

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓
O.A/T.A No. 209/2006

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SECTION OFFICER (Judl.)

Shabita
25/10/17

(Suo Remo 12)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERS SHEET

1. Original Application No. 209/06

2. Misc Petition No. _____

3. Contempt Petition No. _____

4. Review Application No. _____

Applicant(s) K.K. Singh

Respondant(s) U.O.I. Jorh

Advocate for the applicant(s) M. Chanda, S. Nayth
G.N. Chakrabarty...
S.B. U. Datta.....

Advocate for the Respondant(s) AMCASC... M. U. Ahmed

Notes of the Registry	Date	Order of the Tribunal
<p>Application is in form of Public Int. for Rs. 50 - of Public Int. for Rs. 50 - 266325977 Dated 17.8.06.....</p> <p><i>Meetho</i> Dy. Registrar</p> <p><i>17.8.06</i></p> <p>Steps not taken</p> <p><i>Meetho</i></p>	21.8.06	<p>Heard Mr.M.Chanda learned counsel for the applicant and Mr. M. U. Ahmed Addl. C. for the Respondents learned Addl. C.G.S.C. for the Respondents</p> <p>The applicant is working as Deputy Director(L) in Guwahati under the Res- pondents. He has approached this Tribu- nal by filing the O.A.No.38 of 2004 which was disposed on on 25.3.04 direc- ting the applicant to make a fresh representation before respondents and directed the respondents to consider the representation. The applicant has contended that he is working at Guwa- hati since 2003 and he is entitled to choice posting at New Delhi. Vide impugned order dated 5.5.06(Annexure XIII) the applicant was transferred from Guwahati to Kolkata. The applicant filed another representation dated 13.5.06 ,against the order dated 5.5.06. The representation was rejected vide impugned order dated 28.7.2006 (Annexure XVI) and he was directed to report to Kolkata regional office of the Directorate.</p> <p>Mr.M.U.Ahmed learned Addl.C.G.S. C. for the respondents has submitted that there are two criminal cases pending against him. The transfer has been effected on public interest.</p>

31/10/2006

21.8.06 Therefore, he prays for four weeks time to file written statement.

Post the matter on 22.9.06. In the meantime status quo as on to-day shall be maintained in so far the applicant is concerned.

Vice-Chairman

In

22.09.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

Learned Counsel for the Respondents submitted that he may be granted short time to file reply statement. Post on 31.10.2006 Interim order will continue till the next date.

Vice-Chairman

mb

31.10.2006 Post on 10.11.2006 granting time to Mr.M.U.Ahmed, learned Addl. C.G.S.C. for filing reply statement. Interim order will continue till such time.

Vice-Chairman

bb

10.11.2006 Present: Hon'ble Sri K.V. Sachidanandan
Vice-Chairman.

Learned Counsel for the Respondents submitted that he has already filed reply statement, copy of the same also served to the learned Counsel for the Applicant. The Applicant may file rejoinder, if any.

Considering the issue involved, I am of the view that the O.A. is to be admitted. Admit. Post on 28.11.2006.

Vice-Chairman

Amud
S. C. S. C.
31.8.06

4/9/06

No Wls has been
filed.

21.9.06.

30-10-06.

No Wls has been
filed.

my

8.11.06

Wls filed by
Respond. Nos. 1 to 4.

my

Wls has been filed.

9.11.06.

27.11-06

No rejoinder has
been filed.

my

29.11.06.

The counsel for the respondents has submitted that he has not received the copy of the rejoinder and he wanted to take instructions. Registry is directed to verify the same. Interim order shall continue till the next date. Post the matter on 20.12.06.

Vice-Chairman

lm

20.12.06

Counsel appearing for the parties submit that pleadings are over. Counsel for the respondents submitted that he may have to file additional written statement to the rejoinder.

Post on 11.1.07 for hearing. In the meantime the respondents may file additional written statement.

Vice-Chairman

30.11.06

Rejoinder filed by the Applicant.

PA.

19-12-06

Verified & no acknowledgment about the copy served to the opposite party pg 11.1.07. Also no date on verification.

Counsel for the respondents prayed for adjournment due to his personal difficulty. Prayer is allowed. Post the matter on 19.2.07.

Vice-Chairman

The case is ready for hearing.

lm

19.1.07.

Counsel for the respondents prays for adjournment for his personal difficulty. Post the matter for hearing on 8.2.07. Interim order shall continue.

Vice-Chairman

10.1.07.

The case is ready for hearing.

18.1.07.

lm

Order dt- 19/1/07 issuing to learned advocates for both the parties.

8.2.07.1. Post the matter on 12.2.07.

Vice-Chairman

23/1/07.

The case is ready for hearing.

7.2.07.

The case is ready
for hearing

O.A. No.209/2006

Notes of the Registry	Date	Order of the Tribunal
9.2.07 order dt-12/2/07 issuing to learned advocate's for both the parties. 13/2/07	12.02.2007 /bb/	Let the case be posted on 14.2.2007. Interim order will continue till such time. Vice-Chairman
	14.2.07 14.2.07	Counsel for the applicant prays for Counsel for the applicant prays for adjourment. Post the matter on 26.2.07. adjourment. Post the matter on 26.2.07.
	lm lm	Vice Chairman Vice-Chairman
the case is ready for hearing. 7.3.07	14.2.07 lm	Counsel for the applicant prays for adjourment. Post the matter on 26.2.07. Interim order shall continue. Vice-Chairman
order dt-8/3/07 issuing to learned advocate's for both the parties. 9/3/07	8.3.2007	Mr.M.Chanda, learned counsel for the Applicant submits that he is not ready with the matter. Post on 28.03.2007. Interim order will continue till such time.

Vice-Chairman

/bb/

27.3.07

S.A 209/06

Notes of Registry

Date

Orders of Tribunal

27.3.07

28.3.2007

Adjourned and posted on 2.4.07.

Document Submitted
by the Applicant.

✓

Vice-Chairman

bb

2.4.2007

Heard learned counsel for the parties. Judgment delivered in open Court, kept in separate sheets.

The O.A. disposed of in terms of the order. No costs.

30.3.07

The case is
ready for hearing
HB

[Signature]
10/4/07
Addressed

[Signature]
Vice-Chairman

/bb/

Received copy of
the order dt. 2/4/2007

[Signature]
11/4/2007
(K.K. SINGH)
Sis. C.H.D.
Applicant

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A. No.209 of 2006

DATE OF DECISION:02.04.2007

Shri K.K.Singh

Mr. M.Chanda

Applicant/s

Advocate for the
Applicant/s.

- Versus -

U.O.I. & Ors

Respondent/s

Mr.M.U.Ahmed, Addl. C.G.S.C.

Advocate for the
Respondents

CORAM

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

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

Vice-Chairman

6/4/07

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 209 of 2006.

Date of Order: This, the 2nd day of April, 2007.

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

Shri Krishna Kumar Singh
S/o Late Badri Narain Singh
Working as Deputy Director (L)
Resident of TAGS, House No.6
Main Road, Kharguli
Guwahati-781001.

..... Applicant.

By Advocates S/Shri M.Chanda, S.Nath, G.N.Chakraborty & Mrs.
U.Dutta.

- Versus -

1. The Union of India
Represented by the Secretary to the
Government of India
Ministry of Human Resource Development (HRD)
New Delhi- 110 001.
2. The Director
Govt. of India
Central Hindi Directorate
Ministry of Human Resource Development (HRD)
West Block-7, R.K.Puram.
3. Dr.P.L.Taneja
Director
Central Hindi Directorate
West Block-7, R.K.Puram.
New Delhi - 110 066.
4. The Administrative Officer
Central Hindi Directorate
West Block-7, R.K.Puram.
New Delhi - 110 066.

.....Respondents.

By Mr. M.U.Ahmed, Addl.C.G.S.C.

O R D E R (ORAL)

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

The applicant was initially appointed as Assistant Director (Linguistic) in the office of the Central Hindi Directorate, New Delhi on 13.02.1989. On 23.08.1996 he was promoted to the post of Deputy Director (Languages) and thereafter he was transferred and posted to Kolkata in the same capacity. In April, 1998 he was transferred to Guwahati. However, after serving three months in Guwahati he was temporarily transferred and posted to New Delhi. Thereafter, Applicant was appointed as Assistant Commissioner on deputation basis at Kolkata under the Commissioner of Linguistic Minorities in India. After four years of serving there he was repatriated and posted again at Guwahati vide order dated 18.6.2003 (Annexure-II). From the averment made in the O.A. it is contended that as per Office Memorandum dated 14.12.1983 (Annexure-III) the Central Govt. civilian employees who is saddled with all India transfer liability are entitled to their choice station posting after serving for a fixed tenure in the North Easter Region. Applicant claimed that as per the said OM he is entitled to get his choice place of posting on completion of fixed two years tenure in North East Region. But while serving as Deputy Director (Languages) at Guwahati office vide order dated 10.02.2004 he was sought to be transferred again to Kolkata. Applicant submitted representation for his choice posting at New Delhi on 15.02.2004 (Annexure-V). Being aggrieved with the aforesaid transfer and non-

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consideration of his choice place of posting the Applicant filed O.A. No.38/2004 before this Tribunal. This Tribunal vide its order dated 20.02.2004 stayed his transfer order. The O.A. was finally disposed of directing the Applicant to file fresh representation with a further direction to the Respondents to consider his representation by passing reasoned order within a time frame. Interim order was extended till the completion of the exercise. Pursuant to the direction of this Tribunal Applicant filed representation on 01.04.2004. Vide order dated 07.02.2005 the Applicant was put under suspension since criminal cases were registered against him. C.P. No.12/2005 so filed by the Applicant was dismissed vide order dated 22.07.2005. Order of suspension was revoked by the Respondents vide order dated 25.04.2005 (Annexure-XI). Thereafter on 05.05.2005 a fresh order has been issued to the Applicant transferring and posting him once again to Kolkata while his representation was pending for consideration. Applicant made representations on 13.05.2005 and 12.06.2005 for posting his at his choice place i.e, New Delhi but vide impugned order dated 28.07.2006 (Annexure-XVI) his request was turned down directing him to report for duty to Kolkata immediately. Aggrieved by the action on the part of the Respondents, the Applicant has approached this Tribunal by way of this O.A. seeking the following main reliefs:-

- "8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned office memorandum No. F.No.5-5/89 Admn. dated 28.07.2006 (Annexure-

✓

XVI) and the transfer order dated 05.05.2006 (Annexure-XIII) issued by the respondents.

8.2 That the Hon'ble Tribunal be pleased to direct the respondents to grant choice station posting to the applicant at New Delhi and till such consideration is made, the applicant be allowed to continue in his present post at Guwahati..”


2. Respondents have filed detailed reply statement contending that the Applicant joined his duty at Guwahati on 11.04.2003. While working at Guwahati large number of complaints were received against him and on enquiry most of the complaints that were made against him were substantiated. Therefore and as his behaviour was undesirable, he was transferred to Kolkata vide order dated 10.02.2004. The Applicant was arrested by Dispur Police on 31.01.2005 and was detained in police custody exceeding 48 hours and therefore he had to be placed under suspension as per Rule 10 of CCS (CCA) Rules, 1965 on 07.02.2005. The cases are still pending before the Chief Judicial Magistrate, Kamrup and Session Court, Kamrup. Applicant's deemed suspension was reviewed by a Committee and the Committee recommended revocation of his deemed suspension. The Committee also recommended shifting of the Applicant from Guwahati for re-building office's image and the said recommendations were accepted HRD Minister. Accordingly, his suspension was revoked and order dated 05.05.2005 transferring & posting the Applicant to Kolkata in vacant post was issued. The Applicant failed to comply with the decision for his shifting to Kolkata and he has no valid ground for challenging the same.



Respondents has specifically stated in their reply statement that the Applicant would have earned entitlement for claim of choice posting after completing two years of fixed tenure including inter alia other conditions. He joined the Guwahati Office on 11.04.2003 and was transferred to Kolkata on 10.02.2004 and his claim for choice place of posting was well ahead of completion of fixed tenure and hence his claim has no validity. After the personal hearing so afforded to the Applicant and keeping in mind the findings of the enquiry his request for choice station posting was found completely devoid of merits and therefore, was rejected by the Respondents.

3. The Applicant has also filed a rejoinder reiterating the contentions made in the O.A. and further contended that he has already completed his fixed tenure North East. He submitted that although the Respondents had temporarily utilized his services in Central Hindi Directorate, Delhi and also under deputation in Kolkata for sometime, he was holding his substantive post in the Regional Office, Guwahati all along from April, 1998. The Applicant has also submitted certain documents by a separate Affidavit.

4. I have heard Mr. M. Chanda, learned counsel for the applicant and Mr. M.U.Ahmed, learned Addl. C.G.S.C. for the Respondents. Learned counsel for the parties have also taken my attention to the various pleadings, materials and evidence placed on record. The short question for consideration, leaving aside all other contentions of malafides, criminal cases, integrity of the Applicant etc. which are not very germane is whether the Applicant



is entitled for his choice posting or not. Learned counsel for the Applicant has relied upon a judgment of this Hon'ble Tribunal passed on 01.03.2002 in the case of **Tapan Kumar Chakraborty v. Union of India and Others in O.A. No.487/2001 published at October, 2002 Page-84 of the Swamysnews** wherein this Tribunal has held as under:-

" The facts are not in dispute. The impugned order of transfer, dated 13-11-2000, has been subject matter of adjudication before this Tribunal. The direction was given to the respondents to consider the case of the applicant for choice of posting. The submission made by the Respondents that the applicant has not made any application for choice of posting cannot be accepted, because the applicant had come before this Tribunal for consideration of choice of posting. No material has been placed on behalf of the respondents to show that the transfer guidelines issued by the Respondents vide their letter, dated 25-1-2000; are not applicable to the applicant.

As mentioned above, it is stated in Para 19 of the guidelines that the guidelines apply to non-teaching staff also to the extent applicable. Reference to the guidelines does not show that the staff working in Regional Office is outside the purview of transfer guidelines. The submission of the Respondents on the material before us cannot be sustained. The rejection of the claim of the applicant in the impugned order, dated 4-12-2001, is not considered justified, as the same is not based on any material. Normally, the transfer orders are not interfered by the Tribunal unless the orders are found to be arbitrary, *mala fide* or without justification. The applicant had come before this Tribunal earlier. The respondents were directed to consider his request. Again his request was turned down taking a new stand. The rejection of applicant's representation could not be supported by any material. The impugned order, dated 4-12-2001, is found to be arbitrary.

The impugned order, dated 4-12-2001, is accordingly set aside. The respondents are directed to consider the case of the applicant for transfer to his choice of posting at Kolkata as per guidelines, dated 25-1-2000, and to accommodate the applicant at Kolkata against existing available vacancy. The Respondents are directed to complete the process within a month of the receipt of this order. The interim order, dated 3-1-2002, shall continue to operate till the completion of the exercise.

Application is allowed as indicated above. There shall however, no order as to costs."

It is an admitted fact that a person who has completed 2/3 years of service in North East is entitled to get his choice station. As far as the Applicant is concerned, in the reply statement filed in O.A.38/2004 the strict contention taken by the Respondents was that since the Applicant has joined in Guwahati office only on 11.04.2003 he had not completed his tenure. Regarding his transfer to Kolkata, this Court vide order dated 21.08.2006 has directed the Respondents to maintain status quo as far as the Applicant was concerned. It is quite clear that the by virtue of the Court order, or otherwise, the Applicant is continue in Guwahati till date. It is borne out that the Applicant has completed his tenure period i.e, for two years in Guwahati by this time. Therefore, this Court is of the view that without going to the merits of the case and the allegations made in the O.A. as well as in the reply statement justice will be met if a direction is given to the Applicant to submit fresh representation and to Respondents to consider the same for his choice place of posting as per rule within a time frame.

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5. Therefore, Applicant is directed to submit a comprehensive representation with all material evidence to the first Respondent within a period of three weeks from the date of receipt of this order. On receipt of such representation, the first Respondent or any order competent authority as directed by him shall consider and dispose of the representation by passing speaking order based on the rule positions, observations made above and the facts of the case communicating the same to the Applicant within a time frame of three months thereafter.

The Original Application is disposed of with the observations made above. There shall be no order as to costs.

However, status quo order that has already been passed on 21.08.2006 shall continue till the completion of the exercise as directed above.



(K.V.SACHIDANANDAN)
VICE CHAIRMAN

/BB/

संख्या सूचित करने की तिथि तारीख Date fixed for notifying the requisite number of stamps and folios.	देने की तारीख Date of delivery of the requisite stamps and folios.	प्रतिनिधि देना की Date on which the copy was ready for delivery.	तारीख Date of making over the copy to the applicant.
20/12/02	20/12/02	21/12/02	21/12/02

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Annexure - XV

IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR,
TRIPURA MIZORAM AND ARUNACHAL PRADESH)

WRIT PETITION (C) NO. 3577 OF 1999

Shri Bhagwan Menghani
Senior Accounts Officer,
Office of the Inland Water Authority of India,
Ministry of Surface Transport,
Government of India,
Parameswari Building,
5th Floor, Chatribatri, A.T. Road,
Guwahati - 781 001.

..... PETITIONER

-VERSUS-

1. Union of India,
Through Secretary to the Govt. of India,
Ministry of Surface Transport,
Government of India, Parameswari Building,
5th Floor, Chatribari, A.T. Road,
Guwahati - 781 001.

2. The Chairman,
Inland Waterways Authority of India,
B-109/112
Commercial Complex, Section 18,
NOIDA (UP).

3. Deputy Secretary,
Inland Water Ways Authority of India,
Minister of Surface Transport,
Government of India,
Head Office B/109-112,
Commercial Complex, Section-18
(Dist. Gautam Budh Nagar)
PIN 201301, Uttar Pradesh.

4. Shri S. Jayaraman,
Chief Accounts Officer,
Inland Water Ways Authority of India
B-109-112, Commercial Complex,
Section 18, Noida,
Uttar Pradesh - 201301.

..... RESPONDENTS

21/12/02

P R E S E N T
THE HON'BLE MR. JUSTICE D. BISWAS

For the petitioner : Mr. B.K. Sarma,
Mr. M. Chanda, Advocates.

For the respondent : Mr. C. Choudhury,
C.G.S.C.

Date of hearing : 16.12.2002

Date of Judgment and Order : 16.12.2002

JUDGMENT AND ORDER
(ORAL)

Heard Mr. B.K. Sarma, learned Counsel for the petitioner assisted by Mr. M. Chanda, learned counsel and also Mr. C. Choudhury, learned Central Government Standing Counsel for the Union of India.

2. This petition has been filed controverting the legality and validity of the order of transfer dated 11.6.1999 (Annexure-5) and consequent release order of the same date. By the aforesaid order of transfer the petitioner who was serving as Senior Accounts officer in the Head Quarter Office at Noida was transferred to Guwahati. The challenge is on the ground that the advertisement issued pursuant to which the petitioner was appointed was meant for staff in the Head Quarter of the Inland Waterways Authority of India which is at Noida. According to Shri B.K. Sarma, learned Senior Counsel the petitioner pursuant to the above advertisement offered his candidature and on selection and appointment joined the post at Noida with the expectation that he would be allowed to continue there till superannuation. Besides, Shri Sarma, further pointed out that the petitioner in a departmental proceeding initiated against the respondent No.1 deposed against the latter. It was on his evidence that

[Handwritten signature]

the respondent No.1 was imposed with a penalty in that departmental proceeding. Out of vengeance, the respondent No.1 initiated the proposal for transfer of the writ petitioner to Guwahati in his personal file which is contrary to the procedure of office administration.

3. Materials on record clearly justify the above submission of the writ petitioner. The advertisement (Annexure-1) and the order of penalty imposed on the respondent No.1 vindicate the grounds on the premises of which the writ petition has instituted.

4. It would appear that the order of the writ petitioner was issued on 11.6.1999 and the petitioner assumed duties at Guwahati without loss of time. By now he has completed three years. Therefore, it would be of no consequence at this belated stage to interfere with the order of transfer which has been complied with.

5. Shri Sarma submitted that the office Memorandum dated 14th December, 1993 provides for transfer and posting of civilian employee of the Central Government posted in the States and Union Territories of North Eastern Region to posting of his choice. The relevant provisions of the aforesaid office Memorandum, Shri Sarma, submits render the writ petitioner eligible for reconsideration for his choice posting. The relevant provision of the office memorandum dated 14th December, 1983 is quoted below :-

"1) Tenure of posting/deputation :-

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

6. There was no dispute at the bar that the aforesaid memorandum is applicable in respect of the Inland Waterways Authority of India and hence, on completion of two years in the North Eastern Region the petitioner is entitled to consideration for posting to a place of his choice. Infact, the respondent authority has also given choice of posting to other employees, namely, Shri M.K. Saha, Director, Shri S.K. Sharma, Senior Accounts Officer and Shri Mahesh Kumar, U.D.C. In the facts and circumstances of the case, this Court is of the opinion that the petitioner's case for transfer to a place of his choice (Noida) is just and proper.

7. This writ petition is disposed of with the direction to the respondents, particularly, Respondent No.2, the Chairman, Inland Waterways Authority of India to consider the representation of the writ petitioner submitted on 10.6.2002 in accordance with the provisions of the Memorandum dated 11th December, 1983 and pass appropriate orders for his transfer to a place of his choice (Noida) within a period of two months from the date of receipt of a copy of this judgment.

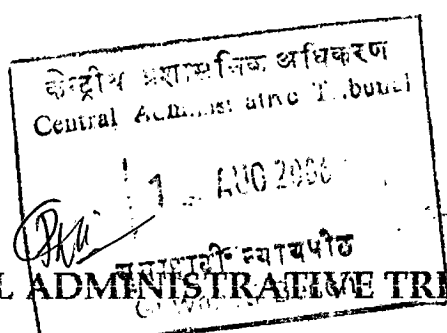
The petitioner is permitted to submit a copy of this Judgment along with other necessary documents to the Chairman immediately.

Sd/- D. Biswas
snadep

SENT TO BE TRUE COPY
Kishna Kanta Sengupta
Date *21st day of Dec. 2012*
Superintendent (Copying Section)
Cauhati High Court
Authorized U/S 76, Act I, 1972

P.N. 22778
20/12/12

21/12/12



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O. A. No. 209 /2006

Shri Krishna Kumar Singh

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

- 13.02.1989- Applicant was initially appointed as Assistant Director (Linguistic) on 13.02.1989 at New Delhi in the Central Hindi Directorate under the department of Human Resource Development. The applicant was promoted as Deputy Director (Languages) on 23.08.1996 and thereafter he was transferred and posted to Eastern Regional Office, Kolkata as Deputy Director (Languages).
- 23.01.2003- Applicant was repatriated and posted in the Regional Office, Guwahati under the Dept. of Central Hindi Directorate as Deputy Director (Languages), vide order dated 23.01.03. He joined for duty at Guwahati on 18.06.2003. (Annexure- I & II)
- 14.12.1983- Government of India, Ministry of Finance, Department of Expenditure, issued O.M No. dated 14.12.83. In terms of the aforesaid O.M, the Central Government civilian employees who are saddle with all India transfer liability are entitled to choice station posting after serving for a fixed tenure of 2/3 years in the NE Region. (Annexure- III)
- 10.02.2004- Applicant was sought to be transferred and posted from Guwahati Regional Office to Regional office, Kolkata. (Annexure- IV)
- 15.02.2004/16.02.04- Applicant submitted representations praying for his choice station posting in Delhi. (Annexure- V, VI)
- 25.03.2004- Applicant approached this Hon'ble Tribunal by filing O.A. No. 38/2004 praying for quashing order of transfer to Kolkata and for further direction upon the respondents for grant of choice station posting at New Delhi. This Hon'ble Tribunal was pleased to stay

cyam @mu 15/3

the transfer order dated 10.02.04 vide it's interim order dated 10.02.04 and finally disposed of the said O.A. vide it's order dated 25.03.04. (Annexure- VII)

01.04.2004- Applicant submitted one representation in compliance with the direction passed by this Hon'ble Tribunal. (Annexure- VIII)

07.02.2005- Applicant was placed under suspension as because he was trapped in a criminal case in a planned manner and an FIR was lodged against him at Dispur Police Station, Guwahati on 31.01.05. (Annexure- IX)

22.07.2005- Applicant approached this Hon'ble Tribunal by filing C.P No. 12/2005, which was dismissed vide judgment and order dated 22.07.05. (Annexure- X)

25.04.2006- Suspension order of the applicant was revoked vide order dated 25.04.06, which was not intimated to the applicant. However, applicant resumed his duties immediately on 05.07.2006 (F.N). (Annexure- XI, XII)

05.05.2006- Respondents issued impugned order dated 05.05.06 transferring the applicant from Guwahati to Kolkata, while representation dated 01.04.04 of the applicant is pending before the respondents and the order dated 25.03.04 of this Hon'ble Tribunal has not been complied with. (Annexure- XIII)

13.05.2006, 12.06.06- Applicant submitted representations to the Respondent No. 2 and 1 against the transfer and posting order dated 05.05.06 and prayed for consideration of his transfer to his choice station Delhi. (Annexure- XIV, XV)

28.07.2006- Respondent No. 2 issued impugned office memorandum dated 28.07.06 informed the applicant that his request for posting to Guwahati or New Delhi has been turned down by the respondent No. 1 and further directed the applicant to report for duty to Kolkata immediately, failing which he would be proceeded as per rules. (Annexure- XVI)

Hence this Original Application.

P R A Y E R S

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned office memorandum No. F. No. 5-5/89 Admn. dated 28.07.2006

Agm @me 15/2

(Annexure- XVI) and the transfer order dated 05.05.2006 (Annexure- XIII) issued by the respondents.

2. That the Hon'ble Tribunal be pleased to direct the respondents to grant choice station posting to the applicant at New Delhi and till such consideration is made, the applicant be allowed to continue in his present post at 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 stay operation of the impugned office memorandum No. F. No. 5-5/89 Admn. dated 28.07.2006 (Annexure- XVI) and the transfer order dated 05.05.2006 (Annexure- XIII) issued by the respondents.
 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.
-

By order of the Tribunal

23

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. 209 /2006

Shri Krishna Kumar Singh : Applicant.

-Versus-

Union of India & Ors. : Respondents.

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Filed By:

Date:-

Advocate

Agm @m 18/6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O.A. No. 209 /2006

BETWEEN:

Shri Krishna Kumar Singh,

S/o- Late Badri Narain Singh,
Working as Deputy Director (L),
Resident of TAGS, House No. 6.
Main Road, Kharguli,
Guwahati- 781001.

-----Applicant.

-AND-

1. The Union of India,
Represented by Secretary to the
Government of India,
Ministry of Human Resource Development (HRD),
New Delhi- 110001.
2. The Director,
Govt. of India,
Central Hindi Directorate,
Ministry of Human Resource Development,
West Block- 7, R.K. Puram,
3. Dr. P.L. Taneja,
Director,
Central Hindi Directorate,
West Block- 7, R.K. Puram,
New Delhi- 110066.
4. The Administrative Officer,
Central Hindi Directorate,
West Block- 7, R.K. Puram,
New Delhi- 110066.

..... Respondents.

1
Filed by me applicant
through: S. Nalin
Advocate
17.08.2006

ayam am 16/8/06

DETAILS OF THE APPLICATION

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

This application is made against the impugned order bearing letter No. F. No. 5-5/89 Admn. dated 28.07.2006 (Annexure- XVI) issued by the Respondent No. 3, rejecting the representation of the applicant pertaining to his transfer and posting from Guwahati to New Delhi as his choice station. The representation was made by the applicant in compliance with the judgment and order dated 25.03.2004 in O.A. No. 38/2004, passed by this Hon'ble Tribunal.

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 after being selected by the U.P.S.C was initially appointed as Assistant Director (Linguistic) on 13.02.1989 at New Delhi in the Central Hindi Directorate under the department of Human Resource Development. The applicant was promoted as Deputy Director (Languages) on 23.08.1996 and thereafter he was transferred and posted to Eastern Regional Office, Kolkata as Deputy Director (Languages).

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In April, 1998 the applicant was transferred and posted as Deputy Director in the Regional Office, Guwahati. However, after serving a period of three months in July 1998 the applicant was temporarily transferred and posted to Central Hindi Directorate, New Delhi along with the N.E. Regional Office in the post of Deputy Director.

- 4.3 That the applicant was appointed on deputation basis at Kolkata under the Commissioner for Linguistic Minorities in India, under the Ministry of Social Justice and Empowerment and after serving a period of more than 4 year as Asstt. Commissioner for Linguistic Minorities, Kolkata he was repatriated and posted in the Regional Office, Guwahati under the Dept. of Central Hindi Directorate as Deputy Director (Languages), which would be evident from the letter No. 1/45/98-35 dated 23.01.2003. The applicant accordingly joined for duty at Guwahati in terms of the above mentioned order and the said fact would also be evident from the letter bearing No. F. No. 3-26/2000- Admn. dated 18.06.2003.

Copy of the letter dated 23.01.03 and 18.06.03 are enclosed herewith for perusal of Hon'ble Tribunal and marked as Annexure- I and II respectively.

- 4.4 That the applicant begs to state that the Government of India, Ministry of Finance, Department of Expenditure, granted certain improvement and facilities to the Central Government civilian employees who are posted in the North Eastern Region vide O.M No. 200014/3/83-E.IV dated 14.12.1983 issued by the Government of India, Ministry of Finance, department of Expenditure. In terms of the aforesaid O.M, the Central Government civilian employees who are saddle with all India transfer liability are entitled to choice station posting after serving for a fixed tenure in the NE Region. The relevant portion of the O.M dated 14.12.1983 issued by the Government of India is reproduced below:

[Handwritten signature]

"Subject: Allowance and facilities for civilian employees of the Central Government serving in the states and Union Territories of North Eastern Region-improvements thereof.

The need for attracting and retaining the services of competent officers for service in the North Eastern Region comprising the states of Assam, Meghalaya, Manipur, Nagaland, Tripura and the Union Territories of Arunachal Pradesh and Mizoram has been engaging the attention of the Government of some time. The Government had appointed a committee under the Chairmanship of Secretary, Deptt. of Personnel and Administrative reforms, to review the existing allowances and facilities admissible to the various categories of civilian central Government employees serving in this region and to suggest suitable improvements, the recommendations of the committee have been carefully considered by the Government and the President is now pleased to decide as follows:

i) Tenure of posting/deputation.

There will be a fixed tenure of posting of 3 years at a time for officers with services of 10 years or less and of 2 years of service at a time for officers with more than 10 years of service, period of leave, training etc., in excess of 15 days per year will be excluded in counting the tenure period of 2/3 years, officers on completion of the fixed tenure of service mentioned above, may be considered for posting to a station of their choice as far as possible. The period of deputation of the Central Government employees to the States/Union territories of the North Eastern Region will generally be for 3 years which can be extended in exceptional cases in exigencies of public service as well as when the employees concerned is prepared to stay longer. The admissible deputation allowance will also continue to be paid during the period of deputation so extended.

Amr Gm 15/12

Copy of extract of the O.M dated 14.12.1983 is annexed hereto for perusal of Hon'ble Tribunal as Annexure- III.

- 4.5 That it is stated that in view of the aforesaid O.M dated 14.12.1983 and 22.07.1998 the present applicant is entitled to get a choice station posting on completion of the fixed 2 years tenure. Moreover, in addition to the aforesaid benefit the applicant is also entitled to S.D.A. reimbursement of H.R.A for old station, additional benefit of L.T.C and a special weightage in service for serving in N.E. Region.
- 4.6 That while working as Deputy Director (Languages), under the Deptt. of Central Hindi Directorate, Guwahati, the applicant received on 16.02.2004 one order dated 10.02.2004 whereby the applicant was sought to be transferred and posted from Guwahati Region office to the Regional Office in Kolkata with immediate effect, even before completion of his fixed tenure of 2 years service in NE Region as laid down by the Government. The applicant meanwhile submitted representation on 15.02.2004 to the respondents praying for his choice station posting in Delhi, followed by another representation on 16.02.2004. But the respondents transferred the applicant from Guwahati to Kolkata with malafide intention and did not consider his choice station posting at New Delhi, which the applicant is legitimately entitled in terms of the professed policy of the Government.

Copy of the order dated 10.02.04 and representations dated 15.02.05 and 16.02.04 are annexed hereto for perusal of Hon'ble Tribunal as Annexure- IV, V and VI respectively.

- 4.7 That being aggrieved at his arbitrary transfer to Kolkata and non-consideration of his choice station posting to New Delhi, the applicant approached this Hon'ble Tribunal through O.A. No. 38/2004 praying for quashing of his order of transfer to Kolkata and for further direction upon the respondents for grant of choice station posting to the applicant. This

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Hon'ble Tribunal was pleased to stay the transfer order dated 10.02.04 vide it's interim order dated 20.02.2004 in O.A No. 38/2004 and finally disposed of the O.A No. 38/2004 vide it's order dated 25.03.04 with the direction as under; -

"..... Accordingly, applicant is directed to file a fresh and detailed representation mentioning his choice place of posting to the respondents within a period of one week from the date of receipt of this order. If such application is made, respondents shall consider the same and pass a reasoned order within one month's time thereafter. Adequate pre-conditional hearing shall also be given to the applicant.

With this, the O.A is disposed of. No costs.

Till the completion of the exercise, interim order dated 20.02.04 will continue."

Copy of the Hon'ble Tribunal's order dated 25.03.04 is annexed hereto as Annexure- VII.

- 4.8 That in compliance with the above mentioned order this Hon'ble Tribunal, the applicant submitted one representation dated 01.04.2004 enclosing therewith a copy of the CAT's order dated 25.03.04, wherein the applicant described interalia his personal problems in details and gave an updated account of various transfers faced by him and further highlighted that prior to his posting at Guwahati, he had already served in Kolkata for about 4 years. The applicant in his representation also referred to his earlier representation dated 12.12.2002 for his posting in New Delhi and stated that his proposed transfer to Kolkata again was a punitive transfer. The applicant therefore reiterated his prayer for his posting to his choice station, New Delhi.

Copy of the representation dated 01.04.04 is annexed hereto for perusal of Hon'ble Tribunal as Annexure- VIII.

[Handwritten signature]

4.9 That while the applicant was anxiously waiting for his transfer and posting to New Delhi, he was surprisingly trapped into a criminal case in a planned manner and an FIR was lodged against him at Dispur Police Station, Cuwahati on 31.01.2005, and sending him to Police custody for 5 days, resulting into his suspension from service. Two fabricated criminal cases on the charge of attempt to rape and trespass etc. was registered against the applicant in the Court of Chief Judicial Magistrate, Kamrup bearing No. CR 202/05, similarly other case has also been committed in the Session Court, Kamrup under No. GR 203/05 and No. 196 K/06 against the applicant. However, nothing prima facie could be established against the applicant and the cases are now pending before the learned Court's aforesaid. The applicant has also filed a cross FIR of Assault, which has been registered in the Court of learned Chief Judicial Magistrate as G.R. 606/05 and charge sheet has been filed and the same is pending before the Court. The applicant was however, placed under suspension w.e.f. 07.02.2005 vide order No. F. No. 5-5/89-Admn. dated 07.02.2005.

Copy of suspension order dated 07.02.05 is annexed hereto for perusal of Hon'ble Tribunal as Annexure- IX.

4.10 That finding no response to his prayers for his choice station posting to New Delhi and due to non-compliance of the order dated 25.03.04 of this Hon'ble Tribunal in O.A. No. 38/2004, the applicant filed one Contempt Petition under C.P. No. 12/2005 in O.A. No. 38/2004 before this Hon'ble Tribunal on 23.03.2005. This Hon'ble Tribunal vide it's judgment and order dated 22.07.2005 in C.P. No. 12/2005, dismissed the Contempt Petition observing that no direction for posting can be given upon the respondents until the order of suspension is cancelled, and accepted the apology tendered by the respondents to that effect.

Copy of suspension order dated 22.07.05 is annexed hereto for perusal of Hon'ble Tribunal as Annexure- X.

as per [Signature]

4.11 That subsequently, vide one order No. F. No. 5-5/89-Admn, dated 25.04.2006, the suspension of the applicant was revoked but the said revocation was neither intimated to the applicant nor any copy of the said revocation order was sent to him. Eventually, following his quarries, the order was shown to the applicant on 05.07.2006 only when the applicant could come to know that his suspension stood revoked w.e.f. 25.04.06. Accordingly, the applicant resumed his duties immediately on 05.07.2006 only when the applicant could come to know that his suspension stood revoked w.e.f. 25.04.06. Accordingly, the applicant resumed his duties immediately on 05.07.2006 (F.N) itself and sent his joining report dated 05.07.2006 to the respondent No. 2.

Copy of order dated 25.04.06 and joining report dated 05.07.06 are annexed hereto for perusal of Hon'ble Tribunal as Annexure- XI and XII respectively.

4.12 That in the meantime, when the representation dated 01.04.2004 of the applicant was pending before the respondents and the order dated 25.03.04 of this Hon'ble Tribunal in O.A No. 38/2004 was still to be complied with by the respondents, a fresh order was issued by the respondents on 05.05.2006 transferring and posting the applicant once again from Guwahati to Kolkata. It is relevant to mention here that the respondents issued the said order when their earlier order dated 10.02.2004 transferring the applicant from Guwahati to Kolkata has been stayed by this Hon'ble Tribunal vide it's order dated 25.03.04.

Copy of order dated 05.05.06 is annexed hereto for perusal of Hon'ble Tribunal as Annexure- XIII.

4.13 That thereafter, the applicant submitted a representation on 13.05.2006 to the Respondent No. 2 against the transfer order dated 05.05.2006 and prayed for consideration of his transfer to his choice station Delhi.

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Subsequently, he submitted another representation on 12.06.2006 to Respondent No. 1 for consideration of his prayer but to no result.

Copy of representation dated 13.05.06 and dated 12.06.06 are annexed hereto for perusal of Hon'ble Tribunal as Annexure- XIV and XV respectively.

- 4.14 That thereafter, the Respondent No. 2 vide his impugned office memorandum No. F. No. 5-5/89 Admn. dated 28.07.2006 informed the applicant that his request for posting to Guwahati or New Delhi has been turned down by the Respondent No. 1 and further directed the applicant to report for duty to Kolkata immediately failing which he would be proceeded against as per rules.

Copy of impugned office memorandum dated 28.07.05 is annexed hereto for perusal of Hon'ble Tribunal as Annexure- XVI.

- 4.15 That the applicant most humbly begs to state that the respondents have been issuing orders time and again transferring the applicant to Kolkata but not inclined to consider his choice station posting to New Delhi which he is legitimately entitled to get in terms of the policy laid down by the Government vide O.M dated 14.12.1983 and 22.07.1998 as stated in para 4.4 hereinabove. The proposed transfer of the applicant to Kolkata does not involve any public interest but for some extraneous reasons only. It is relevant to mention here that the respondent No. 2 in her written affidavit dated 24.05.2005 submitted earlier before this Hon'ble Tribunal in connection with the Contempt Petition No. 12/2005 (in O.A. No. 38/2004) had stated in para 7 of the affidavit that the said transfer of the applicant to Kolkata has been made following complaints received against the applicant from some voluntary Hindi Organisations. It is evident therefore that the proposed transfer is punitive in nature which has been done on the basis of some unfounded and fabricated complaints and that

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too without bringing the same to the notice of the applicant and without giving him reasonable opportunity of being heard.

Further, in the same para No. 7 of her written affidavit as stated above, the Respondent No. 2 had also stated that since a police case has been filed against the applicant in the Court of Chief Judicial Magistrate, Kamrup, the applicant cannot be transferred from Guwahati at this stage. But surprisingly thereafter, the said respondent No. 2 has issued his order dated 05.05.06 transferring the applicant to Kolkata making thereby a clean Volta-face to what she stated earlier before this Hon'ble Tribunal.

As such, the proposed transfer of the applicant to Kolkata is malafide, fabricated, unfair, illegal, vindictive and violative of the principles of natural justice and on these scores the transfer order dated 05.05.06 is liable to be quashed and set aside.

- 4.16 That the applicant most respectfully begs to submit that now since the suspension order against the applicant has been revoked and since the respondents could seek to transfer the applicant to Kolkata, there is no impediments whatsoever to consider the transfer of the applicant to his choice station New Delhi, more so when he is legitimately entitled to his choice station posting after having served for fixed tenure in the NE Region, in terms of the professed policy and O.M dated 14.12.1983 and dated 22.07.1998 of the Govt. of India. The applicant has also got no interest to remain posted at Guwahati which he has confirmed earlier also.
- 4.17 That the applicant further begs to submit that the works of Kolkata office has all along been looked after from Headquarter office, New Delhi and in the event of transfer and posting of the applicant in New Delhi as prayed for, the same may be looked after by the applicant from New Delhi as it is going now.

Further there are two Deputy Directors (L), who have been working in New Delhi office for more than 20 (twenty) years and have

as per @m 15/2

never been posted outside. But the applicant is being denied a posting in Head office, New Delhi even when he is legitimately entitled for his choice station posting in New Delhi as per norms laid down by the Government. Such treatment is discriminatory and violative of Article 14 and 16 of the Constitution of India.

- 4.18 That the applicant most humbly begs to state that while he is staying at Guwahati for official duties, his children have been staying in New Delhi for their studies and career advancements and he has to run from Guwahati to New Delhi to attend his families. As such he does not have any reason for being interested for staying at Guwahati and has been trying for his posting in New Delhi but justice being denied to him. Be it stated that the applicant has not been released from his present place of posting till filing of this application as such the Hon'ble Tribunal be pleased to stay operation of the impugned order memorandum No. F. No. 5-5/89 Admn. dated 28.07.2006 (Annexure- XVI) and transfer order dated 05.05.2006 (Annexure- XIII) till disposal of the original application.
- 4.19 That due to non-consideration of his prayer for his choice posting in New Delhi, the applicant has been incurring heavy losses and sufferings. As such finding no other alternative, the applicant is approaching this Hon'ble Tribunal to interfere with and to protect the rights and interests of the applicant by setting aside the impugned memorandum No. F. No. 5-5/89 Admn. dated 28.07.2006 (Annexure- XVI) and transfer order dated 05.05.2006 (Annexure- XIII) and further directing the respondents to grant choice station posting to the applicant to New Delhi as per the professed policy of the Government.
- 4.20 That this application is made bonafide and for the cause of justice.

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

[Handwritten signature]

- 5.1 For that, the applicant has completed his fixed tenure of 2 years of service in the NE Region and is therefore entitled to all the special incentives including choice station posting as per professed policy of the Government.
- 5.2 For that, the applicant has acquired a valuable and legal right under the O.M dated 14.12.1983 and dated 22.07.1998 for choice station posting.
- 5.3 For that, the respondents have been issuing orders seeking to transfer the applicant to Kolkata with malafide intention and on extraneous considerations but denying his choice posting to New Delhi which he is legitimately entitled under law.
- 5.4 For that, the Hon'ble Tribunal vide it's order dated 25.03.04 in O.A. No. 38/2004 has stayed the previous order dated 10.02.04 whereby the applicant was sought to be transferred to Kolkata and further directed the respondents to consider the choice station posting of the applicant within one month time.
- 5.5 For that, the respondents instead of complying with the directions of the Tribunal as stated in the preceeding para, have once again issued the impugned transfer order dated 05.05.06 seeking to transfer the applicant to Kolkata and the impugned order dated 28.07.06 rejecting his bonafide prayer of choice station posting to New Delhi.
- 5.6 For that, the acts of the respondents are arbitrary, malafide, unfair, vindictive and opposed to the principles of natural justice.
- 5.7 For that, the applicant has submitted representations time and again praying for his choice station posting to New Delhi but justice denied to him.
6. Details of remedies exhausted.

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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 save and except the filing of O.A No. 38/2004 before this Tribunal 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 set aside and quash the impugned office memorandum No. F. No. 5-5/89 Admn. dated 28.07.2006 (Annexure- XVI) and the transfer order dated 05.05.2006 (Annexure- XIII) issued by the respondents.
- 8.2 That the Hon'ble Tribunal be pleased to direct the respondents to grant choice station posting to the applicant at New Delhi and till such consideration is made, the applicant be allowed to continue in his present post at Guwahati.
- 8.3 Costs of the application.
- 8.4 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

ayam @me 17/6

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 stay operation of the impugned office memorandum No. F. No. 5-5/89 Admm. dated 28.07.2006 (Annexure- XVI) and the transfer order dated 05.05.2006 (Annexure- XIII) issued by the respondents.
- 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. | : 26 G 325977. |
| ii) | Date of issue | : 14.8.06. |
| iii) | Issued from | : G.P.O. Guwahati. |
| iv) | Payable at | : G.P.O. Guwahati. |

12. List of enclosures:


As given in the index.

Am @m 106

VERIFICATION

I, Shri Krishna Kumar Singh, S/o- Late Badri Narain Singh, aged about 56 years, working as Deputy Director (Languages), in the office of the Central Hindi Directorate, Guwahati, applicant in the instant original application, 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 17th day of August 2006.



ANNEXURE-I

Speed Post

संख्या/No.1/45/98-35

भारत सरकार

Government of India

सांसाजिक न्याय एवं अधिकारिता मंत्रालय

Ministry of Social Justice & Empowerment

भारत के भाषाजात अल्पसंख्यकों के आयुक्त

Commissioner for Linguistic Minorities in India

टेलीफोन/ Telephone: 2468565, 2468566

टार / Telegram: LIMINCOM

हिन्दी टार / Hindi Telegram : भाषाआयुक्त

फैक्स नं० / Fax No. 0532-2468544

40, अमर नाथ झा मार्ग

40, Amar Nath Jha Marg

दलासबाद-211002

Allahabad -211002

दिनांक/ Dated: 22.01.2003

To,

The Director,

Central Hindi Directorate,

Ministry of Human Resource Development (Department of
Secondary Education & Higher Education),

West Block-VII, Rama Krishna Puram,

New Delhi.

Sub : Repatriation of Shri K.K. Singh, Deputy Director presently on deputation as
Assistant Commissioner for Linguistic Minorities, Kolkata.

Sir,

I am directed to refer to your letter No. 5-5/89-Admn. dt. 06.01.2003 and to state that in pursuance of the Ministry of Social Justice and Empowerment letter No. 18/4/2001-CLM dated 18.12.2002 Shri K.K Singh will stand relieved from his duties as Assistant Commissioner for Linguistic Minorities, Kolkata w.e.f. 3rd Feb. 2003 (A/N) with the direction to report as Deputy Director (Language) in the Regional Office, Central Hindi Directorate, Guwahati.

2. The Officer will be entitled for transfer T.A. and joining time, as per rules from Kolkata to Guwahati.

Yours faithfully,

(T.P. Srivastava)
Deputy Commissioner

Shri K.K. Singh
Sur.
Advocate

Copy forwarded to:

1. ✓ Shri K.K. Singh,
Assistant Commissioner for Linguistic Minorities,
67, Bentinck Street, West Wing,
4th Floor,
Kolkata-69 : for necessary action
2. The In-charge, Regional Office, Central Hindi Directorate, Guwahati.
3. The Deputy Secretary (MC),
Ministry of Social Justice & Empowerment (CLM Section),
Jeevan Prakash Building,
Kasturba Gandhi Marg,
New Delhi : in reference to their letter under reference.
4. The Pay & Accounts Officer,
Ministry of Social Justice & Empowerment,
Shastri Bhawan, New Delhi.
5. Service Book and Personal File of Shri K.K. Singh.


(T.P.Srivastava)
Deputy Commissioner

- 18 -
F.No.3-26/2000-Admn.
Government of India
Central Hindi Directorate
M/O Human Resource Development

Special Post
ANNEXURE-II

West Block-7, R.K. Puram,
New Delhi-110 066

Dated: 18-06-2003.

ORDER

In supersession of this Directorate's Order of even number dated 30.7.2001 Shri Krishna Kumar Singh, Deputy Director(L) is being hereby appointed as Controlling Officer in respect of Group C & D staff of the Regional Office(N E) Guwahati, under S.R. 3(10) w.e.f. 11.04.2003.

The sanction is also accorded for delegation of powers as Head of the Office of that Office. Shri Krishna Kumar Singh Dy. Director (L) is also hereby being appointed as Drawing & Disbursing Officer of that office under Treasury Rule 124 of Delegation of Financial Power Rules in respect of Pay & Allowances of Non-Gazetted Staff as well to the Contingent Expenditure w.e.f. 01.05.2003(F.N) Shri Krishna Kumar Singh, Dy. Director (L) will also function for his own services for the purpose of TA under S.R.191.

In addition, Shri Krishna Kumar Singh, Dy. Director(L) is also authorised to carry out inspections of all the Voluntary Hindi Organisations falling under the N.E.Zone.

A set of specimen signatures of Shri Krishna Kumar Singh, Dy. Director(L) duly attested, is also enclosed.


(Dr. P L Taneja)
Director

Pay & Accounts Officer,
P A O, Shastri Bhavan,
New Delhi.

Copy to:-

1. The Accountant General, Guwahati.
2. Shri K K Singh, Dy. Director (L)
3. All Deputy Directors(L) C.H. Dte.
4. All Regional Offices of C.H. Dte.
5. Accounts Section
6. Office Folder
7. Agent, Canara Bank, Guwahati (A set of specimen signature is enclosed).
8. Regional Office, C.H.D., C/o Das Enterprises 6th Floor, Jaya Nagar, Khanpara, Guwahati-781022 for information (A set of specimen signature is enclosed)
9. Assistant Director(Grants)
10. P A to Director
11. P A to Admn. Officer.


Advocate

- 47 -

ANNEXURE-III

ANNEXURE-III (Extract)

No. 20014/2/83/E.IV
Government of India
Ministry of Finance
Department of expenditure

New Delhi, the 14th Dec '83

OFFICE MEMORANDUM

"Subject : Allowances and facilities for civilian employees of the Central Government serving in the states and Union Territories of North Eastern Region-improvements thereof.

The need for attracting and retaining the service of competent officers for service in the North Eastern Region comprising the states of Assam, Meghalaya, Manipur, Nagaland, Tripura and the Union Territories of Arunachal Pradesh and Mizoram has been engaging the attention of the Government of some time. The Government had appointed a committee under the chairmanship of Secretary, Deptt. Of Personnel and Administrative reforms, to review the existing allowances and facilities admissible to the various categories of civilian central Government employees serving in the region and to suggest suitable improvement. Recommendations of the committee have been carefully considered by the Government and the President is now pleased to decide as follows :

(i) Issue of posting/deputation.

*Shri
Advocate*

- 20 -

There will be a fixed tenure of posting of 3 years at a time for officers with services of 10 years or less and of 2 years of service at a time for officers with more than 10 years of service. periods of leave, training etc. in excess of 15 days per year will be excluded in counting the tenure period of 2/3 years. Officers on completion of the fixed tenure of service mentioned above, may be considered for posting to a station of their choice as far as possible. The period of deputation of the Central Government employees to the States/Union territories of the North Eastern Region will generally be for 3 years which can be extended in exceptional cases in exigencies of public service as well as when the employees concerned is prepared to stay longer. The admissible deputation allowance will also continue to be paid during the period of deputation so extended."

Sd/- S. C. MAHALIK

Joint Secretary to the Government of India

ANNEXURE-IV

Translated from Hindi

ANNEXURE-IV.

F. No. 5-5/89 Admin.
Govt. of India
Central Hindi Directorate
M/o- ILR.D (Dept. of Sec & Higher Edn.)

West Block-7, R.K. Puram

New Delhi-110 066.

Dated 10-02-2004

24

Order

Sri K.K. Singh, Dy. Director (Language), Regional Office, Guwahati, is transferred to Regional Office (East), Kolkata. He is directed to immediately takeover his charge in the Regional Office (East), Kolkata.

He will immediately inform to the undersigned, after taking over the charge. For taking over the charge after traveling from Guwahati to Kolkata, T.A & Joining time shall be admissible to him as per rules.

Sd/-

(Dr. Pusp Lata Taniya)

Director

Sri K.K. Singh,
Dy. Director (Language)
Central Hindi Directorate (Regional Office)
C/O- Das Enterprises, P.O- Khanapara.
Jaya Nagar, Guwahati-781 002.

After one year

Copy to-

Attested
Advocate

From : K.K. SINGH

ANNEXURE-V

Dy. Director (L)

Central Hindi Directorate

(N.E. Regional Office)

Das Enterprise, Jaya Nagar

Guwahati-781022

15th February, 2004

To,

The Director
Central Hindi Directorate
Deptt. of Secondary & Higher Education
M/o., H.R.D., R.K. Puram-W.B.7
New Delhi

Sub : Posting to the station of choice on transfer from the post of Dy. Director (L)
Central Hindi Directorate (N.E.R. Office) Guwahati.

Madam,

It is learnt that the undersigned has been transferred from his present above post to the E.R. Office at Kolkata. It is to submit with due respect that Govt. have provided certain special concessions etc. to officers transferred to N.E. Region, wherein my present posting of Guwahati (Assam) is located. Your kind attention to the provision of (i) fixed tenure & (ii) consideration for posting to a station of choice is drawn and requested that these special concessions may kindly be allowed in my case also.

In view of the above, I submit my station of choice as New Delhi and request your good offices to kindly consider the case of my posting on a post of Dy. Director (L) in the office of the Central Hindi Directorate at New Delhi.

Yours faithfully,

(K.K. SINGH)

Dy. Directorate (L), Guwahati

Copy to :

The Secretary to the Govt. of India

(For kind attention Joint Secretary, Languages),

Deptt. of Secondary & Higher Education, M/o.H.R.D., Shastri Bhavan

New Delhi-110011(Through proper channel). Hon'ble Superior authorities are requested with great respect to kindly intervene into the matter so that my posting for New Delhi is considered.

भारतीय डाक



GUWAHATI GPD (781001)

RL 5530

PA : DILLI

To: THE DIRECTOR C H D,
N. DELHI, PIN:

Wt: 20grams

PS: 0.00, Amt: 22.00, 15/02/2004, 13:41:15

HAPPY NEW YEAR 2004

(K.K. SINGH)

Dy. Directorate (L), Guwahati

Handwritten signature and text:
H.K. SINGH
Advocate

From

K.K. Singh
By. Director (L)
Central Hindi Directorate
North-East Regional Office
C/o Das Enterprise, Jayanagar
Khanapara, Guwahati-781 022.

ANNEXURE-VI

To

The Director
Central Hindi Directorate
M/o-H.R.D., Dept. of Sec. & Higher Edn.
West Block-7, N.K. Puram
New Delhi-110 056.

Dated 16th February 2004.

Sub:- Posting to the station of choice on transfer from post of
By. Director (L), Central Hindi Directorate (N.E.R. Office)
Guwahati.

Madam,

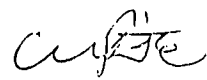
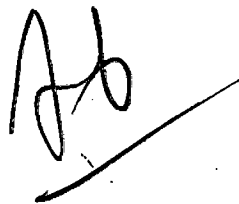
I have just received your order no.3-3/89-Admn. dated 10th Feb. 2004 transferring me from North-East regional office, Guwahati to regional office (east), Kolkata. In this regard, in continuation of my representation dated 10th Feb. 2004 (xerox-copy enclosed), it is to request that as per the incentives provided by the government of India for serving in remote areas, the government have fixed a tenure of two years and also have provided for consideration for posting to station of choice of the officer to be transferred. Reference numbers of relevant government orders are given hereafter- G.I., M.I., O.M.No. 20014/3/83-E.IV, dated the 14th December, 1983, read with O.M.No.20014/3/83-E.IV, dated the 30th March, 1984, 27th July, 1984, G.I., M.I., U.O. No.3943-E-IV/84, dated the 17th October, 1984, O.M.No.F.20014/3/83-E.IV, dated the 31st January, 1985, 25th September, 1985, U.O.No.824-E.IV/86, dated the 1st April, 1986, O.M.No.20014/3/83-E.IV, dated the 29th Oct. 1986, O.M.No.20014/3/83-E.IV/E.II (B), dated the 11th May, 1987, 28th July, 1988 and O.M.No.F.20014/16/86-E.IV/E.II (B), dated the 1st Dec. 1988. In the circumstances, it is requested that I may also be allowed to exercise my option for a station of my choice in respect of my posting from North-East Regional office, Guwahati.

In view of the above, I submit my station of my choice as New Delhi and request your good offices for consideration of my case and the post of By. Director (L) may be made in the office of Central Hindi Directorate, New Delhi.

Encl: As stated above.

Yours faithfully,

NJS



(K.K. SINGH)
By. Director (L)
C.H.D., N.E., Ghy-22.

Copy to:- The Secretary to the
Govt. of India
(For kind attention of
Joint Secretary, Languages)
Deptt. of Secondary & Higher Education,
M/o- H.R.D., Bhastri Bhavan
New Delhi-110 011. (Through proper channel)

Attested
By
Advocate

(K. K. Singh)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH.

ORDER SHEET

Orig. App/ Misc. Petn/Cont. Petn/ Rev. Appl.

CR 38/04

In O.A.

Name of the Applicant(s)

K K Lingh

Name of the Respondent(s)

12-3-2004

Advocate for the Applicant

Mr. M. Chanda, G. N. Chandra, S. Chandra, S. Chandra

Counsel for the Railway/ C.G.S.C.

C.G.S.C.

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

25.3.2004 present: The Hon'ble Shri K.V.Prahladan
Administrative Member.

Heard Mr.M.Chanda, learned counsel
for the applicant and also Mr.A.Deb Roy,
learned Sr.C.G.S.C. for the respondents
at length.

Considering the facts and circum-
stances of the case, I am of the view ø

Cont./2



Attested
Advocate

Contd.

25.3.2004 that ends of justice will be met, if a direction is issued to the applicant to file a fresh representation before the respondents. Accordingly, applicant is directed to file a fresh and detailed representation mentioning his choice place of posting to the respondents within a period of one week from the date of receipt of this order. If such application is made, respondents shall consider the same and pass a reasoned order within one month's time thereafter. Adequate ^{pre decisional} opportunity for hearing shall also be given to the applicant.

With this, the O.A. is disposed of. No costs.

Till the completion of the exercise, interim order dated 20.2.2004 will continue.

Sd/MEMBER(ADM)

Certified to be true copy
प्रमाणित प्रतिलिपि

Section Officer (I)
C.A.T. GUWAHATI BANCH
Guwahati-781005

From

K.K.Singh
Dy. Director (Languages)
Central Hindi Directorate
M/o-H.R.D., Deptt. of Sec.
& Higher Education
C/o Das Enterprise, Jayanagar
Khanapara, Guwahati-781 022.

ANNEXURE-VIII

To

The Secretary to the Govt. of India
M/o-H.R.D., Deptt. of Sec. & Higher
Education, Shastri Bhavan
New Delhi-110 001.

Delhi Rep
Dated 01st April 2004.

(THROUGH THE DIRECTOR, C.H.D., NEW DELHI)

Sub:- Posting to the station of choice on transfer from the post of
Dy. Director (Languages), Central Hindi Directorate (N.E.R. Office),
Guwahati.

Respected Sir,

With humble submission and in continuation of my earlier representation dated 16-02-2004 (enclosed for ready reference), I would like to draw your kind attention on the subject cited above and submit that being highly aggrieved with transfer and posting order number 5-5/89-Admn. dated 10.02.2004 whereby the undersigned is sought to be posted in the Regional Office of the Central Hindi Directorate at Kolkata. In the circumstances, I had to approach the Hon'ble C.A.T. Guwahati bench by filing an O.A. registered as O.A.No.38 of 2004. The said O.A. now disposed off on 25.03.2004 with the direction to the undersigned to submit a fresh representation within a week from the date of receipt of the Hon'ble C.A.T. order dated 25.03.2004 (enclosed for ready reference), hence the present representation.

1. Most humbly and respectfully I beg to say that prior to my posting at Guwahati, the undersigned served at Kolkata for a period of about four years from 1998 to 2003. On repatriation from the deputation post at Kolkata, I have been posted at Guwahati Regional Office and had joined here as Deputy Director (Languages) on 11.04.2003. Thereafter, I have been continuously working in this region. At the time of repatriation from Kolkata, I had submitted a representation dated 12.12.2002 for my posting at Delhi on compassionate grounds. Recently, on receiving the transfer order dated 10.02.2004, I again submitted a representation on 16.02.2004 and prayed for choice station of Delhi for posting in terms of Ministry of Finance O.M.No.20014/3/83-E.IV. dated 14.12.1983, O.M. No.20014/16/86-E.IV/E.II (B) dated 1st December 1988 and 22-07-1998. However, the authority did not pass any order on my repeated representations.

N*J*

*Allexter
Law Advocate*

As per O.M. dated 14.12.1983, 01.12.1988 and 22.07.1998 a civilian government employee with ten years service is entitled to choice station posting on completion of fixed tenure of two years. I am almost completing two years, but surprisingly, the impugned transfer order dated 10.02.2004 was issued in respect of me ordering my posting to Kolkata.

2. It is relevant to mention here that my family and other dependant members are residing at Delhi, one son and daughter out of total three children are presently pursuing their under-graduate courses in Delhi and my youngest son has just finished his final plus-two exams in the last week of March 2004 at Kolkata.

3. In view of O.M. dated 14.12.1983, 01.12.1988 and 22.07.1998 of the Ministry of Finance, the undersigned is entitled to choice station of posting at Delhi on a priority basis.

4. It is pertinent to mention here that at present there are five Dy.Directors(Languages) under the Central Hindi Directorate in different regions and head office at New Delhi. But, surprisingly none of them except the Dy.Director (Languages) of Chennai and myself have been in the regional office, Guwahati at any point of time. ~~It is further relevant to mention here that out of five incumbent Dy.Directors (L), the two - namely Dr.(Smt.) Shashi Rani Bharadwaj and Dr.D.C.Dixit have been working at the head office, New Delhi for more than twenty years and have never been posted outside New Delhi in their career. There is no transfer policy or guideline existing in our department. Transfers and postings are effected at the 'whims' of the authority on a 'pick and choose' basis and the undersigned has become a scape-goat of the arbitrary system of transfer and posting.~~ ^{in this deptt.}

5. It is ought to be mentioned here that the undersigned has been transferred and posted for three times in a span of less than eight years. The particulars are given below:-

- a. From New Delhi to Kolkata in November 1996.
- b. From Kolkata to Guwahati in April 1998 and again,
- c. From Kolkata to Guwahati on repatriation from deputation in Feb./ April 2003 and now for the fourth ^{time} present order for Kolkata from Guwahati within less than a year.

6. I would also like to draw your kind attention on the following points.

a. When the O.A.number 38 of 2004 came up for admission before the Hon'ble C.A.T., Guwahati bench on 25.03.2004, the learned senior C.G.S.C. Mr.A.Deb Ray submitted before the Court that he had got the instructions that on the basis of certain complaints of the Voluntary Hindi Organisations of this region, the competent authority issued the transfer and posting order dated 10.02.2004. I was shocked after listening such submission of the learned counsel, which was made on the basis of the instructions of the competent authority;but, surprisingly till date I have not been served with any such complaint for my comments as is required under the rule. But, it appears that the action has been taken against me by way of transfer without any opportunity to the undersigned.

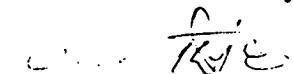
Therefore, the posting order of 10.02.2004 appears to be punitive in nature without following principles of natural justice. It is relevant to note that after my posting at N.E.N. office, Guwahati, it came to my notice on inspection of records that some Voluntary Hindi Organisations are not utilising government funds properly for the propagation of Hindi. Being a disciplined officer and always having a regard for proper utilisation of government funds and also having watchful eye on preventing the wastage and usurpation of the government money, I initiated some steps before putting up cases of VHO's for recommendation of financial assistance to them. Some unscrupulous Voluntary Hindi Organisations with sole motive of siphoning government fund were naturally not happy with the situation as this officer was not able to fulfil their fictitious demands. It is presumed that such Voluntary Hindi Organisations might have lodged baseless and imaginary complaints against me after ^{not} being satisfied due to strict compliance of financial and academic accountability. But, I trust and believe that the authorities should not act on the basis of any complaint of any vested circle without providing any opportunity to me. In view of the aforesaid circumstances, you are requested to kindly confirm

whether it is a fact that the undersigned has been transferred to Kolkata on the basis of the complaint lodged by any Voluntary Hindi Organisations or any other quarter.

However, I request your kind honour and goodself to kindly consider my case for posting me at my choice station of Delhi. I shall be grateful and thankful to your kind honour for this act of kindness. I also pray you to kindly grant an opportunity to hear me in person.

With regards,

Yours faithfully,



(K. K. SINGH)
Dy. Director (L)

C.H.D., NER office, Ghy.

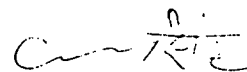
Copy to:- The Director

Central Hindi Directorate
M/o-H.R.D., Deptt. of Sec. &
Higher Education, West Block-7
R.K.Puram, N.Delhi-66.

- With a request that it may please be confirmed that my transfer order dated 10-02-2004 was issued on certain complaints and allegations. In view of the government instructions referred above and Hon'ble CAT, Ghy order dt.25.03.2004, my case of posting at the station of choice at Delhi may please be considered on a priority basis. Opportunity for hearing me in person may also be given.

Encl: As stated.

Yours faithfully,



(K. K. SINGH)
Dy. Director (L)
C.H.D., Ghy-22.

N*J*

ANNEXURE-IX

53

{Rule 10 (2) of CCS (CCA) Rules, 1965}

F.No. 5-5/89-Admn.,
Government of India
Central Hindi Directorate
Ministry of Human Resource Development
Department of Secondary & Higher Education

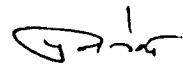
West Block-VII, R.K. Puram,
New Delhi-110066
Dated: 7.2.2005

ORDER

WHEREAS a case against Sh. K.K. Singh, Dy. Director in respect of a criminal offence is under investigation.

AND WHEREAS the said Sh. K.K. Singh, Dy. Director was detained in custody on 31.1.2005 for a period exceeding forty-eight hours.

NOW, THEREFORE, the said Sh. K.K. Singh, Dy. Director is deemed to have been suspended with effect from the date of detention, i.e., the 31.1.2005 in terms of sub-rule (2) of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 and shall remain under suspension until further orders.


(Dr. P.L. Taneja)
Director

Sh. K.K. Singh,
Dy. Director,
Regional Office,
Central Hindi Directorate,
Guwahati.

*Attested
Sur.
Advocate*

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ANNEXURE-X 54

Contempt Petition No.12 of 2005
(In Original Application No.38 of 2004)

Date of Order: This the 22nd day of July 2005.

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

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

Mr Krishna Kumar Singh,
Deputy Director (L),
Central Hindi Directorate (N.E.),
Government of India,
Ministry of Human Resource Development,
Das Enterprise, Jaya Nagar,
Khanapara, Guwahati-781002.

.....Petitioner

By Advocates Mr M. Chanda, Mr G.N. Chakraborty,
and Mr S. Nath.

- Versus -

1. Shri B.S. Baswan,
Secretary to the Government of India,
Ministry of Human Resource Development,
Department of Secondary and Higher
Education,
Shastri Bhavan, New Delhi-110001.

2. Smti Bela Banerjee,
Joint Secretary (L) to the
Government of India,
Department of Secondary and
Higher Education,
Ministry of Human Resource Development,
Shastri Bhavan, New Delhi-110001.

3. Dr P.L. Taneja,
Director,
Central Hindi Directorate,
Ministry of Human Resource Development,
Department of Secondary and
Higher Education,
West Block-7,
R.K. Puram, New Delhi-110066.

.....Alleged Contemners

By Advocate Mr M.U. Ahmed, Addl. C.G.S.C.

.....

*Attested
Sur.
Advocate*



- 32 -
2

55

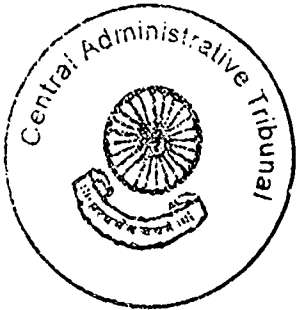
ORDER (ORAL)

SIVARAJAN. I. (V.C.)

The applicant had earlier approached this Tribunal by filing O.A.No.38 of 2004, which was disposed of by directing the applicant to make a detailed representation, and the respondents were directed to pass a reasoned order within one month's time thereafter. This order was passed on 25.3.2004.

2. The applicant has filed the Contempt Petition on 23.3.2005, i.e. just on completing one year from the date of the order. In other words, notwithstanding the non-compliance of the direction, the applicant waited for the expiry of one year for filing of the Contempt Petition. It is stated that the applicant had filed a representation on 1.4.2004 seeking for implementation of the direction issued by this Tribunal. It is stated that the respondents have not, so far, complied with the direction issued by this Tribunal.

3. The respondent No.3 has now filed an affidavit. It is stated that the allegation that no action has been initiated by the respondents to dispose of the representation filed by the applicant in pursuance of the order issued by the Tribunal is false. It is stated that the applicant was given a personal hearing, but before taking a final decision the respondents had to take into account a number of complaints, which were received against the applicant from the Voluntary Hindi Organisations functioning in the applicant's jurisdiction. For this purpose an Enquiry Committee was constituted to examine the complaints. The Enquiry Committee has submitted its report and a number of complaints which were received against the



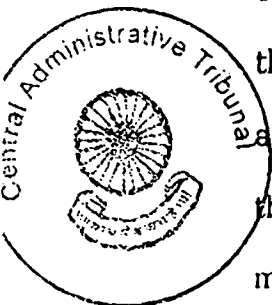
[Handwritten signature]

applicant were found substantiated in the report of the Enquiry Committee. In the above circumstances it took sometime to take a final decision on the applicant's representation. It is also stated that in the meantime the applicant was arrested by the police and an FIR was lodged against the applicant on 31.1.2005 in the Dispur Police Station at Guwahati. Based on the same the applicant was placed under suspension as provided under Rule 10 of CCS (CCA) Rules, 1965 and the applicant is presently under suspension.

4. The applicant has filed a reply wherein it is stated that though the applicant had filed the representation on 1.4.2004 he was called for a personal hearing only on 27.7.2004 and that the applicant rushed to Delhi on the next day and had a meeting with the Joint Secretary and a hearing given. Regarding the police complaint etc. it is stated that it was a fictitious complaint and a motivated one.

5. Mr M. Chanda, learned counsel for the applicant, submits that this Tribunal had issued the direction on 25.3.2004; that the applicant had submitted the representation on 1.4.2004 and therefore, the respondents were bound to pass an order within one month thereafter. He further submitted that in the instant case the hearing was also conducted after four months only and no final order has been passed pursuant thereto. The counsel submits that this is a gross violation of the order of the Tribunal.

6. Mr M.U. Ahmed, learned Addl. C.G.S.C. for the respondents, on the other hand, submits that the respondents have tendered apology for the delay that occurred in the disposal of the representation. He further submitted that the applicant was given a personal hearing and that while the matter was under process the applicant was arrested by the police and an FIR was filed. In such



Per/

- 34 -

4

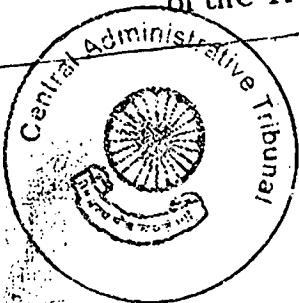
circumstances the respondents had no option but to keep the applicant under suspension as provided under Rule 10 of the CCS (CCA) Rules. Since the applicant is under suspension there is no question of giving any posting to him until the period of suspension is over.

7. True there has been delay on the part of the respondents in compliance of the directions issued in the order of the Tribunal. Further, this is admitted and an apology has been tendered in the affidavit filed by the respondent No.3. Having regard to the fact that subsequently the applicant was arrested in a police case and kept in custody and was later suspended as provided under Rule 10 of the CCS (CCA) Rules there is no question of directing the respondents to pass any order as directed in the final order until the suspension order is cancelled.

8. In the circumstances, we accept the apology tendered by the respondents and dismiss this Contempt Petition since no direction can be issued to the respondents to comply with the earlier direction of the Tribunal at present.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (A)



TRUE COPY

प्रतिनिधि

[Signature]
26.7.05
अनुभाग अधिकारी
Section Officer (Judl)
Central Administrative Tribunal

सहायक-4
GUWAHATI-5.

[Signature]
26/7

- 35 -

ANNEXURE - XI

F.No.5-5/89-Admn.
Government of India
Central Hindi Directorate
Ministry of Human Resource Development
Department of Secondary & Higher Education

West Block-VII, R.K. Puram
New Delhi-110066
Dated: 25.04.2006

ORDER

WHEREAS an order placing Sh. K.K. Singh, Dy. Director (L) under suspension was made by Director, Central Hindi Directorate on 7.2.2005.

Now, therefore the undersigned in exercise of the powers conferred by Clause (c) of sub rule (5) of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 hereby revokes the said order of suspension with immediate effect.

(Dr. P.L. Taneja)
Director

Copy to:

1. Sh. K. K. Singh, Dy. Director (L), Central Hindi Directorate, Regional Office Guwahati.

25/4/06

Received my as
July 06?

Attested
Adv.
Advocate

- 36 -

Rgd. L. no. 8657

NO. REG. F. 2-9/Vitta/36

Govt. of India

Central Hindi Directorate,
Ministry of Human Resource Development,
Regional Office Guwahati, (N.E.)
Jayanagar, Khanapara, Guwahati- 22.

ANNEXURE-XII

To,

Dated- 5/7/2006.

The Director,
Central Hindi Bte.,
Min. of Human Resource Development,
R.K. Puram,
New Delhi- 110066.

Subject:- resuming of duties as By. Director(L) N.E.R. Guwahati.

Madam,

This is to refer your order no. 5-5/89-Adma. dated- 25/04/2006 (shown to the undersigned on 5/7/2006) and to state that I hereby resume duties as B.D.(L), on 5/7/2006 (F/N) in the N.E. Regional Office Guwahati.

This is for further necessary action and record in the H.Q. Office at New Delhi.

Your's faithfully


(K.K. Singh.)
By. Director(L.)

Resumed in duty

*Attested
Law
Advocate*

- 37 -
मिसिल संख्या 2-2/04-प्रशासन
भारत सरकार
केंद्रीय हिंदी निदेशालय
मानव संसाधन विकास मंत्रालय
(माध्यमिक और उच्चतर शिक्षा विभाग)

स्टोड पोस्ट

ANNEXURE-XIII

पश्चिमी खंड-7, आर.के. पुरम,
नई दिल्ली-110066
दिनांक 5. 5 .2006

आदेश

श्री के०के० सिंह, उपनिदेशक (भाषा) क्षेत्रीय अधिकारी, गुवाहाटी का स्थानांतरण, क्षेत्रीय कार्यालय (पूर्व) कोलकाता में किया जाता है। उन्हें निदेश दिए जाते हैं कि वह इस आदेश प्राप्ति के तुरंत बाद क्षेत्रीय कार्यालय (पूर्व) कोलकाता में अपना कार्यभार ग्रहण करें।

कार्यभार ग्रहण करने के पश्चात वे अधोहस्ताक्षरी को भी तुरंत सूचित करेंगे। गुवाहाटी से कोलकाता जाकर कार्यभार ग्रहण करने के लिए उन्हें नियमानुसार यात्रा भत्ता एवम् अधिग्रहण अवधि देय होगी।

श्री के०के० सिंह,
उपनिदेशक (भाषा),
केंद्रीय हिंदी निदेशालय,
मार्फत दास इन्टरप्राइजेज, पी० ओ० खानपाड़ा,
जयानगर, गुवाहाटी-781002

(Signature)
(डा० मुष्मलता तनेजा)
निदेशक

5/5/06

प्रतिलिपि -

- 1 प्रभारी क्षेत्रीय कार्यालय, केंद्रीय हिंदी निदेशालय (क्षेत्रीय कार्यालय) मार्फत दास इन्टरप्राइजेज, पी०ओ० खानपाड़ा, जयानगर, गुवाहाटी-781 002।
- 2 निदेशक महोदय के निजी सहायक।
- 3 प्रशासनिक अधिकारी के निजी सहायक।
- 4 सभी उपनिदेशक (भाषाएं)।
- 5 क्षेत्रीय कार्यालय, हैदराबाद, चैन्नई, गुवाहाटी, कोलकाता को सूचनार्थ।
- 6 लेखा अनुभाग- दो प्रतियां।
- 7 सभी ब्यूरो प्रमुख।
- 8 श्री क्षितीश कुमार, कनिष्ठ प्रशासनिक अधिकारी, क्षेत्रीय कार्यालय कोलकाता को सूचनार्थ।
- 8 कार्यालय आदेश फोल्डर।

(Signature)
Advocate

GUWAHATI GPO 781001
RL A 3979
Counter No: 1.0F-Code: PWS
To: DIRECTOR C.H.,
N DELHI 66



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ANNEXURE - XIV

Wt: 10 grams,
Ant: 22.00 . 15/05/2006 . 10:04

From : K.K. Singh, Dy. Dir (L)
C/o TAGS, House No. 6
Main Road, Kharghuli
Guwahati - 781004

To,

The Director
Central Hindi Directorate (M/o HRD, Govt. of India)
W.B. 7, R.K. Puran
New Delhi - 110066

(On priority basis)

Dated 13th May, 2006.

Sub : Your order dtd. 5/5/2006 & my representation dtd. 1/4/2004 regarding posting for station of choice (Delhi).

Madam,

Your above referred order No. 2/2/04 Admin. dtd. 5/5/06 has transferred me to Kolkata directing to take charge of E.R.O. there, while my above mentioned representation submitted in pursuance of the Hon'ble C.A.T., GHY Bench order dtd. 25/3/04 is still pending for your kind consideration. In addition to this, I have served much longer than the fixed tenure of two years in the N.E. Region and am quite eligible for posting of my choice (Delhi) as per special concessions provided by the Govt. to the Govt. servants posted in N.E. Region. Therefore, it is again requested that my case of posting at Delhi may kindly be considered sympathetically.

As far as taking charge of E.R. Office at Kolkata on transfer is concerned, presently, I am not in a position to do so because of ongoing trial of inspired and motivated cases in Kamrup District Court, in which my appearance is must. The next dates in cases are fixed roughly on weekly intervals from the last week of May '06.

However for the exigency of service, I can take additional charge of E.R. Office, Kolkata and go there on tour when required. It may be noted that such arrangements are prevailing in the Dept. for the last several years.

You are also requested to clarify that my deemed suspension made by your order No. 5/5/89 Admin (P) dtd. 7/2/05 has been revoked or not.

Yours faithfully

(K. K. Singh)
Dy. Director (L.)

ePost Center	Guwahati-gpo
Date	17/05/2006
Sender	k.k.singh
Message No.	8986-9-1/1
Number of Pages	1
Total Cost	10 Rs.

Nav Delhi
Advocate

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ANNEXURE - XV

From : K. K. Singh, Dy. Director (L)
C/o TAGS, House No. 6
Main Road, Kharghuli,
Guwahati - 781004.
12 June, 2006.

To,

The Secretary to the Govt. of India
Deptt. of Secondary & Higher Education
Ministry of H.R.D.
Shastri Bhawan, New Delhi - 110 001

(Through proper Channel)

Sub : Dir. C.H. Dte's order dated 5/5/2006 and my representations dated 1/4/2004 & 13/5/2006 for posting at station of choice (Delhi).

Sir,

With great respect, it is to draw your kind attention to the above subject and to submit that in pursuance of the Hon'ble C.A.T., Ghy Bench order dt. 25/03/2004, my representation dt. 1/4/04 was pending consideration/disposal. But in the mean time some vested interest people got me implicated in police cases and as a result I was placed under deemed suspension w.e.f. 31/1/05 vide an order dated 7/2/2005. Although neither a revocation order nor a clarification sought for in the matter has been issued by the authorities in the C.H.D., they have again transferred me to Kolkata by their order dt. 5/5/2006. This was done in spite of an earlier transfer order for Kolkata is still held in abeyance by the above referred Hon'ble C.A.T. order.

Presently I am to appear in three court cases in Guwahati at least thrice a month. In the circumstances, I am not in a position to go Kolkata on transfer, however, I can take additional charge of that office as it is being run presently.

It is prayed that my case for posting at the station of my choice (Delhi) may kindly be considered on merits and grounds of agony & suffering undergone in the past several years. It may also be added that by making the order dt. 5/5/06, C.H.D. authorities have tried to further complicate the matter and have virtually stopped me from resuming duties even when I may no longer be under suspension. I shall ever remain obliged for your act of kindness in this regard. This may kindly be treated on priority.

Encls : Copy of repr. dt. 15/5/06 to
the Dir. C.H.D. & copy of
transfer order dt. 5/5/2006

Yours Faithfully

K.K. Singh
(K. K. Singh)

Dy Dir. (L), C.H.D.

O/C

ePost Center	Guwahati-gpo
Date	12/06/2006
Sender	K.K.Singh
Message No.	8986-10-1/1
Number of Pages	1
Total Cost	10 Rs.

Attested
for
Advocate

By E Post

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Regd.
ANNEXURE-XVI

F.No. 5-5/89 Admn.
Government of India
Central Hindi Directorate
Ministry of Human Resource Development
(Department of Secondary and Higher Education)

West Block -7, R.K.Puram,
New Delhi 110066
Dated: 28-7-2006


OFFICE MEMORANDUM

The representation of Sh. K.K. Singh, Deputy Director(L) dated 22nd June 2006, addressed to Education Secretary was submitted to ES for his kind orders. The representation of Sh. Singh was examined and the ES has turned down his request for posting to Guwahati or New Delhi. Sh. K.K.Singh is accordingly hereby directed to report immediately to Kolkata, Regional Office of the Directorate, failing which, he will be proceeded against as per rules.


(Dr.P.L.Taneja)
Director

**Sh. K.K. Singh, Dy. Director (L),
C/o TAGS, House No. 6
Main Road, Kharghuli,
Guwahati-781001**

No means?

1998 

*Attested
Law
Advocate*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL	
Central Administrative Tribunal	
GUWAHATI BENCH : GUWAHATI	
O.A. No. 209/2006	8 NOV 2007 গুৱাহাটী ন্যায্যপীঠ Guwahati Bench

In the matter of:

Sh. Krishna Kumar Singh - Applicant

Vs

Union of India and Others - Respondents

I, Dr. P.L. Taneja wife of Sh. Madan Gopal Taneja aged about 59 years, working as Director, Central Hindi Directorate, M/o Human Resource Development, Govt. of India, New Delhi-66 do hereby solemnly affirm and state as follows:

1. That I am the respondent no.2 in the instant application.

2. That I have been authorised by the respondent no.1 and 4 to file the reply as hereunder on their behalf also.

3. That I have gone through the contents of the Application filed by the Applicant. I am well acquainted with the facts of the case and that the statements made in the parawise reply based on the chronology of events are true to the best of my knowledge and belief, and nothing material has been concealed therefrom.

Chronology of events:

1. Sh. K.K. Singh, Dy. Director (Language), **the Applicant in the above O.A.** was on deputation with the Office of Commissioner for Linguistic Minorities as Assistant Commissioner from 6.11.98 to 3.2.2003.
2. He was repatriated to the parent Department w.e.f. 4.2.2003.
3. After his repatriation, he was posted to North-Eastern Regional Office, Guwahati. He did not comply with the orders.
4. He joined his duties at Guwahati on 11.4.2003.
5. The behaviour of the Applicant while posted in Guwahati attracted a large number of complaints against him, which were enquired into by the Director, CHD. He was also given an opportunity for submitting his defence.
6. The enquiries revealed that most of the complaints were substantiated.
7. In the wake of above, the Applicant was transferred to Eastern Regional Office, Kolkata of the Directorate vide order dated 10.2.2004 as his behaviour was undesirable.
8. The Applicant challenged the said transfer order in the Guwahati Bench of Hon'ble CAT through the OA No.38/2004, which was stayed by the CAT.
9. The OA No. 38/2004 was disposed of by the Hon'ble Tribunal on 25.3.2004 with the direction to Sh. Singh to file a fresh representation for choice posting. The Govt. was directed by the CAT to consider his representation and dispose the same by passing a reasoned and detailed order.

GP-1

10. In pursuance of above, he made a representation dated 1.4.2004, which was considered by the Ministry. In the process of consideration, he was also given a personal hearing by the then Joint Secretary (Languages) on 23.9.2004.

11. The complaints received against the officer were further enquired into by the Ministry through a Committee comprising of Sh. O. P. Phuja, Under Secretary and Sh. N.C. Bordoloi, Joint Director(Education) , Govt. of Assam. The Committee submitted it's report on 24.11.2004. The complaints were found substantiated.

12. The final order was about to be passed taking into account the complaints received against him, clarification of Sh. Singh, report of the Enquiry Committee and findings of the personal hearing, however, in the meantime, he was arrested by Dispur Police on 31.1.2005 on charges of attempted rape of a girl student.

13. He remained in Police custody for a period exceeding 48 hours and had to be placed under deemed suspension as per Rule 10 of CCS (CCA) Rules, 1965 on 7.2.2005. A chargesheet was filed against him in the Court of Chief Judicial Magistrate, Dispur, Guwahati.

14. He filed an Application Contempt Petition No.12/2005 before Hon'ble CAT, Guwahati Bench alleging contempt of court for non-compliance of their orders regarding disposal of his representation dated 1.4.2004 for choice posting. At this stage, it was pleaded before the Hon'ble Tribunal that since he was under suspension, a decision on his representation for choice posting could not be taken.

15. The Hon'ble CAT were pleased to dismiss the contempt petition on 22.7.2005 on the basis of the submissions of the Respondents.

16. His deemed suspension was reviewed by a Committee consisting of Sh. Madhukar Sinha, Director, M/o HRD and Sh. S. Mohan, Dy. Secretary, which was headed by the then Joint Secretary (Languages) Smt. Bela Banerjee.

17. After reviewing his case, the Committee recommended revocation of his deemed suspension.

18. The Committee also recommended shifting of Sh. Singh from Guwahati for re-building the image of the office. The recommendations were accepted by the Hon'ble HRD Minister.

19. Accordingly, his deemed suspension was revoked on 25.4.2006 and a transfer order dated 5.5.2006 was issued posting him to Kolkata because the post of Dy. Director was laying vacant in Kolkata.

20. Sh. Singh again made a representation on 25.7.2006 addressed to Education Secretary for his choice posting. This was considered and the Education Secretary rejected his representation of choice posting. Rejection of his representation was conveyed vide OM dated 28.7.2006.

21. Sh. Singh has failed to comply with the decision taken by Education Secretary on his shifting from Guwahati to Kolkata, which has already been approved by the HRM on the recommendation of the Committee, which reviewed his deemed suspension.

22. Sh. Singh has again filed a Original Application with the Guwahati Bench of Hon'ble CAT. The case is posted for hearing on 22.9.2006.

Hence, this reply.

Parawise reply on behalf of Respondents

Most respectfully showeth as under:

Facts of the case

4.1 Contents of para 4.1 do not need any reply.

4.2 Contents of para 4.2 also do not need any reply being matter of records.

4.3 Contents of para 4.3 do not need any reply.

4.4 That the answering Respondents are fully aware of the provisions made by the Union Government for improvement of

the service conditions of the officers posted in the North-Eastern Region by grant of special benefits, however, it may kindly be appreciated that grant of such benefits are earned by the employees by dint of satisfying the terms and conditions attached to the same and not by mere knowledge thereof.

4.5 That as already submitted in the OA No.38/2004 before this Hon'ble Tribunal, the Applicant would have earned entitlement for claim of choice posting after completing two years of fixed tenure including inter alia other conditions. He joined the Guwahati Office on 11.4.2003 and was transferred to Kolkata Regional Office on 10.2.2004 i.e. well ahead of completion of fixed tenure his claim for choice posting has no validity. The decision for his transfer was taken in the wake of a number of complaints received against him from NGOs.

The complaints were enquired into by Respondent No.2 and most of them were found substantiated. Since, his behaviour was undesirable, the Respondents took a well thought out decision to shift him from Guwahati. It was a conscious decision and was not taken in casual manner. It may be pertinent to point out that the complaints were got further examined by a committee comprising of Sh. O.P. Phuja, Under Secretary and Sh. N.C. Bordoloi, Joint Education Director, Govt. of Assam. The Committee concluded that the complaints received against the applicant were true

(Annexure-I). Since, his posting at Guwahati was terminated before completion of two years, he could not earn entitlement for claiming posting at station of choice, hence, his contention that he has earned entitlement for choice posting in terms of OM dated 14.12.1983 is completely unfounded.

4.6 That as submitted in the preceding paragraph any of the benefits envisaged in Government orders are earned by its officers by satisfactory performance of duties and good conduct, the benefit cannot be granted to the officers as a matter of bounty particularly when they do not perform their duties in a satisfactory manner; and their behaviour earns bad name to the organisation. The decision regarding his transfer to Kolkata was taken, as submitted in preceding paragraph, after a number of complaints were received against him from various NGOs functioning in North-East. The complaints, as submitted in succeeding paragraphs, were got examined and found to be substantiated, the Respondents had no choice except shifting him to some other station. **Keeping in view the position which was getting explosive on account of his unseemly behaviour and insulting treatment given by him to the members of public, the Respondents could not afford to post him at Guwahati and, thus, to wait till he attained eligibility for claim of choice posting ignoring the unrest among the people which was caused by the Applicant's behaviour.** The complaints received against him, and his involvement in a

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criminal case for which he was arrested by Assam Police on 31.1.2005 speak volume of his conduct and character.

4.7 That the Respondents have full respect for this Hon'ble Tribunal. They have always obeyed and implemented the orders issued by this Hon'ble Tribunal. Accordingly, the applicant's representations made in pursuance to this Hon'ble Tribunal's orders in the OA no. 38/2004 was considered by the answering Respondents. In the process, the applicant was also given a personal hearing by the Joint Secretary (Languages). After the personal hearing and keeping in mind the findings of the enquiry, his request for choice posting was found completely devoid of merits, and hence rejected by the Respondents.

4.8 That it is most humbly submitted that although the Respondents have full sympathy with it's employees, however, the administrative actions of transfer etc. and awards of any benefit or punishment are guided by the conduct of the employees. If the employees earn benefits for good conduct and performance of duties, they are also subject to denial of the same if their conduct warrants the same. In the case of the present applicant, since, facts and circumstances warranted denial of benefits as envisaged in the Department of Expenditure OM dated 14.12.1983, he was denied of the same.

4.9 That it is only applicant's personal behaviour, which led to his arrest by the Dispur Police and filing a chargesheet in the Courts. At this point of time, the Respondents had only to invoke the provisions of various rules framed by the Union Government for dealing with the situation arising out of above. Accordingly, he was placed under deemed suspension. Trial of the applicant and final orders on the charges framed against him are the jurisdiction of Hon'ble Courts and the Respondents had no role in this process.

4.10 That the Respondents are bound to go by the relevant rules of the Union Govt. for dealing with the cases of the employees charged by the Police. Hence, the applicant's allegation that the Respondents committed any non-compliance of this Hon'ble Tribunal's orders is baseless. As submitted in the preceding paragraphs, the applicant's representation dated 1.4.2004 was duly considered formally and by personal hearing, any decision in this regard had to be taken on the basis of the merits of the case. In fact, the Contempt Petition filed by the applicant was completely misplaced as final orders on his representation dated 1.4.2004 made in pursuance of the orders of this Hon'ble Tribunal could not be made at that point of time as the applicant was under suspension for remaining in Police custody for a period exceeding 48 hours in a criminal case. However, the same

Am

has now been complied with by passing a reasoned order dated 28.7.2006 after revocation of his deemed suspension.

It is most humbly submitted that just as his case became ripe for review of his deemed suspension, the Respondents did the same and revoked his suspension, however, since, the circumstances warranted his shifting from Guwahati, the Respondents could not afford to retain him at that station.

While reviewing his suspension after taking into account the facts and circumstances of the case, it was concluded by a duly constituted committee that his retention at Guwahati would be against the interest of the organisation. Since, his conduct was earning bad name to the organisation, to re-build the image of the organisation, it had become imperative to shift him to some other station (Annexure-II).

4.11 That the applicant's statement made in this paragraph alleging non-communication of the order revoking suspension is false. The order was dispatched by registered post to his last known address by registered post (Annexure-III). At this stage also, the applicant was acting with malafide intentions as he made a query regarding revocation of his suspension. However, he was again informed of the action of revocation of his suspension order (Annexure-IV). However, the candidate again defied the orders and did not report to the Kolkata

Qnt

Regional office. As such, the whole scenario brings out his defiant attitude. He was also issued a show cause for his behaviour. He is being proceeded against for non-compliance of orders.

4.12 That the applicant's averment that his representation dated 1.4.2004 is pending with the Respondents and also that this Hon'ble Tribunal's order in OA No. 38/2004 is still pending compliance is completely misplaced. A conscious decision has been taken by the Respondents for shifting him to Kolkata Regional Office taking into account facts and circumstances of the case, the applicant is only supposed to comply with the same instead of wasting valuable time of this Hon'ble Tribunal by filing misconceived applications.

4.13 The contents of the paragraph do not need any reply.

4.14 That the representation of the applicant dated 13.5.2006 has been considered by the Respondents at the level of Respondent no.1, the highest executive officer of the Union with reference to facts of the case and rejection whereof has already been duly communicated to him. As a result of this the applicant, being a Class-I officer must have reconciled with the same and instead of engaging himself in making of representations, reported to the Kolkata Office (Annexure-IV). This amply brings out his behaviour and lack of faith in

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employers. For this act of defiance, the applicant deserves to be dealt with strictly. The Respondents request this Hon'ble Tribunal to pass the orders as they deem fit against the applicant.

4.15 That as submitted in the preceding paragraphs, his representation for choice posting has already been rejected in view of the following:

- I) His behaviour was attracting a number of complaints against him.
- II) He was given full opportunity to submit his clarification on the complaints and his clarification was unsatisfactory.
- III) The complaints were enquired into by the Respondents.
- IV) The complaints were found substantiated and his explanation was not found satisfactory.
- V) His retention at Guwahati station was unaffordable to the Respondents in the sensitive area of North-East, the Respondents were compelled to transfer him from Guwahati to some other station.

Viewed in the light of above, the applicant's allegation that the Respondent's action is malafide and unfair and violative of the principles



of natural justice have no legs to stand upon.

And by defying the orders of the Respondents to whom he is subordinate, he is again rendering himself liable to disciplinary actions as per rules.

4.16 That since the applicant has not earned entitlement for choice posting in terms of the OM dated 14.12.1983, it is for the Respondents to decide that at what station they need the applicant's services. As regards, pendency of the this Hon'ble Tribunal's orders staying his transfer to Kolkata, it is most respectfully submitted that while deciding the C.P., the Hon'ble Tribunal had left it to the discretion of the Respondents to consider his representation for choice posting whereon, they have taken a conscious decision in the light of facts and circumstances of the case.

4.17 That the practice of assignment of the additional charge to the officers based at headquarters was resorted to on account of non-availability of Dy. Directors. Since, the officers assigned such charges do not have this duty as a part of their regular assignment, they cannot be forced to look after the charge of Regional Offices. He being a regular Dy. Director with the duty of functioning in Regional offices has no right to claim such treatment. His contention that two Dy. Directors

are posted in Delhi for more than 20 years is totally false.

Both the Dy. Directors were promoted as Dy. Directors only in

the year 2002, hence, the statement of the applicant is aimed

at misleading this Hon'ble Tribunal. More so, it is for

the employer to decide as to which of his subordinates will be posted to which station.

4.18 That the action of rejection of his representation for choice posting is attributable to his behaviour, the consequences thereof are to be borne by him and his family members. Had he been sensitive towards his family, his duties he would not have engaged himself in activities for which he is being prosecuted. By making such statements he is trying to unduly gain the sympathy of this Hon'ble Tribunal.

4.19 That the submissions made in the preceding paragraph suffice to reply his contentions.

4.20 That the applicant's contentions being completely devoid of merits, he is not entitled for choice posting.

5. Grounds:

5.1 For that the applicant has not completed the fixed tenure in the North-Eastern Regional Office, he is not entitled for grant of benefits under the same.

5.2 For that he would have earned the entitlement after completing the fixed tenure to the satisfaction of the Respondents, he cannot be considered for grant of the same.

5.3 That the applicant's representations for posting of choice have been considered at the highest level and having been found unfounded have been rejected.

5.4 That the applicant's representation made in pursuance of this Hon'ble Tribunal's order in the OA No. 38/2004 formally and by giving a personal hearing followed by final consideration by Respondent no.1, the highest executive officer of the Union, he was bound to obey the same.

5.5 For that the Respondents order for transferring him to Kolkata is a well thought out decision.

5.6 For that the Respondents have considered his representations taking into account his behaviour, conduct and character, they cannot afford to place an officer in the sensitive states of North-East who is being tried in a Trial Court for attempt to rape. Further, the complaints received against him having been found substantiated, no commonsense would allow to retain him at Guwahati.

5.7 That the representations made by the applicant have been considered with due application of mind and having been found unjustified have been rejected.

Prayer

With the submissions made in the **Facts of the case** and the **Grounds**, this Hon'ble Tribunal is most respectfully requested to kindly dismiss the applicant against the applicant.


Deponent
Dr. PUSHP LATA TANEJA
Director
Central Hindi Directorate
Ministry of Human Resource Dev,
West Block-7, B. K. Puram,
New Delhi-110066

Verification

Verified by me on this 8th day of September, 2006.



Dr. PUSHP LATA TALWAR
Director
Central Hindi Directorate
Ministry of Human Resource Dev.
West Block-7, R. K. Puram,
New Delhi-110066

Subject : Report on the functioning of regional office of Central Hindi Directorate Guwahati in light of complaints against Sri K.K. Singh, Deputy Director.

1. As per orders of Govt of India, Ministry of Human Resource Development, the team comprising of two officers namely Shri N.C. Bordoilo, Joint Director, department of Secondary Education Govt. of Assam and O. Phuja, Under Secretary, Ministry of H.R.D (Department of Secondary & Higher Education) New Delhi, the complaints in the office of Central Hindi Directorate at Guwahati on 24th November '04. In all 13 representative of various Volunteer Hindi Organisations met the team. Their signature and written statements were obtained. These documents are attached for record and necessary action. It will be seen from these written statements that following major grievances were put before the team :
 - (i) Everyone had personal experience of the insulting treatment meted out to them from Deputy Director, C.H.D. The complaints narrated their woes and gave detailed description of the insults heaped on them. In fact 80% time of the inquiry team was spent on this aspect.
 - (ii) The character of the Deputy Director, C.H.D. is questionable.
 - (iii) The officer delays Inspections or does not come for inspection when promised. There is allegation that he does not do the Inspection properly.
 - (iv) There are allegation regarding demanding money by The Officer from V.H.Os. in lieu of consideration of their applications for annual grant.
 - (v) One allegation is that the Dy. Director keeps his office close and discourages the visitors for meeting him.
 - (vi) The Dy Director has spoiled the atmosphere for propagation of Hindi in N.E. region.
 - (vii) The Dy Director has the habit of loose talk with lady pracharaks. He also spreads caste, creed and regional politics.
 - (viii) The Dy. Director does not associate the non-official member of the respective state while making an inspection of that particular state. Rather he has associated one Mr. Bhattacharya of Kolkatta as non-official member. As alleged, Mr. Bhattacharya is indulging in undesirable activities.
 - (ix) One V.H.O's representative gave documentary proof regarding stay of Dy. Director and lady staff of C.H.D's office at Shillong while on office duty. On 4/9/03 and 5/9/03 he took her to Shillong and both stayed at Youth Hostel, Shillong. Two room sent receipts Nos. 171 and 172 are attached for record and necessary action, if authorities desire to take.

2. The Deputy Director, Sri K.K. Singh was also heard by the team and his remarks on the above allegations were also invited. He denied the allegation with regard to insulting treatment to V.H.Os, character, inspections, loose remarks etc. He admitted the association of Sri Bhattacharya of Kolkatta with inspections. He also admitted that he took lady staff to Shillong as stated in Para 1. (ix) above.

3. After interacting with all concerned e.g. V.H.Os, Dy. Director and staff of C.H.D's office, the team gives the following findings :

- (i) There is widespread resentment in the region against Sri K.K. Singh, Dy Director. The team expresses that people concerned here are rather surprised as to why Sri Singh is not being transferred despite so many complaints against him. The team is fully convinced that the officer has been heaping insults on V.H.Os. He is in the habit of talking loose. He is tarnishing the image of Govt. of India.

Authenticated
G.S.

Dr. PUSHP LATA TANEJA
Director
Central Hindi Directorate
Ministry of Human Resource Dev.
West Block-7, R. K. Puram,
New Delhi-110056

20/11/04

- (ii) The charge that Dy Director accepts money could not be proved as there was no direct evidence.
- (iii) The practice of associating MR. Bhattacharya of Kolkata as non-official member of the inspection team, is highly objectionable. Similarly ignoring The State Govt. official as state representative, is also deplorable.
- (iv) The Dy Director admitted that he took with himself the lady staff to Shillong on official duty. He also said that when he fell ill at Shillong, the lady staff Nursed/looked after him. Such behaviour on the part of the officer, speaks volume in so far as the allegations regarding his character are concerned.
- (v) He is so unpopular that he has been assaulted twice in the past. As he says, due to this fear he keeps the doors of the office closed. The normal functioning of the office is thus hampered. He is irresponsible also. For example, as 22nd Nov '04 he did not open the office due to the reason that it was Bharat Bandh day and staff had not come. When asked why he himself did not open the office because he was having one key of the office, he gave very strange answer. He said that it was not his duty to open the office. He does not realise the Sanctity behind this and thus violates the institutional and conduct norms. He has no respect for institutions like C.H.D. Head Quarter or ministry.
- (vi) There are loopholes in the inspection procedure adopted by the Dy Director. He visits Schools/Institutions when Hindi classes are not being conducted. The 'time of inspection' is chosen by him. C.H.D. Head Quarter can frame detailed guidelines and plug the loopholes.

General Remarks :

The behaviour of Sri Singh to the undersigned on 23-11-04 was also not good. When Sri Phuja handed him a "Notice for enquiry team's visit on 24/11/04" and requested Sri Singh to sign office copy in lieu of receipt of notice, he asked Sri Phuja to take signature from his staff. However when Sri Phuja insisted, Shri Singh gave his initials. During the day Sri Singh went for lunch from 12:30 p.m to 3:30 p.m. when Sri Phuja was in his office. He also did not make any arrangement for team's sitting. Sri Singh does not pay any attention to the cleanliness, punctuality and harmony in the office. He does not inspect the visitors' register and dispatch register. Many wrong entries were shown to him. The racks containing records are dusty. There is no computer in the office. Photocopy machine is non functional. He does not have systematic approach towards works, layout or official dealing.

<p><i>(Signature)</i> 24/11/04 (N.C. Bordoloi) Joint Director Department of Secondary Education Govt. of Assam Guwahati</p>	<p><i>(Signature)</i> 24/11/04 (O.P. Phuja) Under Secretary Ministry of Human Resource Development Department of Secondary & Higher Education Govt. of India, Camp : Guwahati</p>
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Authenticated
PS
Dr. PUSHP LATA TANEJA
Director
Central Hindi Directorate
Ministry of Human Resource Dev.
West Block-7, R. K. Puram,
New Delhi-110068

-18-

ANNEXURE-II

6 -43-

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(v) Where his suspected to engaged himself in activities prejudicial to the interests of the security of the State.	No
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11. After carefully examining all the facts and details of the case the Committee makes the following observations:

- (i) That the suspension of Shri KK Singh beyond May 1, 2005 has become technically invalid in view of the review not having being conducted within the stipulated period;
- (ii) That the employee Shri K.K. Singh has already been released on bail indicating the investigations are completed;
- (iii) That charge sheet has been filed and his continuance in the office is not likely to prejudice the trial;
- (iv) That the trial in the Court is likely to take long time and continued suspension will be unduly harsh on the employee and his family members;
- (v) That Ministry of Home's OM cited in Para 7 also directs that it is essential to ensure that the period of suspension is reduced to the barest minimum.

12. In view of the foregoing the Committee recommends that:

- (a) Subsistence allowance be increased by 50% of subsistence allowance, being paid at present from 1.5.2005 till the date of revocation of suspension as per F.R. 53;
- (b) The immediate revocation of the suspension as no purpose is served by keeping Shri K.K. Singh, Deputy Director, Central Hindi Directorate, in continued suspension. The Department may consider transferring him out of Guwahati Centre of Central Hindi Directorate, to allow rebuilding of trust and confidence in Guwahati Centre.

Authenticated
Dr. PUSHP LATA TANEJA
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Central Hindi Directorate
Ministry of Human Resource Dev.
West Block-7, B. K. Park
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S. Mohan
DS (L)

Madhukar Sinha
Director (CR)

Bela Banerjee
Joint Secretary (L)

F.No.5-5/89-Admn.
Government of India
Central Hindi Directorate
Ministry of Human Resource Development
Department of Secondary & Higher Education

West Block-VII, R.K. Puram,
New Delhi-110066
Dated: 25.04.2006

ORDER

WHEREAS an order placing Sh. K.K. Singh, Dy. Director (L) under suspension was made by Director, Central Hindi Directorate on 7.2.2005.

Now, therefore the undersigned in exercise of the powers conferred by Clause (c) of sub rule (5) of Rule 10 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 hereby revokes the said order of suspension with immediate effect.


(Dr. P.L. Taneja)
Director

Copy to:

1. Sh. K. K. Singh, Dy. Director (L), C/o TAGS, House No.6, Main Road, Kharghuti, Guwahati-4.

Authenticated
Dr. PUSHP LATA TANEJA
Director
Central Hindi Directorate
Ministry of Human Resource Dev.
West Block-VII, R. K. Puram,
New Delhi-110066

Ministry of Human Resource Development
(Department of Secondary and Higher Education)

West Block-7, R.K. Puram,
New Delhi-110066
Dated: 13-6-2006

OFFICE MEMORANDUM

The undersigned is directed to refer to the e-mail from Sh. K.K. Singh, DD (L) dated 13 May 2006 and to state that while reviewing the deemed suspension of Sh. Singh, the M/O HRD have ordered to post Sh. K.K. Singh at Kolkata. As regards revocation of his deemed suspension, it is informed that the deemed suspension stands revoked vide Order No. 5-10 dated 13.5.2006.

(Kishish Kumar)

Administrative Officer

Sh. K.K. Singh, Dy. Director (I),
C/o TAGS, House No. 6
Main Road, Kharghuli,
Guwahati-781001

Authenticated
Dr. PUSHP LATA TANEJA
Director
Central Hindi Directorate
Ministry of Human Resource Development,
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গুৱাহাটী কেন্দ্ৰীয় প্রশাসনিক আয়তন
Central Administrative Tribunal

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
গুৱাহাটী বেঞ্চ
GUWAHATI BENCH: GUWAHATI

In the matter of:-

O.A.No. 209 of 2006

Shri Krishna Kumar Singh.

.... Applicant.

-Versus-

Union of India and others.

... Respondents.

- And -

In the matter of:-

Rejoinder submitted by the applicant
against the written statement filed by
the respondents.

The applicant abovenamed most respectfully begs to state as follows:-

1. That with regard to the statements regarding chronology of events stated in paragraphs 1 to 22 of the written statement, this applicant begs to state that the applicant was transferred and posted as Dy. Director in the Regional Office, Guwahati in April, 1998. In July, 1998 the applicant was transferred on temporary basis and posted at Central Hindi Directorate (CHD), New Delhi alongwith his post of Regional Office, Guwahati. Thereafter, he was placed on deputation with the office of the Commissioner for Linguistic minorities, Kolkata from 06.11.1998 to 03.02.2003. On his repatriation from his deputation service on 04.02.2003,

Filed by the applicant
through advocate
Sri C. N. Chakrabarty
22/11/2022

he was posted back at Regional office, Guwahati, where he joined w.e.f 11.04.2003. As such, although the applicants services were temporarily utilized in CHD, Delhi and also under deputation in Kolkata for sometime, but he was holding his substantive post in the Regional office, Guwahati all along from April, 1998 and he has been in the roll of N.E. Region for all practical purposes continuously from April, 1998 till date. As such he is entitled to the benefit of choice station posting in terms of the office memorandum no. 200014/3/83-E. IV dated 14.12.1983 on completion of his fixed tenure of his two years service. Accordingly, the applicant submitted representation on 15.02.2004 for his choice station posting in Delhi. On 16.02.2004, the applicant received one order dated 10.02.2004, whereby he was sought to be transferred from Guwahati and posted in the regional office, Kolkata. His order of transfer to Kolkata was issued with malafide intention on the basis of some concocted and unfounded allegations just to frustrate his legitimate claim for transfer to his choice station Delhi. The said transfer to his choice station Delhi. The said transfer order was therefore challenged before this Hon'ble Tribunal through O.A. No. 38/2004 and this Hon'ble Tribunal was pleased to stay the transfer order vide its interim order dated 20.02.2004 in O.A.No. 38/2004 following the filing of O.A.No. 38/2004, the applicant was trapped into a criminal case in a planned manner with a false FIR filed against him resulting into his arrest by Dispur Police station, keeping him in judicial custody for 5 days with consequential suspension from service imposed on the applicant, w.e.f 31.01.2005. The criminal case is now pending before the Court. Subsequently, earlier this Hon'ble Tribunal vide its judgment and order dated 25.03.2004, finally disposed of the O.A.No. 38/2004, directing the applicant to file a fresh representation to the respondents within a week mentioning his choice place of posting and further directing the respondents to consider the same and pass a reasoned order within one months order within one month's time. But even thereafter, the fresh representation dated 01.04.2004 of the applicant

for his choice station posting to Delhi has not been considered by the respondents who is still maintain that the applicant has to join at Kolkata in terms of transfer order dated 10.02.2004 which has already been stayed by this Hon'ble Tribunal vide its interim order dated 20.02.2004 and continued to be stayed vide order dated 25.03.2004. Situated thus, the applicant filed a contempt petition no. 12/2005 before this Tribunal due to non-compliance of the order dated 25.03.2004 of this Tribunal in O.A.No. 38/2004. At this stage, the respondents tendered apology before this Tribunal and submitted that the applicants representation for choice station posting could not be considered since he was under suspension at the relevant time and stated that the same would be considered soon the suspension is revoked. Being on their submission and accepting their apology this Hon'ble Tribunal dismissed the contempt petition vide its judgment and order dated 22.07.2005 in C.P No. 12/2005 observing that no direction for posting can be given upon the respondents until the order of suspension is cancelled. Eventually the order of suspension has been revoked w.e.f 25.04.2006, but the order of revocation was deliberately not delivered to the applicant and kept concealed. Subsequently, the following his queries, the applicant has been shown his order of revocation dated 25.04.2006 on 05.07.2006 and thereafter only he could know that his suspension stood revoked from 25.04.2006. As such the applicant resumed his duties immediately on 05.07.2006 (F.N) itself and sent his joining report dated 05.07.2006 to the respondent no. 2. But in the meantime the respondents acting malafide, issued another transfer order dated 05.05.2006 transferring and posting the applicant again to Kolkata. The applicant then submitted representations on 13.05.2006, 12.06.2006 and 25.07.2006 once again reiterating his prayer for choice posting, which has also been rejected by the respondents vide their impugned order dated 28.07.2006.

Hence, this O.A no. 209/2006 before this Hon'ble Tribunal.

2. That the applicant categorically denies the statements made in paragraphs 4.4, 4.5, 4.6, 4.7, 4.8 and 4.9 of the written statement and begs to state that the sole criteria for choice station posting is the completion of the fixed tenure of service in N.E. Region as provided under rules professed by the Government, which the applicant has fulfilled as stated above and nowhere the personal behaviour of the incumbent has been mentioned as a prerequisite or bar in the O.M dated 14.12.1983. The Hon'ble Tribunal has also directed the respondents vide its order dated 25.03.2004 in O.A.No. 38/2004 to consider the choice station posting of the applicant. Even the respondents themselves have also deposed before this Tribunal during the hearing of contempt petition no. 12/2005 that the case of the applicant for choice station posting would be considered as soon as the suspension of the applicant is revoked. But even thereafter, the same has not been considered although the suspension has been revoked w.e.f 25.04.2006 and a new plea has now been resorted to regarding misbehaviour which is their after thought only. This apart, the applicant has been sought to be transferred to Kolkata on the alleged ground of misbehavior, which is not the remedy for misbehavior under law. The respondents could have initiated disciplinary proceeding for such misbehaviour under the provisions of law but instead, the applicant has been sought to be transferred to Kolkata only in order to frustrate the legitimate transfer of the applicant to his choice station. Further, if the alleged misbehaviour can be taken care of by transferring the applicant from Guwahati to Kolkata, the same could have been done by transferring him from Guwahati to his choice station Delhi also.
3. That the applicant denies the statements made in paragraphs 4.9 and 4.10 of the written statement and begs to submit that the respondents do not have any right to deny the choice station posting of the applicant on the ground of court case as stated by them in the written statement. The court cases are independently matters which will take its own course and will

end into its own consequences depending upon the outcome of the case which has no nexus with the choice station posting. This plea is not sustainable more so, when the respondents have sought to transfer the applicant to Kolkata during the pendency of the court case, there should not be any independents in transferring the applicant to his choice station Delhi in the same situation.

Further, the annexure II attached to the written statement evidences that the committee referred to by the respondents have only recommended in the said annexure that the department may consider transferring the applicant out of Guwahati Centre to allow rebuilding of trust and confidence of Guwahati centre. It has nowhere recommended to transfer the applicant to Kolkata or elsewhere, nor has objected to his transfer to Delhi. Hence the contention of the respondents are not sustainable.

4. That the applicant categorically denies the statements made in paragraphs 4.11, 4.12, and 4.14 of the written statement and further begs to submit that the statement of the respondents that the order of revocation of suspension was sent by registered post to the applicant is false and amounts to misrepresentation of the facts. It is evident from the revocation order dated 25.04.2006, a copy of which has been annexed to this O.A (O.A No. 209/2006) by the applicant as annexure-XI and another copy of the same has been annexed to the written statement by the respondents as Annexure-III. The address of the applicant at the bottom of the order has been written in two different ways in those two copies of the same order which clearly indicates that the same has been shown by manipulation but the fact remains that this order was never sent to the applicant and kept concealed deliberately. It came to his knowledge only on 05.07.2006 and the applicant joined his duties immediately on 05.07.2006 (F.N) in compliance with the order of revocation dated 25.04.2006. It is relevant to mention here that the applicant was serving at Guwahati centre prior to

his suspension and as such he has to resume his duties at Guwahati centre only, after revocation of his suspension as per rules but the respondents have illegally transferred the applicant asking him to resume his duties at Kolkata. As such there is no question of any defiant attitude on the part of the applicant as stated in the written statement.

5. That the applicant denies the statements made in paragraph 4.15 of the written statement for the reasons stated in the preceding paragraphs hereinabove.
6. That the applicant categorically denies the statements made in paragraph 4.17 of the written statement and begs to reiterate that the practice of assigning additional charge of regional offices to officers based at Headquarters has been in vogue since long the respondents no. 2 on her regular promotion to the post of Deputy Director, worked for years on the post with charge of regional office, Kolkata from Delhi and as such the plea that the applicant does not have any right to claim such treatment is unsustainable in law which amounts to discriminatory treatment.

Further, two Deputy Directors working in New Delhi office might have been promoted as Dy. Director in 2002 as stated in the written statement but they have been working in the same station for more than 20 years and have never been posted outside.

7. That the applicant emphatically denies the statements made in paragraphs 4.18, 4.19 and 4.20 of the written statement and begs to submit that the applicant has not exhibited any such behaviour which may be attributable to his choice station posting nor he has been proved to be guilty of any misconduct as yet by any court or authority and the allegations labeled against the applicant are all concocted, malicious, malafide and a part of conspiracy hatched in connivance with the respondent no. 2 with extraneous consideration of Govt. money against him as stated in the preceding paragraphs hereinabove. This apart, choice station posting has

got no nexus with the conduct of a person and nowhere in the O.M dated 14.12.1983, such pre-condition or pre-requisite have been prescribed. The only criteria for choice station posting, as laid down by the Government are (1) the incumbent must have been saddled with All India transfer liability, and (2) he must completed his fixed tenure of 2/3 years service in the N. E. Region. The respondents have, of their own, superimposed an additional rider of bad conduct/behaviour with choice station posting and that too on the basis of some unfounded allegations labeled against the applicant. As such the contentions of the applicant are not sustainable and the applicant is legitimately entitled for choice station posting and the O.A is full of merit and deserves to be allowed with costs.

8. That the applicant denies the statements made in paragraphs 5.1 to 5.7 of the written statements and begs to submit that the contentions made by the respondents are all malafide, illegal, unfair and malicious and the applicant has been denied his choice station posting on some vague pleas, which the applicant is legitimately entitled to. The applicant has no interest for staying in the North east Region and he has only prayed for his choice station posting to Delhi which he is legitimately entitled to as per the professed policy of the Government. But the respondents have denied the benefit to the applicant, resorting to some malicious prosecution etc. against the applicant and their action is malafide, malicious, unfair, arbitrary and violative of the Govt. policy laid down under O.M dated 14.12.1983.
9. That in the facts and circumstances stated above, the application deserves to be allowed with costs.

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VERIFICATION

I, Shri Krishna Kumar Singh, S/o- Late Badri Narain Singh, aged about 56 years, working as Deputy Director (Languages), in the office of the Central Hindi Directorate, Guwahati, applicant in the instant original application, do hereby verify that the statements made in Paragraph 1 to 9 are true to my knowledge and legal advice and I have not suppressed any material fact.

And I sign this verification on this the _____ day of November 2006.

अक्षय कुमार सिंह