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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No. 111/96.....
R.A/C.P No.....
E.P/M.A No.....

1. Orders Sheet... OA-111/96Pg..... 1to..... 4
2. Judgment/Order dtd. 17/9/1996Pg..... 1to..... 9 Dismissed
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A..... 111/96Pg..... 1to..... 37
5. E.P/M.P..... NILPg.....to.....
6. R.A/C.P..... NILPg.....to.....
- ✓ 7. W.S.....Pg..... 1to..... 16
WSPg..... 1to..... 17
- ✓ 8. Rejoinder.....Pg..... 1to..... 7
9. Reply..... NILPg.....to.....
10. Any other Papers..... NILPg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

OA No 111/96

RA No.
CP No.

Mr. L. C. Manns

APPLICANT(S)

Union of India & Ors.

RESPONDENT(S)

Mr. Person

Advocate for the applicant.

Mr. S. Ali, Sr. C.G.S.C.

Advocate for the Respondents.

Office Notes

Court's Orders

27.6.96

The applicant has requested to take up admission of this application today unlisted on the ground of urgency. Considered and prayer allowed.

Mr S. Ali, learned Sr. C.G.S.C., for the respondents.

This application has been submitted by the applicant against his transfer order dated 8.5.1996 to Patna. According to the applicant, there is malafide on the part of the respondents in not transferring him to Calcutta, but instead they transferred Shri N.C. Mandal to Calcutta who is junior to the applicant, who had stayed longer than Shri Mandal outside Calcutta and in spite of his representations regarding his illness. He is aggrieved that his representation was rejected by office memorandum dated 11.6.1996 without detailed and reasoned order and without considering his contentions in the representations. In this application, therefore, he has impugned the transfer order dated 8.5.1996 (Annexure-5), the rejection order dated 11.6.1996 (Annexure-11) and the release order dated 18.6.1996 (Annexure-12).

Issue notice on the respondents to show cause as to why this application should not be admitted and the reliefs

This application is in form and within time C. F. of Rs. 50/- deposited vide IPO No 346236 Dated 26.6.96

27.6.96

Copy of order and Notice issued on 27.6.96 by Sp/He manager.

28.6.96

Notice issued to the respondents vide D.No. 1806 Dt. 27.6.96.

Ban

27.6.96

sought should not be granted. Returnable on 11.7.1996.

List for disposal of show cause and consideration of admission on 11.7.1996.

Heard the applicant and the learned Sr. C.G.S.C. on the interim relief prayer. Mr Ali opposes the prayer as the applicant has already been released on 18.6.1996. After considering their submissions, the operation of the release order No.A.15014/1/96-DP dated 18.6.1996 (Annexure-12) is stayed till disposal of the show cause and consideration of admission. The respondents are further directed to take back the applicant to duty in their Dispur office till disposal of the show cause and consideration of admission on 11.7.1996.

Steps within today. The respondent No.6 may be served by Special Messenger in view of the urgency of the matter.

Copy of the order to be furnished to the applicant and Sr. C.G.S.C. today.


Member

nkm

11-7-96

Applicant in person is present. Learned Sr.C.G.S.C. Mr.S.Ali is present for the respondents. Show cause has not been submitted. Mr.S.Ali states that the applicant has been allowed to join duty in Dispur. This has been confirmed by the applicant. Also seen letter No.A.15014/2/96-ADMN-II dated 8-7-96 from the respondents. Mr.S.Ali seeks ~~xi~~ time 1 month to submit show cause. Time prayed for is allowed.

List for show cause and consideration of Admission on 12-8-96.

contd/-

2-7-96

Memo of appearance
filed by Mr. S. Ali. b. l. g. s.

11-7-96

Interim order dated 27-6-96 continues till disposal of show cause and consideration of Admission. The respondents shall allow the applicant to continue on duty in Dispur till disposal of show cause and consideration of Admission.

[Signature]
Member

12.7.96

Copy of order dtd.
11.7.96 issued to
the respondents
on 12.7.96.

lm

12.8.96

The applicant, L.C. Manna, is present in person. Mr S. Ali, learned Sr. C.G.S.C., for the respondents. The respondents have submitted show cause which is served on the applicant today. The applicant seeks time for perusal and consideration of the show cause.

List on 20.8.96 for consideration of the show cause and admission.

[Signature]
Member

12.7.96

nkm

Copy of order dtd. 11.7.96
issued to the parties
concerned.

20-8-96

Mr.L.C.Manna applicant in person. Learned Sr.C.G.S.C. Mr.S.Ali for the respondents. Rejoinder has been submitted by the applicant. Perused the application, show cause and rejoinder.

Heard the applicant and Sr.C.G.S.C. Mr.S.Ali for Admission. Application is admitted. Case is ready for hearing. List for hearing on 30-8-96.

Interim order dated 27-6-96 ~~is~~ will continue till final disposal of this O.A.

[Signature]
Member


19.8.96

Rejoinder filed by the
applicant on 19.8.96
to R.O. of R.No. 1-6 & 1m
Placed at pg 54-60. 20/8

30.8.96 Mr. L.C.Manna, applicant, in person.
Mr. S.Ali, Sr. C.G.S.C. for the respondents.

Written statement of respondent Nos. 1,2,3,4,5 and 6 have been submitted today. Copy of the same had been served on the applicant on 29.8.96. Mr. Ali and the applicant say that the contents are same with the written statement submitted on 9.8.96. The applicant also says that the rejoinder submitted by him on 19.8.96 may be taken as rejoinder to the written statement submitted today.

Hearing is taken up. The applicant and Mr. Ali have completed their submissions. Hearing concluded. Judgement reserved.


Member

trd

17.9.96 Mr S.Ali, Sr.C.G.S.C for the respondents.

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


Member

*Pl. comply the
Jud & order dated
17.9.96.*

M 19/9/96.

pg

23.9.96

*Copy of the Judgment
dated 17.9.96 issued
to the parties vide D.No..
3173, 3174 & 20.9.96 and
D.No. 3215 to 3219 & 24.9.96*

*44
23/9*

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI-5.

O.A. NO. 111 of 1996
T.A. NO.

DATE OF DECISION 17.9.1996

Shri L.C. Manna

(PETITIONER(S))

The applicant appears in person

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India and others

RESPONDENT (S)

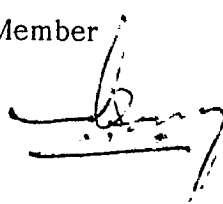
Shri S. Ali, Sr. C.G.S.C.

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 ?
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 Administrative Member



X

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 111 of 1996

Date of decision: This the 17th day of September 1996

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

Shri L.C. Manna,
Wireless Supervisor,
Office of the Inter State Police Wireless Station,
Dispur, Guwahati.

.....Applicant

The applicant appears in person.

- versus -

1. Union of India,
Represented by the Ministry of Home Affairs,
Government of India, New Delhi.
2. The Director, Police Telecommunication (Police Wireless),
Director of Coordination,
New Delhi.
3. The Joint Director,
Directorate of Coordination Police Wireless,
New Delhi.
4. The Deputy Director (Administration),
Directorate of Coordination (Police Wireless),
New Delhi.
5. The Assistant Director (Communication),
Directorate of Coordination (Police Wireless),
New Delhi.
6. The Extra Assistant Director/Zonal Officer cum Station-
in-Charge, Inter State Police Wireless Station,
Dispur.

.....Respondents

By Advocate Shri S. Ali, Sr. C.G.S.C.

O R D E R

G.L. SANGLYINE, MEMBER (A)

The applicant is a Wireless Supervisor working under the Directorate of Coordination (Police Wireless), New Delhi. He was posted in Dispur Station and joined in that office in January 1993. He was transferred in public interest to Patna vide office order No.A.15014/1/96-Admn.II dated 8.5.1996. Consequently, he submitted an application under Section 19 of the Administrative Tribunals Act, 1985, before this Tribunal. In the order dated 30.5.1996 in O.A.No.81 of 1996 the respondents were directed to

17-9-96

dispose of the representations of the applicant annexed to that O.A. particularly representation dated 17.5.1996. Accordingly the respondents disposed of the representations on 11.6.1996 rejecting the request of the applicant to modify the order of transfer and post him at ISPW Station, Calcutta on ground of administrative reasons. The applicant has submitted the instant application with a prayer to quash the transfer order dated 8.5.1996 and to direct the respondents to transfer him to Calcutta or to retain him in Dispur. The grievance of the applicant is that his representations were rejected without considering his case in the light of the Central Government circular on tenure posting as well as the practice and guidelines of their own statutory rules. Further, the facts of his case were also not considered by the respondents while issuing the impugned transfer order. He was the seniormost Wireless Supervisor in ISPW Station, Dispur, but one N.C. Mandal, Wireless Supervisor, who was junior to him in the Station was preferred for posting in Calcutta. This the respondents had done despite the fact that the said Mandal had enjoyed posting in Calcutta for 6 years at a stretch in comparison with his $2\frac{1}{2}$ years posting in Calcutta. Moreover, he contends that he is suffering from neurosis anxiety and has been under treatment of a reputed Psychiatrist of Calcutta since long, but he was not posted in Calcutta despite his request for posting there on humanitarian ground. In these circumstances, the applicant has complained that the order of transfer was made with malafide and in colourable exercise of power by the respondents.

2. The respondents have resisted the contentions of the applicant and had submitted written statement. They admit that the applicant is senior to N.C. Mandal in Station Dispur as the applicant had joined in Dispur earlier than Mandal. They, however, contend that both the officers completed their tenure in N.E. Region and were to be transferred out from Dispur at the same time. As such they contend that the plea of the applicant regarding station seniority as a preference for posting in a place of his choice is not justifiable. Only one vacancy was in existence in the grade of Wireless Supervisor in Calcutta at the relevant time. According

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to them the applicant could not be posted against the aforesaid vacancy because as per the transfer policy the preference for choice posting is given to those officials who have served maximum time in hardship/non-popular stations. In this case there were three claimants for posting in Calcutta at the relevant time. On consideration, between the applicant and Mandal, it was found that the applicant had served only for a total period of 9 years in hardship/non-popular stations but Mandal had served for more than 14 years in such stations. After their consideration of the facts the respondents claim that they found that N.C. Mandal was suitable candidate for getting a posting at Calcutta among the three candidates. They further submit that they had followed the guidelines and the policy in posting the applicant in Patna which is nearest to his hometown at Burdwan, West Bengal as the applicant did not give any second choice at the time of submission of his option for transfer. They also submit that even after re-scrutiny of his case it was not possible to post the applicant in Calcutta in accordance with the transfer policy and also in comparison with the case of N.C. Mandal. It is their submission that they have made serious attempt to post the applicant in Calcutta but in the absence of vacancy and in exigency of work and public interest the applicant could not be posted in the place of his choice. Regarding the claim of the applicant that he should be transferred to Calcutta on medical grounds the respondents contend that his contention seems to be not genuine and is contradictory as if he had been suffering since long time there is no reason why he should be treated in Calcutta and not in Guwahati and if he is treated in Calcutta why now he wants to remain in Dispur and get the treatment from a distant place. Regarding the claim of the applicant that the respondents had with a malafide intention transferred his account to Patna it is the contention of the respondents that the account of the applicant had been transferred to Patna with a good intention that his pay and allowances would be paid to him without delay in the new station.

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It is also their submission that the applicant cannot be retained in Dispur as there is no vacancy and moreover he had completed two years in Dispur and is liable to be transferred out to anywhere in India.

3. The transfer policy of the Directorate of Coordination, Police Wireless is laid down in OM No.A11015/1/87-Admn dated 16.8.1990. The periods of tenure of posting in North Eastern Region and non-popular stations are prescribed therein and in para 4 of the OM it lays down:

"4. All sincere efforts will be made to transfer an individual serving in any of the N.E. Region Stations or at any one of the non-popular stations, to a station of his/her choice or to a station near his/her Home State, on completion of the prescribed tenure in such a station, subject to the availability of a vacancy at the desired station and also the operational & administrative considerations. The transfers will normally be made as per the 'Station-Seniority' related to the concerned trade/category, on "first come - first go" basis except for those who are required to be moved out earlier on completion of the mandatory tenure in the N.E. Region or one of the non-popular stations as stipulated in Paragraph 3 above."

The applicant had completed his tenure in North Eastern Region when he was transferred out of Dispur Station. In accordance with the transfer policy the respondents directed the applicant and others vide message dated 5.12.1995 to give a choice of 3(three) places for posting on transfer or if they desire to be retained at the respective present place of posting they should clearly indicate the same. The applicant responded his willingness to be transferred out from Dispur but had chosen only one place for his posting, i.e., Calcutta. No request for retention in Dispur was made by him. The respondents could have straightaway rejected the option of the applicant on the ground that he had not fully complied with the directions dated 5.12.1995 and could have considered only the claims of the other two aspirants for posting in Calcutta. However, the respondents had considered his case. According to them the rival claims for posting at Calcutta had been considered and as per transfer policy preference for choice posting was given to the official who had served longer in the hardship/non-popular stations than others and in the process it was found that N.C. Mandal had served 14 years but the applicant had served only 9 years in hardship and non-popular stations. The applicant has objected saying that Agartala

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was not considered as a hardship station at the time when Mandal was posted there. However, even if the period of 3 years 3 months spent by Mandal in Agartala is taken out, the total period of service spent by Mandal in hardship/non-popular stations is 11 years and this is still more than the period of 9 years spent by the applicant in such stations and therefore this objection of the applicant has no merit. The other contention of the applicant is that such criteria is not mentioned in the transfer policy but transfer was to be made as per station seniority on first-come-first-go basis. I, however, find that this contention of the applicant has lost force because of the fact that both Mandal and the applicant were due to be moved out and they were transferred by the same order of transfer as they had completed their tenure posting in the North Eastern Region. Therefore, as far as transferring out from Dispur, both of them have to move out. The real issue is not transfer out but posting in a place of choice. One vacancy was available in Calcutta and there were three claimants. The respondents have to decide to whom the posting in Calcutta should be given. According to the transfer policy it is not compulsory for the respondents to post the employees to a place of his choice merely because a choice has been made but consideration of his choice is subject to availability of vacancy at the chosen station and also to the operational and administrative considerations. It will also be seen from the extracts above that the transfer policy does not confer any right on the concerned employee that he must be posted to a place of his choice after completion of his tenure in the North Eastern Region or non-popular stations. In this case there was one vacancy in Calcutta. Therefore, in filling up this vacancy the respondents might have kept in view the operational and administrative considerations. They have disclosed in their written statement that they give preference to a person having longer stay in hardship/non-popular stations while deciding several contentions for a particular vacancy in a particular place and that this principle was followed in the case of posting in Calcutta. They have also stated that they had found Mandal suitable for posting in Calcutta in comparison with the applicant. These, therefore, are the operational and administrative considerations of the respondents. There cannot be any dispute that it is the competent authority who best

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knows where to post which employee under him. Moreover, according to the transfer policy, each transferable staff must serve at least once in his career in any of the ISPW Stations in the North Eastern Region. The applicant had completed his tenure in the North Eastern Region and administratively he is required under this policy to move out of the region in order that other transferable staff can serve in the region. The respondents have followed this policy in the present case. The respondents have also been considerate in posting him in Patna, which is not far from his home State, despite the fact that the applicant refused in his option dated 9.12.1995 to indicate his second and third places of choice. Apparently the respondents had done this in keeping with the transfer policy which provides that all sincere efforts will be made to transfer an individual serving in North Eastern Region to a station of his/her choice or to a station near his/her home State. In the facts and circumstances of this case I cannot locate any malafide or any violation of the transfer policy in the refusal of the respondents to post the applicant in Calcutta the place he had chosen to be posted in after completion of his tenure in North Eastern Region. I do not also consider that transferring of his account to Patna is with malafide intention or has betrayed their malafide intention in transferring him to Patna. The transfer policy is specific to the effect that the pay and allowances of a transferred and relieved officer will become payable only at the new station after the specified dates in the order of transfer have expired. The applicant was due to be relieved on 14.6.1996 according to the original transfer order. His representations were disposed of on 11.6.1996 and he was relieved on 18.6.1996.

4. The applicant is aggrieved on the ground that his representations were rejected by a non-speaking order which contains no reason except stating that his requests had been sympathetically considered but could not be acceded to due to administrative reasons and without considering the facts of his seniority position in his working station. The claim of the applicant is that according to station seniority he should have been preferred to be posted in Calcutta to Shri Mandal. Had this aspect been considered by the respondents he should have been posted in Calcutta

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instead of Shri Mandal. It is, however, seen from the transfer policy that no stipulation is made to the effect that a senior-in-station is to be preferred to the junior when both are at the same time considered for posting in a particular place. Consideration of both would be subject to operational and administrative reasons according to the transfer policy. The respondents have stated that on consideration for posting they found that Shri Mandal was more suitable for posting in Calcutta. They have also stated that they have re-scrutinised the case of the applicant and had compared his case with that of Shri Mandal, but they found he could not be accommodated in Calcutta. It cannot, therefore, be said that the respondents had not considered his station seniority while rejecting his representation. The remaining question is whether the applicant should succeed in this application on the ground that his representations were rejected without any reason. In the rejection order dated 11.6.1996 (Annexure-11) the respondents have given the grounds of rejection as being administrative though they have not given details thereof. It may be mentioned here that in Union of India and others -vs- E.G. Nambudiri reported in (1991) 3 SCC 38 the Hon'ble Supreme Court had set aside the order of the Tribunal which held that the impugned orders were vitiated in law in absence of reasons. It has been held in that case, inter alia, thus:

".....In the absence of any statutory or administrative provision requiring the competent authority to record reasons or to communicate reasons, no exception can be taken to the order rejecting representation merely on the ground of absence of reasons. No order of an administrative authority communicating its decision is rendered illegal on the ground of absence of reasons ex facie and it is not open to the court to interfere with such orders merely on the ground of absence of any reasons. However, it does not mean that the administrative authority is at liberty to pass orders without there being any reasons for the same. In governmental functioning before any order is issued the matter is generally considered at various levels and the reasons and opinions are contained in the notes on the file. The reasons contained in the file enable the competent authority to formulate its opinion. If the order as communicated to the government servant rejecting the representation does not contain any reasons, the order cannot be held to be bad in law. If such an order is challenged in a court of law it is always open to the competent authority to place the reasons before the court which may have led to the rejection of the representation. It is always open to an administrative authority to produce evidence aliunde before the court to justify its action."

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The respondents have given the ground of rejection of the representation of the applicant as being administrative. In the facts and circumstances of his case, I am of the view that the applicant cannot succeed in this application simply on the ground that the rejection order does not contain reasons in detail.

5. The prayer of the applicant to direct the respondents to post him in Calcutta cannot also succeed for another reason. He has not made Shri N.C. Mandal a respondent in this case though if any order in favour of the applicant is issued Shri Mandal has to be adversely affected particularly when he had already joined his post in Calcutta.

6. The applicant had not expressed his desire for retention in Dispur in his option dated 9.12.1995. Now in this O.A., however, he prays that he may be allowed to remain in Dispur. His contention is that there is a vacancy of Wireless Supervisor in Dispur Station as it has now become a zonal office where three Wireless Supervisors are required according to SIU rules. The learned counsel for the respondents has pointed out to Office Memorandum No.A.22045/1/88-Admn.II dated 20.9.1991 issued by the Directorate of Coordination (Police Wireless) and has submitted that there is no vacancy of Wireless Supervisor in Dispur Station as there are already two Wireless Supervisors working there at present. The present factual position can be verified by the respondents and if there is scope for retention there is no bar for them to consider retention of the applicant in I SPW Station Dispur despite the fact that he had not opted for retention in Dispur in his option dated 9.12.1995. The respondents are accordingly directed to consider this aspect.

7. The other ground in support of the prayer for his retention in I SPW Station Dispur is that if his transfer to Patna is implemented he will lose the opportunity to submit representation for posting at the place of his choice once he has left the N.E. Region. This plea is unacceptable. The applicant had completed his mandatory tenure in the N.E. Region. He had exercised his option for a posting in a place of his choice. He has been transferred out of the N.E. Region though not to a place of his choice. The transfer policy aforesaid does not provide that if an

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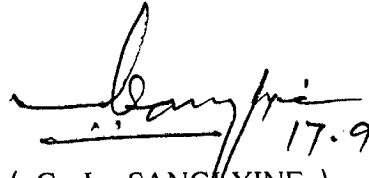
employee is not posted in a place of his/her choice after completion of the tenure such an employee should be retained in the N.E. Region in order to enable him/her to exercise a fresh option for posting in a place of his/her choice.

8. Regarding the contention that he deserves to be posted in Calcutta on medical grounds I consider that the matter is best left to the competent authorities of the respondents.

9. In this application there is also a ground given by the applicant that the order dated 30.5.1996 in O.A.No.81/96 of this Tribunal be reviewed. The aforesaid order was passed by the Division Bench and it will be reviewed by the Division Bench. However, in that order as already stated earlier the respondents were directed to dispose of the representations of the applicant. The respondents have accordingly disposed of the representations by order No.C 11032/2/96-COM(PF) dated 11.6.1996. A fresh cause of action has arisen and this application which has been submitted consequent to such rejection is disposed of by this order;

10. The respondents shall complete the exercise mentioned at para 6 of this judgment expeditiously and till such exercise is completed by them they shall allow the applicant to continue in office in ISPW Station in Dispur.

11. Subject to the above directions the application is dismissed.
No order as to costs.


(G. L. SANGLYINE)
ADMINISTRATIVE MEMBER
17.9.96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Filed in Court
on 30-8-96

Court Master

IN THE MATTER OF O.A. NO. 111 OF 1996

SHRI L.C.MANNA

....APPLICANT

-Versus-

UNION OF INDIA AND OTHERS

....RESPONDENTS

AND

IN THE MATTER OF :

WRITTEN STATEMENT SUBMITTED BY
RESPONDENT NOS. 1, 2, 3, 4, 5 & 6.

I N D E X

<u>S.No.</u>	<u>Particulars of documents</u>	<u>Page No.</u>
1.	Written Statement	: Page 1 - 9.
2.	Annexure-I	: Page 10-12.
3.	Annexure-II	: Page 13.
4.	Annexure-III	: Page 14.
5.	Annexure-IV	: Page 15.
6.	Annexure-V	: Page 16-17.

Dated : August, 1996.

(S.Ali)

Senior Central Govt. Standing Counsel
Guwahati.

Received
copy @ 29.8.96

Filed by

16
16/8/96
(MD. SHAHAT ALI)
Cr. Cell of Govt. S.
Ce. No. 111/96
Guwahati Bench

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

IN THE MATTER OF O.A. NO. 111 OF 1996

SHRI L.C.MANNA

....APPLICANT

-Versus-

UNION OF INDIA AND OTHERS

....RESPONDENTS

AND

IN THE MATTER OF :

WRITTEN STATEMENT SUBMITTED BY
RESPONDENT NOS. 1, 2, 3, 4, 5 & 6.

THE HUMBLE RESPONDENTS SUBMIT THEIR WRITTEN STATEMENT AS
FOLLOWS :

That with regard to the statements made in paras 1, 2
and 3 of the application, the respondents have no comments.

2. That, with regard to the statements made in para 4.1 of
the application, the respondents have no comments, the same being
matters of record.

3. That, with regard to the statements made in para 4.2 of
the application, the respondents beg to state that the applicant
joined the Directorate of Coordination (Police Wireless) w.e.f.
11.10.1976 in the grade of Wireless Operator. His posting detail
are given below since his joining :

S.No.	Name of Station	Period		Remarks
		Year	Month	

AS 'WIRELESS OPERATOR'				
1.	Delhi	0	2	-
2.	Calcutta	2	7	-
3.	Agartala	3	2	Hardship Station
4.	Bhopal	1	6	-
5.	Patna	4	11	He was transferred at Patna on his own request.
6.	Gangtok	2	7	He challanged the transfer from Patna to Gangtok at CAT, Patna Bench but the appeal was rejected. This is a Hardship/ Non-popular Station.

AS 'WIRELESS SUPERVISOR'

7.	Dispur	1.9.93 to till date	Transferred on promotion. Completed the tenure. Hardship Station.
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4. That, with regard to statements made in paras 4.3, 4.4 and 4.5 of the application the respondents have no comments.

5. That, with regard to the statements made in para 4.6 of the application the respondents beg to state that the applicant has alleged that by depriving himself, the transfer in respect of Shri N.C.Mandal, Wireless Supervisor Dispur to Calcutta has been made. The detail of posting in respect of Shri N.C.Mandal are given below :-

S.No.	Name of Station	Period		Remarks
		Year	Month	
-----	-----	-----	-----	-----
AS 'WIRELESS OPERATOR'				
1.	Delhi	0	3	Joined as Wireless Operator w.e.f. 12.12.75.
2.	Agartala	3	3	Hardship Station.
3.	Calcutta	6	0	-
4.	Gangtok	7	11	Hardship/Non-popular Station.

AS 'WIRELESS SUPERVISOR'

5.	Dispur	3	1	Hardship Station.
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It is submitted that Shri N.C.Mandal has joined in Dispur on transfer in May, 1993 and the applicant in January, 1993. Both the officials had completed their tenure of two years in 1996. Therefore the plea of the applicant regarding station seniority as a preference is not justifiable because both the officers are to be posted outside Dispur. In this case, both the officials had given their first choice of posting for Calcutta. As per the 'Transfer Policy' of this Directorate (enclosed as Annuxure-I), preference for choice posting is considered for those officials who have served maximum time in the Hardship/Non-popular Stations than others. From the above mentioned posting detail of the Applicant and Shri N.C.Mandal, it may please be seen that the Applicant has so far served the Hardship/Non-popular Stations for a period of more than 9 years whereas Shri N.C.Mandal has served for more than 14 years.

As per the 'Transfer Policy', before finalising the General Transfer for 1996, one Message was circulated to all Inter State Police Wireless Stations inviting applications for three choices of posting. (Copy enclosed as Annexure-II). For Calcutta, in the grade of Wireless Supervisor only one vacancy was existing. Three applications were received from the Wireless Supervisor grade for posting at Calcutta, who served the Hardship Stations. But in view of above mentioned facts, Shri N.C.Mandal was found to be a suitable candidate for getting the posting at Calcutta amongst the candidates who applied for their choice posting as Calcutta. While submitting the choice of preference, the Applicant did not give any second choice. The Applicant submitted a 'Medical Certificate' obtained from a Private Doctor of Burdwan, West Bengal (Home Town of the Applicant) which states that the Applicant should not be posted at any distant place. The date of issue of Certificate is 5.10.95. (The copy is enclosed as Annexure-III). The Applicant at the time of issue of certificate was posted at Dispur, moreover, he has a desire to stay at Dispur as expressed in the O.A. vide Para 4.14 if the posting at Calcutta is not materialised. During 1995, when he completed his tenure, he asked for the retention at Dispur (Copy at Annexure-IV). Whereas as per the Medical Certificate, he is sick from 1990. It is therefore, not understood that if the ailment is so accute, how the Applicant desires for retention and wish to continue the treatment from such a distant place. Therefore, the claim of the Applicant for getting transfer on 'Medical Ground' is not maintainable. However, since he could not be posted at Calcutta during 1996 transfer, he was transferred to Patna being the nearest Station of Calcutta.

6. That, with regard to the statements made in para 4.7 of the application the respondents beg to state that the representations dated 9.5.96, 14.5.96 & 17.5.96 were replied vide letter No.C.11032/2/96-COM (PF) dated 11.6.96. His request for transfer to Calcutta could not be materialised due to the facts mentioned in Para 4.6.

Regarding the seniority, the contention of the Applicant is not correct. Shri N.C.Mandal is senior in service. The Applicant is mentioning about the station seniority of Dispur. As stated earlier, the Applicant joined Dispur four months earlier than Shri N.C.Mandal. That is not any criteria for getting preference for choice posting at Calcutta.

7. That, with regard to the statements made in para 4.8 of the application the respondents beg to state that the same is not correct and hence denied. In fact the Directorate obeyed the Order of the Hon'ble Tribunal.

8. That, with regard to the statements made in para 4.9 of the application the respondents beg to state that after receiving the Order from the Hon'ble CAT, the matter of transfer of the Applicant from Dispur to Calcutta was re-scrutinised in accordance with the 'Transfer Policy' and also in comparison to Shri N.C.Mandal in the level of Director Police Telecommunications and the decision was intimated to the Applicant.

9. That, with regard to the statements made in para 4.10 of the application the respondents have no comments.

10. That, with regard to the statements made in para 4.11 of the application the respondents beg to state that adequate reply has already been given against para 4.6 of the application. The matter was scrutinised as per the 'Transfer Policy'.

11. That, with regard to the statements made in para 4.12 of the application the respondents beg to state that as stated in Para 4.6, the claim of the Applicant for getting transfer on 'Medical Grounds' seems not to be genuine. He has simply submitted a Medical Certificate obtained from a Private Doctor which states that the Applicant should not be posted at a distant place. But the applicant remained at Dispur, a far away place from West Bengal at the time of issue of the Medical Certificate. He opted for retention at Dispur during 1995 general transfer, even now also he prefers for retention at Dispur if posting at Calcutta is not possible. But on the other hand he claims his posting at Calcutta on Medical Grounds. If he is really sick, he could have consulted any Doctor at Dispur throughout his stay at Dispur but he has not submitted any proof so far. Therefore, it shows that the Applicant is trying to mislead this Hon'ble CAT and for gaining vested interest, he is applying on Medical Grounds.

12. That, with regard to statements made in para 4.13 of the application the respondents beg to state that the contention of the Applicant is totally wrong. Since his transfer order was issued, the salary etc. his pay and allowances was sent to Patna. This is done at every case with the intention that the official who has been transferred may get his pay and allowance without any delay at his new place of posting. There is no other motive behind it as alleged by the Applicant.

13. That, with regard to the statements made in para 4.14 of the application the respondents beg to state that representations made by the Applicant for review the transfer had been considered by the Head of the Department. The 'Transfer Policy' was consulted and every detail was scrutinised by the competent authority before giving any reply to the Applicant. This Directorate tried to post the Applicant at Calcutta but due to the lack of vacancy he could not be posted there. Similarly there was no vacancy at Dispur also and since the Applicant completed the tenure at Dispur he had to be transferred to any other place. The post bears the 'All India Transfer Liability' and any official can not establish any claim for posting at any place. However, keeping in view of his choice, he was transferred to Patna, being the nearest Station of Calcutta, where he could be accommodated. Therefore, this Directorate had no malafide intention to harass the Applicant as alleged by him.

14. That, with regard to the statements made in para 4.15 of the application the respondents beg to state that the contention of the Applicant is totally wrong. As stated earlier that the Transfer is made based on the posting of any official. Therefore, the Applicant will by no means lose the opportunity in submitting the choice of preference for transfer. The transfer is made based on the posting detail of any official. At the time of appointment, vide para 3 (iii) of the appointment letter, it was clearly mentioned that he may be posted anywhere in India, the Applicant agreed to the conditions and joined the service. (Copy of Appointment Letter is placed at ANNEXURE-V) This organisation having its Station in all the Capitals of States and

Union Territories and do the transfer of its officials in such a way so that most of the choices could be met out. But due to exigency of work and public interest, sometimes it is not found possible to transfer every official at their choices as has happened in this case.

However, since the transfer of the Applicant has been ordered in the public interest, the applicant should have no choice in this matter. In this connection the ruling of the Hon'ble Supreme Court in the case of Gujrat Electricity Board Vs Atma Ram, 1989 (3) JT 20 is as follows :-

" Whenever a public Servant is transferred he must comply with the orders, but if there be any genuine difficulty in proceeding on transfer, it is open to him to make a representation to the competent authority for stay, modification or cancellation of the transfer order. If the order of transfer is not stayed, modified or cancelled, the concerned Public Servant must carry out the order of transfer."

15. That, with regard to the statements made in para 4.16 of the application the respondents beg to state that the same is not correct and hence denied.

16. That, with regard to the statements made in para 5 of the application regarding grounds for relief with legal provision the respondents beg to state that none of the grounds is maintainable in law as well as in facts and as such the application is liable to be dismissed.

17. That, with regard to the statements made in paras 6 and 7 of the application the respondents have no comments.

18. That, with regard to the statements made in para 8 of the application regarding relief sought for the respondents beg to state that the applicant is not entitled to any of the reliefs sought for and as such the application is liable to be dismissed.

19. That with regard to the statements made in para 9 of the application regarding interim relief the respondents beg to state that in view of the facts and circumstances narrated above, the interim order already granted may kindly be vacated.

20. That with regard to the statements made in para 10, 11 and 12 of the application the respondents have no comments.

That the respondents submit that the application has no merit and as such the same is liable to be dismissed.

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

I, M.S.Popli, working as Joint Director in the Office of the Directorate of Coordination (Police Wireless), Ministry of Home Affairs, verify at New Delhi this day of 1996 that the contents of this reply are true on information derived from official records.


RESPONDENT

Through

(S.Ali)
Senior Central Govt. Standing Counsel
Guwahati.

No.A.11015/1/87-Admn.
Government of India
Ministry of Home Affairs
Directorate of Co-ordination
(Police Wireless)

Block No.9, CGO Complex,
Lodhi Road, New Delhi-3.

Date: 16.8.1990.

OFFICE MEMORANDUM

Sub: Transfer Policy of the Directorate of
Co-ordination (Police Wireless)

In supersession of all the instructions issued in respect of Policy on transfers in the DCPW, the following instructions, which will come into effect immediately, are laid down for the information and compliance of all concerned.

2. It is well known that the role of DCPW is of operational nature and its communication centres are spread throughout the country in the various State/U.T. Capitals. The staff of this Directorate is, therefore, liable to be transferred anywhere in India, in the public interest, as per the vacancy position and the administrative and operational requirements of the Directorate, at a given time.

3. The transferable staff must serve ATLEAST ONCE in any of the ISPW Stations in the N.E. Region and Island Territories and once more in one of the non-popular stations, namely Panaji, Gangtok and Bhubneshwar, during his/her entire service in the DCPW. The tenure of service at these stations will, however, be only TWO years in case of individuals who have rendered ten years or more service at the time of issue of posting orders to such a station and THREE years for those whose service is less than ten years. These tenure periods are as prescribed in the rules framed by the Govt. of India and as amended from time to time. The period of tenure will commence from the date of joining the duty at these stations.

4. All sincere efforts will be made to transfer an individual serving in any of the N.E. Region Stations or at any one of the non-popular stations, to a station of his/her choice or to a station near his/her Home State, on completion of the prescribed tenure in such a station, subject to the availability of a vacancy at the desired station and also the operational & administrative considerations. The transfers will normally be made as per the 'Station-Seniority' related to the concerned trade/category, on "first come - first go" basis except for those who are required to be moved out earlier on completion of the mandatory tenure in the N.E. Region or one of the non-popular stations as stipulated in Paragraph 3 above.

5. The normal transfer orders will invariably be issued by the end of March every year and all the transfer movements will be completed, latest by 30 June of that year. The exact date by which individuals will be relieved, on their transfer, will invariably be mentioned in the transfer orders. It will be implicitly ensured by the concerned DD/AD/EAD/SS that all the individual(s) under orders of transfer are relieved by the due date as mentioned in the transfer order. The pay and allowances of such individuals will become payable only at the new duty stations, after the specified dates in the order. It will be the sole responsibility of the individual himself to apply for TA/DA in time within one week after the issue of posting orders. The responsibility for making rail journey reservations for the onward journey, well in time, will also be that of the individual concerned. No excuse, whatsoever, on this account, will be acceptable for delaying his move.

6. The transfer of an individual on account of promotion, will be made strictly as per the vacancy position existing at the time of his/her promotion. As far as possible, the promotion will be effected, in-situ. In case there is no vacancy in the individual's present station of posting, his/her transfer will be ordered to a station where the vacancy exists. The aforesaid instructions pertaining to tenure will not, therefore, become applicable in such a case. However, if the individual under promotion is serving in a U.E. Region or in a non-popular station, he/she may be considered for transfer to a normal station where such a vacancy exists provided he/she has completed atleast fifty per cent of the prescribed tenure period, as mentioned in paragraph 3 above.

7. Individuals due for superannuation in the next three years (by 30 June of that year), will normally not be considered for transfer except on compelling administrative/operational grounds or when such a person is promoted against a vacancy occurring in a particular station or makes a specific request, on his own, for a posting to another station. However, such persons who requests for posting to their home stations or to choice stations, as their last tenure, all possible efforts will be made to post them accordingly, subject to exigencies of service.

8. Female employees will also be governed equally by this "Transfer Policy". However, due consideration will be given to Govt. of India's guidelines contained in the Department of Personnel and Training O.M. No.28034/7/86-Estt(A), dated 3.4.1986, while considering their posting to a station.

9. All requests from individuals connected with their transfers which may be issued in the coming posting season, must reach this Directorate, by 31st January of the year, duly supported with valid documents/certificates/proofs, wherever applicable. These applications will be considered on merit keeping in view the administrative and operational requirements. Principle of "Interest of the Service" will be the dominant consideration.

**

- 3 -

10. The transfer of an individual, if ordered on compassionate grounds, will be at his/her own expense and he/she will not be entitled to any transfer TA/DA. The tenure of posting on 'compassionate grounds' will be only one year and the individual will invariably be transferred to another station after one year's stay at the new station to which he/she is posted on compassionate grounds.

11. Any representation against orders of transfer already issued, should be submitted within 20 days of the date of issue of the order, alongwith the comments of the SS/EAD/AD/DD. Unless this representation is accepted in writing by the competent authority at this Directorate, the individual will move to the new station of posting on due date, as ordered. The plea that he/she has submitted a representation which has not been finalised will not be accepted as a reason for non-compliance of the transfer order.

12. Notwithstanding the above, the Director, Police Telecommunications will be fully empowered to authorise transfer of any individual, at any time of the year. He will also be authorised to order any deferment/cancellation of a transfer order, in special genuine cases of extreme hardship/compassion, at his direction, depending on the merit of a case.

(K.K. SHARMA)
ASSTT. DIRECTOR (ADMN.)

10. The transfer of an individual, if ordered on compassionate grounds, will be at his/her own expense and he/she will not be entitled to any transfer TA/DA. The tenure of posting on 'compassionate grounds' will be only one year and the individual will invariably be transferred to another station after one year's stay at the new station to which he/she is posted on compassionate grounds.

1. All Officers of DCPW, TA/DA. 10. Tenure of posting on 'compassionate grounds' will be only one year and the individual will invariably be transferred to another station after one year's stay at the new station to which he/she is posted on compassionate grounds.
2. All Sections of DCPW will be strictly compliant with the above.
3. All ISPW Stations (mentioned above) will be strictly compliant with the above.
4. CPRTI, Ridge Road & Mount Abu. 10. Tenure of posting on 'compassionate grounds' will be only one year and the individual will invariably be transferred to another station after one year's stay at the new station to which he/she is posted on compassionate grounds.
5. Sr.P.A. to DPT.
6. Staff Officer to the DPT.

11. Any representation against orders of transfer already issued, should be submitted within 20 days of the date of issue of the order, alongwith the comments of the SS/EAD/AD/DD. Unless this representation is accepted in writing by the competent authority at this Directorate, the individual will move to the new station of posting on due date, as ordered. The plea that he/she has submitted a representation which has not been finalised will not be accepted as a reason for non-compliance of the transfer order.

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(K.K. SHARMA)
ASSTT. DIRECTOR (ADMN.)

IN LIEU OF MESSAGE FORM

TO..... S.S. ALL TSPW STATIONS

INFO..... ALL ZONAL OFFICERS

FROM..... D I R P O L W I R

NO.C-11032/1-3(6T)/95-COM

05.12.95

UNCLASS

= OPERATIONAL STAFF (S.S.O./W/SUPR & W/OPR. ONLY) WHO HAVE COMPLETED/COMPLETING THEIR TENURE BY 30.06.95 SHOULD SUBMIT THEIR CHOICES FOR TRANSFER IMMEDIATELY (.) THREE CHOICES IN THE ORDER OF PREFERENCE SHOULD BE GIVEN AS IT MAY NOT BE ADMINISTRATIVELY POSSIBLE TO CONSIDER A PARTICULAR CHOICE IN ALL THE CASES (.) REQUEST FOR RETENTION AT PRESENT PLACE OF POSTING, IF ANY, SHOULD BE CLEARLY INDICATED AND WILL BE CONSIDERED EXCLUSIVELY SUBJECT TO ADMINISTRATIVE FEASIBILITY (.) INFORMATION SHOULD REACH A.D(C) LATEST BY 31.12.95 (.) REQUEST RECEIVED AFTER DUE DATE WILL NOT BE ENTERTAINED (.)////////

MOST IMMEDIATE

T.O.O.

M.T.T.

T.H.I.

Assistant Director (Comm)

Asstt. Director (Comm)

Dte of Coordination

(Police Wireless) M.H.A.

NEW DELHI.

Copy to:

1. A.D(CC)
2. I/C IMC
3. I/C I.P
4. D.D(TRG)

S.S.O.s, W/Suprs & W/Opers. joined at HDE on or before 30.6.89, 30.6.93 & 30.6.95 respectively may please be directed to submit their choices as mentioned above positively by 31.12.95. D.D(Trg) also requested to direct W/Opers who are undergoing various upgradation courses.

5. File.

6/12/95

Phone No. : BDN-62929
BDN-3641

MANASIK AROGYA NIKETAN PVT. LTD.
KANAINATSAL, G. T. ROAD, BURDWAN-713 103

Dr. Asit Baran Patra
M. Sc., M.B.B.S., D.P.M.
Consultant Psychiatrist

Visiting Hours at
BURDWAN
Except Wednesday
7 a.m. to 2 p.m.

Visiting Hours at
ASANSOL, G. T. ROAD (WEST)
MUNICIPAL MARKET
Only Wednesday 9 a.m. to 5 p.m.

CALCUTTA, FLAT NO. 401
31/A, S. P. MUKHERJEE ROAD
Phone : Cal. 475-8927
1st. & 3rd Saturday
9 a.m. to 12 a.m.

Date 5.10.95

This is to certify that Sri. Jayraman Mann
is under my treatment for his mental
illness since 6.9.90. He is much
improved now and doing his
normal activities. But he requires
prolonged treatment and regular
check up at definite
intervals. As such he
should not be posted in a
far distant place on medical
grounds.

A. Patra
Reg. No. 27509

MANASIK AROGYA NIKETAN (P) LTD.
KANAINATSAL G. T. ROAD
BURDWAN

ANNEXURE-IV

15

TO

THE DIRECTOR POLICE TELECOMMUNICATION
DIRECTORATE OF CO-ORDINATION (POLICE WIRELESS)
MINISTRY OF HOME AFFAIRS
BLOCK-9, C G O COMPLEX
LODI ROAD NEW DELHI

(THROUGH PROPER CHANNEL)

SUB. . . REQUEST FOR ONE YEAR EXTENSION (RETENTION)

DUE TO MY DAUGHTER'S FINAL YEAR H S L C
BOARD EXAM. UNDER THE ASSAM SECONDARY BOARD
OF EDUCATION , GAUHATI. IN REGIONAL LANGUAGE

RESPECTED SIR,

WITH REFERENCE TO THE HQRS SIGNAL NO C11032/1-3
(GT)/94- COM DATED 8-12-94 I AM GOING TO COMPLETE MY
TENURE AS ON 30-06-95. SIR, SINCE MY DAUGHTER IS A
FINAL YEAR STUDENT OF HSLC EXAMINATION IN REGIONAL
LANGUAGE UNDER THE BOARD OF SECONDARY EDUCATION ASSAM
GAUHATI, I REQUEST TO GRANT ME ONE YEAR EXTENSION.
OTHERWISE THE ACADEMIC CARRIER/FUTURE OF MY DAUGHTER
WILL BE JEOPARDISED/SPOILED BECAUSE NO OTHER ALTERNATIVE
IS LEFT.

REQUEST TO GRANT EXTENSION

WITH REGARDS

THANKING YOU SIR,

YOURS' FAITHFULLY

DATED THE 19/12/94

L. C. MANNA

W/S ISPW DISPUR

19/12/94

ANNEXURE-V

16

No. A-18/ / Wireless
Government of India
Ministry of Home Affairs.
Directorate of Coordination
(Police Wireless)

Rail Bhavan,
New Delhi-1, the 16/10

MEMORANDUM

The undersigned hereby offers Shri B. C. Misra a temporary post of Wireless Operator in the office of the Directorate of Coordination (Police Wireless) on completion of his training period of 9 months of Wireless Operators' Grade III conducted by the B.S.F. Training School, Jullunder with effect from 6.1.70 and found suitable for the post of Wireless Operator. The pay scale for the post is Rs. 380-12-500-EB-15-560/- plus allowances as per Central Government rules.

2. The Character verification and Medical examination of Shri B. C. Misra having already been done and found satisfactory for civil appointment, Shri B. C. Misra has been taken on the temporary regular strength of the Directorate with effect from 11.10.76 the day he joined at Headquarters (Delhi) subject to the terms of appointment contained in this Memorandum.

3. The terms of appointment are as follows:-

- (i) The post is temporary but is likely to become permanent. In the event of its becoming permanent, his claims for permanent absorption will be considered in accordance with the rules in force.
- (ii) The appointment may be terminated at any time by a month's notice given by either side, viz: the appointee or the appointing authority, without assigning any reasons. The appointing authority however, reserves the right of terminating the services of the appointee forthwith or before the expiration of the stipulated period of notice by making payment to him of a sum equivalent to the pay and allowances for the period of notice or the unexpired portion thereof.
- (iii) The appointment carries with it the liability to serve any part of India. His present posting however, is at Home, New Delhi.
- (iv) Other conditions of service will be governed by the relevant rules and orders in force from time to time.

Contd...2/-

17

23

(v) The appointment will be made on probation for two years against a temporary post of Wireless Operator. The appointee will not be permitted to apply for employment elsewhere for a period of 5 years from the date of completion of the training. In case of resigning the service for any reason during 5 years the appointee may be required to refund the stipend received by him during the nine months of his training as well as all money received as pay and allowances during the first six months from the date of his joining in the regular scale.

4.

(i) Submission of a declaration in the prescribed form and in the event of the candidate having more than one wife living, or being married to a person having more than one wife living, the appointment will be subject to his being exempted from the enforcement of the requirements in this behalf.

(ii) Taking of an oath of allegiance/faithfulness to the Constitution of India (or making of a solemn affirmation to that effect) in the prescribed form.

(iii) Production of the following original certificates (where these have not been produced already at the selection stage).

(a) Degree/Diploma/Certificates of educational and other technical qualifications.


(b) Certificate of age.

(c) Character certificate:

(i) attested by a District Magistrate or Sub-Divisional Magistrate or their superior officers.

(ii) Certificates in the prescribed form in support of candidates' claim belonging to a SC or ST/Anglo-Indian Community.

5. If any declaration given or information furnished by the candidate proves to be false or if the candidate is found to have wilfully suppressed any material information he will be liable to removal from service and such other action as Govt. may deem necessary.

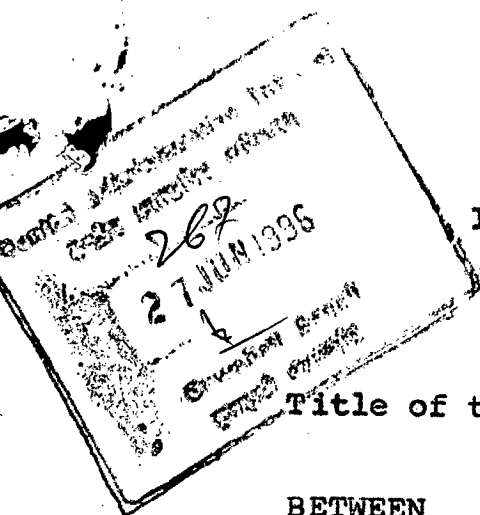

(P.N. Bhattacharyya)
Administrative Officer
for Director

To

Sub L.C. Tanna,
Through AD(C)

Copy to:-

1. Service Records
2. Estt. List
3. AD(C)
4. Personal file



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the Case.

O.A. No. 111 of 1996

BETWEEN

Sri L.C. Manna

VERSUS.

THE UNION OF INDIA & ORS.

I N D E X

Sl.No.	Particulars	Page No.
1	Application	1 to 12
2	Verification	13
3	Annexure-1	14.
4	Annexure-2	15.
5	Annexure-3	16. to 17.
6	Annexure-4	18 to 19.
7	A-nnexure-5	20.
8	Annexure-6	21. to 26
9	Annexure-7	27. to 29
10	Annexure-8	30. to 33.
11	Annexure-9	34.
12	Annexure-10	35.
13	Annexure-11	36
14	Annexure-12	37

For use in the office.

Date of filing. 27-6-96

Registration No. 00110/96

Registrar.

34
Filed by the
applicant.
C. Mannan

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

O.A. No. / / / 96

BETWEEN

Shri L.C.Mannan,
Wireless Superivsor
In the office of the Inter State
Police Wireless Station
Dispur, Guwahati-6

..... Applicant

AND

1. Union of India, Represented by the Ministry of Home Affairs, Govt. of India, New Delhi.
2. The Director Police Telecommunication (Police Wireless)
Director of Coordination, Block-9, C.G.O. Complex,
Lodhi Road, New Delhi-110003.
3. Joint Director, Directorate of Coordination Police
Wireless, Block-9, CGO Complex, Lodhi Road, New Delhi-
110003.
4. Deputy Director (Administration),
Directorate of Coordination (Police Wireless)
Block-9, CGO Complex, Lodhi Road, New Delhi-3
5. Assistant Director (Communication)
Directorate of Coordination (Police Wireless),
Block-9, CGO Complex, Lodhi Road, New Delhi-3.
6. Extra Assistant Director/Zonal Officer cum Station
-in-Charge Inter State Police Wireless Station,
Dispur, APRO Building, Dispur-781006.

[Handwritten signature]

DETAILS OF THE APPLICATION

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

This Application is made against the following Orders :-

1. Letter No. A.15014/1/96-ADMN/II Office Order Part II No. 72/96 dt. 8.5.96 (Annexure-5).
2. Letter No. A.15014/1/96-DP (Zone) ISPW Station, Dispur Dated 14.6.96 (Annexure-9).
3. Letters dated 11.6.96 & 18.6.96 (Annexure 11 & 12)

2. JURISDICTION OF THE TRIBUNAL

The applicant declares that the subject matter of the instant applicant within the jurisdiction of this Hon&ble Tribunal.

3. LIMITATION

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

4. FACTS OF THE CASE

- 4.1 That the applicant is a citizen of India and as such he is entitled to the rights and privileges and protection as guaranteed under the Constitution of India.

-3-

4.2 That the applicant joined in the services under the respondents after completing the training in the Delhi Headquarter on 10th Oct. 1976. Just after completing a stay of 3 months he again joined in the Calcutta Office on transfer on 22.12.1976 and after a stay of about 2 years and 4 months he was again transferred to Agartala where he stayed a period for about 3 years approximately. Again on 30.7.82 he was transferred to Bhopal where he had to stay about 21/2 years (including ~~5~~ 6 months training at Delhi). From Bhopal the petitioner was transferred to Patna on 3.3.84 and he stayed about 4 1/2 years at Patna. Again from Patna i.e. after a stay of 4 1/2 years the applicant was transferred to Gangtok on 15.3.89. It is pertinent to mention here that the place Gangtok on which the petitioner was transferred is a non-popular station and the applicant stayed about 2 years in the Gangtok Station.

4.3 That on 14.12.92 the applicant was transferred to Dispur in the Office of the Inter State Police Wireless Station (ISPW) Station, Dispur APRO Building. Pursuant to the said transfer order to Dispur the applicant is working in the Dispur office till date.

A copy of transfer order dated 21.2.93 is annexed herewith and marked as Annexure-1.

4.4. That during the office tenure at Dispur a Signal came on 5.12.95. The said signal was issued to the office of the respondents to guide the transfer policy in conformity

with the Central Govt. circular on tenure posting. In the said signal it is stated that the employees (operational staff) who have completed/completing their tenure by 30.6.96 should submit their choice for transfer immediately. It is further stated in the signal that request for consideration in a particular choice place of posting will be considered subject to Administrative feasibility.

A copy of the said signal dated 5.12.95 is annexed herewith and marked as Annexure-2.

The applicant craves leave of this Hon'ble Court to submit the said circular regarding the tenure posting at the time of hearing of the instant O.A.

4.5 That as per the Annexure-2 signal the applicant made a representation on 11.12.95 to the respondent No. 2 stating his choice place of posting as Calcutta. Again the applicant made another representation on 27.3.96 stating his choice place of posting as Calcutta in the light of his prolonged ailment. In the said representation the petitioner made a categorical prayer to consider his case on medical ground stated thereto.

Copies of representations dated 11.12.95 and 27.3.93 are annexed herewith and marked as Annexure 3 & 4 respectively.

4.6 That the applicant was shocked when he was served with transfer order transferring him to Patna on 8.5.96. The petitioner immediately after getting the said order of transfer dated 8.5.96 made a representation

on 9.5.96 to review the matter on sympathetic grounds. The petitioner in his representation made an allegation that one of his junior Shri N.C. Mandal (Wireless Superivsor) has been transferred to Calcutta on his application for choice place of posting who is junior to the applicant in the station and also said Sri Mandal has already enjoyed the Calcutta Station for 6 years at a stretch whereas the applicant had only served 2 years and 4 months.

Copies of order dated 8.5.96 and representation dated 9.5.96 is annexed herewith and marked as Annexure 5 & 6 respectively.

4.7 That on getting any positive reply on the representation dated 9.5.96 (Annexure-6) the petitioner again made a representations on 14.5.96 and 17.5.96 to the respondent No. 2 making a prayer to consider his case for transfer to Calcutta in the light of official procedure. It will be pertinent to mention here that the applicant is such more senior to Sri Mandal and as per the office procedure the consideration part comes for the seniors first in regard to choice place of posting and considerations thereto.

Copies of representations dated 14.5.96 and 17.5.96 are annexed herewith and marked as Annexure 7 & 8 respectively.

39

4.8 That to the shock and dismay of the applicant after perusing the matter from every channel the respondents have not chosen to reply to anyone of his representations. Being aggrieved by the action of the respondents the applicant came before this Hon'ble Tribunal for redressal of his grievances by way of filing an application vide O.A. 81/96. The said O.A. was taken up for hearing on 30.5.96 by this Hon'ble Tribunal but unfortunately enough the said application was disposed of as not entertainable. However, the Hon'ble Tribunal directed the respondents to dispose of the representation dated 17.5.96 expeditiously.

4.9 That pursuant to the order dated 30.5.96 passed by this Hon'ble Tribunal the respondents issued a letter on 14.6.96 stating simply that the application made by the applicant has been considered sympathetically by the Director and the claim of the applicant cannot be acceded to the reason so called Administrative reason. In the said order the respondents has not considered the case of the applicant in the light of the Central Govt. Circular on tenure posting as well as the practice and guidelines of their own statutory rules.

A copy of the said memo dated 14.6.96 alongwith the copy of order dated 30.5.96 are annexed herewith and marked as Annexure-9 and 10 respectively.

4.10 That after getting the Annexure-10 order dated 30.5.96 passed in O.A. No. 91/96 by this Hon'ble

10

Tribunal the applicant preferred a Review Application alongwith this OA for modification of the order dated 30.5.96. The Review Application in OA No. 81/96, the petitioner made a categorical claim for review of the said order on the ground that the Hon'ble Tribunal has not considered the merit of the case more specifically passed the order without lifting the veil by not issuing notice to the respondents to show cause on the said case. The further claim of the applicant on that Review Application is that the Hon'ble Tribunal has not taken into consideration the circular governing the filed of transfer on tenure posting.

4.11 That the applicant submits that the respondents have passed the Annexure-9 memorandum stating simply that the case of the applicant has been considered sympathetically without considering the facts that the applicant is the senior most Wireless Supervisor in ISPW Station Dispur. Again the respondents while passing the said order has not also considered the facts and guidelines (Annexure-2).

4.12 That the applicant in his every representations mentioned above has made a categorical prayer for considering his case on medical ground but contrary to that the respondents has transferred him to Patna.

4.13 That the petitioner after receipt of Annexure-9 order made a representation to the respondents No. 2 praying for 90 days time to prepare T.A. Bills etc. but the respondents with a malafide intention has transferred his account containing TA Bills etc. to Patna. That the applicant further submits that by transferring his account to Patna the respondents have shown their malafide attitude. In any case if the

his salaries including T.A.Bills etc in Gauhati Station at Dispur the petitioner will suffer irreparable loss and Injury.

4.14. That the petitioner was shocked when he received the memorandum dated 11.6.96 issued by the Respondent No 5 in which a copy of relieving order ~~was~~ dated 18.6.96 was enclosed. It is pertinent to mention here that in the memorandum dated 11.6.96 the respondent No. 5, replied the representations mentioned above made by the applicant in ~~such~~ a mechanical way . Further the applicant begs to state that as mentioned that on apprehension of his stay the applicant has not ~~prepared~~ submitted the T.A. Bills for his transfer. The applicant has got a bonafide belief that his representation will be considered sympathetically by the respondents and his transfer order to patna will be modified at least to the extent allowing him to stay at his present place of posting, at Dispur, retaining him at Dispur. It is also pertinent to mention that the applicant has made several representations stating all the grounds but the respondents as mentioned above has not acceded to his claim stating only on the so called grounds called administrative reasons.

Copies of aforesaid orders dated 11.6.96 (memorandum) issued by the respondent No 5 and order dated. 18.6.96. relieving the applicant are annexed herewith and marked as ANNEXURE 11 and 12 respectively.

ctd....p/8A.

4.15 That the applicant has made out a prima facie case of malafide and colourable exercise of power by the respondents. If the petitioner is transferred and released from his present place of posting the petitioner immediately will lose his opportunity of making representation for choice place of posting as because as per the circular mentioned above a person can only represent regarding his choice place of posting from only a tenure place of posting. In any view of the matter the respondents have acted illegally towards disposing the representations made by the applicant and have ordered him for relieving the post he holding at present. Considering all corners of the matter the proposition of balance of convenience lies in favour of the applicant, and for which the respectfully prayed that this Hon'ble Tribunal would be pleased to stay the impugned order mentioned above otherwise the applicant will suffer irreparable loss and injury, and the same will be in violation of the Constitutional mandate.

4.16 That this application is made bona fide and to secure ends of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :-

5.1 For that the mala fide and colourable exercise of power is the foundation of the impugned orders and the same is not maintainable in the eye of law.

5.2 For that the impugned transfer order is violative of their own signal (Annexure-2) and entitled to be set aside and quashed.

✓ 5.3 For that the impugned Memorandum vide Annexure-9 is a non speaking one, without any reason and the same is contrary to the procedure of their own office. In the said Annexure-9 Memorandum the respondents had failed to consider the facts of his seniority position in his working station.

5.4 For that the Annexure-10 order dated 30.5.96 passed by this Hon'ble Tribunal is liable to be reviewed as the same has been passed in absence of any show cause by the respondents thereto.

5.5 For that the Annexure-11 & 12 orders are in not conformity with the law hence the same are liable to be set aside and quashed.

5.6 For that in any view of the matter the impugned orders are not maintainable and liable to be set aside and quashed.

6. DETAILS OF REMEDIES EXHAUSTED:

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

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY COURT -

Q 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.

8. RELIERS SOUGH FOR :

- 8.1 To set aside and quashed the impugned orders (Annexures - 5
- 8.2 To direct the respondents to transfer the applicant to Calcutta i.e. his choice place of posting, alternatively to allow him to remain at his present place of posting i.e. at Dispur.
- 8.3 To direct the respondents to dispose of the representations of the applicant with detailed order.
- 8.4 To direct the respondents not to release the applicant from his present place of posting and not to give effect to Annexures 11 & 12 to the O.A. and to direct the respondents to allow the applicant to continue in his present place of posting.
- 8.5 Costs of the application.
- 8.6 Any other order/relief or orders/reliefs to which the applicant is entitled under the facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR

The humble applicant prays for an interim order directing the respondents not to give effect to the impugned orders and further he prays before this Hon'ble Tribunal for another interim order directing the Respondents not to release him from his present place of posting i.e.

Dispur by way of staying the Annexure-12 pending disposal of this application.

10. The applicant prays for a permission from this Hon'ble Tribunal to advance his case personally.

11. PARTICULARS OF THE IMP.O.

i.	I.P.O. No.	: 8 09 346336
ii.	Date of Issue	: 26.6.96
iii.	Issued from	: G.P.O., Guwahati
iv.	Payable at	: G.P.O., Guwahati

List of Enclosures :


As per Index.

Q. 12.

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

I, Shri L.C.Manna, at present working as Wireless Supervisor in the office of the Inter State Police Wireless Station, Dispur, Guwahati-6 do hereby solemnly affirm and verify that the statements made in paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 is true to my knowledge as per my legal advice and I have not suppressed any material facts.

And I sign this verification on this the 26th day of June, 1996.


Signature
L.C. Manna

(14) Annexure II (14)
No.A-12-12/14/92-Admn.II
Government of India
Ministry of Home Affairs
Directorate of Communication
(Police Wireless)

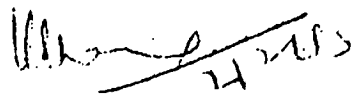
Block No.3, CSO Complex,
Lodhi Road, New Delhi-3.

Dated the 11 Feb, 1993.

OFFICE ORDER PART-II
(No.16/93)

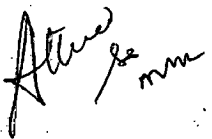
In pursuance of this Directorate's Office Order Part-II No.253/92 dated 24th Dec, 1992, the following Wireless Operators have assumed the charge for the post of Wireless Supervisor with effect from the dates shown against their names.

Sl.No.	Name	Date of joining
1.	Sh. Lachhi Ram	24.12.92 (FN)
2.	" O.P.Grewal	30.12.92 (FN)
3.	" S.N.Sharma	24-12-92 (FN)
4.	" T.K.Chakraborty	24-12-92 (FN)
5.	" S.K.Kapoor	28-12-92 (FN)
6.	" L.C.Manna	1-1-93 (FN) ✓


(N.D.Sharma)
Assistant Director(Admn)

Copy to:-

1. Office Order File.
2. Accounts Section (2 copies).
3. DD(ISPW)/DD(Admn)/AD(C)/AD(CC)/EAD(CC)/SO to DIT/PA to JE
4. Service Book & Personal files of the individuals.
5. Stn. Supdt., ISPW Stns. Gangtok, & Dispur
6. S/Sh. Lachhi Ram, S.N.Sharma, T.K.Chakraborty and S.K. Kapoor, Wireless Supervisors, Commn. Centre, Hqrs., New Delhi.
7. Sh. O.P.Grewal, W/Supr. ISPW Station, Gangtok.
8. Sh. L.C.Manna, W/Supr. ISPW Station, Dispur.


mm

- 15- 2 (A-2) 48
TKS PNJ/JSR/CHG/DPR/GTK/ITN/AZL DE DLI 2,2,22,2,2,2,2,2,

NR.....751-757

GR.....150

TO S. S. ALL ISPM STATION

INFO ALL ZONAL OFFICERS

FM DIR POL WIR

NO.C.-11032/1-3(GT)/95-COM

05-12-1995

UNCLASS

OPERATIONAL STAFF (S.S.O., W/SUPR, & O/OPR, ONLY) WHO HAVE COMPLETED/COMPLETING THEIR TENURE BY 30.06.96 SHOULD SUBMIT THEIR CHOICES FOR TRANSFER IMMEDIATELY STOP THREE CHOICES IN THE ORDER OF PREFERENCE SHOULD BE GIVEN AS IT MAY NOT BE ADMINISTRATIVELY POSSIBLE TO CONSIDER A PARTICULAR CHOICE IN ALL THE CASES STOP REQUEST FOR RETENTION AT PRESENT PLACE OF POSTING, IF ANY, SHOULD BE CLEARLY INDICATED AND WILL BE CONSIDERED EXCLUSIVELY SUBJECT TO ADMINISTRATIVE FEASIBILITY STOP INFORMATION SHOULD REACH A.D.(C) LATEST BY 31.12.95 STOP REQUEST RECEIVED AFTER DUE DATE WILL NOT BE ENTERTAINED STOP.

THI - 1800

V. CHOKRA

DELIVERED ON 05-DEC-1995 20:24 HRS.

Handwritten signature/initials

- 16 -

A-3

To

The Director Police Telecommunication
Directorate of Coordination (Police Wireless)
Ministry of Home Affairs, Govt. of India
B-9 C.G.O. Complex Lodhi Road
New Delhi-3.

Through Proper Channel

Sub : Request for transfer at ISPW Station Calcutta
on completion of tenure at NE Station (Dispur)
and also on Medical ground.

Sir,

Referring to the HQRS Signal vide No. C 11032/1-3
(GT)/95-COM dated 5/12/95 I request to your good offices for
my transfer at ISPW Station Calcutta.

The following inferences are drawn for your kind
attention and consideration thereof. That Sir, as a Station
Senior wireless supervisor I am the senior most W/S in this
station. Secondly I left Calcutta Station in the early part
of the year 1979 only after two and half years stay and since
then the long 17 years passed (Seventeen Years). During those
17 years I have been transferred to a number of different
Stations which included 2 NE Stations and one Non-popular Stn.
I have never been considered for Calcutta which was of course,
my first choice.

Moreover I have been under the treatment of a
consultant psychiatrist since 5/6 year at Calcutta for which
I go (will have to go) for medical check up regularly at
regular interval as per the direction of my attending
physician thereby causing a serious financial hardship too.

*Copy forwarded to the Director
in file No. 100.*

Contd...p/2.

*Attn
am*

- 17 -

: 2 :


Relating to the option for 3 choice I tender my apology and to state that on all those earlier cases of transfers I gave option for 3 choice but I have never been considered for Calcutta (which was my first choice) in the exigencies of Medical Treatment even not considered on humanitarian ground when I was in the jaws of death and hence my choice is for Calcutta only.

It is therefore requested to your good offices that I may kindly be transferred at Calcutta considering all the facts stated above with my special attachment of Medical Treatment and its exigency.

With regards.

Thanking you.

Yours faithfully,


(L.C. Manna)
W/S ISPW Dispur
(11/12/95)

-x-

*Advised
2
AM*

copy.
- 18 - A-4 51

To

The Honourable Director
Directorate of Co-ordination (Police Wireless)
Ministry of Home Affairs
Vlock-9, C G O Complex, Lodhi Road
New Delhi - 3

SUB : Request to transfer at ISPW STN calcutta

Honourable Sir,

With profound respect and humble submission your kind attention is drawn for your sympathetic action for my transfer at ISPW station Calcutta. In connection with transfer matters I beg to state that I had left Calcutta in the Month of April, 1979 only after a stay of 2 years and 4 months. 18 years is to start now.

During these 17 years I had been transferred to five (5) different stations after Calcutta viz. Agartala (NE), Bhopal, Patna, Gangtok (Non Popular) and Dispur. It is very much painful to bring to the notice of your highest esteem that I had fallen seriously ill for my Neurosis Anxiety when I was posted at ISPW Gangtok and was under the treatment of a Neuro Surgeon of Calcutta Hospital and I had requested my transfer on Humanitarian ground for my treatment at calcutta when I had to run several months without pay as well as the authorised A M A at Gangtok directed me for my treatment at Calcutta, even when my family was reeling under starvation. But I was not considered.

Honourable sir, I request your highest esteem to kindly transfer me at ISPW Calcutta for some specific problems/hardships.

Firstly, I have been under the treatment of a reputed Psychiatrist in Calcutta since 6 years and as per my attending Physician I would have to undergo prolong treatment and requires

Contd....2

Accepted

-19-

regular check up at right interval. I always fear if any deviation of his Directive something might concern and automatically my whole family would collapse.

Secondly, I am having three daughters none is studying in a Central school because of unfavourable circumstances at transferred places. I was not in a position to admit them in Central school. As such my daughters are to be settled for their educational carrier in my native place in West Bengal.

Thirdly, my 2/3rd service is passed and I have no settlement at all to accomodate my family and it is very much essential to construct a house for that I have already submitted all the relevant papers to H.Q. and it is about to get the sanction, if I could not do now then I would be no where.

Honourable sir, I do beseech your good offices to kindly transfer me at ISPW station Calcutta.

With kind regards

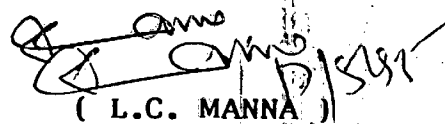
Thanking you,

Attested -
Hammis.
22/5/96
Under Secretary to the
GOVT. OF ASSAM
Tourism Department
Assam Secretariat, Dispur.

Handed over to Hon'ble Director

by hand on his visit to ISPW Dispur
dated 27.3.96.

Yours faithfully,


(L.C. MANNA)

W/S ISPW, Dispur

Photostat copy :

1. Medical certificates while at Gangtok
2. And present one.

Allowed
28/5/96

A-5-20-
No.A.15014/1/96-Admn.II
Government of India
Ministry of Home Affairs
Directorate of Coordination
(Police Wireless)

Block No.9 CSO Complex
Lodhi Road New Delhi-3

Dated the 8th May, 1996.

Annexure 5

Office Order Part-II

(No.72/96)

The transfer in respect of the following Wireless Supervisors of this Directorate is ordered as shown against their in public interest.

Sl No. (S.Shri)	Name	From	To	To be relieved on	To join on or before
1.	Himmat Singh	Aizwal	Delhi	12.6.96	28.6.96
2.	Lachhi Ram	Delhi	Aizwal	29.5.96	14.6.96
3.	M.R. Mishra	Aizwal	Delhi	12.6.96	28.6.96
4.	A.B. Das	Patna	Aizwal	4.6.96	17.6.96
5.	L.C. Manna	Dispur	Patna	3.6.96	14.6.96
6.	J.P. Gautam	Delhi	Dispur	29.5.96	14.6.96
7.	N.C. Mandal	Dispur	Calcutta	14.6.96	27.6.96
8.	T.K. Sarkar	Calcutta	Panaji	3.6.96	19.6.96
9.	V. Shivanna	Panaji	Bangalore	3.6.96	14.6.96
10.	V. Narayanappa	Bangalore	Shilling	12.6.96	28.6.96
11.	D.R. Saini	Delhi	Dispur	12.6.96	28.6.96
12.	Harvinder Singh	Chandigarh	Shimla	30.5.96	10.6.96
13.	P.P. Singh	Shimla	Delhi	10.6.96	21.6.96

2. All the above mentioned officials are transferred in public interest. They are entitled to draw TA/DA and joining time as applicable under the rules. They may apply for TA advance if required or may be relieved as indicated above.

3. This issues with the approval of Director Police Telecommunications.

(K.K.Sharma)
Deputy Director (Admn)

- Copy to :-
1. Office Order File.
 2. DD(A)/DD(ISPW)/PS to JD/SG to DPT.
 3. All individuals concerned and their Service Book & Personal File.
 4. EAD/SS ISPW Stations Aizawl, Patna, Dispur, Calcutta, Panaji, Bangalore, Shillong, Chandigarh & Shimla.
 5. AD(C)-w.r.t his R/N. No.C.11032/P(GT)/96-COM dated 2nd May, 1996.
 6. Hindi Officer - for issue of Hindi version.

1-7

Attest
[Signature]

To

Sh. Kamallesh Deka
Hon'ble Director
Directorate of Co-ordination (Police wireless)
Ministry of Home Affairs
Block-9, CGO Complex
Lodhi Road New Delhi-3

SUB : Transfer order of W/S vide signal No. C 11032/2 (GT)/96-
COM and O.O. No. 72/96 dtd 08.05.96 and Request to
review the case thereof.

Hon'ble Sir,

With reference to the order of transfer of W/S vide signal
No and O.O. No. as stated above, I am to bring to your kind attention
here-in-after that the transfer order of W/S specially as regards to my
concern I can emphatically assert that the order is (1) Malafide and
Malice (2) Biased (3) Complete departure of Natural justice.

Hence it is once again requested to your highest esteem to
kindly review the case, lest I would be constrained to redress my
grievances through the luminiary of JUDICIAL Institution.

With kind regards,

Dated : 09.05.96

Yours faithfully,

(L.C. MANNA)

W/S

ISPW Dispur

Copy to : 1. JD DCPW

2. Admn. Officer, DCPW

(Through Proper Channel)

3. Copy in Advance to Hon'ble DPT
by S/Post

*
PDPR

LOCAL/021.LOC 09/12/95 11:08

TO

THE DIRECTOR POLICE TELECOMMUNICATION
DIRECTORATE OF COORDINATION (POLICE WIRELESS)
MINISTRY OF HOME AFFAIRS, GOVT OF INDIA
B-9 C B O COMPLEX LODI ROAD
NEW DELHI.....3

(THROUGH PROPER CHANNEL)
SUB.. REQUEST FOR TRANSFER AT ISPW STATION CALCUTTA
ON COMPLETION OF TENURE AT NE STN (DISPUR)
AND ALSO ON MEDICAL GROUND

SIR,

REFERRING TO THE HQRS SIGNAL VIDE NO C11032/1-3(GT)
/95-CO.EM DATED 5-12-95 I REQUEST TO YOUR GOOD OFFICES
FOR MY TRANSFER AT ISPW STATION CALCUTTA

THE FOLLOWING INFERENCES ARE DRAWN FOR
YOUR KIND ATTENTION AND CONSIDERATION THEREOF. THAT SIR,

AS A STATION SENIOR WIRELESS SUPERVISOR
I AM THE SENIOR MOST W/S IN THIS STATION. SECONDLY I LEFT
CALCUTTA STATION IN THE EARLY PART OF THE YEAR 1979 ONLY
AFTER TWO AND HALF YEARS STAY AND SINCE THEN THE LONG
17 YEARS PASSED (SEVENTEEN YEARS). DURING THOSE 17 YRS.
I HAVE BEEN TRANSFERRED TO A NUMBER OF DIFFERENT STATIONS
WHICH INCLUDES 2 NE STNS AND ONE NON- POPULAR STN. I HAVE
NEVER BEEN CONSIDERED FOR CALCUTTA WHICH WAS OF COURSE,
MY FIRST CHOICE.

MOREOVER I HAVE BEEN UNDER THE TREATMENT
OF A CONSULTANT PSYCHIATRIST SINCE 5/6 YEARS AT CALCUTTA
FOR WHICH I GO (WILL HAVE TO GO) FOR MEDICAL CHECK UP
REGULARLY AT REGULAR INTERVAL AS PER THE DIRECTION OF MY
ATTENDING PHYSICIAN THEREBY CAUSING A SERIOUS FINANCIAL
HARDSHIP TOO.

RELATING TO THE OPTION FOR 3 CHOICES I TENDER
MY APOLOGY AND TO STATE THAT ON ALL THOSE EARLIER CASES
OF TRANSFERS I GAVE OPTION FOR 3 CHOICES BUT I HAVE
NEVER BEEN CONSIDERED FOR CALCUTTA (WHICH WAS MY FIRST
CHOICE) IN THE EXIGENCIES OF MEDICAL TREATMENT EVEN NOT
CONSIDERED ON HUMANITARIAN GROUND WHEN I WAS IN THE
JAWS OF DEATH AND HENCE MY CHOICE IS FOR CALCUTTA ONLY.

IT IS THEREFORE REQUESTED TO YOUR GOOD OFFICES
THAT I MAY KINDLY BE TRANSFERRED AT CALCUTTA CONSIDERING
ALL THE FACTS STATED ABOVE WITH MY SPECIAL ATTACHMENT
OF MEDICAL TREATMENT AND ITS EXIGENCY

WITH REGARDS

THANKING YOU SIR.

[Signature]
YOURS FAITHFULLY

L. C. MANNA

PLACE.. DISPUR
DATED.....

W/S ISPW DISPUR

[Handwritten signature]

23 22 56
To

The Director, Police Telecommunication
Directorate of Co-ordination (Police Wireless)
Ministry of Home Affairs
Block 9 C.G.O. Complex
Lodhi Road, New Delhi

(For Kind Attention of Sh. M.S. Popli, Joint Director)

SUB : Request to review the case of my Transfer.

Through Proper Channel

Respected Sir,

With humble submission I emphatically assert in response to the order of transfer of W/S vide Signal No: C 11032/2(GT)/96-COM dt. 08.05.96. That I have been maltreated and deprived of natural justice despite my earnest appeal and efforts even appeal was directly approached to the Hon'ble Director on his official visit to I S P W station Dispur on 27th March 1996 and representation was handed over by hand to the Hon'ble Director citing thereby the hardships and problems as well as numbers of transfer I had to face in different places which is comparatively more than almost anyone.

I can cite numbers example in transfer cases that have been considered on the pretext of one or the other by the individuals even before their normal tenure or enjoying after the completion of their normal tenure much before.

I do hereby perceive that and it appears to have been purposed that a calculated manoeverance is drawn to put me under severe mental tension knowing that I am a regular patient under a reputed psychiatrist and have been under his treatment and regular check up since 6 years and will have to go for a prolong treatment under his guidance as per direction.

Contd.....2

Alteer


I have been transferred to a third place so systematically that I could never be able to come to Calcutta so far as to the concern of transfer during my remaining service. (As because it has not been considered either way, that is neither I have been kept here at Dispur nor considered for Calcutta) which practice usually adopted by the deptt.

Therefore when all of my requests are exhausted even after going to all the lengths to ventilate my woos sufferings and legitimacy as per the procedure, I have been constrained and now decided to redress my grievances through the luminary of the legal institution.

With respectful regards

Thanking you sir,

Yours faithfully


(L.C. MANNA)

W/S ISPW, Dispur

Dated : 9.5.96

Copy to : 1. Admn. Officer, DCPW

2. Information to Hon'ble Director in advance by by post.



25-58
To

The Director
Police Telecommunication
Directorate of Coordination
(Police Wireless)
Ministry of Home Affairs
C.G.O. Complex, Lodi Road
New Delhi:-110003

Self
copy
For kind Attention of Sh. M. S. Popli Joint Director DCPW)

: Through Proper Chnnel :-

Subject: Request Despatch of Transfer Guide Lines / G.O.I.
Instruction Referred as under the Direction of Hon'ble
COURT ORDER.

Respected sir,

With reference to the Transfer Order vide Signal No.....
.....and in continuation of my representation dated
11/12/95 and 27/3/96 (handed over Directly to the Hon'ble
Director on his visit to Dispur)

Harassment, unjust .Unequitable treatment meted out
Agaunst me as well as mental pressure exerted all along despite
my earnest and best efforts made to the Authority for justice.
Hence I have been constrained to Redress my Grievances through
the Luminary of the legal institution and I want to adduce my
case. As such you are hereby Requested to Despatch at the
earliest the Following.

It is therefore requested to Despatch the request made
in the subject as pronounced by the Hon'ble Tribunal vide

- ②
- (1) A.T. Act 1985 Ss 14(1) and 22 (3) (f) (1987) 4 A.T.C. 721
 - (2) A.T Act 1985 Ss 2 (B) AND 15 (1987) 5 A T C 677
 - (3) A.T Act 1985 Ss (14) (1) (1987.) 5 A T C 893
 - (4) Application of M.H.A's Notification no 108/54-Ests (A)
dated 20 th November 1954 (As a spl. reference I will pray
Legal Propriety in respect of my transfer appeal from
Gangtok to calcutta.
 - (5) Application of Constitution propriety under Article 311 (2)
Reg. Transfer.

Request to Despatch the same as requested reg. TRANSFER Policy
to Redress my Grievances through JUDICIARY.

With Respectful Regards

Thanking you sir

Yours Faithfully

[L.C. Manna]
W/S Isru Dispur

Copy To :- Admn. Officer
D.C.P.W. New Delhi.

Allev
S
am

-26- 81 57
To

The Director, Police Telecommunication
Directorate of Co-ordination (Police Wireless)
Ministry of Home Affairs
Block 9 C, G.O. Complex
Lodhi Road, New Delhi - 3

(For Kind Attention of Shri R.V. Raghavan Accounts
Officer, D.C.P.W.)

Through Proper Channel

Respected Sir,

Referring to the cases of W/S transfer order vide Signal No. C11032/2(GT)/96-COM dated 8.5.96. It is to request to you that since I have represented the case and proposed to adjudicate the case for redressal of grievances to the Hon'ble Court of Tribunal.

It is therefore once again requested not RPT not to despatch my pay and all allowances to the transferred RPT transferred place till the decision of the Hon'ble Court. I am with my family members including 3 children and moreso, I am a psychiatrist patient and it requires expenses of rupees more than one hundred and fifty (Rs. 150/-) per month, which is must despite all odds.

Reference ought to be drawn vide A T Act 1985 S 14 (1) (1988) 6 A T C 439 etc in this regard.

With kind regards.

Thanking you sir,

Attested for
Dated : 9.5.96

Yours Faithfully,

(Signature)
(L.C. Manna)

W/S ISPW Stn., Dispur

Copy to : 1. JD DCPW

2./ Admn Officer, DCPW

3. Information to Hon'ble Director by post.

Attested for

- 27 -

Annexure 7

60

To

The Honourable Director,
Police Telecommunication,
Directorate of Coordination (Police Wireless)
Ministry of Home Affairs,
C.G.O. Complex, Block-9
Lodhi Road, New Delhi-3.

(For Kind attention of Shri M.S.Popli, Joint Director DCPW)

Through Proper Channel

Sub : Ref. to transfer order of W/S Vide, signal No.
C 11032/2 (GT)/96-Com and O.O. 72/96 dated
8.5.96 with ref. to my application dated 11/12/95
and that of request made to Hon'ble Director with
application handed over by hand to him on 27/3/96
(official visit)

Hon'ble Sir,

With respectful gesture I do hereby draw your kind attention on the subject cited as above and to that effect kindly recall my express telegram sent by name to Sh. M.S. Popli, Joint Director D.C.P.W. on 8.5.96 followed by details of application in advance to the Hon'ble Director by name on 9.5.96 by Speed Post simultaneously the relevants copies of document submitted through proper channel separately to the accounts officer Sh. R.V. Raghavan of D.C.P.W. with specific course of action in his respective arena.

Contd...p/2.

Shri M.S. Popli
cc

-28- 61

: 2 :

I may kindly be forgiven my elucidation about the word public interest and administrative reason/interest for its effectuates which is in the very fabric of the constitution and that of the Rule of Law is to be revered and respected with fullest mind of application. Public interest and administrative reason in all respect is fully safeguarded by the constitutional propriety and the rule of law in respect of seniority, grievances and all that I must dare to venture the application of the word compassionate ground (for attention of Hon'ble Sh. M.N.S. Nanduswamy Assistant Director Communication) is not supposed to be or appears to be meant for the Delhi Posted fellows only in whose case transfer is counted but not the out stations for A D (C) you would loose arguments/action because I myself was a candidate which eventually not taken as a transfer in the year 1989 even I completed my tenure more than two years in Bhopal I was certainly deprived of the privilege. I can cite score of example people coming from Delhi and going back to Delhi within a year or even after 6 months.

At the last I most humbly and respectfully drawing your very kind attention that the application which I have sent to Hon'ble Director by name by post with the relevant copies to all the concerned officers are fully in consonance of the order of the Hon'ble court of tribunal in the different case laws and references only to seek justice/redressal of grievances. In the transfer signal it is stated that quote without waiting for the decision on their representations if any made against their transfer unquote it does not appear to have been a hundred percent good taste.

Contd....p/3.

Handwritten signature/initials

29-
: 3 :

For all these connections and in my representations the Honourable court of tribunal vide act 1985 SS (T) (4) (1), 19 (1), 22 (1), 22(3)(F) (G) (H) 26, 27.

Cat procedure rule 1987 R 7 section 19 (1), 22 (3) (F) (G) and (B) and 27 section 3 (Q) and 27 is covered which is final and binding as per the pronouncement of the C.A.T. order vide No. CM-11019/37/85-AT dated 13th August, 1985. Your good offices is hereby requested to look in the matter in the precept of legal jurisdiction since Hon'ble Tribunal is not a Govt. functionary Judgment/order is not covered by explanation.

With most respectful regards.

Thanking you Sir,

Yours faithfully,

Dated : 14.05.96.


(L. C. Manna)
W/S ISPW Dispur.

Copy to :-

1. D.D. I.S.P.W.
2. Admn. Officer D.C.P.W.
3. Sh. R.V. Raghavan Accounts Officer D.C.P.W.
4. Sh. Swami A.D (C)
5. S.S. Sh. M.K. Mandal I.S.P.W. Dispur, Reg. Relieve by hand.
6. Sh. R. Ekka Ead/ Nonal Officer Dispur, regarding relieve by hand.
7. Sh. K. Deka Honourable Director, D.C.P.W. for kind information.

-x-

Aller
to
sur

To

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Annexure - 8
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63

The Hon'ble Director,
Directorate of Co-ordination (Police Wireless)
Ministry of Home Affairs
Block-9, CGO Complex
Lodhi Road, New Delhi

For Kind Attention of Shri K.K. Sharma, Deputy Director (Admn)

Through Proper Channel

Self copy

SUB : Request to Review of the order of transfer of W/S vide office order No. A 15014/1/96-Admn II office order Part II No. 72/96 Dtd 8.5.96 and consequent upon my representation dated 9.5.96, Dtd 14.5.96 and request thereof to kindly modify the order of transfer and post me at ISPW Station CALCUTTA. For Public/Administrative interest.

Hon'ble Sir,

Most humbly and respectfully I do hereby beseech your good offices on the subject cited above. I do hereby humbly submit to your highest esteem to post me at ISPW Station, CALCUTTA as because particularly in my case I have been maltreated, harassed and unequitable treatment as well as long exerted mental torture has been inflicted. It is an established facts and based on reason and on the pronouncement of the Hon'ble CAT order which I have represented so far I am DESERVED to be posted at ISPW CALCUTTA and my LEGITIMACY stands hold good for that.

Firstly Shri N.C. Mondal W/S who has been transferred from THIS STATION is JUNIOR to me. I am the SENIOR MOST W/S in this station. Shri N.C. Mondal W/S enjoyed his Calcutta Station as W/O 6 years or so at a stretch - where as I had the opportunity to serve only 2½ years roughly as W/O. Shri N.C. Mondal had left Calcutta roughly about 10/11 years ago whereas I had left Calcutta almost 18 years ago. No. of Transfers of Shri N.C. Mondal W/S is less than me.

Contd.....2

Accepted
R. M.

31-

:: 2 ::

31-0-84

Constitutional propriety of Article 311(2) Safe guards the seniority in respect of Transfer.

Shri N.C. Mondal is very much fortunate enough to be enjoyed almost more than 8 years in Gangtok prior to this station at a stretch in the capacity of W/O as well as W/S after serving 6 years at a stretch at Calcutta where as I had to satisfy with 2½ years in both the stations. On the eve of promotion as W/S while I was at gangtok I requested for my retention there due to my frequent transfer. But I was not considered because I was senior to Shri O.P. Grewal who also promoted as W/S in the same order. Obviously here the procedure, the rule of law and other relevancy gave due justice to Shri O.P. Grewal. But ironically Shri O.P. Grewal got his transfer to Delhi before completion of his normal tenure at Gangtok and the Gangtok station did not have a W/S for a considerable length of period.

Therefore, regarding the case of transfer of Shri N.C. Mondal and myself for Calcutta, I am certainly and legitimately deserved to be posted at ISPW Station Calcutta. It concludes that the order is malafides and malice.

Ref A.T. Act 1985 S14

Hiralal Dubey Vs Jokhu Singh (1987) 4 ATC 521

Secondly, In order to the question of Biasness. It is very clear and well calculated manoeuvrere (as regards to the pattern of transfer order so far) that I would not get Calcutta so far I remain in the Govt Service. My exit from the Govt Service would be about serving of 31/32 years of service and I would not get Calcutta, I would witness only how the people are enjoying in their home stations much after their completion of normal tenure even instances is there in this ISPW station Dispur where

Contd.....J

Shri
N.C.
Mondal

even without the sanction of the post of SSO by S.I.U. is still enjoyed much beyond the expected time of tenure. Even on mutual case of transfer seniority remains unaffected and any extraneous consideration does not serve in the public interest. Therefore the order of transfer is biased and is proved as per the language of law constitution of Article 311(2) and A.T. Act 1985 S14 Harish Chandra Srivastava Vs U.O.I. (1987) 4 ATC 638.

As regards to the complete deparature of Natural Justice :
Deptt is well aware that I have been suffering since 1989 due to my Neuroanxities lateron at present I have been under a particular reputed Psychiatrist who virtually has given me to back my life, since 6 years I have been under his treatment based at Calcutta for my Psychiatric treatment and as per his advice and direction I am to go for a regular check up at right interval for a prolong time which is to me, is unavoidable unthinkable. There is no dearth of Psychiatrist all over the country but conviction ~~is first~~ who has given back my life, than convention. But my all request/appeal despite going to the full length is totally unheeded/summarily rejected. No compunction was shown to me when I requested my transfer from Gangtok to Calcutta on humanitarian ground, but I was not considered where I was struggling and I was in the jaws of death. Due to severe Neuroanxities developments. As a result I had to go several months without pay and my family was defacto moving to and fro with fullest tension on all the ways.

Had it been the authority ^{would a} kind enough to sympathetically considered my case vide MHA Notification No. 108/54-Ests(A) dtd 20th November, 1984. I would have get relief in both the ways rather than to jeopardy in both the ways - A complete deperature of Natural Justice.

Contd....4

[Handwritten signature]

At the last I most humbly and respectfully request to your highest esteem to kindly modify the order of transfer and post me at ISPW Station Calcutta. My representation does cover all related action in the respective arena including the relieving of Shri N.C. Mondal W/S which is fully covered by legal bindings as because I am the candidate to be posted at Calcutta if the case of Shri N.C. Mondal W/S comes up. All the orders of the Hon'ble Tribunal in the verdict of the cases stated is not covered by explanation. Action is required to be taken where representation is made :

Ref A.T. Act 1985 S20 Rajkishore Das Vs U.O.I. (1988) 8 ATC 741 and it is in the language of law which termed Resjudicata. Ref A.T. Act 1985 S14 M. Prakasam Vs. Southern Railway (1988) 6 ATC 251.

With most respectfull regards.

Thanking you Sir,

Yours faithfully,

[Signature]
17-5-96
(L.C. MANNA)

W/S

Enclosure : 1. Photostat copy of the Transfer Order. (Two Nos. One for DD (Admin) and another for Hon'ble Director)
2. Photostat copy of the Representation dated 9.5.96 → Two Nos one for DD (Admin) & another for Hon'ble Director
Copy to :- 1. Shri R. Ekka; ... EAD/Zonal Officer, Dispur.
2. Shri M.K. Mondal, S.S. ISPW, Dispur.
3. Shri K. Deka the Hon'ble Director, DCPW, MHA, New Delhi for kind information.

~~Representing~~ — Handled over to EAD/
Zonal officer Sh. R. Ekka today
the 17th day of May 1996
[Signature]

[Signature]

- 34-
A-9

DCPW 9
7959498

A.15014/1/96-DP(Zone)
Government of India
Ministry of Home Affairs
Directorate of Coordination
Police Wireless


I.S.P.W. Stn. Dispur
Date : 14-06-96

MEMORANDUM

With the Reference to the Hqrs. Signal C.11032/2/96-COM (PF) Dtd. 11-06-96 I am directed to say that your Application Regarding Transfer to I.S.P.W. Station Calcutta has been Considered Sympthaliaaly by the Director. And cannot be acceded due to the Administrative Reason.

To : Shri L. C. Manne, W/Supr.
I.S.P.W. , Stn. Dispur.

Copy To : The Asstt. Director (Commn.)
D. C. P. W.
New Delhi


Rajesh Ekant
Extn. Asstt. Director
अन. सहायक पुलिस वेतार
Inter State Police Wireless,
डिस्पूर (आसाम)
Dispur (Assam)

Attended
A. Mani

Attended
A. Mani

- 35 - A-19 8

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI.5

O.A.No.81/96

Sri L.C.Ranna . . Applicant.
vs.

U.O.I.tore . . Respondents.

P R E S E N T

THE HON'BLE SRI G.L.SANGLYINE, MEMBER (ADMIN)

THE HON'BLE SRI D.C.VERMA, MEMBER (JUDL)
For the Applicant. In Person.

For the Respondents. Mr. S. Ali, Sr. C.G.S.C.

30.5.96

Later on the applicant appears in person and requests for hearing him for admission. Learned Sr.C.G.S.C Mr S.Ali has no objection. The prayer of the applicant to be heard for admission is allowed and the above order stands cancelled.

Heard the applicant for admission. The application is stated to be not against any particular order but the relief sought is for treating the transfer from Dispur to Patna as cancelled. Therefore, in fact, the applicant is challenging the transfer order No.A.15014/1/96-Admn.II dated 8.5.96 (Annexure-I). The claim of the applicant in this application is that he should be

contd...



Atul



posted at Calcutta as opted by him in his representation dated 11.12.95 as he has served in the North Eastern Region for a considerable long time. According to the scheme of incentives provided to the Central Govt. employees who are posted from places outside N.E. Region to the North Eastern Region an employee cannot claim a posting in any place of his choice as a matter of right but he can only be considered for any of the places of his choice and it is upto the competent authorities concerned to accommodate an employee to one of his places of choice if found possible. As such, the applicant has got no legal right to claim for his posting in Calcutta. Therefore we consider that there is no case for scrutiny and decision in this application. The application is therefore not entertainable and it is disposed of.

However, the applicant has submitted a number of representations to the respondents, particularly representation dated 17.5.96, Annexure-8 to this application. The respondents are directed to dispose of the representations expeditiously preferably within a period of 15 days from the date of receipt of copy of this order. Further, the respondents are directed not to relieve the applicant pursuant to the order dated 8.5.96 till disposal of his representations as annexed to this O.A. Copy of the order may be furnished to both the parties.

Certified to be true Copy

প্রমাণিত প্রতিলিপি


COURT OFFICER

ন্যায়াধীশ অধিকারী

Central Administrative Tribunal

কেন্দ্রীয় প্রশাসনিক আদালত

Guwahati Bench, Guwahati-5

গুৱাহাটী ন্যায়াধীশ, গুৱাহাটী-৫

Sd/MEMBER(A)

Sd. MEMBER(Judl)

Annexure-11 36

No.C-11032/2/96-CDM(PF)
Government of India
Ministry of Home Affairs
Directorate of Coordination
(Police Wireless)

Block No.9, CGO Complex,
Lodhi Road, New Delhi-11.

Dated the 11th June, 96.

M E M O R A N D U M

Shri L.C.Manna, Wireless Supervisor is directed to refer to his applications dated 2.5.96, 14.5.96, 17.5.96, 03.6.96 and 5.6.96 regarding transfer to ISPM Station Calcutta. His requests have been considered sympathetically but could not be acceded to due to administrative reasons.

This is issued with the approval of Director Police Telecommunications.

Kesharni
Assistant Director (Conn)

To

✓ Shri L.C.Manna, Wireless Supervisor

Copy for

1. Station Supt. ISPM Station Dispur
2. File.

Recd. Thang
Guard at 1100 hrs
19/6/96 at Residence

Atty
for new

Annex-12

- 37 -

A.15014/1/96-DP
Government of India
Ministry of Home Affairs
Directorate of Coordination
Police Wireless

I.S.P.W. Station, Dispur
Dated 18 th of June 1996

RELEIVING ORDER

In compliance with the Directorate Office Order Part-II 72/96 Dated 08-05-96 and Hqrs. Signal No.C.11032/2/96 -COM (PF) dtd. 14-06-96, Shri L.C. Manna, W/Supr. has been relieved of his duties W.e.f the A/Noon of 18-06-96 to proceed on Transfer to Patna. He is directed to Report to Station Suptd., I.S.P.W. Stn. Patna. He is entitled to avail normal Joining Period. He is directed to vacate the Govt. Accommodation allotted to him immediatly. He is entitled for TA/DA as per office order.

Shri L.C.Manna has availed 11.5 (Eleven and Half) days C/L and 01 (One) day R.H.

To

Shri L.C. Manna, W/Supr.
I.S.P.W. Stn. Dispur

Copy To

1. Asstt. Director (Comm.)
D.C.P.W., New Delhi
2. Asstt. Director (Admn.)
D.C.P.W., New Delhi
3. Accounts Officer
D.C.P.W., New Delhi
4. Station Suptd.,
I.S.P.W. Stn. Calcutta
5. File

(Rajesh Ekka)

Extra Asstt. Director
अतिरिक्त सहायक निदेशक
Extra. Asstt. Director
अन्तर राज्य पुलिस
Inter State Police Wireless
दिसपुर (आसाम)
Dispur (Assam)

(Rajesh Ekka)

Extra Asstt. Director

अतिरिक्त सहायक निदेशक
Extra. Asstt. Director
अन्तर राज्य पुलिस बेतार
Inter State Police Wireless,
दिसपुर (आसाम)
Dispur (Assam)

Recd. Thrus
Guard at 11/06/19/6/96
at Residence

Alleen
Sen

Central Administrative Tribunal
Guwahati Bench
442
9 AUG 1996
Guwahati Bench
IN THE MATTER OF

38

Filed by:
Shankar
(MD. SHAUKAT ALI)
2/8/96
Central Administrative Tribunal
Guwahati Bench, Guwahati

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

IN THE MATTER OF O. A. 111 OF 1996

SHRI L. C. MANNA ... APPLICANT

-versus-

UNION OF INDIA AND OTHERS ... RESPONDENTS

AND

IN THE MATTER OF:

WRITTEN STATEMENT SUBMITTED BY
RESPONDENT NOS. 1, 2, 3, 4, 5, & 6.

THE HUMBLE RESPONDENTS SUBMIT THEIR WRITTEN STATEMENT AS FOLLOWS:

- That with regards to the statements made in the paras 1, 2 and 3 of the application, the respondents have no comments.
2. That with regard to the statements made in para 4.1 of the application, the respondents have no comments, the same being matters of record.
3. That, with regard to the statements made in para 4.2 of the application, the respondents beg to state that the applicant joined the Directorate of Coordination (Police Wireless) W.e.f. 11.10.1976 in the grade of Wireless Operator. His Posting details are given below since his joining:

Sl. No.	Name of Station	Period		Remarks
		Year	Month	
		AS 'WIRELESS OPERATOR'		
1.	Delhi ✓	0	2	-
2.	Calcutta ✓	2	7	-
3.	Agartala ✓	3	2	Hardship Station
4.	Bhopal	1	6	-
5.	Patna	4	11	He was transferred at Patna on his own request.

Recd
12/9/96

3-2
2-2
2-4
2-1

-2-

(29) 43

Sl. No.	Name of Station	Period		Remarks
		Year	Month	
6.	Gangtok ✓	2	7 ✓	He challenged the transfer from Patna to Gangtok at CAT, Patna Bench but the appeal was rejected. This is a Hardship/ Non-Popular Station.
7.	Dispur ✓	AS 'WIRELESS SUPERVISOR' 1.9.93 to till Date ✓ 1.1.93		Transfer on Promotion. Completed the tenure. Hardship Station

4. That, with regard to statements made in paras 4.3, 4.4 and 4.5 of the application the respondents have no comments.

5. That, with regard to the statements made in the para 4.6 of the application the respondents beg to state that the applicant has alleged that by depriving himself, the Transfer in respect of Shri N.C.Mandal, Wireless Supervisor Dispur to Calcutta has been made. The details of Posting in respect of Shri N.C.Mandal are given below:

Sl. No.	Name of Station	Period		Remarks
		Year	Month	
1.	Delhi ✓	AS 'WIRELESS OPERATOR' Ø 3		Joined as Wireless Operator w.e.f. 12.12.75
2.	Agartala ✓	3	3 ✓	Hardship station
3.	Calcutta ✓	6	Ø	-
4.	Gangtok ✓	7	11 ✓	Hardship/Non Popu-Station.
5.	Dispur ✓	AS 'WIRELESS SUPERVISOR' 3 1 ✓		Hardship Station

It is submitted that Shri N.C.Mandal has joined in Dispur on transfer in May, 1993 and the applicant in the January,

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74

1993. Both the officials had completed their tenure of two years in 1996. Therefore the plea of the applicant regarding Station Seniority as preference is not justifiable because both the officers are to be posted outside Dispur. In this case, both the officials had given their first choice of posting for Calcutta. As per the 'Transfer Policy' of this Directorate (enclosed as annexure-I), preference for choice posting is considered for those officials who have served maximum time in the hardship/Non-popular station than others. From the above mentioned posting detail of the Applicant and Shri N.C. Mandal, it may please be seen that the Applicant has so far served the hardship/Non-Popular Stations for a period of more than 9 years whereas Shri N.C. Mandal has served for more than 14 years.

As per the 'Transfer Policy', before finalising General Transfer for 1996, one message was circulated to all Inter State Police Wireless Stations inviting applicants for three choices of posting. (Copy enclosed as annexure-II). For Calcutta, in the grade of Wireless Supervisor only one vacancy was existing. Three applications were received from the Wireless Supervisor Grade for posting at Calcutta, who served the hardship stations. But in view of above mentioned facts, Shri N.C. Mandal was found to be a suitable candidate for getting the posting of Calcutta amongst the candidates who applied for their choiced posting at Calcutta. While submitting the choice of preference, the Applicant did not give any second choice. The Applicant submitted a 'Medical Certificate' obtained from a private Doctor of Burdwan, West Bengal (Home Town of the Applicant) which states that the Applicant should not be posted at any distant place. the date of

1957. For the purpose of the application, the place of the applicant is not a factor in preference. In this case, both the Officer and the Officer in Charge of the District have given their first choice of posting for Calcutta. As per the 'Transfer Policy' of this Directorate (Annexure-I), preference for choice posting is considered for those officials who have served maximum time in the headquarters. Regular rotation than others. From the above mentioned posting details of the applicant and Sri N.C. Mandal, it may please be seen that the applicant has so far served the headquarters. Posting Station for a period of more than 9 years whereas Sri N.C. Mandal has served for more than 14 years.

As per the 'Transfer Policy', before finalising General Transfer for 1958, one message was circulated to all Inter States Police Wireless Stations inviting applicants for three choices of Posting. (Copy enclosed as Annexure-II). For Calcutta, in the grade of Wireless Supervisor only one vacancy was existing. Three applications were received from the Wireless Supervisor Grade for Posting at Calcutta, who served the headquarters. In view of above mentioned facts, Sri N.C. Mandal was found to be a suitable candidate for getting the posting of Calcutta amongst the candidates who applied for their choice posting at Calcutta. While submitting the choice of preference, the Applicant did not give any second choice. The Applicant submitted a 'Medical Certificate' obtained from a private Doctor of Burdwan. The Medical (Home Test of the Applicant) which states that the Applicant should not be posted at any distant place. The date of

19.12.94
on ground
of ED
4 days

issue of certificate is 5.10.95. (the copy is enclosed in Annexure-III). The Applicant at that time of issue of certificate was posted at Dispur, moreover he has, a desired to stay at Dispur as expressed in the O.A. vide para 4.14 if the posting at Calcutta is not materielised. During 1995, when he completed his tenure, he asked for the retention at Dispur (copy at Annexure-IV). Whereas as per the Medical Certificate he is sick from 1990. It is therefore, not understood that if the ailment is acute, how the applicant desires for retention and wish to continue the treatment from a such a distant place. Therefore the claim of the applicant for getting transfer on 'Medical Ground' is not maintainable. However, since he could not be posted at Calcutta during 1996 transfer, he was transfer to Patna being the nearest station of Calcutta.

6. That, with regard to the statements made in para 4.7 of the application respondents beg to state that the representation dated 9.5.96, 14.5.96 & 17.5.96 were replied vide letter No. C.11032/2/96-COM (PF) dated 11.6.96. His request for transfer to Calcutta could not be materliased due to the facts mentioned in para 4.6.

Regarding the seniority, the contention of the Applicant is not correct. Shri N.C. Mandal is Senior in service. The applicant is mentioning about the station seniority of Dispur. As stated earlier, the applicant joined Dispur four Months earlier than Shri N. C. Mandal. That is not any criteria for getting preference for choice posting at Calcutta.

7. That, with regard to the statement made in para 4.8 of

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the application that the respondents beg to state that the same is not correct and hence denied. In fact the Directorate obeyed the order of the Hon'ble Tribunal.

8. That with regard to the statements made in para 4.9 of the application the respondents beg to state that after receiving the order from the Hon'ble CAT, the matter of Transfer of the Applicant from the Dispur to the Calcutta was rescrtunised in accordance with the 'Transfer Policy' and also in comparison to Shri N.C. Mandal in the level of Director of Police Telecommunication and the decision was intimated to the Applicant.

9. That, with regard to the statements made in para 4.10 of the application the respondents have no comments.

10. That, with regard to the statements made in para 4.11 of the application respondents beg to state that adequate reply has already been given against the para 4.6 of the application. The matter was scrtunised as per the 'Transfer Policy'.

11. That, with regard to the statements made in para 4.12 of the application the respondents beg to state that as stated in the para 4.6, the claim of the applicant for getting transfer on 'Medical Grounds' seems not to be genuine. He has simply submitted a Medical certificate obtained from a Private Doctor which states that the Applicant should not be posted at distant place. But the Applicant remained at Dispur, far away place from West Bengal at the time of issue of medical Certificate. He opted for retention at Dispur during 1995 general Transfer, even now also prefers for retention at Dispur if Posting at calcutta is not possible. But on the other hand he claims his posting at

the Commission that the respondents had to state that they were not aware of the fact that the Director had been removed and hence denied. In fact the Director had been removed from the office of the Hon'ble Tribunal.

9. That with regard to the statements made in para 4.9 of the application the respondents had to state that after receiving the order from the Hon'ble CAT, the matter of removal of the Director from the Director's office was recommended to the Government with the 'Transfer Policy' and also in connection to the Hon'ble Tribunal in the level of Director of Police. The Commission and the decision was indicated to the Applicant.

10. That with regard to the statements made in para 4.10 of the application the respondents have no comments.

11. That with regard to the statements made in para 4.11 of the application respondents had to state that subsequently they have been given against the para 4.9 of the application. The matter was continued as per the 'Transfer Policy'.

12. That with regard to the statements made in para 4.12 of the application the respondents had to state that as per the order 1.4 of the order of the applicant for posting transfer of 'Medical Specialist' was not to be genuine. He had already submitted a Medical Certificate obtained from a private doctor which states that the applicant should not be posted as District Officer and the District remained at District, far away place from the range of the line of issue of Medical Certificate. He ought for retention at District during 1988 General Transfer, even now also pending for retention at District is posting as District Officer. Not only that, but on the other hand he claims his retention is

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Calcutta on Medical Grounds. If he is really sick, he could have consulted any Doctor at Dispur throughout his stay at Dispur but he has not submitted any proof so far. Therefore, it shows that the Applicant is trying to mislead this Hon'ble CAT and for gaining vested interest, he is applying on Medical Grounds.

12. That, with regard to statements made in para 4.13 of the application the respondents beg to state that the contention of the Applicant is tottaly wrong. Since his Transfer Orderd was issued, the Salery etc. his pay & allowances was sent to Patna. This is done at every case with the intention that the Official who has been transferred may get his pay and allowances with out any delay at his new place of Posting. There is no other motive behind it as alleged by the Applicant.

13. That, with regard to the statements made in para 4.14 of the application the respondents beg to state that the representations made by the Applicant for review of the transfer had been considered by the Head of the Department. The 'Transfer Policy' was consulted and every detail was scrutinised by the compotent authority before giving any reply to the applicant. This Directorate tried to post the Applicant at Calcutta but due to the lack of vacancy he could not be posted there. Similarly there was no vacancy at Dispur also and since the applicant completed the tenure at Dispur he had to be Transferred to any other place. The post bears the 'All India Transfer Liability' and any official cannot establish any claim for posting at any place. However, keeping in view of his choice, he was transferred to Patna, being the nearest Station of Calcutta, where he could

-7-

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be accommodated. Therefore, this Directorate had no malafide intention to harras the Applicant as alleged by him.

14. That, with regard to the statements made in para 4.15 of the application the respondents beg to state that the contention of the Applicant is totally wrong. As stated earlier that the Transfer is made based on the posting of any official. Therefore, the Applicant will by no means loose the opportunity in submitting the choice of preference for transfer. The transfer is made based on the posting detail of any official. At the time of appointment, vide para 3(iii) of the appointment letter, it was clearly mentioned that he may be posted anywhere in India, the Applicant agreed to the conditions and joined the service. (Copy of Appointment Letter is placed at Annexure-V). This organisation having its Station in all the Capitals of States and Union Territories and do the transfer of its officials in such a way so that most of the choices could be met out. But due to exigency of work and public interest, sometimes it is not found possible to transfer every official at their choices as has happened in this case.

However, since the transfer of the Applicant has been ordered in the public interest, the applicant should have no choice in this matter. In this connection the ruling of the Hon'ble Supreme Court in the case of Gujrat Electricity Board vs Atma Ram, 1989 (3) JT 20 is as follows :-

“Whenever a public Servant is transferred he must comply with the orders, but if there be any genuine difficulty in proceeding on transfer, it is open to him to made a representation to the competent authority for stay, modification or cancellation of the transfer order. If the order of transfer is not stayed, modified or cancelled, the concerned Public Servant must carry out the order of transfer”

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15. That, with regard to the statement made in para 4.16 of the application the respondents beg to state that the same is not correct and hence denied.

16. That, with regard to the statements made in para 5 of the application regarding grounds for relief with legal provision the respondents beg to state that none of the grounds is maintainable in law as well as in facts and as such the application is liable to be dismissed.

17. That, with regard to the statements made in paras 6 and 7 of the application the respondents have no comments.

18. That, with regard to the statements made in para 8 of the application regarding relief sought for the respondents beg to state that the Applicant is not entitled to any of the reliefs sought for and as such the application is liable to be dismissed.

19. That, with regard to statement made in para 9 of the application regarding interim relief the respondents beg to state that in view of the facts and circumstances narrated above, the interim order already granted may kindly be vacated.

20. That, with regard to the statements made in para 10, 11 and 12 of the application that the respondents have no comments .

That the respondents submit that application has no merit and as such the same is liable to be dismissed.

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(Rajesh Elka).
RESPONDENT

(S. ALI)
Senior Central Govt. Standing Counsel
Guwahati
Dy.

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No.A.11015/1/87-Admn.
Government of India
Ministry of Home Affairs
Directorate of Co-ordination
(Police Wireless)

Block No.9, CGO Complex,
Lodhi Road, New Delhi-3.

Date: 16.8.1990.

OFFICE MEMORANDUM

Sub: Transfer Policy of the Directorate of
Co-ordination (Police Wireless)

In supersession of all the instructions issued in respect of Policy on transfers in the DCPW, the following instructions, which will come into effect immediately, are laid down for the information and compliance of all concerned.

2. It is well known that the role of DCPW is of operational nature and its communication centres are spread throughout the country in the various State/U.T. Capitals. The staff of this Directorate is, therefore, liable to be transferred anywhere in India, in the public interest, as per the vacancy position and the administrative and operational requirements of the Directorate, at a given time.

3. The transferable staff must serve ATLEAST ONCE in any of the ISPW Stations in the N.E. Region and Island Territories and once more in one of the non-popular stations, namely Panaji, Gangtok and Bhubneshwar, during his/her entire service in the DCPW. The tenure of service at these stations will, however, be only TWO years in case of individuals who have rendered ten years or more service at the time of issue of posting orders to such a station and THREE years for those whose service is less than ten years. These tenure periods are as prescribed in the rules framed by the Govt. of India and as amended from time to time. The period of tenure will commence from the date of joining the duty at these stations.

4. All sincere efforts will be made to transfer an individual serving in any of the N.E. Region Stations or at any one of the non-popular stations, to a station of his/her choice or to a station near his/her Home State, on completion of the prescribed tenure in such a station, subject to the availability of a vacancy at the desired station and also the operational & administrative considerations. The transfers will normally be made as per the 'Station-Seniority' related to the concerned trade/category, on "first come - first go" basis except for those who are required to be moved out earlier on completion of the mandatory tenure in the N.E. Region or one of the non-popular stations as stipulated in Paragraph 3 above.

5. The normal transfer orders will invariably be issued by the end of March every year and all the transfer movements will be completed, latest by 30 June of that year. The exact date by which individuals will be relieved, on their transfer, will invariably be mentioned in the transfer orders. It will be implicitly ensured by the concerned DD/AD/EAD/SS that all the individual(s) under orders of transfer are relieved by the due date as mentioned in the transfer order. The pay and allowances of such individuals will become payable only at the new duty stations, after the specified dates in the order. It will be the sole responsibility of the individual himself to apply for TA/DA in time within one week after the issue of posting orders. The responsibility for making rail journey reservations for the onward journey, well in time, will also be that of the individual concerned. No excuse, whatsoever, on this account, will be acceptable for delaying his move.

6. The transfer of an individual on account of promotion, will be made strictly as per the vacancy position existing at the time of his/her promotion. As far as possible, the promotion will be effected, in-situ. In case there is no vacancy in the individual's present station of posting, his/her transfer will be ordered to a station where the vacancy exists. The aforesaid instructions pertaining to tenure will not, therefore, become applicable in such a case. However, if the individual under promotion is serving in a M.F. Region or in a non-popular station, he/she may be considered for transfer to a normal station where such a vacancy exists provided he/she has completed atleast fifty per cent of the prescribed tenure period, as mentioned in paragraph 3 above.

7. Individuals due for superannuation in the next three years (by 30 June of that year), will normally not be considered for transfer except on compelling administrative/operational grounds or when such a person is promoted against a vacancy occurring in a particular station or makes a specific request, on his own, for a posting to another station. However, such persons who requests for posting to their home stations or to choice stations, as their last tenure, all possible efforts will be made to post them accordingly, subject to exigencies of service.

8. Female employees will also be governed equally by this "Transfer Policy". However, due consideration will be given to Govt. of India's guidelines contained in the Department of Personnel and Training O.M. No.28034/7/86-Estt(A), dated 3.4.1986, while considering their posting to a station.

9. All requests from individuals connected with their transfers which may be issued in the coming posting season, must reach this Directorate, by 31st January of the year, duly supported with valid documents/certificates/proofs, wherever applicable. These applications will be considered on merit keeping in view the administrative and operational requirements. Principle of "Interest of the Service" will be the dominant consideration.

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- 3 -

10. The transfer of an individual, if ordered on compassionate grounds, will be at his/her own expense and he/she will not be entitled to any transfer TA/DA. The tenure of posting on 'compassionate grounds' will be only one year and the individual will invariably be transferred to another station after one year's stay at the new station to which he/she is posted on compassionate grounds.

11. Any representation against orders of transfer already issued, should be submitted within 20 days of the date of issue of the order, along with the comments of the SS/EAD/AD/DD. Unless this representation is accepted in writing by the competent authority at this Directorate, the individual will move to the new station of posting on due date, as ordered. The plea that he/she has submitted a representation which has not been finalised will not be accepted as a reason for non-compliance of the transfer order.

12. Notwithstanding the above, the Director, Police Telecommunications will be fully empowered to authorise transfer of any individual, at any time of the year. He will also be authorised to order any deferment/cancellation of a transfer order, in special genuine cases of extreme hardship/compassion, at his direction, depending on the merit of a case.

(K.K. SHARMA)
ASSTT. DIRECTOR (ADMN.)

10. The transfer of an individual, if ordered on compassionate grounds, will be at his/her own expense and he/she will not be entitled to any transfer TA/DA. The tenure of posting on 'compassionate grounds' will be only one year and the individual will invariably be transferred to another station after one year's stay at the new station to which he/she is posted on compassionate grounds.

Copy to: 1. All Officers of DCPW, TA/DA. 2. All Sections of DCPW. 3. All ISPW Stations. 4. CPRTL, Ridge Road & Mount Abu. 5. Sr. P.A. to DPT.

6. Staff Officer to the DPT.

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ANNEXURE-II 21

TKS PNJ/JSR/CHG/DPR/GTK/ITN/AZL DE DLI 2,2,22,2,2,2,2,2,
NR.....751-757

GR.....150

TO S. S. ALL ISPM STATION
INFO ALL ZONAL OFFICERS
FM DIR POL WIR

NO. C.-11032/1-3(GT)/95-COM

05-12-1995

UNCLASS

OPERATIONAL STAFF (S.S.O., W/SUPR, & O/OPR, ONLY) WHO HAVE COMPLETED/COMPLETING THEIR TENURE BY 30.06.96 SHOULD SUBMIT THEIR CHOICES FOR TRANSFER IMMEDIATELY STOP THREE CHOICES IN THE ORDER OF PREFERENCE SHOULD BE GIVEN AS IT MAY NOT BE ADMINISTRATIVELY POSSIBLE TO CONSIDER A PARTICULAR CHOICE IN ALL THE CASES STOP REQUEST FOR RETENTION AT PRESENT PLACE OF POSTING, IF ANY, SHOULD BE CLEARLY INDICATED AND WILL BE CONSIDERED EXCLUSIVELY SUBJECT TO ADMINISTRATIVE FEASIBILITY STOP INFORMATION SHOULD REACH A.D.(C) LATEST BY 31.12.95 STOP REQUEST RECEIVED AFTER DUE DATE WILL NOT BE ENTERTAINED STOP.

THI - 1800

V. CHOKRA

DELIVERED ON 05-DEC-1995 20:24 HRS.

50
ANNEXURE-III

Phone No. : BDN-62929
BDN-3641

MANASIK AROGYA NIKETAN PVT. LTD.
KANAINATSAL, G. T. ROAD, BURDWAN-713 103

Dr. Asit Baran Patra
M. Sc., M.B.B.S., D.P.M.
Consultant Psychiatrist

Visiting Hours at
ASANSOL, G. T. ROAD (WEST)
MUNICIPAL MARKET
Only Wednesday 9 a.m. to 5 p.m.

Visiting Hours at
BURDWAN
Except Wednesday
7 a.m. to 2 p.m.

CALCUTTA, FLAT NO. 401
31/A, S. P. MUKHERJEE ROAD
Phone : Cal. 475-8927
1st. & 3rd Saturday
9 a.m. to 12 a.m.

Date 5.10.95

This is to Certify that Sri Laxman Mann
is under my treatment for his mental
illness since 6.9.90. He is much
improved now and doing his
normal activities. But he requires
prolonged treatment and regular
check up at definite
intervals. As such he
should not be posted in a
far distant place or medical
posts.

A. Patra
Reg. No 27509

MANASIK AROGYA NIKETAN (P) LTD
CANAL ROAD 3 2. Ind
Kolkata

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ANNEXURE - IV
86

TO
THE DIRECTOR POLICE TELECOMMUNICATION
DIRECTORATE OF CO-ORDINATION (POLICE WIRELESS)
MINISTRY OF HOME AFFAIRS
BLOCK-9, C G O COMPLEX
LODI ROAD NEW DELHI

(THROUGH PROPER CHANNEL)

SUB... REQUEST FOR ONE YEAR EXTENSION(RETENTION)

DUE TO MY DAUGHTER'S FINAL YEAR H S L C
BOARD EXAM. UNDER THE ASSAM SECONDARY BOARD
OF EDUCATION ,GAUHATI IN REGIONAL LANGUAGE

RESPECTED SIR,

WITH REFERENCE TO THE HQRS SIGNAL NO C11032/1 3
(GT)/94- COM DATED 8-12-94 I AM GOING TO COMPLETE MY
TENURE AS ON 30-06-95. SIR, SINCE MY DAUGHTER IS A
FINAL YEAR STUDENT OF HSLC EXAMINATION IN REGIONAL
LANGUAGE UNDER THE BOARD OF SECONDARY EDUCATION ASSAM
GAUHATI, I REQUEST TO GRANT ME ONE YEAR EXTENSION.
OTHERWISE THE ACADEMIC CARRIER/FUTURE OF MY DAUGHTER
WILL BE JEOPARDISED/SPOILED BECAUSE NO OTHER ALTERNATIVE
IS LEFT.

REQUEST TO GRANT EXTENSION

WITH REGARDS

THANKING YOU SIR,

DATED THE 19/12/94

YOURS FAITHFULLY


L. C. MANNA

W/S ISPW DISPUR

No.A.18/ / Wireless
Government of India
Ministry of Home Affairs
Directorate of Coordination
(Police Wireless)

Rail Bhavan,
New Delhi-1, the 16/10

MEMORANDUM

The undersigned hereby offers Shri B.S. Mayya a temporary post of Wireless Operator in the office of the Directorate of Coordination (Police Wireless) on completion of his training period of 9 months of Wireless Operators' Grade III conducted by the B.S.F. Training School, Jullunder with effect from 11.10.75 and found suitable for the post of Wireless Operator. 5.1.79 pay scale for the post is Rs.380-12-500-EB-15-560/- plus allowances as per Central Government rules.

2. The Character verification and Medical examination of Shri B.S. Mayya having already been done and found satisfactory for civil appointment, Shri B.S. Mayya has been taken on the temporary regular strength 5.1.79 Directorate with effect from 11.10.75 the day he joined at Headquarters (Delhi) subject to 11.10.75 the terms of appointment contained in this Memorandum.

3. The terms of appointment are as follows:-

(i) The post is temporary but is likely to become permanent. In the event of its becoming permanent, his claims for permanent absorption will be considered in accordance with the rules in force.

(ii) The appointment may be terminated at any time by a month's notice given by either side, viz: the appointee or the appointing authority, without assigning any reasons. The appointing authority however, reserves the right of terminating the services of the appointee forthwith or before the expiration of the stipulated period of notice by making payment to him of a sum equivalent to the pay and allowances for the period of notice or the unexpired portion thereof.

(iii) The appointment carries with it the liability to serve any part of India. His present posting however, is at Home, New Delhi

(iv) Other conditions of service will be governed by the relevant rules and orders in force from time to time.

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(v) The appointment will be made on probation for two years against a temporary post of Wireless Operator. The appointee will not be permitted to apply for employment elsewhere for a period of 5 years from the date of completion of the training. In case of resigning the service for any reason during 5 years the appointee may be required to refund the stipend received by him during the nine months of his training as well as all money received as pay and allowances during the first six months from the date of his joining in the regular scale.

4.

(i) Submission of a declaration in the prescribed form and in the event of the candidate having more than one wife living, or being married to a person having more than one wife living, the appointment will be subject to his being exempted from the enforcement of the requirements in this behalf.

(ii) Taking of an oath of allegiance/faithfulness to the Constitution of India (or making of a solemn affirmation to that effect) in the prescribed form.

(iii) Production of the following original certificates (where these have not been produced already at the selection stage).

(a) Degree/Diploma/Certificates of educational and other technical qualifications.

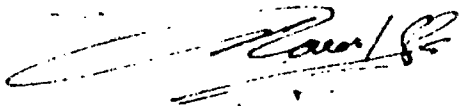
(b) Certificate of age.

(c) Character certificate:

(i) attested by a District Magistrate or Sub-Divisional Magistrate or their superior officers.

(ii) Certificates in the prescribed form in support of candidates' claim belonging to a SC or ST/Anglo-Indian Community.

5. If any declaration given or information furnished by the candidate proves to be false or if the candidate is found to have wilfully suppressed any material information he will be liable to removal from service and such other action as Govt. may deem necessary.


(T.N. Bhattacharyya)
Administrative Officer
for Director

To

Shri L.C. Thana,

Through AD(C)

Copy to:-

1. Service Records
2. Eatt. List
3. AD(C)
4. Personal file

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:GUWAHATI BENCH

IN THE MATTER OF:-

O.A.No. 111/96

Sri L.C. Manna

.....Applicant

-Vs-

Union of India & Ors.

.....Respondents

-AND-

IN THE MATTER OF :-

Rejoinder to the Written

statements filed by the Respondent

No. 1 to 6.

The humble applicant above named in his rejoinder.

MOST RESPECTFULLY SHEWETH:-

- 1) That with regard to the statements made in para 1 & 2 of the written statements the applicant does not admit anything contrary to the relevant record.
- 2) That with regard to the statements made in para 3 of the written statement, the applicant while reiterating and reaffirming the statements made in his O.A. begs to state that he worked in Bhopal station for 1 year and 6 months plus 6 months stay at Delhi station ^(T.T.) in the strength of Bhopal station which amounts to more than

.....2/-

Received Copy
1/10/96
Sd/- CYS
19/8/96

2 years. The petitioner begs to state that he made a request for transfer to Calcutta, BBSR & Patna on which Patna was his third choice. Therefore, his transfer to Patna can be treated as a regular transfer. So far as as question regarding transfer to Gangtok station the applicant begs to state that during the time of transfer him to Gangtok from Patna station the applicant requested his retention at Patna due to his wife's advance stage of pregnancy. In regard to the said transfer ~~by~~ he also made a request to transfer him to Calcutta alongwith a request of retention to Patna. The applicant was transferred to Gangtok by the Respondents ignoring the fact that his senior Shri B.K. Sinha who enjoyed 8 years and Shri L. Ram who enjoyed more than 5 years. The petitioner further states that he joined in the Dispur station on 1.1.93 not on 1.9.93 as stated in the written statements.

3) That with regard to the statements made in para 4 of the written statements the applicant does not admit anything contrary to the relevant record.

4) That with regard to the statements made in para-5 of the written statements the applicant while denying the contention made by the Respondents begs to state that Agartala station was not a hardship station at that relevant time when Shri N.C. Mandal was posted at Agartala.

The petitioner further begs to state that as per the transfer policy (Annexure-1) to the written statements speaks clearly that the transactions will normally be as per the station seniority related to the concerned trade/category on 1st come - 1st go basis. It is stated that the applicant is away from his home station Calcutta for more than 18 years where as his junior Sri Mandal is only 11 years. As per the Annexure Policy the petitioner has got a better right to be transferred to Calcutta than Sri Mandal.

It is stated that the petitioner made an alternate request to retain him at Dispur station till his transfer to Calcutta is not materialise and there is no such rule regarding transfer to peaceful/normal station on request. The respondents have acted illegally with an ulterior motive in the matter of non-considering the case of the applicant.

The question regarding the applicants medical treatment, the applicant Crave Leave of this Hon'ble Tribunal to produce the documents pertaining to his medical check-up at the time of hearing of this instant petition.

It is further stated that the Annexure-4 letter regarding the respondents to retain him at Dispur station was made on 19.12.94 for retaining him 1 year in the Dispur station. The respondents while making allegations ought to have examined the date of Annexure-4 to the written statements.

(A)

5) That with regard to the statements made in para-6 of the written statements the petitioner does not admit anything contrary to the relevant records. The applicant while denying the contention made by the respondents begs to state that in transfer case seniority of service is not at all a criteria only station seniority seniority is the guiding criteria as per Annexure-1 to the written Statements. It is stated by the applicant that for getting preference for choice posting the guiding criteria is a ^{Seniority} station seniority and 1st come - 1st go basis.

6) That with regard to the statements made in para 7 of the written statements the applicant while denying the contention made there in put the respondents to the strictest proof thereof.

7) That with regard to the statements made in para-8 of the written statements the applicant begs to state that the respondents ignoring the Hon'ble Tribunal order have passed a mechanical order of transfer. The respondents have not even choose to consult their own transfer policy (Annexure-1) and for which the applicant was constrained to come again before this Hon'ble Tribunal. That with regard to the statements made in para 9 & 10 of the written statements the applicant begs to state that as stated above the respondents have passed a machanical order..

....6/-

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-6- (5)

8) That with regard to the statements made in para-11 of the written statements. The applicant in regard to show his genuineness of medical treatment Crave Leave of this Hon'ble Tribunal to produce documents at the time of hearing of this instant O.A. The applicant requested the authority to retain him at Dispur if posting at Calcutta is not possible due to his daughters higher study.

9) That with regard to the statements made in para-12 of the contention made there in by the respondents. Again the applicant while denying the contention made therein put the respondents to the strictest proof thereof.

10) That with regard to the statements made in para-13 ~~which~~ while reiterating and reaffirming the statements made in the O.A. the applicant begs to state that the department concerned has acted ~~illegally~~ contrary to the order passed by this Hon'ble Tribunal. Further the respondents have not consulted the relevant transfer Policy (Annexure-1) and passed a mechanical order of transfer. The applicant applied not to fill up the vacancy at Calcutta on 5.6.96, therefore there is no earthly reason as to why the petitioner has not been transferred to Calcutta. Again on the other hand there is a vacancy at Dispur station as because the Dispur

...7/-

Petitioner's statement
shown to the Hon'ble
as in 1991

7- (6)

station now has become a Zonal Office. In the Dispur station as per the SIU Rules there is one Zonal Officer, TA(M) in place of STA alongwith one SSO & 3 Wireless Supervisor is required whereas at present including the applicant there is altogether 3 Wireless Supervisor, harassed. The petitioner has been ^{harassed} with malafide intention by the respondent and the petitioner never opted choice to Patna station. The applicant however as per the Annexure - 1 policy is entitled to be transfer to Calcutta.

11) That with regard to the statements made in para-14 of the written statements the applicant categorically denies the contention made therein and begs to state that if his transfer to Calcutta is materialise then he will loose his opportunities in submitting choice of transfer as because the Dispur station is located at N.E.R. The applicant inconnection to Annexure-5 begs to state that the Rules made therein are governed by the relevant rules and order including Annexure-1 of the Written Statements and to that effect there is no denial from any side.

The applicant begs to state that the ruling of the Hon'ble Supreme Court the law is very clear that if any order of transfer is based on malafide and in contradiction of the guidelines laid down by the same the said order of transfer is liable to be set aside and quashed.

12) That with regard to the statements made in para -15 to 20 of the wirtten statements the applicant denies the correctness of the same and reaffirms and reiterated

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-8- (7)

the statements made above as well as made in the O.A.

13) That the applicant begs to state that in view of the above facts and circumstances the No. 111/96 may be allowed with further direction to transfer the applicant to Calcutta.

VERIFICATION.

I, Shri L.C. Manna, at present working as Wireless Supervisor in the Inter State Police Wireless Station, Dispur, Gauhati-6 do hereby solemnly affirm and verify and verify that the statements made in the para 1 to 11 are true to my knowledge and those made in para ~~7~~ are true to my knowledge as per my legal advice and I have not suppressed any material facts.

And I sign this verification on this

19th Day of August, 1996 at Gauhati.

Deponent.

L. C. MANNA