

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES,1990)

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O.A/T.A No...302/2002.....

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SECTION OFFICER (Judl.)

(SEE RULE -4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET

Original Application No : 802 / 02
Misc. Petition No: _____ /
Contempt Petition No: _____ /
Review Application No. _____ /

Applicant (s) Hiramshu Ko. Sarker

Respondent (s) h. c. i. form

Advocate for the Applicant (s) S. S. Suman, A.Y.S.

Advocate for the Respondent(s) Mrs. U-Day Case

Notes of the Registry	Date	Order of the Tribunal
1. Application filed 2. Case No. 76576644 3. Date 8-8-02 4. Dp. Registrar 5. LS 6. Date 17/9/02	24.9.02	<p>Heard learned counsel for the parties.</p> <p>Issue notice on the Respondents to show cause as to why the application shall not be admitted.</p> <p>Returnable by four weeks.</p> <p>List on 8.11.02 for Admission.</p>
Notice prepared and sent to the respondents No 1 to 5 by Regd. A.D. Dated 10/10/02 D/N No 2855159 add 16/10/02	1m 8.11.02 1m	<p>K C Usha Member</p> <p>Vice-Chairman</p> <p>Await service report. List on 21.11.02 for Admission.</p>

(2)

21.11.02

Heard Mr. S.Sarma, learned
counsel for the applicant.

The application is admitted.

Call for the records.

List on 23.12.2002 for orders.

Sent Wdc & No
2835 h 59 dtd
16/10/02

b2

K. C. Sharma
Member

Vice-Chairman

mb

23.12.02

On the prayer of Mr. A.Deb Roy,
learned Sr. C.G.S.C. for the respondents
further four weeks time is allowed
to the respondents to file written
statement.

List on 28.1.2003 for orders.

No written statement
has been filed.

27.1.03

K. C. Sharma
Member

Vice-Chairman

mb

28.1.03

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

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

Put up again on 19.2.2003
to enable the respondents to file
written statement.

No written statement
has been filed.

27.2.03

Member

Vice-Chairman

mb

19.2.2003

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

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

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

W.P. submitted
by the respondents.

A

S. B.

Member

Vice-Chairman

mb

(2)

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Notes of the Registry

Date

Order of the Tribunal

20.3.2003

No rejoinder has been filed.

29.4.03

Written statement has been filed. The case may now be listed for hearing.

Accordingly the case is listed for hearing on 30.4.2003. The applicant may file rejoinder, if any, within two weeks from today.

Vice-Chairman

bb

30.4.2003

No rejoinder has been filed.

13.5.03

List the matter before the Single Bench on 15.5.2003 for hearing.

Vice-Chairman

mb

14.5.2003

No rejoinder has been filed.

26.6.03

On the prayer of Mr. S. Saman learned counsel for the applicant, the case is adjourned. List again on 27.6.2003 for hearing.

Vice-Chairman

mb

11.7.2003

Copy of the Judgment has been sent to the Office for issuing the same to the applicant as well as to the D.G.L.C. for the Regd.

LS

27.6.2003

Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is dismissed. No order as to costs.

Vice-Chairman

nkm

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / XXXX NO. 302 of 2002

27.6.2003
DATE OF DECISION

Shri Himanshu Kumar Sarkar APPLICANT(S).

Mr S. Sarma, Mr D.K. Sarma and

Ms. U. Das ADVOCATE FOR THE
APPLICANT(S).

- VERSUS -

The Union of India and others RESPONDENT(S).

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

ADVOCATE FOR THE
RESPONDENT(S).

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

THE HON'BLE

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

Judgment delivered by Hon'ble Vice-Chairman



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.302 of 2002

Date of decision: This the 27th day of June 2003

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

Shri Himanshu Kumar Sarkar
S/o Late Hiren Chandra Sarkar
Resident of Royoar, Tarapur,
Silchar, District- Cachar, Assam.Applicant
By Advocates Mr S. Sarma, Mr D.K. Sarma
and Ms U. Das.

- versus -

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Defence, New Delhi.
2. The Engineer in Chief, Army Head Quarter, D.H.Q., New Delhi.
3. The Chief Engineer, Shillong Zone, Shillong.
4. The Work Engineer, Head Quarter, 137, C/o 99 APO.
5. The Garrison Engineer, Silchar, MES, Masimpur, P.O.- Arunachal, Assam.Respondents

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

.....

O R D E R (ORAL)

CHOWDHURY. J. (V.C.)

The issue pertains to appointment under the compassionate appointment scheme.

2. I have heard Mr S. Sarma, learned counsel for the applicant and also Mr A. Deb Roy, learned Sr. C.G.S.C. at length. On consideration of the materials on record it is

apparent that the case of the applicant for compassionate appointment was also considered. The respondent authority assessed the respective claims of the aspirants for compassionate appointment. On balancing the factors, in their assessment they found that there were more needy and eligible persons for employment against the 5% vacancy. The factors those were taken into consideration by the respondents in considering the case for appointment on compassionate ground cannot be said to be arbitrary requiring intervention by this Tribunal. ;No illegality, as such is discernible.

The application thus stands dismissed. No order as to costs.


(D. N. CHOWDHURY)
VICE-CHAIRMAN

nkm

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Central Administrative Tribunal
16 SEP 2002
Guwahati Bench

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case : O.A. No. 802 of 2002

BETWEEN

Shri Nimanshu Kr. Sankar Applicant.

AND

Union of India & ors. Respondents.

I N D E X

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Filed by : Alsha Das.

Regn. No. :

File No. :

Date :

Filed by
the applicant through
Aloka Das -9
Advocate
12/9/02

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under section 19 of the Central
Administrative Tribunal Act.1985)

302
O.A. No. of 2002

BETWEEN

1. Sri Himanshu Kumar Sarkar.
S/O Late Hiren Chandra Sarkar.
Resident of Roygar, Tarapur.
Silchar-8, Dist-Cachar (Assam).

..... Applicant.

- AND -

1. The Union of India.
Represented by Secretary to the
Govt. of India.
Ministry of Defence, New Delhi.
2. The Engineer in Chief,
Army Head Quarter, D.H.Q.,
New Delhi.
3. The Chief Engineer, Shillong Zone,
Speed Eagle False, Shillong-793011.
4. The Work Engineer,
Head Quarter, 137, C/O 99 AOP.
5. The Garrison Engineer, (Silchar)
MES, Masimpur, p.o. Arunachal,
Assam-788025.

..... Respondents.

PARTICULARS OF THE APPLICATION

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

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This application is made against the order bearing Memo No. 70201/9/SO/161/EIC(2) dated 27.4.2002 by which the respondents have rejected the case of the applicant for compassionate appointment.

2. LIMITATION:

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Administrative Tribunal Act.1985.

3. JURISDICTION:

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

4. FACTS OF THE CASE:

4.1. That the applicant is citizen of India and as such he is entitled to all the rights, privileges and protection as guaranteed by the Constitution of India and laws framed thereunder.

4.2. That the father of the applicant was working as a Fitter Pipe in the office of the Garrison Engineer (Silchar) MES No. 228482 C/O 99 AOP, Bn 29.12.1990. While on duty, the father of ~~was~~ the applicant Late Hiren Chandra Sarkar died, living aside his widow mother and three sisters.

4.3. That the mother of the applicant there after preferred a representation praying for compassionate appointment for her elder sister which was duly forwarded to the higher authority by the G.E. Silchar on 13.07.1991.

4.4. That on 31.03.1992, the mother of the applicant was also expired. Then the elder sister of the applicant preferred a representation dated 07.07.1993 to the respondent No.3 with a prayer to enquire in to the matter as some similarly situated person has asked to submit their willingness to accept the appointment.

A copy of the representation dated 07.07.1993 is annexed herewith as ANNEXURE-A.

4.5. That on 26.01.1996, the elder sister of the Applicant Mrs. Joysree Sarkar got married and highlighting the fact she preferred a representation to respondent No.3, stating that as no action has been taken towards her appointment, hence her claim for compassionate appointment may be substituted by placing the name of her only brother Sri Himanshu Kumar Sarkar who has already attained the required minimum age and has a dependent younger sister and presently the all responsibilities including her education, marriage, etc is over him.

A copy of the aforesaid representation is annexed herewith as ANNEXURE-B.

4.6. That the respondent No.4 while entertaining the representation of the elder sister of the applicant issued an order bearing Memo No.1215/JS/SIL/5/E1C(2) dated 15.2.1997 directing her to submit the document for employment.

A copy of the aforesaid letter dated 15.2.1997 is annexed herewith as ANNEXURE-C.

4.7. The as per direction of the said letter dated 15.2.1997 the applicant had submitted all the relevant documents before the

Respondent No.3 through proper channel vide his representation dated August 1998.

A copy of the aforesaid representation is annexed as ANNEXURE-D.

4.8. That the respondent No.5 entertaining his application issued an order bearing Memo No.1007/1553/ETE dated 6.7.1999 directing the applicant to produce a certificate regarding marital status of the dependent and to mention the particular post for which he applied.

A copy of the aforesaid letter dated 6.7.1999 is annexed as ANNEXURE-E.

4.9. That the applicant pursuant to Annexure-E letter dated 6.7.1999 submitted a representation dated 8.8.1999 enclosing a certificate regarding marital status of his younger sister which was issued by the Secretary of the Tarapur Gaon Panchayat and in the said representation he also mentioned that as he is qualified for Electrician (ITI) hence his case may be considered for the post of Electrical, Cable Jointer or any other trades similar to or any post commensurating to his qualification.

A copy of the aforesaid letter dated 8.8.1999 is annexed as ANNEXURE-F.

4.10. That inspite of the aforesaid position and even after submission of each and every documents required by the respondents from time to time nothing has been communicated to the applicant. However, the applicant while pursuing the matter submitted several representation before the concerned authority. Presently, the applicant is the sole male member in his family.

and there is no other alternative source of income in his family.

The copy of the representation dated 18.04.2000, 14.06.2000, 04.08.2000 and 03.10.2000 are annexed as ANNEXURE-G Series.

4.11. That the applicant begs to state that the respondents after submission of the aforesaid representations (Annexure-G Series) informed the applicant that his name is at serial No.290 as per H.Q.seniority list. This was communicated vide letter bearing Memo 70201/7/911/FIC(2) dated 22.09.2000.

A copy of the aforesaid letter dated 22.09.2000 is annexed as ANNEXURE-H.

4.12. That the applicant begs to state that the Respondent No.5 issued another order dated 11.06.2001 by which he has been asked to furnish certain documents and accordingly the applicant submitted these documents before the concerned authority vide his letter dated 15.06.2001.

Copies of the letter dated 11.06.2001 and 15.06.2001 are annexed as ANNEXURE-I/1 and I/2.

4.13. That thereafter the applicant was pursuing the matter regularly before the concerned authority and the authority has finally rejected his application for compassionate appointment which was communicated to the applicant by the Respondent No.3 vide letter bearing Memo No.70201/9/80/161/EIC(2) dated 27.04.2002.

A copy of the aforesaid order dated 27.04.2002 is annexed as ANNEXURE-J.

4.14. That presently applicant along with his younger sister has been facing tremendous hardship and it has now become impossible to run his family. The respondents assured the applicant for giving him compassionate appointment but finally has rejected his application. Persons similarly situated like that of the present applicant has been given compassionate appointment ignoring the case of the present applicant.

4.15. That the applicant begs to submit that the grounds taken for rejection of his application are illegal and not sustainable. At the time of death of his father, the family of the petitioner was consist with his widow mother and three sister hence the finding of the respondents in letter dated 27.04.2002 as "He was survived by his one son and one daughter is not correct. The respondents second finding of receiving more than 1849/- as family pension is also not correct, as the applicant has been receiving the family pension @ Rs.375/-P.M. till Feb. 2001 only and after that his younger sister is the only member entitled for family pension.

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

4.17. That the applicant begs to state that the matter relating to compassionate appointment needs to be settled as early as possible to tide over emergency and crisis. However, in

the present case though the applicant and her elder sister prefer the applications for compassionate appointment, the respondents have acted contrary to the said principle to delay the matter with the aim and intention for defeating the claim of the present applicant.

4.18. That the applicant as stated above belongs to a very poor family and after the death of his father till very date it has almost impossible for him to run his family without any source of income. On the other hand the respondents were given one after another hopes but in reality nothing has been done though the applicant was regularly pursuing the matter during last 11 years, the respondent has finally rejected his claim for compassionate appointment. The respondents knowing fully well about the plight of the applicant kept on dragging the matter for a period of long 11 years. Having no other alternative the present applicant has preferred this O.A. praying for setting aside and quashing of the impugned order of rejection dated 27.04.2002.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action/inaction on the part of the Respondents are illegal, arbitrary and violative of various constitutional mandates and the same is liable to be set aside and quashed.

5.2. For that the action of the respondents of rejection of his application for compassionate appointment is illegal, arbitrary and violative of settled principle of administrative fair play.

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5.3. For that the action of the respondents in rejecting of his application for compassionate appointment on the basis of guidelines and various judgments of the Hon'ble Supreme Court are illegal, arbitrary and same depicts total non-application of mind by the respondents and for that necessary direction may be issued directing the respondents to issue necessary order of appointment to the present applicant against any post commensurating to his educational qualification.

5.4. For that the reason of rejection stated by the respondents itself reflects the arbitrariness and malafide intention on their part as the case of the applicant is different and not covered by the same hence necessary direction need to be issued to appoint the applicant against any post commensurating to his educational qualification setting aside the impugned letter of rejection dated 27.04.2002.

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

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

5.6. For that in any view of the matter the impugned action of the respondents are not sustainable in the eye of law and liable to be set aside and quashed.

The applicant craves leave of the Hon'ble Tribunal to advance more grounds both legal as well as factual at the time of hearing of the case.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to them and there is no alternative remedy available to him.

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

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

8. RELIEF SOUGHT FOR:

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

8.1. To set aside and quash the impugned order bearing Memo No.70201/9/SO/161/EIC(2) dated 27.04.2002 issued by the respondent No.3 communicating the rejection of the application of the applicant for appointment on compassionate ground.

8.2. To direct the respondent to issue necessary appointment

order to the applicant appointing him on compassionate ground in any post commensurating to his educational qualification.

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

8.4. Cost of the applicant.

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

9. INTERIM ORDER PRAYED FOR:

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

10. *****

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

1. I.P.O. No. : 76 576644

2. Date : 8/8/02

3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

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VERIFICATION

I, Himanshu Kumar Sarker, aged about 26 years, at resident of Tatyapur, Silchar, I hereby solemnly affirm and verify that the statements made in paragraphs 1-3, 4-1-4-3, 4-14-4-18 and 5 to 12 are true to my knowledge and those made in paragraphs 4-4-4-13 are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 10th day of Sept. of 2002.

Signature.

Himanshu Kumar Sarker

From : Km Joyshree Sarkar
D/O Late HC Sarkar
C/O Shri Monoranjan Roy
Shib bari Road BAIGARH
PO Silchar (Pin 788 001)
Dist Cachar (Assam)

Self
ANNEEXURE A

To : The Chief Engineer
Shillong Zone
Spread Eagle Falls
Shillong 793011
Meghalaya

Subject : RECRUITMENT OF DEPENDENTS DECEASED
GOVT EMPLOYEES

Sir,

With due respect I would like to bring to your kind notice that my father HC Sarkar was an employee of GE Silchar as Fitter Pipe and expired while on service on 20.12.90. After the death of my father, my mother applied for compassionate appointment for myself and it is understood from GE Silchar that the case was submitted to the higher authorities by them on 13 Jul '91. In the meantime my mother has also expired and at present I am to maintain my three sisters (including myself) with one minor brother within small family pension. Now I came to know that, letters have been issued by your HQ asking willingness to accept appointment to certain dependents of Govt deceased servants. But I have not received any letter although I am an applicant. I applied for the post of LOWER DIVISION CLERK.

I will be highly obliged if you kindly enquire the matter and intimate the fate of my application/appointment on compassionate grounds.

Thanking you.

J. Sarkar
Yours faithfully,

J. Sarkar
(Km JOYSHREE SARKAR)

Dated : 07 Jul '93

Copy to :

- 1) Chief Engineer
Eastern Command
Fort William
Calcutta 21
- 2) HQ 137 Wks Engrs
C/O 99 APO
- 3) Garrison Engineer
Silchar

I will be grateful to you if my case is looked into personally to save this poor family.

13
26
39

Amritsar
Advocate.

registered with A/D.

From :-

Mrs. Joyshree Sarkar,
D/O. Late H.C. Sarkar,
C/O. Shri Monoranjan Roy,
Shibbari road, Raigarh,
P.O. Silchar- 788 003,
Dist. Cachar, Assam.

To

The Chief Engineer,
Shillong Zone,
Spread Eagle Falls,
Shillong -793011,
Meghalaya.

Sub :-

(Through proper channel.)
Recruitment of dependents deceased Govt.
employees. /

Ref :-

- 1) My representation dt. 07-06-95 to your address.
- 2) Your letter No. 1007/1365/BTE, dtd. 21st Feb/97.

Sir,

In inviting a reference to the above, I would like to inform you that my mother applied to you for the post of Lower Division Clerk in the office of the G.E., Silchar on compassionate ground of appointment for me either the expiry of my father Liren Chandra Sarkar on 29-12-90 who died while in service of a Fitter pipe of MES I.D. 228482 but my ill luck would have it, no action in this regard was taken to consider my case. It may be mentioned here that I have been tied with matrimonial last year i.e. on 26-1-96. My only younger brother Shri himangshu Kumar Sarkar has already attained the serviceable age to serve in any Govt. office; of State or Central Govt. with the requisite qualifications.

Further I declare that in the next month i.e. December/1997, the family pension will be entertained Rs. 800/- (eight hundred) per month, in this meagre income how they were spent their lives. In this connection, I pray your honour kindly issue an appointment on compassionate ground of my brother Shri himangshu Kr. Sarkar in any offices under your control in place of my claim on compassionate ground, who has still a dependent younger sister, the responsibilities of educating at present and to give her marriage too in future by his income penniless now, as he is living with debt.

Attested
W. C. Roy
Advocate.

Contd... 2/2.

That Sir, I received your letter through post but due to financial crisis I could not appear the same documents in due time. Now I am fulfil your all documents (enclosed herewith) for your kind and immediate action and thus oblige.

Dated, Silchar,
theth day of Nov/97.

Yours faithfully,
Joyshree Sarkar

(MRS. JOYSHREE SARKAR)
D/O. Late Hiren Ch. Sarkar,
Home Address-

Shri Himangshu Kr. Sarkar,
C/O. Late Hiren Ch. Sarkar,
House No. 67, DASVILLA,
Boygarh (Sib-bari road),
P.O. Silchar- 788 008,
Dist. Cachar, Assam.

Copy to :

1. Chief Engineer,
Eastern Command,
Fort William,
Calcutta- 700 021.
2. H.Q. 137 Works Engineer,
C/O. 99 A.P.O.

(Mrs. JOYSHREE SARKAR)

Amesha
N.D.
Advocate

- 15 -

Headquarters
137 Marks Engineers
C/199 AP

1213/J3/311/15 1/10 (2)

15 Feb 97

AS ALLOWS

COMPENSATION APPOINTMENT TO THE DEPENDENTS OF
DECEASED GOVT. OFFICER

1. Ref application dated 9th Feb 97 submitted by Mrs Jayshree Sarkar.
2. Please ask individual to submit relevant documents for the appointment of compensation to the dependents of deceased govt. officer.

Roxas & Co
(G.V. Rao)
Mjt
Mjt
for C.I.T

Copy to :-

Mrs Jayshree Sarkar
D/o Late RC Sarkar
C/o Shri Maorangan Ray,
Sibbari Road, Radgarh
P.O - 313101 - 783 008
Dist - Cachar (Assam)

1. For information with reference your appeal dated 9th Feb 97.
2. You are advised to liaise with GS Silchar for further help and submission of documents for the compensation appointment to your Brother please.

Attested
V.D. Deka
Advocate

FROM :

SHRI MIRANGSHU KUMAR SARKAR
(SON OF LATE HIRHON CHANDRA SARKAR)
MCS NO. 220402, PIPE FITTER
C/O. ALOK NATH
SHIB BARI ROAD, HOYGRAH
PO. TAKAPUR - PT - VII.
SILCHAR, - 788008
DIST. CACHAR (ASSAM).

HOYGRAH POST/HC, DME

TO

The Chief Engineer
Shillong Zone
Speed Eagle Fellow
Shillong - 793011

Meeraya

(THROULH CARRIAGE ENGINEER, SILCHAR)

Subject : Recruitment of dependents of deceased
Govt. Employee of MCS.

Sir,

Kindly refer GC Silchar letter No. 10.7/1362/LIL
dated 21.2.97.

On the context, I would like to submit following
for your kind perusal and favourable action please.

That Sir, my father Late Lalon Chandra Sarkar, MCS No. 220402 was working as fitter in the year 1948 and expired while on duty on 29 Dec 1990. After the demise of my father, all pensionary cards were made to my mother Late Minoti Begi Sarkar. It is my ill fate that, my mother also expired on 1.3. 1992.

After the death of my mother, pensionary condition of my father was changes to the name of my elder sister named Joyshree Sarkar. On 26th Jan 96, marriage of my sister took place and all pensionary cards transferred in my name. Now I alongwith my younger sister named Sima Sarkar are the only heir of our father's pensionary awards and living based on this only. My sister is only 17 years old and solely dependent on me.

Contd. P. 2...

Accepted
Nath
Cachar

During the passage of time, I have acquired following qualifications :-

- (a) Passed H.S.C.C Examination on 1993.
- (b) Passed Typing test on 1993
- (c) Passed National Trade Certificate of Electrician on March 1998 from I.T.I., SRIKONA, SILCHAR.

Now I have attained all requisite qualification and hence, I would like to request your honour to recruit me as a tradesman appropriate to my qualification against the reserved quota of dependents of deceased employee as per norms of the Govt. and so oblige.

I am enclosing herewith following documents duly attested :-

- (1) H.S.C.C Provisional Certificate issued by Zilkader Ali H.S.C.C School Arunachal.
- (2) Mark sheet issued by Board of Secondary Examination, Assam.
- (3) Typing test Certificate issued by Royal Training Institute, Silchar.
- (4) National Trade Certificate of Electrician issued by I.T.I., Srikona, Silchar.
- (5) Annual Income Certificate issued by Circle officer Sader Revenue, Silchar.
- (6) Medical Certificate issued by Lt. Director of Health Services, Silchar.
- (7) Caste Certificate issued by KABAR ASAM KABUSUCHIT JATI PARIKAR, GUWAHATI.
- (8) Movable / Immoveable Certificate issued by Circle officer, Sader Circle, Silchar.
- (9) Self sworn affidavit.
- (10) Card of Employment Exchange, Silchar.

Contd. P. 3...
Contd. P. 2....

Attested
W.D. ✓
Advocate.

In view of the above, I would like to request your honour sir to consider my case sympathetically and absorbed me in your organisation at the earliest please.

Thanking you.

Yours faithfully,

Date : August '98.

(HIMANSHU KANJAN SARKAR)

son of Late Kiron Ch. Sarkar
AES. 220482, Filter, Pipe
Executive Officer,
PU. Meunachal.

Advance Copy to (UNDUL CERTIFICATE OF POSTING)

CHIEF ENGINEER
SHILLONG ZONE
SE FALLS
SHILLONG - 793011

For information along with
Copies of all documents.

CUE (PROJECT
BALBAGAN
AGARTALA (TRIPURA)

Attested
V. D. S.
Advocate.

REGISTERED POST

Office of the GE Silchar Division
PC : Arunachal, District : Cachar
Assam - 788 025

1007/1553/EIE

2X
06 Jul 99

Shri Himangshu Kumar Sarker
Son of (Late) Hiren Chandra Sarker
MES NO. 228482, PIPE FITTER
C/O Alok Nath
Shib Bari Road, Roygarh
PO : Terapur Pt-VI
Silchar - 788 008
Dist : Cachar (Assam)

RECRUITMENT OF DEPENDENTS OF DECEASED
GOVT EMPLOYEE OF MES

1. The following documents are required by the higher authority in connection with your appointment on compassionate grounds :-
 - (a) Certificate regarding Marital status of the dependent from civil authority.
 - (b) Particulars post ^{for which applied} should be mentioned by you.
2. Please submit the above documents forthwith.

Yours faithfully,

PD

(P Das)

For Garrison Engineer

✓ Tradesman according to his qualification.

Attested
W. Das
Advocate.

From:-

Shri Himangshu Kumar Sarkar
Son of Late Hiren Chandra Sarkar
C/O Alok Nath
Shibbari Road, Roysgarh
PO : Tarapur Part - VII
Silchar-788008

To

Garrison Engineer
Silchar

RECRUITMENT OF DEPENDENTS OF DECEASED
GOVT EMPLOYEES OF MES

Sir,

1. Please refer to your letter No 1007/1553/EIE dt 06 Jul 99.
2. Certificate regarding marital status of my younger sister as asked vide your letter under ref, is attached in quadruplicate.
3. As I am qualified as Electrician (ITI) and therefore, I will prefer for Electrician, Cable Jointer or any other trades similar or commensurate to my qualification.

Thanking you.

Yours faithfully,

Himangshu Kumar Sarkar.

Dated: 18 August 1999

(Himangshu Kumar Sarkar)

6/8
Received - 01. 08/99
[Signature]

Advocate
W.D. Deo
Advocate.

REGD. WITH A.D.

From: Sri Himangshu Kumar Sarkar
S/o Lt. Hiren Chandra Sarkar
MES No. 228482, Pipe Fitter
C/o Shri Alok Nath
Shib Bari Road, Roygarh
P.O. Tarapur part-VII
Silchar-788 008
Dist. Cachar, Assam.

To

H.E.

Date: 18-04-2000.

The Chief Engineer,
Shillong Zone
Spread Eagle Falls,
Shillong-793011
Meghalaya.

Sub: Prayer for appointment on compassionate ground.

Ref.: Your letter No. 1007/1553/LIE dtd. 05 July, 1999.

Sir,

I have the honour to lay before you the following facts for favour of your perusal, sympathetic consideration and favourable orders.

That Sir, my father Late Hiren Chandra Sarkar was a Pipe Fitter under MES No. 228482 and he expired on 29.12.90 leaving behind our mother, me and four sisters. My mother died on 31.3.1992. Three of the sister have already been married. Now, I and my younger sister Smti. Seema Sarkar have been living in the family. I have been drawing family pension @ Rs. 1,213/- only including Medical allowance of Rs. 100/- only per month.

That Sir, as I did not attain maturity when my father died, my elder sister Smti. Joyshree Sarkar applied for appointment on compassionate ground. But she was not appointed for reasons best known to authority. Thereafter my sister was married and I attained maturity. so my sister submitted undertaking withdrawing her claim in favour of my appointment on compassionate ground.

At this, your honour asked me to furnish (1) Certificate regarding Marital status and (2) Particulars of Post for which applied.

Contd... P/2

Attested
V. D.
Advocate.

- 2 -

Accordingly I applied to the Deputy Commissioner, Cachar, who by his Memo No. CRS.1/98-99/201 dated 10.11.99 furnished the marital status of all our family members. And I also furnished the particulars of the posts befitting my qualifications.

But unfortunately, no action has yet been taken by the authority.

That Sir, I have been passing through extreme financial crisis with this little amount of family pension, which will be stopped when I attain 25 years of age.

That Sir; I am enclosing herewith the copy of Hon'ble Gauhati High Court's order in Case No. Civil Rule 5333/1998 in connection with an appointment on compassionate ground, for favour of your perusal and favourable orders.

That Sir, since my father's death in the year 1990 our family has been continuously moving your department for an appointment on compassionate ground but without any result till now.

In view of this, I pray to your honour kindly to favour me with appointment on compassionate ground to any post befitting my qualification, failing which it will be my painful task to take necessary legal steps in this regard in the appropriate court of law. I mention again that I am a Matriculate with I.T.I. Diploma as Electrician. I have got type-writing certificate with the speed of 40 words per minute. I have also cleared up Part-qualified I & II of Electrical Supervisor's Regu. No. 6897, of Govt. of Assam. So, I may be appointed as an Electrician or against any other job as you deem fit and proper at your earliest convenience.

List of Enclosures:

1. The xerox copy of my sister's undertaking.
2. Your letter No. 1007/1553 dated 06 July, 1999.

Amrastee

MDR

Advocate.

Yours faithfully,

Himangshu Kumar Sarkar,

(HIMANGSHU KUMAR SARKAR)

Contd...;

3. Qualification certificate.
 - a) H.S.L.C. Provisional certificate issued by Zilkadar Ali H.S. School, Arunachal.
 - b) Marksheets issued by Board of Secondary Education, Assam.
 - c) H.S.S.L.C. First year Admit Card.
 - d) H.S.S.L.C. First year Marksheets.
 - e) Typing test certificate issued by Royal Training Institute, Silchar.
 - f) National Trade Certificate of Electrician issued by ITI, Srikona, Silchar.
 - g) Experience Certificate.
4. Annual Income certificate issued by Circle Officer, Sadar Revenue, Silchar.
5. Medical Certificate issued by Jt. Director of Health Services, Silchar.
6. Caste certificate issued by Asom Anusuchit Jati Parishad, Guwahati.
7. Movable/Immovable certificate issued by Circle Officer, Sadar Circle, Silchar.
8. Self Sworn affidavit.
9. Card of Employment Exchange, Silchar.
10. Hon'ble Gauhati High Court's order dtd. 28.5.99 in Case No.C.R.5333/1998.

Copy forwarded for information & necessary action to:-

1. Sri Santosh Mohan Dev,
Ex-Central Minister and now M.P., Silchar.
He is kindly to take up the matter with
Sri George Fernandes, Hon'ble Defence Minister,
Govt. of India, New Delhi.
2. The CWE (Project)
Salbagan,
Agartala, Tripura.
3. The Chief Engineer,
Eastern Command,
Fort William,
Calcutta-700021.
The C.W.E
Mukhy alya purvi karmi
Hq E.C
Abhayanta sharkha
4. H.Q. 137 Works Engineer
C/O. 99 A.P.O. 88
E. Branch E.R
5. The Garrison Engineer, (CILCHAK)
MES, Masimpur, P.O. Arunachal.
6. SHRI. GEORGE FERNANDES
MINISTER OF DEFENCE GOVT. OF INDIA.
3, KRISHNA MENON MARG - NEW- DELHI - 110011

Attested
N. D. Sen
Advocate.

RECD.WITH A/D.

From : Sri Himangshu Kumar Sarkar,
 S/O.Lt. Hiren Chandra Sarkar,
 MES No.228482, Pipe Fitter
 C/O. Shri Alok Nath,
 Shib-bari Road, Roygarh,
 Silchar- 788 008,
 P.O. Tarapur Pt-VII,
 Dist. Cachar, Assam.

Dated : 14/6/2000 / 2000.

To

H. Q.
 The Chief Engineer,
 Shillong Zone,
 Spread Eagle Falls,
 Shillong - 793 011.
 (Meghalaya)

Sub - Prayer for appointment on Compassionate ground.Ref - Your letter No.1007/1553/ETE dtd. 06 July,1999.

Sir,

I have the honour to lay before you the following few facts for favour of your perusal, sympathetic consideration and favourable orders.

1) That Sir, my father Late Hiren Chandra Sarkar was a pipe fitter under M.E.S.No.228482 and he had expired on service in the 29-12-90 we were living behind our mother, me and four sisters. But unfortunately my mother died on 31-3-1992. My three of the sisters are already married. Now I and my younger sister Smti. Seema Sarkar have been living in a family and drawing family pension monthly Rs. 1,213/- (One thousand two hundred thirteen only) including the Medical allowances of Rs. 100/- (Rupees One hundred) per month .

2) That Sir, as I did not attain maturity when my father had died, but now, I and my younger sister both are maturist and my younger sister is also reading in the college level. I have also no own property or land. I live in a tenant house, for which I pay Rs. 300/- (three hundred) per month. But Sir, I am receiving per month Rs. 1,213/- from the pension, which is not possible for living in the days life, because everything in the market is costly, between that, I have completed my technical training from the Industrial training Institute, Srikona, Cachar in the trade of Electrician in the session 1995-97 and also got the five years experience from the Hariyana (Pai 132 KVA substation) and again from the Guwahati I have take supervising licence part 1/2/3-5A/9A). Although, I have experienced in this line but job is not available in our place we are living our life style in the very weak position. Sir, in this year 2000 my age is going to 24 years 7 month, after some days I will attain at the age of 25 years and my family pension also will be out from my hand. So, I kindly request you to

(Contd...p/2)

133300

V.D.R.

6-100.

notice my problem and give me any types of job in the M.E.S., as my qualification . And Sir, I have heard that some of the boys have appointed at the M.E.S. before a few years ago and some of them have newly appointed on the August month of 2 K. But, yet my appointment has not declared.

At this, your honour asked me to furnish (1) Certificate regarding Material status and (2) Particulars of post for which applied.

*** Accordingly I have send all the documents whatever, you required from me. And I also applied to the Deputy Commissioner, Cachar, who by his Memo No.CRS.1/98-99/201, dtd.10-11-99 furnished the marital status of all our family member. And I also furnished the particulars of the posts befitting my qualifications to the G.E. Silchar (M.E.S.).

But , unfortunately, yet , no action has been taken by the authority against the matter.

And Sir, I have also send one remainder on dated 18-4-2K to the Chief Engineer of Shillong Zone . Copy to the 1) The Chief Engineer, Eastern Command, Fort William , Calcutta-21. 2) H.Q. 137 Works Engineer , C/O. 99 APO (Dimapur) Rangapara. 3) The Garrison Engineer, Silchar (M.E.S.) Arunachal- 788 025, 4) Sri George Feranandes, Ministry of Defence, Govt. of India, New Delhi.

And yet no reply of this remainder has been given by the authority. Sir, for the every letter of remainder I have to pay Rs. 500/- which is very costly for me because I have no any source of income except the family pension of my father.

3) *** That Sir, since my father died in the year 1990, our family has been continuously moving in your Department for the appointment of compassionate ground but till the, after 9 years 7 months I have not received any appointment in your department. But in your department recruitment is already going on.

So, in view of this I pray to your honour kindly to favour me with appointment on compassionate ground to any post befitting my qualification. I mention again that I am a Matriculate with I.T.I. Diploma as Electrician I have got type writing certificate with the speed of 40 W.P.M. I have also cleared up part qualified I/II/3/5A/9A of Electrical Supervisor's Regd.No. 6897 of Govt. of Assam. So, Sir, I may be appointed as an Electrician or against any other job as you deem fit & proper at your earliest convenience.

(contd..p/3)

Attested
W.D.A.
Advocate.

- 3 -

*** At last Sir, my family pension will be stopped after 3 (three) months. If you kindly notice my matter and as soon as possible you give me any types of job in your Department. I shall be ever greatful to you. Because Sir, my financial condition is very weak. I earn 400/500 in a few month it is not possible to carry on my family by this short amount.

Yours faithfully,

Srimangshu Kumar Sarker

(Sri Srimangshu Sarker)
S/O. Late Hiren Chandra Sarker,
M.E.S. Silchar.

Enclo -

- * 1. Your letter No. 1007/1553, dated 06 July, 1999.
- * 2. All required documents already been submitted to the concern authority.

Copy forwarded for information & necessary action to -

- * 1. Mukhyalya Purvi Kaman, H.Q. E.C. Abhiyanta Shakha, E. Branch, Fort William, Calcutta- 700 021.
- * 2. The C.W.E., ~~868(2)~~, C/O. 99 APO., H.Q. 137 WKS Engineer.
- * 3. The Engineering Chief, Army H.Q., D.H.Q., P.O. New Delhi-1.
- * 4. Central Vigilance Commission, Vigilance Bhawan, Block A.G.P.O. Complex, INA New Delhi, - 23.
- * 5. The Garrison Engineer (Silchar), MES, Masimpur, P.O. Arunachal.
- * 6. Shri George Fernandes, Minister of Defence, Govt. of India, 3, Krishna Menon Marg, New Delhi - 11.

* * *

Attested
V.D.C.
Advocate.

Regd. A/D.

Date: 04-08-2000.

To

H.Q.
 The Chief Engineer,
 Shillong Zone,
 Spread Eagle Falls,
 Shillong - 793 011.
 (Meghalaya).

Sub: -Prayer for appointment on Compassionate ground -
 Reminder thereon -

Ref: -Letter No.1007/1553/EIE dt. 26 Jul 99 issued by the GE Silchar Division, P.O. Arunachal, Dt. Cachar, Assam 788 025 -- calling for "REQUIREMENT OF DEPENDENTS OF DECEASED GOVT. EMPLOYEE OF MES - (copy enclosed for ready reference).

Sir,

With reference to the above I have the honour to draw your kind attention to the fact that I applied for an appointment on compassionate ground being an ill luck son of Late Hiren Chandra Sarkar, who was a pipe fitter under M.E.S.No.228482 and who expired prematurely during his service period on last 29-12-90, while I was a minor. After attaining majority I applied stating in details the family position (left by my said deceased father) for an appointment on compassionate ground in a post allowable as per my qualification (details already submitted).

Thereafter the G.E.Silchar Divr. vide letter No.1007/1553/EIE dt.26 Jul 99 demanded requirement of dependents of my deceased father and the U.C.Cachar was kind enough to forward the same vide his Memo No.CRS.1/98-99/201 dt. 10-11-99 but due to my ill luck till date I have not favoured with any appointment so as to enable me to maintain myself & my younger sister in these days of hard economic crisis.

I, therefore, most humbly and respectfully pray to your kind honour to consider my case favourably on compassionate ground and pass necessary kind favourable order

appointing

1007/1553
 1007/1553

- 2 -

appointing me in a suitable post allowable under my qualification, which are in details submitted long before, so as to enable me to maintain myself and my younger sister, in these days of high price index, considering my case as a ill fated ~~simple~~ son of an employee of your department, whose unfortunate position is not expressable in words, and for this act of your honour's kindness, I and my younger sister shall as in duty bound ever pray.

Kindly acknowledge the receipt of my prayer by a line in reply.

Enclo:-Copy of letter of
GE.Silchar Division.

Yours faithfully,

Himangshu Kumar Sarkar,

(Himangshu Kumar Sarkar)

S/O.Late Hiren Chandra Sarkar,

MES No.228482, Pipe Fitter,

C/O.Shri Alok Nath,

Shib Bari Road, Roygarh,Silchar-788008,

P.O.Tarapur,Pt-VII,Dt.Cachar. Assam.

Attested
V.D.W.
10/10/2010

RECD. WITH A/D.

From : Sri Himangshu Kumar Sarkar,
 S.O.I.t. Hiren Chandra Sarkar,
 M.E.S No. 228482, Pipe Fitter
 C/O. Shri Alok Nath,
 Shib-bari Road, Koygarh,
 Silchar- 788 008,
 P.O. Tuarapur Pt-VII,
 Dist. Cachar, Assam.

Dated : 3.10.2000 / 2000.

To

H.O.
 The Chief Engineer,
 Shillong Zone,
 Spread Eagle Falls,
 Shillong - 793 011.
 (Meghalaya)

Sub - Prayer for appointment on compassionate ground.

Ref - Your letter No. 1007/1553/ETE dtd. 06 July, 1999.

Sir,

I have the honour to lay before you the following few facts for favour of your perusal, sympathetic consideration and favourable orders.

1) That Sir, my father Late Hiren Chandra Sarkar was a pipe fitter under M.E.S.No. 228482 and he had expired on service in the 29-12-90 we were living behind our mother, me and four sisters. But unfortunately my mother died on 31-3-1992. My three of the sisters are already married. Now I and my younger sister Smti. Seema Sarkar have been living in a family and drawing family pension monthly Rs. 1,213/- (One thousand two hundred thirteen only) including the Medical allowances of Rs. 100/- (Rupees One hundred) per month .

2) That Sir, as I did not attain maturity when my father had died, but now, I and my younger sister both are maturest and my younger sister is also reading in the college level, I have also no own property or land. I live in a tenant house for which I pay Rs. 300/- (three hundred) per month. But Sir, I am receiving per month Rs. 1,213/- from the pension, which is not possible for living in the days life, because everything in the market is costly, between that, I have completed my technical training from the Industrial training Institute, Srikona, Cachar in the trade of Electrician in the session 1995-97 and also got the five years experience from the Harsilam (Pai 132 KVA substation) and again from the Guwahati I have take supervising licence part 1/2/3-5A/9A). Although, I have experienced in this line but job is not available in our place we are living our life style in the very weak position. Sir, in this year 2000 my age is going to 24 years 7 month, after some days I will attain at the age of 25 years and my family pension also will be out from my hand. So, I kindly request you to

(Contd...p/2)

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 1000

notice my problem and give me any types of job in the M.E.S., as my qualification. And Sir, I have heard that some of the boys have appointed at the M.E.S. before a few years ago and some of them have newly appointed on the August month of 2K. But, yet my appointment has not declared.

At this, your honour asked me to furnish (1) Certificate regarding Material status and (2) Particulars of post for which applied.

** Accordingly I have send all the documents whatever, you required from me. And I also applied to the Deputy Commissioner, Cachar, who by his Memo No. CRS.1/98-99/201, dtd. 10-11-99 furnished the marital status of all our family member. And I also furnished the particulars of the posts befitting my qualifications to the G.E. Silchar (M.E.S.).

But, unfortunately, yet, no action has been taken by the authority against the matter.

And Sir, I have also send one remainder on dated 18-4-2K to the Chief Engineer of Shillong Zone. Copy to the (1) The Chief Engineer, Eastern Command, Fort William, Calcutta-21. (2) H.Q. 137 Works Engineer, C/O. 99 APO (Dibrugarh) Rangapara. (3) The Garrison Engineer, Silchar (M.E.S.) Arunachal- 788 025, New Delhi.

And yet no reply of this remainder has been given by the authority. Sir, for the every letter of remainder I have to pay Rs. 500/- which is very costly for me because I have no any source of income except the family pension of my father.

3) *** That Sir, since my father died in the year 1990, our family has been continuously moving in your Department for the appointment of compassionate ground but till the, after 9 years 7 months I have not received any appointment in your department. But in your department recruitment is already going on.

So, in view of this I pray to your honour kindly to favour me with appointment on compassionate ground to any post befitting my qualification. I mention again that I am a Matriculate with I.T.I. Diploma as Electrician I have got typewriting certificate with the speed of 40 W.P.M. I have also cleared up part qualified I.I.I/3/5A/9A of Electrical Supervisor's Regd. No. 6897 of Govt. of Assam. So, Sir, I may be appointed as an Electrician or against any other job as you deem fit & proper at your earliest convenience.

(contd.. p/3)

1000
W.S.D.

*** At last Sir, my family pension will be stopped after 3 (three) months. If you kindly notice my matter and as soon as possible you give me any types of job in your Department. I shall be ever greatful to you. Because Sir, my financial condition is very weak. I earn 400/500 in a few month it is not possible to carry on my family by this short amount.

Dimangjim Kinan Sankar.

Yours faithfully,

Enclo -

(Sri Himangshu Sarkar)
S/O. Late Hiren Chandra Sarkar,
M.E.G. Silchar.

** 1. Your letter No.1007/1553, M.E.S, Silchar.
dated 06 July , 1999.

** 2. All required documents already
been submitted to the concern
authority.

Copy forwarded for information & necessary action to -
1. Mukhyamantri, Bangalore

卷之三

Attested
John
Advocate.

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

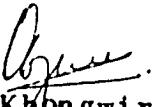
Topic : (1) (1) Date : (1)

Regd. No. 00000

Shri Himansu Kumar Sarkar
S/O Late Hiren Chandra Sarkar
C/O Shri Alok Nath
Shibbari road, Roygarh
Silchar - 788 008
Dist : Cachar (Assam)

PRAYER FOR COMPASSIONATE APPOINTMENT GROUND

1. Reference your application dated 04 Sep 2000.
2. As per this HQ Seniority your name stand at Sl No. 290 and in this connection please refer this HQ letter No. 70201/7/881/FIC(2) dated 11 Aug 2000, wherein the said position has also been intimated to you.


(O. Khongwir)
AO
For Chief Engineer

At Arrested
Under
Locate.
Advocate.

REGISTERED

Garrison Engineer, Silchar
P.O. : Arunachal, Dist. Cachar
Assam

18 May 2001

33

11 Jun 2001

10071/11E

MRI. HIMANGSHU KUMAR SARKAR
 S/o LATE HIREN CHANDRA SARKAR
 REG/322482, P/F
 S/o ALOK NATH
 DHB BARI ROAD, RONGARI
 PO - TARAPUR (PART-VII)
 JALCHAR - 788002

25/07/2001 - GACHAR
 (ADDAM) COMPASSIONATE APPOINTMENT TO DEPENDENTS

1. Please forward the following informations/documents to this office each in duplicate by 19 Jun 2001 without fail.
 - a) Monthly income of earning members and income from property. (Certified by Revenue Mandal Offr of the concerned district).
 - b) Movable/immovable property details
 - c) No of dependents
 - d) No of unmarried daughters
 - e) No of minor children
2. Please treat this as Urgent.


 (Signature)

AE

for Garrison Engineer

 recd
 10/06/2001
 ccato.

Registered.

- 34 -

To

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

Ref : No.1007/211/EIE dtd. 11/6/2001.

Regarding: Compassionate appointment to Dependents.

Sir,

As per your letter cited above, I have submit following information as desired.

- a. Sir, now income is nil due to ban of pension, accept day labour.
- b. Nil.
- c. 2 (two) i.e. self and younger sister.
- d. 1 (one)
- e. Nil.

Yours faithfully,

Himangshu Kumar Sarker

(Himangshu Kumar Sarker)

S/O late Hiren Ch. Sarker

MES/228482, P/F

C/O Alok Nath

Building 10, 11th floor

Plot 10, Sector 10

Guwahati - 781010

Assam, India

Attested
Now
Advocate.

Headquarters
Chief Engineer
Shillong 793011
Spread Eagle Hall
Shillong 793011

70201/97/SO/ 161 /EIC(2)

27 Apr 2002

COMPASSIONATE APPOINTMENT

Dear Sir,

1. Reference your application dated 10-03-99 for appointment under the Scheme of compassionate ground in this Department on expiry of your late father Haren Chandra Kumar, F/ Pipe of GE Silchar.
2. Your request for compassionate appointment was examined by the competent authority under the relevant instructions of Dept of Pers Try 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 29-12-90. He was survived by his one son and one daughter.
 - (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 29-12-90 more than 11 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,

WZ/11
(KS Mukhopadhyay)
SE (SG)
SO I (Pers)
For Chief Engineer

Ends As above

Shri Hemanshu K. Sarkar,
Silbari Road,
Tariapur Silchar -7,
PG : L Silchar,
Distt : Cachar (Assam)

Attested
WZ/11
Advocate.

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 or 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 difficulties and to help it get over the difficulty.

(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.

Attested

[Signature]

Advocate.

(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 Negpal 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.

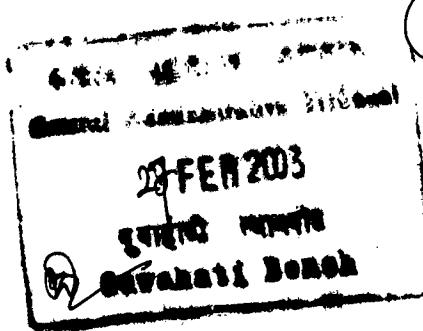
of (b) The whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis and to relieve the family/the deceased from financial destitution and to help it get over the emergency.

(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 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't be exercised at any time in future.

*Amrit Singh
Vohra
Advocate.*



Filed by

27/2/03

(A. DEBNARAYAN
SRI. C. G. C.
C. A. T. Guwahati Bench
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :::: GUWAHATI

O.A. NO. 302 OF 2002

Shri H. K. Sarkar

..... Applicant
- Vs -

Union of India & ors.

..... Respondents

In the Matter of :

Written Statement submitted by
the respondents

The humble respondents beg to submit the para wise
Written Statement as follows :-

1. That with regard to paras 1 to 4.9 of the application
the respondents beg to offer no comments.

2. That with regard to the statement made in paras
4.10 to 12 of the application the respondents beg to state
that is not correct. The documents submitted by the applicant
were forward to the Competent Authority for consideration in
terms of various Govt. policy and guideline on the subject.

Needless to mention here that providing employment assistance
under the scheme of Compassionate Appointment does not mean
employment to dependents as a matter of routine as the aim
of the scheme to grant appointment on compassionate grounds

to a dependent family member of the deceased Govt. Servant passing in harness, thereby leaving the family penury and without any means of livelihood to relieve the family from financial destitution and to help them to get over the emergency.

3. That with regard to the statement made in paras 4.13 to 4.18 of the application the respondents beg to state that it is not agreed. The case was forward to the competent authority in the department for consideration. The Scheme of appointment on compassionate grounds is 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 hardship. The scheme does not necessarily imply that the dependent of each and every deceased will be offered appointment on compassionate ground. The quota for the purpose of compassionate ground appointment is only 5% of the total DR vacancies occurring in a year in Group 'C' & 'D' posts. Hence no case is considered individually but all the cases of various Formation/Units are considered by a Bd of Offrs constituted at Army HQ as per Govt Policy in order to find out the deserving cases in accordance with financial distress/more indigent in comparison to other similarly placed cases against the quota of DR Vacancies occurring in a year.

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The Board of Officers take various aspects as stipulated in MOD letter No. 19(4) /824-99/198-D(Lab) dated 09 March 2001 such as family size including age of children amount of terminal benefits, amount of family pension and liability in terms of minor children, moveable and immoveable property so as to find out the case of acute financial distress/most deserving cases that too only if clear vacancy meant for appointment in compassionate ground exists within the ceiling of 5% of DR vacancies.

4. That with regard to the statement made in paras 5.1 to 5.6 of the application the respondents beg to state that contention of the applicant is not correct as the same are misleading and against real facts. Subsequent to his father's death while in service, his family consisting of 5 members viz mother, 4 Daughters (1 Married) 3 Unmarried and 1 son (applicant age 14 years) (now 26 years plus) were providing with the following financial assistance :-

(a)	DCRG	-	Rs. 13080/-
(b)	GPF	-	Rs. 19820/-
(c)	CGEGIS	-	Rs. 53903/-
(d)	Leave encashment	-	Rs. 7416/-
(e)	Family pension	-	Rs. 1275/-

Wife of deceased had expired on 31.3.1992. His two daughters had got married afterwards.

5. That with regard to para 6 of the application the respondents beg to offer no comment.

(41)

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6. That with regard to the statement made in para 7 to 10 of the application the respondents beg to state that the board of officers at Army HQ had gone through the case of the applicant in details based on the relevant rules/guidelines. However, due to more deserving cases and few vacancies available, the case of the individual was not considered merit oriented for employment assistance on compassionate grounds. Therefore, after due consideration in the light of the guidelines of DOP and various judgement of the Hon'ble Supreme Court and that the appointment on compassionate ground is not a matter of right and after a balanced and objective assessment of the totality of the circumstances of the case including the decision of board of officers at Army HQ, the competent authority has rejected the case of the applicant.

Verification.....

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VERIFICATION

I, Shri SK Singh, IDSE, EE, presently working as Garrison Engineer, Silchar Division, being duly authorised and competent to sign this verification do hereby solemnly affirm and state that the statements made in para 1 to 06 are true to my knowledge and belief and those made in para 4 to 06 being matter of records, are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this verification in this 27 th day of 08 Feb , 2003.


Declarant.

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