

50/100
**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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6/12/2000

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CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH:GUWAHATI.5

ORIGINAL APPLICATION NO. 420/2000

For the Applicant(s) Mr. A. K. Ray,
" I. Gogoi,

For the Respondents.

C. S. S. C.

NOTES OF THE REGISTRY

DATE 1

0 8 0 E P

This application is in form
but not in condition
Patient John Smith
Age 21 Sex Male
for 2
IPO 271052
Date 29/11/52

6.12.00 Present: Hon'ble Mr. Justice
'D.N.Choudhury, Vice-Chairman.

This is an application under Section 19 of the Administrative Tribunal Act, 1985, seeking for a direction to consider the case of the applicant for appointment on compassionate ground. The husband of the applicant Late Homeswar Bhuyan was an employee under the Respondent No.2. He was working as Postal Assistant. While he was so serving, he met with a road accident in which he was seriously injured; he at last succumbed to death leaving behind three chucking babies, ^(fourth) who were only 9(nine) months old at the time of his widow the applicant and the 4th (fourth) baby took birth after one month of the death of her husband. The applicant the wife of Late Homeswar Bhuyan who was also injured in the said accident and was also hospitalised. The applicant has submitted an application for compassionate appointment in the prescribed form before the competent authority. The applicant pursued the matter from time to time requesting the authorities for rendering the necessary assistance in the light of the govern-

Steps filed without
envelopes.

by
24° 12' w

1000000
Sots 5/11/10

6.12.00

ment policy for compassionate failing
ment to get the remedy, the a
has now moved this application.

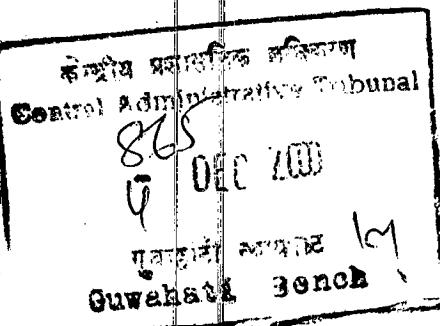
Heard Mr.A.K.Roy, learned
for the applicant and Mr.B.C.Patha
learned Addl.C.G.S.C. for the res-
pondents. Upon hearing and considerin
materials in record, I am of the c
that the ends of Justice will be m
a direction is issued on the Respo
to consider the case of the applic
for her appointment as per scheme.
Accordingly, the respondent No.2 is
directed to consider the case of the
applicant for appointment on compas-
sionate ground against any available
vacancy in a post commensurate with her
qualification, in terms of the scheme
as per law. Needless to state that
matter relating to compassionate
appointment should brook no delay and
accordingly the Respondents are direc-
ted to take prompt measure in this
regard. I also direct the applicant to
file a fresh representation alongwith
the certified copies of this/Tribunal
within two weeks from today. The res-
pondents are ordered to complete the
exercise with utmost despatch prefera-
bly within eight weeks from the date of
receipt of the Representation of the
applicant as cited above.

The application is thus disposed
of. There shall however no order as to
costs.

Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under section 19 of the Administrative
Tribunal Act 1985)



O.A NO 421 /2000

Smt, Anima Pathak Bhuyan

- VS -

Union of India & Ors .

I N D E X

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For use in the office :-

Signature -

Date -

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

(An application under section 19 of the Administrative
Tribunal Act 1985)

Filed by the applicant
Smti. Anima Pathak Bhuyan
4/12/2000
through -
Ashok Ray
Advocate.

OA 421/2000

- BETWEEN -

Smti. Anima Pathak Bhuyan

w/o Late Homeswar Bhuyan

Vill. - Debara

P.O. - Dubi

P.S. - Barpeta, Dist. Barpeta,

Assam.

.. APPLICANT

- AND -

1. Union of India

Represented by Secretary,

Govt. of India, Ministry of Communi-
cation, New Delhi.

2. Chief Postmaster General

Assam Circle, Guwahati - 1.

.. RESPONDENTS

1. Particulars of Order against which the Application
is made : -

This application is not directed against
any particular order but against the action of the respon-
dents in non-considering the application of the petitioner
for appointment on compassionate ground.

Contd.... P/2

Anima Pathak Bhuyan

2. Jurisdiction :

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

3. Limitation :

That the applicant also states that this application is made within the time limit as has been prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4. Fact of the case :

(i) That the applicant's husband late Homeswar Bhuyan was an employee under the Respondent No. 2, He was working as Postal Assistant for 15 (fifteen) years and on 6.1.1995 he expired in a road accident leaving behind 5 (five) members in the family. At the time of death 3 (three) childrens (who were triplex) were only 9 (nine) months and the 4th (fourth) baby took birth after one month of death of her husband.

One copy of the death certificate is annexed herewith as Annexure - ' A '

(ii) That the applicant also stated that in the said road accident she herself also sustained a number of injuries and was hospitalised for a couple of days.

(iii) That as the applicant's husband died all of a sudden leaving behind 5 (five) members in the

in the family and as there is no earning source in the family the applicant is maintaining the family by doing work as maid servant in some houses in the village though she has passed B.A. Part 1.

(iv) That after being recovery and released from hospital, the applicant, at the initiative of some well wishers submitted one application in the Proforma Form for her appointment on compassionate ground.

One copy of the said application in Proforma Form is annexed herewith as Annexure - B.

(v) That after the said application in proforma Form, the applicant expected that her application will be considered sympathically by the authority and will be called for interview for appointment. But as for the long time she has not received any response from the authority, She has submitted an application dated 19.2.96 to the Respondent No. 2 requesting to take necessary steps on the matter considering the gloomy condition of her family.

Copy of the said representation dated 19.2.96 is annexed herewith as Annexure-'C'.

(vi) That inspite of the said application, the respondents were in silent and hence she personally approached the office of the respondent No. 2 in the month of Januay, 1997, but failed to meet him and hence,

4 DEC 2011

Supreme Court
Guwahati Bench

-4-

the applicant repeatedly preferred a number of representations from time to time. Some copies of such representations are annexed herewith as Annexure - 'D' series.

(vii) That the applicant states that though she has preferred a number of representations and the application in Proforma Form, the respondents did not consider the same. Seeing the unchallant attitude of the respondent the applicant has become frustrated and having no other way open, she approached this Hon'ble Tribunal along with this application.

5. Grounds :

- (i) For that non-consideration of application for compassionate ground is illegal, unjust and whimsical.
- (ii) For that as the applicant's husband expired in premature during service life, the respondent should have considered the applicant for compassionate appointment.
- (iii) For that the action of the respondents is whimsical, arbitrary and hence is not sustainable in the eye of law.
- (iv) For that the respondents should have considered the fact that the applicant's husband expired leaving behind four minor children.

-5-

4 DEC 2000

(v) For that the action of the respondents is illegal in as much as it violates the fundamental rights of the applicant as has been guaranteed under Article 14, 16 and 21 of The Constitution of India.

(vi) For that the action of the respondents goes against all canons of law and hence is not maintainable in the eye of law.

(vii) For that the action of the respondents is not maintainable in the eye of law in as much as it goes against the Principle of Natural justice and administrative fair play.

(viii) At any rate the action of the respondents is not maintainable.

6. Details of remedies avail :

That the applicant ~~is~~ declares that she taken recourse to all the remedies available to her but failed to get justice and hence there is no other alternative efficacious remedy open to her other than to approach this Hon'ble Tribunal.

7. Matter not previously filed and / or pending before any Court :

That the applicant further declares that she has not previously filed any application, Writ Petition or suit regarding the matter before any Court, authority or

Anima Pathak Bhuyan

4 NOV 2000

any other bench of this Hon'ble Tribunal or any such applications, writ petition or suit is pending before any Court.

8. Reliefs sought for :

Under the circumstances stated above the applicant prays for the following reliefs :

(i) To direct the respondents to consider the application for compassionate ground and appoint the applicant in any post.

(ii) To grant any other reliefs as Your Lordship's may deem fit and proper.

(iii) Cost of litigation.

9. Interim relief if any :

Under the fact and circumstances stated above the applicant does not pray any interim relief.

10. - - - - -

11. Particulars of I. P. O :

(i) I. P. O No. : 6 G 771052
(ii) Date of issue : 29-11-2000
(iii) Payable at : Guwahati

12. List of enclosure :

As stated in the Index.

...7

Anima Pathak Bhuyan

VERIFICATION

I, Smti Anima Pathak Bhuyan, wife of late
Homeswar Bhuyan, aged about 35 years, resident of Vill.-
Debara, P. O. - Dubi, P. S & Dist. Barpeta, Assam
do hereby solemnly verify that the contents of paragraphs
1 to 12 of the application are true to my personel knowledge
and that I have not suppressed any material fact of the case.

And I sign this verification on this 4th day of
December 2000, at Guwahati.

Signature of applicant

Place :- Guwahati
Date :- 4.12.2000

Anima Pathak Bhuyan

Form No.8

MEDICAL CERTIFICATE OF DEATH

NAME OF DECEASED Homeswar Bhuyan / Male / Hindu / 45 yrs
 DATE OF DEATH 6/1/95 / Spouse Sarat Ch. Bhuyan /
Vill. - Sharadale, Ps. - Patacharkhali

I hereby certify that I attended deceased from performed the Postmortem
 examination on the above named deceased on 7.1.95 at
 B.M.C. Medical College and Hospital, which cause of death as
 Bhuyan as a result of anoxia, drowning, the injuries
 to the body were antemortem and consistent with
 aicular accident.

DISEASE OR CONDITION DIRECTLY LEADING TO DEATH
 (a) Change in G.P.B. No. 106 dt 6.1.95 due to (or as a
 consequence of) our P.R.N. 27/95 dt 7.1.95

(This does not mean the mode of dying,
 e.g. if it were asthenia, etc. It
 means the disease, injury or complication
 which caused death)

ANTECEDENT CAUSES

(i) Any, giving rise to
 the death cause stating the underlying
 condition any.

4

II

(b) Due to (or as a
 consequence of) M.B.B.S., D.P.M., M.T.
Dr. B.C. Roy M.D.
Asst. Prof. of Forensic Medicine
Banastuti Medical College, Gauhati

OTHER SIGNIFICANT CONDITIONS

Contributing to the death but not related
 to the disease or condition causing it.

III

DECEASED WAS A FEMALE

Was the death associated with
 pregnancy no

Was there a delivery no

If death was due to external causes (violence) fill in also the following Accident, suicide or
 homicide?

Date of injury 13/1/95 How did injury occur?

Signed by Dr. B.C. Roy M.D. M. B. B. S. RMP., Etc.

Regd. No. 5847 (AKC) Address M.B.B.S., D.P.M., M.T.
Asst. Prof. of Forensic Medicine Date 13.1.95
Banastuti Medical College, Gauhati

* Out of (a), (b) and (c), etc., underlying cause of death may be marked (✓) by the medical practitioner.

AGP 20/89 (Health) 2,00,000

Attested by

W. K. Roy

Advocate.

Synopsis

Proforma regarding employment of Departments of Government Servant dying while in service/retired on invalid pension.

PART - I

(I)

(a) Name of the deceased employee : LATE HOMESWAR BHUYAN.
 (b) Date of death : 06-01-95
 (c) Date of birth : 31-12-53
 (d) Name of the employee retired on invalid pension : ✓
 (e) Date of retirement on invalid pension : ✓
 (f) Status of the deceased/invalidated employee : POSTAL ASSISTANT
GAWAHATI, H.A.
 (g) Normal date of superannuation of deceased/retired on invalid pension employee : 31-12-2011.
 (h) Total length of service rendered: 157 years.

(i) Whether permanent or temporary : Permanent.
 (j) Whether belongs to S.C./S.T. : NO

(II)

(a) Name of the candidate for Appointment : Mrs. ANITA PATHAK BHUYAN
 (b) Date of birth :
 (c) His/Her relationship with employee : wife.
 (d) Educational Qualification : High Secondary Pass holder
matriculation
B.A. Part I Passed certificate
enclosed.
 (e) whether any other dependent has been appointed on compassionate ground : NO.

(III) Particulars of total assets left including amount of :-

(a) Family pension :
 (b) DCR Gratuity :
 (c) C.P.F. Balance :
 (d) L.I.C. Policy(including PLI) :
 (e) Moveable and immoveable properties and annual income earned there from by the family : 1 Bigha 2 Ratha land at native village
no governmentable property.
 (f) C.G.E. insurance amount :
 (g) Encashment of leave :
 (h) Any other assets : NO

Total :

*Attested by
 N. Sengupta
 Advocate*

contd....2.

(I.)

Brief particulars of liabilities, if any:

(Including educations and

marriage of family member(s)

of ex-employee).

Three scions, children

of 10 months or less each chd.

(V.)

Particulars of ex-employee's family members.

Sl. No.	Name	Relationship with ex-employee	Date of Birth approx. age
(1)	(2)	(3)	(4)
1.	peri yomka bhuyan	daughter	19-5-93 = 10 months
2.	Minmoy "	son	11 - "
3.	Minmukt	son	11 - "

Educational qualification	Whether married/ Unmarried	Whether employed or not	If employed, total employments and brief particulars of employment.
(5)	(6)	(7)	(8)
Does not have	unmarried w/		does not arise

VI. Declaration:-

I do declare that the facts given above by me to the best of my knowledge are correct. If any of the facts herein mentioned are found incorrect or false at a future date, my service may be terminated.

Date:- 30/3/88

Mrs Anima Pathak Bhuyan

Signature of the candidate

Name :

Address: village - Debara - P.O. subje. vi
Pathasala - Et. - Barpeta - Assam

Kum/Smt/Shri _____ is known to me and the facts mentioned by her/him are correct.

Date:-

Signature of permanent Govt. Employee

Name :

Address :

Resid. :

Office :

I have verified that the facts mentioned by the candidate above are correct.

Date:-

Signature of Welfare Officer
(Seal)

Name :

Address:

Resid:

Office:

Attested by

C. K. Bhuyan
Advocate.

Contd., 3.

- 11 -
- 2 -
PART - II

I.

(a) Name of the candidate for appointment

(b) His/Her relationship with the Govt. servant

(c) Educational Qualifications, Age (date of birth) and Experience, if any

(d) Post for which employment is proposed

(e) Whether the post is to be filled in CSCS or in a non participating office

(f) Whether the Recruitment Rules provide for direct recruitment

(g) Whether the candidate fulfils the requirements of the Recruitment Rules for the Post

(h) Apart from waiver of Employment Exchange/SSC procedure, what other relaxations are to be given

II. Whether the facts mentioned in Part-I have been verified by the Office and if so, indicate the records.

III. Personal recommendation of the Head of the Department/ Ministry.

IV. If the Govt. servant died/ retired on invalid pension more than 5 years back, why the case was not sponsored earlier.

Mrs. Arima Pathak Bhuyan.

Wife

① Higher Secondary Passer, certificate enclose
② B.A. Part 2 Pass (certificate will follow)

Age:-
exp:- nil

postal ASST or equivalent role

no. Under relation or standard rules:

yes

@@@

Attested by

Chhaya
Advocate.

ANNEXURE - C

To,

The Chief Postmaster General
Assam Circle, Guwahati - 1.

Dated, Debare the 19-9-96.

Sub : Prayer for justice.

Sir,

With due respect and humble submission, I beg to lay the following few lines for favour of your kind consideration and sympathetic decision.

That Sir, my husband late Homeswar Bhuyan after serving several years in your department, met a very tragic death in a motor accident on 6.1.95 while he was coming back from his village home to Guwahati leaving behind myself and two very minor babies. It was more tragic that at the time of death of my husband, myself had been in advance stage and subsequently I gave birth another two babies thus the family of late Bhuyan is ~~consisted~~ consisted of 5(five) members.

That, Sir, it is so much so sorry to state that my late husband had left no other source of earnings for the survival of his left out members of his family and the department also has not paid nothing except lump sum amount of Rs. 4,000/- which was paid just after his expiry. In a state of quite destitution I found no alternative but to take shelter of my present only for keeping the heart and souls of the ill-fated members together. Your honour may perhaps be able to guess under what ows and miseries, I have to pass every moment of my life.

Thatx Sir, according to the advice of some well-wishers I preferred one application in prescribed form to the

Attested by

Rawat
Advocate.

Contd...P/

Contd... Annexure - C

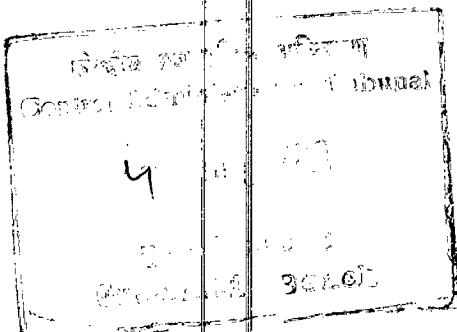
Sr. Supdt. Post/ Guwahati Divn. for recruitment under
relaization of mormal rules that too seems to be lying some
where unattended as I am yet to receive the response to the
effect. The days are gradually becoming more and more gloomy
and I am in quite perplexity as the feelings of helplessness are
growing very acute day by day. As such, with folded handes I
approach your benignself with a lit le hope of getting due
justice.

I,therefore request that your honour would be
graciously enough to bestow your judicious decision ~~also~~
that the all inertis stand on way is removed and my prayer
for getting the benifits of the services rendered my deceased
husband is granted forth with.

With best regards.

Yours faithfully

Sd/ Mrs. Anima Pathak Bhuyan.



Attested by

Advocate
Advocate.

ANNEXURE - D 1

To,

Dated - 10.02.1997.

The Chief Postmaster General
Assam Circle,
Guwahati - 1.

Ref : Application letter in ' Proforma Form ' and letter
dated 19.9.96.

Sub : Prayer for appointment on compassionate ground.

Sir,

With due respect I beg to state that it is
almost two years since my husband Late Homeswar Bhuyan
who was serving several years as Postal Assistant in your
department, died in a road accident on 6.1.95 leaving behind
five members including me. After my husband's death as there
is no other earning source in my family, I am in quite
perplexity as the feeling of helplessness are growing very
acute day by day. In such a situation and after not getting
any response to my application in Proforma Form and letter
dated 19.9.96, I personally approached your office during
the month of January, 1997, but failed to meet you. I hope
your honour may able to figure out the gloomy condition of
my family and under what circumstances I have to pass every
moment of my life.

3/1/97 I once again request your goodself to take necessary
steps on the matter considering the gloomy condition of my
family.

Warm Regards.

Yours faithfully,

Sd/- Anima Pathak Bhuyan.

Attested by

A. B. Bhuyan
Advocate.

To,

Dated : 1.12. 97.

The Chief Postmaster General,
Assam Circle,
Guwahati - 1.

Ref : Letter dated 10.2.97

Sub : Prayer for appointment on compassionate ground.

Sir,

With due respect and humble submission, I beg to state that I have applied for appointment on compassionate ground in the prescribed form and as days are passing by I had repeatedly preferred many representations in this regard, but till date my application has not been considered. It is also pertinent to mention here that I had personally approached your office during January, 1997, but failed to meet you.

केन्द्रीय विधायिका अदायक
Central Administrative Tribunal

Central Administrative Tribunal

Guwahati - 781001

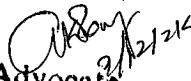
4 DEC 1997
L
After my husband's death on a road accident, ~~now~~ there is no other earning source in my family and as such days are gradually becoming more and more gloomy and I am in quite perplexity as the feeling of helplessness are growing very acute day by day. In such a situation and finding no alternative I am taking shelter in my parent's home and thereby becoming a burden on them which however can not go on like this for long. I hope you can understand the condition of my family and under what circumstances we are passing our days without any earning source in my family.

I therefore request your honour to consider my application for appointment on compassionate ground at your earliest and for which act of kindness I shall remain evergrateful to you.

Warm Regards.

Yours faithfully,

Attested by


Anima Pathak Bhuyan
Advocate.

Sd/-Anima Pathak Bhuyan.

ANNEXURE - 'D 3'

To,

Dated : 5.7.98

The Chief Postmaster General
Assam Circle
Guwahati -1.

Ref : Letter dated 1/12/97

Sub : Prayer for considering the application for appointment
on compassionate ground.

Sir,

With ~~max~~ reference to the subject mentioned above,
I have send many representations from time to time, but till
date I am not getting any response to that effect. At present
the condition of my family is becoming worse as after the death
of my husband Late Homeswar Bhuyan who was working in your
department as Postal Assistant, there is no other earning source
in the family consisting of 5(five) members. In such a situation,

I am living with my old parents and becoming fully dependent on
them along with my children. They being old enough could not
themselves manage to earn their daily bread and as such we are
becoming a burden on them. Being a qualified, i.e., B.A. part
1 pass woman I tried my best to get an engagement but failed
to procure a job and as such days are becoming more and more
gloomy. As there is no other alternative, I once again approach
your beingself with hopes of getting some sympathetic and
favourable consideration of my application.

I therefore ~~prayed~~ one again request your goodself
to consider my application for appointment on compassionate
ground at your earliest and for this act of kindness I shall
remain evergrateful to you.

With regards.

Yours faithfully,

Sd/- Anima Pathak Bhuyan.

Attested by

R. Bhuyan
Advocate.

ANNEXURE - 'D4'

To,

Dated: 3/3/99

The Chief Postmaster General
Assam Circle,
Guwahati - 1.

Ref : Letter dated 5/7/98.

Sub : Prayer for an early consideration of my application
for appointment on compassionate ground.

Sir,

With due respect I beg to state that after 4 (four) years of my husband's (Late Homeswar Bhuyan's) death, who was serving as Postal Assistant in your department, I am not yet getting any favourable response from you against my application for appointment on compassionate ground. In this regard I have preferred many representations from time to time in order to consider sympathically my application and calling me for interview for appointment on compassionate ground.

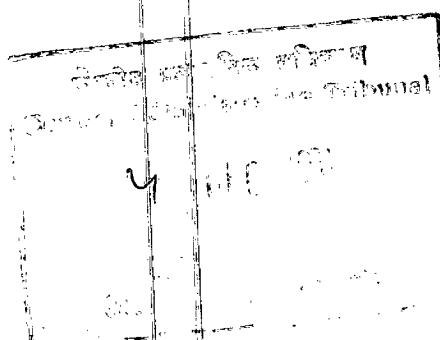
As my husband died all of a sudden leaving behind five members in the family and as there is no earning source in the family and after not being able to find any engagement, I have no other option but to maintain my family by doing work as maid servant in some houses in the village though I have passed BA, Part I. But even after working as a maid servant I am not always able to earn my bread and as such sometime I have to live without food along with my family I hope you can very well understand the present condition of my poor family.

I therefore request that your honour would be kind enough to consider my application for appointment on compassionate ground and for this act of kindness I shall remain evergrateful to you.

With regards.

Yours faithfully,

Sd/-Anima Pathak Bhuyan.



Attested by
OK Ray
Advocate.
21/3/99

To,

Date : 5/6/2000

The Chief Postmaster General
Assam Circle,
Guwahati - 1.

Ref :

Sub : Prayer for considering sympathically my application
letter for appointment on compassionate ground.

Sir,

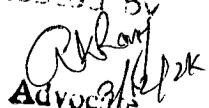
With due respect I beg to state that my husband
was working as postal assistant for more than 15 years in
your department and on 6/1/95 he expired in a road accident
leaving behind five members in the family. In the said road
accident I myself also sustained a number of injuries and was
hospitalised for a couple of days. After getting recovery and
released from hospital I have submitted one application in
-'Proforma Form ' for appointment on compassionate ground.

After the said application in proforma form, I was expecting
that my application will be considered sympathically by you and
I shall be called for interview for appointment. But as for the
~~long~~^{long} time I have not received any response from your end I
have submitted many applications / representations requesting
to take necessary steps on the matter considering the gloomy
condition of my family.

At present the condition of my family is becoming
worse day by day as there is no other earning source in my
family and I am in quite perplexity as the feelings of helplessness
are growing very acute day by day and my life is becoming
more gloomy. As such if I am not able to get an engagement

Contd.. p/

Attested by


Advocate.

Contd. Annexure - 'D5'

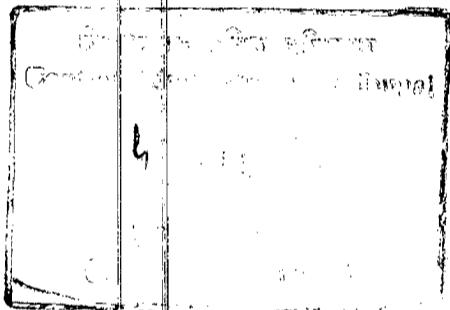
at this stage my whole family will suffer for the rest of their life. I hope that your goodself will understand the conditions of my family.

I therefore once again request your honour to kindly consider my application for appointment on compassionate ground and for this act of kindness I shall remain evergrateful to you.

With regards.

Yours faithfully,

Sd/- Anima Pathak Bhuyan.



Attested by

Alom Singh
Advocate