

FROM NO. 4
(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERSHEET

1. original Application No. 98/06

2. Misc Petition No. _____

3. Contempt Petition No. _____

4. Review Application No. _____

Applicant(s) Tripat Singh Kapoor

Respondents U. O. I. Team

Advocate for the Applicant(s) ... Adv. ... Ahmed

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

Notes of the Registry	Date	Order of the Tribunal
This application is in form is filed/C.P. No. is 30/ deposited on 12/4/2006 No. 266323962 Dated 12/4/06 N. S. M. M. D. Y. Registrar S. M.	01.05.2006	<p>presents The Hon'ble Shri K. V. Sachidanandan, vice-Chairman</p> <p>This Original Application has been filed to challenge the transfer order of the applicant dated 12/13.4.2006 (Annexure-E) wherein the applicant has been transferred from Shillong to Guwahati. It is averred that the applicant has earlier approached this Tribunal by way of C.A. No.172/1999 and the Tribunal vide order dated 14.2.2001 directed the respondents to have a fresh consideration of the applicant's case of his transfer from Shillong to Guwahati at that point of time. According to the applicant, he has filed representations dated 14.3.2001 and 28.11.2001 which were reminded on 29.1.2005, but the same are not yet disposed of and while so, the impugned order dated 12/13.4.2006 has been issued. The contention of the applicant is that even as per the transfer guidelines since he is 58 years of age, he cannot be discharged except otherwise for any good</p>

Condg..

Contd.

1.5.2006 reasons.

Ms. U. Das, learned Addl. C.G.S.C. representing the respondents submits that notice may be issued to the respondents and she wants time to ascertain whether the representations have been disposed of or not by the authority.

Issue notice to the respondents. Post on 6.6.2006.

By way of interim order status quo as on today will be maintained till the next date.

Copy of the order shall be furnished to learned Addl. C.G.S.C.

Vice-Chairman

Notice duly served on resp. no. 3, 4.

bb

06.06.2006 Ms. U. Das, learned Addl. C.G.S.C. for the respondents wanted some time to file reply statement.

Post on 26.07.2006. Interim order dated 1.5.2006 shall continue till ~~xxxx~~ the next date.

Vice-Chairman

① Notice duly served on R.No. 3 & 4.

② No. wts has been bikel.

mb

20.07.2006 Ms U. Das, learned Addl. C.G.S.C. for the respondents wanted ~~xxxxxx~~ time to file reply statement. Let it be done.

Post on 22.08.2006. Interim order dated 01.05.2006 shall continue till the next date.

Vice-Chairman

order dt. 6/6/06
issuing to learned
advocate's for both
the parties.

mb

(class 7/6/06. Receipt
7/6/06 (Respondent)
No. wts has been
bikel. 19.7.06)

No. wts has been
bikel. 19.7.06

Notes of the Registry	Date	Order of the Tribunal
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Order dt. 20/7/06
issuing to learned
advocate's for both
the parties.

21/7/06

21-8-06

No WTS has been
filed.

22.08.2006

No reply statement has been filed.

Respondents are granted time to file reply
statement.

Post on 15.09.2006. Interim order
will continue till the next date.

Vice-Chairman

/mb/

15.9.06.

Learned counsel for the respondents
wanted to file written statement. Let it
be done. Post the matter on 1.11.06.

Vice-Chairman

1m.

01.11.06.

Considering the issue involved in this
case I am of the view that O.A. has to be
admitted. Admit the O.A. Four weeks time
is granted to the respondents to file
reply statement.

Post on 5.12.2006. Interim order will
continue till then.

No WTS has been
filed.

Vice-Chairman

22/9/06

5.12.06.

Further four weeks time is granted
to the respondents to file written
statement.

Post on 5.1.07 for order.

Interim order shall continue till
next date.

No WTS has been
filed.

31.10.06

pg

order dt. 1/11/06
issuing to both
the parties.

2/11/06

No WTS has been
filed.

2/11/06

Vice-Chairman

O.A. 98/06

order dt. 5/12/06
issuing to learned
advocate's for both
the parties.

(as
6/12/06

No WIs have been
billed.

20
17.1.07.

WIs. billed on
behalf of R.N. 1-4.

21
21.2.07.

No rejoinder has
been billed.

22
16.3.07.

19.3.07

Rejoinder filed
by the Applicant.
page - 1 to 6.

23.5.07
C. Cogn has been ~~paid~~
collected by 1st
Adv. on the
application.

6/1
Received
Other Adv.
Addl C.W.C
23/5/07

18.1.2007

Ms.U.Das, learned Addl.C.G.S.C. has
filed reply statement today. Registry will
receive the same if it is otherwise in order.
Mr.A.Ahmed, learned counsel for the
Applicant seeks four weeks time to file
reply. Let it be done.

Post the matter on 22.2.2007.

Vice-Chairman

/bb/

22.02.2007

Mr.A.Ahmed, learned counsel for
the Applicant wanted time to file
rejoinder. Let it be done within three
weeks.

Post on 19.03.2007.

Vice-Chairman

/bb/

19.3.07

Rejoinder filed
by the Applicant.
page - 1 to 6.

23.5.07
C. Cogn has been ~~paid~~
collected by 1st
Adv. on the
application.

6/1
Received
Other Adv.
Addl C.W.C
23/5/07

21.5.2007

Judgment pronounced in open Court,
kept in separate sheets.

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

Vice-Chairman

/bb/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No.98/2006

DATE OF DECISION: 21.05.2007

Shri Tripat Singh Kapoor

.....Applicant/s

Shri A. Ahmed

..... Advocate for the
Applicant/s

- Versus -

U. O.I. & Ors.

.....Respondent/s

Miss Usha Das, Addl.C.G.S.C.

.....Advocate for the
Respondents

CORAM

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

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

Vice-Chairman

21/5/07

21/5/07

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.98 of 2006.

Date of Order : This the 21st Day of May, 2007.

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

Shri Tripat Singh Kapoor
Assistant Engineer
Civil Construction Wing,
All India Radio, Umpling,
Shillong-793006.

.....Applicant

By Advocate Mr A. Ahmed

- Versus -

1. Union of India
represented by the Secretary to the
Govt. of India, Ministry of Information & Broadcasting,
New Delhi. - 1
2. Director General,
All India Radio,
Civil Construction Wing,
Govt. of India, New Delhi.
3. The Superintending Surveyor of Works
(Civil-II) Civil Construction Wing,
All India Radio, 5th Floor, Sooshna Bhawan Complex,
Lodhi Road, New Delhi-3.
4. The Superintending Engineer, (Civil)
Civil Construction Wing,
All India Radio,
Ganeshguri Chariali,
Dr. Kakoti Building, Guwahati-6.Respondents

By Miss U. Das, Addl.C.G.S.C.

.....



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

The applicant joined as Sectional Officer (Civil) in the Civil Construction Wing of All India Radio on 7.12.1973 and thereafter he was promoted as Assistant Engineer (Civil). He is now aged about 58 years and his date of superannuation is February 2008. He has already served more than 10 years at a very difficult stations of Arunachal Pradesh and now he has been posted at his home town Shillong. He has to look after his brother who has become totally handicapped due to accident and his father expired recently on 22.3.06 and his mother who is now aged about 81 years suffering from various old age ailments. The whole family of the applicant alongwith his wife and children are fully dependent on him. He was transferred from Shillong to Guwahati on 21.5.99. He has filed an application O.A. No.172/99 before this Tribunal and the Tribunal directed the applicant to file fresh representation to the authorities and as per the direction he has filed a representation which has not yet been disposed of nor any order was passed in this regard despite repeated reminders from the applicant's side. The applicant made a request to permit him to work at Shillong since he has to retire in February 2008 and if it is not possible then give him a choice posting either at Dehradun, Mossurie or Simla. As per the transfer policy "Members of staff who are within three years of reaching the age of superannuation will, if posted at the home town, not be shifted therefrom if it become

necessary to post them elsewhere, effort will be made to shift them to or near their home town to the extent possible." Flouting the said guidelines the applicant was again transferred from Shillong to Guwahati vide impugned order dated 13.4.06 and aggrieved by the said order he has filed this O.A seeking the following main reliefs :

- i) The impugned order of transfer dated 12/13.04.06 issued by the respondent No.3 (at Annexure-E) in the case of the applicant may be pleased to set aside and quashed.
- ii) To direct the respondents not to disturb the applicant from his present place of posting at Shillong till his date of retirement or if it is not possible then the applicant may be posted to his choice place of posting as mentioned in his earlier representations.

2. Heard Mr A. Ahmed, learned counsel for the applicant and Miss U. Das, learned Addl.C.G.S.C for the respondents.

3. The respondents have filed a detailed written statement contending that the applicant was working at Shillong for more than 9 years and he is a native of Shillong only. As per the transfer policy laid down by the Government of India the employees are transferred after completing of tenure period which is normally four years and two years for those posts posted in the difficult places. The North East is categorized as difficult places. The AE post is covered as sensitive/focal point and as per the CVC guidelines the officers/employees are to be shifted between focal and non focal postings. Shri T S Kapoor holding a focal point post was earlier transferred during 1999 from Shillong to Guwahati. He approached the Tribunal against that order. The Tribunal directed the respondents to consider his representation sympathetically and

taking a lenient view allowed to retain the applicant at his native place i.e. Shillong and after 9 years he has been transferred from the said focal point to a non focal posting at Guwahati. The transfer of an employee nearer to the native place at the fag end of his career before retirement may not be applicable where the employee is continued to stay at his native place for many years and in this case the applicant who belongs to North East and a native of Shillong has been working in the region for the maximum period in general and many years at his native place. Guwahati is very nearer to Shillong and considering the fact that he is retiring shortly he has been accommodated at Guwahati. The respondents have not violated the guidelines/transfer policy. Incidentally, the work load of Shillong is considerably reduced and the continuation of Sub division office/Assistant Engineer office at Shillong is not justified and the applicant is transferred accordingly.

4. The applicant has filed a rejoinder reiterating his contention in the O.A. and further contended that applicant was transferred from Ziro, Arunachal Pradesh to Shillong but before completing his normal tenure at Shillong he was transferred to Guwahati. Being aggrieved the applicant approached the Tribunal by filing O.A.172/99 and as per the direction of the tribunal he filed a fresh representation mentioning his choice place of posting. He was asked to continue at Shillong. Therefore, the transfer is not justified and he had to retain in Shillong. The applicant also filed additional rejoinder contending that the as per direction of the Tribunal in O.A.172/99 the applicant filed representation which

shall be considered by the respondents authority and pass a reasoned order in the light of the policy and as per law. The Tribunal in its order however clarified that "till completion of the above mentioned exercise the interim order dated 28.5.1999 shall continue." The respondents has not disposed of the representation. The applicant is now aged about 59 years and he will be retiring in February, 2008. He is also suffering from cardiac problem.

5. Learned counsel for the parties has taken my attention to the pleadings, evidence and materials placed on record. Learned counsel for the applicant has argued that the specific direction of the Tribunal given in the earlier order was to consider the representation and pass an order communicate the same to the applicant and till then interim order would continue. The applicant who is continued at Shillong cannot be disturbed. The respondents did not do so despite the fact that they have received the order of the Tribunal with a direction to comply with the same within a time frame prescribed by the Tribunal. Therefore, this transfer order is illegal in the eye of law. The respondents counsel on the other hand persuasively argued that the applicant was allowed to stay for 9 years and even though no reply was given to his representation it is presumed that he was permitted to continue there and due to elapse of time the question of consideration and giving a reply does not arise. The applicant was enjoying the stay order till date.

6. I have given due consideration to the arguments, evidence and materials placed on record. It is an admitted fact that the applicant has been working in Shillong for more than 9 years

i.e. his native place. The applicant has earlier approached this Tribunal by O.A.172/99 while he was transferred on 21.5.99 from Shillong to Guwahati. In the earlier O.A also the transfer order was challenged on the ground of violation of the policy guidelines. In that order dated 14.2.2001 the Tribunal observed that guidelines are not mandatory in nature. It is a policy to guide the administration and therefore it is always open to the administration not adhere to the guidelines for the purpose of good administration. One can departure around from the policy but for that there should be some overwhelming reason for the departure. The conditions prescribed in the guidelines no doubt can be relaxed only on good grounds and finally this Tribunal has passed the following order.

"In the circumstances, I am of the view that the matter requires a fresh consideration and I think that the ends of justice will be met, if a direction is issued on the applicant to file a representation before the authority within one month from the today and on receipt of such representation the respondents authority shall consider the same and pass a reasoned order in the light of the policy as per law.

With these observations the application stands disposed of. It is however made clear that till completion of the aforementioned exercise, and for two weeks thereafter from the communication of the order, the interim order dated 28.5.99 passed by the Tribunal shall continue."

For better elucidation the order dated 28.5.1999 is also reproduced as under :

"Application is admitted. Issue usual notices. Returnable on 2.7.99.

Heard Mr A.ahmed, learned counsel appearing on behalf of the applicant on the interim prayer. Issue notice as to why the

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interim prayer shall not be granted as prayed for."

In that order this Tribunal after considering all the aspects of the matter directed the applicant to file a representation before the authority within one month from 14.2.01 and on receipt of same the respondents were directed to dispose of the same and pass a reasoned order "in the light of the policy as per law." In the second para of the order it was made clear that "till completion of the aforementioned exercise, and for two weeks thereafter from the communication of the order, the interim order dated 28.5.99 passed by the Tribunal shall continue. It is an admitted fact that the applicant thereafter made representation within the time stipulated by the Tribunal but the respondents did not care to pass any order on such representation as directed by this Tribunal. Specific direction of this Tribunal was that a reasoned order should be passed by the respondents on such representation and till then the interim order would continue, otherwise the applicant cannot be disturbed from Shillong. Arguments of the respondents that the direction of the Tribunal has become infructuous by afflux of time and limitation cannot be accepted. Therefore, the applicant's continuance in same place is not by gratis of the respondents but non compliance of the orders of the Tribunal. I am of the view that since the respondents did not comply with the earlier order as directed this is an indication that the transfer of the applicant is not necessitated nor warranted. Therefore, no exigencies of service nor public interest is involved in this case. Therefore, without

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complying the orders of the Tribunal and the stay order still continues now the respondents cannot take a plea that by afflux of time the effect of the order has become non exist is absolutely on a wrong proposition of law. Had the respondents are very serious or there was any acute necessity of transfer the applicant they would have passed an order as directed by this Tribunal. Therefore, on that ground alone the impugned order is to be set aside as far as the applicant is concerned. Apart from that one of the contention the applicant is taken that he has to retire in February, 2008 hardly 8 months more for completion of his service. Though one may contend that guidelines are only guidelines it is not mandatory in nature but if guidelines are being adopted as a policy and other members of the service may also take advantage of the guidelines for their own good, it should be made applicable to all. In the impugned order many people have been transferred and the applicant is one amongst them. Other persons were took advantage from the same and posted to their choice stations and in that event if that benefit is not granted to the applicant it will amount to discrimination under Article 14 and 16 of the Constitution. On going through the transfer policy issued by the Government of India, the Director General, All India Radio in super session of previous orders relating to transfer policy dated 7.8.1981 clause xxi shows as follows :

“Members of staff who are within three years of reaching the age of superannuation will, if posted at their home town, not be shifted therefrom if it becomes necessary to post them elsewhere, efforts will be made to shift

them to or near their home towns to the extent possible."

The said clause specifically stated that if a person is posted at his home town he should not be shifted therefrom and in any event it becomes necessary efforts would be made to shift him to or near his home town to the extent possible. It appears that the respondents has not given any consideration to the representation of the applicant for posting him in a choice place as reflected in Annexure-C. So the first condition is that they should not be shifted and if there is an acute necessity they should be shifted to or near their home towns. The respondents contention that the Guwahati is nearer to Shillong is not disputed by the applicant but the applicant's contention is that as per guidelines he should not be shifted from the home town i.e. Shillong and the respondents did not express any cogent reason or necessity for shifting the applicant from Shillong to other place. Therefore, on that ground also the applicant cannot be disturbed from Shillong at the fag end of his service career and if it is done it will be a great hardship to him, especially with his old age mother who is suffering from old age ailments and he himself being a cardio patient.

7. For all the above reasons I am of the considered view that respondents action is not justified in transferring the applicant from Shillong to Guwahati as per impugned order and therefore, I have no hesitation in setting aside the impugned order dated 12/13.04.06 (Annexure-E) so far as the applicant is concerned. Accordingly the same order is set aside and quashed to that extent



of transferring the applicant from Shillong to Guwahati and direct that the respondents shall permit the applicant to continue at Shillong till his retirement i.e. February, 2008.

O.A. is allowed. In the circumstances no order as to costs.



(K.V.SACHIDANANDAN)
VICE CHAIRMAN

pg

MENTION MEMO

18

O.A. No 98 of 2006

NAME OF THE CASE - Shri Tripathi Singh Kapoor

- VS -

The minors of Indian others.

NATURE OF THE CASE - Transfers

NAME OF THE ADVOCATE

OF THE Petition - Adil Ahmed

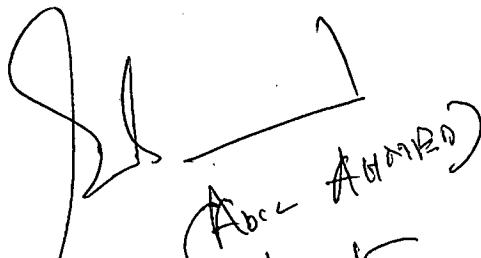
11

NAME OF THE ADVOCATE
OF THE RESPONDENTS - ~~Mr.~~ Sr. C. C. S. C

DATE OF FILING - 1.5.2006

DATE OF POSTING - 1.5.2006

SOUGHT


(Adv. Adil Ahmed)
Adil

Dated
15. 2006


Adil

2 Ph from E (D)

29/11/05 approx
unexpanded approx

Rebunk Feb 7 2008

Part B
Paling Th got AB

20. Done
Cost met to drivers 2
Report ads but not drivers
Report ads not completed
Bill the drivers
Finality ads
'B' Report ads
4 Rebunk ads
affixed to
guitar

- last order Potters
- the Potters
- Fairview Policy 59 yds
- Thru 8-06 left out
- 31-7-06 last Potters
- ~~Replay~~ ~~not downed~~ ~~missed~~
- ~~not downed~~ ~~missed~~
- ~~W. 4~~ ~~in address~~
- ~~2001~~ ~~they hasn't given~~
- ~~we care~~ ~~they hasn't given~~
- ~~Potters~~ ~~to extent possible~~
- ~~slavery~~ ~~to extent possible~~
- no alimony ~~lawn front~~
- last order Bell ~~lawn front~~
- 2nd order Lawrence
- 3rd order Lawrence
- ~~Term Rebut~~ ~~'D'~~
- ~~⑩ Policy~~

-3-

19

Will file with
wifey illegally
9 year lapsed
Custody

Never paid and
have not had fix
to deposit in Rebo.

Ally

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORIGINAL APPLICATION NO.

98/06
2

1. a) Name of the Applicant:- T. S. Kapoor
- b) Respondents:- Union of India & Ors
- c) No. of Applicant(S) :-
2. Is the application in the proper form:- Yes/No.
3. Whether name & description and address of the all papers been furnished in cause title :- Yes/ No.
4. Has the application been duly signed and verified :- Yes/ No.
5. Have the Copies duly signed :- Yes / No.
6. Have sufficient number of copies of the application been filed:- Yes/No.
7. Whether all the annexure parties are impleaded :- Yes/ No.
8. Whether English translation of documents in the Language : Yes/No.
9. Is the application in time :- Yes/No.
10. Has the Vakalatnama/Memo of appearance/Authorisation is filed:- Yes/No.
11. Is the application by IFO/DD/For Rs: 5/-
12. Has the application is maintainable :- Yes/No.
13. Has the Impugned order original duly attested been filed : Yes/No.
14. Has the legible copies of the annexures duly attested filed:- Yes/No.
15. Has the Index of documents been filed all available:- Yes/No.
16. Has the required number of enveloped bearing full address of the respondents been filed:- Yes/ No.
17. Has the declaration as required by item 17 of the form:- Yes/No.
18. Whether the relief sought for arises out of the single :- Yes/ No.
19. Whether the interim relief is prayed for :- Yes/ No.
20. In case of condonation of delay is filed is it supported :- Yes/No.
21. Whether this Case can be heard by Single Bench/Division Bench.
22. Any other point:-
23. Result of the Scrutiny with initial of the Scrutiny clerk the application is in order:-
The application is in order.

SECTION OFFICER (J)

DEPUTY REGISTRAR

1 MAY 2006

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

(An Application Under Section 19 of The
Administrative Tribunal Act 1985)

ORIGINAL APPLICATION NO. 98 OF 2006.

Shri Tripat Singh Kapoor

...Applicant

- Versus -

The Union of India & Others

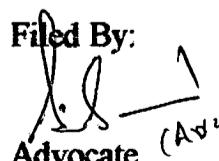
...Respondents

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4	B & C	Photocopy of series of such representations filed by the applicant before the respondents.	14 to 16
5	D	Photocopy of transfer policy adopted by the Ministry of Information & Broadcasting, Government of India, Director General, All India Radio, New Delhi.	17 to 20
6	E	Photocopy of Office Order No.2013/1/06-C.W.I. (pan) / Order No.18/2006-CW-I dated 12/13.04.06, New Delhi issued by the Respondent No.3.	21 to 24

Date: 1.5.2006

Filed By:


Advocate (Adv. AHMED)



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 98 OF 2006.

Shri Tripat Singh Kapoor,

...Applicant

- Versus -

The Union of India & Others

...Respondents

LIST OF DATES

- 07.12.1973 The applicant had joined as Sectional Officer (Civil) Civil Construction Wing, All India Raido.
- 1983 The applicant was promoted to the post of Assistant Engineer (Civil).
After serving very difficult and difficult stations of Aurnachal Pradesh for many years he was posted to his home town at Shillong.
- 21.05.1999 The applicant was transferred from Shillong to Guwahati. Being aggrieved by this he filed an Original Application No.172 of 1999 before this Hon'ble Tribunal. The Hon'ble Tribunal granted stay into this matter.
- 14.02.2001 The Original Application No.172 of 1999 was finally heard and direction was issued to the applicant to file representation before the respondents. The Respondents were also to directed to consider the same. Till consideration and communication of order by the Respondents the interim order dated 28.05.1999 passed by the Hon'ble Tribunal shall continue and also for another two weeks thereafter. The



applicant filed representation but till date no order or communication issued by the Respondents.

12/13 04.2006

The Respondent No.3 issued a transfer order of the applicant by which the applicant was again transferred from Shillong to Guwahati. The Respondents have issued the order in violation of their own transfer policy.

Hence this Original Application filed before this Hon'ble Tribunal for seeking justice in to this matter.

A handwritten signature in black ink, appearing to read "B. J. S." followed by a surname.

1

File No. 1/37
Shri Tripat Singh Kapoor
Shri Tripat Singh Kapoor
through
Advocate
(Adv. Admitted)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 98 OF 2006.

BETWEEN

Shri Tripat Singh Kapoor,
Assistant Engineer,
Civil Construction Wing,
All India Radio, Umpling,
Shillong-793 006.

... Applicant

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India, Ministry of
Broadcasting, New Delhi-1.
2. The Director General,
All India Radio, Civil Construction
Wing, Government of India,
New Delhi.
3. The Superintending Surveyor of Works
(Civil)-II, Civil Construction Wing,
All India Radio, 5th Floor, Sooshna
Bhawan Complex, Lodhi Road, New
Delhi-3.
4. The Superintending Engineer (Civil)
Civil Construction Wing, All India



Radio, Ganeshguri Chariali, Dr. Kakoti
Building, Guwahati-6

...Respondents

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

This application is directed against illegal and arbitrary transfer of the applicant vide Office Order No.2013/1/06-C.W.I. (pan) / Order No.18/2006-CW-I dated ^{12/}₁₃04.06, New Delhi issued by the Respondent No.3.

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 a permanent resident of Umpling, East Khasi Hill District, Shillong, Meghalaya, and as such, he is entitled to all the rights and privileges guaranteed under the Constitution of India. He belongs to schedule caste community.

4.2) That your Applicant begs to state that he had joined as Sectional Officer (Civil) Civil Construction Wing, All India Radio



on 07.12.1973. He was promoted to the post of Assistant Engineer (Civil), Civil Construction Wing, All India Radio in the year 1983. Now he is working as Assistant Engineer (Civil), Civil Construction Wing, All India Radio, Shillong. He is now aged about 58 years and his date of superannuation is February 2008. He has already served more than 10 years at a "Very difficult" and "Difficult" stations of Arunachal Pradesh. Now he has been posted at his home town at Shillong. During his service period he has discharging his duties with full devotion. He was also awarded with letter of appraisal by the competent authority.

4.3) That your applicant begs to state that after a long time the applicant has been posted at his home town Shillong after filing various representations before the authority concerned. It is pertinent to mention here that the applicant has to look after his brother who has become totally handicapped due to accident. The brother of the applicant has become frustrated and at the verge of losing his mental strength. He even attempted for suicide. Hence, the brother of the applicant requires full attention and care and there is none to look after his handicapped brother. Recently applicant's father expired on 22.03.06. His mother, who is now aged about 81 years, suffering from various old age ailments. The applicant's whole family including his wife, handicapped brother, children and old aged mother are fully dependent on the applicants.

4.4) That your applicant begs to state that he was earlier transferred to Guwahati from Shillong vide Office Order dated 21.05.99. Being aggrieved by the said transfer order he had filed an Original Application No.172 of 1999 before this Hon'ble Tribunal. The Hon'ble Tribunal granted interim stay order in this case. The Hon'ble Tribunal finally heard the matter on 14.02.2001 and was pleased to direct your Applicant to file a fresh representation before the authority within one month and on receipt of such representation the Respondents authority shall consider the same and pass a reasoned order in the light of the policy as per law. With this



observation the said Original Application stands disposed off. It is however made clear that till completion of the aforementioned exercise and for two weeks thereafter from the communication of the order, the interim order dated 28.05.1999 passed by the Tribunal shall continue.

ANNEXURE-A is the photocopy of order-dated 14.02.2001 passed in O.A.No.172 of 1999 by this Hon'ble Tribunal.

4.5) That your applicant begs to state that as per the direction of this Hon'ble Tribunal in O.A.No.172 of 1999, he had filed a representation before the concerned authority but surprisingly till date they have not replied or passed any order in this regard. Your applicant from time to time filed many representations before the authority concern in reference to his earlier representations for options of transfer. In the said representations he has stated that he is on the verge of retirement as such he may be allowed to continue at Shillong if it is not possible he may be posted to his next choice place i.e. Dehradun / Mossurie or Simla (Himachal Pradesh).

ANNEXURE-B & C is the photocopy of series of such representations filed by the applicant before the respondents.

4.6) That your applicant begs to state that as per transfer policy of Government of India, Ministry of Information and Broadcasting, New Delhi dated 14.07.1981 in paragraph No. XXI it has been stated that "Members of staff who are within three years of reaching the age of superannuation will, if posted at the home town, not be shifted therefrom if it become necessary to post them elsewhere, effort will be made to shift them to or near their home town to the extent possible."

ANNEXURE-D is the photocopy of transfer policy adopted by the Ministry of Information & Broadcasting, Government of India, Director General, All India Radio, New Delhi.



4.7) That your applicant begs to state that inspite of the above said policy your applicant was again transferred from his home town Shillong to Guwahati vide Office Order No.2013/1/06-C.W-I. (pan) / Order No.18/2006-CW-I dated ^{12/}₁₃04.06, New Delhi issued by the Respondent No.3.

ANNEUXRE-E is the photocopy of Office Order No.2013/1/06-C.W-I. (pan) / Order No.18/2006-CW-I dated ^{12/}₁₃04.06, New Delhi issued by the Respondent No.3.

4.8) That your applicant begs to state that he apprehends that at any time he may be released from Shillong, as such he has filed this Original Application before this Hon'ble Tribunal for seeking justice in this matter and also with a prayer for an interim order to stay the impugned transfer order of the applicant dated ^{12/}₁₃04.2006 issued by the Respondent No.3 till disposal of this Original Application.

4.9) That your applicant begs to state and submit that he is serving this Department with ought most sincerity and with full satisfaction to the authority concerned. Now at the verge of his retirement the Respondents have transferred him by violating the norms and procedures of transfer policy, which is adopted by the Ministry of Information and Broadcasting, Govt. of India.

4.10) That your applicant begs to submit that the procedure adopted by the authority in the case of the applicant is improper, mala-fide, illegal and without jurisdiction.

4.11) That in view of the facts and circumstances it is a fit case for passing on interim order protecting the interest of the applicant and his family members including his old aged mother and the handicapped brother.

4.12) That this application is filed bona-fide 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, whimsical, arbitrary and without jurisdiction. Hence the Impugned Office Order No.2013/1/06-C.W-I. (pan) / Order No.18/2006-CW-I dated 12/13.04.06, New Delhi issued by the Respondent No.3 in case of the applicant may be set aside and quashed.

5.2) For that, the Respondents have violated their own guideline of transfer policy regarding transfer of staff who is within three years of reaching the age of superannuation. Hence the Impugned Office Order No.2013/1/06-C.W-I. (pan) / Order No.18/2006-CW-I dated 12/13.04.06, New Delhi issued by the Respondent No.3 in case of the applicant may be set aside and quashed.

5.3) For that, it is satisfied proposition of law that when the same principle have been laid down in given cases, all the persons who are similarly situated should be granted the said benefits. Hence the Impugned Office Order No.2013/1/06-C.W-I. (pan) / Order No.18/2006-CW-I dated 12/13.04.06, New Delhi issued by the Respondent No.3 in case of the applicant may be set aside and quashed.

5.4) For that, the applicant having been denied the said benefit without any reasonable excuse by the Respondent No.3 and as such, proper reliefs ought to be granted to the applicant.

5.5) For that, the Respondents before transferring the applicant ought to have considered the transfer policy of the Ministry of Information and Broadcasting, Government of India and as such, impugned transfer order is bad in the eye of the law and is liable to be set aside and quashed.



5.6) For that, till date the Respondents have not disposed the representation of the applicant as per direction of this Hon'ble Tribunal in O.A.No.172 of 1999. Hence the Impugned Office Order No.2013/1/06-C.W-I. (pan) / Order No.18/2006-CW-I dated 12/13.04.06, New Delhi issued by the Respondent No.3 in case of the applicant may be set aside and quashed.

5.7) For that, the Respondents have not applied proper mind before transferring the applicant from his home town Shillong at the time of his retirement. Hence the Impugned Office Order No.2013/1/06-C.W-I. (pan) / Order No.18/2006-CW-I dated 12/13.04.06, New Delhi issued by the Respondent No.3 in case of the applicant may be set aside and quashed.

5.8) For that, the Respondents should have to consider the representations submitted by the applicant from time to time.

5.9) For that, the Respondents have violated the principle of natural justice.

5.10) For that, in any view of the matter, the action of the respondents are not sustainable in the eye of law as well as facts of the case and hence the impugned transfer order dated 12/13.04.06 issued by the Respondent No.3 is liable to be set aside and quashed.

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 or 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 impugned order of transfer-dated ^{12/}₁₃.04.06 issued by the Respondent No.3 (at Annexure-E) in the case of the applicant may be pleased to set aside and quashed.

8.2) To direct the Respondents not to disturb the applicant from his present place of posting at Shillong till his date of retirement or if it is not possible then the applicant may be posted to his choice place of posting as mentioned in his earlier representations.



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 the Applicant most humbly prays for an interim order before this Hon'ble Tribunal, to direct the Respondents not to implement the Impugned Office Order No.2013/1/06-C.W-I. (pan) / Order No.18/2006-CW-I dated 12/13.04.06, New Delhi issued by the Respondent No.3 in case of the applicant till disposal of this Original application.

10) Application is filed through Advocate.

11) Particulars of I.P.O.:

I.P.O. No. : 266-323962

Date of Issue : 17.4.2006

Issued from : C. P.O.

Payable at : Gurukul

12) LIST OF ENCLOSURES:

As stated above.

Verification . . .



- 16 -

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

I, Shri Tripat Singh Kapoor, aged about 58 years, Assistant Engineer, Civil Construction Wing, All India Radio, Umpling, Shillong-793 006 do hereby solemnly verify that the statements made in paragraph nos. 4.1, 4.2, 4.3, 4.8, _____ are true to my knowledge, those made in paragraph nos. 4.4, 4.5, 4.6, 4.7, _____ 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 1st day of May 2006 at Guwahati.


T. S. K. Kapoor

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 172 of 1999.

Date of Order : This the 14th Day of February, 2001.

The Hon'ble Mr Justice D.N.Chowdhury, Vice-Chairman.

Sri Tripat Singh Kapoor,
Assistant Engineer,
Civil Construction Wing,
All India Radio, Umpling,
Shillong-793006.

... . Applicant.

By Advocate Sri A.Ahmed.

- Versus -

1. Union of India,
represented by the Secretary
to the Govt. of India,
Ministry of Information and Broadcasting,
New Delhi.
 2. The Director General,
All India Radio, Civil Construction Wing,
New Delhi.
 3. The Prasar Bharati
Broadcasting Corporation of India,
Doordarshan Bhawan,
Copernicus Marg, Mandi House,
New Delhi-1.
 4. The Chief Engineer-I,
Civil Construction Wing
All India Radio, PTI Building,
2nd Floor, New Delhi-110001.
 5. The Chief Engineer-II,
Civil Construction Wing,
All India Radio,
Sooshna Bhawan, 6th Floor,
G.C.O.Complex, Lodhi Road,
New Delhi-9.
 6. The Superintending Engineer,
Civil Construction Wing,
All India Radio,
Zoo Narengi Road,
Guwahati-21.
- Respondents.

Shri A.Deb Roy, Sr.C.G.S.C.

O R D E R

CHOWDHURY J. (V.C.)

The issue pertains to transfer and posting. The applicant
who at the relevant time was posted at Shillong as Assistant
Engineer was transferred by the impugned order dated 21.5.99

*Ahmed
S.A.
T.M.B.*

to Guwahati against an existing vacancy. By the same order about 43 persons were transferred and posted. The challenge of the applicant is confined to the violation of the transfer policy adopted by the respondents. The respondents has formulated its policy pertaining to transfer. The policy categorised the stations A, B and C for the purpose of fixation of tenure of personnel at those stations. The categorisation is subject to review by the Government from time to time. As per the clause (ii) of the policy normal tenure at stations categorised as A and B would be four years and stations categorised as C would be two years. Mr A.Ahmed, learned counsel for the applicant submitted that the applicant after posting in hard station was brought to Shillong, A category station only on 9.10.97 and he was entitled to complete his tenure for four years at Shillong. Mr Ahmed also referred to the narration made in the pleadings for continuance of his stay at Shillong to take care of his old and ailing parents. Mr A.Deb Roy, learned Sr.C.G.S.C on the other hand submitted that the guidelines are not mandatory in nature. It is a policy to guide the administration and therefore it is always open to the administration not to adhere to the guidelines for the purpose of good administration. The submission made by Mr Deb Roy cannot be ruled out. The guidelines are the norms to regulate the affairs of public service and for good reason, one can depart-ure around from the policy but for that there should be some overwhelming reason for the departure. Policies are published and promulgated for the sake of transparency and also in the interest of fair administration. The guidelines are introduced for compliance, the conditions prescribed in the guidelines no doubt can be relaxed only on good ground. No grounds ~~so far~~ are made out for the departure save and except the bald statement made in the written statement that the

Attm
M. Amt

contd..3

transfer was made owing to the administrative exigency and it was not possible to adhere to the normal procedure for transfer. The respondents in its written statement did not dispute that under the normal circumstances guidelines are/ were required to be complied with and only on administrative exigency the occasion may arise where it is not possible to adhere to normal procedure. No such abnormal situation is indicated here.

2. In the circumstances, I am of the view that the matter requires a fresh consideration and I think that the ends of justice will be met, if a direction is issued on the applicant to file a representation before the authority within one month from today and on receipt of such representation the respondents authority shall consider the same and pass a reasoned order in the light of the policy as per law.

3. With these observations the application stands disposed of. It is however made clear that till completion of the aforementioned exercise, and for two weeks thereafter from the communication of the order, the interim order dated 28.5.1999 passed by the Tribunal shall continue.

There shall, however, be no order as to costs.

Sd/VICE CHAIRMAN

TRUE COPY

प्रतिलिपि

13/3/01

Section Officer (I.A.)
आनुसारी अधिकारी (प्राधिकारी)
Central Administrative Tr.
केन्द्रीय प्रशासनिक अधिकारी
Guwahati Bench, Guwahati
गুৱাহাটী - গুৱাহাটী, পুতুলা

13/3/01

Operator
Robins

-14-

PRASAR BHARATI
BROADCASTING CORPORATION OF INDIA
OFFICE OF THE ASSISTANT ENGINEER (CIVIL)
CIVIL CONSTRUCTION WING: ALL INDIA RADIO
RYNJAH: SHILLONG-6

ANNEXURE - B
32

NO.AIR/CCW/AE/2004-05/PF-TSK/1/484

Dated 29-01-2005.

To,

The Superintending Engineer (civil)
Civil Construction Wing,
All India Radio,
Ganeshguri Chariali
DR. Kakoti building
Guwahati-6.

(Through Proper channel)

Sub:- Options for Transfer.

Ref:- S.E. (civil) office telephone instructions for submission of options. dated 28-01-2005.

Sir,

As instructed over telephone from your office, I am submitting herewith my representation for favour of your kind consideration and sympathetic consideration please.

This representation may please be read with reference to this office letter No.AIR/CCW/SHG/AE/2001-02/PF-TSK/1/598 dated 28-11-2001, and letter No.AIR/CCW/AE/SHG/2000-01/PF-TSK/1/667-72 dated 14-03-2001.

That Sir, I have already completed 3 (three) tenure's at very difficult stains, like Dibrugarh, Passighat and Ziro at (Arunachal pradesh) and was lastly posted at Shillong. Although I have completed my tenure at this station, I wanted to continue at Shillong. I am not getting any S.D.A. and many other allowances, if a staff is posted to this Station from out side, then he is to be paid double house rent and many other allowances.

That Sir, the grounds on which I was transferred to Shillong remained the same. My aged old parents between 80 and 90 years and considering my own age and age of retirement in the year 2008, I may be allowed to continue my services at Shillong.

With reference to D.G's letter No.310/78/75-B(D.X.Vol)II Govt. of India, ministry of I & B New Delhi dated 14/01/1981, Vide para No. XXI, this is my last posting at my home town and I am within three years of reaching the age of superannuation, as such my case may kindly be considered and allow me to continue at Shillong, Sub-Division office. If it is not possible for the authority to retain me at Shillong then my next choice of posting may be considered as follow, please.
(1) To continue at Shillong (2) Dehradun/Mossurie (3) Simla (Himachal pradesh)

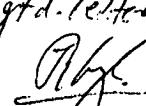
It is therefore respectfully prayed that your honour may consider my case with sympathy with reference to above circumstances.

Yours faithfully


(T.S. Kapoor)

Assistant Engineer (civil)
All India Radio: Shillong:

(Handwritten notes)
O/c. Copy to S.E/CC is sent by hand
Kanya Sh. T. Choudhury S.O.C. Shillong and Krushna regrd. letter also



PRASAR BHARATI
 BROADCASTING CORPORATION OF INDIA
 OFFICE OF THE ASSISTANT ENGINEER (CIVIL)
 CIVIL CONSTRUCTION WING: ALL INDIA RADIO
RYNJAH: SHILLONG-6

No. AIR/CCW/SHG/AE/2005-06/PF-TSK/1/384-85

Dated 31-01-2006.

To,

The Executive Engineer (civil)
 Civil Construction Wing,
 All India Radio.
 Tarun Nagar.
 Guwahati-5.

Sub:- Annual exercise of transfer/posting in CCW, AIR.

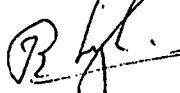
Ref:- SE (civil) Guwahati letter No. GH/1(3)/2004-05/2327 dt. 4-01-06

Sir,

With reference to above subject and letter cited above,
 kindly find herewith the index card/ application for transfer details
 of undersigned for favour of further necessary action at your end
 please.

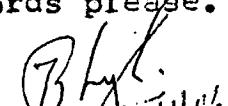
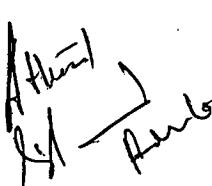
The undersigned was on leave and has joined today on 30th
 January-06 and the said form has reached this office only a 18th
 January-06. As such the forms could not be submitted in time. It
 is also requested that the latest deployment position of circles,
 Division and Sub-Division office etc. may please be made available
 for opting postings if my posting from Shillong is must.

Yours faithfully


 (Shri T.S. Kapoor)
 Assistant Engineer (civil)
All India Radio: Shillong

Copy forwarded for information and necessary action to:-

1. The Superintending Engineer (civil) CCW, AIR, Guwahati, with request
 to allow/recommend the undersigned to continue at Shillong.
 Since the undersigned is retiring by February-2008. Beside
 I have completed 10 years of service in difficult and most
 difficult areas of Arunachal Pradesh. The details vide~~s~~ column
 No. 13 of the para are attached for ready records please.


 Assistant Engineer (civil)
All India Radio: Shillong



INNEXURE-I
INDEX CARD/ APPLICATION FOR TRANSFER

31

1. Name in full (in block letters) : TRIPAT SINGH KAPOOR.
2. Designation : Assistant Engineer (civil)
3. (i) Whether appointed on regular or Adhoc basis : Regular.
- (ii) If regular, probation has been termination or not : Probation has been terminated on 7-10-85 vide letter No. A-31011/1/87-CW-1 Dt. 05-10-87.
4. Present place of posting with date : Shillong Sub-Division Shillong w.e.f 9th Oct-1997.
5. Educational qualification : HSLC & Three years Diploma in civil Engineering.
6. Date of Birth : 29th February 1948.
7. Present Residential address : -House No-20, Punjabilane U.T.C. Nagar Shillong-6, Meghalaya.
8. Permanent Home Town address : T.S. Kapoor, C/O M/S Kashmir Jewellers Bare Bazar near Harijan colony, Shillong -1 Meghalaya.
9. Whether SC/ST/CBC. : S.C.
10. IRLA No. wherever applicable : IRLA No. 10519
11. Date of appointment in entry grade with designation : Joined as Sectional officer (Civil) on 7th December 1973.
12. Date of appointment in present grade : 8th Oct. 1983 promoted & Joined as E(c)
13. Part posting with full details in each cadre/trade-

Sl. No.	Designation	Period		Nature of station
		From	To	

SHEET ATTACHED:-

These details may please be read with ref. to my representation letter No. MIR/CCW/12/04-05/PP-TSK/1/484 dated 29-01-2005 (Copy enclosed as ready Ref.) and other letters.

14. The grounds/reasons for seeking transfer : Want to continue at Shillong.
15. Name of 3-stations in the order: (1) To Continue at Shillong (2) Dehradun of preference to which transfer (3) Shimla (Himachal pradesh) is to be considered
16. Details of training undergone : Implementation of Hindi in Agmt & site works quality control works water supply and sanitary lines etc.
17. If spouse is employed give details i/c present place of posting : Nil
18. Mother tongues & other languages known : Gurmukhi, Hindi, English, Nepali, Bengali, Assamise Etc.
19. Any other information relevant of considering transfer. : I am to retire by Feb. 2008, considering my own age and parents old age between 80 to 90 years and ill health of self and wife now under treatment of heart problems may please be allowed to continue at Shillong.

Alvin
J.A. Paul



Signature with date

Verification:- The above particulars have been verified from the service record and found correct.

Government Of India
All India Radio::Gauhati Civil Sub-Division
Gauhati

40

NO.GCSD/2(I)/ 300

Dated Gauhati the 16th Nov'81.

TO

The Sectional Officer (civil)
Civil Construction wing,
All India Radio,
Gauhati/Agartala/Kohima/Dibrugarh.

Subject:- Transfer policy.

A copy of letter No.11019/22/81-SCOR dated
4/7-8-81 of D.G,AIR, New Delhi alongwith its enclosure
in respect of the above subject is forwarded herewith
for your information and guidance.

Yours faithfully,

W. Chaturvedi

Assistant Engineer (civil)
Civil Construction wing,
All India Radio::Gauhati
Gauhati.

-----0000-----

*Attned
H.D. Pante*

Government of India
Directorate General: All India Radio

No.11019/22/81-Scor Dated New Delhi the 4th/7th August '81.

Subject :- Transfer policy

In supersession of all previous orders relating to the transfer policy, a copy of letter No.310/18/75-B(D) (Volume II) dated 14th July, 1981 from the Ministry of Information & Broadcasting is forwarded for guidance/compliance.

Sd/-

(H.N.Biswas)

Dy. Director of Administration (E)

To

1. All Heads of All India Radio Stations/Offices.
2. All Sections/Officers in D.G.A.I.R./P&D Unit/C.C.W.Hdqr.
3. All recognised Associations/Unions of A.I.R.
4. All members of Office Council of All India Radio.

Copy for:

1. File on difficult Stations.
2. Relavent Guard File.

Sd/-
for Director General

No.310/78/75-B (D X Volume (II))
Government of India
Ministry of Information & Broadcasting

New Delhi-1, th 14th July, 1981

To

The Director General,
All India Radio,
New Delhi.

Subject:- Transfer policy

Sir,

I am to say that in supersession of all previous orders issued on the subject either by the Ministry of Information & Broadcasting or by the Directorate General, All India Radio, it has been decided that subject to exigencies of public service, the transfers of personnel employed in All India Radio should henceforth be regulated by the following principles:-

- 1) The Stations/Offices of All India Radio will be categorised into 'A' 'B' and 'C' categories as indicate in the Annexure, for the purpose of fixation of tenure of personnel at these stations/Offices. This categorisation may be reviewed by the Government from time to time.
- 2) The normal tenure at stations/offices categorised as 'A' and 'B' will be four years and at stations/offices categorise as 'C' will be two years.
- 3) Locally recruited members of staff of Group 'D' and other low paid employees would normally not be transferred except on promotion or on receipt of written request from the employee in question.

Contd..2/-

*After
M. K. B.*

- iv) Transfer of the other non-gazetted staff posted at category 'A' and 'B' stations may not be made as a matter of routine after expiry of the normal tenure of four years.
- v) The tenure of maintenance recruits at AIR Port Blair, will however, be invariably four years (fixed) on completion of which they shall be transferred.
- vi) Normally on first appointment as a Station Director, an officer will be posted at a 'B' Station before being considered for holding charge at an 'A' Station.
- vii) An Assistant Station Director on his first promotion/appointment, will not be posted to an auxiliary Centre where he has to work independently. Likewise, a Station Engineer on his first promotion will not be posted to an Auxiliary Centre where he will be head of the Station.
- viii) At lower levels in the Programme Cadre, Officers will normally be given an opportunity to serve at both 'B' and 'A' stations, to enable them to gain experience of all aspects of broadcasting.
- ix) When the question of transfer is considered, as a normal rule, a person with the longest continuous stay at the station, irrespective of the rank(s) held by him earlier should ordinarily be transferred first. For this purpose, the service rendered at a Station as a Local recruit will not be taken into consideration for determining the length of continuous stay at that Station. Also, the actual period of continuous service at the site(s) of installation(s) will be excluded for computation of continuous stay provided the period of stay at the installation(s) is more than ninety days in a calendar year.
- x) As far as possible, every employee will be posted to category 'C' stations at least once during his service.
- xi) Persons who already had a spell of posting at a 'C' station would not be posted to such station a second time if there are candidates in the same grade who are still to be posted to such a station. They may, however, be posted again on promotion.
- xii) Persons over the age of 45 years shall not be ordinarily posted to a 'station of high altitude', which term for the purpose will mean a station located at an altitude of 2250 metres or more above mean sea level.
- xiii) For the purpose of determining the date of completion of his tenure, all kinds of leave availed of by an officer after posting to a category 'C' station will be excluded except the leave availed of by him during his such posting, upto the extent of "earned leave" earned by him at that station.
- xiv) The head of the main station authorised to make recruitment may review the position of Transmission Executives posted at Category 'C' Station well before completion of tenure at the station and forward proposals to the Directorate regarding transfers of those persons to other stations after ascertaining the preference of the persons concerned.
- xv) Regional Offices/Sections concerned in the Directorate should at the commencement of a year, prepare a list of those whose tenure at Category 'C' stations is due to be completed during that year. Proposals to post substitutes in their places would be formulated well ahead of the actual completion of tenure. Those who are due for promotion and who have not done a term of posting at any category 'C' station would be posted to a category 'C' station on promotion.

After
Ad
vero

- xvi) Six months before expiry of normal tenure of posting at a station, an employee may indicate his choice of minimum of three different stations where he would like to be preferably posted and such option may be taken into consideration before his next posting is decided.
- xvii) If an official offers himself for posting at any of the category 'C' stations, a suitable note will be made of the offer and to the extent possible such an offer would be accepted.
- xviii) In case an official posted at a category 'C' station is willing to continue at that station notwithstanding completion of his normal tenure there, he may not be transferred from that station. Unless the conditions other than the tenure justify his transfer from that station.
- xix) Posting/transfer orders of an employee who is serving at a category 'C' to a category 'A' or 'B' station on completion of his tenure at a category 'C' station shall be issued at least one month before the completion of his tenure.
- xx) ~~Members of staff~~ In the matter of posting, officials who have not already been posted at a particular station, shall have precedence over others who had already had full tenure at that station.
- xxi) Members of staff who are within three years of reaching the age of superannuation will, if posted at their home town, not be shifted therefrom if it becomes necessary to post them elsewhere, efforts will be made to shift them to or near their home towns to the extent possible.
- xxii) The transfers of members of staff who have been given specialised training, either in India or abroad and those who are found to have aptitude for research work, will be guided by consideration of fully utilising their training talents than by any other considerations herein.
- xxiii) Only the Chief Executive of the a recognised Association/Union/Federation in the constitution of that Association/Union, or where the chief Executive has not been specifically defined in the constitution of such an Association/Union/Federation, the General Secretary thereof, may, if he is posted at a Station/office outside Delhi/New Delhi, be brought on transfer to a station/office at Delhi/New Delhi. In case, however, he has already posted at a station/office in Delhi/New Delhi, he will not be transferred to a station/office outside Delhi/New Delhi so long as he continues to hold the office by virtue of which he is entitled to be retained at Delhi/New Delhi.

AI/End

M/Av

ANNEXURE- F

(Relevant portion typed)

LOGO
AIR
All India Radio

The Superintending Surveyor of Works (Civil)-II,
Civil Construction Wing, All India Radio, 5th Floor, Sooshna Bhawan
Complex, Lodhi Road, New Delhi-110 003
011-24306601 Fax – 011 24386801

2013/1/06-CW-I(Pan)/.....

Dated 12th/13 April 2006

ORDER NO.18/2006-CW.I

With reference to Order No.22/2005-CW.I dated 28.06.2005 (Kept in abeyance) and in continuation of Order No.06/2005-CW.I dated 14.11.2005, following transfer / posting in the Grade of AE (Civil)/ASW (Civil) are by ordered with immediate effect in public interest.

No.	Name of the Officer	From	To	Remarks
1	A. Lal	AE(Trg) O/o Training Unit, Delhi	AEO Posts	Vice Sh. Md. S. Ahmed
2	Md. S.Ahmed	AEO Posts	ASW, Training Unit, Delhi	Vice Shri A.V. Rao, already relieved
3
4
....
....
13	M. S. Yadav	Addl. ASWO, Lukhnow	ASWO SSW-II, New Delhi	Shri V.K.Rai
.....
.....
18	T. S.Kapoor	AEO, Shillong	EA, SEO, Guwahati	Vacant post
....
....
24	G. S. Rao	AEO, Chennai	ASWO, SSW-III, Delhi	Vice Shri M.N.Singh, already relieved

01. The official at Sl. No.1,3,5,8,10,11,14,16,20 to 25, 26 to 31 will move first to join his new place of posting.
02. No request for change / retention of the concerned staff by the controlling officers will be entertained.

*Attached
J. S. K.
T. S. K.*

03. All the controlling officers are hereby directed to relieve the concerned staff immediately to enable them to join their new place of posting.

This issues will be approval of Competent Authority.

Sd/-
(D.B.K.BHAQWAR)
SUPERINTENDING SURVEYOR WORKS-II

Copy for information to:-

1. Ineligible
2.
3.
4.
5.
14. Officers concerned
15. Guard File, Order Folder

Sd/-
S.O. (CW-I)

Abdul
M. Hanif

MR BHARATI
BROADCASTING CORPORATION OF INDIA
Superintending Surveyor of Works (CSW) - II
Construction Wing, All India Radio, 8th Floor, Sowdham Bhawan
Complex, Ladoh Road, New Delhi - 110 003
Dil 24384345 Fax - 011 2438 6801 Email - csw.bharati@yahoo.co.in

Dated: 12th April 2006

2013/1/08-CW-I(Han)

ORDER NO: 18/2006-CW-I

With reference to Order No. 22/2005-CW.I dated 28.06.2005 (Kept in abeyance) and in continuation of
No. 2013/1/08-CW.I dated 14.11.2005, the following transfers/postings in the grade of AE(Civil) / ASW(Civil) are
by ordered with immediate effect in public interest:

No.	Name of the Officer (S/o)	From	To	Remarks
1.	Anuray Lal	AE(Trg), Old Training Unit, Delhi	AEB Pimpri	Vice Shri Md. B. Ahmed
2.	Md. S. Ahmed	AEO, Pimpri	ASW, Training Unit Delhi	Vice Shri A. V. Rao, already relieved
3.	B.C. Zacharia	ASWO, Hyderabad	EA, Circle, Mumbai	Vice Shri K. D. Midha
4.	K.G. Midha	EA to SFC, Mumbai	AEO, Mumbai	Vice Shri V. N. Vishnu
5.	Narayan Singh	AEC, Shimoga	ASWO Trg Unit Delhi	Vice Shri M. K. Patel, already relieved
6.	S.G. Panwar	ASWO, Vig., Delhi	ASWO Jalore	Vice Shri Brij Bhushan
7.	Um. Bhushan	ASWO, Jaipur	AEO I.P. Estate Delhi	Vice Shri G.C. Buxal
8.	G.C. Buxal	AEO, I.P. Estate, Delhi	ASWO Kankla Division	Vacant Post
9.	K.M. Rao	Asstt. Hyderabad	ASWO Circle Channel	Vice Shri R. Purushotham
10.	R. Purushotham	ASWO, Circle Chittor	ACO II, Hyderabad	Vice Shri K. M. Rao
11.	M. Hussain	ASWO, Pimpri	ASW(C), PAM Delhi	Vice Shri B. B. Hemach
12.	N. Chakraborti	T.A to SEIE, Kolkata	ASWO Patna	Vice Shri M. Hussain
13.	M.S. Yadav	Addl. ASWO, Lucknow	ASWO Lucknow	Vice Shri V. K. Rai
14.	P.K. Shah	ASWO, Circle Kolkata	ASWO SSW-III, New Delhi	Vice Shri S.P. Guha
15.	Panuelal Singh	ASWO, SSW-III, Delhi	AEO-II, Guwahati	Kohima Sub-division shifted.
16.	R.K. Patel	ASWO, SSW-II, Delhi	AEO, Kolkata	Vice Shri A. Chatterjee, already relieved
17.	S.P. Guha	ASWO, SSW-III, Delhi	AEO, Shadong	Vice Shri T.B. Kapoor
18.	T.B. Kapoor	AEO, Shadong	EA, TGD, Guwahati	Vacant post
19.	Sunder Lal	ASWO, Jammu	AEO Vigilance Delhi	Vice Shri S.B. Panwar
20.	K.K. Gool	AEO, Vig. Delhi	ASWO Jammu	Vice Shri Sunder Lal
21.	U.N. Singh	ASWO, Circle-I, Delhi	AEO Varanasi	Vice Shri K.S. Kishnawha
22.	V.N. Vishnu	AEO, Mumbai	ASWO, Raipur	Vice Shri B.C. Zacharia
23.	Veer Pal Singh	ASWO, SSW-I, Dehr	AE(C), Ranchi	Vice Shri N. Bhagat
24.	G.S. Rao	AEO, Chennai	ASWO, SSW-III Delhi	Vice Shri M.N. Singh, already relieved

Contd. 21

*Shri
P.M.
Dil*

Chakraborti

25.	A.K. Onn	AEO-I Soochne Bhawan, Delhi	AEO Rajkot	Vice Shri S.K. Agarwal
26.	S.K. Agarwal	AEO, Rajkot	AEO Shillong	Vice Shri Mohan Lal Addl. Charge
27.	B.S. Naresh	ASWO PSM, Dehr	AEO Sdehi	Vice Shri N.C. Paul, already relieved
28.	K.M. Sharma	AECMM, Delhi	AEO (C) II Lucknow	In partial modification to order No 3/2005-CW-I dated 23/05/2005
29.	N. Bhagat	AEO, Ranchi	ASWO BSW-I Delhi	Vice Shri Veer Pal Singh
30.	P.G. Hinglajai	Addl. AEO, Raipur	EA to BSW-I	Vice Shri Jagdishwar Chaudhary, already relieved
31.	Mohan Lal	AEO Shillong	AEO Ghantakarhan	Vacant Post
32.	V.K. Rai	AEO Lucknow	AEO-I Soochne Bhawan	Vice Shri A.K. Onn

Without TA/DA
Temporary charge as per Order No. 62/2005-CW-I dated 06.12.2005

Further transfers are ordered in partial modification of the order dated 28.05.2005.

33.	K.S. Kushwaha	AEO, Varanasi	ASWO SSW-I Delhi	Due to closure of HMC sub-division.
34.	M.C. Giste	AEO, Imphal	ASWO Guwahati Circle	

01. The officials at Sl. no. 1, 3, 5, 6, 10, 11, 14, 16, 20 to 25, 28 to 31 will move first to join his new place of posting.
02. No request for change/retention of the concerned staff by the controlling officers will be entertained.
03. All the controlling officers are hereby directed to relieve the concerned staff immediately to enable them to join their new place of posting.

This issues with the approval of Comptroller Authority.

16004000200
13.7.06.
(D.B.R. BHAJWAN)
SUPERINTENDING SURVEYOR WORK-II

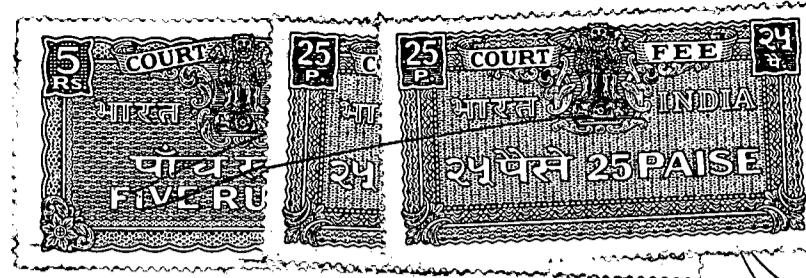
Copy for Information to :-

1. HQ to CEO, Prazer Bharti, New Delhi.
2. PS to DG, AIR / DDM, New Delhi.
3. PS to E-In-C, AIR, DDM, New Delhi.
4. PS to CE-I / II, CCW AIR, New Delhi.
5. PS to Chief Architect, CCW, AIR, New Delhi.
6. BSW-I / II / III, CCW, AIR, New Delhi.
7. All SES (C) / (E), SA-III, CCW, AIR.
8. All EEs (C/E) / SWs (C/E) / BE (Vig.) CCW, AIR.
9. EO-I / II / Sr. F.O / FO to CE-III Architect.
10. CCW-I / II / III / IV Sections, CCW, AIR, New Delhi.
11. Vigilance Section, M/o I & B, Bhawan, New Delhi.
12. Vigilance Section, DG AIR, Akashvani Bhawan, New Delhi.
13. PAU, ABCR Building, IRLA, New Delhi.
14. Officers concerned.
15. Guard File / Order Folder

S.O. (CW-I)

*Held
1st
Done*

DISTRICT:



-VAKALAT NAMA-

T. S. Kapoor
T. S. Kapoor

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

OA NO.

OF

2006

Shri Tripat Singh Kapoor

APPLICANT

PETITIONER

-Versus-

The Union of India & others

Respondents
Opposite party

Know all men by these presents that above named.....Tripat Singh Kapoor
do hereby nominate, constitute and appoint Shri.....ADIL AHMED.....

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

In witness whereof I/We hereunto set my/our hand this the 1st day May
2006.

ADVOCATES

A.R.Barooh

J.M.Choudhry

A.S.Bhattacharjee

N.M.Lahiri

G.K.Joshi

✓ Adil Ahmed

A.K.Chaudhuri

R.P.Sharma

P.Sarma

S.A.Laskar

M.H.Choudhry

Sanjoy Mudoi

Sukumar Sarma

S.Jain

A.J.Aria

Received from the executants and accepted.

Advocate

(ADIL AHMED)

To
Dated

1.5.2005

Sr. Central Govt Standing Counsel.

Central Administrative Tribunal.

Guwahati Bench Guwahati.

Subject - Supply of Copy of original Application,

Sir,

Please findherewith Copy of original Application Filed by
Shri Tripat Singh Kapoor through me which will be move
before this Hon'ble Tribunal. Kindly acknowledge the
receipt of the same. Thank You.

yours faithfully

J.S. —

(Abul Ahmed)

Advocate

Received Copy

Abul Ahmed

Addl Chs C

1/5/06

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

IN THE MATTER :-

IN O.A. NO. 98 OF 2006

Shri T.S. KAPOOR

... Applicant

- Versus -

Union of India & others.

... Respondents

AND

IN THE MATTER OF :

Written Statement for and on behalf of Respondents No.1 to 4

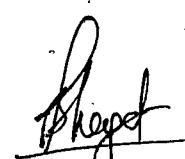
WRITTEN STATEMENT

I, J Bhagat, Superintending Engineer(Civil), Civil Construction Wing, All India Radio, Guwahati do hereby verify and state as follows :-

- That I am the Superintending Engineer(Civil), CCW, All India Radio, Guwahati and Respondent No.4 in the above case and as such fully conversant with the facts and circumstances of the case. I am swearing the reply statement for and on behalf of the respondent as I am duly authorized by them, I hereby deny all the averments and allegations contained in the Original Application.

2. Brief details of the case :-

Shri T.S.Kapoor, AE(Civil) has been working at Shillong for more than 9 years and he is a native of Shillong only. As per the transfer policy laid down in the Govt. of India, the employees are



transferred after completing of tenure period which is normally four years and two years for those posts posted in the difficult places. The North East is categorized as difficult places. The AE post is covered as sensitive/focal point and as per the CVC guidelines the officers/employees are to be shifted between focal and non focal postings. Shri TS Kapoor holding a focal point post was earlier transferred during 1999 from Shillong to Guwahati but instead obeying the order he has approached the Hon'ble CAT Guwahati requesting for retention at Shillong on various personal grounds. The Hon'ble CAT Guwahati pleased to dismiss the OA with direction to consider his representations sympathetically. In compliance the above direction, the department has taken a lenient view and allowed to retain him at his native place i.e. Shillong. After 9 years he has transferred from the same focal point to a non focal posting as Asstt. Surveyor of Works at Guwahati vide order No.18/2006-CW-I dated 12/13-04-2006. The Applicant did not comply the order and now sought the intervention of the Hon'ble CAT Guwahati for canceling his transfer order at plea of his superannuation. The respondent humbly submit that transfer of employee or nearer to the native place at the fagent of their career before retirement may not be applicable where the employees are continued to stay at their native of place for many years and in this case Shri T.S. Kapoor, who belongs to North East and a native of Shillong has been working in the region for the maximum period of his 35 years service in general and many years at his native i.e. Shillong in specific. Guwahati is very near to Shillong and duly considering the facts that he is retiring shortly and he has been accommodated at Guwahati which is near to Shillong by which the welfare of the employee is safeguarded. The respondents has not violated the guidelines/transfer policy regarding transfer of staff. Hence, it is humbly prayed to dismiss the O.A. which is deviant of merits. Incidentally, the work load of Shillong is considerably reduced and the continuation of Sub Division office/ Asstt. Engineer office at Shillong is not justified and Shri Kapoor is transferred accordingly.



3

The counter reply of the Paras are given below :-

Para 4.1: It is a matter of record.

Para 4.2 The service in difficult and very difficult areas are applicable to the employees who are not native of North East whereas Shri TS Kapoor belongs to North East region and he has been working all the time of his service at that region only. He has completed more than 9 years at one station i.e. Shillong his native place with the focal point of post. Now he has been transferred to Guwahati as Asstt. Surveyor of Works and Guwahati is nearer to Shillong.

Para 4.3 The statement is totally incorrect and misleading. Shri Kapoor has worked as S.O. from December, 1973 to November, 1983 and AE for 9 years being a native of North East he has been accommodated there for maximum period of his service whereas the officer are transferred many times in service from one place to another on difficult and most difficult areas during their service Shri Kapoor unfortunate enough to serve at native zone/place to attend his personal matter even though his service are liable to be transferred any where in India.

Para 4.4: Shri T S Kapoor was transferred from Shillong to Guwahati vide Order No.18/99 dated 21-05-1999 but he has not complied, he has approached the Hon'ble CAT, Guwahati vide OA No.172/99 who had disposed the case with the instructions to approach the department with personal representation. He had submitted the representations and was considered sympathetically by the department and was kept him at Shillong till date.

Para 4.5: The statement is totally incorrect and misleading. Shri TS Kapoor still continuing at Shillong after the direction of the Hon'ble Court OA No.172 of 1999. It shows that Deptt. has sympathetically considered his representation. Shri Kapoor has



completed more than 7 years after the above direction of the Court. So the question of reply or order does not arise. This is totally misleading the Hon'ble CAT. The posting of choice places as per his representation was not possible. Since there is no vacancy of this post hence his case has been considered sympathetically and has been posted at Guwahati which is very near to Shillong so that he can look after old parents and family.

- Para 4.6 The statement is totally incorrect and misleading. As per the transfer policy of Govt. of India, Min. of I&B in para XXI reads "The member of staff who are reaching in the age of superannuation, will, if posted at the home town, not be shifted there from, if it becomes necessary to post them else where, efforts will be made to shift them to, or to near home town to extend possible. As far Shri Kapoor is concerned that he has completed more than 9 years at his native place, "Shillong with focal point of posted, his transfer is very much necessary because the work load at Shillong has reduced and the continuation of Sub division/AEs office is not justifiable, hence he has been transferred to Guwahati which is very near to Shillong.
- Para 4.7 The statement is totally incorrect and misleading. Shri Kapoor has completed more than 9 years at Shillong, his native place and work load of AEs office is reduced and keeping the sub division at Shillong is not justifiable. Taking sympathetic consideration of his request, the department has considered and accommodated him at Guwahati which is very near to Shillong. By which the welfare of employee is safeguard.
- Para 4.8 There is no justification of his case since in his case, he has completed more than 9 years at one place that too his native place at Shillong with focal point of posting which is against the guidelines of the Central Vigilance Commission. Hence it is humbly prayed to dismiss the O.A. which is deviant of merit.

- 5
- Para 4.9 The statement is incorrect. The transfer order has been issued after considering all the points and there is no violation of norms and transfer policy. The order in question is relevant, valued and in order.
- Para 4.10 Shri TS Kapoor is working as Asstt. Engineer at Shillong for the last 9 years and the work load at Shillong has been reduced and all the 9 years he was working as the focal point posting so his transfer case is very much justifiable and there is no malafide and illegal.
- Para 4.11 In view of the above facts his application may be rejected.
- Para 4.12 The application may be rejected since there is no justification for keeping him at Shillong further and the application is deviant of merits.
- Para 5.1, 5.2 & 5.3 The statement is totally incorrect and misleading the transfer policy of the Government for the tenure period of the officials are 4 years for normal place and two years for difficult place. Shri T.S. Kapoor belongs to North East region so Shillong is not coming under difficult place as for his case is concerned. As per C.V.C. guidelines, the official who is at the focal point of posting, is field work should not be kept beyond the normal tenure.
- Para 5.4, 5.5 Statement is totally incorrect and misleading as explained in Para 5.1.
- Para 5.6 Shri T S Kapoor was transferred from Shillong to Guwahati vide Order No.18/99 dated 21-05-1999 but he has not complied, he has approached the Hon'ble CAT, Guwahati vide OA No.172/99 who had disposed the case with the instructions to approach the department with personal representation. He had submitted the representations and was considered sympathetically by the department and was kept him at Shillong till date.



Para 5.7 Shri T.S.Kapoor has completed more than 9 years at one place, that too focal points of post. He has been adjusted to the nearest place of his native. Hence, the case has got no ground and the applicant is not entitled to get any of the relief on prayed with application.

Para 5.8 The statement is not true because the Deptt. Considered Shri T.S.Kapoor very sympathetically and he has been accommodated at Guwahati which is very near to Shillong, his native place.

Para 5.9 There is no violation of the transfer order is valued and is in order.

Para 5.10 The statement is fully incorrect Shri T.S.Kpooor has been transferred to Guwahati after considering all the points. The Deptt. Has accommodated to his nearest place, his native Shillong to Guwahati.

None of the grounds mentioned in the above Original Application No.98 of 2006 is ~~devoid~~ of any merit and liable to be dismissed with cost.



7 -

AFFIDAVIT

I, Shri J Bhagat, son of late D N Bhagat, Superintending Engineer(Civil), Civil Construction Wing, All India Radio, Guwahati being authorized to hereby solemnly affirm and declare as follows :-

1. That I am the respondent No.4 of the Q.A. and acquainted with the facts and circumstances of the case and, therefore, I am competent to swear this affidavit.
2. That the statements made in this affidavit and paragraphs 1 are true to my knowledge and those made in paragraphs 2 to 5 't0 are being matters of records and true to my information derived therefrom which I believe to be true and rest are my humble submissions made before this Hon'ble Court.

Accordingly, I sign this verification on this 20th day of Dec, 2006 here at Guwahati.

~~Identified by me :-~~


J Bhagat
DEponent

19 MAR 2007

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

FILED BY

Sri Tripat Singh Kapoor
... Applicant
Through - Smita Bhattacharjee
(Advocate) *SG*

IN THE MATTER OF :

O.A. No. 98 of 2006

Sri Tripat Singh Kapoor.
... Applicant

- Versus -

Union of India & Ors.
... Respondents.

- AND -

IN THE MATTER OF :

Rejoinder filed by the applicant to the written statement filed by the respondents.

The humble applicant submit this rejoinder as follows:

1. That with regard to the statement made in paragraph 1 of the written statement the applicant have no comment to offer.
2. That with regard to the statements made in paragraph 2 of the written statement the Applicant begs to state that the details narrated in the written Statement regarding the case is not fully correct and are misleading to this Hon'ble Tribunal.

In this regard the Applicant states that after completion of 4 years, instead of 2 years as fixed for very difficult stations, he was transferred from Ziro, Arunachal Pradesh to Shillong. But before completing his normal tenure at Shillong he was transferred to Guwahati. Being aggrieved by the same the Applicant was compelled to approach the Hon'ble Central



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Administrative Tribunal by filing O.A. No. 172 of 1999 for seeking justice in this matter. The O. A. No. 172 of 1999 was finally heard and disposed of with a direction to the Applicant to file a fresh representation before the Respondents, which was directed to be considered sympathetically by the Respondents. Accordingly, the Applicant had filed a fresh representation for transfer in his choice place of posting. However, instead of taking any action at appropriate time, he was asked to continue at Shillong Sub- Division with full charge of the Sub- Division.

3. That with regard to the statements made in paragraph 4.1 of the Written Statement the Applicant has no comment to offer.

4. That with regard to the statements made in paragraph 4.2 of the Written Statement the Applicant begs to state that statement made therein are not fully correct and misleading to this Hon'ble Tribunal. In this connection, it is stated that as per the transfer policy dated 4th/7th August, 1981 (Annexure-D of the O.A) under the nowhere it was mentioned about native or outsider of North East Region. It is applicable to all employees working under the Respondent No.2.

5. That with regard to the statements made in paragraph 4.3 of the Written Statement the Applicant begs to state that statement made therein are not fully correct and misleading to this Hon'ble Tribunal. The Applicant most humbly states that after promotion to the post of Asstt. Engineer from Sectional Officer (Civil) he has served in many difficult stations in Arunachal Pradesh and carried out many transfers. Further, it is also stated that the Applicant vide his letter dated 29.01.2005 (Annexure-B to the O.A.) has mentioned 3 (three) choice places of posting i.e., Dehradun, Mossurie and Simla.

B. Biju

6. That with regard to the statements made in paragraph 4.4 of the Written statement the Applicant begs to state that he was transferred from Shillong to Guwahati Vide Order No. 18/99 dated 21-05-1999 only after serving for one year and five months which was much before completion of his tenure at Shillong. Before coming to Shillong, he had completed the tenure of most difficult stations at Passighat and Ziro and thereafter he was transferred to Shillong. It is also worth to mention here that after completing his tenure at Passighat he had submitted his representation for transferring him to the vacant post at Shillong and the same was also recommended by the Superintending Engineer (Civil), Guwahati, instead the then Chief Engineer (Civil), New Delhi contacted him over phone and instructed him to complete the long pending project of Ziro at Arunachal Pradesh, he was verbally assured by the Chief Engineer (Civil), New Delhi that if the project work is completed by the Applicant, he will be given choice posting only after submission of the final bills. Accordingly, on reminding the same after submission of the final bills he was instructed to be relieved from Ziro and was posted back to Shillong. However, he was soon transferred from Shillong to Guwahati compelling him to approach this Hon'ble Tribunal by filing O.A. No. 172 of 1999 seeking justice in this matter.

The Hon'ble Tribunal granted interim stay order in this case. The said O.A. No. 172 of 1999 was finally heard and disposed of on 14.02.2001 with a direction to the Applicant to file a fresh representation before the authority within one month and on receipt of the same the respondent authority was directed to consider the same and pass a reasoned order in the light of the policy as per law.



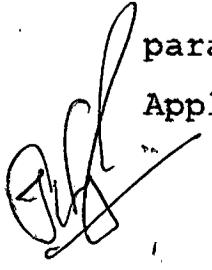
It is to be stated that instead of considering the representation and also posting him to any of his choice place of postings as submitted by the Applicant he was again ordered to join at Guwahati. Therefore, the Applicant is compelled to approach this Hon'ble Tribunal once again, seeking justice in this matter.

7. That with regard to statements made in paragraph 4.5 of the Written statement the applicant begs to state that since no orders or instructions were issued on the subject as was directed by the Hon'ble Tribunal, he is continuing at Shillong Sub- Division Office by virtue of interim order granted by the Hon'ble Tribunal. The Department has never considered the case of the Applicant.

8. That with regard to statements made in paragraph 4.6 of the Written statement the Applicant states that he is already working in his hometown and is due to retire on superannuation in the month of February, 2008.

9. That with regard to statements made in paragraphs 4.7 and 4.8 of the Written statement the Applicant begs to state that although he has completed 9 years of service at Shillong it was not for his fault as he had already filed representation before the respondent authority as per the order of this Hon'ble Tribunal in O.A. No. 172 of 1999 and has been filing various representations from time to time, but the Respondents have not taken any step in this regard till date. The Hon'ble Tribunal had earlier granted interim stay till the consideration of his representation and since his representation was not considered he was allowed to continue to work at Shillong office.

10. That with regard to the statement made in paragraphs 4.9 to 5.10 of the written statement the Applicant states that the same bears no substance and



all the contentions made by the Respondents are already replied in the preceding paragraphs.

Therefore, the Written Statement filed by the Respondents is wholly bereft of substance and no credence ought to be given to it. Thus, in view of the abject failure of the Respondents to refute the contentions, averments, questions of law and grounds made by the Applicants in the Original Application filed by the Applicants deserved to be allowed by this Hon'ble Tribunal.

A handwritten signature in black ink, appearing to read "A. J. S. A. J. S." followed by a date "10/10/1988".

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

I, Shri Tripat Singh Kapoor, aged about 58 years, Assistant Engineer, Civil Construction Wing, All India Radio, Umpling, Shillong - 793 006 do hereby solemnly verify that the statements made in paragraph Nos. 1, 3, 7, 8, 9 and 10 are true to my knowledge, those made in paragraph Nos. 2, 4, 5 and 6 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 19th day of March 2007 at Guwahati.



T.S. Kapoor.

Dated
19-03-2007 63

To

Ms. Usha Das
Additional CGSC
Central Administrative Tribunal
Guwahati Bench, Guwahati.

Subject:- Supply of copy of rejoinder, filed in
O.A. No. 98 of 2006.

Madam,

Please, find herewith a copy of rejoinder to be
filed in Original Application No. 98 of 2006, by Shri
Tripat Singh Kapoor, the applicant, through me. Kindly
acknowledge the receipt of the same. Thanking you.

Received Copy:-

Usha Das.
Add Chc
19/3/07

Yours faithfully
Smita Bhattacharjee
Advocate.

4 MAY 2007

गुवाहाटी न्यायालय

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

FILED BY

Sri Tripat Singh Kapoor
Smti. Smriti Bhattacharjee
(Advocate)

IN THE MATTER OF :

O.A. No. 98 of 2006

Sri Tripat Singh Kapoor.

... Applicant

- Versus -

Union of India & Ors.

... Respondents.

- AND -

IN THE MATTER OF :

Additional Rejoinder filed
by the applicant to the
written statement filed by
the respondents.

That the humble applicant submits this Additional
Rejoinder as follows:

1. That the Applicant has filed the Original Application No.98 of 2006 before this Hon'ble Tribunal against the illegal and arbitrary transfer of the applicant by the Respondents vide Office Order No.2013/1/06-CWI(Pan)/Order No.18/2006-CW-1 dated 12/13.04.06. This Hon'ble Tribunal was pleased to stay the impugned Transfer Order. The Respondents have filed the Written Statement and the Applicant has also filed the Rejoinder against the Written Statement. In the said Rejoinder the Applicant inadvertently left some important points in the said Rejoinder. Hence this Additional Rejoinder is filed by the Applicant for

proper adjudication of the Original Application by this Hon'ble Tribunal.

2. That with regard to statement made in paragraph 2 i.e. brief details of the case in the Written Statement filed by the Respondents, the Applicant begs to state that the earlier case filed by him i.e. O.A.No.172 of 1999 was not dismissed by this Hon'ble Tribunal as stated by the Respondents in their Written Statement in the instant case. The Hon'ble Tribunal in the aforesaid case directed the instant Applicant to file a Representation before the Authority within one month and on receipt of such Representation the Respondents Authority shall consider the same and pass a Reason Order in the light of the Policy as per law. With this observation the aforesaid Original Application stands disposed of. The Hon'ble Tribunal in the aforesaid case further clarified that till completion of the above-mentioned exercise the Interim Order dated 28.05.1999 passed by the Hon'ble Tribunal shall continue. It is pertinent to mention here that till date the Respondents have not disposed the aforesaid Representations. The Applicant never over stayed at his native place i.e. Shillong as he has already served most difficult areas and thereafter he was posted to his native place shillong on personal ground as he has made request before the concerned Authority. Similarly situated persons like Shri M. C. Guite, Shri N. C. Pual and Shri R. C. Das was allowed to continue in their Home Town more than 9 to 10 years besides many more Officers working in this North Eastern Region. The Applicant is now aged about 59 years and he is going to be retired on superannuation in the month of February 2008. Moreover, he is suffering from coronary artery disease with TMT positive for inducible ischemia and under constant treatment of North Eastern Indira Gandhi



Regional Institute of Heath & Medical Sciences,
Shillong (in sort NEIGRIHMS).

Photocopy of the Medical Certificate from
NEIGRIHMS, Shillong issued by the Head of the
Department of Cardiology dated 09.04.2006 is
annexed hereunto and marked as **ANNEXURE-X**.

Thus in view of the above the Applicant most
humbly prays that his case is genuine and may be
pleased to be consider by this Hon'ble Tribunal by
setting aside the Impugned Transfer Order No.2013/1/06-
CWI(Pan)/Order No.18/2006-CW-1 dated 12/13.04.06.



VERIFICATION

I, Shri Tripat Singh Kapoor, aged about 58 years, Assistant Engineer, Civil Construction Wing, All India Radio, Umpling, Shillong - 793 006 do hereby solemnly verify that the statements made in paragraph Nos. — 1 are true to my knowledge, those made in paragraph Nos. — 2 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 2nd. day of May.2007 at Guwahati.



D E C L A R A N T

NEIGRIHMS

North Eastern Indira Gandhi Regional Institute of Health & Medical Sciences, Shillong

(An Autonomous Institute, Ministry of Health and Family Welfare, Government of India)
Director's Block, GPO Post Bag No. 92, Mawdiangdiang, Shillong 793012, Meghalaya

Email : neigri@sancharnet.in
neigri_shg@dataone.in,
Phone : (0364)2536538 (Tele-Fax)
2004681 (O)

No. NEIGR/CARDIO/Ref-11/2007

To Whom It May Concern

This is to certify that Mr. Tripat Singh Kapoor, a 59 year male from All India Radio, Civil Construction Wing is diagnosed as a case of coronary artery disease with TMT positive for inducible ischemia. He was admitted at NEIGRIHMS on 4th May 2006 with Unstable Angina Class III B2. Subsequent coronary angiography showed 40% proximal segment stenosis of LAD. He is presently under medical treatment in NEIGRIHMS (Cr No- 7186) for his coronary artery diseases and needs medical follow-up on regular basis. He is also a case of IGT and hypertension, presently under control.

Presently he is advised for monthly medical checkup in NEIGRIHMS, Shillong.

Dated the 9th April 2006

Animesh Mishra
Dr. Animesh Mishra, MD, DM
Associate Professor
Head, Department of Cardiology
NEIGRIHMS, Shillong-12

ATTESTED

Abhijit Bhattacharya
ADVOCATE