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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. 293/2007

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SECTION OFFICER (Judl.)

Kali  
10.10.17

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

Original Application NO. 293/07

Mis Petition No. \_\_\_\_\_

Contempt Petition No. \_\_\_\_\_

Review Application No. \_\_\_\_\_

Applicant(S) Govt. Officers Association VS Union of India & Ors  
Central Excise

Advocate for the Applicants.. Mr. Chandra, S. Nath, K. L. Datta

Advocate for the Respondant(S): case

Notes of the Registry	Date	Order of the Tribunal
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This application is in form  
is filed C.F. for Rs 50/-  
deposited vide IPC/ND  
No. 226042583  
Dated 12.9.07

20.11.07.

Judgment delivered in open  
Court. Kept in separate sheets. Application is  
disposed of.

Registrar

(KHUSHIRAM)  
MEMBER(A)

(M.R. MOHANTY)  
VICE-CHAIRMAN

LM

Petitioner's copy for  
issue notices are  
received with envelopes  
Copy saved.

20/11/07

22/11/07

DDO, CGSC

22.11.07

certified copy has been  
collected by the L/Advocate  
for the applicant and copy of  
submitted along with the copy  
of the applicant to the Court  
for the office for SLP 1st  
date to the Registry 2 to 4.

14.12.07

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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. No. 293 of 2007

DATE OF DECISION: 20.11.2007

Customs and Central Excise,  
Group 'D' Officers Association

.....Applicant/s

.Mr. M.Chanda

..... Advocate for the  
Applicant/s.

- Versus -

U.O.I. & Ors

.....Respondent/s

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

..... Advocate for the  
Respondents

CORAM

THE HON'BLE MR.MANORANJAN MOHANTY, VICE-CHAIRMAN  
THE HON'BLE MR.KHUSHIRAM, ADMINISTRATIVE MEMBER

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

  
Vice-Chairman/Member

5

**CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH**

Original Application No. 293 of 2007

Date of Order: This the 20<sup>th</sup> Day of November, 2007.

**HON'BLE MR.MONORANJAN MOHANTY, VICE-CHAIRMAN**

**HON'BLE MR.KHUSHIRAM, ADMINISTRATIVE MEMBER**

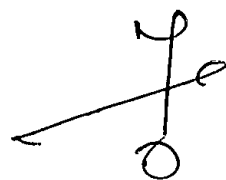
1. Customs and Central Excise  
Group "D" Officers Association,  
Commissionerate of Central Excise & Customs, NER  
Morellow Compound, Shillong-1.
  2. Shri Mridul Baruah,  
General Secretary,  
S/O- Late N.Brahma,  
Resideent of Knitting Road, Shillong,  
Working in the office of the Commissioner(prevention)  
NER Shillong, M.G.Road, Shillong-1
  3. Shri Rovi Bahadur Chetri  
Son of Rom Bahadur Chetri  
Working as Gr.'D' employee,  
Office of the Superintendent of Custom,  
Ichamati Preventive Post, Ichamati E.K. hills, Meghalaya
  4. Shri S.P. Sharma  
Son of Late Rajendra Sharma  
Working as Gr. 'D' employee  
Shillong Custom Division, Shillong
  5. Shri Phonilal Deb,  
Son of Late Gaurhari Deb  
Working as Gr. 'D' employee,  
Okland, Shillong-1
- ..... Applicants

(Applicant Nos. 3 to 5 are the affected members of the Customs and Central Excise Group 'D' Officers Association, Commissionerate of Central Excise & Customs, NER Shillong)

By Advocate Mr.M.Chanda, Mr.S.Nath, Ms.U.Dutta

-Versus-

1. The Union of India,  
Represented by Secretary to the  
Government of India,  
Ministry of Finance,  
Department of Revenue,  
North Block, New Delhi-110001.
2. The Chief Commissioner  
Central Excise and Customs  
Shillong one, NER,  
M.G.Road, Shillong-1.



3. Commissioner of Customs (Prevention)  
NER Shillong  
M.G.Road, Shillong-1
4. Joint Commissioner,  
Customs(Preventive)  
NER Shillong,  
110 M.G.Road, Shillong-739001 .....  
Respondents.

By Advocate Mrs. Manjula Das, Addl.C.G.S.C.

**ORDER (ORAL)**

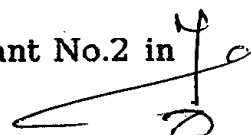
**M.R.MOHANTY, V.C:**

Heard Mr.M.Chanda, learned counsel for the Applicant and Mrs. Manjula Das, learned Addl. Standing Counsel for the Union of India; on whom a copy of this Original Application has already been served.

2. A draft Guidelines for Officers and Staff of Customs and Central Excise Organisation (N.E.R) was put up during October, 2006; which was made final by Circular dated 21<sup>st</sup> November, 2006. Paragraph 4 of the said Guidelines read as under:-

"4. Option for posting is to be exercised by the 31<sup>st</sup> October and posting order is to be issued by the 31<sup>st</sup> December. All officers are to be released by 31<sup>st</sup> January or on completion of the officers' children's academic sessions, if their ward is within class 12 standard - which ever is later."

3. Several members of the staff in Group D Establishment of said Customs and Central Excise Organisations faced an order of transfer (Placed at Annexure-4) dated 3<sup>rd</sup> August, 2007. By a communication (placed at Annexure-5) dated 28<sup>th</sup> August, 2007, the General Secretary of Group D Officers Association of Customs and Central Excise Organisation (NER) Shillong Zone (Applicant No.2 in



this case) submitted a representation to the Chief Commissioner of Customs and Central Excise Organisation of NER. Zone at Shillong; paragraphs 1.5.2 & 1.5.3 of which reads as under :-

"1.5.2 Sir, this has caused great resentment with the Gr. 'D' officers and the executive Committee as well as General Body meeting have taken a resolution to the effect that the norms set forth by the earlier Policy are adhered to and the order be kept in abeyance till December, 2007.

1.5.3. That Sir, the mid year transfer order has provided scope for speculation and a sense of uncertainty prevailing in the minds of all affected officers. The midyear transfer in a uncertain place will cause difficulties for the Gr.'D' officers as would be immensely disturbing for the academic career of their wards."

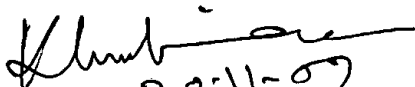
4. By filing of this Original Application under Section 19 of the Administrative Tribunals Act, 1985 the above said Group 'D' Officers Association has, virtually, prayed for a direction to the Respondents to follow paragraph 4 of the Transfer Guidelines of 2006 (Supra) while giving effect the transfer order to Group D staff of Central Excise Organisation.

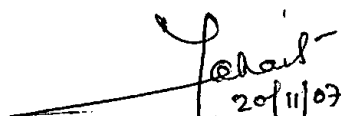
5. As required under paragraph 4 of the said Guidelines, the members of the staff are to exercise option by 31<sup>st</sup> October, 2007 every year and transfer order are to be issued by the 31<sup>st</sup> December, of the said year and to relieve the officers/staff by 31<sup>st</sup> January of the of the next year; so that the children of the members of the staff would not suffer during mid academic session. In the present case, the impugned transfer order has been issued in August, 2007 and, therefore, in all fairness of these things, the Respondents should allow the affected members of the staff (Applicant Nos.4 & 5) to continue in

the old Station, Shillong (if he has not yet been relieved) up to the end of December, 2007.

6. In the present case, it has been disclosed that the Applicant Nos.4 and 5 have faced transfer during August 2007 (from Shillong Hqrs. to Shillong Division) and, therefore, the Respondents should allow them to continue in the old station (Shillong) till the end of December, 2007; if their children ~~were~~ prosecuting their education (below class 12<sup>th</sup> Standard in Higher Secondary Course) and if they have been <sup>asked to be</sup> posted outside Shillong.

7. With the aforesaid observations & directions, this O.A. is disposed of. While parting with this case, we make it clear that the Respondents Department should follow the Guidelines (which they have issued on 21<sup>st</sup> November, 2006) for the Group 'B', Group 'C' and Group 'D' staff (in so far as Paragraph-4 of the Guidelines are concerned) only after February, 2008.

  
20-11-07  
(KHUSHIRAM)  
MEMBER(A)

  
20/11/07  
(M.R. MOHANTY)  
VICE-CHAIRMAN

LM



10 NOV 2007

गुवाहाटी न्यायाधीश

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O. A. No. 293 /2007

Gr. 'D' Officers Association  
Customs and Central Excise, Shillong

-Vs-

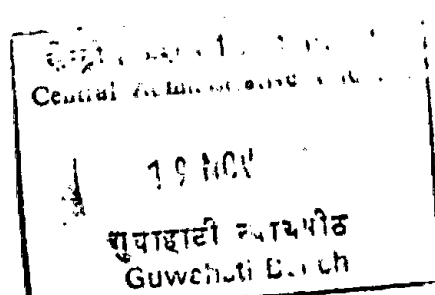
Union of India and Others.

SYNOPSIS AND LIST OF DATES OF THE APPLICATION

In the Regional Council Meeting of the Gr. 'B' to 'D' officers of Central Excise and Customs employees held on 19.12.05, it was decided to frame a transfer policy of Group 'B' to 'D' officers working under the Commissionerate of Central Excise and Customs, Shillong. Accordingly the New Transfer Policy 2006 was published on 20/21.11.06. However, there is no clause in the transfer policy 2006 of Gr. 'D' officers restraining the authority to transfer the Gr. 'D' employees in the mid-academic session except administrative exigency whereas in case of Gr. 'B' and 'C' officers in the said policy there is a clause restraining mid-academic transfer. As a result respondents issued one routine transfer order of Gr. 'D' employees on 03.08.07 in violation of clause 2 of transfer policy and also in the mid-academic session. The Association submitted representation on 20.08.07 against the said transfer order stating that the respondents has not followed the guidelines of transfer policy 2006 while issued transfer order dated 03.08.07 and also stated that mid academic session transfer has caused problems amongst the Gr. 'D' employees. But no reply was given to the representation of the applicants.

Hence this Original Application.

- 19.12.2005- In Regional Council Meeting of the officers of Central Excise and Customs it was decided to frame a transfer policy of Group 'B' to 'D' working under the Commissionerate of Central Excise and Customs, Shillong. (Annexure- 1)
- 16.10.2006- Draft transfer policy was forwarded to the Chief Commissioner, Central Excise and Customs, Shillong for approval and also a copy to the applicants. (Annexure- 2 series)
- 20/21.11.2006- New transfer policy 2006 was forwarded to the applicants. (Annexure- 3)



03.08.2007- A general transfer order is issued by the Joint Commissioner of Customs (Preventive), Shillong. (Annexure- 4)

20.08.2007- Applicants submitted representation against the transfer order dated 03.08.07 addressed to Chief Commissioner, Shillong stating that guidelines of the transfer policy has not been followed during issuance of the transfer order dated 03.08.07. It is also stated that as a result of the mid-academic session transfer Gr. D officials are facing problems, as such they requested the Chief Commissioner to intervene in the matter. But to no result. (Annexure- 5)

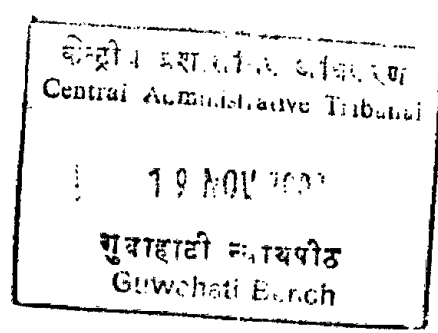
Fifth Central Pay Commission recommended that as far as possible transfer orders should be issued before the end of the academic year so that these are implemented at the end of the academic session. (Annexure- 6)

Hence this Original Application.

Prayers:

1. That the Hon'ble Tribunal be pleased to direct the respondents to act strictly on the guidelines of New transfer policy 2006 of Group 'D' officers while issuing the transfer and posting order of the Gr. 'D' officer working under the Commissioner of Customs (Preventive) NER Shillong.
2. That the Hon'ble Tribunal be pleased to direct the respondents not to effect transfer and posting order of the Gr. 'D' officers working under the Commissioner of Customs (Preventive) NER Shillong in the mid-academic session in the light of the clause 4 of the New transfer policy/guideline 2006 which was accepted in respect of the Executive Officers working in the grade of Superintendent and Inspector as well as in the light of the recommendation of the Fifth Central Pay Commission.
3. That the Hon'ble Tribunal be pleased to direct the respondents to incorporate a specific clause in the New transfer policy 2006 meant for the Group 'D' employees of Central Excise and Customs of the Shillong Commissionerate, imposing restrictions while issuing normal/routine transfer and posting order in public interest except in case of administrative exigency in the light of the Clause 4 of the General guideline incorporated in New transfer policy 2006 so far Group 'B' and 'C' Officers Association are concerned as well as in the light of the recommendation of the Fifth Central Pay Commission.

Minal Barua



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

**Interim order prayed for:**

During pendency of the application, the applicants pray for the following interim relief: -

1. That the Hon'ble Tribunal be pleased to direct the respondents not to effect transfer and posting order in the middle of the academic session 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 applicants 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)

**Title of the case** : O.A. No. 293 /2007

**Customs and Central Excise**

**Gr. 'D' Officers' Association** : Applicants.

**-Versus-**

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

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Filed By:

*U. Datta*  
Advocate

Date:- 17.11.07

*Minul Barua*

Filed by: - the applicant  
Through: - U. Sultana  
Advocate: En  
17.11.07

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

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

O.A. No. 293 /2007

**BETWEEN:**

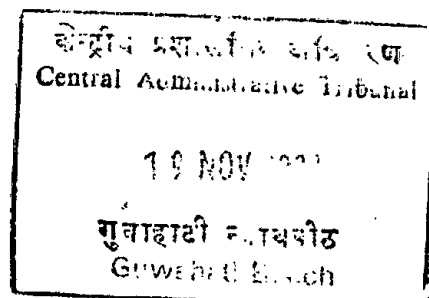
1. Customs and Central Excise  
Group 'D' Officers Association,  
Commissionerate of Central Excise & Customs, NER  
Morellow Compound, Shillong- 1.
2. Shri Mridul Baruah,  
General Secretary,  
S/o- Late N. Brahma,  
Resident of Knitting Road, Shillong,  
Working in the office of the Commissioner (Prevention)  
NER Shillong, M.G. Road, Shillong- 1.
3. Shri Rovi Bahadur Chetri  
Son of Rom Bahadur Chetri  
Working as Gr. 'D' employee,  
Office of the Superintendent of Custom,  
Ichamati Preventive Post, Ichamati E.K. Hills, Meghalaya.
4. Shri S.P. Sharma,  
Son of Late Rajendra Sharma  
Working as Gr. 'D' employee,  
Shillong Custom Division, Shillong.
5. Shri Phonilal Deb,  
Son of Late Gaurhari Deb  
Working as Gr. 'D' employee,  
Okland, Shillong- 1.

---Applicants.

(Applicant Nos. 3 to 5 are the affected members of the Customs and Central Excise Group 'D' Officers Association, Commissionerate of Central Excise & Customs, NER, Shillong.)

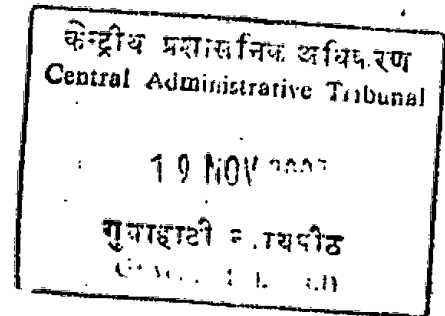
-AND-

1. The Union of India,  
Represented by Secretary to the  
Government of India,  
Ministry of Finance,  
Department of Revenue,  
North Block, New Delhi- 110001.
2. The Chief Commissioner



Mridul Baruah

Central Excise and Customs,  
Shillong Zone, NER,  
M.G. Road, Shillong- 1.



3. Commissioner of Customs (Prevention),  
NER Shillong, M.G. Road, Shillong- 1.
4. Joint Commissioner,  
Customs (Preventive)  
NER Shillong,  
110 M.G. Road, Shillong- 739001.

..... Respondents.

### DETAILS OF THE APPLICATION

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

This application is made not against any particular order but praying for a direction upon the respondents to implement New Transfer Policy 2006 of Group 'D' officers in the light of the decision arrived at the Regional Council Meeting (for short R.C.M) held on 19.12.2005 and also praying for a direction upon the respondents not to issue transfer and posting order of the Group 'D' officials in the middle of the academic session in terms of the Clause 4 of the New transfer policy guideline 2006, except in case of administrative exigency as well as in the light of the recommendation of the 5<sup>th</sup> Central Pay Commission.

2. Jurisdiction of the Tribunal:

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

3. Limitation:

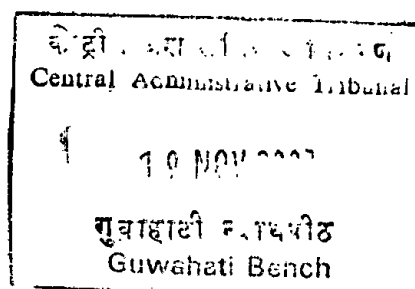
The applicants further declare that this application is filed within the limitation prescribed under Section- 21 of the Administrative Tribunals Act' 1985.

4. Facts of the case:

M. J. B. B. B.

- 4.1 That the applicants are citizen of India and as such they are entitled to all the rights, protections and privileges as guaranteed under the Constitution of India.
- 4.2 That the applicants pray permission to move this application jointly in a single application under Sec 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules 1987 as the reliefs sought for in this application by the applicants are common, therefore, they pray for granting leave to approach the Hon'ble Tribunal by a common application.
- 4.3 That the applicant No. 1 is a recognized Association of Group 'D' officers of Customs and Central Excise, Central Excise Commissionerate Shillong, applicant No. 2 is the General Secretary of the Group 'D' officers of Customs and Central Excise, Commissionerate of Central Excise and Customs, NER, Shillong and the applicants No. 3 to 5 are active and effected members of the Association.
- 4.4 That it is stated that the Regional Council Meeting (for short RCM) of the officers of the Central Excise and Customs held on 19.12.2005 at Shillong decided to frame a transfer policy of Group 'B' to 'D' officers working under the Commissionerate of Central Excise and Customs, NER, Shillong and it was also decided in the said RCM that all the transfer and posting in the Group 'D' cadre will be issued from the respective Headquarters of the Commissionerate. It will be evident from the Minutes of the RCM held on 19.12.2005 that as per usual practice, transfer and posting for the Group 'D' is normally done by Cadre controlling i.e. Central Excise Headquarters, Shillong based on the representation/option submitted by the officers on the basis of seniority. However, specific posting will be given by the respective Commissionerate only.

Copy of the minutes dated 19.12.05 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 1.



Mritul Barua

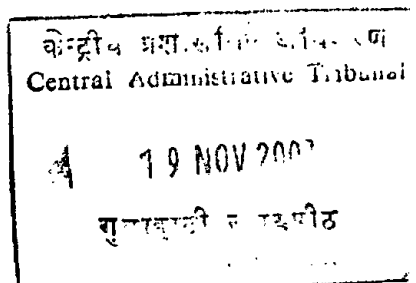
4.5 That it is stated that in terms of the decision taken in the RCM held on 19.12.2005, the Convener, Transfer Policy Drafting Committee, Central Excise, Shillong vide letter bearing No. C.No. JC (P&V)SH/2/TDP/2006/34531 dated 16.10.2006 forwarded a draft transfer policy to the Chief Commissioner, Customs and Central Excise, Shillong Zone, Shillong. In the forwarding letter dated 16.10.06 it is also stated by the Convenor, transfer policy drafting committee that the draft has been proposed after examining guidelines for transfer posting issued by the Board/Ministry and as per terms and conditions as agreed upon in the meeting by the respective Association from Group 'B' to 'D' officers of the Zone. However, said draft transfer policy was forwarded to the General Secretary, Group 'D' Ministerial Executive Association by the Additional Commissioner vide letter bearing No. II (3) 16/CCU/SH/2006 dated 20.10.2006.

Copy of the draft transfer policy along with forwarding letter dated 16.10.06 and 20.10.06 are enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 2 (Series).

4.6 That it is stated that the Assistant Commissioner, Office of the Chief Commissioner, Central Excise and Customs, Shillong Zone, NER vide his letter bearing No. C. No. II (3) 16/CCU/SH/2006/58 dated 20/21.11.2006 forwarded New Transfer Policy 2006 from Group "B" to "D" to the applicants. In the New transfer policy 2006 guidelines for transfer and posting in respect of Group- D Officers of Customs and Central Excise in the North Eastern Region it has been stated as follows:

"GROUP 'D' OFFICERS

1. Though Gr. 'D' staff are also liable to be transferred anywhere within the Zone, frequent transfer of Gr. 'D' staff shall be avoided.
2. Transfer and posting of Gr. 'D' within the Commissionerate shall be done from the respective Head Quarters of the three Commissionerates.



M. N. Barua

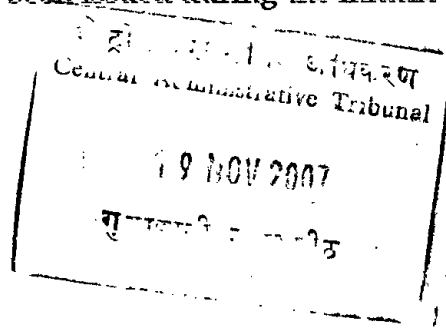


3. Tenure of posting in border area/field position shall be for two years extendable by another one year, while considering the options for border area posting preference will be given to those who have never been posted to such areas or seniority.
4. Except for posting to sensitive/border areas, Gr. 'D' Officers will normally be posted nearest of their Hometown.
5. If a situation arises where there are no options for a particular area, administration will take its own decision as is convenient for Administration.

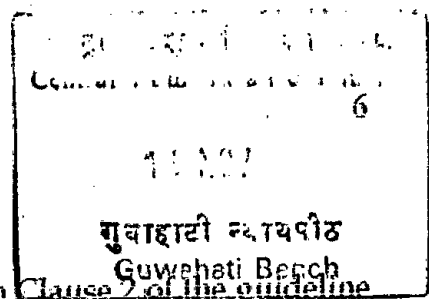
It is stated that in Column 2 of the said New transfer policy 2006 of Group 'D' officers, it has been specifically stated that the Transfer and posting of Gr. 'D' within the Commissionerate shall be done from the respective Head Quarters of the Commissionerates. It is stated that in the New Transfer Policy 2006 there is no clause in the guidelines, restraining normal transfer and posting during the middle of the academic session, so far members of the applicants Association is concerned, wherein the similar clause is incorporated so far Group 'B' and 'C' Executive officers Association are concerned. Therefore, non-availability of such a clause is highly discriminatory, unfair, arbitrary and also opposed to the guideline of Fifth Pay Commission.

Copy of the new Transfer policy 2006 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 3.

- 4.7 That it is stated that the Joint Commissioner of Customs (Preventive) issued one transfer order No. 27/2007 dated 03.08.2007 in the middle of the academic session and the said transfer order has been issued in violation of the guidelines of the New transfer policy 2006 of Group 'D' Officers and also during the middle of the academic session, as a result many of the members have been adversely effected since the transfer has caused difficulties in smooth continuation of education of the children since the transfer order has been issued during the middle of the academic



Mintul Barua



session. It is also relevant to mention here that in Clause 2 of the guideline of the transfer policy of Group 'D' Officers it has been specifically stated transfer and posting of Gr. 'D' within the Commissionerate shall be done from the respective Head Quarters of the three Commissionerates but the transfer order No. 27/2007 has been issued by the Joint Commissioner, Office of the Commissioner of Customs (Preventive), North Eastern Region, Shillong who is a Divisional Officer. Be it stated that from the transfer order dated 03.08.2007 it is evident that the respondent authority has violated the Clause 2 of the transfer policy and the transfer order has been issued by Division Office instead of Headquarter, as such the guidelines of the transfer policy 2006 for Gr. 'D' Officers has not been followed during issuance of the transfer order No. 27/07 dated 03.08.2007 and the said transfer order was also issued in the middle of the academic session.

In the circumstances Hon'ble Court be pleased direct the respondents to incorporate a clause in the light of the guideline issued by the Fifth Pay Commission recommendation regarding transfer policy imposing restriction in issuing transfer and posting order during middle of the academic session except in case of administrative exigency in the New Transfer Policy 2006 of Gr. 'D' Officers are concerned.

Copy of the transfer order dated 03.08.07 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 4.

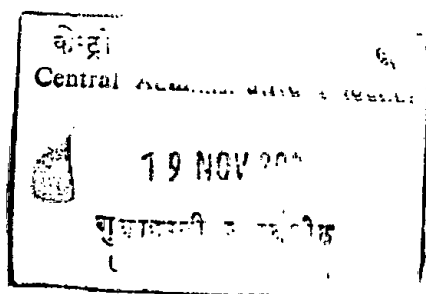
- 4.8 That the General Secretary, Group 'D' Officer Association, Shillong Commissionerate, NER, Shillong being aggrieved with the transfer order No. 27/07 dated 03.08.2007 submitted one representation on 20.08.2007, addressed to the Chief Commissioner, Customs and Central Excise, NER Zone, Shillong. In the said representation the Secretary of the Gr. 'D' Association has categorically stated that it was agreed in the RCM in November 2005 that all transfer and posting in the grade of Gr. 'D' will be issued from the respective Hqrs. Of the Commissionerates and it was agreed in the transfer policy issued by the Chief Commissioner that the transfer and posting of the Gr. D officers will be made from the respective Headquarters of the Commissionerates but in the transfer order dated

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03.08.2007 has been issued in total violation of the transfer policy of the Gr. 'D' Officers. The Secretary of the Gr. 'D' Association also stated that the Association being aggrieved with the issue of the transfer order approached the Commissioner of Customs through letter dated 06.08.2007 with the copies to the Chief Commissioner, Shillong and Member (Per) CBEC among others. However, on receipt of the letter dated 06.08.07, the Chief Commissioner of Central Excise and Custom, Shillong intervened in the matter and assured that transfer order will be modified to the extent that the transfer and posting of Gr. 'D' officers will be made by the Headquarters itself instead of the Divisions and also requested the Association to withdraw the said letter. Accordingly the Association had withdrawn the letter dated 06.08.07 from all concerned. It is also stated by the Secretary of the Gr. 'D' Association that despite assurances by the then Chief Commissioner, Shillong the order was neither modified nor kept in abeyance by the Customs administration till date. Instead, the transferees are relieved from their respective places of posting with an order to join the Divisions and obviously wait for another posting order from the Divisional Officers. The Secretary of the Gr. D Officers Association also stated in his representation dated 20.08.07 that the Gr. 'D' officers and the Executive Committee as well as General Body meeting have taken a resolution to the effect that the norms set forth by the earlier policy are adhered to and the order be kept in abeyance till December 2007. It is further stated by the General Secretary of the Group 'D' Association that the mid year transfer order has provided a sense of uncertainty in the minds of all affected officers. Therefore, the General Secretary, Gr. 'D' Customs and Central Excise Association has requested the Chief Commissioner, Customs and Central Excise, NER Zone, Shillong kindly to intervene with the same and re-issue the same with necessary modifications and as per norms laid down in this respect.

Copy of the representation dated 20.08.07 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 5.

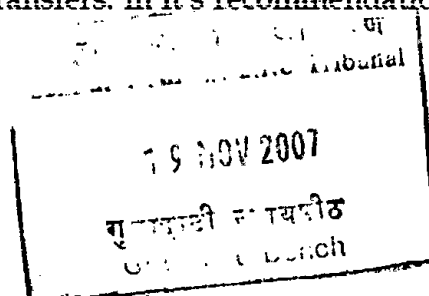
- 4.9 That it is stated that in the R.C.M held on 19.12.05 it has been agreed by the respondents that as per usual practice, transfer and posting for the Gr. D is



M. Indul Barua

normally done by the Cadre controlling i.e. Central Excise Hqrs., Shillong and following the R.C.M draft transfer policy has been forwarded to the Chief Commissioner by the Convenor, transfer policy drafting committee on 16.10.2006 and the said transfer policy has been accepted by the Chief Commissioner, Central Excise and Customs and issued the New Transfer Policy 2006 but the respondents have not implemented guideline of the New Transfer policy 2006 during the routine transfer and posting order, for the reasons best known to the Authority, and now attempt is being made to departure from the guidelines of the New transfer policy 2006 by way of issuing the transfer order No. 27/07 dated 03.08.07. It is reasonably apprehended by the applicants that the Chief Commissioner, Central Excise, Shillong instead of acting on the New Transfer policy 2006 delegating the power of transfer and posting of Gr. 'D' employees to the Division Office in violation of decision taken in the R.C.M held on 19.12.2005 as well as Clause 2 of New Transfer policy 2006 for Gr. 'D' officers, and thereby interest of Gr. 'D' employees of Customs and Central Excise working in the Commissionerate, Shillong in the matter of transfer and posting is being effected adversely, moreover the transfer order No. 27/07 dated 03.08.2007 has been passed in the middle of the academic session which has created an environment of uncertainty amongst the Gr. 'D' employees of Customs and Central Excise, Shillong. It is pertinent to mention here that respondents have willfully violated the decision taken in the R.C.M held on 19.12.05 while issuing the transfer order No. 27/07 dated 03.08.07, which is not permissible under law. Therefore, the Hon'ble Court be pleased to direct the respondents to issue transfer order of the Gr. 'D' officer of Customs and Central Excise as per the guidelines of the New Transfer policy 2006 and also be pleased to direct the respondents not to issue transfer and posting order of the Gr. 'D' officers working in the Shillong Commissionerate in the middle of the academic session.

- 4.10 That it is stated that the Fifth Central Pay Commission recommended that the departments which have not evolved any guidelines/policies on transfer should do so at the earliest so as to eliminate any possibility of arbitrariness in effecting transfers. In it's recommendation the Fifth Central

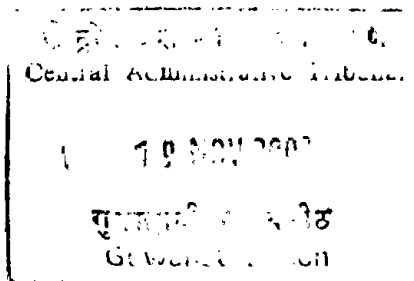


Maitul Barua

Pay Commission also recommended that as far as possible transfer orders should be issued before the end of the academic year so that these are implemented at the end of the academic session. As such it is evident that the respondents lost sight of the recommendation of the Fifth Pay Commission while framing the New transfer policy 2006 of Gr. 'D' officers of Central Excise and Customs and thereby did not incorporate any clause restraining the transfer of Gr. 'D' employees in the mid-academic session whereas in case of Gr. 'B' and 'C' Executive Officers are concerned there is a clause in the New Transfer policy 2006 restraining the mid-academic session except administrative exigency. As such the respondents have discriminated the Gr. 'D' employees at the time of framing New Transfer Policy 2006 and did not incorporate any clause restraining the respondents transfer of the Gr. 'D' employees in the mid-academic session except in case of administrative exigency. Therefore, the Hon'ble Tribunal be pleased to direct the respondents to incorporate a specific clause in the New transfer policy 2006 meant for the Group 'D' employees of Central Excise and Customs of the Shillong Commissionerate, imposing restrictions while issuing normal/routine transfer and posting order in public interest except in case of administrative exigency in the light of the Clause 4 of the General guideline incorporated in New transfer policy 2006 also in the light of the recommendation of the Fifth Central Pay Commission so far Group 'B' and 'C' Officers Association are concerned.

Copy of the extract from recommendation of Fifth Central Pay Commission is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 6.

4.11 That it is stated that when a decision in the matter of transfer of Gr. 'D' officers working in the Customs and Central Excise, Shillong has been taken by the authority in the R.C.M held on 19.12.2005 and following that decision the draft transfer policy has been forwarded to the Chief Commissioner on 16.10.2006 which is finalized and the New Transfer Policy 2006 has been issued but the Authority deliberately ignoring the guideline of the New Transfer policy 2006 while issuing transfer order for the reasons best known to the authority, as such action of the respondents



*Minister Barua*

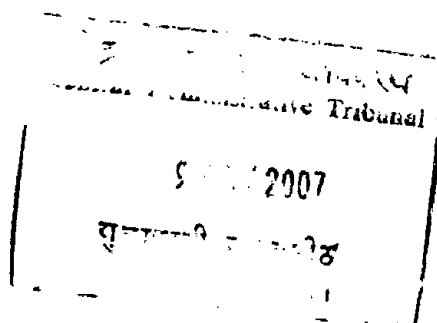
in not implementing the guidelines of the New transfer policy 2006 in respect of the Gr. 'D' officers of the Customs, Shillong Commissionerate has adversely effected the applicants in the matter of transfer and posting.

In the circumstances, stated above the Hon'ble Court be pleased to direct the respondents to incorporate a specific clause in the New Transfer Policy 2006 imposing restriction in issuing normal/routine transfer and posting order during the middle of the academic session except in case of administrative exigency, so far the members of the Group 'D' Association of Shillong Commissionerate of Central Excise and Customs is concerned further be pleased to direct the respondents to follow the New Transfer policy 2006 strictly while issuing the order of transfer and posting in public interest so far the members of the Gr. 'D' employees Association of Shillong Commissionerate of Central Excise and Customs is concerned.

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

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

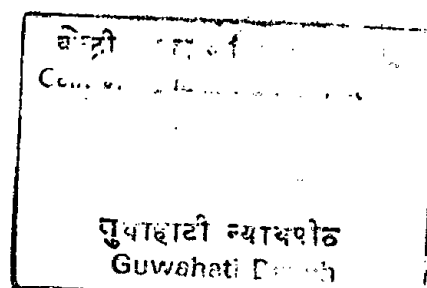
- 5.1 For that, the respondents have not deliberately implemented the guidelines of New Transfer policy 2006 as well as the decision taken in the R.C.M held on 19.12.05 for the reasons best known to the authority and as a result applicants/members of the Association are adversely effected in the matter of transfer and posting.
- 5.2 For that, in the R.C.M. held on 19.12.05 it is agreed by the respondents that the transfer of the Gr. 'D' officers of Customs and Central Excise will be issued by the Headquarter whereas the transfer order No. 27/07 dated 03.08.07 has been issued by the Division Office which is in violation of the Clause 2 of the New transfer policy 2006.
- 5.3 For that, the respondents have not acted on the guidelines of the New transfer policy 2006 and now attempt is being made to departure from the guidelines of the New transfer policy 2006 in issuing the transfer order by the Division Office instead of Headquarter of Customs and Central Excise that too in the middle of the academic session.



Mintul Barua

- 5.4 For that, it is the duty of the respondents to implement decision taken in the R.C.M held on 19.12.05 but now an attempt is being made to shift from the guidelines of the New transfer policy 2006 which is not permissible under law.
- 5.5 For that, the transfer order No. 27/07 dated 03.08.07 has been issued by the Division Office instead of Headquarter, which is in violation of Clause 2 of the New transfer policy 2006.
- 5.6 For that, the transfer order No. 27/07 dated 03.08.07 has been issued in the middle of the academic session which has created an environment of uncertainty amongst the applicants, which is opposed to public policy.
- 5.7 For that, a duty cast upon the respondents to implement guidelines of the New transfer policy 2006 framed for the welfare of the officials but in the instant case the respondents in spite of the repeated request has not acted on the guidelines of the transfer policy while issuing the transfer order for the reasons best known to the authority, as such the Hon'ble Court be pleased to direct the respondents to implement the transfer policy while issuing the transfer and posting order of the Gr. 'D' officers of working in the Shillong Commissionerate of Customs and Central Excise.
- 5.8 For that the respondents did not incorporate a clause restraining transfer of the Gr. 'D' employees working in the Shillong Commissionerate of Customs and Central Excise in the mid-academic session which is in violation of the recommendation of the Fifth Central Pay Commission
- 5.9 For that when restriction has already been imposed in New transfer policy 2006 in issuing transfer and posting order during the middle of the academic session so far the Gr. 'B' and 'C' Executive Officers are concerned except in case of administrative exigency, as such a similar clause is also liable to be incorporated in transfer policy so far the members of Gr. 'D' officers Association is concerned.

6. Details of remedies exhausted.



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That the applicants declare that they have exhausted all the remedies available to and there is no other alternative remedy than to file this application.

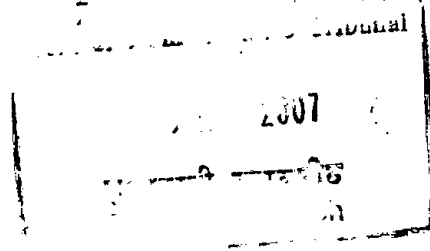
7. Matters not previously filed or pending with any other Court.

The applicants further declare that they 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 direct the respondents to act strictly on the guidelines of New transfer policy 2006 of Group 'D' officers while issuing the transfer and posting order of the Gr. 'D' officer working under the Commissioner of Customs (Preventive) NER Shillong.
- 8.2 That the Hon'ble Tribunal be pleased to direct the respondents not to effect transfer and posting order of the Gr. 'D' officers working under the Commissioner of Customs (Preventive) NER Shillong in the mid-academic session in the light of the clause 4 of the New transfer policy/guideline 2006 which was accepted in respect of the Executive Officers working in the grade of Superintendent and Inspector as well as in the light of the recommendation of the Fifth Central Pay Commission.
- 8.3 That the Hon'ble Tribunal be pleased to direct the respondents to incorporate a specific clause in the New transfer policy 2006 meant for the Group 'D' employees of Central Excise and Customs of the Shillong Commissionerate, imposing restrictions while issuing normal/routine



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transfer and posting order in public interest except in case of administrative exigency in the light of the Clause 4 of the General guideline incorporated in New transfer policy 2006 so far Group 'B' and 'C' Officers Association are concerned as well as in the light of the recommendation of the Fifth Central Pay Commission.

8.4 Costs of the application.

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

9. Interim order prayed for:

During pendency of the application, the applicants pray for the following interim relief: -

9.1 That the Hon'ble Tribunal be pleased to direct the respondents not to effect transfer and posting order in the middle of the academic session 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 applicants for providing relief as prayed for.

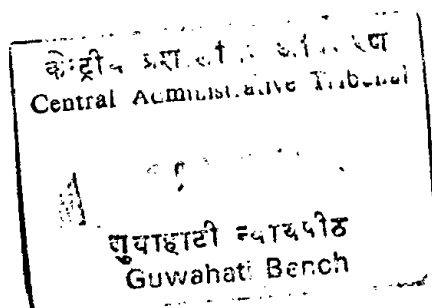
10. ....

11. Particulars of the I.P.O

i)	LP.O No.	: 32 G 042583
ii)	Date of issue	: 17. 09. 2007
iii)	Issued from	: G.P.O., Guwahati.
iv)	Payable at	: G.P.O., Guwahati.

12. List of enclosures:

As given in the index.

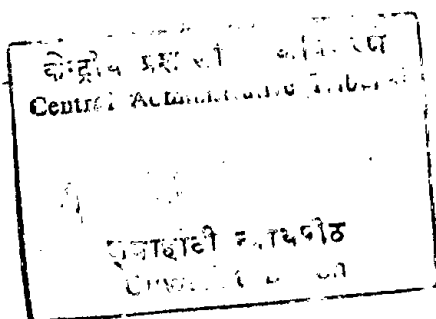


### VERIFICATION

I, Shri Mridul Baruah, S/o- Late N. Brahma, aged about 42 years, resident of Knitting Road, Shillong, working in the office of the Commissioner (Prevention), NER Shillong, M.G. Road, Shillong- 1, General Secretary of the Gr. 'D' Officers Association, Shillong Commissionerate of Central Excise and Customs duly authorized by the others to verify the statements made in the 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 10<sup>th</sup> day of November 2007.

Mridul Baruah  
(General Secretary)  
Group 'D' officers Association





**COMMISSIONER OF CENTRAL EXCISE  
MORELLO COMPOUND, M.G. ROAD, SHILLONG**

Tel: 91-0364-2224751 / 2223030. Fax: 91-0364-2223428 / 2226215. E-Mail: [cexshill@excise.nic.in](mailto:cexshill@excise.nic.in)

Minutes of the RCM held on 19.12.2005 at 1100 hrs at the Chamber of Chief Commissioner,  
Customs and Central Excise, Shillong.

**The following officers were present in the meeting**

Shri J.S.R. Khathing, Chief Commissioner, Customs & Central Excise, Shillong	Chairman
Shri Kamail Singh, Commissioner, Central Excise, Shillong	Member
Smt. Eva M.R. Hynniewta, Commissioner, Central Excise, Dibrugarh	Member
Smt. Chitra Gouri Lal, Commissioner, Customs (Preventive), Shillong	Member
Shri J.P. Mangain, Additional Commissioner (P&V), Central Excise, Shillong	Convener
Shri F. N. Rustagi, Additional Commissioner (A/E), Central Excise, Shillong	Member
Shri M.R. Mohanty, Joint Commissioner (P&V), Central Excise, Dibrugarh	Member
Shri C. Songate, Joint Commissioner, Customs (P), Shillong	Member
Shri Apalak Das, Assistant Commissioner, CCL, Shillong	Member
Smt. D. Choudhury, CAO, Central Excise, Shillong	Member
Smt. A. Chakraborty, A.O. (E.T.), Central Excise, Shillong	Member
Smt. B. Chakraborty, A.O. (G.L.), Central Excise, Shillong	Member

**STAFF SIDE**

**Gr 'C' Executive Officers Association:**

Shri K.N. Sharma	President
Shri V. Thapa	General Secy

**Group 'C' Ministerial Officers Association:**

Shri S. Dutta	General Secy
Smt. C. Nongrum	Assit. Genl. Secy
Shri D. Das	Member

**Gr 'C' Drivers Association:**

Shri H.P. Singh	General Secy
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**Gr 'D' Officers Association:**

Shri Jaimangal Kumar	President
Shri Madul Baruah	General Secy

**The Telecommunication Wing Operational Staff Association:**

Shri Y.K. Sharma	General Secy
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*Ministerial  
Officers  
Association*

Agenda Points submitted by Gr 'C' Executive Officers Association:

1. Removal of acute stagnation in the grade of Inspector and bringing of parity with other zones of the country. Request the administration to take up the matter with the Ministry for allocation of additional posts of Superds. and also the creation of new Commissionerate i.e., Guwahati.

Comments: The matter relating to creation of new Commissionerate has already been referred to the Ministry. Though proposal was not accepted, it has been decided that the administration will pursue the matter again.

Action: The Administrative Officer (E.T.), Central Excise, Shillong.

2. Transfer Policy : Framing of new transfer policy.

Comments: As far as the transfer policy is concerned, the new draft meant for Group B, C & D Officers has already been circulated to all the concerned including the Associations for comments and their point of views. On receipt of the comments from the Associations, the said policy will be finalized with due approval of the Chief Commissioner.

Action: The Administrative Officer (E.T.), Central Excise, Shillong.

3. Appointment on compassionate ground.

Comments: Since compassionate appointment can be made from the 5% of the direct recruitment of the existing vacancies only as per the instructions, it is not possible to give appointment to all the pending applicants. However, instructions/exist regarding contract basis work. The feasibility of applying these orders should be explored. At the same time certain appointments on compassionate ground will be made very shortly and the process has already been started.

Action: The Administrative Officer (E.T.), Central Excise, Shillong.

4. Recognition of premier hospitals of North-East for medical treatment.

Comments: It has been suggested that officers of this department can apply for membership of the scheme provided by Central Govt. Health Scheme. It may also be informed that those hospitals, which are recognized by the State Govt., are also recognized for Central Govt. Employees. After obtaining DHS approval, an employee can go anywhere outside the State for treatment.

Action: The Administrative Officer (E.T.), Central Excise, Shillong.

5. Inspectors deployed with Ministerial Work.

Comments: Only one or two Executive officers are working on Ministerial posts that too on administrative exigencies and consent /conivance of those officials.

Action: The Administrative Officer (E.T.), Central Excise, Shillong.

- 17 -

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6. Proper Office Building and Quarters for the officers and staffs.

**Comments:** It is informed that matter has already been processed for acquiring Morello Compound for Office and also looking for plot of land for the construction of office building - cum - residential accommodation from State Govt for Customs & Central Excise, Shillong. It was also informed that Dibrugarh Commissionerate has already located a plot of land for the office building and quarters.

**Action:** The Administrative Officer (G.L.) / Superintendent (H&W), CE, Shillong / Dibrugarh.

7. Canteens and Guest House: Request to form a Canteen Committee and accommodation for officers in the Guest House, specially for outstation officers on duty and for officers who have joined on transfer for at least one week.

**Comments:** The matter relating to Canteen will be initiated only after acquiring our own building. No action to be taken for the time being. However, it is suggested that we may seek approval from the DOPM for getting our own canteen.

It is suggested that we may write to the Ministry for getting approval of rented accommodation of Guest House since there is no office building of our own.

**Action:** The Administrative Officer (G.L.), Central Excise, Shillong.

8. Welfare fund and measures : Formation of welfare Committee.

**Comments:** There is no provision for forming full-fledged Welfare Committee on welfare fund at Chief Commissionerate / Commissionerate Level. However, when any case is not covered under Medical Attendance Rules, normally, such cases are referred to the Commissioner of Logistics, New Delhi with the recommendations of the respective Commissioners.

**Action:** The Superintendent (Anti-Evasion), Shillong.

9. Deputation to Air Customs, DRI and other sister organizations.

**Comments:** The process for giving appointment on deputation to Airport was delayed due to relocation of posts. However, appointment order has already been issued in respect of Mumbai Airport on deputation. As for Kolkata Airport, this administration will issue the appointment order as soon as the intimation for the appointment / selection order is received from their end. As for the other organizations like DRI, DGCEI etc., as usual, this office is regularly forwarding the names of the willing officers on deputation, after circulating the option. It is also decided that this office will not entertain any request for posting on loan basis in future.

**Attention:** The Administrative Officer (E.T.), Central Excise, Shillong.

10. Sitting arrangement for the Inspectors in Customs and Central Excise, Shillong.

**Comments:** Efforts are being made to provide proper sitting arrangement of Inspectors as per austerity norms and the same has been entrusted to Superintendent (H&W) and Superintendent (Hqs.), Central Excise / Customs, Shillong / Dibrugarh.

**Action:** The Superintendent (H&W) / (Hqs.), Central Excise / Customs, Shillong / Dibrugarh.

11. Entitlement of Transfer traveling allowances on completion of tenure:

Comments: No action is required in this matter as TTA has already been granted to all those represented officers in the grade of Supdts. and Inspectors.

Action: The Administrative Officer (ET), Customs & Central Excise, Shillong.

12. Minutes of the meeting: Showing of minutes to the member of the Association before circulation to ensure that any anomalies can be rectified prior to circulation.

Comments: It was informed to all the concerned Associations that it is not possible to show the minutes before the circulation. However, all the Associations are advised to submit representation, if the Minutes are not recorded as per the points discussed during the OCM/RCM.

Points submitted by Gr 'C' Ministerial Officers Association:

1. Delay in Holding OCM.

Comments: The OCM was not held on time since there was a debate for holding OCM/RCM during that period. The issues has been resolved now and OCM will be held at Commissionerate level to deal with local issue and RCM will be held at Zonal level. However, it is decided that RCM will be held once in every six months.

Action : The Administrative Officer (E.T.), Central Excise, Shillong.

2. Non-Implementation of Boards direction with regard to promotion of erstwhile D.E.O.s to the grade of Inspector.

Comments: Efforts have already been taken with the Ministry for one time relaxation of converting of Direct Recruitment (DR) to Promotion Recruitment (PR) from Chief Commissioner's Office, Shillong.

Action : The Administrative Officer (E.T.), Central Excise, Shillong.

3. Transfer Policy for A.O. / A.C.A.O. level.

Comments: The new Transfer Policy has already been drafted for all grades and yet to be formulated as this administration is still waiting for the views / comments from the concerned.

Action : The Administrative Officer (E.T.), Central Excise, Shillong.

*Noted  
W.D.  
Adm. Secy*



32

Points submitted by Gr 'D' Officers Association:

✓ 1. Transfer & Posting of Group 'D' Staff.

Comments: As per the usual practice, transfer and posting for the said grade is normally done by Cadre - Controlling i.e. Central Excise Hqrs. Shillong based on the representation/option submitted by the officers on the basis of seniority. However, specific posting will be given by the respective Commissionerates only.

Action: The Administrative Officer (E.T.), Central Excise, Shillong.

2. Filling up of vacant post of Group 'D' staff / Increase of present sanction strength.

Comments: As far as filling up post of Group 'D' is concerned, at present, there is no eligible candidate to fill up the vacant post in the grade of Head Havaladar / Havaladar and also no direct recruitment can be made at present in the Grade of Sepoy. Further, it may be informed that the Ministry.

As far as the increase of present sanction strength is concerned, this administration cannot alter the given sanction strength until and unless the matter is cleared by the Ministry.

Action: The Administrative Officer (E.T.), Central Excise, Shillong.

3. Promotion of Group 'D' staff to the grade of L.D.C. & H/Havaladar to ASI Weapons.

Comments: Since there is no vacancy for the said post on PR quota at present it is not possible to give appointment to those who have already qualified.

As for the promotion from Head Havaladar / Havaladar to ASI Weapons, it may be informed that the process is still going on.

Action: The Administrative Officer (E.T.), Central Excise, Shillong.

4. Staff Quarters for Group 'D' Officers.

Comments: As already mentioned in Group 'C' Executive Association's comments.

Action: The Administrative Officer (E.T.), Central Excise, Shillong.

5. Appointment on Compassionate Ground.

Comments: Comments are same as mentioned in Group 'C' Executive Association.

Action: The Administrative Officer (E.T.), Central Excise, Shillong.

6. Any miscellaneous points relating to general Welfare of Group 'D' staff.

Comments: No comments.

*Submitted  
M. A.  
Advocate*



1. Manpower :

The sanctioned manpower in this Commissionerate at the time of its inception in Jan, 1997 is given below:

S/S : Supervisor-1, TA-2, RT-6 and R.Operator-16. The existing strength is required to be revised as per revised sanction of equipments i.e., HF Wireless Set - 57, VHF - 25 watt - 187, Hand Held (Walkie Talkie) - 5 watt - 210 and Repeater - 15.

A proposal of minimum requirement has been forwarded to Commissioner (Logistics). However, no action appears to have been taken, as the restructuring of Telecom Wing has been lingering for long.

In view of the above, it is requested that the case may be taken up for sanction of manpower for the proper utilization of the equipments.

Comments : The matter will be referred to the Director of Logistics for increasing the post for more recruitment again.

Action : The Joint Commissioner, Customs (Preventive), NER, Shillong.

2. There is not promotional prospect for Telecom staff. It is felt that stagnation in the communication wing has a demoralizing effect, as there is no sanctioned promotional post in the Commissionerate.

It is therefore requested that the case may be taken up at the appropriate level for sanction of promotional post as per revised allocation of equipments as in the case of the DEOs.

Comment : Due to limited number of sanctioned post, there is lack of vacancies for promotion to higher grade. The matter may be referred to Ministry for increase of post in the Telecom Wing.

Action : The Joint Commissioner, Customs (Preventive), NER, Shillong.

3. Provision of staff quarters as the prevailing house rent at Shillong is exorbitant.

Comments : The matter is being initiated for providing Govt. Quarters to officers and staffs as far as practicable.

Action : The Joint Commissioner, Customs (Preventive), NER, Shillong.

The meeting ended with vote of thanks.

( J.P. MANGAIK )

ADDITIONAL COMMISSIONER ( P&V )

C No. 1(3)14/ET-III/2003/

Dated : 05/01/2006

Copy forwarded for information and necessary action to

1. The Chief Commissioner, Customs and Central Excise, Crescens Building, M.G. Road, Shillong - 1.
2. The Commissioner, Central Excise, Shillong.
3. The Commissioner, Customs (Preventive), NER, Shillong.
4. The Commissioner, Central Excise, Dibrugarh.
5. The Commissioner (Appeals), Central Excise, Guwahati.
6. The Additional Commissioner (A/E), Central Excise, Shillong.
7. The Joint Commissioner (Tech.), Central Excise, Shillong.
8. The Joint Commissioner (P&V), Central Excise, Dibrugarh.
9. The Joint Commissioner, Customs (Preventive), NER, Shillong.
10. The Deputy / Assistant Commissioner, Customs / Central Excise, \_\_\_\_\_ Division (All)
11. The Superintendent (Hqrs. / Anti - Evasion / Housing & Welfare), Central Excise / Customs (P), Shillong / Dibrugarh.
12. The Chief Accounts Officers, Customs / Central Excise, Shillong.
13. The Pay and Accounts, Customs / Central Excise, Shillong / Dibrugarh.
14. The Administrative Officer / ACAO (E.T. / G.L. / Accounts), Central Excise / Customs, Shillong / Dibrugarh.
15. The General Secretary, Group 'C' Executive Association / Group 'C' Ministerial Officers Association / Telecommunication Wing Operational Staff Association / Group 'C' Driver Association / Group 'D' Officers Association, Customs and Central Excise, Shillong
16. Guard File

(J.P. MAMGAIN)  
ADDITIONAL COMMISSIONER (P&V)

collected  
with  
document



GOVERNMENT OF INDIA  
OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE  
MORELLO COMPOUND, M.G. ROAD, SHILLONG

Tel. 91-0364-2224751 / 2223030. Fax. 91-0364-2223428 / 2226215. E-Mail: cexshill@excise.nic.in

C.No. JC (PEY) SH/2/TDP/2006

Date 21-

To,

The Chief Commissioner,  
Customs & Central Excise,  
Shillong Zone,  
'CRESCENS' Building, 3<sup>rd</sup> Floor,  
M.G. Road, Shillong - 793 001

Sir,

Subject: - Draft Transfer Policy from Group 'B' to 'D' Officers - forwarding of.

Enclosed please find the draft Transfer Policy as proposed and submitted by the Transfer Policy Drafting Committee. The Draft has been proposed after examining the existing guidelines for transfer posting issued by the Board/Ministry and submissions made by the respective Association from Group 'B' to 'D' officers of this Zone.

This is for kind perusal and necessary orders please.

- Encls: - 1. Annexure A (List of Sensitive & Non- Sensitive Postings)  
2. Annexure B (Draft Transfer Policy as submitted by the respective Associations)

Yours faithfully

M. H. ANAL  
(H. M. ANAL)  
CONVENOR

TRANSFER POLICY DRAFTING COMMITTEE.

Attested  
M. H. ANAL  
Advocate

Vol. Urgent

M. Synnaha

Super

- 23 -

SK1  
Subletted -  
Issue letter for  
26.10.06

ANNEXURE - 2 (Series)

16/10/06

35

Agreed.  
I would like to  
discuss this policy  
with all representatives  
The Assoc. 5 CCEs  
CCE Shillong & CCE  
next week.  
Date & time  
16/10

GUIDELINES FOR TRANSFER AND POSTING IN RESPECT OF GROUP -B (EXECUTIVE & MINISTERIAL) GROUP-C (EXECUTIVE & MINISTERIAL) AND GROUP-D OFFICERS OF CUSTOMS AND CENTRAL EXCISE IN THE NORTH EASTERN REGION.

1. This may be called general guidelines for posting of Executive Officers in the grade of Superintendents and Inspectors working in the North Eastern Region.
2. The Guidelines aims to:-
  - a. Ensure minimum dislocation of officers in lines with the recent Department of Expenditure instruction for reducing expenditure on transfer.
  - b. Give equal opportunity to all officers in Customs, Central Excise and Service Tax.
  - c. Effective and proportionate distribution of available human resources in all the formations with a view to bring out the potential of the officers to the highest level in performing their duties.
3. Inter Commissionerate placement shall be done by the Chief Commissioner of customs and Central Excise, NER. The posting of the officers within the Commissionerate will be done by the respective commissioners and the divisional heads will issue specific posting order in consultation with the respective controlling Jt/Addl. Commissioners.
- ✓ 4. Option for posting is to be exercised by the 31<sup>st</sup> October and posting order is to be issued by the 31<sup>st</sup> December. All officers are to be released by 31<sup>st</sup> January or on completion of the officers' children's academic sessions, if their ward is within class 12 standard - which ever is later
5. All postings may be graded as, (1) sensitive, (2) Non-sensitive, (3) Hard Posting. List of classification of all the posts is enclosed. This list may be re-looked once a year.
6. Tenure in sensitive posting shall not exceed two years and one year for hard posting. Officers in non sensitive posting shall also be rotated on completion of two years. Except for reasons to be recorded in writing no officer is to be rotated from one sensitive to another sensitive posting.
7. The Normal tenure in Customs and Central Excise formations shall not exceed six years. On completion of two years in Dibrugarh Commissionerate, an officer is to be transferred out if a request is made to that effect. With a view to encourage officers for posting in Dibrugarh, they shall be considered for posting to the division of their choice and as far as practicable the station of their choice in the division after completion of two years in Dibrugarh.
8. If no sufficient option is exercised for posting to Dibrugarh, longest serving officers from Customs and Central Excise Commissionerates shall be due for transfer to Dibrugarh Commissionerate to fill in the vacancies.
9. While considering an officer for transfer, S/he shall be transferred to the nearest possible station while keeping in mind the overall guidelines.
10. Transfer from one place to another shall be made on the basis of station seniority and after completion of tenure of posting.
11. In places where an officer is willing to continue and if no option is exercised by other officers, the incumbent may be allowed to continue provided there are no administrative grounds for s/he to discontinue.

12. (i) During AGT the case of representation is to be considered first. If an officer is to be transferred as the result of representation by the other officer s/he should be rotated as per his option or to the nearby station.
- (ii) All representations shall be submitted through proper channel with a copy to the respective Associations.
- (iii) Representation shall be considered only for choice of station or place and not for specific posting.
- (iv) If representations are considered on compassionate ground, the officer/s shall be given non-sensitive posting for the extended period of stay for which representation has been considered.
13. Guidelines on posting of husband and wife and officers with only two years for retirement shall be as per the policy issued by the Department of Personnel and Training from time to time.
14. Officers repatriated from deputation shall report to the Chief commissioner's Office and postings of such officer/s shall be decided by the Chief Commissioner. Except for exceptional cases, posting on loan basis shall be avoided as far as practicable.
15. To give due recognition to the service of officers, with more than 15 years of service in the same grade, due to paucity of promotion avenues, attempt should be made to retain the officer in the station of his choice if the posting in the station is neither sensitive or administration have reasons not to retain him.
16. Posting on promotion shall be as per exigency of the administration.
17. In exceptional cases for which reasons is to be recorded in writing administration may deviate from the above guidelines while considering an officer for transfer.
18. Due to uneven distribution of posting in customs, central excise and service tax in different areas it is not found feasible to have zones within the Chief Commissioner's Zone, as this will defeat the aim of equal opportunity to work in the three formations.

**GROUP 'B' AND 'C' MINISTERIAL OFFICERS ASSOCIATION**

1. All ministerial officers are liable to be transferred within the Zone. Routine transfer of Ministerial Officers from one station to another shall be avoided. However on administrative ground or on promotion/vacancy and representations, Gr. 'B' & 'C' Ministerial officers are liable for transfer from one station to another station.
2. Gr. 'B' and 'C' Ministerial officers shall be rotated from Customs to Central Excise and vice versa after every 5 to 6 years.
3. All ministerial officers shall be rotated from one charge to another within the same station after every 3 years.

-26- 38 34

-3-

### GROUP 'D' OFFICERS

1. Though Gr. 'D' staff are also liable to be transferred anywhere within the Zone, frequent transfer of Gr. 'D' staff shall be avoided.
- ✓ 2. Transfer and Posting of Gr. 'D' within the Commissionerate shall be done from the respective Head Quarters of the three Commissionerates.
3. Tenure of posting in border area/ field position shall be for two years extendable by another one year. while considering the options for border area posting preference will be given to those who have never been posted to such areas on Seniority.
4. Except for posting to sensitive/ border areas, Gr. 'D' Officers will normally be posted nearest to their Hometown.
5. If a situation arises where there are no options for a particular area, administration will take its own decision as is convenient for Administration.

### GR. 'C' DRIVERS ASSOCIATION

1. Gr. 'C' Drivers are liable to be transferred within the zone, however routine transfer from one Station to another shall be avoided as far as practicable.
2. Tenure of posting for Gr. 'C' Drivers in a particular Station other than Borders/Sensitive areas will be for 4-6 years.
3. Tenure of posting to Border/sensitive posts will be for a period of 2 years.
4. Gr. 'C' Drivers will be rotated from Customs to Central Excise and vice versa after every 4 to 6 years depending on administrative convenience.



OFFICE OF THE CHIEF COMMISSIONER  
CENTRAL EXCISE & CUSTOMS  
SHILLONG ZONE  
NORTH EASTERN REGION

3rd Floor, Crescens Building, MG Road, Shillong - 793001,  
Phone: 0364-2500131. Fax: 0364-2224747.

E-mail:- [ccshillo@excise.nic.in](mailto:ccshillo@excise.nic.in) EDECS :- (zone18)

C.No. II (3) 16/ CCU/SH/2006/

Dated: - 20<sup>th</sup> October 2006

To,

The Commissioner,  
Central Excise,  
Shillong/ Dibrugarh.

The Commissioner,  
Customs (Preventive),  
N.E.R., Shillong

The General Secretary,  
Group "B" "C" & "D" Ministerial  
Executive Association.

Sir/Madam,

Subject: - Draft Transfer Policy from Group "B" to "D" Officers-  
Regarding.

In continuation to this office letter C.No. 11(3) 16/CCU/SH/2006/34679-84 dated 17/18-10-2006; I am further directed to enclose herewith copy of Draft Transfer Policy for information and necessary action at your end.

Further, you are requested to attend the meeting at 11a.m on 26<sup>th</sup> October 2006 with the Chief Commissioner at his Chamber to discuss the Draft Transfer Policy.

Encl: As above (4 (four) sheets.

Yours faithfully,

  
(SWATANTRA KUMAR)  
ADDITIONAL COMMISSIONER

Annexure-3

OFFICE OF THE CHIEF COMMISSIONER  
CENTRAL EXCISE & CUSTOMS  
SHILLONG ZONE  
NORTH EASTERN REGION

3rd Floor, Crescens Building, MG Road, Shillong - 793001.  
Phone: 0364-2501131. Fax: 0364-2224747.

E-mail - ccshillong@se.nic.in EDECS :- (none)

C.No. II (3) 16/CCU/SH/2006/53

Dated: - 20<sup>th</sup> November 2006

To.

21 NOV 2006

The Commissioner,  
Central Excise,  
Shillong Dibrugarh

The Commissioner,  
Customs (Preventive),  
N.E.R., Shillong

The Commissioner (Appeals),  
Central Excise  
Guwahati

The General Secretary,  
Group "B" "C" & "D" Ministerial/  
Executive Association.

Sir/Madam,

Subject :- New Transfer Policy from Group "B" to "D" Officers  
Regarding.

I am directed to enclose herewith New Transfer Policy 2006 as the same has been finalized for information and necessary action.

Encls :- as above,

Yours faithfully,

(J.R.H. DENGDOH)  
20/11/06  
ASSISTANT COMMISSIONER

*Noted  
With  
Advocate*



GUIDELINES FOR TRANSFER AND POSTING IN RESPECT OF GROUP -B (EXECUTIVE & MINISTRIAL) GROUP-C (EXECUTIVE & MINISTRIAL) AND GROUP-D OFFICERS OF CUSTOMS AND CENTRAL EXCISE IN THE NORTH EASTERN REGION.

1. This may be called general guidelines for posting of Executive Officers in the grade of Superintendents and Inspectors working in the North Eastern Region.

2. The Guidelines aims to:-

- a. Ensure minimum dislocation of officers in lines with the recent Department of Expenditure Instruction for reducing expenditure on transfer.
  - b. Give equal opportunity to all officers in Customs, Central Excise and Service Tax.
  - c. Effective and proportionate distribution of available human resources in all the formations with a view to bring out the potential of the officers to the highest level in performing their duties.
3. Inter Commissionerate placement shall be done by the Chief Commissioner of Customs and Central Excise, North Eastern Region. The posting of the officers within the Commissionerate up to the Range/ CPF/LCS level shall be done by the respective commissioners within 5(five) working days of the A.G.T. This has been decided considering the geographical constraints which includes two tiers or three tier transfer orders.
  4. Option for posting is to be exercised by the 31<sup>st</sup> October and posting order shall be issued by the 15<sup>th</sup> December. All officers are to be released latest by 31<sup>st</sup> January or on completion of the officers' children's academic sessions, if their ward is within class 12 standard - which ever is later.
  5. All postings may be graded as, (1) sensitive, (2) Non-sensitive, (3) Hard Posting. List of classification of all the posts is enclosed. This list may be re-looked once a year.
  6. While considering an officer for transfer, S/he shall be transferred to the nearest possible station while keeping in mind the overall guidelines.
  7. Tenure in sensitive posting shall not exceed two years and one year for hard posting. Officers in non sensitive posting shall also be rotated on completion of two years. Except for reasons to be recorded in writing no officer shall be rotated from one sensitive to another sensitive posting.
  8. A person shall not be posted to a place where he has worked earlier unless there are no optees for that Station.
  9. The Normal tenure in Customs and Central Excise formations may be minimum six years. This period may be extended or reduced on administrative grounds. On completion of two years in Dibrugarh Commissionerate, an officer is to be transferred out if a request is made to that effect.
  10. For posting to Dibrugarh and other places where no optees are available, the vacancies shall be filled up by taking officers from the following categories in that order :-
    1. Newly recruited officers.
    2. Officers promoted from one rank to another.
    3. Officers returning from deputation.
    4. Officers who have their hometown in and around that particular station.
    5. Officers who have completed maximum tenure in any particular station.
    6. It has also been decided to give as far as possible posting at a place of choice to the officers who have completed their tenure at Dibrugarh.

11. Transfer from one place to another shall be made on the basis of station seniority and after completion of tenure of posting.
12. In places where an officer is willing to continue and if no option is exercised by other officers, the incumbent may be allowed to continue provided there are no administrative grounds for s/he to discontinue.
13. (i) During AGT the case of representation is to be considered first. If an officer is to be transferred as the result of representation by the other officer s/he should be rotated as per his option or to the nearby station.  
 (ii) All representations shall be submitted through proper channel with a copy to the respective Associations.  
 (iii) Representation shall be considered only for choice of station or place and not for specific posting.  
 (iv) If representations are considered on compassionate ground, the officer/s shall be given non-sensitive posting for the extended period of stay for which representation has been considered.
14. Guidelines on posting of husband and wife and officers with only two years for retirement shall be as per the policy issued by the Department of Personnel and Training from time to time.
15. Officers repatriated from deputation shall report to the Chief Commissioner's Office and postings of such officer/s shall be decided by the Chief Commissioner. Except for exceptional cases, posting on loan basis shall be avoided as far as practicable.
16. Posting on promotion shall be as per exigency of the administration.
17. In exceptional cases for which reasons is to be recorded in writing administration may deviate from the above guidelines while considering an officer for transfer.
18. Due to uneven distribution of posting in customs, central excise and service tax in different areas it is not found feasible to have zones within the Chief Commissioner's Zone, as this will defeat the aim of equal opportunity to work in the three formations.

#### GROUP 'B' AND 'C' MINISTERIAL OFFICERS ASSOCIATION

1. All ministerial officers are liable to be transferred within the Zone. Routine transfer of Ministerial Officers from one station to another shall be avoided. However on administrative ground or on promotion/vacancy and representations, Gr. 'B' & 'C' Ministerial officers are liable for transfer from one station to another station.
2. Gr. 'B' and 'C' Ministerial officers shall be rotated from Customs to Central Excise and vice versa after every 5 to 6 years.
3. All ministerial officers shall be rotated from one charge to another within the same station after every 3 years.

#### GROUP 'D' OFFICERS

1. Though Gr. 'D' staff are also liable to be transferred anywhere within the Zone, frequent transfer of Gr. 'D' staff shall be avoided.
2. Transfer and Posting of Gr. 'D' within the Commissionerate shall be done from the respective Head Quarters of the three Commissionerates.
3. Tenure of posting in border area/ field position shall be for two years extendable by another one year, while considering the options for border area posting preference will be given to those who have never been posted to such areas on Seniority.
4. Except for posting to sensitive/ border areas, Gr. 'D' Officers will normally be posted nearest to their Hometown.
5. If a situation arises where there are no options for a particular area, administration will take its own decision as is convenient for Administration.

#### GR. 'C' DRIVERS ASSOCIATION

1. Gr. 'C' Drivers are liable to be transferred within the zone, however routine transfer from one Station to another shall be avoided as far as practicable.
2. Tenure of posting for Gr. 'C' Drivers in a particular Station other than Borders/Sensitive areas will be for 4-6 years.
3. Tenure of posting to Border/sensitive posts will be for a period of 2 years.
4. Gr. 'C' Drivers will be rotated from Customs to Central Excise and vice versa after every 4 to 6 years depending on administrative convenience.



- 32 -

**OFFICE OF THE COMMISSIONER OF CUSTOMS (PREVENTIVE)**  
**NORTH EASTERN REGION**  
**SHILLONG**

34  
**Annexure-4**

110 Mahatma Gandhi Road, Shillong – 793001, Meghalaya  
Phone: 0364-2222597/2225325/2229006. Fax: 0364-2223440/2229007 E-mail:  
cushg@sancharnet

**ORDER No. 27 /2007**

Dated, Shillong the 3<sup>rd</sup> August 2007

**Subject:** - Transfer and posting in the grade of Group 'D' (Head Havaladar/Havaladar/Sepoy) of  
Commissionerate of Customs (Preventive), North Eastern Region, Shillong – order reg

Consequent upon Inter-Commissionerate transfer order No. 54/2007 dated 04.07.2007 issued by Joint Commissioner (P&V), Customs & Central Excise Shillong. The following transfer and posting in the grade of Group 'D' (Head Havaladar/Havaladar/Havaladar(R) /Sepoy) Officers of Commissionerate of Customs (Prev.), North Eastern Region, Shillong is hereby ordered with immediate effect and until further orders.

Sl. No	Name of Officers	Place of Posting	
		From	to
1	2	3	4
1	Sankar Prasad Sharma, H/Hav. Shg. Hq.	Shillong Central Excise Commte	Shillong Customs Division
2	Phani Lal Deb, Havaladar, Shg. Hqrs.	Shillong Central Excise Commte	Shillong Customs Division
3	Hon Bahadur Thapa, Hav., Shg. Hqrs.	Shillong Central Excise Commte	Shillong Customs Division
4	Raj Kumar Singh, Havaladar, Shg. Hqrs.	Shillong Central Excise Commte	Shillong Customs Division
5	Smt. Raikap Thangl, Sepoy, Shg. hqrs	Shillong Central Excise Commte	Aizawl Customs Division
6	Kachin Ch. Rabha, Sepoy, CCO, Shg	Shillong Central Excise Commte	Shillong Customs Division
7	Harinder Roy, Sepoy, CCO, Shillong	Shillong Central Excise Commte	Shillong Customs Division
8	Amar Nath Sarkar, Hav., Gly. Divn.	Shillong Central Excise Commte	Guwahati Cus. Division
9	Bangshi Dhar Kalita, Hav, Ghy. Divn.	Shillong Central Excise Commte	Guwahati Cus. Division
10	N.C. Dey, H/Havaladar, Silchar C.Ex.	Shillong Central Excise Commte	Karimganj Cus. Division
11	Babu Mia, H/ Havaladar, Silchar C. Ex.	Shillong Central Excise Commte	Aizawl Customs Division
12	Ashok Kr. Das, H/Hav., Silchar C.Ex.	Shillong Central Excise Commte	Karimganj Cus. Division
13	Badal Das, H/Havaladar, Silchar C.Ex.	Shillong Central Excise Commte	Karimganj Cus. Division
14	Jyotirmoy Das, Havaladar, Silchar C. Ex	Shillong Central Excise Commte	Karimganj Cus. Division
15	Smt. Lila Rani Baidya, Sep. Silchar C.E.	Shillong Central Excise Commte	Karimganj Cus. Division
16	Kanu Bhusan Roy, Sepoy, Silchar C.Ex.	Shillong Central Excise Commte	Karimganj Cus. Division
17	Sudipto Bhattacharjee, Sepoy, Sil. C.Ex.	Shillong Central Excise Commte	Aizawl Cus. Division
18	Rabindra Nath Das, H/ Hav., Dhubri C.Ex	Shillong Central Excise Commte	Dhubri Customs Division
19	Biswajit Baidya, Hav., Dhubri C.Ex.	Shillong Central Excise Commte	Dhubri Customs Division
20	Ranjit Kumar Sil Sarma, Sepoy, Dhubri	Shillong Central Excise Commte	Dhubri Customs Division
21	Deben Ch. Bora, Hav., Jorhat C.Ex.	Dibrugarh C. Excise Commte.	Guwahati Cus. Division
22	Duleswar Gogoi, H/Hav., Tinsukia C.Ex	Dibrugarh C. Excise Commte.	Dimapur Cus. Division
23	Jatin Ch. Borah, Hav. Jorhat C. Ex.	Dibrugarh C. Excise Commte.	Dimapur Cus. Division
24	Diganta Sonowal, Sepoy, Dibrugarh Hq.	Dibrugarh C. Excise Commte.	Dimapur Cus. Division
25	Uday Sankar Taye, Sepoy, Jorhat Divn	Dibrugarh C. Excise Commte.	Dimapur Cus. Division
26	P. C. Rajak, Head Havaladar	Customs Hqrs., Shillong	Shillong Customs Division
27	Satrugan Prasad, Havaladar	Customs Hqrs., Shillong	Shillong Customs Division
28	Nirmal Ch Dob, Havaladar	Karimganj Customs Division	Agartala Customs Division
29	Ram Nath Roy, Sepoy	Karimganj Customs Division	Customs Hqrs. Shillong
30	Suresh Sharma, Sepoy	Dimapur Customs Division.	Guwahati Customs Divn

1. All the officers mentioned above should be relieved on or before 10.08.2007 positively under intimation to Hqrs. Office. The Divisional Officer should send compliance reports regarding relieving and joining of the above officers to the Commissioner of Customs by 17.08.2007 and 21.08.2007 respectively.

2. With this order, all representations for posting and transfer in the grade of Group 'D' of Customs (Preventive) Commissionerate Shillong stand disposed off.

3. The above officers are placed at the disposal of the respective Divisional Deputy/Assistant Commissioners for further posting in the respective Divisions. AC/DCs should ensure that those who are in positive postings and have completed their tenure should be appropriately rotated.

Local rotation may be initiated immediately keeping in mind all the instructions.

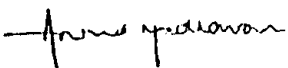
Sd/-  
(R. D. Negi)  
Commissioner

Group dated Page 1 of 2

*Noted  
10/8/07  
Advocate*

Copy forwarded for information and necessary action to:-

1. The Chief Commissioner of Central Excise, 'CRESCENS' 3<sup>rd</sup> Floor MG Road, Shillong.
- ✓ 2. The Commissioner, Central Excise, Shillong/Dibrugarh, ✓
3. The Joint Commissioner (P&V) Customs & Central Excise, Shillong.
- ✓ 4. The Deputy / Assistant Commissioner, Customs (P) / Central Excise Division (Call) Copy(s) meant for the concerned officer is/are enclosed.
5. The PAO, Customs / Central Excise, Shillong / Dibrugarh.
6. The ACAO (Accounts), Central Excise Hqrs. Office/Customs (P) Hqrs. Office, Shillong / Dibrugarh.
7. The Superintendent (PRO/Hqrs.), Central Excise Hqrs. / Customs (P) Hqrs. Office, Shillong / Dibrugarh. Copy(s) meant for the concerned officer is/are enclosed.
8. The Superintendent (SIU-Vig.)/Computer Cell, Customs Hqrs. Office, Shillong.
9. The Branch-In-charge, ET/Confidential (PAC) / Computer Cell / CIU-cum-VIG Branch), Central Excise Hqrs. Office, Shillong.
10. Shri / Smt. \_\_\_\_\_ for compliance.
11. The General Secretary, Group 'D' Officers' Association, Customs and Central Excise, Shillong.
12. Guard file.

  
(Arvind Madhavan)  
Joint Commissioner

-34-

Annexure-5

46

**CUSTOMS AND CENTRAL EXCISE**  
**GROUP "D" OFFICERS' ASSOCIATION,**  
**SHILLONG COMMISSIONERATE, N.E.R.-SHILLONG**  
(RECOGNISED BY GOVERNMENT OF INDIA)

Ref.No.3/ASSN/D/04/

Dated

20/08/07

To

The Chief Commissioner,  
Customs & Central Excise,  
NER Zone,  
Shillong

Sir,

Sub: -Transfer Order No. 27/07 dated 03.08.2007 issued by  
the Joint Commissioner, Customs Preventive, Shillong-  
regarding

At the very outset, I, on behalf of the GR. 'D' officers of Shillong Zone take this privilege to welcome you as the Chief Commissioner of the Zone.

1.2 In reference to the Transfer Order referred to above I have the following brief to submit:

1. It was agreed in the RCM meeting in November 2005 that all transfer and postings in the grade of GR. 'D' will be issued from the respective Hqrs. Of the Commissionerates. [Copy of RCM Minutes enclosed]
2. It was agreed in the Draft Transfer Policy issued by the Chief Commissioner that the transfer and posting of the GR. 'D' officers will be made from the respective Hqrs. of the Commissionerates.
3. In the impugned Transfer Order dated 03.08.2007 the adopted norms has been sidelined and effectively the authority to transfer vested to the Divisional Officers.

1.3 That Sir, aggrieved with the issue of the order, the Association approached the Commissioner of Customs under letter dated 06.08.2007, with copies to the Chief Commissioner, Shillong and Member, (Per), CBEC among others.

1.4 On receipt of the letter dtd. 06.08.2007, the Chief Commissioner of Central Excise & Custom, Shillong intervened in the matter and assured, in presence of Commissioner of Customs, Joint Commissioner of Customs and other representatives of the Association that the transfer Order will be modified to the extent that the transfer & posting of Gr. 'D' officers will be made by the Hqrs. itself instead of the Divisions and also requested the Association to withdraw the said letter. Accordingly, the Association had withdrawn the letter No.122-156 dated 06.08.2007 from all concerned vide letter No.157-192 dated 06.08.2007.

Attested  
by  
Advocate

1.5.1 However, despite the assurances by the then Chief Commissioner, Shillong, the Order was neither modified nor kept in abeyance by the Customs administration till date. Instead, the transferees are relieved from their respective places of postings with an order to join the Divisions and obviously wait for another posting order from the Divisional Officers.

1.5.2 Sir, this has caused great resentment with the Gr. 'D' officers and the executive Committee as well as General Body meeting have taken a resolution to the effect that the norms set forth by the earlier Policy are adhered to and the order be kept in abeyance till December 2007.

1.5.3 That Sir, the mid year transfer order has provided scope for speculation and a sense of uncertainty prevailing in the minds of all affected officers. The midyear transfer in a uncertain place will cause difficulties for the Gr. 'D' officers as would be immensely disturbing for the academic career of their wards.

1.5.4 I therefore, request you to kindly intervene in the interim and cancel the order and re-issue the same with necessary modifications and as per norms laid down in this respect.

For this act of your kindness I shall, as duty bound shall ever pray.

Yours faithfully,



(Mridul Baruah)  
General Secretary

Ref.No.3/ASSN/D/04/

215-17

Dated

Copy for information and necessary action forwarded to the Commissioner of Customs Preventive, NER, Shillong



(Mridul Baruah)  
General Secretary

### ACCOUNTABILITY TO THE MEDIA

24.19 The print media in India have always been fiercely independent. The strength of the fourth estate has been enhanced manifold by the entry of the electronic media. Today, it is a common sight to see a public servant being confronted with a camera and a mike at any odd place, be it outside the court room, his office, residence, even in a lift. This has made accountability to the newsmen and through them, a wider audience something of a minute-to-minute exercise. Some of the points that arise in this connection are—

- (a) 'Man eats dog' is news. Newspersons are generally looking for sensational copy, an off-the-cuff comment that might spark a controversy or something that smells of a scandal or scam. We have to restore the balance to the news-generating machinery, so that humdrum facts about development are also reported upon.
- (b) Most of the time, we have one-sided stories, without there being a genuine attempt to find out whether the allegations being made are based on facts, or trying to get the version of the opposite party. This makes for lop-sided or motivated reporting.
- (c) What we need is a reporter who is well-versed in his subject, who has done his homework and assembled all the facts, who is aware of all the controversies, and who can draw out the interviewee by sympathetic questioning.
- (d) We also require media personnel who are so well paid by the industry that they are not susceptible to the varied blandishments that can be offered by various interested parties to purvey distorted stories in order to malign or scandalize.
- (e) In the Indian context, it is important to stress the fact that as a nation we are fond of self-flagellation. It is our national hobby. The media should, therefore, deliberately, as a matter of policy, report on positive events, millions of which are taking place in our country every day. If Surat saw plague, it also turned into one of the cleanest cities of the country within an year. Yet, as against the daily headlines about the plague, how many articles have we read about the clean up?
- (f) The media itself is under watch. Many newspapers now have in-house ombudsmen, there are media critics writing about its performance and the Press Council of India maintains an overall watchdog role. Such internal "censorship" is to be welcomed.

### ACCOUNTABILITY TO GOD AND ONE'S OWN CONSCIENCE

24.20 In a modern society where atheism is fashionable and "conscience" has capitulated to "convenience", it may seem anachronistic

to talk of God and one's own conscience. Yet, millions of people still believe that God is our true Self and if one listens hard enough, one can hear the still small voice of our conscience.

24.21 In the final analysis, the only controls that can work effectively are internal ones. It is when human beings hold ideals that they cherish, when they have role models they live upto, when there are virtues of truth, honesty, integrity, devotion to duty, patriotism, love of one's fellow-beings, non-violence, peace and brotherhood that they try to imbibe that a society can progress and be truly civilized.

24.22 But this can happen if the leaders of society, be they intellectuals, bureaucrats, politicians, traders, farmers or workers, eschew the cult of violence, selfishness and hypocrisy when the older generation, by its conduct, becomes a role model for the younger generation, when there are people of vision, farsightedness and statesmanship who are chosen by the people to rule over them, and when the thieves, dacoits, forgers and smugglers are kept firmly behind lock and key.

24.23 In every service, there are good people. In fact, they constitute the silent majority. It is time that there is an internal revolution of the psyche. Recently, the State Association of a premier Service threatened to hold a secret ballot to vote the "three most corrupt persons in the cadre." The move was scuttled under pressure. Such self-regenerating movements within the bureaucracy should be encouraged. There should be open dialogues and debates on what the country has been reduced to. All good men should speak up and unite.

### CONCLUSION

24.24 It will thus be seen that there is no lack of agencies that can hold a Government employee accountable. What is needed is to activate, refurbish and galvanize these agencies.

### CHAPTER 25

### TRANSFER POLICY

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### OUR RECOMMENDATIONS

25.5 We have considered these demands and feel that many of the grievances of the employees can be met if their departments formulate detailed, clear and transparent transfer policies. There cannot be a uniform transfer policy for all the Central Government Departments/Organizations, as their administrative requirements differ. Departments whose personnel have a liability to serve anywhere in India have already formulated transfer policies based on the guidelines issued by the Department of Personnel and Training and cases are stated to be dealt with in the manner according



to such guidelines. Departments which have not evolved any guidelines/policies on transfer should do so at the earliest so as to eliminate any possibility of arbitrariness in effecting transfers. The propositions contained in the succeeding paragraphs may be used as general guidelines for inclusion in the transfer policy to be formulated by different departments.

**25.6 Need for detailed guidelines.**—Detailed guidelines should be formulated and publicized by each department as part of a comprehensive transfer policy so as to ensure that arbitrariness in transfers is altogether eliminated and transfers are effected in as transparent a manner as possible. The guidelines so formulated should take into account various instructions issued by the Department of Personnel and Training from time to time, particularly those related to transfer/posting of married couples at the same station, posting of physically handicapped employees, posting of employees having mentally retarded children, rotation of staff working in sensitive posts, etc.

**25.7 Prescription of minimum tenure.**—To ensure administrative continuity and stability to incumbents, frequent transfers should be discouraged and a minimum tenure for each posting of officers should be predetermined and it should normally be 3 to 5 years, except in cases where longer tenures are justified on functional requirements like continued availability of certain specialized skills. In the case of sensitive posts, where opportunities exist for developing vested interests, the tenure of posting should be defined for a shorter period, which may be 2 to 3 years.

**25.8 Transfers not in mid-session.**—As far as possible, transfer orders should be issued before the end of the academic year so that these are implemented at the end of the academic session. Wherever transfers are made in mid-session, facility to retain Government accommodation up to the end of the academic session should be extended, if the Government employee has a child studying in that station.

**25.9 Reasons for premature transfers.**—Any premature transfer before completion of the prescribed tenure should be based on sound administrative grounds which should be spelt out in the transfer order itself. The transfer order must, therefore, contain detailed reasons for the transfer. Officers should be given a right to appeal against such orders, if they feel aggrieved and a provision for a summary procedure to deal with such situations should be made within each department. In case of emergency, when such orders are made in the exigencies of public interest and have to be implemented at once, representations against a transfer order should be disposed of by an authority superior to the officer ordering the transfer after personal discussion, if possible on the same day.

**25.10 Transfer not to be misused.**—The instrument of transfer should not be allowed to be misused either by the bureaucrats themselves or by politicians in power. It should not be used as a means of punishment by circumventing the procedure laid down for disciplinary proceedings.

**25.11 Constitution of Civil Services Board at the Centre and in the States.**—While the right of politician to have some say in postings to some of the senior duty posts in the administration cannot be denied, there is a need to evolve certain norms in this regard. Thus, while every new Prime Minister/Chief Minister may take decisions on appointments to certain key positions, decisions on transfer or removal of the concerned officers when there has been no change in the incumbency of the Prime Minister/Chief Minister should be taken only after the same has been examined by a high-powered Civil Services Board, comprising at least three persons. The Central Government and every State Government should constitute such Boards, consultation with whom should be made compulsory before ordering any premature transfer. In case of the Central Government, this Board may have the following composition:—

- (1) A retired Judge of the Supreme Court/High Court.
- (2) A prominent person in public life, including a retired senior bureaucrat.
- (3) Cabinet Secretary.

**25.12 Selection of Members of Civil Services Board and its Jurisdiction.**—The First two members should be chosen jointly by the Prime Minister and the Leader of the Opposition in the Lok Sabha. At the State level, the composition should include persons at Sl. Nos. 1 and 2 above who shall be selected jointly by the concerned Chief Minister and Leader of the opposition in the State Vidhan Sabha. Instead of Cabinet Secretary, the Chief Secretary of the State shall be the third member. The senior positions that should be brought under the purview of this Board should be the following:—

*In the Central Government—*

- (1) Cabinet Secretary (if his case is being considered, he will not be a member of the CSB).
- (2) Secretaries to the Government of India and their equivalent.
- (3) Additional Secretaries to the Government of India and their equivalent.
- (4) All Heads of Organizations like Directors-General of CPOs, DGHS, DG, CPWD of the rank of Joint Secretaries and above.

*In the State Government—*

- (1) Chief Secretary (If his case is being considered, he will not be a member of the CSB).
- (2) Secretaries to the State Government and their equivalent.
- (3) All Heads of departments in Senior Administrative Grade and above.
- (4) All IPS officers of the rank of Additional DGP and above.

- (5) All IFS officers of the rank of CCF and above.  
 (6) All District Magistrates and District Superintendents of Police.

**25.13 Procedure for effecting premature transfer.**—Wherever the premature transfer of any of the above officers is required to be made, the Secretary (Personnel) will have to submit a written memorandum before the Civil Services Board, giving reasons for the transfer. The concerned officer will have the right to appear before the Board and make his submission.

**25.14 Procedure for rejection of report of CSB.**—The report of the Civil Services Board on the proposal of premature transfer will normally be accepted by the Government. Wherever it is rejected, the proceedings in full will have to be placed on the Table of the House at its next session. Copies of all documents would also have to be supplied to the officer, so that he may have recourse to the courts, if necessary.

**25.15 Our views on bureaucracy.**—It is the considered view of the Commission that unless the backbone is restored to the higher bureaucracy by recognizing that they have a constitutional role to play in the system of governance, India can never have an administrative system of which it can be proud.

**25.16 Departmental Boards.**—Every Department should have a high-powered Board to review the cases of all premature transfers of Group 'A' officers and should serve as an appellate body for all such transfers which may be regarded as *mala fide* by an employee.

**25.17 Compensation for premature transfer.**—An additional month's pay over and above the existing transfer allowance should be paid by the transferring department if an employee is transferred prematurely within a period of one year of his earlier transfer. In spite of this, if an employee complies with the orders and then represents that the transfer was *mala fide*, the amount shall be recovered from the salary of the superior officer if it is subsequently proved that the transfer was, in fact, effected with *mala fide* intent, under political pressure or for any other extraneous consideration.

**25.18 Transfers of Groups 'C' and 'D' employees.**—In the case of employees in Groups 'C' and 'D' recruited on a regional basis, postings should be given in the home town/home district, wherever feasible, and transfers restricted within the region and zone. All reasonable opportunity should be given to volunteers for posting/transfer to difficult/unpopular places. However, if enough volunteers are not available, postings should be made for a short period to these stations on compulsory basis with a clear assurance of change in posting after completion of the tenure. Posting of choice should be given, as far as possible, to those who accept unpopular compulsory postings.

**25.19 No transfer of Group 'D' employees.**—No transfer of Group 'D' employees from one station to another should normally be resorted to except in very special circumstances like adjustment of surplus and deficiency, promotion, exigencies of service, mutual transfers, etc.

**25.20 Transfers of employees about to retire.**—Generally, transfers should not be made after a Government servant has attained an age three years less than the age of his superannuation and wherever possible, a retiring Government servant should be transferred to a station of his choice, three years prior to his superannuation.

**25.21 Government employees to be charge-sheeted for bringing political pressure.**—Government employees should not be permitted to bring political or other extraneous pressure to bear on the Government or on the transferring authorities in the matter of transfers. Any Government employee who brings such pressures should be proceeded against under the Conduct Rules. The present practice of taking action on letters received from outside agencies including Ministers, MPs, Bureaucrats and other members of the public has to be stopped forthwith. All such references may be used only for the purpose of taking departmental action against the Government employees for whose benefit such letters have been written.

#### SECTION IV

### OPTIMIZING THE SIZE OF THE GOVERNMENT MACHINERY

#### CHAPTER 26

### SIZE OF EMPLOYMENT UNDER THE CENTRAL GOVERNMENT

—Not Printed—

#### CHAPTER 27

### WORKFORCE SIZE CONTROL

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### OVERALL STRATEGY

**27.2 We would like to divide the overall strategy into four main sections as under—**

(a) **Reduction in quantum of work.**—Suggestions that will lead to reduction in the quantum of work left with the Central Government. We have to—

(i) Ascertain tasks that need not be done by Government.

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