

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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23.3.07

O.A/T.A No. 213/2006
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E.P/M.A No. 107/06 (O.A) 213/06

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERS SHEET

1. Original Application No. 213/06
2. Misc Petition No.
3. Contempt Petition No.
4. Review Application No.

Applicant(S) Montaquim Ali

Respondant(S) U-O.I. Forum

Advocate for the Applicant(S) D.K. Das., Ms. R. S. Chandley

Advocate for the Respondant(S) C. A. B.

| Notes of the Registry | Date | Order of the Tribunal |
|--|------------|--|
| <p>This application is in form of Miscellaneous Petition No. 213/06 Dated 14.8.06</p> <p><i>[Signature]</i> Dy. Registrar</p> <p><i>[Signature]</i> 21/8/06</p> <p>Steps taken with envelops</p> <p><i>[Signature]</i></p> | 21.08.2006 | <p>Present : Hon'ble Sri K.V. Sachidanandan, Vice-Chairman.</p> <p>The Applicant was appointed in the Central Social Welfare Board and was sent on deputation to various State Social Boards. After completion of his tenure posting at Arunachal Pradesh, the Applicant was transferred and appointed as Secretary, Assam State Social Welfare Board on deputation basis with additional charge of Assistant Project Officer, Assam as well as the Assistant Project Officer, Arunachal Pradesh. Accordingly, the Applicant joined on 14.06.2006 and reported to the Respondent No. 4. The Applicant after taking over charge admitted his two minor children at Kendriya Vidyalaya, Maligaon. While so, proposal for transfer of funds from Plan to Non-plan account for payment of staff salary for the month of June, 2006 was put up before the Applicant and the Applicant signed two cheques to the</p> |

Contd/-

Contd/-

21.08.2006 amount of Rs. 1,80,000/- and Rs. 98,700/- and endorsed both the cheques to the Respondent No. 4 for necessary approval. The Applicant subsequently came to learn that the Cashier/UDA presented the cheques before the Bank without prior approval of the Respondent No. 4, who signed the cheques on 03.07.2006 and 07.07.2006. The Respondent No. 4 demanded explanation from the Cashier/UDA as to why he presented the cheques without approval. The Cashier vide letter dated 04.07.2006 stated that he had obtained the telephonic consent from the Respondent No. 4 and acted thereof and rendered his apology for the same. The Applicant also issued explanation for the said anomaly committed by him. While so, the orders dated 10.08.2006 and 18.08.2006 have been issued transferring the Applicant to Arunachal Pradesh State Welfare Board. The Applicant alleged malafide and submitted that he has no role to play to the alleged irregularities, if any.

Heard Mr D.K. Das, learned Counsel for the Applicant and Mr G. Baishya, learned Sr. Central Government Standing Counsel for the Respondents.

Mr G. Baishya, learned Sr. C.G.S.C. for the Respondents wanted time to take instructions. Let it be done.

Post on 21.09.2006. Considering the fact that the Applicant's two minor children have been admitted in the school at Guwahati and the Applicant has shifted

Contd/-

Contd/-

21.08.2006 from Arunachal Pradesh to Guwahati and holding the charge of Assistant Project Officer, Assam at Guwahati, the Respondents are directed to permit the Applicant to continue at Guwahati in his capacity as above, if not as Secretary to the Board.

Received
Cm in fpm
5.11.06

order dt-21/8/06
issuing to learned
advocate's for both
the parties.

/mb/

21.9.06.

Issue notice on the respondents.
After hearing the counsel for the respondents parties, counsel for the respondents has submitted that he will take instructions from the respondents.

Post the matter on 9.11.06

Vice-Chairman

Notice & order sent
to D/section for
issuing to resp.
nos. 1, 2 & 3 by
regl. A/D post.

in

9.11.2006

post the matter on 13.11.2006
along with the connected matters. Since
the matter pertains to Division Bench
the O.A. could only be disposed of by
Division Bench.

Corr 3/10/06. D/No- 100.8, 1009,
1010
Dt- 10/6/06. 5/10/06.

Step reviewed for
R-4 and R-5.

23/10/06.

bb

Vice-Chairman

Notice duly served
on R-4, 5.

Corr 3/10/06.
W/s has been
vikel. by Repdt-4.

8.11.06.

13.11.2006

post the matter on 15.12.20

Vice-Chairman

bb

- ① Wls filed by R No-4.
② No Wls filed by the R. No-1, 2, 3 & 5.

10.11.06.

Notice duly served on R-2, 3.

15/11/06.

16.11.06

Rejoinder submitted by the Applicant.

Di.

22.12.06

- Additional affidavit filed by the Applicant.

Di.

Wls and rejoinder has been filed.

8.3.07.

The case is ready for hearing.

14.3.07.

9.1.2007

The learned counsel appearing for the parties submitted that pleadings are complete and the matter may be placed for hearing. However, Mr. G. Baishya, learned Sr.C.G.S.C. requested four weeks time to file statement on behalf of the Central Government.

Considering the submissions made by both the parties let the case be posted for hearing on 12.2.2007. In the meantime Central Government will file reply statement positively. If not it will be presumed that they have no reply statement to file.

Di.

Vice-Chairman

bb

12.2.2007

Considering the urgency this matter was specifically posted today for hearing. Mr. G: Baishya, learned Sr. C.G.S.C. submits that though this Court on 9.1.2007 had made it clear that if no reply statement is filed by the Central Government it will be presumed that they have no reply statement to file, the concerned Respondents could not file the same and therefore he prays for further time to file the same. This Court also does not want to shut out the pleadings of the Respondents. Therefore, as a matter of last chance two weeks further time is granted to Respondent No.1 to file reply statement as requested. It is made clear that if no reply statement is filed by that time, the right to file reply statement will be forfeited.

Post the matter on 27.2.2007. Copy of this order shall be furnished to the Sr.C.G.S.C.

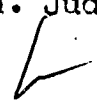
Di.

15.3.07.

Heard learned counsel for the applicant. Hearing concluded. Judgment reserved.



Member


Vice-Chairman

lm

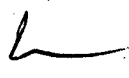
23.3.2007

Order pronounced in open Court kept in separate sheets.

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



Member


Vice-Chairman

/bb/

26.3.07

Copy of the
order has been
handed over to
the A/D for
in person.
JS

Received by
N. C. Das
Advocate
on behalf of
G. Basu
Sr. G.S. C
26/3/07

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A. No.213/2006.

DATE OF DECISION:23.03.2007

Shri M. Ali

Applicant/s

Mr. A. Ahmed

Advocate for the
Applicant/s

- Versus -

Union of India & Ors.

Respondent/s

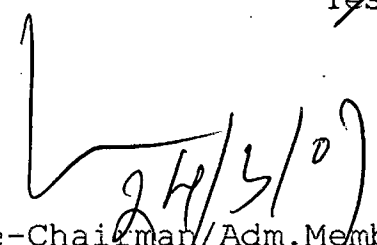
Mr.G.Baishya, Sr.C.G.S.C. & Dr.J.L.Sarkar.

Advocate for the
Respondents

CORAM

THE HON'BLE MR. K.V. SACHIDANANDAN, VICE CHAIRMAN
THE HON'BLE MR. TARSEM LAL, ADMINISTRATIVE MEMBER

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


Vice-Chairman/Adm. Member

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

Original Application No.213 of 2006.

Date of Order: This, the 23rd day of March, 2007.

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

HON'BLE MR.TARSEM LAL, ADMINISTRATIVE MEMBER

Sri Mustaquim Ali
Son of Late Mehboob Ali
Resident of 7th Mile, Jalukbari
P.O: & P.S: Jalukbari
Guwahati-781014
Dist: Kamrup, Assam.

..... Applicant.

By Advocate Mr.A.Ahmed.

- Versus -

1. Union of India
Represented by the Secretary to the Govt. of India
Ministry of Human Resource Development
Department of Women and Child Development
New Delhi.
2. The Chairman
Central Social Welfare Board
Samaj Kalyan Bhawan
B-12, Qutab Institutional Area, South of IIT
New Delhi - 110 016.
3. The Deputy Director
CSBA
Samaj Kalyan Bhawan
B-12, Qutab Institutional Area, South of IIT
New Delhi - 110 016.
4. Dr.(Mrs.) Mukti Debi Choudhury
Chairperson
Assam State Social Welfare Board
Beltola, Guwahati-781 028.

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5. Mr.D.D.Mondal
Assistant Project Officer
Assam State Social Welfare Board
Beltola, Guwahati-781 028.

..... Respondents.


By Mr.G.Baishya, Sr.C.G.S.C. & Dr.J.L.Sarkar

ORDER

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

The Applicant was initially appointed to the Central Social Welfare Board (CSWB in short) in the year 1987. He was sent on deputation to various State Welfare Boards and accordingly he rendered his services at the Arunachal Pradesh, Meghalaya, Nagaland and in Assam State Social Welfare Board (SSWB in short). In 2001, he was transferred to Arunachal Pradesh SSWB and after completion of his tenure there, on his request he was transferred to Assam as Secretary to the Assam SSWB on deputation basis vide order dated 26.5.2006 with the additional charge of Assistant Project Officer, (APO in short), Assam. While working as such, he sought for an explanation from the concerned UDA/Cashier for the anomaly committed by him in not taking the approval and signature of the Respondent No.4 in presenting the cheque to the Bank. But suddenly impugned order dated 4.8.2006 has been passed by the Respondent No.3 appointed the Respondent No.5 as the Secretary of Assam SSWB in supercession of earlier order dated 26.5.2006 with a copy

to the Applicant with the direction to hand over the charge to the Respondent No.5 with immediate effect. It was done without any notice. The Applicant handed over the charge of Secretary of the Assam SSWB to the Respondent No.5 on 5.8.2006. But while the Applicant continued to discharge the duties of APO, Assam he was transferred to Arunachal Pradesh State Board vide order dated 10.8.2006 on administrative grounds with immediate effect which was received by the Applicant only on 18.8.2006. Another order was passed on 18.8.2006 relieving the Applicant of the charges of APO, Assam State Board. Aggrieved by action of the Respondents the Applicant has filed this O.A. seeking the following main reliefs:-

- "8.1 To set aside and quash the impugned Order under Memo No.F.14-2/2/94-SBA dated 04.08.2006 issued by the Respondent No.3 for directing the Applicant to hand over charge of Secretary to the Respondent No.5 and accordingly pass an Order of status quo ante in favour of the Applicant for the post of Secretary, Assam State Social Welfare Board, Guwahati.
 - 8.2 To set aside and quash the impugned Order under Memo No.F.1-2/FO/87/FO.ESTT/184 dated 10.08.2006 issued by the Deputy Director (FO ESTT) whereby the Applicant was transferred to the Arunachal Pradesh State Board on administrative grounds and accordingly allow the Applicant to continue to serve as Secretary of the Assam State Social Welfare Board with additional charge of A.P.O. at Assam.
 - 8.3 To set aside and quash the impugned Order issued under Memo No.SWB/1-4(1)
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77/Pt.IV/97/1247-51 dated 18.08.2006 issued by the Respondent No.4 relieving the Applicant from the post of A.P.O. of Assam State Social Welfare Board and directing him to hand over charge to the Respondent No.5.

8.4 To direct the Respondent authorities to allow the Applicant to continue to serve at the Assam State Social Welfare Board as Secretary with the additional charge of A.P.O., Assam State Social Welfare Board in terms of the Order dated 18.08.2006.

8.5 To direct the Respondent Authorities not to give effect to the impugned transfer Order dated 10.08.2006 as well as the impugned relieving Order dated 18.08.2006."

2. The Respondent No.4 has filed a detailed reply statement denying the allegations like malafide against him and influencing political cloud of Respondent No.5. It was stated therein that it is upto the Applicant to prove and establish such allegations and show how such allegations might have nexus with his transfer. The transfer order was issued on administrative grounds. The Applicant had already been relieved from the office on 18.8.2006 (FN). The Applicant being a APO is posted in SSWBs of different States, and his services are required on transfer from one State to another State. The SSWBs have interalia functions to advice and assist the Central Board in sponsoring new welfare programmes and activities whenever they are needed within the State, to undertake such other activities as may be conducive to the fulfillment of the welfare objectives of the state, promote the growth of voluntary social


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welfare agencies, with special reference to the development of the welfare services in uncovered areas of the state, field counseling for aided agencies etc. The Applicant was posted in Arunachal Pradesh as APO and on his request he was posted in Guwahati as Secretary in the State Board on deputation vide order dated 26.5.2006. The order clearly indicated that the APO was an additional charge. By order dated 29.5.2006 he was directed to report for duty. In the said order it was mentioned that, "He will also look after the work of Arunachal Pradesh - Additional Charge." However, after his transfer from Arunachal Pradesh the works of the state was suffering a set back and 'look after' arrangement did not work satisfactorily. The matter was considered by the Central Board in general and Tribal population in particular as regards to social welfare. Therefore, he was transferred to Arunachal Pradesh vide order dated 10.8.2006 in prime object of welfare interest of the area of the state. Since the charge of APO at Guwahati was an additional charge, he was already released from his original post of Secretary on deputation on 5.8.2006. The transfer of the Applicant is made on administrative reason and in public interest and without violating any rule or procedure. His release was recorded in the attendance register which is an official record. On 22.8.2006, the Applicant came to the office and submitted a letter addressed to the Respondent No.4 enclosing the order of this Tribunal dated 21.8.2006 and without

waiting for any official order struck off the official record in the attendance register and started signing the attendance register. The Respondent No.4 has administrative control of the services of the Applicant and there is no scope for the Applicant to continue in the Assam Board, Guwahati. There is no fixed tenure of posting as Secretary/APO. In exigency of services and administrative grounds officers are transferred after working for short period also. The Applicant had attempted to hide his involvement in commitment of the serious violation in the matter of issue of cheque and the matter is under investigation for appropriate steps and action. In Arunachal Pradesh there is Kendriya Vidyalaya where his children can study. Therefore, the O.A. has no merit and to be dismissed, claimed the Respondent in her reply statement.

3. The Applicant has also filed a rejoinder reiterating the contentions made in the O.A. An additional Affidavit was also filed by the Applicant to bring the subsequent development in the case.

4. We have heard Mr.A.Ahmed, learned counsel for the Applicant and Mr.G.Baishya, learned Sr. C. G. S. C. for and Dr.J.L.Sarkar, learned counsel for the Respondents. Learned counsel for the Applicant would argue that the Applicant has been transferred with malafide intention and in discriminatory manner, and therefore, the transfer order as well as the relieving orders are



liable to be set aside and quashed. Learned counsel for the Respondents, on the other hand, persuasively argued that the transfer was made on administrative exigency and in public interest and there is no infirmity in the transfer of the Applicant.

5. Learned counsel for the parties have brought to our attention to the various pleadings, materials and evidence placed on record and we have given due consideration to them and to the arguments advanced by the counsel for the parties. It is an admitted fact that the Applicant, an APO under the CSWB is required on transfer from one state to another. He was posted at Guwahati on his request on deputation vide order dated 26.5.2006. The relevant portion of the order, so far as the Applicant is concerned, is quoted herein below:-


| S. No. | State/ UP | Name of the Secretary/PO /Field Officer | Designation | Deputation/ Permanent | Remarks |
|--------|-----------|---|-------------|-------------------------|---|
| 3. | Assam | Sh. M. Ali | APO | Deputation as Secretary | Sh. M. Ali is appointed as Secretary, State Board with immediate effect. He is appointed on deputation with additional charge of Asst. Project Officer. |

It is very clear from the said order the Applicant was transferred on deputation and APO was an 'additional charge'. In the following



order dated 29.5.2006 it is made clear that, "*He will look after the work of Arunachal Pradesh - Additional Charge*".

6. The Applicant has also alleged some other allegations other than transaction of cheque and also plea of malafides. But on going through the materials placed on record we find that these are all allegations not relevant for the adjudication of the case. It is case of transfer simplicitor. Therefore, the crux point that has to be adjudicated by us is as to whether the transfer order violates any rules, guidelines or whether the same has been passed on administrative exigency or in public interest or not. As that has been found from the transfer order itself that he was transferred on deputation basis and charge of APO was only an additional one. A deputationist has no legal right to continue in the borrowing department and since deputation period is not stipulated, it is the privilege of the Respondents to send back the deputationist to the parent department in exigency of work. It is borne out from the record that the Respondents had explained that works in Arunachal Pradesh was suffering a set back and the look after arrangement did not work satisfactorily and therefore, the matter was considered by the CSWB keeping in mind the necessity of the State Board of Arunachal Pradesh in general and Tribal population in particular as regards to social welfare. It appears that his services are required in Arunachal Pradesh for smooth running of the welfare programmes



and activities therein. Therefore, we are of the considered view that the impugned order of transfer does not suffer from any infirmity and also allegation of malafide is not substantiated. We are not entering into any finding in other cited issues that have been pleaded in the O.A. but confining our finding to the issue as to whether the transfer order is justified or not.

7. Learned counsel for the Applicant has brought our attention to the decisions passed in the case of (i) Dr. Bhagat Singh, Vice Chancellor, Punjabi University vs. The Chancellor, Punjabi University and Others reported in 1981(2) SLR 329, and (ii) D.K.Goel vs. U.O.I. & Another, reported in (1992) 19 ATC 475 and contended that deputation cannot be withdrawn before the tenure. But these decisions are not squarely applicable in the present case since no deputation period was fixed for the Applicant. Therefore, exigency of service, administrative reasons and public interest will rule the field.

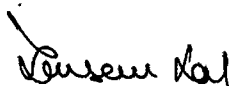
8. Learned counsel for the Respondents also brought our attention to the decisions rendered in (i) Mrs. Shilpi Bose & Ors. vs. State of Bihar & Ors., reported in AIR 1991 SC 532 and (ii) U.O.I. & Anr. vs. N.P.Thomas, reported in AIR 1993 SC 1605 and contended that a deputationist has no vested right to continue in the post and if

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the order of transfer is not violative of any rule or guideline, court cannot interfere.

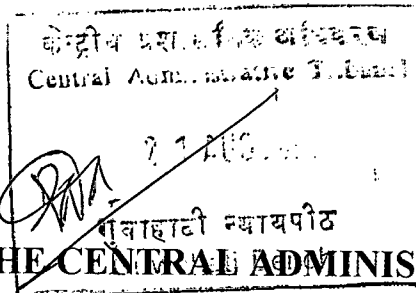
9. Taking confidence from the above decisions of the various Courts we are of the considered view that each and every case of transfer is different from other and will have to be assessed on its facts and legal positions. Admittedly, a deputationist has no legal right to continue in the deputation post. He was holding the post on deputation with additional duty of APO. No period for deputation was fixed and there is no infirmity in sending him back to Arunachal Pradesh. It is purely on administrative reasons and in public interest. Therefore, we are of the view that the Applicant has failed to make out the case, and the same is devoid of merit, and hence, the O.A. deserves to be dismissed.

10. Accordingly, we dismiss the Q.A. There shall, however, be no order as to costs. Interim order, granted if any, stands vacated.


(TARSEM LAL)
ADMINISTRATIVE MEMBER


(K.V.SACHIDANANDAN)
VICE CHAIRMAN

/BB/



**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI**

O.A. No. 213 of 2005

Shri Mustaquim Ali

... Applicant.

- VERSUS -

Union of India & Ors.

... Respondents.

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Filed By

(Mrs. R. S. Chowdhury)
Advocate

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

ORIGINAL APPLICATION NO. 213 OF 2006

SYNOPSIS/LIST OF DATES/CHRONOLOGY OF EVENTS

- 1987 The Applicant was appointed in the Central Social Welfare Board and was sent on deputation to various State Social Board. The Applicant has rendered services in Meghalaya, Nagaland, Arunachal Pradesh as well as in Assam.
- 2005 The Applicant, on completion of his tenure of posting at Arunachal Pradesh, requested the authorities to consider his case for transfer to Assam.
- 26.05.2006 The Respondent No.3 was pleased to transfer and appoint the Applicant as Secretary, Assam State Social Welfare Board on deputation basis with the additional charge of Assistant Project Officer, Assam as well as the Assistant Project Officer, Arunachal Pradesh.
(ANNEXURE – A, Pg.15)
- 29.05.2006 The Applicant was directed to report for duty before the Respondent No.4.
- 09.06.2006 &
14.06.2006 The Chairperson, Arunachal Pradesh State Social Welfare Board released the Applicant and he accordingly joined at Assam on 14.06.2006 and reported his joining to the Respondent No.4.
(ANNEXURE – B Colly, Pg18)
- 20.06.2006 The Applicant after taking over charge on 14.06.2006 admitted his 2 minor children at the Kendriya Vidyalaya, Maligaon in Class-VII and in Class-II respectively, which is evident from the fee slips of the said School.
(ANNEXURE – H, Pg.30)
- 01.07.2006 A file for transfer of funds from Plan to Non-plan account for payment of staff salary for the month of June, 2006 was put up before the
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Applicant and the Applicant signed two Cheques to the amount of Rs.1,80,000/= (Rupees One lakh eighty thousand) and Rs. 98,700/= (Rupees Ninety-eight thousand Seven hundred) and endorsed both the Cheques to the Respondent No.4 for necessary approval.

03.07.2006 &
07.07.2006

The Applicant subsequently came to learn that the Cashier/U.D.A. presented the cheques before Bank without prior approval of the Respondent No.4 who signed the cheques only on 03.07.2006 and 07.07.2006.

(ANNEXURE – C, Pg. 21)

03.07.2006 &
04.07.2006

The Respondent No.4 vide letter dated 03.07.2006 demanded an explanation from the Cashier/U.D.A. as to why he presented the Cheques without her approval. The said U.D.A. vide letter dated 04.07.2006 informed the Respondent No.4 that he had misunderstood her telephonic consent on 01.07.2006 and rendered his apology for the same.

(ANNEXURE – D Colly, Pg.22)

24.07.2006

The Applicant vide letter dated 24.07.2006 also asked an explanation from the U.D.A. with regard to the said anomaly committed by him. The said U.D.A. vide his reply dated 24.07.2006 apologized for his mistake.

(ANNEXURE – E Colly, Pg.24)

04.08.2006 &
05.08.2006

The Respondent No.3 vide impugned Order dated 04.08.2006 was pleased to appoint the Respondent No.5 as Secretary of Assam State Social Welfare Board in suppression of the earlier Order dated 26.05.2006. Accordingly, the Applicant being a responsible employee handed over charge to Respondent No.5 on 05.08.2006. However, no notice/opportunity/hearing was given to the Applicant before passing the said impugned Order.

(ANNEXURE – F Colly, Pg.26)

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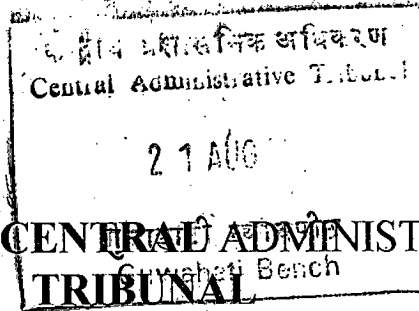
10.08.2006 &
18.08.2006

21

The Applicant was shocked to learn that vide impugned Order dated 10.08.2006 the Respondent authorities were pleased to transfer the Applicant to Arunachal Pradesh on administrative grounds. The said Order was received by the Applicant only on 18.08.2006 and on the said date, the Respondent No.4 passed another impugned Order relieving the Applicant of his charge of Assistant Project Officer at Assam State Social Welfare Board and directing him to hand over charge to Respondent No.5.

Being aggrieved by the impugned actions of the Respondent authorities, of having transferred the Applicant within a period of 3 months from the date of his joining during the mid-term academic session of his children, to illegally accommodate the Respondent No.5, the Applicant has preferred this Original Application praying for setting aside the impugned Orders dated 04.08.2006, 10.08.2006 and 18.08.2006.

21



**BEFORE THE CENTRAL ADMINISTRATIVE
TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

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

ORIGINAL APPLICATION NO. 213/2006

Filed by the Applicant
through
R. S. Choudhury
Advocate
21.8.06

BETWEEN

Sri Mustaquim Ali,
Son of Late Mehboob Ali,
Resident of 7th Mile, Jalukbari,
P.O. & P.S. Jalukbari,
Guwahati - 781 014, Dist. Kamrup, Assam.

... **APPLICANT**

-AND-

1. The Union of India,
Represented by the Secretary to the Govt. of India
Ministry of Human Resource Development,
Department of Women and Child Development,
New Delhi.
2. The Chairman,
Central Social Welfare Board,
Samaj Kalyan Bhawan,
B-12, Qutab Institutional Area, South of I.I.T.,
New Delhi - 110016
3. The Deputy Director,
C.S.B.A.,
Samaj Kalyan Bhawan,
B-12, Qutab Institutional Area, South of I.I.T.,
New Delhi - 110016
4. Dr. (Mrs.) Mukti Debi Choudhury,
Chairperson,
Assam State Social Welfare Board,
Beltola, Guwahati - 781 028
5. Mr. D. D. Mondal,
Assistant Project Officer,
Assam State Social Welfare Board,
Beltola, Guwahati - 781 028.

Not a Govt. Servant
Social Worker

... **RESPONDENTS.**

DETAILS OF THE APPLICATION

1. **PARTICULARS OF ORDERS AGAINST WHICH THIS APPLICATION IS MADE:**

This application has been filed challenging the legality and validity of the Order No.14-2/2/94/SBA dated 04.08.2006 issued by the Respondent No.3 whereby the Applicant had been directed to handover the charge of the post of Secretary, Assam State Social Welfare Board to the Respondent No.5 without any prior notice as well as the impugned transfer Order issued under Memo No. F.1-2/FO/87/FO.ESTT/184 dated 10.08.2006 issued by the Deputy Director (FO ESTT) whereby the Applicant has been directed to report back to Arunachal Pradesh after handing over charge to the Respondent No.5, in complete violation of the guidelines so laid down by the Government of Assam in respect of transfer of officers and the impugned consequential Order passed by the Respondent No.4 Relieving the Applicant of the said Charge of A.P.O of the Assam State Social Welfare Board at Guwahati.

2. **JURISDICTION OF THE TRIBUNAL:**

The Applicant declares that the subject matter of the 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 a resident of Jalukbari, Guwahati in the State of Assam and as such, he is entitled to all the rights, privileges and protections guaranteed to the citizens of India under the Constitution of India and the laws framed thereunder.

4.2 That the applicant is presently serving as Assistant Project Officer (hereinafter referred to as APO in short) of the Assam State Social Welfare Board at Guwahati. Be it stated herein that the Applicant had been given the additional charge of APO, Arunachal Pradesh.

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4.3 That, after being initially appointed to the Central Social Welfare Board in the year 1987, the Applicant was sent on deputation to various State Welfare Boards and accordingly the Applicant has rendered his services at the Arunachal Pradesh, Meghalaya, Nagaland as well as in Assam State Social Welfare Board. In the year 2001, the Applicant was transferred to the Arunachal Pradesh State Social Welfare Board and the Applicant rendered his services at the said place in the post of APO till the year 2006.

4.4 That on having completed his tenure of posting at Arunachal Pradesh, the Applicant requested the authorities to consider his case for transfer to Assam due to his personal difficulties. Accordingly, the Respondent No.3, vide Office Order under Memo No. F-14-1/Secretary/Policy/2005/SB Admn dated 26.05.2006, was pleased to appoint the Applicant as Secretary of the Assam State Social Welfare Board on deputation basis. In the said Order it was further mentioned that the Applicant is appointed on deputation basis with the additional charge of APO, Assam.

Copy of the relevant portion of the said Office Order dated 26.05.2006 is annexed herewith and marked as ANNEXURE – A.

4.5 That, in continuation of the aforesaid Office Order, the Applicant was directed to report for duty before the Chairperson of the Assam State Social Welfare Board vide Office Order issued under Memo No. 2-4/F.O/79/FO.Estt/41 dated 29.05.2006. Be it stated herein that in the said Order dated 29.05.2006 it was further mentioned that the Applicant would also look after the work of Arunachal Pradesh as an additional charge. As such, it is evident that the Applicant was given three charges, i.e., Secretary, Assam State Social Welfare Board, Assam, APO, Assam State Social Welfare Board, Assam and APO, Arunachal Pradesh as the additional charge. In pursuance of the said Order, the Chairperson of the Arunachal Pradesh State Social Welfare Board released the Applicant on 09.06.2006 and the Applicant joined at his new place of posting at Assam on 14.06.2006. The Applicant duly reported his joining to the Respondent No.4 vide his letter dated 14.06.2006.

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Copies of the said Orders dated 29.05.2006, 09.06.2006 and the joining Report of the Applicant dated 14.06.2006 are annexed herewith and marked as **ANNEXURE – B colly.**

4.6 That, while the Applicant was rendering his services at Assam, on 01.07.2006 a file for transfer of funds from Plan to Non-plan account, with regard to the payment of staff salary for the month of June, 2006 was put up before the Applicant by the Accounts Section. Accordingly, the Applicant signed the Cheque bearing No. 198634 amounting to Rs. 1,80,000.00 (Rupees One lakh Eighty thousand) for transfer of funds from Plan to Non-Plan and endorsed the same to the Chairperson (Respondent No.4) for her final approval and signing of the Cheque. It is worthy of mention herein that the Chairperson could not attend her office on 01.07.2006, as she was unwell. Be it stated herein that on the very same day the file for payment of salary of the office staff was put up before the Applicant by the Accounts Section and simultaneously a Cheque amounting to Rs.98,700.00 (Rupees Ninety-eight thousand Seven hundred) bearing No. 331738 for payment of salary was also placed before the Applicant for his signature. The Applicant accordingly signed the same and once again endorsed it to the Respondent No.4 for her necessary approval.

4.7 That, it is relevant to state herein that the Cashier of the said office without obtaining the final approval of the Respondent No.4 presented the Cheques to the Bank for withdrawal. It is categorically stated herein that the Secretary has no role to play with regard to the withdrawal of funds from the Banks or ensuring the final approval of the Chairperson, which is the sole duty of the Cashier/Accounts Section. The Applicant as Secretary, at no point of time advised/instructed/directed the Cashier/Accounts Section either verbally or in writing to make the fund transfer from Plan to non-Plan or to draw the salary without approval of the Respondent No.4. However, the Applicant subsequently came to learn that the Cheques so presented before him were actually signed by the Respondent No.4 only on 03.07.2006 and 07.07.2006 respectively.

Chairman

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A copy of the said Note Sheet from the Office file with regard to the above matter is annexed herewith and marked as ANNEXURE-C.

- 4.8 That, the Applicant subsequently came to learn that the Respondent No.4 vide letter under Memo No. SWB/XII-25(2)/2005-06/819 dated 03.07.2006 was pleased to issue a letter to the U.D.A. of the State Board, Sri Prabin Thakuria demanding an explanation as to why he has presented the Cheque No. 331738 of Rs.98,700/= dated 01.07.2006 to the Bank under single signature despite the fact that the Respondent No.4 had allegedly left instruction to get the Cheque signed by her, in her capacity as authorised signatory. In response to the said letter of the Respondent No.4, the said Sri Prabin Thakuria, vide his letter dated 04.07.2006 was pleased to inform the Respondent No.4 that Cheque No. 331738 dated 01.07.2006 for Rs. 98,700/= was drawn on 01.07.2006 for payment of salary of the staff for the month of June, 2006. He further stated that he had informed the Respondent No.4 about the same over telephone for her consent on 01.07.2006, which was wrongly understood by him for which he rendered his apology and further gave an undertaking that such mistake would not be committed in future.

Copy of the said letter dated 03.07.2006 of the Respondent No.4 and 04.07.2006 of the U.D.A. Sri Prabin Thakuria are annexed herewith and marked as ANNEXURE-D colly.

- 4.9 That, from the facts narrated herein above it is evident that the Applicant had no inkling with regard to any such drawing/payment made towards salary payment of the staff for the month of June, 2006. The blame/fault, if any, was of the Cashier/U.D.A./Accounts Section of the Board, i.e. the said Sri Prabin Thakuria. However, to the utter shock and surprise of the Applicant, the Respondent No.4 in a most malafide manner started harassing the Applicant and with a vindictive attitude, mistreated the Applicant and for reasons best known to the Respondent No.4, and to the best knowledge of the Applicant, made verbal complaints against the Applicant before the Respondent Nos. 2 and 3
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alleging insubordination and misappropriation of funds. However, the Applicant humbly states that such action of the Respondent No.4 is contradictory to the fact that the Respondent No.4 had herself approved the said Cheques on 03.07.2006 and 07.07.2006. As such, the Respondent No.4 ought not to have blown hot and cold by signing on the Cheques and then complaining about the same to the detriment of the Applicant.

- 4.10 That, while matters remained thus, the Applicant also issued a letter to the U.D.A. Sri Prabin Thakuria to clarify as to why he deposited the Cheques of Rs.1,80,000/= and Rs.98,700/= to the Bank without obtaining prior signature of the Chairperson, vide his letter dated 24.07.2006. The said U.D.A./Cashier Sri Prabin Thakuria vide his reply dated 24.07.2006 apologized for his mistake and further gave an undertaking that such mistake would not be done by him in future.

Copies of the said letters both dated 24.07.2006 are annexed herewith and marked as ANNEXURE – E Colly.

- 4.11 That, to the utter shock and surprise of the Applicant, the Respondent No.3 vide impugned Order under Memo No. F.14-2/2/94-SBA dated 04.08.2006 in supercession of the earlier Order dated 26.05.2006 (Annexure-A) was pleased to appoint Sri D. D. Mondal, i.e., the Respondent No.5 as Secretary of Assam State Social Welfare Board. A copy of the same was forwarded to the Applicant directing him to handover charge to the Respondent No.5 with immediate effect. The said Order was received by the Applicant on 05.08.2006 and accordingly the Applicant, being a responsible employee handed over charge to the Respondent No.5 on 05.08.2006 itself vide Order under Memo No. ASSWB/PER/ESTT/2006/928-29. Be it stated herein that the Applicant was neither given any notice/opportunity nor any hearing prior to appointing the Respondent No.5 at the said post of Secretary of Assam State Social Welfare Board. As such, the impugned action of the Respondent authorities including the Respondent No.4 is illegal, arbitrary and violative of the principles of natural justice.

Copies of the said impugned Order dated 04.08.2006 and the Memo of handingover charge dated 05.08.2006 are annexed herewith and marked as ANNEXURE-F Colly.

4.12 That, after handing over charge to the Respondent No.5 with regard to the post of Secretary, Assam State Social Welfare Board, the Applicant continued to render his services as APO in Assam State Board. However, the Applicant noticed several irregularities in following the procedure as laid down by the Central Social Welfare Board and also with regard to the management of fund in the Assam State Social Welfare Board. On bringing such irregularities to the notice of the Respondent No.4, the Applicant was assured that things would be looked into. However, to the utter shock and surprise of the Applicant, the Deputy Director (FO ESTT) of the Central Social Welfare Board, vide impugned Order issued under Memo No. F.1-2/FO/87/FO.ESTT./184 dated 10.08.2006, was pleased to transfer the Applicant to Arunachal Pradesh State Board on administrative grounds with immediate effect. The said impugned Order dated 10.08.2006 was communicated to the Applicant vide impugned Order under Memo No. SWB/1-4(1) 77/Pt.IV/97/1247-51 dated 18.08.2006 issued by the Respondent No.4, which was received by the Applicant on the same date, and the Applicant was relieved of his charge of A.P.O. at the Assam State Social Welfare Board by the said Impugned Order. A bare glance of the said impugned Order clearly reveals that the said action has been initiated to accommodate the Respondent No.5, who influences political clout, and the Applicant is being victimized by the Respondent No.4 due to the fact that he has tried to render sincere services in the department, much to the dislike of the Respondent No.4. Such impugned action clearly smacks of malafide intention on the part of the Respondent Nos.4 and 5.

Copies of the said impugned Orders dated 10.08.2006 and 18.08.2006 are annexed herewith and marked as ANNEXURE - G Colly.

*Secretary
Add. Staff*

*APO
Relieved*

Relieved

Relieved

Involved

*with leave in
Clean Record*

4.13 That, the Applicant deems it pertinent to mention herein that after rendering 5 (five) years of service in Arunachal Pradesh, the Applicant had barely managed to get his two minor children admitted at the Kendriya Vidyalaya, Maligaon on 20.06.2006, which is evident from the admission fee slips of his children in Class-VII and Class-II respectively. As such, transferring the Applicant behind his back without any notice and during the mid-term academic session of his children would result in grave and serious prejudice being caused to the Applicant besides hampering the studies of his children.

Copies of the admission fee slips dated 20.06.2006 of the children of the Applicant are annexed herewith and marked as ANNEXURE – H.

4.14 That, the Applicant deems it pertinent to mention herein that the Respondent No.5 is junior to the Applicant in terms of seniority, and as such, by virtue of the impugned Order dated 18.08.2006, the Respondent No.5 has become the Reporting Officer of the Annual Confidential Report of the Applicant. The Applicant humbly states that such an impugned action is not only violative of the guidelines so laid down by the Department of Personnel & Training with regard to the reporting of Annual Confidential Report, but also reflects the arbitrary action of the Respondent No.4 in showing undue favoritism to the Respondent No.5 as well as the impugned action of the Respondent Authorities in allowing the Respondent No.5 to take over Charge of the post of Secretary at the Assam welfare board despite the fact that the said person is junior to the Applicant in terms of Seniority.

The Applicant craves leave of this Hon'ble Tribunal to produce a copy of the seniority list with regard to the position of the Respondent No.5 vis-à-vis the Applicant as and when deemed necessary by this Hon'ble Tribunal.

5. GROUND FOR RELIEF/S WITH LEGAL PROVISIONS:

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- 5.1 For that the facts and circumstances that have been narrated herein above would clearly indicate that the respondents have deliberately flouted with all impunity the policy decision of the Govt. of India in matters pertaining to transfer. The applicant having been transferred to the present place of posting to Assam on 26.05.2006, he could not have been transferred out before 25.06.2009 in terms of the said policy pertaining to transfer. As such, the impugned orders of transfer dated 10.08.2006 and 18.08.2006 in respect of the applicant, barely two months after his joining at Guwahati, are ex-facie illegal and hence liable to be interfered with by this Hon'ble Tribunal.
- 5.2 For that the Respondents have failed to take note of the specific and practical difficulties so faced by the Applicant with regard to the mid-academic session of his children. It was incumbent upon the Respondents to address themselves to the aforesaid grievances of the Applicant not only on humanitarian ground, but the same is also a duty cast upon them in terms of the law laid down by the Hon'ble Supreme Court in the case of S.L. Abbas reported in (1993) 4 SCC 357. The same not having been done, the impugned Orders of transfer dated 10.08.2006 and 18.08.2006 are liable to be set aside and quashed.
- 5.3 For that, the facts and circumstances narrated herein above would clearly reveal that the impugned Order relieving the Applicant from the post of Secretary dated 04.08.2006 and the impugned transfer Order dated 10.08.2006 have been issued at the behest of the Respondent No.4 with the sole purpose of illegally accommodating the Respondent No.5 for reasons other than relevant and bonafide. It is apparent on the face of the records that the authorities had otherwise realized the sincere and diligent effort of the Applicant in rendering his services. However, apparently due to undue and unwarranted influence being exerted by the Respondent No.4 to accommodate the Respondent No.5, the impugned transfer Order dated 10.08.2006 has been issued. The malafides are writ large on the face of the records rendering the impugned Orders ex-facie bad in law and as such, the same are liable to be interfered with by this Hon'ble Tribunal.
- 4

- 5.4 For that, the Applicant has been discriminated against without any reasonable basis or justification. The Applicant has been picked up for discriminatory treatment as will be evident from the fact that the Applicant was brought in to the Assam State Social Welfare Board only in the month of June, 2006, after having rendered 5 years of service at Arunachal Pradesh. It is further stated herein that the Applicant's charge at Arunachal Pradesh was only an additional charge, whereas the post of Secretary and A.P.O. being held by him at Guwahati were his actual posting. Hence, removing the Applicant from the said post, without any prior notice to the Applicant, to accommodate the Respondent No.5 is ex-facie illegal, malafide and arbitrary in addition to being unfair, unreasonable and capricious. The said impugned actions are in gross violation of Articles 14 and 16 of the Constitution of India. The said impugned actions reflect malice in law as well as malice in facts. As such, it is humbly submitted that the same are liable to be set aside and quashed.
- 5.5 For that, the facts and circumstances that have been narrated herein above would clearly reveal that the impugned Orders dated 04.08.2006 and 10.08.2006 have been issued most mechanically by the Respondent Authorities without any application of mind to the relevant factors only at the behest of the Respondent No.4. The fact that, the Respondent No.4 had herself signed the said 2 Cheques in question on 03.07.2006 and 07.07.2006 negates the allegation of any misappropriation of funds by the Applicant. As such, the Respondent No.4, only with a view to remove the Applicant from the said post of Secretary and to illegally accommodate the Respondent No.5, has been instrumental in the issuing of the impugned transfer Order dated 10.08.2006. No person reasonably instructed in law could have been oblivious to these factors, which are germane to the issue at hand. There apparently has been a colourable exercise of power for collateral purposes. The impugned orders, on the face of the records are not sustainable. As such, it is humbly submitted the said impugned Orders are liable to be set aside and quashed.
- 5.6 For that, as has already been stated herein above, the authorities have not only been oblivious to the factors that have been indicated in the preceding paragraphs, but also to the fact that the Applicant's children are in their mid-term academic session and are scheduled to be appeared

for their Examination in March 2007. The authorities have entirely ignored the fact that his children's entire academic career would be jeopardized if the said impugned Orders are given effect to. Apparently, such impugned actions infringe upon the rights guaranteed to Applicant under Articles 21 and 41 of the Constitution of India. As such, the said impugned Orders are liable to be interfered with by this Hon'ble Tribunal.

5.7 For that, the impugned Orders dated 04.08.2006 and 10.08.2006 suffer from the vice of flagrant and deliberate violation of the principles of natural justice and the settled principles of service jurisprudence. The Applicant has been denied the rights, protections and privileges of the said settled principles without any reasonable basis or justification. It is apparent that the impugned transfer Order dated 10.08.2006 has been made 'with the approval of the competent authority' and not in *public interest*. As such, it is humbly submitted the said impugned Orders are liable to be interfered by the said Hon'ble Tribunal.

5.8 For that, the Applicant humbly submits that the conditions precedent for exercise of powers by the Respondent authorities has not been followed in the instant case. As such, the impugned Orders dated 04.08.2006 and 10.08.2006 and the Relieving Order dated 18.08.2006 are void ab-initio.

5.9 That the applicant has a strong prima-facie case in his favour. The applicant shall suffer irreparable loss and injury which cannot be compensated in terms of money if the said impugned transfer Order dated 10.08.2006 as well as the impugned relieving order dated 18.08.2006 are given effect to. The balance of convenience is strongly in favour of the applicant. As such this Hon'ble Tribunal may be pleased to stay/ suspend the operation of the impugned order of transfer dated 10.08.2006 and 18.08.2006 during the pendency of the instant application.

5.10 That the applicant has no other adequate, equally efficacious alternative remedy available to him and the relief as prayed for, if allowed, shall be just, adequate and proper.

5.11 That the applicant demanded justice but the same has been denied to him.

5.12 That this application is made bonafide and for the ends of justice

6. **DETAILS OF REMEDIES EXHAUSTED:**

That the applicant declares that he has no other alternative and efficacious remedy available to him except by way of this instant application.

7. **MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT:**

That the applicant declares that no such writ petition or suit has been filed regarding the matter in respect of which this application has been made, before any Court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. **RELIEFS SOUGHT FOR:**

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, and a notice be issued to the respondents to show cause as to why the reliefs sought for by the applicant shall not be granted, call for the records of the case 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 reliefs:

8.1 To set-aside and quash the impugned Order under Memo No. F.14-2/2/94-SBA dated 04.08.2006 issued by the Respondent No.3 for directing the Applicant to handover charge of Secretary to the Respondent No.5 and accordingly pass an Order of status quo ante in favour of the Applicant for the post of Secretary, Assam State Social Welfare Board, Guwahati.

8.2 To set aside and quash the impugned Order under Memo No. F.1-2/FO/87/FO.ESTT/184 dated 10.08.2006 issued by the Deputy Director (FO ESTT) whereby the Applicant was transferred to the Arunachal Pradesh State Board on administrative grounds and accordingly allow the Applicant to continue to serve as Secretary of the Assam State Social Welfare Board with additional charge of A.P.O. at Assam.

- 8.3 To set aside and quash the impugned Order issued under Memo No. SWB/1-4(1) 77/Pt.IV/97/1247-51 dated 18.08.2006 issued by the Respondent No.4 relieving the Applicant from the post of A.P.O. of Assam State Social Welfare Board and directing him to handover charge to the Respondent No.5
- 8.4 To direct the Respondent authorities to allow the Applicant to continue to serve at the Assam State Social Welfare Board as Secretary with the additional charge of A.P.O., Assam State Social Welfare Board in terms of the Order dated 25.06.2006.
- 8.5 To direct the Respondent Authorities not to give effect to the impugned transfer Order dated 10.08.2006 as well as the impugned relieving Order dated 18.08.2006.
- 8.6 Costs of the application.
- 8.7 Any other relief or reliefs to which the applicant is entitled to, under the facts and circumstances of the case, as may be deemed fit and proper by the Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR

The applicant respectfully prays before this Hon'ble Tribunal that during the pendency of the instant original application, the applicant shall not be disturbed from his present place of posting as A.P.O., Assam State Social Welfare Board and to further suspend the operation of the impugned Orders under Memo No. F.14-2/2/94-SBA dated 04.08.2006, Memo No. F.1-2/FO/87/FO.ESTT/184 dated 10.08.2006 as well as the impugned relieving Order issued under Memo No. SWB/1-4(1) 77/Pt.IV/97/1247-51 dated 18.08.2006.

10. PARTICULARS OF THE IPO.

- i. I.P.O. NO.
- ii. Date of Issue
- iii. Issued from
- iv. Payable at

11. DETAILS OF ENCLOSURES:

As stated in the Index.

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

I, Shri Mustaquim Ali, son of Late Mehboob Ali, resident of 7th Mile, Jalukbari, P.O. & P.S. Jalukbari, Guwahati – 781 014; Dist. Kamrup, Assam., aged about 48 years, do hereby solemnly affirm and verify that I am the Applicant in the instant application and as such, I am fully conversant with the facts and circumstances of the case. The statements made in Paragraphs-1, 2, 3, 4.1 to 4.5, 4.6 (pt), 4.7 (pt), 4.8 (pt), 4.9 to 4.11, 4.12 (pt), 5 to 11 are true to my knowledge and those made in Paragraphs- 4.6 (pt), 4.7 (pt), 4.8 (pt), 4.12 (pt), 4.13, 4.14 are matters of records derived therefrom, which I believe to be true and those made in paragraphs – 5 – are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 21st day of August, 2006 at Guwahati.

Mustaquim Ali

SIGNATURE OF THE APPLICANT

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Speed Post

ANNEXURE - A

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CENTRAL SOCIAL WELFARE BOARD
(State Board Administration)

F.14-1/Secretary/Policy/2005/SB Admn

Assam State Social Welfare Board
Belgaia, Guwahati-28

Receipt No. 372

Date 6-6-06

Dated: 26.5.2006

OFFICE ORDER

The following officers are appointed as Secretaries of the State Social Welfare Boards on usual terms and conditions of deputation. The period of deputation will be applicable with the date of assumption of charge of the post. The appointments have been made on administrative grounds and in public interest. The officers who have been transferred and given charge of Secretary State Board are directed to report immediately for duty to the Chairperson, State Social Welfare Boards to which they are appointed under intimation to this office.

| S.No. | State/U.T. | Name of the Secretary/PO/Field Officer | Designation | Deputation/ Permanent | Remarks |
|-------|-------------------|--|----------------------|--------------------------------|--|
| 1. | Andhra Pradesh | Sh. C. Shaktivel | PO | Deputation as Secretary | Deputation extended for another one year. He will continue to hold additional charge of PO. |
| 2. | Arunachal Pradesh | Sh. P.R. Deka | State Board Employee | Permanent | Nil |
| 3. | Assam | Sh. M. Ali | APPO | <u>Deputation as Secretary</u> | Sh. M. Ali is appointed as Secretary, State Board with immediate effect. He is appointed on deputation with additional charge of Asst. Project Officer. |
| 4. | Bihar | Sh. N.G. Jani | APPO | Deputation as Secretary | Sh. N.G. Jani is appointed as Secretary, State Board with immediate effect. He is appointed on deputation with additional charge of Asst. Project Officer. |

Certified to be true copy.

(Signature)

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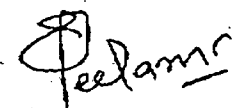
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|-----|-------------|--------------------|-----------------|--------------------------------------|---|
| 31. | Pondicherry | Sh. D. Dominic | Welfare Officer | Deputation as Secretary, State Board | The period of deputation of Sh. D. Dominic is extended for another year as Secretary, State Board. He will continue to hold additional charge of Welfare Officer. |
| 32. | Chattisgarh | Sh. Narain Mohanty | APO | Deputation as Secretary, State Board | Sh. Mohanty is appointed as Secretary, State Board with immediate effect. He is appointed on deputation with additional charge of Asst. Project Officer. |
| 33. | Uttaranchal | Sh. P.K. Ojha | Welfare Officer | Deputation as Secretary, State Board | The period of deputation of Sh. P.K. Ojha is extended for another year as Secretary, State Board. He will continue to hold additional charge of Welfare Officer. |

Note Sh. A.K. Dua, Deputy Director and Sh. D.S. Bhukkal, Deputy Director are repatriated to CSWB Headquarters with immediate effect.

This issues with the approval of the Competent Authority.


(NEELAM BHARDWAJ)
JOINT DIRECTOR (SB ADMN/ ESTT)

1. All Concerned

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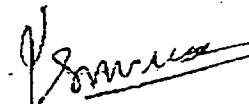
1. All Chairpersons of State Social Welfare Boards with the request to

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kindly relieve the officer of their duties immediately to enable them to join their duties.

2. P & AO, CSWB for informat on and necessary action.
3. All Joint Directors
4. All Divisional Heads
5. Personal File
6. PS to Chairperson for information
7. PA to ED for information.
8. Establishment Division
9. Vigilance Cell
10. ACR Cell



(V. BHASKARAN)
DEPUTY DIRECTOR (SB ADMN/ ESTT)

File No. 2-4/F.O./99/F.O. Estt. 41

फैक्स / Fax 26960057

संदेश / Telegram

Telegram : "SANGHATANA"

केंद्रीय समाज कल्याण बोर्ड

THE CENTRAL SOCIAL WELFARE BOARD

समाज कल्याण भवन

बी-12, कुतुब इंस्टीट्यूशनल एरिया, नई दिल्ली - 110 016

B-12, Qutub Institutional Area, New Delhi - 110 016

दिनांक / Dated : 29.5.2006

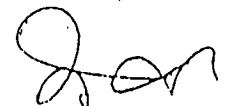
OFFICE ORDER

In continuation to this Office Order of even number dated 18.5.2006, the following field officers are transferred and posted to the State Boards indicated against their names under column No.4 with immediate effect and until further orders on administrative grounds and in public interest. The concerned officers are directed to report for duty to the Chairperson, State Social Welfare Board to which they are posted within a fortnight of issue of this order and after being relieved by the respective Chairperson of the State Boards.

| S.No. | Name & Designation | Transferred from | Transferred to |
|-------|------------------------|-----------------------|--|
| 1. ✓ | Sh. M. Ali, APO | Arunchal Pradesh ✓ | Assam (He will also look after the work of Arunchal Pradesh - Additional Charge) |
| 2. | Sh. P. Prakash, PO | Orissa | Tamil Nadu |
| 3. | Smt. Parvathi, PO | Madhya Pradesh | Kerala |
| 4. | Sh. A.K. Shaji, PO | Tamil Nadu | Karnataka |
| 5. | Smt. Arunima Gupta, WO | Rajasthan | Uttar Pradesh |

2. No representation will be considered without joining the new place of posting. Any recommendation or outside pressure will lead to disciplinary action. All the transferred officers are entitled for getting TADA on transfer except S.No.1, 3 & 5 whose transfers have been made on their own request.

4. This issues with the orders of the Competent Authority.

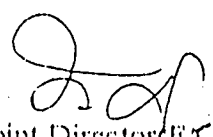


(Vinesh Lata)

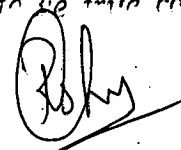
Joint Director(F.O. Estt.)

Copy to :-

1. All concerned field officers for immediate compliance.
2. Chairpersons of all concerned State Social Welfare Boards with the request to kindly relieve the concerned field officers of their duties immediately to enable them to join their duties in their respective place of postings after availing the joining time under intimation to this Office. The joining report of the transferred officers may also be immediately forwarded to the Central Social Welfare Board.
3. P & AO for information and necessary action.
4. All Joint Directors and Divisional Heads for information
5. Deputy Director(FCI)
6. Deputy Director(SBA)
7. Personal file of concerned officer.
8. P.S. to Chairperson and P.A. to Executive Director for information.


Joint Director(F.O. Estt.)

Certified to be true copy



ARUNACHAL PRADESH STATE SOCIAL WELFARE BOARD

NAHARLAGUN-791 110
ARUNACHAL PRADESH

Telegram 'RAJYAKALYAN'

| Telephone | Off. | STD 0360 |
|-------------|--------|----------|
| | | Res. |
| Chairperson | 245323 | 248660 |
| Secretary | 244751 | 244930 |
| FAX : | 244751 | |

Ref. No. APSSWB/ESTT-79/2001-02/181

Dated.....9.6.2006.....

ORDER

Consequent upon the CSWB's Order No.F.14-1/Secretary/Policy/2005/S.B.Admm. dated 26.5.06 and F.No.2-4/F.O./99/F.O. Estt dated 29.5.06 Shri M. Ali, A.P.O. attached to Arunachal Pradesh State Social Welfare Board is hereby released on 9th June 2006 (A.N.) to enable him to join Assam State Social Welfare Board as Secretary on deputation and additional charge of A.P.O.. He will continue to look after the work of Arunachal Pradesh as A.P.O. - additional charge.

Sd/- TADAR YADIR
CHAIRPERSON

MEMO.NO.APSSWB/ESTT-79/2001-02/182

Dtd. 9.6.2006

Copy to:-

1. The Executive Director, CSWB, New Delhi for information.
2. The Chairperson, Assam State Social Welfare Board, Guwahati for information.
3. Shri M. Ali, A.P.O., APSSWB for information and necessary action.
4. O/c

[Signature]
9/6/06
(TADAR YADIR)
CHAIRPERSON

Added Charge *Annehel*
Pradep

Certified to be true copy.

[Signature] *[Signature]*
Mony wathu

No. ASSWB/PER/ESTT./2006/1

Date : 14/06/2006

To
The Chairperson,
Assam State Social Welfare Board,
Beltola, P.O. Guwahati-28 (Assam).

SUBJECT :- JOINING REPORT IN ASSAM STATE BOARD ON TRANSFER.

Reference :- C.S.W.B.'s Orders vide No. F.14-1/Secretary/Policy/2005/SB Admn dt.26/05/06 & F.2-4/FO/99/F.O.Estt. dt.29/05/06 and Arunachal Pradesh State Board's release order vide No.APSSWB/Estt.-79/2001-02/181 dt.09/06/2006.

Madam,

I have the honor to refer to the Order's of Central Social Welfare Board, New-Delhi and subsequent release order of Arunachal Pradesh State Board on the above quoted subject and to inform you that I have joined to-day i.e. on **14th June 2006 (F.N.)** in The Assam State Social Welfare Board, Guwahati as **Secretary** on deputation with additional charge of **A.P.O.**

May I therefore, request you kindly to forward a copy of my joining report to The Central Social Welfare Board, New-Delhi for further necessary action.

Encl. Duplicate copy.

Yours Faithfully

[Signature]
14/6/06

(MUSTAQUIM ALI)
SECRETARY & A.P.O.
ASSAM STATE SOCIAL WELFARE BOARD
GUWAHATI.

Copy for kind information & necessary action to :

- i) The Executive Director, Central Social Welfare Board, New-Delhi -16.
- ii) The Dy, Director (F.O.Estt.), C.S.W.B., New-Delhi -16
- iii) The Pay & Accounts Officer, C.S.W.B, New-Delhi -16 with the request kindly to remit my pay & allowances to Assam Board from this month onwards.
- iv) The Chairperson, Arunachal Pradesh State Social Welfare Board, P.O. Naharlagun Dist. Papum pare.

[Signature]
14/6/06

(MUSTAQUIM ALI)
SECRETARY & A.P.O.

[Handwritten signatures and stamps]
Social Welfare Board
Beltola, Guwahati-28
No. 14/6/06
P.O. 6-26

Certified to be true copy.

[Signature]

V/43

No. SNB/1274/2006-07

✓

Sery

The following cheques may please be signed as under:-

i) Ch. no. 331738 for Rs. 98,700/- for salary of staff for the month of June '06

ii) Ch. no. 198634 for Rs. 180,000/- Transfer from Plan of E to Non Plan etc vide order dt.

Basu
17/7/06

Chairperson

The cheque at i) & ii) above may be signed by

11/7/06

Ch. no. 198634
Rs 1,80,000/-
Signed on 3.7.06.
msl
3.7.06.

Chairperson

The above ch. no. 331738 for Rs. 98,700/- for salary of staff for the month of June '06 may please be signed.

Basu
7/7/06

Ch. no. 331738
msl
7.7.06.

Approved
by Chairperson

Certified to be true copy

Basu

(2)

-22-

ANNEXURE D
copy.

303130
303133

Fax : 0361-303133

অসম ৰাজ্যিক সমাজ কল্যাণ উপদেষ্টা পৰিষদ
ASSAM STATE SOCIAL WELFARE ADVISORY BOARD
লক্ষীমন্দিৰ, বেলতলা, গুৱাহাটী - ৭৮১০২৮
Lakhimandir, Bellola, Guwahati-781028

No. SWB/ XII-25 (2)/2005-06/817

Date: 3-7-06

To
Sri Prabin Thakuria,
U.D.A.
State Board

I have come to learn that a Cheque No. 331738 for Rs. 98,700/- dt. 1-7-06 A/C No. 439359777 was issued and presented to the Bank under single signature.

I had left instructions to you to get the Cheque signed by me in my capacity as an authorised signatory. I now instruct you to give your explanation for such violation of my instruction.

3.7.06
(DR. (SMT) M.D. CHOWDHURY)
CHAIRPERSON

Certified to be true copy.

[Signature]

44

To

The Chairperson,
Assam State Social Welfare Board,
Baltola, Guwahati-28.

Sir,

With reference to the Memo. No. SWB/XII-25(2)/2005-06/819/ dated 3.7.06 I have the honour to inform you that the Cheque No. 331738 dated 1.7.06 for Rs. 98,700/- of A/c No. 439359777 was drawn on 1.7.06 for payment of salary of staff for month of June, 2006 with single signature of the Secretary, State Board which was informed by over phone for your consent on 1.7.06 which was understand wrongly by me and for this act I am highly sorry and request you kindly to excuse me.

Further, I have the honour to give an undertaking that no such mistake will be done by me in future.

Sri, Prabir Thakuria.

(PRABIR THAKURIA) 4.7.06

U.D.A.

Assam State Board.

RH Cashier

Certified to be true copy.

RH

JS

Confidential

ASSAM STATE SOCIAL WELFARE BOARD GUWAHATI-28

No. SWB/ESTT./2006-07/

DATE :- 24/07/06

To
Shri Prabin Thakuria
Cashier
Assam State Social Welfare Board
Guwahati-28.

Subject:-Clarification on deposit of Cheque and withdrawal of money thereof.

With reference to the subject cited above, you are asked to clarify immediately to the undersigned under what circumstances you had to deposit the cheques bearing Nos.198634 for Rs.1,80,000/- and Cheque No.331738 for 98,700/-to the Bank for transfer of fund and release/drawal of salary amount of staff for June/06 respectively without obtaining prior signature in corresponding files as well as in the cheques of the Chairperson which is very much within the perview of your responsibilities and duties.

Therefore, please clarify the above query at the earliest for necessary onward action.

24/7/06

(M.ALI)
Secretary

Assam State Social Welfare Board
Guwahati.

Certified to be true copy.

Rshy

ANNEXURE – E Colly

(TYPED COPY)

To,

The Secretary,
Assam State Social Welfare Board,
Beltola, Guwahati – 28.

Sub: Clarification to deposit of cheque and withdrawal of money thereof.

Sir,

With reference to the Memo No. SWB/Estt/2006-07 dated 24.07.06, I have the honour to inform you that the Cheque No. 331738 for Rs. 1,80,000/= was drawn and deposited on 01.07.06 for payment of salary of staff for the month of June, 2006 with single signature of Secretary, State Board which was informed by over phone for Chairperson's consent on 01.07.06 which understood wrongly by me and for this act I am highly sorry and request you kindly to excuse me.

Further, I have the honour to give an undertaking that no such mistake will be done by me in future.

Yours faithfully,

Sd/= Prabin Thakuria
Cashier
Assaam State Board.
24.7.06

Certified to be true copy.



2

फाइल नं. File No. F. 14-2/2/94-SBA

Tel.No. 26950059

फैक्स नं. 26960057

FAX: 26960057

समाज कल्याण बोर्ड

THE CENTRAL SOCIAL WELFARE BOARD

समाज कल्याण भवन

बी-12 क़ुतब इन्स्टीटुशनल एरिया नई दिल्ली-110010

SAMAJ KALYAN BHAVAN

B-12, Qutab Institutional Area New Delhi-110016

दिनांक/Dated: 4/8/06

The Chairperson,
Assam State Social Welfare Board,
GUWAHATI.

Subject: Appointment of Secretary, Assam State Board - regl.

Madam,

In supersession to this office order No. F. 14-1/Secy/Policy/2005/SBA dated 26/5/06, Sh. D.D.Mondal, APO is appointed as Secretary, Assam State Social Welfare Board, Guwahati for a period of one year on usual terms and condition of deputation with immediate effect an until further orders.

This issues with the approval of Competent Authority.

As per C.S.W.B's
order please handover
charge with immediate
effect. A.D.C.
5.8.06

Yours faithfully,

(V. BHASKARAN)

DEPUTY DIRECTOR (SBA)

Copy for information and necessary action:

1. The Chairperson, Assam State Social Welfare Board, Guwahati.
2. Sh. M. Ali, Secretary, Assam State Board, Guwahati is directed to hand over the charge of Secretary to Sh. D.D.Mondal, APO with immediate effect.
3. Sh. D.D.Mondal, APO, Assam State Social Welfare Board, Guwahati, for information and compliance.
4. D.D(F.O. Eatt.)
5. D.D (FCI)
6. P&AO, CSWB.

DEPUTY DIRECTOR (SBA)

Certified to be true copy.

[Signature]

-27- 48

ASSAM, STATE SOCIAL WELFARE BOARD
Beltola : : Guwahati-28.

No.ASSWB/PER/ESTT/2006/ 928-29

Date:- 5-8-06

To
The Chairperson
Assam State Social Welfare Board
Beltola, Guwahati-28.

Sub:-Appointment of Secy, Assam State Board.

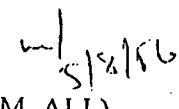
Ref:- F.14-2/2/94-SBA dtd.4.8.06.

Madam,

In terms of C SW.B.'s order dtd.4.8. 2006 on the above quoted subject, I do hereby handover my charge of Secretary to Sh. D.D. Mandal, A.P.O. to-day i.e. on 5.8.06(F.N.).


This is for favour of your kind information & necessary action.

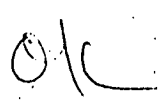
Yours faithfully,


(M. ALI)
A.P.O.

Attached to Assam State Board
Guwahati.

Copy to:- The Dy. Director(SBA), Central Social Welfare Board, New Delhi for kind information & necessary action with reference to letter No. F.14-4/2/94-SBA dtd.4.8.06.


(M. ALI)



Certified to be true copy.



Tel.No 26960059

फैक्स नं: 26960057

तार - सधसेवा

Telegram : 'SANGHASEVA'

केंद्रीय समाज कल्याण बोर्ड

THE CENTRAL SOCIALWELFARE BOARD

समाज कल्याण भवन

बी-12, कुतुब इंस्टीट्यूशनल एरिया नई दिल्ली-110016

SAMAJ KALYAN BHAVAN

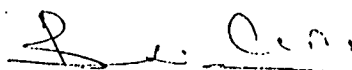
B-12, Qutab Institutional Area, New Delhi-110016

DATED : 10.8.2006

MEMO

Sh. M. Ali, Asstt. Project Officer. attached to Assam State Social Welfare Board is transferred to Arunachal State Board on Administrative grounds with immediate effect. He is entitled for TA/DA and Joining time as rule.

This issues with the approval of the competent Authority.


10/8/06

(B.C. THAKUR)
DEPUTY DIRECTOR (FO.ESIT)

✓ Sh. M. Ali, APO.
Assam State Social
Welfare Board
GUWAHTI

Certified to be true copy.



ASSAM STATE SOCIAL WELFARE BOARD
BELTOLA GUWAHATI-781028

SWB/1-4(1)77/Pt-IV/97/1247-51

Date: 18/8/06

OFFICE ORDER

In pursuance of the C.S.W.B's Memo No. F.1-2/F.O/87/FO Estt/184 dated 10-08-2006 Shri M. Ali, A.P.O. attached to Assam State Social Welfare Board is hereby relieved on 19-08-2006 (F.N) to enable him to join in Arunachal Pradesh State Social Welfare Board.

Dr. (Smt) Mukti Deb Choudhary
CHAIRPERSON

u.

MEMO NO.SWB/1-4(1)77/Pt-IV/97/1247-51

Date: 18/8/06

Copy to :-

- ✓1) Shri M. Ali, A.P.O. for information and necessary action. He is directed to handover the charge to the Secretary.
- 2) The Executive Director, C.S.W.B., New Delhi for information.
- 3) The Chairperson, Arunachal Pradesh State Social Welfare Board.
- 4) The Deputy Director, (F.O. Estt.), C.S.W.B.
- 5) The Pay and Accounts Officer, C.S.W.B.
- 6) Personal File.

CHAIRPERSON

u.
18-8

Certified to be true copy.



Book No. **07**

KENDRIYA VIDYALAYA, MALIGAON

Sl. No. **616** Date **20/6/2006**

Name of the Student छात्रा **Tanjeela mehboob**

Adm. No. Class & Section **VII B**

Fee for the month of माह.....

Nature of Concession, if any.....

| विवरण Particulars | रु Rs. | पै P. |
|---|--------|-------|
| 1. शिक्षा शुल्क Tution Fees | | |
| 2. प्रवेश / पुन प्रवेश शुल्क Admission / Re-adm. Fee | 25- | 00 |
| 3. विज्ञान शुल्क Science Fees | | |
| 4. विलम्ब शुल्क Late Payment Fee | | |
| 5. अनुपस्थिति दण्ड Absence Fine | | |
| 6. पुस्तकालय दण्ड Library Fine | | |
| 7. छात्र कोष शुल्क V. V. N. | | |
| 8. Hr. Contribution | | |
| 9. | | |
| योग Total | 25- | 10 |

राशि शब्दों में Amount in words Rs. **Twenty Five**

Sig. of Teacher/U.D.C./Lib. **Cover**

New Admn.

KENDRIYA VIDYALAYA, MALIGAON

Adm. No. **8682** Date **20/6/2006**

Name of the Student छात्रा **Abrar mehboob**

T.C. Adm. No. Class & Section **II A**

Fee for the month of माह.....

Nature of Concession, if any.....

| विवरण Particulars | रु Rs. | पै P. |
|---|--------|-------|
| 1. शिक्षा शुल्क Tution Fees | | |
| 2. प्रवेश / पुन प्रवेश शुल्क Admission/ Re- adm. Fee | 25- | 00 |
| 3. विज्ञान शुल्क Science Fees | | |
| 4. विलम्ब शुल्क Late Payment Fee | | |
| 5. अनुपस्थिति दण्ड Absence Fine | | |
| 6. पुस्तकालय दण्ड Library Fine | | |
| 7. छात्र कोष शुल्क V. V. N | | |
| 8. Hr. Contribution | | |
| 9. | | |
| योग Total | 25- | 00 |

राशि शब्दों में Amount in words Rs. **Twenty Five**

Sig. of Teacher/ U.D.C/ Lib. **Cover**

Certified to be true copy

Qshis

Central Administrative Tribunal
In The Central Administrative Tribunal
Guwahati Branch, Guwahati

O.A. No. 213/2006

Shri M Ali

-VS-

U.O.I & ORS.

152
Filed by the applicant
through S.N. Tamuli
Advocate. 8/11/06

Written Statement Filed by Respondent No.4.

The Respondent No.4 most respectfully begs to state as under,

- (i) That Respondent No.4 had gone through the above O.A. and understood the contents there of.
- (ii) That this application is not within the jurisdiction of this Tribunal. Central Social Welfare Board and State Board are independent organization which are not the Central Govt organization .
- (iii) That in the O.A. allegation of favouratism against the Respondent No.4 has been made in para 4.12. The applicant has made an endeavour to impute malafide against the Respondent No.4. The allegation of favouratism is denied and facts of the case are clear and speaks of the factual position. The deponent denies the correctness of the statement in para 4.12 that applicant noticed several irregularities and that he brought such irregularities to the notice of the Respondent No.4. This deponent is not aware of respondent No.5 influencing political clout. It is for the applicant to prove and demonstrate the same and to show how such allegation may have nexus with the transfer. The deponent denies the allegation that the applicant

Minute Del Chaudhary

has been victimize to accommodate Respondent No.5. The correctness of the statement that the applicant has tried to render sincere services in the department much to the dislike of the Respondent No.4 is denied. The deponent states that the instant case is not a case of sincere or insincere services of the applicant. The allegation that the deponent dislikes the applicant is neither relevant nor correct. The applicant has been transferred on administrative grounds.

The allegation of malafide in the O.A. is denied.

(iv) That the applicant has already been released from the office by order dated 18/08/2006 wet.

(v) That the applicant in the O.A. in an Assistant Project Officer (for short APO), under the Central Social Welfare Board. Such APO's are posted in State Social Welfare Boards of different States, and their Services are required on transfer from one State to another State. The State Social Welfare Boards have interalia functions to advice and assist the Central Board in sponsoring new welfare programmes and activities whenever they are needed within the state, to undertake such other activities as may be conducive to the fulfillment of the welfare objectives of the state, to promote the growth of voluntary social welfare agencies, with special reference to development of the welfare services in uncovered areas of the state, field counseling for aided agencies etc.

(vi) The applicant of the O.A. (herein after called applicant) was posted in Arunachal Pradesh as APO and on his request was posted in Guwahati as Secretary in the State Board on deputation by order dated 26/05/2006

Mukte Deb Choudhury

(annexure-A of the O.A.). The order clearly indicated that APO was an additional charge. The office order dated 29/05/2006 further made it clear that he will also look after the work of Arunachal Pradesh.

(vii) That it is stated that in Arunachal Pradesh there is no other APO. After the transfer of the applicant from Arunachal Pradesh under the above arrangement it has been experienced that the works of that state was suffering a set back and the 'look after' arrangement did not work satisfactory. The matter was considered by the Central Board keeping in mind the necessity of the Board State of Arunachal Pradesh in general and Tribal population in particular as regards to social welfare.

(viii) That the Central Board by order dated 10/08/2006 transferred the applicant from Assam Board to Arunachal State Board. The prime object of the transfer is welfare interest of the area of that State. It is stated that the charge of APO at Guwahati was an additional charge, and therefore the applicant was already released from his Original Post of Secretary (on deputation) on 05/08/2006. It is stated that the service of the applicant is consider fit for Arunachal Pradesh in the circumstances explained above and in administrative and public interest. It is also stated that the transfer has been made without in any manner violating any rule or procedure/norm. It is stated that there is no other APO or field officer in Arunachal Pradesh.

(ix) That the applicant has already been relieved from his office in the State Board of Assam w.e.f. 19/08/2006 (FN).

Pratik Deb Choudhury

(x) That the office of the Assam State Welfare Board, Guwahati is a small office. On the basis of the worth of work basis there is no scope to accomodate the applicant at Guwahati.

(xi) That with the release of the applicant w.e.f. 19/08/2006, the same was recorded in the attendance register which is an official record. On 22/08/2006 the applicant came to office and submitted a letter address to the chairperson, Assam Board, and enclose the order dated 21/08/2006 of the Hon'ble Tribunal and without waiting for any official order struck of the official record in the attendance registers and started signing the attendance register. The applicant is an officer under the control of Respondent No.2 and 3 as regards transfer promotion etc. The Respondent No.4 has control and supervision over the works of the applicant and is bounded by the order of the Central Board as regards the service of the staff including officers as to transfer promotion etc. The Respondent No.4 as such has administrative control of the services of the applicant and communicated the matter to the Central Board. As law abiding persons the Respondent beg to state the facts before the Hon'ble Tribunal. It is stated that there is no scope to continue the service of the applicant in Assam Board, Guwahati. In reply to statement in para 4.4 of the O.A. it is stated that there is no fixed tenure of posting as Secretary/APO. In exigency of services and administrative grounds officers are transferred after working for short period also. For eg Sri N.Sinha (APO) & P.Elango (APO) were transferred within a period of 2 & 3 months respectively (ANNEXURE 2&3) 122)

copy of attendance register - Annexure - 3

Mukti Deb Choudhury

✓ (xii) That in reply to statements in para 4.6 to 4.10 of the O.A., it is stated that the matter is of serious concern in financial management of the State Board and involve discipline and the conduct of the employees including the applicant. The applicant has attempted to hide his involvement in commitment of the serious violation in the matter of issue of cheque. The matter is under investigation for appropriate steps and action. The applicant can not preempt such action under camouflage of a transfer application. However, if the Hon'ble Tribunal wants, facts shall be placed without prejudice to process of investigation and consequential action.

(xiii) That in reply to statement in para 4.14 it is stated that the Secretary is appointed and assigned duty irrespective of initial post or seniority under the overall administrative control of the State Board Chairperson. There is no violation of any guideline and there is no scope of any favouritism as alleged. It may be mentioned here that prior to the applicant Smt G. Nayak was appointed as secretary when his senior Smt S.L. Mallik was APO in Assam Board.

(xiv) That as regards the education of the children as mention in para 4.13, it is stated that the Respondents of O.A. have concern for children's education. The applicant has been transferred to Arunachal Pradesh. There is Kendriya Vidyalaya where is children were reading earlier in Arunachal Pradesh.

(xv) That the present deponent of State Social Welfare Board, Assam respondent No.4 is recognized as an eminent social worker and as such has been appointed as Chairperson of the State Board. She is retired Principal of Cotton College, Guwahati. The applicant has made hostile allegation of malafide and favouratism in a vague manner only to subterfuge his

Nurati Deb Choudhury

irregularities. The applicant should be put to strict proof of the hostile allegation of favouritism and nexus of political clout of respondent no 4 as alleged.

(xvi) That under the circumstances the respondent humbly pray that the Hon'ble Tribunal will be pleased to dismiss the O.A with cost.

Amtes Deb Chaudhary.

58

VERIFICATION

I, ~~Shri~~ Smt. Mukti Deb Choudhary
.....working as Chairman Assam State Social Welfare Bldg
hereby verify that statements made in para 1 to ... are true to my knowledge
and belief and I have not suppressed any material facts. I sign this verification
on this ~~6th~~ day of Nov. 2006 at Guwahati.

Guwahati
6/11/06

Mukti Deb Choudhary
Signature.

9

मिसिल न. File No.2-4/F.O./99/F.O. Estt.

फैक्स / Fax : 26960057

तार : 'संघसेवा'

Telegram : "SANGHASEVA"

केंद्रीय समाज कल्याण बोर्ड

THE CENTRAL SOCIAL WELFARE BOARD

समाज कल्याण भवन

बी-12, कुतुब इंस्टीट्यूशनल एरिया, नई दिल्ली - 110 016

B-12, Qutub Institutional Area, New Delhi - 110 016

दिनांक / Dated : 18.5.2006

OFFICE ORDER

The following field officers are transferred and posted to the State Boards indicated against their names under column No.4 with immediate effect and until further orders on administrative grounds and in public interest. The concerned officers are directed to report for duty to the Chairperson, State Social Welfare Board to which they are posted within 20 days of issue of this order and after being relieved by the respective Chairperson of the State Boards. If they are not relieved by the concerned State Social Welfare Board by the scheduled date due to one reason or the other, the Officers concerned will be deemed to be relieved suo moto w.e.f. 6th June, 2006 and they will require to join their place of posting after availing the admissible joining time.

| S.No. | Name & Designation | Transferred from | Transferred to |
|-------|-----------------------------|------------------|----------------------------|
| 1. | Smt. Padamaja, APO | Maharashtra | Andhra Pradesh |
| 2. | Sh. Munniswamy, WO | CSWB | Andhra Pradesh |
| 3. | Sh. D.D. Mondal, APO | West Bengal | Assam |
| 4. | Smt. Subhanti Teronpi, WO | Nagaland | Assam |
| 5. | Sh. Chenniram Pawe, WO | Manipur | Assam |
| 6. | Sh. O.P. Gupta, APO | U.P. | J & K |
| 7. | Kum. Rita Wahi, APO | Chandigarh | additional work of Haryana |
| 8. | Sh. A.K. Gupta, WO | M.P. | Bihar |
| 9. | Smt. Khursheed Bano. PO | Rajasthan | Delhi |
| 10. | Sh. S.B. Yadav, WO | Goa | Gujarat |
| 11. | Sh. Ramshusheel Mishra, WO | M.P. | Gujarat |
| 12. | Sh. A.K. Sharma, APO | U.P. | Haryana |
| 13. | Sh. Anil Kumar, WO | J & K | H.P. |
| 14. | Smt. S.L. Mallick, PO | Assam | Jharkhand |
| 15. | Sh. S.S. Ahmed Hussain, APO | Tamil Nadu | M.P. |
| 16. | Smt. A.S. Shete, APO | Maharashtra | M.P. |
| 17. | Sh. B.N. Kamble, APO | Rajasthan | Maharashtra |

Attended
(Advocate)

60

| S.No. | Name & Designation | Transferred from | Transferred to |
|-------|--------------------------|------------------|----------------|
| 18. | Sh. Y.L. More, WO | Gujarat | Maharashtra |
| 19. | Smt. Sanatombi Devi, WO | Assam | Manipur |
| 20. | Sh. S. Sailo, PO | Tripura | Mizoram |
| 21. | Sh. Gourang Nayak, APO | Assam | Orissa |
| 22. | Sh. B.N. Mishra, APO | Jharkhand | Orissa |
| 23. | Sh. A.K. Ranga, APO | Chattisgarh | Punjab |
| 24. | Sh. Raj Mohan Singh, APO | U.P. | Rajasthan |
| 25. | Sh. P.R. Meena, APO | CSWB | Rajasthan |
| 26. | Smt. Meena Walia, WO | Gujarat | Rajasthan |
| 27. | Sh. A.K. Roy, APO | West Bengal | Sikkim |
| 28. | Sh. Philipose, APO | Kerala | Tripura |
| 29. | Sh. Sita Ram, APO | Maharashtra | U.P. |
| 30. | Sh. Bhim Prakash, WO | Haryana | U.P. |
| 31. | Smt. Uma Singh, WO | H.P. | U.P. |
| 32. | Sh. R.K. Singh, WO | Bihar | U.P. |
| 33. | Sh. P. Elango, APO | A.P. | West Bengal |

2. No representation will be considered without joining the new place of posting. Any recommendation or outside pressure will lead to disciplinary action. All the transferred officers are entitled for getting TA/DA on transfer except for those whose transfers have been made on their own request.

3. This issues with the orders of the Competent Authority.

(Vinesh Lata) 18/5/06

Joint Director(F.O. Estt.)

Copy to :-

1. All concerned field officers for immediate compliance.
2. Chairpersons of all concerned State Social Welfare Boards with the request to kindly relieve the concerned field officers of their duties immediately to enable them to join their duties in their respective place of postings after availing the joining time under intimation to this Office. The joining report of the transferred officers may also be immediately forwarded to the Central Social Welfare Board.
3. P & AO for information and necessary action.
4. All Joint Directors and Divisional Heads for information
5. Deputy Director(FCI)
6. Deputy Director(SBA)
7. Personal file of concerned officer.
8. P.S. to Chairperson and P.A. to Executive Director for information.

Attended
Advocate

(Vinesh Lata) 18/5/06
Joint Director(F.O. Estt.)

File No. 2-1111-0021-01, Part 1

Tax 26960057
Telegram "SANGHASEVA"

THE CENTRAL SOCIAL WELFARE BOARD
B-12, Qutub Institutional Area, New Delhi - 110 01

Dated: 11.8.2006

OFFICE ORDER

The following field officers are transferred and posted to the State Boards/CSWB indicated against their names under column No.4 with immediate effect and until further orders on administrative grounds and in public interest. The concerned officers are directed to report for duty to the Chairperson, State Social Welfare Board/CSWB to which they are posted within a fortnight of issue of this order and after being relieved by the respective Chairpersons of the State Boards.

| S.No. | Name & Designation | Transferred from | Transferred to |
|-------|--------------------------------|------------------|--|
| 1. | Sh. Nikhilesh Sinha, APO | Bihar | West Bengal |
| 2. | Sh. V.J. Patel, APO | Uttar Pradesh | Gujarat |
| 3. | Sh. Elengo, APO | West Bengal | Karnataka |
| 4. | Sh. Shyamul Roy Chaudhary, APO | Orissa | West Bengal |
| 5. | Sh. A.K. Roy, APO | Retained in W.B. | He will also look after the work of Sikkim State Board (additional charge) |
| 6. | Smt. Prashanti, WO | Pondicherry | Andhra Pradesh |
| 7. | Sh. S.K. Bajaj, APO | Haryana | CSWB, Delhi |

2. All the transferred officers except S.No.3 are not entitled for getting TA/DA and joining time as transfers have been made on their own request.

3. This issues with the orders of the Competent Authority.

(Romi) Secy
Deputy Director (C.D.)

Copy to :-

1. All concerned field officers for immediate compliance.
2. Chairpersons of all concerned State Social Welfare Boards with the request to kindly relieve the concerned field officers of their duties immediately to enable them to join their duties at their respective place of postings after availing the joining time if admissible and intimating to this Office. The joining report of the transferred officers may also be immediately forwarded to the Central Social Welfare Board.
3. P & AO for information and necessary action.
4. All Joint Directors and Divisional Heads for information.
5. Deputy Director (C.D.)
6. Deputy Director (SBA)
7. Personal file of concerned officer.
8. P.S. to Chairperson and P.A. to Executive Director for information.

(P.C.)
Deputy Director (C.D.)

Attended
15/8/06
(Advocate)

15/8/06
15/8/06

Examples of transfer within 2 months.

Annexure 2

File No 2-4/F.O./99/F.C.Estt | 94

फैक्स :

Fax : 26960057

तार : 'संगसेवा'

Telegram

"SANGHASEVA"

केंद्रीय समाज कल्याण बोर्ड

THE CENTRAL SOCIAL WELFARE BOARD

समाज कल्याण भवन

बी-12, कुतुब इंस्टीट्यूशनल एरिया, नई दिल्ली - 110 016

B-12, Qutub Institutional Area, New Delhi - 110 016

Dated: 25-7-2005

OFFICE ORDER

In continuation and in partial modification of this office order of even number dated 25-5-2005 the following transfers are made with immediate effect and until further orders on administrative grounds. The concerned officers are directed to report for duty to the Chairperson, State Social Welfare Board to which they are posted within a fortnight of issue of this Office order and after being relieved by the respective Chairperson of the State Social Welfare Board. All the transferred officers are entitled for getting T.A. / D.A. on transfer and joining time as per rules except Shri Bhushan Toppo, APO whose transfer has been made on his own request.

| S.No. | Name & Designation of the Officer. | Transferred from | Transferred to |
|-------|------------------------------------|------------------|----------------|
| 1. | Shri B.N. Mishra, A.P.O. | Bihar | Jharkhand |
| 2. | Shri Bhushan Toppo, A.P.O. | Bihar | Jharkhand |
| 3. | Shri S. Rai Chowdhary, A.P.O. | Jharkhand | Bihar |
| 4. | Shri Nikhiesh Sinha, A.P.O. | Jharkhand | Bihar |

This issues with the orders of the Competent Authority.

(K.J. KAKANWAR)
JOINT DIRECTOR (F.O.ESTT)

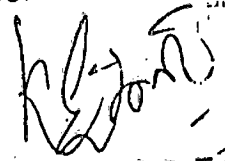
To

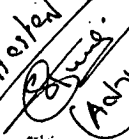
All concerned field officers for immediate compliance.

Attended
By
(Advocate)

Copy to:

- I) Officer-in-Charge, Bihar State Social Welfare Board & Chairperson of Jharkhand State Social Welfare Board - with the request to kindly relieve the concerned field officers of their duties immediately to enable them to join their duties in their respective place of postings after availing the joining time under intimation to this Office. The joining report of the transferred officers may also be immediately forwarded to the Central Social Welfare Board.
- II) P&AO for information and necessary action.
- III) All Joint Directors
- IV) Deputy Director (FCI)
- V) Deputy Director (SBA)
- VI) Personal file of concerned officer.
- VII) P.S. to Chairperson and P.A. to Executive Director for information.


Joint Director (F.O. Estt)

Attended

(Advocate)

भारत न. File No2-4/F.O./99/F.O.Estt

फैक्स

Fax : 26960057

तार : 'संघसेवा'

Telegram : "SANGHASEVA"

केंद्रीय समाज कल्याण बोर्ड

THE CENTRAL SOCIAL WELFARE BOARD

समाज कल्याण भवन

बी-12, क़ुतुब इन्स्टीट्यूशनल एरिया, नई दिल्ली - 110 016

B-12, Qutub Institutional Area, New Delhi - 110 016

Dated: 25-5-2005

OFFICE ORDER

The following field officers are transferred and posted to the State Boards indicated against their names under column No.4 with immediate effect and until further orders on administrative grounds and in public interest. The concerned officers are directed to report for duty to the Chairperson, State Social Welfare Board to which they are posted within 20 days of issue of this order and after being relieved by the respective Chairperson of the State Boards. If they are not relieved by the concerned State Social Welfare Board by the scheduled date due to one reason or the other, the Officers concerned will be deemed to be relieved sup moto w.o.f. 15th of June, 2005 and they will require to join their place of posting after availing the admissible joining time.

| S.No. | Name & Designation of the Officer | Transferred from | Transferred to |
|-------|-----------------------------------|------------------|----------------|
| 1. | Shri P.G.Reddappa, P.O. | Andhra Pradesh | Karnataka |
| 2. | Smt. G.V. Manjula Bai, P.O. | Karnataka | Kerala |
| 3. | Smt. T.Parvathi, P.O. | Kerala | Madhya Pradesh |
| 4. | Shri A.K. Shaji, P.O. | Kerala | Tamilnadu |
| 5. | Shri S. Kumara Prasad, P.O. | Tamilnadu | Maharashtra |
| 6. | Ms. Usha Boyar, P.O. | Maharashtra | Gujarat |
| 7. | Smt. S.K. Kaul, P.O. | J & K | Punjab |
| 8. | Smt. Kursheed Banu, P.O. | Delhi | Rajasthan |
| 9. | Shri S. Sailo, P.O. | Mizoram | Tripura |
| 10. | Smt. K.R. Selvamani, P.O. | Tamilnadu | A & N Islands |
| 11. | Smt. I. Padmaja, A.P.O. | Andhra Pradesh | Maharashtra |
| 12. | Shri N. Ramasamy, A.P.O. | Andhra Pradesh | Maharashtra |
| 13. | Smt. S. Vidya Rani, W.O. | Andhra Pradesh | Karnataka |
| 14. | Kum. Prashanti Nidamanuri, W.O. | Andhra Pradesh | Pondicherry |
| 15. | Shri M.S. Palani Kumar, APO | A & N Islands | Tamilnadu |
| 16. | Shri S.K. Kutubuddin, W.O. | A & N Islands | Jharkhand |
| 17. | Smt. Pratiba Surosh, APO | Karnataka | Tamilnadu |
| 18. | Shri A. Suresh Babu, W.O. | Karnataka | Pondicherry |
| 19. | Shri V.K. Mohanan, APO | Kerala | Andhra Pradesh |
| 20. | Shri C. Srinivasan, APO | Kerala | Mizoram |
| 21. | Shri K. Sabastian, APO | Kerala | Tamilnadu |
| 22. | Smt. P. Elango, APO | Tamilnadu | Andhra Pradesh |
| 23. | Smt. C. Rajasulochana, APO | Tamilnadu | Andhra Pradesh |
| 24. | Shri V.L. Palaniappan, APO | Tamilnadu | Andhra Pradesh |
| 25. | Shri S. Karunanidhi, APO | Tamilnadu | A & N Islands |
| 26. | Smt. Vennila Gopalan, W.O. | Tamilnadu | Kerala |


A.H. Reddy
(Advocate)

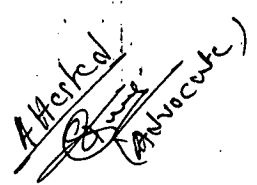
Contd. - 2

| | | | |
|----|---------------------------------|----------------|---|
| 27 | Smt. S.N. Ali, APO | Assam | Sikkim |
| 28 | Shri R.J. Wahlang, APO | Assam | Nagaland |
| 29 | Shri W.I. Singh, W.O. | Manipur | Mizoram |
| 30 | Shri K.C. Zauva, W.O. | Mizoram | Manipur |
| 31 | Shri A.K. Bhattacharya, W.O. | Bihar | Orissa |
| 32 | Kum. Ratna Dey, W.O. | Chhatisgarh | Gujarat |
| 33 | Smt. S.L. Mallick, APO | Orissa | Assam |
| 34 | Shri Narayan Mohanty, W.O. | Orissa | Chhatisgarh |
| 35 | Shri Nikilesh Sinha, APO | West Bengal | Jharkhand |
| 36 | Shri Shyamal Rai Chowdhary, APO | West Bengal | Orissa |
| 37 | Shri S.G. Dagaonkar, W.O. | Madhya Pradesh | Maharashtra |
| 38 | Shri S.K. Raikwar, W.O. | Madhya Pradesh | Rajasthan |
| 39 | Smt. D.B. Trivedi, APO | Gujarat | Madhya Pradesh |
| 40 | Shri V.J. Patol, APO | Gujarat | Uttar Pradesh |
| 41 | Shri B.N. Kamble, APO | Maharashtra | Rajasthan |
| 42 | Shri. S.S. Bhopale, APO | Maharashtra | Goa |
| 43 | Shri S.B. Jadhav, W.O. | Maharashtra | Goa |
| 44 | Smt. Meera Srivastava, APO | Rajasthan | J & K |
| 45 | Smt. Meena Walia, W.O. | Rajasthan | Gujarat |
| 46 | Shri A.K. Ranga, APO | Chandigarh | Chhatisgarh |
| 47 | Shri S.L. Bahri, APO | Haryana | Uttar Pradesh |
| 48 | Kum. Shashi Sharma, W.O. | H.P. | Punjab |
| 49 | Shri Anil Kumar, W.O. | Punjab | J & K |
| 50 | Shri P.N. Rai, APO | U.P. | Bihar |
| 51 | Kum. Preeta Srivastava, W.O. | U.P. | Uttaranchal |
| 52 | Smt. Uma Singh, W.O. | U.P. | H.P. |
| 53 | Smt. Arunima Gupta, W.O. | U.P. | Rajasthan |
| 54 | Smt. Rita Wahi, W.O. | C.S.W.B. | Chandigarh |
| 55 | Shri P.R. Meena, APO | Rajasthan | C.S.W.B. |
| 56 | Smt. N. Kamla Devi, P.O. | Manipur | will monitor the work of Assam, Manipur and Nagaland also |

2. No representation will be considered without joining the new place of posting and any recommendations or outside pressure will attract disciplinary action. All the transferred officers are entitled for getting TA/DA on transfer and joining time as per rules.

3. This issues with the orders of the Competent Authority.


 (K.J. KAKANWAR)
 JOINT DIRECTOR (F.O.ESTT)

A. H. K. (Advocate)




Control - 3

ATTENDANCE REGISTER FOR THE

(Approved in letter No. 1554, Misc. dt. 14-4-19).

| | 1st | 2nd | 3rd | 4th | 5th | 6th | 7th | 8th | 9th | 10th | 11th | 12th | 13th | 14th | 15th |
|-------------------------|----------------------|----------------------|----------------------|-----------------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| Name | Arrival Departure | Arrival Departure | Arrival Departure | Arrival Departure | Arrival Departure | Arrival Departure | Arrival Departure | Arrival Departure | Arrival Departure | Arrival Departure | Arrival Departure | Arrival Departure | Arrival Departure | Arrival Departure | Arrival Departure |
| 1. Sri D.D. Mondal, APO | dep | dep | dep | - | TOL DAY | on | 1st day | 2nd day | 3rd day | 4th day | 5th day | Sat. Day | SUN DAY | 5/8/84 | 5/8/84 |
| 2. Sri C.R. Pande, W.O. | dep | dep | dep | dep | dep | SUN DAY | dep | dep | dep | dep | dep | dep | SUN DAY | dep | Independent |
| 3. Smt. S. Teranpi, WO | dep | dep | dep | dep | dep | SUN DAY | dep | dep | dep | dep | C.L. | 2nd Sat. Day | SUN DAY | C.L. | Independent |
| 4. M. Ali, A.P.O. | wl | wl | wl | wl | wl | | C.L. | C.L. | wl | wl | wl | 2nd Sat. Day | SUN DAY | C.L. | Independent |
| 1. Sri C.R. Pande, WO | dep | dep | Sick day | Handwriting revised work | dep | dep | dep | dep | 2nd day | 3rd day | | | | | |
| 2. Smt. S. Teranpi, WO | dep | dep | Sick day | Attended C.A. help | dep | dep | dep | dep | 2nd Sat. day | 3rd day | | | | | |
| 3. Sri M. Ali, A.P.O. | wl | wl | Sick day | Attended C.A. help | wl | wl | wl | wl | 2nd Sat. day | 3rd day | | | | | |

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI

Filed by: 
The Applicant
through: 
R.S. Chowdhury
Advocate.
13/11/06

ORIGINAL APPLICATION NO.213 OF 2006

IN THE MATTER OF

O.A. NO.213 OF 2006

Md. Mustaquim Ali

....Applicant

-Versus-

The Union of India & Ors.

...Respondents

-AND-

IN THE MATTER OF

A rejoinder filed on behalf of the Applicant
against the Written Statement filed by the
Respondent No.4 in the aforesaid case.

REJOINDER

I, Shri Mustaquim Ali, son of Late Mehboob Ali, aged about 7th Mile, Jalukbari,, P.O. & P.S. Jalukbari, Guwahati – 781 014 in the District of Kamrup, Assam Do hereby solemnly affirm and state as follows:-

1. That, a copy of the Written Statement filed by the Respondent No.4 has been served upon me through my counsel. I have gone through the same and understood the contents thereof. Save and except the statements and averments, which have been specifically admitted herein below, all statement

made in the Written Statement shall be deemed to have been denied by the Deponent/Applicant.

2. That, with regard to the statements made in paragraph (i) of the Written Statement, the Deponent/Applicant has no comments to offer.

3. That, the Deponent categorically denies the statement made in paragraph (ii) of the Written Statement. The Central Social Welfare Board and Assam State Social Welfare Board fall very much within the jurisdiction of this Hon'ble Tribunal. The fact that the Central Social Welfare Board is a Central Government Organization is clearly borne out from the fact that it is a statutory body under the direct functional control and funded by the Ministry of Human Resource Development. Further the appointment letter so issued to employees itself envisages, entitlement " to draw dearness and other allowances as admissible to *Central Government Employees*..... " As such, it is evident that the Central Board is following the Central Government Rules and Notifications. It is further pertinent to mention that the Central Social Welfare Board follows the Central Services (Classification, Control and Appeal) Rules of 1965, which further fortifies the fact that the Central Social Welfare Board is a Central Government Organization. It is further stated that the substantive appointment and confirmation of the Applicant as well as several others in the post of Assistant Project Officer was done by the Central Social Welfare Board in accordance with the instructions issued by the Government of India in the Ministry of Personnel, Public Grievances and Pension vide Order dated 28.03.1988. Documents in support thereof are being produced before this Hon'ble Tribunal to show that the Central Social Welfare Board is a Central Government organization. In so far as the Assam State Social Welfare Board is concerned, the Respondent No.4 have themselves admitted that the State Board's Staff salary is borne by the State Government of Assam and the Central Social Welfare Board on 50:50 basis. As such, the question of the Assam State Social Welfare Board not lying within the jurisdiction of this Hon'ble Tribunal does not arise at all.

A copy of the appointment Order of the Applicant dated 24.09.87 and the confirmation Order dated 12.02.90 are annexed herewith and marked as ANNEXURES-I and J respectively.

4. That while denying the statements made in paragraph (iii) of the Written Statement the Deponent states that some such irregularities, which were

noticed by the Applicant, are with regard to the programme of "Crèche" and "Condensed course of education". The said programmes are not being followed in a proper manner and the same are infact being conducted in highly irregular manner by the Respondent No. 4. In spite of having the information of non-functioning of the said scheme in certain voluntary Organizations, grants are being sanctioned and released. The Deponent also noticed several other instances, which would be evident if this Hon'ble Tribunal calls for the records of such cases. It is further stated that the impugned Order dated 10.08.2006 has not been passed on administrative grounds.

5. That, with regard to the statement made in paragraph (iv) of the Written Statement, it is stated that as per the order dated 18.08.2006 the Applicant was relieved on 19.08.2006 and the Applicant was further directed to hand over charge to the Secretary. The fact that the Applicant has never handed over charge to the Respondent No.5 and this Hon'ble Tribunal vide Order dated 21.08.2006 was pleased to stay the operation of the impugned Order dated 10.08.2006 by directing the Respondents to permit the Applicant to continue at Guwahati in his capacity as Assistant Project Officer, clearly reveals that the Applicant cannot be deemed to have been released from the said Office. As such the statement made therein is denied.
6. That, the statement made in paragraph (v) of the Written Statements deserves no comment from the Applicant.
7. That, the statement made in paragraphs (vi) and (vii) are denied by the Applicant to the extent they are not borne out of records. The Applicant states that it is a fact that after completing of posting at Arunachal Pradesh, the Applicant had requested the authorities to consider his case for transfer to Guwahati and accordingly, the Applicant was posted vide Order dated 26.05.2006 (Annexure-A of the Original Application) to the Assam State Social Welfare Board. However, the Applicant categorically states that the authorities had, on their own volition, posted the Applicant as Secretary on deputation to Assam State Social Welfare Board and not on his request. Hence, a bare glance at Annexure-A, i.e. the Order dated 26.05.2006 clearly reveals that the post of Secretary, to which he was deputed was to be is *substantive post* and the post of Assistant Project Officer, Assam was only an *additional charge*. Further, it is categorically reiterated that vide Order dated 29.05.2006 (Annexure – B of the Original Application) the Applicant was given a further additional charge to look after the works of Arunachal Pradesh as Assistant Project Officer and hence, the Applicant has accordingly,

challenged the impugned action of the Respondent authorities of illegally removing him from the post of Secretary as well as the impugned transfer Order dated 10.08.2006.

8. That, the statement made in paragraph (viii) of the Written Statement are categorically denied by the Deponent/Applicant. The Deponent humbly states that he was brought to the Assam State Social Welfare Board on his request transfer only on 26.05.2006 and therefore, transferring him back to Arunachal Pradesh within a period of one and half months is clearly violative of the settled position of law besides being arbitrary and malafide. Hence, the statements made contrary thereto, in the said paragraph to the effect "the transfer has been made without any manner violating any rule or procedure/norm" is categorically denied by the Deponent. Besides, it is also stated that the fact that no other Assistant Project Officer or Field Officer is there in Arunachal Pradesh cannot be the sole purpose of transferring the Applicant back to Arunachal Pradesh after he has rendered 5 years of service at the said place and has been brought in to Guwahati on his request after only in the month of June 2006.
9. That, the statements made in paragraph (ix) of the Written Statement are contrary to the statement made in paragraph 4 of the Written Statement and hence do not deserve any comments from the Applicant.
10. That, the statements made in paragraph (x) of the Written Statements are categorically denied by the Applicant. The fact that as of date two Welfare Officers under the Assam State Social Welfare Board are looking after 12 districts each, not only indicates that there is sufficient work and scope to accommodate the Applicant at Guwahati, but also indicates that the work of all districts shall get hampered if the said two persons are over burdened with the official works of 12 districts each.
11. That, while categorically denying the statements made in paragraph (xi) of the Written Statement, the Applicant states that the order dated 21.08.2006 ought to have been followed by the Respondent No.4. Being an eminent social worker and a retired Principal of Cotton College, Guwahati, the Respondent No.4 should hold the Orders passed by this Hon'ble Tribunal in highest regard. However, sadly enough the Respondent No.4 has instead chosen to defeat the very purpose of interim Order dated 21.08.2006 ~~by resorting to such manipulative tactics~~, by issuing the Order dated 13.09.2006 whereby the Applicant has been divested of his powers as Assistant Project Officer. It is further stated that in the Notification dated 08.11.2002 issued by the Central

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Social Welfare Board it has been clearly stated that frequent changes in distribution of area should be avoided. As such, transferring the Applicant within a short period of two months is highly illegal, arbitrary and malafide, and warrants interference of this Hon'ble Tribunal.

12. That, while categorically denying the statements made in paragraph (xii) of the Written Statement, the Applicant states that he has infact stated the facts without any camouflage. A bare glance at the sequence of events clearly reveals that the Respondent No.4 with purely malafide intentions and as an after thought has brought the said issue of the said cheque to the notice of Central Social Welfare Board. Had the Applicant misappropriated any amount of funds, the Respondent No.4 ought not to have put her signature on the said cheque and should have immediately informed the authorities for appropriate steps. The Applicant being highly aggrieved by the impugned transfer Order had approached this Hon'ble Tribunal for quashing of the same.
13. That, the Applicant categorically denies the statement made in paragraph (xiii) of the Written Statement and further reiterates the statements made in paragraph 4.14 of the Original Application.
14. That, the harsh and callous attitude of the Respondent's is clearly reflected from the statements made in paragraph (xiv) of the Written Statement. The said authorities, in a most un-becoming manner have refused to see the humanitarian aspect of the matter and the hardships which the children of the Applicant shall have to face, if he is told to join back at Arunachal Pradesh within 2 months of having joined at Guwahati.
15. That, with regard to the statements made in paragraph (xv) and (xvi) of the Written Statement, the Applicant has no comments to offer. The facts and circumstances which have been narrated hereinabove, clearly reveal that the Applicant is being victimized for reasons other than bonafide and the impugned transfer Order dated 10.08.2006, communicated to the Applicant on 18.08.2006, has been issued with the sole purpose of harassing the Applicant. Hence this Hon'ble Tribunal in exercise of its powers shall be pleased to set aside and quash the same and allow this Original Application.
16. That, the Applicant further deems it pertinent to state at this stage that this Hon'ble Tribunal has on various occasions entertained Applications pertaining to the Central Social Welfare Board and the Assam State Social Welfare Board and has also granted appropriate relief against the Respondents. Infact, vide Order dated 29.07.2005, this Hon'ble Tribunal in O.A.No.198 of 2005

has issued directions against the Respondent No.2 therein, which was the Executive Director of the Central Social Welfare Board. Further, the Respondent No.4 therein was the same as the Respondent No.4 herein, i.e. the Chairperson of Assam State Social Welfare Board. Hence, it is evident that the Central Social Welfare Board and the Assam State Social Welfare Board are very much amenable to the jurisdiction of this Hon'ble Tribunal.

A copy of the Order dated 29.07.2005 passed by this Hon'ble Tribunal in O.A. No.198 of 2005 is annexed herewith and marked as ANNEXURE-K.

17. That, in view of the above narrated facts, the Original Applicant ought to be allowed by this Hon'ble Tribunal by imposing a cost on the Respondents.
18. That, the statements made in this paragraph and in paragraphs 1, 2, 3(partly), 4(partly), 5, 6, 7(partly), 8 to 15, 16(partly), 17..... are true to my knowledge and those made in paragraphs 3(partly), 4(partly), 7(partly), 16(partly).....being matters of record are true to my information derived therefrom, which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

And I sign this ^{Rejoinder}~~Objection~~ on this 13th day of November, 2006 at Guwahati.

Murteen A.

DEPONENT

REGISTERED A.D.

THE CENTRAL SOCIAL WELFARE BOARD

JEEVAN DEEP, SANSAD MARG, NEW DELHI- 110001

No. F. 6-1/FO/(APO)/87-SB. Admn. DATED:

24 SEP 1987

M E M O R A N D U M

The undersigned hereby offers Shri/Smt. Mustaqim Ali.
 a temporary post of 2 in the Office
 of the Central Social Welfare Board on a pay of Rs. 2000/- p.m.
 in the scale of pay of Rs. 2000-60-2300-EB-75-3200-100-3500
 Shri/Smt. Mustaqim Ali will also be entitled to draw
 dearness and other allowances as admissible to Central Govt.
 employees under, and subject to conditions laid down in, rules
 and orders covering the grant of such allowances in force from
 time to time.

2. The terms of appointment are as follows:-

- i) The post is temporary for the present, but is likely to continue. If the post is eventually made permanent his/her claim for permanent absorption will be considered in accordance with the rules in force from time to time.

ii) The period of appointment shall be for a period of years from the date of appointment.

- iii) During the probationary period and thereafter, for so long as he/she holds the appointment in a temporary capacity, the appointment may be terminated at any time by one month's notice given on either side, without assigning any reasons. The appointing authority, however, reserves the right of terminating the services of the appointee forthwith or before the expiration of the stipulated period of notice by making payment to him/her of a sum equivalent to the pay and allowance for the period of notice or the expired portion thereof.

- iv) The appointment carries with it the liability to serve in any part of India.

- v) Other conditions of service will be governed by the relevant rules and orders in force from time to time.

3. The appointment will be further subject to:-

- i) production of a certificate of fitness from a competent medical authority;
- ii) submission of a declaration in the form enclosed and in the event of the candidate being married to a person having more than one wife living the appointment will be subject to her/his being exempted from the enforcement of the requirement in this behalf;
- iii) taking of an oath of allegiance to the constitution of India; and

....2/-

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ADVOCATE

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-: 2 :-

iv) production of the following original certificates:

- a) degree/diploma/certificates of educational and other technical qualifications;
- b) certificates of age;
- c) Character Certificate from two Gazetted Officers of the Central/State Government or stipendary magistrate in the prescribed form attached; and
- d) discharge certificate in the prescribed form of previous Government appointment, if any.
- e) Certificate of Scheduled Caste/Scheduled Tribe from District Magistrate or from Sub Divisional Magistrate.

4. If any declaration given or information furnished by Shri/~~xxx/xxx~~ Mustaguim Ali.....proves to be false or if he/she is found to have wilfully suppressed any material information, he/she will be liable to removal from service and such other action as Board may deem necessary.

5. If Shri/~~Smt./Kum~~ Mustaguim Ali.....accepts the offer on the above terms and conditions he/she should report for duty to the Chairman, Arunachal Pradesh State Social Welfare Advisory Board, Arunachal Pradesh Secretariat Building, Itanagar..... latest by ...16.10.87..... If the candidate fails to report for duty by the prescribed date, the offer will be treated as cancelled.

6. No travelling allowance will be allowed for joining the appointment.

Parminder Hira

(PARMINDER HIRA)
EXECUTIVE DIRECTOR

Sh. Mustaguim Ali,
C/o, Mohboob Manzil,
P.O. Gauhati-781014.
(ASSAM)

Copy to:-

1. Chairman, Arunachal Pradesh State Social Welfare Advisory Board, Itanagar..... with a request to furnish the following information to this office.

- a) Joining report of Shri/~~Smt./Kum~~ Mustaguim Ali.....
- b) The Certificates as mentioned in para 3 above.

2. P&AO

3. DD(FC&I)

4. Personal file.

EXECUTIVE DIRECTOR

Telegram: 'SANGHASEVA'

THE CENTRAL SOCIAL WELFARE BOARD

JEEVAN DEEP, SANSAD MARG, NEW DELHI - 110 001

No.F.5-1/WO/76-Adm(SB.ADMN.)

DATED: 12-2-90

OFFICE ORDER

The following Officers have been confirmed and appointed substantively to the post indicated below in accordance with the instructions contained in the Govt. of India, Ministry of Personnel, Public Grievances and Pension (Deptt. of Personnel and Training) O.M.No. 180011/1/86-Estt(B) dated the 28th March, 1988.

| SL. NO. | NAME OF THE POST | SCALE OF PAY | NAME OF THE OFFICER APPOINTED SUBSTANTIVELY |
|---------|---------------------------|-------------------------------------|---|
| 1. | Assistant Project Officer | Rs.2000-60-2300-EB-V5-3200-100-3500 | 1. Sh.A.K.Shaji 2. Sh.C.Sakthivel 3. Sh.Mustaquim Ali 4. Sh.A.K.Ranga 5. Sh.A.Philipose |

Sh. Mustaquim Ali APO.
Meghalaya State Social
Welfare Advisory Board
Shillong

(V.G.KUTTY)
JOINT DIRECTOR (SB.ADMN.)

ALL CONCERNED OFFICERS

Copy to:-

1. IFA cum-BAOU
2. P&AO
3. Personal files of all concerned officers.

JOINT DIRECTOR (SB.ADMN.)

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ADVOCATE

SL. No. 246

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,

Original Application No.198 of 2005.

Date of Order: This the 29th July, 2005.

THE HON'BLE MR JUSTICE G.SIVARAJAN, VICE CHAIRMAN

THE HON'BLE MR K.V.PRAHLADAN, ADMINISTRATIVE MEMBER

Mrs. Samsun N. Ali,
W/O Mr. Makbul Ali,
Resident of Hatigaon, Dispur,
Guwahati-6.

Applicant.

By Advocate Mr. U.K. Nair, Mr. B. Sarma,
Mrs. B. Chakrabarty

-Versus-

1. The union of India, represented by
Secretary, Government of India,
Ministry of Human Resources Development.

2. The Executive Director,
Central Social Welfare Board, B-12,
Qutub Institutional Area, New Delhi-16

3. The Joint Director, (F.O. Estt)
Central Social Welfare Board, B-12,
Qutub Institutional Area, New Delhi.

4. The Chairperson, Assam State Social Welfare Board,
Guwahati. Respondents

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

ORDER (ORAL)

SIVARAJAN, J(V.C.)

The applicant is an Assistant Project Officer, Central Social Welfare Board located at Guwahati. She was transferred from the said place to Sikkim by order-dated 25.5.2005. On account of her serious illness she was not able to move from the present place to Sikkim. Therefore, she made representation dated 05.06.05 (Annexure 2) before the Respondent for retaining her in the present place or for giving a posting to her at Assam or at Meghalaya, so that she can

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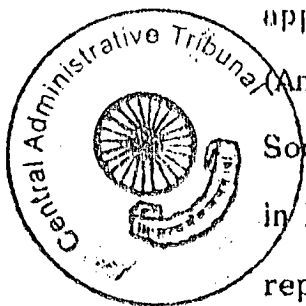
[Signature]
ADVOCATE

have the help of family members if any urgent situation demands. Since no action was taken in the representation, she approached this Tribunal by filing O.A. No.132 of 2005. The Said application was disposed of by order dated 14.6.05 with following directions:

"In the Circumstances I direct the respondent No.2 to consider the applicant's request made in Annexure 6, particularly with reference to the request for accommodating her in the vacant post of Assistant Project Officer available at Assam or at Meghalaya and pass appropriate orders within one month from the date of receipt of this order. In the meantime the applicant shall not be relieved and in case she has been relieved and nobody is posted in her place, she will be allowed to continue in the said post till a decision is taken on her representation."

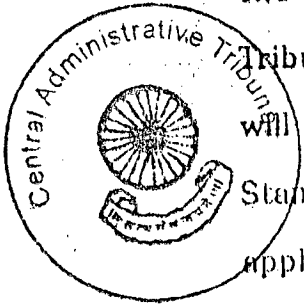
The 3rd Respondent considered the representation filed by the applicant as directed in the O.A. and passed an order dated 14.7.05 (Annexure 5). The applicant was transferred and posted to Delhi State Social Welfare Board as Assistant Project Officer with Headquarters in New Delhi. The applicant, being aggrieved by the said order, filed representation dated 26.7.05 (Annexure 6) before the 2nd Respondent. Thereafter, she has filed the present application since the last date for compliance of the transfer order is on 29.7.05.

2. Mr. U. K. Nair learned counsel for the applicant submits that this Tribunal after considering the case of the applicant had directed the competent authority to consider the representation made by the applicant particularly with reference to the request for accommodating her in the vacant post of Assistant Project Officer available at Assam or at Meghalaya and pass appropriate orders. Mr. Nair submits that this Tribunal had made such observations since such a request was made by the applicant, in view of the fact that due to her ailments, the applicant cannot manage her affairs herself and required the help and assistance of her family members. The counsel



for

further submits that though there are very good facilities available at New Delhi, it is not possible for the applicant to avail the said facilities unless some relatives of the applicant are available at Delhi to accompany her. Counsel further submits that none of the family members are in a position to stay with her at Delhi, due to their preoccupations. The counsel also submits that the applicant at present is on leave from 30.6.05 on account of her illness. Ms. U. Das learned Addl. CGSC on behalf of the respondents submits that the respondents have considered the representation filed by the applicant sympathetically and taking into account her illness and she was posted at New Delhi where she can avail the best medical facilities. The standing counsel also submits that this is a transfer matter, this Tribunal will not interfere in the normal course for the reasons that it will prejudicially affect the functioning of the administration. The Standing counsel also submits that there is no merit in this application.



3. We have considered the rival submissions. As the Standing counsel submitted, in transfer matters the scope of interference with the order of the transfer are very limited. However, the respondents are bound to consider the representation filed by the employees with reference to reasons stated therein. In the instant case the respondents, it would appear, is convinced that the applicant is having serious illness. It is taking into account the said circumstances the applicant has been posted in New Delhi where All India Medical Institute is located. The Respondents however failed to note that being a lady Government servant if she is transferred to distance a place that too a Cosmopolitan city like New Delhi she cannot effectively avail the medial facilities from the AIIMS unless there is

[Signature]

help from near relations. For this reasons this Bench while disposing of the earlier O.A. directed the respondents to consider the applicant's request for giving the posting in a vacant post in Assam or in Meghalaya where the relations of the applicants are there. Of course, the respondents in the impugned order had stated that the applicant out of her 23 years service she remained 19 years in the said Board at Assam though she belongs to All India Service cadre and administratively it is necessary to gain experience in the other State also. We note that the respondent even in the said circumstances could have considered for giving a posting to the applicant at Meghalaya. This aspect was omitted to be considered by the respondents while transferring her to Delhi we are of the view that the respondents must be directed to consider the said circumstances.

4. As already noted, the applicant is on medical leave since 30.8.05. In such circumstances the 2nd respondent is directed to consider the representation (Annexure 6) dated 27.7.05 filed by the applicant, within a period of one month from the date of receipt of this order. The applicant will be allowed to continue on Medical leave until orders are passed, and communicated to the applicant.

Application is disposed of. Issue copy of the order urgently. The applicant will produce the copy of the order for compliance.

Date of Application : 10/11/06
 Date on which copy : 10/11/06
 Date on which copy : 10/11/06
 Certified to be true copy

Sd/ VICE CHAIRMAN
 Sd/ MEMBER (A)

Section Officer (JdI)
 C. A. T. Guwahati Bench
 Guwahati-5.

lm

10/11/06
 10/11/06

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Date: 13th November'06

NOTICE

From: Mrs. R. S. Chowdhury,
Advocate

To : 1. Mr. ~~T.~~ L. Sarkar
Advocate of Respondent No.4.
2. Mr. G. Baishya,
Sr. C.G.S.C. (O.A. No.213/2006)
3. Mr. U. Das,
Additional C.G.S.C. (O.A. No.239/2006)

Sub: Original Application No.213 of 2006

Md. Mustaquim Ali Applicant
-Versus-

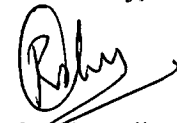
The Union of India & Ors. ...Respondents

Sir,

Please find herewith a copy of the Rejoinder filed on behalf of the Applicant above named. Kindly acknowledge receipt of the same.

Thanking you,

Yours sincerely,


Mrs. R. S. Chowdhury,
Advocate

Received copy

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3.

केन्द्रीय प्रशासनिक अपिलेशन
Central Administrative Tribunal

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
গুৱাহাটী বেঞ্চ **GUWAHATI**
Guwahati Bench

IN THE MATTER OF:

O.A. No. 213 of 2006

Shri Mustaquim Ali

-Versus-

The Union Of India & ors.

-AND-

IN THE MATTER OF:

An further additional affidavit filed on behalf of the Applicant to bring on record subsequent developments, which have taken place in the aforesaid case pursuant to the directions issued by this Hon'ble Tribunal vide Order dated 13.11.2006 passed in Misc. Case No.107 of 2006.

ADDITIONAL AFFIDAVIT

I Shri Mustaquim Ali son of Late Mehboob Ali resident of 7th mile, Jalukbari Guwahati do hereby solemnly affirm and state as follows: -

1. That the deponent herein, has filed the aforesaid Original Application No.213 of 2006 inter alia challenging the legality and validity of the impugned Orders dated 04.08.2006, 10.08.2006 and 18.08.2006 (Annexures- F-Colly & G-Colly to the Original Application) whereby the deponent was sought to be transferred back to Arunachal Pradesh State Welfare Board within a short span of 2 months of having joined at Guwahati. For the sake of brevity, the deponent refrains from reiterating the statements made in the said Original Application, and craves leave of this Hon'ble Tribunal to refer to and rely upon the averments made therein.

Filed By: *Or The Applicant*
Through: *Rajy*
Mr. R.S. Chowdhury
Advocate
15/12/06

2. That the said Original Application No.213 of 2006 was moved before this Hon'ble Tribunal on 21.08.2006 and on the said date this Hon'ble Tribunal after hearing the matter at length was pleased to stay the impugned transfer Order dated 10.08.2006 and 18.08.2006 and further directed the authorities to allow the deponent to continue in the said post of Assistant project Officer. The matter was fixed for further hearing/instructions on 21.09.2006.

3. That however, despite such categorical directions having been issued by this Hon'ble Tribunal, the Respondent No.4 herein i.e. the Chairperson of the Assam State Social Welfare Board, in gross and willful disobedience and violation of the directions of this Hon'ble Tribunal, vide an Order dated 13.09.2006 re-allocated the Zone/area of work distributed amongst the various Asstt. Project Officers under the Assam State Social Welfare Board. In the said Order dated 13.09.2006 the name of the deponent did not figure at all and infact the districts so allotted to the deponent were given to two other Asstt. Project Officers. As such, being highly aggrieved by such impugned actions of the Respondent No.4 of divesting the deponent of his powers/duties, the deponent once again approached this Hon'ble Tribunal by way of another Original Application which was registered and numbered as O.A.No.239 of 2006, challenging the legality and validity of the impugned Order dated 13.09.2006 and the actions of the Respondent No.4. The said Application was moved before this Hon'ble Tribunal on 18.09.2006 as an unlisted matter on which date this Tribunal was pleased to direct the authorities to seek instructions as to why the districts which had been earlier allotted to the Petitioner/Applicant have been divested from him. This Hon'ble Tribunal further fixed the matter on 21.09.2006.

4. That on 21.09.2006, both the aforesaid Original Application's were taken up together for consideration. Be it stated herein that the Respondent No.4 herein had also filed a Miscellaneous Petition No.97 of 2006 for vacating the aforesaid Order dated 21.08.2006 passed by this Hon'ble Tribunal (Annexure-P1 herein) to which the deponent had also filed his objection. The said Miscellaneous Case was also

taken up for consideration on the said date i.e. on 21.09.2006. After hearing the parties at length this Hon'ble Tribunal refrained from vacating, modifying the interim Order dated 21.08.2006 and further fixed the matter for hearing on 09.11.2006. 67

5. That however, despite the said position as enumerated hereinabove, the Respondent No.3 in a most malafide and arbitrary manner has refused to sanction the tour programme of the deponent inspite of the fact that the deponent had submitted the tour programme on several occasion (on 07.09.2006, 11.09.2006, 19.09.2006 and 26.09.2006). Moreover, no positive response was forthcoming from the Respondents and infact the Respondents have not allowed the Petitioner/Applicant to perform his duties.
6. That being aggrieved by such impugned actions of the authorities, the deponent preferred a Miscellaneous Petition before this Hon'ble Tribunal seeking a direction to the authorities to allow the deponent to perform his duties and further praying for an early hearing of the entire matter. The said Petition was registered as M.P. No. 107 of 2006. This Hon'ble Tribunal vide order dated 13.11.2006 after hearing the parties at length was pleased to dispose of the Miscellaneous Petition with a direction to the respondent Authorities dispose of the representation of the deponent by a speaking Order.

A copy of the Order dated 13.11.2006 passed in
M.P. No. 107 of 2006 is annexed herewith and
marked as ANNEXURE-L.

7. That accordingly the deponent had filed a detailed Representation before the authorities, which was duly submitted on 14.11.2006.



8. That subsequently vide letter under Memo No.F.14-1/FO/2003/F.O.Esstt. dated 04.12.2006, the executive Director of the Central Social Welfare Board has passed a detailed order stating inter-alia that "The Hon'ble Tribunal is seized with the matter and it would not be just and fair to comment on the same." However, in the same breadth the deponent has been directed to report to Arunachal Pradesh State Social Welfare Board without any further delay.

A copy of the letter-dated 04.12.2006 passed by the Executive Director, Central Social Welfare Board is annexed herewith and marked as ANNEXURE-M.

9. That a bare glance at the letter dated 04.12.2006 clearly reveals that the same has been passed with complete non-application of mind to the relevant factors. It is evident that the said authority was aware of the interim Order dated 21.08.2006 passed by this Hon'ble Tribunal, which is yet to be vacated, however, despite such knowledge, the respondent Authority has deemed it fit to direct the deponent to join at Arunachal Pradesh in a most contemptuous manner. The same is a deliberate on the part of the respondent Authority to dislocate the deponent from his present place of posting at Guwahati. As such, this Hon'ble Tribunal may be pleased to look into the matter and take strict action on the authorities concerned. It is further stated that being aggrieved by the said actions of the authorities, the Applicant had a file a Contempt Petition before this Hon'ble Tribunal, which was registered as C.P.No.34 of 2006. This Hon'ble Tribunal vide Order dated 07.12.2006 has been pleased to issue Notice to the Executive Director, Central Social Welfare Board, New Delhi as well as to the Chairperson, Assam State Social Welfare Board, Guwahati, dispensing with the personnel appearance for the time being.

A copy of the said order dated 07.12.2006 passed in C.P.No.34 of 2006 is annexed herewith and marked as ANNEXURE-N.

10. That the instant affidavit is being filed to place on record the said letter dated 04.12.2006 passed by the Executive Director, Central Social Welfare Board and the Order dated 07.12.2006 passed by this Hon'ble Tribunal in C.P.No.34 of 2006, for a just, fair and proper adjudication of the matter.


11. That the statements made in this paragraphs 1, 2(partly), 3(partly), 4(partly), 5, 7, 9(partly) and 10 are true to my knowledge and 4(partly), those made in paragraphs 2(partly), 3(partly), 6, 8, 9(partly).... being matters of record are true to my information derived therefrom which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal. The documents annexed to this affidavit are true copies of their respective originals.

And I sign this Affidavit on this 15th day of December 2006.

Mustaqim Ali

DEPONENT

Identified By


15/12/06
Advocate.

CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH

Miscellaneous Petition No. 107 of 2006
In

Original Application No. 213 of 2006

Date of Order: This, the 13th Day of November 2006.

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

Sri Mustaquim Ali
Son of Late Mehboob Ali
Resident of 7th Mile, Jalukbari
P.O. & P.S: Jalukbari
Guwahati - 781 014
Dist: Kamrup, Assam.

Applicant.

By Advocates Mr.D.K.Das & Mrs.R.S.Choudhury.

- Versus -

1. Union of India
Represented by the Secretary
to the Government of India
Ministry of Human Resource Development
Department of Women and Child Development
New Delhi.
2. The Executive Director
Central Social Welfare Board
Samaj Kalyan Bhawan
B-12, Qutub Institutional Area
South of IIT, New Delhi-110016.
3. The Deputy Director (FO, ESTT)
Central Social Welfare Board
Samaj Kalyan Bhawan
B-12, Qutub Institutional Area
South of IIT, New Delhi-110016.
4. Dr. (Mrs.) Mukti Deb Choudhury
Chairperson
Assam State Social Welfare Board
Belitola, Guwahati-781 028.

Respondents.

Dr.J.L.Sarkar for Respondent Nos. 2 to 4.

CERTIFIED TO BE TRUE COPY

ADVOCATE

- 7 -

ORDER (ORAL)

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

This Miscellaneous Petition has been filed by the applicant seeking the following reliefs:-

"In the premises aforesaid it is most respectfully prayed that Your Lordships may be pleased to admit this Petition and accordingly fix the said O.A. Nos. 213 of 2006 along with O.A. No.239 of 2006 for an early hearing.

and/or

During the pendency of the instant Misc. Petition the Respondent authorities particularly the Respondent No.4 may be directed to allow the Petitioner/Applicant to perform his duties as Assistant Project Officer under the Assam State Social Welfare Board under the districts so allocated to him earlier as per the directions issued by this Hon'ble Tribunal vide interim Order dated 21.08.2006 and

-AND-

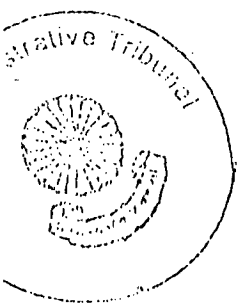
further direct the Respondent authorities to pay the arrear salary of the Petitioner/Applicant forthwith-

and/or:-

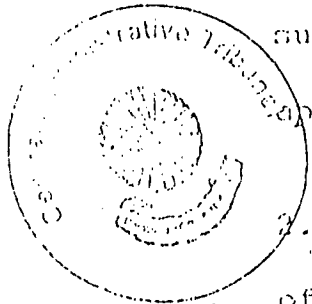
pass such further or other Order(s) as Your Lordships may deem fit and proper to grant appropriate relief to the Petitioner/Applicant."

This Tribunal, on 21.8.2006, passed an order in O.A. No.213/2006, operative portion of which is as under:-

"the Respondents are directed to permit the Applicant to continue at Guwahati in his capacity as above, if not as Secretary to the Board."



It is submitted that vide order dated 28.6.2006 the applicant have been allocated four districts to work. But Mr.D.K.Das, learned counsel for the applicant has drawn my attention to a subsequent order dated 13.9.2006 whereby all the four districts have been divested/withdrawn from the applicant. The contention of the applicant is that in total violation of the Tribunal's order dated 21.8.2006 the 4th respondent had not allocated any work to the applicant. The case of the respondents, on the other hand, is that the applicant was relieved from the post and therefore, such allocation of work cannot be given to the applicant.



2. Considering all the aspects this Tribunal is of the view that it is not a healthy practice to keep an employee idle not granting any work whatsoever. The applicant alleged malafide against 4th respondent in the O.A. Dr.J.L.Sarkar, learned counsel for the respondent Nos. 2 to 4 submits that respondent No.4 does not fall under the jurisdiction of this Tribunal which is a matter to be adjudicated.

3. Mr.D.K.Das insisted for a final order in this Misc Petition, otherwise, the applicant will be put to great hardship. This Tribunal is of the view that it is not the duty of this Tribunal to look into or monitor

the day-to-day affairs of the administration concerned. Since the applicant is very much aggrieved, counsel for the applicant submits that he may be permitted to make a comprehensive representation before the second and/or third respondent highlighting his grievances, in not granting any work to him and not complying with the orders of this Tribunal dated 21.8.2006. The non-engagement of the services of a govt. servant will be against public interest. He further submitted that he would be satisfied if a direction is given to consider and dispose of the same by a speaking order communicating to him within a time frame. This Tribunal is also of the opinion that such a course of action will meet ends of justice. Therefore, I direct the applicant to make a comprehensive representation as to his grievances to the second and/or third respondent forthwith and on receipt of such representation the competent authority, whomsoever, shall consider and dispose of the same by passing a speaking order communicating the same to the applicant within a period of two weeks thereafter.

of Application : 14.11.06
on which copy is ready : 14.11.06
to be delivered : 14.11.06
certified to : 14.11.06

The Miscellaneous petition is disposed and
as above as to no order as to cost.

Section Officer (Judicial)
C. A. T. Guwahati Bench
Guwahati-5.

Sd/VICE CHAIRMAN

14/11/06

No. F. 14-1/FO/2003/F.O.Estt. \ 317

21

फैक्स / Fax : 26960057

तार : 'संघसेवा'

Telegram:

"SANGHASEVA"

केंद्रीय समाज कल्याण बोर्ड

THE CENTRAL SOCIAL WELFARE BOARD

समाज कल्याण भवन

बी-12, कुतुब इंस्टीट्यूशनल एरिया, नई दिल्ली - 110 016

SAMAJ KALYAN BHAVAN

B-12, Qutub Institutional Area, New Delhi - 110 016

Date: 04th Dec., 2006

Sh. Mustaquim Ali, APO,
Arunachal Pradesh State Social Welfare Board,
C/o Moohboob Manzil,
Opp. Girls High School, Sat Mile, Jalukbari,
P.O. Guwahati University, Pin 781014,
Guwahati.

Ref. No. ASSWB/Per/Estt./2006 dt.14/11/2006

Your representation dt. 14/11/2006 has been received on 21/11/06 in the office of the Central Social Welfare Board. As per direction of the Hon'ble Central Administrative Tribunal in order dt. 13/11/06 in M.P. No.107/2-6 (in O.A.No.213 of 2006) the matter has been considered and you are informed as under.

1. Under letter No. F.14-2/94-SBA dt. 4/8/06, Sh.D.D. Mandal was appointed as Secretary of Assam State Social Welfare Board by the Central Social Welfare Board and copy given to you. You handed over charge on 5/8/06. By memo dt. 10/8/06 from Central Social Welfare Board, you were transferred to Arunachal Pradesh State Social Welfare Board on administrative ground. You were relieved from the Assam State Board by under dt. 18/8/06.
2. The Hon'ble Tribunal passed an order on 21/8/06 and in the interim to allow you to continue as APO. But before this order dt. 21/8/06, you were already released by order dt. 18/8/06 w.e.f. 19/8/06. Hence, you were not in the office of Assam State Social Welfare Board w.e.f. 19/8/06.
3. The factual position that you were released from the Assam State Board w.e.f. 19/8/06 was placed before the Hon'ble Tribunal. The factual details were explained in the detail by filing an M.P. before the Hon'ble Tribunal (M.P. No.97/2006) which is pending.


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ADVOCATE

- 92
4. Thereafter, the works of the Assam State Social Welfare Board in different areas were reallocated by order dt. 13/9/06 amongst existing Secretary / APO and two Welfare Officers. No additional manpower is necessary and works do not justify additional manpower. The order dt. 13/9/06 was challenged by you by OA No. 239/2006 before the Hon'ble CAT Guwahati praying for staying the said order dt. 13/9/06. The Hon'ble Tribunal while issuing notice was pleased not to pass any interim order. The works of the State Board, Assam are smoothly functioning with above allotment and distribution. There is no administrative reason to disturb the said allotment and functional arrangement.
 5. It is the admitted position that no staff should be kept without any work. You have been posted as APO in Arunachal Pradesh State Social Welfare Board. That Board is functioning without any APO. You should report there and discharge the functional works there.
 6. As regards your statement about the withdrawal of money from the Bank and encashment of the cheque (Para 5-8), you will please take note that this is a separate issue and this is being dealt with separately. In this respect a show cause notice has already been served on you. This will be dealt with following principles of law.
 7. You have mentioned that present Secretary Sh. D.D.Mandal is junior to you (Para 9). You are informed that in the matter of appointing the Secretary, seniority is not the only factor. There are instances where charge of the post of Secretary is given to a junior officer as per merit of the case, administrative grounds and in public interest.
 8. Your statement that you have received the release order on 18/8/06 is not correct (Para 11). You received order on 19/8/06. However, this has no effect in representation context and you have been administratively treated as released w.e.f. 19/8/06.
 9. As regards your contention of working in the hilly area (Para 12) for more than five years, you are informed that the fact has been kept on record and as the appointment in different places are made looking to the welfare works of the different State Boards of the country, the transfers are made for needs of administration. However, the Authorities are also sympathetic to the cause of the employees. Your case will be considered within administrative feasibility when occasion arises.
 10. As regards the education of your children (Para 13) there is Kendriya Vidyalaya at Arunachal Pradesh where your children were studying earlier.
 11. You have brought allegation against Sh. C.R. Pawe, Welfare Officer of the State Social Welfare Board, Assam (Para 18 of your representation). Your allegation demonstrates gross indiscipline on your part because it speaks as if you assumed supervision of Pawe's works and functions unauthorisedly. When you were already released from the State Board Assam, it was not within your domain to bring such

allegation in this representation which is pursuant to Hon'ble Tribunal's order. It would have been, however, a different tenor if such things were brought to the notice of the Central Social Welfare Board or the State Board as an employee only for the Welfare of the organisation. The other allegation speaks of very serious concern and demonstrates your's special and uncalled for attachment with voluntary organisations. This being a quite different context will be dealt with separately. You may, however, send the names and particulars of the organisations who reported to you about Sh.C.R.Pawe, Welfare Officer for taking appropriate administrative measure in the context of such reports.

12. As regards your allegations stated in Para 19,20,21 & 22, you are informed that the works are being done by duly allotted persons and your allegations of 'blatant contravention of the policy decision of CSWB' by the Chairperson of State Board is not correct and not befitting of a subordinate officer. You are at liberty to project policy decision of CSWB to this office in this respect. As regards allegation of 'Flagrant Violations of Honorable Tribunal's order dt. 21/8/06, Hon'ble Tribunal is seized with the matter and it would not be just and fair to comment on the same.
13. It is very unfortunate that you have alleged furnished of wrong information and suppressing of the material facts by the Chairperson Assam State Board in her written statements (Para 24). You are informed that judiciary as the wing for resolving disputes, takes care of all the statement. However, on your allegation, the matter has been enquired into and it has been ascertained that the counsel conducting the case for the respondents submitted before the Hon'ble Tribunal (after filing the W.S. by the respondent no.4) that the CSWB is not a central Govt. organisation but is within jurisdiction of the Hon'ble Tribunal by notification under the Administrative Tribunal Act 1985. As a responsible officer of the organisation, such understanding and hostility towards superiors is not expected from you.

In above perspective you are directed to report to Arunachal Pradesh State Social Welfare Board without any further delay.


(Sujata Saunik),
IAS,
Executive Director

FILE NO. 4
(SEE RULE 24)
CENTRAL ADMINISTRATIVE TRIBUNAL
CATINATE BENCH:

1. Original Application No. _____
2. Misc Petition No. _____
3. Contempt Petition No. _____ 34/06 in O.A. 213/06
4. Review Application No. _____

Applicant(s) Mustaqim Ali

Respondent(s) Mrs. Srijata Samik Das

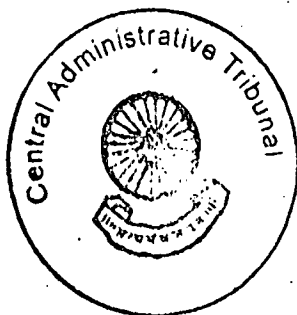
Advocate for the Applicant(s) Mr. D.K. Das
Mrs. R.S. Chowdhury.....

Mr. K. Borahakur.....

Advocate for the Respondent(s) Case.....

| Notes of the Registry | Date | Order of the Tribunal |
|-----------------------|------|-----------------------|
|-----------------------|------|-----------------------|

| | |
|------------|--|
| 07.02.2006 | Present: Honble Sri K.V. Sachidanandan Vice - Chairman. |
|------------|--|



This Contempt Petition has been filed by the petitioner under Section 17 of the Central Administrative Tribunal Act, 1985 for drawing up contempt proceeding against the contemnors for willful and deliberate violation of the interim dated 21.08.2006 passed by this Tribunal in O.A. No. 213/2006 and under Rule 24 of the Central Administrative Tribunal (Procedure) Rules 1987 for implementation of the said interim order.

When the matter came up for hearing, Mr D.K. Das assisted by Mrs. R.S. Chowdhury, learned Counsel for the Applicant submitted that they do not want to press the Application under Rule 24 of the Central Administrative Tribunal

Contd/

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ADVOCATE

Contd/-

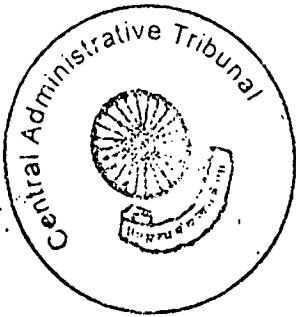
07.12.2006 (Procedure) Rules 1987 and would stand only Section 17 of the Administrative Tribunals Act 1985. Therefore, the application under Rule 24 of the Central Administrative Tribunal (Procedure) 1987 is deleted as not being pursued.

The Tribunal vide order dated 21.08.2006 passed an interim order. The operative portion of the said order is reproduced herein below:

"Post on 21.09.2006. Considering the fact that the Applicant's two minor children have been admitted in the school at Guwahati and the Applicant has shifted from Arunachal Pradesh to Guwahati and holding the charge of Assistant Project Officer, Assam at Guwahati; the Respondents are directed to permit the Applicant to continue at Guwahati in his capacity as above, if not as Secretary to the Board."

Thereafter, the Applicant filed Misc. Petition No. 107/2006, wherein this Court observed as follows:-

"Mr D.K. Das insisted for a final order in this Misc. Petition, otherwise, the applicant will be put to great hardship. This Tribunal is of the view that it is not the duty of this Tribunal to look into or monitor the day-to-day affairs of the administration concerned. Since the applicant is very much aggrieved, counsel for the applicant submits that he may be permitted to make a comprehensive representation before the second and/or third respondent highlighting his grievances, in not grating any work to him and not complying with the orders of this Tribunal dated 21.3.2006. The non-engagement of the services of a govt. servant will be against public interest. He further submitted that he would be satisfied if a direction is given to consider and dispose of the same by a speaking order communicating to him within a time frame. This Tribunal is also of the opinion that such a course of action



Contd/-
07.12.2006

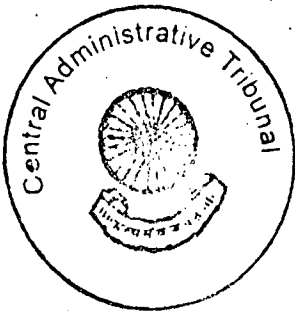
will meet ends of justice. Therefore, I direct the applicant to make a comprehensive representation as to his grievances to the second and/or third respondent forthwith and on receipt of such representation the competent authority, whomsoever, shall consider and dispose of the same by passing a speaking order communicating the same to the applicant within a period of two weeks thereafter."

The direction was to make a comprehensive representation and to pass a speaking order by the Respondents. In purported compliance of the said order, the Respondents passed an order dated 04.12.2006 (Annexure, - P6). The operative portion of the said order is reproduced below:-

"13. It is very unfortunate that you have alleged furnishing of wrong information and suppressing of the material facts by the Chairperson, Assam State Board in her written statements (Para 24). You are informed that judiciary as the wing for resolving disputes, takes care of all the statement. However, on your allegation, the matter has been enquired into and it has been ascertained that the counsel conducting the case for the respondents submitted before the Hon'ble Tribunal (after filing the W.S. by the respondent No. 4) that the OSWB is not a Central Govt. organization by is within jurisdiction of the Hon'ble Tribunal by notification under the Administrative Tribunal Act, 1985. As a responsible officer of the organization, such understanding and hostility towards superiors is not expected from you.

In above perspective you are directed to report to Arunachal Pradesh State Social Welfare Board without any further delay."

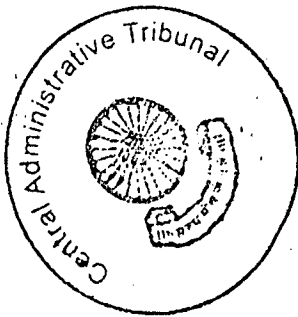
It is pertinent to note that in M.P. No. 107/2006, this Court also referred the interim order that has been passed by



Contd/-

07.12.2006 this Tribunal and to meet ends of justice the Respondents were directed to dispose of the representation to be filed by the Applicant. The interim order passed by this Tribunal dated 21.08.2006 made clear that "the Respondents are directed to permit the Applicant to continue at Guwahati in his capacity as above, if not as Secretary to the Board".

It is very clear that the intention and purpose of the order of this Tribunal was to permit the Applicant to continue in the post, but the impugned order has been passed overcoming that direction, which is not in the true spirit of law. Therefore, it is directed to issue notice to Mrs. Sujata Saunik, IAS, the Executive Director, Central Social Welfare Board, Samaj Kalyan Bhawan, B-12, Qutab Institutional Area, South of IIT, New Delhi - 110 016 and Dr. (Mrs.) Mukti Deb Choudhury, Chairperson, Assam State Social Welfare Board, Beltola, Guwahati - 781 028 directing them to file affidavit within four weeks as to why on the basis of averments made in the Contempt Petition contempt proceedings shall not be initiated against them. Post on 10.01.2007. However, personal appearance of the Respondents are dispensed with for the time being.



Sd/VICE CHAIRMAN

TRUE COPY

प्रतिनिधि

N. J. J. J. J.
7.12.06

अनुमानित तिथि

Section 40

Central Administrative Tribunal

गुवाहाटी न्यायालय

GUWAHATI

गुवाहाटी, Assam-5

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

ORIGINAL APPLICATION NO. 213 OF 2006

IN THE MATTER OF :

O.A. NO. 213/2006

Md. Mustaquim Ali

.... Applicant

-VERSUS-

The Union of India & Ors.

.... Respondents

-AND-

IN THE MATTER OF :

An Objection filed on behalf of the Applicant against the Misc. Petition No. 94/2006, filed by the Respondents in the Original Application, for vacation and/or clarification of the interim Order dated 21.08.2006 passed by this Hon'ble Tribunal in the aforesaid O.A. No. 213 of 2006

O B J E C T I O N

I, Md. Mustaquim Ali, son of Late Mehboob Ali, aged about 46 years resident of 7th Mile, Jalukbari, P.O. & P.S. Jalukbari, Guwahati – 781 014, Dist. Kamrup, Assam., currently serving as the Assistant Project Officer under the Assam State Social Welfare Board do hereby solemnly affirm and state as follows :

1. That, I am the Applicant in the aforesaid Original Application No. 213 of 2006. A copy of the Misc. Petition allegedly filed by the Union of India & Others has been served upon me through my counsel. I have gone through the same and

FILED BY:
The Applicant/Respondent
L.M.P.
THROUGH: 2 R.S.
Mr. R.S. Chowdhury
Advocate
21/9/06

understood the contents thereof. Being well conversant with the facts and circumstances of the instant case, I am competent to swear this affidavit.

2. That, the statements and averments made in the Misc. Petition, which are not specifically admitted hereinbelow and which are not borne out of records shall be deemed to have been denied by the Applicant.
3. That, prior to contending the statements and averments made in the Misc. Petition, the Applicant humbly states that the Misc. Petition cannot be entertained by this Hon'ble Tribunal as the same has been filed under improper authorization by the Respondent No. 5, allegedly on behalf of the Union of India despite the fact that the Respondent No. 5 himself is a private party respondent in the said Original Application. As such, the said Respondent No. 5 is not the competent authority to approach this Hon'ble Tribunal by way of this Misc. Petition on behalf of the Union of India.

The Deponent further states that it is the settled position of law that whenever specific allegation of malafides is alleged against an authority, the same needs to be traversed by that particular authority only and under no circumstances, any other person/authority can answer the same. In the instant case, the Respondent No. 5 is espousing the cause of the Respondent No. 4, further fortifying the Applicant's case of collusion between the Respondent No. 4 and Respondent No. 5 for reasons other than bonafide. Factual and legal malice are writ large on the face of it, in view of the instant Misc. Petition. As such, this Hon'ble Tribunal may not be pleased to entertain the instant Misc. Petition and dismiss the same in limine.

4. That, it is further not understood as to whether the instant Misc. Petition has been filed for submitting the factual position before this Hon'ble Tribunal or the same has been filed for vacation/clarification of the said interim Order dated 21.08.2006 or whether in the guise of the Misc. Petition, a written statement is being tried to be filed by the Respondent No. 5. This Hon'ble Tribunal will accordingly look into the matter and direct the Respondent No. 5 to make necessary corrections before entertaining the Misc. Petition. The same ought not to be entertained in its present form.

5. That, the statements made in paragraph 1 of the Misc. Petition deserves no comments from the Applicant.

6. That, with regard to the statements made in paragraph 2 of the Misc. Petition, the Applicant states that it is a fact that after completing of posting at Arunachal Pradesh, the Applicant had requested the authorities to consider his case for transfer to Guwahati and accordingly, the Applicant was posted vide Order dated 26.05.2006 (Annexure-A of the Original Application) to the Assam State Social Welfare Board. However, the Applicant categorically states that the authorities had, on their own volition, posted the Applicant as Secretary on deputation to Assam State Social Welfare Board and not on his request. Hence, a bare glance at Annexure-A, i.e. the Order dated 26.05.2006 clearly reveals that the post of Secretary, to which he was deputed was to be is *substantive post* and the post of Assistant Project Officer, Assam was only an *additional charge*. Further, it is categorically reiterated that vide Order dated 29.05.2006 (Annexure – B of the Original Application) the Applicant was given a further additional charge to look after the works of Arunachal Pradesh as Assistant Project Officer and hence, the Applicant has accordingly, challenged the impugned action of the Respondent authorities of illegally removing him from the post of Secretary as well as the impugned transfer Order dated 10.08.2006.

7. That, the statements made in paragraph 3 of the Misc. Petition are categorically denied by the Deponent. The Respondent No. 5, who is also an Assistant Project Officer and is, in fact, junior to the Applicant/Deponent herein, cannot be the deciding authority with regard to the posting of the Applicant at Arunachal Pradesh.

8. That, while categorically denying the statements made in paragraph 4 of the Misc. Petition, the Deponent humbly states that he was brought to the Assam State Social Welfare Board on his request transfer only on 26.05.2006 and therefore, transferring him back to Arunachal Pradesh within a period of one and half months is clearly violative of the settled position of law besides being arbitrary and malafide. Hence, the statements made contrary thereto, in the said paragraph to the effect “the transfer has been made without any manner violating any rule or procedure/norm” is categorically denied by the Deponent.

The statements made in the said paragraph also reveal the nexus of the Respondent No. 5 with the Respondent No. 4 and fortifies the case of the Deponent/Applicant with regard to the malafide intention of the Respondent No.

4 to illegally accommodate the Respondent No. 5 at the said post of Secretary at Guwahati.

9. That, the statements made in paragraph 5 of the Misc. Petition are categorically denied by the Deponent/Applicant. It is further stated herein that by virtue of the interim Order dated 21.08.2006, the Deponent has continued to render his services in the said office. It is further stated herein that the impugned Order dated 18.08.2006 (Pg. 29 of the O.A.) categorically envisaged that the Deponent is to hand over the charge to the Secretary. The same not having been done by the Deponent on 19.08.2006, the Deponent cannot be deemed to have been relieved of his charges. The said Order did not envisage any unilateral taking over of charge by the Respondent No.5, and as such, it would be incorrect to state that the Deponent has been relieved of his Charge on 19.08.2006 itself.
10. That the statements made in paragraph 6 of the Misc. Petition do not merit any consideration by this Hon'ble Tribunal. The fact that the services of the Applicant were required on the basis of worth of work as an Assistant Project Officer as well as Secretary at Guwahati in June, 2006 and accordingly, he was posted to Guwahati by virtue of the Order dated 25.06.2006 negates the statements made to the effect that the Assam Office is a small office and as such, there is no scope to accommodate the Deponent at Guwahati. The same are, therefore, categorically denied in seriatim.
11. That, the statements made in paragraph 7 of the Misc. Petition have only been sworn as true to the knowledge of the Respondent No. 5. As such, the same do not deserve any comments from the Deponent and this Hon'ble Tribunal may be pleased to call for the records of the case and accordingly, peruse the same and grant relief to the Deponent, if so deemed fit, on such perusal. Further while categorically denying the statement to the effect that "in reply to the statement made in 4.4 of the Original Application, it is stated that there is no fixed tenure of posting as Secretary/Assistant Project Officer", the Deponent states that the Respondent authorities, vide Order issued under Memo No. F.14-2/2/94-SBA dated 05.07.2006 had been pleased to address a letter to the Respondent No. 4 with regard to the terms and conditions of deputation of the Deponent as Secretary of Assam State Social Welfare Board. In the said letter it is categorically stated that the period of deputation is from 14.06.2006 to 13.06.2007. As such, the statements made contrary thereto by the Respondent No. 5 in para-7 of the Misc. Petition shall be deemed to have been denied as, incorrect, by the Deponent.

A copy of the said letter/Order dated 05.07.2006 is annexed herewith and marked as ANNEXURE-X.

12. That, while denying the statements made in paragraph 8 of the Misc. Petition, the Deponent reiterates the statement made in paragraph 4 herein above. It is categorically denied that the Deponent had attempted to hide his involvement in any serious matter. In fact, the statement made in paragraph 4.6 to 4.10 of the Original Application clearly reveals that the Applicant had approached this Hon'ble Tribunal with clean hands and has not suppressed any material facts before this Hon'ble Tribunal. The Respondent No. 5 is, therefore, put to strictest proof of such allegation made against the Deponent.
13. That, while denying the statements made in paragraph 9 of the Misc. Petition, the Deponent states that some such irregularities, which were noticed by the Applicant, are with regard to the programme of "Crèche" and "Condensed course of education". The said programmes are not being followed in a proper manner and the same are infact being conducted in highly irregular manner by the Respondent No. 4. Inspite of having the information of non-functioning of the said scheme in certain voluntary Organizations, grants are being sanctioned and released. The Deponent also noticed several other instances, which would be evident if this Hon'ble Tribunal calls for the records of such cases
14. That, the statements made in paragraph 10 of the Misc. Petition are denied by the Deponent and the Respondent No. 5 is put to the strictest proof thereof. It is further reiterated that the Secretary is the reporting Officer of all the other Officers working under the Board. The Respondent No. 5, who is much junior to the Deponent, has by virtue of the impugned Order dated 04.08.2006, become the reporting Officer of the Deponent.
15. That, the statements made in paragraph 11 of the Misc. Petition do not deserve any reply by the Deponent. It is not the business of the Respondent No. 5 to be concerned about the education of the children of the Deponent. The same will be decided by the competent authority.
16. That, the statements made in paragraph 12 of the Misc. Petition clearly reveal the fact that the allegation made by the Deponent with regard to the nexus between the Respondent No. 4 and Respondent No. 5 are, in fact, true and the Deponent reiterates the statements made in paragraph 3 herein above. It is categorically denied that the Deponent is trying to hide any of his own irregularities.

17. That, the Deponent humbly states that the statements made in paragraphs 13 and 14 of the Misc. Petition are left to the scrutiny of this Hon'ble Tribunal. The Applicant further states that the Respondents are bound by the Orders passed by this Hon'ble Tribunal and in view of the fact that the Applicant had not handed over charge to the Respondent No. 5, the same cannot be said to have actually taken place. Further in view of the facts and circumstances narrated herein above

18. as well as the statements made in the Original Application, this Hon'ble Tribunal may be pleased to grant appropriate relief to the Deponent by calling for the records for the entire matter and further be pleased to allow the Applicant to continue at his post at Guwahati by deciding his case on merit.

18. That, the statements made in this paragraph and in paragraphs 1, 2, 3 (pt), 4, 5, 6 (pt), 7 (pt), 8 (pt), 9 (pt), 10, 11 (pt), 12 (pt), 14, 15, 16, 17 (pt) are true to my knowledge and those made in paragraphs 3 (pt), 6 (pt), 7 (pt), 8 (pt), 9 (pt), 11 (pt), 12 (pt), 13, 17 (pt), being matters of record are true to my information derived therefrom, which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

And I sign this Objection on this 21st day of September, 2006 at Guwahati.

Mustaan Sh.

DEPONENT

2

मिसिल नं. File No F. 14-2/2/94-SBA

Tel.No. 26950059

फैक्स नं: 26960057

FAX: 26960057

केंद्रीय समाज कल्याण बोर्ड

THE CENTRAL SOCIAL WELFARE BOARD

समाज कल्याण भवन

बी-12, कुतुब इन्स्टीट्यूशनल एरिया, नई दिल्ली-110016

SAMAJ KALYAN BHAVAN

B-12, Qutab Institutional Area, New Delhi-110016

दिनांक/Dated: 5/7/06

The Chairperson,
Assam State Social Welfare Board,
GUWAHATI.

Subject: Terms and Conditions of deputation of Sh. M.Ali as Secretary, State Board.

Madam,

I am directed to forward herewith a copy of standard Terms & Conditions of Foreign Service in respect of Sh. M.Ali as Secretary, Assam State Board, Guwahati on deputation basis from 14/6/06 to 13/6/07. Acceptance to this effect may be conveyed at an early date to this office.

Yours faithfully,

sd/

(SHASHI KAPOOR)
ASSTT. DIRECTOR (SBA)

Encl: As above.

Copy for information and necessary action :-

- ✓ Sh. M.Ali, Secretary, Assam State Social Welfare Board, Guwahati.
2. D.D (F.O.Estt.)
3. D.D (FCI)
4. P&AO, CSWB (alongwith copy of joining report of Sh. M.Ali as Secretary, State Board).

Shashi
ASSTT. DIRECTOR (SBA)

Certified to be true copy

R.S.

R.S. Choudhury
Advocate

21/8/08

**TERMS AND CONDITION OF FOREIGN SERVICE OF SH. M.ALI AS
SECRETARY, ASSAM STATE SOCIAL WELFARE BOARD, GUWAHATI ON
DEPUTATION BASIS**

| | | |
|----|---|--|
| 1. | Period of Deputation | The period of deputation from 14.6.06 to 13.6.07. The period of deputation may however, be extended further subject to administrative convenience and provided the request for extension is made well in time before expiry of the present terms without prejudice to the right of the Board and that his/her service are liable to be called back by the Central Social Welfare Board anytime during the course of foreign service. |
| 2. | Pay | During the period of deputation of Sh. M.Ali will have the option either to get his/her pay fixed in the deputation post under the operation of the normal rules or the draw pay of the post held by his/her allowance with and subject to the condition, as modified from time to time and such other general or special orders issued by the Ministry of Finance. |
| 3. | Dearness Allowance | Sh. M.Ali will be entitled to Dearness Allowance under the rules of the parent Government or under the rules of the borrowing Government according as he/she retains his/her scale of pay under the parent Government or he/she draw pay in the scale attached to the post under the borrowing Government. |
| 4. | Local Allowances like CCA & HRA | To be regulated under the rules of the borrowing Government. In the scale of deputation of an employee or the Central Social Welfare Board to the State Board concerned may, however, if they so desire, apply the Central Social Welfare Board rules to such a deputationist. |
| 5. | Children's Educational Allowances & reimbursement of tuition fees | <ol style="list-style-type: none"> 1. During the period of deputation he/she will be eligible to claim the children's educational allowances from the State Board as laid down in para 1 (a) of finance Ministry's O.M.No. 8(11)-E.II(B)63 dated the 12th August, 1964, subject to the fulfillment of the conditions prescribed in O.M.No. F. 10(1)Est(Spl)/69 dated the 13th January, 1962, as amended/clarified from time to time. 2. He/She will be entitled to reimbursement of tuition fees in respect of his/her children subject to the fulfillment of the terms and conditions laid down in Finance Ministry's O.M.No. F.177(1)-E.II(B)/64, dated the 3rd June, 1964, as amended/clarified from time to time and liability in this regards will devolve on the borrowing office. <p>Note: The Government Servant cannot claim both the concessions in respect of the same child.</p> |
| 6. | Joining time pay & transfer T.A. | He/She will be entitled to T.A. and joining time both on joining the post on deputation and on reversion there from to the parent office under the rules of the State Board to which he/she is deputed. The expenditure on this account will be borne by the borrowing State Board. |

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| 7. | T.A. for journey on duty during the period of deputation | To be regulated under the rules of the State Board to which he/she proceeds on deputation. |
| 8. | Leave Salary & Pension Contribution | <ol style="list-style-type: none"> 1. The State Board would contribute Leave Salary and Pension Contribution according to the rate in force from time to time in accordance with the order issued by the President under FR-116. 2. The contributions for Leave Salary and Pension Contribution should be paid annually within 15 days from the end of each financial year or at the end foreign service if expires before the end of a financial year; if the payment is not made within the period, interest will be leviable on the unpaid contribution at the rate of two paise per day per Rs.100/- from the date of expiry of the period of aforesaid upto the date on which the contribution is finally paid. 3. The Leave Salary and Pension Contribution should be paid separately. |
| 9. | Leave and Pension | During the period of foreign service the deputationist will continue to be governed by the Leave and Pension rules of the Central Social Welfare Board as applicable to him/her before such transfer. |
| 10. | Provident Fund Benefits | During the period of deputation he/she will continue to the provident fund of his/her parent office i.e. Central Social Welfare Board to which he may be subscribing when he/she is placed on deputation in accordance with the rules of such funds. |
| 11. | Extraordinary Pension/Gratuity | This will be regulated in accordance with the Ministry of Finance (Department of Expenditure), office Memorandum No. F.19(23)-E.V(A)/64, dated the 2nd August, 1965. |
| 12. | Leave Travel Concession | He/She will continue to be entitled to Leave Travel Concession under the Ministry of Home Affairs, Office Memorandum No. 43/1/55-Ests.-(II).P.T.II, dated the 11th October, 1956 as amended from time to time and the cost thereof will be borne by the borrowing Government. |
| 13. | Disability Leave Salary | State Board shall be liable to pay to Central Social Welfare Board, Leave Salary towards disability incurred in and or towards service under the State Board even though such disability manifests itself after the termination of foreign service. |
| 14. | Medical Concession | He/She will be entitled to these concessions under the rules of the borrowing Government. The State Board may, however, if so desire, apply the rules applicable to the employees of the Central Social Welfare Board to the deputationist. |
| 15. | Termination of Foreign Service | The foreign service will cease on the date he/she takes over charge of his/her post in the Central Social Welfare Board. |