

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓ O.A/T.A No. 150/2006.....

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SECTION OFFICER (Judl.)

Karlen
24/8/17

(5th Rule 5a)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERS SHEET

1. Original Application No. 150 / 06
2. Misc Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) Raja Ram Sahni

Respondent(s) U.O.I. Tons

Advocate for the Applicant(s) B. Malakar
Mr. S. Borthakur

Advocate for the Respondent(s) C. A. S. T.

Notes of the Registry	Date	Order of the Tribunal
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20.06.2006

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.

This application is in form
is filed/C. F. for Rs. 50/-
deposited vide IPO/BD
No. 269 824521

Dated... 15. 6. 06

Dhruv
Dy. Registrar

Phu.

Vice-Chairman

Steps taken without
envelopes.

mb

Phu.

Finalized
before Ap
5 Case
22.6.06

22.6.06
C. Copy has been
collected by the L/Advocate
for the application a copy
of the same handed over to the addressee.

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 complied 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."

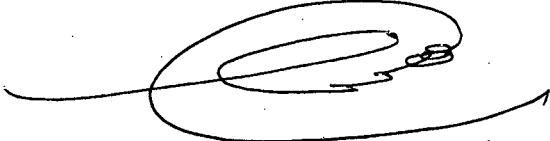
2. Heard Mr B. Malakar, learned counsel for the Applicant and Mr G. Baishya, learned Sr. C.G.S.C. for the Respondents.

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.

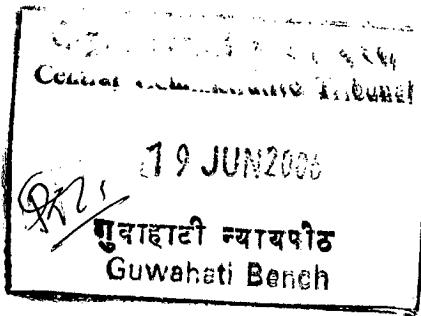
5. In the interest of justice, I direct that till the disposal of the representation, if received, the applicant will not be disturbed, if he has not already been relieved.

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 Sahu Applicant
-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 Dev.

Sept/86- Transfer to Riwa

Dec/87 - Transfer ~~Bux~~ ^{to Teesta} 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

Associate

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

A D V O C A T E

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI.

Filed by —
Raja Ram Sahu
— Petitioner
through —
Sangeeta Burzophain
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
this application has
been made. NEIC/2053/vol. III/2005/536-55
dt. 30.5.2005 (Annex-5)

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 Jansut
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.

Raja Ram Sahai

- 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 CISD) 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

under Faridabad Planning Division. The applicant learns that Sri Rameswar Rai, Sri Basu Bhagwan and Sri B N Rai all W/C Khalasi's 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 inface 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

Naresh Ram Sahu

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

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.

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

a) No. of I P O : 26G 324521

b) Name of the issuing P.O. : Guwahati

c) Post Office at which payable : Guwahati

11. Details of Index :

12. List of Enclosures :

VERIFICATION

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 19th day of June 2006 at Guwahati.

Raja Ram Sahu
(Signature)

Annexure - I

No.PLG/E-3/15/VI / 1981-82
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 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.

*Temporary
posting
order*

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), ^{Office along with Training report and medical fitness certificate} to get completed and return to this
2. Accounts Branch, Planning Division for information.
3. The Employment Officer,
Employment Exchange,
BALIANGA (ORISSA)
4. Personal files.

718180
7/7/9

(V.N. SHARMA)
EXECUTIVE ENGINEER
PLANNING DIVISION

To

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

Letter No. 3131 E-71 Excc. 137 dt 23/3/90
copy forwarded to Smt. J. N. Chauhan
Ceo D. S. C. No. 17 Jamut for 7/2
and 7/4/90.

Executive Engineer
Sambalpur Investigation Sub-Divn.
13/3/90 C. W. Commission, Sambalpur

True copy
B.M. Sahu

SERVICE PARTICULARS
REQUEST FOR TRANSFER

1. Name : R.R. SAHU
 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 : ~~Alimarihi, Gajabahal, 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 10/81 1/85 Drill Helper.
 (UP). ~~do~~
 3. Manjhatoli G&D site, Simdega
 Sub-Divn. under Ranchi Division, 2/85 1/86 ~~do~~
 Bihar.
 4. Takwa Dam site, Sub-Divn. Simdega
 under Planning Divn., Faridabad. 2/86 3/86 ~~do~~
 5. Sona Inv. Sub-Divn.No.II/Ambika-
 pur, under Division (MP). 3/86 9/96 Khalasi
 6. Gurdham Dam site, Sub-Divn.,
 Mirzapur (UP) under Riwa Divn. 9/86 12/87 ~~do~~
 (MP).
 7. Teesta Brahmaputra Link Canal
 Cajaldoba 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,
 Agartala, Itanagar Circle
 Shillong (Meghalaya). 8/89 12/96 ~~do~~
 9. NISD, CWC, Tawang (AP) 1/97 4/98 ~~do~~
 10. MSTLCI D.I, CWC, Alipurduar(WB)
 under NEID.III, Itanagar 5/98 till day.
 circle Shillong (Meghalaya).

11. Nature of duties.

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

R.R. Sahu
 (R.R. SAHU)
 Khalasi

25/10/02

*Tone in
for
SAHU*

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 SAHU son of Shri Rabi Sahni 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

Rahay
Name : - Raja Ram Sahni
Designation : W/C. Khalasi
Office : MSLC, ISD-II, CWC
.....Aripurduar. (W/B)

*Done w/b
Sahni
Date*

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 ShriR.R. Sehgal..... Son of Sh. R.K. Sehgal
..... is hereby opted my willingness to works under
Planning Circle Faridabad on my absorption forgoing the seniority
against the existing vacancies.

Dated : 29/11/08.

Name : R.R. Sehgal

Designation : S/o. L.W.D.

Office : M.T.O./AT.L.W.D./Punjab

..... 02.01.2009.

True copy
from
[Signature]



गोपनीय राष्ट्रपति

GOVERNMENT OF INDIA

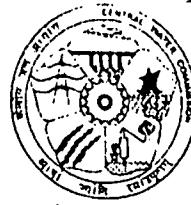
केन्द्रीय जल आयोग

CENTRAL WATER COMMISSION

उत्तर पूर्वी अन्वेषण परिषंडल

NORTH EASTERN INVESTIGATION CIRCLE

Annex - V 15-13 -



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

Dated: 30/5/2006
20/6/06OFFICE ORDER

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
b/sd/s