

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

X

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. DA 188/2007

R.A/C.P No.....

E.P/M.A No.....

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SECTION OFFICER (Judl.)

Sd/-
05/10/17

ORDERS SHEET

1. Original Application No. 188/07

2. Miscellaneous Petition No. _____

3. Contempt Petition No. _____

4. Review Application No. _____

Applicant (S) Padma Kanta Saikia VS Union of India & Ors

Advocate for the Applicant (S) Monoranjan Das

Advocate for the Respondent (S) Addl Case Ms. M. Das

Notes of the Registry	Date	Order of the Tribunal
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This application is in form
is filed/C. F. for Rs. 50/-
deposited vide IPO/DD
No. 346654825
Dated 30.6.07

Registrar

Petitioner's Grievance for
Remuneration are
received with envelops.

Pr,
27/7/07

9.7.07.

The applicant is working as Work
Charge Khalasi in the office of the AEE,
Kapili Sub Divn.
Dhansiri (S) Central Water Commissioner, S.M. Road,
Nagaon, Assam. Vide transfer order dated
17.5.2007 (Annexure -1) the applicant
has been transferred from Nagaon to
Kabusite (Arunachal Pradesh).

I have heard Mr. Monoranjan Das
learned counsel for the applicant and Mrs
M. Das learned Addl. C.G.S.C. for the
Respondents. When the matter came up
for hearing the learned counsel for the
applicant has submitted that the
applicant's aged father is suffering from
Paralysis and he has to look after him
and his only son of 5 years old is studying
at Assamese Medium School, Nagaon and
at Kabusite, Arunachal Pradesh no such

Contd/-

9.7.07

Assamese medium school is available. The applicant has been put in great hardship. The applicant has approached this Tribunal by filing O.A. No. 146 of 2007, which was disposed of on 11.6.2007. The operative portion of the order is reproduced as follows:-

"However, in the interest of justice, this Tribunal directs the second respondent or any other competent authority to consider his representation dated 4.6.2007 by passing appropriate orders and communicate the same to the Applicant within a time frame of three months from the date of receipt of this order. Till the disposal of the representation Applicant shall not be disturbed from his present place of posting, if he is not already relieved. For that limited purpose only, impugned order dated 17.5.2007 (Annexure 1) is kept in abeyance till the disposal of the representation."

The counsel also submitted that the applicant was on leave and he was not served with impugned release order dated 4.6.07. After receipt of the certified copy of the order dated 11.6.2007, the respondent has forwarded the copy of the order of this Tribunal on 13.6.2007, when the applicant has reported duty 14.6.2007. The respondents has issued an order dated 14.6.07 (Annexure -8 which is reproduced as follows:-

"I, received the CAT order dated the 11th Day of June, 2007 issued by the Hon'ble Mr.K.V.Sachidanandan, Vice-Chairman,Original Application No.146 of 2007 (Sl.No.84) Sri P.K. Saikia, W/C Khalasi was on Earn Leave and to-day he joins at D(S) K-Sub-Divn. Office at S.M. Road. CWC.

9.7.07.

~ Nagaon after expiry of leave, therefore his transfer release order from this office is handed over to Sri P. K. Saikia, today i.e. on 14.6.2007."

The releasing order dated 4.6.2007 (Annexure 7) has been handed to the applicant on 14.6.2007, when the Court order is in existence. The specific order of this Tribunal is that the applicant shall not be disturbed from the present place of posting, if he is not already relieved and the applicant is to be continued in the said post till disposal of the representation. Therefore, the purported release order of the applicant dated 10.6.2007 communicated to the applicant on 14.6.2007 can not stand on its legs and the applicant can not be said to be relieved well before the Court order i.e. 11.6.2007.

Considering the facts and circumstances, I am of the view that the application has to be admitted. Application is admitted. Issue notice on the respondents. Post the matter on 21.8.07.

In the meantime, the respondents are specifically directed to permit the applicant to work at Nagaon and the release order dated 4.6.2007 (Annexure 7) shall be kept in abeyance in so far the applicant is concerned. However, in respect of the salary, the Respondents shall disburse the same in accordance with the rules.

Counsel for the applicant is directed to furnish the copy of the order to the respondents forthwith and he shall be permitted to join forthwith.

Vice-Chairman

No Written Statement has been filed

in this case.

Call this matter on 07.12.2007

expecting reply from the Respondents.

Mrs. Manjula Das learned Adl. Standing

Counsel appearing for the Central

Government undertakes to take steps for

filing Written Statement

Call this matter on 07.12.07.

(M.R. Mohanty)
Vice-Chairman

(Krushnam
Member(A)

Ms.
11/7/07
Mrs. M. Das.
Addl. C. Secy.

Notice & order sent to
D/Section for issuing to
resp. nos - 1 to 4 by
regd. A/D post.
11/7/07 D/No - 702 to 705
Dt = 16/7/07.

lm

-4-
OA 188/07 7

Notice duly served

on R-2,4.

30/11/07.

24.8.2007

Post the matter on 21.9.2007 granting four weeks time to the Respondents to file reply statement.



Vice-Chairman

Notice duly served
on A.No. 2 & 4, 3.

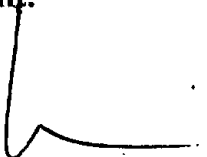
/bb/

20.8.07.

21.9.07

Three weeks further time granted to the respondents to file written statement.

Post on 10.10.07 for order.



Vice-Chairman

W/s not filed.

20.9.07.


PG

10.10.2007

No Written Statement has been filed in this case.

Call this matter on 07.12.2007 expecting reply from the Respondents. Mrs. Manjula Das, learned Addl. Standing Counsel appearing for the Central Government undertakes to take steps for filing Written Statement.

Call this matter on 07.12.07.


(Khushiram
Member(A)
(M.R. Mohanty)
Vice-Chairman



lm

21.11.2007

No reply has yet been filed in this case. Mrs. Manjula Das, learned Addl. Standing counsel for the Union of India, undertakes to file reply by 07th December, 2007.

W/s not filed.

6.12.07.


(Khushiram)
Member (A)
(M.R. Mohanty)
Vice-Chairman

O.A. No.188/2007

07.12.2007

Written statement has been filed in this case in Court today after serving a copy on Mr.M.Das, learned counsel for the Applicant; who seeks adjournment to file rejoinder.

Call this matter on 10.01.2008, awaiting rejoinder from the Applicant.


(Khushiram)
Member (A)


(M.R.Mohanty)
Vice-Chairman

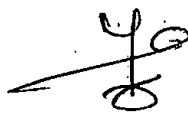
/bb/

10.01.2008

In this case reply and rejoinder have already been filed.

Call this matter on 17.01.2008 for final disposal.


(Khushiram)
Member(A)


(M.R.Mohanty)
Vice-Chairman


lm

15.1.08

Rejoinder submitted
by applicant.
copy served.



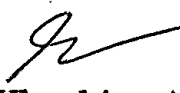
The case is ready
for hearing.

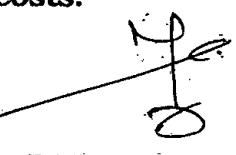

16.1.08.

17.01.2008

Heard Mr M. Das, learned counsel appearing for the Applicant and Mrs. M. Das, learned Addl. Standing counsel for the Respondents and perused the materials placed on record.

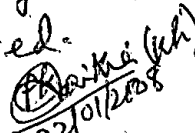
For the reasons recorded separately the O.A. is allowed. No costs.



(Khushiram)
Member(A)


(M.R.Mohanty)
Vice-Chairman

pg

Order (oral) copy
dt. 17th January 2008
Received.


22/01/2008
(PADMA KANTA SAIKIA)


23/1/08
A201.C/S/C

30.1.08

Copy of the

order sent to

The Office for

to the Repd No 2

to 4 by post.

HS

18.3.08

vide D/Nos

1037 to 1039 of

12.2.08.

HS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

.....

Original Application No. 188/2007

DATE OF DECISION : 17-01-2008

Shri Padma Kanta Saikia

.....Applicant/s

Mr Manoranjan Das

.....Advocate for the
Applicant/s

-Versus -

Union of India & Ors.

.....Respondent/s

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

.....Advocate for the
Respondent/s

CORAM

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

1. Whether reporters of local newspapers may be allowed to see the judgment ? Yes/No
2. Whether to be referred to the Reporter or not ? Yes/No
3. Whether their Lordships wish to see the fair copy of the judgment ? Yes/No.

Vice-Chairman/Mamber(A)

0

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.188 of 2007.

Date of Order : This the 17th Day of January, 2008.

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

**Shri Padma Kanta Saikia
Son of Sri Thagi Ram Saikia
Working as Khalasi,
Dhansiri(S) Kopili Sub Division,
Central Water Commission,
Nagaon (Assam)**

.....Applicant

By Advocate Shri Manoranjan Das

·Versus·

**1.Union of India,
Represented by the Secretary
to the Govt. of India,
Ministry of Water Resources,
R.K.Puram, Sena Bhawan,
New Delhi.**

**2.The Superintending Engineer,
Central Water Commission,
Hydrological Observation Circle,
CWC Complex, Behind Adabari Bus Stand,
Guwahati-781014, Assam.**

**3.The Executive Engineer,
Upper Brahmaputra Division,
Central Water Commission,
P.O. C.R.Building,
Dibrugarh**

**4.The Assistant Executive Engineer,
D(S)K Sub Division, CWC,
Sankar Mission Road,
Nagaon, Assam**

.....Respondents

By Mrs M. Das, Addl.C.G.S.C



ORDER (ORAL)

KHUSHIRAM, (MEMBER-A)

The Applicant, while working as Work Charge Khalashi under Assistant Executive Engineer of Dhansiri Kapili Sub Division of Central Water Commission at Nagaon, was transferred from Nagaon to Kabu site (under UBD, CWC) in Arunachal Pradesh vide order dated 17.05.2007. He made representation before the Respondents; which was rejected. Thereafter, he filed O.A.No.146/2007 seeking to set aside/quash the impugned transfer order dated 17.05.2007. The said Original Application No. 146/2007 was disposed of by order dated 11.06.2007 with a direction to the Respondents to consider representation dated 04.06.2007 of the Applicant and to pass appropriate orders within three months and not to disturb the Applicant from his present place of posting, if he is not already relieved. By the said order dated 11.06.2007 of this Tribunal, the impugned transfer order dated 17.05.2007 was kept in abeyance till disposal of the representation. Thereafter, the Respondents passed another order dated 04.06.2007 stating that representation dated 04.06.2007 "has been considered sympathetically but due to administrative reasons" it could not be acceded to. Aggrieved by this decision, instant O.A has been filed by the Applicant under Section 19 of the Administrative Tribunals Act, 1985 stating that his father is 75 years old, who needs to be looked after, and he himself is suffering from diabetes and high blood pressure etc. As a Khalashi he is drawing a meagre salary of Rs. 4900/-; which will not suffice to meet his expenditure at two places. He was relieved on 14.06.2007 in spite of the



order dated 11.06.2007 that was passed in earlier O.A.146/2007. The Applicant has also alleged that the impugned order of transfer has not only violated the professed transfer norms and guidelines, but it also is an outcome of discrimination; when there are employees, who have been staying since 1982, at one place have not been transferred. He has alleged that the said smacks mala fide against the Applicant.

2. The Respondents have filed written statement stating that the Applicant has been posted at Nagaon for last 9 years and his transfer order has been issued purely on administrative reasons and in the interest of public service. Transfer is an incident of service and the Tribunal/Court should not interfere with the transfer orders unless it is outcome of mala-fide or against the statutory rules/orders. It has also been stated by the Respondents that the representation dated 04.06.2007 received from the Applicant has been considered sympathetically but due to administrative reasons his prayer could not be acceded to; that the employer is in a better position to decide when or where the employee is to be posted; that the Applicant is drawing the salary of Rs.7,989/- and not Rs.4900/- as stated by the applicant and that, the Applicant has tried to mislead this Tribunal.

3. We have heard Mr Manoranjan Das, learned counsel appearing for the Applicant, and Mrs M. Das, learned Addl. Standing counsel appearing for the Respondents. The counsel for the Applicant has placed on record the transfer policy (in respect of Work Charge staff HOC/CWC/Guwahati) dated 26.05.2003; Clause II & III of which is reproduced as under :



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"Clause-II

W/C staff should not normally be transferred from one station to another except to meet the following inevitable contingencies.

- a) When transfers become essential for purposes of adjusting excess staff or to meet up the shortage of staff, shifting of office or opening/closing of site.
- b) On the request from employees on humanitarian grounds against a vacant post, provided further governed by the provision under Clause-IV.
- c) On promotion, when the promotee cannot be adjusted at the same station.


Clause-III :

When transfers from one station to another are inescapable for any of the aforesaid reasons, persons to be transferred should be in the following order :

- a) Those who volunteer for such transfer.
- b) Persons with longest continuous stay at the place of their current posting, in any grade/post, who have never been transferred.
- c) Persons with longest continuous stay at the place of their current posting, in any grade/post, who have been transferred earlier once or more.
- d) For exigencies of service or Administrative requirements."

From this stated policy, it is clear that work charged staff should not normally be transferred from one station to another and, in case the transfer is inescapable, then, as per clause-III (b) "the person with longest continuous stay at the place of his current posting, in any grade/post, or who has never been transferred", should be transferred first.

4. In the instant case this policy has not been adhered to by the Respondents while transferring the Applicant. Station seniors ought to have been transferred; instead of transferring the Applicant. That apart, the cryptic order dated 09.08.2007, rejecting the representation of the Applicant, is also not sustainable; not being a speaking order.



5. In the above premises, the impugned order dated 17.05.2007 and relieving order dated 04.06.2007, as it pertains to the Applicant, is hereby set aside.

The Original Application is accordingly allowed without any order as to costs.


(KHUSHIRAM)
ADMINISTRATIVE MEMBER


(MANORANJAN MOHANTY)
VICE CHAIRMAN

/pg/

OA 2+4 copies with 1902 envelopes filed
by Sh. M.R. Das, Advocate. To be posted on
6.7.07.

14
Negotiated
6/7/07.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH : GUWAHATI.

(An application under Section 19 of the Administrative
Tribunal Act-1985).

Title of the Case : O.A. 188 /2007

Sri Padma Kanta Saikia
... Applicant.

-Vs-

Union of India & Others
... Respondents.

I N D E X

Sl.No.	Annexure	Particulars	Page No.
1.	-	Application	
2.	-	Verification	
3.	1	Copy of the Impugned transfer order dtd. 17-05-07.	
4.	2	Copy of the representation dtd. 26-5-07 made by wife of the applicant.	
5.	3	Copy of the representation dtd. 4-6-07 filed by applicant through proper channel.	
6.	4	Copy of the Medical Certificate dtd. 25-5-07.	
7.	5	Order dtd. 11-6-07 passed by the Hon'ble CAT in OA NO.146/07.	
8.	6	Copy of letter dtd. 13-6-07.	
9.	7	Impugned dtd. 4-6-07 passed by Respondent No.3	
10.	8	Certificate dtd. 14-6-07.	
11.	9	A copy of the order dtd. 27-6-07 passed by this Hon'ble Court in Misc. Case No. 57/07.	

Date :-

Filed by-
M.R. Das
Advocate. 6-7-07

Padma Kanta Saikia

Padma Kanta Saikia

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH : GUWAHATI.

(An application under Section 19 of the Administrative
Tribunal Act-1988).

O.A. NO. 188 /2007

Sri Padmakanta Saikia,
... Applicant.

-Vs-

Union of India & Others
... Respondents.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION :

Applicant is serving as work charge Khalasi
in the Office of Dhansiri(S) Kapili Sub-Division, Upper
Bhramaputra Division, Central Water Commissioner, Nagaon,
Assam.

17-5-07 :-

Respondent No.2 issued a transfer order dtd.
17-5-07 under No.A.15017/12/06/2006-07/932-
963 transferring 29 persons including applicant
whose name against Sl.No.5 and is sought to be
transferred from Nagaon to Kabusite(Arunachal
Pradesh).

...(Annexure-I).

contd..2.

(2)

24-5-07 :

Applicant's wife submitted representation before the respondent No.2 requesting the to cancell the husband's transfer order dtd. 17-5-07 from Nagaon to Kabusite Arunachal Pradesh.

... (Annexure-2).

04-06-07 :

Representation filed by the applicant through proper channel requesting to cancell the transfer order dtd. 17-5-07.

...(Annexure-3).

25-5-07 :-

Medical Certificate dtd. 25-5-07 of registered doctor certifying that the father of the applicant who is aged about 75 years has been suffering from Paralysis of left side of body and is under treatment.

... (Annexure-4).

04-06-2007 :

Release order of the applicant passed by the Respondent No.3 vide order No. UBD/DIB/WC-01/2007/4117-49.Hence this application.

P R A Y E R(Relief(s) sought for :-

1. That, the Hon'ble Tribunal be pleased to direct the respondent set aside or quash the impugned transfer order dtd. 17-5-07 under No.A-15017/12/(06)/2006-07/932-963(Annexure-1) and order dated 4-6-2007 issued vide No.

contd..3.

(3)

UBD/DIB/WC-01/2007/4117-49 passed by the respondent No.3 whereby the applicant is relieved from the Nagaon Sub-Division, so far the applicant is concerned. And also be pleased to direct ~~it~~ to release the salary of the applicant for the month of June, 2007 and subsequent month thereafter.

2. Costs of the application.

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

Interim order prayed for :-

Pending disposal of the application's the applicant pray for the interim relief :-

1. That, the Hon'ble Tribunal be pleased to stay the operation of the impugned transfer order dtd. 17-5-07 under No.A-15017/12/(06)/2006-07/932-936 issued by the respondent No.2(Annexure-I) and order No.UBD/DIB/WC-01/2007/4117-49 dated 4-6-07 issued by respondent No.3 so far the applicant is concerned till disposal of this application.

2. That, the respondents be directed not to release the applicant from the present place of posting and to allow him to continue as such,

Filed by-

M. R. Das.

Advocate.

5

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Filed by
Padma Kanta Saikia
Through Manojam Das
Advocate 6.7.07

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH : GUWAHATI.

(An application under Section 19 of the Administrative
Tribunal Act-1985).

O.A. NO. 188/2007

BETWEEN :-

Shri Padma Kanta Saikia,
S/O. Sri Thagi Ram Saikia,
Working as Khalasi,
Dhansiri(s) Kopili Sub-Division,
Central Water Commissioner,
Nagaon(Assam).

... Applicant.

-Vs-

1. The Union of India,
Represented by the Secretary to the Govt. of India,
Ministry of Central Water Commissioner, R.K. PURAM, SANA BHAWA,
New Delhi.
2. The Superintending Engineer,
Central Water Commission,
Hydrological Observation Circle, CWC Complex,
Behind Adabari Bus Stand,
Guwahati-781014, Assam.
3. The Executive Engineer,
Upper Brahmaputra Division,
Central Water Commissioner, Dibrugarh. P.O. C.R. BLDG.
4. The Assistant Executive Engineer,
D(S)K Sub-Divn., CWC., Sankar Mission Road,
Nagaon, Assam.

... Respondents.

contd..2.

6
19
(2)

Details of the Application :

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

(i) For quashing/set aside the impugned office order No A-15017/12(06)/2006-07/932-963 dtd. 17-5-07(Annexure-I), issued by the respondent No.2 whereby the applicant has been transferred and posted from Nagaon to Kabusite(Subansiri Sub-Divn.) Central Water Commissioner, Naharlagan, Itanagar, Arunachal Pradesh) under the Upper Brahmaputra Division, Central Water Commission, Dibrugarh and ~~xxx~~ also the impugned order dtd. 4-6-07 passed by the Respondent No.3 vide Memo No.UHD/DIB/WC-01/2007/4117-49 whereby releasing the applicant. For a direction to the respondents to release the salary for the month of June and subsequent months thereafter to the applicant.

(ii) Jurisdiction of the Tribunal :-

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

3. Limitation :-

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

4. Facts of the Case :-

4.1 That the applicant is a citizen of India by birth and as such he is entitled to all the right, protections and privileges as guaranteed under the constitution of India.

contd..3.

Padma Kanta Saini

(3)

4.2 That, the applicant was initially engaged as Khalasi in the office of Assistant Executive Engineer, Sub-Divn., CWC Nagaon and he joined his services on 24-1-1985 at Jagibhakatgaon

4.3 That, thereafter he was transferred and posted at W/T station, Bokajan in the month of Nov. 87 and served there only for 2 years i.e. upto August, 1990. Thereafter he was again transferred to Kampur W/T station in the month of August, 1990 and served only for 4 years in the said station i.e.

upto December, 1994. The applicant was again thereafter transferred to Jagabhakatgaon, GDS Headquarter in the month of December, 94 and served there for 3 and half years. The applicant thereafter again transferred and posted at D(s) K-Sub-Division, Nagaon in the month of July, 98.

4.4 That, the applicant has been continuing his service in the present place of posting with honestly, sincerely, diligently and with the best satisfaction of the superior authority without any blamish from any quarter.

It is to be stated here that in Nagaon, the present place of posting of the applicant is nearby to his own house i.e. at Batadraba where his father aged about 75 years also staying with his family.

4.5 That, the applicant states that suddenly on 17-5-07 a Transfer order under No. A-15017/12/(06)/2006-07/932-963 was issued by the Respondent No. 2 whereby 29 persons including the applicant were transferred in different place of posting

8

21

(4)

from different station. In the said transfer order at Serial No.5, he was found being transferred from Nagaon to Kabusite in the Arunachal Pradesh under Brahmaputra Division, Central Water Commission, Dibrugarh (Assam).

A copy of the impugned order dtd. 17-5-07 is annexed herewith and marked hereas Annexure-I.

Padma Kanta Saitia

4-6 That, immediately thereafter the wife of applicant filed a representation dtd. 26-⁵~~6~~-07 before the respondent No.2 with a request to cancel the applicant's transfer from D(S) K-Sub-Division, CWC, Kabusite (Subansiri Sub-Divn. CWC, Naharlagaon, Itanagar, Arunachal Pradesh on citing various grounds.

A copy of the said representation dtd. 26-5-07 is annexed herewith and marked as Annexure-2.

4.7 That, the applicant also made a representation dated 4-6-07 to the respondent No.2 through proper channel and requested to cancel transfer order dated 17-5-07 so far his case is concerned inter alia stating that in his service tenure he complied with all the transfer order. Further his old father suffering from Paralysis and he is to look after him his only son of 5 years old is studying at Sankardev Sishu Niketan, Nagaon and at Kabusite, Arunachal Pradesh no such Assamese medium school is available. The applicant also suffering from diabetes and high blood pressure and hence it will be difficult for him to join in Kabusite, Arunachal Pradesh. Further, it is stated that it would be difficult for him to maintain two establishments with his marginal income.

9 22
(5)

A copy of the representation dtd. 4-6-07 is annexed herewith and marked as Annexure-3.

4.8 That, your applicant begs to state that the impugned order dtd. 17-5-07 so far the applicant is concerned is infact not in exigency of service or in public interest. The applicant having been serving as Khalasi the 4th grade Employee drawing a meagre income of monthly salary of Rs. 4,900/- cannot be warranted for transfer.

Indira Kanta Saikia

4.9 That, the applicant states the presently his 75 years old father who has been suffering from Paralysis of the left side of body and at present he is bed-ridden and needs constant supervision and medical attention. Being the only son the applicant is to look after his sick father and hence he is severallyy constrain to move from present place to another place.

A copy of the certificate of registered doctor dtd. 25-5-07 is annexed herewith and marked as Annexure-4.

4.10 That, the applicant's son who is studying in Assamese medium school at Batadrabanagaon. The place of posting where the applicant was sought to be transferred in Arunachal Pradesh having no such school and it is not possible for the applicant to prosecute his studies at Kabu-site, Arunachal Pradesh.

Further, the applicant is a Khalasi and drawing his monthly salary about of Rs. 4,900/- and with such a meagre income he has just precariously managed the family affairs.

contd..6.

(6)

In such a situation if the applicant is transferred then it will be unmanageable to maintain the two establishments.

4.11 That, the applicant challenging the impugned transfer order dtd. 17-5-07 filed an application before this Hon'ble Court ~~which was numbered as~~ O.A. 146 of 2007 but at that point of time he was not served with impugned release order dtd. 4-6-07 as the applicant was on leave then and hence the said order dtd. 4-6-07 cannot be impugned in the said O.A. No. 146/07.

4.12 That, this Hon'ble Court vide its order dtd. 11th June, 2007 passed in OA No. 146/07 disposed of the application by directing the respondent No. 2 to consider the ~~representation~~ representation dtd. 4-6-07 filed by the applicant within 3 months and till disposal of the representation the applicant shall not be disturbed from the present place of posting if he not already relieved and till then the impugned order dated 17-5-07 is kept in abeyance.

A copy of the said order dtd. 11-6-07 passed by this Hon'ble Court is annexed herewith and marked as Annexure-5.

4.13 That, the applicant respectfully states that after receipt of the certified copy of the order dtd. 11-6-07 he went to the office of the respondent No. 2 and submitted the copy of the said order vide its letter dtd. 13-6-07.

cont...7.

Padma Kanta Saini

(7)

The applicant respectfully state that he was not served with any release order till ~~a~~ that date.

A copy of the letter dated 13-6-07 is annexed herewith and marked as Annexure-6.

Pradma Kanta Saikia

4.14 That, the humble applicant most respectfully begs to state that the respondent No.2 instead of complying with the order dtd. 11-6-07 passed by this Hon'ble Court directed the respondent No.3 to issue the release order of the applicant, who send a copy to the office of the respondent No.4 so as to served personally to the applicant.

4.15 That, the humble applicant on 14-6-07 came to his office at Nagaon and submitted his joining report and also signed the attendance register, but to his utter surprise the respondent No.4 came to the office latter on and served the applicant his release order at 4-6-07 (impugned order) passed by the respondent No.3.

A copy of the said impugned order dtd. 4-6-07 issued by Respondent No.3 vide Memo No.UBD/DIB/WC-01/2007/4117-49 is annexed herewith and marked as Annexure-7.

4.16 That, the humble applicant respectfully submit that he is not allowed to work in his Nagaon office by the respondent No.4 at the behest of the other respondents inspite of the order dtd. 11-6-07 passed by this Hon'ble Court staying the impugned transfer order dtd. 17-05-07 till disposal

contd..8.

(8)

of the representation of the applicant, thereby violating the order of this Hon'ble Court.

It is respectfully submitted that the respondent No.2, remain silent without dispossing the representations of the applicant till date.

4.17 That, the applicant humbly submits that the release order dtd. 4-6-07 of the applicant was served on him by the respondent No.4 on 14-6-07 by issuing a certificate to that effect.

A copy of the said Certificate dtd. 14-6-07 issued by respondent No.4 is annexed herewith and marked as Annexure-8.

4.18. That, the humble applicant is not allowed to sign in the attendance register and also ^{not} allowed to do any work by the respondent No.4 in spite of the order dtd. 11-6-07 passed by this Hon'ble Court whereby the transfer order of the applicant was stayed.

4.19 That the humble applicant, finding no other way filed a Misc.petition on 26-6-07 in OA NO. 146 of 2007 before this Hon'ble Court against the release order dtd. 4-6-07 (received on 14-6-07) Memo No.UBD/DIB/WC-01/2007/4117-49 passed by respondent No.3 for a direction from this court for not disturbing the applicant from his present place of posting at Nagaon as per this Hon'ble Court's order dtd. 11-6-07. The said Misc.petition is numbered as 57 of 2007.

contd..9.

Padma Kanta Sarkar

(9)

4.20 That, the Misc.petition No.57/07 was heard at length by this Hon'ble Court and issued notice on the respondents fixing on 13-7-07 and also directed to keep the transfer order dtd. 4-6-07 in abeyance till that date as far as Applicant is concerned if not already released.

*Saikh
Kanta
Padma*

A copy of the order dtd. 27-6-07 passed in Misc. petition No.57 of 2007 by this Hon'ble Court is annexed herewith and marked as Annexure-9.

4.21. That, the humble applicant as released from his Nagaon office with effect from 14-6-07 and not allowed to work nor paid with the salary for the month of June, 2007 till date. The applicant is a poor man working as work charge Khalasi staying with his old father of 75 years a Paralytic patient and his wife and children may not be able to maintain two establishment with a meagre salary of Rs. 4,900.00 shall suffer irreparable injury if the impugned order dtd. 4-6-07 is allowed to stand.

4.22. That, the humble applicant begs to state that he is advised to challenged the impugned order dtd. 4-6-07 vide memo No.UBD/DIB/WC-01/2007/4117-49 by filing an original Application before this Hon'ble Court and as such the Misc. petition No.57/07 is withdrawn with the permission from this Hon'ble Court on 5.7.07.

m. am.

contd..10.

(10)

4.23 That, the applicant being the obedient employee all along complied with all the transfer orders. But in the instant case the applicant has been put in a very difficult situation as the impugned transfer order will cause as serious hardship to the applicant and uproot his family hence it is a fit case where your Lordship may be pleased to interfere with the matter and pass a necessary order by setting aside the impugned transfer orders dated 17-5-07 and 4-6-07.

Padma Kanta Saini

4.24. That, the applicant begs to state that as per the various Government notifications normally the holders of Group-C & D Khalasi posts should not be subjected to transfer but in the instant case the applicant has been made to suffer from various harassment. It is pertinent to mention here that inspite of the said Government notification restricting the transfer of law paid group-C & D staff the respondents have issued transfer orders by which the present applicant has been subjected to frequent transfer.

4.25. That, the applicant begs to state that the respondents have acted illegally in issuing the impugned transfer order dtd. 17-5-07 and thereafter order dtd. 4-6-07 violating the professed norms. Normally in every central Government Offices certain guidelines are maintained to streamline the process of transfer of the employee. Needless to say here that in the office of the respondents also there are guidelines in which it has been categorically mentioned that the longest stay of an unit should be

(11)

transferred first but in the present case the applicant who has only completed some years of service has been sought to be transferred ignoring the case of the employees who is working since 1982 in the same station. The aforesaid fact smakes malafide on the part of the Respondents and on this score alone the impugned order dated 17-5-07 is liable to be set aside and quashed.

Sai Kiran
Padma Kanta

4.26. That, your applicant begs to state that the representation dtd. 26-5-07 and 4-6-07 is pending till date and not yet disposed of.

4.27. That, this application has been filed bonafide and in the interest of justice.

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

5.1 For that, the impugned transfer orders dated 17-5-07 and release order dtd. 4-6-07 so far the applicant is concerned in not exigency of service or public interest and hence the impugned orders dtd. 17-5-07 and 4-6-07 are liable to be quashed/ set aside.

5.2 For that the respondents being a model employer ought to have look into the welfare of the employees more particularly the employee like present applicant who forms the lower stratum of the office and having not done so the entire action on the part of the respondents are liable to be set aside and quashed.

contd..12.

(12)

5.3 For that there being various guidelines streamlining the process/procedure of transfer and the respondents being part and parcel of the said process/practice ought to have took into consideration all the aspect of the matter before issuing the impugned order which is going to effect adversely to the present applicant.

5.4 That, the applicant is the employee of 4th grade Khalasi drawing monthly salary of about Rs. 4,900/- and with such a meagre income he precariously managed the family and the transfer from Nagaon to Kabusite, Arunachal Pradesh far away from his own house is not justifiable and hence transfer of applicant is liable to be cancelled/set aside.

5.5. For that, his old 75 years father has been suffering from paralysis and being the only son he is to look after him and he is not in a position to take him at Kabusite, Arunachal, where the medical facilities are not available and hence the impugned transfer order dtd. 17-5-07 so far the applicant is concerned is liable to be modified.

5.6 For that the son of the applicant is studying in the Sankardev Sishu Niketan, the Assamese medium school which is not available in Kabu-site, Arunachal Pradesh and is not possible to prosecute the study of his son at Kabusite, Arunachal Pradesh.

5.7 For that, the applicant somehow managed his family affairs with such a meagre amount and it is not possible for the applicant to maintain two establishments and as such the

(13)

impugned transfer order dated 17-5-07 and 14-6-07 so far the applicant is concerned is liable to be modified or cancelled.

6. Details of Remedies Exhausted :-

The applicant declares that he has ^{no} other alternative and efficacious remedy except by way of filing this application and seek urgent and immediate relief.

7. Matters not previously filed or pending before any other court :-

The applicant further declare that no other application, writ petition or suit in respect of the subject matter of the instant application is filed before any other court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

RELIEF SOUGHT

8. ^{m.p.} To set aside and quash the impugned orders dated 17-5-07 and 4-6-07.

9. Interim order prayed for :-

During the pendency of the OA the applicant prays for an interim order directing the respondents No.2 not to transfer him from his present place of post at Nagaon by suspending the operation of the impugned order dtd.17-5-07 and also stay the operation of the impugned order dtd.4-6-07 passed by respondent No.3 and allow him to perform his duties with a further direction to pay his salary for the month of June,2007.

10. Particulars of the I.P.O. :

- (1) I.P.O. No. 34 G 654825.
- (ii) Date : 30-06-2007.
- (iii) Payable at Guwahati.

(14)

VERIFICATION

I, Sri Padma Kanta Saikia, son of Thagiram Saikia, aged about 41 years, at present working as Khalasi, Work charged at the Office of the Asstt. Executive Engineer, D(S)K. Sub-Division CWC, Nagaon do hereby solemnly affirm and verify that conversant with the facts and circumstances of the case. I am competent to verify this case and the statements made in paragraphs- 4.3, 4.10, 4.4, 4.6, 4.11, 4.13, 4.14, 4.16, 4.18, 4.19 to 4.26, 5.10 are true to my knowledge; those made in paragraphs- 4.5, 4.12, 4.15, 4.17, 4.20 are true to my information derived from records and the rests are my humble submissions before this Honourable Tribunal.

And I sign this Verification on this the- 6th day of July, 2007 at Guwahati.

Padma Kanta Saikia

Signature

No.A-15017/12(06)/2006-07/ 932-963
 Government of India
 Hydrological Observation Circle
 Central Water Commission

Phone Nos. 2674191,

2674297

FAX No. 2674268

E-mail: hocguwahati@sify.com

CWC Complex

Behind Adabari Bus Stand,

PO:Guwahati

University,

Guwahati-781014, ASSAM

Dated: 17/5/07

OFFICE ORDER

The transfer / postings of the following incumbents borne on Workcharged establishment are hereby ordered, in public interest except Sl. No.21, 23,27 & 29, with immediate effect.

Sl. No.	Name & Designation	Where working at present	Where posted/ transferred	Remarks
	S/Shri			
1.	T.C. Hazarika, Khalasi	Subansiri Sub-Divn., CWC, Naharlogun under UBD, CWC, Dibrugarh	Jia-Bharali Site under UBD, CWC, Dibrugarh	
2.	Karmeswar Rabha, Khalasi	Chouldhowaghat Site under UBD, CWC, Dibrugarh	Dudhnai Site under MBD, CWC, Guwahati	
3.	Gojen Kalita, W/S-II	Kabu Site under UBD, CWC, Dibrugarh	Nematighat Site under UBD, CWC, Dibrugarh	
4.	H.C. Saikia, W/S-II	UBSD-II, CWC, Jorhat under UBD, CWC, Dibrugarh	Chowldwaghat Site under UBD, CWC, Dibrugarh	
5.	Padma Kanta Saikia, Khalasi	D(S) K-Sub-Division, CWC, Nagaon under UBD, CWC, Dibrugarh	Kabu Site under UBD, CWC, Dibrugarh	
6.	Tulan Ch. Saikia, Khalasi	Numaligarh Site under UBD, CWC, Dibrugarh	Jorhat Sub-Division under UBD, CWC, Dibrugarh	
7.	Dehram Das, W/S-III	Neamatighat Site under UBD, CWC, Dibrugarh	Namsai Site under UBD, CWC, Dibrugarh	
8.	Dipen Das, W/S-III	Margerita Site under UBD, CWC, Dibrugarh	Subansiri Sub-Division CWC, Naharlagun under UBD, CWC, Dibrugarh	
9.	Uma Kanta Das, W/S-III	Subansiri Sub-Division, CWC, Naharlagun under UBD, CWC, Dibrugarh	Margerita Site under UBD, CWC, Dibrugarh	
10.	Smt. Monteswari Kumari, Khalasi	Jiabharali Site under UBD, CWC, Dibrugarh	Nagaon Sub-Division under UBD, CWC, Dibrugarh	
11.	G.R. Kalita, W/S-II	Sonapur Site under MBD, CWC, Guwahati	MBSD, CWC, Guwahati under MBD, CWC, Guwahati	
12.	Madhav Ch. Barman, Khalasi	MBD, CWC, Guwahati	Pancharatna Site under MBD, CWC, Guwahati	
13.	Smt. Padmini Das, W/S-II.	MBSD, CWC, Guwahati under MBD, CWC, Guwahati	PP Sub-Divn., CWC, Nalbari under MBD, CWC, Guwahati.	
14.	H.K. Chakraborty, W/S-II	Kulsi Site under MBD, CWC, Guwahati	Pandu Site under MBD, CWC, Guwahati	

Certified to be true copy
 G. P. Jaisankar
 Assistant Secretary
 8/06/07

15.	Baneswar Barman, Khalasi	Pancharatna Site under MBD,CWC,Guwahati	Pagladia Site under MBD,CWC,Guwahati	
16.	N.C. Das, W/S-II	Pagladia Site under MBD,CWC,Guwahati	Sonapur Site under MBD,CWC,Guwahati	
17.	Jatin Kalita, W/S-III	Pandu Site under MBD,CWC,Guwahati	Badarpurghat Site under MBD,CWC,Guwahati	
18.	N.L. Roy, W/S-III	Manughat Site under MBD,CWC,Guwahati	Borkhala Site under MBD,CWC,Guwahati	
19.	M.K. Nath, W/S-II	Badarpurghat site under MBD,CWC,Guwahati	BSD,Silchar under MBD,CWC,Guwahati	
20.	Swadesh Ranjan Dev, W/S-II	BSD,CWC,Silchar under MBD,CWC,Guwahati	Kailasahar Site under MBD,CWC,Guwahati	
21.	A.U.Laskar, W/S-II	Kailasahar Site under MBD,CWC,Guwahati	Dholai Site under MBD,CWC,Guwahati	Own Cost
22.	Sekhar Ranjan Chakraborty, W/S-II	Barkhola Site under MBD,CWC,Guwahati	BSD,CWC,Silchar under MBD,CWC,Guwahati	
23.	Alok Roy, Khalasi	Dholai Site under MBD,CWC,Guwahati	A.P.Ghat site under MBD,CWC,Guwahati	Own Cost
24.	Hementa Kr. Das, Khalasi	HOC,CWC,Guwahati	Pandu Site under MBD,CWC,Guwahati	
25.	Samarendra Roy, Kh.	A.P.Ghat Site under MBD,CWC,Guwahati	Manughat Site under MBD,CWC,Guwahati	
26.	Paresh Ch. Sutradhar, W/S-II	Raidak-II Site under LBD,CWC,Jalpaiguri	NH-31 H.O.& FF Site under LBD,CWC,Jalpaiguri	
27.	Nityendra Kr. Sarkar, W/S-II	Singla Bazar Site under LBD,CWC,Jalpaiguri	Mekhliganj Site under LBD,CWC,Jalpaiguri	Own Cost
28.	Biplab Basu Mazumder, W/S-II	NH-31 H.O.& FF Site under LBD,CWC,Jalpaiguri	Sonapurhat Site under LBD,CWC,Jalpaiguri	
29.	Vishal Sexana, Khalasi	UBD,CWC,Dibrugarh	LBD,CWC,Jalpaiguri	Own Cost

(M.P. SINGH)

SUPERINTENDING ENGINEER

Copy for information & necessary action to :-

- 1) The Executive Engineer, UBD,CWC,Dibrugarh/ MBD,CWC,Guwahati / LBD, CWC,Jalpaiguri . It is directed to relieve all the above mentioned staff before 10/06/2007 positively, under intimation to this office.

- 2) Persons Concerned (29 copies) through Concerned Division Office.

The Superintending Engineer,
Central Water Commission
Hydrological Observation Circle
C.W.C. Complex,
Behind Adabari Bus terminus,
Guwahati-781014

(Through Proper Channel)

Sub:- Request for cancellation of my husband's transfer from
D(S)K Sub-Division, C.W.C. Nagaon to Kabu Site (Subansari
Sub Division C.W.C. Naharlagan, Itanagar) Arunachal Pradesh.

Ref: NO. A-15017/12(06)2026-07/932-963 dt. 17/05/2027.
Respected Sir,

With reference to the above office order, I
with great respect and humble submission, I beg to state
that my husband Sri Padma Kanta Saikia is working in Central Water
Commission as a W/e Khalasi in Dhansiri (S) Kapili Sub Division,
Nagaon under Upper Brahmaputra Division, C.W.C. Dibrugarh.

My husband is at present posted at Nagaon which is nearby
to our house, but he is under transfer order to Kabu site (Arunachal
Pradesh. My husband ^{had} working in your Deptt. i.e. Jagibhakat gaon,
Bokajan, Kamrup again Jagibhakatgaon.

Sir, may I now beg to lay before you the following few
lines for favour of my kind consideration please.

Firstly, My father-in-law, Shri Bhagi Ram Saikia, who
is staying with us has been suffering Paralysis of left side of his
(Hemiplegia-Lt) from 12.05.07 and is under treatment of medicine
specialist Dr. Krishna Kumar Bora. Now, he is bedridden and needs
constant care.

Secondly, Our child who is only five years old reading
in Class.....Ankur of xxi Sankardeva Sishu Niketan, Bataidraha,
Assam. It would be a great problem in pursuing his study because
there is no Sankardeva Sishu Niketan in Arunachal Pradesh. At this
juncture, if he goes away to Arunachal Pradesh, our family will
left alone without a male care.

Thirdly, my husband is suffering from Diabetes and high
Blood pressure. So, it would be very difficult to join in Arunachal
Pradesh.

Fourthly, I am physically very weak due to frequent
operations. I was operated for Appendicitis and Gall bladder stone
and against the time of my son's birth.

Moreover, with the marginal income of my husband, it will
be hardly possible to maintain the establishments. We are not in a
position to leave Nagaon with my husband for my bed-ridden father-in-
law as in that case his medical care will not be available.

I am enclosing a Discharge Certificate of December/2007
of G.O. Nursing Home where I was operated for Appendicitis and Gall
bladder stone. Medical certificate and advice slips of my father-in-
law for your kind reference please.

Considering all these facts, if you kindly help this
poor family to survive by cancelling my husband's transfer order,
I will be highly grateful to you.

Yours faithfully,

Advance copy to:-

The S.E.
C.W.C., Guwahati-781 014.

Rakhi S. Saikia 26.5.07

(Mrs. Rakhi Saikia)
W/O Sri Padma Kanta Saikia
Work charged Khalasi work at D(S)-K
Sub-Division C.W.C. Nagaon.
Vill- Bhetioni gaon.
P.O. Bataidraha
Dist- Nagaon : Assam.

Co. Attached to
be the copy/
G. P. Attorney
Advocate
8706/07

The Superintending Engineer,
Central Water Commission
Hydrological Observation Circle
C.W.C. Complex
Behind Adabari Bus Terminus,
Guwahati- 781 014.

dt 4.6.07

(Through Proper Channal)

Sub:- Request for cancellation of my transfer from D(S)K Sub-Division, C.W.C Nagaon to Kabu Site (Subansari Sub-Division C.W.C., Naharlagan, Itanagar) Arunachal Pradesh.

Ref:- No. A-15017/12(06) 2006-2007/932-963 Dated 17/05/2007

Respected Sir,

With due respect, I beg to lay before you the following lines for favour of your kind consideration please.

Firstly, I am now transferred from D(S)K Sub Division C.W.C. Nagaon to Kabu site, Arunachal Pradesh vide your letter No A-15017/12(06)/2006-07/932-963 dt. 17/05/2007, Sir, I was joined in service on 24/1/1985 on this department and since then I was staying in a place for a long time.

My posting places are:-

1. GDS HQ site Jagibhakatgaon from Jan/85 to Oct/87.
2. W/P Station Bokajan from Nov/87 to Aug/90.
3. W/P Station Kampur from Aug/90 to Dec/94.
4. GDS HQ site Jagibhakatgaon from Dec/94 to July/98.
5. D(S)K Sub-Division, Nagaon from July/98 to till date.

At Nagaon I have joined on 3/7/98 and working with great satisfaction of my superior. But, there are so many staff who are staying posting at Nagaon from long term, as per service book record.

1. Sri. S.N.Dordoloi, W/c- Khalasi from 23.3.82 till now.
2. Sri. A.C.Sarmah W/S- Gr.III from 2-3-85 to till now.
3. Sri. Biren Saikia, W/C Khalasi from 15-5-89 to till now.
4. Md. Faruq Hussain, W/c Khalasi from Feb/95 till now.
5. Sri G.K.Saikia, W/c Khalasi from 29-1-96 to till now.

I am very astonished that out of this above long time staying persons, ~~among~~ I have been only transferred to a difficult place.

Secondly, My father Shri Thagi Ram Saikia, who is staying with me has been suffering from Paralysis of Left side of body (Hemiplegia-Lt) from 12-05-2007 and is under treatment of medicine specialist Dr. Krishna Kumar Bora. Now, he is bed-ridden and needs constant care.

Thirdly, our child who is only five years old reading in class Mukul of Sankardev Shishu Niketan, Batadraba, Nagaon, Assam. It would be great problem in pursuing his study because as there is no Sankardeva Shishu Niketan in Arunachal Pradesh. At this juncture If I go away to Arunachal Pradesh our family will be left alone without a male care.

Fourthly, I am suffering from Diabetes and High Blood pressure, so, it would be difficult to join in Arunachal Pradesh.

Moreover with my marginal income it would be hardly possible to maintain two establishment. Again, I am not in a position to leave my bed-ridden father in that case his medical care will not be available.

I am enclosing a medical certificate and advice slips of my father for your kind reference please.

Cond..2

Certified to be
true copy
G. Patengary
Advocate
27/06/07

M. R. Dey
Adv.

Considering all these facts, Sir, I would like to request you to kindly cancel my above transfer and save my family from above difficulties.

Thanking you.

Yours faithfully,

(Signature)
04/06/2007

(Padma Kanta Saikia)
W/c Khalasi
D(S) -K Sub division
S.M.Road, C.W.C.Nagaon.
Pin-782 001.

*Certified to be
true copy/
G. P. Attorney
Advocate
8/06/07*

*M. R. Dv
Adv.*

Dr. Krishna Kumar Bora
ডাঃ কৃষ্ণ কুমার বৰা

MBBS (DIB) MD (Med) FACP (G) FRCR (USA)
R. N. B Road, Haiborgaon, Nagaon (Assam) - 782002
Email : drkkrbngg@rediffmail.com

☎ : 03672 - 230303 (8 AM to 8 PM)

SUB. DIVISIONAL MEDICAL & HEALTH OFFICER

I/c D.T.C., B.P. Civil Hospital, Nagaon
Super Senior Medical Consultant
Consultant in T. B. & Chest Diseases
Regn. No - 6249 (AMC)

Medical Note

(TO WHOM IT MAY CONCERN)

Date

Certified that Shri Thagi Ram Saikia
75 yrs father of Shri Padma Kanta Saikia
Vill. Bhethoni P.O. Butachaba Dist. Nagaon
Assam has been suffering from paralysis
of left side of body (Hemiplegia-Rt) from
12.5.07 and is under treatment.

At present the patient is bedridden
and needs constant supervision as well as
care. The condition of the patient is considered
serious in view of the nature of the illness.

Certified to be
true copy
G. P. Saikia
Advocate
8706/07

18307
25/8/07

SDM & HO I/c D.T.C.
B. P. CIVIL HOSPITAL
NAGAON : ASSAM

25

SL No. 84

ANN-5

38

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 146 of 2007.

Date of Order: This, the 11th day of June, 2007.

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

Shri Padma Kanta Saikia
S/O Sri Thagi Ram Saikia
Working as Khalasi
Dhaisiri (s) Kopili Sub-Division
Central Water Commission
Nagaon (Assam).

Applicant.

By Advocates Mr. M. R. Das, Ms. L. Devi & Mr. G. Patowary

- Versus -

1. The Union of India
Represented by the Secretary
to the Government of India
Ministry of Water Resources
New Delhi.
 2. The Superintending Engineer
Central Water Commission
Hydrological Observation Circle
C.W.C. Complex
Behind Adabari Bus Stand
Guwahati - 781 014, Assam.
- The Executive Engineer
Upper Brahmaputra Division
Central Water Commission
Dibrugarh (Assam).

Respondents.

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

True Copy
M. R. Das
Advocate

26

39

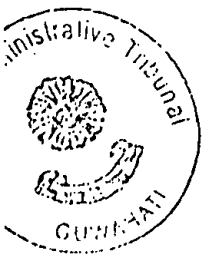
O R D E R (O R A L)

SACHIDANANDAN, K.V., (V.C.):

The Applicant is presently working as work charge Khalasi in the office of the Dhaunsiri(s) Kapili Sub-Division, Nagaon, Upper Brahmaputra Division, Central Water Commission (CWC in short), Dibrugarh. According to him, prior to that he was transferred to many places. Now, he is sought to be transferred to Kabu Silo, UBD, CWC, Arunachal Pradesh. The case of the Applicant is that his father, who stays with him, is suffering from Paralysis of left side of the body and his only son is studying in Assamese medium and there is no such Assamese medium school at Kabu Silo, Arunachal Pradesh. Highlighting all these matters he submitted a representation dated 4.6.2007 before the Respondents for cancellation of his transfer which is pending for disposal. Aggrieved by the action of the Respondents he has filed this O.A. seeking the following relief:-

"8. To set aside and quash the impugned order dated 17.5.2007."

2. I have heard Mr.M.R.Das, learned counsel for the Applicant. Mr.M.U.Ahmed, learned Addl. C.G.J.C. represented the Respondents. When the matter came up for consideration, learned counsel for the Applicant submitted that he will be satisfied if the second Respondent is directed to consider his representation for

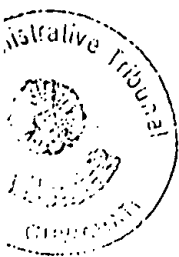


True Copy
M.A. Das
Adn

cancellation of transfer order and pass appropriate order within a time frame. Mr.M.U.Ahmed, learned Addl. C.G.S.C. submitted that Applicant has no legal right to challenge the transfer order.

3. [However, in the interest of justice, this Tribunal directs the second Respondent or any other competent authority to consider his representation dated 4.6.2007 by passing appropriate orders and communicate the same to the Applicant within a time frame of three months from the date of receipt of this order. Till the disposal of the representation Applicant shall not be disturbed from his present place of posting if he is not already relieved. For that limited purpose only, impugned order dated 17.5.2007 (Annexure-1) is kept in abeyance till the disposal of the representation.

The Original Application is disposed of as above. There shall be no order as to costs.



SD/- Vice Chairman

Date of Application : 11.6.07
Date on which copy is sent : 12.6.07
Date on which copy is received : 12.6.07
Certified to be true copy

[Signature]
12.6.07
Section Officer (Judl)
C. A. T. Guwahati Bench
Guwahati
12/6/07

True Copy
M. R. Das
Advocate

To

The Superintending Engineer CWC
Hydrological Observation Circle
CWC Complex, Behind Adabari
Bus Stand, Guwahati-14

Date: 13.06.2007

Subj: O.A. 146 of 2007

Sri Padma Kanta Saikia- Applicant
VS

Union of Indian & Ors -- Respondents

Dear Sir,

Please find herewith a copy order dt 11-06-07 passed by the Hon'ble Central Administrative Tribunal, Guwahati Branch passed in O.A. 146 of 2007, which is self explanatory.

Your early action is highly appreciated.

Thanking you.

Yours faithfully

(Padma Kanta Saikia)
Khalasi, Dhansiri(S) Kopili
Sub-division S.M. Road,
CWC Nagaon (Assam)
Pin- 782001.

Copy to:-

1. The Executive Engineer
Upper Brahmaputra Division
C.W.C. Dibrugarh (Assam).
2. The Asstt. Ex. Engineer
AS(S)-K Sub Division C.W.C.
S.M. Road C.W.C. Nagaon

Recd:
13-06-07
B.O. Circle CWC, Guwahati

True Copy
M.R. Das
Advocate



29 ~~12~~
No UBD/DIB/WC-01/2007/1117-1119
Government of India
Central Water Commission
Upper Brahmaputra Division

ANNEXURE 7
52

Phone: (0373)2314398
2313496
FAX: (0373)2314398

Jibon Phukan Nagar
P.O: C.R. Building,
Dibrugarh-786001,
(Assam)

Email: ubddibrugarhewc@sify.com

Dated: 11.6.2007

OFFICE ORDER

The following incumbents borne on Work-Charged establishment are hereby stand relieved from the respective Sub-Division / sites w.e.f. 09.06.2007 (AN) with instruction to report at their new place of posting on transfer as shown against each.

Sl. No.	Name and Designation	Where working at present	Where posted / transfer
1	Sh. T.C. Hazarika, W/C Khalasi	Subansiri Sub-Divn., Naharlagun	Jiabharali site
2	Sh. K. Rabha, W/C Khalasi	Chouldhowghat site	Dudhinal site under M.B. Divn., Guwahati
3	Sh. Golon Kalita, W/S Gr. II	Kabu Site	Neumatigahat site
4	Sh. H.C. Salkia, W/S Gr. II	U.B. Sub-Divn. No II, CWC, Jorhat	Chouldhowghat site
5	Sh. Padma Kt. Saikia, W/C Khalasi	D(S)K Sub-Divn., CWC, Nagaon	Kabu Site
6	Sh. T.C. Salkia, W/C Khalasi	Numatigahat site	U.B. Sub-Divn. No. II, CWC, Jorhat
7	Sh. Dohiram Das, W/S Gr. III	Neumatigahat site	Namsai site
8	Sh. Dipen Das, W/S Gr. III	Margherita site	Subansiri Sub-Divn., Naharlagun
9	Sh. U.K. Das, W/S Gr. III	Subansiri Sub-Divn., Naharlagun	Margherita site
10	Smt. M. Kurmi, W/C Khalasi	Jiabharali site	D(S)K Sub-Divn., CWC, Nagaon
11	Sh. Vishal Saxena, W/C Khalasi	U.B. Division, CWC, Dibrugarh	L.B. Division, CWC, Jalpaiguri

Received
today on
17/06/2007
Copy to :-
1. The Superintending Engineer, Hydrological Observation Circle, CWC, Guwahati with reference to his letter No. A-15017/12(6)/2006-07/932-963 dated 17.5.2007.
2. The Executive Engineer, L.B. Division, CWC, Jalpaiguri for information.
3. The Executive Engineer, Middle Brahmaputra Division, CWC, Guwahati for information.
4. The Asstt. Ex. Engineer / Asstt. Engineer, U.B. Sub-Divn. No. II / D(S)K Sub-Divn. / U.B. Sub-Divn. No. I and Subansiri Sub-Division, CWC, Jorhat / Nagaon / Dibrugarh / Naharlagun.
5. The EAD(HM), U.B. Division, CWC, Dibrugarh
6. HQ. J.E., U.B. Division, CWC, Dibrugarh
7. Person concerned (Through concerned AEE/AE)
8. Accounts Branch, U.B. Division, CWC, Dibrugarh
9. P.F. / E.C.-IV

(A. K. S. P. S.)
EXECUTIVE ENGINEER

True copy
M. R. Das
Adv

for leave
4/6/07

10/6/07

Annexure-8.

I, received the CAT order dated the 11th day of June, 2007 issued by the Hon'ble Mr. K.V. Sachidanandan, Vice Chairman, original application No. 146 of 2007 (Sl.No.84) Sri P.K. Saikia, W/C Khalasi was on Earn Leave and today he joins at D(S) K-Sub-Divn. Office at S.M. Road, CWC Nagaon after expiry of leave, therefore his transfer release order from this office is handed over to Sri P.K. Saikia today i.e. on 14-6-2007.

Sd/- Illegible,

14-6-07

Asstt. Executive Engineer,

D(S) K Sub-Division,

CWC Nagaon, Assam.

True Copy
M. R. Das
Advocate

1. Original Application No. _____

2. Misc Petition No. _____

3. Contempt Petition No. 57/07 in O.A 146/07

4. Review Application No. _____

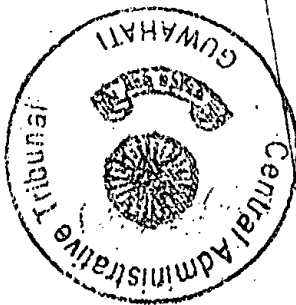
Applicant (S) Padma Kantasai VS Union of India & Ors

Advocate for the Applicant (S) Manojanjan Das

Advocate for the Respondent (S) C.G.S.

Date _____ of the Tribunal

27.6.2007



This Misc. Petition has been filed by the Applicant to comply with the orders passed in O.A. 146 of 2007. He has had earlier filed the aforesaid O.A. and the Tribunal vide its order dated 11.6.2007 directed the Respondents to dispose of the representation which was directed to be filed by the Applicant within a specified time. Till such disposal of the representation his order of transfer dated 17.5.2007 was stayed. Applicant filed representation which is still not disposed of. While so, he has received an order on 14.6.2007 transferring him to Kabu site, Arunachal Pradesh in total disregard to the orders of the Tribunal. Therefore, he sought for an interim order. He further submitted that he has not been released till date.

Contd...

True Copy
M.R. Das
Advocate

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imp 57/07 (GA 146/07)

Contd.
27.6.2007



Heard Mr. Manoranjan Das, learned counsel for the Applicant, Mr. M. U. Ahmed, learned Addl. C.G.S.C. submitted that notice should be issued to the Respondents. Considering the issue involved I direct the Registry to issue notice to the Respondents. Applicant will take step for the same (Procs)

Post on 13.07.2007, Respondents are directed to keep the transfer order dated 4.6.2007 in abeyance in so far as the Applicant is concerned, if not already released till the next date.

SA/ VICE CHAIRMAN

Date of Application : 27.6.2007
 Date on which copy is sent : 27.6.2007
 Date on which copy is delivered : 27.6.2007
 Certified to be true copy

(Signature)
 Section Officer (Jdli)
 C. A. T. Guwahati Bench
 Guwahati 5

True Copy
 M. R. Das
 Advocate

File in Court on... 6/12/07
Court Officer.

26 MAY 2007
গুৱাহাটী ন্যায়পীঠ
Guwahati Bench

Filed by: -
The Respondents
Through 26
Maginder Dais
Addl. C.G.S. 2
CAT. 6/12/07

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

In the matter of:

In O.A.No.188/07

Sri.Padma Kanta Saikia

.... Applicant

-Vs-

Union of India and ors,

...Respondents.

-AND-

In the matter of

Written statement of behalf of the
respondents

(WRITTEN STATEMENT ON BEHALF OF THE RESPONDENTS)

I, Sri **SHIV DUTTA SHARMA** S/o **SRI RAMESHWAR DAYAL SHARMA** presently working as Executive Engineer, Central Water Commission, Middle Brahmaputra Division, CWC Complex, Guwahati -14 do hereby solemnly affirm and state as under:

1. That I am the Executive Engineer, Central Water Commission, Middle Brahmaputra Division, CWC Complex, Guwahati -14 representing the said O.A on behalf of the respondents. The copies of the aforesaid application have been served upon the respondents. I have gone through the same and being the Executive Engineer in my official capacity I am conversant with the facts and circumstances of the case thereof. I have been authorised to file this written statement on behalf of all the respondents.

Shiv Dutta Sharma

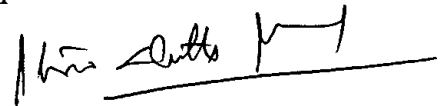
Recd
M. R. D. Adv
7/12/07

20/06/07

গুৱাহাটী ন্যায্যপীঠ
Guwahati Bench

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2. That I do not admit any of the averments except which are specifically admitted hereinafter and the same are deemed as denied.
3. That the applicant Sri.P.K.Saikia, Work-charged Khalasi along with 28 other Work-charged Khalasis under Hydrological Observation Circle, Guwahati were transferred to different place of posting vide order dated 17.05.07 issued by the answering respondent No.2 in the said O.A. The applicant vide said order was transferred from D(S)K sub-division, CWC, Nagaon under UBD, CWC, Dibrugarh to Kabu site under UBD, CWC, Dibrugarh. The said transfer order was issued due to the administrative reason and in the interest of Government works.
4. That against the said transfer order the applicant approached this Hon'ble Tribunal by filing an application No.O.A.146/07 and this Hon'ble court after hearing was pleased to dispose of the said application vide order dated 11.06.07 directing the respondent to consider the applicant's representation dated 04.06.07 by passing appropriate orders within three months from the date of receipt of the order. Further ordered, that till the disposal of the representation the applicant shall not be disturbed from the present place of posting if he had not already been relieved. For that limited purpose only, the impugned order dated 17.05.07 is also kept in abeyance till the disposal of the representation.
5. That as the applicant was relieved from the respective sub-division vide order dated 04.06.07 the applicant again filed a miscellaneous case before this Hon'ble court. Being Misc. case No.57/07 in O.A. No.146/07 and this Hon'ble court after hearing was pleased to pass an order by keeping the order dated 04.06.07 in abeyance in so far as the applicant is concerned if



20/07/2007

गुवाहाटी न्यायपीठ
Civil Bench

48

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not already released till the next date. However, the said Misc. Case has been withdrawn on 05.06.07.

6. That, the applicant thereafter filed this present application on the same issue and this Hon'ble Tribunal was pleased to admit the application vide order dated 09.07.07 and in the interim measure directed the respondent to permit the applicant to work at Nagaon and the relieved order dated 04.06.07 was kept in abeyance so far the applicant is concerned. As for the salary, the same will be disbursed in accordance with the rules.
7. That, in fact the office had not received any representation from the applicant before filing of the earlier case that is O.A. No.146/07 and he was relieved from his duties vide order dated 04.06.07. However, the said order dated 04.06.07 subsequently has been kept in abeyance by this Hon'ble Tribunal vide order dated 09.07.07 passed in the present application. The applicant submitted his representation dated 04.06.07 along with the copy of the judgement dated 11.06.07 passed by this Hon'ble Tribunal in O.A. No.146/07 only on 13.06.07 and the said representationn dated 04.06.07 made through proper channel was received on 25.07.07 and in compliance with the Hon'ble Tribunal order date 11.06.07 the department has disposed of the representation dated 04.06.07 on 09.08.07 and accordingly intimated that this case was considered sympathetically but due to the administrative reasons the same could not be acceded to.
8. That in compliance with the Tribunals order dated 09.07.07 the humble answering respondent vide order dated 10.07.07 kept in abeyance the

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transfer order dated 04.06.07 so far the applicant is concerned and he was allowed to continue in service in his present place.

9. Preliminary objection:

- 9.1. That the transfer order dated 17.05.07 has been issued by the humble answering respondent is not only for the applicant but for the total 29 persons. It is routine transfer and for the interest of the Government works the same has been issued. The said transfer order has been issued purely on administrative reasons and in the interest of public.
- 9.2. That the applicant is at Nagaon for the last 9 years and the employer is in better position to decide when and where an employee is to be posted. Transfer is an incident of service and normally the Hon'ble court do not interfere with the transfer order unless the transfer order is malafide, against the statutory rules or order or the employee has been victimized.
- 9.3. That there is no malafide action on the part of the respondent authority and there is no illegality or irregularity in transferring the applicant and the applicant could not make out a good and proper case for warranting the interference of this Hon'ble Tribunal.

10. Reply to the facts of the case:

- 10.1. That with regards to the statements made in paragraph 4.1 to 4.4 of the application, the humble answering respondent has nothing to make

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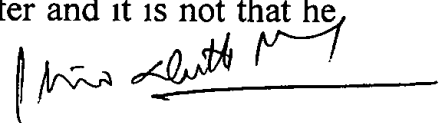
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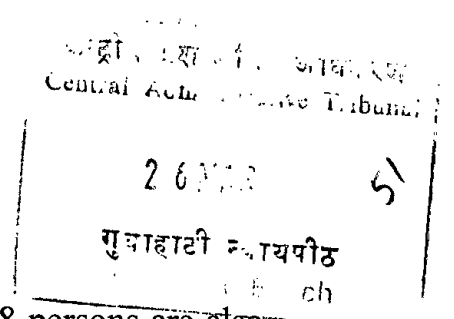
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गुवाहाटी न्यायाधीश
Guwahati Bench

comment on it as they are being matters of record of the case. He, however, does not admit any statements which are contrary to records.

- 10.2. That with regards to the statement made in paragraph 4.5 of the application, the humble answering respondent begs to state that the applicant was transferred vide order dated 17.05.07 along with 28 other persons due to the administrative reasons and in the interest of government works. Moreover it is to state that some work-charged staff are/were working at remote localities for more than 7-10 years and therefore such staff also needed to be posted at the place of their choice.
- 10.3. That with regard to the statements made in paragraph 4.6 of the application, the humble answering respondent has no comment to make as they are being matters of records of the case.
- 10.4. That with the regards to the statements made in paragraph 4.7 of the application, the humble answering respondent begs to state that the representation dated 04.06.07 made by the applicant through proper channel in fact received on 25.07.07. The same was considered sympathetically and disposed of vide order dated 10.08.07. Consequently he was intimated that due to the administrative reasons and in the interest of the Government work, his prayer could not be acceded to.
- 10.5. That the humble answering respondent denies the correctness of the statement made in paragraph 4.8 of the application, The impugned transfer order dated 17.05.07 is a routine transfer and it is not that he



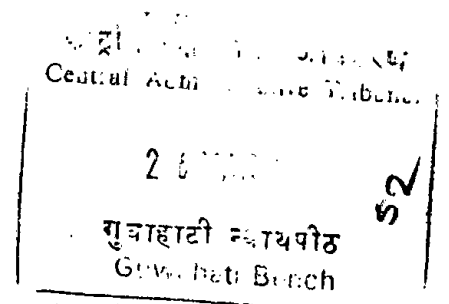


is only the person to be transferred, but the other 28 persons are also transferred. The impugned transfer order is made in the interest of the public and for the government administrative works. The applicant is at Nagaon for last 9 years and it is the employer who is in better position to decide when and where the applicant is to be transferred. The transfer is an incident of service and applicant should have obeyed the office order. Also, so far the place of posting is concerned the employer has to give equal opportunity to other employees who are serving in the remote places of posting for longer periods.

Further it is not correct the applicant is drawing the salary of Rs. 4,900/- per month. But in record it appears that he is drawing salary of 7,989/- per month. Thus the applicant thereby tried to mislead the Hon'ble Tribunal by stating the wrong statements.

- 10.6. That with regard to the statements made in paragraph 4.9 and 4.10 of the application; the humble answering respondent has nothing to make comment on it. Further it is to be stated that the applicant is drawing Rs.7989/- but not 4,900/-
- 10.7. That with regard to the statements made in paragraph 4.11 to 4.16 of the application, the humble answering respondent begs to state that on 17.05.07 the transfer order was issued by transferring the applicant and 28 other persons to different places of posting. In the said transfer order, the applicant was transferred from Nagaon to Kabu site under UBD, CWC, Dibrugarh and vide order dated 04.06.07 he was relieved from the present place of posting. The Hon'ble Tribunal in the application O.A No.146/07 was pleased to pass an order dated

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11.06.07 directing to dispose of the representation dated 04.06.07.

Further ordered that till the disposal of the representation the applicant shall not be disturbed from his present place of posting if he is not already relieved.

That, vide order dated 04.06.07 the applicant was relieved from his present place of posting. The applicant applied for 30 days earned leave with effect from 01.06.07 to 30.06.07 and he made representation dated 04.06.07 to cancel his transfer order. The applicant again came to the office on 07.06.07 and Assistant Executive Engineer, D(S)K sub division, Nagaon had instructed him to receive his relieving order. He had totally refused to receive the said order, therefore the said order was sent by post to his leave address. However, the same was received back with the remark "The addressee is out of station". Hence the allegation made by the applicant that he has not been served his relieving order is totally false.

Thereafter he filed the Misc. Application No.57/07 before this Tribunal to comply with the order dated 11.06.07 passed by this Hon'ble Tribunal. The Hon'ble Tribunal vide order dated 27.06.07 was pleased to keep the order dated 04.06.07 in abeyance so far the applicant is concerned, if not already released till the next date.

Thereafter the applicant filed this present application on the same issue with false plea. The Hon'ble Tribunal after hearing the present application was pleased to pass an order dated 09.07.07 and directed the respondent to permit the applicant to work at Nagaon and the relieved order dated 04.06.07 was kept in abeyance so far the

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applicant is concerned. In compliance with the said order dated 09.07.07 the answering respondent vide order dated 10.07.07 kept in abeyance the release order dated 04.06.07 and he was allowed to continue in present place of posting.

Further it is stated here, that order dated 11.06.07 passed by this Hon'ble Tribunal is very specific that representation dated 04.06.07 made by the applicant shall be disposed of within three months from the date of the receipt of the order and the applicant shall not be disturbed from the present place of posting if he has not already relieved. Hence there is no question of disobey of the Hon'ble Tribunal's order.

That applicant in fact misrepresented the facts of the case.

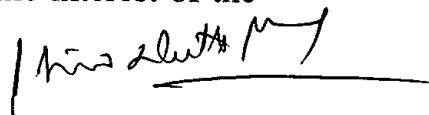
- 10.8. That with regard to the statements made in paragraph 4.17 of the application, the humble answering respondent begs to state that the applicant in fact on 07.06.07 refused to receive the relieve order dated 04.06.07.
- 10.9. That with regards to the statements made in paragraph 4.18 of the application, the humble answering respondent begs to state that in compliance with the Hon'ble Tribunal's order dated 09.07.07 the applicant was allowed to continue in his present place of posting.
- 10.10. That with regards to the statements made in paragraph 4.19 to 4.22 of the application, the humble answering respondent has nothing to made comment on it as they are being matters of records of the case.

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- 10.11. That with regards to the statements made in paragraph 4.23 of the application, the humble answering respondent has nothing to make comment on it.
- 10.12. That with regards to the statements made in paragraph 4.24 of the application, the humble answering respondent begs to state that the transfer is an incident of service. The impugned order dated 17.05.07 is a routine transfer and has to be obeyed by the Government servant.
- 10.13. That with regards to the statements made in paragraph 4.25 of the application the humble answering respondent begs to state that there is no illegality or irregularity or any violation of the professed norms in transferring the applicant as well as 28 persons.
- 10.14. That with regards to the statements made in paragraph 4.26 of the application, the humble answering respondent begs to state that the representation dated 04.06.07 has already been disposed off by the competent authority on 10.08.07.
- 10.15. That it is submitted, that the applicant could not make out a proper and good case and the instant application has no merit at all and is liable to be dismissed.

11. Reply to the grounds of the case:

- 11.1. In response to the statements made in paragraph 5.1 of the application, the humble answering respondent begs to submit that the impugned transfer order dated 17.05.07 is made in the interest of the

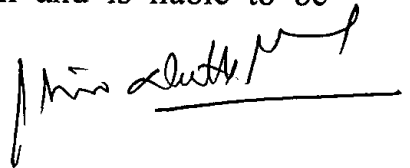


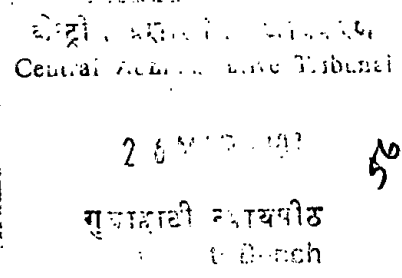
public service and government works. It is a routine transfer and release order dated 04.06.07 is the consequential order of the transfer order dated 17.05.07.

11.2. In response to the statements made in paragraph 5.2 of the application, the humble answering respondent begs to submit that the transfer is an incident of service. The employer is in the best position to decide when or where the employee is to be posted. The applicant continued his present place of posting for the last 9 years. So far the place of posting is concerned the employer has to give equal opportunity to other employees who are serving in the remote places of posting.

11.3. In response to the statements made in paragraph 5.3 to 5.7 of the application the humble answering respondent begs to submit that no legal right accrued to the applicant for challenging the validity of the impugned transfer order dated 17.05.07 and the applicant in fact is not drawing the salary of Rs.4,900/- but Rs.7,989/-.

11.4. That the instant case has no merit at all and is liable to be dismissed.





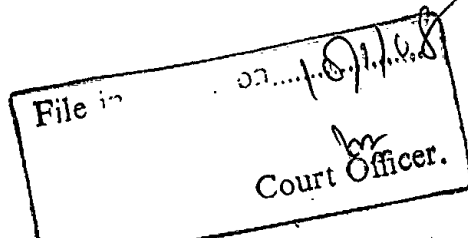
VERIFICATION

I, Sri. SHIV DUTTA SHARMA son of Shri. RAMESHWAR DAYAL SHARMA presently working as Executive Engineer, Central Water Commission, Middle Brahmaputra Division, CWC Complex, Guwahati-14, aged about 41 years do hereby verify that the statements made in paragraphs 10.2, 10.4, 10.5, 10.7, 10.8, 10.9, 10.12, 10.13, 10.14, 10.15, 11.1, 11.2, & 11.3 are true to my knowledge; those made in paragraphs 10.1, 10.3, 10.6, 10.10 & 10.11 are being matters of records of the case derived therefrom which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

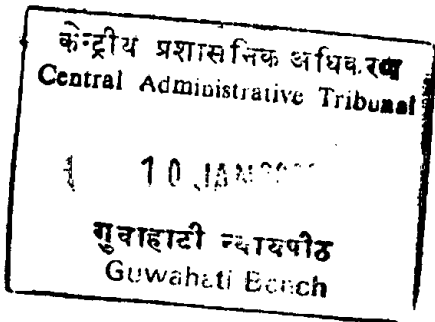
I have not suppressed any materials thereof.

And I sign this verification on 06th day of December, 2007.


SIGNATURE



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH



IN THE MATTER OF :

O.A. No. 188/07

Padma Kanta Saikia

..... Applicant

- Vs -

Union of India & Ors.

..... Respondent

- AND -

IN THE MATTER OF :

A rejoinder to the written statement
filed by the respondents.

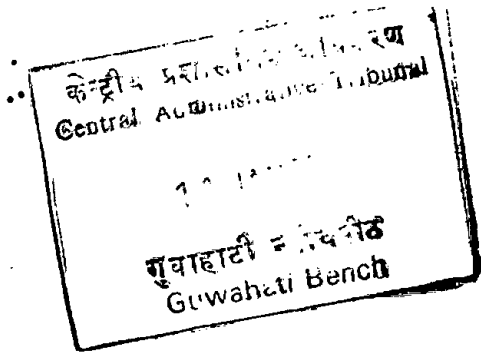
I, **Sri Padma Kanta Saikia**, aged about 42 years, son of **Thagiram Saikia**, presently working as work change Khalasi in the office of the Asstt. Executive Engineer, D(S)K Sub-Division CWC Nagaon, District Nagaon, do hereby begs to state as follows :

1. That with regards to the para 1 and 2 of the written statement the humble applicant has no comments to made.
2. That with regards to the para 3 of the written statement the humble applicant respectfully begs to state that it is a matter of record that the applicant filed the O.A. before the Hon'ble Tribunal and the Tribunal vide order dated 11.06.07 directed the respondents to consider the representation filed by the applicant on 04.06.2007 and till disposal of the representation the applicant shall not be disturbed from present place of

Contd.....

Filed by
Padma Kanta Saikia
Through M. R. Das
Advocate
(Mamengam Bar)

Received
M.R.
Adal-e-G.S.C.
10.1.08



- 2 -

posting. The applicant do not agree with the statements made by the respondents in the written statement that the transfer order was issued due to administrative reasons and in the interest of the Govt. Actually the transfer order was issued to protect the interest of Sri S.N. Bordoloi, Sri Biren Saikia, Sri G.K. Saikia and Md. Faruq Hussain all W/C Khalasi working at Nagaon, Sub-Division prior to the date of joining of the applicant at Nagaon.

3. That with regards to the statements made in para 4, 5, 6 and 8 are matter of records and that in the para 7 humble applicant begs to submit that as per the rule governing the employee of the Central Govt. the applicant filed the representation before the respondent on 04.06.2007 through registered post and by proper channel but the respondent disposed off the said representation on 9.8.07 without citing any reasons. The applicant denied the statements made by the respondent that representation was filed on 13.6.07.

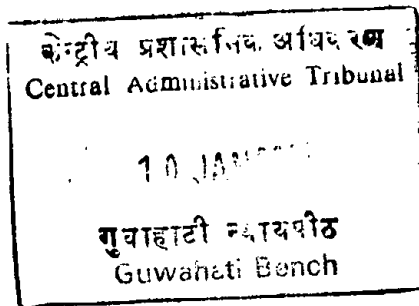
A copy of the acknowledgment receipt issued by the Department of Posts, India recd by the respondent No. 4 on 4.6.07 is annexed herewith and marked as **Annexure-I** and the copy of the order dated 9.8.07 issued by the Deputy Director (W/L) is annexed as **Annexure-I(a)**.

4. That, with regards to the statements made in para 9.1, 9.2 and 9.3 of the written statement the humble applicant most respectfully begs to state that the applicant who was working as W/C Khalasi was brought to Nagaon Sub-Division on 3.7.98 after working for some years in remote areas much later than Sri S.N. Bordoloi W/C Khalasi w.e.f. 23.3.82, Sri Biren Saikia W/C Khalasi w.e.f. 15.5.89, Md. Faruq Hussain

Contd.....

Padma Kanta Saikia
58

Why?



- 3 -

Padma Kanta Saikia

59

W/C Khalasi w.e.f. August 1993, Sri G.K. Saikia W/C Khalasi w.e.f. 29.1.96 and they were working in Nagaon Sub-Division till date even though transfer orders to the said employees were issued by the respondent No. 2. The aforesaid facts was represented before the respondent authority on 4.6.07 but the authority remain silent without any action.

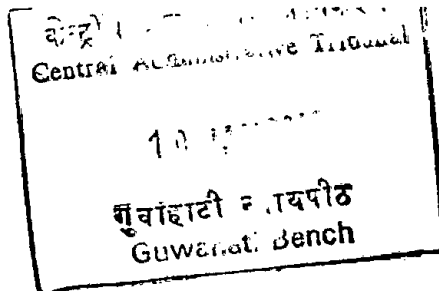
A true copy of the Site-wise staff position in respect of work charged staff position is annexed herewith and marked as **Annexure-II**.

The statements made by the respondent in the written statement that there is no malafide action on the part of respondent authority and there is no illegality or irregularity in transferring the applicant is not admitted by the applicant and hence denied. The respondent authority issued the transfer order dated 17.5.07 to the applicant on the behest of the aforesaid employee and hence the order dated 17.5.07 is illegal, malafide and liable to be set aside.

(Three nos of photostat copies of the Duty Roster of the W/C & Regular Staff of D(S) KSD, CWC, Nagaon are annexed herewith and marked as **Annexure-III(a)(b)(c)**)

5. That, with regards to the statements made in para 10.5 of the written statement the humble applicant respectfully begs to state that the applicant draws an amount of Rs. 5502/- (Rupees five thousand five hundred & two) only for the month of May and June 2007 and Rs. 5592 (Rupees five thousand five hundred ninety two) only for the month of October, November and December 2007 but not as Rs. 7989/- (Rupees seven thousand nine hundred & eighty nine) only as stated in the written statement.

Contd.....



- 4 -

The applicant respectfully submits that he being a poor man working as W/C Khalasi under the respondent is staying with his old father (a paralysis patient) and with his wife and children living under constant financial hardship may not warrant for transfer.

It is further submitted by the applicant that the respondent did not consider the fact that the son of a applicant is studying in an Assamese medium school, which is not available at Kabu site, Arunachal Pradesh.

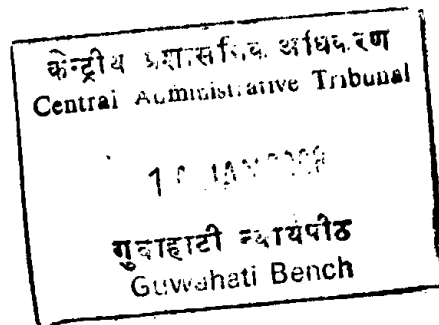
A copy of the salary certificate issued by the Asst. Ex. Engg D(S)K Sub-division CWC Nagaon dated 17.12.07 is annexed herewith and marked as **Annexure-IV.**

6. That with regards to the statements made in 10.7 of the written statement the applicant denied the statement of the respondent that the applicant came to the office on 7.6.07 and the Asst. Ex. Engg D(S)K Sub-division Nagaon instructed to receive his relieving order. Actually the applicant was on leave from 1.6.07 to 13.7.07 and on the said date i.e. 7.6.07 he was at Guwahati for consultation with his advocate with regards to the O.A. to be filed before the Hon'ble Tribunal. The said O.A. was filed before the Hon'ble Tribunal on 8.6.07. The applicant categorically denied the statements of the respondent that he refused any letter issue by the respondent.

It is respectfully submitted by the applicant that he went to the office of the Asst. Ex. Engg. D(S)K Sub-division on 14.6.07 for handing over the copy of the Hon'ble Tribunal dated 11.6.07 and then the said officer handed over the release order dated 4.6.07 to the applicant by hand and issued a certificate to that effect.

Contd.....

Padma Kanta Saikia



-5-

A copy of the said certificate dated 14.6.07 is annexed herewith as Annexure-V for kind perusal.

7. That, the applicant denied the statements made in para 10.8 of the written statement and submitted that there is no misrepresentation of facts by the applicant.
8. That with regards to the statements made in para 11.1 to 11.4 the humble applicant respectfully begs to states that as per the transfer policy in respect of W/C staff under Hydrological observation circle, CWC, Guwahati Clause-IX reads as

" The competent authority to approve/issue the transfer orders of W/C staff shall be Executive Engineer for the grade of Khalasi within their jurisdiction and Superintending Engineer for all other grades of W/C staff."

The impugned transfer order dated 17.5.07 was issued by the Superintending Engineer which is not tenable in law, the said transfer order dated 17.5.07 is liable to be set aside and quashed.

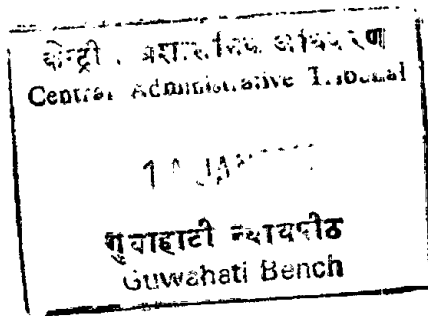
A copy of the said transfer policy is annexed herewith and marked as Annexure-VI.

9. That, the applicant respectfully begs to state clauses VIII of the transfer policy which reads as-

"As far as possible transfer will be ordered in the month of March/April of every year"

Contd.....

Padma kanta Saikia



- 6 -

The impugned transfer order dated 17.5.07 was issued in the month of May outside the transfer season and hence not tenable in law and liable to be set aside and quashed.

10. That, in any view of the matter the impugned transfer order dated 17.5.07 and the impugned release order dated 4.6.07 are liable to be set aside and quashed.

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

I, Sri Padma Kanta Saikia, son of Thagiram Saikia, aged about 42 years, resident of Village Bhetionigaon, P.O. Batadraba, Nagaon, Assam, at present working as W/S Khalasi, in the office of the Asstt. Executive Engineer, D(S)K, Sub-Division CWC, Nagaon do hereby solemnly affirm and verify that conversant with the facts and circumstances of the case. I am to verify this case and the statements made in paragraphs 1, 2, 4 to 7, 10 are true to my knowledge; those made in paragraphs 3, 8 and 9 are true to my information derived from records and the 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 6th day of January, 2008 at Guwahati.

Padma Kanta Saikia

S i g n a t u r e

ANN-I

7

प्राप्ति-स्वीकृति (रसीद) / ACKNOWLEDGEMENT

* एक रजिस्ट्री पत्र/पोस्ट कार्ड/लेटर/पार्सल प्राप्त हुआ क्रमांक
बीमा * Received a Registered Letter/Postcard/Packel/Parcel No.
Insured

पाने वाले का नाम } Padma Kanta Saima
Addressed to (name) } Vill. Bhetimani Gaon
 } P.O. Batadraba (via. Ashing)
 } Dist. Nagaon (Assam)

• बीमे का मूल्य (रुपयों में)
• Insured for Rupees

वितरण की तारीख } 19 पाने वाले के हस्ताक्षर / Signature of addressee
Date of Delivery

* अनावश्यक को काट दिया जाये / Score out the matter not required.
* केवल बीमा वस्तुओं के लिए / For insured articles only.

A. Das,
Addressee
Ashanoni Das.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

10 JAN 2006

गुवाहाटी न्यायपीठ
Guwahati Bench

(8)

ANNEXURE I(a)

Registered Post

64

No. HOC/GAU/PF-877/
Government of India
Hydrological Observation Circle
Central Water Commission

Phone Nos. 2674191,
2674297
FAX No. 2674268

E-mail: hocguwahati@sify.com

CWC Complex
Behind Adabari Bus Stand,
PO: Guwahati University,
Guwahati-781014, ASSAM
Dated: _____/07

Sub: - Request for cancellation of transfer from D(s)K Sub-Division, CWC, Nagaon to Kabu Site, Subansiri Sub-Division, CWC, Naharlagun of Shri P.K. Saikia, W/C Khalasi.

With reference to representation dated 04.06.2007 on the above cited subject, the request of Shri Padma Kanta Saikia, W/C Khalasi has been considered sympathetically but due to administrative reasons, which could not be acceded to.

This issues with the approval of SE, HOC, CWC, Guwahati.

केन्द्रीय प्रशासनिक अपील बोर्ड
Central Administrative Tribunal

(D.C. PANDEY) 9/8/07
DEPUTY DIRECTOR (W/L)

To

✓ Shri Padma Kanta Saikia,
W/C Khalasi,
Central Water Commission,
D(s)K Sub-Division,
S.M. Road, CWC, Nagaon,
PIN - 782 001.

10 JAN 2008

गुवाहाटी न्यायपीठ
Guwahati Bench

No. A-15017/12(6)/OA-146/2007/1833-35 dated 10.8.12007.

Copy to -

- 1) The Executive Engineer, UBD, Central Water Commission, Dibrugarh.
- 2) The Assistant Executive Engineer, D(s)K Sub-Division, CWC, Nagaon.

A. Des.
Admission

(D.C. PANDEY)
DEPUTY DIRECTOR (W/L)

(9)

ANNEXURE II

SITE WISE STAFF POSITION IN RESPECT OF WORK CHARGED STAFF FOR THE MONTH OF

APRIL 2001.

S.NO.	NAME AND DESIGNATION	DATE FROM WHICH WORKING	NAME OF SUB-DIVISION/SITE	REMARKS
1.	Sri P. Bhatta, W/S Gr. II.	01-11-82	D(5)-K Sub-Divn. C.V.C., Karam.	
2.	A.C. Sarma, W/S Gr. III.	2-3-85	- do -	
3.	S.M. Bordoloi, W/C Khelasi.	23-3-82	- do -	
4.	G.K. Saikia, - do -	28-1-96	- do -	
5.	Biren Saikia, - do -	15-5-88	- do -	
6.	Girdhar Sarma, - do -	9-2-88	- do -	
7.	Mr. Faruk Hussain, - do -	8/1995	- do -	
8.	Sri P.S. Saikia, - do -	5-7-98	- do -	
9.	S. Bhattacharya, A.V. driver.	20-2-92	- do -	
10.	Arun Ch. Sarma, W/C Khelasi.	11-6-93	W/T Stn. C.V.C., Phoroniphat.	
11.	Prafulla Saikia (Sr.), - do -	20-5-88	- do -	
12.	Bhokeshwar Sarma, - do -	1-11-85	- do -	
13.	Dharamnidhar Kedhi, - do -	11-2-83	W/T Stn. C.V.C., Kamour.	
14.	Siba Ram Das, - do -	6-7-85	- do -	
15.	Kirtal Banerjee, W/S Gr. III.	7/85	W/T Stn. C.V.C., Dharmitul.	
16.	A.H. Das, W/C Khelasi.	1-11-85	W/T Stn. C.V.C., Dharmitul.	
17.	Bhuvan Boria, J/Observer.	6-9-86	GSWC site C.V.C., Jaribhakatraon.	
18.	Coral Ch. Kalita, W/S Gr. III.	2-11-85	- do -	
19.	B.C. Kedhi, W/C Khelasi.	1-11-86	- do -	
20.	B.H. Keka, - do -	1-7-2000	- do -	
21.	Kamini Maikumar, - do -	23-3-82	- do -	
22.	K.K. Saikia, - do -	1-11-86	- do -	
23.	H.V. Das, W/S Gr. III.	18-2-70	W/T Stn. C.V.C., Kamour.	
24.	B.V. Muran, - do -	1-1-99	GSW site C.V.C., Bhalukpong.	
25.	K.C. Kalita, W/C Khelasi.	3-5-84	- do -	
26.	B.H. Prasad, - do -	1-6-89	- do -	
27.	Prafulla Saikia (Jr.) - do -	6-5-97	W/T Stn. N.T. Rd. X-Ing, Jibharali.	
28.	Mr. Kanteswari Kuti, - do -	10-2-93	- do -	
29.	Sri Kameswar Saikia, W/S Gr. II.	31-5-91	C&D site C.V.C., Bhokorasuri.	
30.	Gopin Borah, W/C Khelasi.	3/89	- do -	
31.	B.C. Boria, - do -	1-5-97	- do -	
32.	S.K. Bala, - do -	7/92	W/T Stn. C.V.C., Seppa.	
33.	Mr. Abundina Aheed, - do -	10-12-97	W/T Stn. C.V.C., Jibharali.	
34.	Sri R.K. Borah, - do -	23-2-83	GSWC site C.V.C., Jaribhakatraon.	
35.	H.D. Babha, - do -	11-12-2000	C&D site C.V.C., Bhalukpong.	

NO.D(SB-HSD)/WAC/23/S.P./2001/176

dt. 4/5/2001

Forwarded to Executive Engineer, U&A, C&D, Fibre Opt. for information and necessary action, please.

A. Das
Advocate1. Mr. P. Bhatta
1. Mr. A. Das
1. Mr. R. K. Borah

Attended

24/05/01
Executive Engineer
Nagaurकेन्द्रीय प्रशासनिक अपिलेशन
Central Administrative Tribunal

10 JAN 2001

गुवाहाटी न्यायपीठ
Guwahati Bench

DUTY ROSTER OF W/C & REGULAR STAFF ROKEGAON Nagaon = SEPTEMBER-2001

Name & Dig	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	
Shri. S.K. Deb w/c	R	11	1	G	G	11	11	R	11	1	G	G	G	G	R	11	11	G	G	G	G	R	1	G	G	G	G	R	1		
» S.N. Bordoloi W/C Kha	G	R	G	G	G	G	1	G	R	G	1	1	1	11	G	R	G	G	G	G	G	G	N	R	G	G	11	11	G	R	
» Birendra Saikia W/C Kha	G	R	G	G	G	G	G	R	11	G	G	G	G	G	R	G	G	G	11	11	G	R	1	1	1	1	1	G	1		
» G.K. Saikia W/C Kha	1	R	1	1	1	1	1	1	R	1	1	1	1	1	1	R	1	1	1	1	1	R	11	11	1	1	1	1	1	R	
MD. Faruk Hussain W/C Kha	1	N	11	G	G	G	R	11	N	G	11	11	G	R	G	1	1	1	1	G	R	1	11	1	1	G	G	R	G	N	
Shri P.K. Saikia W/C Kha	11	1	R	11	G	G	G	1	1	R	G	G	11	1	11	N	R	11	11	1	1	11	R	G	G	11	G	G	11	11	
» M. KUMAR W/C Kha	G	R	G	G	G	G	G	S	R	G	G	G	G	G	G	R	G	G	G	G	G	R	G	G	G	G	G	G	G	R	
» H.N. Basumaty cha	N	R	N	N	N	N	N	N	R	N	N	N	N	N	N	R	N	N	N	N	N	R	N	N	N	N	N	N	N	N	R

G — General

N — Night

S — Sunday

1st shift 1400 to 2200

2nd shift 2200 to 0600

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal

10 JAN 2002

बुवाहाटी न्यायपीठ
Buwahati BenchA. Das
AssistantAssistant Ex. Engineer, UOE, N.D.
U(S)R-Sub Division, Nagaon
CWC Nagaon

(11) DUTY ROSTER OF W/C & REGULAR STAFF OF D(S) KSD, CWC, GUWAHATI FOR AUGUST-2007

ANNEXURE-III(6)

Name & Designation	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
					S/D							R S/D			5/4					6						S/D					
1. Sh. G.K. Sengupta, W/c	I	S	I	I	R	F	I	I	I	I	I	R	I	I	I	I	I	I	R	I	I	I	I	I	I	R	I	I	I	I	I
2. Mr. Faruk Hussain, W/c	I	I	R	I	F	I	I	I	R	I	F	I	I	I	R	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	R
3. Smt. M. K. Sengupta, W/c	G	G	G	G	R	G	G	G	G	G	R	G	G	G	G	G	G	R	G	G	G	G	G	G	R	G	G	G	G	G	G
4. Sh. P. K. Sengupta, W/c	I	I	I	I	N	R	I	I	I	I	I	N	R	I	G/4	I	I	I	N	R	I	I	I	I	I	N	R	I	I	I	I
5. Mr. H. M. Sengupta, W/c	N	N	N	N	R	N	N	N	N	N	R	N	N	N	N	N	N	R	N	N	N	N	N	N	N	R	N	N	N	N	N
6. S. K. Deb, W/c	G	G	G	G	R	G	G	G	G	G	I	G	R	5/4	G	G	G	R	I	G	G	G	G	G	R	G	G	G	G	G	
7. Mr. B. Sengupta, W/c					G	G	G	G	G	G	R	G	G	G	5/4	G	G	G	I	G	R	G	G	G	R	G	G	G	G	G	
8. Mr. S. M. Borah, W/c					G	G	G	G	G	G	R	G	G	G	5/4	I	I	I	R	I	I	I	I	I	I	I	R	G	I	I	I
G - General - 10:00 hrs. to 7:00 hrs.																															

केन्द्रीय प्रशासनिक अधिकरण
 Central Administrative Tribunal
 10 JAN 2008
 गुवाहाटी न्यायपीठ
 Guwahati Bench

A. Das
Advocate

Assistant Ex. Engineer
 DISA - Sut. D. ...
 CWC ...

DUTY ROSTER OF W/C & REGULAR STAFF OF DGS-KSD, C.W.C. Nagam FOR JULY-2007

Sl. No.	Name & Designation	1 SD	2	3	4	5	6	7	8 SD	9	10	11	12	13	14	15 SD	16	17	18	19	20	21	22 SD	23	24	25	26	27	28	29 SD	30	31
1.	Sh. G. K. Senthil, Asst.	1/2 F	1/2	1	1	1	1	1	R	1	1	1	1	1	1	R	1	1	1	1	1	1	R	G	G	G	G	G	G	R	G	G
2.	Mr. Perera Hasmitha, Asst.	3	2	2	2	2	R	2	F	2	2	2	2	R	2	1	1	1	1	R	1	N	2	2	2	2	R	2	2	2	2	
3.	Sh. M. Kuremi, Asst.	R	G	G	G	G	G	R	G	G	G	G	G	G	R	G	G	G	G	G	G	R	G	G	G	G	G	G	R	G	G	
4.	Sh. P. K. Senthil, Asst.	ON LEAVE															G	R	2	2	2	2	2	R	1	1	1	1	G	1	R	2
5.	Sh. H. M. Basumaty, Asst.	R	N	N	N	N	N	R	N	N	N	N	N	N	R	N	N	N	N	N	N	R	N	N	N	N	N	N	R	N	N	

केन्द्रीय प्रशासनिक आयोग
Central Administrative Tribunal

गुवाहाटी न्यायालय
Guwahati Bench

NOTE: 1st Shift - 08.00 to 14.00 hrs
2nd Shift - 14.00 to 20.00 hrs
G: General 10.00 to 14.00 hrs
R: Rest
N: Night

A. Des.
Admission

Sh. K. Senthil
Sh. K. Senthil
Sh. K. Senthil

भारत सरकार
Government of India

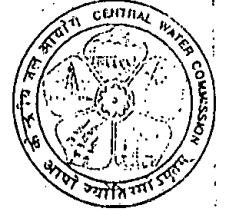
दूरभाष: २२७३९
Phone: 22739

तार: फोरकास्ट
Gram: FORECAST



सत्यमेव जयते

केन्द्रीय जल आयोग CENTRAL WATER COMMISSION



कार्यालय सहायक अधीक्षक अभियंता
Office of the Asstt. Executive Engineer
धनशिरि (द.) कपिलि उप-संमण्डल
Dhansiri (S) Kapili Sub-Division
शंकर मिशन रोड, नगांव - ७८२००१ (आसाम)
Shankar Mission Road, Nagaon-782 001 (Assam)

क्रमांक

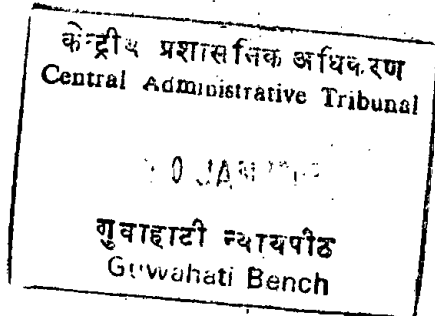
दिनांक.....

Ref. No. D(S)-KSD/NAG/145/PF-SI/2007/671

Date. 17/12/07

TO WHOM IT MAY CONCERN

This is to certify that, actual pay certificate in respect of
Sri Padma Kanta Barua, Nekkhesi, working under D(S) KSD,
CWC, Nagaon, Sri Barua's pay was drawn for the months of
May'2007 & June'2007 as Rs. 5502=00 and October'2007, was
drawn as Rs. 5992=00.



A. Das.
Admission

(A.M. BORUA)
Assistant Ex. Engineer
D(S)K- Sub Division,
CWC Nagaon

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

10 JAN 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

I Received the CAT order dated the 11th day of June, 2007 issued by the Honble Mr. K.V. Sachidanandan, Vice Chairman. Original Application NO. 146 of 2007 (SL. NO. 84).

Sri P.K. Saikia who was on Extra

Leave and today he joins at S.E.-K Subdivision office at S.M. Road C.W.C. Nagaon after expiry of leave, therefore his Transfer Release order from this office is handed over to Sri P.K. Saikia today i.e. on 14/06/2007.

14-6-07
14-6-07
14-6-07
14-6-07
14-6-07
14-6-07
14-6-07
14-6-07
14-6-07
14-6-07

A. Des.
Adus eali

TRANSFER POLICY IN RESPECT OF W/C
STAFF
HYDROLOGICAL OBSERVATION CIRCLE,
CWC, GUWAHATI

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

10 JAN

गुवाहाटी न्यायपीठ
Guwahati Bench

PREAMBLE

HOC, CWC, Guwahati is having more then 500 sanctioned strength of Work Charged (W/C) staff posted in very wide area consisting of almost all the North Eastern States (excluding Meghalaya, Mizoram and Nagaland), North Bengal and Sikkim for which it has been felt necessary to have a policy for their transfers with in the jurisdiction of Circle. As the designation suggests W/C staff is posted/transferred as per the requirement of work. The general governing criteria in order to take decision(s) for transfer(s) of W/C staff is given in the following clauses:

CLAUSE-I

Subject to exigencies of public service administrative and work requirements, transfers from one station to another are to be kept to the minimum extent possible.

CLAUSE-II

W/C staff should not normally be transferred from one station to another except to meet the following inevitable contingencies:

- a) When transfers become essential for purposes of adjusting excess staff or to meet up the shortage of staff, shifting of office or opening/closing of site.
- b) On the request from employees on humanitarian grounds against a vacant post, provided further governed by the provision under Clause-IV

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approved by the Superintending Engineer for implementation. The case of doubt or difficulty, the same may be placed before the Superintending Engineer, HOC, CWC, Guwahati for final decision.

- c) A high degree of fairness and transparency must be maintained in transfers to/from remote localities/sites in order to develop confidence among the W/C staff in the administration.

CLAUSE-VII

Employees having less than 5 years of service prior to the date of superannuation shall not ordinarily be transferred.

CLAUSE-VIII

As far as possible transfer will be ordered in the month of March/April of every year.

CLAUSE-IX

The competent authority to approve/issue the transfer orders of W/C staff shall be Executive Engineer for the grade of Khalasi within their jurisdiction and Superintending Engineer for all other grades of W/C staff.

CLAUSE-X

The Superintending Engineer, reserve the right to issue transfer/posting order in relaxation of above guideline in special cases.

