

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

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/TA No. 340/02.....

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SECTION OFFICER (Judl.)

(SEE RULE -4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET

Original Application No : 340/02
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant (s) K. K. Das

Respondent (s) H. U. T. Joms

Advocate for the Applicant (s) M. Chanda, G. N. Chakrabarty
Advocate for the Respondent(s) CASE

Notes of the Registry	Date	Order of the Tribunal
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This application is in
form but not in time.
Condonation Petition is
filed/ not filed C. F
for Rs. 50/- deposited
vide IPO/BD No 76575310
Dated ... 25.9.02

for By Register
21/10/02

7.11.02

Heard learned counsel for
the parties.
Issue notice on the respon-
dents to show cause as to why
application shall not be admitted.
Returnable by four weeks. List on
9.12.02 for Admission.

I C U Shaha
Member

Vice-Chairman

lm

9.12.02

None appears for the parties.
List on 16.12.2002 for admission.

I C U Shaha
Member

mb

Notice prepared and sent to
213 for every witness-
dent No. 1 to 4 by legal ID.
22/11

SDM No. 3158 W 61 Ad 26/11/02

16.12.2002

The applicant is a son of Late Gouranga Chandra Das who was an employee under the respondents and was working as a Mail Guard in the Head Record Office of the Railway Mail Service (RMS), 'S' Division, Silchar. While working as such, the father of the applicant died on 23.4.1994 due to cancer at the age of 49 years leaving his wife, daughter and son. The applicant prayed for compassionate appointment. Infact, the department by its communication dated 7.9.2001 informed the applicant that he may opt for Gramin Dak Sewak subject to fulfilling required conditions. Accordingly, he was advised to submit his willingness on the offer. According to the applicant by communication dated 12.9.2002 addressed to the Superintendent, he had indicated his mind for the post as per the offer made by the authority. By communication dated 28.8.2002 the Superintendent deleted his name from the list as the applicant was unwilling to the offer. Hence this application.

Mr. G.N. Chakrabarty, learned counsel appearing on behalf of the applicant submitted that the applicant by communication dated 12.9.2002 prayed for some succor either in Group 'D' post or any other Central Government Department. However, in terms of the communication dated 7.9.2001, the authority turned down his claim.

Mr. A. Deb Roy, learned Sr. C.C. S.C. appearing on behalf of the respondents submitted that the applicant did not comply with the communication dated 7.9.2001 by which he was

Contd/-

Note of the Registry

Date

Order of the Tribunal

Contd/-
16.12.2002

advised to give his willingness with full postal address. Admittedly, the respondents unequivocally and unmistakably expressed its willingness to engage the applicant as Gramin Dak Sewak for which the consent of the applicant was sought for indicating his willingness.

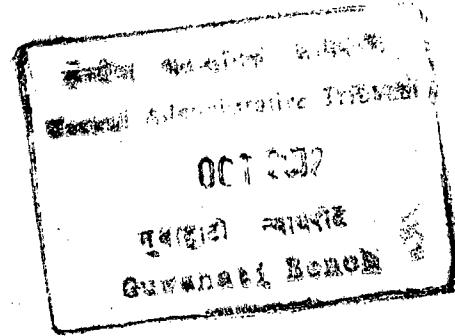
I have heard Mr. G.N.Chakrabarty, learned counsel for the applicant and also Mr. A.Deb Roy, learned Sr. C.G.S.C for the respondents. Considering all aspects of the matter, I am of the view that it is a case in which the department needs to reconsider the matter of the applicant for engagement in Gramin Dak Sewak post. Materials on record clearly spelt out that the applicant was not averse to the proposal of his appointment as Gramin Dak Sewak. His offer however lacked precision. In the facts and circumstances of the case ends of justice would be met if a direction is issued on the applicant to submit his unqualified and outright consent for consideration of his case for appointment as Gramin Dak Sewak. The applicant is thus directed to submit his categorical consent for the post of Gramin Dak Sewak as per the offer mentioned above within two weeks from the date of receipt of the order. If such consent is submitted as directed, the respondents are directed to sympathetic consider the case of the applicant for engagement in Gramin Dak Sewak post with utmost expedition.

Subject to the observation made above, the application is disposed of. No order as to costs.

Vice-Chairman

mb

S Note of the Registry	Date	Order of the Tribunal



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

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

Title of the case : O. A. No 340 /2002

Sri Kandarpa Kumar Das : Applicant

- Versus -

Union of India & Others : Respondents.

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Filed by

Subrahmanyam
Advocate

Date : 9 - 10 - 2002

Kandarpa Kumar Das

Filed by the applicant
through Sri G. N. Chakravarthy
Advocate on 9-10-2002
9/10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

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

O. A. No. 340 /2002

BETWEEN

Sri Kandarpa Kumar Das
C/o Sri Kanu Mohan Das
Village Tikarpura
P.O. Basudebnagar
Karimganj-788723

...Applicant

-AND-

1. The Union of India,
Represented by the Secretary to the
Government of India,
Ministry of Communication
Department of Posts,
New Delhi.
2. The Chief Postmaster General,
Assam Circle,
Meghdoott Bhawan,
Guwahati.

Kandarpa Kumar Das

3. The Post Master General,
Assam Region
Guwahati-781001

4. The Superintendent
R.M.S 'S' Division
Department of Posts,
Silchar-788001

Respondents

DETAILS OF THE APPLICATION

1. Particulars of order(s) against which this application is made.

This application is made against the impugned letter bearing No. B-7/17/Ch-VI dated 28.8.2002 issued by the Superintendent, RMS 'S' Division, Silchar (Respondent No.4) seeking to delete the name of the applicant from the wait list approved by the Respondents for appointment on compassionate ground.

2. Jurisdiction of the Tribunal.

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

Kondavepa Kumar Das

3. Limitation.

The applicant further declares that this application is filed within the limitation prescribed under section-21 of the Administrative Tribunals Act, 1985.

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 your applicant passed his H.S.L.C. examination in 1997 from Ghugrakona Public High School, Karimganj under the Secondary Education Board of Assam (S.E.B.A.).

4.3 That the father of the applicant, Late Gouranga Chandra Das was an employee under the respondent Department i.e. the Department of Posts and had been working as Mail Guard in the Head Record Office of the Railway Mail Service (RMS), 'S' Division, Silchar. While working as such, the father of the applicant late Das died in harness on 23.4.1994 due to cancer at the age of about 49 years leaving behind his dependent family comprising of his wife Smti Sushmita Das, daughter Miss Namita Rani Das and son Shri Kandarpa Kumar Das i.e. the applicant herein.

4.4 That following the unfortunate pre-matured death of the father of the applicant, the whole family fell into a

Kandarpa Kumar Das

helpless an disastrous condition, having no earning member in the family. The applicant who is the only son of the deceased employee was also a minor at the relevant time. The wretched family did not have any residential home or property to their rescue nor any source of income save and except the lone meager amount of family pension and as such they have been surviving virtually on the mercy and helps of their well-wishers only. In this context, a Certificate has also been issued by the Asstt. Settlement Officer, Silchar which is self-speaking.

Copy of Certificate dated 20.1.1998 is annexed herewith as **Annexure-I**.

4.5 That on attaining the age of majority i.e. 18 years in 1995, the applicant immediately applied on 27.9.1995 praying for a job on compassionate ground under the respondents. In the said application, it was also explained that due to their distressed condition the applicant could not continue his studies and also not in a position to arrange for marriage of his only marriageable sister and prayed for a job for subsistence and maintenance of the family, now dependent on him. The applicant thereafter was asked to furnish necessary declaration and his replies etc. to relevant enquiries for consideration of his case which the applicant immediately complied with. The applicant then submitted another representation on 07.03.1997 to the Respondent NO.2 referring to his earlier

Kandarpa Kumar 846

application dated 27.9.1995 and further approached the authorities time and again praying for a job on compassionate ground.

Copy of the representation dated 07.03.1997 is annexed herewith as **Annexure-II.**

4.6 That it is stated that the applicant came to know that his case is already under process of consideration by the respondents for compassionate appointment and eventually he could learn from reliable source that his case for appointment on Compassionate ground was approved by the Respondent No.2 on 11.11.1999 vide letter No. CPMG/Guwahati No. Staff/16/MISC-97 dated 11.11.99. Unfortunately this approval was not translated into reality.

4.7 That subsequently, the Respondent No.4, vide his letter bearing No. B-7/17/Ch-V dated 18.7.2001, informed the applicant that the Ministry of communication has since decided to consider for absorption of the candidates as waiting, for appointment on compassionate ground in other departments and accordingly directed the applicant to submit his willingness to work in other Central Government establishments. The applicant confirmed his willingness to serve in any other Central Government department, to the Respondent No.4 vide his application dated 02.08.2001.

Kondaveeti Kurmate (A)

Copy of letter dated 18.7.2001 and application dated 2.8.2001 are annexed herewith as **Annexure III and IV** respectively.

4.8 That thereafter, the Respondent No.4, vide his letter issued under No. B-7/17/Ch-V dated 7.9.2001, informed the applicant that the Dte, New Delhi has decided to offer the candidates approved and wait-listed for compassionate appointment, for appointment against the vacant posts of Gramin Dak Sewak (GDS) subject to fulfillment of the conditions required for such recruitment and further directed the applicant once again to submit his willingness within 7 days for being appointed as GDS. ON receipt of the said letter dated 7.9.2001, the applicant immediately sent one application to the Respondent NO.4, on 12.9.2001 praying for consideration of his appointment in a Group "D" post in the respondent department or in any other regular department of the Central Government. It is pertinent to mention here that the applicant no where indicated his unwillingness for the post of GDS, offered to him and rather reiterated about his precarious condition vis-à-vis necessity of a job in his application dated 12.9.2001.

Copy of letter dated 7.9.2001 and application dated 12.9.2001 are annexed herewith as **Annexure-V and VI** respectively.

Kondarpa Kumar Das

7
3

4.9. That to his utter surprise, the applicant received the impugned letter No. B-7/17/Ch-VI dated 28.8.2002 issued by the Respondent No.4 informing the applicant that his name is deleted from the list of candidates for future consideration for compassionate appointment since the applicant informed his unwillingness to work as GDS and further informed that no further request of the applicant would be entertained.

Copy of the impugned letter dated 28.8.2002 is annexed herewith as **Annexure-VII.**

4.10 That the applicant begs to submit that the Respondents misconstrued the contents of the application dated 12.9.2001 submitted by the applicant. The applicant only prayed for a preference for appointment in a departmental Gr. 'D' post and nowhere did the applicant expressed or indicated his unwillingness to accept the post of GDS as offered to him. The applicant is ever ready to work even as a GDS or in any other suitable post either in the respondent department or in any other Central Government establishment as mentioned by him in his earlier applications and as such the respondents simply acted on their own imagination in an arbitrary and unjust manner.

4.11 That the applicant most humbly submits that due to non-consideration of the case of the applicant for compassionate appointment even after approval of the Competent Authority, the applicant has been denied

Kundarpa Gururaj AM

justice and more so when the respondents are considering similar other cases for compassionate appointment which is discriminatory and violative of article 14 and 16 of the Constitution of India.

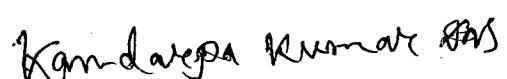
4.12 That the applicant has been facing extreme financial hardships and has no means to support his dependent members of family and has been suffering from utter frustration due to non-fulfillment of his logical expectation for a humanitarian compassion to appoint him in a Gr. "D" post as being given to other similarly situated persons on compassionate grounds. As such finding no other alternative, the applicant is approaching this Hon'ble tribunal for protection of his rights and interests and praying for a direction upon the respondents to appoint the applicant in a group "D" post on compassionate ground and set aside the impugned letter dated 28.8.2002.

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

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

5.1 For that, the name of the applicant has been wait-listed and also approved by the Competent Authority of the Respondent department for appointment on compassionate ground.

5.2 For that, the applicant has acquired a valuable right for compassionate appointment due to death of his

Kondavepa Kumar 

father who died in harness while working under the respondents.

- 5.3 For that, such compassionate appointments are being given to other similarly situated persons and as such denial of the same to the applicant is violative of the principles of natural justice and Article 14 and 16 of the Constitution of India..
- 5.4 For that, the applicant submitted applications time and again praying for a compassionate appointment commensurating to his qualification etc.
- 5.5 For that, the respondents asked for his willingness for appointment even in other Central Government establishments and so also for appointment in the post of Gramin Dak Sewak (GDS) and the applicant confirmed his willingness for the same.
- 5.6 For that, the applicant for his right to live, is in extreme necessity for a job as a source of livelihood for himself and for his dependent family members.

6. Details of remedies exhausted.

That the applicant states that he has exhausted all the remedies available to him and there is no other alternative and efficacious remedy than to file this application.

Kondavepa Kumar 88

7. Matters not previously filed or pending with any other Court.

The applicant further declares that he had not previously filed any application, Writ Petition or Suit before any Court or any other authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

8. Relief(s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted 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 relief(s):

- 8.1 That the Hon'ble tribunal be pleased to set aside and quash the impugned letter dated 28.8.2002 (Annexure-VII).
- 8.2 That the respondents be directed to appoint the applicant in a gr. D post/GDS on compassionate ground.
- 8.3 Costs of the application.

Kamdarpa Kumar Das

8.4 Any other relief(s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for.

During pendency of this application, the applicant prays for the following relief: -

9.1 That the Hon'ble Tribunal be pleased to make an observation that pendency of this application shall not be a bar for the respondents in considering the case of the applicant for appointment on compassionate ground.

10.

This application is filed through Advocates.

11. Particulars of the I.P.O.

i) I. P. O. No.	:	7G 575310
ii) Date of Issue	:	25-9-2022
iii) Issued from	:	G.P.O, Guwahati
iv) Payable at	:	G.P.O, Guwahati

12. List of enclosures.

As given in the index.

Kamaldeep Kumar 1805

VERIFICATION

I, Sri Kandarpa Kumar Das, Son of Late Gouranga Chandra Das, aged about ... years, resident of village Tikarpura, P.O. Basudebnagar, district Karimganj, Assam, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 9th day of October, 2002.

Kandarpa Kumar das

ANNEXURE - I

OFFICE OF THE ASSTT. SETTLEMENT OFFICER: SADAR CIRCLE:SILCHAR.
NO. SCSM.20/97/Pt-IV/268 Dated, Silchar the 20th January/98.

This is to Certify that as per report of L.R.Staff At. 20.1.98, the petitioner, Sri Kandarpa Kumar Das S/O Late Guranga Ch. Das of Tarapur New Colony, Silchar has no landed property in his own name or in the name of his family members in this circle.

It also reveals that there is no source of income in his family except family pension amounting to Rs. 1996/-P.M.

This Certificate is issued only for the purpose of seeking job on compensate ground.



Off
R. M. Das
18
ASSTT. HORTICULTURE
District Agril. Office
Karimganj

Asstt. Settlement Officer,
Sadar Circle, Silchar.

20/1/98, Silchar

Alles Cal
J. Cal
P. Cal

To

The Chief Postmaster General,
Assam Circle,
G u w a h a t i

Through Superintendent Rms'S' Dvn. Silchar.

Sub:- Prayer for appointment in relaxation of normal
rules case of Kandarpa Kr. Das, Son of Late
Gauranga Ch. Das Ex. M.G. Rms'S' Dvn. Silchar.

Ref:- May earlier representation dt. 27-9-95.

Sir,

With due respect and humble submission, I beg to
state that, my father Late Gauranga Ch. Das was ex Mail
Guard at Silchar under Rms 'S' Dvn. He expeered after
suffering of cancer on 23-4-94. At that time I was below
18 years of all and hence, I had to wait till that age
to apply for a job under compationate ground.

Sir, I have no home to live and reseding under the
shelter of my maternal uncle. I have marriagable sister
and widow mother. The family pension which is being gett-
ing by my widow mother is too insufficient to live hand
and mouth. It is now quite impossible to continue study
and my job is urgently essential to save the family from
ruination.

Sir, after submission of the application on 27.9.95.
I had been asked to furnish declaration in respect of
maintaning family and other enquiries and all such requi-
rements are duly fulfilled.

May I therefore pray you kindly to consider the
humble prayer of a fatherless poor boy and give a job
in relaxation of normal rules to save the family and for
which act of kindness I shall remain ever grateful.

Kandarpa Kr. Das

Yours faithfully

Date 7th March '97.

(Kandarpa Kr. Das)
S/O Late Gauranga Ch. Das,
C/O Kanu Mohan Das,
Vill: Tikarpara,
P.O. Basudev - Nagar,
Dist: Karimganj.

ANNEXURE-III

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE SUPERINTENDENT OF RMS. SIDN. SILCHAR - 783001.

No. B-7/17/Ch-V.
Dated at Silchar, the 18-7-2001.

To,

Shri/Smt.
C/O SRO/HRO

Kandaswa Kumar Das.

S/o Gauranga Ch. Das

Ex M/s Stores Secy
New Colony Jorafoss 50-3

Sub:- Discontinuation of waiting lists of candidates
approved for compassionate appointment willing-
ness of the approved candidates for consideration
by the Ministries.

The Ministry of communication has decided to consider
for absorption of the candidates waiting, for appointment on
compassionate ground in other department.

As such, you are hereby directed to submit your
willingness to work in other Central Govt establishments to this
office along with full postal address for onward intimation to
circle office Guwahati for consideration.

CEP

18/7/01
ASSTT. HORTICULTURIS
District Asstt. Office
Narhangam

SUPERINTENDENT OF RMS.
SIDN. SILCHAR-783001.

18/7

Shrestha
Asstt.
Hort.

To

The Superintendent,
R.M.S. 'S' Division, Silchar. - ANNEXURE-IV

Ref. No. Your No. B.7/17/Ch Dt. 18.7.2001.

22

Sir, with due respect, I beg to state that since death of my father, I have been praying again and again to get me a job on compassionate ground. Lastly, I have been informed that my name has been approved for appointment. Since then, I have been hoping for my appointment.

Sir, the condition of the family is a precarious condition. I have been compelled to stop my study. So also is the case of my sister. She is also now in her age of marriage. But for the financial condition, we are not in a position to think for any negotiation in this respect.

Now, on getting this letter, I am very much frustrated, as my job is immediately necessary to save the family from complete ruin.

Sir, I am willing to serve in any other Central Govt. Department to save my family and pray you to cause needful so that, I got the appointment letter quite early and for which, I shall remain ever grateful.

Dated, Silchar,

The 2/3/2001.

The third day of August, 2001

The 2nd August, 2001

(Sandarshit)

Yours faithfully,

Kandarpa Kumar Das

(SRI KANDARPA KUMAR DAS
6/O. Late. Gouranga Chand Das,
Das, C/O. Kanu Mohan Das,
Vill.- Tikarpur, P.O.-
Basudebnagar, Dist.-Kali³³
(Assam).

Present
for
you
cal

ANNEXURE-II

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE SUPERINTENDENT RMS, 'S' D.N. SILCHAR- 783001.

No. B-7/17/Ch-V.
Dated at Silchar, the 7-09-2001.

To,

Shri/Smt.....Kandarpa Kr. Das
.....Smt.....Guranga Ch. Das
.....Ex.....M.G.....H.R.O. Silchar.
.....New Colony - 783003

Sub:- Commissionate appointment of candidates approved and wait listed.

The undersigned is pleased to communicate a decision of the Dte. New Delhi on the subject, conveyed vide CO Guadribi letter No. Staff/16-Rlg/88/Part dtd.14/03/2001 that commissionate appointment proposal of candidates approved and wait listed are offered for vacant posts of Gramin Dak Sevak if they are willing and eligible for the post subject to their fulfilling all required conditions of recruitment like educational qualification etc.

Besides, it may be noted that acceptance of this post, candidate would have no further claim for appointment on any special condition against regular department vacancies and that they would have to take their turn as per present departmental policy for CO in the matter of their appointment against future departmental vacancies.

As such, you are hereby directed to submit your willingness on the offer to this office along with your full postal address for onward transmission to the Circle office within 7 (seven) days of the receipt of this letter for their consideration.

Copy to:-

1. The ASRII S-2nd Sub-Dn. Tinsukia for information.
2. The IRM S-1st Sub-Dn. Silchar

For Superintendent RMS,
'S' Dn. Silchar-783001.

eff

eff 18/8

AGM. HORTICULTURE
District Agric. Office
Kamrup

For Superintendent RMS,
'S' Dn. Silchar-783001.

EEEEE

Annexure-VI

To

The Superintendent,
R.M.S., 'S' Division
Silchar

Sir,

With humble submission I acknowledge the receipt of your letter No. B-7/17/Ch-V dated 7.9.01 and I earnestly pray you honour kindly to consider my prayer for grant of appointment in a departmental Gr."D" post so as to rescue the family of one of your ex-employee from disaster.

Sir, the condition of my family is very precarious and the meager pension amount of my mother is too inadequate to support our family. This apart, it is not being possible to give my sister in marriage or to arrange for the medical treatment of my ailing mother for want of money. We do not have any landed property or source of earning except the meager pension amount of my mother. So, we are residing in the house of our maternal uncle like orphans and my maternal uncle is also a poor person, who is incapable of maintaining us. My father died of the dreaded disease of cancer at a time when one third of his service tenure was yet to go. Besides, whatever money was received by us after the death of my father, was defrayed against the expenses of his treatment.

Therefore, I pray your honour kindly to save the family of one of your deceased employ from disaster by appointing me in a Gr. "d" post in your department or any other Central Government department for which I pray.

Yours faithfully,

Date :12.09.01

Sd/- Kandarpa Kumar Das
Son of Late Gouranga Ch. Das
C/o Sri Kanu Mohan Das
Village Tikarpura
P.O. Basudebnagar
Karimganj-788723

Certified to be true
Kandarpa Kumar Das

Kandarpa Kumar Das

GOVERNMENT OF INDIA
 MINISTRY OF COMMUNICATION
 DEPARTMENT OF POSTS
 O/O THE SUPERINTENDENT, RMS 'S' DIVISION
 SILCHAR - 788001

No. B-7/ 17/Ch-VL

Dated at Silchar, the 28-08-2002.

To,

1. Sri Sidhartha Sankar Paul
 C/o Sanku Mahanta
 Near Over Bridge
 Karimganj Road, Silchar- 788008.
2. Sri Simanshu Chetia
 C/o Late Ghana Kanta Chetia
 Khusal Nagar PO- Moranhat
 Dibrugarh- 785670.
3. Sri Kandarpa Kumar Das
 C/o Kanu Mohan Das
 Tikarpasa- Basudeb Nagar
 Karimganj- 788723.

Sub:- Deletion of name of candidate from the wait list approved by CSC
 for appointment on compassionate ground.

In this office letter No. even dtd. 18-07-01 your willingness was called for as to whether you are willing to accept the offer for your appointment in any GDS Post. But you have informed your un-willingness to accept the offer. As such as per Departmental instruction and rules your name is (therefore) deleted from the list for future consideration.

No further request will be entertained. This is for your information.

(C.R. Deb)
 Superintendent
 RMS 'S' Division
 Silchar - 788001

Pls. see
 for
 above case