

FORM NO. @
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Original Application No. 31/06
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant(s) H.K. Roy Dadda & another
Respondent(S) G.O. 1 & ORS.

Advocate for the Applicants K. Bhattacharya, M.K. Majumdar.

Advocate for the Respondent(S) _____
CGSC ✓
Ply St. Counsel

Notes of the Registry: Date _____ Order of the Tribunal

07.02.2006 Present : Hon'ble Sri K.V. Sachidanandan,
Vice-Chairman.

This application is in form
is filed/C. P. No. 50/-
deposit: _____
No. 269 319/29
Dated 4.2.06.

N. Chandra
1/e Dy. Registrar 6.2.06.

- 1) No steps for respondents.
2) Extra cost for respondents
Rs. 15/- deposit vide
Receipt No. 1785 Dated
6.2.06.

N. Chandra
6.2.06.

The applicants herein are civilian employee under the authority of SSB and at present posted as Senior Field Assistant (Vety.) under the control and supervision of the Inspector General FTR, HQR, SSB, Guwahati. The claim of the applicants is that they have been appointed as per Veterinary Staff Recruitment Rules 1989 based on Veterinary Act, 1984, in which certain jobs were demarcated. Now, as per impugned order, without consent and exercise of options, they have been directed to do the job of Dog Handler, which does not come under their designated job. The applicants also claimed that the respondents have transferred them to the present post, which is inferior and not meant for their veterinary job. By virtue of the transfer order dated 19.01.2006, they have been directed to report at 15th Bn. Bongaigaon.

Contd..... ✓

oA 31/06

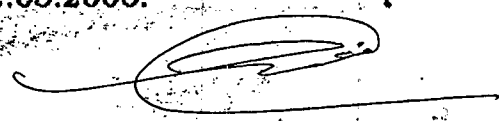
Contd/-

07.02.2006

When the matter came up for hearing, Mr. G. Baishya, learned Sr. C.G.S.C. for the respondents took notice on behalf of the respondents and he submitted that he would like to get instructions to file reply statement. It is also submitted by the learned counsel for the parties that almost identical matters, i.e. O.A. Nos. 269/2005 and 275/2005, etc have been admitted by this Court. Since the larger issue involved in this case, this Court is of the view that this O.A. has to be admitted. Admit. Six weeks time is given to the respondents to file reply statement.

However, in the interest of justice this Court directs that status quo as on today so far as the applicants are concerned shall be maintained till the next date of hearing.

Post on 22.03.2006.



Vice-Chairman

/mb/

22.3.06.

Mr.G.Baishya, learned Sr.C.G.S.C has prayed for further time to file written statement. Let it be done. Post the matter on 27.4.06.

In the meantime the interim order will continue till the next date.

Vice-Chairman

27.4.2006

Reply statement has been filed. Copy of the same is furnished to the counsel for the applicant. Mr.M.K. Mazumdar, learned counsel for the applicant requests for time to file rejoinder. Let it be done. post on 24.5.06. Interim order to continue.

Vice-Chairman

Please comply order dated 7-2-06.

AT 5 6.2.06

Admitted by Sr. C.G.S.C. 10.2.06

Notice & order dt. 7/2/06 for resp. nos. 1 to 8 received by Mr. G. Baishya Sr. C.G.S.C., on 10/2/06.

Service Completed.

lm

17-3-06

No W/S has been filed.

order dt 22/3 issuing to learned advocates for both the parties.

No W/S has been filed. 23/3/06. bb
 No W/S has been filed. 26.4.06

-3- 0431/06 3

Notes of the Registry

Date

Order of the Tribunal

24.05.2006

No rejoinder has been filed. As a matter of last chance time ~~is~~ is granted to file rejoinder. It is made clear that if no rejoinder is filed, no further time will be granted.

Post before the next Division Bench.

Vice-Chairman

mb

10.8.2006

Mr. K. Bhattacharjee, learned counsel is represented and adjournment is sought on his behalf. post after a month.

Member (A)

Vice-Chairman

bb

12.3.07.

post the matter on 13.3.07.

Member

Vice-Chairman

lm

order dt. 27/4/06
issuing to learned
advocate's for both
the parties.

28/4/06.

1.5.06

W/s Submitted
by the Respondents.

23-5-06

No rejoinder has
been filed.

0421/06

Notes of the Registry	Date	Order of the Tribunal
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OA. 31/2008

13.3.2007

Heard Mr.K.Bhattacharjee, learned
counsel for the Applicant and
Mr.G.Baishya, learned Sr. C. G. S. C. for
the Respondents. Hearing concluded.

Order is reserved.



Member (A)



Vice-Chairman

/bb/

21.3.07.

Judgment delivered in open Court.
Kept in separate sheets. Application
is dismissed. No costs.



Member



Vice-Chairman

lm

Received
by
Srlense
26.03.07

28.3.07
C. Copy has been
collected by the H/Adv.
for the applicant.
JH

6

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.116/05, 117/05, 174/05, 269/05,
275/05 & 31/06.

Date of Order: This the 21st day of March, 2007.

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

HON'BLE MR.TARSEM LAL, ADMINISTRATIVE MEMBER

Sri Premtosh Dutta, (O.A.116/2005)
Son of Late T.K.Dutta
S.F.A (V) Office of the AO/SSB/Bongaigaon
Shastri Road, Ward No.10
P.O. North Bongaigaon,
Dist. Bongaigaon.

Sri Bimal Chakraborty (O.A.117/2005)
Son of Late D. Chakraborty
S.F.A(V) Office of the AO/SSB/Bongaigaon, Shastri Road,
Ward No.10, P.O.North Bongaigaon, Dist.Bongaigaon.

Sri Ankaji Sherpa (O.A.174/2005)
Son of late P.D.Lama
S.F.A (V) Office of C.O., S.S.B
Bangajang Camp Jang
Dist. Tawang, Arunachal Pradesh.

Sri Haridas Sarkar (O.A.269/2005)
O/O the Area Organiser, SSB
Bongaigaon
Sri R.K.Saha (O.A. 269/2005)
O/O Area Organiser, SSB
Falakata

Sri Ram Kishore Barman (O.A.275/2005)
O/O the Area Organiser, SSB *S/O Late A.S.Barman
Falakata Vill: Sriram Para, P.O. Srirampara
P.S. & Dist. Jalpaiguri.

Sri Himangshu Kumar Roy Podder (O.A.31/2006)
S/o Late Khagendra Nath Roy Podder
Vill Dol Govinda, P.O.Citaldala
Dist. Coochbehar

Sri Pradip Basak, (O.A.31/2006)
S/o Late Kali Kumar Basak
Vill. Madhyapar (Near Girls School Road)
P.O. Dhupguri, Dist. JalpaiguriApplicants

By Advocate Mr K. Bhattacharjee

- Versus -

2

1. Union of India,
represented by the Director General,
Sashastra Seemabal, East Block V
R.K.Puram, New Delhi-110066.
2. Ministry of Home Affairs,
Represented by Secretary to the
Govt. of India, New Delhi.
3. Director General,
Sashastra Seemabal, East Block-V,
R.K.Puram, New Delhi-110066.
4. Assistant Director,
O/O Director General,
Sashastra Seemabal, East Block-V
R.K.Puram, New Delhi-110066.
5. Inspector General,
FTR, HQR. S.S.B, MHA, Guwahati.
6. Area Organiser (H.Q)
FTR, HQRSSB, Guwahati.
7. Area Organiser, SSB,
Bongaigaon, Assam.
8. Area Organiser, SSB,
Falakata, West Bengal
9. Sr.Veterinary Officer,
S.S.B, East Block-V,
R.K.Puram, New Delhi-110066. Respondents

By Sri G.Baishya, Sr.C.G.S.C, in O.A.Nos.275/2005 &
31/2006.

M.U.Ahmed, Addl.C.G.S.C in O.A.116/05, 117/05 & 174/05.
Miss U. Das, Addl.C.G.S.C in O.A.269/2005.

ORDER

TARSEM LAL, MEMBER(A)

Since common questions of law and facts are
involved, all the six cases are being disposed of by
this common order with the consent of the parties.

2. This case is regarding transfer/postings of Senior Field Assistant (Veterinary) for posting at Pup Rearing Centre Gorakhpur vide order dated 5.10.2005.

3. The applicants have stated that they joined in the post of Constable on different dates under the Command of Director General, SSB. Subsequently they were appointed afresh as Senior Field Assistant (Veterinary) under SSB (Para Veterinary Staff) Recruitment Rules 1989 which is a civil post in the pay scale of Rs.975-25-1150-EB-30-1600/-. The duties of the applicants under the said rule are to look after the treatment of sick animal, documentation of Veterinary Hospital Dispensary and have to undergo BASIC CONDENSED COURSE known as Veterinary Assistant Course.

4. The Chief Veterinary Officer in order to select some candidates for the post of Dog Handler issued a circular among the workers who are willing to join the new post and in that connection the applicants declined to join the post of Dog Handler which is a post for combative personnel.

5. The Director General, SSB has approved the postings of Veterinary staff alongwith posts with immediate effect in public interest. The officials were directed to be relieved immediately so as to report to Pup Rearing Centre, Gorakhpur on or before 24th October, 2005. The incumbents approached the Guwahati Bench of the Tribunal vide O.A.No. 117/2005 to mitigate their

grievances by challenging the order dated 5.10.2005. By order dated 26.5.2005 the Tribunal maintained the status quo. The relevant portion of the order is quoted below :

"Status quo as on today regarding transfer of the applicant issued vide orders dated 17.2.2005 and 5.4.2005 shall be maintained till the next date."

6. In the present applications the applicants have prayed for the following reliefs :

- (1) This Hon'ble Tribunal may be pleased to call for the records pertaining to transfer of the applicants in the post of Senior Field Assistant (Veterinary) to a combat post and consequently to direct the respondents not to release the applicants along with the post and also to declare that the order dated 5.10.2005 is illegal and void.

7. The respondents have filed a detailed written statement denying the contention of the applicants. It has been stated that applicants were initially appointed as Constable(GD) and were subsequently appointed afresh as Senior Field Assistant (Veterinary) in the scale of Rs.975-25-1150-EB-30-1660/- in pursuance of Para Veterinary Recruitment Rule circulated vide Cabinet Secretariat Notification No.12018/30/88-DO.I dated 31.3.1989. Their services were utilized for treatment of sick animal and documentation of Veterinary hospital/dispensary works. After the administrative control of the Organisation has been shifted from Cabinet Secretariat to Ministry of Home Affairs w.e.f. 15.1.2001, the role of the

organisation has been changed and it has now been assigned with the mandate to guard the Indo Nepal Border and Indo Bhutan Border and therefore SSB as on date has become a Border Guarding Force. With the change in role of the organisation from Stay Behind Role to that of a Border Guarding Force, the old area of operations have been closed and new offices/Battalions have been opened all along with Indo-Nepal and Indo-Bhutan Border.

8. For better performance of the duties, the Govt. of India has sanctioned Dog Squad to SSB to carry out operational duties in the border areas. As the Organisation has independent veterinary staff, it is primarily, the veterinary staff only who will raise and maintain the Pups and Dogs in changed circumstances. The Veterinary Cadre is the most suited and trained staff to look after the health, breeding, training, handling and maintenance of the dogs.

9. After having been trained in rearing and breeding of pups to the veterinary cadre personnel they are fully competent to perform their newly assigned duties. The rearing and breeding of pups is the primary job of the Para-Vety Staff. Moreover, during the service career every individual has to undergo certain departmental courses for improvement of efficiency and making them professionally equipped to meet the needs

and objectives of the Organisation as the Force has competent and independent Veterinary Staff.

10. Accordingly SFAs(V) were withdrawn and attached temporarily with the newly created Pup Rearing Centre at Gorakhpur. The applicants have been transferred along with Post as SFA(V) in public interest and nowhere it has been mentioned in the order dated 5.10.05 that the applicants have been posted as Dog Handlers. Nowhere it has been mentioned whether the Dog Handling is a part of the duty of veterinary cadre, which can only be performed by the trained existing Para Veterinary cadre. The applicants had been transferred in public interest to fulfill and discharge operational commitments urgently required at the border. Neither the nomenclature nor the cadre of the applicants has been changed. This is a mere apprehension on the part of the applicants. The rearing and breeding of pups is primary job of the Vety/Para-Vety Cadre/Staff. Moreover, during the service career every individual has to undergo certain departmental courses for improvement of efficiency and making them professionally equipped to meet the needs and objectives of the Organisation. They have been transferred in the same capacity in public interest along with the post. It is not correct that the applicants have been transferred from the post of SFA(V) to a combatant post but they have been

transferred along with post in public interest and after transfer also they will be governed by the same rules.

11. We have heard Mr K. Bhattacharjee, learned counsel for the applicants in all the O.A. and Mr G. Baishya, learned Sr. C.G.S.C, Mr M.U. Ahmed, learned Addl. C.G.S.C and Miss U. Das, learned Addl. C.G.S.C for the respondents in the respective O.As. and perused the documents.

12. Mr K. Bhattacharjee, learned counsel for the applicants submitted that the applicants are governed under Chapter IV clause 30 of the Indian Veterinary Council Act 1984 and their service conditions cannot be changed under an administrative order. They were originally recruited as Senior Field Assistant (Vety) which is a separate cadre and cannot be deployed as Dog Handler which is a combatant post. The learned counsel made us to traverse through various documents to establish that Senior Field Assistant (Vety) is a separate cadre. He repeatedly emphasized that separate cadre is not synonymous with a separate service but a particular group of officials in a department. He further pleaded that the applicants are not willing to join the services of Dog Handlers and they have not given their willingness for the same. Therefore, they may either be allowed to continue to perform their

present duties till they are retired or may be declared surplus in the service.

13. The learned counsel for the respondents on the other hand persuasively argued that the applicants are not governed under the "Indian Veterinary Council Act 1984." They were not qualified to be registered under the Council Act. In fact the doctors who are practicing are governed under the above statutory Act. The Sr. Field Assistant (Vety) had joined as Constables and on technical resignation from the post were appointed as Sr. Field Assistant (Vety) under the SSB (Para Veterinary Staff) Recruitment Rules 1989. Since the applicants had not obtained their veterinary qualification from any of the institutions of India as included in the first schedule (clause 15 of the Act), they are not governed by the Indian Veterinary Council Act 1984. The learned counsel further pleaded that in view of the above position, it was misnomer to say that Senior Field Assistant (Vety) are governed under the Statutory Rules. The counsel further pleaded that the decisions cited by the applicant's counsel are not squarely applicable in these cases, since their cadre has not been changed in any way but only additional duty was entrusted upon them. Therefore, the O.A may be dismissed with cost.

14. The learned counsel further pleaded that Sr. Field Assistant (Vety) are not a separate cadre and continue to be governed under the SSB (Para Veterinary Staff) Recruitment Rules 1989. They have been deployed for taking care of animals and are being sent on training for a period of six months. He emphasized that it was entirely within the domain of the employer to deploy officials any jobs for which they are more suitable according to their qualifications, experience and expertise. Their job, pay scales are not being changed.

15. We have given our due consideration to the arguments, pleadings, evidence and materials placed on record in these cases. Admittedly the applicants were appointed as Constable under the Director General, SSB and thereafter appointed as Senior Field Assistant(Vety) (SFA(V) for short) and posted at different stations under the respective Area Organisers. The applicants served as Constables for 6 years and according to them they were appointed afresh as SFA(V) which is a civil post in the pay scale of Rs.975-1600/-. The applicants have been appointed afresh as SFA(V) in pursuance of the Para Veterinary Recruitment Rules circulated by Cabinet Secretariat Notification dated 31.3.89. Their services were utilized for treatment of sick animal and documentation of Veterinary hospital/dispensary works. The

administrative control of the Organisation has been shifted from Cabinet Secretariat to Ministry of Home Affairs with effect from 15.1.01, the role of the organisation has been changed and it has now been assigned with the mandate to guard the Indo Nepal Border and Indo Bhutan Border and therefore SSB as on date has become a Border Guarding Force. With the change of role of the organisation from 'Stay Behind Role' to that of a Border Guarding Force, the old area of operations have been closed and new offices/Battalions have been opened all along with Indo Nepal and Indo Bhutan Border. For better performance of the duties, the Government of India has sanctioned Dog Squad to SSB to carry out operational duties in the border areas. As the Organisation has independent veterinary staff, it is primarily, the veterinary staff only who will raise and maintain the pups and Dogs as primarily, in changed circumstances, the Veterinary Cadre is the most suited and trained staff to look after the health, breeding, training, handling and maintenance of the dogs. Willingness for the training was called for and the said notification is re-produced below :

"All SAOs are informed to obtain willingness of SFA(Vety) under their respective area for undergoing Dog handlers Course, at the earliest, so as to intimate their names for further detailment from Frontier

Headquarter, Guwahati. The matter may be treated urgent."

The qualifications of the applicants were Matriculate and they have served as Constable and they were appointed as SFA(Vety) which is a civil post as per Veterinary Staff Recruitment Rules and the duty assigned to them was the treatment of sick animal and documentation of Veterinary hospital/dispensary works and they had to undergo 6 months Basis Condense Course known as Veterinary Assistants Course. The applicant are not Graduate or diploma holder in Veterinary Science, therefore it will be necessary to evaluate whether the SFA (V) are covered by the Indian Veterinary Council Act 1984. In the preamble of the Act it is stated that 'An Act to regulate veterinary practice and to provide, for that purpose, for the establishment of a Veterinary Council of India and State Veterinary Councils and the maintenance of registers of the veterinary practitioners and for matters connected therewith. Whereas it is expedient to make provision for the regulation of veterinary practice and to provide, for that purpose, for the establishment of a Veterinary Council of India and State Veterinary Councils and the maintenance of registers to persons qualified to engage in veterinary practice for the whole of India for matters connected therewith or ancillary thereto. As per definition of

the Act a person who registered to get enrolled as a Member of the Council. Register means a register maintained under this Act. Registered Veterinary Practitioner means a person whose name is for the time being duly registered in a register. Veterinary institution means any University or other institution within or without India which grants degrees, diplomas or licences in veterinary science and animal husbandry. Chapter IV of the Privileges of Registered Veterinary Practitioners shows as under :.

"Subject to the conditions and restrictions laid down in the Act, every person whose name is for the time being borne on the Indian Veterinary practitioners register shall be entitled according to his qualifications to practise as a veterinary practitioner and to recover in due course of law in respect of such practice any expenses, charges in respect of medicaments and other appliances or any fees to which he may be entitled.

Right of persons who are enrolled on the Indian veterinary practitioners register - No person, other than a registered veterinary practitioner, shall -

(a) hold office as veterinary physician or surgeon or any other like office (by whatever name called) in Government or in any institution maintained by a local or other authority;

(b) practise veterinary medicine in any State."

On going through Schedule 2 of the Act 6 months Condense Course underwent by the applicants do not qualify them to become a veterinary practitioner as defined in the Act nor they have any right to register

themselves in the Indian Veterinary Council. At best they may be permitted as veterinary technician since they are not Graduate or diploma holders. Therefore, on the close scrutiny of the said Act we are of the view that SFA(V) as that of applicants are not covered under the Indian Veterinary Council Act 1984. They have actually been appointed under the SSB Para Veterinary Staff Recruitment Rules 1989, which is a civil post. They have not also been appointed as Dog Handler but they are being sent for training at Pup rearing centre, Gorakhpur for better performance of their duties. Therefore, the contention of the applicants that they are governed under the Indian Veterinary Council Act 1984 will not hold good and the questions remains is whether their service conditions can be changed under administrative orders or not. From the above discussions we are of the view that the applicants are not governed by any statutory provision and they are not entitled to get any statutory protection as claimed by them.

17. The learned counsel for the applicants has relied on the following decisions :

- (i) Netal Pada Chakraborty & Anr. vs. U.I.O. & Ors., reported in 2005(1)SLJ (CAT)191,
- (ii) Jaboolal Choudhury vs. State of Arunachal Pradesh & Ors, reported in (2004)1 GLR 393

(iii) Dilip Kumar Ghosh & Ors. vs. Chairman & Ors, reported in AIR 2005 SC 3485

(iv) K.P.Sudhakaran & Anr. vs. State of Kerala & Ors. reported in AIR 2006 SC

2138 and canvas for the position that

where Statutory Rules govern the field, prior executive instruction cease to apply, circular cannot override the rules occupying the field and administrative instructions cannot be allowed to operate particularly when it is in contradiction to the statutory Recruitment Rules.

16. We are in respectful agreement with the propositions canvas by the applicants but to say that these are not squarely applicable in these cases. In those cases the applicants are not under protection of any statutory rules therefore, the ratio will not fit in these cases. What we find from the above is that since the cadre of the applicants have not been changed in any way but the only additional duty was entrusted to them and the SFA(V) is not a separate cadre and covered by SSB Para Veterinary Staff Recruitment Rules. They have been sent for training for six months. We are of the view that this is entirely within the domain of the administration according to their qualification, experience and expertise. Their job, pay scales have not been changed.

17. The learned counsel for the respondents also pleaded that this case has already been adjudicated by Hon'ble High Court, Allahabad and the Hon'ble Court has decided as under

"....The sum and substance of the order issued on 26.12.2005 is a direction to the petitioner to undergo dog-handling course commencing with effect from 2.1.2006. Through the impugned order, the rank, post or scale of the petitioners is not going to be changed. The petitioners, who are members of Sashastra Seema Bal, have been directed to undergo specialized training in handling of dogs. Merely sending on training cannot be said to be change of cadre or reduction in rank. This action may not adversely affect the service conditions of the petitioners. Accordingly, no legal right of the petitioners has been infringed by the impugned order. No interference is required.

The Writ petition is dismissed."

18. It is well settled law that judicial interference is limited to testing whether the administrative action has been fair and free from the taint of unreasonableness and has substantially complied with the norms or procedure set for it by rules of public administration. The above view has been taken by the Hon'ble Supreme Court in **Fertilizer Corporation, Kamgar Union vs. Union of India, (1981) 1 SCC 568.**

19. The Hon'ble Supreme Court has further held in case of **Tata Cellular vs. Union of India, (1994) 6 SCC 651**, that the duty of the court is to confine itself to the question of legality. Its concern should be :

1. Whether a decision making authority exceeded its powers?
2. Committed an error of law,
3. committed a breach of the rules of natural justice,
4. reached a decision which no reasonable tribunal would have reached or,
5. abused its power."

The Supreme Court has again held in a case of **Union of India vs. Flight Cadet Ashish Rai**, (2006) 2 SCC 364 as under :

"There should be judicial restraint while making judicial review in administrative matters. Where irrelevant aspects have been ignored and the administrative decisions have nexus with the facts on record, there is no scope for interference. The duty of the court is (a) to confine itself to the question of legality; (b) to decide whether the decision making authority exceeded its powers; (c) committed an error of law; (d) committed breach of the rules of natural justice; and (e) reached a decision which no reasonable tribunal would have reached; or (f) abused its powers. Administrative action is subject to control by judicial review...":

Hon'ble Supreme Court has further held in **V.Ramana vs. A.P. SRTC**, (2005) 7 SCC 338 that 'the common thread running through in all these decisions is, that the court should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards.'

20. From the above it appears that the Senior Field Assistant (Vety) are not governed under Indian

Veterinary Council Act 1984. They have actually been appointed under the SSB (Para Veterinary Staff) Recruitment Rules 1989 which is a civil post. They have also not been appointed as Dog Handler but they are being sent for training on Pup Rearing Centre at Gorakhpur for better performance of their duties. Therefore, administrative authorities have taken action with bonafide intention in the interest of the State.

21. In view of the discussions made above and the settled law position all the Original Applications are dismissed.

The interim orders dated 26.5.2005 passed by this Tribunal under which the orders dated 17.2.2005 and 5.4.2005 were stayed will stand vacated.

In the conspectus facts and circumstances there will be no order as to costs..

SD/VICE CHAIRMAN
SD/MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

G. A. R. 6

[See Rule 22 (1)]

RECEIPT

No. **1785**

Date **8/24/2006**

Received from **H. K. Pandey** with

Letter No. **0A 31/06** dated **20**

the sum of Rupees **Fifteen only**

In cash/by IPO on account of **service charge for excise receipt**
by bank draft

in payment of

Rs. **15/-**

Signature

[Signature]
Cashier

8/24/06

24

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORIGINAL APPLICATION

31/06

1. a) Name of the Applicant: H. K. Roy Poddar & another
b) Respondents :- Union of India & Ors
c) No. Of applicant: 7 Ors
2. Is the application in the proper form :- Yes/NO.
3. Whether name & Description and address of all the papers been furnished in cause title: YES/NO.
4. Has the application been duly signed and verified: YES/NO.
5. Have the copies duly signed :- YES/NO.
6. Have sufficient number of copies of the application been filed: YES/NO.
7. Whether all the annexures parties are impleaded: YES/NO.
8. Whether English translation of documents in the Language: YES/NO.
9. Is the application is, in time :- YES/NO.
10. Has the Vakalatname/MEMO/of Appearance/Authorisation filed: YES/NO.
11. Is the application by IPO/BD/FOR Rs. 50/: 266 319/29 dt 4/2/06
12. Has the application is, maintainable :- YES/NO.
13. Has the impugned order original duly attested been filed: YES/NO.
14. Has the legible copies of the annexures duly attested filed: YES/NO.
15. Has the Index of documents been filed all available: YES/NO.
16. Has the required number of enveloped bearing full address of the respondents been filed :- YES/NO.
17. Has the declaration as required by item 17 of the form: YES/NO.
18. Whether the relief sought for arises out of the Single: YES/NO.
19. Whether the interim relief is prayed for :- YES/NO.
20. In case of condonation of delay is filed is it supported: YES/NO.
21. Whether this case can be heard by SINGLE BENCH/DIVISION BENCH:
22. Any other points :-
23. Result of the scrutiny with initial of the Scrutiny Clerk:..

IN OFFICER

N. J. B.
6.2.06.
DEPUTY REGISTRAR

6-1E706
 गुवाहाटी न्यायपीठ
 Guwahati Bench

In the Central Administrative Tribunal Guwahati Bench, Guwahati

O.A.No. 31 /2006

Shri H.K.Roy Podder & another. - Vs - Union of India & Ors.

SYNOPSIS OF THE APPLICATION

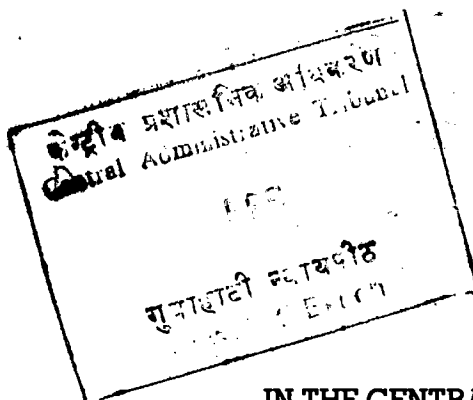
This application is made against the impugned transfer orders dated 19/01/2006 whereby the applicants are sought to be posted to 15th Battalion, Bongaigaon in view of deployment Dogs for operational duties (Dogs Handler Post).

That the said impugned transfer order has been issued in violation of the (Para Veterinary Staff) Recruitment Rules 1989. Hence this application.

LIST OF DATES/INDEX

Sl.No.	Particulars	Date of Order	Annexure	Page
1.	Appointment Order as S.F.A (Vety)	21.6.1994 & 03.04.1992	1 2	11 12
2.	Memorandum issued by Chief Veterinary Officer to select & intimate names of S.F.A(Vety)	03.09.2004	3	13
3.	Memorandum issued by Area Organiser for obtaining willingness of SFA (Vety) 26.10.2004.	19.10.2004	4	14
4.	Order passed in O.A.117/05 dt.26.5.05.	26.5.2005	5	15
5.	Memorandum dt. 2.2.05 issued by Deputy Inspector General to put the SFA (Vety) in surplus cell.	2.2.2005	6	16-17
6.	Memorandum dt. 6.4.05 issued by Sr.Veterinary Officer directing the training to be compulsory one.	6.4.2005	7	18
7.	Order issued by Area Organiser detailing applicant for Puf rearing course at Tekenpur w.e.f. 3.7.05.	24.6.2005	8	19
8.	Order issued by Area Organiser detailing the applicants for Dog handler post w.e.f. 3.7.05 cancelling the earlier order.	30.6.2005	9	20
9.	Impugned order of transfer as Dog Handler issued by Asstt.Director	19.01.2006	10	21

Filed by :- *M.K. Majumdar*
 Advocate



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

ORIGINAL APPLICATION NO. 31 /2006

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

(For use of Tribunal Office)

Filed by the Applicants
Through: MK Majumdar
6.2.06

Signature :

Date :

Original Application No. 31 of 2006

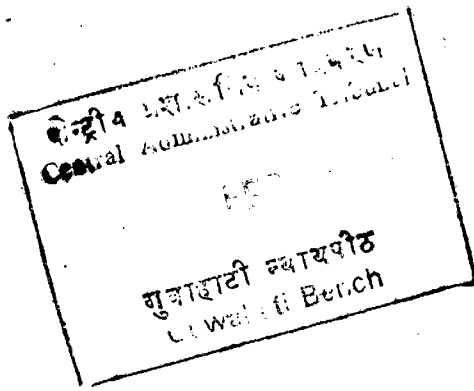
I. PARTICULARS OF THE APPLICANT:

1. Himangshu Kumar Roy Podder
S/o, Late Khagendra Nath Roy Podder
Vill.: Dol Govinda, P.O.- Citaldala
Dist.: Coochbehar
2. Pradip Basak
S/o, Late Kali Kumar Basak
Vill.: Madhyapar (Near Girls School Road)
P.O.: Dhupguri, Dist.: Jalpaiguri

II. PARTICULARS OF THE RESPONDENTS:

1. Union of India
Represented by the Director General
Sashastra Seemabal, East Block V,
R. K. Puram, new delhi-110 066.
2. Ministry of Home Affairs
Represented by the Secretary to the Govt. of
India,
New Delhi - 110 066.
3. Director General
Sashastra Seemabal, East Block-V

Himangshu K. Roy Podder



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R. K. Puram, New Delhi - 110 066

4. Assistant Director
O/o the Director General,
Sashastra Seemabal, East block-V,
R. K. Puram, New Delhi-110 066.
5. Inspector general
FTR. H Qr., S. S. B., MHA, Guwahati
6. Area Organizer (H.Q.)
FTR, HQRSSB, Gauhati
7. Area Organizer, SSB,
Falakata, West Bengal,
8. Sr. Veterinary Officer
S.S.B. East Block-V
R.K. Puram. N.D. 66

III. PARTICULARS OF THE ORDER(S) AGAINST WHICH APPLICATION IS MADE:

1. This application is made against the order No. 4/SSB/A-4/2005(1)-163-190 dated 19.01.06 issued by the Assistant Director (E.A. IV) by which the present applicants are sought to be posted to 15th Battalion, Bongaigaon in view of deployment of dogs for operational duties (Dogs Handler Post).

2. JURISDICTION OF TRIBUNAL

That the applicants declare that the subject matter of this application is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION

That the applicants declare that the present application is made within the period of limitation under Section 21 of the Administrative Tribunals Act, 1985.

Himangshu K. Ray Reddy

4. FACTS OF THE CASE

- i] That the applicants No. 1 and No. 2 are civilian employee under the authority of SSB and at present posted in the district of Coochbehar and Jalpaiguri respectively under the supervision and control of the Inspector General FTR, HQR, SSB Guwahati and as such entitled to all rights and privileges guaranteed under the Constitution of India and the relevant service rules framed there-under.

That the applicants being similarly situated sought to be transferred by the same order dated 19.01.06 have challenged the legality of the said order by filing this joint application under provision of Central Administrative Tribunal Rules 1987.

- II. That the applicants initially joined in the post of Constable under the Command of the DG. SSB.

- III. That consequent upon acceptance of technical resignation of the Applicants No. 1 and 2 from the post of constable on 21.06.94 and 02.04.92 respectively, they were appointed as Senior Field Assistant (Vety.) on 21.06.94 and 02.04.92 respectively under the SSB (Para-Vety. Staff) Recruitment Rules, 1989 which is a civil post in the pay scale of Rs. 975-25-1150-EB-30-1600. That since joining in the new Civil post they have been continuing as such.

The copy of the orders of technical resignation and the memorandum of appointment dated 21.06.94 and 02.04.92 are annexed as Annexures-1 & 2 respectively.

- IV. That the applicant states that the post of the Senior Field Assistant (Veterinary) is a purely civilian post and is guided by the para-veterinary Staff Recruitment Rules, 1989 to look after the treatment of sick animal, documentation of Veterinary Hospital Dispensary and have to undergo BASIC CONDENSED COURSE, known as Veterinary Assistant Course.
- V. That the applicant states that on 3rd September 2004 the Chief Veterinary Officer issued a Memorandum

No.99/Vet/SSB/2003/vc-3.39-41 whereby it is stated to select and intimate the names of SFA (Vet.) working in the department who are relatively young and have young and have aptitude to care and handle dogs for working as Dog Handler SSB in the Battalion. It was also proposed to impart a preliminary training in Dog handling to the selected SFA (Vet) at a central location by the SSB (Vet).

A copy of the Memorandum dated 03.09.2004 is annexed herewith as Annexure - 3

- VI. That the concerned Area Organizer was also requested to intimate the names of only those persons who are having interest in pets like dog so that they could be put into the course and in that regard the authority also circulated memorandum dated 19.10.04 directing the SOA to obtain willingness from the SFA (Vety.) for getting their services in the near future. In that connection the present applicant expressly declined to join in the training which is meant for Dog Handler which is a part for combative personnel.

A copy of the memorandum dated 19.10.04 issued by the Area Organizer vide order dated 26.10.04 is annexure as Annexure 4.

- VII. That the Applicants state that in some other cases the Area Organizer, SSB, Bongaigaon issued circular dated 17.02.05 received from the headquarters whereby some 8 posts were re-allocated in public interest and were transferred from Bongaigaon to some other places and the incumbent have already approached this Tribunal by challenging the order of transfer and this Hon'ble Tribunal on consideration of facts and circumstances has stayed the order of transfer in OA No. 117/2005 by Order dated 27.05.05.

A copy of the Order is annexed herewith as Annexure 5.

Himangshu K. Ray Poddar

80

VIII. That the Applicants state that, since circulation of Memorandum dated 19.10.04 (Annexure-4) they expressed their willingness and in this regard another memorandum was issued from the office of the Deputy Inspector General on 02.02.05 clarifying the practical problem of motivating the SFA (Vety.) and selection of some SFA (Vety.) and their unwillingness to work as Dog Handler and as such the subsequent decision of utilizing their service as Dog Handler is against the Public Policy.

A copy of the Memorandum dated
02.02.05 is annexed as Annexure 6.

IX. That the Applicants state that inspite of the memorandum dated 02.02.05 wherein it is stated that if SFA (Vety.) are not giving their willingness to join the post of Dog Handler they may be sent to surplus cell. Surprisingly, in violation of the said memorandum the Respondent No. 8, i.e., the Senior Veterinary Officer, issued another memorandum dated 06.04.05 whereby it is stated that all the nominated SFA (Vety.) have to undergo the course as per schedule as the course is a compulsory for all of them. If any of the Applicant refuses, the departmental action will be initiated which would go to show that the action of the Respondent No. 8 is a malafide arbitrary and irrational.

A copy of the memorandum dated
06.04.05 is annexed as Annexure 7.

X. That the Applicants state that, thereafter the authority vide order dated 24.06.05 detailed the applicants for training course of puf-rearing and breeding course and the applicants had to accept the said direction although the same training is not a promotion course, under compulsion to save themselves from any departmental action.

A copy of the order dated 24.06.05
is annexed as Annexure 8.

XI. That the Applicants state that, pursuant to said order of puf-rearing course dated 24.06.05 (under compulsion) when they have submitted their advance T.A. for training of puf-rearing

and on the day of receiving the advance T.A. on 30.06.05 the authority with ulterior motive and total disregard of original with memo dated 03.09.05, released them for training of Dog Handler canceling the training of puf-rearing, which itself shows that such action is totally malafide, against all canons of service jurisprudence more so, the action of the Respondent are one of oppressive in nature which is against the spirit of welfare state.

A copy of the order dated 30.06.05 is annexed as Annexure 9.

- XII. That the Applicants states that, pursuant to the filing of the O.A.'s before the Hon'ble Tribunal by some other similarly situated persons the authority issued some transfer order to the SFA Staff using some different wordings intending to mean that the present applicant and others are transferred as per the direction of the D.G.S.S.B. alongwith the post so that the present applicant may not have any grievance of raising objections for their transferring to the PUP Rearing Centre at Takenpur / Gorakhpur for Dog Handling.
- XIII. That the applicants state that as mentioned in earlier para that the authority initially issued the memorandum dated 03.09.2004 requesting the Area Organizers to select and intimate the names of SFA (Vety.) for handling dogs and in that regard an training was also required to be imparted. As such the apprehension that had aroused in the mind of the present applicants is not a baseless.
- XIV. That the applicants being similarly has approached this Tribunal to mitigate his grievance against the order dated 19.01.06 whereby they have been transferred with post to report 15th Battalion, Bongaigaon immediately (Not released) on the ground that he has joined the post of civilian and their transfer to the post of Dog Handler in a separate unit maintained by combative personnel cannot be equated with the post of civilian.

Himangshu K. Roy P. S. D. A.

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A copy of the order dated 19.01.06
is annexed herewith as Annexure- 10.



5. GROUND:

- I. For that the applicant is training as Dog Handler in cancellation of Puf-rearing is against his willingness as was the case of other persons and as such the sudden transfer order dated 19.01.06 as Dog Handler is bad in law.
- II. For that the respondents ought to have given a reasonable opportunity to the applicant before issuing any order, which is adverse to the service conditions and thereby violated the principles of natural justice, which is the basic tenant of administrative law.
- III. For that, the impugned transfer order is issued without following the original memorandum dated 03.09.04 and also memo dated 02.02.05 and as such liable to be set aside.
- IV. For that the action of the Respondent in directing the applicants to join the Dog Handler in cancellation of Puf-rearing which itself was under compulsion, therefore the subsequent order of transfer of the applicant in view of deployment of Dogs for operational duties are malafide and oppressive in nature and as such liable to be struck down.
- V. For that the applicant to ensure that since the transfer order dated 19.01.06 specifically speaks of transfer alongwith post, they may not be engaged as Dog Handler on joining to which the authority simply declined to give any assurance. And as such it is clear that irrespective of the mode of transfer intention of the authority is clear to utilize his service as Dog Handler, which is against the service conditions of SFA (Vety.). And as such the order is liable to be dismissed.
- VI. The applicant may be permitted to urge other grounds at the time of hearing.

6. DETAIL OF REMEDIES EXHAUSTED

- I. The applicants declare that they earlier represented against the proposal of selection and accordingly they were excluded, but since passing of the order by the Assistant Director (EA. IV), dated 19.01.06 pursuant to Headquarters Order for this short period they could not prefer any appeal but to approach this Tribunal for there is no other alternative or equally efficacious remedy except to approach this Hon'ble Tribunal exercise of its jurisdiction under Section 19 of the Administrative Tribunals Act, 1985.

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

The applicants declare that they have not filed any Writ petition or application before any other Court or any Bench.

8. RELIEF SOUGHT FOR

For the reasons stated above, the applicant hereby prays that this Hon'ble Tribunal may be pleased to call the records pertaining to transfer of the applicants from the post of Senior Field Assistant (Veterinary) to a combat post and consequently to ensure that the said post may not be reallocated as a post of Dog Handler which is a combat post and also to declare that the approval order passed by the Head Quarters is illegal and void and also to direct the respondents not to release the applicants alongwith the post permanent to order dated 19.01.06.

9. INTERIM ORDER IF ANY SOGHT FOR:

Pending finalization of the O.A. the applicants herein prays that this Hon'ble Tribunal may be pleased to direct the respondents not to give effect to the order dated 19.01.06 and or not to release the applicant from the present place of posting before ensuring that their service will not be utilized as Dog Handler and such order other for further orders as it deem fit and proper.

Himangshu K. Roy P. S. Dhar

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10. PARTICULARS OF THE PROPOSAL ORDER

- a) IPO No. 26G 319129, dated 04.02.06 for Rs. 50.00,
- b) Envelopes with acknowledgement,
- c) Vakalat,
- d) Material papers as per Index.

11. LIST OF ENCLOSURES

As stated above.

Himangshu K. Roy Soddar

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

I, Shri Himangshu Kumar Roy Podder, S/o, Late Khagendra Nath Roy Podder, resident of Vill.: Dol Govinda, P.O.- Citaldala, Dist.: Coochbehar, do hereby verify that the statements made in paragraphs 1, 2, 3, 4.1, II, 4. XII, XIII & XIV are true to my knowledge and those made in paragraphs 4. III to 4. XI over records 5-9 are true to my legal advice and I have not suppressed any materials fact.

I sign this verification on the 2nd day of February 2006 at Guwahati

Himangshu K. Roy Podder

Annexure-1

No. I/O/16(L)/
 Directorate General of Security
 Office of the Commandant
 Group Centre, SSB Falakata,
 P.O. Falakata, Pin 735211,
 Dist. Jalpaiguri, WB
 Dated the 21 June '94

ORDER

Consequent upon acceptance of Technical resignation in r/o by No. 8690594 Const (GD) Himangshu Kumar Roy Podder of this Group Centre on 2.6.94 (AN) on his selection for the post of Senior Field Assistant (Veterinary) in the office of the Circle Organiser, SSB/ Sadia under a.O Tinsukia (North Assam Division) Tezpur in the pay scale of Rs.975-25-1150-EB-30-1660/- is relieved from his duties from the G.C.SSB Falakata on 11.6.94 (AN). In pursuance of DO SSB GC divn. Siliguri Memo No II/2/60/89/Vol-II/191 dated 13.6.94 and he is accordingly struck off strength from this unit from the same date i.e. 21.6.94 (AN).

2. No joining time will be admissible to join to his new place of posting.
3. He will get the benefit of past service admissible to him under Article 418(b) of C.S.R and Rule 26(2) of CCS (Pension) Rules 1972.

Sd/- Illegible

Offg. Commandant
 Group Centre, SSB
 Falakata

Distribution :-

1. The Divisional Organiser, SSB, North Bengal, Siliguri, w.r to their office Memo No. cited above for kind information please
2. The Assistant Director (EA), Office of the Director, Block V (East), R.K Puram, New Delhi for information please.
3. The Director of Accounts, Cab. Sectt., New Delhi for information please.
4. The Area Organiser, SSB, Tinsukia for information please.
5. The Divisional Organiser, SSB, North Assam division Tezpur.
6. The Circle Organiser, SSB/DG Sadia.

Internal

- | | | |
|--|-----|-----------|
| 7. DDO GC SSB, Falakata, | () | |
| 8. Quarter Master, GC, SSB, Falakata | () | |
| 9. Falakata. | | For info. |
| 10. Coy Commandant, 'HQ' GC, SSB, Falakata. | () | and n/a |
| | | please |
| 11. F.O Clerk, GC, SSB Falakata | () | |
| 12. No. 8690594 Const. (GC) Himangshu Kr. Roy Podder | () | |

Sd/- Illegible

Offg. Commandant
 GC SSB Falakata

*Attested by
 M. H. G. G. G.
 Director*

Government of India
Directorate General of Security
Office of the Commandant, GC, SSB, Falakata,
P.O. Falakata, Dist. Jalpaiguri,
Pin-735211 (West Bengal)

ORDER

Consequent upon acceptance of technical resignation tendered by No. 76478 Constable/GD Pradip Basak of this Group Centre on 02-4-1992 (AN) on his selection for the post of senior Field Assistant (Veterinary) in the office of the Circle Organiser, SSF/DPS, Falakata in the pay scale of Rs 975-25-1150-EB-30-1660/- is relieved from his duties from the Group Centre, SSB, Falakata on 02-4-1992 (FN) in pursuance of Divisional Organiser SSB/GDS, NBS Division, Siliguri office Memo No. 11/2/60/89 (Vol-I)(204) dated 21.3.92 and he is accordingly struck off strength from this unit with effect from the same date i.e. 02-4-1992 (AN).

2. No joining time will be admissible to him to join his new place of posting.
3. He will get the benefit of past service admissible to him under Article 418(b) of CSR and rule 26(2) of CCS (Pension) Rules, 1972.

Sd/-
Commandant
Group Centre, SSB
Falakata

No.1/D/16(L)/1297/1315 Dated the 2/3 April 1992.

Distribution

1. The divisional Organiser, SSB/D&S, MBS Division, siliguri w.r.t. their office Memo No. 11/2/60/89 (Vol-I)(204) dated 21-8-92 for favour of information please.
2. The Asstt Director(EA), Office of the Director, SSB, East Block No.V, Level-5, R.K. Puram, New Delhi w.r.t. their Memo No. 6/SSB/A2/91 (B) 4768 dated 27-12-91 for favour of information please.
3. The Director of Accounts, Cab-Sectt, New Delhi for information please.
4. The Area Orgaiser, SSB/DCD Jalpaiguri Area for information and necessary action please.
5. The Jalpaiguri, SSB for information please.
6. The Circle Organiser, SSb, Falakata for information and necessary action please.
7. 76470 Const/ Pradip Kr. Basak GC, SSB, Falakata.

Internal

8. The DDO, GC, SSB, Fkt.
9. Quarter Master, SC SSB, Fkt.
10. The
11. Coy Comdt. 'B' Coy
12. F.O. clerk

For information and necessary
action please.

Adjutant
Group Centre, SSB
Falakata

*Attested
by
M. U. G. Mandal
Advocate*

NO.99/Vet/SSB/2003/VC-339-41
 Government of India
 Ministry of Home Affairs
 O/O the Director General, SSB
 East Block-V, R.K.Puram
 New Delhi -66.

Dated:- the 3rd Sept.2004

MEMORANDUM

Subject - **SELECTION OF DOG HANDLERS (DH) FROM THE STRENGTH OF S.F.A.(VET)**

It is requested to select and intimate the names of S.F.A. (Vet) working in your Frontier who are relatively young and have an aptitude to care and handle dogs for working as Dog Handlers in SSB.

During the current financial year we have a requirement of 112 Dog Handlers @ 8 Dog Handlers per Battalion x 14th Battalions where the Dog Squads will be established in the first phase. These S.F.A.(Vet) will have to undergo six months training at BSF Academy, Telanpur once the pups are purchased.

It is also proposed to impart a preliminary training in Dog Handling to the selected S.F.A.(Vet) at a central location by the SSB Vets. Further directions for conducting the preliminary training will be issued by the Force HQ. in due course after selection of Dog Handlers.

The matter may please be treated as urgent and may be dealt on priority.

Sd/- Illegible
 (DR. SHASHI RANJAN)
 Chief Veterinary Officer (SG)

To
 The Inspector General
 FTR.HQRS. Lucknow/Patna/Guwahati

PTO

Contd.2

- 2 -

Memo No.VII/10/TRG/2004-05/302-307

Dated the 21/9/2004

Copy forwarded to :-

The Area Organiser, SSB, Falakata/Bongaigaon/Kokrajhar/Tamulpur/...../Boudila. They are requested to intimate the names of SFA(Vet), who are young, energetic and having interest in pots like dogs, so that they could be put into the course as mentioned above for getting their services in the near future. This may be treated as most urgent.

Sd/- Illegible
 Area Organiser (HQ)
 FTR HQS SSB Guwahati.

*Attended to by
 M. G. Mandal
 J. G.*

Copy of Memo. No. 1/Vety/Corress/AO.FKT/04(2455-56)
dated 19.10.2004 from Area Organiser, SSB, Falakata addressed
to Sub Area Organiser, SSB, Nagrakata/Alipurduar.

MEMORANDUM

Sub :- Selection of Dog Handlers from the
strength of SFA(Vety).

All SAOs are informed to obtain willingness of
SFA(Vety) under their respective area for undergoing Dog
handlers Course, at the earliest, so as to intimate their
names for further detailment from Frontier Headquarter, &
Guwahati. The matter may be treated urgent.

Sd/-
Area Organiser,
SSB, Falakata.

No. III/10/Vety-2004-05 (658-60) dt. 26.10.04
Office of the Sub Area Organiser, SSB, Nagrakata.

Copy to :-

The Circle Organiser, SSB, Nagrakata/Binnaguri/
Birpara for information and necessary action.
Requested to send names of willing SFA(Vety) at
the earliest.

26/10/04
Sub Area Organiser,
SSB, Nagrakata.

Willingness

*28
29/10/04
11-11/PP/PBK
Willingness
SSB*

15

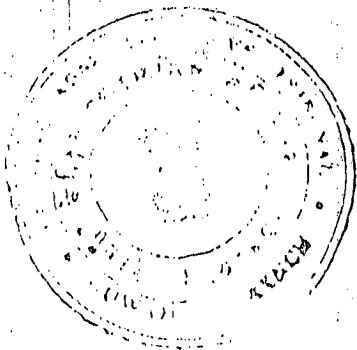
Annexure - IV 40

FORM NO. 4
(SEE RULE 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. 117/05
Misc. Petition NO. _____
Contempt petition No. _____
Review Application No. _____
Applicants. Biranchi Chakraborty
Respondents. U.O.P. GUNS
Advocates for the Applicant. K. Bhattacharjee, P.K. Sharma
Advocates of the Respondents. case

Notes of the Registry	Dated	Order of the Tribunal
	26.5.2005	<p>Present: The Hon'ble Mr. K.V. Prahladan, Administrative Member.</p> <p>Heard Mr. K. Bhattacharjee, learned counsel for the applicant, Mr. M.U. Ahmed, learned Addl. C.G.S.C. is present for the respondent</p> <p>Issue notice to show cause as to why this application shall not be admitted. List on 27.6.2005 for admission. In the meanwhile respondents shall produce Special Service (Para-Veterinary) Staff Recruitment Rules, 1989 and the Special Service Bureau (Para-Veterinary) Staff Amendments Rules, 1990.</p> <p>Status quo as on today regarding transfer of the applicant issued vide orders dat 17.2.05 and 5.4.2005 shall be maintained till the next date.</p>



TRUE COPY

Sd/- Hon'ble M (A)

Handwritten signatures and stamps at the bottom left, including a date stamp '27.5.05' and various official notations.

-16- ANNEXURE-6

403

NO. OPS/SHQ/BRCH/MEETING/04/

OFFICE OF THE DEPUTY INSPECTOR GENERAL

SECTOR HQRS. BAHRAICH (UP)

Dated the :- 02.02.2005

MEMORANDUM

Extract taken from minutes of the Senior Officer's Conference held at FIHQ SSB Delhi on 16th and 17th December, 2004. Action taken report wherever applicable may please be sent to this office by 10.2.2005 for onward submission to FIHQ Delhi on 14.2.2005.

X X X

10. VETY.

i) Raising of dog Squad and Animal Transport.-SHQ RDA

Sanction for purchase of 70 Pups in the current financial year has been received. Sanction of Rs.8.80 Lac for purchase of 40 Pups on AC bill has been obtained. The Pups will be purchases in batches of 20 each, commencing from Feb'05.

As regard Animal Transport, the matter was discussed whether we should purchase or hire the mules. After a detailed discussion, it was decided to purchase mules for SSB CVO(SC) has been asked to work out exact requirement and make proposal. IG Lucknow has assured that accommodation for pups has been arranged.

ii) Establishment of Pup rearing-cum-Dog & Dog handlers training center at SHQ Gorakhpur is required to be taken up on priority by Engg. Branch to get it completed by March-April 2005 as 1st Batch 20-25 Pups are being purchased during Feb, 2005. Till permanent kennels are constructed, pups will be reared in temporary kennels and instructions issued to SHQ Gorakhpur.

iii) Selection of SFAs (Vety) as Dog Handlers, IsG FTRs are requested that young and medically fit SFAs (Vety) may be motivated to give their willingness for DH course at

Some selected SFAs(V) were called at FIHQ and interviewed to work as a dog handler. They were also agreed. But later on from the field they sent their unwillingness. In this regard they also sent anonymous letter to ILS. They may be motivated to

Handwritten notes:
To be
original
to be

<p>NTCD, BSF Academy Tekanpur so that their services are utilized as Dog Handlers.</p> <p>iv) Funds under BADP: To undertake perception management programme. FTRs are requested to obtain funds from respective State Govt so that VCA/MCA and Publicity campaigns are undertaken for the benefit of local population. (point of CVO)- IG (O&I)</p>	<p>give their willingness, otherwise they may be sent to Surplus Cell.</p> <hr/> <p>IsG Frontier Patna and Guwahati have received the fund from State Govts. Except Govt of Bihar under head BADP. IG Lucknow should also try to get fund under this head. =- CVO</p>
--	---

TO

STAFF OFFICER (OPS)
SHQ BAHRAICH

THE SVO SHQ BAHRAICH

May be sent
to all Areas by
Enclosed copy
03.12.05

S.F.A(V)

Combat Port
Charge & Trade
Vetny Dec 1984

repland

23

07-05 09:43A

TELETYPE FAX

P.O.

No.99/Ve/SSB/VC-2005/218-50
 Government of India
 Ministry of Home Affairs
 Office of the Director General, SSB
 East Block-V, R.K.Puram
 New Delhi-66

Dated the 6th April 2005.MEMORANDUM

Subject Adverse Career Certificate of Shri.H.K.Roy Poddar, SFA (V).

Please refer your memo.no.VII/10/IRG/2004-05/545 dated 15.3.2005 on the subject cited above.

In this regard, I am directed to inform you that Pup Breeding and Rearing Course is not a promotion course and thus the Adverse Career Certificate submitted by you in respect of Shri H.K. Roy Poddar, SFA (Vet) will not have any bearing on his career. It is therefore requested not to entertain such adverse career certificates. All the nominated SFA (Vet) may be detailed to under go the course as per schedule as this course is compulsory for all of them.

Shri H.K.Roy Poddar may be directed to under go the course in the 7th batch in the month of August 2005 at NTCD, BSF Academy Takenpur. If he refuses, departmental action may be initiated against him.

This issues with the approval of I.O (O & I).

(Signature)
 (Dr.A.K.Raina)
 Senior Veterinary Officer

To
 The Inspector General
 Frontier Hqrs.SSB
 Guwahati.

Copy to:-

1. The Inspector General SSB, Lucknow / Patna for information and necessary action please.
2. AD(EA-IV), Force Hqrs, SSB, New Delhi for information please.

(Signature)
 (Dr.A.K.Raina)
 Senior Veterinary Officer

P.T.O

(Handwritten signatures)
 Shri H.K. Roy Poddar
 SFA (Vet)
 SSB

44
NO.VII/10/TRG/2004-05/821.

Dated the 7/4/05

Copy to:-

The Area Organiser, SSB, Falakata for information. A
✓ copy of the same may be provided to Sri S.K.Roy poddar,
SFA(V) for compliance.

[Signature]
AREA ORGANISER(OPS/TRG)
FTR, HQR, SSB, GUWAHATI.

Endorsement No.VII/13/Tng-NGO's/05/470-75 Dtd. 20/04/05.

Copy to :- *Shri H.K.Roy Poddar SFA(V) of C.O. Office, SSB,
Binnaguni for information & further M.A.*

[Signature] 19/04/05
For Area Organiser,
SSB, MHA, Falakata.

89/CE/BNH/05
23/4/05.

C. C. Binnaguni.

To Shri H.K. Roy Poddar
SFA(V)

[Signature]
23/4
Co(N)

No. VII-13/REG-NGO's/AO-FRT/05/956-64

Governament of India,
Ministry of Home Affairs,
C/O the Area Organizer,
SSB, Falakata (West Bengal).

dated, Falakata the 24/06/2005.

C O N T E N T

As per telephonic conversation with the Frontier Hqn., SSB, MHA, Guwahati on 24/06/2005. Regarding Pub Breeding and Rearing Course for the year 2005. Shri H.K. Roy Podder, SFA(V) of Binnaguri Circle and Shri B.R. Bhowmick, SFA(V) of Alipurdwan Circle under Falakata Area is hereby detailed for undergoing the said course at NTC, BSF Academy, Tehanpur wef. 03/07/2005.

02. The detailed candidate is directed to submit his advance T.N. well in advance.

Pally 24/6/05
For Area Organizer,
SSB, MHA, Falakata.

D I S T R I B U T I O N :-

01. The Inspector General, Frontier Hqn., SSB, MHA, Guwahati for kind information.
02. The Dy. Inspector General, SSB, MHA, Pongalgon for kind information please.
03. The Officer Commanding, NTC, BSF Academy, Tehanpur (Gwalior) alongwith the particulars of the individual for kind information please.
04. The Sub Area Organizer, SSB, MHA, Alipurdwan and Kagnakata is requested to fully utilised the above seats and release him in time.
05. ✓ Shri H.K. Roy Podder, SFA(V) of Binnaguri Circle for information.
06. Shri B.R. Bhowmick, SFA(V) of Alipurdwan Circle for information.
07. The Establishment Branch.
08. The Accounts Branch.
09. Office Copy.

Shri H.K. Roy Podder
MHA, Guwahati
24/6/05

No.VII-13/TRG-NGO's/AO-FKT/05/1545-52

Government of India,
Ministry of Home Affairs,
O/O the Area Organiser,
Sashastha Seema Bal,
Falahata (West Bengal).

Dated, Falahata the 30/06/2005.

ORDER

In cancellation of this office earlier order No.VII-13/TRG-NGO's/AO-FKT/05/956-64 dt.24.6.2005 the following officials of this Area are hereby detailed to undergo the Dog Handler Course at RVC, Meerut waf. 03.7.05 for a period of six months in lieu of Pup Breeding and Rearing Course.

<u>Name</u>	<u>Circle</u>
1. Shri H.K. Roy Podder, SFA(V)	Binnaguri
2. Shri P. Basak, SFA(V)	Birpara

The detailed candidates are directed to submit their Advance T.A. immediately.

By 30/6/05
For Area Organiser,
SSB, MHA, Falahata.

DISTRIBUTION

01. The Inspector General, Frontier Hqn., SSB, MHA, Guwahati for kind information.
02. The Dy. Inspector General, SSB, MHA, Bongaigaon for kind information.
03. The Officer Commanding, RVC, Meerut alongwith the particulars of the individual for kind information please.
04. The Sub Area Organiser, SSB, MHA, Allpunduan and Nagahata is requested to fully utilised the above seats and release him in time.
05. Shri H.K. Roy Podder, SFA(V) of Binnaguri Circle for information.
06. Sh. P. Basak, SFA(V) of Birpara Circle for info. please.
07. The Establishment Branch.
08. Accounts Branch.
09. Office copy.

Attchd to Secy
MHA
Gorakhpur

DISTRICT :

IN THE HIGH COURT

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

OA NO 31 /2006

Himangshu Kumar Roy Poddar
vs. Mr.

Appellant/Petitioner

Versus

C.P.O. 15 1972

Respondent/ Opposite party

Know all men by these presents that the above named. ~~Applicants~~

Hereby nominate, constitute and appoint Sri.K.Bhattacharya,
M.K. Majumdar

Advocate / Advocates to be my/ our true and lawful Advocate/ Advocate/
Advocates to appear and act for me/us in the matter noted above and in
connection therewith and for that purpose to do all act whatsoever in that
connection including depositing or drawing money, filing in or taking out
papers, deeds of composition etc., for me/us and on my/our behalf and I/
we agree to ratify and confirm all acts so done by the said Advocates as
mine/ours to all intents and purposes in case of non-payment of the stipulated
fee in full no Advocate will be bound to appear or act on my/our behalf.

In witness whereof I/We hereto set my/our hand this 2nd day of Feb.
2006 Senior Advocate/ Advocates..... will lead me in the case

Received from the executant, satisfied and accepted

K. Bhattacharya

Advocate

- | | |
|--------------------------------|------------------------|
| 1. Mr. J. M. Choudhary (Sr.) | 11. N. Rajkhowa. |
| 2. Mr. C. K. Sarma Barua (Sr.) | 12. Mr. Z. I. Ansary |
| 3. Mr. B. C. Das (Sr.) | 13. Mrs. P. L. Sharma |
| 4. MR. P. K. Kalita | 14. |
| 5. Mr. B. Banejee | 15. Smt. H. Rajbongshi |
| 6. Mr. N. Dutta (Sr.) | 16. Mr. T. Baishya |
| 7. Mr. B. Hazarika | 17. Mr. S. Deka |
| 8. Mr. A. Goswami (Sr.) | 18. |
| 9. Mr. K. Bhattacharjee | 19. Mr. S. Chetia |
| 10. T. Rajbongshi | |

Accepted

Accepted

Accepted

Accepted

Mr. M. K. Majumdar
Accepted

Accepted

Accepted

Accepted

Himangshu Kumar Roy Poddar

Pradeep Basak

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- NOTICE -

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GOWAHATI BENCH
AT GOWAHATI

OA No 106

H.K. Roy Poddar & Anr.
-v-

U.O.D. & Ors.

To

The Sr. C.G.S.C.
CAT GOWAHATI

Sir Please find herewith a Copy
of OA to be filed before the Honble
CAT and acknowledge receipt

Thanking you

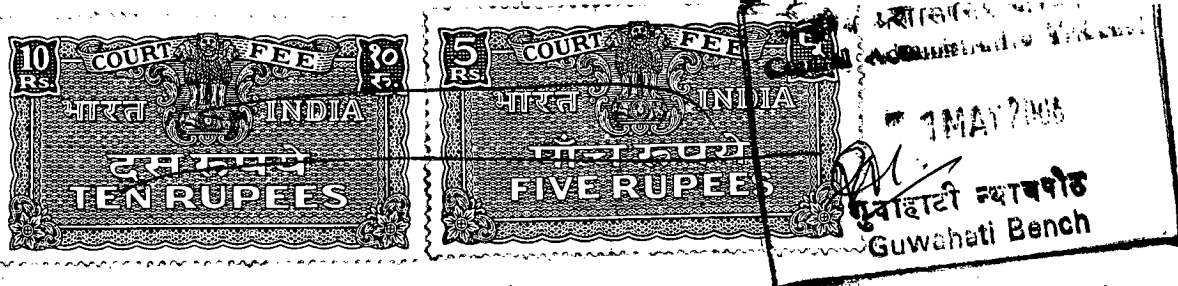
Sincerely

M. M. Mondal
Advocate

6.2.06

I enclose to serve
Copy upon the
CGSC
M. M. Mondal
Adv.
06.2.06

Received
G. B. Singh
Sr. CGSC
7/2/06



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH
GUWAHATI

O.A. NO. 31 OF 2006

Himangshu Kumar Roy Poddar & others

..... Applicant

- Vs -

Union of India and Others

..... Respondents

The Written Statement on behalf of the
Respondents above named –

WRITTEN STATEMENT OF THE RESPONDENTS

MOST RESPECTFULLY SHEWETH:

1. That with regard to the statements made in Paragraph 1 of the application the respondents beg to state that the allegation of the applicant that they are being posted as Dog Handler vide order dated 19.01.2006 is factually incorrect. A perusal of the Order would reveal that the applicants are being transferred and posted to the new locations and are not being posted as Dog Handler. They will remain as SFAs(V) only i.e. their original designation and will perform duties of handling of Dogs in addition to other duties.

Contd.....page-2

2. That with regards to the statements made in paragraph 2 and 3 of the application the respondents beg to state that those are matter of records and the respondents do not admit anything which are not borne out of records.

3. That with regards to the statements made in Paragraph 4.I to 4.IV of the application the respondents beg to state that those are matter of records and the respondents do not admit anything which are not borne out of records.

4. That in respect of the statements made in the paragraph 4.V of the application, the respondents beg to state that those are incorrect and hence denied. The real state of affairs is that after the administrative control of the organisation was shifted from Cabinet Secretariat to Ministry of Home Affairs, w.e.f. 15.1.2001 the role of the Organisations has been changed to guarding of Indo-Nepal Border and Indo-Bhutan Border. It is further submitted that as on date, SSB viz, Sashastra Seema Bal is a Border Guarding Force. With the change of role of the Organisation from that of a stay behind role to that of a Border Guarding Force, the old areas of operation have been closed and new offices/battalions have been opened/ deployed all along the Indo Nepal and Indo-Bhutan Borders. The Ministry of Home Affairs, Government of India has sanctioned Dog Squad for each Battalion for performing the Border Guarding duties. Since the department had a professionally trained veterinary cadre, the initial work of rearing of Pups was assigned to the Senior Field Assistants (Veterinary) who were competent and were further to be trained to undertake this job. As per operational requirements and National interest, it is the Veterinary Staff available to the Department who had to be catered for the veterinary needs of the Department. Accordingly SFA (V) were withdrawn and attached temporarily with the newly created Pup Rearing Centre in Training Centre, Gorakhpur. The action of the respondents is in order and in the interest of the National service. Moreover the nature of duties of dog handling is very much within the sphere of their charter of duties. As the SSB has a professionally trained veterinary cadre, initially the duties to look after the Dogs lies with the professionally trained veterinary cadre who are the most suitable cadre to undertake the job; and the nature of duties of the veterinary cadre also corresponded with the dog handling.

Contd.....page-3

5. That with regards to the statements made in para 4 VI of the application the respondents beg to state that since the job of SFA(V) is related to Veterinary services management and training of Dogs is related to this cadre only and the Para veterinary staff like FA(V), SFA(V) are the most suitable persons to handle the pups/dogs as they are professionally trained persons created for catering to the veterinary needs of the organisation.

6. That with regard to the statements made in paragraph 4.VII of the application the respondent begs to state that those are incorrect and untrue and hence denied. The factual position regarding this paragraph is that the claim of the applicant that in other similar related cases, the Hon'ble Tribunal has granted stay is denied being factually incorrect. In OA NO. 117 of 2005 titled Bimal Chakraborty – Vs – UOI and others pending adjudication in the Hon'ble CAT, Guwahati Bench , orders of maintaining of status quo were passed by the Hon'ble Court and prior to receipt of this order, the applicant Shri Bimal Chakraborty had been relieved from Bongaigaon Area to 1st Bn Didihat. With respect to case filed by Premtosh Dutta and Ankaji Sherpa the respondents state that the position is similar and no stay order was granted by the Hon'ble Tribunal in respect of transfer of applicants and posted to the new locations and not being posted as Dog Handler.

7. That with regards to the statements made in Paragraph 4 VIII of the application the respondent once again submits that SSB has now become a Para-Military Force. The Government has sanctioned a Dog Squad for SSB to undertake the duties assigned to it. The initial responsibility to raise the Dog Squad lies with the professionally trained veterinary cadre of the Department.

So in the interest of National Service, the services of the applicants were sought for raising the Dog Squad.

8. That with regards to the statements made in 4 IX it is submitted that Pup Breeding and Rearing Course is not promotional Course rather it is a compulsory course for the Veterinary Staff. The course is intended to arm the Veterinary Staff with required skill and knowledge in their professions, so the order made in this regard is neither malafide nor irrational.

9. That with regard to statement made in Para 4.X of the application the respondent has nothing to comment.

10. That with regard to statement made in Para 4.XI it is submitted that the changes of the course were made due to exigency of service and requirement of the situation. There was no malafide intention in it.

11. That with regards to the statements made in Paragraph 4.XII of the application the respondent beg to state that those are false, fabricated and concocted and the same are denied. It is denied that applicant is transferred to the post of Dog Handler. The applicants are being transferred as SFAs (V) only, however they have been asked to perform duties related to Dog handling because the applicants are a part and parcel of the professionally trained veterinary cadre which the SSB has.

12. That with regards to the statements made in Para 4. XIII of the application the respondents beg to state that those are false, incorrect and concocted and hence denied. It is reiterated here that after the administrative control of the organisation had been shifted from Cabinet Secretariat to Ministry of Home Affairs, w.e.f. 15/1/2001 the role of the Organisation has been changed and it has now been assigned the mandate to guard Indo-Nepal Border and Indo Bhutan Border. It is further submitted that as on date, Sashastra Seema Bal is a Border Guarding Force. With the change of role of the Organisation from that of a stay behind role to that of a Boarder Guarding Force, the old areas of operation have been closed and new offices/battalions have been opened/ deployed all along the Indo Nepal and Indo Bhutan Borders. For performance of the Border Guarding duties, the Ministry of Home Affairs had sanctioned Dog Squad for each Battalion. Since the department had a professionally trained veterinary cadre, the initial work of rearing of Pups was assigned to the Senior Field Assistants (Veterinary) who were competent and were further to be trained to undertake this job. As per the operational requirements, in National Interest and for the security of the Nation, it is the Veterinary Staff only who will have to cater to the veterinary needs of the Department. Accordingly SFA(V) were withdrawn and attached temporarily with the newly created Pup Rearing Centre in Training Centre, Gorakhpur. The action of the respondents is in order and in the interest of the Nation as well.

13. That with regard to the statements made in Para 4.XIV of the application the respondents beg to state that the same are false, fabricated and concocted statements and hence denied. The Respondents reiterated here that the allegation that they are being transferred to the post of Dog Handler is denied being factually incorrect. The applicants are being transferred only to the 15th Bn, Bongaigaon as SFA(V), however, they have been asked to perform duties related to Dog Handling because the applicants are a part and parcel of the professionally trained veterinary cadre.

14. That with regards to the statements made in para 5.I of the application the respondents beg to state that the applicant have been transferred in public interest to fulfill and discharge operational commitments urgently required at the Border. Moreover the sphere of the job very much encompasses Dog Handling. Being a highly trained professional basically it is the veterinary cadre which has to perform the job of Dog Handling as Dogs are also part and parcel of the veterinary set up.

15. That with regards to the statements made in Para 5.II of the application the respondents beg to state that the allegation of the applicants that the orders are adverse to the service conditions and violate the principle of natural justice are basically wrong. The applicants have been asked to undertake the work which is within the sphere of job of the Veterinary set up.

In this regard judgment order dated 16/1/2006 pronounced by the Hon'ble Allahabad High Court, Lucknow Bench in a similar case WP No. 252/06 titled Pravinder Kumar & another Vs UOI & ors where the petitioner was ordered to undergo Dog Handling Course and Hon'ble High Court observed that there was no infringement of legal rights of the petitioner is annexed herein and marked as Annexure - R-1

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16. That with regard to the statements made in paragraph 5.III to 5.V of the application the respondents beg to state that the grounds set forth in these paragraphs are baseless and have basically no legal standing and hence denied. This is not a case where the designation of the applicants has been changed. The applicants are very much part of the Para Veterinary Staff and are fully civilian in nature. Neither the nomenclature nor the cadre of the applicants has been changed. This is a mere apprehension on the part of the applicants. The Respondents submit that none of the grounds of the instant application is maintainable in law as well as on facts of the case and as such the application is liable to be dismissed.

17. That with regards to the statements made in paragraphs 6 of the application the answering respondents has no comment.

18. That with regards to the statements made in paragraph 7 of the instant application the respondents beg to state that the statements made by the applicant are within the personal knowledge of the applicants and therefore the Respondents cannot admit or deny the same.

19. That with regards to the statements made in Paragraph 8 of the application the Respondents beg to state that the allegation raised by the applicants by way of relief sought that the applicants have been transferred from the post of SFA(V) to a Combatant Post is false and incorrect and hence the same is denied. The Respondents beg to submit that the applicants even on transfer remain SFA(V) and are governed by the same Cadre Rule. The apprehension that they have become combatant is denied outright and the applicant is not entitled to any relief as sought for and the application is liable to be dismissed.

20. That with regard to the statements made in paragraph 9 of the application the respondents beg to state that the application including other paras is not at all maintainable and is liable to be dismissed.

Contd.....Verification

VERIFICATION

I, Shri Kishori Lal, Son of Lalé Garib Das aged about 58 years, at present serving as D.I.G., S.S.B., SHQ, Tezpur and competent officer of the answering respondents, do hereby verify that the statement made in paras (2, 4 to 14, 16 to 22) are true to my knowledge and those made in paras 3, 15 being matters of record are true to my information derived therefrom which I believe to be true and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this 28 th day of March, 2006 at Guwahati.

Identified by

A. K. Rahman

Advocate

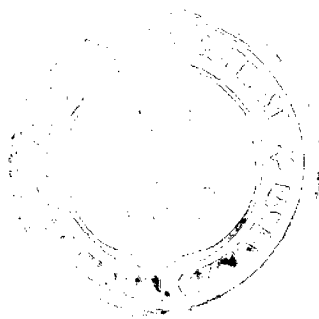
Date: 28-3-06

Signature
SIGNATURE

DIG SSB
Sector Head Quarter
Tezpur (Assam)

Solemnly affirmed and declared before me by the deponent who identified by Shri A. K. Rahman, Advocate on this 28th day of March, 2006 at Guwahati

Signature
MAGISTRATE GUWAHATI



Code No. :
Group : Service Single
District : Bahraich.

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD,
LUCKNOW BENCH, LUCKNOW:

WRIT PETITION NO. 257 (S/S) of 2006

1. Parvinder Kumar son of Sri Mast Ram
resident of Village - Sjunl, District - Chamba,
Himanchal Pradesh, S.F.A.(V) in Area Organiser
S.S.B. Nanpara Mahipurwa, District Bahraich.
2. Mangal Singh Negi son of Braug Sukh Negi,
Resident of Village Taling, District - Kianar,
Himachal Pradesh, Posted as S.F.A. (V) in the
office of Area Organiser Area Paliya, Gourifanta.

..... Petitioners.

Versus

1. Union of India through Secretary Home
Affairs, New Delhi.
2. Director General, S.S.B., East Block -V,
R.K. Puram, New Delhi.
3. Inspector General of Sema Snashastra Bal
Kenderiya Bhawan, Aliganj, Lucknow.

..... Opposite parties.

.... 2

Parvinder Kumar

Union of India

Hon'ble Rakesh Sharma, J.

This case has come up for admission today.

Heard learned counsel for the parties and perused the record.

The sum and substance of the order issued on 26.12.2005 is a direction to the petitioners to undergo dog-handling course commencing with effect from 2.1.2006. Through the impugned order, the rank, post or scale of the petitioners is not going to be changed. The petitioners, who are members of Sashastra Seema Bal, have been directed to undergo specialized training in handling of dogs. Merely sending on training cannot be said to be change of cadre or reduction in rank. This action may not adversely affect the service conditions of the petitioners. Accordingly, no legal right of the petitioners has been infringed by the impugned order. No interference is required.

The writ petition is dismissed.

Rakesh Sharma
16-1-2006

16.1.2006
LN/-

TRUE COPY

BVJ Runcel

Secy to P.T. 11-1

High Court, Lucknow Bench
LUCKNOW



02/008

Remitted

From: Mr. G. Baishya
Sr C&SC, CAT.

Dated 26.09.06

59

To: Mr. K. Bhattacharjee
Advocate, CAT

Sub: O.A. NO. 31 of 2006 H.K. Poddar -vs- Union of India

Sir

Please find herewith a copy of the W.S.
filed by the respondents above named. Please receive
the same.

Thanking you

Remained

Advocate

Yours faithfully
G. Baishya
(G. Baishya)