

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.No.216

of 1997

6.5.1999

DATE OF DECISION.....

Shri B.K. Sarma

(PETITIONER(S))

Mr A. Roy, Mr M. Chanda and
Mr S. Sarma

ADVOCATE FOR THE
PETITIONER(S)

-VERSUS-

Union of India and others

RESPONDENT(S)

Mr A. Deb Roy, Sr. C.G.S.C.

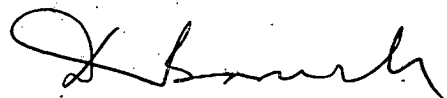
ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE MR JUSTICE D.N. BARUAH, VICE-CHAIRMAN

THE HON'BLE MR G.L. SANGLYINE, ADMINISTRATIVE MEMBER

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

Judgment delivered by Hon'ble Vice-Chairman



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.216 of 1997

Date of decision: This the 6th day of May 1999

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

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

Shri Biraja Kanta Sarma,
Ex Pharmacist-cum-Clerk,
Government Medical Store Depot,
Guwahati.

.....Applicant

By Advocates Mr A. Roy, Mr M. Chanda and
Mr S. Sarma.

- versus -

1. The Union of India, represented by the
Secretary, Government of India,
Ministry of Health & Family Welfare,
New Delhi.
2. The Director General of Health Services,
Government Medical Store Depot,
Ministry of Health,
New Delhi.
3. The Deputy Assistant Director General(M.S.),
Government of India,
Ministry of Health & Family Welfare,
Government Medical Store Depot,
Guwahati.

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....

O R D E R

BARUAH.J. (V.C.)

This application has been filed by the applicant seeking certain directions to the respondents.

2. Facts for the purpose of disposal of this application are:

The applicant was appointed Pharmacist-cum-Clerk on 23.12.1971 in the Government Medical Store Depot, Directorate General of Health Service, Guwahati. He read upto B.Sc. with three years Diploma course in Pharmacy and four years Diploma course in Bio-Chemistry. In the year

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1985 he became mentally imbalanced and accordingly he applied for leave. The authority granted him leave. However, on expiry of his leave further extension of leave was not granted. During that period he left home. But after some time he returned with the help of his friend. Thereafter he commenced a normal life. According to the applicant he was not terminated from service. As he remained out of service for a long time he submitted an Annexure G representation dated 1.3.1994 requesting the respondent No.3 to allow him to continue his service. Thereafter, as nothing was done the applicant filed an original application (O.A.No.126 of 1994) before this Tribunal. The said application was disposed of by this Tribunal by order dated 1.8.1994 directing the respondents to consider the case of the applicant sympathetically. The applicant again submitted a detailed representation requesting the authority to put him back in service. However, on 16.9.1996 the impugned Annexure J order was passed. As per Annexure J order dated 16.9.1996 the applicant was not found fit because he was overaged. Hence the present application.

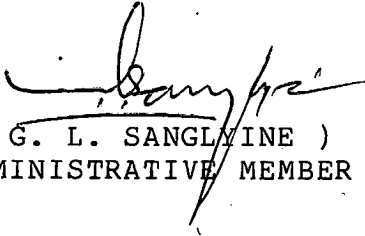
3. We have heard Mr M. Chanda, learned counsel for the applicant and Mr. A. Deb Roy, learned Sr. C.G.S.C. The respondents have not filed any written statement, The records have also not been produced. Mr Chanda submits that at no point of time the applicant's services were terminated although he remained absent for a long time. Mr Deb Roy does not dispute the same in view of the fact that no written statement has been filed and the records are also not available before him. Mr Chanda also submits that at no time the applicant was informed about his termination from service. As per the order of this Tribunal dated 1.8.1994 passed in O.A.No.126/94 his case

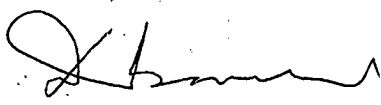
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ought to have been considered sympathetically. The impugned Annexure J order dated 16.9.1996 shows that the authority just considered and stated that the applicant could not be appointed because he was overaged and not on any other ground. From the documents available before us it appears that according to the respondents the applicant submitted resignation which was accepted. However, the applicant has totally denied the same. The respondents have not come forward with necessary documents such as the letter of resignation, etc. Be that as it may, the applicant was suffering from mental sickness and this Tribunal by order dated 1.8.1994 passed in O.A.No.126/94 directed the respondents to consider his case sympathetically, therefore, in our opinion the age should not be a ground for rejecting his prayer. Mr Deb Roy also submits that in the fitness of things he may be given a fresh appointment by relaxing the age.

4. In view of the above we dispose of this application by directing the respondents that in the special circumstances the applicant be given an appointment by relaxing the age bar.

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


(G. L. SANGLAYINE)
ADMINISTRATIVE MEMBER


(D. N. BARUAH)
VICE-CHAIRMAN