

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

CA No. 902/96

Mr. Madan Lal

Applicant(s)

vs

Union of India as per

Respondent(s)

Mrs. J. L. Sarkar, M. Chander Advocates for the applicant(s)

Mr. S. Ali, Sr. C.G.S.C. Advocates for the Respondent(s)

Office Notes	Date	Courts' Orders
<p>This application is in form and within time. C. F. of Rs. 50/- deposited vide IFC RD No 346892 Dated ... 6.9.96</p> <p><i>✓ Somme</i> <i>✓ D. Registrar 16/9/96</i> <i>✓ 16/9/96</i></p>	17.9.96	<p>Learned counsel Mr. J.L.Sarkar for the applicant. Mr. S.Ali, learned Sr. C.G.S.C. for the respondents. The application has been submitted by the applicant against the Office Order No. 875 of 1996 conveyed under letter No. 3-904/96-Estt (M) dated 8.8.1996 transferring him from Guwahati to Bhopal. The applicant has joined as an Administrative Officer in the office of the Central Ground Water Board, Guwahati in the month of June, 1994. His tenure of posting in the North Eastern Region is 2 years according to the provisions of the Office Memorandum No. 20014/3/83-E.IV dated 14.12.1983. He had accordingly submitted a representation dated 24.5.1996 to the Director, Central Ground Water Board, NH IV, Faridabad, Haryana seeking transfer to Faridabad on completion of his tenure in North Eastern Region. However, he was transferred to Bhopal as indicated above. Therefore the applicant is aggrieved and has submitted this application. After the transfer order was issued the applicant also submitted a representation dated 4.9.1996 which was forwarded on 6.9.1996. It has been submitted by the counsel of the applicant that the representations have not been disposed of by the competent</p>

17.9.96 authorities. After perusal of the application I am of the opinion that this application needs not be admitted but it is disposed of with the direction to the applicant to submit a fresh representation to the competent authorities of the respondents spelling out in details his case and grievances and requesting them to consider his posting keeping in view the aforesaid Office Memorandum dated 14.12.1983. The applicant shall do so within 5 days from today. Further, the respondents are directed to dispose of the fresh representation that may be submitted by the applicant expeditiously on merit with a speaking order. It has been stated that the applicant has not been released. Therefore it is ordered that the respondents shall keep the operation of the impugned transfer order dated 8.8.1996 in abeyance till disposal of the representation.

The application is disposed of as indicated above. No order as to costs.

Copy of the order be supplied to the counsel of both the parties.

Complying with the above
order dated 17.9.96.

M/719

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Member 17.9.96

trd

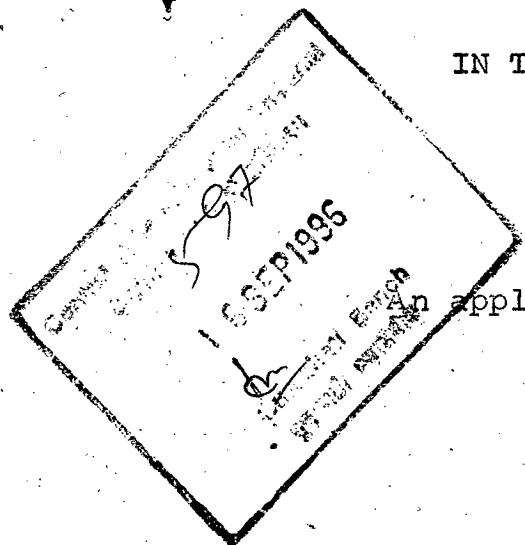
M/719

18/9/96

Copy of the order
issued to the parties
along with the L/Adviser
of the parties vide
d.no. 3147 to 3148
dated 18.9.96

8/1
18/1

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH



5
An application under Section 19 of the Administrative Tribunals Act, 1985.

O.A. No. 202/96

Sri Madan Pal

-versus-

Union of India & Others

I N D E X

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Filed by :

W. Pal
Advocate

Date : 12.9.96

Copy is handed
over to Shri S. Ali
S/o C. A. S. C.
Adv.

Madan Pal

Filed by the applicant
through M. Chanda
12.9.96. Adv.

1. Particulars of the Applicant.

Shri Madan Pal

Son of late Bhuley Singh

Bamunimaidan

Guwahati

..... Applicant

2. Particulars of the Respondents.

1. The Union of India,

Through the Secretary to the Govt. of India,

Central Ground Water Board

Ministry of Water Resources,

Shram Shakti Bhawan

New Delhi

2. The ~~Chief Engineer~~, Chairman,

Central Ground Water Board,

Shram Shakti Bhawan,

New Delhi

3. The Chief Engineer,

Central Ground Water Board,

NH-IV, Faridabad,

Haryana

4. The Director (Admn.)

Central Ground Water Board,

N.H. IV, Faridabad

Haryana.

..... Respondents

Contd....P/3

Madan Pal

3. Particulars for which this application is made.

This application is made against the impugned transfer and posting order issued under letter No.3-984/96-Estt(M), Government of India, Central Ground Water Board, NH IV, Faridabad dated 8.8.1996 whereby the applicant is sought to be transferred and posted from the office of the Central Ground Water Board, Government of India, Ministry of Water Resources, Tarun Nagar Guwahati to N.C.R., Bhopal and also with a prayer for a direction upon the respondents for transferring the applicant at his choice station of posting i.e. Faridabad in terms of the Office Memorandum dated 14.12.1983, bearing No. 20014/~~xx~~ 3/83-E.IV.

4. Limitation

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

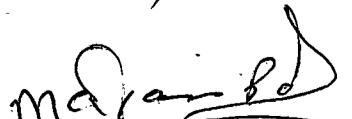
5. Jurisdiction of the Tribunal

The applicant declare that the subject matter of the instant application is within the jurisdiction of this Hon'ble Tribunal.

6. Facts of the case

6.1 That the applicant is a citizen of India and as such he is entitled to the rights and privileges and protection as guaranteed under the Constitution of India. The applicant was initially appointed as Lower Division Clerk in the month of June 1965 and posted at Jodhpur,

Contd... P/4



in the State of Rajasthan and thereafter the applicant was promoted as Upper Division Clerk in the year 1968. Further he was promoted as Assistant in the year 1983 then again as promoted as Office Superintendent in the year 1986 and thereafter promoted as Administrative Officer in the month of June 1994. The applicant was transferred and posted on promotion in the office of the Central Ground Water Board, Government of India, Ministry of Water Resources, Tarun Nagar, Guwahati as Administrative Officer with effect from 6.6.1994. The applicant being very disciplined and loyal Government servant carried out all transfers and postings order issued by the authority from time to time.

6.2 That the applicant was transferred and posted as Administrative Officer in the office of the Central Ground Water Board, Tarun Nagar, Guwahati in the month of June, 1994 and the applicant had carried out the said transfer and posting order. The Government of India, Ministry of Finance has granted certain improvement and facilities to the Central Government civilian employees who are posted at North Eastern Region vide Office Memorandum No. 20014/3/83-E.IV dated 14.12.1983 issued by the Government of India, Ministry of Finance. In terms of the aforesaid Office Memorandum the Central Government civilian employees who are saddled with All India Transfer Liability are entitled to choice station of posting on completion of fixed tenure posting in the North Eastern Region. In accordance with the Office Memorandum dated 14.12.1983 issued by the Ministry of Finance the Central Government civilian

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employees who has rendered more 10 (ten) years of service is entitled to choice station posting on completion of 2 (two) years of fixed tenure in the North Eastern Region and those Central Government civilian employees whose length of service is less than 10 years are entitled to choice station posting on completion of 3 (three) years of fixed tenure in North Eastern Region. The present applicant has completed more than ³¹ ~~27~~ years of service ^(A) in the Central Ground Water Board under the Ministry of Water Resources and therefore the applicant is entitled to be posted at his choice station posting on completion of 2 (two) years of fixed tenure service in the North Eastern Region. The relevant portion of the Office Memorandum dated 14.12.1983 issued by the Ministry of Finance is quoted below :

" Subject : Allowances 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 Tripura and the Union Territories of Arunachal Pradesh and Mizoram has been engaging the attention of the Government for sometime. The Government had appointed a Committee under the Chairmanship of Secretary, Department of Personnel & Administrative Reforms, to review the existing allowances and facilities admissible to the various categories

M. J. Ansari

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 :

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

Therefore in terms of the Office Memorandum issued by the Government of India, Ministry of Finance dated 14.12.1983

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the applicant is entitled to be posted on completion, of his fixed tenure of two years at his choice station. This Office Memorandum was issued with the object to attract and retain the Central Government civilian officers having all India Transfer Liability for rendering service in the North Eastern Region. Therefore the Special incentive is granted by the Central Government for the Central Government civilian employees who are transferred and posted at NER and the present applicant is entitled to get the fruits of this Office Memorandum issued by the Government of India, Ministry of Finance dated 14.12.1983.

An extract of the Office Memorandum issued by the Ministry of Finance dated 14.12.1983 is annexed hereto and the same is marked as Annexure-1.

6.3. That your applicant during his ³¹ ~~27~~ years of service posted at different places namely, Jodhpur, Baranasi, Faridabad, Ahmedabad, Nagpur and Guwahati but the applicant had carried out all the transfers and postings order being a very disciplined and sincere Government Officer.

6.4. That the other family members of the applicant including son and daughters are presently staying at Faridabad for the purpose of smooth running of education of the children of the applicant. The applicant is having 7 daughters and one son and there are no other male members in the family who can look after the family members of the applicant at Faridabad. Therefore presence of the applicant at Faridabad for the purpose of welfare and as well as for

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the purpose of the education of the children of the applicant is highly essential. The detail particulars of the daughters and son of the applicant is given below :

1. Miss Gita	
2. Miss Sunita	
3. Miss Anita	- Reading in Class X
4. Miss Mukta	- Reading in Class VII
5. Miss Anju	- Reading in Class XVI
6. Miss Gyatri	- Reading in Class IV
7. Miss Punam	-
8. Master Chandra Sekhar	-

The applicant immediately after his posting at Guwahati requested the authorities for consideration of this transfer to Headquarters Office at Faridabad as soon as vacancy of Administrative Officer is occurred therein i.e. in the Headquarters of Central Ground Water Board at Faridabad vide his representation dated 17.10.94 which was immediately forwarded by the office of the Central Ground Water Board, North Eastern Region, Guwahati to the Director (Admn.), Central Ground Water Board, CHQ, NH IV, Faridabad, Haryana.

A copy of the representation dated 17.10.94 and forwarding letter dated 28.10.94 are annexed hereto and the same are marked as Annexure 2 and 3 respectively.

6.5 That the applicant again submitted his representation dated 24.5.96 for his transfer and posting at Faridabad on completion of his two years of service at North Eastern Region in terms of the Office Memorandum dated 14.12.1983 and the same was immediately forwarded by the Director, Office

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of the Central Ground Water Board, Guwahati Office, to the Director (Admn.) Headquarter, Faridabad which was very strongly recommended by the office of the Director, Central Ground Water Board, Guwahati. But most surprisingly immediately after receipt of the representation of the applicant the Director (Admn.), Central Ground Water Board, Headquarter, Faridabad transferred and posted the applicant from Guwahati to NCR Bhopal on transfer with effect from immediate effect vide Office Order No. 875/96 under letter No. 3-984/96-Estt (M) Faridabad dated 8.8.96. In the said transfer order it is stated that the transfer is made in public interest and it is also stated that this transfer has the approval of the competent authority. However the order of the transfer is issued by the Administrative Officer, Central Ground Water Board, Faridabad. The said transfer order does not indicate that the representation of the applicant has been considered by the authorities of Central Ground Water Board at Faridabad in the light of Office Memorandum dated 14.12.1983 issued by the Ministry of Finance whereby the applicant has acquired a valuable and legal right for his transfer and posting at his choice station i.e. Faridabad. In this connection it may be stated there are altogether 7 officers in the cadre of Administrative Officer serving in the Headquarter Office at Faridabad and out of these 7 officers only one officer namely Shri Mohan Lal had served the North Eastern Region as Administrative Officer but none of the other six officers who are presently posted at Faridabad and serving thereat Faridabad

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for morethan 5 years in the cadre of Administrative Officers never posted in North Eastern Region and they are somehow managed the authorities of the Central Ground Water Board at Faridabad for continuation of their postings in the Headquarter office at Faridabad. Therefore the order of transfer and posting of the present applicant who has completed fixed tenure of 2 transferred years of service in the North Eastern Region not/at Bhopal is intentionally issued by the Administration and while issueing the same the authorities have acted in malafide only to manage the other six officers for their continuous retention in the Headquarter office of the Central Ground Water Board at Faridabad who are continuing their service for more than 5 years in the cadre of Administrative Officers. Therefore the same impugned order of transfer and posting of the applicant issued under office Order No.3-984/96-Estt (M) dated 8.8.96 is liable to be set aside and quashed.

A copy of the representation dated 24.5.96 and forwarding letter dated 24.5.96 and the impugned transfer order dated 8.8.96 are annexed hereto and the same are marked as Annexures 4,5 and 6 respectively.

4.6 That your applicant further begs to state that out of the 7 officers posted at Headquarter, Faridabad in the cadre of Administrative Officers 3 officers namely S/Shri B.L.Sahani, G.S. Arora, and G.P.Sharma were promoted in the Headquarter office ~~xxx~~ at Faridabad itself and they were adjusted there in the Headquarter at Faridabad

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and two officers were accommodated and adjusted in the Headquarter office at Faridabad by transferring two posts of Administrative Officers from other Regional Offices in anticipation of vacancies likely to be occurred in the month of July, 1998 in the Headquarter Office at Faridabad but the applicant who had carried out his transfer and posting order for North Eastern Region and whereby the applicant has acquired a legal and valuable right in pursuance of the Office Memorandum dated 14.12.1983 issued by the Government of India, Ministry of Finance with the object for granting incentive to Central Government civilian employees for the purpose of attraction and retention to serve North Eastern Region even thereafter the present applicant in total violation of the said guidelines dated 14.12.1983 and in order to favour the serving administrative officers in the Headquarter at Faridabad the present applicant is now sought to be transferred at Bhopal by the impugned transfer order dated 8.8.96. Therefore the impugned order of transfer and posting of the applicant is liable to be set aside and quashed as the same is illegal, arbitrary and whimsical and the Hon'ble Tribunal be pleased to direct the respondents to reconsider the transfer and posting of the present applicant for Faridabad in the light of the Office Memorandum dated 14.12.1983.

6.7 The authorities of the Central Ground Water Board being model employer is required to adopt a fair policy in regard to transfer and postings of the officer

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serving under Central Ground Water Board and the officers in the cadre of Adminstrative Officers serving in the other regions and in the Headquarter's office are also liable to be transferred and post in the North Eastern Region on rotation basis and on completion of the fixed tenure posting the authorities should accommodate the officers concerned in their choice station posting in terms of the Office Memorandum dated 14.12.1983. But in the instant case the higher authorities of the Central Ground Water Board at Faridabad has adopted an unfair policy in total violation of the Govt. of India's guidelines which is just to accommodate the other Administrative Officers posted in the Headquarter at Faridabad therefore the impungend transfer and posting order dated 8.8.96 in respect of the applicant is liable to be set aside and quashed.

6.8 That your applicant further begs to state that vide Transfer and postings order dated 19.4.96 two officers namely Shri T.L.Chakraborty and Shri S.A.H. Jaffay have been transferred from Guwahati to Calcutta and Lucknow respectively and other officers who are longer stayee at Calcutta and Lucknow have been transferred and posted to North Eastern Region. Therefore the similar treatment is also deserves to be made in the instant case of the applicant who is legally entitled for choice station of posting in the light of the Office Memorandum dated 14.12.1983.

Copy of the said transfer and posting order dated 19.4.96 is urged to be produced by the applicant before the Hon'ble Tribunal at the time of Admission of this application as well as at the time of hearing.

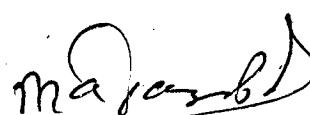
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The applicant has completed his tenure of posting at North Eastern Region on 6th June, 1996 and therefore he is entitled for choice station of posting at Faridabad and the applicant further categorically declare that he is still serving as Administrative Officer in the office of the Central Ground Water Board, Tarun Nagar, Guwahati and he is not yet released till filing of the application in terms of the impugned transfer and posting order dated 8.8.96 and the applicant in this application prays that till reconsideration of his transfer and posting at Faridabad the applicant be allowed to continue at the present place of posting at Guwahati and the respondents be directed for immediate reconsideration of his posting at Faridabad if required by transferring the any of the longest stayee Administrative Officers from ~~xx~~ Headquarter, Faridabad to either at Guwahati or at Bhopal for accommodating the applicant to his choice station i.e. Faridabad.

6.9 That your applicant begs to state that this Hon'ble Tribunal has decided a number of cases of transfer and postings in the light of Office Memorandum dated 14.12.1983 such as O.A. 63/93, O.A. 20/95.

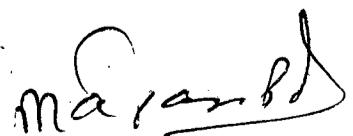
6.10 That after receipt of the impugned transfer order dated 8.8.96 the applicant submitted representation to the Chief Engineer, Central Ground Water Board, Faridabad dated 4-9-96 through proper channel stating his difficulties and also requesting for posting at Faridabad instead of Bhopal in the light of the Office



Memorandum dated 14.12.1983 and the same was forwarded vide letter dated 6-9-96 by the local authority of the Central Ground Water Board of Guwahati. In the circumstances the applicant finding no other alternative with the apprehension that he may be released from the office/ of the Central Ground Water Board, Guwahati at any moment the approaching this Hon'ble Tribunal for staying the operation of the impugned transfer order dated 8.8.96 and also for setting aside and quashing the same.

6.11 That the applicant begs to state that the impugned transfer and posting order is issued with an ulterior motive and the authorities have acted malafide and purposely used the words Public interest in the transfer order dated 8.8.96 while as many as 6 officers are serving in the cadre of Administrative Officer in the Headquarter office at Faridabad for more than 5 years. Therefore the impugned transfer and posting order dated 8.8.96 is liable to be set aside and quashed.

6.12. That the applicant begs to state that recently a trend has developed in almost all the Government Establishments for issuing arbitrary transfer and posting order in total violation of transfer and posting guidelines and the authorities being model employer making a clear departure from adopting a fair transfer and posting policy. Therefore the poor Government employees finding no other alternative approaching the Tribunals/Courts for appropriate relief against their grievances and in the instant case also the



applicant approached this Hon'ble Tribunal for redressal of his grievances and the applicant also begs to refer a recent decision of Delhi High Court reported in 'The Times of India' New Delhi, Tuesday September 3rd, 1996 where the Hon'ble Delhi High Court set aside and quashed an Arbitrary transfer and posting order of an Army officer which was issued in violation of the transfer and posting guidelines and in the instant case also the authorities of the Central Ground Water Board has also violated the Government of India's transfer and posting guidelines issued under Office Memorandum dated 14.12.1983 therefore the transfer and posting order of the applicant is liable to be set aside and quashed.

A News paper cutting of the decision of the Delhi High Court published on 3.9.96 in The Times of India is annexed hereto and the same is marked as Annexure-7.

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

7. Reliefs prayed for :

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

1. That the impugned transfer Order issued under Letter ~~Office Order~~ No.3-984/96-Estt (M) and Office Order No. 875 of 1996 dated 8.8.96 (Annexure-6) be set aside and quashed.
2. That the respondents be directed to transfer the applicant at Faridabad in the cadre of Administrative Officer in the light of the Office Memorandum dated 14.12.1983 issued by the Government of India, Ministry of Finance, New Delhi.

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3. That the respondents be directed to allow the applicant to continue in the present place of posting till reconsideration of his posting at Faridabad.
4. To pass any other order or orders as deemed fit and proper under the facts and circumstances as stated above.

The above reliefs are prayed on the following amongst other -

- G R O U N D S -

1. For that the transfer and posting order issued under Office Order No. 875/1996 under letter No.3-984/96-Estt (M) dated 8.8.96 without considering the representation submitted by the applicant for choice station posting at Faridabad in terms of Office Memorandum dated 14.12.1983.
2. For that the impugned order of transfer and posting after rendering fixed tenure of service in North Eastern Region is contrary to the guidelines issued by the Government of India under Office Memorandum dated 14.12.1983.
3. For that the word used public interest in the impugned transfer order dated 8.8.96 in respect of the applicant purposely to frustrate the claim of the applicant which is acquired by the applicant under Office Memorandum dated 14.12.83.

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4. For that 6 (six) Administrative Officers out of the 7 (seven) Administrative Officers serving at Faridabad have not served North Eastern Region.
5. For that 6 Administrative Officers serving in the Headquarter in the cadre of Administrative Officers for more than 5 years.
6. For that the authorities have acted mala fide in issuing the impugned transfer order of the applicant for posting at Bhopal with an ulterior motive to favour the 6 Administrative Officers serving at Faridabad.
7. For that the order of impugned transfer is issued arbitrarily to frustrate the spirit of the Office Memorandum dated 14.12.1983 issued by the Government of India.
8. For that the Office Memorandum dated 14.12.1983 is ignored by the authorities with an ulterior motive to show favour to the serving Administrative Officers in the Headquarter at Faridabad.
9. For that the applicant has acquired a legal and valuable right under the O.M. dated 14.12.83 issued by the Government of India, Ministry of Finance for his choice station posting on completion of his fix tenure posting of 2 years in the North Eastern Region.
10. For that the representation was submitted to the respondents by the applicant for reconsideration of his posting at Faridabad.

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11. For that the education of the children of the applicant will be disturbed if the applicant is not transferred to his choice station posting at Faridabad in terms of O.M. dated 14.12.1983.
12. For that the respondents cannot act arbitrarily in total violation of the transfer and posting guidelines without any bona fide reason.
13. For that the applicant is still serving in the office of the Central Ground Water Board, Gauhati.
14. For that the respondents require to adopt a fair policy of transfer and posting on the basis of rotation in the North Eastern Region.
15. For that the officer earlier posted in the North Eastern Region were transferred to their choice station namely Calcutta and Lucknow.

8. Interim Relief prayed for

During the pendency of this application the applicant ~~prays~~ for the following reliefs :

1. That the impugned order of transfer issued under Officer Order No. 875 of 1996 (Annexure-6) under letter No. 3-984/96-Estt (M) dated 8.8.96 be stayed till the final disposal of this Original Application.
2. That the respondents be directed not to release the applicant and further be pleased to direct the respondents to allow the applicant to



continue in the present place of posting till reconsideration of his posting at Faridabad.

The above reliefs are prayed on the grounds explained in paragraph 7 of this application and if the same is not granted the applicant will suffer an irreparable loss.

9. Details of remedies exhausted

That the applicant declares that he has exhausted the remedies available to him.

10. Matter no previously filed or pending with any Court.

The applicant further declares that the matter regarding which this application has been made is not pending before any court of law or any other authority or any other Bench of the Tribunal.

11. Particulars of the I.P.O.

I.P.O. No.	: 346892
Date of Issue	: 10-9-96
Payable at	: G.P.O., Guwahati,
Issued from	: G.P.O., Guwahati

12. List of enclosures

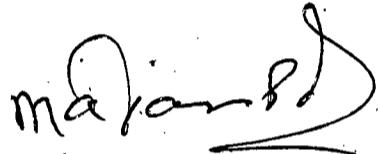
As stated in the Index.

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

I, Sri Madan Pal, son of late Bhuley Singh, aged about years, working as Administrative Officer in the office of the Central Ground Water Board, North Eastern Region, Guwahati, applicant in this application do hereby solemnly affirm and declare that the statements made in this application are true to my knowledge and belief and I have not suppressed any material facts.

I sign this verification on this the 10th day of September, 1996, at Guwahati.


Signature

AN EXTRACT OF THE O.M. DATED 14.12.1983 ISSUED BY THE GOVERNMENT OF INDIA, MINISTRY OF FINANCE, DEPARTMENT OF EXPENDITURE, NEW DELHI.

OFFICE MEMORANDUM

Subject : Allowances 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, Tripura and the Union Territories of Arunachal Pradesh and Mizoram has been engaging the attention of the Government for sometime. The Government had appointed a Committee under the Chairmanship of Secretary, Department of Personnel & 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 :

(i) 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

A. H. M. Abdulla

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

Attacted
While
P.W

To,

The Chairman,
Central Ground Water Board,
N.H.IV,
Faridabad (Haryana) 121001.

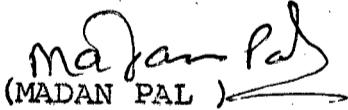
Sub:- Request for transfer from Guwahati to HQ Office,
Faridabad.

Sir,

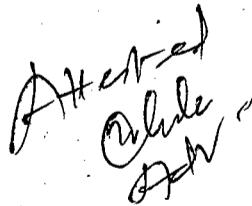
Most humbly and respectfully I beg to say that one of my daughter is of marriageable age and from such a long distance it is not practically possible for me to decide. Since there is no male member in my family. I am facing a great inconveniance. It is therefore requested to kindly consider my request on the ensuing vacancy in HQ Office in February, 1995. I do hope that your honour will give a thought on my genuene dificulties for which I shall remain grateful for your kindness.

Yours faithfully,

Date 17.10.94.


(MADAN PAL)

Asstt. Admn. Officer.


A. H. Pal
Chhota
P.W.D.

Annexure-3

No. 3530 /FF/9-6/ GGWB/NER/Estt/94

Government of India

Central Ground Water Board

North Eastern Region

R.G.Baruah Road, Udaipath

Guwahati -781024

Dated :- 28 OCT 1994

To

The director (Admn)

Central Ground Water Board, CHQ

N.H. IV, Faridabad

Haryana

Sub:-

Application of Shri Madan Pal, Asstt. Admn.
Officer for transfer to CHQ, GGWB, Faridabad.

Sir,

I am forwarding herewith an application dt.-
17.10.94 received from Shri Madan Pal, Asstt. Admn.
Officer of this office on the above subject which is
self explanatory for your kind perusal and consideration.

Yours faithfully,

Encl:- As above.

(M. HASEEB)

Copy to :-

Shri Madan Pal, A.A.O, GGWB, NER, Guwahati.

(M. HASEEB)

DIRECTOR

Attested
Duly
A. Haseeb

To

The Director
Central Ground Water Board
NH-IV, Faridabad, Haryana

(THROUGH PROPER CHANNEL)

Sub : Request for transfer from Guwahati to CGW Faridabad,
after completion of fixed tenure-Reg.

Sir,

I am to invite your kind attention to my application dated 17th Oct '94 requesting you to transfer me to Faridabad. In this connection I request you to kindly recall my humble submissions made personally to your good self on the urgency of my social obligations in settling my grown-up daughters at Faridabad. At that point of time there was a vacancy of Administrative Officer at Faridabad. I was given hope that I shall be transferred to Faridabad on completion of two years fixed tenure in North Eastern Region.

In this connection I beg to submit that I have been serving the department since January 1965 (about 31 years) out of which I stayed out of Faridabad about 20 years on different stations including the 2 years service in NER. In accordance to the provisions of MHA the officers after completion of tenure in NER are to be considered for choice posting.

The Officers Association representatives of NER brought to the kind notice of the Secretary, Ministry of Water Resources at the time of his visit to NER office on the difficulties in getting the transfer of officers from NER. He was also informed by the representatives on the provisions of MHA which are being followed in all the Central Govt. departments and specific directives to CGWB by Hon'ble Guwahati Bench CAT in the matter of transfer of an Asstt. Engineer and STA(Chem.). Keeping in view of the above directives, department has transferred them to their place of choice and some more transfers have also been ordered recently i.e. in Apr '96 vide CHQ No. 14-13/96/CH/ESTt. dated 19.04.96. Now it has been proved beyond doubt that the department is strictly following the norms and provisions as laid down in G.I. MF OM No. 20014/3/83-E.IV dt. 14.12.1983. Under the circumstances cited following the same provisions and analogy I am earnestly request you to kindly transfer me to Faridabad. I do hope that your honour will give a thought on my genuine request and oblige me by issuing favourable orders.

Yours faithfully,

Sd/- Madan Pal
Administrative Officer
CGWB, NER 24.5.96

Attested
Chila
Adv

No.872/PT-/CGWB/NER/ESTT-
Government of India
Central Ground Water Board
North Eastern Region,
Tarun Nagar
Guwahati-5

Dt. 24 MAY 1996

To,

The Director(Admn.)
Central Ground Water Board,
N.H.IV, Faridabad

Sub : APPLICATIONFOR TRANSFER TO CENTRAL GROUND WATER BOARD,
CHQ, GARIDABAD

Sir,

I am forwarding herewith an application dated 24.5.96 received from Sri Madan Pal, Administrative Officer of this office for his transfer to Central Ground Water Board, Central Head Quarter, Faridabad (place of choice) which is self explanatory for your kind perusal and consideration. Shri Pal will complete 2 years continuous service in NER Office on 6.6.96. As per the provision of G.I. MF O.M. No. 20014/2/83-E-NER IV dated 14.12.1983 all Central Govt. servants (more than 10 years of service) posted at any station in NER States are to be transferred to the places of their choice on completion of fixed tenure period of 2 years. The other Central Govt. offices at Guwahati are strictly following the existing Govt. orders.

Shri Madan Pal, A.O., may be transferred to the place of his choice(CHQ, CGWB, Faridabad) in the light of the provisions contained in the above said Govt. circular keeping in view the genuineness of his request.

Enclo : As Above

Yours faithfully,

Sd/- M.A. HASEEB
Director

Copy to :

1. Sri Madan Pal, Administrative Officer, CGWB, NER,
Guwahati.

Sd/- M.A. HASEEB
Director

*A.H. Haseeb
Director*

No. 3-904/96-East (M)
Government of India
Central Ground Water Board
NH IV, Faridabad.

Dated: 8 AUG 1996

OFFICE ORDER NO. 875 of 1996.

Sh. Madan Pal, Admn Officer id hereby transferred from NER, Guwahati to NCR, Bhopal with immediate effect, in public interest.

Since his transfer has been ordered in public interest, he is entitled to TA/DA and joining time as admissible under the rules.

This has the approval of the competent authority.

(D.S.YADAV)

Administrative Officer

Distribution :

1. Sh. Madan Pal, A.D., GGWB, NER, Guwahati.
2. The Director, GGWB, NER, Gauhati, The Substitute will be posted separately.).
3. The Director, GGWB, NCR, Bhopal.
4. Personal file.
5. Office Order File.

Attached
Olinde
PSW

To

The Chief Engineer
Central Ground Water Board
NH-IV, Faridabad Haryana

Sub : Transfer from NER to NCRR Bhopal - regarding
Sir,

THROUGH PROPER CHANNEL

Sir,

I am to invite a reference to your O.O. No. 875 of 1996 issued under letter No. 3-384/96 Estt(M) dated 8.8.96 vide which I have been posted in NCR, Bhopal on transfer from NER, Guwahati. These orders are not acceptable to me as my choice place after completion of fixed tenure is CHQ office, Faridabad and not Bhopal. The orders are biased and based on other criteria which cannot be spelt out. Such type of treatment by the administration not only demoralised the officers serving in NER but create/encourage unhealthy atmosphere in the department. So far officers transferred from NER have been given their choice place of posting but I am being deprived from my legitimate rights.

As I am facing difficult family situations, my presence is very much required at Faridabad. Since department did not concede my genuine and legitimate grievance I am constrained to knock the doors of justice to remedy the grievance for which the administration is only responsible.

Yours faithfully,

Dated 4-9-96.

(MADAN PAL)
Administrative Office
NER, Guwahati-5

After read
M. Pal
J.W.

[ONAI]

4 THE TIMES OF INDIA, NEW DELHI, TUESDAY SEPTEMBER 3 1996

HC raps Army for arbitrary decisions on personnel

The Times of India News Service

NEW DELHI, September 2.

The high court here recently rapped the Army, in two separate cases, for being arbitrary in personnel policy.

In one case, the court quashed an order transferring a colonel from Delhi to Secunderabad two years before he was due to retire. He had pleaded the rules exempted those in his category from a transfer if they had less than three years service left. The Army, decided Justice Jaspal Singh, hadn't been able to sufficiently rebut his petition.

In another case, Justice J K Mehra decided the Army had been arbitrary in refusing to regularise the services of a non-officer taken on a short-service commission despite his having a good record, while doing so for the other 144 considered with him.

The first case involved a Col. D B Bhide, transferred on January 10 this year as joint director of the Missile System Quality Assurance Agency, Secunderabad. He had been in Delhi since April 1993 and is to retire in November 1997.

Two days after the transfer order, he petitioned the Army's director-general of quality assurance. On January 23, it was rejected and he was told to move to Hyderabad. He turned to the high

court.

His counsel, Avnish Ahlawat, tabled a copy of the transfer rules issued by the defence ministry in 1982. It says those serving in this cadre will be transferred after a five-year tenure at one station. The transfer order should be issued in April/May, to ensure minimum disruption of children's education. And those with three years or less to go for retirement will be exempt.

For the Army, counsel Gaurav Duggal said this was the general rule. However, service exigencies could overrule this. Col. Bhide had been judged best for the Secunderabad job and so he had to be sent there.

Justice Jaspal Singh said no such exigency had been mentioned in either the January 10 transfer order or the January 23 letter to the Colonel, rejecting his petition. His representation had been specific, quoting the rule. If the Army had decided to overlook these for a sound reason, it should have made this clear.

"The (Army) can depart from the general policy..if the exigencies of service so require," concluded the judge. "But then they have to make out a case for that. The record before me does not establish any such exception. The plea now being put is clearly an after-

thought and finds no support from the record."

The other case involved a junior commissioned officer, taken on a five-year commission. Army rules say the term can be extended or regularised if the person has a higher than average rating in his annual confidential report for two of the last three years.

The JCO's first report was for 1988, higher than average. He was rated average in 1989 and 1990, higher than average in 1991 and outstanding in 1992. The examining board, however, took only the 1989-91 reports into question and so, discharged him. The other 144 considered were all regularised.

When the court asked why, they were told the 1992 reports weren't ready when the board took a decision. The JCO's counsel, Ravinder M Bagai, cited a Supreme Court ruling saying if an average report is to be treated as an adverse one or a ground for disqualification, it has to be communicated to the person concerned. But, showed Mr Bagai, this wasn't so. Nor was there an upper ceiling for intake; the Board was only considering eligibility for permanency, not selecting a few from the many.

Justice J K Mehra noted these points and said the Army decision appeared arbitrary.

AA-estd
O. Bunker
Adv.