

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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Bm
17/7/2015
SECTION OFFICER (UUDL.)

16.7.2015

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

1. ORIGINAL APPLICATION No : 218 / 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) : Shri Utpal Sutradhar

Respondent (S) : Union of India & Ors.

Advocate for the : Mr. Adil Ahmed.
{Applicant (S)} Mr. N. Ahmed.

Advocate for the : Sr. C.S.C. M. M. Das
{Respondent (S)}

Notes of the Registry	Date	Order of the Tribunal
<p>the application is in form No. 396. 424/05 Dated 14.9.2009 Dy. Registrar 22-10-09 22/10/09</p> <p>4 (Four) copies application with enclosures received for issue Notices to the Respondents No 1 to 4. Copy served. 22/10/09</p>	23.10.2009	<p>Applicant challenges Office Order dated 18.09.2009, whereby he has been transferred from Weavers' Service Centre, Agartala to Weavers' Service Centre, Bhagalpur which has been described in "public interest". He also challenges relieving order of even date, by which he stood relieved on the afternoon of said date itself.</p> <p>Sri A. Ahmed, learned counsel for Applicant contends that aforesaid orders are ex-facie punitive in nature for the reason that he had earlier approached this Tribunal vide O.A. No.133/2001, which was allowed vide order dated 01.03.2002. Directions issued therein had not been complied with and, therefore, he preferred Execution Petition No.02/2008 which was also allowed on 20.02.2009. Instead of complying with said directions, Respondents devised the method to transfer him. Furthermore, since aforesaid directions passed in O.A. 133/2001 and E.P.</p>

2
Contd.
23.10.2009

No.02/2008 have not been complied with, he preferred Contempt Petition No.08/2009, which remains pending. As Applicant did not succumb to pressure of Respondent Nos.3 & 4 and did not withdraw said C.P., an instant and stiff action has been taken by Respondents in passing the impugned transfer order. It is also stated that Applicant is 25% permanent physically handicapped person and certificate to said effect has been issued, which was annexed as Annexure-3. It is further contended that instead of taking sympathetic view in the given circumstances, Respondents attitude is totally un-called for and contrary to O.M.s issued by the Ministry of Personnel, Public Grievances & Pensions, Govt. of India on the said subject that physically handicapped persons should, as far as possible, be retained and posted in or around their native place.

In the circumstances, learned counsel for Applicant prays that status quo ante i.e., the situation that prevailed prior to issuance of impugned transfer orders dated 18.09.2009 may be maintained.

Prima facie, we find that a case has been made out by Applicant.

In such circumstances, issue notice to the Respondents. Mrs.M.Das, learned Sr. C.G.S.C., present in court accepts notice on behalf of Respondents.

On examination of the matter, as the Applicant has made out prima facie strong case and he would suffer irreparable loss and injury, we direct that Respondents should maintain status-quo ante i.e., situation which

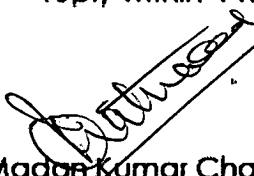
Confd.

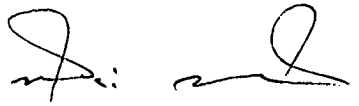
O.A. 218 ³ 2009

Contd.
23.10.2009

prevailed prior to issuance of impugned transfer order. We may note that Applicant has been transferred against the vacancy of one Sri J.C.Sarkar, WSC, Bhagalpur who has been transferred to WSC, Kolkata on his "own request", and the vacancy at WSC, Agartala has not yet been filled up by way of any order. Certified copy of this order be issued to both sides.

Respondents are directed to file their reply within 4 weeks. List on 27.11.2009.


(Madan Kumar Chaturvedi)
Member (A)



(Mukesh Kumar Gupta)
Member (J)

/bb/

27.11.2009

No written statement has yet been filed. Learned Standing counsel for Respondents prays for four weeks time to file written statement.

List on 04.01. 2010.



(Madan Kumar Chaturvedi)
Member (A)

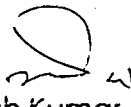
/pb/

04.01.2010

Enabling the Respondents to file reply within ^{three} ~~five~~ weeks time, as last chance, has already been given to file reply. Case is adjourned. Interim order shall continue till 28.01.2010.

List the matter on 28.01.2010.



(Madan Kumar Chaturvedi)
Member (A)


(Mukesh Kumar Gupta)
Member (J)


/PB/

K. Das

Certified copy
of this order be
issued to both
sides.


26/10/09


Received copy
of 26.10.09
application.

Received on behalf of
Mrs. M. Das.
Sr. C.G. Sc. 
26.10.09


Copies of notices
along with order
dated 23/10/2009
sent to D/Sec. for
~~issuing~~ to the
~~respondents~~ by regd.
A/D post.

Certified copy
of this order issuing
to both the parties.


D/No-2060-63


26/10/09. Dt = 27/10/09.


No n/s filed.


26.11.09

No n/s filed.


31.12.09

No n/s filed.


7.1.2010

~~G.A. 10564/09~~

28.1.2010

Enabling the Applicant to file rejoinder as prayed for.

Case is adjourned to 10.2.2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

O.A.218 of 2009

28.1.2010

It is stated that reply has been filed enabling the Applicant to file rejoinder within four weeks.

List the matter on 26.2.2010. Interim order shall continue till then.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

26.02.2010

Extending time for filing rejoinder case is adjourned to 26.03.2010 for hearing.

Interim order to continue till then.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/bb/

26.03.2010

Ms. J. Dutta, proxy counsel for Mr. A. Ahmed, learned counsel for Applicant appeared and prayed for two weeks time to file rejoinder. Mrs. M. Das, Sr. CGSC for Respondents has got no objection.

List on 12th April 2010.

(Madan Kr. Chaturvedi)
Member (A)

/pb/

28.1.2010

w/s filed in the Court. Copy served.

28/1/2010

No rejoinder filed.

25.2.2010

No rejoinder filed.

25.3.2010

No rejoinder filed.

9.12.2010

12.04.2010

Mr.A.Ahmed, learned counsel for the Applicant, has filed letter of absence for his personal difficulty. Mr.M.Das, learned Sr.Standing Counsel for the Respondents has no objection for adjournment of this case.

List the matter on 05.05.2010.

(Madan Kumar Chaturvedi)
Member (A)

/lm/

05.05.2010

Proxy counsel for Respondents prays for adjournment, which has not been objected by proxy counsel for Applicant.

Adjourned to 13th May 2010.

(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

/pb/

13.5.2010

Ms. Jilly Dutta, proxy counsel for Mr.A.Ahmed, makes a prayer for adjournment on the ground of personal difficulty of Mr.A.Ahmed. Mrs. M.Das, learned Sr.Standing counsel for Respondents has no objection for adjournment of this case.

List the matter on 11.6.2010.

(Madan Kumar Chaturvedi)
Member (A)

Lm

Rejoinder not
filed.

21.5.2010

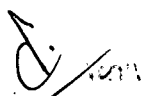
11.5.2010
An application
to 1.4.2010 received
from the Applicant
is placed at flap
'A'.
11/5/2010

w/s filed.

12.5.2010

11.06.2010

Ms. Jilly Dutta, proxy counsel for Applicant prays for adjournment by four weeks. It has been noticed that on earlier occasions, matter was adjourned on the request of proxy counsel for Applicant. In the circumstances, prayer for adjournment by four weeks is declined. However, matter is adjourned & be listed on 14th June 2010.



(Madan Kumar Chaturvedi)
Member (A)

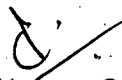


(Mukesh Kumar Gupta)
Member (J)

Learned proxy counsel for respondents prays for adjournment which has not been objected by proxy counsel for Applicant.

14.06.2010

Learned proxy counsel for respondents prays for adjournment. List on 21.06.2010.



(Madan Kumar Chaturvedi)
Member (A)



(Mukesh Kumar Gupta)
Member (J)

Learned proxy counsel for respondents prays for adjournment which has not been objected by proxy counsel for Applicant.

21.06.2010

None for the applicant despite second call. Even Mrs.M.Das, learned counsel for the respondents, prays for adjournment. Reluctantly, I adjourn the matter to 05.07.2010.



(Mukesh Kumar Gupta)
Member (J)

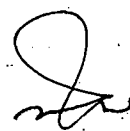
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05.07.2010

None for the parties. List on 07.07.2010 for bearing.



(Madan Kumar Chaturvedi)
Member (A)



(Mukesh Kumar Gupta)
Member (J)

nkm

07.07.2010 On the request of Mrs M. Das,
learned Sr. C.G.S.C. for the respondents,
adjourned to 13.07.2010.

(Madan Kumar Chaturvedi)
Member (A)

nkm

(Mukesh Kumar Gupta)
Member (J)

13.07.2010 For the reasons recorded separately,
this O.A. stands allowed. No costs.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/PB/

Prin
28-1
(For - AH 174)
Admtd 20.07.2010

27.7.2010

Judgment/Decree order d. 13.7.10
Send to the A/S for
making the need
A 1728 to 28-07-2010
1731 No

Received copy
of order d. 13.7.10

CS Hazarika
22.7.10
For Mrs. M. Das
SI-C.G.S.C

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.218 of 2009

DATE OF DECISION: 13.07.2010

Shri Utpal Sutradhar

APPLICANT(S)

Mr. Adil Ahmed

ADVOCATE(S) FOR THE
APPLICANT(S)

- versus -

Union of India & Ors.

RESPONDENT(S)

Mrs. M. Das, Sr. CGSC

ADVOCATE(S) FOR THE
RESPONDENT (S)

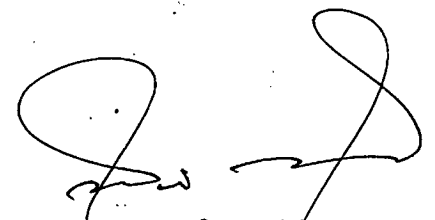
CORAM:

The Hon'ble Shri Mukesh Kumar Gupta, Member (J)

The Hon'ble Shri Madan Kumar Chaturvedi, Member (A)

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

Judgment delivered by


Member (J)

**CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI --BENCH:**

Original Application No. 218 of 2009

Date of Decision: This, the 13th day of July 2010.

HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (J)

HON'BLE MR. MADAN KUMAR CHATURVEDI, MEMBER (A)

Shri Utpal Sutradhar
Son of Late Dinabandhu Sutradhar
Carpenter, Office of the Deputy
Director Weavers' Service Centre
Ministry of Textile, Government of India
Post Office: Shamali Bazar
Police Station: West Agartala
Agartala, PIN - 799006, (Tripura).

...Applicant.

By Advocate: Mr. Adil Ahmed

-Versus-

1. The Union of India
represented by the Secretary to the
Government of India
Ministry of Textiles
Udyog Bhavan, New Delhi - 110011.
2. The Development Commissioner for Handloom
Ministry of Textile, Government of India
Udyog Bhawan, New Delhi
PIN - 110011.
3. The Director
Weavers' Service Centre (Zonal)
Ministry of Textiles, Government of India
IIHT Campus, Jawaharnagar, Khanapara
National Highway No: - 37
Guwahati - 781022.
4. The Assistant Director
Weavers' Service Centre
Ministry of Textiles, Government of India
Gurkha Basti, Agartala, PIN - 799006.

...Respondents

By Advocate: Mrs. M. Das, Sr. CGSC.

ORDER (ORAL)HON'BLE SHRI MUKESH KUMAR GUPTA, MEMBER (J):

Shri Utpal Sutradhar, Carpenter, Weavers' Service Center, Agartala, Tripura, in this application filed under Section 19 of the Administrative Tribunals Act, 1985, challenges validity of transfer and posting order dated 18th September 2009 (Annexure - 8), whereby he has been transferred from Agartala (Tripura) to Bhagalpur (Bihar) described to be "in public interest".

2. The facts as stated are that: he was initially appointed on the aforementioned post in the pay scale of Rs. 950-1500/- Weavers' Service Centre, Agartala against the quota earmarked for physically handicapped vide office memorandum dated 24.11.1987. He is an Orthopaedically handicapped person as per Medical Certificate dated 12.12.2001 (Annexure - 3) issued by Government of Tripura, Special Medical Board For Physically Handicapped Person (Tripura State), G.B. Pant Hospital, Agartala, suffering from 25% permanent Physical Disability. He is staying at Agartala with his wife, two minor children and his 76 years old aged mother. His daughter is aged about 5 (five) years and his son is aged about 9 (nine) months respectively. His daughter Udit Sutradhar is also suffering from some cardio ailment since the year 2005 and has been continuously under treatment at Indira Gandhi Memorial Hospital, Agartala, West Tripura as well as G.B. Pant Hospital & Agartala Medical College, Agartala.

3. Earlier, he approached this Tribunal vide O.A. No. 133 of 2001 for regularization of his study leave period as well as seeking direction to release his arrears of pay which had not been paid to him during study leave period. Said O.A. was allowed vide order dated 1st March 2002 (Annexure - 6). Later, on filing E.P. No. 2 of 2008, vide order dated 20th February 2009 (Annexure - 7), Respondents were granted time to comply with order dated 1st March, 2002 by end of April 2009. In purported compliance, said direction had been complied with.

4. His grievance is that immediately thereafter, he was transferred vide impugned transfer order. Mr. Adil Ahmed, learned counsel for Applicant contended that no substitute had been posted in his place at Agartala till date. His representation preferred on 24th September 2009 did not yield any positive result. Placing reliance on DOP&T OM dated 10th May 1990, it was contended that said OM mandates posting of physically handicapped officers of Group 'C' and 'D' near their native places within the region. Initially benefit was granted only to Group 'C' and Group 'D' post holders, and later vide DOP&T OM dated 13th March 2002, benefit of said OM had been extended to all categories of posts namely Group A, B, C & D. Thus, it was contended that Applicant was not liable to be transferred to not only a far away place from his native places, but even outside the region.

5. In the above backdrop, it was prayed that Applicant is entitled to relief, as prayed for.

6. By filing reply, it was stated that Applicant is less than 40% handicapped and by virtue of OM dated 04.11.1997, 01.12.1980,

30.12.1980 as well as Ministry of Welfare's Notification dated 06.08.1986, he is not eligible for any concessions/benefits, including posting. Applicant continued to remain at Agartala for long 22 years and therefore, he was transferred vide impugned transfer order dated 18th September 2009. Consequently, he was relieved on the afternoon of 18th September 2009. Transfer is an incident of service and it had no connection with Contempt Proceedings initiated by him. It is not in violation of any guidelines or transfer policy of Group 'C' and 'D' employees. Rather said transfer order was in fact issued after due approval of the competent authority. There is no malafides in issuing impugned transfer order. Applicant's mother made a representation dated 09.10.2009 to the Hon'ble Textile Minister, Government of India although Rule 20 of CCS (Conduct) Rules, 1964 and instruction issued there under specifically prohibited and discouraged such course of action. Applicant indeed, made representation dated 24.09.2009 and therefore, there was no necessity or justification for making any further representation on the said subject by his mother.

8. We have heard Mr. Adil Ahmed, learned counsel appearing for Applicant and Mrs. M. Das, learned Sr. CGSC appearing for Respondents, perused the pleadings and other material placed on record.

9. What has been emphasized by the Respondents is that Applicant has physical disability which is less than 40% and therefore, he is not protected by aforementioned OMs including Ministry of Welfare's Notification dated 06.08.1986. Chapter 28 of the Swamy's Handbook on

Establishment Paragraphs 1-3, on which reliance was placed by the Respondents read as under:

1. **Change in definition of "Persons with Disabilities".-** Attention of the Ministry of Agriculture, etc., is invited to the instructions contained in this Department's Office Memorandum No. 39016/6/77-Estt. (SCT), dated 4-11-1997, No. 39016/24/80-Estt. (C), dated 01-12-1980 and No. 39016/24/80-Estt. (C), dated 30-12-1980, wherein reservation in Groups 'C' and 'D' posts/services for the physically handicapped persons has been made to the extent indicated below:-

	Category of the handicapped	% of reservation
(1)	The Blind	1 %
(2)	The Deaf	1%
(3)	The Orthopaedically handicapped	1 %

2. Each category of disability has been divided into four groups as under :-

(a)	Mild	- less than 40%;
(b)	Moderate	- 40% and above;
(c)	Severe	- 75% and above;
(d)	Profound/total	- 100% .

3. According to the instructions contained in the Ministry of Welfare's Notification No. 4/2/83-HW-III, dated 6-8-1986, various concessions/benefit, including employment under the Central Government, are available only to those falling under the categories mentioned at (b), (c) and (d) in the preceding paragraph. The minimum degree of disability has also been prescribed as 40% in order for a person to be eligible for any concessions/benefits."

(emphasis supplied)

10. On the other hand, Applicant contended that said OMs are inapplicable inasmuch as DOP&T OM dated 10th May 1990, as clarified on 13th March 2002 is more closer to his claim, which is fully ~~governed~~ ^{attracted} and regulated vide OM dated 10th May 1990 and 13th March 2002. Learned counsel further emphasized that Respondents reliance have placed on a general notification, while we are concerned only with the issue of

"posting" and transfer, for which specific instructions in the shape of OM dated 10th May 1990 and 13th March 2002 alone are applicable. Specific provisions override the general rules, is the emphasis laid by Applicant.

11. On examination of the matter, we find justification and weighty reasons in the contentions raised by Applicant that specific instruction on the subject of "posting", overrides general OMs on which reliance was placed by Respondents. It is well settled rule that specific provisions overrides general instruction/provisions. We are concerned precisely with "posting" and not with "recruitment" which aspect is dealt with by Ministry of Welfare's Notification dated 06.08.1986. Similarly other OMs as noticed herein above, on which reliance has been placed by the Respondents, are applicable for "reservation in Group 'C' and 'D' post/service for physically handicapped persons." We are not concerned with the reservation of Group 'C' and 'D' posts, but are more concerned with the transfer and posting.

12. Thus we have no hesitation to conclude that benefits of DOP&T OM dated 10th May 1990, has further extended to all Groups of posts vide OM dated 13th March 2002, which is applicable and govern the issue raised before us.

13. We may also note that, it is not in dispute that no substitute has been appointed at Agartala in place of Applicant till date. Other person, who have been transferred vide impugned order namely J.C. Sarkar, Carpenter, from Wavers' Service Centre, Bhagalpur to Kolkata on his "own request". Vide order dated 18th September 2009, impugned in present O.A., only two persons were transferred namely Applicant & J.C.

Sarkar. Even in the reply of Respondents, it was not suggested that vacancy at Agartala has been filled up. Emphasis was made by learned counsel for Respondents on the wording "as far as possible employee" employed vide OM dated 10th May 1990."

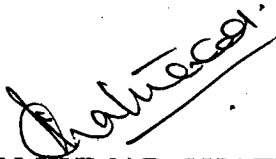
We may note that said OM required that in case of holder of Group 'C' and 'D' posts, who have been recruited on regional basis and who are physically handicapped, such persons may be given posting as far as possible subject to administrative constraints, near their native places within the region. What could be possible administrative constraints, has not been highlighted or explained by the Respondents. As already observed, the Applicant, has not only been transferred from his native place but also posted outside the region. Agartala and Bhagalpur, by any stretch of imagination can't be said to be part of same region. In this view of the matter, we hold that OM dated 10th May 1990 prescribed no percentage of the physically handicapped making the person eligible for certain concessions, as emphasized by the Respondents.

14. In this view of the matter, we have no hesitation to conclude that Applicant being a physically handicapped, 25% permanent disability, was entitled to protection of DOP&T OM dated 10th May 1990, scope of which has been extended later, vide another OM dated 13th March 2002 making it applicable to all Group of categories, instead of Group 'C' and 'D' only..

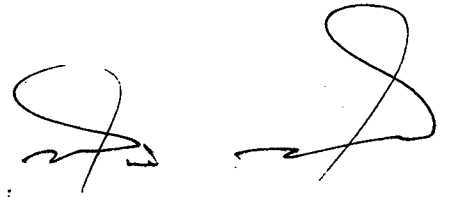
Thus, transfer order dated 18th September 2009 is violative of OM dated 10th May 1990 and accordingly the same is quashed and set

aside to the extent deals it Applicant's transfer from WSC Agartala to WSC
to Bhagalpur.

O.A. is allowed. No costs.



(MADAN KUMAR CHATURVEDI)
Member (A)



(MUKESH KUMAR GUPTA)
Member (J)

/PB/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 218 OF 2009.

Shri Utpal Sutradhar

...Applicant

-Versus-

The Union of India & Others

...Respondents

SYNOPSIS

The Applicant was appointed as Carpenter in the Weavers' Service Centre, Agartala, Tripura under the Ministry of Textile, Government of India vide office Memorandum dated 24.11.1987. He belongs to OBC Community and Physically Handicapped person. That he had earlier approached before this Hon'ble Tribunal by filing an O.A. No.133 of 2001 for regularization of his study period for obtaining Diploma from Indian Institute of Handloom Technology, Varanasi and to release his Arrears pay which has not paid to him during the said period. Further, he also prayed for quashing the order dated 28.02.2001 whereby the Respondents has re-fixed the substantive date of appointment of the Applicant as 07.06.1990 in place of 01.04.1988. This Hon'ble Tribunal allowed the Original Application No.133 of 2001 by setting aside and quashing the impugned order dated 28.02.2001 re-fixing the date of substantive appointment of the Applicant as 07.06.1990 in place of 01.04.1988. Further, this Hon'ble Tribunal directed the Respondents to regularize the period of absence during his training with all benefits of pay and allowances. Till date the aforesaid judgment and order dated 01.03.2002 passed in O.A. No.133 of 2001 has not been implemented by the instant Respondents. The instant Respondents have earlier taken the plea that the aforesaid

judgment and order passed by the Hon'ble Tribunal has been challenged before the Hon'ble Gauhati High court, Guwahati. But in the Execution Petition No.2 of 2008 in O.A. No.133 of 2001 the Respondents could not produce any documents or certified copy of the pendency of any Writ Petition before the Hon'ble Gauhati High Court, Guwahati. The Hon'ble Tribunal vide its order dated 20.02.2009 passed in E.P. No.2 of 2008 in O.A. No.133 of 2001 directed the instant Respondents to comply the order dated 01.03.2002 of this Hon'ble Tribunal rendered in the O.A. No.133 of 2001 by the end of April 2009 under intimation to the Applicant. At present the Applicant has filed a Contempt Petition No.8 of 2009 which is pending before this Hon'ble Tribunal for non compliance of order dated 01.03.2002 passed in O.A. No.133 of 2001 and order dated 20.02.2009 passed in E.P. No.2 of 2008. After filing of the aforesaid Contempt Petition the Respondents have continuously pressurizing him to withdraw the said Contempt Petition otherwise he will suffer serious consequence. The Respondent No.3 vide transfer order dated 18.09.2009 transferred the Applicant to Bhagalpur Bihar from Agartala, Tripura and the Respondent No.4 on the same day i.e. on 18.09.2009 release the Applicant from Agartala. The Applicant and his mother submitted representation before the concerned authorities for stay of Applicant transferred by giving reason of family problem including Applicant's 5 years daughter suffering from Cardio problem and she is in a delicate stage undergoing treatment at Agartala, Tripura. However till date the Respondents have not considered the same.

Hence this Original Application for seeking justice in this matter.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 218 OF 2009.

Shri Utpal Sutradhar

...Applicant

-Versus-

The Union of India & Others

...Respondents

LIST OF DATES

Year 1983 Para 4.3	The Applicant passed Madhyamik Examination.
24.11.1987 Para 4.2 Annexure-2	The Applicant was appointed as Carpenter in the Weavers' Service Centre, Agartala.
01.03.2002 Para 4.5 Annexure-6	This Hon'ble Tribunal allowed the O.A. No.133 of 2001 filed by the Applicant by setting aside and quashed the impugned order dated 28.02.2001 whereby the Respondents has re-fixed substantive date of appointment of the Applicant as 07.06.1990 in place of 01.04.1988 and also directed the Respondents to release his Arrear pay during the study period.
20.02.2009 Para 4.5 Annexure-7	This Hon'ble Tribunal vide its order passed in E.P. No.2 of 2008 directed the Respondents to comply with the order dated 01.03.2002 passed in O.A. No.133 of 2001 by end of April 2009.
18.09.2009 Para 4.6 Annexure-8	The Respondent No.3 issued the transfer order by which the Applicant has been transferred from Weavers' Service Centre, Agartala to Weavers' Service Centre, Bhagalpur in the state of Bihar.
18.09.2009 Para 4.6 Annexure-9	The Respondent No.4 relieved the Applicant from the office of the Respondent No.4 without posting any substitute and directed him to report for duty to the Weavers' Service Centre, Bhagalpur.
24.09.2009 Para 4.7 Annexure-10	The Applicant submitted a representation before the Respondent No.2 for staying the transfer order dated 18.09.2009.

09.10.2009 The Applicant's mother submitted a representation
Para 4.8 before the Hon'ble Textile Minister, Government of
Annexure-11 India, Udyog Bhawan, New Delhi for staying the
transfer order of the Applicant.

Date: 22.10.2009

Filed by

Nuruddin Ahmad
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

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39 to 53.

Date: 22.10.2009

Filed By:

Nuruddin Ahmad
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.

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

ORIGINAL APPLICATION NO. 218 OF 2009.

BETWEEN

Shri Utpal Sutradhar,
Son of Late Dinabandhu Sutradhar,
Carpenter, Office of the Deputy
Director Weavers' Service Centre
Ministry of Textile, Government of India,
Post Office:-Shamali Bazar,
Police Station:-West Agartala,
Agartala, PIN-799006, (Tripura).

Applicant

-AND-

- 1] The Union of India,
represented by the Secretary to the
Government of India, Ministry of Textiles,
Udyog Bhavan, New Delhi-110011.
- 2] The Development Commissioner for Handloom
Ministry of Textile, Government of India
Udyag Bhawan, New delhi
PIN110011
- 3] The Director,
Weavers' Service Centre (Zonal),
Ministry of Textiles, Government of India,
IIHT Campus, Jawaharnagar, Khanapara,
National Highway No:-37,
Guwahati-781022.
- 4] The Assistant Director,
Weavers' Service Centre,
Ministry of Textiles, Government of India,
Gurkha Basti, Agartala, PIN-799006.

Respondents

1] DETAILS OF THE APPLICATION:

PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION
IS MADE:

This application is made against the impugned office
Order No.WSC/AGT/Estt.2(2)/08/2236 dated 18.09.2009 issued
by the Respondent No.4 in reference to the office order

Utpal Sutradhar

FILED BY

Shri Utpal Sutradhar
Applicant
Through Navuddin Ahmed
Advocate 24/10/09

No.WSC/GAU/Admn-1(23)/09/2164 dated 18.09.2009 issued by the Respondent No.3 whereby the Applicant has been transferred from the office of the Assistant Director, Weavers' Service Centre, Agartala in the state of Tripura to Weavers' Service Centre, Bhagalpur in the state of Bihar.

2] JURISDICTION OF THE TRIBUNAL:

The Applicant declares that the subject matter of the instant application is within the jurisdiction of the Hon'ble Tribunal.

3] LIMITATION:

The Applicant further declares that the subject matter of the instant application is within the limitation prescribed under Section 21 of the Administrative Tribunal Act 1985.

4] FACTS OF THE CASE:

Facts of the case in brief are given below:

4.1] That your Applicant is a citizen of India, as such, he is entitled to all rights and privileges guaranteed under the Constitution of India and laws framed thereunder from time to time. He belongs to Other Backward Classes (in short OBC) community.

Copy of the OBC certificate issued by the office of the Sub Divisional Officer, Sadar, West Tripura, Agartala is annexed herewith and marked as ANNEXURE-1.

4.2] That your Applicant begs to state that he was appointed as Carpenter (Group C post) in the pay scale of Rs.950-1500/- in the Weavers' Service Centre, Agartala against the quota earmarked for physically handicapped vide office

Utpal Sutradhar

Memorandum No.WSC/GAU/Admn.1(23)/87/3148 dated 24.11.1987.
He is an Orthopaedically handicapped person.

Copy of the office Memorandum No.WSC/GAU/Admn.1(23)/87/3148 dated 24.11.1987 letter dated 24.11.1987 is annexed herewith and marked as ANNEXURE-2.

Copy of the certificate issued by the Special Medical Board for Physically Handicapped Person, Agartala is annexed herewith and marked as ANNEXURE-3.

4.3] That your Applicant begs to state that he has passed Madhyamik Examination in the year 1983 and obtain his Diploma Degree in Handloom Technology from the Indian Institute of Handloom Technology under the Ministry of Textiles, Government of India in the year 1994.

Copy of the Diploma certificate issued by the Indian Institute of Handloom Technology under the Ministry of Textiles, Government of India is annexed herewith and marked as ANNEXURE-4.

4.4] That your Applicant begs to state that he is staying at Agartala with his wife, two minor children and his old aged mother who is aged about 76 years suffering from various old age ailments. His daughter is aged about 5 years and his son is aged about 9 months respectively. It is worth to mention here that his daughter Uditra Sutradhar has been suffering from cardio logical problem since the year 2005 when she was aged about 7 months. Since then she was in continuous treatment at Indira Gandhi Memorial Hospital, Agartala, West Tripura. At present she is under the treatment at G.B. Hospital & Agartala Medical College, Agartla as referred by the Indira Gandhi Memorial Hospital, Agartala for better treatment. The attending Doctor has informed the Applicant that his daughter needs prolonged treatment.

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Copy of the COLOR DOPPLER ECHOCARDIOGRAM REPORT dated 07.07.2005 of Baby Udit Sutradhar is annexed herewith and marked as ANNEXURE-5.

4.5] That it is to be stated that the Applicant earlier had approached before this Hon'ble Tribunal by way of filing an Original Application No.133 of 2001 for regularization of his study leave period for obtaining Diploma from Indian Institute of Handloom Technology, Varanasi under the Ministry of Textile, Government of India and also for seeking a direction from this Hon'ble Tribunal to the Respondents to release his Arrears pay which was not paid to him during the study period and also prayed for quashing the order dated 28.02.2001 whereby the Respondents has re-fixed substantive date of appointment of the Applicant as 07.06.1990 in place of 01.04.1988. This Hon'ble Tribunal allowed the Original Application No.133 of 2001 by setting aside and quashing the impugned order dated 28.02.2001 re-fixing the date of substantive appointment of the Applicant as 07.06.1990 in place of 01.04.1988. Further, this Hon'ble Tribunal directed the Respondents to regularize the period of absence during his training with all benefits of pay and allowances. Till date the aforesaid judgment and order dated 01.03.2002 passed in O.A. No.133 of 2001 has not been implemented by the instant Respondents. The instant Respondents have earlier taken the plea that the aforesaid judgment and order passed by the Hon'ble Tribunal has been challenged before the Hon'ble Gauhati High court, Guwahati. But in the Execution Petition No.2 of 2008 in O.A. No.133 of 2001 the Respondents could not produce any documents or certified copy of the pendency of any Writ Petition before the Hon'ble Gauhati High Court, Guwahati. The Hon'ble Tribunal vide its order dated 20.02.2009 passed in E.P. No.2 of 2008 in O.A. No.133 of 2001 directed the instant Respondents to comply the order dated 01.03.2002 of this Hon'ble Tribunal rendered in the O.A. No.133 of 2001 by the

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end of April 2009 under intimation to the Applicant. At present the Applicant has filed a Contempt Petition No.8 of 2009 which is pending before this Hon'ble Tribunal for non compliance of order dated 01.03.2002 passed in O.A. No.133 of 2001 and order dated 20.02.2009 passed in E.P. No.2 of 2008. ✓ After filing of the aforesaid Contempt Petition the Respondents have continuously pressurizing him to withdraw the said Contempt Petition otherwise he will suffer serious consequence.

Copy of the judgment and order dated 01.03.2002 passed in O.A. No.133 of 2001 is annexed herewith and marked as ANNEXURE-6.

Copy of the order dated 20.02.2009 passed in Execution Petition No.2 of 2008 in O.A. No.133 of 2001 is annexed herewith and marked as ANNEXURE-7.

4.6] That all of sudden the Applicant has been relieved from the office of the Weavers' Service Centre, Agartala, Tripura by the Respondent No.4 on 18.09.2009 vide office order No.WSC/AGT/Estt.2(2)/08/2236 dated 18.09.2009 and directed him to join in the Weavers' Service Centre, Bhagalpur. The aforesaid relieved order has been issued by the Respondent No.4 in reference to office order No.WSC/GAU/Admn.1(23)/09/2164 dated 18.09.2009 issued by the Director, Weavers' Service Centre, Guwahati i.e. Respondent No.3. After coming to Guwahati the Applicant got the office order No.WSC/GAU/Admn.1(23)/09/2164 dated 18.09.2009 from the office of the Respondent No.3 by which he has been transferred from Agartala to Bhagalpur. In the aforesaid transfer order the Applicant name appeared in serial No.2 and his transfer is made on "public interest". In the Serial No.1 of the said transfer order one Shri J.C. Sarkar, Carpenter, Weavers' Service Centre, Bhagalpur has been transferred to Weavers' Service Centre, Kolkata on his own request. It is worth to mention here that no substitute has

Utpal Sutradhar

been posted in place of the Applicant at Agartala in the state of Tripura.

Copy of the Office order No.WSC/GAU/Admn.1(23)/09/2164 dated 18.09.2009 issued by the Respondent No.3 is annexed herewith and marked as ANNEXURE-8.

Copy of the Office order No.WSC/AGT/ESTT.2(2)/08/2236 dated 18.09.2009 issued by the Respondent No.4 is annexed herewith and marked as ANNEXURE-9.

4.7] That your Applicant begs to state that he submitted a representation on 24.09.2009 before the Respondent No.2 for staying the operation of the office order No.No.WSC/AGT/Estt.2(2)/08/2236 dated 18.09.2009 issued by the Respondent No.4 whereby the Applicant has been relieved from the office Respondent No.3 to Weavers' Service Centre, Bhagalpur in the state of Bihar.

Copy of the representation dated 24.09.2009 submitted by the Applicant is annexed herewith and marked as ANNEXURE-10.

4.8] That your Applicant begs to state that his mother submitted a representation before the Hon'ble Textile Minister, Government of India, Udyog Bhawan, New Delhi for granting stay of the transfer order of her son. In the said representation she has stated that she is 76 years old lady and her only son i.e. the Applicant is staying with her for taking care to her. As she is lying on the bed owing to due to stroke. Apart from that also her grand-daughter is also suffering from Cardio problem since 2005.

Copy of the representation dated 09.10.2009 submitted by the Applicant's mother is annexed herewith and marked as ANNEXURE-11.

Utpal Sutradhar.

4.9] That your Applicant begs to state that his daughter is a Cardio Patient and at present she was under going treatment at Indira Gandhi Memorial Hospital, Agartala since 2005 to September 2009. At present she is undergoing treatment at G.B. Hospital & Agartala Medical College, Agartala as referred by the Indira Gandhi Memorial Hospital, Agartala. At this stage the Applicant physical presence is very much required with his daughter. Further, his mother who is aged about 76 years old suffering from various old age disease and she needs constant care. There is nobody to look after the family of the Applicant at Agartala. If the Applicant joined at Bhagalpur then the wife of the Applicant have to take care their daughter who is suffering from Cardio problem, nine month baby boy and her mother-in-law who is suffering from various old age ailments. Moreover, the daughter of the Applicant who is studying at Holy Cross School at Agartala in KG 1 is going to appear in the Final Examination from last part of November to December 2009.

Copy of School Certificate of Udit Sutradhar is annexed herewith and marked as ANNEXURE-12.

Copy of the Academic Calendar of Holy Cross School KG 1 for the year 2009 is annexed herewith and marked as ANNEXURE-13.

4.10] That your Applicant begs to state that from the above said facts and circumstances it appears that the Respondents with a mala-fide intention transferred the Applicant to Bhagalpur for not withdrawing the Contempt Petition No.8 of 2009 in O.A. No.133 of 2001 by the Applicant. He has been victimized by the Respondents. As such finding no other alternative the Applicant has compelled to approach this Hon'ble Tribunal for seeking justice into the matter.

4.11] That your Applicant submit that his case for cancellation of his transfer is genuine and need to be considered on the ground of his daughter's serious medical

Utpal Sutradhar

problem. At this stage if he is posted out of Agartala his daughter treatment will be discontinued as nobody is there to look after her. Her health condition will be further deteriorated. Presently she is in delicate stage and doctors who are attending her are trying their level best to improve her condition. Moreover, the Applicant will be compelled to maintain two establishments at Bhagalpur and Agartala at this stage as he can not shift his family members to Bhagalpur. Being a poor 'Group C' employee it will be great financial hardship for him. Therefore, the Applicant most respectfully prays before this Hon'ble Tribunal that the Lordships may be pleased to interfere with the matter by passing an interim order for stay of the Impugned Order No.WSC/AGT/Estt.2(2)/08/2236 dated 18.09.2009 issued by the office of the Respondent No.3 in reference to office order No.WSC/GAU/Admn-1(23)/09/2164 dated 18.09.2009 issued by the Respondent No.2.

4.12] That your Applicant submit that similarly situated persons i.e. Carpenters working in this Department who are senior to the Applicant has been continuing in their respective place of posting since their joining and they have not yet been disturbed by the Respondents. As for example one Shri M.R. Singh, Carpenter who has been working in the office of the Weavers' Service Centre, Imphal in the state of Manipur never been transferred to other station since his joining in the Department i.e. on 15.01.1979 to till date (more than 30 years), Shri U.C. Dakuwa, Carpenter who has been working in the office of the Weavers' Service Centre, Guwahati in the state of Assam never been transferred to other station since his joining in the Department i.e. on 12.02.1979 (more than 30 years).

In the impugned transfer order dated 18.09.2009 in Sl. No.1 Shri J.C. Sarkar, Carpenter has been transferred from Weavers' Service Centre, Bhagalpur to Weavers' Service Centre, Kolkata at his own request but the instant Applicant

Utpal Sutradhar.

has been transferred in "public interest" to Bhagalpur with the instant release order. That the Respondents with a mala-fide intention transferred the Applicant only to barred him to defend his Contempt Petition No.8 of 2009 which is pending before this Hon'ble Tribunal.

4.13] That your Applicant submits that he has got reason to belief that the Respondents are resorting the colourable exercise of power only to harass Applicant. Moreover, the Respondents have not yet posted any substitute in place of Applicant at Agartala in the state of Tripura.

4.14] That your Applicant submits that the Respondents have deliberately done serious injustice to him and put him into a great mental trouble and financial hardships.

4.15] That your Applicant submits that the action of the Respondents is highly illegal, improper, and whimsical and also against the fair play of Administrative justice.

4.16] That in view of the facts and circumstances narrated above, it is a fit case for this Hon'ble Tribunal may be pleased to interfere into the matter to protect the right and interest of the Applicant and his family members by passing an appropriate Interim Order by staying the operation of the Impugned Order No.WSC/AGT/Estt.2(2)/08/2236 dated 18.09.2009 issued by the Respondent No.4 and Order No.WSC/GAU/Admn-1(23)/09/2164 dated 18.09.2009 issued by the Respondent No.3.

4.17] That this application is filed bonafide and for the interest of justice.

5) GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1) For that, due to the above reasons narrated in detail the action of the Respondents is in prima facie illegal, mala-fide, whimsical, arbitrary and without jurisdiction. Hence, the Impugned relieved Order

Utpal Sutradhar.

No.WSC/AGT/Estt.2(2)/08/2236 dated 18.09.2009 issued by the office of the Respondent No.4 and office order No.WSC/GAU/Admn-1(23)/09/2164 dated 18.09.2009 issued by the Respondent No.3 are liable to be set aside and quashed.

5.2) For that, the daughter of the Applicant is suffering from Cardio problem and is undergoing treatment in the Indira Gandhi Memorial Hospital, Agartala and also required prolong treatment. Applicant physical present is very much required with his ailing daughter at Agartala. Hence, the Impugned relieved Order No.WSC/AGT/Estt.2(2)/08/2236 dated 18.09.2009 issued by the office of the Respondent No.4 and also office order No.WSC/GAU/Admn-1(23)/09/2164 dated 18.09.2009 issued by the Respondent No.3 in respect of the Applicant are liable to be set aside and quashed.

5.3) For that, the Respondents till date have not yet implement the Judgment and Order dated 01.03.2002 passed by this Hon'ble Tribunal in Original Application No.133 of 2001 and the Applicant's Contempt Petition No.8 of 2009 is also pending before this Hon'ble Tribunal. Therefore, the Respondents intentionally transferred the Applicant to Bhagalpur in the state of Bihar only to harass him for filing the Contempt Petition No.8 of 2009 before this Hon'ble Tribunal. Hence, the Impugned relieved Order No.WSC/AGT/Estt.2(2)/08/2236 dated 18.09.2009 issued by the office of the Respondent No.4 and also office order No.WSC/GAU/Admn-1(23)/09/2164 dated 18.09.2009 issued by the Respondent No.3 in respect of the Applicant are liable to be set aside and quashed.

5.4) For that, the similarly situated persons i.e. Carpenter working under the Respondents are posted in the same station for last 30 years without being transferred to other place. The Respondents being a model employer can not adopt discriminatory attitude towards the Applicant. The Respondents intentionally and deliberately transferred the

Utpal Subradhar

Applicant from Agartala to Bhagalpur only to harass the Applicant for filing the Contempt Petition No.8 of 2009. Hence, the Impugned relieved Order No.WSC/AGT/Estt.2(2)/08/2236 dated 18.09.2009 issued by the office of the Respondent No.4 and also office order No.WSC/GAU/Admn-1(23)/09/2164 dated 18.09.2009 issued by the Respondent No.3 in respect of the Applicant are liable to be set aside and quashed.

5.5) For that, the Respondent No.3 & 4 have issued the transfer order and release order on the same date i.e. on 18.9.2009 from Guwahati and Agartala respectively with a mala-fide intention only to harass the Applicant. Hence, the Impugned relieved Order No.WSC/AGT/Estt.2(2)/08/2236 dated 18.09.2009 issued by the office of the Respondent No.4 and also office order No.WSC/GAU/Admn-1(23)/09/2164 dated 18.09.2009 issued by the Respondent No.3 in respect of the Applicant are liable to be set aside and quashed.

5.6) For that, the Applicant daughter is going to appear in the Final Examination of KG 1 at Holy Cross School, Agartala from the last part of November to December 2009. Therefore, at this stage the Applicant will be facing great difficulty to go Bhagalpur in the state of Bihar living behind his wife, mother aged about 76 years and children who are aged about 5 years and 9 months respectively. Hence, the Impugned relieved Order No.WSC/AGT/Estt.2(2)/08/2236 dated 18.09.2009 issued by the office of the Respondent No.4 and also office order No.WSC/GAU/Admn-1(23)/09/2164 dated 18.09.2009 issued by the Respondent No.3 in respect of the Applicant are liable to be set aside and quashed.

5.7) For that, the Respondents have violated the principle of natural justice as well as the fundamental rights of the Applicant guaranteed under the Constitution of India.

Utpal Sutradhar

5.8) For that, in any view of the matter, the action of the Respondents are not sustainable in the eye of law as well as facts of the case.

The Applicant craves leave of this Hon'ble Tribunal advance further grounds the time of hearing of this instant application.

6) DETAILS OF REMEDIES EXHAUSTED:

That there is no other alternative and efficacious and remedy available to the Applicant except the invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

7) MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

That the Applicant further declares that he has not filed any application, Writ Petition or suit in respect of the subject matter of the instant application before any other court, authority, nor any such application, Writ Petition of suit is pending before any of them.

8) RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the Applicant most respectfully prayed that Your Lordship may be pleased to admit this application, call for the records of the case, issue notices to the Respondents as to why the relief and relief (S) sought for the Applicant may not be granted and after hearing the parties may be pleased to direct the Respondents to give the following relieves.

Utpal Sutradhar.

8.1) That the impugned relieved Order No.WSC/AGT/Estt.2(2)/08/2236 dated 18.09.2009 issued by the Respondent No.4 in reference to Office Order No.WSC/GAU/Admn-1(23)/09/2164 dated 18.09.2009 issued by the Respondent No.3 in the case of the Applicant is liable to be set aside and quashed.

8.2) To Pass any other appropriate relief or relief (s) to which the Applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.

8.3) To pay the cost of the application.

9) INTERIM ORDER PRAYED FOR:

At this stage the humble Applicant most respectfully prays before your lordship for an interim order to direct the Respondents to allow the Applicant to work as Carpenter at Weavers' Service Centre, Agartala, Tripura till final disposal of this Original Application.

10) Application is filed through Advocate.

11) Particulars of I.P.O.:

I.P.O. No.	: 396 424/05
Date of Issue	: 14.9.2009
Issued from	: Guwahati G.P.O.
Payable at	: Guwahati

12) LIST OF ENCLOSURES:

As stated above.

Verification

Utpal Sutradhar

V E R I F I C A T I O N

I, Shri Utpal Sutradhar, aged about 44 years, Son of Late Dinabandhu Sutradhar, Carpenter, office of the Deputy Director Weavers' Service Centre, Ministry of Textile, Government of India, Post Office-Shamali Bazar, Police Station-West Agartala, PIN-799006 do hereby solemnly verify that the statements made in paragraph nos. 4.1(Panthy), 4.3(Panthy), 4.4(Panthy), 4.7 to 4.10 are true to my knowledge, those made in paragraph nos. 4.1(Panthy), 4.2, 4.3(Panthy), 4.4(Panthy), 4.5, 4.6 are being matters of record are true to my information derived therefrom which I believe to be true and those made in paragraph No.5 are true to my legal advice. The rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 22nd day of October 2009.

utpal Sutradhar

D E C L A R A N T

No. 281

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ANNEXURE--1

ORIGINAL

GOVERNMENT OF TRIPURA

OFFICE OF THE SUB-DIVISIONAL OFFICER, SADAR

WEST TRIPURA : AGARTALA

(TRIBAL WELFARE SECTION)

277.

No. 2-78 SDO/SDR/TW/O.B.C./95-96.

AGARTALA

Dated 9/10/95

OTHER BACKWARD CLASS COMMUNITY CERTIFICATE

This is to Certify that Shri/Smt.

Utpal Subradhan

S/O, D/O Sri/D.O.

Diwabandhu Subradhan

of Village

West Batabganh

District/Division

West Tripura

of the state of Tripura belongs to the O.B.C.

Subradhan

Community which is recognised as a Backward Class under :-

- (i) Government of India, Ministry of Welfare Resolution No. 12011/65/93-OBC (C) dated 10th Sept., 1993 Published in the Gazette of India Extraordinary Part-I Section-I dated the 13th Sept., 1993.

- (ii) Government of India, Ministry of Welfare Resolution No. 12011/9/94-OBC, dated 19.10.94 published in Gazette of India Extraordinary Part-I Section-I No. 163 dated 20.10.1994.

Shri/Smt.

Utpal Subradhan

reside (s) in the

West Tripura, Sadar Sub

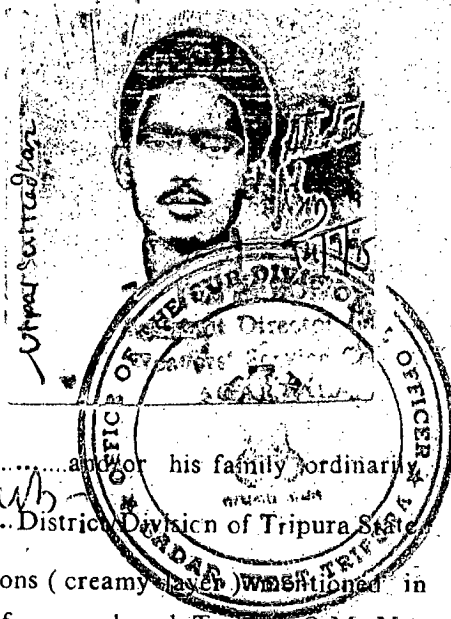
District Division of Tripura State

This is also to certify that he/she/does not belong to the persons/sections (creamy layer) mentioned in Column 3 of the Schedule to the Government of India, Department of personel and Training O.M. No. 360-2/22/93 Estt. (SCT) dated 8.9.1993.

Date

9/10/95

Seal.



(K. Ambuli)

Sub-Divisional Officer,
Sadar, West Tripura
of the competent authority

Counter Signature

District Magistrate & Collector,

(SUSHIL KUMAR)

District Magistrate & Collector,

West Tripura,

Date

N. B. (a) The Term 'Ordinarily' used here will have the same meaning as in Section 20 of the Representation of the people's Act, 1950.

(b) Utpal Subradhan

2-11-95

ATTESTED
ADVOCATE

Government of India
Ministry of Textiles
Department of Textiles
Weavers' Service Centre
Pub-Saranian, Pub-Saranian Road:
Near Manipur Bhawan
Guwahati-781003.

Gram:
SEVAKENDRA
GUWAHATI-
781003.

No. WSC/GAM/ Admn.1(23)/87 / 3/48

Dated 24/11/87

MEMORANDUM

With reference to his nomination by Spl. Employment exchange for Phy. Handicapd, Agartala for the post of Carpenter Shri/ Smt./Miss/ Utpal Sutradhar is informed that he/she has been selected for appointment in the Weavers' Service Centre Agartala as a temporary Carpenter on Rs. 950/- per month in the Scale of Rs. 950-20-1150-EB-25-1500/- and will be entitled to draw the Dearness Allowances, House Rent Allowances, Compensatory Allowances and other allowances as admissible to the Central Government Servant from time to time under the following terms and conditions :-

- (1) His/Her appointment is subject to his/her producing original educational certificates and proof of age, date of birth and caste certificate, in respect of candidates belonging to the Scheduled Caste/Scheduled Tribe Communities in the prescribed form at the time of reporting for duty. In case he/she is unable to comply with these instructions the offer of appointment will be withdrawn.
- (2) He/She is liable to be posted any where in India. The post is temporary but likely to continue on long term basis.
- (3) He/She will be on probation for a period of TWO YEARS. During the probationary period his/her services are liable to be terminated at any time without notice and without assigning any reason.
- (4) After completion of the satisfactory Probationary period his/her services are liable to be terminated by one month notice in written given either by the Government Servant to the appointing authority or by the appointing authority to the Government Servant as per the C.C.S (TS) Rules.
- (5) He/She will be required to furnish a Marriage Declaration in the prescribed form at the time of joining the duty.
- (6) No person who has more than one wife living or married to a person with more than one wife living is eligible for appointment to a Central Government Service.
- (7) He/She will have to take an Oath of Allegiance or solemn affirmation in the prescribed form to the effect that he/she will remain loyal to the Constitution of Republic of India during the tenure of his/her service under the Government.

ATTESTED

ADVOCATE

Contd....2.

- (8) His/her appointment is subject to the condition that he/she should produce a Certificate of Fitness in the prescribed form (copy enclosed) duly certified from the District Medical Officer/Civil Surgeon of a Government Hospital. He would fill up the enclosed form in the presence of the Medical and Health Officer/Civil Surgeon.
- (9) He/She will be required to furnish ~~xxx~~ TWO Character Certificates from two Gazetted Officers, out of which one should be duly attested by Presidency Magistrate/or a District Magistrate or Sub-Divisional Magistrate or Superior Officer (with office Seal who would certify regarding the Character of the person signing the Certificate before attesting it.
- (10) He/She will be bound by all the Service Rules, conditions and regularions of the Government regarding grant of leave, Providant Fund Contribution and other matters for which rules are prescribed by the Government.
- (11) This offer is made on the clear understanding that he/she is not at present working in any Govt. Office. If he/she has been previously employed in a Govt. of India or State Govt. office, he/she should produce a Certificate from the office in which he was previously employed, stating the reasons for which his/her services were terminated and if he/she has resigned the previous employer should certify that he has no objection to his/her re-employment.
- (12) If any Declaration given or information furnished by the candidate proves to be false or if the candidate is found to have wilfully suppressed any material information he/she will be liable to be removed from the service at any time.
- (13) If he/she willing to accept the offer of appointment on the above terms and conditions he/she shall inform this office to that effect within fifteen days from the date of receipt of this letter and report for duty to the Officer-in-Charge, Weavers' Service Centre Agartala on or before 15-12-87 failing to which the offer of appointment will be treated as cancelled.
- (14) No travelling expenses will be paid for joining the appointment.


✓ To,

Shri/Smt./~~Mrs.~~ Utpal Sutradhar.

C/O Bindandhu Sutradhar,

Vill. ~~at~~ Pratapgarh, P.O. A.D. Nagar,

Agartala, West Tripura,


(R. KUMAR)
DIRECTOR

ATTESTED

ADVOCATE

VALID FOR 5 YEARS / PERMANENT

GOVERNMENT OF TRIPURA
SPECIAL MEDICAL BOARD FOR
PHYSICALLY HANDICAPPED
PERSON (TRIPURA STATE)
G.B PANT HOSPITAL, AGARTALA

CERTIFICATE ^{40.} 2805

DATE 12-12-2001

CERTIFICATE FOR
ORTHOPAEDICALLY (LOCOMOTOR) / VISUALLY/SPEECH &
HEARING HANDICAPPED PERSON

This is to certify that Shri. Utpal Subradhar
S/O, D/O, W/O Lt. Dinabandhu Subradhar
Age 37 year old, male/female is suffering from (Nature of
Disability) Cervico dorsal spondylosis
and has (Extent of Disability) 25 % (Twenty five) (percent) permanent
Physical Disability.

- Note :- 1) This Condition is progressive / non progressive / likely to improve / not likely to improve.
2) Reassessment is not recommended / recommended after a period of Months/Years.

✓ Utpal Subradhar

Signature of Patient / T.I

Home Address of the patient

VIII PPs - West Bantarganj,
Brundabangan, Agartala



Member - Cum-Convenor
Special Medical Board
for Physically
Handicapped Person,
Tripura

(R. S. Roy Choudhary)
Sub-Regional Employment Officer,
Sub-Regional Employment Exchange
Agartala, Tripura.

Spl. E. E. for Ph. Persons / AGT.

Member 12/11/2001
Special Medical Board
for Physically
Handicapped Person,
Tripura

(DR. A. B. S.)
Member Board for
Physically Handicapped
Persons, G. B. Pant Hospital, Agartala

Chairman 12/11/2001
Special Medical Board
for Physically
Handicapped Person,
Tripura

(DR. A. B. S.)
Chairman Board for
Physically Handicapped
Persons, G. B. Hospital, Agartala,
West Tripura

Sl.No. 2374 Date 22/11/2001

ATTESTED

ADVOCATE

Roll No. 132

Serial No. 7



GOVERNMENT OF INDIA

MINISTRY OF TEXTILES

INDIAN INSTITUTE OF HANDLOOM TECHNOLOGY

GUWAHATI/SALEM/VARANASI

Diploma in Handloom Technology

This is to certify that

Shri/Kumari Utpal SutradharS/o or D/o Shri Dinabandhu Sutradharhaving completed the prescribed course in Handloom Technology
at the

Indian Institute of Handloom Technology

Guwahati/Salem/Varanasi

has been certified by duly appointed examiners to be qualified to receive
the Diploma after having been examined at the examination held in the
month of November in the year one thousand nine hundred
and Ninety FourHe was placed in Pass Class

in testimony whereof

Indian Institute of Handloom Technology

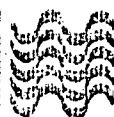
awards this

Diploma

on this the 6th day of June 1995

Director
(Dr. B. P. Sarkar)
Director

Indian Institute of Handloom Technology
Chowkghat, Varanasi-2



Chairman
Governing Body

ATTESTED
@
ADV. 118

DR. BIMAL BHAUMIK
M.B.B.S; M.D; F.I.A.E.
Medicine, Heart, Lungs, Diabetes & Echo Specialist.
Fellow : Indian Academy of Echocardiography

AMRITA
JYOTI
...
Date: 7.7.05

142/1, Motorstand Road,
Agartala, Tripura-799001
Phone : 238-1126 (O) / 222-5164 (R)
Mobile : 9436122979
Consultation :
9 A.M. - 1 P.M.
5 P.M. - 8 P.M.
Sunday :
8 A.M. - 1 P.M., Evening Closed.

COLOR DOPPLER ECHOCARDIOGRAM REPORT

Name: Baby Udita Sufredhan Age 7m Sex F Wt. 7.5 kg Ht. 9 BSA M2

Clinical Hist.

Syst murmur A₁ A₂ area with conduction to Carotids
Pulse 146 Reg HR 146 Reg BP

-Ray

ECG

M-Mode

ALL MEASUREMENTS IN CENTIMETERS.

ECHOGENICITY

RVAV 4.5 RVDd 5.5 IVSd 5 LVIDd 2.1 LVPWd 5.5 RVDS 7.5 IVSS 7.5 LVIDS 1.4 LVPWS 9.0
5.5-15/M² 2-2.8/M² 1-9.3.2/M²

EF 8.7 DE 9.5 EPSS 3 Ao root 1.2 Acs 1.0 LA 1.7 FS 33.2 Lvs/Lvpw LA/AO
5-15 1.7-2 1.5-2 1.2-2.2/M²

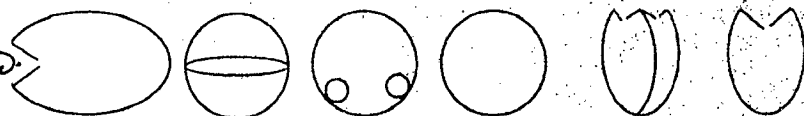
ESV 2.8 ml EDV 9.39 ml EF 70% CO 9.6 L/min SV 6.6 ml SI

Lvs / normal thickness, no motion profile with good systolic thickening.

TWO Dimension

LVAD Epical LVLD Epical LVAS Epical LVLS Epical LVAD Saxmv LVAS Saxmv LVAD Saxpm
LVAS Saxpm MVA Trace MVD Annul FS EF Spel EF bpel EF bullet EDV

All chamber sizes are normal
Pericardium - normal
Aortic valve - thickened, domed
stenosed. ? Bicuspid.



AORTIC FLOW

DOPPLER STUDY

V2 Max 37 V2Intg 558 V2mean 232 Accel Slope Decel Slope AR velo Acceltime Deceltime
Ejtime V1 velo 13 V1Intg 188 V1 mean 99 PEP LVOTd 9.7 LVOT (A) 1.13 Ao.root (d) 1.2 MxPG 55
Co SV AVA-VD 26 VA 40 ID 25 IA 38 Continuity RF AS AR N.I
Delta Seven Aortic Stenosis

MITRA FLOW

Peak Flow V2intg V2mean Accel.sl Decel.sl Acceltime E 9.3 Cen/sec A 4.4 Cen/Sec
Ann.dia MxPG P_{1/2} MVA Continuity Co RF HR
MR N.I Mx Velo Velo Intg Mean velo MS N.I

ATTESTED
ADVOCATE

PULM FLOW

V2Mx <i>99</i>	V2Intg	V2Mean	Accel Slope	Decel Slope	PRVelo	Acctime	Deceltime
Ejtime <i>21/4</i>	ViMx	V1Intg	V1 Mean	RVOTd	PA(d)	MxPG	MeanPG
PR(PG)	RVOTA	PA area	Co	CI	SV		SI
PVA	VD	VA	ID	IA	RF	RO	RV

TRICUSPID FLOW *Normal*

VMx	V2Intg	V2Mean	Accel Slope	Decel Slop	TRvelo	MxPG	MeanPG	P1/2 time
TVA	Co	CI	SV	Mx velo TR	Velo Intg		TR Mean velo	

SHUNT

MITRAL VALVE *Normal* **COLOUR FLOW**

MS Jet	PISA(d)	NQL	MVA	MR	Cm ²
MR Jet	MRvol	PISA(d)	MR frac	NQL	MR : LA=
					MR orifice

AORTIC VALVE

AR jet	VC width	AR width	LVOT(d) : AR(d)=	LVOT(A) : AR(A)=
AS jet	<i>Mosaic pattern.</i>			

PLUM VALVE *Aortic Stenosis*

PS jet	PISA(d)	NQL	ROA	PRlength
PR jet				

TRICUSPID VALVE *Normal*

TR Jet	RA : TR=	TR	Cm ²	PISA(d)	NQL
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Shunt

COMMENTS - Please Co-relate report clinically, Any doubt kindly write for redo.

- ① Ivs. LVW - normal thickness, motion profile with good syst thick.
- ② Aortic valve :- thickened, stenosed, domed. Severe Stenosis. MxPG - 55 mmHg. Aortic valve area :- *4 cm²*
? Bicuspid.
 velocity-diameter :- 0.26 m². velocity-Area :- *4 cm²*
 Integral diameter :- 25 cm². Integral Area :- *0.38 cm²*
- ③ All chamber sizes are normal.
- ④ LV :- good syst and diast function
- ⑤ No LA-LV - Clot
- ⑥ Pericardium - normal & Severe Aortic Stenosis & *7/7/05*
? Bicuspid Aortic valve

ATTESTED

ADVOCATE

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 133 of 2001.

Date of Order : This the 1st Day of March, 2002.

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

Sri Utpal Sutradhar,
Carpenter,
Weaver's Service Centre,
Ministry of Textiles,
Agartala.

. . . Applicant

By Advocate Miss Sankari Das.

- Versus -

1. Union of India,
represented by the Development Commissioner
for Handloom, Ministry of Textile,
Govt. of India (Udyog Bhavan),
New Delhi-11.

2. Director, Weaver's Service Centre,
Ministry of Textiles,
I.I.H.T. Campus, Jawahar Nagar,
Khanapara, Guwahati-22.

3. Deputy Director,
Weaver's Service Centre,
Gurkhabasti, Agartala-6.

4. Assistant Director,
Office of the Development Commissioner
for Handlooms, Govt. of India,
Ministry of Textiles,
Udyog Bhavan,
New Delhi-11.

. . . Respondents.

By Sri A. Deb Roy, Sr.C.G.S.C.

ORDER

CHOWDHURY J.(V.C)

The controversy raised in this application relates to the regularisation of the period spent in study and also legality of the order dated 28.2.2001 refixing the date of substantive date of appointment of the applicant in the following circumstances.

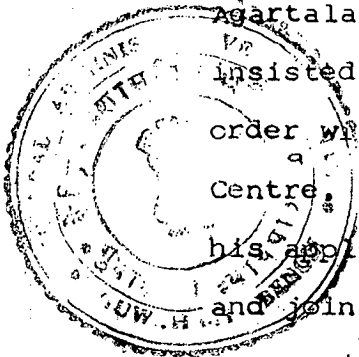
The applicant was appointed as a Carpenter, a Group C post in the pay scale of Rs.950-1500/- in the Weaver's Service Centre, Indian Institute of Handloom

contd..2

ATTESTED

AD/2001/B

Technology, Agartala against the quota earmarked for physically handicapped vide order dated 8.1.88 with effect from 7.12.87. By order dated 6.6.95 eight persons working in the Weavers Service Centre, Indian Institute of Handloom Technology under the Eastern Zone were appointed in substantive capacity in the post with effect from the date shown against each. The name of the applicant appeared at serial No.7 to the post of Carpenter and the date of substantive appointment was shown as 1.4.88. While the applicant serving as such he applied for admission to 3 years DHT course in the Indian Institute of Handloom Technology at Varanasi on non stipendiary basis. His application was forwarded by the department and accordingly office order No.J-11011/1/91.WSC/E-II dated 26.7.91 was issued, granting permission to the applicant to take admission on non stipendiary basis in the first year of 3 years diploma course of DHT during the academic year 1991-92. The applicant accordingly left for Varanasi to the knowledge of the authority and joined in the Institute. The applicant by his application dated 12.8.91 wrote to the officer in charge Weavers Service Centre, Agartala to issue a no objection certificate as was insisted by the authority and also issue a formal relieving order with effect from 9.8.91 from the Weaver's Service Centre, Agartala. In this application he mentioned about his application dated 9.8.91 for granting study leave and joining his course. The applicant completed his course in due time and came back to Agartala where he was also directed to impart training to the trainees weavers under Hill Area Project and Project packages scheme in addition to his normal duties until further orders. The applicant completed his course and obtained diplome in Handloom Technology from the Indian Institute of Handloom Technology, Varanasi. In the meantime the respondents authority by order dated 15.7.92 ^{turny} came down



ATTESTED

ADDITIONAL

his application for granting study leave on the ground that he did not complete 5 years of service and he had also not completed the period of probation. The applicant is getting his salary without any increments and by the impugned order dated 28.2.2001 the applicant's substantive appointment as a Carpenter was refixed from 7.6.90 by cancelling the order dated 6.6.95 wherein the date of substantive appointment of the applicant was shown as 1.4.88. In this application the applicant has sought for a direction on the /authority for regularising the period spent in study and release his arrears which was not paid during the study period and also prayed for quashing the order No. WSC/GAU/AGT/15(1)/2001/947 dated 28.2.2001.

2. The respondents submitted its written statement and contested the claim. According to the respondents the applicant was appointed as Carpenter, a Group C post of Weaver's Service Centre in a temporary capacity against physically handicapped quota. It was also admitted that by order dated 6.6.95 the applicant was made regular but the same order was issued through oversight and when the matter came to the notice of the authority the same was corrected by another order dated 2.3.2001 in the form of corrigendum. It was also stated that the applicant was allowed to take admission into the diploma course at his own risk and interest and DHT course has no relation with the nature of duty of the applicant in any way. No study leave was granted to the applicant by the competent authority vide order dated 15/16.7.92 and as per leave rules the applicant was not entitled to such leave as he did not complete 5 years of regular service. The respondents also stated that no doubt the applicant applied for relieving order and no objection certificate but no such order/certificate was issued in favour of

contd..4

ATTESTED
ADVOCATE

the applicant. In the written statement the respondents mentioned that 18 days leave was granted to the applicant with effect from 12.8.91 to 29.8.91 and again 42 days leave without pay was also granted to the applicant from 30.8.91 to 10.10.91. After availing 60 days leave worked in the office from 11.10.91 to 8.11.91 and then left for Varanasi on 10.11.91. Thereafter he again joined on duty on 5.5.92 after availing 178 days EOL (without pay) with effect from 9.11.91 to 4.5.92. The applicant worked in the office from 5.5.92 to 21.7.92. The applicant again left for Varanasi and rejoined the office in 1994. During the period for which the applicant worked and the period for which E.L was granted he was paid salaries. For the period between 21.7.92 to 1994 no leave was granted to the applicant and from 5.5.92 to 5.5.94 no increment was also granted to him.

3. I have heard Miss Sankari Das, learned counsel for the applicant at length and also Mr A. Deb Roy, learned Sr.C.G.S.C for the respondents. Miss Das, learned counsel for the applicant submitted that the respondents acted in a most illegal fashion overlooking the relevant considerations. Miss Das submitted that the for undergoing the diploma course in Handloom technology the applicant applied through proper channel. His application was forwarded and in due course the applicant was recommended for granting admission on a non stipendiary basis as per the order of the respondents and also issued in the public interest. There is no justification for not giving him the study leave as admissible. Mr Deb Roy, learned Sr.C.G.S.C on the other hand submitted that the respondents rightly rejected the study leave of the applicant as he did not complete the 5 years regular service

contd..5

A TESTED
AD: 10/11/91

and the period of probation and referred to the rules relating to the conditions for grant of study leave. Chapter VI of the Central Civil Services (Leave) Rules 1972 provides conditions for grant of study leave. Rule 52 of the said rules pertains to application for study leave. Rule 53 relates to sanction of study leave. Admittedly the application of the applicant was processed and thereafter the competent authority including the respondents, the Government of India, Ministry of Textiles recommended the applicant for taking admission on non stipendiary basis. Naturally when order was issued the applicant joined the course with the knowledge of the respondents. Under sub-rule 5 of Rule 50(i) study leave may be granted to the Government servant who has satisfactorily completed the period of probation and has rendered not less than five years regular service including the period of probation under the Government. The applicant was appointed earlier in a substantive capacity vide order 6.6.95 and he was assigned with higher responsibility. Legal policies are laid down in the rules. In the circumstances the respondents instead of taking a sententious view ought to have looked into the substance of the rule and necessarily grant him the study leave. Mr Deb Roy, learned Sr.C.G.S.C submitted that study leave has also a prescribed limit which ordinarily be for 12 months at a time and when ^{AD} it is a fit case for extending the benefit. The applicant by now has already completed the course and there was not justification for not regularising the period of absence. The respondents are accordingly directed to regularise his leave period by granting him study leave as admissible, or in aid of the provision of the leave rules. The applicant cannot be denied with increments and the

contd..6

ATTESTED

AD
ADDITIONAL B

due salary only on the ground mentioned. The higher education itself is an asset to the department and the department can use and take benefit from his skill and educational qualification. I also do not find any justification for changing the date of substantive appointment of the applicant from 1.4.88 to 7.6.90. The substantive appointment was fixed on 1.4.88 and no reason assigned as to how it was again changed without taking the applicant into confidence. In the circumstances the impugned communication dated 28.2.2001 refixing the date of substantive appointment of the applicant as 7.6.90 in place of 1.4.88 is set aside and quashed. The respondents are directed to regularise the period of absence during his training with all benefits of pay and allowances.

The application is allowed to the extent indicated. There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN

Certified to be true Copy
न्यायिक प्रक्रिया

pg

20/3/02
Section Officer (A)
आयुक्त न्यायाधीश (अधीनस्थ न्यायाधीश)
Central Administrative Tribunal
राष्ट्रीय प्रशासनिक न्यायालय
Guwahati Bench, Guwahati-8
गुवाहाटी न्यायाधीश, गुवाहाटी-8

ATTESTED
ADVOCATE

- 28 -

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH
GUWAHATI

E.P. No.2/2008 in Original Application No.133 of 2001

Date of Order: This the 20th Day of February, 2009

HON'BLE MR. MANORANJAN MOHANTY, VICE-CHAIRMAN

Shri Utpal Sutradhar
S/o Late Dinabandhu Sutradhar
Carpenter
Office of the Deputy Director
Weaver's Service Centre
Ministry of Textile
Govt. of India, Agartala
P.O.- Shamali Bazar
P.S.- West Agartala
Pin Code- 799006, (Tripura).

..... Applicant

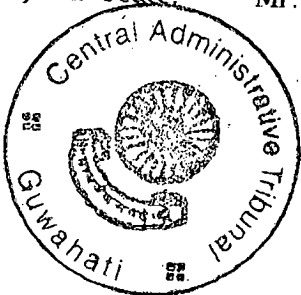
By Advocate: Mr. Adil Ahmed, Mr. Nuruddin Ahmed and Ms. S. Das Choudhury.

-VERSUS-

1. The Union of India
Represented by the Development
Commissioner for Handloom
Ministry of Textile
Government of India
(Udyog Bhavan)
New Delhi- 110011.
2. The Director
Weavers Service Centre
Ministry of Textile
I.I.H.T. Campus
Jawahar Nagar
Khanapara, Guwahati- 781002.
3. The Deputy Director
Weavers Service Centre
Gurkhabasti, Agartala
Pin- 799006.
4. The Assistant Director
Office of the Development
Commissioner for Handloom
Government of India
Ministry of Textile
Udyog Bhavan
New Delhi- 110011.

..... Respondents

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



PTO

ATTESTED

ADVOCATE

- 29 -

ORDER(ORAL)
20.02.2009

Heard Mr. N. Ahmed, learned counsel appearing for the Applicant and Mr. G. Baishya, Learned Sr. Standing Counsel representing the Respondents.

2. O.A.No.133 of 2001 filed by the present Applicant was disposed of on 1st March, 2002. The relevant portion of the said order dated 1st March 2002 reads as under:-

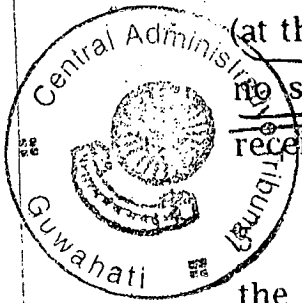
"The substantive appointment was fixed on 01.04.1988 and no reason assigned as to how it was again changed without taking the applicant in to confidence. In the circumstances the impugned communication dated 28.02.2001 refixing the date of substantive appointment of the applicant as 07.06.1990 in place of 01.04.1988 is set aside and quashed. The respondents are directed to regularize the period of absence during his training with all benefits of pay and allowances".

3. The Respondents having not given the required/consequential benefit to the Applicant, he has filed the present Execution Petition No.2 of 2008.

✓ 4. By way of filing reply in the present Execution Petition No.2 of 2008, the Respondents have disclosed that steps were taken by them (Respondents) to challenge the aforesaid order dated 01.03.2002 in the Hon'ble Gauhati High Court and, as it appears, the said Writ Petition has been misplaced (at the filing stage) since November, 2002. It appears that the Respondents took no steps in the matter since 2002. They even failed to take any action after receipt of notice in the present Execution Petition No.2 of 2008.

In the aforesaid premises, Respondents are directed to comply with the order dated 1st March, 2002 of this Tribunal (rendered in O.A. No.133 of 2001) by end of April, 2009 under intimation to the Applicant.

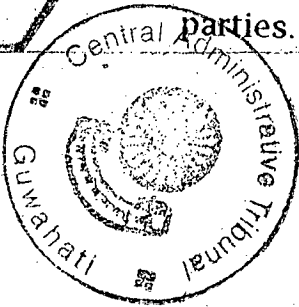
6. With the aforesaid direction, this Execution Petition No. 2 of 2008 stands disposed of.



ATTESTED

ADJUDICATE

7. Send copies of this order to the Applicant and to all the Respondents. Free copies of this order be supplied to Advocates of both parties.



Sd/-
M.R. MOHANTY
VICE CHAIRMAN

TRUE COPY
प्रतिलिपि
अनुभाग अधिकारी
Section Officer (Judl)
Central Administrative Tribunal
गुवाहाटी न्यायपीठ
Guwahati Bench
गुवाहाटी/Guwahati-5

ATTESTED

ADVOCATE

Government of India,
Ministry of Textiles,
Weavers Service Centre,
Jawaharnagar, Khanapara,
Guwahati-781022
Phone: 2302599, 2303586 Fax: 2302599

No. WSC/GAU/Admn-1(23)/09/

Dated September 18, 2009

OFFICE ORDER

The transfer of the following officials is hereby ordered to the Weavers' Service Centres as mentioned against their names:-

Name & Designation S/Shri	Place of posting		Remarks
	From	To	
J.C. Sarkar, Carpenter	WSC, Bhagalpur	WSC., Kolkata	On 'own request' basis
Utpal Sutradhar, Carpenter	WSC., Agartala	WSC. <u>Bhagalpur</u>	In 'public interest'

As the transfer of Shri J.C. Sarkar is ordered on 'own request', he will not be entitled to transfer T.A. & joining period etc. in terms of S.R. 114.

This issues with the approval of the competent authority

(S.P. SINGH)
Director

To,
Shri J.C. Sarkar, Carpenter
WSC., Bhagalpur

Shri Utpal Sutradhar, Carpenter
WSC., Agartala

- Copy to:
1. The Officer-in-Charge, WSC. Bhagalpur/Agartala/Kolkata. He is requested to relieve the above officials immediately with an instruction to report for duty at WSCs, concerned as well as to intimate the date of joining by Shri J. C Sarkar and Shri U. Sturadhar accordingly to this office.
 2. The Addl. Development Commissioner for Handlooms, Udyog Bhavan, New Delhi. This has with reference to his letter No. A 11011/2/2008-DCHL/E. II dated 17-09-2009
 3. The Pay & Accounts Office, PAO., Kolkata.
 4. Guard file

(S.P. SINGH)
Director

ATTESTED

ADVOCATE



GOVERNMENT OF INDIA
MINISTRY OF TEXTILES
OFFICE OF THE DEVELOPMENT COMMISSIONER FOR HANDLOOMS
WEAVERS' SERVICE CENTRE
GORKHABASTI, KUNJABAN
AGARTALA - 799 006



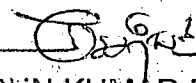
No.WSC/AGT/Estt.2(2)/08/ 2236.

Date: 18-09-2009

OFFICE ORDER

In pursuance of the Office Order No.WSC/GAU/Admn.1(23)/09/2164 dated 18-09-2009, issued by the Zonal Director, Weavers' Service Centre, Guwahati, Sri Utpal Sutradhar, Carpenter of this Office has been relieved from this Centre in the After-noon of 18th September, 2009 consequent on his transfer to Weavers' Service Centre, Bhagalpur in the same capacity in public interest.


Sri Utpal Sutradhar, Carpenter has been instructed to report for duty to the Officer-In-Charge, Weavers' Service Centre, Bhagalpur within the joining time, as admissible under the Rules.


(S. ARUN KUMAR PANDU)
ASSISTANT DIRECTOR (I/C)

✓ To
Sri Utpal Sutradhar,
Carpenter
Weavers' Service Centre
Agartala.

1. The Director (Zonal), Weavers' Service Centre, Guwahati, for information please.
2. The Officer-In-Charge, Weavers' Service Centre, Bhagalpur, He is requested to intimate this office the date in which Sri Sutradhar reports for duty at his Centre.
3. The Additional Development Commissioner for Handlooms, New Delhi.
4. The Sr. Accounts Officer, Pay & Accounts Office (Textiles), Kolkata.
5. Bill Section, W.S.C., Agartala.
6. Personal file of Sri Utpal Sutradhar, Carpenter.
7. Guard file.

(S. ARUN KUMAR PANDU)
ASSISTANT DIRECTOR (I/C)

ATTESTED

ADVOC 1TB

To
The Development Commissioner for Handloom,
Udyog Bhavan, New Delhi - 110011.

Sub :- A Prayer for getting your kind favour.

Sir,

I apologise myself for killing your valuable time at your busiest moment as I have no other alternative but to pray to your good self for getting your kind favour for staying my transference.

I am to inform you that I have been compelled to write about the office order No. WSC/AGT/Estt. 2(2)/08/2236, dated 18/09/09. I am enclosing herewith Anx-1.

That's Sir,

Being angry, you transferred me as I did contempt of court.

That's Sir,

I am bound to do contempt of court because your department informed me that "An appeal under Article 226/227 of the constitution, has already been filed by the Department on 2-9-02 in the High Court of Assam at Guwahati vide Sl. No. 1118 of 2002; the matter has become subjudiced before the court of Law." I am enclosing herewith Anx-2. But Gauhati High Court said that the Sl. No. 1118 of 2002 belongs to ITA case. I am enclosing herewith Anx-3.

That's Sir,

I realised that your department cheated with me. I shall show and submit Anx-3 in the CAT.

That's Sir,

W.S.C. Gauhati paid Rs. 2000/- to the advocate as fee for the case No. 1118 of 2002. I am enclosing herewith Anx-4 and 5.

That's Sir,

I think that W.C. Gauhati has been cheating with you.

That's Sir,

If you permit me, I shall submit Anx-2,3,4,5 in the C.V.I. I have been waiting for your kind information.

Contd...Page/02

ATTESTED

(M)
ADVOCATE

It is interalia herewith mention that the Director of W.S.C. Gauhati got the filing slip as per Anx-3. But Mr. S.P. Singh, Director, W.S.C., Gauhati informed me "No filing slip is received". I am enclosing Anx-6.

That is why I am bound to appeal to your good self for the filing slip.

That's Sir,

You know the best that I studied three years as per your order. But your department held up my FOUR increment, ACP, GP, Etc.

As I have completed Hand Loom Technology from I.I.H.T. Varanasi, So that I have been working in weaving section in addition to my normal duty. I am enclosing here with Anx-7.

That's Sir,

All these are bound me to take shelter from the court of Law.

That's Sir,

I hope that seeing all the documents you will never angry on me.

I therefore, request to your good self for staying my transference Anx-I.

That's Sir,

I have been waiting for your kind information.

Yours faithfully,

Utpal Sutradhar

(UTPAL SUTRADHAR)

Carpenter, W.S.C. Agartala.

Phone No. :- 09863407173 (M)

Dated: Agartala

the 24th September, 2009

Copy to :-

The Addl. Development Commissioner
for Handloom (Administrative)
Udyog Bhavan, New Delhi.

(UTPAL SUTRADHAR)

Carpenter, W.S.C. Agartala.

Phone No. :- 09863407173 (M)

ATTESTED

(M)

ADVOCATE

To
The Honourable Textile Minister
Udyog Bhavan,
New Delhi - 110011.

Sub :- A prayer for getting your kind favour for staying transfer of
Sri Utpal Sutradhar, Carpenter, W.S.C. Agartala.

Sir,

I apologise my self for disturbing your valuable time at your busiest moment as I have no other alternative but to pray to your good self for getting your kind favour above the matter.

I am to inform you that Sri Utpal Sutradhar, Carpenter, W.S.C. Agartala is my only son. His child has been laying on had since 2005 owing to her heart problem. The child can not travel, I am enclosing here with her medical certificate. I am seventy six years old.

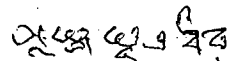
I can not move alone. I have been laying on bed owing to my brain stoke.

Laying on bed as an old mother, I request to your good self to kindly stay his transfer.

I am enclosing herewith his transfer copy.

Dated, Agartala.

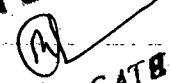
Yours faithfully,



(PUSHPA SUTRADHAR)

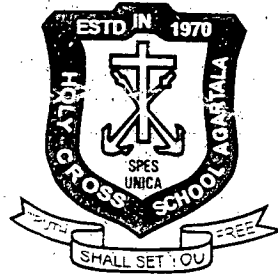
M/O. Utpal Sutradhar.
Carpenter W.S.C. Agartala.

ATTESTED


ADVOCATE

HOLY CROSS SCHOOL, AGARTALA

(Affiliated to the Council for the Indian School Certificate Examinations - New Delhi)



P.O. DURJOYNAGAR
W. TRIPURA - 799009

SCHOOL CERTIFICATE

This is to certify that Master / Miss **Udhita Sutradhar**

REG. NO: 2248

~~S~~ / ~~O~~ - D / O Mr **Utpal Sutradhar**

..... is a student of this school since **07/01/2009**

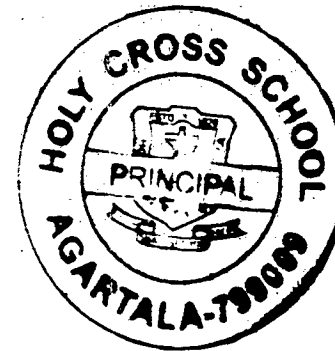
~~He~~ / She was admitted in class **KG I** ~~His~~ / Her date of birth
according to our Admission Register is **16/11/2004** (the **Sixteenth**
..... day of **November** **Nineteen hundred and** **Two thousand four**))

~~He~~ / She is reading in Class **KG I** ~~His~~ / Her Character is **Good**

I wish him / her success in life.

Agartala

Date **08/10/2009**



PRINCIPAL

A. TESTED
(A)
ADVOCATE

HOLY CROSS SCHOOL, AGARTALA

SYLLABUS FOR - 2009

KG.I

1st Terminal Examination

1. **English :** A to Z (Capital and small letters)
2. **Spelling:** From New Oxford Modern English Pages 8 - 20
3. **Reading:** From New Oxford Modern English Pages 8 - 20
4. **Hand writing:** Word
6. **Mathematics:**
 - i) 1-50 in figures
 - ii) Missing Numbers (1 - 25)
 - iii) Count and write - (1 - 10)
 - iv) From Book pages 3 - 57
 - v) From Number Activity: 1 - 100 Pages 5 - 45
7. **Conversation:** From My General Activity Book -B Pages 6 - 17
8. **Computer:** Book Pages: 5 - 19
9. **Story telling :** "The Thirsty Crow" Rhymes book page no. 39
10. **Recitation:** Rhymes Book Pages 3-10
11. **Drawing:**
 - i) Colour & Art Activity - B Pages 5 - 15
 - ii) Pencil drawing Page No.1- 20
12. **Singing:**
 - i) Mary had a little lamb.
 - ii) Open shut them.
 - iii) Rolly Polly
 - iv) God's Love is so wonderful

2nd Terminal Examination

1. **Reading:** From New Oxford Modern English Pages 21 - 40
2. **English:** From New Oxford Modern English Pages 21 - 40
3. **Hand writing:** Sentences
4. **Starting English:** (Work Book) pages: 1 - 30.
5. **Mathematics:**
 - i) From Book pages: 58 - 71, 81,83,84,87,88,89,98,99,100,101
 - ii) 1 - 10 in words
 - iii) 1 - 100 in figures
 - iv) What comes after and what comes in between a given numbers(1-50)
 - v) Addition with pictures
 - vi) Subtraction with pictures
 - vii) Count and write (1 - 20)
 - viii) Missing numbers (1 - 50)
 - ix) From Number Activity: Pages 46 - 59, 64 - 67
6. **Conversation:** From My General Activity Pages 18 - 29, Rhymes book pages 46,47
7. **Computer:** Book Pages: 23 - 35
8. **Story telling:** "The Fox and the grapes." Rhymes book page 41
9. **Recitation:** Rhymes Book pages- 20 - 35.
10. **Drawing :**
 - i) Colour & Art pages - 16 - 28
 - ii) Pencil Drawing Pages - 21 - 36
11. **Singing:**
 - i) London Bridge.
 - ii) Yankee Doodle.
 - iii) Here we go round
 - iv) Out in the Garden
 - v) It's a great thing to serve the Lord

ATTESTED

(W)

ADVOCATE

3rd Terminal Examination

1. **Reading:** From New Oxford Modern English Pages 41 - 65
2. **English:** From New Oxford Modern English Pages 41 - 65
3. **Hand writing:** Sentences
4. **Starting English:** (Work Book) pages - 31 - 56.
5. **Mathematics:** i) 1-100 figures ii) 1 - 20 in words
iii) What comes before a given number (1- 50)
iv) Missing numbers (1-50) v) From Book pages: 90-96, 102-112
vi) Addition vii) Subtraction
viii) Number Activity: Pages- 60 - 63, 68 - 72
6. **Conversation:** From My General Activity Pages 30 - 33, 36 - 39
Rhymes book pages 48
7. **Computer:** Book Pages: 36, 37, 44, 45, 49, 51
8. **Story telling:** "The Lion and the Mouse". Rhymes Book page 42
9. **Recitation:** Book pages: 23 - 33.
10. **Drawing :** i) Colour & Art pages - 29 - 40
ii) Pencil Drawing Pages - 37 - 56
11. **Singing:** i) My Red Balloon. ii) Micky on a Railway.
iii) When you are happy & you know iv) Go tell it on the mountain
v) Pick up Apple.

HOLY CROSS SCHOOL, AGARTALA SCHEDULE FOR 1st TERM EXAMINATION - 2009 K.G.I

28/03/2009	Saturday	Computer
30/03/2009	Monday	English
31/03/2009	Tuesday	Reading / Handwriting
01/04/2009	Wednesday	Drawing / Singing
03/04/2009	Friday	Mathematics
04/04/2009	Saturday	Conversation
06/04/2009	Monday	Recitation
08/04/2009	Wednesday	Story Telling

Computer Practical will be conducted during Class Hours.

[N.B. Once the exam is over, no re-test will be taken.]

HOLY CROSS SCHOOL, AGARTALA SCHEDULE FOR 2nd TERM EXAMINATIONS - 2009 K.G.I

23/07/2009	Monday	Computer
24/07/2009	Tuesday	Story Telling
25/07/2009	Wednesday	Reading / Handwriting
30/07/2009	Thursday	Recitation
31/07/2009	Friday	Conversation
03/08/2009	Monday	English
05/08/2009	Wednesday	Mathematics
07/08/2009	Friday	Drawing / Singing

Computer Practical will be conducted during Class Hours.

[N.B. Once the exam is over, no re-test will be taken.]

HOLY CROSS SCHOOL, AGARTALA SCHEDULE FOR 3rd TERM EXAMINATION - 2009 K.G.I

23/11/2009	Monday	Computer
24/11/2009	Tuesday	Reading / Handwriting
25/11/2009	Wednesday	Story Telling
26/11/2009	Thursday	Recitation
27/11/2009	Friday	Conversation
30/11/2009	Monday	English
02/12/2009	Wednesday	Drawing / Singing
04/12/2009	Friday	Mathematics

Computer Practical will be conducted during Class Hours.

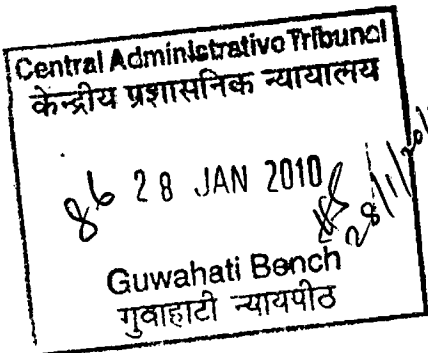
[N.B. Once the exam is over, no re-test will be taken.]

ATTESTED

ADVOCATE

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH

File by:-
The Respondents
Through
Mangul Das
Sri C-6-S-2
eAT 27/1/2010



IN THE MATTER OF:

O.A. No. 218/09

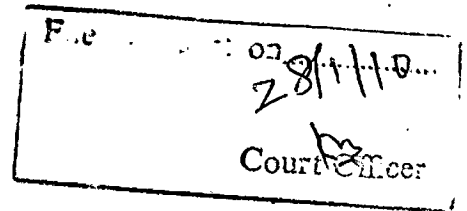
Sri Utpal Sutradhar

...Applicant

vs-

U.O.I. & Ors.

...Respondents



-And-

IN THE MATTER OF:

Written Statement filed on behalf of the
respondents

I, Sri S.P. Singh, S/o Late Sita Ram Singh, aged about 59 years, presently working as the Director, Weavers' Service Centre (Zonal), Ministry of Textiles, Government of India, IIHT Campus, Jawarharnagar, Khanapara, National Highway-37, Guwahati-22, do hereby solemnly state as follows:

1] That I am the Director, Weavers' Service Centre (Zonal), Ministry of Textiles, Government of India, IIHT Campus, Jawarharnagar, Khanapara, National Highway-37, Guwahati-22. I have been impleaded as party Respondent No.3. A copy of the Original Application has been served upon me and I have gone through the same and understood the contents thereof. I am conversant with the facts and circumstances of the case. I have also been authorized to file this Written Statement on behalf of the other Respondents.

2] That I do not admit any statements made in the Application and, save and except those statements that are admitted to be true by the humble answering Respondent, the rest may be deemed as denied.

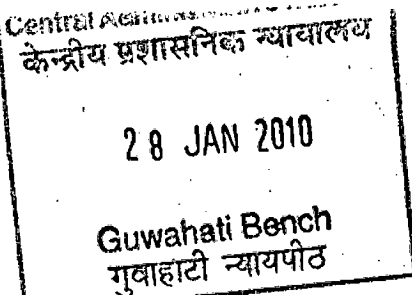
3] That before traversing the facts of the case as put forward by the Applicant in the Application, the humble answering Respondent would like to place before the Hon'ble Tribunal the brief facts of the case:

BRIEF FACTS OF THE CASE:

3.1] That the applicant was appointed as Carpenter in the pay scale of Rs. 950-1500/- in the Weavers Service Centre ('WSC' in short), Agartala vide office

Learned
N. Ahluwalia
Advocate
27/01/10

Dr. A. K.



Memorandum No. WSC/GAU/Admn.1(23)/87/3148 dated 24.11.87 in the physically handicapped quota as the applicant had 25% permanent physical disability. He was appointed vide order dated 08.01.88 with effect from 07.12.87. It is to be noted that the applicant is less than 40% handicapped and he is not deserving of any concession under the law.

3.2] That the applicant since his posting at Agartala is continuing in the same station for a long 22 years and therefore vide office order no. WSC/GAU/Admn-1(23)/09/2164 dated 18.09.09, the respondent no. 3 transferred one Sri J.C. Sarkar from WSC, Bhagalpur to WSC, Kolkata and the applicant from WSC, Agartala to WSC, Bhagalpur.

3.3] That, thereafter, in pursuance of the above order dated 18.09.09, respondent no. 4, i.e. the Assistant Director (I/C) of WSC, Agartala, vide Office order no. WSC/AGT/Estt/2(2)/08/2236 dated 18.09.09 relieved the applicant from the WSC, Agartala on the afternoon of 18.09.09 consequent on his transfer to WSC, Bhagalpur.

3.4] That transfer and posting of the applicant at WSC, Bhagalpur is in public interest. Transfer is an incident of service and it is absolutely false that due to filing of contempt case he was transferred. The contempt proceeding was in an separate issue. As per the transfer policy, an employee can be transferred after five years service in a station. It is not that there is a violation of any guidelines or transfer policy of Group 'C' and 'D' employees. The said transfer order was in fact issued after due approval of the competent authority.

3.5] That there is no mala fide intention in making the transfer order of applicant from WSC, Agartala to WSC, Bhagalpur. It is not a matter of right of employee to continue in a station for long period of time at his choice. The department is the best authority to judge whom and where to be transferred.

3.6] That the applicant represented his grievances against the said transfer order directly to the Handloom Commissioner by representation dated 24.09.09. The applicant in fact has violated the official procedure and CCS (Conduct) Rules, 1964 read with DOP&T O.M. dated 01.11.99 contained in instructions sent vide letter no. 44/14/99-DCHL/Estt.II dated 13.07.05 sent by the Development Commissioner (Handlooms) to the Directors/Officers-in-charge of all WSCs/IIHTs by making the representation directly to the higher authorities, that too, without making any representation to his immediate superior officer or head of his office or through proper channel.

3.7] That even the applicant's mother made a representation dated 09.10.09 to the Hon'ble Textile Minister, Government of India although Rule 20 of the CCS

(Conduct) Rules, 1964 as well as instruction contained in letter dated 13.07.05 specifically prohibited and discouraged relatives of government servant to make representation in service matters acting the government servant. It was provided as per the said Rules that representations can be made by relatives only in some exceptional cases, in which because of the death or physical disability, etc. of the Government servant, it is impossible for the Government servant himself to submit a representation. In the instant case, it is very much apparent that the applicant having the physically disability only 25% and having himself made representation dated 24.09.09 earlier to higher authority was fully capable of making the representation himself. Therefore, the exception is not applicable in his case and he violated the norms and procedures set down for making representation to higher authorities. Thus, the applicant violated Rule 20 of the CCS (Conduct) Rules, 1964.

4. REPLY TO THE FACTS OF THE CASE:

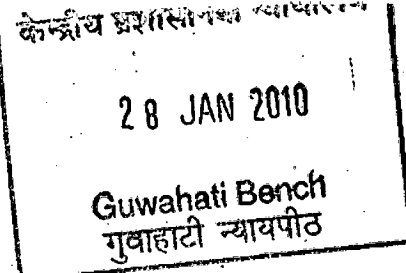
4.1] That with regards to the statements made in paragraph 4.1 of the application, the humble answering respondent begs to offer no comment.

4.2] That with regards to the statements made in paragraph 4.2 of the application, the humble answering respondent begs to state that the extent of the disability of the applicant is only 25% as the Annexure 3 of the O.A. itself states. However, the Ministry of Welfare's Notification No. 4/2/83-HW-III dated 06.08.86 states that for a person to be eligible to any concessions/benefits, the minimum degree of disability has to be at least 40%. Hence, the applicant with only a 25% disability is not entitled to any concession/benefits.

Copy of the relevant portion of the notification dated 06.08.86 is annexed herewith and marked as **Annexure-A**.

4.3] That with regards to the statements made in paragraphs 4.3 and 4.4 of the application the humble answering respondent begs to offer no comment. However, he does not admit any statement contrary to records.

4.4] That with regards to the statements made in paragraph 4.5 of the application, the humble answering respondent begs to state that the order passed by the Hon'ble Tribunal in O.A. NO. 133/01 has now been implemented by regularizing the period of absence during his training period from 22.07.92 to 05.05.94 by the order No. WSC/AGT/p-(61)/09/2210 dated 14.09.09. Further the financial benefits like increment for the said period has also been granted in the said order. Further in the said order, it was also observed that the leave application pertaining to the period from 22.07.92 to 05.05.94 had not been found and the same had been found subsequently and placed in the records of the concerned file.



Therefore, the respondents have complied with the Hon'ble Tribunal's orders in O.A. No. 133/01 and E.P. 02/08. Thus, there is no question of pressurizing the applicant.

Copy of the letter dated 14.09.09 is annexed herewith and marked as **Annexure-B.**

4.5] That with regards to the statements made in paragraph 4.6 of the application, the humble answering respondent begs to offer no comment as they are matters of record. However, he does not admit any statement contrary to records.

4.6] That with regards to the statements made in paragraph 4.7 of the application, the humble answering respondent begs to state that the applicant in fact has violated the official procedure and CCS (Conduct) Rules, 1964 read with DOP&T O.M. dated 01.11.99 contained in instructions sent vide letter no. 44/15/99-DCHL/Estt.II dated 13.07.05 sent by the Development Commissioner (Handlooms) to the Directors/Officers-in-charge of all WSCs/IIHTs by making the representation directly to the higher authorities, that too, without making any representation to his immediate superior officer or head of his office or through proper channel.

Copy of the aforesaid instruction dated 13.07.05 is annexed herewith and marked as **Annexure-C.**

4.7] That with regards to the statements made in paragraph 4.8 of the application, the humble answering respondent begs to state that the applicant, being a government servant, was required to address any grievance through the proper channel to the appropriate authority. Instead his mother chose to submit a representation before the Hon'ble Textile Minister, Government of India although Rule 20 of the CCS (Conduct) Rules, 1964 as well as instruction contained in letter dated 13.07.05 (Annexure C. to the instant written statement) specifically prohibited and discouraged relatives of government servant to make representation in service matters acting the government servant. It was provided as per the said Rules that representations can be made by relatives only in some exceptional cases, in which because of the death or physical disability, etc. of the Government servant, it is impossible for the Government servant himself to submit a representation. In the instant case, it is very much apparent that the applicant having the physically disability only 25% and having himself made representation dated 24.09.09 earlier to higher authority was fully capable of making the representation himself. Therefore, the exception is not applicable in his case and he violated the norms and procedures set down for making representation to higher authorities. Thus, the applicant violated Rule 20 of the CCS (Conduct) Rules, 1964.

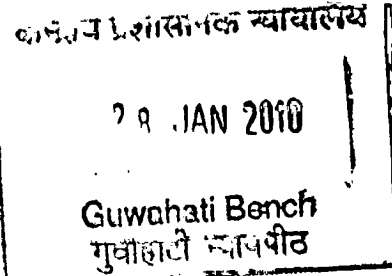
4.8] That with regards to the statements made in paragraph 4.9 of the application, the humble answering respondent begs to offer no other comment except to state that transfer is an incident of service and no government servant can avoid it on the ground of inconvenience cause to him or his family.

4.9] That with regards to the statements made in paragraph 4.10 of the application, the humble answering respondent begs to categorically state that there was no absolutely mala fide intention on the part of the respondents in transferring the applicant to WSC, Bhagalpur. The respondents have not victimized the applicant in any way in transferring the applicant from WSC, Agartala to WSC, Bhagalpur.

Further, the Section 20 of the Administrative Tribunals Act, 1985 declares that only after exhausting other alternative remedies can an applicant approach the Hon'ble Central Administrative Tribunal. Even the applicant has stated, "As such finding no other alternative the Applicant has compelled to approach this Hon'ble Tribunal for seeking justice into the matter." However, at this point, it is crucial to note that only two representations were submitted, one by the applicant and the other by his mother, seeking to stop such transfer. But the applicant by-passed the proper channel by submitting his representation directly to the Development Commissioner (Handloom) rather than to the Zonal Director, the respondent no. 3 in this case. This act of the applicant is actually treated as an unbecoming conduct as highlighted in the letter dated 13.07.05 (Annexure-C to the instant Written Statement). The next representation was made by his mother, which calls for no action on the part of the respondents as highlighted by the same letter dated 13.07.05. Therefore, in essence, he has not made a single proper representation through proper channel to the proper authority. Therefore, the applicant has definitely not exhausted the other alternate remedies before approaching this Hon'ble Tribunal which itself is ground for dismissal of the O.A.

4.10] That with regards to the statements made in paragraph 4.11 of the application, the humble answering respondent begs to state that the government is extending all possible medical assistance to the employees and to their families under the rules. However, priority has been given to condition of the service and administrative reason for posting of a person in different offices.

4.11] That with regards to the statements made in paragraph 4.12 of the application, the humble answering respondent begs to state that the transfer was not done with the purpose of barring him from continuing his Contempt Petition No. 8 of 2009 pending before the Hon'ble Tribunal. The respondent no. 3 had received a letter from the office the Development Commissioner (Handloom), New Delhi vide No. C-18014/1/2001-DCH/Estt.II dated 29.07.09 directing the respondent authority to comply with the order of the Hon'ble Tribunal in O.A. No. 133 of 2001. The respondent no. 3, vide his own letter no. WSC/GAU/HC/US-1(70)/2008/1718-20



dated 06.08.09, enclosed the letter dated 29.07.09 and forwarded the same to the Officer-in-Charge, WSC, Agartala with the request that the necessary action be taken on top priority basis in accordance with the order passed in O.A. No. 133/01. The copy of the said letter was also sent to the applicant. Therefore, the applicant well knows that the order of the Hon'ble Tribunal in O.A. NO. 133/01 has been complied with and hence there is no necessity to bar the applicant from proceeding with the contempt proceedings as the order of the Hon'ble Tribunal has been complied with. The applicant's transfer was done only on need-basis and in public interest.

Further, as regards the applicant comparing his tenure with that of others, it has to be noted that the applicant himself has remained in the same posting for long 22 years from 1987. It is not as if he has remained in one posting only for 2-3 years and the rest have remained for 30 years or so. Moreover, even the transfer policy of the department regarding Group 'C' and 'D' employees dated 20.05.97 states in clause (2) that as a principle, the transfer of an employee should not be made before five years. In fact, transfer before five years is also not precluded. Clause (2) of the said policy further stated that where it is done earlier for administrative reason, case should be referred to head quarters for relaxation with full justification. Therefore, when a person has stayed in the same post at the same place for long 22 years, it provides scant justification to compare the period of posting with others and then claim that he should be allowed to stay in the same posting even further. It hardly needs to be pointed out that transfer is an incident of service and no one can avoid it giving an excuse that someone else is working in the same posting, that too in another place, for a longer period.

Copies of the letters dated 29.07.09 and 06.08.09 and the transfer policy dated 20.05.97 are annexed herewith and marked as **Annexure- D, E and F respectively.**

4.12] That with regards to the statements made in paragraph 4.13 of the application, the humble answering respondent begs to categorically deny that the respondents are resorting to colourable exercise of power to harass the applicant.

4.13] That the humble answering respondent begs to deny the statements made in paragraph 4.14 of the application. Rather, the applicant violated the rules and procedures envisaged under the CCS (Conduct) Rules, 1964. Further, the statements so not in any way relate to transfer.

4.14] That the humble answering respondent categorically denies the correctness of the statements made in paragraph 4.15 of the application. All the actions of the respondents have been strictly in accordance with the rules applicable to a government servant.

4.15] That with regards to the statements made in paragraph 4.16 of the application, the humble answering respondent begs to submit that transfer is an incident of service and the authority is the best judge it decide to whom or where employee shall be transferred. Further the applicant in the instant case violated the norms and procedures, more particularly, Rule 20 of the CCs (Conduct) Rules, 1964 and the O.M.s of the Government of India. The applicant in fact continued in his service in same station for long 22 years i.e. from 1987 since joining in service. There is no violation of transfer policy of Group 'C' and 'D' employees on the part of the respondent authority. There is no mala fide intention on part of the respondent authority rather the applicant expressed his unbecoming conduct as stated in the foregoing paragraphs and as such, the Hon'ble Tribunal may be pleased not to interfere with the transfer order inasmuch as the present O.A. is prima facie not a fit case for interference by the Hon'ble Tribunal.


4.16] That with regards to the statements made in paragraph 4.17 of the application, the humble answering respondent begs to state that application is not filed bona fide, having no merit at all and is liable to be dismissed by the Hon'ble Tribunal.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:

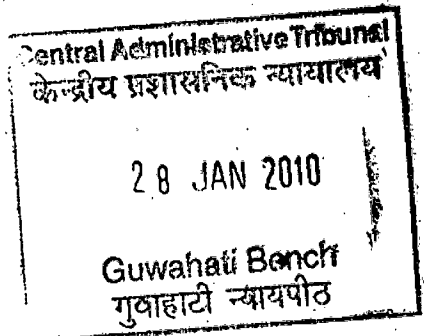
No grounds are made out for the interference of the Hon'ble Tribunal.
Para 6 and 7 need no comments.

Prayer:

In view of the above stated facts and circumstances the O.A. being devoid of merit is liable to be dismissed with cost.


DEPONENT
S. P. Singh
Director (E.Z.)

Government of India
Ministry of Textiles
Weavers Service Centre
I. I. H. T. Campus
Lawhornagar, Khonopara,
Guwahati—22



VERIFICATION

I, Sri S.P. Singh, S/o Late Sita Ram Singh, aged about 59 years, presently working as the Director, Weavers' Service Centre (Zonal), Ministry of Textiles, Government of India, IIHT Campus, Jawarharnagar, Khanapara, National Highway-37, Guwahati-22, do hereby solemnly state and verify as follows:

That the statements made in paragraphs 1, 2, 3.4, 3.5, 4.1, 4.3, 4.8, 4.10, 4.12 to 4.15 are true to my knowledge and the statements made in paragraphs 3.1 to 3.3, 3.6, 3.7, 4.2, 4.4 to 4.7, 4.9, 4.11 being matters of record are true to my information derived therefrom and the rest are my humble submissions before the Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 27th day of January, 2010.

S. P. Singh
SIGNATURE

S. P. Singh
Director (E.Z.)

Government of India
Ministry of Textiles
Weavers Service Centre
I. I. H. T. Campus
Jawarharnagar, Khanapara,
Guwahati-22

CHAPTER 28

PHYSICALLY HANDICAPPED PERSONS

1. Change in definition of "Persons with Disabilities".— Attention of the Ministry of Agriculture, etc., is invited to the instructions contained in this Department's Office Memorandum No. 39016/6/77-Estt. (SCT), dated 4-11-1997, No. 39016/24/80-Estt. (C), dated 1-12-1980 and No. 39016/24/80-Estt. (C), dated 30-12-1980, wherein reservation in Groups 'C' and 'D' posts/services for the physically handicapped persons has been made to the extent indicated below:—

Category of the handicapped	% of reservation
(1) The Blind	1 %
(2) The Deaf	1 %
(3) The Orthopaedically handicapped	1 %

2. Each category of disability has been divided into four groups as under:—

- | | |
|--------------------|------------------|
| (a) Mild | — less than 40%; |
| (b) Moderate | — 40% and above; |
| (c) Severe | — 75% and above; |
| (d) Profound/total | — 100%. |

3. According to the instructions contained in the Ministry of Welfare's Notification No. 4/2/83-HW-III, dated 6-8-1986, various concessions/benefits, including employment under the Central Government, are available only to those falling under the categories mentioned at (b), (c) and (d) in the preceding paragraph. The minimum degree of disability has also been prescribed as 40% in order for a person to be eligible for any concessions/benefits.

4. Section 33 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, provides that every appropriate Government shall appoint in every establishment such percentage of vacancies not less than three per cent for persons or class of persons with disability, of which one per cent each shall be reserved for persons suffering from—

- (i) Blindness or low vision;
 - (ii) Hearing impairment;
 - (iii) Locomotor disability or cerebral palsy;
- in the posts identified for each disability.

S. P. Singh
Director (E.Z.)

With the enactment of this law, it has become necessary to change the definition of Persons with Disabilities, so that the same is in line with Section 2 of the above-mentioned Act.

The matter has been examined and it has been decided that henceforth the categories of persons with disabilities for the purpose of getting the benefit of reservation in posts/services under the Central Government would be as indicated in Section 33 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. These categories of persons are as under:—

- (i) Blindness or low vision;
- (ii) Hearing impairment;
- (iii) Locomotor disability or cerebral palsy.

(All cases of Orthopaedically handicapped persons would be covered under the category of locomotor disability or cerebral palsy.)

Accordingly, in partial modification of this Department's Office Memoranda No. 39016/6/77-Estt. (SCT), dated 4-11-1977, No. 39016/24/80-Estt. (C), dated 1-12-1980 and No. 39016/24/80-Estt. (C), dated 30-12-1980, it has now been decided that the benefit of three per cent reservation in posts/services under the Central Government, wherever admissible, would be available for the above-mentioned three categories of persons with disabilities at the rate of one per cent reservation for each category.

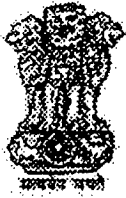
8. Each category of disability as mentioned in Para. 6 above would continue to be divided into four groups as mentioned in Para. 2 of this letter. Further, various concessions/benefits, including employment under the Central Government, would continue to be available only to those falling under the categories given at (b), (c) and (d) of the aforesaid paragraph. The minimum degree of disability in order for a person to be eligible for any concessions/benefits would continue to be 40%.

[G.I., Dept. of Per. & Trg., O.M. No. 36035/2/98-Estt. (Res.), dated the 4th June, 1998.]

2. Consolidated instructions regarding reservation for the physically handicapped persons in various posts/services under Government.— The instructions so far issued on the subject have been consolidated and given below:

Application

1.4 The reservation of posts should be made separately for each of the aforesaid three categories of the physically handicapped persons but provision may be made for *inter se* exchange of vacancies, if candidates belonging to a category of persons are not available or if the nature of vacancies in an office is such that a given category of persons cannot be employed. If, in any year, the vacancies reserved for these categories are not filled, the reservations



GOVERNMENT OF INDIA
MINISTRY OF TEXTILES
OFFICE OF THE DEVELOPMENT COMMISSIONER FOR HANDLOOMS

WEAVERS' SERVICE CENTRE

GORKHABASTI, KUNJABAN
AGARTALA - 799 006



No.WSC/AGT/P-(61)/09/2210

Date: 14-09-09.

To
✓ The Director (E.Z.),
Weavers' Service Centre
Guwahati.

Diary No. 2620
Date 5/10/09
W. S. C., GUWAHATI.

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

28 JAN 2010

Guwahati Bench
गुवाहाटी न्यायपीठ

Sub: Execution of petition No. 2/08 in O.A. No. 133/2001-Utpal
Sutradhar Vs Union of India & other-regarding.

Sir,

Kindly refer to your letter No. WSC/GAU/HC/US-1(70)2008/1718 dated 6/7-08-09 and No.C-18014/1/2001-DCH/E.II dated 29-07-2009 of office of the D.C.H., New Delhi, on the subjected cited above. In this context, while going through the service records of Shri Utpal Sutradhar, Carpenter it is observed that the leave application pertaining to the period from 22-07-92 to 05-05-94 (E.O.L.) was not found and the same has been now obtained and placed in the records of the concerned.

The leave period mentioned as below are herewith regularized and necessary entries made in the service book of the concerned as per the norms and direction given by the Central Administrative Tribunal, Guwahati Bench vide original application No.133 of 2001 and date of order 01-03-2002. The financial benefits like increments for the said period etc. also have been regularized and send to the Pay & Accounts Office (Textiles), Kolkata for further payment to the concerned.

- E.L. 18 days w.e.f 12-08-91 to 29-08-91.
- E.O.L. w.e.f. 30-08-91 to 10-10-91 reported for duty on 11-10-91.
- Attended duty w.e.f. 11-10-91 to 08-11-91 during vacation of Institute.
- E.O.L. w.e.f. 09-11-91 to 04-05-92 and reported for duty on 05-05-92.
- Attended duty w.e.f. 05-05-92 to 21-07-92.
- E.O.L. w.e.f. 22-07-92 to 05-05-94 reported for duty on 06-05-94.

This is for your kind information/perusal and necessary action at your end, as per rules and norms.

S. P. Singh
Director (E.Z.)

Encl: As above

Yours faithfully

HIRA LAL
ASSISTANT DIRECTOR (PCC)

(S. ARUN KUMAR PANDU) 14/9
OFFICER-IN-CHARGE

Copy to:

- The Hon'ble Vice Chairman, C.A.T., Guwahati Bench for information and kind perusal.
- The Development Commissioner for Handlooms, New Delhi for information.
- Shri Utpal Sutradhar, Carpenter, W.S.C., Agartala.
- Personal file of the concerned.

No.44/15/99-DCHL/Estt.II
GOVERNMENT OF INDIA
MINISTRY OF TEXTILES

Annexure - C

OFFICE OF THE DEVELOPMENT COMMISSIONER FOR HANDLOOMS

New Delhi, dated the 13th July 2005.

To

The Directors /Officers-In-charge of all WSCs/IIHTs.

Sub: Representations from the Officers/Officials In connection with service matters - procedure regarding.

You are aware that in its obligation to the public, the Government has to ensure that the employees behave themselves, enforce discipline and promote loyalty for the sake of smooth conduct of public administration, prevent corrupt practices and punish errant employees through appropriate disciplinary measures. Conduct of the Government servants, while in service, is governed by the Central Civil Services(Conduct) Rules, 1964. Breach of the provisions contained under CCS(Conduct) Rules attracts disciplinary action against the errant Government servant and if found guilty, minor or major penalties, for good and sufficient reasons, may be imposed against him. However, it has been noted that some of the Officers & members of staff working in WSCs/IIHTs are involved in the following misconduct, which is unbecoming of a Government servant and attracts disciplinary action against the erring employees :-

(I) Under Rule 3-C(26) of the CCS(Conduct) Rules 1964 read with DOP&T O.M.No.11013/7/99-Estt.(A) dated 1st November 1999, "a Government servant who wishes to press a claim or to seek redress of a grievance, the proper course for him is to address his immediate official superior, or the Head of his office or such other authority at the lowest level as he is competent to deal with the matter. As such, submission of representations directly to higher authorities by-passing the prescribed channel of communication, has to be viewed seriously and appropriate disciplinary action should be taken against those who violate these instructions as it can rightly be treated as an unbecoming conduct. Appropriate disciplinary action may be taken against those who violate these instructions." It has been observed that some officers and members of staff working in WSCs/IIHTs are sending & addressing their representations directly to this office in connection with their service matters, while the authority competent to deal with such cases is the Cadre Controlling Authority i.e. the concerned Zonal Director(WSCs)/ Director(IIHT) or such representations/applications should be routed to this office through the concerned Zonal Directors(WSCs)/ Director(IIHT) only.

S. P. Singh
Director (E.Z.)

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

20 JAN 2010

Guwahati Bench
गुवाहाटी न्यायपीठ

(ii) Under Rule -20(4) of the CCS (Conduct) Rules, 1964 read with M.H.A. O.M.No.25/21/63-Estt.(A) dated 19th September 1963, **no notice should be taken of a representation on service matters submitted by a relative of a Government servant. The only exceptions may be cases in which because of the death or physical disability, etc., of the Government servant, it is impossible for the Government servant himself to submit a representation.** It has been noted that some of the officers/officials are submitting their representation on service matters under the signature of their spouse/father/mother etc. under impression that such representations shall be taken care of by the concerned Authorities, while no action is called for on such representations.

2. It has also been experienced that the officers and members of staff of WSCs/IIHTs are in the habit of sending advance copies of their applications/representations to Head Office causing un-necessary piling up of such letters. Action on such letters are taken only after comments/recommendations of concerned forwarding authorities are received. It has also been observed that in many cases recommendations/ comments of concerned authority is not received. It is enjoined upon you to discourage the officers/members of staff sending advance copies of applications/representations to Head Quarter. However, you may ensure that such applications/ representations received in your office are attended promptly and replied also. If need be, you are free to forward any such representation/case to Head Office also without delay, depending upon merit & circumstances of the case, alongwith your comments/views & rule-position etc. You would appreciate that prompt action or disposal of such applications/ representations at your end, as the case may be, will hardly leave any area of scope for the officers and members of staff to submit their representations directly & in advance to Head Office.

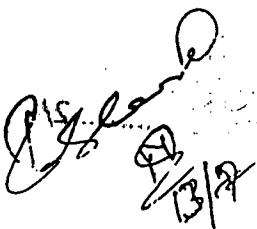
3. This may be brought to the notice of all concerned for strict compliance. Any deviation to the provisions contained in CCS(Conduct) Rules & above, shall be viewed seriously and attract stringent disciplinary proceedings against the errant Government servant, if found guilty.

Yours faithfully,



(B.K.Sinha)

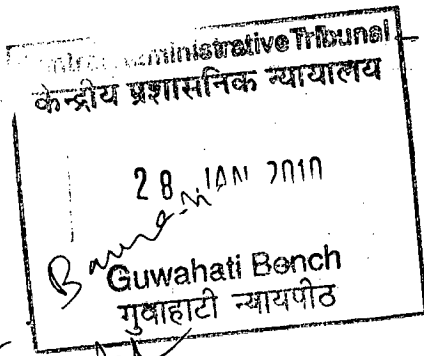
Development Commissioner(Handlooms)


13/1

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

28 JAN 2010

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ



13-

51-

Annexure D

BY SPEED POST/FAX
COURT CASE

~~NOT RECORDED~~

OUT TO-DAY

Diary	217
Date	6/8/09
W	ATL

No.C-18014/1/2001-DCH/Estt. II

Government of India

Ministry of Textiles

Office of the Development commissioner for Handlooms

Udyog Bhavan, New Delhi

Dated the 29th July, 2009.

To

✓ Shri S.P. Singh
Director
Weavers' Service Centre
Jawaharnagar, Khanapara
Guwahati - 781 011.

Sub: Execution of Petition No.2/88 in O.A.No.133/2001 - Utpal Sutradhar V/s. Union of India & Others - Reg.

Sir,

Please refer to your letter No.WSC/GAU/CAT/US-1(70)/08/1376 dated the 9th July, 2009 on the above cited subject.

2. In this connection you are directed to comply with the order dated 1st March, 2002 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati rendered in O.A.No.133 of 2001 immediately as advised by Ministry of Law & Justice (Department of Legal Affairs), Shastri Bhavan, New Delhi. While implementing the order, Shri Utpal Sutradhar's seniority position in the list must not be hampered in any case and this should be in order. Further, the Action Taken Report must be submitted to the undersigned. This may please be treated as most immediate.

Yours faithfully,

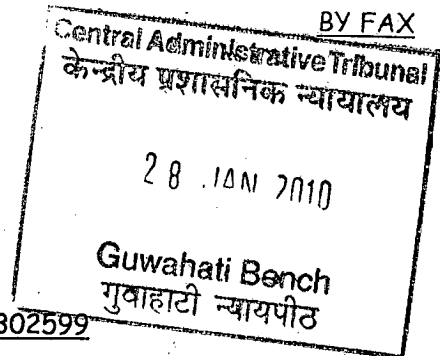
S. P. Singh
Director (E.Z.)

(Sohan Kumar Jha)
Addl. Development Commissioner for Handlooms

Amr- E

Government of India
Ministry of Textiles
Weavers' Service Centre
IIHT Campus
Jawahar Nagar, Khanapara
National Highway No. 37
Guwahati-781 022

PH: (0361) 230-3586; FAX: 0361-2302599



No. WSC/GAU/HC/US-1(70)/2008/1718-20
To,
The Officer-in-Charge,
Weavers' Service Centre,
Agartala

Dated August 6, 2009

Sub: Execution of petition No. 2/08 in O.A. No. 133/2001- Utpal
Sutradhar Vs Union of India & other - regarding

Sir,

Please refer to the subject cited above. In this connection, I am forwarding herewith a copy of letter received from the office of the D.C. (Handlooms), New Delhi vide No. C-18014/1/2001-DCH/E-II dated 29-07-09 directing the respondent authority to comply with the order dated 1st March, 2002 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati rendered in O.A. No. 133 of 2001 immediately as advised by Ministry of Law & Justice (Department of Legal Affairs, New Delhi). The copy of the order is already with you. Hence, you are requested to take necessary action on top priority basis in accordance with the order passed on dated 01-03-2002 by the Hon'ble Central Administrative Tribunal, Guwahati Bench, Guwahati on the following points viz:

(i) Arrange to regularize his period of absence during training by granting him Study Leave as admissible, or in aid of the provisions of the leave rules.

(2) As the powers for granting the study leave is vested with the Ministry//Department of the Central Government, you may please obtain the application from Shri U. Sutradhar, Carpenter if not submitted earlier of your office and forward the same to the concerned authority for necessary action. After necessary regularization of period of absence, periodical increment due w.e.f. 5-5-92 to 5-5-94 may be granted at your end and arrange to release all benefits of pay & allowance as per rules.

S. P. Singh

Encl: As above Director (E.2)

Yours faithfully,

(S.P. SINGH)

Director

Copy to:

1. The Addl. Development Commissioner for Handlooms, Udyog Bhavan, New Delhi 110011 for his information..

2. Sri Utpal Sutradhar, Carpenter, WSC., Agartala for his information.

(S.P. SINGH)

Director

//Copy//
No.C-13019/2/96/E.II
Government of India
Ministry of Textiles

Office of the Development Commissioner for Handlooms

Udyog Bhavan, New Delhi.
Dated: 20.5.97

To
All Zonal Directors.

Sub: Policy on transfer of Group 'C' & 'D' employees.

Sir,

It has been observed that representations are received frequently from Group 'C' & 'D' staff against the transfer orders issued by Zonal Directors for transferring such staff from one field unit to another. It has also been observed that several cases evolving transfer of posts alongwith the transfer order are referred to headquarters office frequently for approval.

There is need for a uniform policy to be followed by all Zonal Offices which may cause minimum dislocation of work and inconvenience to the staff concerned. With a view to streamline the procedures, the following policy guidelines for future is laid down :-

1. Transfers should be ordered keeping in view the academic sessions of the children/dependents of the staff transferred so that minimum inconvenience is caused in getting admission in educational institutes at the new places.
2. As a principle, transfer of an employee should not be made before five years. In circumstances where it is to be done earlier for administrative reasons, case be referred to head quarter for relaxation with full justification.
3. Transfer of post from one WSC to another could be done only by head quarter. Whenever services of a particular official is required at a different unit, a detailed justification of the new period of such requirement should be made and sent to headquarter for consideration.

These instructions come into force with immediate effect.

This issues with the approval of AS & DC (HL).

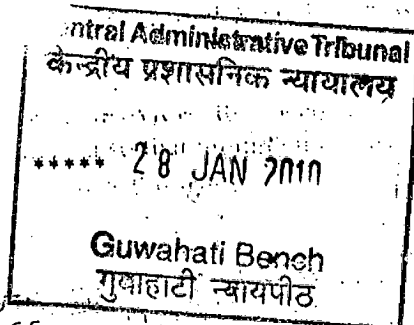
S. P. Singh
Director (E.2)

Yours faithfully,
Sd/-

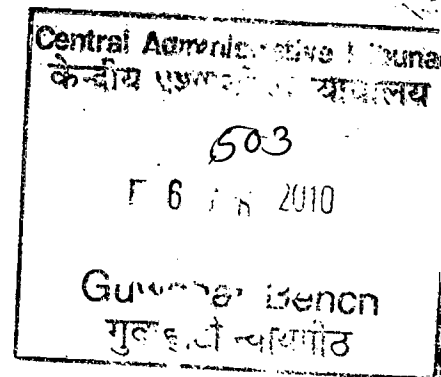
(AMAR JIT BANGA)

JT.DEVELOPMENT COMMISSIONER FOR HANDLOOMS.

Copy to: All WSCs.



To
The Vice -Chairman
Central Administrative Tribunal,
Guwahati Bench,
Guwahati -5,



Ref. :- ORIGINAL APPLICATION NO. 218 / 2009.

Sri Utpal SutradharApplicant.

- V E R S U S -

The Union of India
Represented by the Development Commissioner
for Handlooms, Ministry of Textile, Government of India, Udgog Bhavan, New Delhi and
others.Respondents.

Representation for hearing of above case at Agartala by holding circuit bench.

Respected Sir,

I am a poor employee of the Government of India, Ministry of Textiles, Weavers' Service Centre, posted as carpenter at the weavers' service centre, Agartala. For me it is not possible to conduct the case at the Principal seat at Guwahati for various reasons including availity of leave, distance, difficult communication and expenses involved.

I would be grateful to your honour if my case is considered sympathetically and ordered for posting at Agartala for hearing whenever the bench holds a court at hear at Agartala. Unless the matter is placed for hearing at Agartala, I can neither pursue the case nor can I render the appropriate assistance to the Tribunal for justice.

Dated, Agartala,

the 1st April, 2010.

Yours most faithfully,

Utpal Sutradhar

(UTPAL SUTRADHAR)

Carpenter,

Weavers' Service Centre

Gorkhabasti, Kunjaban, Agartala -6,

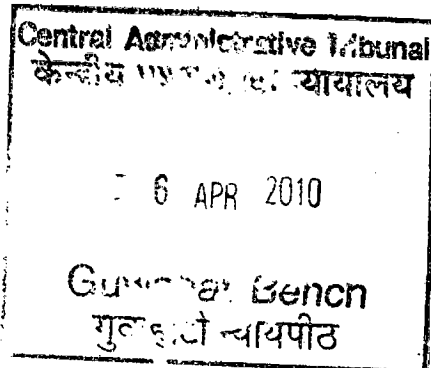
Copy to :-

To

The Judicial Section Officer (Judl)

Central Administrative Tribunal

Guwahati Bench, R.G. Barua Road, Bhangaghar, Guwahati -5,



To
The Section Officer (Judl)
Central Administrative Tribunal
Guwahati Bench,
R.G. Barua Road, Bhangaghar,
Guwahati -5,

Ref. :- ORIGINAL APPLICATION NO. 218 / 2009.

Sri Utpal SutradharApplicant.

- V E R S U S -

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Respected Sir,

I am a poor employee of the Government of India, Ministry of Textilesx,
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For me it is not possible to conduct the case at the Principal seat at Guwahati for
various reasons including availability of leave, distance, difficult communication and
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I would be grateful to your honour if my case is considered sympathetically
and ordered for posting at Agartala for hearing whenever the bench holds a court at
hear at Agartala. Unless the matter is placed for hearing at Agartala, I can neither pursue
the case nor can I render the appropriate assistance to the Tribunal for justice.

Dated, Agartala,

the 1st April, 2010.

Yours most faithfully,

Utpal Sutradhar

(UTPAL SUTRADHAR)

Carpenter,

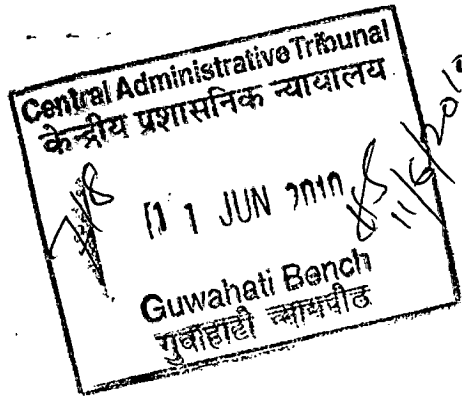
Weavers' Service Centre

Gorkhabasti, Kunjaban, Agartala -6,

Copy to :-

The Vice -Chairman

Central Administrative Tribunal, Guwahati Bench, Guwahati.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

O.A. No. 218 of 2009

Sri Utpal Sutradhar

-Applicant

- Versus -

The Union of India & Ors.

-Respondents.

INDEX OF THE REJOINDER

SL. NO.	PARTICULARS	ANNEXURE	PAGE NOS.
1	Rejoinder		1 to 5
2	Verification		6
3	Copy of the Office Memorandum No. 36/4/2006-DCHL/E.II (Vol.II) dated 14.12.2009	14	7 to 8

DATE 11.06.2010.

FILED BY

Tilly Dulla
ADVOCATE

Utpal Sutradhar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

IN THE MATTER OF:

O.A. No.218 of 2009

Sri Utpal Sutradhar

Applicant

-Vs-

The Union of India & Ors..

Respondents

- AND -

IN THE MATTER OF:

Rejoinder filed by the Applicant to the
written statement submitted by the
Respondents.

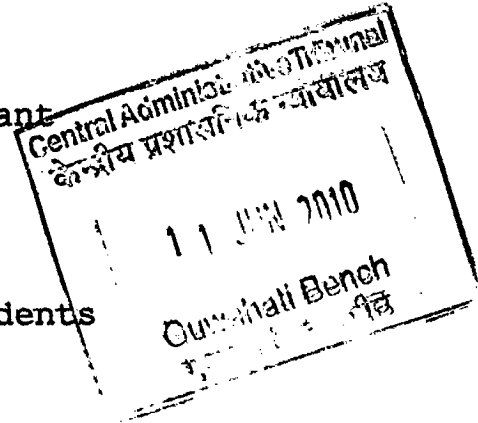
The humble Applicant submits this Rejoinder as
follows:-

1. That with regard to the statement made in paragraph 1, 2 and 3 of the written statement the Applicant have no comment to offer and beyond record nothing is admitted by the Applicant.

2. That with regard to the statement made in paragraph 3.1 of the written statement the Applicant beg to state that the same are not fully true and misleading to this Hon'ble Tribunal. The Applicant is entitled for posting to near his native place as per instruction contained in DOP & T'S O.M.NO AB-14017/41/90-Estt. (RR) dated 10.05.1990, the holders of Group 'C' and 'D' posts who are Physically handicapped may be given posting as per as possible subject to administrative constraints near the native places within the region. Requests for transfer to or near their native places may also be given preference. The Ministry of Textiles have also adopted the aforesaid policy in their

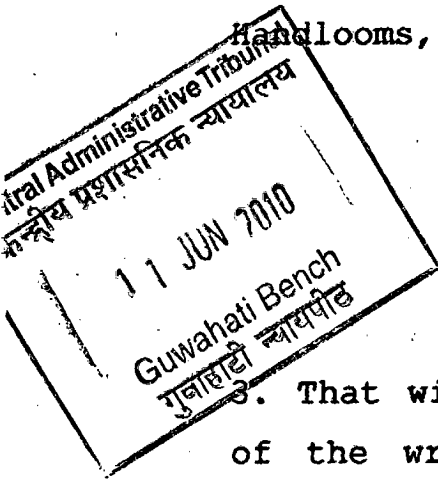
FILED BY

Sri Utpal Sutradhar
...Applicant
through Jyoti Datta
17.06.2010 Advocate



Utpal Sutradhar

Memorandum for fixation of tenure posting for Official working in WSCs / IIHTs vide No.36/4/2006-DCHL/E.II(Vol.II) dated 14.12.2009 issued by the Addl. Development Commissioner (HL) Office of the Development Commissioner for Handlooms, New Delhi.



Copy of the Memorandum 36/4/2006-DCHL/E.II (Vol.II) dated 14.12.2009 is annexed herewith and marked as Annexure-14.

3. That with regard to the statement made in paragraph 3.2 of the written statement the Applicant begs to state in reality the Applicant transfer to Bhagalpur was not made on public interest as stated by the Respondent No.3 in the Office Order dated 18th September 2009, In fact the Respondent No.3 has transferred the Applicant only to accommodate one Shri J.C.Sarkar carpenter who has been transferred to Kolkota at his own request from Bhagalpur.

Apart from the above also similarly situated persons i.e. Carpenters working in this Department who are senior to the Applicant has been continuing in their respective place of posting since their joining and they have not yet been disturbed by the Respondents. As for example one Shri M.R.Singh, Carpenter who has been working in the office of the Weavers Service Centre, Imphal in the State of Manipur never been transferred to other station since his joining in the Department i.e. on 15.01.1979 to till date (more than 31 years), Shri U.C.Dakuwa, Carpenter who has been working in the office of the Weavers Service Centre, Guwahati in the state of Assam never been transferred to the other station since his joining in the Department i.e. on 12.02.1979 (more than 31 years).

4. That with regard to the statement made in paragraph 3.3 of the written statement the Applicant begs to state that

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11 JUN 2010
Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

this Hon'ble Tribunal was pleased to grant status quo prior to issuance Impugned Transfer Order dated 18.09.2009. Therefore, relieved of the Applicant from W.S.C Agartala does not arise.

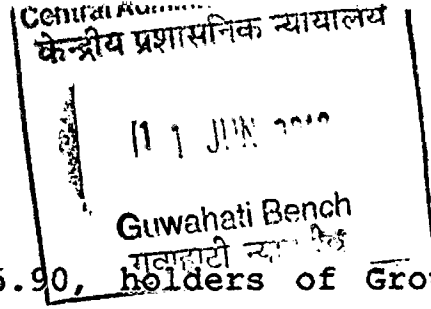
5. That with regard to the statement made in paragraph 3.4 of the written statement the Applicant begs to state that as stated in the earlier paragraphs of this instant Rejoinder the transfer of the Applicant to Bhagalpur is not on public interest but, it is issued only to accommodate one Shri J.C.Sarkar Carpenter to his choice place of posting at Kolkata. The Applicant is still working at Agartala as per this Hon'ble Tribunal interim order dated 23.10.2009 passed in O.A. No.218 of 2009.

6. That with regard to the statement made in paragraph 3.5, 3.6 and 3.7 of the written statement the Applicant begs to state that the Respondents particularly Respondent No.3 adopted discriminatory attitude towards the Applicant and transferred him to Bhagalpur without any public interest only to accommodate One Shri J.C.Sarkar Carpenter who has been transferred to his choice place Kolkata at his own request.

7. That with regard to the statement made in paragraph 4.1 of the written statement the Applicant begs to state that same are matters of records and beyond record nothing is admitted by the Applicant.

8. That with regard to the statement made in paragraph 4.2 of the written statement the Applicant begs to state that the Office of the Development Commissioner for Handloom, Ministry of Textile, Government of India vide Office Memorandum No.36/4/2006-DCHL/E.II (Vol.II) dated 14th December, 2009 under paragraph 2 (i) has quoted that " As per the instruction contained in DOPT & T's O.M.No. AB-

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14017/41/90 Estt.(RR) dated 10.05.90, holders of Group 'C' and 'D' posts who are physically handicapped, may be given posting as far as possible, subject to administrative constraints, near their place within the region. Request for transfer to or near their places may also be given preference". The degree of Physical disability not less than 40% is only applicable for the reservation of services/posts but it is not applicable for transfer of Physically Handicapped persons. In the Office Memorandum dated 14.12.2008 issued by the Ministry of Textiles, Government of India no where it has been mention that less than 40% of Physical Disability employees will not entitled to get the benefit of the aforesaid Memorandum.

9. That with regard to the statement made in paragraph 4.3 of the written statement the Applicant begs to state that the same are matters of records and beyond record nothing is admitted by the Applicant.

10. That with regard to the statement made in paragraph 4.4 of the written statement the Applicant have no comment to offer and beyond record nothing is admitted by the Applicant.

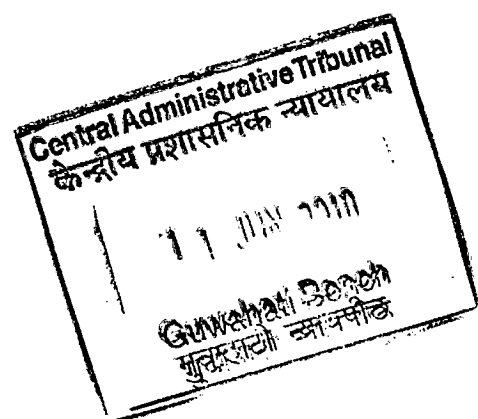
11. That with regard to the statement made in paragraph 4.5 of the written statement the Applicant begs to state that the same are not fully true and misleading to this Hon'ble Tribunal. Till date the Respondents have not paid the salary of the Applicant for the study leave period from 22.07.1992 to 05.05.1994. Therefore, question of compliance of the Hon'ble Tribunal orders in O.A. No.133 of 2001 and E.P.No.02 of 2008 dose not arise.

12. That with regard to the statement made in paragraph 4.6 to 4.16 and 5 of the written statement the Applicant begs to state that the same are false, misleading and denied. It has

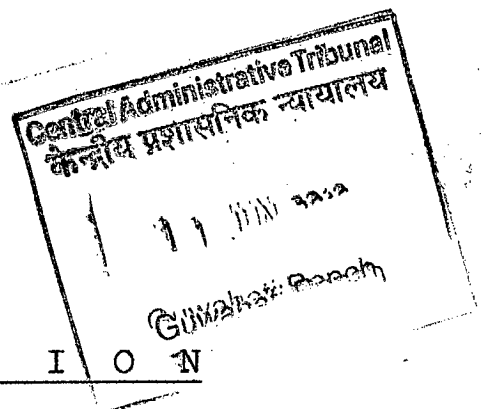
Utpal Subudhary

already been stated in earlier paragraphs of this Rejoinder the transfer of the Applicant has not been made on public interest but it is made only on personal interest of the Respondents. The said transfer order has been issued by the Respondents particularly Respondent No.3 in mala fide intention only to remove the Applicant from the North Eastern Zone. There are so many example as stated in the Original Application as well as in this Rejoinder about the continuation of more than 30 (Thirty) years in the same place by the similarly situated persons. It is a case of discrimination amongst the employees by the Respondents. In the transfer order dated 18.08.2009 no substituted has been transferred in the place of the Applicant at Agartala. The Respondents have violated the Government of India transfer policy of Physically Handicapped persons posting at his near native place. The written statement submitted by the Respondents bears no substance, merit and not tenable in the eyes of law.

Therefore, the written statement filed by the Respondents is wholly bereft of substance and no credence ought to be given to it. Thus, in view of the abject failure of the Official Respondents to refute the contentions, averments, questions of law and grounds made by the Applicant in the Original Application deserved to be allowed by this Hon'ble Tribunal.



Utpal Sutradhar



V E R I F I C A T I O N

I, Shri Utpal Sutradhar, aged about 45 years, Son of Late Dinabandhu Sutradhar, Carpenter, office of the Deputy Director Weavers' Service Centre, Ministry of Textile, Government of India, Post Office- Shamali Bazar, Police Station-West Agartala, PIN-799006 do hereby solemnly verify that the statements made in paragraph nos. 3, 5, 6, 8, 11, 12 — are true to my knowledge and those made in paragraph nos. 1, 2, 4, 7, 9, 10 — are being matters of record are true to my information derived therefrom which I believe to be true and rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 11th day of June 2009.

Utpal Sutradhar
D E C L A R A N T

— 7 —

No.36/4/2006-DCHL/E.II(Vol.II)
GOVERNMENT OF INDIA
MINISTRY OF TEXTILES

OFFICE OF THE DEVELOPMENT COMMISSIONER FOR HANDLOOMS

New Delhi, dated the 14th December 2009.

To

The Zonal Director(WSCs)
Delhi / Mumbai / Chennai / Guwahati.

Sub: Fixation of tenure of posting for officials working in ~~WSCs / IHTs~~
WSCs / IHTs - regarding.

Sir,

In supersession of all previous instructions of this office on the above-cited subject, the policy for tenure of posting for all officers/officials working in WSCs and IHTs shall, with immediate effect, be as follows :-

- (a) The tenure of posting for all officers/staff in difficult areas, such as WSC, Chamoli, Srinagar, Agartala, Imphal & Guwahati, shall be two years, subject to administrative exigencies/convenience. **
- (b) The tenure of posting of all Zonal Directors(WSCs) at one place shall be three years irrespective of their place of posting, subject to administrative exigencies/convenience. **
- (c) The tenure of posting for all officers/staff in all WSCs / IHTs(except the above-mentioned WSCs), shall be four years, subject to administrative exigencies/convenience. **

** Completion of tenure of posting at a place by an employee does not bestow him/her any right to transfer him/her at the place of his/her choice. The requests for transfer to a place of choice shall be considered on satisfying about the genuineness of some pressing reasons, e.g., medical treatment, illness, etc subject to, however, availability of vacancy and administrative exigencies/convenience.

2. While considering transfer of non-gazetted employees working in different WSCs and IHTs(in respect of common cadre posts), the following guidelines shall be kept in view by the concerned Zonal Director(WSCs) :-

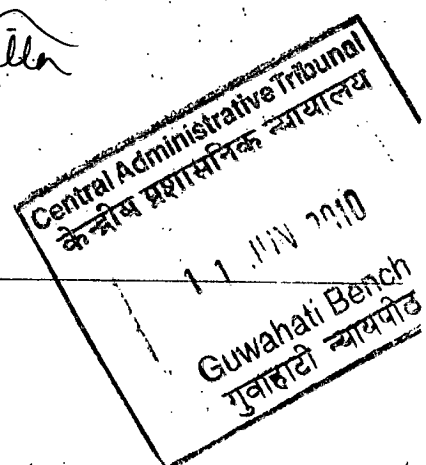
i) ✓ As per the instructions contained in DOP&T's O.M.No.AB-14017/41/90-Estt.(RR) dated 10.5.90, holders of Group 'C' and 'D' posts who are physically handicapped, may be given posting as far as possible, subject to administrative constraints, near their native places within the region. Requests for transfer to or near their native places may also be given preference

ii) As per the provisions contained in DOPT O.M.No.28034/2/87-Estt.(A) dated 3.4.86 read with O.M.No.28034/2/97-Estt.(A) dated 12.6.97 and reiterated vide O.M.No.28034/23/2004-Estt.(A) dated 23.8.04, husband and wife shall be posted at the same station unless there are administrative constraints.

Contd.....2/-

ATTESTED

Tilly Datta
ADVOCATE



- iii) As per DOPT, O.M. No.AB-14071/27/89-Est.(RR) dated 29.6.89, candidates belonging to SC/ST recruited to Groups 'C' and Group 'D' are to be posted, as far as possible, near their native place within the region subject to administrative convenience. Same principles may be followed in the matter of postings on promotion also wherever possible.
- iv) As stated vide this office letter No.44/9/98-DCH/E.II dated 23.6.1999, it is reiterated that the transfer orders once issued in respect of Group 'C' & 'D' staff by the Zonal Director(WSCs), should invariably be implemented and under no circumstances be withdrawn/cancelled by the Zonal Director. However, if necessity so arises to cancel transfer orders, they should continue to be done in consultation with the Headquarters.
- v) As stated vide this office letter No.C-13019/2/96/E.II dated 20.5.97, it is reiterated that the transfer of Group 'C' & 'D' employees should not be made before the normal tenure of posting. In circumstances where it is to be done earlier for administrative reasons/medical grounds etc., cases shall continue to be referred to the headquarter for relaxation with full justification.
3. As informed vide this office letter No.28/1/97-DCH/E.II dated 18.11.98, it has been experienced that the officers and members of staff of WSCs/IHTs are in the habit of sending advance copies of their applications/representations to Head office causing un-necessary piling up of such letters. Action on such letters are taken only after comments/recommendations of concerned forwarding authorities are received. It has also been observed that in many cases recommendations/comments of concerned authority is not received. It is, therefore, re-iterated that the practice of sending advance copies of applications/representations to Headquarter should be discouraged. However, Zonal Directors(WSCs) may ensure that such applications/representations received by them should be attended to promptly and forwarded to Headquarter, if so warranted, with their comments/views without delay.
4. It is enjoined upon you to follow the above guidelines/procedure scrupulously. Any departure to the above guidelines by your office shall be viewed seriously and you will be personally held responsible for any lapse & laxity in this regard.
5. This issues with the approval of DC(Handlooms).

Yours faithfully,

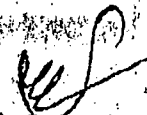


(Sohan Kumar Jha)

Addl. Development Commissioner(HL)

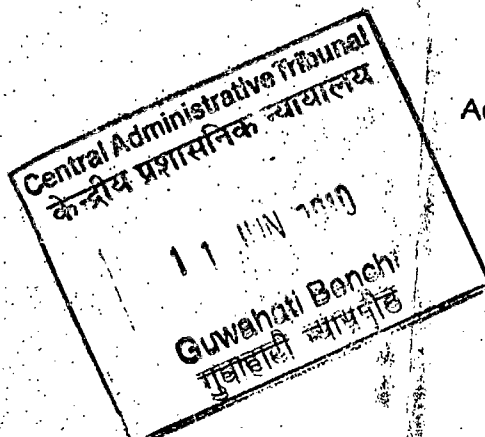
Copy for information to:

1. The Director/OIC of all IHTs.] They are requested to bring it to the
2. Officers-in-charge of all WSCs.] notice of all concerned.



(Sohan Kumar Jha)

Addl. Development Commissioner(HL)



ATTESTED

Tilly Dutta
ADVOCATE