

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 195.....

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SECTION OFFICER (JUDI.)

Salita
25/10/17

(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERS SHEET

1. Original Application No. 195/06
2. Misc Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) Dilip Ch. Saikia

Respondent(s) U.O. I. Govt

Advocate for the Applicant(s). M. Chanda, S. Nath
... G. K. Chakrabarty ...
... M. L. Datta ...

Advocate for the Respondent(s) Mr. Case, G. Borthiyo

Notes of the Registry	Date	Order of the Tribunal
Application is a for is filed/C F for Rs 10/- Date of filing 26.03.2006 Dated 17.7.06	08.08.2006	Present: Hon'ble Sri K.V. Sachidanandan Vice-Chairman. Hon'ble Sri Gautam Ray, Administrative Member.
Dy. Registrar		The Applicant is presently working as UDC in the office of the Executive Engineer (Electrical), Guwahati Electrical Division No. 1, Central Public Works Department, Bamunimaidam, Guwahati. The Applicant was promoted to the post of Head Clerk on 24.05.2006 and posted at GCEC, Guwahati. While so, vide order dated 21.07.2006, the Respondent No. 3 partially modified the promotion order dated 24.05.2006 and posted the Applicant at Assam Aviation Works Division, CPWD, Guwahati Airport instead of Guwahati Central Electrical Circle, CPWD, Bamunimaidam in a vacant post in public interest. According to the pleadings of the Applicant, after 1-½
Stamps not taken		
Diary 21.8.06		
		Contd/-

Contd/-

Pl. comply order
dated 8-8-06.
At
9-8-06

08.08.2006 hours, the Respondent No. 3 cancelled the earlier order passing another order No. 46 of 2006 dated 21.07.2006 due to administrative reason. The Applicant has challenged the said order and taken a plea that it is because intervention of one of the Association.

Heard Mr. M. Chanda, learned Counsel for the Applicant and Mr. G. Baishya, learned Sr. C.G.S.C. for the Respondents.

Mr. G. Baishya, learned Sr. C.G.S.C. for the Respondents submitted that he would like to take instructions. Let it be done.

Post on 24.08.2006.

In the interest of justice, we direct that the post of Head Clerk at AAWD, CPWD, Guwahati Airport, Guwahati mentioned in the order dated 21.07.2006 under Office Order No. 46 of 2006 will be kept vacant if it is still vacant.


Member


Vice-Chairman

order dt. 8/8/06
issuing to learned
advocate for
& respondents.


14/8/06.

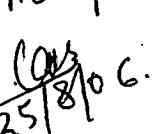
24.08.2006 Present : Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

Mr. G. Baishya, learned Sr. Central Government Standing Counsel for the Respondents wanted time to take instruction.

Post on 14.09.2006. Interim order dated 08.08.2006 shall continue till the next date.


Vice-Chairman


/mb/


25/8/06.

order dt. 24/8/06
issuing to learned
advocate for both
the parties.

O.A. 195 of 2006

14.09.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

Notice & order sent
to D/Section for
issuing to resp.

Ans. 1 to 4 day regd.
A/D post.

~~(Ans)~~ 16/9/06. D/No- 996 to 999
21/9/06. Dt= 26/9/06.

/mb/

Vice-Chairman

Notice duly served
on R-4.

~~Ans~~
16/10/06.

27-10-06

30.10.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

The matter has already been
admitted. Learned Counsel for the
Respondents wanted time to file reply
statement. Post on 05.12.2006. Interim
order shall continue till the next date.

① Notice issued on 26-9-06.
② Service awaited.

Ans.

/mb/

Vice-Chairman

order dt. 30/10/06 issuing
to learned advocate's
for both the parties.

~~Ans~~
31/10/06.

12.1.07. Counsel for the respondents
wanted to file written statement.
Let it be done. Post the matter on
15.2.07.

Vice-Chairman

1m

Notice duly served
on R-3,4.

~~Ans~~
9/11/06.

14-12-06
in W/B's file.

Ans.

No W/B has been
filed.

Ans
11-1-07.

pg

14-2-07
in W/B's file so far.
order dt. 15/2/07 issued to
both the parties.

15.2.07 Counsel for the respondents wanted
further four weeks time to file written
statement. Let it be done within four
weeks.

Post on 16.3.07 for order. Interim
order shall continue.

Vice-Chairman

16.3.07. Counsel for the respondents prays for time to file written statement. Let it be done. Post the matter on 27.3.07. Interim order shall continue.

No Wts has been filed.

2m
15.3.07.

Member

Vice-Chairman

order dt. 16/3/07
issuing to learned
advocate's for both
the parties.

1m

27.3.07.

Let the case be listed on 10.4.07. Registry is directed to confirm who is the counsel for the Respondents.

16/3/07-
20/3/07.

No Wts has been filed.

26.3.07.

8.5.2007

Mr. G. Baishya, learned Sr. C.G.S.C. is granted, on request, four week's further time to file reply statement.

Post the matter on 11.06.2007.

Interim order will continue till the next date.

No Wts has been filed.

7.5.07.

/bb/

Vice-Chairman

No Wts has been filed.

8.6.07.

11.6.07. Counsel for the respondents prays for time to file written statement. Let it be done. Post the matter on 12.7.07.

Wts not filed

1m

Vice-Chairman

11.7.07.

12.7.07. Counsel for the respondents wanted time to file written statement. Let it be done Post the matter on 31.7.07. Interim order shall continue.

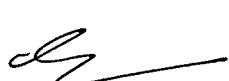
order dt. 12/7/07
issuing to both
the parties.

16/7/07

Wts not filed.

20.7.07.

Vice-Chairman

Notes of the Registry	Date	Order of the Tribunal
<u>31.7.07</u> Pl. comply. order dt-31/7/07 issuing to learned Advocate's for both the parties. <u>Call</u> <u>18/07.</u>	31.7.2007	Mr.G.Baishya, learned Sr. C.G.S.C. submitted that reply statement has been filed which will be brought on record if it is otherwise in order. Learned counsel for the Applicant wanted time to file rejoinder. Three weeks time is granted for filing of rejoinder. Post the matter on 23.08.2007. Interim order will continue till such time.
	/bb/	Vice-Chairman
<u>2-8.07</u> <u>Wts submitted</u> <u>by the Respondents.</u> <u>Cops served. page</u> <u>1 to 5.</u> <u>Call</u> Rejoinder not billel.	23.8.2007	Let the case be posted on 26.9.2007 for filing of rejoinder Interim order shall continue till such time.
	/bb/	Vice-Chairman
<u>22-8-07.</u> order dt-23/8/07 issuing to both the parties. <u>Call</u> Rejoinder not billel. <u>25-9-07.</u>	26.9.2007	Call this case on 07.11.2007 expecting rejoinder from the Applicant.
	/bb/	 Khushiram Member (A)
	07.11.2007	Mr.S.Nath, learned counsel for the Applicant states that there is no need to file rejoinder and matter may be listed for hearing.
		List the case on 20.11.2007 for hearing.
	/bb/	 (M.R. Mohanty) Vice-Chairman
		 Member (A)

OA-195/06

20.11.2007

Mr.M.Chanda, learned counsel for the Applicant/ Mr.G.Baishya, learned Sr. Standing counsel for the Union of India has filed a leave note.

① Writ filed.
② Rejoinder not filed.

28/11/07

Call this matter on 29.11.2007 for hearing.

(Khushiram)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/bb/

29.11.2007

Mr.S.Nath, learned counsel for the Applicant and Mr.G.Baishya, learned Sr. C.G.S.C. for the Respondents are present.

Rejoinder not filed.

10.12.2007

On the request of learned counsel for the Applicant the case is adjourned to be taken up on 11.12.2007.

/bb/

11.12.07

Heard Mr M.Chanda, learned counsel for the applicant and Mr G.Baishya, learned Sr. Standing counsel for the Respondents.

For the reasons recorded separately the O.A is dismissed. No costs.

(G. Ray)
Member(A)

(M. R. Mohanty)
Vice-Chairman

pg

7.2.08
Copy of judgment down
v/cde D.No.149/07
153 to 155 parties
on 11.1.08.

affd

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 195/2006

DATE OF DECISION : 11-12-2007

Dilip Chandra Saikia

.....Applicant/s

Mr M. Chanda

.....Advocate for the
Applicant/s

-Versus -

Union of India & Ors.

.....Respondent/s

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

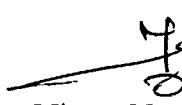
.....Advocate for the
Respondent/s

CORAM

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR GAUTAM RAY, ADMINISTRATIVE MEMBER

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 their Lordships wish to see the fair copy of the judgment ? Yes/No.✓


Vice-Chairman/Mamber(A)

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.195 of 2006.

Date of Order : This the 11th Day of December, 2007.

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR GAUTAM RAY, ADMINISTRATIVE MEMBER

Shri Dilip Chandra Saikia,
Son of Late Pudhar Saikia,
Upper Division Clerk,
O/o the Executive Engineer (Electrical)
Guwahati Electrical Division No.I,
Central Public Works Department (CPWD)
Bamunimaidan, Guwahati-781021.

.....Applicant

By Advocate Mr M. Chanda

Versus –

1. The Union of India,
represented by the Secretary to the
Government of India,
Ministry of Urban Development,
New Delhi-110001.
2. The Director General of Works,
Central Public Works Department,
Nirman Bhawan,
New Delhi-1.
3. Superintending Engineer,
Coordination Circle (ER)
2nd MSO Building, 17th Floor,
Nizam Palace,
234/4 A.J.C.Bose Road,
Kolkata-20.
4. Executive Engineer,
Guwahati Electrical Division No.1,
C.P.W.D.,Bamunimaidan,
Guwahati-781021.Respondents

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



ORDER (ORAL)

GAUTAM RAY, (MEMBER-A)

This Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs :

- i) The impugned order No. 9(255)/SE/(C)/ER/CDN-II/489 dated 21.07.2006 (Annexure-VI) canceling the modified transfer/ posting of the applicant be declared as illegal and void-ab-initio.
- ii) To direct the respondents to enforce the modified transfer/ posting order issued under No. 9(255)/SE/(C)/ER/CDN-II/487 dated 21.07.2006 (Annexure-V) and facilitate the joining of the applicant in his promoted post at AAWD, CPWD, Guwahati Airport, Guwahati.

2. The case of the applicant in a nutshell is that on his promotion to the post of Head Clerk the Applicant made a representation to the 3rd Respondent for his posting in the Assam Aviation Works Division, CPWD, Guwahati Airport, Guwahati instead of his posting at Central Electrical Division No.1, CPWD, Bamunimaidan, Guwahati stating therein that he has to travel 65 Kms daily from the Airport area, where he is residing now, to attend office at Bamunimaidan, where he is posted now and that he has been advised by the doctor not to undertake frequent journeys. The Applicant submits that the 3rd Respondent vide his No.9(255)/SE(C)/ER/CDN-II/489 dated 21.07.2006 partially modified the Promotion Order dated 24.5.2006 to the extent of posting the Applicant at the Assam Aviation Works Division, CPWD, Guwahati Airport instead of Guwahati Central Electrical Division, Bamunimaidan in public interest. A copy of the said Order dated 21.7.2006 is enclosed as Annexure-V to this O.A. It is the contention of the applicant that the 3rd Respondent most surprisingly issued the impugned Order No.46 of 2006 dated 21.7.2006 in



quick succession within a gap of 84 minutes cancelling his earlier modified Order No.487 dated 21.7.2006 (Annexure-V), thereby cancelling transfer/posting of the Applicant from Guwahati Electrical Division-I, CPWD, Bamunimaidan, to Assam Aviation Works Division, Guwahati Airport. A copy of the said Order dated 21.7.2006 is enclosed as Annexure-VI to this O.A. Being aggrieved, the applicant has filed the instant Original Application for redressal of his grievances.

3. The Respondents have contested the Original application by filing a counter reply. It is the submission of the Respondents that due to administrative reasons the modified order dated 21.7.2006 was cancelled on the same day.

4. We have heard Mr M. Chanda, learned counsel appearing for the Applicant and Mr G.Baishya, learned Central Government Standing Counsel appearing for the Respondents. We have also perused the pleadings of the rival parties. However, the Applicant has not filed any rejoinder to the counter reply filed by the Respondents.

5. At the time of hearing, Mr M.Chanda, learned counsel for the Applicant mainly contended that (i) the applicant is in occupation of a Government quarter at the Airport area where his school going children are studying; (ii) the applicant has to travel about 65 Kms everyday for attending office at Bamunimaidan, Guwahati from Airport area; (iii) the impugned order has been issued in utmost haste; and (iv) that a vacancy of Head Clerk exists at AAWD, CPWD, Guwahati Airport, Guwahati and on these grounds the Applicant should be posted at the Airport area of Guwahati.

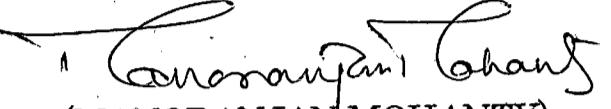
2

6. We have given our anxious thought over the aforesaid contentions made by the learned Counsel appearing for the Applicant. However, it is indisputed fact that the Applicant has been performing duties at Bamunimaidan by travelling from Airport area daily. It is also not disputed that he is in occupation of a Government quarter at the Airport area. We have noticed that the applicant has nowhere alleged that on being posted at Bamunimaidan he has been asked by the Respondents to vacate the Government quarter which he is occupying at Airport area now. So if on promotion the Applicant is posted at Bamunimaidan, where he is posted now, it will not be a transfer in reality. Moreover, Airport area is not a far off place from the Guwahati city. On the other points, the Respondents have submitted that the impugned Order dated 21.07.2006 was issued due to administrative reasons. We have no doubt that the administration can take such decision to suit it-s administrative convenience. The Applicant has no right to choose his place of posting on promotion. However, the applicant, if he is so advised, may ^{submit} ~~file~~ a comprehensive representation before the Respondents narrating his grievances and if such representation is filed, within 15 days from the date of receipt of this Order, the Respondents will consider and dispose of the same forthwith as per rules and communicate the same to the Applicant within one month from the date of receipt of the representation from the Applicant.

7. With the above observations and directions, the Original Application, being devoid of merit, is dismissed without, however, any order as to costs.

The interim order passed on 08.08.2006 in this case stands vacated.


(GAUTAM RAY)
ADMINISTRATIVE MEMBER


(MANORANJAN MOHANTY)
VICE CHAIRMAN

/pg/

- 7 AUG 2006

गुवाहाटी न्यायपीठ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

O. A. No. 195 /2006

Shri Dilip Chandra Saikia

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

28.09.2001- Applicant was initially appointed as Lower Division Clerk (LDC) on 28.09.1981. Thereafter he was promoted to the post of Upper Division Clerk (U.D.C) on 25.04.1988. The applicant is presently working as UDC in the office of the Executive Engineer (Electrical), Guwahati Electrical Division No. I, CPWD, Bamunimaidan, Guwahati.

24.05.2006- Applicant came to learn from a reliable source that he was promoted to the post of Head Clerk under 50% seniority quota vide office order dated 24.05.2006 but he was neither informed of the said promotion order nor served with a copy of the promotion order. However, the applicant could able to obtain a copy of his promotion order dated 24.05.06. (Annexure- IV)

19.06.2006- Applicant submitted a representation on 19.06.06 to the respondent No. 4 praying for providing a copy of the promotion order dated 24.05.06. (Annexure- I)

19.06.2006- Applicant submitted another representation addressed to the respondent No. 3 praying for reconsideration of his posting in his promoted post of Head Clerk and prayed for his posting in the

Dilip Ch. Saikia.

Filed by the applicant
Loring, S. Nalik
Advocate
Other

Assam Aviation Works Division, CPWD, Guwahati Airport, Guwahati instead of his posting at Central Electrical Circle Division, CPWD, Bamunimaidan, Guwahati- 21. In the said representation the applicant stated that he has been attending office by traveling a distance of 65 Kms from Airport area where he is residing and he has been advised by the doctor not to undertake frequent journeys. Respondent No. 4 forwarded the representation of the applicant to the respondent No. 3 on 24.06.06. (Annexure- II)

19.06.2006- Applicant submitted another representation confirming acceptance of his promotion to the post of Head Clerk, and the said application was also forwarded by the respondent No. 4 to the respondent No. 3 vide letter dated 20.07.06.

21.07.2006- Respondent No. 3 vide office order dated 21.07.06, partially modified promotion order dated 24.05.06 of the applicant and posted him at Assam Aviation Works Division, CPWD, Guwahati Airport instead of Guwahati Central Electrical Circle, CPWD, Bamunimaidan in public interest. (Annexure- V)

21.07.2006- Respondent No. 3 most surprisingly issued the impugned order No. 46 of 2006 dated 21.07.2006 in quick succession within a gap of 84 minutes cancelling his earlier modified order No. 487 dated 21.07.06, thereby canceling transfer/posting of the applicant from Guwahati Electrical Division- I, CPWD, Bamunimaidan to Assam Aviation Works Division, Guwahati Airport with malafide intention and ulterior motive. (Annexure- VI)

Hence this Original Application.

P R A Y E R S

Dilip C. Saikia.

1. That the Hon'ble Tribunal be pleased to declare that the impugned order No. 9 (255)/SE(C)/ER/CDN-II/489 dated 21.07.2006 (Annexure- VI) cancelling the modified transfer/posting of the applicant be declared as illegal and void-ab-initio.
2. That the Hon'ble Tribunal be pleased to direct the respondents to enforce the modified transfer/posting order issued under No. No. 9 (255)/SE(C)/ER/CDN-II/487 dated 21.07.2006 (Annexure- V) and facilitate the joining of the applicant in his promoted post at AAWD, CPWD, Guwahati Airport, Guwahati.
3. Costs of the application.
4. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for:

During pendency of the application, the applicant prays for the following interim relief: -

1. That the Hon'ble Tribunal be pleased to direct the respondents not to fill up the existing vacant post of Head Clerk at AAWD, CPWD, Guwahati Airport, Guwahati till disposal of this application.
2. That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicant for providing relief as prayed for.

1X

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the case : O.A. No. 195 /2006

Shri Dilip Chandra Saikia : Applicant.

-Versus-

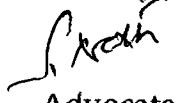
Union of India & Ors. : Respondents.

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5.	III	Copy of application dated 19.06.06 along with forwarding letter dated 20.07.06.	14-15
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7.	V	Copy of modified order dated 21.07.06.	-18-
8.	VI	Copy of impugned order dated 21.07.06.	-19-

Date: - 27.08.06

Filed By:


Advocate


Dilip Ch. Saikia.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

O.A. No. 195 /2006

BETWEEN:

Shri Dilip Chandra Saikia,
Son of Late Pudhar Saikia,
Upper Division Clerk,
O/o- The Executive Engineer (Electrical)
Guwahati Electrical Division No- 1.
Central Public Works Department (C.P.W.D),
Bamunimaidan,
Guwahati- 781021.

-----Applicant.

-AND-

1. The Union of India,
Represented by Secretary to the
Government of India,
Ministry of Urban Development,
New Delhi- 110001.
2. The Director General of Works,
Central Public Works Department,
Nirman Bhawan,
New Delhi- 1.
3. Superintending Engineer,
Coordination Circle (ER),
2nd MSO Building, 17th Floor,
Nizam Palace,
234/4 A.J.C Bose Road,
Kolkata- 20.
4. Executive Engineer (Elect),
Guwahati Electrical Division No. 1.
C.P.W.D, Bamunimaidan,
Guwahati- 781021.

.....Respondents.

18
filed by the applicant
through: S. Saikia
Advocate
07.08.2006

Dilip Ch. Saikia.

DETAILS OF THE APPLICATION

1. Particulars of the order (s) against which this application is made:

This application is made against the impugned office order No. 9 (255)/SE (C)/ER/CDN-II/489 dated 21.07.2006 (Order No. 46 of 2006) issued by the Respondent No. 3 whereby his earlier order of even number issued on the same date modifying the transfer/posting of the applicant from Guwahati Electrical Division- I to Assam Aviation Works Division (AAWD), Guwahati in place of Guwahati Central Electrical Circle (GCEC). Guwahati has been cancelled with malafide intention and on extraneous considerations.

2. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of this application is well within the jurisdiction of this Hon'ble Tribunal.

3. Limitation:

The applicant further declares that this application is filed within the limitation prescribed under Section- 21 of the Administrative Tribunals Act 1985.

4. Facts of the case:

- 4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.
- 4.2 That your applicant was initially appointed as Lower Division Clerk (LDC) on 28.09.1981 under the respondent department and was posted in the office of the Executive Engineer (Electrical), Guwahati Electrical Division-II, at Assam Aviation Works Division (AAWD), CPWD, Borjhar Airport, Guwahati- 15. He was also allotted a Government accommodation at Guwahati Airport area and his children got admitted in Kendriya

Vidyalaya, Guwahati Airport. Thereafter he was promoted to the post of Upper Division Clerk (U.D.C) on 25.04.1988. The applicant is presently working as UDC in the office of the Executive Engineer (Electrical), Guwahati Electrical Division No. I, CPWD, Bamunimaidan, Guwahati- 781021.

4.3 That while working as U.D.C in the office of the Executive Engineer (Electrical), Guwahati Electrical Division- I aforesaid, the applicant came to learn from a reliable source that he was promoted to the post of Head Clerk under 50% seniority quote vide office order No. 23 of 2006, issued under No. 9 (225)/SE (C)/ER/CDN II/330 dated 24.05.2006. But he was neither informed of his promotion nor served with a copy of the promotion order. It was further learnt by the applicant that on promotion, he had been posted in the office of the Superintending Engineer (Electrical), Guwahati Central Electrical Circle, CPWD, Guwahati- 21, which is housed in the same building where the applicant has been working as UDC.

4.4 That having learnt about his promotion as stated above, the applicant submitted one application on 19.06.2006 to the respondent No. 4 and prayed for providing a copy of the promotion order dated 24.05.2006 to him. On the same date i.e. on 19.06.2006 the applicant submitted one representation to the respondent No. 3 praying for reconsideration of his posting in his promoted post of Head Clerk and prayed for his posting in the Assam Aviation Works Division, CPWD, Guwahati Airport, Guwahati- 15 instead of his posting at Guwahati Central Electrical Circle, CPWD, Bamunimaidan, Guwahati- 21 as ordered. In his said representation, the applicant stated that he has been attending his office as UDC in Guwahati Electrical Division No. I, Bamunimaidan, Guwahati- 21 by traveling from Guwahati Airport area daily where he is residing and his children are also studying. He further stated that he has to travel a distance of 65 Km daily for attending his duties whereas he is a patient of chronic liver diseases,

Castric polyp., Castric Erosions etc. and has been advised by the doctor not to undertake frequent journeys. He also submitted therewith the relevant medical certificate and reports etc. and his representation was forwarded by the respondent No. 4 to the respondent No. 3 vide letter No. 9 (31)/GED-I/E-1/06-07/843 dated 24.06.06. Further to that, he also submitted another application dated 19.06.06 confirming his acceptance of his promotion to the post of Head Clerk, and the said application was also forwarded by the respondent No. 4 to the respondent No. 3 vide letter No. 9 (31)/GED-I/E-1/06-07/955 dated 20.07.06. Eventually the applicant could also obtain a copy of his promotion order No. 330 dated 24.05.06.

Copy of the application dated 19.06.06, representation dated 19.06.06 along with forwarding letter No. 843 dated 24.06.06, application dated 19.06.06 along with forwarding letter No. 955 dated 20.07.06 and promotion order dated 24.05.06 are annexed hereto for perusal of Hon'ble Tribunal as Annexures- I, II, III and IV respectively.

4.5 That the respondent No. 3, on receipt of the representation dated 19.06.2006 of the applicant, was pleased to consider the case of the applicant and faxed one office order No. 9 (255)/SE (C)/ER/CDN II/487 dated 21.07.06 whereby the promotion order dated 24.05.06 in respect of the applicant was partially modified and the applicant on his promotion to the post of Head Clerk was posted at Assam Aviation Works Division (AAWD), CPWD, Guwahati Airport instead of Guwahati Central Electrical Circle, CPWD, Bamunimaidan, Guwahati- 21 in public interest. It is relevant to mention here that the post of Head Clerk at AAWD, Guwahati Airport has been lying vacant for more than 3 years.

Copy of modified order dated 21.07.06 is annexed hereto for perusal of Hon'ble Tribunal as Annexure- V.

4.6 That surprisingly, immediately thereafter, the respondent No. 3 issued the impugned office order No. 46 of 2006 under No. 9 (255)/SE (C)/ER/CDN II/489 dated 21.07.06 canceling his earlier modified order No. 487 of 21.07.06, thereby canceling transfer/posting of the applicant from Guwahati Electrical Division - I to AAWD, Guwahati Airport, said to be on administrative reasons.

Copy of the impugned order of cancellation dated 21.07.06 is annexed here to for perusal of Hon'ble Tribunal as Annexure- VI.

4.7 That the applicant most respectfully begs to state that the modified transfer order dated 21.07.06 was faxed at 05.48 P.M on 21.07.06 and the cancellation order was thereafter faxed on the same day (i.e. 21.07.06) at 07.12 P.M i.e. only after a gap of 01 hour 24 minutes only. It has been stated in the cancellation order that the cancellation of transfer/posting has been done on "administrative reasons". The respondent No. 3 has not spelt out the so called "administrative reasons" nor has given any description of such "administrative reasons" which compelled him to issue two contradictory orders in quick succession within a gap of 84 minutes only. It is relevant to mention here that it is evident from the modified order dated 21.07.06 (05.48 PM), that the transfer/posting of the applicant was modified "in public interest" had to be ignored/sacrificed and a cancellation order had to be issued even after a well considered modified order was issued. The Hon'ble Tribunal be pleased to direct the respondents to explain the stated "administrative reasons" before the Hon'ble Tribunal so as to dispel the shadow of doubts and suspicions in the mind of the applicant since the impugned order of cancellation smacks malafide and appears to have been done on extraneous considerations only.

4.8 That it is stated that the applicant could learn from reliable source that the impugned order of cancellation issued under No. 9 (255)/SE (C)/ER/CDN-II/489 dated 21.07.06 (at 07.12 P.M) was issued at the instance of the officer

6
2

bearers of the All India CPWD office Staff Association, Kolkata for some vested interest. As such, the impugned order is malafide, unfair, illegal, arbitrary and violative of the principles of natural justice.

4.9 That due to issuance of the impugned order No. 9 (225)/SE (C)/ER/CDN-II/489 dated 21.07.06 and cancellation of the transfer/posting of the applicant from Guwahati Electrical Division- I, CPWD, Bamunimaidan, Guwahati- 21 to Assam Aviation Works Division, CPWD, Guwahati Airport with malafide intention and ulterior motive, the applicant has been put to a distressing condition, more so in view of his health problems. As such finding no other alternative, the applicant is approaching before this Hon'ble Tribunal for protection of his rights and interests and it is a fit case for the Hon'ble Tribunal to interfere with and to protect the rights and interests of the applicant by setting aside the impugned order of cancellation dated 21.07.06 and further directing the respondents to give effect to the modified order dated 21.07.06.

4.10 That this application is made bonafide and for the cause of justice.

5. Grounds for relief (s) with legal provisions:

5.1 For that, the applicant submitted representation praying for reconsideration of his transfer/posting in his promoted post due to his health problems.

5.2 For that, the Respondent No. 3 considered the prayer of the applicant after thoughtful considerations and issued the modified promotion order No. 9 (255)/SE (C)/ER/CDN-II/487 dated 21.07.06, posting the applicant in his promoted post at AAWD, CPWD, Guwahati Airport instead of his earlier posting at GCEC, CPWD, Bamunimaidan, Guwahati- 21.

5.3 For that, within less than 1 1/2 hour on the same day i.e. on 21.07.06, the same respondent issued another order No. 9 (255)/SE (C)/ER/CDN-II/489 dated 21.07.06 canceling his previous order aforesaid, which is malafide, arbitrary, unfair and opposed to the principles of natural justice.

5.4 For that, the respondent No. 3 issued the impugned order of cancellation at the instance of the office bearers of CPWD Staff Association, Kolkata, on extraneous considerations which is an unfair labour practice.

5.5 For that, the modified transfer order was issued in the "Public interest" and the order of cancellation has been issued on "administrative reasons". But the respondents have not explained as to how an administrative reason arose all on a sudden within minutes of issuance of the modified order which necessitated the issuance of the order of cancellation even at the cost of "public interest". Such an action is malafide, capricious, motivated and unfair.

5.6 For that, due to cancellation of his modified transfer/posting, the applicant has been put to extreme difficulties in as much as that he will have to travel about 65 Kms every day from the Guwahati Airport area to Bamunimaidan, Guwahati with his physical ailments against the advise of the Doctor staking a risk on his health

5.7 For that, the children of the applicant have been studying in Kendriya Vidyalaya, Guwahati Air Port.

5.8 For that the post of Head Clerk at AAWD, CPWD, Guwahati Airport in which the applicant has been posted vide modified transfer order, has been lying vacant for more than 3 years.

6. Details of remedies exhausted.

That the applicant declares that he has exhausted all the remedies available to and there is no other alternative remedy than to file this application.

7. **Matters not previously filed or pending with any other Court.**

The applicant further declares that he had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. **Relief (s) sought for:**

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief (s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

- 8.1 That the Hon'ble Tribunal be pleased to declare that the impugned order No. 9 (255)/SE(C)/ER/CDN-II/489 dated 21.07.2006 (Annexure- VI) cancelling the modified transfer/posting of the applicant be declared as illegal and void-ab-initio.
- 8.2 That the Hon'ble Tribunal be pleased to direct the respondents to enforce the modified transfer/posting order issued under No. No. 9 (255)/SE(C)/ER/CDN-II/487 dated 21.07.2006 (Annexure- V) and facilitate the joining of the applicant in his promoted post at AAWD, CPWD, Cuwahati Airport, Cuwahati.
- 8.3 Costs of the application.

Dilip Ch. Sahaia

8.4 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for:

During pendency of the application, the applicant prays for the following interim relief: -

9.1 That the Hon'ble Tribunal be pleased to direct the respondents not to fill up the existing vacant post of Head Clerk at AAWD, CPWD, Guwahati Airport, Guwahati till disposal of this application.

9.2 That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicant for providing relief as prayed for.

10.

11. Particulars of the I.P.O

i)	I.P.O No.	: 26G 325030
ii)	Date of issue	: 17.7.06
iii)	Issued from	: G.P.O. Guwahati
iv)	Payable at	: G.P.O. Guwahati

12. List of enclosures:

As given in the index.

VERIFICATION

I, Shri Dilip Chandra Saikia, aged about 52 years, Son of Late Pudhar Saikia, working as Upper Division Clerk, O/o- The Executive Engineer (Electrical), Guwahati Electrical Division No- 1, Central Public Works Department (C.P.W.D), Bamunimaidan, Guwahati- 781021, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 2nd day of August 2006.

Dilip Ch. Saikia

- 1 -

ANNEXURE - I

To,

The Executive Engineer (Elect.),
Guwahati Central Electrical Division No. I
C.P.W.D., Guwahati - 21.

Sub.: *Regarding promotion from UDC to Head Clerk.*

Sir,

It is learnt from other source that I have been promoted from UDC to Head Clerk vide Superintending Engineer, Coordin. Circle (ER), CPWD, Kolkata - 20 O/o No. 9(255)/SE (C)/ER/CDNII/330 Dated 24-05-2006.

A copy of the same may kindly be endorsed to me for record, if the said O/o has been received by the office.

Dated 19th June, 2006.

Yours faithfully,

(C.S. SAIKIA)
(D.C. SAIKIA)
UDC
GED-I, CPWD
Guwahati - 21.

*Atul
Jain
Advocate*

The Superintending Engineer
Co-ordination Circle (ER)
C.P.W.D., Nizam Palace
Kolkata - 700020

29

(Through proper channel)

Subject: Promotion from UDC to Head Clerk – Shri D. C. Saikia.

Reference: Your Office Order No.23 of 2006 issued vide No.9(255)/SE(C)/ER/
CDNH/330 dt.24.05.06

Sir,

Kindly refer to your above mentioned Office Order under which I have been promoted from the post of UDC to Head Clerk and posted to the office of the Superintending Engineer (El), Guwahati Central Electrical Circle, C.P.W.D., Guwahati - 21.

Sir, I have been working as UDC in the office of the Executive Engineer (El), Guwahati Electrical Division No.1, C.P.W.D., Bamunimaidan, Guwahati since December 2002.

Sir, I have to undertake journey by bus for 65 Km every day for attending my office at Bamunimaidan from Guwahati Airport which is now unbearable on my part due to deteriorating health condition.

Sir, I am a patient of Chronic Liver Disease, Gastric Polyp, Gastric Erosions and Choletithiasis, which I have been suffering for the last couple of years even. I had to be got hospitalized for several times. So, the treating doctor has advised me to avoid frequent journey for the betterment of health. Necessary medical certificates are enclosed herewith for favour of your kind perusal.

Under the circumstance it is prayed for reconsideration of my posting order on promotion to the post of Head Clerk to the office of the Executive Engineer, Assam Aviation Works Division, C.P.W.D., Guwahati - 15 in existing vacancy and for this act of your kindness shall remain ever grateful to you.

Submitted for favour of your kind perusal and sympathetic consideration please.

Yours faithfully,

Date 19/06/2006

(Shri D. C. SAIKIA)

U.D.C.

Guwahati Electrical Division No.1

C.P.W.D., Bamunimaidan

Guwahati - 781021

Copy to:

1. The General Secretary, C.P.W.D. Staff Association (EZ), C.P.W.D., Kolkata - 700020 for information and necessary action alongwith copies of medical certificates.
2. The Zonal Secretary (NEZ), C.P.W.D. Staff Association (EZ), C.P.W.D., Guwahati - 21 for information and necessary action.

After Jm. Advocate

(D. C. Saikia)

GOVERNMENT OF INDIA
Central Public Works Department
GUWAHATI ELECTRICAL DIVISION No. I
Nitijan Bhawan, Ramnagar, Guwahati - 781 021
e-mail : ged1@vifly.com
Phone : 0361-2650111
Fax: 0361 - 2654334

No. 9(31)/GED/I/B-I/06-07/ 843

Dated, Guwahati the 24/6/2007

To,

The Superintending Engineer,
C.G. Ordination Circle (ER)
CPWD, Nizam Palace
Kolkata - 20.

Sub:

Representation of Shri D.C. Saikia, UDC to Head Clerk

A self explanatory representation received from Shri D.C. Saikia, UDC under promotion as Head Clerk. Now, he is working under this division as UDC since 12/2002, in this regard the representation along with Medical Certificate and other relevant documents (Photo copies attached) are enclosed herewith for your kind consideration please.

Encl: As stated above.

Copy for

Executive Engineer (Elect.)
Guwahati Electrical Division No. I
C.P.W.D., Guwahati - 781 021.

(1) The SE(E), EEE, epno. Ghy-21
(2) Shri. D. C. Saikia (Udc)



To,

- 14 -

ANNEXURE-III

The Superintending Engineer,
Co-Ordination Circle (ER)
CPWD, Nizam Palace
Kolkata - 20.

(Through Proper Channel)

Sub.: *Regarding promotion from the post of UDC to Head Clerk.*

Sir,

With reference to your O/o No. 9(255)/SE (C)/ER/CDNII / 330 Dated 24-05-2006 under which I have been promoted to the post of Head Clerk, I hereby accepted the promotion.

This is for favour of your kind information and necessary action please.

Dated 19th June, 2006.

Yours faithfully,

(S)
(D.C. SAIKIA)
UDC
GED-I, CPWD
Guwahati - 21.

Copy to:- *The EE(Elect.), GED-I, CPWD, Guwahati - 21. This has a reference to my letter dated 19-06-2006.*

(S)
(D.C. SAIKIA)
UDC
O/L

*Attested
for Advocate*

GOVERNMENT OF INDIA
Central Public Works Department
GUWAHATI ELECTRICAL DIVISION No. I
Nirman Bhawan, Bamunimaidan, Guwahati - 781 021

e-mail : ged1@sify.com
Phone : 0361-2550315
Fax: 0361 - 2654390

No. 9(31)/GED-I/E-I/06-07/ 955-

Dated, Guwahati the 20/7/2006

To,

The Superintending Engineer ,
Co-Ordination Circle (ER)
CPWD, Nizam Palace
Kolkata - 20.

Sub.: Acceptance of promotion from the post of UDC to Head Clerk.

Ref.: This office even file letter No. 843 dated 24-06-2006.

An application on the above subject, received from Shri D.C. Saikia, UDC, promoted to the grade of Head Clerk in accordance to your office order No. 9(255)/SE(C)/ER/CDNII/330 Dated 24-05-2006 is being forwarded herewith for perusal & consideration in continuation to this office even file letter No. 843 dated 24-06-2006 cited as reference.

Encl.: As stated above.

Executive Engineer (Eect.)
Guwahati Electrical Division No. I
C.P.W.D., Guwahati - 781 021.

Copy to:-

✓ Shri D.C. Saikia, UDC, for information
w.r.t his letter dated 19-06-2006

Executive Engineer (Eect.)

8/6
21/6/06

GOVERNMENT OF INDIA
CENTRAL PUBLIC WORKS DEPARTMENT
OFFICE OF THE SUPERINTENDING ENGINEER, CO-ORDINATION CIRCLE(ER),
17TH FLOOR, 2ND MSO BUILDING, NIZAM PALACE, 234/4, A.J.C. BOSE ROAD, KOLKATA-20
Tel : (033)22877516 Fax : (033)22813183

No.9(255)/SE(C)/ER/CDNII/ 330

Dated:

24/5/06

OFFICE ORDER NO 23 OF 2006

The under mentioned UDCs are hereby promoted to the post of Head Clerks in the scale of pay of Rs.5611-150-8000 from the date of actual assuming charges of higher posts until further orders.

Sl. No.	Name Shri/smt.	Quota	Present office	Sl. No.	Name Shri/Smt.	Quota	Present office
1.	Anjan Das(SC)	SQ	AAWD/ Guwahati	8	Pallab Chakraborty	MQ	KCEC-II/
2.	Dilip Ch. Saikia(ST)	SQ	GEDI/ Guwahati	9.	Arpan Maitra(SC)	MQ	Coord(ER)/ Kol
3.	Sukumar Chakraborty	SQ	KCD-IV/Kol	10.	Biswajit Mukherjee	MQ	KCD-V/
4.	S.K.Mukherjee	SQ	KCD-IV/Kol	11.	Pranab Kr. Das	MQ	KED-VI/
5.	T.K.Roy	SQ	BLMD/ Balurghat	12.	Nil Kanta Das(SC)	MQ	KCD-II/1
6.	Debasish Mukherjee	MQ	KCD-VI/Kol	13.	Apurba Lal Biswas (SC)	MQ	KCD-VI/1
7.	Ajit Das	MQ	ACC-I/ Guwahati	14.	Goutam Kr. Pandit	MQ	KCD-II/1

Consequent on above, the following transfer/posting of promotees are hereby ordered with immediate effect in the interest of public service.

Sl.No.	Name Shri/Smt.	From	To	Vice Shri/Smt.
1.	Anjan Das	AAWD/ Guwahati	NAAP Div./Guwahati	Ex.vacancy
2.	Dilip Ch. Saikia	GEDI/ Guwahati	GCEC/Guwahati	--do--
3.	Sukumar Chakraborty	KCD-IV/Kol	KCD-IV/Kol	--do--
4.	S.K.Mukherjee	KED-IV/Kol	KED-IV/Kol	Ex.vacancy
5.	T.K.Roy	BLMD/Balurghat	BLMD/Balurghat	--do--
6.	Debasish Mukherjee	KCD-VI/Kol	BLCD-I/Balurghat	--do--
7.	Ajit Das	ACC-I/ Guwahati	PD-II/Guwahati	U.D.Rao promoted
8.	Pallab Chakraborty	KCEC-II/ Kol	MCD-I/Malda	Tapan Naskar
9.	Arpan Maitra	Coord(ER)/ Kol	SCD(IBBZ)/Siliguri	Ex.vacancy
10.	Biswajit Mukherjee	KCD-VI/Kol	BUCD/Buniadpur	Ex.vacancy
11.	Pranab Kr. Das	KED-VI/Kol	GCD/Gangtok	Ex.vacancy
12.	Nil Kanta Das	KCD-II/Kol	ICD/Islampur	J.P.Saphui
13.	Apurba Lal Biswas	KCD-VI/Kol	SCED/Siliguri	Ex.vacancy
14.	Goutam Kr. Pandit	KCD-III/Kol	MCMC(IBBR)/ Berhampur	Ex.vacancy
15.	Tapan Naskar	MCD-I/Malda	KCEC-I/Kol	Ex.vacancy
16.	J.P.Saphui	ICD/Islampur	SE(Co-ord)/Kol	M.K.Biswas

The promoted UDCs will have to intimate their acceptance/refusal of promotion/posting within 7(seven) days for Kolkata and 15(fifteen) days for outstations from the date of issue of this order. The concerned Controlling officers are hereby requested to obtain written acceptance/refusal of promotion from the promoted persons and to communicate the same to this office within the date specified above.

conditional acceptance of promotion will be entertained. It is further indicated that it is the responsibility of the Controlling officer to obtain written and dated acknowledgement of the receipt of the promotion/posting order from the promotees under them and their written acceptance/refusal of promotion order and to send the same to this office for record and further necessary action so that litigations are avoided.

In case no intimation about acceptance/refusal of above promotion/posting is received from promoted persons within the specified date, their promotion are liable to cancel without further reference. It may be noted by the officials offered promotion that in case of refusal or non-receipt of intimation about their acceptance of promotion in time his/her name will be debarred from promotion for a period of one year or till vacancy arises whichever is later.

The controlling officer are also requested that if any Vigilance disciplinary case is pending or contemplated against any promotee, the effect of promotion should not be given to him and the fact should be communicated to this office forthwith.

Further, the Controlling officers are requested to release the officials who accept promotion without waiting for substitute as per instruction of higher authorities within **15(fifteen)days** from the date of issue of this order.

CS Mittal
(C.S.MITTAL)

Done 24/2/15
Superintending Engineer, Coord(ER)

Copy to:

1. DGW, CPWD, Nirman Bhawan, New Delhi-11.
2. ADG(ER), CPWD, Nizam Palace, Kol-20.
3. All CE(C&E) under ER.
4. All SE(C&E) under ER.
5. All EE(C&E) under ER.
6. Concerned officials through their controlling officer.
7. Estt. section/Coord(ER), Kol.
8. Regional Secretary, All India CPWD Office Staff Association, Kol.
9. General Secretary, CPWD Staff Association(EZ), Kol.

EA to Superintending Engineer, Coord(ER)

- 18 -

ANNEXURE-V

GOVERNMENT OF INDIA
 CENTRAL PUBLIC WORKS DEPARTMENT
 OFFICE OF THE SUPERINTENDING ENGINEER COORDINATION CIRCLE (ER),
 2ND MSO BUILDING, NIZAM PALACE, 17TH FLOOR, 234/4 A.J.C. BOSE ROAD, KOLKATA 20.
 TEL: (033) 2287-7416. FAX NO. (033) 2281-3183.

No.9(255)/SE(C)/ER/CDNII/ 487

Dated: 21-7-06

OFFICE ORDER NO 2006

In partial modification to this office order no. 23 of 2006 circulated vide no.9(255)/SE(C)/ ER/CDNII/330 dt.24.05.06, transfer/posting of the following Head Clerk(on promotion) is hereby ordered in public interest with immediate effect.

Sl.No.	Name Shri/Smt.	From	To	Remarks Vice-Shri/Smt.
1.	D.C.Saikia	GED-I/Guwhati	AAWD/Guwhati	Ex.vacancy

Note: Other terms & conditions will remain unchanged.

Superintending Engineer,Coord(ER)

Copy to:

1. ADG(ER), CPWD, Nizam Palace, Kol-20.
2. Concerned SE(C&E) under ER.
3. Concerned EE(C&E) under ER.
4. Person concerned through his controlling officer.
5. Regional Secretary, All India CPWD Office Staff Association, Kol.
6. General Secretary, CPWD Staff Association, Kol.

EA to Superintending Engineer,Coord(ER)

udct

Affected
Sub
Divisions

FROM : AICPWD OFFICE STAFF ASSOCN.

FAX NO. : +91 33 2287 0401

Ju. 21 2006 07:12PM P1

GOVERNMENT OF INDIA
CENTRAL PUBLIC WORKS DEPARTMENT
OFFICE OF THE SUPERINTENDING ENGINEER, COORDINATION CIRCLE (ER),
2ND MSO BUILDING, NIZAM PALACE, 17TH FLOOR, 34/4 A.L.C. BOSE ROAD, KOLKATA - 20.
TEL: (033) 2287-7416. FAX NO. (033) 2281-3183.

No.9(255)/SE(C)/ER/CDN-II/ 489

Date: 21-7-06.

OFFICE ORDER NO 46 OF 2006

This Office Order No. NIL of 2006 communicated vide letter no. 9(255)/SE(C)/ER/CDN-II/487 dt. 21.7.2006 regarding transfer/posting of Shri D.C.Saikia, UDC from GED-I,CPWD, Guwahati to AAWD, CPWD, Guwahati on promotion as Head Clerk is hereby cancelled due to administrative reasons.

The joining report of Shri Saikia, if already submitted and accepted by the Executive Engineer, AAWD, CPWD, Guwahati shall also be treated as cancelled.

SUPERINTENDING ENGINEER(COORD.) ER

02/07/2006

U/H

Copy to:

1. ADG(ER),CPWD, Nizam Palace, Kol-20.
2. Concerned SE(C & E) under ER.
3. Concerned EEC(E) under ER.
4. Person concerned through his controlling officer.
5. Regional Secretary, All India CPWD Office Staff Association, Kolkata.
6. General Secretary, CPWD Staff Association, Kolkata.

EA TO SUPERINTENDING ENGINEER(COORD.) ER

21/7

Assist
Sub
private

११३२८
मुख्य बायारी बायारी
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH AT GUWAHATI

O.A. NO. 195 OF 2006

Sri Dilip Chandra Saikia

...Applicant

-Versus-

Union of India & Ors.

....Respondents

The written statement on behalf of
the Respondents above named-

WRITTEN OBJECTION OF THE RESPONDENTS

MOST RESPECTFULLY SHEWETH:

1. That with regard to the statement made in paragraph 1 of the instant application the answering Respondents beg to state that the promotion order in respect of the applicant was issued vide letter No.9(255)/SE(C)/ER/CDNII/330 dtd. 24.5.06 under seniority, quota with place of posting GCEC/Guahati. Sri D.C. Saikia vide his letter dtd. 19.6.06 represented for his posting at AAWD/Guahati on medical ground. The case was under consideration. The said order was modified vide letter even No. 487 dtd. 21.7.06 with place of posting to AAWD/Guahati. But later on due to administrative reason the modified order dtd. 21.7.06 was cancelled on the same day.

Contd... P/-

32
Filed
Date of filing
31.7.07
Sri G.C. SC
Guwahati Bench
for respondent

31.7.07

2. That with regard to the statement made in paragraph 2 and 3 of the instant application the answering Respondents have no comment.

3. That with regard to the statement made in paragraph 4.1 of the instant application the answering Respondents have no comment.

4. That with regard to the statement made in paragraph 4.2 of the instant application the answering Respondents beg to state that these are matter of record and the answering respondents do not admit anything which is not borne out of record.

5. That with regard to the statement made in paragraph 4.3 of the instant application the answering Respondents beg to state that the promotion order from UDC to Head Clerk was issued vide letter even No. 330 dtd. 24.5.06 wherein the name of the applicant has appeared Sl. No. 2. The copy of the order was sent by post/FAX to the controlling officers of all the promo- tees i/c that of applicant.

6. That with regard to the statement made in paragraph 4.4 of the instant application the answering Respondents beg to state that the representation of the applicant's dtd. 19.6.06 which was forwarded by Respondent No.3 for change of posting or promotion from GCEC/Guwahati (Bamunimaidan) to AAWD/Guwahati (Air Port) due to his medical ground where a vacancy of Head Clerk is available. The case was under examination/consideration.

7. That with regard to the statement made in paragraph 4.5 and 4.6 of the instant application the answering Respondents beg to state that the representation of the applicant was under consideration and the facts are already explained in above paras of this instant written statement.

8. That with regard to the statement made in paragraph 4.7 and 4.8 of the instant application the answering Respondents beg to state that it was a fact that the modified order was cancelled on the same day within a short time due to the reason already explained in the above paras and the facts are also explained in above paras in the instant written statement. The said action of the respondents is neither arbitrary nor malafide.

9. That with regard to the statement made in paragraph 4.9 of the instant application the answering Respondents beg to state that this office consult and

accept suggestion from the recognised Unions/Associations regarding staff welfare matter i/c transfer, posting etc. of the subordinate cadre under Eastern Region and the said modification/cancellation order was issued for the administrative reasons and there is no malafide on the part of the respondent.

10. That with regard to the statement made in paragraph 10 of the instant application the answering Respondents have no comment.

11. That with regard to the statement made in paragraph 5.1 to 5.8 of the instant application the answering Respondents beg to state that the grounds set forth in the instant application are not good grounds and are also not tenable in the law as well as on the facts and therefore this instant application is liable to be dismissed.

12. That with regard to the statement made in paragraph 6,7 and 8 of the instant application the answering Respondents have no comment.

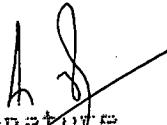
13. That with regard to the statement made in paragraph 9 of the instant application the answering Respondents beg to state that the claim of the application is illegal and ill founded and the applicant is not entitled to get any interim relief.

14. That the respondents submit that the application has no merit and as such the same are liable to be dismissed.

VERIFICATION

I, Shri. Zale Ram Rather.....S/o. Shri. Naths Ram.....
 aged about 47 years, R/o 12, G.P.R.A colony, P.O. Gorchuk.....
 District Kamrup, pin: 781025 and competent officer of the
 answering respondents, do hereby verify that the state-
 ment made in paras 1, 5, 6, 7, 8, 9, 11, 13 & 14 are true
 to my knowledge and those made in paras 2, 3, 4, 10 and 12
 being matters of record are true to my information
 derived therefrom which I believe to be true and the
 rests are my humble submission before this Hon'ble
 Tribunal.

And I sign this verification on this 30th day
 of July, 2007 at Guwahati.


 Signature
 Shri. Zale Ram Rather (1)
 General Elect. Dist. No. 1.
 C.A.W.D, Guwahati, Assam