

50/600

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 248/96

R.A/C.P No.

E.P/M.A No.

1. Orders Sheet.....Pg. 1.....to 5
2. Judgment/Order dtd. 16.04.97.....Pg. 1.....to 210
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A.....248/96.....Pg. 1.....to 18
5. E.P/M.P.....Pg.....to
6. R.A/C.P.....Pg.....to
7. W.S.....Pg. 1.....to 4
8. Rejoinder.....Pg. 1.....to 5
9. Reply.....Pg.....to
10. Any other Papers.....Pg.....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.)

kahts
21.4.18

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

BA NO. 2118/96

Sri A. Bhattacharya

Applicant(s)

Vs.

Union of India &c.

Respondent(s)

Mr. J. Deb, N. Nain

Advocates for applicant(s)

Mr. ~~A. K. Choudhury~~
~~Addl. C.G.S.C.~~

Advocates for Respds.

Mr. S. Ali, Sr. CGSC

Notes

dt.

ORDERS

This application is in
form and within time
C. P. of Rs. 50/-
deposited vide
IPO No. 4/9.9.85
Dated 1.5.96

By Registrar

16/10

No index is provided

Copy not yet
served on the
counsel

P. Sen
16/10/96

23-10-96

Notice issued
vide NO. 3631 dated
30.10.96

1) Service Reports are still awaited.
2) W/ statement has not been b/w.

28/11

17.10.96

Mr J. Deb for the applicant.

Mr A.K. Choudhury, Addl. C.G.S.C.
for the respondents.

Heard Mr Deb for admission and perused
the contents of the application and reliefs sought.
Application is admitted. Issue notice on the
respondents by registered post. Written statement
within six weeks. List for written statement
and further order on 29.11.1996.

Heard counsel of the parties on interim
prayer. The respondents have allowed the applicant
to remain in his post upto 8.11.1996. However
it is ordered that the respondents shall keep
the impugned transfer order ^{in respect} of the applicant
in abeyance till 29.11.1996.

Member

trd

17/10

29-11-96

Learned counsel Mr.J.Deb for the
applicant. Leave note of Mr.S.Ali,Sr.
C.G.S.C. Written statement has not been
submitted. List for written statement
and further order on 19-12-96.

Heard Mr.J.Deb for interim relief
prayer. The respondents are directed
to keep the impugned transfer order in
so far as it relates to the applicant
in abeyance till further order with
liberty to them to apply.

contd/-

(2) OA 248/96

29-11-96

List for order on 19-12-96.

Notice duly served
on respondent No-
1, 2, & 5.

2/11/96

w/statement has not
been submitted.

13/12

lm

29/11

Member

19.12.96

Learned counsel Mr J. Deb for
the applicant. Learned Sr. C.G.S.C. Mr S.
Ali and learned Addl. C.G.S.C. Mr A.K.
Choudhury for the respondents. Written
statement has not been submitted.

List for written statement and
further orders on 9.1.1977.

Member

nkm

20/12

9.1.97

Mr N.Nath for the applicant. Mr
S.Ali, Sr.C.G.S.C for the respondents
seeks short adjournment to file writ-
ten statement.

List for written statement and
further orders on 24.1.1997.

Member

10.1-97

W/S filed by 1st
R. No. 1-5.

pg

9/11

29-1-97

None for the applicant. Mr.S.Ali
Sr.C.G.S.C. submits copy of the written
statement. Let copy of the written state-
ment be served on the counsel ~~for~~ of the
applicant. Case is ready for hearing.

List for hearing on 19-2-97.

Member

4-2-97

Copy of order dated
27-1-97, sent to the
applicant Adv. also.
w/S Issued.

lm

30/1

18.2.97

Ready for hearing.

18/2

19.2.97

Mr J. Deb, learned counsel for the applicant, is present. Written statement has been submitted. Mr Deb may submit rejoinder, if considered necessary, with copy to Mr S. Ali, learned Sr. C.G.S.C., before the date of hearing.

List for hearing on 12.3.97.

[Signature]
Member

nkm

[Signature]
19/2

12.3.97

Mr N.Nath for the applicant prays for adjournment. Allowed.

List on 19.3.1997 for hearing.

[Signature]
Member

11-3-97

Rejoinder *[Signature]*
pg

on b/h of Applicant-
against us w/s. *[Signature]*
13/3

19-3-97

Learned counsel Mr.N.Nath for the applicant. Mr.S.Ali, Sr.C.G.S.C. for the respondents. Heard in part. Adjourned for hearing on 26-3-97.

Mr.S.Ali, submits that he wants to produce records in support of his contention. Mr.Ali shall produce the records through which the transfer of the applicant to Itanagar was ordered on the next date of hearing for perusal of this Tribunal.

[Signature]
Member

25-3-97

1) w/s and Rejoinder
has been submitted.

lm
[Signature]
20/3

26.3.97

This case was already heard by the Hon'ble Member(A). Let this matter be placed before the Hon'ble Member (A) on 2.4.97.

[Signature]
Vice-Chairman

nkm

1) Notice duly served
on a.p.Nos 1, 2 & 5.
2) w/statmt. has been b/w
3) Rejoinder has not been
b/w
4) No appearance has been
b/w

[Signature]
11/3

[Signature]

2) w/statmt. & Rejoinder
has been b/w
1) No appearance has been
b/w

[Signature]
13/3

[Signature]
25-3

2.4.97

Mr N.Nath, learned counsel for the applicant. ~~and~~ Mr S.Ali, learned Sr.C.G.S.C for the respondents submit that records are not with him and that the Deputy Director General, North Eastern Region, All India Radio Guwahati may be directed to produce the relevant records before the Tribunal. Mr Nath reiterates that production of the record is essential for proper decision of the issue.

Hearing adjourned to 9.4.1997.

The respondent No.2 is directed to produce or cause to be produced File No.DDG(NE)/Transfer/96 of his office through which the impugned transfer of the applicant was effected on 9.4.97 positively.

Office to serve a copy of this order on respondent No.2 within 4.4.97.


Member

By order

pg
3/4

9.4.97

le. copy.

3/4

3-4-97

Copy of The order
Dt-2-4-97 were
prepared to serve
on R.No-2 and
Sent to D. Section
on 3-4-97.

4-4-97

Copy of The order
Issued R. Post A.D.
vide D.No-1046,4047
Dt- 3/4/97.

W/ statement - v. Refrain
chr. b/w
8/4

Mr J.Deb with Mr N.Nath for the applicant. Mr S.Ali, learned Sr.C.G.S.C produced the File No.DDG(NE)/Transfer 96 of the office of the Deputy Director General, All India Radio, North Eastern Region, Guwahati for perusal of this Tribunal. He has also furnished copies of certain documents.

Counsel of both sides have completed their submissions. Hearing concluded. Judgment reserved.


Member

16.4.97

None, for the applicant. Mr S.Ali,
Sr.C.G.S.C for the respondents.

Judgment and order pronounced. The
application is disposed of in terms of
the order.

Interim order shall remain in force
as indicated in the body of the order.
No order as to costs.

File No.DDG(NE)/Transfer/96 produced
by Mr S.Ali should be returned to
him under acknowledgement.

GA
Member

pg

for 17/4

Recd. with thanks
(R.D. Vakil)
R/Vakil 22/4/97.
PT to DDG(NE)

27.4.97

Copy of the final
order has been sent
to the D/Action for issuing
the same to the parties
through Regd. mail A/D.
vide No. 1573 to 1578
dt. dated 2/5/97.

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

O.A. NO. 248/96
T.A. NO.

DATE OF DECISION 16-4-1997.

Shri Anupam Bhattacharjee

(PETITIONER(S))

Mr.J.Dev & Mr.N.Nath.

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India & Ors.

RESPONDENT (S)

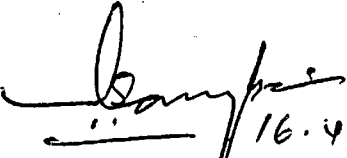
Mr.S.Ali, Sr.C.G.S.C.

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 ? Yes
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ? NO.
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble ADMINISTRATIVE MEMBER


16.4.97

8

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.248/96

Date of the Order: This the 16th April 1997.

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

Shri Anupam Bhattacharjee.

Upper Division Clerk

All India Radio,

Chandmari, Guwahati-3.

Kamrup (Assam)

... .. Applicant.

By Advocate Mr.J.Dev & Mr.N.Nath.

-Vs-

1. The Union of India,
Through the Secretary to the
Govt. of India, Ministry of Information.
and Broadcasting,
New Delhi-1.
2. The Director General,
All India Radio, Akashvani Bhawan,
Parliament Street,
New Delhi.
3. The Deputy Director General,
North Eastern Region,
All India Radio,
All India Radio Campus,
Chandmari, Guwahati-3.
Kamrup Assam.
4. The Station Director,
All India Radio,
Chandmari, Guwahati-3.
Kamrup, Assam.
5. Assistant Director,
All India Radio, Chandmari
Guwahati-3.
Dist.Kamrup(Assam)

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

O R D E R.

SANGLYINE, MEMBER(A):

The applicant is an Upper Division Clerk in the office of the All India Radio, Guwahati. He was transferred to All India Radio, Itanagar Vide Order No. DDG(NE)/Transfer/96/161 dated 31-7-1996. His representation against the transfer order had been rejected by the respondents. Hence this application.

contd/-

2
16.4.97

9

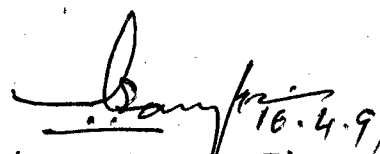
2. The contention of the applicant in this application is that the impugned order of transfer is not sustainable in law on account of the following facts:-

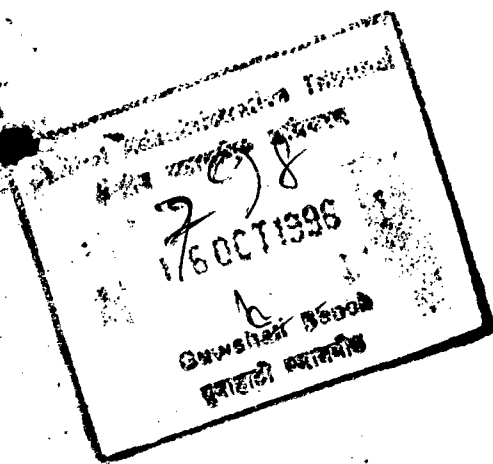
- 1) The Deputy Director General, North Eastern Region, All India Radio, Guwahati is the authority competent to make transfer of Upper Division Clerks;
- 2) The then Deputy Director General, Sri Thanmawia had retired from service on attaining the age of superannuation on 31-5-96;
- 3) No one was appointed to hold the post of Deputy Director General, North Eastern Region, All India Radio, Guwahati till the date of issue of the impugned transfer order; and
- 4) The Assistant Director, All India Radio, Guwahati, Respondent No.5 has no jurisdiction or power to issue the impugned transfer order.

3. Heard counsel of both sides. Mr.S.Ali, Sr.C.G.S.C. appearing for the respondents is unable to controvert the aforesaid factual positions. Therefore, I direct that the respondents shall reconsider the request of the applicant for cancellation of his transfer to Itanagar. For the purpose the applicant is directed to submit a representation to the competent authority of the respondents within one week from to-day. The competent authority of the respondents shall dispose of the representation of the applicant with a speaking order within one month from the date of receipt of the representation of the applicant.

The interim order dated 29-11-96 shall remain in force till disposal of the representation.

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


(G.L.SANGLI) (INE)
ADMINISTRATIVE MEMBER



Filed by -
Sri Anupam Bhattacharjee
- Applicant
Through -
Jasbanta Deb
- Advocate
196.10.96.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH

BETWEEN

Sri Anupam Bhattacharjee ... APPLICANT.

- AND -

The Union of India & ors. ... RESPONDENTS.

DETAILS OF APPLICATION

1. Particulars of the applicant:

- i) Name of the applicant : Anupam Bhattacharjee.
- ii) Name of the father : ^{late} G.M. Bhattacharjee.
- iii) Age of applicant : 34 (thirty four) years.
- iv) Designation and particulars of Office : Upper Division clerk in
(Name and Station) the Office of the All India
in which employed. Radio, Chandmari, Guwahati-3. Assam
- v) Office Address : All India Radio,
Chandmari, Guwahati-3.
District-Kamrup (Assam).
- vi) Address for service : C/O. Anita Roy,
of notice. R.G. Barua Road, Battelion Gate,
Near South Point English School
P.O. Binovanagar, Guwahati-18.

...contd...

Copy may be sent
upon receipt of S.O. C.A.T.
Advocate

2. PARTICULARS OF THE RESPONDENTS:-

1. The Union of India,
Through the Secretary to the
Govt. of India, Ministry of Information
and Broadcasting,
New Delhi- 1.
2. The Director General,
All India Radio, Akashvani Bhawan,
Parliament Street
New Delhi.
3. The Deputy Director General,
North Eastern Region,
All India Radio,
All India Radio Campus,
Chandmari, Guwahati-3.
Dist- Kamrup, Assam.
4. The Station Director,
All India Radio
Chandmari, Guwahati-3.
Dist. Kamrup, Assam.
5. Assistant Director
All India Radio, Chandmari
Guwahati, - 3,
Dist. Kamrup (Assam.)

3. PARTICULARS OF THE ORDER AGAINST WHICH APPLICATION IS MADE:

The order of transfer issued by the
Assistant Director on behalf of the
Deputy Director General (N.E.)
A.I.R. Guwahati vide order/ Memo. No.
DDG(NE)/ Transfer/ 96/161 dated 31-7-56.

Contd...

12

4. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

5. Limitation:-

The applicant further declares that the application is within the limitation prescribed in section 21 of the Administrative Tribunal Act, 1985.

6. Facts of the Case:-

(1) That the applicant is a citizen of India and has been working as a Central Govt. Employee in the office of the All India Radio at its Guwahati Station under the Ministry of Information and Broadcasting, Govt. of India. The applicant was originally appointed as Lower Division Clerk at A.I.R. Guwahati by order dated 29-3-86 issued by the Station Director (Respondent No.4) and according he joined service on 4-4-86. Subsequently, the applicant was promoted to the post of Upper Division Clerk on ad-hoc basis vide order dated 17-1-91 w.e.f. issued by the Station Director and thereafter his promotion was regularised w.e.f. 4-4-91 by order dated 10-4-91. Since his appointment, the applicant has been discharging his duties to the best of his ability and to the fullest satisfaction of his superiors.

Copies of the appointment letter dt. 29-3-86 and order dt. 17-1-91 and 10-4-91 are annexed hereto and marked as ANNEXURES 'A' 'B' and 'C' respectively.

Contd...

AB

(II) That the applicant begs to state that he is the only son of his deceased parents and has been staying in a rented house at Guwahati along with his wife and only child. His wife and the child both are sick and ailing need continuous medical treatment and the applicant is the only person to look after them in all respect. Except the applicant, there is none to look after his family.

(III) That the applicant begs to state that since last six months a conspiracy was going on to transfer him at the behest of some higher officials of A.I.R., Guwahati. Ultimately a transfer order was served upon him being order No. DDG(NE)/transfer/96/161 dated 31.7.96 issued by the Assistant Director for Deputy Director General(NE). The applicant was asked to join All India Radio, Itanagar in the same capacity and also asked to leave station on the afternoon of 9.8.96 vide order No. 24(3)/96-S/3778-87 dated 2.8.96. Subsequently the said order was partially modified by another order being order No. 23(3)/96-S/4176 dated 13.8.96 by which he was asked to leave the station on the afternoon of 8.11.96 instead of 9.8.96 on the basis of an application made by the applicant.

Copies of the original transfer order dated 31.7.96 and order dated 2.8.96 and 13.8.96 are annexed hereto and marked as ANNEXURES D, E and F respectively.

...contd...

-5-

14

IV. That the applicant begs to state that there are numbers of Upper Division Clerk at the Guwahati Station quite senior to the applicant has been working since long time. In view of the above, as per seniority they ought to have been transferred instead of the applicant. As such, it is apparent from the above fact that the issuance from the above fact that the issuance of order of transfer is nothing but a conspiracy to oust the applicant from Guwahati station under the guise of the transfer order for the reasons best known to the concern authority.

V. That the applicant states that recently he had been utterly surprised to know that though the Deputy Director General A.I.R.(N.E., Respondent No. 1) is the transferring authority of the applicant and Mr. Thanmwai was holding the post of Deputy Director General, A.I.R. (NE) has already been retired from service on attaining the age of superannuation s.e.f. 31st. May' 96 and the said original order of transfer of the applicant was issued on 31-7-96 on his behalf as if the same have been issued by him, and it is crystal clear and apparent on the face of the record thatx

That Sir, none was holding the post of DDG(N.E) during the relevant time the order (ANNEXURE 'D') is illegal without jurisdiction ineffective, inexecutable, inoperative and in no way maintainable in the eye of law which is liable to be set aside and quashed.

(VI) That the applicant states that the said order of transfer of the applicant has been either manufactured to oust the

Contd....

7/10/97

-6-

15

applicant by way of transfer by hook or crook is nothing ~~nothing~~ but a mere devise to materialised the object of the conspiracy by the conspirators and as such, the same is malafide, illegal and is liable to be set aside and quashed.

7. Details of the remedy is exhausted:

The applicant has no other appropriate remedies available to him in the instant case except the instant application.

8. Matter not previously fixed or pending before any other Court.

The applicant declares that he has not filed any application, writ, petition or suit regarding the matter in respect of which this application has been made nor any such application, writ petition or suit is pending before any of them.

9. Relief(s) sought.

In view of the facts mentioned in para 6 above, the applicant prays for the following relief(s)

- I. For an order to set aside the orders of transfer dt. 31-7-96, 2-8-96 and 13-8-96 issued by the Assistant Director (Respondent No. 5) and to allow him to continue his service at A.I.R., Guwahati as U.D.C.

Contd....

A.B. Singh

II. Cost of the application including cost of typing.

III. Any other appropriate relief or reliefs as the Hon'ble Tribunal may deem fit and proper. The above reliefs are sought on the following amongst other.

G R O U N D S.

- I. For that there being number of Upper Division Clerks senior to the applicant who has been working since long time, ought to have been transferred instead of the applicant.
- II. For that the impugned order of transfer itself without jurisdiction and is illegal as it has been issued on behalf of Deputy Director General (NE) who is the transferring authority, after retirement of the concern person from service.
- III. For that the DGG (NE) Respondent No.3 being the transferring authority in his absence, The Asstt. Director, Respondent No.5 cannot pass any order of transfer and as such the orders transferring the applicant is not only illegal and without jurisdiction, even the same cannot be treated as an order of transfer in the eye of law.
- IV) For that in any view of the matter the order of transfer being Annexures D', E' and F' are liable to be set aside and quashed.
10. Interim order, if any prayed for:-
For immediate stay of the orders of transfer dated 31-7-96 as well as the orders dated 2-8-96 and 13-8-96 (i.e. Annexure- D', E' and F').
11. Does not arise.
12. Particulars of the Bank Draft/Postal Order in respect of the application fees.

Contd....

1. Name of the Bank on which drawn.

2. Demand Draft No. with date.

Or

1. Number of Indian Postal Order.

11 444089

2. Name of the issuing post office.

Ulubari, Guwahati.

3. Date of issue of Postal order.

15-10-96.

4. Post office at which payable.

Guwahati.

13. List of enclosures: A to F.

1. Appointment letter dt. 29-3-86 appointing the applicant as LDC(Annexure A)

2. Order dated 17-1-91 promoting the applicant to the post of UDC on adhoc capacity(Annexure B)

3. Order dated 10-4-91 regularising the promotion of the applicant to the post of UDC(Annexure C)

4. The original transfer order dated 31-7-96(Annexure -D)

5. The order dated 2-8-96 by which he was asked to leave the station on 9-8-96(Annexure -E).

6. The order dated 13-8-96 by which the earlier order dt. 2-8-96 was modified (Annexure -F).

Contd...Vefification...

Adhikari

- 9 -

18

VERIFICATION.

I, Anupam Bhattacharjee, aged about 34 years. Son of Late B.K. Bhattacharjee, by occupation Service, resident of Binova Nagar, Guwahati- 18, District- Kamrup, Assam. Do hereby verify that the contents of paras 1- to 13 are my knowledge, and I believe to be true on legal advice and that I have not suppressed any fact.

Date: 16.10.96.

Place : Guwahati.

2

Anupam Bhattacharjee

Signature of the Applicant.
(Anupam Bhattacharjee.)

ANNEXURE - A

GOVERNMENT OF INDIA
ALL INDIA RADIO;::: GAUHATI
GAUHATI

NO. 1(10)/86-S

Dated Guwahati, the 29-3-86

M E M O R A N D U M

Shri Anupam Bhattacharjee, a-registered
~~candidate-of-the-the-Employment-exchange~~, is offered a tem-
porary post of Clerk-Grade-II at Gauhati on the following
term and conditions:

- (1) The post is Class III (Non-gazetted) and carries a scale of pay of Rs. 260-6-290-EB-6-326-8-366-8-390-10-400/- will be given an initial pay of Rs. 260/- in the scale plus other allowances as admissible under the rules.
- (2) The appointment is purely temporary and untill further orders. It will not confer any title to permanent employment.
- (3) The services of the appointee will be terminable on one month's notice from either side. The appointing authority, however, reserves the right of terminating without assigning any reasons 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.
- (4) The appointee will be on trial for a period of six months from the date of appointment which may be extended or curtailed at the discretion of the appointing authority. During the period of trial, the services of the appointee may be terminated at any time without notice and without any cause being assigned

Attended
S
Amocat

- Contd -

- (5) Other conditions of service will be governed by the relevant rules and orders in force from time to time.
- (6) The appointee shall strictly observe the rules laid down in the Central Govt. Servants' conduct Rules, 1955. Any breach of these rules will render him liable for disciplinary action.
- (7) The appointee will be liable to be posted and transferred any where in India.
- (8) The appointee will have to give an undertaking that he has not more than one wife living. In the event of the declaration in the negative being found to be incorrect after his appointment, he will be liable to be dismissed from service.
- (9) On joining the post, the appointee will be required to take an oath of Allegiance to the Constitution of India or make a solemn affirmation to that effect.
- (10) The appointee will be required to produce a certificate of physical fitness from the competent medical authority before he is allowed to join duty.
- (11) No travelling allowance will be admissible for joining the appointment/Travelling Allowance at the rate admissible under the relevant rules in force will be allowed for joining the appointment.
- (12) At the time of joining the post he should produce two vouching certificates of character in the enclosed form not more than 3 months' old duly signed and stamped by two Gazetted Officers or Stipendary Magistrates of Central or State Government not related to him.
- (13) The appointee will be required to produce the following certificates in original:-
 - (a) Certificates in proof of his academic qualifications.

Accepted
Advocate

- Contd -

- (b) Certificate of age.
- (c) Undertaking referred to in (8) at page 1.
- ** (d) Certificate in the prescribed form in support of his claim to belong to a Scheduled Caste/Tribe or Anglo Indian Community.
- ** (e) Certificate in the prescribed form in support of his claim that he is a refugee.
- (f) Permanent Residence Certificate.
- (14) If any declaration given or information furnished by the appointee proved to be false or if the appointee 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.
- (15) He will be liable to transfer, at any time, to service under a public corporation. if formed and that on such transfer he will be liable to conditions of service to laid down for the employees of that corporation.

If Shri Bhattacharjee accepts the office on the above terms and conditions he is requested to intimate his acceptance to the undersigned and report himself for duty by 26th April '86. In case no reply is received within a fortnight of the date of issue of the Memorandum the ~~offer~~ offer will be treated as cancelled without any further reference to him.

sd/- 29/3/86
Station Engineer,
All India Radio,
Gauhati

To,
Shri Anupam Bhattacharjee,
C/O Shri H.R. Paul,
Bhaskarnagar, P.O. Binovanagar,
Kahilipara, Gauhati-781018
Assam

*** To be deleted where not required

GOVERNMENT OF INDIA
ALL INDIA RADIO ::: GUWAHATI

NO. 24(2)/91-S

Guwahati, the 17.01.1991.

O R D E R

With reference to his letter dated 01.01.1991, intimating of acceptance of the offer conveyed vide this office offer of appointment No. 24(2)/90-S/4031 dated 31.12.90, Shri Anupam Bhattacharjee, Cler Grade-II at this Station is appointed to the post of Clerk Grade-I at All India Radio, Guwahati on ad-hoc basis with effect from the forenoon of 01.01.1991 in the scale of pay of Rs.1200-30-1560-EB-40-2040/- untill further orders.

This appointment will not confer upon him any right or privilege for regular appointment or continuable as Cler Grade-I. He can be reverted to his substantive post of Clerk Grade-II at any time and without assigning any notice.

Sd/-

(G. C. BATASYAL),
Administrative Officer,
for Station Director

Shri Anupam Bhattacharjee,
clerk grade - I,
AIR, Guwahati.

Handwritten signature and initials

283
ANNEXURE - C

GOVERNMENT OF INDIA
ALL INDIA RADIO :: GUWAHATI -781003

NO. 24(2)/91-S/211

Guwahati, the 5.4.91.
10 APR 1991

O R D E R

The undersigned is pleased to appoint Shri Anupam Bhattacharjee who is holding to the post of Cler Grade -I (Ad-hoc) as regular Clerk Grade-I with effect from the forenoon of 4th April 1991 at this Station, the day he completed 5 (five) years regular continuous service in the grade of Clerk Grade-II.

He will be on probation for a period of two years with effect from the forenoon of 04-04-1991 which may extend or curtail at the discretion of the competent authority.

Sd/-

(P. K. SINGSON),
STATION DIRECTOR

Shri Anupam Bhattacharjee,
Clerk Grade-I,
All India Radio,
Guwahati.

Attyd
Sd/-
Sd/-

GOVERNMENT OF INDIA

DY.DIRECTOR GENERAL :: ALL INDIA RADIO

NORTH EASTERN REGION::GUWAHATI.

No.DDG(NE)/Transfer/96/161 Dated, Guwahati, the 31st. July '96.

O R D E R

DDG(NE) is pleased to order the following transfer in the Cadre of UDC's in the North Eastern Region of AIR, CCW etc. with immediate effect.

<u>Sl.No.</u>	<u>Name and Design.</u>	<u>transferred</u>		<u>Remarks</u>
		<u>from</u>	<u>to</u>	
1.	Shri Mihir Kr.Das, UDC	A.I.R. Guwahati	O/O E.E. (E) CCW, AIR, Guwahati.	
2.	Shri Kandarpa Kr. Bhattacharjee, UDC	O/O E.E. (E) CCW, AIR, GHY	AIR, GHY	Against Sri M.K.Das.
3.	Shri S.P.Gurung, UDC	AIR, Kohima	NES, AIR Shillong	Against a vacant post.
4.	Shri D.P.Dhar, UDC	AIR, Aizawl	O/O Supdt. Engineer (C) CCW, AIR, Guwahati	Against Sri Sri P.R.Deka promoted AC AC to CCW AIR, Itanagar.
5.	Sri Anupam Bhattacharjee UDC.	AIR, GHY	AIR, Itanagar.	Against a vacant post.
6.	Miss Dipali Boro	AIR, Itanagar	AIR, GHY	Against Sri A.Bhattacharjee

Sl.No.3 and 6 are not entitled for transfer TA/DA and joining time since the transfer are made on their own request.

Shri D.P.Dhar's transfer will be effective as soon as Shri P.R.Deka, UDC on promotion joins at CCW, AIR, Itanagar as Accountant.

sd/ D.N.Basumatari
Asstt. Director,

for Dy. Director General (NE).

...contd...

Attended
Advocate

Copy forwarded to:

1. The Ex.Engineer (E), Civil Construction Wing, All India Radio, Rajgarh Roaf, Guwahati-3.
2. The Station Director, All India Radio, Pasighat for information.
3. The SD, AIR, Kohima for information.
4. The Director, North Eastern Service, All India Radio, Shillong for information.
5. The Station Director, All India Radio, Aizawl for information.
6. The Supdt. Engineer (C), Civil Construction Wing, All India Radio, Zoo Narangi Road, Guwahati-24 for information.
7. The Station Director, All India Radio, Itanagar for information.
8. The Dy. Director, ~~xx~~ General (NE), Doordarshan, PPG, R.G. Baruah Road, Guwahati-24.
9. The SD, AIR, Guwahati w.r. to his letter No. 24(3)/96-S dated 10.7.96 and 24(3)/96-S/dated 11th July, 1996. As regards transfer proposal dated 10.7.96 of Sl. No. 1 (one) has been kept pending at present for future consideration.
10. The Zonal Secretary, ADSA, Guwahati Unit, Guwahati.

sd/- D.N. Basumatari

Asstt. Director

for Dy. Director General (NE).

Received
[Signature]
Advocate

Annexure-E

GOVERNMENT OF INDIA

ALL INDIA RADIO ::: GUWAHATI

NO.24(3)/96-S/3778-87

Dated, Guwahati, 2nd Aug, 1996.

O R D E R

In accordance with the DDG(NE), AIR, Guwahati's order No. DDG(NE)RTransfer/96/160 dated 31.7.96 Shri Anupam Bhattacharjee, UDC at this station who is under order of transfer in the same capacity to All India Radio, Itanagar stands relieved of his duties at this station on the afternoon of 9.8.96 with instruction to report himself for duty to the Station Director, AIR, Itanagar after ~~availing~~ availing of normal joining time as admissible under the rules.

He should return the Identity Card, Library Books and store items etc. if any issued to him before leaving and ensure that no dues remain outstanding against him so far as this station is concerned.

sd/- Chabin Medhi
Asstt. Station Director,
for Station Director.

Sri Anupam Bhattacharjee
Upper Division Clerk.
All India Radio.
Guwahati.

Copy to:

1. The Dy. Director General (NE), All India Radio, Guwahati with reference to his order referred above for kind information.
2. The Station Director, All India Radio, Itanagar for information. The Service Book, Leave Accounts and LPC of Sri A. Bhattacharjee will be sent separately in due course. He has availed 5 days casual leave during the current calendar year.
3. Hindi Officer for Hindi version.
4. PA to SD
5. Accountant (2 copies)
6. Librarian
7. Smti. P. Das, LDC.
8. Shri P. Naha, UDC.
9. Personal file of Shri A. Bhattacharjee.

for STATION DIRECTOR

Handwritten signatures and initials:
Attyl
H. S. Das
H. S. Das

GOVERNMENT OF INDIA
ALL INDIA RADIO ::::: GUWAHATI.

Annexure-F

NO. 24(3)/96-S/2176

Dated, Guwahati, the 13th. Aug, 1996.

ORDER

In partial modification of this office's order of even number dated 2.8.96, Sri Anupam Bhattacharjee, UDC of this station who is under order of transfer in the same capacity to All India Radio, Itanagar stands relieved of his duties at this station on the afternoon of 8.11.96 instead of 9.8.96 vide DDG(NB), AIR Guwahati's order No. DDG(NB)/Transfer/96/196 dated 8.8.96.

The other terms and conditions will remain unchanged.

Sri Anupam Bhattacharjee,

Upper Division Clerk.

All India Radio,

Guwahati.

sd/- Chabin Medhi

Asstt. Station Director,

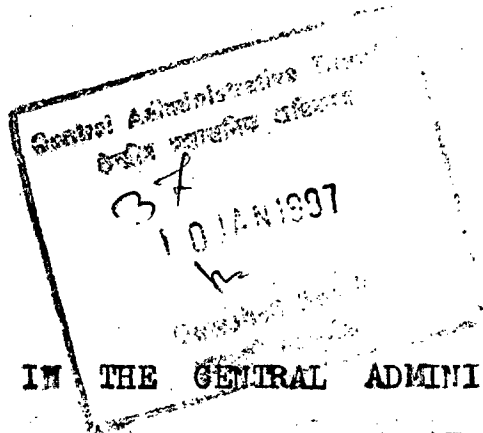
For Station Director.

copy to:

1. The Dy. Director General (NB) All India Radio, Guwahati with reference to his order referred to above for kind information.
2. The Station Director, All India Radio, Itanagar for information.
3. The Hindi Officer, AIR, Guwahati for Hindi Version.
4. PA to SD.
5. Accountant (2 copies).
6. Library and Information Asstt.
7. Sri P. Naha, UDC.
8. Smti. Paduni Kalita, LDC
9. Personal file of Sri Anupam Bhattacharjee.

for STATION DIRECTOR.

Accepted
Advocate



(19)

24

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

Filed by
Advocate
10/1/97

O.A. No. 248/96

Shri. Anupam Bhattacharjee

- Versus -

Union Of India & Others

- A N D -

IN THE MATTER OF :

Written statements submitted by the
Respondents No. 1, 2, 3, 4 and 5.

WRITTEN STATEMENTS :

The humble Respondents submit their
written statements as follows :-

1. That with regard to the statements made in Paras 1, 2, 3, 4, and 5 of the application, the Respondents call upon the applicant to prove the same. Save and except what will appear from records, nothing else will be admitted.
2. That with regard to the statements made in paras 6(i) of the application the Respondents state that those are matters of record. Save and except what appears from record nothing else is admitted.
3. That with regard to the statements made in para 6(ii) of the application, the Respondents state that save and except what are matters of record nothing else is admitted.

Received
Copy
Advocate
for Applicant
19-02-97

contd... P-2/-

4. That with regards to the statements made in Para 6(iii) of the application the Respondents state that the statement to the effect that there has been a conspiracy for the last six months to transfer the applicant at the behest of some higher Officials of All India Radio, Guwahati is false, ^{shivolous} ~~faveleous~~ and motivated. The rest of the statements are matters of record. Save and except what appears from record nothing else is admitted.
5. That with regards to the statements made in Para 6(iv) of the application, the Respondents beg to state that the applicant's transfer is a routine transfer for administrative convenience and in public interest. There is no conspiracy to retain the seniors and to transfer him as alleged. It is only an imaginary thought on the part of the applicant. In fact, those who are required to be transferred in the exigencies of service, have been transferred.
6. That with regards to the statements made in para 6 (v) of the application the Respondents beg to state that the applicant has misconception about his transfer order. The transfer order passed by the earlier D.D.G.(NE) can not go along with his retirement. Applicant's transfer order is an official order. If ~~th~~ the competent authority after transferring the applicant goes on retirement the order passed by him does not lose its force. The said order will be implemented by the successor of the retired Officer as an Official act. So, there is nothing wrong in the transfer order.
7. That with regard to the statements made in Para 6(vi) of the application, the Respondents beg to state that it is not correct that the transfer order is a

manufactured one and has been made to oust him. The order of transfer cannot be manufactured by any body. The same can be passed by the competent authority and it can be issued by sub-ordinate Officer. The transfer order has been passed by the Competent authority and not by any other person. The transfer of Official is a matter of administrative convenience and public interest. The authority concerned is supposed to know who is to be transferred where and when. The authority is the best judge of it. There is no conspiracy, malafide and arbitrainers in transferring the applicant from Guwahati to Itanagar as alleged. Transfer being an incidence of service ~~being~~ and the service being transferable, no one can be allowed to question it on the ground that it will not suit him.


8. That with regard to the statements made in Para 7 of the application the Respondents beg to state that the applicant has made a representation against his transfer order to the authority and the competent authority after giving due consideration to his representation has rejected the same and the same has been intimated to the applicant accordingly. Apart from what have been stated herein, all other statements are denied.

9. That with regard to the statements made in Para 8 of the application the Respondents save and except what are available from record, nothing else is admitted.

10. That with regards to the statements made in para 9 of the application regarding reliefs sought for, the Respondents beg to state that the applicant is not entitled to any of the reliefs sought for and that the application is fit to be dismissed.
11. That regarding grounds for relief, the Respondent's beg to state that none of the grounds is maintainable in law as well in facts and as such the application is liable to be dismissed.
12. That regarding statements made in paras 10 to 13 the Respondents do not admit the same.
13. That the Respondents submit that the application is devoid of merit and as such the same is liable to be dismissed.

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

I, Shri. M. K. Singh, Station Director,
All India Radio, Guwahati do hereby solemnly declared
that the statements made above in the Written statements
are true to my knowledge, belief and information and
I sign the verification on this 9th day of
January, 1997 at Guwahati.


DECLARATION
(M. K. SINGH)
STATION DIRECTOR,
ALL INDIA RADIO
GUWAHATI.

THE CENTRAL ADMINISTRATIVE
BENCH AT GUWAHATI.

93

Filed By —
Anupam Bhattacharyya
32
Through —
Navarosa Nair
Advocate
11.3.97

-versus-

-And-

Rejoinder on behalf of the
applicant against the written
statement filed by the Respondent
No. 1,2,3,4 and 5.

1. That with regard to the statements made in paragraph 1 of the written statement, the applicant reiterates, and reaffirm the statements made in paragraphs 1,2,3,4 and 5 of the original application.

3. That with regard to the statements made in paragraph 5 of the written statement, the applicant

...2

I undertake to
provide copies of
the hearing statement
to the Central Court,
~~Advisory~~
11-3-97

reiterates and reaffirms the statements made in paragraph 6(iv) of the original application. The applicant begs to state that as per transfer policy of the Ministry of the Information and Broadcasting while considering the posting and transfer of officials as a normal rule, a person with the longest continuous stay at the station (irrespective of rank(s)) should ordinarily be transferred first. There are number of officials senior to the applicant who have been staying continuously at the Guwahati station for a period of longer than that of the applicant. ^{The name} 4 ~~list~~ of some of those officials staying at Guwahati, centre for a longer period than that of the applicant is given below.

1. G.C.Roy
2. A.K.Bora
3. P.C.Das
4. A.Sarma
5. P.K.Sarma
6. G.C.
7. T.C.Sarma
8. H.K.Nerzery
9. B.C.Das
10. N.Barua
11. A.Kt.Dey
12. P.Naha.
13. P.Chakravarty
14. M.K.Das

As per transfer policy, any of these officials should have been transferred first instead of the applicant.

A copy of the transfer policy of the

3.

information and Broadcasting is annexed herewith and marked as Annexure-G.

4. That with regard to the statements made in paragraph 6 of the written statement the applicant reiterates and reaffirms the statements made in paragraph 6(v) of the original application. The applicant begs to state that the then D.D.G.(N.E.) who is the transferring authority, had retired from service on 31.5.96 on attaining the age of superannuation. But to the utter surprise of the applicant his transfer order was issued by the D.D.G.(N.E.) on 31.7.96 i.e. after his retirement. It is pertinent to mention here that even the proposal of transfer of the applicant itself was sent to the D.D.G.(N.E.) by the Station Director, AIR, Guwahati on 10.7.96 and ~~already~~ retired from service vide letter No. 24(3)/96-5/3138 whereas the then D.D.G.(N.E.) had already retired from service w.e.f. 31.5.96. Therefore, issuance of alleged transfer order to the applicant by the then D.D.G.(N.E.) does not and cannot arise at all. Further the applicant states that even if the said order of alleged transfer to have been issued by the then D.D.G.(N.E.) after his retirement, the same is illegal apparent on the face of the record and without jurisdiction which is not maintainable in the eye of law. In view of the above, the alleged order of transfer cannot be said to be an order transferring the applicant from AIR, Guwahati to the AIR, Itanagar. Accordingly the said order cannot be acted upon and is inoperative.

5. That with regard to the statements made in paragraph 7,8,9,10 and 12 of the written statement, the applicant reiterates and reaffirms the statements made

*B. Thanmawia
retired on 31.5.96
Shri. Leli was
appointed to the post
of charge in Aug-96.
None in between.*

4.

in paragraph 6(vi), 7,8,9,10,11,12 and 13 of the original application.

6. That with regard to the statements made in paragraph 11 of the written statement the applicant reiterates and reaffirms the ^{Grounds Set forth being} ~~statements made in~~ ^{good} the grounds for relief.

7. That the ^{Submission} ~~statements~~ made in paragraph 13 of the written statement are tenable neither in law nor in facts.

VERIFICATION

I, ^{Anupam} ~~Anupam~~ Bhattacharjee, aged about 34 years, son of Late B.K. Bhattacharjee by occupation service, resident of Binova Nagar, Guwahati-18 District Kamrup, Assam do hereby verify ~~the~~ statements made in paragraphs 1 to 7 of the rejoinder are true to my knowledge, belief and information and I sign this verification on this the 10 th day of March, 1997 at Guwahati.

Anupam Bhattacharjee.
DECLARANT

Government of India
Directorate General: All India Radio

No. 10(18)/96 - S.II 11516

New Delhi, the 15/11/96

Office Memorandum

Subject :- Transfer posting at various AIR stations/offices
in the grade of administrative/ministerial cadre.

* * * * *

In accordance with the transfer policy of the Ministry of Information and Broadcasting, the tenure of posting of officials at various All India Radio Stations/Offices categorised as 'A' and 'B' is 4 years and at Stations/Offices categorised as 'C' it is one/two year(s). It has, however come to the notice that while some persons are continued to be retained at the same station even after rendering more than 8 to 10 years continuous stay at the same station, others with comparatively less period of stay are transferred. This leads to unavoidable representations/VIP references and in some cases even litigation from effected persons. All zonal Heads of AIR are, therefore, directed to ensure that while considering the posting/transfer of officials as a normal rule, a person with the longest continuous stay at the station (irrespective of the rank(s) held by earlier) should ordinarily be transferred first. Director General has also desired that details of all such officials, who are covered under All India/zonal transfer liability (in the administrative/ministerial cadre i.e. from LDC to DDA) and have completed prescribed tenure of four/two years continuous stay at the Station of their present posting. Irrespective of the posts held earlier may be furnished to Staff II Section of this Directorate for information and record as it is required frequently in connection with various references received from the Ministry from time to time. The information may please be sent in the enclosed proforma so as to reach the undersigned by 10th December, 1996 positively.

(G.C. DAS)

Deputy Director Administration
for Director General

Encl : As above.

Sd/- B.K. Singh

Station Director

All India Radio

GUNA-HATI- 78/003