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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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*Par 03/07/2015*  
SECTION OFFICER (JUDL.)

FORM NO. 4  
(See Rule 42)  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :  
ORDERSHEET

1. ORIGINAL APPLICATION No : 146 / 2009

2. Transfer Application No : ----- / 2009 in O.A. No. -----

3. Misc. Petition No : ----- / 2009 in O.A. No. -----

4. Contempt Petition No : ----- / 2009 in O.A. No. -----

5. Review Application No : ----- / 2009 in O.A. No. -----

6. Execution Petition No : ----- / 2009 in O.A. No. -----

Applicant (S) : Dp. Surya Das

Respondent (S) : Union of India vs.

Advocate for the : Mr. K.K. Phukan, Mr. S.K. Gogoi,  
(Applicant (S)) Mr. P. Baruah & Mr. B. S. Gogoi

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

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form is filed/C. F. as 50/- deposited via <u>DD</u> No. <u>37 G. 407280</u> Dated <u>22.6.09</u></p> <p><u>6/8/09</u> Dy. Registrar <u>6/8/09</u></p>	07.08.2009	<p>Heard learned counsel for the parties.</p> <p>For the reasons recorded separately, this case stands disposed of at the admission stage itself.</p>
<p><u>6.8.09</u> Four copies of application with envelope received for issue notice to the Respondents No 1 to 4. Copy served on 5.8.09</p> <p><u>6/8/09</u></p>	1/bb/	<p><u>6/8/09</u> (M.K. Chaturvedi) Member (A)</p> <p><u>6/8/09</u> (M.R. Mohanty) Vice-Chairman</p>
<p>Received Copy</p> <p><u>Gogoi</u> <u>Sdr.</u></p>		

12/8/2009

Judgment with Notice  
order dtd 7/8/09 send to  
the D/section for issuing  
to the applicant &  
Respects, by Regd. post.

D/No.

dtd

From  
12/8/09

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A No. 146 of 2009

DATE OF DECISION: 07.08.2009

Dr. Surjya Das ..... Applicant/s.

Mr.K.K.Mahanta ..... Advocate for the  
..... Applicant/s.

- Versus -

U.O.I. & Ors ..... Respondent/s

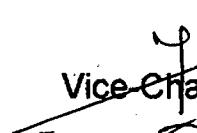
Mr.M.K.Boro, Addl. C.G.S.C., ..... Advocate for the  
..... Respondents

CORAM

THE HON'BLE MR.MANORANJAN MOHANTY, VICE CHAIRMAN  
THE HON'BLE MR.M.K.CHATURVEDI, ADMINISTRATIVE MEMBER

4. Whether Reporters of local newspapers may be allowed to see the Judgment? Yes/No
5. Whether to be referred to the Reporter or not? Yes/No
6. Whether their Lordships wish to see the fair copy of the Judgment? Yes/No

Judgment delivered by

 Vice Chairman/Administrative Member

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 146 of 2009

Date of Order: This, the 07th Day of August, 2009

THE HON'BLE SHRI MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE SHRI M.K.CHATURVEDI, ADMINISTRATIVE MEMBER

Dr. Surjya Das  
S/o Late B. Das  
Resident of Akashvani Campus  
All India Radio, Guwahati  
District: Kamrup, Assam.

... Applicant.

By Advocates: Mr.K.K.Phukan, Mr.S.K.Gogoi, Mr.P.Borah & Mr.B.S.Gogoi.

- Versus -

1. The Prasar Bharati  
(Broadcasting Corporation of India)  
Represented by its Chairman, Akashvani Bhavan  
Parliament Street  
New Delhi – 110 001.
2. The Director General  
All India Radio  
(Broadcasting Corporation of India)  
Akashvani Bhavan, Parliament Street  
New Delhi – 110 001.
3. The Deputy Director General (NER)-1  
Prasar Bharati , (Broadcasting Corporation of India)  
All India Radio, Chandmari  
Guwahati- 781 003.
4. The Union of India  
represented by the Secretary  
to the Government of India  
Ministry of Information and Broadcasting  
New Delhi-1.

... Respondents.

By Mr. M.K.Boro, Addl. C.G.S.C.



\*\*\*\*\*

**O.A. No. 146 of 2009**  
**ORAL ORDER**  
**07.08.2009**

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

Applicant, having faced an order of transfer (dated 10.04.2008) from AIR/Guwahati to AIR/Nagaon, represented to the Deputy Director General (NER) of AIR/Guwahati on 22.04.2008 and approached the Hon'ble Gauhati High Court with a writ application [W.P.(C) No. 1809/2008]; which was dismissed on 13.03.2009 being withdrawn. The Hon'ble Court, directed the Applicant to join the new station/Nagaon by 01.04.2009 and granted liberty to the Applicant to ventilate his grievances/difficulties to his authorities (by way of filing a representation) only after joining at Nagaon. After joining at the new place of posting/Nagaon, the Applicant submitted a representation (on 06.04.2009) to the Director General of All India Radio/New Delhi; disclosing therein (a) about existence of vacancy at Guwahati, (b) about his ailing (mentally retarded) child and (c) <sup>about</sup> existence of Govt. of India (DOPT) Office Memo dated 15.02.1991. Applicant prayed to give him posting at Guwahati for better treatment of his ailing child.

1.1 Relevant portion of DOPT letter dated 15.02.1991 is extracted herein below:-

"Copy of DP&T O.M. No.14017/41/90-Estt.(RR)  
dt.15.2.1991.

Subject:- Posting of Government employees who have  
mentally retarded children.

The undersigned is directed to say that there has been a demand that an employed parent of a mentally retarded child should be given posting at a place of his/her choice. This demand has been made on the plea that facilities of medical aid and education of such children are not available everywhere. Also looking after

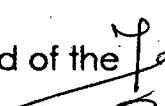
such children does require special care and is expensive. Hence some concessions from the Government at least in matters of posting at a place of choice is called for.

2. The matter has been examined. Considering that the facilities for medical help and education of mentally retarded children may not be available at all stations, a choice in the place of posting is likely to be of some help to the parent in taking care of such a child. While administratively it may not be possible in all cases to ensure posting of such an employee at a place of his/her choice, Ministries/Departments are requested to take a sympathetic view on the merits of each case and accommodate such requests for posting to the extent possible." (emphasis supplied by us)

1.2 On 01.05.2009, the Director General turned down the prayer of the Applicant to be posted at Guwahati in order to take care of his ailing child. Text of the said order dated 01.05.2009 reads as under:-

" I am directed to refer to your representation praying for cancellation of transfer order issued vide memo dated 10.04.2003 by NER-II's office and to state that the request was examined in this Directorate and it has been decided that since the officer has stayed for more than 12 years at Guwahati, his request for cancellation of transfer orders and retention at Guwahati cannot be acceded to at this stage." (emphasis supplied by us)

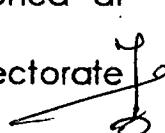
1.3 Thereafter, the Applicant, again, approached the Hon'ble Gauhati High Court with W.P.(C) No.1866/2009; which was not entertained for want of jurisdiction.

1.4 In the aforesaid premises, the Applicant has approached this Tribunal with the present Original Application filed under Section 19 of the Administrative Tribunals Act, 1985 with the prayer to ask the Respondents to post him (Applicant) at Guwahati (where facilities of medical aid and education are available for mentally retarded children; like the child of the 

Applicant, who is a case of "mixed disorder of conduct and emotion") in terms of Govt. of India/DOPT Office Memorandum dated 15.02.1991.

2. We have heard Mr.K.K.Phukan, learned counsel appearing for the Applicant and Mr.M.K.Boro, learned Addl. Central Govt. Standing counsel (to whom a copy of this O.A. has already been supplied) and perused the materials placed on record.

3. On perusal of the copy of the representation under Annexure-6 dated 06.04.2009 of the Applicant, it is seen that he drew attention of his authorities/Director General of AIR at New Delhi (a) about ailment/sickness requiring continued treatment of one of his (mentally retarded) child; (b) about existence of medical facility for treatment of such sick persons only at Guwahati; (c) about Govt. of India/DOPT Office Memorandum dated 15.02.1991 (copies of which were circulated under the endorsement dated 11.03.1991) under which sympathetic consideration are to be extended in the matter of transfer and posting to the parents of such sick children and (d) about existence of vacancies at Guwahati to accommodate the Applicant at AIR/Guwahati offices. His prayer was essentially to post him at Guwahati; so that he can take care of his ailing child. He placed with the said representation dated 06.04.2009, a copy of the Govt. of India/DOPT O.M. dated 15.02.1991 (which was put to circulation on 11.03.1991) to get the sympathetic consideration of his authority.

4. But a perusal of the impugned order dated 01.05.2009 (supra) from Directorate General of AIR/New Delhi goes to show that the authority only looked to the aspect that the Applicant remained/stationed at Guwahati for 12 years and, that is why, they (Respondents/Directorate) 

General of AIR) turned down the prayer of the Applicant/to post him at Guwahati. Impugned order dated 01.05.2009 goes to show that the Authorities/Respondents/ Director General of AIR/New Delhi did not take into consideration (a) the fact that Applicant has got a mentally retarded child requiring constant/regular/continued treatment available at Guwahati; (b) the fact about existence of vacancies at Guwahati and (c) the fact that there exists a mandate of Govt. of India (issued from the nodal Department of Personnel & Training) to give sympathetic consideration, in such a case, to the extent possible to accede to the choice of posting of Govt. servant; although these were the points for consideration. Non consideration of all these points (that was raised in the representation) has led to mis-carriage of justice in the decision making process and, as such, the order dated 01.05.2009 is not sustainable.

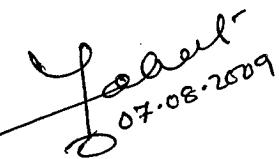
5. We are of the view that, on the face of fact that the Applicant has already joined at AIR/Nagaon (on transfer from Guwahati) and that he has got a mentally retarded child requiring constant watch/treatment under the Doctors at Guwahati; then the Authorities/Respondents /Director General of AIR should give sympathetic consideration to the case of the Applicant (in terms of Govt. of India/DOPT's O.M. dated 15.02.1991); provided there exists vacancies at Guwahati as against which the Applicant can be accommodated. It has already been stated on behalf of the Applicant that vacancies are there at Guwahati and there are non-availability of the stand<sup>and</sup> of Hospitals at Nagaon as are available at Guwahati.

6. In the aforesaid premises, we, hereby, remit the matter to the Respondents (especially the Respondent No.2/the Director General of AIR) 

with direction to give reconsideration to the case of the Applicant (for his posting at Guwahati) by taking into consideration all aspects of the matter (as noted in the foregoing paragraphs and in the representation of the Applicant) including the fact that the ailing wife of the Applicant is also an working lady at Guwahati and, as such, she is not in a position to give full time to their ailing child. The Respondents should give full sympathetic consideration of the matter, in terms of Govt. of India/DOPT's Office Memorandum dated 15.02.1991, within a period of 90 days from the date of receipt of a copy of this order.

7. With the above observation and direction this case stands disposed of.
8. Send copies of this order to the Applicant and the Respondents (along with the copies of this O.A.) by Registered Post in the address given in this Original Application.
9. Free copies of this order be supplied to the Advocates appearing for both sides.

  
(M.K.CHATURVEDI)  
ADMINISTRATIVE MEMBER

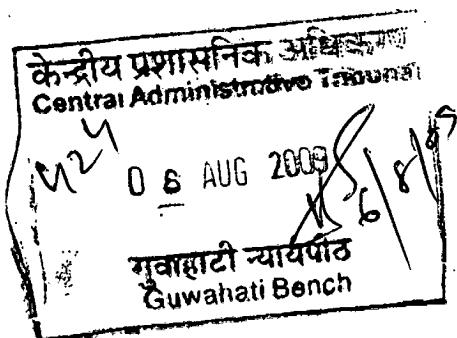
  
07.08.2009  
(MANORANJAN MOHANTY)  
VICE CHAIRMAN

/BB/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

(An application under section 19 of the  
Administrative Tribunal Act, 1981)



O.A. No. 146 of 2009.

Dr. Surjya Das

..... APPLICANT

- Versus -

Union of India and others

..... RESPONDENTS

S Y N O P S I S

The applicant at present working as Assistant Station Director in the respondent department. His youngest son has been suffering from 'mixed disorder of conduct and emotion and presently under treatment of Guwahati Medical college Hospital, Guwahati. Vide office order dated 10/4/08 the applicant was transferred from AIR Guwahati to AIR Nagaon. Being aggrieved the applicant filed W.P.(c) No-1809/08 before the Hon'ble Gauhati High Court. The said petition was disposed of vide order dated 13/03/09 with a direction to the applicant to join his place of transfer by 1<sup>st</sup> of April, 2009 and also directed to ventilate his grievances/difficulties to the respondent authorities to look into the matter and to make a decision which to be communicated to the applicant within a reasonable time.

As per endorsement dated 11/03/1991 all the employees who have mentally retarded child have been posted at a place of his/her choice

केन्द्रीय अधिकारी बोर्ड, अधिकारी बोर्ड  
Central Administrative Tribunal

06 AUG 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

because the facilities of medical aid and education of such children are not available every where. It is to be stated here that there is no such medical aid and education at Nagaon. Moreover there are five numbers of vacancies are lying at Guwahati and medical treatment of the applicant's son has been discontinued because of posting of Nagaon. Pursuant to the aforesaid Hon'ble High courts order dated 13/03/2009 and on the basis of the endorsement dated 11<sup>th</sup> March, 1991 of the Staff Selection Commission Govt. of India, the applicant made a representation dated 06/04/2009 ventilating all the grievances of the applicant. As the said representation was not disposed of for a long time the applicant filed a writ petition before the Hon'ble Gauhati High Court being W.P. (C) No 1866/2009 but the same was not entertained because of jurisdiction. However liberty was given to the applicant to approach the Central Administrative Tribunal, Guwahati. Meanwhile the respondent authority disposed of the representation dated 06/04/2009 and Vide the letter dated 1<sup>st</sup> May 2009 rejected the prayer of the applicant. Hence this application for redressal of the applicants grievances.

Filed by

*Shantanu K. Goswami*

Advocate

06 AUG 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

LIST OF DATES

<u>Annexure</u>	<u>Date</u>	<u>Particulars</u>	<u>page</u>
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Annexure-3	-02/02/02	Medical certificate issued by GMCH, Guwahati- 38.	- 20 -
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Annexure-5	-13/03/09	Hon'ble High Court's order dated 13/03/09 passed in W.P. (C) No 1809/2008.	- 22 -
Annexure-6	-06/04/09	Representation filed by the petitioner.	- 24 -
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Filed by

Shantown K. Dugar

Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

O.A. No. 146 of 2009.

Dr. Surjya Das

..... APPLICANT

- Versus -

Union of India and others

..... RESPONDENTS

केन्द्रीय प्रशासनिक अधिकारपा  
Central Administrative Tribunal

06 AUG 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

I N D E X

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7.	Annexure - 5	22
8.	Annexure - 6	24 to 27
9.	Annexure - 7	28
10.	Annexure - 8	29
11.	Annexure - 9	30

Filed by

Shantown K. Gosoi

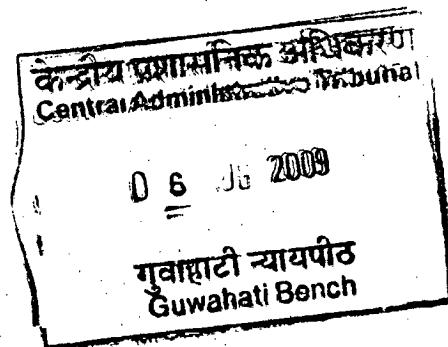
Advocate

Revised  
MM  
5/8

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH :: GUWAHATI

(An application under section 19 of the  
Administrative Tribunal Act, 1985)

O.A. No. 146 of 2009.



Dr. Surjya Das  
Son of Late B. Das.  
Resident of Akashvani Campus  
All India Radio, Guwahati.  
District - Kamrup, Assam.

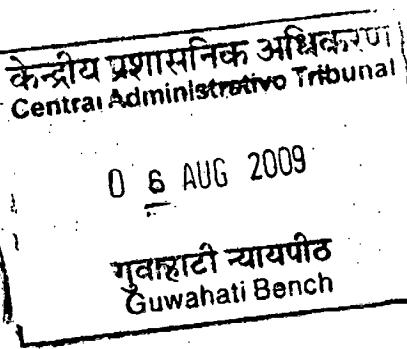
....APPLICANT

-Versus-

1. The Prasar Bharati (Broadcasting Corporation on India), represented by its Chairman, Akashvani Bhavan, Parliament Street, New Delhi - 110001.

2. The Director General, All India Radio (Broadcasting Corporation of India), Akashvani Bhavan, Parliament Street, New Delhi - 110001.

*Surjya Das*



3. The Deputy Director General (NER) -1, Prasar Bharati (Broadcasting Corporation of India), All India Radio, Chandmari, Guwahati- 781003.

4. The Union of India represented by the Secretary to the Government of India, Ministry of Information and Broadcasting, New Delhi. -1

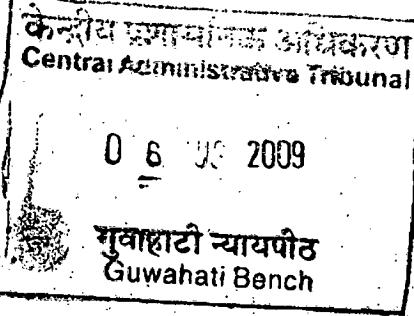
..... RESPONDENTS

1. PARTICULARS OF THE ORDERS AGAINST WHICH THE APPLICATION IS MADE.

(1) Order no - 02/2008 - (A) issued under memo number NER - 2 (13) / 2008 - S/416 dated 10/04/2008 by the Deputy Director General (NER) -1 transferring the applicant from A.I.R. Guwahati to A.I.R. Nagaon.

(2) Order no - 4/14/82 - SI (A) / 295 dated 1<sup>st</sup> May, 2009 rejecting the prayer of the applicant for cancellation / modification of transfer order dated 10/04/2008 and posting at A.I.R. Guwahati against any vacant post.

*Sureya Kumar De*



(3) Non compliance of the endorsement dated 11<sup>th</sup> March, 1991 issued by the Government of India, Staff Selection Commission, Department of Personal and Trag. regarding posting of Government employees who have mentally retarded children.

**2. JURISDICTION OF THE HON'BLE TRIBUNAL :-**

The applicant declares that the subject matter of the orders are within the jurisdiction of the Hon'ble Tribunal.

**3. LIMITATION :-**

The applicant further declares that the application is within the limitation prescribed under section 218 of the Administrative Tribunal act, 1985.

**4. FACTS OF THE CASE :-**

(I) That the applicant joined in the All India Radio, Dibrugarh in April, 1976 as Announcer & Transmission Executive. Thereafter he transferred to A.I.R. Silchar as Program Executive in 1983, then to A.I.R. Guwahati as Programmed Executive in 1986, then to A.I.R. North Eastern Service Shillong as Programme Executive in 1993, then to A.I.R. R.T.I. (P) Shillong as Assistant Station

*Surjya Kumar Das*

06.02.2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

Director (Junior Time Scale) in 1994, then to A.I.R. Guwahati as Assistant Station Director (JTS) (Ad-hoc) in 1996, then to A.I.R. Nagaon as Assistant Station Director (JTS) (Ad-hoc).

(II) That, vide office order dated 10/04/08 the applicant was transferred from A.I.R. Guwahati to A.I.R. Nagaon.

In this connection a copy of the office order dated 10/04/08 is annexed herewith and marked as Annexure - 1.

(III) That the applicant's youngest son namely Sri Abhinab Kashyap (Krishanu) has been suffering from "mixed disorder of conduct and emotion" and was under treatment of National Institute of Mental Health and Neuro Science (NIMHANS), Bangalore and under Guwahati Medical College Hospital, Guwahati. Recently his son's behaviour has become so aggressive that his said son has been beaten several persons including parents. On the other hand, his wife who is serving as Senior Lecturer in Cotton College, Guwahati has been suffering from severe Diabetes and Hypertension. She had been hospitalized for several times for her treatment. As a result of which she is unable to take care of her said son. Stating all those facts and circumstances the applicant filed representation dated 22/04/08 before the respondent authorities for modification/

*Swagat Kumar Das*

06 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

5

cancellation of the aforesaid transfer order dated 10/04/08 with a request to retain the applicant at A.I.R. Guwahati or to transfer against any one of the three no of vacant post of Deputy Director (Senior Time Scale) at A.I.R. Guwahati or against two no's of Deputy Director (STS) in the office of the Deputy Director General (NER-1) A.I.R. Guwahati.

In this connection copies of the aforesaid medical certificate issued by NIMHANS and GMCH and representation dated 22/04/08 are annexed herewith and marked as Annexure - 2, 3 and 4 respectively.

(IV) That as the respondent authorities did not pay any heed to consider the case of the applicant, the applicant filed a writ petition being W.P.(C) No - 1809/2008 before the Hon'ble Gauhati High Court for redressal of his grievances. The Hon'ble Gauhati High Court was pleased to stay the aforesaid transfer order vide interim order dated 12.5.2008. Accordingly, the applicant has been continuing his service at A.I.R. Guwahati till 31.03.2009. But finally the Hon'ble Gauhati High Court was pleased to pass judgment and order dated 13/03/09 whereby directed the applicant to join his place of transfer i.e. Nagaon positively by 1<sup>st</sup> of April 2009. By the said order the applicant also directed to ventilate his

*Surjya Kumar Das*

06.04.2009 ✓

गुवाहाटी न्यायपीठ  
Guwahati Bench

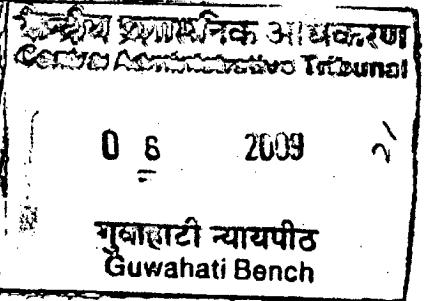
grievances/difficulties to the respondent authorities to look into the matter and to make a decision which to be communicated to the applicant within a reasonable time. Accordingly, the applicant made a representation before the Director General, All India Radio, New Delhi on 06/04/09 ventilating his grievances as well as difficulties that in Nagaon there is no such medical facilities for treatment of such a psychiatric patient like his aforesaid son.

In this connection a copy of the aforesaid Hon'ble Gauhati High Court's order dated 13/03/09 and representation dated 06/04/09 are annexed herewith and marked as Annexure - 5 and 6 respectively.

(V) That the respondent authorities did not pay any heed to look into the matter of the applicant and failed to consider the case of the applicant in spite of repeated request on the aforesaid grounds. As a result of which the applicant has been compelled to work at A.I.R. Nagaon leaving his mentally retarded son suffering from "mixed disorder of conduct and emotion" with his ailing mother at Guwahati.

(VI) That, since 1<sup>st</sup> April, 2009 i.e. date of joining at A.I.R. Nagaon the applicant could not look into his son and could not provide regular





medical treatment as has been provided earlier at Guwahati Medical College Hospital. As a result of which the condition of his son is deteriorated day by day and the public of his surroundings area including his family members have been beaten up and attacked with stones by his said son because of his severe psychiatric problems.

(VII) That as all total five numbers of vacant posts are lying at A.I.R. Guwahati as stated above there is no impediment to place the applicant against any one of those vacant post at A.I.R. Guwahati instead of placing at A.I.R. Nagaon.

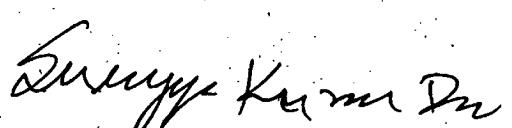
(VIII) That regarding posting of Government employees who have mentally retarded children the Government employees/different organization of Government employees have been demanded that an employed parent of a mentally retarded child should be given posting at a place of his/her choice. This demand has been on the plea that facilities of medical aid and education of such children are not available everywhere. Also, looking after such children does require special care and patience and is expensive. Hence, some concession from the Government at least in matters of posting at place of choice is called for. Theforesaid demand has been examined by the Government considering that the facilities for medical help and education of mentally retarded children may not be available at all stations, a

*Surya Kumar De*

06 APR 2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

choice in the place of posting is likely to be of some help to the parent in taking care of such a child. While administratively it may not be possible in all cases to ensure posting of such an employee at a place of his/her choice, Ministries/Departments are requested to make a sympathetic view on the merit of each case and accommodate such request for posting to the extent possible. All those words have been communicated to regional / sub-regional offices of staff selection commission as well as all officers, PS's & PA's sections and Head Quarters including Northern Region vide endorsement dated 11/03/1991. On the basis of the said endorsement dated 11<sup>th</sup> March, 1991 all the Government employees who have mentally retarded children have been posted at a place of his/her choice so that proper facilities of medical aid and education can be provided to the mentally retarded children. The applicant also prayed for posting at Guwahati where facilities of medical aid and education of mentally retarded children particularly children suffering from mixed disorder of conduct and emotion like the applicant's son. The applicant also enclosed a copy of the aforesaid endorsement dated 11<sup>th</sup> March, 1991 along with his representation dated 06/04/09 for consideration of his case like other similarly situated persons. But the respondent authorities did not pay any attention to consider the case of the applicant on merit. As such the applicant has



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been singled out and has been deprived from his fundamental and legal rights.

In this connection a Copy of the aforesaid Endorsement dated 11<sup>th</sup> March, 1991 is annexed herewith and marked as Anexure-7.

(IX) That, the respondent authorities vide impugned transfer order dated 10/04/08 posted the applicant at A.I.R Nagaon not because of public interest but because of accommodate their vested interested person at Guwahati. As such said impugned transfer order being malafide is liable to be set aside and quashed.

(X) That, on the ground stated above particularly for the welfare of the retarded children the applicant should be posted in any post at A.I.R Guwahati if transfer of the applicant is at all to be necessary for the interest of the public. By not doing so transferring the applicant to A.I.R Nagaon where there is no facilities for medical aid and education to such type of mentally retarded children like the applicant's son is highly unjust, unfair, unjustified, against the mandatory provisions of law violative of fundamental and legal rights of the applicant as well as violative



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Guwahati Bench

of principle of natural justice, equity and good conscience and as such impugned acts of the respondent authorities are liable to be interfered by the Hon'ble Tribunal for the ends of justice.

(XI) That, on the basis of the endorsement dated 11<sup>th</sup> March, 1991 all the Government employees who have mentally retarded children have been posted at his/her choice for the welfare of the retarded children, but in case of the applicant whose son has been suffering from mixed disorder of conduct and emotion and where presence of both parents are essential to take care of, that endorsement has not been complied with. As such the acts of the respondents meted out to the applicant with regard to posting at A.I.R Nagaon vide impugned transfer order dated 10/04/08 are arbitrary discriminatory, malafide, unfair, unjust and as such the same is liable to be set aside and quashed.

(XII) That as the respondent authorities failed to dispose of the applicants representation dated 06/04/2009 within a reasonable time, the applicant filed a writ petition being W.P.(C) No. 1866/2009 before the Hon'ble Gauhati High Court for redressal of his grievances. But the said petition was not maintainable because of jurisdiction. Hence, the said petition was disposed of with the liberty to the petitioner



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Guwahati Bench

to approached the Central Administrative Tribunal, Guwahati agitating his grievances.

In this connection a Copy of the order dated 15/05/2009 is annexed herewith and marked as ANNEXURE - 8.

(XIII) That, thereafter the respondent authorities disposed of the representation of the applicant dated 06/04/2009 rejecting the prayer of the applicant on the ground that the applicant has stayed for more than 12 years at Guwahati and same was communicated to the applicant vide impugned letter dated 1<sup>st</sup> May, 2009. ( Annexure - 9 ).

In this connection a Copy of the impugned letter dated 1<sup>st</sup> May, 2009 is annexed herewith and marked as ANNEXURE - 9.

(XIV) That this application is made bonafide and for the ends of justice.

*Suryakumar De*

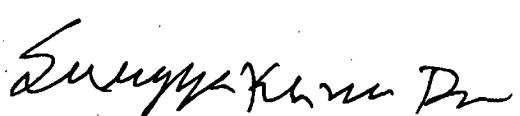
06 AU 2009

गुवाहाटी न्यायपोठ  
Guwahati Bench5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS : -

I. For that non compliance of the endorsement dated 11<sup>th</sup> March, 1991 ( Annexure - 7) in respect of the application is illegal, arbitrary, discriminatory, unfair, unjust and against the mandatory provisions of law and violated the fundamental and legal rights of the applicant.

II. For that non-modifying / non - canceling the order of transfer dated 10/04/2008 (Annexure -1) transferring and posting the applicant against any vacant post at A.I.R. Guwahati is illegal, arbitrary, discriminatory, unfair, unjust and against the mandatory provisions of law and violated the fundamental and legal rights of the applicant and impugned orders are bad in law and liable to be set aside and quashed.

III. For that transferring and posting the applicant at A.I.R. Nagaon, Assam where facilities of medical aid and education of such mentally retarded children who does require special care and patience are not available is illegal, arbitrary, discriminatory, unfair, unjust and against the mandatory provisions of law and violated the fundamental and legal rights of the applicant and impugned orders are bad in law and liable to be set aside and quashed.



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Guwahati Bench

IV. For that in any view of the matter the action of the respondent authority for non-transferring and posting at A.I.R. Guwahati where all kinds of medical facilities and education of such mentally retarded children are available is illegal, arbitrary, discriminatory, unfair, unjust and against the mandatory provisions of law and violated the fundamental and legal rights of the applicant and impugned orders are bad in law and liable to be set aside and quashed.

**6. DETAILS OF REMEDIES EXHAUSTED :-**

The applicant has submitted representations praying for modification/ cancellation of the transfer order dated 10/04/2008 transferring and posting the applicant at A.I.R. Guwahati on the ground that at A.I.R. Guwahati there are facilities of medical aid and education for such type of mentally retarded children like mixed disorder of conduct and emotion.

**7. MATTERS NOT PREVIOUSLY FILED OR PENDIND  
WITH ANY OTHER COURT :-**

The applicant further declares that no other application, writ petition or suit is pending before any court or tribunals.

*Surjya Kumar Das*

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Guwahati Bench

8. RELIEF SOUGHT :-

It is therefore prayed that Your Lordship would be pleased to admit this application, call for records and ask the respondents to show cause as to why the respondent authorities shall not be directed to cancel/modify the transfer order dated 10/04/2008 (Annexure - 1) transferring and posting the application at A.I.R. Guwahati where facilities of medical aid and education are available for a mentally retarded child like "mixed disorder of conduct and emotion" and/or as to why the respondent authorities shall not be directed to comply with the endorsement dated 11<sup>th</sup> March, 1991 (Annexure - 7) in respect of the applicant and/or as to why such other order (s) or directions shall not be issued as Your Lordship may deem fit and proper and upon

*Kamal Kumar Das*

06.06.2009

गुवाहाटी न्यायपीठ  
Guwahati Bench

hearing the parties, perusal of records and show causes if any, make the rule/order absolute.

And for this act of kindness the applicant as in duty bound shall ever pray.

9. **INTERIM ORDER IF ANY PRAYED FOR : -**

It is further prayed that till final disposal of this application Your Lordships would be pleased to direct the respondent authorities to attach the applicant against any vacant post at A.I.R. Guwahati to provide appropriate mental aid and education to his mentally retarded child.

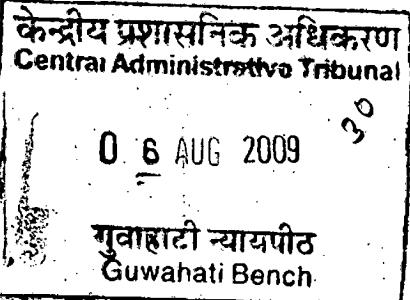
10. The application will be presented by the Advocate of the applicant.

11. Particulars of the postal order/ Bank Draft in respect of the application fee.

I.P.O./ D.D. No.	Dated	Issued by the
39G 407280	22/06/09	G. P. O.

Guwahati P.O. payable at Guwahati is enclosed.

*Surjya Kumar Das*



12. LIST OF ENCLOSERS :-

<u>Annexures</u>	<u>Date</u>	<u>Descriptions</u>
Annexure-1	-10/04/08	The petitioner was transferred from A.I.R. Guwahati to A.I.R. Nagaon.
Annexure-2	-15/12/01	Medical certificate issued by NIMHANS.
Annexure-3	-02/02/02	Medical certificate issued by GMCH, Guwahati- 38.
Annexure-4	-22/4/08	Representation filed by the petitioner
Annexure-5	-13/03/09	Hon'ble High Court's order dated 13/03/09 passed in W.P. (C) No 1809/2008.
Annexure-6	-06/04/09	Representation filed by the petitioner.
Annexure - 7	- 11/03/1991	Endorsement.
Annexure - 8	- 15/05/09	Order of the Hon'ble Gauhati High Court.
Annexure - 9	- 01/05/09	Impugned letter issued by Deputy Director Admn (P).

*Zengya Karm De*

06 AUG 2009

गुवाहाटी न्यायपीठ  
Guwahati BenchVERIFICATION

I, Sri Surjya Kumar Das, s/o late B. Das, aged about 54 years, resident of Akashvani Campus, All India Radio, Guwahati in the District of Kamrup, Assam do hereby verify that the statements made in paragraphs 3, 4(v), (vi), (vii), (ix), (x), (xi) are true to my knowledge and the statements made in paragraphs 1, 2, 4(i), 4(ii), 4(iii), 4(iv), (v), (vi), (vii), (xii) are believed to be true on legal advise and that I have not suppressed any material facts.

And I sign this verification on this 31<sup>st</sup> day of July, 2009 at Guwahati.

Place : Guwahati.

Date : 31/07/2009

*Surjya Kumar Das*

DEPONENT

PRASAR BHARATI  
BROADCASTING CORPORATION OF INDIA  
OFFICE OF THE DEPUTY DIRECTOR GENERAL (NER)-I  
ALL INDIA RADIO :: GUWAHATI

No. NER-2(13)/2008-S/416

Dated : 10.4.2008

ORDER NO. 02/2008 - (A)

The following Assistant Station Directors of AIR in North-Eastern Region are hereby transferred in the same capacity to the places mentioned against each.

0 6 AUG 2008

Guwahati Bench

Sl.No.	Name of ASDs	Present place of posting	New place of posting	Remarks
1.	Shri A.R. Pathak	AIR, Nagaon	AIR, Guwahati	Vice Shri Surjya Das
2.	Shri Surjya Das	AIR, Guwahati	AIR, Nagaon	Vice Shri A.R. Pathak
3.	Shri Dilip Kr. Das	AIR, Dibrugarh	AIR, Guwahati	Vice Shri Kamal Sharma
4.	Shri Kamal Sharma	AIR, Guwahati	AIR, Dibrugarh	Vice Shri Dilip Kr. Das
5.	Shri C.R. Deb Barma	AIR, Itanagar	AIR, Agartala	Against vacant post

Heads of respective All India Radio stations are hereby directed to relieve the respective officers immediately and send compliance report to this office for further action

This issues with the approval of the competent authority.

10/4/08  
(V. Sekhose)

Dy. Director General (NER)-I

To,

1. Shri A.R. Pathak, ASD, AIR, Nagaon
2. Shri Surjya Das, ASD, AIR, Guwahati
3. Shri Dilip Kr. Das, ASD, AIR, Dibrugarh
4. Shri Kamal Sharma, ASD, AIR, Guwahati
5. Shri C.R. Deb Barma, ASD, AIR, Itanagar

Copy to :

1. Station Director, All India Radio, Nagaon/Guwahati/Dibrugarh/Itanagar/Agartala
2. The Director General (P), All India Radio, Akashvani Bhawan, Parliament Street, NEW DELHI - 110001 for kind information
3. The President, Programme Staff Association of AIR & Doordarshan, DT&PES, AIR, New Delhi
4. The President, Programme Staff Welfare Association of AIR & Doordarshan, 11, BH, Annex, AIR, New Delhi
5. The President, AUPO, Room No. 62, ESD, AIR, New Delhi
6. The General Secretary, AIR & Doordarshan, SC/ST Employees Welfare Association (Regd.), Post Box No. 471, G.P.O., New Delhi
7. Shri C. Lalrosanga, Dy. Director General (NER-II), Doordarshan Kendra, Aizawl
8. Spare Copy 2

Dy. Director General (NER)-I

10/4/08  
Programme Executive  
Guwahati  
Certified to be true Copy  
Spoon Advocate



राष्ट्रीय मानसिक स्वास्थ्य एवं तांत्रिक विज्ञान संस्थान (मानक विश्वविद्यालय), बैंगलूरु - 29.

राष्ट्रीय मानसिक स्वास्थ्य एवं तांत्रिक विज्ञान संस्थान (मानक विश्वविद्यालय), बैंगलूरु - 29.

National Institute of Mental Health & Neuro Sciences (Deemed University), Bangalore - 29.

DEPARTMENT OF PSYCHIATRY

Dr. Shoba Srinath

Professor of Psychiatry

& Head of Child & Adolescent Psychiatry Unit

P/195670

December 15, 2001

TO WHOMSOEVER IT MAY CONCERN

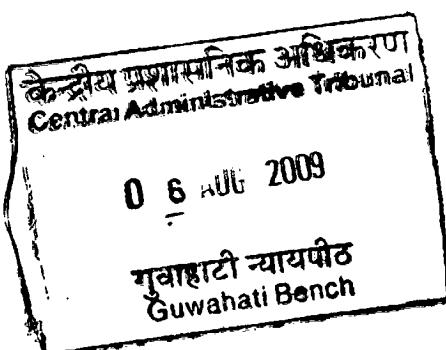
Master Abinav Kashyap was an inpatient at the Child & Adolescent Psychiatric Center at NIMHANS from 5.10.01 to 9.11.01 and diagnosed as suffering from Mixed disorder of conduct and emotion.

He would require continued treatment inputs by a psychiatrist, psychologist and psychiatric social workers.

The presence of both the parents will be essential to help Abinav in his home based treatment programme and thus help him deal with his problems.

Hence we would advice the family to shift to a city where the above mentioned facilities are available.

*Abinav Kashyap*  
 सहायक केन्द्र निदेशक,  
 Asstt. Station Director,  
 आकाशवाणी, गुवाहाटी  
 All India Radio, Guwahati.



*Shoba*  
 (SHOBA SRINATH)  
 Dr. Shoba Srinath, D.P.M., M.D.  
 KMC Reg. No. 14729  
 Additional Professor,  
 Head of Child & Adolescent Services,  
 Dept. of Psychiatry, NIMHANS,  
 Bangalore 560 029

T : 6568121, 6995000, 6995100, 6995200, 6995300, 6995400.  
 Fax : 91-80-6564830, 91-80-6562121. Website : <http://www.nimhans.kar.nic.in>

*Certified to be true copy*  
*Shagrin*  
*Advocate*



**GAUHATI MEDICAL COLLEGE**  
**DEPARTMENT OF PSYCHIATRIC**  
**GUWAHATI, ASSAM, INDIA**

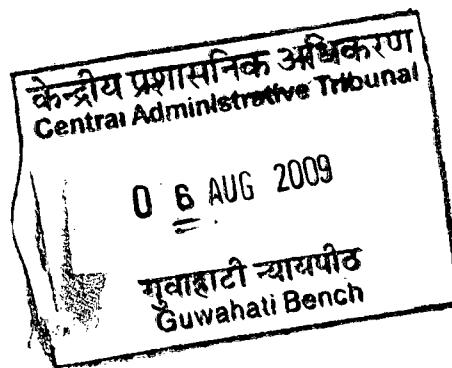
No. ....

Date 2.2.2002

TO WHOM IT MAY CONCERN

Certified that Mr. Abhinaba Kashyap son of Dr. Suryya Kumar Das A.S.D. of All India Radio Guwahati has been suffering from Conduct disorder (Solitary aggressive type) and is under treatment of Psychiatry Department, Guwahati Medical College Hospital (Dept. Rgd. No. 1138/01, Hosp. No. 25535) since 4.6.2001.

Due to his nature of illness he has to continue treatment under constant supervision by a team comprising Psychiatrist, Clinical Psychiologist, and Psychiatry Social Worker. The presence of both the parents will be essential to help him in his home based treatment programme and for his emotional support.



(Dr. S.C. Chakraborty, )  
Asstt. Prof. of Psychiatry  
Guwahati Medical College Hospital  
Guwahati-32.

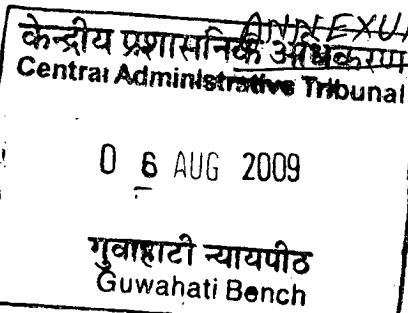
Attisted.

— Michael 5/2/2002

सहायक केन्द्र निदेशक,  
Asst. Station Director.

ASSR. B.  
आकाशवाणी, गुवाहाटी  
All India Radio, Guwahati.

Certified to be true Copy  
Shogai Advocate



To  
The Dy. Director General (NER),  
All India Radio,  
Guwahati.

( Through proper channel )

Sub : - Request to stay my transfer to continue treatment of my son Shri Abhinab Kasyap (Krishanu) who is suffering from psychiatric problem.

Madam,

With due respect and honour I beg to lay before you the following facts for favour of your kind consideration and favourable order.

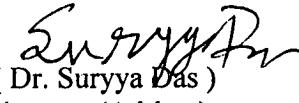
That Madam, as per your order No.NER-2(13)/2008-S/421 dated 10.04.08 I have been transferred to AIR, Nagaon in the same capacity. That Madam I have already served different stations in my service career knowingly that transfer is a part of our service. I am ready for that too. I would like to bring to your kind notice that as stated above my son Shri Abhinab Kasyap (Krishanu) has been "suffering from mixed dis-order of conduct and emotion" as diagnosed at National Institute of Mental Health And Neuro Science (NIMHANS), Bangalore. As advised by the institute his treatment at present is going on in the Department of Psychiatry Guwahati Medical College, Guwahati. It is also advised by the NIMHANS and Guwahati Meidcal College that "presence of both the parents will be essential to help Abhinab (Krishanu) in homebased treatment" (copy of the certificate received from NIMHANS and Guwahati Medical College are enclosed). Recently his behaviour has become so aggressive that he has beaten several persons of our family including parents.

Moreover my wife who has been serving as Sr. Lecturer in Cotton College, Guwahati has been suffering from Diabetes and hypertension. Recently she had to be hospitalized for several times for her treatment. My transfer will bring a set back in the treatment my son as well as my wife. As my wife is a teacher in Cotton College I can not take my wife and children with me on my transfer. Under this circumstances stated above my transfer order may be re-consider and kindly retain me at AIR, Guwahati or any other establishment of Prasar Bharati in the city of Guwahati. This will help me to continue treatment of my son and my wife.

Lastly, I would like to bring to your kind notice that at AIR, Guwahati 03 (three) numbers of Deputy Directors(Senior Time Scale) <sup>posts</sup> are lying vacant at this station. I may kindly be accommodate against any one of said posts. I hope you will be kind enough to extend necessary help in respect of treatment of my son and my wife by retaining me at AIR, Guwahati.

Thanking you.

Yours faithfully,

  
( Dr. Suryya Das )  
Asstt. Station Director. (Ad-hoc).

22 - 04 - 08

*Calified to be true Copy*  
*Syed*  
*Advocate*

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4

WP(C) No. 1809/2008

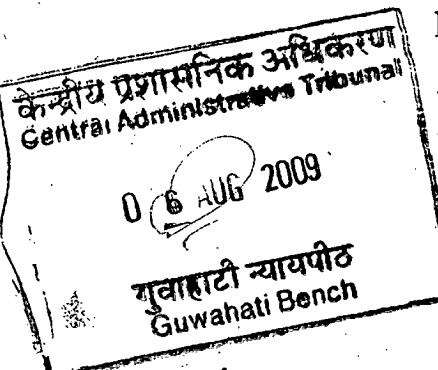
BEFORE  
THE HON'BLE MR JUSTICE B D AGARWAL

13.03.2009

Heard Shri U K Nair, learned counsel for the petitioner and Shri N Bora, learned Central Government Counsel for the respondents.

This writ petition has been filed by the petitioner challenging the order dated 10.4.2008 passed by the Deputy Director General (AIR), Prasar Bharati (respondent No. 3), transferring the writ petitioner from Guwahati to Nagaon. After lengthy hearing, Shri Nair, learned counsel for the petitioner has submitted that he may be allowed to withdraw the writ petition subject to the condition that some reasonable time may be given to the petitioner to join his new place of posting and also a liberty to file fresh representation to the concerned authorities.

Upon hearing the learned counsel for both the sides, the writ petition stands dismissed.

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4
			<p>The petitioner is directed to join his place of transfer i.e. Nagaon positively by 1st of April 2009. Thereafter, the petitioner may ventilate his grievances/difficulties to the respondent authorities by way of filing representation. If the representation is found to be worthy of consideration, the same shall be looked into and the decision may be communicated to the writ petitioner within the reasonable time.</p>

Sd - B.D. Agarwal  
Judge

CERTIFIED TO BE TRUE COPY  
Nripen Chakraborty  
Date: 19/3/09  
Superintendent (Copying Section)  
Gauhati High Court  
Authorised U/S 76, Act 1, 1872

SL. 11407A  
DT. 17/2/09

19/3/09

10.

- 24 -

## ANNEXURE - 6

The Director General,  
All India Radio,  
Akashvani Bhawan, Parliament Street,  
NEW DELHI-110001.

Sub: Prayer for modification/cancellation of the order No: 2/2008-(A), issued under Memo No. NER-2/13/2008-3/16, dated 10.4.2008, in respect of transferring Shri Sunnya Kr. Das from A.R. Guwahati to AIP, Nagpur v/s Shri A. R. Pathak.

Madam,

I have the honour to state the following few lines for favour of kind considerations and sympathetic actions :-

1) That, vide Order No: 02/2008-(a) cited above, I have been transferred in the same capacity from AIR, Guwahati to AIR, Nagaon vice Shri A. R. Pathak.

2) That, earlier to this, I have served in different places and in different capacities such as in AIR, Dibrugarh as Announcer and Transmission Executive from 1976 to 1983, then in AIR, Silchar as Prog. Executive from 1983 to 1986, then in AIR, Guwahati as Prog. Executive from 1986 to 1993, then in AIR, North Eastern Service, Shillong as Prog. Executive from 1993 to 1994, then in AIR, RTI(P), Shillong as Assistant Station Director (JTS) from 1994 to 1996, then in AIR, Guwahati as Assistant Station Director (JTS)(Adhoc) from 1996 to March, 2000, then in AIR, Nagaon as Assistant Station Director (JTS)(Adhoc) since 1st April, 2009.

3) That I have been working in all places and in all capacities sincerely and regularly to the satisfaction of all concerned.

4) That my youngest son Shri Abinab Kashyap (Krishanu) who is now 19 years old has been suffering from " mixed disorder of conduct and emotion " and he was under treatment in the Department of Psychiatric of Guwahati Medical College and Hospital and National Institute of Mental Health and Neuro Sciences (Deemed University, Bangalore). Both the organizations certified that my said son would require continued treatment inputs by a Psychiatrist, Psychologist and psychiatric Social Workers.

*नियन्त्रित अधिकारी का दस्तावेज़  
Administrative Tribunal*

Central Administrative Tribunal  
Guwahati Bench  
06 AUG 2009

Contd....P/2

They also suggest that "the presence of parents will be essential to help my said son in his home-based treatment programme" and for his emotional support. In this regard, the concerned Doctors advised the family to shift a city where the above mentioned facilities are available. (Photocopy of the certificates issued by the GMCH & NIMHANS are annexed herewith as Annexure i & ii respectively).

- 5) That, Guwahati is the only city in Assam where the above mentioned facilities such as Psychiatrists, Psychologists and Psychiatric Social Workers etc are available. As per advise of the Doctors, the necessary treatment has been provided to my son regularly in Guwahati. Although, my said son has been improved but a prolong and continuous treatment is required for his total recovery.
- 6) That my wife, Sm. Dipti Dutta Das, the mother of the said son is Govt. employee working as lecturer in Cotton College, Guwahati, who has been suffering from Diabetis and is also under prolong medical treatment in Guwahati. As such, she also cannot give full time help and support to my ailing son. Rather, I have to take care of her besides taking care of my ailing son. On 18<sup>th</sup> June, 2008, he met with an accident causing paralysis to his legs and getting injury in L-4 part of his backbone. It happened because of his illness. Since then, he is bed ridden and he cannot walk. He has to attend his nature's call on the bed itself. Surgery was completed in L-4 in the Neuro Surgery Department of Guwahati Medical College and his treatment is still going on. (Photocopy of the GMC release order and advice note enclosed). Because of his illness and also for his confinement in the housitself, he has become more aggressive and he has beaten me frequently his mother, maternal uncle and other relatives. My wife and the maid is feeling in- secured because of my absence.
- 7) That, there has been a demand that an employed parent of a mentally retarded child should be given posting at any place of his/her choice. This demand has been made on the plea that facilities of medical aid and education of such children are not available everywhere. Also looking after such children does require special care and passions and is expensive. Hence, some concessions from the Govt. at least in matters of posting at a place of choice is called for.

The said matter has been examined and considered by the authority. The facilities for medical help and education of mentally retarded children may not be available at all stations. Hence, a choice in the place of posting is likely to be of some help to the parent in taking care of such child.

Contd....P/3

ANNEXURE  
III

केन्द्रीय प्रशासनिक अधिकाराय  
Central Administrative Tribunal

06 AUG 2009

गुवाहाटी न्यायालय  
Guwahati Bench

As administratively it is not possible in all cases to ensure posting of such an employee at a place of his/her choice. The authorities requested Ministries/Departments to take a sympathetic view on the merits of each case and accommodate such requests for posting to the extent possible. A copy of the endorsement, dated: 11<sup>th</sup> March, 1991 issued by the Govt. of India, Staff Selection Commission, Department of Personnel & Training is annexed herewith a Annexure-IV

8) That, it is to be stated here that there are 3 Nos. of Dy. Director (STS) post are lying vacant in AIR, Guwahati and 2 Nos. of Dy. Director (STS) post are lying vacant in the Office of the Dy. Director General(NER-I), AIR, Guwahati. There is no impediment to accommodate me in any one of the aforesaid vacant post at Guwahati for the greater interest of the public.

9) That, under the facts and circumstances stated above and listing out all grievances, I have made a representation to the Dy. Director General(NER-I), AIR, Guwahati to cancel/modify the aforesaid transfer order retaining me at AIR, Guwahati or to transfer to any other establishment of Prasar Bharati in the city of Guwahati.

10) That, in-spite of having merit of my case and in-spite of having specific direction from the higher authority to take a sympathetic view on the merits of such a case particularly, a case suffering from mixed disorder of conduct and emotion, the Dy. Director General(NER), AIR, Guwahati did not pay any heed to consider my case and did not like to accommodate me in any of the vacant post lying at Guwahati as stated above for the greater interest of the Department as well for the public

11) That, on being aggrieved at and dissatisfied with the actions of the DDG(NER), AIR, Guwahati, I prefer a writ petition being W. P. C. No:1809/2008 before the Hon'ble Guwahati High Court for redressal of my grievances. The Hon'ble Guwahati High Court was pleased to stay the aforesaid impugned transfer order in respect of me vide interim order dated: but subsequently vide order dated: 17.3.2009, the Hon'ble Guwahati High Court directed me to join my place of transfer, i.e. AIR, Nagaon by 1st April, 2009. Accordingly, I joined in the said post on 1st April, 2009. In the said order, it was further directed me to ventilate my grievances/difficulties to the respondent authorities by way of filing representations and the authorities are directed to consider the same. And also directed to communicate the decision within a reasonable time to me. Copy of the Judgement order dated: 17.3.2009 WP C No.1809/2008 is annexed herewith & marked as Annexure-IV

06 AUG 2009

Guwahati Bench

केन्द्रीय प्रशासन के अधिकारी  
Central Administrative Tribunal

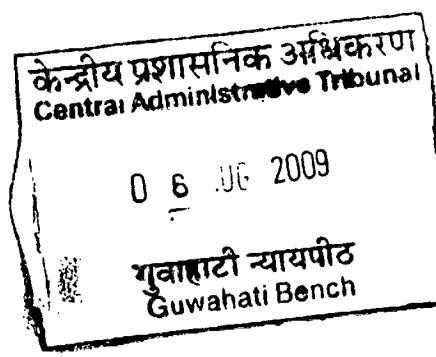
Page:

12) That, in compliance with the aforesaid Hon'ble High Court's order, I have filed /furnished this representation for consideration of my case with the following prayer :-

It is prayed that your Honour may be pleased to consider my case under the facts and circumstances stated above and be pleased to modify/cancel the transfer order, dated 10.4.2008 ( copy of the order is attached as Annexure-V) and retransfer me to the original post or to any other post in AIR, Guwahati or to any other vacant post lying in the office of the Dy. Director General(NER-I), AIR, Guwahati and for which act of your kindness, I shall ever grateful to you.

Thanking you, Madam.

Yours faithfully,



*Surya Das*  
(SURYYA KUMAR DAS)  
ASD : AIR : NAGAON(ASSAM)

06/04/09

13/3  
AD(E)

Block No.12, CGO Complex,  
Lodi Road, New Delhi -3.

Dated the 11th March, 1991.

ENDORSMENT

केन्द्रीय प्रशासनिक अधिकार  
Central Administrative Tribut

A copy of the undermentioned paper is forwarded for information to :-

06 AUG 2009

1. All Regional/Sub-Regional offices of Staff Selection Commission.
2. All Officers, PSS & PAs, Sections at Headquarters including Northern Region.

गुवाहाटी न्यायालय  
Guwahati Bench

(P.D. Taty)  
SECTION OFFICER(E)

paper forwarded :

DP&T O.M. No. AB.14017/41/90-Estt. (RR) dt. 15.2.1991.

Copy of DP & T O.M. No. 14017/41/90-Estt. (RR) dt. 15.2.1991.

Subject:- Posting of Government employees who have mentally retarded children.

The undersigned is directed to say that there has been a demand that an employed parent of a mentally retarded child should be given posting at a place of his/her choice. This demand has been made on the plea that facilities of medical aid and education of such children are not available everywhere. Also looking after such children does require special care and patience and is expensive. Hence some concessions from the Government at least in matters of posting at a place of choice is called for.

2. The matter has been examined. Considering that the facilities for medical help and education of mentally retarded children may not be available at all stations, a choice in the place of posting is likely to be of some help to the parent in taking care of such a child. While administratively it may not be possible in all cases to ensure posting of such an employee at a place of his/her choice, Ministries/Departments are requested to take a sympathetic view on the merits of each case and accommodate such requests for posting to the extent possible.

Sd/-  
(M.V. Kosavan),  
DIRECTOR

*Certified to be free copy*  
N.K.  
Shagor  
Advocate

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
	2	3	4

**W.P.(C) 1866/2009**

**BEFORE**

**THE HON'BLE MR. JUSTICE B.K. SHARMA**

**15-05-2009**

It has been brought to my notice that the Govt. of India in the Ministry of Personnel, Public Grievances and Pension (Department of Personnel & Training), vide its notification dated 1.12.2008 has notified the Prasar Bharati as one of the organizations owned and or controlled by the Government, which will be covered by Section 14 of the Administrative Tribunal Act, 1985.

In view of the above and also in view of the decision of the Apex Court in **L. Chandra Kumar Vs. Union of India** reported in **(1997) 1 GLT 1 (SC)**, the petitioner should first approach the Central Administrative Tribunal, Guwahati Branch agitating his grievances as the court of first instance. If any one of the parties is aggrieved by the decision of the Tribunal, it can approach the Division Bench of this Court.

In view of the above, this writ petition is not entertained and is disposed of with the liberty to the petitioner to approach the Central Administrative Tribunal, Guwahati agitating his grievances.

*Certified to be true copy  
S. Sengupta  
Advocate*

*Sd/ B.K. Sharma  
Judge*

**CERTIFIED TO BE TRUE COPY**

*N. Sengupta*

Date: 12.6.09

Superintendent (Copying Section)

Guwahati High Court

Authorised U/S 76, Act 1, 1872

*Sl. no - 118620  
Dtd 2/6/09*

*Clerk  
12/6/09*

No.4/14/82-SI(A) / 295  
PRASAR BHARATI  
BROADCASTING CORPORATION OF INDIA  
DIRECTORATE GENERAL: ALL INDIA RADIO

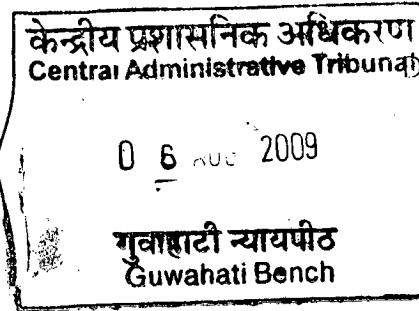
New Delhi: Dated 1<sup>st</sup> May, 2009

Subject:- Request for cancellation of transfer order.

I am directed to refer to your representation praying for cancellation of transfer order issued vide memo dated 10.04.2003 by NER-II's office and to state that the request was examined in this Directorate and it has been decided that since the officer has stayed for more than 12 years at Guwahati, his request for cancellation of transfer orders and retention at Guwahati cannot be acceded to at this stage.

2. This issues with the approval of DG: AIR.

✓ Shri Surya Kumar Das,  
Asstt. Station Director,  
All India Radio,  
NAGAON.



*MSB*  
(N. SRIVASTAVA)  
Director of Admn (P)  
For Director General

Copy to:-

1. DDG(NER II) for information
2. Reference folder.

*Certified to be true*  
*Copy*  
*Syed*  
*Advocate*