

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

M.P-211/96 ordersheet pg-1

Disposed Date-8/11/97

M.P-54/96 ordersheet pg-1 to 2

Disposed Date-08/15/96

INDEX

O.A/T.A No. 61/96.....

R.A/C.P No......

E.P/M.A No. 211/96.....

1. Orders Sheet. OA-61/96.....Pg. 1.....to 10.....
2. Judgment/Order dtd. 08/01/1997.....Pg. 1.....to 11 *Dismissed*
3. Judgment & Order dtd.....Received from H.C/Supreme Court
Consolidated application pg-1 to-47
4. O.A. 61/96.....Pg. 1.....to 36.....
5. E.P/M.P. 211/96.....Pg. 1.....to 3.....
6. R.A/C.P. M.P-54/96.....Pg. 1.....to 9.....
7. W.S.....Pg. 1.....to 22.....
8. Rejoinder.....Pg. 1.....to 8.....
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance. M.P-57/96 ordersheet pg-1.....
12. Additional Affidavit.....*Disposed Date-8/15/96*.....
13. Written Arguments.....*petition copy pg-1 to-12*.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

Written objection in M.P-54/96

pg-1 to 13

SECTION OFFICER (Judl.)

ORIGINAL APPLICATION NO. 61/96

MISC. PETITION/CONT. EMP. PETITION/...

(O.A.)

Mr. M. Ranjit Singh APPLICANT(S)

vs.

U.O.I. RESPONDENT(S)

B.K. Sharma, S. Sarma Advocate for Applicant(s)

Mr. G. Sarma, Addl. CGSC Advocate for Respondent(s)

OFFICE NOTE	DATE	ORDER
<p>The application is in form and within time, C. F. of Rs. 50/- deposited vide IPO/BD No. <u>345072</u> Dated <u>27.2.96</u></p> <p><u>18/4/96</u> By Registrar</p>	18.4.96	<p>Mr B.K. Sharma for the applicant. Mr G. Sarma, learned Addl. C.G.S.C. for the respondents.</p> <p>Mr B.K. Sharma prays to be allowed to move this application unlisted on the ground of urgency as the applicant was under order of transfer. Considered his prayer and he is allowed to move the application.</p> <p>Mr B.K. Sharma, learned counsel for the applicant, submits that this application is within the jurisdiction of this Tribunal as the applicant was an employee under the N.E. Investigation Circle, Shillong, who has been sent on transfer to Bhutan in exercise of option as was called for and now it has been sought to transfer him back to Shillong before the end of his tenure. Mr B.K. Sharma relies on Rule 6(1)(ii) of the Central Administrative Tribunal (Procedure) Rules 1987. This matter will be decided at the time of final order.</p> <p>Heard Mr B.K. Sharma for the applicant. Perused the contents of the application and the reliefs sought. The application is admitted subject to the decision on the jurisdiction of this Tribunal over the</p>

OFFICE NOTE

DATE

MEMBER

18.4.96

application as indicated above. Written statement within 6 weeks as prayed for by the learned Addl. C.G.S.C.

List on 31.5.96 for written statement and further orders.

Heard the counsel for the parties on the interim relief prayer. The applicant states that he has received the transfer order dated 29.3.1996 on 11.4.1996 and by the order dated 12.4.1996 he was released with effect from 15.4.1996. He had submitted a representation dated 12.4.1996 (Annexure-XI) against the transfer order. Pendency of the application shall not be a bar for the respondents to dispose of this representation of the applicant. In fact, the respondents are directed to dispose of this representation of the applicant within 30.4.1996. Pending disposal of this representation the respondents are directed to allow the applicant to continue as LDC in Bhutan Investigation Division, Phuntsholing, Bhutan. Liberty to the respondents to apply for cancellation or variation of this interim order.

Steps within today.

Copy of the order to be served on the counsel for the parties during the course of the day.

List on 1.5.1996 for further order on interim relief prayer.

[Signature]
18.4.96
Member

nkm

1.5.96

Learned counsel Mr B.K. Sharma for the applicant and learned Addl. C.G.S.C., Mr G. Sarma for the respondents are present. On the request of Mr G. Sarma, adjourned for orders on 7.5.96.

Interim order to continue.

[Signature]
Member

*Requisite order
v. no. 862-866
18.4.96
Copy of order sent
to all counsel of parties
v. no. 860-61 & 19.4.96
18/4/96
1/ statement by not
an bill
2/4*

OFFICE NOTE

DATE

ORDER

7.5.96

Mr B.K. Sharma for the applicant.

Mr G. Sarma, learned Addl. C.G.S.C.,
for the respondents.

List for order on interim relief
prayer tomorrow, 8.5.96 in view of the request
of Mr B.K. Sharma in M.P.No.54/96 and order
thereon.

The interim order dated 18.4.96
to continue till tomorrow, 8.5.96.



Member

nkm

8.5.96

Mr B.K. Sharma for the applicant and
Mr G. Sarma, Addl. C.G.S.C., for the respondents.

Mr B.K. Sharma has submitted Misc.
Petition seeking for amendment of the O.A. conse-
quent to the disposal of the representation dated
12.4.1996 by the respondents vide their letter
No.BID/CB-87/CAT/1884-88 dated 30.4.1996. This
prayer of the applicant has been allowed vide
order dated 8.5.1996 in M.P.No.57/96.

The applicant is directed to comply
with the directions as given in the M.P.No.57/96
in respect of this amendment. O.A. to be listed
for further orders on 15.5.1996 regarding filing
of consolidated application and steps.

As directed in the order dated 18.4.1996
the interim relief prayer in the O.A. was to be
considered on 1.5.1996 but the same has been
adjourned to today.

The respondents resist the prayer for
an interim order. Learned Addl. C.G.S.C. Mr
G. Sarma submitted that Sankosh Investigation
Division was closed down on 31.3.1996 and the
applicant was repatriated to his parent division
due to the closure of this division and

*Counter has not been
filed.*

u/s

4
8.5.96

non-availability of sanctioned post of LDC in Bhutan Investigation Division. Further, the applicant being the longest stayee in Bhutan out of the LDC of Sankosh Investigation Division had to move out on closure of the Sankosh Investigation Division on 31.3.1996 as he cannot be adjusted in the Bhutan Investigation Division in excess of the 3 sanctioned posts of LDC. In the circumstances it is submitted by him that granting of interim order to the applicant will not be justified. The case of the applicant on the other hand is that the call for posting to Bhutan prescribed for a tenure of 3 years period. It is also his case that he was not posted in Sankosh Investigation Division and therefore the closure of Sankosh Investigation Division would not have any effect on his stay in Bhutan as a LDC under the Bhutan Investigation Division. Another contention of the applicant is that the transfer is made malafide with an intention to accommodate other LDCs who face repatriation due to closure of Sankosh Investigation Division. Further, Mr B.K. Sharma submitted that the contention of the respondents that the applicant was transferred on the basis of longest stay, that is, first-come-first-go basis, is not maintainable in law.

It is seen from records that on 8.8.1994 (Annexure-II) the applicant was transferred from NEIC, CWC, Shillong to Sankosh Investigation Division, CWC, Phuntsholing, Bhutan with effect from 1.9.1994. However, before he was released from Shillong the applicant was re-posted to Dengdichu (Chenary) Sub-division, CWC, Dengdichu under Bhutan Investigation Division, CWC, Phuntsholing (Annexure-III). Consequent to this reposting the applicant was relieved from his duty in Shillong on 11.10.1994 (Annexure-IV) to report for duties to Executive Engineer, Bhutan Investigation Division CWC for further instruction for duties at Dengdichu (Chenary) Sub Division, CWC, Bhutan. On 9.11.1994 (Annexure-V) the Executive Engineer, Bhutan Investigation Division recorded that the applicant had reported for duty on 29.10.1994 (F.N.) under Bhutan Investigation Division, CWC, Phuntsholing. On 3.4.1995 (Annexure-VI) the applicant was trans-

k

OFFICE NOTE

DATE

ORDER

8.5.96

ferred from Investigation Sub division No.II, CWC, Chenary (Bhutan) to Divisional office by the Executive Engineer, Bhutan Investigation Division. Vide order dated 25.3.1996 (Annexure-VII) on closure of Sankosh Investigation Division the existing 3 Sub-divisions of Sankosh Investigation Division were allocated to the various administrative controls as mentioned in the order dated 25.3.1996. It is seen therefrom that Investigation Sub-division No.II, CWC, Chenary, Bhutan is not one of the 3 Sub-divisions. In this order dated 25.3.1996 3 LDCs were also reallocated, ^{of whom} one of them was allotted to C.E., B&BB, Shillong. Now therefore, without prejudice to the contentions of both sides that may be placed during the course of final hearing of the O.A., it is seen that the applicant has got a prima facie case in his contention that he was not an employee under Sankosh Investigation Division. In the facts and circumstances I am of the opinion that interim relief is to be granted to the applicant to the extent that the respondents will allow the applicant to continue as LDC in Bhutan Investigation Division, CWC, Phuntsholing until disposal of this O.A.No.61/96. The respondents are accordingly directed to allow the applicant to continue in his present post of LDC in the Bhutan Investigation Division, CWC, Phuntsholing until disposal of this instant O.A.

Order d. 8.5.96 issued to all concerned vide no. 1013-19 d. 9.5.96.

9/5

nkm

[Signature]
8.5.
Member

OFFICE NOTE

DATE

ORDER

15-5-96

Mr. B.K. Sharma for the applicant.
Addl. C.G.S.C.
Mr. G. Sarma for the respondents.

Steps have not so far ~~been~~ taken by the applicant to submit an amended consolidated application. Mr. B.K. Sharma submits that necessary steps will be taken during course of the day.

List for further order on 17-5-96 regarding consolidated application and steps.

be

Member

16-5-96

Modified/consolidated

petition has filed and placed before the Honble Comr.

17-5-96

Learned Addl. C.G.S.C. Mr. G. Sarma for the respondents. The applicant has submitted an amended consolidated application. None is present for the applicant. Registry to scrutinise the application before placing for order.

List on 20-5-96 for steps and further order.

be

Member

17.5-96

Petition rectified

on 17.5-96

1m

²⁰
~~21~~-5-96

Mr. G. Sarma for the respondents. Registry has scrutinised the consolidated amended application copy of which has been served on Addl. C.G.S.C. Mr. G. Sarma on ²⁰⁻⁵⁻⁹⁶ 25-6-96. Steps already been taken. List on 31-5-96 as already fixed for written statement and further order.

be

Member

30.5.96

Notice duly served at No. 3.

1m

Baw

OFFICE NOTE

DATE

ORDER

31.5.96

Mr S.Sarma for the applicant, leave note of Mr G.Sarma, Addl.C.G.S.C.

Written statement has not been submitted.

List on 21.6.96 for written statement and further orders.

ba
Member

pg

As per 30/5

21-6-96

None for the applicant. Mr.G.Sarma Addl.C.G.S.C. is present. Written statement has not been submitted.

List for hearing on 19-7-96, for written statement and further order.

ba
Member

10-7-96

lm

W/S filed on behalf of in Respondents. as per being but in ~~at~~ there is MR Singh. However, there is a similarity in no. & subject.

19.7.96

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

Written statement has been submitted. List for hearing on 6.8.96.

ba
Member

pg

h 19/7

6-8-96

Learned counsel Mr.S.Sarma for the applicant. Addl.C.G.S.C. Mr.G.Sarma for the respondents.

Copy of written statement has been served on Mr.S.Sarma to-day and he request for adjournment.

List for hearing on 26-8-96.

ba
Member

lm

OFFICE NOTE

DATE

ORDER

26.8.96

None present.

List for hearing on 10.9.96.

Inform to the
counsel of both
side.

M 26/8/96

ba
Member

trd

M 26/8

2.9.96

Copy of order
dt. 26.8.96

10.9.96

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

sent to the
counsel of parties.

Leave note of Mr., B.K.Sharma, counsel
for the applicant.

Hearing adjourned to 24.9.1996.

bon

ba
Member

trd

P 10/9

Notice duly served
in Report no. 3.

24.9.96

Mr. S.Sarma for the applicant.

Statement by
W.

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

19

Mr. S.Sarma prays for a short
adjournment.

List for hearing on 8.10.96.

Statement by
W.

ba
Member

trd

M 25/9

10

-10-96

Learned counsel Mr. M. Chanda for the
applicant. Mr. A.K. Choudhury, Addl. C.G.S.C.
for the respondents. Records called for
have not been submi

O.A. 61/96

Statement his son b/w
110

8-10-96

Mr. S. Sarma counsel for the applicant. Leave note of Mr. G. Sarma, Addl. C.G.S.C.

List for hearing on 16-10-96.

bo
Member

lm
M
9/10

16.10.96

Learned Addl. C.G.S.C. Mr G. Sarma for the respondents is present and is ready for hearing. However, Mr B.K. Sharma, learned counsel for the applicant has submitted leave note.

Hearing adjourned to 15.11.96.

Notice duly served on
P. No 3
Statement - his son b/w

bo
Member

nkm
M
12/10

15.11.96

Learned Addl. C.G.S.C. Mr G. Sarma for the respondents is present and ready for submission. However, Mr B.K. Sharma, learned counsel for the applicant, has submitted leave note upto 30.11.96.

Hearing adjourned to 4.12.96.

Notice duly sent on
P. No 3
Statement - his son b/w

bo
Member

nkm
M
15/11

4.12.96

Learned counsel Mr S. Sarma for the applicant. Learned Addl. C.G.S.C. Mr G. Sarma for the respondents.

Hearing adjourned to 9.12.96 on the request of Mr S. Sarma.

bo
12

bo
Member

nkm
M
5/12

5-12-96

Rejoinder filed by
the applicant - in response to
1071 filed by respondent

9.12.96

Mr G.Sarma, Addl.C.G.S.C is present and ready, However, Mr S.Sarma, learned counsel for the applicant has submitted leave note for today.

Adjourned for ^{hearing} ~~admission~~ to 10.12.96

ba
Member

pg

m
9/12

10.12.96

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

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

Counsels of both sides have completed their submissions. Hearing concluded. Judgement reserved.

Member

trd

8.1.97

Learned counsel Mr B.K.Sharma for the applicant. Learned Addl. C.G.S.C. Mr G. Sarma for the respondents. Judgment pronounced. The application is dismissed in terms of the order. No order as to costs.

Interim order stands vacated.

ba
Member

nkm

16.1.97

Copy of The Judgment issued to the parties alongwith the learned advocates vide D.No. 242 to 247 of 201.97

sh
16/1

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

O.A. NO. 61 of 1996.
T.A. NO.

DATE OF DECISION 8-1-1997

Shri M.Ranjit Singh

(PETITIONER(S))

Shri B.K.Sharma & S.Sarma.

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India & Ors.

RESPONDENT (S)

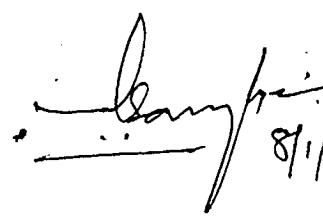
Shri G.Sarma, Addl.C.G.S.C.

ADVOCATE FOR THE
RESPONDENT (S)

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

1. Whether Reporters of local papers may be allowed to see the Judgment ? Yes
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ? | N
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble **Administrative Member.**


8/1/97

10

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 61 of 1996.

Date of Order : This the 8th Day of January, 1997.

Shri G.L.Sanglyine, Administrative Member.

Shri M.Ranjit Singh,
At present working as L.D.C.,
Central Water Commission,
Bhutan Investigation Division,
Phuntsholing, Bhutan. . . . Applicant.

By Advocate S/Shri B.K.Sharma & S.Sarma.

- Versus -

1. Union of India
represented by the Secretary to the
Govt. of India,
Central Water Commission,
Sewa Bhawan, R.K.Puram,
New Delhi.
2. The Chairman,
Central Water Commission,
Sewa Bhawan,
R.K.Puram, New Delhi.
3. The Chief Engineer,
Brahmaputra Barak Basin,
Central Water Commission,
Shillong.
4. The Superintending Engineer,
North Eastern Investigation Circle,
Central Water Commission,
Shillong.
5. The Executive Engineer,
Bhutan Investigation Division,
Central Water Commission,
Post Box No. 5, Phuntsholing,
Bhutan. . . . Respondents.

By Advocate Shri G.Sarma, Addl.C.G.S.C.

ORDER

G.L.SANGLYINE, ADMINISTRATIVE MEMBER

The Government of India, Central Water Commission has an office in Bhutan. As seen from documents in this application there was ^{an} / unit called Bhutan Investigation Division at Phuntsholing, Bhutan. Another unit Sankosh Investigation Division, Phuntsholing, Bhutan was opened by the Government of India, Central Water Commission,

L
197

New Delhi with effect from 1.4.1994. These Divisions were in charge of the Executive Engineers. It appears that the Superintending Engineer, Central Water Commission, Central Investigation Circle, Tadong, Sikkim was the controlling officer of the two Divisions in Bhutan. On creation of Sankosh Investigation Division, Bhutan the Government of India, Central Water Commission, New Delhi issued a Circular No. A 22015/4/94-Estt.VII dated 21.4.1994 calling for applications from the staff of Ministerial Cadre of Subordinate Offices of Central Water Commission all over India for filling up 3 sanctioned posts of LDC among other posts on transfer basis. The applicant, Sri M.Ranjit Singh, was a lower Division Clerk in the North Eastern Investigation Circle, Central Water Commission, Shillong. He responded to the Circular and was selected for being posted as LDC to Sankosh Investigation Division. He was accordingly transferred vide office Order No. A 22015/4/94-Estt.VII dated 8.8.1994 issued by the Central Water Commission, New Delhi with effect from 1.9.1994. Consequent to such transfer he was re-posted to Dongdichu (Chenary) Sub-Division, CWC under Bhutan Investigation Division, Central Water Commission, Phuntsholing by the Superintending Engineer, Central Water Commission, Central Investigation Circle, Tadong, Sikkim vide his office order No.1/4/92-Estt./CIC/SKM/1955-64 dated 1.9.1994. He was released from Shillong on 27.10.94 and joined in Bhutan Investigation Division on 29.10.94. Sankosh Investigation Division, Phuntsholing was abolished with effect from 1.4.96 vide office Order No.A-11011/1/94-Coord dated 25.3.1996 issued by the Central Water Commission, (Coordination Section), New Delhi. The posts of LDCs of

8.1.97

Sankosh Investigation Division were distributed to the Chief Engineers and one of the posts of LDC was allocated to the Chief Engineer, Brahmaputra Barak Basin, Central Water Commission, Shillong. Consequently Government of India, Central Water Commission, New Delhi vide Order No. A-20012/4(68)/78-Estt.VII dated 29.3.1996 transferred the applicant to Shillong and he was released vide Order No. BID/CB-27/96/1590-98 dated 12.4.96 issued by the Executive Engineer, Bhutan Investigation Division, Phuntsholing, Bhutan with effect from 15.4.1996.

2. This is a case of transfer which was to be disposed of expeditiously. However, the disposal got delayed. Thus when the applicant submitted a Misc. Petition No. 211/96 seeking for some documents and details, I was not inclined to contribute to the delay in the disposal of the application. Moreover the grounds given in the M.P are not necessary to be entertained for the purpose of disposal of this application. It was not necessary to call for the office file through which the applicant was transferred. It was not necessary to know how many incumbents in the cadre of LDC working in Sankosh Investigation Division were transferred out of Bhutan or to call for the transfer policy adopted at the time of closure of Bhutan Hydrel Project Division in 1988 when the respondents have clearly stated in the written statement that the transfer policy presently in vogue was adopted at the time of closure of Sankosh Investigation Division and they have spelt out in the written statement as to what this new policy is. The statement of vacancy position as on the date of filing the M.P., namely, 6.12.96, is also not necessary because what is being considered in this application is the position as on 1.4.96.

8.1.97

3. This application was admitted subject to decision on the matter of jurisdiction at the time of final order. The contention of Mr B.K.Sharma, the learned counsel for the applicant, is that this application is within the jurisdiction of this Tribunal as the applicant was an employee under the North Eastern Investigation Circle, Shillong from where he had been sent to Bhutan and to where he had been sent back. According to him Rule 6(1) (ii) of the Central Administrative Tribunal (Procedure) Rules 1987 is applicable in this case as the cause of action has wholly or in part arisen in Shillong which is within the jurisdiction of this Tribunal. The contention of the respondents is that the matter involved in this application is transfer of an employee of the Union of India posted in a foreign country and therefore they are not clear as to how this Tribunal can have jurisdiction over this application submitted by the applicant. As already mentioned earlier the applicant was transferred and posted to Sankosh Investigation Division, CWC, Phuntsholing, Bhutan on 8.8.94 and transferred back to North Eastern Investigation Circle, CWC, Shillong with effect from 1.4.1996 vide order dated 29.3.1996. The impugned order was issued from New Delhi. The Chief Engineer, Brahmaputra Barak Basin, CWC, Shillong has no hand in issuing the impugned order. Therefore apparently the cause of action had not arisen within the jurisdiction of this Tribunal. Both Bhutan Investigation Division and Sankosh Investigation were apparently under the Superintending Engineer, Central Investigation Circle, CWC, Tadong, Sikkim. Neither the respondents nor the applicant have enlightened whether the Superintending Engineer, Central Investigation Circle, Tadong, Sikkim is

8.1.97

under the control of Chief Engineer, Brahmaputra Barak Basin. But there is evidence on record that the applicant submitted representation dated 7.3.96 addressed to the Chairman, Central Water Commission, New Delhi for allowing him to complete tenure posting of 3 years under Bhutan Investigation Division through the Executive Engineer, Bhutan Investigation Division, CWC, Phuntsholing, Bhutan. This representation was forwarded by the Superintending Engineer, Central Investigation Circle, Tadong, Sikkim to the Chief Engineer, Brahmaputra Barak Basin, CWC, Shillong for further necessary action. This could indicate that the Chief Engineer Brahmaputra Barak Basin was the controlling officer of the Superintending Engineer who in turn was the controlling officer of the Divisions in Bhutan or that despite his being posted in Bhutan the applicant was still the employee of the Central Water Commission, Shillong and forwarding of the representation was simply to enable the Chief Engineer CWC, Shillong to examine and determine whether the applicant's stay in Bhutan could be extended. This fact of forwarding of the representation of the applicant to the Chief Engineer however does not by itself established that the Superintending Engineer, Tadong was under the control of the Chief Engineer, Shillong. The main facts however, are that the applicant, was at the time of submission of this application on 18.4.96 transferred and posted in Shillong and he was released from Bhutan vide impugned order 12.4.96 with effect from 15.4.96. In my view it is immaterial whether the applicant had carried out the transfer and posting order and the release order or not but with effect from 15.4.96 he was no longer an employee of the CWC in Bhutan but that of the CWC in Shillong. He has remained in Bhutan only

h
8.1.97

by virtue of the interim order issued in the course of the proceedings of this application. In the facts and the circumstances I consider that this Tribunal has the jurisdiction over this application.

4. The first contention of the applicant in this application is that he was transferred out of Bhutan before completion of the tenure of 3 years. Secondly, he was transferred out of Bhutan in order to accommodate others who were junior to him in terms of period of stay in Bhutan. Thirdly, he was part and parcel of the Bhutan Investigation Division only and he has nothing to do with Sankosh Investigation Division after he was reposted by the Superintending Engineer to Bhutan Investigation Division. According to him he had in fact never worked under Sankosh Investigation Division. Bhutan Investigation Division is an independent and separate Division and has nothing to do with Sankosh Investigation Division. Therefore closure of Sankosh Investigation Division could not have any effect on him and sending him back to Shillong on closure of the said Sankosh Investigation Division is unjustified. The applicant also contends that the transfer policy by which it is purported that the longest stayee in Bhutan is transferred out is unsustainable because it enables those who were junior to him in terms of stay in Bhutan by a very short period to be retained in Bhutan.

5. The respondents have contested the application. They submit that the tenure of posting of the applicant in Bhutan is not for 3 years but it is for a maximum period of 3 years. The transfer of the applicant from Bhutan had become necessary because of the closure of Sankosh Investigation Division and consequent reduction of sanctioned posts available. At the relevant time after the closure of

8.1.77

Sankosh Investigation Division with effect from 31.3.96 there were 3 sanctioned posts of LDC available in Bhutan but there were 4 LDCs available there. Therefore one had to be transferred out. At the time of closure of Sankosh Investigation Division a transfer principle applicable to all categories of employees in Bhutan was adopted. According to this policy persons who had stayed in Bhutan for the longer period and were in excess of the sanctioned posts available in Bhutan Investigation Division irrespective of their being posted in Bhutan Investigation Division or in Sankosh Investigation Division were repatriated. The applicant is the longest stayee in Bhutan among the LDCs. Therefore he had been transferred out from Bhutan. They also contend that the posting of the applicant in Bhutan Investigation Division does not alter the fact that he is still an employee of CWC and part and parcel of the Investigation Circle at Gangtok, Sikkim. Both Bhutan Investigation Division and Sankosh Investigation Division were under the Superintending Engineer, Central Investigation Circle, CWC, Gangtok. He is the administrative head and fully competent and administratively empowered to place personnel at his disposal according to exigencies of work. The respondents further submit that there was no malafide intention in transferring the applicant from Bhutan or any intention to deprive him of the benefits of Bhutan posting in order to accommodate others. The transfer was done in accordance with the policy adopted at the time of closure of Sankosh Investigation Division, as stated herein above, and there are a number of other staff and officers working in Bhutan Investigation Division and who had not completed 3 years in Bhutan were transferred out of Bhutan on closure of Sankosh Investigation Division and in pursuance of the aforesaid transfer policy.

l
8.1.97

6. The sole motive of the applicant is his desire to have more of the Bhutan compensatory allowance by remaining posted in Bhutan. He has put forward certain grounds in support of his claim to stay on in Bhutan in this application. It is therefore to be seen whether those grounds are sustainable and acceptable. The applicant has no right to stay in Bhutan for 3 years. The Circular No. A 22015/4/94-Estt.VII dated 21.4.94 stipulates that the tenure in Bhutan will be for a maximum of 3 years only. This means that the tenure may end before 3 years or may be extended upto 3 years depending on the facts and circumstances that may arise. The fact that some employees might have stayed in Bhutan for 3 years or more does not in my opinion amount to discrimination against the applicant because their facts and circumstances may not be the same as those of the applicant. In the case of the applicant Sankosh Investigation Division was closed down and a new transfer policy was adopted at the closure of the Sankosh Investigation Division by which the respondents adjusted the staff and officers in Bhutan and transferred out the longest stayee and those rendered surplus. I am not convinced that such policy adopted by the respondents can be assailed by the applicant. Neither am I convinced with the plea of distributive justice put forth by the learned counsel of the applicant in this case. The transfer policy has stipulated that the longest stayee in Bhutan in any category of staff and officers has to be transferred out. The period of time cannot be changed. Therefore if the policy says that the longest stayee has to be transferred out, such employee has to go out even if he is one day senior in terms of stay in Bhutan to another person who by virtue of the policy may

8-1-97

have to remain in Bhutan. Equally unacceptable is the contention of the applicant that he is the employee of Bhutan Investigation Division only and therefore the closure of Sankosh Investigation Division could not have affected him. His mere re-posting in the Bhutan Investigation Division by the Superintending Engineer or the fact that he never worked in Sankosh Investigation Division does not in my view alter the fact that the applicant was sent to Bhutan against the sanctioned post in Sankosh Investigation Division. The respondents have already explained that in the interest of continuity of work in Sankosh Investigation Division the personnel already working there were not disturbed and the new entrants were posted against the vacancies in Bhutan Investigation Division. I am of the view that the administrative authorities have the power and the right to deploy the personnel at their disposal to the best advantage of the organisation. Sankosh Investigation Division came into effect on 1.4.94 but the applicant had joined in Bhutan only on 29.10.94. Therefore there is force in the contention of the respondents that he was adjusted against a vacancy in Bhutan Investigation Division. The transfer policy adopted at the closure of Sankosh Investigation Division applies to all category of staff and officers in Sankosh Investigation Division and Bhutan Investigation Division of the Central Water Commission. Therefore the applicant was correctly affected by the closure of Sankosh Investigation Division even if for a moment it is taken that he is an employee under Bhutan Investigation Division only. It is seen from the details in the written statement that many of the officers and staff working in Sankosh Investigation Division

8.1.97

and Bhutan Investigation Division were transferred out on closure of Sankosh Investigation Division. LDCs or the applicant cannot therefore be an exception. It has therefore to be seen whether the applicant was the longest stayee in Bhutan amongst the LDCs. 3 posts of LDCs were sanctioned for Sankosh Investigation Division and 3 persons were sent against these posts. They are the following :

<u>Name</u>	<u>Date of Joining</u>
1. Sri M.R.Singh (the applicant)	29.10.1994.
2. " K.C.Boro	6.12.1994.
3. " Y.L.Rao	7.12.1994.

On abolition of Sankosh Investigation Division these 3 persons have to be adjusted against the 3 posts of LDC available in Bhutan as on 1.4.96. There is one Sri A.P. Mohanty, LDC who had joined Bhutan Investigation Division on 20.3.95. Therefore amongst the four LDCs the applicant was the longest stayee. It may be unfortunate for the applicant to be sent out but it would be contrary to the transfer policy if the applicant was retained in Bhutan being the longest stayee amongst the LDCs. Another fact pointed out by the applicant was that Sri Y.L.Rao was promoted to UDC in his old unit but he refused to accept the promotion. The respondents had retained him in Bhutan despite of the fact and this has deprived the applicant. I am of the view that the refusal of promotion by Sri Rao is immaterial for the purpose of determining as to who was the longest stayee in Bhutan amongst ~~from~~ the LDCs. It is permissible under the rules that an employee may refuse promotion. Sri Rao may have to pay separately on account of promotion by at least loosing his chance of promotion

8.1.97

for a certain period of time. In the facts and circumstances I am of the view that there is no room to hold that the applicant was transferred out from Bhutan in order to accommodate others or that the respondents had with a malafide intention transferred him out of Bhutan. With this view taken by me in the matter I feel no necessity to discuss the decisions reported in 1980 SLJ 466 and in 1989(2) SLJ(CAT) 651 relied on by the learned counsel of the applicant.

7. In the light of the above, the application is dismissed. No order as to costs.

Interim order stands vacated.


(G.L. SANGLYINE)
ADMINISTRATIVE MEMBER

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

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

Title of the case : O.A. No. 61 of 1996

Shri M. Ranjit Singh Applicant

- Versus -

The Union of India & Ors. Respondents

127
15 MAY 1996
Swadesh Bhowmik
19/5/96

I N D E X

(CONSOLIDATED/AMENDED APPLICATION)
Particulars of the documents

Swadesh Bhowmik

<u>Sl. No.</u>	<u>Particulars of the documents</u>	<u>Page Nos.</u>
1.	Application	1 to 23
2.	Verification	24
3.	Annexure-I	25
4.	Annexure-II	26
5.	Annexure-III	27
6.	Annexure-IV	28
7.	Annexure-V	29
8.	Annexure-VI	30
9.	Annexure-VII	31
10.	Annexure-VIII	32 to 35
11.	Annexure-IX	36
12.	Annexure-X	37
13.	Annexure-XI	38 to 39
14.	Annexure-XII	40
15.	Annexure-XIII	41
16.	Annexure-XIV	42
17.	Annexure-XV	
18.	Annexure-XVI	

19. OA (main) - - - - - 46-83
19. W/S - - - - - 84-105

For use in Tribunal's Office :

Date of filing :
Registration No. :
REGISTRAR

Recd 477
Y. Jaisankar
20/5/96

O.A. No. of 1996

BETWEEN

Shri M. Ranjit Singh,
At present working as L.D.C.
Central Water Commission,
Bhutan Investigation Division,
Phuentshiolling, Bhutan.

... Applicant

AND

1. The Union of India, represented
by the Secretary to the Govt. of India
Central Water Commission,
Sewa Bhawan,
R.K.Puram, New Delhi.
2. The Chairman,
Central Water Commission,
Sewa Bhawan,
R.K.Puram, New Delhi.
3. The Chief Engineer,
Brahmaputra Barak Basin,
Central Water Commission,
Shillong.
4. The Superintending Engineer,
North Eastern Investigation Circle,
Central Water Commission,
Shillong.
5. The Executive Engineer,
Bhutan Investigation Division,
Central Water Commission,
Post Box No. 5, Phuentshiolling,
Bhutan.

... Respondents

DETAILS OF APPLICATION

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

The application is directed against order No.
A-20012/4(68)/78-Estt.VII dated 29.3.96 served on the
applicant on 11.4.96 purportedly transferring him from

Contd...P/2.

Bhutan Investigation Division, Central Water Commission, Bhutan to North Eastern Investigation Circle, Central Water Commission, Shillong with effect from 1.4.96 and office order No. BID/CB-27/96/1590-98 dated 12.4.96 purportedly releasing the applicant from Bhutan Investigation Division, Central Water Commission with effect from 15.4.96 with direction to report for duty to the Superintending Engineer, Central Water Commission, Shillong.

The application is also directed against the order No. BID/CB/87/CAT/1884-88 dated 30.4.96 purportedly disposing of the representation dated 12.4.96 submitted by the applicant.

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 :

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

4. FACTS OF THE CASE :

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges guaranteed by the Constitution of India.

4.2 That the applicant entered into the services of the Central Water Commission on 17.7.78 and ever since his

entry into the organisation, he has been rendering his service with sincerity and devotion. Presently he has been holding the post of Lower Division Clerk under the Central Water Commission, Bhutan Investigation Division. He was transferred to Bhutan in acceptance of his exercise of option as was called for. Now by the impugned orders he is sought to be transferred and released from there to join at Shilong under the Superintending Engineer, North Eastern Investigation Circle, C.W.C.

He is sought to be so transferred to accommodate other persons who are juniors to him and in so far as transfer to Bhutan is concerned, This is the crux of the instant application and the instant application has been filed making grievance against the orders mentioned hereinabove.

4.3 That prior to transfer to Bhutan, the applicant was serving at Shillong under the North Eastern Investigation Circle, By a circular No A. 22015/4/94-Estt.VII dated 21.4.94 issued by the Government of India, Central Water Commission on the subject "Transfer of Staff borne on the ministerial cadre of subordinate officials of C.W.C. to Sankosh Inv. Division, Bhutan", a proposal was floated for filling up of certain posts including three posts of L.D.C. at Sankosh Investigation Division Bhutan on transfer basis from among the ministerial staff of subordinate office of C.W.C." By the said circular officials who desired to be transferred to the said Division and willing to work in interiors of Bhutan at high altitude were required to submit their applications. It was further laid down in the said circular that the

selected officials would be entitled to Bhutan Compensatory Allowance as admissible to Government servants posted in Bhutan besides their pay. The tenure of posting for such transfer was stated to be three years. The applicant being interested for such transfer applied for his such transfer pursuant to the official information received by him in respect of the above circular dated 21.4.94. The sanction of the Chairman, C.W.C. was conveyed to the setting up of the said Division viz. Sankosh Investigation Division Bhutan with three sub-Divisions under Central Investigation Circle vide office order dated 4.8.94. By the said office order amongst others three permanent posts of L.D.C. were allocated to the Division.

A copy of the office order dated 4.8.94 is annexed herewith as ANEXURE-I.

The applicant craves leave of this Hon'ble Tribunal to direct the respondents to produce a copy of the circular dated 21.4.94.

4.4 That pursuant to the application submitted by the applicant alongwith others, he was transferred/posted to Sankosh Investigation Division, C.W.C. Bhuentshiolling, Bhutan with effect from 1.9.94 vide office order No.A.22015/4-94-Estt.VII dated 8.8.94. However, by an office order No.A/94/92-Estt/CIC/SKM/1955-64 dated 1.9.94, the applicant alongwith others was posted under Bhutan Investigation Division, C.W.C. at Dongdichu, Chenari Sub-Division, C.W.C. It will be pertinent to

mention here that Bhutan Investigation Division is not under Sankosh Investigation Division and it is completely a different, separate and independent Division. Thus by this order dated 1.9.94, the applicant when was posted under the Bhutan Inv. Division he became part and parcel of the said Division having got nothing to do with the Sankosh Investigation Division.

Copies of the orders dated 8.8.94 and 1.9.94 are annexed herewith as ANNEXURES-II & III respectively.

4.5 That after the aforesaid order, the applicant was released from Shillong with effect from 27.10.94 by an office order dated 11.10.94 under No. N.E.T.C/PF/55/2512-19 on his transfer/posting in Bhutan. By the said order, he was directed to report for duty to the Executive Engineer, Bhutan Investigation Division, C.W.C.

A copy of the said order dated 11.10.94 is annexed herewith as ANNEXURE-IV.

4.6 That pursuant to such transfer/posting/reposting and release, the applicant reposted for duty on 29.10.94 forenoon under Bhutan Investigation Division C.W.C. Phuentshoiling which was duly notified by office order No. B.I.D/CB/PF-132/4362-68 dated 9.11.94.

A copy of the said order dated 9.11.94 is annexed hereto as ANNEXURE-V.

4.7 That thereafter i.e. after joining of the applicant under Bhutan Investigation Division, the

applicant was again transferred to Divisional Office, with immediate effect in public interest vide office order No. BID/CB-27/94/Vol. IV/1208-12 dated 3.4.95 and he duly carried out the said order of transfer.

A copy of the said order dated 3.4.95 is annexed herewith as ANNEXURE-VI.

4.8 That by an office order No. A-11011/1/94-Coord dated 25.3.96 sanction of the Chairman, C.W.S. was conveyed to the closure of the Sankosh Investigation Division, Phuentsholing, Bhutan with effect from 1.4.96. On closure of the division, the existing three sub-divisions and existing posts of the divisions were allocated as indicated in the office order.

A copy of the said office order dated 25.3.96 is annexed herewith as ANNEXURE-VII.

4.9 That the applicant states that although he was originally transferred to Sankosh Investigation Division but subsequently, from the orders mentioned above, it will be seen that his such transfer to Sankosh Inv. Division was not materialised and rather he was reposted against a vacant post earlier being held by one Shri K.M. Rao, He was also transferred to Bhutan Investigation Division like that applicant on tenure basis. Shri Rao also in exercise of his option to come over to Bhutan on transfer was posted under Bhutan Investigation Division and on completion of his tenure of three years, he was retransferred to his parent Division. The applicant was absorbed on transfer against the said post and he has got nothing to do with the Sankosh Investigation Division. It will be further pertinent to

Contd....P/7.

mention here that it is a normal phenomenon of calling for option for being transferred to Bhutan and in exercise of option, incumbents are transferred to Bhutan on fixed tenure of three years. The incumbents apart from their usual pay get Bhutan Compensatory Allowance which is fairly a good amount. On their such transfer, they are required to perform their duties in interior places at high altitude. However, in consideration of the financial benefit they derive upon transfer to Bhutan, incumbents exercise their options for such transfer and on their such transfer, they remain posted there for the fixed tenure of three years. As per the said practice and procedure and as per the circular dated 21.4.94, the applicant is entitled to complete his tenure of posting of three years which will be over on 27.10.97.

4.10 That the applicant states that upon such closure of the Sankosh Investigation Division, it was whispered in the office that the applicant may be transferred back to Shillong on the analogy that he is an incumbent of the Sankosh Inv. Division totally ignoring the fact that although he was initially transferred to Sankosh Inv. Division, but he was reposted/retransferred to Bhutan Investigation Division, a completely separate and independent Division having got nothing to do with the Sankosh Investigation Division. Being apprehensive of injury, the applicant made representation dated 7.3.96, which was duly forwarded by the Executive Engineer to the Superintending Engineer, North Eastern Investigation Circle, C.W.C. for onward transmission to the competent authority. In the said representation, the applicant highlighted the position as

Contd...P/8.

as reflected above and made a request to allow him to continue in Bhutan for the remaining period of his tenure. He also pointed out in his representation that such facilities of posting come once in a while of full service life and accordingly, he urged upon the authorities to look into the matter.

A copy of the said representation together with the forwarding letter is annexed herewith as ANNEXURE-VIII.

4.11 That the applicant while was cherishing in his mind that the competent authority will do the needful more so in view of the fact that his such representation was duly forwarded by the Superintending Engineer to the Chief Engineer, Shillong vide his letter No. 3/117/95-Estt/CIC/SKM/351-52 dated 12.3.96, it came to him as a bolt from the blue when an office order No. A-22012/4(68)/78-Estt. VII dated 29.3.96 was served on him on 11.4.96. By the said order, he is stated to be transferred from Bhutan Investigation Division, C.W.C. to North Eastern Investigation Circle C.W.C. Shillong with effect from 1.4.96. From the order itself it is clear that he has been transferred from Bhutan Investigation Division and not from Sankosh Investigation Division. However, in the order, the reason for his such transfer to Shillong is stated to be closure of the Sankosh Investigation Division with effect from 31.3.96. As already pointed out above, the applicant has got nothing to do with the Sankosh Investigation Division and he is an incumbent of the Bhutan Investigation Division which has neither been closed nor there is any necessity to transfer the applicant

from the said Division to any other Division before completion of his tenure of posting.

A copy of the letter dated 12.3.96 and the office order dated 29.3.96 are annexed herewith as ANNEXURE-IX and X respectively.

4.12 That immediately on receipt of the order of transfer dated 29.3.96 on 11.4.96, the applicant submitted yet another representation to the Chairman, C.W.C. New Delhi on 12.4.96 pointing out the irregularities in making the impugned order and accordingly, it was urged upon to allow him to continue in Bhutan towards completion of his tenure of posting of three years. The applicant craves leave of this Hon'ble Tribunal to refer to and rely upon the said representation at the time of hearing of the instant application and the statements made therein may be treated as a part of the instant application.

A copy of the said representation dated 12.4.96 is annexed herewith as ANNEXURE-XI.

4.13 That on the same date, the applicant was also served with an office order No. BID/CB-27/96/1590-98 dated 12.4.96 purportedly releasing him from his duties with effect from 15.4.96. The said office order has been issued by the Executive Engineer, Bhutan Investigation Division.

A copy of the said order dated 12.4.96 is annexed herewith as ANNEXURE-XII.

4.14 That immediately on receipt of the release order dated 12.4.96 the applicant wanted to approach this Hon'ble Tribunal by filing the instant application ; but

to his misfortune, the Hon'ble Tribunal was closed on account of Eibu holidays and accordingly, he could not prefer the instant O.A. on or before 15.4.96. However, by a message dated 15.4.96, the applicant has prayed to the Executive Engineer, Bhutan Investigation Division to extend his leave by another three days. In the said message, he has also intimated that he is not in a position to hand over charge and accordingly, prayed to extend his release dated 15.4.96. Be it stated here that the applicant has taken leave for 15.4.96.

A copy of the said message dated 15.4.96 is annexed herewith as ANNEXURE XIII.

4.15 That the applicant states that till date he has not handed over charge to anyone nor anybody has taken over charge from him. From the transfer order itself, it will be seen that no other incumbent has been posted in his place. Thus he is still continuing in the post and there is no impediment against passing an interim order as has been prayed for in the instant application. Situation as narrated above was such that the applicant could not come under the protective hands of this Hon'ble Tribunal on or before 15.4.96. The transfer order although is of 29.3.96, same was served on him on 11.4.96 and thereafter release order was issued on 12.4.96 without giving him adequate time to approach this Hon'ble Tribunal. Considering the fact that he is posted in Bhutan and that the Hon'ble Tribunal was closed during the intervening period, the applicant has filed the instant O.A. at the earliest opportunity and there is no delay and/or laches on his part in approaching this Hon'ble Tribunal. The circumstances were beyond his control.

4.16 That the applicant states that the incumbents who were transferred to Sankosh Investigation Division are sought to be favoured by their retention at Bhutan till completion of their tenure posting whereas the applicant who is senior in respect of joining at Bhutan and who has got nothing to do with the Sankosh Investigation Division is sought to be victimised by the respondents with malafide intention to accommodate others. If anybody is required to be transferred back, he or they will be the incumbents working at Sankosh Investigation Division and in the process, the applicant cannot be disturbed. ~~His~~ Till date inspite of the closure of the Sankosh Investigation Division, no one else has been transferred like that of the applicant and the applicant is the first victim of the said closure although he has got nothing to do with the closure of the Sankosh Investigation Division.

4.17 That the applicant states that although initially he was transferred to Sankosh Investigation Division, but subsequently before he could join the Division, he was reposted to a vacant post created by transfer of one Shri K.M. Rao on completion of his tenure posting of three years. Thus he became an incumbent of the Bhutan Investigation Division having got nothing to do with the Sankosh Inv. Division. Thus the applicant cannot be effected by the closure of the Sankosh Investigation Division and that too for the purpose of accommodating the incumbents of the Sankosh Investigation Division who are juniors in respect of date and time of joining in Bhutan. The applicant cannot be victimised for the purpose of accommodating others. If such stand of the respondents are allowed to stand, there will

be miscarriage of justice and violation of Articles 14 and 16 of the Constitution of India. A transfer order cannot be issued for the purpose of accommodating another incumbent.

4.18 That the applicant states that he has been sought to be transferred only on the ground of closure of the Sankosh Investigation Division, but the fact remains that he has got nothing to do with the said closure inasmuch as he is not an incumbent of the Sankosh Investigation Division nor his post at that Division and was allocated to Bhutan Investigation Division. As pointed out above, he was reposted against a vacant post of L.D.C. at Bhutan Investigation Division created by transfer of one Shri K.M. Rao who was also transferred to the said Division like the applicant on tenure basis.

4.19 That the applicant states that it is his definite case that he has been transferred to Shillong before completion of his tenure posting which is three years to accommodate some other who are facing the transfer to the parent division in view of the closure of the Sankosh Inv. Division. It is most respectfully submitted that this cannot be done and such an order of transfer is tainted with malafide intention.

4.20 That the applicant states that on enquiry in the office, he has come to know that as has been reflected in his Annexure-XII representation dated 12.4.96, to accommodate junior staff of Sankosh Inv. Division, the seniormost staff of Bhutan Investigation Division will move first which

according to the applicant is most illegal and is tainted with malafide and unreasonableness.

4.21 That the applicant states that one Mr. Rao who has also been transferred to Bhutan like that of the applicant and working as L.D.C. at Sankosh Investigation Division has even refused promotion in his parent division so that he can continue in Bhutan. Shri Rao is one of the LDCs amongst others who has been transferred to Bhutan in exercise of his option. Mr. Rao and others who have been working at Sankosh Investigation Division as L.D.C. are juniors to the applicant in the matter of joining in Bhutan and so far they have not been touched in spite of closure of the Sankosh Investigation Division in which they have been working. On the other hand, the applicant who is not an incumbent of the Sankosh Investigation Division nor has been working against any post sanctioned under that Division has been sought to be transferred by the impugned orders with the sole purpose of accommodating other person/ persons.

4.22 That the applicant states that malafide and colourable exercise of power are the foundation of the impugned orders inasmuch as it is the definite case of the applicant that he is sought to be effected by the impugned orders with the sole purpose of accommodating others. It is really unfortunate that on closure of the Sankosh Investigation Division the incumbents therein have not been effected but on the other hand, the applicant who has been

working under the Bhutan Investigation Division having no link with the Sankosh Investigation is sought to be transferred with the sole purpose of accommodating others in his post so that the said persons can complete their tenure posting. Such a principle cannot be adopted in the matter of transfer and a judicial review for the same is called for. Although the transfer is an incident of service, but the manner and method in which the applicant has been sought to be transferred to Shillong even before completion of his tenure of posting in Bhutan for which he had duly exercised his option, judicial interference is called for in the matter inasmuch as the impugned orders have not been issued bonafide but are founded on malafide intention. The respondents are also precluded from issuing such order of transfer in view of the principles of promissory estoppel, waiver and acquiescence.

4.23 That the applicant states that he had opted for being transferred to Bhutan in consequence of financial benefits derived out of such transfer and never before an incumbent has been transferred before completion of tenure posting of three years. If the transfer of the applicant as has been sought to be done is materialised, this will be solitary instance of transferring an incumbent before completion of tenure posting. The manner and method in which the applicant has been transferred to Shillong is most arbitrary and illegal and accordingly, interference of this Hon'ble Tribunal is called for.

4.24 That the respondents have since disposed of the representation dated 12.4.96 submitted by the applicant

by its communication dated 30.4.96 issued under No. BID/CB/ 87/CAT/1884-88.

A copy of the said memorandum dated 30.4.96 is annexed herewith as ANNEXURE-XIV.

4.25 That a bare perusal of the said order dated 30.4.96 bears the testimony to the apprehension of the applicant that he is sought to be transferred from Bhutan Investigation Division, Bhutan for the purpose of accommodating other person which cannot be done. In the said communication the respondents have very cleverly mentioned that the order of posting of the applicant to Bhutan did not mention any tenure period but on the other hand the said transfer of the applicant was pursuant to the option called for in which one of the conditions was that the incumbent would be posted in Bhutan for three years. As has been stated in the preceding paragraph, the posting in Bhutan is a regular phenomenon for which option are called for and the incumbents are posted for a period of three years. Thus no exception can be made for the applicant alone if the same is allowed, it will be violative of Articles 14 and 16 of the Constitution of India. In the impugned order, it has been stated that the applicant was adjusted in Bhutan Investigation Division. Thus he should not be made to suffer on closure of Sankosh Inv. Division. As has been stated above, he was posted against the vacant post of which was created due to transfer of one Shri K.M. Rao from the Bhutan Investigation Division who was also posted to Bhutan Inv. Division like that of the applicant in exercise of his option and then on completion

of tenure posting of three years, he was transferred to his original place of posting.

4.26 That the applicant states that in the impugned order dated 30.4.96 although in respect of one Shri A.P. Mahanty, he is sought to be retained in Bhutan by granting him stay, the applicant begs to state that said Shri A.P. Mahanty is not an incumbent of Sankosh Investigation Division. On the other hand, the applicant is an incumbent of Bhutan Investigation Division and he was posted against the vacant post created by transfer of Shri K.M. Rao as has been stated above. Thus for the purpose of benefiting others the applicant cannot be deprived of his benefits. Posting in Bhutan comes to an incumbent once in service life and the applicant is sought to be deprived of the benefit of the same in a most illegal manner by issuing the impugned orders.

4.27 That the applicant states that Shri E.L. Rao who is sought to be retained in Bhutan ~~Investigation Division~~ by order No. A.32016/1/94-Estt/VII dated 21.11.95 as U.D.C. However, ignoring such promotion he is sought to be continued in Bhutan as L.D.C. which is impermissible. The transfer of the applicant is sought to be effected only to accommodate others which is extraneous and cannot be stated to be in public interest. The applicant has got equal right to be continued in service in Bhutan for which option ~~k~~ was called for from him and in exercise of the same, he was transferred to Bhutan and all the incumbents are kept posted there for minimum period of three years and thus no exception can be made in case of the applicant alone and that too for the purpose of accommodate others. Malafide and colourable

exercise of power are the foundations of the impugned orders.

A copy of the order dated 21.11.95 is annexed herewith as ANNEXURE-XV.

4.28 That the so called policy of transferring the longer stayee in Bhutan is arbitrary, malafide and extraneous inasmuch as the applicant who is only one month older than the three incumbents mentioned in the impugned order cannot be termed as the longest stayee and thereby the three incumbents cannot be accommodated for full tenure of three years. If such a plea is allowed to stand, the principles of natural justice will be completely violated and there will be hostile discrimination. Such a principle cannot be followed being hit by the extraneous consideration in effecting a transfer and also being hit by waiver, estoppel and acquiescence.

4.29 That the applicant states that being aggrieved by the impugned order dated 30.4.96, he has made yet another representation dated 1.5.96. Instead of repeating the contentions made therein, the applicant craves the leave of this Hon'ble Tribunal to refer to and rely upon the statements made therein.

A copy of the said representation dated 1.5.96 is annexed herewith as ANNEXURE-XVI.

4.30 That the applicant states that as will be evident from the representation at Annexure-XVI dated 1.5.96, the

applicant has also highlighted as to how when the Bhutan Hydrel Division was closed, the incumbents were never adjusted in any other division so as to retain them in Bhutan ; but instead they were transferred to their respective parent departments, but an exception is sought to be made in the instant case and thereby ~~by~~ the applicant is being deprived of his tenure of posting.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that the impugned orders are prima facie illegal because the same have been issued with the sole purpose of accommodating others on closure of the Sankosh Inv. Division.

5.2 For that the applicant being senior to the others working at Sankosh Investigation Division, he having got nothing to do with the said Division, he is not to be effected on closure of the Division.

5.3 For that the impugned orders clearly depict that the applicant is sought to be transferred only on the ground of closure of the Sankosh Investigation Division whereas the applicant is not an incumbent of the said Division. Furthermore the Bhutan Investigation Division has got nothing to do with the said Division.

5.4 For that the law is well settled that a transfer of an incumbent cannot be resorted to for the purpose of accommodating others and if such a recourse is taken, same will be malafide and in colourable exercise of power.

5.5 For that the representation submitted by the applicant in anticipation of his such transfer sought to have been attended to inasmuch as the applicant has got a right to be considered upon towards cancellation of his transfer. Further the representation submitted by the applicant on 12.4.96 has also not been disposed of and thereby the applicant has been deprived of his valuable right of being considered.

5.6 For that the respondents are precluded from transferring the applicant before completion of his tenure posting of three years inasmuch as it was upon such promise, the applicant had exercised his option of being transferred to Bhutan. As has already been pointed out above, never before any incumbent has been transferred before completion of tenure posting of three years.

5.7 For that the respondents have acted with malafide intention in issuing the impugned orders inasmuch as the same is primarily based on favouratism inasmuch as pointed out above, the applicant is sought to be transferred to Shillong with the sole purpose of accommodating others, who are, on closure of the Sankosh Investigation Division, facing reversion to their original division. The applicant has learnt that he is the first victim and various other senior staff are going to be effected by such transfer order with the sole purpose of accommodating the incumbents working in the Sankosh Investigation Division.

5.8 For that although the transfer is an incident of service, but the instant case is required to be viewed

having regard to the peculiar facts and circumstances of the case and lifting of the veil is required to ~~be~~ find out the truth, intent and purport of the orders of transfer. As pointed out above, the impugned order has been issued with the sole purpose of accommodating junior person at Bhutan Investigation Division which will result in hostile discrimination and will be violative of Articles 14 and 16 of the Constitution of India.

5.9 For that law is well settled that an order of transfer cannot be resorted to accommodate others and if that is done the order of transfer remains no longer valid and the plea of public interest becomes redundant inasmuch as on the face of the order if it is depicted that same has been done with the purpose of accommodating others, same becomes untenable. In the instant case, the order of transfer itself tainted that the applicant has not been transferred for any other purpose but only on the ground that the Sankosh Investigation Division has been closed. Further the post being held by the applicant having neither been transferred nor being adjusted in lieu of the post at Sankosh Investigation Division, the applicant cannot be transferred in the manner as has been sought to be done in the instant case.

5.10 For that in any view of the matter, the impugned orders are not sustainable and liable to be set aside and quashed. The manner and method in which the impugned orders have been issued further give room to the apprehension that the same have been issued with malafide intention and in colourable exercise of power.

5.11 For that the impugned order dated 30.4.96 is arbitrary and passed on extraneous consideration and accordingly not sustainable under the law.

5.12 For that the order dated 30.4.96 purportedly disposing of the representation dated 12.4.96 of the applicant does not take into account the grounds ~~the~~ taken in the representation dated 12.4.96. This being the position, the said order is not sustainable, more particularly when the order justifies the transfer of the applicant on some extraneous considerations.

5.13 For that it is established principle of law in respect of transfer of an incumbent that transfer cannot be effected for the purpose of accommodating another person but in the instant case same is the position for which the applicant has filed the instant O.A. making a grievance against the same.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant declares that he has no other alternative remedy except by way of filing this application.

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

The applicant declares that he has not filed any application, writ petition or suit before any other authority and/or ~~an~~ court and/or any other Bench of this Hon'ble Tribunal in respect of the same subject matter nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT :

Under the facts and circumstances as stated above, the instant application be admitted, records be called for and upon hearing the parties on the case or causes that may be shown and on perusal of the records, be pleased to grant the following reliefs to the applicant :

- 8.1 Set aside and quash the order dated 29.3.96
(Annexure-X)
- 8.2 Set aside and quash the order dated 12.4.96
(Annexure-XII).
- 8.3 Issue a direction to the respondents to allow the applicant to continue in his present place of posting till completion of his tenure posting on 29.10.97 with all consequential benefits
- 8.4 Cost of this application to the applicant
- 8.5 Any other relief or reliefs to which the applicant is entitled as may be deemed fit and proper by this Hon'ble Tribunal.
- 8.6 Set aside and quash the order dated 30.4.96
(Annexure-XIV.)

9. INTERIM ORDER PRAYED FOR :

Pending disposal of the instant application, the applicant prays that the impugned orders dated 29.3.96 (Annexure-X) and dated 12.4.96 (Annexure-XII) may please be stayed with further direction to the respondents to allow the applicant to continue as Lower Division Clerk at

Bhutan Investigation Division, C.W.C. Phuentshoilling
Bhutan as before with all consequential benefits. The
interim order as has been prayed if not granted, the
applicant will suffer irreparable loss and injury
and if the interim is granted the respondents will not
suffer any loss and injury inasmuch as till date none else
has been appointed in place of the applicant and the
applicant has also not handed over charge to any one.
Further, in terms of the ~~xxx~~ transfer order, the applicant
is vested with the right of completion of tenure posting
of three years which will expire only on 29.10.87. As
pointed out above, his transfer order is tainted with
malafide inasmuch as he is sought to be transferred to
accommodate junior persons.

10.

The application is filed through Advocate.

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

- (i) I.P.O. No. :
- (ii) Date :
- (iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index

Verification.....

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

I, Shri M Ranjit Singh, son of Shri M. Tanbi Singh, aged about 45 y ars, at present working as Lower Division ~~xxxxxx~~ Clerk, Central Water Commissioner, Bhutan Investigation Division, Phuentshoilling, Bhutan, do hereby solemnly affirm and verify that the statements made in paragraphs 1 to 4 and 6 to 12 ~~xxx xxx~~ of the accompanying application are true to my knowledge and 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 day of April 1996 at Guwahati.

28

49

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

I, Shri M. Ranjit Singh, son of Shri M. Tenbi Singh, aged about 45 years, at present working as Lower Division Clerk, Central Water Commission, Bhutan Investigation Division, Phuntsholing, Bhutan, do hereby solemnly affirm and verify that the statements made in paragraphs 1 to 4 and 6 to 12 of the accompanying application are true to my knowledge and those made in paragraph 5 are true to my legal advice and I have not suppressed any ~~fx~~ material facts.

And I sign this verification on this 14th
Day of May, 1996.

Ranjit
(M. Ranjit Singh)
L.D.C.

26

4

ANNEXURE-I

No. A-1100/4/94/Estt.IV
Government of India,
Central Water Commission,

Sewa Bhawan, R.K. Puram, New Delhi
Dated the 4th/8th April, 1994.

OFFICE ORDER

Sanction of the Chairman, Central Water Commission is hereby conveyed to the setting up of one Division - Sankosh Investigation Division at Phuentsholing (Bhutan) with three Sub-Divisions under Central Investigation Circle for work of Investigation of Sankosh Multipurpose Project with effect from 1.4.1994.

The following posts are hereby allocated to the Sankosh Investigation Division.

Sl.No.	Name of Post	No. of Presently utilised post xxxxxx in	Name of Scheme
1.	Ex. Engineer	1 Pmt. O/O CE, NEPO	S&I
2.	A.E.	2 Pmt. 1 in NEID-II 1 in FC Dte.	Post creat for on the recommenda on of CRC Grade B&A Engg. cadre
		1 in RMCD	S & I
3.	Head Clerk	1 Pmt. NEID-III	-do-
4.	U.D.C.	3 Pmt 2 in BID 1 in o/4 CE, NERO	-do-
5.	L.D.C.	3 Pmt 2 in o/o CE NERO 1 in NEIC	-do- -do-
6.	Steno-III	1 Pmt o/o CE, NERO	-do-
7.	D/Men Gr. I	1 Pmt NEID-III	-do-
8.	Jr. Engineer	10 Pmt. 3 in BID 1 in o/o CE, NERO 2 in o/x NEIC 4 in NEID-III	-do-

Atty. Bhan

The Divisional Accountant of Bhutan Investigation Division will look after the work of D/A in Sankosh Investigation Division also till further orders without any remuneration.

sd/-
(P. PADMANABHAN)
DEPUTY DIRECTOR

Copy to :

1.

....

7. Budget Section CWC.

NO. BID/CB/PF-132/94/4362-68
Government of India, ✓
Central Water Commission,
Bhutan Investigation Division
Post Box No. 5
Phuntsholing (Bhutan)

Dated : 9.11.94

OFFICE ORDER

Consequent upon his posting/transfer from North Eastern Circle, CWC, Shillong vide CWC office order NO. A-22015/4/94/Estt.VII dated 8.8.94, Shri M. Ranjit Singh L.D.C. has reported for duty on 29.10.94 P.M. under Bhutan Inv. Divn. CWC, Phuntsholing.

Sd/-

(D. C. Das)
Executive Engineer

Copy to :

1. The Under Secretary (KS), CWC, New Delhi
2. The Pay & Accounts Officer, CWC, R.K.Puram, New Delhi
3. The Sr. Engineer/North Eastern Investigation Circle, Shillong. The LPC/Service Book alongwith leave account etc. may kindly be sent to this office.
4. The Superintending Engineer, Central Inv. Circle, CWC, Tadong, Gangtok, Sikkim.
5. The Accounts Branch Divisional Office,
6. Officer Order file.

Attended
by
Shri

SK

ANNEXURE-VI

No. BID/CB/27/95/Vol.IV/1208-12
Government of India,
- Central Water Commission,
Bhutan Investigation Division,
Phuttsholing (Bhutan)

Dated : 3.4.95.

OFFICE ORDER

Mr. M. Ranjit Singh, L.D.C. presently working in Inv. Sub-Divn. No. II, C.W.C. Chenary (Bhutan) is hereby transferred to Divisional Office with immediate effect in public interest.

Sd/-

(.SC. Gupta)

Executive Engineer.

Copy to :

1. The Superintending Engineer, Cental Inv. Circle, C.W.C. Tadong, Gangtok (Bhutan) for favour of approval. Since Shri K.M. Rao, LDC is being relieved shortly, in order to look after the work of Establishment in divisional office, the transfer of Shri M. Ranjit Singh LDC to division is quite necessary.
2. The Asstt. Engineer, Inv. Sub-division No. II, CWC? Chenary, Shri Ranjit Singh, LDC may please be relieved from the Sub-division immediately.
3. Accounts Branch, Divisional Office,
4. Shri M. Ranjit Singh, LDC, ISD-II, CWC, Chenary
5. Office Order file.

Atkins
Se. M. S.

24

ANNEXURE-VIII

BID/CB/PF-132/1100-01 Dt. 7.3.96

To

The Superintending Engineer,
Investigation Circle,
Central Water Commission,
Tadong, Gangtok, ~~Bhutan~~ Sikkim.

Sub : Request for completion of tenure posting of
three years under Bhutan Investigation Divisionn
CWC, Phuentsholing - Shri M. Ranjit Singh, LDC-reg.

Sir,

Please find enclosed herewith an representation
from Shri M. Ranjit Singh, L.D Clerk of this office addresse
to the Chairman, C.W.C. New Delhi. The same is forwarded
herewith for favour of further disposal at your end, please.

This office however is not aware and officially
informed about transfer of shifting of staff.

This is for your information please.

Encl. Application in
triplicate.

Yours faithfully,

Sd/-

(C.L. Wadhawan)
Executive Engineer.

Copy to :

Shri M. Ranjit Singh, L.D. Clerk, Divisional Office,
Central Water Commission, P'ling, Bhutan with reference
to his application dated 7.3.1996.

Sd/-

(C.L. Wadhawan)
Executive Engineer.

...

*Action
Shri*

30 M
Annex. VIII contd.

To

The Executive Engineer,
Bhutan Investigation Division,
Central Water Commission,
P'ling (Bhutan).

Sub : Request for completion of Tenure
Period of 3 years.

Sir,

I am enclosing herewith my representation
(in triplicate) on the subject cited above and
addressed to Chairman, C.W.C. New Delhi which may
please be forwarded and obliged.

Encl. As above.

Yours faithfully,

Sd/-

(M. Ranjit Singh)

L.D.C.

7.3.96.

....

*Attended
Sd/-*

To

The Chairman,
Central Water Commission,
Sewa Bhawan, R.K. Puram,
New Delhi.

(THROUGH PROPER CHANNEL)

Sub : Request for completion of tenure posting of three years under Bhutan Inv. Division, C.W.C. Phuentsholing

Sir,

I approached your goodself with an humble prayer of few lines for favour of your kind sympathetic and favourable considerations :

It is learnt from a reliable sources that due to impending closure of Sankosh Investigation Division, C.W.C. Phuentsholing, it has been proposed to transfer/shift the seniormost incumbents working under Bhutan Investigation Division, CWC, P'ling as a whole to accommodate juniormost incumbents of Sankosh Inv. Division who have joined under Sankosh Inv. Division on its opening with effect from 01.10.1994 and thereafter, In this context, I am to state that :

1. According to the provisions stipulated in the CWC's Circular No. A - 22015/4/94-Estt. XVII dated 21.4.94 (photocopy enclosed) posting of the staff of Ministerial cadre will be for a maximum of 3 years.
2. Consequent ~~xxx~~ to my selection I have assumed my duties on 29.10.94 in Investigation sub-divn. No. II, CWC, Chenary under Bhutan Inv. Division and accommodated me in the existing vacancy of Bhutan Inv. Division, CWC, P'ling. At present Inv. Sub-Divn. No. II is going on at Chenary. The question of seniormost transfer without closing the sub-division means "to snatch the dish of one's lunch forcibly from his mouth". On the other hand, every newly posted Ministerial staff of SIB have satisfied and enjoyed with their place of posting beyond the remote interior place but at this stage of closing the SID, to replace the new one at my place is may be illegal.
3. It also seems an illegal that the continuation of juniormost in Bhutan till the completion of 3 years tenure period other than those seniormost staff for a little difference of months, which make lots of losses to the seniormost staff in the tenure period as well as future posting of foreign assignment.

*Return
to
Bhutan*

Contd....

32
20
Annexure-VIII
contd.

In view of the above facts, I pray your goodself to kindly have a sympathetic consideration and allow me to continue full tenure posting of 3 years i.e. upto 29.10.97. If it is not possible due to administrative difficulty to continue upto 29.10.97, then I may kindly be allowed for a further posting in Bhutan for the remaining period of my tenure in future because such facilities of posting come once in a whole of full service life, which may please be saved as a poor low paid employee's life.

Thanking you, sir.

Yours faithfully,

Sd/-

(M. Ranjit Singh)
L.D.C.

Copy in advance forwarded to :

The Director Administration, Central Water Commission, Sewa Bhawan, R.K. Puram, New Delhi-66 with the request that my case for continuation under Bhutan Investigation Division, may kindly be considered sympathetically and favourably in view of the detailed given above.

Sd/-

(M. Ranjit Singh)
L.D.C.

Handwritten signature

37

A

ANNEXURE-IX

GOVERNMENT OF INDIA
CENTRAL WATER COMMISSION
OFFICE OF THE SUPERINTENDING ENGINEER
CENTRAL INVESTIGATION CIRCLE
P.O. Tadang - 737102 (SIKKIM)

No. 3/117/95-Estt/CIC/SKM/351-52 Date : 12.3.96

To

The Chief Engineer,
Brahmaputra & Barak Basin,
Central Water Commission,
Shillong-793014.

Sub : Request for completion of Tenure posting of three years under Bhutan Investigation Division, CWC Phuentsholing - Shri M. Ranjit Singh, L.D. Clerk.

Sir,

I am to forward herewith a representation (in duplicate) received from Shri M. Ranjit Singh, Lower Division Clerk, Bhutan Inv. Division, CWC, Phuentsholing (Bhutan) of this Circle, addressed to Chairman, CWC, New Delhi which is self explanatory for further necessary action please.

Yours faithfully,

Sd/-

(S.C. Gupta)

Superintending Engineer

Encl. As above.

Copy to :

Executive Engineer, Bhutan Inv. Division, CWC, Phuentsholing (Bhutan), with reference to his letter No. BID/CE/PF-132/1100-01 dated 7.3.96.

Antony S. Bhat

Sd/-

(S.C. Gupta)

Superintending Engineer.

...

- 31 -

ANNEXURE - X³⁴

A-20012/4(68)/78-Estt.VII
Government of India
Central Water Commission

Room No. 806, Sewa Bhawan,
R.K.Puram, New Delhi- 11006

Dated 29th March, 1996.

OFFICE ORDER

Consequent upon the closure of Sankosh Investigation Division, Central Water Commission, Bhutan w.e.f. 31.3.96, Shri. Ranjeet Singh, Lower Division Clerk borne on the ministerial cadre of subordinate offices of Central Water Commission, is hereby transferred from Bhutan Investigation Division, Central Water Commission, Bhutan to North Eastern Investigation Circle, Central Water Commission, Shillong w.e.f. 1.4.96 (FN) in public interest against the existing vacancy.



(J.L. CHUGH)
Under Secretary
Tele : 604068

OFFICE ORDER FILE

1. The Pay Accounts Officer, CWC, R.K.Puram, New Delhi- 110066
2. The Chief Engineer, Brahmaputra Barak Basin, C.W.C. Shillong.
3. The Superintending Engineer, Central Investigation Circle, Gangtok, Sikkim.
4. The Superintending Engineer, North Eastern Investigation Circle, CWC, Shillong.
5. The Executive Engineer, Bhutan Investigation Division, C.W.C. Bhutan
6. The Executive Engineer, Sankosh Investigation Division, CWC, Bhutan.
7. The Section Officer C.R. Section, CWC, New Delhi.
8. Person concerned.
9. Personal file of the official concerned.
10. Spate copies- 10.

No.3/117/95-ESTT/CIC/SKM/ 539

Dated 7th April 1996.

~~Copy to the Executive Engineer, Bhutan Investigation Dvn., CWC, Phuntsholing (Bhutan). Shri Ranjeet Singh, L.D. Clerk may please be relieved immediately under intimation to this Office.~~

(S. C. GUHA)
Superintending Engineer
Investigation Circle.

To Chairman,
The Under Secretary
Central Water Commission,
Sewa Bhawan, R.K. Puram,
New Delhi-66.

(Through proper channel)

Sub: Request for completion of Tenure posting of three years under Bhutan Inv. Division, CWC, Phuntsholing (Bhutan and issue of stay order of transfer.

Hon'ble Sir,

I, Shri M. Ranjeet Singh, L.D.C. working under Bhutan Investigation Division, CWC, Phuntsholing (Bhutan) have the honour with an humble prayer of the following few lines for favour of your kind sympathetic and favourable considerations:

That Sir, according to the provisions/opening of Sankosh Investigation Division, CWC, Phuntsholing w.e.f. 1.4.94 (Annex- and CWC's vacancy Circular No.A-22015/4/94-Estt.VII dt. 21.4.94 (Annex-II) I have applied and appointed me for a period of 3 years vide CWC's Office order (Annex-III) and reposted at Investigation Sub-Division No.II, CWC, Chenary (Bhutan) under Bhutan Investigation Division, CWC, Phuntsholing vide Superintending Engineer, CWC, Sikkim's Office order (Annex-IV), I have relieved from S.E, North Eastern Inv. Circle, CWC, Shillong on 27.10.94 (A.M). I have joined my duty on 29.10.94 (F.N) under Bhutan Investigation Division which was accepted by Executive Engineer (Annex -V). A few months latter, I have again transferred from Investigation Sub-Division No.II, CWC, Chenary to Bhutan Investigation Division, Phuntsholing vide Executive Engineer's Office order (Annex -VII) against the vacant post of Shri K.M. Rao, L.D.C.—Since then I am working under Bhutan Investigation Division, CWC, Phuntsholing continuously.

In view of the above postings I have already been accommodated against the vacant post of Bhutan Investigation Division, CWC, Phuntsholing (Bhutan). But due to completion of Sankosh Multipurpose Project & closing of Sankosh Investigation Division w.e.f. 1.4.96 (Annex -VIII) it has been decided that the P'ling senior most staff of Bhutan Investigation Division will move first to accommodate the junior staff of Sankosh Inv. Division in Bhutan Inv. Division, it seems illegal.

Attn
mm

In this connection I have submitted an application for completion of 3 years tenure period addressed to Chairman and forwarded it to Superintending Engineer, Investigation Circle by Executive Engineer, Bhutan Inv. Division vide his letter under (Annex- IX). Then S.E, Central Inv. Circle has also forwarded to Chief Engineer, Brahmaputra & Barak Basin, CWC, Shillong vide his letter (Annex - X)

The senior most move first as decided by CWC, I have transferred to North Eastern Inv. Circle, CWC, Shillong vide CWC's Office order (Annex-XI) and stand relieved w.e.f. 15.4.96 (A.M.) (Annex -XII) without completion of 3 years tenure period.

In this regard, I want to bring a few lines before your kind honour that why I have affected by the closure of Sankosh Investigation Division when I am working under Bhutan Inv. Division (not under Sankosh Inv. Division). Since my date of joining i.e. 29.10.94 till today against the vacant post of K.M. Rao, L.D.C. Bhutan Inv. Division, CWC, Phuntsholing.

That Sir, such type of illegal transfer destroyed my whole service life, because closure of Sankosh Inv. Division office affected to the staff of Bhutan. It should be borned by the Sankosh Inv. Division staff only. They should move first because their Division has closed on 1.4.96 not my Division

The question of senior most transfer without closing my Division means "to snatch the dish of one's lunch forcibly from his mouth". It also seems an illegal that the continuation of juniormost staff in Bhutan Investigation Division after closure of their Division till the completion of 3 years tenure period other than those of seniormost staff for a little differences of months, which makes lot of losses to me in the tenure period as well as future posting of foreign assignment.

In view of the above facts, I pray your goodself to kindly have a sympathetic consideration and allow me to continue full tenure posting of 3 years i.e. upto 29.10.97 because such facilities of posting come once in a whole of full service

Allen
10/10/97

- 34 -

37

(3)

life, which may please be saved as a poor low paid employee's life by giving stay order of my transfer order.

Thanking you sir,

Yours faithfully,



(M. Ranjit Singh)
L.D.C.
Bhutan Inv. Division
CWC, Phuntsholing.

Copy to The Executive Engineer, BID, CWC,
P'ing (Bhutan) for information.

Altina
&
Shir

No. BID/CB-27/96/1570-18
Government of India
Central Water Commission
Bhutan Investigation Division
Post Box No. 5
Phuntsholing (Bhutan)

Dated: 12-11-96

OFFICE ORDER

Consequent upon his transfer from Bhutan Investigation Division, CWC, Phuntsholing to North Eastern Investigation Circle, CWC, Shillong vide CWC's Office order No.A-20012/4(68)/78-Estt.VII dt. 29.3.96 Shri Ranjeet Singh, L.D.C. of this office is relieved from his duties with effect from 15.4.1996 (A.N) with directions to report for duty to the Superintending Engineer, North Eastern Inv. Circle, CWC, Shillong.

C.L. Wadhawan
(C.L. Wadhawan)
Executive Engineer.

Copy to :-

1. The Under Secretary (Estt. VII), CWC, Sewa Bhawan, R.K. Puram, New Delhi - 66 for favour of kind information with reference to his letter referred to above.
2. The Superintending Engineer (Coordn.), Brahmaputra Barak Basin, CWC, Jamir Mansion, Nongshilliang, Shillong-14 for favour of his kind information.
3. The Superintending Engineer, Investigation Circle, CWC, Tadong, Gangtok, Sikkim for favour of kind information.
4. The Superintending Engineer, North Eastern Investigation Circle, CWC, Shillong for information and necessary action please.
5. The Pay & Accounts Officer, CWC, Sewa Bhawan, R.K. Puram, New Delhi - 66 for information.
6. Shri Ranjeet Singh, L.D.C., Divisional Office.
7. Accounts Branch, Divisional Office.
8. Personal file.
9. Office order file.

Atty
AMT

TO

THE EXECUTIVE ENGINEER
BHUTAN INF. DIVISION
CENTRAL WATER COMMISSION
PHUENTSHOLING, BHUTAN)

LEAVE MAY BE EXTENDED BY ANOTHER THREE DAYS (.)
UNABLE TO HAND OVER CHARGE (.) RELEASE ORDER DT. 12.4.96 MAY
BE EXTENDED (.)

Sanjit
15/4/96
(M. Ranjit Singh)
L.D.C.

Atun
DMR

No. BID/CB-87/CAT/1884-88
Government of India
Central Water Commission
Bhutan Investigation Division
Phuntsholing (Bhutan)

Dated : 30.4.96

To

Shri M. Ranjit Singh,
L.D.C.,
Bhutan Investigation Division,
Central Water Commission,
Phuntsholing,
BHUTAN.

Sub: Disposal of your representation dated 12.4.96
addressed to Chairman, Central Water Commission -
O.A.No.61/96 of the Hon'ble Central Administrative
Tribunal, Guwahati Bench.

Sir,

I am to refer to your representation dated 12th April, 1996 addressed to Chairman, Central Water Commission and also the interim order of the Hon'ble CAT, Guwahati Bench in the O.A.No.61/96 regarding your retention in Bhutan in the Bhutan Investigation Division to enable you to complete the 3 years' tenure in Bhutan. The matter has been considered with reference to the issues raised in your representation and you are hereby informed that :-

(1) Due to increased work in Bhutan, a new division with the name Sankosh Investigation Division was to be started during 1994 in addition to the existing Bhutan Inv. Division and accordingly a Circular was issued on 21.4.1994 calling inter-alia names for 3 posts of IDC and in the circular it was mentioned that the tenure in Bhutan will be for a maximum period of 3 years only. After your selection, you were initially transferred to Sankosh Inv. Division vide Office order dated 8th August, 1994 which did not mention any tenure period for your posting in Bhutan. Even though Sankosh Project works were not picking up, you were adjusted in Bhutan Inv. Division, Bhutan, within the CWC formations there.

(ii) On completion of the works in Bhutan and consequent closure of Sankosh Inv. Division with effect from 31.3.1996, the surplus staff had to be transferred out of Bhutan. The surplus staff included not only at the level of IDCs but also at the other levels such as Executive Engineer, Junior Engineer, Draftsman, and Stenos. While transferring such staff, the longest stayees were transferred out of Bhutan without any exception in all these grades. In the grade of IDC, only 3 posts are available in Bhutan and the following 3 junior-most IDCs who joined Bhutan after you were, therefore, retained there :-

3

to 38 41

-: 2 :-

<u>S.No.</u>	<u>Name</u>	<u>Date of joining in Bhutan</u>
1.	Shri K.C. Bora	06.12.1994
2.	Shri Y.L. Rao	07.12.1994
3.	Shri A.P. Mohanty	20.03.1995

In the light of the above mentioned facts, you are being informed that your request for retention in Bhutan for enabling you to complete a tenure of 3 years period cannot be agreed to.

This issues with the approval of Chairman, CWC.

Yours faithfully,

C.L. Wadhawan
 (C.L. WADHAWAN) 30/4/96
 Executive Engineer
 Executive Engineer
 Bhutan Gov. Division
 CWC (West Block)
 Phuentsholing (Bhutan)

True copy,
C.L. Wadhawan
 Executive Engineer
 Bhutan Gov. Division
 CWC (West Block)
 Phuentsholing (Bhutan)

*Attm
A
Aht*

Room No. 806, Sewa Bhawan
R.K. Puram, New Delhi-66.

Dated the 21 Nov., 1995.

To

1. The Suprintending Engineer(Coord), Office of the Chief Engineer(Narmada Basin), Bhopal.
2. The S.E.(H.O.), CWC, Bhubaneshwar.
3. The S.E.(H.O. & Coord), CWC, Hyderabad.
4. Director, CTU, Pune.
5. The S.E., N.E.I.C., Shillong.
6. S.E.(Investigation), CWC, Gangtok.

DAILY NO. 9841
DATE 11/12/95
G. I. C. TADONG.

Subject: Promotion of LDCs to the post of UDC in the ministerial cadre of subordinate offices of CWC.

Sir,

I am to convey the recommendations of the DPC(Group 'C') CWC, to the promotion of the following LDCs of ministerial cadre of subordinate offices of CWC to the post of UDC in the grade of Rs. 1200-30-1560-EB-40-2040/-. You are requested to issue, in the capacity of Appointing Authority, formal promotion order in respect of the concerned LDCs as shown below and they may be posted to the office shown against each:-

Sr. No.	Name of the LDC in respect of whom promotion orders are to be issued and his present place of posting.	SE/Director by whom the promotion orders are to be issued.	Place of posting on promotion
1.	Sh. S.K.Verma, Narmada Divn. Bhopal.	SE(Coord.) in Office of CE (NE), Bhopal.	Narmada Division, Bhopal.
2.	Sh. Y.Laxman Rao, Sankosh Inv. Divn. Bhuban.	SE(H.O.), Bhubaneshwar	H.O. Circle, Bhubaneshwar.
3.	Smt. Sneh Sharma, Hy. Obs. Circle, Noida.	SE(HO & Coord), Hyderabad.	UKD, Pune.
4.	Smt. Sneh Dutta, CSD, New Delhi.	Director, CTU, Pune.	CTU, Pune.
5.	Sh. R.K.NCKwal, Hyd. Obs. Circle, Dehradun(Informally posted with Minister (WR)	SE, NEIC, Shillong.	NEIC, Shillong.

Contd.....2.

Sharma
11/12

40 43

- 6. Sh. Yog Raj, Lower Yamuna Divn., Agra. Director, CTU, Pune.
- 7. Sh. R.M. Saxena, MGD-II Lucknow. SE(Inv.) Gangtok SE(Invs.)Gangtok.
- 8. Sh. Genda Lal(S/C) MGD-I, Lucknow. SE(Inv.)Gangtok. SID, Gangtok.

2. On their promotion, the above officials are entitled, to opt for fixation of their pay in higher grade in terms of Deptt. of personnel & Training Notification No. 1/10/89-Estt.(Pay-I), dated 30.8.89.

3. In case the above named LDCs fail to join as UDC within a period of one month of the issue of promotion orders, it will be assumed that they are not interested in their promotion to the grade of UDCs and in that case, the promotion/posting orders will be cancelled and they will not be considered for promotion to the grade of UDCs in the ministerial cadre of subordinate offices of CWC upto one year or till they are approved by the DPC for their promotion as UDC whichever is later.

4. The contents of paras 2 and 3 above may be incorporated in the promotion orders. A copy of the promotion order may be sent to this office for reference and record as well as to the concerned SE/EE under whom the above officials are presently working with a request to relieve them immediately to enable them to join the post of UDC within the stipulated period.

Yours faithfully,

J.L. Chugh
 (J.L. CHUGH)
 UNDER SECRETARY(I)
 TELE: 604068.

Copy to:-

- 1. PAO, CWC, New Delhi.
- 2. Chief Engineer, (N.B.), Bhopal, /CE (Maharadi & Eastern Rivers), Bhubaneswar, /CE (Krishna & Godavari Basin) Hyderabad /CE, CTU, Pune, /CE (BBS) Shillong /CE (IYB), Delhi /CE (N), Faridabad /CE (UGB), Lucknow.
- 3. SE (H.O.), Noida /SE (Planning Circle) Faridabad /SE (HO), Dehradun /SE (HO) Varanasi.
- 4. EE, Narmada Divn. Bhopal. ()
- 5. EE, SID, Bhutan. ()
- 6. EE, CSD, New Delhi. ()
- 7. EE, LYD, Agra. ()
- 8. EE, MGD-I and II. ()
- 9. Director, CTU, Pune.
- 10. EE, SID, Gangtok. ()

() It is requested that on receipt of formal promotion orders, the concerned LDCs may be relieved immediately to enable them to join to the post of UDC.

Atun
AMT

FUC is put up for kind orders pl

J.L. Chugh
 12/11/89

-13- -11-

44 68 94
DT. 1-8-96

ANNEXURE D

ANNEXURE XVI

To

The Chairman,
Central Water Commission,
Sewa Bhawan, R.K. Puram,
New Delhi.

(Through Proper Channel)

Sub:- Request for reconsideration of retention in Bhutan.
Ref:- This office letter No. BID/CB-87/CAT/1884 dt. 30.4.96.

Sir,

With reference to the letter cited above, I am not allowed to continue in BID(Bhutan) for the tenure period of three years due to my seniority among the LDCs. In this regard, I want to bring a few lines for your kind sympathetic reconsideration please :

1. That Sir, all the staffs posted in Bhutan were submitted their option for Bhutan only for monetary benefits . As such, myself also submitted an option and joined in BID on 29.10.94(FN). Now, I am become a senior LDC than my next junior LDC Shri K.C. Boro only for the period of one month 8 days. The seniormost/longer stayee move out first as decided by CWC means clearly indicated that the senior LDC working in Bhutan have earned more money than the juniormost LDCs. But, I have earned less money than my next junior LDC (Statement enclosed). Then the question of longer stayee in Bhutan does not arises. In this regard, please verify and reconsider the case according to the statement attached before fixing of the final decision.
2. On the other hand Shri Y.L. Rao, LDC had got promotion as U.D.C. in his parent department but refused due to earning of more money in Bhutan than in India. But our head of department does not care about his promotion and transfer from Bhutan. He was keeping in silence by thinking so- that he ~~was junior~~ is junior. To become a junior is not sufficient for transfer of senior LDC. It should be looked in all respect.
3. I have already been adjusted in BID, P'ling vide Para(1) of the above referred letter.
4. How myself has been declared as surplus after adjustment in BID(under para-ii). Here is not question for surplus me as well as longer stayee in Bhutan. This needs to be verified.
5. Which Division is going closed ? Closure of SID and staff transfered from BID. Is it the way of transfer ? Can anybody accept to vacate his own house for attachment of other family .If both the Division are under the same organisation and under the combined transfer policy, then what about the closure of "Bhutan Hydel Division" during 8/88. Why this combined transfer ~~policy was not governed~~ to the staff of Bhutan Hydel Division ? All the staffs of Bhutan Hydel Division were sent back to India on transfer after adjustment of some of staffs to BID as per vacancy .

Handwritten initials/signature

In view of the above facts, please verified the statement attached and reconsider my request for retention in Bhutan Investigation Division(Phuentsholing).

Thanking you Sir,

Yours faithfully,

(M. Ranjit Singh)
L. D. C.
BID/CWC/P'ling
(Bhutan)

N. O. C.

Copy for information to :-

Shri Bipin Kumar Sharma, Senior Advocate, Santipur, near Prayagjetish College, Guwahati-9. He is requested that my case may please be proceeded before the Hon'ble CAT, Guwahati Bench.

Ranjit Singh
1/5/96

(M. Ranjit Singh)
L. D. C.
BID/CWC/P'ling
(Bhutan).

filed
Ser. In
M. S.

46

18 APR 1996
86

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

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

Title of the case : O.A. No. 61 of 1996

Shri M. Ranjit Singh Applicant

- Versus -

The Union of India & Others Respondents

I N D E X

Sl.No.	Particulars of the documents	Page Nos.
1.	Application	1 to 17
2.	Verification	18
3.	Annexure-I	19
4.	Annexure-II	20
5.	Annexure-III	21
6.	Annexure-IV	22
7.	Annexure-V	23
8.	Annexure-VI	24
9.	Annexure-VII	25
10.	Annexure-VIII	26 to 29.
11.	Annexure-IX	30.
12.	Annexure-X	31.
13.	Annexure-XI	32. to 34.
14.	Annexure-XII	35.
15.	Annexure-XIII	36.

For use in Tribunal's Office :

Date of filing : 17.4.96
 Registration No. 6A61/96
 Registrar

*Recd
 Golap Sarma
 18/4/96
 CAT
 447*

applicant on 11.4.96 purportedly transferring him from Bhutan Investigation Division, Central Water Commission Bhutan to North Eastern Investigatio Circle, Central Water Commission, Shillong with effect from 1.4.96 and office order No. BID/CB-27/96/1590-98 dated 12.4.96 purportedly releasin the applicant from Bhutan Investiga- tion Division, Central Water Commission with effect from 15.4.96 with direction to report for duty to the Superin- tending Engineer, Central Water Commission, Shillong.

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 :

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

4. FACTS OF THE CASE :

4.1 That the applicant is a citizen of India and as such, he is entitled to all the rights, protections and privileges guaranteed by the Constitution of India.

4.2 That the applicant entered into the services of the Central Water Commission on 17.7.78 and ever since his entry into the organisation, he has been rendering his service with sincerity and devotion. Presently he has been holding the post of Lower Division Clerk under the Central Water Commission, Bhutan Investigation Division, He was transferred to Bhutan in acceptance of his

exercise of option as was called for. Now by the impugned orders he is sought to be transferred and released from there to join at Shillong under the Superintending Engineer, North Eastern Investigation Circle, C.W.C. He is sought to be so transferred to accommodate other persons who are juniors to him and in so far as transfer to Bhutan is concerned. This is the crux of the instant application and the instant application has been filed making grievance against the orders mentioned hereinabove

4.3 That prior to transfer to Bhutan, the applicant was serving at Shillong under the North Eastern Investigation Circle, By a circular No. A.22015/4/94-Estt.VII dated 21.4.94 issued by the Government of India, Central Water Commission on the subject "~~Sub~~ Transfer of Staff borne on the ministerial cadre of subordinate officials of C.W.C. to Sankosh Inv. Division, Bhutan", a proposal was floated for filling up of certain posts including three posts of L.D.C. at Sankosh Investigation Division Bhutan on transfer basis from among the ministerial staff of subordinate office of C.W.C." By the said circular officials who desired to be transferred to the said Division and willing to work in interiors of Bhutan at high altitude were required to submit their applications. It was further laid down in the said circular that the selected officials would be entitled to Bhutan Compensatory Allowance as admissible to Government servants posted in Bhutan besides their pay. The tenure of posting for such transfer was stated to be three years. The applicant being interested for such transfer applied for his such transfer pursuant to the official information received by him in respect of the above circular dated

21.4.94. The sanction of the Chairman, C.W.C. was conveyed to the setting up of the said Division viz. Sankosh Investigation Division, Bhutan with three sub-divisions under Central Investigation Circle vide office order dated 4/8/94. By the said office order amongst others three permanent posts of L.D.C. were allocated to the Division.

A copy of the office order dated 4/8/94 is annexed herewith as ANNEXURE-I.

~~xxx~~ The applicant craves leave of this Hon'ble Tribunal to direct the respondents to produce a copy of the circular dated 21.4.94.

4.4 That pursuant to the application submitted by the applicant alongwith others, he was transferred/posted to Sankosh Investigation Division, C.W.C. Phuentshilling, Bhutan with effect from 1.9.94 vide office order No.A.22015/4/94- Estt.VI⁺ dated 8.8.94. However, by an office order No.A/94/92-Estt/CIC/SKM/1955-64 dated 1.9.94, the applicant alongwith others was posted under Bhutan Investigation Division, C.W.C. ~~at~~ at Dongdichu, Chenari Sub-Division, C.W.C. It will be pertinent to mention here that Bhutan Investigation Division is not under Sankosh Investigation Division and it is completely a different, separate and independent Division. Thus by this order dated 1.9.94, the applicant when was posted under the Bhutan Inv. Division he became part and parcel of the said Division having got nothing to do with the Sankosh Investigation Division.

Copies of the orders dated 8.8.94 and 1.9.94 are annexed herewith as ANNEXURES-II & III respectively.

4.5 That after the aforesaid orders, the applicant was released from Shillong with effect from 27.10.94 by an office order dated 11.10.94 under No.NEIC/PF/55/2512-19 on his transfer/posting in Bhutan. By the said order, he was directed to report for duty to the Executive Engineer, Bhutan Investigation Division, C.W.C.

A copy of the said order dated 11.10.94 is annexed herewith as ANNEXURE-IV.

4.6 That pursuant to such transfer/posting/reposting and release, the applicant reported for duty on 29.10.94 forenoon under Bhutan Investigation Division, C.W.C. Phuentshoillong which was duly notified by office order No. BID/CB/PF-132/94/4362-68 dated 9.11.94.

A copy of the said order dated 9.11.94 is annexed hereto as ANNEXURE-V.

4.7 That thereafter i.e. after joining of the applicant under Bhutan Investigation Division, the applicant was again transferred to Divisional Office, with immediate effect in public interest vide office order No.BID/CB-27/94/Vol. IV/1208-12 dated 3.4.95 and he duly carried out the said order of transfer.

A copy of the said order dated 3.4.95 is annexed herewith as ANNEXURE-VI.

4.8 That by an office order No.A-11011/1/94-Coord dated 25.3.96, sanction of the Chairman, C.W.C. was conveyed to the the closure of the Sankosh Investigation Division, Phuentsholing, Bhutan with effect from 1.4.96. On closure of the division, the existing three sub-divisions and existing posts of the divisions were allocated as indicated in the office order.

A copy of the said office order dated 25.3.96 is annexed herewith as ANNEXURE-VII.

4.9 That the applicant states that although he was originally transferred to Sankosh Investigation Division but subsequently, from the orders mentioned above, it will be seen that ~~as~~ his such transfer to Sankosh Inv. Division was not materialised and rather ~~there was~~ he was reposted under Bhutan Investigation Division. He was so posted against a vacant post earlier being held by one Shri K.M.Rao. He was also transferred to Bhutan Investigation Division like the applicant on tenure basis. Shri Rao also in exercise of his option to come over to Bhutan on transfer was posted under Bhutan Investigation Division and on completion of his tenure of three years, he was retransferred to his parent Division. The applicant was absorbed on transfer against the said post and he has got nothing to do with the Sankosh Investigation Division. It will be further pertinent to mention here that it is a normal phenomenon of calling for option for being transferred to Bhutan and in exercise of option, incumbents are transferred to Bhutan on fixed tenure of three years. The incumbents apart from their usual pay

Contd.....P/7.

get Bhutan Compensatory Allowance which is fairly a good amount. On their such transfer, they are required to perform their duties in interior places at high altitude. However, in consideration of the financial benefit they derive upon transfer to Bhutan, incumbents exercise their options for such transfer and on their such transfer, they remain posted there for for the fixed tenure of three years. As per the said practice and procedure and as per the circular dated 21.4.94, the applicant is entitled to complete his tenure of posting of three years which will be over on 27.10.97.

4.10 That the applicant states that upon such closure of the Sankosh Investigation Division, it was whispered in the office that the applicant may be transferred back to ~~the~~ Shillong on the analogy that he is an incumbent of the Sankosh Investigation Division totally ignoring the fact that although he was initially transferred to Sankosh Investigation Division but he was reported/retransferred to Bhutan Investigation Division, a completely separate and independent Division having got nothing to do with the Sankosh Investigation Division. Being apprehensive of injury, the applicant made representation dated 7.3.96 which was duly forwarded by the Executive Engineer to the Superintending Engineer, North Eastern Investigation Circle, C.W.C. for onward transmission to the competent authority. In the said representation, the applicant highlighted the position as reflected above and made a request to allow him to continue in Bhutan for the remaining period of his tenure. He also pointed out in his representation that such facilities of posting come once in a whole of full service life and accordingly, he urged upon the authorities to look into the matter.

A copy of the said representation together with the forwarding letter is annexed herewith as ANNEXURE-VIII.

4.11 That the applicant while was cherishing in his mind that the competent authority will do the needful more so in view of the fact that his such representation was duly forwarded by the Superintending Engineer to the Chief Engineer, Shillong vide his letter No. 3/117/95-Estt/CIC/SKM/351-52 dated 12.3.96, it came to him a a bolt from the blue when an office order No.A-20012/4(68)/78-Estt.VII dated 29.3.96 was served on him on 11.4.96. By the said order, he is stated to be transferred from Bhutan Investigation Division, C.W.C. to North Eastern Investigation Circle, C.W.C. Shillong with effect from 1.4.96. From the order itself it is clear that he has been transferred from Bhutan Investigation Division and not from Sankosh Investigation Division. However, in the order, the reason for his such transfer to Shillong is stated to be closure of the Sankosh Investigation Division with effect from 31.3.96. As already pointed out above, the applicant has got nothing to do with the Sankosh Investigation Division and he is an incumbent of the Bhutan Investigation Division which has niether been closed not there is any necessity to transfer the applicant from the said Division to any other Division before completion of his tenure of posting.

A copy of the letter dated 12.3.96 and the office order dated 29.3.96 are annexed as ANNEXURES-IX and X respectively.

4.12 That immediately on receipt of the order of transfer dated 29.3.96 on 11.4.96, the applicant submitted yet another representation to the Chairman, C.W.C. New Delhi on 12.4.96 pointing out the irregularities in making the impugned orders and accordingly, it was urged upon ~~the~~ to allow him to continue in Bhutan towards completion of his tenure of posting of three years. The applicant craves leave of this Hon'ble Tribunal to ~~refer to and rely upon the~~ refer to and rely upon the the said representation at the time of hearing of the instant application and the statements made therein may be treated as a part of the instant application.

A copy of the said representation dated 12.4.96 is annexed herewith as ANNEXURE-XI.

4.13 That on the same date, the applicant was also served with an office order No.BID/CB-27/96/1590-98 dated 12.4.96 purportedly releasing him from his duties with effect from 15.4.96. The said office order has been issued by the Executive Engineer, Bhutan Investigation Division.

A copy of the said order dated 12.4.96 is annexed herewith as ANNEXURE-XII.

4.14 That immediately on receipt of the release order dated 12.4.96, the applicant wanted to ~~fix~~ approach this Hon'ble Tribunal by filing the instant application ; but to his misfortune, the Hon'ble Tribunal was closed on account of Bihu holidays and accordingly, he could not prefer the instant O.A. on or before 15.4.96, However, by a message dated 15.4.96, the applicant has prayed to the Executive

Engineer, Bhutan Investigation Division to extend his leave by another three days. In the said message, he has also intimated that he is not in a position to hand over charge and accordingly prayed to extend his release dated 15.4.96. Be it stated here that the applicant has taken leave for 15.4.96.

A copy of the said message dated 15.4.96 is annexed herewith as ANNEXURE-XIII.

4.15) That the applicant states that till date he has not handed over charge to anyone nor anybody has taken over charge from him. From the transfer order itself, it will be seen that no other incumbent has been posted in his place. Thus he is still continuing in the post and there is no impediment against passing an interim order as has been prayed for in the instant application. Situation as narrated above was such that the applicant could not come under the protective hands of this Hon'ble Tribunal on or before 15.4.96. The transfer order although is of 29.3.96, same thereafter was served on him on 11.4.96 and ~~thereafter~~ release order was issued on 12.4.96 without giving him adequate time to approach this Hon'ble Tribunal. Considering the fact that he is posted in Bhutan and that the Hon'ble Tribunal was closed during the intervening period, the applicant has filed the instant O.A. at the earliest opportunity and there is no delay and/or laches on his part in approaching this Hon'ble Tribunal. The circumstances were beyond his control.

4.16 That the applicant states that the incumbents who were transferred to Sankosh Investigation Division are sought to be favoured by their retention at Bhutan till completion of

their tenure posting whereas the applicant who is senior in respect of joining at Bhutan and who has got nothing to do with the Sankosh Investigation Division is sought to be victimised by the respondents with malafide intention to accommodate others. If anybody is required to be transferred back, he or they will be the incumbents working at Sankosh Investigation Division and in the process, the applicant cannot be disturbed. Till date inspite of the closure of the Sankosh Investigation Division, no one else has been transferred like that of the applicant and the applicant is the first victim of the said closure although he has got nothing to do with the closure of the Sankosh Investigation Division.

4.17 That the applicant states that although initially he was transferred to Sankosh Investigation Division, but subsequently before he could join the Division, he was reported to a vacant post created by transfer of one Shri K.M. Rao on completion of his tenure posting of three years. Thus he became an incumbent of the Bhutan Investigation Division having got nothing to do with the Sankosh Inv. Division. Thus the applicant cannot be effected by the closure of the Sankosh Investigation Division and that too for the purpose of accommodating the incumbents of the Sankosh Investigation Division who are juniors in respect of date and time of joining in Bhutan. The applicant cannot be victimised for the purpose of accommodating others. If such stand of the respondents are allowed to stand, there will be miscarriage of justice and violation of Articles 14 and 16 of the Constitution of India. A transfer order cannot be issued for the purpose of accommodating another incumbent.

4.18 That the applicant states that he has been sought to be transferred only on the ground of closure of the Sankosh Investigation Division, but the fact remains that he has got nothing to do with the said closure inasmuch as he is not an incumbent of the Sankosh Investigation Division nor his post at that Division was allocated to Bhutan Investigation Division. As pointed out above, he was reposted against a vacant post of L.D.C. at Bhutan Investigation Division created by transfer of one Shri K.M. Rao who was also transferred to the said Division like the applicant on tenure basis.

4.19 That the applicant states that it is his definite case that he has been transferred to Shillong before completion of his tenure posting which is three years to accommodate some other who are facing the transfer to the parent ~~XXXXXX~~ division in view of the closure of the Sankosh & Inv. Division. It is most respectfully submitted that this cannot be done and such an order of transfer is tainted with malafide intention.

4.20 That the applicant states that on enquiry in the office, he has come to know that as has been reflected in his Annexure-XII representation dated 12.4.96, to accommodate junior staff of Sankosh Inv. Division, the seniormost staff of Bhutan Investigation Division will move first which according to the applicant is most illegal and is tainted with malafide and unreasonableness.

4.21 That the applicant states that one Mr. Y. L. Rao who has also been transferred to Bhutan like that of the applicant and working as L.D.C. at Sankosh Investigation Division has even refused promotion in his parent division

so that he can continue in Bhutan. Shri Rao is one of the LDCs amongst others who has been transferred to Bhutan in exercise of his option. Mr. Rao and others who have been working at Sankosh Investigation Division as L.D.C. are juniors to the applicant in the matter of joining in Bhutan and ~~therefore they~~ so far they have not been touched inspite of closure of the Sankosh Investigation Division in which they have been working. On the other hand, the applicant who is not an incumbent of the Sankosh Investigation Division nor has been working against any post sanctioned under that Division ~~now~~ has been sought to be transferred by the impugned orders with the sole purpose of accommodating other persons persons.

4.22. That the applicant states that malafide and colourable exercise of power are the foundation of the impugned orders inasmuch as it is the definite case of the applicant that he is sought to be effected by the impugned orders with the sole purpose of accommodating others. It is really unfortunate that on closure of the Sankosh Investigation Division the incumbents therein have not been effected but on the other hand, the applicant who has been working under the Bhutan Investigation Division having no link with the Sankosh Investigation Division is sought to be transferred with the sole purpose of accommodating others in his post so that the said persons can complete their tenure posting. Such a principle cannot be adopted in the matter of transfer and a judicial review for the same is called for. Although the transfer is an incident of service, but the manner and method in which the applicant is sought to be transferred to Shillong even before completion of his tenure of posting in Bhutan for which he has duly exercised his option, judicial interference is called for in the matter inasmuch as the impugned orders have not been issued bonafide but are founded on malafide intention. The

respondents are also precluded from issuing such order of transfer in view of the principle of promissory estoppel, waiver and acquiescence.

4.23, That the applicant states that he had opted for being transferred to Bhutain in consequence of financial benefits derived out of such transfer and never before, an incumbent has been transferred before completion of tenure posting of three years. If the transfer of the applicant as has been sought to be done is materialised, this will be solitary instance of transferring an incumbent before completion of tenure posting. The manner and method in which the applicant has been transferred to Shillong is most arbitrary and illegal and accordingly, interference of this Hon'ble Tribunal is called for.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that the impugned orders are prima facie illegal because the same have been issued with the sole purpose of accommodating others on closure of the Sankosh Inv. Division.

5.2 For that the applicant being senior to the others working at Sankosh Investigation Division, he having got nothing to do with the said Division, he is not to be effected on closure of the Division.

5.3 For that the impugned orders clearly depict that the applicant is sought to be transferred only on the ground of closure of the Sankosh Investigation Division whereas the applicant is not an incumbent of the said Division. Further more the Bhutan Investigation Division has got nothing to do with the said Division.

5.4 For that the law is well settled that a transfer of an incumbent cannot be resorted to for the purpose of accommodating others and if such a recourse is taken, same

will be malafide and in colourable exercise of power.

5.5 For that the representation submitted by the applicant in anticipation of his such transfer ought to have been attended to inasmuch as the applicant has got a right to be considered upon towards cancellation his transfer. Further the representation submitted by the applicant on 12.4.96 has also not been disposed of and thereby the applicant has been deprived of his valuable right of being considered.

5.6 From that the respondents are precluded from transferring the applicant before completion of his tenure posting of three years inasmuch as it was upon such promises, the applicant had exercised his option of being transferred to Bhutan. As has already been pointed out above, never before any incumbent has been transferred before completion of tenure posting of three years.

5.7 For that the respondents have acted with malafide intention in issuing the impugned orders inasmuch as the same is primarily based on favouratism inasmuch as pointed out above, the applicant is sought to be transfer to Shillong with the sole purpose of accommodating others, who are, on closure of the Sankosh Investigation Division, facing reversion to their original division. The applicant has learnt that he is the first victim ~~is~~ and various other senior staff are ~~being~~ going to be effected by such transfer order with the sole purpose of accommodating the incumbents working in the Sankosh Investigation Division.

5.8 For that although the transfer is an incident of service, but the instant case is required to be viewed having regard to the peculiar facts and circumstances of

the case and lifting of the veil is required to ~~maxim~~ find out the truth, intent and purport of the orders of transfer. As pointed out above, the impugned order has been issued with the sole purpose of accommodating junior person at Bhutan Investigation Division which will result in hostile discrimination and will be violative of Articles 14 and 16 of the Constitution of India.

5.9 For that law is well settled that an order of transfer cannot be resorted to accommodate others and if that is done the order of transfer remains no longer valid and the plea of public interest becomes redundant inasmuch as on the face of the order if it is depicted that same has been done with the purpose of accommodating others, same becomes untenable. ~~and~~ ~~the~~ In the instant case the order of transfer itself tainted that the applicant has not been transferred for any other purpose but only on the ground that the Sankosh Investigation Division has been closed. Further the post being held by the applicant having neither been transferred nor being adjusted in lieu of the post at Sankosh Investigation Division, the applicant cannot be transferred in the manner as has been sought to be done in the instant case.

5.10 For that in view of the matter, the impugned orders are not sustainable and liable to be set aside and quashed. The manner and method in which the impugned orders have been issued further give room to the apprehension ~~with~~ that the same have been issued with malafide intention and in colourable exercise of power.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicant declares that he has no other alternative remedy except by way of filing this application.

7. MATTERS NOT PENDING BEFORE ANY OTHER COURT :

The applicant further declares that he has not filed any application, writ petition, or suit before any other authority and/or court and/or any other Bench of this Hon'ble Tribunal in respect of the same subject matter nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT :

Under the facts and circumstances stated above the instant application be admitted, records be called for and upon hearing the parties on the cause or causes that may be shown and on perusal of the records, be pleased to grant the following reliefs to the applicant :

- 8.1 Set aside and quash the order dated 29.3.96 (Annexure-X)
- 8.2 Set aside and quash the order dated 12.4.96 (Annexure-XII).
- 8.3 Issue a direction to the respondents to allow the applicant to continue in his present ~~at~~ place of posting till completion of his tenure of posting on 29.10.97 with all consequential benefits
- 8.4 Cost of the application to the applicant
- 8.5 Any other relief or reliefs to which the applicant ~~is~~ is entitled as may be deemed fit and proper by this Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR :

Pending disposal of the instant application, the applicant prays that the impugned orders dated 29.3.96

(Annexure-X) and dated 12.4.96 (Annexure-XII) may please be stayed with further direction to the respondents to allow the applicant to continue as Lower Division ~~XXXX~~ Clerk at Bhutan Investigation Division, C.W.C. Phuentshoilling Bhutan as before with all consequential benefits. The interim order as has been prayed if not granted, the applicant will suffer irreparable loss and injury ~~inasmuch~~ and if the interim order is granted, the respondents will not suffer any loss and injury inasmuch as till date none else has been appointed in place of the applicant and the applicant has also not handed over charge to any one. Further in terms of the transfer order, the applicant is vested with the right of completion of tenure posting of three years which will expire only on 29.10.97. As pointed ~~out~~ above, his transfer order is tainted with malafide inasmuch as he is sought to be transferred to accommodate junior persons.

10. PARTICULARS OF THE ~~XXX~~ POSTAL ORDER :

- (i) I.P.O. No. : 8 09 345072
(ii) Date : 27/2/96
(iii) Payable at : Guwahati.

11.

The application is filed through Advocate.

12. LIST OF ENCLOSURES :

As stated in the Index.

Verification.....

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

I, Shri M. Ranjit Singh, son of Shri M. Tenbi Singh, aged about 45 years, at present working as Lower Division Clerk, Central Water Commission, Bhutan Investigation Division Phuentshoilling, Bhutan, do hereby solemnly affirm and verify that the statements made in paragraphs 1 to 4 and 6 to 12 of the accompanying application are true to my knowledge and 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
day of April 1996 at Guwahati.

Ranjit Singh
(M. Ranjit Singh)
L.D.C.

Sewa Bhawan, R.K. Puram, New Delhi.
Dated the 4th April, 1994.

OFFICE ORDER

Sanction of the Chairman, Central Water Commission is hereby conveyed to the setting up of one Division - Sankosh Investigation Division at Phuntsholing (Bhutan) with three Sub-Divisions under Central Investigation Circle for work of Investigation of Sankosh Multipurpose Project with effect from 1.4.1994.

The following posts are hereby allocated to the Sankosh Investigation Division.

S.No.	Name of post	No. of post	Presently utilised in	Name of Scheme
1.	Ex. Engineer	1 Pmt.	O/o CE, NERO	S&I
2.	A.E.	3 Pmt.	1 in NEID-III 1 in FC Dte. 1 in RMCD	Post created on the recommendation of CRC for Grade B&C Engg. cadres. S&I
3.	Head Clerk	1 Pmt.	NEID-III	-do-
4.	U.D.C.	3 Pmt.	2 in BID 1 in O/o CE, NERO	-do-
5.	L.D.C.	3 Pmt.	2 in O/o CE, NERO 1 in NEIC	-do-
6.	Steno-III	1 Pmt.	O/o CE, NERO	-do-
7.	D/Man. Gr. I	1 Pmt.	NEID-III	-do-
8.	Jr. Engineer	10 Pmt.	3 in BID 1 in O/o CE, NERO 2 in NEIC 4 in NEID-III	-do-

The Divisional Accountant of Bhutan Investigation Division will look after the work of D/A in Sankosh Investigation Division also till further orders without any remuneration.

(Signature)
(B. PADMANABHAN)
DEPUTY DIRECTOR

Copy to:

1. The Pay & Accounts Officer, CWC.
2. The Chief Engineer, NERO, CWC.
3. The Director (RMCD), CWC.
4. The Superintending Engineer, CIC/NEIC, CWC.
5. The Ex. Engineer, BID/NEID-III, CWC.
6. All Establishment Sections, CWC.
7. Budget Section, CWC.

Aves. ed.

Advocate.

No. A22015/4/94-estt.VII
Government of India
Central Water Commission

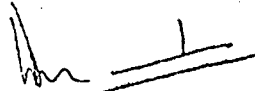
Room No. 806, Sewa Bhawan,
R.K. Puram, New Delhi-66.

Dated the 8th August 1994.

OFFICE ORDER

The following officials borne on the Ministerial cadre of subordinate Offices of Central Water Commission presently working in the offices shown against each are hereby transferred/posted to sankosh investigation division, CWC, Phuntsholing, Bhutan with effect from 1-9-1994:-


Sl. No.	Name & Designation of the official	present place of posting
1	s/shri DR. S.N. Nautiyal, UDC	Central Engg. Shillong, CWC, New Delhi.
2	Shakuni Lal UDC	Middle Ganga Div-V, CWC, Patna.
3	K.D. Paul UDC	NEFD-II, CWC, Aizwal
4	Y.L. Rao ✓ LDC	Eastern rivers circle, CWC, Bhubaneswar.
5	M. Ranjit Singh ✓ LDC	NEIC, CWC, Shillong.
6	K.C. BORO ✓ LDC	Middle Brahmaputra Div., CWC, Guwahati


(DAYA CHAND)
Under Secretary (WG)
Tele 605803

Office Order File

copy to:-

1. pay & Accounts officer, CWC, N. Delhi.
2. The chief engineer, NEIC, CWC, Shillong.
3. The Chief engineer, Eastern region, CWC, Patna.
4. The Chief engineer, South Central region, CWC, Hyderabad.
5. The Chief Engineer, N.D., CWC, New Delhi.

Attested.

Advocate.

- 6. The Superintending Engineer, CIO, CWC, Sikkim.*
- 7. The Superintending Engineer, NRI, CWC, Shillong.*
- 8. The Superintending Engineer, Middle Ganga Circle, CWC, Varanasi.*
- 8. The Superintending Engineer, Planning Circle, CWC, Faridabad.*
- 9. The Superintending Engineer, Eastern Rivers Circle, CWC, Bhubaneswar.*
- 10. The Superintending Engineer, Brahmaputra Barak Circle, CWC, Guwahati.*
- 11. Director (Estt) / Director (Admn) / Secretary, CWC, N. Delhi.
- 12. The Executive Engineer, MGD-V, CWC, Patna.
- 13. The Executive Engineer, MGD-II, CWC, Aizawl.
- 14. The Executive Engineer, MGD, CWC, Guwahati.
- 15. The Asst. Director, Publicity, CWC, N. Delhi.
- 16. The Section Officer, CS Section, CWC, N. Delhi.
- 17. officials concerned.
- 18. Personal files.
- 19. spare copies ... 20

** Executive Engineer, Central Stores Div., CWC, New Delhi.

* The above officials may please be relieved immediately so as to enable them to report for duty to the E.E. (Sh C.C. Gupta) New Sankosh Inv. Div., Buntsholing, Bhutan on or after 1-9-1994.

ANNEXURE III

- 2 -

NO:1/4/92-ESTT./CIC/SKM/1955-64
 GOVERNMENT OF INDIA
 CENTRAL WATER COMMISSION
 CENTRAL INVESTIGATION CIRCLE
 TADONG : : : : : 737 102
 Sikkim

OFFICE ORDER

Dated, the/9/94

Consequent upon thier transfer to Sankosh Investigation Division, CWC, Phuntsholing under this Circle vide Under Secretary (ES), CWC, New Delhi's Office Order No:A-22015/4/94-Estt.VII dt.8.8.94, the following personnels are hereby reposted as under:-

Sl. No.	Name & Designation S/Shfi	Present place of posting	Further posted to
1.	Dr.S.N.Nautiyal,UDC	C.S.D.,New Delhi	Inv.Sub-Division CWC,Chukha under Bhutan Inv.Division CWC,Phuntsholing.
2.	Y.L.Rao,LDC,	Eastern Rivers Circle, CWC,Bhubaneshwar	Sankosh Inv. Sub Division No.I,CWC, Kerabari under RhntxnxInxxBkxxl Sankosh Inv.Divn. CWC,Phuntsholing
3.	M.Ranjit Singh,LDC	NEIC,CWC,Shillong	Donqichu (Chenary) Sub-division,CWC, Denqichu under Bhutan Inv.Division CWC,Phuntsholing.

(S.B. Srivastava)
 Superintending Engineer

Copy to:-

1. The Chief Engineer, NERO, CWC, Shillong.
2. The Superintending Engineer, Eastern Regional Circle, CWC, Bhubaneshwar
3. The Superintending Engineer, North Eastern Region ~~xxxx~~ Inv.Circle, Central Water Commission, Shillong.
4. The Executive Engineer, Central Stores Division, CWC, New Delhi.
5. The Under Secretary (ES), CWC, New Delhi.
6. The Pay & Accounts Officer, CWC, Sewa Bhawan, R.K.Puram, New Delhi.
7. The Executive Engineer, Bhutan Inv.Division, CWC, Phuntsholing.
8. The Executive Engineer, Sankosh Inv.Division, CWC, Phuntsholing.
9. Persons concerned (3 copies).
10. File No:1/37/94-Estt./CIC/SKM/.

S.B. Srivastava
 1-9-94
 (S.B. SRIVASTAVA)
 Superin ending Engineer

Attested.

M. Ranjit Singh
 Advocate.

over 9-9-94 = AS
Released for Shillong = 27-10-94 = AS
Joint in = 29-10-94 = AS

From: **SECRET: Shillong.**

Phone: 226065

No. **HEIC/PP-55/2512-19**
Government of India
North Eastern Inv. Circle,
Central Water Commission,
Janir Mansion, Nongshillong,
Shillong-14.

Dt. 11/7/94

OFFICE ORDER

In supersession of this office order No. **HEIC/PP-55/2126-33** dt. **8.9.93**, **Shri M. Ranjit Singh, I.D.C.** of this office will **stand relieved** with effect from **27.10.94 (AN)** on his transfer/posting to **Bankosh Investigation Divn., CWC, Phuntsholing** vide CWC office order No. **A-22015/4/94-Subt.VII** dated **8.8.94** and further/reposting order to **Dongdichu (Chenary) Sub-Division, CWC, Dongdichu** vide Superintending Engineer, Central Inv. Circle, Sikkim's C.O. No. **1/4/92-Subt/CIC/PRK/1955-64** dt. **1.9.94**. **Sh. M. Ranjit Singh, I.D.C.** is hereby directed to report for duties to **Executive Engineer, Bhutan Inv. Division, CWC, Phuntsholing** for further instructions for duties at **Dongdichu (Chenary) Sub-Division, CWC, Dongdichu Bhutan.**

sd/-
(M. Jopalekrishnan)
Superintending Engineer

Copy to:

1. The Pay & Accounts Officer, CWC, **Seva Bhawan, R.M. Pura, New Delhi.**
2. The Chief Engineer, North Eastern Regional Office, CWC, **Shillong.**
3. The Under Secretary (ES), Subt.VII Section, CWC, **New Delhi**
4. The Superintending Engineer, Central Investigation Circle, Central Water Commission, **Sikkim.**
5. The Executive Engineer, Bhutan Inv. Division/Bankosh Inv. Divn., Central Water Commission, **Phuntsholing, Bhutan.**
6. The Executive Engineer, North Eastern Inv. Divn. No. 1, Central Water Commission, **Silchar.**
7. **Sh. M. Ranjit Singh, I.D.C.**
8. **Cashier, HEIC/CWC/Shillong (in duplicate).**

M. Jopalekrishnan
(M. Jopalekrishnan)
Superintending Engineer

SECRET
30.10.94
24/10/94

ANNEXURE 1

25
70

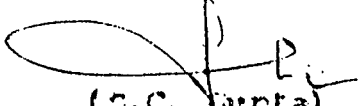
4382-68

No. DIO/CB/IF-132/94/
Government of India
Central Water Commission
Bhutan Investigation Division
Post Box No. 5
Phuntsholing (Bhutan)

Dated: 9-11-94

OFFICE ORDER

Consequent upon his posting/transfer from North Eastern Investigation Circle, CWC, Shillong vide CWC Office order No. A-22015/4/94/Eatt.VII dt. 8.8.94 Shri M. Ranjit Singh, I.D.C. has reported for duty on 29.10.94 P.M. under Bhutan Inv. Divn, CWC, Phuntsholing.


(S.C. Gupta)
Executive Engineer.

Copy to :-

1. The Under Secretary (ES), CWC, New Delhi.
2. The Pay & Accounts Officer, CWC, R.K. Faram, New Delhi.
3. The Chief Engineer, North Eastern Investigation Circle, Shillong. The LIC/Service Book alongwith leave account etc. may kindly be sent to this office.
4. The Superintending Engineer, Central Inv. Circle, CWC, Tadong, Gangtok, Sikkim.
5. The Accounts Branch, Divisional Office.
6. Office order file.

M. Ranjit Singh

Attested.

Advocate.

- 24 -

ANNEXURE - VI

67

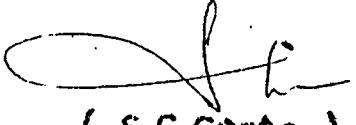
12-08-12

No. BID/CB-27/95/Vol. IV/
Government of India
Central Water Commission
Bhutan Investigation Division
Phuntsholing (Bhutan)

Dated :- 3-4-95


OFFICE ORDER

Shri M. Ranjit Singh, L.D.C presently working in Inv. Sub-div. No. II, C.W.C, Chenary (Bhutan) is hereby transferred to Divisional office with immediate effect in public interest.


(S.C. Gupta)
Executive Engineer

Copy to :-

1. The Superintending Engineer, Central Inv. Circle, C.W.C, Tadong Gangtok (Sikkim) for favour of approval. Since Shri K.M. Rao, L.D.C is being relieved very shortly, in order to look after the work of Establishment in divisional office, the transfer of Shri Ranjit Singh, L.D.C to division is quite necessary.
2. The Asstt. Engineer, Inv. Sub-division No. II, CWC, Chenary, Shri Ranjit Singh, L.D.C may please be relieved from the Sub-division immediately.
3. Accounts Branch, Divisional office.
4. Shri M. Ranjit Singh, L.D.C, ISD-II, CWC, Chenary.
5. Office order file.

Attached.

Advocate

New Delhi, 25 March, 1996.

OFFICE ORDER

Sanction of the Chairman, CWC is hereby conveyed to the closure of Sankosh Investigation Division, Phuntsholing (Bhutan) with effect from 1.4.1996.

On closure of Sankosh Investigation Division, the existing three Sub-Divisions and existing posts of the Division are allocated as under:-

SUB-DIVISIONS

1. Sankosh Sub-Division No.I Kerapari -- Placed under administrative control of BID, Phuntsholing
2. Sankosh Sub-Division No.II Kerapari -- Renamed and shifted to Raigarh Distt. Kolad (Maharashtra) vide CWC Office Order No.8/5/94-Coord. dated 7.3.96.
3. Sankosh Sub-Division No.III Alipurduar. -- Placed under administrative control of NEID-III, Itanagar.

POSTS (ALL PERMANENT)

1	2	3	4
S.No.	Name of Post	No. of posts & name of scheme	Allocated to
1.	Ex. Engineer.	1 (S&I)	Monitoring, Siliguri
2.	Asstt. Engineer	2 (CRC)	1-already allocated to UKD, Pune vide Office Order No. 3/5/94-Coord. dt. 7.3.96 1-Bhutan Invt. Division, Phuntsholing
		1 (S&I)	NEID-III, Itanagar
3.	Head Clerk	1 (S&I)	NEID-III, Itanagar
4.	U.D.C.	3 (S&I)	1-BID, Phuntsholing 1-C.E., YB, New Delhi 1-Already allocated to UKD, Pune vide Office Order No. 3/5/94-Coord. dt. 7.3.96
5.	<u>L.D.C.</u>	3 (S&I)	2-C.A., T.Basin, Siliguri 1-C.E., 3&B3, Shillong
6.	Steno - III	1 (S&I)	Office of CE(3&B3), Shillong

....2/-

Attested.

Advocate.

1	2	3	4
7.	D/man Gr. I	1 (S&I)	NEID-III, Itanagar
8.	Jr. Engineer	10 (S&I)	5-Already allocated to UKD, Pune vide CMC Office Order No. 8/5/94-Coord. dt. 7.3.96 2-NEI Divn., III, Itanagar 2-BI Divn., Phuntsholing 1-P&I Divn., Faridabad for Raipur Sub-Division

One allocation of above posts, the following posts are re-allocated as under:-

Sl. No.	Name of Post	No. of posts & name of scheme	Presently allocated to	Now allocated to
1	2	3	4	5
1.	Dy. Director	1 (Pmt.)-CWC(HQ)-FC	Mon., Siliguri	CWC(HQ)-RM Wing
2.	Head Clerk	1 (Temp.)-NEI Cir./Divn.	NEID-III, Itanagar	NEID-II, Aizwal
3.	Steno -III	1 (Temp.)-NEI Cir./Divn.	Office of C.E., B&B, Shillong	NEID-II, Aizwal
4.	Jr. Engineer	1 (Temp.)-NEI Cir./Divn.	P&I Divn. vide O/o No.8/5/94-Coord. dt. 9.11.95	NEID-III, Itanagar

V. Machi
(P. PADMANABHAN)
Dy. Director (IPC)

Copy to:

1. Pay & Accounts Office, CMC, New Delhi.
2. Chief Engineer, B&B Basin, CMC, Shillong.
3. Chief Engineer, Yamuna Basin, New Delhi.
4. Chief Engineer, KG Basin, CMC, Hyderabad.
5. Chief Engineer, Teesta Basin, CMC, Siliguri.
6. Supdt., Engineer, Investigation, CMC, Gangtok.
7. Supdt. Engineer, NEI Circle, CMC, Shillong.
8. Supdt. Engineer, Planning Circle, CMC, Faridabad.
9. Supdt. Engineer, HO&C, CMC, Hyderabad.
10. Director, RMCD, CMC, New Delhi.
11. Director, Monitoring, CMC, Siliguri.
12. Ex. Engineer, NEID-III, Itanagar/NEID-II, Aizwal/UKD, Pune/
 BID, Phuntsholing/P&I Divn., Faridabad.
13. Section Officer, Estt. II/V/VI/VII/X Section, CMC.
14. Supdt., Budget Section, CMC.
15. Accounts Officer, CMC, New Delhi.

cit 7-3-96

BID/CB/PF-132/ 1100-01

To

The Superintending Engineer,
Investigation Circle,
Central Water Commission,
Tadong, Gangtok, Sikkim.

Sub:- Request for completion of Tenure posting of
Three Years under Bhutan Investigation Division,
CWC, Phuentsholing - Shri M. Ranjit Singh, LDC- req.

Sir,

Please find enclosed herewith an representation
from Shri M. Ranjit Singh, L.D.Clerk of this office addressed
to the Chairman, CWC, New Delhi. The same is forwarded
herewith for favour of further disposal at your end, please.

This office however is not aware and officially
informed about transfer or shifting of staff.

This is for your information please.

Yours faithfully,

Encl:- Application in
triplicate.

(C.L. Washawan)
Executive Engineer

Copy to Shri M. Ranjit Singh, L.D.Clerk, Divisional office,
Central Water Commission, P'ling (Bhutan) with
reference to his application dated 7.3.1996.

C.L. Washawan
(C.L. Washawan)
Executive Engineer

Ates.ed.
Advocate.

- 27 -

76

ANNEXURE VIII (cont)
103

To

The Executive Engineer,
Bhutan Inv. Division,
Central Water Commission,
Phing (Bhutan)

Sub:- Request for completion of Tenure
period of 3 years.

Sir,

I am enclosing herewith my representation (in triplicate) on the subject cited above and addressed to Chairman, CWC, New Delhi which may please be forwarded and obliged.

Encl: AS above.

Yours faithfully,

Ranjit Singh
7/3/96
(M. Ranjit Singh)
L.D.C.

Attested.
[Signature]
Advocate.

To

The Chairman,
Central Water Commission,
Sewa Bhawan, R.K. Puram,
New Delhi.

ANNEXURE - VIII

(Co-1/1)

(THROUGH PROPER CHANNEL)

Sub:- Request for completion of Tenure Posting of three years under Bhutan Inv. Division, CWC, Phuentsholing.

Sir,

I approached your goodself with an humble prayer of few lines for favour of your kind sympathetic and favourable considerations :

It is learnt from a reliable sources that due to impending closure of Sankosh Investigation Division, CWC, Phuentsholing, it has been proposed to transfer/shift the seniormost incumbents working under Bhutan Investigation Division, CWC, P'ling as a whole to accommodate juniormost incumbents of Sankosh Inv. Division who have joined under Sankosh Inv. Division on its opening with effect from 01.10.1994 and thereafter. In this context I am to state that :-

1. According to the provisions stipulated in the CWC's Circular No. A-22015/4/94-Estt. VII dated 21.4.94 (Photocopy enclosed) posting of the staff of Ministerial Cadre will be for a maximum of 3 years.
2. Consequent to my selection I have assumed my duties on 29.10.94 in Investigation Sub-Divn. No. II, CWC, Chenary under Bhutan Inv. Division and accommodated me in the existing vacancy of Bhutan Inv. Division, CWC, P'ling. At present Inv. Sub-Divn. No. II is going on at Chenary. The question of seniormost transfer without closing the Sub-Division means "to snatch the dish of one's lunch forcibly from his mouth". On the other hand, every newly posted Ministerial staff of SID have satisfied and enjoyed with their place of posting beyond the remote interior place but at this stage of closing the SID, to replace the new one at my place is may be elegal.
3. It also seems an elegal that the continuation of juniormost in Bhutan till the completion of 3 years tenure period other than those seniormost staff for a little differences of months, which make lots of losses to the seniormost staff in the tenure period as well as future posting of foreign assignment.

Contd... 2/-

Attested.

for
M. K. S. S.

JK

AK

In view of the above facts, I pray your goodself to kindly have a sympathetic consideration and allow me to continue full tenure posting of 3 years i.e. upto 29.10.97. If it is not possible due to administrative difficulty to continue upto 29.10.97, then I may kindly be allowed for a further posting in Bhutan for the remaining period of my tenure in future because such facilities of posting come once in a whole of full service life, which may please be saved as a poor low paid employee's life.

Thanking you Sir,

Yours faithfully,

M. Ranjit Singh
7/2/96

(M. Ranjit Singh)
L.D.C.

Copy in advance forwarded to :-

The Director Administration, Central Water Commission, Sewa Bhawan, R.K.Puram, New Delhi-56 with the request that my case for continuation under Bhutan Investigation Division may kindly be considered sympathetically and favourably in view of the detailed given above.

M. Ranjit Singh
7/3/96

(M. Ranjit Singh)
L.D.C.

10/10/96
[Signature]

सं. : मुख्यालय, गान्धोक
GR. M : SUPERINVES, GANGTOK



भारत सरकार
GOVERNMENT OF INDIA

केन्द्रीय जल आयोग
CENTRAL WATER COMMISSION

कार्यालय अधीक्षण अभियन्ता
OFFICE OF THE SUPERINTENDING ENGINEER

केन्द्रीय अन्वेषण परिमंडल
CENTRAL INVESTIGATION CIRCLE

डाकघर तादोंग-७३७१०२ (सिक्किम)
P. O. TADONG-737102 (SIKKIM)

दूरभाष : (03592) 23695 (का०/०)

Ph. : (03592) 23698 (सि./म)

Fax : (03592) 2369

ANNEXURE - IX

3/117/95-Estt./CIC/SKM/ 357-52

दिनांक/Date 12/3/96

To

The Chief Engineer,
Brahmaputra & Barak Basin,
Central Water Commission,
Shillong-793 014.

Sub:- Request for completion of Tenure posting of Three
Years under Bhutan Investigation Division, CWC,
Phuntsholing - Shri M.Ranjit Singh, L.D.Clerk.

Sir,

I am to forward herewith a representation (in duplicate
received from Shri M.Ranjit Singh, Lower Division Clerk, Bhutan
Inv. Division, CWC, Phuntsholing (Bhutan) of this Circle, addressed
to Chairman, CWC, New Delhi which is self explanatory for further
necessary action please.

Yours faithfully,

(S.L. Gupta)
Superintending Engineer

Encl:- As above.

Copy to ✓ Executive Engineer, Bhutan Inv.Division, CWC, Phuntsholing
(Bhutan) with reference to his letter No.BID/CB/PF-132/
1100-01 dated 7-3-96.

(S.L. Gupta)
Superintending Engineer

56.0
16-3-96

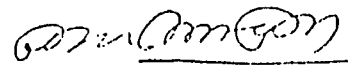
Issued.

Room No. 806, Sewa Bhawan
R.K.Puram, New Delhi- 110068

Dated 29th March, 1996.

OFFICE ORDER

Consequent upon the closure of Sankosh Investigation Division, Central Water Commission, Bhutan w.e.f. 31.3.96, Shri. Ranjeet Singh, Lower Division Clerk borne on the ministerial cadre of subordinate offices of Central Water Commission, is hereby transferred from Bhutan Investigation Division, Central Water Commission, Bhutan to North Eastern Investigation Circle, Central Water Commission, Shillong w.e.f. 1.4.96 (FN) in public interest against the existing vacancy.



(J.L. CHUGH)
Under Secretary
Tele : 604068

OFFICE ORDER FILE

1. The Pay Accounts Officer, CWC, R.K.Puram, New Delhi- 110068
2. The Chief Engineer, Brahmputra Barak Basin, C.W.C. Shillong
3. The Superintending Engineer, Central Investigation Circle, Gangtok, Sikkim.
4. The Superintending Engineer, North Eastern Investigation Circle, CWC, Shillong.
5. The Executive Engineer, Bhutan Investigation Division, C.W.C. Bhutan
6. The Executive Engineer, Sankosh Investigation Division, CWC, Bhutan.
7. The Section Officer C.R. Section, CWC, New Delhi.
8. Person concerned.
9. Personal file of the official concerned.
10. Spate copies- 10.

No.3/117/95-ESTT/CIC/SKM/SP.9

Dated 7th April

Copy to the Executive Engineer, Bhutan Investigation Division, CWC, Phuntsholing (Bhutan). Shri Ranjeet Singh, L.D. Clerk may please be relieved immediately under intimation to this Office.

(S. C. GUHA)
Superintending Engineer
Investigation Circle.

Attes.ed.
Advocate.

99

ANNEXURE. XI

To Chairman,
The Under Secretary
Central Water Commission,
Sonia Bhanan, R.K. Puram,
New Delhi-66.

(Through proper channel)

Sub: Request for completion of Tenure posting of three years under Bhutan Inv. Division, CWC, Phuntsholing (Bhutan and issue of stay order of transfer.

Hon'ble Sir,

I, Shri M. Ranjeet Singh, L.D.C. working under Bhutan Investigation Division, CWC, Phuntsholing (Bhutan) have the honour with an humble prayer of the following few lines for favour of your kind sympathetic and favourable considerations:

That Sir, according to the provisions/opening of Sankosh Investigation Division, CWC, Phuntsholing w.e.f. 1.4.94 (Annex- and CWC's vacancy Circular No.A-22015/4/94-Estt.VII dt. 21.4.94 (Annex-II) I have applied and appointed me for a period of 3 years vide CWC's Office order (Annex-III) and reposted at Investigation Sub-Division No.II, CWC, Chenary (Bhutan) under Bhutan Investigation Division, CWC, Phuntsholing vide Superintending Engineer, CWC, Sikkim's Office order (Annex-IV), I have relieved from S.E, North Eastern Inv. Circle, CWC, Shillong on 27.10.94 (A.M). ^(Annex-V) I have joined my duty on 29.10.94 (F.N) under Bhutan Investigation Division which was accepted by Executive Engineer (Annex -VI). A few months latter, I have again transferred from Investigation Sub-Division No.II, CWC, Chenary to Bhutan Investigation Division, Phuntsholing vide Executive Engineer's Office order (Annex -VII) against the vacant post of Shri K.M. Rao, L.D.C.—Since then I am working under Bhutan Investigation Division, CWC, Phuntsholing continuously.

In view of the above postings I have already been accommodated against the vacant post of Bhutan Investigation Division, CWC, Phuntsholing (Bhutan). But due to completion of Sankosh Multipurpose Project & closing of Sankosh Investigation Division w.e.f. 1.4.96 (Annex -VIII) it has been decided that the P'ling senior most staff of Bhutan Investigation Division will move first to accommodate the junior staff of Sankosh Inv. Division in Bhutan Inv. Division, it seems illegal.

...2.

Attested.
Advocate.

-33-

96

In this connection I have submitted an application for completion of 3 years tenure period addressed to Chairman and forwarded it to Superintending Engineer, Investigation Circle by Executive Engineer, Bhutan Inv. Division vide his letter under (Annex-X). Then S.E, Central Inv. Circle has also forwarded to Chief Engineer, Brahmaputra & Barak Basin, CWC, Shillong vide his letter (Annex -X).

The senior most move first as decided by CWC, I have transferred to North Eastern Inv. Circle, CWC, Shillong vide CWC's Office order (Annex-XI) and stand relieved w.e.f. 15.4.96 (A.N.) (Annex -XII) without completion of 3 years tenure period.

In this regard, I want to bring a few lines before your kind honour that why I have affected by the closure of Sankosh Investigation Division when I am working under Bhutan Inv. Division (not under Sankosh Inv. Division). Since my date of joining i.e. 29.10.94 till today against the vacant post of K.M. Rao, L.D.C. Bhutan Inv. Division, CWC, Phuntsholing.

That Sir, such type of illegal transfer destroyed my whole service life, because closure of Sankosh Inv. Division office affected to the staff of Bhutan. It should be borne by the Sankosh Inv. Division staff only. They should move first because their Division has closed on 1.4.96 not my Division

The question of senior most transfer without closing my Division means "to snatch the dish of one's lunch forcibly from his mouth". It also seems an illegal that the continuation of juniormost staff in Bhutan Investigation Division after closure of their Division till the completion of 3 years tenure period other than those of seniormost staff for a little differences of months, which makes lot of losses to me in the tenure period as well as future posting of foreign assignment.

In view of the above facts, I pray your goodself to kindly have a sympathetic consideration and allow me to continue full tenure posting of 3 years i.e. upto 29.10.97 because such facilities of posting come once in a whole of full service

Advocate.

life, which may please be saved as a poor low paid employee's life by giving stay order of my transfer order.

Thanking you sir,

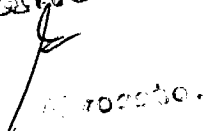
Yours faithfully,



(M. Ranjit Singh)
L.D.C.
Bhutan Inv., Division
CWC, Phuntsholing.

Copy to The Executive Engineer, B.I.D, CWC,
P'ing (Bhutan) for information

Attested.



10/10/20.

35- ANNEXURE - XII
No. BID/CB-27/96/1570-18
Government of India
Central Water Commission
Bhutan Investigation Division
Post Box No. 5
Phuntsholing (Bhutan)

Dated: 12-11-96

OFFICE ORDER

Consequent upon his transfer from Bhutan Investigation Division, CWC, Phuntsholing to North Eastern Investigation Circle, CWC, Shillong vide CWC's Office order No.A-20012/4(68)/78-Estt.VII dt. 29.3.96 Shri Ranjeet Singh, L.D.C. of this office is relieved from his duties with effect from 15.4.1996 (A.N) with directions to report for duty to the Superintending Engineer, North Eastern Inv. Circle, CWC, Shillong.

C.L. Wadhawan
(C.L. Wadhawan)
Executive Engineer.

Copy to :-

1. The Under Secretary (Estt. VII), CWC, Sewa Bhawan, R.K. Puram, New Delhi - 66 for favour of kind information with reference to his letter referred to above.
2. The Superintending Engineer (Coordn.), Brahmaputra Barak Basin, CWC, Jamir Mansion, Nongshilliang, Shillong-14 for favour of his kind information.
3. The Superintending Engineer, Investigation Circle, CWC, Tadong, Gangtok, Sikkim for favour of kind information.
4. The Superintending Engineer, North Eastern Investigation Circle, CWC, Shillong for information and necessary action please.
5. The Pay & Accounts Officer, CWC, Sewa Bhawan, R.K. Puram, New Delhi - 66 for information.
6. Shri Ranjeet Singh, L.D.C., Divisional Office.
7. Accounts Branch, Divisional Office.
8. Personal file.
9. Office order file.

Attested.

83

7/1

TO

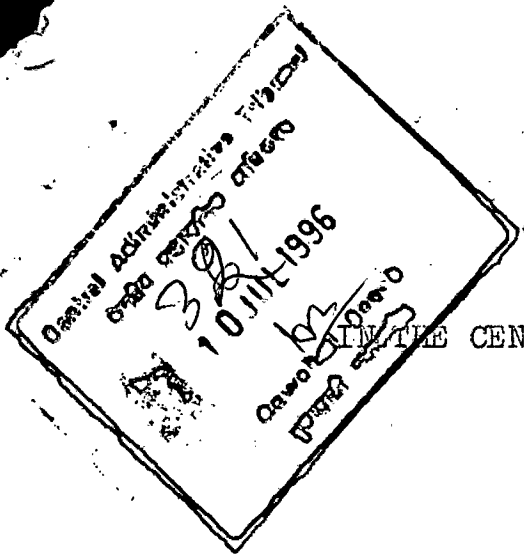
THE EXECUTIVE ENGINEER
BHUTAN INV. DIVISION
CENTRAL WATER COMMISSION
PHUENTSHOLING, BHUTAN)

LEAVE MAY BE EXTENDED BY ANOTHER THREE DAYS (.)
UNABLE TO HAND OVER CHARGE (.) RELEASE ORDER DT. 12.4.96 MAY
BE EXTENDED (.)

Secy
15/4/96

(M. Ranjit Singh)
L.D.C.

Attested.
sc



Handwritten notes: 'By' and 'File by 10 July 1996'.

Vertical text on the right side: 'Govt. Standing Council of Central Administrative Tribunal, Chandernagore, Pondicherry'.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

In the matter of :

O.A.No. 61/96

Shri Ranjit Singh ...Applicant.
-Versus-
Union of India & Ors.
...Respondents.

-AND-

In the matter of :

Written Statement on behalf of
the Respondents.

Handwritten notes on the left margin: 'Submitted by', 'Hukum Ram', '10/7/96'.

I, Shri. A. Sekhar, Chief Engineer, cwc
Shillong,

do hereby solemnly affirm and declare as follows :-

1(a) That a copy of application including consolidated one alongwith an order passed by this Hon'ble Tribunal have been served upon the respondents and being called upon by this Hon'ble Tribunal and being authorised by the competent authority I do hereby file this written statement as common one and say categorically...

categorically that the save and except what is specifically admitted in this Written Statement, rest may be treated as total denial by all the Respondents.

1(b) That with regard to the contents made in paragraph 1 of the application, the Respondents have no comments on them as these are based on facts.

2. That with regard to the contents made in paragraph 2 of the application that it is within the jurisdiction of this Hon'ble Tribunal, the Respondents beg to state that the matter involved transfer of an employee of the Union of India, posted in a foreign country and therefore it is not clear to the Respondents as to how the matter comes within the jurisdiction of this Hon'ble Tribunal. It is another matter that the applicant was posted in Shillong prior to his posting in Bhutan and has been posted back to Shillong on closure of Sankosh Investigation Division in Bhutan.

3. That with regard to the contents made in paragraph 3 of the application that the application is filed within the limitation period, the Respondents have nothing to comment.

4.1 That with regard to the contents made in paragraph 4.1 of the application, the Respondents have no comment to offer.

Contd....p.3/-

To get the full
picture from
CGSC
See also p 5. 4th. 4.

86

12

4.2 That with regard to the contents made in paragraph 4.2 of the application that the applicant is sought to be transferred to accommodate other persons who are junior to him, the Respondents beg to state that his transfer out of Bhutan has become necessitated on account of closure of Sankosh Investigation Division w.e.f. 31.03.96 and consequent reduction in number of sanctioned posts available at all levels and is as per policy adopted of moving out first the longest stayees in Bhutan, who have enjoyed more financial benefits than others, to restrict the personnel retained in Bhutan to match the sanctioned posts. Against sanctioned post of 3 Lower Division Clerk available now in Bhutan, 4 LDCs were available in Bhutan on closure of Sankosh Division and hence one LDC, the longest stayee, had to be moved out which happens to be the applicant in this grade. 8 other personnel in other grades have also been similarly moved out.

4
-1
3

4.3 That with regard to the contents made in paragraph 4.3 of the application that the tenure period of such posting was stated as three years in the CWC Circular dated 21.04.94, the Respondents beg to state that the applicant is making a false statement as the CWC circular clearly indicated that the tenure period in Bhutan is likely to be for a maximum of 3 years. The posts in Bhutan carry attractive fringe benefits. Such a stipulation was therefore introduced so that a larger cross section of CWC staff can avail these benefits.

Contd...p.4/-

87

The CWC have further nowhere stated while sanctioning the Division and 3 sub-divisions (order dated 04.08.94) and posting the applicant to Bhutan (order 08.08.94) that the sanction of the Division or the posting of the applicant in Bhutan is for 3 years. The applicant was thus fully aware while applying for Bhutan posting and also when he joined at Bhutan that the tenure could be upto 3 years and not full 3 years as contended.

The respondents, further, in pursuance of the applicants' request hereby produce a copy of the circular dated 21.04.94 which is annexed as Annexure R.1.

4.4. That with regard to the contents made in paragraph 4.4 of the application regarding posting to Bhutan Investigation Division and that this is a completely different, separate, and independent Division, the Respondents beg to state that as is the administrative set up within India in the CWC and other Engineering Depts like the CPWD, State PWD etc. a circle has 2 or more Division under it. Although each Division has independent functions, the Circle exercises administrative control in regard to posting of personnel from one Division to another. In case of Bhutan also, the Sankosh Investigation Division and Bhutan Investigation Division were administratively under the Superintending Engineer at Gangtok who is fully competent and administratively empowered to effect any transfers within Bhutan from one Division to another as per exigencies of work. This is borne out by the fact that although the applicant was selected against a vacancy notified for the Sankosh Division, he was posted under Bhutan Division by the Superintending Engineer.

See Annexure II - 1
S.F. of Govt.
made repetitively.

8/8

All posts in a particular grade in Bhutan carry the same financial terms like Bhutan compensatory Allowance. The applicant accepted his posting to Bhutan Division without any protest showing that he was fully aware of the administrative competence of the SE in posting him anywhere within Bhutan. The contention of the applicant that with his posting in Bhutan Investigation Division, he became a part and parcel of that Division and had nothing to do with Sankosh Division is wholly unacceptable as he continued to remain in CWC employee and part and parcel of Investigation Circle at Gangtok irrespective of his place of posting in Bhutan. If for a moment the contention of the applicant is accepted, the posting order dated 01.09.94 of the Superintending Engineer, Gangtok, i.e. posting him to Chenary Sub-Division under Bhutan Investigation Division becomes ultra-vires and hence the applicant should be repatriated on closure of Sankosh Division. On the other hand, the applicant has accepted by his joining at Chenary that such reposting within Bhutan are in conformity with administrative competence of the SE and exigencies of work and hence at the time of repatriation he should not bring in issues like his present place of posting in Bhutan.

4.5 to 4.8 That with regard to the contents made in paragraphs 4.5, 4.6, 4.7 and 4.8 of the application the Respondents have no comments to offer as these are based on facts.

4.9 That with regard to the contents made in paragraph 4.9 of the application asserting that a 3 year tenure period is a right, the Respondents beg to state that
in

in normal circumstances this would have been possible. In this case, the Sankosh Investigations Division was closed w.e.f. 01.04.96 on completion of investigations for the Sankosh project. The surplus staff had to be repatriated. These include 1 Executive Engineer, 5 Junior Engineers, 1 Draftsman, 1 Steno and 1 LDC (the applicant). To be fair and just to all employees at the point of closure of Sankosh Division, a transfer principle applicable to all categories of employees was adopted. According to this, the persons who had a longer stay in Bhutan and were in excess of the sanctioned posts available in Bhutan Investigation Division on closure of Sankosh Investigation Division, irrespective of their present posting in Bhutan Investigation Division or Sankosh Investigation Division were repatriated. As a result of this exercise, the employees repatriated included those working in Sankosh Investigation Division and also in Bhutan Investigation Division. If an employee of Bhutan Investigation Division was longest stayee he was repatriated and the employee of Sankosh Investigation Division who was not the longest stayee was posted against this vacancy in Bhutan Investigation Division. In the case of LDCs, 3 posts of LDC are sanctioned for Bhutan Inv. Division and a total of 4 LDCs were available in Bhutan on closure of Sankosh Division in the combined Bhutan Division & Sankosh Division strength. The applicant had joined in Bhutan on 29.10.94 which was earlier than the date of joining of the 3 other LDCs in Bhutan viz K.C.Boro(06.12.94), Y.L.Rao (07.12.94) and A.P.Mohanty (20.03.95. Shri Mohanty was already working in Bhutan Investigation Division. Therefore,

Contd.....p.7/-

A separate
policy?

Sankosh - 29.10.94
K.C.Boro - 06.12.94
Y.L.Rao - 07.12.94
A.P.Mohanty - 20.03.95

Shri Boro and Rao, working in Sankosh Investigation Division, were transferred vide CE order dated 11.04.96 to Bhutan Investigation Division to occupy the 2 vacant posts in that Division and the applicant was moved out. It would be thus seen that the logical and fair steps of action have been taken by the CWC Administration with a view to see that the financial benefits of the attractive Bhutan posting which is also accepted by the applicant, reach out to the largest possible number of CWC employees. The applicant's reference to the post being held by him vacated by one Shri K.M. Rao is out of context and irrelevant with a view to confuse the issue before the Hon'ble Tribunal.

4.10 That with regard to the contents made in paragraph 4.10 that the applicant had represented on 07.03.96, the respondents beg to state that the application could not be favourably considered as his continuance would have been contrary to the proposed transfer (repatriation) principle.

4.11 That with regard to the contents made in paragraph 4.11 of the application that the transfer order dated 12.03.96 came to him as a bolt from the blue, the Respondents beg to state that this is not the case as the applicant came to Shillong and met a senior officer pleading for his continuance. It was explained to him as to why he could not be accommodated in Bhutan.

4.12 That with regard to the contents made in paragraph 4.12 of the application that the applicant had submitted.....

submitted a representation to the Chairman, Central Water Commission, the Respondents beg to state that the application has been disposed off on 30.04.96, with the approval of Chairman, CWC as directed by the Hon'ble Tribunal in its interim order dated 08.04.96.

4.13 That with regard to the contents made in paragraph 4.13 of the application that the Executive Engineer released him from his duties w.e.f. 15.04.96 vide order dated 12.04.96, the Respondents beg to state that the Executive Engineer acted in pursuance of the transfer orders issued in favour of the applicant as on that date nothing contrary was instructed to him.

4.14 That with regard to the contents made in paragraph 4.14, the Respondents beg to state that they have no comments.

4.15 That with regard to the contents made in paragraph 4.15 by the applicant that till date he has not handed over charge to anyone nor has any other incumbent been posted in his place, the Respondents beg to state that they have acted strictly in compliance of the Hon'ble Tribunal's directive issued on 18.04-96 to continue the applicant in Bhutan till disposal of his representation dated 12.4.96 and the Tribunal's directive issued on 09.05.96 to continue the applicant in Bhutan till the disposal of the present OA. The respondents beg to state that the applicant is continuing in Bhutan without any work. The question of posting anybody in his place to take charge from him does not arise as his post stands already abolished with effect.....

effect from 1.04.96. For the period of his overstay in Bhutan, administrative action will have to be taken to extend the sanction of the post in compliance with Hon'ble Tribunal's directive to continue him in Bhutan till disposal of the present OA.

4.16 That with regard to the contents made in paragraph 4.16 that the applicant is being victimised by the Respondents with malafide intention to accommodate others, the Respondents beg to state that the applicant is neither the first nor the only employee coming in the ambit of the repatriation policy. The following similarly placed officials in other categories who have also not been given tenure of three years, have been transferred out to other places like Siliguri, Shillong, Itanagar, Baroda adopted the same principle of repatriating longest stayee. They have also been relieved of their duties and most have joined their new place of posting without any protest against the repatriation policy.

S.No.	Name & designation of the incumbent	Where working	Total tenure Bhutan till 01.04.96
1.	M.D.Radhakrishna, Executive Engineer	Sankosh Division	1 year 5 months
2.	Sukdev Singh, JE	-do-	2 years 8 months
3.	S.A.Azad, JE	Bhutan Inv.Divn.	2 years 7 months
4.	M.R.R.Nair, JE	Sankosh Inv.Divn.	-do-
5.	A.K.Verma, JE	-do-	2 years.
6.	K.Arumugam, JE	Bhutan Inv.Divn.	2 years.
7.	Harmesh Kumar, D/Man	-do-	1 year 10 months
8.	A.K.Pandey, Steno	-do-	2 years 11 months

Contd.....p.10/

Further, consequent upon the closure of one more sub division viz Kerabari sub division attached to Bhutan Division w.e.f. 30.06.96, one A.E. and 2 JEs will also repatriated following the same principle. No victimisation or favouritism is intended in the adopted transferred principle. It is just, fair and strictly as per date of joining in Bhutan.

4.17. That with regard to the contents made in paragraph 4.17 that the applicant was initially posted to Sankosh Inv. Division, the Respondents beg to be permitted to clarify the entire matter. A Memorandum of Understanding was signed in January, 1993 by the Govt. of India and the Royal Govt. of Bhutan for Undertaking the investigations and Projects report preparation for Sankosh Multipurpose Project by December, 1995. Being time bound assignment, investigation work was immediately started with available Bhutan Inv. Division staff as creation of new Division with sanction of post and posting of personnel was anticipated to take time. In fact the sanction of Division was done on 01.04.94 and selection and posting of personnel took another six months. When personnel selected against Sankosh Inv. Division vacancy, joined, in the interest of continuity of Sankosh work, the personnel already working were not disturbed and the new entrants were posted to Bhutan Division vacancies. This was the case with the applicant also. As explained earlier, such posting are fully within the competence of the SE. Seniority in joining date has therefore been taken into consideration when premature repatriation becomes inevitable and this policy is not miscarriage of justice nor does it deny equality of opportunity. On the other hand, transferring of LDC who has joined.....

joined after him and has thus enjoyed lesser financial benefits than the applicant would be a gross and blatant miscarriage of justice. Under the present circumstances of closure of works in a foreign country, the Department had no other option except the presently adopted one.

4.18 to 4.20 That with regard to the statement made by the applicant in paragraph 4.18, 4.19 & 4.20 the Hon'ble Tribunal that the applicant does not seem to have any other point to make in the matter except that he was not working in Sankosh Investigation Division and has not completed a 3 years tenure which has been repeated again and again in his application. The Respondents have clearly brought out the administrative position of CWC posts in Bhutan & that no malafide intention against any particular individual was intended. The Hon'ble Tribunal may also please note that malafide intention can be levelled only against an individual but not against all the Respondents at S.No. 1 to 5 two of whom are at the level of Secretary to Govt. of India as if the five Respondents have conspired to victimise and harass a junior official who is not even known to atleast two of the Respondents. The Deptt. has been fair and just to all it's employees in Bhutan and has implemented without exception an impartial transfer policy keeping

the interests of its employees at large in Bhutan. The issue of junior and senior is being intentionally repeated by the applicant with a view to obfuscate the issues and mislead the Hon'ble Tribunal.

4.21 That with regard to the contents made in paragraph 4.21 by the applicant that one Mr. Rao had refused promotion in his parent Division so that he can continue in Bhutan, the respondents beg to state that there is no parent division for any LDC as all are CWC employees. Promotion to higher grade is offered to LDCs as in other Ministerial cadres with the stipulation that in case the promotee declines promotion, he stands debarred for one year promotion. Since Shri Rao considered his Bhutan posting more beneficial than a promotion, he might have declined promotion. It is not clear to the Respondents as to in what context this is being quoted by the applicant except with the mischievous intention of confusing the matter.

4.22 That with regard to the contents made in paragraph 4.22 the Respondents beg to draw the attention of this Hon'ble Tribunal to the fact that the applicant has been repeating the same issues like a parrot in para after para. No malafide intentions have been proved by the applicant. Mere reiteration of charges of malafide intentions number of times cannot make it a truth.

4.23 That with regard to the contents made by the applicant in paragraph 4.23 that this is a solitary instance of transfer before completion of tenure, the Respondents beg to deny this allegation and draw the attention of the Hon'ble Tribunal to paragraph 17 of this written statement where the Respondents have detailed the other employees similarly transferred.

4.24 That with regard to the contents made in paragraph 4.24 of the application, the Respondents have no comment.

4.25 That with regard to the contents made in paragraph 4.25 of the application, the respondents beg to state that the various statements are repetition of the earlier statements made by the applicant in preceding paragraphs. The Respondents finds no new point requiring to be replied.

4.26 That with regard to the contents made in paragraph 4.26 of the application, the Respondents beg to draw the attention of this Hon'ble Tribunal to paragraph 10 of this Written Statement where the clarification in respect of Shri A.P.Mohanty, LDC has been given. Shri Mohanty, like the applicant, is also working in Bhutan Inv. Division but has been retained since his date of joining in Bhutan is later to date of the applicant. The quoting of Shri Mohanty's name and Shri K.M.Rao's name has no relevance to the application. The crux of the transfer policy is that sanctioned posts and personnel available as on 01.04.96 were considered, personnel in each category were listed according.....

97

125

according to their date of joining and the longest stayee who could not accommodated against sanctioned posts were moved out in each category.

4.27 That with regard to the contents made in paragraph 4.27 of the application regarding promotion case of Shri Y.L.Rao, the Respondents have replied this point in paragraph 19 of this written statement. This issue is not germane to the present case. The Respondents are pleased to note that the applicant has admitted for the first time that the all incumbents are kept posted there for a maximum period of three years which is not the same as full period of 3 years. The Respondents categorically assert that the applicant is not the sole employee affected by the transfer policy, there are eight others. This fact is fully known to the applicant and feigning of ignorance of this vital fact and misrepresentation to the Hon'ble Tribunal should be treated as perjury.

4.28 That with regard to the contents made in paragraph 4.28 of the application regarding the transfer policy as being arbitrary and malafide, the Respondents beg to state that the other policy of repatriating the new comers and retention of longest stayee is against the principle of natural justice and would have opened the flood gates of litigation.

4.29 That with regard to the contents made in paragraph 4.29 that the applicant has submitted another application on 01.05.96, the Respondents begs the Hon'ble Tribunal to direct that the applicant be debarred from.....15.....

from giving fresh representations to the Department to keep the issue going, that his application dated 12.04.96 to the Department disposed off on 30.04.96 be treated as final so far as the Department is concerned. The Department awaits the Hon'ble Tribunal's final disposal of the O.A. based on the facts brought out in this written statement.

4.30 That with regard to the contents made in paragraph 4.30 of the application that the transfer principle was not followed when Bhutan Hydel Division was closed in August, 1988, it has been verified from records that out of the 3 UDCs in that Division, 2 were retained in BID and the longest stayee was in fact posted out of Bhutan.

5.1 That with regard to the contents made in paragraph 5.1 under paragraph 5 of the application, the Respondents beg to state that the transfer order issued to the applicant is wholly legal, fair, just and equitable.

5.2 That with regard to the contents made in paragraph 5.2, the Respondents beg to state that the applicant is the longest stayee in the category of LDC as compared to 3 others and having enjoyed more financial benefits, has been asked to move out first. Seniority in service is relevant only in promotions and by virtue of joining in Bhutan earlier to others, the applicant cannot claim to be senior to others as there is no separate entity called seniority of service in Bhutan.

5.3 That with regard to the contents made by the applicant in paragraph 5.3 that he is not an incumbent of

99



Sankosh Division, the Respondents beg to state that they have in detail in this written statement brought out the fact of the case regarding administrative set-up under the SE at Gangtok with regard to the two divisions at Bhutan. The contention of application that the applicant belong to Bhutan Division is totally incorrect as the fact is that he is a CWC employee posted in Bhutan and assigned duties as per exigencies of works.

5.4 That with regard to the contents made in paragraph 5.4 of the application alleging malafide and colourable exercise of powers, the Respondents beg the Hon'ble Tribunal to reject this allegation with the contempt it deserves as nothing could be further from the truth.

5.5 That with regard to the contents made in paragraph 5.5 that the representation submitted by the applicant on 14.04.96 has not been disposed off, the Respondents beg to draw attention of the Hon'ble Tribunal to paragraph 4.24 of the application where the applicant has admitted that his representation has been disposed off on 30.04.96. The Respondents beg the Hon'ble Tribunal to note such misleading and false statements being made by the applicant.

5.6 That with regard to the contents made by the applicant in paragraph 5.6 claiming a 3 year tenure on grounds of precedence, the Respondents beg to state that assignment of works, targets for their completion etc. in Bhutan are matters over which the Department has no control. Obviously for the sake of accommodating any individual in Bhutan, the posts.....17....

posts cannot be continued without work. This would lead to infructuous expenditure and if the earlier incumbents had enjoyed a 3 year tenure, it was because of the work continued rather than any conscious effort made by the Department, to ensure their full tenure.

5.7 to 5.8 That with regard to the allegations of favouritism made by the applicant in paragraph 5.7 and 5.8 of his application, the Respondents beg to state that only a pick and chose policy can be termed as favouritism. The present policy is based on logic, the facts are verifiable, is wholly transparent and has affected not only the applicant but 8 others also.

5.9 That with regard to the contents made in the application in paragraph 5.9 that the post being held by the applicant having neither been transferred nor being adjusted in lieu of the post of Sankosh Inv. Division, the Respondents beg to state that permanent posts of LDC are re-allocated by CWC depending on work requirement. The applicant held one such post. On closure of one Division, posts sanctioned for Sankosh needed re-allocation to other formations outside Bhutan leaving only the 3 three post sanctioned for Bhutan Inv. Division against 4 LDCs available on closure of Sankosh Division. Hence the transfer of the applicant.

5.10 That with regard to the contents made in paragraph 5.10 of the application for quashing of the transfer orders, the Respondents beg that in view of the facts explained in the petition of the applicant deserves to be dismissed and orders issued for recovery from him of the

Bhutan.../8...

Bhutan Compensatory Allowance paid to the applicant by the Department beyond 15.04.96.

5.11 to 5.12 That with regard to the contents made in paragraph 5.11 and 5.12 of the application that the order dated 30.04.96 is arbitrary and not maintainable, the Respondents beg to state that the letter dated 30.04.96 (not order) is only disposal of the representation dated 12.04.96 of the applicant and thus cannot be questioned on ground of law.

5.13 That with regard to the contents made in paragraph 5.13, the Respondents beg to reiterate that the order is just and fair and maintainable and needs to be upheld.

6.7 That with regard to the contents made in paragraph 6 and 7 of the application, the Respondents beg to state that they have nothing to comment.

8.1 to 8.3 That with regard to relief sought in paragraphs 8.1 to 8.3 the Respondents beg to state that the transfer orders be upheld so that the applicant can be relieved immediately to rectify the anomalous situation where he is continuing without a sanctioned post and without work in Bhutan.

8.4 That with regard to the contents made in paragraphs 8.4 and 8.5 of the application, the Respondents beg to state that they have nothing to comment.

102

23

- 14

9. That with regard to paragraph 9 begging for interim order of the application, the Respondent beg to state that the Hon'ble Tribunal has already passed interim order till final disposal of the O.A. No substitute can be posted in place of the applicant as he is not holding a sanctioned post. On vacation of the interim order, he will be relieved of his duties. The action of the Respondents is purely in public interest and no favouritism is intended or is evident.

10. That the Sankosh Inv. Division in Bhutan being closed to which the applicant was deputed is a matter of simple common sense apart from the law that the applicant should be immediately repatriated to his parent organisation/division.

11. That there being no any cause of action at all and hence the application deserves to be rejected summarily.

12. That the present application is ill-conceived of law and mis-conceived of fact and hence liable to be dismissed.

13. That the direction of this Hon'ble Tribunal that the applicant will continue at Bhutan had put the Respondents in much administrative difficulty and more so when the post ordered by the Hon'ble Tribunal to continue is not a sanctioned one.

Contd....p.20/-

103

129

.14 That the balance of convenience being in favour of the respondents, this Hon'ble Tribunal may be pleased to lift the blockade i.e. his continuance in Bhutan in view of the fact that in the event of being allowed the applicant, he will be compensated as there will be no any irreparable loss to him.

.15 That the respondents further begs to submit that this Hon'ble Tribunal has no any jurisdiction to try this case.

.16 That the respondents crave leave of this Hon'ble Tribunal of filing additional written statement if so directs.

.17 That this Written Statement is filed bonafide and in the interest of justice.

VERIFICATION.....

109

130

21

VERIFICATION

I, Shri A. Sekhar, Chief Engineer,
Central Water Commission, Shillong
do hereby solemnly affirm and declare that the
contents made in paragraph 1 of this Written Statement
are true to my knowledge and those made from paragraphs
1 to 17 are derived from records which I believe to be
true and rest are humble submissions before this
Hon'ble Tribunal.

AND I sign this VERIFICATION on this First day
of July, 1996 at Shillong

A. Sekhar

Chief Engineer
DEPONENT
B. S. Basin
Central Water Commission
Shillong-793014.

|

No. A 22015/4/94-Estt.VII
 GOVERNMENT OF INDIA
 CENTRAL WATER COMMISSION

Room No.806, Sewa Bhawan,
 R.K. Puram, New Delhi-66..

Dated the 21st April, 94.

C I R C U L A R

SUBJECT:- TRANSFER OF STAFF BORNE ON THE MINISTERIAL
 CADRE OF SUBORDINATE OFFICES OF C.W.C. TO
 SANKOSH INV. DIVISION, BHUTAN.

It is proposed to fill up 1 post of Head Clerk, 3 posts of UDC and 3 posts of LDCs sanctioned for Sankosh Inv.Div., Bhutan on transfer basis from among the staff of Ministerial Cadre of Subordinate Offices of CWC. Officials who desire to be transferred to the above division and willing to work in interiors of Bhutan at high altitude should send their application in duplicate through proper channel in the prescribed proforma (enclosed). The selected officials will be entitled to Bhutan Compensatory Allowance as admissible to Govt. servants posted in Bhutan besides their pay. The tenure in Bhutan will be for a maximum of 3 years only.

Officials who have already served in Bhutan NEED NOT APPLY. It is requested that bio-data of the willing officials who fulfill this eligibility conditions alongwith vigilance clearance may be forwarded to Estt. VII Sec., CWC, latest by 15th May, 1994.

(DAYA CHAND)
 Under Secretary (ES)
 Tele 605803

copy to:-

1. All Head of Subordinate Offices of CWC.

True copy
 Asekhar

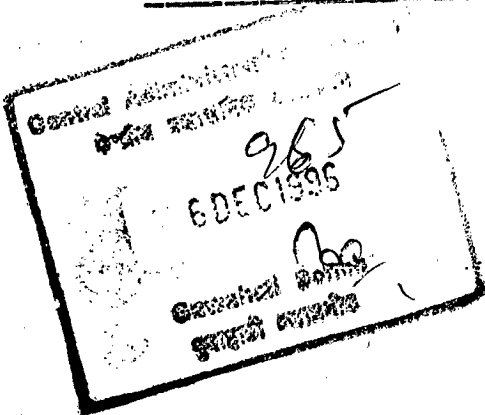
Chief Engineer
 B. B. Ba in
 Central Water Commission
 Shillong-792014.

5.5.94

23

22

21



O.A. No. 61/96

Shri M. Ranjit Singh

- Versus -

Union of India & Ors.

REJOINDER TO THE WRITTEN STATEMENT FILED
BY THE RESPONDENTS.

The applicant abovenamed states as follows :

1. That the applicant has gone through the copy of the written statement filed by the respondents and has understood the contents thereof. Save and except the statements which are ~~not~~ 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 and the respondents are put to the strictest proof thereof.

2. That with regard to the statements made in paragraphs 1(a) and 1(b) of the W.S., the applicant does not admit anything contrary to relevant records.

3. That with regard to the statements made in paragraph 2 of the W.S., the applicant reiterates and reaffirms that the instant case is well within the jurisdiction of this Hon'ble Tribunal. He craves leave of this Hon'ble Tribunal to refer to and rely upon the provisions of law in this regard.

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

Handwritten notes:
R 23 47
L 5
M 10
C 12
6/12/96

Handwritten notes:
132
Filed
12/12/96

133

reaffirms the statements made in the O.A.

5. That with regard to the statements made in paragraphs 4.1 and 4.2 of the W.S. the applicant while reiterating and reaffirming the statements made in the O.A. denies the correctness of the statements made in paragraph 4.2. On their own admission, the transfer of the applicant has become necessitated on account of closure of Sankosh Investigation Division with effect from 31.3.96. As explained in the O.A. the applicant is not an incumbent of the Sankosh Investigation Division but he belongs to Bhutan Investigation Division. Thus if the Sankosh Inv. Division has come to a closure, the right of the applicant to remain posted in Bhutan Inv. Division cannot be effected.

The so called policy of the respondent to move out first the longest stayee in Bhutan is ridiculous inasmuch as by transferring the applicant and retaining his juniors so far as period of posting in Bhutan is concerned which is hardly one month will itself frustrate the so called policy of moving out the longest stayee from Bhutan. In this connection, the applicant begs to state that even ~~XXXXX~~ without disturbing anyone, ~~fx~~ there are vacancies to accommodate the applicant in Bhutan. If the efforts of the respondents are genuine, they should evolve a policy of distribution of justice instead of victimising the applicant merely because he is just one month older than another incumbent so far as the stay in Bhutan is concerned. By transferring him out from Bhutan on the ground of being longest stayee (hardly by one month), other incumbents will be allowed to continue in Bhutan their full tenure

of three years which hardly to conscience and reason. Same also frustrate the principle of distributive justice. On earlier occasion on such an eventuality, the incumbents of the Division alone were transferred without disturbing others posted in other division. Thus the respondents have made a departure of such procedure and convention with the sole purpose of accommodating others which is quite illegal.

6. That with regard to the statements made in paragraphs 4.3 of the W.S. it is categorically denied that the applicant has made any false statements. On their own admission, posting in Bhutan carry attractive benefits and the stipulation of posting for a maximum period of three years was introduced so that a larger cross section of C.W.C. staff can avail those benefits. However, by the impugned action such an well cherished policy is sought to be frustrated by the respondents inasmuch as by branding the applicant as a longest stayee merely because he is hardly one month older than other incumbents so far stay in Bhutan is concerned, he is sought to be transferred out of Bhutan which will mean that person who are hardly one month junior than the applicant will continue in Bhutan the full tenure of three years. This is hardly any justifiable ground for transfer of the applicant from Bhutan. These are the matters in which the distributive justice will come into play. It is not the case of the respondents that the applicant has been transferred in the exigencies of service but as reflected in the impugned order and was so also in the W.S. he has been sought to be transferred out of Bhutan with the sole purpose of

accommodating others in view of closure of Sankosh Inv. Division.

7. That with regard to the statements made in paragraph 4.4 of the W.S. , while reiterating and reaffirming the statements made in ~~paragraph~~ the O.A. the applicant denies the contentions made by the respondents. The by their own statement have sought to confuse the issue before this Hon'ble Tribunal. Admittedly, the applicant has been working in the Bhutan Inv. Division and he has got no nexus with the Sankosh Inv. Division. If the Sankosh Inv. Division has come to a closure by no stretch of imagination, the applicant can be effected. If at all required, the incumbents working in Sankosh Inv. Division should be transferred from Bhutan. None of the incumbents of the Sankosh Investigation Division has been disturbed. Thus had the applicant been continued in Sankosh Inv. Division, he would have also not been effected. In this connection, the respondents may be directed to produce the relevant records as to how many incumbents working in the Sankosh Inv. Division have been transferred ~~during~~ from Bhutan on closure of Sankosh Inv. Division.

8. That with regard to the statements made in paragraphs 4.5 to 4. 8 of the W.S., the applicant does not admit anything contrary to the relevant records and reiterates and reaffirms the statements made in the O.A.

9. That with regard to the statements made in paragraph 4. 9 of the W.S., the applicant denies the contentions made therein and reiterates and reaffirms the

statements made in the O.A. The so called policy adopted by the respondents is ante-thesis to the whole concept of such a policy purported adopted by the respondents and opposed to the principles of distributive justice. Of their own ~~and~~ showing the persons named in the paragraph are hardly one month junior to the applicant so far as posting in Bhutan is concerned. By adopting the so called policy of moving out the the longest stayee in Bhutan, the respondents have sought to benefit those incumbents so that they can continue in Bhutan to their full tenure of three years. On the other hand, the applicant is sought to be victimised by transferrin him out of Bhutan. This hardly stands to reason and also oppose to distributive justice. As already explained above, there are posts to accommodate the applicant and the respondents have acted malafide in seeking the applicant to transfer out of Bhutan with the sole purpose of accommodat- ing others. It can hardly be said that the respondents have taken ~~logical~~ logical and fair steps in the matter. The contentions advanced by the respondents are opposed to any reasoning.

10. That with regard to the statements made in paragraphs 4.10 to 4.14, the applicant does not admit anything contrary to the relevant records and denies the contentions made therein. He reiterates and reaffirms the statements made in the O.A.

11. That with regard to the statements made in paragraph 4.15 of the W.S., the applicant while denying the allegations made therein, reiterates and reaffirms the

Contd.....P/6.

statements made in the O.A.

12. That with regard to the statements made in paragraph 4.16 of the W.S., the applicant while denying the contentions made therein state that merely because of some other persons have accepted their transfer out of Bhutan does not mean that the applicant is also bound to accept the same, no matter whether the same is founded on malafide, illegality and colourable exercises of power.

13. That with regard to the statements made in paragraph 4. 17 of the W.S. the applicant does not admit anything contrary to the relevant records. While denying the contentions made by the respondents, the applicant reiterates and reaffirms the statements made in the O.A. and also the statements made hereinabove. Of their own showing the respondents have adopted the policy of transferring of LDCs who joined after the applicant and ~~have~~ those enjoy lesser financial benefit. While laying down such policy, the respondents hardly thought of the persons situated like that of the applicant. The applicant has explained above as to how the one month older incumbent has been retained in Bhutan. The so called policy adopted by the respondents will be anti-thesis inasmuch as by transferring out of the applicant from Bhutan and other incumbents will enjoy the full benefits of three years. Thus thereby the applicant will enjoy lesser benefits than those incumbents and the same would be gross and blatant miscarriage of justice.

14. That with regard to the statements made in paragraphs 4.18 to 4. 20 while denying the contentions made

the applicant reiterates and reaffirms the statements made hereinabove.

15. That with regard to the statements made in paragraph 21 of the W.S. while denying the contentions made by the respondents, the applicant takes strong objection to the remark of the respondents as to in what context the applicant has quoted the case of Mr. Rao. Their statement that the applicant has quoted the same with the mischievous intention of confusing the matter is highly objectionable. It is the respondents who have sought to confuse the issue. The respondents would have accommodated person like Mr. Rao who has decided to forego his promotion to remain in Bhutan. This shows the mala fide and colourable exercise of power on the part of the respondents.

16. That with regard to the statements made in paragraph 4.22 of the W.S. the applicant while denying the contentions made therein takes strong objection to the statements made by the respondents that the applicant has been repeating the same issue like a parrot in para after para. Such remarks from the authorities is like that the respondents are not in conformity and will go to show that they are bent upon to do harm to the applicant, who is a poor LDC. The respondents have also repeated their contention. Mere reiteration of such so called policy to favour a section of the employees does not make the policy just and proper.

17. That with regard to the statements made in paragraphs 4. 23 of the W.S., the applicant while reiterating and reaffirming the statements made in the O.A. and begs to

point out the Hon'ble Tribunal that the respondents have not denied the allegations that this is the solitary instance of transfer before completion of tenure posting of three years. This aspect of the matter may be borne in mind while deciding the issue involved in the case.

18. That with regard to the statements made in paragraph 4.24 ~~of~~ ~~to~~ 4.30 of the W.S., while denying the contentions made by the respondents, the applicant reiterates and reaffirms the statements made in the O.A.

19. That with regard to the statements made in paragraphs 5.1 to 5.13 of the W.S., the applicant while denying the statements made therein reiterates and reaffirms the statements made in the O.A. The respondents while describing the ~~applicant~~ statements made by the applicant to be like of a parrot, themselves have repeated the contentions like a parrot unnecessarily making the W.S. a lone one with the sole purpose of confusing the real issue involved before this Hon'ble Tribunal.

20. That in the facts and circumstances stated above, the instant application deserves to be allowed with cost.

VERIFICATION

I, Shri M. Ranjit Singh, the applicant in O.A. No. 61/96, do hereby verify and state that the statements made above are true to my knowledge and I have not suppressed any material facts.

And I sign this verification on this the 30th day of October 1996.

(M. RANJIT SINGH)
LDC