying the statements made therein beg to state that the applicant has been transferred from Regional Office, DAVP, Guwahati to Field Exhibition Office, DAVP, Kohima as Chowkidar. In fact, he has been transferred as Helper and will continue to perform his duties attached to the post. However, he has been transferred against the vacant post of Chowkidar, which carries identical scale of pay, to facilitate him to draw salary etc. Thus, there is nothing illegal, malafide,

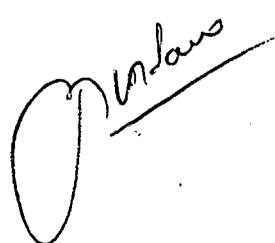


arbitrary or discriminatory action on the part of respondents, as alleged.

7) That with regard to the statement made in paragraph 4.4 of the OA the respondents beg to state that as per direction of the Hon'ble Tribunal dated 29-9-2004 passed in O.A. No.223/04, the respondents considered representation dated 21-9-2004 of the applicant against his transfer to Kohima. After considering all aspects/circumstances leading to his transfer, it could not be found possible to cancel/modify the transfer order dated 10-9-2004. A reply has been given to the applicant vide O.M. dated 5-10-2004.

A copy of the O.M. dated 5.10.2004 is annexed herewith and marked as Annexure-1.

8) That with regard to the statement made in paragraph 4.5 of the OA the respondents while denying the contention made therein beg to state that the facts/personal problems stated by the applicant in his representation dated 21-9-04, have been ignored while considering the representation. In fact, the personal problems have also been taken into account vis-à-vis immediate requirement of the applicant at Field Exhibition Office, DAVP,

A handwritten signature in black ink, appearing to read "D. V. Jaiswal". The signature is written in a cursive style with a large, stylized 'D' at the beginning.

.../-

Kohima. It is needless to mention that all employees share the common problems like illness of family members, children's education or other domestic problems. Hence it may not be possible to make exception in respect of any one for deferment or cancellation of transfer orders, where services of these employees required urgently in public interest.

- 9) That with regard to the statement made in paragraph 4.6 of the OA the respondents beg to state that the facts/personal problems stated by the applicant in his representation dated 29-9-2004, have been considered but it could not be found possible to cancel/modify the transfer order in exigencies of public service.
- 10) That with regard to the statements made in paragraph 4.7 of the OA the respondents beg to state that the Government of India have provided certain incentives/facilities admissible to various categories of civilian Central Government employees serving in North-Eastern Region including Manipur and Nagaland. Among these incentives, there is a fixed tenure of posting 3 years at a time (for employees with 10 years of service or less) and of 2 years at a time (for employees with more than 10 years of service). On completion of fixed tenure, the concerned officers

.../-

A handwritten signature in black ink, appearing to read "Om Prakash", is written over a large, roughly circular outline.

may be considered for posting to a station of their choice as far as possible. Keeping in view the instructions, Shri Diwan Singh has been considered for transfer from Field Exhibition Office, DAVP, Kohima to DAVP, New Delhi on his request. He was initially appointed at Field Exhibition Office, DAVP, Imphal on 10-7-2000 and thereafter transferred to Field Exhibition Office, DAVP, Kohima on 4-6-2002. He has, therefore, served in the North-Eastern Region for more than 4 years. He had requested for his posting at the choice of station, i.e., Delhi. Keeping in view his tenure of postings in the North-Eastern Region, his request was considered and he has been transferred to DAVP, New Delhi. It may also be stated that 13 posts of Chowkidar are vacant in Directorate of Advertising and Visual Publicity out of 76 sanctioned posts. These posts cannot be filled up since 34 posts (out of 76 sanctioned posts) have been identified for abolition on downsizing. Similar is the position in respect of other posts. As such, there is an acute shortage of staff at DAVP headquarters as well as its field offices located all over India. In order to achieve maximum targets on publicizing policies, programmes and achievements of the Government for which the field units of DAVP are mainly responsible, the work being carried out through existing strength by transferring the staff from such units where staff strength is comparatively better

.../-

Chandan

18

to other units, where staff position is grim. Among these arrangements, the applicant, who has been working at Regional Office, DAVP, Guwahati since 10-5-1988 and has not faced any transfer, has been considered for posting at Field Exhibition Office, DAVP, Kohima which is facing acute shortage of staff and there is no Group 'D' employee at present. Every effort is made by the respondents not to transfer low-paid Group 'D' employees except on requests and in exigencies of public service. If transfer has to be made in exigencies of public service, possibilities are explored to transfer the low paid staff at the nearest station. As such, the applicant has been considered for posting at Kohima, i.e., another station located within the North-Eastern Region, where his services are required urgently.

An extract copy of the Government instruction is annexed herewith and marked as Annexure-2.

11) That with regard to the statement made in paragraph 4.8 of the OA the respondent beg to state that similar is the case of Shri R.C. Deka, who has been transferred in exigencies of public service from Regional Office, DAVP, Guwahati to Field Exhibition Office, DAVP, Tura, where he is only Group 'D' employee. On his transfer, Shri Deka has since reported for duty at Tura.

.../-

G. J. Mandaney

There is no malafide intention in issuing transfer orders dated 10-9-2004 in respect of the applicant and other employees. As such there is nothing illegal, arbitrary or discriminatory as alleged.

- 12) That with regard to the statement made in paragraph 4.9 of the OA the respondents beg to state that in view of the position explained above paragraphs, the applicant may be directed to comply with the order dated 10-9-2004 as his services are required urgently at Field Exhibition Office, DAVP, Kohima.
- 13) That with regard to the statement made in paragraph 4.10 of the OA, the respondents beg to state that the applicant has failed to follow Government instructions. He has been transferred in exigencies on public service as explained in the forgoing paragraphs. Therefore, there is no injustice done to the applicant on his transfer.
- 14) That with regard to the statement made in paragraph 5.1 of the OA, the respondents beg to state that as explained in paragraph 10, Shri Diwan Singh has been transferred at the choice place of posting after completion of his fixed tenure in the North-Eastern Region. This is in accordance with the Government instructions.

.../-



A handwritten signature in black ink, appearing to read "G. N. Dang". The signature is written in a cursive style with a diagonal line through the "G".

5

The applicant, who has been continuously working in Guwahati for more than 15 years and has not faced any transfer ever since his joining in Government service, has been considered for transfer to Kohima since his services are required urgently. Therefore, there is nothing arbitrary, malafide, illegal or discriminatory, as alleged.

- 15) That with regard to the statement made in paragraph 5.2 of the OA the respondents beg to state that the facts/personal problems stated by the applicant in his representation dated 21-9-2004 have been considered but it could not be found possible to cancel/modify the order dated 10-9-2004 since he has been considered for transfer in exigencies of public service. His services are required urgently at Field Exhibition Office, DAVP, Kohima where there is no Group 'D' staff. As such, there is nothing illegal, arbitrary and malafide on the transfer of the applicant, as alleged.

- 16) That with regard to the statement made in paragraph 5.3 of the OA the respondents while denying the contentions made therein beg to state that the applicant has not been transferred as Chowkidar. Every effort is made not to transfer low-paid Group 'D' employees. Yet in exigencies of public service they are to be

.../-



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transferred at a station where their services can be utilised at the maximum. As regards Government instructions on posting of husband and wife at the same station, request of the applicant has been considered with utmost sympathy. It was not found possible within the constraints of administrative convenience to allow the applicant to continue at Guwahati.

- 17) That with regard to the statement made in paragraph 5.4 of the OA the respondents beg to state that the family problems as stated by the applicant in his representation dated 21-9-2004 could not be considered due to exigencies of public service.
- 18) That with regard to the statement made in paragraph 5.5 of the OA the respondents beg to state that the submissions made by the applicant in the corresponding para to O.A. are not correct. There are Group 'D' staff at Guwahati offices of DAVP after the relief of the applicant on his transfer to Kohima. It is for the respondents to see that services of their staff are utilized at the maximum on the basis of workload.
- 19) That with regard to the statement made in paragraph 5.6 of OA the respondents beg to state that in view of the position explained in foregoing paragraphs, the applicant may be directed

.../-

M. J. Lan

to report for duty at Field Exhibition Office, DAVP, Kohima where his services are required urgently.

- 20) That with regard to the statement made in paragraphs 6 & 7 of OA, the respondents do not offer any comment.
- 21) That with regard to the statement made in paragraph 8 of OA the respondents beg to submit that in view of position stated above, no relief need be granted to the applicant. The Hon'ble Tribunal may be pleased to vacate the interim order dated 19-1-2005.
- 22) That with regard to the statement made in paragraph 9 of the OA the respondents beg to submit that this Hon'ble Tribunal may be pleased to vacate the interim order and the applicant may be directed to fulfil his liability by joining duties at Field Exhibition Office, DAVP, Kohima.
- 23) That with regard to the statement made in paragraph 10, 11 & 12 of the OA, respondents beg to offer no comment.
- 24) That in view of the above facts and circumstances of the case the OA may be dismissed with costs.

G. N. Lane

VERIFICATION

I, M.L. Sidana son of Shri Babu Ram at present working as Deputy Director (Admn.), Directorate of Advertising and Visual Publicity (Ministry of Information and Broadcasting), PTI Building, Sansad Marg, New Delhi who is taking steps in this case, being duly authorized and competent to sign this verification, do hereby solemnly affirm and state that the statement made in paragraphs 1 to 24, are true to my knowledge and belief, those made in paragraphs 3, 4, 5, 20 & 23 being matter of records, are true to my information derived therefrom and rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification this 25th the day of April, 2005 at New Delhi

M. L. Sidana
DEPOENTE SIDANA,
Deputy Director (Admn.)
D. A. V. P., Min. of I & B
Govt. of India, New Delhi

~~12-
S.M. 3(1)~~ Annexure - R-I
MOST IMMEDIATE
BY SPEED POST

DIRECTORATE OF ADVERTISING AND VISUAL PUBLICITY
(ADMN.IV SECTION)

No. C-30019/4/2004-Admin-IV

Dated: 5-10-2004

OFFICE MEMORANDUM

Subject: Transfer of Shri Bhubneshwar Sharma, Helper from R.O., DAVP, Guwahati to FEU, Kohima.

Reference representation dated 21-9-04 received from Shri Bhubneshwar Sharma, Helper for cancellation of his transfer from Guwahati to Kohima.

2. The request of Shri Sharma has been considered. It has not been found possible to cancel/modify his transfer from Guwahati to Kohima. He is, therefore, directed to report to FEU, Kohima within permissible joining time.

3. It may be clarified that Shri Sharma has not been transferred as Chowkidar as indicated by him in his representation. He would continue to hold the post of Helper.

This issues with the approval of Director:DAVP.

(PURAN SINGH)
DY. DIRECTOR (ADMN.)

Shri Bhubneshwar Sharma, (through Regional Office, DAVP, Guwahati)
Helper,
Regional Office, DAVP, Guwahati.

Copy to: FEO, DAVP, Kohima – for information.

AE, RO, DMR, Guwahati, W. R. + their IDMs 19-2003-29 J. 10/10/03
1058 at 1-10-2004.

8/10

APPENDIX 9

INCENTIVES FOR SERVING IN REMOTE AREAS

[G.I., M.F., O.M. No. 20014/3/83-E, IV, dated the 14th December, 1983, read with O.M. No. 20014/3/83-E. IV, dated the 30th March, 1984, 27th July, 1984, G.I., M.F., U.O. No. 3943-E.IV/84, dated the 17th October, 1984, O.M. No. F. 20014/3/83-E. IV, dated the 31st January, 1985, 25th September, 1985, U.O. No. 824-E.IV/86, dated the 1st April, 1986, O.M. No. 20014/3/83-E. IV, dated the 29th October, 1986, O.M. No. 20014/3/83-E. IV/E. II (B), dated the 11th May, 1987, 28th July, 1987, 15th July, 1988 and O.M. No. F. 20014/16/86-E. IV/E. II (B), dated the 1st December, 1988.]

I

Allowances and facilities admissible to various categories of civilian Central Government employees serving in the North-Eastern Region comprising the States of Assam, Meghalaya, Manipur, Nagaland and Tripura and the Union Territories of Arunachal Pradesh and Mizoram, Andaman and Nicobar Islands and Lakshadweep Islands. These orders also apply *mutatis mutandis* to officers posted to N-E Council, when they are stationed in the N-E Region:—

(i) Tenure of posting/deputation:

There will be a fixed tenure of posting 3 years at a time for officers with service of 10 years or less and of 2 years at a time for officers with more than 10 years of service. Periods of leave, training, etc., in excess of 15 days per year will be excluded in counting the tenure period 2/3 years. Officers, on completion of the fixed tenure of service mentioned above may be considered for posting to a station of their choice as far as possible.

The period of deputation of the Central Government employees to the States/Union Territories of the North-Eastern Region, will generally be for 3 years which can be extended in exceptional cases in exigencies of public service as well as when the employee concerned is prepared to stay longer. The admissible deputation allowance will also continue to be paid during the period of deputation so extended.

(ii) Weightage for Central deputation/training abroad and special mention in Confidential Records:

Satisfactory performance of duties for the prescribed tenure in the North-East shall be given due recognition in the case of eligible officers in the matter of—

120 MAY 2005

गुवाहाटी अधिकारी
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GUWAHATI BENCH, GUWAHATI.

O.A. No. 4 /05.

BETWEEN

SRI. BHUBANESHWAR SHARMA

.....Applicant.

-VERSUS-

THE UNION OF INDIA & ORS

..... Respondents.

IN THE MATTER OF :-

An objection on behalf of the applicant against the written statement filed by the Respondent No.3 in connection with the O.A. No.4/05.

1. That with regard to the statement made in the paragraph 2 in the written statement, the Deponent /Applicant denies the same and begs to state that the deponent has been demoted to the post of Chowkidar from Helper by way of illegal transfer to accommodate on Diwan Singh, Chowkidar who has been transferred to New Delhi as a Helper and as such the transfer order in respect of the applicant is

filed by the applicant
through, *Rajya*
(M.H. Barakha)

Sri-Bhubaneswar Sharma, *58*
Advocate,

20.5.05

illegal, malafide, arbitrary and not tenable in the eye of law.

2. That with regard to the statement made in the paragraph 3, 4 and 5, the deponent begs to state that the statement made in paragraph 2, 3, 4, 4.1 and 4.2 are admitted by the Respondents and as such the applicant reiterates those statement in the original application.

3. That with regard to the statement made in the paragraph 6 in the written statement, the applicant begs to state that it is contrary to the Annexure-5 i.e. the transfer order dated 10.9.04 which would go to show that the applicant has been demoted to the post of Chowkidar and as such no question of identical scale of pay does not arise.

4. That with regard to the statement made in the paragraph No.7, the applicant begs to state that the order dated 29.9.04 passed in O.A. No.223/04 in pursuance to the representation dated 21.9.04 has not been considered at all which is reflected from the Annexure-9 of the present O.A.

5. That with regard to the statement made in the paragraph No.8, 9, 15, 16 & 17, the deponent begs to state that the applicant is a human being and for that reason his domestic and personal problem has to be considered in the light of right to life with dignity as conferred by Article 21 of the Constitution of India and as such it is not a goods

which can be used at the dictatorship of the state in violation of the principle laid down in the service Rules and as such there is no public interest is involved in transferring the petitioner form Guwahati to Kohima.

6. That with regard to the statement made in the paragraph 10, the applicant begs to state that the Annexure-2 annexed in the written statement is supporting the case of the applicant which has provided "officers, on completion of the fixed tenure of service mentioned above may be considered for posting to a station of their choice as per as possible" and as such in the present case the applicant has served more than 10 years and as such the applicant has every right to stay at Guwahati as per his choice.

7. That with regard to the statement made in the paragraph No. 11 in the written statement that the applicant begs to state there may not be malafide intention in respect of other but in respect of applicant it is totally illegal, arbitrary and malafide.

8. That with regard to the statement made in the paragraph No. 12, 13 and 14 in the written statements, the applicant denies the same and begs to state that there is no public interest involved and no necessity for transferring the applicant in view of the Annexure-2 in the written statement.

9. That with regard to the statement made in the paragraph No.18, the deponent denies the same and reiterates the statement in paragraph 5.5 in the Original Application.

10. That with regard to the statement made in the paragraph No.19,20,21 and 22, the applicant begs to state that the interim order dated 19.1.04 may kindly be absolute considering the facts and circumstances of the present case.

11. That with regard to the statement made in the paragraph No.23, the deponent reiterates the statement made in the Original Application No.4/05.

12. That with regard to the statement made in the paragraph No.24, the deponent begs to state that the written statement so filed by the Respondents are devoid of any merit and the same is liable to be rejected and the O.A. No.4/05 may kindly be allowed considering the extreme hardships of the applicant.

Sri Bhupenwar Sardam

VERIFICATION

I, Sri. Bhubaneshwar Sharma, aged about 42 years, son of late. Ra jani Kanta Sharma, resident of vill. Branghati, P.O. Branghati, P.S. Kya, Dist. Kamrup, Assam do hereby solemnly affirm and declare and verify that the statement made in paragraphs 1, 2, 5, 7, 9 to 12..... are true to my knowledge, those made in paragraphs 3, 4, 6 & 8..... are derived from the records and the rest are my humble submissions before this Hon'ble Tribunal.

And I sing this verification on this 20th May, 2005 at Guwahati.

Sri-Bhubaneshwar Sharma.