

5

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No. 18/2000
R.A/C.P No.
E.P/M.A No.

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SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO.

18/2000

OF 199

Applicant(s)

Shri Sujit Kanmakar

Respondent(s)

Union of India & ORS.

Advocate for Applicant(s)

Mr. S.C. Biswas
Mr. A.K. Roy.

Advocate for Respondent(s)

C.G.S.C.

Notes of the Registry	Date	Order of the Tribunal
<p>Application is to be filed within the period of Rs. 500/-</p> <p>Deposited vide DD/L 497707 dated 15/2/99</p> <p>10 - 2 - 2000</p> <p>Service of notices prepared and sent to D. Section for issuing of the same to the respondents through Regd. post with A/D vide D.No. 460 dated 10.2.2000.</p>	<p>20.1.00</p> <p>trd</p> <p>7.2.2000</p> <p>pg</p>	<p>Let this case be listed on 7.2.2000 for admission.</p> <p>Application is admitted. Issue usual notices.</p> <p>List on 10.3.2000 for written statement and further orders.</p>

Member

Vice-Chairman

Member

Vice-Chairman

Notes of the Registry	Date	Order of the Tribunal
<p>13-3-00</p> <p>1) Service Reports are awaited.</p> <p>2) W/statement has not been seen by W.</p> <p>3-4-00</p> <p>1) Service Reports are still awaited.</p> <p>2) W/statement has not been seen by W.</p> <p>4-5-2000</p> <p>11-5-00</p> <p>no W/S has been filed.</p> <p>2/6/00</p> <p>Written Statement has not been filed by the Respondent.</p> <p>2/8/00</p> <p>No written statements have been filed.</p> <p>4.7.2000</p>	<p>14.3.00</p> <p>trd</p> <p>4.4.00</p> <p>trd</p> <p>26.4.00</p> <p>1m</p> <p>12.5.00</p> <p>pg</p> <p>5.6.00</p> <p>trd</p>	<p>On the prayer of Mr. A. Deb Roy, learned Sr. C.G.S.C. the case is adjourned till 4.4.00 for filing of written statement and further orders.</p> <p>Member(J)</p> <p>Member(A)</p> <p>On the prayer of Mr. B.S. Basumatary on behalf of Mr. A. Deb Roy, learned Sr. C.G.S.C. the case is adjourned to 25.4.2000 for filing of written statement.</p> <p>List on 25.4.2000 for written statement and further orders.</p> <p>Member</p> <p>On the prayer of Mr. B.C. Pathak, Addl. C.G.S.C. on behalf of Mr. A. Deb Roy, Sr. C.G.S.C. case is adjourned to 12.5.00 for orders.</p> <p>Member</p> <p>On the prayer of Mr. A. Deb Roy, learned Sr. C.G.S.C. 3 weeks time allowed for filing of written statement.</p> <p>List on 5.6.00 for order.</p> <p>Member(J)</p> <p>None for the applicant. Mr. A. Deb Roy, learned Sr. C.G.S.C. prays for four weeks time to file written statement as the same has been sent for vetting to New Delhi.</p> <p>List on 5.7.2000 for further orders.</p> <p>Member(J)</p>

Notes of the Registry

Date

Order of the Tribunal

57.00

Present : Hon'ble Sri S.Biswas, Member(A).

None present. The case is adjourned
and posted on 1.8.2000.

S Ban
Member(A)

rd

1.8.00 There is no Bench. Adjourned
to 7.9.00. 18/0

7.9.00 no Bench. To be listed on 13.11.00
18/0

13.11.00 Present : The Hon'ble Mr Justice D.N.
Chowdhury, Vice-Chairman.

Written statement has been filed.

List on 6.3.2001 for hearing. In the
meantime the applicant may file rejoinder
if they so desire within two weeks from
today.

Vice-Chairman

pg

P.3.

No D.B. Adjourned to 6.4.2001.

M/s
A.K. Jey
6.3.

There is no Bench today.
The case is adjourned to 26.4.2001.

M/s
A.K. Jey
6.4.

26.4.2001

Heard the learned counsel for the
parties. Hearing concluded. Judgment delivered
in open court, kept in separate sheets. The
application is allowed. No order as to costs.

K. Usha
Member

Vice-Chairman

18-8-2000

Written statement
has been filed by
the respondents.

B.N.

The case is ready
for hearing as regards
K/S.

WZ
20/11/2000

No. Rejoinder has
been filed.

WZ
5.3.01

No. Rejoinder has been
filed.

WZ
4.4.01

No. Rejoinder has been
filed.

WZ
25.4.01

Received copy of judgment.
A.K. Jey
9/5/2001

Notes of the Registry

Date

Order of the Tribunal

4
9.5.201

Copy of the Indent
has been sent to
The D/Sec. for fixing
the time to the L/Adv.
for the Respon.

JK

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./R.A. No. 18 of 2000

DATE OF DECISION26.4.2001

Shri Sujit Karmakar

PETITIONER(S)

Mr S.C. Biswas and Mr A.K. Roy

ADVOCATE FOR THE
PETITIONER(S)

VERSUS -

The Union of India and others

RESPONDENT(S)

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

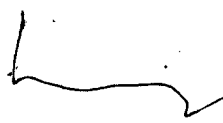
ADVOCATE FOR THE
RESPONDENTS

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

THE HON'BLE MR K.K. SHARMA, 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



X

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.18 of 2000

Date of decision: This the 26th day of April 2001

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

The Hon'ble Mr K.K. Sharma, Administrative Member

Shri Sujit Karmakar,
Resident of Garowan Patty, L.D.S. Road,
Tezpur, Assam.

.....Applicant

By Advocates Mr S.C. Biswas and Mr A.K. Roy.

- versus -

1. The Union of India, represented by
The Secretary to the Government of India,
Department of Home Affairs,
New Delhi.
2. The Director of Intelligence Bureau (HQ),
Government of India,
New Delhi.
3. The Deputy Director,
Subsidiary Intelligence Bureau,
Itanagar (A.P.).
4. The Joint Assistant Director (E),
Subsidiary Intelligence Bureau,
Tezpur, Assam.
5. The Assistant Director (E),
Subsidiary Intelligence Bureau,
Itanagar (A.P.).
6. The Joint Assistant Director,
Subsidiary Intelligence Bureau,
Itanagar (A.P.).

.....Respondents

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

.....

O R D E R (ORAL)

CHOWDHURY.J. (V.C.)

The applicatin under Section 19 of the Administrative Tribunals Act, 1985 has arisen and is directed against the order of termination from service dated 7.8.1998 passed in pursuance of the proviso to sub-rule (1) of Rule 5 of the Central Civil Services (Temporary Services) Rules, 1965, in the following circumstances:

The applicant was working as Security Assistant (G) under the respondents. He joined in the said post in the year 1989. While serving as such, the impugned order of termination dated 7.8.1998 was passed, the legality and validity of which has been challenged in this application.

2, The respondents submitted their written statement denying and disputing the claim of the applicant and submitted that his termination was lawfully made. According to the respondents the applicant was not discharging his duty faithfully. While he was posted at BIP, Koloriang, he proceeded on twelve days casual leave with effect from 7.6.1993 to 18.6.1993 on the ground of family problems and also health problems of his own. Despite repeated direction after expiry of the leave he did not resume duty at Koloriang and he claimed to have been suffering from Asthma. He was then referred to Medical Board for medical opinion. After receiving the report of the Medical Board he proceeded to Koloriang and reported for duty on 15.2.1993. He was again asked to report to the Joint Director of Health Services on 15.9.1993 for examination. He appeared before the Medical Board and the Medical Board submitted its report. His period of absence from 2.7.1993 to 2.8.1993 which was covered by medical certificate issued by the Ayurvedic Physical Civil Hospital was treated as genuine upto 2.8.1993 and his leave was regularised on medical ground. But, he did not resume duty and remained absent unauthorisedly. Situated thus, the Disciplinary Authority without any prejudice awarded him penalty of removal from service with immediate effect. On appeal, the Appellate Authority set aside the penalty order and directed reinstatement of the applicant with effect from 20.6.1994. The Appellate Authority further ordered that his service from 20.6.1994 to the date of resumption of duty on reinstatement would be treated as on duty. Thereafter, the applicant again remained absent from duty from 31.5.1997 and sought for invalid pension. His case was referred to the Medical Board and as per the report of the Medical Board there was no sign of bronchial Asthma and though the applicant was suffering from periodic attack of Asthma, he was not advised to go on invalid pension. He was accordingly informed about the advice of the Medical Board.

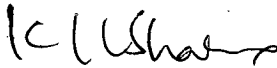
The.....

The applicant thereafter, according to the respondents, remained absent from duty. He was warned time and again to attend duty, else disciplinary action would be initiated against him.

3. By Memorandum dated 14.7.1998 the applicant was reminded about the decision of the Chairman, District Standing Medical Board, Joint Director of Health Services, Tezpur, declining to advise the applicant to go on invalid pension. By the said communication the respondents also informed the applicant that he had failed to join his duty in spite of repeated reminders of the respondents. The applicant was accordingly informed that the respondent authority had no choice, but to terminate his service forthwith under Rule 5 of the CCS (Temporary Service) Rules, 1965. The applicant was also advised to submit his say by 20.7.1998. By the impugned order dated 7.8.1998 the applicant was accordingly terminated from service. The applicant preferred an appeal. The appeal was also rejected.

4. From the facts narrated above, it thus emerges that the applicant was terminated from service solely on the ground of unauthorised absence. The impugned order, apparently, is an order of termination simplicitor, but the same was passed as a measure of punishment without holding any enquiry. On that ground alone the impugned order of termination is not sustainable and accordingly the impugned order of termination dated 7.8.1998 is set aside and the respondents are directed to reinstate the applicant into service without any back wages. It is however, made clear that setting aside of the order of termination dated 7.8.1998 on the above ground shall not preclude the respondents to take appropriate action against the applicant as per law.

5. The application is allowed to the extent indicated. There shall, however, be no order as to costs.


(K. K. SHARMA)
ADMINISTRATIVE MEMBER


(D. N. CHOWDHURY)
VICE-CHAIRMAN

Central Administrative Tribunal

19 JAN 2000

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

Original Application NO. 18 /2000

Shri Sujit Karmakar

- VS -Applicant

Union of India & Others

.....Respondents

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)

11
Filed by the applicant
Shri Sujit Karmakar
through - Ashok Kr. Ray
Advocate.

O.A. NO 18 / 2000

BETWEEN

Shri Sujit Karmakar
S/O- Late Surendra Karmakar,
R/O- Garowan Patty, L.D.S.Road,
Tezpur, Dist- Sonitpur (Assam)

.....APPLICANT

- AND -

1. Union of India, represented by
the Secretary, Govt. of India,
Department of Home Affairs,
New Delhi.
2. Director of Intelligence Bureau (HQ),
Govt. of India, New Delhi.
3. Deputy Director,
Subsidiary Intelligence Bureau,
Itanagar, (A.P)
4. Joint Asstt. Director (E)
Subsidiary Intelligence Bureau,
Tezpur, (Assam)
5. Asstt. Director (E),
Subsidiary Intelligence Bureau,
Itanagar, (A.P)
6. Joint Asstt. Director,
Subsidiary Intelligence Bureau,
Itanagar, (A.P)

.....RESPONDENTS

1. Particulars of Orders against which this application is made

This application is directed against the illegal termination order Vide NO. 28/E/89(6)-3286 dated 7.8.98 and also rejection of appeal vide order NO. 28/E/89(6)-II-1465 dated 8.2.99

2. Jurisdiction of the Tribunal :-

Sujit Karmakar

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

3. Limitation :-

The applicant also declares that the application is within the limitation period as has been prescribed under Section 21 of the Administrative Tribunal Act 1985.

4. Fact of the case :-

- i) That the applicant was appointed as section Assistant under the Respondent NO.3 in the year 1989 and since then he had been working in the same capacity with his most sincerety and to the satisfaction of all concern. He was a parmanent employee under the respondents in as much as he was appointed after being selected by the competent authority for the regular vacancy of the said department and had completed more than eight years of service.
- ii) That the applicant has been suffering from recurrent attack of Bronchial Asthma . But being a central Govt. employee and due to his nature of job ,he was required to be be transferrred from one place to another place and in some times to the high altitude place . As he was unable to carry on his service in all places due to his ill health ,he prayed for his relief from service on medical ground so that he may get invalid pension and other retirement benefits ,
~~xxxxxxx~~ He prayed the same by his application dated 2.8.97 .
- iii) That after receiving the said application ,the Respondent NO. 4 vide his memorandum dated 19.9.97 advised the applicant to report before the Medical Board alongwith

Sujit Karmakar

all relevant papers relating to his treatment. Accordingly , the applicant appeared before the Medical Board and after being examination the Chairman of the Medical Board submitted it's report dated 29.9.97 stating inter-alia that even he has been suffering from periodic attack of Bronchial Asthma he was not advised to go on invalid pension on this ground, but he had been advised to avoid allergens which provoke his Bronchial Asthma .

One copy of the memorandum dated 19.9.97 and one copy of the medical report dated 29.9.97 are annexed herewith as Annexures -A and B respectively.

iv) That as the applicant was posted at B.I.P. Koloriang which is situated at high altitude ,he became ill and was unable to perform his duty with sincerity and hence ~~he~~ informed the authority from time to time and prayed for retirement on medical ground . After the report of the medical board , the Respondent NO.4 vide his memorandum dated 31.10.97 directed the applicant to join his duty immediately ~~and~~ with threatening that if he fail to join duty ,disciplinary action would be initiated .

Copy of the memorandum dated 31.10.97 is annexed herewith as Annexure -C.

v) That after receiving the above memorandum ,the applicant again submitted an application dated 10.11.97 stating inter-alia that though the Medical Board did not advised to go on invalid pension , but it is not possible for him to perform his duty sincerely at high altitude due to his ill health in as much as he attacks seriously from Bronchial Asthma at high altitude which is allergens for him.

Sujit Karmakar

He also stated that the Medical Board had also advised to avoid allergens which provoke his Bronchial Asthma.

One copy of the said application dated 10.11.97 is annexed herewith as Annexure -D.

vi) That the applicant also states that in the year 1993 ,he was referred to the Medical Board on the same matter and the Board advised him to avoid to going high altitude to prevent further attack of Asthma .

One copy of the said report dated 28.9.93 is annexed herewith as Annexure -E.

vii) That thereafter vide memorandum dated 24.3.98 ,he was intimated that if he fail to join immediately ,disciplinary action would be initiated against him and entire period of absence would be treated as unauthorised absence. Further other two memorandums dated 22.5.98 and 14.7.98 were issued directing the ~~petitioner~~ applicant to join his duty otherwise he would be terminated from service under Rule 5 of Central Civil Service (Temporary Service)Rule 1965 . Be it stated here that as the applicant is a permanent employee and served more than eight years continuously the said Rule is not attracted at all in his case ,but the authority applied the said Rule of Temporary service and accordingly issued the termination order dated 7.8.98 without holding any disciplinary proceeding in this regard ,

Copies of Memorandum dated 24.3.98, 22.5.98 , 14.7.98 and termination order dated 7.8.98 are annexed herewith as Annexures -F,G,H, and I respectively.

viii) That the authority issued another order dated

Sujit Karmakar

11.8.98 treating the period with effect from 31.5.97 to 6.8.98 as dies -non .

Copy of the order dated 31.8.98 ~~is~~ annexed herewith as Annexure -J.

ix) That after the termination order ,the applecant preferred an appeal to the Deputy Director on 31.8.98 assailing the order and also specifically mentioned that the Rule 5 of C.entral Civil Service (Temporary Service) Rule 1956 is not applicable in his case and accordingly prayed for setting aside of the termination order ..

One copy of the appeal dated 31.8.98 is annexed herewith as Annexure - K

x) That after the said appeal the appellate authority rejected the appeal vide order dated 8.2.99 without considering the factual position and the legal position . The appellate authority did not consider the point that the applicant has been terminated without following the settle position of law and without holding the disciplinary as is required in case of a Govt. servant . The authority also overlooked the point that the Medical Board , though at that time did not find any sign of Bronchial Asthma , but never washed away the desise of the applicant and also advised to avoid the allargens condition i.e. high altitude.

Copy of the order dated 8.2.98 is annexed herewith as ~~Has~~ Annexure - L.

xi) That after the said order of the appellate authority ,the applicant submitted another petition dated 5.3.99 to the same authority for reconsideration of the matter and prayed for reversion of the order . Copy of the said application dated 5.3.99 is annexed as Annexure -M

Sujit Karmakar

x) That the applicant states that the respondents have terminated his service without holding any disciplinary proceeding . They have applied the Central Civil Service (Temporary Service) Rule 1956 very illegally in as much as they themselves hold one disciplinary proceeding against him in the year 1993 -1994 on the simillar charge which clearly proves that have terminated his service in the instant case without holding disciplinary proceeding as per law is not called for and is liable to be set aside and quashed .

xi) That though the applicant submitted his application dated 5.3.99 to the authority for reconsideration his case ,but till date nothing has been done and hence he approach this Hon'ble Tribunal .

5. Grounds for reliefs :-

i) For that the medical board , though refused to advised him to go on invalid pension , but has clearly advised to avoid allergens and hence the authority should not bound him to work at high altitude which is allergens for an Asthma patient.

ii) For that the respondents should have consider his painful desise before issuance the termination on humanitarian ground.

iii) For that the termination order is not at all maintainable in the eye of law in as much as the same has been issued without following the due procedure and without proving his fault.

iv) For that the Central Civil Service (Temporary

Sujit Karmakar

Service) Rule 1956 is not at all applicable in his case and hence the ~~temporary service~~ termination order is illegal and liable to be set aside and quashed,

v) For that as the petitioner has been appointed in due procedure and has been working for last more than eight years continuously, his service should not be terminated without following the due procedure of law.

vi) For that the respondent should have considered the fact that as the petitioner has been suffering from Asthma Bronchitis since last many years and as he has been posted at high altitude, he could not continue his service there after rendering his duty there for few years and hence he took leave and continued the same.

vii) For that the action of the respondents is illegal, unjust and arbitrary and is not maintainable in the eye of law.

viii) For that the action of the respondents is illegal in as much as it violates the statutory provision of law.

ix) For that the termination order itself is not in accordance of law and is liable to be set aside.

x) For that the action of the respondents is violative of fundamental rights of the applicants as has been guaranteed under Article 14, 16 and 21.

xi) For that the action of the respondents goes against the very principle of natural justice and administrative fair play.

xii) For that the action of the respondents goes against

Sujit Karmakar

the very provision of Article 311 of the Constitution of India and hence is liable to be set aside and quashed.

xiii) For that at any rate the termination order is not maintainable in the eye of law and is liable to be quashed and set aside .

6. Detail of remedies availed :

That the applicant declares that he has taken recourse to all the remedies available to him but failed to get justice and hence there is no other alternative efficacious remedy open to him 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 he has not previously filed any application , writ petition or suit regarding the matter before any court , authority or any other bench of this Hon'ble Tribunal nor any such application , writ petition or suit is pending before any of them .

8. Reliefs sought for :-

Under the fact and circumstances stated above the applicant ~~sxx~~ prays for following reliefs :

- i) To set aside and quash the termination order dated 7.8.98 (Annexure -I)
- ii) to set aside and quash the order dated 11.8.98 (Annexure .-J)
- iii) to direct the respondents to give posting to the applicant in any plain place and not to the place of high altitude area.
- iv) to pass any other further order or orders as Your Lordships may deem fit and proper.
- v) cost of litigation .

Sujit Karmakar

iv) to pass any other further order or orders as
Your Lordships may deem fit and proper.

v) cost of litigation.

9. Interim relief, if any :-

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

10.

11. Particulars of Indian Postal Order :-

- i) I.P.O NO. :- DD 497786
- ii) Date of issue :- 15/12/99
- iii) payable at :- Guwahati

12. List of enclosures :-

As stated in Index.

Srijit Karmakar

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

I, Shri Sujit Karmakar, son of Late Surendra Karmakar, aged about 33 years, resident of Garowan Patty, L.D.S.Road, P.O. Tezpur, Dist- Sonitpur, (Assam) do hereby verify that the ~~statement~~ contents of paragraphs 1 to 12 of the application are true to my knowledge and belief and I have not suppressed any material fact of the case.

And I sign this verification on this the 17th day of January 2000 at Guwahati.

Place : Guwahati
Dated : 17.1.2000

Sujit Karmakar
SIGNATURE OF APPLICANT

NO.28/E/89(6)- 8745
Subsidiary Intelligence Bureau
(Ministry of Home Affairs)
Government of India
Tezpur.

Dated the,

18 SEP 1997

Memorandum

Shri Sujit Karmakar, SA(G) may please refer to his application dated 02-08-97 prayer for Invalid Pension.

2. He is hereby directed to report before the Medical Board with all relevant papers relating to his treatment, for Medical Examination at Office of the Joint Director of Health Services, Sonitpur, Tezpur (ASSAM) on 25-09-97 at 11 A.M.

18/9/97
Joint Assistant Director/E.

✓
To

Shri Sujit Karmakar, SA(G),
C/O- Late Surendra Karmakar,
Garowanpatty, (L.D.S. Road),
Tezpur.

copy for information to :-

The Joint Director of Health Service,
Sonitpur, Tezpur (ASSAM).

Joint Assistant Director/E.

Attended by
Ch Roy
Adhe sati
16/11/2000

The Medical Board with the undermentioned Members is held in the Office of the Joint Director of Health Services, Sonitpur, Tezpur on 25.9.97 at 11A.M. to examine the undermentioned person Medically.

1. Dr. P.N.Bora, Jt. Director of Health Services, Sonitpur, Tezpur.
2. Dr. K.C.Borkotoky, Sub-Divisional Medical & Health Officer, Epidemic Duty, Tezpur.
3. Dr. D.Rahman, Sub-Divisional Medical & Health Officer(H.D) Tezpur.
4. Dr. L.C.Bhuyan, Sub-Divisional Medical & Health Officer, D.T.C.Tezpur.

1. Sri Sujit Karmakar (S.I.B., Tezpur) :- After going through the relevant papers and clinical examination of Sri Sujit Karmakar it is evident that he might have been suffering from recurrent attack of Bronchial Asthma since last 5 years. At the time of clinical examination No signs and symptoms of Bronchial Asthma are noted. Even he has been suffering from Periodic attack of Bronchial Asthma, he is not advised to go on invalid pension on this ground.

He is however advised to avoid allergen which provoke his Bronchial Asthma.

[Signature]
29-9-97
Chairman
District Standing Medical Board
Joint Director of Health Services
Sonitpur, Tezpur

Attested by

[Signature]
Advocate

16/1/2000

ANNEXURE - C 23

NO. 28/E/89(6)- 10441
Subsidiary Intelligence Bureau
(Ministry of Home Affairs)
Government of India
Tezpur.

Dated the, 31 OCT 1997

Memorandum

Shri S. Karmakar, SA(G) may please refer to his application dated 23.10.97 regarding Invalid Pension to him .

2. Chairman, District standing Medical Board, Joint Director of Health Services, Sonitpur, Tezpur has informed that at the time of clinical examination no signs and symptoms of Bronchial Asthma has been noticed and he has not been advised to go on Invalid Pension .

3. He is, therefore, asked to join duty immediately, failing which entire period of absence would be treated as un-authorized, entailing loss of pay for the period, thereby resulting in break in service. Besides disciplinary action may be initiated against him .

[Signature]
Joint Assistant Director(E).

✓ TO

Shri Sujit Karmakar,
C/O - Late Surendra Karmakar,
Garowan Patty , L.D.S. Road,
Tezpur, Dist-Sonitpur(ASSAM).

* * * *

AB 2910972/

Attested by
[Signature]
Advocate
18/11/2000

To,

The Joint Assistant Director (B)
Subsidiary Intelligence Bureau,
(Ministry of Home Affairs),
Govt. of India, Tezpur.

Sup :- Invalid pension.
Sir,

With due respect and humble submission I beg to lay the following few lines for favour of your kind information and sympathetic action please.

1. That sir, I have been appointed in your honour's department as S.A (G) with effect from 30.6.1982. Since my appointment I had been ~~sxxx~~ serving the organisation to the utter satisfaction of my superior.
2. That I have got my widow mother and an unmarried sister exclusively dependent on me.
3. That I have been suffering from acute Bronchial Asthma since last 5 years. I have in the meantime undergone rigorous medical treatment and the disease could not be cured.
4. That the Bronchial Asthma is a kind of disease which generally attacks the sufferers periodically. It's severity on persons however varies from man to man and place to place and sometimes depends on different climatic condition.
5. That whenever I am attacked by the Asthmatic trouble it becomes so severe that it becomes impossible for me to bear the troubles. I have then to remain bed ridden for days together. I can't then neither move nor undertake any work. I remain almost in a dead condition. Under such circumstances it is not possible for me to continue with any services in the department. As a matter of fact I can not serve the department vis-a-vis the country sincerely because of such health.
6. That I, therefore, applied your honour's department to allow me to go on retirement on the medical ground i.e. on invalid pension.
7. That your honour was pleased to refer me to undergo Medical Examination by a Medical Board at the Office of the Joint Director of Medical Services, Sonitpur, Tezpur (Assam) on 25.9.97. Accordingly, I underwent the Medical Examination by the said board. The Board after examination me rightly reported that I have been suffering from recurrent Bronchial Asthma but on an erroneous view advised me not to go on invalid pension on this ground. The Board has however advised me to avoid allergens which provoke my Bronchial Asthma. On the basis of the said report your honour has been pleased to direct me to join duties immediately vide Memo No. 28/E/89(6)-10441 dated 31.10.97.
8. That in this connection I beg to state that if I join the duties and start continuing my job it will not at

Attested by
[Signature]
Adminstr.
16/11/2000

ANNEXURE - D cont.

all be possible to avoid the allergens in the office compound in other words if I join my duties I shall definitely be attacked by server Bronchial Asthma fatal to my life and I may at any time be collapsed.

9. That Sir, I beg in this connection to further state that my survival is highly necessary for the survival and further rescue of my old widow mother and the unmarried sisters (till she gets married).

Under the above circumstances I pray your honour that considering all the above aspects of the matter, your honour would be kind enough to look into the matter sympathically and allow me to go on invalid pension and thus save my life as well as the life of my old widow mother and the unmarried sister.

Yours faithfully,

Sd/ Illegible

Sujit Karmakar, S.A (G)
S.I.B, Tezpur

Dated . 10-11-97

Attested by
ChRang
Advocate
16/11/2000

GOVT. OF ASSAM

OFFICE OF THE JOINT DIRECTOR OF HEALTH SERVICES, SONITPUR
TEZPUR.No. 23,906 Dated Tezpur, the 28 th Sept/93.From :- The Joint Director of Health Services,
Sonitpur, Tezpur.

To,

The Deputy Director,
Subsidiary Intelligence Bureau
Ministry of Home Affairs,
Govt. of India, Tezpur.Sub:- Medical Examination of Sri Sujit Karmakar
a member of this organisation.Ref:- Your letter No. 28/E/89(6)5433 dt. 14.7.93
& No. 28/E/89(6)-7774 dtd. 25.8.93.

Sir,

With reference to your letter No. cited above, I have the honour to inform you that the Medical Board is constituted by the following Members on 15.9.93:-

1. Dr. B. R. Kalita, Joint Director of Health Services, Sonitpur, Tezpur. - Chairman.
2. Dr. B. K. Goswami, S.D.M & H.O, Tezpur- Member.
3. Dr. B. Koch, M&HOI, Civil Hospital, Tezpur- -do-

On examination clinically nothing abnormality is detected as he is not suffering from Asthma at present. But he is advised to under go both Blood examination and X-Ray. Examination of chest and to re-appear before the Board on 22/9/93 at 11 A.M with the reports.

On 22.9.93 after careful examination and going through investigation reports the report and the Board is of the opinion that the person has no abnormality at present. But as the person complains of frequent attack of Bronchial Asthma and as the disease is not infrequently caused by some allergens and climatic condition. The Board is not in a position to give opinion regarding asthmatic attack at high altitude. But the person concern may avoid to going to high altitude to prevent further attack of Asthma.

Yours faithfully,

Sd/-
Jt. Director of Health Services,
Sonitpur, Tezpur.

Cont. 2

Attended by
[Signature]
Adv. etc.
16/11/2000

Memorandum No. 26,907- / Dated Tezpur, the 28 th Sept/93

Copy to :-
Person concerned, for information.

Over
Jt. Director of Health Services,
Sonitpur, Tezpur 16

Attended by
Al Ray
Advocate
16/1/2000

222

No. 28/E/89(6) - 3188 ✓
Subsidiary Intelligence Bureau,
(MHA), Government of India,
Itanagar

Dated 24 MAR 1998

Memorandum

Please refer to your application dated 9.2.98 addressed to Deputy Director, SIB, Itanagar regarding invalid pension, etc. ✓

2. In this regard your attention is invited to our Memo of even number dated 31.10.97 in which we have already intimated that Chairman, District Standing Medical Board, Joint Director of Health Services, Sonitpur, Tezpur, has informed that at the time of clinical examination no signs and symptoms of Bronochial Asthma has been noticed and you have not been advised to go on invalid pension.

3. As you have already been directed vide our communication dated 31.10.97, you should join duty immediately, failing which entire period of absence should be treated as unauthorised and entailing loss of pay. Disciplinary action shall be initiated against him without any further delay.

U.K. Shukla
(U.K. Shukla)

Assistant Director/E-24/3

✓ To

Shri Sujit Karmakar,
C/o Late Surendra Karmakar,
Garowan Patty, L.D.S. Road,
P.O. Tezpur,
District Sonitpur,
Assam.

Attended by
ABR
Adm. Secy.
18/1/2000

REGISTERED AD 29

No.28/E/89(6) 5715
Subsidiary Intelligence Bureau,
(MHA), Govt. of India,

Itanagar, the

22 MAY 1998

MEMORANDUM

Please refer to your application dated 4.5.98 addressed to DD, SIB, Itanagar regarding your request for invalid pension.

In this regard it is stated that with reference to your application dated 23.10.97, we have already intimated you that Chairman, District Standing Medical Board, Joint Director of Health Services, Sonitpur, Tezpur have informed that at the time of clinical examination, no signs and symptom of Bronochial Asthma has been noticed and that you have not been advised to go on invalid pension. In this regard our memo of even number dated 31.10.97 is referred to. In this communication you were also directed to join duty immediately failing which, the entire period of absence would be treated as unauthorised entailing loss of pay and thereby resulting in break of service besides, attractive disciplinary action. Another communication on the similar lines has been sent to you through registered AD on 24.3.98. However, you have failed to join duties.

In the above circumstances, you are directed to join your duties within 15 days of receipt of this memorandum. It is also clarified that if you do not join within the stipulated date and continue to remain on unauthorised and wilful absence, your services will be terminated forthwith.

U.K. Shukla
(U. K. Shukla)
Assistant Director

To

/ Shri Sujit Karmakar,
C/O Late Surendra Karmakar,
Garowan Patty, L.D.S. Road,
P.O : Tezpur,
Sonitpur, Assam

Attended by
Advocate
16/1/2000

No. 28/E/89(6)- 7229
Subsidiary Intelligence Bureau,
(MHA), Govt. of India,

Itanagar, the 14 JUL 1998

Memorandum

Please refer to your application dated 8.6.98 in reply to our Memo No. 28/E/89(6)-5115 dated 22.5.98.

2. It has been clarified to you from time and again through our numerous communications that the Chairman, District Standing Medical Board, Joint Director of Health Services, Sonitpur, Tezpur had informed us that at the time of your clinical examination, no signs and symptom of Bronochial Asthma had been noticed and you had not been advised to go on invalid pension on that ground. Further, it is seen that you have been repeating your request for invalid pension and have failed to join your duties inspite of repeated reminders from this office to you.

3. In view of the circumstances stated above, we are now left with no choice but to terminate your services forthwith under Rules 5 of CCS (Temporary Service) Rules 1965. If you have anything to say in this regard you may do so by July 20, 1998. In case no reply is received till then, orders terminating your services will be issued.

U.K. Shukla
(U.K. Shukla)
Assistant Director/E

✓ To
Shri Sujit Karmakar,
C/o Late Surendra Karmakar,
Garowan Patty, L.D.S Road,
P.O: Tezpur,
Sonitpur, Assam

Attended by
Akbar
Adm. Secy.
06/11/2000

- 21 -
ORDER

ANNEXURE - I

In pursuance of the proviso to sub-rule (1) of rule 5 of the Central Civil Services (Temporary Service) Rules, 1965, I M.M. Prasad, Joint Assistant Director hereby terminate forthwith the services of Shri. Sujit Karmakar, Security Assistant (C) and direct him that he shall be entitled to claim a sum equivalent to the amount of his pay plus allowances for the period of notice at the same rate at which he was drawing then immediately before the termination of his services, or, as the case may be, for the period by which such notice falls short of one month.

Station : Itanagar.

C. M.M. Prasad
(M.M. PRASAD)
Joint Assistant Director

Dated : - 7 AUG 1996

No. 28/E/89(6)- 9286
Subsidiary Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
ITANAGAR.

S.A. -
Dated the 7 AUG 1998

✓ TO
(Registered / AD)

Shri. Sujit Karmakar,
C/O. Late. Surendra Karmakar,
Garowan Patty, L.D.S. Road,
P.O. : Tezpur,
Dist. : Sonitpur, (Assam).

Attested by
Advocate
16/1/2000

OFFICE ORDER NO

470/98

DATED

11 AUG 1998

Unauthorised and wilful absence of Shri Sujit Karmakar, former Security Assistant(G) of this SIB, from 31-05-97 to 06-08-98 shall be treated as Dies-Non.

Sd/-

Joint Assistant Director/E.

NO.28/E/89(6)- 8414
Subsidiary Intelligence Bureau
(Ministry of Home Affairs)
Government of India
Itanagar.


Dated the, 11 AUG 1998

✓ To

(Registered/AD)

Shri Sujit Karmakar,
C/O- Late Surendra Karmakar,
Garowan Patty, L.D.S. Road,
P.O. :- Tezpur.
Dist :- Sonitpur. (ASSAM).

Attended by
Advocate
16/11/2000


Joint Assistant Director/E.

To,
The Deputy Director,
Subsidiary Intelligence Bureau,
Government of India ,
Itanagar (A.P.)

In the matter of:-

Termination Order passed by Sri M.M.
Prasad, Jt. Asstt. Director, S.I.B.
Itanagar on 7/8/98, vide No. 28/E/89(6)
8286 dated 7/8/98,

- A N D -

In the matter of:-

An appeal against the Order of
Sri M.M. Prasad, Jt. Asstt. Director, S.I.B.
Itanagar,

- A N D -

In the matter of:-

Appellant : Sri Sujit Karmakar,
S A (G)
Garowanpatty, L.D.S. Road,
Tezpur, Sonitpur, Assam.

MOST RESPECTFULLY SHEWETH

The petitioner most humbly and respectfully begs to
lay the following few line for your kind consideration
and favourable action -

1. That the Appellant is innocent and has not
violated any provisions of C.C.S. Rules, 1965 and as such
the power invoked by Learned Jt. Asstt. Director under
Sub-rule -1 of rule 5 C.C.S (temporary service) Rules 1965 is
not applicable in the instant case and as such same is
liable to be set aside and quashed.

Attested by
[Signature]
16/1/2000

contd.....2/-

(2)

2. That the petitioner submits that, he is a chronic patient acute bronchial asthma since last 5 years for which the petitioner could not attend the duties and same has been informed to the authorities time to time but the authority failed to consider this Chronic problem of the petitioner for which the petitioner finding no other alternative but to pray for invalid pension which also not considered. It is submitted that, appellant never disobeyed the order of the Authority in connection with the transfer. But it is under the compelling circumstances the petitioner could not leave Tezpur which is well-known to the Authority and hence the petitioner appellant deserves humanitarian consideration of the matter instead of being punished with termination. It is also submitted that there was no unauthorised and wilful absence, but due to Chronic disease could not attend duty.

3. That, the Appellant submits that, he is the only care taker of his aged old ailing widow mother as such he is not in a position to move with his mother to any place but to stay in Tezpur with his ailing mother for her treatment etc. in this fragrant of her life, which is solemn duty on the part of a son.

4. That the Appellant states that, he is a permanent staff of the Department and during his long service tenure he was sincere, honest, dedicated in his duties who deserves every sympathy of the Department.

5. That the petitioner submits that, he is already under severe hardship for not getting his salary since long the instant order of termination shall be a deadly blow for his survival as a human being which requires consideration.

6. That the Appellant submits that, his prayer to stay at Tezpur be considered on humanitarian ground.

contd.....3/-

(3)

7. That the petitioner submits that, if impugned order is not set aside he will be in severe hardship with his old ailing mother and all will have to die ⁱⁿ starvation, hence same deserves consideration.

8. That the petitioner submits that he is a young energetic boy having future who dedicated on long spelt of his life in the service of Mother India and if he is terminated at this prime age of service then his entire life will be finished, his only agony is that, he is a Chronic patient of bronchal Asthma for which he become crippled.

9. That, in my ^{any} view of the matter the instant order has caused severe hardship which require interventions of your honour. It is also submitted that your Honour may kindly be pleased to direct to release my dues as cash compensation, Bonus and revised pay arrear under revised pay scale for my survival.

10. That the appellant desires hear in person.

In the premises it is therefore prayed that your honour may kindly be pleased to admit the appeal, call for the records hear the petitioner and be pleased to set aside the order dated 7/8/98 passed by Sri M.M. Prasad, Jt. Asstt. Director, or be pleased to pass any other order as to your honour deem fit and proper.

And for this act of kindness the petitioner as in duty bound shall ever pray.

Yours faithfully,

Shrimms

(SUJIT KARMAKAR)

EX. S.A.(G),

Tezpur.

Attested by
Abhay
Advocate
66/2000

Date: 31.8.98.

NO.28/E/89(6)-II - 1465
 Subsidiary Intelligence Bureau,
 Ministry of Home Affairs,
 Government of India,
I T A N A G A R

- 8 FEB 1999

Dated the,

ORDER

Shri. Karmakar while posted at BIP, Koloriang proceeded on 12 days Casual Leave from 07.06.93 to 18.06.93 and the admissible 10 days trekking time on the ground of family problems also health problems of his own. Despite repeated direction after the expiry of the leave he did not resume duty at Koloriang as he claimed to have been suffering from asthma. He was then referred to a Medical Board for the medical opinion. He appeared before the Medical Board on 15.09.93. The Medical Board was of the opinion that the person had no abnormality. The Board was also not in a position to give opinion regarding asthmatic attack at high altitude.

2. He was, therefore, charge sheeted for unauthorised absence beyond leave granted to him for taking plea of suffering from asthma and thus disobeyed official instructions of the superior Officers.
3. The charges framed against Shri. S.Karmakar was proved and he was awarded penalty of removal from service w.e.f. 20.06.94 by AD/E, the Disciplinary Authority, SIB, Tezpur vide Order No.33/E/93(10)-4922 dated 20.06.94. Subsequently, he made an appeal to the Appellate Authority, SIB, Tezpur against removal orders issued by the disciplinary authority. The DD, SIB, Tezpur, the Appellate Authority, after carefully going through all the documents related to this case was of the opinion that the punishment awarded to Shri. Karmakar was very severe. As such the appellate authority set aside the penalty of removal from service w.e.f. June 20, 1994 and reinstated him to the post of SA/G from the date of his reinstatement.
4. Consequent upon his re-instatement vide the Appellate Authority Order No.33/E/93(10) dated 10.10.95, Shri. Sujit Karmakar, SA/G joined duty on re-instatement on 20.10.95.
5. Again Shri. Sujit Karmakar, SA/G remained on unauthorised absence w.e.f. 31.05.97. He was directed by the competent authority to resume duty forthwith. But, instead of joining, he prayed for invalid pension. On that, he was directed to appear before the Medical Board. In compliance with the direction of the competent authority, he appeared before the Medical Board held on 25.09.97. Since the Chairman, Medical Board informed that at the time of clinical examination no sign and symptoms of bronchial asthma was noticed, he was then asked to join duty but he did not join duty despite our direction. The Medical Board also advised him not to go on invalid pension on this ground. He was directed from time to time to resume duties, with warning that failing to do so, his service would be terminated. All the communications were acknowledged by him but despite our repeated directions to join, in view of Medical Board's report, he did not turn up and resume duty.

Attended by
 Adyanti
 16/11/2000

Contd (2).


This clearly implies that he is adamant not to join duty as directed by the competent authority. Shri. Karmakar, SA is a " Temporary govt. servant ".

6. The disciplinary authority JAD/E, SIB, Itanagar in pursuance of the proviso to sub-rule (1) of rule-5 of the Central Civil Services (Temporary service Rule, 1965), has terminated the services of Shri. Sujit Karmakar, SA/G w.e.f. 07.08.98 and directed him that he would be paid pay plus allowances for the period of notice at the same rate at which he was drawing immediately before the termination of his service.

7. Shri. Sujit Karmakar aggrieved by the order of the Disciplinary Authority had preferred an appeal dated 31.08.98 received in this office on 04.09.98.

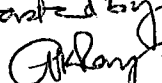
8. The undersigned, DD, SIB, Itanagar being the Appellate Authority heard the petitioner in person on December 29, 1998. He had got nothing more to state except that as he was a needy person and his mother was sick he should be retained in the service and posted at Tezpur. Asthma is allergy specific, not place specific. Moreover, he could not show any document to suggest that he has been making serious efforts to treat his asthma.

9. After careful examination of the available records and the verbal deposition of the petitioner, I do not find any merit in this petition to reconsider the decision of the Disciplinary Authority to terminate the service of the petitioner.


(R.N. BEHURA)
Deputy Director
Appellate Authority
SIB, Itanagar.

✓ To

Shri. Sujit Karmakar, EX-SA/G
C/O. Late. Shri. Surendra Karmakar,
Vill : Garowanpatty, L.D.S. Road,
P.O : Tezpur, Dist : Sonitpur (Assam).

Attended by

Advocate
16/11/2000

To

The Deputy Director,
(appellate authority),
Subsidiary Intelligence Bureau,
(M.H.A.), Govt. of India
Itanagar.

In the matter of :-

A revision petition against the
order of termination from service
of the petitioner.

AND

In the matter of :-

Sujit Karmakar, Ex- SA/ G.
S/O: Late. Surendra Karmakar.
At L.D.S. Road, Tezpur Town,
P.O: Tezpur, Dist: Sonitpur (Assam)

The humble petition of the petitioner above named --
Most respectfully sheweth --

1. That the petitioner was posted at B I P Kolariang by order of his superior authority sometime in the month of June, 1993 repatriating which the petitioner had made representation before the Asstt. Director, Itanagar praying for allowing him to stay at Tezpur showing the ground of constant suffering from Asthma. He had further mentioned in the petition that if he would continue to do his duty at Kolariang, his condition may deteriorate and turned to worsen and so on such illness ground, he was needed to be allowed to do duty at Tezpur where sufficient medical facilities are available. The petitioner had also stated in the petition that his old ailing mother is living alone at Tezpur having no other man to look after and take care of her.
2. That upon such representation of the petitioner, the Asstt. Director was pleased to grant him casual leave for about twelve days. After expiry of the period of said casual leave, the petitioner again submitted a petition for extension of leave supported by a medical certificate issued by the attending doctor concerned.
3. That upon receipt of his said petition supported by a medical certificate, the Department concerned was pleased to refer his case to the Dist. Medical Board, Sonitpur, Tezpur the petitioner was examined by the Dist. Medical Board, Sonitpur, Tezpur who opined that the petitioner must avoid to go to high altitude to prevent his further attack of prevailing Asthma disease. In view of the above opinion of the Dist. Medical Board it is obvious that sudden attack of Bronchial Asthma may arise on high altitude such as the place Kolariang where the petitioner was posted to do his duty. Due to climatic condition and allergens bronchial asthmatic trouble are created.

contd...p/2

Attended by
Akbar
Advocate
16/11/2000

4. That, due to his continuous illness, the petitioner could not attend his duty regarding which he had informed the Department in writing from time to time and hence the petitioner should not be charged for disobedience of his duty.

5. That being aggrieved by the impugned order of removal, the petitioner preferred an appeal before the appellate Authority on the grounds mentioned therein and the Appellate Authority was pleased to allow the appeal setting aside the removal order against him and accordingly the petitioner was re-instated to his former post SA(G) and in view of the said order of the appellate authority, the petitioner joined his duty as directed.

6. That the petitioner vide his petition dated - 2-8-97 informed the Asstt. Director, S I B, Tezpur stating that he was unable to do his duty due to ill-health on account of Asthma & disease as per declaration of Dist. Medical Board and so he had sought for invalid pension and service gratuity and other benefits of service which was duly received by the said authority.

7. That after having received the said petition of invalid pension, the petitioner was again referred to be medically examined by the Dist. Medical Board, Sonitpur Tezpur and accordingly the petitioner appeared before the Dist. Medical Board, Sonitpur at Tezpur where he was examined and the Board advised the petitioner to avoid allergens which provokes Bronchial Asthma. In view of the above medical opinion of the Board, the petitioner stated his inability to do duty at high altitude place at Itanagar as because his asthmatic trouble will increase due to climatic condition and prevailing allergy. It will be quite impossible on his part to do his duty inside the office compound where at anytime his serious condition or any unhappening may occur. The petitioner's above genuine petition ought to have been accepted by the Deptt. concerned but that was turned down without any legal ground. So the petitioner denies emphatically to remain unauthorized and wilful absence from duty within the period in question.

8. That the petitioner's ^{petition} was required to be accepted by the Department concerned by allowing him to do his duty at Tezpur as prayed for in the memorandum of appeal dated: 31/8/98.

9. That the petitioner was not given any direction to resume his duty within the time bound period. All on a sudden, the petitioner was served with a termination notice by the department. concerned after a lapse of about one year.

10. That the petitioner was never so adamant to join duty as alleged,

11. That the petitioner has already completed a period of 8 years of his service and so he should not be treated as "temporary Govt. Servant", as alleged. The members who joined service after the petitioner their services have been made permanent by the Deptt. During the above long period of his service the petitioner has all along maintained his duty honestly, sincerely and loyally, to the best satisfaction of the Deptt. concerned. He had been discharging his duty most sincerely and hence he deserves all sympathy from the Deptt. concerned.

12. That the Appellate Authority has not replied to the memo of Appeal dt 31.8.98 to the petitioner as per rule.

13. That without placing the petitioner under suspension, the order of termination from his service unjustified, illegal, arbitrary and against all cannons of natural justice.

14. That to meet the ends of justice on humanitarian grounds, the petitioner deserves to be allowed to do his duty at Tezpur so that ~~he may~~ may

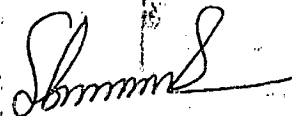
(3).

get on opportunity to serve his ailing old aged mother and also availing his self medical treatment from local Doctors. Leaving the old ailing mother, the petitioner is not in position to go at a long distance of his posting.

15. That the petitioner has been passing through an acute financial crisis and so he may be allowed to withdraw his arrears pay w.e.f. 31/5/97 till date.

In these premisses, aforesaid, it is prayed, That your honour may be graciously pleased to accept this petition, call for the file of the service of the petitioner, revise ^{your above} order and re-instate the petitioner on his former post with all arrears pay, allowances etc. and for this act of kindness, your humble petitioner shall ever pray.

Yours faithfully,

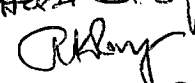


(SUJIT KARMAKAR)

Ex- SA (G)

Tegpur.

Date :- 5/3/99

Attested by

Advocate
16/1/2000

- 31

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH,
O.A. 18 OF 2000
Shri Sujit Karmakar
Vs
Union of India & others.
Guwahati Bench

18 AUG 2000

IN THE MATTER OF

Filed by 10/8/2000
 (A. DEB ROY)
 Sr. C. G. S.
 C. A. T. Guwahati Bench

WRITTEN STATEMENT SUBMITTED BY THE RESPONDENT NO. 1,2,3,4,5 & 6.

WRITTEN STATEMENT

That before submitting para-wise written statement the respondents beg to submit brief history of the case which may be treated as part of written statement.

BRIEF HISTORY

The petitioner Shri Sujit Karmakar, (DOB: 19.01.1968) son of late Surendra Karmakar of Garwan Patty LDS Sonitpur (Assam) was offered a temporary post of Security Assistant/G subject on the condition that the appointment is with the liability to serve in any part of India and would be terminated at any time by a month notice given by either side.

Shri Karmakar accepted the offer of appointment and joined this deptt. on 30.06.89(F/N) as SA/G, after furnishing the medical fitness certificate from Chief Medical and Health Officer, Tezpur, Sonitpur (Assam).

As per the prevalent transfer posting policy in this deptt, Shri Karmakar was posted at BIP, Grolethang under Tawang Dist. of Aunachal Pradesh. Shri Karmakar joined at BIP, Grolethang on 08/09/89. But after serving only for eight months at the post, he represented for his transfer to Tezpur on the ground of his mother treatment. (He had not submitted medical Certificate in support of his mother's treatment). His request was not considered because he was having one elder brother and two sisters to look after his mother at home. Further he was advised to complete his tenure. Shri Karmakar submitted another representation dated 19/09/90 requesting for transfer

contd..2/-

on the ground of higher studies (to complete final year of TDC Course). On considering his request, he was posted to Tezpur on 17.06.91.

Shri Karmakar was released from Tezpur on 30/10/92 consequent upon his transfer to BIP, Koloriang, after one and a half year posting at soft post. After receiving the transfer order, Shri Karmakar submitted a representation for cancelling his transfer on medical ground (suffering from Asthma) supported by medical certificate and remained absent. Extension of joining time is also a violation of joining time Rule 15 of FR-108 of CCS. His request for cancelling his transfer was considered by the authority but could not be acceded to as his medical certificate from Medical & Health Officer Gr-1, Tezpur Civil Hospital advised him to avoid high altitude and cold climate, but BIP, Koloriang is neither a hard post nor cold situation only at an altitude of 3500ft. It is pertinent to mention that Shri Karmakar during his posting at BIP, Grolethang, which is much more higher than BIP, Koloriang, had never complained about Asthma, or during his posting at his home town Tezpur, it is only after his posting at BIP, Koloriang, he started to avoid it on domestic problem which he failed to establish and subsequently changed his version on from domestic to medical ground.

Shri Karmakar while posted at Koloriang proceeded on 12 days casual leave from 07/06/93 to 18/06/93 on grounds of family problems and also health problems of his own. Despite repeated direction after expiry of the leave he did not resume duty at Koloriang as he claimed to have been suffering from Asthma. He was then referred to Medical Board for medical opinion. After receiving the information about Medical Board, he proceeded to Koloriang on 08/02/93 and reported for his duty on 15/02/93 (F/N). He was again asked to report to the

Jt. Director of Health Service on 15/09/93 for examination. He appeared before the Medical Board on 15/03/93. 43

The Medical Board was of the opinion that the person had no abnormal symptoms prior to 03/08/93. The Board was also not in a position to give opinion regarding asthmatic attack at high altitude. As such the absence period from ~~02/07/93~~ to 02/07/93 to 02/08/93 which was covered by the medical certificate issued by the Ayurvedic physical civil hospital was treated as genuine up to 02/08/93 and his leave was regularised by granting him E.O.L on M.C.

Again the charged officer did not resume duty and remained on unauthorised absence. Thus the charged levelled against Shri Karmakar was proved by the Disciplinary Authority. Therefore, the Disciplinary Authority without any prejudice awarded him penalty of removal from service with immediate effect. He further ordered that his absence period from 03/08/93 to 20/06/94 (320) days be treated as wilful absence and leave without pay.

On his appeal against the removal from service, the Appellate Authority i.e. Deputy Director, SIB, Tezpur after careful consideration had set aside the penalty order of Disciplinary Authority and ordered reinstatement of Shri Sujit Karmakar w.e.f 20/06/94 and further ordered that his service from 20/06/94 to the date of resumption of duties on reinstatement will be treated as on duty.

Shri Karmakar reported at Tezpur on 20/10/95. He was paid all the payment and allowances from the period 20/06/94 to 19/10/95.

Shri Karmakar again remained absence from his duties w.e.f 31/05/97 and requested for invalid pension. On his request he was referred to Medical Board and Chairman of Dist. Standing Medical Board Jt. Director Health Service (Assam).

As per opinion Medical Board Shri Karmakar has no sign of bronchial Asthama. Even though he was suffering from periodic attack of Asthama, he was not advised to go on invalid

pension. He was accordingly informed about the advice of medical board. But he still remained absent from duty.

He was, therefore, charged-sheeted for (1) unauthorised absence (2) deliberately mis-representing the fact that he was suffering from Asthama (3) Disobeying the order of superior officer directing him to report at Koloriang.

The Disciplinary Authority, JAD/E, SIB, Itanagar in pursuance of the provision to Sub-Rules (1) of Rule (5) of the Central Civil Service (Temporary Service Rule, 1965) has terminated the services of Shri Karmakar, SA/G w.e.f 07/08/98 who had nothing more to state except that Asthama is specific not place specific. Moreover, he could not show any documents to suggest that he has been making serious efforts to treat Asthama. Copy of the order dated 08/02/99 annexed herewith and noted Annexure-I.

1. That with regard to para 1 of the application the respondent beg to say that, the plea of the applicant that he was illegally terminated from the service is not admitted.
2. That with regard to Para 1, 2, 4 (1), 4(ii), 4(iii), 4(iv), 4(v) and 4 (vi) respondent beg to say that these are the matter of records and beyond records nothing is admitted.
3. That with regard para 4(vii) the respondent beg to say that, the applicant is not a permanent employee and so he was terminated from service under rule 5 of Central Civil Service (Temporary service) Rules, 1965 and he was given one month salary in lieu of one month notice.
4. That with regard to para 4(viii) it is stated that because of his unauthorised absence that the period from 31/05/97 to 06/08/98 was treated as dies-non.
5. That with regard to para 4(ix) of the application the respondent admit that the applicant made an appeal dated 31/08/98 to the appellate authority, SIB, Itanagar. The appellate authority examined the case carefully had given him opportunity for personal hearing on 29/12/98.

Shri Karmakar remained on unauthorised absence w.e.f. 21/05/97. He was directed by the competent authority to resume duty forthwith. But instead of joining he prayed for invalid pension. In compliance with the direction of competent authority, he appeared before the medical board held on 25/09/97. Since the Chairman Medical Board has not found any sign and symptom of bronchial asthma and the medical board opinion that this cannot be ground for invalid pension. Copy of the memo dated 29/09/97 is annexed herewith at marked on Annexure -II.

He was directed from time to time to resume duties with warning that failing to do so his service will be terminated. But despite repeated direction to join he did not report to resume his duty. This clearly implies that he is not interested in service and moreover Shri Karmakar, SA/G is a temporary Govt. servant. The Disciplinary Authority of SIB, Itanagar in pursuance of the provision to sub-rule(1) of Rule (5) of the CCS(Temporary Service of Rule 1965) has terminated the service of Shri Karmakar. w.e.f 07/08/99 giving proper notice. After termination he appeared before the Authority with a representation and stated that he was needy person and his mother was sick and so he should be retained in service and be posted at Tezpur. Asthama is allergic specific, not place specific. Moreover, he could not show any document to suggest that he has been making serious to treat his Asthama.

After careful examination of his available records and the verbal deposition of the petitioner, the competent authority did not find any merit in his representation to reconsider.

6. That with regard to para 4(x) and 4(xi) the respondents beg to say that the applicant was not a permanent employee and so he was terminated from service under Central Civil Service (Temporary Service) Rules, 1965.

7. That on the grounds stated above the applicant is not entitled to get any relief.

Assistant Director/E
Assistant Director/
Subsidiary Intelligence Bureau
(MHA) Govt. of India
ITANAGAR

6
-36- 46
VERIFICATION

I, Shri Ravinder Madan

do hereby solemnly declare that the statements made in the written statement are true to my knowledge, belief and information and no material fact has been suppressed.

And I sign this verification on this 21st

_____ day of July, 2000

at Itanagar

[Signature]
DECLARANT
Assistant Director
Subsidiary Intelligence Bureau
(MHA) Govt of India
ITANAGAR
21/7/2000

No. 28/E/89(6)-II - 1465
 Subsidiary Intelligence Bureau,
 Ministry of Home Affairs,
 Government of India,
I T A N A G A R

- 8 FEB 1999

Dated the,

O R D E R

Shri. Karmakar while posted at BIP, Koloriang proceeded on 12 days Casual Leave from 07.06.93 to 18.06.93 and the admissible 10 days trekking time on the ground of family problems & also health problems of his own. Despite repeated direction after the expiry of the leave he did not resume duty at Koloriang as he claimed to have been suffering from asthma. He was then referred to a Medical Board for the medical opinion. He appeared before the Medical Board on 15.09.93. The Medical Board was of the opinion that the person had no abnormality. The Board was also not in a position to give opinion regarding asthmatic attack at high altitude.

✓ 2. He was, therefore, charge sheeted for unauthorised absence beyond leave granted to him for taking plea of suffering from asthma and thus disobeyed official instructions of the superior Officers.

✓ 3. The charges framed against Shri. S. Karmakar was proved and he was awarded penalty of removal from service w.e.f. 20.06.94 by AD/E, the Disciplinary Authority, SIB, Tezpur vide Order No. 33/E/93(10)-4922 dated 20.06.94. Subsequently, he made an appeal to the Appellate Authority, SIB, Tezpur against removal orders issued by the disciplinary authority. The DD, SIB, Tezpur, the Appellate Authority, after carefully going through all the documents related to this case was of the opinion that the punishment awarded to Shri. Karmakar was very severe. As such the appellate authority set aside the penalty of removal from service w.e.f. June 20, 1994 and reinstated him to the post of SA/G from the date of his reinstatement.

✓ 4. Consequent upon his re-instatement vide the Appellate Authority Order No. 33/E/93(10) dated 10.10.95, Shri. Sujit Karmakar, SA/G joined duty on re-instatement on 20.10.95.

✓ 5. Again Shri. Sujit Karmakar, SA/G remained on unauthorised absence w.e.f. 31.05.97. He was directed by the competent authority to resume duty forthwith. But, instead of joining, he prayed for invalid pension. On that, he was directed to appear before the Medical Board. In compliance with the direction of the competent authority, he appeared before the Medical Board held on 25.09.97. Since the Chairman, Medical Board informed that at the time of clinical examination no sign and symptoms of bronchial asthma was noticed, he was then asked to join duty but he did not join duty despite our direction. The Medical Board also advised him not to go on invalid pension on this ground. He was directed from time to time to resume duties, with warning that failing to do so, his service would be terminated. All the communications were acknowledged by him but despite our repeated directions to join, in view of Medical Board's report, he did not turn up and resume duty.

This clearly implies that he is adamant not to join duty as directed by the competent authority. Shri. Karmakar, SA is a " Temporary Govt. servant ".

6. The disciplinary authority JAD/E, SIB, Itanagar in pursuance of the proviso to sub-rule (1) of Rule-5 of the Central Civil Services (Temporary service Rule, 1965), has terminated the services of Shri. Sujit Karmakar, SA/G w.e.f. 07.08.98 and directed him that he would be paid pay plus allowances for the period of notice at the same rate at which he was drawing immediately before the termination of his service.

7. Shri. Sujit Karmakar aggrieved by the order of the Disciplinary Authority had preferred an appeal dated 31.08.98 received in this office on 04.09.98.

8. The undersigned, DD, SIB, Itanagar being the Appellate Authority heard the petitioner in person on December 29, 1998. He had got nothing more to state except that as he was a needy person and his mother was sick he should be retained in the service and posted at Tezpur. Asthma is allergy specific, not place specific. Moreover, he could not show any document to suggest that he has been making serious efforts to treat his asthma.

9. After careful examination of the available records and the verbal deposition of the petitioner, I do not find any merit in this petition to reconsider the decision of the Disciplinary Authority to terminate the service of the petitioner.

(R.N. DEHURA)
Deputy Director
Appellate Authority
SIB, Itanagar.

✓ To

Shri. Sujit Karmakar, EX-SA/G.
C/O. Late. Shri. Surendra Karmakar,
Vill : Garowanpatty, L.D.S. Road,
P.O : Tezpur, Dist : Sonitpur (Assam).

ED - 38
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No. 26/89(6)-C/81
Sub-Dir. Intelligence Bureau
(Ministry of Home Affairs)
Government of India
Tezpur.

Dated the 27 JUN 1997

Memorandum

Shri Sujit Karmakar, SA(C), who is on abrupt absence with effect from 31-05-97 is hereby asked to join duties forthwith, failing which the entire period of absence would be treated as unauthorized, entailing loss of pay for the period, thereby resulting in break in service.

2. Besides disciplinary action may be initiated against him.

M. B. G. R.
Section Officer(E).

To

Shri Sujit Karmakar,
C/O Late Surendra Karmakar,
Garwen-Patty, L.D.S. Road,
Tezpur, Dist. Sonitpur (Assam).

Copy to :

The Joint Assistant Director(Hqrs), SIB, Tezpur.

M. B. G. R.
Section Officer(E).

AB256973/

Chen
DESPATCHED
Date 27/6/97

Please issue
Despatch
E. R.

Chau
26/6/97

To

The Assistant Director(E),
Subsidiary Intelligence Bureau,
(M.H.A.) Govt. of India,
TEZPUR.



Subject :- Prayer for Invalid pension.

Respected Sir,

I have the honour to inform you that I am unable to do my duties due to my ill health, as I am an Asthmatic Patient which has already been declared by the District Medical Board, The Joint Director of Health Services stated in his letter No.26906 dated 28.9.93 (a copy of the District Medical Board's Report is enclosed herewith). I want to relief from my service. So, invalid pension and service Gratuity and my other dues as per rules may kindly be allowed to me.

For this act of your kindness, I shall remain ever grateful to you;

Yours faithfully,

Sunmit
(SUNIT KARMAKAR)
SA/G
SIB. Tezpur.

Date: 2.8.1997.

PO/E

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From : Office of the Deputy Director,
Subsidiary Intelligence Bureau,
(MHA), Government of India,
Tezpur.

To : The Joint Director of Health Service,
Sonit pur, Tezpur.

No.28/E/89(6)- 8/89 dated the,

- 8 SEP 1997

Sub : Medical Examination in respect of
Shri Sujit Karmakar.

Sir,

Shri Sujit Karmakar, an employee of this
organisation has submitted an application requesting
for invalid pension on medical ground.

It is requested to examine if Shri Karmakar
is suffering from any bodily or mental infirmity
which permanently incapacitates him for service and
to submit the medical certificate of incapacity in
Form-23.

It is also requested that the date of the
medical examination in respect of Shri Karmakar may
please be fixed and intimated to us for further
communication to Shri Karmakar.

Yours faithfully,

Am. 4-9-97
Joint. Assistant Director

Please issue
Despatch
E. Por.

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4-9-97

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Ly
DESPATCHED
Date 28/9/97

12 42- 233 830
NO.28/E/89(6)- 8745
Subsidiary Intelligence Bureau
(Ministry of Home Affairs)
Government of India
Tezpur.

Dated the, 109 SEP 1997

Memorandum

Shri Sujit Karmakar, SA(G) may please refer to his application dated 02-08-97 prayer for Invalid Pension.

2. He is hereby directed to report before the Medical Board with all relevant papers relating to his treatment, for Medical Examination at Office of the Joint Director of Health services, Sonitpur, Tezpur (ASSAM) on 25-09-97 at 11 A.M.

Sd/-

Joint Assistant Director/E.

To

Shri Sujit Karmakar, SA(G),
C/O- Late Surendra Karmakar,
Garowanpatty, (L.D.S. Road),
Tezpur.

copy for information to :-

The Joint Director of Health service,
Sonitpur, Tezpur (ASSAM).

[Signature]
Joint Assistant Director/E.

[Signature]
DESPATCHED
Date 19/9/97

Please issue

Despatch
E. Pm

[Signature]
19.9.97

13 43 84 50

GOVT. OF ASSAM.

OFFICE OF THE JOINT DIRECTOR OF HEALTH SERVICES, (SONITPUR)
TEZPUR

No. 18207-09 / Dated Tezpur the 29th Sept/97.

To,

1. The Superintending Engineer,
P.W.D. Tezpur Roads Circle,
Tezpur.
2. The Deputy Director,
Subsidiary Intelligence Bureau,
(M.H.A.) Govt. of India, Tezpur.

Ref :- I. EP/50/64/4856 dtd. 10.9.97.
II. 28/E/89(6) 8189 dtd. 8.9.97.

Sub :- Report of Medical Board.

Sir,

I have the honour to state that the District
Level Medical Board constituted vide this Office letter
No.14520 dated.12.9.97.

A copy of report of Medical Board duly signed
by the undersigned is enclosed herewith.

Yours faithfully,

Joint Director of Health Service
Sonitpur, Tezpur.

Memo No. 18205 / Dated Tezpur the 29th Sept/97

Copy to :-

1. Smti Purabi Kalita, L.D.Asstt., Kauripathar N.P.

Encl.

sd/-
Joint Director of Health Service
Sonitpur, Tezpur.

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DATE: 29/9/97
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MA/CSH
S/O/E (TL)

10/7

No. 3268
15/10/97

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The Medical Board with the undermentioned Members is held in the Office of the Joint Director of Health Services, Sonitpur, Tezpur on 25.9.97 at 11 A.M. to examine the undermentioned person Medically.

1. Dr. P.N. Bora, Jt. Director of Health Services, Sonitpur, Tezpur.
2. Dr. K.C. Borkotoky, Sub-Divisional Medical & Health Officer, Epidemic Duty, Tezpur.
3. Dr. D. Rahman, Sub-Divisional Medical & Health Officer (H.O) Tezpur.
4. Dr. L.C. Bhuyan, Sub-Divisional Medical & Health Officer, D.T.C. Tezpur.

1. Sri Sujit Karmakar (S.I.B., Tezpur) :- After going through the relevant papers and clinical examination of Sri Sujit Karmakar it is evident that he might have been suffering from recurrent attack of Bronchial Asthma since last 5 years. At the time of clinical examination No signs and symptoms of Bronchial Asthma are noted. Even he has been suffering from Periodic attack of Bronchial Asthma, he is not advised to go on invalid pension on this ground.

He is however advised to avoid allergen which provoke his Bronchial Asthma.

24-9-97

Chairman
District Standing Medical Board
Joint Director of Health Services
Sonitpur, Tezpur

15 45 237
86 5

NO.28/E/89(6)- 10441
Subsidiary Intelligence Bureau
(Ministry of Home Affairs)
Government of India
Tezpur.

Dated the 31 OCT 1997

Memorandum

Shri S. Karmakar, SA(G) may please refer to his application dated 23.10.97 regarding Invalid Pension to him.

2. Chairman, District standing Medical Board, Joint Director of Health Services, Sonitpur, Tezpur has informed that at the time of clinical examination no signs and symptoms of Bronchial Asthma has been noticed and he has not been advised to go on Invalid Pension.

3. He is, therefore, asked to join duty immediately, failing which entire period of absence would be treated as un-authorized, entailing loss of pay for the period, thereby resulting in break in service. Besides disciplinary action may be initiated against him.

29/10/97
Joint Assistant Director(E).

TO

Shri Sujit Karmakar,
C/O - Late Surendra Karmakar,
Garowan Patty, L.D.S. Road,
Tezpur, Dist-Sonitpur(ASSAM).

* * * * *

DESPATCHED

Date 31/10/97

AB2910972/

Please issue
Despatch
E. Br.

29/10/97

No. 28/E/B9(6) - 3/88
Subsidiary Intelligence Bureau
(MHA), Government of India,
Itanagar

24 MAR 1998
dated

Memorandum

Please refer to your application dated 9.2.98 addressed to Deputy Director, SIB, Itanagar regarding invalid pension, etc.

2. In this regard your attention is invited to our of Memo of even number dated 31.10.97 in which we have already intimated that Chairman, District Standing Medical Board, Joint Director of Health Services, Sonitpur, Tezpur, has informed that at the time of clinical examination no signs and symptoms of Bronochial Asthma has been noticed and you have not been advised to go on invalid pension.

3. As you have already been directed vide our communication dated 31.10.97, you should join duty immediately, failing which entire period of absence should be treated as unauthorised and entailing loss of pay. Disciplinary action shall be initiated against him without any further delay.

24/3
(U.K.Shukla)

Assistant Director/E
o/c

To

Shri Sujit Karmakar,
C/o Late Surendra Karmakar,
Garowan Patty, L.D.S.Road,
P.O.Tezpur,
District Sonitpur,
Assam.

Please issue
Despatch
E.Dr.

Date
24.3.98

24/3/98
Deputy Director
Subsidiary Intelligence Bureau
(MHA) Govt of India
ITANAGAR

17
REGISTERED AD

No. 28/E/89(6) 5115
Subsidiary Intelligence Bureau,
(MHA), Govt. of India,

Itanagar, the

22 MAY 1998

MEMORANDUM

Please refer to your application dated 4.5.98 addressed to DD, SIB, Itanagar regarding your request for invalid pension.

In this regard it is stated that with reference to your application dated 23.10.97, we have already intimated you that Chairman, District Standing Medical Board, Joint Director of Health Services, Sonitpur, Tezpur have informed that at the time of clinical examination, no signs and symptoms of Bronchial Asthma has been noticed and that you have not been advised to go on invalid pension. In this regard our memo of even number dated 31.10.97 is referred to. In this communication you were also directed to join duty immediately failing which, the entire period of absence would be treated as unauthorised entailing loss of pay and thereby resulting in break of service besides, attractive disciplinary action. Another communication on the similar lines has been sent to you through registered AD on 24.3.98. However, you have failed to join duties.

In the above circumstances, you are directed to join your duties within 15 days of receipt of this memorandum. It is also clarified that if you do not join within the stipulated date and continue to remain on unauthorised and wilful absence, your services will be terminated forthwith.

(U. K. Shukla)
Assistant Director/E

To

Shri Sujit Karmakar,
C/O Late Surendra Karmakar,
Garowan Patty, L.D.S. Road,
P.O. : Tezpur,
Sonitpur, Assam

N.O.O

Copy with two copies of above communication to :

The Jt. Assistant Director, SIB, Tezpur. It is advised that a copy of above communication may please be got delivered to Shri Sujit Karmakar, SA at his above mentioned address and his signature may be obtained on the second copy in token of having received it. The second copy thereafter be returned to us for our office record.

Despatches
Subsidiary Intelligence Bureau
(MHA) Govt. of India
ITANAGAR

Assistant Director/E

No. 28/E/89(6)-
Subsidiary Intelligence Bureau,
(MHA), Govt. of India,

Itanagar, the 14.11.1998

Memorandum

Please refer to your application dated 8.6.98 in reply to our Memo No. 28/E/89(6)-5115 dated 22.5.98.

2. It has been clarified to you from time and again through our numerous communications that the Chairman, District Standing Medical Board, Joint Director of Health Services, Sonitpur, Tezpur had informed us that at the time of your clinical examination, no signs and symptom of Bronchial Asthma had been noticed and you had not been advised to go on invalid pension on that ground. Further, it is seen that you have been repeating your request for invalid pension and have failed to join your duties inspite of repeated reminders from this office to you.

3. In view of the circumstances stated above, we are now left with no choice but to terminate your services forthwith under rules 5 of CCS (Temporary Service) Rules 1965. If you have anything to say in this regard you may do so by July 20, 1998. In case no reply is received till then, orders terminating your services will be issued.

(U.K. Chukla)
Assistant Director/E

To
Shri Sujit Karmakar,
C/o Late Surendra Karmakar,
Garwan Patty, L.D.S Road,
P.O: Tezpur,
Sonitpur, Assam

H.O.O

Copy with one spare copy to:

The Jt. Asstt. Director, SIB, Tezpur. It is advised that a copy of this communication may please be handed over to him and his signature in token of having received this communication may be obtained on the second copy which may then be sent to us for our records.

Please issue
Despatch
E. Br.

Despatch
Subsidiary Intelligence Bureau
(MHA) Govt. of India
ITANAGAR

Assistant Director/E

15.7.98

19
ORDER

In pursuance of the provision to sub-rule (1) of rule 5 of the Central Civil Services (Temporary Services) Rules, 1963, I, M.N. Prasad, Joint Assistant Director hereby terminate forthwith the services of Shri. Sujit Karmakar, Security Assistant (C) and direct him that he shall be entitled to claim a sum equivalent to the amount of his pay plus allowances for the period of notice at the same rate at which he was drawing then immediately before the termination of his services, or, as the case may be, for the period by which such notice falls short of one month.

Station: Itanagar.

Dated : - 7 AUG 1998

(M.N. PRASAD)
Joint Assistant Director

No. 23/1/98(6) - 8286
Subsidiary Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
ITANAGAR.

Dated the, - 7 AUG 1998

TO

(Registered / AD)

Shri. Sujit Karmakar,
C/O. Late. Surendra Karmakar,
Garoon Patti, L.B.S. Road,
P.O. : Tezpur,
Dist : Sonitpur, (Assam).

N.O.C.

- Copy to :
1. The AD/IS IS MHA, New Delhi.
 2. The AD/IS IS MHA, New Delhi.
 3. The JAD, SIB, Tezpur.
 4. The SO(A) / SO(C), SIB, Itanagar.
 5. The S. to the DIB, SIB, Itanagar.
 6. The S.B. Cell / Computer Cell / Syst. List, SIB, Itanagar.
 7. The C.C. Book.

Please issue
Despatch
E. Pr.

Ch
7-8-98

126070/-

Despatcher
Subsidiary Intelligence Bureau
(MHA) Govt. of India
ITANAGAR

(M.N. PRASAD)
Joint Assistant Director

Ch

Ch
7-8-98



To,
The Deputy Director,
Subsidiary Intelligence Bureau,
Government of India,
Itanagar (A.P.)

In the matter of:-

Termination Order passed by Sri M.M.
Prasad, Jt. Asstt. Director, S.I.B.
Itanagar on 7/8/98, vide No. 28/E/89(6)
8286 dated 7/8/98.

- A N D -

In the matter of:-

An appeal against the Order of
Sri M.M. Prasad, Jt. Asstt. Director, S.I.B.
Itanagar,

- A N D -

In the matter of:-

Appellant : Sri Sujit Karmakar,
S A (G)

Garowanpatty, L.D.S. Road,
Tezpur, Sonitpur, Assam.

MOST RESPECTFULLY SHEWETH

The petitioner most humbly and respectfully begs to
lay the following few lines for your kind consideration
and favourable action ~

1. That the Appellant is innocent and has not
violated any provisions of C.C.S. Rules 1965 and as such
the power invoked by Learned Jt. Asstt. Director under
Sub-rule -1 of rule 5 C.C.S (temporary service) Rules 1965 is
not applicable in the instant case and as such same is
liable to be set aside and quashed.

contd.....2/-

SSharma
A.R. Sharma
Pl examine
2 Jan.

7/9

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(2)

2. That the petitioner submits that, he is a chronic patient acute bronchial asthma since last 5 years for which the petitioner could not attend the duties and same has been informed to the authorities time to time but the authority failed to consider this Chronic problem of the petitioner for which the petitioner finding no other alternative but to pray for invalid pension which also not considered. It is submitted that, appellant never disobeyed the order of the Authority in connection with the transfer. But it is under the compelling circumstances the petitioner could not leave Tezpur which is well-known to the Authority and hence the petitioner appellant deserves humanitarian consideration of the matter instead of being punished with termination. It is also submitted that there was no unauthorised and wilful absence, but due to Chronic disease could not attend duty.

3. That, the Appellant submits that, he is the only care taker of his aged old ailing widow mother as such he is not in a position to move with his mother to any place but to stay in Tezpur with his ailing mother for her treatment etc. in this fragend of her life. Which is solemn duty on the part of a son.

4. That the Appellant states that he is a permanent staff of the Department and during his long service tenure he was sincere, honest dedicated in his duties who deserves every sympathy of the Department.

5. That the petitioner submits, that, he is already under severe hardship for not getting his salary since long the instant order of termination shall be a deadly blow for his survival as a human being which requires consideration.

6. That the Appellant submits that, his prayer to stay at Tezpur be considered on humanitarian ground.

contd.....3/-

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7. That the petitioner submits that, if impugned order is not set aside he will be in severe hardship with his old ailing mother and all will have to die ⁱⁿ starvation, hence same deserves consideration.

8. That the petitioner submits that he is a young energetic boy having future who dedicated on long spelt of his life in the service of Mother India and if he is terminated at this prime age of service then his entire life will be finished, his only agony is that, he is a Chronic patient of bronchial Asthma for which he become crippled.

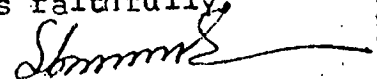
9. That, in my view of the matter the instant order has caused severe hardship which requires interventions of your honour. It is also submitted that your Honour may kindly be pleased to direct to release my dues as cash compensation, Bonus and revised pay arrears under revised pay scale for my survival.

10. That the appellant desires hear in person.

In the premises, it is therefore prayed that your honour may kindly be pleased to admit the appeal, call for the records hear the petitioner and be pleased to set aside the order dated 7/8/98 passed by Smt M.M. Prasad, Jt. Asstt. Director, or be pleased to pass any other order as to your honour deem fit and proper.

And for this act of kindness the petitioner as in duty bound shall ever pray.

Yours faithfully,



(SUJIT KARMAKAR.)

EX. S.A.(G)

Tezpur.

Date: 31.8.98.

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Registered with AD.

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No.28/E/89(6)-II - 3759
Subsidiary Intelligence Bureau,
(Ministry of Home Affairs)
Govt. of India,
ITANAGAR.

06 APR 1999

Dated this

MEMORANDUM

Please refer to your revision petition dated: 5.3.99 against the order of termination.

2. In this regards your attention is invited to our order No.28/E/89(6)-II-1465, dated: 8.2.1999. This is issued with the approval of DD, SIB, Itanagar.

To

Shri.Sujit Kamakar, Ex-SA(G),
S/O.Late.Surendra Kamakar,
At L.D.S. Road, Tezpur town,
P.O.Tezpur, Dist - Sonitpur,
(Assam).

for Assistant Director / E.

71/2
6/4/99

Dispatches

Subsidiary Intelligence Bureau
(MHA) Govt. of India
ITANAGAR

GP26499/-

Noting page 83/N