

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

NP 78/04 (DESTRUCTION OF RECORD RULES, 1990)

(1) OA 287/02 order page -1

NP 138/04 **INDEX**

(2) NP 3/03 order page -1 to 3 NP 027-6/03

O.A/T.A No. 287/2002

R.A/C.P No.

E.P/M.A No. 3/03 & 73/04

1. Orders Sheet.....OA.....Pg. 1.....to 5
2. Judgment/Order dtd. 11-9-2003.....Pg. 1.....to 7 Allowed
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A. Amended OA 287/02.....Pg. 1.....to 6
5. E.P/M.P. 73/04.....Pg. 1.....to 10
6. R.A/C.P.....Pg.....to
7. W.S.....Pg. 1.....to 20
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. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

Signature
29.11.17

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO.

287

OF 1992602

Applicant(s) B. K. Chakraborty

Respondent(s) Govt. of Assam

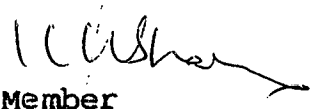

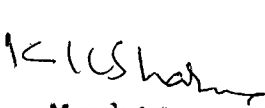
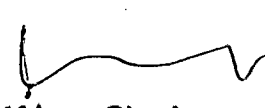

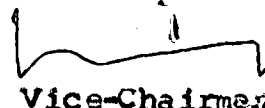

Advocate for Applicant(s) Mr. K. Paul & Mrs. G. D. Paul.

Advocate for Respondent(s) Case.

Notes of the Registry	Date	Order of the Tribunal
<p>33E 049242, 241, 240, 239 & 238 29/8/02</p> <p>Dep. Registrar</p> <p>mb</p>	4.9.02	<p>Heard Mr. K. Paul, learned counsel for the applicant.</p> <p>Issue notice to show cause as to why the application shall not be admitted.</p> <p>List on 4.10.2002 for admission.</p> <p>1C (Sharma) Member</p> <p>Vice-Chairman</p>
<p>Steps has been taken.</p> <p>21/9/02</p> <p>Notices prepared and sent to D. Section for issuing of the same to the respondents through speed post vide D.O. No 2584/2592 Dtd. 18.9.02</p> <p>lm</p>	4.10.02	<p>On the prayer of Mr. A. Deb Roy, Sr. C.G.S.C. case is adjourned to 5.11.02 to obtain necessary instructions.</p> <p>1C (Sharma) Member</p> <p>Vice-Chairman</p>

29/9/02

Notes of the Registry	Date	Order of the Tribunal
	5.11.02	<p>Heard Mr. K. Paul learned counsel for the applicant and also Mr. A. Deb Roy, Sr. C.G.S.C. for the respondents.</p> <p>Mr. Paul learned counsel for the applicant submitted that the applicant's case is squarely covered by the policy laid down by the respondents authority for appointing person on compassionate ground. Mr. Paul pointed out that his case for appointment was hanging and the respondents by the impugned order dated 14th December 2001 turned down his prayer for such appointment. The learned counsel for the applicant submitted that the respondents in most illegal fashion has turned down the prayer for appointment overlooking the policy guidelines.</p> <p>We have perused the order dated 14th December 2001 by which the applicant was disengaged. The reasons subscribed in para 3, (Annexure 20) of the impugned order rejecting the claim of the applicant. In the facts circumstances it can not be said to be arbitrary and unreasonable. The Respondents ought to have disposed of this application instead of keeping the applicant waiting. But by that itself the Tribunal cannot interfere in the matter under Section 19 of the Act. In the circumstances the application is dismissed. No order as to costs.</p> <p><i>Cancelled</i></p> <p>lm Vice-Chairman</p>
	5.11.02	<p>Put up for admission on 20.11.2002. In the meantime, Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents may obtain necessary instructions on the matter. Endeavour shall be made to dispose of the matter at the admission stage.</p> <p><i>[Signature]</i> Vice-Chairman</p>

Note of the Registry	Date	Order of the Tribunal
	20.11.2002	The application is admitted. Call for the records. List on 23.12.2002 for orders.
	mb	<div>  <p>Member</p> </div> <div>  <p>Vice-Chairman</p> </div>
No. written statement has been filed	23.12.02	The Respondents are yet to file written statement. The respondents are ordered to file written statement within four weeks from today. List on 28.1.2003 for orders.
<u>20</u> 27.1.03	mb	<div>  <p>Member</p> </div> <div>  <p>Vice-Chairman</p> </div>
No. W/S has been filed	28.01.2003	Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. S.K. Hajra, Administrative Member. List again on 26.2.2003 for further orders alongwith M.P.3/2003.
<u>24</u> 25.2.03	mb	<div>  <p>Member</p> </div> <div>  <p>Vice-Chairman</p> </div>
<u>24.3.03</u>	mb	List on 27.3.2003 for orders.
The applicant has filed the consolidated application alongwith steps.	26.2.2003	<div>  <p>Vice-Chairman</p> </div>
<u>24/3/03</u> S.O (3)	mb	
	27.3.2003	Present: The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman The Hon'ble Mr. S. Biswas, Administrative Member. The applicant filed a consolidated Petition which is accepted. The respondent may file written statement within four weeks from today. No further notice need to be issued to the respondents. Mr. A. Deb Roy,

Note of the Registry	Date	Order of the Tribunal
<p>Notice in No. Respondent No. 156 received by No. A. Deb Roy Sr. C.G.C. on 28/3/03. with Order.</p> <p>Received 28/3/03</p>	<p>Contd. 27.3.2003</p>	<p>learned Sr.C.G.S.C. accepts notice on behalf of the respondents.</p> <p>List the case on 1.5.2003 for further order.</p> <p>Member</p> <p>Vice-Chairman</p>
<p>No written statement has been filed.</p> <p>29.5.03.</p>	<p>bb 1.5.2003</p>	<p>The applicant has filed a consolidated application. The respondents are yet to file written statement. Put the matter again on 30.5.2003 to enable the respondents to file written statement if any.</p> <p>Vice-Chairman</p>
<p>No. WTS has been filed.</p> <p>26.6.03.</p>	<p>mb 30.5.2003</p>	<p>Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. S.K. Hajra, Member (A).</p> <p>Put up before the Single Bench on 27.6.2003 for orders. In the meantime the respondents may file written statement, if any.</p> <p>Member</p> <p>Vice-Chairman</p>
<p>10.7.03</p> <p>WTS submitted by the Respondents.</p> <p>pg</p>	<p>mb 27.6.03</p>	<p>On the prayer of Mr A.deb Roy, learned Sr.C.G.S.C further two weeks time is allowed to file written statement.</p> <p>List on 25.7.03 for order.</p> <p>Vice-Chairman</p>

25.7.2003 Present : The Hon'ble Mr. N.D. Dayal
Administrative Member.

Written statement has been
filed by the respondents. The case may
now be listed for hearing on 4.8.2003.

Member

mb

W/S has been filed.

25
3.9.03.

4/8. Single bench did not sit
today. The case is adjourned
to 18/8/2003. *ms*
b

18.8.2003 Present: The Hon'ble Mr. K.V. Prahaladan
Administrative Member.

The case is adjourned and listed on
4.9.2003 again for hearing.

KV Prahaladan
Member

bb

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

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

KV Prahaladan
Member

[Signature]
Vice-Chairman

pg

26.9.2003
Copy of the Judgment
has been sent to the
Office for issuing
the same to the Applicant
as well as to the S.C. Sec.
for the Record.

HS

23/9/03

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / X.X. No. 287 . . . of 2002.

DATE OF DECISION 4-9-2003.

... Sri Binay Kumar Chakraborty APPLICANT(S).

... Shri K.Paul 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.CHWODHURY, VICE CHAIRMAN

THE HON'BLE MR K.V.PRAHALADAN, ADMN. 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



4

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.287 of 2002.

Date of Order : This the 4th Day of September, 2003.

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

The Hon'ble Mr K.V.Prahaladan, Administrative Member.

Shri Binay Kumar Chakraborty,
Son of MES/265366 Late S.K.Chakraborty
C/o Late Radhika Ranjan Deb,
Forth Lane, Pan Dokan Bus Stand,
Kahilipara, Guwahati-18, Assam.

. . . Applicant

By Advocate Sri K.Paul.

- Versus -

1. Union of India,
represented by the Secretary,
to the Government of India,
Ministry of Defence, North Block,
New Delhi.
2. Engineer-in-Chief's Branch,
Army Headquarters, Kashmir House,
DHQ, New Delhi-110011.
3. The Chief Engineer,
Headquarters,
Eastern Command,
Engineers Branch (EIC 2)
Fort William, Calcutta-700021.
4. Head quarters,
Chief Engineers, Shillong Zone,
Spread Eagle Falls,
Shillong-793011.
5. The Garrison Engineer,
Missamari.
6. The CWE, Tezpur,
Commander Works Engineer,
G.E. Soimara, Tezpur

. . . Respondents.

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

O R D E R (ORAL)

CHOWDHURY J.(V.C)

The issue relates to appointment under the compassionate appointment scheme in the following circumstances.

The father of the applicant late Sudhir Kumar Chakraborty was serving under the MES under Ministry of Defence since 1.5.1959. While working as Charge Mechanic HS-I under AGE E/M Missamari under Garrison Engineer. The father of the

Compassionate

applicant became the victim of some disease and expired on 31.10.1993 leaving behind his wife and three other dependents. To overcome the situation the applicant preferred an application on 28.9.94 for consideration of his case for appointment on compassionate ground. It seems that the application was duly accepted by the authority and processed at various levels. The respondents accordingly prepared a statement for employment of the applicant and submitted a proposal for consideration of his case for appointment under compassionate scheme. His case was strongly recommended by respondent No.5 and also point out a vacancy of LDC. By communications dated 29.2.2000 and 13.4.2000 the applicant was intimated that his name was at serial No.21 of the seniority list and appointment would be done on receipt of Government sanction. Further development of the case would be intimated in due course. By impugned communication dated 14.12.2001 the case of the applicant for compassionate appointment was rejected. The reasons for rejecting his case mentioned in the impugned communication dated 14.12.2001 which reads as under :

- "(a) The death of Govt. Servant ~~xx~~ occurred on 31 Oct 1993. He was survived by his wife, 02 sons and 01 daughter.
- (b) The family is receiving Rs. 1849/-(min) as family pension. As such it is above the poverty line as per DOP&T instructions.
- (c) The need for immediate assistance by way of compassionate appointment to tide over the emergency and crisis is lacking in this case as the death of the Govt. servant occurred on 31 Oct 1993 i.e. more than 08 years back.

After due circumspection and consideration of the case in the light of the enclosed guidelines of DOP&T and also various judgments of the Hon'ble Supreme Court and after a balanced and objective assessment of the totality of the circumstances of the case, the competent authority, it is regretted to mention, has not approved your case for compassionate appointment in this Department."

The said communication was followed by another communication dated 20.12.2002 superseding the earlier communication. The relevant part of the said communication is reproduced below.

"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 destitution and help it get over the emergency. The scheme does not necessarily imply that dependent of each and every deceased/medically boarded out/missing Govt. employee will be offered appointment on compassionate ground. It is pertinent to mention here 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 and therefore no case is considered individually or unit wise, but all the cases received from various units are considered by the Board of Officers constituted at the Headquarters as per the Government policy, to find out the most deserving cases in acute financial distress/more indigent in comparison to other similarly placed cases, against the 5% quota of DR vacancies occurring in a given year.

Accordingly the Board of Officers take the various aspects as stipulated in MOD ID No. 19(4) 824-99/1998-D(Lab) dated 9.3.2001, 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. movable/immovable properties left by the deceased at the time of death, to find out the cases of acute financial distress/most deserving case in relative merit and recommends only the deserving cases 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 for such appointment and it should recommend appointment on compassionate grounds only in a really deserving case and only if vacancy meant for appointment on compassionate grounds will be available within the year and too within the ceiling of 5% prescribed for the purpose in view the Hon'ble Supreme Court ruling in judgment dated 4th 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 ground as a matter of course irrespective of the financial condition of the family of the deceased or medically retired Govt. servant is legally impermissible

and compassionate appointment cannot be granted after lapse of a reasonable period and it is not a vested right which can be exercised at any time in future.

According to the information available on record, the following is the position/State of the family of the deceased (MBO/Missing) government servant :-

(a) The death/MBO/Missing of the Govt. servant occurred on 31.10.1993. His wife, two son(s) and one daughter survive him. The deceased (MBO/Missing) Govt. servant's family received Rs. 2,08,544/- as terminal benefits. At present they are in receipt of monthly pension of Rs.1272/- plus dearness relief of Rs.574/-.

The Board of Officers at this Headquarters after taking into account each aspect referred to above has considered your case along with other candidates. However, due to more deserving cases and few vacancies available, your case was not recommended by the BOO for appointment on compassionate grounds. Moreover the need for immediate assistance by way of compassionate employment assistance ~~or~~ ~~compensation~~ to tide over the emergency and crisis is lacking in your case as the Death of the Government servant was on 31.10.93 i.e. 09 years before his normal retirement."

Hence this application challenging the legality and validity of this communication.

2. The respondents contested the claim of the applicant and filed its written statement. In the written statement the respondents reiterated its earlier stand indicated on 28.12.2002 and further asserted that the applicant's case was duly considered within the parametre of the scheme of compassionate appointment and considering all pros and cons his application was rejected.

3. We have heard Mr K.Paul, learned counsel appearing on behalf of the applicant and also Mr A.Deb Roy, learned Sr.C.G.S.C for the respondents at length. On consideration of materials on record the following aspects stand on the face of the record.

The father of the applicant expired on 31.10.93. The applicant applied for compassionate appointment on 28.9.1994. The case of the applicant was duly processed and at the end

the case of the applicant was turned down on 14.12.2001 i.e. after elapse of 7 years. In the first communication dated 14.12.2001 the respondents rejected the claim on the ground that family was receiving Rs. 1849/- as family pension per month, as such it was above poverty line. In addition the application was also rejected on the ground that more than 8 years after the death of the Government servant the claim was made. The communication dated 20.12.2002 indicated that the Board of Officers took into consideration the case of the applicant in the year 2002 i.e. after 9 years of the death of the Government servant. The case of the applicant was not a deserving one and more deserving cases were there and all such cases should be considered within the ceiling of 5% DR vacancies. The respondents also stated that compassionate appointment cannot be a matter of right. After lapse of a reasonable period it is not a vested right which can be exercised at any time in future. The case of the applicant was squarely covered by the scheme of compassionate appointment. The respondents also admitted the same at the initial stage. The applicant was entitled for consideration as per the existing policy which prevailed at the time of death of his father and at the time he applied for. As alluded earlier the applicant applied for the post in 1994 and entitled to be considered for appointment as per the policy existed. No justifiable ground was assigned by the respondents in rejecting the case of the applicant. The order dated 20.12.2002 is also not sustainable in law on the ground of retiral benefit. Terminal benefit and family pension cannot be a substitute for compassionate appointment, as was held in Balbir Kaur and another vs. Steel Authority of India Ltd. and others, (2000) 6 SCC 493. The other reason

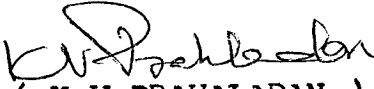
ascribed by the respondents in rejecting the claim was to the effect that the father of the applicant died 9 years before his normal retirement runs counter to the Government policy of compassionate appointment. Admittedly the applicant's father was suffering from carcinoma and passed away for that reason while in service and as per the policy such cases required to be considered with empathy and commiseration. The very concept of appointment has emanated from compassion and humanity.

4. We have given our anxious consideration also ^{to} the submission made by Mr A. Deb Roy, learned Sr. C.G.S.C. that compassionate appointment is not a vested right but then the very Government professed a policy to provide succour to the family of the needy Government employee who died in harness. The scheme has its own meaning. The concern for social justice is goal of the policy. Such cases are to be promptly dealt with. We find no discernible reason for not considering the case of the applicant at right time and drag its feet for no valid ground. One cannot take advantage of the own wrong and reject the claim on the purported ground "of the lapse of a reasonable period". The very policy is palliative nature. It is meant to be interpreted purposively. Rule of thumb are out. The only golden rule as Shaw said that there is no golden rule. Law should serve the public purpose, yet justly and fairly. The considerations those were taken by the respondents are not relevant considerations. On the other hand the respondents in its decision making process took into consideration only extraneous considerations overlooking relevant considerations.

For all the reasons stated above, we set aside the order dated 20.12.2002 and direct the respondents to reconsider the case of the applicant as on 1994 in the light

of the policy decision as was prevailing in the year 1994 and also the observations made in this order. The respondents are directed to complete the exercise as expeditiously as possible, preferably within 3 months from the date of receipt of this order.

With these the application stands allowed. There shall, however, be no order as to costs.


(K.V.PRAHALADAN)
ADMINISTRATIVE MEMBER


(D.N.CHOWDHURY)
VICE CHAIRMAN

24 MAR 2003

गुवाहाटी बेंच
Guwahati Bench

(CONSOLIDATED PETITION)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH::GUWAHATI

O.A. NO. 287 OF 2002

SHRI BINAY KUMAR CHAKRABORTY

- Versus -

UNION OF INDIA & ORS ... RESPONDENTS

SL NO.	PARTICULARS OF DOCUMENTS	ANX NO.	PAGE NOS
01	Application		1-23.
02	Certificate dated 25-11-93	1	24.
03	Application dated 28-09-1994	2	25-26.
04	Certificate regarding proof of income, etc dated 24-12-94	3(Series)	27-30.
05	Application in the prescribed format dated 05-04-95	4	31-35.
06	Statement of case	5	36-37.
07	Recommendation by the Competent authority	6	38.
08	Certificate regarding proof of vacancy	7	39.
09	Certificate regarding eligibility	8	40.
10	Communication dated 24-02-1997	9	41.
11	Representation dated 07-05-1999	10	42-43.
12	Representation dated 10-01-2000	11	44-45.

A was guided by 1979 policy
para 12 p 62

SL NO.	PARTICULARS OF DOCUMENTS	ANX NO.	PAGE NOS
13	Communication dated 29-02-2000	12	46.
14	Communication dated 13-04-2000	13	47.
15	Representation dated 18-05-2000	14	48-49.
16	Communication dated 12-06-2000	15	50.
17	Representation dated. 21-06-2000	16	51-52.
18	Communication dated 25-07-2000	17	53.
19	Representation dated 20-01-2001	18	54-55.
20	Representation dated 15-09-2001	19	56-57.
21	Impugned order conveyed by communication dated 14-12-2001	20	58-61.
22	Application dated 19-01-2002	21	62-63.
23	Fresh order conveyed by communication dated 20-12-2002	22	64-65.

Binay Kumar Chakraborty
SIGNATURE OF THE APPLICANT

FOR USE IN TRIBUNAL'S OFFICE

Date of filing :-
Registration No:-
Registrar.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. NO. 287 OF 2002

BETWEEN :- Shri Binay Kumar Chakraborty,
Son of MES/265366 Late S.K. Chakraborty
C/o Late Radhika Ranjan Deb,
Fourth Lane, Fan Dokan Bus stand,
Kahilipara, Guwahati-18, Assam.

- APPLICANT

- A N D -

- 1) Union of India
represented by the Secretary
to the Government of India,
Ministry of Defence, North Block,
Parliament Street, New Delhi.
- 2) The Engineer-in-chief's Branch,
Army Headquarters, Kashmir House,
DHQ, New Delhi- 110 011.
- 3) The Chief Engineer,
Headquarters,
Eastern Command,
Engineers Branch (EIC 2)
Fort William, Calcutta- 700 021.
- 4) Head Quarters,
Chief Engineers, Shillong Zone,
Spread Eagle Falls,
Shillong- 793 011.

Filed by, Binay Kumar Chakraborty
through, Krishnendu Paul
Advocate, 24-03-2003.

5) The Garrison Engineer,
Missamari.

6) The CWE, Tezpur,
Commander Works Engineer,
G.E. Soimara, Tezpur.

- RESPONDENTS

1) PARTICULARS OF THE ORDER AGAINST WHICH THE PETITION
IS FILED

i) The instant application is directed against the order passed by the competent authority rejecting the case of the applicant for compassionate appointment in the MES Department, which was communicated vide letter dated 14-12-2001 bearing No. 70601/25/45/E.I.C(I) issued from the Office of the Chief Engineer, Shillong Zone, spread Eagle Falls, Shillong 793 011, as well as the fresh order dated 20-12-2002 bearing No. 70601/25/SO/105/EIC(I) issued by the same authority during pendency of this original application before the Hon'ble Tribunal.

ii) This application is also filed seeking a suitable direction towards the respondents to appoint the applicant on compassionate ground in the post of LDC which is lying vacant in the Office of the Garrison Engineer, Missamari.

2) JURISDICTION OF THE TRIBUNAL

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

Contd....(3).

18
Binay Kumar Chakraborty

3) LIMITATION

The applicant declares that the instant application is within the limitation period prescribed in section 21 of the Administrative Tribunal's Act, 1985.

4) FACTS OF THE CASE

4.1. That the applicant is a citizen of India and as such is entitled to all the rights, protection and privileges guaranteed under the Constitution of India.

4.2. That the instant application has been filed by the applicant making a grievance against the order passed by the respondent authority rejecting the case of the applicant for appointment on compassionate ground in the MES department, which was communicated vide letter dated 14-12-2001 bearing Memo No. 70601/25/45/EIC(I) issued from the Office of the Chief Engineer, Shillong Zone, spread Eagle Falls, Shillong-11. The application for compassionate appointment was submitted by the applicant on 28-09-1994 after the expiry of his father on 31-10-1993, who was serving as Charge Mechanic HS-1 under the respondents. Being aggrieved by the rejection of his case for appointment, the applicant's mother submitted an appeal before the Defence Minister, New Delhi on 19-01-2002, praying for cancellation of the order dated 14-12-2001 and for appointment of the applicant, as the family was facing severe financial hardship. The said appeal submitted by the applicant's mother bore no fruit and ultimately the applicant had to approach this Hon'ble Tribunal through Original Application No. 287/2002 challenging the order dated 14-12-2001 and praying for a direction

Contd...(4).

19
Binay Kumar Chakraborty

towards the respondents to appoint the applicant on compassionate ground.

During the pendency of the aforementioned Original Application, the respondent No. 4 issued a fresh order dated 20-12-2002 bearing No. 70601/25/50/105/EIC(I), whereby the earlier H.Q. letter No. 70601/25/45/EIC(I) dated 14-12-2001, was cancelled and it was further stated that the competent authority has rejected the employment assistance to the applicant.

Since the fresh rejection order dated 20-12-2002 was in violation of section 19(4) of the Administrative Tribunals Act, 1985, and it being devoid of any justifiable ground, the applicant filed Misc. Application No. 3/2003 challenging the validity of this order and for making necessary ~~an~~ amendment in Original Application No. 287/2002, incorporating the aforementioned facts. This Hon'ble Tribunal was pleased to allow the Misc Application on 26-02-2003 and the applicant was asked to file a consolidated petition. Hence this petition is filed before this Hon'ble Tribunal against the order dated 14-12-2001 and the fresh rejection order dated 20-12-2002 and praying for a suitable direction towards the respondents to appoint the applicant on compassionate ground.

4.3. That the applicant's father Late Sudhir Kumar Chakraborty was serving in Military Engineer services under Ministry of Defence since 01-05-1959, While, working as charge mechanic HS-1 of the AGE E/M Missamari under Garrison Engineer, Missamari, the applicant's father expired on 31-10-1993 leaving behind his wife (applicant's mother) and three children.

20
Bivay Kumar Chakraborty

- (5) -

A copy of the certificate dated 25-11-1993 issued from the Office of the Garrison Engineer, Missamari is annexed hereto and is marked as ANNEXURE-'1' to this application.

4.4. That the applicant submitted an application for appointment on compassionate ground, after the expiry of his father MES 265366 Late S.K. Chakraborty on 31-10-1993, while he was still in service. The applicant applied for appointment on compassionate ground to the Chief Engineer, Head quarters, Shillong Zone, Shillong on 28-09-1994. In that application the applicant stated all the relevant facts and requested for his appointment in the MES Department in the post of LDC or any other suitable job.

A copy of the said application dated 28-09-1994 is annexed hereto and marked as ANNEXURE-'2' to this application.

4.5. That the applicant submitted willingness certificate, property certificate, income certificate, inhabitant certificate, dated 24-12-1994, for consideration of his case for appointment in the MES Department.

Contd....(6).

21
Bivay Kumar Chakraborty

Copies of the relevant certificates are annexed hereto and are marked as ANNEXURE-'3'(series) to this application.

4.6. That the applicant submitted his application for appointment on compassionate ground in the prescribed format. The facts mentioned in part-I of the Prescribed Format have been verified and the case of the applicant was recommended by the Garrison Engineer, Missamari. on 05-04-1995.

A copy of the said application in the prescribed format is annexed hereto and marked as ANNEXURE-'4' to this application.

4.7. That the Garrison Engineer, Missamari respondent No. 5 prepared a statement a statement of case for employment of the applicant on 05-04-1995. The said respondent No. 5 submitted a proposal for employment of the applicant as a LDC, store keeper or Meter Reader in the MES under the Ministry of Defence because after the death of the applicant's father MES/265 366 Late S.K. Chakraborty, charge Mechanic HS-I, the family is in indigent circumstances. There is no other source of income except the meagre amount of terminal benefits. As such, the Garrison Engineer, opined that the family deserves Government assistance by way of employment to the applicant.

Contd....(7).

22
Bivay Kumar Chakraborty

Binay Kumar Chakraborty

A copy of the aforementioned statement of case is annexed hereto and marked as ANNEXURE-'5' to this petition.

4.8. That the case of the applicant was strongly recommended for compassionate employment by the respondent No. 5. The applicant was found to be educationally qualified and is within the prescribed age limit as per recruitment rules.

A copy of the relevant certificate is annexed hereto and marked as ANNEXURE-'6' to this application.

4.9. That the said respondent No. 5 has also certified that there existed a clear vacancy in the post of LDC for appointment of the applicant who is the dependent of deceased Late S.K. Chakraborty, charge Mechanic and funds are available.

A copy of the aforementioned certificate is annexed hereto and marked as ANNEXURE-'7' to this application.

4.10. That the applicant was also found to be eligible for compassionate employment and his case for appointment was covered under the relevant circular of the Government. The respondent No. 5 has certified that

24

Bivay Kumar Chakraborty

-(8)-

the applicant's case for employment is covered vide item VI of para 2 of the Govt. of India, Ministry of Home Affairs letter No. 14014/1/77/Estt (D) Dated 25-11-1978 received under Engineer In-Chief's Branch letter No. 65926/EIC Dated 10-01-1979.

A copy of the eligibility certificate is annexed hereto and marked as ANNEXURE-'8' to this application.

4.11. That the applicant begs to state that although he had applied for compassionate appointment in 1994 and he also appeared in an interview and declared to have passed the same, he was not informed about the outcome of the application. The applicant submitted a number of representation but without any result. The respondent No. 5 ^{vide} communication dated 24-02-1997 informed the applicant that no additional vacancies of LDC's covering the period upto 30-06-1992 will be allotted to ~~and~~ accommodate persons listed on compassionate ground. In that view of the matter the applicant was asked to submit revised option and give fresh choice to the category mazdoor, peon, Safaiwala and Chowkidar.

A copy of the communication dated 24-02-1997 is annexe d hereto and is marked as ANNEXURE-'9' to this application.

Contd....(9).

4.12. That the applicant repeatedly met the respondents and requested for considering his case for appointment on compassionate ground but without any success. The applicant's mother also submitted a representation in this connection addressed to the Chief Engineer, Eastern command, Calcutta-21 requesting for the appointment of her son in the MES Department. In the said representation dated 07-05-1999, she had stated that her ~~xxx~~ husband died on 31-10-1993 due to cancer while still in service. After his death the entire family is facing severe economic hardship and she is getting half pension according to headquarter's rule which is not sufficient to run the family.

A copy of the representation dated 07-05-1999 is annexed hereto and marked as ANNEXURE-'10' to this application.

4.13. That the applicant on 10-01-2000 submitted a representation addressed to the Engineer-in-Chief's Branch, Army Headquarters, New Delhi, requesting him to appoint the applicant in the MES Department in any post at any place so as to enable him to run the family after the expiry of his father. The applicant also stated that though he had qualified himself in the interview held in the year 1994. Yet he has not been appointed inspite of available vacancies.

Contd....(10).

125
Bijay Kumar Chakraborty

A copy of the representation dated 10-01-2000 is annexed hereto and is marked as ANNEXURE-'11' to this application.

4.14. That the applicant received a communication dated 29-02-2000 bearing No. 70601/25/193/EIC(I) from the Office of the Chief Engineer, Shillong Zone (respondent No. 4). In that communication respondent No. 4 has stated that the applicant's name is at serial No. 21 of the seniority list for appointment on compassionate ground in the post of LDC. It was also stated that appointment will be made on receipt of Government sanction.

A copy of the communication dated 29-02-2000 is annexed hereto and marked as ANNEXURE-'12' to this application.

4.15. That the applicants received another communication dated 13-04-2000 bearing No. 70601/25/211/EIC(I) from the respondent No. 4. According to this communication, the seniority for considering the appointment on compassionate ground is 21 as per the register maintained by the Office of the respondent No. 4. The applicant was informed that further development of the case will be intimated to him in due course.

A copy of the communication dated 13-04-2000 is annexed hereto and marked as ANNEXURE-'13' to this application.

contd...11

26
Bijay Kumar Chakraborty

4.16. That the applicant begs to state that notwithstanding the recommendation of the appropriate authority and the existence of clear cut vacancy, the applicant is yet to be appointed as LDC, on compassionate ground. The applicant submitted another representation on 18-05-2000 addressed to the Engineer-in-Chief's Branch, Army Headquarters, New Delhi, stating that after the expiry of his father his family consisting of four members have been facing immense financial difficulties. The applicant requested the respondent authority to consider his case sympathetically and appoint him accordingly.

A copy of the representation dated 18-05-2000 is annexed hereto and is marked as ANNEXURE-'14' to this application.

4.17. That with reference to the application dated 18-05-2000 submitted by the applicant, the respondent No. 4 vide communication dated 12-06-2000 bearing 70601/25/220(EIC(I) informed the applicant that his seniority for considering the appointment on compassionate ground is 21, as per the register maintained by the Office, for the post of LDC. It also stated that further development of the case will be intimated to the applicant in due course.

A copy of the communication dated 12-06-2000 is annexed hereto and marked as ANNEXURE-'15' to this application.

Contd...(12).

24
Bivay Kumar Chakraborty

4.18. That the applicant thereafter submitted a representation addressed to the Chief Engineer, Eastern command, Calcutta-21 on 21-06-2000 expressing the difficulties experienced by the applicant and his family consisting of four members. As there is no source of income nor any landed property, the applicant requested the respondent authority to consider his case for appointment sympathetically the applicant being the dependent of a deceased Government employee.

A copy of the representation dated 21-06-2000 is annexed hereto and is marked as ANNEXURE-'16' to this application.

4.19. That in reply to the representation dated 21-06-2000, the respondent No. 4 vide communication dated 25-07-2000 bearing No. 70601/25/241/EIC(I) informed the applicant that his seniority for appointment on compassionate ground is 21 as per the register maintained by the Office for the post of LDC. It was also stated in the communication that further development in the case will be intimated to the applicant in due course.

A copy of the communication dated 25-07-2000 is annexed hereto and is marked as ANNEXURE-'17' to this application.

4.20. That finding no response from the respondent the applicant submitted another representation

Contd. (13)

on 20-01-2001 addressed to the Chief Engineer, Eastern command, Calcutta-21. The applicant expressed his grievance and requested the respondent authority to appoint him at any place because his family was facing great hardship.

A copy of the representation dated 20-01-2001 is annexed hereto and marked as ANNEXURE-'18' to this application.

4.21. That as the applicant did not receive any reply to the representation filed by him before the respondent No. 4 the applicant's mother Smt. Usha Rani Chakraborty submitted a representation to the Defence Minister on 15-09-2001. In the said representation, the applicant's mother stated that after the untimely death of her husband the family is facing a lot of financial problems and the pension amount has been reduced to half. She had requested for the appointment of her son on compassionate ground to save the family from starvation.

A copy of the representation dated 15-09-2001 is annexed hereto and marked as ANNEXURE-'19' to this application.

4.22. That the Chief Engineer Head Quarter, Shillong Zone, Shillong vide communication dated 14-12-2001 bearing No. 70601/25/45/EIC(I), informed the

29
Bijay Kumar Chakraborty

applicant that his case for compassionate appointment has been rejected . The reasons for rejecting the case of the applicant is that the family is above the poverty line and the need for immediate assistance by way of compassionate employment is also lacking and therefore the competent authority did not approve the case of the applicant for appointment.

A copy of the communication dated 14-12-2001 is annexed hereto and is marked as ANNEXURE-'20' to this application.

4.23. That being aggrieved by the order whereby the applicant's case for appointment on compassionate ground has been rejected, the applicant's mother submitted an appeal before the Defence Minister, New Delhi on 19-01-2002. The applicant's mother made a request for cancelling the rejection order passed by the Department and to provide the applicant with the job.

A copy of the aforementioned representation dated 19-01-2002 is annexed hereto and marked as ANNEXURE-'21' to this application.

4.24. That thereafter no communication has been made by the respondents with the applicant and he is yet to be appointed on compassionate ground despite fulfilling all necessary conditions. Being aggrieved the applicant approached this Hon'ble Tribunal through original Application No. 287/2002 praying for setting

130
Binay Kumar Chakraborty

aside and quashing the impugned order conveyed vide communication dated 14-12-2001 and for a direction towards the respondents to appoint him on compassionate ground. The said O.A. No. 287/2002 was filed on 02-09-2002 was filed on 02-09-2002 and notices were issued upon the respondents on 04-09-2002. The applicant took steps for service of notice and in fact the respondents have received the same.

4.25. That the case was listed before the Hon'ble Tribunal on 04-10-2002, 05-11-2002, 20-11-2002 and 23-12-2002 but on each date the respondents failed to show cause as to why the relief sought for should not be granted to the applicant. On the prayer made by the learned counsel for the respondents, the case was adjourned till 28-01-2003, for filing written statement. However, most surprisingly, the respondent No. 4 issued a fresh order, during the pendency of the Original Application No. 287/2002, which was conveyed vide communication dated 20-12-2002 bearing No. 70601/25/50/105/EIC(I), whereby the earlier H.O. letter No. 70601/25/45/EIC(I) dated 14-12-2001 was cancelled and further stating that the competent authority has rejected the employment assistance to the applicant as because there were other more deserving cases.

A copy of the fresh rejection order conveyed vide communication dated 20-12-2002 is annexed hereto and marked as ANNEXURE-'22' to this application.

Contd....(16).

21
Bivay Kumar Chakraborty

5. GROUND FOR RELIEF:-

5.1. For that in view of the facts and circumstances stated above the impugned order (s) dated 14-12-2001 and 20-12-2002 are not sustainable.

5.2. For that the respondents ought to have appointed the applicant on compassionate ground because he was found eligible for such appointment and his case was strongly recommended by the respondent No. 5 who has also certified that there existed a vacancy for accomodating the applicant and necessary funds are also available.

5.3. For that the respondents have all along assured the applicant that his case for appointment on compassionate ground in the post of LDC is under consideration and the appointment will be made on receipt of sanction from the Government. Therefore the respondents now cannot turn around and alter their stand by rejecting the case of the applidant for compassionate appointment as reflected from the communication(s) dated 14-12-2001 and 20-12-2002.

5.4. For that in the communication dated 14-12-2001 it has been stated that since the family is receiving Rs. 1849/- (min) as family pension, it is above the proverty line. This is contrary to the records because in the statement of the case prepared by the respondent No. 5 it was clearly stated that the family of the applicant is in indigent circumstance with no source of income and accordingly the case of the applicant was strong recommended for appointment. Now that the family is receiving only half of the

amount which was earlier received as pension therefore the ground for rejecting the applicant's case is not tenable because now the family is suffering greater hardship with the pension amount being reduced to one half. Later on, the respondents, in all probability, realised that this cannot be a ground for denying employment assistance to the applicant, therefore they came up with a fresh order dated 20-12-2002 wherein they took the plea that due to more deserving cases, the applicant could not be given appointment. Sadly enough, the fresh order dated 20-12-2002, also reveals, total non-application of mind on the part of the respondents to the attending facts and circumstances and marked apathy to the plight of the poor applicant, where family is suffering untold financial difficulties after the premature death of the breadwinner of the family.

5.5. For that the applicant's father died due to cancer while he was still in services. More than half of the terminal benefit was spent for his treatment. The applicant and his family members were asked to vacate the quarters after about 1 year of his father's death and since then they have been staying in rented premises at Guwahati. No member of the family is in Government service. Therefore the respondents ought to have provided the applicant with compassionate employment to mitigate the severe economic crisis in the family.

5.6. For that the respondent authority stated in the communication(s) dated 14-12-2001 and 20-12-2002 that the need for immediate assistance is lacking as the applicant's father died more than eight years back and therefore the applicant's case for compassionate

33
Binay Kumar Chakraborty

-(18)-

appointment has not been approved. The applicant respectfully submits that the respondent authority cannot take up such plea for rejecting his case because it is the respondents themselves who are to blame for not appointing the applicant at an earlier point of time when vacancy in the post of LDC was available.

5.7. For that the respondent authority ought to have appointed the applicant in the post of LDC on compassionate ground because he was all along given the assurance that he would be appointed as such. Because of the assurance given by the respondent authority from time to time the applicant did not try for alternative means of livelihood. Now after being asked to wait for all these years for the job, respondents have informed him that he cannot be provided with employment. Had the applicant been informed about the outcome of his application dated 28-09-1994 in time, he would have searched for alternative jobs.

5.8. That the applicant begs to state that his family is undergoing tremendous financial hardship and is finding it very difficult to make both ends meet. This aspect was initially realised and appreciated by the respondent authority while recommending the case of the applicant for compassionate employment. But a sudden change in the attitude of the respondents is discernible, who have now rejected the case of the applicant, for the reasons best known to them. The applicant is at a loss to understand why the respondent authority is behaving in this strange manner.

Contd....(19).

Binay Kumar Chakraborty

5.9. That the applicant respectfully submits that the Apex Court in one of its recent judgment in the case of Balbir Kaur v. Steel Authority of India Ltd, reported in (2000) 4 sec 493, held that the socialistic pattern of society as envisaged in the constitution has to be attributed its full meaning and the law Courts cannot be mute spectators in the matter of denial of relief to the horrendous sufferings of an employee's family by reasons of the death of the breadearner.

5.10 That the applicant states that the impugned order dated 14-12-2001 as well as the fresh order conveyed through the communication dated 20-12-2002, rejecting the case of the applicant for compassionate appointment are bereft of any justifiable ground. The impugned orders have been passed in arbitrary exercise of power. It also reveals total non application of mind on the part of the respondents who are least concerned about the welfare of the poor family of one of their ex-employee. The respondents have denied relief to the applicant on extraneous consideration and they are trying to justify their stand in this regard by resorting to all sorts of technicalities, without even caring for the orders passed by the Hon'ble Tribunal. The order dated 20-12-2002 is liable to be set aside only on this ~~xx~~ sole consideration that it was passed during the pendency of O.A. No. 287/2002.

5.11. That the applicant with utmost humility states that the respondents ought to have considered his case for appointment soon after the death of his

35
Bivay Kumar Chakraborty

father when there was a suitable vacancy. Having not done so and by unnecessarily lingering the matter they are now trying to justify the rejection of the applicant's case for appointment on the ground that the death took place a number of years ago and the need for immediate assistance is lacking and that the family is above the poverty line since it is receiving Rs. 1849/- as pension. But the respondents have realised that these grounds for rejecting the applicant's case cannot stand legal scrutiny and therefore they have cancelled the earlier order dated 14-12-2001. After cancelling this order the respondents ought to have considered the applicant's case for appointment. Unfortunately, they have not done so and rather they are adamant not to provide any relief to the poor applicant by way of compassionate appointment as revealed by the impugned order dated 20-12-2002.

5.12. For that the respondents cannot be permitted to go back on their assurances on such flimsy and frivolous grounds. The applicant's family is suffering from immense financial difficulties. Therefore the respondent authority ought to have appointed the applicant on compassionate ground and thus provide relief to the family of the deceased employee.

5.13. For that the order conveyed vide communication dated 14-12-2001 as well as the fresh order dated 20-12-2002 rejecting the claim of the applicant for compassionate employment are illegal, arbitrary and discriminatory in nature. The impugned action of the respondents has violated the fundamental rights of the petitioner guaranteed under Article 14, 16 and 21 of the

Birey Kumar Chakraborty

constitution of India and also violative of the principles of natural justice and administrative fairplay. The impugned orders are based on extraneous consideration and bear no nexus with the objective sought to be achieved. The impugned orders have been passed in colourable exercise of power and without application of mind and therefore liable to be set aside and quashed. The respondents are to be directed to provide compassionate employment to the applicant without any further loss of time.

5.14. For that the applicant has been running from pillar to post for the last couple of years to secure his appointment on compassionate ground. He did not approach this Hon'ble Tribunal earlier because he was repeatedly assured by the respondents that his appointment was going to be made. However, the respondents have gone back on their promise and have rejected his case for appointment on flimsy grounds for which the applicant has been left with no other alternative than to approach this Hon'ble Tribunal seeking justice.

6) Details of remedy Exhausted :-

The applicant declares that he has availed of all remedies available to him.

7) MATTERS NOT PREVIOUSLY FILED OR PENDING WITH 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 or any

Contd....(22).

37
Bivay Kumar Chakraborty

other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8) RELIEFS SOUGHT:-

Under the circumstances, the applicant respectfully prays that the Hon'ble Tribunal may be pleased to admit this case, call for records of the case and upon hearing the parties on the cause/causes that may be shown and on perusal of records may be pleased to grant the following relief(s) to the applicant -

(i) To set aside ~~the~~ and quash the impugned order conveyed vide communication dated 14-12-2001 (Annexure-'20') as well as ~~the~~ the fresh order conveyed vide communication dated 20-12-2002 (Annexure-'22') whereby the case of the applicant for appointment on compassionate ground in the post of LDC in the MES, has been rejected.

(ii) To direct the respondents to appoint the applicant on compassionate ground in the post of LDC which is lying vacant in the Office of the respondent No. 5 or in any other suitable vacancy without any further delay.

(iii) Any other relief or reliefs to which the applicant is entitled under the facts and circumstances of the case.

9) INTERIM ORDER, IF ANY PRAYED FOR :

Pending final decision on the application the applicant prays that the Hon'ble Tribunal may be

Contd...(23).

38
Binay Kumar Chakraborty

pleased to direct the respondents not to fill up the post of LDC which is lying vacant in the Office of the Garrison Engineer, Missamari.

10) THE APPLICATION IS FILED THROUGH ADVOCATES

11) PARTICULARS OF THE INDIAN POSTAL ORDER

- (i) ~~xxx~~ IPO No. 049238, 049239, 049240, 049241 and 049242.
- (ii) Date :- 29-08-2002
- (iii) Payable at :- Guwahati.

12) LIST OF ENCLOSURES :-

As stated in the index.

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

I, Shri Binoy Kumar Chakraborty, son of Late S.K. Chakraborty, aged about 26 years, resident of Fourth Lane, Pan Doka Bus stand, Kahilipara, Guwahati-18, Assam, do hereby verify that the contents of paragraphs 4.1 to 4.25 are true to my personal knowledge and paragraphs 5.1 to 5.14 are believed to be true on legal advice and that I have not suppressed any material fact.

Date :- 24-03-2003
Place :- Guwahati.

Binay Kumar Chakraborty
Signature of the applicant

PROOF OF
JAY KUMAR CHAKRABORTY
AS AN J.E.S. EMPLOYEE.

-24-

CERTIFICATE

ANNEXURE - 1⁴⁰

Inhabitant of

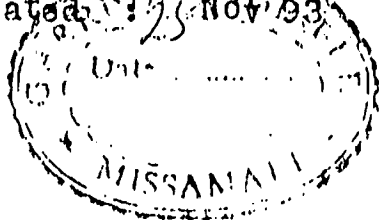
This is to certify that MES/265366 Sri Sudhir Kumar Chakraborty, Ch/Mech ~~with~~ ^{is} serving in Military Engineer Services under Ministry of Defence since 01.5.59 and expired on 31 Oct 93. Smt Usha Rani Chakraborty wife of Late Sudhir Kumar Chakraborty is ~~from~~ ^{of} Midnapure (West Bengal) (India) as per Service Record in this office.

Family details in respect of Late Sudhir Kr. Chakraborty are as under :-

- 1) Pranay Kr. Chakraborty, Son (D/B 19 Jul 71)
- ii) Binoy Kr. Chakraborty, Son (D/B 27 Jul 76)
- iii) Km. Situli Rani Chakraborty, Daughter (D/B 14 Jan 78)

Station: Missamari

Date: 11/06/93



(HC Das)
AGE 'T'

for Garrison Engineer
FOR GARRISON ENGINEER

*Certified to be true copy.
Krishnendu Paul
Advocate
24-03-2003.*

ANNEXURE - 2

From:-

Shri Binoy Kumar Chakraborty,

S/o MES/265366 Late

S.K. Chakraborty, Ch/Mech

Qtr No. T/3/2, Govindnagar,

P.O. Missamari

Dist. Sonitpur (Assam)- 784 506

To

Chief Engineer

HQ Shillong Zone

Shillong

(Through proper Channel)

APPOINTMENT OF DEPENDENT OF DECEASED

GOVT EMPLOYEE IN MES DEPARTMENT

Respected sir,

I beg to submit the following few line for your kind consideration and favourable orders please.

Sir, my father MES/265366 Late S.K. Chakraborty Ch/Mech HS-I of AGE E/M Missamari under Garrison Engineer Missamari expired on 31 October, 1993, I belong to a very poor family and I have got four members in our family (mother brothers and sister). It is for your kind information that I have passed Higher Secondary Examination from Kendriya Vidyalaya and also passed typing examination in English. I have no other income nor have any land property on my own or in the name of my Late father.

After the untimely death of my father I find it great difficulties to meet my expenses even the daily needs. Since I being poor son having many members of our family facing lot of financial stringency to pull day to

Contd.....(2).

*Certified to be true
Krishnendu Paul
Advocate
24-03-2003.*

day life. Now I am in such a state of critical juncture to look after our family, without having any income from any source.

In view of the above it is requested that my/case may please/be considered favourably for appointing me in MES department in case the post of LDC or any other job suitable for me considering my qualification so as to enable me to look after our family.

I hope your honour will consider my case sympathetically and order for my appointment as sought above for which act of kindness I shall remain ever grateful to you sir,

Thanking you in anticipation,

Yours faithfully,

Station : Missanari

Dated : 23 Sep, 94.

(BINOM KR CHAKRABORTY)
S/o LATE S.K. Chakraborty
Ex.ch/Mech

ANNEXURE - 3 (Series)

WILLINGNESS CERTIFICATE

Certified that I am willing my younger son Shri Binoy Kumar Chakraborty to serve any where in India in case non availability of vacancies in the area/zone..

Signature of applicant

Usha Rani Chakraborty

Wife of Late S.K. Chakraborty

Charge Mechanic.

*Certified to be true
Krishnendu Paul
Advocate
24-03-2003*

PROPERTY CERTIFICATE

This is to certify that Late S. K. Chakraborty, vill. Padi si Morela, P.O. Garubanda, Dist. Sonitpur, Assam has died on 31 Oct 1995 and had left nothing as earning source maintenance of the family which consist 4 (four) members.

Date 24-12-95.

[Signature]
Block Dev. Officer
Dhekijy St. Block Dev. Officer
Dhekijy Block Development Block.

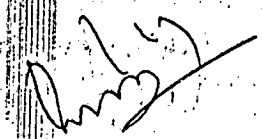
*Certified to be true
Krishnendu Paul
Advocate
24-03-2003.*

SOURCE OF INCOME AND ASSETS

Certified that Mr. Binay Kr. Chakraborty son of Late S.K. Chakraborty of village-Patidai Bharela, P.O. Garubanda, Dist-Sonitpur in the state of Assam is a poor and there does not stand any landed property in his family's name.

It is also certified that he does not have source of income after expiry of his father.

Date 24-12-94.


Block Dev. Officer
Dhekiajuli Block Development Block,
Dhekiajuli.

*Certified to be true
Krishnendu Paul
Advocate
24-03-2003.*

- 30 -

46

INHABITANT CERTIFICATE

This is to certify that Mr Binay Kr Chakraborty son of
Late S. K. Chakraborty of vill. Patidai Bharela, PO Garubanda
Dist. Sonitpur, Assam is known to me very well.

Date 24-12-94.

Block Dev. Office
Dhekiya J. Block Dev. Office
Dhekiya J. Block Dev. Office
Borsola Development Block

Certified to be true
Krishrendu Paul
Advocate
24-03-2003.

ANNEXURE - '4'

E-IN-C's BR LETTER NO. 35926/POLICY/EIC DATED 22 FEB 88/
PROFORMA REGARDING EMPLOYMENT OF DEPENDENTS OF GOVERNMENT
SERVANT DYING WITHIN SERVICE RETIRED OR INVALID SERVICE

PART-I

1. (a) Name of the deceased Retired on :- MES/265366 Late
invalid pension employed. SK Chakraborty,
Ch/Mech HS-I
- (b) Designation of the Employee :- Charge Mechanic HS-I
- (c) Date of birth of the employee :- 04 Aug 1938
- (d) Date of death :- 31 Oct 1993
- (e) Total length of service record :- 34 years 6 months.
- (f) Whether permanent or Ty :- Pt
- (g) Whether belonging to SC or ST :- Neither.
- II (a) Name of the candidate for apptt :- Shri Binoy Kumar
Chakraborty
- (b) His/her relationship with the
employee :- Son
- (c) Date of birth :- 27 July 1976
- (d) Educational Qualifications :- Higher Secondary
Examination with
English typing.
- (e) Whether any other dependant
has been appointed on
compassionate grounds :- No.
- III (a) Particulars of total assets
left including amount of
- (a) Family pension :- Rs. 768/- p.m.
- (b) DCR Gratuity :- Rs. 63,360/-
- (c) GPF Balance :- Rs. 95,938/-

*Certified to be true
Krishnendu Paul
Advocate
24-03-2003*

Contd...(2).

-(2)-

- (d) LIC policies :- Nil
- (e) Movable and immovable properties and annual income earned therefrom by the family :- Only meagre pension of his father.
- (f) Encash of leave :- Rs. 14,640/-
- (g) Any other assets :- Nil
- (h) C.G.E.I.S. Amount :- Rs. 34,606/-

IV Brief particulars of liabilities if any. :- Nil

V) Particulars of all dependents of the Govt. servant (if some are employed their income and whether they are living together or separately)

SL. NO.	NAME	Relationship with the Govt. servant are	employed or not particulars of employment and emoluments
01	Shri Pranay Kr. Chakraborty	Son	19-07-1975 No
02	Shri Binoy Kr. Chakraborty	Son	27-07-1976 No
03	Miss Simli Rani Chakraborty	Daughter	14-01-1978 No

DECLARATION

I hereby declare that the facts given by me above are to the best of my knowledge is correct. If any of the facts herein mentioned are found to be incorrect or false at a future date my services may be terminated.

Signature of the candidate
(Binoy Kumar Chakraborty)

Contd... (3).

-(3)-

Sd/- Illegible

Signature of the permanent
Govt. Servant.

MES No. 246249

Name : Shri A N Bhawnik, Office
Supdt Gde II

Address : GE Missamari

I have verified that the facts mentioned by the
candidate above are correct.

Signature of the Welfare Officer.

PART-II

- (a) Name of the candidate : SHRI BINOY KUMAR CHAKRABORTY
for appointment
- (b) His relationship with the : Son
employee
- (c) Educational Qualification : Higher Secondary Examination
age (date of birth) and : in the year 1994
experience if any : 27-07-1976
English Type writing, Speed 40
words per minute.
- (d) Post for which employment : LDC, Store Keeper, Meter Reader.
is proposed.
- (e) Whether the post is to : NA
be filled in CSDs or in
a non participating. 18 yrs 27.7.1976
- (f) Whether the recruitment : Yes
rules provide for
direct recruitment
- (g) Whether the candidates : Yes
fulfill the requirement
of the recruitment
rules for the post
- (h) Apart from waiver of : Nil
employment exchange
procedure what other
relations are to be
given.
- II . Whether the facts mentioned : Yes, verified from the
in Part-I have been service Records.
verified by the Office and
if so, indicate the records.

-(2)-

III. Personal recommendation of the : Recommended.

Head of the Department/

Ministry

IV. If the employee died/retired : Not applicable.

on invalid pension more than

5 years back. Why the case

was not sponsored earlier.

Station : Missamari

Garrison Engineer

Dated :

STATEMENT OF CASE FOR EMPLOYMENT OF SON OF THE DECEASED
GOVT. SERVANT

INTRODUCTION

1. MES/265366 Late S K Chakraborty, charge Mechanic HS-I while serving under GE Missamari (AGE E/M Missamari) expired on 31 October, 1993. Smti Usha Rani Chakraborty, wife of above deceased is entitled a meagre amount of the following:-

(a) Family Pension

(b) Death-cum Retirement Gratuity etc.

2. The widow is now drawing family pension Rs. 768/- p.m. The following amounts have already been paid to her :-

(i) DCRG	Rs. 63,360/-
(ii) GP Fund Balance	Rs. 95,938/-
(iii) CGEIS	Rs. 34,606/-

PROPOSAL

3. Due to death of above individual, the wife i.e. Smt Usha Rani Chakraborty, in indigent circumstances. There is no other source of income except the meagre amount of terminal benefits which is inadequate to meet here requirement to maintain the family consisting of children in these hard days. As such she deserves Govt. Assistance by way of employment to her son.

DETAILED JUSTIFICATION

4. Smt. Usha Rani Chakraborty, wife of the deceased has requested for employment to her son in the department of MES.

*Certified to be true
Krishnendu Paul
Advocate
24-03-2003.*

Contd...(2).

SUMMARY

5.. In view of the above, it is requested that an early action may please be taken to agree for employment for Shri Binoy Kumar Chakraborty, (son) as a LDC, Store Keeper or Meter Reader in the MES, under the Ministry of Defence in relaxation of normal recruitment procedure.

(R.S. Chatterja)

Maj

Garrison Engineer

Station : Missamari

Sd/-Illegible

Dated : 05 Apr 95

5/4

ANNEXURE - '6'

RECOMMENDATION OF THE GE

The case for appointment of Shri Binoy Kumar Chakraborty, S/o MES/265366 Late S.K. Chakraborty Charge Mechanic HS-I for the post of LDC or Store Keeper is strongly recommended. He is educationally qualified and is within the prescribed age limit as per recruitment rules.

(R.S. Cheema)

Maj

Station : Missanari

Garrison Engineer

Date : 05 Apr 95

sd/- Illegible

5/4

*Certified to be true
Krishnendu Paul
Advocate
24-03-2003.*

CERTIFICATE

AS PER E-IN -C's BRANCH LETTER NO. 65926/EIC DATED 16 FEB 74

Certified :-

- (a) A clear vacancy for appointment of LDC exists for employment of dependent of deceased Late S K Chakraborty Ch Mech.
- (b) Clear Vacancy exists after adjustment of surplus and deficiencies which have been declared and released under AO/S/76 for appointment other than (a) above.
- (c) Retrenched personnel are eligible for re-employment and considered before new entrance are appointed.
- (d) Funds are available.

Garrison Engineer.

*Certified to be true
Krishrendu Paul
Advocate
24-03-2003.*

ANNEXURE - '8'

ELIGIBILITY CERTIFICATE

Certified that the case of Shri Binoy Kumar Chakraborty S/o Late S K Chakraborty is covered vide Item VI of para 2 of Govt. of India, Ministry of Home Affairs letter No. 14014/1/77/Estt (D) dated 25th Nov 78 received under E-in C's Br letter No. 65926/EIC dated 10 Jan 79.

(R.S. Cheema)

Maj

Garrison Engineer

Station : Missamari

Dated : 05 Apr 95

Sd/- Illegible

5/4

*Certified to be true
Krishnendu Paul
Advocate
24-03-2003.*

Telc 11 513

Garrison Engineer
Missamari

1011/C/ 252 /E1A

24 Feb 87

SHRI BINAY KR CHAKRABORTY,

S/O LATE S K CHAKRABORTY,

C/O Qtr No. T/3/2 GOVIND NAGAR

P.O. : MISSAMARI

Dist : SONITPUR (ASSAM)

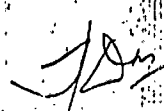
COMPASSIONATE APPOINTMENT LIC TO THE
REQUIREMENTS OF DECEASED GOVT SERVANT

Dear Sir/Madam,

1. It has been intimated by our higher headquarters that no additional vacancies of LICs covering the period upto 30 Jun 82 will be allocated to accommodate persons listed on compassionate ground.

2. In view of the above, this is to inform you, that you may submit your revised option and give fresh choice to the category Mazdoor, Peon, Safaisida & Chowkidar and also note that you will be permitted your original seniority as a result of such review.

Yours faithfully,


(T K Das)
AN/AGE Tech
for GE Missamari

Certified to be true
Krishnendu Paul
Advocate
24-03-2003.

From,

Mrs. Usha Rani Chakraborty
W/O: M.E.S/265366
Late S.K. Chakraborty, Ch / Mech

- 42 - ANNEXURE-10

To,

CEEC
Kolkata-21

Sub : Appointment of dependent of deceased govt. employee in MES department.

Respected Sir,

I beg to submit the following few lines for your kind consideration and favourable orders please.

Sir, my husband M.E.S/265366, Late S.K. Chakraborty, Ch / Mech HS-I of A.G.E.E/M, Missamari under Garrison Engineer Missamari expired on 31st Oct 1993, leaving behind 4 (four) family members, i.e. two sons, one daughter and myself. My son Binay Kr. Chakraborty who has applied in MES department for the post of Clerk under compassionate ground. Now he is frantically trying to secure a job but in spite of his best effort till date he could not secure a job anywhere. My second son could not complete his study for our financial condition and more so I could not manage to arrange any source for the marriage of my grown up daughter. My elder son is now my only hope to cope up the situation provided he is employed somewhere. Now, we four family members are totally depending upon my half pension.

After the untimely death of my husband, we are facing lots of financial problems. After this incident, we left the quarter and now from 7 yrs of my husband's death we are staying at Guwahati at a rented house paying rupees 2000/- monthly. At the beginning, I have received Rs. 36000/- as pension. But now from this year I am getting half pension according to headquarters rule. Now you think yourself is it possible to pull four family members within this resource? Sir, I find it great difficulties to meet my day to day increasing expenses even the daily needs. Since, I being a poor mother of three childrens facing lots of financial stringency to pull day to day life. Now I am in such a state of critical juncture to look after my family, without having any other source of income and land property.

Sir, my late husband served his whole life as a MES staff and he acquired good duty record. My husband died due to Cancer, and for his treatment I have spent more than half money which I received from the MES department as G.P.F and Gratuity. Today, he is not alive in between of us, that's why we are facing this financial problems. So, as a wife of your one of Late MES staff it is my pray to you please appoint my son Binay Kr. Chakraborty in MES department under compassionate ground. After my husband's death, I have submitted all the necessary documents and my willingness certificate regarding my son's appointment.

contd. on page 2.....

Certified to be true
Krishendu Paul
Advocate
24-03-2003.

Sir, In between this 7 years, my son send as many as application, but there is no suitable reply from the headquarters. No one is responding - our matter seriously. On the month of July 2000, the Shillong headquarter gave reply that - " your serial no. is 21 as per the register maintained by this office for the post of LDC. After that, till now I didn't know my present serial no. of my son or progress in recruitment. Sir, lots of money he has spend for typing and postal registry charges for sending this application. At present I do not have any means to spend a single paisa on this sort of additional expenses. Sir, I am sending this application to you with lots of hopes. So, kindly take a favourable decision and appoint my son immediately and save me from the starvation, so that I can maintain my family members a bit peacefully. For your ready reference, here I am sending all the xerox copy of my son's - all application, the replies received from the headquarters, the acknowledgement cards and registry receipts.

I hope your honour will consider my case sympathetically and - take immediate decision for my son's appointment as sought, and for this act of your kindness, I shall remain ever grateful to you sir.

Thanking you in anticipation.

Your's Faithfully

Dated: 17-08-1999
Station: Guwahati

Usha Rani Chakraborty
Mrs. Usha Rani Chakraborty
W/O: M.E.S / 265366,
Late. S.K. Chakraborty, Ch / Mech.

Present Address

Binay Kr. Chakraborty
C/O: Ganesh Medical
P.O: Vinobanagar
Kalapahar
Guwahati: 18

Enclosed :-

- (a) The previous applications.
- (b) The headquarters replies.
- (c) The acknowledgement cards.
- (d) The postal registry receipts.

Copy To :-

- =====
- (1) E-IN-C's Branch
New Delhi
 - (2) CEEC
Kolkata-21
 - (3) Chief Engineer
Shillong.

FROM :

Shri Binay Kumar Chakraborty
S/O, M.E.S/265366-

Late S.K. Chakraborty, CH/MECH.

Present Address :-

C/O - Ganesh Medical

P.O - Vinobanagar,

Kalapahar, Guwahati-18.

To,

E-IN-C'S BRANCH

ARMY HEAD QUARTERS

NEW DELHI.

APPOINTMENT OF DEPENDENT OF DECEASED GOVT. EMPLOYEE
IN M.E.S. DEPARTMENT :

Respected Sir,

I beg to submit the following few lines for your kind consideration and favourable orders please.

Sir, my father, M.E.S/265366 Late S.K. Chakraborty CH /MECH. HS-I of A.G.E, E/M, Missamari under Garrison Engineer Mis-sari expired on 31st Oct, 1993. I belong to a very poor family and I have got four members in our family (Mother, Brother and Sister). It is for your kind information that I am an ART'S Graduate and also passed typing examination in English. Moreover, I have completed computer course also. I have no source of income, nor have any land property.

After the untimely death of my father, I find it great difficulties to meet my expenses even the daily needs. After my father's death, office has forced us to leave the quarter. So now we are staying at a rented house paying Rs. 2000/- per month at Guwahati. My mother is withdrawing Rs. 3,600/- as pension. Now, you can imagine yourself that how we four family members are facing a lot of financial stringency to pull day to day life. Now, I am in such a state of critical juncture to look after our family, without having any income.

Contd..2/

Certified to be True
Krishnendu Paul
Advocate
24-03-2003.

Sir, after my father's death, office has taken i-interview on the month of February, 1994, and I declared pass. Now its sixth year running after my father's death. Yet now I am jobless. During this, I have send two to three letter's to all Headquarters, but there is no reponse from you all. If there is no vacancy in M.E.S, than how you recruiting fresh candidates by leaving this deceased cases. I found many advertisement of M.E.S in daily paper's. Sir, you can search my father's duty record. I am agree for any post i.e, clerk/storekeeper/Electician. Moreover, you can posted me any where you wish, but I need an job to pull my family members life.

In view of the above it is requested that please be considered favourably for appointing me in M.E.S department in any post suitable for me considering my qualification. I hope your honour will consider my case sympathetically and order for my appointment as sought above for which act of kindness, I shall remain ever Greatfull to you sir.

Thanking you in anticipation.

Station - Guwahati,

Dated - 10-1-2000.

Your's faithfully,

Shri Binay Chakraborty

S/O, M.E.S/265366-

Late S.K. Chakraborty, CH/MECH.

Present Address :-

C/O - Ganesh Medical

P.O - Vinobanagar,

Kalapahar, Ghy - 18.

Copy to :-

(1) E-IN-C'S Branch,
New Delhi.

(2) CEEC
Calcutta - 21.

(3) Chief Engineer
Shillong.

-46- ANNEXURE - 12

(4) 62

Tele : 6315

Headquarters
Chief Engineer
Shillong Zone
Spread Eagle Falls
Shillong-793011

70601/25/197 /EIC(I)

29 Feb 2000

✓
Shri Binay Kumar Chakraborty
C/O MES/265366
Late S.K. Chakraborty, CH/MECH
C/o Ganesh Hospital
PO : Vinobanagar
Kalapahar
Guwahati-18

APPOINTMENT OF DEPENDENT OF DECEASED
GOVT EMPLOYEE IN M.E.S DEPARTMENT

1. Reference your application dated 10 January 2000.
 2. It is intimated that your name is at Ser No 21 of the seniority list for compassionate appt of LDC. The appointment will be done accordingly on receipt of Govt sanction.
- ✓

[Signature]
(O Khongwir)
AO I
for Chief Engineer

Copy to :-

CWE Tezpur

GE Missamari

Certified to be true
Krishnendu Paul
Advocate
24-03-2003.

Tele : 6015

- 47 -

ANNEXURE - 13

Headquarters
Chief Engineer
Shillong Zone
Spread Eagle Falls
Shillong - 793 011

70601/25/ 211 /EIC (I)

13 Apr 2000

Shri Binay Kumar Chakraborty
S/O MES/265366 Late SK Chakraborty
C/O Ganesh Medical
Post - Vinobanagar
Kalapahar, Guwahati-18
State : Assam

APPOINTMENT OF DEPENDENT OF DECEASED GOVT
EMPLOYEE IN MES DEPARTMENT

Sir,

1. Reference your application dated 10 Jan 2000.
2. It is to inform you that your seniority for considering the appointment on compassionate ground is 21, as per the register maintained by this office for the post of LDC. Further development of the case will be intimated in due course.

Yours faithfully,

[Signature]
(O Khongwir)
Adm Officer-I
for Chief Engineer

Copy to :-
Chief Engineer
Headquarter
Eastern Command
Engineers Branch (EIC (2)
Fort William
Calcutta - 21

- for info wrt your HQ letter
No 131528/3A/4597/Engrs/EIC(2)
dt 27 Jan 2000.

*Certified to be true
Krishnendu Paul
Advocate
24-03-2003*

From

Shri Binoy Kumar Chakrabarty,,
S/O. - M.E.S/ 265366,
Late S.K.Chakrabarty, CH/Mech.
Present Address. :-
C/O :- GANESH MEDICAL,
P.O - Vinobanagar,
Kalapahar, Guwahati - 18.

To

E - IN - OBS BRANCH
ARMY HEAD QUARTER
New DELHI.

Appointment of Dependent of Deceased Govt.
Employee in M.E.S Department.

Respected Sir,

I beg to submit the following few lines again for your kind consideration and favourable - order please.

Sir, my father, M.E.S/265366. Late S.K.Chakrabarty CH/MECH. HS1 of A.G.E.E/M. Missamari under Garrison Engineer Missamari, expired on 31st Oct. 1993. Sir, I belong to a very poor family and I have got four members in our family.

Sir, few days ago, I have send three letters to three headquarter i.e Shillong, Calcutta and Delhi through registered with A.D. I received my A.D. back so, it is clear that you have received my letter. After that, Shillong headquarter replied me that - my seniority for considering the appointment on Compensate ground is 21 as per the register maintained by this office for the post of LDC. They send me a letter No.131528/3A/4597/Engrs/EIC (2) dated 27 Jan'2000 for collecting information.

Sir, it is quite known to you that now we are staying at rented house paying Rs 2000/- per month from 5 years. From the beginning mother withdrawing Rs 3,600/- as pension up to now. But from next month of this year pension will be half as 7 years completed. According to Govt. rule, every pensioners pension will be half after 7 years. Now You think how we four members pull day to day life with in Rs 2000/- or Rs2500/- after paying Rs 2000/- as rent to houseowner. After interview my serial No. is 36 in 1994. Now after this 6 years my serial No is 21 i.e only 15 recruitment had done in this last 6 years. So, it is clear that more 6 - 7 years are needed for my

*Certified to be true
Krishnendu Paul
Advocate
24-03-2003.*

Contd ... 2

recruitment. Sir, why don't you are understanding our present situation which we are facing. Sir, I know that there are many more candidate like me. They also need job within short time. Sir, your seniority list or office register will not solve their problem which are facing many Candidate like me.

So, in view of the above it is requested that please be considered your attention to those candidate first who are facing lots of problems to pull day to day life like me. Sir, seniority list No will not solve our economic problems. I hope your honour will consider my case sympathetically and order for my appointment as sought above for which act of kindness as soon as possible. I shall remain greatfull to you Sir.

Thanking You in anticipation.

Your's faithfully,

Station - GUWAHATI

Date - 18-5-2000

(Shri BINAY CHAKRABORTY)

S/O. M.E.S 265366

Late S. K. CHAKRABORTY

C H / MECH.

Present Address :-

C/O - GANESH MEDICAL

P.O - VINOBANAGAR

KALAPAHAR

GUWAHATI - 18.

COPY TO :-

1. E - IN - C's BRANCH
NEW DELHI.
2. CEEC
CALCUTTA - 21
3. CHIEF ENGINEER
SHILLONG.

Tele : 6015 - 50-

ANNEXURE-15

Headquarters
Chief Engineer
Shillong Zone
Spread Eagle Falls
Shillong - 793 011

966

70601/25/ 220/EIC (I)

12/Jun 2000

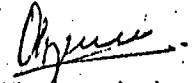
✓ Shri Binay Kumar Chakraborty
S/O MES-265366 Late SK Chakraborty
C/O Ganesh Medical
Post-Vinobanagar
Kalapahar, Guwahati-18
State : Assam

APPOINTMENT OF DEPENDENT OF DECEASED
GOVT EMPLOYEE IN MES DEPARTMENT

Sir,

1. Reference your application dated 18 May 2000.
2. In this connection please refer to our letter No 70601/25/211/EIC (I) dated 13 Apr 2000. It is to inform you that your seniority for considering the appointment on compassionate ground is 21, as per the register maintained by this office for the post of LDC. Further development of the case will be intimated in due course.

Yours faithfully,


(O Khongwir)
Adm Officer-I
for Chief Engineer

Copy to :-

E-in-C's Branch
Army HQ, DMQ -Post
New Delhi - 11

Chief Engineer
Headquarters
Eastern Command
Engineers Branch(ETC(2))
Fort William
Calcutta - 21

- for info please.

Certified to be true
Krishanu Paul
Advocate
24-03-2003.

From :-

Shri Binoy Kumar Chakraborty
S/O :- M.E.S/265366
Late S.K.Chakraborty, CH/MECH.

- 51 -

ANNEXURE - 16
67

To,

CEEC

Calcutta - 21.

Sub :- Appointment of dependent of deceased Govt. employee
in M.E.S. department.

Respected Sir,

I beg to submit the following few lines again for your kind consideration and favourable orders please.

Sir my father, M.E.S/265366, Late S. k. Chakraborty, CH/MECH. HS - I, of A.G.E.E/M, Missamari under Garrison Engineer Missamari expired on 31st October, 1993. Sir, after the untimely death of my father, we are facing lots of problems to meet daily expenses. We are four family members (Mother, 2 brother and 1 Sister). As elder, I have no source of income nor have any land property.

Sir, including this, this is my 4th application. But, no one is listening or understanding my problems. In every application I am mentioning my financial stringency that now we are staying in an rented house paying Rs. 2000/- per month to the house owner at Guwahati. At present mother withdrawing Rs. 3,600/- as pension. From the next month, mother's pension will be half, as 7 years passed my father's death. Now, you think yourself how we four member's are managing our livelihood and after half pension, what situation will be create? I can't understand that every employee of M.E.S., every officers of all headquarters are also managing their families. So, everyone knows the market condition increasing rate of goods. Whether it is possible to pull a family of four members within Rs. 1,600/- or Rs. 1,800/-? If your humanity replies 'Yes' then Ok. But I don't know whether it is clear to every M.E.S. employee or not that every employee's growing child's must have to face the same problem of unemployment like me. My father was also an M.E.S. employee and he acquired good duty record. You can search about this. Relating this if you working employee can't understand the problem's of your deceased staff's family, then to whom I should request? Is no one is there, who is ready to understand our problems our financial conditions.

*Certified to be true
Krishendu Paul
Advocate
24-03-2003.*

Contd..2/

Sir, I am sending application after application, mentioning my conditions and requesting everytime. But, every time I am getting reply that my seniority list no. is 21, as per the register maintained by the office. Sir, after 7 years of my father's death, till now you all headquarter's replying me this, then what will happen to my family? Is this serial no-solve our problems?

Sir, In view of the above it is requested that please do an favourable judgement soon. Sir, please tell me upto which year's deceased cases are been solved and now upto which year's deceased cases you are going to recritted? I hope your honour will consider my case sympathetically. I shall remain ever greatful to you for your kindness.

Thanking you in anticipation.

Date : 21-06-2000

Place : GUWAHATI

Copy to :-

1. E-In-C's Branch
New Delhi.
2. CEEC
Calcutta - 21.
3. Chief Engineer
Shillong.

Yours faithfully.

Shri Binoy Kr. Chakraborty
S/O- M.E.S/265366
Late S.K.Chakraborty, CH/MECH

Present Address :-
C/O - Ganesh Medical,
P.O- Vinobanagar
Kalapahar, Guwahati- 18.

Tele : 6315

- 53 -

Headquarters
Chief Engineer
Shillong Zone
Spread Eagle Falls
Shillong-793 011

70601/25/ 241 /EIC(I)

25 Jul 2000

Shri Binoy Kumar Chakraborty
S/O : MES/265366
Late SK Chakraborty, Ch/Mech
C/O Ganesh Medical
P.O : Vinobanagar
Kalapahar, Guwahati-18

APPOINTMENT OF DEPENDENT OF DECEASED GOVT
EMPLOYEES IN MES DEPARTMENT

Sir,

1. Reference your application dated 21 Jun 2000.

2. It is to inform you that your seniority for considering the appointment on compassionate ground is 21, as per the register maintained by this office for the post of LDC. Further development of the case will be intimated in due course.

Yours faithfully,

(O. Khongwir)

AO-I

for Chief Engineer

Copy to :-

Engineer-in-Chief's Branch
Army Headquarters
Kashmir House
New Delhi-110011

Hq Eastern Command
Engineers Branch
Fort William
Calcutta-700021

*Certified to be true
Krishnendu Paul
Advocate
24-03-2003.*

FROM,

Shri. Binay Kr. Chakraborty

S/O:-M.E.S./265386

Late.S.K.Chakraborty, Ch/Mech.

TO,

CEEC

CALCUTTA-21

SUB:-APPOINTMENT OF DEPENDENT OF DECEASED GOVT.EMPLOYEE IN M.E.S DEPARTMENT

Respected Sir,

Reference your letter no.70601/25/241/EIC(I), dated:-25/7/00,
I beg to submit the following few lines again for kind consideration and
favourable orders, please.

Sir, my father M.E.S./265386, Late.S.K.Chakraborty, Ch/Mech, HS
I, of A.G.E.E/M, Missamari under Garrison Engineer Missamari expired on 31st
October, 1993. Sir, after the untimely death of my father, we are facing
of problems to meet daily expenses. We are four family members. As elder, I
have no source of income, nor have any land property.

Sir, including this, this is my 5th application to you all.
But, I am not getting any fruitfull reply. Before this, on 21-06-2000, I have
send last application to you. Till that application you all officers replying
me that "my seniority list no. is 21, as per the register maintained by
the office. Further development of the case will be intimated in due course.
But, please tell me when?

Sir, see there is no self correspondence from the headquarters
untill receiving of my application. From 7 years, wheather my serial no. is 21
asusual? Is there is no progress? Why the headquarters are not intimated us
about the present serial no. or progress? Sir, my late father was served his
whole life as a M.E.S. staff. Today he is not alive in between us. That's -
why we are facing all this problems. We are the family members of your one
of the M.E.S. staff, and due to untimely death of my father, today we are
standing in this bad situation. Is it not your duty to help us, or to bring
out us from this critical juncture? Sir, it is our right to get a job in M.E.S
department in place of my late father. Sir, I have no choice regarding station
i.e., near or far. You can posted me anywhere as you wish, but I need an job,
soon because we are facing many problems.

contd. to page no.2

Certified to be true
Krishnendu Paul
Advocate
24-03-2003.

Sir, in view of the above, it is requested that please do an favourable judgement soon for us. I will thankfull to you sir. I have an request to you that please let me know my present serial no. and how much time needed more for my recruitment? I hope your honour will consider my case sympathetically with full response. I shall remain ever greatfull to you for your kindness.

Thanking you in anticipation.

Dated:-20/01/2001

Place:- Guwahati

Your's Faithfully

Shri. Binay Kumar Chakraborty

S/O:- M.E.S./265366,

Late. S.K. Chakraborty, Ch/Mech.

Present Address:-

C/O:- Ganesh Medical

P.O:- Vinobanagar

Kalapahar

Guwahati-18.

Copy to:-

(1) E-IN-C's Branch
New Delhi

(2) CEEC
Calcutta-21

(3) Chief Engineer
Shillong.

FROM,

MRS. USHA RANI CHAKRABORTY
W/O: M. E. S/265366
LATE: S. K. CHAKRABORTY, CH/MECH.

TO,

THE HONOURABLE
DEFENCE MINISTER
MR. JASWANT SINGH.

SUB:-APPOINTMENT OF DEPENDENT OF DECEASED GOVT. EMPLOYEE IN
MES DEPARTMENT.

Respected sir,

I beg to submit the following few lines for your kind consideration and favourable orders please.

Sir, my husband M.E.S /265366, Late, S. K. Chakraborty, ch/Mech. HS-I of A.G.E.E/M, Misamari under Garrison Engineer Misamari expired on 31st Oct 1993, leaving behind 4 (four) family members, i.e. Two sons, One daughter and myself. My son Binay Chakraborty who has applied in MES department for the post of clerk under compansionnate ground. Now he is frantically trying to secure a job but inspite of his best effort till date he could not secure a job anywhere. My second son could not complete his study for our financial condition and more so I could not manage to arrange any source for the marriage of my grown up daughter. My Elder son is now my only hope to cope up the situation provided he is employed some where. Now, we four family members are totally depending upon my half pension.

After the untimely death of my husband, we are facing lots of financial problems. After this incident, we left the quarter and now from 7 years of my husband death, we are staying at Guwahati at rented house paying rupees 2000 /- monthly. At the begining, I have received Rs. 3600/- as pension. But now from this year, I am getting half pension according to headquarter's rule. Now you think yourself is it possible to pull four family members within this resource? I find it great difficulties to meet my day to day increasing expenses even the daily needs. Since, I being poor mother of three childrens facing lots of financial stringency to pull day to day life. Now I am in such a state of critical juncture to look after my family, without having any other source of income and land property.

Sir, my Late husband served his whole life as a MES staff and he acquired good duty record. My husband died due to Cancer, and for his treatement, I have spend more than half money which I received from MES department as G. P.F and

CON D.....P/2

*Certified to be true
Krishendu Paul
Advocate
24-03-2003.*

-2-

Gratuity. Today, he is not alive in between of us, that's why we are facing this financial problems. So, as a wife of your one of late MES staff its my pray to you please appoint my son Binay Kr. Chakraborty in MES department under compansionate ground. After my husband death, I have submitted all the necessary documents and my willingness certificate regarding my sons appointment.

Sir, In between this 7 years, my son send as many as application, but there is no suitable reply from the headquarter's. No one is responding - our matter seriously. On the month of July 2000, the Shillong headquarter gave reply that - "your serial No. is 21 as per the register maintained by this office for the post of LDC". After that, till now I didnot know the present serial no. of my son or progress in recruitment. Sir, lots of money he has spendes for typing and postal registry charges for sending this application. At present I don't have any means to spend a single paisa on this sorts of additional expenses. Sir, I am sending this application to you with lots of hopes. So, kindly take a favourable decision and appoint my son immediately and save me from the starvation, so that I can maintain my family members a bit peacefully. For your ready reference, here I am sending the xerox copies of my sons all application, the replies received from the headquarters, the acknowledgement cards and registry receipts.

I hope you honour will consider my case this time sympathetically. As officialy I have tried much more in this 7 years, but the headquarters are neither taking any favourable decision, nor giving any response to our problems which we are facing due to there negligiency. Sir you please take an immediate decision and give order for my son's appointment as sought, and for this act of your kindness, I shall remain ever greatfull to you.

Yours faithfully

Usha Rani Chakraborty

STATION: GUWAHATI

PLACE : 15/09/01.

USHA RANI CHAKRABORTY
W/O: M. E. S /265366
LATE. S.K. CHAKRABORTY, CH/MECH.

ENC: A. THE PREVIOUS APPLICATION.	PRESENT ADDRESS :-
B. THE HEADQUARTERS REPLIES.	BINOY KR. CHAKRABORTY
C. THE ACKNOWLEDGEMENT CARDS.	C/O: GANESH MEDICAL
D. THE POSTAL REGISTRY RECEIPTS.	P.O: VINODA NAGAR
	KALAPAHAR, GHY - 78.

CC: 1. DEFFENCE MINISTER, JASWANT SINGH.
2. E -IN-C'S BRANCH, NEW DELHI.
3. CEEC, KOLKATA-21.
4. CHIEF ENGINEER, SHILLONG.

Headquarters
Chief Engineer
Shillong Zone
Spread Eagle Falls
Shillong 793011

70601/25/ 11/1 /EIC(I)

14 Dec 2001

Shri Binoy Kr Chakraborty
S/O Late SK Chakraborty
C/O Ganesh Medical
P.O. Vinuba Nagaqr
Kalapahar. Ghy - 18

COMPASSIONATE APPOINTMENT

Dear Sir,

1. Reference your application dated 28 Sep 1994 for appointment under the scheme of compassionate ground in this Department on expiry of your Late father SK Chakraborty, Ex/ Ch/Mech of GE samari

2. Your request for compassionate appointment was examined by the competent authority under the relevant instructions of Dept of Pers Trg and Hon'ble Supreme Court ruling on the subject are enclosed.

3. According to available information, the following is the position/Status of the case:-

(a) The death of Govt servant occurred on 31 Oct 1993. He was survived by his wife, 02 sons and 01 daughter.

(b) The family is receiving Rs 1849/- (min) as family pension. As such it is above the poverty line as per DOP&T instructions.

(c) The need for immediate assistance by way of compassionate employment to tide over the emergency and crisis is lacking in this case as the death of the Govt servant occurred on 31 Oct 1993. i.e more than 08 years back.

4. After due circumspection and consideration of the circumstances of the case in the light of the enclosed guidelines of DOP&T and also various judgments of the Hon'ble Supreme Court and after a balanced and objective assessment of the totality of the circumstances of the case, the competent authority, it is regretted to mention, has not approved your case for compassionate appointment in this Department.

Yours faithfully,

(KS Mukhopadhyay)
SE (SG)
SO I (Pers)
For Chief Engineer

*Certified to be true
Krishnendu Paul
Advocate
24-03-2003.*

Copy to :-

Engineer-in-Chief's Branch -
Army Headquarters
DHQ New Delhi - 11

For information with refer to this HQ letter
No 70601/25/192/EIC(1) dated 22 Oct 2001
& 70601/25/06/EIC(i) dated 08 Nov 2001

IIQ Eastern Command -
Engineers Branch
Fort William Kolkata-700021

For information with reference to above.

CWE Tezpur

GE Missamari
Internal

EI Legal

DOP & T INSTRUCTIONS AND SUPREME COURT RULINGS
REGARDING THE SCHEME OF COMPASSIONATE APPOINTMENT

DOP & T have envisaged the scheme of compassionate appointment as follows :-

- (a) The object of the Scheme is to grant appointment on compassionate grounds to a dependent family member of a Government servant dying in harness of who is retired on medical grounds, thereby leaving the family in penury and without any means of livelihood, to relieve the family of the Government servant concerned from financial destitution and to help it get over the emergency.
- (b) Providing employment assistance under the scheme of compassionate appointment does not mean employment generation as per existing instructions, guidelines and are not in favour of giving quaranteed compassionate appointment to dependents as a matter of routing.
- (c) While considering a request for appointment on compassionate ground a balanced and objective assessment of the financial condition of the family has to be made taking into account its assets and liabilities (including the benefits recieved under the various welfare scheme) and all other relivant factors such as the presence of an earning member, size of the family ages of the children and the essential needs of the family etc.
- (d) In deserving cases even where there is already an earning member in the family a dependent family member may be considered for compassionate appointment with prior approval of the Secretary of the Department/Ministry concerned who, before approving such appointment will satisfy himself that grant of compassionate appointment is justified having regard to number of dependents, assets and liabilities left by the Government servant income of the earning member as also his liabilities including the fact that the earning member is residing with the family of the Government servant and whether he shhould not be a source of support to other members of the family.
- (e) In cases where any member of the family of the deceased of medically retired Government servant is already in employment and is not supporting the other members of the family of the Government servant, extreme caution has to be obseerved in ascertaining the economic distress of the members of the family of the Government servant so that the facilty of appointment on compassionate ground is not circumvented and misused by putting forward the gound that the member of the family already employed is not supporting the family
- (f) Ministry/Department can consider requests for compassionate appointment even where the death or retirement on medical grounds of a Government servant took place long back say five years or so, While considering such belated requests it should however be kept in view that the concept of compassionate appointment is largely related to the need for immediate assistance to the family of the Government servant in order to relieve it from economic distress. The very fact that the family has been able to manage somehow all these years shhuld normally be taken as adequate proof that the family had some dependable means of subsistence.

.. 2 ..

(g) Whether a request for compassionate appointment is belated or not may be decided with reference to the date of death or retirement on medical ground of a Government servant and not the age of the applicant at the time of consideration.

(h) The number of vacancies for compassionate quota should be limited to 5% of the total vacancies in Group 'C' and 'D' to be filled by direct recruitment only.

(i) The Hon'ble Supreme Court of India in its judgement dated April 8, 1993 in the case of Auditor General of India and others Vs. G. Ananta Rajeswara Rao (1994) 1 SCC 192 has held that appointment on grounds of descent clearly violates Article 16(2) of the Constitution but if the appointment is confined to the son or daughter or widow of the Government servant who died in harness and needs immediate appointment on grounds of Immediate need of assistance in the event of there being no other earning member in the family to supplement the loss of income from the bread winner to relieve the economic distress of the members of the family, it is unexceptionable.

(ii) Further in another judgement dated 4th May 1994 in the case of Umesh Kumar Nagpal Vs state of Haryana and others the Supreme Court has laid down, inter alia the following important principles in this regard.

(a) Only dependents of an employee dying in harness leaving his family in penury and without any means of livelihood can be appointed on compassionate ground.

/of (b) The whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis and to relieve the family/the deceased from financial destitution and to help it get over the emergency.

(c) Offering compassionate appointment as a matter of course irrespective of the financial condition of the family of the deceased or medically retired Government servant is legally impermissible.

/it (d) The Government or the public Authority concerned has to examine the financial condition of the family of the deceased, and it is only if/is satisfied, that but for the provision of employment the family will not be able to meet the crisis, that job is to be offered to the eligible member of the family.

(e) Compassionate appointment cannot be granted after lapse of a reasonable period and it is not vested right which can be exercised at any time in future.

FROM : MRS. USHA RANI CHAKRABORTY
W/O : LATE S.K. CHAKRABORTY-MES/265366
CH/MECH HS-1 OF A.G.E.E/M MISSAMARI
C/O : GANESHI MEDICAL
VINOBANAGAR
KALAPAHAR
GUWAHATI - 781008

TO,
MR. GEORGE FERNANDEZ - HON'BLE MINISTER
MINISTRY OF DEFENCE
GOVT. OF INDIA
NORTH BLOCK
PARLIAMENT STREET
NEW DELHI.

APPEAL FOR COMPASSIONATE APPOINTMENT

SIR,

I THE WIDOW OF LATE S.K. CHAKRABORTY - AN EX-EMPLOYEE OF M.E.S UNDER GARRISON ENGINEER, MISSAMARI, SUBMIT MOST HUMBLY THE FOLLOWING FACTS BEFORE YOUR GOODSELF WITH THE FERVENT HOPE OF RECEIVING OUR COMPASSIONATE REVIEW TO THE MATTER UNDER SUBMISSION.

THAT MY HUSBAND LATE S.K. CHAKRABORTY, AN EMPLOYEE UNDER GARRISON ENGINEER, MISSAMARI, MES/265366, CH/MECH HS-1 EXPIRED ON 31-10-1993, LEAVING BEHIND TWO SONS AND ONE DAUGHTERS - ALL MINORS AND MYSELF.

THAT HIS UNTIMELY DEMISE RENDER US TO A HELPLESS CONDITION SINCE MY HUSBAND WAS THE ONLY EARNER FOR HIS DIRECT DEPENDENTS OF FOUR MEMBERS.

THAT AFTER HIS DEATH, WE HAD TO VACATE THE QUARTER AT MISSAMARI AND HAD TO ACCOMMODATE OURSELVED IN A RENTED HOUSE AT GUWAHATI UNDER CIRCUMSTANCES OF FINANCIAL STRINGENCY.

THAT MY ELDER SON BINAY KR. CHAKRABORTY APPLIED FOR A JOB IN CLERICAL STREAM ON COMPASSIONATE GROUND - COPY ENCLOSED.

THAT WE MADE HIS PERSONAL APPEARANCE BEFORE THE AUTHORITY AT SHILLONG FOR A NUMBER OF TIMES IN HIS FOLLOWUP PROCESS, APART FROM SENDING PERIODICALS REMINDERS - COPY ENCLOSED.

*Certified to be true
Krishnendu Paul
Advocate
24-03-2003.*

THAT TILL 14TH DECEMBER, 2001 ALL THE REPLIES FROM HEADQUARTERS, OFFICE OF THE CHIEF ENGINEER, SHILLONG ZONE, CONTINUED THEIR CONSIDERATION OF HIS CANDIDATURE AND HIS TURN OF SUCH CONSIDERATION REMAINED TO SERIAL NO.21 - COPY OF ALL SUCH REPLIES ENCLOSED.

THAT MOST UNEXPECTEDLY, THE SE(SG), SOI(PERS), SHILLONG, VIDE HIS LETTER NO.70601/25/45/EIC(I) DATED:14-12-2001, NULIFIED THE CANDIDATURE ON THE PLEA OF UNREALISTIC GROUNDS OF EXPIRY OF THE INTERIM PERIODS, FOLLOWED BY THE PENSION OF RS.1849/- WHICH AS PER DEPPTS VIEW, IS ABOVE THE POVERTY LINE. - COPY ENCLOSED.

UNDER THE AFORESAID FACTS AND CIRCUMSTANCES, MAY I SEEK YOUR KIND INTERVENTION TO REPEAL THE STAND OFF OF THE DEPARTMENT AND ALSO TO GRACE THE OPPORTUNITY TO PROVIDE MY ELDER SON WITH A JOB AT AN EARLY DATE. KINDLY ALSO NOTE THAT I HAVE NOT BEEN ABLE TO ARRANGE THE NECESSARY MARRIAGE OF MY GROWN UP DAUGHTER AND MY YOUNGEST SON HAS BEEN COMPELLED TO ABANDON HIS STUDIES FURTHER.

AWAITING FOR YOUR VERY COMPASSIONATE AND FAVOURABLE RESPONSE TO MY ABOVE APPEAL, I REMAIN.

YOURS FAITHFULLY

MRS. USHA RANI CHAKRABORTY

DATED : 19-01-2002

STATION : GUWAHATI

ENCLOSED :- (A) ALL PREVIOUS APPLICATIONS.
(B) ALL HEADQUARTERS REPLIES.
(C) ALL ACKNOWLEDGEMENT CARDS
(D) ALL POSTAL REGISTRY RECEIPTS

C.C TO :- (A) MR. GEORGE FERNANDEZ(DEFENCE MINISTER)
(B) E-IN-C'S BRANCH, NEW DELHI
(C) CEEC, KOLKATA
(D) CHIEF ENGINEER, SHILLONG.

HQ Chief Engineer
Shillong Zone
Spread Eagle Falls
Shillong 793011

80

70601/25/SO/0/EIC(I)

20 Dec 2002

Shri Binoy Kr Chakraborty
S/O Late SK Chakraborty
C/O Ganesh Medical
P.O Vinuba Nagar
Kalapohar, Guwahati- 18

378
9.3.01 policy
9

EMPLOYMENT ASSISTANCE IN RESPECT OF
SRI BINOY KR CHAKRABORTY ON COMPASSIONATE GROUNDS

1. Reference your application dated 28 -9- 1994 regarding employment on compassionate grounds. The request (representation) for compassionate appointment was examined by the competent authority of this Headquarters as per the extant Government Rules and Policies and the Hon'ble Supreme Court rulings on the subject. The relevant DOPAT instructions and Hon'ble Supreme Court rulings on the subject are enclosed.

2. 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 destitution and to help it get over the emergency. The scheme does not necessarily imply that dependent of each and every deceased/medically-boarded out/missing Govt. employee will be offered appointment on compassionate ground. It is pertinent to mention here 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 and therefore no case is considered individually or Unit wise, but all the cases received from various Units are considered by the Board of Officers constituted at the Headquarters as per the Government policy, to find out the most deserving cases in acute financial distress/more indigent in comparison to other similarly placed cases, against the 5% quota of DR vacancies occurring in a given year.

3. Accordingly, the Board of Officers take the various aspects as stipulated in MOD ID No 19(4)/824-99/1998-D(Lab) dated 09-03-2001, 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, movable/immovable properties left by the deceased at the time of death, to find out the cases of acute financial distress/most deserving case in relative merit and recommends only the really deserving cases 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 for such appointment and it should recommend appointment on compassionate grounds only in a really deserving case and only if vacancy meant for

Certified to be true
Krishendu Paul
Advocate

24-03-2003

81
appointment on compassionate grounds will be available within a year, that too within the ceiling of 5% prescribed for the purpose, in view of the Hon'ble Supreme Court ruling in Judgement dated 4th 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 ground as a matter of course irrespective of the financial condition of the family of the deceased or medically retired Govt. servant is legally impermissible and compassionate appointment cannot be granted after lapse of a reasonable period and it is not a vested right which can be exercised at any time in future.

4. According to the information available on record, the following is the position/State of the family of the deceased (MBO/Missing) government servant:-

(a) The death/MBO/Missing of the Govt servant occurred on 31-10-1993. His wife, two Son(s) and one daughter survive him. The deceased (MBO/Missing) Govt servant's family received Rs 2,08,544/- as terminal benefits. At present they are in receipt of monthly pension of Rs 1275/- plus Dearness relief of Rs 574/-.


5. The Board of Officers at this Headquarters after taking into account each aspect referred to above has considered your case along with other candidates. However, due to more deserving cases and few vacancies available, your case was not recommended by the BOO for appointment on compassionate ground. In view of this the competent authority is of the view that your case does not deserve employment assistance on compassionate grounds. (Moreover, the need for immediate assistance by way of compassionate employment to tide over the emergency and crisis is lacking in your case as the Death of the Government servant was on 31-10-1993 i.e. 09 years before his normal retirement.

More deserving cases
few vacancies

Could --- 3/-

6. Therefore, after due circumspection and consideration in the light of the enclosed guidelines of DOP&T and various judgments of the Hon'ble Supreme Court and that the appointment on compassionate grounds 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 Headquarters, the Competent authority has rejected the employment assistance to Shri Binoy Kr Chakraborty S/O (Late) Shri S K Chakraborty on compassionate grounds.

7. This HQ letter No 70601/25/45/EIC(I) dated 14 Dec 2001 is hereby cancelled.


(TM Chandrakant)
Lt Col
SO I (Pers & Legal)
For Chief Engineer

Copy to :

Engineers in Chief's Branch
Army Headquarters
New Delhi
110011

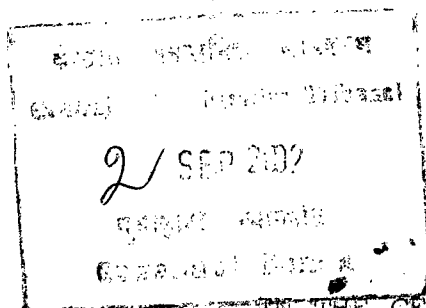
HQ Eastern Command
Engineers Branch
Fort William
Kolkata

CWE Tezpur

GE Misumari

Internal

EI(Legal) - For Info



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH::GUWAHATI

O.A. NO. 287 OF 2002

SHRI BINAY KUMAR CHAKRABORTY

- Versus -

UNION OF INDIA & ORS - RESPONDENTS

SL NO.	PARTICULARS OF DOCUMENTS	ANX NO.	PAGE NO.
01	Application		1 - 17
02	Certificate dated 25-11-93	1	18
03	Application dated 28-09-94	2	19 - 20
04	Certificate regarding proof of income, etc dated 24-12-94	3(series)	21 - 24
05	Application in the prescribed format dated 05-04-95	4	25 - 29
06	Statement of case	5	30 - 31
07	Recommendation by the competent authority	6	32
08	Certificate regarding proof of vacancy	7	33
09	Certificate regarding eligibility	8	34
10	Communication dated 24-02-1997	9	35
11	Representation dated 07-05-99	10	36 - 37
12	Representation dated 10-01-2000	11	38 - 39

Contd....

SL NO.	PARTICULARS OF DOCUMENTS	ANX NO.	PAGE NO.
13	Communication dated 29-02-2000	12	40
14	Communication dated 13-04-2000	13	41
15	Representation dated 18-05-2000	14	42-43
16	Communication dated 12-06-2000	15	44
17	Representation dated 21-06-2000	16	45-46
18	Communication dated 25-07-2000	17	47
19	Representation dated / 20-01-2001	18	48-49
20	Representation dated 15-09-2001	19	50-51
21	Impugned order conveyed by communication dated 14-12-2001	20	52-55
22	Application dated 19-01-2002	21	56-57

Binay Kumar Chakraborty
SIGNATURE OF THE APPLICANT

FOR USE IN TRIBUNAL'S OFFICE

Date of filing :-
Registration No:-
Registrar.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 287 OF 2002

BETWEEN :- Shri Binay Kumar Chakraborty,
Son of MES/265366 Late S.K. Chakraborty
C/o Late Radhika Ranjan Deb,
Fourth Lane, Pan Dokan Bus stand,
Kahilipara, Guwahati-18, Assam.

- APPLICANT

- A N D -

- 1) Union of India
represented by the Secretary
to the Government of India,
Ministry of Defence, North Block,
Parliament Street, New Delhi.
- 2) The Engineer-in-Chief's Branch,
Army Headquarters, Kashmir House,
DHQ, New Delhi - 110 011.
- 3) The Chief Engineer
Headquarters,
Eastern Command
Engineers Branch (ETC(2))
Fort William, Calcutta- 700 021.
- 4) Head Quarters,
Chief Engineers, Shillong Zone,
Spread Eagle Falls,
Shillong - 793 011.

Contd....(2).

25
Filed by: Binay Kumar Chakraborty
Through, Krishnendu Paul, Advocate, 2-9-2002.

-(2)-

5) The Garrison Engineer,
Missamari.

6) The CWE, Tezpur.
(Commander Works Engineer), G.E., Solmara, Tezpur.

- RESPONDENTS

1) PARTICULARS OF THE ORDER AGAINST WHICH THE PETITION
IS FILED

i) The instant application is directed against the order passed by the competent authority rejecting the case of the applicant for compassionate appointment in the MES Department, which was communicated vide letter dated 14-12-2001 bearing No. 70601/25/45/E.I.C(I) issued from the Office of the Chief Engineer, Shillong Zone, spread Eagle Falls, Shillong 793 011.

ii) This application is also filed seeking a suitable direction towards the respondents to appoint the applicant on compassionate ground in the post of LDC which is lying vacant in the Office of the Garrison Engineer, Missamari.

2) JURISDICTION OF THE TRIBUNAL

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

3) LIMITATION

The applicant declares that the instant application is within the limitation period prescribed in section 21 of the Administrative Tribunal's Act, 1985.

Contd....(3).

4) FACTS OF THE CASE

4.1. That the applicant is a citizen of India and as such is entitled to all the rights, protection and privileges guaranteed under the Constitution of India.

4.2. That the applicant's father Late Sudhir Kumar Chakraborty was serving in Military Engineer Services under Ministry of Defence since 01-05-1959. While, working as Charge Mechanic HS-1 of AGE E/M Missamari under Garrison Engineer, Missamari, the applicant's father expired on 31-10-1993 leaving behind his wife (applicant's mother) and three children.

A copy of the certificate dated 25-11-1993 issued from the Office of the Garrison Engineer, Missamari is annexed hereto and is marked as ANNEXURE-'1' to this application.

4.3 That the applicant submitted an application for appointment on compassionate ground, after the expiry of his father MES 265366 Late S.K. Chakraborty on 31-10-1993, while he was still in service. The applicant applied for appointment on compassionate ground to the Chief Engineer, Head quarters, Shillong Zone, Shillong on 28-09-1994. In that application the applicant stated all the relevant facts and requested for his appointment in the MES Department in the post of LDC or any other suitable job.

Contd.....(4).

Binay Kumar Chakraborty

A copy of the said application dated 28-09-1994 is annexed hereto and marked as ANNEXURE-'2' to this application.

4.4. That the applicant submitted willingness certificate, property certificate, income certificate, inhabitant certificate, dated 24-12-1994, for consideration of his case for appointment in the MES Department.

Copies of the relevant certificates are annexed hereto and are marked as ANNEXURE-'3(Series)' to this application.

4.5. That the applicant submitted his application for appointment on compassionate ground in the prescribed format. The facts mentioned in part-I of the Prescribed Format have been verified and the case of the applicant was recommended by the Garrison Engineer, Missamari on 05-04-1995.

A copy of the said application in the prescribed format is annexed hereto and marked as ANNEXURE-'4' to this application.

4.6. That the Garrison Engineer, Missamari (respondent No. 5) prepared a statement of case for employment of the applicant on 05-04-1995. The said

respondent No. 5 submitted a proposal for employment of the applicant as a LDC, Store keeper or Meter Reader in the MES under the Ministry of Defence because after the death of the applicant's father MES/265 366 Late S.K. Chakraborty, Charge Mechanic HS-I, the family is in indigent circumstances. There is no other source of income except the meagre amount of terminal benefits. As such, the Garrison Engineer, opined that the family deserves Government assistance by way of employment to the applicant.

A copy of the aforementioned statement of case is annexed hereto and marked as ANNEXURE-'5' to this petition.

4.7. That the case of the applicant was strongly recommended for compassionate employment by the respondent No. 5. The applicant was found to be educationally qualified and is within the prescribed age limit as per recruitment rules.

A copy of the relevant certificate is annexed hereto and marked as ANNEXURE-'6' to this application.

4.8. That the said respondent No. 5 has also certified that there existed a clear vacancy in the post of LDC for appointment of the applicant who is the dependent of deceased Late S.K. Chakraborty, charge Mechanic and funds are available.

Contd....(6).

89

Bivay Kumar Chakraborty

A copy of the aforementioned certificate is annexed hereto and marked as ANNEXURE-'7' to this application.

4.9. That the applicant was also found to be eligible for compassionate employment and his case for appointment was covered under the relevant circular of the Government. The respondent No. 5 has certified that the applicant's case for employment is covered vide item VI of Para 2 of Govt. of India, Ministry of Home Affairs letter No. 14014/1/77/Estt(D) Dated 25-11-1978 received under Engineer In-chief's Branch letter No. 65926/Eic Dated 10-01-1979.

A copy of the eligibility certificate is annexed hereto and marked as ANNEXURE-'8' to this application.

4.10. That the applicant begs to state that although he had applied for compassionate appointment in 1994 and he also appeared in an interview and declared to have passed the same, he was not informed about the outcome of the application. The applicant submitted a number of representation but without any result. The respondent No. 5 vide communication dated 24-02-1997 informed the applicant that no additional vacancies of LDC's covering the period upto 30-06-1992 will be allotted to accommodate persons listed on compassionate ground. In that view of the matter the applicant was asked to submit revised option and give fresh choice to the category mazdoor, peon, Safaiwala and Chowkidar.

Contd...(7).

Binay Kumar Chakraborty

91

-(7)-

A copy of the communication dated 24-02-1997 is annexed hereto and is marked as ANNEXURE-'9' to this application.

4.11. That the applicant repeatedly met the respondents and requested for considering his case for appointment on compassionate ground but without any success. The applicant's mother also submitted a representation in this connection addressed to the Chief Engineer, Eastern Command, Calcutta-21 requesting for the appointment of her son in the MES Department. In the said representation dated 07-05-1999, she had stated that her husband died on 31-10-93 due to cancer while still in service. After his death the entire family is facing severe economic ^{hardship} and she is getting half pension according to headquarter's rule which is not sufficient to run the family.

A copy of the representation dated 07-05-1999 is annexed hereto and marked as ANNEXURE-'10' to this application.

4.12. That the applicant on 10-01-2000 submitted a representation addressed to the Engineer-in-chief's Branch, Army Headquarters, New Delhi, requesting him to appoint the applicant in the MES Department in any post at any place so as to enable him to run the family after the expiry of his father. The applicant also stated that though he had qualified himself in the interview held in the year 1994, yet he has not been appointed inspite of available vacancies.

Contd...(8).

Binay Kumar Chakraborty

92

-(8)-

A copy of the representations
dated 10-01-2000 is annexed
hereto and is marked as
ANNEXURE-'11' to this application.

4.13. That the applicant received a communication dated 29-02-2000 bearing No. 70601/25/193/EIC(I) from the Office of the Chief Engineer, Shillong Zone (respondent No. 4). In that communication respondent No. 4 has stated that the applicant's name is at serial No. 21 of the seniority list for appointment on compassionate ground in the post of LDC . It was also stated that appointment will be made on receipt of Government sanction.

A copy of the communication
dated 29-02-2000 is annexed
hereto and marked as ANNEXURE-'12'
to this application.

4.14. That the applicant received another communication dated 13-04-2000 bearing No. 70601/25/211/EIC(I) from the respondent No. 4 . According to this communication, the seniority for considering the appointment on compassionate ground is 21 as per the register maintained by the Office of the respondent No. 4 . The applicant was informed that further development of the case will be intimated to him in due course.

A copy of the communication
dated 13-04-2000 is annexed
hereto and marked as ANNEXURE-'13'
to this application.

Contd...(9).

Bijay Kumar Chakraborty

4.15. That the applicant begs to state that notwithstanding the recommendation of the appropriate authority and the existence of clear cut vacancy, the applicant is yet to be appointed as LDC, on compassionate ground. The applicant submitted another representation on 18-~~5~~³-2000 addressed to the Engineer-in-Chief's Branch, Army Headquarters, New Delhi, stating that after the expiry of his father his family consisting of four members have been facing immense financial difficulties. The applicant requested the respondent authority to consider his case sympathetically and appoint him accordingly.

A copy of the representation dated 18-05-2000 is annexed hereto and is marked as ANNEXURE-'14' to this application.

4.16. That with reference to the application dated 18-05-2000 submitted by the applicant, the respondent No. 4 vide communication dated 12-06-2000 bearing 70601/25/220/EIC(I) informed the applicant that his seniority for considering the appointment on compassionate ground is 21, as per the register maintained by the Office, for the post of LDC. It also stated that further development of the case will be intimated to the applicant in due course.

A copy of the communication dated 12-06-2000 is annexed hereto and marked as ANNEXURE-'15' to this application.

4.17. That the applicant thereafter submitted a representation addressed to the Chief Engineer, Eastern

Contd....((10)).

command, Calcutta-21 on 21-06-2000 expressing the difficulties experienced by the applicant and his family consisting of four members . As there is no ~~source~~ of income nor any landed property, the applicant requested the respondent authority to consider his case for appointment sympathetically, the applicant being the dependant of a deceased Government employee.

A copy of the representation dated 21-06-2000 is annexed hereto and is marked as ANNEXURE-'16' to this application.

4.18. That in reply to the representation dated 21-06-2000, the respondent No. 4 vide communication dated 25-07-2000 bearing No. 70601/25/241/EIC(I) informed the applicant that his seniority for appointment on compassionate ground is 21 as per the register maintained by the Office for the post of LDC . It was also stated in the communication that further development in the case will be intimated to the applicant in due course.

A copy of the communication dated 25-07-2000 is annexed hereto and is marked as ANNEXURE-'17' to this application .

4.19. That finding no response from the respondent the applicant submitted another representation on 20-01-2001 addressed to the Chief Engineer, Eastern Command,

Calcutta -21. The applicant expressed his grievance and requested the respondent authority to appoint him at any place because his family was facing great hardship.

A copy of the representation dated 20-01-2001 is annexed hereto and marked as ANNEXURE-'18' to this application.

4.20. That as the applicant did not receive any reply to the representation filed by him before the respondent No. 4, the applicant's mother Smt. Usha Rani Chakraborty submitted a representation to the Defence Minister on 15-09-2001. In the said representation, the applicant's mother stated that after the untimely death of her husband the family is facing a lot of financial problems and the pension amount has been reduced to half. She had requested for the appointment of her son on compassionate ground to save the family from starvation.

A copy of the representation dated 15-09-2001 is annexed hereto and marked as ANNEXURE-'19' to this application.

4.21. That the Chief Engineer, Head Quarter Shillong Zone, Shillong vide communication dated 14-12-2001 bearing No. 70601/25/45/EIC(I), informed the applicant that his case for compassionate appointment has been rejected. The reasons for rejecting the case of the applicant is that the family is above the poverty line and the need for immediate assistance by way ^{of} compassionate

employment is also lacking and therefore the competent authority did not approve the case of the applicant for appointment.

A copy of the communication dated 14-12-2001 is annexed hereto and is marked as ANNEXURE-'20' to this application.

4.22. That being aggrieved by the order whereby the applicant's case for appointment on compassionate ground has been rejected, the applicant's mother submitted an appeal before the Defence Minister, New Delhi on 19-01-2002. The applicant's mother made a request for cancelling the rejection order passed by the Department and to provide the applicant with the job.

A copy of the aforementioned representation dated 19-01-2002 is annexed hereto and marked as ANNEXURE-'21' to this application.

4.23. That thereafter no communication has been made by the respondents with the applicant and he is yet to be appointed on compassionate ground despite fulfilling all the necessary conditions.

5) GROUND FOR RELIEF:-

5.1. For that in view of the facts and circumstances stated above the impugned order dated 14-12-2001 is not sustainable.

Contd.....13).

5.2. For that the respondents ought to have appointed the applicant on compassionate ground because he was found eligible for such appointment and his case was strongly recommended by the respondent No. 5 who has also certified that there existed a vacancy ~~for~~ for accomodating the applicant and necessary funds are also available .

5.3. For that the respondents have all along assured the applicant that his case for appointment on compassionate ground in the post of LDC is under consideration and the appointment will be made on receipt of sanction from the Government. Therefore the respondents now cannot turn around and alter their stand by rejecting the case of the applicant for compassionate appointment as reflected from the communication dated 14-12-2001.

5.4. For that in the communication dated 14-12-2001 it has been stated that since the family is receiving Rs. 1849/- (min) as family pension, it is above the poverty line. This is contrary to the records because in the statement of the case prepared by the respondent No. 5 it was clearly stated that the family of the applicant is in indigent circumstance with no source of income and accordingly the case of the applicant was strongly recommended for appointment . Now that the family is receiving only half of the amount which was earlier received as pension, therefore, the ground for rejecting the applicant's case is not tenable because now the family is suffering greater hardship with the pension amount being reduced to one half.

Contd.....(14).

97
Binay Kumar Chakraborty

-(14)-

5.5. For that the applicant's father died due to cancer while he was still in service. More than half of the terminal benefit was spent for his treatment. The applicant and his family members were asked to vacate the quarters after about 1 year of his father's death and since then they have been staying in rented premises at Guwahati. No member of the family is in Government service. Therefore the respondents ought to have provided the applicant with compassionate employment to mitigate the severe economic crisis in the family.

5.6. For that the respondent authority stated in the communication dated 14-12-2001 that the need for immediate assistance is lacking as the applicant's father died more than eight years back and therefore the applicant's case for compassionate appointment has not been approved. The applicant respectfully submits that the respondent authority cannot take up such plea for rejecting his case because it is the respondents themselves who are to blame for not appointing the applicant at an earlier point of time when vacancy in the post of LDC was available.

5.7. For that the respondent authority ought to have appointed the applicant in the post of LDC on compassionate ground because he was all along given the assurance that he would be appointed as such. Because of the assurances given by the respondent authority from time to time the applicant did not try for alternative means of livelihood. Now after being asked ~~towards~~ to wait for all these years for the job, the respondents have informed him that he cannot be provided with employment. Had the applicant been informed about the outcome of his

Contd.....(15).

application dated 28-09-1994 in time, he would have searched for alternative jobs .

5.8. For that the respondents cannot be permitted to go back on their assurances on such flimsy and frivolous grounds. The applicant's family is suffering from immense financial difficulties. Therefore the respondent authority ought to have appointed the applicant on compassionate ground and thus provide relief to the family of the deceased employee.

5.9. For that the order conveyed vide communication dated 14-12-2001 rejecting the claim of the applicant for compassionate employment is illegal, arbitrary and discriminatory in nature. It has violated the fundamental rights of the petitioner guaranteed under Article 14, 16 and 21 of the Constitution of India and is also violative of the principles of natural justice and administrative fairplay. The impugned order is based on extraneous consideration and it bears ~~no~~ ^{no} nexus with the objective sought to be achieved. The impugned order has been passed in colourable exercise of power and without application of mind and is therefore liable to be set aside and quashed. The respondents are to be directed to provide compassionate employment to the applicant without any further loss of time.

6) DETAILS OF REMEDY EXHAUSTED :-

The applicant declares that he has availed of all remedies available to him .

7) MATTERS NOT PREVIOUSLY FILED OR PENDING WITH 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 or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8) RELIEFS SOUGHT :-

Under the circumstances, the applicant respectfully prays that the Hon'ble Tribunal may be pleased to admit this case, call for records of the case and upon hearing the parties on the cause/causes that may be shown and on perusal of records may be pleased to grant the following relief(s) to the applicant -

(i) To set aside and quash the impugned order conveyed vide communication dated 14-12-2001 (Annexure-20) ~~via~~ whereby the case of the applicant for appointment on compassionate ground in the post of LDC in the MES, has been rejected.

(ii) To direct the respondents to appoint the applicant on compassionate ground in the post of LDC which is lying vacant in the office of the respondent No. 5, or in any other suitable vacancy without any further delay.

(iii) Any other relief or reliefs to which the applicant is entitled under the facts and circumstances of the case.

9) INTERIM ORDER, IF ANY PRAYED FOR :

Contd.....(17).

100
Bijay Kumar Chakraborty

Pending final decision on the application, the applicant prays that the Hon'ble Tribunal may be pleased to direct the respondents not to fill up the post of LDC which is lying vacant in the Office of the Garrison Engineer, Missamari.

10) THE APPLICATION IS FILED THROUGH ADVOCATES:

11) PARTICULARS OF THE INDIAN POSTAL ORDER

- (i) IPO No. 049238, 049239, 049240, 049241 and 049242.
- (ii) Date :- 29-08-2002
- (iii) Payable at :- Guwahati.

12) LIST OF ENCLOSURES :-

As stated in the index .

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

I, Shri Binoy Kumar Chakraborty, Son of Late S.K. Chakraborty, aged about 26 years, resident of Fourth Lane, Pan ^Dokan Bus stand, Kahilipara, Guwahati-18, Assam, do hereby verify that the contents of paragraphs 4.1 to 4.23 are true to my personal knowledge and paragraphs 5.1 to 5.9 are believed to be true on legal advice and that I have not suppressed any material fact.

Date :- 02-09-2002

Place :- GUWAHATI

Binay Kumar Chakraborty

Signature of the applicant

PROOF OF
MY FATHER LATE
SUDHIR KUMAR CHAKRABORTY
AS AN M.E.S. EMPLOYEE.

-18-
CERTIFICATE

ANNEXURE - 1

This is to certify that MES/265366 Sri Sudhir Kumar Chakraborty, Ch/Mech ~~61741~~ ¹⁵⁷⁶³ serving in Military Engineer Services under Ministry of Defence since 01.5.59 and expired on 31 Oct 93. Smt Usha Rani Chakraborty wife of Late Sudhir Kumar Chakraborty is Midnapure (West Bengal) (India) as per Service Record in this office.

Family details in respect of Late Sudhir Kr. Chakraborty are as under :-

- 1) Pranay Kr. Chakraborty, Son (D/B 19 Jul 71)
- 11) Binoy Kr. Chakraborty, Son (D/B 27 Jul 76)
- 111) K. S. Rani Chakraborty, Daughter (D/B 14 Jan 78)

Station: Missanari
Dated: 23 Nov 93



NC Das
(HC Das)
AGE 'T'
for Garrison Engineer
For GARRISON ENGINEER

*Certified to be true copy
Krishnendu Paul
Advocate
2.9.2002*

-19-

103

A N N E X U R E - ' 2 '

From:- Shri Binoy Kumar Chakraborty,
S/o MES/265366 Late
S.K. Chakraborty, Ch/Mech
Qtr No. T/3/2, Govindnagar,
P.O. Missamari
Dist. Sonitpur (Assam)- 784 506

To

Chief Engineer
HQ Shillong Zone
Shillong
(Through proper Channel)

APPOINTMENT OF DEPENDENT OF DECEASED
GOVT EMPLOYEE IN MES DEPARTMENT

Respected sir,

I beg to submit the following few line for
your kind consideration and favourable orders please.

Sir, my father MES/265366 Late S.K. Chakraborty
Ch/Mech HS-I of AGE E/M Missamari under Garrison Engineer
Missamari expired on 31 October, 1993, I belong to a very
poor family and I have got four members in our family (mother
brothers and sister). It is for your kind information that
I have passed Higher Secondary Examination from Kendriya
Vidyalaya and also passed typing examination in English.
I have no other income nor have any land property on my
own or in the name of my Late father.

After the untimely death of my father I find
it great difficulties to meet my expenses even the daily
needs. Since I being poor son having many members of our
family facing lot of financial stringency to pull day to

Contd.....(2).

*Certified to be true copy
Krishnendu Paul
Advocate
2.9.2002*

day life. Now I am in such a state of critical juncture to look after our family, without having any income from any source.

In view of the above it is requested that my case may please/be considered favourably for appointing me in MES department in case the post of LDC or any other job suitable for me considering my qualification so as to enable me to look after our family.

I hope your honour will consider my case sympathetically and order for my appointment as sought above for which act of kindness I shall remain ever grateful to you sir,

Thanking you in anticipation,

Yours faithfully,

Station : Missamari

Dated : 28 Sep, 94.

(BINOM KR CHAKRABORTY)
S/o LATE S.K. Chakraborty
Ex.ch/Mech

ANNEXURE - (3) (Series)

WILLINGNESS CERTIFICATE

Certified that I am willing my younger son Shri Binoy Kumar Chakraborty to serve any where in India in case non availability of vacancies in the area/zone..

Signature of applicant

Usha Rani Chakraborty

Wife of Late S.K. Chakraborty

Charge Mechanic.

*Certified to be true copy
Krishnanand Lal
Advocate
2-9-2002*

PROPERTY CERTIFICATE

This is to certify that Late S. K. Chakraborty, vill.
 Padi ai Bhorela, P.O. Carubanda, Dist. Sonitpur, Assam has
 died on 31 Oct 1993 and had left nothing as earning source
 maintenance of the family which consist 4 (four) members.

Date 24.12.94.

[Signature]
 Block Dev. Officer
 Dhekiy St. Block Dev. Officer
 Dhekiy St. Block Dev. Officer
 Dhekiy St. Block Dev. Officer

- 25 -


✓ 107 P

SOURCE OF INCOME AND ASSETS

Certified that Mr Binay Kr. Chakraborty son of Late S.K. Chakraborty of village-Patidai Bharela, P.O. Garubanda, Dist- Sonitpur in the state of Assam is a poor and there does not stand any landed property in his family's name.

It is also certified that he does not have source of income after expiry of his father.

Date 24-12-94.


Block Dev. Officer
Dhekiyajuli P.O.
Dhekiya J. Block Dev. Officer
Borsola Development Block.


24-

108

INHABITANT CERTIFICATE

This is to certify that Mr Binay Kr Chakraborty son of
Late S. K. Chakraborty of vill. Patidai Bharela, PO Garubanda
Dist. Sonitpur, Assam is known to me very well.

Date 24-12-94


24/12/94
Block Dev. Office
Dhekiya jui Block
Dhekiya jui Block
Borsala Development Block

- 25 -

109

ANNEXURE - '4'

E-IN-C's BR LETTER NO. 35926/POLICY/EIC DATED 22 FEB 88/
PROFORMA REGARDING EMPLOYMENT OF DEPENDENTS OF GOVERNMENT
SERVANT DYING WITHIN SERVICE RETIRED OR INVALID SERVICE

PART-I

1. (a) Name of the deceased Retired on :- MES/265366 Late
invalid pension employed. SK Chakraborty,
Ch/Mech HS-I
- (b) Designation of the Employee :- Charge Mechanic HS-I
- (c) Date of birth of the employee :- 04 Aug 1938
- (d) Date of death :- 31 Oct 1993
- (e) Total length of service record :- 34 years 6 months.
- (f) Whether permanent or Ty :- Pt
- (g) Whether belonging to SC or ST :- Neither.
- II (a) Name of the candidate for apptt :- Shri Binoy Kumar
Chakraborty
- (b) His/her relationship with the
employee :- Son
- (c) Date of birth :- 27 July 1976
- (d) Educational Qualifications :- Higher Secondary
Examination with
English typing.
- (e) Whether any other dependent
has been appointed on
compassionate grounds :- No.
- III (a) Particulars of total assets
left including amount of
- (a) Family pension :- Rs. 768/- p.m.
- (b) DCR Gratuity :- Rs. 63,360/-
- (c) GPF Balance :- Rs. 95,938/-

Contd...(2).

*Certified to be true
Kinshendu Paul
Advocate
27.2.2002*

- (d) LIC policies :- Nil
- (e) Movable and immovable properties and annual income earned therefrom by the family :- Only meagre pension of his father.
- (f) Encash of leave :- Rs. 14,640/-
- (g) Any other assets :- Nil
- (h) C.G.E.I.S. Amount :- Rs. 34,606/-

IV Brief particulars of liabilities if any. :- Nil

V) Particulars of all dependents of the Govt. servant (if some are employed their income and whether they are living together or separately)

SL. NO.	NAME	Relationship with the Govt. servant are	employed or not particulars of employment and emoluments
01	Shri Pranay Kr. Chakraborty	Son 19-07-1975	No
02	Shri Binoy Kr. Chakraborty	Son 27-07-1976	No
03	Miss Siuli Rani Chakraborty	Daughter 14-01-1978	No

DECLARATION

I hereby declare that the facts given by me ~~xx~~ above are to the best of my knowledge is correct. If any of the facts herein mentioned are found to be incorrect or false at a future date my services may be terminated.

Signature of the candidate
(Binoy Kumar Chakraborty)

Contd...(3).

- 27 -
- (3) -

Sd/- Illegible

Signature of the permanent

Govt. Servant.

MES No. 246249

Name : Shri A N Bhawnik, Office

Supdt Gde II

Address : GE Missamari

I have verified that the facts mentioned by the
candidate above are correct.

Signature of the Welfare Officer.

-28-
112

PART-II

- (a) Name of the candidate : SHRI BINOY KUMAR CHAKRABORTY
for appointment
- (b) His relationship with the : Son
employee
- (c) Educational Qualification : Higher Secondary Examination
age (date of birth) and : in the year 1994
experience if any : 27-07-1976
English Type writing, Speed 40
words per minute.
- (d) Post for which employment : LDC, Store Keeper, Meter Reader.
is proposed.
- (e) Whether the post is to : NA .
be filled in CSDs or in
a non participating.
- (f) Whether the recruitment : Yes
rules provide for
direct recruitment
- (g) Whether the candidates : Yes
fulfill the requirement
of the recruitment
rules for the post
- (h) Apart from waiver of : Nil
employment exchange
procedure what other
^{xa}
relations are to be
given.
- II . Whether the facts mentioned : Yes, verified from the
in Part-I have been : service Records.
verified by the Office and
if so, indicate the records.

Contd...(2).

-(2)-

III. Personal recommendation of the : Recommended.

Head of the Department/
Ministry

IV. If the employee died/retired : Not applicable.
on invalid pension more than
5 years back, Why the case
was not sponsored earlier.

Station : Missamari

Garrison Engineer

Dated :

- 30 -

114

ANNEXURE - '5'

STATEMENT OF CASE FOR EMPLOYMENT OF SON OF THE DECEASED
GOVT. SERVANT

INTRODUCTION

1. MES/265366 Late S K Chakraborty, charge Mechanic HS-I while serving under GE Missamari (AGE E/M Missamari) expired on 31 October, 1993. Smti Usha Rani Chakraborty, wife of above deceased is entitled a meagre amount of the following:-

(a) Family Pension

(b) Death-cum Retirement Gratuity etc.

2. The widow is now drawing family pension Rs. 768/- p.m.
The following amounts have already been paid to her :-

(i) DCRG	Rs. 63,360/-
(ii) GP Fund Balance	Rs. 95,938/-
(iii) CGEIS	Rs. 34,606/-

PROPOSAL

3. Due to death of above individual, the wife i.e. Smt Usha Rani Chakraborty, in indigent circumstances. There is no other source of income except the meagre amount of terminal benefits which is inadequate to meet her requirement to maintain the family consisting of children in these hard days. As such she deserves Govt. Assistance by way of employment to her son.

DETAILED JUSTIFICATION

4. Smt. Usha Rani Chakraborty, wife of the deceased has requested for employment to her son in the department of MES.

Contd...(2).

*certified to be true
copy
Krishnendu Paul
Advocate
2.9.2002*

SUMMARY

5.. In view of the above, it is requested that an early action may please be taken to agree for employment for Shri Binoy Kumar Chakraborty, (son) as a LDC, Store Keeper or Meter Reader in the MES, under the Ministry of Defence in relaxation of normal recruitment procedure.

(R.S. Cheema)

Maj

Garrison Engineer

Station : Missamari

Sd/-~~Il~~legible

Dated : 05 Apr 95

5/4

ANNEXURE - '6'RECOMMENDATION OF THE GE

The case for appointment of Shri Binoy Kumar Chakraborty, S/o MES/265366 Late S.K. Chakraborty, Charge Mechanic HS-I for the post of LDC or Store Keeper is strongly recommended. He is educationally qualified and is within the prescribed age limit as per recruitment rules.

(R.S. Cheema)

Maj

Station : Missamari

Garrison Engineer

Date : 05 Apr 95

Sd/- Illegible

5/4

certified to be true copy
Krishnendu Paul
Advocate
2.9.2002

ANNEXURE - '7'

CERTIFICATE

AS PER E-IN -C's BRANCH LETTER NO. 65926/E1C DATED 16 FEB 74

Certified :-

- (a) A clear vacancy for appointment of LDC exists for employment of dependent of deceased Late S K Chakraborty Ch Mech.
- (b) Clear Vacancy exists after adjustment of surplus and deficiencies which have been declared and realeased under AO/S/76 for appointment other than (a) above.
- (c) Retrenched personnel are eligible for re-employment and considered before new entrances are appointed.
- (d) Funds are available.

Garrison Engineer.

*Certified to be true copy
Krishendu Paul
Advocate
2.9.2002*

ANNEXURE - '8'ELIGIBILITY CERTIFICATE

Certified that the case of Shri Binoy Kumar Chakraborty S/o Late S K Chakraborty is covered vide Item VI of para 2 of Govt. of India, Ministry of Home Affairs letter No. 14014/1/77/Estt (D) dated 25th Nov 78 received under E-in C's Br letter No. 65926/EIC dated 10 Jan 79.

(R.S. Cheema)

Maj

Garrison Engineer

Station : Missamari

Dated : 05 Apr 95

Sd/- Illegible

5/4

*Certified to be true copy
Krishnendu Paul
Advocate
2.9.2002*

Tele No 11 513

Garrison Engineer
Missamari

119

1011/C/ 252 /E1A

SHRI BINAY KR CHAKRABORTY,

S/O LATE S K CHAKRABORTY,

C/O Qtr No T/3/2 GOVIND NAGAR

P.O. : MISSAMARI

Dist. : SONITPUR (ASSAM)

24 Feb 87

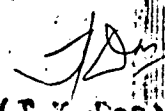
COMPASSIONATE APPOINTMENT LIC TO THE
DEPENDENTS OF DECEASED GOVT SERVANT

Dear Sir/Mr/Ms,

1. It has been intimated by our higher headquarters that no additional vacancies of LICs covering the period upto 30 Jan 82 will be allocated to accommodate persons listed on compassionate ground.

2. In view of the above, this is to inform you, that you may submit your revised option and give fresh choice to the category Madam, son, daughter & Chawkidar and also note that you will be permitted your original seniority as a result of such review.

Yours faithfully,


(T K Das)
AN/AGE Tech
for GE Missamari

*Certified to be true copy
Krishendu Paul
Advocate
2-9-2002*

- 86 -

ANNEXURE - 10

From,

Mrs. Usha Rani Chakraborty
W/O: M.E.S./ 265366
Late S.K. Chakraborty, Ch / Mech

To,

CEEC
Kolkata-21

Sub : Appointment of dependent of deceased govt. employee in MES department.

Respected Sir,

I beg to submit the following few lines for your kind consideration and favourable orders please.

Sir, my husband M.E.S / 265366, Late S.K. Chakraborty, ch / Mech HS-I of A.G.E.E / M, Missemari under Garrison Engineer Missemari expired on 31st Oct 1993, leaving behind 4 (four) family members, i.e. two sons, one daughter and myself. My son Binay Kr. Chakraborty who has applied in MES department for the post of Clerk under compassionate ground. Now he is frantically trying to secure a job but in spite of his best effort till date he could not secure a job anywhere. My second son could not complete his study for our financial condition and more so I could not manage to arrange any source for the marriage of my grown up daughter. My elder son is now my only hope to cope up the situation provided he is employed somewhere. Now, we four family members are totally depending upon my half pension.

After the untimely death of my husband, we are facing lots of financial problems. After this incident, we left the quarter and now from 7 yrs of my husband's death we are staying at Guwahati at a rented house paying rupees 2000/- monthly. At the beginning, I have received Rs. 36000/- as pension. But now from this year I am getting half pension, according to headquarters rule. Now you think yourself is it possible to pull four family members within this resource? Sir, I find it great difficulties to meet my day to day increasing expenses even the daily needs. Since, I being poor mother of three childrens facing lots of financial stringency to pull day to day life. Now I am in such a state of critical juncture to look after my family, without having any other source of income and land property.

Sir, my late husband served his whole life as a MES staff and he acquired good duty record. My husband died due to Cancer, and for his treatment I have spent more than half money which I received from the MES department as G.P.F and Gratuity. Today, he is not alive in between of us, that's why we are facing this financial problems. So, as a wife of your one of Late MES staff it is my pray to you please appoint my son Binay Kr. Chakraborty in MES department under compassionate ground. After my husband's death, I have submitted all the necessary documents and my willingness certificate regarding my son's appointment.

contd. on page 2.....

*Certified to be true copy
Krishendu Paul
Advocate
2-9-2002*

Sir, In between this 7 years, my son send as many as application, but there is no suitable reply from the headquarters. No one is responding - our matter seriously. On the month of July 2000, the Shillong headquarter gave reply that - " your serial no. is 21 as per the register maintained by this office for the post of LDC. After that, till now I didn't know my present serial no. of my son or progress in recruitment. Sir, lots of money he has spend for typing and postal registry charges for sending this application. At present I do not have any means to spend a single paisa on this sorts of additional expenses. Sir, I am sending this application to you with lots of hopes. So, kindly take a favourable decision and appoint my son immediately and save me from the starvation, so that I can maintain my family members a bit peacefully. For your ready reference, here I am sending all the xerox copy of my sons - all application, the replies received from the headquarters, the acknowledgement cards and registry receipts.

I hope your honour will consider my case sympathetically and - take immediate decision for my son's appointment as sought, and for this act of your kindness, I shall remain ever grateful to you sir.

Thanking you in anticipation.

Your's Faithfully

Dated: 07-05-1999
Station: Guwahati

Usha Rani Chakraborty
Mrs. Usha Rani Chakraborty
W/O: M.E.S/ 265366,
Late. S.K. Chakraborty, Ch/ Mech.

Present Address

Binay Kr. Chakraborty
C/O: Ganesh Medical
P.O: Vinobanagar
Kalapahar
Guwahati: 18

- Enclosed :-
- (a) The previous applications.
 - (b) The headquarters replies.
 - (c) The acknowledgement cards.
 - (d) The postal registry receipts.

Copy To :-
=====

- (1) E-IN-C's Branch
New Delhi
- (2) CEEC
Kolkata-21
- (3) Chief Engineer
Shillong.

FROM :

Shri Binay Kumar Chakraborty
S/O, M.E.5/265366-

Late S.K. Chakraborty, CH/MECH.

Present Address :-

C/O - Ganesh Medical

P.O - Vinobanagar,

Kalapahar, Guwahati-18.

To,

E-IN-C'S BRANCH

ARMY HEAD QUARTERS

NEW DELHI.

APPOINTMENT OF DEPENDENT OF DECEASED GOVT. EMPLOYEE
IN M.E.S. DEPARTMENT :

Respected Sir,

I beg to submit the following few line for your kind consideration and favourable orders please.

Sir, my father, M.E.5/265366 Late S.K. Chakraborty CH/MECH. HS-I of A.G.E, E/M, Missamari under Garrison Engineer Mis-sari expired on 31st Oct, 1993. I belong to a very poor family and I have got four members in our family (Mother, Brother and Sister). It is for you kind information that I am an ART'S Graduate and also passed typing examination in English. Moreover, I have completed computer course also. I have no source of income, nor have any land property.

After the untimely death of my father, I find it great difficulties to meet my expenses even the daily needs. After my father death, office has force us to leave the quater. So now we are staying at rented house paying Rs. 2000/- per month at Guwahati. My mother withdrawing Rs. 3,600/- as pension. Now, you can imagine yourself that how we four family members facing lot of financial stringency to pull day to day life. Now, I am in such a state of critical juncture to look after our family, without having any income.

Contd..2/

*Certified to be true copy
Kishorendu Paul
Advocate
2-9-2002*

Sir, after my father's death, office has taken i-interview on the month of February, 1994, and I declared pass. Now its sixth year running after my father's death. Yet now I am jobless. During this, I have send two to three letter's to all Headquarters, but there is no reponse from you all. If there is no vacancy in M.E.S, then how you recruiting fresh candidates by leaving this deceased cases. I found many advertisement of M.E.S in daily paper's. Sir, you can search my father's duty record. I am agree for any post i.e, clerk/storekeeper/Electician. Moreover, you can posted me any where you wish, but I need an job to pull my family members life.

In view of the above it is requested that please be considered favourably for appointing me in M.E.S department in any post suitable for me considering my qualification. I hope your honour will consider my case sympathetically and order for my appointment as sought above for which act of kindness, I shall remain ever Greatfull to you sir.

Thanking you in anticipation.

Station - Guwahati,
Dated - 10-1-2000.

Your's faithfully,

Shri Binay Chakraborty

S/O, M.E.S/265366-

Late S.K. Chakraborty, CH/MECH.

Present Address :-

C/O - Ganesh Medical

P.O - Vinobanagar,

Kalapahar, Ghy - 18.

Copy to :-

(1) E-IN-C'S Branch,
New Delhi.

(2) CEEC
Calcutta - 21.

(3) Chief Engineer
Shillong.

40-
ANNEXURE- 12

Tele : 6315

Headquarters
Chief Engineer
Shillong Zone
Spread Eagle Falls
Shillong-793011

70601/25/197/EIC(I)

29 Feb 2000

✓
Shri Binay Kumar Chakraborty
C/O MES/265366
Late S.K. Chakraborty, CH/MECH
C/o Ganesh Hospital
PO : Vinobanagar
Kalapahar
Guwahati-18

APPOINTMENT OF DEPENDENT OF DECEASED
GOVT EMPLOYEE IN M.E.S DEPARTMENT

1. Reference your application dated 10 January 2000.
2. It is intimated that your name is at Ser No 21 of the seniority list for compassionate appt of LDC. The appointment will be done accordingly on receipt of Govt sanction.

[Signature]
(O Khongwir)
AO I
for Chief Engineer

Copy to :-

CWE Tezpur
GE Missamari

*Certified to be true copy
Krishnendu Paul
Advocate
2-9-2002.*

- 41- ANNEXURE - 13

Tele : 6015

Headquarters
Chief Engineer
Shillong Zone
Spread Eagle Falls
Shillong - 793 011

70601/25/ 211 /EIC (I)

13 Apr 2000

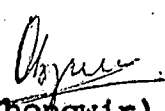
Shri Binay Kumar Chakraborty
S/O MES/265366 Late SK Chakraborty
C/O Ganesh Medical
Post - Vinobanagar
Kalapahar, Guwahati-18
State : Assam

APPOINTMENT OF DEPENDENT OF DECEASED GOVT
EMPLOYEE IN MES DEPARTMENT

Sir,

1. Reference your application dated 10 Jan 2000.
2. It is to inform you that your seniority for considering the appointment on compassionate ground is 21, as per the register maintained by this office for the post of LDC. Further development of the case will be intimated in due course.

Yours faithfully,


(O Khongwir)
Adm Officer-I
for Chief Engineer

Copy to :-
Chief Engineer
Headquarter
Eastern Command
Engineers Branch (EIC (2)
Fort William
Calcutta - 21

- for info wrt your HQ letter
No 131528/3A/4597/Engrs/EIC(2)
dt 27 Jan 2000.

*Certified to be true copy
Krishnendu Paul
Advocate
2-9-2002*

From

Shri Binoy Kumar Chakrabarty,,
S/O. - M.E.S/ 265366,
Late S.K.Chakrabarty, CH/Mech.
Present Address. :-

C/O :- GANESH MEDICAL,
P.O - Vinobanagar,
Kalapahar, Guwahati - 18.

To

E - IN - O's BRANCH
ARMY HEAD QUARTER
New DELHI.

Appointment of Dependent of Deceased Govt.
Employee in M.E.S Department.

Respected Sir,

I beg to submit the following few lines again
for your kind consideration and favourable - order please.

Sir, my father, M.E.S/265366. Late S.K.Chakra-
barty CH/MECH. HS1 of A.G.E.E/M. Missamari under Garrison Engineer
Missamari, expired on 31st Oct. 1993. Sir, I belong to a very poor
family and I have got four members in our family.

Sir, few days ago, I have send three letters
to three headquarter i.e Shillong, Calcutta and Delhi through reg-
istered with A.D. I received my A.D. back so, it is clear that you
have received my letter. After that, Shillong headquarter replied
me that - my seniority for ~~considering~~ the appointment on Compan-
sionate ground is 21 as per the register maintained by this office
for the post of LDC. They send me a letter No.131528/3A/4597/Engrs/
EIC (2) dated 27 Jan'2000 for collecting information.

Sir, it is quite known to you that now we are
staying at rented house paying Rs 2000/- per month from 5 years. From
the begining mother withdrawing Rs 3,600/- as pension up to now. But
from next month of this year pension will be half as 7 years completed
According to Govt. rule, every pensioners pension will be half after
7 years. Now You think how we four members pull day to day life with
in Rs 2000/- or Rs2500/- after paying Rs 2000/- as rent to houseowner.
After interview my serial No. is 36 in 1994. Now after this 6 years
my serial No is 21 i.e only 15 recuritment had done in this last
6 years. So, it is clear that more 6 - 7 years are needed for my

*Certified to be true copy
Krishnendu Paul
Advocate
2-9-2002*

Contd ... 2

recruitment. Sir, why don't you are understanding our present situation which we are facing. Sir, I know that there are many more candidate like me. They also need job within short time. Sir, your seniority list or office register will not solve their problem which are facing many Candidate like me.

So, in view of the above it is requested that please be considered your attention to those candidate first who are facing lots of problems to pull day to day life like me. Sir, seniority list No will not solve our economic problems. I hope your honour will consider my case sympathetically and order for my appointment as sought above for which act of kindness as soon as possible. I shall remain greatfull to you Sir.

Thanking You in anticipation.

Your's faithfully,

Station - GUWAHATI

Date - 18-5-2000

(Shri BINAY CHAKRABORTY)

S/O. M.E.S 265366

Late S. K. CHAKRABORTY

C H / MECH.

Present Address :-

C/O - GANESH MEDICAL

P.O - VINOBANAGAR

KALAPAHAR

GUWAHATI - 18.

COPY TO :-

1. E - IN - C's BRANCH
NEW DELHI.
2. CEEC
CALCUTTA - 21
3. CHIEF ENGINEER
SHILLONG.

Tele : 6015

Headquarters
 Chief Engineer
 Shillong Zone
 Spread Eagle Falls
 Shillong - 793 011

70601/25/ 220/EIC (I)

12/Jun 2000

✓ Shri Binay Kumar Chakraborty
 S/O MES-265366 Late SK Chakraborty
 C/O Ganesh Medical
 Post-Vinobanagar
 Kalapahar, Guwahati-18
 State : Assam

APPOINTMENT OF DEPENDENT OF DECEASED
GOVT EMPLOYEE IN MES DEPARTMENT

Sir,

1. Reference your application dated 18 May 2000.
2. In this connection please refer to our letter No 70601/25/211/EIC (I) dated 13 Apr 2000. It is to inform you that your seniority for considering the appointment on compassionate ground is 21, as per the register maintained by this office for the post of LDC. Further development of the case will be intimated in due course.

Yours faithfully,

Chongwir
 (O Khongwir)
 Adm Officer-I
 for Chief Engineer

Copy to :-

E-in-C's Branch
 Army HQ, DHQ -Post
 New Delhi - 11

Chief Engineer
 Headquarters
 Eastern Command
 Engineers Branch(EIC(2))
 Fort William
 Calcutta - 21

- for info please.

Certified to be true copy
Krishnendu Paul
Advocate
2-9-2002

From :-

Shri Binoy Kumar Chakraborty
S/O :- M.E.S/265366
Late S.K.Chakraborty, CH/MECH.

45-
ANNEXURE-16

To,

CEEC

Calcutta - 21.

Sub :- Appointment of dependent of deceased Govt. employee
in M.E.S. department.

Respected Sir,

I beg to submit the following few lines again for your kind consideration and favourable orders please.

Sir my father, M.E.S/265366, Late S. k. Chakraborty, CH/MECH. HS - I, of A.G.E.E/M, Missamari under Garrison Engineer Missamari expired on 31st October, 1993. Sir, after the untimely death of my father, we are facing lots of problems to meet daily expenses. We are four family members (Mother, 2 brother and 1 Sister). As elder, I have no source of income nor have any land property.

Sir, including this, this is my 4th application. But, no one is listening or understanding my problems. In every application I am mentioning my financial stringency that now we are staying in an rented house paying Rs. 2000/- per month to the house owner at Guwahati. At present mother withdrawing Rs. 3,600/- as pension. From the next month, mother's pension will be half, as 7 years passed my father's death. Now, you think yourself how we four member's are managing our livelihood and after half pension, what situation will be create? I can't understand that every employee of M.E.S. every officers of all headquarters are also managing their families. So, everyone knows the market condition increasing rate of goods. Whether it is possible to pull a family of four members within Rs. 1,600/- or Rs. 1,800/-? If your humanity replies 'Yes' than Ok. But I don't know whether it is clear to every M.E.S. employee or not that every employee's growing child's must have to face the same problem of unemployment like me. My father was also an M.E.S. employee and he acquired good duty record. You can search about this. Relating this if you working employee can't understand the problem's of your deceased staff's family, than to whom I should request? Is no one is there, who is ready to understand our problems our financial conditions.

*Certified to be true copy
Krishnendu Paul
Advocate
2-9-2002*

Contd..2/

Sir, I am sending application after application, mentioning my conditions and requesting everytime. But, every time I am getting reply that my seniority list no. is 21, as per the register maintained by the office. Sir, after 7 years of my father's death, till now you all headquarter's replying me this, then what will happen to my family ? Is this serial no-solve our problems ?

Sir, In view of the above it is requested that please do an favourable judgement soon. Sir, please tell me upto which year's deceased cases are been solved and now upto which year's deceased cases you are going to recritted ? I hope your honour will consider my case sympathetically. I shall remain ever greatful to you for your kindness.

Thanking you in anticipation.

Date : 21-06-2000

Place : GUWAHATI

Copy to :-

1. E-In-C's Branch
New Delhi.
2. CEEC
Calcutta - 21.
3. Chief Engineer
Shillong.

Yours faithfully.

Shri Binoy Kr. Chakraborty
S/O- M.E.S/265366
Late S.K.Chakraborty, CH/MECH

Present Address :-

C/O - Ganesh Medical,
P.O- Vinobanagar
Kalapahar, Guwahati- 18.

Tele : 6315

Headquarters
Chief Engineer
Shillong Zone
Spread Eagle Falls
Shillong-793 011

70601/25/241/EIC(I)

25 Jul 2000

✓ Shri Binoy Kumar Chakraborty
S/O : MES/265366
Late SK Chakraborty, Ch/Mech
C/O Ganesh Medical
P.O : Vinobanagar
Kalapahar, Guwahati-18

APPOINTMENT OF DEPENDENT OF DECEASED GOVT
EMPLOYEES IN MES DEPARTMENT

Sir,

1. Reference your application dated 21 Jun 2000.
2. It is to inform you that your seniority for considering the appointment on compassionate ground is 21, as per the register maintained by this office for the post of LDC. Further development of the case will be intimated in due course.

Yours faithfully,

(Signature)
(O Khongwir)
AO-I
for Chief Engineer

Copy to :-

Engineer-in-Chief's Branch
Army Headquarters
Kashmir House
New Delhi-110011

Hq Eastern Command
Engineers Branch
Fort William
Calcutta-700021

*Certified to be true copy
Krishnendu Paul
Advocate
2-9-2002*

FROM,

Shri. Binay Kr. Chakraborty

S/O:-M.E.S/265366

Late.S.K.Chakraborty, Ch/Mech.

TO,

CEEC

CALCUTTA-21

SUB:-APPOINTMENT OF DEPENDENT OF DECEASED GOVT.EMPLOYEE IN M.E.S DEPARTMENT

Respected Sir,

Reference your letter no.70601/25/241/EIC(I), dated:-25/7/00, I beg to submit the following few lines again for kind consideration and favourable orders please.

Sir, my father M.E.S./265366, Late.S.K.Chakraborty, Ch/Mech, HS I, of A.G.E.E/M, Missamari under Garrison Engineer Missamari expired on 31st October, 1993. Sir, after the untimely death of my father, we are facing lots of problems to meet daily expenses. We are four family members. As elder, I have no source of income, nor have any land property.

Sir, including this, this is my 5th application to you all. But, I am not getting any fruitfull reply. Before this, on 21-06-2000, I have send last application to you. Till that application you all officers replying me that 'my seniority list no. is 21, as per the register maintained by the office. Further devolpment of the case will be intimatted in due course. But, please tell me when?

Sir, see there is no self correspondence from the headquarters untill receiving of my application. From 7 years, wheather my serial no. is 21 asusual? Is there is no progress? Why the headquarters are not intimatted us about the present serialno. or progress? Sir, my late father was served his whole life as a M.E.S. staff. Today he is not alive in between us. That's - why we are facing all this problems. We are the family members of your one of the M.E.S. staff, and due to untimely death of my father, today we are standing in this bad situation. Is it not your duty to help us, or to bring out us from this critical juncture? Sir, it is our right to get a job in M.E.S department in place of my late father. Sir, I have no choice regarding station i.e, near or far. You can posted me anywhere as you wish, but I need an job soon because we are facing many problems.

contd. to pageno.2

*Certified to be true copy
Krishnendu Paul
Advocate
2-9-2002*

133

(49 -

Sir, in view of the above, it is requested that please do an favourable judgement soon for us. I will thankfull to you sir. I have an request to you that please let me know my present serial no. and how much time needed more for my recruitment? I hope your honour will consider my case sympathetically with full response. I shall remain ever greatfull to you for your kindness.

Thanking you in anticipation.

Dated:-20/01/2001

Place:- Guwahati

Your's Faithfully

Shri. Binay Kumar Chakraborty

S/O:- M.E.S./265366,

Late. S.K. Chakraborty, Ch/Mech.

Present Address:-

C/O:- Ganesh Medical

P.O:- Vinobanagar

Kalapahar

Guwahati-18.

Copy to:-

(1) E-IN-C's Branch
New Delhi

(2) CEEC
Calcutta-21

(3) Chief Engineer
Shillong.

FROM,

MRS. USHA RANI CHAKRABORTY
W/O: M. E. S/265366
LATE: S. K. CHAKRABORTY, CH/MECH.

TO,

THE HONOURABLE
DEFENCE MINISTER
MR. JASWANT SINGH.

SUB: -APPOINTMENT OF DEPENDENT OF DECEASED GOVT. EMPLOYEE IN
MES DEPARTMENT.

Respected sir,

I beg to submit the following few lines for your kind consideration and favourable orders please.

Sir, my husband M.E.S /265366, Late S. K. Chakraborty, ch/Mech HS-I of A.G.E.E/M, Missamari under Garrison Engineer Misamari expired on 31st Oct 1993, leaving behind 4 (four) family members, i.e. Two sons, One daughter and myself. My son Binay Chakraborty who has applied in MES department for the post of clerk under compansionate ground. Now he is frantically trying to secure a job but inspite of his best effort till date he could not secure a job anywhere. My second son could not complete his study for our financial condition and more so I could not manage to arrange any source for the marriage of my grown up daughter. My Elder son is now my only hope to cope up the situation provided he is employed some where. Now, we four family members are totally depending upon my half pension.

After the untimely death of my husband, we are facing lots of financial problems. After this incident, we left the quarter and now from 7 years of my husband death, we are staying at Guwahati at rented house paying rupees 2000 /- monthly. At the begining, I have received Rs. 3600/- as pension. But now from this year I am getting half pension, according to headquarter's rule. Now you think yourself is it possible to pull four family members within this resource? I find it great difficulties to meet my day to day increasing expenses even the daily needs. Since, I being poor mother of three childrens facing lots of financial stringency to pull day to day life. Now I am in such a state of critical juncture to look after my family, without having any other source of income and land property.

Sir, my Late husband served his whole life as a MES staff and he acquired good duty record. My husband died due to Cancer, and for his treatement, I have spend more than half money which I received from MES department as G. P.F and

CON'D.....P/2

*Certified to be true copy
Krishnendu Paul
Advocate
2-9-2002.*

Gratuity. Today, he is not alive in between of us, that's why we are facing this financial problems. So, as a wife of your one of late MES staff its my pray to you please appoint my son Binay Kr. Chakraborty in MES department under compansionate ground. After my husband death, I have submitted all the necessary documents and my willingness certificate regarding my sons appointment.

Sir, In between this 7 years, my son send as many as application, but there is no suitable reply from the headquarter's. No one is responding - our matter seriously. On the month of July 2000, the Shillong headquarter gave reply that - "your serial No. is 21 as per the register maintained by this office for the post of LDC". After that, till now I didnot know the present serial no. of my son or progress in recruitment. Sir, lots of money he has spende for typing and postal registry charges for sending this application. At present I don't have any means to spend a single paisa on this sorts of additional expenses. Sir, I am sending this application to you with lots of hopes. So, kindly take a favourable decision and appoint my son immediately and save me from the starvation, so that I can maintain my family members a bit peacefully. For your ready reference, here I am sending the xerox copies of my sons all application, the replies received from the headquarters, the acknowledgement cards and registry receipts.

I hope you honour will consider my case this time sympathetically. As officialy I have tried much more in this 7 years, but the headquarters are neither taking any favourable decision, nor giving any response to our problems which we are facing due to there negligiency. Sir you please take an immediate decision and give order for my son's appointment as sought, and for this act of your kindness, I shall remain ever greatfull to you.

Yours faithfully

Usha Rani Chakraborty

STATION: GUWAHATI

PLACE : 15/09/01

USHA RANI CHAKRABORTY
W/O: M. E. S /265366
LATE. S.K. CHAKRABORTY, CH/MECH.

ENC: A. THE PREVIOUS APPLICATION
B. THE HEADQUARTERS REPLIES.
C. THE ACKNOWLEDGEMENT CARDS.
D. THE POSTAL REGISTRY RECEIPTS.

PRESENT ADDRESS :-
BINOY KR. CHAKRABORTY
C/O: GANESH MEDICAL
P.O: VINOBA NAGAR
KALAPAHAR, GHY - 18.

CC: 1. DEFFENCE MINISTER, JASWANT SINGH.
2. E -IN-C'S BRANCH, NEW DELHI.
3. CEEC, KOLKATA-21.
4. CHIEF ENGINEER, SHILLONG.

Headquarters
Chief Engineer
Shillong Zone
Spread Eagle Falls
Shillong 793011

136

70601/25/ 11/1 /EIC(I)

14 Dec 2001

Shri Binoy Kr Chakraborty
S/O Late SK Chakraborty
C/O Ganesh Medical
P.O. Vinuba Nagaqr
Kalapahar. Ghy - 18

COMPASSIONATE APPOINTMENT

Dear Sir,

1. Reference your application dated 28 Sep 1994 for appointment under the scheme of compassionate ground in this Department on expiry of your Late father SK Chakraborty, Ex/ Ch/Mech of GE samari

2. Your request for compassionate appointment was examined by the competent authority under the relevant instructions of Dept of Pers Trg and Hon'ble Supreme Court ruling on the subject are enclosed.

3. According to available information, the following is the position/Status of the case:-

(a) The death of Govt servant occurred on 31 Oct 1993. He was survived by his wife, 02 sons and 01 daughter.

(b) The family is receiving Rs 1849/- (min) as family pension. As such it is above the poverty line as per DOP&T instructions.

(c) The need for immediate assistance by way of compassionate employment to tide over the emergency and crisis is lacking in this case as the death of the Govt servant occurred on. 31 Oct 1993. i.e more than 08 years back.

4. After due circumspection and consideration of the circumstances of the case in the light of the enclosed guidelines of DOP&T and also various judgments of the Hon'ble Supreme Court and after a balanced and objective assessment of the totality of the circumstances of the case, the competent authority, it is regretted to mention, has not approved your case for compassionate appointment in this Department.

Yours faithfully,

(KS Mukhopadhyay)
SE (SG)
SO I (Pers)
For Chief Engineer

Certified to be true copy
Krishnendu Paul
Advocate
2-9-2002.

7 yrs time
Spent?

Copy to :-

Engineer-in-Chief's Branch -
Army Headquarters
DHQ New Delhi - 11

For information with refer to this HQ letter
No70601/25/192/EIC(1) dated 22 Oct 2001
& 70601/25/06/EIC(i) dated 08 Nov 2001

HQ Eastern Command -
Engineers Branch
Fort William Kolkata-700021

For information with reference to above.

CWE Tezpur

GE Missamari
Internal

EI Legal

- 54 -

138

DOP & T INSTRUCTIONS AND SUPREME COURT RULINGS
REGARDING THE SCHEME OF COMPASSIONATE APPOINTMENT

DOP & T have envisaged the scheme of compassionate appointment as follows :-

(a) The object of the Scheme is to grant appointment on compassionate grounds to a dependent family member of a Government servant dying in harness of who is retired on medical grounds, thereby leaving the family in penury and without any means of livelihood, to relieve the family of the Government servant concerned from financial destitution and to help it get over the emergency.

(b) Providing employment assistance under the scheme of compassionate appointment does not mean employment generation as per existing instructions, guidelines and are not in favour of giving guaranteed compassionate appointment to dependents as a matter of routine.

(c) While considering a request for appointment on compassionate ground a balanced and objective assessment of the financial condition of the family has to be made taking into account its assets and liabilities (including the benefits received under the various welfare scheme) and all other relevant factors such as the presence of an earning member, size of the family ages of the children and the essential needs of the family etc.

(d) In deserving cases even where there is already an earning member in the family a dependent family member may be considered for compassionate appointment with prior approval of the Secretary of the Department/Ministry concerned who, before approving such appointment will satisfy himself that grant of compassionate appointment is justified having regard to number of dependents, assets and liabilities left by the Government servant income of the earning member as also his liabilities including the fact that the earning member is residing with the family of the Government servant and whether he should not be a source of support to other members of the family.

(e) In cases where any member of the family of the deceased or medically retired Government servant is already in employment and is not supporting the other members of the family of the Government servant, extreme caution has to be observed in ascertaining the economic distress of the members of the family of the Government servant so that the facility of appointment on compassionate ground is not circumvented and misused by putting forward the ground that the member of the family already employed is not supporting the family.

(f) Ministry/Department can consider requests for compassionate appointment even where the death or retirement on medical grounds of a Government servant took place long back say five years or so, while considering such belated requests it should however be kept in view that the concept of compassionate appointment is largely related to the need for immediate assistance to the family of the Government servant in order to relieve it from economic distress. The very fact that the family has been able to manage somehow all these years should normally be taken as adequate proof that the family had some dependable means of subsistence.

(g) Whether a request for compassionate appointment is belated or not may be decided with reference to the date of death or retirement on medical ground of a Government servant and not the age of the applicant at the time of consideration.

(h) The number of vacancies for compassionate quota should be limited to 5% of the total vacancies in Group 'C' and 'D' to be filled by direct recruitment only.

(i) The Hon'ble Supreme Court of India in its judgement dated April 8, 1993 in the case of Auditor General of India and others Vs. G. Ananta Rajeswara Rao (1994) 1 SCC 192 has held that appointment on grounds of descent clearly violates Article 16(2) of the Constitution but if the appointment is confined to the son or daughter or widow of the Government servant who died in harness and needs immediate appointment on grounds of Immediate need of assistance in the event of there being no other earning member in the family to supplement the loss of income from the bread winner to relieve the economic distress of the members of the family, it is unexceptionable.

(ii) Further in another judgement dated 4th May 1994 in the case of Umesh Kumar Nagpal Vs state of Haryana and others the Supreme Court has laid down, inter alia the following important principles in this regard.

(a) Only dependents of an employee dying in harness leaving his family in penury and without any means of livelihood can be appointed on compassionate ground.

(b) The whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis and to relieve the family from financial destitution and to help it get over the emergency.

(c) Offering compassionate appointment as a matter of course irrespective of the financial condition of the family of the deceased or medically retired Government servant is legally impermissible.

(d) The Government or the public Authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment the family will not be able to meet the crisis, that job is to be offered to the eligible member of the family.

(e) Compassionate appointment cannot be granted after lapse of a reasonable period and it is not vested right which can be exercised at any time in future.

FROM : MRS. USHA RANI CHAKRABORTY
W/O : LATE S.K.CHAKRABORTY-MES/265366
CH/MECH. HS-1 OF A.G.E.E/M MISSAMARI
C/O : GANESH MEDICAL
VINOBANAGAR
KALAPAHAR
GUWAHATI - 781008

TO,
MR. GEORGE FERNANDEZ - HON'BLE MINISTER
MINISTRY OF DEFENCE
GOVT. OF INDIA
NORTH BLOCK
PARLIAMENT STREET
NEW DELHI.

APPEAL FOR COMPASSIONATE APPOINTMENT

SIR,

I THE WIDOW OF LATE. S.K.CHAKRABORTY - AN EX-EMPLOYEE OF M.E.S UNDER GARRIEION ENGINEER, MISSAMARI, SUBMITT MOST HUMBLY THE FOLLOWING FACTS BEFORE YOUR GOODSELF WITH THE FERVENT HOPE OF RECEIVING OUR COMPASSIONATE REVIEW TO THE MATTER UNDER SUBMISSION.

THAT MY HUSBAND LATE.S.K.CHAKRABORTY, AN EMPLOYEE UNDER GARRISION ENGINEER, MISSAMARI, MES/265366, CH/MECH HS-1 EXPIRED ON 31-10-1993, LEAVING BEHIND TWO SONS AND ONE DAUGHTERS - ALL MINORS AND MYSELF.

THAT HIS UNTIMELY DEMISE RENDER US TO A HELPLESS CONDITION SINCE MY HUSBAND WAS THE ONLY EARNER FOR HIS DIRECT DEPENDENTS OF FOUR MEMBERS.

THAT AFTER HIS DEATH, WE HAD TO VACATE THE QUARTER AT MISSAMARI AND HAD TO ACCOMMODATE OURSELVED IN A RENTED HOUSE AT GUWAHATI UNDER CIRCUMSTANCES OF FINANCIAL STRINGENCY.

THAT MY ELDER SON BINAY KR. CHAKRABORTY APPLIED FOR A JOB IN CLERICAL STREAM ON COMPASSIONATE GROUND - COPT ENCLOSED.

THAT WE MADE HIS PERSONAL APPEARANCE BEFORE THE AUTHORITY AT SHILLONG FOR A NUMBER OF TIMES IN HIS FOLLOWUP PROCESS, APART FROM SENDING PERIODICALS REMINDERS - COPY ENCLOSED.

Certified to be true copy
Krishnendu Paul
Advocate
2-9-2002

-57-

141

THAT TILL 14TH DECEMBER, 2001 ALL THE REPLIES FROM HEADQUARTERS, OFFICE OF THE CHIEF ENGINEER, SHILLONG ZONE, CONTINUED THEIR CONSIDERATION OF HIS CANDIDATURE AND HIS TURN OF SUCH CONSIDERATION REMAINED TO SERIAL NO.21 - COPY OF ALL SUCH REPLIES ENCLOSED.

THAT MOST UNEXPECTEDLY, THE SE(SG), SOI(PERS), SHILLONG, VIDE HIS LETTER NO.70601/25/45/E1C(I) DATED:14-12-2001, NULIFIED THE CANDIDATURE ON THE PLEA OF UNREALISTIC GROUNDS OF EXPIRY OF THE INTERIM PERIODS, FOLLOWED BY THE PENSION OF RS.1849/- WHICH AS PER DEPPTS VIEW, IS ABOVE THE POVERTY LINE. - COPY ENCLOSED.

UNDER THE AFORESAID FACTS AND CIRCUMSTANCES, MAY I SEEK YOUR KIND INTERVENTION TO REPEAL THE STAND OFF OF THE DEPARTMENT AND ALSO TO GRACE THE OPPORTUNITY TO PROVIDE MY ELDER SON WITH A JOB AT AN EARLY DATE. KINDLY ALSO NOTE THAT I HAVE NOT BEEN ABLE TO ARRANGE THE NECESSARY MARRIAGE OF MY GROWN UP DAUGHTER AND MY YOUNGEST SON HAS BEEN COMPELLED TO ABANDON HIS STUDIES FURTHER.

AWAITING FOR YOUR VERY COMPASSIONATE AND FAVOURABLE RESPONSE TO MY ABOVE APPEAL, I REMAIN.

YOURS FAITHFULLY

MRS. USHA RANI CHAKRABORTY

DATED : 19-01-2002

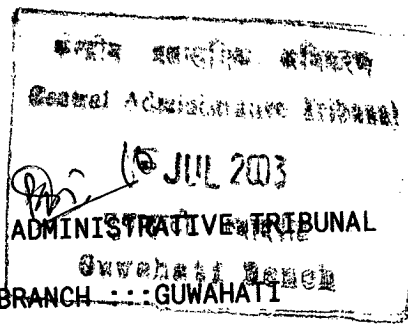
STATION : GUWAHATI

ENCLOSED :- (A) ALL PREVIOUS APPLICATIONS.
(B) ALL HEADQUARTERS REPLIES.
(C) ALL ACKNOWLEDGEMENT CARDS
(D) ALL POSTAL REGISTRY RECEIPTS

C.C TO :- (A) MR. GEORGE FERNANDEZ(DEFENCE MINISTER)
(B) E-IN-C'S BRANCH . NEW DELHI
(C) CEEC . KOLKATA
(D) CHIEF ENGINEER . SHILLONG.

58-

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BRANCH



142
Filed by

7/7/03

(A. DEB ROY)
Sr. C. C. F. C.

G. A. T., Guwahati Bench

O.A. NO. 287 OF 2002

Shri B.K. Chakraborty

....Applicant

— Vs —

Union of India & Ors

....Represents

In the matter of :

Written Statement Submitted
by the respondents

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

(BRIEF HISTORY OF THE CASE)

MES/265366 Late SK Chakraborty, Charge Mechanic HS I was a
employee of GE, Missamari and while in service he expired on 31 Oct
1993. Smt Usha Rani Chakraborty, Wife of the above deceased has been
paid all the emoluments due to her due to the death of the individual.

Application for compassionate appointment was submitted by i.e.
Shri Binay Kumar Chakraborty, S/O the deceased to CWE on 05 Apr 1995
vide letter No 1011/C/67/E1A dated 05 Apr 1995 and further submitted
to HQ Chief Engineer Shillong Zone by CWE Tezpur vide CWE Tezpur
letter No 1060/R/BKC/02/E1C(I) dated 27 Apr 1995.

59

143

The said application has been progressed upto E-in-C's Branch and E-in-C's Branch returned the same vide their letter No 65926/Pet/GC/E1C (4) dated 09 Jul 98 stating that home address of the applicant's is not mentioned on the application.

Home address of the applicant's has been informed to the HQ Eastern Command vide GE Missamari letter No 1011/C/365/E1A dated 25 Aug 1998. Chief Engineer Shillong Zone vide letter No 70601/25/E1C(I) dated 29 Feb 2000 intimated to Shri Binoy Kumar Chakraborty that his name is at Ser No 21 of the Seniority List for compassionate appointment of LDC and the appointment will be done accordingly on receipt of Govt Sanction

After correspondence with higher authorities Headquarters Chief Engineer Shillong Zone under their letter No 70601/25/SO/14/E1C(I) dated 18 Mar 2002 intimated to Shri Binoy Kumar Chakraborty S/O the deceased that his request for compassionate appointment was examined by the competent authority under the relevant instructions of department of personnel and Training, Hon'ble Supreme Court ruling on the subject, and his case should not be considered for appointment of LDC.

Speaking order issued by CE Shillong Zone vide their No 70601/25/SO/E1C(I) of 20.12.2002 in supervision their No, 70601/25/45/E1C in super session their No 70601/25/45/E1C(I) dated 14 Dec 2001.

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

1. That with regard to the statement made in para 1, of the application the respondents beg to state that the applicant had applied for compassionate appointment as LDC after the death of his father MES/265366 Late SK Chakraborty while in service and his application was forwarded to CWE Tezpur vide GE Missamari letter No 1011/C/E1A dated 05 Apr 1995 duly recommended.
2. That with regard to the statement made in para 2, of the application the respondents beg to state that the case of the applicant was recommended to higher Headquarters on the basis of vacancy existing in GE Missamari and to fill up the deficiency by making such compassionate appointment.
3. That with regard to Para 2 and 3 of the application the respondents beg to offer no comments.
4. That with regard to the statement made in Para 4.1 of the application the respondents beg to state that though the application for compassionate appointment as LDC was recommended for consideration, not offering the appointment is after due consideration by the competent authority and after taking all result guidelines of Deptt of Personal and Training and ruling of Hon'ble Supreme Court in similar cases.
5. That with regard to the statement made in Para 4.2 of the application the respondents beg to state that the MES-265366 Late SK Chakraborty was working under the AGE E/M Missamari as Ch/Mech HS-I and he expired on 31 Oct 1993 leaving his wife and 3 children.

61- 145

6. That with regard to the statement made in Para 4.3 of the application the respondents beg to state that the applicant after expiry of his father had submitted one application for appointment as LDC on compassionate grounds after death of his father on 31.10.1993 vide his application dated 28 Sep 1994.

7. That with regard to the statement made in Para 4.4 of the application the respondents beg to state that the application of the applicant was also forwarded to CWE Tezpur duly supported all relevant documents for consideration of his appointment.

8. That with regard to the statement made in Para 4.5 of the application the respondents beg to state that on receipt of application the same was forwarded to CWE Tezpur duly verified all eligibility of the applicant on 05.04.1995.

9. That with regard to the statement made in para 4.6 of the application the respondents beg to state that on receipt of application from the applicant son of MES/265366 Late SK Chakraborty Ex Ch Mech HS-I of GE Missamari was forwarded to CWE Tezpur for appointment of LDC, SK or Meter Reader in MES considering the family in indigent circumstances.

10. That with regard to the statement made in para 4.7 of the application the respondents beg to state that the individual was Educationally qualified for appointment in the trade mentioned above and also found within the age limit.

625

11. That with regard to the statement made in para 4.8 of the application the respondents beg to state that the case of applicant was also recommended to fill up the vacancy of LDC which were lying vacant since long under GE Missamari.

12. That with regard to the statement made in Para 4.9 of the application the respondents beg to state that the applicant was found suitable for appointment in MES as per laid down policy issued by Govt. of India, Min of Home Affairs received under E-in-C's Branch, Army Headquarters, New Delhi letter No 65926/E1C dated 10 Jan 1979 and hence his case was recommended for appointment.

13. That with regard to the statement made in Para 4.10, of the application the respondents beg to state that due to ban imposed by the Government for recruitment as LDC/SK/Meter Reader the applicant was asked to offer his willingness to accept the alternative appointment in the category of Mazdoor, Peon, Safai Wala & Chowkidar.

14. That with regard to para 4.11 and 4.12 of the application the respondents beg to state offer no comments.

15. That with regard to the statement made in para 4.13 of the application the respondents beg to state that since the appointing authority rest with Higher Headquarters, after obtaining prior approval of Govt of India. The case of the applicant has been consider as per the order of Govt. of India/rulings of Supreme Court considering the family status and rejected by Competent Authority.

16. That with regard to the statement made in para 4.14, 4.15, 4.16, 4.17, 4.18, 4.19, 4.20, 4.21, 4.22 and 4.23 of the application the respondents beg to offer no comments.
17. That with regard to the statement made in para 5 and 5.1 of the application the respondents beg to state offer no comments.
18. That with regard to the statement made in para 5.2 of the application the respondents beg to state that Garrison Engineer has recommended the case but appointing authority would decide case after consideration of the various Government policies in vague.
19. That with regard to the statement made in para 5.3 of the application the respondents beg to state that respondent can only recommend the case but final appointment is done by competent authority after due consideration.
20. That with regard to the statement made in Paras 5.4, 5.5, 5.6, 5.7 and 5.8 of the application the respondents beg to offer no comments.
21. That with regard to the statement made in para 5.9 of the application the respondents beg to state that it is clearly mentioned in the speaking order issued by Chief Engineer Shillong Zone vide their letter No 70601/25/45/E1C (I) dated 14 Dec 2001 (Copy enclosed) that considering the family pension and other terminal benefits paid to the widow, the case of the applicant has been rejected by the competent authority.

22. That with regard to the statement made in para 5.2 of the application the respondents beg to state that Garrison Engineer has recommended the case but appointing authority would decide case after consideration of the various Government policies in vague.

23. That with regard to the statement made in para 5.3 of the application the respondents beg to state that respondent can only recommended the case but final appointment is done by competent authority after due consideration.

24. That with regard to the statement made in paras 5.4,5.5,5.6,5.7 and 5.8 of the application beg to offer no comments.

25. That with regard to the statement made in para 5.9 of the application the respondents beg to state that it is clearly mentioned in the speaking order issued by Chief Engineer Shillong Zone vide their letter No 70601/25/45/E1C(I) dated 14 Dec 2001 (Copy enclosed) that considering the family pension and the other terminal benefits paid to the widow and various policies/rulings on the subject case of the applicant has been rejected by the competent authority.

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

I, Shri B Srinivasa Rao, presently working as Garrison Engineer Missamari, being duly authorised and competent to sign this verification, do hereby solemnly affirm and state that the statement made in para 1 to 25 are true to my knowledge and belief and those made in para - being matter of records, are true to my information derived there from, and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification on this 19 th day of Apr 2003.

B. Srinivasa Rao

Declarant.

Tele : 5032

66-
9-
HQ Chief Engineer
Shillong Zone
Spread Eagle Falls
Shillong 793011

20 Dec 2002

70601/25/SO/0/EIC(I)

Shri Binoy Kr Chakraborty
S/O Late SK Chakraborty
C/O Ganesh Medical
P.O Vinuba Nagar
Kalapohar, Guwahati- 18

EMPLOYMENT ASSISTANCE IN RESPECT OF
SHRI BINOY KR CHAKRABORTY ON COMPASSIONATE GROUNDS

1. Reference your application dated 28 -9- 1994 regarding employment on compassionate grounds. The request (representation) for compassionate appointment was examined by the competent authority of this Headquarters as per the extant Government Rules and Policies and the Hon'ble Supreme Court rulings on the subject. The relevant DOP&T instructions and Hon'ble Supreme Court rulings on the subject are enclosed.

2. 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 destitution and to help it get over the emergency. The scheme does not necessarily imply that dependent of each and every deceased/medically-boarded out/missing Govt. employee will be offered appointment on compassionate ground. It is pertinent to mention here 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 and therefore no case is considered individually or Unit wise, but all the cases received from various Units are considered by the Board of Officers constituted at the Headquarters as per the Government policy, to find out the most deserving cases in acute financial distress/more indigent in comparison to other similarly placed cases, against the 5% quota of DR vacancies occurring in a given year.

3. Accordingly, the Board of Officers take the various aspects as stipulated in MOD ID No 19(4)/824-99/1998-D(Lab) dated 09-03-2001, 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, movable/immovable properties left by the deceased at the time of death, to find out the cases of acute financial distress/most deserving case in relative merit and recommends only the really deserving cases 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 for such appointment and it should recommend appointment on compassionate grounds only in a really deserving case and only if vacancy meant for

67-
 appointment on 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 Judgement dated 4th 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 ground as a matter of course irrespective of the financial condition of the family of the deceased or medically retired Govt. servant is legally impermissible and compassionate appointment cannot be granted after lapse of a reasonable period and it is not a vested right which can be exercised at any time in future".

4. According to the information available on record, the following is the position/State of the family of the deceased (MBO/Missing) government servant:-

(a) The death/MBO/Missing of the Govt servant occurred on 31-10-1993. His Wife, two Son(s) and one daughter survive him. The deceased (MBO/Missing) Govt servant's family received Rs 2,08,544/- as terminal benefits. At present they are in receipt of monthly pension of Rs 1275/---plus Dearness relief of Rs 574/-.

5. The Board of Officers at this Headquarters after taking into account each aspect referred to above has considered your case along with other candidates. However, due to more deserving cases and few vacancies available, your case was not recommended by the BOO for appointment on compassionate ground. In view of this the competent authority is of the view that your case does not deserve employment assistance on compassionate grounds. *(Moreover, the need for immediate assistance by way of compassionate employment to tide over the emergency and crisis is lacking in your case as the Death of the Government servant was on 31-10-1993 i.e. 09 years before his normal retirement.

Contd ----3/-

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-10-

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6. Therefore, after due circumspection and consideration in the light of the enclosed guidelines of DOP&T and various judgments of the Hon'ble Supreme Court and that the appointment on compassionate grounds 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 Headquarters, the Competent authority has rejected the employment assistance to Shri Binoy Kr Chakraborty S/O (Late) Shri SK Chakraborty on compassionate grounds.

7. This HQ letter No 70601/25/45/EIC(I) dated 14 Dec 2001 is hereby cancelled.

Tealt
(TM Chandrakant)
Lt Col
SO 1 (Pers & Legal)
For Chief Engineer

Copy to :

Engineers in Chief's Branch
Army Headquarters
New Delhi
110011

HQ Eastern Command
Engineers Branch
Fort William
Kolkata

CWB Tezpur

GE Missamari

Internal

EI(Legal) - For Info

Headquarters
Chief Engineer
Shillong Zone
Spread Eagle Falls
Shillong 793011

70601/25/ 15 /EIC(I)

Dec 2001

Shri Binoy Kr Chakraborty
S/O Late SK Chakraborty
C/O Ganesh Medical
P.O. Vinuba Nagaqr
Kalapahar, Ghy - 18

COMPASSIONATE APPOINTMENT

Dear Sir,

1. Reference your application dated 28 Sep 1994 for appointment under the scheme of compassionate ground in this Department on expiry of your Late father SK Chakraborty, Ex/ Ch/Mech of GE samari
2. Your request for compassionate appointment was examined by the competent authority under the relevant instructions of Dept of Pers Trg and Hon'ble Supreme Court ruling on the subject are enclosed.
3. According to available information, the following is the position/Status of the case:-
 - (a) The death of Govt servant occurred on 31 Oct 1993. He was survived by his wife, 02 sons and 01 daughter.
 - (b) The family is receiving Rs 1849/- (min) as family pension. As such it is above the poverty line as per DOP&T instructions.
 - (c) The need for immediate assistance by way of compassionate employment to tide over the emergency and crisis is lacking in this case as the death of the Govt servant occurred on. 31 Oct 1993. i.e more than 08 years back.
4. After due circumspection and consideration of the circumstances of the case in the light of the enclosed guidelines of DOP&T and also various judgments of the Hon'ble Supreme Court and after a balanced and objective assessment of the totality of the circumstances of the case, the competent authority, it is regretted to mention, has not approved your case for compassionate appointment in this Department.

Yours faithfully,

(KS Mukhopadhyay)
SE (SG)
SO I (Pers)
For Chief Engineer

6969
24/12

Tele : 5052

Headquarters
Chief Engineer
Shillong Zone
Spread Eagle Falls
Shillong 793011

70601/25/ SO/ 14 /EC(1)

10 Mar 2002

COMPASSIONATE APPOINTMENT

Dear Sir,

1. Reference your application dated 28-09-94 for appointment under the Scheme of compassionate ground in this Department on expiry of your father Late Shri SK Chakraborty, ChVMech of GE Missamari
2. Your request for compassionate appointment was examined by the competent authority under the relevant instructions of Dept of Pers Trg and Hon'ble Supreme Court ruling on the subject are enclosed.
3. According to available information, the following is the position/Status of the case:-
 - (a) The death of Govt servant occurred on 31-10-93. He was survived by his wife, One daughter and Two sons.
 - (b) The family is receiving more than 1849/- as family pension per month (the minimum amount). As such it is above the poverty line as per DOP&T norms.
 - (c) The need for immediate assistance by way of compassionate employment to tide over the emergency and crisis is lacking in this case as the death of the Govt servant occurred on 31-10-93 more than 08 years back.
4. After due circumspection and consideration of the circumstances of the case in the light of the enclosed guidelines of DOP&T and also various judgments of the Hon'ble Supreme Court and after a balanced and objective assessment of the totality of the circumstances of the case, the competent authority, it is regretted to mention, has not approved your case for compassionate appointment in this Department.

Yours faithfully,

(KS Mukhopadhyay)
SE(SG)
SO I (Pers)
For Chief Engineer

Encls As above

Shri Binoy Kr Chakraborty
Qtr No T/3/2, Govind Nagar
PO: Missamari
Dist : Sonitpur(Assam))

157

GE	
AGE	
BSO	
Other	
Section	

26/3 72

-2-

260302

Chief's Branch -
Headquarters
New Delhi-11

For information with refer to this HQ letter
No 70601/25/192/EIC(1) dated 22 Oct 2001
and 70601/25/06/EIC(1) dated 08 Nov 2001.

Eastern Command
Personnel Branch
Kolkata-700021

For information with reference to above.

22/04/02 CWF TERPM

Samari NE Missamari

Internal

Legal

Tele : 6315

432
Headquarters
Chief Engineer
Shillong Zone
Spread Eagle Falls
Shillong-793011

70601/25/93/EIC(I)

29 Feb 2000

Shri Binay Kumar Chakraborty
C/O MES/265366
Late S.K. Chakraborty. CH/MECH
C/o Ganesh Hospital
PO : Vinobanagar
Kalapahar
Guwahati-18

APPOINTMENT OF DEPENDENT OF DECEASED
GOVT EMPLOYEE IN M.E.S DEPARTMENT

1. Reference your application dated 10 January 2000.
2. It is intimated that your name is at Ser No 21 of the seniority list for compassionate appt of LDC. The appointment will be done accordingly on receipt of Govt sanction.

Khongwir
(O Khongwir)
AO I
for Chief Engineer

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1173
Copy to :-

CWE Tezpur

GE Missamari

10/11/94 A
1048

74 - spare - 16 - 158
Tele Vill 417

Garrison Engineer
Misseri

1011/C/ 365 /ELA

25 Aug 93

Chief Engineer
Eastern Command
Fort William
Calcutta - 21

COMPASSIONATE APPOINTMENT

1. Reference your HQ letter No 131302/12/A/1035/Engrs/
ELC(1) dt 29 Jul 93.
2. The permanent/present address in respect of
Shri Binay Chakraborty, Son of Late S K Chakraborty,
Ch/mech HE-I are as under :-

(a) Permanent Address

Binay Chakraborty
C/o E Shri parash Chandra Chakraborty
Vill : Refugee Colony (Near Sitalbari Colony)
P.O. : Lundig
Dist : Nongson (AECM).

(b) Present Address

Binay Chakraborty
C/o : Shri Nirmal Chakraborty
CAR-PIUS
G.K. Towers, AT Road
Guwahati - 781009

3. The H O E of the deceased requested vide
application dated 24 Aug 93 that further correspondence
may please be done with the present address.

S-D J-
(Sandeep Pandey, INSE)
AGE
Offg GE Misseri

Copy to :-

CWE Tezpur - for info wrt his No 1060/R/ELC/6/
ELC(1) dt 07 Aug 93.

75-
Tele Mily : 6587

(363)
Commander Works Engineers
Tezpur
Post : Dekargaon
Dist : Sonitpur (Assam)

1060/R/BKC/ /EIC(1)

07 Aug 98

GE Missamari

COMPASSIONATE APPOINTMENT

1. Please confirm receipt of HQ EC Calcutta letter No 131302/12/A/1065/Engrs/EIC(1) dated 29 Jul 98 and forward the home address in respect of Shri Binoy Chakraborty son of Late SK Chakraborty, Ch/Mech HS I direct to HQ EC under intimation to this HQ at the earliest.

554
10/8
FR / BR
365 / 362
1011/C/1917
(SR Kardong)
AO II

for Commander Works Engineers

Tele : 222-2398

Chief Engineer
Eastern Command
Fort William
Calcutta -21

131302/12/A/1065/Engrs/E1C(1)

29 Jul 98

GE Missamari ✓

COMPASSIONATE APPOINTMENT

1. Representation in respect of Shri Binay Chakraborty son of Late S K Chakraborty, Ch/Mech HS-I who died on 31 Oct 93 received under E-in-C's Br Army HQ letter No 65926/Pet/GC/E1C(4) dt 09 Jul 98. It is seen that home address of the applicant is not mentioned on the application. You are requested to forward the home address at an early date to enable us to convey the position of compassionate appointment.

FR | Bar
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(D C Saha)
AD-II
SD-3 (Pers)
for Chief Engineer

SNY
0018

Copy to

CWE T/gpm

for info please

1011/c/a/A

F/67 (Vol V) original (application)

77-19
161
Solo Mily : 5587

Commander Works Engineers

Post Box No 31

Tezpur 784001 (Assam)

1930/R/BKC/ 02 /EIC(I)

27 Apr 95

HQ Chief Engineer
Shillong Zone
Shillong - 793011

COMPASSIONATE APPOINTMENT

1. An application dated 28 Sep 94 submitted by Shri Binoy Kr Chakraborty, Son of MES/255366 Late SK Chakraborty, Ch/Mech of GR Missamari requesting for an employment assistance is forwarded herewith alongwith the following documents each in quadruplicate (containing four folders) for your further and early necessary action please :-

- 1934
6/5
- a) Willingness Certificate.
 - b) Source of Income and assets certificate
 - c) Property certificate
 - d) Inhabitant certificate
 - e) Income certificate
 - f) Statement of case
 - g) Declaration certificate
 - h) Proforma regarding of employment of dependents of deceased as per E-in-C's Br letter No 35926/P/EIC dated 22 Feb 88.
 - i) Application requesting for appointment.
 - j) Undertaking certificate
 - k) Eligibility certificate
 - l) Type writing certificate
 - m) Education certificate
 - n) Death certificate
 - o) Medical certificate
 - p) Recommendation of GE
 - q) Recommendation of CWE
 - r) Verification certificate
 - s) Mark sheet
 - t) Employment Exchange Card
 - u) Board Proceedings
 - v) Affidavit

Encls : Four folders

Copy to :

GE Missamari : for information w r to his letter No 1011/C/87/EIA dated 05 Apr 95.

akm/*

BR	67
FR	362

(Jaster Synron)
Adm Officer - II
for Commander Wks Engrs

78-
20-
Tele : 417

(67) 162
Garrison Engineer
Missamari (Assam)

1011/C/ 67 /EIA

65 Apr 95

CME Tezpur

COMPASSIONATE APPOINTMENT APPLICATION IN RESPECT OF
SHRI BINOY KUMAR CHAKRABORTY S/O LATE SK CHAKRABORTY
CH/MECH HS-I.

1. The following documents in respect of Shri Binooy Kumar Chakraborty S/O Late SK Chakraborty, Ch/Mech HS-I of this division are forwarded herewith in quadruplicate for your further necessary action please :-

- (a) Willingness Certificate
- (b) Source of Income and assets certificate
- (c) Property Certificate
- (d) Inhabitant certificate
- (e) Income certificate
- (f) Statement of case
- (g) Declaration Certificate
- (h) Proforma regarding of employment of dependent of deceased as per E-in-C's Br letter No 35926/Policy/ EIC dt 22 Feb 88.
- (j) Individual application requesting for appointment.
- (k) Undertaking Certificate
- (l) Eligibility Certificate
- (m) Typewriting Certificate
- (n) Central Board of Secondary Education certificate
- (o) Death Certificate
- (p) Medical Certificate under ART 49 C SR
- (q) Recommendation of GE
- (r) Verification Certificate
- (s) Mark Sheet
- (t) Employment Exchange Card
- (u) Board Proceedings
- (v) Affidavit
- ~~(w) Left over service of Late~~

2. Left over service of Late SK Chakraborty, Ch/Mech HS-I is 04 years 10 months.

Encls : As above
(4 folders)

LS
(R S Cheema)
Major
Garrison Engineer
5/4