

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

31.10.17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERSHEET

1. Original Application No. 319/2002
2. Misc Petition No. _____
3. Contempt Petition No. _____
4. Review Application No. _____

Applicant(S) K.K. Singh VS Union of India & Ors

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

Advocate for the Respondant(S) CASE

Notes of the Registry	Date	Order of the Tribunal
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This application is in form
is filed/C. P. for Rs. 50/-
deposited vide IPC/BD
No. 289/933222
Dated 18.12.06

[Signature]
Dy. Registrar

NO steps - NS
21-12-06

steps taken on

10/11/07

22.12.06 The case of the applicant is that he was working as Deputy Director (Languages) vide order dated 23.01.03 in Guwahati. The applicant was placed under suspension because he was trapped in a criminal case and an FIR was lodged against him at Dispur Police Station, Guwahati. Subsequently, the suspension order of the applicant was revoked vide order dated 25.04.06 (Annexure IX) However, the applicant resumed his duties on 05.07.2006. The grievance of the applicant is that he has not been paid the subsistence allowance during the suspension period and he has not being paid salary to him on the ground that he has filed application in O.A.No.209 of 2006 challenging his transfer to Calcutta and seeking to be posted in the choice station.

[Signature] Contd/-

22.12.06.

By way of Interim order the status quo shall be maintained as on to-day.

I have heard Mr.M.Chanda learned counsel for the applicant and Mr. G. Baishya, learned Sr.C.G.S.C. for the respondents. Counsel for the respondents has submitted that he would like to take instructions. Issue notice on the respondents.

Post the matter on 8.2.07.

Pendency of this application shall not be bar for the respondents till disposal of the O.A.

Copy of the order be furnished to the counsel for the parties.

Vice-Chairman

8.2.07 Further four weeks time is sought for by the respondents to file written statement.

Post on 9.3.07 for order.

Vice-Chairman

pg

09.03.07.

counsel for the respondents prays for time to file written statement. Let it be done. Post the matter on 11.4.07.

lm

Vice-Chairman

Pl comply order

22.12.06.

NS
26/12/06

Notice & order sent to D/Section for issuing to R-1,2 & 3 day regd. A/D post.

D/No-65,66,67

D/- 19/1/07.

① Service report Rwaitel.

7.2.07.

No W/S has been filed.

8-3-07.

11.4.07

W/S submitted by the respondents. page - 1 to 16.

Ph.

W/S has been filed.

9.5.07.

OA 319/2006 23-

10.05.2007

Ms.U.Das, learned Addl.C.G.S.C.

has filed reply statement. Mr. M.Chanda, learned counsel for the Applicant submits that he has received the copy of the same and he prays for three weeks time to file rejoinder.

Accordingly, the case is posted on

4.6.2007.

Vice-Chairman

/bb/

No rejoinder has been filed.

3
13.6.07.

14.6.2007

Further two weeks' time is granted to the counsel for the Applicant to file rejoinder.

Post on 03.07.2007.

Vice-Chairman

/bb/

Rejoinder not yet filed.

24
2.7.07.

3.7.2007

One week further time is granted for filing of rejoinder.

Post on 16.7.2007.

Vice-Chairman

/bb/

Rejoinder not filed.

3
13.7.07.

17.7.2007

Mr.M.Chanda, learned counsel for the Applicant has filed rejoinder. Registry will bring it on record if the same is otherwise in order.

Post the matter on 16.8.2007 for hearing. In the meantime Respondents' counsel may take instruction on the rejoinder filed by the Applicant.

Vice-Chairman

19.7.07.

Pl. comply.

19.7.07

Rejoinder submitted by the Applicant, page 1 to 10. Copy saved.

Prs

The case is ready for hearing.

24.9.07.

/bb/

25.9.07. None appears for either of the parties. Post the matter on 26.9.07.

Wish

Vice-Chairman

lm

25.9.07. Mr. M. Chanda (assisted by Mr. S.Nath) learned counsel for the applicant and Ms.U.Das learned Addl .C.G.S.C. for the Respondents are present. Counsel for the applicant has prayed for adjournment. Prayer is allowed. Post the matter on 27.9.2007.

Vice-Chairman

lm

Received copy
12/10/07

27.9.2007

The case is disposed of being withdrawn as per order placed in separate sheets.

Received
Addl C.G.S.C
19/10/07

(Khushiram)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/bb/

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No.319 of 2006

DATE OF DECISION: 27.09.2007

Shri Krishna Kumar Singh

.....Applicant/s

Mr.M.Chanda

..... Advocate for the
Applicant/s.

- Versus -

U.O.I. & Ors

.....Respondent/s

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

.....Advocate for the
Respondents

CORAM

THE HON'BLE MR. MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

1. Whether Reporters of local newspapers may be allowed to see the Judgment? ~~Yes/No~~
2. Whether to be referred to the Reporter or not? ~~Yes/No~~
3. Whether their Lordships wish to see the fair copy of the Judgment? ~~Yes/No~~
4. Whether the judgment is to be circulated to the other Benches? ~~Yes/No~~


Vice-Chairman/Member (A)

7

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 319 of 2006.

Date of Order: This, the 27th Day of September, 2007.

THE HON'BLE MR. MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR. KHUSHIRAM, ADMINISTRATIVE MEMBER

Shri Krishna Kumar Singh
Son of Late Badri Narain Singh
Working as Deputy Director (L)
Resident of TAGS, House No.6
Main Raod, Kharguli
Guwahati-781 001.

... Applicant.

By Advocates Mr. Mr.M.Chanda, Mr.S.Nath & Mrs.U.Dutta

- Versus -

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

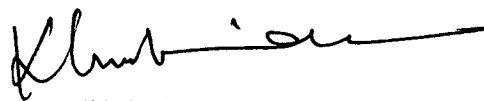
.....Respondents.

By Ms. Usha Das, Addl. Standing Counsel for the Central
Government.

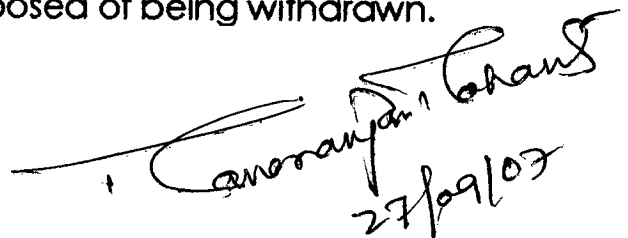
ORDER (ORAL)**MANORANJAN MOHANTY (V.C.)**

Heard Mr.M.Chanda, learned counsel for the Applicant and Ms.U.Das, learned Addl. Standing Counsel for the Central Government.

2. Claiming arrear in-service benefits etc. the Applicant approached this Tribunal with the present Original Application filed under Section 19 of the Administrative Tribunals Act, 1985.
3. During the pendency of the Original Application, as reported by the learned counsel for both the parties, in-service arrear financial benefits etc. of the Applicant have already been paid/released.
4. In the aforesaid premises, Mr.M.Chanda, with instruction from the Applicant, states that the Applicant intends to withdraw this Original Application (and intends to approach the authorities, for redressal of his remaining grievances, with a properly constituted representation) and to approach this Tribunal; if he still remains aggrieved.
5. While granting liberty to the Applicant, as prayed for by him, this Original Application is disposed of being withdrawn.



(KHUSHIRAM)
ADMINISTRATIVE MEMBER



(MANORANJAN MOHANTY)
VICE CHAIRMAN

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

210002

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O. A. No. 319 /2006

Shri Krishna Kumar Singh

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

- 13.02.1989- Applicant was initially appointed as Assistant Director (Linguistic) on 13.02.1989 at New Delhi in the Central Hindi Directorate under the department of Human Resource Development.
- 23.01.2003- Applicant was posted in the Regional Office, Guwahati as Deputy Director (Languages), vide order dated 23.01.03. He joined for duty at Guwahati on 18.06.2003. (Annexure- I & II)
- 14.12.1983- Government of India, issued O.M No. dated 14.12.83. In terms of the aforesaid O.M, the Central Government civilian employees who are saddle with all India transfer liability are entitled to choice station posting after serving for a fixed tenure of 2/3 years in the NE Region. (Annexure- III)
- 10.02.2004- Applicant was sought to be transferred and posted from Guwahati Regional Office to Regional office, Kolkata. (Annexure- IV)
- 25.03.2004- This Hon'ble Tribunal was pleased to stay the transfer order dated 10.02.04 vide it's interim order dated 10.02.04 in O.A. No. 38/2004 and finally disposed of the said O.A. vide it's order dated 25.03.04. (Annexure- V)
- 01.04.2004- Applicant submitted one representation in compliance with the direction passed by this Hon'ble Tribunal. (Annexure- VI)
- 07.02.2005- Applicant was placed under suspension as because he was trapped in a criminal case in a planned manner and an FIR was lodged against him at Dispur Police Station, Guwahati on 31.01.05. (Annexure- VII)
- 22.07.2005- Applicant approached this Hon'ble Tribunal by filing C.P No. 12/2005, which was dismissed vide judgment and order dated 22.07.05. (Annexure- VIII)

7/1/05
C.P. No. 12/2005

- 25.04.2006- Suspension order of the applicant was revoked vide order dated 25.04.06, which was not intimated to the applicant. However, applicant resumed his duties immediately on 05.07.2006 (F.N).
(Annexure- IX, X)
- 05.05.2006- Respondents issued impugned order dated 05.05.06 transferring the applicant from Guwahati to Kolkata. (Annexure- XI)
- 02.08.2006, 03.08.06- Applicant submitted representations to the Respondent No. 2 and 3 praying for release of his salary w.e.f. 01.05.2006.
(Annexure- XII Series)
- 21.08.2006- Applicant has filed O.A. No. 209/2006 against the impugned transfer order dated 05.05.06. Hon'ble Tribunal passed interim order of status quo dated 21.08.06 so far the applicant is concerned.
(Annexure- XIII)
- 26.08.06, 04.09.06, 31.10.06- Applicant submitted series of representations praying for release of his salary. But to no result.
(Annexure- XIV Series)
- 27.10.2006- Applicant being in extreme financial hardship wanted to proceed to his home town with LTC facilities and prayed for LTC advance on 02.08.06. But the same has been turned down on the vague plea that the headquarter of the applicant is yet to be decided which is evident from note sheet dated 27.10.06. (Annexure- XV)

Hence this Original Application.

PRAYERS

1. That the respondents be directed to pay the salary of the applicant for the period from 01.05.2006 and onwards on regular basis with all consequential benefits including arrear pay and interests thereon at the rate of 18% per annum forthwith.
2. Costs of the application.
3. 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 respondents be directed that pendency of this application shall not be bar for the respondents for consideration of representations of the applicant for release of his salary.

गुवाहाटी ब्याचपीठ
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. 319 /2006

Shri Krishna Kumar Singh : Applicant.

-Versus-

Union of India & Ors. : Respondents.

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Filed By:

U. Dutta
Advocate

Date:- 21.12.06

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O.A. No. 319 /2006

BETWEEN:

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

-----Applicant.

-AND-

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

..... Respondents.

DETAILS OF THE APPLICATION

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

This application is made not against any particular order but against non-payment of the pay and allowance of the applicant w.e.f. 01.05.2006 on a

Cydon @m 10/10

12
1
Filed by the applicant
through M. Datta, advocate
on 21.12.06

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

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

Copy of the letter dated 23.01.03 and 18.06.03 are enclosed herewith for perusal of Hon'ble Tribunal and marked as Annexure- 1 and 11 respectively.

- 4.4 That in view of the professed policy of the Government, notified vide O.M No. 200014/3/83-E.IV dated 14.12.1983 and O.M dated 22.07.1998, the applicant is entitled to get a choice station posting on completion of the fixed 2 years tenure of service in the N.E. Region which he has fulfilled.

Copy of extract of the O.M dated 14.12.83 is annexed hereto for perusal of Hon'ble Tribunal as Annexure- III.

- 4.5 That while working as Deputy Director (Languages), under the Deptt. of Central Hindi Directorate, Guwahati, the applicant received on 16.02.2004 one order dated 10.02.2004 whereby the applicant was sought to be

Asst. Dir. Me. 1/16

transferred and posted from Cuwahati Region office to the Regional Office in Kolkata with immediate effect, even before completion of his fixed tenure of 2 years service in NE Region as laid down by the Government. The applicant meanwhile submitted representation on 15.02.2004 to the respondents praying for his choice station posting in Delhi, followed by another representation on 16.02.2004. But the respondents transferred the applicant from Cuwahati to Kolkata with malafide intention and did not consider his choice station posting at New Delhi, which the applicant is legitimately entitled in terms of the professed policy of the Government.

Copy of the order dated 10.02.04 is annexed hereto for perusal of Hon'ble Tribunal as Annexure- IV.

4.6 That being aggrieved at his arbitrary transfer to Kolkata and non-consideration of his choice station posting to New Delhi, the applicant approached this Hon'ble Tribunal through O.A. No. 38/2004 praying for quashing of his order of transfer to Kolkata and for further direction upon the respondents for grant of choice station posting to the applicant. This Hon'ble Tribunal was pleased to stay the transfer order dated 10.02.04 vide it's interim order dated 20.02.2004 in O. A No. 38/2004 and finally disposed of the O.A No. 38/2004 vide it's order dated 25.03.04 directing the applicant to file a fresh and detailed representation for his choice station posting to the respondents within one week of the date of receipt of the order and further directed the respondents therein to consider the representation and pass reasoned order within one month time thereafter. The Hon'ble Tribunal also ordered that the interim order dated 20.02.04 would continue till the completion of the exercise. Accordingly, the applicant submitted his detailed representation dated 01.04.2004 enclosing therewith a copy of the Hon'ble Tribunal's order dated 25.03.04 and prayed for his choice station transfer to New Delhi.

(Handwritten signature)

Copy of the Hon'ble Tribunal's order dated 25.03.04 and representation dated 01.04.04 are annexed hereto for perusal of Hon'ble Tribunal as Annexure- V and VI respectively.

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

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

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

Signature

until the order of suspension is cancelled, and accepted the apology tendered by the respondents to that effect.

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

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

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

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

cyam @me 10/2

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

4.11 That in view of the vindictive and arbitrary orders aforesaid, issued by the respondents time and again and having failed to get justice, the applicant has once again approached this Hon'ble Tribunal and has filed O.A. No. 209/2006 praying for quashing of the transfer order dated 05.05.2006 direction upon the respondents to grant choice station posting to the applicant and to allow the applicant to continue in his present place of posting at Guwahati till granting of his transfer and posting to his choice station.

4.12 That thereafter, the Respondents have arbitrarily stopped the payment of salary of the applicant w.e.f. 01.05.2006 onwards and the applicant has been struggling hard to have his bread and butter for his subsistence for over 7 (Seven) months by now. Situated thus, the applicant submitted representation on 02.08.2006 and on 03.08.2006 to the respondents No. 3 and 2 respectively praying for release of his salary but with no result.

Copy of the representation dated 02.08.06 and 03.08.06 are annexed hereto for perusal of Hon'ble Tribunal as Annexure- XII (Series).

4.13 That this Hon'ble Tribunal vide it's interim order dated 21.08.2006 in O.A. No. 209/2006 has directed that status-quo as on date shall be maintained in so far as the applicant is concerned. The said order is still continuing and the Original Application is now pending before this Hon'ble Tribunal for adjudication. This implies that the applicant's functioning in his present office at Guwahati, which he has been doing since resumption of his duties on 05.07.06 shall continue and this status-quo shall be maintained till the disposal of the Original Application.

Copy of interim order dated 21.08.06 is annexed hereto for perusal of Hon'ble Tribunal as Annexure- XIII.

C2000@MUTS

4.14 That it is stated that the applicant thereafter submitted three representations in succession to the respondents on 26.08.06 and 03.10.06 praying for release of his salary and copy of the interim order dated 21.08.06 of this Hon'ble Tribunal was also forwarded to the respondents. But even thereafter, the salary etc. of the applicant have not been released as yet. Being in extreme financial distress, the applicant wanted to proceed to his home town with LTC facilities and applied for LTC advance on 02.08.06. But the same has also been returned on the plea that the headquarter of the applicant is yet to be decided which is evident from the note sheet dated 27.10.06. The applicant has however submitted his fresh LTC application once again and the respondents have not taken any action so far.

Copy of the representation dated 26.08.06, 04.09.06, 03.10.06 are annexed hereto as Annexure- XIV (Series) and note sheet dated 27.10.06 is annexed hereto as Annexure- XV.

4.15 That the applicant most respectfully begs to submit that his deemed suspension was revoked vide order dated 25.04.06 which was deliberately not communicated to the applicant until the applicant himself could discover it on 05.07.06 and joined his duties immediately on 05.07.06 by submitting his joining report. In the meantime, the respondents issued the transfer order dated 05.05.06 transferring the applicant from Guwahati to Kolkata and for this purpose only the revocation order dated 25.04.06 was not communicated to the applicant in a planned manner and with mala fide intention. Had the revocation order been communicated to him, the applicant could have joined his duties instantly when the transfer order dated 05.05.06 was not in existence and his headquarter was Guwahati. However, he resumed his duties at Guwahati on 05.07.06 and since then he is still functioning at Guwahati office only and as such his headquarter is at Guwahati only. This Hon'ble Tribunal vide its interim order dated 21.08.06 has directed to maintain status quo as on date. But

cyam @MLHE

even thereafter, the respondents maintain that the headquarter of the applicant is undecided and on this plea the salary etc. of the applicant has been stopped w.e.f. 01.05.2006 which is arbitrary, malafide, unfair and violative of the directions passed by this Hon'ble Tribunal in it's order dated 21.08.06.

4.16 That the applicant further begs to submit that it is the procedure established by law that after the revocation of the order of suspension, the concerned officer has to rejoin his duties in the office from where he was placed under suspension only and as such this applicant, in all fitness of the things, was supposed to rejoin his duties at Guwahati office only from where he was placed under suspension and he did it accordingly after his suspension was revoked. The respondents have neither released him from Guwahati pursuant to the transfer order dated 05.05.2006 nor the applicant has handed over the charge etc. and the applicant has been discharging his duties at Guwahati office only. As such, the plea of the respondents that the headquarter of the applicant is not decided and stopping his salary on this ground is not sustainable, more so, when this Hon'ble Tribunal has directed to maintain the status-quo, and the matter is pending before this Hon'ble Tribunal for decision. This apart, the change of headquarter or otherwise if any, does not in way alter the status of the applicant in respect of his employment or pay and as such stoppage of his pay on this ground is not sustainable in the eye of law. Such actions of the respondents are malafide, arbitrary, opposed to the procedure established by law and violative of the principles of natural justice. The respondents have resorted to such techniques only with the intention and motive of inflicting financial hardships and harassment upon the applicant for no fault of his and without any sanction of law whatsoever.

4.17 That due to stoppage of his salary etc. for long 7 (seven) months, the applicant has been undergoing serious distressing condition affecting his

Handwritten signature

mind and health and by such of their illegal action, the respondents have sought to deprive the applicant of his right to live which hits the very essence of Article 21 of the Constitution of India. As such, finding no other alternative, the applicant is now approaching this Hon'ble Tribunal for protection of his rights and interests and it is a fit case for this Hon'ble Tribunal to interfere with and to protect the rights and interests of the applicant by directing the respondents to release his salary for the period from 01.05.2006 and onwards forthwith with all consequential benefits.

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

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

- 5.1 For that, the applicant has rejoined his duties on 05.07.2006 after the revocation of his suspension and has since been discharging his duties. As such he is entitled to get his salary.
- 5.2 For that, consequent upon the revocation of his suspension, the applicant has rejoined duties at Guwahati Office, where he was working prior to his suspension as per the procedure established by law and his headquarter is Guwahati, the revocation order itself states that the applicant stationed at Guwahati. As such stoppage of his salary on the plea that his headquarter is undecided, is malafide, illegal, arbitrary and unfair.
- 5.3 For that, the order of transfer dated 05.05.2006 transferring and positing the applicant from Guwahati to Kolkata is subjudice and pending before this Hon'ble Tribunal and the Hon'ble Tribunal vide its interim order dated 21.08.2006 has directed to maintain the status-quo. This implies that the applicant continues to function at Guwahati as his headquarter and as such the stoppage of his salary on the ground of headquarter is unsustainable and opposed to the directions passed by this Hon'ble Tribunal.

- 5.4 For that, the order of revocation of suspension was issued on 25.04.2006 but kept uncommunicated to the applicant until he could discover it on 05.07.2006. By doing this the respondents restrained the applicant from joining his duties in time and as such his salary cannot be stopped w.c.f 01.05.2006 on the basis of transfer order issued subsequently on 05.05.2006, which is malafide, motivated unfair, arbitrary and opposed to any law in service jurisprudence.
- 5.5 For that, following the transfer order dated 05.05.2006, the applicant has neither been released from Guwahati nor his charges have been taken over nor the order of revocation indicated any condition precedent. As such the contention of the respondents that the headquarter of the applicant is undecided and stopping his salary on that ground is illegal and violative of the principles of natural justice.
- 5.6 For that, the change of headquarter or otherwise in respect of an officer in that event of a proposed transfer, does not in any way, alter the status of the officer in respect of his employment or pay and he is entitled to get his salary irrespective of his stay in his old or new headquarter, more so, when the matter is pending before the Hon'ble Tribunal and the interim order of status-quo is continuing.
- 5.7 For that, by stopping the salary of the applicant, the respondents has stopped his livelihood and thus have deprived him of his right to live which strikes at the root of Article 21 of the Constitution of India.
- 5.8 For that due to stoppage of his salary, the applicant has been undergoing extreme distress and hardships and irreparable civil consequences which is telling upon his mind and health.
- 5.9 For that, the applicant has submitted representations time and again for release of his salary and prayed for justice which have been denied to him.

CEAM @M/10

23

5. 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 save and except the filing of O.A No. 38/2004 and O.A. No. 209/2006 before this Tribunal he had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief (s) sought for:

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

8.1 That the respondents be directed to pay the salary of the applicant for the period from 01.05.2006 and onwards on regular basis with all consequential benefits including arrear pay and interests thereon at the rate of 18% per annum forthwith.

8.2 Costs of the application.

8.3 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

Cycam @ 3/11/10

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

- 9.1 That the respondents be directed that pendency of this application shall not be bar for the respondents for consideration of representations of the applicant for release of his salary.

10

11. Particulars of the L.P.O

- i) L.P.O No. : 28 G 933222
 ii) Date of issue : 15.12.2006
 iii) Issued from : G.P.O, Gusaahati
 iv) Payable at : G.P.O, Gusaahati

12. List of enclosures:

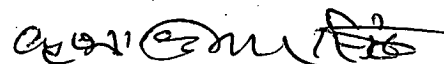
As given in the index.

25

VERIFICATION

I, Shri Krishna Kumar Singh, S/o- Late Badri Narain Singh, aged about 56 years, working as Deputy Director (Languages), in the office of the Central Hindi Directorate, Guwahati, applicant in the instant original application, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 20th day of December 2006.



-15-

ANNEXURE-I

Speed Post

26

संख्या/No.1/45/98-35

भारत सरकार

Government of India

सामाजिक न्याय एवं अधिकारिता मंत्रालय

Ministry of Social Justice & Empowerment

भारत के भाषाजात अल्पसंख्यकों के आयुक्त

Commissioner for Linguistic Minorities in India

टेलीफोन/ Telephone: 2468565,2468566

टार / Telegram: LIMINCOM

हिन्दी टार / Hindi Telegram : भाषाव्यवस्था

फैक्स नं० / Fax No. 0532-2468544

40. अमर नारा झा मार्ग

40, Amar Nath Jha Marg

दलाहाबाद-211002

Allahabad -211002

दिनांक/ Dated: 29.01.2003

To,

The Director,

Central Hindi Directorate,

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

West Block-VII, Rama Krishna Puram,

New Delhi.

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

Sir,

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

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

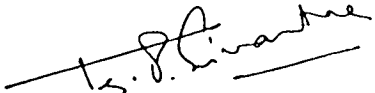
Yours faithfully,

(T.P. Srivastava)
Deputy Commissioner

Attested
Mulla
Advocate

Copy forwarded to:

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


(T.P.Srivastava)
Deputy Commissioner

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

ANNEXURE-II

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

28

Dated: 18-06-2003.

ORDER

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

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

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

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


(Dr. P L Taneja)
Director

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

Copy to:-

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

Attested
Advocate

9

ANNEXURE-III (Extract)

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

New Delhi, the 14th Dec '83

OFFICE MEMORANDUM

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

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

(i) Lenure of posting/deputation.

*Attested
Dulla
Advocate*

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

Sd/- S.C. MAHALIK

Joint Secretary to the Government of India

ANNEXURE-IV

Translated from Hindi

ANNEXURE-IV.

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

West Block-7, R.K. Puram
New Delhi-110 066.
Dated 10-02-2004

Order

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

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

Sd/-

(Dr. Pusp Lata Tanija)
Director

*Attested
Advocate*

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

Copy to-

ANNEXURE V

32

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH.

ORDER SHEET

Orig. App/ Misc. Petn/Cont. Petn/ Rev. Appl. M 38/04

In O.A. _____

Name of the Applicant(s) K K Singh

Name of the Respondent(s) State of Karnataka

Advocate for the Applicant M. M. Chanda, Sr. C.G.S.C.

Counsel for the Railway/ C.G.S.C. S. Chandra, Sr. C.G.S.C.

CCS

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

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

54
✓
✓

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

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

Cont./2



*Attested
Advocate*

Contd.

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

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

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

Sd/MEMBER(ADM)

certified to be true copy
प्रमाणित प्रतिलिपि

[Signature]
26/3/04
Section Officer (I)
C.A.T. GUWAHATI BANER
Guwahati-781005

[Signature]
26/3/04



From

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

ANNEXURE - VI

To

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

Dated 01st April 2004.

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

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

Respected Sir,

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

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

Affected
Advocate

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

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

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

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

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

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

*Attended
Mulla
Advocate*

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

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

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

N*J*

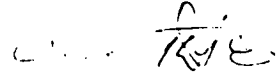
*Attached
Advocate*

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

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

With regards,

Yours faithfully,



(K. K. SINGH)
Dy. Director (L)
C.H.D., NER office, Ghy.

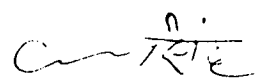
Copy to:- The Director

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

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

Encl: As stated.

Yours faithfully,



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

N*J*

ANNEXURE - VII

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

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

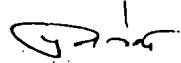
West Block-VII, R.K. Puram,
New Delhi-110066
Dated: 7.2.2005

ORDER

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

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

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


(Dr. P.L. Taneja)
Director

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

Attested
Mulla
Advocate

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ANNEXURE-VIII

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

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

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

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

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

.....Petitioner

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

- Versus -

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

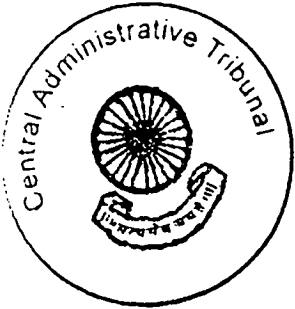
2. Smti Bela Banerjee,
Joint Secretary (L) to the
Government of India,
Department of Secondary and
Higher Education,
Ministry of Human Resource Development,
Shastri Bhavan, New Delhi-110001.

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

.....Alleged Contemners

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

.....



*Attested
Mulla's
Advocate*

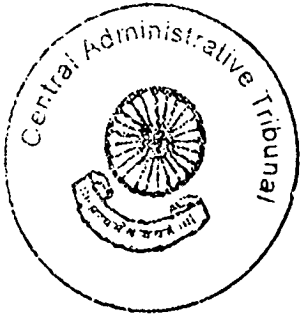
ORDER (ORAL)

SIVARAJAN. J. (V.C.)

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

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

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



*Attested
Advocate*

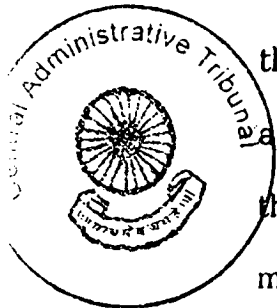
[Signature]

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

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

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

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



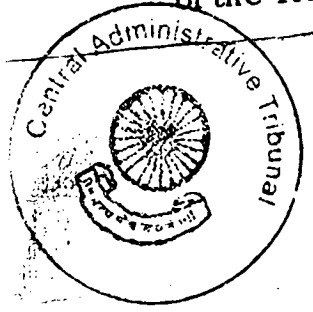
42 111

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

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

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

Sd/ VICE CHAIRMAN
Sd/ MEMBER (A)



TRUE COPY
प्रतिलिपि

Attested
Mulla
Advocate

[Signature]
26.7.05
अनुभाग अधिकारी
Section Officer (Judl)
Central Administrative Tribunal
गुवाहाटी-4
GUWAHATI-5.
[Signature]
26/7

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

*Pr. Issue
24/4
26/4/06*

53

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

ORDER

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

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

[Handwritten signature]

(Dr. P.L. Taneja)
Director

Copy to:

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

*213
27/4/06*

*Attended
Mutts
Advocate*

o/c

~~Revised~~

~~Revised~~

5/7/08

NO. RGS.F. 2-9/Nitta/36

Govt. of India

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

ANNEXURE - XI

To,

Dated - 5/7/2006.

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

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

Sir,

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

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

Your's faithfully


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

*Attested
Advocate*

पश्चिमी खंड-7, आर.के. पुरम,

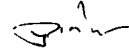
नई दिल्ली-110066

दिनांक 5. 5 .2006

आदेश

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

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


(डा० पुष्पलता तनेजा)
निदेशक

श्री के०के० सिंह,
उपनिदेशक (भाषा),
केंद्रीय हिंदी निदेशालय,
मार्फत दास इन्टरप्राइजेज, पी०ओ० खानपाडा,
जयानगर, गुवाहाटी-781002

प्रतिलिपि -

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

*Attested
Mullis
Advocate*

NO. RGS.F.1-1/98/Admn/
Govt. of India,
Central Hindi Directorate,
Ministry of Human Resource Development,
Regional Office Guwahati, (N.E)
Jayanagar, Khanapara, Ghy. - 22.

ANNE^{vd}XURE - ^{kgd.}XII (Series)

To,

Dated - 2/8/2006.

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

Subject:- Resuming of duties as Dy. Director (L.) N.E.R. Guwahati.

Madam,

This is to refer my resuming of duties on 5/7/06 vide this office letter No. RGS.F.2-9/Vitta.36 dt.5/7/06 and to state that no further n.a. of issuing of office order etc. has been done in the matter. As a result my pay & allowances are also not being drawn. This^{is} causing me undue hardship in this distant place. It is also noted that I have not received my pay since May 2006 for none of fault.

You are, therefore, requested with due respect that all the necessary formalities pl. be done without delay in the matter and order be made for release of my ever due payments.

Attended
Dutta
Advocate

Your's faithfully,


(K.K. SINGH.)
By. Director (L.)

ANNEXURE-XII (Series) Contd.

From : K. K. Singh, Dy, Dir (L)
Central Hindi Dte (NE)
Das Enterprise, P.O. - Khanapara
Guwahati - 781022

5rd August, 2006.

To,
The Secretary to the Govt. of India
Deptt. of Sec & Higher Education
M/o H.R.D., Shastri Bhawan, New Delhi - 1

(For kind attn. Hon'ble J.S., S.E.)
Through proper channel

Sub : Non-payment ^{of} pay ~~at~~ etc. by the C.H.D. Authorities.

Sir,

This is to draw your kind attention to my representations dt. 16/6/2006 & 25th July, 2006 regarding above and to submit with great respect that as soon as the fact of revocation of my suspension came to my notice on 5/7/06, I resumed duties in my office at Guwahati on the same day. But it seems that C.H.D. Authorities having some extraneous consideration/bias have not issued an office order in the matter, as a result I am neither getting my pay & allowances nor am able to perform any task for the office. Earlier the said authorities did not issue revocation order of deemed suspension to my address, perhaps to keep me in dark and thus a delay of full 70 days happened in the matter. In the mean time a transfer order dt. 5/5/06 for Kolkata was made showing me as a working Dy. Dir (L), which was posted to the office address, where I was not supposed to visit due to continued suspension. This entire exercise was carried out perhaps with the twin purposes of harming my career as well as depriving me from defending me in the court in the cases made out by vested interest parties connected with discharge of my official duties. Now, the C.H.D. Authorities have withheld my pay & allowances for the last three months.

In view of the above, it is prayed with due regards that release of my withheld pay please be ordered and responsibility for harassing me repeatedly may kindly be fixed with necessary follow up action in the matter.

Attested
Advocate

Yours faithfully



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

37 -
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERS SHEET

ANNEXURE - XIII

Original Application No. 209/06

Miscellaneous No. _____

Contempt Petition No. _____

Review Application No. _____

Applicant(s) K.K. Singh

Respondant(s) H.O. I Gwalior

Advocate for the applicant(s) M. Chanda, S. Nayth

G.N. Chakrabarty...

S.M. U. Datta...

Advocate for the respondent(s) Adv. C.S.C. M. U. Ahmed

Notes of the Registry

Date

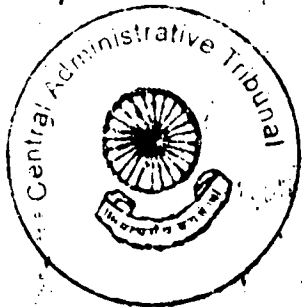
Order of the Tribunal

21.8.06

Heard Mr. M. Chanda learned counsel for the applicant and Mr. ... learned C.S.C. for the Respondents

The applicant is working as Deputy Director(b) in Guwahati under the Respondents. He has approached this Tribunal by filing the O.A. No. 38 of 2004 which was disposed on on 25.3.04 directing the applicant to make a fresh representation before respondents and directed the respondents to consider the representation. The applicant has contended that he is working at Guwahati since 1982 and he is entitled to choice posting at New Delhi. Vide impugned order dated 5.5.06 (Annexure XIII) the applicant was transferred from Guwahati to Kolkata. The applicant filed another representation dated 13.5.06 against the order dated 5.5.06. The representation was rejected vide impugned order dated 28.7.2006 (Annexure XVI) and he was directed to report to Kolkata regional office of the Directorate.

Mr. M. U. Ahmed learned Adv. C.S.C. C. for the respondents has submitted that there are two criminal cases pending against him. The transfer has been effected on public interest.

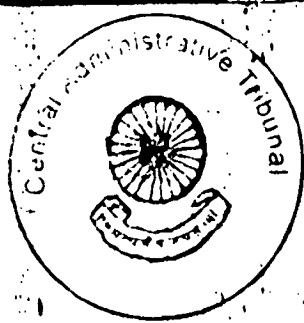


*Attested
Mulla
Advocate*

21.8.06 therefore, he prays for four weeks time to file written statement. 49

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

Sd/VICE CHAIRMAN



Date of Application : 23.8.06
Date on which copy is ready : 23.8.06
Date on which copy is delivered : 23.8.06
Certified to be true copy

[Signature]
23.8.06
Section Officer (J dl)
C. A. T. Guwahati Bench
Guwahati.

[Signature]
22/8/06

Regd -

ANNEXURE-XIV (Series)

R

From: K.K. Singh, DD(L),
C. Hindi Dte Das Enterprise,
Khanapara, Guwahati-782022.

26th Aug. 2006

To,
The Director,
Central Hindi Dte (MO HRD)
W.B.7, R.K. Puram,
New Delhi-110066.

Sub: Your memo dtd. 10.8.06 regarding unauthorised
resumption of duties etc.

Madam,

It is to refer above memo, received here on
22.8.06 asking for my clarification in the matter.
Accordingly following clarification is submitted:

- a) As already submitted in representation dtd. 3.8.06, the suspension revocation order dtd. 25.4.06 was never served/communicated to me and as a result after 70 days gap it came to my notice when I resumed duties in the office from where I was placed under deemed suspension which was only normal course when the suspension is revoked.
- b) The transfer order dtd. 5.5.06 was issued after a gap of 10 days from the revocation of suspension, on this a representation was submitted immediately on 13.5.06 for choice station posting as well as willingness to take charge of E.R. Office, Kolkata from Guwahati, as due to dates of trial in cases framed by vested interest parties against me during discharge of Govt. duty, it was not possible to go Kolkata at the time. Thus there was no defiance of any kind on my part.

*Attested
with
Associate*

c) The turning down of representation for choice station of posting by Hon'ble E.S. was conveyed by O.M. dated 28.7.06, while I had already resumed duties on 3.7.06, thus reporting of resumption of duties on an earlier date in Guwahati Office is clearly in no way defiance or insubordination of a subsequent decision of superior authority.

Thus it is quite clear that I have committed no defiance/insubordination, rather have suffered much due to non communication of suspension revocation order dtd. 25.4.06 in time.

In this regard it is noted that the matter has become subjudice and a copy of Hon'ble CAT, Guwahati order dtd. 21.8.06 has already been forwarded to your goodself vide my letter dtd. 23.8.06 for information.

Yours faithfully



(K.K. Singh)

D.D. (L)

52

From: K.K. Singh, Dy. Dir. (L)
Central Hindi Directorate (NE),
Das Enterprise, P.O. Khanapara,
Guwahati-781022.

To, 4th Sept, 2006

The Secretary to the Govt. of India,
Deptt. of Sec. & Higher Education,
M/O H.R.D. Shastri Bhawan,
New Delhi - 110001.

(For kind attention Hon'ble J.S., S.E.)
Through proper channel

Sub: Withholding up salary payment etc. by the C.Hindi
Dte authorities.

Sir,

In continuation of my representation dtd. 25.7.06 and 3.8.06 regarding above, it is to submit with great respect that continued withholding of my pay since May, 2006 by C.H.Dte authorities is causing me great hardships in this trying time. In the very first representation dtd. 4.4.05 (copy enclosed) I had narrated in brief regarding framing of false police cases against me under pre-planned conspiracy. But perhaps due to constant lobbying and misrepresentation of facts by vested interest quarters, nothing positive materialized. This fact is also being ignored that out of total 4 court cases first one is based on a letter purportedly faithfully addressed to the Director, CHD, regarding storming of office and an attack made on this officer. Instead of providing any guidance for security, the letter was made available to the persons involved in the attack. The last case pertains to the murderous assault on me by the

*Shelto
Advocate*

CS 53

NGO involved in framing false cases. This assault case happened during duty hours in the office area in which assailants have been charge sheeted. Thus out of total 4, 2 cases are fully based on my personal safety during official duty.

Persons receiving ~~un~~-deserving financial assistance were irked because of my adherence to ^{the} accountability of funds granted from public ex-chequer, conspired to assault and frame me in police cases so that loot ^{of} Government money ^{may} continue ~~un~~-checked. In the circumstances, it is neither fair nor justified to make the situation so adverse for me in which I become quite helpless in the matter of defending myself in the court in these case properly.

CHD authorities have now released arrea of revised ~~subistence~~ allowance after a delay of 3 and 1/2 months that too after several requests and reminders, but continued to withhold my pay and allowances without any justification.

A summary of developments in this regard is as under:

As per available records, my deemed suspension was revoked on 25.4.06, but formal order dtd. 25.4.06 was not served to me. After a gap of 10 days a transfer order for Kolkata was issued on 5.5.06, on receipt of which a representation dtd. 13.5.06 was submitted to CHD authorities and ^{two} ~~one~~ other dtd. 12.6.06 and 16.6.06 were submitted to your goodself regarding grievances arising


out of the transfer order. While decision on these representations were pending, revocation of suspension order (dtd. 25.4.06) came to my notice on 5.7.06 and I resumed duties on the same day in the office where I was placed under deemed suspension, which was the only normal course. The contrast of delay of 70 days in the matter of revocation of suspension order coming to my notice and personally carrying ~~of~~ deemed suspension order dtd. 7.2.05 by the signing officer from Delhi to Guwahati as well as sending up a hand written fax on a non working day by the same person is worth noting.

Authorities in CH Directorate ~~are~~ inclined to treat the period of delay in communication of revocation of suspension order dtd. 25.4.06 as unauthorised absence and later period as unauthorised resumption of duty, the combined result of all this is withholding of my pay since May, 06.

All this is nothing but an exercise to complicate the matter and keep on harassing me financially as well as mentally. In this circumstances, it is prayed that your honour may kindly intervene and direct the responsible officers to set the things right and order the release of my pay without further loss of time.

Yours faithfully

Encl: as stated


(K.K. Singh)
Dy. Dir (L)

3rd Oct. 2006

From: K.K. Singh, Dy. Dir. (L)
Central Hindi Directorate (NE),
Das Enterprise, P.O. Khanapara,
Guwahati-781022.

To,
The Secretary to the Govt. of India,
Deptt. of Sec. & Higher Education,
M/O H.R.D. Shastri Bhawan,
New Delhi - 110001.

(For kind attention Hon'ble J.S., S.E.)
Through proper channel


Sub: Withholding up salary payment etc. by the C.Hindi
Dte authorities.

Sir,

In continuation of my representation dtd. 25.7.06,
3.8.06 and 4.9.2006 regarding above, it is to reiterate
with great respect that continued withholding of my pay
since May, 2006 by C.H. Dte authorities is causing me
great hardships. In addition to this my application dtd.
2.8.06 to the CHD authority for OPF advance have been
kept pending. Advance for home town LTC for myself and
wife has also been not sanctioned.

As stated earlier, CHD authorities have
adopted all sorts of measures to harass me as well as my
family by denying the LTC advance to them also. In the
circumstances, it is prayed with great respect that your
honour may kindly intervene and direct the responsible
authorities to release my pay and other advances without
further delay.

Yours faithfully


(K.K. Singh)
Dy. Dir (L)



Attested
Advocate

श्री. वि. निदेश, उ. इ. से. का.
(गुवाहाटी)

ANNEXURE - ~~XV~~ ⁵⁶

इसके साथ साथ अकाउंट का 2004-05 का ग्रहनगर
LTC का आग्रिम का आवेदन आर्जित हुई
के आवेदन (18/9/06 से एक सप्ताह) के साथ
संलग्न है। कृपया मुहानालय प्रेषित करें।

श्री शर्मा, L.D.C.

क. निदेश
4/9/06

Mr. R. Kumar.
A.O.

श्री कं. के. सिंह, उपनिदेशक (भा.) का वर्ष
2004-05 का ग्रहनगर LTC का आवेदन आग्रिम हेतु
आर्जित हुई के आवेदन के साथ प्राप्त हुआ है निदेशक
महोदया कृपया आदेशार्थ देखने का कष्ट करें।

22.11.06/06/06
17/9/06

निदेशक
14/9/06

निदेशक महोदया

उत्तरांचल एल. डी. से. का.

क. मं. 2006

15/9/06
15/9/06

46
13/10/06

Attested
Advocate.

To my Knowledge, head quarters of
Shri Singh are yet to be decided.
He has also challenged his transfer
to Kolkata through an O.A. ...
it may be difficult to assume as
to what will be his head quarters.
He may be advised to proceed on
leave with L.T.C., nevertheless no order
have order status - his on his end
2006.

A.O.
Director

15/9/06
18/9/06

Ref: Pre-page:
discussed.

Mr. Be, He has procced on 18th Sept 06. The CAT have ordered to maintain status-quo. an O.A. filed by him against his request to Kolhals. This may be taken up after pronouncement of the Judgement in the O.A.

[Signature]
21/11/06

Director

6/11/06

21.9.06

~~2.57~~

[Signature]
21/11/06

R.O, Guwahati

कनिष्ठ प्रशासनिक अधिकारी के विषय तथा
निदेशक महोदय के अनुमोदन के अन्तर्गत श्री डी.के. सिंह
का गृहनामा (LTC) का आवेदन वृत्ति रूप से वापस मिलना
जा रहा है।

[Signature]

[Signature]
29.9.06

[Signature]
13/10/06

[Signature]
27/10/06

Arrested
Advocate

APPLICATION FOR L.T.C. ADVANCE

1. Name of the Official (in Block letters): KRISHNA KUMAR SINGH
2. (a) Designation and : Dy Dir. (L)
- (b) Permanent or Temporary (If not Permanent, Surety Bond from a permanent official to be enclosed with the application). : Permanent
3. Office & Section to which attached : C.H.D. (N.E.R.) GHY
4. Basic Pay : Rs.
5. Date of appointment in the Deptt. : 13/2/1989
6. Place of Hometown as declared in the service book : VARANASI
7. Particulars of L.T.C. availed for previous Block years : 2002-03
8. Block year for which now proposed to avail : 2004-05
9. Whether avails CL or EL : E. I. now E.L. application
10. Whether L.T.C. advance already taken has been settled in full or pending settlement : Yes from 18/9/06 for a week. Yes is enclosed.
11. Place of visit (~~farthest point~~) : VARANASI
12. Proposed date of onward journey : ~~16/9/06~~ 16/9/06 cut off
13. Proposed date of return journey : ~~26/9/06~~ 26/9/06
14. Particulars of family members availing the facility:-

Sl. No.	Name	relationship	Age	Whether dependent
1	K. K. SINGH	Self	56	N/A
2	SAVITRI DEVI	wife	53	Yes

15. Class of accommodation proposed to availed in the Railway journey : 2 AC
16. Amount of Advance required for two persons : Rs- 1685 x 2 = 3370/82
17. The office in which the spouse of the Govt. Servant is employed : X = 6740
18. If the spouse is eligible for L.T.C. or similar concession from his employer whether declaration has been given that he/she will not claim L.T.C. himself/herself and family, from his/her office: X eligible.

*Attending
Munshi
Advocate*

Date: 2/8/06

[Signature]
Signature of the applicant.

Name K. K. SINGH
Designation Dy Dir. (L)
Office N. E. R. D

सि० सि० एस० (लीम) रूलस
CCS (Leave) Rules
(नियम 14 देखिए)
(See Rule 14)

एस० आर०-1
S. R.-1

छुट्टी की आर्जी का फार्म
APPLICATION FOR LEAVE OR FOR
EXTENSION OF LEAVE

1. प्रार्थी के नाम :

Name of the applicant :

कृष्ण कुमार सिंह

2. पदनाम :

Post held :

उप निदेश (आ)

3. विभाग कार्यालय और अनुभाग :

Department, Office and Section :

कै. वि. नि. उ. प्र. स. का, गुवाहाटी

4. वेतन :

Pay :

RS 7575/-

5. वर्तमान पद पर मिलनेवाला मकान किराया भत्ता, सवारी भत्ता या

अन्य प्रतिभार भत्ते :

House rent and other compensatory allowances

drawn in the present post :

नियमानुसारी ग्रान्ट भत्ते

6. प्रार्थी ने छुट्टी की किस अवधि और उसके शुरू होने की तारीख :

Nature and period of leave applied for and date from which required :

आर्जित, 05 दिन, 18/9/06

7. रविवार और छुट्टी के दिन, यदि कोई हो, जिन्हें छुट्टी से पहले

ग्राह्य में जोड़ने चाहते हैं :

Sundays and Holidays, if any proposed to be

prefixed/suffixed to leave :

छुट्टी से पूर्व एवं पश्चात् शनि, 9/10/06

8. छुट्टी का कारण :

Grounds on which leave is applied for :

आवश्यक पारिवारिक कार्य एवं पट्टपक्ष में
मूल ग्राम में व्यापारिक कृत्य

9. पिछले छुट्टी से लौटने की तारीख, उस छुट्टी को किस तथा अवधि :

Date of return from last leave on the nature and period of that leave :

X

10. मेरा विचार आगामी छुट्टी में 2004-05 के

खंड वर्षों के लिए छुट्टी यात्रा की रियायत लेने का है/नहीं है

I propose/do not propose to avail myself of

leave travel concession for the block years 2004-

05 during the ensuing leave.

11. पता, छुट्टी के अवधि में

Address during leave period :

202, डाक बंदूक डाली, गुवाहाटी

The applicant is likely to return to the same post or to another post

in the event of the Government servant is likely to return to the same post or to another post

Signature of Applicant

(With date)

Attested
Accounts
Advocate

(2)

12. निम्न अधिकारी की टिप्पणी और/या सिफारिश :
Remarks and / or recommendation for the
Controlling Officer :

APPLICATION FOR
EXTENSION OF LEAVE

हस्ताक्षर तारीख सहित
पदनाम
Signature (with date)
Designation

छुट्टी की अनुसृत्यता के बारेमें प्रमाण-पत्र
CERTIFICATE REGARDING ADMISSIBILITY OF LEAVE

13. प्रमाणित किया जाता है कि
..... तक दिन के लिए
नियमावली के नियम के अधीन
..... अनुसृत्य है।

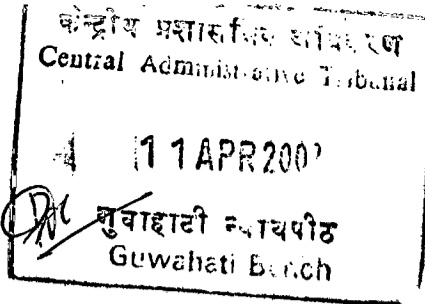
Certified that
(Nature of leave)
for (period from to)
is admissible under Rule of the Central Civil Services (Leave) Rules 1972.

Signature (with date)
Designation

*14 स्वीकृति देने वाले अधिकारो के आदेश :
Orders of the authority competent to grant leave :

हस्ताक्षर, तारीख सहित
पदनाम
Signature (with date)
Designation

*यदि प्रार्थी कोई प्रतिकार भत्ता मिलता है, तो मंजूरी देने वाले अधिकारी का यह लिखना चाहिए की छुट्टी होने पर प्रार्थी उसी पद पर या किसी ऐसे पद पर लौटने की आशा है, या नहीं, जहां इसी प्रकार भत्ता मिलता है।
If the applicant is drawing any compensatory allowance, it should also be indicated in the orders that on expiry of leave, the Government servant is likely to return to the same post or to another post carrying similar allowance.



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI

OA No. 319/2006

IN THE MATTER OF :

Shri K.K. Singh & Ors.

.... Applicants

Vs.

Union of India & Ors.

... Respondents

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Through

For
Respondents

Usha Das
Central Govt. Counsel

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

OA No. 319/2006

IN THE MATTER OF :

Shri K.K. Singh & Ors.

.... Applicants

Vs.

Union of India & Ors.

... Respondents

COUNTER REPLY ON BEHALF OF THE RESPONDENTS

Most Respectfully Showeth,

- (a). That the respondents received copy of OA, and have gone through the same and understood the contentions made thereof. Save and except, the statements, which are specifically admitted herein below, rest, may be treated as total denial. The statements, which are not borne on record, are also denied and the applicant is put to the strictest proof thereof.
- (b). That before traversing various paragraphs of the OA, the respondents beg to make preliminary submissions and to place the brief history of the case as under :

PRELIMINARY SUBMISSIONS

- (a) That the present OA filed by the applicant is barred by principle of constructive res-judicata. It is submitted that challenging the transfer order dated 05.5.2006, the applicant has filed OA No. 209/2006. The said OA is still pending before this Hon'ble Tribunal. Therefore, the present OA with a prayer for payment of salary for the period cover by

Filed by
The Respondents
through
Asha Ban
Add: Chse
10/4/07
LATA TANJAN
Director
Ministry of Human Resource
Development
New Delhi-110066

Handwritten mark

transfer order is barred by principle of constructive res-judicata.

- (b) That once the transfer of the applicant was ordered, he could have no option but to join at the place of his posting. Once he did not join at the place of posting, evaded the transfer order and did not work for the period covered by transfer order, he can not claim any salary for such period. In the case of *Gujrat Electricity Board & Anr. Vs. Atma Ram Sungomal Posani*, (SLR 1989(3) page 684), Hon'ble Supreme Court viewed that no Government servant or employee of any public undertaking has a right to be absent from duty without sanction of leave, merely on account of pendency of representation against the order of transfer. In the said case Hon'ble Supreme Court viewed that if the transferred employee fails to proceed on transfer in compliance of transfer order, he would expose himself to disciplinary action under the relevant rules.
- (c) That further in terms of proviso to FR 17(I), a Government employee become entitled to salary of a post only from the date of assuming the charge of such post.

BREIF HISTORY OF THE CASE

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- 1. Shri Krishna Kumar Singh, Deputy Director (Language). The applicant in was on deputation with the office of Commissioner for Linguistic Minorities as Assistant Commissioner from 06.11.1998 to 03.2.2003.

He was repatriated to the parent department wef 04.2.2003. After his repatriation, he was posted to North-Eastern Regional Office Guwahati. He did not comply with the orders. He joined his duties at Guwahati on 11.4.2003 i.e. after lapse of a period of two months and one week.

The behavior of the applicant, while posted in Guwahati, attracted a large number of complaints against him, which were enquired into by the Director, CHD. He was also given an opportunity for submitted for his defence.

The enquiries revealed that most of the complaints were substantiated.

The applicant was transferred to Eastern Regional Office, Kolkata of the Directorate vide order dated 10.2.2004. The applicant challenged the said order before the Hon'ble CAT, Guwahati Bench by way of filing OA No. 38/2004; which was stayed by the Hon'ble CAT.

The Hon'ble Tribunal on 25.3.2004 disposed of the OA No. 38/2004 with the direction to the applicant to file a representation for choice posting. The union was directed to consider his representation and disposed the same by passing a reasoned and detailed order.

In pursuance of above, he mad ea presentation dated 01.4.2004, which was considered by the Ministry. In the process of consideration, he was also given a personal hearing by the then Joint Secretary (Languages) on 23.9.2004.

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The Ministry through a Committee comprising of Shri O.P. Phuja, Under Secretary and Shri N.C. Bordoloi further enquired into the complaints received against the officer Joint Director (Education), Government of Assam. The Committee submitted its report on 24.11.2004. The complaints were found to be true.

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

The applicant remained in police custody for a period exceeding 48 hours and had to be placed under deemed suspension as per Rule 10 of CCS (CCA) Rules, 1965 on 7.2.2005. A charge sheet was filed against the applicant in the court of Chief Judicial Magistrate, Guwahati.

The applicant filed a Contempt Petition No. 12/2005 before the Hon'ble CAT, Guwahati Bench alleging Contempt of Court for non-compliance of the order of the Hon'ble Tribunal regarding disposal of his representation dated 1.4.2004 for choice posting. The Hon'ble Tribunal was pleased to dismiss the contempt petition making an observation that since the applicant was under suspension, a decision on his representation for choice posting could not be taken.

The deemed suspension was reviewed by a Committee consisting of Shri Madhukar Sinha, Director, Ministry of HRD and Shri S. Mohan, Dy. Secretary, which was headed by the then Joint Secretary (Language) Smt. Bela Banerjee. After reviewing his case, the Committee recommended revocation of his deemed suspension.

After reviewing, the deemed suspension was revoked on 25.4.2006. Subsequently, he was transferred to Kolkata vide order dated 5.5.2006 because the post of Dy. Director was laying vacant in Kolkata.

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

The applicant did not join the post of Dy. Director, Kolkata defying the orders and stayed at Guwahati. The respondents had no option except to stop his pay for non-compliance. The Director, Department of Higher Education has issued a memorandum for his unauthorized absence asking show cause as to why the period of unauthorized absence may not be treated as Dies-non.

The applicant has again approached the Hon'ble Tribunal on challenging the order dated 28.7.2006 by way of filing OA No. 209/2006 and the Hon'ble Tribunal was pleased to order maintenance of status quo on 21.8.2006. The OA is pending before the Hon'ble Tribunal for disposal.

While complying with the direction for maintenance of Status quo, pay of the applicant has been released from the date of the order dated 21.8.2006 passed by Hon'ble Tribunal.

PARAWISE REPLY

Para 1. That the contents of para 1 of the OA are misconceived and baseless hence denied. The respondents beg to submit that the applicant kept himself absent from his duty unauthorisedly from 5.5.2006 till the order dated 21.8.2006 passed by the Hon'ble Tribunal in OA No. 209/2006. Since the applicant was not performing his duty question of paying salary does not come.

Para 2 to 4.3. That the contents of para 2 to 4.3 of the OA need no reply.

Para 4.4. That the contents of para 4.4 of the OA are misconceived and baseless hence the same are denied. It is submitted that the applicant earned entitlement for choice station posting in terms of the OM No. 20014/3/83-E-IV dated 14.12.83 is false. Having joined the Guwahati Regional Office on 11.4.2003 after repatriation from deputation, and thereafter having been transferred from Guwahati to Kolkata Regional Office on 10.2.2004 (Annexure -I), he did not complete the required tenure of two years and hence, was entitle for choice posting.

Para 4.5. That with regard to the statement made in para 4.5 of the OA, the respondents beg to submit that the applicant was ordered to be transferred on 10.2.2004 from Regional Office

by the respondents because the post of Dy. Director (Language) was vacant at the Kolkata station and his services were required much more there. As per the service conditions attached to his appointment, it bears all India transfer liability, hence the respondents can transfer the applicant at a place where his services were better required in the interest of work.

It is relevant to mention here that on his own volition, the applicant had accepted as assigned of deputation to the post of Asst. Commissioner for Linguistic Minorities at Kolkata itself and where he remained for a period of 4 years. Hence, posting at Kolkata in no way meant malafides on the part of the respondents. In so far as the posting at Delhi is concerned, since, no post was vacant, so the applicant could not be posted there.

Para 4.6. That with regard to the statement made in para 4.6 of the OA, the respondents beg to submit that the orders of the Hon'ble Tribunal dated 25.3.2004 passed in OA No. 38/2004, have been duly complied with by the respondents considering the representation dated 1.4.2004 preferred by the applicant. In the process, not only his representation was considered, the applicant was also given a personal hearing by the Joint Secretary (Language), Ministry of HRD.

Para 4.7. That with regard to the statement in para 4.7 of the OA, the respondents beg to submit that the applicant remained in police custody for a period exceeding 48 hours and had to be placed under deemed suspension and as per

and

Rule 10 of CCS (CCA) Rules, 1965 on 7.2.2005. A charge sheet was filed against him in the court of Chief Judicial Magistrate, Guwahati.

Para 4.8. That with regard to the statement made in para 4.8 of the OA, the respondents beg to submit that the respondents have never shown any disregard to the orders pronounced by this Hon'ble Tribunal nor have set over the representation filed by the applicant in any manner. The allegation of the applicant that the respondents have committed non-compliance of the orders of this Hon'ble Tribunal passed in OA No. 38/2004 is emphatically denied being false. After receiving the respondents dated 1.4.2004, the respondents considered the same and was also given a personal hearing by the then Joint Secretary (Languages). Final order could not be passed because of his deemed suspension.

It may be pertinent mentioned here that after revocation of his deemed suspension his representation for choice posting was considered at the level of Education Secretary. This has been communicated to the applicant vide communication dated 28.7.2006.

Para 4.9. That with regard to the statement made in para 4.9 of the OA, the respondents while denying the contentions made therein beg to submit that the allegation of the applicant that the order No. 5-5/89-Admn dated 25.4.2006 (Annexure -II) regarding revocation of his deemed suspension was not initiated to him by the respondents is false. It is submitted that the aforementioned order and the communication

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regarding revision of subsistence allowance were dispatched to his last known address i.e. C/o TAGS, House No. 6 Main Road, Kharghuli, Guwahati-4 in the same envelop (~~Annexure IV~~). In fact, this allegation of non-intimation is a tactful move, aimed at deriving benefit of doubt to dilute the offence of his unauthorized absence under the camouflage of non-receipt of revocation order. It may kindly be noted that the revocation order was issued on 25.4.2006 followed by a confirmation dated 13.6.2006 (Annexure ~~IV~~) however, he reported to the Guwahati Office on 5.7.2006.

The respondents further beg to submit that it is better known to the applicant as to what rules permitted him to stay at Guwahati when his representation for choice posting had been already been rejected by the Education Secretary.

Para 4.10. That with regard to the statement made in paragraph 4.10 of the OA, the respondents beg to submit that the order of the Hon'ble Tribunal dated 25.3.2004 passed in OA No. 38/2004 has been complied with while considering the representation filed by the pa and also giving personal hearing to the applicant. The respondents after taking into account the outcome of the personal hearing, repost the enquiry committee, contents of the complaints and the representation filed by the applicant were about to pass a final order, however, in the meantime, the applicant was arrested by the Assam Police and remained under police custody for a period of exceeding 48 hours and thus, had to be placed under deemed suspension. In the given

circumstances, final orders on his representation could not be passed. Hence, the allegation that subsequent transfer order was issued despite pendency of his representation made in pursuance of this Hon'ble Tribunal's order is false and aimed at misguiding this Hon'ble Tribunal are emphatically denied.

It would also be pertinent to mention in this paragraph also that his representation for posting to Delhi has been considered at the level of Education Secretary and has been rejected on 28.7.2006.

Para 4.11. That with regard to the statement made in para 4.11 of the OA, the respondents beg to submit that the applicant has already approached challenging the transfer order in OA No. 209/2006, which is still pending before the Hon'ble Tribunal.

Para 4.12. That with regard to the statement made in para 4.12 of the OA, the respondents beg to submit that the action of the respondents in stopping the pay of the applicant is in no way an arbitrary decision. It is only warranted by the circumstances created by the conduct of the applicant. It is mentioned that having been transferred to Kolkata Regional Office as a responsible Group-A Officer. However, unfortunately, he chose to defy the order of employer and stayed unauthorisedly at the Guwahati office. By defying the transfer order, he has rendered himself liable to be proceeding under rules, including stoppage of pay. No employer would pay salary to an employee who does perform duties.

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Although, the applicant defied the transfer order, after receiving the order from this Hon'ble Tribunal directing status quo in OA No. 209/2006, the respondents have released the pay of the applicant and a cheque for Rs. 1,11,870/- has been issued by the DDO, Guwahati Regional Office, subject to adjustments in future after pronouncement of final judgment in the OA No. 209/2006. This Hon'ble Tribunal may kindly be informed that the applicant is absenting himself unauthorisedly for which he may be proceeded against as per rules. However, since the respondents are duly bound to honour the direction of this Hon'ble Tribunal, the said cheque has been dispatched to his last known address through Speed Post.

Para 4.13. That with regard to the statement made in para 4.13 of the OA, the respondents beg to submit that the respondents have full respect for the orders of this Hon'ble Tribunal and they will always implement the same in letter and spirit.

Para 4.14. That with regard to the statement made in para 4.14 of the OA, the respondents beg to submit that the respondents have implemented the order of the Hon'ble Tribunal by releasing the applicant's pay. Simultaneously, they are to take decisions in respect of individual cases only as per rules. His application for grant of benefit under LTC, which was made on 4.9.2006, has synchronized with the receipt of the orders of Hon'ble Tribunal by the respondents. As per LTC rules, an applicant can avail of the Contempt Authority. In

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the applicant's case, since, the leave applied for was not sanctioned, his claim for benefits under the LTC is void.

Para 4.15. That with regard to the statement made in para 4.15 of the OA, the respondents while denying the contentions made therein beg to submit that the facts are –

- I. The orders regarding revocation of his deemed suspension and revision of subsistence allowance were issued simultaneously on 25.4.2006 and dispatched to him in the same envelope at his last known address as mentioned in preceding para.
- II. This was followed by transfer order dated 5.5.2006.
- III. The fact of revocation of his deemed suspension and transfer to Kolkata were confirmed vide the letter dated 13.6.2006.
- IV. He joined the Guwahati on 05.7.2006.

The above statement amply bring out that he was well aware of revocation of his deemed suspension, the knowledge whereof he is trying to conceal with certain ulterior motives. Leaving alone the non-receipt of revocation order, it was his moral duty to proceed to Kolkata Regional Office on receiving the confirmation to his transfer after completing formalities at Guwahati. However, instead of joining the Kolkata Office he approached this Hon'ble Tribunal with absolutely flimsy grounds as advanced in the present OA. In fact, he was acting in a planned manner to find ways to circumvent the transfer order. It is evident

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from the fact that first he denied receipt of revocation order, secondly did not obey the transfer and thirdly even after receiving the confirmation letter did not proceed to Kolkata. It is submitted that withholding of his pay has nothing to do with determination of headquarters, which has already been decided by Hon'ble Tribunal's order maintaining status quo. Rather, the respondents were compelled to stop his pay as he defied the orders transferring the applicant to Kolkata. No malafides can be attributed to the action of the respondents.

Para 4.16. That with regard to the statement made in para 4.16 of the OA, the respondents beg to submit that the applicant was duly communicated the revocation of his deemed suspension as per Annexure-II. In fact, he had the intention to stay at Guwahati in a planned manner under the pretext of non-receipt of revocation order.

The allegation of the applicant that his pay was stopped on the ground that his headquarter was not decided is absolutely incorrect. His pay was stopped for non-compliance of the transfer order.

Para 4.17. That with regard to the statement made in para 4.17 of the OA, the respondents beg to submit that the respondents have always taken well through decisions while considering his cases. They are not considered by one authority but in appropriate cases by the Administration, the Director, Joint Secretary (Languages), Education Secretary and also the

Hon'ble HRD Minister. Having been considered through this established channel, no one would accept that all the authorities are biased against the applicant. The respondents pleaded before this Hon'ble Tribunal to take note of such unbecoming behavior of Government employees. If all the employees resort to seek remedy in case of transfer orders, which has been passed in the public interest the entire functioning of the Government, will go haywire.

Para 5.1 to 5.9. That the contents of para 5.1 to 5.9 of the OA are misconceived and baseless hence the same are denied. It is respectfully submitted that once vide order dated 05.5.06 the applicant was transferred, he had no right to be absent from duty without sanction of leave. In the case of *Gujrat Electricity Board & Anr. Vs. Atma Ram Soungomal Posani*, (SLR 1989(3) page 684), Hon'ble Supreme Court viewed as follows:

“Transfer of a Government servant appointed to a particular cadre of transferable posts from one place to the other is an incident of service. No Government servant or employee of Public Undertaking has legal right for being posted at any particular place. Transfer from one place to other is generally a condition of service and of service and the employee has no choice in the matter. Transfer from one place to other is necessary in public interest and efficiency in the public administration. Whenever, a public servant is transferred he must comply with the order but if there be any genuine difficulty in proceeding on transfer it is open to him to make representation to be the competent authority for stay, modification or

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cancellation of the transfer order. If the order of transfer is not stayed, modified or cancelled the concerned public servant must carry out the order of transfer. In the absence of any stay of the transfer order a public servant has no justification to avoid or evade the transfer order merely on the ground of having made a representation, or on the ground of his difficulty in moving from one place to the other. If he fails to proceed on transfer in compliance to the transfer order, he would expose himself to disciplinary action under the relevant Rules, as has happened in the instant case. The respondent lost his service as he refused to comply with the order of his transfer from one place to the other.

There is no dispute that the respondent was holding a transferable post and under the conditions of service applicable to him he was liable to be transferred and posted at any place with the state of Gujarat. The respondent had no legal or statutory right to insist for being posted at one particular place. In fact, during the tenure of his service in the Board the respondent had been transferred from one place to another place several times.

No Government servant or employee of any public undertaking has a right to be absent from duty without sanction of leave, merely on account of pendency of representation against the order of transfer.”

Para 6. The OA is barred by section 20 of AT Act, 1985.

Before filing the OA the applicant did not comply with the provisions of section 20 of AT Act.

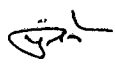
Para 7. Admittedly the OA is barred by principle of res-subjudice.

Para 8. The OA is misconceived and devoid of merits, thus
deserve to be rejected.

Para 9. In terms of provisions of section 19(3) of AT Act,
1985, the representation of the applicant is abates.

Para 10 to 12. Need no reply.

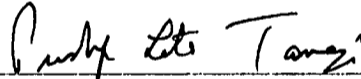
In view of the above it is prayed that the OA may be
dismissed with cost.


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

Date:
Place: New Delhi

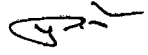
Central Govt. Counsel

Verification :

I, 

do hereby solemnly affirm and state that the contents of above
Counter Reply are true and correct to the best of my knowledge
derived from the record.

Verified at New Delhi on 4.4. /2007.


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

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ANNEXURE-I

मि.सं. 5-5/89-प्रशासन
भारत सरकार
केंद्रीय हिंदी निदेशालय
मानव संसाधन विकास मंत्रालय
(माध्यमिक एवं उच्चतर शिक्षा विभाग)

पश्चिमी खंड-7, आर.के.पुरम,
नई दिल्ली-110066
दिनांक 10.2.2004

आदेश

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

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

श्री के.के.सिंह
उपनिदेशक (भाषा)
केंद्रीय हिंदी निदेशालय (क्षेत्रीय कार्यालय)
मार्फत दास इन्टरप्राइजेज, पी.ओ. खानपाड़ा,
जयानगर, गुवाहाटी - 781 002

(डॉ. सुष्मलता तनेजा)
निदेशक
Dr. SUSMALATA TANEJA
Central Director
Ministry of Human Resource Dev.
West Block-7, R. K. Puram,
New Delhi-110066

प्रतिलिपि :-

1. प्रभारी क्षेत्रीय कार्यालय, केंद्रीय हिंदी निदेशालय (क्षेत्रीय कार्यालय) मार्फत दास इन्टरप्राइजेज, पी.ओ. खानपाड़ा, जयानगर, गुवाहाटी - 781 002
2. निदेशक महोदया के निजी सहायक।
3. प्रशासनिक अधिकारी के निजी सहायक।
4. सभी उपनिदेशक (भाषाएं)
5. क्षेत्रीय कार्यालय, हैदराबाद, चेन्नई, गुवाहाटी और कोलकाता।
6. सभी ब्यूरो प्रमुख।
7. श्री उमाकांत खुबालकर, अनुसंधान अधिकारी, क्षेत्रीय कार्यालय, कोलकाता को सूचनार्थ।
8. लेखा अनुभाग - 2 प्रतियां।
9. कार्यालय आदेश फोल्डर।

ANNEXURE - I
ANNEXURE - I

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

24/4
7/1/06

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

ORDER

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

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

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

(Dr. P.L. Taneja)
Director

Copy to:

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

OK

भारत सरकार
केंद्रीय हिंदी निदेशालय
मानव संसाधन विकास मंत्रालय
(माध्यमिक और उच्चतर शिक्षा विभाग)

19-11
ANNEXURE-1

पश्चिमी खंड-7, आर.के. पुरम,
नई दिल्ली-110066
दिनांक 5.5.2006

आदेश

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

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

Dr. Pushp Lata Taneja
Dr. PUSHP LATA TANEJA
Director
Central Hindi Directorate
Ministry of Human Resource Dev.
West Block-7, R. K. Puram,
New Delhi-110066
(डा० पुष्पलता तनेजा)
निदेशक

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

प्रतिलिपि -

- 1 प्रभारी क्षेत्रीय कार्यालय, केंद्रीय हिंदी निदेशालय (क्षेत्रीय कार्यालय) मार्फत दास इन्टरप्राइजेज, पी०ओ० खानपाडा, जयानगर, गुवाहाटी-781002
- 2 निदेशक महोदय के निजी सहायक।
- 3 प्रशासनिक अधिकारी के निजी सहायक।
- 4 सभी उपनिदेशक (भाषा)।
- 5 क्षेत्रीय कार्यालय, हेदरबाद चेन्नई, गुवाहाटी, कोलकाता को सूचनाय।
- 6 लेखा अनुभाग - दो प्रतियां।
- 7 सभी ब्यूरो प्रमुख।
- 8 श्री. विलीश कुमार कनिष्ठ प्रशासनिक अधिकारी, क्षेत्रीय कार्यालय कोलकाता को सूचनाय।
- 8 कार्यालय आदेश फोल्डर।

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

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

OFFICE MEMORANDUM

The undersigned is directed to refer to the e-mail from Sh. K.K. Singh, DD (L) dated 13 May 2006 and to state that while reviewing the deemed suspension of Sh. Singh, the M/O HRD have ordered to post Sh. K.K. Singh at Kollata. As regards revocation of his deemed suspension, it is informed that the deemed suspension should be taken into consideration.

(Signature)
(S. Anil Kumar)
Administrative Officer

Sh. K.K. Singh, Dy. Director (L)
C-1 AGN, House No. 76
Main Road, Kherghuh,
Guwahati-781001

Authenticated
(Signature)

Attached
Dr. PUSHPA TANEJA
Director
Central Hindi Direction
Ministry of Human Resource Development
West Block-7, R. K. Puram,
New Delhi-110066

Central Administrative Tribunal
10 JUL 2007
গুৱাহাটী সঞ্চালকালয়
Guwahati Bench

81
Filed by the applicant
through: S. Naiti
Advocate
16/07/07

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

In the matter of: -

O.A. No. 319 of 2006

Shri Krishna Kumar Singh

..... Applicant.

-Vs-

Union of India and Others.

..... Respondents.

-AND-

In the matter of: -

**Rejoinder submitted by the applicant in
reply to the written statements
submitted by the Respondents.**

**The humble applicant above named most humbly and respectfully state as
under: -**

- 1. That the applicant has gone through the written statement and has understood the contents thereof and categorically denies the statements which are not borne out of record.**
- 2. That with regard to the statements made in preliminary submissions applicant categorically deny the correctness of the same and further begs to state that the written statement has been filed on 10.04.2007 whereas this Hon'ble Tribunal disposed of the OA No. 209/2006 on 02.04.2007 with the direction to the applicant to submit a comprehensive representation with all material evidence to the first respondent within a period of three weeks from the date of receipt of this order, and with a further direction to**

the first respondent or any other competent authority as directed by him shall consider and dispose of the representation by passing speaking order based on the rule positions and communicate the same to the applicant within a time frame of three months thereafter. However, Hon'ble Tribunal directed to maintain status quo that has already been passed on 21.08.2006 shall continue till the completion of the exercise as directed. As such on 10.04.2007 i.e. the date on which written statement has been filed, the OA No. 209/2006 was not pending before the Hon'ble Tribunal, moreover, the prayer of the applicant in OA No. 209/2006 was to transfer him to his choice station at New Delhi and till such consideration is made, the applicant be allowed to continue in his present post at Guwahati. Therefore, the contention of the respondents that that the instant Original Application is barred by principle of constructive res judicata is unreasonable and the same is liable to be rejected. Moreover, the case law relied on by the respondents has no bearing in the instant original application and the said contention raised in para (b) is liable to be rejected by the Hon'ble Tribunal.

3. That with regard to the statements made in Brief History of the case the applicant categorically denies the contention of the respondents save and except which are borne out of record and further begs to state that applicant was on leave after his repatriation to the parent department, therefore joining duty at Guwahati after a period of two months and one week was justified.

It is further submitted that the enquiry made by the Director, C.H.D against the applicant is totally baseless as because the applicant never came across any such inquiry and no material has been enclosed to justify such baseless statement made in the written statement. Moreover, no action on the report of the Committee submitted on 24.11.04 has been taken till date and these facts has no bearing with the instant original application.

It is pertinent to mention here that revocation of suspension order dated 25.04.06 and subsequent transfer order dated 05.05.2006 were not communicated to the applicant. The order dated 25.04.06 remained in file only and not communicated to the applicant and the order dated 05.05.06 was sent to the office address of the applicant which the applicant came to know after the same was reported from Guwahati Office to the applicant's residence. The applicant had to comply both the orders only after resumption of his duty in pursuance to the revocation of suspension order. The respondents declined to make an endorsement of the office order and assigning duties to be performed on resumption of his duty on 05.07.06. As such action of the respondents are always ill motivated and with a vindictive attitude towards to the applicant in order to harass him.

4. That the applicant categorically denies the statement made in para 1 and 2 save and except which are borne out of record and further begs to submit that the respondents willfully and deliberately concealed the deemed suspension revocation order dated 25.04.06 and restrained the applicant resuming his duties till 04.07.06. The applicant could join duty only after obtaining a Photostat copy of the order dated 25.04.06 personally from the file of the Guwahati Office on 05.07.06. Therefore, failure on the part of the respondents to make an office order communicating to the applicant for assignment of charge on resumption of duties cannot be attributed to the applicant.

It is relevant to mention here that this Hon'ble Tribunal vide it's order dated 25.03.2004 disposed of OA No. 38/2004 directing the applicant to file a fresh representation mentioning his choice place of posting and if such application is made, the respondents shall consider the same and pass a reasoned order within one month's time thereafter. Adequate pre decisional hearing shall also be given to the applicant. It was also directed by the Hon'ble Tribunal that till completion of the exercise, interim order dated 20.2.2004 will continue (Annexure- V to the

O.A.). However, the respondents did not pass any order as directed by this Hon'ble Tribunal on 25.03.2004 in OA No. 38/2004 till 28.07.2006 i.e. the date on which fresh representation of the applicant for choice posting at New Delhi was summarily rejected by the respondents. Therefore, the interim order passed by the Hon'ble Tribunal in OA No. 38/2004 continued till 28.07.2006 but the respondents ignoring the direction passed by this Hon'ble Tribunal in OA No. 38/2004 issued the subsequent transfer order dated 05.05.2006 which is not permissible under law and the same is also contemptuous in nature.

It is pertinent to mention here that all India transfer liability is applicable to all the officers serving in the department as applicable to the present applicant and the post lying vacant at Kolkata could have been filled up by transferring a Dy. Director (Language) from Delhi itself but those officers were not transferred from New Delhi at any point of time since 2004 and the applicant is repeatedly being transferred at Kolkata just to deny him the benefit of choice station posting at New Delhi in terms of O.M dated 14.12.1983 and 22.07.1998. As such it can rightly be concluded that the applicant is being harassed repeatedly in the cover fold of "interest of work" just to deny his legitimate right of choice posting at New Delhi and such action on the part of the respondents is mala fide, arbitrary and the same is liable to be rejected by the Hon'ble Tribunal.

5. That with regard to the reply to the para 4.9 of the written statement, the applicant denies the contention of the respondents and further begs to state that the respondents in a planned manner in order to deprive the applicant did not communicate the order of revocation of suspension dated 25.04.06 to the applicant with the view of intention to restrain the applicant from resuming his duties. It is categorically stated that the respondents never communicated the order of revocation of suspension to the applicant and after succeeding in their design now holding that the applicant was unauthorizedly absent, as such the respondents are liable to

produce records to prove that order of revocation of suspension dated 25.04.06 was communicated to the applicant. It is further stated that reply of the respondents in para 4.11 in O.A. No. 209/2006 and para 4.9 in O.A. No. 319/06 are contradictory and clear shifting of the stand adopted by them. In OA No. 209/2006 it has been stated that "the order was dispatched by registered post to his last known address" and in OA No. 319/06 it has been stated that "the aforementioned order and the communication regarding revision of subsistence allowance were dispatched to his last known address in the same envelop" whereas from Annexure- II to the written statement it is evident that address of the applicant is incomplete, as such it can rightly be concluded that the order of revocation of suspension dated 25.04.06 was not communicated to the applicant at any point of time. The statement of the applicant that the order of revocation of suspension dated 25.04.06 was sent in the same envelop is totally false as the envelop did not contain the said order while the subsistence allowance revision order received in the said order showed the applicant "under suspension" which enforced the view of continued suspension and question of sending revocation of suspension order in the same envelop treating the applicant under suspension is self contradictory on the part of the respondents and same reflects malafide stand of the respondents to cover up their planned manipulation and thereafter to treat the applicant as unauthorized absent. As such it is submitted that applicant was never communicated the revocation of suspension order dated 25.04.06 at any point of time and the applicant remained unaware of his revocation of suspension and had requested for clarification vide his representation dated 15.05.2006. Thereafter the respondents issued confirmation dated 13.06.2006, which was delivered on 19.06.2006 in Guwahati. Thus the applicant had to wait for more than one month to have this clarification regarding revocation of suspension but no copy of revocation of suspension order was enclosed along with confirmation memo dated 13.06.06. Therefore, the delay in reporting duty

after revocation of suspension cannot be attributed to the applicant and the respondents are liable to prove that the revocation of suspension order was communicated to the applicant by way of producing record before this Hon'ble Tribunal.

6. That with regard to the reply to para 4.10 and 4.11 of the written statement the applicant denies the contention raised in the written statement save and except which are borne out of record and further begs to state that the order dated 25.03.2004 passed in OA No. 38/2004 was in force till rejection of representation of the applicant for choice posting was passed on 28.07.06 and the said order was also stayed by this Hon'ble Tribunal in OA No. 209/2006, however the OA No. 209/2006 has been disposed of by the Hon'ble Tribunal on 02.04.07 and the applicant has submitted a representation in compliance with the direction passed by the Hon'ble Tribunal and the representation is still pending with the authority. Therefore, the subsequent transfer order dated 05.05.06 issued by the respondents has no force in the eye of law and the same is contemptuous in nature.
7. That the applicant categorically denies the contention raised in para 4.12, 4.13 and 4.14 save and except which are borne out of record and further begs to state that the stoppage of pay of the applicant since May 2006 was totally malafide and a personalized arbitrary action on the part of the respondent No. 2. In this connection applicant begs to state that he was not aware of the revocation of suspension order dated 25.04.06 since the same was not communicated to him. It is further stated that applicant submitted a representation in June 2006 regarding stoppage of May 2006 subsistence allowance but no reply was communicated to the applicant by the respondents. So far defying the order of employer the applicant begs to state that in pursuance of the revocation of suspension order he

resumed his duties in the office which was shown in the revocation order and from where he was placed under suspension.

It is pertinent to mention here that the respondents had issued a cheque amounting to Rs. 1,11,870/- i.e. the salary for the period from 21.08.2006 to 30.11.2006 which was prepared on 08.12.2006 and dispatched on 25.01.2006 that too after the applicant has approached this Hon'ble Tribunal through instant Original Application. However, salary for the period from 01.05.2006 to 20.08.2006 and 01.12.2006 to till date has not been released by the respondents which reflects the vindictive attitude on the part of the respondents in order to harass the applicant for no fault of his own. Therefore, the Hon'ble Tribunal be pleased to direct the respondents to release salary of the applicant for the period 06.05.2006 to 20.08.2006 and 01.12.2006 to till date with interest.

It is relevant to mention here that the leave of 7 days (23.12.2006 to 29.12.06) of the applicant has been sanctioned vide order dated 09.03.2007, as such the contention of the respondents that the leave was not sanctioned is baseless and the same is liable to be rejected. However, the application for grant of LTC of the applicant has been denied by the respondents in a arbitrary manner and in order to harass the applicant.

8. That with regard to the statement made in paragraph 4.15 the applicant denies the contention of respondents save and except which are borne out of record and further begs to state that the order of revocation of deemed suspension was never communicated to the applicant at any point of time as explained in preceeding paragraphs and the respondents has issued only the order of revision of subsistence allowance dated 25.04.2006 which the applicant duly received since the revision of subsistence allowance was communicated to the applicant to his proper address and that envelope contained only one letter i.e. the order of revision of subsistence allowance dated 25.04.06. Therefore, the contention of the respondents that the revocation of deemed suspension was communicated to the

applicant in the same envelop along with revision of subsistence allowance is not true and the same is categorically denied. It is further stated that the transfer order dated 05.05.2006 is contemptuous to the order dated 25.03.2004 passed in OA No. 38/2004 since the order dated 25.03.04 of this Hon'ble Tribunal was in force till 28.07.2006. It is also stated that applicant came to know the revocation of suspension order only on 05.07.06 when he resumed duty at Guwahati. It is stated that the respondents admitted that after completing the formalities at Guwahati the applicant's moral duty was to proceed for Kolkata but the respondents after receiving the duty resumption report dated 05.07.2006 did not make any order to complete formalities at Guwahati even after requests made by the applicant the respondents declined to endorse the resumption of duties and assign any task to the applicant and intended to treat the period spent on duty as unauthorized absence and dies non. Even before resumption of duties on 05.07.06, the respondents had stopped payment of salary to the applicant w.e.f. 01.05.06 as well as had not granted and withheld annual increments for 2005 and 2006. In addition to this payment of revised subsistence allowance from February 2005 to April 2006 was also withheld and deliberately delayed which was released only on 10.08.2006 after repeated reminders and requests while it was due from 25.04.06. It is further stated that non-determination of HQ has been cited as a ground to non-sanction of LTC advance whereas respondents ignored duty resumption report which was only in compliance of their delayed suspension revocation order and actually circumvented their own order. Further by delaying the payment of revised subsistence allowance and stopping the pay without any notice, memo etc., the respondents adopted coercive measures to bundle the applicant to Kolkata.

9. That with regard to the statement made in para 4.16 and 4.17 the applicant begs to state that the order of revocation of deemed suspension (Annexure- II to the written statement) does not bear applicant's address,

therefore question of it's delivery to the applicant does not arise and the applicant categorically begs to state that revocation of deemed suspension order dated 25.04.06 was never forwarded to him in a planned manner in order to subject the applicant for further harassment and to restrain the applicant from resumption of duty. It is further stated that most of the decision on the applicant's case were made at the then respondent No. 2 level who has had a personal bias against the applicant since long especially after the applicant's effort to implement accountability in the mater of Govt. grants to N.G.O. In other cases the then respondent No. 2 resorts to lobbying against the applicant in the Ministry many a times roping in the N.G.O whom she has been patronizing with huge undeserving funds and has developed well organized nexus, the same N.G.O was involved in assaulting the applicant and instituting false cases on the one hand, for exerting political pressure on the other hand to sabotage any fair or justified decision by the superior authorities. The applicant had to approach to the Hon'ble Tribunal under very much compelling circumstances where his very survival was at stake.

10. That with regard to the statements made in reply to para 5.1 to 5.9, 6, 7, 8 and 9 the applicant denies the correctness of the same and further begs to state that by virtue of resuming the duty on 05.07.2006, the applicant is fully entitled to salary of the post and also entitled to earlier period till 04.07.06 since the respondents did not communicate the revocation of deemed suspension order to the applicant and restrained the applicant from assuming duties the charge of the post while he was always available and willing to assume the charge of the post.
11. That in the facts and circumstances as stated above, the applicant reiterates the submissions made in the original application and humbly submits that he is entitled to the reliefs prayed for and the O.A. deserves to be allowed with costs.

VERIFICATION

I, Shri Krishna Kumar Singh, S/o- Late Badri Narain Singh, aged about 56 years, working as Deputy Director (Languages), in the office of the Central Hindi Directorate, Guwahati, applicant in the instant Original Application, do hereby verify that the statements made in paragraph 1 to 11 of the rejoinder are true to my knowledge and rest are my humble submission before the Hon'ble Tribunal, I have not suppressed any material fact.

And I sign this verification on this the 16th day of July 2007.

CSM EMTS