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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 23/95.....

R.A/C.P No......

E.P/M.A No......

1. Orders Sheet..O.A-23/95.....Pg...1.....to...6.....
2. Judgment/Order dtd.08/9/95.....Pg...1.....to...8...Disposed
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A.....23/95.....Pg...1.....to...31.....
5. E.P/M.P.....NIL.....Pg.....to.....
6. R.A/C.P.....NIL.....Pg.....to.....
7. W.S.....Pg...1.....to...26.....
8. Rejoinder.....Pg...1.....to...8.....
9. Reply.....NIL.....Pg.....to.....
10. Any other Papers.....NIL.....Pg.....to.....
11. Memo of Appearance.....NIL.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendement Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

Additional W.S.-pg-1 to 10

SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI -5.

ORIGINAL APPLICATION NO.

23/95

MISC PETITION NO.

(O.A.NO.

REVIEW APPLICATION NO.

(O.A.NO.

CONT. PETITION NO.

(O.A. NO.

Dr. S.P.A. Simalraj

APPLICANT(S)

VERSUS

Union of India

RESPONDENT(S)

Mr. B.K.Sharma

Mr. M.K.Choudhury

Advocate for the
Applicant.

Mr. S. Sarma

Advocate for the
Respondents

Office Note

Court Orders

24.2.95

This application is in
form and within time.

C. F. of Rs. 50/-

deposited vide

IPO/BX No. 803682549

Dated 27.1.95

Mr B.K.Sharma, the learned
counsel for the applicant moves
this application. The grievance of
the applicant in this application is
that, he should be transferred to any
of his choice places after comple-
tion of his tenure posting in North
Eastern Region. The learned Addl.
C.G.S.C Mr A.K.Choudhury is present
for the respondents.

Issue notice on the respondents
by Registered Post to show cause as
to why this application should not
be admitted and reliefs sought for
be allowed.

List on 31.3.1995 for show
cause and consideration of admission.

The applicant have submitted a
number of representations seeking
for his transfer to any of the
places of his choice mentioned in
Annexures 7,8 and 9 of his appli-
cation. The fact that the applicant
had submitted this application to
the Tribunal shall not be a bar

2
O.A. 23/95

OFFICE NOTE

COURT ORDERS

24.2.95

for the respondents to dispose of the representations submitted by the applicant on merits taking into consideration the office memorandum No.20014/3/83.E.IV dated 14.12.83 and memorandum No.28034/7/86-Estt (A) dated 3.4.86 Annexures 4 and 5 respectively.

Copy of this order may be furnished to the counsel of the parties.

24.2.95
By order

pg

[Signature]
Member

31.3.95

*Requisites are yet to be received.
order to counsel issued vide no. 1052-53 d. 7.3.95*

Learned Addl.C.G.S.C Mr A.K. Choudhury prays for further six weeks time to file show cause. Mr B.K.Sharma is present for the applicant.

List on 5.5.1995 for show cause and consideration of admission.

[Signature]
Member

pg

Requisites are received on 6.3.95 & issued vide no. 1085-87 d. 8.3.95

[Signature]
5.5.95

Learned Addl.C.G.S.C Mr A.K. Choudhury prays for further adjournment for submitting show cause. Mr S.Sarma for the applicant has no objection.

Adjourned to 16.6.1995 for disposal of show cause and consideration of admission.

[Signature]
Member

28.3.95

Memo of appearance has been filed by Mr. A.K. Chaudhary, Addl. S.G. &c.

Notice duly served on R. no. 1, 2 & 3

pg

[Signature]
27/4/95

OFFICE NOTE	DATE	COURT'S ORDER
	16.6.95	<p>Learned Addl. C.G.S.C., Mr A.K. Choudhury submits that the show cause is under preparation and he seeks for four weeks time for submission of the same. Considered his prayer. Time is allowed for submission of show cause upto 7.7.95. Copy of the show cause to be furnished to the counsel for the applicant.</p> <p>List on 14.7.95 for consideration of show cause and admission.</p> <p style="text-align: right;"><i>[Signature]</i> Member</p>
<p>Show cause yet to be received is furnished to applicant.</p> <p><i>[Signature]</i> 2/7/95</p>		
	11.7.95	<p>Leave note of Mr A.K.Choudhury, Addl. C.G.S.C.</p> <p>List on 14.7.95 as originally fixed and as requested by him.</p> <p style="text-align: right;"><i>[Signature]</i> Member</p>
<p><u>12-7-95</u></p> <p>Written Statement filed by Respts. at Page - 32-57 (only one copy placed in file 'B')</p> <p><u>31.7.95</u></p> <p>Additional legends to the X/S. has been filed by the Respondents.</p> <p style="text-align: right;"><i>[Signature]</i></p>		

nkm

[Signature]

pg

4

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O.A. 23/95

OFFICE NOTE

DATE

COURT'S ORDER

14.7.95

Learned Addl.C.G.S.C Mr A.K. Choudhury has submitted the written statement on 12.7.95 which was served on the counsel for the applicant. Mr B.K.Sharma also submitted rejoinder today with copy to learned Addl.C.G. S.C today.

The applicant is a Sr.Scientist of the ICAR. He has been transferred from Ootacamund to Shillong and he joined in Shillong on 17.4.93. He is a scientist who has specialisation in Potato research. After he joined in Shillong he had submitted representations ~~xxxxxx~~ starting from 16.9.93 and ended with representation dated 29.10.94 seeking for a transfer to one of the places of his choice, namely, Coimbatore, Veda sandhur, Wellington, Tiruchirapalli all in Tamilnadu. His claim is based on the office Memorandum No.20014/3/83-E(IV) dated 14.12.1983 and No.28034/7/86-Estt(A) dated 3.4.86. In the written statement the respondents have stated inter alia that his representations have been considered by respondent No.2 but could not be accepted as the applicant has not served in remote and difficult areas for a sufficiently long time. It has also been stated that he has been informed about the decision. Further they submitted that he was transferred to Shillong on public interest and in view of the exigency of work and the facts that his projects ~~xx~~ are pending completion, the applicant cannot be

contd....


14.7.95

transferred out. They also state that there is no discrimination as compared to other scientists because they could not be transferred as their works in the places of their posting require them.

In the rejoinder the applicant has denied the contentions of the respondents. In particular he has denied that his representations have ~~being~~ been considered. He states that he has not received any intimation that his representations were rejected.

Heard counsels of both sides on admission. Application is admitted. Learned Addl.C.G.S.C has submitted that show cause submitted today may be treated as written statement and no fresh written statement is required to be submitted. The written statement has already been served on the applicant. The case is ready for hearing.

List on 11.8.1995 for hearing.


Member

Pg

11.8.95

Mr B.K. Sharma for the applicant.
Mr A.K. Choudhury, Addl. C.G.S.C. for the respondents.

Submissions of both sides concluded. Judgment reserved.


Member

nkm

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O.A. 23/95

29.11.95

copy of Judg./Order dtd.
8.9.95 issued to
att the counsel of
the parties vide
O/N.O. 5123-24
Dtd. 1.12.95.

gk.

8.9.95

Mr B.K.Sharma for the applicant.

Order pronounced. Application is
disposed of in terms of the direction
contained in the order. No order as to
costs.

60

Member

pg

h/e

cb

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI-5.

O.A. NO. 23 of 1995.
X.X. XX.

DATE OF DECISION 8-9-1995.

Dr S.F.A. Amalraj.

(PETITIONER(S))

Shri B.K.Sharma.

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India & Ors.

RESPONDENT (S)

Shri A.K.Choudhury, Addl.C.G.S.C.

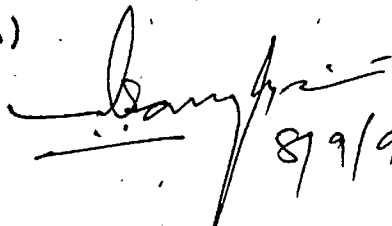
ADVOCATE FOR THE
RESPONDENT (S)

THE HON'BLE SHRI G.L.SANGLYINE, MEMBER (ADMINISTRATIVE)

~~THE HON'BLE~~

1. Whether Reporters of local papers may be allowed to see the Judgment ? yes,
 2. To be referred to the Reporter or not ?
 3. Whether their Lordships wish to see the fair copy of the judgment ?
 4. Whether the Judgment is to be circulated to the other Benches ?
- } NO.

Judgment delivered by Hon'ble MEMBER (A)


8/9/95

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 23 of 1995.

Date of Order : This the 8th Day of September, 1995.

Shri G.L. Sanglyine, Member (Administrative)

Dr S.F.A. Amalraj,
Senior Scientist,
Central Potato Research Station under
ICAR, Shillong, Meghalaya.

. . . Applicant.

By Advocate Shri B.K. Sharma.

- versus -

1. The Union of India,
represented by the Secretary to the
Government of India,
Ministry of Agriculture,
New Delhi.

2. The Director General,
Indian Council of Agricultural Research,
Krishi Bhawan, New Delhi.

3. The Director,
Central Potato Research Institute,
Himachal Pradesh, Simla-171001.

. . . Respondents.

By Advocate Shri A.K. Choudhury, Addl. C.G.S.C.

O R D E R

G.L. SANGLYINE, MEMBER (A)

In this application the applicant seeks a direction to the respondents to transfer him to one of ^{the} his places of his choice. These places are Central Institute for Cotton Research, Regional Centre, Coimbatore, Central Tobacco Research Station, Vedsandhur, Directorate of Wheat Research, Regional Research Station, Wellington, Coonnoor, National Research Centre for Banana, Tiruchirapalli and Sugarcane Breeding Institute, Coimbatore and they are all in the State of Tamilnadu.

2. The applicant is a senior Scientist under the Indian Council of Agricultural Research. He is presently working on

the project of breeding late blithe of potatoes and other important projects in the Central Potato Research Station, Shillong under the ICAR. He was transferred to Shillong from Ootacamund vide order No.F.7/Estt-1/Vol.V/92/4641 dated 12.3.1992, Annexure-1 to this application. He however submitted an application under Section 19 of the Administrative Tribunals Act 1985 before the Hon'ble Central Administrative Tribunal, Madras Bench against this transfer order and had joined in Shillong only on 17.4.1993 after his aforesaid O.A. was disposed of on 13.7.1992. From 16.9.93 onwards he repeatedly submitted representations for his transfer to one of ^{the} ~~his~~ places of his choice in Tamil Nadu. His request for transfer was based on two office Memoranda, namely, No.20014/3/83-E(IV) dated 14.12.83 and No.20034/7/86-Estt.(A) dated 3.4.1986. The first mentioned O.M. provides a fixed tenure of posting in the North Eastern Region of 3 years at a time for officers with service of 10 years or less and of 2 years at a time for officers with more than ten years of service. It further provides that ^{thereafter} ~~these~~ officers may be considered for posting at a station of their choice as far as possible. The second O.M. conveys that it is the policy of the Government that as far as possible and within the constraints of administrative feasibility and convenience husband and wife should be posted at the same station. It is the contention of the applicant that within the purview of these office Memoranda his request for transfer from Shillong to any of ^{the} ~~his~~ places of his choice is justified. It is also his contention that the respondents cannot deny him a posting in any of the places of his choice on the ground that it is not administratively possible to do so as there are vacancies in those places suitable for him. He also alleges that the

2
8/9/95-

respondents have discriminated against him as some of the employees were transferred from North Eastern Region to the places of their respective choice but he was not. Further, some of the scientists working in places other than North Eastern Region as mentioned in this application were not transferred at all whereas he was transferred.

3. The respondents have contested the claims of the applicant. They have submitted their written statement. In addition, the learned Additional C.G.S.C ~~has~~ Shri A.K.Choudhury submitted that the applicant has no right to be transferred and posted to any particular place of his choice. According to him, it is not for the applicant to say where he should be posted but it is for the competent authority concerned of the respondents to decide where and when to deploy the applicant according to the necessity of work. In the case of the applicant, he pointed out, his representation for posting to a place of his choice had been considered by the competent authority and it was not found possible to accommodate the applicant as he has not worked in remote and difficult area for long time. Moreover, the applicant is presently working in specific and important projects which have to be completed. Shri Choudhury further pointed out that the applicant had made representation for posting out of North Eastern Region even before he had completed his tenure posting in the Region. Shri B.K.Sharma, the learned counsel for the applicant, submitted that there is no valid ground for rejection of the request of the applicant for posting him in any of the places of his choice. He pointed out that by now the applicant has completed the period of his tenure posting in the North Eastern Region. He strongly objected to the contention of the respondents that the applicant could not be transferred to a place of his choice on the ground of exigencies of work

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89/95

for this contention is not supported by records. In support of his contention he has referred to the letter No.F.TCH/29-62/95/6333, dated 28.6.95 in which the only ground for refusal of the request of the applicant is that because he had not worked in a difficult or remote area for sufficiently long period. He urged that this contention of the respondents cannot be entertained as it is not supported by records. In this connection he places reliance on the decision of the Hon'ble Supreme Court reported in (1978) 1 SCC 405. He also relied on the decisions of this Tribunal in the following cases to justify his contentions in support of the claim of the applicant.

(1) O.A.No.134 of 1992 dated 16.7.93.

(2) O.A.No.224 of 1994 dated 27.7.95.

(3) O.A.No. 55 of 1991 dated 11.7.95.

4. This application is to be considered in the light of the aforesaid two Office Memoranda and the facts of the case of the applicant. After he had joined in Shillong on 17.4.93 the applicant had submitted the following representations -

(1) Representation dated 16.9.1993(Annexure 6) for posting of husband and wife in same or nearby station relying on O.M.No.28034/7/86-Estt.(A) dated 3.4.1986;

(2) Representation dated 25.11.1993(Annexure 7) on same ground as in (1) above;

(3) Representation dated 30.11.1993(Annexure 8) requesting for transfer on grounds of personal problems and

(4) Representation dated 29.10.94(Annexure-9) requesting for Inter Institute Transfer to a place of his choice as he was about to complete the period of his tenure posting in North Eastern Region.

contd. 5....

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9/9/95

Representations at (1), (2) and (3) above are covered under O.M.No.20034/7/86-Estt(A) dated 3.4.1986 and the last representation at (4) is covered by O.M.No.20014/3-E(IV) dated 14.12.1983. The letter dated 28.6.95 aforesaid has mentioned of "the Representation of Dr S.F.A.Amalraj" but has not specified which one of the representations mentioned above or any other particular representation. If that "Representation" is one of the representations at (1), (2) and (3) above, then, the decision as conveyed vide 28.6.95 had been made without proper consideration of the representations in the context of the O.M. dated 3.4.1986. If, however, the said "Representation" is meant to be the representation at (4) above, then, the respondents are correct in rejecting the same on the ground that "he has not worked at remote/difficult area for a long period" for the applicant had not completed the period of his tenure posting in the North Eastern Region when he submitted the representation. The contention of the applicant that he had served in the Nilgiri area, which is also a hard area, is of no relevance in the context of the O.M. dated 14.12.1983. But the respondents have not been fair in making such decision for it is their assurance given to the applicant as conveyed vide letter No.F.5(SFA)/987/92 dated 28.9.1992 addressed by the Scientist In Charge, Central Potato Research Station, Muthurai ^{to the applicant} (Annexure 2 to the application) that the applicant may apply for Inter-Institutional transfer to other places after he had joined in Shillong.

5. The applicant alleges discriminatory treatment by the respondents against him in not posting him in a place of his choice. He states that some scientists were never transferred from their places of posting and same were not

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8/9/95

transferred after long stay in a particular station. He also states that others who were transferred to North Eastern Region were transferred out of this Region to their respective places of choice. On the other hand, he was transferred to North Eastern Region and when he had exercised his choice for posting after joining in this Region his request was rejected even though there were vacancies in the places of his choice. This contention that there is discrimination against him is not entertainable. The applicant is a Senior Scientist and a specialist in his own field of work. So are the other scientists. The respondents have to deploy them carefully in order to obtain optimum desired results. The two O.Ms though provide for favourable consideration in the matter of transfers and postings of the employees but they also subject this consideration to the discretion of the competent authority and the exigencies of work by employing the terms "as far as possible" in both the O.Ms. It is therefore obvious therefrom that the applicant cannot claim to be posted at any of the places of his choice as a matter of right and that what could be possible in the case of other Scientists or employees may not be in the view of the competent authority possible in the case of the applicant. Unless the decision of the competent authority is proved that it was arrived at without proper consideration of similar facts that decision cannot be assailed on ground of discrimination. In this particular case of the applicant the respondents have stated that the request of the applicant for posting him in a place of his choice was rejected because he had not put in sufficiently long period of service in the North Eastern Region. This is true in the case of the applicant. In his additional rejoinder the applicant has given elaborate details of those Scientists who were transferred out of the North Eastern Region to their respective places of

99/95

their choice but, significantly, he has omitted to mention the periods of their stay in the North Eastern Region. Nothing therefore is proved by the applicant that their facts were similar with his. The other ground that his family & life was disturbed by frequent transfers and particularly, by his transfer to North Eastern Region, while other Scientists were allowed to remain in a particular place & for all time or for a considerably long time is also not acceptable. As mentioned earlier the applicant as well as the other Scientists referred by him are specialists in their own fields of work. The respondents can judge best how, when and where they should deploy their precious resources in the best interest of the organisation. The applicant has not proved that his scientific capability, expertise and experience are same with those of the other cited Scientists. Neither has he shown that his job requirements are same with those of other scientists. In the absence of any proof that the facts of the applicant are similar with those of the other Scientists, the contention that discrimination was meted out by the respondents to the applicant is rejected.

6. In view of the foregoing discussions, the application is disposed of with the following directions -

1. The applicant may, if he chooses, submit a fresh representation to the respondents in terms of the above mentioned two office Memoranda within one month from the date of receipt of this order.


2. The respondents shall issue a final order on the representation if received by them within three months from the date of its receipt.

8/9/95

3. The representation shall be disposed of on merits in a fair and unbiased manner.

4. The applicant will be at liberty to approach this Tribunal again if any cause of action arises out of the decision of the respondents on his representation.

With these directions the application is disposed of. No order as to costs.


(G.L. SANGLYNE)
MEMBER (A)

89/95

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:: GUWAHATI BENCH

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

Central Administrative Tribunal
 13 FEB 1995
 Dr. S.F.A. Amalraj ... Applicant
 - Versus -
 Union of India & Ors. ... Respondents

I N D E X

Sl.No.	Particulars of the Documents	Page Nos.
1.	Application ...	1 to 13
2.	Verification ...	14
3.	Annexure-1 ...	15 to 16
4.	Annexure-2 ...	17
5.	Annexure-3 ...	18 to 19
6.	Annexure-4 ...	20
7.	Annexure-5 ...	21 to 24
8.	Annexure-6 ...	25
9.	Annexure-7 ...	26 to 27
10.	Annexure-8 ...	28
11.	Annexure-9 ...	29
12.	Annexure-10 ...	30 to 31
(One copy filed) - 13.	W/S	32-57
14.	Register	58-65

For use in Tribunal's office :

Received copy
 Atk Chandra Sekh
 Adal. C. of S.C
 13/2/95

Date of filing :
 Registration No. :

 REGISTRAR

Filed for the
Applicant
Mr. S. F. A. Amalraj
Shillong
22/12/95
e:13/12/95

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

O.A.No. _____ of 1995

BETWEEN

Dr. S.F.A. Amalraj,
Senior Scientist,
Central Potato Research Station, under ICAR,
Shillong, Meghalaya.

... Applicant

AND

1. The Union of India,
represented by the Secretary to the
Government of India,
Ministry of Agriculture, New Delhi.
2. The Director General,
Indian Council of Agricultural Research,
Krishi Bhawan, New Delhi.
3. The Director,
Central Potato Research Institute,
Himachal Pradesh, Simla-171001.

... Respondents

DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDER AGAINST
WHICH THE APPLICATION IS MADE :

The application is not directed against any particular order but has been filed for a direction to the respondents to give choice place of posting to the applicant on completion of tenure posting in the North East Region, in terms of Government circular holding the field. The application is also directed against deemed rejection of the prayer of the applicant for choice place of posting.

2. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter of the order against which the applicant wants redressal is within the jurisdiction of this Hon'ble Tribunal.

Contd..P/2.

3. LIMITATION :

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

4. FACTS OF THE CASE :

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

4.2 That the applicant is a Senior Scientist working in the Central Potato Research Station, Shillong under the Indian Council of Agricultural Research. The applicant entered into the services of I.C.A.R. way back in 1972 and ever since his entry into the service, he has been serving with utmost sincerity and devotion to his duty. His educational qualification is M.Sc.(Agri.), Ph.D.(Plant Breeding) and M.A. in English.

4.3 That the initial appointment of the applicant was at Coimbatore from where he was transferred to Nagpur in the year 1978. After remaining there for three years, he was transferred to Ootacamund, Tamil Nadu. His such transfer from Nagpur to Ootacamund was on the ground that his wife Mrs. Josephine Felicita Amalraj is a Tamil Nadu State Government employee being a Post-Graduate Teacher in Mathematics. It will be pertinent to mention here that the family of the applicant consists of his wife and two sons who are students and residing with their mother.

Contd..P/3.

4.4 That the applicant was transferred from Ootcamund to Shillong by an office order No.F.7/Estt.I/Vol.V/92/4641 dated 12.3.92. The applicant made a grievance against the said order of transfer before the Central Administrative Tribunal, Madras Bench by filing O.A. No. 379/92. The said O.A. was dismissed vide Judgment and Order dated 13.7.92. The operative portion of the judgment is quoted below :

"In view of the above position, the applicant is not entitled to any relief. In this application, ~~the applicant~~ since he has not established violation of any mandatory rule or malafides vitiating the transfer order. At the time of hearing, it was brought to our notice that the applicant had already submitted his representation against the transfer to the higher authority on 21.3.92. Immediately submitting his representation and without waiting for a reply, he filed this application on 22.3.92. Hence his representation could not be considered. We hereby direct the respondents to consider his representation sympathetically taking into consideration his personal problems."(emphasise added).

Subject to the above observation, the application is dismissed. However, there will be no order as to cost."

The applicant craves the leave of the Hon'ble Tribunal to produce a copy of the said Judgment at the time of hearing of the instant application.

A copy of the order of transfer dated 12.3.92 is annexed herewith as ANNEXURE-1.

4.5 That the applicant states that after the aforesaid situation, he had no other alternative than to join at Shillong (March 1992) on transfer as stated above. The

applicant submitted a representation dated 12.8.92 before the respondent No. 2 i.e. the Director General, I.C.A.R. for inter-institutional transfer on compassionate ground. His such representation was routed through the Director, Central Potato Research Institute, Shimla. In response to the said representation the applicant was informed vide letter No.F.5/SFA/984/92 dated 28.9.92 that the competent authority felt that the applicant should join first at Central Potato Research Station, Shillong and then to apply for inter-institutional transfer to other station.

A copy of the said letter dated 28.9.92 and a copy of the representation dated 12.8.92 are annexed herewith as ANNEXURE S-2 and 3 respectively.

7 4.6 That the applicant ever since his joining at Shillong has been making representation of his transfer to one of his choice places of posting to which he is entitled in terms of office memorandum No. 20014/3/83-E(IV) dated 14.12.83 issued by the Government of India for the personnel posted in N.E. Region on transfer. In terms of the said office memorandum, the applicant is entitled to give option for choice place of posting on completion of tenure posting in the N.E. Region.

A copy of the said office memorandum dated 14.12.83 is annexed herewith as ANNEXURE-4.

4.7 That the applicant states that apart from the aforesaid office memorandum, the applicant is also entitled

Contd..P/5.

to have his choice place of posting in terms of office Memorandum No. 28034/7/86-Estt(A) dated 3.4.86 issued by the Government of India on the subject of posting of husband and wife at the same station. In terms of the said office memorandum when the husband and wife are both working endeavour should be made for their posting in the same station.

A copy of the said office memorandum dated 3.4.86 is annexed herewith as ANNEXURE-5.

4.8 That the applicant states that after the aforesaid assurance that his case for transfer would be considered upon his joining at Shillong, the applicant was all along expecting that his case would be ~~favourable~~ favourably considered, more so in view of the direction given by the Hon'ble CAT, Madras Bench, but the respondents have not done anything in the matter till date. The applicant after his transfer to Shillong has been submitting representations giving his choice places of posting on completion of his tenure posting in the North East Region. In the said representations, the applicant has highlighted his difficulties and also as to how he is entitled to have the choice place of posting in terms of the aforesaid two office memoranda issued by the Government of India. The applicant in his representations has given the following Research Station as his choice places of posting :

- (a) Central Institute for Cotton Research, Regional Centre, Coimbatore, Tamilnadu ;
- (b) Central Tobacco Research Station, Veda sandhur, Didigul District, Tamilnadu ;

Contd..P/6.

- (c) The Directorate of Wheat Research,
Regional Research Station, Wellington, Coonoor,
Tamilnadu.
- (d) National Research Centre for Banana, Tiruchirapalli,
Tamilnadu.
- (e) Sugarcane Breeding Institute, Coimbatore, Tamilnadu.

Copies of the said representations dated 16.9.93, 25.11.93, 30.11.93 and 29.10.94 are annexed herewith as ANNEXURES-6,7,8 and 9 respectively.

4.9 That the applicant states that the wife of the applicant also submitted a representation before the respondent No. 2 urging for transfer of the applicant.

A copy of the said representation dated 2.2.94 is annexed herewith as ANNEXURE-10.

4.10 That the applicant states that there are vacancies in the places mentioned by him and there would be no difficulty for the respondents to transfer and post him in any one of the vacancies. However, the respondents in spite of direction of the Hon'ble Tribunal, Madras Bench as stated above and in spite of assurances that is given for institutional transfer would be considered upon his joining at Shillong have not done anything in the matter and it is the genuine apprehension of the applicant that they would not do anything in the matter and the applicant would ~~either~~ either be kept at Shillong or may be transferred to some other places than that of his choice places of posting. It is the genuine apprehension of the applicant that he would not get any justice from the respondents and it is under this situation

he has filed this application seeking appropriate relief from the Hon'ble Tribunal.

4.11 That the applicant states that the applicant has been picked up for differential treatment inasmuch as many Senior Scientists like that of the applicant have never been transferred to any place from their present places of posting. Instances are also at gallore where many Senior Scientists are remaining in the same places ~~of~~ for more than 16 years. Instances are also at gallore that many senior Scientists have been transferred as per their option. The instances are given below :

(A) Scientists who were not transferred to any place for last sixteen years and more :

i. In Division of Genetics :

P.C. Gaur	Senior Scientist
Ramesh Chandra	-do-
K.C. Garg	-do-
P.S. Naik	-do-
R.K. Birhman	-do-

ii. In Division of Crops & Soil Science :

H.C. Sharma	Senior Scientist
P.S. Dahiya	-do-
M.C. Sood	-do-

iii. In Division of Entomology

S.S. Mishra	Principal Scientist
V.K. Chandla	Senior Scientist

iv. In division of Plant Pathology :

S.M. Paul Khurana	Principal Scientist
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Contd...P/8.

R.A. Singh	Principal Scientist
Shatrughan Singh	-do-
M.N. Singh	Senior Scientist
B.P. Singh	-do-
S. Kumar	-do-

v. In Division of Plant Physiology :

N.P. Sukumaran	Principal Scientist
V.N. Banerjee	Senior Scientist

B. List of Scientists who remain in the same place of posting for more than sixteen years serving in some other ICAR Research Stations :

i. CICR, Regional Station, Coimbatore-3 :

S. Henry	Scientist S.G. (Plant Breeding)
K.N. Gururajan	-do-
Gunaseelan	-do-
Rajasekaran	-do-
K. Kannan	-do- (Plant Pathology)

ii. Sugarcane Breeding Institute, Coimbatore :

Miss Bagyalakshmi	Senior Scientist (Plant Breeding)
N. Natarajan	-do-

C. List of Scientists who were transferred on their option :

- 1) Dr. R.K. Arora - Transferred from CPRS Ootacamund (TN) to CPRS Jalandhur, his native place on request in April 1992.
- 2) Munna Lal, - Jeep Driver; was transferred from CPRS Shillong to CPRS Gwalior in 1991. He served in Shillong only for one year and few months.
- 3) Kathirvelu - Clerk was; transferred from CPRS, Gwalior to CPRS Ootacamund on request in 1990.

Contd...P/9.

- 4) Munna Lal - Technical Assistant, was transferred from CPRS Shillong to CPRS Gwalior, relieved on 3.8.94 served in Shillong only three years.
- 5) A.M. Sawale, - Technical Assistant, from CPRS Shillong to CPRS Rajgurunagar on 6.10.94, his native place.

and there are many persons who went on request transfer, ~~from Shillong~~

The examples are only illustrative and not exhaustive.

4.12 That the applicant states that in view of the above facts and circumstances, it is a fit case in which the Hon'ble Tribunal would be pleased to issue necessary direction to the respondents to act upon the order passed by the Hon'ble CAT, Madras Bench and their own assurances more so in view of the right of the applicant for consideration of his choice place of posting in terms of the aforesaid office memoranda issued by the Government of India.

4.13 That the applicant states that the ~~instructions~~ ^{instructions} contained in the aforesaid two memoranda are ^{meant} ~~not~~ ^{be} kept in cold storage but are required to be acted upon by the respondents. The Government of India in consideration of various factors had issued those office memoranda and it is the duty of the respondents to act in accordance with the guidelines given in the said office memoranda ~~and~~ ^{and} they just cannot ignore the same. Needless to say that the applicant atleast has got right to be considered on the basis of the said two office ~~memoranda~~ ^{memoranda}. However, the respondents are sitting over the matter and in the process,

the applicant has been suffering immensely.

4.14 That the applicant states that when the others have been accommodated as indicated above, there is no earthly reason as to why the applicant should also not be given equal treatment and any action/inaction on the part of the respondents to single out the applicant for differential treatment would be violative of Articles 14 and 16 of the Constitution of India.

4.15 That the applicant states that inspite of the direction given by the Hon'ble Tribunal, Madras Bench and the assurances given by the respondents themselves, they have not done anything in the matter and all the representations submitted by the applicant till now have fallen into the deaf ears of the respondents. In the process, he has virtually completed his tenure posting in the North East Region and a situation has come in which he is required to be considered for his choice place of posting ; but the apathy and non-challant attitude shown by the respondents have brought the applicant before the Hon'ble Tribunal because ^{of} his genuine apprehension that nothing would be done in the matter and the applicant would continue to suffer.

4.16 That the applicant states that it is a fit case in which the Hon'ble Tribunal would be pleased to grant an interim relief to the applicant by way of a direction to the respondents to consider the case of the applicant for his choice place of posting and till such time, one of the vacancies in those places should ~~not~~ be filled up.

Contd..P/11.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that the applicant having been posted in the North Eastern Region from Tamilnadu, the respondents are duty bound to give him choice place of posting on completion of his tenure posting in the N.E. Region.

5.2 For that the applicant having submitted his option for transfer to his choice places, the respondents are duty bound to consider his such representation more so in view of the direction which was given by the Hon'ble Central Administrative Tribunal, Madras Bench coupled with the assurances given by the respondents.

5.3 For that the other employees having been given their choice places of posting, the applicant cannot be discriminated against and such discrimination ~~cannot be~~ would be violative of Articles 14 and 16 of the Constitution of India which cannot stand the test of judicial scrutiny and the applicant is entitled to his choice place of posting on completion of tenure posting in the N.E. Region.

5.4 For that the respondents cannot just ignore the office memoranda mentioned above holding the field and they are duty bound to have an objective assessment while considering the case of the applicant in terms of the said two office memoranda.

5.5 For that the applicant has got a right to be considered for his choice place of posting and the respondents cannot deny the said right of consideration. The applicant is apprehensive that because of the fact that

he had earlier on approached the Hon'ble Madras Bench of the Tribunal, the respondents are sitting over the matter with the sole purpose of teaching a lesson to him.

5.6 For that there having vacancies in the places mentioned by the applicant, there is no earthly reason as to why the respondents shall not transfer the applicant to one such place as per his option given in terms of the aforesaid two office memoranda.

5.7 For that in any view of the matter, the applicant has got a right to be posted in one of his choice places of posting as indicated above.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant declares that he has got no other alternative and efficacious remedy than to approach this Hon'ble Tribunal.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT :

The applicant ~~is~~ further declares that he has not filed previously any application, writ petition or suit regarding the subject matter in respect of which this application is made before any Court or any other authority or any other Bench of this Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT :

Under the facts and circumstances stated above, the applicant prays that the instant application be admitted.

records be called for and the respondents be directed to show cause as to why the prayer made in the application should not be granted and upon hearing the parties on the cause or causes that may be shown and on perusal of the records be pleased to grant the following reliefs :

- (i) Issue a direction to the respondents to transfer the applicant to one of the places of his choice for which he has opted vide his representations referred to above ;
- (ii) Cost of the application ;
- (iii) Any other relief or reliefs to which the applicant is entitled under the facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR :

Pending disposal of the application, the applicant prays that one post lying vacant in the places of ~~posting~~ of choice place of posting assigned by the applicant in his representation may be kept vacant.

10.....

This application has been filed through Advocate

11. PARTICULARS OF THE I.P.O. :

- (i) I.P.O. No. : 8 03 862549
- (ii) Date : 27/11/05
- (iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

Verification.....

- 14 -

VERIFICATION

I, Dr. S.F.A. Amalraj, son of Late S. Pillai, aged about 47 years, at present working as Senior Scientist Central Potato Research Station, Shillong, do hereby solemnly affirm and verify that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice and I have not suppressed any material facts.

And I sign this verification on this the 7th day of January 1995 at Guwahati.

S.F.A. Amalraj

CENTRAL POTATO RESEARCH INSTITUTE
(Indian Council of Agricultural Research)

SHIMLA - 171001 (HP)

No.F.7/Estt-1/Vol.V/92/4641 Dated the 12 March, 1992.

OFFICE ORDER

On the recommendations of the Institute Transfer Committee, the Director, Central Potato Research Institute, Shimla has been pleased to order the following transfers with immediate effect in the public interest :

Sl.No.	Name of Scientist	Place of present posting	Place of new posting
1	2	3	4
1.	Sh. VS Khushwah Scientist SG (Agronomy)	CPRS, Patna	CPRS, Gwalior
2.	Sh. SG Phadtare Principal Scientist (Plant Path.)	CPRS, Gwalior	CPRS, Ootacamund
3.	Dr. R.K. Arora, Scientist SG (Plant Path.)	CPRS, Ootacamund	CPRS, Jalandhar
4.	Sh. SFA Amalraj Scientist SG (Plant Breeding)	CPRS, Ootacamund	CPRS, Shillong
5.	Smt. KPM Dharmyanthi Scientist, Genetics & Cyt.	CPRS, Ootacamund	CPRS, Patna

As per the recommendations of the Transfer Committee approved by the competent authority it has been ordered that Sh. VS Khushwah should move first immediately and on his joining at Central Potato Research Station, Gwalior, Sh. SG Phadtare will immediately move to Central Potato Research Station, Ootacamund and relieve Dr. R.K. Arora from there. As regards Scientist at Sl.Nos. 4 and 5, they will move from Ootacamund to join new places of posting immediately by handing over their respective charge to the other available scientists in their discipline/project/ at the station. The controlling authorities of all concerned

Contd...

Scientists are to relieve them accordingly and ensure that each take up duty at their new posting place by 1st of April positively.

The above Scientists will be entitled to usual TTA/Joining time and joining time pay as per rules as the transfers are in the public interest.

Sd/-

(N.S. RANDHAWA)

ADMINISTRATIVE OFFICER .

DISTRIBUTION :

1. The Scientists Incharge, C.P.R.S. Patna

.....
.....

8. The Scientist Incharge, C.P.R.S. Shillong.

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16. Guard File.

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Handwritten signature/initials

No.F.5(SFA)/987/92
Central Potato Reserach Station,
Muthurai - 643004. The Nilgiris.

Dated the 28th September, 1992.

To

Shri SFA Amalraj,
Senior Scientist,
Central Potato Research Station,
Ootacamund.

Sub : Request of inter-instt Transfer - Regarding

Ref : Your application dated 12.8.92.

Sir,

With reference to your above quoted application the Administrative Officer (E), CPRI, Shimla informed vide his letter No.F.1/Estt.1/92/18929, dated 22.9.92, that the competent authority feel that you may join first at CPRS, Shillong and after that you may apply for inter-Institutional transfer to other station. This is for your kind information and necessary action.

Yours faithfully,

Sd/-

28.9.92.

(KS KRISHNA PRASAD)

Scientist Incharge.

Handwritten signature

From

S.F.A. Amalraj,
Scientist S.G. (Plant Breeding),
Central Potato Research Station,
Ootacamund-643004, Tamil Nadu.

To

Director General,
Indian Council of Agricultural Research,
Krishi Bhavan, New Delhi.

Through proper channel.

Respected Sir,

Sub - Request for inter Institute Transfer -
On compassionate grounds - Option of
Research Stations/Institutes cited -
regarding.

I request your able and earnest kindness to transfer me to any of the following ICAR research stations/institutes and my service may be kindly utilized there for future.

I request the inter-institute transfer on personal and compassionate grounds. As my wife is serving in Tamil Nadu Government service, and as I suffer additionally from the burden of an aged and ailing mother, I am compelled to seek transfer to any one of the below cited research stations/institutes. Besides, I am developping growing compliants from hyperacidity and blood pressure. Hence, the doctors have strongly and strictly advised me to adopt service in mid-elevation or plans areas.

I am aged 46 years and I have 20 years of ICAR service. I have associated such with the evolving, breeding and release of four cotton varieties and I was also fully responsible for the breeding of two potato varieties for Tamil Nadu hills. I have many research papers to my credit.

Contd...

I have specifically worked in quality breeding and resistance breeding projects. I am qualified with M.Sc. degree in Botany. M.A. degree in English and Ph.D. degree with Thesis on resistance breeding aspects. Hence, I will be more suitable for crop breeding research works.

The places of my option for transfer are as follows :

- (i) Central Tobacco Research Institute,
Research Station, Vedsandur,
Dindigul Anna District, Tamil Nadu State-624710.
- (ii) Directorate of Wheat Research,
Regional Station, Wellington, Coonoor,
Nilgiris District. Tamil Nadu - 643231.
- (iii) National Research Centre for Spices,
Calicut, Kerala State-673012. and
- (iv) National Research Centre for Banana (Would be)

Tiruchirappalli, Tiruchy District, Tamil Nadu State.

I have personally requested the Director of each of these research stations, giving full particulars of mine with bio-data.

I once again request you to favourably consider my inter-institute request and process it. Kindly issue an early transfer order.

Yours faithfully,

Sd/-

(S.F.A. Amalraj)

Date : 12.8.92.

Amalraj

No. 20014/3/83.E.IV.
Govt. of India,
Ministry of Finance,
Department of Expenditure

New Delhi, 14th Dec. 1983.

Sub : Allowances and facilities for civilian employees of the Central Govt. serving in the States and Union Territories of North Eastern Region- improvement thereof.

The need to attracting and retaining the services of competent officers for serving in the North Eastern Region comprising the States of Assam, Meghalaya, Manipur, Nagaland and Tripura and the Union Territories of Arunachal Pradesh and Mizoram has been engaging the attention of the Govt. for some time. The Govt. had appointed a committee under the Chairmanship of Secretary, Deptt. of Personnel & Administrative Reforms to review the existing allowances and facilities admissible to the various categories of civilian Central Govt. employees serving in the region and to suggest suitable improvements. The recommendation of the committee has been carefully considered by the Govt. and the President is now pleased to declare as follows :

(i) Tenure of Posting/Deputation :

There will be a fixed tenure of posting of 3 years at a time for officers with serving of 10 years of ~~m~~ less and of 2 years at a time for officers with more than 10 years of service. Periods of leave, training, counting the tenure period of 2/3 years. Officers on deputation of fixed tenure of service mentioned above, may be considered for posting at a station of their choice as far as possible.

The period of deputation of the Central Government employees to the States/Union Territories of the North Eastern Region will generally be for 3 years which can be extended in exceptional cases in exigencies of public service as well as when the employees ~~concerned~~ concerned is prepared to stay longer. The admissible deputation allowance will also continue to be paid during the period of deputation also extended.

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Sd/- (SC MAHALIK)
JOINT SECRETARY TO THE
GOVERNMENT OF INDIA

To

All Ministries/Departments of the
Govt. of India etc. etc.

....

*Advised
At..*

No. 280 34/7/86-Estt(A)
Government of India
Ministry of Personnel, Public Grievances & Pensions
DEPARTMENT OF PERSONNEL & TRAINING

New Delhi-110001 dt. 3 April 1986

OFFICE MEMORANDUM

Subject - Posting of husband and wife at the same station.

The question of formulation of a policy regarding the posting at the same place of husband and wife who are in Government service or in the service of public sector undertakings has been raised in parliament and other forums on several occasions. Government's position has been that requests of government servants and employees of public sector undertakings for posting at the same station usually receive sympathetic consideration, and that each case is decided on merits, keeping in view the administrative requirements.

2. The Government of India have given the utmost importance to the enhancement of women's status in all sectors and all walks of life. Strategies and policies are being formulated and implemented by different Ministries of the Central Government to achieve this end. It is also considered necessary to have a policy which can enable women employed the Government and the public sector undertakings to discharge their responsibilities as wife/mother on the one hand, and productive workers on the other, more effectively. It is the policy of the Government that as far as possible and within the constraints of administrative feasibility, the husband and wife should be posted at the same station to enable them to live a normal family life and to ensure the education and welfare of their children.

3. In Feb. 1976, the then Department of Social Welfare had issued a circular D.O. letter to all Ministries and Departments requesting to give serious consideration to the question of posting husband and wife at the same station. However, representation continue to be received by the Department of Womens Welfare in the Ministry of Human Resources Development from women seeking the intervention of that Department ~~from~~ for posting at the place where their husbands are posted. It has, therefore, now been decided to lay down

Contd...

a broad statement of policy at least with regard to those employees who are under the perview of the Central Government/ Public Sector undertakings. An attempt has, therefore, been made in the following paragraphs to lay down some guidelines to enable the cadre controlling authorities to consider the requests from spouses for a posting at the same station. At the outset, it may be clarified ~~at the same~~ that it may not be possible to bring every category of employee within the ambit of this policy as situations of husband/wife employment are varied and manifold. The guidelines given below, are therefore, illustrative and not exhaustive. Government desire that all order cases the cadre controlling authority should consider such requests with utmost sympathy.

4. The classes of cases that may arise, and the guidelines for dealing with each class of case, are given below :

(i) Where the spouses belong to the same all India service or two of the All India Services, namely IAS, IPS and Indian Forest Services (Group-A)

- The spouses will be posted to the same cadre by providing for a cadre transfer of one spouse to the cadre of the other spouse subject to their not being posted by this process to their home cadre. Postings within the cadre will of course, fall within the perview of the state Government.

(ii) Where one spouse belongs to one of the All India Services and the other spouse belongs to one of the Central Services :

- The cadre controlling authority of the central service may post the officer to the station, or if there is no post in that station, to the state where the other spouse belonging to the All India Services is posted.

(iii) Where the spouses belong to the same central service.

- The cadre controlling authority may post the spouses to the same station.

Attended
Sl.

- (iv) Where one spouse belongs to one central service and the other spouse belongs to another central service

- The spouse with the longer service at a station may apply to the appropriate cadre controlling authority and the said authority may post the said officer to the station, or if there is no post in that station to the state, where the other spouse belonging to the other Central service is posted.

- (v) Where one spouse belongs to an All India Service and the other spouse belongs to a public sector undertaking -

The spouse employed under the public sector undertaking may apply to the competent authority and said authority may post the said officer to the station, or if there is no post under the PUS in the station to the state where the other spouse is posted.

- (vi) Where one spouse belongs to a Central service and the other spouse belongs to a PSU

The spouse employed under the PUS may apply to the competent authority and the said authority may post the officer to the station, or if there is no post under the PUS in that station to the State where the other spouse is posted. If, however, the request cannot be granted because the ~~PUS~~ PSU has ~~no post in the said station/state~~ no post in the said station/state then the spouse belongs to the Central Services may apply to the appropriate cadre controlling authority and the said authority may post the said officer to the station, or if there is no post in that station, to the State where the spouse employed under PSU is posted.

- (vii) Where one spouse is employed under the Central Government and the other spouse is employed under the State Government :

- The spouse employed under the Central Government may apply to the competent authority and the competent authority may post the said officer to the station, or if there is no post in that station, to the state where the other spouse is posted.

Contd...

5. As will be seen from the illustration given above, they do not cover all possible categories of cases which may arise. In fact it is not possible to anticipate all the categories of cases. Each case, not covered by the above guidelines will have to be dealt with keeping in mind the merit in which these guidelines have been laid down and the larger objective of ensuring that a husband and wife are as far as possible and within the constraints of administrative convenience, posted at the same station.

6. Ministry of Finance etc. are requested to bring the above instructions to the notice of all administrative authorities under their control and ensure compliance.

7. In so far as persons serving in Indian Audit and Accounts Department are concerned, these orders issue in consultation with the Comptroller and Auditor General of India.

8. This issues with the concurrence of the Department of Public Enterprises.

9. Hindi Version will follow.

Sd/-

(Mrs. Aarti Khosla)

Joint Secretary to the Govt. of India.

Attended
Al

From

Dr. S.F.A. Amalraj
Senior Scientist (Plant Breeding),
Central Potato Research Station,
Shillong-9, Meghalaya State-79 3003.

To

The Director General,
Indian Council of Agricultural Research,
Krishi Bhavan, New Delhi-12, 110012.

Through proper channel.

Respected Sir,

Sub : Request for inter-institute transfer to any
Research Station in Tamil Nadu - regarding.

I am serving as a Senior Scientist (Plant Breeding)
in Central Potato Research Station of Shillong in Meghalaya State.
My wife is a Government school teacher serving in a school at
Coimbatore in Tamil Nadu State. She belongs to the State Higher
Secondary Educational Department service, serving as a
Mathematics teacher.

As my wife is finding difficult to manage the family
matters, I request that I may be transferred to any Research
Station of Indian Council of Agricultural Research situated in
Tamil Nadu State. In this connection, I may be permitted to
cite that the Government Memorandum No. 28034/7/86-Estt.(A)
dated 3.4.1986 provides provision to transfer serving husband
and wife to a nearest or same place for service. By this
transfer, due to your kind act and mercy from your good self,
I could lead a normal family life looking after the welfare
of my children.

I request for an early action.

Thanking you,

Yours faithfully,

Sd/-S.F.A. Amalraj

Date : 16.9.1993.

16.9.93.

*Attended
Sh.*

From

Dr. S.F.A. Amalraj,
Senior Scientist, (Plant Breeding),
Central Potato Research Station,
Five Mile Peak Road, Shillong-9,
Meghalaya State-793009.

To

Director General,
Krishi Bhavan,
Indian Council of Agricultural Research,
New Delhi-110 001.

Respected sir,

Sub : Illegal transfer order of Central Potato Research Institute, Shimla causing separation of serving husband and wife - representation from the suffering husband, an ICAR Scientist- Proof for the malafide intention of CPRI Director established - regarding.

I am a ICAR Scientist serving at CPRS Shillong under CPRI Shimla for the past one year. I was transferred to this place from CPRS Ootacamund (Tamil Nadu State) as per the CPRI order No. F.7/Estt.I/Vol.V/92/4641 dated 12.3.1992.

My wife, Mrs. Josephine Felicita Amalraj, is serving in the Higher Secondary Educational Service in Tamil Nadu State Government in Coimbatore for more than twenty years. This has been entered in my service register also.

When I was serving in Central Institute for Cotton Research of Nagpur (Maharashtra State) for three years (between 1978 and 1981) ICAR transferred me to CPRS Ootacamund (Tamil Nadu State), looking into the separation of me from my family as per vide Council's office order No. 38(6)/8-Per-I dated 16th July 1981.

According to the Govt. Memorandum No. 28034/7/86-Estt.

(A) dated 3.4.1986 serving husband and wife should not be separated by transfer and should be put in the nearest places as far as practicable. The Director of CPRI and his transfer committee did not mind this rule and order and thereby violated justice by transferring me. Hence, this transfer order is unreasonable and unjust indicating the exercise of power of transfer without taking into consideration any of the rules stipulated by Govt. of India or ICAR. Besides, the Director of CPRI used transfer for harassment purpose.

Contd...

I could not discharge the duties of a Central Government servant's to his family. At present my wife is incapable of handling the family matters single handedly and she is very much mentally depressed. My children's education is completely spoilt. I could not discharge the duties of a husband to wife, of those of a father's to sons, and of those of a son's to mother. I am also highly mentally depressed and developed strong blood pressure problems.

I request, therefore, humbly the Director General of ICAR to take sympathy on me and my family and immediately transfer me to one of the following research Stations or to my previous place of posting (CPRS, Ootacamund of Tamil Nadu State). I request for an early action.

The Research Stations of my option are :

- (i), Central Institute for Cotton Research,
Regional Station, Coimbatore-3, Tamil Nadu.
- (ii) Central Tobacco Research Station,
Vedasandhur, Dindigul District, Tamil Nadu
- (iii) Directorate of Wheat Research,
Regional Research Station, Wellington, Coonnoor,
Tamil Nadu
- (iv) National Research Centre for Banana Research,
Tiruchirapalli, Tamil Nadu State, and
- (v) Sugarcane Breeding Institute,
Coimbatore, Tamil Nadu State.

Thanking you,

Yours faithfully,

Sd/-

Date : 25.11.1993.

(S.F.A. Amalraj)

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Altered
A...

From : Dr. S.F.A. Amalraj,
Senior Scientist (Plant Breeding),
Central Potato Research Station,
5th Mile Peak Road, Shillong-9,
Meghalaya State-793009.

To : Director General,
Indian Council of Agricultural Research,
Krishi Bhavan, New Delhi-12.

Respected Sir,

Sub : Request for Inter-Institute transfer as per
Central Administrative Tribunal of Madras's direc-
tions - opted Research Stations listed -
Malafide intention of the Director of CPRI
continuing - regarding.

I was transferred from CPRS Ootacamund (Tamil Nadu) to CPRS, Shillong (Meghalaya State) by the CPRI Director as per vide order No. F.7/Estt.I/Vol.V/92/4641 dated 12.3.1992. As my wife is also a government servant of the State Educational Department service in Tamil Nadu State, and I had other additional family and health problems, I sought judicial remedy in the Central Administrative Tribunal of Madras as per my original petition No. OA-379/1992 dated 27.3.1992. The honourable Court has given a direction in the last paragraph of the last page 10 (Annexure I, relevant sentence underlined). I requested the Director of CPRI many times personally and in writings to consider it and restore my family reunion, but in vain. I also applied for inter-institute transfer to a research station of Tamil Nadu State, but my ~~transfer~~ Director of CPRI has not forwarded it. He has also spoiled my attempts of getting a post in response to 1/93, 2/93, 3/93, and 4/93 Agricultural Scientists Recruitment Board's advertisement. Even an Interview letter sent by ASRB was illegally opened up and passed on to me lately just on the date of the Interview. His malafide intention of spoiling me is evident from this.

*Admitted
H.*
I, therefore, request your good heart and kind self to transfer me to any one of the following Research Stations and help me. The Research Stations of my option are :

- (i) Central Institute for Cotton Research,
Regional Station, Coimbatore-3, Tamil Nadu
- (ii) Central Tobacco Research Station,
Vedasandhur, Dindigul District Tamil Nadu
- (iii) Directorate of Wheat Research,
Regional Station, Wellington, Coonoor, Tamil Nadu
- (iv) National Research Centre for Banana,
Tiruchirapalli, Tamil Nadu, State, and
- (v) Sugarcane Breeding Institute,
Coimbatore, Tamil Nadu State.

Thanking you,

Yours faithfully,

Date : 30.11.1993.

Sd/-
(S.F.A. Amalraj)

Enclosures :

From : Dr. S.F.A. Amalraj,
Senior Scientist,
Central Potato Research Station,
Shillong-9, Meghalaya State-793009.

To : Director General,
ICAR, Krishi Bhavan, New Delhi-1.

Respected Sir,

Sub : Inter Institute Transfer to a choice place -
Request from a Scientist after finishing the
tenure period in remote N E H Region- regarding.

In continuation to my earlier representation dated 25.11.93, 30.11.93 and 1.10.94 and also following my wife's representation dated 2.2.94, I am sending this additional representation to seek your kind attention and valuable help. I was transferred to Central Potato Research Station, Shillong in March 1993 and I am going to finish my tenure period with the advent of March 1995.

As per Government of India Central Civil Service Rule, those who have served the fixed tenure period of service in the areas of North Eastern ~~xx~~ Hills region, can seek transfer to a place of their choice. Using this provision of the rule, I humbly request you to use your kind good office and good self and able efforts to transfer me to any of the following ICAR Research Stations.

- (i) Central Institute for Cotton Research
Regional Station, Lawley Road Coimbatore-3 or
- (ii) Sugarcane Breeding Institute,
Veerakaram, Coimbatore,

I request that my name may be kindly considered for early transfer to any of the above said ICAR Research Station in Tamil Nadu state and my request favoured.

I have sent three representations through proper channel also, for which so far, I did not get any reply. Kindly show favourable response.

Thanking you,

Yours faithfully,

Sd/-

Date : 29.10.94.

(S.F.A. Amalraj)

Attended
S.

From : Mrs. Josephine Felicita Amalraj
28-C, Moogambigai Nagar, Ganapathy,
Coimbatore, Tamil Nadu State-641006.

To : Director General,
Indian Council of Agricultural Research,
Krishi Bhavan, New Delhi-12.

Respected Sir,

My husband, Dr. S.F.A. Amalraj by name is serving as a Senior Scientist (Plant Breeding) in Central Potato Research Station, (of CPRI Shimla) Shillong-9 of Meghalaya State. He was transferred to Shillong from Ootacamund (Tamil Nadu State) in 1992 and since then he is working there.

I am also working in the service of Tamil Nadu Government Secondary School Education Department as a post graduate teacher and at present serving in Coimbatore.

When my husband was working in Central Institute for Cotton Research at Nagpur, ICAR transferred him to Central Potato Research Station of Ootacamund (Tamil Nadu State) with the view of creating family reunion with me and our children as per vide Council's Office Order No. 38(6)/80-Per-I dated 16.7.1981. Besides, as per Government of India Memorandum No. 28034/7/86.Estt.(A) dated 3.4.1986, serving husband and wife should not be separated by transfer and should be put in the nearest place as far as possible. The CPRI director transferred my husband without minding this rule.

Because of this transfer, I could not maintain family and my dependants are many. Ailing mother-in-law and studying children are causing problems, and I could not manage the situation. Additionally two deaths have occurred in my family, thereby increasing the family burden and responsibilities of mine, as I alone have to do the needful.

Attended
SS.
In this context, I would also like to bring to your kind notice that my husband had to be away from my place of service because of his Doctorate studies. His Director compelled him ~~from me~~ to take a Thesis on potato breeding which again separated him from me for three years (from 1987 to 1990). In this way it has become customary to CPRI Directors to spoil my family peace, without minding rules and regulations.

Contd...

Hence, I request that my husband may be kindly transferred to any Research Station situated in Tamil Nadu State, so that my family burden could be lessened proportionately. By this kind act of yours, we can lead a normal family life, ensuring the education and welfare of my children.

Requesting for early action.

Yours ~~faithfully~~ thankfully,

Sd/-

(Josephine Felicita Amalraj

Date : 2.2.1994.

Attest and
Sd.

possible to post the Applicant at the place of his choice, as he has not worked at Remote/Difficult area for a long period. The applicant has been informed accordingly.

3. That with reference to para 2 of the application the respondents have no comments.

4. That with reference to para 3 of the application the respondents have no comments.

5. That with reference to para 4.1 of the application the respondents have no comments these being matters of record.

6. That with reference to the para 4.2 of the application the respondents beg to state that the statements are admitted to the extent that the applicant is working in the Central Potato Research Station, Shillong under the control of Indian Council of Agricultural Research/CPRI (Respondent No.2 and 3). The Applicant was M.SC. (Agril.) when he entered the ICAR Service and later he was allowed study leave leading to his Ph.D.

7. That with reference to para 4.3 of the application the respondents beg to state that as per the terms and conditions of appointment of the Applicant he is liable to be transferred under any office or stations of the ICAR anywhere in India to sub-serve the changing requirements of the work and priorities of research from time to time, which is the primary aim of the Institute.

8. That with reference to para 4.4. of the application the respondents beg to state that the applicant, filed O.A.No.379/92 in the Hon'ble CAT, Madras Bench, Madras against the order of his transfer from Doty to Shillong and the Hon'ble Tribunal vide its Judgment Order dated 13.7.1992 (Annexure R-1) dismissed the said OA as per its observation at P-9 of the order that the applicant is not entitled to any relief since the transfer of the Applicant has been made in the public interest.

9. That with reference to the para 4.5 of the application the respondents beg to admit the statements. The applicant joined at Central Potato Research Station Shillong on 17.4.1993.

10. That with reference to para 4.6 of the application the respondents beg to state that the applicant joined at Central Potato Research Station Shillong on 17.4.1993. He submitted his representations after joining at Shillong directly to Director General, Indian Council of Agricultural Research (Respondent No.2) without following proper procedure and without routing through proper channel. Though his representations sent by him from Shillong addressed to the Director General (Respondent No.2) were considered and it was found that it is not possible to post him at the place of his choice as has not worked at Remote/Difficult area for a long period.

11. That with reference to para 4.7 of the application the respondents beg to state that applicant was transferred from Doty to Central Potato Research Station Shillong in public interest and keeping in view the exigency of the research work at the Station and the Hon'ble CAT vide their order dated 13.7.1992 dismissed the appeal on the same grounds. Question regarding giving the weightage of Office Memorandum No.28034/7-Estt.(A) dated 3.4.1986 of Government of India in his case does not arise. Further it may be stated that the applicant is working on the project of breeding late blithe of potatoes and other important projects and as such it is not possible to transfer him till completion of the projects.

Handwritten note: transfer from Doty

Project

12. That with reference to the para 4.8 of the application the respondents beg to state that the statement of the applicant is incorrect and not tenable. As per direction of the Hon'ble CAT Madras Bench dated 13.7.1992, the representation/s of the Applicant dated 21.3.1992 regarding cancellation of transfer from Doty to Shillong had been considered in the Council, but keeping in view the requirement of research work and in public interest, it was not possible to agree to his request for cancellation of the same and the same had already conveyed to the applicant (Annexure R-2) by the Respondent No.3 and the communication received by the applicant (Annexure-R-3). As regards the representations of applicant giving his choice places of posting has been considered by the respondent No.2, i.e. Director General, ICAR.

13. That with reference to para 4.9 of the application the respondents beg to reiterate the statements made in para 10.

14. That with reference to para 4.10 the respondents beg to state that the statement of the applicant is wrong and not tenable. He is trying to mislead the Hon'ble Tribunal by giving false information. The directions of the Hon'ble Tribunal had been complied with accordingly by the Respondent No.2 (Annexure R-4) and conveyed to the Applicant as per Annexure R-2 & R-3).

15. That with reference to para 4.11 of the application the respondents beg to state the statements are admitted to the extent that the Scientists listed by Applicant cannot be transferred, keeping in view the exigency of research work of the Institute as well as the Projects in hands of the Scientists concerned.

(B) No comments to offer, since the respondent No.3 is not concerned with the transfer of Officers of other Institutes.

(C) The officials listed by the petitioner in his petition under column No.C.S.No.1 to 5 except Sl.1, the other officials belongs to Class III Category, they have been transferred on their own request without any benefits because of the reason that they were recruited through the concerned employment exchanges on regional basis and as per the instructions of the Government of India their request could be considered on merits. So

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far as the Officer listed at Sl.No.1 he was transferred to Jalandhar as he was identified to handle the important research project at Central Potato Research Station Jalandhar which is conducting research on seed production.

16. That with reference to the statements made in para 4.12 of the application the respondents beg to state that the same are incorrect and ~~hence~~ hence denied vehemently. He is trying to mislead the Hon'ble Tribunal by giving wrong information. As already stated in the preceding paras that his request has already been considered by the respondent No.2, the competent authority i.e. Indian Council of Agricultural Research. Para 4.10 may please be reiterated here.

17. With reference to para 4.13 of the application the respondents beg to state that as already stated in the preceding paras, the respondent No.2 has considered the Representations of the applicant and it was found that it is not possible to post him at the place of his choice, as he has not worked at Remote/Difficult Area for a long period. The Statement made by the applicant under this para are not maintainable. The respondents have to go by Rules and Regulations and to see the public interest to sub-serve the research priorities of the Institution at the different research stations. As per terms and conditions of appointment of the applicant, he is liable to serve under any office of the Indian Council of Agricultural Research anywhere in India & looking too the changing research requirement of the Institute. The respondents have considered his

representations regarding his posting ~~in~~ at the place of his choice, but it was found that it is not possible to post him at the place of his choice, as he has not worked for a long time in Remote/Difficult area.

18. That with reference to para 4.14 of the application the respondents beg to state that the statement of the applicant is incorrect, hence denied. The position has already been clarified in detail and it is self evident from the proceedings of the Transfer Committee of the Institute in its Meeting held on 3.3.1992 at Shimla (Annexure R-5) The transfer of the applicant alongwith some other scientists of the Institute have been in pursuance of Public interest in the context of ongoing research projects and related activities as well as the required focus on research on the selected priority problem areas of potato at the relevant places/stations, from time to time as routine matter. As per the terms and conditions of appointment of the applicant, he is liable to be transferred under any office or stations of the (ICAR) Indian Council of Agricultural Research located anywhere in India. Therefore, in the instant case, where he has been transferred in purely public interest and his transfer could not in any way hit ~~xxx~~ articles 14 and 16 of the Constitution of India. As such his efforts to seek umbrella under the same provisions is of article absolutely un-maintainable in the context of the circumstances of his transfer, that is purely public interest, as well as terms and conditions of his service and relevant rules and instructions.

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19. That with reference to para 4.15 of the application, the respondents beg to state that the statements made under the said para is false, hence un-maintainable.

20. That with reference to para 4.16 of the application the respondents beg to state that the correct position has already been explained in the preceding paras above. The claim of the Applicant is unmaintainable. The petition may be dismissed by the Hon'ble Tribunal.

21. That with reference to para 5.1 and para 5.2 of the application the respondents beg to state that the statement of the applicant is not tenable. As per terms and conditions of his appointment, he is liable to serve in any office of ICAR in India. The respondents duly considered the representations of the applicant as & Annexures No.7 to 10 of the OA, but it is not possible to post him at the place of his choice, as he has not worked at Remote/Difficult area for a long time. The representation directed to be disposed of by the respondents as per the direction of the Hon'ble Tribunal Madras Bench dated 13.7.1992 has already been considered and conveyed to the Applicant as per (Annexure R-3) and as such there is no ground for the relief sought by the Applicant.

22. That with reference to para 5.3 of the application the respondents beg to state that the applicant is making wrong allegations and trying to mislead the Hon'ble CAT. None of the employees has been given his choice place of posting and no ~~discrimination~~

discrimination has been done to the Applicant.

Respondents have acted in public interest and there is no violation of Articles 14 and 16 of the Constitution of India.

23. That with reference to para 5.4 of the application the respondents beg to state that the claim of the Applicant is not maintainable.

24. That with reference to paras 5.5 to 5.7 of the application the respondents beg to state that the applicant is blaming the respondents by making baseless and false statements. His earlier OA was dismissed by the Hon'ble Tribunal of Madras Bench and the representation directed by the Hon'ble CAT to be disposed of by the respondents has already been disposed of and conveyed to the applicant and as such there is no force in the Application. The applicant has no vested right to ~~be~~ be posted at the place of his choice. The Competent Authority has not violated any of his legal rights. His posting at Shillong has been made in public interest and for administrative reason.

25. That with reference to para 6 of the application the respondents have no comments to make.

26. That with reference to para 7 of the application the respondents beg to state that the applicant was not ready to go to Shillong while he was transferred from Ooty during March 1992. He filed OA No.379/92 for cancellation of his transfer from Ooty to Shillong, but the OA was dismissed by the Hon'ble CAT, Madras on 13.7.1992.

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27. That with reference to para 8 of the application the respondents beg to state that in so far as the full position and facts related to the OA are concerned the same have been given in detail in the foregoing paras of the Reply. The proceedings of the Transfer Committee Meeting of the Institute held at Shimla on 3.3.1992 (Annexure R-5) are explicit and self evident. It is pertinent to submit that this Committee is a broad based Committee of the Institute consisting of Sr. Scientists and officers of the Institute chaired by the Director of the Institute and this body is well competent to deliberate and recommend transfers of Scientists within the Institution to subserve the considered priorities of research work on the Crop ~~at~~ at different ~~places~~ places in public interest. The Office order conducting the transfer of the applicant attached as Annexure A-1 is too self evident in so far as its contents are concerned. As regards claims of the Applicant to post him at the place of his choice has already been fully explained in reply to the foregoing ~~x~~ paragraphs. There are no other records pertaining to the ~~x~~ claim under question and the so called records sought to be attributed thus by the Applicant are not in fact relevant and related to his case. As such the relief sought by the Applicant is absolutely unmaintainable and unjustified. Hon'ble Tribunal may not therefore, accede to the same and the application may be dismissed with costs.

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28. That with reference to para 9 of the application the respondents beg to state that the applicant cannot be posted at the place of his choice.

29. That with reference to paras 10 to 12 of the application the respondents beg to state that the same are matters of record.

VERIFICATION

Officially
I, ~~Mr~~ V.K. Bahl, Scientist Incharge, Central Potato Research Station, Shillong, do hereby declare that the statements made in this written statement are true to my knowledge derived from the records of the case.

I sign this verification on the 12th day of July, 1995 at Guwahati

(V.K. Bahl)
DEPONENT

Scientist Incharge,
Central Potato Research Station,
Shillong-793009, Meghalaya.

CENTRAL ADMINISTRATIVE TRIBUNAL

MADRAS BENCH

Monday, the 13th July, 1992.

PRESENT

The Hon'ble Shri R. Venkatesan,
Administrative Member;

and

The Hon'ble Shri S. Santhanakrishnan,
Judicial Member.

ORIGINAL APPLICATION NO.379/1992

S.F.A. Amalraj ... Applicant

vs

1. The Director General,
Indian Council of Agricultural
Research, Krishi Bhavan,
New Delhi.
2. The Director,
Central Potato Research Institute,
Himachal Pradesh,
Simla-171001.
2. Administrative Officer,
Central Potato Research Institute,
Simla.

...

Respondents

Ms. N.S. Malini ...

Counsel for
applicant

Mr.K.Venkatasubbaraju ...

Counsel for
respondents

O R D E R

(Pronounced by the Hon'ble Shri S.Santhanakkal
Judicial Member)

The applicant herein who is employed as Senior Scientist (Plant Breeding), Central Potato Research Station, Ooty, has come forward with this application challenging the order dated 12-3-1992 of the Director, Central Potato Research Institute, Simla, the 2nd respondent herein, transferring the applicant to the C.P.R.S., Simla. The applicant alleges that the abovementioned transfer order was issued without obtaining his willingness and that it was passed at the instigation of one Dr. D.B.Singh, who is also employed as a Scientist in the same institution. He also alleges that the order of transfer has been passed without taking into account his family circumstances.

[Signature]

The respondents have filed a detailed
Reply resisting the claim of the applicant.

Heard the counsel appearing for the
applicant as well as for the respondents.

We have perused the necessary records.

The applicant is now working as a Senior
Scientist in the C.P.R.S., Doty. As per the
impugned order dated 12-3-1992, certain general
transfers were ordered by the Director, Central
Potato Research Institute, Shimla, the 2nd
respondent, in public interest on the recommen-
dation of the Institute Transfer Committee. The ap-
plicant was one among those who were transferred.
As per this order, the applicant was transferred
from CPRS, Dotacamund to CPRS, Shillong, with
immediate effect. The applicant is continuing
in the present post in view of the interim stay
granted by this Tribunal as per its order dated
1-4-1992, in favour of the applicant. Para 2
of the impugned order dated 12-3-1992 reads as
follows:

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"As per the recommendations of the Transfer Committee approved by the competent authority, it has been ordered that Sh. VS. Kushvan should move first immediately and on his joining at Central Potato Research Station, Gwalior Sh. SG Phadtare will immediately move to Central Potato Research Station, Ootacamund and relieve Dr. R.K. Arora from there. As regards Scientists at Sl.Nos. 4 and 5, they will move from Ootacamund to join the new places of posting immediately by handing over their respective charge to the other available Scientists in their discipline/project at the station. The controlling authorities of all concerned scientists are to relieve them accordingly and ensure that each take up duty at their new posting place by 1st of April positively."

A perusal of the above order shows that the transfer of the applicant was ordered on the recommendations of the Institute Transfer Committee. The main contention of the applicant is that the respondent ought not to have transferred him without obtaining his willingness. The applicant failed to bring to our notice any rule in this regard. Hence we find no force in this objection.

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The next objection of the applicant is that the transfer order was issued at the instigation of one Dr. D.B. Singh, who is inimical towards him. He is influential with authorities and hence the 2nd respondent forced the 3rd respondent to effect the abovesaid transfer. On the other hand, the respondents have filed along with their Reply a copy of the proceedings of the Transfer Committee Meeting held in the Chamber of the Director, CPRI, Shimla, which clearly establish that transfers are ordered on the recommendations of the Transfer Committee consisting of several senior officers of the Institute. It is seen therefrom that Dr. D.B. Singh is not a member in the Transfer Committee. The applicant has failed to produce any record to show that the said Dr. D.B. Singh is influential with the authorities and that the transfer of the applicant was ordered only at his instigation. Hence

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we are unable to agree with this contention of the applicant.

Admittedly, the applicant is working in a transferable post. The respondents contend in their reply that the applicant was transferred in public interest from CPRI, Ootacamund along with some others who are working in CPRI at other places due to the priorities of research work. It is further averred in the reply that the transfer has not been ordered as a punishment or in a mala fide manner. It is further averred that the 2nd respondent is fully empowered to effect replacement of scientists within his jurisdiction. It is also pointed out in the Reply that such transfers are effected from time to time as a matter of routine to subserve the changing requirements of work and priorities of research which is the primary aim of the institute. It is also

averred that during the visit of the Director, CPRO, Shimla to Ootacamund in May, 1991, the applicant himself informed that he had practically no work at the CPRS, Ootacamund and this was found true on personal verification by the Director. This is not disputed by the applicant by filing a Rejoinder. It is pointed out in the Reply that it was found that the services of the applicant could not be usefully and fruitfully utilised at CPRS, Ootacamund, keeping in view the relevant research programme over there relating to his discipline. Hence the respondents have chosen ^{him} ~~him~~ to transfer to Shimla. As already pointed out, the applicant has not chosen to file any rejoinder refuting these allegations. The respondents have specifically averred that the transfer of the applicant was not ordered as a punishment, but in a routine manner in public interest. Though the applicant alleges that only at the instigation of Dr.D.B.Singh, who was inimical towards him,

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the transfer was ordered, ~~but~~ the applicant has miserably failed to establish that the said Dr.D.B. Singh was in any way responsible for his transfer. As already pointed out, he was not even a member in the Transfer Committee of the Institute.

On this aspect our attention was drawn to a decision reported in (1989)11 ATC 269 (Union of India and others v. H.N. Kirtania) wherein the Hon'ble Supreme Court has pointed out that transfer of a public servant on administrative grounds or in public interest should not be interfered with unless there are strong and pressing grounds rendering the transfer order illegal on the ground of violation of statutory rules or on ground of mala fide. Our attention was also drawn to a decision reported in AIR 1991 (SC) 532, (Mrs. Shilpi Bose and others vs. State of Bihar) wherein the Hon'ble Supreme Court

[Signature]

83-~~88~~ 26 (134) (135) JCB
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has observed as follows:

"In our opinion, the courts should not interfere with a transfer order which are made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A Government holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the Department. If the courts continue to interfere with day-to-day transfer orders issued by Government and its subordinate authorities, there will be complete chaos in the Administration which would not be conducive to public interest."

In view of the above decisions, the applicant is not entitled to any relief in this application since he has not established violation of any mandatory rule or mala fides vitiating the transfer order. At the time of hearing,

69

it was brought to our notice that the applicant had already submitted his representation against the transfer to the higher authority on 21-3-1992. Immediately after submitting his representation and without waiting for a reply, he filed this application on 27-3-1992. Hence his representation could not be considered. We hereby direct the respondents to consider his representation sympathetically, taking into consideration his personal problems.

Subject to the above observation, the application is dismissed. However, there will be no order as to costs.

TRUE COPY

S.V.

Vijaya Raje
DEPUTY REGISTRAR 22/12/92

Attested
M. Chinnappa
M. Chinnappa
M. Chinnappa
M. Chinnappa

SS-22. 53 ① 56
Annexure - R-2

PROCEEDINGS OF THE TRANSFER COMMITTEE MEETING HELD IN
THE CHAMBER OF THE DIRECTOR AT CENTRAL POTATO RESEARCH
INSTITUTE, SHIMLA ON 3RD MARCH, 1992 AT 3.00 P.M.

....

The meeting of the transfer committee was chaired
by Director, CPRI, Shimla and following were present:-

1. Dr. GS Shekhawat ... Member
Principal Scientist.
2. Dr. NP Sukumaran, ... Member
Head, Division of Crop
Physiology & Biochem.
3. Dr. SM Paul Khuranna, ... Member
Head, Division of
Plant Pathology.
4. Dr. Hira Nand, ... Member
Head, Division of
Social Sciences.
5. Dr. SC Verma, ... Member
Principal Scientist.
6. Sh. NS Randhawa, ... Member
Administrative Officer.

The committee reviewed the deployment of scientists
at the different regional stations of the Institute in the
context of ongoing research projects and related activities
as well as the required focus on research on the selected
priority problem areas of potato at the relevant places/
stations in the immediate future. After long deliberations
and considering all aspects in each case the committee
recommended the undermentioned transfers of scientists as
per details given below in public interest.

Sl.No.	Name of the Scientists	Present place of posting	Place to which recommended for transfer in <u>public interest.</u>
1.	Sh. VS Khushwah, Scientist (SG)	CPRS, Patna	CPRS, GWALIOR
2.	Sh. SG Phadtare, Principal Scientist	CPRS, Gwalior	CPRS, Ootacamund
3.	Dr. RA Arora Scientist SG	CPRS, Ootacamund	CPRS, Jalandhar
4.	Sh. SFA Amalraj, Scientist SG	CPRS, Ooty	CPRS, Shillong
5.	Mrs. KHM Damyanti, Scientist.	CPRS, Ooty	CPRS, Patna.

...2/-

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The committee also recommended that Sh. VS Khuswah should move first and on his joining at CPRS, Gwalior, Sh. SG Phadtare should move to CPRS, Ootacamund and relieve Dr. RK Arora from there. As regards Scientists at Sl.No. 4 and 5, they will move from Ootacamund to join new places of posting immediately by handing over their respective charge to the other available scientists in their discipline/project at the station.

The committee unanimously felt that the above recommended transfers are a minimum absolute necessity in the public interest, to ensure smooth running of the priority research activities of the Institute at the respective places.

Before further action is taken on the above recommendations of the transfer committee, Director may like to see the same for approval.

Ram Mohan 05/3/92
Administrative Officer

ms.D
Director

Approved

Lh - 1.

7/3/92

Attended
AM Chandra

AMO(E)
21. 07/3/92

ANNEXURE -3

Annexure R-10

From

Dr. S.F.A. Anilraj,
Senior Scientist, CRIS, Ootacamund.

To

Scientist Incharge,
CRIS, Ootacamund - 4.

Sir,

With reference to your letter No.F.5(SFA)/1299/92
dated 23.12.92 containing copy of the letter No.
F.1 (142)/D.H.L./22535 dated 12.12.92 signed by the Administra
Officer, I wish to say that my Transfer travelling Allowances
for Shillong may be paid to me early so that I can program
my journey and joining of the Shillong CRIS. I shall be
joining Shillong CRIS during March of 1993 so that my sons
education is not spoilt, and also due to other reasons
prevailing over at Shillong and Meghalaya.

This is submitted for necessary action at your end.

Thanking you,

Yours faithfully,

S/XXXXXXXXXXXXXXXXXXXX

(S.F.A. Anilraj)

Dated 23.12.92

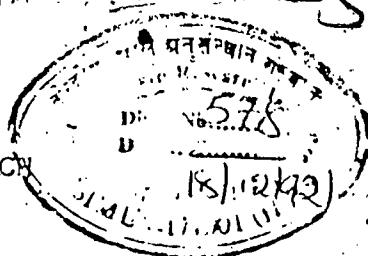
Date: 23.12.92.

Attested
Attested

Min. Central Govt.
Standing Counsel.

Annexure - 4

INDIAN COUNCIL OF AGRICULTURAL RESEARCH
KRISHI BHAVAN : NEW DELHI.



No.33(Sr.Sci.)3/92-Per.II

Dated the 10 Dec., 1992.

To

The Director,
Central Potato Research Instt.,
Shimla - 171 001 (H.P.).

Sir,

Representation dated 21.3.92 from Sh. S.F.A. Amalraj addressed to D.G. ICAR regarding cancellation of transfer has been considered in the Council. As the transfer of Shri Amalraj has been made on the recommendations of the Institute's Transfer Committee keeping in view the requirement of research work and in public interest, it is not possible to agree to his request for cancellation of the same. Shri Amalraj may, therefore, be informed accordingly.

Yours faithfully,

(SODHI SINGH)
UNDER SECRETARY(P)

Joint Central Govt.
Standing Counsel.

ANNEXURE - R-5

CENTRAL POTATO RESEARCH INSTITUTE
(Indian Council of Agricultural Research)
SHIMLA- 171 001 (HP).

REGISTERED

No.F.1(149)/Estt.I/27539 Dated the 19 December, 1992.

To

Dr. KS Krishnaprasad,
Scientist-In-Charge,
Central Potato Research Station,
Ootacamund- 643 004.

Subj: Relieving of Shri SFA Amalraj, Scientist SO
(Plant Breeding) from Central Potato Research
Station, Ootacamund.

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Sir,

Please refer to your Office Order No. F.5(SFA)/982/92 dated the 23rd September, 1992 on the subject mentioned above. The representation of Shri SFA Amalraj submitted to Director General ICAR for cancellation of his transfer to Central Potato Research Station, Shillong has been considered in the Council but it has not been found possible to agree to his request by the ICAR. Hence it has been rejected. Shri SFA Amalraj Senior Scientist may be informed accordingly and immediate necessary action may be taken at your end for relieving him to enable him to join at CPRS, Shillong as per this office order No.F.7/Estt.I/Vol.V/92/3642-51 dated the 12th March, 1992. Report compliance within a week from receipt of this letter.

This issues with the approval of the Director.

Yours faithfully,

(N E RANDHAWA)
ADMINISTRATIVE OFFICER

Copy for information and necessary action to :

1. The Scientist Incharge, CPRS, Shillong.
2. Sr. Finance & Accounts Officer, CPRI, Shimla.
3. Assistant Admn. Officer, (Accounts), CPRI, Shimla.
4. Supdt. (Technical), CPRI, Shimla.

vide - O/S(P) letter No. 33
(S. Sci) 3/92-Per II,
10/12/92

(N S RANDHAWA)
ADMINISTRATIVE OFFICER

19/12/1992.

Attested
19/12/1992

Filed in Court
on...14.7.95

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

Court Master

O.A. No. 23 of 1995

Dr. S.F.A. Amalraj

Vs.

U.O.I. & Others.

Filed by
B.K. Sharma
Advocate
14.7.95

REJOINDER TO THE WRITTEN STATEMENT FILED BY THE RESPONDENTS

1. The applicant begs to state as follows :

1. That the applicant has gone through the written statement filed on behalf of the respondents and I have understood the contents thereof. Save and except the statements which are specifically admitted hereinbelow other statements made in the written statement are categorically denied. Further the statements which are not borne on records are also denied and the respondents are put to the strictest proof thereof.

2. That with regard to the statements made in paragraph 1 of the W.S., the applicant does not admit anything contrary to the relevant records.

✓ 3. That with regard to the statements made in paragraph 2 of the W.S., the applicant denies that his representations have been considered inasmuch as till date nothing has been communicated to him. In this connection, the applicant begs to furnish the vacancy position clearly indicating that he can very well be accommodated in any one of the vacancies. The vacancies

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R
B.K. Sharma
Advocate
14/7/95

are indicated below :

Vacancy position in Plant Breeding Discipline

- (a) Vacancy position in Central Institute for Cotton Research Regional Station, Lawley Road, P.O. Coimbatore-3, Tamil Nadu State - 641003 :
- (i) Post of Sri R. Krishnamurthy, Cotton Breeder, vacancy created by his retirement ;
 - (ii) Post of Sri K. Srinivasan, Cotton Breeder, vacancy created by his retirement, and
 - (iii) Post of Dr. Prem Sekhar, Cotton Breeder, vacancy created by his retirement.
- (b) Vacancy position in Sugarcane Breeding Institute, Veerakaralam, Coimbatore, Tamil Nadu State :
- (i) Post of Dr. V. Ethirajan, Sugarcane Breeder, vacancy created by his retirement ;
 - (ii) Post of Mr. Mohan, vacancy created by his transfer.
- Besides, as this is a Main Institute, posting of additional hands will not create problem to the Cadre strength. However, many vacancies are existing in the Sugarcane Breeding.
- (c) Vacancy position in Central Tobacco Research Institute, Regional Station, Vedsanthur, Dindigul District, Tamil Nadu :
- (i) Post of Sri Elyas Ahmed, tobacco Breeder, vacancy created by his transfer.
- (d) Vacancy position in the Indian Agricultural Research Institute, Wellington, Coonoor, Nilgiris District, Tamil Nadu :
- (i) Post of Dr. Nambeesan, Wheat Breeder, vacancy created by his retirement, and
 - (ii) Post of Mr. Tomar, vacancy created by his transfer.

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-62- 60
27

The above vacancy position is only illustrative and not exhaustive. The applicant very well be accommodated in any one of the vacancies.

4. That with regard to the statements made in paragraphs 3,4,5 and 6 of the W.S. the applicant reiterates and reaffirms the statements made in the Original Application.

5. That with regard to the statements made in paragraph 7 of the W.S., the applicant states that while there is no denial that he has got all India Transfer Liability ; but at the same time there can also be no denial that he is entitled to have his choice posting on completion of tenure posting in the North East Region. The respondents cannot ignore the office memoranda holding the field.

6. That with regard to the statements made in paragraphs 8 and 9 of the W.S., the applicant beg to state that the Judgment of the Hon'ble C.A.T., Madras Bench has already been referred to in the O.A. As regards the date of joining, the applicant reiterates and reaffirms the statements made in paragraphs 4 and 5 of the O.A.

7. That with regard to the statements made in paragraph 10 of the W.S., the applicant categorically denies the allegations made against him. The applicant states that he had submitted his representation observing the due formalities and at no point of time any objection

Contd...P/4.

- 63 -
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28

was raised regarding his submission of representation. It is only in the W.S., the respondents have raised this plea. It is also incorrect to say that the applicant has not worked at remote/difficult area for a long period. In any case, the respondents cannot deny the effect of the Office Memorandum at Annexure-4 to the O.A. The statements of the respondents are self contradictory inasmuch as in this paragraph, it is clear that only consideration on which the applicant has not been given his choice posting is not exigencies of service, but only on the ground that he has not worked at remote/difficult area. In this connection, the applicant states that he having worked in the N.E. Region which is ~~never~~ considered to be one of the most difficult areas, he has got a right to be posted in his choice posting pursuant to the Annexure-4 office memorandum. *In this connection para 4.11 of the OA may be referred to.*

8. ✓ That with regard to the statements made in paragraph 11 of the W.S., the applicant begs to state that the respondents cannot deny the benefit of Office Memorandum dated 4.3.86 to the applicant. It is categorically denied that it is not possible to transfer the applicant till completion of the project. The respondents have tried to mislead the Hon'ble Tribunal inasmuch as it is ^{not} the applicant alone who is working in the project. There are a good number of staff working in the project and projects are also not directly attributable to the applicant. It is emphatically stated that there is no difficulty on the part of the

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respondents to give his choice posting and the ground ~~to be~~ forwarded is only an eye wash and self contradictory inasmuch as in the earlier paragraph, the respondents have stated that it was not found possible to post him at the place of choice as the applicant has not worked at remote/difficult area for a long time.

9. That with regard to the statements made in paragraph 12 of the W.S., the applicant, while reiterating and reaffirming the statements made in paragraph 4.8 of the O.A., begs to state that Annexure-R₂ and R₃ ~~contains~~ do not reveal that his representation was disposed of pursuant to the order of the Hon'ble Tribunal.

10. That with regard to the statements made in paragraph 14 of the W.S., the applicant while reiterating and reaffirming the statements made in the O.A., begs to deny that he has misled the Hon'ble Tribunal by giving any false information. It is emphatically stated that the direction of the Hon'ble Tribunal has not been complied with ~~in accordance~~ in accordance with law. The Annexure-4 letter dated 10.12.92 is not addressed to the applicant.

11. That with regard to the statements made in paragraph 15 of the W.S. the applicant denies the correctness of the statements made by the respondents and reiterates the statements made in the O.A.

12. That with regard to the statements made in paragraphs 16 and 17 of the W.S., the applicant reiterates

65- 65/80

and reaffirms the statements made above. The ground as has been given by the respondents for not giving him choice place of posting to the applicant is not at all maintainable. The respondents having not stated anything about the vacancy position and from the vacancy position shown by the applicant it is clearly established that so far as the ~~applicant~~ vacancy position is concerned, there is no difficulty for the respondents to give choice posting to the applicant and accordingly, there cannot be any valid reason not to give choice posting to the applicant, which ~~is~~ he is entitled in terms of the Office memoranda.

13. That with regard to the statements made in paragraphs 18, 19 and 20 of the W.S., the applicant reiterates and reaffirms the statements made above and also the statements made in the O.A.. The statements which are not in conformity with the factual position are categorically denied.

24. That with regard to the statements made in paragraphs 21 to 26 of the W.S., the applicant denies the contentions made by the respondents and reaffirms and reiterates the statements made in the O.A. as well as the statements made hereinabove.

25. That with regard to the statements made in paragraph 27 of the W.S., the applicant states that when there is no denial that he carries all India Transfer

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Liability ; but at the same time there is no also any denial of the legal position that he is entitled to have his choice posting on completion of his tenure posting in the N.E. Region. The reasons given by the respondents for not accommodating him are not at all ~~x~~ tenable and the factual position being admitted by the respondents, the applicant is entitled to his choice posting as the respondents cannot deny the same.

26. That with regard to the statements made in paragraphs 28 and 29 of the W.S., the applicant reiterates and reaffirms the statements made hereinabove.

17. That the applicant submits that there is no earthly reason as to why the respondents shall not give the applicant his choice place of posting in terms of Annexure-4 and 5 office memoranda to the O.A. more so when there is no difficulty so far as vacancy position is concerned.

18. That the applicant submits that in ~~any~~ view of the facts and circumstances stated above, the instant application deserved to be allowed with cost.

Verification.....

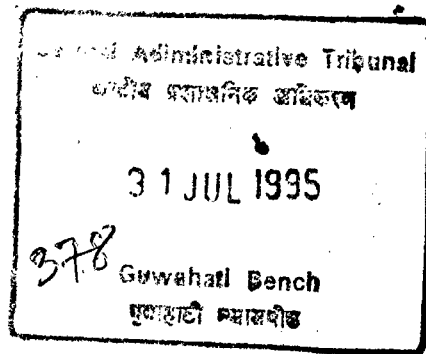
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V E R I F I C A T I O N

I, Dr. S.F.A. Amalraj, the applicant in O.A. No. 23/95 do hereby solemnly affirm and verify that the statements made in the accompanying rejoinder are true to my knowledge and I have not suppressed any material facts.

And I sign this verification on this the 14th day of July 1995. ~~xx~~

S.F.A. Amalraj



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL.

GUWAHATI BENCH.

IN THE MATTER OF :-

O.A. No. 23 of 1995

Dr. S.F.A. Anaraj ... Applicant.

Vs.

Union of India & Ors. ... Respondents.

AND

IN THE MATTER OF :-

Additional rejoinder to the written
statement filed by the respondents.

The applicant begs to state as follows :-

1. That the applicant has filed a rejoinder to the written statement filed by the respondents. The said re-joinder was filed hurriedly due to paucity of time and hence this additional rejoinder.
2. That the applicant states that the respondents have stated in paragraph 2 of the written statements that he has not worked at remote/difficult area for

Ctd....2

a long period. This is an arbitrary statement and there is no rule holding this notion. The applicant states that he has served 11 full years in his previous place of posting which is classified as mountainous difficult area by the Tamil Nadu Government as per rule. The applicant served there from 3.8.81 to 15.3.93. The applicant begs to refuse that he was informed of that that he had yet to serve in remote/difficult area. The respondents are called upon to substantiate their claim with documentary evidence as to how the applicant was informed. In this connection, the applicant states that there are persons/officers who have not even been transferred but on the other hand the applicant has been picked up for differential treatment. Be that as it may, the applicant having completed his tenure posting in the N.E. Region, he is entitled to get his choice posting as per the policy decision of the Government of India and the same cannot be denied to him by any mechanical approach. The applicant begs to furnish the vacancy position clearly indicating that he can very well be accommodated in anyone of the vacancies. The vacancies are indicated below :-

Vacancy position in Plant Breeding Discipline

(a) Vacancy position in Central Institute for Cotton Research, Regional Station, Lawley Road, P.O. Coimbatore-3, Tamil Nadu - 641 003.

(i) Post of Sri R. Krishnamurthy, Cotton Breeder, vacancy created by his retirement;

Ctd....3

- 70 -
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- (ii) Post of Sri K. Srinivasan, Cotton Breeder,
vacancy created by his retirement; and
 - (iii) Post of Dr. Prem Sekhar, Cotton Breeder,
vacancy created by his retirement.
- (b) Vacancy position in Sugarcane Breeding Institute,
Verakeralam, Coimbatore, Tamil Nadu State :
- (i) Post of Dr. V. Ethirajan, Sugarcane Breeder,
vacancy created by his retirement;
 - (ii) Post of Mr. Mohan, vacancy created by his
transfer.

Besides, as this is a Main Institute, posting of additional hands will not create problem to the cadre strength. However, many vacancies are existing in the Sugarcane Breeding Institute.

- (c) Vacancy position in Central Tobacco Research Institute,
Regional Station, Vedsanthur, Dindigul District,
Tamil Nadu:
- (i) Post of Sri Ilyas Ahmed, Tobacco Breeder,
vacancy created by his transfer.
- (d) Vacancy position in the Indian Agricultural Research
Institute, Wellington, Coonoor, Nilgiri District,
Tamil Nadu :
- (i) Post of Dr. Nambessan, Wheat Breeder,
vacancy created by his retirement, and
 - (ii) Post of Mr. Tomar, Wheat Breeder,
vacancy created by his transfer.

The above vacancy position is only illustrative and not exhaustive. The applicant very well be accommodated in any one of the vacancies.

✓ 3. That the applicant states that as pointed out above, he has served in the Nilgiri District of Tamil Nadu for 11 years. The entire district has been classified as the backward and under-developed areas with primitive Tribal people like Todas, Irulas and Padukas and the place has been classified by the Tamil Nadu Government rule as backward area. It is further stated that non-consideration of the case of the applicant is not in the exigency of service as has been sought to be made out by the respondents in their written statement, but the same is only on the ~~sublime~~ futile and lame excuse that the applicant has not worked at remote/difficult area for a long period. This position is amply evident from the message sent vide Message No. F.TCH/29/62/95/6333 dt 28.6.95 copy of which has been endorsed to the applicant very recently. A copy of the said message is annexed as Annexure '11'. ✓ Thus, the respondents by way of statement made in the written statement cannot develop their own case.

4. That with regard to the statements made in paragraph 11 of the written statement, the applicant denies that it is not possible to transfer the applicant till completion of the project. By making such a statement, the respondents have tried to mislead this Hon'ble Tribunal in-as-much-as it is not the applicant alone who is working in the project which is going on since long time past. In the project of the applicant many Scientists are working

- 5 -

such as Dr. T.A. Joseph, Dr. P.C. Gaur, Dr. Jai Gopal, Dr. S.K. Pandey, Dr. I.A. Khan, Dr. R. Dhiman etc. Thus, it is not a case in which the applicant is the only man in a particular project. People are coming and going to the project.

5. That the applicant states that the respondents should not deprive the applicant from his legitimate benefits with the use of the terms like "public interest", "exigency of work" etc. Such terms have been used by the respondents with the sole purpose of making out a case. By no stress of imagination, it can be said that the applicant alone is the Scientist in a particular project. The respondents have not offered any comments on the applicant's citation of list of names of Scientists who remained permanently without being transferred for many years and decades. The idea behind applicant's citation was that the service rules are to be extended uniformly to all.

6. That as regards the statements made in paragraph 15(c) of the written statement, the applicant begs to state that the applicant inferred wrongly all the persons named in the list had gone on transfer to their home States - some on the basis of written request and some on the basis of order of the Transferring Committee and other by oral request. The rule applicable to them is also applicable to the applicant. The applicant

Ctd.....6

stated that the respondents usually follow the Office Memorandum on the posting of husband and wife, for example, Dr. V. Kishore (Scientist in Plant Pathology) and his wife Mrs. Sunaina (Scientist in Plant Pathology) were jointly posted at Central Potato Research Station of Rajgurunagar (Maharashtra) and then both were jointly transferred to Central Potato Research Station Ootacamund (Tamil Nadu) and then again both were transferred to Central Potato Research Station at Modhipuram (U.P.). Following the same rule, the transfer of Dr. Janardhan G. (Scientist in Antronology) was cancelled by DG/ICAR, in as much as his wife was serving with the Bihar Government. Similarly, Mr. Jai Gopal (Scientist in Breeding) was transferred in 1981 from Central Potato Research Station of Darjeeling (W.B.) to Central Potato Research Institute at Simla in consideration of the fact that his wife was serving at Simla. ~~Again~~ Again one Sr. Administrative Office of Central Potato Research Institute of Simla then were transferred to Central ~~Potato~~ Arid Zone Research Institute of Jodhpur, his wife (a Scientist in Physiology) was also transferred there immediately in 1989. Such consideration has not been extended to the applicant. The applicant states that contention of the respondents that the applicant is engaged in a project, it is stated that any Scientist can undertake any research work in the line of his specialisation. Since many Scientists work in the same project as all projects are co-ordinated and

continuous, one Scientist can be substituted with that of another Scientist. This is being done with Scientists go on leave or is absent otherwise.

7. That the applicant states that he has already mentioned above that Scientists are being accommodated by way of giving them choice posting. An additional list is given below :-

A. List of Scientists transferred from Central Potato Research Station of Shillong (Meghalaya) to their choice places :

Names	Serving Station	Transferred to
1. Dr. E Perumal (Sr. Scientist in Station, Shillong, Physiology)	Central Potato Res. transferred 1989.	Central Institute for Cotton Res. Nagpur (Maharashtra) &
2. Dr. KR Dhimman (Sr. Scientist in Breeding.)	Central Potato Res. Stn. Shillong, Transferred in 1986.	Central Potato Res. Stn., Kufri (H.P.)

B. List of Scientists transferred from other ICAR Research Institute/Regional Stations situated at Shillong (Meghalaya) to their choice places.

Names	Place of working before transfer.	Chosen place of their transfer posting.
1. Dr. Mahajan, Sr. Scientist in Genetics.	ICAR Res. Complex. Barapani, Shillong.	Transferred to Pulses Directorate, Junagarh (Gujarat).
2. Dr. RP Shukla S-3 Scientist in Entomology.	- do -	Dir. of Mango Res. Lucknow (U.P.)

- | | | |
|---|---|--|
| 3. Dr. Jothi Kr. Singh
Scientist S-1 Genetics. | ICAR, Res.
Complex, Bara-
pani, Shillong. | Indian Inst. of Sugar-
cane Res. Lucknow (U.P.) |
| 4. Dr. Raj Singh, Scien-
tist S-2 in Agronomy. | -do- | Central Arid Zone Res.
Inst., Jodhpur. |
| 5. Dr. NB Singh, Scien-
tist S-1 in Agronomy. | -do- | - do- |
| 6. Dr. D.S. Ghaughan, S-3
Scientist in Agronomy. | -do- | Soil Salinity Res. Cen-
tre, Karnal (Punjab). |
| 7. Dr. C. Abraham, Sr.
Scientist in Breeding. | -do- | All India Coordinated
Project, Aduthurai
(Tamil Nadu). |
| 8. Dr. M. Venugopal, Sr.
Scientist in Agricul-
tural Extension. | -do- | Central Plantation Res.
Inst. Kasargod (Kerala) |
| 9. Dr. B.D. Sharma, Scien-
tist In Charge. | NBPGR, Res. Stn.
Shillong. | NBPGR Res. Station,
Simla (H.P.). |
-

8. That in view of the facts and circumstances stated above, the instant application deserves to be allowed.

Verification....9

- 76 -

at

- 9 -

VERIFICATION.

I, Shri S.F.A. Amolraj, the applicant in the instant case, do hereby solemnly affirm and state~~ment~~ that the statement made in this additional rejoinder are true to my knowledge and I have not suppressed any material fact.

And I sign this Verification on this the 28th day of July, 1995.

S. F. A. Amolraj

(Signature of the applicant).

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EXPRESS TELEGRAM

ANNEXURE-11

SCIENTIST INCHARGE
POTATOSEARCH
SHILLONG-793 009

PARAWISE REPLY TO OA 23/95 FILED BY DR. AMALRAJ
BEING SENT BY 29th FOR FILING BY 7.7.95 (.)

DATED : 28 JUNE 1995

POTATOSEARCH
SHIMLA

(N.T.T.)

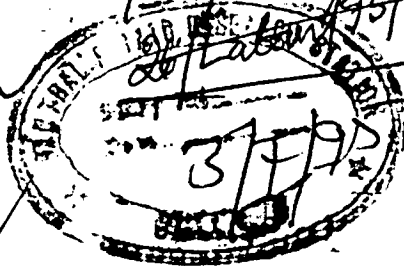
No.F.TCH/29-62/95/6333

Central Potato Research Instt.
Shimla-171 001 (HP)

Dated 28.6.95

Post copy in confirmation and for information
to Scientist-in-Charge, Central Potato Research
Station, Shillong. It has been informed by the
Council that the Representation of Dr. SFA Amalraj
was considered and it was found that it is not
possible to post him at the place of his choice,
as he has not worked at Remote/Difficult Area for
a long period. Dr. Amalraj may please be informed
of the same.

(Heera Verma)
Asstt. Admn. Officer(TCH)



Attested
Crown
11-8-95