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**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. OA 207/2007

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SECTION OFFICER (Judl.)

*Kahla*  
06/10/17

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

O. R. D. E. R. S. H. E. E. T

1. Original Application No. 207/07  
 2. Misc Petition No. \_\_\_\_\_  
 3. Contempt Petition No. \_\_\_\_\_  
 4. Review Application No. \_\_\_\_\_

Applicant(s) Krishna K. Singh -VS- Union of India & Ors

Advocate for the Applicants: M. Chandra, S. Nath, K. D. Datta

Advocate for the Respondents: Adigse. L. Das

Notes of the Registry	Date	Order of the Tribunal
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First application as in for file No. 02.08.07  
 is filed C.F. for Rs. 50/-  
 deposited vide IPO/BD  
 No. 246,6538D  
 Dated 12.07.07

Slips taken

The applicant was transferred and posted in Guwahati under th Dept. of Central Hindi Directorate as Deputy Director vide order dated 23.01.03. On 10.02.2004 (Annexure-IV) the applicant was sought to be transferred and posted from Guwahati to Eastern Regional Office Kolkata as Deputy Director (Languages). The applicant approached this Tribunal by filing O.A.No.38 of 2004 praying for direction upon the respondents for grant of choice station posting at New Delhi. This Tribunal has passed an order with direction to the respondents to dispose of the representation of the same and dispose of the same.

Contd/-

02.08.07.

The applicant submitted representation (Annexure VI) dated 01.4.04 before the respondents for compliance of the order. On 7.2.2005 the applicant was under suspension and he was revoked vide order dated 25.04.06. On 05.05.06 the respondent issued impugned order transferring the applicant from Guwahati to Kolkata. On 28.07.2006 the Respondents No.2 issued impugned office memorandum dated 28.07.06 rejecting choice posting of the applicant. On 02.04 2007 the Tribunal disposed of the O.A. 209 of 06 directing the applicant to submit comprehensive representation and also directed the respondents to dispose of the representation. The applicant submitted representation which was rejected vide impugned order dated 20.07.07 (Annexure XVI).

I have heard Mr.M.Chanda learned counsel for the applicant and Ms.U.Das learned Addl.C.G.S.C. for the Respondents. When the matter came up for hearing the learned counsel for the respondents has submitted that in the impugned order it is made clear that there is no vacancy in New Delhi and she would like to take instructions.

Considering the facts and circumstances I am of the view that notice may be issued to the respondents. Issue notice on the respondents. Post the matter on 18.9.07.

Received  
16/9/07  
(Applicant)

207/07 - 3

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

D/No- 835,836

20/8/07 Dt= 20/8/07

① Service report awaited.

17.9.07

17.9.07

para wise reply on behalf of the Respondent Nos. 1 & 2. Copy served.

*[Signature]*

Dt. 10.10.07

Pt. comply.

order dt. 12/9/07 issuing to both the parties.

21/9/07

was filed on behalf of R.No-1 & 2.

9.10.07

-/muos

Dt. 10.10.07

Pt. comply

10.10.07

02.08.07

In the meantime the impugned order dated 20.7.07 (Annexure XVI) will be kept in abeyance till the next date of hearing.

*[Signature]*

Vice-Chairman

lm

18.9.2007

Ms.U.Das, learned Addl. C.G.S.C. submitted that reply has been filed on behalf of Respondent Nos.1 & 2. Mr.M.Chanda, learned counsel for the Applicant sought for time to file rejoinder. Two weeks time is granted for filing of rejoinder.

Post on 10.10.2007. Interim order shall continue till such time.

*[Signature]*

Vice-Chairman

/bb/

10.10.2007

Call this matter on 14.11.2007 for final disposal/hearing. Rejoinder, if any, be filed before 14.11.2007.

Interim order to continue till the next date.

*[Signature]*  
(Khushiram  
Member(A))

*[Signature]*  
(M.R.Mohanty)  
Vice-Chairman

lm



4) 04207/07

(Order in M.P. No.116/07)

13.10.07

14.11.2007

one M.P. filed by the Applicant for amendment of O.A. Copy served.

Pr.

Mr.M.Chanda, learned counsel for the Applicant is present. Ms.U.Das, learned Addl. Standing counsel for the Union of India (appearing for the Respondents) is also present.

Misc. Application No.116/2007 has been filed in this case seeking amendment of the O.A. 207/2007.

Heard. Prayer for amendment is allowed and, as a consequence, new paragraph 4.20 A; paragraph 5.9 and paragraph 8.3A are permitted to be incorporated in the Original Application No.207/2007. A new Annexure-XVII is also permitted to be annexed to the amended Original Application.

Mr.M.Chanda, learned counsel is permitted to carry out the amendment in the Original Application and file consolidated copies of the Original Application, incorporating the amendment, by 16th November, 2007. A copy of the consolidated Original Application be also supplied to Ms.U.Das, learned Addl. Standing counsel by 16th November, 2007.

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Received copy of the order of the order  
Kushiram  
Addl. C.S.C.  
20/11/07

(Khushiram)  
Member (A)

(M.R.Mohanty)  
Vice-Chairman

/bb/

14.11.07

Pl. arrange to supply a copy of the consolidated O.A. to Ms.U.Das Addl. C.S.C. by 16.11.07.

19-11-07

Amended original application filed by the Applicant. Copy served.

Pr.

(order in O.A.207/07)

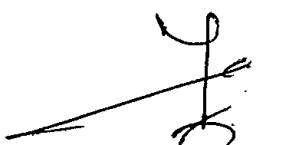
14.11.2007

A rejoinder has been filed by the Applicant in court today; after serving a copy thereof on Ms.U.Das, learned Addl. Standing counsel; who is free to file reply to the rejoinder by 7<sup>th</sup> December, 2007. She is also free to file additional reply, if any, to the newly added paragraphs of the Original Application.

Call this matter on 07.12.2007.

Interim order to continue till the next date.

  
(Khushiram)  
Member (A)

  
(M.R.Mohanty)  
Vice-Chairman

/bb/

Dt. 14.11.07.


P1. Comply.

↓

07.12.2007

In this case, however reply and rejoinder have already been filed in this case.

Subject to legal pleas to be examined at the time of hearing, this case is admitted and set for hearing on 13.12.2007.

  
(Khushiram)  
Member (A)

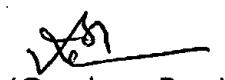
  
(M.R.Mohanty)  
Vice-Chairman

/bb/

13.12.2007

Call this matter for hearing on 21.01.2008.

Interim order shall continue to remain in force till the next date.

  
(Gautam Ray)  
Member (A)

  
(M.R.Mohanty)  
Vice-Chairman

/bb/

D.No - 1387 & 1388

Dtd - 16-11-07.

15/11/07

Wks and rejoinder filed by the parties.

The case is ready.

order dt. 14/11/07 sent to D/Section for issuing to learned advocates for both the parties



6  
Dt. 13.12.07

Pt. Comply

↓

Order dt 13/12/07  
issuing to learned  
advocate's for both  
the parties.

14/12/07. D/No. 1794,  
1795  
Dt = 14/12/07

W/S and rejoinder  
filed by the parties.

18.1.08

23.1.08

para wise reply to  
amended O.A. submitted  
by Respondent No. 1 and 2  
copy seized.

*Di*

The case is ready  
for hearing.

25.1.08

Received copy  
6/2/08  
Applicant.

22.2.08

Copy of the order  
sent to the office  
for issuing the same  
to the Respondents along with  
to copy to the parties.

O.A.207/07

21.01.08.

On the prayer of Mrs. U. Dutta  
learned counsel appearing for the  
Applicant (made in presence of Ms.U.Das,  
learned Addl.Standing Counsel), this case  
stands adjourned and to be taken up on  
28.01.08.

*(Signature)*  
(Khushiram)  
Member(A)

*(Signature)*  
(M.R.Mohanty)  
Vice-Chairman

28.01.2008

Heard Mr M. Chanda, learned  
Counsel appearing for the Applicant  
and Ms U. Das, learned Addl.  
Standing Counsel for the Union of  
India. Hearing concluded.

For the reasons recorded  
separately, this case stands disposed  
of.

*(Signature)*  
(Khushiram)  
Member (A)

*(Signature)*  
(M. R. Mohanty)  
Vice-Chairman

nkm

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 207 of 2007

DATE OF DECISION: 28.01.2008

- Shri Krishna Kumar Singh .....APPLICANT(S)
- Mr M. Chanda, Mr S. Nath  
and Ms U. Dutta. ADVOCATE(S) FOR THE  
APPLICANT(S)

- versus -

Union of India & Ors. ....RESPONDENT(S)


Ms U. Das, Addl. C.G.S.C. ADVOCATE(S) FOR THE  
RESPONDENT(S)

CORAM:

The Hon'ble Mr. M.R. 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 to be forwarded for including in the Digest  
Being compiled at Jodhpur Bench and other Benches? ~~Yes/No~~
4. Whether their Lordships wish to see the fair copy  
of the Judgment? ~~Yes/No~~

  
Vice-Chairman/Member

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**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

Original Application No.207 of 2007

Date of Order: This the 28th day of January 2008

The Hon'ble Shri M.R. Mohanty, Vice-Chairman

The Hon'ble Shri Khusiram, Administrative Member

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

.....Applicant

By Advocates Mr M. Chanda, Mr S. Nath  
and Ms U. Dutta.

-versus-

1. The Union of Inida, represented by the  
Secretary to the Government of India,  
(Department of Higher Education),  
Ministry of Human Resource Development,  
New Delhi-110001.
2. The Director  
Government of India,  
Central Hindi Directorate,  
Ministry of Human Resource Development,  
West Block-7, R.K. Puram,  
New Delhi-110066.

.....Respondents

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



.....

ORDER (ORAL)

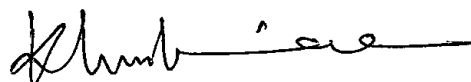
KHUSHIRAM (ADMINISTRATIVE MEMBER)

Heard Mr M. Chanda, learned Counsel appearing for the Applicant and Ms U. Das, learned Addl. Standing Counsel for the Union of India appearing for the Respondents.

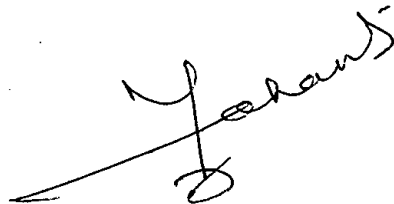
2. The Applicant is posted as Deputy Director (Language) in the Regional Office of the Central Hindi Directorate at Guwahati. He has been posted at Guwahati since 18.06,2003 and is presently under transfer to Kolkata. He has been requesting the department for his placement (choice posting) in Delhi, where the department could not accommodate him, so far, because no vacancy is available. It has been brought out from the papers placed on record that some posts will fall vacant during the year 2008.

3. Looking to the facts that the Applicant has only two more years for superannuation, the department may consider the change in his posting to the place of his choice as and when the vacancy is available. Till such time the Respondents are directed to allow the Applicant to continue in the present place of posting.

4. With the above observations and direction, the Original Application stands disposed of. No costs.



( KHUSHIRAM )  
ADMINISTRATIVE MEMBER



( M. R. MOHANTY )  
VICE-CHAIRMAN

19.07.2007

गुवाहाटी न्यायपीठ  
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

AMENDED ORIGINAL APPLICATION

O. A. No. 207/2007

**Shri Krishna Kumar Singh**

**-Vs-**

**Union of India and Others.**

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

- 23.01.2003- Applicant was transferred and posted in the Regional Office, Guwahati under the Dept. of Central Hindi Directorate as Deputy Director (Languages), vide order dated 23.01.03. He joined for duty at Guwahati on 18.06.2003 and continuing till date.  
(Annexure- I & II)
- 14.12.1983- Government of India, Ministry of Finance, Department of Expenditure, issued O.M No. dated 14.12.83, providing the Central Government civilian employees the benefit of choice station posting after serving for a fixed tenure of 2/3 years in the NE Region.  
(Annexure- III)
- 10.02.2004- Applicant was sought to be transferred and posted from Guwahati Regional Office to Regional office, Kolkata. (Annexure- IV)
- 25.03.2004- Applicant approached this Hon'ble Tribunal by filing O.A. No. 38/2004 praying for direction upon the respondents for grant of choice station posting at New Delhi. This Hon'ble Tribunal was pleased to stay the transfer order dated 10.02.04 vide it's interim order dated 10.02.04 and finally disposed of the said O.A. vide it's order dated 25.03.04, with the direction to the applicant to submit representation and also with the direction to the respondents to provide personal hearing to the applicant and to dispose of the representation and till such time interim order shall continue.  
(Annexure- V)
- 01.04.2004- Applicant submitted one representation in compliance with the direction passed by this Hon'ble Tribunal but the respondents did not replied the said representation till 28.07.06. (Annexure- VI)
- 07.02.2005- Applicant was placed under suspension as because he was trapped in a criminal case in a planned manner and an FIR was lodged against him at Dispur Police Station, Guwahati on 31.01.05.  
(Annexure- VII)
- 22.07.2005- Applicant approached this Hon'ble Tribunal by filing C.P No. 12/2005, which was dismissed vide judgment and order dated 22.07.05.  
(Annexure- VIII)

10.04.2007

गुवाहाटी न्यायपीठ  
Guwahati Bench

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- 25.04.2006- Suspension order of the applicant was revoked vide order dated 25.04.06. (Annexure- IX)
- 05.05.2006- Respondents issued impugned order dated 05.05.06 transferring the applicant from Guwahati to Kolkata, while representation dated 01.04.04 of the applicant is pending before the respondents and the order dated 25.03.04 of this Hon'ble Tribunal has not been complied with. (Annexure- XI)
- 28.07.2006- Respondent No. 2 issued impugned office memorandum dated 28.07.06 rejecting choice posting of the applicant. (Annexure- XIII)
- 02.04.2007- Hon'ble Tribunal disposed of the OA No. 209/06 directing the applicant to submit comprehensive representation and also directed the respondents to dispose of the representation according to rule position. (Annexure- XIV)
- 25.04.2007- Applicant submitted representation in compliance to the direction passed by this Hon'ble Tribunal in OA No. 209/06. (Annexure- XV)
- 20.07.2007- Respondent No. 2 issued impugned order dated 20.07.07 rejecting prayer of the applicant for choice posting at Delhi. (Annexure-XVI)
- 09.07.2007- During pendency of the O.A. No. 207/06, the Joint Secretary (L), Deptt. Of Higher Education, Ministry of Human Resource Development, New Delhi has issued the impugned speaking order dated 09.07.07 communicated to the applicant vide letter dated 10.09.07, stating therein that two posts of Deputy Director at Headquarter are already occupied by one Dr. Dixit and the other post by another lady officer is due to retire in the year 2008, as such applicant cannot be posted at Headquarter at present. (Annexure- XVII)

Hence this Amended Original Application.

### PRAYERS

1. That the Hon'ble Tribunal be pleased to declare that the impugned order bearing F.No. 2-2/04-Admn. dated 05.05.2006 (Annexure- XI) as void ab initio.
2. That the Hon'ble Tribunal be pleased to set aside and quash the impugned office memorandum No. F. No. 5-5/89 Admn. dated 28.07.2006 (Annexure- XIII) and the impugned order bearing No. F. No. 7-10/2006-Admn. dated 20.07.2007 (Annexure- XVI) issued by the respondents.
3. That the Hon'ble Tribunal be pleased to direct the respondents to grant choice station posting to the applicant at New Delhi in the light of the



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गुवाहाटी न्यायपीठ

Bench

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Govt. of India, Ministry of Finance O.M dated 14.12.1983, dated 01.12.1988 and O.M dated 22.07.1998 as well as in terms recommendation of the 5<sup>th</sup> Central Pay Commission and till such consideration is made, the applicant be allowed to continue in his present post at Guwahati.

3A That the Hon'ble Tribunal be pleased to set aside and quash the impugned order dated 09.07.2007 communicated to the applicant vide D.O. letter bearing No. 7-10/2006-Admn dated 10.09.2007.

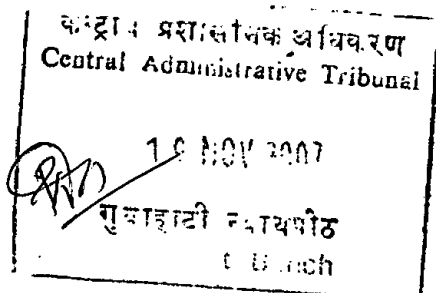
4. Costs of the application.

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

Interim order prayed for

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

1. That the Hon'ble Tribunal be pleased to stay operation of the impugned transfer order dated 05.05.2006 (Annexure- XI) and order bearing letter No. F.No. 2-2/04-Admn. dated 20.07.2007 (Annexure- XVI) issued by the respondents till disposal of the Original Application.
2. That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicant for providing relief as prayed for.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

AMENDED ORIGINAL APPLICATION

Title of the case : O.A. No. 207 /2007

Shri Krishna Kumar Singh. : Applicant.

-Versus-

Union of India & Ors. : Respondents.

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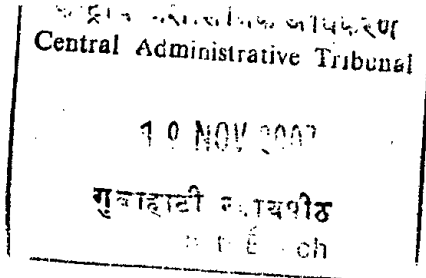
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Filed By:

*U. Dutta*

Advocate

Date:- 19.11.07



**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**

**GUWAHATI BENCH: GUWAHATI**

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

**AMENDED ORIGINAL APPLICATION**

O.A. No. 207 /2007

**BETWEEN:**

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

--- Applicant.

-AND-

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

..... Respondents.

**DETAILS OF THE APPLICATION**

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

This application is made against the impugned order bearing letter No. F. No. 7-10/2006-Admn. dated 20.07.2007 (Annexure-XI) as well as against the order bearing letter No. F. No. 2-2/04-Admn. dated 05.05.2006 (Annexure-XIII) and order bearing letter No. F. No. 5-5/89 Admn. dated 28.07.2006 (Annexure- XVI) issued by the Respondent No. 2, rejecting the representation of the applicant pertaining to his transfer and posting from

Guwahati to New Delhi as his choice station and further praying for a direction upon the respondents to transfer the applicant at his choice place Delhi in the light of the Govt. of India, Ministry of Finance O.M dated 14.12.1983, dated 01.12.1988 and O.M dated 22.07.1998 as well as in terms of 5<sup>th</sup> Central Pay Commissions recommendation.

2. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of this 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 Tribunals Act' 1985.

4. Facts of the case:

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

4.2 That your applicant after being selected by the U.P.S.C was initially appointed as Assistant Director (Linguistic) on 13.02.1989 at New Delhi in the Central Hindi Directorate under the department of Human Resource Development. The applicant was promoted as Deputy Director (Languages) on 23.08.1996 and thereafter he was transferred and posted to Eastern Regional Office, Kolkata as Deputy Director (Languages).

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

4.3 That the applicant was appointed on deputation basis at Kolkata under the Commissioner for Linguistic Minorities in India, under the Ministry of Social Justice and Empowerment and after serving a period of more than 4

19 NOV 2000

গুৱাহাটী ন্যায়পীঠ  
Court Bench

3

year as Asstt. Commissioner for Linguistic Minorities, Kolkata he was repatriated and posted in the Regional Office, Guwahati under the Dept. of Central Hindi Directorate as Deputy Director (Languages), which would be evident from the letter No. 1/45/98-35 dated 23.01.2003. The applicant accordingly joined for duty at Guwahati in terms of the above-mentioned order and the said fact would also be evident from the letter bearing No. F. No. 3-26/2000- Admn. dated 18.06.2003.

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

- 4.4 That the applicant begs to state that the Government of India, Ministry of Finance, Department of Expenditure, granted certain improvement and facilities to the Central Government civilian employees who are posted in the North Eastern Region vide O.M No. 200014/3/83-E.IV dated 14.12.1983 issued by the Government of India, Ministry of Finance, department of Expenditure. In terms of the aforesaid O.M, the Central Government civilian employees who are saddle with all India transfer liability are entitled to choice station posting after serving for a fixed tenure in the NE Region. The relevant portion of the O.M dated 14.12.1983 issued by the Government of India is reproduced below:

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

The need for attracting and retaining the services of competent officers for service in the North Eastern Region comprising the states of Assam, Meghalaya, Manipur, Nagaland, Tripura and the Union Territories of Arunachal Pradesh and Mizoram has been engaging the attention of the Government of some time. The Government had appointed a committee under the Chairmanship of Secretary, Deptt. of Personnel and Administrative reforms, to review the existing allowances and facilities admissible to the various categories of civilian central Government employees

19 NOV 2001

गुवाहाटी बेंच  
Guwahati Bench

serving in this region and to suggest suitable improvements, the recommendations of the committee have been carefully considered by the Government and the President is now pleased to decide as follows:

i) Tenure of posting/deputation.

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

Copy of extract of the O.M dated 14.12.1983 is annexed hereto for perusal of Hon'ble Tribunal as Annexure- III.

- 4.5 That it is stated that in view of the aforesaid O.M dated 14.12.1983 and 22.07.1998 the present applicant is entitled to get a choice station posting on completion of the fixed 2 years tenure. Moreover, in addition to the aforesaid benefit the applicant is also entitled to S.D.A. reimbursement of H.R.A for old station, additional benefit of L.T.C and a special weightage in service for serving in N.E. Region.
- 4.6 That while working as Deputy Director (Languages), under the Deptt. of Central Hindi Directorate, Guwahati, the applicant received on 16.02.2004 one order dated 10.02.2004 whereby the applicant was sought to be transferred and posted from Guwahati Region office to the Regional Office in Kolkata with immediate effect, even before completion of his fixed

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

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

- 4.7 That being aggrieved at his arbitrary transfer to Kolkata and non-consideration of his choice station posting to New Delhi, the applicant approached this Hon'ble Tribunal through O.A. No. 38/2004 praying for quashing of his order of transfer to Kolkata and for further direction upon the respondents for grant of choice station posting to the applicant. This Hon'ble Tribunal was pleased to stay the transfer order dated 10.02.04 vide it's interim order dated 20.02.2004 in O.A No. 38/2004 and finally disposed of the O.A No. 38/2004 vide it's order dated 25.03.04 with the direction as under; -

"..... Accordingly, applicant is directed to file a fresh and detailed representation mentioning his choice place of posting to the respondents within a period of one week from the date of receipt of this order. If such application is made, respondents shall consider the same and pass a reasoned order within one month's time thereafter. Adequate pre-conditional hearing shall also be given to the applicant.

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

Till the completion of the exercise, interim order dated 20.02.04 will continue."

Copy of the Hon'ble Tribunal's order dated 25.03.04 is annexed hereto as Annexure- V.

4.8 That in compliance with the above mentioned order this Hon'ble Tribunal, the applicant submitted one representation dated 01.04.2004 enclosing therewith a copy of the Hon'ble Tribunal's order dated 25.03.04, wherein the applicant described interalia his personal problems in details and gave an updated account of various transfers faced by him and further highlighted that prior to his posting at Guwahati, he had already served in Kolkata for about 4 years. The applicant in his representation also referred to his earlier representation dated 12.12.2002 for his posting in New Delhi and stated that his proposed transfer to Kolkata again was a punitive transfer. The applicant therefore reiterated his prayer for his posting to his choice station, New Delhi.

Copy of the representation dated 01.04.04 is annexed hereto for perusal of Hon'ble Tribunal as Annexure- VI.

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

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



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

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

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

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

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

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the applicant from Guwahati to Kolkata has been stayed by this Hon'ble Tribunal vide it's order dated 25.03.04 till disposal of the representation submitted by the applicant, but the respondents instead of disposing the representation submitted by the applicant issued the impugned order dated 05.05.2006 transferring the applicant from Guwahati to Kolkata that too when the interim order of the Hon'ble Tribunal was in force, as such impugned order dated 05.05.06 is bad in law and the same is liable to be declared to be void ab initio.

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

- 4.13 That thereafter, the applicant submitted a representation on 13.05.2006 to the Respondent No. 2 against the transfer order dated 05.05.2006 and prayed for consideration of his transfer to his choice station Delhi. Subsequently, he submitted another representation on 12.06.2006 to Respondent No. 1 for consideration of his prayer but to no result.

Copy of letter dated 02.08.06 is annexed hereto for perusal of Hon'ble Tribunal as Annexure- XII.

- 4.14 That thereafter, the Respondent No. 2 vide her impugned office memorandum No. F. No. 5-5/89 Admn. dated 28.07.2006 informed the applicant that his request for posting to Guwahati or New Delhi has been turned down by the Respondent No. 1 and further directed the applicant to report for duty to Kolkata immediately failing which he would be proceeded against as per rules. It is pertinent to mention here that the representation dated 01.04.2004 as directed by this Hon'ble Tribunal in it's order dated 25.03.04 passed in O.A. No. 38/2004 has not been disposed of by the respondents till date and without considering the grounds raised by the applicant in his representation dated 01.04.04 as well as without considering the observation and direction made by this Hon'ble Tribunal vide order dated 25.03.04, issued the cryptic, non-speaking order rejecting the representation dated 22.06.06 submitted by the applicant. Such action of the respondents indicates malafide exercise of power and vindictive attitude towards the applicant. Therefore, the Hon'ble Tribunal be pleased

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to set aside and quash the impugned non-speaking, cryptic order dated 28.07.2006.

Copy of impugned office memorandum dated 28.07.05 is annexed hereto for perusal of Hon'ble Tribunal as Annexure- XIII.

4.15 That the applicant most humbly begs to state that the respondents have been issuing orders time and again transferring the applicant to Kolkata but not inclined to consider his choice station posting to New Delhi which he is legitimately entitled to get in terms of the policy laid down by the Government vide O.M dated 14.12.1983, dated 22.07.1998 and 22.07.1998 as stated in para 4.4 hereinabove. The proposed transfer of the applicant to Kolkata does not involve any public interest but for some extraneous reasons only. It is relevant to mention here that the respondent No. 2 in her written affidavit dated 24.05.2005 submitted earlier before this Hon'ble Tribunal in connection with the Contempt Petition No. 12/2005 (in O.A. No. 38/2004) had stated in para 7 of the affidavit that the said transfer of the applicant to Kolkata has been made following complaints received against the applicant from some voluntary Hindi Organisations. It is evident therefore that the proposed transfer is punitive in nature which has been done on the basis of some unfounded and fabricated complaints and that too without bringing the same to the notice of the applicant and without giving him reasonable opportunity of being heard.

Further, in the same para No. 7 of her written affidavit as stated above, the Respondent No. 2 had also stated that since a police case has been filed against the applicant in the Court of Chief Judicial Magistrate, Kamrup, the applicant cannot be transferred from Guwahati at this stage. But surprisingly thereafter, the said respondent No. 2 has issued his order dated 05.05.06 transferring the applicant to Kolkata making thereby a clean Volta-face to what she stated earlier before this Hon'ble Tribunal.

As such, the proposed transfer of the applicant to Kolkata is malafide, fabricated, unfair, illegal, vindictive and violative of the principles of natural justice and on these scores the transfer order dated 05.05.06 is liable to be quashed and set aside.

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- 4.16 That the applicant begs to submit that finding no other alternative he once again approached this Hon'ble Tribunal by filing O.A. No. 209/2006 praying for a direction upon the respondents for choice station posting at New Delhi. The said O.A No. 209/2006 came before this Hon'ble Tribunal for consideration and the Hon'ble Tribunal after hearing Counsel of the parties and on perusal of materials on record was pleased to dispose of the said Original Application on 02.04.2007 with the direction to the applicant to submit a comprehensive representation to the first respondent within a period of three weeks from the date of receipt of this order. The Hon'ble Tribunal also directed the respondents to consider and dispose of the representation by passing speaking order based on the rule positions, observations made in the order dated 02.04.07 and the facts of the case communicating the same to the applicant within a time frame of three months thereafter.

Copy of the order dated 02.04.2007 in OA No. 209/06 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- XIV.

- 4.17 That the applicant immediately after receipt of the order dated 02.04.07 submitted a detailed representation on 25.04.2007, addressed to the respondent No. 1, enclosing therewith a copy of the order dated 02.04.07 passed in OA No. 209/2006. In his representation the applicant stated that he has served more than 4 years in the N.E. Region and have acquired a valuable legal right for consideration of his posting at the station of his choice in terms of O.M dated 14.12.1983. He also stated that he is facing dislocation of his family and college going unsettled children for more than ten years. In his representation applicant also stated that even after lapse of 12 years of revision of the recruitment rules for the post of Deputy Director (L), no transfer policy or guidelines was made and he is repeatedly being transferred from Guwahati to Kolkata then again from Kolkata to Guwahati whereas he has only three years of service left in his credit. Therefore, the applicant requested to transfer him at Delhi, which is his station of choice.



O.M dated 14.12.1983 and 22.07.1998. It is pertinent to mention here that salary of the applicant for the period from 01.05.2006 to 20.08.2006 and 01.12.2006 to till date has not been released by the respondents which reflects the vindictive attitude on the part of the respondents in order to harass the applicant for no fault of his own. Moreover, no work of Deputy Director (L) at Guwahati is entrusted to the applicant after issuance of order of status quo dated 21.08.2006 in O.A. No. 209/2006 by this Hon'ble Tribunal, such action on the part of the respondents reflects their vindictive attitude towards the applicant. As such it can rightly be concluded that the applicant is being harassed repeatedly transferring the applicant from Kolkata to Guwahati and again from Guwahati to Kolkata, just to deny his legitimate right of choice posting at New Delhi and such action on the part of the respondents is malafide, arbitrary, therefore the Hon'ble Tribunal be pleased to direct the respondents to transfer the applicant at his choice station Delhi in terms of O.M dated 14.12.1983 and 22.07.1998.

Copy of the impugned order dated 20.07.07 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- XVI.

- 4.19 That the applicant most respectfully begs to submit that in the written statement filed in C.P No. 12/2005 in O.A. No. 38/2004, the then respondent No. 3 in para 7 stated that applicant cannot be transferred from Guwahati since a criminal case is pending against him in the learned Court of C.J.M, Guwahati, again in para No. 5.2 of the written statement filed in O.A. No. 209/2006, the same respondents have stated that the applicant "would have earned the entitlement after completing the fixed tenure to the satisfaction of the Respondent, he cannot be considered for grant of the same", although there is no such pre-condition provided by the Govt. of India in O.M dated 14.12.83 to provide benefit of choice posting after completion of fixed tenure by the central Govt. employees and such action reflects vindictive attitude of the respondents towards the applicant. Therefore, it can rightly be concluded that action of the respondents towards the applicant to provide him benefit of choice posting is not fair, in other words the respondents denying the benefit to

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the applicant in one or other pretext just to harass the applicant. Moreover, since the suspension order against the applicant has been revoked and since there is no impediments whatsoever to consider the transfer of the applicant to his choice station New Delhi, more so when he is legitimately entitled to his choice station posting after having served for fixed tenure in the NE Region, in terms of the professed policy and O.M dated 14.12.1983 and dated 22.07.1998 of the Govt. of India as well in terms of the recommendation of 5<sup>th</sup> CPC. The applicant has also got no interest to remain posted at Guwahati, which he has confirmed earlier also. It is also relevant to mention here that the applicant has less than 3 years of service in his credit and as per 5<sup>th</sup> Central Pay Commissions recommendation central Govt. employees are entitled for choice station posting or retention at the same place of posting who have less than 3 years of service at his/her credit, as such applicant is entitled to the benefit of 5<sup>th</sup> CPC recommendation in his posting at Delhi.

4.20 That the applicant further begs to submit that the works of Kolkata office has all along been looked after from Headquarter office, New Delhi and in the event of transfer and posting of the applicant in New Delhi as prayed for, the same may be looked after by the applicant from New Delhi as it is going now.

Further there are two Deputy Directors (L), who have been working in New Delhi office for more than 20 (twenty) years and have never been posted outside. But the applicant is being denied a posting in Head office, New Delhi even when he is legitimately entitled for his choice station posting in New Delhi as per norms laid down by the Government. Therefore, the respondents could have posted one of the Deputy Director (L) serving in New Delhi for more than 20 years to Kolkata and in his place the applicant could have been accommodated, as such action of the respondent No. 2 in transferring the applicant repeatedly in Kolkata is vindictive, arbitrary, opposed to the spirit and direction contained in Govt. of India's O.M dated 14.12.1983 and also violative of Article 14 and 16 of the Constitution of India.

4.20A That it is stated that during the pendency of the Original Application, the Joint Secretary (L), Deptt. Of Higher Education, Ministry of Human Resource Development, New Delhi has issued the impugned speaking order dated 09.07.2007 communicated to the applicant vide D.O. letter bearing No. 7-10/2006-Admn dated 10.09.2007, whereby a speaking order, rejecting the representation of the applicant for consideration of choice station posting on the alleged ground that at present there is no vacancy available at New Delhi and also further stated that the O.M dated 14.12.1983 simply contain direction for consideration, therefore same cannot be insisted upon for transfer and posting of the applicant. So far vacancies at New Delhi in the cadre of Deputy Director are concerned, it has been stated that there is no vacancy at New Delhi at present and the two posts of Deputy Director at Headquarter are already occupied by one Dr. Dixit and the other post by another lady officer is due to retire in the year 2008. It is relevant to mention here that both the aforesaid Deputy Directors working in the HQ office, New Delhi for about last 20 years even prior to their promotion to the cadre of Deputy Director, they were also working in the HQ office, New Delhi, when the other officers working in the rank of Deputy Director are always transferred and posted in the field offices. Even on different occasions post of Deputy Director when fall vacant either at Guwahati or Kolkata, then the works are being entrusted to the Deputy Directors posted at New Delhi and those Deputy Directors are working in HQ Office used to discharge their duties sitting at New Delhi. It is stated in the affidavit earlier that the applicant is sought to be transferred and posted at Kolkata due to receipt of certain complaints. That was the ground taken way back in 2004-05, now it is October 2007, therefore there is no difficulty at this distant point of time on the part of the respondents to accommodate the applicant till the vacancy arises at New Delhi as stated in the impugned order dated 09.07.2007 that one post of Deputy Director is going to fall vacant due to retirement of Dr. Dixit.

On a mere reading of the impugned order dated 09.07.07 which was communicated to the applicant after a lapse of 2 months i.e. on 10.09.2007 deliberately. A mere reading of para 3 and 5 of the impugned



speaking order dated 09.07.2007, it appears that the respondents are deliberately rejecting the prayer of the applicant for his choice station posting on the pretext that there is no vacancy at New Delhi whereas other 2 Deputy Directors, who are working at New Delhi for about 20 years and they were never transferred out of New Delhi whereas applicant is serving out of New Delhi since 1998. As such it is reasonably understood that the respondents are protecting the two Deputy Director working at Headquarter, New Delhi with one pretext or other to continue in the same station years together, which is nothing but favouritism and the such action on the part of the respondents is opposed to the principle of equality laid down in Article 14 of the Constitution of India and on that score alone the impugned order dated 09.07.2007 communicated to the applicant vide D.O. letter bearing No. 7-10/2006-Admn dated 10.09.2007 is liable to be set aside and quashed. As such the Hon'ble Tribunal be pleased to set aside and quash the impugned speaking order dated 09.07.07 communicated through letter dated 10.09.07 and further be pleased to direct the respondents to transfer the applicant at his choice place at New Delhi in the light of the Govt. of India, Ministry of Finance O.M dated 14.12.1983, dated 01.12.1988 and O.M dated 22.07.1998 as well as in terms of 5<sup>th</sup> Central Pay Commissions recommendation.

(Copy of the impugned speaking order dated 09.07.07 communicated through letter dated 10.09.07 is enclosed as Annexure- XVII).

- 4.21 That the applicant most humbly begs to state that while he is staying at Guwahati for official duties, his children have been staying in New Delhi for their studies and career advancements and he has to run from Guwahati to New Delhi to attend his families. As such he does not have any reason for being interested for staying at Guwahati and has been trying for his posting in New Delhi but justice being denied to him. Be it stated that the impugned transfer order dated 05.05.2006 is a solitary transfer order and no one has been transferred in his place, and the applicant has not been released from his present place of posting till filing of this application as such the Hon'ble Tribunal be pleased to stay

operation of the impugned transfer order dated 05.05.2006 (Annexure- XI) and impugned order dated 20.07.2007 (Annexure- XVI) till disposal of the original application.

4.22 That due to non-consideration of his prayer for his choice posting in New Delhi, the applicant has been incurring heavy losses and sufferings. As such finding no other alternative, the applicant is approaching this Hon'ble Tribunal to interfere with and to protect the rights and interests of the applicant by setting aside the impugned transfer order dated 05.05.2006 (Annexure- XI) and order dated 20.07.2007 (Annexure- XI) further directing the respondents to grant choice station posting to the applicant to New Delhi as per the professed policy of the Government.

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

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

- 5.1 For that, the applicant has completed his fixed tenure of 2 years of service in the NE Region and is therefore entitled to all the special incentives including choice station posting as per professed policy of the Government.
- 5.2 For that, the applicant has acquired a valuable and legal right under the O.M dated 14.12.1983, 22.07.1998 as well as in terms of recommendation of 5<sup>th</sup> CPC for choice station posting at Delhi.
- 5.3 For that, the respondents have been issuing orders seeking to transfer the applicant to Kolkata with malafide intention and on extraneous considerations but denying his choice posting to New Delhi which he is legitimately entitled under law.
- 5.4 For that, the Hon'ble Tribunal vide it's order dated 25.03.04 in O.A. No. 38/2004 has stayed the previous order dated 10.02.04, whereby the applicant was sought to be transferred to Kolkata, till disposal of the representation filed by the applicant, as such issuance of the impugned order dated 05.05.06 when the representation is pending is not permissible

under the law and said order is a void order and the same is liable to be declared as void ab initio.

- 5.5 For that, the respondents instead of complying with the directions of the Tribunal as stated in the preceeding para, have once again issued the impugned transfer order dated 05.05.06 seeking to transfer the applicant to Kolkata and the impugned order dated 20.07.07 rejecting his bonafide prayer of choice station posting to New Delhi.
- 5.6 For that, the acts of the respondents are arbitrary, malafide, unfair, vindictive and opposed to the principles of natural justice.
- 5.7 For that, the applicant has submitted representations time and again praying for his choice station posting to New Delhi but justice denied to him.
- 5.8 For that, the respondent No. 2 has not considered any of the ground raised by the applicant in his representation dated 25.04.2007, which he submitted in compliance to the direction passed on 02.04.2007 by this Hon'ble Tribunal in OA No. 209/2006, as such the impugned order dated 20.07.07 is cryptic and the same is liable to be set aside and quashed.
- 5.9 For that, the impugned speaking order dated 09.07.07 has been passed mechanically and deliberately, rejecting the prayer of the applicant for choice station posting. More particularly the contents of para 3 of the impugned speaking order dated 09.07.07 makes it clear that the respondents with an ulterior motive, not following the professed norms laid down by the Govt. of India in O.M dated 14.12.1983 and on that score alone the impugned order dated 09.07.07 is liable to be set aside and quashed.
6. Details of remedies exhausted.  
That the applicant declares that he has exhausted all the remedies available to and there is no other alternative remedy than to file this application.

7. Matters not previously filed or pending with any other Court.

The applicant further declares that save and except the filing of O.A No. 38/2004 and O.A. No. 209/06 before this Tribunal he had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief (s) sought for

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

- 8.1 That the Hon'ble Tribunal be pleased to declare that the impugned order bearing F.No. 2-2/04-Admn. dated 05.05.2006 (Annexure- XI) as void ab initio.
- 8.2 That the Hon'ble Tribunal be pleased to set aside and quash the impugned office memorandum No. F. No. 5-5/89 Admn. dated 28.07.2006 (Annexure- XIII) and the impugned order bearing No. F. No. 7-10/2006-Admn. dated 20.07.2007 (Annexure- XVI) issued by the respondents.
- 8.3 That the Hon'ble Tribunal be pleased to direct the respondents to grant choice station posting to the applicant at New Delhi in the light of the Govt. of India, Ministry of Finance O.M dated 14.12.1983, dated 01.12.1988 and O.M dated 22.07.1998 as well as in terms recommendation of the 5<sup>th</sup> Central Pay Commission and till such consideration is made, the applicant be allowed to continue in his present post at Guwahati.
- 8.3 A That the Hon'ble Tribunal be pleased to set aside and quash the impugned order dated 09.07.2007 communicated to the applicant vide D.O. letter bearing No. 7-10/2006-Admn dated 10.09.2007. ,

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8.4 Costs of the application.

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

9. Interim order prayed for:

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

9.1 That the Hon'ble Tribunal be pleased to stay operation of the impugned transfer order dated 05.05.2006 (Annexure- XI) and order bearing letter No. F.No. 2-2/04-Admn. dated 20.07.2007 (Annexure- XVI) issued by the respondents till disposal of the Original Application.

9.2 That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicant for providing relief as prayed for.

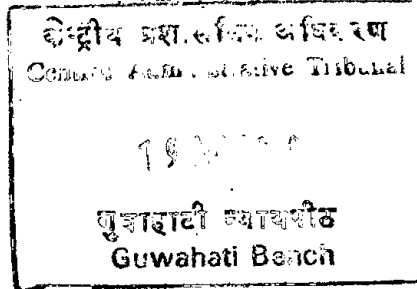
10. ....

11. Particulars of the I.P.O

- i) I.P.O No. :
- ii) Date of issue :
- iii) Issued from :
- iv) Payable at :

12. List of enclosures:

As given in the index.



VERIFICATION

I, Shri Krishna Kumar Singh, S/o- Late Badri Narain Singh, aged about 57 years, working as Deputy Director (Languages), in the office of the Central Hindi Directorate, Guwahati, applicant in the instant amended original application, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 17<sup>th</sup> day of November 2007.

*(Signature)*

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**ANNEXURE-I**

Speed Post

संख्या/No. 1/45/98-35

भारत सरकार

Government of India

सांसाधिक न्याय एवं अधिकारिता मंत्रालय

Ministry of Social Justice & Empowerment

भारत के भाषाजात अल्पसंख्यकों के आयुक्त

Commissioner for Linguistic Minorities in India

टेलीफोन/ Telephone: 2468565, 2468566

टार/ Telegram: LIMINCOM

हिन्दी टार/ Hindi Telegram: भाषाअल्पसंख्यक

फैक्स नं० / Fax No. 0532-2468544

40, अमर नाथ झा मार्ग

40, Amar Nath Jha Marg

दुहाबाद-211002

Allahabad -211002

दिनांक/ Dated: 29.01.2003

To,

The Director,  
Central Hindi Directorate,  
Ministry of Human Resource Development (Department of  
Secondary Education & Higher Education),  
West Block-VII, Rama Krishna Puram,  
New Delhi.

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

Sir,

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

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

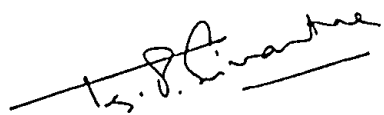
Yours faithfully,

(T.P. Srivastava)  
Deputy Commissioner

Attested  
Dated  
Advocate

## Copy forwarded to:

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

  
(T.P. Srivastava)  
Deputy Commissioner



- 23 -

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

ANNEXURE-II

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

Dated: 18-06-2003.

ORDER

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

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

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

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

  
( Dr.P L Taneja )  
Director

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

Copy to:-

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

Attested  
Dy. Director  
Guwahati

EP-24

ANNEXURE-III

ANNEXURE-III (Extract)

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

New Delhi, the 14<sup>th</sup> Dec '83

OFFICE MEMORANDUM

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

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

ii) Lenure of posting/deputation.

Attested  
Advt  
Advocate

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

Sd/- S.C. MAHALIK

Joint Secretary to the Government of India

ANNEXURE-IVTranslated from HindiANNEXURE-IV.

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

West Block-7, R.K. Puram

New Delhi-110 066.

Dated 10-02-2004

Order

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

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

Sd/-

(Dr. Pusp Lata Tanija)

Director

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

Copy to-

attested  
R.K. Das  
Asst. Secy

ANNEXURE - V

SECTION 4  
(RULE 2)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH.

ORDER SHEET

Orig. App/ Misc. Petn/ Cont. Petn/ Rev. Appl.

CP 38706

In O.A.

Name of the Applicant(s) K K Lingh

Name of the Respondent(s) ...

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

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

CCSC

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

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

24  
✓  
✓

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

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

Cont./2



Attested  
With  
Advocate

Contd.

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

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

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

Sd/MEMBER (ADM)

Certified to be true Copy  
 प्रमाणित प्रतिलिपि

*[Handwritten Signature]*  
 26/3/04

Section Officer (T)  
 C.A.T. GUWAHATI BANCH  
 Guwahati-781005

*[Handwritten Signature]*  
 26/3/04



9  
From

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

-29-

~~XXXXXXXXXX~~ 14/3  
ANNEXURE - VI

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

Dated 01st April 2004.

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

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

Respected Sir,

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

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

Collected  
B.K.R.  
A. J. J.

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

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

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

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

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

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



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

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

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

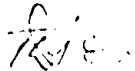
N\*J\*

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- 4 -  
4/6  
whether it is a fact that the undersigned has been transferred to Kolkata on the basis of the complaint lodged by any Voluntary Hindi Organisations or any other quarter.

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

With regards,

Yours faithfully,

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

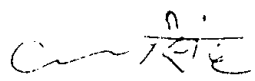
Copy to:- The Director

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

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

Encl: As stated.

Yours faithfully,

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

N\*J\*

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

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

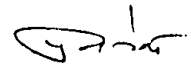
West Block-VII, R.K. Puram,  
New Delhi-110066  
Dated: 7.2.2005

ORDER

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

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

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

  
(Dr. P.L. Taneja)  
Director

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

*Attended  
with  
Advocate*

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164  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

48  
ANNEXURE VIII

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

Date of Order: This the 22<sup>nd</sup> day of July 2005.

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

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

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

.....Petitioner

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

- Versus -

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

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

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

.....Alleged Contemners

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

.....



Attested  
By  
Advocate

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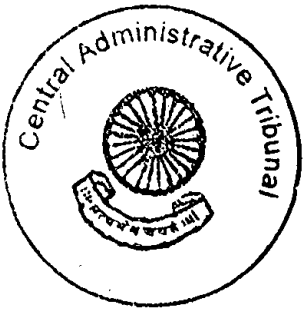
ORDER (ORAL)

SIVARAJAN. J. (V.C.)

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

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

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



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

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

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

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

De. /



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

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

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

Sd/ VICE CHAIRMAN  
Sd/ MEMBER (A)



TRUE COPY  
प्रतिलिपि

*[Signature]*  
26-7-05  
अनुभाग अधिकारी  
Section Officer (Judl)  
Central Administrative Tribunal  
GUWAHATI-5.  
*[Signature]*  
26/7

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

22. Issue  
27/4/06

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

ORDER

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

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

  
(Dr. P.L. Taneja)  
Director

Copy to:

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

21/5/06  
27/4/06

Assisted  
Mulla  
Advocate

0/0



NO. REG. F. 2-9/Vitta/36  
Govt. of India  
Central Hindi Directorate,  
Ministry of Human Resource Development,  
Regional Office Guwahati, (N.E.)  
Jayanagar, Khanapara, Guwahati- 22.

ANNEXURE-X

To,

Dated- 5/7/2006.

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

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

Sir,

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

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

*Attested  
Advocate*

Your's faithfully

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

भारत सरकार

केंद्रीय हिंदी निदेशालय

मानव संसाधन विकास मंत्रालय

(माध्यमिक और उच्चतर शिक्षा विभाग)

**ANNEXURE-XI**

पश्चिमी खंड-7, आर.के. पुरम,

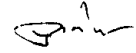
नई दिल्ली-110066

दिनांक 5. 5 .2006

**आदेश**

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

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



(डा० पुष्पलता तनेजा)

निदेशक

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

## प्रतिलिपि -

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

Attested  
Dutta  
Advocate

21  
-47-  
55  
Rgd.  
ANNEXURE - XII  
NO. RGS.F.1-1/98/Admn/  
Govt. of India,  
Central Hindi Directorate,  
Ministry of Human Resource Development,  
Regional Office Guwahati, (N.E)  
Jayanagar, Khanapara, Shy. - 22.

To,

Dated - 2/8/2006.

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

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

Madam,

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

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

Your's faithfully,

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

Attested  
Advocate

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Regd.

ANNEXURE-XVII

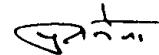
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F.No. 5-5/89 Admn.  
Government of India  
Central Hindi Directorate  
Ministry of Human Resource Development  
(Department of Secondary and Higher Education)

West Block -7, R.K.Puram,  
New Delhi 110066  
Dated: 28-7-2006

**OFFICE MEMORANDUM**

The representation of Sh. K.K. Singh, Deputy Director(L) dated 22nd June 2006, addressed to Education Secretary was submitted to ES for his kind orders. The representation of Sh. Singh was examined and the ES has turned down his request for posting to Guwahati or New Delhi. Sh. K.K.Singh is accordingly hereby directed to report immediately to Kolkata, Regional Office of the Directorate, failing which, he will be proceeded against as per rules.



(Dr.P.L.Taneja)  
Director

**Sh. K.K. Singh, Dy. Director (L),  
C/o TAGS, House No. 6  
Main Road, Kharghuli,  
Guwahati-781001**

*Attested  
Banta  
Advocate*

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

Original Application No. 209 of 2006.

Date of Order: This, the 2nd day of April, 2007.

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

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

..... Applicant.

By Advocates S/Shri M.Chanda, S.Nath, G.N.Chakraborty & Mrs.  
Bhattacharya.

Versus -

1. The Union of India  
Represented by the Secretary to the  
Government of India  
Ministry of Human Resource Development (HRD)  
New Delhi- 110 001.

The Director  
Govt. of India  
Central Hindi Directorate  
Ministry of Human Resource Development (HRD)  
West Block-7, R.K.Puram.

Dr.P.L.Taneja  
Director  
Central Hindi Directorate  
West Block-7, R.K.Puram.  
New Delhi - 110 066.

The Administrative Officer  
Central Hindi Directorate  
West Block-7, R.K.Puram.  
New Delhi - 110 066.

.....Respondents.

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

\*\*\*\*\*



*Attested  
By  
Advocate*

ORDER (ORAL)

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

The applicant was initially appointed as Assistant Director (Linguistic) in the office of the Central Hindi Directorate, New Delhi on 13.02.1989. On 23.08.1996 he was promoted to the post of Deputy Director (Languages) and thereafter he was transferred and posted to Kolkata in the same capacity. In April, 1998 he was transferred to Guwahati. However, after serving three months in Guwahati he was temporarily transferred and posted to New Delhi. Thereafter, Applicant was appointed as Assistant Commissioner on deputation basis at Kolkata under the Commissioner of Linguistic Minorities in India. After four years of serving there he was repatriated and posted again at Guwahati vide order dated 18.6.2003 (Annexure-II). From the averment made in O.A. it is contended that as per Office Memorandum dated 12.12.1983 (Annexure-III) the Central Govt. civilian employees who are saddled with all India transfer liability are entitled to their choice of posting after serving for a fixed tenure in the North Eastern Region. Applicant claimed that as per the said OM he is entitled to get his choice place of posting on completion of fixed two years tenure in North East Region. But while serving as Deputy Director (Languages) at Guwahati office vide order dated 10.02.2004 he was sought to be transferred again to Kolkata. Applicant submitted representation for his choice posting at New Delhi on 15.02.2004 (Annexure-V). Being aggrieved with the aforesaid transfer and non-



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consideration of his choice place of posting the Applicant filed O.A. No.38/2004 before this Tribunal. This Tribunal vide its order dated 20.02.2004 stayed his transfer order. The O.A. was finally disposed

of directing the Applicant to file fresh representation with a further direction to the Respondents to consider his representation by

passing reasoned order within a time frame. Interim order was extended till the completion of the exercise. Pursuant to the direction of this Tribunal Applicant filed representation on

01.04.2004. Vide order dated 07.02.2005 the Applicant was put under suspension since criminal cases were registered against him.

C.P. No.12/2005 so filed by the Applicant was dismissed vide order dated 22.07.2005. Order of suspension was revoked by the

Respondents vide order dated 25.04.2005 (Annexure-XI). Thereafter on 05.05.2005 a fresh order has been issued to the Applicant

transferring and posting him once again to Kolkata while his representation was pending for consideration. Applicant made

representations on 13.05.2005 and 12.06.2005 for posting his at his choice place i.e, New Delhi but vide impugned order dated

28.07.2006 (Annexure-XVI) his request was turned down directing him to report for duty to Kolkata immediately. Aggrieved by the

action on the part of the Respondents, the Applicant has approached this Tribunal by way of this O.A. seeking the following

main reliefs:-

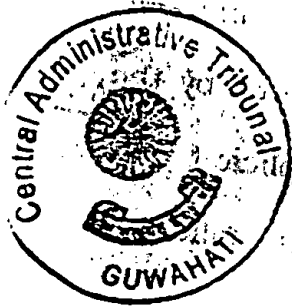
- "8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned office memorandum No. F.No.5-5/89 Admn. dated 28.07.2006 (Annexure-



XVI) and the transfer order dated 05.05.2006 (Annexure-XIII) issued by the respondents.

8.2 That the Hon'ble Tribunal be pleased to direct the respondents to grant choice station posting to the applicant at New Delhi and till such consideration is made, the applicant be allowed to continue in his present post at Guwahati..”

2. Respondents have filed detailed reply statement contending that the Applicant joined his duty at Guwahati on 11.04.2003. While working at Guwahati large number of complaints were received against him and on enquiry most of the complaints that were made against him were substantiated. Therefore and as his behaviour was undesirable, he was transferred to Kolkata vide order dated 10.02.2004. The Applicant was arrested by Dispur Police on 31.01.2005 and was detained in police custody exceeding 48 hours and therefore he had to be placed under suspension as per Rule 10 of CCS (CCA) Rules, 1965 on 07.02.2005. The cases are still pending before the Chief Judicial Magistrate, Kamrup and Session Court, Kamrup. Applicant's deemed suspension was reviewed by a Committee and the Committee recommended revocation of his deemed suspension. The Committee also recommended shifting of the Applicant from Guwahati for re-building office's image and the said recommendations were accepted HRD Minister. Accordingly, his suspension was revoked and order dated 05.05.2005 transferring & posting the Applicant to Kolkata in vacant post was issued. The Applicant failed to comply with the decision for his shifting to Kolkata and he has no valid ground for challenging the same.



*[Handwritten signature]*



Respondents has specifically stated in their reply statement that the Applicant would have earned entitlement for claim of choice of posting after completing two years of fixed tenure including inter alia other conditions. He joined the Guwahati Office on 11.04.2003 and was transferred to Kolkata on 10.02.2004 and his claim for choice place of posting was well ahead of completion of fixed tenure and hence his claim has no validity. After the personal hearing so afforded to the Applicant and keeping in mind the findings of the enquiry his request for choice station posting was found completely devoid of merits and therefore, was rejected by the Respondents.



The Applicant has also filed a rejoinder reiterating the contentions made in the O.A. and further contended that he has already completed his fixed tenure North East. He submitted that although the Respondents had temporarily utilized his services in Central Hindi Directorate, Delhi and also under deputation in Kolkata for sometime, he was holding his substantive post in the Regional Office, Guwahati all along from April, 1998. The Applicant has also submitted certain documents by a separate Affidavit.

I have heard Mr. M. Chanda, learned counsel for the applicant and Mr. M.U.Ahmed, learned Addl. C.G.S.C. for the Respondents. Learned counsel for the parties have also taken my attention to the various pleadings, materials and evidence placed on record. The short question for consideration, leaving aside all other contentions of malafides, criminal cases, integrity of the Applicant etc. which are not very germane is whether the Applicant

is entitled for his choice posting or not. Learned counsel for the Applicant has relied upon a judgment of this Hon'ble Tribunal passed on 01.03.2002 in the case of Tapan Kumar Chakraborty v. Union of India and Others in O.A. No.487/2001 published at Page-84 of the Swamysnews, wherein this Tribunal has held as under:-

" The facts are not in dispute. The impugned order of transfer, dated 13-11-2000, has been subject matter of adjudication before this Tribunal. The direction was given to the respondents to consider the case of the applicant for choice of posting. The submission made by the Respondents that the applicant has not made any application for choice of posting cannot be accepted, because the applicant had come before this Tribunal for consideration of choice of posting. No material has been placed on behalf of the respondents to show that the transfer guidelines issued by the Respondents vide their letter, dated 25-1-2000, are not applicable to the applicant.



As mentioned above, it is stated in Para 19 of the guidelines that the guidelines apply to non-teaching staff also to the extent applicable. Reference to the guidelines does not show that the staff working in Regional Office is outside the purview of transfer guidelines. The submission of the Respondents on the material before us cannot be sustained. The rejection of the claim of the applicant in the impugned order, dated 4-12-2001, is not considered justified, as the same is not based on any material. Normally, the transfer orders are not interfered by the Tribunal unless the orders are found to be arbitrary, *mala fide* or without justification. The applicant had come before this Tribunal earlier. The respondents were directed to consider his request. Again his request was turned down taking a new stand. The rejection of applicant's representation could not be supported by any material. The impugned order, dated 4-12-2001, is found to be arbitrary.

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The impugned order, dated 4-12-2001, is accordingly set aside. The respondents, are directed to consider the case of the applicant for transfer to his choice of posting at Kolkata as per guidelines, dated 25-1-2000, and to accommodate the applicant at Kolkata against existing available vacancy. The Respondents are directed to complete the process within a month of the receipt of this order. The interim order, dated 3-1-2002, shall continue to operate till the completion of the exercise.



Application is allowed as indicated above. There shall however, no order as to costs."

It is an admitted fact that a person who has completed 2/3 years of service in North East is entitled to get his choice station. As far as the Applicant is concerned, in the reply statement filed in O.A. 38/2004 the strict contention taken by the Respondents was that since the Applicant has joined in Guwahati office only on 11.04.2003 he had not completed his tenure. Regarding his transfer to Kolkata, this Court vide order dated 21.08.2006 has directed the Respondents to maintain status quo as far as the Applicant was concerned. It is quite clear that the by virtue of the Court order, or otherwise, the Applicant is continue in Guwahati till date. It is borne out that the Applicant has completed his tenure period i.e, for two years in Guwahati by this time. Therefore, this Court is of the view that without going to the merits of the case and the allegations made in the O.A. as well as in the reply statement justice will be met if a direction is given to the Applicant to submit fresh representation and to Respondents to consider the same for his choice place of posting as per rule within a time frame.

L

5. Therefore, Applicant is directed to submit a comprehensive representation with all material evidence to the first Respondent within a period of three weeks from the date of receipt of this order. On receipt of such representation, the first Respondent or any order competent authority as directed by him shall consider and dispose of the representation by passing speaking order based on the rule positions, observations made above and the facts of the case communicating the same to the Applicant within a time frame of three months thereafter.

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

However, status quo order that has already been passed on 21.08.2006 shall continue till the completion of the exercise as directed above.

Sd/ VICE CHAIRMAN



*Attended  
Dutta  
Advocate*

TRUE COPY

प्रतिरूपि

*[Signature]* 11.4.07

अनुभाग प्रभारिणी

Section Officer

Central Administrative Tribunal

गुवाहाटी

C.A.T. Guwahati

गुवाहाटी-5

*[Signature]* 11/4/07

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Annexure - XV

From : K.K. Singh  
Central Hindi Directorate  
Guwahati - 781022  
25th April 2007

To,  
**The Hon'ble Secretary to the Govt. of India**  
**Deptt. of Higher Education, M/o H.R.D.**  
**Sashtri Bhawan, New Delhi - 110001**  
(Through proper channel)

**Subject : Representation for posting at Delhi (station of choice)**  
**after completion of tenure in the N.E. region.**

Sir,

It is to draw your kind attention to the Hon'ble C.A.T. Guwahati Bench directions contained in their Lordship's order dated 2nd April 2007 on the Applicant's Original Application no, 209/2006 (enclosed) regarding above and to pray your honour for favourable consideration of my posting in the Central Hindi Dte. at Delhi. This may be noted here that against the prescribed tenure of two years in the matter, I have served more than four years in the N.E. region and have acquired a valuable legal right for consideration of my posting at the station of my choice i.e. New Delhi in terms of Govt. of India, M.F., O.M. No. 20014/3/83-E, IV dated 14th December 1983 read with O.M. No. 20014/3/83 E, IV dated 30th March 1984, 27th July 1984 and other subsequent Govt. orders in the matter. I have been facing dislocation of my family and college going, unsettled children for more than ten years now.

Attested  
Advocate

When on promotion to the cadre of Dy. Dir. (L) from the post of A.D. (L) having fixed H.Q. at New Delhi which was my initial appointment in the Deptt. through U.P.S.C., I was arbitrarily transferred to Kolkatta in 1996. This was done by revising the R.R. <sup>by which</sup> ~~for~~ four posts of Dy. Dir. (L) in the regional offices were brought into 100% promotion channel from the feeder cadre of A.D. (L) based only at New Delhi. However even after a lapse of about 12 years of revision of the Recruitment rules, no transfer policy or guideline was made for these posts.

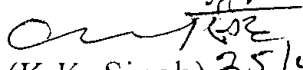
It may be further noted that since the said revision of the R.R.'s five A.D.s (L) have been promoted in the cadre of D.D. (L) but only I have been singled out for repeated transfers (New Delhi to Kolkata to Guwahati then again from Kolkata to Guwahati and now from Guwahati to Kolkata) during the last ten years. In the process I and my family had to suffer a lot.

Presently my all the three children are either pursuing P.G. & U.G. courses or struggling to settle for a job. My wife is a chronic orthopeadic patient needing regular care and assistance. My elder son and a daughter are also of marriageable age and as head of the family, I have to arrange for their suitable matches in my community in Hindi Speaking North India, as I originally belong to VARANASI in U.P.. In addition to this

only three years are left for my superannuation and I have to finish all these tasks and also some post retirement planning in the next few years. It is needless to add that C.H.D. has only one of its office i.e. H.Q. at Delhi in Hindi Region which is adjacent to U.P.

In view of the submissions made above, I very humbly and with great respect pray your honour to kindly allow my posting at Delhi which has been and is my station of choice since long. I shall ever remain grateful for your kindness in this regard.

Encl : as stated

Yours Faithfully,  
  
(K.K. Singh) 25/4/07  
Dy. Dir. (L, C.H.D.)  
Guwahati

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Annexure - XVI

F.No.7-10/2006-Admn.  
Government of India  
Central Hindi Directorate  
Ministry of Human Resource Development  
(Department of Higher Education)

West Block-VII, R.K. Puram.  
New Delhi-110066  
Dated: 20.7.2007

**OFFICE ORDER**

In compliance with the directions of Hon'ble CAT's order dated 2<sup>nd</sup> April, 2007, the representation dated 26.4.2007 of Sh. K.K. Singh, Deputy Director (L) has been examined by the Administrative Ministry. After careful consideration of all facts, the Officer's representation and the rule position, the Ministry is of the opinion that the request of Sh. K.K. Singh can not be acceded to since there is no vacancy at Delhi at present. Since, Sh. Singh's orders for transfer to Kolkata have already been issued on 5.05.2006 and have been stayed till the disposal of his representation, his orders are deemed to be restored with this order and Sh. K.K. Singh is hereby directed to report forthwith to Kolkata, his new place of posting.

He is also directed to inform the undersigned about his joining the Kolkata Office. He will be eligible for joining time and TA as per Government rules.

  
(Prof. K. Bijay Kumar)  
Director

**Sh. K. K. Singh, Dy. Director (L),  
C/o TAGS, House No.6,  
Main Road, Kharghuli,  
Guwahati-781001.**

**Copy to:**

1. Central Administrative Tribunal, Guwahati Bench, Guwahati-5 in r/o OA No.209 of 2006.
2. DDO, Regional Office, CHD, Guwahati.
3. DDO/Controlling Officer, Regional Office, CHD Kolkata for information and necessary action.
4. PA to Director.
5. PA to AO.
6. All Dy. Directors.
7. Regional Offices of Hyderabad, Chennai, Guwahati and Kolkata for information.
8. Account Section-2 copies.
9. All Bureau Heads.
10. Office Order folder.

*Attested  
By  
Advocate*





Phone Off. : 6100758, 6105211  
Residence : 3387784, 3070755  
Tele Fax No. : 6100758, 6103160  
www.hindinideshalaya.nic.in

तार : राजभाषा  
Tele : RAJBHASHA

ANNEXURE - XVII

DO No. 7-10/2006-Admn.

Prof. K. Bijay Kumar  
निदेशक  
DIRECTOR

भारत सरकार  
GOVERNMENT OF INDIA  
केंद्रीय हिंदी निदेशालय  
CENTRAL HINDI DIRECTORATE  
मानव संसाधन विकास मंत्रालय  
MINISTRY OF HUMAN RESOURCE DEVELOPMENT  
(माध्यमिक शिक्षा और उच्चतर शिक्षा विभाग)  
(Department of Secondary Education & Higher Education)  
पश्चिमी खण्ड-VII, रामकृष्ण पुरम्  
WEST BLOCK-VII, R. K. PURAM

नई दिल्ली-110066

दिनांक : 10.9.2007

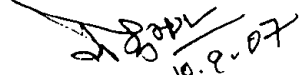
New Delhi-110066

Date :

Dear Sh. Singh,

In continuation of Office Order No.7-10/2006-Admn. Dated 20.7.07, I am to inform you that in pursuance of the directions issued by the Hon'ble CAT, Guwahati Bench in judgement of 2.4.07 in the OA No.209 of 2006, the CAT authorised the Secretary, HE to nominate some other competent authority to dispose of the case. Secretary, HE has accordingly, on file, directed Sh. Keshav Desiraju, Joint Secretary (Languages) to examine your representation addressed to the Secretary, HE and take a view. Accordingly, Sh. Keshav Desiraju has issued a Speaking Order. A copy of the Speaking Order is enclosed herewith.

Yours sincerely,

  
(Prof. K. Bijay Kumar)

Sh. K.K. Singh,  
Dy. Director (L),  
C/o TAGS, House No.6,  
Main Raod, Kharghuli,  
Guwahati - 781 001

Attested  
Advocate

**Copy of the Speaking Order issued by Sh. Keshav Desiraju,  
Joint Secretary (L)  
Ministry of Human Resource Development  
Department of Higher Education**

Sri K. K. Singh, Dy. Director, CHD, has submitted a representation addressed to the Secretary, Higher Education in pursuance of the directions issued by the Hon'ble CAT, Guwahati Bench in judgement of 2.4.07 in the OA No. 209 of 2006. The CAT judgement authorises Secretary HE to nominate some other competent authority to dispose of the case. Secretary, HE has accordingly, on file, directed me to examine the representation and take a view.

1. Sri K. K. Singh had filed an OA before the CAT challenging the posting order dated 5.5.06 in which he was posted to the Kolkata office in the wake of revocation of his deemed suspension. At the time of his suspension he was posted at Guwahati. In judgment of 2.4.07, he has been allowed to make a fresh representation that is to be examined with reference to the rule position and the facts of the case.
2. In his representation, Sri K. K. Singh has asked for a posting in the Central Hindi Directorate at New Delhi as, to his mind, he has completed the prescribed tenure of 2 years in the North-Eastern Region. He has also alleged that he is the only officer who has been singled out for repeated transfers from New Delhi to Kolkata and then again from Kolkata to Guwahati and vice versa.
3. The relevant rules relating to tenure in the North-Eastern region appear to be D/Expenditure OM of 14.12.83 read with OM of 30.3.84 and 27.7.84. The operative part of these guidelines are that officers "on completion of the fixed tenure of service.. may be considered for posting to a station of their choice as far as possible". Sri K. K. Singh has completed two years at Guwahati, which station he has joined on 11.4.03. However, there is absolutely no guarantee that he obtains a fresh posting to station of his choice. The rules are clear that an officer in his situation *may* be considered of a posting of choice. It is not binding on the authorities to compulsorily consider such a request. The rules are further clear that such transfer should be made *as far as possible*. The implication is that if it were not possible then nothing needs to be done.
4. The question remains therefore whether the facts of the case require that Sri K. K. Singh's request be considered at all and whether a posting of his choice is currently possible. The relevant facts are as follows.

Smuloy  
A. K. S.  
3/19/07

- (i) Sri Singh was on deputation with Office of Commissioner of Linguistic Minorities at Kolkata from 6.11.98 to 3.2.2003.
- (ii) After repatriation, he was posted to Guwahati office. Following complaints, which were substantiated on enquiry, Sri Singh was transferred to Regional Office Kolkata on 10.2.2004.
- (iii) Sri Singh challenged the transfer order before the Guwahati Bench of CAT through the OA No. 38/2004. Government was directed to examine Sri Singh's representation and dispose of the same.
- (iv) The Department was about to pass orders when the Assam Police, in an unrelated development, arrested Sri Singh. As he remained 48 hours in the police custody he was placed under deemed suspension. The deemed suspension was subsequently revoked and Sri Singh transferred to Kolkata vide order of 5.5.2006. Sri Singh challenged this order in CAT and continued in Guwahati on the strength of stay order. This stay order continues to operate till the disposal of his current representation.

5. It is also relevant that as there are only two posts of Deputy Director at Headquarters. Posting Sri Singh at Delhi will mean that someone will need to be posted out of Delhi. One of these two officers, Dr. Dixit, is due to retire next year. The other officer is a lady.

6. The rules applicable to such cases, the facts of this specific case and CAT's directions have all been duly considered. The simple position is that Sri K. K. Singh, Deputy Director has completed over three years at his posting in Guwahati and is hence eligible to be considered for posting out of the region. Rules permit that his choice in the matter may also be considered. However, there are other facts also to be considered. His tenure at Guwahati has not been entirely in compliance of Government orders. He was transferred out of Guwahati on the basis of complaints, and secured a stay on his transfer. He was subsequently arrested on unrelated charges. When, as a means of restoring morale in the office, he was transferred out of Guwahati, he again secured a stay on his transfer. For whatever reason, Sri Singh has been unwilling to comply with orders of transfer out of Guwahati. His current insistence on a posting outside Guwahati is difficult to understand given that he has so strenuously resisted any attempt in the past to transfer him from Guwahati.

7. It may also be difficult to accommodate Sri Singh in Delhi because there are at present no vacancies. It does not also appear possible to create a vacancy to adjust him. At the same time the office has consistently taken the view that he should be posted out of Guwahati in the interest of General morale in the office.

*True Copy  
A. K. S. S. S.  
3/1/08*

In consideration of all facts, the officer's representation, the rule position and the directions of the Hon'ble CAT, I am satisfied that Sri K. K. Singh needs to be transferred from Guwahati. However, his request for a posting in Delhi can not be granted as there is no vacancy at the present time. In any case he has no absolute claim to a post of his choice. All that the rules require is that his choice of posting be considered. His choice of a Delhi posting has been duly considered, but it is not possible to accommodate him at present. Since his orders for transfer to Kolkata have already issued on 5.5.06, and have been stayed till the disposal of his representation, the orders may be deemed to be restored with this order. Sri K. K. Singh may accordingly report forthwith at Kolkata, his new place of posting.

Ed -

(Keshav Desiraju)  
Joint Secretary (Languages)  
Department of Higher Education  
9<sup>th</sup> July 2007

True copy  
Attached

22/7/07  
219/07

- 1 AUG 2007

गुवाहाटी न्यायपीठ  
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

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

O. A. No. 207 /2007

Shri Krishna Kumar Singh  
-Vs-  
Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

- 23.01.2003- Applicant was transferred and posted in the Regional Office, Guwahati under the Dept. of Central Hindi Directorate as Deputy Director (Languages), vide order dated 23.01.03. He joined for duty at Guwahati on 18.06.2003 and continuing till date.  
(Annexure- I & II)
- 14.12.1983- Government of India, Ministry of Finance, Department of Expenditure, issued O.M No. dated 14.12.83, providing the Central Government civilian employees the benefit of choice station posting after serving for a fixed tenure of 2/3 years in the NE Region.  
(Annexure- III)
- 10.02.2004- Applicant was sought to be transferred and posted from Guwahati Regional Office to Regional office, Kolkata. (Annexure- IV)
- 25.03.2004- Applicant approached this Hon'ble Tribunal by filing O.A. No. 38/2004, praying for direction upon the respondents for grant of choice station posting at New Delhi. This Hon'ble Tribunal was pleased disposed of the said O.A. vide it's order dated 25.03.04. with the direction to the applicant to submit representation and also with the direction to the respondents to provide personal hearing to the applicant and to dispose of the representation and till such time interim order shall continue. (Annexure- V)
- 01.04.2004- Applicant submitted one representation in compliance with the direction passed by this Hon'ble Tribunal but the respondents did not replied the said representation till 29.07.06. (Annexure- VI)
- 07.02.2005- Applicant was placed under suspension as because he was trapped in a criminal case in a planned manner and an FIR was lodged against him at Dispur Police Station, Guwahati on 31.01.05.  
(Annexure- VII)

- 22.07.2005- Applicant approached this Hon'ble Tribunal by filing C.P No. 12/2005, which was dismissed vide judgment and order dated 22.07.05. (Annexure- VIII)
- 25.04.2006- Suspension order of the applicant was revoked vide order dated 25.04.06. (Annexure- IX)
- 05.05.2006- Respondents issued impugned order dated 05.05.06 transferring the applicant from Guwahati to Kolkata, while representation dated 01.04.04 of the applicant is pending before the respondents and the order dated 25.03.04 of this Hon'ble Tribunal has not been complied with. (Annexure- XI)
- 28.07.2006- Respondent No. 2 issued impugned office memorandum dated 28.07.06 rejecting choice posting of the applicant. (Annexure- XIII)
- 02.04.2007- Hon'ble Tribunal disposed of the OA No. 209/06 directing the applicant to submit comprehensive representation and also directed the respondents to dispose of the representation according to rule position. (Annexure- XIV)
- 25.04.2007- Applicant submitted representation in compliance to the direction passed by this Hon'ble Tribunal in OA No. 209/06. (Annexure- XV)
- 20.07.2007- Respondent No. 2 issued impugned order dated 20.07.07 rejecting prayer of the applicant for choice posting at Delhi. (Annexure- XVI)

Hence this Original Application.

PRAYERS

1. That the Hon'ble Tribunal be pleased to declare that the impugned order bearing F.No. 2-2/04-Admn. dated 05.05.2006 (Annexure- XI) as void ab initio.
2. That the Hon'ble Tribunal be pleased to set aside and quash the impugned office memorandum No. F. No. 5-5/89 Admn. dated 28.07.2006 (Annexure- XIII) and the impugned order bearing No. F. No. 7-10/2006-Admn. dated 20.07.2007 (Annexure- XVI) issued by the respondents.
3. That the Hon'ble Tribunal be pleased to direct the respondents to grant choice station posting to the applicant at New Delhi in the light of the

Covt. of India, Ministry of Finance O.M dated 14.12.1988, dated 01.12.1988  
and O.M dated 22.07.1998 as well as in terms recommendation of the 5<sup>th</sup>  
Central Pay Commission and till such consideration is made, the applicant  
be allowed to continue in his present post at Guwahati.

4. Costs of the application.
5. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

**Interim order prayed for:**

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

1. That the Hon'ble Tribunal be pleased to stay operation of the impugned transfer order dated 05.05.2006 (Annexure- XI) and order bearing letter No. F.No. 2-2/04-Admn. dated 20.07.2007 (Annexure- XVI) issued by the respondents till disposal of the Original Application.
  2. That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicant for providing relief as prayed for.
-

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

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

**Title of the case** : O.A. No. 207 /2007

**Shri Krishna Kumar Singh.** : Applicant.

**-Versus-**

**Union of India & Ors.** : Respondents.

Central Administrative Tribunal  
Guwahati Bench

1

गुवाहाटी न्यायापीठ  
Guwahati Bench

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Filed By:

Date:-

Advocate



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

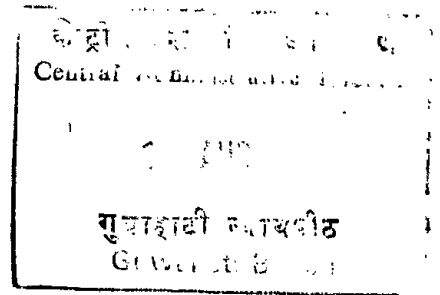
(An application under Section 19 of the Administrative Tribunals Act, 1985)

O.A. No. 207 /2007

BETWEEN:

**Shri Krishna Kumar Singh,**

S/o- Late Badri Narain Singh,  
Working as Deputy Director (L),  
Resident of TACS, House No. 6,  
Main Road, Kharghuli,  
Guwahati- 781001.



---Applicant.

-AND-

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

..... Respondents.

DETAILS OF THE APPLICATION

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

This application is made against the impugned order bearing letter No. F.No. 7-10/2006-Admn. dated 20.07.2007 (Annexure-XI) as well as against the order bearing letter No. F. No. 2-2/04-Admn. dated 05.05.2006 (Annexure-XIII) and order bearing letter No. F. No. 5-5/89 Admn. dated

Filed by the applicant -  
through - S. Naik,  
Advocate.  
01.08.2007

CEAM BML/11/11

28.07.2006 (Annexure- XVI) issued by the Respondent No. 2, rejecting the representation of the applicant pertaining to his transfer and posting from Guwahati to New Delhi as his choice station and further praying for a direction upon the respondents to transfer the applicant at his choice place Delhi in the light of the Govt. of India, Ministry of Finance O.M dated 14.12.1983, dated 01.12.1988 and O.M dated 22.07.1998 as well as in terms of 5<sup>th</sup> Central Pay Commissions recommendation.

2. **Jurisdiction of the Tribunal:**

The applicant declares that the subject matter of this 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 Tribunals Act' 1985.

4. **Facts of the case:**

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.

4.2 That your applicant after being selected by the U.P.S.C was initially appointed as Assistant Director (Linguistic) on 13.02.1989 at New Delhi in the Central Hindi Directorate under the department of Human Resource Development. The applicant was promoted as Deputy Director (Languages) on 23.08.1996 and thereafter he was transferred and posted to Eastern Regional Office, Kolkata as Deputy Director (Languages).

In April, 1998 the applicant was transferred and posted as Deputy Director in the Regional Office, Guwahati. However, after serving a period of three months in July 1998 the applicant was temporarily transferred and

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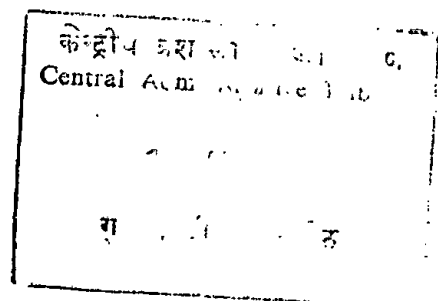
posted to Central Hindi Directorate, New Delhi along with the N.E. Regional Office in the post of Deputy Director.

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

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

- 4.4 That the applicant begs to state that the Government of India, Ministry of Finance, Department of Expenditure, granted certain improvement and facilities to the Central Government civilian employees who are posted in the North Eastern Region vide O.M No. 200014/3/83-F.IV dated 14.12.1983 issued by the Government of India, Ministry of Finance, department of Expenditure. In terms of the aforesaid O.M, the Central Government civilian employees who are saddle with all India transfer liability are entitled to choice station posting after serving for a fixed tenure in the NE Region. The relevant portion of the O.M dated 14.12.1983 issued by the Government of India is reproduced below:

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



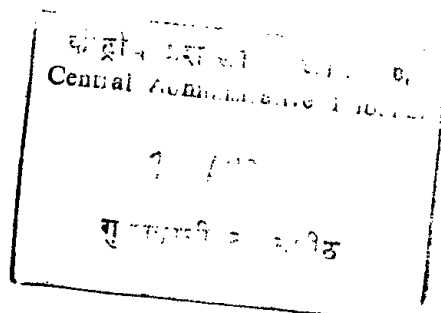
*Cyram@micr*

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

i) Tenure of posting/deputation.

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

Copy of extract of the O.M dated 14.12.1983 is annexed hereto for perusal of Hon'ble Tribunal as Annexure- III.



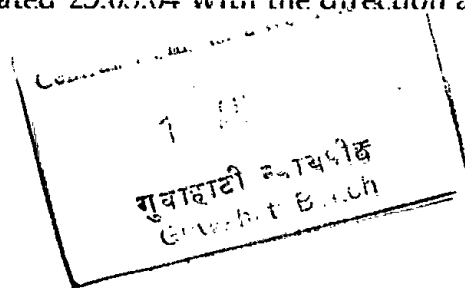
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4.5 That it is stated that in view of the aforesaid O.M dated 14.12.1983 and 22.07.1998 the present applicant is entitled to get a choice station posting on completion of the fixed 2 years tenure. Moreover, in addition to the aforesaid benefit the applicant is also entitled to S.D.A. reimbursement of H.R.A for old station, additional benefit of L.T.C and a special weightage in service for serving in N.E. Region.

4.6 That, while working as Deputy Director (Languages), under the Deptt. of Central Hindi Directorate, Guwahati, the applicant received on 16.02.2004 one order dated 10.02.2004 whereby the applicant was sought to be transferred and posted from Guwahati Region office to the Regional Office in Kolkata with immediate effect, even before completion of his fixed tenure of 2 years service in NE Region as laid down by the Government. The applicant meanwhile submitted representation on 15.02.2004 to the respondents praying for his choice station posting in Delhi, followed by another representation on 16.02.2004. But the respondents transferred the applicant from Guwahati to Kolkata with malafide intention and did not consider his choice station posting at New Delhi, which the applicant is legitimately entitled in terms of the professed policy of the Government.

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

4.7 That being aggrieved at his arbitrary transfer to Kolkata and non-consideration of his choice station posting to New Delhi, the applicant approached this Hon'ble Tribunal through O.A. No. 38/2004 praying for quashing of his order of transfer to Kolkata and for further direction upon the respondents for grant of choice station posting to the applicant. This Hon'ble Tribunal was pleased to stay the transfer order dated 10.02.04 vide it's interim order dated 20.02.2004 in O.A No. 38/2004 and finally disposed of the O.A No. 38/2004 vide it's order dated 25.03.04 with the direction as under; -



*[Handwritten signature]*

"..... Accordingly, applicant is directed to file a fresh and detailed representation mentioning his choice place of posting to the respondents within a period of one week from the date of receipt of this order. If such application is made, respondents shall consider the same and pass a reasoned order within one month's time thereafter. Adequate pre-conditional hearing shall also be given to the applicant.

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

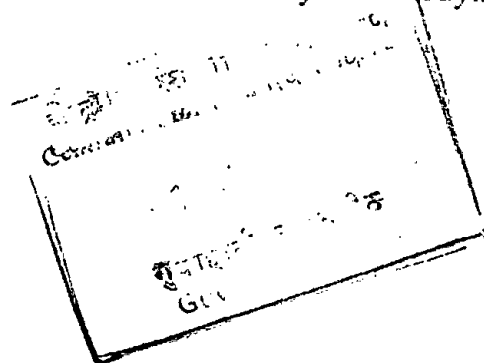
Till the completion of the exercise, interim order dated 20.02.04 will continue."

Copy of the Hon'ble Tribunal's order dated 25.03.04 is annexed hereto as Annexure- V.

4.8 That in compliance with the above mentioned order this Hon'ble Tribunal, the applicant submitted one representation dated 01.04.2004 enclosing therewith a copy of the Hon'ble Tribunal's order dated 25.03.04, wherein the applicant described inter alia his personal problems in details and gave an updated account of various transfers faced by him and further highlighted that prior to his posting at Guwahati, he had already served in Kolkata for about 4 years. The applicant in his representation also referred to his earlier representation dated 12.12.2002 for his posting in New Delhi and stated that his proposed transfer to Kolkata again was a punitive transfer. The applicant therefore reiterated his prayer for his posting to his choice station, New Delhi.

Copy of the representation dated 01.04.04 is annexed hereto for perusal of Hon'ble Tribunal as Annexure- VI.

4.9 That while the applicant was anxiously waiting for his transfer and posting to New Delhi, he was surprisingly trapped into a criminal case in a planned manner and an FIR was lodged against him at Dispur Police Station, Guwahati on 31.01.2005, and sending him to Police custody for 5 days.



01.04.04

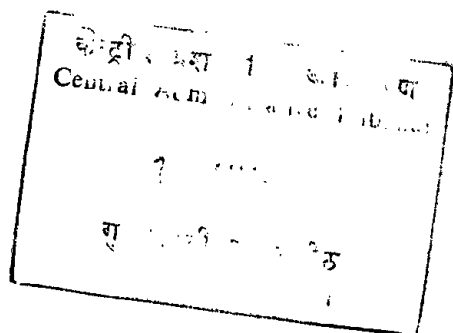
resulting into his suspension from service. Two fabricated criminal cases on the charge of attempt to rape and trespass etc. was registered against the applicant in the Court of Chief Judicial Magistrate, Kamrup bearing No. GR 202/05, similarly other case has also been committed in the Session Court, Kamrup under No. GR 203/05 and No. 196 K/06 against the applicant. However, nothing prima facie could be established against the applicant and the cases are now pending before the learned Court's aforesaid. The applicant has also filed a cross FIR of Assault, which has been registered in the Court of learned Chief Judicial Magistrate as G.R. 606/05 and charge sheet has been filed and the same is pending before the Court. The applicant was however, placed under suspension w.e.f. 07.02.2005 vide order No. F. No. 5-5/89-Admn. dated 07.02.2005.

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

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

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

4.11 That subsequently, vide one order No. F. No. 5-5/89-Admn, dated 25.04.2006, the suspension of the applicant was revoked but the said revocation was neither intimated to the applicant nor any copy of the said



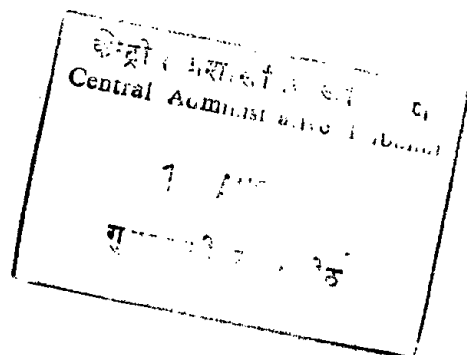
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revocation order was sent to him. Eventually, following his quarries, the order was shown to the applicant on 05.07.2006 only when the applicant could come to know that his suspension stood revoked w.e.f. 25.04.06. Accordingly, the applicant resumed his duties immediately on 05.07.2006 (F.N) only when the applicant could come to know that his suspension stood revoked w.e.f. 25.04.06 and sent his joining report dated 05.07.2006 to the respondent No. 2.

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

4.12 That in the meantime, when the representation dated 01.04.2004 of the applicant was pending before the respondents and the order dated 25.03.04 of this Hon'ble Tribunal in O.A No. 38/2004 was still to be complied with by the respondents, a fresh order was issued by the respondents on 05.05.2006 transferring and posting the applicant once again from Guwahati to Kolkata. It is relevant to mention here that the respondents issued the said order when their earlier order dated 10.02.2004 transferring the applicant from Guwahati to Kolkata has been stayed by this Hon'ble Tribunal vide it's order dated 25.03.04 till disposal of the representation submitted by the applicant, but the respondents instead of disposing the representation submitted by the applicant issued the impugned order dated 05.05.2006 transferring the applicant from Guwahati to Kolkata that too when the interim order of the Hon'ble Tribunal was in force, as such impugned order dated 05.05.06 is bad in law and the same is liable to be declared to be void ab initio.

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



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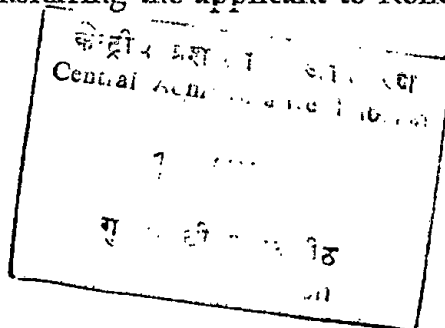
4.13 That thereafter, the applicant submitted a representation on 13.05.2006 to the Respondent No. 2 against the transfer order dated 05.05.2006 and prayed for consideration of his transfer to his choice station Delhi. Subsequently, he submitted another representation on 12.06.2006 to Respondent No. 1 for consideration of his prayer but to no result.

Copy of letter dated 02.08.06 is annexed hereto for perusal of Hon'ble Tribunal as Annexure- XII.

4.14 That thereafter, the Respondent No. 2 vide her impugned office memorandum No. F. No. 5-5/89 Admn. dated 28.07.2006 informed the applicant that his request for posting to Guwahati or New Delhi has been turned down by the Respondent No. 1 and further directed the applicant to report for duty to Kolkata immediately failing which he would be proceeded against as per rules. It is pertinent to mention here that the representation dated 01.04.2004 as directed by this Hon'ble Tribunal in it's order dated 25.03.04 passed in O.A. No. 38/2004 has not been disposed of by the respondents till date and without considering the grounds raised by the applicant in his representation dated 01.04.04 as well as without considering the observation and direction made by this Hon'ble Tribunal vide order dated 25.03.04, issued the cryptic, non-speaking order rejecting the representation dated 22.06.06 submitted by the applicant. Such action of the respondents indicates malafide exercise of power and vindictive attitude towards the applicant. Therefore, the Hon'ble Tribunal be pleased to set aside and quash the impugned non-speaking, cryptic order dated 28.07.2006.

Copy of impugned office memorandum dated 28.07.05 is annexed hereto for perusal of Hon'ble Tribunal as Annexure- XIII.

4.15 That the applicant most humbly begs to state that the respondents have been issuing orders time and again transferring the applicant to Kolkata



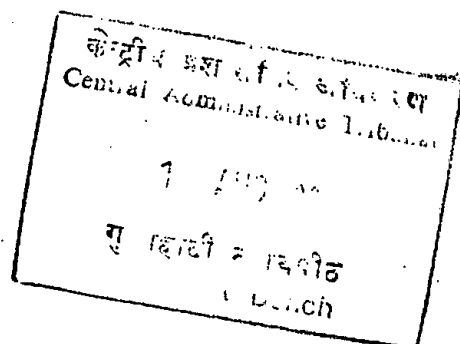
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but not inclined to consider his choice station posting to New Delhi which he is legitimately entitled to get in terms of the policy laid down by the Government vide O.M dated 14.12.1983 and 22.07.1998 as stated in para 4.4 hereinabove. The proposed transfer of the applicant to Kolkata does not involve any public interest but for some extraneous reasons only. It is relevant to mention here that the respondent No. 2 in her written affidavit dated 24.05.2005 submitted earlier before this Hon'ble Tribunal in connection with the Contempt Petition No. 12/2005 (in O.A. No. 38/2004) had stated in para 7 of the affidavit that the said transfer of the applicant to Kolkata has been made following complaints received against the applicant from some voluntary Hindi Organisations. It is evident therefore that the proposed transfer is punitive in nature which has been done on the basis of some unfounded and fabricated complaints and that too without bringing the same to the notice of the applicant and without giving him reasonable opportunity of being heard.

Further, in the same para No. 7 of her written affidavit as stated above, the Respondent No. 2 had also stated that since a police case has been filed against the applicant in the Court of Chief Judicial Magistrate, Kamrup, the applicant cannot be transferred from Guwahati at this stage. But surprisingly thereafter, the said respondent No. 2 has issued his order dated 05.05.06 transferring the applicant to Kolkata making thereby a clean Volta-face to what she stated earlier before this Hon'ble Tribunal.

As such, the proposed transfer of the applicant to Kolkata is malafide, fabricated, unfair, illegal, vindictive and violative of the principles of natural justice and on these scores the transfer order dated 05.05.06 is liable to be quashed and set aside.

4.16 That the applicant begs to submit that finding no other alternative he once again approached this Hon'ble Tribunal by filing O.A. No. 209/2006 praying for a direction-upon-the respondents for choice station posting at New Delhi. The said O.A No. 209/2006 came before this Hon'ble Tribunal

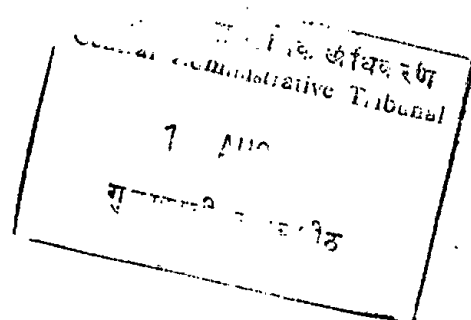


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for consideration and the Hon'ble Tribunal after hearing Counsel of the parties and on perusal of materials on record was pleased to dispose of the said Original Application on 02.04.2007 with the direction to the applicant to submit a comprehensive representation to the first respondent within a period of three weeks from the date of receipt of this order. The Hon'ble Tribunal also directed the respondents to consider and dispose of the representation by passing speaking order based on the rule positions, observations made in the order dated 02.04.07 and the facts of the case communicating the same to the applicant within a time frame of three months thereafter.

Copy of the order dated 02.04.2007 in OA No. 209/06 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- XIV.

- 4.17 That the applicant immediately after receipt of the order dated 02.04.07 submitted a detailed representation on 25.04.2007, addressed to the respondent No. 1, enclosing therewith a copy of the order dated 02.04.07 passed in OA No. 209/2006. In his representation the applicant stated that he has served more than 4 years in the N.E. Region and have acquired a valuable legal right for consideration of his posting at the station of his choice in terms of O.M dated 14.12.1983. He also stated that he is facing dislocation of his family and college going unsettled children for more than ten years. In his representation applicant also stated that even after lapse of 12 years of revision of the recruitment rules for the post of Deputy Director (L), no transfer policy or guidelines was made and he is repeatedly being transferred from Guwahati to Kolkata then again from Kolkata to Guwahati whereas he has only three years of service left in his credit. Therefore, the applicant requested to transfer him at Delhi, which is his station of choice.



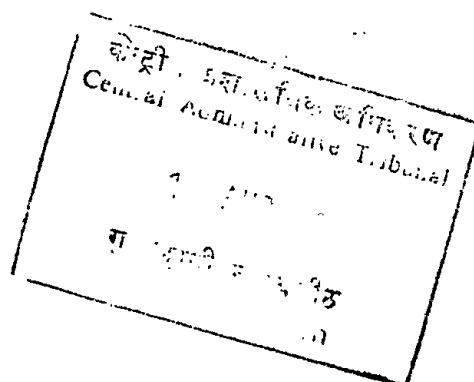
02/04/07



those officers were not transferred from New Delhi at any point of time since 2004 and the applicant is repeatedly being transferred at Kolkata just to deny him the benefit of choice station posting at New Delhi in terms of O.M dated 14.12.1983 and 22.07.1998. It is pertinent to mention here that salary of the applicant for the period from 01.05.2006 to 20.08.2006 and 01.12.2006 to till date has not been released by the respondents which reflects the vindictive attitude on the part of the respondents in order to harass the applicant for no fault of his own. Moreover, no work of Deputy Director (L) at Guwahati is entrusted to the applicant after issuance of order of status quo dated 21.08.2006 in O.A. No. 209/2006 by this Hon'ble Tribunal, such action on the part of the respondents reflects their vindictive attitude towards the applicant. As such it can rightly be concluded that the applicant is being harassed repeatedly transferring the applicant from Kolkata to Guwahati and again from Guwahati to Kolkata, just to deny his legitimate right of choice posting at New Delhi and such action on the part of the respondents is malafide, arbitrary, therefore the Hon'ble Tribunal be pleased to direct the respondents to transfer the applicant at his choice station Delhi in terms of O.M dated 14.12.1983 and 22.07.1998.

Copy of the impugned order dated 20.07.07 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- XVI.

- 4.19 That the applicant most respectfully begs to submit that in the written statement filed in C.P No. 12/2005 in O.A. No. 38/2004, the then respondent No. 3 in para 7 stated that applicant cannot be transferred from Guwahati since a criminal case is pending against him in the learned Court of C.J.M, Guwahati, again in para No. 5.2 of the written statement filed in O.A. No. 209/2006, the same respondents have stated that the applicant "would have earned the entitlement after completing the fixed tenure to the satisfaction of the Respondent, he cannot be considered for grant of the same", although there is no such pre-condition provided by

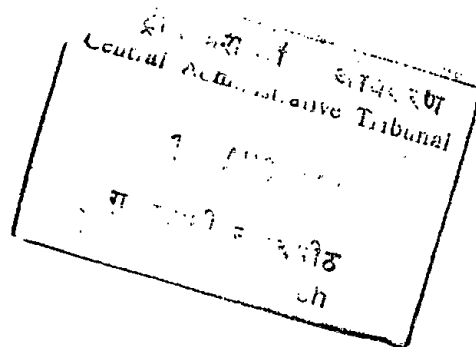


cybm @me 10/8/07

the Govt. of India in O.M dated 14.12.83 to provide benefit of choice posting after completion of fixed tenure by the central Govt. employees and such action reflects vindictive attitude of the respondents towards the applicant. Therefore, it can rightly be concluded that action of the respondents towards the applicant to provide him benefit of choice posting is not fair, in other words the respondents denying the benefit to the applicant in one or other pretext just to harass the applicant. Moreover, since the suspension order against the applicant has been revoked and since there is no impediments whatsoever to consider the transfer of the applicant to his choice station New Delhi, more so when he is legitimately entitled to his choice station posting after having served for fixed tenure in the NE Region, in terms of the professed policy and O.M dated 14.12.1983 and dated 22.07.1998 of the Govt. of India as well in terms of the recommendation of 5<sup>th</sup> CPC. The applicant has also got no interest to remain posted at Guwahati, which he has confirmed earlier also. It is also relevant to mention here that the applicant has less than 3 years of service in his credit and as per 5<sup>th</sup> Central Pay Commissions recommendation central Govt. employees are entitled for choice station posting or retention at the same place of posting who have less than 3 years of service at his/her credit, as such applicant is entitled to the benefit of 5<sup>th</sup> CPC recommendation in his posting at Delhi.

4.20 That the applicant further begs to submit that the works of Kolkata office has all along been looked after from Headquarter office, New Delhi and in the event of transfer and posting of the applicant in New Delhi as prayed for, the same may be looked after by the applicant from New Delhi as it is going now.

Further there are two Deputy Directors (L), who have been working in New Delhi office for more than 20 (twenty) years and have never been posted outside. But the applicant is being denied a posting in Head office, New Delhi even when he is legitimately entitled for his

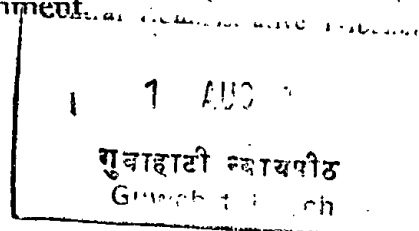


Chandra S. S.

choice station posting in New Delhi as per norms laid down by the Government. Therefore, the respondents could have posted one of the Deputy Director (L) serving in New Delhi for more than 20 years to Kolkata and in his place the applicant could have been accommodated, as such action of the respondent No. 2 in transferring the applicant repeatedly in Kolkata is vindictive, arbitrary, opposed to the spirit and direction contained in Govt. of India's O.M dated 14.12.1983 and also violative of Article 14 and 16 of the Constitution of India.

4.21 That the applicant most humbly begs to state that while he is staying at Guwahati for official duties, his children have been staying in New Delhi for their studies and career advancements and he has to run from Guwahati to New Delhi to attend his families. As such he does not have any reason for being interested for staying at Guwahati and has been trying for his posting in New Delhi but justice being denied to him. Be it stated that the impugned transfer order dated 05.05.2006 is a solitary transfer order and no one has been transferred in his place, and the applicant has not been released from his present place of posting till filing of this application as such the Hon'ble Tribunal be pleased to stay operation of the impugned transfer order dated 05.05.2006 (Annexure- XI) and impugned order dated 20.07.2007 (Annexure- XVI) till disposal of the original application.

4.22 That due to non-consideration of his prayer for his choice posting in New Delhi, the applicant has been incurring heavy losses and sufferings. As such finding no other alternative, the applicant is approaching this Hon'ble Tribunal to interfere with and to protect the rights and interests of the applicant by setting aside the impugned transfer order dated 05.05.2006 (Annexure- XI) and order dated 20.07.2007 (Annexure- XI) further directing the respondents to grant choice station posting to the applicant to New Delhi as per the professed policy of the Government.

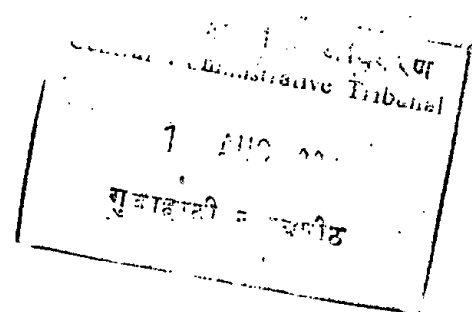


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4.23 That this application is made bonafide and for the cause of justice.

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

- 5.1 For that, the applicant has completed his fixed tenure of 2 years of service in the NE Region and is therefore entitled to all the special incentives including choice station posting as per professed policy of the Government.
- 5.2 For that, the applicant has acquired a valuable and legal right under the O.M dated 14.12.1983, 22.07.1998 as well as in terms of recommendation of 5<sup>th</sup> CPC for choice station posting at Delhi.
- 5.3 For that, the respondents have been issuing orders seeking to transfer the applicant to Kolkata with malafide intention and on extraneous considerations but denying his choice posting to New Delhi which he is legitimately entitled under law.
- 5.4 For that, the Hon'ble Tribunal vide it's order dated 25.03.04 in O.A. No. 38/2004 has stayed the previous order dated 10.02.04, whereby the applicant was sought to be transferred to Kolkata, till disposal of the representation filed by the applicant, as such issuance of the impugned order dated 05.05.06 when the representation is pending is not permissible under the law and said order is a void order and the same is liable to be declared as void ab initio.
- 5.5 For that, the respondents instead of complying with the directions of the Tribunal as stated in the preceeding para, have once again issued the impugned transfer order dated 05.05.06 seeking to transfer the applicant to Kolkata and the impugned order dated 20.07.07 rejecting his bonafide prayer of choice station posting to New Delhi.



22/08/07 (3) RJE



- 5.6 For that, the acts of the respondents are arbitrary, malafide, unfair, vindictive and opposed to the principles of natural justice.
- 5.7 For that, the applicant has submitted representations time and again praying for his choice station posting to New Delhi but justice denied to him.
- 5.8 For that, the respondent No. 2 has not considered any of the ground raised by the applicant in his representation dated 25.04.2007, which he submitted in compliance to the direction passed on 02.04.2007 by this Hon'ble Tribunal in OA No. 209/2006, as such the impugned order dated 20.07.07 is cryptic and the same is liable to be set aside and quashed.

6. Details of remedies exhausted.

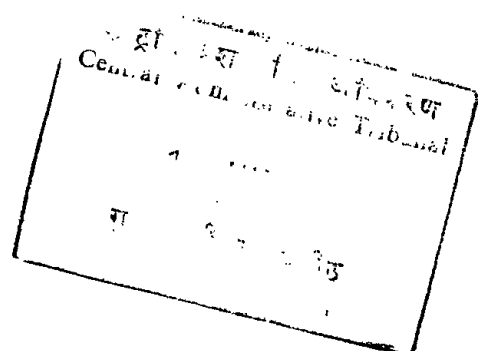
That the applicant declares that he has exhausted all the remedies available to and there is no other alternative remedy than to file this application.

7. Matters not previously filed or pending with any other Court.

The applicant further declares that saves and except the filing of O.A No. 38/2004 and O.A. No. 209/06 before this Tribunal he had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief (s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief (s) sought for in this application shall not be granted and on



2/5/07 @ M/K/E

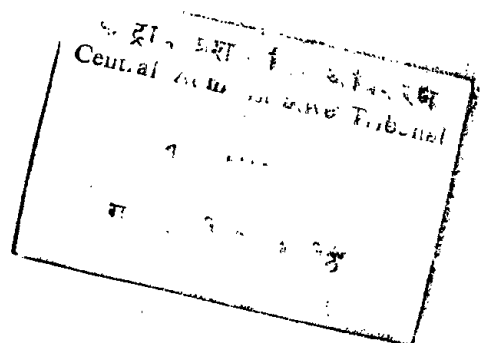
perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

- 8.1 That the Hon'ble Tribunal be pleased to declare that the impugned order bearing F.No. 2-2/04-Admn. dated 05.05.2006 (Annexure- XI) as void ab initio.
- 8.2 That the Hon'ble Tribunal be pleased to set aside and quash the impugned office memorandum No. F. No. 5-5/89 Admn. dated 28.07.2006 (Annexure- XIII) and the impugned order bearing No. F. No. 7-10/2006-Admn. dated 20.07.2007 (Annexure- XVI) issued by the respondents.
- 8.3 That the Hon'ble Tribunal be pleased to direct the respondents to grant choice station posting to the applicant at New Delhi in the light of the Govt. of India, Ministry of Finance O.M dated 14.12.1983, dated 01.12.1988 and O.M dated 22.07.1998 as well as in terms recommendation of the 5<sup>th</sup> Central Pay Commission and till such consideration is made, the applicant be allowed to continue in his present post at Guwahati.
- 8.4 Costs of the application.
- 8.5 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for:

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

- 9.1 That the Hon'ble Tribunal be pleased to stay operation of the impugned transfer order dated 05.05.2006 (Annexure- XI) and order bearing letter No. F.No. 2-2/04-Admn. dated 20.07.2007 (Annexure- XVI) issued by the respondents till disposal of the Original Application.



22/07/2007

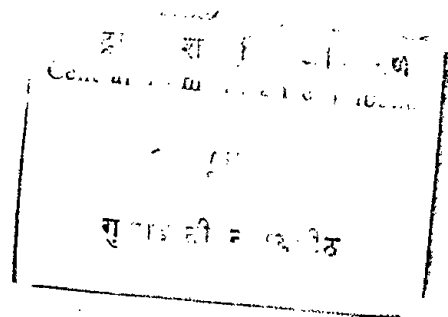
- 9.2 That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for consideration of the case of the applicant for providing relief as prayed for.

10 .....

11. Particulars of the I.P.O

- i) I.P.O No. : 349 655 387 .  
 ii) Date of issue : 17 . 7 . 2007 .  
 iii) Issued from : G.P.O. Guwahati .  
 iv) Payable at : G.P.O. Guwahati .

12. List of enclosures:  
 As given in the index.



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VERIFICATION

I, Shri Krishna Kumar Singh, S/o- Late Badri Narain Singh, aged about 57 years, working as Deputy Director (Languages), in the office of the Central Hindi Directorate, Cuwahati, applicant in the instant original application, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 1st day of August 2007.



- 21

~~ANNEXURE~~  
ANNEXURE-I 92

Speed Post

संख्या/No.1/45/98-35  
भारत सरकार

Government of India  
सांसाजिक न्याय एवं अधिकारिता मंत्रालय  
Ministry of Social Justice & Empowerment  
भारत के भाषाजात अल्पसंख्यकों के आयुक्त  
Commissioner for Linguistic Minorities in India

टेलीफोन/ Telephone: 2468565,2468566  
तार/ Telegram: LIMINCOM  
हिन्दी तार/ Hindi Telegram: भाषाजात अल्पसंख्यकों के आयुक्त  
फैक्स सं/ Fax No. 0532-2468544

40, अमर नाथ झा मार्ग  
40, Amar Nath Jha Marg  
आलीहाबाद-211002  
Allahabad -211002

दिनांक/ Dated: 09.01.2003

To,

The Director,  
Central Hindi Directorate,  
Ministry of Human Resource Development (Department of  
Secondary Education & Higher Education),  
West Block-VII, Rama Krishna Puram,  
New Delhi.

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

Sir,

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

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

Yours faithfully,

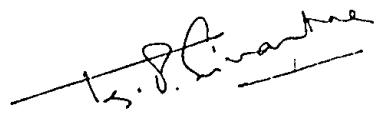
Attested  
Advocate

(T.P. Srivastava)  
Deputy Commissioner

~~1 year~~

Copy forwarded to:

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



(T.P.Srivastava)  
Deputy Commissioner

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

~~ANNEXURE - III~~  
~~II~~  
ANNEXURE-II

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

Dated: 18-06-2003.

ORDER

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

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

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

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

  
( Dr. P L Taneja )  
Director

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

Copy to:-

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

Attested  
Sub-  
Advocate



ANNEXURE- III

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

New Delhi, the 14<sup>th</sup> Dec' 83

**OFFICE MEMORANDUM**

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

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

1. Tenure of posting/deputation.

There will be a fixed tenure of posting of 3 years at a time for officers with services of 10 years or less and of 2 years of service at a time for officers with more than 10 years of service, periods of leave, training etc, in excess of 15 days per year will be excluded in counting the tenure period of 2/3 years. Officers on completion of the fixed tenure of service mentioned above, may be considered for posting to a station of their choice as far as

Attested  
Advocate

possible. The period of deputation of the Central Government employees to the States/Union territories of the North Eastern Region will generally be for 3 years which can be extended in exceptional cases in exigencies of public service as well as when the employees concerned is prepared to stay longer. The admissible deputation allowance will also continue to be paid during the period of deputation so extended.

Sd/- S.C. MAHAJIK

Joint Secretary to the Government of India

ANNEXURE-IV

Translated from Hindi

ANNEXURE-IV

F. No. 5-5/89 Admin.  
Govt. of India  
Central Hindi Directorate  
M/o- H.R.D (Dept. of Sec & Higher Edn.)  
West Block-7, R.K. Puram  
New Delhi-110 066.  
Dated 10-02-2004

Order

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

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

Sd/-

(Dr. Pusp Lata Tanja)  
Director

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

Copy to-

Attestd  
Sub.  
Advocate

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Griffin  
to  
Kalbell

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH.

ORDER SHEET

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

In O.A.

Name of the Applicant(s) K K Singh

Name of the Respondent(s) IA 32

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

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

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

25.3.2004 present; The Hon'ble Shri K.V.Prahladan  
Administrative Member.

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

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

Cont./2



Attested  
Advocate

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

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

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

Sd/MEMBER(ADM)

Certified to be true Copy  
 সত্যনিষ্ঠ প্রতিলিপি

*[Signature]*  
 26/3/04  
 Section Officer (I)  
 C.A.T. GUWAHATI BANER  
 Guwahati-781003  
*[Signature]*  
 26/3/04



off  
under



From

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

To

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

Dated 01st April 2004.

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

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

Respected Sir,

With humble submission and in continuation of my earlier representation dated 16-02-2004 (enclosed for ready reference), I would like to draw your kind attention on the subject cited above and submit that being highly aggrieved with transfer and posting order number 3-5/89-Admn. dated 10.02.2004 whereby the undersigned is sought to be posted in the Regional Office of the Central Hindi Directorate at Kolkata. In the circumstances, I had to approach the Hon'ble C.A.T. Guwahati bench by filing an O.A. registered as O.A.No.38 of 2004. The said O.A. now disposed off on 25.03.2004 with the direction to the undersigned to submit a fresh representation within a week from the date of receipt of the Hon'ble C.A.T. order dated 25.03.2004 (enclosed for ready reference), hence the present representation.

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

Attested  
Sub.  
Advocate

105  
~~Annexure II~~  
**ANNEXURE - VI**

1/4/04



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

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

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

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

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

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

17 - 3 - 101  
31- 102

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

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

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

N\*J\*

Report

12  
- 4 - - 32 - 108  
whether it is a fact that the undersigned has been transferred to Kolkata on the basis of the complaint lodged by any Voluntary Hindi Organisations or any other quarter.

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

With regards,

Yours faithfully,

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

C.H.D., NER office, Ghy.

Copy to:- The Director

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

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

Encl: As stated.

Yours faithfully,

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

N\*J\*

Attested  
for  
Advocate

57-33-

109  
Confidential

ANNEXURE-VII

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

F.No. 5-5189-Admn.(P)  
Government of India  
Central Hindi Directorate  
Ministry of Human Resource Development  
Department of Secondary & Higher Education

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


Dated: 7.2.2005

ORDER

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

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

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

  
(Dr. P.L. Taneja)  
Director

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

Attested  
Advocate

-34-

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

ANNEXURE VIII

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

Date of Order: This the 22<sup>nd</sup> day of July 2005.

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

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

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

.....Petitioner

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

- Versus -

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

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

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

.....Alleged Contemners

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



*Attested  
Sub.  
Advocate*

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

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

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

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



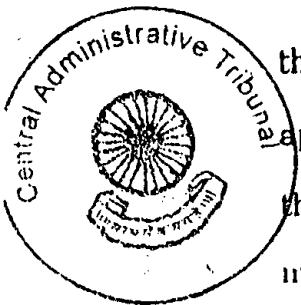
*Spt*

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

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

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

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





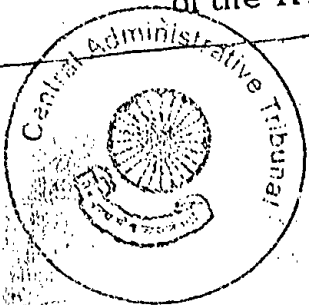
circumstances the respondents had no option but to keep the applicant under suspension as provided under Rule 10 of the CCS (CCA) Rules. Since the applicant is under suspension there is no question of giving any posting to him until the period of suspension is over.

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

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

Sd/ VICE CHAIRMAN

Sd/ MEMBER (A)



TRUE COPY

प्रतिनिधि

*[Signature]*  
26.7.05

अनुभाग अधिकारी  
Section Officer (Jedl)  
Central Administrative Tribunal

अदालत - 4  
GUWAHATI-5.

*[Signature]*  
26/7

Attested  
Advocate

18

- 38 -

ANNEXURE-IX

114

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

Re: Issue  
of  
26/4/06

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

ORDER

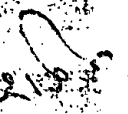
WHEREAS an order placing Sh. K.K. Singh, Dy. Director (L) under suspension was made by Director, Central Hindi Directorate on 7.2.2005.

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

  
(Dr. P.L. Taneja)  
Director

Copy to:

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

  
27/4/06

Attested  
by  
Advocate

c/c

NO. RES. F. 2-9/Nitta/36  
Govt. of India  
Central Hindi Directorate,  
Ministry of Human Resource Development,  
Regional Office Guwahati, (N.E.)  
Jayanagar, Khanapara, Guwahati- 22.

ANNEXURE - X

115

Dated- 5/7/2006.

To,

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

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

Mean,

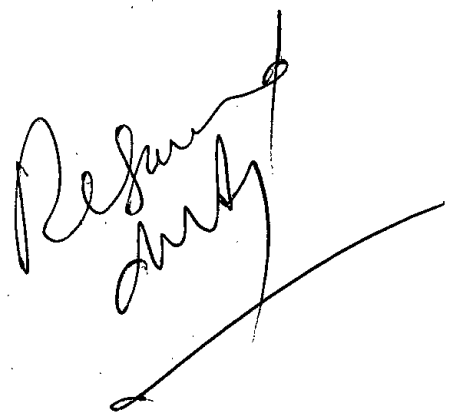
This is to refer your order no. 5-5/89-Aoma. dated-  
28/04/2006 ( shown to the undersigned on 5/7/2006 ) and to  
state that I hereby resume duties as D.D.(L), on 5/7/2006  
(F/N) in the N.E. Regional Office Guwahati.

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

Your's faithfully

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

Attested  
Advocate -



मिसिल संख्या 2-2/04-प्रशासन

स्टांड पोस्ट

भारत सरकार

केंद्रीय हिंदी निदेशालय

मानव संसाधन विकास मंत्रालय

(माध्यमिक और उच्चतर शिक्षा विभाग)

ANNEXURE-XI

116

पश्चिमी खंड-7, आर.के. पुरम,

नई दिल्ली-110066

दिनांक 5. 5 .2006

आदेश

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

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

(डा० पुष्पलता तनेजा)  
निदेशक

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

## प्रतिलिपि -

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

Attested  
Advocate

ANNEXURE- XI

(Translated from Hindi)  
(Extract)

File No. 2-2/04-Admin.  
Govt. of India  
Central Hindi Directorate  
M/O Human Resource Development  
(Department of Secondary and Higher Education)

West Block-7, R.K. Puram  
New Delhi- 110066  
Dated 5.5.2006

ORDER

Shri K.K. Singh, Dy. Director (L), Regional Office, Guwahati is transferred to Regional Office (East) Kolkata. He is directed to immediately take his charge in the Regional Office (East) Kolkata on receipt of this order.

On assuming the charge he will immediately intimate the undersigned. As per rules T.A and Joining time shall be admissible to him for taking the charge at Kolkata after traveling from Guwahati.

Sd/-  
(Dr. P.L. Taneja)  
Director

Shri K.K. Singh  
Dy. Director (L)  
Central Hindi Directorate  
C/O- Das Enterprise,  
P.O- Jaya Nagar, Guwahati- 781002.

Attested  
Sub.  
Advocate

5/5/06

kgd.

ANNEXURE - XII

No. RES.F.1-1/98/Admn/  
Gov. of India,  
Central Directorate,  
Ministry of Human Resource Development,  
Regional Office Guwahati, (N.E)  
Jaynagar, Khanapara, Guwahati - 22.

11/8

To,

Dated - 2/8/2006.

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

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

Madam,

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

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

Your's faithfully,

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

Attested  
Advocate

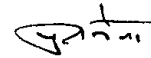
F.No. 5-5/89 Admn.  
Government of India  
Central Hindi Directorate  
Ministry of Human Resource Development  
(Department of Secondary and Higher Education)

West Block -7, R.K.Puram,  
New Delhi 110066

Dated: 28-7-2006

**OFFICE MEMORANDUM**

The representation of Sh. K.K. Singh, Deputy Director(L) dated 22nd June 2006, addressed to Education Secretary was submitted to ES for his kind orders. The representation of Sh. Singh was examined and the ES has turned down his request for posting to Guwahati or New Delhi. Sh. K.K.Singh & accordingly hereby directed to report immediately to kolkata, Regional Office of the Directorate, failing which, he will be proceeded against as per rules.



(Dr.P.L.Taneja)  
Director

**Sh. K.K. Singh, Dy. Director (L),  
C/o TAGS, House No. 6  
Main Road, Kharghuli,  
Guwahati-781001**

Attested  
Advocate

Disputed & Referred  
order

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH**

Original Application No. 209 of 2006.

Date of Order: This, the 2nd day of April, 2007.

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

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

..... Applicant.

By Advocates S/Shri M.Chanda, S.Nath, G.N.Chakraborty & Mrs.  
B. Dutta.

Versus -

1. The Union of India  
Represented by the Secretary to the  
Government of India  
Ministry of Human Resource Development (HRD)  
New Delhi- 110 001.

The Director  
Govt. of India  
Central Hindi Directorate  
Ministry of Human Resource Development (HRD)  
West Block-7, R.K.Puram.

Dr. P.L.Taneja  
Director  
Central Hindi Directorate  
West Block-7, R.K.Puram.  
New Delhi - 110 066.

The Administrative Officer  
Central Hindi Directorate  
West Block-7, R.K.Puram.  
New Delhi - 110 066.

..... Respondents.

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

\*\*\*\*\*



AHEKID  
Shri  
Advocate



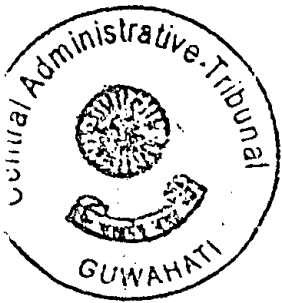
ORDER (ORAL)SACHIDANANDAN, K.V., (V.C.):

The applicant was initially appointed as Assistant Director (Linguistic) in the office of the Central Hindi Directorate, New Delhi on 13.02.1989. On 23.08.1996 he was promoted to the post of Deputy Director (Languages) and thereafter he was transferred and posted to Kolkata in the same capacity. In April, 1998 he was transferred to Guwahati. However, after serving three months in Guwahati he was temporarily transferred and posted to New Delhi. Thereafter, Applicant was appointed as Assistant Commissioner on deputation basis at Kolkata under the Commissioner of Linguistic Minorities in India. After four years of serving there he was repatriated and posted again at Guwahati vide order dated 18.6.2003 (Annexure-II). From the averment made in the C.A. it is contended that as per Office Memorandum dated 12.12.1983 (Annexure-III) the Central Govt. civilian employees who are saddled with all India transfer liability are entitled to their choice of station posting after serving for a fixed tenure in the North Eastern Region. Applicant claimed that as per the said OM he is entitled to get his choice place of posting on completion of fixed two years tenure in North East Region. But while serving as Deputy Director (Languages) at Guwahati office vide order dated 10.02.2004 he was sought to be transferred again to Kolkata. Applicant submitted representation for his choice posting at New Delhi on 15.02.2004 (Annexure-V). Being aggrieved with the aforesaid transfer and non-



consideration of his choice place of posting the Applicant filed O.A. No.38/2004 before this Tribunal. This Tribunal vide its order dated 20.02.2004 stayed his transfer order. The O.A. was finally disposed of directing the Applicant to file fresh representation with a further direction to the Respondents to consider his representation by passing reasoned order within a time frame. Interim order was extended till the completion of the exercise. Pursuant to the direction of this Tribunal Applicant filed representation on 01.01.2004. Vide order dated 07.02.2005 the Applicant was put under suspension since criminal cases were registered against him. C.P. No.12/2005 so filed by the Applicant was dismissed vide order dated 22.07.2005. Order of suspension was revoked by the Respondents vide order dated 25.04.2005 (Annexure-XI). Thereafter on 05.05.2005 a fresh order has been issued to the Applicant transferring and posting him once again to Kolkata while his representation was pending for consideration. Applicant made representations on 13.05.2005 and 12.06.2005 for posting his at his choice place i.e, New Delhi but vide impugned order dated 28.07.2006 (Annexure-XVI) his request was turned down directing him to report for duty to Kolkata immediately. Aggrieved by the action on the part of the Respondents, the Applicant has approached this Tribunal by way of this O.A. seeking the following main reliefs:-

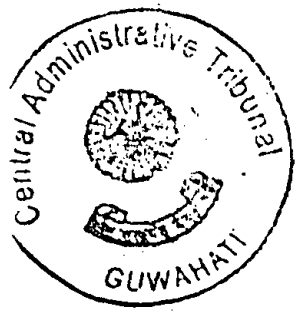
- \*8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned office memorandum No. F.No.5-5/89 Admn. dated 28.07.2006 (Annexure-



XVI) and the transfer order dated 05.05.2006 (Annexure-XIII) issued by the respondents.

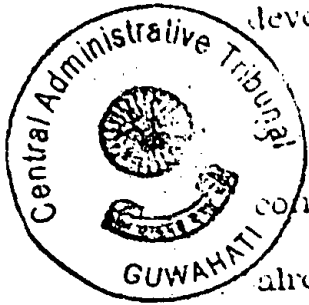
8.2 That the Hon'ble Tribunal be pleased to direct the respondents to grant choice station posting to the applicant at New Delhi and till such consideration is made, the applicant be allowed to continue in his present post at Guwahati..”

2. Respondents have filed detailed reply statement contending that the Applicant joined his duty at Guwahati on 11.04.2003. Whiled working at Guwahati large number of complaints were received against him and on enquiry most of the complaints that were made against him were substantiated. Therefore and as his behaviour was undesirable, he was transferred to Kolkata vide order dated 10.02.2004. The Applicant was arrested by Dispur Police on 31.01.2005 and was detained in police custody exceeding 48 hours and therefore he had to be placed under suspension as per Rule 10 of CCS (CCA) Rules, 1965 on 07.02.2005. The cases are still pending before the Chief Judicial Magistrate, Kamrup and Session Court, Kamrup. Applicant's deemed suspension was reviewed by a Committee and the Committee recommended revocation of his deemed suspension. The Committee also recommended shifting of the Applicant from Guwahati for re-building office's image and the said recommendations were accepted HRD Minister. Accordingly, his suspension was revoked and order dated 05.05.2005 transferring & posting the Applicant to Kolkata in vacant post was issued. The Applicant failed to comply with the decision for his shifting to Kolkata and he has no valid ground for challenging the same.



*[Handwritten signature]*

Respondents has specifically stated in their reply statement that the Applicant would have earned entitlement for claim of choice posting after completing two years of fixed tenure including inter alia other conditions. He joined the Guwahati Office on 11.04.2003 and was transferred to Kolkata on 10.02.2004 and his claim for choice place of posting was well ahead of completion of fixed tenure and hence his claim has no validity. After the personal hearing so afforded to the Applicant and keeping in mind the findings of the enquiry his request for choice station posting was found completely devoid of merits and therefore, was rejected by the Respondents.



The Applicant has also filed a rejoinder reiterating the contentions made in the O.A. and further contended that he has already completed his fixed tenure North East. He submitted that although the Respondents had temporarily utilized his services in Central Hindi Directorate, Delhi and also under deputation in Kolkata for sometime, he was holding his substantive post in the Regional Office, Guwahati all along from April, 1998. The Applicant has also submitted certain documents by a separate Affidavit.

1. I have heard Mr. M. Chanda, learned counsel for the applicant and Mr. M.U.Ahmed, learned Addl. C.G.S.C. for the Respondents. Learned counsel for the parties have also taken my attention to the various pleadings, materials and evidence placed on record. The short question for consideration, leaving aside all other contentions of malafides, criminal cases, integrity of the Applicant etc. which are not very germane is whether the Applicant

is entitled for his choice posting or not. Learned counsel for the Applicant has relied upon a judgment of this Hon'ble Tribunal passed on 01.03.2002 in the case of Tapan Kumar Chakraborty v. Union of India and Others in O.A. No.487/2001 published at Page-84 of the Swamysnews, wherein this Tribunal has held as under:-

" The facts are not in dispute. The impugned order of transfer, dated 13-11-2000, has been subject matter of adjudication before this Tribunal. The direction was given to the respondents to consider the case of the applicant for choice of posting. The submission made by the Respondents that the applicant has not made any application for choice of posting cannot be accepted, because the applicant had come before this Tribunal for consideration of choice of posting. No material has been placed on behalf of the respondents to show that the transfer guidelines issued by the Respondents vide their letter, dated 25-1-2000, are not applicable to the applicant.

As mentioned above, it is stated in Para 19 of the guidelines that the guidelines apply to non-teaching staff also to the extent applicable. Reference to the guidelines does not show that the staff working in Regional Office is outside the purview of transfer guidelines. The submission of the Respondents on the material before us cannot be sustained. The rejection of the claim of the applicant in the impugned order, dated 4-12-2001, is not considered justified, as the same is not based on any material. Normally, the transfer orders are not interfered by the Tribunal unless the orders are found to be arbitrary, *mala fide* or without justification. The applicant had come before this Tribunal earlier. The respondents were directed to consider his request. Again his request was turned down taking a new stand. The rejection of applicant's representation could not be supported by any material. The impugned order, dated 4-12-2001, is found to be arbitrary.



The impugned order, dated 4-12-2001, is accordingly set aside. The respondents are directed to consider the case of the applicant for transfer to his choice of posting at Kolkata as per guidelines, dated 25-1-2000, and to accommodate the applicant at Kolkata against existing available vacancy. The Respondents are directed to complete the process within a month of the receipt of this order. The interim order, dated 3-1-2002, shall continue to operate till the completion of the exercise.

Application is allowed as indicated above. There shall however, no order as to costs."



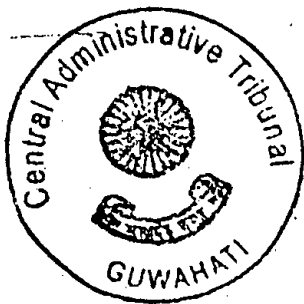
It is an admitted fact that a person who has completed 2/3 years of service in North East is entitled to get his choice station. As far as the Applicant is concerned, in the reply statement filed in O.A. 38/2004 the strict contention taken by the Respondents was that since the Applicant has joined in Guwahati office only on 11.04.2003 he had not completed his tenure. Regarding his transfer to Kolkata, this Court vide order dated 21.08.2006 has directed the Respondents to maintain status quo as far as the Applicant was concerned. It is quite clear that the by virtue of the Court order, or otherwise, the Applicant is continue in Guwahati till date. It is borne out that the Applicant has completed his tenure period i.e, for two years in Guwahati by this time. Therefore, this Court is of the view that without going to the merits of the case and the allegations made in the O.A. as well as in the reply statement justice will be met if a direction is given to the Applicant to submit fresh representation and to Respondents to consider the same for his choice place of posting as per rule within a time frame.

5. Therefore, Applicant is directed to submit a comprehensive representation with all material evidence to the first Respondent within a period of three weeks from the date of receipt of this order. On receipt of such representation, the first Respondent or any order competent authority as directed by him shall consider and dispose of the representation by passing speaking order based on the rule positions, observations made above and the facts of the case communicating the same to the Applicant within a time frame of three months thereafter.

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

However, status quo order that has already been passed on 21.08.2006 shall continue till the completion of the exercise as directed above.

Sd/ VICE CHAIRMAN



*Alfred  
Advocate*

TRUE COPY

प्रतिप्रति

*[Signature]*  
11/4/07

अनुभाग अधिकारी

Section Officer

Central Administrative Tribunal

गुवाहाटी

G.W.

गुवाहाटी-5

*[Signature]*  
11/4/07

Annexure - XV

From : K.K. Singh  
Central Hindi Directorate  
Guwahati - 781022  
25<sup>th</sup> April 2007

To,  
*The Hon'ble Secretary to the Govt. of India*  
*Deptt. of Higher Education, M/o H.R.D.*  
*Sashtri Bhawan, New Delhi - 110001*  
(Through proper channel)

**Subject : Representation for posting at Delhi (station of choice)  
after completion of tenure in the N.E. region.**

Sir,

It is to draw your kind attention to the Hon'ble C.A.T. Guwahati Bench directions contained in their Lordship's order dated 2nd April 2007 on the Applicant's Original Application no, 209/2006 (enclosed) regarding above and to pray your honour for favourable consideration of my posting in the Central Hindi Dte-at Delhi. This may be noted here that against the prescribed tenure of two years in the matter, I have served more than four years in the N.E. region and have acquired a valuable legal right for consideration of my posting at the station of my choice i.e. New Delhi in terms of Govt. of India, M.F., O.M. No. 20014/3/83-E, IV dated 14th December 1983 read with O.M. No. 20014/3/83 E, IV dated 30th March 1984, 27th July 1984 and other subsequent Govt. orders in the matter. I have been facing dislocation of my family and college going, unsettled children for more than ten years now.

Attested  
Advocate



When on promotion to the cadre of Dy. Dir. (L) from the post of A.D. (L) having fixed H.Q. at New Delhi which was my initial appointment in the Deptt. through U.P.S.C., I was arbitrarily transferred to Kolkatta in 1996. This was done by revising the R.R. <sup>by which</sup> ~~of~~ four posts of Dy. Dir. (L) in the regional offices were brought into 100% promotion channel from the feeder cadre of A.D. (L) based only at New Delhi. However even after a lapse of about 12 years of revision of the Recruitment rules, no transfer policy or guideline was made for these posts.

It may be further noted that since the said revision of the R.R.'s five A.D.s (L) have been promoted in the cadre of D.D. (L) but only I have been singled out for repeated transfers (New Delhi to Kolkatta to Guwahati then again from Kolkatta to Guwahati and now from Guwahati to Kolkatta) during the last ten years. In the process I and my family had to suffer a lot.

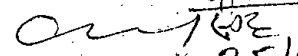
Presently my all the three children are either pursuing P.G. & U.G. courses or struggling to settle for a job. My wife is a chronic orthopeadic patient needing regular care and assistance. My elder son and a daughter are also of marriageable age and as head of the family, I have to arrange for their suitable matches in my community in Hindi Speaking North India, as I originally belong to VARANASI in U.P.. In addition to this

only three years are left for my superannuation and I have to finish all these tasks and also some post retirement planning in the next few years. It is needless to add that C.H.D. has only one of its office i.e. H.Q. at Delhi in Hindi Region which is adjacent to U.P.

In view of the submissions made above, I very humbly and with great respect pray your honour to kindly allow my posting at Delhi which has been and is my station of choice since long. I shall ever remain grateful for your kindness in this regard.

Encl : as stated

Yours Faithfully,

  
(K.K. Singh) 25/4/07

Dy. Dir. (L, C.H.D.)  
Guwahati

Annexure - XVI

F.No.7-10/2006-Admn.  
Government of India  
Central Hindi Directorate  
Ministry of Human Resource Development  
(Department of Higher Education)

West Block-VII, R.K. Puram,  
New Delhi-110066  
Dated: 20.7.2007

**OFFICE ORDER**

In compliance with the directions of Hon'ble CAT's order dated 2<sup>nd</sup> April, 2007, the representation dated 26.4.2007 of Sh. K.K. Singh, Deputy Director (L) has been examined by the Administrative Ministry. After careful consideration of all facts, the Officer's representation and the rule position, the Ministry is of the opinion that the request of Sh. K.K. Singh can not be acceded to since there is no vacancy at Delhi at present. Since, Sh. Singh's orders for transfer to Kolkata have already been issued on 5.05.2006 and have been stayed till the disposal of his representation, his orders are deemed to be restored with this order and Sh. K.K. Singh is hereby directed to report forthwith to Kolkata, his new place of posting.

He is also directed to inform the undersigned about his joining the Kolkata Office. He will be eligible for joining time and TA as per Government rules.

  
(Prof. K. Bijay Kumar)  
Director

**Sh. K. K. Singh, Dy. Director (L),**  
**C/o TAGS, House No.6,**  
**Main Road, Kharghuli,**  
**Guwahati-781001.**

Copy to:

1. Central Administrative Tribunal, Guwahati Bench, Guwahati-5 in r/o OA No.209 of 2006.
2. DDO, Regional Office, CHD, Guwahati.
3. DDO/Controlling Officer, Regional Office, CHD Kolkata for information and necessary action.
4. PA to Director.
5. PA to AO.
6. All Dy. Directors.
7. Regional Offices of Hyderabad, Chennai, Guwahati and Kolkata for information.
8. Account Section-2 copies.
9. All Bureau Heads.
10. Office Order folder.

Attested  
Advocate

केन्द्रीय प्रशासनिक आयोग  
Central Administrative Tribunal  
14 SEP 2007  
गुवाहाटी बेंच  
GUWAHATI BENCH GUWAHATI  
O.A. NO.207/2007

Filed by  
The Respondents through  
Alsha Das  
Addl Cms & 132  
17/9/07

In the matter of:

Sh. Krishna Kumar Singh - Applicant

Vs

Union of India & Ors. - Respondents

Parawise reply on behalf of the Respondent No.1 & 2

I, Prof. K. Bijay Kumar aged about 56 years presently working as Director, Central Hindi Directorate, M/o Human Resource Development, D/o Higher Education, R.K. Puram, New Delhi has been named as Respondent No.2 in the aforesaid OA.

I have gone through the contents of the OA. I am well conversant with the facts of the case and accordingly making submissions in parawise comments appended hereunder, the contents wherein are based on the records and true to the best of my knowledge and belief.

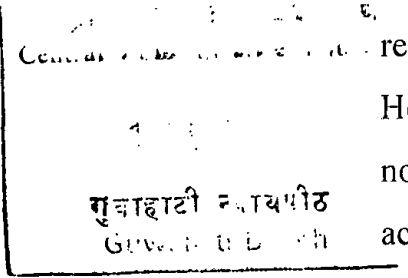
That I am subordinate to the Respondent No.1 and have been duly authorised by them to submit my comments in the present OA.

Facts of the case:

- 4.1 Does not need any reply.
- 4.2 No reply is being offered as the contents are only matter of record.
- 4.3 The contents do not need any reply being matter of record.
- 4.4 With reference to contents of para 4.4, it is submitted that all the allowances and facilities, entitlement whereof a central govt. civilian employee earns have been granted to the

Applicant except his posting at station of choice. The reasons for denying the benefit have been explained for the kind information of this Hon'ble Tribunal in the succeeding paragraphs.

- 4.5 That his representations regarding choice posting dated 25.04.2007 has already been considered by Respondent No.1, however, since no post at the Headquarters is vacant, his request for posting at New Delhi could not be acceded to. It is being submitted for the kind information of this Hon'ble Tribunal that the said OM of Department of Expenditure itself provides that such requests for choice posting are to be considered as far as possible, meaning thereby that the request is to be considered within the ambit of possibility. However, in the Applicant's case, since a vacant post could not be located for posting at New Delhi, his request was not acceded to. As regards grant of other benefits and allowances, the Applicant is being granted all the benefits as per rules.



- 4.6 That the Applicant was transferred from Guwahati Regional Office to Kolkata Regional Office vide order dated 10.2.2004 in the wake of a number of complaints received against him. Since as submitted before this Hon'ble Tribunal in reply to earlier applications of the Applicant, his behaviour has caused a lot of unrest in the sensitive area of North-East, the Respondent could not afford to allow him to stay at Guwahati to complete the prescribed fixed tenure at the cost of image of the organisation and the overall impact on the law and order position. As regards the choice of posting, his request was not acceded to for the reasons stated in the preceding para.
- 4.7 That the directions of this Hon'ble Tribunal have been complied with by the answering Respondents as under:

- i. The Applicant's representation dated 1<sup>st</sup> of April, 2004 was considered.

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पश्चिमी खंड-7, राधा कृष्ण भवन  
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ii. He was also given a personal hearing by the then Joint Secretary (Languages)

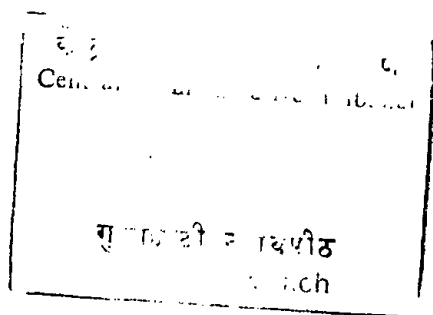
4.8 That the Respondents considered his representation dated 1<sup>st</sup> of April, 2004 for choice posting, which was made in pursuance of Hon'ble Tribunal's order dated 25.3.2004, taking into account all the relevant factors. As mentioned in the preceding paragraph, he was also given a personal hearing, however, just as the Respondents were in the process of issuing official orders, the Applicant was placed under deemed suspension (under CCS (CCA) Rules 1965) for remaining in Police custody for a period exceeding 48 hours.

4.9 That the answering Respondents have no comments to offer in respect of both the cases mentioned by the Applicant as the matter is subjudice before the Trial Court.

4.10 That as mentioned in the Application, the Contempt Petition filed by the Applicant alleging non-compliance of this Hon'ble Tribunal's order dated 25<sup>th</sup> of March, 2004 has already been dismissed by this Hon'ble Tribunal observing that no direction could be given upon to Respondents until the order of suspension was cancelled itself makes out that the Applicant is wrong in alleging that his representation dated 1<sup>st</sup> of April, 2004 is pending in any manner before the answering Respondents as the Respondents, even after conducting the procedure of consideration of his representation, could not pass the final orders on the same during the currency of his deemed suspension.

4.11 That the Applicant's allegation that the order of revoking his suspension was not communicated to him is absolutely misleading as the same was sent through registered post to the Regional Office Guwahati as well as to his last known address (Annexure-I).

4.12 That as already submitted in the preceding paragraph, his representation made in pursuance of this Hon'ble Tribunal's



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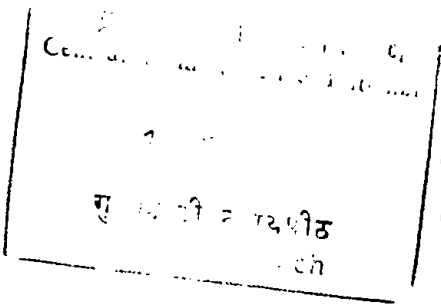
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order in the OA 38/2004 was duly considered by the Respondents. However, final orders could not be issued because of his deemed suspension. He is absolutely wrong in alleging that a subsequent transfer order dated 5.5.06 was issued transferring him from Guwahati to Kolkata. The sequence of events is explained hereunder:

- i. His representation dated 1.4.2004 was considered in compliance of this Hon'ble Tribunal's order dated 25<sup>th</sup> of March, 2004.
- ii. The final order could not be issued because of currency of his deemed suspension.
- iii. His deemed suspension was reviewed by a duly constituted Review Committee which recommended revocation of his suspension and also shifted to any other station from Guwahati to allow rebuilding image of the organisation.

Recommendation of the duly constituted Review Committee were accepted by the Hon'ble Minister for HRD (Disciplinary Authority for Group 'A' employees) and accordingly, he was transferred from Guwahati to Kolkata.



From the above submissions, it is amply clear that after the action taken as above, his representation made for choice posting is no more pending disposal.

4.13 That as mentioned in the preceding paragraphs, the issue has already been disposed of.

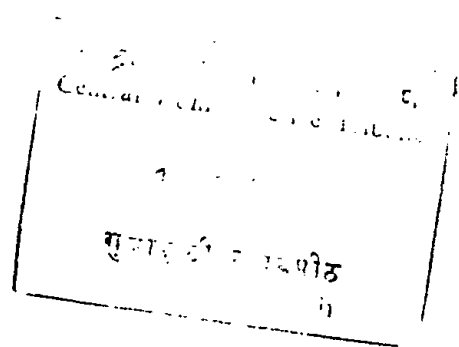
4.14 That since right from the date of issuance of direction in the OA No.38/04 up to 5.5.06, the issue is one and the same i.e. consideration of his choice posting and which once having been officially decided on the recommendations of the Review Committee, the allegation of pendency of his representation dated 1<sup>st</sup> of April, 2004 or any other representation made in this regard is absolutely unfounded. This is aimed only at misleading this Hon'ble Tribunal and

has no legs to stand upon. As regards malafidy and vindictive attitude towards the Applicant, it is submitted for the kind information of this Hon'ble Tribunal that his representation for choice posting has been considered at all the levels including Hon'ble HRD Minister. It is for him as a responsible Class-I officer to abide by the instructions issued thereby and not to waste the valuable time of this Hon'ble Tribunal and senior officers of the Ministry.

4.15 That as mentioned in the preceding paragraphs, the decision of the Respondents transferring him to Kolkata is well thought out decision with proper application of mind without any biased or vindictive attitude. As regards his allegation that the complaints received against him from VHOs were examined in isolation is absolutely false because of -

- i. The complaints were got examined by a Committee consisting of one Under Secretary from the M/o HRD and Joint Director of Education, Govt. of Assam.
- ii. He was given an opportunity to submit his representation on the complaints of the VHOs.
- iii. After examining the report of the Enquiry Committee (Annexure-II) and his representation the decision was taken to transfer him from Guwahati to Kolkata. It is also being mentioned for the kind information of this Hon'ble Tribunal that the transfer order dated 5.5.06 has been issued on recommendations of a duly constituted Committee accepted by Hon'ble HRD Minister to allow rebuilding of the image of the organisation. Hence, there is nothing illegal or vindictive or unfair about that.

4.16 & 4.17 That representation dated 25<sup>th</sup> of April, 2007 has been made by the Applicant in pursuance of this Hon'ble Tribunal's order dated 2<sup>nd</sup> of April, 2007 has already been disposed of taking into account all the relevant aspects. The representation was considered basing on the rule position, facts and observations made by the Hon'ble Tribunal and







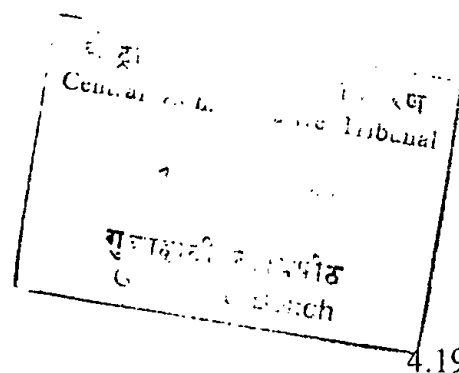
(Annexure-IV). The conclusions drawn in the said Speaking Order were conveyed to the Applicant by Respondent No.2. As mentioned in the preceding paragraphs, the Joint Secretary (L) has duly taken into account the rule position, observations made in the Hon'ble CAT's order dated 02.04.2007 and the facts of the case while issuing the Speaking Order. It is further submitted that we have sent the full details of the Speaking Order to the Applicant at a later date. We apologise for the delay in sending the same to the Applicant.

His allegation regarding transferring him to Kolkata denying an opportunity to attain eligibility for completion of fixed tenure is also denied as he had to be transferred attributable to his own behaviour.

His allegations regarding non-release of his salary is also denied. As per the records, an amount of Rs. 4,20,437.00 has already been released in his favour towards his salary and increment arrears up to August, 2007.

It is submitted that he is being allowed to stay at Guwahati to honour the orders of this Hon'ble Tribunal, allocation of work has nothing to do with the permission for retention ignoring his behaviour fetching a number of complaints in the sensitive area of North-East. There is no question of harassing the Applicant and treating him with malafidy or arbitrariness while considering his request for posting or for any other entitlement.

4.19 That with reference to contents of para 4.19 it is submitted that the OM dated 14.12.83 itself provides that a central govt. employee is to be considered for choice posting as far as possible, the scope of possibility is not transcended. In the present case, since there is no vacancy at New Delhi, the Applicant's claim for posting at New Delhi can not be acceded to. Most importantly because one of the officers posting at New Delhi is due to retire the next year and another one is a lady. His request for posting at New Delhi has been



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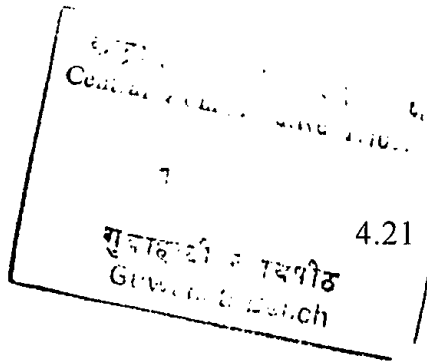
considered by the Respondents at the level of Education Secretary with due application of mind and hence, his allegation that the Respondents have gone vindictive in any manner is absolutely unfounded.

- 4.20 That the Applicant's averment that the work of Kolkata office has all along been looked after from headquarter New Delhi and hence, the same may be applied in case of the Applicant is not sustainable because in earlier cases, where such arrangements were resorted to, the concerned officers were not Deputy Directors. It is submitted for kind information of this Hon'ble Tribunal that the officers who looked after were Research Officers or Administrative Officers and in their cases it was only additional assignments, this can not be equated in the case of the Applicant.

In so far as the Applicant's averment that two Deputy Directors are continuing at New Delhi for more than 20 years is absolutely incorrect because both of them joined the Directorate in feeder cadres i.e. up to Assistant Directors. Since the question of posting at Regional Office arises only after an officer is promoted to the grade of Dy. Director, by sighting the case of present Dy. Directors posted at New Delhi Sh. Singh has misguided this Hon'ble Tribunal, which the Hon'ble Tribunal is requested to take note of.

- 4.21 That it is mentioned for kind information of this Hon'ble Tribunal, the central govt. employees are liable for posting anywhere in India, hence, it is for the concerned official to decide as to how he is to manage his own family. As regards transferring others to the Regional Office Kolkata, as per govt. rules it is the jurisdiction of the Head of the Department to decide on the basis of various administrative factors as to who will be posted where.

- 4.22 That the Applicant has to approach this Hon'ble Tribunal time and again simultaneously incurring heavy losses is attributable to his behaviour, the Respondents have no choice



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except to manage the cadres taking into account the need for smooth functioning of the concerned organisations, balancing the same against the need for avoiding hardships to any of the officers. However, since on all the occasions, the Applicant fails to reconcile with the decisions of the Respondents, the Respondents have left with no choice.

5. **GROUND:**

5.1 For that, even after considering that he has completed the prescribed length of service, his request for choice posting can not be acceded to because of non-availability of a vacancy at New Delhi which he has demanded.

5.2 For that, this does not need any reply because of the position explained in para 5.1.

5.3 For that, the Respondents have considered his request for choice posting taking into account all the administrative factors including availability of a post at New Delhi, his allegations are completely unfounded.

5.4 For that, legality of the transfer order dated 5<sup>th</sup> of May, 2006 is completely undisputed because of his earlier representations for choice posting including the one made on directions of the Hon'ble Tribunal in the OA No.38/2004 have been considered and his request for posting at New Delhi has been found acceptable.

5.5 For that, since his representations having been considered by the Respondents for posting at New Delhi as submitted in para 5.4 have been considered and found to be unacceptable.

5.6 For that, the acts of the Respondents in all this have been transparent, impartial and all the decisions taken with due application of mind.

Central Board of Secondary Education  
New Delhi  
शुभमती नं. 12/पीठ  
12/06/06

*[Handwritten signature]*

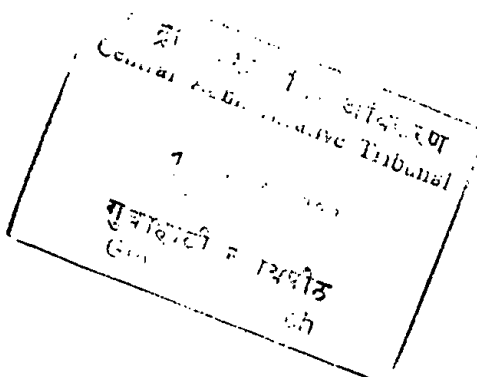
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केंद्रीय हिंदी निदेशालय  
(मानव संसाधन विकास मंत्रालय)  
पश्चिमी खं. 7, राज कृ. 1, 2, 3  
नई दिल्ली-110004

5.7 For that, the Respondents have duly considered the representations made by the Applicant for his choice posting. His application dated 25.04.2007 in pursuance of the Hon'ble CAT's order dated 02.04.2007 has been duly considered by Joint Secretary (L) and has been disposed of through a Speaking Order on the file. While considering the same, Joint Secretary (L) has taken into account the rule position, observations made in the Hon'ble CAT's order dated 02.04.2007 and facts of the case. Basing on the Speaking Order, the Respondent No.2 has issued an order on 20.07.2007. The details of the Speaking Order of the Joint Secretary (L) have also been communicated to the Applicant at a later date.

5.8 For that the order issued by Respondent No.2 in compliance to the directions passed on 2.4.2007 by the Hon'ble Tribunal is not cryptic. The said order was based on a speaking order issued by the Joint Secretary (A & L) on 9.7.2007.

### PRAYER

With the submissions made in the FACTS and the GROUNDS, this Hon'ble Tribunal is most humbly requested to kindly dismiss the Application filed by the Applicant as all the submissions made by the Applicant are completely devoid of merits as examined in the light of the rule position and facts of the case.



  
Deponent

निदेशक  
केंद्रीय हिंदी निदेशालय  
(मानव संसाधन विकास मंत्रालय)  
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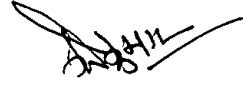
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**VERIFICATION**

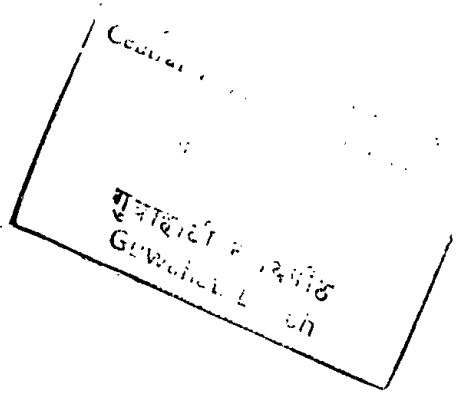
I, Prof. K. Bijay Kumar, Director in the office of the Central Hindi Directorate, Ministry of Human Resource Development, R.K. Puram, Sector-7, New Delhi, verify that the facts stated in the reply are true to my knowledge and on the basis of records and submissions have been made in the legal advice, which I believe to be correct.

Verified this ..... 16<sup>th</sup> ..... day of ..... September ..... 2007.



Deponent

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केंद्रीय हिंदी निदेशालय  
(मानव संसाधन विकास मंत्रालय)  
पश्चिमी खंड-7, राम कृष्ण पुरम  
नई दिल्ली-110055



ANNEXURE - I

27/4/06

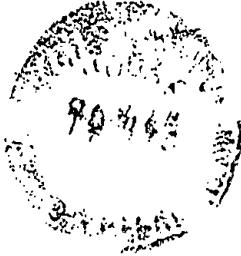
12

- Sl. 8613. F.N. 4-1/2005-आदिनी - श्री. अरुण कुमार शर्मा जिला नई दिल्ली गुवाहाटी 781004 - 22-00
- Sl. 8614. F.N. 4-1/2005-आदिनी - श्री. अरुण कुमार शर्मा जिला नई दिल्ली गुवाहाटी 781004 - 22-00
- Sl. 8615. F.N. 4-1/2005-आदिनी - श्री. अरुण कुमार शर्मा जिला नई दिल्ली गुवाहाटी 781004 - 22-00
- Sl. 8616. F.N. 4-1/2005-आदिनी - श्री. अरुण कुमार शर्मा जिला नई दिल्ली गुवाहाटी 781004 - 22-00
- Sl. 8617. F.N. 4-1/2005-आदिनी - श्री. अरुण कुमार शर्मा जिला नई दिल्ली गुवाहाटी 781004 - 22-00
- Sl. 8618. F.N. 4-1/2005-आदिनी - श्री. अरुण कुमार शर्मा जिला नई दिल्ली गुवाहाटी 781004 - 22-00
- Sl. 8619. F.N. 4-1/2005-आदिनी - श्री. अरुण कुमार शर्मा जिला नई दिल्ली गुवाहाटी 781004 - 22-00
- Sl. 8620. F.N. 4-1/2005-आदिनी - श्री. अरुण कुमार शर्मा जिला नई दिल्ली गुवाहाटी 781004 - 22-00
- Sl. 8621. F.N. 4-1/2005-आदिनी - श्री. अरुण कुमार शर्मा जिला नई दिल्ली गुवाहाटी 781004 - 22-00
- Sl. 8622. F.N. 5-5/89-Admu. To. Sh. K. R. Singh Dy. Director (L) Guwahati - 22-00
- Sl. 8623. F.N. 5-5/89-Admu. Sh. K. R. Singh Dy. Director (L) Guwahati - 22-00
- Sl. 8624. F.N. 2-10/2005-आदिनी - श्री. अरुण कुमार शर्मा जिला नई दिल्ली गुवाहाटी 781004 - 22-00

Sl-8613 न लेख 8624 नक 12 जो 0

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पर प्रक



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निदेशक  
 केंद्रीय हिंदी निदेशालय  
 (मानव संसाधन विकास मंत्रालय)  
 पश्चिमी खंड-7, रा 1 कृष्ण नगर  
 नई दिल्ली-110066

**Minutes of the meeting of Review Committee held on 7th November 2005 to review the suspension of Shri. K.K. Singh, Deputy Director, Central Hindi Directorate, Guwahati.**

A meeting of the review Committee was held on 7th November 2005 in the Chamber of Joint Secretary (Languages) to review the suspension of Shri K.K. Singh, Deputy Director, Central Hindi Directorate, Guwahati. The following members attended the meeting:

1. Smt. Bela Banerjee, Joint Secretary (L) Chairperson
2. Madhukar Sinha, Director (CR)
3. S. Mohan, Deputy Secretary (L)

**Facts of the case**

1. Deputy Secretary (Languages) informed the Committee about the following facts of the case:

Shri KK Singh -

- (i) is a group 'A' officer in the scale of pay of Rs. 10000-325-15200;
- (ii) was posted and working in Guwahati Centre of Central Hindi Directorate, a subordinate office of Department of Secondary and Higher Education, Ministry of Human Resource Development;
- (iii) was arrested by the local police at Guwahati, on 31.1.2005 on charges of attempt to rape;
- (iv) was in police custody from 31.1.2005 to 5.2.2005;
- (v) a criminal case of attempt to rape has been filed against him by the Dispur Police Station on 1.2.2005;
- (vi) Shri. Singh was deemed to be under suspension w.e.f. 31.1.2005;
- (vii) The Director, Central Hindi Directorate had issued necessary orders placing him under suspension w.e.f. vide their F. No. 5-5/89-Admn (P) dated 7.2.2005, as per provisions of Rule 10 of

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Central Civil Services (Classification, Control and Appeal) Rules, 1965;

- (viii) is being paid a subsistence allowance at an amount equal to half pay leave in addition to dearness allowance admissible;
- (ix) a chargesheet was filed in the court of Chief Judicial Magistrate, Dispur vide Charge Sheet No. 69/05 dated 31.3.2005 charging him with an attempt to rape of a girl student studying in an institution located in the vicinity of the office of Central Hindi Directorate at Guwahati.

**Rule position**

2. The provisions in this regard are contained in Rule 10 of Central Civil Services (Classification, Control and Appeal) Rules.

(a) The Rule 10 (5) (c) states:


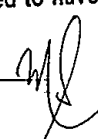

"An order of suspension made or deemed to be have been made under this Rule may at any time be modified or revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate."

(b) The Rule 10 (6) states:

"An order of suspension made or deemed to be have been made under this Rule shall be reviewed by the authority which is competent to modify or revoke the suspension before expiry of ninety days form the date of order of suspension on the recommendations of the Review Committee constituted for the purpose and pass orders either extending the suspension or revoking the suspension. Subsequent reviews shall before the expiry of the extended period of suspension. Extension of suspension shall not be for a period exceeding one hundred and eighty days at a time."

(c) The Rule 10 (7) states:

"Notwithstanding anything contained in sub-rule 5 (a), an order of suspension made or deemed to have been made under sub-rule (1)

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 नई दिल्ली-110066

or (2) of this rule shall not be valid after a period of ninety days unless it is extended after review, for a further period before expiry of ninety days."

3. The Committee also referred to Swamy's compilation of the CCS CCA Rules. Therein, in Chapter 2 is a digest on Suspension derived from Government of India rules and orders on the subject.

4. Under Para 6 of the said digest, some guiding principles for placing a government servant under suspension are listed, which are as follows:

- (i) Where his continuance in office will prejudice investigation, trial or any enquiry
- (ii) Where his continuance in office is likely to seriously subvert discipline in the office in which he is working;
- (iii) Where his continuance in office will be against wider public interest, e.g. if there is a public scandal and it is considered necessary to place the Government servant under suspension to demonstrate the policy of the Government to deal with officers involved in such scandals, particularly corruption;
- (iv) Where a preliminary enquiry revealed a prima facie case justifying criminal or departmental proceedings, which are likely to lead to his conviction and/ or dismissal, removal or compulsory retirement from service; and
- (v) Where his suspected to engaged himself in activities prejudicial to the interests of the security of the State.

5. The Para goes on to list certain misdemeanours where suspension may be desirable under the circumstances listed above, which, *inter alia*, include "an offence or conduct involving moral turpitude".

6. Under Para 14 of the said digest, the conditions for revocation of suspension are related. It is stated that an order of suspension made under

Rule 10 (5)(c) may be revoked by the competent authority in circumstances of a criminal offence if

"In arrest and detention cases, it is decided not to proceed further against the Government servant by filing a chargesheet in the court."

7. Ministry of Home Affairs O.M. No.221/18/65 – AVD, dated the 7<sup>th</sup> September 1965 states that

" x x x x x

2. Even though suspension may not be considered as a punishment, it does constitute a very great hardship for a Government servant. In fairness to him, it is essential to ensure that this period is reduced to the barest minimum.

3. It has, therefore, been decided that in cases of officers under suspension, the investigation should be completed and a charge sheet filed in a Court of competent jurisdiction in cases of prosecution or served on the officer in cases of departmental proceedings within six months as a rule. If the investigation is likely to take more time, it should be considered whether the suspension order should be revoked and the officer permitted to resume duty. If the presence of the officer is considered detrimental to the collection of evidence, etc., or if he is likely to tamper with the evidence, he may be transferred on revocation of the suspension order."

8. D.G., P & T's Letter No.201/43/76 – Disc. II dated the 15<sup>th</sup> July 1976 states that

"All authorities receiving information/report about the continued suspension of officials from their subordinate authorities should carefully examine each case and see whether the continued suspension of an official is absolutely necessary or the suspension should be revoked by transferring the official to another post or office.

x x x x x x x "

9. The Committee noted the following aspects of the case for consideration while making its recommendation:

- (i) That the order for suspension was effective from the date of detention of the officer, i.e, January 31, 2005;
- (ii) That the first period of 90 days was over on May 1, 2005;

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केंद्रीय हिंदी निदेशालय  
(मानव संसाधन विकास मंत्रालय)  
पश्चिमी खंड-7, राज कृष्ण पुरम  
नई दिल्ली-110066

- (iii) That no review was conducted of the suspension within ninety days of the suspension as required under Rule 10 (6);
- (iv) That as per a strict interpretation of Rule 10 (7), the current suspension is not valid since no review was conducted during the stipulated period of 90 days for such review;
- (v) That a chargesheet has been filed which necessarily means that due investigation by the concerned agency has been completed;
- (vi) That the employee is not likely to prejudice the trial in the Court;
- (vii) That he is drawing subsistence allowance at 50% of pay since the date of suspension i.e. 31.1.2005 and is also eligible for 75% of pay as subsistence allowance from 1.5.2005.

10. Juxtaposing the conditions of placing the Government servant under suspension with the present case, the Committee sees the following condition emerging on the basis of the information made available to it by the Kendriya Hindi Nideshalaya:

Conditions	Assessment
(i) Where his continuance in office will prejudice investigation, trial or any enquiry	Not likely
(ii) Where his continuance in office is likely to seriously subvert discipline in the office in which he is working;	Not likely
(iii) Where his continuance in office will be against wider public interest, e.g. if there is a public scandal and it is considered necessary to place the Government servant under suspension to demonstrate the policy of the Government to deal with officers involved in such scandals, particularly corruption;	Already under suspension
(iv) Where a preliminary enquiry revealed a prima facie case justifying criminal or departmental proceedings, which are likely to lead to his conviction and/ or dismissal, removal or compulsory retirement from service; and	Yes, Police have already filed a charge sheet in the Court of Chief Judicial Magistrate, Dispur in March 2005.

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निदेशक  
केंद्रीय हिंदी निदेशालय  
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पश्चिमी खंड-7, राम कृष्ण पुःम  
नई दिल्ली-110086

(v) Where his suspected to engaged himself in activities prejudicial to the interests of the security of the State.	No
---	----

11. After carefully examining all the facts and details of the case the Committee makes the following observations:

- (i) That the suspension of Shri KK Singh beyond May 1, 2005 has become technically invalid in view of the review not having being conducted within the stipulated period;
- (ii) That the employee Shri K.K. Singh has already been released on bail indicating the investigations are completed;
- (iii) That charge sheet has been filed and his continuance in the office is not likely to prejudice the trial;
- (iv) That the trial in the Court is likely to take long time and continued suspension will be unduly harsh on the employee and his family members;
- (v) That Ministry of Home's OM cited in Para 7 also directs that it is essential to ensure that the period of suspension is reduced to the barest minimum.

12. In view of the foregoing the Committee recommends that:

- (a) Subsistence allowance be increased by 50% of subsistence allowance, being paid at present from 1.5.2005 till the date of revocation of suspension as per F.R. 53;
- (b) The immediate revocation of the suspension as no purpose is served by keeping Shri K.K. Singh, Deputy Director, Central Hindi Directorate, in continued suspension. The Department may consider transferring him out of Guwahati Centre of Central Hindi Directorate, to allow rebuilding of trust and confidence in Guwahati Centre.

*S. Mohan*  
S. Mohan  
DS (L)

*Madhukar Sinha*  
Madhukar Sinha  
Director (CR)

*Bela Banerjee*  
Bela Banerjee  
Joint Secretary (L)

*S. Mohan*

निदेशक  
केन्द्रीय हिंदी निदेशालय  
(मानव संसाधन विकास विभाग)  
बहिर्मुखी खण्ड-7, राज कृष्ण भवन  
नई दिल्ली-110002

From pre-page

- 17 -

Sri K.K. Singh, Dy. Director, CHD, has submitted a representation addressed to Secretary, Higher Education in pursuance of the directions issued by the Hon'ble CAT, Guwahati Bench in judgment of 2.4.07 in the OA No.209 of 2006. The CAT judgment authorizes Secretary HE to nominate some other competent authority to dispose of the case. Secretary HE has accordingly, on file, directed me to examine the representation and take a view.

2. Sri K.K.Singh had filed an OA before the CAT challenging the posting order dated 5.5.06 in which was posted to the Kolkata office in the wake of revocation of his deemed suspension. At the time of his suspension he was posted at Guwahati. In judgment of 2.4.07, he has been allowed to make a fresh representation that is to be examined with reference to the rule position and the facts of the case.

3. In his representation, Sri K.K.Singh has asked for a posting in the Central Hindi Directorate at New Delhi as, to his mind, he has completed the prescribed tenure of 2 years in the North-Eastern Region. He has also alleged that he is the only officer who has been singled out for repeated transfers from New Delhi to Kolkata and then again from Kolkata to Guwahati and vice versa.

4. The relevant rules relating to tenure in the North-Eastern region appear to be D/Expenditure OM of 14.12.83 read with OM of 30.3.84 and 27.7.84. The operative part of these guidelines are that officers "on completion of the fixed tenure of service...may be considered for posting to a station of their choice as far as possible". Sri K.K.Singh has completed two years at Guwahati, which station he has joined on 11.4.03. However, there is absolutely no guarantee that he obtains a fresh posting to a station of his choice. The rules are clear that an officer in his situation *may* be considered for a posting of choice. It is not binding on the authorities to compulsorily consider such a request. The rules are further clear that such a transfer should be made *as far as possible*. The implication is that if it were not possible then nothing needs to be done.

5. The question remains therefore whether the facts of the case require that Sri K.K.Singh's request be considered at all and whether a posting of his choice is currently possible. The relevant facts are as follows.

- i) Sri Singh was on deputation with the Office of Commissioner for Linguistic Minorities at Kolkata from 6.11.1998 to 3.2.2003.
- ii) After repatriation, he was posted to Guwahati office. Following complaints, which were substantiated on enquiry, Sri Singh was transferred to Regional Office Kolkata on 10.2.2004.
- iii) Sri Singh challenged the transfer order before the Guwahati Bench of CAT through the OA No. 38/2004. Government was directed to examine Sri Singh's representation and dispose of the same.



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नई दिल्ली-110066

iv) The Department was about to pass orders when the Assam Police, in an unrelated development, arrested Sri Singh. As he remained 48 hours in the police custody he was placed under deemed suspension. The deemed suspension was subsequently revoked and Sri Singh transferred to Kolkata vide order of 5.5.2006. Sri Singh challenged this order in CAT and continued in Guwahati on the strength of a stay order. This stay order continues to operate till the disposal of his current representation.

6. It is also relevant that as there are only two posts of Deputy Director at Headquarters, posting Sri Singh at Delhi will mean that someone will need to be posted out of Delhi. One of these two officers, Dr. Dixit, is due to retire next year. The other officer is a lady.

7. The rules applicable to such cases, the facts of this specific case and CAT's directions have all been duly considered. The simple position is that Sri K.K.Singh, Deputy Director has completed over three years at his posting in Guwahati and is hence eligible to be considered for posting out of the region. Rules permit that his choice in the matter may also be considered. However, there are other facts also to be considered. His tenure at Guwahati has not been entirely in compliance of Government orders. He was transferred out of Guwahati on the basis of complaints, and secured a stay on his transfer. He was subsequently arrested on unrelated charges. When, as a means of restoring morale in the office, he was transferred out of Guwahati, he again secured a stay on his transfer. For whatever reason, Sri Singh has been unwilling to comply with orders of transfer out of Guwahati. His current insistence on a posting outside Guwahati is difficult to understand given that he has so strenuously resisted any attempt in the past to transfer him from Guwahati.

8. It may also be difficult to accommodate Sri Singh in Delhi because there are at present no vacancies. It does not also appear possible to create a vacancy to adjust him. At the same time the office has consistently taken the view that he should be posted out of Guwahati in the interest of general morale in the office.

9. In consideration of all facts, the officer's representation, the rule position and the directions of the Hon'ble CAT I am satisfied that Sri K.K.Singh needs to be transferred from Guwahati. However, his request for a posting in Delhi cannot be granted as there is no vacancy at the present time. In any case he has no absolute claim to a post of his choice. All that the rules require is that his choice of posting be considered. His choice of a Delhi posting has been duly considered, but it is not possible to accommodate him at present. Since his orders for transfer to Kolkata have already issued on 5.5.06, and have been stayed till the disposal of his representation, the orders may be deemed to be restored with this order. Sri K.K.Singh may accordingly report forthwith at Kolkata, his new place of posting.

8950/555/2007  
186/DF(L)  
10/7/07

*Keshav Desiraju*

(Keshav Desiraju)  
Joint Secretary (Languages)  
Department of Higher Education  
9<sup>th</sup> July 2007

Director CHD

*P. Look into the deadline give by the  
Hench. CAT and prepare necessary advs  
11.07.07*

निदेशक

केंद्रीय हिंदी निदेशालय  
(मानव संसाधन विकास मंत्रालय)

पश्चिमी खंड-7, राम कृष्ण पुरम

नई दिल्ली-110088

*for n.a.*

*12/7/07*

ANNIE XU

Regd. 151

F.No.7-10/2006-Admn.  
Government of India  
Central Hindi Directorate  
Ministry of Human Resource Development  
(Department of Higher Education)

West Block-VII, R.K. Puram.  
New Delhi-110066  
Dated: 20.7.2007

**OFFICE ORDER**

In compliance with the directions of Hon'ble CAT's order dated 2<sup>nd</sup> April, 2007, the representation dated 26.4.2007 of Sh. K.K. Singh, Deputy Director (L) has been examined by the Administrative Ministry. After careful consideration of all facts, the Officer's representation and the rule position, the Ministry is of the opinion that the request of Sh. K.K. Singh can not be acceded to since there is no vacancy at Delhi at present. Since, Sh. Singh's orders for transfer to Kolkata have already been issued on 5.05.2006 and have been stayed till the disposal of his representation, his orders are deemed to be restored with this order and Sh. K.K. Singh is hereby directed to report forthwith to Kolkata, his new place of posting.

He is also directed to inform the undersigned about his joining the Kolkata Office. He will be eligible for joining time and TA as per Government rules.

  
(Prof. K. Bijay Kumar)  
Director

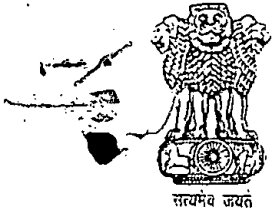
Sh. K. K. Singh, Dy. Director (L),  
C/o TAGS, House No.6,  
Main Road, Kharghuli,  
Guwahati-781001.

Copy to:

- 1 Central Administrative Tribunal, Guwahati Bench, Guwahati-5 in r/o OA No.209 of 2006.
- 2 DDO, Regional Office, CHD, Guwahati.
- 3 DDO/Controlling Officer, Regional Office, CHD Kolkata for information and necessary action.
- 4 PA to Director.
- 5 PA to AO.
- 6 All Dy. Directors.
- 7 Regional Offices of Hyderabad, Chennai, Guwahati and Kolkata for information.
- 8 Account Section-2 copies.
- 9 All Bureau Heads.
- 10 Office Order folder.

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नई दिल्ली-110066





Phone : Off. : 6100758, 6105211  
Residence : 3387784, 3070755  
Tele Fax No. : 6100758, 6103160  
www.hindinideshalaya.nic.in

तार : राजभाषा  
Tele : RAJBHASHA

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DO No. 7-10/2006-Admn.

Prof. K. Bijay Kumar  
निदेशक  
DIRECTOR

भारत सरकार  
GOVERNMENT OF INDIA  
केंद्रीय हिंदी निदेशालय  
CENTRAL HINDI DIRECTORATE  
मानव संसाधन विकास मंत्रालय  
MINISTRY OF HUMAN RESOURCE DEVELOPMENT  
(माध्यमिक शिक्षा और उच्चतर शिक्षा विभाग)  
(Department of Secondary Education & Higher Education)  
पश्चिमी खण्ड-VII, रामकृष्ण पुरम्  
WEST BLOCK-VII, R. K. PURAM

नई दिल्ली-110066

दिनांक : 10.9.2007

New Delhi-110066

Date :

Dear Sh. Singh,

In continuation of Office Order No.7-10/2006-Admn. Dated 20.7.07, I am to inform you that in pursuance of the directions issued by the Hon'ble CAT, Guwahati Bench in judgement of 2.4.07 in the OA No.209 of 2006, the CAT authorised the Secretary, HE to nominate some other competent authority to dispose of the case. Secretary, HE has accordingly, on file, directed Sh. Keshav Desiraju, Joint Secretary (Languages) to examine your representation addressed to the Secretary, HE and take a view. Accordingly, Sh. Keshav Desiraju has issued a Speaking Order. A copy of the Speaking Order is enclosed herewith.

Yours sincerely,

  
(Prof. K. Bijay Kumar)

Sh. K.K. Singh,  
Dy. Director (L),  
C/o TAGS, House No.6,  
Main Raod, Kharghuli,  
Guwahati - 781 001



निदेशक  
केंद्रीय हिंदी निदेशालय  
(मानव संसाधन विकास मंत्रालय)  
पश्चिमी खंड-7, रामकृष्ण पुरम्  
नई दिल्ली-110066

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**Copy of the Speaking Order issued by Sh. Keshav Desiraju,  
Joint Secretary (L)  
Ministry of Human Resource Development  
Department of Higher Education**

Sri K. K. Singh, Dy. Director, CHD, has submitted a representation addressed to the Secretary, Higher Education in pursuance of the directions issued by the Hon'ble CAT, Guwahati Bench in judgement of 2.4.07 in the OA No. 209 of 2006. The CAT judgement authorises Secretary HE to nominate some other competent authority to dispose of the case. Secretary, HE has accordingly, on file, directed me to examine the representation and take a view.

1. Sri K. K. Singh had filed an OA before the CAT challenging the posting order dated 5.5.06 in which he was posted to the Kolkata office in the wake of revocation of his deemed suspension. At the time of his suspension he was posted at Guwahati. In judgment of 2.4.07, he has been allowed to make a fresh representation that is to be examined with reference to the rule position and the facts of the case.

2. In his representation, Sri K. K. Singh has asked for a posting in the Central Hindi Directorate at New Delhi as, to his mind, he has completed the prescribed tenure of 2 years in the North-Eastern Region. He has also alleged that he is the only officer who has been singled out for repeated transfers from New Delhi to Kolkata and then again from Kolkata to Guwahati and vice versa.

3. The relevant rules relating to tenure in the North-Eastern region appear to be D/Expenditure OM of 14.12.83 read with OM of 30.3.84 and 27.7.84. The operative part of these guidelines are that officers "on completion of the fixed tenure of service.. may be considered for posting to a station of their choice as far as possible". Sri K. K. Singh has completed two years at Guwahati, which station he has joined on 11.4.03. However, there is absolutely no guarantee that he obtains a fresh posting to station of his choice. The rules are clear that an officer in his situation *may* be considered of a posting of choice. It is not binding on the authorities to compulsorily consider such a request. The rules are further clear that such transfer should be made *as far as possible*. The implication is that if it were not possible then nothing needs to be done.

4. The question remains therefore whether the facts of the case require that Sri K. K. Singh's request be considered at all and whether a posting of his choice is currently possible. The relevant facts are as follows.

*Smiley*  
*Alka*  
*3-19/07*

*Alka*

निदेशक  
केंद्रीय हिंदी निदेशालय  
(मानव संसाधन विकास मंत्रालय)  
पश्चिमी खंड-7, गाना कृष्ण पुरम  
नई दिल्ली-110080

- (i) Sri Singh was on deputation with Office of Commissioner of Linguistic Minorities at Kolkata from 6.11.98 to 3.2.2003.
- (ii) After repatriation, he was posted to Guwahati office. Following complaints, which were substantiated on enquiry, Sri Singh was transferred to Regional Office Kolkata on 10.2.2004.
- (iii) Sri Singh challenged the transfer order before the Guwahati Bench of CAT through the OA No. 38/2004. Government was directed to examine Sri Singh's representation and dispose of the same.
- (iv) The Department was about to pass orders when the Assam Police, in an unrelated development, arrested Sri Singh. As he remained 48 hours in the police custody he was placed under deemed suspension. The deemed suspension was subsequently revoked and Sri Singh transferred to Kolkata vide order of 5.5.2006. Sri Singh challenged this order in CAT and continued in Guwahati on the strength of stay order. This stay order continues to operate till the disposal of his current representation.

5. It is also relevant that as there are only two posts of Deputy Director at Headquarters. Posting Sri Singh at Delhi will mean that someone will need to be posted out of Delhi. One of these two officers, Dr. Dixit, is due to retire next year. The other officer is a lady.

6. The rules applicable to such cases, the facts of this specific case and CAT's directions have all been duly considered. The simple position is that Sri K. K. Singh, Deputy Director has completed over three years at his posting in Guwahati and is hence eligible to be considered for posting out of the region. Rules permit that his choice in the matter may also be considered. However, there are other facts also to be considered. His tenure at Guwahati has not been entirely in compliance of Government orders. He was transferred out of Guwahati on the basis of complaints, and secured a stay on his transfer. He was subsequently arrested on unrelated charges. When, as a means of restoring morale in the office, he was transferred out of Guwahati, he again secured a stay on his transfer. For whatever reason, Sri Singh has been unwilling to comply with orders of transfer out of Guwahati. His current insistence on a posting outside Guwahati is difficult to understand given that he has so strenuously resisted any attempt in the past to transfer him from Guwahati.

7. It may also be difficult to accommodate Sri Singh in Delhi because there are at present no vacancies. It does not also appear possible to create a vacancy to adjust him. At the same time the office has consistently taken the view that he should be posted out of Guwahati in the interest of General morale in the office.

*Thru copy attached*  
*3/1/08*

*[Signature]*

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 (मानव संसाधन विकास मंत्रालय)  
 पश्चिमी खंड-7, राम कृष्ण भुवन  
 नई दिल्ली-110066

In consideration of all facts, the officer's representation, the rule position and the directions of the Hon'ble CAT, I am satisfied that Sri K. K. Singh needs to be transferred from Guwahati. However, his request for a posting in Delhi can not be granted as there is no vacancy at the present time. In any case he has no absolute claim to a post of his choice. All that the rules require is that his choice of posting be considered. His choice of a Delhi posting has been duly considered, but it is not possible to accommodate him at present. Since his orders for transfer to Kolkata have already issued on 5.5.06, and have been stayed till the disposal of his representation, the orders may be deemed to be restored with this order. Sri K. K. Singh may accordingly report forthwith at Kolkata, his new place of posting.

Ed -

(Keshav Desiraju)  
Joint Secretary (Languages)  
Department of Higher Education  
9<sup>th</sup> July 2007

True copy  
A. K. Singh

22/7/07  
31/7/07

*(Signature)*

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केंद्रीय हिंदी निदेशालय  
(मानव संसाधन विकास मंत्रालय)  
पश्चिमी खंड-7, राम कृष्ण पुरम  
नई दिल्ली-110066

File in Court on.....  
14-11-07  
Court Officer.

Central Administrative Tribunal  
14 NOV 2007  
গুৱাহাটী ব্যাংক  
Guwahati Bench

Filed by me applicant  
through: S. N. S. G.  
Advocate  
14/11/2007

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

In the matter of:-

O.A.No. 207 of 2007

Shri Krishna Kumar Singh.

.... Applicant.

-Versus-

Union of India and others.

... Respondents.

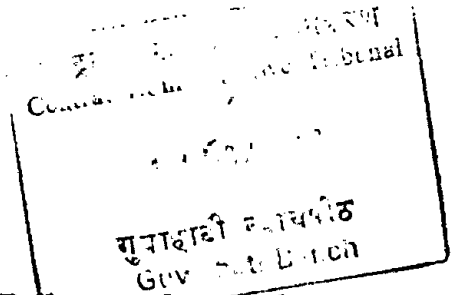
- And-

In the matter of:-

Rejoinder submitted by the applicant  
against the written statement filed by  
the respondents.

The applicant above named most respectfully begs to state as follows:-

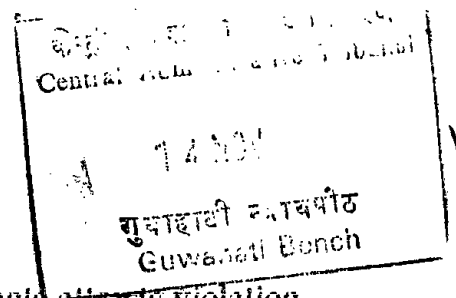
1. That with regard to the statements made in para 4.5, 4.6 and 4.7, the applicant categorically denies the correctness of the same, save and except which are borne out of records and further begs to say that non-availability of vacancies at New Delhi in the cadre of Deputy Director is a deliberate false statement in as many as availability of two posts of Deputy Directors have been admitted in para 5 of the impugned letter dated 09.07.2007 rejecting the prayer of the applicant for choice station posting, but the respondents without adopting any fair policy of rotation transfer have accommodated the present incumbents who are working as Deputy Directors at New Delhi for about 20 years. Those Deputy Directors at New Delhi also have been accommodated at New Delhi even after their promotion to the cadre of Deputy Director while denying the



benefit of choice station posting at New Delhi to the applicant. Representation has been rejected mechanically with a deliberate view of intention not to accommodate the applicant at New Delhi.

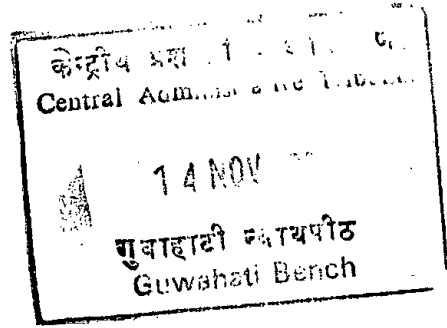
2. The applicant categorically denies the contention raised in para 4.8, 4.10, 4.11, 4.12, 4.14, 4.15, 4.16, 4.17 and 4.18 save and except which are borne out of records, and the applicant reiterate the statements made in the original application.
3. That with regard to the statement made in paragraph 4.19, 4.20, 4.21 and 4.22, the contention raised by the applicant in applicant in paragraph 5 of the O.A is categorically denies and further beg to say that the contention made in paragraph 4.20 is a deliberate false and misleading statements and therefore the Hon'ble Court be pleased to direct the respondents to produce the relevant records of transfer, posting and promotion of the two Deputy Directors, who are now working at the HQ office, New Delhi. Then it would be evident that those two Deputy Directors never transferred and posted outside New Delhi neither in the cadre of Asstt. Director nor in the cadre of Deputy Director. There is no Govt. circular issued in the respondent department imposing any restriction that lady Deputy Directors is required to work only in the HQ office, New Delhi and the lady officers transfer and posting is barred.

On a careful reading of the written statement it would be evident that the whole attempt of the respondents, not to accommodate him at New Delhi in spite of the fact that the Govt. of India repeatedly issuing transfer policies laying down certain norms, privileges, rights, while transferred and posted the Central Govt. employees in the North eastern Region. Since the applicant has acquired a valuable legal right after rendering more than the prescribed period of tenure in the N.E. Region as denial of choice station posting at New Delhi on the pretext of alleged complaints and non availability of vacancies is highly arbitrary,



unfair and illegal and as such action of the respondents attracts violation of Article 14 of the Constitution and on that score alone the Hon'ble Tribunal be pleased to set aside and quashed the impugned transfer and posting order dated 05.05.2006 and the O.M dated 28.07.2006, order dated 20.07.2007 as well as impugned speaking order dated 09.07.2007 and further be pleased to pass appropriate order, directing the respondents to allow the applicant to continue in the present place of posting at Guwahati till the post of Deputy Directors fall vacant at New Delhi as stated by the respondent in para 5 of the impugned speaking order dated 09.07.2007.

4. That in the facts and circumstances stated above, the application deserves to be allowed with costs.



VERIFICATION

I Shri Krishna Kumar Singh, S/o- Late Badri Narain Singh, aged about 56 years, working as Deputy Director (Languages), in the office of the Central Hindi Directorate, Guwahati, applicant in the instant original application, do hereby verify that the statements made in Paragraph 1 to 3 are true to my knowledge and legal advice and I have not suppressed any material fact.

And I sign this verification on this the 31<sup>st</sup> day of October 2007.

*(Handwritten Signature)*

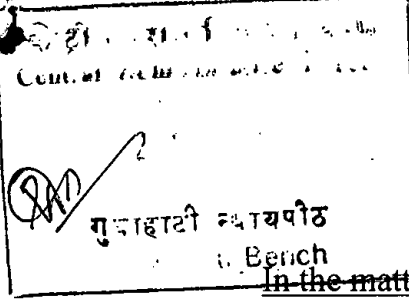


**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,**

**GUWAHATI BENCH: GUWAHATI**

**Amended Original Application**

**O.A. NO.207/2007**



In the matter of:

Sh. Krishna Kumar Singh - Applicant

Vs

Union of India & Ors. - Respondents

**Parawise reply to Amended Original Application on behalf of the Respondent No.1 & 2**


I, Prof. K. Bijay Kumar aged about 56 years presently working as Director, Central Hindi Directorate, M/o Human Resource Development, D/o Higher Education, R.K. Puram, New Delhi has been named as Respondent No.2 in the aforesaid OA.

I have gone through the contents of the OA. I am well conversant with the facts of the case and accordingly making submissions in parawise comments appended hereunder, the contents wherein are based on the records and true to the best of my knowledge and belief.

That I am subordinate to the Respondent No.1 and have been duly authorised by them to submit my comments in the present OA.

**Facts of the case:**

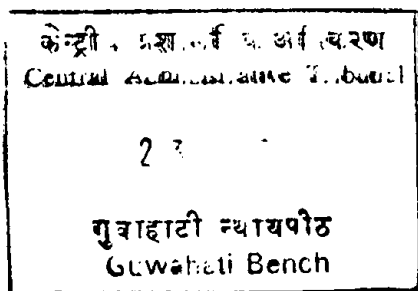
- 4.1 Does not need any reply.
- 4.2 No reply is being offered as the contents are only matter of record.
- 4.3 The contents do not need any reply being matter of record.

  
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केंद्रीय हिंदी निदेशालय  
(मानव संसाधन विभाग, नई दिल्ली)

Filed by No 182  
the Respondents, through  
Alsha Das  
Addl. Clk  
31/12/07

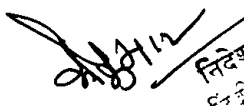
4.4 With reference to contents of para 4.4, it is submitted that all the allowances and facilities, entitlement whereof a central govt. civilian employee earns have been granted to the Applicant except his posting at station of choice. The reasons for denying the benefit have been explained for the kind information of this Hon'ble Tribunal in the succeeding paragraphs.

4.5 That his representations regarding choice posting dated 25.04.2007 has already been considered by Respondent No.1, however, since no post at the Headquarters is vacant, his request for posting at New Delhi could not be acceded to. It is being submitted for the kind information of this Hon'ble Tribunal that the said OM of Department of Expenditure itself provides that such requests for choice posting are to be considered as far as possible, meaning thereby that the request is to be considered within the ambit of possibility. However, in the Applicant's case, since a vacant post could not be located for posting at New Delhi, his request was not acceded to. As regards grant of other benefits and allowances, the Applicant is being granted all the benefits as per rules.



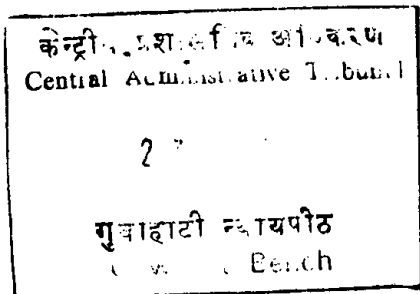
4.6 That the Applicant was transferred from Guwahati Regional Office to Kolkata Regional Office vide order dated 10.2.2004 in the wake of a number of complaints received against him. Since as submitted before this Hon'ble Tribunal in reply to earlier applications of the Applicant, his behaviour has caused a lot of unrest in the sensitive area of North-East, the Respondent could not afford to allow him to stay at Guwahati to complete the prescribed fixed tenure at the cost of image of the organisation and the overall impact on the law and order position. As regards the choice of posting, his request was not acceded to for the reasons stated in the preceding para.

4.7 That the directions of this Hon'ble Tribunal have been complied with by the answering Respondents as under:

  
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पश्चिमी अखण्ड, नया दिल्ली 110011  
दिनांक: 1.10.07

- i. The Applicant's representation dated 1<sup>st</sup> of April, 2004 was considered.
- ii. He was also given a personal hearing by the then Joint Secretary (Languages)

4.8 That the Respondents considered his representation dated 1<sup>st</sup> of April, 2004 for choice posting, which was made in pursuance of Hon'ble Tribunal's order dated 25.3.2004, taking into account all the relevant factors. As mentioned in the preceding paragraph, he was also given a personal hearing, however, just as the Respondents were in the process of issuing official orders, the Applicant was placed under deemed suspension (under CCS (CCA) Rules 1965) for remaining in Police custody for a period exceeding 48 hours.



4.9 That the answering Respondents have no comments to offer in respect of both the cases mentioned by the Applicant as the matter is subjudice before the Trial Court.

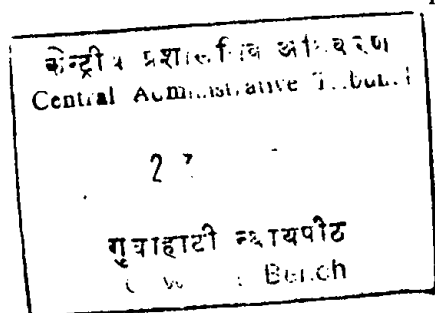
4.10 That as mentioned in the Application, the Contempt Petition filed by the Applicant alleging non-compliance of this Hon'ble Tribunal's order dated 25<sup>th</sup> of March, 2004 has already been dismissed by this Hon'ble Tribunal observing that no direction could be given upon to Respondents until the order of suspension was cancelled itself makes out that the Applicant is wrong in alleging that his representation dated 1<sup>st</sup> of April, 2004 is pending in any manner before the answering Respondents as the Respondents, even after conducting the procedure of consideration of his representation, could not pass the final orders on the same during the currency of his deemed suspension.

4.11 That the Applicant's allegation that the order of revoking his suspension was not communicated to him is absolutely misleading as the same was sent through registered post to the Regional Office Guwahati as well as to his last known address (Annexure-I).

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 नई दिल्ली-110056

4.12 That as already submitted in the preceding paragraph, his representation made in pursuance of this Hon'ble Tribunal's order in the OA 38/2004 was duly considered by the Respondents. However, final orders could not be issued because of his deemed suspension. He is absolutely wrong in alleging that a subsequent transfer order dated 5.5.06 was issued transferring him from Guwahati to Kolkata. The sequence of events is explained hereunder:

- i. His representation dated 1.4.2004 was considered in compliance of this Hon'ble Tribunal's order dated 25<sup>th</sup> of March, 2004.
- ii. The final order could not be issued because of currency of his deemed suspension.
- iii. His deemed suspension was reviewed by a duly constituted Review Committee which recommended revocation of his suspension and also shifted to any other station from Guwahati to allow rebuilding image of the organisation.



Recommendation of the duly constituted Review Committee were accepted by the Hon'ble Minister for HRD (Disciplinary Authority for Group 'A' employees) and hence, accordingly he was transferred from Guwahati to Kolkata.

From the above submissions, it is amply clear that after the action as above, his representation made for choice posting is no more pending disposal.

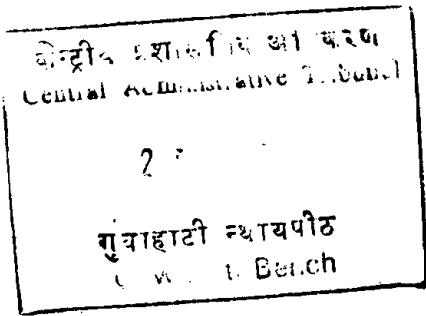
4.13 That as mentioned in the preceding paragraphs, the issue has already been disposed of.

4.14 That since right from the date of issuance of direction in the OA No.38/04 up to 5.5.06, the issue is one and the same i.e. consideration of his choice posting and which once having been officially decided on the recommendations of the Review Committee, the allegation of pendency of his

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परिसर नं. 17, गुवाहाटी  
दि. 05.05.2005

representation dated 1<sup>st</sup> of April, 2004 or any other representation made in this regard is absolutely unfounded. This is aimed only at misguiding this Hon'ble Tribunal and has no legs to stand upon. As regards malafidy and vindictive attitude towards the Applicant, it is submitted for the kind information of this Hon'ble Tribunal that his representation for choice posting has been considered at all the levels including Hon'ble HRD Minister. It is for him as a responsible Class-I officer to abide by the instructions issued thereby and not to waste the valuable time of this Hon'ble Tribunal and senior officers of the Ministry.

4.15 That as mentioned in the preceding paragraphs, the decision of the Respondents transferring him to Kolkata is well thought out decision with proper application of mind without any biased or vindictive attitude. As regards his allegation that the complaints received against him from VHOs were examined in isolation is absolutely false because of -



- i. The complaints were got examined by a Committee consisting of one Under Secretary from the M/o HRD and Joint Director of Education, Govt. of Assam.
- ii. He was given an opportunity to submit his representation on the complaints of the VHOs.
- iii. After examining the report of the Enquiry Committee (Annexure-II) and his representation the decision was taken to transfer him from Guwahati to Kolkata. It is also being mentioned for the kind information of this Hon'ble Tribunal that the transfer order dated 5.5.06 has been issued on recommendations of a duly constituted Committee accepted by Hon'ble HRD Minister to allow rebuilding of the image of the organisation. Hence, there is nothing illegal or vindictive or unfair about that.

4.16 & 4.17 That representation dated 25<sup>th</sup> of April, 2007 has been made by the Applicant in pursuance of this Hon'ble Tribunal's order dated 2<sup>nd</sup> of April, 2007 has already been

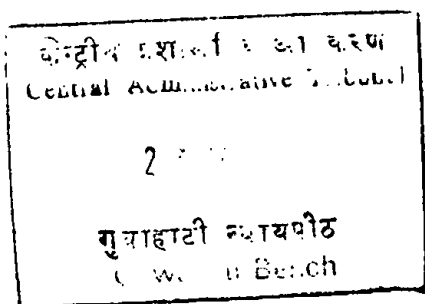
केन्द्रीय प्रशासनिक आयोग  
 (मानव संसाधन विभाग, गुवाहाटी)  
 पत्रिका संख्या: 110000

disposed of taking into account all the relevant aspects. The representation was considered basing on the rule position, facts and observations made by the Hon'ble Tribunal and disposed of by a speaking order by Joint Secretary (L) on 9.7.07(Annexure-III). In the said speaking order all the matters relating to the Application of Sh. K.K. Singh viz. OA filed by Sh. K.K. Singh before the CAT challenging the posting order dated 5.5.06, the representation of Sh. K.K. Singh for his posting at New Delhi, the relevant rules applicable in such cases (relating to tenure in North-Eastern Region), the facts of the specific case of Sh. Singh and the CAT's directions have been duly considered. The conclusions drawn in the speaking order were conveyed to the Applicant by the Respondent No.2 on 20.7.2007(Annexure-IV). The full contents of the original speaking order by the Joint Secretary (L) have also been communicated to the Applicant on 10.09.2007 (Annexure-V). We apologise before the Hon'ble Tribunal for the delay in sending the full contents of the speaking order to the Applicant. It is submitted to the Hon'ble Tribunal may make a note from the order issued by the Respondent No.2 on 20.7.2007 and the speaking order of Joint Secretary (L) on 9.7.2007 clearly indicate that there is no malafidy, at any stage, to issue a cryptic order.

- 4.18 That as mentioned in the preceding paragraph, the Respondent had the ground and reasons to restore the operation of transfer order dated 5<sup>th</sup> of May, 2006 as the Applicant's representation made in the wake of the Hon'ble Tribunal's order dated 2<sup>nd</sup> of April, 2007 has been disposed of through a speaking order.

His allegation regarding pendency of earlier representations is also denied in view of the submissions made in the succeeding paragraphs.

The allegation made by the Applicant that the impugned order dated 20.7.2007 was issued by the Respondent No.2 without considering any of the grounds



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raised by the Applicant is denied. The order of Respondent No.2 dated 20.7.2007 (Annexure-III) is based on the speaking order issued by Joint Secretary (L) on 09.07.2007 (Annexure-IV). The conclusions drawn in the said Speaking Order were conveyed to the Applicant by Respondent No.2. As mentioned in the preceding paragraphs, the Joint Secretary (L) has duly taken into account the rule position, observations made in the Hon'ble CAT's order dated 02.04.2007 and the facts of the case while issuing the Speaking Order. It is further submitted that we have sent the full details of the Speaking Order to the Applicant at a later date. We apologise for the delay in sending the same to the Applicant.

His allegation regarding transferring him to Kolkata denying an opportunity to attain eligibility for completion of fixed tenure is also denied as he had to be transferred attributable to his own behaviour.

His allegations regarding non-release of his salary is also denied. As per the records, an amount of Rs. 4,20,437.00 has been released in his favour towards his salary and increment arrears up to August, 2007.

It is submitted that he is being allowed to stay at Guwahati to honour the orders of this Hon'ble Tribunal, allocation of work has nothing to do with the permission for retention ignoring his behaviour fetching a number of complaints in the sensitive area of North-East. There is no question of harassing the Applicant and treating him with malafidy or arbitrariness while considering his request for posting or for any other entitlement.

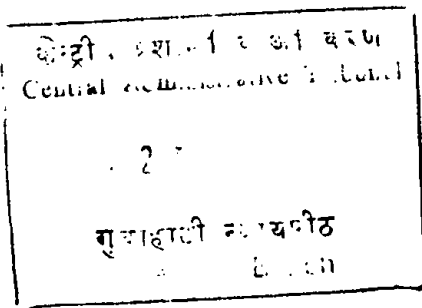
- 4.19 That with reference to contents of para 4.19 it is submitted that the OM dated 14.12.83 itself provides that a central govt. employee is to be considered for choice posting as far as possible, the scope of possibility is not transcended. In the present case, since there is no vacancy at New Delhi, the Applicant's claim for posting at New Delhi can not be

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 acceded to. Most importantly because one of the officers posting at New Delhi is due to retire the next year and another one is a lady. His request for posting at New Delhi has been considered by the Respondents at the level of Education Secretary with due application of mind and hence, his allegation that the Respondents have gone vindictive in any manner is absolutely unfounded.

4.20 That the Applicant's averment that the work of Kolkata office has all along been looked after from headquarter New Delhi and hence, the same may be applied in case of the Applicant is not sustainable because in earlier cases, where such arrangements were resorted to, the concerned officers were not Deputy Directors. It is submitted for kind information of this Hon'ble Tribunal that the officers who looked after were Research Officers or Administrative Officers and in their cases it was only additional assignments, this can not be equated in the case of the Applicant.



In so far as the Applicant's averment that two Deputy Directors are continuing at New Delhi for more than 20 years is absolutely incorrect because both of them joined the Directorate in feeder cadres i.e. up to Assistant Directors. Since the question of posting at Regional Office arises only after an officer is promoted to the grade of Dy. Director, by sighting the case of present Dy. Directors posted at New Delhi Sh. Singh has misguided this Hon'ble Tribunal, which the Hon'ble Tribunal is requested to take note of.

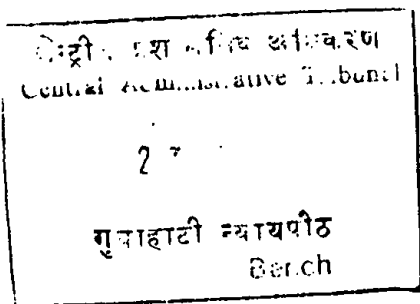
4.20 A The question of posting to field offices arises on the level of Deputy Directors in the academic cadre as there is no other post below that rank in the field offices. His contention that the Deputy Directors posted at Headquarters have been working in the Headquarters for over 20 years even prior to their promotion sounds ridiculous as he himself has admitted that they are posted at New Delhi before their promotion to the post of Deputy Directors. Who is to be posted where has been the jurisdiction of Head of the Department and

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 पश्चिम बंगाल, गुवाहाटी



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 accordingly, decision has been taken to post the two Deputy Directors, namely, Dr. Dixit and Smt. Bhardwaj at Headquarters after taking into account their suitability for respective jobs.

As regards the contentions, they are emphatically denied as the officers like Sh. N.K. Mishra, Asstt. Director; Sh. B.R. Prasad, Research Officer; Sh. Umakant Khubalkar, Research Officer; Sh. Sudhir Kumar, Research Officer; Sh. Rakesh Sharma, Research Officer; Sh. Ram Bilas Prasad, Administrative Officer except Dr. P.L. Taneja, Dy. Director have been assigned the additional charge to the post of Deputy Director at Regional Offices. Since, none of them except Dr. P.L. Taneja is a Deputy Director and were required to perform the job which is not part of their allotted duties, the Respondents had no moral ground and policy to post these officers to Regional Offices. The contentions of the Applicant is completely unfounded and amounts nothing less than wastage of the time of the Respondents and this Hon'ble Tribunal.



The contention of the Applicant reaches all the heights of hypocrisy in making such a submission before this Hon'ble Tribunal. The complaints were directly attributable to his conduct which greatly tarnished the image of the Govt. in a sensitive area of North-East, because of which a Committee constituted by the Respondents was made to recommend shifting him out of Guwahati for rebuilding the image of the organisation and now he is seeking his posting at that place with administrative sanctions because some time has passed by. Instead of improving his behaviour, allowing rebuilding the image of the organisation and obeying the orders of his employers, he indulge in making such irresponsible submissions which amply clarifies his attitude.

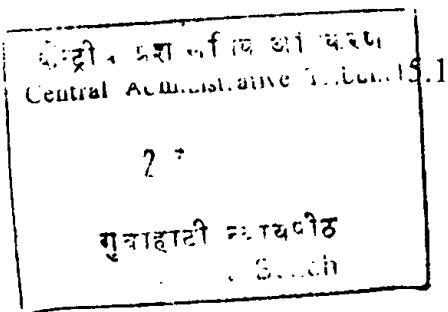
4.21 That it is mentioned for kind information of this Hon'ble Tribunal, the central govt. employees are liable for posting anywhere in India, hence, it is for the concerned official to

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 केन्द्रीय प्रशासनिक आयोग (बंगाल)  
 गुवाहाटी न्यायपीठ  
 गुवाहाटी, असम  
 दिनांक: 07/08/2018

decide as to how he is to manage his own family. As regards transferring others to the Regional Office Kolkata, as per govt. rules it is the jurisdiction of the Head of the Department to decide on the basis of various administrative factors as to who will be posted where.

- 4.22 That the Applicant has to approach this Hon'ble Tribunal time and again simultaneously incurring heavy losses is attributable to his behaviour, the Respondents have no choice except to manage the cadres taking into account the need for smooth functioning of the concerned organisations, balancing the same against the need for avoiding hardships to any of the officers. However, since on all the occasions, the Applicant fails to reconcile with the decisions of the Respondents, the Respondents have left with no choice.

5. GROUNDS:



- 5.1 For that, even after considering that he has completed the prescribed length of service, his request for choice posting can not be acceded to because of non-availability of a vacancy at New Delhi which he has demanded.
- 5.2 For that, this does not need any reply because of the position explained in para 5.1.
- 5.3 For that, the Respondents have considered his request for choice posting taking into account all the administrative factors including availability of a post at New Delhi, his allegations are completely unfounded.
- 5.4 For that, legality of the transfer order dated 5<sup>th</sup> of May, 2006 is completely undisputed because of his earlier representations for choice posting including the one made on directions of the Hon'ble Tribunal in the OA No.38/2004 have been considered and his request for posting at New Delhi has been found acceptable.

*[Handwritten Signature]*  
निदेशक  
केन्द्रीय हिंदी निदेशालय  
(मानव संसाधन विभाग, मंत्रालय)  
परिचाली चतुर्थी, नई दिल्ली-110003

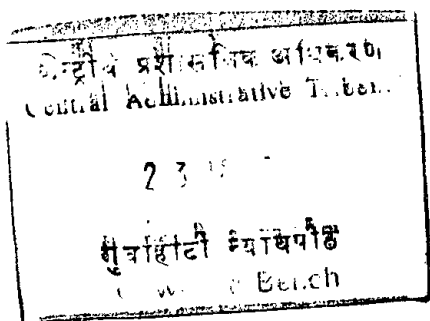
5.5 For that, since his representations having been considered by the Respondents for posting at New Delhi as submitted in para 5.4 have been considered and found to be unacceptable.

5.6 For that, the acts of the Respondents in all this have been transparent, impartial and all the decisions taken with due application of mind.

5.7 For that, the Respondents have duly considered the representations made by the Applicant for his choice posting. His application dated 25.4.2007 in pursuance of the Hon'ble CAT's order dated 02.04.2007 has been duly considered by Joint Secretary (L) and has been disposed of through a Speaking Order on the file. While considering the same, Joint Secretary (L) has taken into account the rule position, observations made in the Hon'ble CAT's order dated 02.04.2007 and facts of the case. Basing on the Speaking Order, the Respondent No.2 has issued an order on 20.07.2007. The details of the Speaking Order of the Joint Secretary (L) have also been communicated to the Applicant at a later date.

5.8 For that the order issued by Respondent No.2 in compliance to the directions passed on 2.4.2007 by the Hon'ble Tribunal is not cryptic. The said order was based on a speaking order issued by the Joint Secretary (A & L) on 9.7.2007.

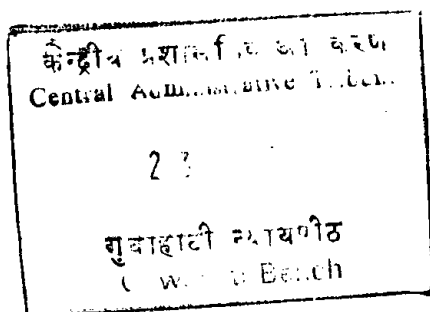
5.9 For that the submission made in preceding paragraphs substantiate that the Speaking Order of 9.7.2007 has been issued after careful consideration of facts and circumstances of the case and with strict observance of principles of objectivity and impartiality, this Hon'ble Tribunal may kindly be pleased to reject all the submission made by the Applicant.




*[Handwritten Signature]*  
 निदेशक  
 केन्द्रीय हिंदी निदेशालय  
 (मानव संसाधन विकास मंत्रालय)  
 पश्चिमी खं 7, कृष्ण नगर  
 नई दिल्ली-110002

PRAYER

With the submissions made in the FACTS and the GROUNDS, this Hon'ble Tribunal is most humbly requested to kindly dismiss the Application filed by the Applicant as all the submissions made by the Applicant are completely devoid of merits as examined in the light of the rule position and facts of the case.



  
Deponent  
निदेशक  
केंद्रीय हिंदी निदेशक  
(मानव संसाधन विकास विभाग)  
पश्चिमी खण्ड, राम कृष्ण मिशन  
नई दिल्ली-110003

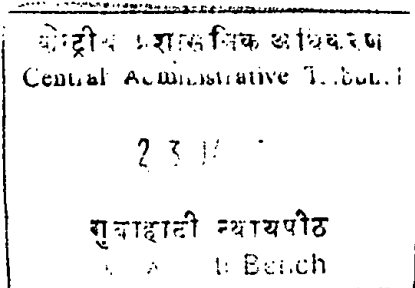
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**AFFIDAVIT**

I, Prof. K. Bijay Kumar aged about 56 years presently working as Director, Central Hindi Directorate, M/o Human Resource Development, D/o Higher Education, R.K. Puram, New Delhi do hereby solemnly affirm and state as under:

1. That I have been named as Respondent No.2 in the aforesaid Amended Original Application.
2. That I have gone through the contents of the Amended Original Application filed by the Applicant. I am well conversant with the facts of the case and accordingly making this Affidavit before this Hon'ble Tribunal on behalf of the Respondents No.1 and 2, the contents whereof are true to the best of my knowledge and belief and nothing material to the case has been concealed in any manner.
3. That I am subordinate to the Respondent No.1 and have been duly authorised by him to submit my comments in the present Amended Original Application.



  
Deponent