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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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by Ms. Manjula Don.
SA. Case

01/07/2015
SECTION OFFICER (JUDL.)

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

1. ORIGINAL APPLICATION No : 272 / 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 Nripen Ch. Mahanta

Respondent (S) : Union of Inds. Mors

Advocate for the : Dr. J.L. Sarkar

{Applicant (S)} Mr. S.N. Tamuli

Advocate for the : -----
{Respondent (S)} CGSC.

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in fact is filed/C. F. for is deposited vide No. <u>396/433346</u> Dated <u>19.12.09</u></p> <p><u>21.12.09</u> Dy. Registrar <u>21/12/09</u></p> <p><u>21.12.09</u> Copy served. Exhs charge for excess Respondent No 6 deposited vide Receipt No. 3056 <u>21.12.09</u></p> <p><u>21/12/09</u></p> <p>Copies of notices along with order dt. 22/12/09 and order dated 24/12/09 of MP No-165/09 - send to D/Sec. for issuing to the respondents by regd. post.</p> <p>D/No-01 to 06 Dt. 04-01-2010</p>	<p>22.12.2009</p>	<p>Dr. J.L. Sarkar, learned counsel for applicant submitted that the order dated 28th July, 2009 transferring the applicant from Holiday Home, Meghdoot Bhawan, Guwahati to Group 'D' post at the office of the Director of Accounts (P), Guwahati as malafide and bad in law. There is no valid reason for reverting the applicant from Group 'C' to Group 'D'. Request was made that the order dated 5th June, 2009 and 28th July, 2009 be kept in abeyance till the final disposal of the O.A.</p> <p>To do justice factual details needs to be investigated. Let notice be issued under Rule ii (i) (iii) of the C.A.T. (Procedure) Rules, 1987 returnable within four weeks.</p> <p>List on 27th January, 2010.</p>

(Madan Kumar Chaturvedi)
Member (A)

O.A. 272-09

① Service report awaited.

28/1/2010

Notice duly served on R-1 to 5

15/2/2010

NO W/S filed

17/2/2010

29.01.2010

Mr.M.U.Ahmed, learned Addl.C.G.S.C. appears for Respondent Nos.1 to 5 and Mrs.M.Das, learned counsel appears for Respondent No.6. Thus, service is complete.

Both counsel for Respondents seek and allowed two weeks time to file reply.

List on 18.02.2010. Interim order to continue till then.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/bb/

18.02.2010

Mr. M.U. Ahmed, learned counsel

for the Respondents No.1-5 states that though he has received parawise comments but he is not satisfied with the same. Mrs.

M.Das, learned Sr.Standing Counsel states that she is also appearing for said respondents in addition to Mr.M.U.Ahmed, counsel for Respondents. Learned

(Mrs.Das) respondents counsel for the Applicant states that he will file reply during the course of the day. Mr.M.U.Ahmed states that he may be allowed to file additional affidavit, if any. This can not be allowed particularly, when Sr. counsel has been engaged and he will file the same during the course of the day.

In the circumstances, list the matter on 22nd February, 2010.

Interim order shall continue till the next date.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/lm/

18.2.2010

W/S has been filed by the Respondents No.1 to 5 through Mrs M. Das Sr. C.G.S.C. copy served. 18/2/2010

19.2.10

① W/S filed by R. 1-5
② no reply for R. 6 (pro. Reps)

O.A.272-09

22.02.2010

Dr.J.L.Sarkar, learned counsel for the Applicant seeks four weeks time to file rejoinder. Prayer is allowed. List for hearing on 23.03.2010 as item No.1.

Interim order to continue till then.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/bb/

23.03.2010

Proxy counsel for Mrs.M.Das, learned Sr.C.G.S.C. prayed for adjournment on the ground of her illness. List on 06.04.2010.

Interim order to continue till then.

(Madan Kr. Chaturvedi)
Member (A)

/bb/

06.04.2010

On the request of learned counsel for the parties, list the matter on 12.4.2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/lm/

12.04.2010

Heard both the parties. Reserved for orders.

(Madan Kumar Chaturvedi)
Member (A)

/lm/

16.3.2010

Rejoinder
has been filed
by the Applicant.
Copy served.

16/3/2010

The case is ready
for hearing.

22.3.2010

The case is ready
for hearing.

5.4.2010

The case is ready
for hearing.

9.4.2010

30.4.2010

Judgment/Final order
dated 21/4/2010 prepared
and sent to the Dispatch section
for issuing to respondents by
post and issued to 2/Advocate
both the Parties
vide No — 1042 to 2040
dated 30-4-2010

21.04.2010

Judgment pronounced in open
Court, Kept in separate sheets. Application
is dismissed.


(Madan Kumar Chaturvedi)
Member (A)

Im

Received true copy
on behalf of Respondent
NO. 2.

Prasanta Nath
DA (RTI)
O/O the CPMU
Cuttack
28/4/10

Received for Mrs. M. Das,
Sr. C.G.S.C.,
Nimshim Vashum
(Advocate)
28/04/10.

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8 JAN 2013

Guwahati Bench.
गुवाहाटी न्या. पीठ

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

WP(C) NO.3426 OF 2010

Sri Nripen Chandra Mahanta,
S/O Late Kashi Ram Mahanta,
Selection Grade Duftry,
O/O the Chief Postmaster General,
Assam Circle, Guwahati,
Quarter No.42(T-11), Panbazar,
Guwahati-1.

..... *Petitioner.*

-Vs-

1. Union of India,
Represented by the Chief Postmaster General,
Assam Circle, Meghdoot Bhawan,
Guwahati-1, Assam.

2. The Director of Postal Services,
O/O the Chief Postmaster General,
Assam Circle, Meghdoot Bhawan,
Guwahati-1, Assam.

3. The Director Accounts(Postal),
Silpukuri, Guwahati-3,
Assam.

4. The Senior Superintendent,
Railway Mail Service,(RMS) GH. Division,
Panbazar, Guwahati-1.

5. The Director General,
Department of Posts, Dak Bhawan,
Sansad Mark, New Delhi-1.

6. Sri Pawan Kumar Singh,
Director Postal Service, (HQ),
Office of the CPMG, Meghdoot Bhawan,
Guwahati-1.

..... *Respondent s*

BEFORE
THE HON'BLE MR. JUSTICE I.A. ANSARI
THE HON'BLE MR. JUSTICE S.C. DAS

For the petitioner : Mr. A. Bhattacharjee, Advocate
For the respondents : Mr. D.K. Dey, Advocate

Date of hearing : **07.12.2012**

Date of delivery of
judgment & order : 13.12.2012

Ch

JUDGMENT & ORDER

(S.C. Das, J)

By this writ petition, filed under Article 226 of the Constitution of India, the petitioner challenged the legality and propriety of judgment and order dated 21.04.2010, passed by the Central Administrative Tribunal, Guwahati(hereinafter referred to as '*Tribunal*') in O.A. No.272/09 and order dated 01.06.2010, passed in Review Application No.4/2010 and also prayed for quashing and/or setting aside the transfer order dated 28.07.2009, issued by APMG(Staff) of the office of the Chief Post Master General(for short, CPMG), Assam Circle, Guwahati. .

2. We have heard learned counsel, Mr. A. Bhattacharjee for the petitioner and learned counsel, Mr. D.K. Dey for the respondents.

3. Facts, in short, necessary for disposal of the writ petition, may be noticed thus:

3.1 The petitioner was originally appointed as a Group-D staff under the establishment of CPMG, Assam Circle. He was promoted from the post of Peon to the post of Duftry on *ad-hoc* basis w.e.f. 06.09.1988 and such promotion was regularized w.e.f. 02.12.1992. He was promoted to Selection Grade Duftry w.e.f. 11.06.2007. On 05.06.2009, he was transferred to the Railway Mail Service(for short, RMS), a different establishment and, since it was found to be a wrong order of transfer, on the same day, the order was cancelled and/or modified and he was again transferred to SRO, Shillong,



Meghalaya as a Group-D staff. He submitted representation. Considering his representation, by impugned order dated 28.07.2009(Annexure-XI attached to the O.A.), the transfer order was again modified and he was posted in the establishment of Director of Accounts (Postal) [for short, 'DA (P)'] as a Group-D staff.

3.2 The petitioner, being aggrieved, filed O.A. No.272 of 2009 before the Tribunal challenging the orders, dated 05.06.2009 and 28.07.2009.

3.3 Respondent Nos.1 to 5 contested the case by submitting written statement before the Tribunal and the following issues were emerged before the Tribunal for decision:

(i) Whether the establishments of Chief Post Master General (CPMG), Assam Circle, and the establishment of Director of Accounts (Postal) were separate establishments/ units.

(ii) Whether the petitioner was entitled to be treated as a Group-C employee in view of the recommendations of Sixth Pay Commission, prescribing thereunder a different pay scale for Selection Grade Duftry.

(iii) Whether every establishment maintained separate seniority list in respect of different cadres under the establishment and whether the petitioner, being a member of the cadre of Selection Grade Duftry in the establishment of CPMG will be losing his seniority, if, posted as a Group-D staff in the establishment of DA(P).

(iv) Whether there was any post of Selection Grade Duftry in the office of the DA (P).



(v) *Whether in view of the impugned transfer order the petitioner was reverted to a post, two grades below his post of Selection Grade Duftry.*

(vi) *Whether the impugned transfer order was issued mala fide at the instance of respondent No.6.*

(vii) *Whether the stands taken by respondent Nos.1 to 5 that the petitioner was a surplus staff and, therefore, his transfer to the establishment of DA(P) was justified.*

(viii) *Whether the promotional avenue of the petitioner to the post of 'Jamadar' from the post of Selection Grade Duftry(feeder post) is likely to be affected because of the impugned transfer.*

3.4 The Tribunal by the impugned order dated 21.04.2010 held that there was no infirmity in the transfer order and that the transfer was not vitiated by *mala fide* and the rank of the petitioner was not lowered by such transfer order and, consequently dismissed the petition.

4. Challenging the above order of the Tribunal the petitioner preferred writ petition being WP(C) No.2571 of 2010 before this Court and this Court by order dated 05.05.2010(Annexure-G to the writ petition) disposed the writ petition observing that the petitioner, instead of filing the writ petition, would move the Tribunal by a review application praying to recall the order dated 21.04.2010 and hear the application before it on the issue, i.e., whether the DA(P) is a separate establishment and, if so, whether the petitioner could be transferred to the said establishment.



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5. The petitioner, thereafter, filed Review Application No.04/2010 before the Tribunal, raising all the issues, which were not answered by the Tribunal in the impugned order dated 21.04.2010. The Tribunal by impugned order dated 01.06.2010(Annexure-K to the writ petition) disposed the Review Application, substantially concentrating its observation in respect of the exercise of power of review in a given case. Regarding the issue as to whether the establishments of CPMG, Assam Circle and the establishment of DA(P) were separate establishment or not, the Tribunal in paragraph 11 of the impugned order observed thus:

"11. We have heard the rival submissions in the light of the materials placed before us. As regards the question whether Director of Accounts(P) is a separate establishment and employees in the office of Chief Postmaster General cannot be subjected to transfer reliance was placed on Rule 38. "TRANSFER AT ONES OWN REQUEST, is the title of Rule 38. The literal meaning of the phrase of A RUBRO AD NIGRUM is "FROM THE RED TO THE BLACK". Formerly the title of a statute was written in red while its body was written in black, and the phrase meant the process of interpreting a statute with reference to its title. I find that this is a case of simple routine transfer and not a transfer at ones own request, as such prescription of Rule 38 cannot be invoked in the facts of the present case. Transfer can be made from one establishment to other. There is no legal bar for the same."

No observation was recorded by the Tribunal in respect of the issue as to whether promotional prospect of the petitioner, due to the impugned transfer, shall be affected or not.

A bare reading of the order of Tribunal, as reproduced above, makes it clear that in respect of the issue as to whether those establishments, as pointed out before the Tribunal, were separate or



not, the Tribunal failed to give a clear finding. The learned Tribunal simply jumped to a conclusion that transfer can be made from one establishment to other.

6. While the present writ petition was pending before this Court, in course of hearing, by order dated 16.06.2011, the respondents were specifically directed thus:

"..... The respondents will explain in their affidavit how they intend to protect the seniority of the petitioner assuming that a transfer from one cadre to another cadre is permissible.

The final grievance of the petitioner is that he is serving as a Selection Grade Daftry which is a Grade C post and there is no further promotion available to him in the cadre of Directorate of Postal(Accounts).

The respondents will explain in their affidavit the correct position in this regard.

The affidavit be filed within four weeks.

List on 9.8.2011."

The respondents did not comply with the above order and did not file any affidavit.

7. It is submitted by learned counsel, Mr. Bhattacharjee for the petitioner that the establishments of CPMG, Assam Circle and DA (P) are two separate and independent establishments, having their own cadre strength and the petitioner has been wrongly and illegally transferred from the establishment of CPMG, Assam Circle to the establishment of DA (P) and, therefore, they have consciously did not file the affidavit in obedience to the order passed by this Court. Learned counsel has also drawn our attention to the submission made by learned counsel of the respondents before the Tribunal at the time of hearing of review petition, which has been recorded by



the Tribunal in paragraph 8 of the order of review petition. Referring to the order, it is submitted by learned counsel, Mr. Bhattacharjee that it was admitted that those establishments were separate and independent establishments in respect of the cadre of staff. On going through paragraph 8 of the review judgment, we find that learned counsel of the respondents submitted that transfer can be made from one establishment to other and, there is no legal bar in such transfer. In view of such stand, taken by the respondents, the Tribunal would accept the review application and allow the case of the petitioner but the Tribunal utterly failed to consider it and, therefore, learned counsel, Mr. Bhattacharjee prayed for setting aside the judgment and order passed by the learned Tribunal.

8. On the contrary, appearing for the respondents, learned counsel, Mr. Dey made a lengthy submission but admitted that the respondents failed to submit affidavit as sought for by this Court. Supporting the action taken by the respondents, he has submitted that Group-D posts have already been abolished, after the Sixth Pay Commission report was accepted and all those posts were renamed as Multi Skilled Employee (for short, MSE) and, so, the petitioner, being a multi-skilled employee, cannot claim a different status and, on that ground, the transfer order cannot be challenged.

9. Indisputably, the petitioner was working as a Selection Grade Duftry in the establishment of CPMG, Assam Circle. He was transferred to RMS on 05.06.2009 and, on the same date, that transfer order was modified and he was transferred to SRO,



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Meghalaya. On his representation, the transfer order was again modified by impugned order dated 28.07.2009 and he was transferred to the establishment of DA (P).

The petitioner raised several issues before the Tribunal by filing O.A. NO.272/2009. The petition was dismissed by the Tribunal holding that the transfer was incidental to service and, there was no illegality or impropriety in the transfer order. The issue raised by the petitioner that he would not have been transferred from one establishment to another establishment in a different cadre and that his promotional prospect and avenue will be seriously affected, was not answered by the Tribunal. In the review application also, the points, though raised by the petitioner before the Tribunal, pursuant to observation made by this Court in the earlier writ case, were not answered by the Tribunal and, hence, we find merit to interfere in the judgment and orders, passed by the Tribunal, on 21.04.2010 and on 01.06.2010.

10. Admittedly, the petitioner was transferred as a Group-D staff under the establishment of DA (P) from the establishment of CPMG, Assam Circle. The petitioner placed on record Annexure-XIV, a letter dated 23.12.2009 of DPS (HQs), supplied by the Central Public Information Officer of the Department, on an application made by the petitioner under RTI Act, whereunder the petitioner was informed that there was no post of Selection Grade Duftry available in the establishment of DA (P), Guwahati. It is, therefore, evident that the petitioner was transferred under the establishment of DA



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(P), having no post of the cadre of Selection Grade Duftry. The respondents tried to justify their action stating that in view of the Sixth Pay Commission report and implementation of the same, there is no existence of Group-D posts and the nomenclature has been changed as Multi-skilled Employee (MSE) and, therefore, the petitioner cannot claim that any injustice is caused in view of his transfer under the establishment of DA (P). We find no legal force and justification in the submission made on behalf of the respondents on that score since amalgamation of the cadre does not necessarily amount to abolition of the posts to which the petitioner was entitled to be posted and, hence, by the impugned transfer order, a valuable right of the petitioner has been taken away, which the Tribunal failed to consider. Further it is abundantly clear that the petitioner was transferred to a different establishment and the respondents simply stated that the promotional prospects of the petitioner will not affect due to transfer but the respondents failed to show how the promotional prospects of the petitioner would be protected or his seniority will be maintained in view of his transfer to a different establishment from that of the establishment, where he was working in the post of Selection Grade Duftry.

11. In view of the discussions made above on those two material points, we are of the considered opinion that the impugned transfer order, dated 28.07.2009, was illegal and, therefore, liable to be set aside and, accordingly, we do so. Consequently, the impugned order dated 21.04.2010 and 01.06.2010, passed by the Tribunal, are also set aside and quashed. The petitioner, if already released from



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the establishment of CPMG, Assam Circle, and joined the established of DA(P), should be taken back to the establishment of CPMG, Assam Circle immediately.

12. The writ petition is accordingly allowed, but in the circumstances without cost.

Sd/- S.C. DAS
JUDGE

Sd/- I.A. ANSARI
JUDGE

Memo No. HC.XXI..... 309 - 15 R.M.Dtd..... 5/1/2013

Copy forwarded for information and necessary action to: -

1. The Union of India, represented by the Chief Postmaster General, Assam Circle, Meghdoot Bhawan, Guwahati-1, Assam.
2. The Director of Postal Services, O/O the Chief Postmaster General, Assam Circle, Meghdoot Bhawan, Guwahati-1, Assam.
3. The Director Accounts (Postal), Silpukhuri, Guwahati-3, Assam.
4. The Senior Superintendent, Railway Mail Service, (RMS) GH. Division, Panbazar, Guwahati-781001.
5. The Director General, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-1.
6. Shri Pawan Kumar Singh, Director Postal Service (HQ), Office of the CPMG, Meghdoot Bhawan, Guwahati-1.
7. The Section Officer (J), Central Administrative Tribunal, Guwahati Bench, Rajgarh Road, Bhangagarh, Guwahati-781005. He is requested to acknowledge the receipt of the following case records. This has a reference to his letter no. 16-3/02-JA/728 dtd. 26-09-2011.

Encl.:- O.A. 272/2009
R.A. 04/2010
(Two files)

By order

Asstt. Registrar (J-II)
Gauhati High Court, Guwahati.

5/1/13

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 272 of 2009.

DATE OF DECISION: 21 -04-2010.

Shri Nripen Ch. Mahanta

.....Applicant/s

Dr J.L. Sarkar

.....Advocates for the
Applicant/s

-Versus -

Union of India & Ors.

.....Respondent/s

Mr M.U.Ahmed, Addl.C.G.S.C & Ms M. Das, Sr.C.G.S.C

.....Advocate for the
Respondent/s

CORAM

THE HON'BLE MR 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


Member(A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI :

O.A. Nos.272 of 2009.

DATE OF DECISION : THIS IS THE 21st DAY OF APRIL, 2010.

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

Shri Nripen Chandra Mahanta
Son of Late Kashi Ram Mahanta
S.G. Duftry, Office of the
Chief Postmaster General,
Assam Circle, Guwahati,
Quarter No.42 (T-11),
Panbazar, Guwahati-1.

.....Applicant

By Advocate Dr J.L.Sarkar

-Versus-

1. Union of India,
Through Chief Postmaster General,
Assam Circle, Meghdoot Bhawan,
Guwahati-781001, Assam.
2. Director of Postal Services,
Office of the CPMG, Assam Circle,
Meghdoot Bhawan,
Guwahati-1.
3. Director of Accounts (P)
Meghdoot Bhawan,
Guwahati-1.
4. Senior Superintendent,
RMS 'GH' Division,
Guwahati-1.
5. Director General,
Department of Posts,
Dak Bhawan, Sansad Marg,
New Delhi - 110001.
6. Shri Pawan Kumar Singh
Director Postal Services (H.Q)
Office of the CPMG,
Meghdoot Bhawan,
Guwahati-1.

.....Respondents

By Advocate Mr M.U.Ahmed, Addl.C.G.S.C & Ms M. Das, Sr.C.G.S.C.

d

ORDERMR MADAN KUMAR CHATURVEDI, MEMBER (A)

By this O.A applicant makes a prayer for quashing his transfer order dated 5.6.09 and 28.7.09.

2. The applicant was initially appointed in the Postal department as Peon in Group D service with effect from 13.10.1983 under Director of Postal Services, Uzanbazar, Guwahati, now Meghdoot Bhawan, Panbazar, Guwahati. He was promoted as Duftry vide order dated 6.9.1988 on temporary and ad hoc basis. He was regularized as Duftry on 2.12.1992 in the scale of pay of Rs.775-1025/-. Consequent upon the implementation of the recommendation of 6th Pay Commission the pay scale of S.C.Duftry has become Rs.5200-20,200/- in Pay Band-1, with Grade Pay of Rs.1800/-.

3. Vide order dated 5.6.2009 applicant was transferred from Caretaker, Holiday Home, Meghdoot Bhawan to RMS "GH" Division, Guwahati. This order was passed by Asstt. Postmaster General (Staff) for Chief Postmaster General, Assam Circle with approval of the competent authority. Again in partial modification of the said transfer order applicant was transferred and posted as Group D, in the office of the Director of Accounts (P) Guwahati against vacant post.

4. Dr J.L.Sarkar, learned counsel appearing for the applicant invited my attention on S.O.946(E) dated 9.4.09 to demonstrate that the Central civil post carrying the grade pay of Rs.1800/- in the scale of pay of Rs.5200-20200/- in Pay Band-1 comes within Group C and not Group D. On that basis it was argued that competent authority was




wrong in taking the applicant in Group D official whereas in fact he was in Group C. According to learned counsel the order was issued in hurry without considering rules and decision. It was further alleged that the order has been issued in a vindictive manner at the behest of the Director Postal Services for some personal reasons. Learned counsel invited my attention to letter dated 4.12.09 addressed to the Secretary to the Government of India by name wherein it was alleged that the transfer of the applicant was insisted by the wife of DPS Headquarter. The applicant was working in the DPS Headquarter since he joined in the circuit house. He prayed for leave at which he was scolded by the wife of the DPS Headquarters, as such, according to learned counsel the transfer was mala fide. Besides, Asstt. Postmaster General has power to transfer only Group D employees. He cannot touch the applicant as he belongs to Group C employee.

5. Mrs M.Das, learned Sr. C.G.S.C and Mr M.U.Ahmed, learned Addl. C.G.S.C appearing for the respondents submitted that Care taker and Duftry are of Group D cadre which is modified as MSE (Multi Skilled Employee) after the recommendation of the 6th Pay Commission. In the year 1992 applicant was posted to Regional office Guwahati as Duftry under the establishment of Regional Office and not Circle Office. However he was allowed to work in the circle office without any transfer order till 2007 when he was subsequently promoted to S.G.Duftry and posted as Care taker/Holiday Home, Circle Office, Guwahati. At that time Regional Office was shifted from Guwahati to Dibrugarh. The applicant was allowed to work at Guwahati. The APMG(Staff) vide order dated 5.6.09 transferred the



applicant to RMS GH Division which order was subsequently modified by order dated 28.7.09 and applicant was posted in the office of the Director of Accounts (P) Guwahati. The applicant was termed as Caretaker while working in the Holiday Home. The Post of Caretaker and Duftry were under Group D but subsequently termed as Group C (Multi Skilled Employee). According to learned Sr. standing counsel applicant was earlier holding the post of Group D. The respondents used the nomenclature of Group D in the transfer orders. After the recommendation of the 6th Pay Commission Group C and Group D staff are termed as Musti Skilled Employee (MSE). It is not relevant to raise any grievance as to why he was posted in the Group D vacant post. There is no mala fide established on the part of the respondents authority inasmuch as there is not at all reversion or any reduction of rank. This is a simple transfer order.

6. Who should be transferred where is in the domain of the authority. Unless the order of transfer is vitiated by mala fide or violation of any statutory provisions, Court cannot interfere. On the basis of bare allegation of mala fide which cannot be proved by the applicant, the Court cannot interfere. Applicant failed to establish mala fide . The burden of establishing mala fide is very heavy on the person who alleges it. The 'allegation of mala fide are often very easily made but not proved. In the facts of the present case we find that applicant wants to establish mala fide only with reference to the letter written to the Secetary, which is mere ipse dixit. Coming to the allegation of violation of statutory provisions in lowering the rank I find that there is absolutely nothing on record to indicate that official intended to

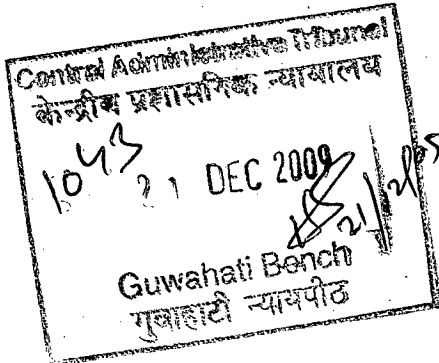


lower the rank of the applicant. His salary was not touched. Mrs M. Das, learned Sr. C.G.S.C stated that mentioning of Group D post is a typographical mistake which will be corrected. The applicant will hold the same rank on his transfer. The transfer was effected with the approval of the competent authority. As such there is no infirmity in the transfer order. On this factual matrix I hold that order of transfer is not vitiated by mala fide and the rank of the applicant is not lowered by such transfer. Ex consequenti the O.A is bereft of merit. As such it is dismissed.

O.A stands dismissed. No costs.


(MADAN KUMAR CHATURVEDI)
ADMINISTRATIVE MEMBER

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH,
GUWAHATI.



O. A. No. 272/2009

Shri Nripen Ch. Mahanta

Vs.

Union of India & Ors.

Filed by the Applicant
through the Advocate
S.P. Bhattacharya
21.12.09

S Y N O P S I S.

The applicant is a selection Grade Duftry in Group 'C' category, under CPMG, Assam Circle, Guwahati. ^{By}Pray on order dated 5.6.2009 (Annexure-V) he has been posted on transfer as Group D staff, without designation in a separate Unit/Establishment, which is irregular, and is reduction in rank. The applicant represented and by order dated 28.7.2009 he has been again posted as Group D staff in another separate /unit establishment which is also irregular. The orders are irregular and without approval of competent authority, violating procedure, and violating principles of natural justice, and in fact result of malafide pursuit of respondent No. 6. He has not been paid salary and leave salary. Hence this application against the orders of transfer, with prayer for releasing pay and leave salary and withdrawal from G.P.F.

Received
copy
M. Mahanta
21/12/09

Advocate.

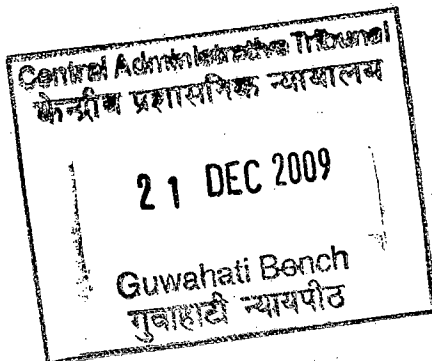
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH
GUWAHATI.

O. A. No. 272...../2009

Shri Nripen Ch. Mahanta,

Vs.

Union of India & Ors.

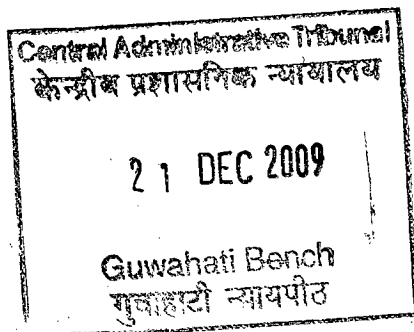


I N D E X.

<u>Particulars</u>	<u>Annexure</u>	<u>Pages</u>
1. Application	—	1-13
2. Verification	—	14
3. Order dated 6.9.88	I —	15
4. Order dated 2.12.1992	II —	16
5. Order dated 11.6.2007	III —	17
6. Order dated 9.4.2009	IV —	18
7. Order dated 5.6.2009	V —	19
8. Order dated 5.6.2009	VI —	20
9. Representation dated 8.6.2009	VII —	21
10. " " 9.6.2009	VIII —	22
11. " " 1.7.2009	IX —	23
12. " " 6.7.2009	X —	24
13. Order dated 28.7.2009	XI —	25
14. Representation dated 17.8.2009	XII —	26
15. " " 4.12.2009	XIII —	27-28
16. Letter dated 9.12.2009 to the applicant.	XIV —	29
17. W/S	—	30-38
18. MP. No. 43/2010	—	39-55
19. Refinder	—	56-68
20. W/S in MP. 43/2010	—	69-76

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH
GUWAHATI.

(An application under Section 19 of the AT Act, 1985).



O. A. No. 272/2009

Shri Nripen Ch. Mahanta
S/O Late Kashi Ram Mahanta
S.G. Duftry, office of the
Chief Postmaster General ,
Assam Circle, Guwahati,
Qr. No. 42 (T-11),
Panbazar, Guwahati-1.

- Versus -

1. Union of India

Through Chief Post Master General
Assam Circle, Meghdoot Bhawan
Guwahati-781001, Assam.

2. Director of Postal Services

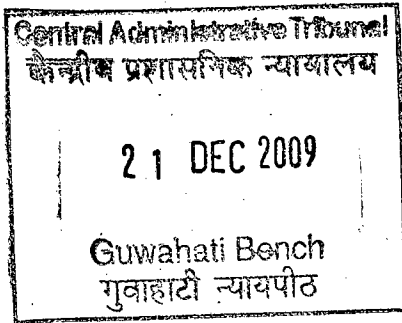
Office of the CPMG, Assam Circle
Meghdoot Bhawan,
Guwahati-1.

3. Director of Accounts(P)

Meghdoot Bhawan
Guwahati-1.

Contd.....2

Nripen Ch. Mahanta



4. Senior Superintendent,
RMS 'GH' Division
Guwahati-1.

5. Director General,
Department of Posts
Dak Bhawan, Sansad Marg
New Delhi-110001.

6. Shri Pawan Kumar Singh
Director Postal Services (H.Q.)
Office of the CPMG,
Meghdoot Bhawan
Guwahati-1.

1. Particulars for which this application is made.

The application is made against the malafide pursuit of respondents No. 6, against the order dated 5.6.2009 (Annexure-V) transferring the applicant to a lower rank of Group 'D' Post in a separate establishment, applicant is selection Grade Duftry in Group C, and against order dated 28.7.2009 (Annexure-XI), and against harassment by non-payment of salary and medical leave salary w.e.f. 1.6.2009.

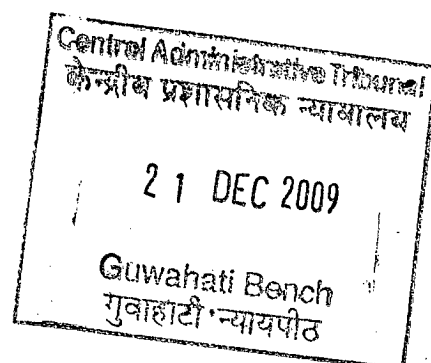
2. Jurisdiction .

The application is within the jurisdiction of this Hon'ble Tribunal.

Contd.....3

Nripem ch. Mahanta

-: 3 :-



3. Limitation.

The application is within the period of limitation under Section 21 of the A.T. Act, 1985.

4. Facts of the case.

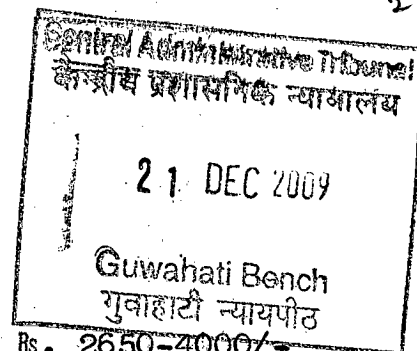
4.1 That the applicant is a citizen of India and as such is entitled to the rights and privileges guaranteed by the Constitution of India.

4.2 That the applicant comes from a very poor family and was initially appointed in the postal Department as peon in Group 'D' service w.e.f. 13.10.1983 under Director of Postal Service Uzanbazar, Guwahati, now Meghdoot Bhawan, Panbazar, Guwahati. He is now working in the establishment of Assam Circle (after bifurcation) Postal offices under Chief Postmaster General, Assam Circle, Guwahati. There are other separate Units/Establishments viz. RMS, Guwahati Division, Guwahati, and the establishment under Director of Accounts (Postal) which are separate establishments/units.

4.3 That the applicant was promoted as Duftry in bifurcated Assam Circle by office order dated 6.9.1988 on temporary and Adhoc basis, and by order dated 2.12.1992 his promotion in Assam Circle was regularised as Duftry in scale Rs. 775-1025/-. Applicant's name is against Sl. No. 5. His service has been very efficient and he was further

Contd....4

Noipen ch. Mahanta



promoted as selection Grade Duftry in scale Rs. 2650-4000/-
and posted as Care Taker/Holiday Home CO, Guwahati, by
CPMG, Assam Circle, Guwahati's office order dated 6.11.07.
He assumed charge as Caretaker immediately.

Copies of the orders dated
6.9.1988, 2.12.1992 and 6.11.07
are enclosed as Annexure-I, II
and III respectively.

4.4 That after the implementation of the 6th Pay
Commission's Recommendation the S.C. Duftry (earlier scale
Rs. 2650-4000/-) has been given scale of Rs. 5200-20,200/- in
Pay Band-1, with Grade Pay of Rs. 1800/-. The applicant is
in the said scale of pay, Pay Band-1.

4.5 That by an order dated 9.4.2009 the Department of
Personnel and Training, Govt. of India, New Delhi circulated
President of India's direction of classification of posts
of the Central Government employees.

Sl. No. 3 of the said order directs as under :

3. A Central Civil post carrying
the following Grade pays
Rs. 2800, Rs. 2400, Rs. 2000/-
Rs. 1900/- and Rs. 1800/- in
the scale of pay of Rs. 5200-
20,200/- in Pay Band-1.

Group 'C'

Contd....5

Noipem ch. Mahanta

21 DEC 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

-: 5 :-

Under the above classification the applicant is a Group-C category employee.

Copy of the order dated
9.4.2000 is enclosed as
Annexure-IV.

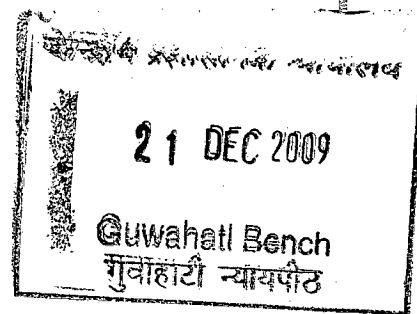
4.6 That by an order dated 5.6.2009 issued from the office of the CPMG, Assam Circle, Guwahati, the applicant has been transferred to a separate unit R.M.S. Division, Guwahati without indicating designation. A simple reading of the said office order would show that the order is purely of vindictive nature dehors the norms, vague phrases as "approval of the competent authority", "interest of services" have been used. The transfer has been made from Assam Circle to RMS, 'GH' Division, Guwahati, which is a totally separate establishment, with no scope of transfer of the applicant there.

Moreover, the so called approval of the competent authority is on a wrong premises taking the applicant as Group D official when he (applicant) is a Group C official, vice in the so called approval is patent, and the same has been issued in a hurry dehors the rules and procedure, and without approval, that too in a separate establishment.

The applicant humbly submits that transferring the applicant categorically treating the applicant as Group D official, vitiates the order, the same becomes perverse, and transfer treating him as Group D in derogation of presidential directive renders the same order void abinitio and non-est.

Contd....6

Noipem ch. Mahanta



It is also stated that transfer of Group D officials also are done under rules very sparingly.

The applicant humbly states that the hasty and irregular transfer order has been issued in a vindictive manner at the behest of the Director of postal services (H.Q.) CPMG, Assam Circle Guwahati's office for his personal reasons. The applicant as a poor employee feels shy to narrate the details, but under constraints have also brought the same to the notices of the Director General, Department of posts, New Delhi.

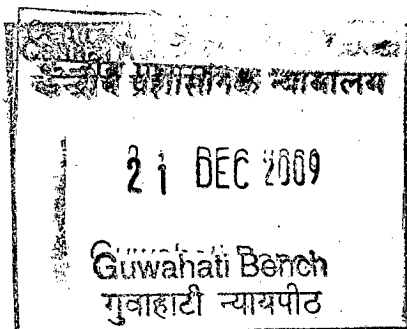
The applicant begs to state the matters of transfer first and hopes that the Hon'ble Tribunal shall be pleased to appreciate the illegality and injustice caused to the applicant.

Copy of the order dated 5.6.2009
is enclosed as Annexure-V.

4.7 That the transfer of the applicant was being dealt with in a manner not in a manner normal in official parlance. By order dated 5.6.2009 he was almost thrown under disposal of the RMS Division, with no designation, place/office of posting, (seperate establishment as already explained). The said RMS Division also was not knowing where the applicant should be lawfully posted. As a result the Sr. Superintendent of RMS "GH" Division issued an order dated 5.6.2009 ordering as "posted/allotted" to the unit of SRO, Shillong no desig-

Contd....7

Nripan Ch. Mahanta



nation was mentioned and no posting particulars was given

Copy of the order dated
5.6.2009 from Supdt. RMS
'GH' Division is enclosed
as Annexure-VI.

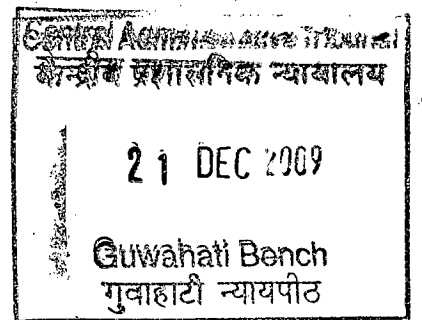
4.8 That the applicant submitted representation dated 8.6.2009 to Chief Post Master General(staff) requesting for cancellation of the above transfer orders and for retention in C.O. Guwahati explaining that his wife is serious patient. This was followed by another representation dated 9.6.2009 to CPMG (Chief Post Master General)

Copies of the said representation dated 8.6.2009 and 9.6.2009 are enclosed as Annexure-VII & VIII respectively.

4.9 That the applicant in the circumstances explained above was very nervous and fell sick w.e.f. 9.6.2009 and submitted application for medical leave supported by medical certificates. Most unfortunately his salary for June, 2009 was not drawn which caused him further harassment and near starvation of the members of the family. He submitted representation dated 1.7.2009 to CPMG praying for release of salary and save the family from starvation and to cancel the transfer order. This was followed by another representation dated 6.7.2009 mentioning that his transfer is not covered by the concerned Rules and requested for cancellation of the said transfer orders.

Contd....8

Noipam ch. Mahanta



-: 8 :-

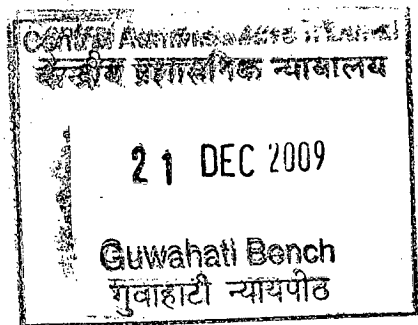
He was not paid leave salary for July, 2009 also. He approached for withdrawal of money from his GPF but his application for such withdrawal was also not entertained.

Copies of the representation dated 1.7.2009 and 6.7.2009 are enclosed as Annexure-IX & X respectively.

4.10 That respondents by the time could understand the anomalies in the order of transfer and in partial modification of the order dated 5.6.09 the office of the CPMG, Assam Circle passed an order dated 28.7.2009 purportedly transferring the applicant in the office of the Director of Accounts(P) Guwahati indicating as against vacant post i.e. keeping the position vague no designation was shown. It is stated that the applicant is a selection grade caretaker and is in Gr. C category. But most curiously to carry out the malafide of the Respondent No. 6 he was posted as Gr.D by the said office order dated 27.8.2009 said order dated 28.7.2009 is liable to be set aside and quashed on this ground alone. Moreover office of the Director of Accounts(P), Guwahati is a separate establishment and applicant service from Assam Circle is not transferable. It is reiterated that applicant cannot be transferred and posted as Gr. D employee in the office of the Director of Accounts (P) Guwahati. The applicant submitted representation dated 17.8.2009 to the CPMG, Assam Circle Guwahati explaining the above position of non-payment of salary for 2 months and that the members

Contd.....9

Nripen Ch. Mahanta

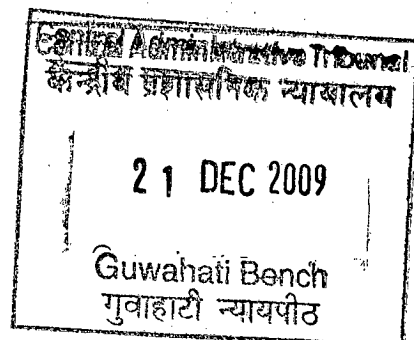


of the family are in half starvation, sickness of his wife and other family problem.

Copies of the order dated 28.7.2009 and representation dated 17.8.2009 are enclosed as Annexure-XI & XII respectively.

4.11 That the Applicant submitted an another representation to the Director General, Department of posts, New Delhi praying for the cancellation of the transfer order and payment of pay and allowances. In this representation the Applicant was explained the factual position that he was working in the residence of Director ^{for personal and family} of postal services (H.Q) since his joining in the Circle. He had to do domestic works of the said Director and the Applicant had to go on leave during Bihu in the month of January, 2008. The said Director Shri Pawan Kumar Singh was very much angry on the Applicant as during the said leave period due to Bhogali Bihu of Assam, the said officer could not avail of the personal services of the Applicant. He (Shri Pawan Kumar Singh) warned him that he would find the consequences of being absent during the said period from 13th January 2008. The facts have been expressed in the same detail in the representation dated 4.12.09.

4.12 That the Applicant begs to state that the order of the transfer is illegal under the rules and also being a case of reversion of Group 'C' to Group 'D' and he was requesting for cancellation of the same on those grounds and did not want to further antagonise by expressing the personal services to the Director of Postal Services and his family.



He also felt shy and derogatory for himself for the nature of works ^{got} ~~caught~~ done by the said Director of Postal Services, considering the family status and status in the locality and village. But being a poor employee he had to rendered the personal services as explained above. Finding no other alternative he submitted the above factual position to the Director General, Department of posts by his application dated 4.12.09. He has been given a letter dated 9.12.2009 for obtaining medical opinion.

Copy of the representation dated 4.12.09 and letter dated 9.12.2009 are enclosed as Annexure-B.

4.13 That in the circumstances explained above the orders of transfer dated 5.6.2009 and 28.7.2009 are illegal as violative of norms of transfer and result of mala-fide.

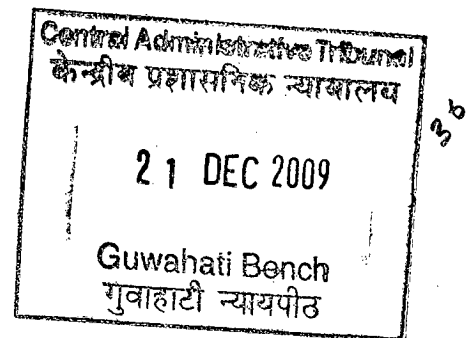
4.14 That the aforesaid order of transfer dated 5.6.2009 and 28.7.2009 are illegal, being in fact reversion from Group 'C' to Group 'D' post.

5. Grounds with legal provisions:

5.1 For that, the transfer orders dated 5.6.09 and 28.7.2009 are not in public interest and de hors rules and the transfer is in seperate establishment and as such is liable to be set aside and quash.

Contd.....11

Nripan Ch. Mahanta



-: 11 :-

5.2 For that, the transfer, in effect, B reversion from higher rank to lower rank i.e. Group 'C' to Group 'D' which is reduction in rank without following principles of natural justice.

5.3 For that causing a reduction in rank the orders of transfer is violative of Article 311 of the Constitution of India.

5.4 For that mala-fide is foundation of the transfer and the applicant is victim malafide pursuit of the Respondent No. 6.

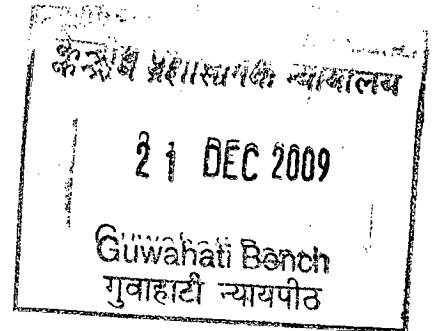
5.5 For that the competent authority and interest of service has been vague and the approval of the appropriate authorities under due process of law has not been obtained from the authorities competent to exercise the power following procedure of law/rules and principles of natural justice.

5.6 For that there is no public interest/interest of service in the instant transfer. The orders are cryptic, hast and vague, and the same are arbitrary violative of Article 14 and 16 of the Constitution of India.

5.7 For that the entire gamut is violative of Article 21 of the Constitution of India causing near starvation of the members of the family, and denial of other elements of right to life, by denying salary from 1.6.2009 to 31.6.2009 and leave salary on medical ground thereafter and denial of withdrawal from GPF.

Contd....12

Nripan ch. Mahanta



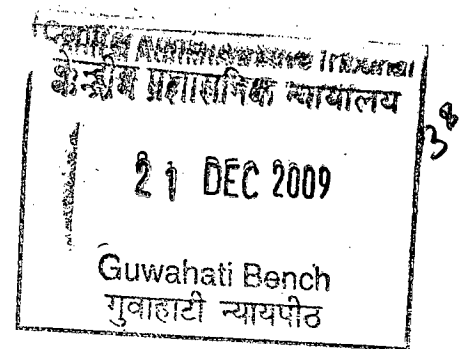
6. The applicant declares that he was exhausted remedy by submitting representations but without any remedy/reply. The Hon'ble Tribunal is the only remedy now.

7. That applicant declares that he has not filed any other case/application before any other Court/Tribunal, and no such case/application is pending before any Court/Tribunal.

8. Reliefs prayed for :

In the circumstances of the case the applicant prays for the following reliefs :-

1. The Office Order dated 5.6.2009 issued by CPMG, Assam Circle, (Annexure-V) be set aside and quashed.
2. The order dated 28.7.2009 issued from CPMG, Assam Circle's office, Guwahati - (Annexure XI) be set aside and quashed.
3. The applicant be paid salary from 1.6.2009 to 8.6.2009 with interest, and medical leave salary from 9.6.2009 and allowed to withdraw money from his G.P.F.
4. The reduction in rank to Group 'D' Post (without designation), be set aside and quashed and the applicant be restored to Group C post as selection Grade Duftry in original cadre, Assam Circle, Guwahati.



5. Any other appropriate relief the Hon'ble Tribunal deems fit and proper, and cost of the case.

The above reliefs are prayed for on the Grounds stated in para 5 above.

9. Interim relief prayed for :

During the pendency of the O.A. the applicant prays for the following interim reliefs :-

1. The orders dated 5.6.2009 of the transfer of the applicant (Annexure-V) and order dated 28.7.2009 (Annexure-XI) be stayed/suspended.

The above prayer is made on the grounds stated in para 5 above.

10. The application is filed through Advocate.

11. Particulars of postal order :

- | | | |
|----|--------------|-----------------------------------|
| 1. | I.P.O No. | : 39G433366 |
| 2. | In favour of | : Registrar, CAT, Guwahati Bench. |
| 3. | Issued at | : Guwahati. |
| 4. | Payable at | : Guwahati. |

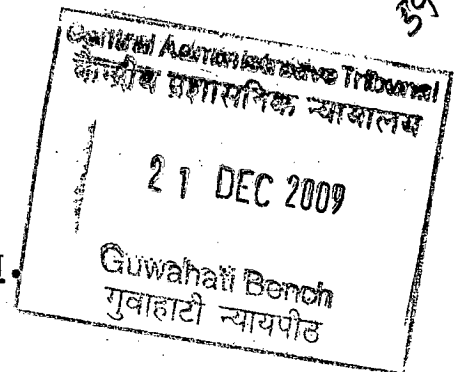
12. Particular of enclosures.

As per index.

noipem ch. Mahanta

- 14 -

VERIFICATION.



I, Shri Nripen Ch. Mahanta, aged about 55 years, son of Late Kashi Ram Mahanta, aged ~~about~~ years, resident of Panbazar, Guwahati, do hereby verify that the statements in para 1,4, 6 to 12 are true to my knowledge and those made in para 2, 3 and 5 are true as per legal advice and I have not suppressed any material facts.

I sign this verification this 21st day of December, 2009 at Guwahati.

Nripen Ch. Mahanta
Signature.

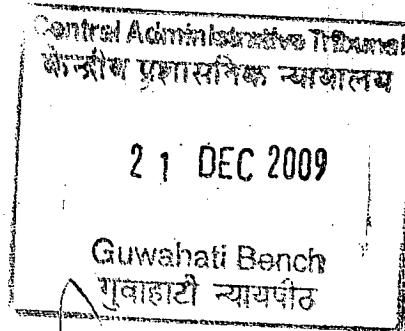
Department of Posts, India.
O/o the Postmaster General, Assam Circle :: Guwahati-781001.

Memo No. Staff/2-4/88.

Dated Guwahati the 6-9-88.

Consequent on the bifurcation of Assam Circle and diversion of posts of Jamadar and Duftry, the following Group 'D' officials have been given promotion to the posts shown against the names of the officials purely on temporary and adhoc basis with immediate effect under the prescribed scale of pay in force.

<u>Names</u>	<u>Promoted to.</u>
1. Sri Chitramal Talukdar	Jamadar.
2. Sri Kanak Kr. Sarmah	Duftry.
✓ 3. Sri Nripen Ch. Mahanta	Duftry.
4. Sri Deben Ch. Das	Duftry.



(A N D (Kachari)
APMG (Staff)

for PMG, Assam Circle, Guwahati-1.

Copy to :-

1. The AD(A/Cs) O/O the PMG/Guwahati - for information.
2. The JAO(Bgt) -do- -do- and N/a.
3. All S.S. -do- -do-
4. The Q.S. -do- -do-
5. All Group Officers -do- -do-
6. The Officials concerned -do-
7. P/F of the officials.
8. The D.A.(P) Calcutta (thgh A&P Sec) -do-
9. Sr. PA to PMG/Guwahati.
10. P.A. to DPS(HQ)Guwahati.
11. Spare.

for Postmaster General
Assam Circle, Guwahati.

Attested
S. P. S. Sarmah
Advocate

- 16 -
ANNEXURE II

DEPARTMENT OF POSTS : INDIA

OFFICE OF THE CHIEF POSTMASTER GENERAL: ASSAM CIRCLE: GUWAHATI-1.

Memo No. Staff/2-4/88

Dated at Guwahati the 02-12-92.

The Director of Postal Services Office of the Chief Postmaster General, Assam Circle, Guwahati is pleased to approve the following officials for promotion to the Grades & Scales as noted below against each on regular basis with immediate effect.

<u>Name of officials with present post held</u>	<u>Posted on promotion to</u>	<u>Scale of pay</u>
1. Sri C.M. Talukdar, offg. Jamader, CO/Guwahati.	Jamader C.O. Guwahati.	Rs. 800/- to 1150/-
2. Sri S.K. Bhattacharjee, offg. Jamader, CO/Guwahati.	Jamader C.O. Guwahati.	-do-
3. Sri D.D. Sarma, offg. Duftry, CO/Guwahati.	S.G. Duftry, CO/Guwahati.	-do-
4. Sri K.K. Sarma, offg. Duftry, CO/Guwahati.	Duftry, CO/Guwahati.	Rs. 775/- to 1025/-
5. Sri N.C. Mahanta, offg. Duftry, RO/Guwahati.	Duftry, RO/Guwahati.	-do-
6. Sri D.C. Das, offg. Duftry, RO/Guwahati.	Duftry, RO/Guwahati.	-do-

Usual charge reports may be sent to all concerned.

(P. NATH)

A P M G (Staff)

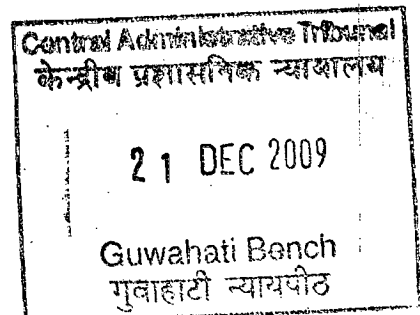
For Chief Postmaster General,
Assam Circle, Guwahati.

Copy to :-

- 1) The AD(A/Cs), CO/RO, Guwahati.
- 2) The AAO(Bgt), CO/RO, Guwahati.
- 3) The DA(P), Calcutta.
- 4) The O.S., CO/RO, Guwahati.
- 5) The Officials concerned.
- 6) The Personal File O/o, the officials.
- 7) The G/L file, CO, Guwahati.
- 8) Office copy.
- 9) Spare.

Attested
(Signature)
Advocate

For Chief Postmaster General,
Assam Circle, Guwahati.



MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS
(Department of Personnel and Training)

ORDER

New Delhi, the 9th April 2009

S.O. 946(E).—In exercise of the powers conferred by the proviso to article 309 and clause 5 of article 148 of the Constitution read with rule 6 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 and in supersession of the notification of the Government of India in the Department of Personnel and Training number S.O. 332(E) dated the 20th day of April, 1998, and after consultation with the Comptroller and Auditor General of India in relation to person serving in the Indian Audit and Accounts Department, except as respects things done or omitted to be done before such supersession, the President hereby directs that with effect from the date of publication of this order in the Official Gazette all civil posts under the Union, shall be classified as follows :—

Sl. No.	Description of Posts	Classification of posts
(1)	(2)	(3)
1. (a)	A Central Civil post in Cabinet Secretary's scale (Rs. 90000- fixed), Apex Scale (Rs. 80000- fixed) and Higher Administrative Grade plus scale (Rs. 75500-80000), and	
(b)	A Central Civil post carrying the following grade pays :— Rs. 12000, Rs. 10000, Rs. 8900 and Rs. 8700 in the scale of pay of Rs. 37400-67000 in Pay Band-4, and Rs. 7600, Rs. 6600 and Rs. 5400 in the scale of pay of Rs. 13600-39100 in Pay Band-3	Group A
2.	A Central Civil post carrying the following grade pays :— Rs. 5400, Rs. 4800, Rs. 4600 and Rs. 4200 in the scale of pay of Rs. 9300-34800 in Pay Band-2	Group B
3.	A Central Civil post carrying the following grade pays :— Rs. 2800, Rs. 2400, Rs. 2000, Rs. 1900 and Rs. 1800 in the scale of pay of Rs. 5200-20200 in Pay Band-1	Group C
4.	A Central Civil post carrying the following grade pays :— Rs. 1300, Rs. 1400, Rs. 1600, Rs. 1650 in the scale of pay of Rs. 4440-7440 in 1S Scale	Group D (till the posts are upgraded)

Explanation: For the purpose of this order Pay Band, in relation to a post, means the running Pay Bands specified in Part A, Section 1 of column 5 of the First Schedule to the Central Civil Services (Revised Pay) Rules, 2008.

[F. No. 11012/7/2008-Estt. (A)]

C. B. PALIWAL, Jt. Secy

Attested
S. P. Bhattacharya
Advocate

21 DEC 2009
Guwahati Branch
मुख्यालय गुवाहाटी

21 DEC 2009

Guwahati Bench
गुवाहाटी न्यायापीठDEPARTMENT OF POSTS: INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL
ASSAM CIRCLE: GUWAHATI-781 001

Memo No: Staff/CO/GR-D/Misc/07

Dated Ghy the 5th June, 2009

With the approval of the competent authority the following transfer/posting orders in respect of the following Group "D" officials of Circle Office, Guwahati are issued with immediate effect in the interest of service.

Sl.No.	Name of the officials	Name of office presently working	Posted on transfer
01	Sri Nripen Ch Mahanta	Caretaker, Holiday Home, Meghdoot Bhavan, Guwahati-781 001	RMS "GH" Division, Guwahati
02	Sri Moneswar Haloi	C.O. Guwahati	Caretaker, Holiday Home, Meghdoot Bhavan, Guwahati

The relevant Charge report to be issued to all concerned.

[L.K.Barman]

Asstt. Postmaster General (Staff)
For: the Chief Postmaster General
Assam Circle: Guwahati-781 001

Copy to:-

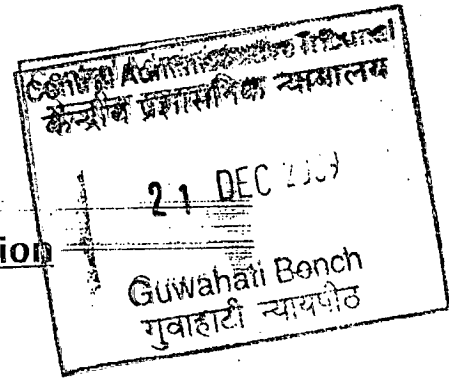
- 01: The Sr. Supdt. RMS "GH" Dn, Guwahati-781 0901 He will kindly issue posting order in respect of the official at sl 1 above immediately.
- 02: The Asstt. Director (Welfare) C.O. Guwahati
- 03: The Asstt. Director (Accounts), C.O. Guwahati for necessary action.
- 04: The AAO (Budget) C.O. Guwahati
- 05: Office Supdt. C.O. Guwahati who will relieve the officials immediately.
- 06/07: Officials concerned
- 08/09: P/F of the officials
- 10: Office copy.

For: Chief Postmaster General
Assam Circle: Guwahati-781 001

Attested

S. P. D. Paul
Advocate

Department of posts: India
Office of the Senior Superintendent of RMS "GH" Division
Guwahati-781001.



Memo no. B-2/9/TFR/Ch-II
5.6.2009.

Dated at Guwahati the

Sri Nripen Ch. Mahanta, caretaker, Holiday home, Meghdoot Bhawan, Guwahati-781001 transferred and allotted to RMS 'GH' Division vide CO/Guwahati Memo No. staff/CO/GR-D/Misc/07 dated 5.6.09 is posted/allotted to the unit of SRO/Shillong with immediate effect.

Senior Superintendent
RMS 'GH' Dn, Guwahati-1.

Copy to:-

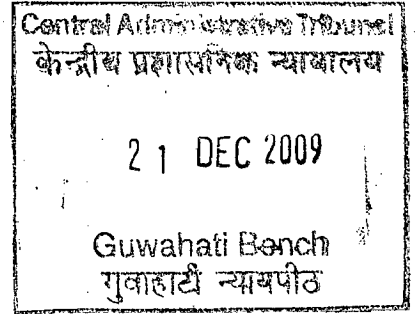
1. The SRO, RMS 'GH' Division, Shillong -793001. He will kindly issue posting order in respect of above mentioned official immediately.
2. The Asstt. Director (Welfare), CO/Guwahati for information.
3. The HRO (A/Cs), RMS 'GH' Dn, Guwahati for information and n/a.
4. The APMG (Staff), Assam Circle, Guwahati-1, w.r.t above cited letter for kind information.
5. Sri Nripen Ch, Mahanta, he will report to SRO/Shillong for joining there on being relieved from CO/Guwahati as ordered.
6. O/C.

Attested
A. P. L. Pradhan
Advocate

Senior Superintendent
RMS 'GH' Dn, Guwahati-1

To
The Chief Postmaster General (Staff)
Assam Circle, Guwahati-781001.

Dated at Guwahati the 08-06-2009.



Sub :- Prayer for consideration of transfer from CO/Guwahati to RMS 'GH' Dn
Guwahati- case of Shri Nripen Ch Mahanta ,Caretaker,Postal Holiday Home/Guwahati.

Ref:- CO/Guwahati vide letter no: Staff/CO/Gr-D/Misc/07 dtd 05-06-2009.

Sir,

Most respectfully and humbly I do hereby beg to state that I have been transferred from CO/Guwahati to RMS 'GH'Dn/Guwahati vide CO's above cited letter dtd 5-6-09.

That Sir,I am a circle office staff promoted to the post of S.G Duftry.Therefore ,I request you kindly to post me in the SG/Duftry post of circle office/Guwahati to discharge my duty.

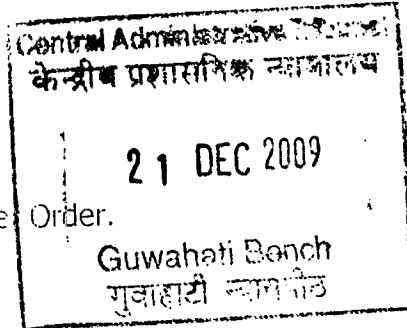
That Sir, my wife is an-arthritis patient and her long treatment has been going on for nearly five years and no sign of recovery appears till now and I need to look after her for her survival .In the event of my transfer my family will suffer a lot.

Under the above circumstances I request you to be kind enough to kindly consider the above transfer order so that I may retain at CO/Guwahati since I am originally a circle office staff and for this act of kindness I will remain ever grateful to you.

Nripen Ch Mahanta
(NRIPEN CHANDRA MAHANTA)
S.G.Duftry & Caretaker of Postal
Holiday Home,Guwahati-781001.

Attested
S.P. Bhadraya
Advocate

The Chief Postmaster General,
Assam Circle, Guwahati 781001.



Subject:- Prayer for Retention at CO Guwahati on cancellation of Transfer Order.

Ref:- CO's memo no.Staff/CO/G-D/Misc/07 dtd 5-6-09.

Sir,

Most humbly and respectfully, I have the honor to lay before you the following few lines for favor of your kind consideration and favorable order. That Sir, on receipt of above memo bearing my transfer order from my present post of care taker, Holiday Home, Guwahati to RMS unit under SSRM Guwahati, I am overwhelmed with grief and mental agony since I am a low paid group D staff.

That Sir, on the basis of the above memo, SSRM Guwahati vide his memo no. B-2/9/TFR/Ch-II dtd.5-6-09 has posted me in Shillong Stg.

That Sir, the reason behind my transfer from my present unit to RMS unit shown as in the interest of service may be due to some mis-understanding only. That Sir, during my service for last 26 years since 1983 in the department, I tried my best to perform my duty obeying the orders of my superiors to their satisfaction.

That Sir, my wife is a prolong sufferer of arthritis who needs assistance for her regular treatment also I am to escort my school going little children to a land their school as my ill wife can not help them at all in this respect. It is only possible as and only if I am in present post at Guwahati. That Sir, it is not possible to shift my school going children to shillong as their academic session is not over and it is being half year passed now.

That Sir, the nature of job in RMS is quite different from the nature of my present job doing for last 26 years. For this I shall not be able to perform my duty in RMS and there by it will be a mental harassment to me which may result sufferings to my family members in near future.

Under the factual position stated above, I have the honor to request you kindly to consider my prayer and cancel my transfer order from my present place to RMS unit and oblige there by:-

I shall remain ever grateful to you for your act of this kindness.

Your's faithfully

Nripen Ch Mahanta

(Nripen Ch Mahanta)

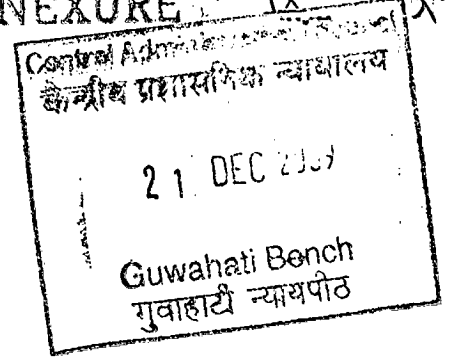
Care taker, Holiday Home, Guwahati.

Date : 9-6-09.

Attested
S. P. D. D. D.
Advocate

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ANNEXURE IX



To

The Chief Postmaster General,
Assam Circle, Guwahati-781001.

Dated at Guwahati, the 1-7-09.

Subject :- Prayer for drawal of Pay and Allowances for the month of
June'09 and cancellation of Transfer order from CO
Guwahati to RMS Unit.

Ref:- CO's Memo no.Staff/CO/G-D/Misc/07 dtd.5-6-09.

Sir,

Most humbly and respectfully, I have the honour to request you kindly to refer my prayer dtd.8-6-09 and that of dtd.9-6-09 on personal approach to you for cancellation of my transfer order from my present office to RMS unit.

Further it is stated that due to my illness, I have submitted one leave application on 9-6-09 applying for grant of commuted leave for 15 days w.e.f that day there after extended by another 15 days w.e.f 24-6-09 supported by Medical Certificates from the I/C Postal Dispensary, Panbazar, Guwahati-1. Accordingly, I submitted my relinquished charge report on 9-6-09 along with my leave application (Copy enclosed) and until now I am under treatment of the doctor.

That Sir, to my strange as some how I attended office on 30-6-09 to take my payment, it was informed that my pay and allowances are not drawn. The reason behind this is quite in dark for me as I submitted my leave case and other relevant documents (M/C & Charge report etc) in due course of time. Thus, I am deprived of the justice and fair play from each and every corner of the office.

That Sir, I being a low paid group D staff under you control am to face lots of trouble to lead my family members if I do not get my pay as I have no other income source.

Under the factual position stated above, I have the honour to request you kindly to look in to the matter personally and cause drawal of my pay and allowances for the month of June'09 to save my family members from starvation. Further I request you kindly to cancel my transfer order as I am not in a position to move from my present post of SG Dastri under the factual position stated in my prayer dtd.9-6-09.

That Sir, above is my prayer with my folded hands for your kind consideration at an early date for which act of your kindness I shall remain ever grateful to you.

Your's faithfully

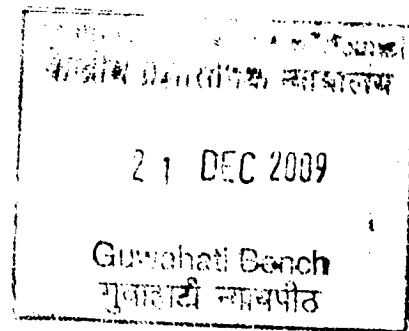
Nripen Ch Mahanta
(Nripen Ch Mahanta)

Attested
Advocate

- 24 -

ANNEXURE X

To
Shri Monojit Kumar
Chief Postmaster General,
Assam Circle, Guwahati-781001.



Dated at Guwahati the 06-07-2009.

Subject:- Alleged harassment by illegal transfer.

Ref :- CPMG / Guwahati memo no. Staff/CO/GR-D/Misc/07 dtd 05-06-2009.

Sir,

With due respect and humble submission, I have the honour to request you kindly to refer my prayer with my representations dtd 08-06-09, 09-06-09 and subsequent reminder dtd 01-07-09 wherein I stated all the reasons in support of cancellation of my transfer order from CO/Guwahati to RMS 'GH' Division . But no any justice and fair play is given to my utter cry but I am given unnecessary harassment even with holding my pay and allowances for the month of June'09.

That Sir, so far my knowledge concerned Rule does not cover my transfer from CO/Guwahati to RMS "GH" Division and it is quite injustice to me.

As such, I have the honour to request you kindly to cancel my transfer order and cause drawal of my pay and allowances for the month of June/2009 at an early date.

Kindly give me a favourable reply of my prayer within 7 days of receipt of this application. Otherwise, I shall have no other alternative but to take shelter of Law for justice.

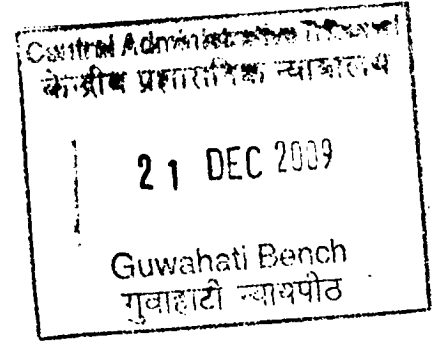
Yours faithfully,

Nripen Ch Mahanta
(NRIPEN CH MAHANTA)

S.G. Duftry,

O/O the Chief Postmaster General
Assam Circle, Guwahati-781001.

Attested
S. A. Choudhary
Advocate



भारतीय डाक विभाग

DEPARTMENT OF POSTS :: INDIA

कार्यालय, मुख्य पोस्टमास्टर जनरल, असम परिमंडल, गुवाहाटी-781001

OFFICE OF THE CHIEF POSTMASTER GENERAL::ASSAM CIRCLE :: GUWAHATI-781001

No.Staff/CO/Gr-D/Misc/07

Dated at Guwahati the July 28, 2009

In partial modification of this office transfer/posting order of even No. dated 5/6/2009, Sri Nripen ch. Mahanta, Caretaker, Holiday Home, Meghdoot Bhawan, Guwahati is transferred and posted as Group 'D', Office of the Director of Accounts (P), Guwahati against vacant post.

(L. K. Barman)

A. P. M. G. (Staff)

O/o the Chief Postmaster General
Assam Circle, Guwahati - 781 001

Copy to :-

1. The Director of Accounts (P), Guwahati.
2. The SSRM, 'GH' Division, Guwahati.
3. The Asstt. Director(A/Cs), Circle Office, Guwahati.
4. The Asstt. Director(WLF), Circle Office, Guwahati.
5. The AAO(Bgt), Circle Office, Guwahati.
6. The Office Supdt., Circle Office, Guwahati.
7. The official concerned. (Sri. N. C. Mahanta)
8. P. F. of the official.

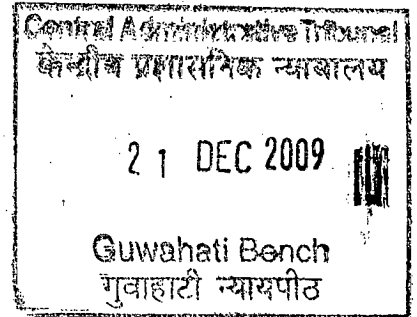
For Chief Postmaster-General
Assam Circle, Guwahati-781 001

Attested
S. P. Chatterjee
Adviser

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To

The Chief Postmaster General,
Assam Circle, Guwahati-781001.



Subject :- Prayer for Cancellation of Transfer order and drawl of Pay and allowances for June-July'09 and other monetary grants there by.

Ref :- CO's memo no. Staff/CO/GR-D/Misc/07 dtd. 5-6-09 and dtd. 28-7-09.

Sir,

Most humbly and respectfully, I have the honour to request you kindly to extend your good hand to through light to my present situation arises due to my transfer order vide your memo no cited above.

That Sir, due to my illness I am still now on leave w.e.f 9-6-09 submitting my leave case on M/C at CO Guwahati on that day. Accordingly, the copy of the relinquished charge report dully countersigned by the O/S was provided to me (Copy enclosed). Thus it stands that I am not released from CO Guwahati to other unit.

But to my strange, my pay and allowances for last two months have not allegedly been drawn in favour of me until now. More over owing to my financial condition, I approached Accounts section of CO Guwahati for withdrawal of money from my GPF accounts. But it was refused to entertain my application of withdrawal from GPF with out any valid reason.

Under the factual position stated above, my present condition is approaching towards a suicidal situation as I along with my family members are spending our days in starvation and half starvation and my school going children are compelled to stay at home as they are defaulted from school for non payment of school dues. Also my wife is lying in bed for want of her proper treatment of prolong illness (certificate enclosed).

So, I request you kindly to look into the matter personally and do needful for drawl of my dues causing cancellation of my transfer order to other unit and save my family members from the impending danger.

I shall remain ever grateful to you for your act of this kindness.

Yours faithfully

Date : 17-8-09.

Nripen Ch Mahanta
(Nripen Ch Mahanta)

SG Daftly

O/o the Chief PMG,
Assam Circle, Guwahati-1.

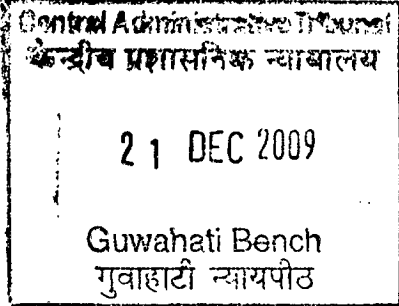
Attested

S. P. D. Bhattacharya
Advocate

To,

Mrs. R. Radhika Doraiswamy
Secretary to the Govt. of India
&

Director General, Department of Posts.
Dak Bhawan, Sansad Marg
New Delhi - 110001



Dated at Guwahati -1 the 4th of Dec, 2009

Subject : Cancellation of Transfer order and payment of pay and allowances.

Reference:- My representations dated 19-6-09, 15-7-09, 16-7-09, 24-8-09 and 21-10-09.

Madam,

In continuation of my representations dated 19-6-09, 15-7-09, 16-7-09, 24-8-09 and 21-10-09 regarding my transfer in the interest of service as stated in reply to the Union Secretary, AIPEU C.O Guwahati, I would like to state that the reason shown is totally false. In this regard, I would like to state here that the transfer order was issued by DPS(HQ) Guwahati as desired/insisted by the wife of DPS (HQ) who is an officer working in N.F Railway, Maligaon for the reasons stated below for favour of your kind information and necessary action.

That Madam, as per direction of DPS (HQ) Guwahati, I was working in the residence of DPS (HQ) since he joined in this circle. DPS (HQ) is having a school going child (Boy). During the month of January every year i.e from 13th January, the people of Assam irrespective of their caste, creed and religion observe Magh Bihu or Bhogali Bihu in their home or collectively in paddy fields with their family members and friends. As all the members of the family of every one meet once in a year in their own home. I also planned to join my family member in my home at native village away from Guwahati. When I wanted to leave for my home at native village during the festival, the wife of DPS(HQ) asked me not to go home as there would be problem for her to look her boy and also do the house hold work besides taking her boy to school and bring back after the school is over and there after taking to Taekwondo to and fro using Office Car. In reply, I request her to manage the task for the days of my leave and I left for home to join my family members during the festival.

On return from leave, I joined my usual duty at Holiday Home and attended the residence of DPS (HQ) for his direction to serve him. But he along with his wife scolded me and drove away from there. There after my transfer order was issued vide CO Memo No. Staff / CO/ GR.D / Misc/07 dated 5-6-09 stating the reason " in the interest of service" to O/O SSRM , Guwahati and on the same day, the SSRM Guwahati vide letter No. B-2/9/TFR/CH II dated 5-6-09 issued order posting me at Shillong Sorting which is in the state of Meghalaya as Group "D" , as I am promoted to the cadre of S.G. Duftry and working in C.O Guwahati for the last 26 years, it is not understood how I have been reverted to Gr."D" transferring me to the completely new establishment.

Later on , while the matter was taken up the Union with the Administration, the reply given to Union is that the transfer order has been revised and posted me at DA (P) Guwahati stating the reasons that as there are two excess post of Gr. "D" at C.O Guwahati, so he has

Attested
S.P. Upadhyay
Adwate

- 28 -

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been transferred to DA (P). It may be mentioned here that, there are about 20 nos of Gr. "C" and 15 nos of Gr "D" posts vacant in O/O DA(P) Guwahati for the last 10 years and no action was taken by C.O Guwahati to fill up the vacant post. Now, I being one of the senior most Gr. "D" officials, I have been transferred to fill up the vacancy. If the vacant posts are to be filled up, then junior officials should have been transferred. Moreover, if there is another surplus staff in C.O. Guwahati, then the remain surplus official should have also been transferred to O/O DA(P) Guwahati. But the concerned authority failed to obey the standing instruction to the Directorate and I have been targeted to be transferred to DA(P) for not doing the domestic works of DPS(HQ). Being in a low paid employee, we have to carry out the order of the senior officers to do the domestic works which is against the rules of the Department. To help the Officers, we do carry out some works even during the office hours or beyond officer hours when they are in need. While doing the domestic works of senior officer we are to look to the official works also. As I am engaged in Holiday Home, official from other circles including this circle do stay in Holiday Home for whom I had to take care in their need of help by cooking, marketing etc. More over, when I am unable to attend the domestic works of the senior officers due to taking leave on some certain unavoidable grounds, the officers are required to manage themselves for their day - to - day work.

That madam, due to non payment of my pay & allowance for last six months as stated earlier and not allowing drawal of money from GPF A/c by DPS(HQ). I am in financial hardship for which I am not able to pay the dues of my school going children who are not allowed to sit in the annual-examination of this year.

Now as per recommendation of the 6th CPC on classification of Post, officials having grade pay of Rs. 2800/-, Rs. 2400/-, Rs. 2000/-, Rs. 1900/- and Rs. 1800/- in the scale of pay of Rs. 5200- 20200 in pay band -1 has been classified as Gr "C" officials w.e.f. 9th April' 09. As such my transfer order issued by C.O Guwahati as Group "D" is quite illegal that should be cancelled immediately.

I, therefore fervently request your kind honour to look in to the case personally and take immediate action as deemed fit to cancel the transfer order and also issue instruction to the CPMG Guwahati to release the pay and allowances to me so that my family members are saved from starvation.

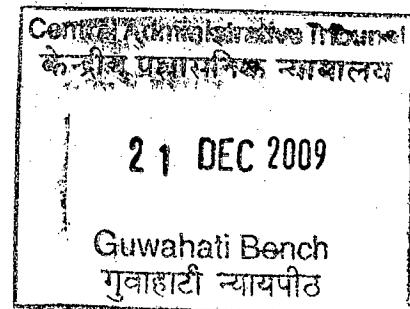
In anticipation of your kind consideration.

Yours faithfully,

Nripen Ch. Mahanta
(Nripen Ch. Mahanta)

Postal Enclave, Upper Strand Road,
Qtr No. 42 (T-II)
Panbazar, Guwahati - 781001

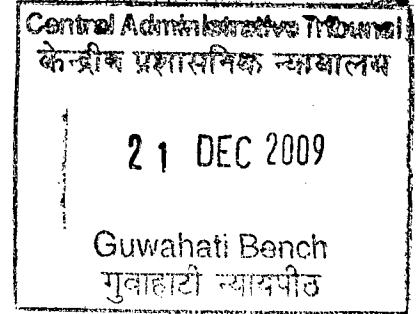
Attested
S. P. Bhattacharya
Admstr



- 29 -

Annexure - XIV

DEPARTMENT OF POSTS, INDIA
OFFICE OF THE DIRECTOR OF ACCOUNTS, (POSTAL)
GUWAHATI-781003



To,

Shri Nripen Ch. Mahanta
Ex-Caretaker/Holiday Home, Guwahati
Qtr. No.-42, Upper Strand Road,
Panbazar, Guwahati-1.

No.: Admb/3-554/09/1516

Dated at Guwahati, the 09-12-09

Sub.: Leave case of Shri Nripen Ch. Mahanta, ex-Caretaker, Holiday Home, Guwahati.

You are absenting yourself from duty on medical ground since long.

In view of above, I am directed to ask you to obtain 2nd medical opinion from the Supdt., GMCH, Guwahati as to whether you are fit for further service or not in view of your prolong illness.

2nd medical opinion may be obtained within 10 days and submit it to the undersigned for necessary action.

(J. K. Bhattacharjee)
Asstt. Chief Accounts Officer (Admn.)
O/o the DA(P), Ghy-3

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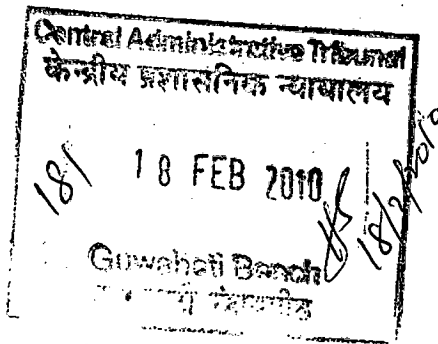
The Supdt., Guwahati Medical College Hospital, Guwahati-5. He is requested for medical check up of Shri Nripen Ch. Mahanta, in view of his prolong illness and to certify whether he is fit for service or not.

For Director of Accounts, (Postal)
Guwahati-3.

Attested
S. P. Bhattacharya
Admn. Officer

Filed by:-
The Respondent
nos. 1 to 5
Ranjit K. Basumatary
S. N. D. S.
Mangal D. S.
S. C. S. C.
C.A.T. 18/2/2010

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH



IN THE MATTER OF:

In O.A. No. 272/09

Sri Nripen Ch. Mahanta

.....Applicant

-VS.-

Union of India and others

.....Respondents

-AND-

IN THE MATTER OF:

Written statement on behalf of the
respondent nos. 1 to 5

(WRITTEN STATEMENT ON BEHALF OF RESPONDENT no. 1 to 5)

I, Sri. Ranjit K. Basumatary S/O H. Shabbaram Basumatary

aged about 34 years, presently working as the Assistant Director (Staff), O/o Chief Postmaster General, Assam Circle, Guwahati-1, do hereby solemnly state as follows:

1. That I am the Assistant Director (Staff), O/o Chief Postmaster General, Assam Circle. The copies of the aforesaid applications have been served upon the Respondents. I have gone through the same and understood the contents thereof. I have been authorized to file this written statement on behalf of the respondent nos. 1 to 5.

2. That I do not admit any of the averments except which are specifically admitted hereinafter and the same are deemed as denied.

3. That before traversing various paragraphs of the present Original Application, the answering respondent would like to place the brief facts of the case.

3. BRIEF FACTS OF THE CASE:

3.1 That the applicant was initially appointed in the postal department as peon in Group 'D' service w.e.f. 13.10.83. Subsequently, he was promoted as Duftry in the Regional Office, Guwahati vide order dated 02.12.92. He was further promoted to Selection Grade Duftry and posted as Care Taker/Holiday Home, Circle Office, Guwahati vide order dated 11.06.07. Both Caretaker and

R copy
18/2/10

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Ranjit Kr Bose

Duftry are of Group 'D' cadre/post which is modified as MSE (Multi Skilled Employee) after the implementation of the recommendation of the 6th Central Pay Commission (CPC).

3.2 That the applicant was promoted as Duftry and posted at the Regional Office, Guwahati in the year 1992. As per transfer order dated 02.12.92, the applicant was to have been under the establishment of Regional Office and not Circle Office however, he was allowed to work in the Circle Office without any transfer order till 2007 when he was subsequently promoted to S. G. Duftry and posted as Care Taker/Holiday Home, Circle Office, Guwahati.

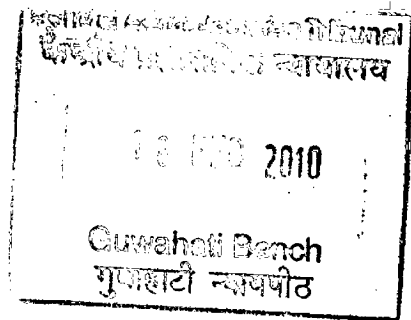
3.3 That at the time of joining of the applicant, the Regional Office was functioning at Guwahati, however, the Regional Office was shifted from Guwahati to Dibrugarh on 09.04.2001. At the time of shifting of Regional Office from Guwahati to Dibrugarh, the applicant alongwith some other officials was allowed to stay back in Guwahati, Circle Office as a matter of adjustment of the surplus officials in the Circle Office at Guwahati.

3.4 That on being rendered surplus in Circle Office, Guwahati, as per order dated 05.06.09, the APMG (Staff), in pursuance of the order of the competent authority, transferred the applicant to the RMS, 'GH' Division, Guwahati leaving upon the Senior Superintendent, RMS 'GH' Division to issue posting order. In turn the Senior Superintendent, RMS 'GH' Division posted the applicant to the unit of SRO/Shillong leaving upon the SRO, RMS 'GH' Division, Shillong to issue posting order.

3.5 That in fact, the sanctioned strength of Group 'D' staff under Circle Office, Guwahati is 17 against which 18 Group 'D' staff are working. Accordingly, the applicant had originally been posted to RMS 'GH' Division, Guwahati where there is acute shortage of Mail Man vide order dated 05.06.09. However, consequent on his representing against the transfer the above order was modified vide order dated 28.07.09 and the applicant was posted in the office of the Director of Accounts (P), Guwahati where also there is a shortage of Group 'D' staff. This was explained by a letter dated 19.11.09 from the CPMG, Assam Circle to the Deputy Director General (P).

3.6 That the applicant was relieved on 09.06.09 and due to non-joining at this new assigned post, the salary from June 2009 was not paid to the applicant.

3.7 That the applicant was termed as Caretaker while working in the Holiday Home. The posts of Caretaker and Duftry are under the Category-D. Subsequently, these posts are termed as Group 'C' (Multi Skilled Employee).



It is stated that initially the applicant was in Group 'D' cadre. Subsequently, this Group 'D' cadre has been re-designated as Multi-Skilled Employee (Group C as per recommendations of the 6th CPC). Therefore, no sinister motive is present when the respondents used the nomenclature "Group 'D'" in the transfer orders. The fact is that as the applicant was earlier holding the post of Group 'D', hence the same nomenclature was included against the Group 'D' vacant post. Whatever the nomenclature, ultimately the applicant or the other employees will have to go by the nomenclature of the 6th CPC i.e. the MSE. Hence, it is not relevant to raise any grievance as to why he was posted in the Group 'D' vacant post. The fact remains that the Group D and Group C staff are Multi Skilled Employee (MSE) as per 6th CPC. In view of this factual position, it is established that there was no malafide intention of the respondent authority.

Ranjit w. Basumaty

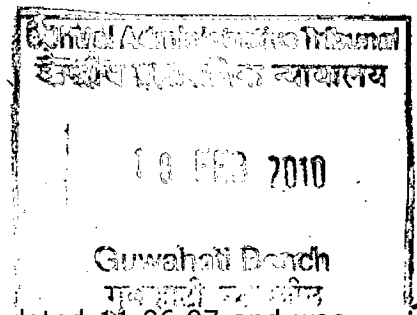
3.8 That transfer is an incident of service. The applicant being surplus in the Circle Office and having been served for more than 7 years in the Circle Office was transferred from Caretaker, Holiday Home, Meghdoot Bhawan, Guwahati and posted to RMS "GH" Division by the competent authority by following proper norms and vide modification order to Director of Accounts (P), Guwahati against the Group 'D' vacant post. As stated above, in view of the recommendation of the 6th CPC, Group D and Group C are re-designated as MSE. The applicant infact was holding the post of Group 'D' now redesignated as MSE before transfer, hence the nomenclature in the transfer order appeared as Group D. There is no malafide established on the part of the respondent authority inasmuch as there is not at all reversion or any reduction of rank. This is a simple transfer and in fact, the case of the applicant was considered and he was placed at Director of Account (P) by modifying the earlier order dated 05.06.09 vide modification order dated 28.07.09.

4. REPLY TO THE FACTS OF THE CASE:

4.1 That with regards to the statements made in paragraph 4.1 of the Original Application, the humble answering respondent has no comment to offer.

4.2 That with regards to the statements made in paragraph 4.2 of the Original Application, the humble answering respondent begs to offer no comment as being matter of records of the case.

4.3 That with regards to the statements made in paragraph 4.3 of the Original Application, the humble answering respondent begs to state that the applicant infact was promoted to the post of Duftry in the Regional Office, Guwahati under the Assam circle and not in the Circle Office on regular basis vide office Memo. No. Staff/2-4/88 dated 02.12.92. However, he was further



promoted to Selection Grade (S. G.) Duftry vide order dated 11.06.07 and was posted as Care-taker, Holiday Home, Guwahati.

4.4 That with regards to the statements made in paragraphs 4.4 of the Original Application, the humble answering respondent begs to state that initially the applicant was in Group D cadre and subsequently this Group D cadre has been re-designated as Multi Skilled Employee (Group C) as per recommendation of the 6th Central pay Commission.

4.5 That with regards to the statements made in paragraph 4.5 of the Original Application, the humble answering respondent has no comment to offer.

4.6 That with regards to the statements made in paragraph 4.6 of the Original Application, the humble answering respondent begs to state that the applicant, Sri Nripen Mahanta infact was the surplus Group 'D' official, now re-designated as Multi Skilled Employee (MSE) in view of the recommendation of the 6th CPC in the Regional Office at Guwahati under Assam Circle. At the time of shifting of Regional Office from Guwahati to Dibrugarh in the year April, 2001, the applicant alongwith some other officials was allowed to stay back in Circle Office, Guwahati as a matter of adjustment of the surplus officials in the Circle Office at Guwahati.

It is pertinent to mention here that the applicant after being surplus in the Regional Office was continued in the Circle office, Guwahati till 2007. Further, he was promoted to S. G. Duftry vide order dated 11.06.07 placing him as Care Taker/Holiday Home, Circle Office, Guwahati. The applicant as being surplus in the Circle Office was transferred to RMS "GH" Division vide office order dated 05.06.09. However, vide order dated 29.07.09 (Annexure XI to the O.A.), the said transfer order dated 05.06.09 was modified by transferring and posting the applicant as Group 'D' in the office of the Director of Accounts (P), Guwahati against vacant post.

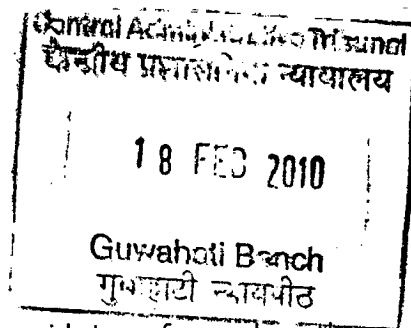
It is to be stated here that the Group D has been re-designated as Multi-Skilled Employees (Group C) as per recommendation of the 6th CPC.

Further, transfer order of the applicant dated 05.06.09 was passed by the APMG (Staff). APMG staff is the competent authority to transfer Group D from one Division/Unit of the Circle to another with the approval of the competent authority (i.e. the Director of Postal Services or the Chief Post Master General). Therefore his transfer was made by the appropriate authority.

Furthermore, the transfer being an incident of service, cannot be sought to be avoided by the applicant on the mere ground that vague phrases were used. However, in order to satisfy the Hon'ble Tribunal, it is necessary to point out that the transfer of the applicant to RMS 'GH' Division, Guwahati was due to his being rendered surplus in the Circle Office, Guwahati and therefore, the transfer of the applicant was made by the impugned transfer order dated

Ranjit Mr. Basumaty

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05.06.09. Thereafter, in partial modification of the said transfer order, the applicant was transferred to the office of the Director of Accounts(P), Guwahati vide the other impugned transfer order dated 28.07.09. The transfer orders were issued with the intention to redeploy surplus Group 'D' (now MSE) officials in the Circle Office and guidelines issued at the time of shifting of the Regional Office to Dibrugarh in April, 2001.

In the same way, he cannot seek to avoid his transfer by claiming that the Director of Postal Services, i.e. Respondent no. 6, has some "personal reasons" for transferring the applicant, more so as he has utterly failed to produce a single shred of evidence/proof of any ulterior/malicious intent on the part of the Director of Postal Services (Respondent no. 6). If anything, it may very well be the case that the applicant is seeking to pressurize the administrative machinery of the Department by naming the Director, Postal Service in person.

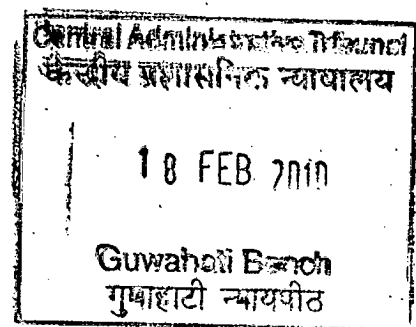
It is also necessary to humbly point out before the Hon'ble Tribunal that the applicant made a representation dated 04.12.09 directly to the Director General of Posts, that too by name, without any information to the office of Assistant Director (Vig.), thereby, bypassing the normal channels available to him. This act of the applicant is purely subversive to discipline in the department.

Moreover, the presence of the nomenclature "Group 'D'" in the transfer order dated 05.06.09 is merely because of the fact that the applicant was holding the post of Group 'D' originally. In actual fact, the applicant initially was in Group 'D' cadre and subsequently this Group 'D' cadre has been re-designated as Multi-Skilled Employee which is in Group C as per recommendation of 6th CPC recommendation.

4.7 That with regards to the statements made in paragraph 4.7 of the Original Application, the humble answering respondent begs to state that in each of the transfer order from the APMG (Staff) to Senior Superintendent, RMS 'GH' Division, Guwahati and from Senior Superintendent, RMS 'GH' Division, Guwahati to SRO, RMS 'GH' Division, Shillong, a request was made by the transferring authority to the transferee authority to issue posting order in respect of the applicant. Therefore, it would not be correct to state that the applicant was thrown under the disposal of the RMS with no designation, place/office of posting, etc. It was merely a matter of administrative convenience that the posting was to be made by the transferee authority at the exact place of posting rather than the transferring authority dictating where to post the applicant.

4.8 That with regards to the statements made in paragraph 4.8 of the Original Application, the humble answering respondent has no comment to offer as they are matters of the records of the case.

Ranjit Mr. Basumaty



4.9 That with regards to the statements made in paragraph 4.9 of the Original Application, the humble answering respondent begs to state that the applicant was relieved on 09.06.09 and due to the non-joining at his new assigned post, the salary from June 2009 was not paid to the applicant.

4.10 That with regards to the statements made in paragraph 4.10 of the Original Application, the humble answering respondent begs to state that as far as the authority to transfer the applicant goes, the APMG has been vested with the power to transfer Group 'D' from one Division/Unit of the Circle to another with order/approval of the competent authority.

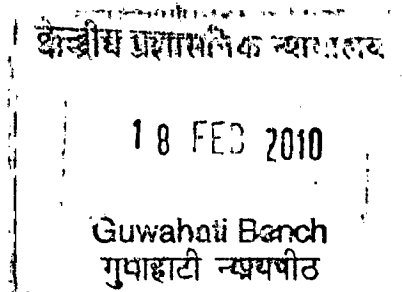
Furthermore, the applicant was termed as Caretaker while working in the Holiday Home. Caretaker, Duftry posts are under the Category-D, which was subsequently termed as Group 'C' (Multi Skilled Employee). Initially the applicant was in Group 'D' cadre and subsequently this Group 'D' cadre has been re-designated as Multi-Skilled Employee (Group C as per recommendations of the 6th CPC). Therefore, no sinister motive is present when the respondents used the nomenclature "Group 'D'" in the transfer orders. The fact is that as the applicant was earlier holding the post of Group 'D', hence the same nomenclature was included against the Group 'D' vacant post. Whatever the nomenclature, ultimately the applicant or the other employees will have to go by the nomenclature of the 6th CPC i.e. the MSE. Hence it is not relevant to raise any grievance as to why he was posted in the Group 'D' vacant post. The fact remains that the Group D and C are MSE as per 6th CPC. In view of this factual position, it is established that there was no malafide intention of the respondent authority.

4.11 That with regards to the statements made in paragraph 4.11 of the Original Application, the humble answering respondent begs to state the allegations made in the applicant's representation to the Director General, Department of Posts, New Delhi are absolutely false and baseless. It is stated that the sanctioned strength of Group 'D' staff under Circle Office, Guwahati is 17 against which 18 Group 'D' staff are working. Accordingly, the applicant had originally been posed to RMS 'GH' Division, Guwahati where there is acute shortage of Mail Man vide order dated 05.06.09. However, consequent on his representing against the transfer the above order was modified and the applicant was posted in the office of the D.A. (P), Guwahati where also there is a shortage of Group 'D'. This was explained by a letter dated 19.11.09 from the CPMG, Assam Circle to the Deputy Director General (P).

It is also to be noted that he had filed a mere representation making baseless allegation and that too by bypassing the normal channels of communications.

Mr. Basumtary
Ranjit

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Copy of the letter dated 19.11.09 is annexed herewith and marked as **Annexure-1**.

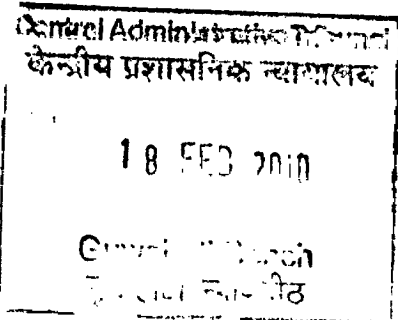
4.12 That with regards to the statements made in paragraph 4.12 of the Original Application, the humble answering respondent begs to state that the applicant's case is not one of reversion but being a mere matter of confusion of nomenclature as the 6th CPC's recommendation has led to a situation wherein the Group D post of the official has been re-designated as MSE (Group C). Furthermore, if the government is asked to provide jobs based on shyness of the candidates, then needless to say, the administration shall be crippled.

4.13 That with regards to the statements made in paragraph 4.13 of the Original Application, the humble answering respondent begs to state that there is not at all any illegality in the impugned transfer orders dated 05.06.09 and modification order dated 28.07.09 and also the allegations of malafide are mere allegations without any proof and in fact casts aspersions on the character of the respondent no. 6.

4.14 That with regards to the statements made in paragraph 4.14 of the Original Application, the humble answering respondent begs to state that there is in fact no reversion of the applicant.

4.15 That the instant original application has no merit at all and is liable to dismissed and set aside.

Rajit K. Barman

**VERIFICATION**

I, Sri Ranjit Mr. Basumatary s/o dt. Shobharam Basumatary,
 aged about 37 years, presently working as the Assistant Director (Staff), O/o
 Chief Postmaster General, Assam Circle, Guwahati-1 do hereby solemnly verify
 and state that the statements made in paragraphs
4.12 are true to my knowledge and
 belief, those made in paragraphs 1 to 3.8, 4.1 to 4.4, 4.6 to 4.11
 being matters of records of the case, are true to my information derived
 therefrom which I believe to be true and the rests are my humble submission
 before the Hon'ble Tribunal.

And I sign this verification on the 18th day of February, 2010 at Guwahati.

Ranjit Mr. Basumatary
 SIGNATURE

Monojit Kumar



मुख्य महाडाकपाल

CHIEF POSTMASTER GENERAL

÷ ANNEXURE - 1 ÷ - 38 -

9

অসম পৰিসংল
মেঘদূত भवन
गुवाहाटी-781 001
ASSAM CIRCLE
MEGHDOOT BHAWAN
GUWAHATI-781 001

15-4-11

Central Administrative Tribunal
D.O. No.Staff/CO/Gr.-D/Misc/07
Dated Guwahati, the 19th November, 2009

19 FEB 2010

Dear Shri Haque,

Guwahati Bench
শ্রী নবাবীঠ

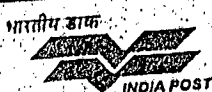
Please refer to your letter No.141-155/2009-SPB-II dated 08-10-2009 regarding cancellation of transfer order of Shri Nripen Ch. Mahanta, formerly care-taker, Holiday Home, Guwahati. The sanctioned strength of Group 'D' staff under circle office, Guwahati is 17 against which 18 Gr."D" staff are working. Accordingly, Shri Mahanta had originally been posted to RMS "GH" Division, Guwahati where there is acute shortage of MM vide order dated 5-6-2009. However, consequent on his representing against the transfer the above order was modified and Shri Mahanta was posted in the office of the D.A.(P), Guwahati where also there is a shortage of Group "D". Shri Mahanta, however, continues to be on leave on MC with effect from 9-6-2009.

With regards,

Yours sincerely,
[M. Kumar]

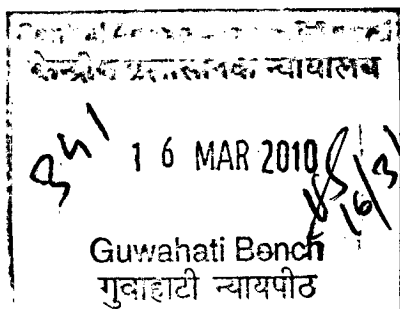
Shri Salim Haque,
Dy. Director General (P),
Department of Post,
Dak Bhawan, Sansad Marg,
New Delhi - 110 001.

etc



TELEPHONE : 0361 - 2603636 FAX : 0361 - 2544838

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH
GUWAHATI.



O. A. No. 272/2009

Shri N. C. Mahanta

- Vs -

Union of India & Ors.

*Filed by the Applicant
through Mr. N. C. Mahanta
Advocate
for Mr. N. C. Mahanta*

Rejoinder filed by the applicant in reply to the
W.S. of respondent No. 1 to 5.

1. That the applicant has gone through the Written Statement
of Respondent Nos. 1 to 5 and understood the contents thereof.

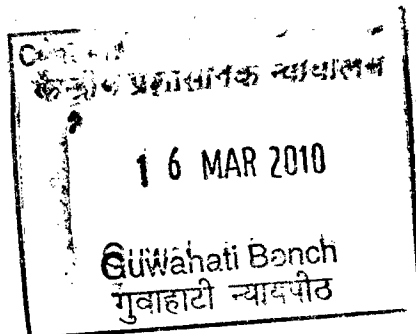
2. That in reply to statements in para 3.1 of the W.S. it
is stated that respondents are suppressing correct position
and treating as Group D employee which is against the welfare
policy of the Union of India, and anti labour policy of the
respondents and exploitation. The statement regarding cadre
and category is not correct and the applicant is not in Group
D cadre but in Group C cadre.

Duftry, S.G. Duftry and Jamadar are respectively
higher grade ~~of~~ and promotional grade of posts, from office
peon. After 6th Central Pay Commission the designation of
these posts was modified as MSE (Multiskilled Employee).
Accordingly, there is promotional posts of MSE employees,
Duftry, S.G. Duftry and Jamadar (Annexure I, II, III) in
Group C.

Contd....2

N. C. Mahanta

*Received copy
for Mrs. M. Das,
Sr. CGSC, CAT
P. U. Zambal
16.03.10*



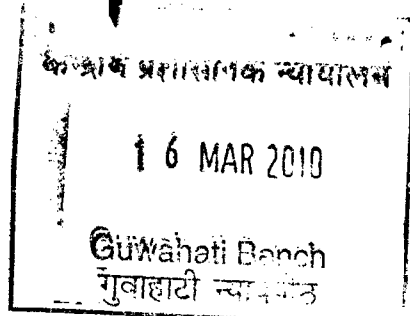
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3. That in reply to statements in para 3.2, 3.3 it is stated that on decentralization of Assam Circle, a Regional office was created in the year 1992 and the office was functioning in the same building "Meghdoot Bhawan", Guwahati. The applicant was promoted to the cadre of Duftry, RO/ Guwahati vide Circle Office Memo No. Staff 123-4/88 Dated 02.12.1992. But his service was utilized as Caretaker, Inspection Bungalow, Circle office, Guwahati by the office, in exigency of service. At the time of shifting of Regional office to Dibrugarh in April, 2001 as per guidelines issued senior officials of all cadre were allotted to Circle office and junior officials were allotted to Regional office. The applicant (Sri Nripen Chandra Mahanta) was a senior official in Duftry cadre and his name was allotted to Circle office, and subsequently, he was promoted to S.G. Duftry cadre and posted as caretaker Holiday Home, Circle Office, Guwahati (Annexure-III). He was formally posted in circle office, and was not a surplus employee. The allegation of being surplus is concocted and after thought. The correct position is narrated as follows :

The officials who were senior in cadre including the applicant were allotted to circle office. The officials allotted to the Regional office, Dibrugarh who were unwilling to move the Dibrugarh were allowed to work on deputation in the office of the Executive Engineer, Postal Civil Division, Guwahati, office of the Director of Accounts (Postal), Guwahati. These offices and RMS 'GH' Division are separate

Contd...3

Nripen Ch. Mahanta



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establishments. These officials were rendered surplus. Applicant has been formally promoted against S.G. Duftry post in circle office and is not and cannot be surplus.

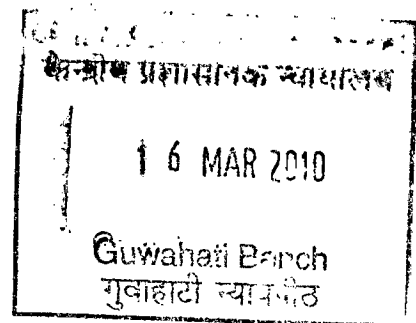
4. That in reply to statements in para 3.5 the applicant humbly states that the respondents are not giving correct and clear position and statements. There are 17 staff strength against which 18 staffs are working as per written statement - 1(one) staff surplus. The applicant is the incumbent of the post of S.G. Duftry in the establishment of circle office, Guwahati, (Annexure-II, III) Gr. C when a single official works against a single post, the applicant humbly submits he cannot be surplus. The official in the ^(Lower rank of MSE) ~~Gr. D~~ rank may in such circumstances be identified ^{as} ~~and~~ surplus and, for further action following rules for surplus employees.

5. That in reply to statements in para 3.6 of the W.S. it is stated that the applicant was relieved on 09.06.09 from the post of caretaker, Holiday Home, Guwahati and fell sick and proceeded on medical leave w.e.f. 09.06.09 due to his sudden illness. On the same day, he submitted his representation that he is not willing for his transfer to RMS 'GH' Division. The applicant made over the charge of the office of caretaker, Holiday Home. Since the applicant is a S.G. Duftry of Circle office, Guwahati, his transfer to any other separate establishment is not as per Rule. Ther fore, he submitted several humble representations to the authority but not a single reply was received by him. His duty pay for the period from 01.6.2009 to 08.6.2009 is yet to be paid. After order of Honourable CAT Guwahati the applicant submitted his joining charge report with medical certificate alongwith Hon'ble Tribunal's order on 29.12.2009, but he was allowed to join

Contd...4

Nrupen Ch Mahanta

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on 7.01.2010 (afternoon). Till date his duty pay and leave salary for the period from 01.6.2009 to 7.01.2010 is not paid.

6. That in reply to statements in para 3.7 the statement in para 2 above and other statement above are reiterated. Applicant humbly submits that transfer and posting from a higher grade to a lower grade not legal and valid and in the present case result of malafide intention. It is respectfully stated that there is no post of S.G. Duftry available at Director of Accounts (Postal), Guwahati, confirmed by CPMG/ Guwahati's letter dated 23.12.2009 (Annexure - XIV)

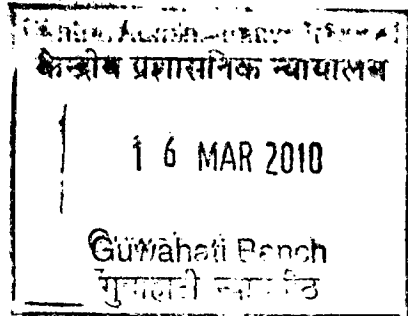
7. That in reply to the statements in para 3.8 it is stated that as explained in the above paras applicant is not at all surplus staff. He is working for more than 7 years in the post of caretaker, Holiday Home which is a promotional post. He may be posted in S.G. Duftry post of Circle office instead of transferring to other separate establishment. The applicant is in a cadre of S.G. Duftry which is two-stage higher rank of an MSE, his transfer and posting in a Group 'D' post is not just and fair and is not valid.

For the appraisal of the Hon'ble Tribunal the applicant furnishes below his position in the promotional cadre with sanctioned strength and incumbents from the Gradation list circulated and kept in office (with no copy to applicant) and as such applicant is not in a position to enclose.

✓ Post of Jamadar - No. of post - 1
Incumbant - Shri Damodar Sharma.

Contd....5

Nripin Ch Mahanta



-: 5 :-

Post of S.C. Duftry - No. of Post - 1.

Incumbant - Shri Nripen Chandra Mahanta
(The applicant)

Post of Duftry - No. of posts - 2.

Incumbant : 1. Shri R.C. Medhi

2. " Chandragupta Das.

Posts of MSE (Lower rank) No. of Posts -13, incumbants-14.

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8. That in reply to statements in para 4.1 to 4.6 of W.S. the above statements are reiterated. At the time of shifting of Regional office from Guwahati to Dibrugarh the name of applicant was allotted to circle office. Subsequently, he was promoted to S.G. Duftry of Circle Office, Guwahati. The initial post held by the applicant is not relevant in the context. The official at present is in the S.G. Duftry cadre which is higher rank than MSE or Group 'D' category. The statement of the respondent in para 4.6 is a concocted story. As already stated in foregoing paras the fact is that on decentralization of Assam Postal Circle, a Regional office was created in the year 1992 and the office was functioning in the same building "Meghdoot Bhawan", Guwahati. At that time the applicant was promoted to the cadre of Duftry, RO/Guwahati vide Circle office Memo No. staff /2-4/88 Dated 02.12.1992. But he was working as Caretaker, Inspection Bungalow, Circle office, Guwahati.

At the time of shifting of Regional office from Guwahati to Dibrugarh in April 2001, office staff of both circle office and Regional office were unwilling to move to Dibrugarh. Then as per guide line issued senior officials

Contd....6

Nripen ch. Mahanta

Central Administrative केन्द्रीय प्रशासनिक न्यायालय
16 MAR 70
Guwahati Bench गुवाहाटी न्यायपीठ

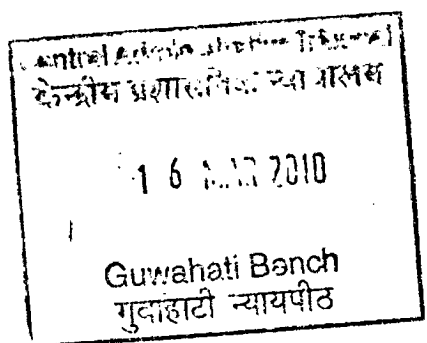
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of all cadre were allotted to circle office and junior officials were allotted to Regional office. The applicant one of the incumbents of two Duftry posts, was the senior one. He was, therefore, allotted to circle office. And the junior one Shri Deben Ch. Das was allotted to Regional office, Dibrugarh. ^{Amongst} The official, allotted to the Regional office, ^{those who were unwilling for} Dibrugarh, were rendered surplus. The surplus staff were transferred from circle office to work on deputation in the office of Executive Engineer, Postal Civil Division, Guwahati office of the Director of Accounts (Postal) Guwahati. As a senior Duftry the applicant was allotted in circle office, and working in the post of Duftry of circle office, Guwahati. Subsequently, he was promoted to S.G. Duftry cadre circle office and posted as caretaker, Holiday Home, circle office, Guwahati (Annexure-III). Applicant at present is the only incumbent of the post of S. G. Duftry in the establishment of circle office, Guwahati (Annexure II, III) when a single official works against a single post the official cannot be surplus. Even the surplus staff are not transferred to office of Director of Accounts (Postal), Guwahati and office of the Executive Engineer, Postal Civil Division, Guwahati. But they are allowed to work on deputation for the last 9 years. Still those employees are working on deputation at those offices in Guwahati. Even they were not transferred to their allotted Regional office, Dibrugarh. Malafide is the foundation of the transfer of the applicant.

9. That in reply to statement in para 4.7, 4.8, 4.9, 4.10, 4.11, 4.12, 4.13 and 4.14 the applicant reiterates

Contd... 7

Nrupen ch. Mahanta



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the statement in the above paragraphs as stated in the foregoing paras, the applicant is a non-transferrable staff and only incumbent of the post of S.G. Duftry in the establishment of circle office, Guwahati. His transfer order to RMS "GH" Division, then to SRO, Shillong is an irregularity on the part of the respondents.

As regards representations it is stated that the representation has been submitted to the Director General (Postal), New Delhi through proper channel. But the authority didnot forward my representation. It is also stated that the applicant had a represented to Directorate of Public grievances, and by letter dated 23.6.2009 he was advised by the said Directorate to address directly to the Department of Posts.

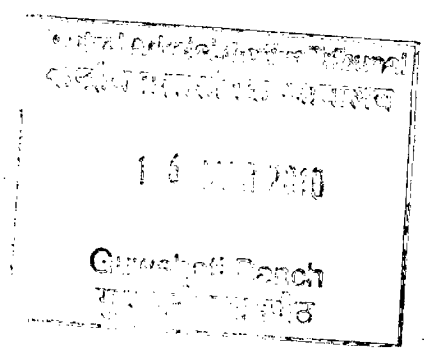
Copy of the letter dated 23.6.2009
is enclosed as Annexure-XIV.

10. That by order dated 7.1.2010 the respondents have posted him back as caretaker, Holiday Home, Guwahati in cancellation of the office order dated 28.7.2009, till finalisation of CAT case. This order also mentions the applicant as designate Group D. The applicant has submitted representation dated 25.1.2010 stating that he is S.G. Duftry and Group 'C' of circle office, Guwahati. This has not been denied.

Contd.....8

Nripem Ch Mahanta

-- 8 --

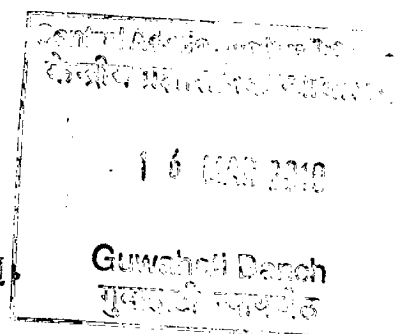


Copy of order dated 7.1.2010
and representation dated 25.1.2010
are enclosed as Annexure-XV, and
XVI respectively.

11. That in the circumstances explained above the
applicant humbly submits that the application deserves
to be allowed with costs.

vrupen ch. Mahanta

- 24 -
- 9 -
V E R I F I C A T I O N



I, Shri Nripen Chandra Mahanta, aged about years son of late Kashi Ram Mahanta resident of Panbazar Guwahati, do hereby verify that the statements in paras 1 to 11 are true to my knowledge and that I have not suppressed any material facts.

I sign this verification this day of March, 2010 at Guwahati.

Nripen ch. Mahanta
Signature.

- 10 -

- 65 -

RTI TOP PRIORITY

Annexure - XIV

20

भारतीय डाक विभाग

Department of Posts

कार्यालय मुख्य पोस्टमास्टर जनरल, अरुण परिमंडल, गुवाहाटी-781001

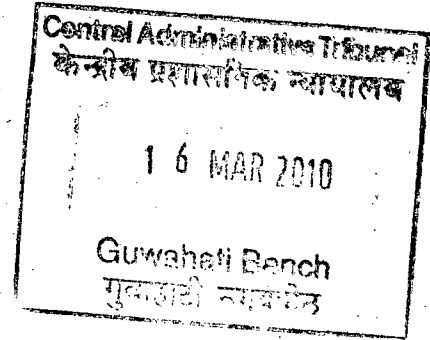
Office of the Chief Postmaster General, Assam Circle, Guwahati-781001

No: CPIO/RTI 4-70/09

Dated at Guwahati the 21st December, 2009.

To

Shri Nripen Chandra Mahanta,
Qtr. No. 42 (T-II),
Postal Enclave,
Panbazar,
Guwahati-781001.



Subject :- Information under RTI Act-2005.

Reference:- Your representation No. Nil dated 02.12.2009

With reference to your letter under reference on the above-cited subject, the requisite information is furnished below.

Informations:-

Sl. No.1: Transfer order has been issued in view of excess Group-D staff working in Circle Office, Guwahati.

Sl. No.2: Post was not transferred, only excess Group-D official was transferred.

Sl. No.3: No Group-D post has been abolished in Circle Office, Guwahati.

Sl. No.4: There is no post of SG Daftry available at Director of Accounts(Postal), Guwahati

Sl. No.5: All leave applications have been forwarded to the new office of posting.

Documents:-

Your request for photocopies of note-sheet of relevant file in respect of your two transfer orders dated 05.06.2009 & 28.07.2009 is rejected under Section 8(1)(g) of Right to Information Act-2005.

First appeal against this reply lies with Chief Postmaster General & Appellate Authority, Assam Circle, Guwahati-781001 within 30 (thirty) days from the date of receipt of this reply under Section 19(1) of Right to Information Act-2005.

Pawan
(Pawan Kumar Singh)

Director Postal Services (H.Q.) &
Central Public Information Officer,
Assam Circle, Guwahati-781001

Attested
20.12.09

- 11 - - 66 -

Government of India
Cabinet Secretariat
(Directorate of Public Grievances)
2nd Floor, Sardar Patel Bhawan
Sansad Marg, New Delhi - 110001
(Website: <http://dpg.gov.in>)

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Annexure - XV

23/6/2009

To

✓ Shri. Nripen Ch Mahanta
SG Duftry, (Caretaker, Holiday Home),
O/o Chief P.M.G.,
Assam Circle, Guwahati, Assam
781001

Dear Sir,

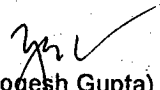
Ref. No. DPG/P/2009/00128(2)(PGNE)

Your representation dated 19/6/2009 has been transferred /forwarded to :-

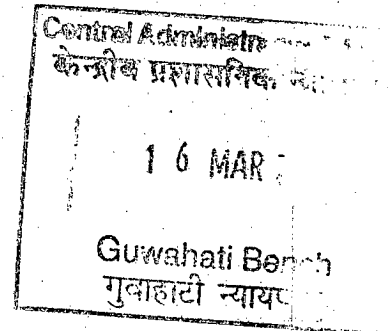
Secretary
Department of Posts
Dak Bhawan
New Delhi-110 001

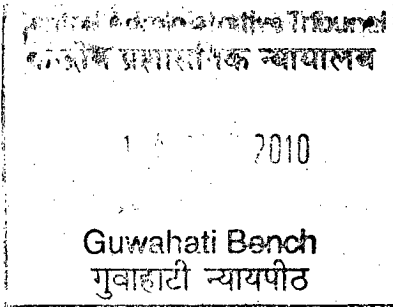
The above-mentioned Ministry/Department is being requested to take appropriate action thereon. Further correspondence in the matter may kindly be addressed directly to the said Ministry/Department.

Yours faithfully,


(Yogesh Gupta)
Under Secretary
Tel. : 011-23363733
Email : yogesh.g@nic.in

Admitted
Q-2
Sd/-





- 12 -

- 67 -

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Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

भारतीय डाक विभाग

Annexure - XVI

DEPARTMENT OF POSTS :: INDIA

कार्यालय, मुख्य पोस्टमास्टर जनरल, असम परिमंडल, गुवाहाटी-781001

OFFICE OF THE CHIEF POSTMASTER GENERAL::ASSAM CIRCLE :: GUWAHATI-781001


No.Staff/CO/GR-D/Misc/07

Dated at Guwahati the January 07, 2010

In pursuance of CAT, Guwahati order No.M.P. 165 of 2009 dated 24/12/2009 in O.A. No.272 of 2009 filed by Sri Nripen Ch. Mahanta VS U.O.I, the following orders are issued with immediate effect.

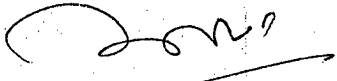
1. Sri Nripen ch. Mahanta, Caretaker, Holiday Home, Guwahati and designated Group-D now MSE of the O/o Director of Accounts(P), Guwahati is posted back as Caretaker, Holiday Home, Guwahati in cancellation of this office letter of even No. dated 28/7/2009 till finalization of CAT case.
2. Sri Moneswar Haloi, Caretaker, Holiday Home, Guwahati is posted as MSE, Circle Office, Guwahati.

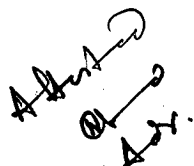
Relevant charge report to be exchanged.


(R. K. Basumatary)
Asstt. Director (Staff)
O/o the Chief Postmaster General
Assam Circle, Guwahati - 781 001

Copy to :-

1. The officials concerned.
2. The Asstt. Director(WLF), Circle Office, Guwahati - He is directed to prepare stock list of all items available in Holiday Home, Guwahati, while making of list, make, year of manufacture/purchase, quantity, capacity etc. are to be noted. All items are to be handed over to the official i.e. Sri N. C. Mahanta under acknowledgement.
3. The Asstt. Director(Legal), Circle Office, Guwahati.
4. The Asstt. Director(Vig), Circle Office, Guwahati. Extract order in Note Sheet is enclosed herewith for necessary action.
5. The Asstt. Director(A/Cs), Circle Office, Guwahati.
6. The AAO(Bgt), Circle Office, Guwahati.
7. The Office Supdt., Circle Office, Guwahati.
8. The SSRM, Guwahati.
9. The Director of Accounts(P), Guwahati.
10. P. F. of the official.


For Chief Postmaster General
Assam Circle, Guwahati-781 001

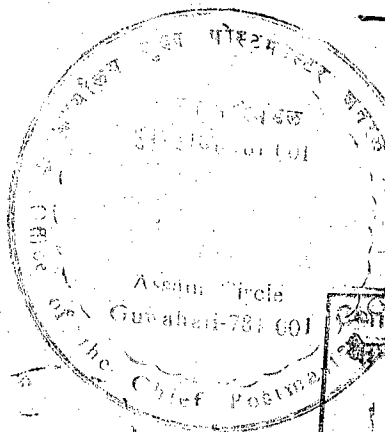


- 13 -

- 68 -

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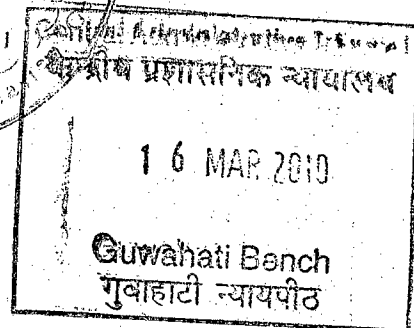
To
The Asstt Director (Staff)
O/O the Chief Postmaster General,
Assam Circle, Guwahati-781001.



Annexure - XVII

Dated at Guwahati the 25th January, 2010.

Ref :- CO Memo no. Staff/ CO/GR-D /Misc/07 dtd 07-01-2010.



Sir,

Most respectfully I like to draw your kind attention to the irregularity in the above mentioned memo dtd 07-01-2010 regarding my posting as Caretaker, Holiday Home, Guwahati. I am not designated Group 'D' or MSE of the office of the Director of Accounts(P), Guwahati.

I am S.G Duftry and Group 'C' of Circle Office, Guwahati.
This is for favour of your kind information.

Yours faithfully,

Nripen ch Mahanta

(NRIPEN CH MAHANTA)

S. G Duftry & Caretaker of Postal Holiday Home, Guwahati-781001.

*Admtd
a
Adm.*

भारतीय डाक विभाग
Department of Posts

कार्यालय मुख्य पोस्टमास्टर जनरल, असम परिमंडल, गुवाहाटी-781001

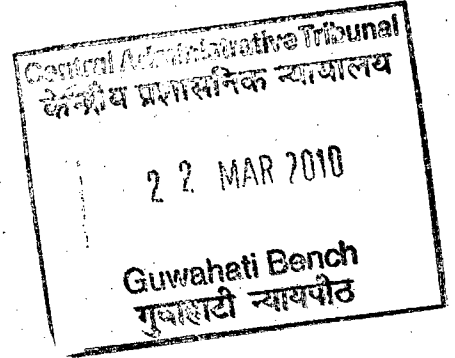
Office of the Chief Postmaster General, Assam Circle, Guwahati-781001

No: CPIO/RTI A-70/09

Dated at Guwahati the 23rd December, 2009.

To

Shri Nripen Chandra Mahanta,
Qtr. No. 42 (T-II),
Postal Enclave,
Panbazar,
Guwahati-781001.



Subject :- Information under RTI Act.-2005.

Reference:- Your representation No. Nil dated 02.12.2009

With reference to your letter under reference on the above-cited subject, the requisite information is furnished below.

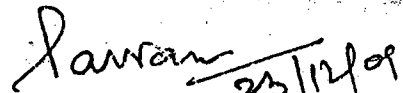
Informations:-

- Sl. No.1: Transfer order has been issued in view of excess Group-D staff working in Circle Office, Guwahati.
- Sl. No.2: Post was not transferred, only excess Group-D official was transferred.
- Sl. No.3: No Group-D post has been abolished in Circle Office, Guwahati.
- Sl. No.4: There is no post of SG Daftry available at Director of Accounts(Postal), Guwahati
- Sl. No.5: All leave applications have been forwarded to the new office of posting.

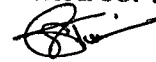
Documents:-

Your request for photocopies of note-sheet of relevant file in respect of your two transfer orders dated 05.06.2009 & 28.07.2009 is rejected under Section 8(1)(g) of Right to Information Act-2005.

First appeal against this reply lies with Chief Postmaster General & Appellate Authority, Assam Circle, Guwahati-781001 within 30 (thirty) days from the date of receipt of this reply under Section 19(1) of Right to Information Act-2005.


(Pawan Kumar Singh)
Director Postal Services (H.Q.) &
Central Public Information Officer,
Assam Circle, Guwahati-781001

CERTIFIED TO BE TRUE COPY


ADVOCATE

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
06 APR 2010
Guwahati Bench
गुवाहाटी न्यायपीठ

In O.A. No. 272/09

Sri N. C. Mahanta

.....Applicants

-VS-

Union of India & Ors.

.....Respondents

-AND-

IN THE MATTER OF:

Reply on behalf of the Respondents to the Rejoinder filed by the Applicants.

(REPLY ON BEHALF OF THE RESPONDENTS TO THE REJOINDER)

I, Sri R. K. Basumatary S/o Late Shabharam Basumatary, aged about 54 years, presently working as the Assistant Director, Vigilance/Staff, O/o the Chief Postmaster General, Assam Circle, Guwahati-1, do hereby solemnly affirm and state as follows:-

1. That I am presently working as the Assistant Director, Vigilance/Staff, O/o the Chief Postmaster General, Assam Circle, Guwahati-1. In the above Original Application, I have been impleaded as Party respondent No. 2. The copy of the Rejoinder to the Written Statement in the above Original Application has been served upon the counsel to the Respondents. I have gone through the same and have understood the contents thereof. I have been authorized to file this Reply to the Rejoinder on behalf of Respondent nos. 1 to 5.

2. That I do not admit any of the averments except which are specifically admitted hereinafter and the same are deemed as denied.

- 3.** That with regard to the statements made in paragraph 1 of the Rejoinder the humble answering respondent has nothing to make comment on it.

4. That with regard to the statements made in paragraph 2 of the Rejoinder the humble answering respondent begs to state that it is absolutely false that the Respondent Authority suppressed the position. It is stated that the

Copy of the
reply to binder.
~~Box~~
6/4/2010

Raigat
 — Through
 Mr. Basumolay
 May 1948
 Secy C. B. S. C.
 Assistant Director (Staff / Vig)
 O/o the Chief Postmaster General,
 Assam Circle, Guwahati-781 001
 C.A.T.
 6/4/2010
 Filed by: '08
 The Respondent on:
 1 to 5

Duftry, S.G. Duftry and Jamadar are the promotional status within the same cadre i.e. Group "D". Promotion from Peon to Duftry and Jamadar does not change the basic cadre of Group "D". Consequent to implementation of 6th Central Pay Commission recommendation the nomenclature of Group "D" has been changed as Multi Skilled Employee (MSE in short).

5. That with regard to the statements made in paragraph 3 of the Rejoinder the humble answering respondent begs to state that the applicant Sri Nripen Mahanta was promoted as Duftry and posted in RO, Guwahati in the year 1992. On creation of Dibrugarh Region, HQtr at Guwahati, the applicant was allotted to Circle Office, Guwahati under redistribution plan of staff issued vide No-Staff/2-7/98 Dated at Guwahati the 31.08.98. Further it is stated that no such guide line was issued regarding senior officials of any cadre having been allotted to Circle Office and Junior officials to Regional Office.

That RMS "GH" Division is one of the Sub-ordinate units of the Assam Circle with HQtrs at Guwahati. The Head of the circle is empowered to transfer one official from one unit to another in the interest of public service and administrative expediency.

A copy of the letter dated 31.08.98 is annexed herewith and marked as Annexure A.

6. That with regard to the statements made in paragraph 4 of the Rejoinder, the humble answering Respondent begs to state that prior to the recommendation of 6th CPC, posts such as Duftry, SG Duftry etc. were under the category of Group "D" which has been renamed as Multi Skilled Employee (MSE), (Group. C) as per recommendation of 6th CPC. Since there is surplus in the working strength of Group "D" (now MSE), the applicant was transferred to other sub-ordinate unit for adjustment without changing his pay and status.

7. That with regard to the statements made in paragraph 5 of the Rejoinder, the humble answering Respondent reiterates and reaffirms the statement made in paragraph 3.6 of the Written Statement filed by the respondents. Further it is stated that the transfer was made in the interest of public service and for adjustment of surplus staff in circle office.

8. That with regard to the statements made in paragraphs 6 and 7 of the Rejoinder, the humble answering Respondent begs to state that in the instant case there is no such transfer and posting from a higher grade to a lower grade as alleged by the applicant. It is stated that prior to the implementation of 6th CPC recommendation SG Duftry was a status name within the Group "D" Cadre now it is redesignated as Multi Skilled Employee. It is stated thea vide

Ranjit Kr. Bannoley
Assistant Director (Staff / Vig)
O/o the Chief Postmaster General,
Assam Circle Guwahati-781 001

order dated 11.06.07 the applicant was promoted to SG Duftry and posted as Care Taker/Holiday Home, Circle Office, Guwahati

It is pertinent to mention here that vide order dated 05.06.09 the applicant was transferred to the RMS, 'Gh' Division, Guwahati from the post of Care Taker/Holiday Home, Circle Office, Guwahati. However the said transfer order was modified on his representation and then posted as Group "D", Office of the Director of Accounts (P), Guwahati against vacant post. Hence, there is no such malafide intension on the part of the respondent authority.

It is further stated that in view of the recommendation of 6th CPC Group "C" and Group "D" are redesignated as Multi Skilled Employee. The applicant infact was holding the post of Group "D" before transfer; hence the nomenclature in the transfer order appeared as Group "D". There is no malafide established on the part of the respondent authority in as much as there is not at all reversion or any reduction of rank.

Further the SG Duftry is not higher rank of Multi Skilled Employee.

9. That with regard to the statements made in paragraphs 8 of the Rejoinder, the humble answering Respondent reiterates and reaffirms the statements made in para 4.4 to 4.6 of the written statement filed by the respondent.

Further it is stated that as per recommendation of VI CPC the Group 'D' has been redesignated as Multi Skilled Employee (Group 'C'). Hence, there is no question of higher rank among MSE or erstwhile Group 'D'.

Further it is stated that there is no such provision for allotting senior person in the Circle Office on transfer and posting policy of the dept. as on date.

10. That with regard to the statements made in paragraphs 9 of the Rejoinder, the humble answering Respondent begs to reiterates and reaffirms the statements made in para 4.7 to 4.9 of the written statement filed by the respondent. He, however, stated that the service of the applicant is transferable one between Circle Office and Regional Office, however, he liable to be transferred to other units/wings in the interest of service.

Further it is stated that it is not correct that the applicant represented his case to the Director General of Posts through proper channel as much as no such representation has been received by the office of the CPMG, Circle Office. Further the Annexure 14 as mentioned in the said para 9 by the applicant is not a representation containing his grievance as prayed for but the same is on the subject of information required under RTI Act, 2005 which was very much replied was made by the Respondent no. 2 vide his letter dated 23.12.09.

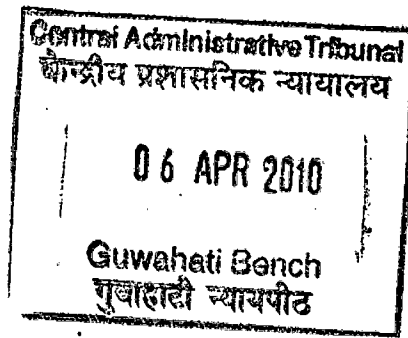
Ranjit K. Barman
Assistant Director (Staff / Vig)
O/o the Chief Postmaster General,
Assam Circle, Guwahati-781 001

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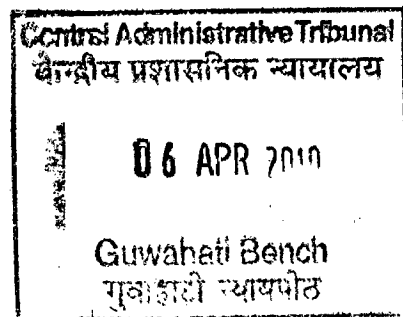
11. That with regard to the statements made in paragraphs 10 of the Rejoinder, the humble answering Respondent begs to state that the order dated 07.01.1010 (Annexure 16 to Rejoinder) contains the designation Group D as now MSE (Multi Skilled Employee). Further it is stated that the Jamadar, Caretaker, Peon, Duftry and SG Duftry, all these posts are designated as Group D prior to recommendation of 6th CPC which is now called as Multi Skilled Employee (Group C).

12. That the applicant could not make out a good case and the instant applicant is liable to be dismissed.



1
Ranjit Kumar Basumaty
Assistant Director (Staff / Vig)
O/o the Chief Postmaster General,
Assam Circle, Guwahati-781 001

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VERIFICATION

I, Sri R. K. Basumatary S/o Late Shabharam Basumatary, aged about 54 years, presently working as the Assistant Director, Vigilance/Staff, O/o the Chief Postmaster General, Assam Circle, Guwahati-1, do hereby verify as follows-

That the statements made in paragraphs 1, 2, 3, 4, 7 and 9 are true to my knowledge and belief, those made in paragraphs 5, 6, 8, 10 and 11 being matters of record are true to my information derived therefrom and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material fact before the Hon'ble Tribunal.

And I sign this verification on the 6th day of April, 2010 at Guwahati.

Ranjit K. Basumatary
SIGNATURE
Assistant Director (Staff / Vig)
O/o the Chief Postmaster General
Assam Circle, Guwahati-781 001

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Annexure-I

DEPARTMENT OF POSTS:: INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL, ASSAM CIRCLE
MECHHOOT BHAWAN, GUWAHATI-1.

No. Staff/2-7/98

Dated at Guwahati the 31-08-98.

In partial modification of this office letter of even No. dated 27-8-98, following transfer and posting of Gr. 'D' are made to have effect from 01-09-98 to function O/O The Chief Postmaster General, Assam Circle, Guwahati and O/O The Postmaster General, Assam Region, Dibrugarh at Guwahati separately..

The Office Supdt., Circle Office, Guwahati will take necessary action to distribute Group 'D' as deem fit proper As regards, Group 'D' R.O./Dibrugarh at Guwahati, SS-I, RO/GHY. will take necessary action.

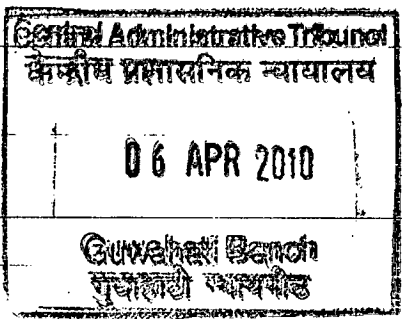
In this connection, C.O./GHY. No.Est/24-13/88(III) dtd. 29-7-98 may be referred to.

Encl: As above.

(I. PANGERNUNGSANG)
Asstt. Postmaster General (Staff)
For Chief postmaster General
Assam Circle, Guwahati-781001.

Copy for information and necessary action.

1. All Group Officers of C.O./R.O.
2. Sr. P.A./P.A. to CPMG/PMG/DPS.
3. O.S./S.S., C.O./R.O., Guwahati.



For Chief Postmaster General
Assam Circle, Guwahati-781001.

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केन्द्रीय प्रशासनिक न्यायालय
06 APR 2010
Guwahati Bench
गुवाहाटी न्यायपीठ

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Group 'D'

C.O. = 16 + LR = 1 = 17

R.O. = 11 + LR=1 = 12

1. Chitramal Talukdar, Jamadar
2. S. K. Bhattacharjee, Jamadar
3. Damodar Sarma, S.G. Duftry,
& Care-taker.
4. Kanak Sarma, Duftry
5. N. Mahanta, Duftry
6. D.C. Das, Duftry
7. R.C. Medhi
8. D.P. Upadhyaya
9. C. G. Das
10. M. Ali
11. Mrs. Hashilata Das
12. H. Kalita
13. Harez Ali
14. P. C. Bora
15. Rameswar Das
16. D.K. Barua (LR)
17. Sweeper (Vacant)

1. S. P. Mazumdar
2. B. C. Das.
3. R. Rava.
4. B. Deka.
5. D. Das.
6. M. Haloi.
7. R. Yadav.
8. T.K. Baishya, (RO/DR).
9. N.K. Das, (RO/DR)
10. Sweeper (Vacant)
11. Group 'D' (Vacant)
12. Group 'D' (Vacant)