

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

CV MP 86/07 under page 103 A/O 19.6.08
(2) MP 125/07 under page 102 A/O 19.6.08

INDEX

O.A./T.A No. 312/2006

R.A/C.P No.

E.P/M.A No.

1. Orders Sheet..... Pg. 1 to 8
2. Judgment/Order dtd. 19.06.2008 Pg. 1 to 8. *8. Respondent comm. Inquest of 22/06/08 312/06*
3. Judgment & Order dtd. Received from H.C/Supreme Court
4. O.A. 312/2006 Pg. 1 to 25
5. E.P/M.P. 125/07 Pg. 1 to 3
MP 86/07 page 1 to 8
6. R.A/C.P. Pg. to
7. W.S. Pg. 1 to 32
Add W.S. page 1 to 8
8. Rejoinder. Pg. 1 to 8
9. Reply to the MP 86/07 Pg. to
10. Any other Papers. Pg. to
11. Memo of Appearance.
12. Additional Affidavit.
13. Written Arguments.
14. Amendment Reply by Respondents.
15. Amendment Reply filed by the Applicant.
16. Counter Reply.

SECTION OFFICER (Judl.)

Handwritten signature
31.10.17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

1. Original Application No. 312 / 2006
2. Miscellaneous Petition No. _____
3. Contempt Petition No. _____
4. Review Application No. _____

Applicant(S) Jugal Baruah VS Union of India & Ors

Advocate for the Applicant(S) M.Chanda, S.Nath & Smt. U.Dutta

Advocate for the Respondent(S) Mrs Manjula Das, Addl.C.G.S.C

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form is filed/C. F. for Rs. 50/- deposited vide IPC/BD No. <u>289933209</u> Dated <u>17-12-06</u></p> <p><i>[Signature]</i> By. Registrar</p> <p><i>[Signature]</i> 20/12/06</p> <p>no steps</p> <p><i>[Signature]</i> 21.12.06</p>	<p>20.12.06</p>	<p>The applicant is serving as a Superintendent in the Regional Office of the Employees State Insurance Corporation, Guwahati. The applicant has challenged the condition made in the order dated 19.10.2005 in O.A.32/2006 which is pending disposal before this Tribunal. According to the applicant on 12.9.2006 a post of Assistant Director was fall vacant in the office of the Regional Director, ESIC. He made a representation for consideration of his posting against the said vacant post. This Tribunal vide order passed in MP.103/06 directed the respondents to consider the said representation and vide Annexure 4 order the respondent No.5 intimated that</p>

20.12.06

steps taken
on 19/1/07.

Cas
19/1/07

Notice & order sent to
D/Section for issuing
to R-1 to 3, 5 by regl.
A/D post and another R-4
received by hand.

Cas
19/1/07 - D/No - 102 to 106
DT = 24/1/07

5-2-07

Service report awaited.

the same will be considered along with others. On 15.12.06 the respondents had cleared the promotion of the candidates by Annexure-5 order wherein 185 employees have been promoted and posted in the same station. But it appears that the applicant whose name appeared at serial No.51 is the only person who has been posted to a different station other than he was working i.e. from Assam to West Bengal. Counsel for the applicant submitted that it is because of the filing of the O.A by the applicant this was deliberately done. Therefore, aggrieved by the said in action he has filed this O.A.

Considering the issue involved in this case and also the fact as narrated vide Annexure-1 that a post of Assistant Director is lying vacant in the Regional Office in the vacancy of Shri D.N.Das, the counsel submitted that the applicant could have been considered against that post. Considering the issue involved, I am of the view that O.A has to be admitted. O.A is admitted. Issue notice to the respondents.

List on 6.2.2007 for filing written statement and order. In the interest of justice this Tribunal direct that the vacancy of Shri D.N.Das, if available shall be kept vacant till next date. It is also further directed that the applicant will not be relieved from the present place of posting in the feeder cadre till the next date of hearing, if he has not already been relieved.

6.2.07

Four weeks time is granted to file reply statement. Post the matter on 6.3.07. Interim order shall continue.

Order dt- 6/2/07
issuing to
learned advocates
for both the parties.
8/2/07

lm

✓

Vice-Chairman

6.3.07

Counsel for the respondent has submitted that reply statement is ready. He will file the same. Post the matter on 20.3.07. Interim order shall continue.

- ① Service report awaited.
- ② No WLS has been filed.

Vice-Chairman

5.3.07.

lm

20.3.07.

20.3.07.

Counsel for the applicant wanted to file rejoinder. Let it be done.

Post the matter on 11.4.07.

Order dt- 6/3/07
issuing to learned
advocate's for both
the parties.
9/3/07

Member

Member

Vice-Chairman

lm

14.3.07

WLS submitted 10.05.2007
by Repdt Nos. 1 to 5
page containing 1 to 24.

Post on 28.5.2007. In the meantime Applicant may file rejoinder, if any. Interim order shall continue till such time.

WLS has been
filed.

/bb/

Vice-Chairman

19.3.07.

No rejoinder has
been filed.

Order dt- 9.5.07
issuing to both the parties by
hand.

4-
OA 3/2/05

No rejoinder
has been filed.

M
25.5.07.

28.5.07.

Counsel for the applicant
seek time for filing rejoinder.

The case be posted
on 28.6.07. Interim order if any,
shall continue till the next date.

No rejoinder filed.

M
27.6.07.

Vice chairman

28.6.2007

Post the case on 19.7.2007 along
with O.A.32/2006. Interim order shall
continue till such time.

Rejoinder not filed.

M
18.7.07.

/bb/

Vice-Chairman

20.7.07

Rejoinder filed
by the applicant.
Copy served. page
1 to 8.

P.M.

19.7.2007

Mr.S.Nath, learned counsel for the
Applicant and Mrs.M.Das, learned Addl.
C.G.S.C. are present. Rejoinder has been
filed. Post the matter on 9.8.2007.

/bb/

Vice-Chairman

23.8.2007

Case was called today. Post
the case for hearing on 28.8.2007
along with the M.P.86/2007.

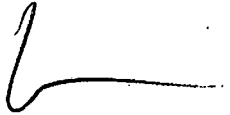
/bb/

Vice-Chairman

5- O.A. 312/06

28.8.07 Counsel for the respondents wanted to file reply to the rejoinder.

Post on 14.9.07 for hearing. In the meantime the respondents may file reply, if any. Interim order will continue till next date.



Vice-Chairman

28.8.07.

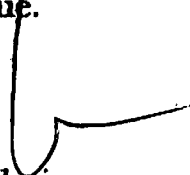
Pl. comply.

↓

pg

14.9.07 Let the case be posted on 10.10.07.

Interim order will continue.



Vice-Chairman

pg

order dt. 312/06
issuing to both
the parties.

14/9/07


The case is ready
for hearing.

20
13.9.07.

10.10.2007

Call this matter on 15.11.07; to which date O.A. No.32 of 06 is fixed. Interim order to continue.


(Khushiram
Member(A))


(M.R. Mohanty)
Vice-Chairman

lm

The case is ready
for hearing.

20
9.10.07.

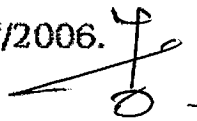
10.10.07

Please comply.

15.11.2007

In this case reply and rejoinder have already been filed and the matter is already in the hearing list. Mrs M. Das, learned Advocate undertakes to file Vakalatnama on behalf of the Respondents/ESI Corporation.

Call this matter on 26.11.2007 for final hearing alongwith O.A.No.32/2006.



14-11-07

Ready for hearing.

The case is ready
for hearing.

20
23.11.07.

OA No. 312/2006

Records of O.A.No.05/2006 (since disposed of) be also placed with these two cases on the date of hearing i.e. 26.11.2007.

(Khushiram)
Member (A)

(M. R. Mohanty)
Vice-Chairman

nkm

26.11.2007

Mr.S.Nath, learned counsel for the Applicant prays for an adjournment. Ms.U.Das, learned Addl. Standing counsel for the Union of India matter may be taken up next week along with O.A.32/2007.

Call this matter on 05.12.2007 for hearing along with O.A.32/2007.

(Khushiram)
Member (A)

/bb/

12.12.2007

~~Mrs.M.Das, learned Addl. Standing counsel for the Union of India, is in accommodation.~~

05.12.2007

On the prayer of learned counsel for both the parties, call this matter on 18.01.2008.

(Gayam Ray)
Member (A)
(Khushiram)
Member(A)

(M.R.Mohanty)
Vice Chairman
(M.R.Mohanty)
Vice-Chairman

/bb/

lm

The case is ready for hearing.

2.12.07.

The case is ready for hearing.

11.12.07.

PTO

12.12.2007

Mrs.M.Das, learned Addl. Standing counsel for the Union of India, is in accommodation.

13.12.07

Additional Wfs
filed by the Respondents.
to this application.
copy served.

[Signature]

/bb/

Call this matter on 18.01.2008.

[Signature]
(Gautam Ray)
Member (A)

[Signature]
(M.R.Mohanty)
Vice-Chairman

18.01.2008

On the prayer of Mr M. Chanda, learned Counsel appearing for the Applicant (made in presence of the Mrs M. Das, learned Counsel appearing for the Respondents), this matter stands adjourned, to be taken up on 25.01.2008; because Mr M. Chanda intends to obtain upto date instructions from the Applicant pertaining to his desire to continue in the low rank by way of forgoing the promotion.

Call this matter on 25.01.2008.

(Khushiram)
Member (A)

[Signature]
(M. R. Mohanty)
Vice-Chairman

nkm

12.03.2008

Call this matter on 24.04.2008 for hearing before Division Bench; when the Respondents should cause production of the records applied for in M.P.125/2007 through the learned Addl. Standing counsel.

A copy of this order be handed over to Mrs M. Das, learned Addl. Standing counsel for the Respondents.

Order dated 12.3.08 received
on behalf of M.Das Addl.C.S.C.

Lipika Das
Adv.

The case is ready
for hearing.

[Signature]
23.4.08

[Signature]
(M.R.Mohanty)
Vice-Chairman

O A 312/06

24.4.2008

Call this matter on 10.6.2008.

(M.R. Mohanty)
Vice-Chairman

lm

10.06.2008 Heard (alongwith O.A.No.32/2006)

Mr M. Chanda, learned Counsel appearing for the Applicant and Mrs M. Das, learned Addl. Standing Counsel for the Union of India and perused the materials placed on record.

Hearing concluded. Orders reserved.

(Khushiram)
Member (A)

(M.R. Mohanty)
Vice-Chairman

nkm

19.6.2008

Judgment pronounced in open Court.

Kept in separate sheets. Application is dismissed. No costs.

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

lm

17/7/08

Copy of the
judgment sent to
the office for
issuing the rule
to the parties along with
the copy to the
for the record.

The original judgment
is kept in OA No.32/06

17/7/08

15.1.09

Send rule of law
3159 to 3168 270
22.7.08.

Shy

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 32 of 2006
&
Original Application No. 312 of 2006

Date of Order: This, the ~~19th~~ Day of June, 2008

THE HON'BLE SHRI MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE SHRI KHUSHIRAM, ADMINISTRATIVE MEMBER

Sri Jugal Baruah
S/o Late Kula Chandra Baruah
Superintendent
Regional Office
Employees State Insurance Corporation
Bamunimaidan
Guwahati - 781 021.

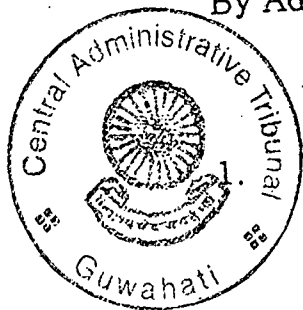
..... Applicant in both O.A.s.

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

- Versus -

Union of India represented through the
Secretary to the Government of India
Department of Labour and Employment
New Delhi-110 001.

2. The Director General
Employees State Insurance Corporation
Panchdeep Bhavan
C.I.G.Road
New Delhi - 110 002.
3. The Joint Director, E-I
Employees State Insurance Corporation
Panchdeep Bhavan
C.I.G.Road
New Delhi - 110 002.
4. The Regional Director
Employees State Insurance Corporation
Assam, Bamunimaidan



[Handwritten signature]

Guwahati - 781 021.

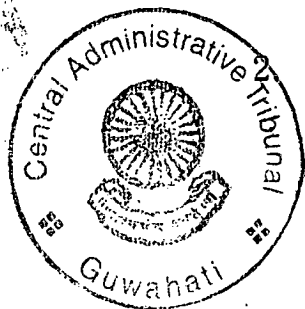
5. Shri Pradip Sutradhar
Asstt. Director (Adhoc)
Employees State Insurance Corporation
Assam, Bamunimaidan
Guwahati - 781 021.

6. Union Public Service Commission
Represented by it's Secretary
Dholpur House, Shahjahan Road
New Delhi- 110 011.

..... Respondents in O.A.32/2006.

*Miss U. Das, Adv.
for the Respondent.*

1. Union of India represented through the
Secretary to the Government of India
Department of Labour and Employment
New Delhi-110 001.



The Director General
Employees State Insurance Corporation
Panchdeep Bhavan
C.I.G.Road
New Delhi - 110 002.

3. The Joint Director, E-I
Employees State Insurance Corporation
Panchdeep Bhavan
C.I.G.Road
New Delhi - 110 002.

4. The Regional Director
Employees State Insurance Corporation
Assam, Bamunimaidan
Guwahati - 781 021.

5. Shri R.Natarajan
The Joint Director, E-I
Employees State Insurance Corporation
Panchdeep Bhawan
C.I.G. Road
New Delhi - 110 002.

..... Respondents in O.A.312/2006

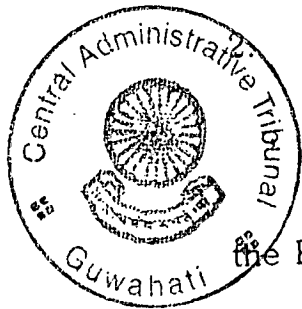
Mrs. Manjula Das, Addl. C.G.S.C.

ORDER
19.06.2008

KHUSHIRAM, MEMBER (A):

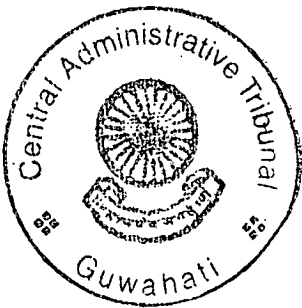
Since both the cases are interconnected and relates to the same Applicant, both the cases were taken up together and are being disposed of by this common order.

The brief facts of both the cases are as under:



The Applicant is presently working as Superintendent in the Regional Office of the Employees State Insurance Corporation at Bamunimaidan in Guwahati/Assam. According to the Applicant, Respondents (vide impugned Office Order No.614 of 2003 under Annexure-III of O.A.32/2006 promoted the Applicant (and others), on ad-hoc basis, to the post of Assistant Director/Section Officer/Manager Gr.-I and posted him to West Bengal but the Applicant did not avail of such ad-hoc promotion on the plea that arbitrary conditions were imposed in the said promotion order to the effect that 'the ad-hoc promotion shall not confer any right on the employee either to continue in the post or for regular promotion in future and that the period of ad-hoc service will not count for seniority in the grade/cadre or for eligibility for promotion to the next higher grade' and also due to his domestic problems. By another Office Order No.500 of 2005 dated 19.10.2005 (Annexure-IV of

O.A.32/2006) as many as 170 officers (including the Applicant) were promoted 'on ad-hoc basis' with the similar terms and conditions and Applicant did not avail of the said promotion, again, due to the arbitrary conditions and his domestic problems. The Applicant claimed that Respondents, instead of holding regular DPC for filling up large number of available vacancies in the grade of Manager Gr.I/Section Officer/Asstt. Director, by promoting eligible incumbents like the Applicant, issued ad-hoc promotion orders by imposing arbitrary conditions and continued such ad-hoc promotees in the promotional post beyond one year. Being aggrieved with the aforesaid action of the Respondents, Applicant filed O.A. No.32 of 2006 under Section 19 of the Administrative Tribunals Act, 1985 seeking the following main reliefs:-



"8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned office order No.614 of 2003, bearing No.A-22/13/1/2003-E.I (A) dated 26.09.2003 (Annexure-III) as well as office order No.500 of 2005, bearing letter No.A33/12/1/97-E.I Col.II dated 19.10.2005 (Annexure-IV)

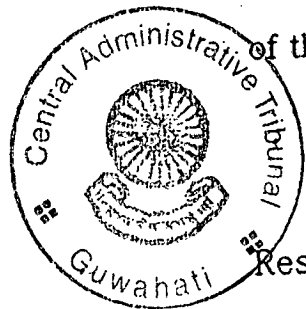
8.2 That the Hon'ble Tribunal be pleased to direct the respondents to prepare year wise panel by holding regular DPC with immediate effect with the approval of the UPSC and to grant promotion benefit to the applicant at least from

[Signature]

the date of occurring of the vacancies in the grade of Asstt. Director/Manager Gr.I/Section Officer with all consequential service benefits, seniority and arrear monetary benefits."

On 12.09.2006, Applicant submitted a representation (Annexure-2 in O.A.312/2006) before the Respondents praying for consideration of his posting on promotion, against the vacant post of Asstt. Director which fell vacant at Guwahati.

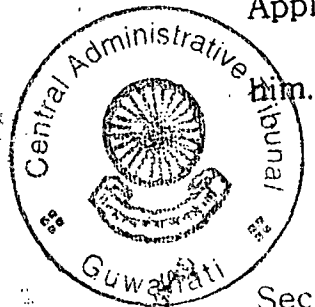
This Tribunal, by an order dated 22.09.2006 (Annexure-3 in O.A.312/2006) passed in M.P. No.103/2006 (in O.A.32/2006) directed the Respondents to dispose of the aforesaid representation of the Applicant by passing appropriate orders thereon.



Pursuant to the above said direction of this Tribunal, the Respondent No.5 (by its communication dated 19.10.2006 under Annexure-4 in O.A.312/2006) informed the Respondent No.4 that representation of the Applicant shall be considered along with others.

On 15.12.2006, the Respondents vide its Office Order No.137 of 2006 issued vide Memo No.A-33(13)1/2003-E.I dated 15.12.2006 (Annexure-5 in O.A. 312/2006) promoted 185 officers (including the Applicant) on regular basis to the cadre of Asstt. Director/Manager Gr.I/Section Officer.

The grievance of the Applicant is that the order of promotion has been given prospective effect without preparing yearwise panel and without giving antedated promotion from the date of occurrence of the vacancy as required under the Rules. Another contention of the Applicant is that, out of 185 officers, all the promoted officers have been accommodated in their home states/stations but the Applicant has been singled out and posted outside Assam/in West Bengal. He stated that his juniors have been given ad-hoc promotions and the benefits of promotion w.e.f. 08.11.2006; but the Applicant has been ordered to avail of the benefit of promotion from the date of his assuming the charge of the promotional post/prospectively; which involves promotion (with transfer to West Bengal) vide order dated 15.12.2006. Applicant alleged that he has been transferred out deliberately for filing the case before this Tribunal and aggrieved by the aforesaid action of the Applicant, the Respondents have issued the malafide order to harass



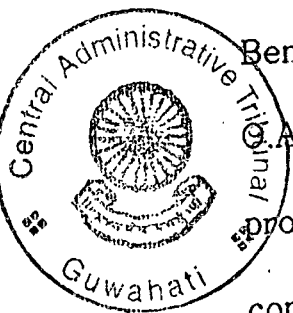
Applicant has, finally, filed O.A. No.312/2006 under Section 19 of the Administrative Tribunals Act, 1985 seeking the following main relief:-

- 8.1 That the Hon'ble Tribunal be pleased to direct the respondents to modify the impugned order No.137 of 2006 bearing letter No.A-

[Handwritten signature]

33(13)1/2003-E.I dated 15.12.2006
(Annexure-5) so far the applicant is
concerned, by posting the applicant at
Guwahati in the vacant post of Asstt. Director
in the Regional Office at Guwahati."

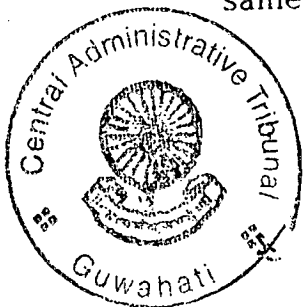
3. Respondents have filed written statements in both the
cases, contesting the claims of the Applicant. In both the written
statements it was stated that since his joining (as LDC) on
01.02.1979, Applicant has been working in Assam; through out his
service career spanning over 27 years; except for a brief period of 3
years (from 15.05.1990 to 16.08.1993) when he was posted in West
Bengal as Insurance Inspector. In the written statement (filed in
O.A.32/2006) Respondents stated that order dated 26.09.2003
promoting 220 persons to the cadre of Asstt. Directors were issued
consequent to the upgradation of 213 posts in the month of June,
2003 and the conditions imposed in the said order regarding seniority
etc. were as per the DOP&T O.M. No.31/6/90-EO(MM) dated
25.01.1990. The post of Asstt. Director carries all India transfer
liability and it is essential to post the promotees through out India
depending upon the availability of vacancies. The Applicant was also
given ad-hoc promotion in 2003 and 2005 but he had declined the
promotion only on domestic reasons. The reasons put forward by the
Applicant in paragraph 4.7 of O.A.32/2006 for declining promotion
that, "the promotion order is conditional and arbitrary since there is a



[Handwritten signature]

17

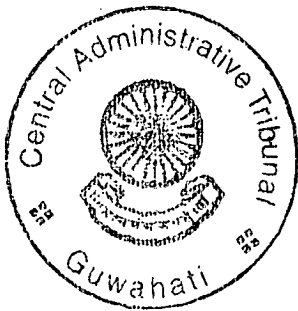
specific declaration that the ad-hoc appointee/promotee shall not be entitled to seniority benefit and the adhoc promotion may be terminated at any point of time without assigning any reason, so under such a threat normally senior employees like the applicant, may not be inclined to avail the ad-hoc promotion and more so on the ground that when such ad-hoc promotion involved transfer and posting from one State to another State" is only an after thought for the reason that he did not avail of the promotions in 2003 and 2005 citing domestic problems only. He did not state this reason in his earlier representations. In a similar matter the Principal Bench of this Tribunal vide judgment dated 14.11.2006 passed in O.A.1594/2006 (Appendix A to written statement in O.A.312/2006) dismissed the prayer of the Applicant therein to permit him to decline his promotion and to stay at the same station. The matter was carried before the High Court of Delhi by the Applicant therein in W.P(C) No.720/2007 & CM 1339/2007 and the Hon'ble High Court of Delhi dismissed the same vide order dated 29.01.2007 and observed as under:-



"The Tribunal dismissed the application filed by the petitioner and in our view, rightly, as it has noticed that all the persons who sought to stall the transfer by declining promotion were dealt with similarly by declining such a request as a matter of policy."

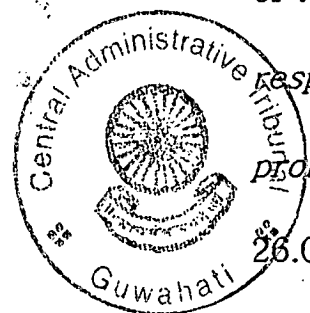
In another case bearing O.A.No.555/2006 (A.C.Roy & Others. Vs. Union of India & Others) the Calcutta Bench of this Tribunal has held as under:-

"The Applicants have no right to refuse promotion. Promotion is not given merely for the benefit of the employees concerned; it is also in the interest of the administration. On account of experience and proficiency of an employee, he is judged suitable for promotion and posted at a higher post. This posting is in the interest of the administration and no government employee can refuse to carry out this order."



The Applicant till filing of written statement in O.A.312/2006 has not complied with three consecutive promotion (on transfer) orders issued on 26.09.2003, 19.10.2005 and 15.12.2006. It has also been pointed out that one Shri Kikumba Longchar who is working as Asstt. Director in West Bengal from 26.11.2003, is due for being posted in his home state i.e., Assam as he has already completed more than 3 years outside his home state. Therefore, implicitly any vacancy that has arisen or is due to arise will firstly be given to him. On the contrary, Applicant has been continuously working in Assam for more than 13 years and, therefore, he cannot be adjusted against any vacancy overlooking the case of Shri Kikumba Longchar. While the Applicant was first promoted on ad-hoc basis vide order dated 26.09.2003, he submitted a representation dated 08.10.2003

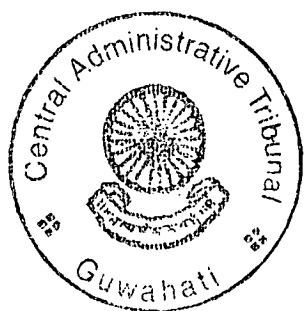
19 (Appendix E to written statement in O.A.312/2006) declining promotion stating that, (i) his elder son was doing B.Sc Part I, (ii) his youngest son was doing X standard, (iii) his mother was 87 years old and is ailing and (iv) he himself was suffering from spondylitis. Again when he was promoted on 19.10.2005 for the second time, he submitted representation on 26.10.2005 (Appendix F to written statement in O.A.312/2006) declining promotion stating that, (i) his son was doing XII standard, (ii) his mother was 86 years old, and (iii) his wife was physically unsound and therefore, he sought his posting at Guwahati. Respondents stated that, *"Applicant is a habitual shirker of responsibility. He is always citing domestic reasons to avoid the responsibility of working outside his present region even on promotion."* The Hon'ble High Court of Delhi in its judgment dated 26.04.2006 rendered in the case of ESI Corporation vs. R.C. Gupta has observed that, *"if a transfer is allowed to be stalled on such specious pleas it will totally destroy the administrative efficacy of any establishment."* The Applicant in the instant case has been transferred to the nearest neighbouring region. The Administration had to fill up the large number of vacancies existing in West Bengal, Mumbai and other regions in the cadre of officers Group 'B'. There is no rule which confers any right on a government servant to stay in a particular place for a particular period. Who should be transferred where is a matter for the appropriate authority to decide and a Govt.



[Handwritten signature]

servant has no vested right to remain in one particular place or other and he is liable to be transferred from one place to other depending upon the exigencies and requirements of public service.

4. We have heard Mr. M.Chanda, learned counsel appearing for the Applicant, and Mrs.M.Das, learned Addl. Standing Counsel for Respondent Department. Learned counsel appearing for the Applicant argued that Applicant was willing to accept promotion as Assistant Director if the same had been made on regular basis. The Applicant should be given promotion with effect from the date of occurrence of the vacancy by assigning due seniority and preparation of yearwise promotion list. Learned counsel for the Applicant has relied on Section 17(3) of the Employees State Insurance Act, 1948 which is reproduced herein below:-



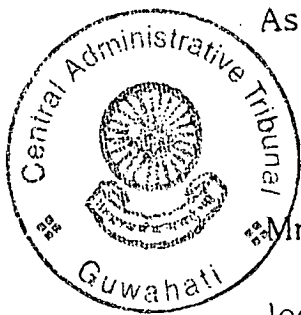
“(3) Every appointment to {posts [other than medical posts)] corresponding to [Group A and Group B] posts under the Central Government}, shall be made in consultation with the [Union] Public Service Commission:

Provided that this sub-section shall not apply to an officiating or temporary appointment for [a period] not exceeding one year.

[Provided further that any such offering or temporary appointment shall not confer any claim for regular appointment and the services rendered in

that capacity shall not count towards seniority or minimum qualifying service specified in the regulations for promotion to next higher grade.]”

Therefore, learned counsel for the Applicant contended that the order for ad- hoc promotion could not continue beyond the period of one year. Learned counsel for the Applicant argued that since the Applicant has approached this Tribunal, Respondents are bent upon to teach him a lesson, and therefore, in spite of a vacancy available in Assam, he has been posted to West Bengal.

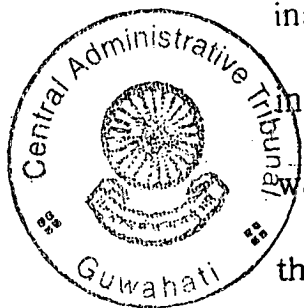


Learned Addl. Standing counsel for the Respondents, Mrs.M.Das, on the other hand, argued that Applicant has always been looking for excuses to avoid compliance of promotion on transfer. She also argued that promotion is made not only for the benefit of the individual but more so in the interest of public service. Since the Applicant has been avoiding promotional transfer orders under one pretext or the other, he has no right to claim seniority or to antedate his promotion. She also stated that the Applicant has spent more than 26 years of his career in Assam, and therefore, his prayers for posting in Assam cannot be acceded to.

5. We have considered the rival submissions advanced by the learned counsel for both the parties and perused the materials placed on record. Learned counsel for the Applicant, in support of his contentions, has, amongst others, relied the following decisions:-

- i. 1993 Supp (2) SCC 506 in K.K.M. Nair & Others vs. Union of India & Others;
- ii. (1999) 1 SCC 189 in Yadavindra Public School Association;
- iii. 1999(3) SCC 696 in Virender S.Hooda & Others vs. State of Haryana & Another;
- iv. (1995) 31 ATC 246 in Joitabhai Prabhudas Patel vs. Union of India & Another;

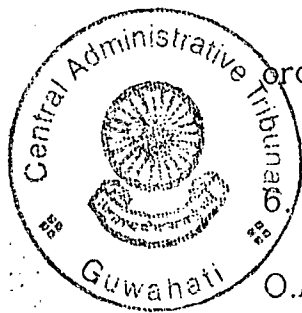
In the first case, referred by the learned counsel for the Applicant, it has been reported that by dismissing the SLP, the Supreme Court had not given any reasoned judgment/order approving the judgment of the High Court. ... and those challenging the promotion order were not parties to the proceedings before the High Court which ended by the dismissal of the special leave petitions by the Supreme Court. The facts and circumstances of the cited case is totally different from the instant case and hence the dictum laid down therein is not applicable



In the present cases. In the second cited case (1999) 1 SCC 189 it was held that when serious allegation of malafides has been raised in the writ petition, it was not appropriate for the High Court to dismiss the writ petition in limine and without notice and when allegation of malafide was raised against the person impleaded as Respondent, it was appropriate to offer an opportunity to the person concerned to file an affidavit and then to decide the matter on matters and hence, the Apex Court set aside the order of High Court. The cited case is not relevant with the cases in hand; as given the long innings of over

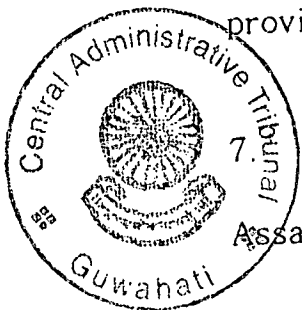
23

27 years of the Applicant in Assam this allegation does not hold any water. The third cited case, 1999(3) SCC 696 is not at all relevant with the present cases; as the cited case relates to appointment from the waiting list against vacancies which could not be filled up. In the fourth cited case, (1995) 31 ATC 246, CAT/Ahmedabad Bench held that transfer in mid-academic term before end of normal tenure to a mofussil town from capital city (on complaints received without even minimal verification of the truth of the allegations) was partly in the nature of penal order and this Tribunal set aside the impugned order of transfer with liberty to the Respondents to pass fresh transfer order, if found necessary, in accordance with law. This case also has no relevance with the present cases; as the Applicant herein transferred on promotion and he had refused promotional transfer orders on earlier two occasions for his personal problems.



In the written statement filed by the Respondents in O.A.312/2006, the Respondents have also relied on certain decisions. They have relied on the dictum laid down by the Hon'ble Supreme Court in the case of *Mrs. Silpi Bose and Others vs. State of Bihar & others* (reported in AIR 1991 SC 532) wherein it was held that, "A Govt. servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the Competent Authority do not violate any of his legal rights. Even if a transfer

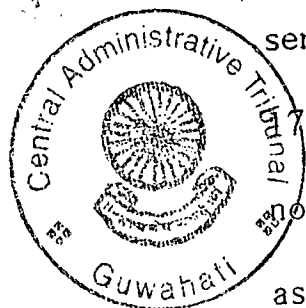
order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the Department. If the courts continue to interfere with day to day transfer orders issued by the Government and its subordinate authorities, there will be complete chaos in the Administration, which would not be conducive to public interest." In another case (Union of India & Others vs. S.L.Abbas, reported in AIR 1993 SC 2444) the Hon'ble Supreme Court held that who should be transferred where, is a matter for the appropriate authority to decide and that, unless the order of transfer is vitiated by malafides or is made in violation of any statutory provisions, the Court cannot interfere with it.



Admittedly, the Applicant has been serving continuously in Assam for more than 13 years by now and in total of more than 27 years of his service career, except for 3 years' posting in West Bengal, he remained only in Assam. The long innings that the Applicant had spent in Assam had not been disputed by the learned counsel for the Applicant. The Applicant has refused earlier promotions and transfers on 26.09.2003 and 19.10.2005 under the pretext of his domestic compulsions. In his representation dated 08.10.2003 Applicant stated that his mother of 87 years old is ailing; whereas after two years i.e., on 26.10.2005, in his representation his mother's age was shown as 86 years; which only makes out a case

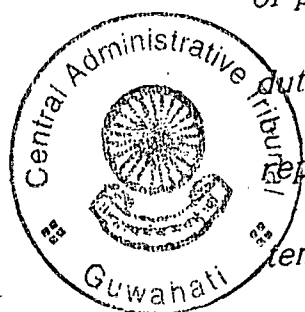
25

that the Applicant had been inventing excuses for not complying with the order for transfer on promotion. The claim made by the Applicant in paragraph 4.7 of O.A.32/2006 that he did not avail of the ad-hoc promotion order dated 26.09.2003 in view of the fact that the promotion order was conditional, arbitrary with specific declaration that the ad-hoc appointee/promotee shall not be entitled to seniority benefit and the ad-hoc promotion may be terminated at any point of time without assigning any reason appears to be an after thought and technical in nature which also does not confer any right on the Applicant to refuse promotion as it is the requirement of public service not the convenience of the Applicant. Moreover, Section 7(3) of the ESI Act, 1948, extracted above in paragraph 4, also does not render such ad-hoc transfer beyond a period of one year illegal as the service rendered in that capacity will be counted neither for seniority in the grade nor for eligibility for promotion to the next higher grade. In such a case, the ad-hoc promotion issued earlier for a period exceeding one year (by a few days) by the Respondents are in conformity with these Rules and does not suffer from vice of illegality. If it was really the reason for not complying with the promotional transfer orders, Applicant should have stated so in his earlier representations, but he cited domestic and personal reasons for non compliance.



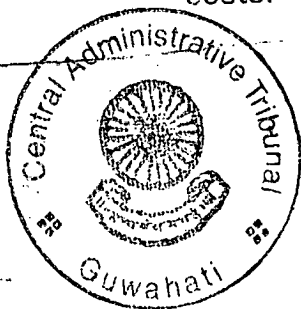
[Handwritten signature]

8. In the light of forgoing discussion, we are of the considered view that both the cases have been filed by the Applicant with a view to continue at the same place of posting and also to avail benefit of the promotion order. Since govt. servant does not have any legal right to remain at a particular place of posting of his choice as long as he wants, the order passed by the Respondents cannot be faulted with. Promotion in the public interest and transfer for exigencies of service, cannot be refused as a matter of right. Hon'ble Supreme Court in the case of *S.C.Saxena vs. Union of India & Others* (reported in 2006 (9) SCC 586) has already held that, "a government servant cannot disobey a transfer order by not reporting at the place of posting and then go to a court to ventilate his grievances. It is his duty to first report for work where he is transferred and make a representation as to what may be his personal problems. This tendency of not reporting at the place of posting and indulging in litigation needs to be curbed." No malafide could be made out in the order of the transfer on promotion. Respondents only had the exigencies and interest of public service in mind while issuing the promotion cum transfer order and Applicant cannot choose the place of posting to his convenience. The dictums of the Supreme Court, relied on by the Respondents in their written statement and *S.C.Saxena's* case (supra) also supports the case of Respondents.



[Signature]

9. Resultantly, these two cases, filed by the same Applicant are found to be devoid of any merits and therefore, are dismissed. Interim orders ~~if any~~ stands vacated. There shall be no order as to costs.



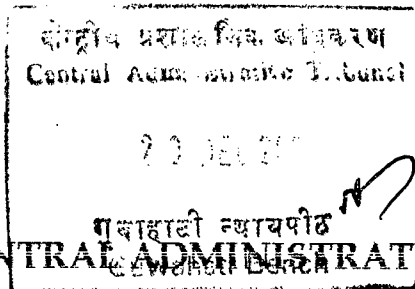
/bb/

Sd/-
Manoranjan Mohanty,
Vice Chairman
Sd/-
Khushiram
Member (A)

Date of Application :
Date on which copy is ready : 17.7.08
Date on which copy is delivered :
Certified to be true copy

[Signature]
Section Office (J. dl) 17/7/08
C. A. T. Guwahati Bench
Guwahati-5.

17/7



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O. A. No. 312/2006

Sri Jugal Baruah.

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

Applicant is serving as Superintendent at Regional Office, Guwahati in the department of Employees State Insurance Corporation (for short ESIC).

- 19.10.2005- Respondent issued one conditional ad hoc promotion order whereby applicant is sought to be promoted to the post of Manager Gr. I/Section Officer/Asstt. Director on adhoc basis. Applicant challenged validity of the conditional ad hoc promotion order by filing OA No. 32/2006, which is pending before this Hon'ble Tribunal.
- 12.09.2006- One post of Asstt. Director fall vacant in the office of the Regional Director, ESIC, Guwahati. (Annexure-1)
- 14.09.2006- Applicant submitted representation praying for consideration of his posting on promotion against the vacant post of Asstt. Director which fall vacant at Guwahati. (Annexure-2)
- 22.09.2006- This Hon'ble Tribunal directed the respondents in M. P No. 103/2006 in O.A. No. 32/06 to consider representation dated 14.09.06 of the applicant. (Annexure-3)
- 19.10.2006- Respondent No. 5 vide his communication dated 19.10.06 informed the Regional Director, ESIC, Guwahati that representation of the applicant shall be considered along with others. (Annexure- 4)
- 15.12.2006- Respondents issued impugned office order dated 15.12.06, whereby 185 officers including the applicant have been promoted on regular basis to the cadre of Asstt. Director/Manager Gr. I/Section Officer. Out of the 185 officers except the applicant all have been posted either at their home town or have been accommodated in the same local station. In spite of the direction passed by this Hon'ble Tribunal and also in view of the representation dated 14.09.06, the

16-11-06

Jugal Baruah

34

applicant has been deliberately posted from the State of Assam to the State of West Bengal when there is a clear vacancy at Guwahati.

(Annexure-5)

- 18.12.2006- Applicant submitted representation addressed to the Respondent No. 2 requesting for reconsideration of his posting at Guwahati on promotion to the cadre of Asstt. Director against the existing vacancy of Asstt. Director at Guwahati. (Annexure-6)

Hence this application.

P R A Y E R S

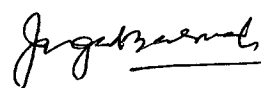
Relief (s) sought for

1. That the Hon'ble Tribunal be pleased to direct the respondents to modify the impugned office order No. 137 of 2006 bearing letter No. A-33(13)1/2003-E.I dated 15.12.2006 (Annexure- 5) so far the applicant is concerned, by posting the applicant at Guwahati in the vacant post of Asstt. Director in the Regional Office at Guwahati.
2. Costs of the application.
4. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for

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

1. That the Hon'ble Tribunal be pleased to stay operation of the impugned office order No. 137 of 2006 bearing letter No. A-33 (13)1/2003-E.I dated 15.12.2006 (Annexure- 5) so far the applicant is concerned till disposal of this application.
2. That the respondents be directed not to fill up the existing vacant post of Asstt. Director lying in the office of the Regional Director, ESIC, Guwahati till disposal of this Original Application.



35

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

Title of the case : O.A. No. 312/2006

Shri Jugal Baruah. : Applicant.

-Versus-

Union of India & Ors. : Respondents.

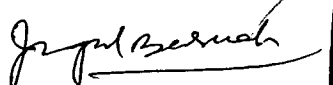
INDEX

Sl. No.	Annexure	Particulars	Page No.
1.	---	Application.	1-12
2.	---	Verification	-13-
3.	1	Copy of the letter dated 12.09.2006	- 14 -
4.	2	Copy of the representation dated 14.09.2006.	- 15 -
5.	3	Copy of the order dated 22.09.06.	16-18
6.	4	Copy of letter dated 19.10.06.	- 19 -
7.	5	Copy of the impugned order dated 15.12.06	20 - 24 .
8.	6	Copy of the representation dated 18.12.06	- 25 -

Date: - 20.12.06

Filed By:


Advocate



**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI**

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

O.A. No. 312 /2006

BETWEEN:

Shri Jugal Baruah,
S/o- Late Kula Chandra Baruah,
Superintendent,
Regional Office,
Employees State Insurance Corporation,
Bamunimaidan, Guwahati- 781021.

-----Applicant.

-AND-

1. The Union of India,
Represented by Secretary to the
Government of India,
Ministry of Labour and Employment,
New Delhi- 110001.
2. The Director General,
Employees State Insurance Corporation
Panchdeep Bhawan,
C.I.G. Road, New Delhi- 110002.
3. The Joint Director, E-I,
Employees State Insurance Corporation,
Panchdeep Bhawan,
C.I.G. Road, New Delhi- 110002.
4. The Regional Director,
Employees State Insurance Corporation,
Assam, Bamunimaidan, Guwahati- 781021.
5. Shri R. Natarajan,
The Joint Director, E-I,
Employees State Insurance Corporation,
Panchdeep Bhawan,
C.I.G. Road, New Delhi- 110002.

6. Employees State Insurance Corporation
Represented by the Director General
Employees State Insurance Corporation,
Panchdeep Bhawan, New Delhi- 110002.
C.I.G. Road,
..... Respondents.

Jugal Baruah

Filed by the applicant
through U. Dutta, advocate
on 20.12.06

DETAILS OF THE APPLICATION.

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

This application is made against the impugned office order No. 137 of 2006 bearing letter No. A-33(13)1/2003-E.I dated 15.12.2006 (Annexure-5) whereby the applicant is sought to be posted from Assam to West Bengal on promotion to the cadre of Assistant Director/Branch Manager Gr. I/Section Officer in the scale of pay of Rs. 6500-200-10500/- with a malafide intention when all the 184 officers out of 185 officers have been promoted and accommodated in the their present place of posting but the applicant has been picked up for posting from Assam to West Bengal in spite of the fact that there is one post of Asstt. Director is vacant at Guwahati. Moreover, the impugned order dated 15.12.2006 has been passed against the applicant without considering his representation dated 14.09.2006 and also without considering the order dated 22.09.2006 passed by this Hon'ble Tribunal in M.P. No. 103/2006 in O.A. No. 32/2006.

2. Jurisdiction of the Tribunal:

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

3. Limitation:

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

4. Facts of the case:

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

4.2 That the applicant was initially appointed in the department of Employees State Insurance Corporation in the year 1990 as Insurance Inspector and he

Jugalsen

was posted at Regional Office at Calcutta, however after serving for a period of about 3 years the applicant was transferred and posted at Dhubri in the state of Assam, thereafter he was again posted to Chandrapur ESIC local office in the same capacity as Manager Gr. II and subsequently the applicant was again transferred to Regional Office, Guwahati as Insurance Inspector and at present he is working as Superintendent at Regional Office, Guwahati in the department of Employees State Insurance Corporation (for short ESIC).

- 4.3 That the respondent No. 3 issued the impugned office Order No. 500 of 2005 bearing letter No. A33/12/1/97-E.1 Col. II dated 19.10.2005, whereby officers working in the grade of Insurance Inspector/Manager Gr. II/ Superintendent have been promoted to the grade of Assistant Director/ Manager Gr. I/Section Officer on adhoc basis. In the said office order dated 19.10.2005 the applicant has been placed at Sl. No. 6 and he has been ordered for posting on the basis of adhoc promotion in the state of West Bengal from the state of Assam. The order of adhoc promotion is conditional.

The applicant after receipt of the conditional ad hoc promotion order dated 19.10.2005 submitted a representation dated 26.10.05, wherein the applicant requested to allow him to forgo the promotion on the ground that his son is studying in Class-XII in a local educational institute at Guwahati under the Assam Higher Secondary Educational Council, besides he has got 86 years old mother with him. However on apprehension of release the applicant preferred an Original Application before this Hon'ble Tribunal, which was registered as O.A. No. 5/2006, challenging the validity and legality of the arbitrary conditional ad hoc promotion order dated 19.10.2005 and the impugned order dated 26.10.05 rejecting the representation. The said Original Application is still pending before this Hon'ble Tribunal for consideration for hearing.

Jugalsen

It is relevant to mention here that the applicant preferred another O.A. No. 32/2006 claiming following reliefs:

- "8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned office order No. 614 of 2003, bearing No. A-22/13/1/2003-E.I (A) dated 26.09.2003 (Annexure- III) as well as office order No. 500 of 2005, bearing letter No. A33/12/1/97-E. I Col. II dated 19.10.2005 (Annexure-IV).
- 8.2 That the Hon'ble Tribunal be pleased to direct the respondents to prepare year wise panel by holding regular DPC with immediate effect with the approval of the UPSC and to grant promotion benefit to the applicant at least from the date of occurring of the vacancies in the grade of Asstt. Director/Manager Gr. I/Section Officer with all consequential service benefits, seniority and arrear monetary benefits.
- 8.3 Costs of the application.
- 8.4 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper."

The said O.A. No. 32/2006 is also pending before this Hon'ble Tribunal for consideration for hearing. However, during the pendency of O.A. No. 32/2006, the applicant preferred a representation on 14.09.2006 praying interalia for consideration of his posting on promotion against the vacant post of Asstt. Director in the office of the ESIC, Guwahati, Assam. In the said representation the applicant stated that his son is studying in local educational institute, his mother is 86 years old and his wife is physically unsound and his junior has been accommodated as Asstt. Director on ad hoc basis in NE Region itself, depriving his regular promotion in spite of his attaining eligibility. It is further submitted by the applicant that he is eligible for promotion to the post of Asstt. Director,

Jugals Arora

therefore his case may be considered for posting at Guwahati in the promotional post of Asstt. Director. It is pertinent to mention here that it would be evident from the letter dated 12.09.06 that a post of Asstt. Director is vacant at Regional Office, Guwahati due to transfer of Sri D.N. Das.

The applicant also preferred a Misc. Petition No. 103/2006 in O.A. No. 32/2006 for consideration of his representation for promotion to the cadre of Asstt. Director at Guwahati. This Hon'ble Tribunal after hearing the Counsel for the parties and after perusal of materials on record was pleased to direct the respondents on 22.09.2006 to consider his representation dated 14.09.2006. It is pertinent to mention here that his representation dated 14.09.06 was duly received by the Joint Director-I, Shri R. Natarajan, for and on behalf of the Director General, ESIC and it is informed to the Regional Director, ESIC, Guwahati by said Shri R. Natarajan that his representation shall be considered along with others by the communication bearing No. A-20/11/64/94-E.I dated 19.10.2006.

Copy of the letter dated 12.09.06, representation dated 14.09.06, Hon'ble Tribunal's order dated 22.09.06 passed in M.P. No. 103/2006 in O.A. No. 32/06 and letter dated 19.10.06 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 1, 2, 3 and 4 respectively.

- 4.4 That it is stated that the respondents issued the impugned office order No. 137 of 2006 bearing letter No. A-33(13)1/2003-E.I dated 15.12.2006, whereby inasmuch as 185 officers including the applicant who are working in the cadre of Insurance Inspectors/Branch Manager Gr.II/Superintendents have been promoted on regular basis to the cadre of Asstt. Director/Manager Gr. I/Section Officer on the recommendation of the DPC/UPSC, showing their posting on promotion. In the said impugned order, applicant has been placed at Sl. No. 51. It would be surprised to note here at this stage that

J. G. S. S. S. S.

out of the 185 officers except the applicant all have been posted either in their home State or have been accommodated in the same local station. It is pertinent to mention here that in spite of the direction passed by the learned Tribunal and also in view of specific request made by the applicant through his representation dated 14.09.2006, the applicant has been deliberately posted from the State of Assam to the State of West Bengal in spite of existence of a clear vacancy at Guwahati. The aforesaid posting on promotion from the State of Assam to the State of West Bengal has been made with a mala fide intention by the respondent No. 5, Shri R. Natarajan, as because the applicant has challenged the validity and legality of the conditional ad hoc promotion as well as challenged the ad hoc promotion order on the ground that the same is in violation of the provision laid down in Sub Sec (3) of Section 17 of the ESIC Act 1948 and as a result of such challenge before this Hon'ble Tribunal the respondent authority have been compelled to issue regular promotion order in the cadre of Asstt. Directors/Branch Manager Gr. I/Section Officers. It is relevant to mention here that one Shri P. Sutradhar, junior to the applicant, who was initially promoted on ad hoc basis in the cadre of Manager Grade-I at Kolkata has been accommodated in the same capacity on ad hoc basis at Guwahati vide officer order No. 80 of 2005 bearing letter No. 41.A.20/11/14/2003 Estt-I dated 14.10.2005, on his request, therefore there should not be any difficulty on the part of the respondent authority to accommodate the applicant in the vacant post of Asstt. Director at Guwahati in the same manner as done in the case of Sri P. Sutradhar. It is needless to mention here that the request of Shri Sutradhar has been entertained by Shri R. Natarajan, respondent No. 5 in the headquarter office, New Delhi through their office order No. 296 of 2005 dated 27.06.2005 as indicated in the office order dated 14.10.2005, therefore it appears that since the applicant has approached this Hon'ble Tribunal by filing two Original Application challenging the validity and legality of the conditional ad hoc promotion, as such he has been picked up for posting on

Jagabandhu

regular promotion from the State of Assam to the State of West Bengal and this is a solitary example which is evident from the impugned office order dated 15.12.2006 and as such the applicant is meted out with hostile discrimination in the matter of promotion and posting which attracts violation of Article 14 of the Constitution of India and on that score alone the impugned order dated 15.12.2006 is liable to be modified so far the applicant is concerned to the extent directing the respondents to accommodate the applicant on promotion to the post of Asstt. Director in the existing vacant post at ESIC at Guwahati.

Copy of the impugned order dated 15.12.2006 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 5.

- 4.5 That it is stated that when Shri R. Natarajan, Joint Director-I, respondent No. 5 could able to accommodate 184 officers in their home State or in the same station, there is no cogent reason to deny such privilege to the applicant more so in view of the fact when there is a clear vacancy of Asstt. Director is available in the Regional Headquarter office, ESIC Guwahati. It is pertinent to mention here that when the representation of the applicant dated 14.09.2006 is brought to the notice of said Shri R. Natarajan, Joint Director-I he has informed the Regional Director, ESIC, Guwahati through his letter dated 19.10.2006 that his request shall be considered along with the claims of others but after passing of the impugned order dated 15.12.2006 it appears that all the 184 officers have been accommodated on promotion in the same place of their posting but a different attitude has been taken by the respondents in the instant case of the present applicant in the matter of posting on promotion. It is also pertinent to mention here that Shri P. Sutradhar, junior to the applicant has been accommodated in the post of Asstt. Director by transferring him from the State of West Bengal to Assam on his own request and now also he has been accommodated in Assam as indicated in the impugned order itself as because his name appeared at Sl. No. 126, he was accommodated in Assam itself, therefore

Jagabandhu

there is no justifiable reason to deny similar benefit of posting and accommodation to the applicant on his promotion at Guwahati, more so when there is a post of Asstt. Director is lying vacant at the office of Regional Director, ESIC, Guwahati.

- 4.6 That your applicant immediately after receipt of the impugned promotion order dated 15.12.2006 submitted a detailed representation on 18.12.2006 addressed to the Director General, Establishment I, ESIC, New Delhi, wherein the applicant specifically stated that from the office order dated 15.12.2006 it appears that most of the officers have been accommodated on promotion in their present place of posting; but in the case of the applicant in spite of his representation dated 14.09.2006 and in addition to the order dated 22.09.2006 passed by the Hon'ble Tribunal in M.F. No. 103/2006 in O.A. No. 32/2006 he has been picked up for posting on promotion from Assam to West Bengal without considering his representation dated 14.09.2006 and also without consideration of the order dated 22.09.2006 and further requested for modification of the order dated 15.12.2006 reconsidering his posting at Guwahati on promotion to the cadre of Asstt. Director.

Copy of the representation dated 18.12.06 is enclosed herewith for perusal of Hon'ble Court as Annexure- 6.

- 4.7 That your applicant although submitted a representation on 18.12.2006 but he is apprehending that at any moment he may be released pursuant to the impugned order dated 15.12.2006 and finding no other alternative the applicant is approaching before this Hon'ble Tribunal for an appropriate order protecting the right and interest of the applicant for his posting at Guwahati on promotion in the vacant post of Asstt. Director like all other employees who have been promoted and accommodated in their present place of posting on promotion and further be pleased to pass an appropriate direction upon the respondents to consider the case of the

Jaapal B. B. B.

applicant in the light of the representation dated 14.09.2006 as well as in terms of Hon'ble Tribunal's order dated 22.09.2006 passed in M.P. No. 103/2006 in O.A. No. 32/2006 otherwise the posting of the applicant will cause irreparable loss and injury to smooth continuation of education of his sons who are studying at Guwahati in local Colleges, under Gauhati University and this is the middle of Academic session.

4.8 That it is stated that Shri R. Natarajan has been impleaded as respondent No. 5 in the instant application as because he has deliberately made an attempt to post the applicant from Assam to the State of West Bengal on his promotion to the cadre of Asstt. Director in view of the fact that the applicant has filed two original applications before this Hon'ble Tribunal challenging the validity and legality of the arbitrary conditional ad hoc promotion which continued for years together in violation of relevant provision of Sub- Sec (3) of Section 17 of the ESIC ACT 1948, as such the applicant has been picked up for posting on promotion from the State of Assam to the State of West Bengal with a malafide intention in spite of existence of one clear vacancy in the Regional Headquarter Office at Guwahati and also in view of the fact that inasmuch as 184 officers including the juniors of the applicant has been accommodated in their present place of posting on promotion but the applicant has been discriminated in the matter of posting in spite of repeated representations and Court's order and on that score alone the impugned posting order on promotion dated 15.12.2006 is liable to be modified so far the applicant is concerned by passing appropriate order of posting at Guwahati on promotion.

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

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

5.1 For that, the impugned order of posting on promotion dated 15.12.2006 so far the applicant is concerned is punitive in nature as because out of 185

Jagabandhu

Officers 184 have been accommodated in their present place of posting on promotion by the impugned order dated 15.12.2006 but the applicant has been meted out with hostile discrimination in spite of existence of one clear vacancy of Asstt. Director at Guwahati and also in total disregard to his representation dated 14.09.06 as well as Hon'ble Tribunal's order dated 22.09.2006. As such the impugned order dated 15.12.2006 is liable to be modified so far the applicant is concerned, posting him at Guwahati.

- 5.2 For that, one clear vacancy of Asstt. Director fell vacant in view of transfer of Sri D.N. Das, as such there is no difficulty on the part of the respondents to accommodate the applicant on promotion at Guwahati, more so when Sri P. Sutradhar, junior to the applicant has been accommodated in the same home State on promotion by the same impugned order dated 15.12.2006 and as such the impugned order dated 15.12.2006 is liable to be modified so far the applicant is concerned, posting him at Guwahati.
- 5.3 For that, two sons of the applicant are prosecuting their higher studies in the local Colleges under Gauhati University, as such posting of the applicant during the middle of the academic session will cause irreparable loss and injury to the applicant, therefore the Hon'ble Tribunal be pleased to direct the respondents to modify the impugned order dated 15.12.2006 so far the applicant is concerned, by posting him at Guwahati.
- 5.4 For that, the applicant alone has been picked up for posting on promotion from the State of Assam to the State of West Bengal without consideration of representation of the applicant and also in spite of the direction passed by the learned Tribunal on 22.09.2006 and on that score alone impugned order dated 15.12.2006 is liable to be modified so far the applicant is concerned, posting him at Guwahati.
- 5.5 For that, the applicant alone has been discriminated in the matter of posting on promotion which leads to violation of Article 14 of the

Jugalsingh

Constitution of India and on that score alone impugned order dated 15.12.2006 is liable to be modified so far the applicant is concerned, by posting him at Guwahati.

- 5.6 For that, the applicant alone has been transferred on promotion when all others have been accommodated. at the instance of the respondent No. 5 Shri R. Natarajan, due to filing of Court cases before the learned Tribunal challenging the validity and legality of impugned conditional ad hoc promotion order dated 19.10.2005.

6. Details of remedies exhausted.

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

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

The applicant further declares that saves and except filing of O.A. No. 5/2006, O.A. No. 32/2006 before this Hon'ble Tribunal he had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief (s) sought for:

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

Jugal Kumar

8.1 That the Hon'ble Tribunal be pleased to direct the respondents to modify the impugned office order No. 137 of 2006 bearing letter No. A-33(13)1/2003-E.I dated 15.12.2006 (Annexure- 5) so far the applicant is concerned, by posting the applicant at Guwahati in the vacant post of Asstt. Director in the Regional Office at Guwahati.

8.2 Costs of the application.

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

9. Interim order prayed for:

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

9.1 That the Hon'ble Tribunal be pleased to stay operation of the impugned office order No. 137 of 2006 bearing letter No. A-33 (13)1/2003-E.I dated 15.12.2006 (Annexure- 5) so far the applicant is concerned till disposal of this application.

9.2 That the respondents be directed not to fill up the existing vacant post of Asstt. Director lying in the office of the Regional Director, ESIC, Guwahati till disposal of this Original Application.

10.

11. Particulars of the I.P.O

- | | | |
|------|---------------|---|
| i) | I.P.O No. | : |
| ii) | Date of issue | : |
| iii) | Issued from | : |
| iv) | Payable at | : |

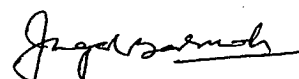
12. List of enclosures:
As given in the index.

Jagabandhu

VERIFICATION

I, Shri Jugal Baruah, S/o- Late Kula Chandra Baruah, aged about 50 years, working as Superintendent, in the Regional office, Employees State Insurance Corporation, Bamunimaidan, Guwahati- 21, Assam, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 19th day of December 2006.



**EMPLOYEES' STATE INSURANCE CORPORATION
REGIONAL OFFICE : N.E. REGION : GUWAHATI-21**

No. 43-A.22/15/2004-Estt.

Date- 12.09.2006

To

**The Director General (Estt-I),
E.S.I. Corporation, C.I.G Road,
New Delhi-2.**

**Subject : Vacancy position for the post of Asstt. Director
in the Regional Office, N.E. Region, Guwahati.**

Sir,

**In pursuance of Hqrs. Office order No.100 of 2006
issued vide letter No.A-22(13)1/2006-E. 9 dt. 30.08.2006, Sri
D.N. Das, Asst. Director has already been released from his
duties on 06.09.2006 (AN) with advice to report for duty in the
E.S.I. C. Model Hospital Beltola, Assam. As a result of his release
a post of Asst. Director has fallen vacant in this Region.
Therefore, I would like to request you kindly to take necessary
action for filling up the post urgently.**

This issues with the approval of Regional Director.

Yours faithfully,

[Signature]
12/9/06

**(P. SUTRADHAR)
ASSISTANT DIRECTOR.**

*Attested
Advocate*

[Signature]
12/9/06

ANNEXURE - 2

To
The Director General (E.I (A))
Panchadeep Bhawan
C.I.G. Road
New Delhi-110002

24.14.9.06

(Through the Regional Director, E.S.I.C, Guwahati)

Subject : Prayer for posting as Asstt. Director in the Office of the E.S. Corporation, Guwahati
(Assam)

Sir,

Most respectfully I have to state that I could not accept the adhoc and conditional promotion to the post of Asstt. Director (Adhoc) in response to Hqrs. Office order No.614 of 2003 and 500 of 2005 issued vide letter No. A-22/13/1/2003-E.I (A) dated -20/09/03 and letter No.A-33/12/1/97-E.I. Col.II dt.19/10/05 respectively on the ground inter-alia :-

- 1) That my sons had been studying in Local Educational Institution .
- 2) My mother was 86 year old and none of the male members were available .
- 3) My wife had been physically unsound.
- 4) My junior had been accommodated as adhoc AD in N.E. Region itself depriving me from regular promotion/posting in future.
- 5) That adhoc promotion will not confer any benefit to me.

That sir, at present, in the event of transfer of Sri D.N.Das, Asstt. Director to the E.S.I.C Model hospital, Beltola , a post of regular Asstt. Director is lying vacant since 06-09-06 in the office of the E.S.I Corporation, N.E.Region, Guwahati.

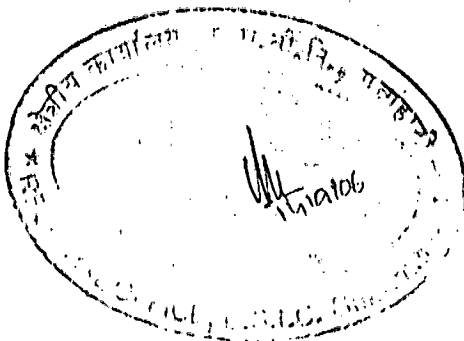
That sir, I am eligible for the post of Asstt. Director as above and I may kindly be considered for promotion and posting to the above post at Guwahati on the following grounds:-

- 1) That sir, my sons are studying in Local College under Guwahati University.
- 2) That sir, my ailing wife has to be constantly consulted with doctors for her multiple diseases.
- 3) My old mother who is more than 87 year of age is seeking my presence all the time at her last part of life.

In view of the above, I would like to request you kindly to consider my prayer for promotion and posting me as Asstt. Director in Assam Region , E.S.I. Corporation, Guwahati.

Yours faithfully,

Jugal Baruah
(JUGAL BARUAH) 14/10/06
SUPTD. REGIONAL OFFICE E.S.I.C.
GUWAHATI



*Collected
Advocate*

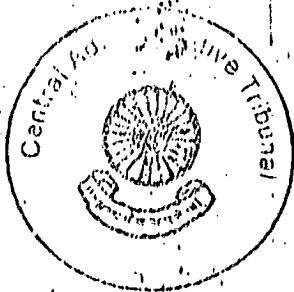
Annexure - 3

51

FORM No. 4
(Sec Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
O R D E R S H E E T.

1. Original Application No.....
2. Misc Petition No....103 of 06 in O.A. 32 of 06....
3. Contempt Petition No.....
4. Review Application No.....
- Applicant(s) Jugal Saruah.....
- Respondent(s) M.A.I.A. etc.....
- Advocate for the Applicant(s) M. Chandra S. Nath.....
- Advocate for the Respondent(s) C. G. S. O.....

Notes of the Registry Date 22.9.2006 Order of the Tribunal



Collected
Advocate

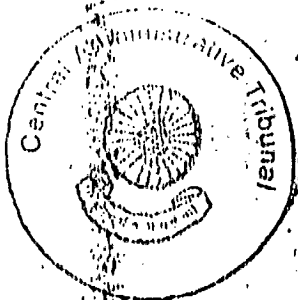
This applicant filed O.A seeking for the following reliefs:-

1. "That the Hon'ble Tribunal be pleased to set aside and quash the impugned order. That the Hon'ble Tribunal be pleased to issue order No.614 of 2003, bearing letter No.A33/12/1/97-E.I Col.II dated 19.10.2003(Annexure IV)
2. That the Hon'ble Tribunal be pleased to direct the respondents to prepare year wise panel by holding regular DPC with immediate effect with the approval of the UPSC and grant promotion benefit to the applicant at least from the date of occurring of the vacancies in the grade of Asstt. Director/Manager Gr.I/Section Officer with all consequential service benefits, seniority and arrear monetary benefits.
3. Costs of the application.
4. Any other reliefs(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper."

22.9.2006

- 17 -

52



The counsel for the applicant has submitted that earlier the applicant was promoted on adhoc basis, which was not accepted by the applicant due to his domestic problems. A large number of vacant posts are lying in Guwahati in the grade of Manager Gr.I/Section Officer/Assistant Director but the respondents did not hold the regular DPC for filling up these vacant posts. The applicant has submitted representation dated 14.9.06(Annexure A). In the M.P. the counsel for the applicant has prayed that the respondents No.2 may be directed to consider the representation of the applicant and pendency of the O.A. shall not be a bar for the respondents for considering the representation of the applicant for his promotion and posting at E.S.I.C. office Guwahati.

Ms. U. Das learned Addl. C.G.S.C. for the respondents opposes the Misc. Petition and she has submitted that she has made objection in the M.P. challenging the promotion for regular posts. The counsel for the applicant has also submitted that direction may be given to the respondents to dispose of representation dated 14.9.06(Annexure-A).

Considering the submission of the learned counsel for the parties, Court directs the respondents to dispose of the representation dated 14.9.06(Annexure-A).

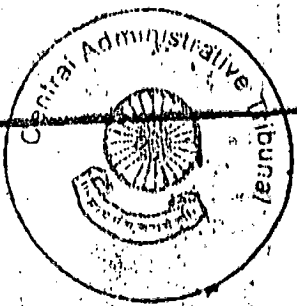
Contd...../-

M.P. 103/06 (O.A. 32 of 06)

22.9.06.

and to consider the promotion of the applicant and pass the appropriate orders according to the law.

Accordingly, Misc Petition is disposed of.



Sd/ VICE CHAIRMAN

TRUE COPY

प्रतिरूप

[Signature]
31.10.06

अनुभाग अधिकारी

S. C. (C. J. 10)

Central Administrative Tribunal

राजस्थान

जुवादा, जिला राजस्थान-5

[Handwritten signature]
22/9/06

22/9/06

T. CD

Annexure - 4

SH



**HEADQUARTERS
EMPLOYEES' STATE INSURANCE CORPORATION
PANCHDEEP BHAVAN: C.I.G. ROAD: NEW DELHI-110002.**

<http://esic.nic.in>

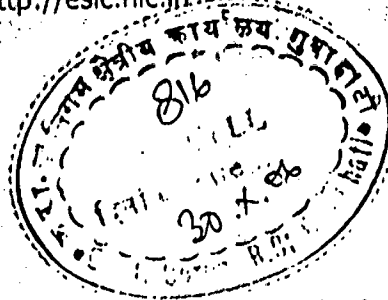
18/10/06
M
27/11

No. A-20/11/64/90-E.I.

Dated : 19.10.2006

To,

The Regional Director,
Regional Office,
ESI Corporation,
GUWAHATI.



Sub: Forwarding of representation submitted by Sh. Jugal Baruah, Superintendent, North East Region, Guwahati.

Ref: Regional Director, Assam letter No. 43-A-20/11/70/2002-Estt. Dated 15.09.2006.

Sir,

Kindly refer to your office letter cited.

In this connection, I am directed to inform that the DPC to the post of Assistant Director/ Section Officer/Mgr. Gr.I is over and the minutes of DPC is likely to be received shortly from the UPSC. The representation of Sh. Jugal Baruah, Superintendent shall be considered alongwith the claims of others.

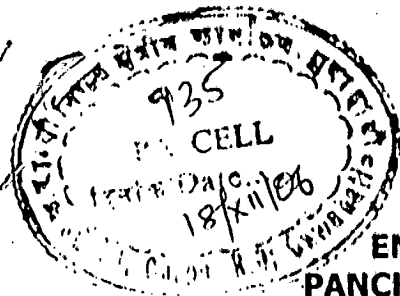
The official concerned may be informed accordingly.

Yours faithfully,

862(816)
31/10/06

(R. NATARAJAN)
JOINT DIRECTOR-I
for DIRECTOR GENERAL

Attested
Advocate



**HEADQUARTERS
EMPLOYEES' STATE INSURANCE CORPORATION
PANCHDEEP BHAVAN: C.I.G. ROAD: NEW DELHI-110002.
<http://esic.nic.in>**

No. A-33(13)1/2003-E.I

Dated: 15.12.2006

OFFICE ORDER NO. 137 OF 2006

The Director General is pleased to order the promotion of the following officers in the cadre of Insurance Inspectors/ Branch Managers Gr.II / Superintendents (in the pay scale of Rs. 5500 - 175 - 9000) to the cadre of Assistant Directors / Branch Managers Gr.I / Section Officers (in the pay scale of Rs. 6500-200-10500) on regular basis on the recommendations of the Departmental Promotion Committee / Union Public Service Commission and post them to the regions shown against each:-

Sl. No.	Name of Officer S/Sh./Ms	Present Region of posting	Region to which posted now on promotion
1	2	3	4
1.	VM Kalia	Jammu & Kashmir	Jammu & Kashmir
2.	Dinesh Sethi	Haryana	Haryana
3.	V.R. Nagaraj	Karnataka	Karnataka
4.	S.T. Krishnaram	Maharashtra	Maharashtra
5.	S. Krishnamurthy	Andhra Pradesh	Andhra Pradesh
6.	Haridas Menon	Kerala	Kerala
7.	Ashok Kumar Parida	Karnataka	Karnataka
8.	W. Suresh Manuel	Colombatore Sub-Region	Colombatore Sub-Region
9.	S. Kumar	Tamilnadu	Tamilnadu
10.	V. Sreedharan	Kerala	Kerala
11.	Subhash Kumar Sinha	Bihar	Bihar
12.	Promila Suresh Roy	Pune Sub-Region	Pune Sub-Region
13.	DN Das	ESIC Model Hospital, Beltola	ESIC Model Hospital, Beltola
14.	RN Bahera	Orissa	Orissa
15.	Muralidharan Nair KP	Hubli Sub-Region	Hubli Sub-Region
16.	Nizamuddin	Andhra Pradesh	Andhra Pradesh
17.	K. Venkataramana	Vijayawada Sub-Region	Vijayawada Sub-Region
18.	B Umakanth	Vijayawada Sub-Region	Vijayawada Sub-Region
19.	Mohd. Safiul Samad	West Bengal	West Bengal
20.	Sushil Kumar Srivastava	Uttar Pradesh	Uttar Pradesh
21.	Ashok Kumar	Hqrs.	Hqrs.
22.	K Ramajogaiah	Andhra Pradesh	Andhra Pradesh
23.	M Ganesan	Tamilnadu	Tamilnadu
24.	Lajpat Rai Sharma	Hqrs.	Hqrs.
25.	PK Sudeshan	Kerala	Kerala
26.	Anil Kumar Srivastava	D(M)D, Delhi	D(M)D, Delhi
27.	GV Rao	Vijayawada Sub-Region	Vijayawada Sub-Region
28.	MM Bhauskute	Pune Sub-Region	Pune Sub-Region
29.	Damodar Prashad	D(M)D, Delhi	D(M)D, Delhi
30.	RN Kumar	Delhi	Delhi
31.	KUMAR RAJU JANARDHANNA Rao (K.J. Rao)	Andhra Pradesh	Andhra Pradesh
32.	Chandrasekharan KK	Kerala	Kerala
33.	Patted Babasaonnappa Dyanappa (B.D. Patted)	Hubli Sub-Region	Hubli Sub-Region
34.	PG Narvankar	Maharashtra	Maharashtra

Attestd
P.D. Patted

35.	Bhagwan Singh		West Bengal	West Bengal
36.	Rehan Gani		Madhya Pradesh	Madhya Pradesh
37.	AM Ramanathan		Karnataka	Karnataka
38.	G. K. Bandyopadhyay		West Bengal	West Bengal
39.	Karan Singh	SC	Haryana	Haryana
40.	BK Sinha		Bihar	Bihar
41.	SU Sule		Maharashtra	Maharashtra
42.	R Nageswaran,		Tamilnadu	Vijayawada Sub-Region
43.	R Banumathi		Coimbatore Sub-Region	Coimbatore Sub-Region
44.	D Yogananda Rao		Pudhucherry	Pudhucherry
45.	K Praksham,		Andhra Pradesh	Andhra Pradesh
46.	GS Murthy		Andhra Pradesh	Andhra Pradesh
47.	K Vijayan		Kerala	Kerala
48.	Kamalakar Kelkar		Pune Sub-Region	Pune Sub-Region
49.	Ganga Bishan Gupta		Delhi	Delhi
50.	PK Kundu		West Bengal	West Bengal
51.	Jugal Barua,		Assam	West Bengal
52.	A Jothi Pandian		Vijayawada Sub-Region	Vijayawada Sub-Region
53.	U Rajenderan		Coimbatore Sub-Region	Coimbatore Sub-Region
54.	Bachna Ram	SC	Punjab	Punjab
55.	MK Jain		Rajasthan	Rajasthan
56.	R Kasinathan	SC	Karnataka	Karnataka
57.	C H Admane		Nagpur Sub-Region	Nagpur Sub-Region
58.	PV Santha Kumar		Tamilnadu	Tamilnadu
59.	CM Malhotra		West Bengal	West Bengal
60.	V Madhavi RV Ramani		Pune Sub-Region	Pune Sub-Region
61.	SK Pal		West Bengal	West Bengal
62.	JK Sabnis		Maharashtra	Maharashtra
63.	VP Sinha		Bihar	Bihar
64.	TK Sharma		Surat Sub-Region	Surat Sub-Region
65.	Om Prakash		Haryana	Haryana
66.	K Raghurama V Shetty		Maharashtra	Maharashtra
67.	VS Katre		Pune Sub-Region	Pune Sub-Region
68.	Mangal Bhattacharjee		West Bengal	West Bengal
69.	TR Pandey		Delhi	Delhi
70.	Rakesh Kumar Gupta		Uttar Pradesh	Uttar Pradesh
71.	RN Mohrana		West Bengal	West Bengal
72.	Jagannathan R		Karnataka	Karnataka
73.	Ajay Kumar		Delhi	Delhi
74.	PG Sreedhara Gopal,		Madurai Sub-Region	Madurai Sub-Region
75.	Prakash Chand		Delhi	Delhi
76.	KK Kureel	SC	Noida Sub-Region	Noida Sub-Region
77.	VK Roda		Hqrs.	Hqrs.
78.	J Kumaraswami		Vijayawada Sub-Region	Vijayawada Sub-Region
79.	VK Taneja		D(M)D, Delhi	D(M)D, Delhi
80.	M. Kalaivanan	SC	Karnataka	Karnataka
81.	RK Chakraborty		West Bengal	West Bengal
82.	RN Brahme	SC	Maharashtra	Maharashtra
83.	Prakash Chand	SC	Haryana	Haryana
84.	P Anandarao	SC	Andhra Pradesh	Andhra Pradesh
85.	K Madhava Rao		Andhra Pradesh	Andhra Pradesh
86.	D. Vijay Kumar		Andhra Pradesh	Andhra Pradesh
87.	A.B. Sastry		Andhra Pradesh	Andhra Pradesh
88.	Prem Chand	S.C.	Punjab	Punjab
89.	S.S.Srivastava		Uttar Pradesh	Uttar Pradesh
90.	Parveen Moudgil		Haryana	Haryana
91.	Ramesh Kumar Chotla		Maharashtra	Maharashtra

Checked
Mudra
Admrat

92.	K.N.Vikraman		Kerala	Kerala
93.	Anand Kumar		Haryana	Haryana
94.	Sharda Manjunath		Andhra Pradesh	Andhra Pradesh
95.	Pankaj Kumar		Hqrs.	Hqrs.
96.	T.E.Venkatesan		Tamilnadu	Tamilnadu
97.	R.Velu		Tamilnadu	Tamilnadu
98.	Ravish Chandra Mandloli		ESIC Model Hospital, Nagda	ESIC Model Hospital, Nagda
99.	C.N.Raji		Coimbatore Sub-Region	Coimbatore Sub-Region
100.	M.Rajendran	SC	Madurai Sub-Region	Madurai Sub-Region
101.	Vasudev Parwani		ESIC Hospital, Nagda	Rajasthan
102.	Rajinder Prasad Sharma		Madhya Pradesh	Madhya Pradesh
103.	Boben Rapheal		Kerala	Kerala
104.	K.Santhalakshmi		Tamilnadu	Tamilnadu
105.	K.N.Radhakrishnan		Kerala	Kerala
106.	S.Pysane Gnanaraj		Tirunelveli Sub-Region	Tirunelveli Sub-Region
107.	S.Thaulath Khan		Pudhucherry	Pudhucherry
108.	K.Sasidharan		Kerala	Kerala
109.	K.G.Venugopal		Kerala	Kerala
110.	J.Karunanidhi		Vijayawada Sub-Region	Vijayawada Sub-Region
111.	J.Shiva Shankar	SC	Andhra Pradesh	Andhra Pradesh
112.	G.Kuruppan		Kerala	Kerala
113.	Praveen Kumar		NTA, Delhi	NTA, Delhi
114.	Bandaru Subba Rao		Maharashtra	Maharashtra
115.	S.Ganesan		Madurai Sub-Region	Madurai Sub-Region
116.	J.Verghese		Kerala	Kerala
117.	Tessy Franco		Kerala	Kerala
118.	Debabrata Pramanik		West Bengal	West Bengal
119.	P.R.Vaishampayan		Maharashtra	Maharashtra
120.	Baldev Raj	SC	Uttar Pradesh	Uttar Pradesh
121.	Yashwant Rai	SC	Punjab	Punjab
122.	Ravinder Singh	SC	Uttar Pradesh	Uttar Pradesh
123.	G.Vasantha Kumari	SC	Madurai Sub-Region	Madurai Sub-Region
124.	Ram Sudhar Ram	SC	Uttar Pradesh	Uttar Pradesh
125.	G.Selvakumar	SC	Tamilnadu	Tamilnadu
126.	P.Sutradhar	SC	Assam	Assam
127.	Subodh Kr. Sasmal	SC	West Bengal	West Bengal
128.	E.D.Ravindran	SC	Kerala	Kerala
129.	Sindoo Ram	SC	Jammu & Kashmir	Jammu & Kashmir
130.	A.K.Nim	SC	Hqrs.	Hqrs.
131.	Bihari Ram	SC	Gujarat	Gujarat
132.	P.Kamaraj	SC	Tamilnadu	Tamilnadu
133.	M.Koodalingam	SC	Kerala	Kerala
134.	Anal Kumar Pal	SC	Jharkhand	Jharkhand
135.	M.Dorai		Goa	Goa
136.	Chander Singh	SC	Haryana	Haryana
137.	Mohinder Singh	SC	Hqrs.	Hqrs.
138.	B.C.Boro	ST	West Bengal	West Bengal
139.	N.N.Singh	ST	Uttar Pradesh	Uttar Pradesh
140.	Babu Lal	ST	Vijayawada Sub-Region	Vijayawada Sub-Region
141.	R.B.Rai	ST	Hqrs.	Hqrs.
142.	P.K. Gupta		Gujarat	Gujarat
143.	M.Laxminarayana	S.C.	Andhra Pradesh	Andhra Pradesh
144.	Gurbachan Dass	S.C.	Haryana	Haryana
145.	B.Balakrishnan	S.C.	Andhra Pradesh	Andhra Pradesh
146.	D.S.Poonya	S.C.	Maharashtra	Maharashtra
147.	Ramulu	S.C.	Andhra Pradesh	Andhra Pradesh

Attended
Advocate

148.	Nathu Ram S/o Sardar Singh	S.C.	Haryana	Haryana
149.	Madan Lal Singh	S.T.	Rajasthan	Rajasthan
150.	M.Siddarama	S.T.	Karnataka	Karnataka
151.	D. S. Bhandari,		Maharashtra	Maharashtra
152.	Kanwal Nain		Punjab	Punjab
153.	Bhagirathi Nayak,	S.T.	Orissa	Orissa
154.	R. Ramesh	S.T.	Karantaka	Karantaka
155.	Arjun Chatter	S.T.	Baroda Sub-Region	Baroda Sub-Region
156.	S.C. Mondal	S.C.	West Bengal	West Bengal
157.	G.Chandrasekhar	SC	Karnataka	Karnataka
158.	T.Santhamma	SC	Karnataka	Karnataka
159.	D.Sugumaran	SC	Karnataka	Karnataka
160.	Rajbir Singh	SC	Hqrs.	Hqrs.
161.	Ram Swaroop Kunhariya	SC	Madhya Pradesh	Madhya Pradesh
162.	N.Janu Naik	ST	Pune Sub-Region	Pune Sub-Region
163.	P.Venkatachalam	ST	Tamilnadu	Tamilnadu
164.	Chhering Negi	ST	Himachal Pradesh	Himachal Pradesh
165.	J.Padmavathy	ST	Vijayawada Sub-Region	Vijayawada Sub-Region
166.	T.R.Narasing Rao	ST	Andhra Pradesh	Andhra Pradesh
167.	V.K.Narayanan	ST	Kerala	Kerala
168.	Nalini	SC	Hqrs.	Hqrs.
169.	Kanhalya Lal	SC	Delhi	Delhi
170.	Chander Sen	SC	D(M)D, Delhi	D(M)D, Delhi
171.	K.Devraj	SC	Karnataka	Karnataka
172.	Har Sahal	S.C.	Uttar Pradesh	Uttar Pradesh
173.	P.K.Pappu	S.C.	Kerala	Kerala
174.	N.Loganathan	ST	Kerala	Kerala
175.	J.Boro	ST	West Bengal	West Bengal
176.	R.Raju	ST	Karnataka	Karnataka
177.	N.M.Ramalah,	ST	Karnataka	Karnataka
178.	Jai Narain Meena	ST	ESIC Model Hospital, Jaipur	ESIC Model Hospital, Jaipur
179.	Kikumba Longchar	ST	West Bengal	West Bengal
180.	Harsharan Meena	ST	Delhi	Delhi
181.	Ramesh M. Mugdur	ST	Karnataka	Karnataka
182.	Ramesh Chander-II	SC	Hqrs.	Hqrs.
183.	Rohtas Singh	SC	West Bengal	West Bengal
184.	Saheb Ram Singh	SC	Hqrs.	Hqrs.
185.	Anita Sonkar,	SC	Uttar Pradesh	Uttar Pradesh

The promotees who are already officiating as Assistant Directors / Branch Managers Gr.I / Section Officers in the pay scale of Rs. 6500-200-10500 on 8.11.2006, the date of communication of the UPSC, will be deemed to have been promoted on regular basis with effect from 8.11.2006.

In respect of others who are still working in the cadre of Insurance Inspectors/ Managers Gr.II/ Superintendents, they are to be relieved as per this order to assume charge of their promoted post and their promotion, will take effect from the date on which they assume charge as Assistant Directors/ Branch Managers Gr. I / Section Officers on the basis of this order. The controlling authorities will ensure that the procedure regarding vigilance clearance with reference to para 17.9 of the DOPT O.M. No. 22011/5/91 Estt(D) dated 27.3.1997 is followed before the relief of such officials from the cadre of Insurance Inspectors/Branch Managers Gr.II/ Superintendents.

The pay on promotion will be fixed as per rules in the scale of Rs.6500 -200-10500 as per the provisions of FR 22(I) (a) (1) in respect of all the promotees. The promotees shall exercise their option for fixation within one month from the date of their promotion as per the saving clause under FR 22(I) (a)(1).

All the promotees will be on probation for a period of two years from the date of their regular promotion in terms of Reg. 5 of the ESIC (Staff & Conditions of Service) Regulations, 1959.

*Accepted
Advocate*

The promotion and posting of all these officers are ordered in public interest and they are entitled, to TA, TTA, DA and Joining Time as per rules, wherever admissible. In the case of promotees who are transferred from their present regions and posted to other regions, their present controlling authorities will relieve them, Immediately, with the direction to report to the concerned Regional Director/ Director / Joint Director I/c / Medical Superintendent / Director (Medical) Delhi as the case may be. However, the promotees will claim their Transfer T.A. and Joining Time only with reference to their ultimate place of posting in the region to which they are posted on promotion.

The Regional Directors/ Heads of offices are requested to intimate this office the exact dates on which the promotees (including those who are already officiating) assumed charge of the promoted post on regular basis. This information is essential for maintenance of rosters in this office and for other allied official purposes.

The places of postings in respect of the promotees who are posted in the same regions in which they are working at present will be changed in the month of April 2007, in terms of the Transfer Policy.

Hindi version follows.

(R. NATARAJAN)
JOINT DIRECTOR-E.I

To

1. The persons concerned through their controlling officers.
2. All the officers of the Hqrs.
3. All the Regional Directors / Director
4. All the Joint Directors I/c of the SROs / Joint Director-V Hqrs. Office
5. D(M)Delhi/ D(M) Nolda/ Director ESI Hospital K.K. Nagar/ Director (Family Welfare)
6. All the Medical Superintendents of ESIC Hospitals and ESIC Model Hospitals
7. The concerned Joint Directors (Fin.) and Deputy Directors (Fin.)
8. The Librarian, Hqrs. Office.
9. The Official Language Division, Hqrs. Office for Hindi version.
10. Copy for personal file(s)/Guard file/spare copy.

*Attended
Plants
Advocate*

To,

Date: 18.12.2006

The Director General (Estt. I)
E.S.I. Corporation
Panchdeep Bhavan
C. I. G. Road
New Delhi - 110002

Through Regional Director, E.S.I.C., Guwahati

Subject: Promotion to the post of Asstt. Director/ Br. Mgr. Gr. I/Section Officer
Reference: ESIC Hqrs. Office Order No. 137 of 2006

Sir,

Kindly refer to Hqrs. Office Order No. 137 of 2006 vide No. A.33 (13)/2003 - E.I. downloaded from ESIC website on the above subject.

In this connection, I have the honor to inform you that inspite of my prayer for posting as Asstt. Director in the Assam Region, where a vacancy still exists, my case has not been considered. Further, the regular promotion to the above noted post has not been considered from the date of occurrence of vacancy for which the matter is still under subjudice in the Hon'ble CAT, Guwahati Bench.


Moreover, it is observed that my juniors have been given the seniority in regular post w.e.f. 08.11.2006 depriving me of getting the promotion/seniority with retrospective effect.

It appears from this Office Order dated 15.12.2006 that most of the officers have been accommodated on promotion in their present place of posting; but in my case, inspite of my representation dated 14.09.2006, and in addition to the Order dated 22.09.2006 passed by the Ld. CAT, Guwahati in M.P. No. 103 of 2006 in OA 32/06, I have been picked up for posting on promotion from Assam to West Bengal without consideration of my representation dated 14.09.2006 and also without consideration of the Order dated 22.09.2006 passed in M.P. No. 103 of 2006 by the Ld. CAT, Guwahati.

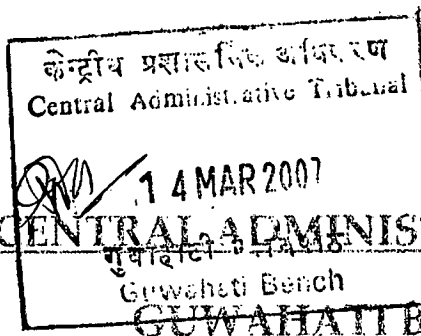
I, therefore, request you to kindly reconsider my posting on promotion in Assam by modifying the Office Order dated 15.12.2006. It is pertinent to mention here that one post of Asstt. Director is lying vacant at Guwahati since 06.09.2006 due to transfer of one Sri D. N. Das from Regional Office, Guwahati to E.S.I.C. Hospital, Beltola, Guwahati.

I would like to request you to kindly consider my posting on promotion in the vacant post at Guwahati and till such consideration, the Order dated 15.12.2006 may kindly be kept in abeyance so far the undersigned is concerned.

Yours faithfully


(JUGAL BARUAH) 18/12/06
SUPERINTENDENT (Admn.)

*Attested
with
Advocate*



Filed by:-
Respondents:
Shri Jugal Baruah
Natarajan Das
Adal. C. G. S. C.
CAT- 6.3.07

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

O. A. No. 312 / 2006

In the matter of:

Shri Jugal Baruah

..... Applicant

V/s

Union of India & Others

..... Respondents

(Written statement on behalf of Respondents No. 1 to 5)

I, R. Natarajan, aged about 54 years, presently working as Joint Director, E.S.I. Corporation, Headquarters, New Delhi do hereby solemnly affirm and state as follows:

1. That, I am the Joint Director, E.S.I. Corporation, Headquarters, New Delhi.

The copies of the aforesaid application have been served upon respondents No.

1 to 5. I have gone through the same and being the Joint Director of the

Corporation, I have understood the contents thereof. I have been authorized to

file this written statement on behalf of Respondents No. 1 to 4. I do not admit

any of the averments except which are specifically admitted herein after and the

same are deemed as denied.

2. That with regard to the statements made in paragraph 4.1 of the application

the answering respondent has nothing to make comment on it. He however,

does not admit any statements, which are contrary to records.

27/2/2007

3. That with regard to the statements made in paragraph 4.2 of the application the humble answering respondent begs to state that, in fact, the applicant joined the E.S.I. Corporation as L.D.C on 01.02.1979 and was working in Assam through his service career by spending for about 27 years except for a period of 3 years from 15.05.1990 to 16.08.1993 when he was working in West Bengal in the Cadre of Insurance Inspector.

4. That with regard to the statements made in paragraph 4.3 of the application the humble answering respondent begs to state that the applicant in fact did not obey the order of Promotion dated 19.10.2005. In a similar case the Hon'ble Central Administrative Tribunal, New Delhi, Principal Bench has upheld the order of respondent Director General E.S.I. Corporation in enforcing the order of promotion. The Hon'ble Tribunal in its judgment dated 14.11.2006 (Copy enclosed as **Appendix A**) in O. A. No 1594 / 06 was pleased to dismiss the plea of one Sri Bholaram of Haryana to permit him to decline his promotion and posting as Assistant Director in West Bengal as ordered on 19.10.2005. Nor did the Hon'ble Tribunal accede to his plea to direct the E.S.I. Corporation to adjust him in the same station or nearby station. His appeal against the judgment of the Hon'ble Tribunal has been dismissed by the Hon'ble High Court of New Delhi on 29.1.2007 in W.P.(C) No 720/2007 & CM 1339/2007 observing that " The Tribunal dismissed the application filed by the petitioner and in our view, rightly, as it has noticed that all the persons who sought to stall the transfer by declining promotion were dealt with similarly by declining such a request as a matter of policy" . (Copy of the judgment is enclosed as **Appendix B**)

[Handwritten signature]
27/2/2007

Earlier, in its judgment dated 14.11. 2006, the Hon'ble Tribunal observed:

"I do not find any justification in the contention raised by the Applicant that his plea for declining promotion has not been considered objectively, dispassionately, as urged. The administrative reasons assigned therein cannot be said to be either unreasonable or unjustified".

Further, the Hon'ble Tribunal in his judgment observed that:

"On bestowing my careful consideration to rival contentions and other aspects of the case, as noticed hereinabove, I find reason and justification to endorse the view taken by the Calcutta Bench in A.C. Roy (supra) holding that promotion is not merely given for the benefit of the employee concerned but it is also in the interest of administration".

In the said case No. O. A. 555/86 Sri A.C. Roy & Others – V/s – Union of India & Others, the Hon'ble Tribunal Calcutta Bench vide judgment dated 26.07.1988 observed as follows:

"The applicants have no right to refuse promotion. Promotion is not given merely for the benefit of the employees concerned: it is also in the interest of the administration. On account of experience and proficiency of an employee, he is judged suitable for promotion and posted at a higher post. This posting is in the interest of the administration and no government employee can refuse to carry out this order."

The Hon'ble Tribunal also observed that there is no personal liberty for an employee "to refuse promotion when a government employee is promoted and transferred in the public interest".

[Handwritten signature]
25/2/2007

Further, the answering Respondent begs to state that the applicant has been working in Assam for more than 13 years from 16.08.1993 onwards in the cadre of Insurance Inspector. This cadre carries all India transfer liability. However, as per the Transfer Policy brought into force w.e.f. 27.10.2006 (copy enclosed as **Appendix C**), the administration has given choice to those working in the cadre of Insurance Inspectors to opt for various zones for transfers. **In the case of those who do not exercise any option, it is presumed that their unwillingness to exercise option implies that they are willing to be transferred anywhere in India in the cadre of Insurance Inspector.** As per the said Policy, Insurance Inspectors who are working for a long time in a region are liable for transfer. **The Applicant has also filled the declaration in this regard, without exercising any option for any zone. The Applicant is, thus, aware that he is liable for transfer, even in his present cadre itself, outside his region at the time of general transfers** in the same manner in which the officers similarly placed are transferred outside the regions in which they are working at present. Declarations regarding the options of the individual officers are obtained not only from the officers working in the cadre of Insurance Inspectors but also from those who are working in the cadre of Assistant Directors and Deputy Directors as per the Transfer Policy brought in force on 17.03.2005 (copy enclosed as **Appendix D**). **The Applicant is liable for being considered for transfer outside his present region in both in his present cadre and also in the promoted cadre.**

The humble answering respondent begs to state that the applicant was not the only person who was posted outside his region. Orders were issued on 26.09.2003 promoting 220 persons, including applicant, to the cadre of

[Signature]
27/2/07

Assistant Director on adhoc basis. The said promotion order would show that the officers had been promoted and posted to various places depending upon the availability of vacancies and administrative exigency. But the applicant who was one of the promotee declined the promotion and requested to allow him to continue to work in Assam in the feeder cadre. Similar is the case of Sri.R. Nageswaran, Tamil Nadu who had been posted to Vijayawada. He had also declined the promotion ordered in the year 2003 while his seniors and juniors had accepted the promotion and joined duty in the neighboring regions.

Again, in the year 2005, another order was issued on 19.10.2005 promoting 170 persons on adhoc basis. The Applicant was posted to West Bengal. However, he did not join in the new place of posting but filed cases against such promotion and posting in **O. A. No. 5 of 2006 and O. A. No. 32 of 2006 in the Hon'ble CAT, Guwahati**. The cases are still pending.

The humble answering Respondent further states that the applicant in the instant case has attempted to establish his case by misrepresenting and misinterpreting the facts and circumstances of the case. It is not a fact that all the other officers are working in their home state. The adhoc promotion was ordered on 26.09.2003 but the applicant had refused to comply with the said order of adhoc promotion while many other promotees in the promotion list joined in their respective place of posting on adhoc basis and they are still working in those new regions. It is to be stated here that vide order promotion order dated 15.12.2006 issued by the Respondent Director General has only regularized the promotion of the officers in the cadre of Assistant Director/ Manager Grade I / Section Officer, many of whom had already been promoted

[Handwritten signature]
27/2/2007

on adhoc basis on 26.09.2003 and were working in the places already ordered. By the said order dated 15.12.2006, the applicant was promoted on regular basis in the existing vacant post in the state of West Bengal.

It has been clearly mentioned in the last para of the order dated 15.10.06 that "the places of postings in respect of promotees who are posted in the same regions in which they are working at present will be changed in the month of April, 2007, in terms of the Transfer Policy." It is significant to point out that the Applicant has been given posting only in the nearest region.

Besides, the answering Respondent submits that while deciding the place of postings of these promotees at the time of issue of the order dated 15.12.2006, there were two options open for the administration :-

The first option was the promotees could be posted to various regions depending upon the need of various regions in December, 2006 itself and their relief could be deferred to April, 2007. But, in that event, the administration had to take into account the requests of 26 Assistant Directors who were already working in various regions away from their home states.

The second option was to promote and post the officers as per the orders issued earlier on 26.11.2003 and 19.10.2005 with the specification that their places of posting would be changed in April, 2007 in terms of the Transfer Policy.

On considering the issue in its entirety, it was decided to follow the second option. It is also submitted in the context, that in regard to Assam, there is one Shri Kikumba Longchar who is working as Assistant Director in West Bengal from 26.11.2003 and he is due for being posted in Assam, as he has completed more than 3 years outside his home State. The Applicant is working continuously for more than 13 years, from 16.08.1993, in Assam itself and his

[Signature]
27/2/2007

case cannot be considered for being posted in Assam itself overlooking the case of Shri Kikumba Longchar. In any event, the Applicant is aware that he is due for being considered for transfer outside Assam even in his present cadre of Insurance Inspector, as per the Transfer Policy in force w.e.f. 27.10.2006.

5. That with regard to statement made in paragraph 4.4 of the application the humble answering respondent denies the correctness of the statements made by the applicant. The promotion order dated 26.09.2003 and subsequently on 19.10.2005 are issued as per law and there is no irregularity or illegality in passing the said impugned order. The relevant facts in this regard have already been submitted before the Hon'ble CAT in the OA 5/2006 and O.A. No.32/2006.

6. That with regard to the statement made in paragraphs 4.5 and 4.6 of the applicant the humble answering Respondent has denied the statements made by the applicant. The respondent No. 2, the **Director General of the ESI Corporation is the competent authority to order promotion and postings of the officers to the cadre of Assistant Directors.** At the time of issuing the order dated 15.12.2006, the case of applicant had, indeed, been considered along with those of the others, especially the case of Shri Kikumba Longchar. The comparison of the case of Shri Sutradhar is not relevant in the context, as he had not declined the promotion ordered on 26.10.2003 but had joined in West Bengal on his promotion.

7. That with regards to the statement made in paragraph 4.7 of the applicant, the humble answering Respondent begs to state that no officer has the right to remain in a particular place. In Mrs. Silpi Bose and others Vs State of Bihar & others reported in AIR 1991 SC 532 the Hon'ble Supreme Court has held that : "

[Signature]
27/2/07

A Govt. servant holding a transferable post has not vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the Competent Authority do not violate any of his legal rights."

8. That with regards to the statement made in paragraphs 4.8 of the applicant, the humble answering Respondent begs to state that the Respondent No. 2 the Director General of ESI Corporation is the competent authority to order promotion and postings of the officers to the cadre of Asstt. Directors. Shri Nageswaran of Tamilnadu has also been transferred and posted at Vijayawada Sub Region in the said order dated 15.12.2006. He had also been avoiding the transfer outside his home state even on promotion. The present order dated 15.12.2006 had been issued on the same lines which the earlier order was issued on 26.09.2003 in respect of both the applicant and Shri R. Nageswaran. Shri R. Nageswaran has now joined duty in Vijayawada as per the order dated 15.12.2006. **It is only the Applicant who has not complied with any of the three orders issued on 26.9.2003, 19.10.2005 and 15.12.2006.**

9. That with regards to the statements made in paragraph 4.9 of the applicant the humble answering Respondent begs to state that the applicant is nurturing imaginary grievances. He wants privileged treatment which is not given to others. His plea is not in Public Interest.

Grounds

10.1 That with regard to the statements made in paragraph 5.1 of the application, the humble answering Respondent denies the averments therein and begs to state that he has explained the reasons for the decision taken in

[Handwritten signature]
27/2/2009

respect of the Applicant in the foregoing paragraphs. The Applicant has no right to remain in a particular place. In *Mrs. Shilpi Bose & Ors. Vs. State of Bihar & Ors.* reported in AIR 1991 SC 532 the Hon'ble Supreme Court has held that: "**A government servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other.** Transfer orders issued by the competent authority do not violate any of his legal rights."

10.2 That with regard to the statements made in paragraph 5.2 of the application, the humble answering Respondent denies the averments therein and begs to state that the postings were made with reference to the availability of vacancies in various regions and the number of promotees available in those regions. When there were more promotees and less vacancies in a particular region the promotees had to be moved out to other regions. The Applicant is working in a post which carries all-India transfer liability. He is liable to be considered for transfer even in his present cadre as per the transfer policy circulated on 27.10.2006 in respect of the officers working in the cadre of Insurance Inspectors. It is also submitted in the context, that in regard to Assam, there is one Shri Kikumba Longchar who is working as Assistant Director in West Bengal from 26.11.2003. He is due for being posted in Assam, as he has completed more than 3 years outside his home State. The Applicant is working continuously for more than 13 years, from 16.8.2003, in Assam itself and his case cannot be considered for being posted in Assam itself overlooking the case of Shri Kikumba Longchar. In any event, the Applicant is aware that he is due for being considered for transfer outside Assam even in his present cadre of Insurance Inspector, as per the Transfer Policy in force w.e.f. 27.10.2006.

[Signature]
27/10/2007

10.3 That with regard to the statements made in paragraph 5.3 of the application, the humble answering Respondent denies the averments therein and begs to state that the Applicant is aware that he is working in a post which carries all-India transfer liability. The transfer liability is a pre-condition for appointment and it is made clear even at the time of inviting applications for those posts. Shri Jugal Barua joined duty in the cadre of Insurance Inspector being aware of his all-India transfer liability.

The order dated 19.10.2005 is not an order of transfer of Shri Jugal Barua in lateral capacity. It is an order of promotion. Transfers are governed by separate Transfer Policy whereby general transfers are ordered at the close of the academic year. But, promotions cannot be postponed till then, as the vacancies are required to be filled.

It is significant to point out that when the order dated 26.9.2003 was issued promoting and posting the Applicant as Assistant Director/Manager Gr.I in West Bengal, he sent a representation dated 8.10.2003 (Copy enclosed as **Appendix E**) declining promotion stating that

1. his elder son was doing B.Sc Part I
2. his youngest son was doing X standard
3. his mother was 87 years old and is ailing and
4. he himself was suffering from spondylitis.

Again, when he was promoted on 19.10.2005, he represented on 26.10.2005 (Copy enclosed as **Appendix F**) declining promotion that

1. his son was doing XII standard
2. his mother was 86 years old and that
3. his wife was physically unsound.

Now, in para 5.3 of the affidavit the Applicant says that he must be posted in Guwahati as his two sons are prosecuting their higher studies in the local college in Guwahati.

[Signature]
27/2/2007

It would be clear from the above that the Applicant is a habitual shirker of responsibility. He is always citing domestic reasons to avoid the responsibility of working outside his present region even on promotion. In this regard, it is submitted that in a similar case of *ESI Corporation Vs R.C. Gupta*, regarding transfer, the Hon'ble High Court of Delhi at New Delhi has observed in its judgment dated 26.4.2006 that **"if a transfer is allowed to be stalled on such specious pleas it will totally destroy the administrative efficacy of any establishment."**

10.4 That with regard to the statements made in paragraph 5.4 of the application, the humble answering Respondent denies the averments therein and begs to state that Shri Nageswaran of Tamilnadu has also been transferred and posted to Vijayawada sub-region in the said order dated 15.12.2006. He had also been avoiding the transfer outside his homestate even on promotion. The present order dated 15.12.2006 had been issued on the same lines in which the earlier order was issued on 26.9.2003 in respect of both the Applicant and Shri R. Nageswaran. Relevant facts in this regard have already been furnished against para 4.3 supra. Many of the officers who had been posted to regions different from the ones in which they were working earlier are still working in those new regions. **The Applicant is misleading the Hon'ble Central Administrative Tribunal** by projecting that the Regions mentioned in Col. No. 4 of the order dated 15.12.2006 represented the regions of choice in respect of all the promotees. But, the fact is that many officers had joined duty in the new regions when they were promoted on adhoc basis in the year 2003 and 2005 and it is not that all of them are working in their home state. It has been clearly mentioned in the last para of the order dated 15.10.06 that "the places of postings in respect

[Signature]
27/2/2009

of promotes who are posted in the same regions in which they are working at present will be changed in the month of April, 2007, in terms of the Transfer Policy."

10.5. That with regard to the statements made in paragraph 5.5 of the application, the humble answering Respondent denies the averments therein and begs to state that The case of the Applicant has been considered alongwith those of the others as narrated against para 4 and para 10.2 supra.

10.6 That with regard to the statements made in paragraph 5.6 of the application, the humble answering Respondent denies the averments therein and begs to state that the orders on 15.12.2006 have been issued only on the pattern of the order issued earlier on 26.9.2003. The Applicant is already working in the post of Insurance Inspector which carries all-India transfer liability. He has now been promoted to a Group 'B' post which also carries all India transfer liability. **He has been transferred and posted only in the nearest neighbouring region.** The Government of India, DP&AR, O.M. No. 22034/3/81 – Estt. (D) dated 1.10.1981, specifies that "where the reasons adduced by the officer for his refusal of promotion are not acceptable to the appointing authority, then he should enforce the promotion of the officer and in case the officer still refuses to be promoted, disciplinary action can be taken against him for refusing to obey his orders" . The Administration has to fill up the large number of vacancies existing in West Bengal, Mumbai and other regions in the cadre of officers Group 'B'.

In this case the transfer has been ordered at the time of promotion. It is not a general transfer in the same cadre. We are in need of officers to fill up large

27/2/07

number of vacancies in West Bengal and we have posted officers from various far away regions to West Bengal. But, the Applicant Shri. Jugal Baruah is not willing to move out from the neighbouring region Assam. *"There is no rule which confers any right on a government servant to stay in a particular place for a particular period."* (Jenamane Prafulla Kumar Vs State of Orissa -1981(1) SLJ -546- Orissa. - AIR 1965 SC 1196 - AIR 1972 SC 1004)

But, even in the case of transfers in the same cadre the Hon'ble Supreme Court has observed (in the case of In Union of India & Ors. Vs. S.L. Abbas reported in AIR 1993 SC 2444) that: "Who should be transferred where, is a matter for the appropriate authority to decide".

In Mrs. Shilpi Bose & Ors. Vs. State of Bihar & Ors. reported in AIR 1991 SC 532 the Hon'ble Supreme Court has held that: *"In our opinion, the courts should not interfere with a transfer order which are made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A government servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the department. If the courts continue to interfere with day to day transfer orders issued by the Government and its subordinate authorities, there will be complete chaos in the Administration, which would not be conducive to public interest. The High Court overlooked these aspects in interfering with the transfer orders."*

27/2/2007

The promotion and transfer of the Applicant has been ordered in public interest and the Appointing Authority had taken into account various factors including the interest of the officers.

11. The humble answering Respondent begs to state in the instant case the applicant in fact could not establish his case. There is no malafide on the part of the respondents in issuing of the said impugned orders dated 26.09.2003 and 15.12.2006. Unless and until there is mala fide, the Hon'ble Court would not interfere in the transfer case.

12. The humble answering Respondent begs to submit that the applicant failed to make out his case and is not legally entitled to get relief as prayed for and the application is liable to be dismissed.

VERIFICATION

I, R. Natarajan, son of Shri G. Rajagopalan, presently working as Joint Director in the ESI Corporation do hereby verify that the statements made in paragraphs 3, 4, 5, 6, 8,9, 10.2, 10.3, 10.4, 10.5, 10.6, and 11 are true to my knowledge : those made in paragraphs 7, 10.1 and 10.6 are being matters of records of the case derived therefrom which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunals. I have not suppressed any materials thereof.

And I sign this verification on this 27th day of February, 2007.


DEPONENT

-15-

25

APPENDIX - A

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1594/2006

New Delhi, this the 14th day of November 2006

HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (J)

Bhola Ram S/o Sh. Manphool
R/o H.No.1240, Sector-19,
Faridabad (Hr.)

... Applicant.

(By Advocate Shri Yogesh Sharma)

VERSUS

1. Employees State Insurance
through the Director General,
Punchceep Bhavan,
CIG Road, New Delhi.

2. The Joint Director,
Employees State Insurance
Punchceep Bhavan,
CIG Road, New Delhi.

... Respondents.

(By Advocate Ms. Jyoti Singh)

ORDER

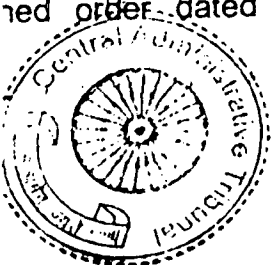
In this second round of litigation, applicant seeks quashing of impugned transfer order dated 19.10.2005 as well as communication dated 26.7.2006 rejecting his representation to adjust him at same station or nearby station. In alternate applicant seeks direction to respondents to allow him to perform duties as Insurance Inspector at the same station as he had requested for cancelling his promotion order with consequential benefits.

2. Factual matrix of case is that applicant, belonging to SC community, was appointed as Peon in 1969 and during the course of his service career earned many promotions. Presently he is holding post of Insurance Inspector on substantive basis in pay scale of Rs.5500-9000/-. Respondent no.2 vide order dated 19.10.2005 promoted as many as 170 officials from the grade of Insurance

16

for to the grade of Assistant Director / Manager Grade-I / Section Officer in
scale of Rs.6500-10500/- on adhoc basis and posted to various regional /
regional offices. Applicant preferred a representation dated 26.10.2005
stating his domestic problems and pointing out that he was unable to
move to West Bengal, where he has been posted vide aforesaid order. Basic
facts stated therein had been that his wife was continuously ill & is under
treatment at Escort Medical Centre, Faridabad and his parents about 80-90 years
are residing with him & he cannot leave them alone at this stage. Said
representation was rejected vide communication dated 30.12.2005 on the sole
ground that his request cannot be accepted due to administrative exigencies. He
filed writ petition w.e.f. 06.1.2006 vide order dated 04.1.2006. By instituting OA
dated 06.1.2006, aforesaid orders dated 19.10.2005 as well as 30.12.2005 were
quashed. Said OA was allowed vide order dated 22.5.2006 holding that he in his
representation while refusing promotion had given justifiable grounds which were
fully considered by the respondents and rather non-speaking order had been
passed which lacks transparency and fairness. It was incumbent upon the
respondents to give reasons in support of order. Ultimately, respondents were
directed to re-consider "request of applicant for refusal of promotion, duly
weighing grounds raised by him, by passing a detailed & speaking order"
within the time-limit prescribed therein and till then the said transfer order was
not to be given effect to. Pursuant to aforesaid order, respondents
passed order dated 24.7.2006 rejecting his plea for declining promotion and to
transfer order dated 19.10.2005.

Aforesaid transfer order dated 19.10.2005 as well as speaking order dated
24.7.2006 have been questioned in present proceedings. Shri Yogesh Sharma,
counsel for applicant strenuously urged that respondents passed
non-speaking order dated 24.7.2006 on same ground, which was urged by



17
respondents while defending earlier OA 571/2006. Out of 170 officials promoted in the aforesaid order, respondents adjusted first 105 senior-most officials on the same station, 27 next juniors were adjusted in adjoining States and next six were posted out, but later were diverted back to same station. Nineteen officials were given their choice posting, and only thirteen junior most officials, including the applicant, were posted out. Only two persons including applicant submitted their representations declining said promotion due to extreme personal difficulties. Applicant, being SC candidate, as far as possible should have been posted near to his native place within the region in terms of DoP&I OM dated 20.6.1989. As per Government of India OM dated 21.8.1989, discrimination should not be made in the matter of placement / posting of officials belonging to SC /ST category. Learned counsel further contended that respondents have not considered his representation objectively and dispassionately. Emphasis was laid to the fact that he was due to attain the age of superannuation in the year 2010 and his wife, being seriously ill and under treatment at Escort Medical Centre, Faridabad and his parents, being 80-90 years old, his request to post him nearby station should have been accepted. Shri Yogesh Sharma, learned counsel further contended that non-according similar treatment to him as of six officials who have been diverted back to their parent station amounts to discrimination for which purpose reliance was placed on order No.118 of 2006 dated 05.10.2006.

4. Respondents stoutly opposed the claim laid stating that Employees State Insurance Corporation, a statutory body having its offices throughout the length & breadth of India, runs directly more than 22 hospitals in various States. In order to administer the Scheme, Corporation requires officials to be transferred from one place to another. A proposal to promote 261 officials to the cadre of Assistant Director is pending with Union Public Service commission since 29th January, 2005. As the said process is likely to take some time, considering



administrative exigencies, it was decided to promote senior-most officials in feeder cadre of Insurance Inspector on adhoc basis to man 170 positions of Assistant Directors immediately. Out of 170 officials promoted vide order dated 19.10.2005, as many as 54 submitted their representation either seeking permission to decline the said promotion or requesting change in their place of positing. As a matter of policy it was decided not to allow option of declining promotion to any officer in public interest. Impugned order is neither found to be flawed by malafides nor issued in violation of statutory provisions and, therefore, cannot be interfered with. Reliance was placed on *Union of India & Ors. vs. S.L. Abbas* [AIR 1993 SC 2444], *Shilpi Bose (Mrs.) & Ors. vs. State of Bihar & Ors.* [1991 Supp (2) SCC 659] and *State of U.P. & Anr. Vs. Siya Ram & Ors.* [(2004) 7 SCC 405].

5. Applicant's representation was rejected by passing a well-reasoned & speaking order after noticing & analyzing every aspect. Allegations of discrimination in posting SC candidates were denied. Applicant, a group-C official (Insurance Inspector / Manager Grade-II) carries all India transfer liability. A large number of vacancies had arisen in the cadre of Assistant Director especially in West Bengal, Mumbai and certain other regions. Reliance was also placed on judgment of Hon'ble Delhi High Court dated 26.4.2006 in Writ Petition (C) Nos. 434-36 of 2006 [*Director General, EHC vs. R.C. Gupta*] to contend that the transfer cannot be stalled on such spurious pleas as raised in present case.

6. Ms. Jyoti Singh, learned counsel for respondents also pointed out that out of 54 officials who had submitted representation, eighteen officials had declined to accept the promotion ordered and remaining 36 requested for change in their place of posting. It was also pointed out that the applicant has remained more or



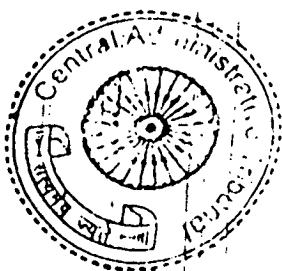
1st page not received from Govt

would have no difficulty to promote the next junior persons in case of any administrative exigencies.

9. I have heard learned counsel for parties and perused pleadings besides the judgments relied upon carefully.

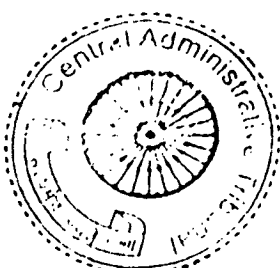
10. Shri Yogesh Sharma, learned counsel forcefully contended that judgment of R.C. Gupta (supra) is distinguishable in the facts and circumstances of present case and, therefore, not applicable. Learned counsel maintained that in R.C. Gupta, the official though not declined the promotion had only challenged the transfer order, while applicant in the case in hand has also declined promotion and further undertakes not to claim any promotion till he attains the age of superannuation in the year 2010. Therefore, learned counsel maintained that this being a distinct feature than that of R.C. Gupta's case, said judgment is distinguishable & cannot be applied. Learned counsel further pointed out that till date no order of regular promotion has been issued though the matter seems to be pending with the UPSC since January, 2005. Reliance was also placed on judgment dated 13.1.2003 in OA No.8/2003 [*B.L. Kapoor vs. Union of India & Ors.*], wherein it was observed that nobody can be promoted forcibly. Learned counsel also relied upon D.P.&A.R. OM dated 01.10.1981 dealing with the subject of refusal of promotion.

11. As far as judgment in B.K. Kapoor (supra) is concerned, I may note that the official therein was transferred vide order dated 27.12.2002 when he had only one and a half year's service left before attaining the age of superannuation. In these circumstances, though transfer order was quashed but the Bench observed that: "we do not intend to express an opinion on the rights of the respondents to transfer the applicant in accordance with law." As such, aforesaid judgment is clearly distinguishable and not applicable in the facts &



circumstances of present case. Aforesaid OM dated 01.10.1981 states that when a Government employee does not want to accept a promotion offered to him he can make a representation, which would be considered by the appointing authority taking relevant aspects into consideration. If the reasons adduced for refusal of promotion are acceptable, the next person in select list may be promoted. However, where it is administratively not possible or desirable to offer appointment to the person who initially refused promotion, no fresh offer of appointment on promotion shall be made in such cases for a period of one year from the date of refusal of first promotion. In case the reasons adduced by the Govt.-employee are not acceptable, then the Department should enforce the promotion of the officer and in case officer still refused promotion then even disciplinary action can be taken against him for refusal to obey his order.

12. In present case, respondents have not either suggested or contemplated initiation of disciplinary proceedings. On the other hand, the only reason conveyed in rejecting applicant's request for cancellation of order is that a large number of officials namely 54 out of 170 have made representation against their posting and accepting such request had a cascading effect and not in public interest. Therefore, I refrain to make any further comment on the applicability of the aforesaid OM. As far as order dated 24.7.2006 rejecting applicant's request for declining promotion is concerned, I find that two reasons for declining promotion were considered by the respondents. It was also noticed therein that there were fourteen officials promoted from Haryana region and the applicant was ranking last but one within Haryana. He could not therefore be posted in Haryana, overlooking others. It was also observed therein that promotion order dated 19.10.2005 is not an order of transfer in lateral capacity but an order of promotion. Transfers are governed by separate transfer policy whereby the



transfer orders are passed at the close of academic year etc., promotions cannot be postponed till then as the vacancies are required to be filled immediately.

13. On bestowing my careful consideration to rival contentions & other aspects of the case, as noticed hereinabove, I find reason and justification to endorse the view taken by the Calcutta Bench in A.C. Ro/ (supra) holding that promotion is not merely given for the benefit of the employee concerned but it is also in the interest of administration. It is undisputed fact that applicant carries all India transfer liability and he has not been singled out. It is also undisputed that the applicant remained posting at Faridabad or nearby for a long period. Therefore, it cannot be termed either discriminatory, arbitrary or unreasonable. It is well settled law that "transfer is an incident of Government service. Where should be transferred where, is a matter of appropriate authority to decide. Unless the order is passed by the proper authority or is made in violation of statutory provisions, the Court cannot interfere with it." It is not the case of the applicant that any statutory provision relating to transfer or posting has been violated by the respondents in present case. The only plea put forward is that respondents have failed to appreciate the distinction between the transfer or promotion and request for declining promotion. Further more non consideration of applicant's request despite the direction of this Tribunal vide order dated 22.5.2006 in CA 571/2006, amounts to non-application of mind. Emphasis made by applicant that said officials were diverted vide order dated 05.10.2006 and treating applicant differently from them amounts to discrimination, which cannot be accepted particularly when I find that the period of retention in respect of the said officials had been to a fixed time and for a limited period i.e. upto 15.4.2007 as specified in order dated 05.10.2006. In R.C. Gupta (supra) also similar plea of non-consideration of his request by passing a reasoned & speaking order along with other plea had been raised besides the fact that he had about two & half years to

2



22

32

9

attain the age of superannuation. In my respectful view, the plea of mala fides cannot be accepted as no firm foundation has either been laid or proved to accept such a plea.

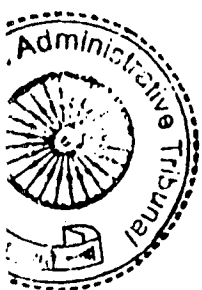
14. On perusal of speaking order dated 24.7.2006, I do not find any justification in the contention raised by the applicant that his plea for declining promotion has not been considered objectively, dispassionately, as urged. The administrative reasons assigned therein cannot be said to be either unreasonable or unjustified.

15. In view of discussion made hereinabove, I find no justification in the contention raised by applicant. OA, devoid of any merit, is dismissed. Interim orders stand vacated. No costs.

(Mukesh Kumar Gupta)
Member (J)

/gkk/

RECEIVED
Dated: 12/11/06
सूचना अधिकारी (प्रा-5)
Section Officer (P-5)
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रधान न्यायाधीश, दिल्ली
Principal Secretary, Delhi



23

APPENDIX - B

83

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 720/2007 & CM 1339/2007

Date of Decision: 29th January 2007

BHOLA RAM

Petitioner

Through Mr. (appearance not given), Adv.

versus

E.S.I. & ANOTHER

..... Respondent

Through Ms. Jyoti Singh, Adv.

CORAM:

HON'BLE MR. JUSTICE MUKUL MUDGAL

HON'BLE MS. JUSTICE ARUNA JURETHI

Whether the Reporters of Local Papers may be allowed to see the judgment?

To be referred to the Reporter or not?

Whether the judgment should be reported in the Digest.

JUL MUDGAL, J (Oral)

720/2007

ule DB.

The Addl. Commissioner, ESI Corporation, 5/1 Grant Lane, Kolkata -12 for information and necessary action.

(JUGAL BARUAH)

24

84

With the consent of the learned counsel for the parties this writ petition is taken up for hearing.

3. The petitioner was holding the post of Insurance Inspector with Employees State Insurance Corporation (ESI) in the pay scale of Rs.5500-9000/-. On 19th October 2005, the petitioner was promoted from the grade of Insurance Inspector to the grade of Assistant Director / Manager Grade-1/Section Officer in the pay scale of Rs.6500-10500. The petitioner has submitted that he does not seek promotion and his transfer made therefore is cancelled. The respondent took a policy decision that no person sought to be promoted shall be entitled to stall the promotion by declining his transfer. The petitioner sought to challenge this action on the ground that his wife is seriously ill and his aged parent is old with him. The Tribunal dismissed the application filed by the petitioner and in our view, rightly, as it has noticed that all the persons who sought to stall the transfer by declining promotion were dealt with similarly by declining such a request as a matter of policy. Consequently, we see no reason to interfere with the

The Addl. Commissioner, ESI Corporation, 5/1 Grant Lane, Kolkata -12 for information and necessary action.

(JUGAL BARUAH)

-25-

85

the policy decision particularly when the nature of the illness of the
petitioner's wife has not been pointed out to the Tribunal or to this
Consequently, there is no merit to the petition and same is
dismissed along with the application being C.K. No. 139/2007. However,
learned counsel for the petitioner makes a submission that due to the
petitioner's domestic compulsions, he would not like to continue with the
respondents and would like to seek voluntary retirement. The petitioner is
permitted to make a request in writing for voluntary retirement
respondents within four weeks from today and such a request would
be considered and disposed of within six weeks thereafter by the
Tribunal in accordance with law and applicable Rules.



MUKUL MUDGAL, J

ARUNA SURESH, J

MAY 29, 2007



Page 1 of 1

The Addl. Commissioner, ESI Corporation, 5/1 Grant Lane, Kolkata -12 for
information and necessary action.

(JUGAL BARUAH)



HEADQUARTERS' OFFICE
EMPLOYEES' STATE INSURANCE CORPORATION
PANCHDEEP BHAVAN: C.I.G. ROAD: NEW DELHI-110002.
<http://esic.nic.in>

No. A-22(13)1/2002-E.I

Dated: 20.7.2006

To

- 1) All the Regional Directors
- 2) The Joint Director; E. V, Hqrs. Office
- 3) All the Director/Joint Directors i/c of the SROs
- 4) Director(M)Delhi/ Director(M) Noida/ Director, ESIC Hospital, K.K. Nagar
- 5) All SSMCs/ SMCs
- 6) All the Medical Superintendents of ESIC Hospitals
- 7) All the Medical Superintendents of ESIC Model Hospitals

Sub : **Transfer policy for Insurance Inspectors / Managers Gr.II/
Superintendents in the offices of the ESI Corporation -
communicated**

Sir,

All the officials in the ESI Corporation in the cadre of Insurance Inspectors and above join the services of the Corporation only with the prior knowledge and clear understanding that they are liable to be transferred anywhere in India during the period of their service. Considering the issues involved in such transfers, it has been decided to introduce and enforce a transparent policy for transfer and placement of the officers working in the cadre of Insurance Inspectors in the ESI Corporation. The following guidelines will be adopted while considering the transfers and postings of officers of these categories:

(1) **Transfer liability:** All the officers in the cadre of Insurance Inspectors working as Insurance Inspectors or Branch Managers Gr. II or Superintendents would continue to be liable for transfers and postings anywhere in India.

(2) **General Transfers:** General transfers would, normally, be made in the month of April or May every year, keeping in view the commencement of the academic sessions so that the

hardship caused to the employees in securing admissions for their wards in educational institutions is minimised.

(3) Tenure: All postings of the officers in the cadre of Insurance Inspectors shall, normally, be for a period of three years. Only the active service in a particular tenure will be counted for determining the duration of the tenure. If an officer is to be transferred before the completion of the normal tenure of three years, the reasons therefor will be recorded in file while ordering the transfer. In case a transfer is made in mid-academic session on account of administrative exigencies, an option to retain the Corporation's accommodation / leased accommodation upto the end of the academic session will be allowed, if any child is studying at that station.

(4) Intra-Regional Transfers: The Regions would be divided into various segments for administrative convenience, and the officers in the cadre of Insurance Inspectors would be rotated among various segments. There is no provision to seek option for being posted in a particular segment within the region.

(5) Inter-Regional Transfers: In order to ensure that all the officers working in the cadre of Insurance Inspectors get an opportunity to work in the regions of their choice, at least, for a tenure, all the officers working as Insurance Inspectors / Branch Managers Gr. II / Superintendents would be transferred to other regions on rotational basis. To the extent possible, such rotational transfers would be made within the concerned zones. In the event of there being more persons working outside to be accommodated in the regions of their choice, the officers already working in a particular region for a longer period would be transferred outside their zones also.

(6) Option: The officers in the cadre of Insurance Inspectors will, as far as possible, be accommodated in one of the seven geographical zones of their choice. Options will be called for from the existing officers in these cadres to indicate three zones of their choice in order of priority and attempts will be made to post them in the zone(s) of their choice subject to availability of posts. In the event of non-availability of posts in the first zone, they will be considered for postings in the zones of their second or third choice.

3-28

The zones for this purpose would be as given below:

Zone	States
North Zone A	Jammu & Kashmir, Himachal Pradesh, Punjab, Chandigarh & Haryana,
North Zone B	Delhi, Uttar Pradesh, Rajasthan & Uttaranchal
West Zone	Maharashtra, Gujarat & Goa
Central Zone	Madhya Pradesh, Chattisgarh, Bihar & Jharkhand.
East Zone	West Bengal, Orissa, Sikkim & North-Eastern States.
South Zone A	Tamil Nadu, Andhra Pradesh & Pondicherry
South Zone B	Karnataka & Kerala,

(7) Requests for transfers: All the requests for transfers should be sent by the officers in the cadre of Insurance Inspectors, through proper channel, so as to reach the Hqrs. Office before the 31st December of the preceding year.

(8) Special consideration for husband and wife : As far as possible attempts will be made to post the husband and wife , if they are both working in the ESIC, at the same station, subject to availability of posts and their suitability.

(9) Rotation of officers in various posts and stations: In order to ensure all-round development of manpower and to equip the officers to handle various assignments, all the officers in the cadre of Insurance Inspectors are expected to work both in the field and in the secretarial assignments. They will be rotated among the Regional Offices, Sub-Regional Offices, Offices of the State Senior Medical Commissioners, Offices of the State Medical Commissioners, ESIC Hospitals, ESIC Model Hospitals and the Hqrs. Office.

(10) Identification of persons to be transferred: Only those who are working for a longer period in a particular region will be transferred out. For this purpose, only the tenure in the cadre of Insurance Inspector will be taken into account and not the entire period of service in various cadres.

(11) Ad hoc promotees also to be transferred: The adhoc promotees will also be subjected to such inter- regional transfers if they are working for a long time in a specific region in the cadre of Insurance Inspectors.

(12) Gender neutral: The transfer policy is gender-neutral.

(13) Officers due for retirement: An officer in the last two years of service before retirement on superannuation would not normally be transferred from where he / she is posted. If exigencies of services require such a transfer, orders thereof will be issued by the competent authority after recording the reasons therefor.

(14) Leave after transfer: Once a transfer order of an Officer has been issued by the competent authority, the officer concerned will not be granted leave of any kind by his / her controlling authority except for a period of one month from the date of relief. All cases in which the leave applied for is for a period more than a month or the requests for extension of leave of any kind beyond one month from the date of relief will be sent, through proper channel, to the authority that has issued the orders of transfer.

(15) Redressal of Grievances: A Senior Establishment Committee consisting of the Financial Commissioner, Insurance Commissioner and the Additional Commissioner (P&A) will consider the representations, if any, received from the officers who feel aggrieved by such transfers.

On administrative grounds and in exigencies of public work, the competent authority may make deviations from the above guidelines for transfers by recording the reasons in writing.

I request you to kindly ensure that all the officers in the cadre of Insurance Inspectors working under you are informed of the contents of this letter.

Yours faithfully,


(E. Sethu)
Additional Commissioner (P&A)
For Director General



HEADQUARTERS' OFFICE
EMPLOYEES' STATE INSURANCE CORPORATION
PANCHDEEP BHAVAN: C.I.G. ROAD: NEW DELHI-110002.
<http://esic.nic.in>

APPENDIX - D

No. A-22(13)1/2002-E.I

Dated: 17.03.2005

To

- 1) All the Regional Directors
- 2) The Joint Director, Admn.-V, 'Iqrs. Office
- 3) All the Director/Joint Directors i/c of the SROs
- 4) Director(M)Delhi/ Director(M) Noida/ Director, ESIC Hospital, K.K. Nagar
- 5) All the Medical Superintendents of ESIC Hospitals
- 6) All the Medical Superintendents of ESIC Model Hospitals

**Sub : Transfer policy for Group 'A' and Group 'B' Officers on the
Administration side – communicated**

Sir,

All the officers in the ESI Corporation in the cadre of Insurance Inspectors and above join the services of the Corporation only with the prior knowledge and clear understanding that they are liable to be transferred anywhere in India during the period of their service. Considering the issues involved in such transfers, it has been decided to introduce and enforce a transparent policy for transfer and placement of Group 'A' and Group 'B' Officers on the Administration side in the ESI Corporation. The following guidelines will be adopted while considering the transfers and postings of officers of these categories:

- (1) **Transfer liability:** All Group 'A' and Group 'B' Officers would continue to be liable for transfers and postings anywhere in India.
- (2) **General Transfers:** General transfers would, normally, be made in the months of March, April or May every year, keeping in view the commencement of the academic sessions so that the hardship caused to the employees in securing admissions for their wards in educational institutions is minimised.
- (3) **Tenure:** All postings of Group 'A' and Group 'B' Officers shall, normally, be for a period of three years. Only the active service in a particular tenure will be counted for determining the duration of the tenure. If an officer is to be transferred before the completion of the normal tenure of three years, the reasons therefor will be recorded in file while ordering the transfer. In case a transfer is made in mid-academic session on account of administrative exigencies, an

30-
91
option to retain the Corporation's accommodation / leased accommodation upto the academic session will be allowed, if any child is studying at that station. An officer should not remain in a particular station for a continuous period of more than six years.

(4) **Option:** Officers in the cadre of Assistant Directors and Deputy Directors, as far as possible, be accommodated in one of the five geographical zones of their choice. Officers will be called for from the existing officers in these cadres to indicate three zones of their choice in order of priority and attempts will be made to post them in the zone(s) of their choice, subject to availability of posts. In the event of non-availability of posts in the first zone, officers will be considered for postings in the zones of their second or third choice.

The zones for this purpose would be as given below:

Zone	States
North zone	Jammu & Kashmir, Himachal Pradesh, Punjab, Chandigarh, Haryana, Uttaranchal, Delhi & Uttar Pradesh
East Zone	West Bengal, Orissa, Bihar, Jharkhand, Sikkim & North Eastern States.
West Zone	Maharashtra, Gujarat, Rajasthan & Goa
South Zone	Karnataka, Kerala, Tamil Nadu, Andhra Pradesh & Pondicherry.
Central Zone	Madhya Pradesh & Chattisgarh.

(5) **Requests for transfers:** All the requests for transfers should be sent by the Group 'A' and 'B' through proper channel, so as to reach the Hqrs. Office before December of the preceding year.

(6) **Special consideration for husband and wife :** As far as possible attempts will be made to post the husband and wife if they are both working in the ESIC, at the same station, subject to availability of posts and their suitability.

(7) **Rotation of officers in various posts and stations:** In order to ensure the development of manpower and to equip the officers to handle senior assignments, officers upto the level of Joint Directors are expected to work both in the field and in the Hqrs. Office. They will be rotated among the Regional Offices, Sub-Regional Offices, the State Senior Medical Commissioners, Offices of the State Medical Commissioners, ESIC Model Hospitals, ESIC Model Hospitals and the Hqrs. Office.

34 32 -

92

(8) **Officers due for retirement:** A person in the last year of service would not normally be transferred from where he / she is posted. If exigencies of services require such a transfer, orders thereof will be issued by the competent authority after recording the reasons therefor.

(9) **Leave after transfer:** Once a transfer order of an Officer has been issued by the competent authority, the officer concerned will not be granted leave of any kind by his controlling authority. All requests for leave of any kind thereafter will be sent, through proper channel, to the authority which has issued the orders of transfer.

(10) **Redressal of Grievances:** A Senior Establishment Committee consisting of the Director General, Financial Commissioner, Insurance Commissioner, Medical Commissioner and the Additional Commissioner (P&A) will consider the representations, if any, received from the officers who feel aggrieved by the transfers effected.

On administrative grounds and in exigencies of public work, the competent authority may make deviations from the above guidelines for transfers by recording on the file the reasons in writing.

I request you to kindly ensure that all the officers working under you are informed of the contents of this letter.

Yours faithfully,

(Vijay Kumbhare)

Additional Commissioner (P&A)
For Director General

320 33
APPENDIX - E

Dated : Oct. 08, 2003.

The Director General, Estt.
ESI Corporation, Hqrs. Office,
Panchdeep Bhawan, Kotla Road,
New Delhi - 2.

(Through the Regional Director, ESIC, Guwahati)

170
Posting as Manager Gr.I. in West Bengal Region : prayer for
allowing to surrender promotion in the next higher post.

Hqrs. Office order No. 614 of 2003.

Kindly refer to Hqrs. Office order No. 614 of 2003 vide letter No.
2/13/2003-Estt.I.(A) dated 26.09.2003 regarding promotion / posting of AD/
Mg.Gr.I on ad hoc basis.

In this connection, I have to inform that I have been promoted to the
of Mgr. Gr.I (Sl. No. 28) and to state that at present I am not in a position to
of the promotion on the following grounds.

That Sir, my eldest son will be appearing in the Bsc. Part-I final
examination under Guwahati University to be held in the first quarter of 2004 and
my youngest son will also be appearing in the final examination of Class - X
standard under CBSE to be held in the month of March, 2004. And in absence of
personal attention to them, it will adversely affect their academic career.

That sir, my mother is 87 years old, has been suffering from old age
and also bed-ridden. In the meantime, I have already lost two of my elder
brothers in the previous year. In this critical juncture, I am the only male member
to look after in the last stage of her life.

That Sir, I have been suffering from Spondalities since long and also
in a position to undertake journey on regular basis as directed by attending
nursing for long time.

Under the above circumstances, I would like to request you kindly to
allow me to surrender my promotion and consider me for granting exemption from
operation of the above noted Hqrs. Office order.

Yours faithfully,

Jugal Baruah 22/10/03
(JUGAL BARUAH)
Suptd, R.O. ESIC, Guwahati

The Regional Director, ESI Corporation, Regional Office, Guwahati with a
request kindly to forward my representation dtd. 08.10.2003 to Hqrs. Office,
New Delhi.

The Addl. Commissioner, ESI Corporation, 5/1 Grant Lane, Kolkata -12 for
information and necessary action.

(JUGAL BARUAH)

-34-28

APPENDIX - F

ay

The Director General
E.S.I. Corporation,
16 Marg,
Delhi-110002

The Regional Director, E.S.I. Corporation, Guwahati, Assam.

Prayer for granting exemption from the operation of Hqrs. Promotion
Order No.500 of 2005 under serial No.6.

Kindly refer to Hqrs. Office order No 500 of 2005 issued vide
2/97/E.I.Col.II, dated 19.10.05 regarding promotion of Insurance Inspector to
Assistant Director/Manager Gr.II/Section Officer

In connection, I have the honour to state that Sir,

Sri Banjeet Baruah is a final year candidate of Class XII standard and
studying in a local educational institution affiliated to State Higher Secondary
Therefore, it will be bolt from the blue for my son to report the station at this
study period of time.

Sir my mother is 86 years old and none of the male family member are available
to look after at her last part of life. My two elder brothers have already died of
disease like Cancer

Sir my wife has been physically unsound with multiple diseases who needs
care and nursing for maintaining her health.

For above circumstances, I would like to state that I cannot be able to proceed
to the state of Assam and therefore, kindly allow me to skip the promotion at
on the ground cited above

Yours faithfully,

ORIGINAL BARUAH) 26/10/05
SUPERINTENDENT,
E.S.I. Corporation
Guwahati, Assam

19 JUL 2007

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

Filed by me applicant
S. N. N. N.
19/7/07.

In the matter of: -

In O.A. No. 312/2006

Sri Jugal Baruah

.... Applicant.

-Versus-

Union of India and Others.

... Respondents.

-And-

In the matter of: -

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

The applicant above named most respectfully begs to state as under; -

1. That with regard to the statements made in para 1 and 2 of the written statements, the applicant begs to state that he has no comments to offer and denies those which are contrary to records.
2. That the applicant denies the statements made in para 3 and 7 of the written statement and begs to state that although the applicant has been working for 27 years in Assam but he has also served for at least 3 years in West Bengal during this period of 27 years of his service career. But there are instances where a number of employees have served for more than 27 years at one particular place and not to speak of the particular State. There

are some officers who have been working even now for more than 30 years in the same state and instances are not wanting where some officers have even spent their entire service life from joining till retirement in one month. Shri K.C. Chosh who retired as Dy. Director on 30.09.2005 had never been posted outside Assam since he joined the ESI Corporation in 1963, and spent his entire service life in Assam only. Examples of such other officers can be furnished if and when asked for.

Further, the applicant is aware of his transfer liability as stated in para 7 of the written statement which he has not denied or disputed and as such the case law cited in para 7 is not relevant in this case. The applicant only claimed that the respondents do not have any right to enforce discriminatory transfer as illustrated above and as such the impugned transfer order in the instant case is illegal, arbitrary, discriminatory and has violated the legal rights of this applicant and the contentions of the respondents are not sustainable.

3. That the applicant categorically denies the statements made in para 4 of the written statement and begs to submit that the judgments in O.A. No. 1594/2006 and in O.A. No. 555/1986 delivered by the Principal Bench and Calcutta Bench respectively of this Hon'ble Tribunal as referred to by the respondents have no relevance in the instant case and have totally been misconstrued and misapplied here just to mislead the Hon'ble Tribunal. The said cases are pertaining to the denial/refusal of regular promotions and this applicant has neither declined nor refused the regular promotion granted under the promotion order dated 15.12.2006 but he has only challenged the validity and legality of his transfer and posting from Assam to West Bengal in an arbitrary and illegal manner and as such this applicants case is distinguished from the cases cited by the respondents.

The statement of the respondent that the applicant did not obey the order of promotion dated 19.10.2005 is not true and amounts to suppression of material fact. The said order of promotion was an "ad hoc

promotion" and that too a "conditional" one with no promotional benefits, which was malafide and illegal and as such the applicant approached this Hon'ble Tribunal seeking justice and challenging the validity and legality of the said order of promotion/transfer seeking justice before the forum of law cannot be treated as disobedience of the order of promotion.

As regards the promotion order dated 26.09.2003, the applicant begs to submit that the said order was also on ad hoc basis and a conditional promotion order. The applicant therefore prayed before the respondents to allow him to forego the ad hoc promotion on some personal grounds and the respondents were pleased to accept his prayer and allowed him to work in his pre-promoted post.

As such neither the promotion order dated 26.09.2003 nor the order dated 19.10.2005 were disobeyed or refused by the applicant which the respondents have attempted to project in a wrong and distorted manner by suppressing the material fact, and citing irrelevant cases herein.

Regarding the transfer policy, sought to be enforced w.e.f. 27.10.2006, as stated by the respondents, the applicant begs to state that said policy has been framed in an unusual haste with malafide intention and has been sought to be enforced on the applicant when the O.A. No. 312/2006 filed by the applicant is pending before this Hon'ble Tribunal. The said transfer policy framed and relied upon herein by the respondents is totally inconsistent with the provisions of Section 97 (2) (XII) of the FSI Act, 1948 and it has neither been accepted by the FSI Corporation nor has been forwarded to the Central Government as warranted under the provisions of Section 97 (3) and 97 (4) of the FSI Act, 1948. As such the said transfer policy is not sustainable and is liable to be set aside and quashed.

The statement that the applicant has been working in Assam for more than 13 years is not tenable for the reasons stated in para-2

hereinabove since there are number of such examples in the respondent department and the applicants case is not the solitary one.

Further, the plea of transfer order dated 26.09.2003 and dated 19.10.2005, which are ad hoc and conditional ones as referred to by the respondents are neither valid nor applicable here for the reasons that order dated 15.12.2006, which is pertaining to regular promotion to the cadre of Asstt. Directors/Branch Managers Cr-I/Section officers which is not regularization of promotion to the officers who were promoted on ad hoc basis on 26.09.2003 as contended by the respondents which is clearly evident from the promotion order dated 15.12.2006.

The statement of the respondents regarding last para of the promotion order dated 15.12.2006 that "the places of postings in respect of promotees who are posted in the same regions in which they are working at present will be changed in the month of April 2007 in terms of the transfer policy" is contradictory and inconsistency by itself. The respondents have not explained that when all the promotees in the impugned order could be posted in the same region in which they were working, as stated by them, why this applicant as a solitary case could not be posted in the same region in which he has been working, although there has been vacant post in his region.

Further, the case of Sri R. Nageswaran as referred to by the respondents is not applicable here. Shri Nageswaran had declined his promotion which is not the case with this applicant as stated hereinabove.

This apart, the principles adopted in the matter of posting of the promotees vis-à-vis the case of Shri Kikumba Longchar as stated by the respondents are all their afterthoughts and concocted stories. The respondents have failed to justify as to under what principles the applicant alone has been sought to be shifted from the region in which he has been working when all the 184 other officers promoted in the same order could be retained in the respective regions where they had been

working, specially when there has been vacant post in Assam where the applicant also could be retained as have been done in all the other cases.

It is relevant to mention here that Shri Kikumba Longchar having joined in West Bengal on 26.11.2003 had completed his tenure of 3 years on 26.11.2006 only. But the post of Asstt. Director fell vacant w.e.f 06.09.2006 following the transfer of one Shri D.N. Das and this applicant submitted his the said post. Even this Hon'ble Tribunal vide its order dated 22.09.2006 in MP No. 103/2006 (in O.A. No. 32/2006) directed the respondents to consider the representation dated 14.09.2006 of the applicant in response to which the respondent No. 5 vide letter dated 19.10.2006 (Annexure-4 to this O.A) informed to the respondent No. 4 that the case of the applicant would be considered along with the claims of others. But even thereafter the respondents surprisingly rejected the prayer of the applicant which was made much earlier than completion of 3 years tenure of Shri K.Longchar in West Bengal who is not only much junior to this applicant but this applicant has rendered loyal and dedicated services for long 27 years and has also served for 3 years in West Bengal. Even there are officers who have been working as Asstt. Director in West Bengal for more than 4 years and have better claims than Shri Longchar for their transfer to Assam. As such, the plea of considering the case of Shri K. Longchar in particular and that too at the cost of the applicants case is malafide, ill motivated and based on extraneous considerations, which has been projected now only in order to mislead the Hon'ble Tribunal, and to divert its attention in the issue involved herein.

4. That the applicant categorically denies the statements made in para 5, 6, 8 and 9 of the written statement and further begs to submit that the matter of promotion order dated 26.09.2003 and 19.10.2005 as stated by the respondents in para 5 of the written statement have already been explained in the preceding para hereinabove. These have already been examined by this Hon'ble after which this Tribunal vide its order dated

22.09.2006 in M.P. No. 103/2006 (in O.A. No. 32/2006) has directed the respondents to consider the representation of the applicant, which the respondents have not done.

The case of Sri Kikumba Longchar and Shri Nageswaran as referred to by the respondents are not applicable and relevant in the instant case for the reasons explained hereinabove.

Further, Shri P. Sutradhar was posted in West Bengal vide order dated 26.10.2003 and has been transferred back to Assam even before completion of 3 years in west Bengal on his personal request and not in public interest. The plea that Shri Sutradhar did not decline the promotion under order dated 26.10.2003 is not sustainable and cannot justify the rejection of the case of the applicant since this applicant also had not declined the promotions aforesaid as explained in the preceding paragraphs hereinabove and is similarly situated as that of Shri Sutradhar.

Further, the applicant has not been disputing herein his transfer liability or the transferring powers of the authority nor has ever prayed for his permanent posting at Guwahati as mis-stated by the respondents and the case law cited in para 7 of the written statement is not applicable in this case. This applicant only prayed for his posting and retention at Guwahati for a temporary period of 2-3 years only to overcome his genuine domestic problems as stated in his representation which has been done in case of all other officers promoted under the same order. This applicant's grievance is against the discriminatory treatment meted to him in respect of his transfer and posting which has been done with malafide intention and which suffers from the illegality, unfairness, unreasonableness and based on extraneous considerations and without any public interest whatsoever. As such the grievances of the applicant are not imaginary but based on facts, bonafide and for the ends of justice.

5. That the applicant emphatically denies the statements made in para 10.1 to 10.6 of the written statement and begs to state that all those points have

been replied in the preceding paragraphs hereinabove and repetition of the same here will be superfluous. The applicant most respectfully begs to submit that all the grounds stated in para 5.1 to 5.6 of the application are based on facts and in accordance with law and the impugned transfer and posting of the applicant from Assam to Guwahati as a solitary case is malafide, arbitrary, illegal and based on extraneous considerations, which the applicant has failed to justify and which is not in public interest whatsoever. As such, the impugned transfer of the applicant is liable to be set aside and quashed.

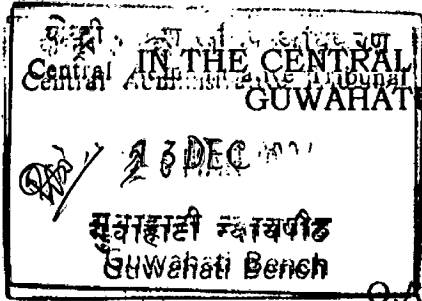
6. That with regard to the statements made in para 11 and 12 of the written statement, the applicant most respectfully begs to submit that the impugned transfer/posting of the applicant from Assam to Guwahati is malafide and the respondents have failed to substantiate their action which they have done on grudging motive since the applicant approached this Hon'ble Tribunal against the illegal transfer orders. As such it is a fit case for this Hon'ble Tribunal to interfere with and the applicant is entitled for the relief's prayed for in the application.
7. That in the facts and circumstances stated above, the applicant humbly submits that he is entitled to the relief's prayed for, and the O.A deserves to be allowed with cost.

VERIFICATION

I, Shri Jugal Baruah, S/o- Late Kula Chandra Baruah, aged about 50 years; working as Superintendent, in the Regional office, Employees State Insurance Corporation, Bamunimaidan, Guwahati- 21, Assam, do hereby verify that the statements made in Paragraph 1 to 7 of the rejoinder are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 19th day of July 2007.

Jugal Baruah



O.A. No.312/2006

Sri Jugal Baruah

Applicant

-Versus-

Union of India & Others

Respondents.

INDEX

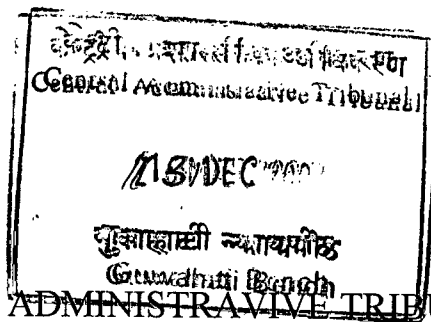
Sl. No.	Annexure	Particulars	Page No.
01		Addl. Statement	1-3
02		Verification	3
03	Annexure-1	List of Officers promoted & posted outside State	4-5
04	Annexure-1A	Order dt.19.12.2005	6-9

Date: 4/12/07

Filed by:

Manjula Dey

Advocate



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Filed by: -
The Respondents
through:-
Mangla Das
Asstt. Secy. C
CAT. 4/12/07

In the matter of

In O.A.No.312/06

Sri Jugal Baruah
...Applicant

-Vs-

Union of India and Ors
..Respondents

AND

In the matter of :-
Misc. Case No.86/07
Shri Jugal Baruah

AND

In the matter of :
Addl. Written Statement
by the Respondent

(ADDL. WRITTEN STATEMENT ON BEHALF OF THE RESPONDENTS TO ~~MISC~~ ORIGINAL
APPLICATION NO.312/06 FILED)

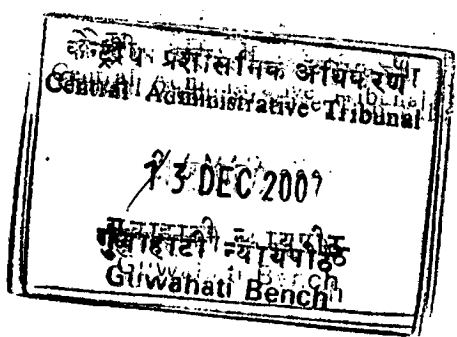
I, Amal Chandra Majumder aged 51 yrs S/O Late K.B.Majumder presently working as
Dy Director, E.S.I.Corporation, Regional Office, N.E.Region, Guwahati, do hereby solemnly
affirm and say as follows:

- (1) That the humble answering respondent has already filed a written statement to the
above O.A. as well as reply statement to the above Misc. Case.
- (2) That the humble answering Respondent beg to state that the order dated 15.12.06
Office Order No.137 of 2006 (Annexure 5 to the O.A and Annexure C to the Reply
Statement) is only a promotion order and in fact is not a transfer order and by the said
order the service of the ad-hoc promotees i.e. the cadre of Insurance Inspector/Branch
Manager Gr.II/Superintendents were regularized to the cadre of Asstt. Director.

It is pertinent to mention here that on 26.09.03 Office Order No.614 of 2003 there was ad-hoc promotion order by promoting the 220 Officers viz. Inspector/Branch Manager Gr.II/Superintendent to the post of Asstt Director. In the said list, the name of the applicant Shri Jugal Baruah very much appeared at serial No.28 and he did not comply with the said order and refused to accept the said promotion.

Subsequently, there was another ad-hoc promotion order was issued by the respondent No.5 vide order dated-19-10-05 order No.500 of 2005 in the said list, the name of the applicant is very much appeared against Sl No.6 and that time also he refused to accept the said ad-hoc promotion to the post of Asstt Director/Branch Manager Gr. I/Section Officer.

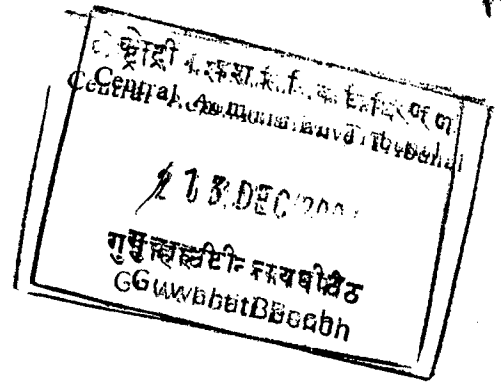
3. The applicant in the instant case made some incorrect statements as regards the transfer of the Officers of Insurance Inspector/Superintendent/Branch manager Gr. II by accommodating all the Officers except the applicant to the post of Asstt Director. Here, the humble answering respondent begs to state that the said order dated-15-12-06 Office order No.137 of 2006 issued by the respondent No.5 is an order of promotion on regular basis. Thus, thereby, meant that services of those ad-hoc 185 promotees vide Office Order dated-19-10-05 were regularized. Further it is stated that in the said ad-hoc promotion order dated-19-10-2005 most of the Officers were posted outside home state.



A copy of the list of the Officers those who were promoted on ad-hoc basis vide Office Order No.500 of 2005 dated -19-10-2005 and posted outside the state is annexed herewith and marked as Annexure - I. *and I-A*

4. That the humble answering respondent begs to submit that there is no illegality or irregularity and any malafide action on the part of the respondent by issuing the promotion order dated -15-12-06.

5. That the humble answering respondent begs to state that the instant O.A. No. 312/2006 has no legal and valid ground for warranting your Lordship's interference and the instant O.A. No. 312/2006 is liable to be dismissed.



VERIFICATION

I, Amal Ch. Majumder , S/O Late K.B.Majumder, aged about 51 years presently working as Dy Director, E.S.I. Corporation, N.E. Regional Office, Guwahati do hereby verify that the statement made in paragraphs 1 to 3 are true to my knowledge, those made in paragraphs 4 to 5 are being matters of records of the case derived therefrom which I believe to be true and the rest are humble submission before this Hon'ble tribunal.

I have not suppressed any materials thereof.

And I sign this verification on 30th day of November 2007.

DEPONENT

THE LIST OF OFFICERS THOSE WHO WERE PROMOTED
ON AD-HOC BASIS VIDE OFFICE ORDER No.500 of 2005
DATED 19. 10.05 AND POSTED OUTSIDE STATE

Sl No.of the list	Name of Officer	Transferred from the state	Posted to the state
3.	S/Shri Nizamuddin	Karnataka	Andhra Pradesh
4.	" Bhagwan Singh	West Bengal	West Bengal
8.	" R.N. Maharana	Orissa	West Bengal
9.	" K.K.Kureel	U.P.	Noida
12.	" M.Kalaivanan	Tamil Nadu	Karnataka
18.	" M.Koodalingam	Coimbatore	Kerala
19.	" M. Borai	Karnataka	Goa
25.	" Ram Swaroop Kunhariya	Rajasthan	Madhya Pradesh
35.	" G.Panda	Orissa	West Bengal
37.	" S.K.Srivastava	Madhya Pradesh	Chattisgarh
39.	" N.C.Purani	Gujrat	Ahmedabad
44.	" B.K.Sharma	Rajasthan	Madhya Pradesh
48.	" A.K.Khanra	Hqrs(New Delhi)	Mumbai
52.	" R.S.Rehilla	Haryana	Hqrs(New Delhi)
57.	" Sunil Kumar	de-	de-
58.	" Hoshier Singh	de-	de-
60.	" Shubhkaran	Punjab	Himachal Pradesh
62.	" K.S.Minhas	Haryana	Pune
63.	" Sat Pal Bansal	de-	de-
64.	" Nilam Puri	de-	Mumbai
66.	" Suresh Pal Singh	Rajasthan	West Bengal
68.	" G.C.Rout	Orrissa	West Bengal
71.	" Baldev Singh	Punjab	Jammu
76.	" B.C.Godika	Rajasthan	West Bengal
77.	Mrs B. Nag	ASSAM	West Bengal
84.	" J.P.S.Mallik	Haryana	West Bengal
88.	" A.B.Manibhaktar	Nagpur	Aurangabad
91.	" V.D.Pinjaker	Nagpur	Mumbai
95.	" M.P.Chankapuri	Nagpur	Mumbai
98.	" A.Pondyaranjan	Madurai	Tirunelveli
100.	" J. Boro	ASSAM	West Bengal
102.	" P.S.Verma	Haryana	West Bengal
103.	" Rameshwar Das,	Punjab	Ludhiana

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal

13 DEC 2005

गुवाहाटी न्यायपीठ
Guwahati Bench

Contd- 2

Certified to be true

MS

4/12/07

(2)

1.	2.	3.	4.
106.	S/Shri S.Malhotra	BMD	Mumbai
107.	" Prem Lata	Hqrs(New Delhi)	Mumbai
108.	" Rama Dhamija	do-	do-
112.	" A.K.Sagi	Delhi	Pune
114.	" C.P.Wadhwa	Hqrs(New Delhi)	West Bengal
115.	" N.K.Luthra	do-	do-
118.	" Meenakshi Nanda	Delhi	Pune
120.	" V.K.Sharma	Delhi	West Bengal
121.	" K.Padmavathy	Tamil Nadu	Salem
122.	" Sushil Sachdeva	Delhi	West Bengal
123.	" S.S.Balal	Haryana	Tamil Nadu
125.	" Manish Gupta	BMD	West Bengal
131.2	" I.G.Pillai	Gujarat	Ahmedabad
132.	" B.C.Mehta	Gujarat	Mumbai
133.	" O.P.Dhingra	Delhi	West Bengal
134.	" Vijay Kumar	Delhi	West Bengal
135.	" Pankaj Kumar	Bihar	West Bengal
136.	" Savita R.Suresh	Delhi	West Bengal
137.	" Rajendra K.Pillai	Nagpur	Aurangabad
139.	" Rehtas Singh	Delhi	West Bengal
140.	" Majumder P.Keshav Lal	Gujarat	Mumbai
142.	" Girish Kumar Jain	Delhi	West Bengal
145.	" Azad Singh	Delhi	West Bengal
147.	" Ajay Kumar Mahajan	Delhi	Tamil Nadu
152.	" Krishna Das	Jharkhand	West Bengal
156.	" Ram Prasad	Delhi	West Bengal
157.	" Mul Chand	do-	do-
158.	" Jai Prakash	do-	do-
159.	" Phool Singh Giredh	do-	do-
160.	" Vikramjit Singh	do-	do-
161.	" Ran Singh	do-	Andhra Pradesh
162.	" Baldev Singh	Punjab	Jammu
166.	" Bhola Ram	Haryana	West Bengal
167.	" Balvant Ram	Haryana	Tamil Nadu
168.	" Ram Swaroop Jarwal	Rajasthan	Mumbai
169.	" S.C. Beka	Assam	West Bengal
170.	" B.C.Rahi	Rajasthan	West Bengal

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal

13 DEC 2000

गुवाहाटी न्यायपीठ
Guwahati Bench



HEADQUARTERS
EMPLOYEES' STATE INSURANCE CORPORATION
PANCHDEEP BHAVAN: C.I.G. ROAD: NEW DELHI-110002
http://esic.nic.in

No. A33/12/1/97-E.I Col. II

Dated : 19.10.2005

OFFICE ORDER No. 500 OF 2005

The Director General is pleased to order the promotion of the following officers in the grade of Insurance Inspector (in the pay scale of Rs.5500 - 9000/-) to the grade of Assistant Director / Manager Gr. I / Section Officer (in the pay scale of Rs.6500 - 10500) on adhoc basis and post them as follows:-

Sl. No.	Name of the Officer S/Shri/Smt.	Present place of posting as I.I / Mgr.Gr.II/ Supdt.	Region/Sub-Region/Office in which posting is now ordered as Asst. Director/ Section Officer/ Manager Gr.I on adhoc basis
1.	Ashok Kumar Parida	Karnataka	Karnataka
2.	W. Suresh Manuel	Coimbatore	Coimbatore
3.	Nizamuddin	Karnataka	Andhra Pradesh
4.	Bhagwan Singh	Jharkhand	West Bengal
5.	B.K. Sinha	Bihar	Bihar
6.	Jugal Barua	Assam	West Bengal
7.	DK Sarkar	West Bengal	West Bengal
8.	RN Mohrana	Orissa	West Bengal
9.	KK Kureel	Uttar Pradesh	Noida
10.	VK Roda	Delhi	Hqrs.
11.	VK Taneja	D(M)D	D(M)D
12.	M Kalaivanan	Tamil Nadu	Karnataka
13.	S Jayaraj	Tamil Nadu	Tamil Nadu
14.	Pankaj Kumar	Delhi	Hqrs.
15.	J.Shiva Shankar	Andhra Pradesh	Andhra Pradesh
16.	Baldev Raj	Uttar Pradesh	Uttar Pradesh
17.	A.K.Nim	Delhi	Hqrs.
18.	M.Koodalingam	Coimbatore	Kerala
19.	M.Dorai	Karnataka	Goa
20.	Jaglal Chaudhary	Jharkhand	Jharkhand
21.	Ramulu	Andhra Pradesh	Andhra Pradesh
22.	D.Sugumaran	Karnataka	Karnataka
23.	S.K.Chaturvedi	Hqrs.	Hqrs.
24.	P.N.Bhasin	Delhi	Delhi
25.	Ram Swaroop Kunharia	Rajasthan	Madhya Pradesh
26.	Ramesh Chander -II	Delhi	Hqrs.
27.	Mrs. Saroja Ashokan	Pune	Pune
28.	Amarjeet Kumar	Punjab	Punjab
29.	D.N. Dhalgera	Gujarat	Gujarat
30.	S.S.Hirani	Gujarat	Gujarat
31.	Chander Sen	D(M)D	D(M)D
32.	Saheb Ram Singh	Delhi	Hqrs.
33.	Anil Kr. Rastogi	Delhi	Hqrs.
34.	M.A.Hafees	Andhra Pradesh	Andhra Pradesh
35.	G.Panda	Orissa	West Bengal
36.	Har Sahai	Uttar Pradesh	Uttar Pradesh
37.	S.K.Srivastava	Madhya Pradesh	Chattisgarh
38.	C.B.Gandhi	Gujarat	Gujarat
39.	N.C.Purani	Gujarat	ESICM Hospital, Ahmedabad
40.	Kusum Vohra	Hqrs.	Hqrs.
41.	Kanwaljit Singh	Delhi	Delhi
42.	V.L.Joshi	Madhya Pradesh	Madhya Pradesh
43.	Daljit Kaur Mavi	Punjab	Punjab
44.	D.K.Sharma	Rajasthan	Madhya Pradesh

Certified to be true
A. Lal. C-G.S.C
4/12/07

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal

13 DEC 07

गुवाहाटी न्यायाधीश
ch

45.	Narain Dass	Rajasthan	Rajasthan
46.	Abdul Quodeos	Delhi	Hqrs.
47.	Vilayati Lal	Delhi	Hqrs.
48.	Anil Kumar Khanna	Hqrs.	Mumbai
49.	N.K.Basheri	Gujarat	Gujarat
50.	J.K.Parmar	Gujarat	Gujarat
51.	R.K.Sharma	Delhi	Hqrs.
52.	R.S.Rohilla	Haryana	Hqrs.
53.	Mrs. V.K.Pathak	Hqrs.	D(M)D
54.	S.C.Kulshrestha	Uttar Pradesh	Uttar Pradesh
55.	Satpal	Hqrs.	Hqrs.
56.	Harish Chander	Haryana	Haryana
57.	Sunil Kumar	Haryana	Hqrs.
58.	Hoshiar Singh	Haryana	Hqrs.
59.	Kiran Kohli	Delhi	Delhi
60.	Shubhkaran	Punjab	Himachal Pradesh
61.	Tarsem Pal	Haryana	Haryana
62.	K.S.Minhas	Haryana	Pune
63.	Sat Pal Bansal	Haryana	Pune
64.	Neelam Puri	Haryana	Mumbai
65.	S.G.Teher	Andhra Pradesh	Andhra Pradesh
66.	Suresh Pal Singh	Rajasthan	West Bengal
67.	P.N.Sahoo	Orissa	Orissa
68.	G.C.Rout	Orissa	West Bengal
69.	Shiv Shankar Lal Srivastava	Uttar Pradesh	Uttar Pradesh
70.	Upendra Bajaj	Madhya Pradesh	Madhya Pradesh
71.	Baldev Singh	Punjab	ESICM Hospital, Bari Brahma (Jammu)
72.	Smt.L.B.Shah	Gujarat	Gujarat
73.	Smt.A.S.Chaurasia	Gujarat	Gujarat
74.	Ladu Ram Rana	Rajasthan	Rajasthan
75.	P.R. Kudal	Rajasthan	Rajasthan
76.	B.C.Godika	Rajasthan	West Bengal
77.	Mrs. B. Nag	Assam	West Bengal
78.	A.Shyama Prasad	Karnataka	Karnataka
79.	U.Vasantha Kr. Shenoy	Karnataka	Karnataka
80.	Ram Kr. Dwivedi	Uttar Pradesh	Uttar Pradesh
81.	K.Sreenivasan	Kerala	Kerala
82.	M.V.Krishnan	Kerala	Kerala
83.	P.Balakrishnan Nair	Kerala	Kerala
84.	J.P.S.Malik	Haryana	West Bengal
85.	V. Srinivasa	Karnataka	Karnataka
86.	D.B.Bhende	Mumbai	Mumbai
87.	R.A.Pillai	Pune	Pune
88.	A.B.Manivatkar	Nagpur	SRO, Aurangabad
89.	M.P.Gangurde	Mumbai	Mumbai
90.	M.S.Dhaware	Pune	Pune
91.	V.D.Pinjarkar	Nagpur	Mumbai
92.	R.G.Waghmare	Mumbai	Mumbai
93.	N.S.Bodhere	Mumbai	Mumbai
94.	V.P.Nalavede	Pune	Pune
95.	M.P.Chankapure	Nagpur	Mumbai
96.	B.P.Gaigwal	Pune	Pune
97.	Shankar Lal Anjana	Madhya Pradesh	Madhya Pradesh
98.	A.Pondyrajani	Madurai	Tirunelveli
99.	C.N.Chauhan	Gujarat	Gujarat
100.	J.Boro	Assam	West Bengal
101.	S.Venkatarathnam	Andhra Pradesh	Andhra Pradesh
102.	P.S.Verma	Haryana	West Bengal
103.	Rameshwar Das	Punjab	ESICM Hospital, Ludhiana
104.	S.R.Mago	Delhi	Delhi
105.	N.K. Sahu	DMD	DMD
106.	Santosh Malhotra	DMD	Mumbai
107.	Prem Lata	Hqrs.	Mumbai

108.	Rama Dhamija		Hqrs.	Mumbai
109.	M.C. Nag		Assam	West Bengal
110.	Raj Kumari Sabharwal		Delhi	Hqrs.
111.	Praveen Sehgal		Gujarat	Gujarat
112.	A.K. Sagi		Delhi	Pune
113.	Alluri Venu Gopal		Andhra Pradesh	Andhra Pradesh
114.	C.P. Wadhwa		Hqrs.	West Bengal
115.	N.K. Luthra		Hqrs.	West Bengal
116.	Rajiv Kumar Choudhary		Mumbai	Mumbai
117.	Jyoti Prasad		Bihar	Bihar
118.	Meenakshi Nanda		Delhi	Pune
119.	P.M. Khale		Madhya Pradesh	Madhya Pradesh
120.	Vinay Kumar Sharma		Delhi	West Bengal
121.	K.Padmavathy		Tamil Nadu	Salem
122.	Sushil Sachdeva		Delhi	West Bengal
123.	S.S. Dalal		Haryana	Tamil Nadu
124.	P.K. Bhatnagar		Delhi	Delhi
125.	Manish Gupta		D(M)D	West Bengal
126.	K.K. Malhotra		Hqrs.	Hqrs.
127.	P.M. Narayandas		Karnataka	Karnataka
128.	M.G. Parihar		Gujarat	Gujarat
129.	K.N. Jotwani		Gujarat	Gujarat
130.	Kakali Das		Andhra Pradesh	Andhra Pradesh
131.	I.G. Pillai		Gujarat	ESICM Hospital, Ahmedabad
132.	B.C. Mehta		Gujarat	Mumbai
133.	Om Prakash Dhingra		Delhi	West Bengal
134.	Vijay Kumar		Delhi	West Bengal
135.	Pankaj Kumar		Bihar	West Bengal
136.	Savita R. Suresh		Delhi	West Bengal
137.	Rajendra R. Pillai		Nagpur	West Bengal
138.	Prasun Kumar Sinha		Mumbai	SRO Aurangabad
139.	Rohtas Singh	SC	Delhi	Mumbai
140.	Majmudar P. Keshav Lal	SC	Gujarat	West Bengal
141.	Kalidas Sajjan	SC	West Bengal	Mumbai
142.	Girish Kumar Kain	SC	Delhi	West Bengal
143.	Vijay Bokalia	SC	D(M)D	West Bengal
144.	Champak Biswas	SC	Hqrs.	Hqrs.
145.	Azad Singh	SC	West Bengal	West Bengal
146.	Jyoti Parkash	SC	Delhi	West Bengal
147.	Ajay Kumar Mahan	SC	Karnatka	Goa
148.	Premdas Jaiswara	SC	Delhi	Tamil Nadu
149.	P.K. Krishnan Kutty	SC	Uttar Pradesh	Uttar Pradesh
150.	V. N. Sarojini	SC	Kerala	Kerala
151.	C. Gopinathan	SC	Kerala	Kerala
152.	Krishna Das	SC	Kerala	Kerala
153.	S. Palaninathan	SC	Jharkhand	West Bengal
154.	Amarjeet Singh	SC	Tamil Nadu	Tamil Nadu
155.	S. Dhandapani	SC	Punjab	Punjab
156.	Ram Prasad	SC	Coimbatore	Coimbatore
157.	Mool Chand	SC	Delhi	West Bengal
158.	Jai Prakash	SC	Delhi	West Bengal
159.	Phool Singh Giroh	SC	Delhi	West Bengal
160.	Vikramjit Singh	SC	Delhi	West Bengal
161.	Ran Singh	SC	Delhi	West Bengal
162.	Baldev Singh	SC	Delhi	Andhra Pradesh
163.	B. Gnana Kumar	SC	Punjab	ESICM Hospital, Bari Brahma, Jammu
164.	Hari Krishan	SC	Andhra Pradesh	Andhra Pradesh
165.	J. B. Ram	SC	Haryana	Haryana
166.	Bhola Ram	SC	Jharkhand	Jharkhand
167.	Balvant Ram	SC	Haryana	West Bengal
168.	Ram Swaroop Jarwal	SC	Haryana	Tamil Nadu
169.	S.C. Deka	SC	Rajasthan	Mumbai
170.	B.C. Rahi	SC	Assam	West Bengal
		SC	Rajasthan	West Bengal

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal
13 DEC
मुद्रांकित न्यायपीठ

The promotion of the officers will take effect from the date of their assumption of charge.

The promotion of all the above mentioned officers is ordered purely on temporary and adhoc basis. They may be reverted to their lower post without any notice or assigning any reason therefor. The adhoc promotion shall not confer on them any right to continue in the post or for regular promotion in future. The period of service rendered by them on adhoc basis in the grade/cadre will count neither for seniority in the grade/cadre nor for eligibility for promotion to the next higher grade/cadre. The pay of all these officers on promotion will be fixed in the pay scale of Rs.6,500 - 10,500/- under the normal rules.

The transfers/postings of all these officers have been ordered in public interest and they are entitled to TA/TTA/DA/Joining Time as admissible under the rules, wherever applicable.

The officers posted to regions which are different from their present ones will be relieved from their present posts by their present controlling officers concerned only after they receive communications regarding their places of postings from the Regional Directors/ Directors/ Joint Directors i/c of the Regions/Sub-Regions to which they are posted. The orders indicating the placement of officers who are posted in other Regions/ Sub-Regions shall be issued by the respective Regional Directors/ Directors/ Joint Director i/c within a week from the date of issue of this order.

The Regional Directors may utilize the services of the senior-most officers available in their regions in the cadre of Asst. Directors/ Managers Gr.I as Asst. Directors in the Regional Office as per this Office Order No. 316 of 2005 dated 30.6.2005 in file No. A -22 (13) 1/2004-E I.

The charge reports may be sent to all concerned in due course.

(Hindi version follows)

[Signature]
19/10/05
(R. NATARAJAN)
JOINT DIRECTOR E. I

To,

1. The officers concerned.
2. All officers of the Headquarters.
3. All the Regional Directors.
4. All the Directors / Joint Directors i/c of the Sub-Regional Offices.
5. All the Medical Superintendents of ESIC Hospitals and ESIC Model Hospitals.
6. D(M)Delhi/D(M) Noida/Director, ESI Hospital, KK Nagar/Director (FWP), New Delhi
7. The concerned Joint Directors (Fin.) and Dy. Directors (Fin.)
8. The Librarian, Hqrs. Office
9. Official Language Branch, Headquarters for Hindi version.
10. Copy to personal files/ Guard file/ Spare copy.