

30/10/00
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 111/2002

R.A/C.P No.

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FORM NO. 4
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.
GUWAHATI.

ORDER SHEET

Original No. 11/2002
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant(s) Subash Ch. Roy

Respondent(s) H. O. T. Gony

Advocate for Applicant(s) M. Chanda, Mrs. S. Seal

Advocate for Respondent(s) Page 'Mr. B.C. Pathak, Addl. C.G.S.C.

Notes of the Registry	Date	ORDER OF THE TRIBUNAL
-----------------------	------	-----------------------

This application is for 3.4.02
C. R. No. 50/ deposited
76549676

Dated 14.2.02

Dy. Registrar
DS

Present : Hon'ble Mr. K.K. Sharma,
Administrative Member.

This is an application for compassionate appointment. The father of the applicant while working as Senior Post Master in Kalibari Bazar Post Office under Hailakandi District expired on 15.5.78 at Algapur. At that time the applicant was 1½ years old. After completion of education in 1997, the applicant made a representation dated 20.2.97 (annexure-6) to the Respondent No.2 for compassionate appointment. It is stated that though the applicant made representation for compassionate appointment, the Respondents have not passed any order on the representation dated 20.2.97 for compassionate appointment.

Heard Mr. M. Chanda, learned counsel for the applicant and also Mr. B.C. Pathak, learned Addl. C.G.S.C. for the Respondents. Mr. Pathak, learned Addl. C.G.S.C. for the Respondents

Contd/-

3.4.02 cited Supreme Court judgment in Sanjay Kumar Vs. State of Bihar and Others (2000) 7 SCC 192 for the submission that such representation made after a long period is time barred and cannot be considered.

Having heard learned counsel for the parties, the application is liable to be dismissed. Government gives compassionate appointment to the dependents of the deceased employees in deserving cases only. Such appointment is given immediately after the death of the employee to dependents family member in need of employment. The applicant's father expired in 1978 and representation was made on 28.2.97. The same cannot be considered for compassionate appointment 19 years after the death of applicant's father. The application is liable to be dismissed. However, Respondents are not barred from considering the case of the applicant otherwise.

The application is dismissed accordingly. There shall, however, be no order as to costs.

KC Shrivastava
Member (A)

mb

CB/04/02
2
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
(An application under Section 19 of the Administrative
Tribunal Act, 1985)

O. A. No. 111 /2002

Sri Subash Ch. Roy Applicant
-Vs.-
Union of India & Ors. Respondents.

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Filed by

S. Seal

Advocate.

2-4-025
Filed by the
Applicant
Sri Subash Ch. Roy
through
Lokeshi Ghosh Advocate

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI

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

O. A. No. 111 /2002

BETWEEN

Sri Subash Ch. Roy,
S/o. Late Subodh Ch. Roy,
R/o. College Road, Hailakandi,
P.O. Hailakandi,
District Hailakandi.

... Applicant.

-And -

1. Union of India,
represented by the
Secretary to the
Government of India,
Ministry of Communications,
Department of Posts,
New Delhi - 110 001.

2. The Chief Post Master,
General, Assam Circle,
Guwahati.

3. The ..

v

3. The Senior Superintendent
of Post Office,
Silchar Division, Silchar,
District Cachar, Assam.

... Respondents.

DETAILS OF APPLICATION :

1. PARTICULARS FOR WHICH THIS APPLICATION IS MADE :

This application is made against the non consideration of the representation of the applicant and rejected the claim for appointment of the applicant on compassionate ground by the Respondent authority and also praying for direction upon the respondents for appointment of the applicant on compassionate ground i.e. for Subash Ch. Roy, Son of late Subodh Ch. Roy with immediate effect on the ground that father of the applicant died in harness while in service i.e. on 15.5.1978 at Hailakandi.

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. The applicant further declares that this application is within the limitation as prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4. Facts...

: 3 :

4. FACTS OF THE CASE :

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

4.2. That father of the applicant Late Subodh Ch. Roy was working as Senior Post Master in Kalibari Bazar Post Office, Algapur under Hailakandi District.

4.3. That the father of the applicant while working as Senior Post Master in Kalibari Bazar Post Office under Hailakandi District. He was died in harness in 15.5.78 at Algapur. The father of the applicant has rendered service under the Respondents for long time and he was a permanent and confirmed employee under the Respondents.

4.4. That late Subodh Ch. Roy, Ex. S.P.M. at the time of his death left wife, one minor daughter and one minor son including the applicant. The Applicant's age was $1\frac{1}{2}$ year at the time death of his father. It is stated that there is no bread earner in the family after the tragic death of Sri Subodh Ch. Roy and they were enterely depending upon the income of the deceased Govt. servant late Subodh Ch. Roy.

The...

The copy of the Death Certificate of the Applicant's father is annexed herewith and marked as Annexure No.1.

4.5. That the mother of the Applicant immediately after the death of her husband verbally approached before the competent authority praying for her appointment in any group of Compassionate ground under Respondents on priority basis in view of the tragic death of her husband., but no result from the Respondents side.

4.6. That the applicant immediately after attaining his majority he approached the concerned authorities by representation for several occasions for his appointment on compassionate ground and he also filled up the Proforma regarding employment of dependent of Govt. Servants and praying inter alia for appointment of the applicant on compassionate ground. The applicant also register his name in Employment Exchange, Hailakandi.

The copy of the application of by the Proforma submitted by the applicant and Employment Exchange Card is also annexed herewith and marked as Annexure No. 2 and 3 respectively.

4.7. That the Applicant states that he has the requisite qualification for the post of Grade - III/IV under D.O.P. and the applicant belongs to Schedule Caste

: 5 :

community. The applicant passed Higher Secondary Examination in the year 1997. The Applicant could not prosecute further studies due to acute financial hardship. The family has no earning members and they also have no source of income and there is no landed property. The applicant and his family is facing untold hardship to maintain themselves with meagre pension.

The copy of the Higher Secondary Pass Certificate of the applicant and S.C. Certificate are annexed herewith and marked as Annexure Nos 4 and 5 respectively.

4.8. That the applicant and his mother are regularly approaching the authority and has also made representation for his appointment on compassionate ground by ~~app~~ adopting humanitarian, approach to his case but till date the authority has not yet appointed the applicant.

The copy of the representation dated 20.2.97 of the applicant is annexed herewith and marked as Annexure No. 6.

4.9. That ~~g~~ after lapse of many years of death of his father, the applicant Sri Subhash Ch. Roy along with his mother submitted separate representation for compassionate appointment and praying for appointment

of....

of the applicant in any group or category on compassionate ground on priority basis. The applicant as well as his mother also stated in detail in their representation regarding the death of the father of the present applicant. It is ~~xxx~~ further stated in the representation that sudden demise of his father the applicant and his family put in an embarrassing situation as he was the sole physical, mental and economical backbone of the family. After the death of the father of the applicant they are suffering from financial crisis. But thereafter the authority did not take any initiative for appointment of the applicant which is amount to violation of fundamental right and also in violation of scheme of compassionate appointment to a deceased family.

The copy of the representation dated 18.12.2001 by the applicant and order of 11-1-2002 in no. A No. 4164-2000 ~~are~~ is annexed as Annexure No. 7 and 8.

4.10. That it is a fit case for the Hon'ble Tribunal to interfere with to protect the valuable and legal right of the applicant for appointment of the applicant on compassionate ground and to save the other dependent family members of the deceased late Sri Subodh Ch. Roy.

4.11. That this application is made bonafide and for the cause of justice.

5. Grounds....

5. GROUNDS FOR RELIEF(S) WITH LEGAL PROVISIONS :

5.1. For that there is no bread earner among the dependent family members of the deceased Govt. servant and all of them are at the stage of starvation.

5.2. For that the applicant has acquired a valuable and legal right for consideration of appointment on compassionate ground as the father of the applicant expired while he was in service.

5.3. For that it has become extremely difficult on the part of the applicant to maintain his livelihood alongwith other dependent family members with the meagre amount of family pension.

5.4. For that the late Subodh Ch. Roy left four dependent family members.

6. DETAILS OF REMEDIES EXHAUSTED :

That the applicant states that he has no other alternative and other efficacious remedies than to file this application. Representations were submitted by the applicant for appointment on compassionate ground to any post but the Respondents have not taken any initiate for appointment of the applicant on compassionate ground.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH
ANY OTHER COURT.

The applicant further declares that he has not previously filed any application, writ petition or ~~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 FOR :-

Under the facts and circumstances of the case the applicant prays that Your Lordships would be pleased to issue notice to the Respondents to show cause as to why the reliefs sought for by the applicant shall not be granted, call for the records of the case and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following reliefs :

8.1. That the Respondents be directed to consider the appointment of the applicant Sri Subash Ch. Roy, son of late Subodh Ch. Roy on compassionate ground with immediate effect in terms of the scheme formed by the Government of India.

8.2. Costs of the application.

8.3. Any ...

: 9 :

8.3. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and as may be deemed fit and proper by the Hon'ble Tribunal.

9. INTERIM RELIEFS PRAYED FOR :-

Pending disposal of this application an observation be made that pendency of this application shall not be a bar for the Respondents for appointment the applicant on compassionate ground, more so in view of the Section 19(4) of the Administrative Tribunal Act. The applicant also prays that the instant application be disposed of expeditiously.

10.

This application is filed through Advocate.

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

1. I.P.O. No. : 76549676

11. Date of Issue : 1 - 4 - 2002

Verification.

: 10 :

VERIFICATION

I, Sri Subash Ch. Roy, Son of late Subodh Ch. Roy, aged about 24 years, resident of College Road, Hailakandi, P.O. Hailakandi, in the District of Hailakandi, Assam do hereby solemnly affirm and verify the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and to statements made in paragraph 5 are true to my legal advice and I have not suppressed any material facts.

And I sign this varification on this the
1st day of April, 2002

Subash Ch. Roy
Signature.

Ax. No 1

ISRA SCHEDULE XLVII (PART 1) FORM NO 6

copy of the entry from the death register of HAILAKANDI

MUNICIPALITY THE FOR THE MONTH OF

June 1978.

No. 2

Serial No. 1 Death Register

Date of Registration 6-6-78

Signature of mark of informant. Sd/ Monalima Ray

Name of deceased. Subodh Ch Roy

Ago 45 years

Sex Male

Caste Hindu (Kanyakuta)

Father's husband's Name. Late Lob Ram Roy

Address. College Road W/Ho-II Hailakandi

Date of Death 15-5-78

Cause of death Conv.

Dated 13-6-78

Executive Officer
Seal of the Government of the
Officers
13-6-78

Deputy Commissioner
District of
Hailakandi
C. O. S. 976200

Attested
& Legal
Advocate

PROFORMA REGARDING EMPLOYMENT OF DEPENDENT OF GOVERNMENT SERVANTS DYING WHILE IN SERVICE/RETired ON INVALID PENSION

PART - I.

I. (a) Name Of the deceased/retired
On invalid pension employee.

Late - Subodh Ch. Roy

(b) Designation Of the employee.

Ex : S.P.M. Kalibari Bazar
Post Office

(c) Date Of birth Of the employee.

Dist, Harkakund

(d) Date Of death/retirement On
invalid pension.

→ 15.05.1978

(e) Total length Of service rendered. → 18 (Eighteenth year)

(f) Whether Permanent Or Temporary. → Permanent

(g) Whether belonging to SC/ST. → SC

II.

(a) Name Of the candidate for appointment.

Mr. Subodh Ch. Roy

(b) His/Her relationship with
the employee.

→ Son

(c) Date Of Birth.

→ 01.03.1977

(d) Educational Qualifications.

→ Higher Secondary Passed

(e) Whether any Other dependent
has been appointed. On com-
passionate grounds.

→ NO.

III.

Particulars Of total assets
left including amount Of.

(a) Family Pension. 1200.00 + D.A 675.00, Total
Incl. 1875.00 Rs.

(b) D.C.R Gratuity. 3'000.00 Rs.

(c) G.P.F Balances. 10'000.00 Rs.

(d) S.I. Policies. 4'000.00 Rs.
(Including PLI)

(e) Movable and immovable
properties & annual
income earned therefrom
by the family. NO.

(f) C.G.E Insurance amount. 5'000.00 Rs.

(g) Encashment Of leave.

(h) Any Other assets.

Total :-

IV. Brief particulars Of liabilities,
if any.

Contd.. 2/-

After
Affidavit
2nd Seal
Judge

= 2 =

V. Particulars Of all dependents
Of the Govt. servant (if same
are employed, their income &
whether they are living
together Or separately).

Sl. No.	Name	Relationship with the Govt. Servant & age.	Employed Or not particulars Of employment and emoluments.
1.	Mrs. Monoroma Roy (wife)		
2.	Smt. Monisha Roy daughter (Married)		
3.	Sri. Subhash Ch. Roy, Son (Married)		
4.	Mrs. Rita Roy. (Son's wife)		
5.			

VI.

DECLARATION

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

Date: 6.9.2001

Subhash Ch. Roy
Signature of the Candidate.

Sri *Subhash Ch. Roy* is known to me & the facts mentioned by him are correct.

Date: 6.9.2001

Sri Shyamendanda Seide
Signature of Permanent
Govt. Servant
Name: *A.C.R. Dist. & Sessions Judge*
Address: *BAILAKANDI*

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

Attested

Subhash Ch. Roy
D.Y. Accounts Officer
P.W.D. (Roads) Hailakandi
Division

Signature of the
Welfare Officer.

Name :

Address:

Contd... 3/-

*Attested
S. Seal
Addl. Officer*

Medindia Cards

AX-NO 3

-14

Schedule LXIII, Form No. 11

X-3

GOVERNMENT OF ASSAM
DEPARTMENT OF LABOUR
EMPLOYMENT EXCHANGE

IDENTITY CARD

(Not an Introduction card for interview with employees)

1. Name of Applicant *Subash Roy*
2. Date of Registration *29/12/99*
3. Registration No. *1939/99*
4. N.C.O. Code No. *X0120*
5. Date of birth *1-2-77*

INSTRUCTION TO APPLICANT

- (a) Bring this card with you whenever you come to the Exchange.
- (b) Quote your Registration Number and N.C.O. Number whenever you write to the Exchange.
- (c) Renew your Registration every three months *years*.
If you do not renew by the due date your registration will be cancelled.
- (d) You can renew your registration personally or by post. For renewal by post DO NOT SEND THIS CARD. Apply to the Exchange on a REPLY PAID POST CARD.

Date before
which
registration
should be
renewed

12/2002

29/12/99

Attested
27/12/01
DY. Accounts Officer
R.W.D. (Roads) Hails and
Division

Attested
S. D. and
Adjusted

✓
Subbach
ch. Ray.
(e) Return this card when you no longer require
employment assistance after filing the
following entries.

1. * I have secured employment with

.....
(Name of Employe)
through *you* my own effort.

2. * I no longer require employment assistance.

.....
(Signature of Applicant)

Date..... 199

FOR OFFICIAL USE ONLY	
* Signature	
Identification Marks	
1.	2.
3.	4.
5.	6.
Employment Officer, State of _____, Employment Officer, Employment Officer, _____	
Delete inapplicable entries. * * * * *	

1.
2.
3.
4.
5.
6.

Employment Officer,
State of _____, Employment Officer,
Employment Officer, _____

Delete inapplicable entries. * * * * *

5
Affix postage
stamp here

To
The Employment Officer
Employment Exchange

Office of the Principal
S. K. ROY COLLEGE, KATLICHERRA.

ASSAM-788161

COLLEGE CERTIFICATE

Book No.

12
Certificate No.....
KATLICHERRA
THE ..19. 06. 97....

Certified that Sri/ Smti Subhash Ch. Roy
appeared at & passed the H.S. Final Examination of 1997 of
Assam Higher Secondary Education Council, Gauhati under Roll
341 No. A-86 could not come out successful I was placed in the First
| Second | Third Division.

While in College his/her Conduct and Character were good.
Special Mention if any.

BRChorhug
Dealing Assistant.

Attested

Principal

S. K. Ray COLLEGE

Finnotbat

Kathuhera
S. Roy College

Entlebungs

Dy. Accounts Officer
S.W.D. (Roads) Hailakandi
Division

Abbott
for Good
Advocate

AX NO. 5

GOVERNMENT OF ASSAM.
OFFICE OF THE SUB-DIVISIONAL OFFICER : : : : : LAILAKANDI.

HC. 215..... DT... 13.2.81.

Certified that Shri/Seft. Subash Chandra Roy
Son/Daughter/wife of Shri/Late. Subodh Chandra Roy
of Village/town. Hailakandi. Soc. No. 191
P.S. Hailakandi/Lala/Kattiekerra District Cachar belonging to the
Caste/Tribe /Other Backward Classes Namashudra
Community.

Dated Hailakandi, the 13th 1984.

Sub-Divisional Officer
Hailakandi.

13/2

Attested
Dy. Accounts Officer
P.W.D. (Roads) Hailakandi
Division

Attested
& Legal
Advocate

To

The Chief Post Master General,
Assam Circle, Guwahati.

-18-

Ar. No. 6

Dated - 20-2-97

Sub :- Prayer for appointment on compassionate ground in relaxation of normal recruitment Rules – Case of Sri Subhash Ch. Roy, S/O Late Subodh Ch. Roy, Ex-SPM/Kalibaribazar, Hailakandi (Assam).

Respected Sir,

I, Sri Subhash Ch. Roy, aged 24 years, son of late Subodh Chandra Roy, resident of College Road under C/O. Monoroma Roy, P.O., P.S. & Dist. Hailakandi do hereby lay before you few lines for favour of your kind consideration.

That Sir, my father was rendering his service as a Post Master under your department. He died on 15/05/1978 when he was in service of Kalibaribazar Algapur Post Office. I was a mere child of 1(One) year old at the time of death of my father. After death of my father, my mother had maintained our family consisting of three members in very hardship and could able to get my sister married somehow in great distress. Now she is suffering from various diseases and it has become very difficult for us to survive our family. I have prosecuted my studies with very hardship and I have come out successfully H.S.S.L.C. Examination and computer science diploma but I could not able to get myself employed in any service and as such I am facing very much crisis.

That Sir, I have applied for a suitable job in your department for many times. My father was died in service under your department and there is provision of appointing son/or daughter of a deceased employee of your department. And I am a son of a deceased employee of your department who died in service.

That Sir, I am a very much poor man of a schedule cast community and our good Govt. has made so many provision of the upliftment of the oppressed class of people like schedule cast. So I am needy unemployed youth should be employed in your department of compassionate ground.

That Sir, I have applied in the year 1997 for appointment on compassionate ground in relaxation of normal recruitment Rules to the Chief Postmaster General, Assam Circle and to DQP/New Delhi on 10-03-99, as soon as I full fill the basic condition of recruitment Rules and another application to the than Honorable Minister of State for Communications (Sri Kabindra Purkayastha) on 10-03-99 separately.

Attested
S. G. S. Advocate

That Sir, further more it will not be the out of place to mention here that in response to Sr. Superintendent of Post Offices, Silchar Division Silchar letter No. A-1/Relax 13-12-1999 I have the submitted required synopsis duly-filled up & completed in all respect Sr. Superintendent of Post Offices, Silchar Division, Silchar on 13-12-99. Also I have submitted another representation with a request to Chief Post Master General, Assam Circle, Guwahati on 09-06-2000 up till now have not yet favour with a job in DOP.

That Sir, I belongs to poor depressed Scheduled Caste people.

In light of the above circumstances, I would fervently request your kind honour to consider my case very sympathetically as a special case as I have come from very poor depressed Schedule Caste family and request you kindly interven into the matter, in such way so that I may kindly be provided with a job in DOP without depriving me to save the family at an early date.

For which act of your kindness, I shall remain ever grateful to you.

With kind regards.

Copy to the :-

1. Chief Post Master General,
Assam Circle, Guwahati.
2. Senior Superintendent of Post
Office, Silchar Division, Silchar.

Yours faithfully,

Subhash Ch. Roy.

(SUBHASH CHANDRA ROY.
C/O. Monorama Roy.
College Road. Hailakandi.
P.O. & Dist. Hailakandi.
Pin. - 788151, Assam.

*Attached
& Seal
& Advocate*

To

The Chief Post Master General,
Assam Circle, Guwahati.

-20-

29
Ax. No. 7

Sub :- Prayer for appointment on compassionate ground in relaxation of normal recruitment Rules – Case of Sri Subhash Ch. Roy, S/O Late Subodh Ch. Roy, Ex-SPM/Kalibaribazar, Hailakandi (Assam).

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That Sir, I have applied for a suitable job in your department for many times. My father was died in service under your department and there is provision of appointing son/or daughter of a deceased employee of your department. And I am a son of a deceased employee of your department who died in service.

That Sir, I am a very much poor man of a schedule cast community and our good Govt. has made so many provision of the upliftment of the oppressed class of people like schedule cast. So I am needy unemployed youth should be employed in your department of compassionate ground.

That Sir, I have applied in the year 1997 for appointment on compassionate ground in relaxation of normal recruitment Rules to the Chief Postmaster General, Assam Circle and to DOP/New Delhi on 10-03-99, as soon as I full fill the basic condition of recruitment Rules and another application to the than Honorable Minister of State for Communications (Sri K. J. Purkayastha) on 10-03-99 separately.

*Affisted
S. S. Ad. Socata*

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For which act of your kindness, I shall remain ever grateful to you.

With kind regards.

Copy to the :-

1. Chief Post Master General,
Assam Circle, Guwahati.
2. Senior Superintendent of Post
Office, Silchar Division, Silchar.

Yours faithfully,

Subrash ch Roy.

18-12-2001

(SUBHASH CHANDRA ROY
C/O. Monoroma Roy.
College Road. Hailakandi.
P.O. & Dist. Hailakandi.
Pin. - 788151, Assam.

After ~~fall~~
& fall
Associate

GUWAHATI BENCH

Original Application No. 416 of 2000.

Date of decision : This the 11th day of January, 2002.

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

Sri Jitu Barman,
Son of Late Binod Chandra Barman,
Noonmati, Mathghoria,
P.O. Office Noonmati,
Guwahati.

.....Applicant

By Advocate Mr. S. Dutta.

-versus-

1. Union of India
through the Secretary to the
Government of India,
Ministry of Defence,
New Delhi.

2. The Commandant,
222 ABOD
C/o 99 APO
Narengi, Satgaon,
Guwahati.

....Respondents

By Advocate Mr. B.C.Pathak, Addl. C.G.S.C.

ORDER (ORAL)

CHOWDHURY J. (V.C.).

The issue pertains to compassionate appointment. The father of the applicant Binod Chandra Barman since deceased was working as Foreman in the office of the Commandant, 222 ABOD, C/o 99 APO, Narengi, Satgaon, Guwahati. Late Binod Barman while working as such in the office of the respondent no.2, met with an accident and succumbed to death on 24.11.1997 leaving behind his wife, four sons and one daughter including the present applicant who happened to be the son of the deceased Binod Barman. The mother of the applicant first approached the competent authority for engagement of her 3rd son Sri Jitu

*Accepted &
Signed
J. D. S. Dutta*

Barman in any Group C post on compassionate ground. After lapse of one year the applicant alongwith his mother submitted separate representations for compassionate appointment on 7.12.1998 addressed to the respondent no.2 praying for appointment of the applicant to any Group C category on compassionate ground. Failing to get any response the applicant again submitted a representation on 19.4.2000. On 11.10.2000 a communication was made to the applicant on behalf of the respondent no.2 that his application was rejected since he was not found suitable on merit for compassionate appointment. The legitimacy of the said action of the respondent no.2 has been challenged in this proceeding as arbitrary and discriminatory.

2. The respondents submitted its written statement and contended therein that the case of the applicant was duly considered and on assessment of the case of the applicant alongwith others, the applicant was not found suitable for appointment on compassionate ground. In the written statement the respondents stated that the case of the applicant was first considered by a Board of Officers on 8th October, 1999. Amongst the applicants seeking for employment under relaxation under normal rules, the applicant had obtained only 34% marks on merit. Another Board was convened on 1.9.2000 and there the applicant secured only 33% marks. The Board in its sitting dated 18.1.2001 also considered the case of the eligible persons where the applicant obtained only 34% marks. The persons with higher merits were appointed against the quota earmarked for compassionate appointment and therefore he could not be appointed.

3. I have heard Mr. S.Dutta, learned counsel appearing on behalf of the applicant at some length. The learned counsel Mr. S. Dutta first submitted that the case of the applicant ought to have been considered as per the old rules and not by the new rules as the new rules came into existence after

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Appeal*

the death of the father of the applicant. Mr. B.C.Pathak, learned Addl.C.G.S.C. on the other hand submitted that the applicant submitted his application in writing only on 7.12.1998 and thereafter his case was processed and took up for consideration by the Board on 8.10.1999 when the Board was convened for selection for compassionate appointment. At that point of time, the policy decision of 1999 came into existence and the respondents accordingly acted on the policy decision of 1999. I have gone through the policy decision of 1999 pertaining to employment and regularisation of normal rules. Prior to it a guideline was issued on the basis of DOPT's OM dated 30.6.1987 followed by the Headquarter letters dated 8.6.1989, 24.9.1998, followed by the Headquarter Signal dated 17.11.1998. The same was followed by DOPT's O.M. dated 9.10.1998. By the new instruction the procedure is simplified and consolidated by the DOPT's Memorandum dated 9.10.1998.

As per the copy of the Army Headquarter letter dated 20.7.1999 the said circular was to be implemented with immediate effect. Prior to it the earlier procedure was in vogue.

4. In the absence of anything mere holding of the selection of the applicant on 8.10.1999 on the basis of the new circular cannot be faulted as arbitrary, more so the application of the applicant that was filed for compassionate appointment on 7.12.1998. Mr. Dutta learned counsel for the applicant next submitted that the assessment of marks allotted to the applicant are seemingly arbitrary referring to the new norms vide communication dated 19.8.1999 wherein more weightage only given to number of children and the family members and therefore the said circular is seemingly arbitrary and discriminatory.

5. I have gone through the policy decision which indicated about the allocation of marks, comparative marks are assessed on some basis, one of the considerations is number of family

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Advocate

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members, 30 marks are allotted at the rate of 10 marks per minor children and unmarried daughter. Similarly 10 marks are allotted at the rate of 2 marks per dependent member. Similarly 40 marks are allotted at the rate 2 marks for each year of service left out. The norms also lays down for the assessment on monthly income and 20 marks are given on monthly family pension, approximately monthly interest on lumpsum payments like CGEIS/GPF/DCRG/Leave Encashment and estimated monthly rental value of immovable properties. In addition, some marks are allotted due to death on duty-civilians and death of duty-combatants. Looking at the rules as such the norms prescribed by the policy decision cannot be said to be arbitrary. The whole endeavour is to select more needy person for employment in the limited available posts. The case of the applicant was considered and he could not be accommodated in the finite quota earmarked for appointment on compassionate ground. Mr. Dutta, learned counsel for the applicant lastly submitted that the family members of the applicant are also living in penury on the said demise of the sole bread earner of the family who died on harness. Mr. Dutta learned counsel for the applicant submitted that his case may be considered against any available posts in Group D and like post. The applicant is ~~un~~ agreeable to get employed in any job to earn the family bread apart from the Group C posts. Mr. Dutta submitted that the applicant can be adjusted in the post of Mazdoor or any such post which are available under the respondents. Mr. B.C. Pathak, learned Addl. C.G.S.C. submitted that he does not have any instructions as to the availability of vacancies of that nature. If the applicant in fact agreeable for any such job he may make a representation before the respondents narrating his grievances and the respondents may consider his case sympathetically for engaging him in any other post including the post like Mazdoor, etc. considering the hardship of the family.

With the observations made above, the application is
as far as to costs.

With the observations disposed of. There shall however, no order as to costs.

sd/ VICE CHAIRMAN

Attested to
J. S. and son J. S.