

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No. 243/02

R.A/C.P No.

E.P/M.A No.

1. Orders Sheet. OA-243/02 Pg. 1 to 3
2. Judgment/Order dtd. 07/05/2003 Pg. 1 to 3 dismissal
3. Judgment & Order dtd. Received from H.C/Supreme Court
4. O.A. 243/02 Pg. 1 to 25
5. E.P/M.P. NIL Pg. to
6. R.A/C.P. NIL Pg. to
7. W.S. submitted by the respondents Pg. 1 to 7
8. Rejoinder. Pg. to
9. Reply. Pg. to
10. Any other Papers. Pg. to
11. Memo of Appearance.
12. Additional Affidavit.
13. Written Arguments.
14. Amendement Reply by Respondents.
15. Amendement Reply filed by the Applicant.
16. Counter Reply.

SECTION OFFICER (Judl.)

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 243/02
Misc Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicants. H. K. Nag

-Vs-

Respondant(s) H. O. I. Form

Advocate for the Appellant(s) S. Biswas, M. K. Mazumdar, A. Banerjee, S. Das.

Advocate for the Respondant(s) CASE

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form but not in time Coordination Petition is filed not filed vide M. P. No. _____ C.F. for Rs. 50/- deposited vide IPO/BD No 79576-499 Dated 25.7.02</p> <p>11/8/02 By Registrar</p> <p>No notice yet served on respondents</p> <p>JS 2/8/02</p> <p>Notice prepared and sent to D-Section for issuing of the same to the respondents through Regd. post with A.D. vide D.No-2195 to 2197</p> <p>25/8/02</p>	<p>7.8.02</p> <p>mb</p> <p>4.9.02</p> <p>mb</p>	<p>Heard Mr. M.K. Mazumdar, learned counsel for the Applicant.</p> <p>Issue notice to show cause as to why the application shall not be admitted.</p> <p>List the case on 4.9.2002 for orders.</p> <p>11/8/02 Member</p> <p>11/8/02 Vice-Chairman</p> <p>List again on 19.9.2002 to enable the Respondents to obtain necessary instructions on the matter</p> <p>11/8/02 Member</p> <p>11/8/02 Vice-Chairman</p>

19.9.02

Heard learned counsel for the parties.
Application is admitted. Call for
records. Returnable by four weeks.

List on 6.11.02 for filing of
written statement and further orders.



Vice-Chairman

lm

6.11.02

List on 9.12.2002 to enable the
respondents to file written statement on
the prayer of Mr. A. Deb Roy, learned Sr.
C.G.S.C.

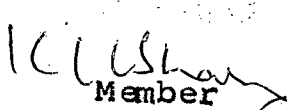

Member


Vice-Chairman

mb

9.12.02


None appears for the parties. List
on 2.1.2003 for orders.


Member

mb

2.1.2003 - Due to vacation, the case is
adjourned to 16.1.2003.

No written statement
has been filed.


27.1.03

mb

A. Deb Roy

16.1.2003 There is no bench today. The case is
adjourned to 28.1.2003.

mb

28.1.03

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

The Hon'ble Mr. S.K. Hajra,
Administrative Member.

List again on 19.2.2003 to
enable the respondents to file written
statement.



Member


Vice-Chairman

mb

20.3.03

was submitted by
the respondents.


18.2.03

19.2.2003 Present : The Hon'ble Mr. Justice
D.N. Chowdhury,
Vice-Chairman.

The Hon'ble Mr. S. Biswas,
Administrative Member.

No. written statement
has been filed.

Put up again on 20.3.2003
to enable the respondents to file
written statement.

20
18.3.03.

S.A.
Member

[Signature]
Vice-Chairman

mb

20.3.03

20.3.2003

The W/s was submitted
on 12.3.03. Due to oversight
the same could not be
mentioned in the order sheet.
In convenience caused due
to delay is regretted. bb

Mr.A.Deb Roy, learned Sr.C.G.S.C.
has stated that the respondents have al-
ready filed written statement. Office to
verify and submit report immediately.

List the case on 21.3.2003 for or-
der.

[Signature]
Vice-Chairman

21.3.2003

Written statement has been filed.

The case may now be listed for hearing
on 7.5.2003. The applicant may file
rejoinder, if any, within two weeks
from today.

S.O (J)

10
20/3/03

Written statement
has been filed.

mb

[Signature]
Vice-Chairman

20
6.5.03

7-5-03

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

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

S. Biswas
Member

[Signature]
Vice-Chairman

20.5.2003

Copy of the Judgment
has been sent to the
Office. for I send
the same to the applicant
as well as to the
D.C.G. for 15
repts.
SH

pg

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / R.A. No. 243 of 2002.

7-5-2003.
DATE OF DECISION

... Sri Hirak Kanti Nag APPLICANT(S).

... Sri M.K. Mazumdar ADVOCATE FOR THE
APPLICANT(S).

- VERSUS -

... Union of India & Ors. RESPONDENT(S).

... Sri A. Deb Roy, Sr.C.G.S.C ADVOCATE FOR THE
RESPONDENT(S).

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

THE HON'BLE MR S.BISWAS, 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 Ho'ble VICE-CHAIRMAN



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 243 of 2002.

Date of Order : This the 7th Day of May, 2003.

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

The Hon'ble Mr S.Biswas, Administrative Member.

Sri Hirak Kanti Nag,
Son of Late Harendra Mohan Nag,
P.O. Katigorah,
Vill. Siddheswar,
Dist. Cachar (Assam)

...Applicant

By Advocate Sri M.K.Mazumdar.

- Versus -

1. Union of India,
through the Secretary to the Govt. of India,
Ministry of Home Affairs,
New Delhi.

2. Headquarters,
Chief Engineer,
Shillong Zone,
Spread Eagle Falls,
Shillong.

3. The Garrison Engineer,
Silchar, P.O. Arunachal,
Dist. Cachar, Assam.

...Respondents

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

O R D E R (ORAL)

CHOWDHURY J.(V.C)

The issue pertains to appointment under compassionate scheme. The father of the applicant late Harendra Mohan Nag was working as an Electrician in HSG-II in the office of the Garrison Engineer, Silchar. While working as such late Harendra Mohan Nag died prematurely on 19.3.96 leaving his wife, a dependent younger brother, two sons and one daughter. According to applicant the respondent No.3 was fully aware of the condition of the family and the mother of the applicant asked for due assistance from the authority to overcome the situation and accordingly made application with certificate and affidavit for providing employment to her eldest son.

The respondent No.3 asked the applicant to submit documents relating to his claim. Thereafter also the respondent No.3 from time to time asked to provide further details. One such communication dated 6.7.2001 sent from the office of the Garrison Engineer asking the applicant to submit the monthly income of earning members including movable and immovable property (certified by Revenue Mandal of the concerned district), number of dependents, unmarried daughters and minor children. The applicant accordingly furnished connected documents to the authority as far back as July 2001. Failing to get appropriate remedy from the respondents he moved this application seeking for a direction for considering his case for appointment on compassionate ground.

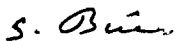
2. The respondents submitted its written statement and contested the case. In its reply the authority referred to the MOD letter No.19(4)/824-99/198-D (Lab) dated 9.3.2001 and submitted that the ceiling limit of such appointment was confined to 5% of DR vacancies. The said communication laid down certain norms and on assessment of all aspects of the matter the authority rejected the case of the applicant. According to respondents there were more deserving cases and only few vacancies available and therefore the case of the applicant was rejected.


3. We have heard Mr M.K.Mazumdar, learned counsel appearing for the applicant and Mr A.Deb Roy, learned Sr.C.G.S.C for the respondents at length. Mr Mazumdar has contended that as per the scheme of compassionate appointment the authority is duty bound to consider the case of the applicant. Mr Mazumdar further submitted that this case is to be decided with utmost alacrity so that the family in distress can be provided with some support to tide over the situation. The matter was kept pending

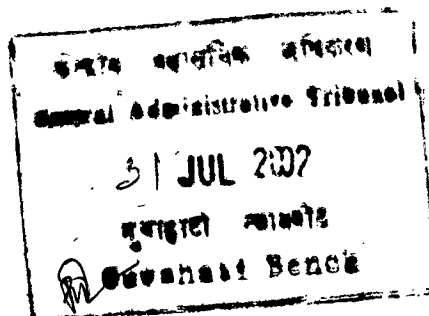
since 1996 and the things were taken rather casually. Mr A. Deb Roy, learned Sr.C.G.S.C on the other hand submitted that the cases are taken up at the higher level and the authority after considering all the materials rejected the case of the applicant for compassionate appointment. The case of the applicant could not be settled till the MOD letter was issued on 9.3.2001. Admittedly the applicant made application for compassionate appointment in the year 1997 and it ought to have been considered with utmost expedition. It was not a subject of foot dragging. The very object behind the policy of compassionate appointment loses its meaning in procrastination. Discretion is not unfettered. It is to be exercised fairly and reasonably. We record our disapprobation.

4. On overall consideration of the fact situation we are however, not inclined to exercise the power of judicial review in aid of Section 19 of the Administrative Tribunals Act 1985.

Subject to the observations made the O.A thus stands dismissed. There shall, however, be no order as to costs.


(S.BISWAS)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE CHAIRMAN



Applicant - Hiral Kanti Nag.
Filed on behalf of -
the applicant
Hiral Kanti
Advocate
31-7-02

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,
GUWAHATI.

(an application under section 19 of the
Administrative Tribunals Act, 1985)

Case No. O.A. 243 of 2002.

Sri Hiral Kanti Nag.

..... Applicant.

-versus -

The Union of India. & ors.

..... Respondents.

I N D E X.

<u>Sl.NO.</u>	<u>Annexures.</u>	<u>Particulars.</u>	<u>Page.No.</u>
1.		Application.	1 - 11.
2.		Verification	11.
3.	A	H.S.L.C. passed certificate.	12
4.	B	Death certificate.	13
5.	C & D	certificates/Affidavits dt. 4.6.97 & 10.6.97.	14, 15
6.	E series.	Application dt. 11.5.99 -	16-20
7.	F	Letter dt. 11.6.2001 -	21
8.	G	" " 16.6.2001	22
9.	H & I.	Letters dt. 6.7.2001 & 13.7.2001.	23, 24-25

Filed by -

Advocate.

Hiral Kanti Nag.

on behalf of - in applicant
filed by
Hedul Basir
Advocate
21-7-02
10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH,
GUWAHATI.

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

Case No. O.A. 243 of 2002.

BETWEEN -

Sri Hiral Kanti Nag,
s/o. Late Harendra Mohan Nag,
P.O. - Katigorah,
vill. - Siddheswar,
Dist. - Cachar, (Assam).

..... applicant.

AND

1. The Union of India,
through the secretary to the Govt. of India,
Ministry of Home Affairs,
New Delhi.
2. Headquarters,
Chief Engineer,
Shillong Zone,
spread Eagle Falls,
Shillong - 7930.
3. The Garrison Engineer, Silchar,
P.O. - Arunachal,
Dist. - Cachar, Assam.

..... Respondents.

Hiral Kanti Nag.

DETAILS OF THE APPLICATION.

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

- (1) subject in brief :- Undue delay in considering the appointment of the applicant on compassionate ground on the death of his father while in service.

2. Jurisdiction of the Tribunal :-

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

3. Limitation :-

The application is not barred by limitation.

4. Facts of the case.

I. The applicant is a citizen of India and a permanent resident of village - Siddeswar, P.O. - Katigarah, Cachar, Assam. He hails from a very poor family and due to financial hardship he could not proceed for higher studies and with great difficulty he passed the High School Leaving Certificate Examination (H.S.L.C.) in the year 1992. He has the requisite qualifications and experience to work in any post of Group 'C' or 'D' under the respondent authority.

A copy.....

Hirok Kanuli Nag.

A copy of the H.S.L.C. passed certificate is annexed hereto as Annexure 'A'.

4.II. That the applicant states that his father late Harendra Mohan Nag was working as an Electrician H.S.-II in the office of the Garrison Engineer, Silchar, and while he was in service he felt serious ill and for his better treatment he was shifted to Vellore Hospital, who ultimately died on 19.3.96. The Applicant's father died leaving the whole family in penury and without any means of livelihood as he was the sole bread earner of the family.

A copy of the death certificate dated is annexed herewith as Annexure 'B'.

4.III. That the applicant states that after the death of his father the whole responsibility and liabilities is shifted on him being the eldest son, to look after the family consisting of his widowed mother smti. Biva Rani Nag, younger brother Sri Alok Nag and younger sister smti. Bama Nag. The applicant being an unemployed person, it is difficult to maintain the family after the death of his father who died in harness, and as such, a job is utmost

M. H. Alok B. an

necessary.....

Hitok Kanti Nag.

necessary to save the entire family from such financial destitution.

4.IV. That the Respondent No. 3, the Garrison Engineer, knowing fully well about the financial crisis of the applicant's family called smti. Biva Rani Nag to meet personally for an appointment on compassionate ground. Thereafter, the applicant's mother smti. Biva Rani Nag personally met with the Garrison Engineer and requested him to provide a job to his eldest son (the applicant herein) as she was unable to do any job due to her mental agony and physical weakness on the death of her husband. Accordingly, the Respondent No. 3 asked the applicant to submit some documents, viz - certificates regarding details of moveable/immovable. In pursuance of the same the applicant submitted the certificates relating moveable/immovable property from the settlement officer dated 4.6.97 and an Affidavit dated 10.6.97 mentioning the names of dependents etc. with a fond hope that his case would be considered by the Respondents.

Copies of the said certificates/Affidavits dated 4.6.97 and 10.6.97 are annexed herewith as Annexures - 'C' and 'D' respectively.

4.V.....

Hirak Kanti Nay.

4.V. That as the Respondents did not take any steps to provide a job to the applicant for a long time and as the financial condition of the family became a miserable one, the applicant's mother Smti. Biva Rani Nay again submitted another application dated 11.5.99 before the Garrison Engineer, Silchar Division, requesting him to appoint his eldest son (i.e. the applicant herein) even in a post of a Mazdoor/Mate in his Department for the sake of their livelihood. The necessary particulars/documents viz.- annual income certificate, educational qualification certificate, certificates relating to movable/immovable property, medical fitness certificate and affidavits were also submitted along with the application for doing the needful by the Respondents.

A copy of the said application dated 11.5.99 along with enclosures are annexed herewith as Annexure - 'E' series.

4.VI. That the Respondent No. 3 although received all the necessary particulars/documents and was supposed to consider the appointment of the applicant, but instead of that he wrote a letter vide No.1007/206/EIE dated 11.6.2001 to the applicant asking again to submit the information/documents like

monthly.....

Hithok Randa Nay.

15

monthly income of earning members and income from property, details of movable or immovable properties number of dependents, number of unmarried daughters, number of minor children etc. to consider the case of the applicant within 19.6.2001.

A copy of the said letter dated 11.6.2001 is annexed herewith as Annexure - 'F'.

4.VII. That in pursuance to the letter dated 11.6.2001 of the Respondent No. 3, the applicant again submitted the particulars/documents as per their demands vide letter dated 16.6.2001, hoping that the Respondents would consider his case of compassionate appointment in any post of Grade 'C' and 'D' as per the scheme of the Central Government to save the needy family of a deceased Government servant and protect them from financial destitution.

A copy of the said letter dated 16.6.2001 is annexed herewith as annexure - 'G'.

4.VIII. That the Respondents instead of considering the case of the applicant as per the formulated scheme of the Government, wrote another "stereotype" letter vide No.1007/252/ME dated 6.7.2001 to the

applicant.....

Hithok Kanuti Nay-

16

applicant asking him to submit those information/ documents which were already submitted by the applicant in earlier occasions as per their directions. Having no alternative, the applicant was bound to give reply vide his letter dated 13.7.2001 along with a certificate dated 13.7.2001 from the secretary, Siddheswar Gaon Panchayat, Katigora, stating about the movable/immovable (Homestead land), unemployed in the family, marital status etc. and requested the Respondents to consider his case.

Copies of the said letter dated 6.7.2001 and the reply dated 13.7.2001 along with the certificate are annexed herewith as annexures - 'H' and 'I' respectively.

5. Grounds for relief(s) with legal provision.

5.1 That the applicant states that the Respondents acted illegally and arbitrarily in non-considering the case of the applicant since 1997. The Respondents are trying to delay the matter by issuing letters one after another asking for same 'stereo type' information/documents from the applicant and to deprive him from the said appointment on the ground of inordinate delay which happened to save neighbours of the

applicant.....

Hihok Kanti Nay.

applicant . The respondents are trying to play the same game (i.e. intentional delay) with the applicant also which is illegal and against the scheme of the Government.

5.2, That the applicant submits that he has indebted heavily to his relatives and friends and managed to arranged the marriage of his younger sister and now he has nothing to save his family members and dependants and if his case is not considered for compassionate appointment his whole family would be in irreparable hardship.

5.3. That the applicant states that he is still an unemployed and there is no employed member in his family and he has to maintain his old aged widowed mother, younger brother who is also an unemployed and other dependants and it becomes impossible to manage the family only from the pensionary benefits allotted to his widowed mother of Rs. 660/- (six hundred and sixty) only plus other allowances. The applicant is ready to accept even a post of Mazdoor in the Grade III or IV in the office of the respondent No. 3 just to save their family from starvation.

5.4.....

Hirok Kanthi Neej-

5.4. That the applicant states that the Respondents are under legal obligation to consider the case and grant approval and sanction on an urgent priority basis as per the scheme of the central Government i.e. 5% of the total vacancies in Group 'C' and 'D' for compassionate appointment for sole purpose to mitigate the hardship of the applicant's family due to death of their only bread earner of the family. The delay in appointing the applicant has vitiated the Government policy.

5.5. That the applicant demanded justice, but the same has been denied. The applicant is ready to accept any posts of Grade 'C' and 'D' even as a Mazdoor under the Respondent No. 3 to save his life and his family.

6. Details of remedies exhausted :-

The applicant declares that he has submitted applications and informations/documents as per direction of the Respondents time and again, but his case has not been considered by the Respondents till to-day.

7.....

Hirek Kanbi Nay.

7. Matter not previously filed or pending any other court :-

The applicant further declares that he had not previously filed any application/writ petition or suit regarding the matter in respect of which this application has been made, before any court of law or any other authority or any other Bench of the Tribunal and nor any such application, writ petition, or suit is pending before any of them.

8. Relief sought.

In view of the facts mentioned in para 6 (six) above the applicant prays for the following relief(s):-

- (i) to direct the respondents to consider the case of the applicant in any posts of Grade 'C' or 'D' even as a Mazdoor, on compassionate ground and/or grant the approval/sanction for appointment of the applicant on compassionate ground under the Garrison Engineer, Silchar.
- (ii) any other appropriate relief/reliefs as the Hon'ble Tribunal may deem fit and proper.

9. Interim Order if any, prayed for :-

Pendency of this application shall not be a bar to consider the case of the applicant as per scheme of the Central Government.

10. Particulars of Bank Draft/postal order in respect of the application fee :-

Hinok Kanhi Nay.

- 1) I.P. NO. - 76576499
ii) Date of Issue - 25-7-02
iii) Issued from - P & T Deptt.
iv) Payable at - By Registrar C.A.T. Gauhati Branch.
11. List of enclosures - As given in the index.

VERIFICATION.

I, Sri Himok Kanti Nag, s/o. late Harendra Mohan Nag, aged about 26 years, resident of Katigorah, village - Siddheswar, District - Cachar, Assam, do hereby verify that the statement made in paragraphs 1 to 4 and 6 to 11 are true to my knowledge and those made in paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this 31st day of July, 2002.

Himok Kanti Nag

signature of the
applicant.

Board of Secondary Education, Assam



High School Leaving Certificate
(Compartmental) Examination 1992
Code - SC 1

Results announced on: 30/06/93

This is to certify that Hirak Kanti Nag

Roll S3-112 No: 5070 has duly passed the High
School Leaving Certificate (Compartmental) Examination,
1992 of this Board.

His/Her date of birth is 28/02/75

CODES

EXAMINATION	FIRST CHANCE	FINAL CHANCE
REGULAR	RC 1	RC 2
SPECIAL	SC 1	SC 2

003649

GUWAHATI
ASSAM

REGISTRAR II

BALENDRA KUMAR DAS
SECRETARY

Assessed by
Adm. Officer
31/7/02



- ক্রম নং ১০



অসম চৰকাৰ
জন স্বাস্থ্য বিভাগ
মৃত্যুৰ প্ৰমাণ পত্ৰ

এতৎপৰা সপ্ৰমাণিত কৰা হয় যে নিম্নলিখিত তথ্য অসম ৰাজ্যৰ জেলাৰ Cachar Katigomh আঞ্চলিক পঞ্চায়তৰ
অধীনত Katigomh N.H.C পঞ্চায়তৰ পৰা Katigomh হৈতে লভ্য হৈছে। বন্য - Katigomh
সকল - Katigomh পৌৰসভা - X

নাম Harendra Mohan Nag
প্ৰকৃতি/মহিলা Male

মৃত্যুৰ তাৰিখ 19-03-96 জাতি Indian
মৃত্যুৰ স্থান Sidherwar II স্থায়ী ঠিকনা vill- Sidherwar II. P.O. Katigomh Cachar
মৃত্যুৰ পতা/স্বামীৰ নাম H. Muhindra Mohan Nag বয়স 52
স্থায়ী বাসস্থানৰ ঠিকনা P.O. Katigomh পঞ্জীয়নৰ তাৰিখ 20-5-96

প্ৰচাৰকাৰীৰ স্বাক্ষৰ [Signature]
প্ৰচাৰকাৰীৰ পদবী Sub-Registrar of Births & Deaths
প্ৰচাৰকাৰীৰ তাৰিখ Katigomh N.H.C. (Cachar)

[Signature]

মৃত্যুৰ পঞ্জীয়নৰ স্বাক্ষৰ

মন্তব্য - মৃত্যুৰ ক্ষেত্ৰত অস্বাভাৱিক কৰা মৃত্যুৰ কাৰণৰ বিষয়ে কোনো বিৱৰণ দিয়া নহ'ব।

Attested by
Radul Boro
Advocate
31/7/02



ANN. - C- (14)

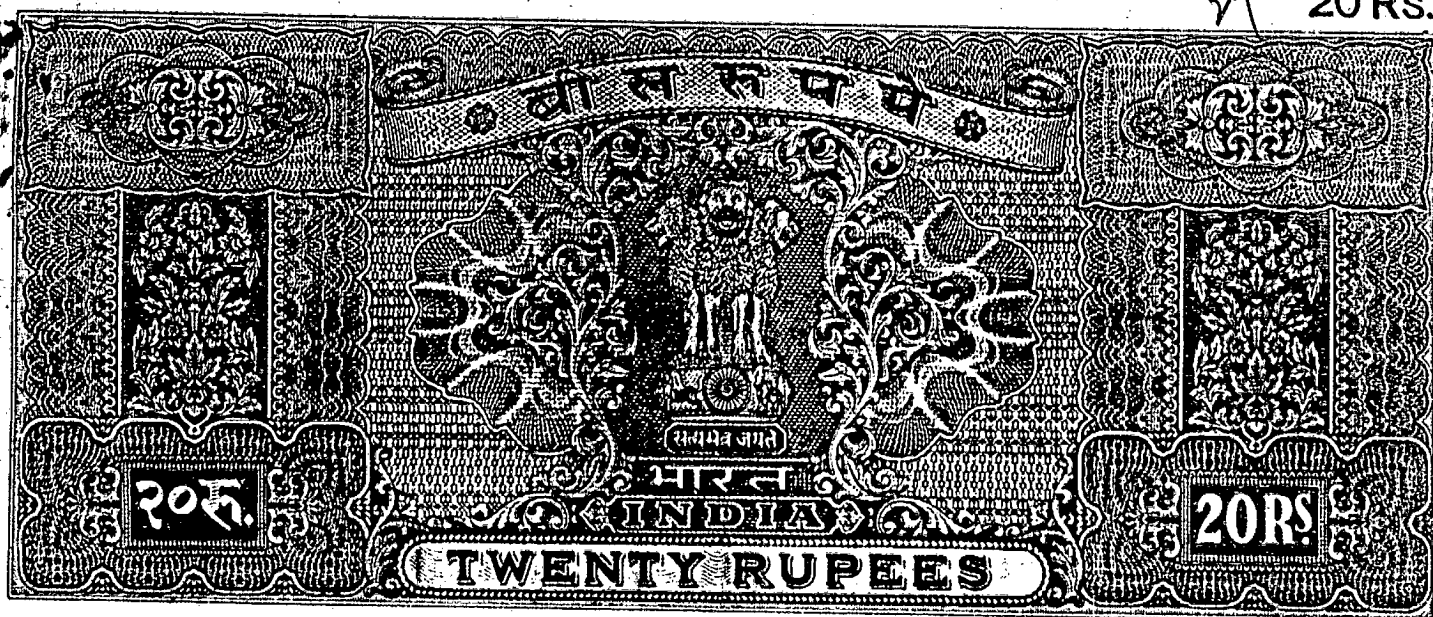
Certified that Sri Hirak Kanti Nag S/O.Late
Harendra Mohan Nag of Mouza Siddeswar Pt-II Ph.Katigorah
has possessed an area measuring 10 kata of land at Dag No.
293 Patta No.115 of Mouza Siddeswar Pt-II Ph.Katigorah
purchased vide Regd. Deed No.3236 Dt.17-9-77.The said land
is not involved in any case,as reported by concerned patwari.

This certificate is issued for the purpose of
"Service"only and not to be accepted as evidence in any
litigation/dispute into the Court of Law.

4/6/77
Dist. Settlement Officer,
Katigorah Circle.

*Attested by
Abdul Basir
31/7/77*

4-6-77



A F F I D A V I T

I, Shri Hirak Kanti Nag, S/O Late Horendra Mohan Nag, aged about 21 years, religion : Hindu, by nationality : Indian, an inhabitant of Vill. Siddheswar, P.O. Katigora, Cachar, do hereby solemnly affirm on oath and state as follows :-

1. That I am a citizen of India, having my permanent residence in the above noted place.

2. My father Horendra Mohan Nag, was an Electrician HS-II of M.E.S. department at Masimpur, Cachar.

3. That father had already expired.

4. That I am his son and my family consists of following members who are all dependents, namely :-

i. Biva Rani Nag, w/o Late Horendra Mohan Nag.

ii. Barna Nag, 19 years, (Daughter).

iii. Alok Nag, 17 years, (Son),

Daughter and son of Late Horendra Mohan Nag.

Statement made above are true to the best of my knowledge and belief and in proof whereof I put my signature on this affidavit on 10th June /97.

Identified,

Masimpur Masimpur Sheds
Advocate. 10/6/97

Hirak Kanti Nag.

Deponent

Sworn before me,

Magistrate.

10.6.97
Magistrate 1st Class
Cachar, Assam

*Attested by
Abedul Bari
Advocate
31/7/02*

To

The Garrison Engineer,
Silchar Division

Subject :- PRAYER FOR AN APPOINTMENT OF MY SON SHRI ALOK KANTI NAG ON THE EXTREME COMPASSIONATE GROUND

Hon'ble Sir,

With due respect I beg to draw your kind attention to the following few facts for your sympathetic consideration and favourable order please :-

That my husband named late Harendra Mohan Nag had been working as a Electrician HS-II in your department but unfortunately he expired on 19 Mar 1996 while on service.

That, due to his sudden death pre-matured death my whole dependents are facing very much troubles and passing our days with starvation.

That, due to paucity of funds, I am not able to continue the study of my children also.

In view of the above mentioned facts stated above, I request your honour to please appoint my son Shri Hiren Kanti Nag in your department as Mazdoor/Mate so that I can pull on to maintain the livelihood of my dependents and for this favourable order I alongwith whole dependents shall be obliged to your honour for my whole life.

Necessary documents required on this account are enclosed herewith for your kind perusal and necessary action please.

Thanking you, Sir

Yours faithfully,

(SMTI BIVA RANI NAG)
W/O Late Harendra Mohan Nag)
Elect HS-II.
Vill- Siddheswar
PO : Katigerah, Cachar
788805

Dated : 11 May 99

Encls. : As per list of documents
attached.

Received by
Hedul Basu
Advocate
31-7-02

(17)
26

LIST OF DOCUMENTS

- 1) Xerox copy of Annual Income Certificate in quintuplicate.
- 2) HSLC Certificate, typewriting certificate and Admit Card each in quintuplicate.
- 3) Xerox copy of property certificate issued by Circle Officer, Katigorah Revenue Circle, Cachar in quintuplicate.
- 4) Xerox copy of Medical certificate in quintuplicate.
- 5) Xerox copy of death certificate in quintuplicate.
- 6) Affidavit in quintuplicate (Xerox copy)


.....

Attested by
Abdul Bari
Advocate
21-7-02

Certified that the annual income of
Sri/Sati Bibha Rani Nag
S/O, D/O, F/O N/o - Lt. Harendra Mohan Nag
of mouza Bidolleswar-II Pargana Katigorah
from pension is Rs. 30,732'00
(Rupees Thirty thousand seven hundred thirty two) only approx.
as reported by the concerned L.R. staff.

This certificate is issued for " Service "
"purpose only."

Attested by
Kachul Basir
Advocate
31-7-02


Circle Officer
Katigorah Revenue Circle
Cachar

Certified that Smti Bibha Rani Nag W/O-Lt. Herendra Mohan Nag of mouza-Siddheswar pt-II, Pargana-Katigorah is holding under her possession over an area 10(ten)K.11(eleven) Ch. of land at Dag No-293 covered by Miyadi Patta No-115, vide purchased registered Deed No-3236 dtd. 1-9-77 of mouza-Siddheswar pt-II, Pargana-Katigorah as reported by the concerned L.R. staff.

This certificate is issued for "Service" purpose only.

Attested by
Aladdin Basir
Advocate
31-7-02


Circle Officer

Katigorah Revenue Circle
11/2/79
Cachai

I do hereby certify that I have examined Shri KANTI NATH a candidate for employment in the Office of the Garrison Engineer, Silchar PO : Arunachal Dist. Cachar (Assam) and cannot discover that he has not any disease constitutional weakness or bodily deformity.

I do not consider this a disqualification for employment/confirmation in the effect of the Garrison Engineer, Silchar (MES) as.

His age according to his own statement is 24 years and by appearance about 24 years.

Date : 28/2/55

Place :

Signature

Designation 1/c, u/c

(Seal)

28/2-55
 P. H. C.
 Cachar, Assam
 Kanti Nath
 Garrison Engineer

Signature of the Candidate is Kanti Nath
 attested (in the case of Non-Gazatted Officer).

Attested by
 Abdul Basir
 Advocate
 31-7-02

Tele Mily : 2500

REGISTERED

(21)

Garrison Engineer, Silchar
PO : Arunachal, Dist: Cachar
Assam

10074 206 /ELE

ANNEXURE - F

11 Jun 2001

SHRI HIROK KANTI NAG
S/O LATE HARENDRA MOHAN NAG
VILL = SIDDHESWAR
PO = KATIGORAH
DIST = CACHAR (ASSAM)
PIN - 788 805

COMPASSIONATE APPOINTMENT TO DEPENDENTS

1. Please forward the following informations/documents to this office each in duplicate by 19 Jun 2001 without fail.

- a) Monthly income of earning members and income from property. (Certified by Revenue Mandal Office of the concerned district).
- b) Movable/immovable property details
- c) No of dependents
- d) No of unmarried daughters
- e) No of minor children

2. Please treat this as Urgent.

Handled by
Achal Bora
Advocate
31-7-02

(Sd/-)
AE
for Garrison Engineer

ANNEXUR - 6

(22)

To

31

The Garrison Engineer,
Silchar
PO : Arunachal
Dist. Cachar (Assam)
Pin - 788 025

Subject :- COMPASSIONATE APPOINTMENT TO DEPENDENTS

Sir,

Reference your letter No 1007/206/E1E dated 11 June 2001.

With due respect, I beg to submit ~~the~~ herewith the following informations/documents/as desired please :-

(a) Monthly income/annual income of earning members and income from property.

(b) Details of movable/immovable property

As regards para 1 (c) to (e) of your letter under reference, necessary affidavit is enclosed, which is self explanatory for your kind perusal and necessary action at your end please.

Thanking you.

Received
mmh
19/6

Yours faithfully,

Hirok Kanti Nag.

Date : 16 Jun '2001

Attested by
Abdul Basir
Advocate
31-7-02

(Shri Hirok Kanti Nag)
S/O Late Harendra Mohan
Nag
Vill : Siddheswar
PO : Katigorah
Cachar (Assam)
Pin- 788 025

ANNEXURE - H

(23)

File No. : 2500

REGISTERED

Garrison Engineer, Silchar
PO : Arunachal, Dist: Cachar,
Assam

1007/ /ELE

06 Jul 2001

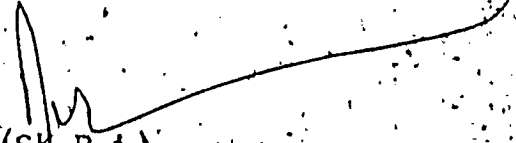
Shri Hirok Kanti Nag
S/O Late Harendra Mohan Nag
Vill : Siddheswar
PO : Katigorah
Dist : Cachar (Assam)
Pin : 788805

COMPASSIONATE APPOINTMENT TO DEPENDENTS

1. Please forward the following informations/documents to this office each in duplicate by 18 Jul 2001 without fail:

- a) Monthly income of earning members and income from property (certified by Revenue Mandal Offr of the concerned district).
- b) Movable/immovable property details with present value (Certified by Revenue Mandal Offr of the concerned district)
- c) No of dependents
- d) No of unmarried daughters
- e) No of minor children

*Approved by
A. K. B. B. B.
Advocate
31-7-02*


(SK Rai)
AEE
AGT

for Garrison Engineer

To

The Garrison Engineer,
Silchar Division
PO : Arunachal
Dist. Cachar (Assam)

Subject :- COMPASSIONATE APPOINTMENT TO DEPENDENTS

Sir,

Reference your office letter No 1007/252/EIE dated
06 Jul 2001.

With due respect, I beg to inform you that the ~~following~~
informations/documents as called for vide your letter cited
above have since been submitted to your office vide my appli-
cation dated _____ 2001.

In this connection, it is requested that your office
letter No 1007/ /EIE dated 2001 may kindly be referred
to.

Thanking you, Sir

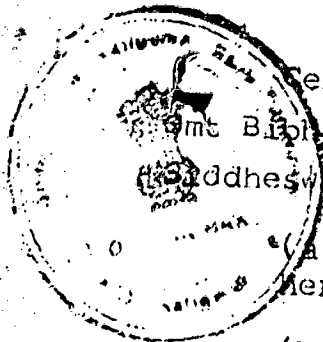
Yours faithfully,

Hirok Kanti Nag.

Shri Hirok Kanti Nag
S/O Late Harendra mohan Nag
Vill : Siddheswar
PO : Katigorah
Dist. Cachar (7888 05)

Date : Jul 2001

*Attested by
Abel Basir
Advocate
31-7-02*

C E R T I F I C A T E

Certified that family particulars/condition in respect of
Smt Bipha Rani Nag, wife of Late Harendra Mohan Nag of Vill-
Siddheswar, PO : Katigorah Dist. Cachar (Assam) are as follows :-

- (a) She is not holding any moveable properties in her name.
- (b) As regards immoveable properties, she is holding under her possession over an area 10(ten) Katta, 11 (eleven) ch. of land at Dag No-293 and Patta No-115 which present value is Rs. 30.000.00 (Thirty thousand only).
- (c) There is no Govt employee in her family.
- (d) She has been maintaining livelihood with her family pension and there is no other source of income in her family.
- (e) She is widow and has not re-married and her son is also unmarried/unemployed.

This certificate is issued for "Service" purpose only.

Date : 13 July '2001

*Attested by
Hassul Bora
Advocate
31-7-02*

[Signature]
13.7.01
Secretary

Siddheswar Gaon Panchayat

IN THE CENTRAL ADMINISTRATIVE OFFICE OF THE NATIONAL

GUWAHATI BENCH :: GUWAHATI.

O.A. NO. 243 OF 2002

Shri H.K Nag.

-VS-

Union of India & Ors.

- And-

In the Matter of ::

Written statement submitted by the Respondents.

The respondents beg to ~~xxxx~~ submit written statement as follows :-

1. That with regard to paras - 1 to 4.III the respondents beg to offer no comments.
2. That with regard to para - 4.IV the respondents beg to state that After the death of the father of the Applicant while in service, the NOK of the deceased was asked to submit the necessary documents for compassionate appointment for her son as per request made in the department in terms of axisting Govt orders for progressing the same to competent authority for consideration.
3. That with regard to para - 4.v of OA, the respondents beg to state that the case of the individual for compassionate appointment was forwarded to the competent authority for consideration in terms of various Govt. policies and guidelines on the ~~employment~~ subject. In

contd... P/2

this connection it is also stated that providing employment assistance under the scheme of compassionate appointment does not mean employment generation as per existing instructions and guidelines and are not in favour of giving guaranteed and ~~employment and are not in favour of giving~~ compassionate appointment to dependents as a matter of routine as the object of the scheme is to grant appointment on compassionate grounds to a dependent family member of the Govt. servant dying in harness, thereby leaving the family pennury and without any means of livelihood, to relieve the family of the deceased Govt servant concerned from financial destitutions and to help it get over the emergency.

4. That with regard to para - 4.VI to 4.VIII of O.A., the respondents beg to state that contention of the applicant is not correct. Documents for compassionate appointment in the department was forwarded to the competent authority for consideration. The scheme of appointment on compassionate grounds has been envisaged with the whole object of granting compassionate appointment to enable the family to tide over the sudden crisis and to relieve the family of the deceased from financial destitutions and to get over the emergency.

The scheme does not necessarily imply that dependent of each and every deceased will be offered appointment on compassionate ground. It is pertinent to mention that quota prescribed for the purpose of compassionate appointment is only 5% of the total DR vacancies occurring in a year - in - group 'C' and 'D' posts ~~xxxxxxxx~~ ~~xxxxxxxx~~ ~~xxxxxxxx~~ therefore no case is considered individually or unitwise, but all the case received from various units are considered by the Board of Officers constituted at Army HQ as per Govt policy to find out the most deserving case in accordance with financial distress/more indigent in comparison to other similarly placed cases against the quota of DR vacancies occurring in a year. The board of officers take various aspects as stipulated in MOD letter No. 19(4)/824-99/198-D (Lab) dated 09 Mar 2001 such as family size including age of children, amount of terminal benefits, amount of family pension and liability in terms of unmarried daughter minor children, moveable and immovable property so as to find out the cases of acute financial distress/most deserving cases that too only if clear vacancy meant of or appointment in compassionate ground exists within the ceiling of 5% of DR vacancies.

5. That with regard to para - 5.I to 5.V, the respondents beg to state that cintention of the applicant is not correct as the same are misleading and against real facts subsequent to his father's death while in service, his family consisting of 4 members viz mother

- 4 -

aged 48 yrs (now 51 yrs) applicant 25 yrs (now 28 yrs) one brother aged 29 yrs (now 23 yrs) and one unmarried sister of 22 yrs (now 25 yrs) were provided with the following financial assistance :-

- (a) DCRG - Rs. 71,511/-
- (b) GPF - Rs. 51,904/-
- (c) CGEGIS - Rs. 36,646/-
- (d) Leave encashment - Rs. 10,259/-
- (e) Family pension - Rs. 660 + DA initially and
Rs. 1,275/- + DA after fifth pay commission.

Providing employment assistance under the scheme compassionate appointment does not mean employment generation as per existing instructions/guidelines and are not a generate-generated process. The Board of Officers at Army Hq take the various aspects stipulated in MDD letter No-19(A)/824-99/1998 - D (Lab) dated 09 Mar2001, such as family size including ages of children amount of terminal benefits amount of family pension, liability in terms of unmarried daughter(s) minor children etc. ~~moveable~~ moveable/immoveable property left by the deceased at the time of death, to find out the cases of acute financial distress/most deserving case that too only if clear vacancy meant for appointment on compassionate grounds exists within the ceiling of 5% DR vacancies. Further the committee considering a request for appointment on compassionate grounds should take into account the position regarding availability of vacancy

contd....P/5

for such appointment and it should recommend appointment on compassionate grounds and it should really deserving case and only if vacancy meant for appointment on compassionate ground will be available within a year that too compassionate grounds will be available within a year that too within the ceiling of 5% prescribed for the purpose, in view the Hon'ble Supreme Court ruling in judgment dated 04 may 1994 in the case of Umesh Kumar Nagpal vs state of Haryana and others (JT 1994 (3) SC 525) wherein it has been held that Offering appointment on compassionate grounds as a matter irrespective of the financial condition of the family of the deceased or medically retired Govt servant is legally after lapse of reasonable period and it is not a vested right which can be exercised at any time in future.

6. That with regard to para - 6 the respondents beg to offer no comments.

7. That with regard to para - 7 to 10 , the respondents beg to state that the board of officers at Army HQ had gone through the case of the applicant in detail based on the ~~xx~~ relevant rules/guidelines. However, due to more deserving cases and few vacancies available, the case of the individual was not considered meritoriated for employment assistance on compassionate grounds . Therefore, after due consideration in the light of the guidelines of DOP & T and various judgment of the Hon'ble Supreme Court and that the the

(30)

240
S. K. Singh, IDSB,
E.E.
Garrison Engineer.

- 6 -

appointment on compassionate ground is not a matter of right and after a balanced and objective assessment of the totality of the circumstances of the case including the decision of board of officers at Army Hq, the competent authority has rejected the case of the applicant.

8. ~~THAT WHEN KAGAN KA PAKA -~~

It is further submitted that the individual for compassionate appointment in the department subsequent to his father's death was examined at appropriate level by the competent authority and rejected lacking substance.

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

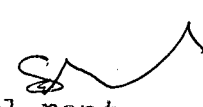
(31)
11

- 2 -

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

I, Shri Shree Krishna Singh, EE presently working
as Garrison Engineer Silch^{or}, be duly authorised and
competent to sign this verification, do hereby solemnly
affirm and declare that the statements made in para
1,2,3,4,~~5~~,6 and 7 are true to my knowledge and belief,
these made in para 5
are true to my information derived
therefrom and the rests are my humble submission before
the Hon'ble Tribunal, I have not suppressed any material
facts.

And I sign this verification on the 21st th day
of Nov : 2002.


Declarant.

S. K. Singh, IDSE.
E.E.
Garrison Engineer.