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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 407/2001

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SECTION OFFICER (Judl.)

FORM No. 4
(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.

ORDERS SHEET

APPLICATION NO. 402/2001

Applicant(s) Vajam Saker

Respondant(s) U.O.P. Govt

Advocate for the Applicant: M.K. Choudhury, T.K. Dutta Roy,
A. Borkataki, M. Dutta

Advocate for the Respondant: Railway Counsel.

Notes of the Registry	Date	Order of the Tribunal
<p>This Application is in form but all the necessary Petition is filed vide M.P.N. No. <u>CF</u> for Rs. <u>1000000</u> IPO/BD No. <u>66788574</u> Dated <u>1.10.2001</u> <i>Dy. Registrar.</i></p>	<p>11.10.01</p>	<p>Present : The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr K.K. Sharma, Administrative Member.</p> <p>The controversy raised in this application is basically a claim to be appointed on compassionate ground on the death of the father of the applicant. According to the applicant if respondent No.4 Sri Ashok Kr.Sarkar is appointed on compassionate ground in that case perhaps he may not look after the members of the family. These are the matters to be taken care of by the administration and in fact the letter dated 22.6.2000 sent by the office of the DRM(P), Lunding clearly indicated that the department is aware of the fact and asked for consent of all the family members proposing the name of a candidate and also an undertaking backed by an affidavit to support the members of the family.</p> <p>Heard Mr M.Dutta, learned counsel</p>

Steps taken without envelops

MS 5/10/2001

[Signature]

11.10.01 for the applicant and also Mr S.Sarma learned counsel appearing on behalf of Mr B.K.Sharma,Railway standing counsel.

For the foregoing reasons we are not inclined to interfere in the matter. It will however be open to the applicant to take up the matter with the appropriate authority as per law.

Subject to the observations made above, the application thus stands dismissed. No order as to costs.

22.10.2001

Copy of the order has been sent to The Dyce. for issue. The one to the applicant as well as to the Railway standing counsel.
et al

[Signature]
Member

[Signature]
Vice-Chairman

केन्द्रीय प्रशासनिक न्यायिकरण
Central Administrative Tribunal
5 OCT 2001
गुवाहाटी न्यायपीठ
Guwahati Bench

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Ministry Deutz
20/10/2001

Filed 20/10/2001

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH

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

Title of the Case : O.A. No. 407 of 2001

Shri Vajan Sarkar Applicant

- Versus -

Union of India & Ors. Respondents

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For use in Tribunal's office :

Date of filing :
Registration No. :

REGISTRAR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH

O.A. No. 407 of 2001

BETWEEN

Shri Vajan Sarkar,
S/O Late Arun Chandra Sarkar,
Railway Station Road, Tarapur,
P.O. Silchar-3, District Cachar,
Pin-788003.

... Applicant

AND

1. Union of India, through the General Manager, N.F. Railway, Maligaon, Guwahati-11.
2. The General Manager (P), N.F. Railway, Maligaon, Guwahati-11.
3. The Divisional Railway Manager (P), N.F. Railway, Lunding.
4. Shri Ashok Kr. Sarkar,
S/O Late Arun Ch. Sarkar,
Panisagar Railway Colony,
P.O. Panisagar, District Tripura (N).

... Respondents

DETAILS OF APPLICATION

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

The instant application under Section 19 of the Administrative Tribunals Act, 1985 has been made seeking compassionate appointment of the Applicant in a Grade-IV post following the death of his father and also on the apprehension based on information from reliable source, that the Respondent authorities are going to appoint the Respondent No. 4 on compassionate ground in a Grade IV post in place of the deceased father of the Applicant and the Respondent No. 4 Late Arun Chandra Sarkar. The Respondent No. 4 is already

Filed by

Hrimy Dutt

Advocate

Vajan Sarkar

employed and lives separately with his wife and children and as such, he will not look after the Applicant, an unemployed youth and their unmarried sister, who resides with the Applicant.

2. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the subject matter of the instant application for which he wants redressal is well within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATION :

The applicant further declares that the application is not barred by limitation.

4. FACTS OF THE CASE :

4.1 That the Applicant is a citizen of India. He is an unemployed youth and has a sister who is dependent on him.

4.2 That the Applicant's father Late Arun Chandra Sarkar was working as porter in Panisagar when he died in harness on 28.3.2000.

4.3 That Late Arun Chandra Sarkar on his death left behind him his five sons and a daughter who are viz. : Shri Ashok Kr. Sarkar, Shri Vajan Sarkar, Shri Sajan Sarkar, Shri Madhusudhan Sarkar, Shri Subhash Ch. Sarkar and Smti. Purnima Sarkar with the mother of the Applicant having predeceased his father.

4.4 That apart from the Applicant and his sister all the brothers of the Applicant are employed. the Applicant has completed his Higher Secondary.

Vajan Sarkar.

Shri Ashok Kr. Sarkar, the eldest brother of the Applicant who is also the Respondent No. 4 in this petition is presently working in B.R.T.F. (GREF) under the Central Government on a work charged/casual basis. He lives separately with his wife and children and he virtually severed all connection with his brothers and sister.

Shri Sajan Sarkar, the immediate younger brother of the Applicant runs a petty business at Badarpur and resides there with his family, somehow making their both ends meet.

Shri Madhusudhan Sarkar works in the Border Security Force and is posted in Rajasthan.

Shri Subhash Ch. Sarkar, the youngest brother of the Applicant also working at BRTE (GREF) and resides at Panisagar.

Smt. Purnima Sarkar is the sister of the Applicant and is unmarried. She is dependent on the Applicant.

Thus the Applicant as well as Smt. Purnima are the only persons in the family of the deceased Government servant who have been put to grave financial difficulties because of the death of the bread winner.

4.5 That following the death of the Applicant's father, the Applicant's eldest brother Shri Ashok Kr. Sarkar, the Respondent No. 4 applied for appointment in the Railways on compassionate ground.

Vajam Sarkar.

4.6 That the Applicant and his brothers and sister except the Respondent No. 4 made an application before the Respondent No. 3 praying for appointment of the Applicant on compassionate ground, in place of their deceased father so that the Applicant and his sister could sustain themselves following the death of their father who was their sole bread winner. The said application was forwarded through proper channel to the Respondent No. 3 on 6.5.2000.

A copy of the application is annexed as ANNEXURE-1.

4.7 That the Respondent No. 3, by a letter dated 22.6.2000 informed the Applicant that since the Respondent No. 4 had already applied for appointment on compassionate ground and since it is only possible to make one appointment, the other members should, by an affidavit, propose the name of the person who is to be appointed on compassionate ground, due to the death of the father of the Applicant.

A copy of the letter dated 22.6.2000 is annexed as ANNEXURE-2.

4.8 That all the brothers and sister of the Applicant, except for the Respondent No. 4, by an affidavit, proposed the name of the Applicant for compassionate appointment in place of their deceased father. The Applicant also stated that except for the Applicant and his sister, all the brothers of the Applicant are employed. The said affidavit was sent to the authorities so that the Applicant could be appointed.

Vajam Saravali

A copy of the affidavit dated 28.6.2000 is annexed as ANNEXURE-3.

4.9 That the Applicant and two of his brothers and sister also made an application on 2.8.2001 to the Respondent No. 3 for payment of the dues of their deceased father after coming to know that an amount of Rs.46,170/- had already been paid to their eldest brother as part payment of the dues of their deceased father, which the Applicant's eldest brother had fully retained without sharing the same with his brothers and sister.

A copy of the letter dated 2.8.2001 is annexed as ANNEXURE-4.

4.10 That inspite of the submission of affidavit by the younger brothers and sister proposing the name of the Applicant for appointment on compassionate ground, the Railway authorities are contemplating to appoint the Respondent No. 4 on compassionate ground in place of their deceased father. The Applicant feeling apprehensive made an application before the Respondent No. 3 on 2.8.2001 not to appoint the Respondent No. 4 i.e. Ashok Kr. Sarkar, as he had started living separately and had virtually severed the relation with his other brothers and sister.

A copy of the application dated 2.8.2001 is annexed as ANNEXURE-5.

4.11 That the Applicant states that appointments on compassionate ground are made to an eligible dependent

Vijay Sarkar

a

family member of a Railway employee dying in harness, to save the family from distress and therefore it is incumbent on part of the compassionate appointee to look after the dependent family members. In the instant case, the Respondent No. 4 has severed his relation with the Applicant and their unmarried sister and as such, he will not look after them. Further the Respondent No. 4 is employed whereas the Applicant and his sister are unemployed and are in great distress in view of their precarious financial condition.

A copy of the Railway Board's letter dated 22.8.2000 is annexed as ANNEXURE-6.

4.12 That in the event the Respondent No. 4 is appointed, the Applicant and his sister who were particularly dependent on their sole bread winner i.e. their father will suffer irreparable loss and injury. In fact, the Applicant and his sister are facing a lot of hardship as both of them have no source of income, although presently the Applicant has been running an autorickshaw. On the other hand, the Respondent No. 4 and other brothers of the Applicant are employed and except for the Respondent No. 4 had supported the appointment of the Applicant. Under the circumstances, the delay in appointment of the Applicant and the move to appoint the Respondent No. 4 have put the Applicant and his sister in great distress and hardship.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that the Applicant is an unemployed youth having a dependent sister to look after and being

Vajam Sarwan.

qualified to be appointed on compassionate ground following the death of their father, is eligible to be appointed on compassionate ground.

5.2 For that the Respondent No. 4 is already employed and has severed his relations with the Applicant and his sister and is not going to look after the Applicant and his sister who were dependent on their father's income and that same having exhausted, they are virtually facing starvation. Further the Applicant's other brothers and sister have supported the claim of the Applicant and as such, the Applicant and not the Respondent No. 4 is entitled to be appointed on compassionate ground.

5.3 For that the guidelines of the authorities make it incumbent for the compassionate appointee to look after the other dependent family members of the deceased employee and since the Respondent No. 4 has severed all his relations with the Applicant and his sister, he will not look after them in case he is appointed. On the other hand, if the Applicant is appointed, both he and his sister would be able to maintain themselves.

5.4 For that the other brothers and sister of the Applicant, except for the Respondent No. 4 have supported the claim of the Applicant through an affidavit and under these circumstances, the delay in appointment of the Applicant and the move to appoint the Respondent No. 4 by the authorities will not only defeat the purpose of the compassionate appointment,

Vajan Sakhal.

but will put the survival of the Applicant and his unmarried sister at stake.

5.5 For that if the Respondent No. 4 is appointed instead of the Applicant, it would be against the policy of the authorities laid down for making compassionate appointment.

6. DETAILS OF REMEDIES EXHAUSTED :

That the Applicant has made applications and representation before ~~before~~ the authorities, but nothing concrete had come about.

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

The Applicant further declares that he has not filed any application, Writ petition or suit regarding the matter in respect of which this application has been made before any Court or any other authority or any other Bench of the Tribunal nor any such application, Writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT FOR :

On the facts, circumstances and premises aforesaid, the applicant prays for the following reliefs :

- (a) Direct the authorities to appoint the Applicant in a Grade-IV or Grade-III post on compassionate ground in place of the deceased father late Arun Ch. Sarkar.
- (b) Direct the Respondent authorities not to appoint the Respondent No. 4 on compassionate ground.

Vajan Sarkar.

- (c) Direct the authorities to pay the remaining final settlement dues to the Applicant and his sister.
- (d) Pass any other order or orders to which the applicant is entitled under the facts and circumstances of the case and as may be deemed fit and proper by this Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR :

Pending disposal of the application, Your Lordships maybe pleased to direct the authorities not to appoint the Respondent No. 4 on compassionate ground.

10.

The application is filed through an Advocate.

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

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

12. LIST OF ENCLOSURES :

As stated in the Index.

Verification.....

Vajjan Sarwan.

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

I, Shri Vajan Sarkar, aged about 31 years, son of Late Arun Chandra Sarkar, resident of Railway Station Road, Tarapur, P.O. Silchar, District Cachar, do hereby solemnly affirms and verify that the statements made in the accompanying application in paragraphs 4.1 to 4.12 are true to my knowledge and the rest are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this the 5th day of October 2001 at Guwahati.

Vajan Sarkar.

TO,
The Divisional Railway Manager(P),
M. F. Railway / Lumding.

(Through Proper Channel).

Sub:- Prayer for appointment on compassionate Ground.

Respected Sir,

We, the undersigned, Sons & daughter of Late Sri Arun Chandra Sarkar, Ex-Porter/Panisagar have decided for appointment on compassionate ground of Sri Vajan Sarkar, Second Son of our Late father who expired on 28th March/ 2000, while on duty.

The heirs of our Late father with biodata of each are as follows.

- (1) Shri Ashok Kr. Sarkar, our eldest brother who is working under BRTF (GREF)/42nd at Dharmanagar, residing at Panisagar with his family.
- (2) Shri Vajan Sarkar, Second brother is unemployed and residing at Silchar with our only youngest and Un-married Sister Miss Purnima Sarkar.
- (3) Shri Sanjan Sarkar, the third next, is running a small business at Badarpur and residing with his family at the same place.
- (4) Shri Madhu Sudhan Sarkar, our fourth brother is working under BSF at Rajasthan.
- (5) Shri Subhash Chandra Sarkar, the fifth brother is working under BRTF (GREF) 42nd Dharmanagar, Panisagar.
- (6) Smt. Purnima Sarkar, the youngest and our only sister is unmarried and is residing with our second brother Shri Vajan Sarkar at Silchar.

Our mother Late Parul Rani Sarkar, already expired on 16.1.1998.

(Contd..P..2)

ANNEXURE-2

By Regd. Post

Office of the
DRM(P), Lunding

No. E/227/LM/Comp(W)/B.S.

Dtd. 22.6.2000

To

Shri Bhajan Sarkar,
S/O Late Arun Ch. Sarkar, Ex. Porter/Panisagar,
C/) Coaching Clerk incharge, N.F.Rly.,
Panisagar, Dist. Tripura (North) Pin 799260

Sub : Apptt on comp. ground.

Ref : Joint application dtd. 06.5.2000

In connection with the above, it is informed that your elder brother Shri Ashok Kr. Sarkar has applied for his own appointment on comp. ground on account of death of father Late Arun Ch. Sarkar, Ex. Porter/Panisagar on 28.3.2000 while in service.

Since one appointment on comp. ground is admissible against one death, you are advised to submit an affidavit to this office early with consent of all other family members including your elder brother Shri Ashok Kr. Sarkar proposing the name of the candidate for appointment who will support the family, to enable this office to initiate the case for further action.

Sd/- 23.6.2000

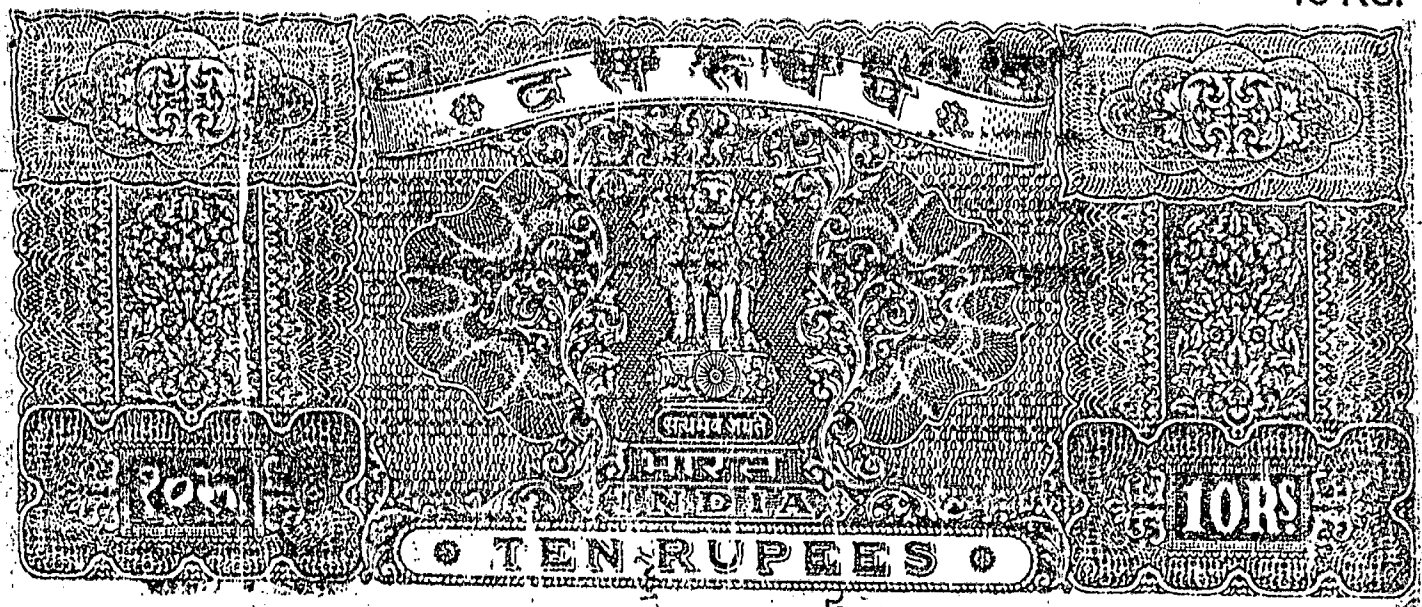
For DRM (P)/LMG

Copy to : The Convenor, PNM, NFREU/LMG Divn., Camp at Silchar for information in reference to his letter No. EU/KDG/Commp/Conve/2K dt. 3.6.2000.

For DRM (P)/LMG

Attested

M
Minnoy Dutta
Advocate



- 1) Vajjan Sarkar
- 2) Sanjan Sarkar
- 3) Madhusudhan Sarkar
- 4) Subhash ch: Sarkar
- 5) Purnima Sarkar



A F F I D A V I T.

We, (1) Sri Ashok Kumar Sarkar, aged about - 33 years, (2) Shri Bhajan Sarkar, aged about - 30 years, (3) Sri Sanjan Sarkar, aged about - 28 years, (4) Madhusudhan Sarkar, aged about - 26 years, (5) Sri Subhash Chandra Sarkar, aged about - 25 years, (6) Miss. Purnima Sarkar, aged about - 18 years, the sons and daughter of Late Arun Chandra Sarkar, Exporter, Panisagar, resident of Tarapur, Silchar- 3, P.S. Silchar, Dist. Cachar, Assam, by faith - Hindu, by nationality - Indian, do hereby solemnly affirm on oath & declare as follows -

1. That, at present we are residing at our aforesaid address.
2. That, among our brothers/sister Sri Ashok Kr. Sarkar at present working under Central Govt. under BRTF (CREF) 42nd at Dharmanagar and residing at Panisagar with his family.
3. That, Sri Bhajan Sarkar 2nd brother is unemployed and residing at Silchar with only youngest unmarried sister Miss. Purnima Sarkar.
4. That, Sri Sanjan Sarkar, the third brother is running a business at Badarpur & residing at Badarpur with his family.
5. That, Sri Madhusudhan Sarkar is our fourth brother is working under BSF and at present posted at Rajasthan (under Central Govt.)

contd...p/2.



6. That, Sri Subhash Chandra Sarkar, our fifth brother is working under BRTF (GREF) 42nd, Dharmanagar & residing at Panisagar under Central Govt.

7. That, Miss. Purnima Sarkar our youngest unmarried sister at present residing at Silchar with our 2nd unemployed brother Sri Bhijan Sarkar.

8. That, our mother late Parul Rani Sarkar, already expired on 16-1-1998 (death certificate enclosed).

9. That, under above circumstances, we the undersigned signatories brothers/sister do hereby agree to request to make appointment to our 2nd brother Sri Bhijan Sarkar being unemployed, on compensation ground in the class-III category post, his qualification is H.S. passed, at present he may be appointed as class-IV category, to meet his economical hardship for survival.

The statements made above are true to the best of our knowledge and belief and we put our signature in this affidavit on this the ^{28th} ~~28th~~ June, 2000 before Magistrate at Silchar court.

Deponents.

Identified by me,

Damin vs. Choudhry
28/6/20

Advocate, Silchar.

- 1) Vajun Sarkar.
- 2) Baajan Sarkar.
- 3) Madhu Sudan Sarkar.
- 4) Subash ch. Sarkar
- 5) Purnima Sarkar

Sworn before me,

[Signature]
28/6/2000

Magistrate, Silchar.

[Stamp]

Attested

M
Mridhoy Datta
Advocate

From
Shri Vajan Sarkar (& other family members of
late Arun Chandra Sarkar,
Ex Porter/Panisagar)
Railway Colony, Tarapur,
P.O. Silchar-788003

To
The Divisional Railway Manager
Lumding, N.F. Railway

Sub : Claim for payment of proportionate
share against settlement dues of
Late Arun Chandra Sarkar,
Ex Porter / Panisagar

Sir,

It has come to our knowledge that an amount of Rs. 46,170 as part payment against settlement dues of Late Arun Ch. Sarkar, our father, has been paid directly to Ashok Kr. Sarkar our elder brother who personally retained the total amount and has not disbursed our share though we are also co-sharer of the said amount.

We therefore submit our claim before your honour to arrange payment of our claim directly to us at an early date as we are now passing our days almost in starvation.

Hope to get your early action on the subject.

With thanks,

Yours faithfully,

1. Vajan Sarkar.
2. Banyan Sarkar.
3. Subash Ch. Sarkar
4. Purnima Sarkar

Dated, Silchar,
2nd August 2001

Attached

M
Miranoy Dutta
Advocate

By hand to DRMLK
at Silchar
on 4-8-01.

FROM

- 17 -

Sri Vajan Sarker (and other family members of
Late Arun Chandra Sarker,
Ex Porter/Panisagar,
Railway Colony, Tarapur,
P.O. Silchar - 788003

TO

The Divisional Railway Manager
Luding, N.F. Railway

Sub : Prayer for appointment on compassionate
ground in Railway for Vajan Sarker

Ref : Our joint letter dt. 6-5-2K
forwarded by CC I/c / Panisagar

Sir,

As per our written consent for appointment of our
2nd senior unemployed brother Vajan Sarker vide our letter
under reference, our said brother applied for appointment
on compassionate ground in Railway after observing all
formalities necessary in such case.

(2) Considering all angle, we have turn down the claim
of our seniormost brother Sri Ashok Kr. Sarker as he is
not a member of joint Hindu family of our father. Due to
differences of opinion with our father Late Arun Chandra
Sarker, our said brother since death of our father
residing with his wife, and children in separate mess and
separate property and only maintaining his wife & children
with his income as an employee of BRTF (Gref) / 42 Bn.

(3) From reliable source now it has come to our knowledge
that despite of our joint prayer for appointment on
compassionate ground to our seniormost member of present
family, Sri Vajan Sarker, process at office is going on to
appoint Sri Ashok Kr Sarker who has already quited this
family of Late Arun Chandra Sarker.

(4) Under the above circumstances, if the said information
be correct, we would fervently request you not to engage
Sri Ashok Kr. Sarker on compassionate ground who has quited
this family during our distress position, otherwise it would
be an injustice for us particularly on humanitarian ground.

Hope to get your sincere cooperation in this respect.

As our 4th brother is out of station his signature
could not be taken here in this letter.

With thanks,

Yours faithfully,

1. Vajan Sarker.
2. Ganjan Sarker.
3. Subash Ch. Sarker
4. Purnima Sarker

Dated, Silchar
The 2nd August 2001

Attested

M
M. C. Dutta
Advocate

ANNEXURE-6


Railway Board's letter No. E(NG)-II/99RC-1/Genl./19
dt. 22.08.2000.

The object of the scheme of providing appointment on compassionate grounds to an eligible dependent family member of a Railway employee, who dies in harness or is retired on being totally medically incapacitated, is to relieve the dependent family members from financial distress caused by the death. It is, therefore, incumbent on the part of a person appointed on compassionate grounds to look after the other family members who were wholly dependent on the ex-employee for their sustenance.

Cases have come to the notice of the Board where a ward of an ex-Railway employee, appointed on compassionate ground, had discontinued looking after the widowed mother and the other dependent brothers/sisters. It has, therefore, been decided that any person being considered for appointment on compassionate ground, should give an undertaking in writing that he/she will maintain properly the other family members who have been dependent on the Railway employee and in case it is proved subsequently that the family members are being neglected or are not being properly maintained by him/her, his/her appointment maybe terminated forthwith. For this purpose, the details of the dependent family members maybe obtained and kept on record at the time the request for compassionate appointment is made.

@@@@@@@@@@@@@@

Attested


Mrinmoy Dutta
Advocate