

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 3/96

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SECTION OFFICER (Judl.)

baht
23.1.18

ORIGINAL APPLN.NO. 3/96

OF 1995

TRANSFER APPLN.NO.

OF 1995

CONTEMPT APPLN.NO.

OF 1995 (IN NO.

REVIEW APPLN.NO.

OF 1995 (IN NO.

MISC.PETITION NO.

OF 1995 (IN NO.

Sri C.Mohan Sharma ,IFS APPLICANT(S)

-VS-

..V.P.I.. and .Ora..... RESPONDENT(S)

For the Applicant(s)

... Mr. Mr.B.K.Sharma

Mr. P.K.Tiwari

Mr. S.Sharma

Mr.

For the Respondent(s)

Mr. Mr.A.K.Choudhury Addl.CG.S.C.

OFFICE NOTE

DATE

ORDER

3-1-96

Heard Mr.B.K.Sharma. Leave to amend within two days.

The applicant is aggrieved by issuance of frequent transfer orders. It is alleged that the action of the respondents is tainted. O.A. is admitted. Issue notice to the respondent 8 weeks for written statement. Issue notice to the respondents 2 to 5 at this stage to show cause as to why interim relief as prayed may not be granted. Returnable on 23-1-96. O.A. to be listed for hearing on interim relief on 23-1-96. O.A. to be listed for orders on 23-1-96. Mr.A.K.Choudhury Addl.C.G.S.C. seeks to appear for respondent No.1.

[Signature]
Vice-Chairman

lm

QA/TA/CP/PA/MP No. of 19 O.A.3/96

OFFICE NOTE

DATE

ORDER

23-1-96

At the request of Mr.B.K.Sharma
adjourned to 7-2-96.

lm

[Signature]
Vice-Chairman

O.A.3/96

7-2-96

None is present. Adjourned to 8-3-96 for counter and further orders.

Member

~~19.4.96~~

None is present. Written statement has not been submitted.

List for written statement and

8-3-96

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

is present for the respondent No.1. He has submitted that respondent No.1 will not submit counter in this case. No counter has been submitted by respondent No.2. Mr. B. Men for the applicant. List for counter and further order on 19-4-96.

Member

lm

19.4.96

None is present. Written statement has not been submitted. List for ~~hearing~~ written statement and further order on 29.5.96.

Member

lm

18-5-96

Mr. P.K. Tiwari for the applicant. Mr. A.K. Choudhury Addl. C.G.S.C. is present for respondent No.1. None for ~~the~~ respondents Nos. 2 & 4. Written statement have not been submitted by respondent No.2 and 4. This is a transfer matter.

List for hearing on 10-7-96. In the meantime respondent No.2 & 4 may submit written statement if desire.

Inform the respondents 2 & 4.

lm

Member

8.3.96

for orders on 19.4.96

by order

Notice served on Respondents 2 & 3

Counter has not been

filed

by order

19.4.96

5-6-96

Notice duly served on Respondents 2, 3 & 4

by order

19.4.96

Notice duly served on O.P. Nos. 2, 3 & 4

19.4.96

17/6

10.7.96

Dr. Y.K. Phukan is present for the respondents.

Written statement has not been submitted.

List for hearing on 23.7.96.

In the meantime written statement may be submitted.

18-6-96

Order issued to the respondent No 2, 3 & 4.

Bow

Member

pg

Please comply.
23/7/96

W/ statement has not submitted by the Respondts no. 2 & 4. till now

23.7.96

2) Service Reports are ready on a.p. No. 2, 3, & 4

Learned counsel Mr B.K. Sharma for the applicant. Mrs M. Das, learned Government Advocate, Assam, for respondent Nos. 2, 3 and 4. She has submitted the written statement on behalf of the said respondents and copy served on Mr B.K. Sharma today. Mr B.K. Sharma seeks time for perusal and consideration of the written statement.

Hearing adjourned to 6.8.96.

Member

nkm

22-7-96

23/7

W/ S filed on behalf of Respond no. 2, 3 & 4. at Pt. 88-106. 6.8.96

Mr S. Sarma for Mr B.K. Sharma. Mr A.K. Choudhury, Addl. C.G.S.C and Dr. Y.K. Phukan for the respondents.

Mr Sarma seeks time for filing rejoinder.

List for hearing on 22.8.96. In the meantime the applicant may file rejoinder with copy to the opposite parties.

Member

22.8.96

Mr. B.K.Sharma for the applicant.

Mr. A.K.Choudhury, Addl. C.G.S.C. for the respondent No. 1.

Mrs. M. Das for the respondent Nos. 2, 3 and 4.

At the request of Mr. Sharma hearing adjourned to 11.9.96. If he desires to file a rejoinder as mentioned, a copy of the same may be served by him to the opposite parties in advance of the date of hearing.

Member

trd

22/8

16.9.96

Mr. S. Sarma for Mr. B.K.Sharma for the applicant.

Mr. A.K.Choudhury, Addl. C.G.S.C. for the respondent No.1.

None present for the other respondents.

List for hearing on 25.9.1996.

Member

trd

16/9

25.9.96

Mr. A.K.Choudhury, Addl. C.G.S.C. for the respondent No. 1.

List for hearing on 30.9.1996.

Member

trd

25/9

W/Statement has been filed
on Responds no. 2, 3 & 4.

24/9

Statement has been
filed.

7/9

30.9.96

Learned counsel Mr S. Sarma for the applicant. Learned Addl. C.G.S.C. Mr A.K. Choudhuri for respondent No.1. None for the State of Assam and other respondents.

Mr S. Sarma files rejoinder today. Let copy of the rejoinder be served on the opposite parties.

List for hearing on 12.11.96.

Member

1-10-96

nkm
m
30/9

Rejoinder to the

12.11.96

Learned Addl. C.G.S.C. Mr A.K. Choudhuri for respondent No.1. Learned counsel Ms M. Das for respondent Nos. 2, 3 and 4. However, Mr B.K. Sharma, learned counsel for the applicant has submitted leave note on account of personal difficulty.

List for hearing on 2.12.96.

Member

nkm
m
12/11

Service Reports are ready on Respsds no. 2, 3 & 4. w/Statment. has been b/w on R.No. 2, 3 & 4. Rejoinder has been b/w.

11.4.97

Mr A.K.Choudhury, learned Addl.C.C. S.C and Mr Y.K.Phukan, learned Sr. Advocate, Assam are present for the respondents.

Let this case be listed for hearing on 30.5.97.

Vice-Chairman

23-4-97

V.K. Karatmanu filed by Mr. State Sr. C. A.K. choudhury, Addl. C.G.S.C.

pg
K
15/4

w/s. has been b/w on R.No. 2, 3 & 4. Rejoinder has not been b/w.

29/5

30.5.97

Mr S. Sarma on behalf of Mr B.K. Sharma, learned counsel for the applicant, prays for an adjournment on the ground that Mr B.K. Sharma who is incharge of this case is unable to appear before this Tribunal for his personal reason. Mr A.K. Choudhury, learned Addl. C.G.S.C. and Dr. Y.K. Phukan, learned Sr. Government Advocate, Assam, has no objection.

List it on 20.6.97 for hearing.

SB
Vice-Chairman

On behalf of Mr B.K. Sharma, learned counsel for the applicant, a mention has been made by Mr M.K. Choudhury for adjournment as Mr B.K. Sharma who is in charge of the case is unable to attend court due to his personal difficulty.

Let this case be listed on 4.7.97.

SB
Vice-Chairman

30-6-97

nkm

Memo of appearance

Filed by Dr. Y.K. Phukan,
Sr. ~~Adv.~~ Govt. Adv.
Assam. and Mrs. M. Das, Gr.
G.A. Assam.

4-7-97

Heard in part. Mr. B.K. Sharma learned counsel appearing on behalf of the applicant prays for sometime to examine ~~same~~ question of law. Dr. Y.K. Phukan, Sr. Government Advocate has no objection.

List on ~~for~~ 11-7-97 for adjts. hearing.

SB
Vice-Chairman

19/6.97
1) Written statement has been filed on R-2, 3 and 4 by Mr Y.K. Phukan, Senior Govt. Advocate, Assam.

2) NO memo of appearance filed. nkm

20.6.97

3) Memo filed on R-1 by Sri A.K. Choudhary, Addl. Case.

4) Rejoinder filed on R-2, 3 and 4. 19/6/97.

19/6.97
1) Written statement has been filed.

1m

19/6

11.7.97

Dr. Y.K. Phukan, Senior Govt. Advocate, Assam prays for short adjournment as he has some personal difficulties. Mr. B.K. Sharma has no objection. Accordingly the case is adjourned till 25.7.97.

List on 25.7.97 for further hearing.


Vice-Chairman

trd
1/31/7

25.7.97

On the prayer of Mr S. Sarma, on behalf of Mr B.K. Sharma, learned counsel for the applicant, the case is adjourned till 1.8.97 for hearing.


Vice-Chairman

nkm
1/29/7

1-8-97

List on 4.8.97.
By order.

4.8.97

On the prayer of Dr. Y.K. Phukan the case is adjourned till 6.8.1997.

List it on 6.8.1997 for hearing.


Vice-Chairman

trd
1/31/7

9
O.A. 3/96

7-8-97

Dr. Y.K. Phukan learned Sr. Government Advocate prays for further time for production of records.

Let this case be listed for hearing on 12-8-97.


Vice-Chairman

W/s and Rejoinder
has been filed
11/8

19-8-97

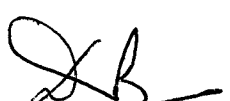
1) W/s and Rejoinder
has been filed.

lm
12.8.97

2) Memo of appearance
filed by, Mr. A.K. Choudhury,
Addl. C.G.S.C and
Dr. Y.K. Phukan, Sr. G.A.
Assam. also filed.

Heard in part.

List on 22.8.97 for further
hearing on the top of the list.


Vice-Chairman


4-9-97

pg
22.8.97

1) W/Statement &
Rejoinder has been
filed.

Dr. Y.K. Phukan, learned Govt. Advocate, Assam has produced the records. Mr. B.K. Sharma learned counsel appearing on behalf of the applicant submits that he may be allowed to go through the records. He may do so on 1.9.97 at the chamber of Registrar between 01 P.M. and 02 P.M. and the matter may come up for hearing on 5.9.97.

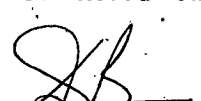
List on 5.9.97 for hearing.


Vice-Chairman

trd

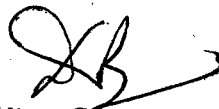
5.9.97

On behalf of Mr B.K. Sharma, learned counsel for the applicant, Mr S. Sarma prays for an adjournment because of the personal difficulty of Mr B.K. Sharma. Let this case be listed on 26.9.97 for hearing.


Vice-Chairman

26.9.97

Mr B.K. Sharma, learned counsel for the applicant, submits that certain developments have taken place and the matter is likely to be settled outside court. Therefore, he prays for sometime. Accordingly list it on 31.10.97.


Vice-Chairman

nkm

29/9

31.10.97

On behalf of Mr B.K. Sharma, learned counsel for the applicant, mention has been made that Mr Sharma has suddenly left for Delhi. Mr A.K. Choudhury, learned Addl. C.G.S.C and Dr Y.K. Phukan, learned Government Advocate Assam, have no objection if the case is adjourned. List it on 28.11.97.


Vice-Chairman

nkm

9/11

28.11.97 There is no representation.
List on 5.12.97
By order.

5.12.97

There is no representation. The application is dismissed.


Vice-Chairman

pg

8/12

16.1.
Copy of the order has been sent to the D/Sec. for sending the same to the L/Advocate of the parties.

Issued under No. 107 to 109 d. 20.1.98

W/c. and Repaiden has been filed

29/10

27.11.97

The case is ready for hearing.

27/11/97.

12
Filed by

(A) - 2 JAN 1996
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 3 of 1995

BETWEEN

(Sharma)
Shri Chandra Mohan, I.F.S.
Son of Shri Raghubir Singh,
presently posted as the Planning Officer-II,
attached to the office of the Principal
Chief Conservator of Forests,
Government of Assam,
Rehabari, Guwahati-8. *(But before could join, again
under another order of transfer as DFO, Jorhatkan)*

... Applicant

AND

1. The Union of India,
represented by the Secretary to
the Government of India,
Ministry of Environment & Forests,
C.G.O. Complex, Lodhi Road,
New Delhi 110 003.
2. The State of Assam,
represented by the Secretary to
the Government of Assam,
Department of Forests,
Dispur, Guwahati-6.
3. Shri Harish Sonowal, I.A.S.
Commissioner-cum-Secretary to the
Government of Assam,
Department of Forests,
Dispur, Guwahati-6.
4. The Principal Conservator of Forests,
Assam, Rehabari, Guwahati-8
5. Shri Abhijit Rabha, I.F.S.
Divisional Forest Officer,
Karimganj Division,
Karimganj, Dist. Karimganj.

... Respondents

DETAILS OF APPLICATION

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

The application is directed against the order

*Copied served on
Mr. AK Choudhary
3.1.96
BAIL CASE*

contained in W.T. Message FRE.23/91/221 dated 2.11.95 and Notification No. FRE.23/91/220 dated 2nd Nov. 95 issued by the Commissioner-cum-Secretary, Government of Assam, Forest Department in partial modification of the Government's earlier order No.FRE.23/91/205-A dated 5.9.95 transferring the applicant from the post of Divisional Forest Officer, Karimganj Division, Karimganj to the post of Planning Officer-II attached to the office of the Principal Chief Conservator of Forests, Assam, Guwahati, further modified vide order No FRE 3/90/P+1150 dated 16.12.95.

2. JURISDICTION OF THE TRIBUNAL :

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

3. LIMITATION :

That the applicant further declares that the instant application is being filed under the extra-ordinary circumstances, It is thus stated that the instant application fulfils the legal requirement of limitation as laid down under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

4.1 That the applicant is an Indian Forest Service Officer who belongs to 1984 I.F.S. Batch of Assam - Meghalaya Cadre. He is presently posted as Planning Officer-II (though he has not joined in the said post as yet) and attached to the office of the Principal Chief Conservator of Forests, Government of Assam, Guwahati.

4.2 That the applicant in the instant case is aggrieved by the impugned order of his transfer which is contained in a W.T. Message No. FRE.23/91/221 dated 2.11.95 and Notification No. 23/91/220 dated 2.11.95 issued by the respondent No.2/3. The aforesaid impugned order of transfer contained in the said W.T. message and the notification is a partial modification of an earlier order of transfer which was issued by Memo No. FRE.23/91/205-B dated 5.9.95 pursuant to which the applicant was transferred from the cadre post of Divisional Forest Officer, Karimganj Division to a non-cadre post of Deputy Field Director, Project Tiger, Barpeta Road. As the latter order of transfer was challenged by this applicant by filing an O.A. No. 216/95 before this Hon'ble Tribunal wherein one of the main legal grounds of challenge was transfer of a cadre officer from a cadre post to a non-cadre post, therefore, it was felt by the respondent No. 2/3 that the said order of transfer may not stand the legal scrutiny of this Hon'ble Tribunal. Hence, in partial modification of the said order of transfer, the present impugned order of transfer was passed which had the effect of transferring the applicant from the cadre post of Divisional Forest Officer, Karimganj Division to a cadre post of Planning Officer-II attached to the Principal Chief Conservator of Forests, Guwahati. It is stated that the said impugned order of applicant's transfer which is in partial modification of the earlier order was passed during the pendency of the O.A. No. 216/95. As a result of the same, there was total change in the facts and circumstances necessitating the withdrawal of the O.A. 216/95 and the filing

of the instant O.A. wherein the subject matter of challenge is now the subsequent orders of applicant's transfer from the post of Divisional Forest Officer, Karimganj Division to the post of Planning Officer-II attached to the Principal

~~Conservator~~ Chief Conservator of Forests, Assam, and then as DFO Hailakandi Division vide modified order No FRE 3/90/Pt/150 dt 16.12.95

The aforesaid is the crux of the subject matter of the instant case. The applicant now places the facts of the case in seriatim.

4.3 That since his joining the Forest Department the applicant has been working at different places and in those places, he discharged his duties and responsibilities to the fullest satisfaction of all the superior authorities. The applicant was posted as Divisional Forest Officer, Karimganj vide Government order No. FRE.23/91/151 dated 23.6.94 and consequently, he took over the charge of Karimganj Division as Divisional Forest Officer on 16.7.94. After joining as Divisional Forest Officer in the Karimganj Division, the applicant carried out the job of Divisional Forest Officer to the best of his abilities. However, due to certain strange and unfortunate factors, the relationship between the present Deputy Commissioner, Karimganj and this applicant soured. During the continuance of this strained relationship, certain unfortunate development also took place resulting in illegal seizure of validly issued timber by the District Civil Administration. In this illegal seizure of the timber, the present Deputy Commissioner, Karimganj played a questionable role. Pursuant to the illegal seizure series of correspondences took place between this

applicant and the Deputy Commissioner Karimganj leading to further strained in the relationship between them. It is stated that the matter in regard to seizure of timber is under investigation and this involves the image of both the applicants as well as the Deputy Commissioner, Karimganj.

4.4 That when the investigation in the abovementioned matter involving illegal seizure of the timber by the District Civil Administration was on, at that point of time, the Deputy Commissioner, Karimganj addressed certain letters to the respondent No. 2/3. The applicant has come to know that in those letters written by the Deputy Commissioner, request was made to the Commissioner-cum-Secretary, Govt. of Assam, Forest Department that this applicant should be transferred from his present place of posting as Divisional Forest Officer, Karimganj to some other places. The applicant has also come to know that the Deputy Commissioner, Karimganj had also made a complaint against this applicant to the Chief Secretary to the Government of Assam as a result of which certain enquiries were made about this applicant.

4.5 That it is due to this pressure exerted by the Deputy Commissioner, Karimganj that the order of applicant's transfer was passed. It was vide No. FRE. 23/91/205-B dated Dispur the 5th September 1995.

4.6 That the Commissioner-cum-Secretary to the Govt. of Assam, Forest Department transferred the

applicant from his the then ~~was~~ place of posting as Divisional Forest Officer, Karimganj to the post of Deputy Field Director, Project Tiger, Barpeta Road vice Shri Abhijit Rabha, I.F.S. who is now presently holding the post of Divisional Forest Officer, Karimganj Division.

A copy of the order of applicant's transfer dated 5.9.95 is annexed herewith and marked as ANNEXURE-1.

4.7 That the Annexure-1 order of applicant's transfer led to wide spread resentment among the IFS Officers, Assam Unit. It was widely felt by the members of the IFS Officers Association, Assam Unit that the transfer of applicant is punitive in nature and the same has been carried out at the behest of the Deputy Commissioner, Karimganj. It was felt by the IFS Officers Association, Assam Unit that in order to subvert the smooth investigation into the illegal seizure of timber by the ~~District~~ District Civil Administration, this order of this applicant's transfer is carried out and the same is a result of the pressure exerted by the Deputy Commissioner, Karimganj upon the respondent No. 2/3. In view of the aforesaid, the IFS Association, Assam Unit in its meeting held on 8.9.95 condemned the transfer of the applicant specially at a time when the Deputy Commissioner, Karimganj was presenting the distorted picture of the investigation which was being carried out into the illegal seizure of the timber by the District Civil Administration. The members of the IFS Association

in their meeting unanimously urged upon the Principal Chief Conservator of Forests to take up the matter with the competent authority and to stay the order of transfer of the applicant till completion of investigation relating to illegal seizure of the timber by the District Civil Administration. The IFS Association made a general appeal to the Principal Conservator of Forests for taking effective steps for immediate stay on the transfer of the applicant. This appeal was made vide Memo No. IFS/ASSO/Assa 95 dated 12.5.95.

A copy of the memorandum dated 12.5.95 along with the minutes of the meeting of the IFS Association dated 8.9.95 is annexed herewith and marked as ANNEXURE-2.

4.8 That pursuant to the Annexure-2 memorandum submitted by the IFS Association, the Principal Chief Conservator of Forests, Assam vide memorandum No. PC 283/CON/12/9/95 requested the Commissioner-cum-Secretary, Government of Assam, Forest Department to consider the resolution passed by the IFS Association.

Copy of the letter of the Principal Chief Conservator of Forests, Assam is annexed herewith and marked as ANNEXURE-3.

4.9 That the applicant also vide letter No. C.M.4/Trans dated 14.9.95 made an appeal to the respondent No. 2/3 that the impugned order of his transfer has been passed at such a juncture when the investigation into

illegal seizure of the timber by the District Civil Administration is on. In his representation, the applicant * made a prayer to the Commissioner/Secretary that in order to ensure that the investigation carried out properly and highhandedness and arbitrary action of the District Civil Administration is thoroughly exposed, it is necessary that at this point of time, the applicant's order of transfer is stayed. The applicant in his representation also highlighted the fact that he was transferred to the present place of posting only one year ago and he was not even completed 3 years tenure posting. Therefore, his transfer at this stage would only create problem and difficulty to him and his family and would result in unnecessary hardship.

A copy of the applicant's representation dated 14.9.95 is annexed herewith and marked as ANNEXURE-4.

4.10 That when it was felt by the applicant that the respondents are not inclined to take favourable view of the matter and they are determined to enforce the order of applicant's transfer from his cadre post of Divisional Forest Officer, Karimganj to a non-cadre post of Deputy Field Director, Project Tiger, Barpeta Road, this applicant filed the O.A. No. 216/95 challenging therein the legality of the order of his transfer. In the said O.A., the applicant had challenged the order of his transfer on the following legal grounds :

Contd...P/9.

- (a) Competent of the Government of Assam to transfer a cadre officer from a cadre post to a non-cadre post. - it was contended by the applicant that the extent rules do not permit transfer of a cadre officer from a cadre post to a non-cadre post.
- (b) Malafide - It was contended by the applicant that the order of his transfer has been passed ~~xxx~~ not in any public interest ; but the same is the result of malafide exercise of power on the part of the respondent Nos. 2/~~and~~ 3 ;
- (c) The applicant also placed reliance on the circular of the Government vide Memo No.ABP.246/87/8 dated Dispur the 10.12.94 which has stressed the need to allow the officers to remain at a particular place or station for atleast a period of three years and not to transfer them without completing this normal three years of service at one place or station. By relying upon the circular, it was contended by the applicant that the order of transfer is ~~x~~ in violation of the circular.

The aforesaid were the main legal grounds which were involved in O.A. No. 216/95. However, the main legal ~~g~~ issues involved in the said O.A. was the competence of the Government of Assam to transfer a cadre officer from a cadre post to a non-cadre post.

4.11 That on 21.9.95, the O.A. 216/95 was moved for urgent relief alongwith prayer for interim relief which for stay on the operation of the order of transfer. That

very day the Hon'ble Tribunal was pleased to admit the application and issue notice upon the respondents. However in regard to the interim relief prayed for by the applicant, this Hon'ble Tribunal expressed opinion that in view of the fact that the applicant filed a representation before the competent authority against the order of his transfer, therefore, it is desirable that the Commissioner-cum-Secretary to the Government of Assam, Department of Forests considers the prayer of the applicant in terms of his aforesaid representation. While stating so, the Hon'ble Tribunal fixed up the matter on 16.10.95 with further observation that on that very day the prayer for interim relief will be considered.

A copy of the order dated 21.9.95 passed in O.A. No. 216/95 is annexed herewith and marked as ANNEXURE-5.

4.12 That on 16.10.95, the matter was fixed on 26.10.95 and thereafter it was deferred to 2.11.95 for consideration of the interim relief. During this period the respondents filed their written statement and the rejoinder on the same was also filed by the applicant which was served upon the counsel of the respondents on 2.11.95. It is stated that from 21.9.95 to 2.11.95 the respondents did not act any further upon the order of applicant's transfer. On 2.11.95, the case was listed for hearing and was subsequently fixed for hearing on 21.11.95.

4.13 That during the pendency of the Original Application, the respondent No.2/3 disposed of the representation of the applicant turning down the same by his order dated 11.10.95 which the applicant has come to know only when the show cause reply was filed on 26.10.95. It is stated that till date the said order dated 11.10.95 has not been endorsed to the applicant. However, the applicant has come to know that while disposing of the representation, the respondent No. 2/3 stated in the order itself that the Government was not insisting upon the respondents in handing over charge by the applicant as Divisional Forest Officer, Karimganj till 16.10.95 on which date the Hon'ble Tribunal was to decide the issue. In the light of the statement made in the order dated 11.10.95 that the applicant would not be insisted upon to hand over charge of his post and in view of the fact that he was not insisted upon till 2.11.95, the applicant was under the bonafide belief that since the matter is now fixed for hearing on 21.11.95 the same position will continue for these 19 days.

4.14 That in the written statement filed by the respondent No. 2/3 in O.A. 216/95, wild/sweeping/baseless allegations were made against the applicant and in his rejoinder which was filed on 2.11.95, the applicant rebutted all these allegations which were made against him by the respondent No. 2/3 in his written statement. It is stated that in his rejoinder, the applicant stated in detail the truth behind the impugned order of his

transfer and showed in explicit terms the malicious intent and vindictive attitude of the respondent No.2/3 against him which resulted in the order of applicant's transfer from the cadre post to non-cadre post.

Copy of the written statement filed by the respondent No.2/3 in O.A. No. 216/95 is annexed herewith and marked as ANNEXURE-6.

Copy of the rejoinder filed by the applicant in O.A. No. 216/95 is annexed herewith and marked as ANNEXURE-7.

4.15 That immediately after this applicant's filing of his rejoinder dated 2.11.95 x things started moving in rapid speed. On the same date, the respondent No.2/3 issued a W.T. message to the concerned authorities and partially modified the earlier order of transfer which was the subject matter of challenge in O.A. No.216/95. In this W.T. message, it was stated that in partial modification of the Government's earlier order No.FRE.23/91/205-A dated 5.9.95, Shri Chandra Mohan, IFS, Divisional Forest Officer has been transferred and posted as Planning Officer-II attached to the office of the Principal Chief Conservator of Forests which is a cadre post. In this W.T. message, it was also stated that this applicant stands released from the post of Divisional Forest Officer Karimganj and Shri Abhijit Rabha is to take over charge forthwith from this applicant. It was further stated in the said W.T. message that if this applicant is not available in the station to hand over charge to Shri Abhijit Rabha, IFS that either Shri Rabha or Shri M.Sinh

Divisional Forest Officer, Social Forestry Division, will take over charge unilaterally as Divisional Forest Officer, Karimganj. It was made clear in the W.T. message that the said order is necessary in order to check illegalities and destruction of forests within the Karimganj Division. It is thus stated that in the W.T. message, the respondent No.2/3 in categorical and explicit terms casts stigma on this applicant and by doing so, he displays his vindictiveness towards this applicant.

Copy of the W.T. message containing the order of applicant's transfer is annexed herewith and marked as ANNEXURE-8

4.16 That pursuant to the issuance of the W.T. message the Notification No.FRE.23/91/220 dated 2nd November 1995 was issued which was in modification of the earlier order of applicant's transfer which was the subject matter of challenge in O.A.No.216/95. It was stated in the said Notification that the applicant has been transferred from the post of D.F.O. Karimganj Division and posted as Planning Officer-II in the office of the P.C.C.F., Assam, in public interest, with effect from the date when he takes over charge.

Copy of the impugned Notification dated 2nd November 1995 is annexed hereto and marked as ANNEXURE:9.

4.17 That as stated before that in the earlier order of applicant's transfer which was the subject matter of challenge in O.A. 216/95 one of the main legal grounds of challenge was the permissibility and legality of transferring a cadre officer from a cadre post to a non-cadre post. However, by partial modification of this order of transfer during pendency of O.A. 216/95, the respondent No.2/3 very cleverly took away this legal grounds of

challenge from the applicant. Because in the subsequent order of transfer, the applicant was now transferred from one cadre post to another cadre post i.e. from the post of Divisional Forest Officer, Karimganj to the post of Planning Officer-II, attached to ~~Rxxxx~~ the office of the Principal Chief Conservator of Forests, Assam. However, this ~~applicant~~ action of the respondent No.2/3 makes one thing abundantly clear that neither the earlier order of applicant's transfer nor the present impugned order of transfer was passed either in public interest or as part of applicant's condition of service. These two orders of transfer in quick succession ~~app~~ bears testimony to the fact that the main purpose behind these orders was to take away this applicant from the Karimganj Forest Division by any means. It was not that the applicant was either required as Deputy Field Director Project Tiger, Barpeta Road or he is required as Planning Officer-II in the office of the Principal Chief Conservator of Forests, Guwahati. The fact is that the applicant was not required by the respondents to remain at Karimganj for the reasons which have been stated in the preceeding paragraphs of this application. As the respondent did not want the applicant to remain at Karimganj Division, they chose to transfer him before completion of the normal three years tenure posting. In the circumstances of the case, it is stated that the respondents' vindictiveness towards this applicant and the weight of the extraneous consideration played a pivotal role necessitating passing of successive order of applicant's transfer. Now once again the aforesaid order dtd 2.11.95 has been modified by issuing ~~another order~~ another order No FRE 3190/Pt/150 dtd 16.12.95 by which the applicant has been transferred and posted as DFO, Hailakandi Division.

4.18 That as stated before, the Deputy Commissioner, Karimganj had made several complaints against this applicant. He has written against this applicant to the Chief Secretary to the Government of Assam, details of which were subsequently furnished to this applicant to enable him to send his reply against the same. In this connection, it is stated that the Conservator of Forests Southern Assam Circle was also directed to file his report to the Principal Chief Conservator of Forests, Assam and in connection with the same, the Conservator of Forest Southern Assam Circle directed this applicant to file his reply in regard to the incident, the complaint about which was made by the Deputy Commissioner, Karimganj to the Chief Secretary to the Government of Assam. The report of the Conservator of Forests and the reply of the applicant in regard to the incident ~~not only~~ shows not only the strained relationship between himself and the Deputy Commissioner, Karimganj but also shows that the efforts were being made at the highest level to spoil the image of the applicant. The applicant has reasons to believe that the successive order of his transfer were the outcome of only this development.

Copy of the report of the Conservator of Forest Southern Assam Circle to the Principal Chief Conservator of Forests, Assam and the reply of the applicant to the Conservator of Forest Southern Assam Circle dated 24.7.95 are annexed herewith and marked as ANNEXURES-9A and 9B respectively. Copy of the order dtd 16.12.95 is annexed as Annexure 9C

Contd...P/16.

4.19 That the applicant states that the respondent No. 2/3 bore a personal grudge against the applicant and he acted maliciously and out of personal spite while passing successive order of his transfer. The malicious intent and the vindictiveness of the respondent No. 2/3 in the instant case can be ascertained from the totality of the facts and circumstances of the case -

- (a) Firstly the respondent No. 2/3 passed the order of applicant's transfer dated 5.9.95 transferring him from a cadre post to a non-cadre post ;
- (b) Secondly when the said order of transfer was challenged by filing O.A. 216/95, in the written statement filed in said O.A., the respondent No. 2/3 made wild and baseless allegations against this applicant. It would be in the fitness of things to quote some of wild and baseless allegations to show the maliciousness and vindictiveness of the respondent No. 2/3 towards this applicant -
 - (i) In the paragraph 3, page 3 of the written statement filed on O.A. 216/95, the respondent No. 2/3 stated that the order of applicant's transfer was passed when he showed unbecoming behaviour in the border meeting held between the Deputy Commissioners and the Divisional Forests Officers, Karimganj and Aizawl on 23.5.95 at Kolasib.
 - (ii) In paragraph 4, page 3 of the written statement by it was stated ~~that~~ the respondent No. 2/3

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that the applicant has not discharged his duties to the full satisfaction of all concerned and that due to his unbecoming behaviour insubordination and misconduct and frequent unauthorised absences, the Administration, in its wisdom, deemed it fit to transfer the applicant from his present post.

- (iii) In paragraph 5 of the written statement, it was stated ^{by} ~~that~~ the respondent No.2/3 that the Deputy Commissioner, Karimganj had reported to the Government about the unbecoming behaviour showed by the applicant in the meeting held between the Deputy Commissioners of Karimganj and Aizawl and other forest officials of both the States to discuss border problems at Kolasib on 23.5.95 ;
- (iv) In the paragraph 5 of page 4 of the written statement, it was further stated by the respondent No.2/3 that the complaints were received against the applicant about illegal booking of timbers to places outside the State of Assam through Railway and illegal felling of trees in Karimganj Division under the control of the applicant.
- (v) In paragraph 6 of the written statement, it was stated that due to inaction and failure on the part of the applicant to stop the illegal movement of timbers and also reckless and illegal felling of trees within his jurisdiction, the

unruly behaviour shown by the applicant in the border meeting held between the Civil Administration of Karimganj and Government of Mizoram along with the forest officials of both the States on 23.5.95 at Kolasib, the Government had contemplated to place the applicant under suspension. However, instead of placing him under suspension, he was transferred out of Karimganj Division.

- (c) That the unholy haste showed by the respondent No. 2/3 on 2.11.95 to partially modify the earlier order or transfer and this time to transfer the applicant from one cadre post to another cadre post i.e. from the post of Divisional Forest Officer, Karimganj Division to the post of Planning Officer-II attached to the office of the Principal Chief Conservator of Forests, Guwahati ;
- (d) The statement made by the respondent No. 2/3 in the W.T. message dated 2.11.95 that the transfer of the applicant is necessary from Karimganj Division in order to check illegalities and destruction of forest within Karimganj Division ;
- (e) The highhandedness displayed by the respondent No. 2/3 in stating in the W.T. message that the applicant stands released forthwith and restlessness displayed by him in making various alternative arrangement to post some other officer in place of this applicant as Divisional Forest Officer, Karimganj

- (f) That the respondent No.2/3 was so restless in removing this applicant from the post of D.F.O. Karimganj that he did not even allow the normal joining time to expire. As per the circular of the Govt. dated 20th June 1994, the normal time of handing over charge is within 10 days after the receipt of the order. Applicant craves leave of this Hon'ble Tribunal to produce this circular at the time of hearing of the case.
- (g) That when the impugned order of transfer was passed the applicant was on official duty upto 3.11.95 at Guwahati as D.F.O. Karimganj. Such was the restlessness of respondent No.2/3 that he deemed it fit not even to allow this applicant sufficient time to ~~xx~~ hand over charge as D.F.O. Karimganj to Shri Rabha within the normal time limit prescribed and through his W.T. message made a declaration that the applicant stands released from his post of D.F.O. Karimganj.

Hence the sequence of events in the applicant's case clearly indicates the malicious intent and personal spite of the respondent No.2/3 against this applicant.

4.20 That it is settled principles of law that while considering the allegation of malafide, the proper approach for the Court is to consider all the allegations together alongwith the totality of the circumstances to decide whether the impugned action is malafide. In the

instant case, if the impugned action of transfer of the applicant is seen in the backdrop of totality of circumstances, it becomes apparent that the impugned order of transfer has been passed in colourable and malafide exercise of power.

4.21 That the impugned order of transfer does not serve any public interest. It mainly casts stigma on the applicant and is punitive in nature. On this count alone the impugned order is liable to be set aside and quashed.

4.22 That the impugned orders of transfer came in the wake of earlier order of transfer which for obvious reason could not be materialised. As the respondents face difficulties in giving finality to the earlier order of transfer, the subsequent order of transfer was passed. It is thus clear that the purpose behind the order of transfer was to settle personal score with this applicant and to fix him up for certain imaginary ~~xx~~ wrongs alleged

to be committed by this applicant. This is amply evident from the fact that now he has been posted as DFO, Hailakandi, a place adjacent to Karimganj and full of forests.

4.23 That the impugned order of applicant's transfer as it has been passed within one year of applicant's posting to Karimganj, is in contravention of Government circular ~~xx~~ laying down the principles that the Government officials should not be disturbed for atleast a period of three years from a place of posting and should be allowed to complete his period of tenure posting.

4.24 That the applicant states that the impugned orders of transfer does not seek to serve any public interest. It is malicious in nature and is a part of vendeta continuing against him by the respondent No.2/3.

4.25 That the impugned order of applicant's transfer was passed when he was on official duty at Guwahati as D.F.O. Karimganj. It is stated that till 3.11.95 this applicant was on official duty at Guwahati. However, pursuant to this ~~x~~ impugned order of transfer, Shri Rabha suo moto assumed charge as D.F. O. Karimganj though the applicant has not handed over the charge to him. Moreover till now the applicant has not ^{been able to} taken over the charge of ^{nor as DFO Hailakandi} Planning Officer-II at Guwahati. As stated earlier the order of Respondent No.2/3 is contrary to the circular of the Govt. of Assam dated 20th June 1994 which prescribes 10 days time for completing the handing and taking over of charge. Thus the instant case is a fit case wherein the Hon'ble Tribunal may be pleased to suspend in the interim the order dated 5th Sept. 1995 vide No.FRE.23/91/205-B and the Notification No.FRE.23/91/220 dated 2.11.95 alongwith the W.T.message No.FRE.23/91/221 dated 2.11.95, and the order No FRE 3/90/Pt/150 dtd 16.12.95

4.26 That the applicant files this application bonafide and to secure the ends of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 That the impugned order of transfer is punitive in nature and it does not serve any public interest. The purpose of the order is to punish the applicant without just and sufficient ground.

5.2 For that the impugned order of transfer is in contravention of the Government circular which has specifically ~~a~~ lays down that an officer should not normally be disturbed before three years of tenure post and if ~~x~~ in any exceptional case such an order of transfer is made prior to the completion of three years, tenure posting then in such a case, reasons must be recorded in writing. As the impugned order of transfer does not record

any reason for the transfer of the applicant before the completion of three years posting, therefore, the same is bad in law and is liable to be set aside and quashed.

5.3 For that the impugned order of transfer has been passed in malafide exercise of power and is arbitrary in nature. The maliciousness and vindictiveness towards this applicant can be ascertained from the totality of the circumstances and sequence of events that has been discussed in detail in the preceedin g paragraph of this Original Application.

5.4 For that the impugned order of transfer is in violation of the service jurisprudence, it is thus liable to be set aside.

5.5 For that the W.T. message has been issued in malafide and colourable exercise of power. The W.T. message shows an unholy haste on the part of the responde No 2/3 for transferring the applicant from his post of Divisional Forest Officer, Karimganj. In the W.T.message vindictiveness on the part of the respondent No. 2/3 is writ large towards this applicant and therefore, the same is not sustainable.

5.6 For that the impugned W.T. message casts stigma on the applicant and holds responsible for committing the alleged illegalities and destruction of forests in Karimganj Division. The W.T.message makes it apparent that this applicant is transferred not due to

any exigencies of services but primarily due to the fact that for certain strange reason the respondent No. 2/3 did not like this applicant and held him responsible for all imaginary offences. It is further submitted that the statements made by the respondent No. 2/3 in his written statement bears a testimony to the fact that the impugned order of applicant's transfer has been passed maliciously and the same is punitive in nature.

5.7 For that the rejoinder which was filed by this applicant in O.A. No. 216/95 piqued the respondent No. 2/3 because the averments made by the applicant in the said rejoinder clearly showed the maliciousness and vindictiveness of the respondent No. 2/3 towards this applicant. It is submitted that the truth spelt out in his rejoinder dated 2.11.95 by the applicant were responsible in attracting further wrath of the respondent No. 2/3, culminating into the impugned W.T. message, even though the case filed by the applicant was subjudiced ~~by~~ before this Hon'ble Tribunal.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant declares that there is no other alternative or efficacious remedy available to the applicant but to come under the protective hands of this Hon'ble Tribunal.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING
BEFORE ANY OTHER COURT :

The applicant further declares that he has not filed any writ petition, application or suit ~~before~~

in respect of the subject matter for which this application has been filed before any other Court of law or authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT :

- 8.1 Set aside and quash the W.T. message No.FRE.23/91/221 dated 2.11.95 and the Notification No.FRE.23/91/220 dated 2.11.95, and order No FRE 3/90/Pt/150 dtd 16.12
- 8.2 Set aside and quash the order vide Memo No.FRE.23/91/205-B dated 5th September 1995.
- 8.3 Direct the respondents to post the applicant as Divisional Forest Officer, Karimganj Division.
- 8.4 Pass any other order or orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.
- 8.5 Award cost of this application.

9. INTERIM ORDER PRAYED FOR :

Since the applicant has not yet taken over the charge of his post of Planning Officer-II at Guwahati nor as DFO, Hailakandi and he has also not handed over the charge of his post of D.F.O. Karimganj, to anybody else therefore, in the interim applicant prays that the operation of the earlier order dated 5th September 1995 vide No. FRE.23/91/205-B ~~dated~~ and the Notification No.FRE.23/91/220 dated 2.11.95 along with the W.T. message No.FRE.23/91/221 dated 2.11.95 and the order No FRE 3/90/Pt/150 dtd 16.12.95 be stayed forthwith.

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The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O. :

(i) I.P.O. No. : 524332 (ii) Date : 22.11.95
(ii) Payable at : Guwahati.

12. List of enclosures :

As stated in the Index.

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

I, Shri Chandra Mohan Sharma, I.F.S. son of Shri Raghubir Singh, aged about 39 years, at present working as the Planning Officer-II in the office of the Principal Chief Conservator of Forests, Assam, Rehabari, Guwahati, do hereby solemnly affirm and state that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge ; those made in paragraph 5 are true to my legal advice and I have not suppressed any material facts.

And I sign this verification on this the
20th Dec
day of ~~December~~ 1995 at Guwahati.

Chandra Mohan

GOVERNMENT OF ASSAM
FOREST DEPARTMENT : : : : DISBUR

ORDERS BY THE GOVERNOR
- NOTIFICATION -

Dated Dispur, the 5th Sept/95.

NO. FRE. 23/91/205 : In the interest of public service, Shri Abhijit Rabha, IFS, Deputy Director, Project Tiger, Barpeta Road, is transferred and posted as Divisional Forest Officer, Karimganj Division, Karimganj, with effect from the date he takes over charges, vice Shri Chandra Mohan, IFS, transferred.

NO. FRE. 23/91/205-A: On relief, Shri Chandra Mohan, IFS, Divisional Forest Officer, Karimganj Division, Karimganj is in the interest of public service, transferred and posted as Deputy Director, Project Tiger, Barpeta Road, with effect from the date he assumes charges, vice Shri Abhijit Rabha, IFS, transferred.

Sd/- H. Sonowal,
Commissioner & Secy. to the Govt. of Assam,
Forest Department, Dispur

Memo No. FRE. 23/91/205-B: Dated Dispur, the 5th Sept/95.
Copy for information and necessary action to :-

1. The accountant General (A&F), Assam, Shillong.
2. The Principal Chief Conservator of Forests, Assam, Rababari, Guwahati-8.
3. The Chief Conservator of Forests (Territorial) Assam, Rababari, Guwahati-8.
4. The Chief Conservator of Forests (WL) Assam, R.C. Baruah Road, Guwahati-24.
5. The Field Director, Project Tiger, Barpeta Road. He is directed to release Shri Abhijit Rabha, IFS, Deputy Director, Project Tiger immediately so as to enable him to join in his new assignment.
6. The Conservator of Forests, Southern Assam Circle, Silchar.
7. Shri Abhijit Rabha, IFS, Deputy Director, Project Tiger, Barpeta Road. He is directed to get release from his present posting and to join in his new assignment immediately.
8. Shri Chandra Mohan, IFS, Divisional Forest Officer, Karimganj Division, Karimganj for necessary action.
9. The Officer - On-Special Duty to the Chief Minister, Assam for favour of information of Chief Minister.
10. P.S. to the Minister of State, Wildlife and Social Forestry, Assam for favour of information of Minister.
11. The Deputy Director, Assam Govt. Press, Bamunimaidan, Guwahati-21 for favour of publication of the above notification in the next issue of the Assam Gazette.
12. Personal file of the officers.

By order etc.,

Attested.

P. A. D.
Advocate,

H. Sonowal
Commissioner & Secy. to the Govt. of Assam,
Forest Department, Dispur

ANNEXURE-

ANNEXURE-

Memo No. IFS/Asso/Assam/95

Dated 12/9/95.

To,

The Principal Chief Conservator of Forests,
Assam, Rehabari, Guwahati-8.

Sub :- Transfer of Sri C.M. Sharma, IFS, D.F.O.,
Karimganj.

Sir,

While forwarding herewith a copy of the minutes of the General Meeting of the I.F.S. Association held on 08-09-95, I have the honour to draw your kind attention to Para No.4 of the Minutes and request you kindly to take up the matter with the Govt. at your earliest convenience.

The unanimous views of the members of the Association that while an investigation is going on to ascertain the veracity of an allegation brought about a consignment of timbers through Railway, casting shadows upon the working of the present Divisional Forest Officer, Karimganj, it becomes expedient that the investigation takes place in presence of the Officer concerned. The members have expressed their apprehension that if Sri C.M. Sharma is transferred now from Karimganj then investigation may not proceed on neutral grounds.

Thus, a general appeal has been made by the members that Sri C.M.Sharma's transfer may be deferred till completion of the case under investigation now.

I would, therefore, request you on behalf of the I.F.S. Association to move the Govt. for the stay of this transfer order only for a period necessary to complete this investigation to serve the cause of justice and fair play.

An early action is solicited.

Yours faithfully,

A. tested
P. N. J.
Advocate,

Sd/- (Sd/-) 12/9/95
General Secretary
I.F.S. Association
Assam Unit.

Annexure 2

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MINUTES OF THE GENERAL MEETING OF INDIAN FOREST SERVICE
(IFS) ASSOCIATION, ASSAM UNIT, HELD ON 08-09-98 AT HERBARIUM
HALL OF ASSAM STATE ZOOLOGICAL BOTANICAL GARDEN GUWAHATI.

The meeting was called to order by the President of the Association Sri N.C. Chakravarty, IFS.

The General Secretary of the Association had read out the agenda items for discussion. Various members interacted and adopted unanimous decisions on the following issues :-

1. The members of the Association discussed about the promotion of one IFS Officer to super time scale in the Assam Meghalaya joint cadre in the State of Meghalaya ignoring the legitimate claims of as many as 7(seven) senior members serving in Assam. The aggrieved officers have submitted individual representation for the redressal of their grievances. Three senior officers have already been promoted against available vacancies while the other four officers are still languishing as D.C.Fs.

The members unanimously resolved to submit a memorandum to the Govt. for immediate promotion of the officers with retrospective effect from the date of promotion of the junior officer in the state of Meghalaya.

2. Promotional prospects of the IFS officers ~~were~~ vis-a-vis other All India Service (AIS) officers were discussed. Compared to the scope of promotion of the officers in I.A.S. and I.P.S. the promotional prospects of the IFS officers have been found inferior.

Therefore, the members have resolved to submit a memorandum to the Govt. for the promotion of the eligible officers in the super time scale, having 20 or more years of service, to the rank of C.C.F.

3. The issue relating to the move of taking over more than a century old plot of land at Kacharighat (M.G. Road) allotted to and under occupation of the Forest Deptt. was engaging the attention of the members of this association for quite some time. On 22-08-95 a resolution was adopted in the Executive Committee meeting of the association to draft a memorandum to be submitted to the Hon'ble Chief Minister and Minister of Forests seeking his intervention in the matter. The draft memorandum prepared was read out by the General Secy. and the members approved the draft memorandum.

It was unanimously resolved to submit this memorandum to the Hon'ble Chief Minister, Assam.

Contd....2/-

4. The members of the Association expressed deep feeling of anguish and anxiety over the recent incidents of vindictive attitude adopted by the Dist. Civil Authorities towards the Dist. Forest Officer. The attitude adopted by the Dy. Commissioners of Kokrajhar and Karimganj Districts resulted in transfer of the D.F.O. Kokrajhar a few months back while the transfer order of the D.F.O. Karimganj was issued on 05-09-95. The unilateral action of the D.C. Karimganj in going to the press and electronic media on the face of the investigation initiated through the Police Department on alleged transportation of illegal timber can be construed as an attempt to project a distorted image ~~through~~ through improper presentation of conclusions arrived at even before completion of the investigation process. It has also been reported that the Dy. Commissioner desired an order of arrest of the forest officials. This has not only created an atmosphere of total demoralisation of the rank and file but also to the officers of the department, especially the D.F.O., Karimganj who has been put to a very embarrassing situation. This has not only tarnished the image of the D.F.O. but also caused irreparable damage to the image of the Department.

The members of the association therefore, resolved that Sri B.E. Dhar, IFS ex. D.F.O. Kokrajhar would submit the details of all the affairs connected with Kokrajhar Dist. which were the cause of disagreement with the Dy. Commissioner ultimately resulting in his transfer from that Dist., so that this matter may be taken up with the appropriate authority seeking protection to the members of this Association.

The members also resolved that Sri C.M. Sharma D.F.O. Karimganj, would submit the chronological development of the case related to Karimganj Dist. to the Executive Committee of the Association.

The members unanimously urged upon the Principal Chief Conservator of Forests, to move the Govt. for staying the order of transfer of Sri C.M. Sharma till completion of the investigation related to the case. The members were apprehensive, that immediate transfer of Sri C.M. Sharma might lead to the results of investigation falling under the shroud of biasness and thereby adversely affecting Sri Sharma.

The members of the Association further resolved that a memorandum be submitted to the Commissioner and Secy. to the Govt. of Assam, Forest Department to the effect that Govt. might not act against any members of the Association on receipt of information/report from any source without taking the views of the Principal Chief Conservator of Forests, Assam.

5. The members expressed their anxiety over the current procedure of release of fund through L.O.C. cause of great damages to plantations and also the Forest would be attributed to this system of fund release. With already existing problems of drawal of fund through treasuries, the latest Govt. circular requiring the cheques to be routed through the D.C.S. when the cheque amount exceeded Rs. 1.00 lakh have brought an added dimension to the problem. The latest circular of the Govt. involving D.C.S. for drawal of fund was not in conformity with the existing Rules and procedures.

The member, therefore, resolved that a memorandum would be submitted from the Association, to the Govt. giving all the details of the working systems and procedures followed by the Forest Deptt. in running its administration and field works. So this memorandum the Govt. would be urged upon to review their circulars and directives related to the release of fund for the Forest Deptt. and withdraw the restrictions in drawal of fund ~~facilitating~~ facilitating smooth functioning of the Deptt.

The members have urged upon the Principal Chief Conservator of Forests to take up the matter with the Finance Deptt. for withdrawal of D.C.'s intervention in drawal of fund as an immediate measure.

6. The members have gone through the latest circular of the Govt. regarding constitution of District level Central Recruitment Boards which would may selection of man power requirement of the Forest Deptt. in Grade-III and Grade-IV level. The members felt that, like Police Department, selection of man power requirement of the Forest Deptt. should be left to Forest Deptt. in view of very peculiar nature of job requirement of the subordinate staff.

The members resolved that a memorandum be submitted to the Govt. highlighting the points required to be considered while recruiting sub-ordinate staff in the forest deptt. and thus exclude Forest Deptt.'s ~~xxxx~~ recruitment in the class III and Class IV level from the proview of the Central Recruitment Board as has been done in case of Police Department.

7. During the recent visit of the Inspector General of Forests the Govt. was informed and intimated with a request to treat him as a state guest. But to the utter surprise of the members of the Association, they could gather that the reaction of G.A.D. in the Govt. of assam was very casual and the I.G.F. was not given the treatment of a state guest. The members also felt anxious about their identity, in view of the introduction of I.P.S. in the order of precedence under the state Govt.

The members, therefore, resolved that a memorandum be submitted to the Govt. seeking revision of the old order of precedence under the state Govt.

8. The members of the Association have expressed their anxiety over non finalisation of the service Rules related to the state Forest ~~For~~ Service Officer, Forest Range officers and the subordinate employees of the Forest Deptt. The draft Service Rules, for the S.F.S.; Rangers and also the subordinate forest employees are ~~w~~ awaiting finalisation for a long time. These cannot be two opinions about the feeling of discontentment and frustration that creep in the minds of serving personnel when their service destiny hangs in uncertainty. Foundation of forest administration, resting on the services rendered by the subordinate staff, would collapse unless the constant apprehensions suffered by the officers are removed through well defined service conditions contained in service Rules.

The members therefore, resolved to urge upon the Govt. for immediate finalisation of the service rules for bringing a healthy working atmosphere in the Forest Deptt.

9. The members of the Association were anxiously waiting for the finalisation of the rules related to Joint Forestry Management (JFM). The draft memorandum relating to JFM was submitted ~~a~~ long back. While most of the states in India have not only adopted this new system but also took long strides in changing the conservation and protection scenario of their Forests, the draft memorandum of JFM continued to remain in the back yard of the priority list in our State.

The members therefore, resolved that a memorandum be submitted to the Govt. for immediate adoption of the resolution related to JFM.

10. The members felt deep concern about the present trend dilution/infringement of powers vested upon departmental officers of various levels. This approach ~~also~~ would surely bring in weakness in the age old traditional system of administration loosening the fabric of discipline in the Department.

It was therefore, resolved that no member of the Association would resort to any action which might cause disharmony in the administrative climate in the Department.

11. The members of the Association expressed the urgency of developing accommodation facilities for Guwahati based officers of all ranks.

Contd.....5/8

-// 5 //-

ANNEXURE 2

It was therefore, resolved that a memorandum be submitted to the Govt. for providing accomodation facilities to Guwahati based officers of the Forest Deptt.

12. The General Secy. expressed that the fund position of the Association was very poor and he urged upon all the members to deposit their annual membership fees at the earliest. The treasurer Sri M.C. Malakar is requested to submit up-to-date accounts of the Association so that the financial position of the Association can be made known to each member.

13. The members resolved that Guwahati based officers viz Sri S. Ray Choudhury, G.S., Sri B.S. Bonal and Sri Hara Prashad, members would make the draft resolutions and circulate amongst the members seeking their approval so that further actions could be initiated by the members of the Executive Committee.

14. The Meeting ended after the vote of thanks from the chair.

General Secretary
I.F.S. Association
Assam Unit
Guwahati.

ANNEXURE-3

GOVT. OF ASSAM
OFFICE OF THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS
ASSAM : NEHAIBARI, GUWAHATI.

No. PG. 283/Con

Dtd. Guwahati 12.9.95

To

The Commissioner and Secretary,
Forests Department
Dispur

Sub : Transfer of Sri Chandra Mohan F.S. D.F.O.
Kazirganj.

With due respect, I have the honour to inform you that I have been discharging my duties and responsibilities to the satisfaction of my superior authorities. My work in connection of all sort of affidavits have been agreed at Sir, all.

I am enclosing herewith a copy of letter dated 12.9.95 received from General Secretary, Indian Forest Service Association, Assam Unit in the matter of transfer of Shri Chandra Mohan Sharma, I.F.S. D.F.O. Kazirganj along with a copy of item No. 4 of the minutes of meeting held by Association on 8.9.95 for favour of your perusal and needful.

yours faithfully, 01.05.08.95

Letter No. PG. 283/Con, dt. 12.09.95

For and to the Assam Govt. kindly be referred

sd/-

Principal Chief Conservator of Forests
Guwahati.

Enclosed
P.M. Lina
Advocate,

GOVERNMENT OF ASSAM
OFFICE OF THE DIVISIONAL FOREST OFFICER : KARIMGANJ DIVISION
K A R I M G A N J

Letter NO.C.M./4/Trans.

Dated : 14-9-95

To,

The Commissioner & Secretary
to the Govt. of Assam.
Forest Department, Dispur.

Through proper channel.

Sub : Transfer of Sri Chandra Mohan, IFS

Sir,

With due respect, I beg to state that I joined the Karimganj Forest Division on 6th July/94. After joining, I have been discharging my duty and responsibilities to the all satisfaction of my superior authorities. My action in checking of all sort of illegalities have been appreciated by all.

That Sir, I have been transferred vide Govt. letter No.FRE. 23/91/205-A, dt 05.09.95. I have completed just one year only and my transfer at this juncture will cause great problems and difficulties to me as well as to my family.

Moreover, when the verification in connection with alleged seizure of timber of Mizoram origin is still under process. I am afraid, if I am to move from here at this juncture, there may be a manipulation to divert from the actual fact. In this connection, the report of Conservator pf Forests, S.A.C., Silchar vide letter No.FGS.53/Alleg./Kxj, dt.25.08.95 (copy enclosed for ready reference) and letter No.PG.283/Con, dt.12.09.95 from Principal Chief Conservator of Forests, Assam may kindly be referred to.

Under the circumstances mentioned above, your honour, requested to kindly stay temporarily my transfer order till the verification is over to meet the natural justice.

For this act of kindness, I will remain grateful to you for ever.

Yours faithfully,

ENCLO : As above.

(CHANDRA MOHAN)
DIVISIONAL FOREST OFFICER
KARIMGANJ DIVISION
KARIMGANJ

Attested.

P. V. J. [Signature]
Advocate.

ADVANCED COPY TO :

1. The Commissioner and Secretary, Forest Department Dispur, for kind perusal and necessary action.
2. The Principal Chief Conservator of Forests, for favour of his kind information and necessary action.
3. The Chief Conservator of Forests, (T), for favour of his kind perusal and necessary action.

(CHANDRA MOHAN)
DIVISIONAL FOREST OFFICER
KARIMGAJ DIVISION,
KARIMGANJ

Assisted.
P. H. J.
Advocate,

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

O.A. No. 216 of 1995.

Mr. B.K. Sharma, IFS . . Applicant.

-Vs-

Union of India & Ors. . . Respondents.

BEFORE :THE HON'BLE JUSTICE SHRI M.G. CHAUDHARI, VICE-
CHAIRMAN

THE HON'BLE MEMBER SHRI G.L. SANGLEY II., MEMBER (A)

For the applicant : Mr B.K. Sharma, Advocate.

For the respondents : Mr G. Sarma, Addl. C.G.S.C.

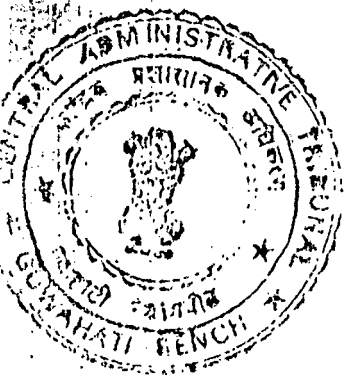
O R D E R

21.9.95

Mr B.K. Sharma mentioned for applicant for urgent relief.

Mr G. Sarma, Addl. C.G.S.C. appears for respondents.

Complex questions of law have been raised in this application. One of the questions being whether an IFS cadre officer can be transferred to a non cadre post. It is the grievance of the applicant that he is an IFS officer and by the impugned order dated 5.9.95 he has been transferred and posted in a non cadre post. The applicant prays for stay of operation of the said order. We find it difficult to grant stay ex-parte and without examining the questions involved more closely which doubtless appear legal and substantial justifying stay. At the same time we feel that the respondents will consider staying the operation of the order of transfer until this Tribunal is able to apply its mind to the questions involved and decide upon interim relief. Since the Division Bench will not be available from tomorrow till 16.10.95



Attester
P.K.J.
LAWYER

21.9.95

the prayer for interim relief will be considered on 16.10.95. It is desirable that the Commissioner and Secretary to the Government of Assam, Forest Department, Dispur considers the prayer of the applicant for stay of transfer made in his representation dated 14.9.95, a copy of which is at Annexure-4. We hope that the said authority will take into account the circumstance that the O.A. has been filed in this Tribunal and is pending and the prayer for interim relief is pending consideration by the Tribunal on 16.10.95.

The O.A. is admitted. Issue notice to the respondents. Written statement within 8 weeks.

Issue notice to the respondents separately to show cause as to why interim relief as prayed should not be granted pending the hearing and final disposal of the O.A. Returnable on 16.10.95. Although the O.A. is pending we give liberty to the respondent No.2 to consider the prayer of the applicant for stay in the light of his representation and the representation of the IF5 Association (Annexure-2) without prejudice to the rights and contentions of both the parties at the further hearing. The applicant to take steps immediately to serve the notice for interim relief.

Copy of the order may be furnished to Mr B.K.Sharma and Mr G.Sarma.

O.A. to be listed for interim relief on 16.10.95 and for orders on the O.A. on 20.11.1995.



Certified to be true Copy
प्रमाणित प्रतिलिपि

COURT OFFICER

प्राधिकृत अधिकारी
Central Administrative Tribunal
असम शाखा-अधीन
Guwahati Bench, Guwahati-8
गुवाहाटी न्यायाधीश, गुवाहाटी-8

Sd/-Vice-Chairman.

Sd/-Member

A. J. S. S. S.
P. K. J. -
Advocate.

State : Assam

Before the Central Administrative Tribunal :

Guwahati Bench : Guwahati.

Original Application No. 246 of 1995

Shri Chandra Mohan, I.F.S.

-VS-

Union of India and others.

The written Statement on behalf of the Respondent No.2 (the State of Assam) and the Respondent No.3 (the Principal Chief Conservator of Forests, Assam) is as follows -

I, Shri Harish Sonowal at present working as Commissioner and Secretary to the Government of Assam, Department of Forest, at Dispur, do hereby solemnly declare and state as follows-

1. That I am the Commissioner & Secretary to the Government of Assam in the Forest Department. A copy of the aforesaid original application is served on the Respondents No.2 and 3. I perused the same and understood the contents thereof. I do not admit any of the allegations/averments not borne out by records. All allegations/averments which are not specifically admitted, hereinafter are to be deemed as denied.
2. That in regard to the statements made in paras 4.1, 4.3 of the application, the answering respondents have no comment to make. However, anything not borne out by records is not admitted.

Attested.
[Signature]
 Advocate.

Contd...2....

Filed by
 Yamin. K. P.
 26.10.95
 29

3. That in regard to the statements made in para 4.2 of the application, it is stated that the applicant cannot have any grievance against the impugned orders dated 5.9.95 by which he was transferred from the post of Divisional Forest Officer, Karinganji Division to the post of Deputy Field Director, Tiger Project, Barpeta Road. Though the post of Deputy Field Director, Tiger Project is yet to be declared as a cadre post by the Government of India through Triennial Cadre Review Committee yet this post has been held by a Cadre officer of the same batch of the applicant without any objection from any quarter. Due to some administrative difficulties it is not possible to post cadre officers to cadre-posts only and noncadre officers to non-cadre posts only. The I.P.S. Cadre Rules, 1955, however, does not restrict the posting of a cadre officer to a non-cadre post. A cadre officer, when posted to a non-cadre post, gets the same emoluments and benefits. Many of the cadre officers including the Chief Conservator of Forests (Territorial) are holding ex-cadre posts which are yet to be encadred. Before transferring the applicant to the post of Divisional Forest Officer, Karinganji, the applicant served for a long period in non-cadre posts of Divisional Forest Officer, Bhuri Social Forestry Division, Guwahati and Divisional Forest Officer, Namren Division, Namren. The applicant made no such complaint whatsoever for such posting. Other I.P.S. Officers like Bishen Singh Bonal and Mr. Santosh Pal Singh were also posted as Deputy Field Director, Tiger Project at different times. But the applicant took the shelter of this Hon'ble Tribunal in order to circumvent the present order of transfer. The applicant previously had tried and managed to get the order of

of his transfer stayed for few months when he was transferred from the post of Divisional Forest Officer, Bhutri Social Forestry Division. The present order of transfer was passed when he showed unbecoming behaviour in the border meeting held between the Deputy Commissioners and the Divisional Forest Officers of Karinganji and Aizawl on 23.5.95 at Kolasib. When an order of transfer is made, the Administration takes all aspects into consideration.

4. That in regard to the statements made in para 4.4 of the application, it is stated that the applicant has not impleaded the present Deputy Commissioner of Karinganji and he has not annexed the correspondence attended to in this paragraph. As such what transpired between them, the answering respondents are not aware and no comments can be passed thereon.

The applicant took charge in the afternoon of 6.7.94. The applicant has not discharged his duties to the full satisfaction of all concerned. Due to his unbecoming behaviour, insubordination and misconduct and frequent unauthorised absence, the Administration, in its wisdom, deemed it fit to transfer the applicant from his present post. For certain allegations, he has been charge sheeted vide letter No. FRS. 134/95 dated 17.10.95.

5. That in regard to the statements made in para 4.5 of the application, it is stated that the Deputy Commissioner, Karinganji had reported to the Government about the unbecoming behaviour showed by the applicant in the meeting held between the Deputy Commissioners of Karinganji and Aizawl and other forest officials of both the States to discuss border problems at Kolasib on 23.5.95.

Thereafter, the Administration decided to transfer him. It may be stated that subsequently complaints were received about illegal booking of timbers to places outside the State of Assam through Railway and illegal felling of trees in Karimganj Division under the control of the applicant. The Deputy Commissioner, Karimganj never requested to the Commissioner and Secretary, Forests to transfer the applicant at any point of time.

6. That in regard to the statements made in para 4.6 of the application, it is stated that the allegations made therein are baseless. It is beyond the power of the Deputy Commissioner to put pressure on the State Administration. The applicant has not mentioned in his application the reasons which led to his strained relationship with the Deputy Commissioner, Karimganj. However, the Deputy Commissioner as the Head of the District Administration has to keep abreast the State Administration of important incidents relating to administration.

Due to inaction and failure on the part of the applicant to stop the illegal movement of timbers and also reckless and illegal felling of trees within his jurisdiction, the unruly behaviour shown by the applicant in the border meeting held between the Civil Administration of Karimganj and Government of Mizoram alongwith the forest officials of both the States on 23.5.95 at Kolasib, the Government had contemplated to place the applicant under suspension. However, instead of placing him under suspension, he was transferred out of Karimganj Division. In paragraph 4.2 of the application, the applicant stated that his allegation is that he

he was transferred from a cadre post to a non-cadre post. Mr. Babha, the Respondent No. 4 is also an I.F.S. officer. When the applicant is transferred, he will get his salary and status to which he is entitled.

7. That in regard to the statements made in para 4.7 of the application, it is stated that the transfer of the applicant was made in the interest of the public service and there was no wide spread resentment of the I.F.S. Association of the Assam Unit on the question of transfer of the applicant. The minutes of the general meeting of the association (as annexed to the application) reveal that the association is not fully seized of the matter relating to the applicant. The Association, therefore, resolved that the applicant would submit the chronological development of the case related to Karimganj District to the Executive Committee of the Association.

On receipt of the minutes of the Association, the Government gave it due consideration and intimated the Association through the Principal Chief Conservator of Forests by letter No. 18.73/90/223 dated 29.9.95 not to interfere in the Administrative decision of the Government but to remain confined to the steps on redressing their grievances on service condition, if any. The Association has not pursued further in this regard.

The applicant's allegation that the Deputy Commissioner, Karimganj had illegally made the seizure is not correct. The Divisional Forest Officer, Karimganj, had ordered for booking of 400 tons of timber at Chandkhira Railway Station

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and it was observed that the transaction was between two fictitious name of persons i.e. consigner and consignee. The full addresses of the consigner and the consignee are not there. It has also been suspected that the timbers in question are not of Mijoram origin as claimed by the applicant. Under the circumstances, the Government has decided to get it investigated by the Bureau of Investigation (Economic offences), an independent agency of Government of Assam which is constitutes for finding out economic offences committed by Government officials. Since the investigation will be made by the aforesaid Bureau, the apprehension of the applicant that in his absence on transfer the investigation might suffer is entirely baseless. His fear and doubt for manipulation of records in his absence in the joint verification is also baseless. It is denied that the transfer order in question is sequel to the alleged pressure of the Deputy Commissioner.

A copy of the letter No. FRE.75/90/223 dated 29.9.95 and a copy of the letter dated 7/96/95⁵ are annexed hereto and marked as Annexure-1 and Annexure-2.

8. That in regard to the statements made in para 4.8 of the application, it is stated that the Principal Chief Conservator of Forests, Assam had simply forwarded the copy of the

resolution, but he did not make any observation on the resolution. It appears that the applicant has a high power of imagination ; he has found more words and discovered hidden meanings in the copy of the letter of the Principal Chief Conservator of Forests, Assam which , in fact, are not there. A reply to the resolution was forwarded to the Principal Chief Conservator of Forests, Assam. (vide Annexure-1 to this written statement).

9. That in regard to the statements made in para 4.9 of the application, it is stated that they are tendentious. The applicant used the word "illegal seizure of timber" in this paragraph while in his representation he mentioned about " alleged seizure of timber of Kibram Pravin".

The applicant has not elaborated the highhandedness and arbitrary action of the District Civil Administration in his application but he has not mentioned these words in his representation dated 14.9.95.

The applicant simply represented to the Government praying for a sta. of the order of transfer passed against him on the following , among other, grounds :

- (1) He is discharging his duties to the full satisfaction of the authorities and he had not completed just one year only.

- (33) -

- (ii) this transfer will cause great problems and difficulties to him and to his family.
- (iii) to continue till completion of the joint verification of timbers seized allegedly of Mizoram origin so that there may not be a manipulation to divert it from the actual fact.
- (iv) to stay temporarily the order of stay till the verification is over to meet natural justice.

In connection with his representation dated 14.09.95 (Annexure-4 to the application), it is stated that the Commissioner and Secretary to the Government of Assam, Department of Forest, had disposed of the same by his order dated 11-10-95 and held that his prayer for staying the order of transfer could not be considered. The Government did not consider his case in the absence of valid grounds.

The allegation of the applicant that the Deputy Commissioner acted in a high handed manner on the joint-verification operation is not correct. The applicant is absolutely silent on what way the Deputy Commissioner had shown high-handedness. Without awaiting the outcome of his representation dated 14.09.95, the applicant had at the same time moved the Hon'ble Tribunal for staying the operation of the order dated 5.9.95 by which the applicant was transferred.

10. That in regard to the statements made in para 4.10 of the application, it is stated that the circular dated 10.12.94 referred to by the applicant has authorised the Administrative Department to transfer officers under their control on exceptional cases. It is respectfully submitted that the Hon'ble Supreme Court of India held, on such circulars, as follows :-

" Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by malafides or is made in violation of any statutory provisions, the Court cannot interfere with it. While ordering the transfer, there is no doubt, the authority must keep in mind the guidelines issued by the Government on the subject. Similarly if a person makes any representation with respect to his transfer, the appropriate authority must consider the same having regard to the exigencies of administration. The guidelines say that, as far as possible, husband and wife must be posted at the same place. The said guidelines however does not confer upon the Government employee a legally enforceable right" (AIR 1993 S C 2444 para 7).

The guidelines quoted by the applicant also not confer upon the applicant a legally enforceable right.

Contd...10....

11. That in regard to the statements made in para 4.11 of the and para 4.12 of the application, it is stated that the Indian Forest Service (Cadre) Rules, 1966 do not bar the transfer of an I.F.S. Officer from a cadre-post to a non-cadre post. Under Rule 6 of the I.F.S. (Cadre) Rules, 1966, a cadre officer may be even be deputed to a company, association or body of individuals, whether incorporated or not, which is wholly or substantially owned or controlled by a State Government, a municipal corporation or a local body, by the State Government on whose cadre he is borne. The Rules also provide (vide Rule 12) that if any question arises as to the interpretation of these rules, the same shall be decided by the Central Government.

The applicant took this ploy in order to get an order from this Hon'ble Tribunal in his favour. The post of Deputy Field Director, Tiger Project has been held by a Cadre officer of the same batch of the applicant. The present Respondent No.4 himself is a Cadre officer. Due to some administrative exigencies, it is not possible to post cadre officers to cadre-posts, and non-cadre officers to non-cadre posts. Many of the cadre officers including the Chief Conservator of Forests (Territorial) are holding an ex-cadre posts which are yet to be endorsed. The applicant himself served for a long period in non-cadre posts of Divisional Forest Officer,

Contd...11....

Divisional Forest Officer, Bhuhri Social Forestry Division, Gwalior and Divisional Forest Officer, Hamren Division, Hamren against which postings the applicant did not make any complaint of illegality. Only for reasons best known to the applicant, he discovered suddenly that he cannot be transferred to a non-cadre post. In his representation dated 14.09.95 (Annexure-4 to the application) to the Commissioner and Secretary of the Forest Department, he did not mention that he cannot be transferred to a non-cadre post. The applicant has not explained how the order of transfer to a non-cadre post is punitive. The applicant is called upon to show the case in which this Hon'ble Tribunal held that a cadre officer cannot be transferred to a non-cadre post.

A Government officer, if posted in a transferrable post, can be transferred at any time due to administrative exigencies. By a stretch of imagination it can be said that a transfer made before the completion of normal three years of tenure posting is punitive. The applicant is silent on the matter which led to an investigation.

Contd...12....

- (12) -

12. That in regard to the statements made in para 4'13 of the application, it is stated that they are not correct. Sri Ashjit Babha, I. . . approached the applicant for taking over charge but the applicant had shown the order of the Hon'ble Tribunal and he refused to handover charge. The Respondent No. 4 by his telegram dated 4.10.95 intimated the Government that the applicant did not hand over charge. The applicant submitted his representation on 14.9.95 and immediately thereafter he approached this Hon'ble Tribunal.
13. That in regard to the statements made in para 4'14 of the application, it is stated that no injustice has been caused to the applicant.
14. That it is respectfully submitted that this is not at all a fit case in which this Hon'ble Tribunal should interfere.

Contd...13...

VERIFICATION

I, Shri HARISH SONOWAL

at present Commissioner & Secretary to the Government of Assam, do hereby state that the statements made above are true to my knowledge, belief and information and I have not suppressed any fact.

I have signed this verification on this
25th day of October, 1995.

Harish Sonowal
25/10/95

13 -50-
~~SECRET~~

GOVERNMENT OF ASSAM
FOREST DEPARTMENT ::::: DISPUR.

NO.FIL. 73/90/223, Dated Dispur, the 29th September/95.

From : Shri H. Bonagol, I.A.S.,
Commissioner & Secy. to the Govt. of Assam.

To
The Principal Chief Conservator of forests,
Assam, Nubhari, Guwahati-8.

Sub : Resolution of the Indian Forest Service
Association Assam Unit of their meeting
held on 8.9.95.

Ref : Your letter No.FG-283/CUN dtd. 12.9.95.

Sir,

I am directed to refer to your letter mentioned above, and to inform you that Govt. could not appreciate the resolution adopted by the Assam Unit of the I.F.S. Association on 8.9.95 in the matter of administrative decision of the Govt. as such will adversely affect the functioning of the administration. It would be appropriate if the Association fight to redress their grievances if any in connection with their service conditions and etc. instead of taking resolution for staying of transfer of a few members of the Association against whom the following lapses were brought to the notice of the Govt.

Shri B.B. Dhar, IFS while he was holding the post of D.F.O., Hailuagan Division, Kokrajhar, had gone to such an extent that he filed a suit against a Senior Civil Service Officer of the District Administration without even taking any permission from Govt. as required which tantamounts to insubordination and unbecoming behaviour of an officer of his status to which he belongs.

As regards the transfer of Shri Chandra Mohan, IFS, the Divisional Forest Officer of Kokrajhar, Govt. had taken a sensible and timely steps to transfer him from Karimganj instead of taking disciplinary actions against him for his unruly behaviour shown by him to the Deputy Commissioner, Karimganj in presence of his counterpart and other Senior Officer of Mizoram at Kolashib, Mizoram on 23.05.95, etc. Further, the District Administration has tried to combat the illegalities that are now occurring at Karimganj where the

Contd...2/-

Divisional Forest Officer has shown complete non-cooperation with the District Administration of Karimganj resulting in smuggling of timber and repeated illegal felling of trees in reserve forests of Karimganj.

You are therefore, requested to instruct the officers to comply with Govt. orders forthwith and to intimate the action taken thereon.

Yours faithfully,

Sub 29/9
Commissioner & Secy. to the Govt. of Assam,
Forest Deptt., Dispur.

Memo No. FRE. 73/90/223-A, Dated Dispur, the 29th September/95.

Copy to :-

1. Shri H. C. Chakraborty, IFS, President, Assam Unit of I.F.S. Association, Office of the Principal Chief Conservator of Forests, Social Forestry, Assam, Zoo Narengi Road, Guwahati-24.
2. Shri S. Roy Choudhury, IFS, Central Secretary, Assam Unit of I.F.S. Association, Office of the Principal, North East Forest Rangers' College, Jalukbari, Guwahati-14.

By order etc.,

Sub 29/9
Commissioner & Secy. to the Govt. of Assam,
Forest Deptt., Dispur.

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

O. A. No. 216 of 1995

Shri J.M. Sharma, I.F.S.

- Versus -

Union of India & Others.

RESPONSE TO THE WRITTEN STATEMENT FILED ON BEHALF OF
THE RESPONDENT NO. 2 AND RESPONDENT NO. 3 (PURPORTEDLY)

The applicant begs to state as follows :

1. That the applicant has gone through the copy of the written statement and has understood the contents thereof. Save and except the statements which are specifically admitted hereinbelow, other statements made in the W.S. are categorically denied. Further the statements which are not borne on records are also denied.
2. That although the W.S. is stated to be filed on behalf of the respondent No. 2 and the respondent No. 3 in absence of any averment to the effect that either in the W.S. or in the verification thereof that the respondent No. 3 - the Principal Chief Conservator of Forests, Assam has authorised the Commissioner & Secretary to the Govt. of Assam, Department of Forests to file the W.S. on his behalf also. The applicant denies that the W.S. has been

Advocate
P.K. L. W.
Advocate,

Contd...P/2.

- 2 -

filed on behalf of the respondent No. 3 as well. The respondent No. 2 is put to the strictest proof thereof. Further in the verification to the W.S., the Commissioner and Secretary has verified the statements made in the W.S. to be based on his knowledge, belief and information without disclosing anything as to on which such knowledge, belief and information are based. On this account, the applicant prays before the Hon'ble Tribunal to invoke his power under Section 22 of the Administrative

Tribunals Act, 1985 either to summon the said Commissioner and Secretary who has justified verified the W.S. to disclose the source of information or to produce records based on which the said Commissioner and Secretary has signed the verification. In any case the statements made in the W.S. will reveal that ~~there are~~ serious allegations have been levelled against the applicant and thus there is necessity to see records pertaining to such allegations to arrive at a just and proper decision. Thus the applicant humbly prays that necessary direction may be issued either for production of the records or for personal ~~exam~~ examination of the Commissioner and Secretary so that the source of his knowledge, belief and information is disclosed.

3. That with regard to the statements made in paragraph 1 and 2 of the Written Statement, the applicant does not admit anything contrary to the relevant records.

4. That with regard to the statements made in paragraph 3 of the W.S., the applicant categorically

- 3 -

denies the contention made therein and the respondents are put to the strictest proof thereof. The respondents by their own statements have admitted that cadre officers are being posted against non-cadre officers and similarly non-cadre officers are also posted against cadre officers which is contrary to the rules. Admittedly the post of Deputy Field Director, Tiger Project is not a cadre post. Merely because the earlier incumbent did not raise any objection to his posting to a non-cadre post or for that matter merely because there are instances that no objection were raised against the orders of posting of cadre officers to non-cadre posts, the respondents cannot continue with the same as a matter of right in violation of the rules, and also the dicta laid down by this Hon'ble Tribunal. It is pertinent to mention here that many cadre posts are available against which the applicant can be posted. On the other hand, there are many ex non-cadre officers who are holding the cadre post as such as at Golghat, Digboi, Imongdooma, Dhubri, North Lakhimpur, Hailuagan, Kachugan, Bokelhat and many other places. In spite of the dicta laid down by this Hon'ble Tribunal holding that non-cadre officer cannot be posted against cadre posts, the respondents are continuing with the same in violation of the order of this Hon'ble Tribunal.

Citing the instances of holding non-cadre or ex-cadre posts by the cadre officers cannot absolve the respondents from their duties to follow their rules. There cannot be any waiver, estoppel or acquiescence.

against the rule. Further as per relevant rules the State Government is empowered to create ex-cadre posts to be manned by cadre officers. Thus there is vast difference between non-cadre post and ex-cadre post.

As regards the statements made by the respondents regarding the services of the applicant as Divisional Forest Officer, Dhubri Social Forestry Division, Gouripur (a non-cadre post), the applicant states that he having not got his promotion to the senior scale, which was due to him on completion of four years of service in the junior scale as per rules, had filed an application alongwith others before this Hon'ble Tribunal praying for appropriate relief. The Hon'ble Tribunal by its Judgment directed the State of Assam to give promotion to the applicant and others to the senior scale with retrospective effect. It was only after that the applicant got his long overdue promotion to the senior scale and was posted as Divisional Forest Officer, S.F. Division, which was incidentally also a non-cadre post. But the applicant had to accept the same under compelling circumstances inasmuch as for a pretty long time, he was deprived of his promotion to the senior scale and had to accept such posting without prejudice, to his cost. It will be pertinent to mention here that the State of Assam being not content with the Judgment passed by the Hon'ble Tribunal had preferred appeal before the Hon'ble Supreme Court which was rejected by the Hon'ble Supreme Court. It is categorically denied

Contd...2/5.

that the applicant had tried and managed to get the order of his transfer stayed for few months when he was transferred from the post of Divisional Forest Officer Dhekari S.F. Division. It is emphatically stated that the applicant never tried to get his order of transfer stayed and the respondents are put to the strictest proof thereof.

The respondents have given a definite finding in their written statement that the order of transfer of the applicant has been passed because the applicant allegedly shown unbecoming behaviour in the Border Meeting between the Deputy Commissioners and the Divisional Forest Officers of Karimganj on 23.5.95 at Kokrajhar. Thus a stigma has already been cast on the applicant without affording him any opportunity of being heard. The order of transfer being founded on such hostile allegations without there being any iota of truth, the same is an order founded on malafide and cannot stand the judicial scrutiny. As regards the allegations of unbecoming behaviour in the Border Meeting on 23.5.95 as has been stated by the respondents, the applicant while denying the same asserts that there was no such behaviour on his part and in this connection the report of the Conservator of Forests, Souther Assam Circle, Akrihar Bilchar dated 27.7.95 submitted to the Principal Conservator of Forests, Assam may be called for, for which will reveal that there is not even an iota of truth in the allegations. When there is no

Contd., 9/6.

denial that administration is bound to take all aspects into consideration while transferring an officer but at the same time a transfer order should not be founded on malafide and colourable exercise of power describing the same to be in the exigencies of service or in the public interest.

5. That with regard to the statements made in paragraph 4 of the W.S., while denying the contentions made therein, the applicant states that the Deputy Commissioner, Karimganj is not a necessary party to the present proceeding, the respondents have stated that they were not aware as to what transpired between the applicant and the Deputy Commissioner and that the answering respondents are not aware of the same but on the other hand through out the W.S. they have made statements pertaining to the same. Thus it is really surprising as to how such statements could have been made in the W.S. verifying the same to be based on personal knowledge, belief and information. It is on this count the applicant has prayed for personal appearance of the Commissioner and Secretary and production of records so that the basis on which the statements have been made in the W.S. can be found out. In this paragraph, the respondents have again raised stigma against the applicant by stating that the applicant has not discharged his duties to the full satisfaction of all concerned and due to his unbecoming behaviour ~~xxxxxx~~ insubordination and misconduct and frequent unauthorised absences,

Contd., P/7.

- 7 -

the administration in its wisdom deemed it fit to transfer the applicant from his present post. Thus there is contradictory statements in the d.s. inasmuch as some time, the respondents have maintained that the applicant has been transferred because of his unbecoming behaviour in the meeting held on 23.5.95 and ~~altogether~~ altogether a different ground has been stated in this paragraph. Thus it is absolutely necessary to see the records to find out the truth behind the order of ~~the~~ transfer of the applicant. It is categorically denied that there is any unbecoming behaviour, insubordination misconduct or irregular unauthorised absence on the part of the applicant and the respondents are put to the strictest proof thereof to establish the same either by documentary evidence or by oral evidence. The applicant has noted with a heavy heart that through out the written statement, the respondents have hurled abuses against the applicant and have given their finding that the applicant is guilty of unbecoming behaviour insubordination, misconduct and ~~irregular~~ irregular, unauthorised absence without any enquiry or show cause notice. Thus the respondents have proceeded in the matter with bias and pre-determined mind. The transfer order being founded on such an attitude of the respondents, it is apparent that the same is not bonafide but founded on mala fide on the part of the respondents. The applicant is not aware of any charge-sheet issued against him as stated by the respondents. The applicant apprehends even if any such charge-sheet has been issued, same has

been done with malafide intention.

The applicant from time to time had brought to the notice of the authorities the arbitrariness of the Deputy Commissioner's action and that the same is not based on facts. This was also brought to the notice of the Deputy Commissioner. It may not be out of place to mention here that the Deputy Commissioner, Karimganj was annoyed for the insistence of the applicant to implement the restriction/rules uniformly without any discrimination in connection with loading of bamboo in trucks. The applicant begs to ~~xxxx~~ ~~that~~ annex the relevant documents in support of his above contentions and the same are marked as ANNEXURES-7, 8, 9, 10, 11 and 12.

6. That with regard to the statements made in paragraph 5 of the A.O., the applicant ~~xxxx~~ denies the allegations made therein and the respondents are put to the strictest proof thereof. In this connection, the applicant reiterates and reaffirms the statements made hereinabove. The alleged complaints are imaginations of the Deputy Commissioner, Karimganj and he has done the same deliberately to settle his personal vendetta against the applicant. It may not be out of place to mention here that presently two Civil Rules (Writ petitions) are pending before the Hon'ble Gauhati High Court seeking the mandamus by the parties concerned for the release of the timbers illegally seized ~~on behalf~~ at the behest of the Deputy Commissioner, Karimganj.

Contd.....P/9.

It is denied that the Deputy Commissioner, Karimganj never requested the Commissioner & Secretary, Forests to transfer the applicant.

7. That with regard to the statements made in paragraph 6 of the A.S., the applicant begs to state that the transfer of the applicant is not in the public interest but the same is motivated with malafide. No complaints were received by the senior officers during their visits to Karimganj against the applicant. It is once again prayed that the Hon'ble Tribunal may be pleased to call for the communications made by the Deputy Commissioner with the Commissioner and Secretary which will speak for themselves regarding biasness as well as vindictive attitude towards the applicant. The Deputy Commissioner never sent any communication to the Conservator of Forests, Silchar, a district adjacent to Karimganj. Any point of misunderstanding and discord etc. could have been sorted out by referring to the Conservator of Forests, Chief Conservator of Forests, Principal Chief Conservator of Forests who are well conversant with the technical knowledge on forest matters. It may not be out of place to mention quote from Chapter I of the Assam Forest Manual which deals with the duties and responsibilities of Forest Officers :

"Responsibilities of the Conservator of Forests will remain unimpaired. He should be kept regularly informed of all orders issued on forest matters

Contd....P/10.

within his circle by Deputy Commissioners and the Government. He should be made acquainted with all correspondences which pass between the Deputy Commissioners and Forest Officers and as a rule he will be consulted on all forest matters which come before the Government."

But in the instant case the Conservator of Forests has been kept in dark by the Deputy Commissioner and he directly made correspondences with the Commissioner and Secretary without any clarification from the applicant which will go to show his ill motive in the entire episode. As regards the intentions of the respondents to place the applicant under suspension, he is not aware of the same, but can only say that had such an order been issued, same would have been violative of the rules and founded on malafide. Merely granting salary to the applicant by posting him in a non-cadre post is not a compliance of the rules.

3. That with regard to the statements made in paragraph 7 of the A.S., it is denied that the transfer of the applicant was made in the interest of the public service. As regards the contention regarding A.F.S. Association, the applicant states that the Association had received that the applicant would submit the chronological developments of his case as there was no records. The applicant has failed to understand as to how the respondents have presumed that the

Contd....P/11.

Association will not take up the issue in its next meeting in the light of the letter dated 29.9.95.

The Deputy Commissioner, Karimganj vide his W.T. Message dated 8.8.95 instructed the C.O. Patharkendi that "some party loading teak sawn timber instead of red timber. Therefore take action." Same was issued without ascertaining the fact from the forest officials of the Range. On unloading of the same, no teak sawn timber was found as mentioned in the complaint and there was no permission for loading of red timber. The consigners were found to be genuine. But as it may be has been stated above, the matter is subjudiced before the Hon'ble Gauhati High Court. When the respondent No. 2 has shown suspicion only, it was not prudent to declare the timber as illegal at this stage. During full verification, 5 pieces of timbers were found in excess than declared pieces of timber and the same has been stated to be seized at Chandkhira Railway Yard under instruction of the Deputy Commissioner and finally transported to the Courtyard of the Deputy Commissioner, Karimganj. This is a case of manipulation by the Deputy Commissioner, Karimganj. It was also found during full verification that timber belonging to other WPs and kept in the Railway yard and have been brought to the Deputy Commissioner's complex after mixing. Same has been done for manipulation implicate forest officials during so called enquiry.

Contd....P/12.

In any case, unless records are produced, the respondents are precluded from making such wild allegations against the applicant. The statements made by the respondents will only go to show that everything has been done with pre-determined mind without affording any opportunity to the applicant and malafide is the basis of the impugned order.

9. That with regard to the statements made in paragraph 8 of the W.S. it is stated that nothing more can be expected from the Principal Chief Conservator of Forests ; but the facts remain that he has forwarded the resolution of the IFS Association of which he is also a member.

10. That with regard to the statements made in paragraph 9 of the W.S. while denying their mention made therein, the applicant reiterates and reaffirms the statements made hereinabove. The applicant further states that the Commissioner & Secretary has not dealt with the representation of the applicant in his true perspective and has rejected the same with bias and pre-determined mind.

11. That with regard to the statements made in paragraph 10 of the W.S., the applicant craves leave of the Hon'ble Tribunal to put forward the legal propositions at the time of hearing of the instant application.

Contd....2/13.

12. That with regard to the statements made in paragraph 11 of the W.S., the applicant craves leave of this Hon'ble Tribunal to refer to the relevant provisions of the rules in support of his case.

13. That with regard to the statements made in paragraphs 12, 13, and 14 of the W.S., while denying the contentions made by the respondents, the applicant reiterates and reaffirms the statements made hereinabove as well as in the original application.

14. That in view of the facts and circumstances stated above, the instant O.A. deserves to be allowed with exemplary cost against the respondents.

VERIFICATION

I, Shri C.M. Sharma, aged about 39 years, son of Shri Raghbir Singh, the applicant in the O.A. No. 216 of 1995, do hereby solemnly affirm and verify that the statements made in the accompanying rejoinder are true to my knowledge and belief and I have not suppressed any material facts.

and I sign this verification on this the 2nd day of November 1995 at Guwahati.

~~SECRET~~

GOVERNMENT OF ASSAM

OFFICE OF THE DIVISIONAL FOREST OFFICER:::KARIMGANJ DIVISION:::
K A R I M G A N J

U.O.B/11.35 (11)

Dated, Karimganj, the 19.5/95.

To

The Superintendent of Police,
Karimganj.

Sub:-

Movement of bamboo loaded truck with a height
of 11 feet from the middle level of the Road.

Ref:-

My discussion with you on 12.5.95 during
visit to Mizoram Border.

Sir,

I request you to recall our discussion on 12.5.95 which pointing out the resentment amongst the H.P.C, bamboo supplier due to the imposition of restriction of height of 11 feet only in case of bamboo but other items found excluded from the imposition of height of 11 feet in practice.

This is required to be pointed out to safeguard the interest of my counterpart, i.e. Divisional Forest Officer, Mr. Kawa, who has taken up the issue as per his letter Nos. B-14017/2/93-FDKF dt. 16.2.95 (copy enclosed)

Therefore, you are requested during discussion to impose the restriction of 11 feet height not only in case of bamboo but other items also, so that, there is an imposition of law/Restriction uniformly for other item also, which will remove over the resentment amongst the H.P.C, supplier bamboo supplier and at the I shall be relieved from the pressure from various corner.

Yours faithfully,

(Chandra Mohan)
(CHANDRA MOHAN) IFS
Divisional Forest Officer,
Karimganj Division, Karimganj.

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A-3

TOUR NOTE OF SHRI K.N. DEVGOSWAMI, I.F.S. CONSERVATOR OF FORESTS;
S.A. CIRCLE: SILCHAR ON THE INSPECTION OF KARIMGANJ DIVISION

16.3.95:- Visited Patharia Reserve Forest, along the international border. Met the post Commandant B.S.F. and requested him to guard against illegalities in the R.F. area. A strip of 137 metres along the border is the buffer zone, where entry is permitted only with B.S.F. personnel. Requested the P.C. to help patrolling in this area. Range officer Patharkandi is instructed to keep liaison with the B.S.F. personnel. The S.D.O. (P.W.D) Road complained that due to crossing of H.P.U. workers, barbed wire fence, the life of the fence may be shortened. B.S.F. personnel requested not to allow bar crossing of the fence even though the fence is yet to be handed over finally. D.F.O. is instructed to keep in touch with the officer concerned. Regular patrolling in this area upstream the river over which the bridge is under construction, by the staff of Patharkandi Range is essential to check illegal felling and carriage of timber to Bangladesh.

Then visited Sonatilla Forest area along the forest road. Old teak plantations are situated all along this road. Four teak trees were seen felled ^{along} fringe about 3 to 4 years past but sapling coppices have come up. Up the hill new plantation areas are located. Instructed to raise local species ~~on~~ on the hill slopes and depressions to safeguard ecological conditions. Further wanton fire caused by carelessness of the intruders who collect bamboo from forest has severely effected the ecology. Few patches under fire were although extinguished during my visit by accompanying staff but the problem remains to be solved permanently. Firelines may be properly laid out before the fire season to contain fire, and frequent patrolling as well, to tackle the situation will be necessary in this regard.

Then visited Chandkhira Rly. Station, where huge logs of teak are pending despatch. These logs are legally collected & few were also seized. The logs belonging to one Chayan Chanda have been allowed to be lifted by the Hon'ble High Court, Guwahati and were also inspected & instructed D.F.O. accordingly. D.F.O. Karimganj, A.C.F. Karimganj & Range officer Patharkandi accompanied in my tour.

17.3.95:- Visited Singla R.F. under Cheragi Range along rangpur Borobhubirbond and Choto bhubirbond Forest Road upto Mizoram border, accompanied by D.F.O., A.C.F. and R.O. Cheragi & following observations are made.

1) One bridge is constructed by Pu J. Rohthanliana, M.L.A. on the Septigenai Nulla which is suspected to be ^{be} within Assam. District Administration be requested to organise a Joint verification of the border, which is an artificial line here.

2) At Choto bhubir bond, depressions are found used by encroachers for cultivation or for pisciculture. One such depression was found burnt by one miscreant and the fire was extinguished by the staff accompanying. Offence is to be drawn up against the miscreants who are forest villagers only.

3) In older teak plantation along the forest road (year of creation usually estimated to be '72 or so, in absence of any record) most of the trees are found felled, about 3 to 4 years before. Coppice shoots have also grown to tree size. However, singling out of shoots is instructed. Few trees are cut recently also. All the stumps are already seized.

4) The B.O.P. is situated at Rangpur about 6 Km. from the border within Assam. Shifting of the B.O.P to the border is felt essential to ensure proper protection.

48.3.95. :- Accompanied by A.C.F. Karimganj, R.O. Chofagi & R.O. afforestation visited Badsahi tilla R.F. along the forest road upto Khasia Punji (Das-Dowa) & following observations made:-

1) Records of plantation area, year of creation etc. are not known to the staff of all the old teak plantations along the forest Road. However, these trees have attained exploitable sizes by now. Trees along the ridge of depression are of better quality than those standing on the exposed slopes. There are several stumps seen, which are felled 3 to 4 years before, and were seized. There is no perceivable openings due to removal of these trees, owing to initial spacing being closed ones, and due to growth of coppices in some of them. The coppice growths of old trees are crooked and malformed. In areas adjacent to bamboo breaks, bamboo has also found extended under teak.

2) Teak plantations on the exposed slopes have reflected very badly on the ecological conditions. Coupled with this wanton fire of the forest floor has aggravated the deterioration further. Control of fire should be attempted during the fire season. No natural regeneration of teak was noticed in all types of areas.

3) The B. Mahi tilla R.F. is separated from Singla R.F. by a patch of revenue land of about 2 Kms. breadth, which is known as Ilam land. The boundary between Ilam land & Badsahitilla is not marked on the ground because of which a portion of R.F. is suspected to have encroached into the boundary is an artificial one, and should be consolidated before it is too late.

4) These evergreen depressions existing here and there are highly essential to be maintained intact on ecological considerations. Some of these depressions are under "Pan" cultivation. Even though the big sized trees are retained in the operation

(3)

tion of Pan cultivation, other undergrowths and advance growths are cleared and thereby bringing in unhealthy openings in these depressions unpermitted "Pan Shumming" therefor should be stopped.

5) Badsahitilla R.F. is under three ranges viz Oheragi, Lowairpoa and Duhalia Ranges. The boundaries between these ranges are also not demarcated nor a natural line is adopted for delineation of Ranges. Hence proper delineation of Range boundaries is highly essential to fix up responsibility if needed. While crossing the range boundary as in the opinion of the Range officer, we come across an opening in LV 3 coupe of H.P.C., made by felling all the bamboo growth and laying them on the floor over an area of about 5 hectares. This was subsequently ascertained to be the handiwork of Taungya cultivators living in Shulla dewa for raising plantation, under Lowairpoa-Range. Such steep areas should not be taken for opening on one side, and the bamboo thus destroyed should not be encouraged on the other hand. Plantation of local species should only be encouraged, as teak on such areas may aggravate deterioration of site quality.

6) Along the forest road, an area of 50 hectares of teak plantation was inspected, which was raised in 87-88 by Oheragi afforestation Range. Only teak is introduced herein, growth of teak is good, but congestion is noticed due to non thinning in past. Thinning may be adopted to encourage diameter growth of all such plantations of 8 to 10 years age.

7) Towards Dos dewa, Shulla Dewa, Saidewa & athardewa under Lowairpoa Range many nullas in depressions are bounded by outsiders to rear fish. Even though such fisheries don't destroy forest there are chances of future occupation by these illegal occupants, and there are also chances of concealment of illegally collected logs in such ponds. There are two alternatives viz to dismantle all these earthen bunds, or to regularise by bringing in records. Perhaps the 1st alternative will be a very difficult task as to enforce by great amount of co-ersion with the people. By forming co-operatives with the forest villagers it may be possible to involve the people in protection of the forest. This aspect may be studied and proposal be made.

(a) There is one forest Beat at Patlala under Lowairpoa Range Khunialpa. It is about 3 Kms from Khacin Punji. The few staff posted there is felt inadequate to guard the difficult terrain and open boundaries of forests. It is felt that one Beat/Camp with staff should be constructed at Dos dewa, near the Khacin Punji. There are several depressions in this lower part of Badsahitilla R.F. which contain valuable trees of Sam, Sundi, Kurta, Ping and Jas etc. Many Sam logs are found lying in different stocks. These were felled 2 to 3 years back & were

(Contd.)4

and before removal as was let to know. The outturn is although sold out now, the damage caused in the forest remained to be compensated. The local villagers viz Khatia and Tripuria have complained that some people of outside forest areas from Kotamoni village are even trying to occupy the lands under occupation of these poor tribals. They have already prayed to the district authority for protection. The S.P. may be requested to give frequent vigil in these areas. From our side, the forest staff should be alerted to give constant vigilance in these areas. Demarcation of State enter boundary by fixing massive pillars is felt necessary.

12.3.95:- Accompanied by A.C.F. Karimganj, R.O. Lowairpoa visited Longai R.F. under Mongai Beat, along the forest road through Magura Punji upto near the Tripura border, and following observations made.

1) There is an old plantation of Garjan near the Magura F.V. where almost all the trees are found with base cuts. Some superficially and few with deeper cuts inside. The Beat officer stated that a few months back the forest villagers tried to fell the trees for occupation of the land. One small hutment has already been constructed on the forest side of the plantation. He therefore convened a meeting of the villagers and formed a protection committee to give protection of the forest and to stop such practices. In his opinion there is no further damage caused. However this has to be watched and frequent visits be made. The most of the trees which were damaged at base will thrive by healing. Badly cut trees also are found still living. If any wilt takes place, it should be reported immediately.

2) While proceeding along the road, 3 trees are found felled recently viz X112/93-94 (Teak), X163/94-95 (Hatia) & another Gamari Tree which is yet to be seized. The outturn of teak is removed. One portion of outturn of Hatia is also removed and converted to sawn timber which is lying in forest of Magura Primary School. This school is constructed by D.R.D.A. The D.R.D.A. authority be requested not to make pay out to the contractor until cleared from D.F.O. and the timbers lying should be seized & offence report drawn. A good length of the tree is still lying in the stump site. This should be salvaged. The Gamari tree is to be seized & salvaged.

3) The teak plantation of 1922-23 (as reported by the D.O.) situated along the forest road has witnessed a severe felling in 3 to 4 years past. All the stumps are seized. There are many logs of the top portions which are lying scattered over the entire area. Some of these may even fetch good revenue. It is said that due to difficulty in extraction these logs will not fetch profitable prices. The logs are light and small and perhaps would not cost more than Rs. 200/- per Cm. in carriage upto Beat

campus. This aspect may be seen and action be initiated on proper analysis and at an early date.

An area of about 3 Ha. was found completely bereft of teak trees any more which is now covered up by bamboo & other miscellaneous species. In rest of the areas the following have not caused much openings of concern.

4) This part of the forests comprise of the H.P.C. Camp of LV4. Yet some spots are found clearfelled for Taungya Cultivation. Efforts should be made to utilise such bamboo for H.P.C. Further the H.P.C. contractors are cutting bamboo in accessible areas, whereas in difficult areas bamboo are not yet operated. It is said that the operation may be resumed in rains for easy transportation by raft. This may be verified frequently.

5) Frequent and rampant fire as already noticed in Badshitilla is also common here. This should be stopped. One small nulla was found banded by villager for fishery. This can be viewed from the angle already instructed before.

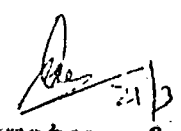
(K.N. Devgoshami)
Conservator of Forests,
Southern Assam Circle,
Silchar.

Memo No. PAS.S/KND

Copy submitted to the following for necessary action.

- 1) Range officer, Lawairpoa, Oheragi and Patharkandi Ranges.
- 2) D.F.O. Loringanj Division.

Copy forwarded to the Principal C.C.F. Assam for needful.


Conservator of Forests,
Southern Assam Circle,
Silchar.

REPORT OF SRI K.N. DEVGOSWAMI, IFS CONSERVATOR OF FORESTS, SA. CIRCLE

13.6.95

Accompanied by D.F.O. and A.C.F. visited Chandkhira Rly. Stn. yard and checked few samples of logs lying there. Instructed the A.C.F. to check and report.

Thence to Patherkandi Range and thence to Lakhi pur Beat. The Beat Officer was reported to the on field duty. The A.F.P.F. personnels were found at the camp. Instructed them to be vigilant along the boundary of R.F. where encroachment is taking place.

14.6.95

Visited Forest. At Barabazar area, belonged to a private person requesting for issue of C.O. It is contiguous to another pattaland of Barabazar which was visited on 13.6.95 to verify for issuance of C.O. The instruction issued to mark the reserve boundary first and then to enumerate the trees are yet to be followed. Some action is required in this case also.

There is a staff quarter at Barabazaricherra of Sahalia Range. The quarter is abandoned but can be restored with a minor expenditure. This should immediately be repaired & staff be posted there to give effective patrolling.

As shown by local people, the hutments are constructed along the periphery of the R.F. some chains breadth along the periphery there is no vegetation with the bare. Few scattered sam trees are seen standing. Raising strip plantation of fast growing species along the border of the R.F. posting staff at vulnerable places along boundary, and installing boundary pillars at missing may perhaps be useful in protecting the border. Joint forest management of this strip along R.F. with the adjoining villagers may also be attempted for more effective protection. D.F.O. should take up schemes suitably in the light of the suggestion given above and intimate action initiated.

Visited Balipipra Beat and instructed Beat Officer to give constant checking in the forest and Assam-Mizoram Boundary. Thence visited Kethipur, a private pattaland. The patta holder requested to release balance 27 Nos. of logs opened earlier. But no such log was found there. Further some irregularities were noticed in marking A.C.F.

15.6.95

Karimam instructed to verify and report. Question of issue of C.O. of the remaining part of the patta will come up after the report of verification.

To Sahalia Range instructed the R.O. to be vigilant against fraudulent use of transit passes. In all my visits made to this range hitherto, the R.O. is found in sleeping suits at his residence only. This is not expected of the Range Officer. He is instructed to give surprise check in forest areas regularly hereafter.

Then visited R.K. Nagar Beat. There is a huge USF areas at R. Khalbasti 100 hectares of plantation were raised here under compensatory plantation scheme. But due to lack of upkeep the plantation is extremely damaged. However, consolidation of the entire USF area and proposal for constituting into R.F. are immediately necessary. D.F.O. may initiate action.

CC/- K.N. DEVGOSWAMI,
Conservator of Forest
Southern Assam Circle.

(Contd. P/2)

Memo No. PAS.2/1010/

Lt. 1.7.95.

Copy to the Divisional Forest Officer, Karimganj Divn. for information and necessary action.

2) The Chief Conservator of Forests, (T) for needful.

Sd/- K.M. DEVGOSWAMI,
Conservator of Forests,
Southern Assam Circle,
Silchar.

URGENT.

NO.8/

/Tour/

Detn, Karimganj, the _____/95.

Copy to the Range Forest Officer, Lowairpoo, Patherkandi, and Tubalia for their information and taking necessary action in the light of the instructions given by the Conservator of Forests, Southern Assam for their respective Ranges. Action taken in the light of the above instruction may please be intimated to the undersigned.

2) The A.C. Forests (B.O) for information and necessary action. He will please see during the course of his visit to the respective Ranges, if the instruction given by the C.F. are complied with them and guide them suitably where necessary implementation of the instruction and when required.

Divisional Forest Officer,
Karimganj Division, Karimganj.

Ssinha /

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— (2) — (2) —

(Copy)

~~CONFIDENTIAL~~ 10

To

The Station Master,
Pkd Railway Station,
Batharkandi.

As directed by D C I/C. Keringanj, you are hereby asked not to despatch the Wagons (WRBC 62272, WRBC 62726 & WRBC 36772) loaded with log timber etc. until checking and verification is completed.

sd/-

C.O. Pkd

Copy to the Range Forest Officer, Pkd Range.
He is directed to be present tomorrow at the time & verification.

sd/-

15/7/95

Circle Officer
Batharkandi

P.T.O.

copy.

To

- 1) The Railway Station Master, Patharkandi
- 2) The R.O., Pkd Range under Karimganj Dvn
dt. 16.07.95

Ref :-

My letter No. dtd. 15.07.95.

We have made the joint verification with the Range Officer, Patharkandi Range and the party concerned have produced the T.Ps of the concerning timbers.

So, now do the needful as nothing
untowards found toward this.

Sd/- illegible
16/7/95
C.O. Pkd

Sd/- illegible
J.H.
16/7

Noted

Sd/-

16/7/95

Rly Station Master
Pkd station.

75- A-5

CONFIDENTIAL. 87

GOVERNMENT OF ASSAM
OFFICE OF THE CONSERVATOR OF FORESTS, SOUTHERN ASSAM CIRCLE,
SILCHAR.

Letter No. FQS.53/Allegn/Kxj., Dated Silchar, the 23rd Aug/95.
From,

The Conservator of Forests,
Southern Assam Circle,
Silchar.

To

The Principal Chief Conservator of Forests,
Assam, Rehabari, Guwahati-8.

Subj:- Detention of timber at Chandkhira Rly.
Station for verification.

Ref:- As per verbal intimation of C.C.F(T)
on 9.8.95 over phone.

Sir,

I have the honour to inform you that on receipt of telephonic message from C.C.F(T) as referred to above, I alongwith the D.F.O., Karimganj Division proceeded to Chandkhira Rly. Station on 10.8.95 to make a spot enquiry on the matter. Incidentally the D.C., Karimganj, Circle Officer, Patharkandi, O.O. Patharkandi and other Officials were also present at spot.

That on 8.8.95 the O.C., Patharkandi seized (under the instruction of Magistrate) 4(four) wagons containing loaded teak poles and logs originated from Mizoram at the Chandkhira Bagan Rly. Station for verification. On 9.8.95 the Magistrate i.e. Circle Officer, Patharkandi has requested the H.O., Patharkandi to submit the relevant records and accordingly the H.O. has submitted the report on the afternoon of the same day and assisted him on the verification works. It has been observed that the full co-operation was eagerly extended to the Magistrate timely.

On 10.8.95 as mentioned above I have noticed all the four seized (by Police) wagons were unsealed condition and the same had been opened before me, D.C. Karimganj and other Officials by the Station Master for a glimpse. We were noticed that most of contents are of pole size. As the contents of wagons had been seized by Magistrate & police, so I could not take action of verification at my level. Further I was informed that the joint verification would be done by the Circle Officer, Patharkandi and the Forest staff deputed by the D.F.O., Karimganj Division.

(contd....2).

Again, on my next visit on 22.8.95 and 23.8.95 at the Chandkhira Bagan Rly. station yard, I found the contents (reportedly 498 pieces) of wagon No. BC NE 22900 were unloaded and kept in the Rly. yard and others i.e. contents of remaining 3 wagons i.e. Wagon No. MBBC 47501, NFBC 20478 & NFBC 23511 had been taken away by the D.C., Karimganj and the entire contents have been stocked in the Office campus of the D.C., Karimganj.

On my verification of records I have found that the D.F.O., Karimganj Division had signed the Railway booking order (for 1258 pieces) of teak poles/timbers as per procedure. It is to be mentioned here that while submitting the report to the Circle Officer, Patharkandi on 9.8.95, the H.O., Patharkandi perhaps in a hurry, omitted to include one T.P. (vide No. 79/118269 dt. 4.8.95 covering 51 pcs. of poles & logs) including ^{which D.F.O.} actually ordered for booking.

On the other hand, on 22.8.95 I have been informed that the D.C., Karimganj has issued order for arrest of Sri P. Kalita, H.O., Patharkandi and 3 other subordinates in connection. I would, therefore, like to request you kindly to take up the matter with the Govt. to initiate the appropriate steps only after the proper verifications of seized timbers. Otherwise, the action will be in haste and will create a disarrayed situation amongst the staff of Patharkandi Range. Perhaps we can initiate departmental action, in case of any proof of involvement of these staff.

Meanwhile, I have instructed my A.C.F. (HQ) and F.R. attached to D.F.O., Karimganj Division to assist the D.C., Karimganj in verification of timbers as per request of the D.C., Karimganj to D.F.O.

Yours faithfully

(K.N. DEVGOSWAMI)

Conservator of Forests,
Southern Assam Circle,
Silchar.

Copy to:-

- 1) D.F.O., Karimganj Division for information & necessary action. He should extend all possible help to the D.C., Karimganj to apprise the undersigned & A.C.F. (I) of the development.
- 2) The Chief Conservator of Forests (I), Assam, Guwahati - 8 for needful.
- 3) The Commissioner & Secretary to the Govt., Assam, Forest Department, Dispur for needful.
- 4) The Deputy Commissioner, Karimganj
- 5) A.C.F. Attached to this office.

Conservator of Forests
Southern Assam Circle,
Silchar.

GOVERNMENT OF ASSAM

OFFICE OF THE DIVISIONAL FOREST OFFICER:::KARIMGANJ DIVISION:::
:::KARIMGANJ:::

NO. N/ 2191-93

Dated, Karimganj, the 12-9-1995.

To

The Principal Chief Conservator
of Forests, Assam, Kohabari,
Guwahati-8.

Sub:-

Visit of N.C.O., team in Karimganj.

Sir,

I have the honour to bring to your kind notice that, as per information received from the field staff of Patherkandi and Lowairpoa Range, a team consisting of few members of N.C.O., from Guwahati accompanied by the Deputy Commissioner, Karimganj visited a few places of this Forest Division, particularly, Chandkhira Railway Station Yard under Patherkandi Range and NH-44 Beat under Duhalia Range on the evening of 11.9.95 and in course of their visit, photographs of timbers had been taken. The Deputy-Commissioner, Karimganj in presence of the visiting team also enquired the valuation of timbers that were seized on 04.9.95, from the Beat Officer, NH-44 and in reply, they could learnt that the valuation of seized timber is around Rs. 7000.00 only.

From the manner of the enquiry as reported, it seems that through their visit might be on some other issues but Forest matter was one of the items of their field visit.

Such being the state of affair, a question obviously struck in my mind as to why ^{the} undersigned was excluded from the ^{the} keeping him (undersigned) in dark. Had the undersigned been with them, they could have able to collect more authentic information on Forestry matter.

From the reported taking photographs of timber in course of their visit in concealment, makes me to sense that, the whole visit was carried out with a motive to malign the Divisional Forest Officer. If the things as stated above, is allowed to go in this way, I cannot help expressing my anguish being in charge of the Division, and at the same time I also feel it necessary to point it out here that, I shall not bear any responsibility in case the visiting team at all submit any report or publish any news in this respect.

Yours faithfully,

(Signature)

(CHANDRA MOHAN) IFS

Divisional Forest Officer,
Karimganj Division, Karimganj

Copy to:-

- 1) The Chief Conservator of Forests, (T), Assam, Guwahati for favour of information and necessary action.
- 2) The Conservator of Forests, Southern Assam Circle, Silchar-2 for favour of information and necessary action.

(CHANDRA MOHAN) IFS
Divisional Forest Officer,
Karimganj Division, Karimganj.

NO. B/ 76 46 47 /

Dated, Karimganj, the 12-9/95.

Copy to:-

- 1) The Commissioner and Secretary to the Govt. of Assam Forest Department, Dispur for information.
- 2) The ~~Collector~~ ^{Deputy Commissioner} Karimganj for information.

(CHANDRA MOHAN) IFS
Divisional Forest Officer,
Karimganj Division, Karimganj.

SSirha /

=0=0=0=

Ans. ed.

P. K. J.
Advocate

FROM: SHRI. HARISH SONOWAL IAS

ANNEXURE 8
2000/2

COMMISSIONER AND SECY TO THE GOVT. OF ASSAM FOREST DEPARTMENT AAA

DEPARTMENT DISPUR AAA

CONSERVATOR OF FOREST SOUTHERN ASSAM CIRCLE SLC AAA

SHRI CHANDRA MOHAN IFS/ DIVISIONAL FOREST OFFICER

KXJ DIVISION KXJ

SHRI M. SINHA DIVISIONAL FOREST OFFICER KXJ SOCIAL
FORESTRY DIVISION KXJ AAA

NO.FRE.23/91/221 DTD.2/11/95 AAA

IN PARTIAL MODIFICATION OF GOVERNMENTS EARLIER ORDER
NO. FRE23/91/205A DTD5/9/95 SHRI CHANDRA MOHAN IFS
DIVISIONAL FOREST OFFICER KXJ HAS BEEN TRANSFERRED
AND POSTED AS PLANNING OFFICER-II ATTACHED TO OFFICE OF
THE PRINCIPAL CHIEF CONSERVATOR OF FOREST WHICH IS A CADRE
POST AAA KINDLY MAKE ARRANGEMENT FOR TAKING OVER CHARGE
BY SHRI ABHIJIT RABHA IFS AS DIVISIONAL R+ FOREST OFFICER
KXJ FORTHWITH AAA FOR SHRI CHANDRA MOHAN IFS DIVISIONAL
FOREST OFFICER KXJ ONLY AAA YOU ARE HEREBY STAND
RELEASED FROM THE POST OF DIVISIONAL FOREST OFFICER KXJ AAA
PLEASE HANDOVER CHARGE TO SHRI ABHIJIT RABHA IFS AND JOIN
AS PLANNING OFFICER-II ATTACHED TO OFFICE OF THE PRINCIPAL
CHIEF CONSERVATOR OF FOREST FORTHWITH AAA THE PLANNING OFFICER-
II IS A CADRE POST FOR IFS AAA FOR CONSERVATOR OF FOREST
SOUTHERN ASSAM CIRCLE ONLY AAA IF SHRI ABHIJIT RABHA IFS IS
NOT AVAILABLE AT STATION SHRI M SINHA DIVISIONAL FOREST OFFICER
SOCIAL FORESTRY DIVISION KXJ WILL TAKE OVER CHARGE FROM
SHRI CHANDRA MOHAN IFS IMMEDIATELY TILL SHRI ABHIJIT RABHA IFS
ARRIVES THERE AAA IF SHRI CHANDRA MOHAN IFS IS NOT AVAILABLE
IN STATION THEN SHRI ABHIJIT RABHA IFS SE+ OR SHRI M SINHA
DIVISIONAL FOREST OFFICER KXJ SOCIAL FORESTRY DIVISION
WILL TAKE OVER CHARGE UNILATERALLY AAA THIS ARRANGEMENTS IS
NECESSARY IN ORDER TO CHECK ILL CALITIES AND DESTRUCTION OF
FOREST WITHIN KXJ DIVISION AAA

THI --- 2000/2 TX BY R BAISHYA AT --- 0900/2

RECD BY NATH

Attested.

[Signature]

Advocate

FOREST

GOVERNMENT OF ASSAM

DEPARTMENT ::: DISPUR

ORDERS BY THE GOVERNOR- NOTIFICATION -

Dated Dispur, the 2nd November '95.

NO.FRE.23/91/220 : In modification of this Department Notification No.FRE.23/91/205-A dated 5.9.95, Shri Chandra Mohan, IFS, Divisional Forest Officer, Karimganj Division, Karimganj is in the interest of public service transferred and posted as Planning Officer(II) Office of the Principal Chief Conservator of Forests, Assam with effect from the date he takes over charges vice Shri Pradip Kr. Hazarika, Planning Officer(II) transferred.

NO.FRE.23/91/220-A : On relief, Shri Pradip Kr. Hazarika, Planning Officer(II) Office of the Principal Chief Conservator of Forests, Assam, Guwahati is in the interest of public Service transferred and posted as Divisional Forest Officer, Southern Afforestation Division, Haflong with effect from the date he assumes charges vice Shri P.P. Das expired.

Sd/- H. Sonowal,
Commissioner & Secy. to the Govt. of Assam,
Forest Department, Dispur

Memo No.FRE.23/91/220-A, Dated Dispur, the 2nd November, 1995.
Copy forwarded for information and necessary action :-

1. The Accountant General(A&F) Assam, Shillong.
2. The Principal Chief Conservator of Forests, Assam, Rehabari, Guwahati-8.
3. The Principal Chief Conservator of Forests(SF) Assam, Ghy-24.
4. The Chief Conservator of Forests(Territorial) Assam, Rajgarh Road, Guwahati-3.
5. The Chief Conservator of Forests, Research, Education and Working Plan, Assam, Guwahati-24.
6. The Chief Conservator of Forests(WL) Assam, Guwahati-24.
7. The Conservator of Forests, Southern Assam Circle, Silchar/Hills Circle, Haflong.
8. Shri Chandra Mohan, IFS, Divisional Forest Officer, Karimganj Division, Karimganj for handing over the charge of Karimganj Division to Shri Abhijit Rabha, IFS forthwith.
9. Shri Pradip Kr. Hazarika, Planning Officer(II) Office of the Principal Chief Conservator of Forests, Assam, Guwahati-8.
10. Shri Abhijit Rabha, IFS, Divisional Forest Officer, Camp Karimganj Division, Karimganj for necessary action.
11. The Officer-On-Special Duty to the Chief Minister, Assam for favour of information of Chief Minister.
12. The P.S. to the Minister of State, Social Forestry and Wild Life for favour of information of Minister.
13. The Deputy Director, Assam Govt. Press, Bamunimaidan, Ghy-21 for favour of publication of the above notification in the next issue of the Assam Gazette.
14. Personal file of the officers.

By order etc.

Anested.

Advocate.

Commissioner & Secy. to the Govt. of Assam,
Forest Department, Dispur

GOVERNMENT OF ASSAM
OFFICE OF THE CONSERVATOR OF FORESTS: SOUTHERN ASSAM CIRCLE:
SILCHAR.

Gram: CONSERVATOR

Letter No. PGS.46.

Phone: 22525 (Office)

Dated th July/1995.

From : The Conservator of Forests,
Southern Assam Circle,
Silchar.

To,

The Principal Chief Conservator of Forests,
Assam, Rehabari,
Guwahati-84

Sub:- MISDEMANOUR OF SHRI CHANDRA MOHAN
SARMA ETC.

Ref:- Your letter No.FG.40/14/Pt/91,dtd:17-6-95.

Sir,

I have gone through the report of the Deputy Commissioner, Karimganj submitted to the Chief Secy. to the Govt. of Assam, sent under cover of your letter No. quoted in the reference above, and I beg to submit my views as below:-

I am aware of the meeting organised by the D.C., Karimganj to discuss with his counterpart in Mizoram regarding certain border disputes ~~saxa~~ slated on 23-5-95 at Kolasib on 21-5-95 there was a preliminary discussion at Karimganj, in which the D.F.O., Shri C.M. Sarma could not attend through the entire meeting and the seniormost A.C.F. Shri S.S. Sinha was entrusted with to attend the same with due permission of the D.C. Incidentally I was also present on that day at Karimganj along with the C.C.F.(T). I could learn from the D.F.O. about the meeting on 23-5-95 the D.C., Karimganj was given company by Shri S.S. Sinha, A.C.F. to attend the meeting at Kolasib and Shri Chandra Mohan Sarma, D.F.O. Karimganj was also supposed to be present in the meeting on time at Kolasib. Later on, I came to know that Shri Sarma reported to the D.C., Karimganj at Kolasib, the venue of the meeting after a lapse of initial discussion in the meeting. However he participated at the stage of drafting the resolutions.

Attested.

P. M. J.
Advocate.

Contd.....P/2..

It is also gathered that certain discussions with which emerged as a sequel to the issue discussed, the officers from Mizoram initiated the topic on restriction on the height of load of the bamboos in Trucks, and the Deputy Commissioner, Karimganj clarified the position as standing at present. At this point of discussion Shri Chandra Mohan Sarma, D.F.O., Karimganj unfortunately tried to press off his view points in an assertive manner which perhaps incurred the displeasure of the Deputy Commissioner, Karimganj.

I have personally met the Deputy Commissioner, Karimganj and has appressed him of our feelings about this. Shri C.M. Sarma's arguments were never meant to show disrespect to the Deputy Commissioner but perhaps his ~~view points~~ un-witty view points based on facts were the cause of displeasure to the Deputy Commissioner, Karimganj. The D.C. has kindly agreed that there should not be any lasting effect of this and Shri C.M. Sarma, D.F.O. has been instructed to maintain good cordial relation hereafter.

I am enclosing a statement from the DFO, Shri C.M. Sarma which is based on documentary facts, and self explanatory, which may kindly be perused for needful.

Yours faithfully,

(K.N. DEVGOSWAMI)
CONSERVATOR OF FORESTS,
SOUTHERN ASSAM CIRCLE,
SILCHAR

Copy to the Deputy Commissioner, Karimganj
for favour of needful.

CONSERVATOR OF FORESTS,
SOUTHERN ASSAM CIRCLE,
SILCHAR

Attested.

P.W.
Advocate.

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the Karimang; dt. 24.7.95

The Conservator of Forests,
Southern Assam Circle,
Silchar.

Ref: You letter No.PGS.46 dated 6.7.95.

In response to your above noted letter, I beg to submit the following for favour of your perusal and consideration:

3. That Sir, it is a fact that a meeting was called by the D.C., Karimganj on 21.5.95 at his residence for preliminary discussion about the border dispute with Mizoram prior to the meeting to be held at Kolasib, Mizoram on 13.5.95.

Amended
P. J. [Signature]
Advocate

Contd.....2.

SAF who was visiting the field areas of my division since 20.5.95. I instructed Shri Sinha to attend the meeting on my behalf and appraise me of the outcome of the meeting on my arrival back.

4. That Sir, I had also invited both the D.C. and S.P. for lunch on 21.5.95 and to have discussion with CCF(F) & CP, SAC. On return from the field I joined the D.C., S.P., CCF(T), DF, SAC for lunch. After lunch, a cordial discussion was held among the officials present regarding various problems of the Division.

5. That I had also appraised the D.C. on 21.5.95 that I will be late in attending the meeting for reasons as stated hereinabove. However, I was late in returning back as some problems cropped up with the vehicle I was travelling. However on reaching back at the meeting I apologised for not being present all throughout being late. (copy of minutes of Joint Meeting enclosed).

6. That Sir, the allegations of boast regarding the case filed against the Assam Tribune is absolutely false. It is true that the subject of the case came up in an informal that when my colleague DFO, Kolasib enquired me about a publication regarding me in the Assam Tribune. Reluctantly I simply stated that I have filed a suit for defamation against the newspaper and it is not true that I have boasted as alleged and in fact there is nothing to boast about the same.

7. That as regards the imposition of restriction on high load, I stated that the Deputy Commissioner, Karimganj himself raised the matter of movement of bamboos supplied to H.P.C.Ltd. Panchgram and I informed the D.C. that there has been resentment among the bamboo traders of Karimganj who are lease of forest department. The reason of resentment being that the load limit of truck has been imposed on bamboos only and not on other items. In this regard the letter of D.F.O. Kartha (Mizoram) dated 16.2.95 is relevant which will speak for itself and a copy of which is enclosed for ready reference. In fact by my letter dated 19.5.95 (copy enclosed) I took up the matter with S.P. Karimganj requesting him to maintain equal treatment of law amongst traders and not to put restriction only on bamboo traders.

It is pertinent to mention here that surprisingly after the discussion held at Kolasib, it has been found that trucks with full load with bamboos are plying on the road as they were plying prior to imposition of restriction. Be that as it may, it is difficult on my part to question as to why I have been blamed by the Deputy Commissioner when he himself raised the issue. Copy of letter dt. 30.5.95 appreciating my efforts in solving the said problem, is enclosed.

8. When it was discussed wheather the same restriction is prevailing in other Districts of Barak Valley, though I was not aware of any such restriction, if any, I informed him that the bamboo coupe holders of H.P.C. working in Kalain Range of this division falling within the civil jurisdiction of Cachar District are transporting their bamboo to the Paper Mill, Panchgram in the Civil Jurisdiction of Hailakandi District without any load problem as I did not notice any resenment either from Bamboo Suppliers of H.P.C. Panchgram.

9. That Sir, while reporting to the Chief Secretary Assam, the Deputy Commissioner, Karimganj has kept indark regarding real issue of discussion i.e. imposition of restriction discriminately in case of bamboo only and not in other items for reasons bestt known to the D.C. The D.C. has projected a lopsided report of what has happened.

✓ 10. That in the past also, the D.C., Karimganj wrote letters not reflecting the true picture of facts which will be evident from those office letters dated 9.12.94 and 12.12.94, copies of which are enclosed which would speak for themselves. The Deputy Commissioner Karimganj wrote a letter dated 7.12.94 directing me to submit a report about the bamboo illegalities which I submitted as per my letter dated 9.12.94. Surprisingly on the same date, he wrote a letter with similar contents to the Government which I received alongwith your letter dated 24.2.95, the reply of which has already been submitted to you, vide letter dated 8.5.95. Similar action was also repeated by the D.C., Karimganj earlier for reasons best known to him. This office letter dated 19.5.95 is enclosed in this regard. It is surprising that without waiting for my clarification

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as sought by the D.C. he had taken the matter with the Government on the same date which speaks of reasons other than bonafide.

It may be pertinent to mention here that on the direction of the D.C., Karimganj, a press release No.169 with fabricated news regarding the forest Division was issued in December, 1994 which I protested by my letter dated 4.1.95 (copy enclosed) with a copy endorsed to your and P.C.P. and also requested the DIPRO to publish the correct news. All these will go to show that caprice is the foundation of the allegation levelled against me by the D.C., Karimganj.

However, inspite of all these I undertake and assure that I will try to keep good relation and cooperation with the district administration.

Yours sincerely,

Encl: As above.

(CHANDRA MOHAN)
D.F.O., Karimganj Divn.
Karimganj.

Attested.

P. n. L.
Advocate.

Annexure: 3C - 87 - 29

ANNEXURE-3C
GOVERNMENT OF ASSAM
FOREST DEPARTMENT :::: DISPUR

ORDERS BY THE GOVERNOR

- NOTIFICATION -

Dated Dispur, the 16th Dec '95.

NO.FRE.3/90/Pt/150 : In modification of this Department Notification No.FRE.23/91/220 dated 2-11-95, Shri Chandra Mohan, IFS, Deputy Conservator of Forests, is in the interest of public service, transferred and posted as Divisional Forest Officer, Hailakandi Division, Hailakandi, with effect from the date he takes over charges vice Shri Dilip Kumar Das, Divisional Forest Officer transferred.

NO.FRE.3/90/Pt/150-A : On relief, Shri Dilip Kumar Das, Divisional Forest Officer, Hailakandi Division, Hailakandi is in the interest of public service transferred and posted as Divisional Forest Officer, F.R.S. Division, Haflong with effect from the date he takes over charges vice Sri J.S. Bey, Divisional Forest Officer, Consolidation Division, Haflong is relieved of the dual charge.

Sd/- C. K. Sharma,

Addl. Secretary to the Govt. of Assam,
Forest Department, Dispur

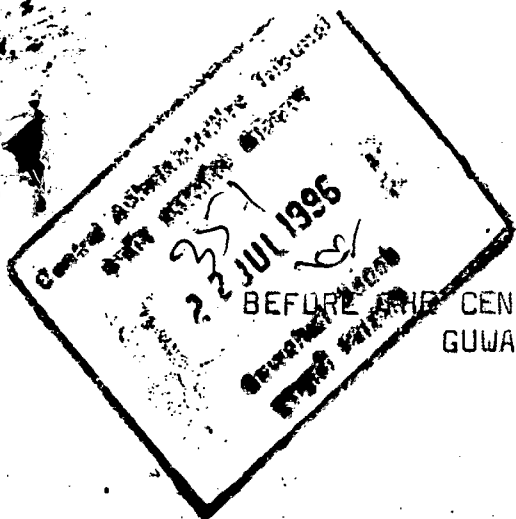
Memo No. FRE.3/90/Pt/150-B, Dated Dispur, the 16th December '95.
Copy forwarded :-

1. The Accountant General (A&F) Assam, Shillong/Bhangagarh, Ghy-5.
2. The Principal Chief Conservator of Forests, Assam, Rehabari, Ghy-8.
3. The Principal Chief Conservator of Forests (SF) Assam, Guwahati-24.
4. The Chief Conservator of Forests (Territorial) Assam, Rajgarh Road, Guwahati-3.
5. The Conservator of Forests, Southern Assam Circle, Silchar/Hills Circle, Haflong.
6. Shri Chandra Mohan, IFS, Deputy Conservator of Forests, C/O The Principal Chief Conservator of Forests, Assam, Rehabari, Guwahati-8.
7. Shri Dilip Kumar Das, Divisional Forest Officer, Hailakandi Division, Hailakandi for necessary action.
8. Shri Joy Singh Bey, Divisional Forest Officer, Consolidation Division, Haflong. He is directed to handover the charge of F.R.S Division, Haflong to Shri Dilip Kr. Das, as and when he reports for joining.
9. The Officer-On-Special Duty to the Chief Minister, Assam for favour of information of Chief Minister.
10. The P.S. to the Minister of State (Ind.) Social Forestry and Wild Life, Assam for favour of information of Minister.
11. The Deputy Director, Assam Govt. Press, Bamunimaidan, Guwahati-21 for publication of the above notification in the next issue of the Assam Gazette.
12. Personal files of the officers.

By order etc.,

Addl. Secretary to the Govt. of Assam,
Forest Department, Dispur.

Attested.



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Harish Sonowal 100
Filed through
Yamini K. Phukan

O.A. No. 3 of 1996

Between

Sri Chandra Mohan Sharma, I.F.S.

-Vs-

The Union of India and others.

Respondents.

AND

IN THE MATTER OF :

The written statement on behalf of the
respondent nos. 2, 3 and 4 in O. A.

No. 3 of 1996.

The humble written statement on behalf
of the respondent No. 2 (The State of Assam), res-
pondent no. 3 (Sri Harish Sonowal, I.A.S.) and res-
pondent no. 4 (The Principal Chief Conservator of
Forests, Assam) is as follows :

I, Sri Harish Sonowal, I.A.S., Commis-
sioner and Secretary to the Government of Assam, Depart-
ment of Forests, do hereby state as follows :

1. That I am the Commissioner and Secretary
to the Government of Assam, Department of Forests.

Contd.... 2/-

A copy of the above original application had been served on me. I perused the same and understood the contents thereof. I do not admit any of the allegations/ averments which are not borne out by records. All allegations/averments which are not specifically admitted hereinafter are to be deemed as denied.

2. That in regard to the statements made in paras 4.1, 4.6, 4.12 of the application, the answering respondents have no comment to make. The answering respondents, however, do not admit anything which is not borne out by records.

3. That in regard to the statements made in para 4.2 of the application, it is stated that they are mostly matters of record, being contained in O.A. No. 216/95 before this Hon'ble Tribunal. However, the answering respondents deny the statement that it was felt by the respondent Nos. 2 and 3 that the said order of transfer (challenged in O.A. No. 216/95) may not stand the legal scrutiny of the Hon'ble Tribunal.

The applicant challenged before this Hon'ble Tribunal his transfer from the post of Divisional Forest Officer, Karimganj to the post of Deputy Director, Manas Tiger Project on the ground that the transfer of a cadre officer to a non-cadre post cannot be made. It is stated that there is no

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Hansh Sonawaf

specific mention in the Rules that a Cadre Officer cannot hold a non-cadre post. The said non-cadre post of Deputy Director, Manas Tiger Project was held by a cadre officer of the same batch of the applicant, but no complaint in this regard was made. The applicant himself held the non-cadre post of D.F.O., Dhubri Social Forestry Division at Gauripur and Hamren Forests Division, Hamren without any complaint. Subsequently, the applicant was transferred to a cadre post of Planning Officer (II) in the Office of the Principal Chief Conservator of Forests, in modification of his transfer to the post of Deputy Director, Manas Tiger Project. The applicant had not complied with the said order for the reasons best known to him. The order of transfer in question is made in the public interest and it is respectfully submitted that this Hon'ble Tribunal will not interfere with the same.

4. That in regard to the statements made in para 4.3 of the application, the answering respondents state as follows :

During the tenure of the applicant as D.F.O., Karimganj Division where he joined on 16.7.94 many complaints have been received from the

20
Havish Sanyal 102

91
Havish sonawar, 103

1. 1-4 :-

public and from the Deputy Commissioner for illegal booking of timbers in Chandkhira Railway Station in the name of fictitious persons and also for his inaction to stop illegal felling of trees in the forest of Karimganj District and illegal movement of timbers out of Karimganj. The Deputy Commissioner, Karimganj had to interfere in the affairs of the applicant who had totally failed to control the illegalities committed in Karimganj Division and unabated destruction of forests. Moreover, the applicant was transferred when he showed unbecoming behaviour in the border meeting held between the D.C., Karimganj with his counter parts of Mizoram, Aizawal on 23.5.95 at Kolasib.

5. That in regard to the statements made in para 4.4 of the application, it is stated that the Deputy Commissioner, Karimganj sent various reports on the goings on in the Karimganj Forest Division, but the D.C. had never requested to transfer the applicant from Karimganj. On consideration of the reports received from the D.C., Karimganj and also frequent absence of the applicant from his Head quarter, there was no remedy but to transfer the

Contd.... 5/-

applicant from Karimganj Division in the interest of the Department and for the State as a whole . It is a fact that the D.C. had submitted the reports of illegalities that were going on in Karimganj and also unruly behaviour shown by the applicant in the border meeting held on 23.5.95 at Kolasib.

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6. That in regard to the statements made in para 4.5 of the application, it is stated that no pressure has been exerted by the Deputy Commissioner, Karimganj. The Government took action on the objective assessment of the entire situation. The Government deemed it fit that the applicant should be transferred in the interest of public service and accordingly the order bearing no. FRE. 23/91/205-B dated Dispur, the 5th September, 1995 was passed.

7. That in regard to the statements made in paras 4.7 and 4.8 of the application, it is stated that the transfer of the applicant was made in the interest of the public service and there was no widespread resentment of the I.F.S. Association of the Assam Unit on the question of transfer of the applicant. However, on receipt of the minutes of the

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Association of their meeting held on 8.9.95, it was revealed that the Association is not fully seized of the matter relating to the applicant, but the Government duly considered and intimated the Association through the Principal Chief Conservator of Forests by letter No.FRE. 73/90/223 dated 29.9.95 not to interfere in the administrative decision of the Government, but to remain confined to the steps on redressing their grievances on service condition, if any. The Association has not pursued further in this regard.

8. That in regard to the statements made in para 4.9 of the application, the deponent states that the representation of the applicant for stay of his transfer vis-a-vis the allegations levelled against him by the Deputy Commissioner, Karimganj was duly considered by the Government in regard to illegal booking of timbers at the Railway Station ; and in the interest of public service the transfer order of the applicant bearing no.FRE. 23/91/205-A dated 5.9.95 was not changed or altered. However, it would be pertinent to mention here that the Government investigated into the allegations through the Bureau of Investigation and Economic Offences, Assam (an independent investigating agency of the Government of Assam) for finding out economic offence committed by Government Officials.

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9. That in regard to the statements made in para 4.10 of the application, it is stated that the applicant has not mentioned in his representation dated 14.9.95 (Annexure- 4 to the application) that he was transferred from a Cadre post to a non-cadre post. That apart without awaiting the out-come of his representation, the applicant filed the D.A.No. 216/95 challenging the validity of his transfer order on the following grounds :

- (a) He was transferred from a cadre post to a non-cadre post,
- (b) Transfer was made on the pressure exerted by the Deputy Commissioner, Karimganj and
- (c) in violation of the circular memo No.ABP. 245/87/8 dated 10.12.1984.

The averments made by the applicant in this regard have been stated in paras 9 to 11 of the affidavit (Annexure 9 to the application) filed before the Hon'ble Tribunal in D.A. No. 216/95. However, as per order dated 21.9.95 of the Hon'ble Tribunal passed in D.A. No. 216/95, the applicant was transferred to a cadre post of planning officer (II) in the office of Principal Chief Conservator of Forests, Assam. However, the applicant has not joined the post for the reasons best known to him.

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10. That in regard to the statements made in para 4.11 of the application, it is stated that by the order dated 21.9.95 passed in O.A. No. 216/95, the Hon'ble Tribunal had given liberty to consider the prayer of the applicant for stay in the light of his representation during the pendency of the O.A. On the basis of the liberty granted by the Hon'ble Tribunal, the representation dated 14.9.95 has been disposed of by order bearing no.FRE. 23/91/214-A dated 11.10.95 though the grounds taken in the representation dated 14.9.95 were not similar to those taken in the application filed before the Hon'ble Tribunal.

A copy of the said order dated 11.10.95 is annexed hereto and marked as Annexure-A.

11. That in regard to the statements made in para 4.13 of the application, it is stated that they are mostly matters of records. The respondents state that taking over charge from the applicant was postponed till 16.10.95 in view of the pendency of the application of the applicant in the Hon'ble Tribunal. That original application was disposed of and as such the applicant had no basis which could generate his bonafide belief. The applicant was not available in his Headquarter for a long period for which he might not have received the order dated 11.10.95.

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12. That in regard to the statements made in para 4.14 of the application, it is stated that they are all matters of records. The answering respondents do not admit any thing which are not borne out by records. It may be further stated that the allegations levelled against the applicant have been well-founded.

13. That in regard to the statements made in paras 4.15 and 4.16 of the application, it is stated that they are matters of records and the answering respondents do not admit anything which is not borne out by records.

14. That in regard to the statements made in para 4.17 of the application, the answering respondents state that a careful perusal of the statements shows that the applicant has considered the posting at the Karimganj Division is a prized one and he never wants to leave it for reasons best known to him. The instant transfer was made completely in public interest and the transfer is always a condition of service. The applicant does not have any inherent right that he must be posted at the Karimganj Forest Division. It is for the answering respondents to decide on the question of posting of any officer in an appropriate place. If the

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applicant is posted as Planning Officer (II) in the office of the Principal Chief Conservator of Forests, Guwahati, he has no objection to make. It is for the answering respondents to decide whether the applicant should remain at Karimganj or else-where and he may be transferred within the three years in the interest of public service. Transfer of an officer from one place to another within a period of three years does not amount to any vindictiveness. The answering respondents have no occasion to be vindictive against the applicant and there is no question of having any extraneous consideration.

The answering respondents state that due to complete failure on the part of the applicant to control illegalities and destruction of forests in Karimganj and his complete non-co-operation with the district administration to curb the illegalities, the applicant was transferred from Karimganj Division and posted as Deputy Director, Manas Tiger Project, Barpeta Road by Notification No. FRE. 23/91/205-A dated 5.9.95. The applicant challenged this transfer on the ground that he cannot be transferred from a cadre post to a non-cadre post. The applicant was subsequently transferred and posted as Planning Officer (II) in the office of the Principal Chief Conservator of Forests, Assam in modification of the earlier order dated 5.9.95. It is not a fact that the applicant was neither required

as Deputy Director, Manas Tiger Project nor as Planning Officer (II) as stated by him but in fact the applicant does not like any of the above two postings. However he has a strong liking for the post of an incharge of Karimganj territorial division.

15. That in regard to the statement made in para 4.18 of the application, it is stated that they are mostly matters of records. The answering respondents, however, do not admit anything which are not borne out by records. The allegation that efforts were being made at the highest level to spoil the image of the applicant is denied by the answering respondents. The transfers in question were made in public interest.

16. That in regard to the statements made in para 4.19 of the application, the answering respondents state that the allegations made therein are incorrect and they are hereby denied. It is absolutely incorrect that the respondent nos. 2 and 3 bore a personal grudge against the applicant. The applicant has not shown any reason why the respondent nos. 2/3 had the occasion to bear a personal grudge against the applicant. The respondent Nos. 2/3 never acted maliciously and out of personal spite while passing the orders of transfer. To transfer the petitioner from a cadre post to a non-cadre post cannot be termed as

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malicious and vindictive. In regard to the statements made from records the answering respondents have no comment to make. The answering respondents, however, do not admit anything which is not borne out by records.

In regard to paragraph 4.19 (c) of the application it is stated that there is no question of unholy haste. The applicant was aggrieved when he was transferred from a cadre post to a non-cadre post and he challenged the order of transfer in this Hon'ble Court. The order of transfer was modified and the applicant was transferred from one cadre post to another. It is for the administration to decide which officer is to be posted where and it is not for the officer to dictate the Administration that he should be posted in a place of his choice.

In regard to sub para ^{4.19} (d), the answering respondents have no comment to make as they are matters of records.

In regard to sub-para (e) of paragraph 4.19 of the application, it is stated that the applicant was steadfast in his attitude that he must not be transferred from Karimganj Forest Division and he believed that as an I.F.S. Officer, he has an inherent and inviolable right to stay in a station of his choice and an order of transfer, if it affects his self-interest, amounts to highhandedness of the administration.

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In regard to sub-para (f) and (g) of paragraph 4.19, it is stated that the allegation of the applicant that he was not given 10 days' time for handing over charge to his reliever is totally false. When the reliever had reported joining, the applicant had left his Head Quarter without intimating the District Administration and also the circle conservator in violation of the Government instruction not to leave Head Quarter.

17. That in regard to the statements made in para 4.20 of the application, it is submitted that the assessment of the totality of the circumstances will bring into sharp focus the fact that the applicant was hell-bent on staying in the Karimganj Division for the reasons best known to him. When the applicant found that his application was upset, he started viewing the entire process with a jaundiced eye and dubbed the order of transfer as colourable and mala fide exercise of power. The allegations made by the applicant are hereby denied. It is reiterated that the transfer of the applicant was made in the interest of the public and to meet administrative exigency. The question of passing the order in colourable and mala fide exercise of power does not arise.

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18. That in regard to the statements made in para 4.21 of the application, the answering respondents state that the order of transfer in the instant case has been made in the public interest. It cannot be termed as punitive. The answering respondents humbly stated that the impugned order of transfer is not liable to be set aside.

19. That in regard to the statements made in para 4.22 of the application, it is stoutly denied that there had been personal score to settle with behind the order of transfer. The applicant had not stated that there has been personal enmity between the applicant and the respondent No. 3 and because of such enmity, there arose the question of settling the score. The answering respondents categorically state that there is no score to settle with.

20. That in regard to the statements made in para 4.23 of the application, it is stated that the order of transfer has been made in the public interest keeping in mind the over all situation. The Government circular in question provides only guidelines and this guideline is not a mandatory provision of law. The administrative department has been authorised by Government circular No.ABP. 246/87/8 dated 10.12.94 to transfer officers under their control on exceptional cases even prior to completion of 3 years terms.

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21. That in regard to the statements made in para 4.24 of the application, it is stated that it is not for the applicant to decide whether an order of transfer serves public interest or not. The statement that it is malicious in nature and is a part of vendatta by the respondent No. 2/3 is denied.

22. That in regard to the statements made in para 4.25 of the application, it is stated that from the date of issue of the transfer order the applicant was away from his head-quarter without intimating anybody. Instead of handing over his charges, the applicant had been busy with his personal matter for the cancellation of his transfer order.

23. That in regard to the statements made in para 4.26 of the application, it is stated that the application is not at all bonafide and the ends of justice would be met if his application is dismissed in limine keeping in mind the facts and circumstances of the case.

24. That in regard to the grounds it is stated as follows :

- 5.1 - The allegation that the order of transfer is punitive in nature is not correct. It is not a fact that it does not serve any public

interest. There is no question of punishing the applicant without just and sufficient ground. It is not at all punishment.

5.2.- The administrative department has been authorised by the Government circular No.ABP. 246/87/8 dated 10.12.94 to transfer officers under their control on exceptional cases even prior to completion of 3 years terms. The impugned order is not bad in law and is not liable to be set aside and quashed as alleged by the applicant.

5.3 and 5.4 - The allegations contained in these paras are baseless. The transfer order is not against the principle of service jurisprudence.

5.5. - The allegations are baseless and the W.T.message was sent to meet the exigency of the situation.

5.6 - Unless something is recorded in the A.C.R. the W.T, message in question cannot put any stigma to the applicant.

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5.7.- The statements here are matters of records and the answering respondents do not admit anything which are not borne out by records.

25. That the answering respondents respectfully submit that this application has no merit and it is prayed that this application should be dismissed in limine.

-: VERIFICATION :-

I, Shri . *Harish Sonowal*

. Secretary to the Government of Assam, Department of Forests do hereby solemnly state that the statements made in this written statement are true to my knowledge, information and belief based on records which I believe to be true are there is no suppression of facts.

I sign this verification on this 19 . . . day of . . June . . . 1996.

[Signature]
Signature

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GOVERNMENT OF ASSAM

DEPARTMENT ::::: DISPUR

Dated Dispur, the 11th October, 1995

Perused the representation No.C.M/4/Trans dated 14.9.95 submitted by Shri Chandra Mohan, I.F.S. Divisional Forest Officer, Karimganj Division for stay of his transfer order. In his representation Shri Chandra Mohan has claimed that he has been discharging his duties and responsibilities to "all satisfaction of his superior authorities". He has also claimed that "his action in checking all sorts of illegalities have been appreciated by all".

However, from records available, it appears that lots of illegalities are taking place in his jurisdiction at Karimganj Division and he has failed to check the illegalities within his jurisdiction. Presently it is the District Administration, who are active in curbing the illegalities and Shri Chandra Mohan, Divisional Forest Officer who could have taken full advantage of endeavour of the District Administration in curbing illegalities if he would have extended full co-operation to the District Administration. But his in action and complete non co-operation with the District Administration to curb the illegalities that are taking place in Karimganj Division prove his involvement and connivance of such illegalities with the timber smugglers. The State Govt. is within the knowledge of seizure of illegal timbers by the District Administration of Karimganj on suspicion of movement of timbers in the fictitious names of the consignees without their full addresses. A senior Officer from State Headquarter Shri K.C. Pator, IFS, Conservator of Forests, was deputed to investigate the matter of timbers seized by the D.C. from Chandkhira Rly. Station had observed as follows :-

"It would not be out of place to mention here that the initiative taken by the D.C., Karimganj in curbing illegalities in Karimganj Forest Division is very much appreciated. As for an instance, on 4.9.95 (night) the D.C. detected 61 pieces of illegal Teak Timbers within Lawaipowa Range and got the timber seized by the Range Officer, Lawaipowa".

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Secondly, there has been continuous report of seizure of timbers by the District Administration and report of catching persons red-handed at the time of illegal felling of trees. Though it is the duty of the D.F.O. concerned there is not a single report from Shri Chandra Mohan, D.F.O. about such action from his end. It is observed that he does not stay in Hdqr. and most of the time he passed at Guwahati. He had gone to such extent that he by remaining away from his H.Q. had un-necessary delayed and avoided to carry out the joint verification of the origin of the seized timbers in Chandkhira Rly. Station by the District Administration. It has therefore been entrusted to the B.I.(F.O.) to investigate the inquiry. So his claim that he has been discharging his duties to the full satisfaction of the superior authority as well as his claim that his action in checking all sorts of illegalities in his jurisdiction have been appreciated by all is not based on facts.

Shri Chandra Mohan, D.F.O. has submitted to Govt. that his transfer order will cause great problem and difficulties to him as well as to his family. Transfer and posting is made in the interest of public service and any Govt. servant is liable to comply with such transfer order. All sorts of problems of the officers as well as of the family considered only when a genuine problem is put forward to Govt. In his representation Shri Chandra Mohan, D.F.O. has not indicated such problem and hence there is no ground for consideration of his stay at Karimganj, and his continuance in Karimganj Division is very much detrimental to the State Govt. and there is every possibilities of facing public litigation cases by Government.

In connection with alleged seizure of timbers by the D.C., Karimganj, Shri Chandra Mohan has submitted that verification of seized timber of Mazoran origin is still under process and he has expressed fear that there may be manipulation of actual fact if he is transferred from that place. Since it is a joint verification and a senior officer of the rank of Conservator of Forests has been asked to remain present in such joint verification there is no reason about his fear of manipulation of documents in his absence.

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It appears that the D.F.O. purposefully wants to delay the verification by remaining absent from the headquarter unauthorisedly and by not extending co-operation to the D.C. with an ulterior motive. It is learnt that his substitute Shri Abhijit Rava, IFS who has been released and likely to join at Karimganj Division and therefore the prayer petition dtd. 14.9.95 submitted by Shri Chandra Mohan, D.F.O. could not be considered and the matter is disposed of accordingly. Inform all concerned.

The office has pointed out that Shri Chandra Mohan, D.F.O. has gone to the Court against the transfer order. It is surprising that he simultaneously moved the Hon'ble C.A.T. challenging the transfer order that he has been posted to a non-cadre post and also submitted a prayer petition to Govt. showing different problems. However, without seeing the writ petition it is difficult to make comment on the prayer petition submitted by him.

The Hon'ble C.A.T. while passing order has given the liberty to the State Govt. to consider the prayer during the pendency of the O.A. The Respondent No.2 i.e. Commissioner of the Department has been given the liberty to consider the prayer petition of the applicant during the pendency of O.A. in the Hon'ble Court, taking liberty given by the Hon'ble C.A.T. I disposed of the prayer petition as stated above.

However Govt. will not insist upon Sri Chandra Mohan's handing over charge till 16.10.95 on which date court has decided to give hearing to both the parties.

Sd/- H. Sonowal,
Commissioner & Secy. to the Govt. of Assam,
Forest Department, Dispur

Memo No. FRE 23/91/214-A. Dated Dispur, the 11th Oct '95
Copy forwarded to the:-

1. The Principal Chief Conservator of Forests, Assam, Rehbari, Guwahati-8.
2. The Chief Conservator of Forests (T), Assam, Guwahati-8.
3. The Conservator of Forests, Southern Assam Circle, Silchar.
4. The Deputy Registrar, Central Administrative Tribunal, Guwahati Bench, Rajgarh Road, Guwahati-5.
5. Shri Chandra Mohan, IFS, Divisional Forest Officer, Karimganj Division, Karimganj.

By order etc. Addl. Secretary to the Govt. of Assam, Forest Deptt., Dispur.

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Filed by
S. S. S. S. S.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:: GUWAHATI BENCH

Central Administrative Tribunal
Guwahati Bench
1 OCT 1996
General Bench
120

O.A. No. 3/96

Shri Chandra Mohan Sharma, I.F.S.

- Versus -

Union of India & Others.

RECOINDER TO THE WRITTEN STATEMENT FILED ON BEHALF
OF THE RESPONDENT NOS. 2, 3, & 4

The applicant begs to state as follows :

1. That I am the applicant in the instant case. I have gone through the copy of the written statement and have understood the contents thereof. Save and except the statements which are specifically admitted hereinbelow, other statements are categorically denied. Further the statements which are not borne on records are also denied.
2. That with regard to the statements made in paragraphs 1 and 2 of the written statements ~~ma~~ I do not admit anything contrary to relevant records.
3. That with regard to the statements made in paragraph 3 of the W.S. I beg to state that the transfer order was challenged on the ground of posting of a cadre officer to a non-cadre post as well as transfer was instigated by the Deputy Commissioner, Karimganj. As already mentioned in counter affidavit "the respondents by their own statements have admitted that cadre officers are being posted against non-cadre officers and similarly non-cadre officers are also posted against cadre officers which is contrary to the rules. Admittedly, the post of

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Deputy Field Director, Tiger Project is not a cadre post. Merely because the earlier incumbent did not raise any objection to his posting to a non-cadre post or for that matter merely because there are instances that no objection were raised against the orders of posting of cadre officers to non-cadre posts, the respondents cannot continue with the same as a matter of right in violation of the rules and also the dicta laid down by this Hon'ble Tribunal.

Citing the instances of holding of non-cadre or cadre posts by the cadre officers cannot absolve the respondents from their duties to follow their rules.

Rule 9(1) of IFS (Pay) Rules, 1768 states "No member of Service shall be appointed to a post other a post specified in Schedule III unless the State Govt. concerned in respect of posts ~~post~~ under its control or the Central Govt. in respect of posts under its control as the case may be make declaration that the said post is ~~is~~ equivalent in status and responsibility to a post specified in the said schedule.

Thus mentioning by the respondent that there is no rule in this regards is nothing but to mislead to the Hon'ble Tribunal.

- (1) R.S. Mathur Vs. Union of India 1992 (3) SLJ (CAT) Luck. 291.
- (2) Navin Singh V. Union of India and another 1993(3) SLJ (CAT) Bombay 29.

And respondent ultimately modified again the transfer order of applicant vide FRE. 3090/161-A dt. 10.4.96

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posting as B.F.O. Central Aff. Division, Hojai which is is not a cadre post. This is malafide and attract contempt of Court. The Hon'ble Tribunal by its Judgment directed the State of Assam to give promotion to the applicant and others to the senior scale with retrospective effect (O.A. 128/88 and O.A. 164/88). For a pretty long time, the applicant was deprived of his promotion to the senior scale and he had accept such posting without prejudice to his cost. As far Haren Division is concerned, the applicant was in this Division only for a brief period (5 months).

When applicant learnt that his transfer order as Planning Officer-II was being modified and accordingly, modified vide Govt. order FRE.3/90/Pt/150 dated 16.12.95 posting as B.F.O. Hailakandi, the applicant joined the office of D.F.O. Hailakandi vide letter dated 30.12.95 and reported to the respondent vide letter dated 11.1.96 but respondent kept silence without issuing necessary instruction for ~~xxx~~ approximately four months, ~~xxxxx~~ thus depriving the applicant of the salary for four months (approx.), thus causing financial harassment. This modification clearly implies that the applicant's transfer for Manas Project, Barpeta Road or as Planning Officer-II, Guwahati ~~xx~~ or as D.F.O. Hailakandi were not in the public interest otherwise, these transfers could have not been modified, nor the services of the applicant were necessary for these postings.

4. That as regards the statements made in paragraph 4 of the affidavit, only very few (2-3) complaints received from public during tenure of applicant which were found baseless and motivated during the departmental enquiry and

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accordingly reported to Govt. In some complaints, the signature of signatories were found forged. The applicant also submitted to P.C.C.F. and Respondent all facts with documents about false allegations against applicant vide letter No. CM/3/Clari. dated 24.3.95 and subsequently, P.C.C. submitted the report to Govt. of Assam about false allegations against the applicant. Also the Conservator of Forests, Silchar who is controlling authority for Karimganj Division did not find illegalities during his official tours to Karimganj Division at several occasions. The reports already enclosed with petition speak for itself. Even during the visit of Chief Conservator of Forests along with Conservator of Forests on 21st and 22nd May 1995, no complaints were received by them and they had shown satisfaction about applicant performance. Even during the meeting between C.C.F. C.F. and M.D.C. Karimganj, the D.C. Karimganj did not complain regarding applicant's performance. Again, Magistrate on 16.7.95 on the direction of D.C. Karimganj checked 4 timber loaded wagons at Patherkandi Rly. Station and found no illegalities/irregularities. Also records state that illegalities have been found checked during the tenure of applicant's comparing with the illegalities detected during the tenure of applicant's predecessors. Mention of so called illegal movement of timber as reported by D.C. Karimganj found baseless in the judgment of High Court, Guwahati in Civil Rule No. 3723 and 3487 of 1995, and Court awarded the cost of Rs.1000/- to petitioner in each Civil Rule. In another case of illegal seizure of timber (Civil Rule No. 3499/95) by D.C. Karimganj, the contempt of court proceedings

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against the D.C. Karimganj are going. Thus, all above record and records enclosed with petition speak for itself the best performance of the applicant. Even the best performance of the applicant can be ascertained when comparing the detection of large level illegalities in other ~~project~~ Forest Division of the Assam. The seizure reports etc. of other Divisions will speak for itself. Thus mentioning of illegalities and unabated destruction of forests by respondents is baseless and motivated and above vindictive and biased attitude of the respondent towards applicant. The mentioning of so called unbecoming behaviour of the applicant with D.C. Karimganj is found baseless and motivated in the departmental report which has already been enclosed with the O.A.

5. That as regards the statements made in paragraph 5 of the affidavit, I do not admit the same. The statements that "reports received from D.C. Karimganj and also frequent absence from the HQ (as reported by D.C. Karimganj) there was no remedy but to transfer the applicant" contradict the statements of the respondents that applicant's transfer is not instigated, manipulated or motivated by the D.C. Karimganj.

As per Assam Forest Manual Part-III, all reports related with Forests should be submitted to the Conservator of Forests by the Deputy Commissioner. No reports can be submitted to Government without Conservator of Forests. In the instant case, baseless report with motivated interest were submitted directly to the respondents and both respondents and Deputy Commissioner communicated each other

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keeping Conservator of Forests in dark and took decision themselves without any report from Conservator of Forests which is mandatory as per Assam Forests Manual. This shows the malafide on the part of the respondent.

6. *That with regard to para 6 of the W.S.,*
^ It is contrary to the para 5 where respondent stated that on consideration of reports received from Deputy Commissioner, Karimganj, there was no remedy but to transfer the applicant. The file as mentioned in the para should be called in Tribunal to ascertain the facts. It is worthwhile to mention that the applicant reported to the higher authority regarding vindictive and biased attitude of D.C. Karimganj time to time.

Thus the transfer of the applicant is not in public interest.

7. That with regard to the statements made in paragraph 7, I beg to state that the I.F.S. association strongly taken the transfer of the applicant after due consideration.

8. That with regard to the statements made in paragraph 8 of the W.S., I state that my transfer has been continuously modified showing malafide on the part of the respondents.

9. That as regards the statements made in paragraph 9 of the W.S., I beg to state that as per order dated 21.9.95 of the Hon'ble Tribunal passed in O.A. 216/95, the respondent was asked not to transfer the applicant from the present position, i.e. Karimganj Division but respondents transferred the applicant by modifying the order to Planning Officer² II Guwahati and then to Hailakandi Division, Hailakandi

and again to Central Aff. Division, Hojai and ultimately posted the applicant to a non-cadre post of Hojai, against the rules.

10. That with regard to the statements made in paragraph 10 of the W.S. I beg to state that the respondents have turned down vide dated 11.10.95 the representation of the applicant on the basis of baseless and unfounded observation. The applicant never received the said order dated 11.10.95 and was shocked to see the baseless observation in the said order. The records enclosed with petition and herewith and High Court Judgment in Civil Rule No. 3723 and 3487 of 1995 and contempt proceeding against the D.C. Karimganj in the High Court contradict the observations made in the said order dated 11.10.95 by the respondent.

Again for ~~example~~ example, D.C. Karimganj reported to the respondent vide No.DC/43/95/234 dated 5.10.95 presence of 67 pieces of unmarked teak timber. But on enquiry, the said timber found recorded at applicant submitted report vide B/11165-66 dated 13.10.95.

11. That with regard to the statements made in paragraphs 11, I say that the contentions of the respondent that the applicant was not available in his Headq uarter for a long time is not correct.

12. That with regard to the statements made in paragraph 12 of the W.S. I state that no records or evidences were submitted in support of the statements that "the allegation levelled against the applicant have been well founded." The applicant submitted facts and records contradicting the statements of the respondents.

13. That with regard to the statements made in paragraph 13, I do not admit anything contrary to relevant records.

14. That the statements made in paragraph 14 of the W.S. are categorically denied. The transfer of the applicant is not in public interest, but in the interest of respondent and the D.C. Karimganj having vested interest. All the allegations have been refuted by the applicant by submitting records which speak for itself. The applicant joined in Hailakandi and in Hojai wherever there is transfer orders. This shows that applicant carried out the order of transfer issued by the respondents and no insisted his choice of place of posting.

15. The applicant is surprised for mentioning of "complete failure on the part of the applicant to control illegalities and destruction of forests in Karimganj and his complete non-cooperation with the district administration to curb the illegalities." without any record or enquiry by the departmental authority. On the contrary, the applicant has enclosed all records of his good performance which has not been denied by the respondents. In any report, submitted to the P.C.C.F. and Govt. of Assam, by the Conservator of Forests, time to time, no lapses or irregularity by applicant has been found. Even the posting of the applicant as D.F.O. Hailakandi after Karimganj vide order dated 16.12.95 by the respondents shows the ability to control illegalities integrity and satisfactory performance of the applicant

Contd.....P/9

because Hailakandi Division is full of forests and situated adjoining the Karimganj Forest Division. In fact the posting of the applicant as D.F.O. Hailakandi after Karimganj Division contradicts the baseless statement of the respondent in this paragraph. This paragraph also contradicts the statements made in paragraph 4 by the respondents where it was mentioned "the applicant was transferred when he showed unbecoming behaviour in the meeting on 23.5.95."

That some time respondents say that applicant was transferred due to unbecoming behaviour and some time also says that applicant was transferred due to his inability to check illegalities. Thus the respondent is a confused person. Even though, the applicant states that both the reason submitted by the respondents for his transfer is baseless and unfounded and motivated.

Again even after posting of applicant as D.F.O. Hailakandi, the respondents submitted proposal for the posting of applicant as D.F.O. Silchar, D.F.O. Aie Valley Division and as D.F.O. Darrang West Division to the Govt. vide FRE.3/90/Part which are full of forests. This shows remarkable confidence of respondents in applicant regarding his ability, integrity and good performance.

15. That with regard to the statements made in paragraph 15 of the W.S. , the applicant brought in the notice of respondents the biased and vindictive attitude of the Deputy Commission, Karimganj, but no action has been taken so far by the respondents in this regard.

Contd.....P/10

16. That as regards the statements made in paragraph 16, I beg to state that without any evidence, the respondent maligned the image and career of the applicant.

17. The submissions of joining report by the applicant at Hailakandi and at Hojai after modification of transfer orders clearly shows that applicant has no inherent right to stay in a station of his choice.

When the reliever reported joining, the applicant was remained in the H. Q and clarified the position to his reliever vide letter no. CM/06 dated October 1995. This contradicts the statements of the respondents.

17. That with regard to the statements made in paragraphs 17 and 18 of the W.S. I ~~state that~~ do not admit those statements.

18. That with regard to the statements made in paragraph 19 of the W.S. I beg to state that this is personal biasness of the respondents that is why he ignore the reports of the Conservator of Forests while taking the decision. As per Assam Forest Mannual, the respondents should have directed the D.C. Karimganj to approach the Conservator of Forests, instead of going to the Government directly for any matter ~~related to the~~ relating to forests.

19. That with regard to the statements made in paragraph 20 of the W.S. I beg to state that the exceptional conditions for applicant's transfer has not been found

justified by the evidences/records. On the contrary the different reports submitted by the Conservator of Forests did not find any lapse or irregularity by the applicant. All the so called allegations submitted by the respondents have not been found true or well founded. Thus the applicant's transfer is not in public interest.

20. That with regard to the statements made in paragraph 21 of the W.S. I do not admit anything contrary to relevant records.

21. That with regard to the statements made in paragraph 22, I beg to state that the statements - "the applicant was away from his head quarter without intimation to any body" is not a fact. The applicant clarified the position to his reliever vide letter dated October 1996. Thus the whole statements of respondents are false.

22. That with regard to the statements made in paragraphs 23 and 24 of the W.S. I do not admit anything contrary to the relevant records.

In support of the contentions made hereinabove, the applicant annexes herewith the copies of the notification dated 10.4.96, 9.11.95, 16.12.95, 11.1.96, 24.3.96, 16.7.96, Judgment dated 2.4.96, letter dated October 1995 and the same are ~~annexes~~ marked as ANNEXURES-1, 2, 3, 4, 5, 6, 7, 8 and 8 respectively.

Verification.....

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

I, Shri Chandra Mohan Sharma, I.F.S. the applicant in O.A. 3/96, do hereby solemnly verify and state that the statements made in the accompanying Rejoinder are true to my knowledge and belief and I have not suppressed any material facts.

And I sign this verification on this the 25th day of September 1996 at Guwahati.

Chandra Mohan

FOREST

GOVERNMENT OF ASSAM

DEPARTMENT ::::: DISPUR

ORDERS BY THE GOVERNOR

- NOTIFICATION -

Dated Dispur, the 10th April, 1996.

NO.FRE.3/90/Pt/161 : The transfer order issued vide Notification No.FRE.3/90/Pt/150-A, dtd. 16.12.96 in respect of Shri Dilip Kr. Das, Divisional Forest Officer, Hailakandi Division, Hailakandi is hereby cancelled with immediate effect and until further orders.

NO.FRE.3/90/Pt/161-A : In modification of this Department notification No.FRE.3/90/Pt/150 dtd. 16.12.95, Shri Chandra Mohan, IFS, Deputy Conservator of Forests, is in the interest of public service transferred and posted as Divisional Forest Officer, Central Assam Afforestation Division, Hojai with effect from the date he takes over charges vice Shri B.B. Nobis, Divisional Forest Officer, Nagaon South Division, Hojai, relieved of the dual charge.

Sd/-A.B. Roy Choudhury,
Deputy Secretary to the Govt. of Assam,
Forest Department, Dispur

Memo No.FRE.3/90/Pt/161-B,
Copy forwarded to :-

Dated Dispur, the 10th April, 1996.

1. The Accountant General(A&E) Assam, Shillong/Bhangagarh, Guwahati-5.
2. The Principal Chief Conservator of Forests, Assam, Rehabari, Guwahati-8. Shri Chandra Mohan, IFS may be directed to report joining immediately.
3. The Chief Conservator of Forests(T & Admn) Assam, Rajgarh Road, Ghy-3.
4. The Chief Conservator of Forests(R.E. & W.P) Assam, Guwahati-24.
5. The Conservator of Forests, Southern Assam Circle, Silchar/Northern Assam Circle, Tezpur/Hills Circle, Haflong.
6. Shri Dilip Kr. Das, Divisional Forest Officer, Hailakandi Division, Hailakandi.
7. Shri Chandra Mohan, IFS, Deputy Conservator of Forests, C/O The Principal Chief Conservator of Forests, Assam, Rehabari, Guwahati-8. He is directed to join in his new place of posting immediately and to submit the report of compliance accordingly.
8. Shri B.B. Nobis, Divisional Forest Officer, Nagaon South Division, Hojai. He is directed to handover charge of Divisional Forest Officer, Central Assam Afforestation Division, Hojai to Shri Chandra Mohan, IFS, as and when he reports for joining.
9. Shri Joy Singh Bey, Divisional Forest Officer, Consolidation Division, Haflong for information.
10. The Officer-On-Special Duty to the Chief Minister, Assam for favour of information of Chief Minister.
The Deputy Director, Assam Govt. Press, Bamunimaidan, Guwahati-21 for favour of publication of the above notification in the next issue of the Assam Gazette.
12. Personal file of the officers.

By order etc.,

(Signature)
Deputy Secretary to the Govt. of Assam,
Forest Department, Dispur

Attested.

Advocate

(PUBLISHED IN THE GAZETTE OF INDIA PART II SECTION 3(1))

No. 16016/2/95-AIS(II)-A

DT.

Government of India

Ministry of Personnel, P.G. & Pensions
(Department of Personnel & Training)

New Delhi, the 9.11.95

NOTIFICATION

G.S.R. No. In exercise of the powers conferred by sub-section (1) of Section 3 of the All India Services Act, 1951 (61 of 1951) read with sub-rule (2) of Rule 4 of the Indian Forest Service (Cadre) Rules, 1968, the Central Government, in consultation with the Governments of Assam & Meghalaya, hereby makes the following regulations further to amend the Indian Forest Service (Fixation of Cadre Strength) Regulations, 1968, namely:-

1. (1) These regulations may be called Indian Forest Service (Fixation of Cadre Strength) Seventh Amendment Regulations, 1995.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Schedule to the Indian Forest Service (Fixation of Cadre Strength) Regulations, 1968, for the heading "Assam-Meghalaya" and the entries occurring thereunder, the following shall be substituted namely :-

"ASSAM-MEGHALAYA"

1. Senior Posts under the State Govt.

Posts under the Government of Assam

Principal Chief Conservator of Forests

✓ Chief Conservator of Forests (Protection) ✓

Chief Conservator of Forests (Wildlife) &
Chief Wildlife Warden

Chief Conservator of Forests (Social Forestry)

✓ Chief Conservator of Forests (Research, Training
& Working Plans)

Conservator of Forests (Territorial)

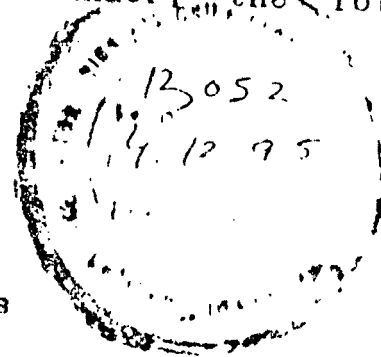
Conservator of Forests (Development) ✓

Conservator of Forests (Economic Circle) ✓

Conservator of Forests (Headquarters) ✓

Conservator of Forests (Social Forestry) ✓

✓ Conservator of Forests (Wildlife)



Attested

Field Director - Project Tiger, Manas

1

Director, Kaziranga National Park

1

Principal, NEF Rangers College, Jalukbari

1

Deputy Conservator of Forests (Territorial)

22

Deputy Conservator of Forests (Wildlife)

2

Deputy Conservator of Forests (Assam State Zoo)

1

Working Plan Officer

3

Forest Utilisation Officer

1

Planning Officer

3

Silviculturist

1

55

Posts under the Government of Meghalaya

Principal Chief Conservator of Forests

1

Chief Conservator of Forests (Social Forestry & Environment)

1

Conservator of Forests (Territorial & Development)

1

Conservator of Forests (Wildlife)

1

Conservator of Forests (Social Forestry)

1

Conservator of Forests (Research & Training)

1

Deputy Conservator of Forests (Territorial)
(Khasi Hills, Jaintia Hills, Garo Hills)

3

Deputy Conservator of Forests (Training)

1

Working Plan Officer

1

Planning Officer

1

Silviculturist

1

Director, Balphakram National Park

1

Deputy Conservator of Forests (Wildlife)
(East & West Khasi Hills Wildlife Division)

1

Deputy Conservator of Forests (Utilisation)

1

Deputy Conservator of Forests (Social Forestry)

1

17


Total

72

2. Central Deputation Reserve @ 20% of Item 1 above
3. Posts to be filled by promotion in accordance with Rule 8 of the Indian Forest Service (Recruitment) Rules, 1966, @ 33 1/3% of Items 1 and 2 above 28✓
4. Posts to be filled by direct recruitment (1+2+3) 58
5. Deputation Reserve @ 25% of Item 1 above 18
6. Leave, Training Reserve & Junior Posts @ 20% of Item 1 above 14

Direct Recruitment Posts	90
Promotion posts	28

Total Authorised Strength	118
---------------------------	-----


(Madhumita D. Mitra)
Desk Officer

Note 1: Prior to the issue of this notification the total authorised strength of the Assam-Meghalaya Cadre was 104.

Note 2: The Principal Regulations were notified vide Notification No. 6/1/66 - AIS(IV), dated 31.10.1966 as GSR No.1072 in the Indian Forest Service (Fixation of Cadre Strength) Regulations, 1966, has been amended vide Notification given below:-

S.No.	G.S.R. No.	Date of Publication
1.	1673	31.10.1966
2.	17	7.01.1967
3.	653	6.05.1967
4.	654	6.05.1967
5.	689	13.05.1967
6.	1083	8.06.1968
7.	1887	9.08.1969
8.	80	17.10.1970
9.	485	21.03.1970
10.	545	4.04.1970
11.	1802	24.10.1970
12.	135	24.01.1971
13.	136	24.01.1970
14.	865	8.05.1971
15.	45(E)	20.01.1972
16.	47(E)	20.01.1972
17.	48(E)	20.01.1972
18.	478(E)	4.12.1972
19.	192(E)	2.04.1973
20.	321(E)	27.06.1973
21.	391(E)	10.08.1973
22.	142	9.02.1974
23.	28(E)	2.02.1974
24.	273(E)	17.06.1974
25.	300(E)	5.07.1974

Attested.

Advocate

221

26. 812 3.08.1974
27. 2227 16.08.1975
28. 71 17.01.1970
29. 407(E) 18.08.1978
30. 1084(E) 24.07.1976
31. 444(E) 6.07.1976
32. 750(E) 3.08.1976
33. 93(E) 28.02.1977
34. 831(E) 5.10.1977
35. 13(E) 6.01.1978
36. 380(E) 13.07.1978
37. 438(E) 29.08.1978
38. 488(E) 25.08.1980
39. 562(E) 30.09.1980
40. 628(E) 3.11.1980
41. 831(E) 4.11.1980
42. 20(E) 16.01.1981
43. 31(E) 23.01.1981
44. 84(E) 27.02.1981
45. 458 9.05.1981
46. 380(E) 23.05.1981
47. 378(E) 2.08.1981
48. 386(E) 9.08.1981
49. 802(E) 18.11.1981
50. 804(E) 17.11.1981
51. 853(E) 10.12.1981
52. 857(E) 11.12.1981
53. 294(E) 1.04.1981
54. 354(E) 26.04.1982
55. 356(E) 27.04.1982
56. 478(E) 31.05.1982
57. 530(E) 30.08.1982
58. 24(E) 12.01.1983
59. 128(E) 28.02.1985
60. 308(E) 28.03.1985
61. 327(E) 29.03.1985
62. 489(E) 12.08.1986
63. 268 12.04.1986
64. 654 20.08.1986
65. 783 20.09.1986
66. 798 27.09.1986
67. 796 27.09.1986
68. 835 4.10.1986
69. 837 4.10.1986
70. 880 18.10.1986
71. 164 14.03.1987
72. 407 30.05.1987
73. 619 15.08.1987
74. 802 31.10.1987
75. 828 7.11.1987
76. 835 14.11.1987
77. 836 14.11.1987
78. 432(E) 6.04.1988
79. 548(E) 4.05.1988
80. 404 21.05.1988
81. 834(E) 3.08.1988
82. 352(E) 10.03.1989
83. 832 11.11.1989
84. 918 16.12.1989
85. 933 30.12.1989
86. 590 22.09.1990
87. 803

- 16 -
122
139
No. 16016/8/94-AIS(II)A

New Delhi, the

9. 11. 95

Copy forwarded for information to :

1. The Chief Secretary, Governments of Assam & Meghalaya, Dispur/Shillong (5 copies each).
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5. The Comptroller and Auditor General of India, New Delhi (with 3 spare copies)
6. The Secretary, Union Public Service Commission, New Delhi. (with 5 spare copies)
7. All the Accountants General.
8. Director, Forests Research Institute and College, Dehradun (with 2 spare copies)
9. The Lok Sabha Secretariat (Committee Branch), New Delhi.
10. The Rajya Sabha Secretariat (Committee Branch), New Delhi.
11. The Ministry of Environment & Forests (IFS.II Section), New Delhi (with 20 spare copies)
12. The Ministry of Environment & Forests, Deputy Secretary (IFS), New Delhi.
13. Ministry of Home Affairs (UTS Section), New Delhi.

Madhumita

(Madhumita D. Mitra)
Desk Officer

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Attested.

Advocate.

(L-3)

-5-

68.	728	8.12.1990
89.	730	8.12.1990
138 90.	125(E)	5.03.1991
91.	246	13.04.1991
92.	473	24.08.1991
93.	527	14.09.1991
94.	565	5.10.1991
95.	584	19.10.1991
96.	538(E)	6.08.1993
97.	685(E)	4.11.1993
98.	687(E)	4.11.1993
99.	514	22.10.1994
100.	513	22.10.1994
101.	321(E)	31.03.1995
102.	213	29.04.1995
103.	278	10.08.1995
104.	264	3.08.1995

Mitra

(Madhumita D. Mitra)
Desk Officer

To

The Manager,
Government of India Press,
Mayapuri, Ring Road, New Delhi.

O.A. 128/88
O.A. 164/88

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GOVERNMENT OF ASSAM
FOREST DEPARTMENT :::: DISPUR

ORDERS BY THE GOVERNOR

- NOTIFICATION -

Dated Dispur, the 16th Dec '95.

NO.FRE.3/90/Pt/150 : In modification of this Department Notification No.FRE.23/91/220 dated 2-11-95, Shri Chandra Mohan, IFS, Deputy Conservator of Forests, is in the interest of public service, transferred and posted as Divisional Forest Officer, Hailakandi Division, Hailakandi, with effect from the date he takes over charges vice Shri Dilip Kumar Das, Divisional Forest Officer transferred.

NO.FRE.3/90/Pt/150-A : On relief, Shri Dilip Kumar Das, Divisional Forest Officer, Hailakandi Division, Hailakandi is in the interest of public service transferred and posted as Divisional Forest Officer, F.R.S. Division, Haflong with effect from the date he takes over charges vice Sri J.S. Bey, Divisional Forest Officer, Consolidation Division, Haflong is relieved of the dual charge.

Sd/- C. K. Sharma,

Addl. Secretary to the Govt. of Assam,
Forest Department, Dispur

Memo No.FRE.3/90/Pt/150-B, Dated Dispur, the 16th December '95.
Copy forwarded to :-

1. The Accountant General (A&E) Assam, Shillong/Bhangagarh, Ghy-5.
2. The Principal Chief Conservator of Forests, Assam, Rehabari, Ghy-7.
3. The Principal Chief Conservator of Forests (SF) Assam, Guwahati-24.
4. The Chief Conservator of Forests (Territorial) Assam, Rajgarh Road, Guwahati-3.
5. The Conservator of Forests, Southern Assam Circle, Silchar/Hills Circle, Haflong.
6. Shri Chandra Mohan, IFS, Deputy Conservator of Forests, C/O The Principal Chief Conservator of Forests, Assam, Rehabari, Guwahati-8.
7. Shri Dilip Kumar Das, Divisional Forest Officer, Hailakandi Division, Hailakandi for necessary action.
8. Shri Joy Singh Bey, Divisional Forest Officer, Consolidation Division, Haflong. He is directed to handover the charge of F.R.S. Division, Haflong to Shri Dilip Kr. Das, as and when he reports for joining.
9. The Officer-On-Special Duty to the Chief Minister, Assam for favour of information of Chief Minister.
10. The P.S. to the Minister of State (Ind.) Social Forestry and Wild Life, Assam for favour of information of Minister.
11. The Deputy Director, Assam Govt. Press, Bamunimaidan, Guwahati-21 for publication of the above notification in the next issue of the Assam Gazette.
12. Personal files of the officers.

By order etc.,

Addl. Secretary to the Govt. of Assam,
Forest Department, Dispur.

Attested.

Advocate.

Letter No.C.M./15

Dated 11-1-96.

To,

The Commissioner and Secretary
Forest Department,
Dispur.

Sub :- Handing over the charge of Hailakandi Division.

Ref :- Govt. Order No.FRE 3/90/Pt/150, dt. 16-12-95.

Sir,

In enclosing my letter dt. 20-12-95 addressed to the Divisional Forest Officer, Hailakandi, I have the honour to state that Sri Dilip Kumar Das, D.F.O., Hailakandi has not handed over the charge of the Division to the undersigned. He has informed me verbally that as per directive of Hon'ble Guwahati High Court he has submitted his representation to the Govt. of Assam for consideration, being pending which he would not be able to hand over the charge of the Division.

In view of the above, you are requested to kindly instruct me with regard to the future course of action.

This is for favour of your kind information and necessary action.

Enclo :- As above.

Yours faithfully,

(CHANDRA MOHAN)

Dy. Conservator of Forests
Camp - Hailakandi

Copy to :-

1) The Principal Chief Conservator of Forests, Assam, Rehabari, Guwahati-8 for information.

2) The Conservator of Forests, S.F.C., Silchar for information.

Chandra Mohan
Dy. Conservator of Forests
Camp - Hailakandi.

Attested.

Advocate

EEEE

GOVT. OF ASSAM
OFFICE OF THE DIVISIONAL FOREST OFFICER : KARIMGANJ DIVISION.
KARIMGANJ.

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141

Letter No. C.M./3/Clari.

Dt. Karimganj the 24.3.95.

To,

The Principal Chief Conservator of Forests,
Assam, Rehabari,
Guwahati- 8.

Sub:- Clarification against False allegation as well
as news item published against D.F.O. Karimganj.

Sir,

In continuation of my earlier letter No.A/1247=48/
dt.4.3.95, I have the honour to clarify that during my tenure
of seven(7) months, I have curbed all sorts of illegalities
inside and outside of Forests Areas by taking strong measures.
During my tenure, no fresh timber transaction has been taken
place. I also have approached to High Court, Guwahati and
even Supreme Court of India to protect the interests of
the Forest Department. Therefore, a certain circle with
vested interest has become quite ineffective in their illegal
actions. That is why, they are now trying up and doing to
malign me by giving fabricated and false news/allegations
to mislead the authority. The 'Sadin' has published my
rejoinder without any modification in its issue dt. 24.3.95
(copy enclosed-1).

Even persons having vested interest have submitted
petition wherein false allegation has been made against
me by forging signature of some leading citizen of Karimganj.
In this connection, I am enclosing herewith the clarification
of persons concerned stating that, their signatures have
been forged (Copy of letter of Nripati Ranjan Chaudhury, Ex.M.P.
Karimganj, Vice-President South Kxj. A.P., President North
Karimganj etc. in enlco 2 & 3).

It has come to my knowledge that, certain persons
associated with some political Organisation has submitted
'False' allegation associating me with one 'Kiron Patel'
to Hon ble Chief Minister, Assam through Deputy Commissioner,
Karimganj (without ascertaining the facts). Surprisingly,
later on, they confessed their mistake by submitting another
memorandum to Hon'ble Chief Minister, Assam through Deputy
Commissioner, Karimganj Stating that their complaint is totally
baseless. (Copy of Memorandum is enclosed- 4).

Attested.

Cont

Advocate.

It is worthwhile to mention that, time to time, my efforts to check illegalities have also been appreciated by many leading Newspapers (Copy of such Newspapers cuttings enclosed- 5, 6, 7, 8, 9, 10).

This is for favour of your kind information and necessary action.

Enclo: As specified above.

Yours faithfully,

(CHANDRA MOHAN SHARMA, IFS)
D.F.O., Karimganj.

- Copy to:-
- 1) The P.P.S. to Hon'ble Chief Minister of Assam, for favour of his kind information and necessary action.
 - 2) The Secretary, Forest Deptt., Govt. of Assam, for favour of his kind information and necessary action.
 - 3) The Chief Conservator of Forests (T), Rehabari, Guwahati, for favour of his kind information and necessary action.
 - 4) The Conservator of Forests, SAC, Silchar, for favour of his kind information and necessary action.

Attested.


Advocate.

(CHANDRA MOHAN SHARMA, IFS)
D.F.O., Karimganj.

Copy.

To

- 1) The Railway Station Master, Patharkandi
- 2) The R.O., Phd Range under Karimganj Dvn
dt. 16.07.95

Ref :-

My letter No. dtd. 15.07.95.

We have made the joint verification with the Range Officer, Patharkandi Range and the party concerned have produced the T.Ps of the concerning timbers.


So, now do the needful as nothing untowards found toward this.

sd/- illegible
16/7/95
C.O. Phd
sd/- illegible
S.M.
16/7

Noted

sd/-
16/7/95
Rly Station Master
Phd station.

Attested.


Witnessed.

-22- Ann. - 7
129

-2-

Civil Rule No. 3487 of 19 9

1. Shri Khualluna,
resident of village Kanhuam,
Mizoram
2. Shri R. Vahlira,
resident of village Kwarthah,
State of Mizoram

jointly represented by their power
of attorney holder-Shri Malay Kar,
resident of Karimganj Town,
District Karimganj, Assam

... Petitioners

- Versus-
1. The Deputy Commissioner,
Karimganj
 2. The Chief Officer, Patharkandi,
District Karimganj
 3. The Officer-in-Charge,
Patharkandi Police Station,
District Karimganj
 4. The Divisional Forest Officer,
Karimganj
 5. The Range Officer,
Department of Forest,
Government of Assam,
Patharkandi
 6. The State of Assam
represented by the Secretary,
Department of Home,
Government of Assam,
Dispur, Guwahati-6.

... Respondents

P R E S E N T

The Hon'ble Mr. Justice D.M. Baruah

Attested.


Attested.

Contd...3/

130

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For the petitioners :- Mr. A.K. Bhattacharyya,

Mr. B.K. Sharma, I

Mr. P.K. Tiwari, In both the

Mr. M.K. Choudhary, I Civil Rules

Advocates

I

For the respondents :- Mr. B. Choudhary,

Sr. Govt. Advocate, Assam

Date of hearing :- 2.4.1996

Date of Judgment :- 2.4.1996

JUDGMENT AND ORDER

(ORAL)

The two Civil Rules involve common question of law and similar facts. Therefore, I propose to dispose of both the Civil Rules by a common Judgment.

2. The petitioners are the owners of timber (Teak). Through their agents they transported certain pieces of teak timber logs from two different places, namely, Kwathah and Kalmam in the State of Mizoram. In order to transport the said timbers, the petitioners first sent the said timber to Kerimganj in the State of Assam on the strength of valid document. The said logs were to be transported to the State of Gujarat through Assam. The timbers were first sent to Pothachandi by a truck after receipt of ITP. The timbers were unloaded at Pothachandi Railway Yard. Permission for loading the timber was also received from the

Contd....

Attested,

Advocate.

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Divisional Forest Officer, Karimganj and accordingly booking was made.

3. However, later on the petitioners felt that they would be required to wait for long time to receive wagon for transportation of the said timbers to Gujarat. In order to avoid delay the petitioners decided to carry the said timbers by road to Chandkhira Railway Yard on the strength of LTP issued by the Range Officer, Patharkandi.

4. The Divisional Forest Officer also allowed the petitioners and the Range Officer to lift the timbers from Patharkandi Railway Station to Chandkhira Railway Station. The timbers had been loaded at Chandkhira for transportation of the same to the destination state in Gujarat. The Divisional Forest Officer in his order gave details of the T.P. Numbers.

5. The Circle Officer, Patharkandi accompanied by the Officer-in-Charge, Patharkandi Police Station seized the timbers from the railway wagons. The wagons were however not sealed after the seizure. It was some time after that. After the seizure the major part of the said timber had been taken from Chandkhira Bagan Railway Station to the Deputy Commissioner's complex at Karimganj and the said timbers were kept in the open space and some other portion of timbers were still lying in the Chandkhira Bagan Railway Station.

6. According to the petitioners the timbers were seized in accordance with the directions given by the Deputy Commissioner.

Contd....

Attested.

Advocate.

Karimganj. It was stated that there had been a ban put by the Government on transportation of teak timber. However, nothing was shown to the petitioner in this regard. The Divisional Forest Officer, Karimganj informed the Deputy Commissioner, Karimganj that it was only the legal owner who was entitled to transport the timber and the timber in question had been transported to the Railway Station under valid documents.

7. Thereafter the Forest Department had a joint verification by the D.F.O., Karimganj and the District Administration, namely the representatives of the Deputy Commissioner. After joint verification it was found that all the timbers were covered by a valid transit pass. The Forest Department also informed the petitioner as well as the Deputy Commissioner that the petitioners could transport the timbers. In spite of that the Deputy Commissioner has not yet released the timbers. Hence the present petition.

8. I have heard Mr. A.K. Bhattacharyya, learned counsel appearing on behalf of the petitioners in both the Civil Rules and Mr. B.C. Chatterjee, learned Sr. Govt. Advocate, for the respondents.

9. Affidavits in opposition have been filed.

10. Mr. Bhattacharyya submits that the Deputy Commissioner had no power whatsoever to seize the timbers. He has no power, jurisdiction under the forest manual or

Contd....

Attest.


Advocate.

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under the provisions of law.

11. In the affidavit-in-opposition filed on behalf of the respondents in Civil Rule No. 3/23/1995 in para-17 it was stated that the District Magistrate was competent to take action under the Forest Manual. Though the District Forest Officer is a District Officer he is to obey the direction of the District Magistrate in enforcing the law and order and also in taking action for preventing any offence by the District Magistrate. It is further stated that there is no statutory stand by the District Magistrate regarding the seizure of such timbers in question. Besides there is a provision in the Forest Manual, which will be decided by the Chief District Magistrate, Karimganj in accordance with law.

12. As the Conservator of Forests, Karimganj felt that there was a need for an order taken by the District Magistrate, Karimganj and the Conservator of Forests, Karimganj to the effect that the District Magistrate, Karimganj should be empowered to direct the Conservator of Forests by order dated 20.12.1995 to make a survey and report on the timber in the forest wherein the Principal Chief Conservator of Forests wherein the Conservator of Forests specifically stated that the seized timbers originated from private forests in the area and were at liberty to sell those timbers to the purchaser. The timber was covered by genuine transit passes issued by the District Forest Department under the provisions of law.

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13. The Civil Rule No. 3723/1995 was earlier heard at some length on 2.11.95. Learned Sr. Govt. Advocate prayed some time to see whether the Deputy Commissioner had any power to seize in the present facts and circumstances. Today both the above Civil Rules are taken up for hearing.

14. Mr. Bhattacharyya appearing on behalf of the petitioners submits before this court that the Deputy Commissioner had no right whatsoever under the Forest Manual or any other law to seize the timbers in question which is within the domain of the Forest Department and such seizure of timbers had occasioned serious losses to the petitioners.

15. Mr. B. Choudhury, learned Sr. Govt. Advocate today submits that he has not found any provision empowering the Deputy Commissioner to make the seizure in the present facts and circumstances. However, Mr. Choudhury submits that the Deputy Commissioner in the District has overall power.

16. Considering the submissions of the learned counsel for the parties it is now to be seen whether the Deputy Commissioner has power and jurisdiction under the Forest Manual or any other law to make seizure of timbers which were transported on the basis of genuine transit pass.

17. The Conservator of Forests at the time of giving the report to the Principal Chief Conservator of Forests had specifically stated that the timbers were sold by private parties from the private forests in Mizoram and the transit passes were issued under the law applicable to the State of Mizoram.

Attested

Contd....

Advocate.

18. From the facts and circumstances of the case and report submitted by the Conservator of Forests to the Principal Chief Conservator of Forests it is clear that there was no law and order problem existed at that time. Nothing could be shown by the Govt. Advocate in this regard. In my opinion the action of the Deputy Commissioner for seizure of the timbers in question was absolutely illegal and without jurisdiction. The respondents are directed to release the seized timbers as per the transit passes within a week from the date of receipt of this order. The respondents shall release the timbers on production of the certified copy of the judgment by the petitioners.

19. In the facts and circumstances of the case I award costs of Rs. 1,000/- to the petitioners in each Civil Rule.

Sd/- D.N. Barmal.

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Certified to be true Copy
 6/4/96
 Superintendent (Copying)
 RAUKATI HIGH COURT
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7/6/96

Attested

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Advocate

Letter No. C.M/06

AWM. - 8
Dated : 21.9.95

To

Shri A. Rabha, I. F. S.
Deputy Field Director.

Sub :-

O.A. No. 216 of 1995

Shri C. M. Sharma, IFS

-Vs-

Union of India & Ors.

Order thereof dt. 21.9.95.

With reference to the subject cited above,
I am enclosing herewith a copy of letter dt. 21.9.95 addressed
to the Commissioner and Secretary, Forest Department, Dispur
from Sri B. K. Sarma, Advocate alongwith a copy of the Order
dt. 21.9.95 passed by the Hon'ble Tribunal which will speak
for itself.

In the above mentioned case, you are also
a respondent.

Enclo :- As stated
above.

(CHANDRA MOHAN) IFS
Divisional Forest Officer
Karimganj Division, Karimganj

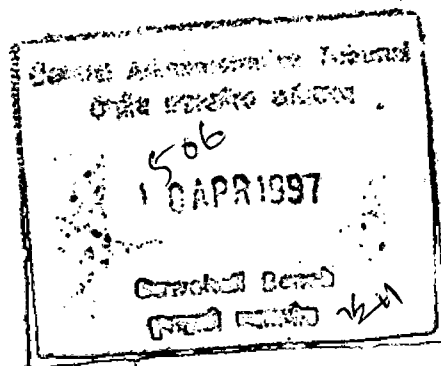
Copy to the Deputy Commissioner, Karimganj for
information.

(CHANDRA MOHAN) IFS
Divisional Forest Officer
Karimganj Division, Karimganj

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH
GUWAHATI

Memo of Appearance



O.A. No. 3 of 199 6

Chandra Mohan

-Versus-

Union of India & others

..... Applicant

..... Respondents.

I, A.K. Chaudhuri, Addl. Central Govt.
Standing Counsel enter appearance on behalf of the
Union of India ~~and~~ Respondents No. 1

Given under my hand and seal on this the 10th
day of April 1997.

AK Chaudhuri
10/4/97

(A.K. Chaudhuri)
Addl. C.G.S.C.