

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

(DESTRUCTION OF RECORD RULES, 1990)

**INDEX**

✓  
O.A/T.A No. 308/2007

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SECTION OFFICER (Judl.)

Kalita  
11/10/07

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

1. Original Application NO. 308/07

2. MIBs Petition No.                     

3. Contempt Petition No.                     

4. Review Application No.                     

Applicant(S) Rajen Das ..... VS Union of India & Ors

Advocate for the Applicants M. Chandra, S. Nath .....

Mrs. U. Datta .....

Advocate for the Respondant(S) C. G. S. L. .....

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form is filed/C F. for Rs. 50/- deposited vide IPO/BB No. <u>66F848237</u>, <u>66F848240</u> <u>70E048447</u> Dated <u>10.12.07</u> .....</p> <p>Encl. Registrar <u>                    </u> <u>                    </u></p> <p>Petitioner's Cps for issue notices are received with envelopes. Cps served.</p> <p>Recd for applicant J. S. Adv. 24/12/07</p> <p><u>                    </u> 15/12/07</p> <p>Recd Copy G. P. S. L. 2.1.08</p>	<p>18.12.2007</p>	<p>Heard learned counsel for the parties.</p> <p>For the reasons recorded separately, this Original Application is disposed of.</p> <p style="text-align: right;"><u>                    </u> (M.R. Mohanty) Vice-Chairman</p>

19.3.08  
Index issued vide  
nos 92 to 97 dt 9.1.08  
Hls

27

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. No.308 of 2007

DATE OF DECISION: 18.12.2007

Shri Rajen Das

.....Applicant/s

Mr.M.Chanda

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

- Versus -

U.O.I. & Ors

.....Respondent/s

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

..... Advocate for the  
Respondents

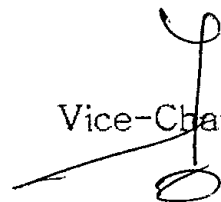
CORAM

THE HON'BLE MR. M.R. MOHANTY, VICE CHAIRMAN

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

Judgment delivered by

Vice-Chairman



18/12

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application Nos. 308 of 2007

Date of Order: This, the 18th Day of December, 2007

THE HON'BLE SHRI MANORANJAN MOHANTY, VICE CHAIRMAN

Shri Rajen Das  
Working as Driver  
Office of the Regional Director  
Narcotics Control Bureau  
N.E.Regional Unit  
Videocon House, 1<sup>st</sup> Floor  
Paona Bazar, Imphal – 795 01.

..... Applicant.

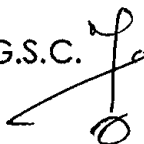
By Advocates Mr.M.Chanda, Mr.Subranta Nath & Mrs.Urna Dutta.

- Versus -

1. The Union of India  
Represented by the Secretary  
to the Government of India  
Ministry of Finance, North Block  
Department of Revenue  
New Delhi – 110 001.
2. The Director General  
Narcotics Control Bureau (HQ)  
West Block No.1 Wing No.5  
Sector-I, R.K.Puram  
New Delhi- 110 066.
3. The Zonal Director  
Eastern Zonal Unit  
Narcotics Control Bureau  
4/2, Karaya Road  
Kolkata-700 017.
4. The Regional Director  
North East Regional Unit  
Narcotics Control Bureau  
Videocon House, 1<sup>st</sup> Floor  
Paona Bazar, Imphal-795 001.
5. The Assistant Director (Admn)  
Narcotics Control Bureau (HQ)  
West Block No.1, Wing No.5  
Sector-I, R.K.Puram, New Delhi-110 066.

.....Respondents.

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



O.A. No.308/2007

ORDER (ORAL)

18.12.2007

**MANORANJAN MOHANTY, (V.C.)**

Heard Mr. M. Chanda, learned counsel appearing for the Applicant and Mr. G. Baishya, learned Sr. Standing counsel for the Union of India; on whom a copy of this Original Application has already been served; and perused the materials placed on record.

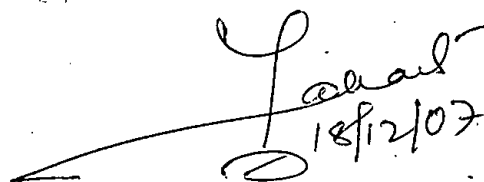
2. The Applicant, who was previously posted at Kolkata, came on transfer to Imphal; where he is continuing now since 2003. He, with an intention to get a transfer back to Kolkata, represented to the Authorities. The said grievance of the Applicant having been turned down, the Applicant has approached this Tribunal with this present Original Application filed under Section 19 of the Administrative Tribunals Act, 1985. The grievance of the Applicant has been turned down on the ground of absence of any vacancy at Kolkata.

3. By filing the present Original Application the Applicant has pointed out (at paragraph 4.18) that there are few members of the staff, who are stationed at Kolkata for a long time, without being transferred from Kolkata, and, as a consequence, the prayer of the Applicant to go on transfer to Kolkata has been throttled. It is the case of the Applicant that, unless rotation system is introduced, few members of the staff may take advantage to continue to stay in a particular advantageous station for a longer time (or for all times to come) to the prejudice of those who intend to get transfer to such convenient places. Rotation of members of the staff on transfer, in a uniform manner, is a healthy personnel management and,

in all fairness of the things, the Respondents, in order to avoid heart burning among few members of the staff, should resort to a uniform transfer policy to provide equal opportunity to every members of the staff to be at good and bad stations.

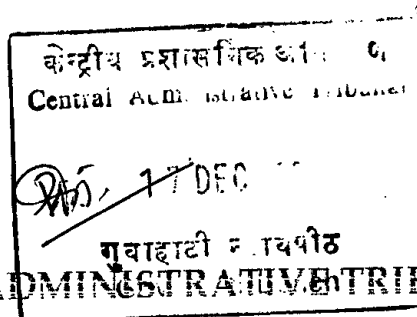
4. With the aforesaid observations, this Original Application stands, hereby, disposed of; by granting liberty to the Applicant to represent his grievances again (by giving all details, as have been given in the present Original Application) and the Respondents should redress the grievances of the Applicant by the end of March 2008; so that the parties can get ready to face their transfer by end of the academic session. Respondents should also consider the copy of this Original Application as a representation (of the Applicant) to the Respondents.

5. Copies of this order be sent to all the Respondents, along with copies of this Original Application, in the addresses given in this Original Application.. Free copies of this order be also supplied to the Applicant (by post, in the address given in the Original Application) and to the learned counsels appearing for both the parties.



(MANORANJAN MOHANTY)  
VICE-CHAIRMAN

/bb/



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

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

O.A. No. 308 /2007

Sri Rajen Das.

-Vs-

Union of India & Ors.

SYNOPSIS OF THE APPLICATION

Applicant is a permanent resident of Kolkata, West Bengal. He is working as Driver in the office of the Regional Director, Narcotics Control Bureau, Imphal. He was transferred and posted in NCB, Imphal, on 06.07.93, and after serving at Imphal for about 7 years, he was placed on deputation and posted at Central Excise, Kolkata on 12.01.2000. After repatriation to his parent department he was again posted at NCB, Imphal on 20.01.03. Applicant submitted several representations to the respondents praying for his transfer at his choice station Kolkata but the same is denied to him on the ground of non-availability of vacancy. He approached this Hon'ble Tribunal through OA No. 203/05 praying for choice station posting at Kolkata in the light of the Govt. of India, O.M dated 14.12.83 and 22.07.98. This Hon'ble Tribunal allowed the OA No. 203/05 on 26.07.06 with the direction to the respondents to consider case of the applicant as and when vacancy will occur. Respondent No. 2 vide impugned order dated 29.09.2006 and 25.05.07 intimated the applicant that his case will be considered as and when vacancies will occur at Kolkata. It is stated that there are two Drivers working at NCB, Kolkata since their initial appointment and they were never posted outside Kolkata whereas the respondents have posted the applicant at NCB, Imphal from 1994 to 2000 and again from 20.01.03 to till date. Applicant has served more than 4 years at Imphal and praying before the Hon'ble Tribunal to direct the respondents to transfer the applicant at his choice station Kolkata in the light of the Govt. of India O.M dated 14.12.83 and 22.07.07 and also praying for a direction upon the respondents to adopt policy of rotation transfer in the event of necessity for enforcing the scheme of choice station posting as provided in the Govt. of India Ministry of Finance O.M dated 14.12.83, dated 01.12.1988 and O.M dated 22.07.1998. Hence this Original Application.

17 DEC 2006

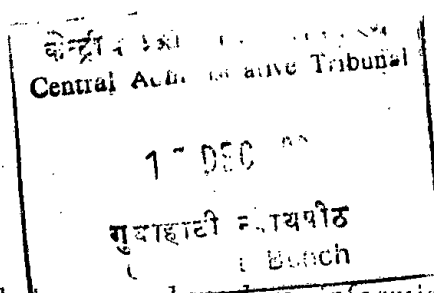
गुवाहाटी न्यायपीठ  
Guwahati Bench

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LIST OF DATES

- 14.12.1983- Govt. of India, issued O.M providing benefit of choice posting to civilian central Govt. employees posted from outside the N.E. Region, on completion of fixed tenure of 2 years service.  
(Annexure-XIV)
- 30.01.1991- Applicant was initially appointed as Driver in the office of Eastern Zonal Unit (FOP) of Narcotics Control Bureau, Kolkata.  
(Annexure-I)
- 01.04.1991- Applicant was relieved from N.C.B, Kolkata to join on deputation to the office of the Competent Authority, Eastern Region, Calcutta.  
(Annexure-II)
- 06.07.1993- Applicant was transferred and posted in Narcotics Control Bureau, Imphal Regional Unit, Imphal.  
(Annexure-III)
- 31.03.1994- Applicant repatriated to NCB, and joined at Imphal Unit on 08.04.94.  
(Annexure-IV)
- 22.07.1998- Govt. of India, issued O.M providing benefit of choice posting to civilian central Govt. employees posted from outside the N.E. Region, on completion of fixed tenure of 2 years service.  
(Annexure- XV)
- 12.01.2000- Applicant was released from NCB, Imphal to join at Central Excise department Kolkata on deputation basis.  
(Annexure-V)
- 20.01.2003- Applicant was repatriated to Narcotics Control Bureau and directed to join at NCB, Imphal.  
(Annexure-VI)
- 03.02.2003- Applicant joined at Imphal and has been working there till now.
- 02.07.2003- Applicant submitted representations to the Respondent No. 2, praying for his transfer from Imphal and posting at Kolkata.  
(Annexure-VII)
- 05.08.2003- Respondents rejected his prayer for transfer and posting at Kolkata vide letter dated 05.08.03.  
(Annexure-VIII)
- 10.10.2003- Applicant submitted another representation praying for his transfer and posting at Kolkata.  
(Annexure-IX)
- 10.02.2005- Respondent No. 4 recommended representation of the applicant to the Respondent No. 2 with request for considering transfer and posting at Kolkata.  
(Annexure-X)
- 26.07.2006- Applicant approached the Hon'ble Tribunal through OA No. 203/2005, which was allowed by the Hon'ble Tribunal with the direction to consider case of the applicant for choice posting at Kolkata.  
(Annexure-XI)
- 08.08.2006, 11.09.2006- Applicant submitted representation for choice posting enclosing a copy of judgment dated 26.07.06 in OA No. 203/05.  
(Annexure-XII series)





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29.09.2006/25.05.07 - Respondents issued impugned orders informing the applicant that he would be transferred to Kolkata Zonal Unit as and when vacancy is available. (Annexure-XIII, XIII A)

1.5.2002, 16.12.2002- Hon'ble Tribunal as well as Hon'ble Gauhati High Court pleased to pass direction upon the respondents for consideration of choice station posting to employees who had completed their tenure of posting in NE Region. (Annexure-XVI and XVII)

Hence this Original Application before this Hon'ble Tribunal.

#### PRAYERS

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned letters No. F. No. F. No. II/II (4)/2005-Estt/2649 dated 29.09.2006 and letter bearing No. NCB F. No. 6/11/Misc. Corres/Imphal/Pt/NCB/KOL/07/1236 dated 25.05.2007 (Annexure-XIII and XIII A).
2. That the Hon'ble Tribunal be pleased to direct the respondents to consider the case of the applicant for choice station posting in Kolkata in terms of the office memorandum dated 14.12.1983, 01.12.1988 and O.M dated 22.07.1998 issued by the Govt. of India, Ministry of Finance, Department of expenditure, New Delhi with immediate effect.
3. That the Hon'ble Tribunal further be pleased to direct the respondent to adopt policy of rotation transfer in the event of necessity for enforcing the scheme of choice station posting as provided in the Govt. of India Ministry of Finance O.M dated 14.12.1983, dated 01.12.1988 and O.M dated 22.07.1998.
4. Costs of the application.
5. Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

#### Interim order prayed for.

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

1. That the Hon'ble Tribunal be pleased to direct the respondents the pendency of this application shall not be a bar to the respondents for considering the representations of the applicant for his transfer to Kolkata.

10  
Filed by the applicant  
through U. Dutta, advocate  
on 17/12/07

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. 308 /2007

Shri Rajen Das. : Applicant

-Versus-

Union of India & Others. : Respondents.

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Date: 17.12.07

Filed by  
Dutta  
Advocate

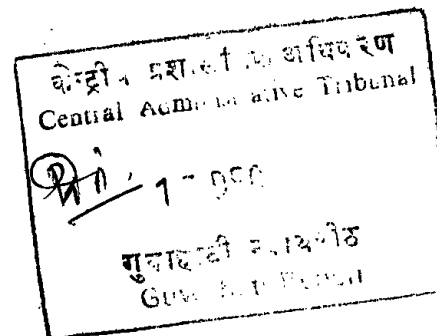
**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI**

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

O. A. No. 308 /2007

**BETWEEN:**

Shri Rajen Das.  
Working as Driver.  
Office of the Regional Director,  
Narcotics Control Bureau,  
N.E. Regional Unit,  
Videocon House, 1<sup>st</sup> Floor,  
Paona Bazaar, Imphal-795001.



...Applicant.

**-AND-**

1. The Union of India.  
Represented by the Secretary to the  
Government of India,  
Ministry of Finance, North Block,  
Department of Revenue,  
New Delhi- 110001.
2. The Director General,  
Narcotics Control Bureau (HQ),  
West Block No.1, wing No. 5,  
Sector-I, R.K. Puram, New Delhi-110066.
3. The Zonal Director,  
Eastern Zonal Unit,  
Narcotics Control Bureau,  
4/2, Karaya Road, Kolkata-700017.
4. The Regional Director,  
North East Regional Unit,  
Narcotics Control Bureau,  
Videocon House, 1<sup>st</sup> floor,  
Paona Bazar, Imphal-795001.
5. The Assistant Director (Admin.)  
Narcotics Control Bureau (HQ),  
West Block no-1, wing No. 5,  
Sector-I, R.K. Puram, New Delhi-110066.

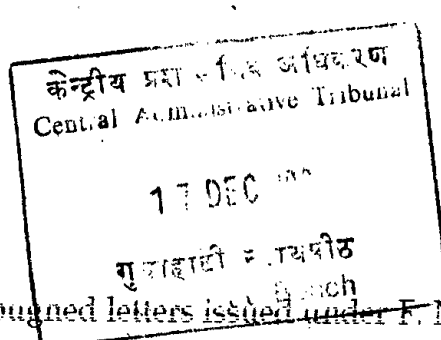
... Respondents.

**DETAILS OF THE APPLICATION**

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

*Rajen Das.*

Filed by the applicant  
through U. Dutta, advocate  
on 17.12.07



This application is made against the impugned letters issued under F. No. II/II (4)/2005-Estt/2649 dated 29.09.2006 (Annexure- XIII) by the respondent No. 5, and also against the impugned letter bearing No. NCB F. No. 6/11/Misc. Corres/Imphal/Pt/NCB/KOL/07/1236 dated 25.05.2007 (Annexure- XIII A) whereby the prayers of the applicant for his transfer from Imphal and posting at his choice station, Kolkata, on completion of his fixed tenure posting in the N.E. Region as per his entitlement under the Government policy issued vide Govt. of India, Ministry of Finance O.M dated 14.12.1983, dated 01.12.1988 and O.M dated 22.07.1998, has not been considered in the light and spirit of the judgment and order dated 26.07.2006 passed by this Hon'ble Tribunal in O.A. No. 203/2005 but the respondents have only reiterated their usual vague plea that the applicant would be transferred to his choice station as and when the vacancy is available at Kolkata, thus leaving it for an indefinite and unascertainable future.

2. Jurisdiction of the Tribunal.

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

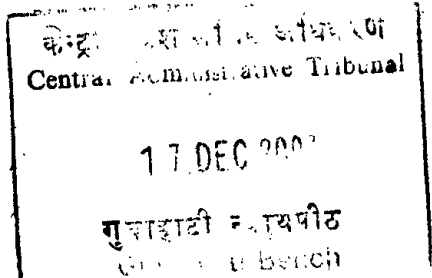
3. Limitation.

The applicant further declares that this application is filed within the period of limitation prescribed under Section-21 of the Administrative Tribunals Act, 1985.

4. Facts of the Case.

- 4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India. He belongs to Scheduled Caste category and hails from a very poor family.
- 4.2 That your applicant was initially appointed as Driver in the Narcotics Control Bureau, Calcutta vide office letter No. NCB F. No.: 3/FORP/CAL/90/281 dated 28/29.01.1991, and he joined in the office of the Eastern Zonal Unit (FOP) of Narcotics Control Bureau in Calcutta on

Rajin Das



30.01.1991. He was thereafter relieved w.e.f. 01.04.1991 (forenoon) from the said Eastern Zonal Unit (FOP unit), Narcotics Control Bureau, Kolkata vide order No. NCB F. No. 98/CAL/90/740 dated 01.04.1991 for joining on deputation to the office of the Competent Authority, Eastern Region, 20, Abdul Hamid Street, Kolkata-700069 w.e.f. 01.04.1991 (forenoon).

(Copy of appointment later dated 28/29.01.1991 and order dated 01.04.1991 are annexed hereto as Annexure-I and II respectively).

- 4.3 That vide order No. NCB F. No. II/17(1)/93-Estt. (C)/10867 dated 06.07.1993, the applicant was posted in Narcotics Control Bureau, Imphal Regional Unit, Imphal on reversion from the office of the Competent Authority, Kolkata. Pursuant to the said order and the subsequent departmental communications thereof, the applicant was ultimately repatriated and relived from the office of the Competent Authority w.e.f. 31.03.1994 (A.N.) on completion of his three years term of deputation vide release order No. CA/CAL/I-5/PT-II/93-94/1158 dated 31.03.1994 so as to facilitate his joining at NCB, Imphal unit. Thereafter, the applicant joined at Imphal in the North East Regional unit of the Narcotics Control Bureau (NCB), on 08.04.1994.

(Copy of order dated 06.07.93 and order dated 31.03.94 are annexed hereto as Annexure -III and IV respectively).

- 4.4 That subsequent to his joining at Imphal, the applicant had serious domestic problems and he submitted representation through proper channel to the Respondent No. 2 on 10.06.1994 praying for his transfer from Imphal and posting in Kolkata. His representation was duly forwarded by the Asst. Director, NCB (RU), Imphal. Thereafter, he submitted series of representations pursuing his prayer aforesaid, but with no fruitful results whatsoever.
- 4.5 That eventually, the applicant was selected for appointment a Diver on deputation basis in the office of the Directorate General of inspection, customs and Central Excise, Eastern Regional Unit, Kolkata. Accordingly,

Rajen Das.

17 DEC 2000

गुवाहाटी न्यायपीठ  
Guwahati Bench

vide order No. NCB, F.No.1/22/Estt/NCB/Cal/97 dated 12.01.2000, issued by the Respondent No. 3, the applicant was relieved from the duties of North east Regional unit of the NCB, Imphal so as to facilitate his joining on deputation to the office of the Assistant Director, Directorate General of Inspection, customs and Central Excise, eastern Regional Unit, Kolkata.

(Copy of release order dated 12.01.2000 is annexed hereto as Annexure-V).

- 4.6 That after completion of his tenure of deputation stated above, the applicant was eventually repatriated to his parent department i.e. Narcotics Control Bureau and vide order No. C. No. 30-ERU/Estt/Gr. D/2000/149 dated 20.01.2003 he was relieved from the services of the Directorate General of Inspection, Customs and Central Excise, Eastern Regional Unit, Kolkata w.e.f 20.01.2003 (AN) with direction to report for duty at his original place of posting in his parent department i.e. Narcotics Control Bureau, North East Regional Unit, Imphal. Accordingly, the applicant joined back at Imphal on 03.02.2003 and has been working there till now.

(Copy of release order dated 20.01.2003 annexed hereto as Annexure-VI).

- 4.7 That after joining at Imphal, the applicant submitted a representation on 02.07.2003 through proper channel to the respondents No. 2 praying for his transfer from Imphal and posting in Kolkata which was forwarded by the respondents No. 4 vide his letter dated 03.07.2003. In the said representation, the applicant referred to his earlier representations wherein he had submitted that his family has been residing in Kolkata and he is the sole male member to look after his family. His parents are old enough and are chronically sick and he has been failing in taking due care of them from such far-flung place of the country. Even his wife had a pre-mature miscarriage of 4 months pregnancy due to improper medical care which he could not afford to provide from such a distant place. But his case was not considered on the ground of administrative reasons

Rajen Das.

17 DEC 2003

गुवाहाटी न्यायोपेठ  
Guwahati Bench

which was communicated vide letter No. F. No. II/2(18)/2003-estt/18014 dated 05.08.2003.

(Copy of representation dated 02.7.2003 and letter dated 05.08.2003 are annexed hereto as Annexure-VII and VIII respectively).

4.8 That thereafter, the applicant submitted another representation which was forwarded by the respondent No. 4 to the respondent No. 2 vide letter No. NB F.No.1/12/Estt/NCB/IMP/2003/651 dated 10.10.2003. Thereafter, the applicant submitted subsequent representations praying for his transfer from Imphal to Kolkata but with no fruitful results whatsoever.

4.9 That finding no response to his repeated prayers, the applicant submitted another representation on 10.02.2005 which was forwarded by the respondent No. 4 to the respondent No. 2 vide forwarding letter No. 1/12/estt/NCB/IMP/2003/975 dated 14.02.2003 wherein the respondent No. 4 was pleased to make specific request to the respondent No. 2 for considering the case of the applicant in view of his personnel problems. In his said representation dated 10.02.2005 aforesaid, the applicant has also mentioned that the Ex-D.G at NCB Headquarters, New Delhi also recommended for consideration of his case when the applicant has personally explained his condition to the Ex-D.G in his chamber earlier on 12.04.2004 and submitted a representation to him. But even thereafter, the case of the applicant has not been considered and no justice has been shown to him.

(Copy of representation dated 10.02.05 with forwarding letter dated 14.02.03 is annexed hereto as Annexure-IX).

4.10 That it is utter misfortune, the applicant has been communicated vide impugned letter No. F. No. 11/2(18)/203-Estt/143 dated 07.04.2005 that his prayer for transfer to Kolkata cannot be acceded to due to administrative reasons.

(Copy of the letter dated 07.04.2005 is annexed hereto as Annexure-X).

Rajen Das

17 DEC 2007

गुवाहाटी न्यायाधीश  
C. Bench

6

4.11 That having failed to get justice even after his all efforts, the applicant approached this Hon'ble Tribunal by way of filing O.A. No. 203/2005 praying for remedy. The Hon'ble Tribunal after examining the case, was pleased to pass its judgment and order dated 26.07.2006 in O.A No. 203/2005 and the operating portion of the judgment is quoted below:-

"10. Considering the entire issue involved and the case established by the applicant I am of the view that the applicant is entitled to have a choice station posting as and when the next vacancy arises. The Annexure- XI letter dated 07.04.2005 for that reason is hereby set aside and this Court directs the respondents to consider the case of the applicant for posting at his choice station as and when the next vacancy arises. This Court is not stipulating any time limit, but the respondents shall adhere to the above observations with its true spirit and integrity.

The O.A. is allowed to the above extent. In the circumstances there will be no order as to costs".

(Copy of judgment and order dated 26.07.2006 is annexed hereto as Annexure-XI).

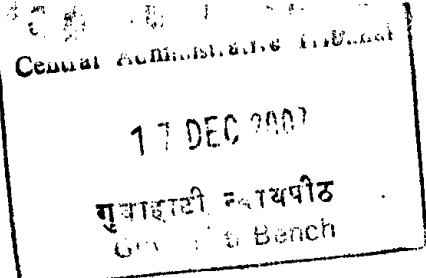
4.12 That the applicant thereafter submitted one more representation through proper channel on 08.08.2006, enclosing therewith a copy of the judgment and order dated 26.7.2006 aforesaid. In his said representation, the applicant once again submitted his distressing facts and reiterated his prayer for his choice posting in Kolkata. Subsequently, a reminder was also submitted on 11.09.2006.

(Copy of representation dated 08.08.2006 and reminder dated 11.09.2006 are annexed hereto as Annexure-XII series).

4.13 That in response to the representation and the judgment and order aforesaid, the respondent No. 5 vide his impugned letter No. F. No. II/II (4)/2005-Estt/2649 dated 29.09.2006 informed that the applicant would be

Rajin Das.





transferred to Kolkata Zonal unit as and when the vacancy is available. Thereafter Asstt. Director, Narcotics Control Bureau Eastern Zonal Unit, Kolkata referring to NCB Hqrs. letter No. II/1 (128)/2007-Estt/794 dated 15.05.07 has issued the impugned letter bearing No. NCB E. No. 6/11/Misc. Corres/Imphal/Pt/NCB/KOL/07/1236 dated 25.05.2007 stating that the NCB Hqrs has intimated that as there is no vacancy of driver in NCB Zonal Unit, Kolkata request of the applicant cannot be acceded to right now. It is further informed to the applicant that his case will be considered whenever there is any vacancy of driver is available.

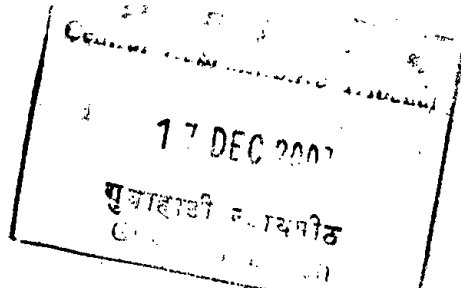
(Copy of the impugned letters dated 29.09.06 and 25.05.07 are annexed hereto as Annexure-XIII and XIII A respectively).

- 4.14 That the applicant begs to submit that the plea of non-availability of posts in Kolkata is being resorted to by the respondents since years past and the respondents have maintained the same vague plea even now in their impugned letter dated 29.09.2006 and 25.05.07, thus leaving it to the darkness of an indefinite and unascertained future which may or even may not materialise ever.

It is relevant to mention here that this Hon'ble Tribunal in its judgment and order dated 26.07.2006 has clearly observed that the applicant is entitled to have a choice station posting and further directed the respondents to consider his posting as and when the next vacancy arises. The Hon'ble Tribunal has also expressed that although the Tribunal has not been stipulating any time limit, but the respondents should adhere to the observations with its time spirit and integrity. But the respondents have shown very casual attitude in respect of time limit for consideration of the applicants case as reflected in their impugned letter dated 20.09.2006 and as such have not acted in accordance with the "time spirit and integrity" as mentioned in the judgment aforesaid.

Further, availability/creation of vacancy vis-à-vis transfer posting as contended by the respondents, are not an automatic and spontaneous process by itself and vacancy will never take place unless actions in that direction are taken by the respondent authorities. In such event, the

Rajen Das.



welfare policy of the choice station posting processed by the Government of India, Ministry of Finance vide O.M dated 14.12.1983, dated 01.12.1988 and O.M dated 22.07.1998 will never be translated into reality and will remain to be a frustrated dream for the applicant and many such employees whereas some others have been enjoying the same in perpetuity.

4.15 That the applicant most respectfully begs to submit that he is a bonafide resident of West Bengal, having his address at 17/A Ramesh Mitra Road, Bhawanipur, Kolkata-25 and he was initially posted as Driver in 1991 in the Eastern Zonal Unit Office of the NCB in Kolkata. Thereafter he was transferred and posted at Imphal unit in the North Eastern Region where he joined in 1994, after serving for about 6 years in N.E. Region, he was sent for deputation service in Kolkata but after completion of his tenure of deputation, he has again been posted at Imphal in 2003 and since then he has been serving at Imphal in the N.E. Region for more than four years. As such, the applicant has already rendered services for more than 10 years in two spells in the N.E. Region by now.

4.16 That the Govt. of India, Ministry of Finance, Department of expenditure, New Delhi issued on office memorandum bearing No. 20014/2/83/E-IV dated 14.12.1983. Herein it is stated that a civilian Central Government employee posted from outside the N.E. Region, on completion of fixed tenure of 2 years service in the North Eastern Region shall be entitled to a choice station posting. Eventually the benefit/privilege contained in the said O.M. dated 14.12.1983 was extended by the Govt. of India vide office memorandum dated 01.12.1988 and further by O.M dated 22.07.1998.

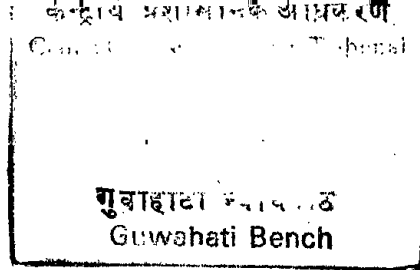
In view of the aforesaid office memorandum the present applicant has acquired a valuable legal right for posting in any of his choice station since he has already completed the stipulated tenure of 2 years in this region, in his present spell, in addition to his six years service in the region in earlier spell. As such he is legitimately entitled for transfer to his choice station Kolkata which he prayed for.

(Copies of extract of memorandum dated 14.12.83 and 22.07.98 are annexed hereto as Annexure- XIV Series).

Rajin Das.

- 4.17 That your applicant being a loyal government employee carried out the order of transfer to N.E. Region twice in 1994 and 2003 leaving his ailing old parents and wife in Kolkata in an uncared condition and maintaining two establishments with great difficulties with such a meager income. As such he has been submitting representations for his transfer and posting in Kolkata as his choice station in terms of the provisions laid down in the office memoranda of the Government referred to above. But his case has not been considered and justice has been denied to him.
- 4.18 That the applicant most respectfully begs to state that there are other drivers/Sepoy-cum-drivers who have been working in the office of the Narcotics Control Bureau, Kolkata Zonal Unit who have never been transferred out of Kolkata and to illustrate such cases, the names of Shri Sunil Mukharjee, Shri Rattan Das, drivers are worth mentioning. But the applicant in spite of his loyalty and sincere services, has been transferred from Kolkata to Imphal (N.E. Region) twice and his representations for his choice posting at Kolkata, as provided by the Government, is also not being considered which is malafide, arbitrary, discretionary, opposed to the professed policy of the government issued vide Govt. of India, Ministry of Finance O.M dated 14.12.1983, dated 01.12.1988 and O.M dated 22.07.1998 and violative of Article 14 and 16 of the Constitution of India. It is also relevant to mention here that there are other Drivers/Sepoy-cum-drivers who are presently working at NCB, Imphal, therefore, it will not be difficult on the part of the respondents to transfer the present applicant to his choice place of posting i.e. at Kolkata. Therefore, the Hon'ble Tribunal be pleased to direct the respondents to adopt policy of rotation transfer in the event of necessity for enforcing the scheme of choice station posting as provided in the Govt. of India Ministry of Finance O.M dated 14.12.1983, dated 01.12.1988 and O.M dated 22.07.1998.
- 4.19 That similarly situated cases have earlier been dealt in by this Hon'ble Tribunal and vide judgment and order dated 01.05.2002 in O.A. No. 341/2001, this Hon'ble Tribunal has been pleased to pass appropriate directions upon the respondents therein for consideration of choice station

Rajen Das.

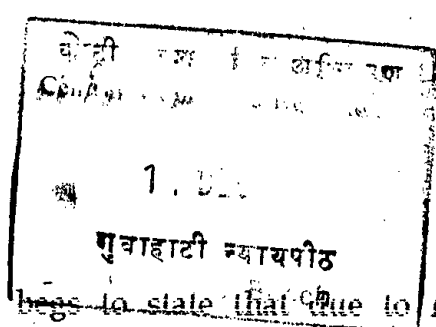


posting. Similar directions have been passed by the Hon'ble Gauhati High Court in W.P (C) No. 3577/99 decided on 16.12.2002. As such this applicant is also entitled to the same benefit of choice posting as prayed by him.

Copy of the judgment and order dated 01.05.02 and 16.12.02 are annexed herewith as Annexure- XV & XVI respectively.

- 4.20 That the applicant most respectfully begs to submit that as per the professed policy of the Government, the posting of an employee in the N.E. Region is a tenure posting, such employee has to be given the benefit of choice station posting. As such the responsibility of adjusting/monitoring the vacancies at different stations is vested with the concerned authorities and non-availability of vacancy cannot be a plea in perpetuity which otherwise makes the Government policy of choice station posting issued Govt. of India, Ministry of Finance O.M dated 14.12.1983, dated 01.12.1988 and O.M dated 22.07.1998 frustrated, redundant and meaningless. The policy of choice station posting professed by the Government in respect of employees posted in the N.E. Region is aimed at giving a special concession to such employees which has got a definite purpose and as such it is obligatory on the part of the respondent authorities to implement the said policy in the right earnest and true spirit. Moreover, the Drivers, who are working at Kolkata, were never transferred at Imphal whereas applicant in spite of completion of his tenure he is now denied the benefit of choice posting at Kolkata on the pretext of non-availability of vacancy, which is highly unreasonable and discriminatory on the part of the respondents. As such denial of the benefit of choice station posting to the applicant is opposed to the spirit of the Government policy and against the spirit of the judgment and order dated 26.07.2006 in O.A. No. 203/2005 of this Hon'ble Tribunal. Therefore, the Hon'ble Tribunal be pleased to direct the respondent to adopt policy of rotation transfer in the event of necessity for enforcing the scheme of choice station posting as provided in the Govt. of India Ministry of Finance O.M dated 14.12.1983, dated 01.12.1988 and O.M dated 22.07.1998.

Rajin Das.



- 4.21 That the applicant most respectfully ~~begs to state that~~ due to non-consideration of his prayer of transfer to his choice station in Kolkata, the applicant has been suffering extreme financial difficulties in running two establishments and he has further been failing in taking due care of his ailing old parents and wife from such far-flung place. As such finding no other alternative, the applicant is approaching this Hon'ble Tribunal for protection of his legitimate rights and interests and it is a fit case for this Hon'ble Tribunal to interfere with and to protect the rights and interests of the applicant, directing the respondents to grant transfer of the applicant from Imphal and to post him in his choice station in Kolkata in terms of the Govt. of India, Ministry of Finance O.M dated 14.12.1983, dated 01.12.1988 and O.M dated 22.07.1998.
- 4.22 That this application is made bonafide and for the cause of justice.
5. Grounds for relief(s) with legal provisions.
- 5.1 For that, the applicant has completed 4 years in Imphal against the fixed tenure of 2 years in North Eastern Region in terms of the O.M dated 14.12.1983 and 22.7.1998 in his present spell. He even served for about another 6 years in this region in his earlier spell.
- 5.2 For that, the applicant has acquired a valuable and legal right for consideration of his choice station posting in terms of the O.M dated 14.12.1983, dated 01.12.1988 and O.M dated 22.07.1998.
- 5.3 For that, the benefit of choice station posting has been granted to the Central Government servants by the Govt. of India as an incentive/concession for serving in N.E. Region for a prescribed tenure and as such the applicants legitimately entitled to get the said benefit.
- 5.4 For that, the old parents and wife of the applicant are chronically sick who are residing in Kolkata and the applicant is unable to take care of them from such remote place. He is only male member in his family.
- 5.5 For that, the case of the applicant is covered by the judgment and order dated 01.05.2002 in O.A. No. 341/2001 of this Hon'ble Tribunal and also

Rajen Das

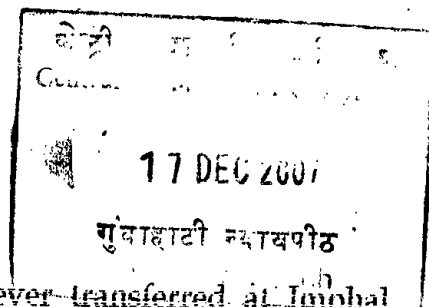
17 DEC 2007

गुवाहाटी न्यायपीठ  
Guwahati Bench

by the judgment and order dated 16.12.2002 in W.P (C) No. 3577/99 passed by the Hon'ble Gauhati High Court.

- 5.6 For that, the applicant has been transferred from Kolkata to Imphal in the N.E. Region twice which he carried out, whereas some other Drivers/Sepoy-cum-divers who are working in Zonal unit, Kolkata of NCB have never been transferred out of Kolkata which is discriminatory and opposed to Article 14 and 16 of the constitution of India.
- 5.7 For that, the applicant has been facing extreme financial difficulties in maintaining two establishments with his meager income.
- 5.8 For that, the applicant has submitted several representations praying for his transfer to Kolkata but the same has not been considered which is malafide, arbitrary, unfair, opposed to the professed policy of the Govt. and violative of the principles of natural justice.
- 5.9 For that, the applicant's case of choice station posting to Kolkata was specifically recommended by the respondents No. 4 to the respondent No. 2 for consideration and was also recommended by the Ex-D.G at NCB Headquarters, New Delhi but with no results.
- 5.10 For that, non consideration of the transfer of the applicant from Imphal and posting at his choice station, Kolkata is violative of the professed policy of the Government laid down in O.M dated 14.12.1983 and dated 01.12.1988 and O.M dated 22.07.1998 and is against the spirit of the judgment and order dated 26.07.2006 in O.A. No. 203/2005 passed by this Hon'ble Tribunal.
- 5.11 For that, adjustment/creation of vacancies in order to keep pace with the professed policy of the Government aforesaid is vested with the respondents and as such non-availability of vacancy as being pleaded by the respondents for years together in the instant case is malafide, arbitrary, unfair, illegal and not sustainable which otherwise makes the Government policy frustrated, redundant and meaningless.

Rajen Das.



5.12 For that, the Drivers working at Kolkata never transferred at Imphal whereas applicant has been denied benefit of choice posting on completion of fixed tenure on the plea that there is no vacancy at Kolkata, as such Hon'ble Tribunal be pleased to direct the respondent to adopt policy of rotation transfer in the event of necessity for enforcing the scheme of choice station posting as provided in the Govt. of India Ministry of Finance O.M dated 14.12.1983, dated 01.12.1988 and O.M dated 22.07.1998.

6. Details of remedies exhausted.

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

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

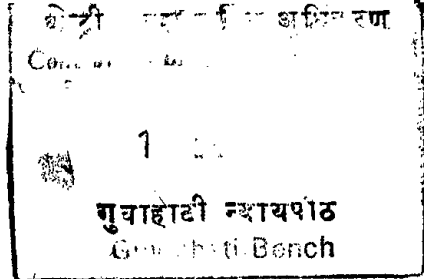
The applicant further declares that save and except filing OA No. 203/2005 before this Hon'ble Tribunal, he had not previously filed any application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for.

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

8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned letters No. F. No. F. No. II/II (4)/2005-Estt/2649 dated 29.09.2006 and letter bearing No. NCB F. No. 6/11/Misc. Corres/Imphal/Pt/NCB/KOL/07/1236 dated 25.05.2007 (Annexure-XIII and XIII A).

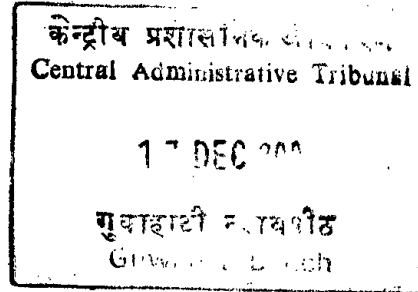
Rajin Das



- 8.2 That the Hon'ble Tribunal be pleased to direct the respondents to consider the case of the applicant for choice station posting in Kolkata in terms of the office memorandum dated 14.12.1983, 01.12.1988 and O.M dated 22.07.1998 issued by the Govt. of India, Ministry of Finance, Department of expenditure, New Delhi with immediate effect.
- 8.3 That the Hon'ble Tribunal further be pleased to direct the respondent to adopt policy of rotation transfer in the event of necessity for enforcing the scheme of choice station posting as provided in the Govt. of India Ministry of Finance O.M dated 14.12.1983, dated 01.12.1988 and O.M dated 22.07.1998.
- 8.4 Costs of the application.
- 8.5 Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.
9. Interim order prayed for.  
During pendency of this application, the applicant prays for the following interim relief: -
- 9.1 That the Hon'ble Tribunal be pleased to direct the respondents the pendency of this application shall not be a bar to the respondents for considering the representations of the applicant for his transfer to Kolkata.
10. ....  
This application is filed through Advocates.
11. Particulars of the I.P.O.
- |      |               |                                      |
|------|---------------|--------------------------------------|
| i)   | I.P.O. No.    | : 66F 848237, 66F 848240, 70E 048447 |
| ii)  | Date of Issue | : 10.12.07                           |
| iii) | Issued from   | : G.P.O, Gwy                         |
| iv)  | Payable at    | : G.P.O, Ghy                         |
12. List of enclosures.  
As given in the index.

Rajen Das.





### VERIFICATION

I, Shri Rajen Das, S/o Shri Jatin Das, aged about 42 years, resident of 11/A, Monohar Pokur Road, Kalighat, Kolkata, presently working in the office of the Regional Director, Narcotics Control Bureau, Regional Unit, Pawna Bazar, Imphal, 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 16<sup>th</sup> day of December 2007.

*Rajen Das*

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
NARCOTICS CONTROL BUREAU  
EASTERN ZONAL UNIT  
17 KARAYA ROAD, (3RD FLOOR)  
CALCUTTA-700 017



BY SPL. MESSENGER

Tel No. 43-4589, 44-0556

भारत सरकार  
वित्त मंत्रालय  
राजस्व विभाग  
स्वायत्त नियंत्रण इयूरो  
पूर्व औद्योगिक यूनिट  
४/२, कराया रोड, (तीसरी मंजिल)  
कलकत्ता-७०० ०१७

NCB F. No.: 5/FORP/CAL/90/281

केन्द्रीय प्रशासकीय बोर्ड  
Central Administrative Tribunal

17 DEC 90

गुवाहाटी न्यायपीठ  
Guwahati Bench

Dated: 28.01.91

29

To

Shri Rajen Das  
S/o, Shri J. Das  
17A, Ramesh Mitra Road  
Bhowanipur  
Calcutta - 700 025.

Sub: Offer Letter for the post of DRIVER in the  
NARCOTICS CONTROL BUREAU, CALCUTTA.

.....

You have been selected for the post of DRIVER and  
Offer Letter has been issued in your favour.

You are directed to report for duty on or before  
31st January, 1991.

If no reply is received or you fail to report  
for duty by the above date, the offer of appointment will  
be treated as cancelled.

The offer of appointment alongwith the blank forms for  
medical examination and others are sent herewith for being  
duly filled in.

Attended  
Mulla  
Advocate

Encl: As Above.

S. N. 28/11  
ASSISTANT DIRECTOR

-17-

NCB F.NO.II/5/Estt/HQ/90/1045  
GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
NARCOTICS CONTROL BUREAU  
RANJIT HOTEL (FIFTH FLOOR)  
MAHARAJA RANJIT SINGH MARG  
NEW DELHI-110 002.

Central Administrative Tribunal

17 DEC

गुवाहाटी न्यायपीठ

Dated: 14.1.91 Guwahati Bench

M E M O R A N D U M

**SUBJECT:-NCB-Estt- Recruitment to the post of DRIVER  
in the Narcotics Control Bureau -**

The undersigned hereby offers Shri Rajan Dass a temporary post of Driver in the C.A.'s office Narcotics Control Bureau's Calcutta on a pay of Rs.950-1500 plus usual Allowances in the scale of Rs.950-20-1150-EB-25-1500 on provision- al basis subject to verification of his character and antdce- dents. The appointee will also be entitled to draw dearness. The other allowances at the rates admissible under the rules and subject to the conditions laid down in the Rules and orders governing the grant of such allowances in force from time to time;

2. The terms of appointment are as follows:-
- i) The post is temporary. In the event of its becoming permanent, the candidate's claim for permanent absorption will be considered in accordance with rules in force against the vacancies earmarked for direct recruitment personnel.
  - ii) The appointment may be terminated at any time by a month's notice given by either side, viz, the appointee or the appointing authority, without assigning any reason. The appointing authority, however, reserves the right of terminating the service of the appointee forthwith or before the expiration of the stipulated period of notice by making payment to him of a sum equivalent to the pay & allowances for the period of notice or the unexpired portion thereof.
  - iii) The appointment carries with it the liability to serve in any part of India.
  - iv) Other conditions of service will be governed by the relevant rules and orders in force from time to time.

3. The appointment will be further subject to :-

- i) Production of certificate from the competent Medical authority viz, the authorised medical attendant.
- ii) Submission of a declaration in the enclosed form (Annexure-I) and in the event of the candidate's having more than one wife living, or being married to a person having more than one wife living or being married to a person having more than one wife living, the appointment will be subject to the candidate's being exempted from the enforcement of the recruitment in this behalf.
- iii) Taking of an oath of allegiance to the Constitution of India in the enclosed prescribed form (Annexure-II)
- iv) Production of the following certificates:

Contd.....2/-

*Attested  
Advocate*

- a) Certificat / and other certificates of Educational and technical qualification (In original).
  - b) Certificate of age (in original).
  - c) Two character certificates in the enclosed prescribed form (Annexure-III).
  - d) Certificate in the enclosed prescribed form in Support of the candidate's claim to belong to a schedule caste/ or tribe community (Annexure-IV).
4. The candidate should also note that he is to conform to rules governing discipline and conduct in force in this Bureau and which may be imposed by the Government on all their employees from time to time.
5. If any declaration given or information furnished by the candidate prove to be false or if the candidate is found to have wilfully suppressed any material information, he will be liable to removal from service and such other action as the Government may deem necessary.
6. No travelling allowance will be allowed for joining the appointment and the past service will not count towards seniority in this Bureau.
7. The inter-seniority of Shri Rajan Dass will be determined in accordance with his position in the panel and not from the date of his joining.
8. If Shri Rajan Dass accepts the offer on the above terms he should report to the Deputy Director, Narcotics Control Bureau, Calcutta, on or before 31st Jan., 1991.
9. If no reply is received or the candidate fails to report for duty by the above date, the offer of appointment will be treated as cancelled.

( S.K.GOEL )  
DEPUTY DIRECTOR (ADMN.)

To

Shri Rajan Dass  
Through Deputy Director,  
Narcotics Control Bureau,  
CALCUTTA.

Copy to :-

Personal file/Service Book.

<p>केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal</p> <p>17 DEC 1990</p> <p>गुवाहाटी न्यायपीठ Guwahati Bench</p>
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- 19 -

**ANNEXURE-II**

2

GOVERNMENT OF INDIA  
NARCOTICS CONTROL BUREAU  
EASTERN ZONAL UNIT  
4/2, KARAYA ROAD (3rd FLOOR )  
CALCUTTA - 700 017

N.C.B.F.No.98/CAL/90/ 740

Dated 1st April 1991

O R D E R

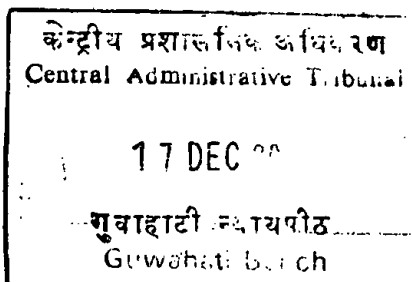
In pursuance of Government of India, Office of the Competent Authority, Eastern Region, ( Smugglers & Foreign Exchange Manipulators (Forfeiture of property) Act, 1978) Calcutta's letter No.CA/CAL/BAFEM(FOP)A/R/2184 dt 21st March, 1991 Shri Rajen Das, Driver of the erstwhile Forfeiture of Property Unit of Narcotics Control Bureau, Calcutta is hereby relieved from 1-4-1991 forenoon to join Office of the Competent Authority, Eastern Region, 20, Abdul Hamid Street (4th floor), Calcutta-700069 as Driver on 1-4-1991 ( forenoon).

( S. Nag )  
Assistant ~~Director~~ Director  
Narcotics Control Bureau  
(EZU), Calcutta

Copy to :

1. The Competent Authority, Eastern Region, Smugglers & Foreign Exchange Manipulators (Forfeiture of Property) Act, 1978; 20-Abdul Hamid Street (4th floor) Calcutta - 700.069.
2. The Deputy Director (Admn), Narcotics Control Bureau, Ranjit Hotel (5th floor), Maharaja Ranjit Singh Marg, New Delhi-110002.
3. Shri Rajen Das, Driver, Narcotics Control Bureau, (FOP) Unit, Calcutta- 17.
4. Bill Section, Narcotics Control Bureau, Calcutta.

*Attested  
Mulla  
Advocate*



S. Nag 1/4/91  
( S. Nag )  
Assistant Director  
Narcotics Control Bureau  
(EZU), Calcutta

GOVERNMENT OF INDIA,  
MINISTRY OF FINANCE,  
DEPARTMENT OF REVENUE,  
NARCOTICS CONTROL BUREAU,  
WEST BLOCK NO.1, WING NO.5  
2 ND FLOOR, R.K. PURAM,  
NEW DELHI - 110066.

NCB F.NO. I. /17(1)/93-Estt(C)

Dated: 30.6.93

O R D E R

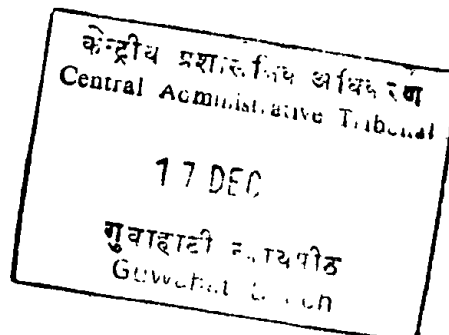
Sh. Rajan Dass, Driver, who was appointed in the erstwhile Forfeiture of Property Unit of NCB, Calcutta, is hereby posted in Narcotics Control Bureau, Imphal Regional Unit, Imphal on reversion from C.A. vide Ministry's order No. 16(2)/92-CA, dated 16.2.93. This order will come into effect from the date of assumption of duty by Sh. Rajan Dass at Imphal Regional unit.

*Jaggi Lamba*  
(Miss J. Lamba)  
Dy. Director (Admn.)

Copy to:-

1. Sh. Rajan Dass, Driver through Deputy Director, Narcotics Control Bureau, Calcutta.
2. Deputy Director, Narcotics Control Bureau, Calcutta to inform headquarter of his date of joining.
3. Asst. Director, Narcotics Control Bureau, Imphal
4. Under Secretary to the Govt. of India, Ministry of Finance, North Block, New Delhi w.r. to his office letter quoted above.
5. Pay & Accounts Officer, Ministry of Finance, Department of Revenue, New Delhi.
6. Guard file.

*Directed  
Mita  
Advocate*



ANNEXURE - IV

F.NO. CA/CAL/1-5/Pt.II/93-94/

Dated : 31.03.1994

ORDER NO. 106

Shri Rajen Das, Driver, who is working in this organisation on deputation and is under order of reversion to the Narcotics Control Bureau on completion of his three years' term of deputation as per Dy. Director, Narcotics Control Bureau, West Block No. 1, Wing No. 5, R.K. Puram, New Delhi's Order No. NCB F.NO. 11/17(1)/93-Estt.(C)/10863 dated 30.6./6.7.1993, is hereby released from this organisation w.e.f. 31.03.1994 (A.N.) to enable him join the office of the Narcotics Control Bureau, Imphal Regional Unit, Imphal, where he has ordered to be posted on reversion.

( A. K. Biswas )  
Superintendent (Admn.),  
Competent Authority, Calcutta.

Office of the Competent Authority & Administrator,  
20, Abdul Hamid Street (4th Floor): Calcutta-69.

Memo No. CA/CAL/1-5/93-94/1109/65

Dated : 31.03.1994

Copy forwarded for information &amp; necessary action to :-

1. Dy. Director (Admn.), Narcotics Control Bureau, West Block No. 1, Wing No. 5, 2nd Floor, R.K. Puram, New Delhi-1100066 with reference to the order as quoted above and clarificatory letter No. F.II/17(1)/93-Estt.(C) dated 2.2.1994 on the subject.
2. Dy. Director, NCB, Eastern Zonal Unit, 4/2, Kayaya Road, Calcutta.
3. Asstt. Director, Narcotics Control Bureau, Imphal.
4. Accounts Officer, ZAO, CBDT, 20, British Indian Street, Calcutta.
5. Accounts Officer, CC(A)'s Field Pay Unit, Calcutta.
6. Shri Rajen Das, Driver.
7. Bill Section of this organisation.

*Attended  
Advocate*

Central Administrative Tribunal

17 DEC 2000

गुवाहाटी न्यायापीठ  
17 DEC 2000

( A. K. Biswas )  
Superintendent (Admn.),  
Competent Authority, Calcutta.

फैक्स : 247-0556

टेलीफोन : 247-4589/247-1324

247-1839

भारत सरकार

मंत्रालय (राजस्व विभाग)

ध्वापक नियंत्रण ब्यूरो

पूर्व अंचलिक यूनिट

4/2 काराया रोड, कलकत्ता-700 017

खा. नं. ब्यू. क्र.सं.....

N.C.B. F. NO. ....1/22/Estt/NCB/Cal/97



-22-

FAX. NO. : 247-0556  
TEL NO. : 247-4589/247-1324  
247-1839

**ANNEXURE - V**

GOVERNMENT OF INDIA  
MIN. OF FINANCE (DEPTT. OF REVENUE)  
NARCOTICS CONTROL BUREAU  
EASTERN ZONAL UNIT  
4/2, KARAYA ROAD, CALCUTTA-700 017

कलकत्ता, दिनांक .....  
Calcutta, the .....12/1/2000.....

O R D E R

Consequent upon his selection for appointment as DRIVER on deputation basis vide Pte. General of Inspection, Customs and Central Excise, New Delhi's Office Circular No. 1040/11/98(ERU) dated 27/10/99, Shri Rajen Das, Driver of Narcotics Control Bureau, Regional Unit, Imphal is being relieved of his duties w.e.f. 14/1/2000(A.N). He is directed to report for duty to the Assistant Director, Directorate General of Inspection, Customs and Central Excise, East Regional Unit, Calcutta after availing normal joining time.

2. This is done with the approval of D.G., NCB received vide Fax Msg. F.no. 11/17(1)/99-Estt dated 7/1/2000.

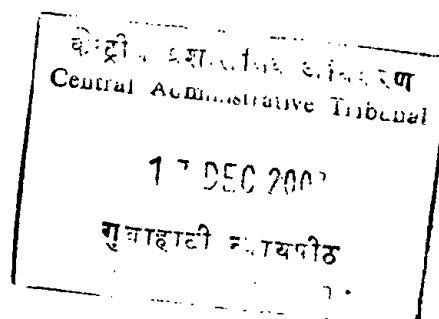
( R.K.SAHOO )

ZONAL DIRECTOR, EZU, CAL.

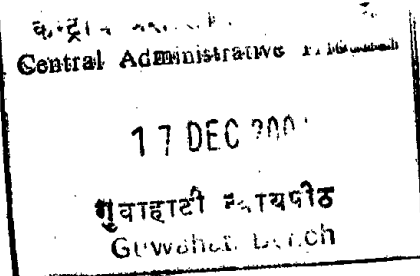
Copy forwarded to:-

1. Shri Rajen Das, Driver, Narcotics Control Bureau, Regional Unit, Imphal.
2. Superintendent, NCB RU, Imphal with the direction to relieve Shri Rajen Das, Dvr, on 14/1/2000(A.N). Shri E. Nimal Chand Singh, Sepoy will continue as Sepoy-cum-Dvr. in R.U., Imphal.
3. Assistant Director of Inspection, Dir. General of Inspection, Customs and Central Excise, E.R. Unit Calcutta.
4. Dy. Director (Adm), Narcotics Control Bureau, West Block-1, Wing No. 5, R.K. Puram, New Delhi- 110056.
5. Pay and Accounts Officer, P.A.O., Min. of Finance, Deptt. of Revenue, Church Road Enclaments, New Delhi- 110056.
6. Intelligence Officer (Hrs.) NCB EZU, Calcutta.
7. Accils. Section at NCB, EZU, Calcutta.

11  
13-1-2000  
Accepted  
With  
Advocate







(Typed true copy)  
(Extract)

**ANNEXURE- V**

GOVERNMENT OF INDIA  
MIN. OF FINANCE (DEPTT. OF REVENUE)  
NARCOTICS CONTROL BUREAU  
EASTERN ZONAL UNIT  
4/2, KARAYA ROAD, CALCUTTA- 700017

N.C.B.F. No. ....1/22/Estt/NCB/Cal/97

Calcutta, the 12/1/2000

**ORDER**

1. Consequent upon his selection for appointment as Driver on deputation basis vide Dte. General of Inspection, Customs and Central Excise, New Delhi's Notice Under No. 1040/11/98 (ERU) dated 27/10/99, Shri Rajen Das, Driver of Narcotics Control Bureau, Region Unit, Imphal is being relieved of his duties w.e.f. 14/1/2000 (A.N). He is directed to report for duty to the Assistant Director, Directorate General of Inspection, Customs and Central Excise, East Regional Unit, Calcutta after availing normal joining time.

2. This issues with the approval of D.G., NCB received vide Fax Msg. F.no. II/17 (1)/98-Estt. dated 7/1/2000.

Sd/-

12/01/2000

(R.K. SAHOO)

ZONAL DIRECTOR, EZU, CAL.

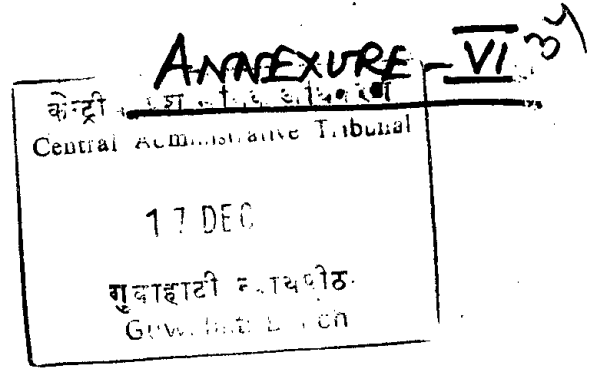
Copy forwarded to:-

1. Shri Rajen Das, Driver, Narcotics Control Bureau, Regional Unit, Imphal.
2. Superintendent, NCB, RU, Imphal with the direction to relieve Shri Rajen Das, Dvr. on 14/1/2000 (A.N), Shri E. Nimai Chand Singh, Sepoy will continue as Sepoy-cum-Dvr. in R.U., Imphal.
3. Assistant Director of Inspection, Dte. General of Inspection, Customs and Central Excise, E.R. Unit, Calcutta.
4. Dy. Director (Admin), Narcotics Control Bureau, West Block-I, Wing No. 5, R.K. Puram, New Delhi- 110066.
5. Pay and Accounts Officer, P.A.O, Min. of Finance, Deptt. of Revenue, Church Road, Rotments, New Delhi- 110066.
6. Intelligence Officer (Hqrs.), NCU EZU, Calcutta.
7. Acc'ts. Section at NCB, EZU, Calcutta.

*Affected  
With  
Advocacy*



सत्यमेव जयते



Gram ; DICE

Fax : (033)247-3048

भारत सरकार

GOVT. OF INDIA

निरीक्षण महानिदेशालय

DIRECTORATE GENERAL OF INSPECTION

Tel : (033)247-4751, 240-6138

E-Mail : diceeru@vsnl.com

सीमा शुल्क एवं केन्द्रीय उत्पाद शुल्क,  
पूर्वी क्षेत्रीय युनिट,  
44, पार्क स्ट्रीट (द्वितीय तल)  
कलकत्ता - 700016

Customs & Central Excise,  
Eastern Regional Unit,  
44, Park Street (2<sup>nd</sup> Floor)  
Calcutta - 700016

Establishment Order

Dated: 16<sup>th</sup> January, 2003

Shri Rajen Das, Driver of Narcotics Control Bureau, Imphal, who was on deputation to the Eastern Regional Unit of the Directorate General of Inspection, Customs & Central Excise, Kolkata w.e.f. 20.01.2000, is hereby relieved of his duties in the afternoon of 20.01.2003 after completion of deputation tenure with the direction to report for duty at his original place of posting from where he proceeded on deputation i.e. Narcotics Control Bureau, Regional Unit, Imphal.

*Attested  
for  
Advocate*

*sd/-*

(P.K. Chattopadhyay)  
Assistant Director of Inspection  
DGICCE, ERU, Kolkata.

C. No.30-ERU/Estt./Gr.1/2000/ 1117

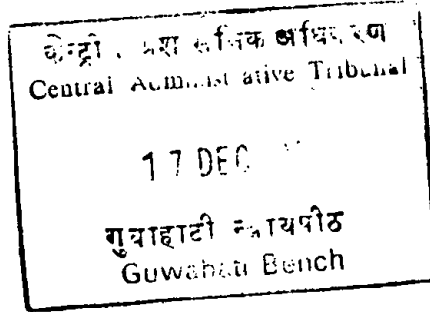
Dated: 16<sup>th</sup> January, 2003

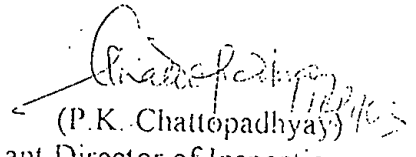
Copy forwarded for information and necessary action to:

1. Shri Rajen Das, Driver for compliance. He is directed to hand over the key of the Vehicle, Log Book and also his Identity Card to this office.
2. Regional Director, Narcotics Control Bureau, Kolkata.
3. Deputy Director, NCIB, Regional Unit, Imphal

- contd. on p.2 -

- 3.A. Dy. Director (Admn.), Narcotics Control Bureau, West Block, No.-1, Wing No.5, R.K. Puram, New Delhi-110 066 with respect to letter F. No.11/17(4)/93-Estt/12107 dated 24.12.2002.
4. Addl. Director General (Admn.), Directorate General of Inspection, Customs & Central Excise, New Delhi. H.O. F. No.1040/11/98(ERU) dated 27.10.99 refers.
5. Pay & Accounts Officer, Dte. Gen. of Inspection, Customs & Central Excise, New Delhi.
6. Shri Bijendra Singh, Inspecting Officer (Admn.), DGICCE, New Delhi.
7. Bill Unit, DGICCE, ERU, Kolkata.
8. Office Copy.



  
(P.K. Chattopadhyay)  
Assistant Director of Inspection  
DGICCE, ERU, Kolkata.

The Director General  
Narcotics Control Bureau  
West Block No. 1, Wing No. - 5  
Sector 1, R.K. Puram  
New Delhi - 110066.

(Through Proper Channel )

**Subject :- Request for transfer from Imphal to Calcutta in view of the Chronic ill health of parents.**

Sir,

With due respect, I Shri Rajen Das, Driver N.C.B. Imphal Have the honour to submit the following few Lines for your Kind consideration and favourable action please.

That Sir, I have been initially appointed as Driver in the N.C.B. Kolkata on 28 Jan. 1991. But I was Transferred from N.C.B. Kolkata to N.C.B. Imphal and have submitted my Joining report at my present place of posting i.e. N.C.B. Imphal on 8th April 1994. I have Completed 9 (nine) Year in the North East. Since that time I have submitted my representation for transfer from Imphal to my home town Kolkata a dozen times on the ground of family problem which were well highlighted in the said representation.

That sir, I am the only male person whom my whole family depends. I also belong to schedule caste community and a very poor family. My own uncle who resided in Kolkata expired on 23rd Feb. 1998 and my grand mother died on 27/6/98 and in both cases, I could not attend the rites and rituals of both the deceased as I am serving here in a far flung post from my home.

That sir, recently also in April 2003 there was also a serious case of miscarriage of 4( Four ) months old baby prematurely from my wife. It might not have happen, had I been there with her because I could have taken her to the doctors in time to prevent it.

That sir, the two Ex-Director Generals of N.C.B. have acknowledged my prayer in written which I enclosed photostat copies of the said letters.

That Sir, in the light of the above mentioned facts, I would like to request once again your kind consideration to transfer me back to Kolkata so that I could work better and dedicate more to both my department as well as my family.

Enclosed :- As stated above Xerox Copies of two Ex-Director General acknowledgement letter and an initial appointment letter.

Copy to :-

1. To  
The Regional Director  
Narcotics Control Bureau,  
Imphal.
2. Adve. Copy  
The Director General  
Narcotics Control Bureau  
West Block No - 1, Wing No. - 5  
Sector - I.R.K. Puram  
New Delhi - 110066

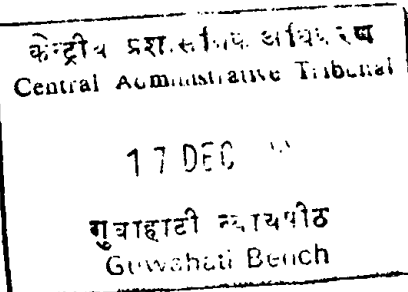
Dated 22.7.03

Yours Faithfully,

*(Signature)*

( RAJEN DAS )

Driver  
N.C.B. Regional Unit  
Imphal



फैक्स : 223940

दूरभाष : 223940/223938

भारत सरकार

वित्त मंत्रालय (राजस्व विभाग)

स्वापक नियंत्रण ब्यूरो

उत्तरी पूर्व श्रेत्रिय युनिट

विडियोकोन हाऊस फर्स्ट फ्लोर

पाउना बाजार, इम्फाल - 795 001

N.C.B. F.NO. 1/12/Estt/NCB/IMP/2002/227



फैक्स : 223940  
TEL. NO. : 223940/223938  
GOVERNMENT OF INDIA  
MIN. OF FINANCE - HOME AFFAIRS.  
NARCOTICS CONTROL BUREAU

NORTH EAST REGIONAL UNIT  
VIDEOCON HOUSE, 1st FLOOR  
PAONA BAZAR, IMPHAL - 795 001

3.7.2003

To

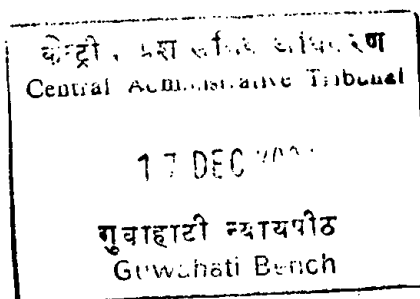
The Director General,  
Narcotics Control Bureau,  
Hqs, New Delhi.

Sub: Representation for transfer of Shri Rajen Das, driver  
from NCB, Imphal to NCB, E2U, Kolkata -  
Forwarding of.

Sir,

Kindly find enclosed herewith an application in original  
submitted by Shri Rajen Das, Driver of NCB, IM, Imphal. The  
transfer from Regional Unit, Imphal to E2U, Kolkata is recommended.  
If his case is considered may kindly be posted in his substitute.

Attended  
Advocate



Yours faithfully,

3.7.2003  
( R.K. MENA. )  
REGIONAL DIRECTOR.

7/2

F.No.II/2(18)/2003 -Estt/1892/  
Ministry of Home Affairs  
Narcotics Control Bureau  
West Block No.1, Wing no. 5,  
R.K. Puram, New Delhi-66

38

Dated: 5.08.2003

To

The Regional Director  
NCB. Imphal Regional Unit

Sub: Transfer of Shri Rajen Das, Driver from NCB, Imphal to Kolkata- Reg

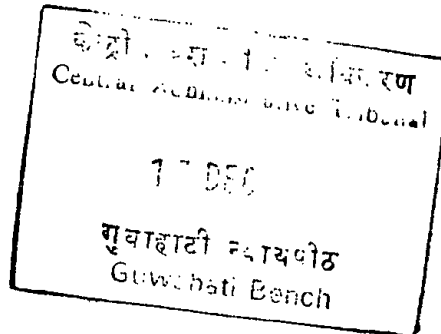
Sir,

Please refer to your office letter No. 1/12/Estt/NCB/IMP/2002-227 dated 3.7.2003 on the above subject.

2. The request of Shri Rajen Das, Driver regarding his transfer to Kolkata Zonal Unit has been examined. His request cannot be acceded to, due to administrative reasons.

Yours faithfully

*Abha A. Kishore*  
(Abha A. Kishore)  
Dy. Director (Admn)



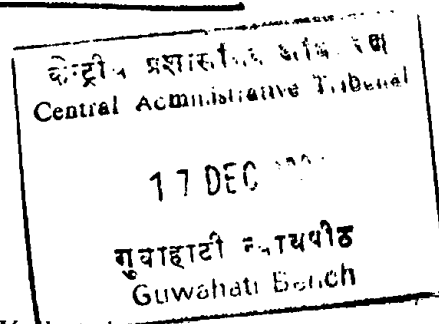
2-4-8-03  
ESTT  
Accepted  
13/8/03  
Advocate

245  
13/8/03

FE

To

The Director General  
Narcotics Control Bureau  
Ministry of Home Affairs,  
West Block No. 1, Wing No. - 5  
Sector 1. R.K. Puram  
New Delhi- 110066



**Subject :- Request for transfer from Imphal to Kolkata in view  
of the Chronic Ill health of parents.**

Sir,

With due respect, I Shri Rajen Das, Driver N.C.B. Imphal Have the honour to submit the following few Lines for your Kind consideration and favorable action please.

That Sir, I have been initially appointed as Driver in the N.C.B. Kolkata on 28 Jan. 1991 But I was Transferred form N.C.B. Kolkata to N.C.B. Imphal and have submitted my Joining report at my present place of posting i.e. N.C.B. Imphal on 8th April 1994. I have Completed 11th (Eleven) Years in the North East. Since that time I have submitted my representation for transfer from Imphal to my home town Kolkata a dozen times on the ground of family problem which were well highlighted in the said representation.

That Sir, I am the only male person whom my whole family depends. I also belong to schedule caste community and a very poor family. My own uncle who resided in Kolkata expired on 23rd Feb. 1998 and my grand mother died on 27/6/98 and in both cases. I could not attend the rites and rituals of both the deceased as I -am serving here in a far flung post form my home. Again, at present I have my chronically ill mother and aged lather at home who always need my care. Moreover, it is quite difficult to work in Manipur for outsiders due to the prevailing law and order situation in the state.

That sir, recently also in April 2003 there was also a serious case of miscarriage of 4 (four) months old baby prematurely from my wife. It might not have happen had I been there with her because I could have taken her to the doctors in time to prevent it.

During my personal interview, in the chamber of worthy Ex-D.G. at NCB Hqrs. New Delhi on 12-4-2004 submitted my application for transfer from Imphal to Kolkata as instructed by Ex-D.G. in which the worthy Ex.-D.G. recommended for consideration ON my application. Action taken by the competent authority ass per Ex.-D.G.'s remark/recommendation in not known till date.

That Sir, in the light of the above mentioned facts I would like to request once again your kind consideration to transfer me back to Kolkata so that I could work better and dedicate more to both my department as well as my family.

*Attended  
Mulla  
Advocate*

Yours Faithfully

Enclosed :- As stated above Xerox Copy  
if an initial appointment letter.

1. To  
The Regional Director  
Narcotics Control Bureau  
Ministry Of Home Affairs  
Imphal

(RAJEN DAS)

Driver

N.C.B. Regional Unit  
Imphal

Dated 10/02/05

FAX NO. : 2223940  
TEL. NO. : 2223940/2223938  
Email - ncbimp@vsnl.net



भारत सरकार  
गृह मंत्रालय  
आन्तरिक सुरक्षा विभाग  
स्वायत्त नियंत्रण ब्यूरो  
उत्तरी पूर्व क्षेत्रीय युनिट  
विडियोकॉन हाऊस फर्स्ट फ्लोर  
पाउना बाजार, इम्फाल

GOVERNMENT OF INDIA  
MIN. OF HOME AFFAIRS  
DEPT. OF INTERNAL SECURITY  
NARCOTICS CONTROL BUREAU  
NORTH EAST REGIONAL UNIT  
VIDEOCON HOUSE, 1st FLOOR  
PAONA BAZAR, IMPHAL - 795 001

N.C.B.F.NO. 1/12/Estt/NCB/IMP/2003/925

Date : 14.2.2003

To

The Director General,  
NCB, West Bolck - 1,  
Wing No. 5, R.K.PURAM,  
New Delhi - 110066.

Subject : Forwarding of Transfer application in respect  
of Shri Rajen Das, Driver.

Sir,

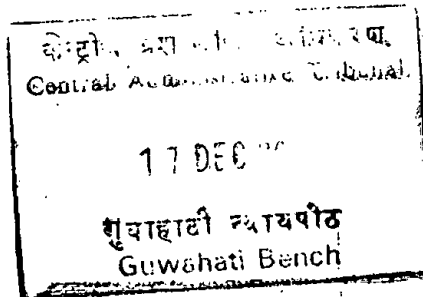
Please find enclosed herewith the application  
of transfer in respect of Shri RAJEN DAS, Driver Grade- II  
of this Unit which is self explanatory.

2. It is requested that the case of transfer of  
Rajen Das may kindly be considered keeping in view of his  
family problems.

3. It is also requested that a substitute driver  
may kindly be provided if his case is considered.

Yours faithfully

*Attested  
Advocate*



( R.M.MEENA )  
Regional Director



- 31 -

ANNEXURE-XI 41

F.No. II/2(18)/2003 -Estr 1143  
Government of India  
Ministry of Home Affairs  
Narcotics Control Bureau

West Block No. 1 , Wing No. 5  
R.K.Puram, New Delhi.  
Dated 7.04.2005

To

The Regional Director,  
Narcotics Control Bureau,  
Imphal Regional Unit,  
Imphal.

**Sub: Transfer of Sh. Rajen Das, Driver from NCB, Imphal to Kolkata-Reg.**

Sir,

Please refer to your letter No. I/12/Estu/NCB/IMP/2003/975 dated 14.2.2005 on the above subject.

2. The request of Sh. Rajen Das, Driver, regarding his transfer to Kolkata Zonal Unit has been examined. His request cannot be acceded to, due to administrative reasons.

Yours faithfully,

(S.S.Jhajharia)  
Assistant Director (Admin.)

Attended  
Imphal  
Advocate

Receipt No. 231  
Date 19/4/05  
Signature  
NCB Imphal

केन्द्रीय प्रशासनिक अपील बोर्ड Central Administrative Tribunal
17 DEC
गुवाहाटी न्यायपीठ Guwahati Bench

- 32 -

SL No. 165

ANNEXURE XI

SV

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 203 of 2005

Date of Order: This the 26<sup>th</sup> day of July 2006.

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

Shri Rajen Das  
Working as Driver  
Office of the Regional Director  
Narcotics Control Bureau  
N.E. Regional Unit  
Videocon House, 1st Floor  
Paona Bazzar, Imphal - 79501.

.... Applicant.

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

- Versus -

1. The Union of India,  
Represented by the Secretary to the  
Government of India,  
Ministry of Finance,  
Department of Revenue, North Block,  
New Delhi - 110 001.

2. The Director General,  
Narcotics Control Bureau (HQ)  
West Block No. 1, Wing No. 5,  
Sector - I, R.K. Puram,  
New Delhi - 110 066.

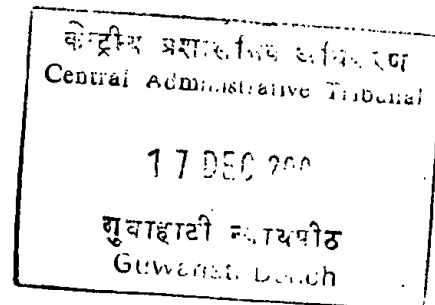
3. The Zonal Director,  
Eastern Zonal Unit,  
Narcotics control Bureau,  
4/2, Karaya Road,  
Kolkata - 700017.

4. The Regional Director,  
North East Regional Unit,  
Narcotics Control Bureau,  
Videocon House, 1st Floor,  
Paona Bazar, Imphal - 795 001.

5. The Assistant Director (Admn.)  
Narcotics Control Bureau (HQ)  
West Block No. 1, Wing No. 5,  
Sector - I, R.K. Puram, New Delhi - 110 066.

... Respondents

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



*Directed  
M.U. Ahmed  
Advocate*

2 - 33-

43

ORDER

K.V. SACHIDANANDAN (V.C.)

The applicant who is working as a Driver in the Office of the Regional Director, Narcotics Control Bureau, North East Regional Unit, Imphal was originally appointed as Driver in the same Department at Kolkata in 1991. Thereafter the applicant was relieved on 1.04.1991 for joining on deputation in the Office of the Eastern Region (Annexures- I & II). On 06.07.1993, the applicant was posted at Imphal and ultimately repatriated and relieved from the office of the competent authority with effect from 31.03.1994 on completion of the three-year term on deputation to join at Narcotics Control Bureau (NCB for short), Imphal Unit. Vice Annexures-III and IV the applicant joined in the said unit. The applicant had domestic problems and submitted representation praying for his transfer from Imphal to Kolkata. The applicant was eventually selected for appointment as Driver on deputation basis in the Office of the Director General of Customs and Central Excise, Eastern Region, Kolkata. The applicant was relieved from North East Regional Unit, Imphal so as to join on deputation to Kolkata (Annexure-V). After completion of the tenure of deputation as stated above, the applicant was repatriated to his parent department on 20.01.2003 relieving from the Customs and Central Excise, Eastern Regional Unit, Kolkata with a direction to report to Imphal. Accordingly, the applicant joined back at Imphal on 03.02.2003 and has been working at Imphal till now (Annexure-VI). After joining at Imphal the applicant submitted representation praying for transfer from Imphal referring his earlier representation

Central Administrative Tribunal

17 DEC 2001

38

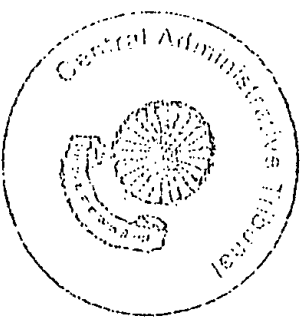
sole male member to look after his family. The applicant's parents are old and are chronically sick and even the applicant's wife had a premature miscarriage of 4 months pregnancy due to improper medical care. The applicant's case was not considered on the ground of administrative reasons (Annexures- VII & VIII). Another representation was submitted which was forwarded to the 2<sup>nd</sup> respondent, but with no fruitful result (Annexure-LX). The applicant again submitted a representation on 10.02.2005 which was forwarded to the 2<sup>nd</sup> respondent with special reference to the recommendations of the Ex DG of the NCB Headquarters, New Delhi for consideration of the applicant's case (Annexure-X). Vide Annexure-XI dated 07.04.2005 the applicant was communicated that his transfer to Kolkata cannot be acceded to because of administrative reasons. Aggrieved by the said inaction of the respondents, the applicant has filed this O.A. seeking the following reliefs:

केन्द्रीय प्रशासनिक अपील बोर्ड  
Central Administrative Tribunal  
17 DEC 2005  
गुवाहाटी न्यायपीठ  
Guwahati Bench

"8.1 That the Hon'ble Tribunal be pleased to direct respondents to consider the case of the applicant for choice station posting in Kolkata in terms of the office memorandum dated 14.12.1983, 22.07.1998 issued by the Govt. of India, Ministry of Finance, Department of expenditure, New Delhi (Annexure-XII and XIII) with immediate effect.

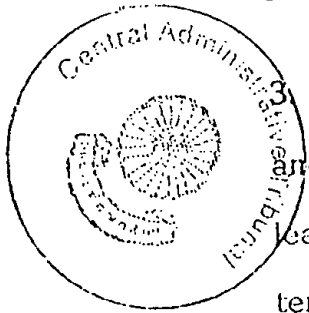
8.2 That the Hon'ble Tribunal further be pleased to set aside and quash the impugned letter bearing No.F.No.11/2 (18)/203-Estt/143 dated 07.04.2005 (Annexure-XI)."

2. The respondents have filed a detailed written statement contending that since there is no vacancy of Driver, the applicant's request for transfer to Kolkata could not be acceded to. It is also pertinent to mention that NCB has a small cadre of twenty Drivers

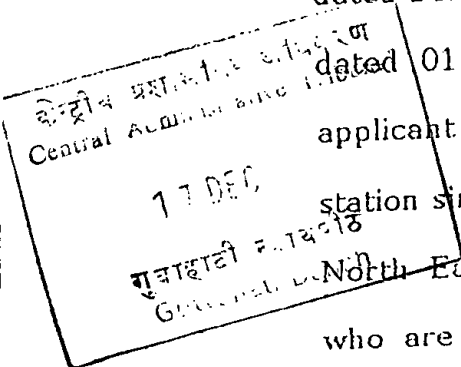


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only and out of which only two posts are authorized at Kolkata Zonal Unit. The applicant's representation was forwarded by the Regional Director of Imphal Regional Unit with the condition of providing a substitute Driver. Since there were no other requests for transfer and no other vacancy was available at that time, the request of the applicant could not be considered. The applicant's every representation was considered but due to non-availability of specific vacancy at Kolkata the applicant's posting to that unit could not be materialized. The applicant is the only Driver presently posted at Imphal and moreover the NCB does not have any post of Sepoy-cum-Driver. Therefore, the applicant's contention that other Sepoy-cum-Driver are presently posted at Imphal Unit is not tenable and the respondents denied the claim of the applicant.



Heard Mr M. Chanda, learned counsel for the applicant and Mr M.U. Ahmed, learned Addl. C.G.S.C. for the respondents. The learned counsel for the applicants argued that on completion of fixed tenure of two years in the North Eastern Region the applicant shall be entitled to a choice station posting. The benefit/privilege in the O.M. dated 14.12.1983 was extended by the Government of India vide O.M. dated 01.12.1988 and further by O.M. dated 22.07.1998 and the applicant has acquired a valuable right for posting at any of his choice station since he has already completed the tenure of two years in the North Eastern Region. There are other Drivers/Sepoy-cum-Drivers who are working in the office of the NCB who have never been transferred out of Kolkata and to illustrate such cases, the names of Shri Sunil Mukherjee, Shri Rattan Das, Drivers, are worth mentioning. The applicant alone has been transferred twice and his representation for choice posting at Kolkata has not been considered, which is



malafide, arbitrary, discriminatory, opposed to the professed policy of the government and also violative of Articles 14 and 16 of the Constitution of India.

4. The learned counsel for the respondents, on the other hand, stood on the firm footing that since there is no other vacancy of Driver at Kolkata the applicant's case could not be considered.

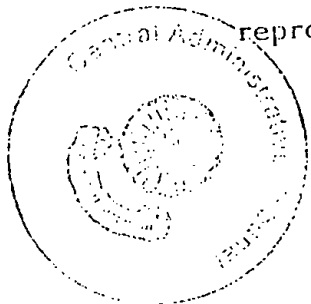
5. I have given due consideration to the arguments advanced by the learned counsel for the parties and materials placed on record. It is an admitted fact that the applicant was initially appointed as Driver on 30.01.1991 and the applicant joined back at Imphal on 03.02.2003. During the period from 1991 to 2003, almost twelve years, the applicant was on deputation and was working at Kolkata, i.e. half of his period was spent in Kolkata and finally he came back to Imphal in 2005, wherein the applicant is seeking a transfer back to Kolkata. Admittedly, though the applicant was selected in Kolkata the North Eastern Region is the applicant's base station. The respondents did not dispute that the applicant has a right for transfer to Kolkata as per the O.M. dated 14.12.1983 which was extended by O.M. dated 1.12.1988 and further by O.M. dated 22.07.1998. For better elucidation the O.M.s dated 14.12.1983 and 22.07.1998

reproduced as under:

O.M. dated 14.12.1983

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

The need for attracting and retaining the services of competent officers for service in the North Eastern Region comprising the states of Assam, Meghalaya, Manipur, Nagaland, Tripura and the Union Territories of Arunachal Pradesh and Mizoram has been engaging the attention of



केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

17.05.2005

मुद्राहस्ताक्षर  
बेच

W

the Government of some time. The Government had appointed a committee under the chairmanship of Secretary, Deptt. Of Personnel and Administrative reforms, to review the existing allowances and facilities admissible to the various categories of civilian central Government employees serving in this region and to suggest suitable improvements, the recommendations of the committee have been carefully considered by the Government and the President is now pleased to decide as follows:

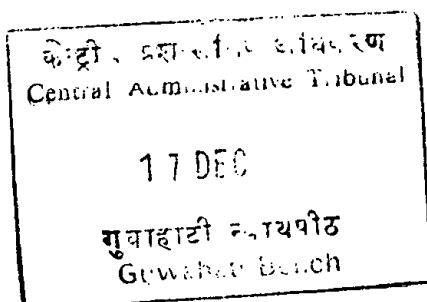
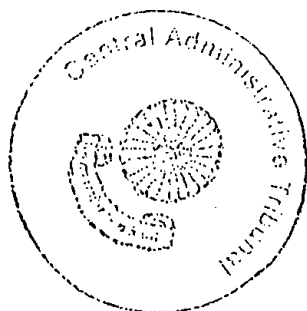
### 1. Tenure of posting/deputation

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

O.M. dated 22.07.1998

"Subject: Allowances and facilities for civilian employee of the Central Government serving in the states and Union Territories of North Eastern Region and in the Andaman & Nicobar and Lakshadweep Groups of Islands - recommendations of the Fifth Central Pay Commission.

With a view to attracting and retaining competent officers for service in the North-Eastern Region, comprising the territories of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura, orders were issued in this Ministry's O.M. No.20014/3/83-E.IV dated December, 14, 1983 extending certain allowances and other facilities to the Civilian Central Government employees serving in this region. In terms of paragraph 2 thereof, these orders other than those contained in paragraph 1(iv) ibid were also to apply mutandis to Civilian Central Government employees posted to the Andaman & Nicobar Islands. These were further extended to the Central Government employees posted to the Lakshadweep Islands in this Ministry's O.M. of even number dated March 30, 1984. the allowances and facilities were further liberalized in



this Ministry's O.M. No.20014/16/86/E.IV/E.II (B) dated December 1, 1988 and were also extended to the Central Government employees posted to the North Eastern Council when stationed in the North Eastern Region.

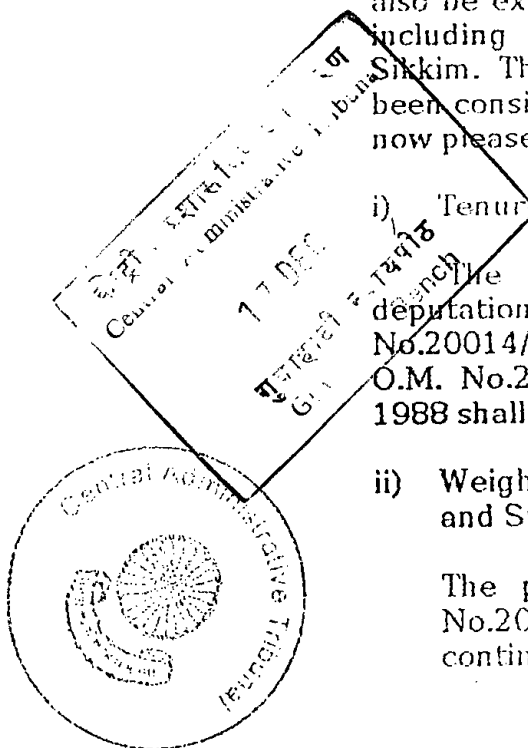
2. The Fifth Central Pay Commission have made certain recommendations suggesting further improvements in the allowances and facilities admissible to the Central Government employees, including Officers of the All India Services, posted in the North-Eastern Region. They have further recommended that these may also be extended to the Central Government employees, including Officers of the All India Services, posted in Sikkim. The recommendations of the Commission have been considered by the Government and the President is now pleased to decide as follows:

i) Tenure of Posting/Deputation

The provisions in regard to tenure of posting/deputation contained in this Ministry's OM No.20014/3/83-E.IV dated December 14, 1983 read with O.M. No.20014/16/86-E.IV/E. II (B) dated December 1 1988 shall continue to be applicable.

ii) Weightage for Central Deputations/Training Abroad and Special Mention in Confidential Records.

The provisions contained in this Ministry's O.M. No.20014/3/83-E.IV dated December 14, 1983 shall continue to be applicable."



6. The respondents have no quarrel with the proposition of the applicant, but their only contention is that there is no vacancy to accommodate the applicant at Kolkata. The discrimination pointed out with reference to two names, Shri Sunil Mukherjee and Shri Rattan Das, Drivers, according to the respondents the applicant is the only Driver presently posted at Imphal and the NCB does not have any post of Sepoy-cum-Driver, therefore, the applicant's contention that other Drivers/Sepoy-cum-Drivers are presently posted at Kolkata is not tenable. This contention has got certain force. Moreover, the material and evidence placed on record show that NCB has a small cadre of twenty Drivers only out of which only two posts are authorized at the

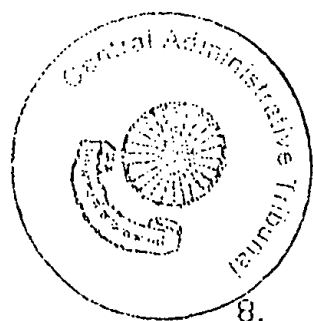
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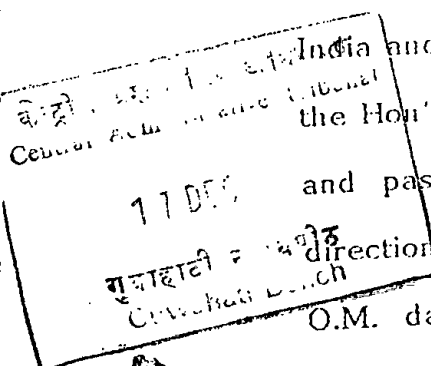
Kolkata Zonal Unit. The applicant's representation was forwarded by the Regional Director of Imphal Regional Unit with a condition of providing substitute Driver and since there were no other requests for transfer and no other vacancy the request of the applicant could not be considered.

7. The learned counsel for the applicant has taken my attention to a decision of this Tribunal in O.A.No.341 of 2001 decided on 1.05.2002 in the case of Dr Rajeev Ranjan Vs. Union of India and others. In the operative portion this court observed as follows:

"..... the respondents are directed to take up the matter of the applicant also for posting him out on completion of his tenure with utmost expedition. The respondents are accordingly directed to consider the matter afresh for posting the applicant out of N.E. Region as expeditiously as possible in the light of the observations made in this application and also in O.A.315/2001."



8. This proposition was confirmed by the Hon'ble Gauhati High Court in Writ Petition (C) of 1999 in the case of Shri Bhagwan Menghani Vs. Union of India and others. The Hon'ble High Court quoting the O.M. dated 14.12.1983 observed that the petitioner therein was entitled for transfer to a place of his choice and directed the respondents to consider the petitioner's representation. This was followed by Writ Petition (C) No.2252 of 2006 in the case of Union of India and others Vs. Shri S. Venkateswara Rao and another in which the Hon'ble High Court directed the authority to examine the matter and pass appropriate orders in terms of the observations and directions of the Tribunal as well as the provisions contained in the O.M. dated 14.12.1983. Therefore, it is quite clear that after completion of a tenure posting of an employee he is entitled to seek for a transfer to a choice station which will have to be considered by



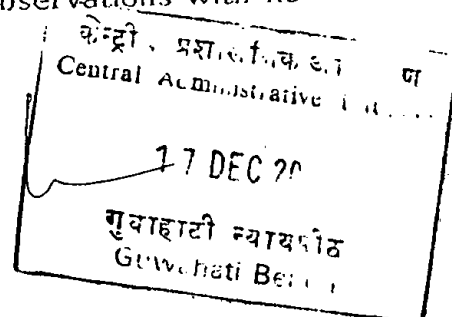
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the respondents. In this case, admittedly, the applicant had completed his tenure posting and therefore the applicant is entitled to get a transfer to his choice station, but, the specific contention of the respondents is that there is no vacancy. The contention of the applicant that others could be discharged and the applicant could be accommodated will not stand to the spirit of the Memorandum nor any judicial pronouncement. The reason for rejection of the applicant's representation is on the ground that, it cannot be acceded to due to administrative reasons and when it came to the reply statement the respondents have amplified the reason as non-availability of vacancy.

9. Vacancy is a factual matter and the domain of the administration in which the court cannot interfere with. In the absence of clear vacancy that could be pointed out by the applicant this court also cannot accede to the claim of the applicant for creation of a supernumerary post. Since such exigencies are not contemplated in the given circumstances.

10. Considering the entire issue involved and the case established by the applicant I am of the view that the applicant is entitled to have a choice station posting as and when the next vacancy arises. The Annexure-XI letter dated 07.04.2005 for that reason is hereby set aside and this court directs the respondents to consider the case of the applicant for posting at his choice station as and when the next vacancy arises. This court is not stipulating any time limit, but the respondents shall adhere to the above observations with its true spirit and integrity.



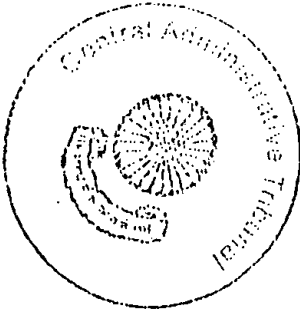
- 41 -

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The O.A. is allowed to the above extent. In the circumstances there will be no order as to costs.

Sd/ VICE CHAIRMAN

nkm

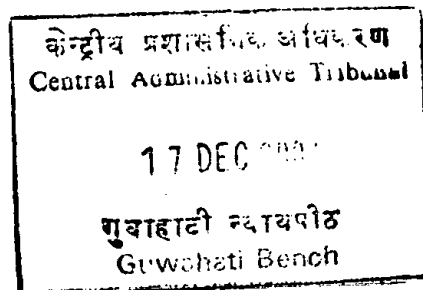


Date of Application : 2/8/06  
Date on which copy filed : 4/8/06  
Date on which copy received : 2/8/06  
Certified to be :

*[Signature]*  
28.06  
Section Officer (Judl)  
C. A. T. Guwahati Bench  
Guwahati-5

*[Signature]*  
2/8

*Attested  
Public  
Advocate*



To.

The Director General,  
Narcotics Control Bureau,  
Ministry of Home Affairs,  
West Block No. 1, Wing No. 5,  
Sector 1, R.K. Puram,  
New Delhi- 110066.

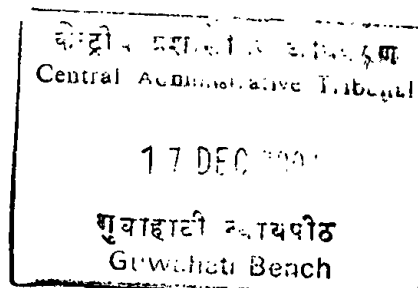
(Through Proper channel)

Sub: - Judgment and order dated 26<sup>th</sup> day of July 2006 passed in O.A.  
No. 203/2006 (Shri Rajen Das -Vs- U.O.I & Ors.) by the  
Central Administrative Tribunal, Guwahati Bench; compliance  
of.

Respected Sir,

With due respect and humble submission I beg to submit that I was initially appointed as Driver at N.C.B, Kolkata on 28 Jan, 1991, thereafter I was transferred and posted to N.C.B Imphal on 8<sup>th</sup> April 1994 and served at Imphal upto 12.01.2000. On 12.01.2000 I was released from Imphal to join at Central Excise and Custom department, Kolkata on deputation basis. However, after completion of my tenure on deputation basis I was repatriated back to N.C.B with a direction to join at N.C.B Imphal, accordingly I joined at N.C.B, Imphal on 03.02.2003. After joining at Imphal I submitted several representation praying interalia for my transfer and posting at Kolkata on the ground of family problems. In this connection I beg to submit that I am a permanent resident of Kolkata (West Bengal) and my old aged parents are chronically sick who are residing at Kolkata along with my wife and daughter and I am the only son to look after them but I am failing to take care of them from such a far-flung place of the country. However, after completion of my tenure of posting of 2 years at Imphal (NE Region) on 03.02.2005, I submitted a detailed representation on 10.02.2005 to Your Honour praying for my transfer and posting at Kolkata but unfortunately my said prayer was rejected vide order dated 07.04.2005. In

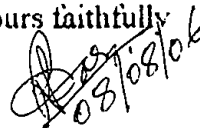
*Subscribed  
M. S. Advoca*



this connection I beg to submit that I have served at Imphal for more than 12 years in two spans i.e. from 1994 to 2000 and again from 2003 to till dated in spite of my serious domestic problems and being a resident of outside of NE Region (i.e. of Kolkata), I am entitled to choice posting after completion of fixed tenure of 2 years. Situated thus I approached the Hon'ble Central Administrative Tribunal, Guwahati Bench by filing an Original Application No. 203/2005, wherein I prayed for a direction upon the respondents for my choice posting in the light of the O.M dated 14.12.1983, 01.12.1988, 22.07.1998. The said O.A. No. 203/2006 was allowed by the Hon'ble Tribunal by it's judgment and order dated 26.07.2006 with the observation that I am entitled to have a choice station posting and the Hon'ble Tribunal also directed to consider my case of choice station posting.

Therefore, I am earnestly praying before Your Honour to consider sympathetically my transfer and posting at Kolkata and to save my family from being ruined and for this act of kindness I shall remain ever grateful to you. I am enclosing a copy of the judgment and order dated 26.07.06 for your perusal and necessary action for compliance of the same.

Encl: - Judgment and order dated 26.07.06.

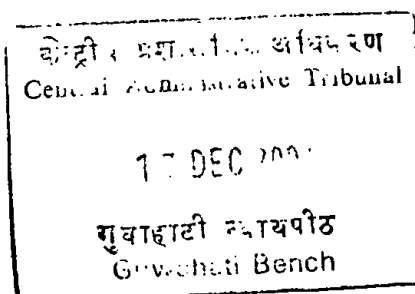
Yours faithfully  
  
 (RAJEN DAS)

Date: 08/08/06

Driver,  
 O/o- The Regional Director,  
 Narcotics Control Bureau,  
 NE Regional Unit,  
 Imphal.

Copy to: -

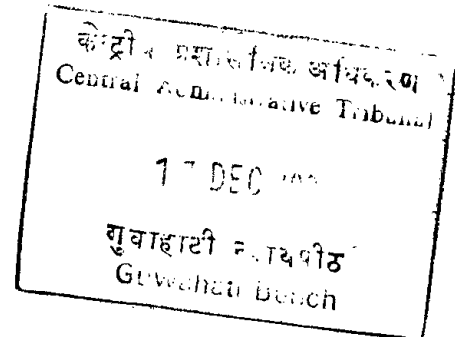
The Regional Director, Narcotics Control Bureau, NE Regional Unit, Imphal, for information and necessary action.



REMINDER

To, ✓

The Director General  
Narcotics Control Bureau.  
Ministry of Home- Affairs.  
West Block No. L Wing No. 5.  
Sector 1. R.K. Puram.  
New Delhi-110066.



(Through Proper channel)

**Sub: -** Please refer to my earlier representation letter along with Judgment and order dated 26<sup>th</sup> day of July 2006 passed in O.A. No. 203 2006 (Shri Rajen Das -Vs- U.O.I & Ors.) by the Central Administrative Tribunal, Guwahati Bench; compliance of despatch no 2381 dt. 09/08/06 on the above cited subject.

Respected Sir.

With due respect and humble submission I beg to submit that I was initially appointed as Driver at N.C.B. Kolkata on 28 Jan. 1991, thereafter I was transferred and posted to N.C.B Imphal on 8<sup>th</sup> April 1994 and served at Imphal upto 12/01/2000. On 12/01/2000 I was released from Imphal to join at Central Excise and Custom department Kolkata on deputation basis. However, after completion of my tenure on deputation basis I was repatriated back to N.C.B with a direction to join at N.C.B Imphal, accordingly I joined at N.C.B. Imphal on 03/02/2003. After joining at Imphal I submitted several representation praying inter alia for my transfer and posting at Kolkata on the ground of family problems- In this connection I beg to submit that I am a permanent resident of Kolkata (West Bengal) and my old aged parents are chronically sick who are residing at Kolkata along with my wife and daughter and I am the only son to look after them but I am Jailing to take care of them from such a far-flung place of the country. However, after completion of my tenure of posting of 2 years at Imphal (NE Region) on 03.02.2005 I submitted a detailed representation on 10.02.2005 to Your Honour praying for my transfer and posting at Kolkata but unfortunately my said prayer was rejected vide order dated 07.04.2005.

In this connection I beg to submit that I have served at Imphal for more than 12 years in two spans i.e. from 1994 to 2000 and again from 2003 to till dated in spite of my serious domestic problems and being a resident of outside of NE Region (i.e. of Kolkata), I am entitled to choice posting after completion of fixed tenure of 2 years.

Receipt No. 453 --  
Date 11/09/06 --  
Signature [Signature] --  
N.C.B. Imphal

Contd.....2/-

-(2)-

Situated thus I approached the Hon'ble Central Administrative Tribunal Guwahati Bench by filing an Original Application No. 203 2005, wherein I prayed for a direction upon the respondents for my choice posting in the light of the O.M dated 14/12/1983, 01/12/1988, 22.07.1998. The said O.A. No. 2032006 was allowed by the Hon'ble Tribunal by it's judgment and order dated 26.07.2006 with the observation that I am entitled to have a choice station posting and the Hon'ble Tribunal also directed to consider my case of choice station posting.

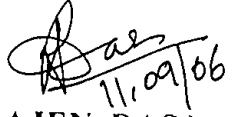
Therefore, I am earnestly praying before Your Honour to consider sympathetically my transfer and posting at Kolkata and to save my family from being ruined and for this act of kindness I shall remain ever grateful to you. I am enclosing a copy of the judgment and order dated 26.07.06 for your perusal and necessary action for compliance of the same.

That, sir, out of the two drivers, Shri Sunil Mukheryee and Shri Ratan Das who are working in the office of the N.C.B. (Z.U) Kolkata. One Driver may kindly be transferred to N.C.B. Imphal Regional Unit, who have never been transferred out of Kolkata since from joining.

I, am a poor family, facing hardships and difficulties and belongs to Schedule Caste community.

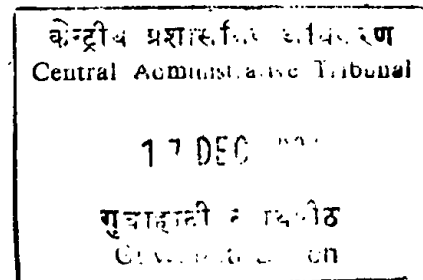
Encls: - Judgment and order dated 26.07.06.

Yours faithfully,

  
11.09/06  
( RAJEN DAS )  
Driver,  
N.C.B. R.U.  
Imphal

- Adv. copy 1. To  
The Director General,  
N.C.B. HQrs.  
New Delhi.- 66
- Copy to 2. To,  
The Regional Director,  
NCB, NE Regional Unit.  
Imphal,

Dated/  
the 11th Sept. '06



46  
F. No. II/11(4)/2005-Estt/2649  
Government of India  
Ministry of Home Affairs  
Narcotics Control Bureau

ANNEXURE XIII

West Block No. 1, Wing 5  
RK Puram, New Delhi-110056

Dated: 29-09-2006

To  
The Regional Director  
Narcotics Control Bureau  
Imphal Regional Unit, Imphal

Subject:- Representation of Shri Rajen Das, Driver- Reg.

Sir,

I am directed to refer to your letter No. 7/5/case-R.Das/NCB-IMP dated 12-09-2006 on the above cited subject and to state that as per the judgement of Hon'ble Tribunal in the OA No. 203/2005, Shri Rajen Das, Driver will be transferred to his choice place of posting as and when the vacancy is available at Kolkata Zonal Unit.

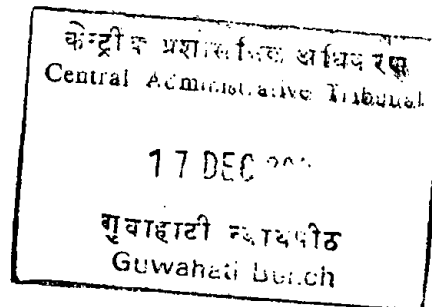
2. The individual may be informed accordingly.

Yours faithfully,

(Sandeep Mittal)  
Deputy Director(Admin)

Attested  
Auth  
Advocate

S. S. Sharma, OTC



Receipt No. 516  
Date 21/12/06  
S. S. Sharma  
Imphal



Annexure-XIII-A

GOVERNMENT OF INDIA  
MINISTRY OF HOME AFFAIRS  
NARCOTICS CONTROL BUREAU  
EASTERN ZONAL UNIT

4/2, KARAYA ROAD  
KOLKATA 700 017

NCB F. No. 6/11/Misc. Corres/Imphal/P/NCB/KOL/07/1236

Dated : 25.5.07

To,

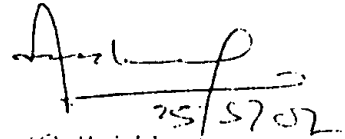
Shri Rajen Das, Driver,  
NCB, RU, Imphal.

Sub : Request for transfer to Kolkata Zonal Unit – reg.

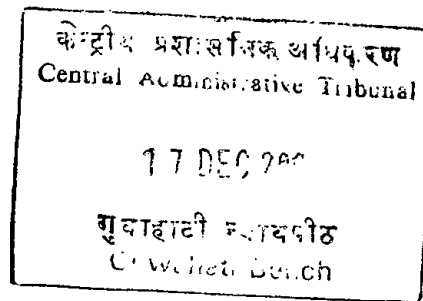
Refer to your application dated 27.04.07 on the above cited subject.

In this connection, NCB Hqrs. vide letter No. II/1(128)/2007-Estt/794 dated 15.05.07 has intimated that, as there is no vacancy of driver in NCB Zonal Unit, Kolkata, your request for transfer to Kolkata Zonal Unit could not be acceded to right now. Your case will be considered whenever there is any vacancy of driver available.

This is for your kind information.

  
(C. Keishing)  
Assistant Director

Attended  
10/11/07  
Advocate



(Typed true copy)  
No. 20014/2/83/E.IV  
Government of India  
Ministry of Finance  
Department of expenditure

Annexure- XIV (Series)

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

**OFFICE MEMORANDUM**

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

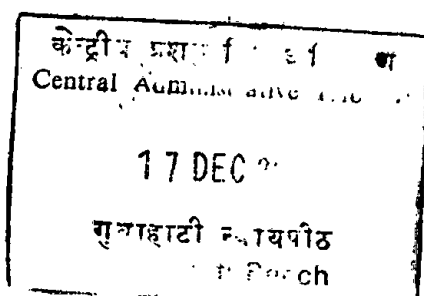
The need for attracting and retaining the services of competent officers for service in the North Eastern Region comprising the states of Assam, Meghalaya, Manipur, Nagaland, Tripura and the Union Territories of Arunachal Pradesh and Mizoram has been engaging the attention of the Government of some time.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

1. Tenure of posting/deputation.

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

Sd/- S.C. MAHALIK

Joint Secretary to the Government of India



Noted  
Adm. Secy  
14/12/83

Annexure - XIV (Series)

F. No. 11(2)/97-E. II (B)  
Government of India  
Ministry of Finance  
Department of Expenditure

New Delhi dated July 22, 1998

**OFFICE MEMORANDUM**

**Subject:** Allowances and facilities for civilian employees of the Central Government serving in the states and Union Territories of North Eastern Region and in the Andaman & Nicobar and Lakshadweep Groups of Islands - recommendations of the Fifth Central Pay Commission.

With a view to attracting and retaining competent officers for service in the North-Eastern Region, comprising the territories of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura, orders were issued in this Ministry's O.M. No. 20014/3/83-E.IV dated December, 14, 1983 extending certain allowances and other facilities to the Civilian Central Government employees serving in this region. In terms of paragraph 2 thereof, these orders other than those contained in paragraph 1(iv) *ibid* were also to apply *mutandis* to the Civilian Central Government employees posted to the Andaman & Nicobar Islands. These were further extended to the Central Government employees posted to the Lakshadweep Islands in this Ministry's O.M. of even number dated March 30, 1984. The allowances and facilities were further liberalised in this Ministry's O.M. No. 20014/16/86/E.IV/E.II (B) dated December 1, 1988 and were also extended to the Central Government employees posted to the North Eastern Council when stationed in the North Eastern Region.

2. The Fifth Central Pay Commission have made certain recommendations suggesting further improvements in the allowances and facilities admissible to the Central Government employees, including Officers of the All India Services, posted in the North-Eastern Region. They have further recommended that these may also be extended to the Central Government employees, including Officers of the All India Services, posted in Sikkim. The recommendations of the Commission have been considered by the Government and the President is now pleased to decide as follows:

- i) Tenure of Posting/Deputation

*Advocate*

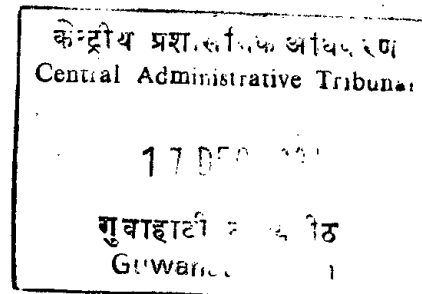
केन्द्रीय प्रशासनिक परिषद्  
Central Administrative Tribunal  
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Guwahati Bench

The provisions in regard to tenure of posting/deputation contained in this Ministry's OM No. 20014/3/83-E.IV dated December 14, 1983 read with O.M. No. 20014/16/86-E.IV/E. II (B) dated December 1 1988 shall continue to be applicable.

ii) Weightage for Central Depurations/Training Abroad and Special Mention in Confidential Records

The provisions contained in this Ministry's O.M. No. 20014/3/83-E.IV dated December 14, 1983, read with O.M. No. 20014/16/86-E.IV/E. II (B) dated December 1, 1988, shall continue to be applicable.

Sd/- (N. SUNDER RAJAN)  
Joint Secretary to the Government of India



31  
CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 341 of 2001.

Date of Order : This the 1st day of May, 2002.

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

Dr. Rajeev Ranjan,  
son of Prof. Rajendra Prasad Singh,  
Medical Officer, CHS,  
6, Assam Rifles,  
P.O. Khunsa, Arunachal Pradesh. Applicant

By Advocate Sri H. Chanda,

- Versus -

1. Union of India  
through the Secretary to the  
Govt. of India, Ministry of Health and F.W.  
New Delhi.
2. The Secretary to the Govt. of India,  
Ministry of Home Affairs,  
Government of India,  
New Delhi.
3. The Director General of Assam Rifles,  
Ministry of Home Affairs,  
Assam Rifles,  
Shillong.
4. The Deputy Director (Adm.)  
Assam Rifles,  
Shillong.

By Sri B.C. Pathak, Addl. C.G.S.O.

ORDER

CHOWDHURY J. (V.C.)

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Central Administrative Tribunal

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Guwahati Bench

One more case of posting at a place of his choice  
in terms of the Government policy. The applicant was  
initially appointed under the Central Health Service (CHS)  
as Medical Officer on the recommendation of the UPSC. On  
his appointment to the post of Medical Officer under CHS  
in the Ministry of Health and Family Welfare his services  
was placed under the Director General, Assam Rifles and  
he was posted in 6, Assam Rifles and he is serving in the  
same place till the date of filing of this application.

*Selected  
Advocate*

1-3-21-52-62  
He submitted application through proper channel for transferring him from Assam Rifles to CHS for posting him any of the CHS Dispensaries at Patna, Ranchi or New Delhi.

On 2.9.2000 his representation was forwarded by the Commandant indicating that officer was to complete his normal tenure of three years during February 2001 in Assam Rifles and due for posting. He accordingly recommended for posting him out to one of the station chosen by him on completion of three years tenure. By Memorandum dated 25.9.2000 the DGAR was informed that application for posting of the applicant was returned unactioned as Medical Officer did not complete the normal tenure of four years in the organisation with the direction to advise him the officer to submit application on completion of tenure for processing the case. The applicant assailed legitimacy of the said order. Hence this application.

As per the prescribed norms communicated through memorandum dated 14.12.1993 in respect of facilities for civilian employees of Central Government serving in North Eastern Region and Union Territories the tenure posting is provided for three years at a time for officers with services of 10 years or less and 2 years of service at a time for officers with more than 10 years of service. On completion of fixed tenure of service the authority is

to consider his posting to a station of his choice as far as possible. After completion of his tenure the applicant no doubt is entitled for consideration of his case for posting in a choice place. The respondents in its written statement however referred to the O.M. No.MOF(Rsgr)'n 1.9.

No.F.11(2)/E.11(B)/2000 dated 27.7.2000 wherein it was mentioned that the office memorandum dated 14.12.93 was

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not applicable to the employee on initial posting to the North Eastern Region. The policy guidelines were introduced to render justice to the employee posted on North East Region. The authority itself indicated that the applicant is entitled to be considered for getting a choice place of posting. The applicant has completed his tenure and therefore his case requires consideration.

3. Upon hearing Mr M.Chanda, learned counsel for the applicant and Mr B.C.Pathak, learned Addl.C.G.S.C for the respondents and considering all aspects of the matter and also in the light of the judgment and order passed earlier in similar O.A.315/2001 disposed of on 24.4.2001, the respondents are directed to take up the matter on the applicant also for posting him out on completion of his tenure with utmost expedition. The respondents are accordingly directed to consider the matter afresh for posting the applicant out of N.E.Region as expeditiously as possible in the light of the observations made in this application and also in O.A.315/2002.

Subject to the observations made above the application stands disposed of. There shall, however, be no order as to costs.

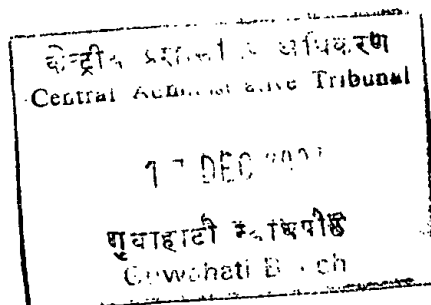
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सिद्धि

9/VICE CHAIRMAN

PS

25/12/01  
 Central Administrative Tribunal  
 Guwahati Bench, Guwahati



Application Date: 20/12/02	Date fixed for notifying the requisite number of stamps and folios. 20/12/02	Date of delivery of the requisite stamps and folios. 20/12/02	Date on which the copy was ready for delivery. 21/12/02	Date of making over the copy to the applicant. 21/12/02
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ANNEXURE-XVI

## IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR,  
TRIPURA MIZORAM AND ARUNACHAL PRADESH)

### WRIT PETITION (C) NO. 3577 OF 1999

Shri Bhagwan Menghani  
Senior Accounts Officer,  
Office of the Inland Water Authority of India,  
Ministry of Surface Transport,  
Government of India,  
Parameswari Building,  
5<sup>th</sup> Floor, Chatribatri, A.T. Road,  
Guwahati - 781 001.

..... PETITIONER

-VERSUS-

1. Union of India,  
Through Secretary to the Govt. of India,  
Ministry of Surface Transport,  
Government of India, Parameswari Building,  
5<sup>th</sup> Floor, Chatribatri, A.T. Road,  
Guwahati - 781 001.

2. The Chairman,  
Inland Waterways Authority of India,  
B-109/112  
Commercial Complex, Section 18,  
NOIDA (UP).

3. Deputy Secretary,  
Inland Water Ways Authority of India,  
Minister of Surface Transport,  
Government of India,  
Head Office B/199-112,  
Commercial Complex, Section-18  
(Dist. Gautam Budh Nagar)  
PIN 201301, Uttar Pradesh.

4. Shri S. Jayaraman,  
Chief Accounts Officer,  
Inland Water Ways Authority of India  
B-109-112, Commercial Complex,  
Section 18, Noida,  
Uttar Pradesh - 201301.

..... RESPONDENTS

केन्द्रीय प्रशासनिक आयोग  
Central Administrative Tribunal

11 DEC 2002

गुवाहाटी न्यायपीठ  
Guwahati Bench

*Subscribed  
Advocate*

*TR*



**P R E S E N T****THE HON'BLE MR. JUSTICE D. BISWAS**

For the petitioner,

Mr. B.K. Sarma,  
Mr. M. Chanda, Advocates.

For the respondent

Mr. C. Choudhury,  
C.G.S.C.

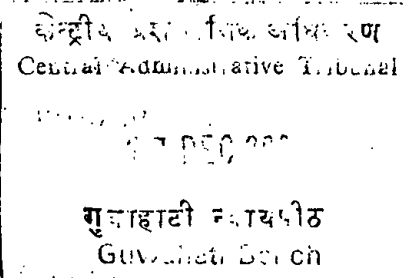
Date of hearing

16.12.2002

Date of Judgment and

16.12.2002

Order

**JUDGMENT AND ORDER**

(ORAL)

Heard Mr. B.K. Sarma, learned Counsel for the petitioner assisted by Mr. M. Chanda, learned counsel and also Mr. C. Choudhury, learned Central Government Standing Counsel for the Union of India.

2. This petition has been filed controverting the legality and validity of the order of transfer dated 11.6.1999 (Annexure-5) and consequent release order of the same date. By the aforesaid order of transfer the petitioner who was serving as Senior Accounts officer in the Head Quarter Office at Noida was transferred to Guwahati. The challenge is on the ground that the advertisement issued pursuant to which the petitioner was appointed was meant for staff in the Head Quarter of the Inland Waterways Authority of India which is at Noida. According to Shri B.K. Sarma, learned Senior Counsel the petitioner pursuant to the above advertisement offered his candidature and on selection and appointment joined the post at Noida with the expectation that he would be allowed to continue there till superannuation. Besides, Shri Sarma, further pointed out that the petitioner in a departmental proceeding initiated against the respondent No.1 deposed against the latter. It was on his evidence that

the respondent No.1 was imposed with a penalty in that departmental proceeding. Out of vengeance, the respondent No.1 initiated the proposal for transfer of the writ petitioner to Guwahati in his personal file which is contrary to the procedure of office administration.

3. Materials on record clearly justify the above submission of the writ petitioner. The advertisement (Annexure-1) and the order of penalty imposed on the respondent No.1 vindicate the grounds on the premises of which the writ petition has instituted.

4. It would appear that the order of the writ petitioner was issued on 11.6.1999 and the petitioner assumed duties at Guwahati without loss of time. By now he has completed three years. Therefore, it would be of no consequence at this belated stage to interfere with the order of transfer which has been complied with.

5. Shri Sarma submitted that the office Memorandum dated 14th December, 1993 provides for transfer and posting of civilian employees of the Central Government posted in the States and Union Territories of North Eastern Region to posting of his choice. The relevant provisions of the aforesaid office Memorandum, Shri Sarma, submits, render the writ petitioner eligible for reconsideration for his choice posting. The relevant provision of the office memorandum dated 14th December, 1993 is quoted below :-

"1) Tenure of posting/deputation :-

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

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6. There was no dispute at the bar that the aforesaid memorandum is applicable in respect of the Inland Waterways Authority of India and hence, on completion of two years in the North Eastern Region the petitioner is entitled to consideration for posting to a place of his choice. Infact, the respondent authority has also given choice of posting to other employees, namely, Shri M.K. Saha, Director, Shri S.K. Sharma, Senior Accounts Officer and Shri Mahesh Kumar, U.D.C. In the facts and circumstances of the case, this Court is of the opinion that the petitioner's case for transfer to a place of his choice (Noida) is just and proper.

7. This writ petition is disposed of with the direction to the respondents, particularly, Respondent No.2, the Chairman, Inland Waterways Authority of India to consider the representation of the writ petitioner submitted on 10.6.2002 in accordance with the provisions of the Memorandum dated 14th December, 1983 and pass appropriate orders for his transfer to a place of his choice (Noida) within a period of two months from the date of receipt of a copy of this judgment.

The petitioner is permitted to submit a copy of this Judgment along with other necessary documents to the Chairman immediately.

*Sd/- S. S. Sanyal*  
*S. S. Sanyal*

P No 22778  
 20/12/02

RECEIVED TO BE TRUE COPY

*Kishna Kanta Sanyal*  
 Date 21.12.2002  
 Supreme Court (Copying Section)

केन्द्रीय प्रशासनिक अधिकरण  
 Central Administrative Tribunal

Central High Court

Enforced by U/S 76, Act 1, 1978

17 DEC 2002

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 Guwahati Bench

*21/12/02*