

92

( FORM NO. 4  
SEE RULE 24)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
CHRAHATI BENCH:

1. Original Application No. \_\_\_\_\_  
2. Misc Petition No. \_\_\_\_\_  
3. Contempt Petition No. \_\_\_\_\_  
4. Review Application No. \_\_\_\_\_

28/08 in O.A 110/06

Applicant(s) Bipin Ranjan Hader

Respondent(s) U.O.I. 90MS

Advocate for the Applicant(s) B.C. Pathak.....

Mr. G. Basishya,.....

Advocate for the Respondent(s) Sr. Casl.....

Notes of the Registry	Date	Order of the Tribunal
-----------------------	------	-----------------------

This Contempt petition 21.9.2006 present: The Hon'ble Shri K.V. Sachidanandan  
has been filed by the Vice-Chairman.  
counsel for the petitioner  
u/s 11 and 12 of the Contempt  
of Court Act, 1971 read  
with section 17 of the  
Administrative Tribunal  
Act, 1985 and praying  
for willful and deliberate  
disobedience and non-compliance  
of Govt order dated 17.8.06  
passed by this Hon'ble  
Tribunal in O.A 110/06.

Laid before the  
Hon'ble Court for further  
orders.

DR. S. S. S.  
for Section officer

Vice-Chairman

C.P. 28/2006

16.11.2006 Present: Hon'ble Sri K.V. Sachidanandan  
Vice-Chairman.

Notice & order  
Sent to D/section  
for issuing to  
resp. no- 2  
by regd. A/D post  
and another resp.  
no- 1 Sent to received  
by hand.

3/10/06 D/No-1006, 1007  
DT- 4/10/06

Mr G. Baishya, learned Sr. Central  
Government Standing Counsel appearing  
for the Respondents submitted that he has  
filed reply affidavit and also order  
complying the order of the Tribunal.  
Learned Counsel for the Applicant is  
directed to take instructions.

Post on 23.11.2006.

Vice-Chairman

/mb/

① Service report  
awaited.

23  
15.11.06.

23.11.06.

When the matter came up for orders  
the learned counsel for the petitioner  
Mr. B.C. Pathak has submitted that  
the alleged contemner No. 1, Mr. Abhijit  
Ghosh Dastidar, Chief Post Master  
General, Assam Circle has already  
been retired. Hence he wants to  
substitute him by the present  
incumbent and therefore, he wants  
to file an application to a M.P.  
to that effect. Let it be done.

Post the matter on 22.12.06.

Vice-Chairman

By

lm

21. 11. 06  
Affidavit on behalf  
of Respondents submitted.

Affidavit filed

by the respondents.

23  
22.11.06.

22.12.2006

Mr. B.P. Pathak, learned counsel

for the Applicant was represented and  
submitted on his behalf that some more  
time is required to take steps. Four  
weeks time is granted.

Post the matter on 1.2.2007.

Vice-Chairman

Affidavit has  
been filed.

23  
13.2.07.

/bb/

Notes of the Registry	Date	Order of the Tribunal
<u>23-2-07</u> Affidavit filed. 103	14.02.2007	<p>No steps taken. Mr.G.Baishya, learned Sr.C.G.S.C. has submitted that transfer, as sought for, has already been granted to the Applicant and hence the O.A. became infructuous. Let be position be verified.</p> <p>Post on 24.2.2007 for disposal.</p> <p style="text-align: right;">L</p>
<i>Recd. Relative 13/3/07</i>	/bb/	<p>Vice-Chairman</p> <p>26.2.07. When the matter came up for hearing Mr. G. Baishya learned counsel for the respondents has produced an order dated 28.12.06 wherein it is stated that the orders of the Tribunal has already been complied with and the transfer of the applicant has been effected. However, Mr. B . C. Pathak, learned counsel for the petitioner has not received the copy of the said order. It is seen that the respondents have been complied with the Tribunal's order. If the order of the Tribunal has not been complied with the Contempt proceedings will be drawn.</p> <p>Accordingly, C.P. is closed.</p> <p style="text-align: right;">____</p>

DEPARTMENT OF POSTS :: INDIA  
OFFICE OF THE CHIEF POSTMASTER GENERAL :: ASSAM CIRCLE  
GUWAHATI - 781 001

No. VIG / 5 / IX / 2006

Dated at Guwahati the 09-01-2007

To

*Reqd*  
✓ Shri Gautam Baishya  
Sr. C.G.S.C.  
Cat, Guwahati Bench,  
Rajgarh Road, Bhangagarh,  
Guwahati - 781 005

Sub:- C.P. No. 28/06 in OA No. 110/06 filed by Shri Bipul Ranjan Halder.

Sir,

In continuation of this office letter of even no. dated 11-12-2006 on the above mentioned contempt petition case, it is to intimate that in pursuance of this office memo No. Staff/1-243/04 dated 28-12-2006, the petitioner has been relieved from the post of Superintendent of Post Offices, Nagaon Division, Nagaon on 29-12-2006. The Petitioner has already been posted as Superintendent of Post Offices, Dharmanagar Division, Dharmanagar vide Chief Postmaster General, N.E. Circle, Shillong memo no. Staff/7-118/2002 (L) dated 22-11-2006. A copy of above mentioned memos are enclosed for apprising the fact before the Hon'ble CAT, Guwahati Bench, Guwahati and pray for dropping the CP case No. 28/06.

Encl:- As above.

Yours Sincerely,

*[Signature]*  
A.P.M.G. ( Vig )  
O/o Chief Postmaster General,  
Assam Circle, Guwahati - 781 001

Copy to :-

Shri Utpal Nath, IPO ( Legal ), CO, Guwahati. He is requested to keep liaison with Shri Gautam Baishya, Sr. CGSC, CAT, Guwahati till finalization of the case.

*Sd/-*  
For Chief Postmaster General,  
Assam Circle, Guwahati - 781 001

42  
AB

Department of Posts::India  
Office of the Chief Postmaster General  
Assam Circle::Guwahati

No.Staff/1-243/04

Dated at Guwahati the Dec 28, 2006

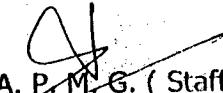
Subject:- **Posting / transfers of officers of PS Gr.B**

In pursuance of Postal Directorate, New Delhi letter No.11-05/2006-SPG dated 6.11.2006 and Chief PMG, N. E. Circle, Shillong letter No.Staff/7-118/2002(L) dated 22.11.06, the Chief PMG, Assam Circle, Guwahati is pleased to issue the following transfer and posting orders in PS Gr.B cadre.

SI	Name of the officer	Presently posted	Circle allotted on transfer	Place of posting	Remarks
1	Sri Bipul Ranjan Halder	Supdt. of POs, Nagaon Dn, Nagaon	N. E. Circle	Supdt. of POs, Dharmanagar Dn, Dharmanagar	With effect from 1.1.07 against clear vacancy

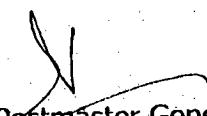
Shri J. B. Biswas, SPOs, Tezpur will take over charge of the SPOs, Nagaon on 29.12.2006 relieving Shri B. R. Halder, SPOs, Nagaon positively.

Relevant charge report may be sent to all concerned.

  
A. P. M. G. ( Staff )  
O/o the Chief Postmaster General  
Assam Circle, Guwahati – 781 001

Copy to:-

1. Shri B. R. Halder, SPOs, Nagaon.
2. Shri J. B. Biswas, SPOs, Tezpur.
3. The PMG, Dibrugarh.
4. The DA(P), Guwahati.
5. The Chief PMG, N. E. Circle, Shillong.
6. The DA(P), Shillong.
7. The APMG(Vig), CO/Guwahati.
8. The SPOs, Nagaon/Tezpur.
9. The Director General(SPG), Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 001.
10. File No.Staff/3-4/92/Ch-IV.
11. P/F of the officer.

  
For Chief Postmaster General  
Assam Circle, Guwahati – 781 001

9X  
40-3

**Department of Posts: India**  
*Office of the Chief Postmaster General, North East Circle, Shillong*

Under Entry

No: Staff/7-118/2002(L)

Dated at Shillong the 22<sup>nd</sup> November, 2006

Subject: Posting/transfer of officers of P.S. Group 'B'

1. In pursuance of Postal Directorate, New Delhi letter no. 11-05/2006-SPG dated 06/11/2006, the Chief Postmaster General, N.E.Circle, Shillong is pleased to issue the following transfer and posting order in respect of PS Group 'B' cadre.

Sl. No.	Name of officer	Circle of Present posting	Circle on transfer	Place of Posting	Remarks
1.	Shri Bipul Ranjan Halder	Assam Circle	North East Circle	Supdt. of Post Offices, Dharmanagar Division, Dharmanagar	With effect from 01/04/2007 (upon clear vacancy in Dharmanagar Division)

2. Benefit of TA/TP joining time etc. shall be permissible to the officer on the above transfer if he has been working in the present Circle of posting for one year or more.

3. Relevant Charge report may be sent to all concerned in due course.

*(S. Bhattacharjee)*

Assistant Director (Staff),  
 For Chief PMG, N.E. Circle,  
 Shillong 793001

Copy to:-

1. The D.G. (SPG), Postal Directorate, Dak Bhawan, Sansad Marg, New Delhi-110001 w.r.t. Memo No. 11-05/2006-SPG dated 06/11/2006.
2. The Chief Postmaster General, Assam Circle, Guwahati-781001 w.r.t. your letter no. Staff/1-243/04 dated 10/11/2006.
3. The D.A (P), Shillong-793001.
4. The D.A (P), Guwahati.
5. The Supdt. of Post Offices, Dharmanagar Division, Dharmanagar-799250.
6. The Accounts Officer (A/Cs), Circle Office, Shillong.
7. The AAO (BGT), Circle Office, Shillong.
8. Shri B.R. Halder, SPOs, Nuguon, Assam.
9. File No. Staff/9-2/2006.
10. O/C.

*✓ Vigilance Section, c.o. shillong*

*Shillong 22/11/06*  
 For Chief PMG, N.E. Circle,  
 Shillong 793001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : AT GUWAHATI

28  
C.P. No. 28 /2006  
IN O.A No. 110/2006

Filed by  
Bipul Ranjan  
Advocate  
20/2/06

In the matter of:

An application under Section 11 and 12 of the Contempt of Court Act, 1971 read with Section 17 of the Administrative Tribunal Act, 1985.

-AND-

In the matter of:

Willful and deliberate disobedience and/ or non-compliance of Court order dated 17.8.2006 or deliberate and willful obstruction in compliance of the order passed by the Hon'ble Central Administrative Tribunal in O.A. No. 110/2006.

-AND-

In the matter of:

Shri Bipul Ranjan Halder

Son of Birendra Kishore Halder

Permanent resident of Town & P.O. Karimganj,  
Dist. Karimganj (Assam) and at present  
working as Suptd. Of Post Offices, Nagaon  
(Assam)

*Bipul Ranjan Halder*

.....Petitioner

*Bipul Ranjan Halder*

-versus-

1. Shri Abhijit Ghosh Dastidar  
Chief Postmaster General  
Assam Circle, Meghdoot Bhawan, Guwahati-1.
2. Smti. Jyotsna Diesh  
Director General of Posts, Dak Bhawan,  
Sansad Marg, New Delhi-110001

.....Respondents/  
Contemnors

The humble petition of the above-named petitioner:

MOST RESPECTFULLY SHEWETH:

1. That the petitioner is a citizen of India and a permanent resident of Town and Post Office Karimganj, District Karimganj (Assam) and at present working as the Superintendent of Post Offices, Nagaon, District- Nagaon (Assam) and hence is entitled to all the privileges and protections under the Constitution of India and the other laws framed thereunder.
2. That the petitioner while serving as Group B officer in the office of the Chief Postmaster General, N.E. Circle, Shillong, made representation to transfer and post him at Dharmanagar on the ground of serious ailment of his wife and on the basis of Office Memorandum of the Central Govt. for posting of husband and wife at the same place under the spouse clause.

*Bipont Rayjan Haldar*

100

3. That while the said representation was pending consideration, the contemner No.1 issued a transfer order thereby transferring him from Shillong to Kohima acting malafide and due to personal grudge. The petitioner submitted further representations with the request to post him either at Dharmanagar or at Silchar against the existing vacancies. But the competent authority instead of considering his genuine case, further transferred him to Nagaon under Assam Circle instead of Kohima under N.E.Circle. The petitioner being aggrieved by the said order of transfer from Shillong to Kohima, in the meantime, filed an application in this Hon'ble Tribunal vide OA No.240/2004. After hearing the parties and perusing the records, this Hon'ble Tribunal was pleased to finally dispose of the case vide order-dated 20.7.2005. By the said order this Hon'ble Tribunal was pleased to direct the petitioner to submit fresh representation before the respondents with direction to the respondents/contemners to consider the representation of the petitioner for his transfer either to Dharmanagar or to Silchar particularly with reference to the facts of serious ailment of his wife and to pass an appropriate order in the light of guidelines and in accordance with law within one month from the date receipt of the representation. There was further direction to fill up the said vacancies only after considering case of the petitioner.

Copy of the said order dated 20.7.2005 is annexed as ANNEXURE-1.

4. That the competent authority of Assam Circle considered the representation and passed an order on 23.8.2005 and stated that there was no vacancy at Silchar and a vacancy will occur on retirement with effect from 31.8.2006 and the case of the petitioner could be considered in due course. On the other hand the competent authority of NE Circle passed a similar order on 3.11.2005 and stated that there was no vacancy at Dharmanagar.

*Bipul Rayjan Haldar*

and the vacancy will occur only on superannuation of the present incumbent with effect from 31.10.2006. However, a clear vacancy occurred at Dharmanagar as the incumbent was transferred to Shillong. This was taken up by the petitioner vide his representation dated 22.12.2005.

The copies of the said orders dated 23.8.2005 and 3.11.2005 are annexed as ANNEXURE-2 & 3 respectively.

5. That the petitioner, having no other alternative, filed another OA No.110/2006 and prayed for his transfer in the light of the order passed in OA No.240/04. The Hon'ble Tribunal after hearing the parties was finally pleased to dispose of the said OA No.110/2006 on 17.8.2006. By the said order, the Hon'ble Tribunal was pleased to consider the order passed in OA No.240/04 and accordingly issued a direction to the petitioner to file a comprehensive representation with further direction to the respondents to consider and dispose of the same within three months thereafter.

Copy of the said order dated 17.8.2006 is annexed as ANNEXURE-4.

6. That the petitioner submitted his comprehensive representation to the authorities concerned thereby requesting his transfer and posting as per direction of the Hon'ble Tribunal. It is pertinent to state here that as per provisions of the Rule 33 and 34 of the Posts and Telegraphs Manual, Vol. IV read with Schedule-2 of the Administrative Power of Head Of the Circle as in Postal Manual, Vol-III including the powers of transfer and posting Group B officers lies under the control of Head of the Circle. Whereas, for inter-circle transfer, the power is vested with the Director General at the Directorate at New Delhi. The respondent/

*Bipul Rayjan Haldar*

contemner No.1 who is the Head of the Assam Circle and who had been implicated eo nomine for allegations of malafide against the petitioner in OA No.240/04 as well as in OA No.110/06 is the competent authority to pass transfer and posting order independently as per rules. But the said respondent/contemner No.1 has forwarded the case of request transfer of the petitioner to the Directorate of Post, New Delhi with certain adverse recommendation with the oblique purpose to frustrate the request of the petitioner and also to obstruct the administration of justice as contained in order dated 20.7.2005 and 17.8.2006 passed in OA No.240/04 and 110/06. This has been done vide letter No. Staff/1-243/04 dated 1.9.2006. By the said letter the contemner No.1 has deliberately and willfully disobeyed the order of this Hon'ble and raised the issue of disciplinary proceeding and the punishment thereof. The said contemner No.1 has also written to the contemner No.2 raising irrelevant issues of rotational/ tenure transfer. Neither the case of disciplinary proceeding nor the case of rotational / tenure transfer has any link/ bearing with the request transfer on the ground of serious ailment of one of the spouse and with the office Memorandum of the Central Govt. for transfer and posting of spouse under the spouse clause. Therefore, it is clear case of obstructing the process of administration of justice and also willful and deliberate disobedience of the court's order. It is surprising as it appears prima facie on the face of the said letter while he has issued the negative recommendation on the other hand he has stated that the said letter has disposed of the direction of the Hon'ble CAT given vide order date 4d 17.8.2006 in OA No.110/2006. This action of the contemner No.1 as in letter dated 1.9.2006 directly amounts to both civil as well as criminal contempt of court under Contempt of Act Act, 1971.

A copy of the said letter dated 1.9.2006 is annexed as ANNEXURE-5.

*Bipanj Rayan Haldar*

7. That on the other hand the competent authority of NE Circle has taken up the representation with the higher authority (contemner No.2) with a positive note for according permission for posting of the petitioner at Dharmanagar by re-allotting him to the NE Circle. This has done vide letter No. Staff/7-118/2002 (L) dated 31.8.2006.

The copy of the letter-dated 31.8.2006 is annexed as ANNEXURE-6.

8. That it is fit case in which this Hon'ble Tribunal would be pleased to exercise its power and authority to draw up a contempt proceeding against the said contemniers in accordance with law.

9. That this petition has been made bonafide and for ends of justice.

In the premises aforesaid, it is therefore prayed that Your Lordships would be pleased to issue notice upon the respondents/contemnors directing them to appear personally and show cause as to why they should not be adequately punished as per the provisions of the Contempt of Court Act read with Section 17 of the Administrative Tribunal Act, 1985 and why they should not be given exemplary punishment for their deliberate and willful violation and disobedience of this Hon'ble Tribunal's Order dated 17.8.2006 passed in OA No.110/2006 and upon cause or causes being shown, Your Lordships may be pleased to initiate contempt proceeding against the respondents/ contemnors in accordance with law and impose exemplary punishment for their willful and deliberate

*Bipin Rayan Haldar*

Copy

disobedience and also for obstructing the administration of justice of the order dated 17.8.2006 of this Hon'ble Court and/or pass any other order/ orders as Your Lordships may deem fit and proper.

And for this act of kindness your petitioner as in duty bound shall ever pray.

Bipul Rayan Halder

AFFIDAVIT

I, Sri Bipul Ranjan Halder, son of Birendra Kishore Halder, aged about 56 years, permanent resident of Karimganj Town Post Office & District- Karimganj, Assam, do hereby solemnly affirm and state-

1. That I am the petitioner in this contempt petition and as such I am fully acquainted with the facts and circumstance of the case.
2. That the statements made in paragraphs 1 and 2 are true to my knowledge and belief, and those made in paragraphs 3, 4, 5, 6 and 7 being matter of records are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Court.

And I sign this affidavit on this 20<sup>th</sup> day of September 2006 at Guwahati.

*Bipul Ranjan Halder*

Identified by me

*B C Pathak*

Advocate

Deponent

Solemnly affirmed and declared before me by the Deponent who is identified by Sri *B C Pathak*, Advocate on this the 20<sup>th</sup> day of September 2006 at Guwahati.

*Bishesh Pathak*

Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : AT GUWAHATI

C.P. No. /2006

IN O.A No. 110/2006

Shri Bipul Ranjan Halder  
Son of Birendra Kishore Halder  
Permanent resident of Town & P.O.  
Karimganj, Dist. Karimganj (Assam) and  
at-present working as Suptd. Of Post  
Offices, Nagaon (Assam)

.....Petitioner

-versus-

2. Shri Abhijit Ghosh Dastidar  
Chief Postmaster General  
Assam Circle, Meghdoot Bhawan,  
Guwahati-1.
3. Smti. Jyotsna Diesh  
Director General of Posts, Dak Bhawan,  
Sansad Marg, New Delhi-110001

.....Respondents/  
Contemnors

DRAFT CHARGE

Central Administrative Tribunal, Guwahati Bench hereby  
charges you, (1) Shri Abhijit Ghosh Dastidar and (2) Smti  
Jyotsna Diesh as under :-

That you on or about 1.9.2006 has issued the letter No. Staff  
/1-243/04 dated 1.9.2006 thereby raising certain issues and

*Bipul Ranjan Halder*

objection in order to frustrate/ obstruct and also by disobeying the order dated 17.8.2006 passed in OA No.110/2006 and thereby committed the contempt of this Tribunal punishable under Section 12 within our cognizance.

You are hereby directed to be tried by this Tribunal for the aforesaid charges

Signature of the Hon'ble Member(s)Presiding over the Bench

1. Do you plead guilty to the charge?

2. Do you have anything else to say?

Answer.....

Signature of the alleged

Contemner(s)

Bipul Rayjan Haldar

## CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 240 of 2004.

Date of Order: This, the 20th day of July, 2005

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

THE HON'BLE MR. K.V. PRAHLADAN, ADMINISTRATIVE MEMBER.

Shri Bipul Ranjan Halder,  
Son of Birendra Kishore Halder,  
Town & P.O. Karinganj (Assam)

... Applicant.

By Advocate Shri B.C.Patkhak

- Versus -

1. Union of India,  
represented by the Secretary to the Govt. of India,  
Ministry of Communications,  
Department of Posts, New Delhi.2. The Director General of Posts,  
New Delhi.3. Sri Abhijit Ghosh Dastidar,  
Chief Postmaster General,  
North East Circle, Shillong-793001.4. The Chief Postmaster General,  
Assam Circle, Meghdoot Bhawan,  
Guwahati-1.

... Respondents

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

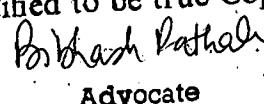
ORDER (ORAL)SIVARAJAN J.(V.C)

The applicant is a Group 'B' officer in the Postal Department and presently working in Assam Circle. The applicant was earlier transferred from Calcutta to Shillong in the year 2002, which is in the North Eastern Circle. The applicant's wife is employed in a school under the Government of Assam. According to the applicant she is suffering from serious ailments and therefore his personal attendance is required to give proper treatment to her. The applicant while working at Shillong, in the above circumstances, made representation before the Postal authorities for giving him a posting at Dharmanagar in N.E.Circle. However, as per an

Certified to be true Copy.


  
Advocate

Certified to be true Copy


  
Advocate

order dated 30.9.2004 (Annexure-1) the applicant was posted at Kohima in the State of Nagaland. The applicant made a representation dated 13.9.2004 (Annexure-3) followed by another representation dated 11.10.2004 (Annexure-7). However, the applicant was transferred from N.E.Circle to Assam Circle as per order dated 14.10.2004 (Annexure-8) and posted at Nagaon (Annexure-9). As already noted, the applicant wants transfer to a place near to the place where the applicant's wife is residing i.e either at Dharmanagar or at Silchar.

2. The respondents have filed their written statement denying the request of the applicant. Mr B.C.Pathak, learned counsel for the applicant submits that presently 2 vacancies are available at Silchar and Dharmanagar on account of retirement of the incumbents there. Counsel submits that the applicant had earlier represented for a posting at Dharmanagar or at Silchar and therefore the respondents may be directed to consider his claim for transfer to one of the said two vacant places. Mr Pathak further submits that in terms of Government Circulars particularly the latest one issued in 2004 a Government servant must be accommodated as far as possible at the same station where the applicant's wife is working. Counsel further submits that the respondents are bound to consider such circular while transferring the employees of the postal department. Miss U.Das, learned Addl.C.G.S.C appearing for the respondents on the other hand submits that the applicant has been posted in Assam Circle and it is in the same circle where he wanted transfer. Miss Das further submits that Dharmanagar and Silchar are far away places from Karimganj, where his wife is working and the transfer order was made in the interest of public service.

3. Mr B.C.Pathak, learned counsel for the applicant based on the averment in the rejoinder submits that though the applicant was accommodated in the Assam Circle at Nagaon it is 330 Km away from the residence whereas the distance from Karimganj to Dharmanagar is only 75

Km.

*G.P.* Certified to be true Copy

*Pathak*  
Advocate

4. As already noted Dharmanagar and Silchar are nearer to the residence where the applicant's wife resides and vacancies are also available there on account of retirement of some persons. In the circumstances we are of the view that the application can be disposed of with directions. Accordingly there will be a direction to the applicant to submit a fresh representation within 10 days from today before the respondents and the respondents are directed to consider the representation of the applicant for his transfer either to Dharmanagar or to Silchar particularly with reference to the fact of serious ailments of his wife and pass an appropriate orders in the light of the guidelines and in accordance with law within one month from the date of receipt of the representation. If any vacancy in Group B post exists either at Dharmanagar or at Silchar on account of the retirement of the incumbent there the same will be filled up only after considering the case of the applicant as directed herein above.

Application is accordingly disposed of. No costs.

Sd/ VICE CHAIRMAN

Sd/ MEMBER (A)

TRUE COPY

सत्यप्रिपाप्त

1/10/1985  
26.7.85

दामुआन अधिकारी

Section Officer (Jdcl)

Central Administrative Tribunal

गुवाहाटी-4

GUWAHATI-5.

10/26/85

Certified to be true Copy.

Advocate

DEPARTMENT OF POSTS :: INDIA  
OFFICE OF THE CHIEF POSTMASTER GENERAL, ASSAM CIRCLE,  
GUWAHATI :: 781 001

No:- Staff / 1 / 243 / 04

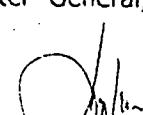
Dated at Guwahati the August 23, 2005

In pursuance of Hon'ble CAT, Guwahati Bench judgement / order in OA No. 240 of 2004 dated 20.07.2005, Shri B. R. Halder, SPOs, Nagaon has submitted representation on 27.07.05. The officer has prayed for his transfer as Supdt. RMS 'S' Division, Silchar in Assam Circle or Supdt. of Post Offices, Dharmanagar Division in N.E. Circle.

At present there is no vacancy in the post of Supdt. RMS 'S' Division, Silchar. The present incumbent will retire from Govt. Service on superannuation with effect from 31.08.06(A/N). The request of the officer is noted and at the time of making arrangement for the post of Supdt. RMS 'S' Division, Silchar will be examined in due course in accordance with Department's rules in the subject. This order will however, not in itself confer any right or claim on Shri Halder for appointment in the said post.

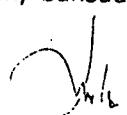
As regards request for transfer to the post of Supdt. of Post Offices, Dharmanagar Division, as the same is under the jurisdiction of N. E. Circle, Shillong, no order is being passed by Assam Circle.

This order is issued with the approval of Chief Postmaster General, Assam Circle, Guwahati.

  
( M. R. Pania )  
Director, Postal Services ( H. Q. )  
Assam Circle, Guwahati - 781 001

Copy to :-

1. Shri B. R. Halder, Supdt. of Post Offices, Nagaon w.r.t. his No. B1/Gazetted/Pt-II dated 27-07-2005.
2. The Registrar, Central Administrative Tribunal, Guwahati-5 to apprise the position to the Hon'ble CAT, Guwahati Bench.
3. The Additional CGSC, CAT, Guwahati Bench.
4. The A.P.M.G (Vig), Circle Office, Guwahati
5. The Chief PMG, N.E. Circle, Shillong w.r.t. his letter no. Staff/7-118/2002 dated 03.08.05
6. The Dy. Director General (P), Department of Posts, Dak Bhawan, Sansad Marg, New Delhi - 110 001 along with a copy of judgement cited above.

  
For Chief Postmaster General,  
Assam Circle, Guwahati - 781 001

**Certified to be true Copy**

  
Advocate

  
Certified to be true Copy  
Bishnudh Pathak  
Advocate

## Department of Posts: India

Office of the Chief Postmaster General, North East Circle, Shillong

Under Entry

Memo no: Staff/7-118/2002

Dated at Shillong the 3<sup>rd</sup> of November, 2005

1. In pursuance of Hon'able CAT, Guwahati Bench judgment order in OA No. 240 of 2004 dated 20/07/2005, Shri B.R.Halder, SPO's, Nagaon, Assam has submitted a representation on 27/07/2005 for transfer and posting as Supdt. RMS "S" Division, Silchar in Assam Circle or Supdt. of PO's, Dharmanagar Division in North East Circle.
2. At present there is no vacancy in the post of Supdt. of PO's, Dharmanagar and the present incumbent in the said post will retire on 31/10/2006.
3. Further, one newly promoted PSS Group-'B' officer from Assam Circle allotted to North East Circle vide Directorate memo no. 9-30/2005-SPG dated 08/09/2005 is also awaiting absorption and posting under North East Circle.
4. Under the circumstances stated above, posting of Shri B.R.Halder as Supdt. of PO's, Dharmanagar will not be practically feasible.
5. As regards request for transfer and posting as Supdt. RMS "S" Division, Silchar, this relates to Assam Circle.
6. This order is issued with the approval of Chief Postmaster General, North East Circle, Shillong.

*Crft*  
 (A.B.Dutta) 3/11/05

Assistant Director (Staff),  
 For Chief PMG, N.E.Circle,  
 Shillong 793001

Copy to:

1. Shri B.R.Halder, Supdt. of PO's, Nagaon, Assam w.r.t his representation dated 27/07/2005 forwarded vide his letter no. B1/Gazetted/Pt-II dated 27/07/2005.
2. The Chief Postmaster General, Assam Circle, Guwahati -781001 w.r.t Postal Directorate, New Delhi, letter no. 11-10/2005-SPG dated 28/31.10/2005 to intimate the Hon'able CAT, Guwahati Bench accordingly through Additional CGSC, Guwahati Bench in compliance of Hon'able CAT's order dated 20/07/2005.
3. Additional CGSC, Guwahati, CAT, Guwahati for necessary action.
4. The Asst. Postmaster General, (Vig), Circle Office, Shillong for necessary action.
5. Shri B.P.Pant, ADG (SGP), Postal Directorate, Dan Bhawan, Sansad Marg, New Delhi -110001 w.r.t his letter no 11-10/2005-SPG dated 28/31.10.2005.

*Crft* 3/11/05  
 For Chief PMG, N.E.Circle,  
 Shillong 793001

Certified to be true copy.

*Bhalia*  
Advocate

*Certified to be true Copy.*  
*Bishash Pathak*  
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 110 of 2006.

Date of Order : This the 17th day of August 2006.

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

Shri Bipul Ranjan Halder  
 Son of Birendra Kishore Halder  
 Town & P.O. Karimganj  
 District - Karimganj (Assam).

... Applicant

By Advocates Mr B.C. Pathak, Dr. (Mrs) M. Pathak, Mr B. Pathak and  
 Mr B.P. Kalita.

Versus -

1. Union of India,  
 Represented by the Secretary, Govt. of India,  
 Ministry of Communications, Department of Posts,  
 New Delhi.

2. The Director General of Posts  
 New Delhi.

Sri Abhijit Ghosh Dastidar,  
 Chief Post Master General  
 Assam Circle, Meghdoot Bhawan  
 Guwahati - 781 001.

4. The Chief Postmaster General  
 N.E. Circle, Shillong - 793 001.

5. The Chief Postmaster General  
 Assam, Circle, Meghdoot Bhawan  
 Guwahati - 781 001.

6. The Assistant Director (Staff)  
 Office of the Chief PMG, N.E. Circle  
 Shillong - 793 001.

7. The Director, Postal Services (H.Q.)  
 Assam Circle, Guwahati - 781 001.

... Respondents.

By Advocate Mr G. Baishya, Sr. C.G.S.C.

Certified to be true Copy.

Bibhushan Pathak

Advocate

Certified to be true Copy.

Advocate

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

The Applicant claims that he joined in service under the Respondents as Postal Assistant, Director of Postal Services (Group B Cadre) in Officer Grade. The Applicant has put in 35 years of blameless service and he is serving the cause of the Government of India with all dedication, devotion and sincerity. The Applicant stated that during his service career, he has got transferred to as many as 14 times to the places covering the three postal circles, viz. North East Circle, Assam Circle and West Bengal Circle. The Applicant got transferred from West Bengal Circle to the North East Circle with effect from 01.07.2002. The Applicant is now working in Nagaon under the Assam Circle. The Applicant has filed this Application before this Tribunal for seeking the following reliefs:-

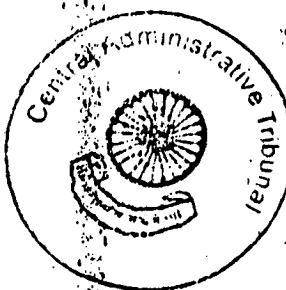
- 8.1 to set aside and quash the impugned order dated 3.11.2005 (as in Annexure - U) by holding such order as arbitrary, illegal, discriminatory and vitiated by malafide.
- 8.2 to direct the respondents to consider the transfer and posting of the applicant at Dharmanagar in terms of the order dated 20.7.2005 passed by this Hon'ble Tribunal in OA No. 240/2005 against the existing vacancy without any further delay;
- 8.3 To dispose of the representation dated 22.12.2005 (Annexure - V) submitted by the applicant to the respondent by considering his case for posting at Dharmanagar against the existing vacancy;
- 8.4 To draw suo moto contempt proceeding against the respondent No. 3 for issuing the said impugned contumacious order as in ANNEXURE - U;
- 8.5 to pay the cost of the application.
- 8.6 or to pass such further or other order or for any other relief to which the applicant is found entitled to under the facts and circumstances of the case."



2. Heard Mr B.C. Pathak, learned Counsel for the Applicant and Mr G. Baishya, learned Sr. Central Government Standing Counsel for the Respondents.

3. Mr G. Baishya, learned Sr. C.G.S.C. for the Respondents taken to my attention to various aspects put forwarded in the reply statement and contended that since there is no vacancy in Group - B cadre in Assam Circle, his case could not be considered at that point of time. Mr Baishya, also submitted that the Applicant had filed O.A. No. 80 of 2006 and this Tribunal vide order dated 04.04.2006 directed the Respondents to consider for granting time for filing defence representation since the Applicant was subjected the disciplinary proceeding. Mr Baishya, further submitted that suppression of materials fact is serious irregularity as laid down by the Hon'ble Supreme Court and therefore, the Applicant has no legal right.

4. I have heard the learned Counsel for the parties and perused the materials placed on record. The reliefs and pleadings that has been brought to my notice in this O.A. is for transfer and posting the Applicant to Dharmanagar or Silchar and for that purpose the Applicant had filed O.A. No. 240 of 2004 before this Tribunal and vide order dated 20.07.2005, this Tribunal passed the following order:-



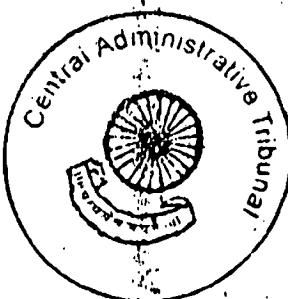
"2. The respondents have filed their written statement denying the request of the applicant. Mr B.C. Pathak, learned counsel for the applicant submits that presently 2 vacancies are available at Silchar and Dharmanagar on account of retirement of the incumbents there. Counsel submits that the applicant had earlier represented for a posting at Dharmanagar or at Silchar and therefore the respondents may be directed to consider his claim for transfer to one of the said two vacant places. Mr Pathak further submits that

In terms of Government Circulars particularly the latest one issued in 2004 a Government servant must be accommodated as far as possible at the same station where the applicant's wife is working. Counsel further submits that the respondents are bound to consider such circular while transferring the employees of the postal department. Miss U. Das, learned Addl. C.G.S.C. appearing for the respondents on the other hand submits that the applicant has been posted in Assam Circle and it is in the same circular where he wanted transfer. Miss Das further submits that Dharmanagar and Silchar are far away placed from Karimganj, where his wife is working and the transfer order was made in the interest of public service.

3. Mr B.C. Pathak, learned counsel for the applicant based on the averment in the rejoinder submits that though the applicant was accommodated in the Assam Circle at Nagaon it is 330 Km away from the residence whereas the distance from Karimganj to Dharmanagar is only 75 Km.

4. As already noted Dharmanagar and Silchar are nearer to the residence where the applicant's wife resides and vacancies are also available there on account of retirement of some persons. In the circumstances we are of the view that the application can be disposed of with directions. Accordingly, there will be a direction to the applicant to submit a fresh representation within 10 days from today before the respondents and the respondents are directed to consider the representation of the applicant for his transfer either to Dharmanagar or to Silchar particularly with reference to the fact of serious ailments of his wife and pass an appropriate orders in the light of the guidelines and in accordance with the law within one month from the date of receipt of the representation. If any vacancy in Group B post exists either at Dharmanagar or at Silchar on account of the retirement of the incumbent there the same will be filled up only after considering the case of the applicant as directed hereinabove."

A specific direction was given to the Applicant to submit representation before the authorities and the respondents were directed to consider the representation of the applicant for his



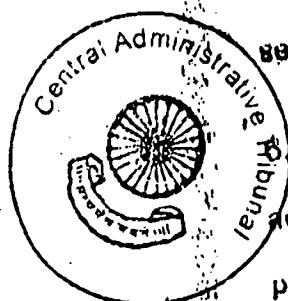
transfer either to Dharmanagar or to Silchar particularly with reference to the fact of serious ailments of his wife and to pass appropriate orders in the light of the guidelines and in accordance with law. In furtherance of the said order, two orders dated 23.08.2005 and 03.11.2005 were passed by the Respondents and operative portions of the said orders are quoted herein below: -

"At present there is no vacancy in the post of Supdt. RMS 'S' Division, Silchar. The present incumbent will retire from Govt. Service on superannuation with effect from 31.08.06(A/N). The request of the officer is noted and at the time of making arrangement for the post of Supdt. RMS 'S' Division, Silchar will be examined in due course in accordance with Department's rule in the subject. This order will, however, not in itself confer any right or claim on Shri Halder for appointment in the said post.

At present there is no vacancy in the post of Supdt. of PO's Dharmanagar and the present incumbent in the said post will retire on 31/10/2006."

5. The case of the Applicant is that without prejudice to the contentions made in O.A. No. 240 of 2004, the Applicant filed representation and annexures - T and U orders had been passed. Learned Counsel for the Respondents, on the other hand, argued on suppression of material facts and submitted that subsequent to the order passed in annexures - T and U, a disciplinary proceeding was initiated against the Applicant, which is under inquiry and therefore, intention of the Applicant is to free from this Tribunal and shall deprive the Respondents for holding the disciplinary proceeding. Counsel for the Respondents submitted that it pertains to suppression of material facts in the O.A. Learned Counsel for the Applicant, on the other hand, submitted that Applicant has no intention to suppress the material facts since the Applicant made specific averments in the O.A.

that he had already filed O.A. No. 80 of 2006 for getting defence representation in the proceeding, which was allowed by this Tribunal and the proceedings are going on and he is fully co-operating with the department. Learned Counsel for the Applicant also submitted that Silchar is in the Assam Circle and the Dharmanagar is in the N.E. Circle and it is for the Applicant's concern to participate in the disciplinary proceedings so that he will exonerate from the charges. Besides, the charges were framed under Section 16 of the CCS (CCA) Rules, 1965 which pertains to minor penalty as per Rule 10 of the Central Administrative Tribunal (Procedure) Rules 1987, wherein it is mentioned that an application shall be based upon a single cause of action and may seek one or more reliefs provided that they are consequential to one another. The disciplinary proceeding is for a separate cause of action, which cannot be clubbed in this O.A.



From the materials placed on record and arguments advanced, I am of the view that the cause of action of the disciplinary proceeding is different from the cause of action of this Application. Therefore, it cannot be said that there is suppression of material facts. In this connection, the learned Counsel for the Respondents, placing reliance upon a decision of the Hon'ble Gauhati High Court reported in 2005(1) GLT 364, Brahmaputra Consortium Ltd. v. State of Assam & Ors., submitted that suppression of material facts is a serious matter to be viewed by the Court of law. The learned Counsel also placed another decision of the Hon'ble Gauhati High Court reported in 2006(2) GLT 324, Surajit Das V. State of Assam & Ors. and submitted that swearing a false affidavit is against the provisions of Article 226 of the Constitution and the Respondents resorting to tamper with records and resorting to falsehood is wholly impermissible.

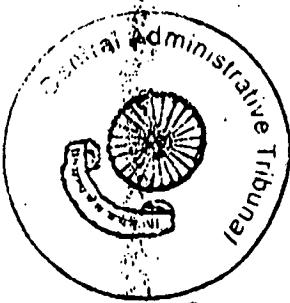
7. I respectfully agree on the dictum laid down by the Hon'ble High Court. No doubt, suppression of material facts is a serious matter and it has to be dealt with properly. But in the instant case, the Applicant himself took the pleadings as follows:-

119

"That the applicant further declares that except the facts stated above and except the O.A. No. 80/2006, which has also been finally disposed of on 4.4.2006 by this Hon'ble Tribunal, he has not filed any application, writ petition or suit regarding grievances in respect of which this application is made, before any court or any other Bench of the Tribunal or any other authority nor any such application or suit is pending before any of them."

8. Admittedly, on verification of records, it is found that the Applicant filed O.A. No. 80 of 2006 for irregularities that had been committed in the disciplinary proceedings by the Respondents and the Applicant was given opportunity to defend his case in such proceedings. It cannot be said that there is suppression of material facts in the instant application as submitted by the learned Counsel for the Respondents. The case of the Respondents' Counsel is that it is not enough only to mention the O.A. in this Application, it has to be mentioned in details that disciplinary proceedings is going on and all other relevant aspects pertaining to disciplinary proceedings should have been reflected in the Application. I am afraid that such contention will not stand in its legs since it is for a different cause of action. Therefore, the contention of the Respondents is not accepted.

9. However, Mr B.C. Pathak, learned Counsel for the Applicant, during the course of argument, submitted that he will be satisfied if a direction is given to the Applicant to file a comprehensive representation for consideration of his case for transfer and posting in the resultant vacancy at Silchar on retirement of the present



incumbent on 31.08.2006, so also in the resultant vacancy at Dharmanagar on retirement of the present incumbent on 31.10.2006 as reflected in annexures - T and U respectively notwithstanding the fact of initiation of disciplinary proceeding. He will also be satisfied if one of these two vacancies preferably Silchar is granted to him and accommodate the Applicant. On going through the order of this Tribunal dated 20.07.2005 passed in O.A. No. 240 of 2004 and annexures - T and U, I am of the view that ends justice will be met if a direction is given to the Applicant to submit a comprehensive representation before the authority. Accordingly, the Applicant is directed to file a comprehensive representation within fifteen (15) days from today with reference to the annexures - T and U. On receipt of such representation the Respondents shall consider and dispose of the same within a period of three months thereafter. The Respondents shall pass a speaking order and communicate the same to the Applicant within the time frame as mentioned above.

The Original Application is disposed of as above. In the circumstances, no order as to costs.

Sd/ VICE CHAIRMAN



TRUE COPY

प्राप्तिक्रिया

*N. D. D.* 25.8.06

अनुभाग अधिकारी  
Section Officer (Adm)

Central Administrative Tribunal

गुवाहाटी - ৭৮১০১১

গুৱাহাটী, চৰকালী-৫

*X-298*



24

ANNEXURE : 5

## DEPARTMENT OF POSTS

## UNDER ENTRY

From :To,

Chief Postmaster General  
Assam Circle,  
Guwahati- 781 001

Deputy Director General (Personnel)  
Postal Directorate  
Dak Bhavan, Sansad Marg  
New Delhi - 110001

NO. Staff/ 1 - 243 / 04dated 01.09.2006

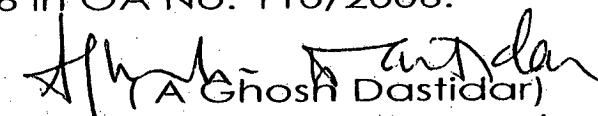
Subject :- Postings and transfer of PSS Group - B officers : request from Sri B R Halder, PSS Group-B, Assam Circle; presently Superintendent Posts, Nagaon Division, Nagaon.

1. Enclosed is original application from the above officer, addressed to Director General (Posts), New Delhi.
2. The disciplinary cases involving the above officer, are given below :-
  - a) i) Under Rule-16, Charge Sheeted vide Memo No. Staff/1-243/04/Pt. I, dated 16/19.12.2005.
  - ii) Vide Chief PMG, Assam Circle memo No. Staff/1-243/04/Pt. I, dated 29.8.06, awarded punishment of stoppage of one increment for two years with effect from 01.8.2007 without cumulative effect.
  - b) i) Under Rule-16, Charge Sheeted vide Memo No. Vig/R0/Misc-1/2005, dated 22.05.2006.
  - ii) Vide Chief PMG memo No. Vig / R0/Misc - 1/2005, dated 10.07.2006, awarded punishment of stoppage of one increment for three years with effect from 01.08.2006, without cumulative effect.

Note : Above both punishments are to run concurrently.

*Certified to be true Copy  
Rajesh Nath  
Advocate*

3. Request for posting can be considered to the extent possible. Sri B R Halder has been working as Superintendent Posts, Nagaon Division, Nagaon since 01.11.2004. The tenure of such postings is four years; and the officer has not yet completed his tenure.
4. One of the major pre-conditions for any acceptance of request for postings/ transfers; is demonstrated work performance and conduct.
5. In view of the un-complimentary disciplinary cases, as explained at para 2 earlier, and in view of the officer's integrity coming under close scrutiny, the request of the officer for posting at Silchar, cannot be accepted, presently. The case is not recommended and the request should not to be implemented, for administrative reasons.
6. This disposes of directions of Hon'ble CAT, Guwahati Bench order dated 17.08.2006 in OA No. 110/2006.

  
 (A. Ghosh Dastidar)  
 Chief Postmaster General  
 Assam Circle, Guwahati-1

Copy to:

  
 1. Sri B R Halder, Superintendent of Post offices, Nagaon Division, Nagaon with reference to his representation stated at para 1 above.

2. The Registrar, Central Administrative Tribunal, Guwahati wrto Order dated 17.08.2006 in OA No. 110/2006.

3. The APMG (Vig), C0 Guwahati

  
 (A. Ghosh Dastidar)  
 Chief Postmaster General  
 Assam Circle, Guwahati-1

## Department of Posts: India

Office of the Chief Postmaster General, North East Circle, Shillong

No. Staff/7-118/2002 (L)

Under Invoice  
Dated at Shillong the 31<sup>st</sup> August, 2006

To

The Director General (SPN),  
 Department of Posts,  
 Postal Directorate,  
 Dak Bhawan, Sansad Marg,  
 New Delhi-110001

Subject: Transfer case of Shri Bipul Ranjan Halder, PSS Group 'B' of Assam Circle to N.E.Circle and posting as SPO's Dharmanagar.

I am directed to request you kindly to refer this office letter of no. Staff/7-118/2002 dated 17/01/2006, 29/03/2006 & Staff/7-118/2002 (L) dated 02/06/2006, wherein it was intimated that Shri Bipul Ranjan Halder, PSS Group 'B' of Assam Circle can be accommodated in North East Circle as prayed for, but no direction as yet been received from Postal Directorate.(Copy of the letters are enclosed for ready reference.)

Mean while, the officer has again approached Hon'ble CAT Guwahati Bench vide O.A. No. 110 of 2006 dated 17/08/2006, in this connection it is to mention that the Hon'ble CAT, Guwahati Bench directed that the representation /prayer of the officer which should be submitted with in 15 days and shall be considered by the respondents and disposed of the same within a period of three months thereafter. The Respondents shall pass a speaking order and communicate the same to the Applicant within the time frame. Shri B.R.Halder submitted prayer for posting at Silchar as SRM 'S' Division or Dharmanagar as Supdt. of Post Offices in pursuance of Hon'ble CAT Guwahati Bench, vide his application dated 23/08/2006. This is required to be disposed of by speaking order within 3 months. This Circle is to consider for his posting at Dharmanagar only as the Silchar as SRM 'S' fall under Assam Circle. Since the officer presently working in Assam Circle, this Circle can not consider to issue order for his posting at Dharmanagar, unless he has been re-allotted to N.E.Circle. Directorate's decision therefore is requested for.

The photocopy of his prayer dated 23/08/2006 and the CAT's, Guwhati Bench order dated 17/08/2006 are enclosed for ready reference.

This has been seen by the PMG.

Enclosure: As stated above.

*SD/-*  
(Niranjan. Das)

Assistant Postmaster General (Staff),  
 For Chief PMG, N.E.Circle,  
 Shillong793001

Copy to:-

*legd* ✓ 1. Shri Bipul Ranjan Halder, Supdt. of Post Offices, Nagaon Division, Nagaon for information.

*For Chief PMG, N.E.Circle,  
 Shillong793001*

*Certified to be true Copy  
 Anilash Pathak  
 Advocate*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 110 of 2006.

Date of Order : This the 17th day of August 2006.

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

Shri Bipul Ranjan Halder  
Son of Birendra Kishore Halder  
Town & P.O. Karimganj  
District - Karimganj (Assam).

... Applicant

By Advocates Mr B.C. Pathak, Dr. (Mrs) M. Pathak, Mr B. Pathak and  
Mr B.P. Kalita.

- Versus -

1. Union of India,  
Represented by the Secretary, Govt. of India,  
Ministry of Communications, Department of Posts,  
New Delhi.

2. The Director General of Posts  
New Delhi.

Sri Abhijit Ghosh Dastidar,  
Chief Post Master General  
Assam Circle, Meghdoot Bhawan  
Guwahati - 781 001.

4. The Chief Postmaster General  
N.E. Circle, Shillong - 793 001.

5. The Chief Postmaster General  
Assam, Circle, Meghdoot Bhawan  
Guwahati - 781 001.

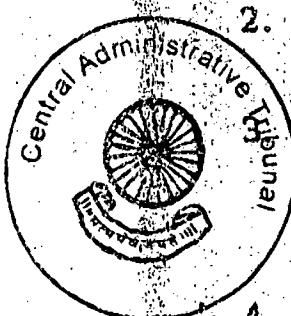
6. The Assistant Director (Staff)  
Office of the Chief PMG, N.E. Circle  
Shillong - 793 001.

7. The Director, Postal Services (H.Q.)  
Assam Circle, Guwahati - 781 001.

... Respondents.

By Advocate Mr G. Baishya, Sr. C.G.S.C.

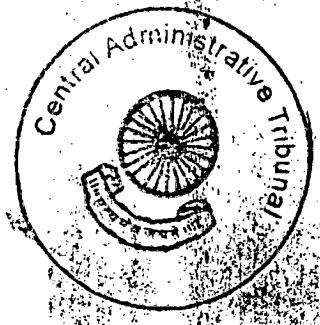
.....



125 28  
ORDER (ORAL)

K.V. SACHIDANANDAN (V.C.)

The Applicant claims that he joined in service under the Respondents as Postal Assistant, Director of Postal Services (Group B Cadre) in Officer Grade. The Applicant has put in 35 years of blameless service and he is serving the cause of the Government of India with all dedication, devotion and sincerity. The Applicant stated that during his service career, he has got transferred to as many as 14 times to the places covering the three postal circles, viz. North East Circle, Assam Circle and West Bengal Circle. The Applicant got transferred from West Bengal Circle to the North East Circle with effect from 01.07.2002. The Applicant is now working in Nagaon under the Assam Circle. The Applicant has filed this Application before this Tribunal for seeking the following reliefs: -



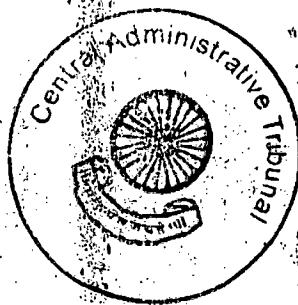
- 8.1 to set aside and quash the impugned order dated 3.11.2005 (as in Annexure - U) by holding such order as arbitrary, illegal, discriminatory and vitiated by malafide.
- 8.2 to direct the respondents to consider the transfer and posting of the applicant at Dharmanagar in terms of the order dated 20.7.2005 passed by this Hon'ble Tribunal in OA No. 240/2005 against the existing vacancy without any further delay;
- 8.3 To dispose of the representation dated 22.12.2005 (Annexure - V) submitted by the applicant to the respondent by considering his case for posting at Dharmanagar against the existing vacancy;
- 8.4 To draw suo motto contempt proceeding against the respondent No. 3 for issuing the said impugned contumacious order as in ANNEXURE - U;
- 8.5 to pay the cost of the application.
- 8.6 or to pass such further or other order or for any other relief to which the applicant is found entitled to under the facts and circumstances of the case."

-29-

2. Heard Mr B.C. Pathak, learned Counsel for the Applicant and Mr G. Baishya, learned Sr. Central Government Standing Counsel for the Respondents.

3. Mr G. Baishya, learned Sr. C.G.S.C. for the Respondents taken to my attention to various aspects put forwarded in the reply statement and contended that since there is no vacancy in Group - B cadre in Assam Circle, his case could not be considered at that point of time. Mr Baishya, also submitted that the Applicant had filed O.A. No. 80 of 2006 and this Tribunal vide order dated 04.04.2006 directed the Respondents to consider for granting time for filing defence representation since the Applicant was subjected the disciplinary proceeding. Mr Baishya, further submitted that suppression of materials fact is serious irregularity as laid down by the Hon'ble Supreme Court and therefore, the Applicant has no legal right.

4. I have heard the learned Counsel for the parties and perused the materials placed on record. The reliefs and pleadings that has been brought to my notice in this O.A. is for transfer and posting the Applicant to Dharmanagar or Silchar and for that purpose the Applicant had filed O.A. No. 240 of 2004 before this Tribunal and vide order dated 20.07.2005, this Tribunal passed the following order:-



"2. The respondents have filed their written statement denying the request of the applicant. Mr B.C. Pathak, learned counsel for the applicant submits that presently 2 vacancies are available at Silchar and Dharmanagar on account of retirement of the incumbents there. Counsel submits that the applicant had earlier represented for a posting at Dharmanagar or at Silchar and therefore the respondents may be directed to consider his claim for transfer to one of the said two vacant places. Mr Pathak further submits that

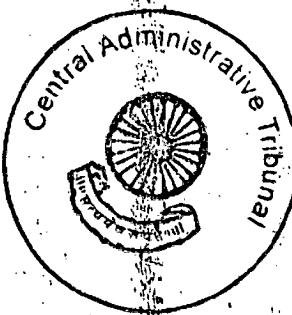
127

In terms of Government Circulars particularly the latest one issued in 2004 a Government servant must be accommodated as far as possible at the same station where the applicant's wife is working. Counsel further submits that the respondents are bound to consider such circular while transferring the employees of the postal department. Miss U. Das, learned Addl. C.G.S.C. appearing for the respondents on the other hand submits that the applicant has been posted in Assam Circle and it is in the same circular where he wanted transfer. Miss Das further submits that Dharmanagar and Silchar are far away placed from Karimganj, where his wife is working and the transfer order was made in the interest of public service.

3. Mr B.C. Pathak, learned counsel for the applicant based on the averment in the rejoinder submits that though the applicant was accommodated in the Assam Circle at Nagaon it is 330 Km away from the residence whereas the distance from Karimganj to Dharmanagar is only 75 Km.

4. As already noted Dharmanagar and Silchar are nearer to the residence where the applicant's wife resides and vacancies are also available there on account of retirement of some persons. In the circumstances we are of the view that the application can be disposed of with directions. Accordingly, there will be a direction to the applicant to submit a fresh representation within 10 days from today before the respondents and the respondents are directed to consider the representation of the applicant for his transfer either to Dharmanagar or to Silchar particularly with reference to the fact of serious ailments of his wife and pass an appropriate orders in the light of the guidelines and in accordance with law within one month from the date of receipt of the representation. If any vacancy in Group B post exists either at Dharmanagar or at Silchar on account of the retirement of the incumbent there the same will be filled up only after considering the case of the applicant as directed hereinabove."

A specific direction was given to the Applicant to submit representation before the authorities and the respondents were directed to consider the representation of the applicant for his

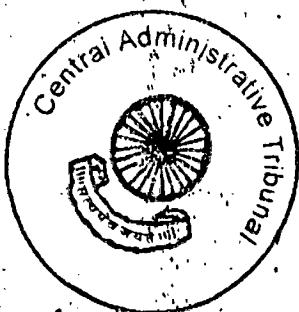


transfer either to Dharmanagar or to Silchar particularly with reference to the fact of serious ailments of his wife and to pass appropriate orders in the light of the guidelines and in accordance with law. In furtherance of the said order, two orders dated 23.08.2005 and 03.11.2005 were passed by the Respondents and operative portions of the said orders are quoted herein below: -

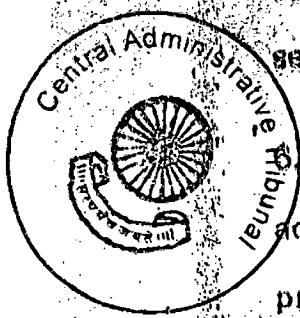
"At present there is no vacancy in the post of Supdt. RMS 'S' Division, Silchar. The present incumbent will retire from Govt. Service on superannuation with effect from 31.08.06(A/N). The request of the officer is noted and at the time of making arrangement for the post of Supdt. RMS 'S' Division, Silchar will be examined in due course in accordance with Department's rule in the subject. This order will, however, not in itself confer any right or claim on Shri Halder for appointment in the said post.

At present there is no vacancy in the post of Supdt. of PO's Dharmanagar and the present incumbent in the said post will retire on 31/10/2006."

5. The case of the Applicant is that without prejudice to the contentions made in O.A. No. 240 of 2004, the Applicant filed representation and annexures - T and U orders had been passed. Learned Counsel for the Respondents, on the other hand, argued on suppression of material facts and submitted that subsequent to the order passed in annexures - T and U, a disciplinary proceeding was initiated against the Applicant, which is under inquiry and therefore, intention of the Applicant is to free from this Tribunal and shall deprive the Respondents for holding the disciplinary proceeding. Counsel for the Respondents submitted that it pertains to suppression of material facts in the O.A. Learned Counsel for the Applicant, on the other hand, submitted that Applicant has no intention to suppress the material facts since the Applicant made specific averments in the O.A.



129 that he had already filed O.A. No. 80 of 2006 for getting defence representation in the proceeding, which was allowed by this Tribunal and the proceedings are going on and he is fully co-operating with the department. Learned Counsel for the Applicant also submitted that Silchar is in the Assam Circle and the Dharmanagar is in the N.E. Circle and it is for the Applicant's concern to participate in the disciplinary proceedings so that he will exonerate from the charges. Besides, the charges were framed under Section 16 of the CCS (CCA) Rules, 1965 which pertains to minor penalty as per Rule 10 of the Central Administrative Tribunal (Procedure) Rules 1987, wherein it is mentioned that an application shall be based upon a single cause of action and may seek one or more reliefs provided that they are consequential to one another. The disciplinary proceeding is for a separate cause of action, which cannot be clubbed in this O.A.



From the materials placed on record and arguments advanced, I am of the view that the cause of action of the disciplinary proceeding is different from the cause of action of this Application. Therefore, it cannot be said that there is suppression of material facts. In this connection, the learned Counsel for the Respondents, placing reliance upon a decision of the Hon'ble Gauhati High Court reported in 2005(1) GLT 364, Brahmaputra Consortium Ltd. v. State of Assam & Ors., submitted that suppression of material facts is a serious matter to be viewed by the Court of law. The learned Counsel also placed another decision of the Hon'ble Gauhati High Court reported in 2006(2) GLT 324, Surajit Das V. State of Assam & Ors. and submitted that swearing a false affidavit is against the provisions of Article 226 of the Constitution and the Respondents resorting to tamper with records and resorting to falsehood is wholly impermissible.

7. I respectfully agree on the dictum laid down by the Hon'ble High Court. No doubt, suppression of material facts is a serious matter and it has to be dealt with properly. But in the instant case, the Applicant himself took the pleadings as follows:-

"That the applicant further declares that except the facts stated above and except the O.A. No. 80/2006, which has also been finally disposed of on 4.4.2006 by this Hon'ble Tribunal, he has not filed any application, writ petition or suit regarding grievances in respect of which this application is made, before any court or any other Bench of the Tribunal or any other authority nor any such application or suit is pending before any of them."

8. Admittedly, on verification of records, it is found that the Applicant filed O.A. No. 80 of 2006 for irregularities that had been committed in the disciplinary proceedings by the Respondents and the Applicant was given opportunity to defend his case in such proceedings. It cannot be said that there is suppression of material facts in the instant application as submitted by the learned Counsel for the Respondents. The case of the Respondents' Counsel is that it is not enough only to mention the O.A. in this Application, it has to be mentioned in details that disciplinary proceedings is going on and all other relevant aspects pertaining to disciplinary proceedings should have been reflected in the Application. I am afraid that such contention will not stand in its legs since it is for a different cause of action. Therefore, the contention of the Respondents is not accepted.

9. However, Mr B.C. Pathak, learned Counsel for the Applicant, during the course of argument, submitted that he will be satisfied if a direction is given to the Applicant to file a comprehensive representation for consideration of his case for transfer and posting in the resultant vacancy at Silchar on retirement of the present

incumbent on 31.08.2006, so also in the resultant vacancy at Dharmanagar on retirement of the present incumbent on 31.10.2006 as reflected in annexures - T and U respectively notwithstanding the fact of initiation of disciplinary proceeding. He will also be satisfied if one of these two vacancies preferably Silchar is granted to him and accommodate the Applicant. On going through the order of this Tribunal dated 20.07.2005 passed in O.A. No. 240 of 2004 and annexures - T and U, I am of the view that ends justice will be met if a direction is given to the Applicant to submit a comprehensive representation before the authority. Accordingly, the Applicant is directed to file a comprehensive representation within fifteen (15) days from today with reference to the annexures - T and U. On receipt of such representation the Respondents shall consider and dispose of the same within a period of three months thereafter. The Respondents shall pass a speaking order and communicate the same to the Applicant within the time frame as mentioned above.

The Original Application is disposed of as above. In the circumstances, no order as to costs.

Sd/VICE CHAIRMAN



TRUE COPY

प्रतिलिपि

*N. S. S.*  
25.8.06

अनुभाग अधिकारी

Section Of Ac. (Jud)

Central Admin. & Ac. Tribunal

गुवाहाटी 781091

GUWAHATI - 781091

गुवाहाटी, Guwahati-5

*X-298*

DISTRICT: Nagaon

132  
Bipul Ranjan Haldar.

## VAKALATNAMA

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : GUWAHATI



C.P. NO. .... OF 200.6  
(In O.A. No. 110/2006)

Shri. Bipul Ranjan Haldar

APPLICANT  
PETITIONER

VERSUS

Shri. Abhijit Ghosh Dasgupta  
& Another.

RESPONDENT  
OPPOSITE PARTY

Know all men by these presents that the above named Petitioner do hereby nominate, constitute and appoint Sri/ Smti B.C. Pathak, Bipul Ranjan Haldar Advocate and as such of the undermentioned Advocates as shall accept this Vakalatnama to be my/our true and lawful Advocates to appear 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 or drawing money, filing in or taking out papers, deeds of composition etc. for me/us and on my/our behalf and I/We agree to ratify and confirm all acts to be done by the said Advocates as mine/ours for all intents and purposes. In case of non-payment of the stipulated fee in full, no Advocate will be bound to appear and act on my/our behalf.

In Witness Whereof I/We hereunto set my/our hand on this 20<sup>th</sup> Day of Sept 2006

A K CHOWDHURI  
BHBANESWAR KALITA  
CHINMOY CHOWDHURY  
MANORANJAN DAS  
B.C. PATHAK  
NISHITENDU CHOWDHURY  
BOLIN SARMA  
MANIK CHANDA  
S C KEYAL

H K MAHANTA  
DR.(MRS) M PATHAK  
NIRAN BARAH  
DINAMANI SARMA  
DILIP BARUA  
P J SAIKIA  
JOY DAS  
DIPENJYOTI DUTTA  
SUNIT SAIKIA

B. PATHAK  
DEEPAK BORA  
NEELAKHI GOSWAMI  
JULI GOGOI  
AMVALIKA MEDHI  
JAVED ALI HASAN  
GUNAJIT BAISHYA

Received from the executant, Mr/Ms.....  
satisfied and accepted Will lead me/us in the case

And Accepted

Binod Chandra Pathak

Advocate

Advocate

And Accepted

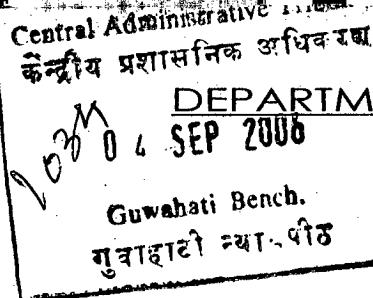
And Accepted

Advocate

Bipul Ranjan Haldar

Advocate

Advocate



From :

Chief Postmaster General  
Assam Circle,  
Guwahati- 781 001

To,

Deputy Director General (Personnel)  
Postal Directorate  
Dak Bhavan, Sansad Marg  
New Delhi – 110001

NO. Staff/ 1 – 243 / 04

CP. 28/06

dated 01.09.2006

Subject :- Postings and transfer of PSS Group - B officers : request from Sri B R Halder, PSS Group-B, Assam Circle; presently Superintendent Posts, Nagaon Division, Nagaon.

1. Enclosed is original application from the above officer, addressed to Director General (Posts), New Delhi.
2. The disciplinary cases involving the above officer, are given below :-
  - a) i) Under Rule-16, Charge Sheeted vide Memo No. Staff/1-243/04/Pt. I, dated 16/19.12.2005.
  - ii) Vide Chief PMG, Assam Circle memo No. Staff/1-243/04/Pt. I, dated 29.8.06, awarded punishment of stoppage of one increment for two years with effect from 01.8.2007 without cumulative effect.
  - b) i) Under Rule-16, Charge Sheeted vide Memo No. Vig/R0/Misc-1/2005, dated 22.05.2006.
  - ii) Vide Chief PMG memo No. Vig / R0/Misc - 1/2005, dated 10.07.2006, awarded punishment of stoppage of one increment for three years with effect from 01.08.2006, without cumulative effect.

Note : Above both punishments are to run concurrently.

sol(1)  
NBS  
4/9/06

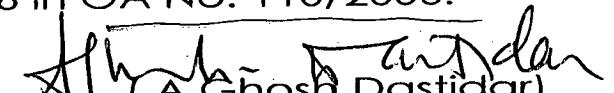
Mr. Samanta / Dutt  
NS  
5.9.06

3. Request for posting can be considered to the extent possible. Sri B R Halder has been working as Superintendent Posts, Nagaon Division, Nagaon since 01.11.2004. The tenure of such postings is four years; and the officer has not yet completed his tenure. 134

4. One of the major pre-conditions for any acceptance of request for postings/ transfers; is demonstrated work performance and conduct.

5. In view of the un-complimentary disciplinary cases, as explained at para 2 earlier, and in view of the officer's integrity coming under close scrutiny, the request of the officer for posting at Silchar, cannot be accepted, presently. The case is not recommended and the request should not to be implemented, for administrative reasons.

6. This disposes of directions of Hon'ble CAT, Guwahati Bench order dated 17.08.2006 in OA No. 110/2006.

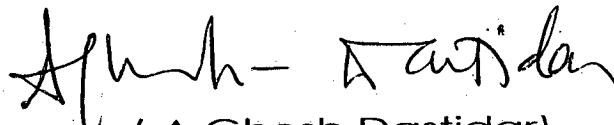
  
(A Ghosh Dastidar)  
Chief Postmaster General  
Assam Circle, Guwahati-1

Copy to:

1. Sri B R Halder, Superintendent of Post offices, Nagaon Division, Nagaon with reference to his representation stated at para 1 above.

✓ 2. The Registrar, Central Administrative Tribunal, Guwahati wrto Order dated 17.08.2006 in OA No. 110/2006.

3. The APMG (Vig), C0 Guwahati

  
(A Ghosh Dastidar)  
Chief Postmaster General  
Assam Circle, Guwahati-1

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI  
BENCH, GUWAHATI

16 NOV 2006  
गुवाहाटी न्यायपीठ  
Guwahati Bench

Contempt Petition (Civil) No. 28 of 2006  
In ORIGINAL APPLICATION NO. 110 of 2006

B. R. Halder,

..... Petitioner

- Vs -

Union of India & Others

..... Respondent – Contemner.

AFFIDAVIT ON BEHALF OF RESPONDENTS NOS. 1 & 2  
AGAINST THE CONTEMPT PETITION (CIVIL) NO. 28 OF 2006  
IN OA NO. 110/2006

**MOST RESPECTFULLY SHEWETH :-**

1. That with regard to the statement made in paragraph 1 of the instant contempt petition, the answering contemner begs to offer no comment.
2. That with regard to the statement made in paragraph 2 of the instant contempt petition, the answering contemner begs to state that the petitioner while working in N.E. Circle was transferred to Kohima on administrative ground. Before joining, the petitioner was posted under the jurisdiction of Assam Circle at his own request. It is to mention here that as directed by the

135  
File by  
through  
from lawyer  
for release

126  
by the Hon'ble CAT under order dated 20-07-05 passed in OA No. 240/04 as well as by order dated 11-05-06 passed in OA No.110/06, the representation of the petitioner were disposed of by the contemner in accordance with the departmental rules. Since, the representation was accordingly disposed of, the petition in the present form is not maintainable and liable to be dismissed.

3. That with regard to the statement made in paragraph 3 of the instant contempt petition, the answering contemner begs to state that transfer order of the petitioner from Shillong to Kohima was issued on administrative ground and in the interest of service. The averment of petitioner regarding transfer from Shillong to Nagaon under Assam Postal Circle is not correct. The answering contemner begs to state that the petitioner was posted in Nagaon under Assam Postal Circle by the Postal Directorate, New Delhi at his own request. It is also mentioned here that the petitioner requested to transfer him to Silchar or Dharmanagar due to serious ailment of his wife – who is working at Karimganj in Assam State Government service. But both the places are far away from Karimganj. It is not clear as to how he could have render assistance to his wife from such a distant place. He was transferred from North Eastern Postal Circle to Assam Postal Circle on the ground of his wife's illness and now again, on the same ground, he is seeking retransfer to Dharmanagar under N.E. Postal Circle or at Silchar in Assam Postal Circle - which is contradictory. The answering contemner further begs to state that as per order of the Hon'ble CAT in OA No.240/04, the representation was disposed in accordance with departmental rules.

It is further mentioned that as per order of Hon'ble CAT, the representation in OA No. 110/06 of the petitioner, <sup>was</sup> disposed by the answering contemner in due time. Hence, the instant petition is liable to be dismissed.

4. That as regards to the statement made in paragraph 4 of the instant petition, the answering contemner begs to state that no officials can claim transfer and posting as a nature of right. The transfer orders are issued by the competent authority as per departmental procedure and in the public interest. The petitioner was transferred from N E Postal Circle to Assam Postal Circle at his own request and working at Nagaon since 01-11-2004. The petitioner's application for transfer from Assam Postal Circle to Dharmanagar in the jurisdiction of North Eastern Postal Circle was considered at Postal Directorate, New Delhi and as per his request, the petitioner was re-allotted to N. E. Postal Circle vide Postal Directorate, New Delhi Memo No. 11-05/2006-SPG dated 06-11-06

A copy of Postal Directorate, new Delhi Memo No. 11-05/2006-SPG dated 06-11-06 is enclosed herewith and marked as Annexure-A.

5. That with regard to the statement made in paragraphs 5 and 6 of the instant petition, the answering contemner begs to state that as per judgement of the Hon'ble CAT in OA No.110/06 dated 17-08-06, the representation dated 23-08-06 of the applicant was disposed on 01-09-06 after due consideration and in accordance with and by complying the Hon'ble CAT order and the same is not amount to obstruction of the order of the Hon'ble Tribunal. It is further stated that while disposing the representation, it was clearly stated in para 5 of the speaking order that the request of the

petitioner for posting at Silchar cannot be recommended due to administrative reason. Hence, there is no obstruction of the order of the Hon'ble Tribunal and the present petition is liable to be dismissed.

The petitioner suppressed many facts before the Hon'ble Tribunal and approached before the Hon'ble Tribunal not with clean hand. He suppressed the departmental proceedings against him. In view of the disciplinary cases against him, the performance of the petitioner is under close scrutiny and constant watch.

It is to mention here that Dharmanagar is under the jurisdiction of the North Eastern Postal Circle. As the request of the petitioner for posting to N. E. Circle is inter circle transfer which cannot be done by head of Assam Postal Circle. The power for inter circle transfer is vested with the Director General of India of Postal department, New Delhi. Hence, the case of the petitioner has been forwarded to Postal Directorate, New Delhi and there is no ignorance/violation of any departmental rules. Accordingly, the Postal Directorate, New Delhi after due consideration of his request, re-allotted the petitioner to N E Circle vide its Memo No. 11-05/2006-SPG dated 06-11-06. As such, the present petition is liable to be dismissed.

6. That with regard to statement made in paragraph 7 of the instant contempt petition, the answering contemner begs to offer no comment as the contents relate to N.E. Postal Circle, Shillong.

7. That with regard to the statement made in paragraphs 8 and 9 of the contempt petition, the answering contemner begs to state that the ground put forward in the instant petition are not at all good ground of filing this petition, hence the petition is liable to be dismissed

In view of what have been stated in foregoing paras, it is mentioned that no officer can claim transfer and posting as a matter of right, as the transfer orders are issued by the competent authority as per departmental procedures and in the public interest. It is also mentioned there that the petitioner was re-allotted to Assam Postal Circle at his own request and he was not forcibly posted at Nagaon. Hence, averment of the petitioner is untenable and gives wrong information the Hon'ble Tribunal. Thus the petition is liable to be dismissed.

8. The contemner begs to state that in view of the facts and circumstances narrated above, the petitioner is not entitled to any relief as prayed for. Moreover in the above mentioned circumstances the Respondents have in no way circumvented the orders of the Hon'ble Tribunal. The action of the Respondents is a bonafide one and the same was passed in compliance with and in accordance with the direction of this Hon'ble Tribunal. There is no willful violation or disrespect on the part of the contemner against the order and direction of this Hon'ble Tribunal.

9. That the instant reply of the respondents contemner is made bonafide and in the interest of justice.

In the premises aforesaid, it is therefore prayed that Your Lordships would graciously be pleased to hear the parties, peruse the records and after hearing the parties and perusing the records be please to dismiss the present contempt proceeding against the Respondent contemner by discharging the notice issued to the respondents and/or any further or other order or orders as your Lordships may deem fit and proper.

Contd..

AFFIDAVIT

I, Shri Som Kamei, son of G. Kamei.....aged about 35 years resident of Pan Bazar.....In the District of Kamrup.....Metro.....do hereby solemnly affirm and state as follows :-

1. That I am the authorised officer in the instant application and as such I am competent to swear this affidavit an I am well acquainted with the facts and circumstances of the case.
2. That the statement made in this affidavit and in paragraphs 1 to 3, 5 to 9 of this application are true to my knowledge, those made in paragraph 9.... being matters of the records of the case are true to my information derived therefrom which I believe to be true and the rest are humble submission before this Hon'ble court.

And I sign this affidavit on this 11th day of November, 2006 at Guwahati.

Identified by

Rubi Gogoi

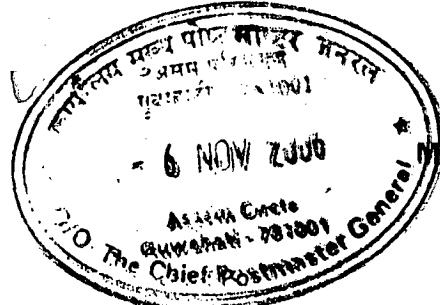
Advocate's ~~clerk~~

Som Kamei  
DEPONENT

(Som Kamei)  
Ass't Postmaster General (Technology),  
O/o the Chief Postmaster General  
Assam Circle, Guwahati-781001

The deponent above named who is identified by Smt. Rubi Gogoi, Advocate solemnly affirms before me on this the 11th day of November 2006.

Gabin Singh  
S. C. O. S. C.



No. 11-05/2006-SPG  
Government of India  
Ministry of Communications & IT  
Department of Posts  
\*\*\*\*

Dak Bhavan, Sansad Marg,  
New Delhi-110001.  
Dated: 06.11.06.

ORDER

Sub: Postings/transfers of officers of P.S. Group 'B'.

The undersigned is directed to convey the approval of competent authority for re-allotment of Shri B.R. Halder from Assam Circle to North East circle.

2. Benefit of TA/TP joining time etc. shall be permissible to the officer on the above transfer if he has been working in the present circle of posting for one year or more.
3. Relevant charge report may be sent to all concerned in due course.

B. P. Pant

(B.P. Pant)  
Assistant Director General (SGP)

Copy to:-

1. The CPMG Assam/North East Circles.
2. C.S. to Member (P), Postal Directorate.
3. Concerned Director of Postal Accounts.
4. SO's Guard File.

R.K.Sinha  
(R.K.Sinha)  
Section Officer (SPG)

One copy  
Raj Adwani

143

Notice

From - Mr. G. Baishya  
Sr. GG Sc, CAT

To, Mr. B. C. Pathak  
Advocate, C.W.C

C.P. (Civil) No. 28 of 2006

In O.A. No. - 110 of 2006

B. R. Halden  
Petitioner

vs

Union of India & Ors.

Respondents/contemnors

Please find herewith a copy of affidavit with annexures which is going to be filed on behalf of the Respondents/contemnors in connection with abovesated contempt case no. 28 of 2006.

Kindly acknowledge the receipt  
thereof. Thanking you.

Yours faithfully

Rabi Gogoi  
Advocate

Received copy

Advocate

Undertake to come  
before the  
Court for  
the case