

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Sahil
28/11/17

FROM No. 4
(SEE RULE 42)

SENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Applecation No. 213/02

Mise Petition No. /

Contempt Petition No. /

Review Application No. /

Applicants. Himangshu Paul

-Vs-

Respondant(s) W.O.I. Towns

Advocate for the Applecant(s) Mr. Monoranjan Paul Das

Advocate for the Respondat(s) C.G.S.C.

Notes of the Registry	Date	Order of the Tribunal
	17.7.02	Heard Mr. M. Das, learned counsel for the applicant and also Mr. A. Deb Roy, learned Sr. C.G.S.C. for the Respondents. The application is admitted. Call for the records. List on 19.8.2002 for orders.
69782242 2.7.02 L.B. PR Steps taken alongwith envelops.		<i>CCUha</i> Member
Received my deposit	19.8.02	Written statement has been filed. The case may now be listed for hearing on 9.9.2002. The applicant may file rejoinder, if any, within two weeks from today.

19-7-2002

Notice prepared and
sent to D. Section
for issuing of the
same to the respondents
through Regd. post
with A.P.

Vide D.No - 1987 to 1994
Dtd. 19-7-02.

Zg.

9-9. Diversion bench did not
sit today & the case is
adjourned to 24/9/2002.

Mrs

A.K.Ty

9-9.

10.9.2002

At the request made by the learned
counsel for the applicant Mr. M. Das, the
case is placed before the Court today as
the case pertains to Single Bench matter.

Heard counsel for the parties at
length. Mr. A. Deb Roy, learned Sr.C.G.S.C.
prays for further time to obtain further
instruction on the rejoinder and also
to indicate about the vacancy available
with competent authority.

Prayer allowed. Place the records
of xxxxx available vacancy. List the
case again for hearing on 4.10.2002.

2.9.02

Rejoinder submitted
by the applicant.

bb

Vice-Chairman

30.10.2002

Copy of the Judgement
has been sent to the
D/sec for issuing the
same to the applicant
as well as to the
S.C.G.S.C.

Ab

4/10

Heard Mr. M. Das learned
counsel for the applicant
Mr. A. Deb Roy, learned Sr.C.G.S.C. for
the respondent.

Hearing concluded,
Judgment reserved.

Mrs

A.K.Ty

4/10

Judgment delivered in
open Court. Kept in separate
Sheets. Application is dismissed.
No costs.

1C (Shar
Member

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / 1144 No. 213 of 2002 and 261 of 2002

1. Himangshu Paul (O.A. 213 of 2002) DATE OF DECISION 11.10.2002
2. Gopal Ch. Namasudra & 4 others. (O.A. 261 of 2002)

APPLICANT(S)

Mr. Manoranjan Das

ADVOCATE FOR THE APPLICANT

-VERSUS-

Union of India & Ors.

RESPONDENT(S)

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

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR. J. S. KALITA, CHIEF JUDGE

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

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

Judgment delivered by Hon'ble ADMINISTRATIVE MEMBER

KK Sharma

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application Nos. 213 of 2002 and 261 of 2002

Date of Order: This the 11th Day of October 2002.

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

O.A.No.213 of 2002.

Shri Himangshu Paul
S/o. Late Phani Bhusan Paul Ex.Group 'D'
Village -Karatigram, P.O. Rongpur
P.S. Silchar, Dist.Cachar, Assam

At present working as Post man in Halflong Sub-Post Office,
under Sub-divisional Inspector of PO's Halflong
Sub-Division, Falflong. ... Applicant.

By Advocate Mr. Monoram Das

-Vs-

1. Union of India,
Represented by the Secretary to the Govt pf India,
Ministry of Communication,
Cabinet Secretariate, Samsad Marg.
New Delhi-110001.
2. The Director General ,
Department of Post, Samsad Marg
Dak Bhawan, New Delhi-110001
3. The Chief Postmaster General, Assam Circle,
Guwahati-781001.
4. The Postmaster General,
Assam Region, Dibrugarh
5. The Sr.Supt. of post office,
Cacher Division, Silchar-788001
6. The Asstt. Supdt.of PO's
North Sub-Division, Silchar-788001
7. The S.D.I.P.O's
Halflong Sub-division, Halflong-788819.
8. The Sub-Postmaster,
Halflong-788819. ... Respondents.
By Advocate Mr.A.Deb Roy, Sr.C.G.S.C.

O.A.No.261 of 2002

1. Sri Gopal Ch.Namasudra
S/o. Late Gopendra Namasudra,
Ex-Group 'D', Ward No.4
P.O. Lala
Dist.Hailakandi
2. Sri Nilotpal Roy
S/O. Late Nikunja Ch.Roy,
Ex-Postman, Gumra Bazar,
P.O.Kalain, Dist.Cachar

contd/-

3. Sri Kajal Das
S/O Late Suniti Bala Das,
Ex-Group 'D' , Vill.& P.O.Barkhola,
Dist. Cachar.
4. Sri Babudhan Dhree
S/O Late Bijoy Kumar Dhree,
EX-OS Malli
P.O. Pallorabond,
Dist.Cachar. ... Applicants.

By Advocate Mr. Monoranjan Das

-Vs-

1. Union of India,
Represented by the Secretary
to the Govt. of India,
Ministry of Communication,
Cabinet Secretariat,
New Delhi-110001.
2. The Director General
Department of Posts,
Dak Bhawan, Sansad Marg,
New Delhi-110001.
3. The Chief Post master General
Assam Circle, Meghdoot Bhawan,
Guwahati-781001.
4. Teh Sr.Suptd, of POs.
Cachar Division,
Silchar-788001.
5. The Sr.Post Master,
Head Post Office,
Silchar-788001
6. The Postmaster,
Head Post Office
Hailakandi,
7. The Sub-Divisional
Inspector of POs
Hailakandi.
8. Sub-Divisional
Inspector of POs, West Sub-Division,
Silchar.

... Respondents.

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

O_R_D_E_R.

K.K.SHARMA MEMBER(ADMN):

Both the applications are taken up together as

issue involved ^{is} _{is} ^{There} _{is} with the same, one applicant in O.A.No.213

of 2002 and four applicants in O.A.No.261 of 2002. The four

contd/-

applicants in O.A.No.261 of 2002 have been allowed to pursue their grievances by a common by a common application under the provision of Rule 4(5)(a), CAT(Procedure) Rules, 1987. All the applicant were approved for inclusions in the waiting list of Postman on compassionate ground on different dates. By an order dated 11.6.2002 the applicants were allotted the post of GDS on compassionate ground. All the applicants they have been working as Postman with some breaks in continuity in service. It is claimed that the applicants are approved candidates for Postman cadre against regular vacancy enlisted for future absorption against relevant quota. The applicant had been engaged against vacant post of Postman. By letter dated 22.6.2001 the Respondents called for willingness of the applicants for job in other Department. The relevant portion of the letter is reproduced below:-

"Sub: Discontinuation of waiting list of dandida-
tes approved for compassionate appointment
willingness of the approved candidates for con-
sideration by other ministries.

The following approved candidates were allotted to your unit for working in short term vacancies.

You are requested to intimate whether they are willing for job in other department. If so submit a list of willing approved candidates at an early date as desired by the C.O. Guwahati for taking the matter with other ministries and alongwith the Directorate."

The applicants conveyed the willingness for appointment in other department. The applicants however, requested the Postmaster General, Assam Region to regularise them in the vacant posts against which they were working continuously working. It is stated that by letter dated 3.9.2001 the applicants were informed that they would be absorbed in the cadre in due course, as there was no vacancy then. The letter dated 3.9.2001 is reproduced below:-

U.U.Shastry

contd/-

"Sub: Prayer for appointment of Postman in compassionate ground.

Refer your representation dated 22.05.2001 I am directed to inform you that your case will be considered in due course of time. There is no vacancy under compassionate ground at present".

Thereafter, by letter dated 24.8.2001 it was informed to the applicant that the waiting list for compassionate appointment was discontinued and the Directorate had decided that the applicant would be considered for the post of G.D.S. but the applicants did not opt for G.D.S. It is stated that the applicant shall be deprived existing benefit and they have been performing the duties against the vacant post.

2. Mr.M.Das learned counsel appearing on behalf of the applicants argued that the action of the respondents in not considering the absorption of the applicant in the post of Postman is illegal and violative of Article 14 of the Constitution. The Respondents offered the applicants a lower post than one which they were holding. Mr.M.Das learned counsel also stated that there are vacancies in the Department of post but the Respondents have not been engaged. The Respondents issued Notification dated 11.6.2002 by which they have allotted the candidates for compassionate appointment against GDS posts. He also argued that there are existing vacancies in the department and the applicants been approved candidates for compassionate appointments to be posted against existing vacancies.

3. The Respondents have filed their written statement and Mr.A.Deb Roy, Sr.CG.S.C. represented the Respondents. It is stated that the waiting list was being prepared for absorption in future vacancy for compassionate appointment. The applicants' names were kept in the panel of waiting list for absorption in future vacancy as compassionate cases.

The applicants in the waiting list were being engaged in

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contd/-

short time leave vacancies as per necessity and they could not be absorbed permanently. Since there will be more delay in their employment permanently against vacant post, it was decided by the department to offer them with some lower post if willing to accept such employment but they denied to accept such employment and claimed for their permanent employment in Postman cadre. Mr.A.Deb Roy, Sr.C.G.S.C. argued that there was a scheme for appointment on compassionate ground within the ceiling of 5% of direct recruitment vacancies in each year. Thus out of 20 vacancies for direct recruitment, one was available for compassionate appointment. A waiting list was prepared as there were no available vacancies for compassionate appointment. In order to minimise hardship the ^{short term} applicant ~~occurred~~ were offered ^{short term} vacancy term due to leave. There is no possibility of the applicants being appointed against the regular post.

4. I have considered the submission made on behalf of the parties and have also perused the records. The application is decided on the basis of the facts of the case. The appointment letter issued to the applicant in O.A.No.213 of 2002 is reproduced below:-

"In pursuance of the SSPOB Silchar Memo No.B1/Rectt./Relax/Misc. dated 28.12.98 Shri Himungshu Paul approved for appointment in Postman cadre on compassionate ground and kept in panel for absorption in future relaxation vacancies by C.O. is hereby engaged on short term duty in the event of the undersigned and kept attached to G.C. College. So, against an unfilled vacancy until further orders.

Shri Himungshu Paul should clearly understand that the engagement is purely temporary basis and he cannot claim any seniority/pay benefit in future for such short term engagement."

The subsequent application also shows that the applicants were appointed for short term duties. The letter dated 24.8.2001 by which the applicants were offered the post of

LL Whan
contd/-

GDS is extracted below:-

" This is to inform you that since wait listing of candidates for compassionate appointment has been dispensed with, chance of absorption of these approved candidates in the waiting list against vacancies available within 5% ceiling of direct recruitment quota is remote. This may cause hardship to the approved candidates who have been waiting for quite a long period. In consideration of this aspect the Postal Directorate has decided to consider such waitlisted candidates for appointment against vacant posts of GDS(Gramin Dak Sevak) if they are willing and eligible for the post.

As per information of the Directorate you are requested to submit your willingness or otherwise and choice of place if any for taking appointment against vacant Gramin Dak Sevak post.

This recruitment will be made subject to

1. Fulfilment of all required conditions of recruitment like educational qualification etc.
2. Approved applicants with their acceptance of GDS post would have no further claim for appointment on any special consideration against regular departmental vacancies and that they would have to take their turn as per present departmental policy for GDS in the matter of their appointment against future departmental vacancies. All undertaking in this regard may be submitted with your willingness.

This offer will be valid for one year."

There is no dispute that the applicants have not been offered compassionate appointment. The regular appointment on compassionate ground depends on Rules and Regulations/Guidelines on the subject. There is no dispute that there is a quota of 5% of regular direct recruitment vacancies for appointment on compassionate ground. Mr.A.Deb Roy, Sr.C.S.C. submitted that there is no vacancy for Postman post. The vacancy position for the years from 95 to 2001 is given below:

1C Uthm

contd/-

"Vacancy position of Postman and Group D
year wise

Year	Postman	Group D
1995	-	5
1996	06	6
1997	16	5
1998	12	3
1999	11	4
2000	03	4
2001	08	3

As such no appointment on compassionate ground could be offered to the applicants. In the circumstances the respondents have sympathetically considered the case of the applicants. The applicants have been offered the post of GDS, which is a lower post than that of Postman. Mr. A. Deb Roy, Sr.C.G.S.C. argued on behalf of the respondents that the inclusion of name of the applicants in the waiting list for compassionate appointment has not conferred any rights for regular appointment. As such offer of appointment to the post of GDS was justified.

5. I have given careful consideration to the submissions, made on behalf of the parties and also perused the record. The Govt. provided a scheme for giving immediate relief to Govt. employees dying while in service by giving compassionate appointment to a dependent relation. The courts have not approved of compassionate appointment being given long after the death of the employee. The scheme has provided for a quota and it is not that dependent of every employee dying in service will be offered appointment. The name of the applicants appeared in

CC Wshah

contd/-

waiting list for compassionate appointment. The Courts have not approved the delay in offering compassionate appointment. The applicants could not be appointed on compassionate ground within the quota of 5% of vacancies available for direct recruitment of post man. The vacancy position given by respondents shows that there was no vacancy for compassionate appointment during the years 1995-2001. The respondents do not anticipate any such vacancies in the future. This has been informed to the applicants. Keeping the names of the applicants in waiting list gives rise to a false hope. The respondents had valid reasons for discontinuing the waiting list. The action of the respondents in offering alternative appointment of GDS cannot be faulted. I find no illegality in the impugned order. The applicants have not acquired right to a regular appointment outside the quota for compassionate appointment simply because their name was included in the waiting list for appointment on compassionate ground even if they have worked in short term leave vacancies. It is not the case that the respondents have appointed persons outside the waiting list against vacancies for compassionate appointment.

The applications stand dismissed. There shall be no order as to costs.

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

LM

3

FORM NO. I

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

O.A. No. 213 of 2002

Title of the Case :

BETWEEN

Shri Himangshu Paul Applicant.

AND

Union of India and others .. Respondents.

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Filed by :

Sri M. Das, Advocate.

Himangshu Paul
SIGNATURE OF THE APPLICANT

FOR USE IN TRIBUNAL'S OFFICE

Date of filing :-

Registration No. :-

Signature
of
Registrar

12

By Monogram
Himangshu Paul
Atmoseale

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH.

Application under Section 19 of the
Central Administrative Tribunal,
Act, 1985.

O.A. No. 213 of 2002.

BETWEEN :

Shri Himangshu Paul
S/O Late Phani Bhusan Paul, Ex-Group 'D'
Village - Karatigram, P.O. Rongpur,
P.S. Silchar, Dist. Cachar, Assam.

At present working as Postman in
Haflong Sub-Post office, under Sub-
Divisional Inspector of PO's, Haflong
Sub-Division, Haflong.

..... Applicant.

- Versus -

1. Union of India,
Represented by the Secretary to the
Govt. of India, Ministry of Communication,
Cabinet Secretariate, Samsad Marg,
New Delhi-110001.
2. The Director General,
Department of Post, Samsad Marg,
Dak Bhawan, New Delhi-110001.
3. The Chief Postmaster General, Assam
Circle, Guwahati-781001.

Adarsh
Biju
Monogram and
Stamp
of Assam Post
and Telegraph
Department

4. The Postmaster General,
Assam Region,
Dibrugarh.
5. The Sr. Supdt. of Post office,
Cachar Division, Silchar-788001.
6. The Asstt. Supdt. of PO's
North Sub-Division, Silchar-788001.
7. The S.D.I. POs,
Haflong Sub-Division,
Haflong-788819.
8. The Sub-Postmaster,
Haflong-788819.

..... Respondents.

PARTICULARS OF APPLICATION

1. Particulars of the order against which this application is made :-

This application is made and is directed against the order of the Sr. Superintendent of PO's Cachar Division, Silchar, Respondent No. 5, Memo No. B1/Rectt/Relax /Misc. dated Silchar the 11/6/2002 by which the said authority allotted the applicant to GDS (Gramin Dak Sevak) Post, and Contrary to the approved waiting list of Postman on compassionate ground, as approved by the Respondent No. 3 vide his Memo No. Staff/16-Misc/97 dated Guwahati, 06/10/1997.

(29)

Dr. Hemangshu Paul
By
Monogram
Advocate

The said memo. dated 11/6/2002 is annexed
and marked as Annexure - 4.

2. Limitation

The applicant declares that the present application has been filed within the prescribed period of limitation under Section 21 of the Central Administrative Tribunal Act, 1985.

3. Jurisdiction

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

4. FACTS OF THE CASE :

4.1 That, the applicant is the Citizen of India, and as such he is entitled to all the rights, privileges and protections as guaranteed by the constitution of India and laws framed thereunder.

4.2 That, the applicant begs to state the applicant, being the son of Late Phani Bhushan Paul Ex-Group 'D' was appointed as Postman as an approved candidate under compassionate ground at G.C. College Sub-Post office on 28/12/98 vide Asstt. Supdt. of Post offices North Sub-Divn. Silchar, Memo No. B1/Staff dated 28/12/98 and the applicant continued as such till 6.8.99, as ordered by the said Asstt.

Memorandum of
Proceedings of
the Commission of
Enquiry
by
Advocate
X

Supdt. of PO's, North Sub-Division, Silchar
vide his memo No. B2/K. Roy dated Silchar
26.07.99.

Copies of these memo are annexed and
marked as Annexure - 1 and 1(a).

4.3 That, the Sr. Supdt. of Post offices, Cachar
Division, Silchar, Respondent No. 5, vide
his letter No. B1/Rectt/Relax/Misc dated
07/01/2000, addressed the SPM Haflong S.O.
to absorb the applicant an approved
candidate, in short term vacancy (copy is
annexed as Annexure - 2). The SPM, Haflong
S.O., vide his order No. B2/Postman/Rectt/
Relax/Misc/00 dated at Haflong the 11.1.2000
engaged the applicant with effect from 11.1.2000
and the said applicant continued as such for
379 days, till 24/01/2001 at a stretch.

(Copy of SPM Haflong memo dated above
is annexed and marked as Annexure - 3).

That, the applicant has been working as
Postman since 11.1.2000 till to-day, except
25/01/2001; 26/1/2001; 18/7/01; 19/7/01,
20/12/01 and 15/5/02, the days on which the
applicant has been disengaged to show break
in continuity in service and the said post was
shown vacant without arrangement. However, the
applicant is still working in the said post,
against a clear vacancy at Haflong Sub P.O.

(Relevant charge reports, ACG-17, are
annexed as Annexure - 3(i) to 3 (ix).

After discharge and
posting
of
Postman
in
other
Department
By
Postmaster
of
Assam

4.5 That, the applicant is an approved candidate for Postman cadre against relaxation vacancy enlisted for future absorption against relevant quota and the applicant has been engaged against vacant post of Postman in the Cachar Postal Division since 28/12/98 and has been continuing till to-day. Particulars of services rendered by the applicant is shown in Annexure - 5, annexed herewith.

4.6 That, the applicant was told to give his option whether he was willing to job in other Department by the Sr. Supdt. of POs' Cachar Division, Silchar vide his Memo No. B1/Rectt/ Relax /Misc. dated 22/6/01.

Copy of the memo ibid is annexed herewith as Annexure - 6.

4.7 That, the applicant by his letter dated 27/6/01 replied the memo of the SSPOs, Silchar dated 22/6/01 and conveyed his willingness to job in other Department. Copy of the reply dated 27/6/01 is annexed as Annexure - 7.

4.8 That the applicant addressed the Postmaster General, Assam Region, Dibrugarh by his representation dated 22/5/01 and prayed to regularise him in the vacant posts against which he was working continuously for about three years past.

The copy of the representation is enclosed as Annexure - 8.

Contd....P/6.

Handwritten Notes:
1. All cases
2. By
3. Monogram
4. 19

4.9. That, the applicant was informed by the PMG Assam Region, Diburgarh vide his letter No. Staff/23-5/97/RP dated Diburgarh the 4.6.2001, and letter dated 03/9/2001, that he would be absorbed in the cadre in due course, as there was no vacancy then.

Copies of the letters ~~are~~ annexed as Annexure - 8(a) and 8(b).

4.10 That, the Sr. Supdt. of POs Silchar vide his letter No. B1/Rectt/Relax/Misc dated at Silchar, the 24/8/01 informed the applicant that "since the wait listing of candidates for compassionate appointment has been dispensed with chance of absorption is remote" and Directorate had decided to consider such wait listed candidate for appointment against vacant post of G.D.S. (Gramin Dak Sevak) if the applicant was willing and eligible for the post and sought option for G.D.S. but the applicant did not opted for G.D.S.

Copy of the said letter of S.S.P.Os Silchar is annexed as Annexure - 9.

4.11 That, the Sr. Supdt. of POs Cachar Division, Silchar vide his office Memo No. B1/Rectt/Relax/Misc dated Silchar, the 11/6/02, circulated among the approve listed candidate, displaying the particulars of G.D.S. Post of

Handwritten notes:
1. ED Packerman Karnamadhu against the
applicant's name, contrary to the right,
interest, and privileges of the applicant and
against the applicants option, which gave
reasons to approach before your lordship for
justice.

ED Packerman Karnamadhu against the
applicant's name, contrary to the right,
interest, and privileges of the applicant and
against the applicants option, which gave
reasons to approach before your lordship for
justice.

Copy of the aforesaid Memo dated 11/6/02
is annexed as Annexure - 4.

4.12. That, the Respondents have attempted to
deprive him of the existing benefit which
the applicant has from the arrangement made
by the Department by approving his candidature
for appointment to the post of Postman vide
Chief Postmaster General, Assam Circle,
Guwahati letter No. Staff/16-Misc/97 dated
06/10/97 and also allowing to perform the
duties of Postman since 1998 against those
vacant post of Postman, as mentioned above,
on various occasions and once for 379 days
at a stretch, engaged as Postman by the
Respondents No. 5, 6, 7 and 8 and the applicant
is continuing as Postman even upto this day
against a clear vacant post of Postman, at
Haflong Sub-P.O. (Annexure - 5).

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that it is a settled principle of law
that the denial of benefit and privileges
vested upon a Govt. servant by the competent
authority, shall in no case be curtailed or
withdrawn, unless otherwise than by and
through a due process of law.

Petitioners
vs
Respondents
by
Advocates

- 5.2 For that the denial of privileges and violation of stipulated agreement to absorb the applicant in future against Postman vacancy in the instant case by the respondents *prima facie*, is illegal, arbitrary and violative of Articles 14 and 16 of the constitution of India and hence the actions of the Respondents are liable to be set aside.
- 5.3 For that the discrimination meted out to the applicant by the impugned order dated 11/6/02 *inter alia*, by Annexure - 4, is based on ~~unintelligible differentia~~, which violates the provisions of Article 14 and 16 of Constitution of India.
- 5.4 For that the benefit which a worker in the Department of Posts are deriving having been based on Supreme Court Judgement and the judgement delivered in the case of casual labourer of the Department of Telecommunication and more so, the Departments are within the same Ministry, there be no earthly reason as to why the same benefit should not be extended to the present applicant.
- 5.5 For that, the issuance of orders dated 22/6/2001, 24/8/2001, 13/2/2002 and 11/6/2002 is illegal and arbitrary which explicitly displays non-application of mind of the Respondents and as such these orders are to be set aside ab initio.

22
Hemangshu Paul
Advocate
By
Monogram
Advocate

5.6 For that the contention raised by the Respondents in the Annexure - 9 order dated 24/8/2001 by which the claim of regular absorption in the Department of Posts against compassionate quota has been dispensed with is not tenable at all in view of constitutional safe guard, postulates by the Article 14 and 16 of the Constitution of India.

5.7. For that, in view of the matter the action/ in action of the respondents are not sustainable in the eye of law and liable to be set aside and quashed.

The applicant crave leave of this Hon'ble Tribunal to advance and put forth more grounds, both factual and legal at the time of the hearing of this application.

6. DETAILS OF REMEDIES EXHAUSTED

6.1 That the applicant declares that he has been ordered transferring from the existing post/ grade of Postman to another post/grade of G.D.S. by the Respondents carrying less pay and privileges and the applicant has no scope for redressal and as such the provision of exhaustion of remedy is not a condition precedent for presenting an application against an order (Annexure - 4) of transfer and degradation.

Albocell 3
Monocot
sets cespitosas
By
Estimación y
medidas

6.2 That, the applicant, on the facts of the given case, prays before the Hon'ble Tribunal to consider that in the interest of justice and in view of the emergent situations Hon'ble Tribunal may kindly entertain this application for admission without insisting on exhaustion of Departmental remedies, lest the humble applicant will sustain and suffer irreparable loss and injury.

7. Matters not previously filed or pending in this or
any other Court.

The applicant further declares that he have not filed previously any application, writ petition or suit regarding the grievances, against which this application is made, before this or any other Tribunal, or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR.

Under the above facts and circumstances the applicant most respectfully pray that the instant application be admitted, records be called for and after hearing the parties on the cause or causes that may be shown, and on perusal of records, be grant the following reliefs to the applicants :-

Ergebnisse
der Untersuchungen
der
Chemie

8.1 To set aside and quash the (Annexure - 4) order dated 11/6/02, (Annexure - 9) order dated 24/8/2001, and (Annexure - 10) order dated 13/02/2002, with further direction to the Respondents to extend the benefit of the arrangement made for the applicant for future absorption to the Postman cadre, as approved for.

8.2 To direct the Respondents allowing the applicant to work as Postman continuously and after absorption into the Postman cadre to regularise his service with all consequential service benefits.

8.3 Cost of the application.

8.4 Any other relief(s) to which the applicant is entitled to under the fact and circumstances of the case and as may be deemed fit and proper by the Hon'ble Tribunal.

9. INTERIM ORDER

The applicant prays before the Hon'ble Tribunal to pass an interim order directing the Respondents not to disengage him from service and to allow him to work continuously in his respective post pending disposal of the application.

10. This application is filed through Advocate :-

1) Sri Monoranjan Das, Advocate Guwahati.

Himangshu Paul
By
Phani Bhushan Paul
Haflong Sub-Divisional Inspector of Post Offices
Haflong Sub-Division, Haflong, Assam

11. Particulars of the I.P.O. crossed.

- 1) I.P.O. No. :- 6 G 782242; Silehar Court P.O.
- 2) Date :- 02/7/2002
- 3) Payable at Guwahati: Guwahati

12. LIST OF ENCLOSURES :

As mentioned in the Index.

VERIFICATION

I, Sri Himangshu Paul, S/O Late Phani Bhushan Paul, Ex-Group 'D', at present working as Postman at Haflong Sub-P.O., under Sub-Divisional Inspector of Post Offices, Haflong Sub-Division, Haflong, do hereby solemnly affirm and verify that the statements made in the paragraphs 4.1 to 4.12 are true to my knowledge and the rests are my humble submission before the Hon'ble Tribunal. I have not concealed any material facts of the case.

And I sign on this Verification on this the 15— day of July, 2002.

Himangshu Paul
Signature.

DEPARTMENT OF POSTS, INDIA

26

OFFICE OF THE AGENT SUPPORT OF POST OFFICES: SILCHAR NORTH SUBDIVN. SILCHAR

Dated: SILCHAR 28.12.58

MURUGAN NO. 31/5/108.

In pursuance of the SS POS. Silchar memo
NO. 12/1/58/Relay/Adv. dated 2. 12. 58 Shri Bhimangshu Paul
approached for appointment as Postman Cadet on
commissary ground and kept in panel for absorption
in the future in creation vacancies, by G.O. is hereby engaged
on short term duty in the limit of the undersigned
and kept attached to G.C. College So. against an
unfilled vacancy until further orders.

Shri Bhimangshu Paul should clearly
understand that the engagement is purely on temporary
basis and he can not claim any seniority / pay benefit
in future for such short term engagement.

S/

1. Shri Bhimangshu Paul should forward
panel with Xerox copy to G.C. College immediately
refused to the GPM, G.C. College immediately.

2. The Govt. Postmaster will be informed
3. The post office will be given for information
necessary within.

Certified to be true

Monorangan Das

Advocate

47/02

DEPARTMENT OF POSTS: INDIA

OFFICE OF THE ASSTT SUPDT OF POST OFFICES: SILCHAR-NORTH SUB-DIVN. SILCHAR-78301

R.D. No. 82/K.K.O.4

Dated: 26.07.99

Exams/Exams. (Ex. C) to S.P.M. in view of P.O. (Retirement)
Examining date: 16.07.99. The following of following orders are issued
to have immediate effect.

1. Sri Rajendra Singh Ray, Asstt. S.D. (Kamrup) is the
an approved conciliator for appointment to Postman, to the
and to Postman. The date of his appointment is 01.07.99 in respect
as Postman (i.e. College Sp. Vice and Discharge the same
terminated.

2. Sri Ramendra Deka, S.D.M.C. is specifically
an approved conciliator for appointment to Postman, to the
and to Postman. Hangukhani Sp. Vice S.D. (Kamrup)
will transferred.

Sd/-
R. HALDAR
Asst. Supt. of Posts
District: Dibrugarh
Date: 26.07.99

Copies:

1. The Asst. Postmaster, Silchar
2. The SPM, M.C. College Sp.
3. The SPM, S.M.C. College Sp. Dibrugarh
4. The office concerned
5. The officials concerned
6. The concerned officers concerned in the above
7. Dibrugarh Sp. Staff.
8. The S.D.M.C. Exchange from the S.D. Dibrugarh
Dated: 26.07.99. R.D. No. 82/K.K.O.4 dated 26.07.99.

D

Certified to be true
Monogram & S.
Advocate
4/7/02

Asst. Supt. of Posts
District: Dibrugarh
Date: 26.07.99

१० दी० श० ६१/४८०-६१

मार्गीय इकाई विभाग

DEPARTMENT OF POSTS, INDIA

(विविध नियम 267, डाक-तार वित्त पुस्तकों की वज्र ।, द्वितीय विमान)
Rule 267, Posts and Telegraphs Financial Handbook, Volume I,
Second Edition)चार्ज की वहती पर चार्ज रिपोर्ट और नकदी और टिकटों की रसीद
Charge Report and Receipt on cash and stamps on transfer of charge

प्रतापित किया जाता है कि

Certified that the charge of the office of

Postman Secy

..... (नाम) वे

made over by (name) Hemangshu Paul

लगत
at (place)

..... को अवधि में

Secy

(date) 6-5-99 ~~date~~ upon in accordance with Rule No

Affidavit

S. K. Roy दिनांक Dated 26-7-99

Hemangshu Paul

P.M. 6/8/99

Relieved Officer

from ASP (S) Secy

S. K. Shirodekar Roy

मार्गीय इकाई
Relieving Officer[E ०२०३०
(P.T.O.)Certified to be true
Monoranjini Dev.
Adviser
1/7/02

*Certified that the balances on the date of the severance of the several works (Sect. 1 Book a) and the end of the term of the office have been checked and found correct.

*प्रमाणित किया जाता है कि इनके बिना देखा नहीं जाएगा कि किसी भी तरह अंत में इनके बिना देखा नहीं जाएगा।

*Certified that the balances as detailed below were checked and found correct by the Relieved Officer and I accept the responsibility for the same.

50
P.S.

(अ) नकदी/Cash

(ब) प्रताल टिकट/Stamp Impress

पिछमे दे जामिल है :-

Made up of :-

(प) टिकट/Stamps

(2) नकदी/Cash

भारतमुक्त अधिकारी

Relieved Officer

तिथि

Dated the

Forwarded to

Copy of C.O.

*जब प्रमाण-पत्र को आवश्यकता न हो तो इसे काट दिया जाय।
*The Certificate when not actually required may be squared through.

आसंशापुमुख/MCITBP Bbst-2/1 DPT/91-92-31,00,000 C.O. No. 508-50/683

Digitized by srujanika@gmail.com

DEPARTMENT OF POSTS, INDIA

(पृष्ठ 167, डाक-तार वित्त पुस्तका का ग्रन्थालय गत्तरण)
Posts and Telegraphs Financial Handbook, Volume I
Second Edition)

चार्ज रिपोर्ट और टिकटों की रसीद
Charge Report and Receipt for cash and stamps on transfer of charge

प्रदर्शित किया जाता है कि का
Certified that the charge of the office of Post Master Serial

नामः (नाम) ने
was made over by (name) **Himanshu Patel**

(नाम) जो
to (name) *ek chisode kai koy*

स्थान
at (place)

तुरंगेष्वः को तुरंगेष्व में

Se-1

on the (date) 6.2.89. ~~for~~ soon in accordance with **Protocol No**
~~of~~ 10

क्रमांक
No. B21 K.Roy तारीख
Dated 26.7.99
Thorangchampad
P/M 6/93
प्रबन्धक अधिकारी
Relieved Officer

मेरुपार देखा।
from ASP(N) S-1
Kshirode Kal Roy
नामानु अधिकारी
Relieving Officer

certified to be true

Maravanyas &
Advocates
1/7/02

*प्रमाणित किया जाता है कि आज के दिन इन बायोंचय की अनेक खातों के बचतों
(स्टॉक पुस्तक और रजिस्टरों समेत) श्रीर सेवकों की जाव ही और उन्हें उन्हीं द्वारा

*Certified that the balances of this date of the several books (including
Stock Book and Registers) and accounts of the office have been checked
and found correct.

*प्रमाणित किया जाता है कि निम्नलिखित बायोंचय सुने मारमुक्त अधिकारी ने सेव
द्वारा लाइ द्वारा दिए गए बचतों की जिम्मेदार है।

*Certified that the balances as detailed below were handed over to me
by the Relieved Officer and I accept the responsibility for the same.

	रु.	पै.
	Rs.	P.

(अ) नकदी/Cash

(ब) अद्वाद टिकट/Stamp Imprest

जिनमें ये जाकिल है :-
Made up of :-

(1) टिकट/Stamps

(2) नकदी/Cash

मारमुक्त अधिकारी
Relieved Officer

मारमुक्त अधिकारी
Relieving Officer

तारीख
Dated the 15th 19

Forwarded to

*जब प्रमाण-पत्र का अवश्यकता न हो तो इसे काट दिया जाए।

*The Certificate which is not actually required may be scored through

प्रमाणपत्र/MGITBP Bbsr—2/1 DPI/91/62—31,00,000 Copies.

12890/62

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE SENIOR SUPDT OF POST OFFICES
CACHAR DIVISION-SILCHAR-788001

To

The SPM
Haflong S.O.

No.B1-Recrt/Relax/Misc

Dated at Silchar the 07-01-2000.

Sub:- Absorption of approved candidate in short term vacancy- case of
Himangshu Paul.

Kindly engage Shri Himangshu Paul an approved candidate on
compassionate ground in the vacant post of Postman of your unit on short
term duty with clear understanding that he can not claim any seniority/pay
benefit in future for such term of engagement.

An undertaking may be obtained from the candidate before engagement
as stated above with out fail.

S/1
(J. K. Barbhuiya)
Sr. Supdt of Post Offices
Cachar Dn. Silchar-788001

Copy To:-

1. The Sr. Postmaster, Silchar H.O for information and necessary action.
2. Shri Himangshu Paul, S/O Late Phanibhusan Paul, Ex-Group "D" P&T
Dispensary, Silchar-788001.

Certified to be true
Monogram
Advocate —
1/1/02

Sr. Supdt of Post Offices
Cachar Dn. Silchar-788001

Page - 18

Annexure - B

Dept. of Posts, India

O/P/T

603 POSTMASTER

REGD. AIR

Deliver - 700 810

No B.2 | Postman / Lectr / Relan / P.W.C / 60 | dated at Ha Long
in 11.1.2000

603 POSTMASTER
REGD. AIR
Deliver - 700 810

Certified to be true ✓
Mangayam 25/2/02
Acharya
1/7/02

603 POSTMASTER
REGD. AIR
Deliver - 700 810

मारतीय डाक विभाग
DEPARTMENT OF POSTS, INDIA

(दिविए नियम २६७, डाक-नार वित्त पुस्तिका का बाणि १, वित्तीय संस्करण)

(See Rule 267, Posts and Telegraphs Financial Handbook, Volume I, (Second Edition))

चार्ज को बदली पर चार्ज रिपोर्ट और नकदी और टिकटों की रसीट
Charge Report and Receipt for cash and stamps on transfer of charge

प्रमाणित किया जाता है कि

Certified that the charge of the office of

Postman
Haflong

चार्ज (नाम) ने

was made over by (name) *Amulya Ghosh*(नाम) को *Himangshu Paul* at (place)to (name) *Haflong*

on the (date) ११.१.२००० fore noon in accordance with

अपराह्न

after

No.

तारीख
Datedके अनुसार दे दिया।
from SSP/SC

B-1-Recd/Relax/mise

*Himangshu Paul*मारमुक्त अधिकारी
Relieved Officerभारतीय अधिकारी
Relieving Officer

फ००१०३० (P.T.O.)

Amulya Ghosh

Certified to be true

Monoranjini Das

Advocate

1/7/02

३

*प्रमाणित किया जाता है कि वाज के दिन इस कार्यालय की अनेक खातों के बचतों (स्टॉक पुस्तक और रजिस्टरों समेत) और लेखालों की जांच की और उन्हें ठीक ढारा

*Certified that the balances of this date of the several books (including Stock Book and Registers) and accounts of the office have been checked and found correct.

*प्रमाणित किया जाता है कि निम्नलिखित वाग्या मुझे भारमुक्त अधिकारी ने सौंप दिए और मैं इनके लिए जिम्मेदार हूँ।

*Certified that the balances as detailed below were handed over to me by the Relieved Officer and I accept the responsibility for the same.

(a) नकदी/Cash

(b) अप्रदाय टिकट/Stamp Imprest.

जितमें मे शामिल हूँ :-
Made up of :—

(1) टिकट/Stamps

(2) नकदी/Cash

भारमुक्त अधिकारी
Relieved Officer

भारतीय अधिकारी
Relieving Officer

तारीख
Dated the

Forwarded to Hemangshu Paul

*जब अप्राप्त प्रत्यक्ष स्वीकार करता न हो तो इसे काट दिया जाए।
*The Certificate when not actually required may be scored through.

प्रधानपुस्तक/MGITBP Bbsr—2/1 DPI/91-92—31,00,000 Copies

[28-90/68-MI]

CJS

for break on series

P-20

Form 3 (ii)

SUB POSTS
(S.P.S.)
BOP 08.61
BOP 08.1938



मास्तोप डाक विभाग

DEPARTMENT OF POSTS, INDIA

(देखिए नियम 267, डाक वार विभाग प्रतिकालीन वर्ष 1, दिग्दार संस्करण)
(See Rule 267, Posts and Telegraphs Financial Handbook, Volume 1, Second Edition)

चार्ज को वरली पर चार्ज लिए हो रनकरी और फिरां की रसोद रिपोर्ट

Charge Report and Receipt for cash and stamps on transfer of charge

मास्तोप दिग्दार द्वारा किया गया

Certified that the charge of the office of

नाम - Relinquished (नाम) में..... Postman
Hemangshu Paul Staff S.O.

was made over by (Name)

(नाम) को Hemangshu Paul

to (Name)

तारीख - द्वारा दो बजे बर्ही में
तारीख - द्वारा दो बजे बर्ही में

स्थान

at (Place) Ooty

on the (date) 24/01/1938 after noon in accordance with

No. B-2/H. dated 24.01.38

के अनुसार दे दिया।
from C.O. Post

Hemangshu Paul

भारतीय अधिकारी
Relieved Officer

मास्तोप अधिकारी
Relieving Officer

(दस्ता व उत्तराधिकारी)
(P.T.O.)

certified to be true

Monogram S.O.

Adipdate

4/2/02

*प्रमाणित किया जाता है कि वाले के हिस्से इस कार्यालय की नवीन पुस्तकों वे बचती हैं (स्टॉक बुक और रजिस्टर्स समेत) और लेखांकों की जांच की तौर पर उन्हें ठीक बचती हैं।

*Certified that the balances of this date of the several books (including Stock Book and Registers) and accounts of the office have been checked and found correct.

*प्रमाणित किया जाता है कि निम्नलिखित बकाया युक्त भारमुक्त विविधार्थ ने सौंप दिया है और मैं इनके लिए जिम्मेदार हूँ।

*Certified that the balances as detailed below were handed over to me by the Relieved Officer and I accept the responsibility for the same.

Rs.
Ls.

Rs.
Ls.

(a) नकदी/Cash

(b) अवधाय दिक्षा/Stamp Duty

किये वे भारमत हैं :-
Made up of :-

(1) दिक्षा/Stamp

(2) नकदी/Cash

कार्यालय की ओर से
Relieved Officer

कार्यालय की ओर से
Relieved Officer

कार्यालय की ओर से
Relieved Officer

नारायण हरि लाल राजे
Relieving Officer

संस्कृत विद्यालय का नाम लिया जाए।

*The certificate when not actually required may be scored through.

[28-5-1968-MT]

गोपनीय (HTS) जू. वडा/सू. कालीगंगा जू. लो. लाल राजे।

Sub Post Master
H. C. Hall's
Rule 267
1961

Reen gager P-21

3 (4) 9

भारतीय डाक विभाग
DEPARTMENT OF POSTS INDIA

(दस्तिक नियम 267, डाक और वित्त प्रशिक्षण का बाब्द 1, द्वितीय वंस्करण)
(Post Rule 267, Posts and Telegraphs Financial Handbook, Volume 1, Second Edition)

चार्ज को बदली पर चार्ज लिंग और नकदी और टिकटों को रहें
Charge Report and Receipt for cash and stamps on transfer of charge

प्रमाणित किया जाता है कि

Certified that the charge of the office of

राज्य Re-joined (राज्य) में

was made over by (name)

(राज्य) को

to (name)

तारीख

Postman
Staffing J. D.

दान
at (Place)

को दिनहूँ में
धरणह

on the (date) 27. - 01. - 01 fore noon in accordance with

No.

तारीख

Dated

के अनुसार दे दिया।

from

भारतीय अधिकारी
Relieved Officer

भारतीय अधिकारी
Relieving Officer

(प्राप्त प्रति उनिट्य)
(P. T. O.)

Certified to be true
Monorangan Das.
Advocate
1/7/02

Dimangshu Paul

३६

"प्रदानित किया जाता है कि बाज़ के दिन इह कार्यालय की अनेक दस्तखतों के अकाउंट
(स्टॉक बुक्स और रजिस्टर्स समेत) और लेटर्स की जांच भी और उन्हें ठीक-चाला
"Certified that the balances of this date of the several books (including
Stock Book and Registers) and accounts of the office have been checked
and found correct.

"प्रदानित किया जाता है कि निम्नलिखित बजेया मुझे भारमुक्त लिविंसार्ट वे लैन
दिन सौंत मे इनके लिए यिम्मेदार हूँ।
"Certified that the balances as detailed below were handed over to me
by the Relieved Officer and I accept the responsibility for the same.

रु. Rs.	पैसे P.
------------	------------

(३) टिकट/Stamp

(४) अप्राप्त टिकट/Stamp Imprint

लिस्टमें दे लायित है :—
Made up of :—

- (१) टिकट/Stamps
- (२) नकदी/Cash

भारमुक्त लिविंसार्ट
Relieved Officer

तारीख
Dated the 19
19

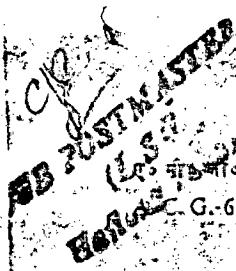
Forwarded to Shrimangandhi Patel को दिया गया

भारमुक्त लिविंसार्ट
Relieving Officer

उपर प्रमाण-पत्र की दादस्तखतों ने ही तो इसे बाट दिया जाए।
"The Certificate when not actually required may be sealed strongly.

12-9-68-MI

NOTED (MTS)-93/IGD/CAL/93-94 30 2nd copies.



Off. duty (P-222) 30/0

मारकोय डाक विभाग
DEPARTMENT OF POSTS, INDIA
(वैधिक नियम 267, डाक-वार वित्त पुस्तिका का बाणी 1, द्वितीय संस्करण)
(See Rule 267, Posts and Telegraphs Financial Handbook, Volume 1, Second Edition)

जारी को वहती पर चालं रिपोर्ट और नकदी और दिल्ली की रसीद
Charge Report and Receipt for cash and stamps on transfer of charge.

प्रमाणित किया जाता है कि

Certified that the charge of the office of

Relieving Officer Postman at Hafley 50
was made over by (name) by

(name) को Himanshu Paul तथा
to (name) Himanshu Paul at (place) Hafley
तारीख जो अमेड़ में
..... अपनहत

on the (date) 18/7/2001 for noon in accordance with

No. 2 P.M. Relieved 4.7.2001

Himanshu Paul

मारकोय अधिकारी
Relieved Officer

के अनुसार के दिनांक
from S. D. P. P.
4.7.01

मारकोय अधिकारी
Relieving Officer

(मारकोय अधिकारी)
(P.T.O.)

certified to be true

Monogram

Advocate
1/7/02

४८

“इसापित दिया जाता है कि दोनों के दिल इह खार्डसिल दों बनेक पुस्तकों के बचाव
 (स्टॉक पुस्तक दों और रजिस्टरों उमेर) और लेखांकों ही जांच की और उन्हें ठीक रखा
 “Certified that the balances of this date of the reversal books (including
 Stock Book and Registers) and accounts of the office have been checked
 and found correct.

“इसापित दिया जाता है कि नियमितिरित बचाव युक्त सार्वजनिक विधायकी ने सीधे
 दिल दोनों में इनके लिए जिम्मेदार है।
 “Certified that the balances as detailed below were handed over to me
 by the Relieved Officer and I accept the responsibility for the same.

रु.	पै.
R.S.	P.

(a) नकद/Cash

(b) अवधाद टिकट/Stamp Imprest

जिसके बाबिल है :—
 Made up of :—

(1) टिकट/Stamps

(2) नकद/Cash

भारतीय बैंक द्वारा
 Relieved Officer

भारतीय बैंक द्वारा
 Relieving Officer

तारीख
 Date/Date : 19

Powerdated to : *Chennangashy Prashant* भेजा गया

Chennangashy Prashant द्वारा दिल दिल दिल

“The Certificate when not actually required may be scored through.

NO. 1111 (1988)-93/PSD/C&L/51-94- 30 Lakh Copies.

[28-90/68-M1]

४०

“प्रमाणित किया जाता है कि बाज के दिन इह सार्वत्रय सी बनेक पुस्तकों के सम्बन्ध
(स्टॉक बुक और रजिस्टर एंट्री) और लेखांकों की जांच की ओर उन्हें ठीक जांच
“Certified that the balances of this date of the several books (including
Stock Book and Registers) and accounts of the office have been checked
and found correct.

“प्रमाणित किया जाता है कि निम्नलिखित दराया सुने भारमूल बच्चराम दे हीम
दिए वार मे इनके लिए जिम्मेदार हैं।

“Certified that the balances as detailed below were handed over to me
by the Relieved Officer and I accept the responsibility for the same.

रु.	₹.
R.	P.

(a) नकदी/Cash

(b) अम्बायर टिकट/Stamp Imprint

जिम्मेदार द्वारा बनाया गया है :-
Made up of :-

(1) टिकट/Stamps

(2) नकदी/Cash

भारमूल बच्चराम
Relieved Officer

भारमूल बच्चराम
Relieving Officer

तारीख
Dated the 19
Forwarded to Himgangesh Paul
19

जब प्रसारण बन्द की आवश्यकता न हो तो इसे छाट दिया जाए।
The Certificate when not actually required may be scored through.
MORAR (MTO)-93/FBI/CAU/93-94- 50 Lakh Copies. [78-90/68-MI]

OFFICE OF
THE POSTMASTER
REGD. LETTERS
DEPT. OF POSTS, INDIA

OFF DUTY

P-24

रु. दी. ३०.६१ / A.G.O. ३०

भारतीय डॉक्टरिमार्ग

DEPARTMENT OF POSTS, INDIA

टिक्कों की 267, डाक-तार वित्त पुस्तक का वर्ष 1, डिसेंबर १९८८
(Posts and Telegraphs Financial Handbook, Volume I,
Second Edition)

वार्ता को बद्दी पर चारं रिसेट और तकरी ब्रोड टिक्कों की रसीद
Charge Report and Receipt for cash and stamps on transfer of charge

प्रमाणित किया जाता है कि
Certified that the charge of the office of

Postman

Relieved (name) Hemangshu Paul Hafloz
नाम: Hemangshu Paul Hafloz
was made over by (name) Hemangshu Paul Hafloz
नाम: Hemangshu Paul Hafloz
to (name) Hemangshu Paul Hafloz
तारीख: 20/12/01 तो 20/12/01
on the (date) 20/12/01
at (place) Hafloz

तारीख: 20/12/01 को रुपांतर में
अवस्था अवस्था अवस्था
on the (date) 20/12/01 fore noon in accordance with
after

सं. B2/H. Paul Dated 12/12/01

के अनुबार दे जिता।
from SD POS

Hemangshu Paul
भारतीय अधिकारी
Relieving Officer

Hafloz

भारतीय अधिकारी
Relieving Officer

[क०००३०
P.T.O.

Certified to be true
Monorangan Das
Advocate
4/1/02

१२

प्रमाणित हो जाता है कि हाज अंदर इन वारंवार की अनेक पूलियों के बचाव (स्टॉक पूलिय और रजिस्टर्स समेत) और सेबाओं की जांच दी गई और उन्हें ठीक घाया

"Certified that the balances of this account of the several books (including Stock Book and Registers) and accounts of the office have been checked and found correct.

प्रमाणित किया जाता है कि निम्नलिखित दाया नुस्खे भारमुक्त अधिकारी ने कीम दिए हैं इनके लिए जिमेशर हैं ।

"Certified that the balances as detailed below were handed over to me by the Relieved Officer and I accept the responsibility for the same.

रु.	रु.
Rs.	P.

(अ) नकदी/Cash

(ब) खरदाय टिकट/Stamp Impress

जिन्हें मैं लाभित हूँ :—

Mac 1991 :—

(1) फिल्स/Stamp

(2) नकदी/Cash

भारमुक्त अधिकारी
Relieved Officer

भारमुक्त अधिकारी
Relieving Officer

तारीख :—

Date :—

Forwarded to :—

Himangshu Paul

को. अधिकारी

वारंवार अवधारणा जी लाकर लाता है तो तो इसका दिया जाए।

The Certificate when not actually required may be scored through.

26-90/68-AII

प्रधानमंत्री/मंत्री/TBP Bk—2/1 DPK/91-92—31,00,000 Copies.

P-25

६० ली० श०-६०८८/ACG/61

भारतीय डाक विभाग
DEPARTMENT OF POSTS, INDIA

पृष्ठा १८७, डाक-तार वित्त पुस्तिका का वर्ष १, डिसेंबर, उत्करण
(See page 187, Posts and Telegraphs Financial Handbook, Volume I,
Second Edition)

चार्ज व बदली पर चार्ज रिसेंट और नकदी और टिकटों की रसीद
Charge Report and Receipt for cash and stamps on transfer of charge

प्रमाणित किया जाता है कि
Certified that the charge of the office of

कार्यालय A. B. S. H. Paul: (नाम) ने
was made over by (name)

(नाम) को दिया गया है
to (name)

तारीख: २१/१२/०१ को पूर्वान्तर
भाग अपराह्न

on the (date): fore noot in accordance with
after

Postman
Hoflags

स्थान
at (place)

क्र. No. B 2/H. Paul
तारीख Dated

भारतीय अधिकारी
Relieved Officer

क्र. भन्नाराह दे दिया Po
from २१/१२/०१
Hoflags
H. B. S. H. Paul

भारतीय अधिकारी
Relieving Officer

[फॉर्म ३०
P.T.O.

certified to be true
Monosavji S. S.
Advocate
1/1/02

४४
*प्रमाणित किया जाता है कि काज के दिन इस कार्यालय की अनेक पुस्तकों के बalan
(स्टॉक पुस्तक और रजिस्टर्स इमेज) और संलग्नों की जांच की और उन्हें टैक दिया
*Certified that the balances of this Date of the several books (including
Stock Book and Registers) and accounts of the office have been checked
and found correct.

*प्रतीक्षित किया जाता है कि निम्नलिखित वाराया मुझे भास्तुत अधिकारी ने सीर
दिया और मैं इनके लिए जिम्मेदार हूँ।

*Certified that the balances as detailed below were handed over to me
by the Relieved Officer and I accept the responsibility for the same.

रु.	पौ.
Rs.	P.

(३) नकदी/Cash

(४) लकड़ान / Wood

जिसमें मेरा नाम है :-
Name of :-

(१) टिकट/Stamp

(२) नकदी/Cash

भास्तुत अधिकारी
Relieved Officer

भास्तुत अधिकारी
Relieving Officer

तारीख
Dated the

Forwarded to Shri M. A. S. Khan....., दिल्ली

यह प्रमाणन्द्र जी (प्रदाता का नाम) को लिए दिया गया है।

The Certificate when it is actually required may be scored through

प्रधानमन्त्री/GOVT OF INDIA—2/1 D/1/91-42—31,00,000 Copies
15-90/65-MI

Chitraditya

P-26



POST REGISTER
G.I.R.
POS. G. 61
188819

मार्गोपयः डाक विभाग

DEPARTMENT OF POSTS INDIA

(संस्कृत नियम 267, डाक दाता विभाग का वार्ष 1, द्वितीय वर्ष 1)

(See Rule 267, Posts and Telegraphs Financial Handbook, Volume 1, Second Edition)

CHARGE REPORT AND RECEIPT FOR CASH AND STAMPS ON TRANSFER OF CHARGE

प्रमाणित किया जाता है कि

Certified that the charge of the office of

Relinquished..... (नाम) में
नाम
was made over by (name)

(नाम) को
to (name) Himmangshu Paul
तारीख

को पहली बार
भाग

on the (date) 15/5/02 fore noon in accordance with

संख्या तारीख
No. B2/21 Paul Dated

के अनुसार है दिया।
from

भारत सरकार
Relieved Officer

मरणाही अधिकारी
Relieving Officer

(क्रम पृष्ठ उल्लिखित)
(P. T. O.)

Certified to be true

Monodhyananda

Advocate

1/7/02

88
*प्रमाणित किया जाता है कि आज के दिन इन कार्यालय की बनेक पुस्तकों के बचाव (स्टॉक पुस्तक और रजिस्टरों समेत) और लेखादों की जांच की तौर पर उन्हें ठीक घाया गया।
*Certified that the balances of this date of the several books (including Stock Book and Registers) and accounts of the office have been checked and found correct.

*प्रमाणित किया जाता है कि निम्नलिखित दायाया नुस्खे भारमुक्त अधिकारी ने सौंप दिए और मैं इनके लिए जिम्मेदार हूँ।
*Certified that the balances as detailed below were handed over to me by the Relieved Officer and I accept the responsibility for the same.

रु.	प.
Rs.	P.

(a) नकदी/Cash

(b) अप्रदाय टिकट/Stamp Imprest

जिसमें से बायमिल है :-

Made up of :-

(1) टिकट/Stamp

(2) नकदी/Cash

भारमुक्त अधिकारी
Relieved Officer

भारमुक्त अधिकारी
Relieving Officer

तारीख
Dated the

19
19

Forwarded to

Forwarding the Particulars
app. Postman

*जह तक प्रमाणित ही आवश्यकता नहीं हो ऐसे काट दिया जाए।

*The Certificate when not actually required may be scored through.

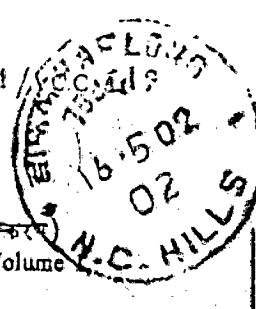
[28-90/68-MI]

MOITBP (MTS)-95 TSB/CAL/93-94- 30 14th Copyer.

POSTMASTER
TURHONG 788411

भारतीय डाक विभाग
DEPARTMENT OF POSTS, INDIA

विधित नियम 267, डाक-तार वित्त पुस्तिका का छन्द 1, दिनीक हस्ताक्षर
(See Rule 267, Posts and Telegraphs Financial Handbook, Volume
Second Edition)



चार्ज की वस्ती पर चार्ज रिपोर्ट और नकदी और डिक्टों की रक्षा
Charge Report and Receipt for cash and stamps on transfer of charge

प्रमाणित किया जाता है कि
Certified that the charge of the office of

चार्ज (नाम) ने
was made over by (name)

(नाम) को
to (name)

का
Postman
Hatkong MDG

स्थान
at (place)

दायित्र से पुर्वाह्न में
अपराह्न
on the (date) 16/05/02 fore noon in accordance with
after

No. B2 H. Paul नामीन
Dated

के अनुनाद दे दिया।
from SDI of N.C

भारतीय अधिकारी
Relieved Officer

भारतीय अधिकारी
Relieving Officer

[ठोटा ठो [P.T.O.

Certified to be true
Monorajya Sarker
Advocate
1/7/02

*प्रमाणित किया जाता है कि आज के दिन इस कार्यालय की अनेक पुस्तकों के बिकाया (स्टॉक पुस्तक और रजिस्टरों समेत) और लेहांबों की जांच ही और उन्हें ठीक पाया

*Certified that the balances of this date of the several books (including Stock Book and Registers) and accounts of the office have been checked and found correct.

*प्रमाणित किया जाता है कि निम्नलिखित दस्ताव न्यूमे भारतीय अधिकारी ने सोप दिए और मैं इनके लिए जिम्मेदार हूँ।

*Certified that the balances as detailed below were handed over to me by the Relieved Officer and I accept the responsibility for the same.

रु. P.
Rs. P.

(अ) नकदी/Cash

(ब) अध्रदाय टिकट/Stamp Imprest

जिसमें पे शामिल है :-

made up of :-

(1) टिकट/Stamps

(2) नकदी/Cash

भारतीय अधिकारी
Relieved Officer

भारतीय अधिकारी
Relieving Officer

तारीख
Dated the

Forwarded to

19
19

Himangshu Paul

का भेजा गया

*जब यह प्रमाण-पत्र की आवश्यकता न हो तो इसे काट दिया जाए।

*The Certificate when not actually required may be scored through.

प्रभासपापुस्तक/MGITBP Bbsr—2/1 DPI/91-92—31,00,000 Copies.

[28-90/68-M]

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE SENIOR SUPDT OF POST OFFICES
CACHAR DIVISION, SILCHAR 788 001

Memo No. B1/Recd/Relax/Misc

Dated at Silchar the 11-06-2002

The following candidates as approved by the Chief Postmaster General Assam Circle, Guwahati No. Staff/16-Rlg/88/Pari dated 10-05-2002 and R.O Dibrugarh No. Staff/23-Approved Case/99/RP dated 14-05-2002 for compassionate appointment against GDS posts are hereby allotted the post noted against their names.

Name and address	Particulars of approval by C.O	Post against which approved	Allotted GDS post for absorption
1. Smt. Sunitikana Das, Sister of late Buddhamoy Das, Ex-P/A, Badarpur SO	Staff/16-Misc/97 dated 11-11-99	PA	ED Stamp Vendor Badarpur
2. Sri Nilotpol Roy, S/O late Nikunja Ch. Roy, Ex-Postman, Gunrabazar	Staff/16-Misc/97 dated 06-10-97	Postman	EDDA-C-EDMC, Chirukaitidi
3. Hlimangshu Paul, S/O late Phani Bh. Paul, Ex-Group D' P&T Dispensary, Silchar	Staff/16-Misc/97 dated 06-10-97	Postman	ED Packer, Kamamadhu
4. Smt. Arati Rani Deb, W/O late Gopal Ch. Deb, Ex-Postman, Tarapur SO	Staff/16-Misc/97 dated 06-10-97	Postman	ED Packer, Kumbhur
5. Sri Gopal Namasudra, S/O late Gopendra Namasudra, Ex-Group D' Cachar Dn.	Staff/16-100/93 dated 07-12-93	Group 'D'	EDDA, Bhairabnagar (Lakhi salan)
6. Sri Sanjib Kr. Sengupta, S/O late Sukhendu Sengupta, Ex-SPM, Badarpur Bazar	Staff/16-103/93 dated 07-12-93	Group 'D'	EDMC, <i>Ramkrishna Mission</i> TE
7. Sri Jayanta Debnath, s/o late Benode Behari Debnath, Ex-Group D' Hailong	Staff/16-105/93 dated 07-12-93	Group 'D'	ED Packer, Kalinagar
8. Sri Kajal Das, s/o Smt. Suniti Bala Das, Ex-Group 'D' Silchar	Staff/16-Misc/97 dated 07-10-97	Group 'D'	EDDA-C-EDMC Chengurghat, <i>Parasuram Kandighi</i>

9. Sri Babudhan Dhree S/O late Bijoy Kr. Dhree, Ex-O/S Cash, Silchar H.O	Staff/16-Misc/97 dated 11-11-99	Group 'D'	EDDA-C.EDMG Darraghata Grant in account with Manipurbaghan S.O
---	------------------------------------	-----------	---

Their appointment is subject to the following condition.

Since the candidates have accepted the GDS Post, they would have no further claim for appointment on any special consideration against regular departmental vacancies for which they were initially approved and that they would have to take their turn as per present departmental policy for GDS in the matter of their appointment against future departmental vacancies. For this, they will submit their undertaking to their respective appointing authorities before joining to the post of GDS.

J.P
J. K. BARBHUJYA
Sr. Supdt of Post Offices
Cachar Dn. Silchar-788001

Co.

1. The Chief Postmaster General, Assam Circle, Guwahati-781 001 w.r.t his letter cited above.
2. The Postmaster General, Dibrugarh Region, Dibrugarh-786 001 w.r.t his No. Staff/23-Approved Case/99/RP dated 03-09-01 and 14-05-02.
- 3-5. The Sr. Postmaster, Silchar/Postmaster, Karimganj/Hailakandi H.O for information.
- 6-10. The ASPOs (N) Sub-Dn./SDIPOs, West/Hailakandi/Karimganj Sub-Dn. for information. They will obtain requisite undertaking as per instruction given above and issue posting and appointment letters to the candidates immediately. The undertaking should be duly countersigned and forward to this office for record. Any candidate if declines to submit declaration or refuse to join against the post, the fact should be intimated immediately to this office.
- 11-19. The concerned candidates. They will submit undertaking before joining.
- 20-22. Spare.

J.P
Sr. Supdt of Post Offices
Cachar Dn. Silchar-788001

Certified to be true
Monogramstar
Adroesh
11/2/02

Annexure - 5Particulars of service done under the Department

Srl. No.	Details of post.	Engaged	Disengaged	No. of days conti- nuous service	Letter of authority
1.	Postman G.C. College	28.12.98 A/N	6.8.99 A/N	221	B1/Staff dated 28/12/98.
2.	Postman Haflong	11.1.2000 A/N	24/1/2001 A/N	379	B1/Recd/ Relax/Misc dated 11.1.2K.
3.	-do-	27.1.2001 F/N	18/7/01 F/N	182	B2/H.P.ul dated 4.7.2001.
4.	-do-	20.7.2001 F/N	20/12/01 F/N	153	-do-
5.	-do-	21.12.2001 F/N	15/5/02 F/N	145	-do-
6.	-do-	16.5.02 F/N	Till date continuing.		

Enclosed to L. M.
Mangayam As.
Advocate
1/7/02

regd AD

SV

DEPARTMENT OF POSTS : INDIA
 OFFICE OF THE SENIOR SUPDT. OF POST OFFICES
 CACHAR DIVISION SILCHAR-788001

To

The all HPMs and ASPOs (N)
 SDIPOs in Cachar Dn.

No. B1/Recrt/Relax/Misc

Dated at Silchar the 22-06-2001.

Sub:- Discontinuation of waiting list of candidates approved for compassionate appointment-willingness of the approved candidates for consideration by other ministries.

The following approved candidates were allotted to your unit for working in short term vacancies.

You are requested to intimate whether they are willing for job in other department. If so, submit a list of willing approved candidates at an early date as desired by the C.O, Guwahati for taking the matter with other ministries and also with the Directorate.

Sd/-

Sr. Supdt of Post Offices
 Cachar Dn. Silchar-788001

Copy to:-

- ✓ 1. The concerned candidates. They are to submit their willingness within three days on receipt of the letter.
- 2. Smt. Smriti Kona Das, S/O Late Buddhamoy Das, Badarpur to an approved candidate in P/A Cadre may also be submitted her willingness or otherwise.

To
 Sr. Supdt of Post Offices
 Cachar Dn. Silchar-788001

Sen. H. M. Ganguli, P.M.
 working as Postman Haflong
 Haflong Po

certified to be true
 Monorangan Das
 Advocate
 1/7/02

To. The Sr. Supdt. of Po's
Cachar Division
Silchar - 1.

Through the S.D.I. of N.e. Hill
Sub-Division Haflong.

Sub: Willingness of yours ref No. B1/Rd.
1/Relax/Misc. Dated Silchar, the 22-06-01.

Respected Sir,
With reference to your
letter no cited above, I am willing
to go for job in any other Department.

So, I would therefore re-
quest you kindly give me the chance
at an early date & obliged.

Yours faithfully
Himangshu Paul
Working Postman Haflong
S.O. (HIMANGSHU PAUL)
Approved Postman

Haflong, S.O.
N.e. Hills
788819

Certified to be true
Monogram Star.
Adiakar
1/7/02

Date
27/06/2001.

To,

The PostMaster General Regional Office
Assam Region,
Dibrugarh -1.

Through the Sr. Supdt. of Post Offices Cachar Division
Silchar-1.

Sub:- Prayer for the appointment of Postman under compensation ground.

Sir,

With due respect and humble submision, I beg to lay few lines for favour of your kind sympathetic consideration and necessary action.

That sir, my beloved father Late P.B.Paul as a Gr- "D" employee in P&T despensary at Silchar. But unfortunately my father died on 27/7/1995 leaving behind me, brother, sister and mother. After few days mother also same happened too leaving us forever.

Respected sir, I Ari Himgangshu Paul eldest son of Late Phani Bhushan Paul including one younger brother and sister in our family. Every family burden and all expenditures facing trouble for me and every burden depend on me day by day. After attaining service age I applied through the SSP Cachar Division Silchar. Than' approved from Circle Seceltion Committee held on 23/9/97 Staff No. 16/MISC/97 (APMG.STAFF) At that time I am temporary assigned the post of Postman at G.C. College so and after few month service I am transferred to Haflong so and working till date.

In this regard, I earnestly request you that kindly appoint me permanently as Postman at your kind authority for which act of kindness I shall ever grateful to you.

Haflong

22-05-01

Certified to be true
Monorajya De
Advocate
1/2/02

Your's faithfully,
Himgangshu Paul
(SIRI HIMANGSHU PAUL)
Postman Haflong Sub-PostOffice,
N.C. Hills-788319
Haflong.

DEPARTMENT OF POSTS:INDIA
O/O THE POSTMASTER GENERAL, ASSAM REGION
DIBRUGARH-786 001

To.

Sri Himangshu Paul
S/o Late Phani Bhusan Paul
Haflong S.O.
N.C.Hills-788819

No.Staff/23-5/97/RP

dated at Dibrugarh the 4th June,01

Sub: Prayer for the appointment of Postman under compassionate ground.

Ref: Your representation dtd. 22.5.01.

With reference to your letter, I am directed to inform you that you will be absorbed in due course as there is no vacancy at present.

(A.B.SHAL)
AD(Staff)

For Postmaster General Assam Region
Dibrugarh -786 001

certified to be true
Monorampur Das
Advocate
1/7/02

**DEPARTMENT OF POSTS:INDIA
O/O THE POSTMASTER GENERAL, ASSAM REGION
DIBRUGARH-786001**

To

Sri Himangali Paul,
S/O Late Phani Bhusan Paul,
Haflong S.O.
N.C.Hills-788819.

No. Staff/23-5/97/RP

did. at Dibrugarh the 03.09.2001.

Sub:- Prayer for appointment of Postman in compassionate ground.

Refer your representation did. 22.05.2001. I am directed to inform you that your case will be considered in due course of time. There is no vacancy under compassionate ground at present.


(A.B. Seal)
AD (Staff)

For Postmaster General, Assam Region
Dibrugarh-786001

Copy to:-

1. The Sr. Supdt. of Post Offices, Cachar, Silchar for information and necessary action. You will please intimate the candidate that as and when any vacancy arises against compassionate ground his case will be considered.

*Certified to be true
Monoranjini Sarker
Advocate
1/2/02*

Sif
For Postmaster General, Assam Region
Dibrugarh-786001

Re-51-AD

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE SENIOR SUPDT. OF POST OFFICES
CACHAR DIVISION SILCHAR-788001

To

Shri Monogram Ch. Paul
S/o late Phanikhusan Paul (Ex Group 2 Staffy)
as Postman Staffing

No. B1/Recrt/Relax/Misc

Dated at Silchar the 24-08-2001.

Sub:- Compassionate appointment proposal of candidates approved and waitlisted.

This is to inform you that since wait listing of candidates for compassionate appointment has been dispensed with, chance of absorption of these approved candidates in the waiting list against vacancies available within 5% ceiling of direct recruitment quota is remote. This may cause hardship to the approved candidates who have been waiting for quite a long period. In consideration of this aspect the Postal Directorate has decided to consider such waitlisted candidates for appointment against vacant posts of GDS (Gramin Dak Sevak) if they are willing and eligible for the post.

As per instruction of the Directorate, you are requested to submit your willingness or otherwise and choice of place if any for taking appointment against vacant Gramin Dak Sevak post.

This recruitment will be made subject to:-

1. Fulfilment of all required conditions of recruitment like educational qualification etc.
2. Approved applicants with their acceptance of GDS post would have no further claim for appointment on any special consideration against regular departmental vacancies and that they would have to take their turn as per present departmental policy for GDS in the matter of their appointment against future departmental vacancies. All letter-taking in this regard may be submitted with your willingness.

This offer will be valid for one year.

Certified to be true
Monogram Ch.
Advocate
1/7/02

Deep
 (I.C. SARKAR)
 S. Supdt of Post Offices
 Cachar Dn: Silchar-788001

Regd AD

56

DEPARTMENT OF POSTS (INDIA)
 OFFICE OF THE SENIOR SUPDT. OF POST OFFICES
 CACHAR DIVISION SILCHAR-788001

To

Shri/Smt. Monoranganjan Paul
S/o Late Phagun Bh Paul
Offg. as Postman
Staff Only

No. B1/Recit/Relax/Misc

Dated at Silchar the 13-02-2002.

Sub:- Compassionate appointment- proposal of candidates approved and wait listed for GDS (Gramin Dak Sevak) Posts.

Please refer to this office letter of even no. dated 24-08-2001 wherein you are asked to submit your willingness for GDS Post. But no reply has since been received from your end.

GDS post is to offer those willing approved candidates of Group 'C' and 'D' cadre who are in the waiting list subject to their fulfilling all required conditions of GDS recruitment and availability of vacancy.

It may be mentioned for your information that there is possibility of deletion of name of candidates from the wait list who are unwilling to accept GDS posts.

Therefore, you should give your willingness in clear terms whether you are agreeable to accept GDS post.

Your reply must be sent to this office on the date of receipt of this office letter.

This is most urgent

Certified to be true
Monoranganjan Paul
Advocate
1/2/02

St. Supdt of Post Offices
Cachar Dist. Silchar-788001

To,

The Sr. Supdt. of Post Offices, S^t B.
Cachar Dist. Silchar, Assam.

through the Sub Post Master Haflong.

Sub:- compassionate appointment of Sri Himangshu Paul
(approved postman) Haflong Sub Post Office.

Ref:- No. B1/Recd/Relax/Misc Dated at Silchar the
13.02.2002.

sir,

With reference to the above I have the honour to inform you the following few lines for your kind information and sympathetic consideration.

That Sir, I have been appointed on compassionate ground due to death of my father.

That Sir, my mother also died before my father and both of them left behind three children including me.

That Sir, as I am the eldest son, I am looking after my younger brother and sister.

That there is none to look after them if I am shifted to G.D.S duty from my present place of posting.

Therefore, I ~~px~~ request you kindly to consider my prayer sympathetically and allow me to perform my duties as Postman in my present place and exempt me from G.D.S duty as special case in view of my family difficulties arising out of the death of my parents. I hope and believe that you would give due consideration to my case and oblige.

See
me

Date 20/02/02.....

Certified to be true

Monorangan S. S.

Advocate
1/7/02

Yours faithfully,

Himangshu Paul
(SRI HIMANGSHU PAUL)
Approved Postman, Haflong
Post Office.
N.C.Hills, Assam.

to a month's notice of termination. As that requirement is not fulfilled the impugned order must be treated as illegal and invalid and must be set aside. As a consequence thereof the petitioner will have to be reinstated and allowed to work in the post at Imphal where he was working when the order of termination was passed. His service will be liable to be terminated only in accordance with the law and terms and conditions of the appointment. He will be deemed to have been in uninterrupted service till his service would be terminated in accordance with the law. The petitioner consequently will be entitled to the wages for the period from the date on which his termination was effected until he is reinstated. The petitioner has stated in the petition that the post at Imphal is still vacant and there would be no difficulty in allowing him to resume duty at that place in the post in which he was working prior to termination of his service. The respondents have not controverted that statement.

9. In the result the application is allowed. The impugned order of termination of the service of the petitioner dated 28-1-1993 (Annexure-3) is quashed and set aside. The respondents are directed to reinstate the petitioner in the post of skilled worker grade-I at SISI, Imphal, forthwith. The petitioner shall be treated as in continuous service from the date of termination till the date of his reinstatement, and will be entitled to all consequential service benefits. The respondents shall pay to the petitioner his wages from the date of termination to the date of reinstatement treating him as in continuous service all throughout this period.

10. In the circumstances of the case there will be no order as to costs.

✓ (1995) 29 Administrative Tribunals Cases 404

Central Administrative Tribunal, Guwahati

(BEFORE S. HAQUE, J., VICE-CHAIRMAN AND
G.L. SANGLYINE, ADMINISTRATIVE MEMBER)

KAJAL DEV

Applicant

versus

UNION OF INDIA AND OTHERS

Respondent

O.A. No. 234 of 1993, decided on July 19, 1994

Practice and Procedure — Intervention — Locus standi for — Application challenging cancellation of his appointment — An association of employees applying for getting itself impleaded as intervenor/respondent supporting action of office respondents — Held, it was for the aggrieved person to agitate the matter — The association had no locus standi — Its plea of public interest litigation also rejected. However, the contentions put forth by the association challenging applicant's appointment considered

R.K. Jain v. Union of India, (1993) 4 SCC 119; 1993 SCC (L&S) 1128; (1993) 25 ATC 25, relied on.

Administrative Tribunals Act, 1985 — S. 19(1) and Explan. thereunder — Application against apprehended termination which ultimately materialised during pendency of the case before the Tribunal — Application, held on facts, not pre-mature and therefore considered on merits

One can approach the writ court against an apprehended action. Similarly, under section 19, one can approach the Tribunal against reasonable and genuine apprehended action. (Para 11)

M.R. Prabhakar Rao v. Union of India, (1987) 3 ATC 871; 1988 (4) SLJ 121; *Ashok Kumar Gupta v. G.M. Eastern Railway*, 1986 (3) SLJ 450, relied on.

Appointment — Eligibility conditions — Age limit — Relaxation in favour of sportsmen — Applicant appointed after verification of his original certificates — presumption made that relaxation was granted to him expressly or tacitly (Para 13)

Appointment — Procedure — Advertisement — Applicant appointed against sports quota without advertisement of the vacancy — Government orders quoted at bar, held on facts, applicable to Indian Audit and Accounts Department and not to other departments — Hence appointment made in an office under Ministry of Telecommunication could not be invalidated on the ground that the vacancy was not advertised. (Para 14)

Appointment — Cancellation of — Estoppel against — Applicant given regular appointment against sports quota after completion of training but subsequently, his appointment sought to be cancelled on the plea that there was ban on recruitment — Government, held, estopped — Principles of natural justice and legitimate expectation applied — Evidence Act, 1872, S. 115 — Natural justice — Legitimate expectation (Para 16)

Kil Shephard v. Union of India, (1987) 4 SCC 431; 1987 SCC (L&S) 438; *Doki Chinar Gurubulu and Sons v. State of Orissa*, AIR 1992 Orissa 189; *Joyjit Das v. State of Assam*, AIR 1990 Gau 24, referred to

Application allowed

K-M/A-04383

Advocates who appeared in this case:

B.K. Sharma, Advocate, for the Applicant;

J. Ali, Sr CGSC and Y.K. Phukan, Advocate, for the Respondents.

The Order of the Bench was pronounced by

S. HAQUE, J., VICE-CHAIRMAN.— The applicant, Shri Kajal Dev has filed his application under Section 19 of the Administrative Tribunals Act, 1985 for direction on the respondents not to terminate his service and to post him as Telephone Office Assistant (G) Grade I (TOA) after completion of training.

2. The applicant acquired experience in telecom technique by serving under Telecom Consolidated India Ltd., a Government of India Enterprise since 1988. During 1991-92 he worked on muster-roll basis under Telecom Department, Guwahati. Since January 1992, he worked on casual basis in the Telecom Department, Guwahati. His representation dated 15-2-1993 (Annexure A-2 of the Rejoinder) for recruitment against sports quota was forwarded to TDM by the SDO (Phones) on 14-3-1993 with recommendation for regular appointment (Annexure 2 of the Rejoinder).

3. The Assam Regional Telecom Sports and Cultural Board Meeting dated 18-8-1993 presided over by CGMT decided for recruitment of sports persons against existing vacancies of the circle. Shri Kajal Dev submitted original certificates in the office of the CGMT under the direction dated 19-8-1993 of ADT (Welfare).

4. The approval of CGMT for appointment of the applicant as TOA(G) Grade I against sports person quota under the establishment of TDM, Guwahati was conveyed by the DGM (Admn) vide order No. RECTT/3/64-93/36 dated Guwahati the 6-9-1993. This was informed to the applicant vide letter

No. TDM/Est-27/93-94/147 dated 29-9-1993 with direction to report for initial training of TOA(G) from 1-11-1993 (Annexures F-1 and F-3 respectively). The applicant joined training at the CTTC, Bharalumukh.

5. While undergoing the training, he apprehended withdrawal of CGMT's approval for his appointment and filed this application under Section 19 which was admitted on 16-11-1993 with direction to maintain status quo with regard to his appointment and training. In spite of such order of the Tribunal, the said approval for appointment and training was cancelled vide order no. RECTT-3/64-93/48 dated 18-11-1993. But operation of that order dated 18-11-1993 was stayed vide order dated 23-11-1993 of the Tribunal in MP No. 102 of 1993. Contempt Petition No. 19 of 1993 was also registered against the respondents for violation of the order dated 16-11-1993. Thereupon, he was allowed to continue with the training. On successful completion of the training, the applicant was appointed provisionally as TOA(G) Grade I against sports quota vide memo No. TDM/Est-27/R&T/93-94/165 dated 11-2-1994 subject to the result of this case.

6. The respondents (Nos. 1 to 3) contested the case only on the ground that the approval of the CGMT for appointment had to be cancelled because there was total ban on recruitment. The ban order was issued on 9-5-1991.

7. The All India Telecommunication Administrative Officers' Association (hereinafter called as Union) have entered as intervener/respondent No. 5 assailing the appointment of the applicant as TOA(G) against sports quota.

8. The main issue for decision in the case is whether the order dated 18-11-1993 cancelling the approval of appointment of the applicant is liable to be quashed with direction on the respondents (Nos. 1, 2 and 3) to issue fresh order converting provisional appointment to a regular appointment in the post of TOA(G) Grade I.

9. Learned Sr CGSC, Mr S. Ali, for respondents Nos. 1 to 3 and learned counsel, Mr Y.K. Phukan for the Union submit that the appointment of the applicant was in violation of the ban on recruitment. The circular on ban was issued on 9-5-1991. Mr B.K. Sharma, counsel for the applicant pointed out instances of recruitment in the concerned department even after the ban order. It was an admitted fact that several recruitments/appointments were made by the respondents (Nos. 1 to 3) in different branches of Telecom Department even after the ban order. Instances of recruitments in the cadre of TOA(T) and TOA(G) were narrated in para 15 of the rejoinder of the applicant. The Union wants to justify those recruitments by submitting that those were ST and SC candidates. The ban order was a general ban and did not exclude ST and SC candidates. The plea of the Union is not tenable. The respondents did not give any explanation as to how those recruitments were made. When several recruitments were admittedly made after the ban order, then the instant recruitment of the applicant against sports quota should not be allowed to be singled out for differential treatment for the ban order. The respondents Nos. 1 to 3 in their written statement in para 5 stated that on the basis of existing vacancy in the cadre of TOA(G) under TDM, Guwahati, his selection for appointment was considered and intimated as per his application and recommendation of the President of ARTSCB against outside quota and

accordingly he has been ordered to undergo training. Under the facts and circumstances, the approval for his appointment by CGMT or appointment after completing the training cannot be bad in law.

10. Learned counsel, Mr B.K. Sharma submits that the Union has no locus standi to agitate in this matter. Mr Sharma refers to the decision reported in *R.K. Jain v. Union of India*¹ in support of his submission. Mr Y.K. Phukan submits that the Union can agitate as a public interest litigation in irregular appointments. It was held in para 74 of the decision that in-service jurisprudence is settled law that it is for aggrieved persons, i.e., non-appointee to assail the legality of the offending action depriving him from appointment. The third party has no locus standi on the legality or correctness of the action/appointment. The Union is a third party. The applicant's appointment was approved by the highest authority, namely, CGMT. Such order of appointment by a department cannot be agitated as public interest litigation. The principles laid down in the referred case is aptly applicable. Mr Phukan's submission has no force. The Union has no locus standi.

11. Mr Y.K. Phukan submits that the application under Section 19 was not maintainable on anticipated action. This submission cannot be accepted. Section 19 is to be read with Section 3(q) of the Act. The Tribunal (C.A.T.) can exercise same power as that of the writ court under Article 226 of the Constitution of India. It is well settled that against an apprehended action one can approach the writ court. Similarly under Section 19 one can approach the Tribunal against reasonable and genuine apprehended action. (Relied decisions in *M.S.R. Prabhakar Rao v. Union of India*², and *Ashok Kumar Gupta v. G.M. Eastern Rly*³. In the instant case the apprehension was genuine because it was materialised by the cancellation order dated 18-11-1993 which was challenged by the applicant in this case vide MP No. 102 of 1993 and cognizance was taken by the Tribunal vide order dated 23-11-1993 passed in MP No. 102 of 1993. This order of cancellation being a subsequent order, which was apprehended in the application, become part and parcel of the challenge in the application under Section 19.

12. It is submitted on behalf of the Union that there were other more meritorious sportsmen available for appointment and they were deprived as appointment was given to the applicant without following procedural requirements. The official respondents have not taken such a plea. No record was placed to show that applications of such sportsmen were pending at the relevant time. Thus there was no occasion for the official respondents to consider appointment of such other sportsmen. The applicant is a sports person in the field of Marathon and particularly in Table Tennis. While he was serving on casual basis under the Telecom Department, he represented the department in various sports activities, which are disclosed under 'Annexures D-1 to D-6 of the application'. He was a recognised sportsman in the department and accordingly there was no infirmity in his selection and appointment against sports quota. When the highest authority of the official respondents, i.e. CGMT

¹ (1993) 4 SCC 119: 1993 SCC (L&S) 1128: (1993) 25 ATC 25

² (1987) 3 ATC 871: 1988 (4) SLJ 121

³ 1986 (3) SLJ 450

P-4363

considered the applicant fit for appointment against the sports quota, no third party can assail the order/decision of the highest authority.

13. It was also submitted by Mr Phukan on behalf of Union that the applicant was overaged at the time of appointment against sports quota. In this regard, the relevant provisions of relaxation under Office Memorandum No. 15012/3/84-Est(D) dated 12-11-1987 have been quoted by the applicant at page 11 of the rejoinder. Under the circular, relaxation is permissible up to 5 years in case of general candidates and up to 10 years for reserved category candidates. The applicant was appointed on verification of his original certificates and therefore, it shall be presumed that either expressly or tacitly approval for relaxation was there.

14. Mr Phukan on behalf of the Union submitted that there was no advertisement for filling up vacancies against sports quota. In this connection he refers to 'Swamy's Complete Manual of Establishment and Administration for Central Government Officers. We have perused the relevant provisions. The advertisement is provided for appointment in the Audit and Accounts Departments only and not in other departments. In respect of other departments, appointment can be made on the basis of the application. Submissions of Mr Phukan has no bearing in this case.

15. Mr Phukan further submits that the applicant was not recommended by the SSC. In this connection he produced letter dated 23-5-1994 of the Regional Director of SSC addressed to the CGMT, Assam Circle. It was made clear by this letter that SSC does not recruit sports persons against sports quota vacancy in any of the Central Government departments. Therefore, the authority of Telecom Department had no occasion/reason to submit requisition to the SSC to recommend sports person for consideration of appointment. Mr Phukan's submission has no force. This letter on the other hand supports the claim of the applicant that the highest authority, i.e. CGMT on the basis of the application of the candidate and recommendation of ARTSCB can appoint against sports quota. The respondents (Nos. 1 to 3) in para 5 of their written statement have admitted that the appointment of the applicant was made accordingly. The applicant was appointed pursuant to the decisions taken by a high-power committee (Assam Regional Sports and Cultural Board Meeting held on 9-8-1993), and therefore, a third party cannot substitute their decision to that of the decision of the high-power committee.

16. The plea in the written statement of the respondents Nos. 1 to 3 was that the approval of appointment issued by the CGMT was cancelled as there was a ban on recruitment. This plea was not reflected in the cancellation order. The order disclosed that cancellation was due to administrative reasons. Both the grounds are fallacious and not sustainable in law. Mr B.K. Sharma submits that there was violation of principle of natural justice as the applicant was not given opportunity of hearing before cancelling the order of approval of appointment. In support of his submissions he refers to the decisions reported in *K.L. Shephard v. Union of India*⁴ and *Doki China Gurubalu and Sons v. State of Orissa*⁵. He further submits that the respondents (Nos. 1 to 3) had bar from

4 (1987) 4 SCC 431; 1987 SCC (L&S) 438; AIR 1988 SC 686

5 AIR 1992 Orissa 189

aking such action by the application of principle of promissory estoppel. In support of this submission he refers to decisions reported in *Joyjit Das v. State of Assam*⁶. Admittedly the applicant was not given any notice of hearing before cancellation of the order of approval for appointment and training. The Supreme Court has laid down that even when the State Agency acts administratively, rule of natural justice must be followed. Again the applicant acted on the promise of appointment (approval for appointment) and undertook the training on such promise and expectation of regular appointment to the post of TOA(G) on completion of the training. But such promise and reasonable expectation was violated by issuing the cancellation order dated 18-11-1993. Therefore, the action of the respondents was illegal as such action was barred by principle of promissory estoppel and was also violative of the principle of legitimate expectation. The decisions referred to above are aptly applicable in support of the applicant's case.

17. In view of the above findings and observations, the order under No. RECTT-3/64-93/48 dated 18-11-1993 is liable to be quashed. The provisional appointment order No. TDM/Est-27/R&T 093-94/165 dated 11-2-1994 is now required to be converted into a regular appointment order. Accordingly this application is allowed. The order No. RECTT-3/64-93/48 dated 18-11-1993 is quashed. The respondents Nos. 1 to 3 are directed to make the provisional appointment order No. TDM/EST-27/R&T/93-94/165 dated 11-2-1994 into a regular appointment order by issuing necessary orders/notification in this regard within a period of thirty days from the date of receipt of copy of the judgment/order.

(1995) 29 Administrative Tribunals Cases 409

Central Administrative Tribunal, Bombay

(BEFORE M.R. KOLHATKAR, ADMINISTRATIVE MEMBER)

THE GENERAL SECRETARY, MESE UNION AND

ANOTHER

... Applicants;

Versus

UNION OF INDIA AND OTHERS

... Respondents.

O.A. No. 555 of 1993, decided on August 31, 1994

Administrative Tribunals Act, 1985 — S. 14(1) — Jurisdiction, power and authority of the Tribunal — Judicial review — Scope of — Held, though the determination of Composite Hill Compensatory Allowance (CHCA) was to be decided by Government on the advice of Pay Commission, yet the Tribunal could consider whether any action of the administrative authority was arbitrary or discriminatory — CHCA granted in one case by relaxing requisite conditions while in similar circumstances, CHCA denied — Respondents directed to consider relaxation in this case also — Constitution of India, Arts. 14 and 16

Administrative instructions — Instructions of nodal Ministry — Supremacy of — Ministry of Defence issuing instructions regarding grant of Composite Hill Compensatory Allowance (CHCA) at variance with general instructions issued by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI.

Filed by

19/8/02
(A. DEB HOY)
S. C. G. S. C.
C. A. T. Guwahati Bench

O.A.NO. 213 OF 2002

Shri Himangshu Paul

-vs-

Union of India & Ors.

- And -

IN THE MATTER OF::

Written statement submitted by the
respondents.

The respondents beg to submit Brief history of the
case which may be treated as a part of written statement.

Shri Himangshu Paul S/O Late Phani Bausan Paul, ex-Group
D: P & T Dispensary, Silchar was approved for appointment in
Postman casde due to premature death of his father while in
service, on compassionate grounds, vide Letter No-Staff/16-
S-1. ceiling Misc/97 dated 06-01-1997. His name was kept in the penal of
every yr. D.R waiting list for absorption in future vacancy as compassionate
vacancy cases.

Since he was appeared and in the waiting list was being
engaged in short time leave vacansies as per necessity and he
could not be absorbed permanently since 1997 due to non
availability of any permanent vacancy for absorption of such cases.
Accordingly, Shri Himangshu Paul acted as Postman G.C.
College and Haflong P.Os against short term vacancy with breaks
in his such services.

Such short term engagements were also made to Shri Himangshu Paul on the strength of his written undertaking that he would not claim any seniority or pay benefit etc. for such short term engagement.

Since there will be more delay in his employment ~~permanently~~ permanently against vacant post observing the percentage formula and he will have to wait for indefinite period for employment it was decided by the department to offer him (including all other such approved candidate) with some other ~~is~~ lower post if willing to accept such employment but he declined to accept such employment and claimed for his permanent employment in Postman cadre.

The respondents beg to submit Para-wise written statement as follows :-

1. That with regard to para - 1 of O.A., the respondents beg to state that Shri Himangshu Paul was approved for appointment in Postman cadre in the year 1997 by the Chief Postmaster ~~Exm~~ General, Assam Circle, Guwahati on compassionate grounds, as mentioned in the "Brief History of the case" since 1997 Shri Himangshu Paul could not be employed in any permanent vacant post excepting some short term vacancies due to leave etc. in different post Offices. In consideration to minimise his hardship to maintain himself and his younger brother and sister he was addressed to intimate his willingness as to whether he was willing to work in some other ~~a~~ lower post for the time being since may be more delay in his employment permanently in Postman cadre. Such willingness was sought for as per policy of ~~mix~~ this department only for such compassionate case.

2. That with regard to paras 2, 3 & 4.1 & 4.2 of O.A., the respondents beg to ~~xx~~ offer no comments.

3. That with regard to para - 4.2 of O.A., the respondents beg to state that his engagement in the G.C. College P.O. was on short time basis, as mentioned in the " Brief history of the case" against leave vacancy.

4. That with regard to para - 4.3 of O.A., the respondents beg to state that the applicant has admitted that the SPM, Hafleng P.O. was asked to engage him in short term vacancy only which was done by the SPM, Hafleng S.O.

5. That with regard to para - 4.5 of O.A., the respondents beg to state that statement of the applicant in para - 4.4. Proves that he was engaged in the Postman cadre and worked as such with some breaks i.e. he was not working continuously, as claimed by him in this para.

6. That with regard to para - 4.4 of O.A., the respondents beg to state that in his statement the applicant has stated that there were some breaks in his engagement which is sufficient to prove that he did not work continuously for 379 days, as claimed by him in para - 4.3.

7. That with regard to para - 4.6 of O.A., the respondents beg to state that the circumstances under which his willingness to work in a lower post in this department (not in any other department as stated by the applicant) was sought for since he could not be employed in a permanent vacant post has already been explained in "Brief history of the case" and in Para 1 above.

8. That with regard to para - 4.7 of O.A., the respondents beg to offer no comments.

9. That with regard to para - 4.8 of O.A., the respondents beg to state that the applicant could not be employed permanently due to the reasons already mentioned.

10. That with regard to para - 4.9 of O.A., the respondents beg to state that ~~xxxxxxxxxx~~ correct position was intimated to the applicant.

11. That with regard to para - 4.10 of O.A. , the respondents beg to state that alternative opportunity to earn livelihood was offered since there was almost no scope to employ him in the approved cadre of Postman due to non-availability of any such clear vacancy.

12. That with regard to para -4.11 of O.A., the respondents beg to state that the reasons for offering such alternative employment has been described in 4.10 above but the applicant declaimed to accept such opportunity.

13. That with regard to para - 4.12 of O.A., the respondents beg to state that the question of depriving the applicant from the employment in Postman cadre does not ~~xxxxxx~~ arise at all. Since there was almost no possibility of his appointment in Postman cadre against regular vacant post he was offered with a scope of alternative regular employment in a lower post on humanitarian grounds.

14. That with regard to para- 5.1 of O.A., the respondents beg to state that the applicant can not be treated as Govt. servant since he was never appoint as such. He was simply engaged against short vacansies and worked as such with breaks (not continuously worked).

15. That with regard to para - 5.2 of O.A., the respondents beg to state that not based on actual facts.
16. That with regard to para - 5.3 of O.A., the respondents beg to state that readous for offering alternative employment has already been explained fully.
17. That with regard to para - 5.4 of O.A., the respondents beg to state that short time engagements were made in the strength of his written undertaking that he would not claim any other benefit for such engagements.
18. That with regard to para - 5.5 of O.A., the respondents beg to offer no comments since all the orders were issued as per norms as well as on consideration of the financial position of the applicant.
19. That with regard to para - 5.6 of O.A., the respondents beg to state that this was done due to non- availability of any permanent vacancy.
20. That with regard to para - 5.7 of O.A., the respondents beg to state that orders were therefore fully justified.
21. That with regard to para - 6 to 9 of O.A., the respondents beg to state that no relief is therefore admissible to the applicant.

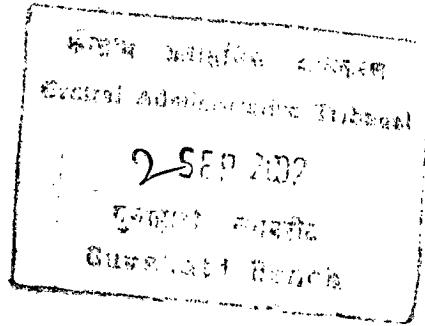
V E R I F I C A T I O N

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

I, Shri Sompa Rongmai presently working as Inspector of Posts be duly authorised and competent to sign this verification, do hereby solemnly affirm and state that the statements made in para are true to my knowledge and belief, these made in para are true to my information derived therefrom and rest are my humble submission before this Hon'ble Tribunal, I have not suppressed any material fact.

And I sign this verification on this 18th day of August, 2002.

~~Sub-Divisional Officer of Post Office~~
~~Cherrapunji Sub-Division~~
~~Shillong Sub-Division~~
SAFLONG
Declarant.



FORM NO - I

Form of Index

Before the Central Administrative Tribunal,
Guwahati Bench, Guwahati - 5

OA. 213 of 2002

Sri. Himangshu Paul Applicant
By Advocate
Sri Monoranjan Das, L.L.B.

- V. S. -

Union of India and otehrs Respondent
By Advocate
Sri A. Deb Roy, Sr. C.G.S.C.

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3.	Copy of AIR-1980 of SC 1976	Addl.A-2	15	- 16
4.	Copy of 8/2002 Swamysnews 42	Addl.A-d	-	- 17

Hemangshu Paul
Signature of Applicant

Manoranjini De
Signature of Advocate
348102

FOR USE BY THE REGISTRY

Date of Filing :-

Date of Receipt by post :-

Registration (Dairy) No. :-

Signature for Registrar.

Himangshu Paul

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My
Monorabjan Das
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH
GUWAHATI.

OA NO - 213 of 2002

Sri Himangshu Paul Applicant

- Vrs -

Union of India & others Respondents

AND

IN THE MATTER of :

Rejoinder of the above named applicants.

The above named applicant beg most respecfully to state, inter alia, the following as his rejoinder and against the written statement submitted by the respondents.

- 1.1 For the purpose of brevity and precision the applicant contends to deny and disown the stated brief history of the Respondents' written statement.
- 1.2 For that the applicant has not comment against para - 2 of the page 1 of W/S filed by the Respondents except the date. The ~~correct~~ date is 06/10/97 in lieu of 06/01/97.
- 1.3 For that the applicant denies the contention of the respondent's w/s that he was appeared in the waiting list was being engaged in short term leave vacancies as per necessity and he could not be absorb permanently since 1997 due to non-availability of permanent vacancy for absorption of

Himangshu Paul

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Advocate

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of such cases and that accordingly Shri Himangshu Paul was acted as post man G.C. College and Haflong P.O. against short terms vacancy with break in his such service. The applicant claims that on persual of Memo dtd 26.7.99, issued by the Respondent No. 6, Annexure - 1(a) para-2 it becomes crystal clear that one Sri Kshirodelal Roy, a group 'D' of Karimganj H.O. was promoted to postman and appointed vide Sri Himangshu Paul, the applicant after 221 days of uninterrupted working against a vacant post had there be no vacant post then how a promotee was posted terminating local arrangement filled up by the applicant. Hence, the statement of the respondents is blatant lie, far from the true fact.

1.4 For that the undertaking, for not caliming seniority and pay benefit by the applicant for such appointment against vacant post, was obtained under pressure on the plea of non-availability of permanent vacant post for compassionate appointment, illegally. As such Para -1 of page -2 of the w/s. dtd 19.8.02 is proved as a vain excercise, just to deprive the lawful claim of your humble applicant.

contd....p/3...

Shrimangshu Paul

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Myself on
Monoratjan Das
Advocate

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1.5 For that the respondents contentions of more delay in his employment permanently against vacant post ~~obsenning~~ the percentage formula and that he will have to wait for indefinite period for employment, it was decided to offer him with some other lower post if willing to accept such employment and that he declined such employment are not true and correct. Because, once a indigent member of deceased govt. servant, found fit for compassionate appointment to a post, there should not be any delay to give him employment and the innovation of percentage formula against approved candidate found fit for compassionate appointment goes against the spirit of the decision of the Apex Court pronounced now and then. It is improper to keep such case pending for years. If there is no suitable post for appointment, supernumerary post should be created to accommodate the applicant, as also envisaged in Article 14,16 and 309 of the constitution of India. The applicant was not offered lower post in the department but GDS post (E.D.A. Post) carrying least allowance only i.e. less than 1/3rd of gross salary of the postman devoid of all amenities to Govt. Post.

2. The Re-joinder of applicant in reply to the para-wise written statement of the Respondents is as follows:-

contd....p/4...

Himangshu Paul

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M. S. Das
Monoranjan Das
Advocate

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2.1. For that the contentions of the Respondent in para 1 of the w/s that Sri Himangshu could not be employed in any permanent vacant post excepting same short time vacancies due to leave etc. is not correct and true fact, rather the applicant was engaged in the clear vacant post and he was relieved by a fresh promotee from Group 'D' cadre to postman cadre. Annexure-I (a) of the application can establish the fact perfectly in favour of the applicant.

2.2. For that it is emphatically denies the contention of para 1 w/s that the respondents plea of addressing the applicant to intimate his willingness as to whether the applicant was willing to work in ~~serve~~ ^{some} other lower post for the time being since might be more delay in his employment permanently in postman cadre, in view of Respondents letter/Memos - annexed in applicant as Annexure - 6, Annexure - 7, Annexure-9, Annexure-10, and Annexure - 4, in which his willingness was called for G.D.S. and that once opt for G.D.S. he would have no claim against regular Departmental vacancies, and that there is possibility of deletion of names ^{of} candidate from the wait list who are unwilling to accept G.D.S. post.

contd...p/5..

Chirang Shivalal

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Advocate
Monoranjan Das
Advocate

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2.3 For that the statement of the Respondents in para -3 is denied for the fact explained in 2.1 of this rejoinder.

2.4 For that the statement of para 4 of w/s of the Respondents is vague and that the word use as short time vacancy is nothing but a palliation because prior to the engagement of the applicant at Haflong S.D. had clear vacant postman, posts as is seen as per Annexure -3, by the perusal of second para of the said Annexure -3 issued by the SPM Haflong on 11.1.2000.

2.5 For that the statement of the respondents in para. 5. in vehemently opposed that the applicant was not working continuously on the fact that those breaks were imposed to deprive the applicant only ~~process to supplement~~ which are noting but a mechanical ~~to support~~ ^{and} applicant from the post in which he was working. The respondents could not state as to why the applicant was relieved for one or two days at an interval of 6 months. Hence the plea of not continuously worked does not hold good in this case.

2.6 For that the statement of the respondents in para 6 of the W.S. is false and distortion of fact, because these dates mentioned in para 4.4.

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are beyond the number of days worked continuously as shown in Annexure-5, and the applicant ~~re~~ really claims that he worked continuously once for 379 days, as mentioned in para 4.3 of his applicants before this tribunal.

2.7 For that the respondent accepted the fact stated by the applicant in para 4.5 and they are not in a position to deny and react against the data mentioned in Annexure - 5.

2.8 For that the contention of the respondents in the para-7 of their w/s is denied in view of the fact available in Annexure-6 of the application.

2.9 For that the plea of ~~failure~~ ^{failure} to employed stated before by the respondents are a flatant falsehood as the Department could have employed the applicant against 14 Nos. of vacant posts for 2001 marked for direct recruitment copy of the report of the screening committee of the D.O.P for being filled up for the year 2001 annexed herewith as Annexure Addl A-I, ^{which is} the glaring example against the plea of no vacancy.

2.10 For that the statement of the respondents in para-10 of the w.s. is incorrect for the reason stated in para 2.7 above.

Himangshu Paul

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Monoraj Das
Advocate

2.11 For that the statement made in para - 11 of the W.S. is incongruous to the real fact and that the applicant was offered a lower post is also equally vague because offered GDS is not only a lower post but also outside the Department and is a job on contract, based upon time related continuity allowance (TRCA) which can not be compared to a lower post of group 'D' even not to speak of postman which is a group 'C' post and that there are vacant post of postman even today as stated above.

2.12 For that the contention of the respondents in para -12 of the W.S. is a vague statement because of the fact that the offering of alternative employment of inferior nature to that against which the applicant has been approved and assumed for future employment and allowed to officiate in vacant post since last three years at a stretch is nothing but an explicit injustice and as such deserves interference of this Hon'ble Tribunal to meet the ends of justice.

2.13 For that the written statement of the respondents in the para-13 is a futile pursuit on taking the help of fake plea that there was almost no possibility of applicants appointment in postman cadre

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Himangshu Paul

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Cav. Monorajli Das
Advocate

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vis a vis vacancy position shown in the annexed-
Addl. A-I wherein 14 Nos. of postman's post are
earmarked for direct recruitment. Therefore, the
inducement upon a poor and helpless approved
candidate for postman cadre under a threat of no
possibility to absorb in future and subjected to
deletion from waiting list of postman if the
applicant does not prefer or opt for G.D.S. post
is illegal and unconstitutional and such order(s)
needs to be set aside.

2.14 For that the contention of the respondents in
para 14 of the w/s, that the applicant can not be
treated as Govt. servant since he was never appoint
as such, is vehemently opposed on the premises and
on the fact of continuous working for more than 240
days after approval in a year and against vacant
post, as per Annexure 5 of the original application
and the applicant deserves favourable consideration
at par with govt. servant.

2.15 For that it is emphatically denied the contention
of the respondents made in para-15 of the w.s. and
states that the applicants contentions are based on
true and correct fact.

contd....p/9...

Himangshu Paul

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Monoraj Das & O/O
Advocate

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2.16 For that the contentions of the respondent in para - 16 of the W.S. have already been rebutted, in ^{elsewhere} _{or} this rejoinder.

2.17 For that the applicant states in reply to the para 17 of the W.S. that the employment order was for short time engagement but in reality the applicant was engaged against a clear vacant post ^{at} _{as per} with other regular staff and drew due pay plus allowances for full time duty. Therefore, the undertaking to work against short time engagement does not affect the duty performed by the applicant, against vacant post, and any kind of benefit arises out of continuous duty for three years in favour of the applicant would not be vitiated by the undertaking given for short time engagement by the applicant, prior to his joining while he was not aware of nature of job he was going to perform and that durability of service.

2.18 For that the statement made by the respondents in para-18 that the order was issued as per norms as well as on consideration of the financial position of the applicant seemed to be true at the time of approving him on compassionate ground for postman on 6.10.97 and the other impugned orders of the respondent are quite contrary to the law and service

Himanshu Paul

Filed by
Anubhav Das
Monoratna Das
Advocate

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ethics, detrimental to the interest of the
 bereaved family of a poor deceased group 'D', and

such orders are needed to be set aside.

2.19 For that the respondents plea of non-availability
 of vacancy, set forth in para-19 of the W.S. has
 no substratum because of the fact published by the
 D.O.P. and copy is attached herewith in Annexure-
 Addl. A-I, in which 14 nos. of postman's post,
 were shown for direct recruitment of year 2001.

2.20 For that it is not true that the respondents
 stated in para 20 of the W.S. that the orders were
 fully justified, rather those orders except order
 dt. 6.10.97 were malafide.

2.21 For that the statement made by the respondents in
 para-21 of the W.S. that no relief was therefore
 admissible is a vague one should is no way be
 accepted.

3. Therefore, in the circumstance, and keeping
 in view of the written statement the applicant
 crave the leave of this Tribunal and pray to
 allow the following precedents, in addition
 to that of with the original application, for
 fair trial otherwise your humble applicant
 would suffer loss and irreparable injury.
 further, the applicant crave the leave of your
 lordships to put forth and advance more grounds

Himangshu Paul

File by
C.W.L.J. Das
Advocate
X2

in his favour both legal and factual

at the time of hearing.

3.1 That, since the applicant was found fit for compassionate employment and he should be employed then and there. The maintenance of waiting list was illegal and contrary to the Article - 14,16 and 309 of the constitution of India. Reported case amongst others, is Smt. Sushma Gogain and others - V - Union of India and other - AIR-1989 SC - 1976. copy annexed as Addl A-2.

3.2 That, denial of compassionate appointment to the applicant on the ground that there being no vacancy under the quota for compassionate appointment scheme can not be accepted, is the latest case law, decided. in OA- 135 of 2000 on 7.3.2002, by the Hon'ble C.A.T. Cuttak Bench, in Debi Prasad Mohanty V. Union of India and others, and reported vide 8/2002 Swamys news 42, (Cuttack) copy is annexed as Addl A-3.

4. Therefore, in the premises, your humble applicant, most fervently pray before your lordships the following reliefs:-

a). The applicant may be allowed to work in the post in which he has been working since 1999 with all consequential benefit, as an

Alimangshu Paul

Filed by
Monoranjan Das
Advocate

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Approved candidate on compassionate
ground.

b). The break in service since 1999 may
kindly be condoned considering those,
hypertechnical.

c). The cost of the Suit and,

d). Any other relief(s) in favour of the
applicant as your lordships would found fit
and proper.

AND

For the act of which your humble applicant
shall ever pray.

- Filed through Advocate,

Monoranjan Das, L.L.B.

C.A.T. Guwahati Bench.

contd....p/13....

VERIFICATION

I, Sri Himangshu Paul, S/O. Late Phani Bhushan Paul Ex-Group 'D', a short duty postman, under the SD I POs, Haflong, sub-Divn. Haflong, do hereby solemnly affirm and verify that the statements made in para - 1 to 2.21 are true to the best of my knowledge and belief and the rest are my submission before your lordships. I have not concealed any material fact of the case.

AND

I, sign in this verification on this the 31st day of August' 2002.

Himangshu Paul
Signature, Applicant

Filed by
MD
21/8102
Monorabjan Das
Advocate

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Additional Annexure-A-1

P-14

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ANNEXURE-A
Addl. A-1

DEPARTMENT OF POSTS
ANNUAL DIRECT RECRUITMENT PLAN-2001

**STATEMENT OF VACANCIES APPROVED BY SCREENING
COMMITTEE FOR BEING FILLED UP FOR THE YEAR 2001**

Sl. No.	Circle	IPO	PA in (Post Offices) only	Post-man	Driver in MMS	Jr. Acct.	Steno Gr.III Admn. Offices (CO/RO)	Gr-D (Post Offices) only
1	ASSAM	13	34	14	-	1	1	14
2	A.P.	6	104	44	-	-	-	31
3	BIHAR	-	84	21	-	3	-	18
4	CHHATISGARH	2	9	6	2	-	1	9
5	DELHI	3	17	16	1	-	-	19
6	GUJARAT	9	90	42	3	-	2	51
7	HARYANA	2	63	14	-	-	-	12
8	H.P.	2	15	5	-	-	-	6
9	J&K	-	4	1	-	-	-	2
10	JHARKHAND	-	18	10	-	-	-	11
11	KARNATAKA	6	103	44	-	-	-	28
12	KERALA	2	61	41	1	-	-	18
13	M.P.	-	26	13	-	2	-	12
14	MAHARASHTRA	10	335	221	22	1	-	56
15	N.E.	1	20	8	-	1	-	8
16	ORISSA	-	32	6	-	-	-	7
17	PUNJAB	2	61	12	-	-	1	10
18	RAJASTHAN	4	34	11	-	-	-	15
19	TAMIL NADU	5	91	35	1	1	-	27
20	U.P.	6	132	64	-	-	-	81
21	UTTRANCHAL	2	22	11	-	-	2	11
22	W.B.	-	174	100	7	-	3	66

Certified by
02/07/02
Monoranjan Das
Advocates

11.6.02
(R. Srinivasan)
(R. Srinivasan)
Assistant Director General
101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 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AIR 1989 SUPREME COURT 1976

(From: Delhi)*

K. JAGANNATHA SHETTY AND
M. N. VENKATACHALIAH, JJ.

Civil Appeal No. 3642 of 1989, D/- 25-8-1989.

Smt. Sushma Gosain and others, Appellants
v. Union of India and others, Respondents.

Constitution of India, Arts. 14, 16 and 309
Appointment on compassionate ground
Application by widow for appointment
Trade test passed by applicant — Delay in appointment and rejection of application in view of ban subsequently imposed on appointment of ladies to post — Denial of appointment is patently arbitrary.

Compassionate appointment — Delay in appointment — Effect.

C.W. No. 2545 of 1985 dt. 3-8-1987 (Delhi) reversed.

It can be stated unequivocally that in all claims for appointment on compassionate grounds, there should not be any delay in appointment. The purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread earner in the family. Such appointment should, therefore, be provided immediately to redeem the family in distress. It is improper to keep such case pending for years. If there is no suitable post for appointment supernumerary post should be created to accommodate the applicant.

(Para 9)

In the instant case, the applicant's husband working as storekeeper in the Department of Director General Border Road, died in 1982. The applicant soon thereafter sought appointment as LDC on compassionate grounds. She passed trade test but she was not appointed and she was being told that her case was under consideration. Her application was rejected in 1985 when ban on appointment of ladies was imposed.

*C.W. No. 2545 of 1985, D/- 3-8-1987 (Del)

IG/IG/S324/89/MVJ

Held, that denial of her appointment was patently arbitrary and had to be set aside.

C.W. No. 2545 of 1985 dt. 3-8-1987 (Delhi) reversed.

Ms. C. Raimamurthy, for Appellants
B. Dutta, Addl. Solicitor General (N.P.)
Sushma Suri, and Mr. Hemant Sharma
Advocates with him, for Respondents.

K. JAGANNATHA SHETTY
Special leave granted.

2. We must first express our disapproval of the way in which the department of Director General Border Road ("DGBR") has behaved in this pitiable case.

3. Ram Kumar was working as Storekeeper in the Department of Director General Border Road (DGBR). In October 1982, he died in harness leaving behind the appellants. Appellant No. 1 Sushma Gosain is his widow and appellants Nos. 2 and 3 are their minor children.

4. In November 1982, Sushma Gosain sought appointment in DGBR as lower Division Clerk on compassionate grounds. In January 1983, she was called for the written test and later on for interview. She was said to have passed the trade test. But nonetheless she was not appointed. Whenever she approached DGBR, she was told that her case was under consideration.

5. In September 1985, Sushma Gosain filed writ petition in the High Court of Delhi for a direction against DGBR to appoint her in a suitable post. She was entitled to appointment in terms of Government Memorandum Q.M. No. 14034/1/77/Estt. (d) dated 25-11-1978 issued by the Ministry of Home Affairs. DGBR however, resisted the writ petition with a primary contention that the appointment of ladies in the establishment was prohibited. In support of the contention, DGBR relied upon a notification dated January 25, 1985 issued by the Central Government under sub-sections (1) and (4) of Sec. 4 of the Army Act, 1950. The DGBR however, mercifully stated that it approached other departments to get an employment to Sushma Gosain in order to mitigate her

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Advocate
9/8/82

hardship, but every one regretted. Interestingly, it was also stated that if Sushma Gosain now states a male member of her family, he could be considered for appointment. This was not without the knowledge that she has only a minor son.

6. The High Court dismissed the writ petition by a brief order which reads as under :

An affidavit has been filed on behalf of the respondents setting out all the relevant facts and the attempts made by them to provide employment to the petitioner. It is apparent from the said affidavit that it has not been possible to do anything for the petitioner.

"Counsel for the petitioner has told us that her client is not able to provide the name of a male relation to whom employment could be offered. In these circumstances, even this alternative is not possible.

"Since we cannot give any relief to the petitioner, this petition is dismissed.

Sd/- T.P.S. Chawla
Chief Justice

Sd/- Y.K. Sabharwal
Judge"

7. The appellants appeal to this Court.

8. We heard counsel on both sides and gave our anxious consideration to the problem presented. It seems to us that the High Court has made the order in a mechanical way and if we may say so, the order lacks the sense of justice. Sushma Gosain made an application for appointment as Lower Division Clerk as far back in November 1982. She had then a right to have her case considered for appointment on compassionate ground under the aforesaid Government Memorandum. In 1983, she passed the trade test and the interview conducted by the DGBR. There is absolutely no reason to make her to wait till 1985 when the ban on appointment of ladies was imposed. The denial of appointment is patently arbitrary and cannot be supported in any view of the matter.

9. We consider that it must be stated unequivocally that in all claims for

appointment on compassionate grounds, there should not be any delay in appointment. The purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread earner in the family. Such appointment should, therefore, be provided immediately to redeem the family in distress. It is improper to keep such case pending for years. If there is no suitable post for appointment supernumerary post should be created to accommodate the applicant.

10. In the result, we allow the appeal and in reversal of the order of the High Court, we direct respondent No. 2 to appoint Sushma Gosain-appellant No. 1 in the post to which she has already qualified. We further direct that she shall be appointed in an appropriate place in Delhi itself. The appointment shall be made within three weeks from today.

11. The appellants are entitled to their costs which we quantify at Rs. 15,000/- and it shall also be paid within three weeks.

Appeal allowed.

AIR 1989 SUPREME COURT 1977

LALIT MOHAN SHARMA AND
J. S. VERMA, JJ.

Civil Appeal No. 3091 of 1985, D/- 22-8-1989.

Prathama Bank, Head Office Moradabad through its Chairman, Appellant v. Vijay Kumar Goel and another, Respondents.

(A) U.P. Public Services (Tribunal) Act (1976), Ss. 6, 2(b) — Public servant — Employee of Regional Rural Bank — Not public servant — Civil suit filed by him challenging disciplinary proceedings and order terminating his service — Not barred by S. 6.

Civil P.C. (1908), S. 9

Regional Rural Banks Act (1976), S. 3.

S. 6 of the U.P. Public Services (Tribunal) Act, 1976 bars the jurisdiction of the Civil Court to entertain a suit against the State of
H.G./J.G./S297/89/VVG

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Monoranjan Das
Advocate

Ckt. 88

DENIAL OF COMPASSIONATE APPOINTMENT TO THE APPLICANT ON THE GROUND THAT THERE BEING NO VACANCY UNDER THE QUOTA FOR COMPASSIONATE APPOINTMENT SCHEME CANNOT BE ACCEPTED.

Facts: Applicant's father died on 19.3.1997, while serving under the respondents. Applicant's representation for appointment under rehabilitation scheme on the ground of indigent condition was duly approved and accepted by the Circle Relaxation committee of the department, on 21.5.1997. On 24.6.1997, he was directed to file relevant him that there being no vacancy under the quota for compassionate appointment scheme, his appointment would be considered as and when there would be vacancy under the quota.

43 Applicant prays for issue of direction on the respondents to issue appointment order in his favour appointing him as Postal Assistant under Bhubaneshwar Division as decided on 18.6.1997, within a stipulated period of time. The Department in their counter state that as per the scheme for compassionate Appointment, 1998 compassionate appointment can be made up to a maximum of 5% of vacancies falling under direct recruitment quota in any Group 'C' or 'D' Post.

Held: The point for determination is whether the applicant who is admittedly eligible for appointment under rehabilitation scheme can be made to wait, and that too indefinitely in anticipation of a vacancy to arise under 5% quota meant compassionate appointments.

Maintaining a quota and consequent waiting list of the candidates approved for compassionate appointment goes against the spirit of the decision of the Apex Court pronounced now and then. The Apex Court has been consistently observing that the object of providing compassionate appointment is to mitigate the hardship of the family due to sudden death of the sole bread-earner and the family should be provided immediate relief of employment. For instance vide decisions are under:

- (1) Smt. Sushma Gosain and others V. Union of India and others (AIR 1989 SC 1976).
- (2) Umesh Nagpal V. Union of India and others (1994 (4) SCC 130).
- (3) Dhallaram V. Union of India and others (AIR 1999 SC 564).
- (4) Sanjay Kumar v. State of Bihar and others (2000 SCC (L&S) 895).

It is not as though the framers of the Scheme are not aware of all the observations of the Apex Court. Division Bench of this Tribunal functioning at Cuttak considered this aspect of the matter in O.A. No. 697 of 1998 disposed of on 17.7.2000, and O.A. No. 506 of 1999 disposed of on 12.1.2001, and held that there can be no waiting list for appointing persons eligible for compassionate appointments. Even the Principal Bench of the Central Administrative Tribunal in O.A. No. 1962 of 1997 in the case of lilaban V. Union of India and others disposed of on 2.6.1998 had taken the same view.

I am, therefore, not included to agree with the averment made in the counter that the applicant will be provided appointment on compassionate ground only as and when his turn comes. I, therefore, direct the Respondents to provide employment to the applicant on compassionate ground against Group 'C' post as per the decision taken against a next available vacancy. In the result, therefore, the original application is allowed as per the direction given above. No costs.

(Debi Prasad Mohanty v. Union of India and others, 8/2002, Swamynews 42, (Cuttak), date of judgement 7-3-2002.)

O.A. No.135 of 2000

Certified by
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