

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓
O.A/T.A No. 150/2006

R.A/C.P No.

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SECTION OFFICER (Judl.)

Kahla
24/10/17

ORDERS SHEET

- Applicant(S) Raja Ram Sahu
Respondant(S) U.O.I. 70-15
Advocate for the Applicant(S) B. Halodkar
Ms. S. B. Mahajan
.....
Advocate for the Respondant(S) Case

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form is filed/C. F. for Rs. 50/- deposited vide IPO/BD No. 269/224521 Dated 15.6.06</p> <p><i>[Signature]</i> Dy. Registrar</p> <p><i>[Signature]</i> Steps taken within 19.6.06 envelops.</p> <p><i>[Signature]</i></p> <p><i>Recd Gauri N S. Case 22.6.06</i></p> <p><i>22.6.06</i> C. copy has been collected by the L/Advocate on the application and a copy of the same handed over to the opposite.</p>	<p>20.06.2006</p> <p>mb</p>	<p>Heard learned counsel for the parties. The application is disposed of in terms of the order passed in separate sheets at the admission stage itself. No order as to costs.</p> <p><i>[Signature]</i> Vice-Chairman</p>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

150 of 2006

O.A. No.

20.06.2006

DATE OF DECISION

Sri Raja Ram Sahu

Applicant/s

Mr B. Malakar & Ms S. Borgohain

Advocate for the
Applicant/s.

- Versus -

Union of India & Others

Respondent/s

Mr G. Baishya, Sr. C.G.S.C.

Advocate for the
Respondents

CORAM

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

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

Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 150 of 2006

Date of Order : This the 20th June 2006.

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

Sri Raja Ram Sahu
Son of Sri Rabi Sahu
W/C Khalasi
Manas Sankosh Teesta Link Canal
Investigation Sub-Divn.
New Town, Alipurduar
Under Executive Engineer
NEID - III, Itanagar.

... Applicant

By Advocates Mr B. Malakar and Ms S. Borgohain, Advocates.

- Versus -

1. Union of India, represented by the
Chairman, CWC, R.K. Puram,
New Delhi.
2. Superintendent Engineer, CWC,
NEID Circle, Rebekha Villa,
Near Barik Point, Temple Road,
Shillong - 1.
3. Executive Engineer,
CWC, NEID - III,
Itanagar - 791111.

... Respondents

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

.....

ORDER (ORAL)

K.V. SACHIDANANDAN (V.C.)

The Applicant is working as worked charged Khalasi under the Respondent concerned and he was transferred in the year 1987 to Itanagar Circle. According to him, option for willingness to

work in the Faridabad Planning Division was obtained in November 2005 and to his great surprise he was transferred to Jammu and Kashmir vide impugned order dated 30.05.2006. Aggrieved by the said action of the respondents, the Applicant has filed this application seeking the following reliefs: -

- "i) The transfer order dated 30.5.06 be set aside and the applicant be allowed transfer to Faridabad Planning Circle in terms of his option dated 4-3-06;
- ii) An pending disposal of this application, the applicant be allowed to work in the present place of posting as an interim measure."

2. Heard Mr B. Malakar, learned counsel for the Applicant and Mr G. Baishya, learned Sr. C.G.S.C. for the Respondents.

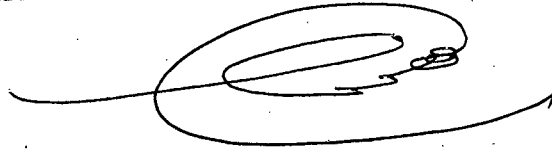
3. Mr B. Malakar, learned counsel for the Applicant submitted that the impugned order of transfer to Jammu and Kashmir was issued against the option made to Faridabad, that too foregoing his seniority in the seniority list. He further submitted that he will be satisfied if a direction is given to the 2nd Respondent to consider the comprehensive representation that he proposes to file within ten days and dispose of the same with sympathetically. Mr G. Baishya, learned Sr. C.G.S.C. for the Respondents submitted that it will meet the ends of justice and he has no objection.

4. Therefore, this Court considering the submissions made by the learned counsel for the parties, direct the applicant to make a comprehensive representation within ten days to the Respondent No. 2 and on receipt of the said representation, the Respondent No. 2 or any other competent authority shall consider and dispose of the same within a time frame of two months thereafter.



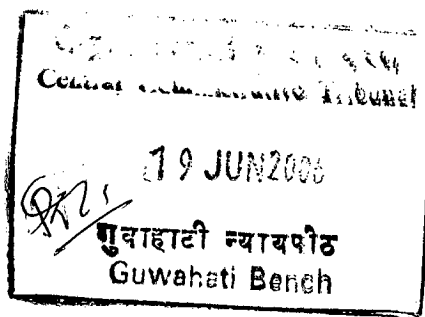
5. In the interest of justice, I direct that till the disposal of the representation, if received, the applicant will not be disturbed, if he has not already been relieved.

The O.A. is disposed of at the admission stage itself. In the circumstances, no order as to costs.



(K. V. SACHIDANANDAN)
VICE-CHAIRMAN

/mb/



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

GUWAHATI BENCH : GUWAHATI.

O.A. 150 /2006.

An Application under Section 19
of the Central Administrative
Tribunal Act.

Admitted

Filed by

Sangeeta Buragohain

Registrar

Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

O.A. No. _____/2006

Raja Ram SahuApplicant

-Vs-

Union of India & ors. ...Respondents.
(CWC)

LIST OF DATES

- 7.3.80 - Appointed as work charge Khalasi
- Oct/81- Transfer to Bareilly
- Feb/85 - Transfer to Ranchi Divn.
- Feb/86 - Transfer to Takria Div.
- Sept/86- Transfer to Riwa
- Dec/87 - Transfer ^{to Teesta} ~~Bhr~~ Brahmaputra under Sikkim Divn.
- Aug/89- Transfer to Meghalaya
- January/97-Transfer to Tawang
- May/87 - Transfer to Itanagar Circle
- Nov./05 - Signature ~~as~~ option obtained
- 3-1-06 - Option withdrawn
- 29-4-06 - Submitted fresh option for transfer to Faridabad.
- 30-5-06- Transfer order to Jammu issued.

Filed by


Advocate.

IN THE 'CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH : GUWAHATI.

O.A. No. 150 /2006

Sri Raja Ram Sahu .. Applicant

- Vs -

Union of India & Ors.

(CWC) .. Respondents.

I N D E X

<u>Sl.No.</u>	<u>Particulars</u>	<u>Pages</u>
1.	Application U/S 19 - - - - - of the CAT Act.	1 to 7
2.	Verification - - - - -	7
3.	Annexure - I - - - - -	8 & 9
4.	Annexure - II - - - - -	10
5.	Annexure - III - - - - -	11
6.	Annexure - IV - - - - -	12
7.	Annexure - V - - - - -	13

Filed by -

Sangeeta Buragohain

ADVOCATE

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI.

Filed by -
Raja Ram Sahu
- Petitioner
through -
Sangeeta Buragohain
Advocate

O.A. No. 150/2006.

Raja Ram Sahu ... Applicant.

- Vs -

Union of India (CWC)

& Ors. ... Respondents.

I. Particulars of the Applicant :

- i) Name : Sri Raja Ram Sahu.
- ii) Father's name : Sri Rabi Sahu.
- iii) Designation and Office where employed : W/C Khalasi
Manas Sankosh Teesta Link Canal
Investigation Sub-Divn.,
New Town, Alipur duar,
Under Executive Engineer,
NEID - III, Itanagar.
- iv) Address for service of notices : As at (iii) above.

2. Particulars of the Respondents : 1) Union of India, represented
by the Chairman, CWC, R.K.
Puram, New Delhi.
- 2) Superintending Engineer, CWC,
NEID Circle, Rebekha Villa,
near Barik Point, Temple Road,
Shillong - 1.

...2

Raja Ram Sahu

3) Executive Engineer, CWC, NEID - III,
Itanagar -791111.

ii) Office Address of : As at 2 above.
Respondents

iii) Address for service : As above.
of notices

3. Particulars of the : *Transfer order in Memo. NO.*
order against which *NEIC/2053/Vol. III/2005/536-55*
this application has *dt. 30.5.2005 (Annex-5)*
been made.

4. Jurisdiction of the : The applicant declares that the
Tribunal subject matter of this application
is within the jurisdiction of this
Tribunal.

5. Limitation : The applicant further declares that
the application is within the
Limitation prescribed U/S 21 of the
Administrative Tribunal Act, 1985,
Cause of action having arose on
~~30-5~~-2006.

6. Facts of the case :-

- 1) That the applicant was appointed as a temporary work
charged Khalasi under the Central Water Commission(CWC)
vide Order dated 7-3-1980 and was posted at ~~Tansut~~
under Sambalpur Investigation Sub-Division (Orissa).
The applicant hails from Orissa.

A copy of the apptt. letter is
annexed herewith and marked as
Annexure - I to this application.

... 3

Raja Ram Sahu

- ii) That from Sambalpur Investigation Sub-Division, the applicant was transferred to Itanagar NEID-III and was posted at Alipurduar Manas Sankosh Teesta Link Canal Investigation Sub-Division (MSTL CISC) in 1997.
- iii) That prior to 1997, the applicant was transferred a number of times in various remote places and the applicant with all humility accepted those transfer for eight times.

A copy of the composite order of transfer is annexed hereto and marked as Annexure - II to this application.

- iv) That the applicant begs to state that the Assistant Engineer in Nov/05 obtained the signature of the applicant in certain form stating that transfer will be made to Chandigarh for which consent was necessary as because there was question of seniority. But later on the applicant and two others learnt that signatures obtained were for accepting bottom seniority in the event of transfer. The applicant could understand the implication and submitted an application on 3-01-06 withdrawing ^{his} ~~my~~ previous application.

A copy of the withdrawal letter is annexed hereto and marked as Annexure - III to this application.

- v) That no action having taken, the applicant submitted another application on 29-4-06 expressing his willingness to forgo seniority the case of his absorption

... 4

Raja Ram Sahu

under Faridabad Planning Division. The applicant learns that Sri Rameswar Rai, Sri Basu Bhagwan and Sri B N Rai all W/C Khalasis have been allowed to withdraw their previous ~~options~~ and had allowed their transfer to Faridabad Planning Division.

A copy of the applicant's option to Faridabad is annexed hereto and marked as Annexure - IV to this application.

- vi) That even in face of such happenings a common transfer order has been issued vide No. NEIC/2053/Vol-III/2005/536-58 dated 30-5-06 wherein name of the applicant has also appeared at Sl.No.4 for his transfer to Jammu.

A copy of the transfer order is annexed hereto and marked as Annexure - V to this application.

- vii) That the applicant is a low paid employee and he is required to maintain his family with three school-going children his old parents etc. The applicant hails from Orissa. It is quite impossible to maintain two establishment at such distant places. The applicant has filed option which has not been considered.

- viii) That the order dated 30.5.06 is malafide in the sense that signature was obtained under a false pretext. The applicant ^{took} action in right earnest which was ignored. The transfer has come as a measure of punishment.

...5

Raja Ram Barua

- ix) That the transfer order is discriminatory as well. Employees similarly situated have been allowed to withdraw their option. But the applicant has been discriminated and he has been sent to Jammu applying the consent obtained in an unusual manner.
- x) That the applicant humbly submits that although transfer is an exigency of service and the employer exercises full discretion even then the discretion has to be reasonably and judicially exercised. In the case in hand, the petitioner has been unfairly treated.
- xi) That the petitioner has no grievance against the transfer. He is ready and willing to move on transfer. What he has objected to in his posting at Jammu that too, on his poor financial incapacity to maintain his poor family and his three school-going children. In the event, the applicant is allowed transfer to Faridabad Planning Circle as per his option accepting lower seniority.

Legal Ground :

- i) The option on the basis of which the transfer has dtd. 30.5.06 has been ordered cannot be acted upon as the applicant has withdrawn the same vide his application dated 3-1-06 ;
- ii) Since the applicant has no vested interest in his present place of posting and has opted for transfer to Faridabad on the same terms of accepting lower seniority and since similar persons have been

...6

Raja Ram Sahu

allowed such transfer. The case of the applicant deserves consideration on the same terms.

7. Remedies Exhausted :

The applicant further declares that he has availed of the remedies available but to no effect.

8. Relief Sought :

Under the circumstances of the case, the applicant prays for the following relief(s) :

- i) The transfer order dated 30.5.06 be set aside and the applicant be allowed transfer to Faridabad Planning Circle in terms of his option dated 4-3-06 ;
- ii) And pending disposal of this application, the applicant be allowed to work in the present place of posting as an interim measure.

And for this act of kindness, the applicant as in duty bound shall ever pray.

9. Matter not pending before any ~~other~~ Court :

The applicant further declares that the subject matter regarding which this application has been made is not pending before any other court.

...7

Raja Ram Sahu

10. Particulars of the I.P.O. :

- a) No. of I P O : 266 324521
b) Name of the issuing P.O. : Guwahati
c) Post Office at which payable : Guwahati

11. Details of Index :

12. List of Enclosures :

V E R I F I C A T I O N

I, Sri Raja Ram Sahu, the applicant above-named do hereby verify that the statements made in paragraphs -1, 2, 3, 4, 5 6(i, ii, iv, v,) 7, 9, are true to my knowledge and those in paragraphs - 6(iii, vi, vii, viii, xi) being matters of record are true to my information which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this 10th day of June 2006 at Guwahati.

Raja Ram Sahu
(S i g n a t u r e)

Annexure - I

No. PLG/E-3/15/VII/ 1445-UK
Government of India
Central Water Commission
Planning Division
N.H.IV, Faridabad.

Dated the 7th March 80

OFFICE ORDER

Shri Raja Ram Sahu is offered appointment as a temporary Work Charged Khalasi under this Division on the following terms and conditions:-

1 He will be entitled to draw pay of Rs. 196/- in the scale of Rs. 196-3-220-EB-3-232 PM plus allowances as sanctioned by the Government of India from time to time.

2 The appointment is purely temporary and likely to continue.

3 The appointment may be terminated at any time by a month's/14 days notice given by either side without assigning any reason. The appointing authority, however reserves the right of terminating the services of the appointee forthwith or before the expiry of the Notice period by making payment of him a sum equivalent to the pay and allowances for the period of Notice or the unexpired portion thereof.

4 The appointee will be required to produce a Certificate of physical fitness from the competent Medical Authority at the time of his joining the appointment.

5 The appointee will be required to take an oath of allegiance to the constitution of India or make a solemn affirmation to that effect.

6 If the appointee is married, he will have to give a declaration that:-

1) He has no other wife but one living and that he during the life time of his spouse has not contracted another marriage.

7 If any information given or declaration furnished by him proves to be false or if it is found that he has willfully suppressed any material information, he will be liable to removal from services and such other action as the Government may deem necessary.

8 No Travelling Allowance will be admissible for his joining this project.

9 No accommodation will be provided in the place of posting.

10 If Shri Raja Ram Sahu is willing to accept the offer on the aforesaid terms and conditions, he may report himself

P.T.O.

*Truancy
Sahu*

for duty to the Site i/c G/D Site No. 17, C.W.C., JAMUT under
Sambalpur Inv. Sub-Divn, C.W.C., Sambalpur within 10 days of
issue of this Memo failing which the offer may be treated as
cancelled.

(V.N. SHARMA)
EXECUTIVE ENGINEER
PLANNING DIVISION

Copy to:-

- 1 The Asstt. Ex. Engineer
Sambalpur Inv. Sub-Divn, C.W.C.,
SAMBALPUR (ORISSA). The attached forms to be completed and return to this
office along with Joining Report and medical fitness certificate.
- 2 Accounts Branch, Planning Division for information.
- 3 The Employment Officer,
Employment Exchange,
BOLANGIR (ORISSA)
- 4 Personal file.

(V.N. SHARMA)
EXECUTIVE ENGINEER
PLANNING DIVISION

To

Shri Raja Ram Sahu
Ch. Asstt. Executive Engineer,
Sambalpur Inv. Sub-Divn, C.W.C.,
SAMBALPUR (ORISSA)

Letter No. 313/ E-1/ Exec. Eng. dt 13/3/80
copy for record to be in charge
of Site No. 17 Jamut for n/a
and record.

13/3
Assistant Executive Engineer
Sambalpur Investigation Sub-Divn
C.W. Commission, Sambalpur

True copy
Bml
Bml

SERVICE PARTICULARS
REQUEST FOR TRANSFER

1. Name : R.R.SANU
2. Designation : Khalasi.
3. Whether permanent : Permanent
4. Date of appointment : 16.3.1980
5. Date of Birth : 5.4.1955
6. Home town, Dist., State : Gajabahal, Kalahandi, Orissa.
7. Present address : ~~Alimurrahman, P.O. Gajabahal, Dist. Kalahandi, Orissa.~~

8. Educational qualification : H/E Passed.
9. Station served with date since first appointment.

S/No.	Station	From	To	Post held
-------	---------	------	----	-----------

- | | | | | |
|-----|---|---------|-----------|--------------------------|
| 1. | G&D site No.17 Jamut Sub-Divn. Sambalpur, Orissa under planning Divn., Faridabad, & Circle. | 16.3.80 | 9/81 | Khalasi |
| 2. | Pancheshwar Dam site, under Inv. Divn.No.5, Pancheshwar, Bareilly (UP). | 10/81 | 1/85 | Drill Helper. |
| 3. | Manjhatoli G&D site, Simdega Sub-Divn. under Ranchi Division, Bihar. | 2/85 | 1/86 | -do- |
| 4. | Takwa Dam site, Sub-Divn. Simdega under Planning Divn., Faridabad. | 2/86 | 3/86 | -do- |
| 5. | Sone Inv. Sub-Divn. No. II/ Ambikapur, under Division (MP). | 3/86 | 9/96 | Khalasi |
| 6. | Gurdham Dam site, Sub-Divn., Mirzapur (UP) under Riwa Divn. (MP). | 9/86 | 12/87 | -do- |
| 7. | Teesta Brahmaputra Link Canal Gajaldoba Sub-Divn. (WB) under Sikkim Division, Circle, No. II Faridabad. | 12/87 | 06/88 | -do- |
| 8. | Sissiri Inv. Sub-Divn., Dambuk (AP) under BID & NEID. III, Agaratala, Itanagar Circle Shillong (Meghalaya). | 8/89 | 12/96 | -do- |
| 9. | NISD, CWC, Tawang (AP) | 1/97 | 4/98 | -do- |
| 10. | MSTLCISD. I, CWC, Alipurduar (WB) under NEID. III, Itanagar circle Shillong (Meghalaya). | 5/98 | till day. | |

11. Nature of duties.

1. Hydrological observation & Meteorological
2. Topographical survey work.
3. Drilling work for Geological Exploration.

R.R. Sanu
(R.R.SANU)
Khalasi
25/10/02

Tone...
Sanu
Sanu

U N D E R T A K I N G

Ref.:- No. NEIC/2053/Vol-II/2005/2604-07 Dated 26.10.2005.

I Shri RAJA RAM SAMU son of Shri Rabi Samu like to intimate you that due to some of my family problems, I would like to withdraw my earlier application for transfer and hereby opted my willingness to work under Planning Circle Faridabad on my absorption forgoing the seniority against the existing vacancies.

Dated 03-01-2006

Mahy
 Name :- Raja Ram Samu
 Designation W/C - Khalasi
 Office MSTLC, ISD-II, CWC,
 Alipurdwar (W/B)

Tone AB
Shri
Ramu

Annex-IV

UNDER-TAKING

Ref. :- No. NEIC/2053/Vol-II/2005/2604-07 Dated 26.10.2005.

I Shri R. R. Sahu Son of Sh. R. R. Sahu
 is hereby opted my willingness to work under
 Planning Circle Faridabad on my absorption forgoing the seniority
 against the existing vacancies.

Dated : .. 29/1/06..

Name R. R. Sahu

Designation W/o. Khadar

Office N. S. T. C. W. A. P. I. N. U. A.

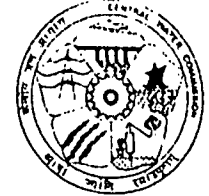
..... to be

True copy
sent
over



भारत सरकार
GOVERNMENT OF INDIA
केन्द्रीय जल आयोग
CENTRAL WATER COMMISSION
उत्तर पूर्वी अन्वेषण परिमंडल
NORTH EASTERN INVESTIGATION CIRCLE

Annex-V-15-13-



No.NEIC/2053/Vol.III/2005/ 536-55

Dated: 30/5/2006

OFFICE ORDER

20/6/06

Consequent upon the approval of Chairman, CWC conveyed vide Director (RMCD), CWC, New Delhi's I. D. Note No.6/23/IWSU/2005-RMCD/1151-54 dated 27th April, 2006 addressed to Chief Engineer (BBBO), CWC, Shillong, the following 9 (nine) Workcharged Khalasis, who have opted for transfer out of North Eastern Investigation Circle and who have also given their willingness to forego seniority, are hereby transferred to M&A Dte., CWC, Jammu under Indus Basin Organisation, Chandigarh with immediate effect in public interest.

S.No.	Name of Khalasi	Present posting	Future posting
1	Shri Markush Tirkey	MSTLC Inv. Sub Dvn., Alipurduar (WB)	M&A Dte., CWC, Jammu (J&K)
2	Shri M.M.Patel	-do-	-do-
3	Shri B.S. Yadav	-do-	-do-
✓ 4	Shri R.R. Sahu	-do-	-do-
5	Shri Ashulaik	NEID-II, Aizawl (Mizoram)	-do-
6	Shri Budh Dev Kumar	MSTLC Inv. Sub Dvn., Alipurduar (WB)	-do-
7	Shri Bhugen Giri	NEID-II, Aizawl (Mizoram)	-do-
8	Shri Kazira Rai	NEID-II, Aizawl (Mizoram)	-do-
9	Shri Dilip Das	MSTLC Inv. Sub Dvn., Alipurduar (WB)	-do-

(P.M. Scott)

Superintending Engineer

Copy to:-

1. PPS to Chairman, CWC, New Delhi
2. PS to Member (RM), CWC, New Delhi
3. Chief Engineer (BBB), CWC, Shillong.
4. Chief Engineer, Indus Basin, CWC, Chandigarh
5. Director (RMCD), CWC, Sewa Bhawan, R.K.Puram, New Delhi-110066
6. Director, M&A Dte., CWC, Gool House, Timber Road, Indira Colony, Janipur, Jammu Tawi, (J & K)
7. Executive Engineer, Chenab Division, CWC, Street No. 6, H.No.29-30, Suraj Nagar, Talab Tilloo, Jammu-180002
8. Executive Engineer, NEID-II, CWC, Aizawl
9. Executive Engineer, NEID-III, CWC, Itanagar
10. Asstt. Engineer, MSTLC Inv. Sub Div., CWC, New Town, Alipurduar, (W.B-736121)
11. Persons concerned
12. Guard file

True copy
brother