

50/600  
8  
**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

**INDEX**

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

1. Orders Sheet..... Pg..... to.....  
MP 117/95 order page Pg. 1 to 2 instructions  
2. Judgment/Order dtd. 31.7.96 Pg. 1 to 4 Allocated  
3. Judgment & Order dtd..... Received from H.C/Supreme Court  
4. O.A..... 74/95 Pg. 1 to 13  
5. E.P/M.P. 117/95 Pg. 1 to 4  
6. R.A/C.P..... Pg..... to.....  
7. W.S..... Pg. 1 to 5  
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. Amendement Reply filed by the Applicant.....  
16. Counter Reply.....

SECTION OFFICER (Judl.)

Farhat  
2.2.18

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI

O.A.No. 74/95 re. Saikia

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

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

OFFICE NOTE ----- DATE ----- ORDER -----

7-4-95 Mr. A.K. Roy for the applicant  
(N.O.B averred by the applicant that owing to  
mental various problems arising due to serious  
condition) 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 ~~spared~~ released 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 to Lumding office. That order seems  
to have been made in continuation of the  
letter dated 16-2-95 of Divisional Mechani-  
cal 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  
14-4-95 Annexure (III) B received by the  
applicant on 6-4-95, He has been spared  
from Guwahati office and joined at Lumding.

contd/-

7-4-95

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

Prima facie we are unable to gather as to how the transfer ~~is~~ made and the applicant ~~was~~ is spared and suddenly ~~has been~~ 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 or modification of this order, if necessary after giving notice to the advocate of the applicant.

  
Vice-Chairman

  
60  
Member

lm

  
7-4-95

Requisites are ready on  
1/5/95 & 18th June  
no. 1907-10 d. 3-5-95

Notice duly 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. Adjournded 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.

~~Respondent No. 2~~  
Order No. 2299 Date 26.5.94  
Notice and  
order issued to Mr. C. S. Roy  
V.W. 2299 Date 26.5.94

*W. C. Roy*  
Vice-Chairman

*W. C. Roy*  
Notice Served  
R. W. L.  
D. 21.7.

*W. C. Roy*  
Member

(1)

O.A. 74/95

1) Notice duly served

on O.P. Nos 1, 2 & 3. 24-7-95

None present. Adjourned to

11-9-95. for orders.

2) W/statement - hs not  
seen b/w.

*U.C.*  
Vice-Chairman

*On*  
Member

*2/7*

1m

Notice received back *in 24/7*  
from R.no. 3.

22.11.95

Adjourned for orders to 5.1.96.

*2/11*

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

*On*  
Member

*U.C.*  
Vice-Chairman

Notice received back  
from R.no. 3. *22/11/95*

Service completed.

*28/11*



11.9.95

Also on 22.11.95

Box

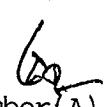
W/statement - hs not  
seen b/w -

*2/11*

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

| OFFICE NOTE   | DATE     | ORDER  |
|---|----------|--|
| 24.11.95<br><i>W/S submitted<br/>on behalf of the<br/>respondents.</i>                | 4-12-95  | Adjourned to 12-12-95.<br><br><i>60</i><br>Member  |
|   | 1m       | <i>✓</i><br>Vice-Chairman  |
|   | 12-12-95 | Adjourned to 19-1-96 for orders.<br><br><i>60</i><br>Member  |
|   | 1m       | <i>✓</i><br>Vice-Chairman  |
|   | 1-3-96   | Written statement has been submitted. None is present. List for fixing a date of hearing on 2-4-96.<br><br><i>60</i><br>Member   |
| 1) The case is ready as regards Service of notices.<br>2) W/statement has been filed. | 2.4.96   | None is present. List for hearing on 30.5.96.<br><br><i>60</i><br>Member   |
| <i>28/5</i>   | pg       |  |
|   | 30.5.96  | None present for the applicant. Leave note of Mr B.K.Sharma counsel for the respondents.<br><br>List for hearing on 7.6.96.<br><br><i>60</i><br>Member (A)<br><br><i>✓</i><br>Member (J) |
|   | pg       |  |

OA/TA/CP/RA/MP No. 74 of 1995

| OFFICE NOTE  | DATE    | ORDER  |
|--|---------|--|
|  | 7.6.96  | Mr. A.K.Roy learned counsel for the applicant.<br>Mr. S.Sarma for Mr. B.K.Sharma for the respondents.  |
|  |         | At the request of Mr. A.K.Roy hearing adjourned to 28.6.96.  |
| 1) The Case is ready, as regards Services<br>2) w/ statement this term<br>b/w. |         | This is a transfer matter. To be listed for hearing before the Single Bench on 28.6.96.  |
| 10/6<br>27/6   | trd     | <br>Member (J) <br>Member (A) |
|  | 28.6.96 | Mr A.K.Roy for the applicant. Leave note of Mr B.K.Sharma for the respondents.<br>Hearing adjourned to 12.7.96.  |
|  |         | <br>Member  |
|  | pg      |  |

(7) X  
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.

60  
Member

pg

12.7.96

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

of statement of the  
by W  
List for hearing on 19.7.96 as requested  
by Mr. A.K.Roy.

60  
Member

trd

19-7-96

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

lm

60  
Member

31.7.96

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

Interim order vacated.

9/8/96  
Copy of Judgment  
issued to the parties  
vide d.no. 2514 to  
2520 d, 12.8.96

pg

60  
Member

sh  
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 Yes see the Judgment ?
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 ?

Judgment delivered by Hon'ble Member(A)

Sanj | NO

31-7-96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application 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

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.....

31796

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.

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

nkm

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Central Administrative Tribunal  
সেন্ট্রাল অধিবেশন বৰ্ষাল

25 APR 1995

Guwahati Bench  
গুৱাহাটী অধিবেশন

( 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

| Sl.No.         | Description of Documents. | Page.   |
|----------------|---------------------------|---------|
| 1.             | Application -             | 2 to 8. |
| 2.             | Verification -            | 9.      |
| 3.             | Annexure - I              | 10      |
| 4.             | Annexure - II             | 11      |
| 5.             | Annexure - III - A        | 12      |
| 6.             | Annexure - III - B        | 13      |
| 7.             | Annexure -                |         |
| 8) W/Statement | -                         | 14-18   |

For use in the Tribunal Office.

Registration No.

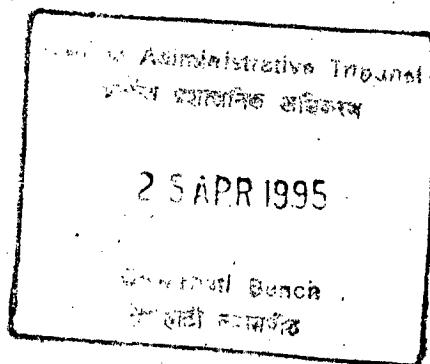
Date.

SIGNATURE

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

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



25 APR 1995

- 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/

Filed by the applicant  
through -  
A. K. Ray  
Advocate

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 privileges 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 invalid. The elder brother of the applicant expired on 28.11.94

and hence the applicant is the only person to take care on him. Besides, the above, the applicant's wife has been suffering due to damage of one ~~Kidney~~ 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 ~~numerous~~ herd 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 ~~on~~ 3.2.95, the applicant ~~to~~ Guwahati Office on 03.02.95 ~~when other 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) ~~XLumding~~ 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), Lumding 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 ~~xxxxxxxxxx~~ 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 stated that his transfer order has been regretted by the Divisional Railway Manager, Lumding. Due to this impunged order not only applicant has been fallen in to a great difficulty but also his father is at stake due his bed ridden condition.

25 APR 1995

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 ~~M~~ applicant submits that facing in a critical position due to the impunged Order, the applicant approach this Hon'ble Tribunal by filing this application for your Lordship's humanitarian ~~exempted~~ 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 Lumding 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 impunged order dated ~~xx~~ 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  
against ~~various~~

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 Echavsted :-**

That the applicant declares that he has taken recourse to all the remedies available to him but he failed and hence there is ~~amount~~ 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 ~~now~~ 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 & reliefs :-

22

(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.

25 APR 1995

Guwahati Bench  
Supreme Court

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 ~~XXX~~ I.P.O :-

(1) I.P.O : 03 883983

(ii) Dated ; 7.4.95

(iii) Payable at : At Guwahati

12. List of Enclosure :-

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.



Signature of the Applicant.

N.F. Railway.

Sr. DME's office,  
No. G/59 (Clerical). Lumding, 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.

AMS/GHI is requested to intimate this office the date of reporting of Shri Saikia.

✓ Sr. Div. Mech: Engineer (P)  
N.F. Iuy : Lumding.

Copy to :-

- 1) APO/GHI for information in ref: to Sr. DME(P)'s above Office Note.
- 2) OS/EM Bill, DME(P)'s office, Lumding.
- 3) LF/NGC for information.

Sr. Div. Mech: Engineer (P)  
N.F. Iuy : Lumding.

....

Attached by  
(Adm)  
Adm (1/2/95)

ग्राहक पर दोनों ओर लिखें  
Use both sides if required

१० सी० रेलवे  
N. F. Railway

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

संचया/No. A/59/Staff/1/61/1

दिनांक/Dated.....

संतुष्टि/From Office No. 16

01/1/95/To DRM(P)/LNG

AME/GHY

विषय/Sub: Training Report of Sri Subrata Saikia.

घंटमं/Ref: S. No. 16/1/95

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

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

This is for your information please.

Asstt. Mech. Engineer  
Guwahati

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

- APO/GHY for information and necessary action please.

Attached by  
Mr. Ram  
Advocate  
7.1.95

Asstt. Mech. Engineer  
Guwahati

N.F.Railway.

No. G59 ( Clerical ).

Office of the  
D. M. E. ( POWER ),  
Lumding, dt/- 3.4.95.

To

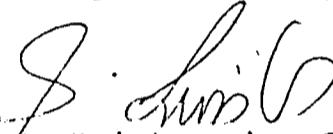
Asstt: Mech: Engineer,  
N.F.Railway,  
Guwahati.

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.

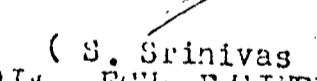
You are hereby asked to spare the concerned staff immediately and direct him to report to the undersigned.

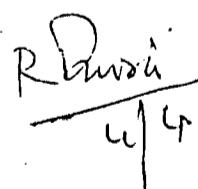
  
( S. Srinivas )  
DIV. TECH: ENGINEER (P)

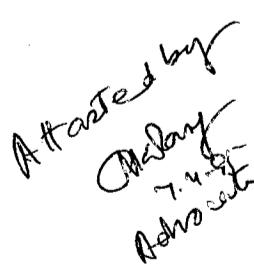
Copy to :-

- 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 )  
DIV. TECH: ENGINEER (P)

  
R. Dasu  
4/4

  
A. K. Malony  
Advocate  
7.4.95

Tr. 1.2.95  
Joined 3.2.95  
Cancelled 16.2.95

W. F. Railway.

No. ~~MR~~ M-59/Staff/SU/1

Office of the  
AME/Guwahati.  
Date. 4/4/95.

To,

Sri Subrata Saikia,  
Sr. Clerk

Sub: 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 snared from this office from the AN of date  
for reporting to DME(P)/LMG's office.

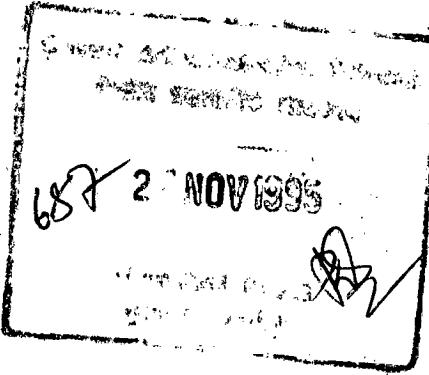
Asstt. Mech. Engineer  
W. F. Railway/Guwahati.

Copy to:-

1. APO/CHY 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. Deka  
04/4/95  
Asstt. Mech. Engineer,  
W. F. Railway/Guwahati.

*Attested by*  
*Chiray*  
*1.4.95*  
*Advocate*



Filed through:-  
B K Saikia  
R.Y. Office  
22.11.95  
By Chief Peon (P.M.)  
S/o Rabi, Maitriap  
N.F. Railway, Morigaon

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

29

*Ch*  
 मुख्य नियन्त्रक अधिकारी (रायगढ़)  
 व्य. चीफ पर्सनल ऑफिसर (एसीएस)  
 प. सी. एस. रेलवे, मालगढ़;  
 N. F. Railway, Malyanghat

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 ~~may~~ 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 Lumding to Guwahati area causing administrative problems, the Divisional Railway Manager/Lumding, has issued an instruction to the effect that no staff should be transferred to Guwahati area without the prior and personal approval of DRM/Lumding. In the instant case, Sr.DME(P)/Lumding, issued Office Note transferring the applicant from his office without observing necessary formalities and procedure in this regard. DRM/Lumding's personal approval was also not obtained. Thus, on the basis of such irregularity the applicant was released from Sr.DME(P)/Lumding's Office vide letter dtd 1.2.95.

A copy of the instruction issued by DRM/Lumding 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 ~~s~~ stated that the formal transfer order was not issued observing necessary formalities and procedures and hence, the question issuing LPO does not arise in this case.

- 3 -

6. That with regard to the statements made in paragraphs (VII) and (VIII) of the application, the answering 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/Lumding and he was directed to resume to his place of posting at Sr.IME(P)/Lumding's Office.

The matter stands thus, that the Sr.DME(P)/Lumding issued the Office note dtd 1.2.95 in the matter of transfer of the applicant from Lumding to Guwahati in violation of the aforesaid standing instruction of the DRM/Lumding and the same was done just at the eve of the then Sr.DME(P) Lumding's transfer from Lumding for which no action could be initiated against him for such violation. The prayer for transfer of the applicant was recorded by DRM/Lumding and accordingly, AME/Guwahati was asked to spare the applicant immediately and direct him to report to DME(P)/Lumding'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 Lumding 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

- 4 -

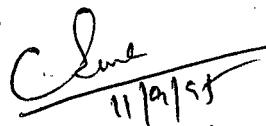
the order of transfer through an incompetent authority and thus, on the strength of such an order, the applicant is not entitled to claim any relief before this Hon'ble Tribunal. In any case, the applicant cannot claim his transfer to a particular place as a matter of right.

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

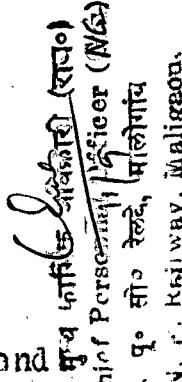
VERIFICATION.

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.

  
11/9/95

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

  
C. Saikia (रामा)  
Deputy Chief Personnel Officer (N.F.R.)  
प. सी. सैकिया  
मलिगाँव  
Railway, Morigaon.

- 5 -

ANNEXURE I.

N.F. Railway.

Office of the  
Divl. Rly. Manager/Lumding,  
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 Lumding 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, Lumding.

Sr.DPO.

All APOs.

All Br. Managers/LMG.

After fed  
Chowdhury  
22/11/95

७८ शुल्क विभिन्न (राष्ट्रीय)  
By Chief Personnel Officer (N.C.)  
पू. सी. रेल्वे, मालगांव  
N. F. Railway, Majgraon.