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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓ O.A/T.A No. 15/2007.....

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SECTION OFFICER (Judl.)

Salib
20/09/2017

(6)

FOCS/21.AO

-5-

Court
18.1.2007

order of service of application in case to

CENTRAL ADMINISTRATIVE TRIBUNAL
order of service of application in case to

order of service of application in case to

order of service of application No. 15/07

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Applicant(s) M. Chanda, S. Naikorder of service of application in case to
G.N. Chakrabarti Ms. Le. DattaAdvocate for the Respondent(s) CASE / Mr. K.N. Chaudhury, Sr. adv.Ms. R. Chaudhury
Mr. K. Borthakur

Vice-Chairman

Notes of the Registry	Date	Order of the Tribunal
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18.1.2007 Present: The Hon'ble Shri K.V. Sachidanandan Vice-Chairman.

The Applicant is working as UDC in the office of the ICAR, NEH Region, Umiam, Shillong. He claims to be Organizing Secretary of the ICAR Employees Association. He is aggrieved by the impugned order of transfer dated 12.01.2007 from his present place of posting to ICAR for NEH Region, Mizoram Centre, Kolasibis.

Heard Mr. M. Chanda, learned counsel for the Applicant submitted that the transfer order has been passed on malafide intention. Applicant's old aged parents i.e. father aged about 81 years and mother aged about 71

Steps not taken
Re. 51- for Respondent No. 6
Not be pending.

18.1.07
NS

Mr. Naik

Contd..P/2

O.A. 15/2007

-2-

Contd.

18.1.2007

years and according to Applicant in case of his transfer they will find it very difficult to take care of the day-to-day routine matters.

order and notice
Sent to D/Section
for issuing to
R- 1 to 6 Ley
regd. A/D post.

(CAB) D/No: 199 to 204.

9/2/07 D/ 22/2/07

Considering the issue involved in this case issue notice to the Respondents. Post the case on 22.02.2007.

In the interest of justice, I direct the Respondents to keep the impugned order of transfer dated 12.01.2007 in abeyance till the next date.

Vice-Chairman

/bb/

22.02.2007 Mr.M.Chanda, learned counsel for the Applicant is present. Mr.K.Borthakur, learned counsel appearing on behalf of Mrs.R.S.Choudhury, learned counsel for Respondents 2 to 6 seeks for some time to get instruction in the matter. Let it be done.

Post the matter on 19.03.2007. Interim order will continue till such time.

order dt. 22/2/07
issuing to learned
advocate's for both
the parties.

(L)
22/2/07

Vice-Chairman

/bb/

19.3.07.

Counsel for the applicant wanted to file rejoinder. Let it be done. Post the matter on 4.4.07. Interim order shall continue.

Member

Vice-Chairman

order dt. 19/3/07
issuing to learned
advocate's for both
the parties.

(L)

Notes or Registry	Dated	Order of Tribunal
<p><u>20.3.07.</u> W/S filed by the Respondent nos. 2, 3, 4, 5 & 6. page 1 to 46.</p> <p style="text-align: center;"><u>Q/A</u></p>	4.4.07	<p>Post the matter on <u>3.5.07.</u> on the prayer of the counsel & Respondents. Mrs R S Choudhury.</p> <p style="text-align: right;">Vice-Chairman.</p>
<p><u>3.4.07</u> No rejoinder filed <u>8.5.2007</u></p> <p style="text-align: center;">b. by /bb/</p>		<p>Post the case on 09.05.2007. Interim order shall continue till such time.</p> <p style="text-align: right;">Vice-Chairman</p>
<p><u>1.5.07</u> No rejoinder filed</p> <p style="text-align: center;">by /bb/</p>		
<p><u>4.5.07</u> Rejoinder filed by the Applicant.</p> <p style="text-align: center;"><u>Q/A</u></p>	9.5.2007	<p>After hearing the parties it is found necessary that the Director to produce the rules or guidelines governing the transfer of employees of ICAR. Mr M. Chanda, learned counsel for the applicant submitted that he will produce the rules. Mrs R. S. Choudhury, learned counsel for the respondents is also directed to produce the file relating to this dispute.</p> <p style="text-align: right;">Post the matter on 16.5.07 for hearing. Interim order will continue.</p> <p style="text-align: right;">Vice-Chairman</p>
<p><u>8.5.07</u> Additional Rejoinder filed by the Applicant.</p> <p style="text-align: center;"><u>Q/A</u></p>	/pg/	
<p>W/S and rejoinder has been filed.</p> <p style="text-align: center;"><u>3</u></p>		
<p><u>8.5.07.</u> order dt. 9/5/07 issuing to both the parties.</p>		

—Bp—
OA.15/2007

16.5.2007

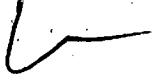
Wts and refoinder
biled by the parties.

20A
15.5.07.

m

When the matter came up for admission hearing Mrs.R.S.Choudhury, learned counsel for the Respondents submitted that the file relating to the transfer is available with her. Mr.S.Nath, learned counsel for the Applicant submitted that he will place the relevant rules on 21.05.2007.

Post accordingly on 21.05.2007.


Vice-Chairman

/bb/

Wts and refoinder
hws been biled.

20
18.5.07.

21.5.2007

Mr.M.Chanda, learned counsel for the Applicant and Mrs.R.S.Choudhury, learned counsel for the Respondents are present. The O.A. Admitted. Post the case on 23.05.2007 for hearing.


Vice-Chairman

/bb/

23.5.2007

Heard Mr.M.Chanda, learned counsel for the Applicant and Mrs.R.S.Choudhury, learned counsel for the Respondents. Counsel for the Respondents has produced the relevant records which will be kept in safe custody.

Hearing concluded. Judgment is reserved.


Vice-Chairman

/bb

OA. 15/07

30.5.2007 Judgment pronounced in open Court,
kept in separate sheets.

The O.A. is dismissed in terms of the
order. No costs.

Florinda
8/06/07


Vice-Chairman

/bb/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 15/2007

DATE OF DECISION: 30.05.2007

Sri Prajesh Kumar Deb

.....Applicant/s

Mr. M. Chanda

.....Advocate for the
Applicant/s

- Versus -

U. O.I. & Ors.

.....Respondent/s

Mrs. R. S. Choudhury

.....Advocate for the
Respondents

CORAM

THE HON'BLE MR. K.V. SACHIDANANDAN, 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 to be forwarded for including in the Digest Being complied at Jodhpur Bench & other Benches? Yes/No
4. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No

Vice Chairman

30/5/07

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.15 of 2007.

Date of Order : This the 30th Day of May, 2007.

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

Shri Prajesh Kumar Deb
S/o Shri Prabhat Chandra Deb
Upper Division Clerk,
Office of the Indian Council of
Agricultural Research Complex
For NEH Region, Umium,
Shillong-793003, Meghalaya.

.... .Applicant

By Advocate Shri M. Chanda

1. Union of India,
Represented by the Secretary to the
Govt. of India, Ministry of Agriculture,
Krishi Bhawan, New Delhi-110001.
2. The Secretary,
Indian Council of Agricultural Research,
Krishi Bhawan, New delhi-110001.
3. The Director General,
Indian Council of Agricultural Research,
Krishi Bhawan, New Delhi-110001.
4. The Director,
Indian Council of Agricultural Research
ICAR Research Complex (for NEH Region)
Umroi Road, Umiam, Meghalaya-793103.
5. The Administrative Officer,
Indian Council of Agricultural Research
ICAR Research Complex (for NEH Region)
Umroi Road, Umiam, Meghalaya-793103.
6. Dr. K.M.Buzarbaruah,
Director,
Indian Council of Agricultural Research
ICAR Research Complex (for NEH Region)
Umroi Road, Umiam, Meghalaya-793103.

.....Respondents

By Advocate Mrs R.S.Choudhury.

ORDER

SACHIDANANDAN K.V.(V.C)

The applicant who is an UDC of the respondents department working in the Store section of ICAR Research Complex for NEH Region, Umium has been transferred to ICAR Research Complex for NEH Region Mizoram Centre, Kolasib in public interest which is challenged in this O.A.

2. The case of the applicant is that he was initially appointed casual labour in 1978 then promoted as Junior Clerk in 1994 and subsequently he was promoted to the post of UDC in the year 2000. The applicant is the Organising Secretary of ICAR Employees Association, which is a registered association. He was entrusted in different nature of clerical works including scrutiny of the bill submitted by the private parties and in case of a bill pertaining to one party i.e. M/S Biltech, Shillong they have submitted 10% extra amount which was objected by the applicant since it was in excess of the approved rate. The applicant being a man of principle having strong integrity did not entertain the representative of M/S Biltech and on that count the respondents were not happy with the applicant since they have mounted pressure for passing the bill. The Union activities of the applicant could not be accepted by certain interested section of the employees and on that count his LTC claim was objected. The



respondent No.6 Dr. K.M.Buzarbaruah summoned the applicant and abused him in the chamber and want him of serious consequences. He made representation Annexures I, II and III respectively. On suspicion of a news item appeared in a news paper the other officers were also in suspicion on the applicant that the said news item had been published on the instance of the applicant. The impugned order has been issued on 12.1.2007 which was handed over to him only on 16.1.07 and he was relieved on 20.1.07 which was a solitary order of transfer and in his place no one is posted from any other office. The impugned order has been issued with a malafide intention at the instance of the Director. Therefore, it is not passed in public interest and is liable to be set aside and quashed. The said order is issued in order to curtail the union activities of the applicant and therefore he has filed this O.A seeking the following reliefs :

- i) That the Hon'ble Tribunal be pleased to set aside and quash the impugned order of transfer and posting issued vide letter No.RC(G)04/06 dated 12.1.07 (Annexure-5).
- ii) That the Hon'ble Tribunal be pleased to direct the respondent to allow the applicant to continue in the present place of posting in the same capacity.

3. The respondents have filed a detailed written statement denying the allegations and averments made in the O.A. They further submitted that the ICAR Employees Association has not been granted recognition by the ICAR. The ICAR has its own redressal forum which looks into the grievances of the employees namely, Institute Joint Staff Council, Grievance Cell and Right to Information Act. The Writ Appeal filed before the Hon'ble High



Court in Civil Rule No. 135(SH)/2006 for recognition as a sole association for ICAR has been refused by the Government on the ground that there is no such provision in the ICAR. The Writ Appeal has also been dismissed by the Hon'ble High Court. The applicant is no longer the Organising Secretary of the Association and has tendered his resignation from the said post on 30.8.99. With regard to the bill of M/S Build Tech the respondents denied the allegation. The Joint Director, Tripura Centre requested for some works to be done with the firm in their office, the Umiam office queried the said firm M/S Build Tech whether the work could be done at the Headquarters' approved rate. The firm responded and sought for a 15% enhancement of the rate and after deliberation with the firm the same was retained at 10% which was duly approved by the Director on 21.3.2005. The applicant himself originally put up the proposal for a 15% enhanced rate which was reduced to 10% by the Accounts Section. Two other bills of the said firm at 10% enhanced rate was also passed by the Director but in the 3rd bill the applicant maintained that no extra amount should be paid. The said bill was not passed and the amount is still due to the firm. The payment was made long back. It is quite evident that the applicant by stating all these unnecessary facts trying to make out a case against his transfer order. As per the CCS (LTC) Rules if the father himself is a Government servant he will not be a dependent, the mother and sister of the said Government servant also cannot be dependent on him. In 1982 the applicant while submitting his verification roll had mentioned that his father was a

Government servant working in the office of the Deputy Director of Supplies, Guiwahati. As a corollary it would ensue that the mother and unmarried sister of the applicant are dependent on the father and not on the applicant as was declared by him in the Dependency Declaration. He has been submitting false declaration and the authorities in good faith and oversight had accepted his claim to be true. However, in 2005 the then Administrative Officer learnt about such illegal practice of the applicant and came to know that the applicant's father is receiving pension and the applicant's mother is staying with his father and the parents of the applicant's are staying in Guwahati. Therefore, the LTC claim was reduced by deducting his mother and sister's claim vide order dated 12.5.06 and the mala fide allegation made against the then Administrative Officer are denied by the respondents. The copy of the news item allegedly published by the applicant cannot shows any mala fide intention as there was a clarification against the said news item published in the same news paper on 29.6.06 (Annexure-G). The allegation against Shri B. Bhatt was also specifically denied (Annexure-K). The applicant had also approached this Tribunal in 1990 by filing O.A.17/1991 against the earlier transfer order dated 1.8.1990 from Barapani to Tripura. The said application was disposed of with a direction to the authorities to consider his representation sympathetically on the ground that 'it would be hard on a poorly paid Messenger (as he then was) to shift to Tripura by maintaining his family at Shillong and maintaining himself at Tripura.' The authorities considering

the representation had retained the applicant at Barapani and since then he continued in Barapani itself and this is the second time in his entire service career he was sought to be transferred to Mizoram. The respondents submitted that none of the above grounds are maintainable and therefore the O.A may be dismissed.

4. The applicant has filed two rejoinders and pleaded that the applicant has not claimed that his association the ICAREA is the sole Association of the non Scientists employees of the ICAR. The respondents therefore, not entitled to fall back upon and take shelter under the Gauhati High Court judgment dated 20.11.2001. The then claim of the ICAREA has attained finality but its claim that it is one of the Associations of the non scientists employees of the ICAR has not, in any way, attained finality. The Tribunal had accepted the ICAREA as one of the Associations of the ICAR employees while ordering payment of HRA at 15% in place of 71/2%. The applicant objected the bill submitted by M/S Build Tech for payment of extra 10% which was not admissible. The applicant in his humble way did his meek part not to be a murky deal, and as a consequence has been punished by a malafide transfer which needs interference of this Tribunal. The applicant applied for the LTC advance in 2005 and submitted a list of dependents showing his 65 years old mother and an unmarried sister as dependent as his 81 year old father was not supporting them due to the fact of his inability arising out of his age and the meager pension amount. Hence he had not made any false claim.

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5. Heard Mr M.Chanda, learned counsel for the applicant and Mrs R.S.Choudhury, learned counsel for the respondents. The learned counsel for the parties has taken me to various pleadings, evidence and materials placed on record. Learned counsel for the applicant argued that the transfer order is passed with mala fide intention and therefore cannot be sustained in the eye of law. Learned counsel for the respondents on the other hand persuasively argued that the transfer order was passed in the exigencies of service and in the interest of public service. Right from the appointment of the applicant as casual labour in 1978 to till date he was working in the same place. For the first time in his entire service career he was transferred to Mizoram which cannot be questioned.

6. I have given due consideration to the arguments, evidence and also materials placed on record. The applicant served as casual labour, then as Messenger from 1978 and as a Messenger on regular basis from 1982 in the office of the ICAR, Umiam, Barapani in the same place. The claim of the applicant that he was the Organising Secretary of the ICAR employees association and according to him it is a registered association and he is enjoying the protection and privileges of an Association to function and his transfer order is made with a mala fide intention especially respondents No:5 and 6 for the reasons stated in the O.A.

7. The first allegation of mala fide is with regard to passing of bill submitted by M/S Build Tech at the enhanced 10% rate which could not be paid due to the objection of the applicant. The

second allegation is submission of false dependency certificate by the applicant. The third allegation is corruption in the matter of promotion in the department which was suspected to be published in the news paper at the instance of the applicant and therefore prejudice has been maintained against him. The 4th allegation is that the resolution passed by the ICAR employees Association on 16.1.07 directing the Director with a request for revocation of transfer order of the applicant as eared wrath of the respondents. Another contention is that the applicant was working as UDC against the sanctioned post of Headquarter has not been declared surplus as such the impugned order is bad in law.

8. The respondents has given explanation and clarification with regard to those allegations. They have contended that the ICAR Employees Association is not a recognized Union and the applicant is not the Organising Secretary of the same organization and therefore he has no locus standi to claim protection under the union activities as enunciated under Article 19(1) of the Constitution. The Umiam office made a query to M/S Build Tech whether the work could be done at the Headquarters approved rate since there was some urgent work to be done. The construction company quoted 15% enhancement which was after negotiation reduced to 10%. Three bills were passed in earlier occasion which was processed by the applicant and finally when the applicant objected to one bill still it is not honoured. Regarding the LTC claim the respondents contended that admittedly the applicant's father was a Government servant and in fact even mother and unmarried

sister of the said Government servant cannot be dependent on the applicant. Annexure-C will go to show that the applicant declared that his father was a Government servant and even the dependency certificate produced by the applicant is under scan. For giving wrong information the department issued a show cause notice on 26.2.07. The allegation that the 6th respondent had abused him is categorically denied by the respondents. The transfer of the applicant is not solitary, it was on the basis of exigencies of service and several employees of the ICAR were transferred on individual basis and the applicant is not discriminated in any manner.

9. The respondents counsel has produced the personal file and service record of the applicant and I have gone through the said records very meticulously and after careful scrutiny of the pleadings, evidence and materials placed on record it is found that the applicant wanted to act as a moral police under the shade of the union activities. The fact that this Court in O.A.103/1993 vide order dated 20.10.95 has given some benefit to some of the employees for payment of House Rent Allowance do not ip so facto declare that the Union is recognized. The rule is clear that any association which is broached by one of the aggrieved party in which case the Court can grant the relief. The condition prescribed in CAT Rules is that one of the aggrieved person must be a party in that application. Technicality should not stand in the way of granting relief to such person. There are different mode prescribed for recognition of a Union. Admittedly the Union in which the applicant is alleged to be represented is not recognized by the order

of the Hon'ble High Court in Writ Appeal No.90/99. Apart from that it is born out from the record that the applicant has already resigned from the said post of the Union long back and therefore he cannot seek any protection under the Trade Union Act. With regard to the LTC claim of the applicant, it is quite evident that his father was an employee of the Government and neither his mother nor him unmarried sister can be dependent on him. Therefore, the action taken by the respondent for submission of false dependency certificate is only procedural and legal action and outcome of which is yet to be awaited. Such an action on the part of the respondents to protect the Government money cannot be said to be a prejudice. Regarding the corruption it is evident that a clarification was published on 29.6.07 (Annexure-G to the reply) in the same news daily, which is reproduced as under :

"Clarification

Sir,

This is in reference to your feedback column Corruption in Appointment in your esteemed daily on June 26, 2006 purported to have been written by me. I, D.Kumar, like to clarify that no such letter has been drafted by me. In this connection I like to inform you that some other persons must have made this effort to malign my reputation."

D.Kumar,
ICAR, Barapani."

On the basis of the said clarification there is no reason to believe that respondents mistook that the said report could have been given so by the applicant in the news paper, has no grounds i.e. only an apprehension on the mind of the applicant to make a story to attribute malafide which cannot be accepted. On perusal of the record produced by the respondents and also materials placed on

record it is quite clear that there was acute necessity of an UDC in Mizoram centre and the applicant has been chosen to be transferred to said centre. The contention of the applicant that he alone has been picked up out of the 19 UDCs and since his post has not been declared surplus in the headquarters office cannot be a good ground for interference. For the reason that though the applicant was transferred earlier he got it reversed by filing an O.A.17/91 before this Tribunal on the ground that 'it would be hard on a poorly paid Messenger (as he then was) to shift to Tripura by maintaining his family at Shillong and maintaining himself at Tripura.' The respondents retained the applicant at Shillong by considering his case sympathetically. It is also pertinent to note that applicant was not subjected to any transfer hitherto and practically this is the first transfer that is being sought by this order which cannot be faulted. The Hon'ble Supreme Court had declared that it is the prerogative of the respondents organization to decide who has to be transferred and where to be transferred. Especially when the applicant has accepted the offer of appointment letter which specifically mentioned that

"5. His/Her headquarters will be at Shillong for the present. But he/she will be liable to serve in any institute and or office of the Indian Council of Agricultural Research, located anywhere in India."

On specific query to the respondents counsel she has produced the Rules and Bye Laws of the Indian Council of Agricultural Research Society and taken my attention to the service condition under clause 30 which is reproduced below :

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“(a) Except in regard to matters for which specific provision has been made in the Rules, Bye Laws, Regulations or Orders made or issued by the Society, the service and financial Rules framed by the Government of India and such other Rules and Orders issued by the Government of India from time to time, shall apply mutatis mutandis to the employees of the Society in regard to matters concerning their service conditions.

(b) Notwithstanding anything contained in this Bye-law, the Governing Body shall have the power to relax the requirement of any rule mentioned in (a) above of the Bye-law to such extent and subject to such conditions as may be considered necessary.”

The learned counsel further argued that these rules stipulates that condition of service and orders of the Government of India is applicable as far as the respondents establishment is concerned.

She has quoted clause 16 which is quoted below :

i) “The Society shall have, subject to such restrictions as the Government of India may impose and subject to such guidelines as the Government of India may issue from time to time in this behalf, full authority to perform all acts and issue such directions as may be considered necessary, incidental or conducive to the attainment of the objects enunciated in the Memorandum of Association of the Society.”

The rules as enunciated by the Government of India is also applicable to the respondents institutions. From the materials placed on records also reveal that action of the respondents in transferring the applicant as per transfer liability of the applicant as accepted in the offer of appointment, not in contravention of any rule of Government of India. The allegation of mala fide is only a make belief story which has no ground or materials to substantiate. Therefore, I find no mala fide as alleged and pleaded in the O.A. On

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going through the materials, evidence and records and file produced by the respondents it is clear that there is exigencies of service to transfer one person to Mizoram centre urgently for which the applicant has been transferred and it is nowhere mentioned in CCS(CCA) Rules or any other rules that if an employee is transferred to other place he should be declared surplus in the present place of posting. Why he has been chosen to be transferred to other place is a matter for the respondents and the reason given by the respondents that the applicant is not subjected to any transfer during his service career from 1978 is a good ground to act upon. It is well settled law that transfer is an incident of service and is a prerogative of the respondents to transfer any employee to any place according to exigencies of service. The learned counsel for the applicant has placed reliance on the following decision :

(2003) 11 SCC 740, Sarvesh Kumar Aswsthi vs. U.P.Jal Nigam & Ors.,

wherein the Hon'ble Supreme Court has held that an arbitrary or mala fide transfer of an efficient and independent officer is not in favour of good administration. Transfer of officers is required to be effected on the basis of set norms or guidelines without allowing any political interference in regard thereto and argued that the applicant's transfer is contrary to the dictum laid down on this decision. On going through this decision since no mala fide has been proved and transfer is exigencies of service and public interest this decision is not squarely applicable as far as the applicant is

concerned. Learned counsel for the respondents has cited the following decision in support of her contentions.

(2006) 9 SCC 583, S.C.Saxena vs Union of India & Ors.

In the above decision, the Hon'ble Supreme Court has held that in the first place, a government servant cannot disobey a transfer order by not reporting at the place of posting and then to a court to ventilate his grievances. It is his duty to first report for work where he is transferred and make a representation as to what may be his personal problems. This tendency of not reporting at the place of posting and indulging in litigation to ventilate grievances needs to be curbed.

10. Now it is born out from these decisions that the Hon'ble Supreme Court has held that an employee cannot chose to be posted in one place although his service life and if a transfer is affected on the basis of exigencies of service and public interest it cannot be faulted. Unless the order of transfer is vitiated by mala fides or is made in violation of any statutory provisions, the court cannot interfere with it.

11. In the conspectus facts and circumstances of the case I am of the considered view that the applicant has failed to make out a case and therefore no merit in the O.A and O.A. to be dismissed. Accordingly O.A is dismissed.

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In the circumstances no order as to costs.

Interim order dated 18.1.2007 stands vacated.



(K.V.SACHIDANANDAN)
VICE CHAIRMAN

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

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

O. A. No. _____/2007

Shri Prajesh Kumar Deb
-Vs-
Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

Applicant is working as Upper Division Clerk in the Office of the Indian Council of Agricultural Complex, For NEH Region, Umium, Shillong. He is the Organizing Secretary of ICAR Employees Association.

January 2005- Applicant availed LTC for the family, dependent mother and sister in the month of January' 05 and when final adjustment bills was submitted by the applicant, certain objection was raised by the then Administrative Officer on the instigation of a vested circle.

22.05.2006- Applicant submitted detailed representation to the Director on 22.05.06 for non-reimbursement of the actual amount of fare as per his entitlement.

11.07.2006 and 21.09.2006- Applicant submitted detailed representation praying for clarification regarding the issue of dependent for payment of LTC to the Under Secretary, ICAR, Krishi Bhavan, New Delhi, when submission of such representation to the H.Q Office, New Delhi came to notice of the Director, Dr. K.M. Buzarbaruah, he summoned the applicant at his chamber and abused him like anything and also warned him of the serious consequences.

(Annexure- 2, 3)

28.09.2006- Bill of the applicant was settled by Sri G. Sinha, AO vide his letter dated 28.09.2006. (Annexure-1)

26.06.2006- In a local daily "Guardian Bureau", a news item in the name of "corruption in appointment" was published wherein corruption in the matter of promotion has been highlighted. Higher authority namely Dr. K. M. Buzarbaruah, Director, ICAR suspected hand of the present applicant in publishing the news item. (Annexure-4)

Prajesh K. Deb

12.01.2007- Applicant is sought to be transferred and posted by the solitary impugned order dated 12.01.07 from ICAR Research Complex for NEH Region, Umium Meghalaya to ICAR Research Complex for NFH Region, Mizoram center, Kolasib with a malafide intention.

(Annexure- 5)

16.01.2007- ICAR Employees Association has taken a resolution on 16.01.07 wherein it has been decided that the Director would be requested for revocation of the transfer order of the applicant in the interest of the employees Association. (Annexure- 6)

Hence this Original Application.

P R A Y E R S

Relief (s) sought for:

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned order of transfer and posting issued vide letter No. RC (G) 04/06 dated 12.01.2007 (Annexure- 5).
2. That the Hon'ble Tribunal be pleased to direct the respondent to allow the applicant to continue in the present place of posting in the same capacity.
3. Cost of the application.
4. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for:

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

1. That the Hon'ble Tribunal be pleased to stay operation of the impugned order of transfer and posting issued vide letter No. RC (G) 04/06 dated 12.01.2007 (Annexure-5) till disposal of the Original Application.

Prayesh Kr. Deb

18 JAN 2007

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Guwahati Bench
GUWAHATI BENCH: GUWAHATI

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

Title of the case : O.A. No. 15 /2007

Shri Prajesh Kumar Deb : Applicant.

-Versus-
Union of India : Respondents.

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Filed By:

Date:-

Advocate

Prajesh K. Deb

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O.A. No. 15 /2007

BETWEEN:

Shri Prajesh Kumar Deb.
S/o Shri Prabhat Chandra Deb.
Upper Division Clerk
Office of the Indian Council of
Agricultural Complex,
For NEH Region, Umiam,
Shillong- 793103, Meghalaya.



Applicant.

-AND-

1. The Union of India,
Represented by Secretary to the
Government of India,
Ministry of Agriculture,
Krishi Bhavan, New Delhi - 110001.
2. The Secretary,
Indian Council of Agricultural Research
Krishi Bhavan, New Delhi - 110001.
3. The Director General,
Indian Council of Agricultural Research
Krishi Bhavan, New Delhi - 110001.
4. The Director,
Indian Council of Agricultural Research
ICAR Research Complex, (For NEH Region)
Umroi Road, Umiam, Meghalaya- 793103.
5. The Administrative Officer
Indian Council of Agricultural Research
ICAR Research Complex, (For NEH Region)
Umroi Road, Umiam, Meghalaya- 793103.
6. Dr. K.M Buzarbaruah,
Director,
Indian Council of Agricultural Research
ICAR Research Complex, (For NEH Region)

Prajesh K. Deb

Umroi Road, Umiam,
Meghalaya- 793103.

..... Respondents.

DETAILS OF THE APPLICATION

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

This application is made against the impugned solitary transfer and posting order issued vide letter No. RC (G) 04/06 dated 12.01.2007 (Annexure- 5) with a malafide intention and also praying for a direction upon the respondents to allow the applicant to continue at the present place of posting in the same capacity.

2. Jurisdiction of the Tribunal:

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

3. Limitation:

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

4. Facts of the case:

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

4.2 That your applicant was initially appointed as casual labour in the year 1978 and thereafter he was appointed on regular basis as Messenger in the year 1982 in the office of the Indian Council of Agricultural Research Complex for NEH Region, Umiam, Shillong. He was promoted as Junior

LCAB

Pragnesh Kr. Deb

Clerk in the year 1994. He was further promoted to the cadre of UDC in the year 2000 and thereafter he is working as UDC since 2000.

4.3 That your applicant is the Organizing Secretary of the ICAR Employees Association. The said Association is a registered association as such entitled to all privileges, right and protection. The applicant as UDC entrusted with different nature of clerical work including scrutiny of the bills submitted by the private parties. During his tenure as UDC, the applicant has been entrusted with scrutiny of some bills of the private parties, namely M/S BITECH, Shillong-3. A few months back, one such bill of the said private party i.e. M/S BILTECH, Shillong-3 came up for scrutiny in the hand of the present applicant relating to work for repairing/renovation of full height partition wall along with distempering and Vinyl flooring in Agricultural Research Financial Information System at Head office ICAR, Umium, Shillong. In the said bill the contractor's farm namely M/S BILTECH claimed 10% extra amount which was objected by the applicant since the said amount of extra 10% is in excess of the approved rate of HQ office. The applicant being a man of principle and having strong integrity, in spite of repeated request, the applicant maintained the objection and did not entertain the representative of the said farm namely M/S BILTECH, Shillong. Strangely enough, one Mr. Raju of the said farm threatened the applicant openly in the office room in presence of other employees to have dire consequences. It is needless to mention here that a vested circle of the office including many of the higher authorities used to entertain the representative of the M/S BILTECH by giving undue advantage and favour, in the matter of passing of bills, whenever submitted by the said farm. So far applicant came to learn, even the matter was reported to Dr. K.M. Buzarbaruah i.e. respondent No. 6 by the representative of the aforesaid farm and as such Dr. Buzarbaruah also was not happy with the applicant. It would be evident from the relevant

file i.e. file No. 20/2001, wherein the applicant raised objection for claiming 10% extra amount by M/S BILTECH, Shillong.

It is pertinent to mention here at this stage the applicant availed LTC for the family, dependent mother and sister in the month of January, 2005 and when final adjustment bills was submitted by the applicant, certain objection was raised by the then Administrative Officer Mr. G. Sinha on the instigation of a vested circle working in the office of the ICAR against the interest of the applicant and more particularly in view of the fact that the applicant is the Organizing Secretary of ICAR Employees Association, which could not be accepted by certain interested section of the employees, more particularly who are mainly interested with the bills of the private parties/contractors. It would be evident from Administrative Officers letter No. RC (P) 46/82 (Vol. II) dated 28.09.2006 that unnecessary objection has been raised regarding entitlement of LTC of the applicant in respect of his dependent mother and unmarried sister, however bill of the applicant was settled by Sri G. Sinha, AO vide his letter dated 28.09.2006. The applicant being aggrieved earlier submitted to the Director on 22.05.2006 for non-reimbursement of the actual amount of fare as per his entitlement. But finding no favourable response, the applicant ultimately submitted a detailed representation on 11.07.2006 and 21.09.2006 praying for clarification regarding the issue of dependent to the Under Secretary, ICAR, Krishi Bhavan, New Delhi, through his representation dated 21.11.2006, when submission of such representation, the H.Q Office, New Delhi came to the notice of the Director, Dr. K.M. Buzarbaruah, he summoned the applicant at his chamber and abused him like anything and also warned him of the serious consequences. The incident happened about 2/3 months back, and the applicant could guess that the Director may possibly be able to take some unwarranted action against him on the pretext of LTC as because he was not happy for raising objection against the bill of M/S Biltech, Shillong.

Prasenjeet K. Deb

(Copy of the letter dated 28.09.2006, representation dated 11.07.2006 and 21.09.2006 are enclosed herewith and marked as Annexure-1, 2 and 3 respectively).

4.4 That it is stated that in a local newspaper of Shillong, i.e. in "Guardian Bureau" of 26.06.2006, a news item in the name of "corruption in appointment" was published wherein corruption in the matter of promotion has been highlighted, wherein it has been alleged that in May, 2006 departmental limited examination conducted in ICAR for promotion to the post of AAO (Assistant Administrative Officer) and also in the cadre of Assistant, where 5 "Assistant" appeared for the post of AAO and about 9 UDC's appeared for the post of "Assistant" and a departmental selection committee consisting of some Scientists for conducting the examination was constituted and it was alleged that the result was manipulated in respect of both the categories. Since the applicant was one of the candidate for the post of Assistant, it was learned from the reliable source that the higher authority namely Dr. K. M. Buzarbaruah, Director, ICAR suspected hand of the present applicant in publishing the news item in the local newspaper i.e. Guardian News Bureau with caption "corruption in appointment" which also might have prompted the authorities to remove the present applicant, who is also functioning as organizing Secretary of the ICAR employees Association and accordingly the authorities, more particularly at the instance of the Director, the applicant is now sought to be transferred and posted by the solitary impugned order issued vide letter No. RC (G) 04/06 dated 12.01.2007 from ICAR Research Complex for NEH Region, Umium Meghalaya to ICAR Research Complex for NEH Region, Mizoram center, Kolasib. It has been stated in the impugned order that the transfer has been ordered on public interest also in the interest of work. In fact the impugned order of transfer have been issued with a malafide intention to remove the applicant from ICAR Research Complex, Umium to restrain him in the

participating in the Association work and also with the view of intention to remove the applicant from Umium to enable the authorities to entertain the bills of the private parties with out any sort of restriction or objection even if the bills are not in conformity with the rules. It is categorically submitted that the applicant has no hand in publishing the news item as stated above, but the authority more particularly Respondent No. 6, suspecting the present applicant responsible for publishing such news item, as because one of the Scientist, namely; Sri B. Bhatt one day specifically asked the applicant whether he has hand in publishing the news item, but the applicant categorically denied the same. On a mere reading of the impugned order dated 12.01.2007, it would further be evident that applicant has been ordered, stand relieved w.e.f 20.01.2007, although order was issued on 12.01.2007, but the same was served on the applicant only on 16.01.2007 deliberately. Moreover, it is a solitary order of transfer and in his place no one is posted from any other office. The impugned order of transfer has been issued with a malafide intention at the instance of the Director, Dr. K.M. Buzarbaruah although the order is signed by Sr. A.O M.J. Kharmawphlang, therefore the impugned order dated 12.01.2007 which is not passed in public interest is liable to be set aside and quashed.

(Copy of the News item dated 26.06.2006 and the impugned order dated 12.01.2007 are enclosed as Annexure-4 and 5 respectively).

4.5 That your applicant further begs to say that the ICAR employees Association also has taken a resolution on 16.01.07 wherein it has been decided that the Director would be requested for revocation of the transfer order of the applicant in the interest of the employees Association and also held that transfer is prima facie malafide due unlawful reduction of his LTC claim that has gone to annoy the office administration.

Pragnesh Kr. Deb

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(Copies of resolution dated 16.01.07 is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 6).

4.6 That it is stated that the unprecedented and solitary transfer of the applicant at the instance of the vested circle of the ICAR employees, more particularly at the instance of Dr. K.M Bazarbaruah, Director, ICAR without any public interest and also in order to curtail the Union activities of the applicant. The said impugned transfer order, in the face of it smacks malafide as because the applicant is working as UDC against a sanctioned post of HQ Office and the post of UDC occupied by the applicant in HQ Office has not been declared surplus, as such the impugned transfer order is bad in law and more so in the background of the circumstances stated above, apart from that the applicant has got some domestic problem such as his ailing parents, father aged about 81 years and mother aged about 71 years. There is none to look after the aged parents who require constant medical care since the wife of the applicant is also suffering from some gynecological problems. In the circumstances stated above, the Hon'ble Court be pleased to set aside and quash the impugned transfer and posting order dated 12.01.2007 and further be pleased direct the respondents to allow the applicant to continue in the present place of posting at ICAR Research Complex, Umium, Shillong.

4.7 That it is stated that in view of the impugned order of transfer dated 12.01.07 which was served upon the applicant only on 16.01.07, as such there is no scope for the applicant to submit any representation since he was on leave w.e.f. 12.01.07 and resumed his duties only on 16.01.07. Moreover, there is a specific order incorporated in the said transfer order that the applicant is stand relieved w.e.f. 20.01.07, under such compelling circumstances the applicant is approaching before this Hon'ble Court for redressal of his grievances and for protection of his right and interest by

Pragnesh K. Deb

passing an appropriate order/interim order allowing the applicant to continue in the present place of posting.

It is further submitted that the Hon'ble Court be pleased to pass an appropriate interim order staying the operation of impugned transfer order dated 12.01.07 otherwise it will cause irreparable loss and injury to the applicant and also be pleased to set aside and quash the impugned transfer order dated 12.01.2007 with a further direction to the respondent to allow the applicant to work in the same capacity in the present place of posting.

4.8 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 solitary impugned order of transfer and posting dated 12.01.07 has been issued with a malafide intention without any public interest but at the instance of respondent No. 6 with the instigation of a vested circle working against the applicant in office of the ICAR Research Complex, Umium, Shillong.

5.2 For that, the impugned order of transfer and posting dated 12.01.07 is an isolated, solitary and unprecedented order, which has been issued at the instance of respondent No. 6 in order to curtail the activities of the ICAR Employees Association, since the applicant is the Organizing Secretary of the Association and a man of strong integrity.

5.3 For that, the Director, ICAR and the other vested circle in the office of the ICAR Research Complex, Umium, Shillong under a bonafide belief that at the instance of the applicant the News item "Corruption in Appointment" has been published in the local Newspaper where as the applicant has no hand in publishing such news item in the Newspaper. But on the basis of suspicion the authority have decided to remove the applicant by issuing

Prajesh Kr. Deb

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impugned transfer and posting order dated 12.01.07 as a measure of punishment. Hence the order of transfer is punitive in nature and the same is liable to be set aside and quashed.

- 5.4 For that, the applicant is working against a sanctioned post of UDC in the ICAR HQ, Umium and the said post was not declared as surplus as such unilateral transfer of the applicant, that too all of a sudden without any public interest is not sustainable in the eye of law.
- 5.5 For that, the ailing parents of the applicant, father aged about 81 years and the mother about 71 years, who require constant medical care since the wife of the applicant is also suffering from some gynecological problems, as such transfer of the applicant in a far off place like Kolasib will cause irreparable loss to the applicant.
- 5.6 For that the impugned order of transfer and posting dated 12.01.07 is punitive in nature as such the said transfer and posting order dated 12.01.07 is liable to be set aside and quashed.

6. Details of remedies exhausted.

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

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

The applicant further declares that 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:

Praysh K. Deb

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 order of transfer and posting issued vide letter No. RC (G) 04/06 dated 12.01.2007 (Annexure- 5).
- 8.2 That the Hon'ble Tribunal be pleased to direct the respondent to allow the applicant to continue in the present place of posting in the same capacity.
- 8.3 Cost of the application.
- 8.4 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for:

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

- 9.1 That the Hon'ble Tribunal be pleased to stay operation of the impugned order of transfer and posting issued vide letter No. RC (G) 04/06 dated 12.01.2007 (Annexure-5) till disposal of the Original Application.

10.

11. Particulars of the I.P.O

i) I.P.O No.	: 28 G 981879.
ii) Date of issue	: 12.1.07.
iii) Issued from	: G.P.O. Guwahati
iv) Payable at	: G.P.O. Guwahati

12. List of enclosures:

As given in the index.

Prakash K. Deb

VERIFICATION

I, Shri Prajesh Kumar Deb, S/o- Shri Prabhat Chandra Deb, aged about 47 years, working as Upper Division Clerk in the Office of the Indian Council of Agricultural Complex, For NEH Region, Umium, Shillong-793103, Meghalaya, applicant in the instant application, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 17th day of January 2007.

Prajesh K. Deb

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
UMROI ROAD, UNTIAM, MEGHALAYA - 793 103.

NO. RC(P) 46/02(Vol.II)

Dated Umiam, the 28th Sept. 06.

To

Shri P.K. Deb,
U.D.C.,
ICAR Res. Complex, Umiam.

Sub : An appeal against unduly less payment of LTC claim -
Regarding.

Ref : i) His representation dtd. 22-5-06, 11-7-06 and
24-8-06.
ii) This office note No. NO(P) 46/02(Vol.II) dtd.
12-5-06.

In continuation to this Office Note mentioned above,
I am to summarise the Rule position in this regard as given
below :-

"Family", the concession will cover self and family.
Family for this purpose will be defined in S.R.2(8) order
No. I.

To relate the above rule, the definition as per T.A.
Rule is reproduced below :

Definition of 'Family' under S.R.2(8) for transfer
T.A. allowance will also include parents, step-mother,
sisters & minor brothers residing with and wholly dependent
upon the Govt. servant.

Widowed sisters residing with and wholly dependent
upon the Govt. servant (provided their father is either not
alive or is himself wholly dependent on the Govt. servant
concerned) are included in the definition of family.

Further interpretation given by the Swamysnews is
also reproduced below :-

1. "When father is not dependent, mother cannot
claim to be wholly dependent on the son"
(Swamysnews, March, 2003, page 79.)

2. "If parents are not dependent, unmarried sister
cannot be treated as dependent on Govt. servant"
(Swamysnews, Feb. 2001, page 101).

Thus, your LTC bill was regulated and re-imbursed
for you and your spouse only.

However, the final LTC bill will be rechecked as
per the discussion held with you with the undersigned.

Attested
Bulka
Advocate

G. Sinha

(G. Sinha)
T.O. Administrative Officer.

Reminder

BS

To,

The Director,
ICAR Research Complex for NEH Region,
Umroi road, Umroi,
Shillong, Meghalaya.

(For his personal attention)

Sub:- Appeal against unduly less payment of LTC claim.

Ref:- No. NIL dated 22nd May, 2006.

Sir,

1. In para 1 (one) of my appeal dated the 22nd May, 2006 to your honour (copy enclosed for ready reference), I have brought to your kind notice that I submitted an LTC bill for Rs. 7,454.00 (Rupees Seven thousand four hundred fiftyfour) only to the Office against which I have been paid only Rs. 3,707.00 (Rupees Three thousand seven hundred and seven) only which meant that more than 50 (fifty) percent of my LTC bill has been disallowed.

2. My journey on LTC was from Shillong to Kolkata and back to Shillong. My LTC bill was supported by original railway tickets for both forward and return journey. These tickets showed the railway fares actually charged by the railways and paid by me. But the railway fares actually paid by me as shown by the original rail tickets, have been allowed at a reduced rate which no rule and prima facie signals an under current of unaccounted for ill will.

3. I submitted my appeal to your honour on 22nd May, 2006. By this time more than a month and a half have elapsed but no order on my appeal has yet been intimated to me neither has my grievance been otherwise been addressed to. The Govt. of India, Ministry of Home Affairs, in para 3 (three) of their OM NO 25/34/68-Ett (A) dated 20.12.60 have laid down that representation of employees regarding their claims and other service matters should be disposed of within a month and if the individual has not received a reply, the superior Officer should immediately send for papers and take such action as may be called for, without delay. I have made my appeal to your Honour against arbitrary and wrongful reduction amount of my LTC bill amount by more than 50 percent cut, and that my representation to the AAO (Admn.) did not work.

4. I beg to bring to your kind notice that my appeal to your honour has not also worked till date. I beg therefore, again bring the matter to your kind notice and pray that you would be graciously pleased to look into my case personally and order full payment of my LTC bill at the earliest to prevent prolongation of my financial hardship any further.

With deep and respectful regards,

Enclosure:

My appeal dated 22.5.06

Yours Faithfully,

Dated 11th July, 2006

(PRAJESH KUMAR DEB)
UDC, Store Section.

Attested
M. Dutta
Advocate

- 2 8 -

Copy to :-

1. The A.A.O. (Admn.), ICAR Res. Complex for NEH Region, Union.
2. The A.A.O. (Eatt.), ICAR Res. Complex for NEH Region, Union.

11/7/06
(Prajesh Kr. Deb)

9
B

ANNEXURE-3

To:

The Director,
ICAR Research Complex for NEH Region,
Umroi Road, Umiam, Shillong,
Meghalaya.

Sub:- Repeat appeal against arbitrary slashing of the
LTC claim by more than 50 per cent of the bill
amount.

Sir:

1. In my appeal dated the 22nd May 2006 to your honour, I
brought to your notice that my LTC claim of Rs.7,454.00 has
been slashed by more than 50 per cent of the bill amount, and
only Rs.3,767.00 has been allowed on the sanction of LTC Rules.

2. Despite two reminders, one on 11.07.06 and other on
24.08.06 and the passage of a whole stretch of 4(four) months,
no order on my appeal under reference, has been communicated
to me till date (21st Sept. 2006). The time-limit of one month
laid down by the Govt. of India, Ministry of Home Affairs in
their OI No. 25/34/68-Batt(A) dated 20.12.68 mentioned in my
reminder dated 11.7.06, appears to have been spurned. In the
circumstances, the option open to me is either to accept the
injustice or to seek justice from a higher authority by a
second appeal. On a cool thinking, I found no virtue in putting
up with injustice. I beg, therefore, yet again request you to
be kind enough either

1) to order payment of the slashed amount of Rs.3,767.00
of my LTC Claim,

or

2) to permit me to approach the Director General with a
second appeal and for that purpose to supply me with a photo
copy of my checked LTC bill showing which items of my claim
have been allowed and which items have not been allowed, for
furnishing with my second appeal to the Director General.

With regards,

Yours faithfully,

Dated 21st Sept., 2006.

After checked
Prajesh Kr. Dab
Advocate

21/9/06
(Prajesh Kr. Dab)
UDC, Store Section.

Copy to :-

1. The A.A.O. (Admin.), ICAR Res. Complex for NEH Region, Umiam,
Shillong.

(Prajesh Kr. Dab)

FEEDBACK

Information about the Assamese or Asomiya?

Sir, I would like to draw your attention under the heading 'Assamese or Asomiya?' by Abhilash Das published in the feedback column of the Assam Tribune, June 21, 2006. Abhilash has asked a very relevant question. Presently, a huge confusion is going on with regard to Assam/Assam/Asom. Indeed, it's confusing whether to apply Assamese or Asomiya.

In this regard, I would like to give the example of France. The English term the people of France as 'French', while the Assamese (that sounds better than Assambse, I hope) call them as 'Forases' or 'Foras'. So also, the natives of the state refer themselves as 'Asomiya' among themselves, while outsiders may continue as 'Assamese' / 'Assamese'. Several languages and nations face such dichotomy. It would not be a problem whether we mention ourselves as 'Assamese' or 'Asomiya' when filling applications, if only we can be sure of the spelling of our native state. A people is identified with the name of the state or the country since there is a possibility of spelling the various communities in different ways, e.g., the Dutch of Netherlands. Here, with the mention of 'Netherlands', we come to know that the person is from Netherlands. Whether he identifies himself in the international forum as 'Dutch' or 'Netherlander' depends on him. So, it's better we decide on the name of our State for all purposes. That is the need of the hour.

Siddharth Barua,
MRD Road, Guwahati - 3

Corruption in appointment

Sir,

I would like to draw the attention of the director, ICAR Research Complex for NEH Region, Barapani through your dailly for immediate intervention.

In May, 2006 departmental limited exam in ICAR was held for promotion to post for A.A.O. and Assistant. About five Assistants appeared for the post of A.A.O. and about nine UDCs appeared for the post of Assistant. A departmental selection committee consisting of some scientists for conducting the examination was constituted. The result was manipulated in respect of both the categories i.e. A.A.O. and Assistant. The candidate who stood fifth in the category of Assistant and the one who ranked third in the category of A.A.O. are close to Shri P. Ghosh, Assistant. Smiti T. Pattanayak, UDC who is the wife of Dr. Pattanayak, scientist, has been elevated to the first position in the merit list by surreptitious substitution of the original respective answer script. This is not only a corrupt practice but also highly immoral. The facts are generally known to the members of all the staff and has gone to lowering the image and dignity of the office. By bringing this matter to the director's notice, I request the director to scrap the examination result and to issue an order for a fresh examination by a new committee under the director's direct supervision so that this type of corruption does not go unchecked and do not recur in future.

D. Kumar,
Barapani, Shillong.

Attested
Dutta
Advocate

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
UMROI ROAD, UMIAM-793103, MEGHALAYA

No. RC(G)04/06

Dated Umiam, the 12th Jan, 2007

ORDER

In the interest of work, Shri P. K. Deb, UDC presently working in Store Section is hereby transferred to ICAR Research Complex for NEH Region, Mizoram Centre, Kolasib with immediate effect until further orders in public interest.

He shall stand relieved from this office w.e.f. 20th of January, 2007(AN).

This issues with the approval of the Director.

12/1/07
(M. J. Kharmaophlang)
Sr. Administrative Officer

Copy for information & necessary action to :

1. Shri P. K. Deb, UDC, ICAR Research Complex for NEH Region, Umiam.
2. The Joint Director, ICAR Research Complex for NEH Region, Mizoram Centre, Kolasib, Mizoram.
3. The Finance & Accounts Officer/Asstt. Admn. Officer (E)/Asstt. Admn. Officer (S)/Recruitment Cell.
4. PA to Director, ICAR Research Complex for NEH Region, Umiam for kind information of the Director.
5. Personal file of Shri P. K. Deb.
6. Service Book of Shri P. K. Deb.

*Attested
Anita
Advocate*

ICAR EMPLOYEE'S ASSOCIATION (Regd.)

Umroi Road, Barapani,
Shillong 793 103

F. No. ICAREA/07/01/1

RESOLUTION

Date 16th Jan., 2007.

1. It has come to the notice of this Association that its Organising Secretary Shri Prajesh Kr. Deb who is a UDC has been abruptly transferred to Mymoren by order No. RC(G) 04/06 dated 12. 1.97. Shri Prajesh Kr. Deb is the Organising Secretary of this Association and his transfer shall severely affect and dislodge the function of this association. As per rules of association and Union, its office bearers enjoy immunity from transfer and his transfer is violative of Article 19(c) of the constitution of India.

2. The transfer is prima facie malafide also, Shri Prajesh Kr. Deb had been, for long, representing against unlawful reduction of his LTC claim that has gone to annoy the office administration.

3. The association contemplate to discuss the varicus activities of this ICAR during the last 5 (five) years under its Director when the Association holds its Executive meeting and its General meeting.

4. It is accordingly resolved that the Director of the ICAR Research Complex for N.E.R., Umiam, Shillong, Meghalaya be requested to revoke the transfer order on Shri Prajesh Kr. Deb so that he continues to discharge his function as the Organising Secretary of this Association.

5. Be it resolved that a copy of this resolution be forwarded to the Director, ICAR Res. Complex for NEH Region, Umiam, Meghalaya for Quick action as per para 4 of this resolution.

Resolved unanimously,

Chowdhury
(M. Kharptuli)
President, ICAREA

DR/ML
(N. Lyngdoh)
Joint Secretary, IC.
Employees Associat.

Copy forwarded to :-

1. The Director, ICAR Res. Complex for NEH Region, Umiam, Shillong.
2. The Director General, ICAR, Krishi Bhawan, New Delhi-1.
3. The Labour Commissioner & Registrar of Trade Union, Shillong-1
4. The General Secretary, INTUC, Shramik Kendra, 4, Bhai veer sing Marg, New Delhi-1.
5. The General Secretary, INTUC, Meghalaya Branch, Shillong.
6. The General Secretary, OAI Employees Association, Shillong-3

*Attested
Bullock
Advocate*

DR/ML
(N. Lyngdoh)

Central Administrative Tribunal
Guwahati Bench

19 MAR 2008
Central Administrative Tribunal
Guwahati Bench

ORIGINAL APPLICATION NO. 212 OF 2006

IN THE MATTER OF:

O.A No. 15/07

Sri Prajesh Kr. Deb

..... **Applicant**

-Vs-

Union of India & Ors.

..... **Respondents**

-AND-

IN THE MATTER OF:

A Written Statement filed on behalf of the Respondents No.2, 3, 4, 5 and 6 of the Original Application No. 15/07.

WRITTEN STATEMENT

I, Shri Kamal Malla Buzarbarua, son of Anand Malla Buzarbarua, aged about 55 years, presently serving as the Director, Indian Council of Agricultural Research, (Regional Centre) for NEH Region, Umiam, Meghalaya do hereby solemnly affirm and state as follows: -

1. That, I have been impleaded as Respondents No. 4 and 6 in the aforesaid Original Application No.15/2007, a copy of which has been served upon me through the counsel for Indian Council of Agricultural Research. I have gone through the same and have understood the contents thereof. I have been duly authorised to swear this Written Statement on behalf of the other Respondents. Save and except the statements, which have been specifically admitted herein

Vijay

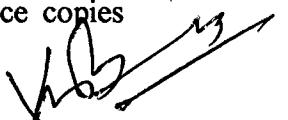
*Mr. R. S. Chowdhury
Advocate*

*Ficed By:
The Respondent Nos. 2 &
3 through*

below, the rest shall be deemed to have been denied by the answering Respondents.

2. That, with regard to the statements made in paragraph 1 of the Original Application, the Deponent states that the same shall be contended in the subsequent paragraphs.
3. That, with regard to the statements made in paragraphs-2, 3 and 4.1 of the Original Application, the Deponent has no comments to offer.
4. That, with regard to the statements made in paragraph 4.2 of the Original Application, the Deponent does not admit anything, which is contrary to the records of the case.
5. That, while categorically denying the statements made in paragraph-4.3 of the Original Application in seriatim, the Deponent places the following facts before this Hon'ble Tribunal:
 - (i) The Indian Council of Agricultural Research Employees Association (herein after referred to as ICAREA in short) has not been granted recognition by the ICAR. In this context it is pertinent to mention that the ICAR has its own Redressal Forum, which looks into the grievances of the employees namely, (i) Institute Joint Staff Council, (ii) Grievance Cell, (iii) Right to Information Act, which has been introduced recently. The ICAREA had filed a Writ Petition before the Shillong Bench of the Hon'ble Gauhati High Court in Civil Rule No. 135 (SH)/1996 for recognition as the sole Association of nonscientist employees of the ICAR, which had been refused by the authorities on the ground that there were no such provisions within the ICAR. The said Writ petition challenging the action of the authorities had been dismissed vide Judgment dated 05.04.1999. The ICAREA then filed a Writ Appeal bearing No. 12(SH) of 1999 challenging the Judgment of the Learned Single Judge, which was also dismissed vide Judgment and Order dated 20.11.2001 confirming the views passed by the Learned Single Judge in Civil Rule No. 135(SH)/2006. Hence, any leverage being sought to be taken by the Applicant on the basis of the said Association cannot be legally enforceable, in view of the fact that the findings of the Division Bench of the Hon'ble Gauhati High Court have attained finality in this regard and the ICAR does not recognize the Association in any way.

The Deponent craves leave of this Hon'ble Tribunal to produce copies



of the Judgment and Order dated 20.11.2001 passed in Writ Appeal No. 12(SH)/1999, if so deemed necessary.

(ii) To the knowledge of the Deponent the Applicant is no longer the Organizing Secretary of the said Association and had tendered his resignation from the said post on 30.08.1999. As such, the statements made contrary thereto are denied and the Applicant is put to strictest proof thereof. It is categorically stated that when the authorities queried the ICAREA with regard to the Secretary ship of the Applicant, an extremely uncouth reply was forthcoming addressed to the Deponent, challenging the authority of the Senior Administrative Officer to make such queries.

A copy of the resignation so tendered by the Applicant on 30.08.1999 is annexed herewith and marked as **ANNEXURE – A.**

(iii) The contention of the Applicant with regard to M/S Build Tech (not BuilTech as has been referred to in the Original Application) is categorically denied by the Deponent. In this regard it is stated that the approved rate for carrying out any construction work etc. is 10% over and above the cost of the Construction Company in the Umiam Headquarter. When the Joint Director, Tripura Centre requested for some works to be done with the firm in their office, the Umiam office queried the said firm M/S Build Tech whether the work could be done at the Headquarters' approved rate. In reply to such query, vide letter-dated 14.03.2005 the firm responded by asking a 15% enhanced rate over and above the approved rate for carriage and movement charges. However, after deliberation with the firm, the same was restricted to 10% by the Accounts Section, which was duly approved by the Director on 21.03.2005. The Applicant ("being a man of principle and having strong integrity") had himself originally put up the proposal for a 15% enhanced rate, which was restricted to 10% by the Accounts section. Subsequently, the Applicant further put up a proposal for two other bills to the said firm at the enhanced rate of 10%, which were subsequently passed by the Director. However, in the next bill the Applicant, for reasons best known to him, had not put up the proposal at the enhanced 10% rate. This was therefore, queried by the Accounts Section to which the Applicant maintained that no extra amount should be paid. Accordingly, the said bill was not passed and the payment to



the said firm is due till date. It is categorically stated herein that if the Respondent No.3 or the Deponent herein had any vested interest, as has been claimed by the Applicant, the payment would in fact have been made long back. It is pertinent to note that the file no. referred to is No. RC(S) 20/2004 and not 20/2001 as has been stated in the Original Application. It is evident that the Applicant, by stating all these unnecessary facts, is not only misleading this Hon'ble Tribunal, but also desperately trying to make out a case against his transfer order towards which he has, in fact, not been able to succeed in any manner.

Copies of the relevant Note sheets from the file No. RC(S) 20/2004, the bills proposed by the Applicant at 15%, 10% and the third bill which was opposed by the Applicant are annexed herewith and collectively marked as ANNEXURE – B Colly.

(Pages- 13 to 21)

(iv) That, the statements made in the sub-para of para – 4.3 are not only false and misleading but also reflect the insincere and callous attitude of the Applicant. It is stated that as per the CCS(LTC) Rules, 1988 if the father of a Government servant is not dependent on him, the mother and sister of the said Government servant also cannot be dependent on him. In the year 1982, the Applicant while submitting his verification Roll had mentioned in the same that his father was a Government servant working in the office of the Deputy Director of Supplies, Guwahati, Assam.

A copy of the said Verification Roll submitted by the Applicant in the year 1982 is annexed herewith and marked as ANNEXURE – C.

As a corollary it would ensue that the mother and unmarried sister of the Applicant are dependent on the father and not on the Applicant as was declared by him in the "Dependency Declaration". The Applicant has been submitting such false family declaration since 1984 in respect of his mother and unmarried sister. The authorities in good faith and by oversight had accepted his claim to be true. However, in 2005 the then Administrative Officer Sri G. Sinha learnt about such illegal practice of the Applicant and came to know that the Applicant's father is receiving pension and the Applicant's mother is

staying with his father. It was further learnt that the parents of the Applicant were not staying with him in Shillong as was being claimed by him over the years and were, in fact, residing at Guwahati. It is further pertinent to note that to be fully dependent on a Government employee, the incumbents need to reside with the Government employee. However, as has been stated herein above, the parents as well as the sister of the Applicant reside at Guwahati and not with him. As such, on having realized the inappropriate claim of the Applicant, his LTC was accordingly reduced by deducting the LTC for his mother and sister vide order under memo No. RC(P).46/82 (Vol.II) dated 12.05.2006. Hence the allegations made against the then Administrative Officer and his malafide intentions are denied by the deponent.

Copies of the claim of the Applicant for the year 1984, 1991, 2003, 2004 and 2006 are annexed herewith and marked as ANNEXURE – D Colly.

A copy of the letter-dated 12.05.2006 of the Administrative Officer is annexed herewith and marked as ANNEXURE – E.

(v) It is further pertinent to state herein that the authorities in order to clarify the matter had written to the Headquarter with regard to the LTC claim of the Applicant seeking their views in the matter vide letter under memo No. RC(P).46/82.Vol.II dated 18.11.2006. In response to the said letter, the Council vide letter dated 29.01.2007 directed the Institute to strictly settle the matter as per the relevant Rules. It is stated herein that after having clarified the matter, the Institute has come to the conclusion that the Applicant had been submitting false “Dependency Certificate” since 1984 and for such furnishing of wrong information; the administration has issued a Show Cause memorandum to the Applicant on 26.02.2007.

Further, the statements made in paragraph-4.3 of the Original Application to the effect that “the Director, Dr. K.M. Bazarbaruah has summoned the Applicant to his Chamber and abused him like anything” are categorically denied by the Deponent. Such allegation leveled by the Applicant with the sole intention of maligning the dignity of the Deponent, are disputed question of facts and hence, this



Hon'ble Tribunal may not be inclined to look into the veracity of such malicious statements.

Copies of the letter dated 18.11.2006 and 29.01.2007 are annexed herewith and marked as ANNEXURE – F1 & F2 respectively.

The Deponent carves leave of this Hon'ble Tribunal to produce a copy of the Show Cause memorandum dated 26.02.2007, if so deemed necessary.

6. That, while categorically denying the statements made in paragraph-4.4 of the Original Application, the Deponent further places the following facts before this Hon'ble Tribunal.

(I) The Applicant has in a most whimsical manner stated only those facts before this Hon'ble Tribunal that are convenient for his case. While adducing the News paper cutting dated 26.06.2006, as a piece of evidence before this Hon'ble Tribunal, the Applicant has conveniently refrained from mentioning the fact that the said D. Kumar under whose name the said article "corruption in Appointment" was published, had vide a clarification published on 29.06.2006 in the same News Daily, categorically stated that he had, in fact, not written any such letter to the Editor and that some other person had tried to malign his reputation. As such, the statements made contrary thereto are rejected by the Deponent as mere whims and fancies of the Applicant.

A copy of 'clarification' published on 29.06.2006 by Sri D. Kumar is annexed herewith and marked as ANNEXURE – G.

*Under which Appendix?
Picked up?*

(II) It is not understood what the Applicant has tried to project by calling the transfer order dated 12.01.2007, "solitary". The Deponent categorically states that in the exigencies of service, several employees of the ICAR are transferred on an individual basis and the Applicant is not being discriminated in any manner, as has been tried to be projected. The Deponent further deems it pertinent to mention herein that as a matter of fact, the Joint Director of Mizoram Centre, Kolasib, vide letter under memo No.RC(MZ)/Estt/752 dated 13.12.2006, had

written to the Asstt. Administrative Officer (Recruitment Cell) for providing the information regarding the sanctioned posts in the Administrative, Technical, supporting staff of the said Centre, since the basic functioning of the Institute had become difficult, in view of the same being under-staffed. The staff pattern of the Mizoram Centre, Kolasib, in fact envisages 2 (two) U.D.C. posts under the Administrative staff. However, ~~both the~~ the said U.D.C. posts were lying vacant. In that view of the matter, the Deponent in his best judgment capacity and the interest of service, had transferred and posted the Applicant, who is also an Upper Division Clerk, to the Kolasib Mizoram Centre.

A copy of the said letter dated 13.12.2006 of the Joint Director, Mizoram Centre is annexed herewith and marked as ANNEXURE – H

A copy of the chart showing the staff pattern of Mizoram Centre is annexed herewith and marked as ANNEXURE – I.

A copy of the transfer order dated 12.01.2007 impugned in the O.A. is annexed herewith and marked as ANNEXURE – J.

(III) In so far as the contentions of the Applicant, with regard to one Sri B. Bhatt made in paragraph 4.4 are concerned, it is stated herein that pursuant to the receipt of the Original Application by the Institute, the Administrative Officer of the Institute vide his letter dated 26.02.2007 had specifically asked for clarifications in this regard from the said Sri B. Bhatt. In response to such queries the said Sri B. Bhatt has specifically denied the allegations leveled against him vide his letter dated 27.02.2006. As such, the Applicant is put to the strictest proof with regard to the averments made in this regard.

A typed copy of the letter dated 27.02.2006 ofr Sri B. Bhatt is annexed herewith and marked as ANNEXURE – K.

(IV) The fact that the transfer order dated 12.01.2007 was served on the Applicant only on 16.01.2007, cannot be attributed to the authorities in

any manner, as has been explained by the Applicant himself in paragraph 4.7 of the Original Application. The Applicant was on leave during the said period and when he resumed his duties on 16.01.2007, instead of representing before the authorities, the Applicant rushed to the ICAREA and sent a Resolution to the authorities. As such, the Deponent categorically states that the Deponent has in no way exhausted his remedies prior to approaching this Hon'ble Tribunal by way of this Original Application, on which count itself this instant application is liable to be rejected at the threshold.

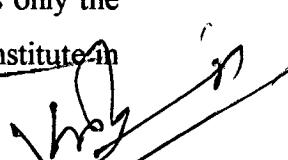
(V) The Deponent at this stage further deems it pertinent to state that when the Applicant was appointed in the ICAR vide memo No. RC (R) 29/81 dated 14.07.1982; the Applicant was posted at Shillong for the time being. Clause 5 of the appointment order clearly stipulated that he will be liable to serve in any Institute or office of the ICAR located anywhere in India.

A copy of the Appointment Order dated 14.07.1982 of the Applicant is annexed herewith and marked as **ANNEXURE - L.**

In the year 1990 the Applicant was transferred from ICAR, Barapani to KVK, ICAR, Tripura, after having rendered 8 years of service at this Institute. The Applicant had been highly aggrieved by the said transfer order even at that time and had challenged the said transfer order dated 01.08.1990 vide Original Application No. 17/1991 on the ground that it would be "hard on a poorly paid Messenger (as he then was) to shift to Tripura by maintaining his family at Shillong and maintaining himself at Tripura". The said Original Application was disposed of with a direction to the authorities to consider his representation sympathetically.

The Petitioners crave leave of this Hon'ble Tribunal to produce and refer to the Judgment and Order dated 31.07.1991 passed in Original Application No. 17/1991.

The authorities, considering his representation sympathetically, had retained the Applicant at Barapani in the year 1991. Since then the Applicant has continued to reside at Barapani itself. It is only the second time in his entire service career (since he joined the Institute in



1982) of 15 years, that he was now sought to be transferred to Mizoram vide order dated 12.01.2007, in the exigencies of service, considering the urgent need for a U.D.C. in the Mizoram Centre, as has been explained herein below. However, the Applicant has once again refrained from accepting the transfer order and has, in fact, deemed it fit to malign his superior Officers before this Hon'ble Tribunal. The same is reflective of the "sincerity and integrity" of the Applicant, as has been claimed by him.

7. That the statements made in paragraph 4.5 of the Original Application are categorically denied by the Deponent. In view of the statements made in the foregoing paragraphs, it is evident that the transfer order has not been issued with any malafide intention. Further, the resolutions, if any, which have been adopted by the ICAREA, are in no way relevant to the case at hand, since the said Association is not recognized under ICAR rules and regulations. It is further pertinent to state that pursuant to such resolution having been adopted by the ICAREA, on 16.01.2007 (Annexure-6 of the Original Application), the Senior Administrative Officer of the Institute vide letter under memo No. RC (G) 04/06 dated 19.01.2007 had written to the President of the ICAREA asking for certain explanations with regard to the Applicant.

A copy of the said letter dated 19.01.2007 is annexed herewith and marked as ANNEXURE – M

In response to the said letter, the President of the ICAREA in a most unbecoming manner has written to the Deponent herein vide letter dated 22.01.2007 questioning the authority of the Senior Administrative Officer for having written to the Association. Such communication itself has revealed the lack of understanding within the ICAREA and further fortifies the fact that the Applicant is not the Organizing Secretary of the said Association any more, since the President has conveniently refrained from answering the queries in this regard and has in fact resorted to once again maligning the dignity of another senior official of the Institute.

A copy of the said letter dated 22.01.2007 of the President of the ICAREA is annexed herewith and marked as ANNEXURE – N.

8. That, the statements made in paragraph 4.6 of the Original Application are categorically denied by the Deponent in seriatim. As has been explained in the foregoing paragraphs, the post of U.D.C. may not have been declared surplus at the headquarter office, however, there was an urgent need for

U.D.C. to be posted in the Mizoram Centre at Kolasib. With regard to the statement made about his aged father and mother, the Deponent categorically states that they are residing at Guwahati and not in Shillong with the Applicant. Hence, the Applicant cannot take undue benefit of the same in order to get his transfer order revoked. It is also interesting to note that in December/2005 the aged and ailing father of the Applicant had undertaken Train journey from Guwahati to Howrah Junction, which is evident from the Railway tickets so adduced by the Applicant to the Authorities. As such, the statements made contrary thereto, are categorically denied by the Deponent and the Applicant is put to the strictest proof thereof.

Copies of the said Railway tickets with regard to the Applicant's father dated 07.12.2005 are annexed herewith and marked as
ANNEXURE – O.

9. That, the statements made in paragraph 4.7 of the Original Application do not have any legs to stand on in view of the facts and circumstances that have been narrated herein above. The interim Order dated 18.01.2007 passed in favour of the Applicant have been obtained by suppressing material facts before this Hon'ble Tribunal and by making misleading statements that the Applicant's aged parents are residing with him at Shillong. As such, this Hon'ble Tribunal in view of the facts and circumstances narrated herein above be pleased to vacate the said interim order and further direct the Applicant to forthwith join at the Mizoram Centre in terms of the transfer order dated 12.01.2007.
10. That, the statements made in paragraph 4.8 and 6 of the Original Application are denied by the Deponent and none of the grounds averred to in the Original Application, can hold sway in view of the facts and circumstances that have been narrated herein above. The law relating to transfer matters is well settled and the Apex Court has time and again held that transfer being exigency of service, it is for the authorities to decide whom to transfer where and when and the Courts should be slow in interfering in such matter. The transfer order is in no way punitive or malafide and hence, the Applicant is not entitled to any relief in equity. The instant application is liable to be rejected at the threshold by imposing a cost on the Applicant for not only maligning the dignity and integrity of a senior Officer, but also for making misleading statements before this Hon'ble Tribunal.
11. In view of the statements made herein above, it is humbly stated that there is no merit in the instant Application and the Applicant cannot have any

grievance against the action of the Authorities, which are legally sustainable and completely within the ambit of their Constitutional power. As such, this Hon'ble Tribunal may not be inclined to entertain the instant Original Application and may be further pleased to vacate the interim direction issued in favour of the Applicant, by dismissing the Application.

12. That, the statements made in this paragraph and those made in paragraphs 1 to 4, 5(i) partly, 5(ii) partly, 5(iv) partly, 5(v) partly, 6(i), 6(III) partly, 6(IV), 6(v), 7(party), 8(party), 9 to 12 are true to my knowledge and those made in paragraphs 5(i) partly, 5(ii) partly, 5(iii), 5(iv) partly, 5(v) partly, 6(II), 6(III) partly, 6(v), 7 (partly), 8 (partly), are true to my information derived from records which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this Written Statement on this 19th day of March, 2007 at Guwahati.

Kamal Datta Bajaj Baruah
D E P O N E N T

To,

The General Secretary,
ICAR Employees Association,
Umiam, Umroi Road,
Shillong, Meghalaya.

Sub : Resignation from the Organising Secretary

Dear Comrade,

With reference to the subject cited above, I am to inform that it has become necessary for me to discontinue from the Org. Secy. owing to the following reasons that could not be done.

I therefore, request that I may be relieved from the Org. Secy. by 31.8.99.

1. Welfare of the staff
2. Settlement of pending issue
3. Benefits and rights of the staff

Further, I ask an apology to all the members if I did anything wrongly, knowingly and unknowingly.

With best wishes to all the members and kind regards,

Yours sincerely,

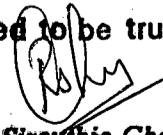
Dated : 30.8.99


(P.K. DEB)
Jr. Clerk

Copy to :

1. The President, ICAREA, Umiam for information.
2. All the Executive Members and Unit Secy., ICAREA.


Certified to be true Copy


Rakhee Siraftia Chowdhury
ADVOCATE

**ICAR Research Complex for NEH Region
Tripura Centre, Lembucherra- 799 210**

Camp office at Barapani

To the Director

The Director
ICAR Research Complex for NEH Region
Umiam

Sub: Seeking permission to carry out some carpentry/ furnishing work at Tripura centre- reg.

Sir.

I am to inform you that the following carpentry / furnishing works are necessary as our Lab-cum-Administrative building is new and your kind permission to undertake the job is thus sought.

- ✓ 1. Furnishing of JD's room
- ✓ 2. Soil Science Lab & sitting room (Wooden chamber)
- ✓ 3. Instrumentation room
- 4. Conference Hall
- 5. Wooden panel & Display boards
- ✓ 6. Wooden chamber & furnishing of ARIS Cell
- 7. Wooden Chamber for culture work & furnishing at Animal Reproduction Lab
- 8. Furnishing of Animal Nutrition & Fisheries Lab.
- 9. Partition for Official Staff Room.
- ✓ 10. Furnishing of Committee Room

I would, therefore, request you that a concerned Farm had done a lot of work at Head Quarter in relation to furnishing of Lab. and I shall be grateful to you if same farm can be deputed to work at our Centre with the same rate.

Thanking you,

Yours faithfully,

(N.P.Singh)
Joint Director

Date: 5.3.05

1147
2/2/00

P.K.D
discussed with
the Party may be and
this item can be
opened rate of
postcard
9/3/05

Certified to be true Copy

Rakhee Sirauthia Chowdhury
ADVOCATE

BUILDTech

Builders & Engineers, Architectural
Structural & Interior Designer
Specialized in boring deep tube well

Phone: Resi: (0364) 2520555
Mobile: 9863061779
Nongrim Hills, Shillong - 1

Ref No:

Dated: 14.03.05

To,

The A.A.O (Store)
ICAR Research Complex.
Umiam. Meghalaya.

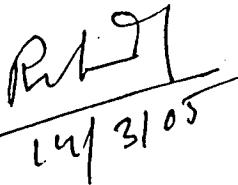
Sub: Modification/Designing of office cum laboratory o/o The J.D. Agartala.

Madam,

Kindly refer to the verbal discussion with you on the above subject and inform that we will be highly obliged to carry out the work as per the approved rate of Umiam/headquarter with 15% enhance rate on approved rate being the carriage and movement charges.

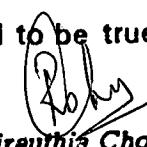
Thanking you,

Yours faithfully


P.K.D
16/3/05

(2)

Certified to be true Copy


Rakhee Sirauthia Chowdhury
ADVOCATE

PP/24-25

No. NIL dt 5.3.05 from S.D., Tripura Centre

68

PP/24-25

The Joint Director, Tripura Centre has submitted a proposal for seeking permission to carry out some carpentry/ furnishing work at Tripura Centre, may be seen at page 24/c.

As per endorsement of the A.A.O (3) on the body of the proposal the Head of M/S Buildtech, Shillong - 1, has submitted a letter and informed that the firm willing to carry out the work as per approved rate of Headquarter with 15% enhanced rate on approved rate being the carriage and movement charges.

PP/15

Submitted pl.

16/3/05

Applicant

N/abare

As discussed with Director the Party submitted his willingness to carry out the work as per approved rate of Hrs. Union for approval admissible for item no 23, 600 as fixed by the Director

through F.A.O.

17/3/05

18/3/05

PL

Let is the
Approved
Agreement

③

Certified to be true Copy

Rakhee Srauthia Chowdhury
ADVOCATE

Mr. At. Pern. Deogn

15%: War and War
The proposed draft appears
to be high and hence, it
is proposed to submit the
same to 10%: Subject to
Approval of C/A.

Submitted

Chase
10/3/05

Approved

Accepted

24/3/05

Order - Done

A fair draft submitted
below for signature pl.
24/3/05
Received
24/3/05

Copy issued to all concerned.
24/3/05

(4)

Certified to be true Copy

Rakhee Siraunia Chowdhury
ADVOCATE

31 - 17 -

re/ from Pre-Pages

be required for admin. approval as the work will be done as per Postbox marked 'A' may Please be seen through

~~FAD~~

~~FAD~~

~~Postbox
31/3/06~~

Funds are available under Non Plan (works Repair & maintenance). These can be considered for release as advance for realization proposes subject to all codal formalities. 30/3/06

~~Director~~

Since fund works RJP (work repair & maintenance) is available and also since RJP fund for Tripura has not been released, following works are approved:

Page 102 - Sl. no. (3), (5), (6, 123) & 2 (2)

Page 103 - Sl. no. (1) & (2)

~~AKHPS~~

~~AKHPS
31/3/06~~

For both the works as indicated, an amount of Rs 17.00 (Seventeen) lakhs is also sanctioned by I.D.C.T. Who may complete the work after observing all codal formalities, copy of the order be given to EPO cell.

30/3/06

Order above

A fair draft submitted below for signature please.

31/3/06
Postbox
31/3/06

Certified to be true Copy

Rakhee Sirauthia Chowdhury
ADVOCATE

Order issued to all -18-
concerned.

6/3/66

P/116C

NO. RC/TC(C-4)/2003/part/8632 dt 20.2.06 from T.D.
T/c

P/116C

Sub:- Carryout some carpentry
work - seq.

In continuation to the office
vide letter No. REC/C 20/2004/105
dt 23.1.06, the Joint Director
has submitted a reply at
page 116/c and informed that
the work will be done under
the provision of Non-Plan Budget
and also requested for administrative
approval to carryout some following
carpentry work, may be seen at page 116/c

① As per proposal at page 103/c
for an amount of (Rs. 19,13,500.00 + 10% extra
charges)
$$= \underline{\underline{\text{Rs. 21,04,850.00}}}$$

② As per proposal at page 103/c
for an amount of (Rs. 5,89,500.00 + 10% extra)
$$= \underline{\underline{\text{Rs. 6,48,450.00}}}$$

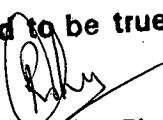
Total ① + ② = Rs. 27,53,300.00

~~Submitted~~ Please
6/3/66 N/abare

Please refund our letter at 103/c and
accordingly reply at P/116 may please be seen as

⑥

Certified to be true Copy


Rakhee Siraftia Chowdhury
ADVOCATE

The Instt Director, Tripura centre has submitted 4 (four) w/s bills of m/s Bildtech, Shillong, details are given below for carryout some carpentry/furnishing work at the following section of Tripura centre as per approved rate of Hrs. for an amount of Rs. 6,40,867.00 (Rupees Sixty Lacs Forty thousand eight hundred Eighty Seven only, together with administrative approval, may be seen.

Sl. No.	Particulars	Bills & Date	Amount	Dr. Name
			Rs.	Rs.
1.	Display Board & 426 & 16.6.06 working table	426 3 - 1 - 44,359.00	44,359.00	AB's Room
2.	— & —	427 3 - 1 - 2,04,835.00	2,04,835.00	Exhibition Room
3.	working Table & 428 4 - 1 -	2,10,359.00	2,10,359.00	Administrative Staff
4.	Partition	429 3 - 6 - 1,81,314.00	1,81,314.00	Front of hall of committee room
	Display Board & wall paneling			
				Rs. 6,40,867.00

Submitted please.

22/8/06

N/above

The T.O. Tripura submitted the bill as stated above for Rs 6,40,867/- in co-ordinate with the Stock entry from the Centre for Scrutiny/Concurrence. Please before sanction the amount.

Sh. P. Ghosh

Examiner

23/8/06

Dr. examine
23/8/06

Not bill was not
Paid

⑨

P.T.

Certified to be true Copy

Rakhee Siraithia Chowdhury
ADVOCATE

Wu may be used
Vto on to Dr. maximum sum
Bill b. or. to thing nothing
ord. Bill and approved by
C.P. at P. P. A. on P. 30
and Dr. Wu mit.

Wu will

~~Recd
23/8/05
A.A.C. (s/o)~~

~~23/8~~

Note above

The bill has verified and
corrected as per terms & condition
w/5 in accordance w/5 the administrative
approval issued from this office
letter No. RC(S) 20/2004/76 ~~dated~~
dated 9.11.05 at page 76/c.

Hence, extra expenditure
of payments need not be carried
since extra payment has
not been expressed in the
order.

Submitted please.

~~23/8/05
A.A.C. (s/o)~~ 80 copies 62/2004/76

Certified to be true Copy

Rakhee Srauthia Chowdhury
ADVOCATE

If it is not Unchallenged,
how I from Mr. Can ignore
the decision of the CTA, maturity
May 31. 31. placed before
CTA for order.

Unchallenged.

Ans
28/8/02

AAO(S)
R.K.D.

AAO(S)

AAO

1. Whether any financial commitment were made such as total cost of work at the time of giving supply / work order.
2. A copy of approved Rate may be furnished.

True
29.8.02

Endorsement above

1. Financial commitment were not made from this office such as total cost of work at the time of administrative approval.
2. approved rate & the copy may be seen at page 141/cto 145/c.

Submitted please.

Certified to be true Copy

Rakhee Siraauthia Chowdhury
ADVOCATE

VERIFICATION ROLL

(To be filled in by Govt. Servant/candidate)

1. Name and caste and Nationality & State. *Prabhat Ch. Deb, Bengalee, Hindu (Hindi) Meghalaya*

2. Father's name occupation and residence. *Prabhat Ch. Deb Govt. Servant Upp. Laban, Shillong - 4*

3. Address (Vill., P.O., and Distt.)

(a) Permanent *Valley View*
Vill. *Upp. Laban*
P.O. *Laban*
P.S. *Laban*
Distt. *Khasi Hills*
State *Meghalaya*

(b) Present *Vill. Agril. Engg. division I.C.A.R.
Amrit Bhawan
P.O. Laban 793004
P.S. Laban
Distt. Khasi Hills
State Meghalaya
Shillong*

(c) For the past four years. *21-6-62
(As per H.S.L.C. examination)
Passed H.S.L.C. Exam in 1980 from Rube Rekha Parishad Night High School, Shillong - 1
Single (Unmarried)
NIL*

4. Date of birth (if passed matriculation according to the certificate) or if not School Leaving Certificate. *21-6-62*

5. Educational qualification and name of School and Class, where educated from Class IX upward and place or places of residence. *Passed H.S.L.C. Exam in 1980 from Rube Rekha Parishad Night High School, Shillong - 1*

6. Whether married or not. *Single (Unmarried)*

7. Name, address and occupation of brothers, Father's and Father's in-law and Brothers in-law as the case may be. *NIL*

8. Whether applicant has been accused or convicted in any criminal cases. *NO*

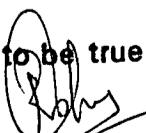
9. Whether held any appointment previously, if so, what appointments and why left that (copies of certificate if any in support of such appointments should be attached). *NO*

10. Name and relation (if any) in Govt. service and if so the appointments held by them (only father, father's brother and his brother need be mentioned). *Father - Prabhat Ch. Deb
officer of the Deputy Director of Supply
Gauhati, Assam*

11. Name and address of three (3) respectable persons not related to the applicant who know the applicant.

- 1) *D. N. Banerjee, Upp. Laban, Shillong - 4*
- 2) *Kali Dutt, 1. Lane 1, Lat. Rehing, Shillong - 4*

Certified to be true Copy



Rakhee Siraauthia Chowdhury
ADVOCATE

12. Whether applicant/his parents or his wife owns any landed property either solely, jointly or banami. If so the approximate amount of value and where situated.

13. Whether applicant/Govert. Servant held any political association, if so give details.

Not applicable

Nil

I solemnly declare that the above information, to the best of my knowledge and belief, is correct.

Prayeth for sub ✓

Signature of applicant/Govert. Servant to be made in presence of Administrative Officer, ICAR, Shillong/Joint Director Centre.

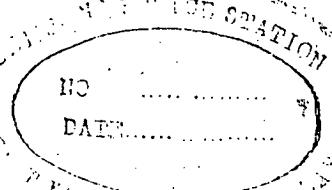
Signed in presence.

REPORT OF VERIFICATION.

The report should say whether the applicant/Govert. Servant statement contained above are correct. Whether he is a man of good character and whether he or his relations have taken prominent part in political associations.

I beg to report that I have locally and personally verified the info of the applicant and found to be correct. Consulted the available records of P.S. and found nothing criminally against him.

Submitted for favours of your kind info and your pse.



(3)

*Y/12
10/12/82*

CL/15

ANNEXURE D
Colly

Dated Shillong.

The 26/12/1982

1982

To:-

The Assistant Administrative Officer (Adm.)
ICAR Research Complex for NE & H. Region
Cedar Lodge, Jowai Road, Shillong-793005.

Sub:- 4 Yearly LTC for the block of 1982-85.

Sir:-

I have the honour to request you kindly to grant the amount of Rs.2820.00 as L.T.C. advance for the block of 1982-85 as I am going to visit Puri (Orissa) with my family members (list enclosed) in connection with "Bharat Darshan".

This is for your information and necessary action please.

Yours faithfully,

(B)

(PRAJESH KUMAR DEB)

Messenger

Library Secy

Certified to be true Copy

Rakhee Sirauthia Chowdhary
ADVOCATE

Family Declaration

The following are the members of my family who are dependent on my income.

Members

	Age	Relation
1. Sri Prajeet Kumar Deb	24	Self
2. Smt. Sudha Rani Deb	45	Mother
3. Miss Mira Deb	20	Sister
4. Miss Sunita Deb	16	"
5. Miss Bharati Deb	14	"
6. Miss Rubi Deb	12	"

The members of ~~my~~ my family actually residing with me at Shillong.

✓ Prajeet Kumar
Messenger
Library Sec

*Prajeet Kumar
Messenger
Library Sec*

Certified to be true Copy

Rakhee Sirauthia Chowdhary
Rakhee Sirauthia Chowdhary
ADVOCATE

To,

The Administrative Officer
ICAR Research Complex for NEH Region,
Barapani, Umroi Road, Shillong-793 103.

Sub : LTC/Medical claims etc

Sir,

Dated 11/15 Sept 1991

With reference to the subject cited above, I am to furnish herewith the income certificate of my dependent family members from the competent Authority and family declaration ~~in triplicate~~, as desired for further necessary action at your end. I also declare that my home town is at Shillong.

Yours faithfully,

Enclo : As above

W/9/91 (R) *Prakash K. Deb*
Messenger

Copy to :-

1. The Asstt. Admn. Officer (Estt.), ICAR Research Complex for NEH Region, Barapani, Umroi Road, Shillong alongwith the income certificate of dependent family members and family declaration.
2. The Finance & Accounts Officer, ICAR Research Complex for NEH Region, Barapani, Umroi Road, Shillong alongwith the income certificate of dependent family members and family declaration certificate.

Prakash K. Deb
Date 19/9/91

Certified to be true Copy

Rakhee Siraustia Chowdhury
ADVOCATE

DECLARATION

Proforma for declaration regarding wholly dependant family members of the Complex employees.

I Shri/Smti. PRAJESH KR. DEB. now
working as NEBBENGER in ICAR Research
Complex/Centre SAILONG do hereby declare
and affirm that my wholly dependant family members are
as listed below:

<u>Sl. No.</u>	<u>Name</u>	<u>Relationship</u>	<u>Age</u>
1)	<u>SMTI S. R. DEB.</u>	<u>Mother</u>	<u>52</u>
2)	<u>Smti. BEHARATI DEB</u>	<u>Sister</u>	<u>19</u>
3)	<u>Smti. SUNITA DEB</u>	<u>Sister</u>	<u>21</u>
4)	<u>Smti RUBI DEB</u>	<u>Sister</u>	<u>14</u>
5)			
6)			
7)			
8)			
9)			

This is also to declare that monthly income of parents from all sources does not exceed Rs. 500/-. A certificate to that effect from the competent authority is enclosed alongwith.

This declaration is true to the best of my knowledge and belief and no information/particulars has been suppressed and or concealed.

Date:

Full Signature:

Designation:

4
Certified to be true Copy

Rakhee Siraftia Chowdhury
ADVOCATE

(Through Proper Channel)

The Administrative Officer,
ICAR Res. Complex for N.E.H. Region,
Umroi Road, Umiam, Shillong.

Sub : Submission of family declaration - reg.

Madam,

I have the honour to inform you that I am enclosing herewith a copy of my family declaration for your needful.

With kind regards.

Yours Faithfully,

Enclo: As stated

(Prajesh Kr. Deb)
Sr. Clerk

Copy to :-

1. The A.A.O. (E), ICAR Res. Complex for NEH Region, Umroi Road, Umiam for information.

(Prajesh Kr. Deb)

A.O.
Forwarded for
needful. B. Steeran
11/11/03

JP
He may be asked to submit
fresh declaration as per prescribed
format. Deb
11/11/03

Certified to be true Copy

Rakhee Srauthia Chowdhury
ADVOCATE

DECLARATION

I Shri Prajesh Kumar Deb now working as Sr. Clerk in ICAR Research Complex Umiam do hereby declare and affirm that my wholly dependant family members are as listed below.

<u>Sl. No.</u>	<u>Name</u>	<u>Relationship</u>	<u>Age</u>
1.	Shri Prajesh Kr. Deb	Self	40
2.	Smti Sudha Rani Deb	Mother	65
3.	Smti Bharati Deb	Sister	30

This is also to declare that monthly income of my dependent family from all sources is nil.

This declaration is true to the best of my knowledge and belief and no information/Particulars has been suppressed and concealed.

Date : 11-11-03

Prajesh Kr. Deb
Full Signature:
Designation: Sr. Clerk

Certified to be true Copy

Rakhee Sirauthia Chowdhury
ADVOCATE

To.

✓ The Asstt. Administrative Officer (Admin.),
ICAR Research Complex for NEH Region,
Umroi Road, Umiam, Shillong,
Meghalaya.

(THROUGH PROPER CHANNEL)

Sub:- Submission of Nomination, Family Declaration
and Divorce suit- reg.

Ref:- NO.RC(P) 46/82/Vol.II dated 30.3.04

Sir,

With reference to the letter on the subject cited above,
I have the honour to inform you that I am submitting herewith
the following information for your necessary action.

1. Nominee

My wife Smti Pratima Deb (Meni) is nominee for all kinds
of nominations e.g. DCRG, GPF etc.

2. For fresh family declaration a copy is enclosed as
Annexure- I.

3. A copy of Divorce suit is enclosed as Annexure - II.

With kinds regards,

Yours Faithfully,

Dated 30th Sept., 2004.

(Prajesh Kumar Deb
Sr. Clerk

Copy to :-

1. The FAO, ICAR, Umroi Road, Umiam, for information.
2. The A.A.O. (E), ICAR, Umroi Road, Umiam, for information and
necessary action please.

(Prajesh Kr. Deb)

JP
Pl. Put up
01/10/04

3123
01/10/04

Certified to be true Copy

Rakhee Srauthia Chowdhury
ADVOCATE

Proforma for declaration regarding wholly dependant family members of the Complex employee.

I Shri Prajesh Kumar Deb now
working as Sr. Clerk in ICAR Research Complex/Centre
Umiam do hereby and affirm that my wholly dependant family
are listed below:

<u>Sl. No.</u>	<u>Name</u>	<u>Relationship</u>	<u>Age</u>
1.	Smti. PRATIMA DEB	Wife	24
2.	Smti. SUDHA RANI DEB	Mother	66
3.	Smti. BHARATI DEB	Sister	30

This is also to declare that monthly income of above family members from all-sources : nil.

This declaration is true to the best of my knowledge and belief and no information/particulars has been suppressed or and concealed.

Date: 30.9.04

Full Signature : Prajesh K. Deb
Designation : Sr. Clerk

Mem. No. Re(P) 46/82 (vol. II). Dtd. 30th October, 2004.

Copy for information & necessary action to :-

1. The A.A.O (E), ICAR, Umiam.
2. The F.A.O., ICAR, Res. Complex, Umiam.

*Shri
30/10/04
(G. Sridha)*

Asst. Administrative Officer (A)

(S)

Certified to be true Copy

*Rakhee Srauthia Chowdhury
ADVOCATE*

APPLICATION FOR LTG ADVANCE

1. Name of the Official (in Block Letters) **SHRI PRAJESH KUMAR DEB**
 2. Designation & Staff No. **UDC and NERC 475**

3. Permanent or Temporary **Permanent**
 (If not permanent, Surety Bond from a permanent official to be enclosed with the Application)
 4. Unit office to which attached **RICAR, Store Section, Umiam.**

5. Basic pay in the present Grade **Rs. 4500/-**

6. Date of appointment in the Department **1st July 1982**

7. Place of Hometown as declared in the Service Book
 (i) Hometown **Calcutta**
 (ii) Anywhere in India **Calcutta**

8. Particulars of LTC availed for previous Block years
 Block Year 2002-2005
 (i) Hometown **Calcutta**
 (ii) Anywhere in India **Calcutta**

9. Block year for which now proposed to avail **2002-2005**

10. Whether avails CL or EL (Nature of Leave to be mentioned) **E.L.**

11. Whether LTC advance already taken has been settled in full or pending settlement, Date of settlement of the previous case **Calcutta**

12. Proposed date of onward journey **15-1-06**

13. Probable date of return journey **3-2-06**

14. Particulars of the family members availing the facility

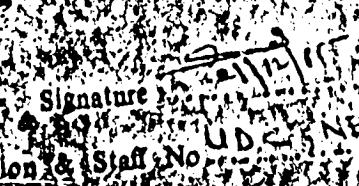
Sl. No.	Name	Relationship	Age	Whether dependent
1.	Shri Prajesh Kr. Deb	self	43	yes
2.	Smti. Pratima Deb	wife	26	yes
3.	Smti. S. R. Deb	Mother	65	yes
4.	Smti. Bharati Deb	sister	31	yes

15. Class of accomodation proposed to be availed in the **AC3-tier**
 Railway Journey

16. Amount of advance required **Rupees Seven thousand four hundred fifty four**
Rs. 7454/-

17. The office in which the spouse of the G.S. is employed

18. If the spouse is eligible for LTC or similar concession from his employer, whether declaration has been given that he/she will not claim LTC him self/herself and family from his/her office

Signature Designation & Staff No. **UDC and NERC 475**

Certified to be true Copy


Rakhee Srausti Chowdhury
ADVOCATE

NO. RC(P) 46/82(Vol.II) Dated Umiam, the 12th May, 2006.

26

OFFICE NOTE

With reference to his letter dtd. 27-3-06 and 21-4-06, a xerox copy of the pages 222 & 223 of Swamy's Hand Book for the year 2006 containing the "Eligibility" criteria for availing LTC are attached herewith for guidance.

Thus, he was not allowed LTC for his mother and sister. It is also informed that for the purpose of LTC and medical claim, parents are considered as single unit and when the father is not dependant, the mother will be deemed to be dependent on father.


(G. Sinha)
Asstt. Administrative Officer(A)

To

Shri P.K. Deb,
U.D.C.,
ICAR Res. Complex,
Umiam.

19

Certified to be true Copy


Rakesh Srivastava Chowdhary
ADVOCATE

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
UMROI ROAD, UMIAH-793103, MEGHALAYA

No.RC(F)46/82.Vol.II.

Dated Umiam, the 18th November, 2006

To

✓ The Under Secretary (Admn),
Indian Council of Agricultural Research
Kriksi Bhavan,
New Delhi.

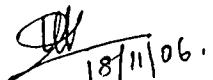
Sub:- Clarification/advice on LTC claim by Shri Prajesh Kumar Deb, U.D.C. -
Reg.

Sir,

With reference to the above, I am directed to inform that Shri Prajesh Kumar Deb, U.D.C. of this Institute applied LTC for self, mother and sister. The Office has passed his claim for self and wife only since his father is not dependent on him, and his mother & sister is living with his father, away from his place of residence. However, he is not satisfied with the above decisions and wants clarification from the Council itself, though Finance & Accounts Officer has given his concurrence in favour of the decision taken. Hence, it is requested to kindly clarify/advice on the above at the earliest.

Thanking you,

Yours faithfully,


18/11/06
(M.J.Karmawphlang)
Sr. Administrative Officer

copy to :-

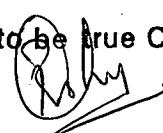
Shri P.K.Deb, U.D.C (Store Section, ICAR Research Complex for NEH Region, Umiam.

Rkd/-



(24)

Certified to be true Copy


Rakhee Siraustia Chowdhury
ADVOCATE



Indian Council of Agricultural Research -35-
Krishi Anusandhan Bhawan - II, ANNEXURE - F₂
Pusa, New Delhi - 12

F.No.21-10/07-IA.II

Dated the 29 Jan.'07

To

The Sr. Admn. Officer,
ICAR Research complex for NEH Region,
Barapani.

Sub: Clarification/advice on LTC claim in respect of Shri Prajesh Kumar Deb, UDC.

Madam,

This has reference to your letter No.RC(P)46/82-Vol.II dated 18.11.06 on the above mentioned subject. A copy of the letter received from Shri Deb addressed to Under Secretary (NRM) dated 27.11.06 is also enclosed. The matter may be examined at the Institute level strictly as per the relevant rules and also consider the facts stated by Shri Deb in his letter and matter settled/reply furnished to him. In case still any doubt exists the same may be referred to the Council alongwith the comments of F&AO.

p/89

Yours faithfully,

K.C. Joshi
(K.C. Joshi)
Under Secretary (NRM)

Encls: As above.

Letter.com

614
12/2/07

Appt(A)
Pl. put up
12/2/07

JP
12/2/07

Diary Record (Admn)
No. 9191
Date 12/2/07
ICAR Research Complex
NEH Region, Umiam Meghalaya
66

Certified to be true Copy

Rakhee Siraauthia Chowdhury
ADVOCATE

FEEDBACK

Traffic problem in Tura

Sir,
I would like to express my anguish at the ongoing traffic problems in Tura town areas. Inspite of the narrow roads and the ever increasing number of vehicles, it has been noticed that the buses, and trucks belonging to the BSF & CRPF, Altos and other privately owned vehicles are often parked carelessly on these narrow roads leaving only a small portion of the road for other moving vehicles. In the Nakam Bazaar area of Tura particularly, it has been observed that the huge trucks, buses and armored vehicles belonging to the armed forces like the BSF, CRPF,etc, are often parked without any concern for other vehicles.

Since these problems have been continuing for so long, will it not be good if the District Administration bring about a change and show what living in a civil society is all about. After all, they are all human beings like us!!

Daniel Longbow Rangsa Marak
Tura
E-mail: danielrangsa@yahoo.com

Arati murder case

Sir,
Through your esteemed daily I would like to know from the concerned departments about the progress of Arati's murder case, a St Peter Higher Secondary School's student who was murdered about two months ago. When her decomposed body was found after a week of the gruesome incident near Anjalee, the government had jumped to make tall promises to nab the culprits at the earliest possible and suitably rehabilitate the deceased's parents. But the unfortunate thing is this, till date no such things have been done.

Why there is so much dilatory in dealing with the case is something to do with the person whom the responsibility has been entrusted. No wonder, any cases from Lumdiengjri Police Station (Gärikhana) are bound to face this fate. The station is reputed for being chaired by a less dutiful and incompetent officer in-charge who hardly remains present in the office. The public whoever visit this police station to redress their grievances must have suffi-

cient boldness to face its bitter chief who instead of comforting the visitors at pained frightens them with his rough behavior. One definitely regrets that the case of such enormity has been entrusted to one of the most irresponsible police officer. It is therefore requested to the concerned higher police authority to do the needful as soon as possible.

A concerned citizen
Shillong-2.

Clarification

Sir,
This is in reference to your feedback column *Corruption in Appointment* in your esteemed daily on 26 June, 2006 purported to have been written by me. I, D. Kumar, like to clarify that no such letter has been drafted by me. In this connection I like to inform you that some other persons must have made this effort to malign my reputation.

D. Kumar,
ICAR, Barapani

Meghalaya Guardian, Thursday June 29, 2006

Certified to be true Copy

Rakhee Strautia Chowdhury
ADVOCATE



INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
MIZORAM CENTRE: KOLASIB: 796 081: MIZORAM



NO. RC(MZ)/Estt./591 782

Dated 13.12.2006

To

The Assistant Administrative Officer(Recruitment Cell),
ICAR Research Complex for NEH Region,
Umroi Road, Umiam, Meghalaya-793103.

Sub: Request for providing present staff strength/position of this Centre-Reg.

Sir,

With reference to the above cited subject, I am to inform you I am facing lots of problems in discharging my day to day responsibilities/duties because of very less staff posted at this Centre. I raised this issue in various meetings and requested for posting of staff to this centre for smooth functioning. Further, I am to add here that because Mizoram centre doesn't have any KVK also so that I can get help from KVK Staff.

I, therefore, request you to kindly provide the information regarding the sanctioned posts in different cadre i.e. Administrative, Technical, Supporting staff for this centre so that I can pursue this matter with the authority for filling up the same at an early date by transfer.

Yours faithfully,

(K.A. Pathak)
Joint Director

Copy to:

(I) The Director, ICAR Research Complex for NEH Region, Umiam, Barapani, Meghalaya
for kind information.

(II) Administrative Officer, ICAR Research Complex for NEH Region, Umiam, Meghalaya
for kind information and necessary action.

64/97/102
Certified to be true Copy

Rakhee Siraunia Chowdhury
ADVOCATE

SANCTIONED STRENGTH AND STAFF IN POSITION OF ICAR RESEARCH COMPLEX FOR
NEH REGION, MIZORAM CENTRE (KOLASIB) AS ON

Sl No.	Name of post	Sanctioned	Filled	vacant	
R.M.P					
1	Joint Director	1	1	-	
	Total	1	1	-	
Scientitic					
1	Sr. Scientist	-	-	-	
2	Scientist	10	3	7	
	Total	10	3	7	
Technical Category -III					
1	Farm Manager	1	1	-	
	Total	1	1	-	
Technical Category II					
1	Technical Asstt.	1	1		
2	Livestock Manager	1	1	1	
	Total	2	2	1	
Technical Category -I					
1	Laboratory Asstt	2	2		
2	Fieldman	11	3	8	Adjusted at Tripura
3	Stockman	2	-	2	
4	Pump Operator	1	1		
5	Asstt. Meteorologist	1	1		Posted at Hqrs.
6	Mechanic	1	-	1	
7	Driver/Tractor Driver	3	2	1	
8	Electrician	1	-	1	
	Total	22	9	13	
Administrative					
1	Asstt. Administrative Officer	2	-	2	
2	P.A.	2	2	-	
3	Asstt	2	1	1	
4	UDC	2	-	2	
5	Steno.Gr.III	-	-	-	
	Total	8	3	5	
Supporting Staff					
		8	8	0	

Certified to be true Copy


Rakhee Siraithia Chowdhury
ADVOCATE

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
UMROI ROAD, UMIAM-793103, MEGHALAYA

No.RC(G)04/06

Dated Umiam, the 12th Jan, 2007

ORDER

In the interest of work, Shri P. K. Deb, UDC presently working in Store Section is hereby transferred to ICAR Research Complex for NEH Region, Mizoram Centre, Kolasib with immediate effect until further orders in public interest.

He shall stand relieved from this office w.e.f. 20th of January, 2007(AN).

This issues with the approval of the Director.

JK
12/1/07
(M. J. Kharmawphlang)
Sr. Administrative Officer

Copy for information & necessary action to :

1. Shri P. K. Deb, UDC, ICAR Research Complex for NEH Region, Umiam.
2. The Joint Director, ICAR Research Complex for NEH Region, Mizoram Centre, Kolasib, Mizoram.
3. The Finance & Accounts Officer/Asstt. Admin. Officer (E)/Asstt. Admin. Officer (S)/Recruitment Cell.
4. PA to Director, ICAR Research Complex for NEH Region, Umiam for kind information of the Director.
5. Personal file of Shri P. K. Deb.
6. Service Book of Shri P. K. Deb.

O/C

Rakhee Sirauthia Chowdhury
Certified to be true Copy
Rakhee Sirauthia Chowdhury
ADVOCATE

(L)

ANNEXURE - K

(TYPED COPY)

Date : 27.02.2007

To,

The Administrative Officer,
ICAR Research Complex for NEH Region
Barapani

Subject : Clarification regarding O.A. No. 15/07 (Page 5 & 6) reg.

Reference : Your letter No. RC (G) 04/06 dated 26.02.2007

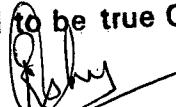
Sir,

With reference to the above mentioned subject, I have gone through the page No. 5 & 6 of O.A. No. 15/07 provided by you for clarification. I was astonished and shocked to here my name mentioned by the applicant Sri P.K. Deb, UDC (Store Section), as we hardly had any type of communication between us and more specifically on the alleged point, we never ever had any sort of discussion between us.

I do hereby reject the alleged point, which has been falsely mentioned in page para 4.4 at page 6 of O.A. No. 15/07.

Submitted for information please.

Thanking you,
Yours faithfully,
Sd/- Illegible
27/2/07
(B. P. Bhatt)

Certified to be true Copy

Rakhee Srautia Chowdhury
ADVOCATE

No. RC (A) 29/81

Dated Shillong, the 14th July 1982.

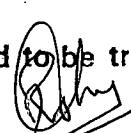
MEMORANDUM

The Director, ICAR Research Complex for N.E.H. Region is pleased to offer a temporary post of ~~Passenger~~ to Sh. Prakash Kr. Deb on the following terms and conditions:-

1. The appointment will be for a period of two years in the first instance.
2. The post is temporary and carries the pay scale of Rs. ~~1053-220~~ ¹⁰⁵³⁻²²⁰ On appointment he/she will draw at the initial stage of Rs. ~~196/-~~ in the above time scale. He/she will be entitled to draw such allowance (dearness allowances and house rent allowances etc) as are admissible to other staff of corresponding grade and status under the I.C.A.R.
3. Grant of pay, leave travelling and other allowances is regulated by the Indian Council of Agricultural Research, mutatis mutandis in accordance with the principle of Fundamental and Supplementary Rules and such other rules and orders as are issued by the Government of India, from time to time.
4. The post is non-Government, but pensionable. He/She will be governed by the Indian Council of Agricultural Research pension Rules which are based, mutatis-mutandis on the liberalised Pension Rules of the Government of India, as amended, clarified or modified, from time to time.
5. His/Her headquarters will be at ~~Shillong~~ for the present. But he/she will be liable to serve in any Institute and or office of the Indian Council of Agricultural Research, located anywhere in India.
6. He/she will be on probation for a period of two years from the date of his/her joining the post, which may be extended at the discretion of the competent authority. Failure to complete the probationary period to the satisfaction of the competent authority will render him/her liable to be discharged from service.
7. His/her appointment may be terminated without assigning any reason by one month's notice either side under Rule 5 of the Central Civil Service (Temporary Service) Rules, 1965, as applicable, mutatis-mutandis, to the employees of the Council. During the probation, however, the appointing authority may terminate the service of appointee without prior notice without the payment of salary in lieu thereof.
8. His/her appointment will be subject to the condition that he/she is declared medically fit for service by the prescribed medical authority.
9. On appointment, he/she will be required to take an oath of allegiance to the Constitution of India or make solemn affirmation to that effect, as in the form enclosed.

...2/-

Certified to be true Copy


Rakhee Sisrauthia Chowdhury
ADVOCATE

10. He/She will submit a declaration regarding his/her marital status, as in the form enclosed. In the event of his/her having already more than one wife living or being married to a person having already another wife living the appointment will be subject to his/her being exempted from the enforcement of the requirement in this behalf.

11. His/her appointment under the Council will be considered to be a fresh appointment, and he/she will not be entitled to any travelling and/or conveyance allowance for joining the post at Shillong.

12. Other conditions of service will be governed by the relevant rules and orders which may be issued from time to time by the I.C.A.R.

13. He/she should state whether he/she is serving or is under obligation to serve another Central Government Department, a State Government or Public Authority. He/she should also state whether he/she applied or is being considered for posts elsewhere.

14. If any declaration given or information furnished by him/her proves to be false or if he/she is found to have wilfully suppressed any material information, he/she will be liable to removal from service and such other action as may be deemed necessary.

15. He/she should produce the original certificates in respect of his/her educational qualifications and age.

In case the post is acceptable to Sh. P.K. Deb on the terms and conditions mentioned above, he/she should intimate his/her acceptance to the Director immediately and report for duty to the Scientist I/c (Agril. Engg.), ICAR Res. Complex for N.E.H. Region, Shillong under Intimation to the Asstt. Admin. Officer(A), ICAR(Res.) after obtaining the medical fitness certificate from a medical officer not below the rank of Asstt. Surgeon of any Government Hospital within 15 days from the date of issue of the offer, failing which the offer will automatically stand cancelled. He is temporarily attached with the Agril. Engineering Section until further orders. Interim seniority will be decided later. The appointment will be terminated if satisfactory police verification is not received.

(A.R. DAS)
Asstt. Administrative Officer
(Admn.)

Memo No. RCR) 29/ 81 Dated Shillong, the 14th July, 1982.

Copy forwarded for information and necessary action to:-

1. Sh. Prakash Kumar Deb, Unskilled casual employee, Agril. Engg. working Section, ICAR Res. Complex for N.E.H. Region, Shillong.
2. Accounts Officer, ICAR Res. Complex for N.E.H. Region, Shillong. He has been appointed against one of the mentioned posts of supporting staff under 6th Plan(Main Scheme) of Shillong centre.
3. Scientist I/c(Agril. Engg.), Anrit Bhawan, ICAR Res. Complex for N.E.H. Region, Shillong.
4. Subdt(A) for his P/P.
5. Cashier.

(A.R. DAS)
Asstt. Administrative Officer
(Admn.)

(2)



ICAR Research Complex for NEH Region
Umroi Road, Umiam, Meghalaya-793 103
Telephone 0364-2570257 Fax 0364- 2570363



No.RC(G)04/06

Dated 19th January, 2007

To

Shri M.Kharphuli
President ICAR EA
Umiam

P.111/C

Ref: Your letter No. ICAR EA/07/01 dated 16.1.07

Sir,

In reference to your above letter, the office administration desire to know the following from you

1. When and where this association with Shri Prajesh Kumar Deb as Organizing Secretary was formed?
2. When the earlier executive committee of the association was dislodged?
3. When and with how many members the present association has been formed, the list of members with their signature and date of formation to be intimated.
4. Whether earlier association continues or this is a new association?
5. As far as we know Shri Prajesh Kumar Deb had resigned long back as Organizing Secretary of the earlier association

As you are aware, ICAR is an autonomous body and the grievances etc of the employees are addressed through following means:

1. InstituteJoint Staff Council
2. Grievance Cell
3. Right to Information Act (now)

Pending the information which would be examined in the office after we receive the same, the transfer order of Shri Prajesh Kumar Deb stands.

Your reply to the above may be submitted by 24th January, 2007.

DK
19/1/07.

(M.J. Kharphuli)
Senior Admn. Officer

Certified to be true Copy

Rakhee
Rakhee Sarabaria Chowdhury
ADVOCATE

-44-

ICAR EMPLOYEES' ASSOCIATION (REGD) (11)

ANNEXURE-N

M. KIARPHULI
President

OMROI ROAD, UMIAM
SHILLONG-793 103
MEGHALAYA.

Ref.: ICAREA/07/03

Date: 22nd Jan. 2007.

To,

The Director,
ICAR Research Complex for NEH Region,
Umroi Road, Umiam,
Shillong, Meghalaya.

28/1

Sub:- Transfer of the Organising Secretary of the Association
to Mizoram Centre aimed at disorganising the Association.

Ref:- Your Senior Administrative Officer's letter No. RC(G)04/06
dated the 19th Jan., 2007.

Sir,

This Association has been dismayed and taken aback by the tone and tenor of the letter of your Senior Administrative Officer under reference. We wonder whether an officer subordinate to the head of the office, can write to an Association, on her own authority and decision, on a policy matter concerning the transfer of the Organising Secretary of the Association. We had written to you against the transfer of our Organising Secretary from Umiam to Mizoram and what was needed to be communicated to us was your decision on our resolution dated 16-01-07.

2. Instead of communicating your decision on our resolution dated the 16th January 2007 by a rule-based speaking order, your Senior Administrative Officer has called for from us information on a plethora of points mentioned by her in her letter under reference and has directed us to reply by 24th January, 2007. We would like to make it clear that we, in our capacity as an Association, are neither an employee of, nor obliged if you suitably advise your officer for the future to refrain from harboring the anti-association syndrome which she has displayed in her letter.

Contd page..... 2/-

Certified to be true Copy

Rakhee Sisrauthia Chowdhury
ADVOCATE

3. Under Articles 19 (c) of the constitution of India, all citizens have the fundamental right to form Associations or Unions and this right cannot be Questioned, directly or by implication, or sought to be nullified by collecting information like those mentioned in the letter of your Senior Administrative Officer under reference. However, for your kind information we have the honour to say that our Association is registered with the Meghalaya Labour Commissioner. In this connection, it is to point out that when the Association has officially informed that Shri Prajesh Kr. Deb is our Organising Secretary, your Senior Administrative Officer could not have used his private information to Question this fact. We feel that it is time that the difference between official and private information is recognised. We are inclined to expect that your honour won't like to press the letter of your Senior Adminn. Officer and retain our Organising Secretary by revoking his transfer order in the best interest of employer-employee relation.

Yours Faithfully,

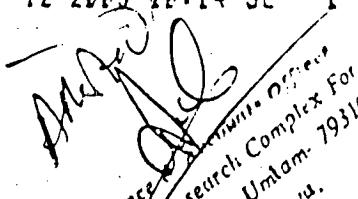
M. Kharphuli

(M. KHARPHULI) T-6
President, ICAREA, Umiam, Shillong.

(3)

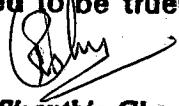
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 Finance Account Officer
 C.A. Research Complex For
 Account, Umiam, 793103

(10)

Certified to be true Copy


 Rakhee Sisrautia Chowdhury
 ADVOCATE

4 MAY 2007

गुवाहाटी न्यायालय
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

2^o
Filed by the applicant
through M. Datta, advocate
on 3.05.07

In the matter of:-

O.A. No. 15 of 2007

Shri Prajesh Kumar Deb

..... Applicant.

-Vs-

Union of India and Others.

..... Respondents.

Rejoinder -AND-

In the matter of:-

Rejoinder submitted by the applicant in
reply to the written statements
submitted by the Respondents.

The humble applicant above named most humbly and respectfully state as
under:-

1. That the applicant categorically denies the statements made in para 5 (i),
(ii), (iii), (iv) and (v) of the written statement and begs to offer his para
wise submissions in seriatim as follows:-

(i) The ICAR's Redressal Forum, the Institute's Joint Council,
Grievance Cell and the recently enacted Right to Information Act,
mentioned by the Respondents are not Associations or Unions of
Employees within the scope, ambit and meaning of Article 19 (c) of
Constitution of India. They are not the forum of the employees and
workers for collective bargaining on causes common to the employees and
workers and their existence can neither substitute nor form any alternative
to the ICAR Employee's Association (for short ICAREA) which is an

Association of employees and workers within the scope, ambit and meaning of Article 19 (c) of the Constitution of India. The applicant is the Organising Secretary of the said ICAREA and is lawfully entitled to the safeguard, protection and privileges of any Association of employees in his capacity as the office bearer of that Association.

The ICAREA was formed by virtue of the fundamental right guaranteed to all citizens by Article 19 (c) of the Constitution of India. The ICAREA is recognized by the Commissioner of Labour of the Government of Meghalaya with whom it is registered. Further to this, the ICAREA is affiliated to the Indian National Trade Union Congress (INTUC) also. By refusing recognition to the ICAREA, Respondents cannot assume unto himself any authoritarian power to deny the ICAREA's fundamental right to exist and function as an Association of employees and workers. This, if conceded, shall tantamount to the denial of the fundamental right of the employees and workers to form association or Union guaranteed under Article 19 (c) of the Constitution of India and shall be ultra vires by itself.

The Hon'ble Gauhati High Court Division Bench order dated 20.11.2001 referred to by the Respondent was in respect of the ICAREA's claim that is the "sole Association of non-scientists employees of the ICAR" as mentioned by the respondents in his written statement under reply, and not as one of the Associations of the non-scientists employees of the ICAR. In fact, the ICAREA filed a petition in October 1995, in the Court of Hon'ble Central Administrative Tribunal and secured for the ICAR employees 15% HRA (House Rent Allowance) in place of 7 1/2% HRA which were being given to then.

There exists another Association of the ICAR non-Scientists employees under the name and banner of ICAR Workers Union which is also not recognized by the ICAR arbitrarily in the same way the ICAR has not recognized ICAREA. While, however, the ICAR workers Union is enjoying the protection and privileges of an Association to function, the

ICAREA is being subjected to crushing attacks. The discrimination is obvious.

Clearly, the Respondents is seeking to make smart-twist of the Hon'ble Gauhati High Court Division Bench judgment and order dated 20.11.2001 which was on whether the ICAREA is the "sole" association of the non-Scientists employees of the ICAR. In the present case, the applicant has not claimed that his Association, the ICAREA is the "sole" Association of the non-Scientists employees of the ICAR. The respondents therefore, not entitled to fall back upon and take shelter under the Hon'ble Gauhati High Court Divisin Bench judgment and order dated 20.11.2001. The then claim of the ICAREA as the "sole Association of the non-scientists employees of the ICAR" may have attained finality but its claim that it is one of the Associations of the non-scientists employees of the ICAR has not, in any way, attained finality, as it can not by virtue of Article 19 (c) of the Constitution of India and by judgment and order dated 20.10.05, the Hon'ble Central Administrative Tribunal had accepted the ICAREA as one of the Associations of the ICAR employees while ordering payment of HRA at 15% in place of 7 1/2 % which were given then to the ICAR employees. The respondents cannot, therefore, take shelter under the judgment and order dated 20.11.2001 of the Hon'ble Gauhati High Court Division Bench as the facts and issues involved are altogether different.

Copy of the CAT's order dated 20.10.95 is annexed hereto as
Annexure- A.

(ii) The claim of the Respondents are most stoutly contested and denied. The so-called resignation letter dated 30.08.1999 of the applicant from the post of Organisation Secretary of his Association was never accepted and he continued to remain the Organising Secretary of the ICAREA ever since 1999. Law is well settled that no organization becomes effective so long as and until accepted by the authority to whom it is

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addressed. It is of high significance to point out that on the date of transfer of the applicant from the ICAR, Meghalaya to the ICAR, Mizoram, on unilateral basis, the surprise order in respect of which was served on him on 16.01.2007 although dated 12.01.2007 (obviously intended to give him no time to make any representation), the applicant was very much and every inch of it, the Organising Secretary of the ICAREA. The fact that the applicant was and is the Organising Secretary of the ICAREA was informed to the Respondent by the Resolution dated 16.01.07 of his Association and was reaffirmed by the President of his Association by the letter No. ICAREA/07/03 dated 22.01.07 to the Respondents which the respondents have conveniently and deliberately suppressed. The applicant being the Organising Secretary of the ICAREA, is lawfully entitled to the protection and immunity from transfer, being the office bearer of his Association.

Copy of the resolution dated 16.01.07 and copy of the letter dated 22.01.07 are annexed hereto as Annexure- B and C respectively.

(iii) The facts stated in paragraph 4.3 of the application are stoutly reiterated. It would be clearly seen from the letter No. RC (S) 20/2004/76 dated 09.11.2005 of the Asstt. Administrative Officer (S) of the ICAR Research Complex for N.E.H. Region, Umium, Meghalaya, to the Joint Director, ICAR Research Complex, Tripura Centre, Tripura, that the payment to the private Contractor M/S Buildtech, Shillong, shall be made "as per the approved rate in the Hqrs". No 10% extra" as claimed by the private contractor the said M/S Buildtech, Shillong, has been provided for and were clearly above and beyond the approved rate in the Hqrs and hence were not admissible to the private contractor, the said M/S Buildtech, Shillong. The private contractor M/S Buildtech, Shillong, submitted 3 bills all dated 16.06.2006 and the total amount of 10% "extra" as claimed by the said private contractor amounted to Rs. 45,956/- (Rs.

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4,436.00 + Rs. 20,484.00 + Rs. 21,036.00). The applicant, an employee known for his integrity and devotion to duty, was the dealing clerk at the bottom level, he checked the contractor's bills and pointed that the 10% "extra" as claimed by the private contractor were not admissible. The contractor who enjoyed the sunshine of favour of a vested circle of the office in the matter of getting his bills passed, was infurnished and one Sri Raju of the said M/S Buildtech, Shillong, threatened the applicant openly in the office room in presence of other employees, with dire consequences. The enraged contractor complained to Dr. K.M. Bajarbaruah, Director of the ICAR, Umiam, Meghalaya (Respondent No. 6) against non-clearance of his bills by the applicant. This made the Director spark-angry against the applicant.

The respondent has made lengthy narration of irrelevant facts obviously to eclipse the crux of the issue. It is pointed out that the Respondent has admitted that the bills could not be passed and the payment to the contractor is due till date. The applicant was only a dealing clerk who discharged his duty according to his best judgment as enjoyed by Rule 3 (2) (ii) of the Central Civil Services (Conduct) Rules 1964. The decision rested with the respondent who could have passed the contractor's bill for payments with 10% extra if the extra was admissible. The fact that the respondent could not pass the bill till date and order of payment, speaks volumes that the 10% extras as claimed by the Contractor was not admissible. The applicant's scrutiny note being on record proved risky hurdle to the respondent to admit 10% extra payment and to pay the contractor's bills. In the circumstances, the Respondent picked up the easy way of removing the thorn once for all by shunting the applicant out of Meghalaya to distant Mizoram by the handy ploy of transfer so that the corruptions have the unrestricted sway. The applicant in his humble way did his meek part not to be a party to a murky deal, and as a consequence has been punished by a malafide transfer which needs interference of this

6
OS

Hon'ble Court and the impugned transfer order dated 12.01.2007 is liable to be set aside and quashed.

Copy of the letter dated 09.11.2005 and declaration regarding dependent family members are annexed hereto as Annexure- D and DA respectively.

(iv) That the averments and insinuations made by the respondents are highly unfortunate and are denied out right as being bizarrely malicious and concocted. Intending to avail leave travel concession under the Central Civil Services (Leave Travel Concession) Rules 1988, the applicant applied for the LTC advance in December 2005 and submitted to his office a list of dependents showing his 65 years old mother and an unmarried sister as dependent on him as his 81 years old father was not supporting them due to the fact of his inability arising out of his age and the very meager pension amount. He could barely support his own self only. Since, however, he has a small pension, which was sanctioned to him long years back, the applicant did not show his father as dependent on him.

The dependency statement of the applicant was duly accepted by his office administration (Copy of the duly accepted letter enclosed herewith) and accordingly his mother and unmarried sister undertook leave travel with him. On completion of journey and back home, the applicant submitted his final LTC bill supported by railway tickets for a total of Rs. 7,454/- against which he was paid Rs. 3,707/- only by disallowing the amounts relating to his mother and unmarried sister. This financial deprivation was caused to the applicant at the instigation of a vested circle in the ICAR office who were working against the applicant since he was the Organising Secretary of the ICAREA office. The instigators were particularly those officials who are interested in the easy payment of bills of private parties and contractors.

The applicant represented to his office administration against the disallowance of his LTC claim relating to his old mother and unmarried

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sister which was not heeded to. Left with no alternative, the applicant represented his case to the ICAR head office in New Delhi in a self-contained and reasoned application dated 27.11.2006 whereupon the New Delhi Head office of the ICAR asked the local authority to decide the applicants' case strictly in accordance with rule and to communicate the decision by a speaking and reasoned order. But instead of deciding the case as made out by the applicant in his representation dated 27.11.2006 strictly on rules and communicating the decision by a self-contained, speaking and reasoned order, the local ICAR authorities issued a show cause memo to the applicant threatening him with disciplinary action under the CCS (CC&A) Rules 1965 and charging him with making "false dependency declaration" in respect of his mother and sister. The contention of the ICAR authorities is that as per the CCS (LTC) Rules, 1988, if the father of a Govt. servant is not dependent on him, the mother and sister of the said Govt. servant also can not be dependent on him. It is strikingly significant that the Respondent had not quoted any specific rule in the CCS (LTC) Rules 1988 which says so. In fact, there is no rule in the CCS (LTC) Rules 1988 laying down such a summary provision irrespective of the father's age and his income limit to sustain two additional souls after supporting his own self.

Copy of the applicant's representation dated 27.11.2006 is annexed hereto as Annexure- E.

The summary of the contention of the respondents that where the father of a Govt. servant are also not dependent on him, the mother and the sister of the said Govt. servant are also not dependent on him irrespective of the father's age and income limit is clearly irrational, arbitrary and self-authored diktat of the respondent. In any case, there is no question of the applicant having made any "false dependency declaration" as alleged. Rule 17 of the CCS (LTC) Rules 1988 lays down

that if there is any doubt regarding any of the provisions in these rules, the matter "shall be" referred to the "Government of India in the Department of Personnel and Training" who shall decide the same.

Rule 4 (d) of the CCS (LTC) Rules 1988 defines the 'family' of an employee for the purposes of Leave Travel Concessions (LTC in brief). As per items (iii) and (iv) of the said Rule 4 (d), parents, minor brothers and unmarried sisters residing with and wholly dependent on the employee, are included in his family and as per Explanation No. 5 there under, a member of the family whose income from all sources does not exceed Rs. 1,500/- "is deemed to be wholly dependent on the Government servant".

The mother and unmarried sister of the applicant do not have any income at all of their own and are, therefore, factually and constructively wholly dependent on him. His father who is about 81 years of age, does not support any of them as he is not financially capable of doing so. The Government of India's decision No. 19 below Rule 7 of the said CCS (LTC) Rules 1988 also lays down that in addition to the wife or husband and children of the employee, his family as defined in Rule 4 (d) include his parents, sister and minor brothers if residing with and wholly dependent upon him. That his mother and sisters are "wholly dependent" on him would be found to be conclusive and irrefutable from the certificate dated the 30th July 1991 of his Assembly constituency M.L.A Hon'ble Shri Anthony Lyngdoh. That the applicant is the "only bread earner" of his family has been also certified by the M.L.A.

Copy of the certificate dated 30.07.91 of the M.L.A is annexed hereto as Annexure- F.

The fact that his mother and sisters reside with him at Shillong shall be proved by their respective Electoral Identity cards.

Copies of Electoral Identity cards are annexed hereto as Annexure-C Series.

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Coated by the entranced malice against the applicant for his being the Organising Secretary of the ICAREA taking as he did unbending stance against corruptions in their very many manifestations and rampant favouritism to keep the employees divided, the respondent seized the applicant's LTC claim, and charged him with making "false dependency declaration" instead of seeking clarification from the Department of Personnel and Training of the Government of India in terms of Rule 17 of the CCS (LTC) Rules 1988 as to whether his mother and unmarried sister could be treated as dependent on him since his father was not supporting them for reasons of his age and income penury. The fact that the Respondents took the course the other way round and after charging the applicant with making false dependency declaration in respect of his mother and unmarried sister has threatened him with disciplinary action under the provisions of CCS (CC&A) Rules 1965, is a clinching evidence of the knee-deep malice at work against him (the applicant) and by an undeclared penal action, has transferred him distant Mizoram thus throwing the thorn decisively away for good.

Copy of Memo No. RC (F) 46/82 (Vol. II) dated 26.02.07 of the ICAR and applicant's reply dated 05.03.07 thereto are annexed hereto as Annexure- H and I respectively.

(v) The ICAR Headquarter at New Delhi in their letter dated 29.01.2007 directed the Respondents to examine the matter strictly "as per the relevant rules" and in case still any doubt exists, the same may be referred to the Council along with comments of F & AO. The respondents never clarified the matter to the applicant nor is known to have referred the matter to the Headquarter along with comments of F & AO but instead charged the applicant with submitting false dependency certificate. From the certificate dated the 30th July 1991 (Annexure- F hereto) of the applicant's constituency MLA, Hon'ble Shri Anthony Lyngdoh, it shall be

clearly seen that the mother and the sisters of the applicant are dependent on him and the applicant is the "only bread earner" of his family. In so far as deciding the LTC claim of the applicant strictly in accordance with the rule as directed by the ICAR Headquarter office, it was incumbent on the Respondent to refer the matter to the Department of Personnel and Training of the Government of India in terms of Rule 17 of the CCS (LTC) Rules 1988 and obtain the clarification whether the mother and sister of the applicant could be treated as dependent on him where his father was not capable of supporting them. The respondent has very carefully avoided all references to items (iii) and (iv) of Rule 4 (d) of the CCS (LTC) Rules 1988, explanation No. 5 there under, the Government of India's decision No. (19) below Rule 7 of the said CCS (LTC) Rules 1988 and the obligation of the respondents under Rule 17 of the said CCS (LTC) Rules 1988 to seek clarification from the department of Personnel and Training of the Govt. of India whether the mother and unmarried sister of the applicant could be treated as dependent on him since his father was not supporting them. The ICAR Headquarters office at New Delhi obviously found points in the representation dated the 27th November 2006 (Annexure 5 hereto) and directed the respondent to dispose of this representation strictly in accordance with rules. Issuing a show cause memo threatening the applicant with disciplinary action under CCS (CCA) Rules 1965 is the indication of disciplinary action and not disposing of a case strictly in accordance with the rules. It is reiterated that the mother and the unmarried sister of the applicant are both truly and materially dependent upon him as his father is not supporting them. It is pin-pointed that the 81 years old father of the applicant is supporting his mother and sisters. Instead, his M.L.A's certificate dated 30.07.91 has conclusively established that his mother and unmarried sisters are dependent on him. The fact that the Respondent has gone solely by his subjective surmises yet again proves his malafide and malice against the applicant.

Further, it is only usual for the Respondent, the Director, Sri K.M. Buzarbaruah to deny that he summoned the applicant to his chamber and asked him like anything. On his part, the applicant reiterates this as solid truth.

2. That with regard to the statements made in paragraph 6 (i), (ii), (iii), (iv) and (v), the applicant begs to submit as follows in serially:

(i) It is a fact that the Meghalaya Guardian, an English daily in its issue dated 26.06.2006 published a News item under the heading "Corruption in appointment". This News item was never officially contradicted by the ICAR administrations which kept silent for sometime and when the impact of the news item seemed to have been forgotten by those who had read it, ordered the appointment of the favoured candidate.

Obviously, D. Kumar whose letter originally appeared in the feedback column of the Meghalaya Guardian on 26th June 2006 giving out the fact of corruption in appointment, is different from D. Kumar of the ICAR, Barapani who issued the contradiction on 29th June 2006. The name similarly is common phenomenon. Since the applicant in his capacity as the Organising Secretary, IACAREA, was known for taking principled stand against all that are wrong, the respondent under the stretch of his own imagination suspected the applicant to be behind the exposure of the corruption and get rid of him by ordering his transfer, the most handy ploy, to distant Mizoram. There are senior and promotee clerks who are not and were not transferred by doing out favour but the applicant was selectively picked up for the solitary transfer purely on malicious suspicion without any corresponding transfer in his place from Mizoram. It is not known whether the ICAR has any written transfer policy and if there is any that was never notified for general information of the ICAR employees. The Hon'ble Tribunal may like to require the Respondent to

produce before it the written transfer policy as approved by the ICAR Headquarter.

(ii) The applicant was arbitrarily picked up for transfer to Mizoram. As a rule when an employee is transferred to a station a corresponding transfer is made in his place to fill up the vacuum. With the transfer of the applicant to Mizoram his place in Meghalaya fell vacant and no corresponding order was issued by posting any one else in his place vice his transfer to Mizoram. In the case of the applicant, apart from the protection he is entitled to, his transfer was not ordered as per the written transfer policy of the ICAR of which none is known to exist.

(iii) The order of transfer of the applicant to Mizoram was served on him on 16.01.07 and he stood relieved with effect from 20.01.07 although the transfer order was dated 12.01.07. There was thus an obvious attempt to give no respite to the applicant to make any representation against his transfer. Dr. B. Bhatt one of the Scientist of the ICAR one day specifically asked the applicant whether he has any hand in publishing the News item in the paper which the applicant categorically denied. It is but natural that Dr. Bhatt a subordinate under the Respondents, has denied what he did particularly when replying an official communication to him.

(iv) The applicant is the Organising Secretary of the ICAREA and since he resumed duty only 16.01.07 after expiry of his leave, he should not have been hurriedly relieved on 20.01.07. Even then, the President of his Association represented in his letter dated 22.01.07 to the Respondent against his transfer but that was not heeded to neither his relief from the office of the ICAR Umiam, Meghalaya, deferred by a few days. The Respondent cannot therefore say that the applicant did not exhaust his remedies before approaching the Hon'ble Tribunal especially where he stood relieved from his post in hot hurry with the deliberate intent to deprive him of the available remedies.

(v) Conditions in any one's appointment letter are always subject to rules and laws of the land. Conditions in almost all appointment letters say that the services of the appointee may be terminated at any time without assigning any reason. Such a condition does never authorize any appointing authority to terminate the services of an employee, on whims, caprice or malice. The transfer of the applicant was subject to (a) his protection as an office bearer of ICAREA and (b) the written transfer rules of the ICAR. The transfer was clearly arbitrary, malicious and without the sanction of any approved written transfer policy. The Hon'ble Tribunal may like to require the Respondent to produce the duly approved transfer policy of the ICAR if there is any and to justify the transfer of the applicant by such rule. Rule of law cannot be subordinate to arbitrary executive actions.

3. That the applicant categorically denies the statements made in para 7 of the written statement and begs to reassert that the successive representations of the applicant against unlawful disallowance of his claim regarding LTC administration as much so that they issued show cause memo to him threatening disciplinary action against him under CCS (CCA) Rules 1965 hereto instead of seeking clarification from the Department of Personnel and Training of the Government of India as required under Rule 17 of the CCS (LTC) Rules 1988 or referring the matter back to the ICAR Headquarter as per the instruction contained in the ICAR headquarter as per the instruction contained in the ICAR Hqr. Letter No. F. No.21-10/07-9A II dated the 19th January 2007 (Annexure-F2 of the written statement). The respondents has sought to brush aside the Resolution dated 16.01.2007 (Annexure- 6 of the O.A) on the plea that the Association is not recognized although the Hon'ble CAT in their judgment and order in OA No. 103 of 1995 (Annexure- A hereto) has entertained its application and ruled in favour of giving 15% HAR to the ICAR employees instead of the then then 7 1/2%. In this connection, detailed

submissions made against para 5 (i) are reiterated. The respondent have acknowledged receipt of the ICAREA resolution dated 16.01.07 to his written statement.

It is well known that an Association writes to the Head of the office on matters of high importance which require his personal consideration. No subordinate authority enjoys decision making prerogative and communicates its own decision to the Association. Despite this fact having been pointed out by the ICAREA letter dated 22.01.07 (Annexure- N to the written statement) the respondents did not communicate his decision on the ICAREA's letter to him.

4. That the applicant stoutly denies the statements made in para 8 of the written statement and further begs to submit that the Respondents fairly admitted that the post of UDC which the applicant holds has not been declared surplus and therefore there was no valid reasons for transferring the applicant on the vague pleas of public interest. His old mother and unmarried sister reside with him and his father is 81 years old also resides with him except only occasionally visiting his permanent home at Guwahati for supervision purposes. A transfer of the applicant to distant Mizoram will leave none to look after his ailing and aged parents, 81 years father and 66 years old mother respectively if they are thrown ever board to their fate at this period of their lives. The journey undertaken by the applicant from Guwahati to Howrah with his father was on reservation ticket and was undertaken on December 2005 primarily to have his father treated by superior medical expert and by taking a fair amount of risk. It is inhuman for the respondent to insinuate that the applicant's father who is now more than 81 years old should be left uncared for at his present sharply deteriorating health condition in which he require constant medical attention and physical support when he tilts and falters on his own legs.

5. That the applicant categorically denies the statements in paragraph 9 of the written statement and further begs to reiterate that the transfer order was served on the applicant on 16.01.07 and he stood relieved on 20.01.07 in hot haste with obvious intent to give him no scope to represent against the transfer. Even in such a situation which can better be gauged by the circumstantial appreciation, the President of the Applicant's Association in his letter dated 22.01.07 represented against the transfer of his organizing Secretary, the applicant, but that was not heeded to because both the transfer and the applicant's hot haste relief from the office were both intended to give him no scope to represent. The applicant suppressed no material fact as the facts speak for themselves. The respondents did not reply the letter dated 22.01.07 of the President of the ICAREA.

6. That the applicant categorically denies the statements made in paragraph 10 and 11 of the written statement and begs to submit that the law relating to transfer matter is well settled which provides that when the transfer of an employee is malafide and actuated by extraneous considerations and which is punitive in nature is subject to the intervention of the Court. In the instant case, the respondents could not adduce anything to substantiate that the proposed transfer of the applicant is in public interest or in any exigencies of service and hence malafide. As such all the grounds averred to in the O.A are sustainable in fact as well as law and the reliefs sought for, are bonafide, legal and full of merit and the Hon'ble Court be pleased to confirm the interim order.

7. That in the facts and circumstances, the applicant humbly submits that he is entitled to the reliefs prayed for and the O.A. deserves to be allowed with costs.

VERIFICATION

I, Shri Prajesh Kumar Deb, S/o- Shri Prabhat Chandra Deb, aged about 47 years, working as Upper Division Clerk in the Office of the Indian Council of Agricultural Complex, For NEH Region, Umium, Shillong 793103, Meghalaya, applicant in the instant application, do hereby verify that the statements made in Paragraph 1 to 7 of the rejoinder are true to my knowledge and I have not suppressed any material fact.

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

Prajesh Kumar Deb

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ANNEXURE-A

CENTRAL ADMINISTRATIVE TRIBUNAL, GUJARATI BENCH.

Original Application No.103 of 1995.

Date of Order : This the 20th Day of October, 1995.

Shri G.L.Sanglyine, Member(Administrative)

1. Indian Council of Agricultural Research Employees' Association with the Office at Barapani, Umroi Road, Meghalaya
2. Markos Okhar, General Secretary, Indian Council of Agricultural Research Employees Association, Barapani, Umroi Road, Meghalaya. Applicants.

By Advocate S/Shri G.L.Sarker & M.Chanda.

- Versus -

1. Union of India through Secretary, ICAR, Krishi Bhawan, New Delhi-110001.
2. Secretary, Govt. of India, Department of Expenditure, Ministry of Finance, New Delhi.
3. Director, ICAR Research Complex for NER Region, Barapani, Umroi Road, Meghalaya. Respondents

By Advocate Shri S.Ali, Sr.C.C.S.C.

G R D E R

G.L.SANGLYINE, MEMBER(n)

The employees of the Indian Council of Agricultural Research, Umroi Road, Barapani, Meghalaya were granted House Rent Allowance (HRA for short) at the rates applicable to Shillong for the period from 1.6.90 to 31.5.93. On 7.6.93 the Director, ICAR Research Complex for N E H Region, Shillong ordered to stop payment of the HRA at that rate with effect from 1.6.1993 as desired by ICAR Headquarters. It has been stated by the respondents that this order was based on the Telex Message No.1140 CA 1199 dated 3.6.93 received from the Indian Council of Agricultural Research, New Delhi (ICAR). Hence this application under Section 19 of the Administrative Tribunals Act 1985 was submitted praying for a direction to the respondents to pay HRA at

contd. 2...

20.10.95

Affd.
Affd.
Advocate

Shillong rate to the applicants.

2. The place of duty of the employees of the ICAR Research Complex for NEH Region is at Umroi Road, Barapani, Meghalaya which is about 22 Kms. from Shillong. The ICAR there could provide accommodation for 73 staff only and the rest out of 365 staff have had to stay in Shillong for want of accommodation in Umroi Road. Mr Chanda, the learned counsel for applicants submitted that the facts and the circumstances remain same today as they were before 1.6.1993 and therefore there is no justification to stop payment of House Rent allowance at the rate applicable to Shillong. He further submitted that if distance between Umroi Road and Shillong is the reason for stopping the payment of HRA at Shillong then the ground taken by the respondents is untenable as on the same fact HRA at the rate applicable to Shillong was paid for the period before 1.6.1993 and as the relevant rules do not mention that the distance of 8 Kms. is to be taken as the road distance. Mr S. Ali, the learned Sr.C.S.O., resisted the contentions of Mr Chanda and submitted that the applicants are not entitled to the reliefs sought. Mr Chanda further submitted that the Director of the Research Complex had himself clarified that the Rodial distance between the Municipal limit of Shillong and Barapani is to be kept in view and that the employees are solely dependent on Shillong. In view of these facts and circumstances, he urged that the respondents may be directed to continue to pay HRA to the employees at the rate applicable to Shillong.

3. The sanction to pay House Rent Allowance at the rate applicable to Shillong to the employees of ICAR Research

contd. 3....

20-10-95

Complex for NEH Region for the period from 1.6.90 to 31.5.93 was conveyed vice Council's letter No.3-15/90-IAV dated 7.3.1991. It appears that on 13.5.93 the Ministry of Finance, Department of Expenditure made some queries and directed that a review regarding payment of HRA at the above mentioned rate be made by the Department of Agriculture Research and Education and that payment of the HRA should not be continued beyond 31.5.93 until such review is completed. The Director of the Research Complex submitted his report on 22.5.93 and recommended that the employees of the ICAR Hqrs. Barapani may be allowed HRA at the rate applicable to Shillong in the facts and the circumstances relevant to them. The ICAR, New Delhi directed on 3.6.93 that pending receipt of fresh approval from the Ministry of Finance regarding payment of HRA at rate applicable to Shillong the payment of HRA at such rate to the employees should not be continued beyond 31.5.1993. There are two types of employees, namely, those 73 employees who have been provided official quarters in Umroi Road and those other employees who by compulsion have to stay in Shillong and attended their duty in Umroi Road by availing official vehicles provided by the respondents on payment of requisite fares. It is the latter who are aggrieved with the order stopping payment of HRA at the rate applicable to Shillong. It therefore appears that these employees would suffer hardship if they were paid HRA at the rate applicable to unclassified cities or towns. Perhaps keeping such facts in view that HRA at the rate applicable to Shillong city was allowed upto 31.5.93 and that the Director of the



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20-10-95

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Research Complex recommended for payment of HRA at such rate in his letter of 22.5.93 (Annexure 3). It transpires during the course of hearing the position remains the same as on the date of telex message of 3.6.93 (Annexure 1 to the written statement). As a result it is not known whether the aforesaid review was completed and what final decision was taken on the basis of the review. It is also not clear from the above mentioned telex message whether fresh proposal was at all submitted by the ICAR, New Delhi to the Ministry of Finance when it stated therein that payment should be stopped "till such time fresh approval is obtained from Ministry of Finance." The ICAR had paid HRA at the now disputed rate upto 31.5.93. It is gathered that the facts and circumstances have till now remained the same as they were before 1.6.93. The Ministry of Finance had sought for a review of the admissibility of payment of HRA at the rate applicable to Shillong to the employees of the ICAR Research Complex for NEH Region on 15.3.93. The Director of the Research Complex had submitted his report on 22.5.93. The onus is on the ICAR, New Delhi to clarify its final position on this matter to the employees concerned. The Respondent No.1 is therefore directed to issue a specific and unconditional order stating clearly whether the employees of the ICAR Research Complex for NEH Region, Umroi Road, Barapani are entitled to the HRA at the rate applicable to Shillong or not within a reasonable time. The interim direction dated 15.6.93 shall remain in force till the final order is communicated by the ICAR, New Delhi as a result of the Review and shall stand vacated thereafter. With these directions this O.A. is disposed of. No order as to costs.

Certified to be true Copy

ICAR EMPLOYEE'S ASSOCIATION (Regd.)

Umroi Road, Barapani,
Shillong - 793 103

F. No. ICAREA/ 67/01/1

REAGULION

Date 16th Jan., 2007.

1. It has come to the notice of this Association that its Organising Secretary Shri Prajesh Kr. Deb who is a BSC has been abruptly transferred to Mizoram by order No. RC(G)04/06 dated 12. 1.07. Shri Prajesh Kr. Deb is the Organising Secretary of this Association and his transfer shall severely affect and dislodge the function of this association. As per rules of association and Union its office bears no immunity from transfer and his transfer is violative of Articles 19(c) of the constitution of India.

2. The transfer is prima facie malafide also, Shri Prajesh Kr. Deb had been, for long, representing against unlawful reduction of his LTC claim that has gone to stand the office administration.

3. The association contemplate to discuss the various activities of this ICAR during the last 5 (five) years under its Director when the Association holds its Executive meeting and the General meeting.

4. It is accordingly resolved that the Director of the ICAR Research Complex for N.E.R., Umiam, Shillong, Meghalaya be requested to revoke the transfer order on Shri Prajesh Kr. Deb so that he continues to discharge his function as the Organising Secretary of this Association.

5. As it is resolved that a copy of this resolution be forwarded to the Director, ICAR Res. Complex for N.E.R., Umiam, Meghalaya for quick action as per para 4 of this resolution.

Resolved unanimously,

(Mr. Thangjila)
President, ICAREA

(R. Lyngdoh)
Joint Secretary, ICAR
Employee Association

Copy forwarded to :-

1. The Director, ICAR Res. Complex for N.E.R., Umiam, Shillong.
2. The Director General, ICAR, Krish. Bhawan, New Delhi-1.
3. The Labour Commissioner & Registrar of Trade Union, Shillong-1
4. The General Secretary, INSEC, Shramik Kendra, 4, Bhai Veer singh Marg, New Delhi-1.
5. The General Secretary, INTUC, Meghalaya Branch, Shillong.
6. The General Secretary, CSI Employees Association, Shillong-3

Attn
J. P. R.

(R. Lyngdoh)

ICAR EMPLOYEES' ASSOCIATION (REGD)

M. KHARPHULI
President

UMRO ROAD, UMIA
SHILLONG-793 003
MEGHALAYA

Ref: ICAREA/07/03

Date: 22nd Jan., 2007.

To,

The Director,
ICAR Research Complex for NEH Region,
Umrei Road, Umiam,
Shillong, Meghalaya.

Sub:- Transfer of the Organising Secretary of the Association
to Mizoram Centre aimed at disorganising the Association.

Ref:- Your Senior Administrative Officer's letter No. RC(G)04/06
dated the 19th Jan., 2007.

Sir,

This Association has been dismayed and taken aback by the tone and tenor of the letter of your Senior Administrative Officer under reference. We wonder whether an officer subordinate to the head of the office, can write to an Association, on her own authority and decision, on a policy matter concerning the transfer of the Organising Secretary of the Association. We had written to you against the transfer of our Organising Secretary from Umiam to Mizoram and what was needed to be communicated to us was your decision on our resolution dated 16-01-07.

2. Instead of communicating your decision on our resolution dated the 16th January 2007 by a rule-based speaking order, your Senior Administrative Officer has called for from us information on a plethora of points mentioned by her in her letter under reference and has directed us to reply by 24th January, 2007. We would like to make it clear that we, in our capacity as an Association, are neither an employee of, nor obliged if you suitably advise your officer for the future to refrain from harboring the anti-association syndrome which she has displayed in her letter.

*Atul
J. J. Jaiswal*

Under Articles 19 (c) of the constitution of India, all citizens have the fundamental right to form Associations or Unions and this right cannot be Questioned, directly or by implication, or sought to be nullified by collecting information like those mentioned in the letter of your Senior Administrative Officer under reference. However, for your kind information we have the honour to say that our Association is registered with the Meghalaya Labour Commissioner. In this connection, it is to point out that when the Association has officially informed that Shri Prajesh Kr. Deb is our Organising Secretary, your Senior Administrative Officer could not have used his private information to Question this fact. We feel that it is time that the difference between official and private information is recognised. We are inclined to expect that your honour won't like to press the letter of your Senior Admn. Officer and retain our Organising Secretary by revoking his transfer order in the best interest of employer-employee relation.

Yours Faithfully,



(M. KHARPHULI)
President, ICAREA, Umiam, Shillong.



ANNEXURE -D

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
UMROI ROAD, UMIAM, SHILLONG, MEGHALAYA

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NO. RC(S) 20/2004/76

Dated Umiam, the 9th Nov., 2005.

To,

The Joint Director,
ICAR Res. Complex for NEH Region,
Tripura Centre,
P.O. Lembucherrie,
West Tripura.

Sub:- Administrative approval to carry out some carpentry/
furnishing work at Tripura Centre, reg.

Ref:- NO. RC/TC(C-4)/2003/7856 dated 7.10.05

Sir,

With reference to the letter on the subject cited above,
I am directed to convey the administrative approval of the Director
for carrying out some carpentry/furnishing work at the following
disciplines/section of Tripura Centre. The work will be carried
out by M/S Buildtech, Shillong as per the approved rate in the
Hrs.

1. Making of full height partition and Computer/working tables
at two rooms of Administrative staff.
2. Making of wall hanging showcase, computer/working table at
AAO8S Room.
3. Renovation of Exhibition Room (making of tables and display
boards).

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Yours Faithfully,

DKHAR 10/11/05
(D.S. DKHAR)
Asstt. Administrative Officer (S)

Copy to :-

1. The F.A.O. ICAR, Umiam, with ref. to his endorsement dated
7.11.05.

Asstt.
F.A.O.
Umiam

DKHAR 10/11/05
(D.S. DKHAR)

DECLARATION

Proforma for declaration regarding wholly dependant family members of the Complex employee.

I Shri Prajesh Kumar Deb ^{now}
working as Sr. Clerk in ICAR Research Complex/Centre
Umiam do hereby and affirm that my wholly dependant family
are listed below:

<u>Sl. No.</u>	<u>Name</u>	<u>Relationship</u>	<u>Age</u>
1.	Smti. PRATIMA DEB	Wife	24
2.	Smti SUDHA RANI DEB	Mother	66
3.	Smti BHARATI DEB	Sister	30

This is also to declare that monthly income of above family members from all-sources : nil.

This declaration is true to the best of my knowledge and belief and no information/particulars has been suppressed or and concealed.

Date: 30.9.04

Full Signature : Prajesh Kumar Deb
Designation : Sr. Clerk

Recd. No. RC(P) 46/82 (vol. II). Dtd. 30th October, 2004

Copy of the information & necessary action to :-

1. The A.T.C (E), ICAR, Umiam.
2. The F.A.O., ICAR, Res. Complex, Umiam.

(Signature)
(G. Datta)

Asst. Administrative Officer (D)

Attested
for
Advocate

To,

The Under Secretary (Admn),
 Indian Council of Agricultural Research,
 Krishi Bhawan,
 New Delhi.

Sub:- Clarification regarding dependency of mother and unmarried sister of an employee for the purpose of LTC - case of Shri Prajesh Kumar Deb, UDC of ICAR for N.E.H. Region, Umiam, Meghalaya.

Sir

I beg to invite a reference to the letter No. RC(P) 46/82 vol. II dated the 16th November 2006 of the Sr. Administrative Officer of the ICAR, N.E.H. Region, Umiam, Meghalaya to your honour (copy enclosed for ready reference) with a copy to me, and to state that the facts stated therein are scappy and out of context and as such may not lead to correct decision being given on the points raised. The facts are as under -

1. Prior to going on travel on LTC, I submitted a dependency statement, in writing, to the office showing my aged mother and unmarried sister as dependent on me which actually they are. This dependency statement was accepted by the office and no objection was raised on any points whatsoever.
2. Accordingly, my mother and unmarried sister accompanied me on LTC. On return from the Journey, I submitted the LTC bill to the office for a total amount of Rs. 7,454/- (Rupees seven thousand four hundred and fiftyfour) against which I was paid only Rs. 3,707/- (Rupees three thousand seven hundred and seven) by disallowing Rs. 3,747/- which worked out to more than 50 per cent of the total bill amount. On my representation against such a big slashing of my bill amount which caused me great distress, the office intimated me that LTC relating to my mother and unmarried sister have not been allowed on the ground that my father is not dependent on me. After having accepted my dependency statement which was a solemn declaration by me, office could not have, on the very logic of its acceptance, disallowed the LTC for my dependent mother and dependent unmarried sister on the ground that my father is not dependent on me, it is felt.
3. Rule 4(d) of the Central Civil Services (Leave Travel Concession) Rule 1988 defines the 'family' of an employee for the purposes of LTC. As per items (iii) and (iv) of the said Rule 4(d), parents, minor brothers and unmarried sisters residing with and wholly dependent on the employee, are included in his family and as per Explanation No 5 thereunder, a member of the family whose income from all sources does not exceed Rs. 1,500/- "is deemed to be wholly dependent on the government servant". My mother and unmarried sister do not have any income at all their own and are, therefore, factually and constructively, wholly dependent upon

Attn:
 Jit.
 Aditya

-:2:-

me. My father who is about 81 years of age now, does not support any one of them as he is not financially capable of doing so. The Government of India's decision No (19) below Rule 7 of the said CCS (LTC) Rules 1988 lays down that in addition to the wife or husband and children of the employee, his family as defined in Rule 4(d) include his parents, sisters and minor brothers if residing with and wholly dependent upon him. It is not a fact that my mother and unmarried sister live with my father. They reside with me. My father also resides with me. Only occasionally they go and see my native home at Guwahati.

Yours faithfully,

Enclosure :

Letter dated 18-11-2006.

Dated the 27th Nov., 2006.

27/11/06
(Prajesh Kr. Deb)
UDC,
ICAR for N.E.H. Region
Umiam, Meghalaya

Copy to the Sr. Administrative Officer, ICAR Research Complex for N.E.H. Region, Umiam, Meghalaya with reference to the endorsement of a copy of her letter dated 18-11-2006, to me.

(Prajesh Kr. Deb)

ANNEEXURE - F

ANTHONY LYNGDOH

MEMBER

MEGHALAYA LEGISLATIVE ASSEMBLY



Dated 30th July, 1991.

TO WHOM IT MAY CONCERN

This is to certify that Shri P.K. Deb a resident of Upper Laban, Shillong is personally known to me. Smti. S.R. Deb, Mother and her three daughters are wholly dependent on Shri P.K. Deb. His three sisters namely, Bharati Deb, Sunita Deb and Rubi Deb are also dependent on him.

P.K. Deb is the only bread earner of the family and at present he is working in ICAR, at Barapani.

So far my knowledge is concerned, Shri P.K. Deb and his family bears a good moral character and there is nothing adverse against their character.

I wish them success in life.

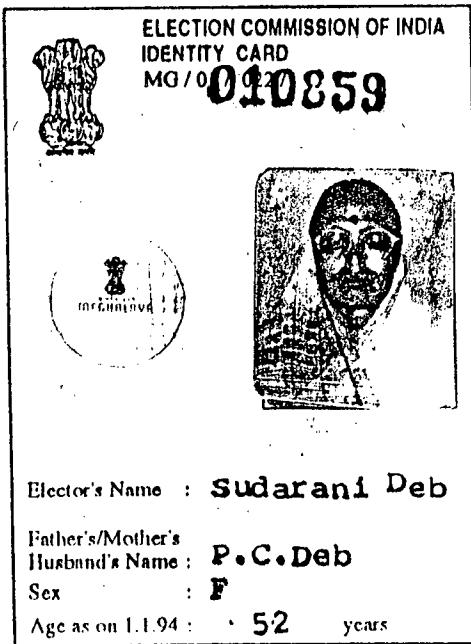
Attest by
P.C. Deb
Asstt. Admin. Officer (Stores)
Bld. No. 375 D-3, ICAR Complex For N.E.H. Region,
Umiam, Meghalaya

July 30
Anthony Lyngdoh
M.L.A.
Meghalaya

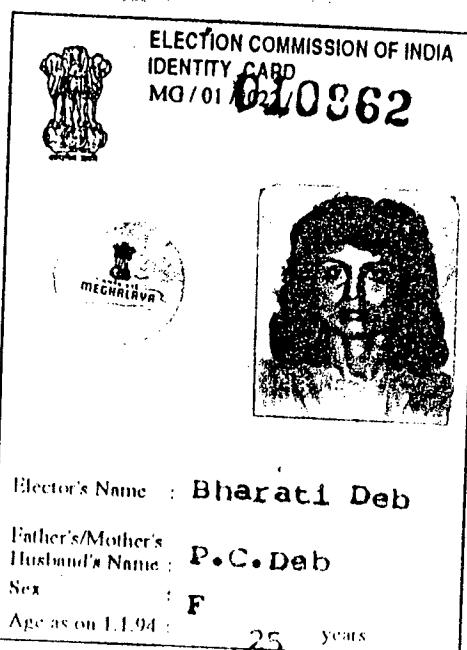
Attest
Advocate

G (series)

118



ANNEXURE - 8



Attested
by
Advocate

1. Section 1(1)(b)	
Riat-Laban-West	
 <i>[Signature]</i> Signature	
ELECTORAL REGISTRATION OFFICER For..... 22-Laban	
Assembly Constituency Shillong	
Date..... 30/5/94	

Address	11&12(b) 22 th Laban Meat
 Facsimile Signature	
ELECTORAL REGISTRATION OFFICER	
Plot No.	22 th Laban
Assembly Constituency	
Place:	Shillong
Date:	30.5.94

Affect
of 1st person

31-
120

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
ICAR RESEARCH COMPLEX FOR N.E.H. REGION
UMROI ROAD, UMIAM, MEGHALAYA

No. RC(P)46/82(Vol. II)

Dated : Umiam, the 26th Feb, 2007

MEMORANDUM

Shri Prajesh Kumar Deb, U.D.C. (Stores Section) is hereby asked to explain the reasons as to why disciplinary action under C.C.S. (C.C.A.) Rules, 1965, should not be initiated against him for preferring a fraudulent claim of 'Leave Travel Concession' regarding 'False Dependency Declaration'. A statement of the imputations of misconduct on which action is proposed to be taken as mentioned above is enclosed.

He is hereby directed to give his explanation in writing to the undersigned within 10 days of the receipt of this Memorandum.

This issues with the approval of the Director.


 26/2/07
 (M. J. Karmawphlang)
 Senior Administrative Officer

To,

Shri Prajesh Kumar Deb,
 U.D.C. (Stores Section),
 I.C.A.R. Research Complex for NEH Region,
 Umiam, Meghalaya.

Encl: As mentioned above.

*Affected
Int. Annexate*

STATEMENT OF IMPUTATIONS OF MISCONDUCT

The representation of Shri Prajesh Kumar Deb, U.D.C. (Stores Section), to allow LTC for his mother and sister was forwarded to the Council for their comments. The Council, in turn, advised the Institute to examine the same at the Institute level, strictly, as per the relevant rules and to settle the matter at this end.

While examining the case at the Institute level, the following facts came into light :-

1. Shri P. K. Deb has furnished the 'Dependency Certificate' in respect of his Mother & Sister, indicating thereby that his father (Shri Prabhat Chandra Deb) is not dependent on him.
2. As per the CCS (LTC) Rules, 1988, when the father is not dependent, Mother & Sister cannot be wholly dependent on the Government servant.
3. Shri P. K. Deb's plea was that once the office had accepted the declaration, the LTC claim has to be met. Earlier this office had been accepting his 'Dependency Declaration' in good faith, but when it came to the notice of this office that the Declaration is false, his LTC claim was restricted to the admissible amount.
4. This was communicated to Shri P. K. Deb along with the relevant rule positions, but still he was pressing hard on this office to accept his 'Dependency Declaration', which indicates that the false Declaration was made intentionally by him, thereby amounting to misconduct.

Thus, as per the existing rule position, disciplinary proceedings against Shri P. K. Deb, U.D.C. (Stores Section), needs to be initiated.

DR
26/2/07

ANNEXURE - ~~1~~ I

- 33 -

To,

The Senior Administrative Officer,
ICAR Research Complex for NEH Region,
Umroi Road, Umiam, Shillong,
Meghalaya.

Sub :- Submission of explanation to the Memorandum alleging "preferring a fraudulent claim of Leave Travel Concession regarding false Dependency Declaration."

Ref :- Your Memorandum No. EC(P) 46/82 (vol-II) dated the 26th Feb., 2007.

Madam,

From the allegation, as extracted from your Memorandum under reference, it is not clear to me whether there are two or one allegation against me. None the less, the allegation is capable of creating sensation to any casual observer that I have preferred (i) a "fraudulent" LTC claim and have (ii) made a "false" Dependency Declaration. Both, on their face, are serious enough. The facts, however, are altogether otherwise as explained below -

1. In the Memorandum, the allegation has been made in such a way as though I have preferred a "fraudulent" LTC claim in respect of my mother and unmarried sister without any LTC travel having been undertaken by them and that my Dependency Declaration etc respect of them is false in the sense that either they are earning for themselves or someone else is Supporting them. Either way, the allegation is outrightly false. Both my mother and my unmarried sister accompanied me in the LTC travel as the Railways tickets submitted by me in respect of their travel, conclusively proved. The question that remained is whether my mother and unmarried sister are dependent on me. I made Dependency on showing my mother and unmarried sister as dependent on me as my father who is 81 years of age was not supporting them since he was incapable of doing so. My Dependency Declaration which did not include my father, was accepted by the office administration without questioning anything in it. Had my Dependency Declaration not been accepted by the office administration, I would not have

*Attest
for Sub. private*

preferred the LTC claim in respect of my mother and unmarried sister although I have incurred the expenditure in respect of their travel which they undertook with me. In a Government Office, decision is taken on the basis of facts on records and the rules applicable to them. The fact that my father was not included in my Dependency Declaration, as then and now, was well before the eyes of decision - making authority and, therefore, the administrative decision accepting my mother and unmarried sister as dependent on me, was taken in full knowledge of the facts on records. The alibi of "good faith" as now taken by you, is clearly a cheap and handy after - thought to wriggle out of an uncomfortable situation and to feed fat your subjectivity against me of persisting with your denial of reimbursement of the LTC expenses incurred by me in respect of my mother and unmarried sister. In this connection it is highlighted that no allegation of suppression of any material fact has ever been made against me and, therefore, the alibi of "good faith" or otherwise is altogether out of context and is wholly untenable, I beg to submit. And, if the alibi of good faith is stuck to, I also submit that I preferred the LTC claim of my mother and unmarried sister in good faith that my Dependency Declaration was accepted by the office administration as it actually did.

2. Rule 4 (d) of the Central Civil Services (Leave Travel Concessions) Rules 1988 defines the " Family " of an employee for the purposes of LTC. As per items (iii) and (iv) of the said Rule 4 (d), parents, minor brothers and unmarried sisters residing with and " Wholly dependent " in the employee, are included in his family, and as per Explanation No. 5 under Rule 4 (d), a member of the family whose income from all sources does not exceed Rs.1500/- " is deemed to be wholly dependent on the Government servant." My mother and unmarried sister do not have any income whatsoever of their own and my father who is 81 years of age, does not support any one of them. That way, both my mother and unmarried sister both of whom reside with me, are wholly dependent on me. Very clearly, the deciding factor of dependency is whether the mother and the unmarried sisters of an employee is supported by his father or not. In my case, the administration has not proved that my mother and unmarried sister are supported by my father although he himself is not dependent

on me. His own income is barely supportive of himself including heavy recurring medical expenses and he cannot support two more souls that is my mother and unmarried sister. Barely supporting self and supporting others in addition are altogether different, I beg to stress. At the end of the day, it is a matter of either acceptance of my LTC claim or rejection of it by self - contained, speaking and reasoned order and not a case for threatening me with disciplinary action under CCS (CCA) Rules 1965 as has been done in your Memorandum under reference. I, therefore, request you that the Memorandum issued to me be dropped and my LTC claim in respect of my dependent mother and unmarried sister be admitted. As expressly stated in your statement of imputation of misconduct, the Council has advised you to examine my case strictly as per the relevant rules and to "settle the matter" at your end.

Yours faithfully,

Dated the 5th March, 2007.


(Prajesh Kr. Deb)

UDC (Store Section)

Copy submitted to the Under Secretary, Indian Council of Agricultural Research, Krishi Anusandhan Bhawan-II, Pusa, New Delhi-12. A copy of the Memorandum dated the 26th Feb., 2007 to me is enclosed. This has a reference to the Sr. Administrative officer's letter No. EC (P) 46/82 vol II dated the 18th Nov., 2006 to him with copy to me, and my subsequent representation dated the 27th Nov., 2006 to his honour with copy to the Sr. Administrative Officer, of the ICAR, Umiam, Shillong, Meghalaya.

Enclosure : Memorandum dated
26th Feb., 2007.

(Prajesh Kumar Deb)

5 MAY 2007

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Guwahati Bench
GUWAHATI BENCH: GUWAHATI

125
Filed by the applicant
through M. Borthakur, advocate
on 8.05.07

In the matter of: -

O.A. No. 15 of 2007

Shri Prajesh Kumar Deb

..... Applicant.

-Vs-

Union of India and Others.

..... Respondents.

-AND-

In the matter of: -

Additional Rejoinder submitted by the applicant in reply to the written statements submitted by the Respondents.

The humble applicant above named most humbly and respectfully state as under: -

1. That the applicant categorically denies the statements made in para 6 (II) of the written statement and further begs to state that there are inasmuch as 19 staffs in the cadre of U.D.C serving in the respondent department at ICAR, Umiam, Meghalaya, amongst the 19 staffs 17 are senior to the applicant and 2 are junior to the applicant. The following persons are serving as U.D.C in the Office of the Agricultural Complex, for NEH Region, Umium, Shillong, Meghalaya.

U.D.Cs senior to the applicant

- i) Shri J. Chakraborty
- ii) Shri Probodh Sharma

- iii) Shri Chester Konglam
- iv) Shri Kulbadhur Giri
- v) Shri Marcos Dekhar
- vi) Smti Anita Das
- vii) Smti Debjani Choudhury
- viii) Shri B. Chanda
- ix) Smti R. Sholong
- x) Smti Sabitri Kaflang
- xi) Smti D. Das
- xii) Smti J.B. Lohar
- xiii) Smti Ratna Das
- xiv) Smti L.M. Khathujan
- xv) Smti R. Duia
- xvi) Smti C. Kharmowlong
- xvii) Shri S. Karanjee.

U.D.Cs Junior to the applicant

- (viii) Smti B. Mapna.
- (ix) Smti M. Nongklaw.

From the above chart it is evident that there are altogether 19 U.D.Cs working in the ICAR, Umiam, Meghalaya and they were never sent on transfer from the office of ICAR, Umiam, Meghalay whereas applicant served for 8 years at Tripura, therefore picking of the applicant for transfer to Mizoram is malafide and just to harass the applicant. Be it stated that in the instant case applicant has been picked up for transfer without disturbing the others as because applicant raised objection regarding payment of 10% extra to the private contractor and now the respondents are trying to establish their malafide action in the cover of administrative exigency, which is liable to be interfered by the Hon'ble Tribunal. Moreover, from the letter dated 13.12.2006 (Annexure- H of the written statement) it is evident that Joint Director, ICAR, Mizoram

specifically sought for KVK staff and the present applicant is not a KVK staff, therefore, it can rightly be concluded that transfer of the applicant never warranted against the requisition sent by the ICAR, Mizoram and he was arbitrarily picked up for transfer to Mizoram against the requisition sought for KVK staff. It is pertinent to mention here that KVK staffs are recruited separately and their salary also paid by allocating a separate budget and it has no link with the ICAR staff. Therefore it can be rightly concluded that the respondents in their written statement mixed up the urgent need of KVK staff with the post of applicant whereas applicant is not a KVK staff and has never stated under which meeting resolution was taken to transfer U.D.C. from ICAR Umiam to ICAR, Mizoram centre, as such the Hon'ble Tribunal be pleased to direct the respondents for production of records of the transfer file and the file containing resolution taken by the Mizoram centre regarding shortage of staff and requisition sent to the ICAR Shillong seeking KVK staff.

In the facts and circumstances as stated above the Original Application deserves to be allowed with cost.

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VERIFICATION

I, Shri Prajesh Kumar Deb, S/o- Shri Prabhat Chandra Deb, aged about 47 years, working as Upper Division Clerk in the Office of the Indian Council of Agricultural Complex, For NEH Region, Umium, Shillong-793103, Meghalaya, applicant in the instant application, do hereby verify that the statements made in Paragraph 1 of the additional rejoinder are true to my knowledge and I have not suppressed any material fact.

And I sign this verification on this the 6th day of May 2007.

Prajesh Deb