

30/100

B

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 74/95  
R.A/C.P No.  
E.P/M.A No.

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22/8

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI, A.

O.A.No. 74/95 Pts. Slikia

Misc. Petn.

C.P. No.

R. Appl:

Shri Subrata Saikia  
.....APPLICANT'S  
frs.

Union of India & Ors.  
.....RESPONDENT'S

Mr. A.K. Roy for the applicant.  
.....FOR THE APPLICANTS

.....Rly. Adv.  
.....FOR THE RESPONDENTS

OFFICE NOTE	DATE	ORDER
	7-4-95	Mr. A.K. Roy for the applicant (N.O.B. averred by the applicant that owing to various problems arising due to serious illness of his father as well as wife he had applied for transfer from Lumding to Guwahati on 30-1-95. Annexure I shows that he was <sup>released</sup> from Lumding for reporting at Guwahati. He was allowed to join in the office of AME at Guwahati as can be seen from Annexure (II). However from Annexure (III) A it appears that the transfer has been cancelled and the applicant is directed to report back <sup>to</sup> Lumding office. That order seems to have been made in continuation of the letter dated 16-2-95 of Divisional Mechanical Engineer, Lumding. Copy of the said letter is not supplied to the applicant. Hence it is not cleared as to what ground the transfer was cancelled. By order dated 4-4-95 Annexure (III) B received by the applicant on 6-4-95, he has been spared from Guwahati office and <sup>applied to</sup> joined at Lumding.
		contd/-

7-4-95

The applicant contends that <sup>was</sup> these difficulties <sup>happen to</sup> will continue and therefore he desires to be posted at Guwahati and the reasons therefore, are compelling <sup>was</sup> besides there being need to take a sympathetic approach.

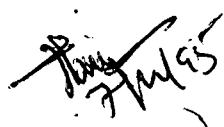
Prima facie we are unable to gather as to how <sup>one</sup> the transfer <sup>was</sup> is made and the applicant <sup>was</sup> is spared <sup>has been</sup> and suddenly it is cancelled, which does not seem to be a reasonable action.

Hence issue notice to the respondents to show cause as to why the application should not be admitted and interim relief be not granted. Returnable on 22-5-95. In the meantime the order dated 4-5-95 Annexure (III) B is stayed and the respondents are directed to continue the applicant in the office at Guwahati until further orders. Liberty to the respondents to apply for vacating <sup>order</sup> of modification <sup>order</sup> of this order, if necessary after giving notice to the advocate of the applicant.

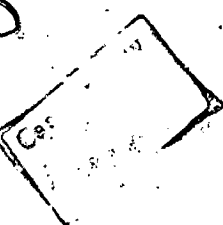
  
Vice-Chairman

  
Member

lm

  
Requisites are sent on  
1/5/95 & cmd note  
no. 1907-10 & 3-5-95

Notice sent  
on R. no. 1, 2, 3 & 4.



22-5-95

Mr. A.K. Roy for the applicant. No show cause reply has been filed. It is regretted that though in order to understand if there will be any difficulty in the way of the respondents to retain the applicant ~~that~~ at Guwahati and to know the reasons which prompted the respondent No. 2 to cancel his transfer to Guwahati without any assigning any reason and within a short time, we expected the respondents to assist us but they have failed to file any reply. No officer is present on their behalf to explain the things to us. Even though the learned Standing Counsel for Railways has filed leave note that does not absolve the respondents from showing cause. We are normally reluctant to interfere in matters of transfer. In the above circumstances however we are constrained to continue the interim order. Application is admitted.

Issue notice to the respondents. 8 weeks for written statements. Adjourned to 24-7-94 for orders. The respondents are hereby directed to continue the applicant in the office at Guwahati until further orders. The respondents may deal with the grievance of the applicant as regards payment of his salary.

Copy of this order be furnished to the counsel of the Railways for his information, apart from being sent to the other respondents.

~~Respondents are directed to~~

Notice and order issued to Dy. Counsel  
V.O. 2299 In 26.5.95

Notice sent to  
R.O. 1.  
27.7.

28/5

*Will*  
Vice-Chairman

*62*  
Member

(4)

CA. 74/95

1) Notice duly served  
on O.P. Nos 1, 2, 3 & 4. 24-7-95

None present. Adjourned to  
11-9-95. for orders.

2) W/statement - his net-  
burn fiw.

Vice-Chairman

Member

2/77

lm

Notice received back <sup>lm</sup> 24/7  
from R. no. 3.

22.11.95

Adjourned for orders to 5.1.96.

2/77

Notice duly served  
on R. no. 1, 2 & 4. pg

Member

Vice-Chairman

Notice received back  
from R. no. 3.

23/4

Service completed.

28/7

Case ready  
as regards  
service

11.9.95

R/O on 22.11.95

Box.

W/statement - his net-  
burn fiw.

2/11

0A.74/95

⑤

Page No. 4

OA/TA/CP/RA/MP No. of 19

OFFICE NOTE

DATE

ORDER

24-11-95

4-12-95

Adjourned to 12-12-95.

Member

Vice-Chairman

lm

12-12-95

Adjourned to 19-1-96 for orders.

Member

Vice-Chairman

lm

1-3-96

Written statement has been submitted. None is present. List for fixing a date of hearing on 2-4-96.

Member

lm

2.4.96

None is present. List for hearing on 30.5.96.

Member

pg

30.5.96

None present for the applicant. Leave note of Mr B.K.Sharma counsel for the respondents.

List for hearing on 7.6.96.

Member (A)

Member (J)

pg




W/S submitted on behalf of the respondents.

24.11.95

1) The case is ready as regards service of notices.

2) W/statement has been filed.

28/5

OFFICE NOTE	DATE	ORDER
<p>1) The Case is ready, as regards Services.</p> <p>2) W/ statement has been filed.</p> <p>28/6</p>	7.6.96	<p>Mr. A.K.Roy learned counsel for the applicant. Mr. S.Sarma for Mr. B.K.Sharma for the respondents.</p> <p>At the request of Mr. A.K.Roy hearing adjourned to 28.6.96. - -</p> <p>This is a transfer matter. To be listed for hearing before the Single Bench on 28.6.96.</p> <p> Member (J)</p> <p> Member (A)</p>
	28.6.96	<p>Mr A.K.Roy for the applicant. Leave note of Mr B.K.Sharma for the respondents. Hearing adjourned to 12.7.96..</p> <p> Member</p>

trd

pg

(7)  
O.A.74/95

28-6-96

Learned counsel Mr.A.K.Roy for the applicant. Leave note of Mr.B.K.Sharma. Hearing Adjourned to 12-7-96.

*Bo*  
Member

pg

12.7.96

Mr. A.K.Roy present for the applicant.  
None present for the respondents.

List for hearing on 19.7.96 as requested by Mr. A.K.Roy.

*Bo*  
Member

trd

19-7-96

Learned counsel Mr.A.K.Roy for the applicant. Learned counsel Mr.<sup>B</sup>.K.Sharma for the respondents. Counsel of both sides completed their submissions. Hearing concluded. Judgment reserved.

lm

*Bo*  
Member

31.7.96

Judgment pronounced. Application is allowed in terms of the order. No order as to costs.

Interim order vacated.

*Bo*  
Member

pg

9/8/96

Copy of Judgment  
issued to the parties  
vide d.no. 2514 to  
2520 D, 12.8.96

*th*  
9/8



CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : :: GUWAHATI-5.

O.A. NO. 74 of 1995  
T.A. NO.

DATE OF DECISION 31.7.1996

Shri Subrata Saikia

(PETITIONER(S))

Shri A.K. Roy

ADVOCATE FOR THE  
PETITIONER (S)

VERSUS

Union of India and others

RESPONDENT (S)

Shri B.K. Sharma, Railway Counsel

ADVOCATE FOR THE  
RESPONDENT (S)

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

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)

*[Signature]*  
31-7-96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Appliation No.74 of 1995

Date of decision: This the 31st day of July 1996

The Hon'ble Shri G.L. Sanglyine, Administrative Member

Shri Subrata Saikia,  
Sr. Clerk under Assistant Mechanical Engineer,  
N.F. Railway, Maligaon.

.....Applicant.

By Advocate Shri A.K. Roy.

- versus -

1. Union of India,  
Represented by the General Manager,  
N.F. Railway, Maligaon.
2. Senior Divisional Mechanical Engineer(P),  
N.F. Railway, Lumding.
3. Assistant Mechanical Engineer,  
N.F. Railway, Maligaon.
4. Divisional Railway Manager,  
N.F. Railway, Lumding.

.....Respondents.

By Advocate Shri B.K. Sharma, Railway Counsel.

.....

O R D E R

G. L. SANGLYINE, MEMBER (A)

The applicant Shri Subrata Saikia was a Sr. Clerk (G) in the office of Sr. Divisional Mechanical Engineer(P), N.F. Railway, Lumding. He was transferred to the office of the Assistant Mechanical Engineer, N.F. Railway, Guwahati, vide Sr. DME(P)'s office note No.G/59(Staff) dated 01.02.1995. The applicant joined duty in his new office in Guwahati on 3.2.1995. The Divisional Mechanical Engineer (Power), Lumding, sent a letter dated 3.4.1995 to Assistant Mechanical Engineer, N.F. Railway, Guwahati saying that the AME was informed by the letter dated 16.2.1995 that the transfer application of Shri Subrata Saikia was regretted by the Divisional Railway Manager, N.F. Railway, Lumding and the AME was directed to release Shri Saikia immediately to report for duty in the office of the DME(Power), Lumding. But till 3.4.1995 the order was not carried

2  
31-7-96

out and therefore, the AME was directed again for compliance. The AME complied vide his letter No.M-59/Staff/GH/1 dated 4.4.1995 and the applicant was released from his office from the afternoon of 4.4.1995 for reporting to the office of DME(P), Lumding. Hence this application under Section 19 of the Administrative Tribunals Act, 1985. The applicant is continuing in Guwahati by virtue of the stay order dated 7.4.1995.

2. According to the respondents the transfer of the applicant from Lumding to Guwahati was made by the incompetent authority in an irregular manner and in violation of administrative order issued by the Head of the Railway Division, namely, the Divisional Railway Manager, N.F. Railway, Lumding, to the effect that no staff should be normally transferred to Guwahati without his personal approval. According to the learned counsel for the respondents the Division was facing administrative problems because of the imbalance in the staff position. While vacancies existed in Lumding and other places there was, on the other hand, surplus of staff in Guwahati. Therefore, the above policy was necessitated and all concerned were required to strictly comply with the policy. It has also been pointed out that according to the policy dated 24.10.1994 transfers on request to Guwahati would be strictly according to due turn. Since the transfer of the applicant was made in an illegal and irregular manner, the applicant had to be transferred back to Lumding. Shri A.K. Roy learned counsel for the applicant submitted that the Sr. Divisional Mechanical Engineer(P), Lumding, had acted within his power in the matter of transfer of the applicant from Lumding to Guwahati. He submitted that according to the Schedule of Power in the Establishment Matters and the powers as delegated as conveyed in General Manager(P), Maligaon's No.MISC.1519/E/72/0 Pt.VIII(C)(loose) dated 5.10.1993 the Sr. DME was competent to transfer the applicant under Column 9 read with Column 5 of Item 13(b). Further he submitted that the applicant was a staff within the jurisdiction of the Sr. DME(P), Lumding, and the Sr. DME had transferred the applicant to one of the offices under him. According to Shri A.K. Roy this was permissible and the DRM, Lumding, would not have interfered in the function

of.....

h  
317-96

of the Sr. DME(P), Lumding. Moreover he submitted that after the order of the Sr. DME was implemented it was not open for the DME(P) to call back the applicant and such action had resulted in harassment of the applicant and it is also in violation of natural justice.

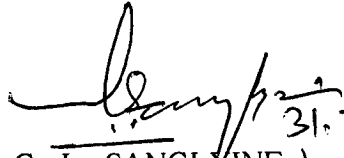
3. The Division Railway Manager, Lumding as the head of the Division had issued a letter No.LM/CON/2/P II dated 24.10.1994. Perusal of this letter shows that certain authorities under the Division had the power to transfer the staff. It has not been shown by the respondents that under the delegation of power referred to above, the Sr. DME(P) is not a competent authority to transfer the staff from unit to unit under his control. According to this original application it appears that the applicant submitted representation dated 30.1.1995. It had not been shown whether this representation was rejected by the DRM, Lumding, as stated in the letter dated 3.4.1995, before or after the applicant was transferred. Further it appears that this representation was necessitated by the family problems of the applicant, namely, (1) his late father was a cancer patient who was operated on 11.5.1994 and was undergoing treatment in B. Baruah Cancer Institute, Guwahati. There was no one to look after him; and (2) his wife who had operation of one of the kidneys in September 1994 was also undergoing treatment in Guwahati. Though these are not administrative matters, these are not normal conditions as far as the applicant was concerned. Therefore, it appears that the restriction placed in the aforesaid letter dated 24.10.1994 would not be applicable to the case of the applicant. The applicant had requested for transfer to Guwahati. It has not been shown by the respondents that in the department under the control of the Sr. DME(P) the applicant was not due in his turn for transfer on request in the category of staff to which he belongs. Under the aforesaid circumstances the respondents are not justified in recalling the applicant to Lumding on the grounds stated by them. As a result the order as contained in the letter No.G 59(Clerical) dated 3.4.1995 (Annexure III-A) and the order contained in the letter No.M 59/Staff/GH/1 dated 4.4.1995 are not sustainable.

Accordingly.....

3/7-96

Accordingly the aforesaid letters dated 3.4.1995 and 4.4.1995 are quashed. This does not however necessarily mean that the respondents cannot transfer the applicant out of Guwahati in future.

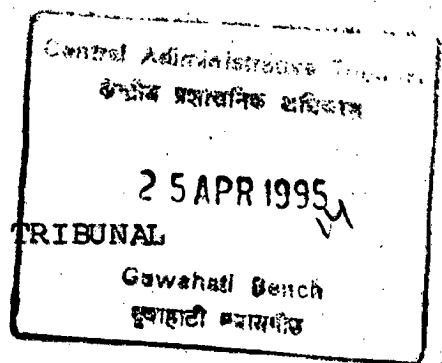
4. The application is allowed. No order as to costs.

  
( G. L. SANGLI )  
MEMBER (A) 31.7.96

nk m

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH



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

O. A. NO. 74 /1995.

Shri Subrata Saikia. : Applicant.

- Versus -

Union of India & Ors. : Respondents.

I N D E X

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3.	Annexure - I	10
4.	Annexure - II	11
5.	Annexure - II - A	12
6.	Annexure - II - B	13
7.	Annexure -	14-18
8)	W/Statement	

For use in the Tribunal Office.

Registration No.

Date.

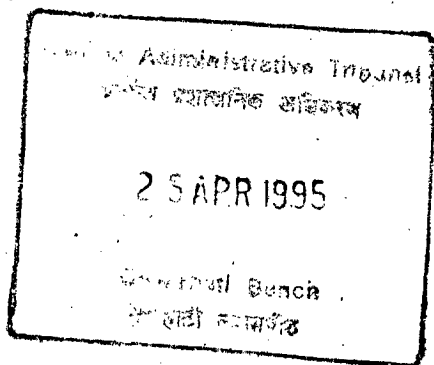
SIGNATURE

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

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

Filed by the applicant  
through -  
A.K. Ray  
Adm. Secy.



- BETWEEN -

Shri Subrata Saikia,  
Sr. Clerk, under  
Asstt. Mechanical Engineer,  
N.F. Railway, Maligaon.

..... Applicant.

- AND -

1. Union of India, represented by  
the General Manager,  
N.F. Railway, Maligaon.
2. Sr. Divisional Mechanical Engineer (P)  
N.F. Railway, Lumding.
3. Asstt. Mechanical Engineer,  
N.F. Railway, Maligaon.
4. Divisional Railway Manager,  
N.F. Railway, Lumding.

..... Respondents.

1. Particulars of Orders against which the application  
is made :-

This application is directed against  
the Order dated 03.04.95 and 04.04.95 ( ANNEXURE - III/

A & B ) through which the applicant has been spared from the Office of Asstt. Mech. Engineer, Maligaon and directed to join at Lumding.

2. Jurisdiction of the Tribunal :-

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

3. Limitation :-

The applicant also declares that this application is made within the limitation period as laid down in Section 21 of the Administrative Tribunal Act 1985.

4. Facts of the Case :-

(i) That, the applicant is a citizen of India and as such is entitled to all the rights, protections and previledges guaranteed by the Constitution of India.

(ii) That, the applicant's father is a Cancer patient and at present he is under the treatment of B. Booruah Cancer Institute, Guwahati. One operation has already been operated on him on 11.5.94 at Apollo Hospital, Madras. His voice box has been completely removed making completely invalied. The elder brother of the applicant expired on 28.11.94



and hence the applicant is the only person to take case on him. Besides, the above, the applicant's wife has been suffering due to damage of one ~~KKM~~ Kidney. In the month of September 1994, operation has been made on her at Calcutta and now she is under treatment at Guwahati. Facing all these problems the applicant made an application on 30.01.95 to the Sr.DME(P), Lumding for his transfer from Lumding to Guwahati, so that he may look after his Old father who is a Cancer Pa patient and his wife may get better treatment.

(iii) That, after going through his application and considering the ~~hard~~ <sup>many</sup> problems faced by the applicant, Sr.DME, Lumding pleased to transfer the applicant at the Guwahati Office and accordingly issued an Order dated 01.02.95 releasing the applicant from Lumding. Following the Order dated 01.02.95, the applicant joined <sup>on</sup> 3.2.95, the applicant at M Guwahati Office on 03.02.95 ~~when the Asstt. Mechanical Engineer~~. Under the Asstt. Mechanical Engineer. His joining report has also been intimated by the AME/Guwahati to Sr.DME/Guwahati to Sr. DME(P) ~~X~~ Lumding on the same date.

A copy of the release Order dated 01.02.95 is annexed herewith as  
ANNEXURE -

A copy of his joining report is ~~annexed~~  
annexed herewith as ANNEXURE - II.

(iv) That, after joining at Guwahati Office, the applicant has been working with full satisfaction of all concern in one hand and on the other hand he has been looking after his father who is suffering due to Cancer and fully dependent on him.

(v) That, though the applicant has joined at Guwahati on 03.02.95 and already more than two months has passed away, but till to-day no payment of salary has been made to him. In this connection, it is to be stated here that immediately after his joining at Guwahati, the AME through his letter dated 03.02.95, requested the Sr. DME(P), Lunding to send last Pay Certificate ( LPC in Short ). But till to-day the LPC of the applicant has not been sent to Guwahati Office and hence, the applicant is not getting his salary ~~six months~~ for last two months.

(vi) That, as the applicant is not getting his salary for last two months, he is facing great difficulty at this critical moment when he require huge money for treatment of his father and wife. In spite of his repeated request, the respondents ~~have~~ have not taken any action regarding payment of salary.

(vii) That, the applicant states that on 06.04.95 he received two Orders dated 4.4.95 and

has been astonished going through the same. The said order has been issued by the AEN/Guwahati in pursuance of DME(P)'s order dated 3.4.95. By this order, the applicant has been released from the Office of AME, Guwahati and directed to join at Lumding. It has ~~been~~ also been stated that his transfer order has been regretted by the Divisional Railway Manager, Lumding. Due to this impugned order not only applicant has been fallen in to a great difficulty but also his father is at stake due his bed ridden condition.

Two copies of the order dated 3.4.95 and 4.4.95 is annexed herewith as ANNEXURE - III/ A & B .

(viii) That, the applicant submits that he has already been transferred to Guwahati and joined on 3.2.95 i.e. his transfer has already been effected to. His transfer has been made and has been released from Lumding by the Sr. DME/Lumding only on humanitarian condition so that he may look after his father who is now at bed ridden condition and under the care of B. Boorah Cancer Institute at Guwahati and hence if his transfer order is set aside at this stage the whole family will be in dark. The applicant again reiterate that as his elder brother expired in the month of November 1994, there is none to look after his bed ridden father and that is the only reason for which he prayed his transfer at Guwahati.

Cont ... 6.

(ix) That, the applicant submits that facing in a critical position due to the impugned order, the applicant approach this Hon'ble Tribunal by filing this application for your Lordship's humanitarian ~~consideration~~ consideration.

5. Ground for Relief :-

(i) For that his staying at Guwahati is required only to look after his bed ridden father who is a Cancer patient and is under B. Boorah Cancer Institute at Guwahati.

(ii) For that his transfer application was considered on humanitarian ground so that he may look after his father and his wife may get better treatment at Maligaon, Central Hospital and according he was released from Lunding Office and joined at Guwahati Office on 3.2.95.

(iii) For that as his transfer to Guwahati has already been effected to on 3.2.95, the respondents can't reject his transfer <sup>after</sup> two months of his joining at new station.

(iv) For that the impugned order dated ~~12~~ is illegal in as much as it is against the principal of natural justice.

(v) For that if the transfer which has

25 APR 1995

Guwahati Bench  
Guwahati Bench

already given effect is now set aside/quash or reject the applicant and his whole family will suffer irreparable loss and injury.

6. Details of Remedies Exhausted :-

That the applicant declares that he has taken recourse to all the remedies available to him but he failed and hence there is ~~amount~~ ~~no~~ other alternative remedy open to him then to approach this Hon'ble Tribunal.

7. Matters not previously filed or pending before any Court.

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

8. Reliefs Sought for :-

Under the facts and circumstances stated above the applicant prays for the following ~~is~~ reliefs :-

(i) To quash and set aside the orders dated 3.4.95 and 4.4.95. and to direct the respondents to allow the applicant to continue his service at Guwahati.

(ii) To direct the respondents to make payment of salary for the months of February and March 95

(iii) To pass any other order or orders as your Lordship's may deem fit and proper.

9. Interim Relief Prayed for :-

Under the facts and circumstance the applicant prays that the respondents may be directed to allow the applicant to continue his service of Guwahati till the disposal of this application, and to direct the respondents to pay the due salaries.

10. ....

11. Particulars of the ~~XXXX~~ I.P.O :-

(1) I.P.O : 03 883983  
(ii) Dated ; 7.4.95  
(iii) Payable at : At Guwahati

12. List of Encloser :-

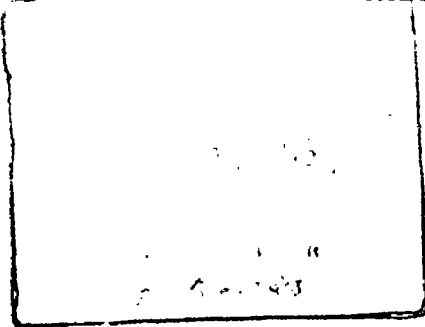
As stand in the Index.

VERIFICATION

I, Shri Subrata Saikia, aged about 31 years, Son of Shri Keshab Kanta Saikia, residing at Nag Colony, Maligaon, Gate No.1, Guwahati - 781012 do hereby solemnly affirm and state that the statements made in paragraphs 1 to 9 and 11 to 12 are true to my knowledge and belief and I have not suppressed any facts ~~more~~ relevant to this case.

And I sign this verification at

this 7th day of April 1995.



*Subrata Saikia*

Signature of the Applicant.

- 10 -  
N.F. Railway.

ANNEXURE - I

24

SR. DME's office,  
No. G/59 (Clerical). Lunding, dt/- 1/02/95

To  
✓ Asstt: Mech: Engineer,  
N.F. Railway,  
Guwahati.

In terms of SR. DME(P)'s Office Note  
No. G/59 (Staff) dt. 01/2/95, Shri Subrata  
Saikia, Sr. Clerk (G) is released from  
this establishment from the AN of date for  
reporting to you immediately.

AME/GHY is requested to intimate this  
office the date of reporting of Shri Saikia.

✓ Sr. Div. Mech: Engineer (P)  
Mr. M. Y. : Lunding.

Copy to :-

- 1) APO/GHY for information in ref: to  
SR. DME(P)'s above Office Note.
- 2) OS/EM Bill, DME(P)'s office,  
Lunding.
- 3) LR/NGC for information.

Sr. Div. Mech: Engineer (P)  
N.F. Ry : Lunding.

....

Attasted by  
M. Ray  
Adminstr.  
7-4-95



पत्रों पर दोनों तरफ लिखें  
Use both sides if required

९० सी० रेलवे  
N. F. Railway

N. F. - G. 40A  
RB - GL. 19

क्रमांक/No. A/-54/Staff/GH/1

दिनांक/Dated .....

प्राप्त/From: Office of the  
AME/GH

प्राप्त/To: DRM(P)/MG

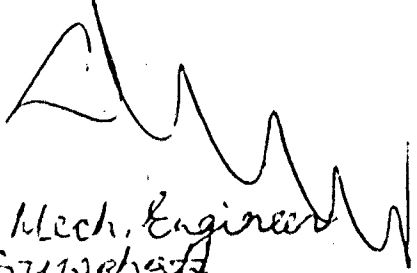
विषय/Sub: Training report of Sri Subrata Saikia

संदर्भ/Ref: Sr. Clerk

Ref - Your letter No G/59 (clerical) dt  
1.2.95 and your office note No G/54  
(staff) dt 1.2.95.

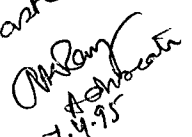
In reference to the above, Sri  
Subrata Saikia. Sr. clerk has been allowed  
to resume his duty w.e.f 3.2.95 to this office.

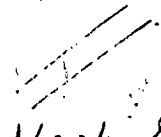
This is for your information please.

  
Asst. Mech. Engineer  
Gumdhata

Copy to - DRM(P)/LMG - He is requested to send  
the formal order of Sri Saikia. He  
is also requested to send the LPC  
of Sri Saikia.

- APO/GHY for information and necessary  
action please.

Attested by  
  
7.4.95

  
Asst. Mech. Engineer  
Gumdhata

N.F. Railway.

No. G59 ( Clerical ).

Office of the  
D. M. E. ( POWER ),  
Lumding, dt/- 3.4.95.To  
Asstt: Mech: Engineer,  
N.F. Railway,  
Guwahati.Sub:- Transfer of Shri Subrata Saikia,  
Sr. Clerk (G).Ref:- This office letter of even  
Number dated 16.02.1995.

Vide above letter dt. 16.2.95 it was informed that transfer Application of Shri Subrata Saikia, Sr. Clerk (G) was regretted by DRM/LMG and you were advised to spare and direct Shri Saikia immediately to report to this office. Inspite of that it has come to my knowledge that Shri Subrata Saikia, Sr. Clerk (G) is still working in your office.

You are hereby asked to spare the concerned staff immediately and direct him to report to the undersigned.

*S. Srinivas*  
( S. Srinivas )  
DIV. MECH: ENGINEER (P)

Copy to :-

- 1) DRM(P)/LMG for information please.
- 2) APO/GHY to ensure that no salary is paid to Shri S. Saikia, Sr. Clerk (G).

Shri Saikia  
to be spared  
on date.

*S. Srinivas*  
( S. Srinivas )  
DIV. MECH: ENGINEER (P)

*R. D. Srinivas*  
4/4

....

Attested by  
*Ch. Srinivas*  
7.4.95  
Adm. Secy

Tr. 1.2.95  
Joined 3.2.95  
Cancelled 16.2.95

N. F. Railway.No. ~~RRR~~ M-59/Staff/GH/1Office of the  
AME/Guwahati.  
Date. 4/4/95.

✓ To,

Sri Subrata Saikia,  
Sr. Clerk

Sd/B: Sparing.

Ref:- DME(P)/LMG's Letter no. G/59(Clerical)  
Dtd. 3.4.95.

In pursuance to DME(P)/LMG's letter under reference you are hereby spared from this office from the AM of date for reporting to DME(P)/LMG's office.

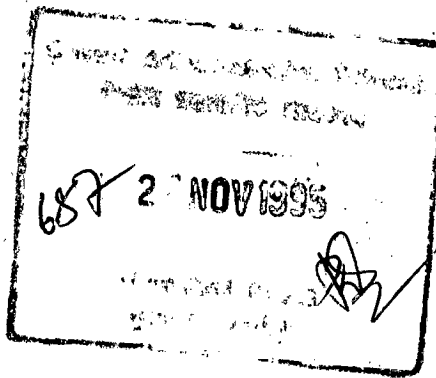
Asstt. Mech. Engineer  
N. F. Railway/Guwahati.

Copy to:-

1. APO/WHY for information please.
2. Sr. DPO/LMG for information please.
3. DME(P)/LMG for information and necessary action pl.  
His attendance for the period from 6.3.95. to 4.4.95.  
is enclosed.

*R. Prasad*  
04/4/95  
Asstt. Mech. Engineer,  
N. F. Railway/Guwahati.

*Attended by*  
*Advocate*  
*7.4.95*



Filed through:-  
Bk. Sharma  
Ry. Advocate  
22-11-95  
28  
U. मुख्य प्रतिनिधित्वकारी (सच.)  
07. Chief Representative (Sach.)  
श्री सी० रेखा, मालगाँव  
N. F. Railway, Maligaon.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH.

IN THE MATTER OF :-

O.A. No. 74 of 1995

Sri Subrata Saikia ... Applicant.

Vs.

Union of India & Ors. ... Respondents.

AND

IN THE MATTER OF :-

Written statements on behalf of  
the respondents.

The answering respondents beg to state as follows :-

1. That the answering respondents have gone through the copy of application on which the above-noted case has been registered and have understood the contents thereof.

2. That save and except the statements which are specifically admitted here-in-below, other statements made in the application are categorically denied. Further, the statements which are not borne out of records are also denied by the answering respondents and the applicant is

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Chief Personl/ 9/8/53 for (NG)  
गु सी० रेलवे, मालोर्गा,  
N. E. Railway, India

put to the strictest proof thereof.

3. That with regard to the statements made in paragraphs 6(i) and (ii) of the application, the answering respondents ~~who~~ do not admit anything contrary to the relevant records of the case.

4. That with regard to the statements made in paragraphs (III) and (IV) of the application, it is stated that in view of a good number of staff seeking transfer from Lunding to Guwahati area causing administrative problems, the Divisional Railway Manager/Lunding, has issued an instruction to the effect that no staff should be transferred to Guwahati area without the prior and personal approval of DRM/Lunding. In the instant case, Sr.DME(P)/Lunding, issued Office Note transferring the applicant from his office without observing necessary formalities and procedure in this regard. DRM/Lunding's personal approval was also not obtained. Thus, on the basis of such irregularity the applicant was released from Sr.DME(P)/Lunding's Office vide letter dtd 1.2.95.

A copy of the instruction issued by DRM/Lunding is annexed herewith and marked as ANNEXURE I.

5. That with regard to the statements made in paragraphs (V) and (VI) of the application, it is ~~x~~ stated that the formal transfer order was not issued observing necessary formalities and procedures and hence, the question issuing LPC does not arise in this case.

6. That with regard to the statements made in paragraphs (VII) and (VIII) of the application, the answerin respondents categorically deny the correctness of the same. The applicant was not formally to AEN/Guwahati's Office, rather, the matter of transfer was recorded by the DRM/Lunding and he was directed to resume to his place of posting at Sr.DME(P)/Lunding's Office.

The matter stands thus, that the Sr.DME(P)/Lunding issued the Office note dtd 1.2.95 in the matter of transfer of the applicant from Lunding to Guwahati in violation of the aforesaid standing instruction of the DRM/Lunding and the same was done just at the eve of the then Sr.DME(P)/Lunding's transfer from Lunding for which no action could be initiated against him for such violation. The prayer for transfer of the applicant was recorded by DRM/Lunding and accordingly, AME/Guwahati was asked to spare the applicant immediately and direct him to report to DME(P)/Lunding's Office vide letter dtd 3.4.95 and accordingly, he was also spared from AME/Guwahati's Office on 4.4.95 vide AME/Guwahati's letter dtd 4.4.95. However, in view of the interim order passed by this Hon'ble Tribunal, he has been allowed to continue at Guwahati. Same has resulted in administrative convenience requiring immediate vacation of the interim orders passed by this Hon'ble Tribunal.

7. That the applicant could not have been transferred to Guwahati from Lunding in the manner as has been done in the instant case. There was also no occasion for the applicant to be transferred to Guwahati. However, he managed to get

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Chief Personnel Officer (N&E)  
पू. सी. रेलवे, मालोगांव  
N. F. Railway, Maligaon.

मुख्य कार्यालय (सचिव)  
Chief Personnel Officer (N/G)  
पू. सी. रेल्वे, मालिगाँव  
P. S. Railway, Maligaon.

the order of transfer through an incompetent authority and thus, on the strength of such an order, the applicant is not entitled to claim any relief before this Hon'ble Tribunal. In any case, the applicant cannot claim his transfer to a particular place as a matter of right.

8. That under the facts and circumstances stated above, the instant application is liable to be dismissed with cost.

VERIFICATION.

I, Shri C. Saikia, aged about 31 years, by occupation Railway Service, working as Deputy Chief Personnel Officer of the Northeast Frontier Railway, do hereby solemnly affirm and state that the statements made in paragraphs 1 to 7 are true to my information derived from the records of the case which I believe to be true and the rests are my humble submission before this Hon'ble Tribunal.

And I sign this Verification on this 8/11th day of September 1995.

*C. Saikia*  
11/9/95

DEPUTY CHIEF PERSONNEL OFFICER  
NORTHEAST FRONTIER RAILWAY  
MALIGAON :: GUWAHATI  
FOR & ON BEHALF OF  
UNION OF INDIA.

ANNEXURE I.

N.F. Railway.

Office of the  
Divl. Rly. Manager/Lunding,  
Dated 24.10.94

NO.LM/Con/2/PII.

No staff should be normally transferred to GHY without my personal approval. Attempt should first be made to fill up the require posts at Lunding and other areas excluding GHY. Filling up of vacancies at GHY should be done ~~without~~ with my personal approval after ensuring that no surplus staff is available at GHY. Strict compliance of these instructions should be carried out.

Staff desirous for transfer to GHY, their names should be registered by the Sr.DPO category-wise in each department and as and when the requirement arise at GHY, the staff will be transferred strictly on their turn.

Sd/-  
Divisional Rly. Manager  
NF Railway, Lunding.

Sr.DPO.

All APOs.

All Br. Managers/LMG.

Attended  
22.11.95

...

-18-

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एन एफ आरएम (राय.)  
By Chief Personnel Officer (N.F.)  
१. सी. रेखा, मालगाँव  
N.F. Railway, Maligaon.