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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No. 112/95
R.A/C.P No.
E.P/M.A No.

1. Orders Sheet.....*EA*.....Pg. *1*.....to *2*.....
2. Judgment/Order dtd. *23.6.95*.....Pg. *K*.....to *13* *Dep. write order*
9/0
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A.....*112/95*.....Pg. *1*.....to *28 13*.....
5. E.P/M.P.....Pg.....to.....
6. R.A/C.P.....Pg.....to.....
7. W.S.....Pg.....to.....
8. Rejoinder.....Pg.....to.....
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendement Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

Kahly
5.2.18

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH
GUWAHATI

ORIGINAL APPLN.NO. 112 OF 1995
TRANSFER APPLN.NO. OF 1995
CONTEMPT APPLN.NO. OF 1995 (IN OA NO.)
REVIEW APPLN. NO. OF 1995 (IN OA NO.)
MISC. PETN. NO. OF 1995 (IN OA NO.)

Sunil Chandra Patra..... APPLICANT(S)

U.O.I. & Ors...... RESPONDENT(S)

FOR THE APPLICANT(S)

...MR. J.L. Sarkar
MR. M. Chanda
MR.
MR.

FOR THE RESPONDENTS

...MR. S. Ali, Sr. C.G.S.C.

OFFICE NOTE	DATE	ORDER
<p>This application is in form and within time. C. F. of Rs. 50/- deposited vide IPO/BD No. 520158 Dated 19.6.95</p> <p><i>[Signature]</i> 22/6/95</p>	23.6.95	<p>Learned counsel Mr J.L.Sarkar moves this application on behalf of the applicant Shri Sunil Chandra Patra, Assistant Garrison Engineer, Borjhar, Guwahati. Learned Sr.C.G.S.C Mr S.Ali is present for the respondents.</p> <p>The applicant has been transferred from CE Borjhar to CEEC Calcutta vide letter No.34728/Engrs/4903/EIB dated 9.6.95 and he has been ordered to move out on 24.6.95 afternoon by order No. 1142/666/EIE dated 21.6.95 issued by the Garrison Engineer(AF) Borjhar, Guwahati. In this application the applicant has not impugned the transfer order but he has only impugned the release order dated 21.6.95 and he seeks relief to set aside the movement order and to allow him to submit option for choice station in accordance with the O.M.No.20014/31/83-E.IV dated 14.12.83. He has not made any representation before his superior authorities expressing his personal difficulties in respect of the transfer order on the ground that the order was suddenly passed and he had no scope to make a</p>

contd...

23.6.95 request before the department for his retention in Guwahati for atleast 3 months. The applicant has stated that he has some personal difficulties like education of his children. He has also stated that the transfer has come suddenly before he completed the tenure of posting and at a time which is inconvenient to him due to education of the children. According to the applicant he is to remain here in Guwahati atleast 2½ years which he has not completed and the transfer orders are normally to be issued during the month of April/May and in October/November.

There is no case for scrutiny and decision in this case and therefore the application is disposed of with the following directions :

The applicant is directed to submit representation before his competent authorities praying for stay of the movement order and also submit representation for making choice posting. The applicant will submit the representation within 5 days from today to the respondents and the respondents will dispose of the representation as expeditiously as possible by taking into consideration the personal difficulties of the applicant and also in terms of the O.M dated 14.12.83 and in accordance with the rules framed by Army Headquarters, E-in-Chief Branch, December 1987 Issue, if such representation is submitted. Until disposal of such representation submitted by the applicant the respondents may extend the time of implementation of the impugned order dated 21.6.95.

The application is disposed of with the above directions.

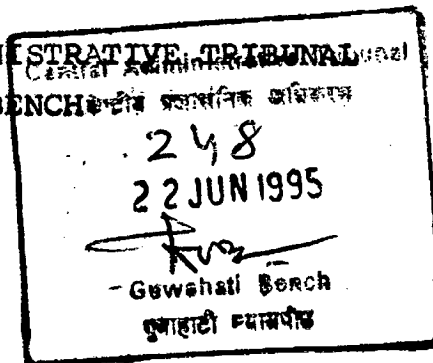
Copy of this order may be furnished to the counsel of the parties.

28.7.95
copy of order dtl
23.6.95 issued to
all concerned by
Regd. Post and
their counsel also
vide O.No. 3577
to 3583 dtl. 28.7.95.

27/6/95
Pg

Member 23/6/95

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH



Filed by the applicant
through M. Chandra
22.6.95. Advocate

O.A. No. 112/95

Sri Sunil Chandra Patra

..... Applicant

-Versus-

Union of India & Ors.

..... Respondents

I N D E X

Sl.No.	Annexure	Particulars	Page No.
1	-	Application	1-8
2	-	Verification	-9-
3	1	Transfer/ Movement order dt. 21.6.95	10-11
4	2	Extract of the O.M.dt. 14.12.83	12-13

Filed by :

M. Chandra

Advocate

Received copy.

For Sr. CGSC
22/6/95

1. Particulars of the Applicant.

Sri Sunil Chandra Patra
Son of Late Sarada Chandra Patra
Working as Asstt. Garrison Engineer,
Borjhar,
Guwahati.

2. Particulars of the Respondents.

1. Union of India
Through the Secretary
Govt. of India
Ministry of Defence
New Delhi

2. E-in-C,
Army Headquarter,
New Delhi

3. The Garrison Engineer,
Military Engineering Service
Govt. of India
Ministry of Defence
Borjhar, Guwahati

4. CE/Eastern C,
Fort William
Calcutta

..... Respondents

3. Particulars for which the application is made.

This application is made for retention of the applicant at Guwahati for at least 3 months for the educational problems of the son and daughter of the applicant and for setting aside the impugned Transfer/Movement order dt. 21.6.95.

4. Jurisdiction

The applicant states that the case has been arisen within the Jurisdiction of this Hon'ble Tribunal.

5. Limitation

The applicant states that the case is filed within the prescribed time of Administrative Tribunals Act.

6. Facts of the case

6.1 That the applicant is a citizen of India and as such he is entitled to all the rights and privileges guaranteed by the Constitution of India. The applicant is presently serving as Assistant Garrison Engineer, at Borjhar, Guwahati Airport. He is a Civilian employee, under the Ministry of Defence, Govt. of India.

6.2 That the applicant had joined the service at Borjhar, Guwahati on 20.4.1993 as Assistant Garrison Engineer, under Garrison Engineer (AF). The eldest daughter Smt. Sanjita Patra of the applicant had passed M.Sc. and she is studying her B.Ed in the Pandu College, Maligaon, Guwahati. Final examination of the B.Ed. shall be completed in the month of

July, 1995, and the 2nd son Shri Sontosh Patra aged about 13 years is studying in Class IX in the Central School at Borjhar, Guwahati. Now it is the middle of the academic session.

6.3 That most surprisingly the applicant is served with a transfer/movement order issued under letter No. 1142/666/EIE dated 21.6.95 by the Garrison Engineer, transferring the applicant in the office of the Chief Engineer, Eastern Command Calcutta on permanent posting before his completion of 2 years tenure posting in the North Eastern Region. This transfer and posting order dated 21.6.95 is served without any prior notice/intimation to the applicant and by the impugned order dated 21.6.1995 (A.N.) whereby he is going to be spared on 24.6.95. This sudden transfer, has adversely affected the applicant and his family members, particularly the education of the son and daughter of the applicant.

A copy of the Transfer Order dated 21.6.95 is annexed herewith and the same is marked as Annexure-'A'.

6.4 That the applicant being a loyal Govt. servant he had always carried out the transfer order wherever he is transferred and posted, and the applicant prays at least 3 months time, to allow him to retain

at Guwahati so that the educational problems of the sons and daughter of the applicant can be avoided.

5.5 That the applicant begs to state that he had no scope to make a request before the department for his retention here at Guwahati for at least 3 months, therefore finding no other alternative he approached this Hon'ble Tribunal, so that the Hon'ble Tribunal be pleased to set aside the impugned order dated 21.6.95.

6.6. That the applicant begs to state that in terms of Office Memorandum dated 14.12.83 issued by the Govt. of India, Ministry of Finance, the applicant is entitled to be allowed to submit his option for choice station posting but the sudden transfer of the applicant from the North Eastern Region also deprived the facility of the Office Memorandum dated 14.12.83 for the civilian employees of the North Eastern Region.

*A copy of the Extract- is enclosed
in annexure - 'B'*

6.7 That the applicant hereby declare that he will carry out any transfer order, only after period of 3 months which is sought by the applicant for the educational problems of his son and daughter which is likely to sorted out within a period of months. Therefore the Hon'ble Tribunal be pleased to set aside and quash the impugned Transfer order dt. 21.6.95 otherwise impugned Transfer Order dt. 21.6.95 would cause irreparable loss to the family members of the applicant.

That the applicant begs to state that as per departmental rules transfer will be effected. ^{either} neither 2/3 years, normal tenure as laid down may be extended nor curtailed under regulation 22 of the transfer policy on specific recommendation of the Command and such specific recommendation should be initiated well in time to reach C & E latest by 31st December each year whereas in this present case this instruction has been ignored deliberately, this is speaks of malice in law.

That the applicant further begs to state that as per para 22 of the posting policy of the Department postings are to be made in April/May and in October-November. The case of the present applicant treated beyond this rule with ulterior motive.

That the transfer of the applicant is made in total violation of the departmental guidelines laid down in the transfer policy, therefore impugned order dt. 21.6.95 be set aside and quashed.

10
6 A

6.01. That this application is made bonafide and for the cause of justice.

7. Reliefs Prayed for :

Under the facts and circumstances, the applicant prays for the following reliefs :

- i. That the impugned Transfer/Movement Order dt. 21.6.95 be set aside and quashed.
- ii. That the applicant be allowed to submit his option in terms of O.M. dt. 14.12.83 for choice station posting.

The above reliefs are prayed on the following amongst other

-G R O U N D S -

1. For that B.Ed Examination of the eldest daughter of the applicant is going to be commenced in the month of July, 1995 at Guwahati

ii. For that it is middle of the academic session of the son of the applicant who is studying in class IX in the Central School, Guwahati.

iii. For that the sudden movement/transfer order dated 21.6.95 issued without any prior notice/intimation to the applicant.

iv. For that it is difficult to move within 4 days, from Guwahati to Calcutta when the daughter and son are studying here at Guwahati.

v. For that the applicant declare that he will carry out the transfer order after a period of 3 months.

vi. For that 3 months extension is sought for the educational problems of the daughter and son of the applicant.

vii. For that no option was allowed to submit before issuance of impugned Transfer/Movement Order dated 21.6.95.

viii. For that 2 years tenure of the applicant not completed, in the North Eastern Region.

ix. Against the impugned transfer order dated 21.6.95, issued in total violation of departmental transfer policy.

8. Interim Reliefs Prayed for :

During the pendency of this application the following interim relief is prayed for :-

1. That the impugned Movement/Transfer Order dt. 21.6.95 be stayed till final disposal of this application.
2. That the respondents be directed to allow the applicant to continue to work as Asstt. Garrison Engineer at Borjhar, Guwahati.

The above reliefs are prayed on the grounds mentioned in Para 7, if the above reliefs are not guaranteed, the applicant would suffer irreparable loss.

9. Particulars of the I.P.O.

I.P.O. No.	: 520158
Issued from	: G.P.O. Guwahati
Payable at	: G.P.O. Guwahati
Date	: 19.6.95

10. List of enclosures :

As per Index.

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

I, Sri Sunil Chandra Patra, Son of Late Sarada Chandra Patra, working as Asstt. Garrison Engineer under the Garrison Engineer, Borjhar, Guwahati do hereby verify that the statements made in paragraphs 1 to 10 are true to my knowledge and based on records and I have not suppressed any material facts.

And I sign this verification on this the 22nd day of June, 1995.

Sunil Chandra Patra
SIGNATURE

ANNEXURE-A

MOVEMENT ORDER

1. MES No. Name & Designation : MES/206719 Shri S.C. Patra,
AE E/M
2. Date of Birth : 19 Aug 1944
3. Date of Appointment : 03 Jun 1969
4. Proceeding from : GE(AF) Borjar
5. Proceeding to : CE EC Calcutta
6. Nature of duty : Permanent posting
7. Authority of move : E-in-C's Branch AHQ New Delhi
letter No. 34728/Engre/4903/
EIB dt. 09 Jun '95
8. Date of SCS : 24 Jun '95 (AN)
9. Date of joining duty in new
Station : After availing joining/journey
period
10. Date upto and for which paid : 30 Jun '95
11. Date of next increment : 01 Jun '96
12. Details of pay and Allowances Deduction

B/Pay	Rs. 2600/-	
DA	Rs. 3250/-	
SCA	Rs. 80/-	GP Fund Rs. 160 pm
SDA	Rs. 325/-	(A/c No. 528919)
OLD HRA	Rs. 458/-	CGEGIS Rs. 60/- p.m.
HRA	Rs. -	
IR	Rs. 100/-	
13. CL availed during this year : 1 day. Bal. 11 days
RH Bal : 2 days
EL Bal : 234 days
HPL Bal : 216 days
14. Advance of TA/DA & Pay : As applicable

Attested
by
Adv

15. The above named officer is not involved in any disciplinary case/C of I, SPE case.
16. The office will surrender his Identity Card No. A058135 to New Unit.
17. His attention is drawn to CSR ACT 189, if he fails to report to his new unit by the due date he will be entitled for no pay and allowances and after a weeks time, he will have not lien on any appointment.
18. Service Book is centralised with CRO Delhi.
19. The officer will submit the following before leaving this office.
(a) Clearance certificate (b) Departure Report.

SD/- Illegible

Major
Garrison Engineer(AF)

1142/666/EIE

Garrison Engineer(AF)
Berjar, Guwahati-15

21 Jun 95

Distribution

1. E-inc's Branch, AHQ, DHQ, New Delhi-11.
2. HQ CE EC Calcutta
3. CE (AF) Shillong
4. CWE(AF) Gauhati
5. CDA Gauhati
6. AAO Shillong
7. AAO GE (AF) Berjar
8. All Sub Division

Internal

EIR Section, EIP Section, EIC Section.

*Attended
@ 11:00
Adv.*

EXTRACT OF THE OM. NO. 20014/31/83-E.IV
dt. 14.12.1983.

Subject : Allowance and facilities for Civilian employees of the Central Government serving in the States and Union Territories of North Eastern Region- improvements thereof.

The need for attracting and retaining the services of competent officers for service 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 Government for some time. The Government had appointed a Committee under the Chairmanship of Secretary, Department of Personnel and Administrative Reforms, to review the existing allowances and facilities admissible to the various categories of civilian Central Government employees serving in this region and to suggest suitable improvements. The recommendations of the Committee have been carefully considered by the Government and the President is now pleased to decide as follows :

1) Tenure of posting/deputation.

There will be a fixed tenure of posting 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 10 years of service. Periods of leave, training etc. in excess of 15 days per year will be excluded in counting the tenure period of 2/3 years. Officers, on completion of the fixed tenure of service mentioned above, may be considered for posting to a station of their choice as far as possible.

A Hest
@nh
Adv.

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 employee concerned is prepared to stay longer. The admissible deputation allowance will also continue to be paid during the period of deputation so extended".

AH estd
① while
Adv