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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 167/2006

R.A./C.P No.

E.P/M.A No. 95/06 (167/06)

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SECTION OFFICER (Judl.)

(See Rule 12)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERS SHEET

1. Original Application No. 167 / 106
2. Miso Petition No. _____
3. Contempt Petition No. _____
4. Review Application No. _____

Applicant(S) Sri Anisram Meeh

Respondant(S) U.O. 1 & 2 ans.

Advocate for the Applicant(S) Mr. Adil Ahmed
Ms. S. Bhattacharya

Advocate for the Respondant(S) C.G.S.C.

| Notes of the Registry | Date | Order of the Tribunal |
|-----------------------|------------|---|
| | 04.07.2006 | Present: Sri Hon'ble Sri K.V. Sachidanandan Vice-Chairman. |

This application is filed
is filed, C.P. No. 13-9-
deposited vide IPO/BD
No. 269/324563
Dated 19.6.06

Sheela
Dy. Registrar

NS
31/7/06

The contention of the applicant is that he is working in a tenure station and as per rule prescribed, he is entitled to get transfer to choice stations after completion of the tenure period. Accordingly, vide annexure - C dated 07.02.2006, the applicant has submitted his choice stations as Guwahati, Jorhat and Tezpur. But none of these stations have been considered by the Respondents and the Respondents have transferred the applicant to Shillong Zone. Aggrieved by the said action of the Respondents, the applicant has filed this application.

Heard Mr Adil Ahmed, learned counsel for the applicant and Ms. U. Das, learned Addl. C.G.S.C. for the Respondents.

The counsel for the Respondents is specifically directed to take instructions as to the vacancy position in the choice.

Contd/-

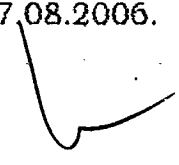
O.A. 167/2006

Contd/-
04.07.2006

stations that have been mentioned by the applicant.

In the interest of justice, this Court directs the Respondents to maintain status quo as on today till the next date.

Copy of this order be given to the counsel for the parties. Post on 07.08.2006.


Vice-Chairman

/mb/

07.08.2006 Ms U. Das, learned Addl. C.G.S.C. for the respondents submitted that she has filed a stay vacation petition, let it be brought on record, if otherwise in order. Learned counsel for the applicant wanted to file reply. Let it be done.

Post on 28.08.2006.


Member


Vice-Chairman

mb

28.08.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

Learned Counsel for the Respondents wanted time to file reply statement. Let it be done.

Post on 19.09.2006. Interim order dated 04.07.2006 will continue till the next date.


Vice-Chairman

/mb/

order dt. 4/7/06
Sent to D/section
for issuing to
learned advocate's
for both the parties.

5/6/06 D/No-167, 166
Dt-5/7/06.

Order dt. 28/8/06
issuing to learned
advocate's for both
the parties.

29/8/06

No loks has been filed.

18.9.06

18.9.06
w/c filed by
the respondents.

Di-

O.A. 167/2006

19.09.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

order dt. 19/9/06
issuing to learned
advocates for both
the parties.

21/9/06.

① Wls filed by the
respondents;

② No rejoinder has
been filed.

21/9/06

No rejoinder has
been filed.

8.11.06

No rejoinder has
been filed.

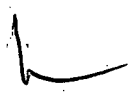
6.12.06

18/12/06

C Copy has been
collected by the
advocate for the
applicant and a copy
of the same ~~has been~~
handed over to the
advocate for the Respondent
at 11/12/06.

Learned Counsel for the
Respondents submitted that written
statement has already been filed. Learned
Counsel for the Applicant wanted to file
rejoinder. Let it be done.

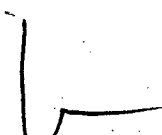
Post on 03.11.2006. Interim order
shall continue till the next date.



Vice-Chairman

/mb/

3.11.06 Post on 9.11.06 for hearing as
prayed for ~~has~~ by the parties.

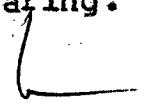


Vice-Chairman

pg

9.11.06 Learned counsel for the applicant
submitted that he is not ready in the
matter. Case may be adjourned.

post on 7.12.06 for hearing.

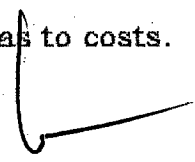


Vice-Chairman

pg

07.12.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

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



Vice-Chairman

/mb/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

167 of 2006

O.A. No.

07.12.2006.

DATE OF DECISION

Shri Aniram Mech

..... Applicant/s

Mr Adil Ahmed, Advocate

..... Advocate for the
Applicant/s.

- Versus -

The Union of India

..... Respondent/s

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

..... Advocate for the
Respondents

CORAM

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

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

Vice-Chairman

11/12/06

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 167 of 2006

Date of Order : This the 7th Day of December 2006.

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

Shri Aniram Mech
MES No. 229640
Junior Engineer (QS&C)
Office of the CWE, HQ 137 Works Engineer,
C/o - 99 APO.

... Applicant

By Advocate : Mr Adil Ahmed, Advocate.

- Versus -

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Defence, South Block, New Delhi.
2. The Chief Engineer (Head Quarters), Eastern Command, Engineer Branch, Fort William, Kolkata - 21.
3. The CWE, HQ 137 Works Engineer C/o - 99 APO.

... Respondents.

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

.....

ORDER (ORAL)

K.V. SACHIDANANDAN, (V.C.)

Considering the small issue involved in this case, the O.A. is taken up for disposal even before the admission on the consent of the learned Counsel for the parties.

2. The Applicant is working as Junior Engineer (QS & C) under the office of the CWE, HQ 137 Works Engineer, C/o - 99 APO. On 17.04.2004, the Applicant was transferred from office of the Garrison Engineer (Air Force), Chabua to HQ 137 Works Engineer




which is a tenure station and 20.06.2004, he joined in the present unit. On 16.01.2006, the Respondent No. 2 transferred the applicant from HQ 137 Works Engineer to office of the Chief Engineer (Air Force) Shillong Zone on the basis of turn over JE (QS & C). He filed representation before the Respondent No. 2 on 07.02.2006 stating that he was not given any opportunity to put his choice stations for the next tenure posting and in the said representation he also submitted three choice stations of his choice, viz. (i) Guwahati, (ii) Jorhat, and (iii) Tezpur. Vide order dated 11.05.2006, the Respondent No. 2 rejected the claim of the Applicant and again, the Applicant submitted representation before the Respondent No. 2 on 25.05.2006. But no reply was given to the Applicant. Aggrieved by the said inaction of the Respondents, the Applicant has filed this application seeking the following reliefs:-

- "8.1 That the posting Order No. 08/2006 vide letter No. 131322/2/2005/JE (QS & C)/102/Engs/EC (I) dated 16.01.2006 of the Applicant to be set aside and quashed.
- 8.2 That the HQ letter No. 131322/2/2005/JE (WS & C)/132/Engrs./EIC(I) dated 11.05.2006 issued by the Respondent No. 2 to be set aside and quashed.
- 8.3 To direct the Respondents to give the Applicant the benefit of choice place of posting as submitted by the Applicant in his representation dated 07.02.2006.
- 8.4 To pass any other appropriate relief or relief(s) to which the Applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.
- 8.5 To pay the cost of the Application."

3. The Respondents have filed a detailed reply statement contenting that as per Headquarter letter dated 30.08.2003 the

effected individual has to submit repatriation proforma for one of the three choice stations on completion of 1 year 6 months. As per para 13(e) of posting policy the individual who are completing their two/three years tenure by 30 Jun and 31 December of that year will forward their choice stations through their concerned unit/firm after completion of 1 year and 6 months/2 years and 6 months respectively in the tenure station. If the repatriation proforma not submitted by due date it will be assumed as null and onus of not being able to avail the facility of offering choice station by the individual will lie with the individual. The Applicant did not forward the repatriation proforma by due date. Therefore, his claim could not be considered. The Applicant did not submit his repatriation proforma in time, i.e. on completion of 1 year and 6 months. Hence, his posting as per policy in vogue was issued to CE (AF) Shillong. In order to enhance the service profile of the individual, tenure in CE Zone office will be beneficial to the individual. Due to non-submission of representation by the applicant in time the Respondent No. 2 had issued the posting order of the Applicant. The Respondents have not violated the fundamental rights of the Applicants and also not violated the Principle of natural justice and therefore, the O.A. is devoid of any merit and liable to be dismissed.

4. Heard Mr A. Ahmed, learned Counsel for the Applicant and Ms. U. Das, learned Addl. C.G.S.C. for the Respondents. It is an admitted fact that the Applicant was transferred from Nagaland to Shillong. The Applicant joined in the present place on 20.06.2004 and is continuing there. His representation was rejected by the Respondent No. 2 on 11.05.2006. Now, in the transfer order dated 06.01.2006, he has been directed to join in the transferred place on or before



31.05.2006, the order is dated 06.01.2006. Annexure - C is the letter dated 07.02.2006 that has been forwarded by the Applicant seeking choice stations posting. It is clearly mentioned in that letter that his choice stations is Guwahati, Jorhat and Tezpur. The grievance of the Applicant is that without considering his choice station request, he was transferred to Shillong Zone, which is challenged in this application. The Applicant has also annexed the posting/transfer policy of Group 'C' and 'D' personnel of the MES dated 08.08.2003. The paragraphs 4, 5, 6, 10 and 13 (e) are of the said policy is quoted herein below :-

"4. Tenure service is mandatory and each individual is required to fulfill his tenure liability as per his seniority. Stations, mentioned in Appx. 'A' to CE EC letter No. 1313061/1/72/Engs/EIC(I) dt. 20 Nov 02 as amended vide 1313061/1/79/Engrs/EIC(I) dt. 27 Dec 02 have been declared as Tenure Stations. Current list of tenure stations in the Comd is att as Appx 'A' to this letter. Normal Period of tenure at these tenure stations will be three yrs for individuals with service 10 yrs or less and two yrs for those with service more than 10 yrs. No stations is tenured/de-tenured with retrospective effect. The exercise of detenuring of existing tenure stations in view of its improved living conditions should continue as at present. A tenure station once de-tenured may not be declared a tenure Station again except in unavoidable circumstances. However, declaring of any station tenure or non-tenure will be decided by CE Command only.

5. On completion of the stipulated period at tenure stations/Complex, such individuals are required to be repatriated to one of their three choice stations/Complexes as per availability of vacancies.

6. A categoriwise list of individuals of Basic Staff including those who are due for tenure in their turn and those who are initially appointed at tenure stns/complexes and subsequently transferred to other stations/Complexes, will be circulated by this HQ prior to issuance of tenure turn over postings in Jan every year.

10. The individuals due for tenure will indicate their choice of three tenure stations/complexes in



the order of preference for consideration. However, indication of choice stations/complexes does not confer automatic right on an individual to get posted to those tenure stations/complexes only, as it will depend upon vacancies available on placement of their seniors. Though the administration will make all out efforts to accommodate persons coming to tenure stations to their choice indicated, however, those who cannot be accommodated in their choice stations/complexes due to non-availability of vacancies will be posted to other tenure stations/complexes as per requirement.

13(e) Every individual nominated for service in tenure station must complete his full tenure before posted back to one of his choice stations. For the purpose of determining the period of stay in a tenure station, an individual must be physically present in that office for the full period of tenure excluding the period of absence of leave or otherwise. If for reasons, due to illness extreme compassionate grounds, an individual is repatriated prior to completion of his tenure, he may again be posted to tenure station after an expiry of 3 years of service. His tenure would start afresh and he is to complete the tenure of two or three years at one stretch and not for the left over period only. Unit will submit proforma particulars as per Appx 'B' attached in respect of individuals who have actually completed/will be completing their full physical tenure service up to 30 Jan and 31 Dec of the year. These facts should be checked thoroughly and certified by an officer under his signature just below the statement of nominal roll. The individuals who are completing their two/three yrs tenure by 30 Jan and 31 Dec of that year will fwd their three choice stations through their concerned unit/ fmn after completion of 1 year and 6 months/2 yrs and 6 months respectively in the tenure station."

On reading of the said transfer policy, it is found that if a person is put in a hardship station, he is entitled for choice station. The contention of the Respondents is that the Applicant did not submit his repatriation proforma within the time frame. But on going through the copy of the request submitted by the Applicant (annexure - C), it is seen that he has already submitted the request on 07.02.2006 before the transfer order was issued. Therefore, the grievance of the



Applicant is that the Respondent could have considered the said request instead of putting him in a great hardship. This Court vide order dated 04.07.2006 directed the Respondents to maintain status quo so far as the Applicant is concerned and the Applicant is continuing in the earlier station by virtue of the interim order of this Court.

5. On going through the transfer policy that has been mentioned above, it is clear that the individuals who complete their two/three years tenure, is entitled for choice station. From the records available, I found that the Applicant has completed 1 ½ years when the transfer order was issued. The argument advance by the learned Counsel for the Applicant is that if the relief order has taken as 31.05.2006, the Applicant will complete the tenure period in a tenure station. Therefore, he is entitled for choice station posting. Learned Counsel for the Applicant also submitted that he will be satisfied if a direction is given to the Applicant to submit a comprehensive representation within a time frame to put his grievances before the authority and on receipt of such representation, the Respondents may be directed to consider the same. Learned Counsel for the Applicant also pointed out paragraph 18 of the transfer policy, which is reproduced below:-

"18. On completion of tenure, the individual will be adjusted at one of the three choice stations/complexes given by him in the Repatriation proforma. In case of non-availability of a vacancy in any of the three choice stations/complexes, the affected persons due for turnover may be allowed to remain in the tenure stations/complexes till a vacancy arises in one of his choice stations/complexes. Such employee may be given the benefit of deferment for his re-posting to tenure stations/complexes in this next turn for such posting. The existing period



for which the benefit is to be given will be decided based on the following norms:"

6. Considering the rule position and the fact that the Applicant would complete the tenure by now, such a recourse as suggested by the learned Counsel for the Applicant would meet ends of justice. On the other hand, Ms. U. Das, learned Addl. C.G.S.C. for the Respondents submitted that the Applicant may be directed to join Shillong and thereafter, he may be directed to make representation.

7. Taking confidence of paragraph 18 of the transfer policy that on completion of tenure, the individual will be adjusted at one of the three choice stations/complexes given by him in the repatriation proforma and in case of non-availability of a vacancy in any of the three choice stations/complexes, the affected persons due for turnover may be allowed to remain in the tenure stations/complexes till a vacancy arises in one of his choice stations/complexes, I direct the Applicant to make a comprehensive representation before the competent authority within a period of three weeks from the date of receipt of this order and on receipt of such representation the competent authority shall consider and dispose of the same within two months thereafter. The O.A. is disposed of with the above direction making it clear that in any case the Applicant will not be disturbed till the disposal of the representation.

8. The O.A. is disposed of as above, in the circumstances no order as to costs.



(K. V. SACHIDANANDAN)
VICE-CHAIRMAN

- 3 JUL 2006

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

(An Application Under Section 19 of The Administrative Tribunal Act 1985)

ORIGINAL APPLICATION NO. 167 OF 2006.

Shri Aniram Mech

...Applicant

- Versus -

The Union of India & Others

...Respondents

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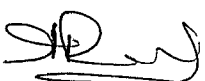
| Sl. No. | Annexure | Particulars | Page No. |
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| 1 | ... | Application | 1 to 9 |
| 2 | ... | Verification | 10 |
| 3 | A | Photocopy of Posting / Transfer Policy of Tenure Stations vide Office Order No.131306/1/96/Engr./EIC (I) dated 30.08.2003 | 11 - 34 |
| 4 | B | Photocopy of posting order No.08/2006 vide letter No.131322/2/2005/JE (QS & C) / 102 / Engrs./EIC (I) dated 16.01.2006 issued by the office of the Respondent No.2. | 35- 36 |
| 5 | C | Photocopy of representation dated 07.02.2006 filed by the applicant. | 37 |
| 6 | D | Photocopy of rejection letter dated 11.05.2006 issued by the Respondent No. 2. | 38 |
| 7 | E | Photocopy of representation dated 25.05.2006 filed by the applicant | 39 |

Date: 3.7.2006

Filed By:

Smita Bhattacharjee

Advocate



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNAL ACT 1985)

ORIGINAL APPLICATION NO. 167 OF 2006.

BETWEEN

Shri Aniram Mech,

...Applicant

-Versus-

The Union of India & Others

... Respondents

LIST OF DATES AND SYNOPSIS:

Applicant is working as a Junior Engineer (QS & C) under the office of the CWE, HQ.137 Works Engineer, C/o 99 APO.

17.04.2004

Applicant was transferred from the office of the Garrison Engineer (Air Force) Chabua to HQ.137 Works Engineer (present unit) vide letter No.1402/1320/EL HQ.137 Works Engineer is a tenure station vide Office Order No.131306/1/96/Engr./EIC (I).

20.06.2004

Applicant joined in the present unit i.e. HQ.137 Works Engineer as Junior Engineer (QS & C).

16.01.2006

Office of the Respondent No.2 vide posting order No.08/2006 vide letter No.131322/2/2005/JE (QS & C) / 102 / Engrs./EIC (I) transferred the applicant from HQ.137 Works Engineer to Office of the Chief Engineer (Air Force) Shillong Zone on the basis of turn over JE (QS & C)

07.02.2006

Applicant had filed a representation before the Respondent No.2 stating that he was not given any opportunity to put his choice station for next tenure posting and in the said



5

representation he has also submitted three choice station of his choice i.e. (i) Guwahati (ii) Jorhat and (iii) Tezpur.

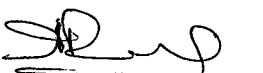
11.05.06

The Office of the Respondent No.2 vide his letter No.131322/2/2005/JE (QS & C)/132/Engrs./EIC (I) rejected the representation of the applicant.

25.05.06

Applicant filed another representation before the Respondent No.2 and till date no action has been taken by the Respondents.

Hence this Original Application filed before this Hon'ble Tribunal seeking justice in this matter.



केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

- 3 JUL 2006

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

FILED BY

Sri Aniram Mech
... Applicant
Through - Smita Bhattacharyee
(Advocate)
/s

(AN APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNAL ACT 1985)

ORIGINAL APPLICATION NO. 167 OF 2006.

BETWEEN

Shri Aniram Mech,
MES No.229640,
Junior Engineer (QS&C),
Office of the CWE, HQ.137 Works
Engineer, C/o 99 APO.

... Applicant

-AND-

- 1) The Union of India represented by the
Secretary to the Government of India,
Ministry of Defence, South Block,
New Delhi.
- 2) The Chief Engineer (Head Quarters),
Eastern Command, Engineer Branch,
Fort William, Kolkata-21.
- 3) The CWE, HQ.137 Works Engineer
C/o 99 APO

... Respondents

**1) DETAILS OF THE APPLICATION PARTICULARS OF THE
ORDER AGAINST WHICH THE APPLICATION IS MADE:**

This application is directed against the illegal and arbitrary
transfer of the Applicant vide posting Order No.08 / 2006 vide letter
No. 131322 / 2 / 2005 / JE (QS & C) /102 / Engrs. / EIC (I) Dated
16.01.2006 by which your Applicant was transferred to the Office of

the Chief Engineer (Air Force), Shillong Zone and also to set aside and quash the HQ. letter No. 131322/2/2005/JE (QS & C)/132/Engrs./EIC (I) dated 11.05.2006 issued by the Respondent No.2.

2) JURISDICTION OF THE TRIBUNAL:

The Applicant declares that the subject matter of the instant application is within the jurisdiction of the Hon'ble Tribunal.

3) LIMITATION:

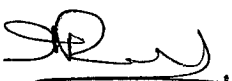
The Applicant further declares that the subject matter of the instant application is within the limitation prescribed under Section 21 of the Administrative Tribunal Act 1985.

4) FACTS OF THE CASE:

Facts of the case in brief are given below:

4.1) That your humble Applicant is a citizen of India and as such he is entitled to all rights and privileges guaranteed under the Constitution of India.

4.2) That your Applicant begs to state that he is working as a Junior Engineer (QS & C) under the office of the CWE, HQ.137 Works Engineer, C/o 99 APO. He was transferred from the office of the Garrison Engineer (Air Force) Chabua to HQ.137 Works Engineer (present unit) vide letter No.1402/1320/EI dated 17.04.2004. He joined in the present unit i.e. HQ.137 Works Engineer on 20th June 2004. It is to be stated that HQ.137 Works Engineer is a tenure station vide CEEC letter No.31306/1/293/Engrs./EIC (I) dated 01.04.1983. There is a Posting / Transfer Policy of Tenure Stations vide Office Order No.131306/1/96/Engr./EIC (I) dated 30.08.2003. As per the said ~~and~~



Transfer Policy normal period of tenure at the Tenure Station will be 3 (three) years for individual with service 10 years or less and 2 years for those with service more than 10 years. On completion of the stipulated period at Tenure Station such individual are required to be repatriated to one of their three choice station as per their availability of vacancies. In case of non availability of the vacancy in any of the three choice station the affected persons due to turn over may be allowed to remain in the tenure station till a vacancy arises in one of his choice station.

ANNEXURE-A is the photocopy of Posting / Transfer Policy of Tenure Stations vide Office Order No.131306/1/96/Engr./EIC (I) dated 30.08.2003

4.3) That your Applicant begs to state that the Office of the Respondent No.2 vide posting order No.08/2006 vide letter No.131322/2/2005/JE (QS & C) / 102 / Engrs./EIC (I) dated 16.01.2006 transferred the applicant from HQ.137 Works Engineer to Office of the Chief Engineer (Air Force) Shillong Zone on the basis of turn over JE (QS & C). In the aforesaid transfer order due date of release of the applicant was 31.05.2006 and his Serial Number is 13. However, the applicant was not given any opportunity for his choice positing by the Office of the Respondent No.2 as per their own transfer guideline adopted for a tenure station.

ANNEXURE-B is the photocopy of posting order No.08/2006 vide letter No.131322/2/2005/JE (QS & C) / 102 / Engrs./EIC (I) dated 16.01.2006 issued by the office of the Respondent No.2.

4.4) That your Applicant begs to state that after receiving the said transfer order he immediately filed a representation before the Respondent No.2 on 07.02.2006 stating that he was not given any opportunity to put his choice station for next tenure posting and in the said representation he has also submitted three choice station of



his choice i.e. (i) Guwahati (ii) Jorhat and (iii) Tezpur. The Office of the Respondent No.2 vide his letter No.131322/2/2005/IE (QS & C)/132/Engrs./EIC (I) dated 11.05.2006 rejected the representation of the applicant in a very cryptic and mechanical manner. The Office of the Respondent No.2 had not applied their mind properly in rejecting the representation of the applicant. However, your applicant filed another representation on 25.05.2006 before the Respondent No.2, unfortunately Respondent No.2 have not taken any action in this regard till now. It is worth to mention here that the applicant till date has not been released by the HQ.137 Works Engineer. Hence finding no other alternative your applicant is compelled to approach this Hon'ble Tribunal for seeking justice in this matter.

ANNEXURE-C is the photocopy of representation dated 07.02.2006 filed by the applicant.

ANNEXURE-D is the photocopy of rejection letter dated 11.05.2006 issued by the Respondent No. 2.

ANNEXURE-E is the photocopy of representation dated 25.05.2006 filed by the applicant.

4.5) That your Applicant begs to state and submits that the Respondents have deliberately and intentionally discriminated Applicant by not considering his Representation for his choice posting as per tenure transfer policy adopted by themselves.

4.6) That your Applicant submits that he all along carried out his Transfer Order ever since his entry to the Department and he is serving the Department with utmost sincerity and full satisfaction to the authority concerned. However, the Respondents have violated their own policy and guideline in the case of the applicant. The Respondents cannot adopt discriminatory treatment to the applicant as similarly situated persons has already given the benefit of posing / transfer policy of tenure station.

4.7) That your Applicant begs to state and submit it is a fit case to be interfered by this Hon'ble Tribunal by giving necessary directions to the Respondents to consider the case of the applicant for his choice place of posting as per his representation dated 07.02.2006 and this Hon'ble Tribunal may also be pleased to set aside and quashed the letter No.131322/2/2005/IE (QS & C)/132/Engrs./EIC (I) dated 11.05.2006 issued by the Office of the Respondent No.2.



4.8) That your Applicant submits that the Respondents have resorted the colourable exercise of power to deprive the Applicant and also to accommodate their interested persons in their favourable places. The action of the Respondents is arbitrary and whimsical and also against the policy adopted by the Government of India.

4.9) That your Applicant submits that the Respondents have violated the fundamental rights of the Applicant and also violated the principle of natural justice.

4.10) That in view of the facts and circumstances it is a fit case for interference by this Hon'ble Tribunal by passing an interim order to stay the impugned Transfer posting order No.08/2006 vide letter No.131322/2/2005/JE (QS & C) / 102 / Engrs./EIC (I) dated 16.01.2006 issued by the office of the Respondent No.2 of the applicant.

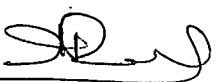
4.11) That your Applicant submits that the Respondents deliberately done serious injustice by giving mental trouble to the Applicant.

4.12) That this application is made bona fide and for the ends of justice.

5) GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1) For that, due to the above reasons narrated in detail the action of the Respondents is in prima facie illegal, mala fide, arbitrary and without jurisdiction and hence, the same is liable to be set aside and quashed.

5.2) For that, the Respondents have not considered their own guideline regarding choice place of posting and there is no jurisdiction in denying the said benefit to the Applicant. Hence the posting Order No.08 / 2006 vide letter No. 131322 / 2 / 2005 / JE



(QS & C) /102 / Engrs. / EIC (I) Dated 16.01.2006 of the Applicant and the HQ. letter No. 131322/2/2005/JE (QS & C)/132/Engrs./EIC (I) dated 11.05.2996 issued by the Respondent No.2 to be set aside and quashed.

5.3) For that, it is settled proposition of laws that when the same principle have been laid down in given cases, all the persons who are similarly situated should be granted the same benefit. Hence the posting Order No.08 / 2006 vide letter No. 131322 / 2 / 2005 / JE (QS & C) /102 / Engrs. / EIC (I) Dated 16.01.2006 of the Applicant and the HQ. letter No. 131322/2/2005/JE (QS & C)/132/Engrs./EIC (I) dated 11.05.2996 issued by the Respondent No.2 to be set aside and quashed.

5.4) For that, the Respondents have violated the Article 14,16 and 21 of the Constitution of India.

5.5) For that, the Respondents have rejected the representation of the Applicant in a very cryptic and mechanical manner and also without applying their mind. Hence the posting Order No.08 / 2006 vide letter No. 131322 / 2 / 2005 / JE (QS & C) /102 / Engrs. / EIC (I) Dated 16.01.2006 of the Applicant and the HQ. letter No. 131322/2/2005/JE (QS & C)/132/Engrs./EIC (I) dated 11.05.2996 issued by the Respondent No.2 to be set aside and quashed.

5.6) For that, the action of the Respondents is arbitrary, mala-fide and discriminatory with an ill motive. Hence the posting Order No.08 / 2006 vide letter No. 131322 / 2 / 2005 / JE (QS & C) /102 / Engrs. / EIC (I) Dated 16.01.2006 of the Applicant and the HQ. letter No. 131322/2/2005/JE (QS & C)/132/Engrs./EIC (I) dated 11.05.2996 issued by the Respondent No.2 to be set aside and quashed.

5.7) For that, the Applicant's case is genuine and need to be considered by the Respondents due to facts and circumstances



narrated above and as such the posting Order No.08 / 2006 vide letter No. 131322 / 2 / 2005 / JE (QS & C) /102 / Engrs. / EIC (I) Dated 16.01.2006 of the Applicant and the HQ. letter No. 131322/2/2005/JE (QS & C)/132/Engrs./EIC (I) dated 11.05.2996 issued by the Respondent No.2 to be set aside and quashed.

5.8) For that, the impugned Transfer Order is bad in the eye of law and is liable to be set aside and quashed.

5.9) For that, similarly situated persons who are given the benefit of choice place of posting after completion of tenure the Respondents being model employer cannot deprive the benefit to the Applicant without any reasons or causes. As such, the Applicant's transfer Order is illegal, arbitrary, mala-fide and with a motive behind. Hence the posting Order No.08 / 2006 vide letter No. 131322 / 2 / 2005 / JE (QS & C) /102 / Engrs. / EIC (I) Dated 16.01.2006 of the Applicant and the HQ. letter No. 131322/2/2005/JE (QS & C)/132/Engrs./EIC (I) dated 11.05.2996 issued by the Respondent No.2 to be set aside and quashed.

5.10) For that, in any view of the matter the action of the Respondents are not sustainable in the eye of law an and as well as fact. Hence the posting Order No.08 / 2006 vide letter No. 131322 / 2 / 2005 / JE (QS & C) /102 / Engrs. / EIC (I) Dated 16.01.2006 of the Applicant and the HQ. letter No. 131322/2/2005/JE (QS & C)/132/Engrs./EIC (I) dated 11.05.2996 issued by the Respondent No.2 to be set aside and quashed.

The Applicant craves leave of this Hon'ble Tribunal advance further grounds the time of hearing of this instant application.

6) DETAILS OF REMEDIES EXHAUSTED:

That there is no other alternative and efficacious and remedy available to the Applicant except the invoking the jurisdiction of this



Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

7) MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

That the Applicant further declares that he has not filed any application, Writ petition or suit in respect of the subject matter of the instant application before any other court, authority, nor any such application, writ petition or suit is pending before any of them.

8) RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the Applicant most respectfully prayed that Your Lordship may be pleased to admit this application, call for the records of the case, issue notices to the Respondents as to why the relief and relieves sought for the Applicant may not be granted and after hearing the parties and the cause or causes that may be shown your Lordships may be pleased to direct the Respondents to give the following relieves.

- 8.1) That the posting Order No.08 / 2006 vide letter No. 131322 / 2 / 2005 / JE (QS & C) /102 / Engrs. / EIC (I) Dated 16.01.2006 of the Applicant to be set aside and quashed
- 8.2) That the HQ. letter No. 131322/2/2005/JE (QS & C)/132/Engrs./EIC (I) dated 11.05.2996 issued by the Respondent No.2 to be set aside and quashed.
- 8.3) To direct the Respondents to give the Applicant the benefit of choice place of posting as submitted by the Applicant in his representation dated 07.02.2006.



8.4) To pass any other appropriate relief or relief (s) to which the Applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.

8.5) To pay the cost of the application.

9) INTERIM ORDER PRAYED FOR:

9.1) The Applicant most respectfully prays for an Interim Order from this Hon'ble Tribunal by way of suspending the posting Order No.08 / 2006 vide letter No. 131322 / 2 / 2005 / JE (QS & C) /102 / Engrs. / EIC (I) Dated 16.01.2006 issued by the Respondent No.2 in case of the Applicant till the final disposal of this Original Application.

10) Application is filed through Advocate.

11) Particulars of L.P.O.:

I.P.O. No. :- 26 G 324563

Date of Issue :- 19-6-2006

Issued from :- Guwahati G.P.O

Payable at :- Guwahati.

12) LIST OF ENCLOSURES:

As stated above.

Verification



25

-VERIFICATION-

Shri Aniram Mech, MES No.229640, Junior Engineer (QS&C), Office of the CWE, HQ.137 Works Engineer, C/o 99 APO do hereby solemnly verify that the statements made in paragraph nos. 4.1 ————— are true to my knowledge, those made in paragraph nos. 4.2, 4.3 and 4.4 ————— are being matters of records are true to my information derived there from which I believe to be true and those made in paragraph 5 are true to my legal advice and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 3rd day of July.
2006 at Guwahati.

Aniram Mech.

Tele : 2222-2700

REGISTERED POST/SDS

Chief Engineer
HQ Eastern Command
Fort William
Kolkata - 21

11 Sep 2003

131306/1/96/Engrs/EIC(I)

Chief Engineers

Kolkata Zone
Siliguri Zone
Shillong Zone
(AF) Shillong Zone
(OFB) Kolkata

Co-Asst Engrs Kankinara
GE I) Chandiipur

FORWARDING OF POSTING/TRANSFER POLICY : GROUP 'C'
AND 'D' PERSONNEL OF THE MES

1. A copy of posting policy letter No 131306/1/95/Engrs/EIC(I) dt 30-Aug 2003 in respect of Civilians Group 'C' & 'D' employees is forwarded herewith. This policy shall be effective from the date of issue of this letter.

2. Please ack receipt.

(Achintya Dass)
Lt Col
SO 1 (Pers)
for Chief Engineer

Encls : (As above)

Copy to :-

1. CWE Kolkata
2. CWI(S) Kolkata
3. CWE(S) Barrackpore
4. CWE Bengdubi
5. HQ 136 WE
6. CWE Dinjan
7. CWE Shillong
8. CWE Tezpur
9. HQ 137 WE
10. CWE(AF) Borjar ✓
11. CWE(AF) Jorhat
12. CWE(AF) Kalaikunda
13. GE(I)(P) Teliamura
14. All AGE(I)

1. A copy of posting/transfer policy letter under para 1 above is enclosed herewith.

2. You are requested to disseminate the copy of posting/transfer policy to all sub-units upto AGE(I) level for their info and records. Confirmation to the same effect is to be given to this office by 20 Sep 2003.

3. Please ack receipt.

for info please.

SM/*

ATTESTED

Smita Bhattacharjee
ADVOCATE

HQ Eastern Command
Abhiyanta Sakha
Engineers Branch
Fort William
Kolkata -21

131306/1A/Engrs/EIC(I)

30 Aug 2003

CE Siliguri Zone
CE Shillong Zone
CE(AF) Shillong Zone
CE Kolkata Zone
CE(OFB) Kolkata
Comdt ESD Kankinara
GE(I) R&D Chandipur
Balasore (Orissa)

POSTING/TRANSFER POLICY : GROUP 'C' AND 'D'
PERSONNEL OF THE MES

1. The posting/transfer policy of all Group 'C' & 'D' personnel in the MES of this Command is prepared based on certain guidelines contained in Govt of India, Min of Def letter No 8(3)/92/D(Appts) dated 23 Jan 94, E-in-C's Branch AHQ letter No 79040/EIC(I) dated 31 Aug 94 and B/20148/PP/EIC(I) dated 16 Apr 2003, and amendments received from time to time.
2. The broad principles, under which transfers of Group 'C' & 'D' civilian subordinates are to be carried out, are stipulated in Min of Def OM No 13(I)/70/D(Appts) dated 29 Nov 72 and 32(4)/73/D(Appts) dated 21 May 75.
3. Posting of Group 'C' & 'D' individuals less industrial personnel will be issued by this HQ on the following grounds :-
 - (a) Tenure Stations/Complexes turn over
 - (b) Compassionate grounds
 - (c) Maintenance of Command Manning Level (CML)
 - (d) Local Turn Over
 - (e) Promotions
 - (f) Mutual Basis
 - (g) Administrative ground
 - (h) Adjustment of surplus/deficiency

2/-

ATTESTED

Smita Bhattacharjee
ADVOCATE

Tenure Stations/Complexes turn over

4. Tenure service is mandatory and each individual is required to fulfill his tenure liability as per his seniority. Stations, mentioned in Appx 'A' to CE EC letter No 131306/1/72/Engrs/EIC(1) dt 20 Nov 02 as amended vide 131306/1/79/Engrs/EIC(1) dt 27 Dec 02 have been declared as Tenure Stations. Current list of tenure stations in the Comd is att as Appx 'A' to this letter. Normal Period of tenure at these tenure stations will be three yrs for individuals with service 10 yrs or less and two yrs for those with service more than 10 yrs. No station is tenured/de-tenured or re-tenured with retrospective effect. The exercise of detenuring of existing tenure stations in view of its improved living conditions should continue as at present. A tenure station once de-tenured may not be declared a tenure Station again except in unavoidable circumstances. However, declaring of any station tenure or non-tenure will be decided by CE Command only.
5. On completion of the stipulated period at tenure stations/Complex, such individuals are required to be repatriated to one of their three choice stations/Complexes as per availability of vacancies.
6. A categoriwise list of individuals of Basic Staff including those who are due for tenure in their turn and those who are initially appointed at tenure Stns/Complexes and subsequently transferred to other stations/Complexes, will be circulated by this HQ prior to issuance of tenure turn over postings in Jan every year.
7. These lists will be circulated down to GE/AGE(1) level and all accepted pers will be informed in writing so that they are mentally prepared to move to tenure stations/complexes on issuance of their posting order. The acknowledgements of these affected indls will be kept on the record by the unit/fmn concerned and confirmed by respective Zonal CEs in their report to the CE Command. The seniority list will be circulated well in advance for units concerned to scrutinize the list in time. The case of any omission, discrepancies, appeals if any against these warning lists will be forwarded to the Command CE not later than 15 Feb every year. The same will be assumed as Nil, thereafter and onus of omission, if any, will rest with the head of the office /Formation.

3/-

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Smita Bhattacharjee

ADVOCATE

8. The case of the following nature will be reported to the Command HQ by the specified dates so as to enable them to take appropriate action at the time of planning of postings :-

- (a) Personnel who are elected members of the works committee for the first time, indicating the period of their present term with specific dates. Those elected for second or subsequent terms are not eligible for protection.
- (b) Personnel who are important office bearers of recognized Unions/Associations and are entitled for protection for posting as per existing rules with the date upto which they are exempted. First time elected members only are entitled.

© In case, there are any individuals in the seniority list who have moved or stand posted to other stations/complexes, this information must be intimated by signal or Fax followed by ink signed copies by post.

9. The individuals earmarked for posting to tenure stations/Complexes as per seniority list will not be posted out at Zonal/CWI/Stations/complexes level under surplus/deficiency policy. The longest stayee/volunteer, however, may be turned over locally, if necessitated, not involving a change of stations/complexes. This however will not exempt such persons from posting to tenure stations/complexes as per their service or seniority. The persons posted on promotion to a different stations/complexes or posted to another peace stations/complexes as a stations/complexes senior but due for tenure will not be posted to tenure stations/complexes till they complete minimum stay of three years in the new stations/complexes.

10. The individuals due for tenure will indicate their choice of three tenure stations/complexes in the order of preference for consideration. However, indication of choice stations/complexes does not confer automatic right on an individual to get posted to those tenure stations/complexes only, as it will depend upon vacancies available on placement of their seniors. Though the administration will make all out efforts to accommodate persons coming to tenure stations to their choice indicated, however those who cannot be accommodated in their choice stations/complexes due to non-availability of vacancies will be posted to other tenure stations/complexes as per requirement.

4/-

ATTESTED

Smita Bhattacharjee
ADVOCATE

11. A certificate to the effect that "Particulars of persons figuring in the service seniority list have been checked and discrepancies noticed have been reported vide letter No _____ dated _____ or there are no discrepancies and no eligible individual for posting to tenure stations/complexes is left out" as the case may be, will be submitted to this HQ by 15 Feb every year under signature of the heads of the offices, after which it will be assumed as NIL.
12. Simultaneously, a circular will be issued by this HQ in the months of Dec/Jan and Jun/Jul every year calling for volunteers for tenure posting in respect of pers not due other wise. The names and written options of volunteers together with full service particulars will be submitted by all CEs Zone/Comds direct to the Command HQ to reach before 15 Feb and 15 Aug. Seniority of personnel in each categories will be prepared by this HQ and volunteer will be given preference. However, the volunteering for tenure does not in any way confer a right of posting to a tenure stn as the same will be decided at CE's Command level in accordance with overall requirement and constraints.
13. The following instructions will be followed while nominating subordinates to tenure duty stations/complexes :-
- (a) In case the number of volunteers happens to be more than the actual requirement, the following criteria will be applied for selection :-
 - (i) They will be considered category wise for posting based on their seniority.
 - (ii) Those who have not done tenure earlier will get preference, followed by those who have done tenure according to their last dates of return from tenure.
 - (iii) The longest stayee in the stations/complexes would get the PRIORITY over the other individual based on seniority as above and no exception will be made.
 - (b) If sufficient volunteers are not available, service senior will be considered for tenure posting.

5/-

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Smita Bhattacharjee

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© Service seniors who volunteers for tenure postings will be first considered as volunteers only as per the provisions for posting of volunteers.

(d). Personnel posted to MES under adjustment of surplus/deficiencies scheme will reckon seniority for the purpose of promotion/ confirmation from the date they join duty in the MES. Their seniority for posting to tenure stations/complexes will reckon from the date of joining MES.

~~(e)~~ Every individual nominated for service in tenure station must complete his full tenure before being posted back to one of his choice stations. For the purpose of determining the period of stay in a tenure station, an individual must be physically present in that office for the full period of tenure excluding the period of absence of leave or otherwise. If for reasons, due to illness extreme compassionate grounds, an individual is repatriated prior to completion of his tenure, he may again be posted to tenure station after an expiry of 3 years of service. His tenure would start afresh and he is to complete the tenure of two or three years at one stretch and not for the left over period only. Unit will submit proforma particulars as per Appx 'B' attached in respect of individuals who have actually completed/will be completing their full physical tenure service up to 30 Jun and 31 Dec of the year. These facts should be checked thoroughly and certified by an officer under his signature just below the statement of nominal roll. The individuals who are completing their two/three yrs tenure by 30 Jun and 31 Dec of that year will fwd their three choice stations through their concerned unit/inn after completion of 1 year and 6 months/ 2 yrs and 6 months respectively in the tenure station.

(f) Nomination of persons who have already done tenure will be done strictly on the basis of their last date of return from tenure stations/complexes.

(g) The normal age limit for tenure stations/complexes posting is 52 years. Subordinates over 52 years may also be posted for a shorter tenure but none will be retained at a tenure stations/complexes beyond the age of 55 years. The age for such postings will be considered as on the date of issue of posting order. Hence, cases of tenure posting of individuals in the vicinity of the above age brackets must be implemented expeditiously to avoid later complications.

ATTESTED

Smita Bhattacharjee

ADVOCATE

(h) Those posted from one command to another on compassionate grounds will not be nominated until completion of three years service in the choice stations/complexes. This protection is not available to persons who have moved on mutual posting.

(j) The group 'D' personnel promoted/reclassified to group 'C' posts will be considered for tenure posting and their date of joining in group 'C' posts will be treated as cut off date for deciding the seniority for the purpose of tenure posting.

(k) The individuals who are posted to other commands due to non-availability of vacancies in the parent command, will be treated as tenure posting and will be repatriated to their choice stations/complexes after completion of tenure period of two or three years as applicable. Nominal Roll of such repatriates will be maintained by Army HQ. Such individuals will submit application for repatriation duly indicating three stations/complexes of choice immediately after completion of one or two years of stay in the other command as may be applicable with an advance copy of the same endorsed to Army HQ.

(l) As per the above policy a new recruit should not be posted to a tenure station/complexes on first appointment, but in case he is a volunteer or he belongs to that area he can be posted there. In case he belongs to that area, this stay will not be counted towards his tenure posting, but if he is a volunteer that will be so counted.

(m) A Tenure Station will not be treated as a tenure station for those employees of NI: region who belong to that station. Remaining all other declared tenure stations will be the tenure stations for them.

14. Disabled persons will not be posted to a tenure stations/complexes if the disability prohibits his free movement/functioning. The case shall be decided on merits. However, if disabled individual is willing to go to a tenure stations/complexes, he will be allowed such posting. An employee whose child is suffering from hearing impairment or multiple disabilities will not be posted to a tenure stations/complexes.

7/-

ATTESTED

Smita Bhattacharjee

ADVOCATE

15. Period of leave in excess of fifteen days per year will be excluded while counting the tenure period. However, CE/ACIE (Pers) this HQ may extend the period in exceptional circumstances in exigencies of service or when the employee concerned is prepared to stay longer.

16. The individual serving in a tenure stations/complexes may submit his choice after completion of two and half or one and a half years as may be applicable, of any three stations/complexes, located in three distinct place/complexes separated by at least 20 Kms. Two out of three choice stations/complexes should be in different CEs Zone. Improper/ incomplete repatriation proforma will not be accepted. In case proper repatriation proforma with correct information is not recd by due date, it will be assumed as nil and onus of not being able to avail the facility of offering choice station by the individual will lie with the individual/ head of the office where the individual is serving. The three stations so indicated by the indi on completion of his tenure service will be treated as Non-tenure station for him being his own choice stations irrespective of the location/station i.e. Tenure/Peace.

17. In case, an individual is required to be disturbed before completion of his tenure, due to promotion or other contingencies, he will be posted to another tenure station/complexes to complete his balance liability.

18. On completion of tenure, the individual will be adjusted at one of the three choice stations/complexes given by him in the Repatriation proforma. In case of non-availability of a vacancy in any of the three choice stations/complexes, the affected persons due for turnover may be allowed to remain in the tenure stations/complexes till a vacancy arises in one of his choice stations/complexes. Such employee may be given the benefit of deferment for his re-posting to tenure stations/complexes in his next turn for such posting. The exact period for which the benefit is to be given will be decided based on the following norms: -

(a) Upto 6 months stay in excess of the tenure. No benefit to be given.

(b) Excess stay of more than 6 months but upto 12 months. Deferment @ 50% of time (Months) spent in excess of the normal tenure of two or three years as applicable.

(c) Excess stay of over 12 months and above. Deferment @ 75% of time (months) spent in excess of the normal tenure of two or three years as applicable.

ATTESTED

Smrita Bhattacharjee

ADVOCATE

19. The individuals who desire to stay longer in a tenure stations/complexes at their own accord will not be entitled for the deferment benefit.

20. In case tenure completed individual does not want to continue at the tenure stations/complexes, he will be repatriated to one of choice stations/complexes by moving out longest stayee, who should have completed minimum three years in such stations/complexes. For determining the longest stayees all the three choice stations/complexes will be clubbed together. The longest stayee moved from a peace stations/complexes for making room for adjustment of tenure completed individual will be brought back at Government expense, to the same stations/complexes after completion of three year in a new stations/complexes as may be applicable provided he/she is interested to come back and applied for the same.

21. Since tenure posting are mandatory, no representation against these postings will be entertained.

22. For individual serving in executive offices in tenure station, maximum one year extra will be given in two spells and if any one wants to extend another tenure, they will be shifted within the station/complex station/satellite station on staff appointment.

23. If an individual does not apply for turn over or extension on completion of tenure liability, the tenure station where he has been serving will be treated as his choice station and thereafter he will be posted to a tenure station as per seniority of that station/complex station.

24. The individual posted from peace station to tenure station will move first and similarly the individual posted from staff appt to executive appointment will move first for easy implementation of posting.

25. The individual who were declared North Bengal and North East Region recruitees based on their initial appointment but hail from other areas, will be considered for posting back from NB/NER. The individual so affected may submit their choice of posting strictly as per para 17 above. Since there are huge Nos of pers affected, as such for bringing them back the following procedure will be adopted :-

9/-

ATTESTED

Smita Bhattacharjee

ADVOCATE

- 20
- (a) Keeping in view the huge deficiencies in each cadre, hard scale auth will be worked out to the extent of proportionate deficiency in the command.
- (b) For repatriation, hard scale auth will be considered for ascertaining the clear vacancies.
- © The individual will be brought back strictly as per their seniority in tenure station.
- (d) While submitting the choice for repatriation, the three choice stations should fall in three complexes and minimum in two Zones as per para 17.

Posting from Peace to Peace station

26. An individual who is to move from one peace station/complex to another peace station/complex to make room for a tenure completed will be posted to one of his/her three choice stations/complexes, as far as possible. This facility will not be available to other types of postings.

Compassionate posting

27. The guidelines for compassionate posting will be followed :-
- (a) Individuals may themselves apply for compassionate posting after completion of two years of physically stay in present stations/complexes through proper channel. Applications from relatives or those received directly will be rejected and attempts to bring outside pressure will be discouraged.
- (b) Applications on domestic grounds shall be verified, if required, in consultation with civil authorities, if the CWE/CE zone is not satisfied of the genuineness of cases on ground. All compassionate cases have to be recommended without replacement in the chain.
- © Applications on medical grounds need to be accompanied by appropriate medical certificates from Authorised Medical Attendant (where AMA is not available, from Register Medical Practitioner) including the nature of illness and justification for transfer of the individual.

10/-

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Smita Bhattacharjee
ADVOCATE

(d) This HQ will order a Board of Officers to assemble every 6 months in Jan & Jul to screen the applications.

(e) To avoid grant of undue benefit, it will be ensured (before compassionate transfer are accepted and orders issued) that affected persons are not due for posting to tenure stations/complexes.

(f) All postings on compassionate grounds will normally be at the expense of the individual.

(g) Compassionate cases for posting out side command will be progressed only with replacement from the other Command. When a person applies for posting from one Command to another, the Command to which he belongs shall issue the posting order after ascertaining his acceptability from the Command to which he seeks transfer and the unit to which his posting order is to be issued. Thereafter the first Command will issue posting order. However, pers seeking posting out of Eastern Command to other Command will be offered with replacement only.

(h) In case on non-availability of clear vacancy the longest compassionate stayee in stations/complexes will be moved so as to accommodate the other compassionate case, provided such stayee has completed three years in a stations/complexes.

(j) Travelling allowance can be paid to the individuals posted on last leg compassionate grounds at the time of retirement only to his/her home town/selected place or residence, subject to approval of the transferring authority, who should record reasons for such postings.

(k) The compassionate postings will be ordered to a non-sensitive appointment as far as possible. In case individual waiting for compassionate posting on PRIORITY becomes due for tenure, the compassion will be kept in sight while considering such case.

(l) In the case of inter Command, postings of personnel seeking to go outside the command deficiency will be kept in sight while considering such cases.

(m) The period of posting on compassionate grounds will be restricted to 3 years so as to accommodate other compassionate postings.

11/-

ATTESTED

Smita Bhattacharyee

ADVOCATE

28. Validity of cases once approved by the compassionate board will remain for 1 year. In case the individual is not posted to his choice stations/complexes during this period he/she is required to forward an application for revival his/her claim on expiry of the validity of the board. If the revival application is not received, the names of the individuals waiting in CCB will be deleted from the list.

Command Manning Level Posting(CML)

29. The aspect of Command Manning Level (CML) postings has been introduced to ensure parity of manning level between various Commands as well as within Command.

30. Detailed statistical data regarding auth/holding and Defi/Surplus in each category and grade of Group 'C' & 'D' Basic/Non Basic, Industrial/Non Industrial persons showing position as on 31 Mar will be forwarded to E-in-Cs Branch by 30 Apr each year. Based on these info, E-in-C's Branch will work out %age satisfaction level and will issue inter Command figure postings giving details of dispatching/receiving Command.

31. On receipt of info from E-in-C's Branch, CE Zones will be asked to give particulars of volunteers and their choice in case the place of postings happens to be more than one. If numbers of volunteers are more than the vacancies available longer stayee will get the preference over the others. These moves will be completed by 30 Jun each year.

32. Since the postings will be inter command and in the interest of the Organisation for sharing shortages, to protect the interest of the individuals, such postings will be considered as tenure stations for the purpose of tenure and repatriations.

33. In order to maintain manning level in all the unit/Fmn evenly within the command, the longest stayee in the particulars post/grade will be transferred from one station/complex to another. For this purpose the stations/complexes and approx number of vacancies available, there at, will be published by this HQ to enable the longest stayee to opt three stations/complexes of choice from amongst such stations/complexes. If the number of optees of particulars stations/complexes is more than the number of vacancies available, posting will be considered in the order of seniority i.e longest stayee will get first opportunity to be adjusted as per option given. Those who could not be accommodated at the choice stations/complexes for want of vacancies will be posted as per job requirement.

12/-

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Smita Bhattacharjee

ADVOCATE

34. In determining the longest stayee in stations/complex, all the units located in that stations/complexes including satellite stations will be taken into consideration

POSTING ON LOCAL TURN OVER (LTO)

35. To avoid indulgence of employees in undesirable activities, to prevent any undue benefit and to provide equal opportunity of training and experience to all of them, regular turn over from sensitive to non sensitive and vice versa will be carried out for those employees who have completed three year service at a seat. LTO may also be resorted to for rationalizing the staff so as to neutralize the imbalance caused by TTP and CML postings.

36. The LTO posting has already been decentralized vide this HQ letter No 131306/1/68/ Engrs/EIC(I) dated 16 Dec 92. Posting from one units/Fmn to another units/Fmn, where only one unit is functioning in a station and turn over within unit is not possible, will be done by this HQ. CE zone will forward the names of the persons who have completed their mandatory period of 3 years in such cases. Turn over within the unit however should be done every three years by unit commanders. List of stations/complexes and authorities empowered to carryout at different stations/complexes already circulated to all Zones vide our letter no 131306/1/57/Engrs/EIC(I) dated 11 Sep 2002, is enclosed as appendix 'C'.

37. LTO for Kolkata Complex will be carried out by a Board of Officers (with a member from Kolkata Zone) which will be ordered by this HQ.

38. The following categories of posts/appointments have been identified as sensitive appointment at different levels :-

(a) JE (Civ) employed on executive appointment

(b) JE (E/M) employed on executive appointment.

© JE (QS&C) employed in GEs Division dealing with contractual matters.

(d) Supr B/S Gde-I/II employed on procurement of stores/ furniture.

13/-

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(e) SK- Gde-I/II employed on procurement and holding of stores/ furniture.

(f) OS employed in GE's division/CsWE office/CE Zones/ CE Commands dealing with promotions, recruitment/appointments, postings/transfer, advances of all types, local purchase of stores, discipline/confidential matters and contractual matters.

(g) UDCs/LDC's employed on jobs relating to promotions, recruitment/appointments, postings/transfer, local purchase of stores, discipline/confidential matters, contractual matters, sub-division clerks and Cashiers in GE's division.

39. JE 'T' appointment will be considered as non executive appointment only if a PTO to that effect indicating the period of such duties has been published by the unit.

40. JEs (Engrs, Surveyors, and supvr B/S Gde-I/II) will be moved on turn over from executive/sensitive posts to staff and vice versa after every three years in division/ unit and after continuous 6 years service in sensitive appointment, they will be moved to CE/CsWE office. While computing period of tenure in sensitive appointment, entire service profile of individual will be considered irrespective of stay in the present unit/stations/complex. In case there is only one division/sub-division in station/complex, they will be transferred to another stations/complexes. Accordingly case will be projected to next higher authority well in time.

41. Clerks, Store keepers and other category of staff working in sensitive section will be transferred to another non-sensitive section within the division or another division or CE/CsWE office as far as possible within the station/complex.

42. While turning over executive staff it will be ensured that the individual is not posted to the same division after completion of tenure in another division staff appointment. He will, invariably, be considered for posting to another division where he has not served earlier.

43. For turning over the individuals serving at satellite station where only one GE/AGE (I) is located, OC unit will forward the list of affected individuals to this HQ through Zonal CEs if turn over within the unit is not possible, indicating their three choice stations by 31 Mar showing cut of date as 31 May every year on the format as per Appx 'B' for issue of postings.

ATTESTED

14/-

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Personnel employed on non-sensitive appointment will be moved first and those employed on sensitive appointment will be moved within 10 days on arrival of replacement. Dates will be indicated accordingly in the posting order which will be strictly followed.

45. Authority empowered to carry out LTO within unit/complex will ensure that the LTO of affected persons has been carried out every year and none is left out. Auth will render certificate to this effect to this HQ by 31 Jan of the following year under the signature of CE/CWE/GE/AGL.

POSTING ON PROMOTION

46. Staff on promotion will be adjusted in the same stations/complexes (not necessary in the same unit) provided vacancies are available. However, if no vacancies are available in the same stations/complexes, the promotees will be adjusted in one of the three choice stations/complexes as far as possible except for those due for tenure turnover postings. However the individuals who have been repatriated from tenure stations/complexes and have not completed three year stay in the stations/complexes, will not be moved on promotion and will be adjusted by posting out the other senior most stayee in the stations/complexes. If vacancy is not available at any of the choice stations/complexes, the individual will be posted as per job requirement.

47. The representations, if any should be submitted within 15 days of receipt of posting order with an advance copy endorsed to Command CE. The acceptance or refusal of promotion is subject to the exigencies of service and is not a matter of right.

48. The acceptance or refusal of promotion by the competent authority also does not confer a right of protection to the individual against a transfer, if due, on other grounds in his/her present rank, if due.

49. In case inter Command move is necessitated, junior most promotees will be moved out.

15/-

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POSTING ON MUTUAL BASIS

50. The following guide lines for posting on mutual basis will be followed :-

- (a) Individuals may themselves apply for mutual posting after completion of two years of physical stay in present station/office through proper channel.
- (b) Mutual posting shall be ordered subject to the condition that the individuals concerned are not due for tenure posting.
- (c) All postings on mutual basis shall be at the expense of the individuals.
- (d) Mutual transfer is not to be treated as compassionate posting and no protection against posting, when falls due, can be claimed by an individual arrived on mutual transfer.
- (e) Mutual transfers will only be considered between non-tenure stations only.

POSTING ON ADMINISTRATIVE GROUNDS

51. No individual will normally be posted to remote stations/complexes or other normal stations/complexes on administrative grounds. Where it is considered that such a step is absolutely essential, following conditions will be complied before recommending posting on administrative grounds.

- (a) In the first instance, disciplinary action will be initiated against the employee for his/her misconduct/guilt under CCS(CCA) Rule 1965.
- (b) In Case posting out becomes inevitable due to repeated acts of indiscipline, prior approval of this E.O. can be obtained alongwith a self contained statement of case justifying the necessity.

52. If the individual to be posted out on administrative grounds happens to be due for posting to a tenure stations/complexes, he will be posted out to such stations/complexes, even if this involves posting out of turn. The CE Command will keep DG (Pers)/E-in-C's Branch informed in such cases. In case of individual protected against transfer, prior approval of Board will be obtained.

16/-

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ADVOCATE

- 27 -

42

ADJUSTMENT OF SURPLUS/DEFICIENCIES

53. Where units/formations are closed down due to reduction in workload, the adjustment of surplus staff will be first done in the residual formations in the manner of filling of deficiencies within the Command Manning Level. The remaining staff will be informed of the stations/complexes and approximate number of vacancies available enabling them to opt for three choice stations/complexes amongst such stations/complexes. If the number of optees for a particular stations/complexes is more than the number of vacancies available, posting will be considered in the order of first opportunity to be adjusted as per the option given. Those who could not be accommodated at their stations/complexes of choice for want of vacancies will be posted as per job requirement. In all cases volunteers will be first preference.

54. In all cases where staff is rendered surplus, the re-adjustment will be carried out by posting out the longest stayees in the station/complex. In the case of postings involving inter-Command transfers, the junior-most person in the grade within the command will be moved. When the surplus staff is to be adjusted within the Command, the staff concerned will be informed of the stations/complexes and approximate number of vacancies available there to enable them to opt for three stations/complexes of choice from amongst such stations/complexes. If the number of optees for particular stations/complexes is more than the number of vacancies available, posting will be considered in the order of seniority i.e. longest stayee will get first opportunity to be adjusted as per the option given. Those could not be accommodated at their stations/complexes of choice for want of vacancies will be posted as per job requirements.

55. In the exigencies of service, situation may arise when offices/Works units are asked to move in block to other locations. In such cases the personnel to be moved will be selected based on their length of service in the stations/complexes i.e. the longest stayee will move by making local adjustments.

TIMING OF TRANSFER

56. Care will be taken to ensure that transfers during the middle of the academic year are avoided as far as possible. Exceptions will only be to meet an emergent requirement in the exigencies of service. It will be desirable to give two months time in the posting order for completion of the move to enable an individual to sort out his personal administration. However, moves on administrative grounds may be ordered giving lesser time. General schedule for the bulk posting will be as under:-

17/-

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- | | | |
|--|---|---------------------|
| (a) Tenure turnover posting | - | Mar/Apr and Sep/Oct |
| (b) Compassionate postings | - | Jan/Feb & Jun/Jul |
| © Command Manning level postings | - | Mar/Apr/May |
| (d) Local Turn over/Satellite postings | - | May/Jun |

AGE FACTOR

57. All Group 'C' & 'D' employees will generally not be transferred preceding three years of their retirement except at their request to stations/complexes of their choice. However, if they have to move on promotion and if there is no clear vacancy in the stations/complexes where they are serving, they may still be moved irrespective of the consideration of age.

FEMALE EMPLOYEES

58. The female employees will be covered by the following policy norms :-

- (a) Woman employees are exempted from posting to the tenure station/complex.
- (b) They will not be posted to long -distance stations/complexes even in the case of their peace to peace station transfers unless female employees gives her choice of a station at a distant place. Long distance, in case of each command, will depend upon its geographical diversity and linguistic multiplicity.
- © They will be transferred from one peace station to another peace station on tenure basis (within 600 Kms approx at the mil head/bus terminus) on the analogy of tenure system adopted for the male employees. Their stay will be for a minimum period of 3 years and these employees would have the privilege of exercising three choice for their posting on return from that station including the home station.

18/-

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(d) Where both the husband and wife are Central Government employee, the present policy to keep both at the same stations/complexes as far as possible, will be maintained. However, there will be no exemption to the husband from tenure posting in his turn. On repatriation, the husband will as far as possible, be posted to a stations/complexes where his wife is employed subject to the availability of a suitable vacant post provided it does not tantamount to successive executive/sensitive appointment.

(e) Where one spouse belongs to one of the All India Services and the other spouse belongs to MES :-

(i) The cadre Controlling Auth of the MES may post the officer to the station or if there is no post in the station to the State where the other spouse belonging to the All India Service is posted.

(f) Where the spouse belongs to one Central Service and the other spouse belongs to another Central Service (MES) :-

(i) The spouse with the longer service at station may apply to the appropriate cadre controlling authority and the said authority may post the said officer to the station, or if there is no post in that station to the state where the other spouse belonging to the other Central Service is posted.

(g) Where one spouse belongs to MES All India Service and the other belongs to Public Sector Undertaking :-

(i) The spouse employed under the public Sector Undertaking may apply competent auth and said auth may post the said officer to the stn, or if there is no post under the PSU in that station, to the state where the other spouse is posted.

(h) Where one spouse belongs to a central Service (MES) and the other spouse belongs to PSU :-

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- (i) The spouse employed under the PSU may apply to competent auth and the said auth may post the officer to the station or if there is no post under the PSU in the station, to the state where the other spouse is posted. If, however, the request can not be granted because the PSU has no post in the said station/state, then the spouse belonging to the Central Service (MES) may apply to the appropriate cadre controlling authority and the said auth may post the said officer to the station or if there is no post in that station, to the state where the spouse is employed under PSU is posted.
- (j) Where, one spouse is employed under the Central Govt, (MES) and the other spouse is employed under the State Govt :-
- (i) The spouse employed under the Central Govt (MES) may apply to the competent auth and the Competent auth may post the said officer to the station or if there is no post in that station the state where the other spouse is posted.
- (k) In all the abovementioned cases there will be no exemption to the husband from tenure posting in his turn. On repatriation, the husband will as far as possible be posted to a station where his wife is employed subject to the availability of a suitable vacant post provided it does not tantamount to successive executive/sensitive appointment.

WIDOW/WIDOWERS

59. Widow/Widowers with dependent children will not be posted out on tenure/CML as far as possible. This protection will cease with re-marriage. Widow employ appointed on compassionate grounds and female employ who lost their husband while in service would also be exempted from the transfer from one peace station to another peace station.

VACANCY

60. CE Zone/Comdt will forward the names of volunteers for posting to tenure stations. The volunteers will be given preference Seniority of personnel in each category will be prepared by this HQ for posting to tenure stations.

20/-

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ADVOCATE

46

REPRESENTATION

61. Representation of any against the posting order will be made by the affected individual within 21 days of the receipt of posting order in their concerned office. The representation shall be produced by the intermediate firm and be forwarded to CE Command office for consideration. Each intermediate formation shall endorse the following remarks 'considered and Recommended' or 'considered and Not Recommended'. Once the CE Command rejects the appeal, the individual will be moved to his new duty station without further delay. Contingencies may arise when the individual is not satisfied with the decision of this HQ. In such a case, he may represent his case to DG (Pers)/E-in-C's Branch, Army HQ through proper channel. However the move of the individual will not be held up for decision from E-in-C's Branch. In case of the decision is pronounced in favour of the individual by E-in-C's Branch, Army HQ, the individual will be moved at the Govt Expense in the first available vacancy occurring at the station mentioned in the decision of E-in-C's Branch.

62. This HQ letter No 131306/1/9/Engrs/EIC(1) dt 20 Dec 2001 as amended from time to time stands superseded with the issue of this letter.

63. Please acknowledge.

(Mewa Ram)
CE
ACE (Pers)
For Chief Engineer

ATTESTED

Smita Bhattacharjee
ADVOCATE

Appendix 'A'
(Ref to Para 4 HQ CEEC letter No
131306/1/9/Engrs/EIC(1) dt Aug 03)

LIST OF TENURE STATIONS OF CHIEF ENGINEER EASTERN COMMAND

| Name of the station | Name of concerned CWE/CE Zones | Date from which the stn has declared as tenure stn | Auth of declaring tenure stn |
|--|-----------------------------------|--|---|
| 2 | 3 | 4 | 5 |
| All stations in Nagaland, Mizoram, Tripura, Arunachal and Manipur states | CE Shillong Zone | 01.01.83 | CEEC letter No 131306/1/293/Engrs/EIC(1) Dated 10 Dec 82. |
| Borjar | CWE Guwahati/ CE Shillong Zone | 01.01.83 | -do- |
| Chabua | CWE Dinjan/ CE Shillong Zone | 01.01.83 | -do- |
| Charduar | CWE Tezpur/ CE Shillong Zone | 01.01.83 | -do- |
| Balipara | CWE Dinjan/ CE Shillong Zone | 01.01.83 | -do- |
| Digaru | CWE Guwahati/ CE Shillong Zone | 01.01.83 | -do- |
| Dinjan | CWE Dinjan/ CE Shillong Zone | 01.01.83 | -do- |
| Guwahati | CWE Guwahati/CE Shillong Zone | 01.01.83 | -do- |
| Jorhat | CWE Jorhat/ CE Shillong Zone | 01.01.83 | -do- |
| Kumbhigram | HQ 137 WE/ CE Shillong Zone | 01.01.83 | -do- |
| Lekhapani & Lekhali | CWE Dinjan/ CE Shillong Zone | 01.01.83 | -do- |
| Missamari | CWE Tezpur/ CE Shillong Zone | 01.01.83 | -do- |
| Missa | CWE Tezpur/ CE Shillong Zone | 01.01.83 | -do- |

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48

| | 2 | 3 | 4 | 5 |
|-------------------------|--|----------|--|---|
| 14. North Lakhimpur | CWE Tezpur/ CE Shillong Zone | 01.01.83 | CEEC letter No 131306/1/ 293/Engrs/EIC(1) Dated 10 Dec 82. | |
| 15. Narangi | CWE Guwahati/ CE Shillong Zone | 01.01.83 | -do- | |
| 16. Rangiya | CWE Guwahati/ CE Shillong Zone | 01.01.83 | -do- | |
| 17. Silchar | HQ 137 WE/ CE Shillong Zone | 01.01.83 | -do- | |
| 18. Shillong | HQ 137 WE/ CE Shillong Zone | 01.01.83 | -do- | |
| 19. Tezpur incl Solmara | CWE Tezpur/ CE Shillong Zone | 01.01.83 | -do- | |
| 20. Amarbari | CWE Tezpur/ CE Shillong Zone | 01.01.83 | -do- | |
| 21. Bhalikmara | CWE Jorhat/ CE Shillong Zone | 01.01.83 | -do- | |
| 22. Bagrakot | CWE Bengdubi/ CE Siliguri Zone | 01.01.83 | -do- | |
| 23. Hasimara | CWE Binnaguri/ CE Siliguri Zone | 01.01.83 | -do- | |
| 24. Padong | CWE Bengdubi/ CE Siliguri Zone | 01.01.83 | -do- | |
| 25. Gangtok | CWE Bengdubi/ CE Siliguri Zone | 01.01.83 | -do- | |
| 26. Singarshi | CWE Barrackpore/CE Calcutta Zone | 01.01.83 | -do- | |
| 27. Coach Bihar | CWE Bengdubi/ CE Siliguri Zone | 01.04.87 | CEEC letter No 131306/1/ 493/Engrs/EIC(1) Dated 30 Mar 87. | |
| 28. Katihar | CWE Bengdubi/ CE Siliguri Zone | 01.04.87 | -do- | |
| 29. Kishanganj | CE Siliguri Zone | 01.04.87 | -do- | |

.....23/-

ATTESTED

Smrita Bhattacharjee

ADVOCATE

| 1 | 2 | 3 | 4 | 5 |
|-----|------------|-----------------------------------|------------|---|
| 30. | Kurseong | CWE Bengdubi/ CE Siliguri Zone | 01.04.87 | CEEC letter No 131306/1/492/ Engrs/EIC(1) dt 30 Mar 87. |
| 31. | Purnia | CWE Bengdubi/ CE Siliguri Zone | 01.04.87 | -do- |
| 32. | Darjeeling | CWE Bengdubi/ CE Siliguri Zone | 01.04.87 | -do- |
| 33. | Taibpur | CE Shillong Zone | 01.04.87 | -do- |
| 34. | Dimapur | HQ 137 WE CE Shillong Zone | 01.04.83 | CEEC letter No 31306/1/293/Engrs/ EIC(1) dt |
| 35. | Cuhandipur | CE R&D Secunderabad | 20.04.2000 | CEEC letter No 31306/1/100/Engrs/ EIC(1) dt 29 Apr 2000. |
| 36. | Taliamura | HQ 137 WE/ CE Shillong Zone | 20.04.2000 | CEEC letter No 31306/1/90/Engrs/ EIC(1) dt 21 Mar 2000. |
| 37. | Rangapahar | HQ 137 WE/CE | 11.06.99 | CEEC Letter No 131306/1/31/Engrs/ EIC(1) dated 11.Jun 99 |
| 38. | Haldia | CWE@ Kolkata/ CE Kolkata Zone | 01.04.2002 | CEEC letter No 31306/1/38/Engrs/ EIC(1) dt 08 Feb 2002. |

ATTESTED

Smita Bhattacharjee

ADVOCATE

POSTING ORDER NO. 08/2006

Telo : 2222-2529

Mukhyalaya Purvi Kaman
HQ Eastern Command
Abhiyanta Shakha
Engineers Branch
Fort William
Kolkata - 21

131322/2/2005/JE(QS&C)/(07)/Engrs/EIC(I)

6 Jan 2006

CE Kolkata Zone
CE Siliguri Zone
CE Shillong Zone
CE(AF) Shillong Zone

POSTING TRANSFER ON TENURE TURN OVER : JE(QS&C)

1. The following posting/transfer are hereby ordered in the interest of state :-

| Sr. No. & Name | | Posted | | Due | Remark |
|----------------|------------------------------|---------------------|------------------|------------|--------|
| No | | From | To | Date | |
| (a) | (b) | (c) | (d) | (e) | (f) |
| 1. | 225467 Shri AK Dass | CWE (C) Kolkata | CE Shillong Zone | 30.06.2006 | |
| 2. | 213526 Shri Gautam Ghosh | CE Kolkata Zone | GE (AF) Berjar | 31.03.2006 | |
| 3. | 196024 Shri TK Das | GE (A) Kolkata | GE 372 EWS | 30.06.2006 | |
| 4. | 208565 Shri PP Banerjee | CWE (S) Barrackpore | GE Shillong | 31.03.2006 | |
| 5. | 264243 Shri BM Dutta | GE (N) Binnaguri | CWE (AF) Berjar | 31.03.2006 | |
| 6. | 213950 Shri Anup Chakraborty | GE Khapraail | CE Kolkata Zone | 30.04.2006 | |
| 7. | 214705 Shri AB Deb | GE Bengdubi | CE Siliguri Zone | 30.04.2006 | |
| 8. | 270603 Shri KC Naskar | CE Shillong Zone | CWE Kolkata | 31.05.2006 | |
| 9. | 208009 Shri AK Maiti | CE Shillong Zone | GE (A) Kolkata | Forthwith | |
| 10. | 264715 Shri Osman Geni | GE Shillong | GE 369 EWS | 31.05.2006 | |
| 11. | 209715 Shri G Chattopadhyay | GE Shillong | GE Barrackpore | Forthwith | |
| 12. | 266398 Shri Ramen Ghosh | CWE Tezpur | CE (AF) Shg Zone | 30.06.2006 | |
| 13. | 229640 Shri Aniram Mech | HQ 137 WE | CE (AF) Shg Zone | 31.05.2006 | |
| 14. | 214177 Shri Debabrata Paul | GE 369 EWS | HQ 137 WE | 30.06.2006 | |

Contd.... 2/-

ATTESTED

Smita Bhattacharjee

ADVOCATE

- : (2) : -

| [a] | [b] | [c] | [d] | [e] | [f] |
|-----|---|---------------------|------------------------|------------|-----|
| 15. | 213799 Shri Bipradas Ghosal | GE 372 EWS | CWE (S) Barrackpore | 31.03.2006 | |
| 16. | 243447 Shri Prangopal Nath | AGE(I) Rangiya | CE Shillong Zone | 30.06.2006 | |
| 17. | 264691 Shri Bikash Paul | AGE (I) Charduar | GE Khaprail | 30.06.2006 | |
| 18. | NYA Shri WW Langstange | CE(AF) Shg Zone | AGE (I) Charduar | 30.04.2006 | |
| 19. | 233975 Shri S R Boro | CWE (AF) Borjar | GE (N) Binnaguri | 30.06.2006 | |
| 20. | 213802 Shri Mukul Mitra | GE (AF) Borjar | GE Bengdubi | 30.06.2006 | |
| 21. | 225735 Shri SK Ghosh | GE(AF) Hassimara | CWE Tezpur | 30.06.2006 | |
| 22. | 281033 XXXX Miss MG Merbineng | CE (AF) Shg Zone | GE Shillong | 31.03.2006 | |
| 23. | 232981 Shri BN Das | CWE(AF) Jorhat | AGE (I) Rangiya | 31.03.2006 | |

(Total Twenty-three pers only)

2. Your attention is drawn to this HQ letter No 131306/1/95/ Engrs/SIC(I) dated 30 Aug 2003 for strict compliance. All concerned may be informed accordingly.

3. The posting order to be implemented within due date as indicated above. The concerned unit will also forward a completion report indicating the date of SOS within the same period.

(Kalyani Deshpande)
Capt
SO-III(Pers)
for Chief Engineer

Copy to :-

CWE (C) Kolkata, CWE Kolkata, CWE(S) Barrackpore, CWE Bengdubi, HQ 136 WE, CWE Shillong, CWE Tezpur, HQ 137 WE, CWE (AF) Borjar, CWE(AF) Jorhat, GE(A) Kolkata, GE(N) Binnaguri, GE Khaprail, GE Bengdubi, GE Shillong, GE 369 EWS, GE 372 EWS, AGE(I) Rangiya, AGE(I) Charduar, GE(AF) Borjar, GE(AF) Hassimara, GE Barrackpore

INTERNAL

EID, EIR, M/F, C/F & O/Copy

30/6/06

ATTESTED

Smita Bhattachajee
ADVOCATE

ANNEXURE - C

From : Shri Aniram Mech, JE (QS & C)
HQ 137 Wks Engrs
C/O 99 APO

To : Chief Engineer Eastern Command
Fort William
Kolkata-21

(ADVANCE COPY)

(Through CWT, HQ 137 Wks Engrs)

SUB: REPRESENTATION/ATTEAL

Respected Sir,

1. Ref your HQ letter No 131322/2/2005/JE(QS&C)/102/Engrs/E1C(I) dt 16 Jan 2006.

2. I have the honour to state the following few lines for favourable consideration.

(a) That Sir, I have been transferred from GH(AF) Chabua to HQ 137 Works Engrs as decided by the Dept and reported in HQ 137 Works Engrs (Present unit) on 20 Jun 04 based on the movement order of GH (AF) Chabua vide letter No 1402/1320/E1 dt 17 Apr 2004.

(b) As per policy in vogue I would have given an opportunity to put my choice station for next tenure posting.

(c) But it is seen vide your HQ letter No 131322/2/2005/JE(QS&C)/102/Engrs/E1C(I) dt 16 Jan 06 that I have been posted to HQ CE (AF) Shillong Zone barring me to give choice station by the Department.

3. In view of above I hereby submit my three choice station as under:-

(I) GUWAHATI (II) JORHAT (III) TEZPUR.

4. It is requested to reconsider my case and posting/transfer may please be made as per my choice station for which I shall be highly obliged.

Thanking you Sir,

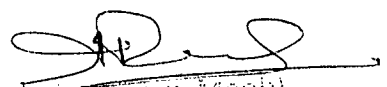
Yours faithfully,

ATTESTED

Smita Bhattacharjee

ADVOCATE

Dated: 07 Feb 2006


(Shri Aniram Mech)
JE (QS & C)
MES/229640

Tel : -2529

Chief Engineer
HQ Eastern Command
Fort William
Kolkata-21

131322/2/2005/IE(QS&C) (3) /Engis/EIC(1)

May 2006

CE Shillong Zone

REPRESENTATION AGAINST POSTING TRANSFER
ON TENURE TURN OVER : JE (QS&C)

1. Refer your letter No 70762/9/SA/233/EIC(I) dated 03 Apr 2006
2. Application dated 07 Feb 2006 in respect of MES 229640 Shri Aniram Mech, JE (QS&C) of HQ 137 WE has been considered sympathetically and examined in its entirety with a view to ensure that no natural justice is denied to him. However, it lacks substance has been rejected by appropriate level of this HQ.
3. In view of above, please instruct HQ 137 WE to despatch the ino1 by due date i.e 31 May 06 without fail to his new unit i.e CE (AF) Shillong Zone

(Kalyan Dehpande)
Capt
SO-III (Pers)
for Chief Engineer

Copy to

HQ 137 WE

ATTESTED

Smita Bhattacharjee
ADVOCATE

10-MAY-2006 12:41

From : Shri Aniram Meeh, JE (QS & C)
HQ 137 Wks Engrs
C/O 99 APO

To : Chief Engineer Eastern Command
Fort William
Kolkata-21

(Through CWE, HQ 137 Works Engineers)

SUB :- REPRESENTATION AGAINST POSTING TRANSFER
ON TENURE TURN OVER


Respected Sir,

1. Ref your HQ letter No 131322/2/2005/JE(QS&C)/132/Engrs/E1C(I) dt 11 May 2006.
2. On going through the letter under reference it is seen that my appeal has been rejected without assigning any ground/reason.
3. However the following points are submitted for reconsideration of my appeal:-
 - (a) Now I am serving in the field station (i.e. hard station) since May 2004 as per the tenure turn over posting order issued vide your HQ letter No 131322/2/2003/JE/QS&C/2/Engrs/E1C(1) dt 03 May 03.
 - (b) As per policy I should have been given opportunity to submit my choice station and posting transfer shall made according to my choice.
4. In view of above I once again request to look into the matter for reconsideration of my apple so as to transfer me as per my choice or I shall no alternative way but to take the shelter of the law of land.

Thanking you Sir,

Yours faithfully,

Dated: 25 May 2006


(Shri Aniram Meeh)
JE (QS & C)
MES/229640

ATTESTED

Smita Bhattacharjee
ADVOCATE

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH, GUWAHATI

OA NO 167/06

SHRI ANIRAM MECH

-----APPLICANT

-VERSUS-

UNION OF INDIA & OTHERS

-----RESPONDENTS

IN THE MATTER OF

WRITTEN STATEMENT FILED BY THE

RESPONDENTS

- 1) That the respondents have received copy of OA and have gone through the same and understood the contentions made 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 records 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 the posting order issued by HQ CE Engrs Br Kolkata as per their policy letter 131306/1/95/Engrs/EIC(I) dt 30 Aug 03 in vogue. Hence question of illegal and arbitrary transfer does not arise.
- 3) That with regard to the statement made in paragraph 2,3, 4.1 of the OA the respondents beg to offer no comment.
- 4) That with regard to the statement made in paragraph 4.2 of the OA, the respondents beg to state that as per HQ EC Engrs Br letter No 131306/1/95/Engrs/EIC(I) dt 30 Aug 03 the effected individual has to submit repatriation proforma for one of the three choice stations on completion of 1 year 6 months. As per para 13(e) of posting policy the

Filed by
the Respondents. Through
Asha Das,
Addl ensc
18/9/06

individuals who are completing their two/three years tenure by 30 Jun and 31 Dec of that year will forward their choice stations through their concerned unit/fmn after completion of 1 year and 6 months/2 years and 6 months respectively in the tenure station. If the repatriation proforma not submitted by due date it will be assumed as null and onus of not being able to avail the facility of offering choice station by the individual will lie with the individual. The applicant has not forwarded repatriation proforma by due date.

5) That with regard to the statement made in paragraph 4.3 of the OA, the respondents while denying the contentions made therein beg to state that the applicant was to submit repatriation proforma on completion of 1 year and 6 months as per the exiting policy but the applicant failed to do so.

6) That with regard to the statement made in paragraph 4.4 of the OA, the respondents beg to state that though the applicant submitted representation before the respondents No 2 for not giving any opportunity to put his choice station for next tenure posting and forwarded vide HQ 137 Works Engineers letter No 1140/953/EIC(I) dt 28 Feb 06 to CE HQ Eastern Command, CE HQ Eastern Comd has considered sympathetically and examined it entirely with a view to ensure that no natural justice is denied to the applicant. However its lacks substance and has been rejected by CE HQ Eastern Command (Respondent No 2). In this connection the Paragraph 21 of Posting Policy is worth mentioning. As per the Paragraph 21 since the tenure posting are mandatory, no representation against these postings will be entertained. As per this policy if the applicant is not satisfied with the decision of HQ EC he may represent his case to Director General (Pers) E-in-C's Branch, AHQ through proper channel. In this connection paragraph 61 of the Posting policy is relevant to mention here.

- 7) That with regard to the statement made in paragraph 4.5 of the OA the respondents while denying the contentions made therein beg to state that the applicant has not submitted his repatriation proforma in time i.e. on completion of 1 year and 6 months. Hence his positing as per policy in vogue was issued to CE (AF) Shillong. Moreover the applicant has not done any duty i.e. Zonal office so far. In order to enhance the service profile of the individual, tenure in CE Zone office will be beneficial to the individual.
- 8) That with regard to the statement made in paragraph 4.6 of the OA, the respondents deny the contentions made therein and beg to submit that due to non-submission of representation by the applicant in time the respondent No 2 had issued the posting order of the applicant.
- 9) That with regard to the statement made in paragraph 4.7 of the OA the respondents deny the contentions made therein and beg to submit that the CE HQ Eastern Command has issued the posting order in respect of the applicant as per posting policy in vogue and vested interest of the applicant may not be taken care of.
- 10) That with regard to the statement made in paragraph 4.8 of the OA, the respondents do not admit any of the contentions made therein. The applicant is trying to blamish the image of deptt by making false and baseless allegations.
- 11) That with regard to the statement made in paragraph 4.9 of the OA, the respondents deny the contentions made therein and beg to state that the respondents No 2 has not violated the fundamental rights of the applicants and also not violated the principle of natural justice.
- 12) That with regard to the statement made in paragraph 4.10 4.11 and 4.12 of the OA, the respondents while denying the contentions made therein beg to submit that as per the judgement passed by the Hon'ble Supreme Court in case of Union of India and others Vs SL Abbas, AIR 1993

"He would be transferred where in a matter of appropriate authority to decide unless order of transfer is vitiated by mala fide is made in violation of statutory provisions, the court cannot interfere with it." It is submitted that the respondent No 2 has not intention to give mental trouble to the applicant. The respondents beg to rely and refer upon the statement made above and accordingly prays that the present OA is devoid of merit hence liable to be dismissed with cost.

The respondents crave leave of this Hon'ble Tribunal to rely and refer upon the judgment passed by the Hon'ble Supreme Court at the time of hearing of this OA.

13) That with regard to the statement made in paragraph 5.1 to 5.3 of the OA, the respondents deny the correctness of the same and beg to rely and refer upon the statement made above.

14) That with regard to the statement made in paragraph 5.4 of the OA the respondents deny the correctness of the same and beg to submit as follows :-

(a) Article 14 envisages equal treatment and equality before law where there is no law governing the matter of transfer as in the case on hand and there is no legally protected right. Thus the question of infraction of the equality clause does not arise.

(b) Article 16 provides equality of opportunity in matters of public employment. In case of the applicant equal opportunity in matter of public employment is being provided and not violated the Article.

(c) Article 21 envisages that every citizen of India have a right of protection of life and personal liberty. The respondents have not violated the Article.

15) That with regard to the statement made in paragraph 5.5 to 5.10 of the respondents deny the correctness of the same and beg to rely and refer upon the statement made above. The respondents further beg to submit that as per the transfer policy in vogue the OA has no leg to stand hence liable to be dismissed with cost.

16) That with regard to the statement made in paragraph 6 of the OA the respondents deny the correctness of the same and beg to submit that as per para 61 of HQ Eastern Command Engineers Branch Posting Policy letter No. 131306/1/35/Engrs/EIC(I) dated 30 Aug 2003, it is clearly mentioned that the individual may give representation second time, if not satisfied with decision of this HQ to DG(Pers) E-in-C's Branch, AHQ through proper channel. But the applicant did not do so and has approached the Hon'ble Tribunal. The applicant has not exhausted the other available official remedy and on this score along the present OA is liable to be dismissed with cost.

17) That with regard to the statement made in paragraph 7 of the OA, the respondents do not offer any comment.

18) That with regard to the statement made in paragraph 8.1 to 8.5 of the OA, the respondents while reiterating and reaffirming the statements made above, beg to submit the applicant has failed to act as per the posting policy which is in vogue and he relied on by annexing as Annexure -A hence he could not make out a good case for granting any of the relief mentioned in these paragraph. Hence the Hon'ble Tribunal may be pleased to reject his prayer by dismissing the OA with cost.

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(6) 60

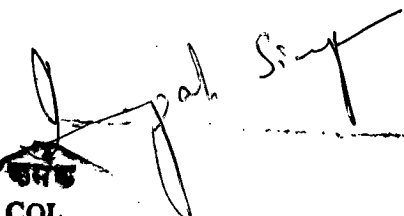
VARIFICATION

I, IC-44948X Colonel Deepak Singh Son of Shri Virendra Singh aged about 45 years at present working as Commander Works Engineers at Headquarter 137 Works Engineers who is one of the respondents and 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 paragraph

are true to my knowledge and belief, those made in paragraph 1 to 18 being matter of records are true to my information derived here from and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this affidavit on this 03 th day of July 2006 at

DEPONENT


COL
कमान्डर निर्माण इंजीनियर
Commander Works Engineer
मुख्यालय १३७ निर्माण इन्जि. बंग
HQ 137 Works Engineers