

GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 178/2001

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SECTION OFFICER (Judl.)

FORM NO. 4
(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::::::: GUWAHATI

ORDER SHEET

Original APPLICATION NO ... 178... OF 2001.

Applicant (s) Arhok Saha

Respondent (s) U.O. I Form

Advocate for Applicants (s) B. K. Sharma, S. Sarma, Mr. D. D. H.

Advocate for Respondent (s) Case

Notes of the Registry	Date	Order of the Tribunal
-----------------------	------	-----------------------

This application is in form 23.5.01
but no written donation
Petition is filed vide
M.P. No. C.F.
for Rs. 50/- deposited vide
IPO/B.D. No 66792418

Dated..... 21.5.2001

Dy. Registrar

Dy.

trd

Replies has
been filed.

WS
24/5/2001

22/5/2001

22.6.01 List on 27.7.01 to enable
the respondents to file written
statement.

Notice prepared and sent to
D/S for issuing the Respondent
No. 1 to 5 by Regd A.D. vide
D.I.No. 2005/1/29/11/7/6/01

1m

27.7.01

Service is not completed. List
on 24.8.01 for orders.

Vice-Chairman

*IC Usha
Member*

① Service report are
still awaited.

1m

21.6.01

(2)

24.8.01

List on 21/9/01 to enable the respondents

to file written statement.

No. written statement
has been filed.

26.7.01

Vice-Chairman

No. written statement
has been filed.

mb
21.9.01

List on 16/11/01 to enable the respondents

to file written statement.

23.8.01

Vice-Chairman

No. w/s has been filed.

mb

16.11.01

Mr. A. Deb Roy, learned Sr. C.G.S.C
requests for two weeks time to file
written statement.

Prayer allowed. List on 5.12.2001
for further order.

20.9.01

No. written statement
has been filed.

15.11.01

K. Usha

Member

bb

5.12.01

Mr. S. Sarma, learned counsel for the
applicant states that he has received the
written statement today and he will file
rejoinder.

Meanwhile, applicants are allowed
4 weeks time to file rejoinder.

List on 9.1.02 for hearing.

13.12.2001

w/s submitted

by Repdt. No. 5.

mb

B.
Member (J)

K. Usha
Member (A)

9.1.02

Mr. S. Sarma, learned counsel appear-
ing for the applicant wants a short
adjournment. Prayer is accepted. List
on 16.1.2002 for hearing.

w/s has been filed.

15.1.02

K. Usha
Member

mb

16.01.02

On the prayer made by Mr.
B.C. Pathak, learned Addl. C.G.S.C. on
behalf of Mr. A. Deb Roy, learned Sr.
C.G.S.C. who is out of station, the
case is adjourned to 22.02.2002.

Vice-Chairman

Notes of the Registry

Date

Order of the Tribunal

22.02.02

Request has made on behalf of Mr. S. Sarma learned counsel for the applicant that he is unable to attend the Court to-day for his personal difficulty and prays for adjournment. Mr. A. Deb Roy, Sr. C.G.S.C. has no objection. Prayer is allowed. List on 8.3.03 for hearing.

H C Usha
Member

26.2.2002

1m

8.3.2002

Heard counsel for the parties. Judgment delivered in open Court, kept in separate sheets.

The application is disposed of in terms of the order. No order as to costs.

H C Usha
Member

27.3.2002

Copy of the Judgment has been sent to the D.P.C.C. for sending the same to the applicant as well as to the Sr. C.G.S.C. for the Respondent.

bb

168

27/3/02

Notes of the Registry

Date

Order of the Tribu

10

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 178 of 2001.

Date of Decision. 8.3.2002...

Shri Ashok Sahu _____ Petitioner(s)

Mr. S. Sarma & Ms. U. Das. _____ Advocate for the
-Versus- Petitioner(s)

Union of India & Others. _____ Respondent(s)

Mr. A. Deb Roy, Sr. C. G. S. C. _____ Advocate for the
Respondent(s)

THE HON'BLE MR. K.K. SHARMA, ADMINISTRATIVE MEMBER.

THE HON'BLE

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 : Administrative Member.

KK Sharma

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.178 of 2001.

Date of Order : This the 8th Day of March, 2002.

THE HON'BLE MR K.K.SHARMA, ADMINISTRATIVE MEMBER.

Sri Ashok Sahu
S/o Late Surjya Nath Teli
Resident of Athabari
P.O:- Deow
Dist:- Sibsagar (Assam). . . . Applicant.

By Advocate Mr.S.Sarma & Ms.U.Das.

- Versus -

1. Union of India
Represented by the Secretary to the
Ministry of Defence
New Delhi.
2. The Engineer in Chief
Army Head Quarter
Kashmir House
New Delhi.
3. The Chief Engineer
Shillong Zone
Speed Eagle False
Shillong -11.
4. The Work Engineer
Head Quarter, 137
C/O. 99 APO.
5. The Garrison Engineer
869 EWS
C/o. 99 APO.

. . . Respondents.

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

O R D E R

K.K.SHARMA, (ADMN.MEMBER) :

The application pertains to compassionate appointment. The applicant's father was working as a Fitter General Mechanic in the office of the Garrison Engineer 869 EWS C/o. 99 APO. The applicant's father died on 22.11.97 while on duty. The applicant being the

son of the deceased employee applied for compassionate appointment vide representation dated 15.12.98. But nothing has been communicated to the applicant about the decision on his representation for compassionate appointment.

2. The respondents have filed written statement. It is stated that the application for compassionate appointment of the applicant was recommended for the post of LDC, but since the appointment is made by the Ministry of Defence in the order of merit the same was sent to the Department through official channel. In the written statement it is stated that as per the latest guidelines dated 1.3.2001 the applications for compassionate appointment are considered only/those cases where income of a family of five members is below Rs.1767/- per month. The appointments are made subject to the availability of the vacancies and that too within the quota of 5% of direct recruitment in Group-C or Group-D posts. As such the case of the applicant cannot be covered as the family pension drawn by the family of the deceased employee is Rs.2015/- per month.

3. Mr.S.Sarma, learned counsel for the applicant argued that as the applicant had applied for compassionate appointment on 15.12.98, the eligibility for the same should be decided as per the Scheme applicable at the relevant time. From the written statement it cannot be inferred whether the case of the

Illusian

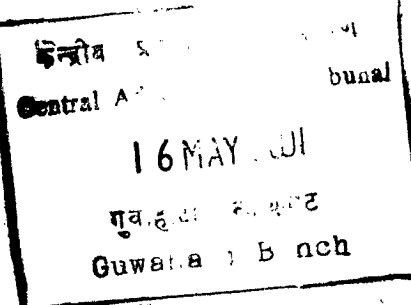
Contd..3

applicant has been considered or rejected after consideration. It simply states that the applicant is not entitled to the benefit of compassionate appointment. I have also heard Mr.A.Deb Roy, Sr.C.G.S.C. for the respondents. As the factual position is not clear, it would be appropriate that the matter is remanded back to the respondents to reconsider the case of the applicant. Accordingly the same is remanded to the respondents for consideration. For that purpose the applicant is directed to file a fresh representation within one month from the receipt of the order. The respondents are directed to communicate the decision on the representation to the applicant within a period of three months from the date of filing of the representation.

Subject to the observations made above, the application is treated as disposed.

There shall, however, be no order as to costs.

K K Sharma
(K. K. SHARMA)
ADMINISTRATIVE MEMBER



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

Original Application No. 178 2001

Sri Ashok Sahu ... Applicant

VS.

U.O.I. & ORS. ... Respondents

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~~~~~  
Filed by. S.Sarma. Advocate. Registration No.  
File .C:\WS7\ASHOK. Date.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Between

Sri Ashok Sahu,  
S/O Late Surjya Nath Teli,  
Resident of Athabari,  
P.O.- Demow,  
Dist.-Sibsagar (Assam).

Applicant.

- And -

1. Union of India.  
Represented by Secretary to the  
Ministry of Defence, New Delhi.
2. The Engineer in chief,  
Army Head Quarter,  
Kashmir House, New Delhi.
3. The Chief Engineer,  
Shillong Zone,  
Spreed Eagle False, Shillong -11.
4. The work Engineer,  
Head Quarter, 137, C/o. 99 APO.
5. The Garrison Engineer,  
869 EWS, C/O. 99 APO

Respondents.

Details of application.

1. Particulars of the orders against which this application is made.

The present application is not directed against any particulars order, but the same has been made against the action of the respondents in not considering his case for compassionate appointment against any vacancy commensurating to his educational qualification.

2. Jurisdiction of the Tribunal:

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

AS.

Filed by  
the applicant through  
Gobinda Das  
Advocate  
9/5/2004

3. Limitation:

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

4. Facts of the case.

4.1. That the applicant is a citizen of India and as such he is entitled to all the right, protections and privileges guaranteed under the constitution of India and laws framed there under.

4.2. That the father of the applicant was working as a Fitter General Mechanic (FGM) in the office of the Garrison Engineer 869 EWS C/O. 99 APO. On 22.11.97 while on duty, the father of the applicant Late. S.N. Teli died leaving aside his widow mother and a sister.

A copy of the death certificate is annexed herewith and marked as ANNEXURE- A.

4.3. That the mother of the applicant thereafter preferred a representation dated 16.8.98 praying for compassionate appointment for her son (applicant).

A copy of the representation dated 16.8.98 is annexed herewith and marked as ANNEXURE-B.

4.4. That the respondent No. 5 entertaining his application issued an order bearing No.1265/17/EIE dated 9.11.98 directing the applicant to prefer a representation in the prescribed form enclosing qualification certificates. Be it stated here that the applicant has passed the HSSLC examination and now he is studying

1st year of Bachelor Degree(Arts). Addition to the aforesaid educational qualification, the present applicant has got Diploma in Type Writing.

A copy of the aforesaid order dated 9.11.98 is annexed herewith and marked as ANNEXURE-C.

4.5. That the applicant pursuant to Annexure-C order dated 9.11.98, submitted a representation dated 15.12.98 enclosing all the required documents to the respondent No.5.

A copy of the said representation dated 15.12.98 is annexed herewith and marked as ANNEXURE-D.

4.6. That the applicant begs to state that the respondent No.5 prior to submission of the Annexure-D representation dated 15.12.98 issued an order dated 29.8.98 by which he has been asked to furnish certain documents along with the application and accordingly the applicant submitted these documents before the concerned authority which was received by the said authority on 14.12.98.

Copies of the order dated 29.8.98 and acknowledgement receipt dated 14.12.98 are annexed herewith and marked as ANNEXURE- E&F

4.7. That thereafter the applicant was pursuing the matter before the concerned authority but nothing has been communicated to him. Presently, the applicant is the sole male member in his family and there is no other alternative income source in his family.

4.8. The presently applicant along with his widow mother and

14

a sister has been facing tremendous financial hardship and it has now become impossible to run his family. It is pertinent to mention here that father of the applicant died on an accident while he was in service and at that point of time the respondents assured the applicant for giving him compassionate appointment but till date nothing has been done in the matter. Persons similarly situated like that of the present applicant has been given compassionate appointment ignoring the case of the present applicant.

4.9. That the respondent after a long lapse of time issued yet another order bearing No. 1265/33/EIE dated 12.2.99 directing the applicant to submit some more certificates and accordingly the applicant submitted the same. The applicant was under the banafide believe that in due course of time he would be provided with some job, however, nothing has been communicated to him till date.

A copy of the said order dated 12.2.99 is annexed herewith and marked as ANNEXURE-G.

4.10. That the applicant submits that the respondents are issuing various order delaying the matter of compassionate appointment more so when the authorities ie. the respondents No.5 knows all the factual background of the case. In the name official formalities the case of the applicant for compassionate appointment has been delayed only with sole purpose to frustrate his claim for such compassionate appointment.

4.11. That the applicant states that the matter relating to compassionate appointment needs to be settled as early as possible so that immediate and urgent relief to the family claiming compassionate appointment can be granted to substantiate

mitigate the hardship faced by the said family. However, in the present case the respondents have acted contrary to the said principle and are delaying the matter with the aid of usual excuse like so called official formalities and there by defeating the claim of the present applicant.

4.12. That the applicant as stated above belongs to a very poor family and after the death of his father it has become impossible for him to run his family that too without any source of income. On the other hand the respondents are giving one after another hopes but in reality nothing has been done so far in the matter. The applicant kept on the pursuing the matter but to no result in affirmative. The respondents knowing fully well about the plight of the applicant kept on dragging the matter to an indefinite period of time virtually rejecting the claim of the applicant which is well supported by various guidelines issued by Govt of India from time to time. Having no other alternative, the present applicant has preferred this O.A. praying for his compassionate appointment against any post under the respondents commensurating his educational qualification, immediately to meet the hardship of the family.

#### 5. Grounds with legal provision.

5.1. For that the entire action on the part of the respondents are illegal, arbitrary and violative of various constitutional mandates and some is liable to be set aside and quashed.

5.2. For that the action of the respondents is not appointing the applicant in any post commensurating his educational qualification even after due consideration of the

matter is illegal, arbitrary and violative of settled principle of administrative fair play.

5.3. For that the action of the respondents in delaying the matter of the applicant for his appointment on compassionate ground in the name of official formalities are illegal, arbitrary and same depicts total non-application of mind by the residents and for that necessary direction may be issued directing the respondents to issue necessary order of appointment to the present applicant against any post commensurating to his educational qualification.

5.4 For that there being various guidelines issued by the Govt. of India in respect of compassionate appointment fixing stipulated time limit for such consideration, the deviation made in the present case by the respondents reflects arbitrariness and malafide action on their part and hence necessary direction need be issued to expedite the matter of the applicant giving him appointment against any post commensurating to his educational qualification forthwith.

5.5. For that in any view of the matter the action/inaction on the part of the respondents is illegal, arbitrary and violative of principles of natural justice and same are liable to be set aside and quashed.

The present applicant craves leave of the Hon'ble Tribunal to advance more grounds at the time of hearing of the Original Application.

6. Details of remedies exhausted:

The applicant declares that he has exhausted all the departmental remedies and there is no other alternative remedy open to the applicant except by way of filing this application.

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 before any other court, authority and/or any other Bench of Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Relief sought:

Under the facts and circumstances of the case the applicant prays that this application be admitted and notice be issued to the respondents to show cause as to why the relief sought for in this application shall not be granted, call for the records and after hearing the parties on the cause or causes that may be shown and on perusal of the records be pleased to grant the following reliefs :

8.1. To direct the respondents to issue necessary appointment order to the applicant appointing him on compassionate ground to any post commensurating to his educational qualification.

8.2 To direct the respondents to extend all the consequential service benefits after such appointment.

8.3 Costs of the application.

8.4 Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and as may be deemed fit and proper.

9. Interim order prayed for:

Considering the facts and circumstances of the case the applicant prays for an interim order directing the respondents to engage the applicant even on temporary basis in any post under the respondents during the pendency of the case.

10 .....

This application has been filed through advocate.

11. Particulars of the IPO

|                  |   |                   |
|------------------|---|-------------------|
| 1. IPO No.       | : | 66 792418         |
| 2. Date of Issue | : | 11/5/2001         |
| 3. Issued from   | : | G.P.O., Guwahati  |
| 4. Payable at    | : | G.P.O., Guwahati. |

12. List of enclosures

As stated in the INDEX.

VERIFICATION

I, Sri Ashok Sahu, s/o Late Surja Nath Teli, aged about 22 years, resident of Athabari, P.O. Demow, in the district of Sibsagar, do hereby solemnly affirm and verify that the statements made in the paragraphs 1,2,3,4'1,4'4 to 4'12 \_\_\_\_\_ are true to my knowledge and those made in paragraphs 4'2, 4'4, 4'5, 4'6 \_\_\_\_\_ are matters of records which I believe to be true and the rests are my humble submissions before the Hon'ble Tribunal and I have not suppressed any material facts of the case.

And I sign this verification on this the 4th day of May,  
2001.

Stei Ashok Sahu

## ମହାକାଳ ପାତ୍ର

CONFIDENTIAL

In lieu of AFMSF-93 (Part-I)

MEDICAL CERTIFICATE OF THE DEATH : ALL RANKS

..... to antecedent cause of death.  
(Morbid condition if any giving raise to the above cause, stating  
are underlying conditions.....  
due to or consequence of.....

(a)

(5)

(b) Other significance conditions if any, contributing to the death but not related to the disease or condition on causing if

Station : 5/0 99 APO

Dated : 22 Nov 97

~~Sig of the MO~~

Name in full..

Designation .....

This does not run the code of lying for a plain heart failure as than is etc. It means the disease, injury or complications with case of death.

Part (A) and (B) are not be completed if the disease or conditions directly leading to death discribing completely train of events.

Note :- (a) This form is designation to facilitate the info on which will facilities the selection of the underlying cause when two or more case are jointly recorded.

(b) See para 62 of Charter III of the Regs of the medical services of Armed Forces (old Para 1969 of Reg for Medical Services of the Army in India).

~~CONFIDENTIAL~~

Alleged  
heat  
excuse

From:-

Srimoti Phulmoti Devi.  
Wife of Late Surjya Nath Teli.  
Resident of Athabari.  
Mousa- Thewra.  
P.O.- Demow.  
Dist.- Sibsagar (Assam).

To,

The Engineer in Chief.  
Army Head Quarter.  
R-IN-C Branch, Kashmir House.  
New Delhi-11.

Dated----- the 16th August, 1998.

Sub:- Prayer for recruitment of my son Sri Ashok Sahu son of Late Surjya Nath Teli, Resident of Athabari, Mousa- Thewra, P.o- Demou, Dist.- Sibsagar(Assam).

Sir,

With due respect, I beg to state as under:-

1. That my husband Late Surjya Nath Teli was working under G.E.869 EWS,C/O 99 APO and expired on 22.11.97 at Hakhoma General Hospital, Nagaland during his service.
2. That my husband Late behind the following legal heir at the time of his death.

| Name.                                                                                                                                      | Relationship with the deceased | Age.     |
|--------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------|
| 1. Smt. Phulmoti Devi.                                                                                                                     | wife                           | 45years. |
| 2. Sri Ashok Sahu .                                                                                                                        | Son                            | 19years. |
| 3. Smt. Anita Sahu.                                                                                                                        | Daughter                       | 6Years.  |
| 3. That my husband was the sole earning member of my family. After his death I am facing great distress and trouble in running the family. |                                |          |
| 4. That my son Sri Ashok Sahu is studying in higher secondary class at present.                                                            |                                |          |
| 5. That after the death of my husband, under the above circumstances, it has become necessary for my son to get a job in                   |                                |          |

Attested  
h.s.s.  
Advocate.

your department under compensationate grounds. That, It will be convenient for my son to do service under you and to look after the family, if he is given appointment under G.E. Chabua, G.E. Dinjan or G.E. Jorhat.

6. That unless my son is given a job under you, my family will certainly be deemed, an I have no source of income to ran my family after the death of my husband.

I, therefore request and pray you kindly to consider my prayer and give appointment to my above son, in your department which is highly required for survival of my family after the pre measured death of my husband, who

was

*eligibility - when  
vacancy arose*

serving under your department under the compensationate grounds.

Yours faithfully

R.T.I.of

( Srimoti Phulmoti Devi.)

W/O Lt. Surjya Nath Teli.

Copy to:-

1. Chief Enginer (H.Q.):- For information and necessary action.
2. Chief Engineer. - Do-  
Shillong Zone, Spread Eagle False.  
Shillong-11.
3. G.E. 869 EWS - Do-  
C/O 99 APO

*Attested  
H.S.  
Advocate.*

6 of post  
 Garrison Engineer  
 869 Engineer Works Section  
 C/O 99 APO.

1265/17/EIE

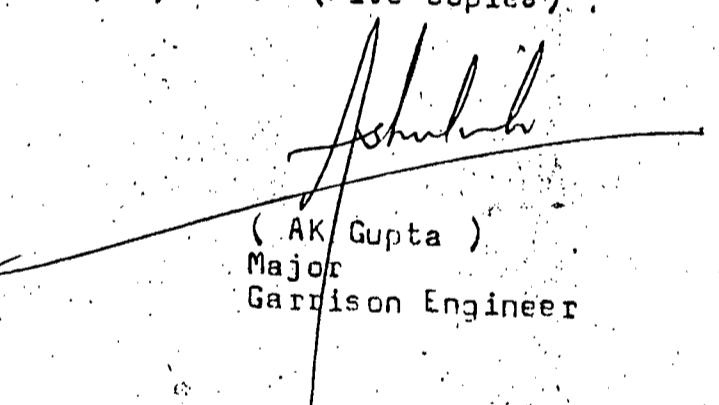
09 Nov 98

Mr Ashok Sahu  
 S/O Late Surajya Nath Teli  
 Vill : Atahbari  
 P.O : Khorahat (Demow)  
 Dist : Sibsagar  
 State : Assam  
 Pin : 785 662

APPLICATION FOR COMPASSIONATE APPOINTMENT

1. You are requested to submit the following documents/ certificates to this office at the earliest as the same are urgently required for progressing the case for compassionate appointment:-

- (a) Formal application for compassionate appointment addressed to E-in-C's Branch, Army HQ, New Delhi duly signed by you. (Five copies)
- (b) Original School leaving certificate for verification of date of birth.
- (c) Certificate for typing experience from a typewriting institute.
- (d) Declaration certificate to lookafter the family members on getting the employment. (Five copies).

  
 (AK Gupta)  
 Major  
 Garrison Engineer

*1265*

To,

The E-In-C's Branch,  
Army Head Quarters,  
New Delhi.

Date 1.11.12-98.

Sub : Prayer for offering me a job on compassionate ground.

Respected Sir,

Most humbly and respectfully, I beg to lay before you the following few lines for favour of your kind consideration and favourable orders.

That Sir, my father Surajya Nath Tali was a regular and permanent employee of M.E.S. Department. But unfortunately while he was working in the water supply machine, he met with an accident and expired. He has left a huge family and after his unexpected death, the family has been facing untold difficulties in these days of hard economic crisis and high prices.

I am his only son who has to look after the family, but unluckily, I am sitting unemployed. I passed the H.S.L.C. Examination in 1998 and have diploma in Type writing in English.

Under the above circumstances, I pray your honour to be gracious enough to consider my case very sympathetically and favour me with a clerical job on compassionate ground. So, that I may be in a position to maintain my family. As I shall have to look after the family including my ailing mother, it will be very difficult to work at Nagaland. So, I pray your honour to offer me appointment in the State of Assam, either at Dibrugarh, or Jorhat, or Shillong. This favour being shown, I shall remain ever grateful to you.

My requisite particulars are given below :

|                               |   |                                                                                            |
|-------------------------------|---|--------------------------------------------------------------------------------------------|
| 1. Name                       | : | SHRI ASHOK SAMU.                                                                           |
| 2. Father's Name              | : | Late Surajya Nath Tali.                                                                    |
| 3. Address.                   | : | Athabari Village,<br>P.O. Khorshet, (Dowm)<br>Dist.-Sivasagar (Assam)<br>Pin Code- 783662. |
| 4. Caste                      | : | Tali ( O.B.C. )                                                                            |
| 5. Religion                   | : | Hinduism.                                                                                  |
| 6. Educational qualifications | : | Passed in H.S.L.C. Examination.                                                            |
| 7. Additional qualifications  | : | Diploma holder in English<br>Typewriting.                                                  |
| 8. Date of birth              | : | 03-06-78<br>(according to SLC Admit Card)                                                  |

ARRESTED  
libar.  
Advocate.

Yours faithfully,

Sri Ashok Samu  
Son of Late Surajya Nath Tali, Athabari.

Garrison Engineer  
869 Engr Works Section  
C/O 99 AFU

238111/Case/ 11 /EI(Pen)

29 Aug 98

Smt Phulmoti Devi  
w/o Late Surjya Nath Teli  
Vill : Athabari  
P.O : Khorahat (Dhemow)  
Distt : Sibsagar  
Pin : 785662 (Assam).

APPOINTMENT IN THE DEPARTMENT ON COMPASSIONATE GROUNDS

Madam,

1. Please refer your application for appointment in department on compassionate ground.
2. In this connection you are advise to submit the following documents to this office for taking up the case with our higher authorities:—
  - (a) Undertaking certificate.
  - (b) willingness certificate.
  - (c) Medical fitness certificate.
  - (d) School admission card or proof of date of birth.
  - (e) Movable/Immovable property cert.
  - (f) Income Certificate.
  - (g) Education certificate.
  - (h) Legal declaration certificate.
  - (i) Character certificate.

*A. K. Gupta*  
( A. K. Gupta )  
Major  
Garrison Engineer

*Advocated  
by  
Advocate.*

Received original cost certificate  
(A.P.S.L.C) and other docs.

ML

14/12/98.

EIE Sec  
GR & C.R. L.H.S.

ML

ML

Garrison Engineer  
869 Engineer Works Section  
C/O 99 APO

1265/33/EIE

Feb. 99

Smt Phulmati Devi  
W/O Late Surjya Nath Teli  
Vill : Atahbari  
P.O : Morahat (Dewow)  
Distt : Sibsagar  
State : Assam  
Pin : 785 662

COMPASSIONATE APPOINTMENT MR ASHOK SAHU  
S/O LATE SURAJYA NATH TELI.

Madam,

1. You are requested to submit the following documents/ certificate to this office at the earliest as the same are urgently required by higher authorities for progressing the case for compassionate appointment:-

- (a) Details regarding the present employment status of each of the dependents duly verified from Civil authorities.
- (b) Present marital status of all the dependents duly verified from civil authorities.
- (c) No objection certificate from all the dependents of deceased in favour of the applicant.
- (d) A brief resume of liabilities on the part of applicant should also be forwarded alongwith the application.

Yours faithfully,

( A K Gupta )  
Major  
Garrison Engineer

1265/33/EIE

29/11/01  
Filed by  
Guwahati Bench

13 DEC 2001

INTRODUCTION

গুৱাহাটী ন্যায়পাত্র  
Guwahati Bench

1. MES 238111 Late Surjya Nath Tali, FGM expired on 22 Nov 97 while in service. His only son Shri Ashok Sahu asked for compassionate appointment in the department vide his application dated 15.12.98 almost after lapse of one year from the date of death of his father. After scrutiny of his education certificate and other relevant documents by a Board of Officers, his name was recommended for compassionate appointment for the post of LDC. The compassionate appointment documents duly completed the departmental formalities were forwarded to our higher Headquarters i.e. HQ 137 Works Engineers C/o 99 AP0 vide GE 869 EWS letter No. 1265/42/EIE dated 17 Apr 99.

2. As per the then Govt policy, the cases for compassionate appointment were considered by the Govt of India, Ministry of Defence in order of merit. Accordingly, compassionate appointment application of Shri Ashok Sahu was sent through Departmental channel to reach at Army HQ (Engineer-in-Chief's Branch) New Delhi and thereafter to Ministry of Defence.



3. Shri Ashok Sahu has now filed OA No. 178/2001 in the Hon'ble CAT Guwahati Bench to redress the grievances of compassionate appointment in the MES Department.

PROPOSAL

4. The proposal pertains to clarify the factual position in its true nature as per the records held as called for by Hon'ble CAT Guwahati vide his order dated 23.05.2001 placed on OA No. 178/2001.

JUSTIFICATION OF CASE

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5. MES-238111 Late SN Teli, FGM, expired on 22 Nov 97 while in service. The deceased Govt employee had left the following dependents:-

- (a) Smt Phulmati Devi wife aged 45 Yrs (Widow)
- (b) Smt Sangita Sahu Daughter aged 28 Yrs (Married )
- (c) Mr Ashok Sahu Son aged 22 Yrs (unmarried )
- (d) Miss Anita Sahu Daughter aged 08 Yrs (Minor)

6. The following terminal benefits have been paid to the widow of the deceased Govt employee :-

|                         |                  |
|-------------------------|------------------|
| (a) Death Gratuity      | - Rs.66,033.00   |
| (b) CGEIS               | - Rs.34,240.00   |
| (c) GP Fund             | - Rs.35,327.00   |
| (d) Encashment of leave | - Rs.21,070.00   |
|                         | <hr/>            |
| Total                   | = Rs.1,56,674.00 |
|                         | <hr/>            |

(e) Family Pension - Rs.2015/- (Being paid per month)

7. As per latest policy issued by Govt of India, Min of Def ID No.19(1)/2000-D(Lab) dated 12 Feb 2001 (Annex-I) and Engineer-in-Chief's Branch Army HQ New Delhi letter No.6526/Policy/EIC(4) dated 01 Mar 2001 (Annexure-II), all waiting list cases for compassionate appointment are to be reviewed afresh keeping in view the yardstick wherein poverty line amount of income below Rs.1767/- per month for a family of five members has been fixed. Only such cases whose monthly income is below Rs.1767/- are to be considered deserving cases for compassionate appointment. Mere death of an employee in harness does not entitle his family for such source of livelihood by way of appointment on compassionate grounds (Govt of India, Personnel, Public Grievances and Pension letter dated 13 Jan 99 (Annex-III) refers ).

8. In the light of latest policy as brought out in paragraph 7 above, the case for compassionate appointment of the individual is to be considered at Min of Def in order of merit.

DETAILED JUSTIFICATION OF CASE

9. Apprex one year after the death of MES-238111 Late SN Teli, FGM, who expired on 22 Nov 99, Shri Ashok Sahu, the only son of the deceased had applied for compassionate appointment in the MES Department. After scrutiny of all documents by a Board of Officers his name has been recommended for compassionate appointment for a post of LDC. The compassionate appointment application alongwith its all connected document has already been sent to HQ 137 Wks Engrs C/o 99 AP0 vide GE 869 EWS letter No.1265/42/ELE dated 17 Apr 99.

10. The compassionate appointment cases are being considered centrally by Min of Def in the order of merit. Anticipated delay is usual to reach the application at Min of Def level as the same has to be routed through all the Departmental Headquarters in the chain of command starting from GE 869 EWS to HQ 137 Wks Engr Vis-aVis HQ Chief Engineer Shillong Zone - HQ Chief Engineer, Eastern Command, Kolkata - Army HQ (Engineer-in-Chief's Branch), New Delhi and then to Min of Def.

11. The compassionate appointment application is to be considered in light of new policy issued vide Min of Def letter No.19(1)/2000-D(Eab) dated 12 Feb 2001(Placed at Annex-I), Army HQ (Engr-in-Chief's Branch) New Delhi letter No.65926/Policy/EIC(4) dated 01 Mar 2001(Placed at Annex-III) and Govt of India, Personnel, Public Grievances & Pension letter dated 13 Jan 99 (Placed Annex-III; wherein poverty line amount of income below Rs.1767/- per month for a family of five members has been fixed. Only those cases whose monthly income is below Rs.1767/- per month and having five family members or more are to be considered as deserving cases for compassionate appointment. Mere death of an employee in harness does not entitle his family for a compassionate appointment.

-4-

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12. In the instant case the family of deceased is having three dependents (Widow-1, Son-1 & daughter-1) beside one daughter aged 28 years already married. Moreover, the widow has been paid an amount of Rs. 1,56,674/- on account of terminal benefits of the deceased plus she is drawing monthly pension Rs. 2015/- per month. In view of the clear rule position on the matter, the compassionate appointment on such cases can only be made if the case meets all the requirements and merit.

FINANCIAL EFFECT

13. In case the applicant gets employment in post of LDC, the financial effect will be approx Rs. 3050/- per month excluding allowances.

CONCLUSION

14. As per the Hon'ble CAT Guwahati order dated 23.5.2000 placed on OA No. 178/2000, the factual position of the case has been drawn from the record held. The case of appointment is to be considered as per the latest policy/instructions issued on the subject.

Station: C/o 99 APO

Dated: 07 Jul 2001

( Vijaya Kumar VS )

Major

Garrison Engineer

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PARAWISE COMMENTS ON OA NO. 178/2001 FILED  
BY SHRI ASHOK SAHU SON OF LATE MES-23811  
SURJYA NATH TELI, FGM (EXPIRED ON 22.11.97)

Para 1 : Shri Ashok Sahu S/o Late MES-23811 Surjya Nath Teli, FGM has filed OA No. 178/2001 against for not considering his case on compassionate appointment against any vacancy commensurating to his educational qualification.

Para 2, 3 : No comments.

Para 4, 1 : The contention of paras are admitted to the extent borne out of record.

Para 4, 2, 3 : The contention of paras are admitted.

Para 4, 4 : The application was received by the respondent No. 5 without endorsing relevant documents, hence respondent No. 5 requested the applicant to submit formal application for compassionate appointment addressed to Engineer-in-Chief's Branch, Army Headquarters, New Delhi alongwith connected documents vide GE 869 EWS letter No. 1265/17/E1E dated 09 Nov 98 (Annex-I).

Para 4, 5, 6 : The applicant representation dated 15.12.98 was received leaving some other documents after lapse of one year from the date of his father death.

Para 4, 7, 8 : As per the existing policy, respondent No. 5 forwarded the applicant's application to our higher authority after formal completion of relevant documents vide letter No. 1265/42/E1E dated 17 Apr 99 (Annex-II) and the same was returned by HQ 137 Works Engineer with certain observation vide letter No. 1213/AS/02/E1C(2) dated 27 May 99 (Annex-III). The application was resubmitted to HQ 137 Wks Engineers duly rectified the observation vide letter No. 1265/49/E1E dated 14 Jun 99 (Annex-IV). Finally HQ 137 Wks Engrs has forwarded the application to HQ Chief Engineer, Shillong zone vide letter No. 1213/AS/5/E1C(2) dated

03 Jul 99 (Annex-V). Whereas, the Govt of India Min of def vide ID No.19(1)/2000-D(Lab) dated 12 Feb 2001 (Annex-VI) has issued a revised policy for the purpose of appointment on compassionate grounds directing to review all the pending such cases a fresh and the system of maintenance of waiting list be dispensed with. Keeping in view the yard stick issued by DOP&T, for determining the penurious condition/financial status of the family. As per the yardstick, the poverty line amounts to income below Rs. 1767/- per month for a family of five members. Only those who are below the poverty line as per said yardstick are to be considered deserving cases and subject to availability of vacancy within one year and that too within 5% of LRS for direct recruitment in any Group 'C' & 'D' post. As such all case are being determined by convening the board of officers. In view of the clear rule position on the matter the appointment on such cases can only be made if the case meets all the requirement and merit.

Para 4.9: No comments.

Para 4.10: The department was bound to take action for Compassionate appointment as per procedure in vogue. Moreover the applicant has applied for compassionate appointment at most lapse of one year of his father death. Accordingly, his application alongwith relevant documents has already been submitted ..... to our higher authority. It is pertinent to mention that the delay was occurred due to timely non submission of all relevant documents by the applicant.

Para 4.11 : Not agreed. The case will be settled as per  
& 4.12 revised policy issued by Govt of India Min of Def  
letter No.19(1)/2000-D(Lab) dated 12 Feb 2001 ( Annex-VI )  
The respondent No.5 has already submitted the  
application to higher authority as per existing policy  
after formal completion of requisite documents. It  
is pertinent to mention that the mother of the  
applicant has already got an amount of Rs.1,56,674/-  
on account of terminal benefits from the Govt beside  
family pension of Rs.2015/- per month ( Approx ). Mere  
death of an employee in harness does not entitle  
his family for a compassionate appointment.

Para 5 : The contention of para is admitted.

Para 5.1, 5.2 & 5.3: Not agreed. The department is bound to follow the  
orders of Govt of India and the case be decided in  
natural justice as per clarification contained in  
Govt of India Min of Def ID No.19(1)/2000-D(Lab)  
dated 12 Feb 2001 ( Annex-VI ).

Para 5.4, 5.5: Not agreed. The petitioner application has been  
processed in true manner through proper channel  
without any deviation to Govt policy. The case is  
to be considered as per clarification contained in  
Govt of India Min of Def ID No.19(1)/2000-D(Lab)  
dated 12 Feb 2001.

Para 6&7: No comments.

Para 8 : The applicant has right to take relief from Hon'ble Tribunal.

Para 8.1 : Hon'ble Tribunal will be approached to defend the case in terms of Govt of India Min of Def latest policy ID No.19(1)/2000-D(Lab) dated 12 Feb 2001. Hon'ble Tribunal may please be rejected the OA at admission stage itself as the compassionate appointment can only be offered as per the yardstick issued by DOD/T and subject to availability of vacancy within one year and that too within 5% of LRS for direct recruitment in any Group 'C' & 'D' post.

Para 9 : The court of law has to decide the case in natural justice, as per clarification contained in Govt of India, Min of Def ID No.19(1)/2000-D(Lab) dated 12 Feb 2001 and the application is liable to be set aside and rejected.

Para 10,10.1 : The contention of paras are admitted to the extent borne out of record.

Station: G/o 99 APO

Dated : 07 Jul 2001

  
( Vijaya Kumar VS )  
Major  
Garrison Engineer

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COUNTER AFFIDAVIT

I, Major Vijaya Kumar VS son of Late TK Sreedharan Nair aged about 43 years serving as Garrison Engineer, 869 Engineer Works Section, C/o 99 APO do hereby solemnly affirm and declare as follows:-

1. That I have been impleaded as the Respondent No.5 in the aforesaid writ petition. I have received a copy of the said petition and on going through the same and understanding the contents thereof, I file these following reply for and on behalf of all respondents.
2. That save and except what have been admitted here-in-after, all other statements as contained in the writ petition, which are contrary to and inconsistent with what has been admitted here-in-after are deemed to have been denied by the deponent.
3. That with regard to statement contained in para 1,2 & 3 of the writ petition, the deponent has no comments to offer.
4. That with regard to statement contained in para 4 & 4.1 of the petition, the deponent admit the same to the extent borne out of record.
5. That with regard to the statement contained in para 4.2 & 4.3, the deponent admit the same.
6. That in reply to the statement contained in para 4.4 of the writ petition, the deponent beg to state that the application was received by the respondent No.5 without relevant documents, hence respondent No.5 requested the applicant to submit formal application for compassionate appointment addressed to Engineer-in-Chief's Branch , Army Headquarters, New Delhi alongwith connected documents vide letter No.1265/17/EIE dated 09 Nov 1998 ( Annex- I ).

7. That in reply to the statement contained in para 4.5 & 4.6, the deponent beg to state that the applicant representation dated 15.12.98 was received leaving some other documents after lapse of one year from the date of death of the applicant father.

8. That in reply to the statement contained in para 4.7 & 4.8 the deponent beg to state that as per existing policy respondent No.5 forwarded the applicant's application to our higher authority after formal completion of relevant documents vide our letter No.1265/42/ELE dated 17 Apr 99 (Annex- II ) and the same was returned by HQ 137 Works Engineer with certain observation vide letter No.1213/AS/02/E1C(2) dated 27 May 1999 (Annex- III). The application was resubmitted to HQ 137 Wks Engrs duly rectified the observation vide letter No.1265/49/ELE dated 14 Jun 99 (Annex-IV). Finally HQ 137 Wks Engrs has forwarded the application to HQ Chief Engineer, Shillong Zone vide letter No.1213/AS/5/E1C(2) dated 03 Jul 1999 (Annex-V). Whereas, the Govt of India min of def vide ID No.19(1)/2000-D(Lab) dated 12 Feb 2001 (Annex-VI) has issued a revised policy for the purpose of appointment on compassionate grounds directing to review all the pending such cases a fresh and the system of maintenance of waiting list be dispensed with. Keeping in view the yardstick issued by DOP &T, for determining the penurious condition/financial status of the family. As per the yardstick, the poverty line amounts to income below Rs.1767/- per month for a family of five members. Only those who are below the poverty line as per said yardstick are to be considered deserving cases and subject to availability of vacancy within one year and that too within 5 % of LRS for direct recruitment in any Group 'C' and 'D' post. As such all case are being determined by convening the board of officers. In view of the clear rule position on the matter the appointment on such cases can only be made if the case meets all the requirement and merit.

9. That with regard to the statement contained in para 4.9, the deponent has no comments.

10. That in reply to the statement contained in para 4.10, the deponent beg to state that the department was bound to take action for Compassionate appointment as per procedure in vogue. Moreover the applicant has applied for compassionate appointment at most lapse of one year of his father death. Accordingly his application alongwith relevant documents has already been submitted to our higher authority. It is pertinent to mention that the delay was occurred due to timely non submission of all relevant documents by the applicant.

11. That in reply to the statement contained in para 4.11 & 4.12, the deponent beg to state that the case will be settled as per revised policy issued by Govt of India Min of Def letter No. 19(1) /2000-D(Lab) dated 12 Feb 2001 (Annex-VI). The respondent No.5 has already submitted the application to higher authority as per existing policy after formal completion of requisite documents. It is pertinent to mention that the mother of the applicant has already got an amount of Rs. 1,56,674/- on account of terminal benefits from the Govt beside family pension of Rs. 2015/- per month (Approx).

12. That with regard to statement contained in para.5, the deponent admit the same.

13. That in reply to the statement contained in para 5.1, 5.2 & 5.3, the deponent beg to state that the department is bound to follow the orders of Govt of India and the case be decided in natural justice as per clarification contained in Govt of India Min of Def ID No.19(1)/2000-D(Lab) dated 12 Feb 2001 (Annex-VI).

14. That in reply to the statement contained in para 5.4 & 5.5, the deponent beg to state that the petitioner application has been processed in true manner through proper channel without any deviation to Govt policy. The case to be considered as per clarification contained in Govt of India Min of Def ID No.19(1)/2000-D(Lab) dated 12 Feb 2001.

15. That with regard to statement contained in para 6 & 7, the deponent has no comments.

16. That in reply to the statement contained in para 8, the deponent beg to state that the applicant has right to take relief from Hon'ble Tribunal.

17. That in reply to statement contained in para 8.1, 8.2, 8.3 & 8.4, the deponent beg to state that Hon'ble Tribunal will be approached to defend the case in terms of Govt of India, Min of Def latest policy ID No. 19(1)/2000-D(Lab) dated 12 Feb 01. Hon'ble Tribunal may please be rejected the OA at admission stage itself as the compassionate appointment can only be offered as per the yardstick issued by DOP & T and subject to availability of vacancy within one year and that too within 5% of LRS for direct recruitment in any Group 'C' & 'D' post.

18. That in reply to statement contained in para 9, the deponent beg to state that the court of law has to decide the case in natural justice as per clarification contained in Govt of India Min of Def ID No.19(1)/2000-D(Lab) dated 12 Feb 2001 and the application is liable to be set aside and rejected.

19. That in reply to statement contained in paras 10, 10.1, the deponent admit the same to the extent borne out of record.

20. That the statement made in this affidavit in paragraphs  
1, 2, 3, 4, 8, 13, 15, 16, 17  
.....,.....,..... are true to my knowledge, those made in  
paragraphs 5, 6, 7, 9, 10, 11, 12, 15  
.....,.....,..... being matter of record are true to my  
information derived therefrom which, I believed them to be  
true and the rest are my humble submission before this Hon'ble  
C. A. T.  
High Court. As I sign this affidavit on this 16.....  
day of Nov..... 2001

Identified by :-

~~DEPONENTS~~  
VIJAYA KUMAR VS  
Major  
Garrison Engineer.

• • • • • • • • • • • •

## Advocate

5 copies encd  
 5-XS-25  
 Garrison Engineer  
 869. Engineer Works Section  
 C/O 99 AFU

1265/ X EIE

09 Nov 98

b

Mr Ashok Sahu  
 S/o Late Surejya Nath Teli  
 Vill : Atahbari  
 P.O : Khorahat (Demow)  
 Distt : Sibsagar  
 State : Assam  
 Pin : 785 662

APPLICATION FOR COMPASSIONATE APPOINTMENT

1. You are requested to submit the following documents / certificates to this office at the earliest as the same are urgently required for progressing the case for compassionate appointment:-

- (a) Formal application for compassionate appointment addressed to E-in-C's Branch, Army HQ, New Delhi duly signed by you. ( Five copies )
- (b) Original School leaving certificate for verification of date of birth.
- (c) Certificate for typing experience from a typewriting institute.
- (d) Declaration certificate to lookafter the family members on getting the employment. ( Five copies )

  
 ( AK Gupta )  
 Major  
 Garrison Engineer

  
 QCD

(42)   
N/2  
Garrison Engineer  
869 Engineer Works Section  
C/O 99 APD

1265 ✓ / LIE

17 Apr 99

X

Headquarters  
137 Works Engrs  
C/O 99 APD

APPLICATION FOR COMPASSIONATE APPOINTMENT  
IN RESPECT OF Mr ASHOK SAHU, S/U MES-238111  
LATE SN TELI, FGM EXPIRED ON 22 NOV 97

1. Application for compassionate appointment alongwith connected documents as per check list attached in respect of MES-238111 Late SN Teli, FGM of this division expired on 22 Nov 97 are submitted herewith in quadruplicate in separate folders for your further necessary action please.

*R*  
 ( AK Gupta )  
 Major  
 Garrison Engineer

*MR* *QC R*  
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(P) 3

Headquarters  
137 Works Engineers  
C/O 99 APO

1213/AS/ 02 /E1C(2)

129 May 99

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GE 869 EWS

APPLICATION FOR COMPASSIONATE APPOINTMENT  
IN RESPECT OF MR ASHOK SAHU, S/O MES-238111  
LATE SN TELI, FGM EXPIRED ON 22 NOV 97

1. Reference your letter No.1265/42/E1E dt 17 Apr 99.
2. An application for compassionate appointment in respect of Mr Ashok Sahu, S/O MES-238111 Late SN Teli, FGM received under your letter cited above is returned herewith with the following obsn :-(a) Board proceedings for eligibility of the candidate not found enclosed.
3. Please re-submit the same duly complied with the ~~new~~ instructions issued vide CESZ, Shillong Zone letter 70601/25/1048/E1C(1) dt 18 Jun 85 and 70601/25/1276/E1C(1) dt 30 Jun 98.

Sr/\*  
Encls : (og Folders)

(Devendra Singh)  
Major  
Adjt  
for CME

142  
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Garrison Engineer  
869 Engr works Sec  
C/O 99 APO

1265/ A9 /EIE

19 Jun 99

Headquarters  
137 Works Engrs  
C/O 99 APO

APPLICATION FOR COMPASSIONATE APPOINTMENT  
IN RESPECT OF MR ASHOK SINGH, S/0 MES-238111  
LATE SN TELI, FGM EXPIRED ON 22 NOV 97

1. Ref your HQ letter No 1213/AS/02/EIC(2) dt 27 May 99.
2. Application for compassionate appointment in respect of Mr Ashok Singh, S/0 MES-238111 Late SN Teli, FGM of this division is resubmitted herewith alongwith board proceedings for eligibility of the candidate as desired please.

Encle : (

FR | BR  
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B  
(A.K. Gupta )  
Major  
Garrison Engineer

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Annex - V

(68) 45

Headquarters  
137 Works Engineers  
C/O 99 APO

1213/AS/ 5 /E1C(2)

03 Jul 99

Headquarters  
Chief Engineer  
Shillong Zone  
Shillong - 11

FWD OF APPLICATION FOR COMPASSIONATE  
APPOINTMENT

Application dated 07 Apr 99 submitted by  
Mr Ashok Sahu S/O MES 238111 Late SN Teli, FGM of  
GE 869 EWS is fwd herewith alongwith connected documents  
in triplicate in seperate folders for your further  
action please.

(Devendra Singh)  
Maj  
Adjt  
for CWE

Encl : (Three folders)

Copy to :

GE 869 EWS -- for info wrt your letter No 1265/49/E1E  
dt 14 Jun 99.

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Ministry of Defence  
D(Lab)

Subject: Time limit and revised rules and regulations for the purpose of appointment on compassionate grounds.

The issues raised by various Service HQs on the subject have been examined by the Ministry in consultation with DOP&T. The following explanations/clarifications in accordance with DOP&T rules and regulations are to be adopted:-

(a) With regard to wait-listing of deserving cases, DOP&T vide OM No 14014/23/99-Estt(D) dated 3-12-1999 (Annexure-I) have clearly brought out that the Committee prescribed for, considering a request for appointment on compassionate grounds should take into account the position regarding availability of vacancy for such appointment and it should recommend appointment on compassionate grounds only in a really deserving case and only if vacancy meant for appointment on compassionate grounds will be available within a year, that too within the ceiling of 5% falling under direct recruitment quota in any Group 'C' or 'D' post. The above restriction is in accordance with the Supreme Court ruling (Annexure-II) that appointment on compassionate grounds can be made only if vacancies are available for the purpose. DOP&T have further instructed that, in respect of other really deserving cases, the Committee should only recommend taking up the matter with other Ministries/Departments/Offices of the Government of India to consider those cases for appointment. In this connection, DOP&T have given a yard-stick of poverty line to be applied (Annexure-IV) to determine the financial destitution/penurious condition of the family to decide whether or not a case is really deserving one. It has been brought out that according to the Planning Commission, the poverty line amounts to income below Rs 1767.20 ( $353.44 \times 5$ ) for a family of 5 members per month. Hence, if the yard-stick of poverty line is applied to decide whether or not the pending backlog cases are really deserving cases, the number of really deserving cases would surely be within the ceiling of prescribed 5% quota. Henceforth this criterion should be applied to judge the penurious condition/financial destitution of the family of the concerned government servant for considering the requests from the dependents for compassionate appointment. In view of the above, the system of maintaining of waiting lists be dispensed with since this is causing lot of problems and therefore no cases are henceforth to be waitlisted.

(b) The level of compassion to be quantified to facilitate screening of deserving cases is under consideration of this Ministry.

### Philippe's *Leviathan*

### Unterstützung

(c) Regarding additional 5% vacancies, DOP&T had time and again rejected (Annexures- III & IV) the proposal of this Ministry for an increase in the prescribed 5% quota for compassionate appointments stating that exception to MOD would result in requests of similar nature from other Ministries also.

(d) With regard to one time release of vacancies, it transpires that, in 1992 it was allowed as a one time relaxation to make compassionate appointments against unutilised vacancies reserved for ex-servicemen and physically handicapped, in consultation with D.O.P. & T. Para 7 (d) of the revised Scheme for compassionate appointment (Annexure-VII) specifically brings out that "the ceiling of 5% of direct recruitment vacancies for making compassionate appointment should not be exceeded by utilising any other vacancy e.g. special quota vacancy". The proposal as one time measure, to utilize the vacancies meant for other purposes lying unutilized in order to accommodate the waitlisted candidates was taken up with DOP&T vide OM No. 19(1)/2000-D(Lab) dated 22-9-2000 (Annexure-VIII), but the same was not agreed to by DOP&T as intimated vide their reference dated 4-10-2000 (Annexure-IX). In view of the above, no alternative is left but to review all pending cases as per the action (Annexure-IV) brought out in para 1(a) above.

(e) "Regarding separate quota for Service Personnel, DOP&T vide OM No 14014/2/97-EstII(D) dated 4/5<sup>th</sup> March 1998 (Annexure-V) have given their no objection to Ministry of Defence evolving a separate scheme for families of Defence service personnel killed in action for their appointment on compassionate grounds in the non-combatant posts in Armed Forces and Defence Establishments which are not part of civilian posts under the Ministry of Defence as the latter would be covered by the scheme of compassionate appointment operated by this Department. "

2. Further, DOP&T have observed that before a decision is taken by the Competent Authority, taking into account among other things the availability of a suitable vacancy within the 5% ceiling for appointment on compassionate grounds, the applicants are sent for Medical examination by the Service HQs and their cases are referred for verification of character and antecedents. This action of the administration leads the candidates to believe that their cases have been approved for such appointment, whereas the factual position is different and such cases result in Court litigation. Therefore, DOP&T have instructed (Annexure-X) avoiding creation of such a situation and such premature action be avoided in future. Accordingly, Medical examination and Police verification regarding the candidates' antecedents etc. are only to be initiated after the final approval for compassionate appointment by the competent authority is obtained.

3. Further it has come to notice that certain HQrs/Dles are adopting the method of informing the candidates that their request for compassionate appointment has been placed at a certain Serial No. of Seniority List. Thereafter, on availability of vacancy, no objection/willingness certificates are called for from the candidates, prior to obtaining approval from the competent authority for compassionate appointment to a particular post, giving a misconception of appointment to the candidate. Such practices have invited many Court cases. In view of the above, the candidates' willingness to accept any Group 'C' or Group 'D' posts, irrespective of his educational qualification/status (keeping in view the Supreme Court ruling (Annexure-II) that compassionate appointment is not to cater to the status of the family), should be obtained at the application stage itself. Any type of assurance for appointment on compassionate grounds, before the competent authority approves it, should be avoided in all circumstances.

4. In view of the above DOR&T instructions/policy position and keeping in view the Supreme Court rulings that the whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis and to relieve the family of the deceased from financial destitution and to help it get over the emergency, only the most deserving cases be recommended. Further an early disposal of compassionate appointment cases within the year of request applying the poverty line yard-stick in order to determine the most deserving cases, would avoid unnecessary court cases related to belated rejection, delay in consideration etc.

5. This may be brought to the notice of all concerned upto the Unit/ lower information level for information, guidance and strict compliance.

(Shingra Singh)  
Deputy Secretary/D(Lab)  
R: 3012660

(i) AG's Br./MPA (Civ) (a)  
(ii) Naval HQrs/CP Dle.  
(iii) Air HQrs/PC-5.

M of O ID No. 19(1)/2000-D(Lab) dated 12<sup>th</sup> February, 2001.

Ministry of Defence  
D(Lab)

Subject: Time limit and revised rules and regulations for the  
purpose of appointment on compassionate grounds.

The issues raised by various Service HQs on the subject have been examined by the Ministry in consultation with DOP&T. The following explanations/clarifications in accordance with DOP&T rules and regulations are to be adopted:-

(a) With regard to wait-listing of deserving cases, DOP&T vide OM No 14014/23/99-Est(D) dated 3-12-1999 (Annexure-I) have clearly brought out that the Committee prescribed for considering a request for appointment on compassionate grounds should take into account the position, regarding availability of vacancy for such appointment and it should recommend appointment on compassionate grounds only in a really deserving case and only if vacancy meant for appointment on compassionate grounds will be available within a year, that too within the ceiling of 5% falling under direct recruitment quota in any Group 'C' or 'D' post. The above restriction is in accordance with the Supreme Court ruling (Annexure-II) that appointment on compassionate grounds can be made only if vacancies are available for the purpose. DOP&T have further instructed that, in respect of other really deserving cases, the Committee should only recommend taking up the matter with other Ministries/Departments/Offices of the Government of India to consider those cases for appointment. In this connection, DOP&T have given a yard-stick of poverty line to be applied (Annexure-IV) to determine the financial destitution/penurious condition of the family to decide whether or not a case is really deserving one. It has been brought out that according to the Planning Commission, the poverty line amounts to income below Rs 1767.20 ( $353.44 \times 5$ ) for a family of 5 members per month. Hence, if the yard-stick of poverty line is applied to decide whether or not the pending backlog cases are really deserving cases, the number of really deserving cases would surely be within the ceiling of prescribed 5% quota. Henceforth this criterion should be applied to judge the penurious condition/financial destitution of the family of the concerned government servant for considering the requests from the dependents for compassionate appointment. In view of the above, the system of maintenance of waiting lists be dispensed with since this is causing lot of problems and therefore no cases are henceforth to be waitlisted.

(b) The level of compassion to be quantified to facilitate screening of deserving cases is under consideration of this Ministry.

(c) Regarding additional 5% vacancies, DOP&T had time and again rejected (Annexures- III & IV) the proposal of this Ministry for an increase in the prescribed 5% quota for compassionate appointments stating that exception to MOD would result in requests of similar nature from other Ministries also.

(d) With regard to one time release of vacancies it transpires that, in 1992 it was allowed as a one time relaxation to make compassionate appointments against unutilised vacancies reserved for ex-servicemen and physically handicapped, in consultation with DOP&T. Para 7 (d) of the revised Scheme for compassionate appointment (Annexure-VII) specifically brings out that "the ceiling of 5% of direct recruitment vacancies for making compassionate appointment should not be exceeded by utilising any other vacancy e.g. quota vacancy". The proposal as one time measure, to utilize the vacancies meant for other purposes lying unutilized in order to accommodate the waitlisted candidates was taken up with DOP&T vide OM No 19(1)/2000-D(Lab) dated 22-9-2000 (Annexure-VIII), but the same was not agreed to by DOP&T as intimated vide their reference dated 4-10-2000 (Annexure-IX). In view of the above, no alternative is left but to review all pending cases as per the action (Annexure-IV) brought out in para 1(a) above.

(e) Regarding separate quota for Service Personnel, DOP&T vide OM No 14014/2/97-EsII(D) dated 4/5<sup>th</sup> March 1998 (Annexure-V) have given their no objection to Ministry of Defence evolving a separate scheme for families of Defence service personnel killed in action for their appointment on compassionate grounds in the non-combatant posts in Armed Forces and Defence Establishments which are not part of civilian posts under the Ministry of Defence as the latter would be covered by the scheme of compassionate appointment operated by this Department.

2. Further, DOP&T have observed that before a decision is taken by the Competent Authority, taking into account among other things the availability of a suitable vacancy within the 5% ceiling for appointment on compassionate grounds, the applicants are sent for Medical examination by the Service HQs and their cases are referred for verification of character and antecedents. This action of the administration leads the candidates to believe that their cases have been approved for such appointment, whereas the factual position is different and such cases result in Court litigation. Therefore, DOP&T have instructed (Annexure-X), avoiding creation of such a situation and much pre-mature action be avoided in future. Accordingly, Medical examination and Police verification regarding the candidates' antecedents etc. are only to be initiated after the final approval for compassionate appointment by the competent authority is obtained.

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3. Further it has come to notice that certain HQs/Dts are adopting the method of informing the candidates that their request for compassionate appointment has been placed at a certain Serial No. of Seniority List. Thereafter, on availability of vacancy, no objection/willingness certificates are called for from the candidates, prior to obtaining approval from the competent authority for compassionate appointment to a particular post, giving a misconception of appointment to the candidate. Such practices have invited many Court cases. In view of the above, the candidates' willingness to accept any Group 'C' or Group 'D' posts, irrespective of his educational qualification/status (keeping in view the Supreme Court ruling (Annexure-II) that compassionate appointment is not to cater to the status of the family), should be obtained at the application stage itself. Any type of assurance for appointment on compassionate grounds, before the competent authority approves it, should be avoided in all circumstances.

4. In view of the above DOP&T instructions/policy position and keeping in view the Supreme Court rulings that the whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis and to relieve the family of the deceased from financial destitution and to help it get over the emergency, only the most deserving cases be recommended. Further an early disposal of compassionate appointment cases within the year of request applying the poverty line yard-stick in order to determine the most deserving cases would avoid unnecessary court cases related to rejection, delay in consideration etc.

5. This may be brought to the notice of all concerned upto the Unit/ lower information level for information, guidance and strict compliance.

(Shingra Singh)  
Deputy Secretary/D(Lab)  
Rt : 3012660

- (i) AG's Br/MPM/CGW/6
- (ii) Naval HQs/CP/Dir
- (iii) Air HQs/PO-5

M of D/IO No. 19(1)/2000-D(Lab) dated 12<sup>th</sup> February, 2001.

5 copy each

Tel: 3011309

65926/Policy/ERIC(4)

Chief Engineers

Southern Command, Pune.  
 Eastern Command, Calcutta.  
 Western Command, Chandigarh  
 Central Command, Lucknow.  
 Northern Command, C/O-56 APO.

ord and Pers Dte/ERIC(4)  
 Engineer-in-Chief's Branch  
 my Headquarters  
 1Q PO New Delhi-110 011

of Mar 2001

Comm. Units

G & Centro Kikoo, Pune.  
 G & Centre Roorkee  
 M&G & Centre Bangalore  
 C&E Punc.

TIME LIMIT AND REVISED RULES AND REGULATIONS FOR THE  
 PURPOSE OF APPOINTMENT ON COMPASSIONATE GROUNDS.

1. Min of Def ID No. 19(1)Y2000-D(Lab) dated 12 Feb 2001 alongwith its enclosures is forwarded herewith for information, record and necessary action.

2. Keeping in view the instructions/guidelines contained in the above mentioned note, the following actions are required to be taken by all concerned:

(a) The system of maintenance of waiting list is dispensed with.

(b) All the waitlisted cases for compassionate appointment are to be reviewed afresh keeping in view the yardstick for defining the penurious condition/financial status of the family. As per the yardstick, issued by DOP&T (Annexure-IV), according to Planning Commission norm, the poverty line amounts to income below Rs. 1767/- per month for a family of five members. Only those who are below the poverty line as per said yardstick are to be considered deserving cases.

(c) The committee for compassionate appointment should recommend only such cases as are deserving in view of para 2(b) above. However, such an offer would be subject to availability of vacancy within one year and that too within 5% of LRS for direct recruitment in any Group 'C' & 'D' post.

(d) As far as other really deserving cases are concerned i.e. cases which cannot be covered within 5% of the LRS, such cases should only be recommended for taking up the matter with other Ministries/Depts./Offices of the Govt. of India to consider these cases for appointment.

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4. Process for Medical Examination and Police Verification must not be initiated at a pre-mature stage. Such a process be initiated only after the final approval for compassionate appointment by the competent authority is obtained.

4. The candidate's willingness to accept any Group 'C' or 'D' post, irrespective of the educational qualification/status be obtained at the application stage itself. Any type of assurance for appointment on compassionate ground, before the competent authority approves, it should be avoided in all circumstances.

5. Please take action as per para 2 & 3 above and acknowledge receipt of this letter.

Encl: As above

A. Divivedi

(AK. Divivedi)

Col

Dir Pers 'C'

KADAMBUR M. R. JANARDHANAN

MINISTER OF STATE  
PERSONNEL, PUBLIC GRIEVANCES AND REVISIONS  
GOVERNMENT OF INDIAराज्य सचिव  
मनोरंजन, वित्त विवाद विवरण  
मंत्रालय

13/1/99

Dear Sir/ Madam,

Gangulyan.

Please refer to your D.O. No. 32011/VIP/RM/98 dated October 30, 1998 regarding representation from the FCI Employees' Association, West Zone, Bombay, relating to relaxation/removal of the ceiling of 5% for compassionate appointment.

2. In this connection, I would like to bring to your notice the observations of the Supreme Court in the case of U.K. Nagpal Vs. State of Haryana and Anil Malik Vs. State of Haryana dated 4.5.1994 (J.T. 1994(3) SC.525) that as a rule, appointments in public services should be made strictly on the basis of open invitation of applications and merit and appointment on compassionate grounds is an exception to this general rule; that mere death of an employee in harness does not entitle his family for such source of livelihood (by way of appointment on compassionate grounds); that it should not be offered as a matter of course irrespective of financial condition of the family; that the only ground which can justify the compassionate employment is the penurious condition of the deceased employee's family; that it should be offered only as relief against destitution and that it must be remembered in this connection that as against the destitute family of the deceased Government servant, there are millions of other families which are equally, if not more destitute.

3. Our O.M. of 26.9.1995 provides for a ceiling of 5% for appointment on compassionate grounds so that such exceptional appointments to public service which are not based on merit and are also not through open competition are kept to the minimum in accordance with the above observations of the Supreme Court.

4. As you may be aware, according to the Planning Commission the poverty line amounts to income below Rs.1767.20 (353.44x5) for a family of 5 members. Hence, if the yard-stick of poverty line is applied to determine the financial destitution/penurious condition of the family to decide whether or not a case is really a deserving one the number of really deserving cases would surely be within the ceiling of 5% prescribed in our O.M. of 26.9.1995.

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LAAMOUL M. R. JAKANTHANAI

MINISTER OF  
PERSONNEL, PUBLIC GRIEVANCE  
GOVERNMENT OF INDIA

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5. Nevertheless, if inspite of applying the criteria of pending cases/financial condition/financial destitution of the family, it is not possible to accommodate a really deserving case within the 5% limit in any particular Department/Office the option is given to the Administrative Department/Office to take up the matter with other departments to provide at an early date an appointment on compassionate grounds in such a case.

66) Having regard to the above, you would agree that even any relaxation/increase in the 5% limit, what to speak of its removal, would not be in accordance with the observations of the Supreme Court mentioned above. Therefore, you would appreciate that it would not be appropriate to do so as any such action would endanger the very scheme of compassionate appointment itself.

With regards,

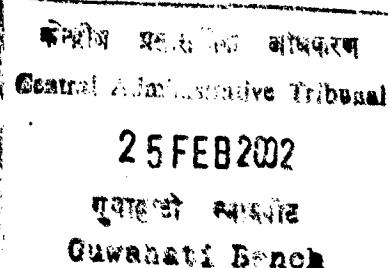
Yours sincerely,

R. Jain

(KADAMBURU JANARTHANA)

Sir George Fernandes  
Hon'ble Minister for Defence,  
Government of India,  
South Block,  
NEW DELHI

Office : 102, North Block, New Delhi-110001 Phone : 3012472, 3013901, Fax : 301671,  
Resid.: New Delhi : 3, Sankat Mochan Road, New Delhi-110011 Phone : 3792745, Fax : 3010070  
Constituency : 1, North Car Street, Kandhamal, Odisha-752714, Phone : 04632-46222.



BEFORE THE ~~CENTRAL ADMINISTRATIVE TRIBUNAL~~

GUWAHATI BENCH

D.A. No. 178/2001

Ashok Sahu

- Vs -

U.O.I. & Ors.

Rejoinder to the Written Statement filed by the Respondents.

1. That the applicant has received a copy of the Written Statement filed by the Respondents and has gone through the same. Save and except the statements which are specifically admitted herein below and rests be treated as total denial.

2. That the applicant instead of dealing with each para of the written statement begs to reply in a consolidated manner since the written statement filed by the respondents is not in proper format. The respondents as per their own admission made a categorical statement that his case was recommended for compassionate appointment for the post of LDC. The matter was sent to the concerned authority vide a letter dated 17.4.99. The respondents have also admitted the fact that his case was considered as per the earlier policy prevailing at that point of time and matter was sent to the Head Quarter vide aforesaid letter dated 17.4.99 but there were certain delay in reaching the application at the Ministry of Defence level as the there

was rooted through all Departmental Head Quarters in the chain of command starting from GE/869 EWS to HQ 137 WE Vis-à-vis HQ Chief Engineer Shillong Zone to HQ Chief Engineer Eastern Command, Kolkata Army HQ (Engineer in Chief's Branch), New Delhi than to Ministry of Defence. The applicant states that due to the aforesaid inordinate delay in the matter, he suffered tremendous financial hardship. It is pertinent to mention here that the Ministry concerned now has issued an OM dated 12.2.01 laying down certain criteria restricting the scope and ambit of OMs for compassionate appointment.

Admittedly, the case of the applicant was recommended for compassionate appointment for the post of LDC as per old policy in the year 1999 and as such his case is not covered by the later policy circulated vide OM dated 12.2.01. The applicant further states that the action of the respondents in delaying the matter is nothing but an illegal act that too in a matter of compassionate appointment and therefore appropriate direction need be issued by this Hon'ble Tribunal directing the respondents to pass appropriate order appointing the applicant in the post of LDC.

The plea of "anticipated delay in usual" raised by the respondents is not at all sustainable as the matter was sent to the Head Quarter on 17.4.99 and it took months together to reach the Ministry concerned. It is further stated that the official procedures are meant for streamlining the office work and same can not be used as a tool for rejecting/defeating a claim.

2. The applicant states that his case is concerned by the earlier policy issued prior to issuance of the OM dated 12.2.81 and as such his case can not be rejected by taking into consideration the subsequent OM. Had his case been reached the Ministry concerned in time, he would have got the benefit as his case was recommended by the local authority for compassionate appointment for the post of LDC.

3. That the applicant begs to state that the respondents ought to have taken into consideration the financial hardship faced by the family members of the applicant without going strictly to the OM dated 12.2.81. It is noteworthy to mention here that the very issuance of the aforesaid OM dated 12.2.81 is illegal since it restricts the scope of compassionate appointment. In fact, the aforesaid OM is only a clarification and same can not be treated as a law guiding the field. The yardstick of poverty determining the financial condition of a family can not be a rigid factor as has been mentioned in the aforesaid OM dated 12.2.81. Determining the yardstick of poverty of a family has been clearly indicated in the OM's issued earlier to the aforesaid OM and same can not be nullified by issuing a clarification as has been done in the instant case. It is stated that the operation OM dated 12.2.81 is prospective only and same can not take away the right of the applicant accrued taking into consideration earlier OM's. Alternatively, a subsequent clarification can not brush aside the scope and ambit of an OM which has been issued in public interest. Taking into consideration the aforesaid fact the applicant prays before the Hon'ble Tribunal for

Setting aside the OM dated 12.2.81 and it's subsequent clarification dated 1.3.81 with a further direction to the respondents to appoint the applicant to the post of LDC under the respondents on compassionate ground.

4. That the applicant in view of the above prays before this Hon'ble Tribunal for an appropriate direction towards the respondents for his appointment to the post of LDC on compassionate ground and to set aside and quash the OM dated 12.2.81 (Annexure-VI) to the WS and order dated 1.3.81 (Annexure-VII to the WS).

## VERIFICATION

I, Sri Ashok Sahu, s/o Late Surja Nath Teli, aged about 23 years, resident of Athabari, P.O. Demow, in the district of Sibsagar, do hereby solemnly affirm and verify that the statements made in the paragraphs 1 - 4

are true to my knowledge and those made in paragraphs 1 7  
1 are matters of records which I believe to be true and the rests are my humble submissions before the Hon'ble Tribunal and I have not suppressed any material facts of the case.

And I sign this verification on this the 24th day of Feb, 2002.

Sri Ashok Sahu