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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 150/12005

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SECTION OFFICER (Judl.)

Shahil  
21/11/17

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

**ORDER SHEET**

Original Application No. 150/05

Disc. Petition No.

Contempt Petition No.

Review Application No.

Applicant(s) Dr. D. Singh

Respondents UOI, LMS

Advocate(s) for the Applicant(s) MR Adil Ahmed

Advocate(s) for the Respondents

C.G.S.C. Md. M.U. Ahmed  
K.N. Chaudhury, R.S. Chaudhury, G. Paul, Ms. S. Das for Respondent  
Nos. 2, 3 & 4,

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form is filed/C. F. for Rs. 50/- deposited vide A.P.O./BD No. <u>206/1333.56</u> Dated <u>20.6.05</u></p> <p>By Registrar</p> <p>steps taken <u>N/20.6.05</u></p>	21.6.2005	<p>Heard Mr. A. Ahmed, learned counsel for the applicant and also Mr. M.U. Ahmed, learned Addl. C.G.S. C. for the respondents.</p> <p>Issue notice to show cause as to why this application shall not be admitted.</p> <p>Post on 5.8.2005. Written statement, if any, in the meantime.</p> <p><i>Chairman</i> Member</p>
<p>Notice &amp; order sent to D/section for issuing to resp. No. 1 to 4 by regd. A/c post.</p> <p>24/6/05. D/No = 992 to 995</p> <p>DT = 29/6/05.</p> <p>Notice duly served on resp. 4.</p> <p>Notice D/Served on 12/7 resp. No. 3, 1</p>	5.8.05.	<p>Mr. A. Ahmed learned counsel for the applicant has filed letter of absence. Ms. S. Das learned counsel on behalf of the respondents seeks time to obtain instructions.</p> <p>Post the matter on 23.8.05.</p> <p><i>Vice-Chairman</i></p>
	1m	<p><i>Vice-Chairman</i></p>

① Notice duly served  
ON R. No. 1, 3 & 4.

② No. written statement  
has been filed.

30  
8.8.05

No. W.S has been  
filed.

31  
22.8.05

lm

23.8.05. Heard Mr. A. Ahmed learned counsel for the applicant and Mr. G. Rahul, learned counsel appearing on behalf of the Respondents. Mr. G. Rahul, counsel for the Respondents has submitted that the reply has been filed to-day. Mr. A. Ahmed, counsel for the applicant seeks time to file rejoinder.

Post the matter on 26.9.05.

26.9.05  
Vice-Chairman

26.09.2005

Mr. A. Ahmed, learned counsel for the applicant submits that some more time is required for filing written statement. Mr. G. Rahul, learned counsel ~~for~~ appears for the respondents. Post on 16.11.2005.

26.9.05  
Vice-Chairman

mb

No. Rejoinder has  
been filed.

32  
23.9.05

No. Rejoinder has  
been filed.

33  
24.9.05

lm

16.11.05.

Mr. A. Ahmed learned counsel for the applicant and Mr. M. U. Ahmed learned Addl. C.G.S.C. appearing for Respondent No. 1 and Mr. G. Rahul learned counsel appearing for Respondents No. 2, 3 & 4. They submits that the case is ready for hearing.

Post the matter before the Division Bench.

26.9.05  
Vice-Chairman

17.11.05

Rejoinder submitted  
by the Applicant.

34

Case is ready for hearing.

35  
7.3.06

08.03.2006 Mr. A. Ahmed, learned counsel for the applicant is absent due to bereavement, in the family. Post before the next Division Bench after two weeks.

26-7-06

Subject - matter relates to SB. Therefore, may <sup>mb</sup> be heard by the SB.

27.7.2006

This case is ready for hearing in regard of pleadings.

No reply from Govt in R-G though notices served.

bb

The case is ready 22.08.2006

At the request of learned Counsel for the Respondents, the case is adjourned. Post on 28.08.2006.

Vice-Chairman

3  
21.8.06.

The case is ready for hearing.

3  
4.9.06.

/mb/

28.08.2006 Present: Hon'ble Sri K.V. Sachidanandan Vice-Chairman.

Post on 05.09.2006.

Vice-Chairman

/mb/

O.A. No. 150/2005

05.09.2006 Present: Hon'ble Sri K.V. Sachidanandan  
Vice-Chairman.

*The case is ready  
for hearing.*

*M  
19.9.06.*

Ms S. Bhattacharjee, learned  
Counsel represented the Applicant and  
submitted that the matter may be posted  
in the next week and positively she will  
argue the matter.

Post on 20.09.2006.

*Vice-Chairman*

*/mb/*

20.09.2006 Present: Hon'ble Sri K.V. Sachidanandan  
Vice-Chairman.

Heard Ms S. Bhattacharjee, learned  
Counsel for the Applicant and Mrs. S.  
Chowdhury, learned Counsel for the  
Respondents. Hearing concluded.  
Judgment delivered in open Court, kept in  
separate sheets. The Application is  
disposed of in terms of the order. No order  
as to costs.

*Vice-Chairman*

*/mb/*

*27.10.06  
Copy of the  
judgment was  
sent to the Office  
for serving the same  
to the applicant as  
well as to the L/Adv.  
for the Resps.*

*SL*

6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI

150 of 2006

O.A. No. ....

20.09.2006

DATE OF DECISION .....

Dr. Dharam Singh ..... Applicant/s

Mr Adil Ahmed and Ms S. Bhattacharjee ..... Advocate for the  
Applicant/s.

- Versus -

Union of India & Others ..... Respondent/s

Mr K.N. Choudhury, Sr. Advocate, Mrs. R.S. Chowdhury, Mr G. Rahul and  
Ms S. Das ..... Advocate for the  
Respondents

CORAM

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

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

Vice-Chairman

21/9/06

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 150 of 2005.

Date of Order: This the 20th day of September 2006.

**The Hon'ble Sri K.V. Sachidanandan, Vice-Chairman.**

Dr. Dharam Singh  
Senior Scientist  
National Bureau of Soil Survey and Land  
Use Planning, Regional Centre, Jorhat,  
Jamuriguri Road, Borbhetia, Jorhat - 785 004.

....Applicant.

By Advocate: Mr Adil Ahmed and Ms S. Bhattacharjee, Advocates.

- Versus -

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Agriculture, Krishi Bhawan, New Delhi - 1.
2. The Secretary, Department of Agriculture Research Education & the Director General, ICAR, Krishi Bhawan, New Delhi - 1.
3. The Director, National Bureau of Soil Survey and Land Use Planning (ICAR), Amravati Road, Shankar Nagar, P.O. - Nagpur, Pin - 440 010.
4. Dr. S.P. Singh,  
Principal Scientist and In-Charge, Head of Regional Centre  
National Bureau of Soil Survey and Land Use Planning IARI  
Campus, New Delhi - 110 012.

.... Respondents.

By Advocates: Mr. K.N. Choudhury, Sr. Advocate, Mrs. R.S. Chowdhury, Mr. G. Rahul and Ms S. Das, Advocates.

ORDER (ORAL)

**K.V. SACHIDANANDAN (V.C.)**

The Applicant is presently working as Sr. Scientist under the Respondent No. 3. He worked in the Technical T- 6 Grade at Part Blair and was transferred to Izat Nagar as Senior Farm Manager (T-7) in

1991. Thereafter, the Applicant was appointed as Senior Scientist at National Bureau of Soil Survey and Land Use Planning at Nagpur. The Applicant was transferred to Kolkata and Delhi Centre on his request. In 2004, the Applicant was transferred to Jorhat Centre. The Applicant made several representations for cancellation of his transfer order. He also filed O.A. No. 176 of 2004 before this Tribunal and the Tribunal vide order dated 11.08.2004 directed the Respondents to dispose of the representation filed by the Applicant. The Respondents vide order dated 11.11.2004 rejected the representation of the Applicant. Hence, this Application seeking the following reliefs:-

"8.1 That the Hon'ble Tribunal may be pleased to direct the Respondents to set aside and quash the Impugned Transfer Order F.No.3-129/04-Admn./4559/6 Dated 14<sup>th</sup> June 2004, Office Order No. RCD/Tech/553/6 Dated 17<sup>th</sup> June 2004 and also order F. No. 8-20/2004-IA.II Dated 11-11-2004 issued by the Respondents.

8.2 The Respondents may be directed by this Hon'ble Tribunal to transfer the Applicant from Jorhat regional centre to any other office at Delhi or nearest to his home town i.e. near Gaziabad (U.P.)

8.3 To Pass any other relief or relieves to which the applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.

8.4 To pay the cost of the application."

2. When the matter came up for hearing, it is submitted that the Applicant has already accepted the transfer order and he is now working at Jorhat Centre. Ms S. Bhattacharjee, learned Counsel for the Applicant submitted that in total the Applicant spent at Port Blair and North Eastern Region for more than required period and therefore, he is entitled to get transfer to Delhi or any near by place, where his family is residing. The Applicant is working at Jorhat since 2004. The

circumstances has already changed from the fact of the earlier impugned order dated 24.11.2004 and he could be eligible for transfer to Delhi or any nearby place. Learned Counsel for the Applicant also submitted that she will be satisfied if a direction is given to the Respondents to consider his case sympathetically as was stated in a communication address to the Applicant by the 3rd Respondent earlier that "**as soon as the decision of the CAT has arrived, the request of Dr. Dharam Singh for his transfer would be considered sympathetically by the Authority of NBSS&LUP**" Mrs. R.S. Chowdhury, learned Counsel for the Respondents submitted that if it will suffice the ends of justice, she has no objection.

3. In the interest of justice, this Tribunal directs that the Applicant shall make a comprehensive representation before the Respondent No. 3 specifying his choice posting forthwith stating all his grievances alongwith a copy of this O.A. and a copy of the order where the above statement was communicated to him. On receipt of such representation, the Respondent No. 3 and/or any other competent authority shall consider and dispose of the same with a speaking order and communicate the same to the Applicant within three months from the date of receipt of the representation. It is made clear that the Respondents will stand to the statement communicated to the Applicant and consider his case sympathetically.

The O.A. is disposed of as above. In the circumstances no order as to costs.

  
(K. V. SACHIDANANDAN )  
VICE CHAIRMAN

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

20 JUN 2005

Original Application No. 150

2005 गुवाहाटी बैच  
Guwahati Bench  
... Applicant

Dr.Dharam Singh

-Versus -

The Union of India & Ors.

... Respondents.

**LIST OF DATES/EVENTS**

02.11.1981 The Applicant was appointed as Senior Technical Assistant (T-4) at Central and Water Conservation and Research Training Institute at Bellary (Karanataka)

12.11.1984 The Applicant joined as Farm Manager (Technical) T-6 on direct selection and posted at Central Agriculture Research Institute, Port Blair.

26.12.1991 The Applicant was transferred to Indian Veterinary Research Institute, Izat Nagar as Senior Manager (T-7). After that he was on deputation under the Ministry of Agriculture in the post of Assistant Commissioner (Fodder Development).

29.12.1999 The Applicant was selected and appointed as Senior Scientist at National Bureau of Soil Survey and Land Use Planning at Nagpur.

08.03.2000 The Applicant was transferred to Kolkata Regional Centre.

26.07.2000 The Applicant was transferred to New Delhi Centre on his request. ✓

14.06.2004 The Applicant was transferred to Jorhat Centre. ✓

22.06.2004 The Applicant filed a representation before the Respondent No.2 for cancellation of his transfer from New Delhi to Jorhat on Medical and also his daughter's academic interest. ✓

11.08.2004 The Applicant approached this Hon'ble Tribunal against the impugned transfer order by filing O.A.No.176/2004. The Hon'ble Tribunal disposed the said O.A. on the admission stage by directing the Respondents to dispose the representation-dated 26.06.2004 filed by the Applicant. ✓

11.11.2004 The Representation of the Applicant dated 22-06-2004 was rejected by the Respondents. Hence he has filed this O.A. against the rejection order issued by the Respondents. ✓

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

केन्द्रीय प्रशासनिक अधिकारी  
Central Administrative Tribunal

Original Application No. 150 /2005

0 JUN2005

Dr.Dharam Singh

... Applicant Guwahati Bench

- Versus -

The Union of India & Ors

... Respondents.

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Filed By  
  
 (ADIL AHMED)  
 ADVOCATE

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH, GUWAHATI

(AN APPLICATION UNDER SECTION 19 OF THE CENTRAL  
ADMINISTRATIVE TRIBUNAL ACT 1985)

ORIGINAL APPLICATION NO. 150 OF 2005.

BETWEEN

Dr.Dharam Singh

Senior Scientist,

National Bureau of Soil Survey & Land  
Use Planning, Regional Centre Jorhat,  
Jamuguri Road, Borbheta, Jorhat-785004.

...Applicant

-AND-

1. The Union of India represented by the  
Secretary to the Government of India,  
Ministry of Agriculture,  
Krishi Bhawan, New Delhi-1.
2. The Secretary, Department of Agriculture  
Research Education & The Director  
General, ICAR, Krishi Bhawan, New  
Delhi-1.
3. The Director, National Bureau of Soil  
Survey and Land Use Planning (ICAR),  
Amravati Road, Shankar Nagar, P.O.-  
Nagpur, Pin-440010.
4. Dr.S.P.Singh, *In charge,*  
Principal Scientist and Head Regional  
Centre, National Bureau of Soil Survey  
and Land Use Planning, IARI Campus,  
New Delhi-110012.

...Respondents



**1) DETAILS OF THE APPLICATION PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:**

This Application is made against the impugned Office Order F.No.8-20/2004-IA.II Dated 11<sup>th</sup> November 2004 issued by the Respondents in reference to order dated 31-08-2004 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati in O.A.No.176 of 2004 Dr.Dharam Singh versus the UOI & Others and also with a prayer before this Hon'ble Tribunal to direct the Respondents to transfer the Applicant from Jorhat centre to Delhi or at any other office which is nearest to his home town i.e. Gaziabad (U.P.).

**2) JURISDICTION OF THE TRIBUNAL:**

The Applicant declares that the subject matter of the instant application is within the jurisdiction of the Hon'ble Tribunal.

**3) LIMITATION:**

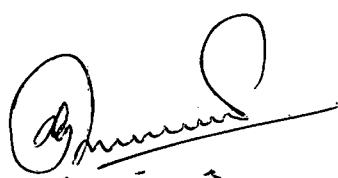
The Applicant further declares that the subject matter of the instant application is within the limitation prescribed under Section 21 of the Administrative Tribunal Act 1985.

**4) FACTS OF THE CASE:**

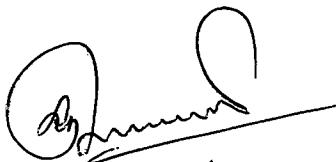
Facts of the case in brief are given below:

4.1) That your humble Applicant is a citizen of India and as such he is entitled to all rights and privileges guaranteed under the Constitution of India.

4.2) That your Applicant begs to state that he has joined as Senior Technical Assistant (T-4) at Central Soil & Water Conservation & Research Training Institute at Bellary (Karnataka) on 02-11-1981 and he served there up to 12-11-1984. There after he has joined as Farm Manager (Technical Officer) T-6 on direct selection and posted at Central Agriculture Research Institute, Port Blair on 13-11-1984. He has served at Port Blair, which is a very difficult and remote area for seven



and one month i.e. up to 25-12-1991. He was transferred from Port Blair on request to Indian Veterinary Research Institute, Izat Nagar as Senior Farm Manager (T-7) and served there up to 13-06-1995. He was on deputation to the Ministry of Agriculture, Krishi Bhawan, New Delhi in the post of Assistant Commissioner, Fodder Development. He served there up to 28-12-1999. There after he was selected to the post of Senior Scientist at National Bureau of Soil Survey & Land use Planning at Nagpur. He joined there on 29-12-1999. On 08-03-2000 he was transferred to Kolkata Regional Centre of National Bureau of Soil Survey & Land use Planning. On 26-07-2000 he was transferred to National Bureau of Soil Survey & Land use Planning Regional Centre at New Delhi on his request. There after he was transferred to Jorhat Regional Centre vide Office Order F.No.3-129/04-Admn. /4559/6 Dated 14<sup>th</sup> June 2004 issued by the Office Of the Respondent No.3. The said transfer Order was received by the Respondent No.4 on 17<sup>th</sup> June 2004 and the Respondent No.4 namely Dr.S.P.Singh, Principal Scientist and Head of Regional Centre, New Delhi vide his Office Order No.RCD/TECH/553/6 Dated 17<sup>th</sup> June 2004 stands relieved your Applicant from his duty i.e. on 17-06-2004 afternoon by violating all the norms and procedures of Service Jurisprudence. The Original Transfer Order dated 14<sup>th</sup> June 2004 issued by the Office of the Respondent No.3 it has been clearly stated in the said Transfer Order that the Applicant will be entitled to TTA/Joining Time etc. as per Rules. But surprisingly the Respondent No.4 by violating and throwing away all the norms and procedure prescribed under the Service Jurisprudence issued a Punitive Transfer Release Order dated 17<sup>th</sup> June 2004 by which your Applicant was not given any opportunity to claim his legitimate dues of TTA/Joining Time etc. as per Rule. It may be stated that your Applicant has protested over the unfair and injustice action of the Respondent No.4 namely Dr.S.P.Singh's order of stands relieve by writing his submission before the concerned authority. He was compelled to hand over charge and he was denied to his legitimate advance T.A. to join at his new place of posting at Jorhat. In such peculiar condition he was forced to join at Jorhat (Assam). The above said transfer order was not made for any public interest but it is made only on personal grudge of the Respondent No.4 Dr.S.P.Singh towards your Applicant. Because your Applicant has lodged complain against the Respondent No.4 on 3<sup>rd</sup> July 2003 before the Director, Vigilance, ICAR, Krishi Bhawan, New Delhi for his



financial irregularities at Regional Centre, New Delhi. The said Complain has not yet been disposed up by the competent authority. It is worth to mention here that the Government of India vide Office Order No.33/5/2004 dated 17<sup>th</sup> May 2004 has brought to the notice of the Secretaries/CEO/CMD's of Government of India that "the CVO is to ensure that no punitive action is taken by any concerned administrative authority against any person on perceived reasons/suspicious of being "whistle blower""

Annexure-A is the photocopy of Office Order FNO.3-129/04-  
14.6.2004  
Admn./4557/6 Dated 14-06-2004.

A1

Annexure-B is the photocopy of Office Order No.RCD/Tech/553/6 Dated 17<sup>th</sup> June 2004.

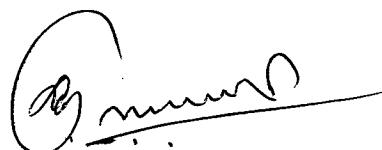
Annexure-C is the photocopy of complain letter dated 3<sup>rd</sup> July 2003 submitted by the Applicant before the Director, Vigilance (ICAR), New Delhi.

Annexure-D is the photocopy of Office Order No.33/5/2004 dated 17<sup>th</sup> May 2004 issued by the Government of India, Central Vigilance Commission.

4.3) That your Applicant begs to state that after receiving the Impugned Transfer Order dated 17<sup>th</sup> June 2004 your Applicant filed a Representation on 22<sup>nd</sup> June 2004 before the Respondent No.2 requesting him for cancellation of his Transfer Order from New Delhi to Jorhat on Medical ground and also for his Daughter's Academic interest.

Annexure-E is the photocopy of Representation dated 22<sup>nd</sup> June 2004.

4.4) That your Applicant begs to state that he had already joined at Jorhat Regional Centre, Assam by abiding the impugned transfer order. Being aggrieved by the impugned transfer order dated 14-06-2004 your Applicant approach this Hon'ble Tribunal by filing Original Application No.176 of 2004. The Hon'ble Tribunal on 11-08-2004 heard both parties at the admission stage and was pleased disposed the said Original



Application at the admission stage itself. The Hon'ble Tribunal vide its order dated 11-08-2004 directed the instant Respondents to dispose of the representation dated 22-06-2004 filed by the Applicant by a considered and reasoned order within a period of 2 (two) months time from the receipt of this order. The Applicant TA / Transfer settlement / if not already paid to the Applicant shall be paid to the Applicant as per Rules within a period of one month from the date of receipt of the order.

Annexure-F is the photocopy of order dated 11-08-2004 passed by the Hon'ble Tribunal in O.A.No.176 of 2004.

4.5) That your Applicant begs to state that the Respondents vide order F.No.8-20/2004-IA.II Dated 11 November 2004 disposed the representation dated 22-06-2004 filed by the Applicant. The Extract portion of the said order as under for kind perusal of this Hon'ble Tribunal.

"As per the ARS rules a member of ARS is liable to be transferred to any place in India. He is also required to serve a minimum period of time in a backward or comparatively less developed area in the country.

The transfer will be made in the following circumstances:

1. To correct imbalance in the cadre strength of Scientists in various discipline at different institutes and also within an Institute including regional stations.
2. To fill positions in high priority, direct recruitment to which through the Agriculture Scientists' Recruitment Board may result in delay, in the implementation of programmes.
3. To utilize the experience of Scientists in appropriate fields.
4. To post Scientists in backward or comparatively less developed area in accordance with provisions of Rule 20(2) of the ASRB Rules and
5. For Administrative reasons."

Accordingly the representation dated 22.06.2004 regarding cancellation of transfer order from NBSSLUP, Regional Centre, New Delhi to the Regional Centre Jorhat, of Dr.Dharam Singh has



been considered in the Council carefully and is disposed of with the approval of Director General, ICAR as under: -

1. With respect to the direction of Hon'ble CAT at Sl. No.1 above, Dr. Dharam Singh is hereby informed that in an All India Service like Agriculture Research Service (ARS) transfer in public interest is incident of service and should not be construed as a penalty. The transfer order has been issued without mala-fide intentions or vindictive attitude and the same is fully covered as per the relevant provisions of the ARS rules cited above, since his transfer is made in public interest a per ARS Rules, it is not possible to accede to his request as made in his representation dated 22-6-04.
2. As regards direction at S.No.2 above, Dr.Dharam Singh is informed that TTA advance of Rs.63,000/-has already been disbursed to him on 30<sup>th</sup> August '04 as informed vide letter dated 4-10-04 by the Director, NBSS & LUP, Nagpur."

Annexure-G is the photocopy of the order F.No.8-20/2004-IA.II Dated 11 November 2004.

4.6) That your Applicant begs to state that the office order dated 11-11-2004 (at Annexure-G of the instant Petition) is prima-facie, illegal, mala-fide and not sustainable before the eye of law. The order of this Hon'ble Tribunal was passed on 11-08-2004 in O.A.No.176/04. But in the face of the order dated 11-11-2004 issued by the Respondents stated that order was passed on 31-08-2004. So, it may be presumed that the Respondents in a hurry passed the order dated 11-11-2004 without going through the order dated 11-08-2004 passed by the Hon'ble Tribunal in O.A.No.176/04. The contention of the Respondents in their order dated 11-11-2004 in Paragraph-1 stated that the transfer order was made in the circumstances to correct imbalance in the cadre strength of Scientist in various disciplines at different institutes and also within an institute including regional station. But in fact the following were the positions of Agronomist on the relevant date of transfer of the Applicant as under.



Jorhat	Nagpur	Bangalore	Kolkata	Udaipur	Delhi
Vacant	WV Banker TN Hazare M. Venugopal V Ramamurthy	LGK Naidu R Hegde	Vacant	A K Singh	Applicant Dharam Singh

After the transfer of the Applicant from Delhi to regional centre Jorhat the position of Agronomist are as follows:

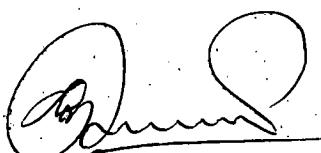
Jorhat	Nagpur	Bangalore	Kolkata	Udaipur	Delhi
Applicant Dharam Singh	WV Banker TN Hazare M. Venugopal V Ramamurthy	LGK Naidu R Hegde	Vacant	A K Singh	Vacant

From the above it is very clear the Respondents have not issued the transfer of the Applicant from Delhi to Regional Centre, Jorhat to correct imbalance in the cadre strength of Scientist in various disciplines at different institutes and also within an institute including regional station. The Respondents have issued the transfer order of the Applicant to Jorhat with a mala-fide intention only to deprive him near home town posting. Hence the contention of the Respondents in Paragraph-1 is misleading to this Hon'ble Tribunal.

4.7) That your Applicant begs to state that in the Paragraph-2 of the order dated 11-11-2004 the Respondents had stated that transfer was made to fill the position in high priority projects, direct recruitment to which through the Agricultural Scientists Recruitment Board may result in delay in the implementation of programmes. But in fact till now no old project was allotted to the Applicant at regional centre Jorhat that shows there is no priority project for Agronomist at Jorhat centre. It may be stated as per transfer policy of Agriculture Research Service, while transferring the Scientist consideration should be given to its effect on research programmes so that no programme is disrupted. But in case of the Applicant at the time of posting at Delhi the Applicant was working on Technology Mission on Cotton and a project entitles "Development of module for organic farming under different soil series with biodiversity of crops for sustainable crops production on both side of Yamuna River". Hence the Paragraph-2 of the order dated 11-11-2004 issued by the Respondents is misleading to this Hon'ble Tribunal.

4.8) That your Applicant begs to state that following Scientists are enjoying in "A" Categories station since their appointment in this organization and got posted in their choice places. The list of the said Scientists (Agronomy) are given below for kin perusal of this Hon'ble Tribunal.

(i) (Dr. L.G.K.Naidu, Pr. Scientist, who has about 25 years experiences as Scientist in Bangalore and Delhi since his appointment.



- (ii) Dr. T.N Hazare, Sr. Scientist, who has about 23 years experiences as Scientist in Nagpur and Delhi since his appointment.
- (iii) Dr. W.V.Banker, Scientist, who has about 25 years experiences in Nagpur and Kolkata since his appointment.
- (iv) Dr. M.V.Venugopal, Senior Scientist, who has about 17 years experiences in Nagpur since appointment.
- (v) Dr. Rajendra Hegde, Senior Scientist, Bangalore and SIRSI since appointment.
- (vi) Dr. V.Rammury, Senior Scientist, Nagpur & Dharwar since appointment.
- (vii) Dr. A.K.Singh, Senior Scientist, Udaipur since joining of his service.
- (viii) Dr. R.K.Yadav, Senior Scientist, Karnal and Delhi since joining of his service. He joined at National Bureau of Soil Survey and Land use planning at Delhi Centre from Karnal after Applicant was relieved from Delhi Centre to Jorhat.

4.9) That your Applicant begs to state that he has all along carried his Transfer Order without any protest, even he had served in remote place of Andaman Nicobar Island for about seven and half years which is much more than his normal tenure posting as specified by the Government of India Office Memorandum. But most of the Scientist (Agronomy) in his department are enjoying their posting at "A" class cities or places of their choices since their appointment.

4.10) That your Applicant begs to state that he had already served in the Remote place like Andaman Nicobar Island and now after serving there he has been again transferred to North Eastern Region which is far away from his home town i.e. Gaziabad, Uttar Pradesh. The impugned Transfer Order has been hampered his normal family life and he has been forced to leave alone his daughter of XII Standard and his aged mother with his wife who is suffering from Fibroid disease. The Applicant himself is suffering from cystitis, Hence this Hon'ble Tribunal may interfere immediately by issuing direction to the Respondents to transfer your Applicant from Jorhat Centre to Delhi or any other office which is nearest to his home town i.e. Gaziabad (U.P.).

Annexure- H is the photocopy of Medical Certificate of the Applicant issued by the Senior Medical & Health Officer B.B.Town Dispensary Old Civil Hospital Complex, Jorhat.

4.11) That your Applicant begs to state that his Annual increment which was due on 01-07-2004 has not been released by the Respondents till date which caused financial loss to the Applicant since July 2004. The Applicant also filed a Representation on 19-03-2004 for early release of his Annual increment.

Annexure-I is the photocopy of Representation dated 19-03-2004.

4.12) That your Applicant begs to state that the Respondents has also harassing the Applicant by not giving his due balance Casual Leave on



his account and also forced him to apply E L. He has filed a representation in this regard but no action has been taken.

Annexure-J is the photocopy of representation dated 13-09-2004.

4.13) That your Applicant begs to state that while issuing the impugned transfer order dated 14-06-2004 by the Respondents to the Applicant, your Applicant was stand relieved from Delhi to Jorhat Centre without giving any opportunity for taking out his personal books and publications from regional centre Delhi. Your Applicant filed Applications on 13-09-2004, 15-10-2005 and 02-02-2005 before the Respondent No.3 to take out his personal books from Delhi centre but till date the Respondents have not taken any action in this regard. From the above it is very clear the Respondents with a mala-fide intention transferred him out of Delhi for their personal gain.

Annexure-K is photocopy of one of such Application dated 02-02-2005 submitted by the Applicant before the Respondents.

4.14) That your Applicant begs to state that his New Research Project which has to be presented before the SRC meeting held on 14 to 17 July 2003 was also not forwarded by the Respondents. In this regard he filed a representation on 7-5-2005 before the Member Secretary SRC, Nagpur.

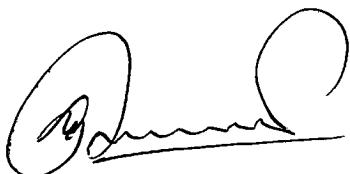
Annexure-L is the photocopy of representation dated 7-5-2005

4.15) That your Applicant begs to state that he has applied for the post of Deputy Commissioner (Feed and Fodder) through proper channel on February 2005. But the Respondents has not forwarded the same to the Union Public Service Commission. The Under Secretary to the Government of India, Ministry of Agriculture, Department of Animal Husbandry, Dairying and Fisheries vide his letter No.A 12025/12/2003-Admn.I dated 25-05-2005 again requested the Head of National Bureau of Soil Survey and Land use planning, Regional Centre Jorhat to send the relevant documents by the Department latest by 15-06-2005 for consideration of Applicant's candidatures. But till today the Respondents have not taken any steps in this regard.

Annexure- M is the photocopy of letter No.A 12025/12/2003-Admn.I dated 25-05-2005.

4.16) That your applicant begs to state that action of the respondents are illegal, arbitrary, malafide and also not sustainable before the eye of law as well as in facts. As such finding no other alternative your Applicant is compelled to approach this Hon'ble Tribunal for seeking justice in this matter.

4.17) That your Applicant begs to state that the Respondents particularly the Respondent No.4 have mentally, financially and physically tortured your Applicant by passing instant release order from New Delhi without availing any TTA/Joining Time etc. as per Rule. The Act of Respondent No.4 is total violation of Principle of Natural Justice. From this it is very clear that the Respondent No.4 executed the Transfer Order of the Applicant in a whimsical and arbitrary manner.



4.18) That your Applicant submits that he has got reason to believe that the Respondents are resorting the colorable exercise of power to accommodate their interested persons in their favourable place.

4.19) That your Applicant submits that the action of the Respondents is in violation of the fundamental rights guaranteed under the Constitution of India and also in violation of principles of natural justice.

4.20) That your Applicant submits that the action of the Respondents by which the action of the Respondents by which the Applicant has been deprived of his legitimate rights is arbitrary. It is further stated that the Respondents have acted with a mala-fide intention only to deprive the Applicant from his legitimate right.

4.21) That your Applicant submits that the action of the Respondents is highly illegal, improper, and whimsical and also against the Basic Principle of Service Jurisprudence.

4.22) That your Applicant submits that the Respondents have violated the fundamental rights of the Applicant.

4.23) That this application is filed bonafide and for the interest of justice.

#### **5) GROUNDS FOR RELIEF WITH LEGAL PROVISION:**

5.1) For that, due to the above reasons narrated in detail the action of the Respondents is in *prima facie* illegal, malafide, arbitrary and without jurisdiction. Hence the Impugned Transfer Order F.No.3-129/04-Admn. /4559/6 Dated 14<sup>th</sup> June 2004, Office Order No.RCD/Tech/553/6 Dated 17<sup>th</sup> June 2004 and order F.No.8-20/2004-IA.II Dated 11-11-2004 issued by the Respondents may be set aside and quashed.

5.2) For that, the Respondent No.4 have violated the Service Jurisprudence as well as Natural Justice in the Case of the Applicant by issuing instant release order without giving any opportunity to the Applicant for drawing Advance Transfer TA and to take out his personal books and publications. Hence the Impugned Transfer Order F.No.3-129/04-Admn. /4559/6 Dated 14<sup>th</sup> June 2004, Office Order No.RCD/Tech/553/6 Dated 17<sup>th</sup> June 2004 and order F.No.8-20/2004-IA.II Dated 11-11-2004 issued by the Respondents may be set aside and quashed.

5.3) For that, the Applicant has already served in a remote place like Andaman Nicobar Island much more than his Normal tenure and there is no Justification on the part of the Respondents to transfer him again to remote North Eastern Region, while other Agronomist are enjoying their posting at "A" class cities or place of their own choice. Hence the Impugned Transfer Order F.No.3-129/04-Admn. /4559/6 Dated 14<sup>th</sup> June 2004, Office Order No.RCD/Tech/553/6 Dated 17<sup>th</sup> June 2004 and order F.No.8-20/2004-IA.II Dated 11-11-2004 issued by the Respondents may be set aside and quashed.

5.4) For that, the face of the order dated 17<sup>th</sup> June 2004 issued by the Respondent No.4 itself appears that the said Impugned Transfer Order of the Applicant is made on full personal grudge of the Respondent No.4

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towards the Applicant. Hence the Impugned Transfer Order F.No.3-129/04-Admn. /4559/6 Dated 14<sup>th</sup> June 2004, Office Order No.RCD/Tech/553/6 Dated 17<sup>th</sup> June 2004 and order F.No.8-20/2004-IA.II Dated 11-11-2004 issued by the Respondents may be set aside and quashed.

5.5) For that the office order F.No.8-20/2004-IA-II Dated 11-11-2004 issued by the Respondent is misleading to this Hon'ble Tribunal as well as it is not based on real facts and circumstances of the Applicant's case. Hence the Impugned Transfer Order F.No.3-129/04-Admn. /4559/6 Dated 14<sup>th</sup> June 2004, Office Order No.RCD/Tech/553/6 Dated 17<sup>th</sup> June 2004 and order F.No.8-20/2004-IA.II Dated 11-11-2004 issued by the Respondents may be set aside and quashed.

5.6) For that, the Respondents have violated the Article 14,16 & 21 of the Constitution of India.

5.7) For that, the action of the respondents is arbitrary, mala-fide and discriminatory with an ill motive.

5.8) For that, in any view of the matter the action of the respondents are not sustainable in the eye of law as well as fact.

The Applicant craves leave of this Hon'ble Tribunal advance further grounds the time of hearing of this instant Application.

**6) DETAILS OF REMEDIES EXHAUSTED:**

That there is no other alternative and efficacious and remedy available to the applicant except the invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

**7) MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:**

That the Applicant further declares that he has not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other court, authority, nor any such application, writ petition of suit is pending before any of them.

**8) RELIEF SOUGHT FOR:**

Under the facts and circumstances stated above the Applicant most respectfully prayed that Your Lordship may be pleased to admit this application, call for the records of the case, issue notices to the Respondents as to why the relief and relieves sought for the Applicant may not be granted and after hearing the parties may be pleased to direct the Respondents to give the following relieves.

8.1) That the Hon'ble Tribunal may be pleased to direct the Respondents to set aside and quash the Impugned Transfer Order F.No.3-129/04-Admn. /4559/6 Dated 14<sup>th</sup> June 2004, Office

Order No.RCD/Tech/553/6 Dated 17<sup>th</sup> June 2004 and also order F.No.8-20/2004-IA.II. Dated 11-11-2004 issued by the Respondents.

8.2) The Respondents may be directed by this Hon'ble Tribunal to transfer the Applicant from Jorhat regional centre to any other office at Delhi or nearest to his home town i.e. near Gaziabad (U.P.)

8.3) To Pass any other relief or relieves to which the applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.

8.4) To pay the cost of the application.

**9) INTERIM ORDER PRAYED FOR:**

At this stage no interim order is prayed for, if this Hon'ble Tribunal may deem fit may pass any order or orders.

10) Application is filed through Advocate.

11) **Particulars of I.P.O.:**

I.P.O. No. : 205133356  
 Date of Issue : 10.6.2005  
 Issued from : Guwahati G. P. O.  
 Payable at : Guwahati

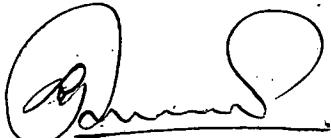
12) **LIST OF ENCLOSURES:**

As stated above.

**Verification .....**

1984

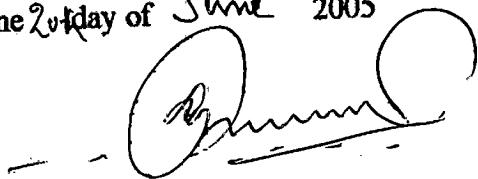
gjm / Mr. M. H.



VERIFICATION

I, Dr.Dharam Singh, Senior Scientist, National Bureau of Soil Survey & Land Use Planning, Regional Centre Jorhat, Jamuguri Road, Borbheta, Jorhat-785004 do hereby solemnly verify that the statements made in paragraph nos. 4.1, 4.6, 4.7, 4.8 to 4.9, <sup>4.16, 4.17</sup> are true to my knowledge, those made in paragraph nos. 4.2, 4.3, 4.4, 4.5, 4.10 to 4.15, are being matters of records are true to my information derived there from which I believe to be true and those made in paragraph 5 are true to my legal advice and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 2<sup>nd</sup> day of June 2005  
at Guwahati.



ANNEXURE - A

NATIONAL BUREAU OF SOIL SURVEY & LAND USE PLANNING  
AMRAVATI ROAD : SHANKAR NAGAR P.O. : NAGPUR-440010

Date: 14<sup>th</sup> June, 2004

F.No.3-129/04-Adm. / 1557/6

OFFICE ORDER

The Director, NBSS&LUP, Nagpur is pleased to transfer Dr. Dharam Singh, Senior Scientist from NBSS&LUP, Regional Centre, Delhi to Regional Centre, Jorhat with immediate effect in public interest until further orders.

He will be entitled to TTA/Joining Time etc. as per rules.

*[Signature]*  
Administrative Officer

Distribution :

- ✓ 1. The Head, Regional Centre, NBSS&LUP, Delhi alongwith a copy of transfer order to be delivered to the individual for needful action.
- 2. The Head, Regional Centre, NBSS&LUP, Delhi
- 3. The Head, Regional Centre, NBSS&LUP, Jorhat for information
- 4. The Senior Finance & Accounts Officer, NBSS&LUP, HQrs., Nagpur
- 5. The Drawing & Disbursing Officer, NBSS&LUP, Regional Centre, Delhi with a request to send the LPC of concerned staff to his respective place of posting.
- 6. The Drawing & Disbursing Officer, NBSS&LUP, Regional Centre, Jorhat.
- 7. PS to Director for information

*S 28*  
Dirt. ....  
17/6/2004  
S. B. .... Delhi

*Head*  
*Admat*

— 15 —

ANNEXURE - B

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O/C



National Bureau of Soil Survey & Land Use Planning  
REGIONAL CENTRE DELHI: IARI CAMPUS: NEW DELHI-12

Phone: 25844624, 25840166 Telefax: +91 (011) 25840166 Telegram: SOILCORE, NEW DELHI-12

S.P.Singh  
Principal Scientist & Head

No. RCD/Tech/ 553/6  
Dated 17th June 2004

OFFICE ORDER

As per the Director's office order no. F.No.3-129/04-Admn./4559/6 dated 14<sup>th</sup> June, 2004, (copy enclosed) Dr. Dharam Singh, Sr. Scientist, NBSS&LUP, Regional Centre Delhi, on his transfer to Regional Centre Jorhat stands relieved of his duties today i.e. 17.6.2004 afternoon. He should hand over the charge to Dr. Jagat Ram, Principal Scientist, Regional Centre Delhi.

To  
Dr. Dharam Singh  
Sr. Scientist  
Regional Centre Delhi

(S.P. Singh)

Distribution:

1. The Director, NBSS&LUP, Nagpur, for his kind information.  
 2. Dr. Dipak Sarkar, Head, Regional Centre Calcutta  
 3. Dr. U. Baruha, Incharge Regional Centre Jorhat, Assam Agricultural University Campus, Jorhat  
 4. Dr. Jagat Ram, Principal Scientist, Regional Centre Delhi  
 5. The Asstt. Admin. Officer/DFO, Regional Centre Delhi  
 6. The Bill Assistant, Regional Centre Delhi, for necessary action.

Attnd  
fl  
Amrit

To

The Director Vigilance (ICAR)  
Indian Council of Agricultural Research  
Krishi Bhawan, New Delhi-110001

Dated 3 July 2003

Sir,

I would like to submit the following for your kind information and necessary action:-

On my joining at Delhi Centre after my transfer from Calcutta, I was asked to act as DDO in the absence of regular AAO/ DDO, Sh. R.L. Pahuja vide office order No. RCD/1283/11 dated 25.08.2001 with immediate effect (A copy enclosed). Thereafter, I was asked to look after stores in the absence of regular store officer vide letter no. RCD/1323/14 dated 1.9.2001 (a copy enclosed) Sh. R.L. Pahuja, AAO/DDO was relieved from this office on 10.9.2001 and I was given the regular charge of DDO vide letter No. RCD/26-144/937/1429/15 dated 10.9.2001. I discharged the duties of DDO regularly and of AAO with some gaps till Sh. R.K. Sharma, AAO joined this office. Sh. R.K. Sharma went on E.L. on 9.9.2002 and I was given the charge of AAO/DDO vide RCD/1071/4 dated 9.9.02.

After availing the E.L., Sh. R.K. Sharma joined the office on 24.9.02 but he was not given the charge of DDO and thus the charge of DDO remained with me till 20.11.02 when I handed it over to Dr. R.P. Dhankar.

During this period, I had noted many financial and administrative irregularities and expressed my opinion to Dr. S.P. Singh, Head Regional Centre but he compelled me to continue with these irregularities. I worked as per his wishes for some time but could not yield to his wrong pressure for long. Ultimately, One day I refused to pass such bills, which were not appropriate. As a result, the charge of DDO and the Store Officer (in the absence of regular Incharge) were withdrawn without any intimation to me. Not only that he also started harassing me even on very small matters like one-hour permission for casual leave etc. The financial irregularities noticed during the period, I discharged the duties of DDO and Store Officer are given below:-

♦ **False Verification of Security bills:-** Five Security Guards were actually working for office security but on records the verification of 7 and later on 8 security guards were falsely verified for the payment to the Security Agency.

After  
J.J.   
Anant

5/17-28  
(2)

Termite control treatment:- Treatment was given in room no.1, 3 and 4 of the office but I was forced to verify the bills for all the rooms. The bills were splitted to avoid the sanction of the higher authorities and the audit objection. The list of the bills is enclosed which clearly shows the intentional splitting of bills bypassing the right procedure.

Bill No.	Date of bills submitted by stores	Amount
1862	05.03.02	9310-00
1838	14.03.02	9190-00
3880	27.03.02	19400-00
1927	27.03.02	9635-00
3898	27.03.02	19494-00
1974	27.03.02	9870-00
2144	30.03.02	10616-00

The bills were to be verified by the occupants (Scientists) of the rooms, which was not intentionally done.

♦ The Koltar felting:- It was also done on the roof of room no. 1, 2, 3 and 4 but the bills were submitted for the entire roof. The bills were again intentionally splitted to avoid the sanction of the higher authority and the objection of the audit. The list of bills is given below for reference:-

Date of verification of Bills	Date of bills submitted by stores	Amount
02.09.02	28.08.02 (two vouchers)	19440-00
02.09.02	04.09.02	9720-00
05.09.02	19.09.02	9720-00
05.09.02	19.09.02	9072-00
24.09.02	19.09.02	9072-00
12.09.02	16.10.02	9720-00
3.10.02	16.10.02	9072-00
25.02.03	25.01.03	9720-00
10.03.03	03.03.03	9720-00
27.03.03	-----	9720-00
	-----	9720-00

The bills were again not verified by the occupant scientist of the rooms. These facts can be still verified physically.

After  
J.S.   
Answer

### Some other examples of fabricated bills

- A vehicle No. DL 4929 was driven by a daily wage driver, Sh. Balwinder Singh who got diesel at Panipat for Rs.500/- vide receipt No.15206 dated 26.09. 02. It was found from the office records that on 26.09.02, Dr. S.P. Singh was not on official tour and the Govt. vehicle was misused for personal purpose.
- Two bills of the same nos. and from the same firm have been passed by tempering its printed nos. for two different Vehicles (Photo copy of the bills enclosed).
- During this period, I was pressurised several times by the Head Regional Centre to prepare the bills of Sh. Balwinder Singh, DPL (driver) without any financial sanction from the competent authority.

I would also like to mention that during 2001-2002, I was conducting the field experiments on farmer's fields under TMC project at Sri Ganga Nagar and Bhatinda districts. As a part of experiments, I have purchased inputs like insecticides, seeds fertilizers etc. with due financial sanction and approval from the HRC Delhi. As long as I yielded to the pressures of the Head Regional Centre, my bills were passed without any objections. The moment I raised objections to the irregularities, not only the charge of DDO and Store Officer were withdrawn but also I was being harassed with one pretext or the other. Objections were made in the passing of my bills with the reason that I have not followed the right procedure. I have already intimated this matter to the Director, NBSS&LUP, Nagpur vide letter dated 04.04.03 followed by the reminder on 28.04.03. Earlier, the bills following the same procedure were passed without any objections. The gravity of my harassment can be judged from the number of irrelevant memos given to me (copy enclosed).

This is to inform you that due to these memos, I am under great mental pressure which may cause me any mental health problem. Before the matter becomes more serious and out of control, I request your goodself to kindly intervene in the matter to relieve me from the unnecessary harassment.

With regards,

Yours faithfully

(Dharam Singh)

Sr. Scientist

After  
S. J. S.  
S. J. S.

No.004/VGL/26

Government of India

Central Vigilance Commission

ANNEXURE - D

Satarkta Bhawan, Block 'A',  
GPO Complex, INA,  
New Delhi- 110 023  
Dated the 17<sup>th</sup> May, 2004

Office Order No. 33/5/2004

**Subject:- Govt. of India Resolution on Public Interest Disclosures & Protection of Informer.**

The Government of India has authorised the Central Vigilance Commission (CVC) as the 'Designated Agency' to receive written complaints for disclosure on any allegation of corruption or misuse of office and recommend appropriate action.

2. A copy of the Public Notice issued by the Central Vigilance Commission with respect to the above mentioned Resolution is enclosed. All CVOs are further required to take the following actions with respect to the complaints forwarded by the Commission under this Resolution:

- (i) All the relevant papers/documents with respect to the matter raised in the complaint should be obtained by the CVO and investigation into the complaint should be commenced immediately. The investigation report should be submitted to the Commission within two weeks.
- (ii) The CVO is to ensure that no punitive action is taken by any concerned Administrative authority against any person on perceived reasons/suspicion of being "whistle blower."
- (iii) Subsequent to the receipt of Commission's directions to undertake any disciplinary action based on such complaints, the CVO has to follow up and confirm compliance of further action by the DA and keep the Commission informed of delay, if any.
- (iv) Contents of this order may be brought to the notice of Secy./CEO/CMD.

**All CVOs may note the above directions for compliance.**

Sd/-  
(Sujit Banerjee)  
Secretary

To

All Chief Vigilance Officers

*Attn: J.S.  
Bawali*

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ANNEXURE-E  
31

22nd June, 2004

Mr. Secretary DARE &  
Director General ICAR  
Krishi Bhawan  
NEW DELHI

SUB: CANCELLATION OF MY TRANSFER ORDER FROM NBSS & LUP, REGIONAL  
CENTRE NEW DELHI TO JORHAT-REGARDING ~~on medical ground~~ 2  
~~daughter's study in 12th class.~~

Sir,

My brief service career is submitted as follows:

Joined as Sr.Tech.Asstt (T-4) at CSWCRTI, Research Centre, Bellary (Karnataka) on 02.11.1981 and served there upto 12.11.1984.

Joined as Farm Manager (Technical Officer) T-6 on direct selection and passed at Central Agriculture Research Institute, Port Blair on 13.11.1984 and served for 7 years and 1 month i.e. upto 25.12.1991 at Port Blair Andaman and Nicobar Island in difficult area and special concessions are given for posting in N.E. Region and Andaman Islands.

Joined on Request transfer to IIVRI, Izat Nagar on 26/12/1991 as Sr.Farm Manager (T-7) and served there upto 13/6/1995.

Joined on deputation in Ministry of Agriculture, Krishi Bhawan, New Delhi on the post of Assistant Commissioner Fodder Development on 14.6.1995 and served there upto 28.12.1999.

Joined NBSS & LUP, Nagpur on being selected for the post of Sr.Scientist on 29.12.1999 and served there upto 8.3.2000 till I was transferred in Public interest to Regional Centre, Kolkata.

Attested  
Hill  
Advocate

contd.../

Joined at NBSS & LUP, Regional Centre, Kolkata on 8.3.2000 and served there upto 25.07.2000.

Joined at NBSS & LUP, Regional Centre New Delhi on the request transfer on same post of Sr. Scientist on 26.7.2000.

Sir, I have been transferred by the Director, NBSS & LUP, Nagpur vide office order No. 3-129/04-Admn/4559/6 dated 14.6.2004 and Head of the Regional Centre, NBSS & LUP, New Delhi has relieved me with immediate effect on 17.6.2004 on the same post in NBSS & LUP, Regional Centre, Jorhat.

My wife Usha Kiran is suffering from Fibroid (photocopy enclosed), Doctors advised for operation. Myself is suffering from angina pain, so regular, monetary of BP & ECG is advised by Doctors an Alpron 250mg is also advised to take every day. My daughter is studying in 12th class this year.

Sir keeping in view of the above facts of our illness, my daughter's studies and I have already served in difficult areas i.e. Andaman and Nicobar Island at CARI Port Blair in terms of Government provision for 7 years & one month. I request that my transfer order may be cancelled and I may be retained in NBSS & LUP, Regional Centre Delhi.

O/C Yours faithfully,

(DR) DHARAM SINGH 29/6/04

Sr. Scientist  
NBSS & LUP Regional Centre  
NEW DELHI

Abdul  
Khalq

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUJARAT BENCH

## ORDER THIS DAY

33

Org. APP/Misc. Petn/Cont. Petn/Rev. Appn. .... 176/04.....

In O.A.

Name of the applicant(s) Dr. D. S. Singhal

Name of the respondent(s) I.A.O. &amp; I.C.M.

Advocate for the Applicant Mr. A. Ahmed

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

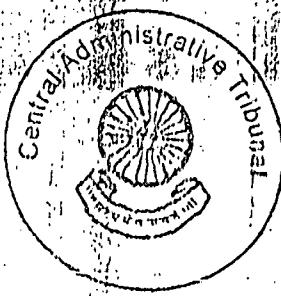
OFFICIAL NOTE DATE 11.8.2004 O.P.U.L. OF THE TRIBUNAL

11.8.2004 Present: The Hon'ble Shri K.V. Prahladan  
Administrative Member.

The O.A. is filed against the transfer order dated 14.6.2004 transferring the applicant from NBSS & LUP, Regional Centre, New Delhi to Regional Centre, Jorhat as well as relieving order dated 17.6.2004.

The applicant has joined at Regional Centre, Jorhat in terms of the transfer order. However, he has filed a representation to the Director Secretary DARE & Director General ICAR, New Delhi dated 22.6.2004 requesting for his transfer back to NBSS & LUP, Regional Centre, New Delhi, which is yet to be disposed of.

I have heard Mr. A. Ahmed, learned counsel for the applicant and also Mr. A.K. Chaudhuri, learned Addl. C.O.S.C. for the respondents. Considering the facts and circumstances of the case, I am of the view that ends of justice will be met, if a direction is issued upon the respondents to dispose of the representation dated 22.6.2004 filed by the



Attested  
J.S.  
Bawali

Concl. /2

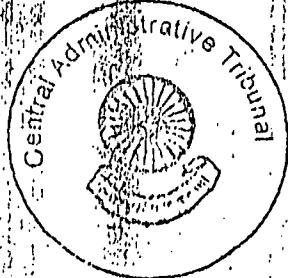
Contd.

11.8.2004 applicant. Accordingly, respondents are directed to dispose of the representation mentioned above by a considered and reasoned order within a period of two months from the date of receipt of this order.

*Transfer and/or not  
His TA/Joining time etc/ If not  
already paid, shall be paid to the applicant as per Rules within a period of one month from the date of receipt of the order.*

Subject to the observations made above, the application stands disposed of at the admission stage itself. No costs.

Sd/MEMBER(ADM)



13/8/04  
S. S. S.  
Section Officer (1)  
C.A.T. CHENNAI BRANCH  
Chennai 600 005

*Attested  
J. S. S. S.*



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Indian Council of Agricultural Research  
Krisht Bhawan, New Delhi

ANNEXURE - G

ANNEXURE - G

Page No. 11691

Date: 07/11/04

Subject:

FAX/

F/No. 8-20/2004-JA.II

NBSS & LUP  
R.C. JORHAT

Diary No. 2340  
Date 16-11-2004

Dated 11<sup>th</sup> November 2004

Sub: Order dated 31.8.2004 of Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati In OA No.176/04 - Dr. Dharam Singh, V/s the UOI & Others.

This is in compliance with the direction of Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati contained in their order dated 31-8-04 in the OA No. 176/04 directing the respondents to (1) dispose of the representation dated 22.6.2004 filed by the applicant by a considered and reasoned order within a period of two months time from the date of receipt of the above order and (2) make payment of TTA of the applicant if not already paid within a period of one month from the date of receipt of above order.

In this connection the attention of Dr. Dharam Singh, Sr. Scientist, NBSS & LUP, Regional Centre, Jorhat is drawn to the provision of the ARS Rules for transfer of ARS Scientists as under:

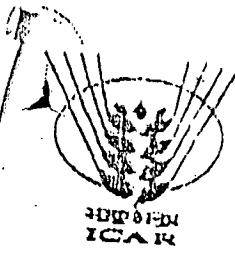
"As per the ARS rules a member of the ARS is liable to be transferred to any place in India. He is also required to serve a minimum period of time in a backward or comparatively less developed area in the country.

The transfer will be made in the following circumstances:

1. To correct imbalance in the cadre strength of Scientists in various disciplines at different Institutes and also within an Institute including regional stations.
2. To fill positions in high priority projects, direct recruitment to which through the Agricultural Scientists' Recruitment Board may result in delay, in the implementation of programmes.
3. To utilize the experience of Scientists in appropriate fields.
4. To post Scientists in backward or comparatively less developed areas in accordance with the provisions of Rule 20(2) of the ASRB Rules and

Vijay letter

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*Indian Council of Agricultural Research  
Krishi Bhawan : New Delhi*

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5. For administrative reasons."

-2-

Accordingly the representation dated 22.6.2004 regarding cancellation of ~~the~~ transfer order from NBSSLUP, Regional Center, New Delhi to the Regional Centre Jorhat, of Dr. Dharam Singh has been considered in the Council carefully and is disposed of with the approval of Director General, ICAR as under:-

1. With respect to the direction of Hon'ble CAT at S.No.1 above, Dr. Dharam Singh is hereby informed that in an All India Service like Agricultural Research Service (ARS) transfer in public interest is incident of service and should not be construed as a penalty. The transfer order has been issued without any malafide intentions or vindictive attitude and the same is fully covered as per the relevant provisions of the ARS rules cited above. Since his transfer is made in public interest as per ARS Rules, it is not possible to accede to his request as made in his representation dated 22.6.04.
2. As regards direction at S.No. 2 above, Dr. Dharam Singh is informed that TTA advance of Rs. 63,000/- has already been disbursed to him on 30<sup>th</sup> August '04 as informed ~~vide~~ letter dated 4.10.04 by the Director, NBSSLUP, Nagpur.

✓ Dr. Dharam Singh,  
Sr. Scientist

NBSSLUP, Regional Centre,  
Jamuguri Road, Boribheta,  
Jorhat-785004 (through Head, NBSSLUP, Regional Centre, Jorhat)

*(Signature)*  
(Harbhajan Singh)  
Under Secretary (NRM)

Copy to :

1. Director, NBSSLUP, Nagpur,
2. Head, NBSSLUP, Regional Centre, Jorhat. He is requested to deliver the copy meant for Dr. Dharam Singh, Sr. Scientist against proper acknowledgement.
3. Registrar, Hon'ble CAT, Guwahati Bench, Guwahati

Vijay letter

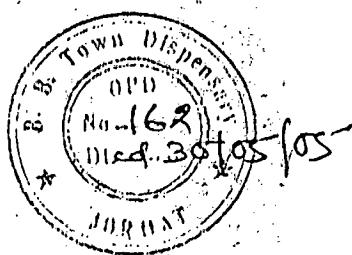
*Arvind  
JL  
Ansari*

TO WHOM IT MAY CONCERN

This is to certify that Dr. Dharam Singh, 46 years, a Senior Scientist of National Bureau of Soil Survey & Land Use Planning, Northeastern Regional Centre, Jamuguri Road, Jorhat (Assam), is suffering from cystourethritis, symptoms resembling Interstitial cystitis (A chronic urinary bladder disorder) and Mild Cardiomegaly (L V type with unfolding of aorta) from the last six months. He was under my supervision and treatment since then and upon my advice the patient attended concern specialist for necessary investigation.

The illness, particularly the urinary bladder problem of the patient (clinically suspected to be suffering from interstitial cystitis) is very distressing with chronic pelvic pain and frequent urgency of urination.

In this respect I am of the opinion that the patient might be benefited from the emotional support of his family, friends and social contact group as it has a role to cope with the situation along with other form of long and frequent treatment as and when needed.



*Phukan*  
30/05/2005  
(Dr. A. K. Phukan),  
Sr. Medical & Health Officer  
B.B. Town Dispensary  
ARV. Centre - JORHAT

Sr. Medical and Health Officer,

B.B. Town Dispensary Old Civil Hospital,

Complex, Jorhat (Assam)

*A. K. Phukan*  
30/05/2005

Dated 19-03-2005

To,

The Head,

NBSS&LUP, NER, Centre

Jorhat

Through proper channel

Sub: Request for release the annual increment - reg.

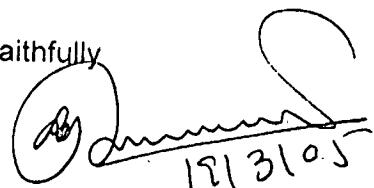
Sir,

My annual increment was due on 01-07-2004, but not released till date, which causing me financial loss by getting less salary since July 2004.

Therefore, it is requested yourself to kindly release my annual increment of Rs. 420.00 from July 2004, at an early date.

Thanking you.

Yours Faithfully



19/3/05

Dr Dharam Singh  
Sr, Scientist  
NBSS&LUP, NERC,  
Jamuguri Road, Borbheta,  
Jorhat 785005

At the end  
H. Banta

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(1)

ANNEXURE - J

To,

The Director General/Secretary DARE,  
ICAR, Krishi Bhawan, New Delhi.

(Through proper channel)

Sub : Deduction of one day salary for non-sanction of one day leave - regarding.  
Sir,

With due respect I am submitting the following facts for kind consideration and necessary action :

- (1) I had applied C.L. for 12.8.03 on 13.8.03 when 2 days C.L. was balance in my account that was clearly written on my leave application by the office after verifying from my leave account (copy enclosed-1) on 16.8.03 and put up to the Head for sanction.
- (2) On 17.9.03 (after a gap of one month), office has written 'not balance C.L.' in my account and deleted the early version of 2 days balance and asked me to apply for E.L. On 25.8.03, I requested the office to show me, my original leave record, which is not made available till date, as two kinds of leave applications cannot be submitted for the same day. On this, the Head Regional Centre issued me a letter on 29.9.03 to apply for E.L. (copy enclosed-2). In response, I requested the Head Regional Centre on 01-10-03 (copy enclosed-3) and subsequently on 9.10.03, 13.10.03, 28.11.03, 19.12.03 and 22.12.03 to provide me the details of C.Ls sanctioned to me on my leave applications for the period Jan. 2003 to 12.8.03 but I was never provided the information in that regard. I feel that office procedure is not one way traffic. The employee has the right to information and especially when there is doubt created by the office itself by issuing contradictory statement about the employee's records.
- (3) On 22.11.03, I had again applied for one day C.L. for 24.11.03. On my leave application, office has written one day C.L. balance in my account in the first instance and further over written  $\frac{1}{2}$  day C.L. balance in my account (copy enclosed-4). I do not understand that when office has written Nil C.L. balance on my leave application on 17.9.03 and subsequent similar letter dated 29.9.03 by Head Regional Centre after contradicting his office's statement of two days leave balance on 16.8.03, how 1 or  $\frac{1}{2}$  day C.L. leave balance can be in my account on 22.11.03. This further contradiction raises question mark on the office records and it is the duty of the office to clear all my doubts for settling down my one day leave for 12.8.03.
- (4) Instead of settling down the leave account for 12.8.03 after clearing my doubts and sanction of leave, the office rather deducted Rs.744/- from my salary of Jan. 2004 arbitrarily for 12.8.03. The method of deduction was followed that the office supporting staff took my singe in acutance roll on full salary, but office has deposited Rs.744 less in my SBI account, which was observed, when I have seen the entry in pass book, then I have submitted a note to the Head, RC ,Delhi, then DDO gave me a TR for Rs.744 in back date (a copy of T.R. enclosed 5 ). After deduction of Rs.744/-

After col  
Ch. Bawali

TR for Rs.744 in back date (a copy of T.R. enclosed 5 ). After deduction of Rs.744/- from my salary, I again requested the Head Regional Centre on 3/2/04 to sanction my C.L. for 12.8.03 as two days C.L. was balance in my account as recorded on the leave application on that day. I also requested to pay my deducted salary after the sanction of my leave but so far, I have not received any response in that regard (copy enclosed 6 ).

I had requested the Director, NBSS&LUP(ICAR), Nagpur vide my letter dated 22.3.04 (copy enclosed 7) and I also met personally. So far, I have not received any communication in this regard, six months is passed.

I strongly feel that 2 CLs were balance in my account on 12-8- 03. So, therefore, it is requested to ask the photocopies of CLs sanctioned wef January to 12-8-2003, from HRC, Delhi and sent to me for verification

Keeping in view the facts explained above the matter may kindly clarify from the original casual leave application and C.L. register to provide me Justice. It is also requested that Casual Leave on the basis of records presented may kindly be sanctioned and one day salary deducted may kindly paid to me at the earliest.

In case after going through the records, If CL was not balance in my account on that date then I am enclosing an EL application for sanction and one day salary deducted may kindly paid to me at the earliest. The delay in the matter was due to I am waiting for CL records, which is not made available to me till date.

With regards,

Encl: As above.

Yours faithfully,

(Dr. Dharam Singh)

Sr. Scientist

NBSS&LUP (ICAR)

Regional Centre, Jorhat

A. Hens  
J. L. Stewart

ANNEXURE-K

Dated 2-02-2005

The DIRECTOR  
NBSS&LUP,  
NAGPUR.

Through the Head, Regional Centre Jorhat / Kolkata.

Sub: Permission to take out my personal books & publications from Delhi Regional Centre, Delhi regarding.

Sir,

In continuation of my letter dated 13-09-04 and 25-10-2005 (Photocopy enclosed) regarding, takeing out my personal books and publications from Regional Centre, Delhi as I had been stands relieved and no opportunity was given to me take it out. I also requested to take action against the scientist Dr. R.P. Dhankar and Dr. Jagat Ram who had obstructed me while I tried to takeout my personal books/ publication etc from office on 13-08-2004. Which I had already brought to your kind notice vide my letter dated 13-08-04. In this context it is to inform you that I am again going to my old residence at Delhi on leave for Holy celebration in end of Mach 2005.

So far, I have not received any communication in this regard. Now I doubt that Head, RC, Delhi may remove my personal valuable books / publications by making a duplicate key.

Therefore, it is requested that I may be permitted officially to takeout my personal books / publications and It should be ensured that no such unpleasant thing happened this time.

With regard.

Yours faithfully

(Dr. Dharam Singh)  
Sr. Scientist  
NBSS&LUP (ICAR)  
Regional Centre,  
Jorhat

Encl: As above.

Copy to: The Director General, ICAR, Krishi Bhawan, New Delhi- 1

Attn: (Signature)  
GJ  
Jorhat

Dated 7-05-2005

ANNEXURE-L

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Dr. D K Pal,  
Member secy. SRC,  
Pri. Scientist & Head,  
Soil Resource Division  
NBSS&LUP, Nagpur-440010.

Submitted through proper channel

Sub: Submission of my research project format 1 through Head, Regional Centre Delhi for SRC, meeting held from 14-17 July 2003-reg.

Sir,

I had on 10-07-2003 submitted a project entitled "Development of module for organic farming under different soil series with biodiversity of crops for sustainable crops production on both side of Yamuna River". Submitted to the Secretary, SRC, NBSS&LUP, NAGPUR through Head, RC, Delhi for forwarding to the authority for presentation in the SRC meeting held from 14 to 17 July 2003 at Nagpur on 10-07-2003. The Head of the Regional Centre, Delhi vide his letter RCD/ Teach.1263 dated 03-10-2003 stated that he had forwarded the copy of my tour programme to the Director and project proposal RPF1 to yourself dated 10-07-2003. It would be very kind of you if you kindly inform the following for my information.

1-The RPF1 was actually submitted to you by the Head, RC, Delhi. If yes the dispatch no and date of the Regional Centre or reclept in your office could be intimated.

2-The RPF1 was discussed in the SRC meeting or not. Sir, although you had informed me of the non-reciept of RPF through proper channel, when I telephonically discussed with you and during your visit to RC, Delhi but I would like to confirm it again. I also noted from the proceeding of SRC meeting that the RPF proposal was not discussed in the SRC but confirmation in writing of the non reciept of the RPF must for me for, on that basis would submit a representation to the director for putting the obstacles in my profession by HRC, Delhi.

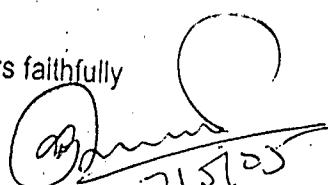
I am enclosing a self-addressed stamped envelope facilitating confirmation by post.

The in connivance that would be caused to you in searching the record at your end will be highly regretted. The relevant correspondences are enclosed, for your ready reference.

With regards

Date 7/05/2005

Yours faithfully



7/5/05

Dr. Dharam Singh  
Sr. Scientist  
NBSS&LUP, NERC, Jamuguri Road,  
Borbheta, Jorhat 785005

Atheni  
J. P. Aunty

(By Speed Post)

No.A.12025/12/2003-Admn.I  
Government of India  
Ministry of Agriculture  
Department of Animal Husbandry Dairying and Fisheries

Krishi Bhavan, New Delhi.  
Date: 25.5.2005

To

The Head,  
NBSS & LUP,  
Regional Centre,  
Jorhat, Assam

Subject: Recruitment to the post of Deputy Commissioner(Feed & Fodder)(Rs.12000-16500 in the Department of Animal Husbandry Dairying and Fisheries-regarding.

Sir,

I am directed to say that an advance copy of the application for the above mentioned post has been received from Dr. Dharam Singh, Senior Scientist working under your organization. The following deficient documents called for vide this department's letter of even number dated 7.4.2005 may please be forwarded to this department latest by 15.6.2005 for consideration of his candidature for the above post by the Union Public Service Commission, failing which his candidature shall not be considered for the above post.

1. Cadre Clearance
2. Vigilance Clearance,
3. Statement of Major and Minor Penalty if any, imposed on him during the last 10 years of his service,
4. Integrity Certificate,
5. Copies of last 5 years Annual Confidential Reports attested by an officer not below the rank of Under Secretary

Yours faithfully,

*P.L. Meena*

(P.L.MEENA)

Under Secretary to the Government of India

Copy to:-

✓ Dr. Dharam Singh, Senior Scientist, NBSS & LUP, Regional Centre, Jorhat, Assam with the request to pursue the matter with his cadre authority for furnishing the deficient documents before 15.6.2005, failing which his candidature for the above post shall not be considered.

*A. Meena*  
*OS*  
*Subrata*

देशी, लोकानन्द, केन्द्रीय  
सेवा एवं विकास विभाग  
सेवा एवं विकास विभाग

29 AUG 2005

१०८५ देशी वायपीड  
Batch

**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI**

Filed by  
Respondent No 1 to 3  
through  
Jhulan Pal  
Agarwal  
23/8/05

ORIGINAL APPLICATION NO. 150 / 2005

APPLICANT : Dr. Dharam Singh

-Versus-

RESPONDENTS : Union of India & 2 others

**S Y N O P S I S**

description

1. That, the National Bureau of Soil Survey and Land Use Planning (NBSS & LUP) is a premier Institute under the Indian Council of Agricultural Research (ICAR), New Delhi. It has five regional Centres located at Bangalore, Delhi, Jorhat, Kolkata and Udaipur and having its Head Quarters at Nagpur.

2. That, the applicant was recruited as a Senior Scientist (Agronomy) by the ASRB, New Delhi in the discipline of Agronomy on the position at NBSS & LUP. Accordingly, the Applicant reported for duty on 29-12-1999, at the HQs. at Nagpur. He was posted at the Regional Centre, Kolkata in March, 2000. The applicant had subsequently requested for his transfer to his home-town Delhi and it was considered on sympathetic grounds. Consequently, he was posted at Delhi on 26-07-2000.

3. That, in terms of Policy and directives of Government of India to strengthen the North Eastern Region in India, the applicant was transferred to Regional Centre of the NBSS & LUP at Jorhat and he was relieved from Delhi on 17-6-2004. Thereafter the applicant joined at Jorhat on 29-6-2004. The applicant had submitted his representation on 22-6-04 to cancel the transfer and put him back at Delhi.

4. That, the applicant challenged his transfer before this Hon'ble Tribunal in O.A.No. 176/04. The O.A. was disposed of vide order dt.

Khyati

11-8-04 with directions to Respondents to consider his representation within two months period and to pay TTA (if not paid already). The respondents decided his representation against him, vide ICAR F.No 20/2004-IA.II order dated 11-11-2004.

5. That, the applicant has again challenged the transfer with the same prayer in this present O.A. and the order of Respondent dated 11-11-2004.

6. That, the respondents are defending on following grounds :

(i) It is barred by the principles of res-judicata

(ii) Under the Policy & directives of G.O.I. to strengthen North Eastern Part of India, and considering the demand of an Agronomist at Jorhat, applicant was transferred from Delhi to Jorhat on 17-6-04.

(iii) The transfer is made in public interest and without any mala-fide intentions. At Delhi he worked for four years.

(iv) It is All India Service and according the condition in the letter of offer, he is liable to be transferred any where in India.

---

GUWAHATI

Dated: 05-08-2005

Counsel for Respondents 1 to 3

*Vijay George*

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

ORIGINAL APPLICATION NO. 150 / 2005

APPLICANT : Dr. Dharam Singh,  
Senior Scientist, National Bureau of  
Soil Survey & Land Use Planning,  
Regional Centre Jorhat,  
Jamuguri Road, Borbheta,  
JORHAT - 785.004

-versus-

RESPONDENTS : 1. Union of India represented by the  
Secretary, Ministry of Agriculture,  
New-Delhi  
  
2. The Secretary, DARE & The  
Director-General, ICAR, New-Delhi  
  
3. The Director,  
National Bureau of Soil Survey &  
Land Use Planning, NAGPUR  
  
4. Dr. S.P.Singh,  
Principal Scientist & In-charge,  
Regional Centre, NBSS & LUP,  
New Delhi.

**REPLY ON BEHALF OF THE RESPONDENT NOs. 1 to 3**  
**TO O.A.**

The Respondents above named beg to state as under :-

1. That, at the outset and with due respect it is submitted that the present O. A. is not maintainable, in as much as, it is barred by the principles of res-judicata. It is, therefore, liable to be dismissed.  
  
(a) It is submitted that exactly similar O.A. No. 176/04 was filed by the applicant before this Hon'ble Tribunal filed between the same parties. In that O.A., the same applicant had challenged his transfer order and relieving order dated 14-06-2004 and 17-06-2004 respectively from Delhi to Jorhat and in this O.A. No. 150/05, the

*Key George*

applicant has again challenged the same orders dated 14-06-04 and 17-6-04 and the relief sought for is identical. It is submitted that by an order dated 11-08-2004 passed by this Hon'ble Tribunal the said O.A.No. 176/04 was finally disposed of on merits, at the admission stage only with directions to the Respondents to dispose of applicant's representation dated 22-06-2004 by a considered and reasonable order within a period of two months and further pay him his T.A. / Transfer entitlements, if not already paid to him, within the period of one month.

(b) It is submitted that the Competent Authority had already considered his representation and he was informed by reply dated 11-11-2004 (Annex.-G to O.A.). It is further submitted that the applicant was already paid TTA advance of Rs. 63,000/- and which was disbursed to him on 31-08-2004. Thus, the order dated 11-8-2004 of this Hon'ble Tribunal in O.A. No. 176/2004, has been fully complied with.

2. It is submitted that for realization of detailed knowledge of soils and increasing agricultural production, the All India Soil Survey Scheme was established in the year 1956 and in the year 1959 it was expanded as an All India Soil and Land Use Survey Organisation with the Government of India. Through the Presidential Notification in the year 1973, the All India Soil and Land Use Survey under the Indian Council of Agricultural Research (ICAR), Department of Agricultural Research and Education (DARE) resulted in formation of Directorate. This Directorate was given the status of " National Bureau of Soil Survey and Land Use Planning" (NBSS & LUP) in the year 1976 with its Head Quarters at Nagpur and it is located on Amravati Road, Nagpur.

3. It is submitted that the National Bureau of Soil Survey and Land Use Planning, is a premier Institute under the Indian Council of Agricultural Research (ICAR), Krishi Bhawan, New Delhi. NBSS & LUP has five regional Centres located at Bangalore, Delhi, Jorhat, Kolkata and Udaipur and research Divisions with five research units including soil survey operation for Central India (Maharashtra, Madhya Pradesh and Chhattisgarh) located at Head Quarters (Nagpur).

*Rajeev*

4. It is submitted that the applicant was recruited as a Senior Scientist (Agronomy) by the ASRB, New Delhi in the discipline of Agronomy on the position at NBSS & LUP. For completing administrative formalities, he was initially allowed to join at HQrs. at Nagpur on 29-12-1999. Since, the post of Senior Scientist (Agronomy) was available at the Regional Centre at Kolkata, he was posted to Kolkata in March, 2000. The applicant had requested for his posting at his home-town Delhi and it was considered on sympathetic grounds. Consequently, the applicant was posted at the Regional Centre of the Respondent No.3 at Delhi on 26-07-2000.

5. As per the National Policy and Directives of the Government of India for strengthening the North Eastern Region of India in this field, and since there was a great demand for an Agronomist at the Regional Centre of the Bureau i.e. Respondent No.3, at Jorhat, the applicant being an Agronomist, having a wide experience in this field, it was decided to post the Applicant at the Regional Centre of NBSS & LUP at Jorhat. The applicant was as such transferred from Delhi to Jorhat vide Order dated 14-06-2004 and was relieved on 17-06-2004. It is submitted that the Applicant joined at Jorhat on 29-06-2004.

6. As such it can be seen that the transfer of the Applicant was purely in public interest and no any mala fides were attached to it. Moreover, the Agricultural Research Service is an All India Service and his appointment to this post carried the following condition that:-

"2. ..... he will be liable to be transferred to anywhere in India in an equivalent position."

In the circumstances, the transfer order is perfectly legal and proper and un-assailable.

7. The relevant points of transfer came to the scrutiny of the Hon'ble Supreme Court in the following cases :-

(i) In the case of Union of India & Ors. -v/s - S.L.Abbas - reported in 1993-II-CLR-168- (SC), their Lordships have held that :-

" 6. An order of transfer is an incident of Government Service. Fundamental Rule says that "the whole time of a Government servant is at the disposal of the Government which pays him and he may be employed

*K. Bhagat*

in any manner required by proper authority. ...

7. Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order is vitiated by mala fides or is made in violation of any statutory provisions, the Court cannot interfere with it. ....The said guideline however does not confer upon the Government employee a legally enforceable right."

(ii) In the case of Mrs. Shilpi Bose and others V/s State of Bihar - reported in AIR-1991-Supreme Court- 532, it is held that :-

" 4. ....the courts should not interfere with a transfer order which are made in public interest and for administrative reasons. .... A Government servant holding as transferable post has no vested right to remain posted at one place or the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if the transfer order is passed in violation of executive instructions or orders, the courts ordinarily should not interfere with the order, instead affected party should approach the higher authorities in the Department. If the courts continue to interfere with day-to-day transfer orders issued by the Government and its subordinate authorities, there will be complete chaos in the Administration which would not be conducive to public interest."

However, without prejudice to what is stated herein above, para-wise reply to the O.A. is given as under :-

8. **As to Para 4.1** :- Contents of this para need no reply.

9. **As to Para 4.2** :- The reply to the contents of this para are already covered in the earlier paragraphs. The facts stated in this para are matters of record. It is submitted that on the recommendation of the Agricultural Scientists' Recruitment Board, the applicant was offered the post of Senior Scientist (Agronomy) of NBSS & LUP, Nagpur vide Memorandum dated 20-12-99, on the terms and conditions

*Vijay Patel*

stipulated therein. The relevant condition is that he would be liable to be transferred to anywhere in India. The applicant gave his acceptance to the above terms and conditions vide his joining report dated 29-12-99. Therefore, the transfer of the applicant anywhere in India, is his condition of service.

10. That, thereafter, since the post of Senior Scientist (Agronomy) was available at the regional Centre of Respondent No.3 at Kolakata, the applicant was posted to Kolkata on 8 th March, 2000. The applicant thereafter, requested that he be transferred to his home town i.e. Delhi. His request was considered on sympathetic grounds and thereupon, he was posted at the Regional Centre of the Bureau at Delhi sometime on 26 the July, 2000. The applicant, as such, has been working at Delhi from 26-07-2000 till 17-07-2004 i.e. about four years.

11. That, as per the directives of the Government of India for strengthening the North Eastern Region of India, and whereas there was a demand for the post of Agronomist at the Regional Centre of the Bureau at Jorhat, Applicant was transferred from Delhi to Jorhat by the order dated 14-6-2004 and he joined at Jorhat on 29-6-2004. Therefore, in terms of his conditions of service, now the applicant has no right to challenge the transfer order dated 14-06-04. All other allegations which have not been specifically traversed and denied, are each denied independently.

12. **As to Para 4.3** :- It is submitted that in terms of the order dated 11-08-2004 passed by the Hon'ble Tribunal in O.A. No. 176/04, the representation of the applicant dated 22-06-2004 has already been disposed of by the considered and reasoned order dated 11-11-2004 and he was accordingly informed. ( Annex. G of OA ).

13. **As to Para 4.4** :- Contents of this para are not disputed. However, it is submitted that the applicant was already paid TTA advance of Rs. 63,000/- and which was disbursed to him on 31-08-2004.

14. **As to Para 4.5** :- Contents of this para are not disputed.

*Ramya*

15. **As to Para 4.6** :- It is submitted that the allegations in this para are mis-leading. It is denied that the decision of the respondent dated 11-11-04 upon the representation of the applicant dated 22-6-04 is prima-facie, illegal, mala-fide and not sustainable in the eyes of law as alleged. It is admitted that there was a typographical mistake that in the citation of the subject as well as in the second line of the Order dated 11-11-2004, it came to be typed as "31-8-2004" instead of "11-8-2004" ; whereas if it is read between lines, the compliance is of the order passed on 11-8-2004 and not 31-8-2004, as alleged. The presumption that the order dated 11-11-2004 was passed in a hurry is, therefore, incorrect and hence denied.

16. The positions of Agronomists on the date of his transfer as well as after the transfer of applicant to Jorhat are not correct , as they are mis-leading. The fact is that the Scientists referred to therein, were either specially recruited for a particular position or they have been transferred from different places, after considering their long service, at those places. The correct position and placements, is as under :-

#### **Regional Centre of the Bureau at NAGPUR**

Shri B.V.Bankar	Came on transfer to Nagpur after putting two years of service at Kolkata.
Shri T.N.Haazare	Came on transfer to Nagpur after putting one year of service at Delhi.
Shri M.Venugopal	Newly recruited for the position.
Shri V. Ramamurthy	Newly recruited for the position.

#### **Regional Centre of the Bureau at KOLKATA**

Vacant

#### **Regional Centre of the Bureau at UDAIPUR**

Shri A.K.Singh	Newly recruited for the position.
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#### **Regional Centre of the Bureau at BANGALORE**

Shri L.G.K.Naidu	Came on transfer to Bangalore after putting 12 years of service at Delhi
Shri R. Hegde	Newly recruited for the position.

#### **Regional Centre of the Bureau at DELHI**

Dr. R.K.Yadav	Came on transfer to Delhi after putting six years of service at Karnal.
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#### **Regional Centre of the Bureau at JORHAT**

*R.P. Deo*

Dr.Dharam Singh      Came on transfer to Jorhat after putting four years service at Delhi

As submitted in the earlier paragraphs, the transfer of the applicant to the Regional Centre at Jorhat was in terms of directives of the Government of India and in consideration of the demand of an Agronomist at Jorhat. In view of the above, it is specifically denied that the respondents have issued the transfer order with mala-fide intentions to deprive him from his home town, as alleged. All other allegations in this para are denied.

17. **As to Para 4.7** :- It is submitted that the Applicant holds a position of Senior Agronomist and as such he is capable of formulating and creating his new research programmes suiting to the prevailing conditions and need of the Area. Since, the applicant is a Senior Scientist ( Aconomy ) having a wide experience in the field, he is a fit person to assume the responsibility for strengthening the North Eastern Region of India, at Jorhat. All other allegations in this Para are denied.

18. **As to Para 4.8** :- It is specifically denied that the scientists quoted by the applicant in this para are enjoying in category 'A' stations since their appointment and got posted in the places of their choice. The correct position is as follows :-

Dr. L.G.K.Naidu	Came on transfer to Regional Centre Bangalore after putting 12 years of service at Delhi
Dr. T.N.Haazare	Came on transfer to Nagpur after putting one year of service at Delhi.
Dr. B.V.Bankar	Came on transfer to Nagpur after putting two years of service at Kolkata.
Dr. M. V. Venugopal	Newly recruited for the position at Nagpur.
Dr. Rajendra Hegde	Newly recruited for the position at Bangalore.
Dr. V. Ramamurthy	Newly recruited for the position at Nagpur.
Dr. A.K.Singh	Newly recruited for the position at Udaipur.
Dr. R.K.Yadav	Came on transfer to Regional Centre, Delhi after putting six years of service at Karnal.

KPMay/

19. **As to Para 4.9** :- Allegations in this para are false and incorrect and hence denied. It is submitted that the applicant was recruited as a Senior Scientist by the ASRB, New Delhi in the discipline of Agronomy and posted at NBSS & LUP. For completing administrative formalities, he was initially allowed to join at HQrs. at Nagpur on 29-12-1999. Since the post of Senior Scientist (Agronomy) was available at the Regional Centre at Kolkata, he was shifted to Kolkata in March, 2000. Thereafter, the applicant had requested for his posting at his native place, Delhi and it was considered on sympathetic grounds. Consequently, the applicant was posted at the Regional Centre of the Respondent No.3 at Delhi on 26-07-2000. At Delhi, the applicant worked till July, 2004, when he was transferred to Jorhat, in public interest and in administrative exigencies and as per the Policy and directives of the Government of India for strengthening the North Eastern Region of India.

20. **As to Para 4.10** :- Contents of this para are not relevant in so far as the transfer of the applicant is concerned as it is an incidence of service, and moreover in an All India Service.

21. **As to Para 4.11** :- It is submitted that the case for grant of his annual increment is in process and after setting his service record right, it will be released at the earliest.

22. **As to Para 4.12 to 4.14** :- Allegations in these paras are false and hence denied.

23. **As to Para 4.15** :- It is submitted that the applicant is working in the pay scale of Rs. 12000-18300/- and the post of Deputy Commissioner carried pay scale of Rs. 12000-16500/-. As per rules his application for the post of Deputy Commissioner (Feed & Fodder) was not considered because it is a lower post carrying lower pay scale. The application of the applicant was forwarded but it was returned back on 10-6-2005. As such the allegations are false and incorrect and they are denied.

24. **As to Para 4.16 to 4.23** :- Allegations are false and incorrect and hence denied.

*W.M. Jaiswal*

25. In any view of the matter the instant O.A. is devoid of any merits and is thus, liable to be dismissed.

GUWAHATI

DATED: 5-08-2005

Counsel for Respondents 1 to 3

*Kishore*  
FOR & ON BEHALF OF  
RESPONDENTS 1 TO 3.  
DIRECTOR  
National Bureau of Soil Survey  
& Land Use Planning  
Amravati Road, Nagpur - 440 010

VERIFICATION

Verified and signed at Nagpur on this 27 th day of July, 2005 that the contents of paras 1 to 25 are true and correct to my knowledge and are believed to be true.

*Kishore*  
FOR & ON BEHALF OF  
RESPONDENTS 1 TO 3.  
DIRECTOR  
National Bureau of Soil Survey  
& Land Use Planning  
Amravati Road, Nagpur - 440 010

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH, GUWAHATI.

O.A.No.150 of 2005

IN THE MATTER OF :

Dr. Dharam Singh

... Applicant

-Versus-

Union of India & Others

... Respondents

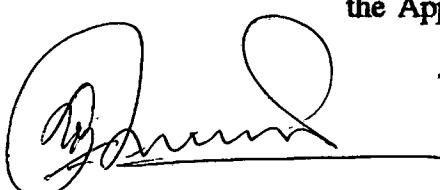
- AND -

IN THE MATTER OF :

Rejoinder Submitted by the Applicant in the  
above said Original Application against the  
Written statement filed by the Respondents.

The humble Applicants submit this Rejoinder as follows:

- 1). That with regard to statement made in paragraph 1, (a), & (b) of the Written Statement filed by the Respondent No. 1 to 3 of the above said Original Application, the Applicant begs to state that same are not true and also misleading to this Hon'ble Tribunal. This instant Original Application is not barred by the principle of res-judicata. Your Applicant has earlier approached this Hon'ble Tribunal by filing Original Application No.176 of 2004 before this Hon'ble Tribunal challenging the impugned transfer order dated 14.06.2004. The Hon'ble Tribunal on 11.08.2004 after hearing both the parties at the admission stage and was pleased to dispose the said Original Application by directing the Respondents to dispose the representation dated 22.06.2004 filed by the Applicant by a considered and reason order within a period of 2 (two) months time from the receipt of this order and further also directed the Respondents to pay the Applicant's TA etc. as per rules within a period of one month from the date of receipt of the said order. The instant Respondents vide order F.No.8-20/2004-IA.II dated 11<sup>th</sup> November 2004 dispose the representation dated 22.06.2004 filed by the Applicant. The said order dated 11<sup>th</sup> November 2004 the Respondents



- 2 -

have not reasonably considered the matter and pass an arbitrary, illegal and malafide order. Hence the Applicant filed this instant Original Application against the impugned order dated 11<sup>th</sup> November 2004 passed by the Respondents. As such the contention of the Respondents regarding the instant Original Application barred by the principle of res-judicata is misconceived and also misleading to this Hon'ble Tribunal.

2). That with regard to statement made in paragraph 2 & 3 of the Written statement filed by the Respondent No. 1 to 3 of the above said Original Application, the Applicant have no comment and beyond record nothing is admitted.

3). That with regard to statement made in paragraph 4 of the Written statement filed by the Respondents, the Applicant begs to state that the same are partly true and also misleading to this Hon'ble Tribunal. The Applicant begs to state that Before joining NBSS & LUP (ICAR), Nagpur on 29-12-1999 as Senior Scientist your applicant diligently served in various ICAR Institutes in different parts of the country including difficult areas since 2-11-1981 in the following capacities

Sl. No.	Institutes under ICAR	Place of Posting	Period		Post / Designation
			From	To	
1.	CSWCR& TI Res Centre	Bellary, Karnataka	12-11-81	11-11-84	Senior Technical Assistant (T4)
2.	CARI	Port Blair, Andaman & Nicobar Islands	12-11-84	25-12-91 (7 years 2 months)	Farm Manager cum Agronomist
3.	IVRI	Izatnagar, Barielly, Uttar Pradesh	26-12-91	12-6-95	Senior Farm Manager cum Agronomist
4.	Dept. of A H & D	Krishi Bhawan, New Delhi	13-6-95	28-12-99	Assistant Commisioner (Fodder Div.)
5.	NBSS & LUP	Nagpur, Maharastra	29.12.99	8.3.2000	Senior Scientist
6.	NBSS & LUP	Calcutta, West Bengal	9.3.2000	25.7.2000	Senior Scientist
7.	NBSS & LUP	Delhi	26.7.2000	17.6.2004	Senior Scientist
8.	NBSS & LUP	Jorhat, Assam	18.6.2004	continuing	Senior Scientist (1Year 4 months)

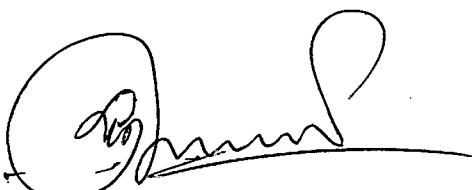


During last five years your applicant had been transferred four times to different parts of the country unreasonably which is contrary to Agricultural Service Rules 3(C) on page 2. Whereas during the same period his contemporary colleagues have stayed till this date at the same place where they choose initially to join. As such your applicant has been subjected to frequent, unscheduled, unfair and unreasonable transfers causing irreparable harm to your applicant only but the same has not been applied to others which itself amount to malafide. The Respondents have violated the provision of transfer policy of a Scientist as enumerated in Agriculture Scientific Service Rules. The Respondents have also violated the guideline held by the Hon'ble Supreme Court of India in E.P. Rayappa vs. State of Tamil Nadu. (1974)4SCC 3:AIR 1974 SC 555. In the said case it was held frequent transfers without sufficient reasons have to be held as malafide. In another case B. Vardha Rao Vs. State of Karnataka, (1986) 4 SCC 131, para 6. The Hon'ble Apex Court held that the policy of transfer should be reasonable and apply to everybody equally. The frequent, unscheduled and unreasonable transfers can uproot a family, cause irreparable harm to a government servant and drive him to desperation. It disrupts the education of his children and leads to numerous other complications and problems and results in hardship and demoralisation. Therefore follows that the policy of transfer should be reasonable and fair and should apply to every body equally.

ANNEXURE -X is the photocopy of extract portion of transfer policy of Agricultural Scientific Service Rules.

4). That with regard to statement made in paragraph 5 of the written statement filed by the Respondent No.1 to 3 is not true and false. It is not true that the Respondent No.3 is the Head of Jorhat centre and it is also not true that there was any demand for the post of Agronomist for the Jorhat centre. It is pertinent to mention here that the Head of the Jorhat centre of National Bureau of Soil Survey and Land use Planning is not a party in the instant case.

5) That with regard to the statements made in paragraphs 6 & 7 of the written statement the applicant begs to state that the same are not true, false and irrelevant. The said transfer <sup>is</sup> malafide, illegal and improper. The



applicant's transfer was a punitive measure because the applicant has raised vigilance charges against the Respondent No.4, i.e., the Principle Scientist and the then In-charge Head, Regional Centre of NBSS & LUP, IARI Campus, New Delhi-12, who is now demoted to the post of Principal Scientist wef 23-09-2005 due to administrative exigencies. It is to be stated that though Respondent No. 4 is a party in the instant case and the architect of ~~impugned~~ transfer, but till date he did not file any written statement i.e., he has acceded the facts in OA of the applicant. The said transfer has been issued with an oblique motive and colorable exercise of power to save the Respondent No.4, who is a member of the committee to decide this type of ~~intra-institute~~ transfer. The said transfer has been made in violation of the criteria, mode of transfer, etc laid down in the Rule 5 of the Agricultural Scientific Service Rules, decided with the approval of the SFC / GB and the President of ICAR i.e., Union Minister of Agriculture, Government of India, which is also simultaneously binding on the Respondents. Moreover, in a vindictive manner, the applicant was stand relieved from his duty at New Delhi by the Respondent No. 4 on the same day i.e., on 17.06.2004 afternoon. He was also not given opportunity to claim his legitimate dues of TTA, the provision of at least two months time for movement, joining time, etc as per Service Rules.

6) With regard to the cited cases in 7.1 and 7.2 of the written statements the applicant begs to state that these are not relevant to the instant O.A. It is to be stated that Lord Denning M. R. in Breen Vs. Amalgamated Engineering Union (1971) 2 Q.B. 175 at 190:

"The discretion of a statutory body is never unfettered. It is discretion, which is to be exercised according to law. That means at least this: the statutory body must be guided by relevant considerations and not by irrelevant. If its decision is influenced by extraneous considerations, which it ought not to have taken into account, then the decision cannot stand. No matter that the statutory body may have acted in good faith; nevertheless the decision will be set aside. That is established by Padfield v. Minister of Agriculture, Fisheries and Food which is a landmark in modern administrative law."

which has been quoted in the O.A. No. 235/2001, Guwahati Bench of CAT. Similar observations are there in the cases of S.G. Jaisinghani & Union of India [AIR 1967 SC 1427] in the Apex Court judgement and Y. Kurikesu v. Senior Superintendent of Telegraph Traffic & Ors., O.A. 484 of 1993, Ernakulam Bench of Central Administrative Bench in clarification with



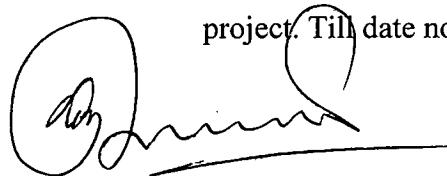
reply in this instant rejoinder at para 1 i.e., the authority has not reasonably considered the appeal of cancellation of the said impugned order of transfer.

12) That with regard to the statement made in paragraph 13 and 14 of the written statement the applicant has already submitted his reply in brief at paragraph 1 of this instant rejoinder. However it is pertinent to mention here that payment was made only at the intervention of this Hon'ble Tribunal only - after a long time & after harassing the applicant.

13) That with regard to the statement made in paragraph 15 of the written statement the applicant begs to state that the applicant states that the same are false and misleading. The allegation made by the applicant in the instant Original Application is well sustainable in the eye of law as well as facts of the case. The Respondent No.2 has not reasonably considered the representation of your applicant. The Respondent No.2 has been completely misled by the Respondent No.3 & 4 by keeping him in darkness about the irregularities committed by the Respondent No.4 and thereby they have suppressed the real facts about the financial irregularities committed by the Respondent No.4.

14) That with regard to the statement made in paragraph 16 of the written statement the applicant begs to state that the applicant states that the same are false and misleading. The applicant further states that none of these Scientists mentioned in paragraph 4.8 of the Original Application have ever served in any difficult station at any stage of their service and some of them are serving for a quite longer time compared to your applicant for a longer period according to their initial self-choice. As such the way of treatment to the Applicant by the Respondents in regard to his transfer is unfair, arbitrary and violative to the transfer policy.

15) That with regard to the statement made in paragraph 17 of the written statement the applicant begs to state that the applicant states that the same are false and misleading to this Hon'ble Tribunal. There are a number of scientists in NBSS & LUP with wider experience to shoulder the responsibility at Jorhat than your applicant. The concerned Authority of NBSS & LUP are creating obstacle everyway and harassing your applicant since the said transfer in pursuing the research programme. The said statement is vague, as there was no project what-to-say of any high priority project. Till date no project has been given to your applicant.



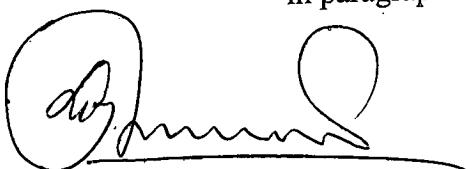
16) That with regard to the statement made in paragraph 18 of the written statement the applicant begs to state that the same are false and misleading to this Hon'ble Tribunal. It is noteworthy that the Respondents have acceded that almost all the scientists are enjoying in Category 'A' stations since their appointment as has been submitted by your applicant.

17) That with regard to the statement made in paragraph 19 of the written statement the applicant begs to state that the same are false and misleading to this Hon'ble Tribunal. Further it is to be stated that there was no administrative exigencies rather the transfer was made under extraneous consideration to deprive your applicant from important ongoing projects as stated in Paragraph 4.7 of the O.A. and it was made to militate your applicant and thereby to suppress, sweep and perpetuate the huge financial irregularities of the Respondent No.4.

18) That with regard to the statement made in paragraph 20 of the written statement the applicant begs to state that the same are false and misleading to this Hon'ble Tribunal. Your applicant states that the submission made in paragraph 4.10 of the O.A. by your applicant is highly relevant as these are directly related to the transfer policy of Scientists of the ICAR, i.e. Mode of Transfer (para 5 and vide D.O. letter No. 7(23)/81-Per-I dated 03-04-1981 (page 35 & 36) of Agricultural Scientific Service Rules). Your applicant is suffering from acute interstitial cystitis, which is very painful and with hardly any treatment till date & needs immediate support of family and friends. The wife of your applicant is suffering from fibroid.

19) That with regard to the statement made in paragraph 21 of the written statement the applicant begs to state that the same are not correct and misleading to this Hon'ble Tribunal. The reply of the respondents made in the written statement in paragraph 21 is malafide and the harassment continues till today - as the matter is not settled yet even after one and a half year as the submission has been made in paragraph 4.11 of the O.A. by your applicant.

20) That with regard to the statement made in paragraph 22 of the written statement the applicant begs to state that the same are not correct and are misleading to this Hon'ble Tribunal. Your applicant states that the reply made by the Respondents in paragraph 22 corresponding to submissions made in paragraph 4.12 to 4.14 of the O.A. are highly relevant to the case. The mere

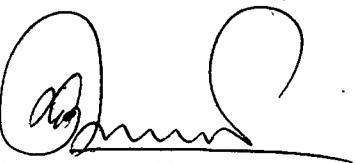


denials are not sustainable without production of any evidence against the submission made by your applicant.

21) That with regard to the statement made in paragraph 23 of the written statement the applicant begs to state that the same are not correct and are misleading to this Hon'ble Tribunal. The submissions made in paragraph 4.15 of the O.A. stand relevant. The Authority illegally denied to forward the application on Feb, 2005 for the post of Deputy Commissioner (Feed and Fodder) with vindictive attitude - though on an earlier occasion, during the year 2001, under similar circumstance, the Respondent No.3 acted reasonably vide letter No. F. No.4-106/01-02/ADM/18641/2 dated 28<sup>th</sup> December 2001.

22) That with regard to the statement made in paragraph 24 of the written statement the applicant begs to state that the same are not correct and are misleading to this Hon'ble Tribunal. Your applicant states that the reply made by the Respondents in Para 24 is false as the Respondent No.3 made an illegal and arbitrary transfer to your applicant with the malafide intention a) to deprive him completely from his high priority on-going research project at Delhi Centre. b) to accommodate their chosen person unfairly & with undisclosed reasons, c) to suppress the facts of huge amount of financial irregularities and instead as a punitive measure has issued the said transfer to militate your applicant, d) to harass, persecute and break moral of an honest officer and e) to deprive your applicant from his legitimate rights. Hence the complaints made in paragraph 4.16 to 4.23 of the Original Application stand valid. Moreover, it is to be stated that in a case of A.D. Sharma and others vs. UOI & others 7/2003 OA No. 283 & 284 of 2002, Jodhpur Bench of the Central Administrative Tribunal held that an order of transfer which is used as cloak for punishment will be a malafide exercise of power and liable to be set aside.

From the above, the written statement submitted by the Respondents No. 1, 2 and 3 are wholly bereft of substance and no credence ought to be given to it and the Respondent No. 4 has failed to submit reply. Thus, in view of the abject failure of the Respondents to refute the contentions, averments, questions of law and grounds made by the Applicant in the Original Application filed by the Applicant deserve to be allowed by this Hon'ble Tribunal.



(2)

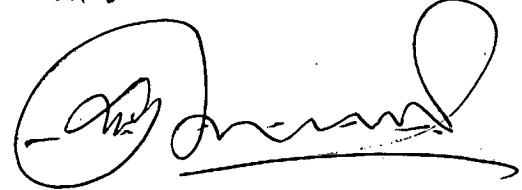
VERIFICATION

I, Dr.Dharam Singh, Senior Scientist, National Bureau of Soil Survey & Land Use Planning, Regional Centre Jorhat, Jamuguri Road, Borbheta, Jorhat-785004 do hereby solemnly verify that the statements made in paragraph nos.

*1, 2, 4 to 21*  
are true to my knowledge, those made in paragraph nos. ~~22 to 24~~

*3* — are being matters of records are true to my information derived there from which I believe to be true and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 16<sup>th</sup> day of Nov 2005.



## Chapter 5 TRANSFER POLICY

According to Rule 20 of the Rules for Agricultural Research Service, a scientist is liable to transfer to any place in India. A scientist is also required to serve a minimum period of time in backward or comparatively less developed area of the country, as may be determined and decided by the Controlling Authority. The question of evolving suitable guidelines for making transfers of scientists of ARS from one place to another has been considered, and it has been decided with the approval of the SFC/GB and the President, Indian Council of Agricultural Research that the following revised guidelines will be observed for making transfers of ARS Scientists from one Institute to another, and within the Institute with effect from 17.11.1980.

### 1. Criteria. The transfers of scientists will be made:

- (a) to correct imbalance in the cadre strength of scientists in various disciplines at different institutes, and also within an Institute including regional stations.
- (b) to fill positions in high priority projects where direct recruitment through the Agricultural Scientists Recruitment Board may result in delay in the implementation of programmes.
- (c) to utilize the experience of scientists in appropriate fields.
- (d) to post scientists in backward or comparatively less developed areas in accordance with the provisions of Rule 20 (2) of the ARS Rules.
- (e) for administrative reasons.

### 2. Categorisation of Stations

The stations in which the ICAR Institutes and centres are located have been categorised as A, B, C, D and E. For purposes of transfer A and B will form one group, C in second group, and D and E in third group.

### 3. Tenure of posting

The tenure of posting will normally be five years in the first group, four years in the second group, and three years in the third group. The scientist on completion of tenure of five years in the first group will be transferred to the third group, and on completion of three years tenure in that group to the second group and then to the first group and so on. If

any scientist working in second and third group i.e. category C, D and E stations does not want to be disturbed he may be allowed to continue in those stations. A scientist is required to spend at least a minimum of three years in group three stations i.e. Category D or E station during his entire career. Scientists over 55 years in age may not be disturbed from their existing places of work without their consent, as far as possible.

### ICAR'S DECISIONS

**(1) Transfer from difficult areas to a more favourable area in public interest.** A scientist should be allowed to have a tenure of four years in difficult areas. He may be considered for transfer from the difficult areas after completion of four years to a more favourable area situated in categories A, B or C. The period of tenure for Category D and E station has been increased from 3 to 4 years as for continued research a minimum period of four years will be necessary. The transfer of a scientist from a difficult area after he completes his tenure of 4 years, is to be considered as in public interest. He will, therefore, be entitled to transfer TA, Joining Time etc.

(No. 3-2/78-Per.IV dated 14.06.1982)

### 4. Time of transfer

As far as possible transfers should normally be made by the end of March when the academic session of the schools and colleges will come to close so as not to disturb the education of the children.

### 5. Mode of transfer

Transfer will be made in the order of length of stay at a particular place, i.e. the scientists who have served longest in a station will be transferred first. The scientists who have served for a long period in stations included in the second and the third groups will be considered first for transfer. While computing the length of service for transfer the period already rendered in B, C and other areas should be taken into account. In case of inter-institutional transfer, Directors should be consulted or informed in advance. While transferring the scientists, consideration should be given to its effect on research programmes so that no programme is disrupted. Transfer not of a routine nature according to pattern, but on administrative/disciplinary grounds should be ordered by the Directors in the Centres/stations under them after getting the prior approval of the Director General, ICAR.

**(1) Institute may develop guidelines for intra-institutional transfers.** There is preconceived notion that in some Institutes transfers are being made for reasons other than the needs of the research programme. It has been decided by the Controlling Authority that, in the interest of uniformity of treatment, the Directors of the Institute who have Regional Station/Centres outside the headquarters of the Institute may develop guidelines for intra-institutional transfers in consultation with the Management Committee at the Institute. The guidelines evolved will be sent to the Council.

(No.8-16/76-Per.IV dated 28.02.1979)

**(2) Transfers should be kept to the minimum, and resorted to only in the interest of work and in public interest.** The question of transfer of scientists from one Institute to its Regional Stations/Centre and vice-versa is to be taken care of by the respective Institutes themselves, in accordance with the prescribed guidelines. In pursuance of Rule 20(2) of the ARS rules, scientists have to be posted in backward or less developed areas of the country where the Regional Stations/Centres of various Institutes are located. Sufficient emphasis has to be laid by the various Research Institutes on the necessity for bringing about intra-institutional transfers of scientists with research experience from the main Institute to their Regional Stations/Centres located in backward areas so that such Centres do not suffer for want of experienced scientific leadership, at least in key positions. As per para 5 of the guidelines, while transferring the scientists, consideration should be given to its effect on research programmes so that no programme is disrupted. The idea is that transfers should be kept to the minimum and resorted to only in the interest of work and in Public interest. For this purpose each Institute should prepare a list of scientists, who can be transferred to outstations or from one stations to another. Within this group, length of stay at a particular research station should be the criterion for determining the priority for transfer. It is obvious that Directors will have to use considerable discretion despite guidelines in first preparing the list of scientists who should be considered for transfers in a particular year and secondly to decide their posting. It would be advisable to have a committee at Institutes level to advise the Director in such matter and to ensure objectivity in decision making. In our transfer policy priority should be given to the posting of scientists in backward areas, out of those who have not served in backward/tribal/remote areas at any time in their career.

(No.8-16/76-Per.IV dated 18.07.1981)

**(3) Director General to be apprised through a quarterly state-**

**ment about the scientific staff transfers.** The policy of the ICAR is to keep transfers of scientific staff to the minimum, to enable a scientist to advance in his/her career while continuing to work on problems relating to a particular crop, animal or area of agricultural study over an extended period of time. The cardinal principle is to let the scientist grow in their respective fields subject to administrative requirements. It has been noted that in spite of the above principles, in certain cases, scientists have been transferred quite frequently and at times have been asked to look after non-scientific jobs. As a result that their scientific output has suffered. Such a tendency should be discouraged and the above principles should be followed to the extent possible, commensurate with administrative exigencies. The Directors are competent to order intra-institutional transfers of scientific and technical staff, but DG would like to be apprised through a quarterly statement about the scientific/technical staff transferred from one place to the other within the Institute. In giving the statement, the place of previous posting and the length of posting at the station should also be indicated.

(No.8-16/76-Per.IV dated 10.09.1984)

**(4) Transfer of the officers/staff In Co-ordination Cells.** In order to maintain continuity in respect of staff working in the Co-ordination Cells of the All India Co-ordinated Research Projects located at the Institutes and to avoid disruption of work due to frequent change of staff in Co-ordination Cells, the transfer of the officers/staff engaged on the work of the Co-ordination Cells may be resorted to only in exceptional circumstances. Even in such cases, the transfer may be done in consultation with the Project Co-ordinator.

(No.8-14/84-Per.IV dated 04.02.1985)

#### 6. Discipline of the Scientist on transfer

The discipline of the scientist transferred shall be the same. Transfer of scientist engaged in extension work will be made in accordance to their knowledge of the local language.

#### 7. Retention of accommodation

Scientists transferred to a station may be allowed to retain their residential accommodation at their place of posting before their transfer for a period of two months from the date of relief. Such scientists should also be allotted residential accommodation in the new Institutes within two months from the date of their joining.

#### 8. Postponement of assessment for scientist not proceeding on

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transfer.

If a scientist transferred in accordance with this pattern to a station included in any of the Groups does not proceed on transfer or delays it for some reason or the other, his assessment for merit promotion or advance increments shall be deferred till he complies with the transfer orders. The period by which he delays the transfer will not be taken into account for computing the five years period of service for assessment.

### 9. Transfer committee

The transfer committee for inter institute transfer as approved by Director General will have the following officers at the Council's Headquarters.

(1) Director General, ICAR	Chairman
(2) Secretary, ICAR	Member
(3) Deputy Director General (S), ICAR	Member
(4) Deputy Director (Personnel), ICAR	Member

The transfer committee shall consider the question of transfers according to the above mentioned pattern and on the recommendations of the Committee. The orders of transfer will be issued at least two months in advance to enable the scientists to make preparations for their movement. Representations received from the scientists or from the Directors on this matter will be considered by the Council. For considering cases of transfers from Institute to regional stations and vice-versa a similar committee will be set up the Director of each Institute. Representations against transfers received from the scientists will be considered by the Institute.

(No.8-16/76-Per.IV dated 23.02.1981)

### 10. List of scientists eligible for transfer

By the 31st March every year the Directors of the Institutes shall forward to the Headquarters a list of scientists who have become eligible for transfer. The list need not contain the names of the scientists who can be transferred according to this pattern by the Directors themselves from the Regional Station/Centres to the Headquarters of the Institute and vice-versa. There should, however be uniformity in intra-institutional transfers.

### ICAR'S DECISIONS

**(1) Proforma for list of eligible scientists for transfer.** In order to consolidate the required information for submission to the Transfer Committee for consideration, two proformae have been devised which are given at the end of this Chapter. Proforma-I relates to the particulars of those scientists who are eligible for transfer on the basis of the revised guidelines. Proforma-II relates to grade/discipline wise cadre strength in respect of scientific posts as on 31st December of the year and the staff in position against these posts in each category as per para 2 of the guidelines.

(No.7(23)/81-Per.I dated 03.04.1981)

**(2) Restricting the number of scientists belonging to the state where an ICAR Institute is located.** It has been decided with the approval of the GB and the president, ICAR that the number of scientists posted at an Institutes/Centres/Stations should be as under.

(a) Scientists belong to the state where the Institute/Centre/Station is located	... not more than 50%
(b) Scientists belonging to the state neighbouring the state in which the Institute etc., is located	... not more than 25%
(c) From other states	... not less than 25%

It has been decided that the above mentioned percentage shall be maintained subject, of course, to the availability of scientists required for various disciplines at an Institute/Centre/Station.

(No.8(7)/86-Per.IV dated 28.04.1987)

### 11. Extraneous and outside pressures

Extraneous and outside pressures if brought upon the administration, against the transfers made according to the pattern, shall attract the provision of CCS(Conduct) Rules as applied to the Council's employees.

(No.8-16/76-Per.IV dated 17.11.1980)

Statement showing the list of Scientists who are eligible for inter-institutional transfer on the basis of the revised guidelines

Sl. No.	Name of the Scientist	Grade to which belongs	Discipline	Present place of posting
1	2	3	4	5

✓ Length of service rendered by the Scientist at various Institutes/Stations/Centres categorised as A, B, C, D and E. This period will also include the period of the Non-ARS service

Group One Categorised as A&B stations	Group Two Categorised as C station	Group Three Categorised as D&E station
6	7	8

Recommendations of the Director to that effect that no Research Programmes will be disrupted in case the scientist is transferred to the other states	Remarks
9	10

Note: This statement may be prepared in the order of length of service put by the scientist concerned i.e. to say that the scientist having longer period of posting will be shown first and so on.

## PROFORMA (II)

Statement showing grade/discipline wise cadre strength and the number of scientists who are in position as on

Sl. No.	Discipline	Sanctioned posts as per cadre strength			Sanctioned posts & not included in cadre strength		
		S-1	S-2	S-3	S-1	S-2	S-3
1	2	3	4	5	6	7	8

- (i) Category A&B
- (ii) Category C
- (iii) Category D&E

Total posts sanctioned (Col.3&4)	Posts filled			Posts vacant			Remarks
	S-1	S-2	S-3	S-1	S-2	S-3	
9	10	11	12	13	14	15	16

\*Note: Information may be given Centre/Station wise separately for each category indicated in the proforma as per the revised guidelines:

*Afterwards  
for review*

## 2 AGRICULTURAL SCIENTIFIC SERVICE RULES

(m) Scheduled Castes means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under article 341 of the Constitution to be Scheduled Castes for the purpose of the Constitution.

(n) Scheduled Tribes means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are needed under article 342 of the Constitution to be Scheduled Tribes for the purpose of the Constitution.

(o) Service means the ARS constituted under rule 5.

### 3. Objectives

The following overall objectives are intended to govern the constitution and management of the Agricultural Research Service proposed in these rules.

(a) to attract, recruit and train the most promising graduates and post-graduates from the universities as may have an aptitude for research in various branches of agriculture,

(b) to induct proven talent and experience into the Council by direct recruitment of highly qualified scientists on a permanent or a tenure-based basis,

(c) to generate a scientific culture and opportunity for continuous professional growth and life-long specialisation without any constraint; and to promote individual and collective initiative for improving the productivity of research and application of knowledge in matters relating to all aspects of agriculture,

(d) to promote team work and genuine professional collaboration particularly on an interdisciplinary basis and to eliminate unhealthy rivalry,

(e) to enable a scientist to advance in his career while continuing to work on problems relating to particular crop, animal or area of agricultural study, for an extended period of time,

(f) to give explicit recognition to the research management function; and to ensure that those desiring and having an aptitude for research management and co-ordination responsibilities are able to concentrate on the task of effective planning and implementation of research programmes and of promoting organised cooperation,

(g) to develop an effective system of career planning, management and advancement,

(h) to ensure that interchange of scientists between positions involving research performance and research management responsibilities takes place smoothly and reciprocally,

(i) to facilitate mobility of scientists from one Institute of the ICAR to another as also from the ICAR to sister organisations like universities, CSIR, BARC, etc.

(j) to facilitate scientific attention to the problems of areas of the country whose potential for agricultural growth is yet to be converted into wealth meaningful to the people.

### 4. Scope

All posts in the grades mentioned in Rule 6, except those excluded by a specific order of the Controlling Authority, the incumbents of which are engaged in Agricultural Research and Education (including Extension Education) whether in Physical, Biological, Statistical, Engineering, Technology, Home or Social Sciences, including those engaged in planning, programming and management of scientific research, shall be deemed to be included in the Agricultural Research Service.

### 5. Constitution of the service

There shall be constituted a service known as Agricultural Research Service (ARS) consisting of scientists recruited to the service under rules 10 and 11.

### 6. Grades

There shall be the following grades in the service with pay scales, subject to revision from time to time, as indicated against each:

Scientist	Rs. 2200-4000
Senior Scientist	Rs. 3700-5700
Principal Scientist	Rs. 4500-7300

It has been decided with the approval of the Government and the President, ICAR to add the following new rules below Rule 6 of the ARS Rules.

6(a) The Research Management Positions (RMPs) as defined in the Recruitment rules of the higher scientific posts (not printed) may be treated as cadre posts within the Agricultural Research Service with effect from the 13 January, 1988. The Scientists to man the specified RMPs shall be directly recruited through the ASRB in the first instance for a tenure of 5 years. Thereafter, the Council may