

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

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No 3981/02

R.A/C.P No.....

E.P/M.A No.....

1. Orders Sheet..... Pg. 1..... to 5.....
2. Judgment/Order dtd. 23.12.2003 Pg. 1..... to 3..... ~~discrepancy~~
3. Judgment & Order dtd..... Received from H.C/Supreme Court
4. O.A. Amended OA 3981/02 Pg. 1..... to 29.....
~~OA 3981/02 Pg. 1..... to 29.....~~
5. E.P/M.P..... Pg..... to.....
6. R.A/C.P..... Pg..... to.....
7. W.S..... Pg. 1..... to 42.....
8. Rejoinder..... Pg. 1..... to 6.....
9. Reply..... Pg..... to.....
10. Any other Papers..... Pg..... to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

Add'l Statement Page (to 5)

SECTION OFFICER (Judl.)

Sahle
4/12/17

(SEE RULE. - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI

ORDER SHEET

Original Application No : 398/02
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant(s) : Bikash Boruah

- vs. -

Respondent(s) : M.O.T Form

Advocate for the Applicant(s) : B.K. Sharma, S-Sarma, V.K.Kaur

Advocate for the Respondent(s) : Cajr.

Notes of the Registry	Date	Order of the Tribunal
Application is filed but not in time Signature of witness is not present Re. Date of application D.P.O. No. 24575/02 Date 20.11.02 <i>Dr. A. K. Boruah</i> <i>PA</i>	20.12.02	Heard Mr. S. Sarma, learned counsel for the applicant. Issue notice to show cause as to why the application shall not be admitted. List on 22.1.2003 for admission.
One copy short. Notice has been and sent to DLS for serving the respondent No. 2 & 3 to legal A.D. <i>23/12</i>	23.01.2003 mb	Present : The Hon'ble Mr. Justice D. N. Chowdhury, Vice-Chairman. The Hon'ble Mr. S.K. Hajra Administrative Member. List again on 19.2.2003 to enable the respondents to file reply.
No. 1 reply has been filed <i>28/2/03</i>	mb	<i>Govt</i> Member Vice-Chairman

(2)

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

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

Heard Mr. S. Sarma, learned counsel for the applicant and also Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents.

The application is admitted. Call for the records. No further notice need to be issued. The respondents are ordered to file written statement within four weeks from today. List the matter again on 20.3.2003 for orders.

No. written statement has been filed.

3/2
18/3/03.

S. Biswas

Member

Vice-Chairman

Vice-Chairman

mb

20.3.2003

Heard Mr. S. Sarma, learned counsel for the applicant who has filed an application adding to statement of facts. Let the applicant take necessary steps for treating it as a part of the pleadings within one week.

Mr. A. Deb Roy, learned Sr. C.G.S.C., has prayed for some time for filing of written statement. Put up again on 7.4.2003 for necessary order.

Vice-Chairman

bb

7.4.2003

Steps taken by the applicant.

The notice may now be sent to the respondents. Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents is also allowed four weeks time to file written statement. List on 5.5.2003 for orders.

Notice prepared and sent to the respondents.

No 1 to 6 by Regd. A.D.

9/4

D/No 701 to 704 dd. 16/4/03

No. written statement has been filed.

3/2
25/03.

mb

Vice-Chairman

5.5.2003

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

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

Put up again on 26.5.2003 enabling the respondents to file written statement.

No. Wks has been filed.

23.6.03

Member

Vice-Chairman

bb

26.5.2003

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

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

The respondents are yet to file written statement. Put up again on 24.6.2003 for written statement.

23.6.0323.6.03

Member

Vice-Chairman

mb

24.6.2003

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 again on 28.7.2003 for written statement.

PAN

Vice-Chairman

mb

28.7.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

The Hon'ble Mr. N.D. Dayal,
Member (A).

No written statement so far filed. The respondents are allowed further four weeks time for filing written statement as a last chance.

List on 26.8.2003 for orders.

Member

Vice-Chairman

mb

26.8.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.
The Hon'ble Mr. K.V. Prahaladan, Administrative Member.

Written statement has been filed.

The case may now be listed for hearing on 18.9.2003. The applicant may file rejoinder, if any, within two weeks from today.


Member


Vice-Chairman

mb

18.9.2003 No Division Bench is sitting today.
Put up again on 11.11.2003 for hearing.

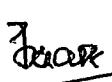

Member

mb

14-11-03
Case is ready in 11.11.03 no Bench today.
Advised to 17.11.03.
By
14-11-03

17.11.2003 Present: The Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman
The Hon'ble Shri S.K. Naik Administrative Member.

Adjourned. List the case on 19.11.2003 for hearing.


Member
nkm


Vice-Chairman

(5)

O.A.398/2002

6

19.11.03 Present : The Hon"ble Mrs. Lakshmi
Swaminathan, Vice-Chairma
~~xxChairman~~
The Hon"ble Mr S.K.Naik,
Administrative Member

Shri S.Sarma through learned
proxy counsel Shri N.K.Mazumdar for
the applicant and Shri A.Deb Roy,
learned Sr.C.G.S.C. for the
respondents.

We have partly heard the learned
counsel for the respondents.
List on 21.11.03 ~~as part heard~~ for hearing the
learned counsel for the applicant.

Rejoinder submitted
by the applicant.

21
22.11.03

pg

Naik
Member

JS

Vice-Chairman

The case is ready
for hearing.

My
22.12.03.
27/11/1

21.11.2003

pg

Naik
Member

JS

Vice-Chairman

Mr.S.Sarma, learned counsel for
the applicant and Mr.A.Deb Roy, learned
Sr.C.G.S.C. for the respondents.
Court Time is over, and O.A. is released
from part heard. List on 10.12.2003.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. / R.A. No. 398 . . . of 2002.

DATE OF DECISION 23-12-2003
OF JUDGMENT

Shri Bikash Baruah APPLICANT(S).

Sri S. Sarma ADVOCATE FOR THE
APPLICANT(S).

- VERSUS -

Union of India & Ors. RESPONDENT(S).

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

THE HON'BLE MR JUSTICE B.PANIGRAHI, VICE CHAIRMAN

THE HON'BLE MR K.V.PRAHLADAN, ADMINISTRATIVE MEMBER

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

Judgment delivered by Ho'ble Vice-Chairman

8

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 398 of 2002.

Date of Order : This the 23rd Day of December, 2003.

The Hon'ble Mr Justice B.Panigrahi, Vice-Chairman.

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

Shri Bikash Baruah,
son of Sri Subhash Ch.Baruah,
resident of Nag Colony,
Guwahati, Assam.

...Applicant

By Advocate Sri S.Sarma.

- Versus -

1. Union of India,
represented by the Secretary to the
Government of India,
Ministry of Water Resources,
New Delhi.
2. The Chairman,
Central Ground Water Board,
Faridabad, Haryana.
3. The Director (Admn.),
Central Ground Water Board,
Faridabad, Haryana.
4. The Regional Director (NER),
Central Ground Water Board,
Tarun Nagar, Bhangagarh,
Guwahati-5.

...Respondents.

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

O R D E R (ORAL)

PANIGRAHI J.(v.C)

The applicant was selected as a Senior Technical Assistant (Hydrogeology) in the year 1997 by the U.P.S.C. He was accordingly appointed at Guwahati under respondent No.4. But due to certain family problems as he was suffering from mental depression the applicant submitted resignation from the aforesaid post on 17.4.2002. He also sent another letter on 23.4.2002 reminding the authorities for acceptance of his resignation. Accordingly the resignation letter was accepted. In the meanwhile the applicant has sought to withdraw the letter of resignation

vide his letter dated 22.7.2002. However, the respondents were inclined to reject his representation. Therefore, this application has been filed questioning the said order of rejection.

2. The respondents have filed the written statement whereby they alleged that the applicant has submitted a forged caste certificate which was subsequently detected. When the respondents intended to take departmental action about such conduct of the applicant, in order to save himself from such ~~ordal~~ he filed the letter of resignation.

3. After hearing the learned counsel appearing for both parties and on going through the averments stated in the application as well as in the written statement it has emerged that the applicant has submitted the resignation which was accepted by the respondent No.4 on 4.7.2002. After acceptance of resignation the applicant has no further right to join in his duties. In this connection we may rely upon a recent judgment of the Supreme Court in North Zone Cultural Centre and another vs. Vedpathi Dinesh Kumar reported in 2003(3) A.T.J.580. The Hon'ble Supreme Court held as follows :

"As noticed above, in the present case the resignation is dated 18.11.1988 and the same as found by us is accepted on 18.11.1988 itself. The communication was on 1.12.1988 about 13 days thereafter which delay, in our opinion, is not an undue delay so as to make us draw an inference that there has been no acceptance of the resignation. Even the fact that in the meantime the respondent either attended duty or signed the attendant register will be of no assistance to claim his resignation had not taken effect. Even otherwise the appellants have urged that because there was no responsible officer in the headquarters from 18.12.1988 after respondent's resignation was accepted till 1.12.1988 and the respondent took

advantage of the same and marked his attendance and such attendance cannot be treated as lawful attendance in view of the acceptance of his resignation on 18.11.1988. We agree with this contention of the appellant."

4. From the rational of the above judgment it is made clear that after resignation has been accepted by respondent No.4 the applicant has no further right to ask for withdrawal of said resignation. It however, does not preclude the applicant to seek for further employment ^{after} ₁₈ he is otherwise found eligible.

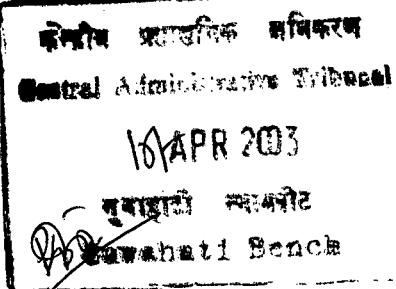
With the above observation the application is dismissed. No order as to costs.



(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER



(B.PANIGRAHI)
VICE CHAIRMAN



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

CONSOLIDATED APPLICATION

Title of the case :

D.A. No. 398 of 2000

BETWEEN

Shri Bikash Baruah..... Applicant.

AND

Union of India & ors..... Respondents.

I N D E X

Sl. No.	Particulars	Page No.
1.	Application	1 to 20
2.	Verification	21
3.	Annexure-1	22, 23
4.	Annexure-2	24
5.	Annexure-3	25
6.	Annexure-4	26
7.	Annexure-5	27
8.	Annexure-6	28
9.	Annexure-7	29

Filed by : Usha Das.

Regn. No. :

File : Bikashbaruah

Date :

12
Filed by
the applicant through
Asha Das
Advocate
31/3/03

THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH
GUWAHATI

(Application under section 19 of the Central
Administration Tribunal Act, 1985)

O.A. No. 398 of 2002

BETWEEN

Sri Bikash Baruah,
son of Sri Subhash Ch. Baruah
resident of Nag Colony,
Guwahati, Assam.

.....Applicant

-And-

1. Union of India, represented by the Secretary to the Government of India, Ministry of Water Resources, New Delhi.
2. The Chairman, Central Ground Water Board, Faridabad, Haryana.
3. The Director (Admn.) Central Ground Water Board, Faridabad, Haryana.
4. The Regional Director (NER), Central Ground Water Board, Tarun Nagar, Bhangagarh, Guwahati-5.

.....Respondents

DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THE

APPLICATION IS MADE:

The present application is directed against the Office Memorandum dated 6.11.2002 by which the prayer of the Applicant for withdrawal of his resignation has been rejected. Further this application is also directed against the inaction on the part of the Respondent authorities in not acting upon the withdrawal of his resignation by the Applicant before the same was accepted by the competent authority.

2. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter in respect of which the application is made is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION:

The applicant further declares that the application is within the limitation period 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 by the constitution of India.

4.2. That the Applicant on being selected was appointed as Senior Technical Assistant (Hydrogeology) in the year 1997. The Applicant was also selected by the UPSC in the year 1998 for being appointed as Assistant Hydro Geologist. Due to some family problems and also due to the depression, the Applicant vide his letter dated 17.4.2002 submitted his resignation from the post of Senior Technical Assistant (Hydrology). The said letter was followed by another letter in the same connection dated 23.4.2002. The said letters were not acted upon by the Respondent authorities and on recovering from the depression he was suffering and on regaining his health, the Applicant vide his letter dated 22.7.2002 proceeded to withdraw the resignation submitted by him vide his letter dated 17.4.2002 and 23.4.2002. Inspite

14

of the said position, the Applicant was not allowed to resume his duties. The Applicant had proceeded to withdraw the resignation submitted by him before the same was accepted by the competent authority inasmuch as till dated the Applicant has not been communicated with any such acceptance. Poised thus the Applicant was shocked and surprised to receive a communication dated 6.11.2002 by which it has been stated that his requests for withdrawal of his resignation has not been acceded to by the competent authority. The Applicant having withdrawn the resignation submitted by him before the same could be acted upon, there is no any earthly reason existing for not allowing the Applicant to continue in his service and the letter dated 6.11.2002 being a communication after withdrawal of the resignation submitted by the Applicant, and that too when the same does not specify as to when the resignation of the Applicant was accepted, the Applicant must necessarily be allowed to continue in service. The appeals made by the Applicant for allowing him to resume his duties having fallen upon deaf ears, the Applicant has by way of this application come under the protective hands of Your Lordships praying for redressal of his grievances.

4.3. That the Applicant states that on being selected by the duly constituted Selection Board, the Applicant was appointed as Senior Technical Assistant (Hydro Geology) and was posted at Itanagar. The Applicant joined his services on 18.2.97. The Applicant was thereafter transferred and posted in the same capacity

at Guwahati in the year 2000. The services of the Applicant on being found to be satisfactory, was appointed against the post held by him on substantive basis with effect from 28.2.99 vide issuance of letter dated 27.7.2001.

A copy of the said letter dated 27.7.2000 is annexed as Annexure-1.

4.4. That the Applicant states that the next avenue available for advancement to the Applicant is the post of Assistant Hydrogeologist. As per the Service Rules, the said post is to be filled up on the basis of promotion from the cadre of Senior Technical Assistants (Hydrogeology) and also by way of direct recruitment through UPSC. The Applicant applied for the post of Assistant Hydro Geologist for direct recruitment through UPSC and appeared in the selection conducted for the same in the year 1998. The Applicant was selected for appointment as Assistant Hydrogeologist by UPSC.

4.5. That the Applicant states that the departmental authorities sought option from the Applicant as to whether he would be willing to be appointed as Asstt. Hydrogeologist as per the results of the examination conducted in the year 1998 and/or whether he would like to be promoted to the said post after his case was considered by the DPC. The Applicant vide his letter dated 27.7.2001 intimated to the authorities that he was willing to be appointed as Assistant Hydrogeologist as per the results of the examination conducted by UPSC in the year 1998 instead

of being considered for promotion against the said post by the DPC.

A copy of the said letter dated 26.7.2001 is annexed as Annexure-2.

4.6. That your applicant states that towards the end of 2001 the Applicant was entangled in various family related problems and with the passage of time the same aggravated. The Applicants mother was also bedridden due to various ailments and required constant attention. Further the wife of the applicant was also under constant medical attention since 2000. The applicant being hard pressed due to the said problems, being faced by him, became very depressed and in a moment of despair the Applicant proceeded to submit his resignation from the post held by him vide letter dated 17.4.2002. The letter dated 17.4.2002 was followed by another letter dated 23.4.2002. It is pertinent to mention here that the Applicant had proceeded to submit the said letter dated 17.4.2002 on the ground that he was required to be by the side of his mother who was at that point of time hospitalised.

Copies of the said letters dated 17.4.2002 and 23.4.2002 are annexed as Annexures-3 and 4 respectively.

4.7. That the Applicant states that the resignation as submitted by him his said letters dated 17.3.2002 and 23.4.2002 were not acted upon and he

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V

continued to attend his duties. In view of the problems being faced by him, the Applicant requested for leave at different points of time during this period but the same were rejected. The applicant again had applied for leave with effect from 2.7.2002 but he proceeded leave with due permission from Respondent No.4 with effect from 8.7.2002 for 26 days. The Applicant on being sanctioned leave proceeded to attend to his family problems.

4.8. That the Applicant states that on his mother recovering from her ailments and also his other family problems being reduced, the Applicant could logically think about the consequence of the resignation letters submitted by him and on realising the folly committed by him in submitting the said letters, the Applicant vide his letter dated 22.7.2002 requested the Respondent No.2 to treat his resignation letters as withdrawn. In the said letter dated 22.7.2002 the Applicant proceeded to narrate the factors leading to the submission of his resignation.

A copy of the said letter dated 22.7.2002 is annexed as Annexure-5.

4.9. That the Applicant states that on completion of his leave period the Applicant proceeded to rejoin his duties but he was not allowed to do so by the Respondent No.4 on the plea that necessary orders are required from the Respondent No.2 in this connection. The Applicant thereafter made several appeals before the authorities praying for allowing him to resume his

8

duties and also met the Respondent authorities personality. On his verbal pleas not evoking any response, the Applicant vide his letter dated 7.10.2002 prayed before the Respondent No.2 to treat his resignation as withdrawn and to allow him to resume his duties at the earliest.

A copy of the letter dated 7.10.2002 is annexed as Annexure-6.

4.10. That the Applicant states that he was not being allowed to resume his duties inspite of the fact that the resignation submitted by him was never accepted by the competent authority and he was never communicated about any such acceptance at any point of time. The Applicant was all along being assured that he would be allowed to resume his duties soon but inspite of the said assurance no concrete steps have been taken by the authorities towards allowing the Applicant to resume his duties. Due to the illegality being committed by the Respondent authorities, the Applicant is presently out of his job and he is not being paid his salaries.

4.11. That the Applicant states that poised thus he was shocked and surprised to receive a letter dated 6.11.2002 issued by the Deputy Director, Central Ground Water Board wherein it was interalia state that the request of the Applicant for withdrawal of his resignation from the post of Senior Technical Assistant (Hydrogeology) was not accepted by the competent authority. The contents of the said letter clearly indicate the vindictive attitude adopted by the

Respondents towards the Applicant inasmuch as the resignations having not been accepted at any point of time and the Applicant never being communicated about such acceptance, his requests for withdrawal of the resignations submitted by him, could not have been dealt with in such a casual and summary manner.

A Copy of the letter dated 6.11.2002 is annexed as Annexure-7.

4.12. That the Applicant states that he was forced to submit his resignation from the post held by him due to the mental depression being suffered by him caused due to the various family problems. The resignation as submitted having not been accepted and the Applicant being allowed to continue his service even after submission of such resignation, and the subsequent withdrawal of the resignation submitted by the Applicant before any acceptance of the same by the competent authority was communicated to him, goes to show that the resignation as submitted by him are ab initio void and the Applicant continues to be in service. The Respondent authorities without taking into consideration this vital aspect of the matter have now proceeded to issue the letter dated 6.11.2002 inter alia stating that the prayer of the Applicant for withdrawal of his resignation has not been accepted by the competent authority. The resignation never having been acted upon and having been withdrawn before acceptance of the same was communicated to the Applicant, the resignation cannot now be made a ground for ousting the Applicant from his service.

90

4.13. That the Applicant states that it was incumbent upon the authorities to communicate to the Applicant the acceptance if any of his resignation by the competent authority before he had withdrawn the resignation submitted by him. The authorities having till date not communicated to the Applicant anything as regards the acceptance of the resignation submitted by him, the Applicant cannot be deprived of his legitimate dues and he is required to be allowed to resume his duties and the period for which he was not allowed to discharge his duties is required to be regularised as on duty with all consequential benefits. The Applicant while submitting his resignation from the post of Senior Technical Assistant (Hydrogeology) was also selected for appointment by the UPSC for the post of Assistant Hydrogeologist and the Applicant had given his consent for being appointed in pursuance to the said selection. The Respondent authorities while proceeding to issue the impugned letter dated 6.11.2002 failed to take into consideration these vital aspects of the matter.

4.14. That the Applicant submits that he having withdrawn his resignation before the acceptance of the same was communicated to him, he continues to be in service. The Respondent authorities cannot now take shelter of any order that might have been passed accepting the resignation submitted by the Applicant, in the file inasmuch as the name was never communicated to the Applicant.

91

4.15. That as per Rule 26(4) of C.C.S. (pension) Rules, 1972, the appointing authority is at liberty to accept such withdrawal under certain conditions. In the instant case taking into consideration Rule 26(4) and Government of India's orders and notifications, it is mandatory for the appointing authority to accept the resignation and after such acceptance the resignation becomes effective. It is pertinent to mention here that the Annexure-3 resignation letter dated 17.4.2002 was not forwarded by the forwarding authority as the resignation was a conditional one. The applicant was forced to make an unconditional declaration regarding his resignation and accordingly he submitted Annexure-4 resignation letter dated 23.4.2002. The aforesaid letter was forwarded to the concerned authority.

4.16. That the applicant during the aforesaid period in question was amidst in domestic problem as his mother was hospitalised at Digboi. Since, there was no leave in his credit he was under compulsion to tender the resignation and in fact from the Annexure-3 letter it is clear that the resignation tendered by the applicant was a conditional one. the reflection of such family problem is also apparent in the Annexure-5 letter dated 22.7.2002 by which he withdraw his resignation tendered by letter dated 23.4.2002. The authority concerned however rejected his case for withdrawal of resignation without taking into consideration the Rules guiding the field.

4.17. That it is apparent from the fact that the resignation tendered by the applicant is yet to be accepted formally by the concerned authority. The authority concerned is required to pass a speaking order accepting the resignation and a formal order of release is required to be issued pursuant to such acceptance. In the instant case, neither the concerned authority accepted the resignation tendered by the applicant nor he was formally released from the post of STA, Hydrology. This aforesaid fact clarifies the issue that the resignation is yet to be accepted by the authority concerned.

4.18. That as stated above the applicant is yet to be formally released from the of STA, Hydrology and this fact clearly indicates that the resignation tendered by the applicant is yet to be accepted. It is stated that had the authority concerned accepted the resignation they would have settled the dues of the applicant like GPF, CGIES, Gratuity etc.

4.19. That the rule guiding the field is very clear that the resignation unless it is accepted by the concerned authority it can not be said to be effective more so where there is letter for withdrawal of the same. On the other hand the resignation tendered by the applicant was a conditional one and as such same can not be treated as resignation under normal circumstances.

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9

4.20. That in view of the facts and circumstances of the case, the Applicant prays for an interim direction as has been prayed for. In the event of Your Lordships being pleased to pass the interim direction as has been prayed for, the balance of convenience would be maintained in favour of the Applicant inasmuch as, the resignation submitted by him were never accepted and he was never communicated about such acceptance even after withdrawal of the resignations as submitted by him. The impugned letter dated 6.11.2002 also does not indicate anything as regards acceptance of the resignation letters as submitted by the Applicant.

5.GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:

5.1. For that in any view of the matter the impugned action on the part of the Respondent authorities are illegal, arbitrary, and discriminatory.

5.2. For that the Applicant having withdrawn the resignations letters submitted by him before the acceptance of the same was communicated to him, the Respondent authorities could not have prevented the Applicant from discharging his duties.

5.3. For that the Applicant being faced with the problems as was being faced by him at the relevant point of time had proceeded to submit his resignation letters, but on releasing the mistake committed by him under mental duress, he had proceeded to withdraw the

94

resignation as submitted by him. The Respondent authorities having not taken into consideration the circumstances leading to submission of resignation letters by the Applicant and in not treating the resignations as withdrawn inspite of the fact that the Applicant had withdrawn his such resignation before being communicated about its acceptance has caused great prejudice to the Applicant.

5.4. For that the Applicant being a confirmed employee he could not have been deprived of his service without following the due process as prescribed by law. The acceptance of the resignation letters as submitted by the Applicant having never been communicated to him, the Respondent authorities could not have issued the letter dated 6.11.2002 rejecting the prayer of the Applicant for resumption of his duties.

5.5. For that in any view of the matter the action/inaction on the part of the Respondents are not sustainable in the eye of law and same are liable to be set aside and quashed.

The Applicant craves leave of this 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:

The applicant declares that they have no other alternative and efficacious remedy except by way of filing this application. he is seeking urgent and immediate relief.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY

OTHER COURT:

The applicant further declares that no other application, writ petition or suit in respect of the subject matter of the instant application is filed before any other Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT FOR:

Under the facts and circumstances stated above, the applicants pray that this application be admitted, records be called for and notice be issued to the respondents to show cause as to why the reliefs sought for in this application should not be granted and upon hearing the parties and on perusal of the records, be pleased to grant the following reliefs:

8.1. To set aside and quashed the impugned letter dated 6.11.2002 (Annexure-7).

8.2. To direct the Respondent Authorities to allow the Applicant to continue in his service and to regularise the period during which the Applicant was not allowed to work as on duty with all consequential service benefits thereof.

8.3. Cost of the application.

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

9. INTERIM ORDER PRAYED FOR:

In view of the facts and circumstances of the case the Applicant prays that Your Lordships would be pleased to stay the effect and operation of the impugned letter dated 6.11.2002 with further direction to Respondent authorities to allow the Applicant to resume his duties.

10. *****

The application is filed through Advocate.

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

- i) I.P.O. NO. :
- ii) Date :
- iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

24

VERIFICATION

I Shri Bikash Baruah, aged about 32 years, son of Sri Subash Ch. Baruah, resident of Nag Colony, Maligaon, Guwahati, do hereby solemnly affirm and verify that I am the applicant in this instant application and conversant with the facts and circumstances of the case, the statements made in paragraphs 2, 3, 4, 1, 4, 4, 4, 10, 4, 12, 4, 13, 4, 14, 4, 17 to 4, 20 & 5 to 12 are true to my knowledge ; those made in paragraphs 1, 4, 2, 4, 3, 4, 5, 4, 6, 4, 7 to 8, 4, 9, 4, 11, 4, 15 & 4, 16 are true to my information derived from records and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the ^{30th} day of March, 2003.

Bikash Baruah



- 22 -

- 18 -

Annexure 1

No.12-1/Conf.(C)/98-Sci(Mtt.)
Govt. of India,
Ministry of Water Resources,
Central Ground Water Board,
Central Headquarter Office,
New CGO Complex,
NH-IV, Faridabad-121 001.

Dated the:

21 JUL 2000

OFFICE ORDER NO. 608 OF 2000

On the recommendations of DPC, Group-"C" (Scientific) the following Officials are appointed substantively to the post and from the date shown against their names under Column No. 3 & 4 :-

S.No.	Name of Official	Post to which appointed substantively	Date from which appointed substantively	Place of Posting
1	2	3	4	5
<u>App S/Sh.</u>				
1.	Km. M. Navaneetham	Draftsman, Gd.III	2.5.99	SECR, Chennai
2.	Sh. M. Pradeep Kumar	STA (Geoph.)	2.5.99	SECR, Chennai
3.	Ranjan Sinha	STA (Geoph.)	24.4.99	NER, Guwahati
4.	S. Sakthi Murgan	STA (Geoph.)	6.6.98	MER, Patna
5.	Kanwar Praduman Singh	STA (Geoph.)	30.9.98	CR, Nagpur
6.	Sunil Toppo	STA (Hydrogeology)	25.2.99	CR, Nagpur
7.	Vijay Punndlik Rao Nawle	STA (Chemical)	30.5.98	CR, Nagpur
8.	Bikash Baruah	STA(Hydrogeology)	18.2.99	SUO, Itanagar
9.	Dhan Prakash	STA (Chemical)	27.5.98	NWR, Chandigarh
10.	S.S. Hussain	Lab. Assistant	8.9.97	NWR, Chandigarh
11.	Maloy Kumar Bhowmick	STA (Geoph.)	4.6.98	NR, Lucknow
12.	Kamal Kishore	Lab. Assistant	12.6.99	NR, Lucknow
13.	Smt. Kiran Kushwaha	STA (Chemical)	19.6.98	NR, Lucknow
14.	Sh. Vinay Kumar Kulshrestha	STA (Chemical)	30.5.98	NCR, Bhopal
15.	K. Shiv Shanker	STA (Chemical)	17.4.99	NER, Guwahati

Attested
V. S. M.
Advocate.

Contd... 2/-...

2	3	4	5
S/Sh.			
6. Sandeep Kumar Swaroop	STA (Geoph.)	24.4.99	NCCR, Raipur
17. B.K. Netam	Draftsman, Gd.III	16.6.99	NCCR, Raipur
18. Kamlesh Chander Mondal	STA (Geoph.)	3.7.99	NCCR, Raipur
19. Vivek Sharma	STA (Geoph.)	24.7.99	NCCR, Raipur
20. Manish Kumar	Jr. Surveyor	5.9.99	NCCR, Raipur

25072000
(J.S. ARORA)
ADMINISTRATIVE OFFICER
for Director (Admn.)

DISTRIBUTION:

1. Person concerned Sh./Smt. Bikash Banerji, STA (CHG), CGWB, SUO Itanagar
2. The Regional Director, CGWB, SCCR, Chennai/NTR, Guwahati/MER, Patna/CR, Nagpur/NWR, Chandigarh/NR, Lucknow/NCR, Bhopal/NCCR, Raipur with the request to make necessary entry in the Service Book of the individuals.
3. The Officer-in-Charge, CGWB, SUO Itanagar/Bareilly with the request to make necessary entry in the Service Book of the individuals.
4. The Superintendent, Sci(Estt.)-II, CGWB, CHQ, Faridabad for information.
5. ACR folder of Sh./Smt.
6. Office Order File.

KKSINHA
7222K

Advocates

- 24 -

Annexure-2
30

To

The Regional Director,
N. E. Region,
CBWB, Guwahati.

Sub : Willingness to be appointed as Assistant Hydrogeologist against Geologist Exam'98.

Sir,

With reference to the above-mentioned subject, I would like to inform you that, I am willing to be appointed as Assistant Hydrogeologist against Geologist Exam'98, instead of promoted as AHG by DPC against ST post. This is for your kind perusal and necessary action.

Yours faithfully

20.7.2002

(B. Baruah)
STA (IIG)
C.B.W.B., NER
Guwahati-5.

Baruah
Advocate.

18-25

ANNEXURE - 3

To,

The Director(Admn.)
Central Ground Water Board
N.H.-IV, Faridabad
Haryana.

(Through proper Channel)
Sub - Resignation.

Dated:- ¹⁷ ~~10~~th April 2002.

Sir,

I am herewith submitting my resignation from the post of S.T.A.(HG), Central Ground Water Board , North Eastern Region , Guwahati from ~~10~~¹⁷ April 2002. You are requested kindly to accept my resignation immediately ,since I have to attend the treatment of my mother who is hospitalized at Digboi which may required myself to attend for a long period .This is for your kind perusal.

Yours' faithfully



(BIKASH BARUAH)
Senior Technical Assistant
(Hydrogeology)
Central Ground Water Board.
North Eastern Region
Guwahati.

ANNUAL
WATER
Advocate.

18 26

ANNEXURE - 22

To,

The Chairman,
Central Ground Water Board
N.H.-IV, Faridabad .
Haryana.

Dated :-23rd April 2002.

(Through proper Channel)
Sub :- Resignation.

Sir,

I hereby tender my resignation from the post of STA(HG) with immediate effect .
Kindly release me at the earliest possible.

Yours' faithfully

(BIKASH BARUAH)
Senior Technical Assistant
(Hydrogeology)
Central Ground Water Board.
North Eastern Region
Guwahati.

Copy to:-

1. Director (Administration), Central Ground Water Board, N.H.-IV
Faridabad , Haryana.

Received 23/4/2002

(BIKASH BARUAH)

*Attested
W.S.A.
Advocate*

20-27

ANNEXURE - 153

To,
The Chairman,
Central Ground Water Board,
Faridabad.

Date: - 02-07-2002

(Through proper channel)

Sub: Request for withdrawal of my resignation from the post of STA (HG).
Ref: My letter of resignation dated 17/04/02 and 23/04/02.

Sir,

I have joined as an STA (HG) on 18/02/97 in CGWB, SUO, Itanagar. I was transferred to NER, Guwahati and jointed on 17/08/2000. During the year 1999 my probation was cleared and declared permanent in July 2000. During the service I have done my duties with utmost care and responsibilities to the satisfaction of my superiors.

By the end of 2001 I got into some family problems and was mentally a little bit depressed. My old parents, both depending upon me were seriously ill and wife also was under medical care continuously after my marriage in 2000.

During November 2001 I was on E.L. for 11 days to attend my family problems. While I was under tension with family disturbance I was deputed to ILTC training at Bangalore w.e.f. 9/12/01 to 25/03/02. My continued absence from hometown has resulted in aggravation of family problem. On return from ILTC training I have attended 3 days C.L. and then applied for E.L. w.e.f. 16/04/2002 which was rejected due to exigency of work. Subsequently though I had requested for leave w.e.f. 2/7/02 I was sanctioned leave w.e.f. 8/7/02, for 26 days.

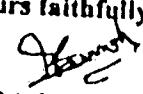
During the above period I was mentally very much disturbed and in a moment of despair, I have submitted a letter of resignation of 17/04/02 and another on 23/04/02. Now I have regained my health after treatment and came to know with shock that I have resigned and my resignation is being accepted.

In this context, I am to submit that I belong to a very poor family and is an S.T. candidate. I am aged 32 years and hence there is no scope of getting any fresh employment.

Considering the above, I request your kindself to treat this application as letter of withdrawal of resignation from the post of STA (HG) dt. 17/04/2002 and 23/04/2002 and I may kindly be permitted to report for duty on 05/08/2002 on expire of leave.

I remain with prayers for acceptance of this withdrawal of resignation from the post of STA (HG).
Thanking you

Yours faithfully,


(Bikash Baruah)
STA (HG), CGWB, NER,
Guwahati.

Enclosure:

- 1) Xerox copy of medical certificate
- 2) Xerox copy of letter of permanency.

Copy to the Director (Admin), CGWB, NHIV Faridabad for information please.


(Bikash Baruah)
STA (HG), CGWB, NER,
Guwahati.

Attested

WADW

Advocate.

Reminder - I

Bikash Baruah,
 C/O Subash Ch. Baruah,
 Income Tax Office,
 Opposite Kalibari
 Kalibari Road,
 Dimapur, Nagaland.
 Pin- 797112.

To,
 The Chairman
 Central Ground Water Board.
 N. H. IV, Faridabad,
 Haryana.

Date: - 07-10-2002

(THROUGH PROPER CHANNEL)

Sub:- Request for withdrawal of my resignation from the post of STA (HG).

Ref:- My letter of resignation dated 17-04-2002 & 23-04-2002.

Ref:- My letter of request of withdrawal of resignation dated 22-07-2002.

Sir,

With reference to my letter of request regarding withdrawal of resignation from the post of STA (HG) of dated 22-07-2002 and in response to that letter you call me to meet you at New Delhi and accordingly I met you in your chamber in New Delhi on 16-09-2002 and acknowledge my opinion that I am willing to continue in this department as STA (HG) and request you to withdraw my resignation. But till date I have not receive any positive response from your end. So, Sir, kindly consider my case in sympathetic ground and please withdraw my resignation at an early so that I can resume my duty as early as possible. This is for your kind perusal and necessary action.

Your's faithfully

(Bikash Baruah)

Copy to :-

1. Member (ED & MM), C.G.W.B., NH-IV, Faridabad for information.
2. Director (Admn), C.G.W.B., NH-IV, Faridabad for information.

(Bikash Baruah)

Attested
 W/

REGISTERED/CONFIDENTIAL

No 4-1896/97-Sci. Inst - 112

Government of India

Ministry of Water Resources

Central Ground Water Board

NH 44, Faridabad

DATED: 6-11-2002

OFFICE MEMORANDUM

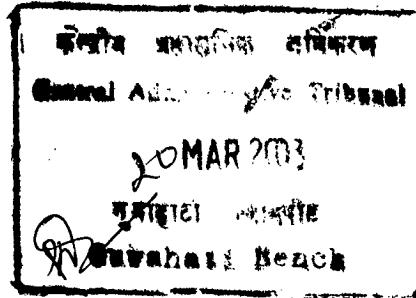
With reference to his application dated 22.7.2002 and 7.10.2002 for withdrawal of resignation from the post of STA (Hydrogeology), Sh. Bikash Baruah, Ex STA (HG), Central Ground Water Board, NER, Guwahati is informed that his request has not been acceded by the competent authority.

Deccan
(A. K. AGARWAL)
DEPUTY DIRECTOR

To

SH. Bikash Baruah,
Ex STA (HG),
Central Ground Water Board,
NER, Guwahati

*Accused
User
Advocate*



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

the

Filed by
applicant through
Bikash Baruah
Advocate
20/3/03

O.A.No. 398/2002

Bikash Baruah

Applicant

-VS-

Union of India & Ors.

Respondents

IN THE MATER OF :

An application highlighting
additional statement of facts.

The humble application on behalf of the applicant
above named.

MOST RESPECTFULLY SHEWETH

1. That the applicant, challenging the office Memorandum dated 6.11.2002, by which the prayer of the applicant for withdrawal of resignation was rejected, preferred the above noted OA before the Hon'ble Tribunal. The Hon'ble Tribunal after hearing the case of the applicant was pleased to admit the same directing the respondents to file written statement.

2. That the aforesaid OA 398/2002 is now pending disposal before the Hon'ble Tribunal. The applicant in the said OA based his arguments mainly on the point that the resignation tendered by him dated 17.4.2002 followed by another letter dated 23.4.2002 was withdrawn by him before it's acceptance through his representation dated 22.7.2002. However, the concerned authority vide impugned Order dated 6.11.2002 rejected his prayer for such withdrawal. The applicant while

31 2

filling the OA No.398/2002 reflected some of the grounds but yet some of the material facts were left undisclosed. This has necessitated filing of this additional statement of fact highlighting the factual aspect of the matter. The aforementioned additional statement of facts are given chronologically.

a. That as per Rule 26(4) of C.C.S.(pension) Rules, 1972, the appointing authority is at liberty to accept such withdrawal under certain conditions. In the instant case taking into consideration Rule 26(4) and Government of India's orders and notifications, it is mandatory for the appointing authority to accept the resignation and after such acceptance the resignation becomes effective. It is pertinent to mention here that the Annexure-3 resignation letter dated 17.4.2002 was not forwarded by the forwarding authority as the resignation was a conditional one. The applicant was forced to make an unconditional declaration regarding his resignation and accordingly he submitted Annexure-4 resignation letter dated 23.4.2002. The aforesaid letter was forwarded to the concerned authority.

b. That the applicant during the aforesaid period in question was amidst in domestic problem as his mother was hospitalised at Digboi. Since, there was no leave in his credit he was under compulsion to tender the resignation and in fact from the Annexure-3 letter it is clear that the resignation tendered by the applicant was a

32

conditional one. The reflection of such family problem is also apparent in the Annexure-5 letter dated 22.7.2002 by which he withdrew his resignation tendered by letter dated 23.4.2002. The authority concerned however rejected his case for withdrawal of resignation without taking into consideration the Rules guiding the field.

c. That it is apparent from the fact that the resignation tendered by the applicant is yet to be accepted formally by the concerned authority. The authority concerned is required to pass a speaking order accepting the resignation and a formal order of release is required to be issued pursuant to such acceptance. In the instant case, neither the concerned authority accepted the resignation tendered by the applicant nor he was formally released from the post of STA, Hydrology. This aforesaid fact clarifies the issue that the resignation is yet to be accepted by the authority concerned.

d. That as stated above the applicant is yet to be formally released from the of STA, Hydrology and this fact clearly indicates that the resignation tendered by the applicant is yet to be accepted. It is stated that had the authority concerned accepted the resignation they would have settled the dues of the applicant like GPF, CGIES, Gratuity etc.

33 3

e. That the rule guiding the field is very clear that the resignation unless it is accepted by the concerned authority it can not be said to be effective more so where there is letter for withdrawal of the same. On the other hand the resignation tendered by the applicant was a conditional one and as such same can not be treated as resignation under normal circumstances.

3. That the above factual aspects as highlighted by the applicant in this petition may be treated as a part of the OA.

In the premises aforesaid it is most respectfully prayed that Your Lordships would graciously be pleased to treat this additional statement of fact as a part of the OA and/or pass any such order/orders as Your Lordships deemed fit and proper.

And for this act of kindness as in duty bound shall ever pray.

34

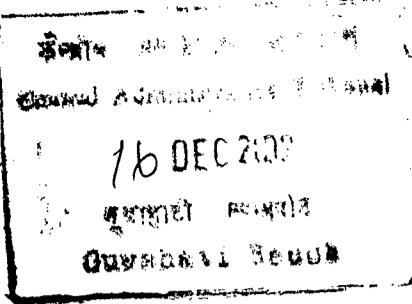
~~REDACTED~~VERIFICATION

I Shri Bikash Baruah, aged about 32 years, son of Sri Subash Ch. Baruah, resident of Nag Colony, Maligaon, Guwahati, do hereby solemnly affirm and verify that I am the applicant in this instant application and conversant with the facts and circumstances of the case, the statements made in paragraphs 1 and 3 are true to my knowledge; those made in paragraphs 2 are true to my information derived from records and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 20th the day of March, 2002.

Bikash Baruah

Deponent



THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

GUWAHATI

D.A. No. 898 of 2002

Bikash Baruah

... Applicant

- Versus -

Union of India & Ors.

... Respondents

I N D E X

SL. No.	Particulars of the documents	Page No.
1.	Writ Application	1 to 13
2.	Verification	14
3.	Annexure- 1	15 - 16
4.	Annexure- 2	17
5.	Annexure- 3	18
6.	Annexure- 4	19
7.	Annexure- 5	20
8.	Annexure- 6	21
9.	Annexure- 7	22

Filed by : U.K. Nair

Advocate

filed by:
Bikash Baruah
-- Applicant
through;
#2
Chuni Krishnan Naik
Advocate.

THE CENTRAL ADMINISTRATIVE TRIBUNAL: :GUWAHATI BENCH
GUWAHATI

(Application under Section 19 of the Central
Administration Tribunal Act, 1985)

D.A. No. of 2002

BETWEEN

Shri Bikash Baruah,
son of Sri Subhash Ch. Baruah,
resident of Nag Colony, Maligaon,
Guwahati, Assam.

... Applicant.

- AND -

1. Union of India, represented by the Secretary to the Government of India, Ministry of Water Resources, New Delhi.
2. The Chairman, Central Ground Water Board, Faridabad, Haryana.
3. The Director (Admn.) Central Ground Water Board, Faridabad, Haryana.
4. The Regional Director (NER), Central Ground Water Board, Tarun Nagar, Bhangagarh, Guwahati-5.

... Respondents

DETAILS OF APPLICATION

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

The present application is directed against the Office Memorandum dated 6.11.2002 by which the prayer of the Applicant for withdrawal of his resignation has been rejected. Further this application is also directed against the inaction on the part of the Respondent authorities in not acting upon the

withdrawal of his resignation by the Applicant before the same was accepted by the competent authority.

2. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the subject matter in respect of which the application is made is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :

The applicant further declares that the application is within the limitation period 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 by the constitution of India.

4.2 That the Applicant on being selected was appointed as Senior Technical Assistant (Hydrogeology) in the year 1997. The Applicant was also selected by the UPSC in the year 1998 for being appointed as Assistant Hydro Geologist. Due to some family problems and also due to the depression, the Applicant vide his letter dated 17.4.2002 submitted his resignation from the post of Senior Technical Assistant (Hydrology). The said letter was followed by another letter in the same connection dated 23.4.2002. The said letters were not acted upon by the Respondent authorities and on recovering from the depression he was suffering and on regaining his

health, the Applicant vide his letter dated 22.7.2002 proceeded to withdraw the resignation submitted by him vide his letter dated 17.4.2002 and 23.4.2002. Inspite of the said position, the Applicant was not allowed to resume his duties. The Applicant had proceeded to withdraw the resignation submitted by him before the same was accepted by the competent authority inasmuch as till date the Applicant has not been communicated with any such acceptance. Poised thus the Applicant was shocked and surprised to receive a communication dated 6.11.2002 by which it has been stated that his requests for withdrawal of his resignation has not been acceded to by the competent authority. The Applicant having withdrawn the resignation submitted by him before the same could be acted upon, there is no any earthly reason existing for not allowing the Applicant to continue in his service and the letter dated 6.11.2002 being a communication after withdrawal of the resignation submitted by the Applicant, and that too when the same does not specify as to when the resignation of the Applicant was accepted, the Applicant must necessarily be allowed to continue in service. The appeals made by the Applicant for allowing him to resume his duties having fallen upon deaf ears, the Applicant has by way of this application come under the protective hands of Your Lordships praying for redressal of his grievances.

4.3 That the Applicant states that on being selected by the duly constituted Selection Board, the Applicant was

46

case was considered by the DPC. The Applicant vide his letter dated 27.7.2001 intimated to the authorities that he was willing to be appointed as Assistant Hydrogeologist as per the results of the examination conducted by UPSC in the year 1998 instead of being considered for promotion against the said post by the DPC.

A copy of the said letter dated 20.7.2001 is annexed as Annexure-2.

4.6 That your applicant states that towards the end of 2001 the Applicant was entangled in various family related problems and with the passage of time the same aggravated. The Applicants mother was also bed ridden due to various ailments and required constant attention. Further the wife of the applicant was also under constant medical attention since 2000. The applicant being hard pressed due to the said problems, being faced by him, became very depressed and in a moment of despair the Applicant proceeded to submit his resignation from the post held by him vide letter dated 17.4.02. The letter dated 17.4.02 was followed by another letter dated 23.4.02. It is pertinent to mention here that the Applicant had proceeded to submit the said letter dated 17.04.02 on the ground that he was required to be by the side of his mother who was at that point of time hospitalised.

Copies of the said letters dated 17.04.02 and 23.4.02 are annexed as Annexures-3 and 4 respectively.

4.7 That the Applicant states that the resignation as submitted by him vide his said letters dated 17.3.2002 and 23.4.2002 were not acted upon and he continued to attend his duties. In view of the problems being faced by him, the Applicant requested for leave at different points of time during this period but the same were rejected. The Applicant again had applied for leave with effect from 2.7.2002 but he proceeded leave with due permission from Respondent No. 4 with effect from 8.7.2002 for 26 days. The Applicant on being sanctioned leave proceeded to attend to his family problems.

4.8 That the Applicant states that on his mother recovering from her ailments and also his other family problems being reduced, the Applicant could logically think about the consequence of the resignation letters submitted by him and on realising the folly committed by him in submitting the said letters, the Applicant vide his letter dated 22.7.2002 requested the Respondent No. 2 to treat his resignation letters as withdrawn. In the said letter dated 22.7.2002 the Applicant proceeded to narrate the factors leading to the submission of his resignation.

A copy of the said letter dated 22.7.2002 is annexed as Annexure-5.

4.9 That the Applicant states that on completion of his leave period the Applicant proceeded to rejoin his duties but he was not allowed to do so by the Respondent No. 4 on the plea that necessary orders are

required from the Respondent No. 2 in this connection. The Applicant thereafter made several appeals before the authorities praying for allowing him to resume his duties and also met the Respondent authorities personally. On his verbal pleas not evoking any response, the Applicant vide his letter dated 7.10.2002 prayed before the Respondent No. 2 to treat his resignation as withdrawn and to allow him to resume his duties at the earliest.

A copy of the letter dated 7.10.2002 is annexed as Annexure-6.

4.10 That the Applicant states that he was not being allowed to resume his duties inspite of the fact that the resignation submitted by him was never accepted by the competent authority and he was never communicated about any such acceptance at any point of time. The Applicant was all along being assured that he would be allowed to resume his duties soon but inspite of the said assurance no concrete steps have been taken by the authorities towards allowing the Applicant to resume his duties. Due to the illegality being committed by the Respondent authorities, the Applicant is presently out of his job and he is not being paid his salaries.

4.11 That the Applicant states that poised thus he was shocked and surprised to receive a letter dated 6.11.2002 issued by the Deputy Director, Central Ground Water Board wherein it was interalia stated that the request of the Applicant for withdrawal of his

resignation from the post of Senior Technical Assistant (Hydrogeology) was not accepted by the competent authority. The contents of the said letter clearly indicate the vindictive attitude adopted by the Respondents towards the Applicant inasmuch as the resignations having not been accepted at any point of time and the Applicant never being communicated about such acceptance, his requests for withdrawal of the resignations submitted by him, could not have been dealt with in such a casual and summary manner.

A copy of the letter dated 6.11.2002 is annexed as Annexure-7.

4.12 That the Applicant states that he was forced to submit his resignation from the post held by him due to the mental depression being suffered by him caused due to the various family problems. The resignation as submitted having not been accepted and the Applicant being allowed to continue his service even after submission of such resignation, and the subsequent withdrawal of the resignation submitted by the Applicant before any acceptance of the same by the competent authority was communicated to him, goes to show that the resignation as submitted by him are ab-initio void and the Applicant continues to be in service. The Respondent authorities without taking into consideration this vital aspect of the matter have now proceeded to issue the letter dated 6.11.2002 inter alia stating that the prayer of the Applicant for withdrawal of his resignation has not been accepted by the

competent authority. The resignation never having been acted upon and having been withdrawn before acceptance of the same was communicated to the Applicant, the resignation cannot now be made a ground for ousting the Applicant from his service.

4.13 That the Applicant states that it was incumbent upon the authorities to communicate to the Applicant the acceptance if any of his resignation by the competent authority before he had withdrawn the resignation submitted by him. The authorities having till date not communicated to the Applicant anything as regards the acceptance of the resignation submitted by him, the Applicant cannot be deprived of his legitimate dues and he is required to be allowed to resume his duties and the period for which he was not allowed to discharge his duties is required to be regularised as on duty with all consequential benefits. The Applicant while submitting his resignation from the post of Senior Technical Assistant (Hydrogeology) was also selected for appointment by the UPSC for the post of Assistant Hydrogeologist and the Applicant had given his consent for being appointed in pursuance to the said selection. The Respondent authorities while proceeding to issue the impugned letter dated 6.11.2002 failed to take into consideration these vital aspects of the matter.

4.14 That the Applicant submits that he having withdrawn his resignation before the acceptance of the same was communicated to him, he continues to be in

service. The Respondent authorities cannot now take shelter of any order that might have been passed accepting the resignation submitted by the Applicant, in the file inasmuch as the same was never communicated to the Applicant.

4.15 That in view of the facts and circumstances of the case, the Applicant prays for an interim direction as has been prayed for. In the event of Your Lordships being pleased to pass the interim direction as has been prayed for, the balance of convenience would be maintained in favour of the Applicant inasmuch as, the resignation submitted by him were never accepted and he was never communicated about such acceptance even after withdrawal of the resignations as submitted by him. The impugned letter dated 6.11.2002 also does not indicate anything as regards acceptance of the resignation letters as submitted by the Applicant.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that in any view of the matter the impugned action on the part of the Respondent authorities are illegal, arbitrary, and discriminatory.

5.2 For that the Applicant having withdrawn the resignations letters submitted by him before the acceptance of the same was communicated to him, the Respondent authorities could not have prevented the Applicant from discharging his duties.

5.3 For that the Applicant being faced with the problems as was being faced by him at the relevant

point of time had proceeded to submit his resignation letters, but on realising the mistake committed by him under mental duress, he had proceeded to withdraw the resignation as submitted by him. The Respondent authorities having not taken into consideration the circumstances leading to submission of resignation letters by the Applicant and in not treating the resignations as withdrawn inspite of the fact that the Applicant had withdrawn his such resignation before being communicated about its acceptance has caused great prejudice to the Applicant.

5.4 For that the Applicant being a confirmed employee he could not have been deprived of his service without following the due process as prescribed by law. The acceptance of the resignation letters as submitted by the Applicant having never been communicated to him, the Respondent authorities could not have issued the letter dated 6.11.2002 rejecting the prayer of the Applicant for resumption of his duties.

5.5 For that in any view of the matter the action/inaction on the part of the Respondents are not sustainable in the eye of law and same are liable to be set aside and quashed.

The Applicant craves leave of this 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 :

The applicant declares that they have no other alternative and efficacious remedy except by way of filing this application. He is seeking urgent and immediate relief.

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

The applicant further declares that no other application, writ petition or suit in respect of the subject matter of the instant application is filed before any other Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT FOR :

Under the facts and circumstances stated above, the applicants pray that this application be admitted, records be called for and notice be issued to the respondents to show cause as to why the reliefs sought for in this application should not be granted and upon hearing the parties and on perusal of the records, be pleased to grant the following reliefs :

- 8.1 To set aside and quash the impugned letter dated 6.11.2002 (Annexure-7).
- 8.2 To direct the Respondent authorities to allow the Applicant to continue in his service and to regularise the period during which the Applicant was not allowed to work as on duty with all consequential service

benefits thereof.

8.3 Cost of the application.

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

9. INTERIM ORDER PRAYED FOR :

In view of the facts and circumstances of the case the Applicant prays that Your Lordships would be pleased to stay the effect and operation of the impugned letter dated 6.11.2002 with further direction to Respondent authorities to allow the Applicant to resume his duties.

10.

The application is filed through Advocate.

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

- i) I.P.O. No. : 7G 575021
- ii) Date : 20.11.02
- iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

VERIFICATION

I Shri Bikash Baruah, aged about 32 years, son of Sri Subash Ch. Baruah, resident of Nag Colony, Maligaon, Guwahati, do hereby solemnly affirm and verify that I am the applicant in this instant application and conversant with the facts and circumstances of the case, the statements made in paragraphs 1, 2, 3, 4.1, 4.2, 4.4, 4.5 to 4.10, 4.11, 4.12, 4.13 and 4.14 are true to my knowledge ; those made in paragraphs 4.3 and 4.11 are true to my information derived from records and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 30th day of November, 2002.



Deponent



- 15 -

Annex one - 1

No.12-1/Conf.(C)/98-Sci(Mntt.)
Govt. of India,
Ministry of Water Resources,
Central Ground Water Board,
Central Headquarter Office,
New CGO Complex,
NH-IV, Faridabad-121 001.

Dated the:

27 JUL 2000

OFFICE ORDER NO. 608 OF 2000

On the recommendations of DPC, Group-"C" (Scientific) the following Officials are appointed substantively to the post and from the date shown against their names under Column No. 3 & 4 :-

S.No.	Name of Official	Post to which appointed substantively	Date from which appointed substantively	Place of Posting
1	2	3	4	5
1.	S/Sh. Km. M. Navaneetham	Draftsman, Gd.III	2.5.99	SECR, Chennai
2.	Sh. M. Pradeep Kumar	STA (Geoph.)	2.5.99	SECR, Chennai
3.	Ranjan Sinha	STA (Geoph.)	24.4.99	NER, Guwahati
4.	S. sakthi Murgan	STA (Geoph.)	6.6.98	MER, Patna
5.	Kanwar Praduman Singh	STA (Geoph.)	30.9.98	CR, Nagpur
6.	Sunil Toppo	STA (Hydrogeology)	25.2.99	CR, Nagpur
7.	Vijay Punndlik Rao Nawle	STA (Chemical)	30.5.98	CR, Nagpur
8.	Bikash Baruah	STA(Hydrogeology)	18.2.99	SUO, Itanagar
9.	Dhan Prakash	STA (Chemical)	27.5.98	NWR, Chandigarh
10.	S.S. Hussain	Lab. Assistant	8.9.97	NWR, Chandigarh
11.	Maloy Kumar Bhowmick	STA (Geoph.)	4.6.98	NR, Lucknow
12.	Kamal Kishore	Lab. Assistant	12.6.99	NR, Lucknow
13.	Smt. Kiran Kushwaha	STA (Chemical)	19.6.98	NR, Lucknow
14.	Sh. Vinay Kumar Kulshrestha	STA (Chemical)	30.5.98	NCR, Bhopal
15.	K. Shiv Shanker	STA (Chemical)	17.4.99	NER, Guwahati

Attested

Advocate

Contd...2/-...

1	2	3	4	5
S/Sh.				
16.	Sandeep Kumar Swaroop	STA (Geoph.)	24.4.99	NCCR, Raipur
17.	B.K. Netam	Draftsman, Gd.III	16.6.99	NCCR, Raipur
18.	Kamlesh Chander Mondal	STA (Geoph.)	3.7.99	NCCR, Raipur
19.	Vivek Sharma	STA (Geoph.)	24.7.99	NCCR, Raipur
20.	Manish Kumar	Jr. Surveyor	5.9.99	NCCR, Raipur

25072009
 (J.S. ARORA)
 ADMINISTRATIVE OFFICER
 for Director (Admn.)

DISTRIBUTION:

1. Person concerned Sh./Smt. Bikash Banerji, SIA (H6) CGWB, SUO Itanagar
2. The Regional Director, CGWB, SICR, Chennai/NFR, Guwahati/MER, Patna/CR, Nagpur/NWR, Chandigarh/NR, Lucknow/NCR, Bhopal/NCCR, Raipur with the request to make necessary entry in the Service Book of the individuals.
3. The Officer-in-Charge, CGWB, SUO, Itanagar/Bareilly with the request to make necessary entry in the Service Book of the individuals.
4. The Superintendent, Sci(Estt.)-II, CGWB, CHQ, Faridabad for information.
5. ACR folder of Sh./Smt.
6. Office Order File.

KKSINHA
 7222K

Attested
 Advocate

Annexure - 2

To

The Regional Director,
N. E. Region,
CGWB, Guwahati.

Sub : Willingness to be appointed as Assistant Hydrogeologist against Geologist Exam'98.

Sir,

With reference to the above mentioned subject, I would like to inform you that, I am willing to be appointed as Assistant Hydrogeologist against Geologist Exam'98, instead of promoted as AHG by DPC against ST post. This is for your kind perusal and necessary action.

Yours faithfully

28.7.2002

(B. Baruah)
STA (IIG)
C.G.W.B., NER
Guwahati-5.

Attested
Om J. Bhattacharya
Advocate

To,

The Director(Admn.)
Central Ground Water Board
N.H.-IV, Faridabad
Haryana.

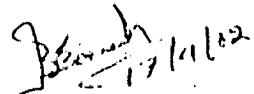
(Through proper Channel)
Sub :- Resignation.

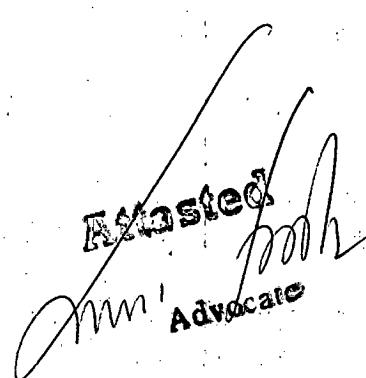
Dated:- ¹⁷ ~~16~~th April 2002.

Sir,

I am herewith submitting my resignation from the post of S.T.A.(HG), Central Ground Water Board, North Eastern Region, Guwahati from 16th April 2002. You are requested kindly to accept my resignation immediately, since I have to attend the treatment of my mother who is hospitalized at Digboi which may required myself to attend for a long period. This is for your kind perusal.

Yours' faithfully


(BIKASH BARUAH)
Senior Technical Assistant
(Hydrogeology)
Central Ground Water Board.
North Eastern Region
Guwahati.


Exacted
Advocate

To,

The Chairman,
Central Ground Water Board
N.H.-IV, Faridabad .
Haryana.

Dated :-23rd April 2002.

(Through proper Channel)
Sub :- Resignation.

Sir,

I hereby tender my resignation from the post of STA(HG) with immediate effect .

Kindly release me at the earliest possible.

Yours' faithfully

(BIKASH BARUAH)
Senior Technical Assistant
(Hydrogeology)
Central Ground Water Board.
North Eastern Region
Guwahati.

Copy to:-

1. Director (Administration), Central Ground Water Board, N.H.-IV
Faridabad , Haryana.

Received 23/4/2002
(BIKASH BARUAH)

*Mr. B. Barua
Advocate*

Date: 02-07-2002

To,
The Chairman,
Central Ground Water Board,
Faridabad.

(Through proper channel)

Sub: Request for withdrawal of my resignation from the post of STA (HG).
Ref: My letter of resignation dated 17/04/02 and 23/04/02.

Sir,

I have joined as an STA (HG) on 18/02/97 in CGWB, SUO, Itanagar. I was transferred to NER, Guwahati and jointed on 17/08/2000. During the year 1999 my probation was cleared and declared permanent in July 2000. During the service I have done my duties with utmost care and responsibilities to the satisfaction of my superiors.

By the end of 2001 I got into some family problems and was mentally a little bit depressed. My old parents, both depending upon me were seriously ill and wife also was under medical care continuously after my marriage in 2000.

During November 2001 I was on E.L. for 11 days to attend my family problems. While I was under tension with family disturbance I was deputed to ILTC training at Bangalore w.e.f. 9/12/01 to 25/03/02. My continued absence from hometown has resulted in aggravation of family problem. On return from ILTC training I have attended 3 days C.L. and then applied for E.L. w.e.f. 16/04/2002 which was rejected due to exigency of work. Subsequently though I had requested for leave w.e.f. 2/7/02 I was sanctioned leave w.e.f. 8/7/02. for 26 days.

During the above period I was mentally very much disturbed and in a moment of despair. I have submitted a letter of resignation of 17/04/02 and another on 23/04/02. Now I have regained my health after treatment and came to know with shock that I have resigned and my resignation is being accepted.

In this context, I am to submit that I belong to a very poor family and is an S.T. candidate. I am aged 32 years and hence there is no scope of getting any fresh employment.

Considering the above, I request your kindself to treat this application as letter of withdrawal of resignation from the post of STA (HG) dt. 17/04/2002 and 23/04/2002 and I may kindly be permitted to report for duty on 05/08/2002 on expire of leave.

I remain with prayers for acceptance of this withdrawal of resignation from the post of STA (HG).
Thanking you

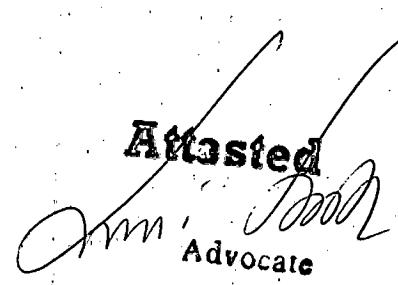
Yours faithfully,


(Bikash Baruah)
STA (HG), CGWB, NER,
Guwahati.

Enclosure:

- 1) Xerox copy of medical certificate
- 2) Xerox copy of letter of permanency.

Copy to the Director (Admin), CGWB, NHV Faridabad for information please.


Attested

Advocate


(Bikash Baruah)
STA (HG), CGWB, NER,
Guwahati.

Reminder - I

Bikash Baruah.
C/O Subash Ch. Baruah.
Income Tax Office.
Opposite Kalibari
Kalibari Road.
Dimapur, Nagaland.
Pin- 797112.

To,
The Chairman,
Central Ground Water Board.
N. H. IV, Faridabad,
Haryana.

Date: - 07-10-2002

(THROUGH PROPER CHANNEL)

Sub:- Request for withdrawal of my resignation from the post of STA (HG).

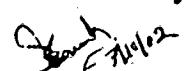
Ref:- My letter of resignation dated 17-04-2002 & 23-04-2002.

Ref:- My letter of request of withdrawal of resignation dated 22-07-2002.

Sir,

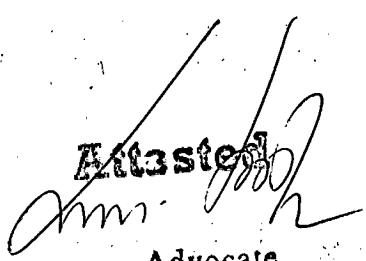
With reference to my letter of request regarding withdrawal of resignation from the post of STA (HG) of dated 22-07-2002 and in response to that letter you call me to meet you at New Delhi and accordingly I met you in your chamber in New Delhi on 16-09-2002 and acknowledge my opinion that I am willing to continue in this department as STA (HG) and request you to withdraw my resignation. But till date I have not receive any positive response from your end. So, Sir, kindly consider my case in sympathetic ground and please withdraw my resignation at an early so that I can resume my duty as early as possible. This is for your kind perusal and necessary action.

Your's faithfully


(Bikash Baruah)

Copy to :-

1. Member (ED & MM), C.G.W.B., NH-IV, Faridabad for information.
2. Director (Admn), C.G.W.B., NH-IV, Faridabad for information.


(Bikash Baruah)

Advocate

REGISTERED/CONFIDENTIAL

No.4-1896/97-Sci.Esp - 112

Government of India

Ministry of Water Resources

Central Ground Water Board

NIIV, Faridabad

DATE: 6/11/2002

OFFICE MEMORANDUM

With reference to his application dated 22.7.2002 and 7.10.2002 for withdrawal of resignation from the post of STA (Hydrogeology), Sh. Bikash Baruah, Ex STA(HG), Central Ground Water Board, NER, Guwahati is informed that his request has not been acceded by the competent authority.

ANIL AGARWAL
(ANIL AGARWAL)
DEPUTY DIRECTOR

To
Sh. Bikash Baruah,
Ex STA (HG),
Central Ground Water Board,
NER, Guwahati.

Attested

Advocate

*Below
Part
to be added*

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C 26/81 C 3

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI

O.A. NO. 398 OF 2002

Shri Bikash Barua

..... Applicant.

-Vs-

Union of India & Ors.

..... Respondents.

-And-

In the matter of:

Written Statement submitted by
the respondents.

The respondents beg to submit
background of the case, before
submitting para-wise written
statements, which may be treated
as part of the written statement.

(BACK GROUND OF THE CASE)

1(A). Shri Bikash Barua, the applicant of this OA was appointed as Sr. Technical Assistant (Hydrogeology) against the reserve ST category post and he joined in Central Ground Water Board i.e. respondent Department, State Unit Office, Itanagar on 8.9.1997. But his cast certificate was not got verified by the respondent office from the issuing authority of cast certificate at the time of his said appointment. In the meantime Sh. Barua appeared in the Geologist Exam, 1998 conducted by UPSC and got selected for the post of Assistant Hydrogeologist (Group-B). His name was nominated by the UPSC for his appointment as Assistant Hydrogeologist in respondent department against reserved ST category post.

In order to complete the pre-appointment formalities for the post of Assistant Hydrogeologist, his cast certificate (Annexure -R-I) was sent to issuing authority i.e. DC, Dimapur, Nagaland, for its verification but in tern, it has been intimated by the DC, Dimapur that the ST caste certificate produced by Shri Bikash Barua was not issued by his office and he has refused to verify the authenticity of his caste certificate (Annexure-R-II).

In view of the contradictory report received from DC, Dimapur, Nagaland respondent department has appointed an enquiry officer to conduct the departmental inquiry in regard to authenticity of caste certificate and enquiry officer was required to

(A. DEB ROY)
Sr. C. C. S. C.
C. A. T., Guwahati Bench

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submit the fact finding report to the respondent. Accordingly enquiry officer has submitted his preliminary enquiry report vide his letter dated 5.9.2001(Annexure-R-III).

On scrutiny of the enquiry report and the conclusion of the enquiry officer it was observed that the caste certificate submitted by Shri Bikash Barua appears to be false and doubtful and also stated that doubt the MAG community is in listed in approved list in Tripura State. But Shri Barua has obtained the certificate from Nagaland (which is not correct in order).

In the meantime Shri Barua again submitted another ST certificate which was duly stamped and signed of SDO, Dharamnagar (North Tripura). The said ST certificate of Shri Barua, the same enquiry officer was again advised to verify the authinticity of ST community caste certificate of Shri Bikash Barua from the SDO, Dharamnagar (North Tripura). On its verification, the said caste certificate submitted by Sh. Barua also proved to be false as intimated by the SDO Dharamnagar vide his letter 18834/36F-III-4 (Vol.1) SDO/DMN/SCW/2001 dated 19.3.2002 (Annexure-R-IV) that ST certificate in respect of Shri Bikash Barua S/O Sh. Subash Ch. Barua of Ravindra Nagar Kanchanpur issued vide No.283 dated 3.4.1981 (Annexure-R-V) as alleged was scrutinized and verified with their records and it is established that Shri Bikash Barua S/O Sh. Subash Ch. Barua is not the person in whose favour the said certificate No.283 dated 18.11.1981 was issued. It is further established that the aforesaid certificate was issued in favour of one Sri Pradip Chakma S/O Pushpa Ch. Chakma. Based on the facts mentioned above, it is established that the caste certificate submitted by Sh. Bikash Barua is a false and claiming himself MOG community has also been found false.

In view of the above, it was proposed by the respondent department that initiate suitable disciplinary action against Sh.Bikash Barua. In the mean time to escape from the disciplinary action and removal from service, Sh.Bikash Barua decided to tender resignation and accordingly he tendered his resignation by giving three months notice on 17.4.2002 (Annexure-R-VI) with the request to accept the same within specific period on the ground that he has to attend the treatment of his mother, who is hospitalized at Digboi, which may require himself to attend for a long period of time. Again he has submitted another letter of resignation on 23rd April, 2002 (Annexure-R-VII) by mentioning that " I hereby tender my resignation from the post of STA (HG) with immediate effect. Kindly release me at the earliest possible".

On the basis of resignation submitted by Sh.Bikash Barua, his resignation was accepted by the Chairman, C.G.W.B. being a competent authority keeping in mind all aspect in accordance with Govt. guidelines and with reference to the merit of the disciplinary case in respect of Sh.Barua in Govt. interest which was conveyed to Sh.Barua vide Board's Office Order No.660 of 2002 issued under Regd. Letter No. 4-4896/97-Sci.Estt.-5436 dated 4.7.2002 (Annexure-R-VIII). Sh.Barua was relieved by the Regional Director, C.G.W.B, Guwahati w.e.f. 9.7.2002 (AN) (Annexure-R-IX).

Further, it is also mentioned here that if a charge-sheet is considered on the basis of the enquiry report against the official as per CVC's guidelines, proceedings have to be completed within a period of 6 months. However, as per Board's experience, it has been

observed that normally it takes as long as two years to complete the disciplinary proceedings. Therefore, it would be cheaper to public exchequer to accept the resignation of Sh.Barua with immediate effect.

Later on Sh.Barua, Ex. STA (Hg) requested the Chairman, C.G.W.b. vide his application dated 18.7.2002 (Annexure-R-X) for withdrawal of resignation to the post of STA(Hg). In view of the above request he was given chance to meet the Chairman, C.G.W.B, New Delhi for considering his request for withdrawal of his resignation from the post of STA (Hg).

Accordingly Sh.Barua met the Chairman, C.G.W.B. on 16.9.2002 at his Chamber, New Delhi. During counseling Sh.Barua could not give satisfactory reply to the queries raised by the Chairman and to facilitate complete counseling Sh.Barua was given another opportunity on 17.9.2002 at 11.00AM. This time Sh.Barua failed to appear before the Chairman on the scheduled date and time. In the light of above, the request dated 22.7.2002 of Sh. Bikash Barua, STA(Hg) reg. withdrawal of his resignation from STA(Hg) was turned down by the Chairman, C.G.W.B. The statutory provisions contained in sub-rules (4) to (6) of Rule 26 of CCS (pension) Rules, 1972 were taken into consideration while taking a decision on the request of Sh. Barua for withdrawal of resignation. Sh.Barua was informed of the decision vide Registered post letter no.4-4896/97-Sci.Estt.-112 dated 6.11.2002 (Annexure-R-XI). He did not make any other representation in this regard later on but filed an OA.No. 398/02 before CAT, Guwahati without any specific reason.

In view of the position explained above the points raised in the OA are not justified and hence denied. The OA is liable to be dismissed at admission stage itself.

PARAWISE COMMENTS :

1. That with regard to the statement made in para 1, of the application the respondent beg to state that being a matter of records need no comment. However, it is submitted that the averments made by the applicant that his application for withdrawal of resignation has been rejected and further the application is directed against the inaction on the part of the respondents authorities in not acting upon the withdrawal of resignation, is wrong and denied as the facts of the case have already been examined for considering his case but not acceded to by the respondent department on the administrative grounds as mentioned in background note.
2. That with regard to the para 2, 3 and 4.1, of the application the respondents beg to offer no comments.
3. That with regard to the statement made in para 4.2, of the application the respondents beg to state that being a matter of records the averments made by the applicant in this

sub para, are not admitted. In this connection the position in detailed already clarified in the background note , which is reiterated here .

4. That with regard to the statement made in para 4.3, of the application the respondents beg to state that being a matter of records, need no comments. However , it is submitted that the applicant of the this OA against the post he was appointed as STA (HG) was reserved for ST category whereas the applicant has submitted false certificate of his ST category at the time of his appointment and in this regard all details already mentioned in the background note are reiterated.
5. That with regard to the statements made in para 4.4, of the application the respondents beg to state that these need no comments. However, it is stated that the applicant was not eligible for his next promotion as Assistant Hydrogeologist in the respondent department due to an enquiry against him was pending in connection with producing false certificates of ST Community by him of his appointment and on the above ground, he had tried to escape from disciplinary action and removal from service , at the time the applicant of this OA has tendered his resignation from the post of STA(Hg)
6. That with regard to the statements made in para 4.5, of the application the respondents beg to state that these need no comments. However, it is submitted that it is a common procedure of the department for all eligible officers of the Board to furnish their option as to whether they would be willing to be appointed to the higher post as per the result of the exam nation or whether they would like to be promoted to the said post after their case is considered by the DPC.
7. That with regard to para 4.6 and 4.7 , of the application the respondents beg to offer no comments.
8. That with regard to the statement made in para 4.8, of the application the respondents beg to state that need no comments. However , it is submitted that the representation of the applicant for withdrawal of his resignation had been examined and considered by the competent authority in accordance with the relevant rules but not acceded to on administrative ground as mentioned in background note of the case mentioned above.
9. That with regard to the statements made in para 4.9, of the application the respondents beg to state that these need no comments. However, it is stated that he had never made any appeal before the authorities for allowing him to resume his duty except a letter dated 7.10.2002 in connection with his representations for withdrawal of his resignation, which was not accepted by the competent authority on the ground that during counseling with the Chairman, the applicant could not given satisfactory reply to the queries as raised by the Chairman and to facilitate complete counseling the applicant was given on another opportunity , but the applicant failed to appear before the Chairman , C.G.W.B. i.e. Respondent No.2 of the OA.
10. That with regard to the statement made in para 4.10, of the application the respondents beg to state that averments made by the applicant in this para are wrong and are denied as the respondents had never assured that the applicant would be allowed to resume his duties soon. The question to allow the applicant for resuming

duties does not arise, as the resignation of the applicant was already accepted by the Competent Authority well before his representation for withdrawal of his resignation.

11. That with regard to the statement made in para 4.11, of the application the respondents beg to state that the averments made by the applicant in this para are not correct, hence denied on the ground as already mentioned in the background note. The request of the applicant for withdrawal of his resignation from the post of STA (Hg) was thoroughly examined but not found fit for acceptance by the competent authority .

12. That with regard to the statement made in para 4.12, of the application the respondents beg to state that the allegation made by the applicant in this para are totally false, baseless and bear no grounds , hence denied. The applicant against which a suitable disciplinary action was going to initiate on account of his false caste certificate as already mentioned in background note, the applicant himself to escape from the disciplinary action and removal from service, has decided to tender his resignation at his own will. The representation for withdrawal of resignation of the applicant has been considered by the respondent authorities but not acceded to on the grounds already mentioned in background note , which was already communicated to the applicant accordingly.

13. That with regard to the statement made in para 4.13, of the application the respondents beg to state that the averments made by the applicant in this para are baseless, false and not maintainable as the resignation of the applicant was accepted by the competent authority of the respondent department and informed the applicant by Registered post vide Office Order No. 660/2002 issued under letter No. 4-4896/97-Sci.Estt.-5436 dated 7.4.2002, which was issued to the applicant prior his request for withdrawal of resignation.

14. That with regard to the statement made in para 4.14, of the application the respondents beg to state that in reply to para 4.14, of this OA , the position as clarified in para 4.13 and background note is reiterated.

15. That with regard to the statement made in paras 4.15-4.20, of the application the respondents beg to state that in view of the position amply clear back ground note and proceeding paras, respondent's department had not done any injustice to the applicant of this O.A as such the applicant does not deserve interim relief as prayed for by him.

16. That with regard to the statement made in para 5.1 & 5.2, of the application the respondents beg to state that in reply to these paras, the applicant of this OA is misleading and misrepresenting to the Hon'ble CAT. The resignation as submitted by the applicant was accepted by the respondent authorities well before the representation for withdrawal of resignation of the applicant was received by the authority, which was already informed to the applicant of this OA.

17. That with regard to the statement made in para 5.3, of the application the respondents beg to state that in reply to this para, it is submitted that the contention of the applicant in this para is wrong and denied. Under the service rule, the resignation of the applicant was accepted as per rules and representation for withdrawal of

resignation was not acceded to by the Respondent Department. Moreover, Respondent Department is not bound to accept his representation for withdrawal of resignation after accepting the resignation of the applicant.

18. That with regard to the statement made in para 5.4, of the application the respondent beg to state that the averments made by the applicant in this para are repetitive in nature, therefore, the position as clarified in preceding above paras and background note is reiterated.
19. That with regard to the statement made in para 5.5, of the application the respondents beg to state that in reply to this para, it is submitted that a claim of applicant is not maintainable on the grounds mentioned in preceding paras and background note.
20. That with regard to the statement made in para 6, of the application the respondents beg to state that in reply to this para, it is submitted that the claim of the applicant of this OA is not maintainable on the ground mentioned in background note and preceding paras. As such this OA to be disallowed and dismissed at the admission stage and also prayed not to grant interim relief to the applicant of this OA.
21. That with regard to para 7, of the application the respondents beg to offer no comments.
22. That with regard to the statement made in para 8.1 to 8.4, of the application the respondents beg to state that this OA. filed by the applicant has no grounds to consider his relieves as sought for, as this OA has been filed on wrong grounds and material facts have been suppressed by the applicant. The OA has no merit and hence not entitled for any relief as claimed in these paras. Accordingly relief as sought by the applicant of this OA deserves to be disallowed/dismissed at the admission stage with costs.
23. That with regard to the statement made in para 9, of the application the respondents beg to state that in reply to this para, it is submitted that in view of the facts as submitted in the preceding paragraphs, the applicant is not entitled to any relief or for that matter to any interim relief. The OA is, therefore, liable to be dismissed with costs in the interest of justice.
It is therefore, respectfully prayed that the Hon'ble Tribunal may kindly be pleased to dismiss this OA in the matter of justice.
24. That with regard to para 10, 11 and 12, of the application the respondents beg to offer no comments.

Verification -----

VERIFICATION

I, Shri _____, presently _____, being duly _____, working as _____, authorized and competent to sign this verification, do hereby solemnly affirm and state that the statement made in para 1 to 24 are true to my knowledge and belief and those made in para 1 (A) 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 on this 26th day of April, 2002.

Declarant.

Ann-R-I

12

SCHEDULED TRIBES CERTIFICATE

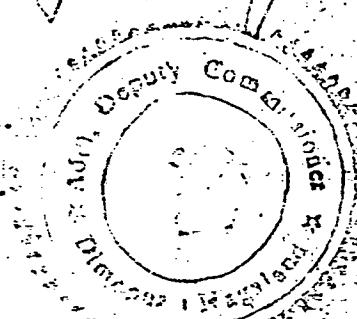
This is to certify that Shri/Shrimati RAJKASIT SABUDE Son /Daughter of
Shri Suklachash Ch. Bania resident of village (Khel) Agantai.....
in the District of Troupa..... Nagaland belongs to the Community which
is recognised as a Scheduled Tribe under the Constitution (Nagaland) Scheduled Tribe
Orders 1970.

Shri/Shrimati Bikash Barua..... is and his/her family permanent
temporarily resides in the Netaji Colony, Dimapur, IC colony
District in the State of Nagaland

Please return

Date 5/3/89

NGP-W. T. No. 486/50,000/21.7.74.



Signature

Designatio

11/11/61
11/11/61

Dr. R. K. S.
Grenville
Central, and West, B.C.
West of Ind.

GOVERNMENT OF NAGALAND
OFFICE OF THE DEPUTY COMMISSIONER DIMAPUR DISTRICT
HEADQUARTERS: CHUMUKEDIMA: CAMP: DIMAPUR: NAGALAND.

NO. EST. 25/89-D/ 704
Dt. Dimapur the 25th April 2000.

To,

The Administrative Officer,
Ministry of Water Board,
NH- IV, Faridabad-121001.

Sub:- VERIFICATION OF CASTE CERTIFICATE.

Sir,

In inviting a reference to your letter NO.14-61/99
Sci(Estt)-33 dated 7/3/2000 on the subject cited above, I
am directed to inform you that as per the constitution (ST)
order 1950 BARUAH is not listed in Tripura state. Further
this S.T. certificate was issued from Judicial Department
not by Addl. D.C. Administration with the wrong seal put
by the concerned Officer. This is for your information.

Yours faithfully,

25/4/2000
(Y. NYANGPONG KONYAK)
Extra Assistant Commissioner (ESTT)
Office of the Deputy Commissioner
Dimapur : Nagaland.

CONFIDENTIAL / Regel.

No. 220 BB/CC/RD/CGWB/NER/2000

Government of India

Central Ground Water Board

North Eastern Region

Tarun Nagar, Bye Lane No.1

Guwahati - 781 005.

September 05, 2001

To
The Director (Admn)
Central Ground Water Board
NH-IV, Faridabad-121001

Sub: Departmental enquiry to ascertain the authenticity of Caste Certificate (ST)

Produced by Shri Bikash Baruah, STA(HG), CGWB, NER, Guwahati-5.

Ref: Confidential No.4-4896/97-Sci. Estt-422 dated 03.08.2001 (CHQ letter)

Sir,

As per the reference Shri K.Keerthiselan, Suptd. Hydrogeologist & H.O.O. have been asked to conduct preliminary enquiry personally and consult office of the Deputy Commissioner, Dimapur for the facts of relevancy of the issue of Caste Certificate (ST). The scope extends to find out that the father of Shri B. Baruah belong to North Tripura and Shri Bikash Baruah belong to Tinsukia, Assam, but the Caste Certificate has been obtained from Nagaland. The above cited point has to be investigated and the facts have to be derived from the preliminary enquiry.

Based on the scope and the facts to be determined that the candidate Shri B. Baruah was enquired with the following questionnaire and the replies given by Shri Baruah is enclosed.

In continuation of the above Shri Amardeep Singh Bhatia, D.C., Dimapur, Nagaland and Shri K.Chophi, ADC(J), Dimapur also have been enquired through the following questionnaire on 24.08.2001. The replies submitted by the above officers also have been enclosed.

A letter has been issued to the Commissioner, Scheduled Caste & Scheduled Tribe under the Ministry of Human Resources, Govt. of India, Guwahati to expedite the SC & ST lists that has been recognised by Govt. of India in North Eastern Region. Accordingly the Commissioner has given the SC & ST lists. The same is enclosed.

Observations and facts derived from the answers given by Shri Bikash Baruah, Shri A.S.Bhatia,D.C., Dimapur, Nagaland, Shri K.Chophi,ADC(J),Dimapur, Nagaland and Commissioner of SC & ST, Guwahati is as follows.

A. Points drawn from the answers given by Shri B. Baruah, STA(HG)

Shri B. Baruah joined as STA(HG) in CGWB during 1997. While joining in CGWB he has been selected as STA(HG) under the quota of ST. During entering in the service of CGWB

*Re. S. 59/01
enquiry*

1/6

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There was no verification of his caste certificate which has been produced during 1997. He to official as answered that he has not availed any of the facilities that has been earmarked for ST during school studies, and post graduate studies. For a enquiry how you have not availed this facilities during studies. he has replied that his father is financially sound to educate him without the assistance of government scholarship. He informed that he is a native of Tinsukia of Assam State from 1976 till date. Further he was not aware of that his caste Baruah (Mag) is not recognised in Assam State. However, this caste Mag is not recognised as a recognised tribe in Assam State.

While enquiring Shri Baruah whether school certificate has been entered his caste at the entrance of lower primary school or not. For this enquiry Shri Baruah replied that there is no entry in the school certificate any where. It was brought out from the enquiry that his father who is a Tax Assistant in the department of Income Tax, Govt. of India, was posted to Dimapur from 1988 to 1992. During that time he and his family ordinarily settled at Netaji Colony, Dimapur and during that period he has applied for the Caste Certificate when he has approached the D.C. Dimapur to issue him a caste certificate, at that time the present D.C. office Dimapur was a Sub-Collector office and the ADC(J) was holding an office at Dimapur and he has issued a certificate. Later on Shri Barua joined in CGWB during 1997 using this certificate.

While applying for the UPSC, Geologist examination in 1998 he has been selected for the Group-B(Gazetted) Asstt: Hydrogeologist post. At that time also Shri Barua has produced the certificate issued from Dimapur, Nagaland. The UPSC who is conducting examination has verified his certificate and asked him to produced the certificate in the prescribed form. Accordingly Shri Barua again approached the same office for issuance of certificate in the prescribed form. The D.C. office has produced the certificate in the prescribed form but without serial number, date, signature of ADC(J) and seal of ADC(A). For a question it was asked that Baruah is a tribe or something else. For this it is informed that Baruah is not a tribe. Mag community is a tribe to which Shri Barua belongs. It was enquired from Shri Baruah that what is his religion. He said that he is Buddhist. For that he has informed that since his birth he is Buddhist and his family also a Buddhist. For another enquiry whether ST facilities have been availed by his brother Shri Ashish Baruah and he is an employed in Bank. On a query whether his father also availed the facilities of ST while joining in service of Govt. of India. For this Shri Baruah replied his father has not availed this facilities while joining service. Further enquiry revealed that his father and his ancestors are originally from Chittagong city of undivided India before independence. After independence these people have been migrated to Agartala (Assam State). After division of Assam into several States the Agartala city comes under Tripura State. Later on these people migrated to Dimapur, Nagaland and at present in Tinsukia, Assam. However, the father who hails from Tripura he has informed that he is a Mag community. However, so far he has not availed or used the tag of ST anywhere to get the facilities that given to ST.

Drawing conclusion from the above said information that Shri Barua either he has recorded his caste while entering in the school or claimed any of this facilities before completing his post graduate. Further his family member also hadn't claimed any of these facilities at any level of their education. Hence one can draw conclusion that after completion of education, while applying for a post in Govt. Organisation they have produced the caste certificate. This seems to be very dogmatic to understand why they have not claimed their right if they belong to that community while studying? Again the instance

Enquiry Officer (2/6)

55/33
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of not entering education certificate is not clear to the Enquiry Officer. The answers given by the official also not convincing to the Enquiry officer.

While enquiring about the caste certificate issued by the D.C., Dimapur it was told that he has not submitted any document to the D.C. for verification of his caste etc. but he was issued a caste certificate. At the same date i.e. 03/03/89 his brother Ashish Baruah also have been issued a similar certificate from the same authority which does not bear the serial number of the certificate etc.

The issuance of this certificate under question not still cleared, in the minds of Enquiry Officer that without documents produced to D.C., the Certificate will not be issued normally in any of the D.C. office. For the purposes the Enquiry Officer collected 23 tribal Caste Certificate issued by the District Authority for joining in Govt. services from the records of CGWB office. There it was told the Caste Certificate will be collected from the village authority and same will be produced to the Tribal Association of that State. then, Tribal Association will verify the tribe and issue a Certificate in favour of the concerned. That Certificate will be countersigned by the D.C. for confirmation(Copy is enclosed). Such procedure are not followed while issuing this certificate. However, to confirm whether Shri Baruah belongs to tribe community or not, he was asked to verify that he belongs to Mag tribe community. He informed that by birth he belongs to Mag tribal community and followed the Buddhist religion.

B. Facts derived from the questionnaire raised to D.C., Dimapur, Nagaland and replied received from D.C., Dimapur

For a question whether Shri Baruah belongs to Nagaland State or he and his family ordinarily leaves in the State of Nagaland or not. The D.C., Dimapur informed that no verification has been made in the matter and he further informed he does not seems to be a resident of Dimapur.

The procedure followed for the issuance of Caste Certificate, candidate has to produce the documents like proof of the caste issued from the native village school certificate and his parents certificate. Whether Shri Baruah has produced these certificates for issuance of the Caste Certificate for which the D.C. answered the Certificate in question is not issued from his office. For a question whether the D.C. is empowered to issue a Caste Certificate other than Nagaland State. For the above question D.C. answered only on production of sufficient verification proof from the concerned State a certificate can be issued. On asking the D.C. who verified the copy of the certificate is issued from his office or not, for which he has confirmly replied that this certificate is not issued from his office. Regarding the letter issued from his establishment No 25/89-4/49 dated 03/04/01 whether the certificate is genuine or not for which he has replied the copy produced is not clear. The certificate if genuine and have been issued by Shri Kulachandra, ADC(J) which is a separate office. For a question will they take the responsibility of issuance of this certificate from the D.C. or not for which they have told that they do not take any responsibility because it is not issued from his office.

Enquiry Officer
(3)

(C) Replies received from Shri K.Chophi, ADC(J), Dimapur, Nagaland State.

For a question whether Shri Baruah and his family ordinarily leaves in Netaji Colony or not ? For that Shri K.Chophi replied - No. He has enquired in Netaji Colony there are two three family of by surname Baruah are living. But no body knows about Bikash Baruah and his father. For a question what are the procedures followed for issuance of a Caste Certificate ? It is informed that Caste Certificate from the village has to be produced. Shri Baruah has not produced any documents while requesting for issuance of Caste Certificate. However, he informed that one petition writer prepared the Caste Certificate and obtained the signature of Shri Late Gula Chandra, ADC(J), Dimapur and affixed the seal of ADC(A), Dimapur. Mr. Chophi further informed that his jurisdiction for issuance of a Caste Certificate does not come. Generally the ADC(A) will issue the SC & ST certificate. Therefore, he informed that this certificate has not been issued from his establishment.

Conclusion and recommendation :

Based on the preliminary enquiries conducted on Shri Bikash Baruah STA(HG) Shri S.Bhatia, D.C..Dimapur, Nagaland and Shri K.Chophi, ADC(J), Dimpur, Nagaland the following conclusion have been drawn :

Shri Bikash Baruah has not entered his caste during the Lower Primary school studies.

His identification as scheduled tribe is not possible to determine from the records of his studies.

Shri B.Baruah has not claimed the facilities extended for ST during his entire carrier of study from very first standard to post graduate.

Shri Baruah claimed that he was a resident of Dimapur from 1988 to 1992 but while enquiry from the D.C., Nagaland it was told that he and his family is not known to any of the Baruah community which are living at Netaji Colony, Dimapur.

Baruah has received a scheduled tribe certificate from D.C. office during 03.03.89. His brother also got the certificate on the same date.

Shri Baruah is not aware of his caste till 1989 hence, we can conclude that Shri Baruah is not utilising the facilities extended by Govt. of India for ST. This leads to that the official has not yet a tribe till he complete his studies.

Only after completion of post graduate Shri Baruah attempts to claim that he belongs to ST community.

The Certificate under investigation has been produced to the D.C., Diampur for its verification. While verifying the certificate the D.C. has opined that this certificate seems to not issued from his office.

Enquiry
3/9/05
4/6

9. On further enquiry he has consistently told that ST certificate of Shri Baruah is not issued from this office.

10. The D.C. further told the procedure followed for the issue of ST certificate in Nagaland is by producing caste certificate from the native village, school certificate where the caste is entered and the parent certificate. In case of Shri Baruah no procedure has been followed and no verification was made. Hence it is concluded, this certificate was not issued from this office but might have concocted by the candidate itself.

11. D.C. office will not take any responsibility for the issue of this certificate. As such the certificate was signed by ADC(J) and the seal of ADC(A) has been affixed. Further it is confirmed from the duties of ADC(J & A) that the issuance of certificate will not be under the jurisdiction of ADC(J). It is only the ADC(A) has to issue all the certificates by following the laid down procedure in the D.C. office for issuance of caste certificate.

12. The ADC(J) has revealed that while conducting the verification of Shri Baruah in Netaji Colony, the Barua families dwelling in Netaji Colony could not able to recognise the names of Shri Subash Ch. Baruah and Bikash Baruah are not at all known to them and the Baruah families living at Netaji Colony has strongly denied that such families have not resided at Netaji Colony itself. However, the ADC(J) given in writing that this certificate would have been prepared by a Writer and signed by ADC(J) and affixed the seal of ADC(A) which is mostly a concocted certificate than issue by D.C. office.

13. ADC(J) very clearly denied that this certificate has not issued from the office of ADC(J) and he informed that he will not take any responsibility for issuance of this certificate.

Recommendation :

1. It is very clear from the above cited conclusion that Shri Baruah neither he was aware nor he has utilised facilities extended for Baruah(Mag) community that has been extended by Govt. of India till 1989. Since the school certificate does not carry any entry of his caste. Hence it is difficult to conclude that Shri Baruah belongs to ST community.
2. Shri Baruah has claimed his tribe community right from 1997 while applying for STA post in CGWB. Since, at the time of entering into service the certificate was not verified by the authority. He has applied for Geologist examination conducted in 1998 by producing the same certificate. The recent certificate issued in the prescribed format carries no number and date of issue of the certificate. This looks to be very funny that the latest certificate also has been signed by unconnected people and seal of ADC(A). Hence the candidate is under question mark to conclude him as a ST. The reasons given by Shri Baruah to take a certificate from Dimapur is not substantiated by producing the relevant documents other than his father posted in Income Tax Department during 1988 to 1992. Further, Shri Baruah has claimed that his forefather still live in Netaji Colony which was proved futile by the report of ADC(J).
3. From the point of claiming the nativity at Netaji Colony, Dimapur is disproved.

3/1/1901
Enquiry Office

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4. While considering the issuance of certificate and verification of the certificate produced by Shri B. Baruah both D.C. and ADC(J) has summarily rejected that this certificate is not issued from their respective offices.

5. In view of Enquiry Officer the certificate produced by Shri B. Baruah is not issued from the D.C. office of Dimapur, Nagaland. The nativity also have been disproved by the D.C. authorities.

6. However, on the basis of the migrations of the family of Shri Baruah has under gone it is presumed that Shri Baruah (Mag) community hailed from Chitagong of East Pakistan have moved to Agartala. At that time the community Mag settled in Agartala under Assam State. At present the city falls in Tripura State. As per the recognised tribal community list in North Eastern Region the Mag community occurs only in Tripura State. If the candidate has to prove his community he has to produce a certificate only from Tripura State, then alone his certificate can be evaluated. Under the circumstances if there is a possibility under the constitution, he may be given another opportunity to produce a scheduled tribe certificate from Tripura.

Yours faithfully


(K. Keerthiseelan)

Suptd. Hydrogeologist & H.O.O.

Enclo: As per list of
annexures

6/6

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80/28/02
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19
GOVERNMENT OF TRIPURA
OFFICE OF THE SUB-DIVISIONAL OFFICER
DHARMANAGAR, NORTH TRIPURA
No. 18834-36 F.XIII-4(VOL-1)/SDO/DMN/SCW/2001, DATED 19/3/2002

To:
The Subdtl. of Hydrogeologist.
Central Ground Water Board, State Unit Office
Dhaleswar Rd. -11, Agartala-799007.

Subject:- Verification of Scheduled Tribe Certificate.
Ref. No. 4-4896-97-Sci. ESTT. 1480 dated 19-02-2002

Sir,
In reference to the above, I would like to inform you that Sch.Tribe Certificate in respect of Sri Bikash Barua S/o Subash Ch. Barua of Rabindra nagar, Kanchanpur issued vide No.283 dated 3-4-1981 as alleged has been scrutinised and verified with our records and it is established that Sri Bikash Barua S/o Subash Ch. Barua is not the person in whose favour the said certificate (No.283 dated 18.11.1981) was issued. It is further established that the aforesaid certificate was issued in favour of Sri Pradip Chakma S/o Puspa Ch. Chakma.

yours faithfully

✓
L.A. B.
SUB-DIVISIONAL OFFICER
DHARMANAGAR

Copy to:
1. The Director (ADMN), Govt. of India.
Ministry of Water Resources, Central Ground Water Board.
NHIV, Faridabad.
2. Sri T. Chakraborty, Sc.B, Central Ground Water Board, State unit Office
Dhaleswar Rd. -11, Agartala-799007 for information.

SUB-DIVISIONAL OFFICER
DHARMANAGAR

Government of Tripura
Office of the Sub-Divisional Officer
Dharmapagar : North Tripura.

283/17(1)/SDO/DMN/GL/81

Dated...13...4...1981

FORM OF CASTE CERTIFICATE

This is to certify that Shri/Smti/Kumari Subhasi son/Daughter/Wife of Sri/Late Subasri Bareu of son/Daughter/Wife of Sri/Late Subasri Ch. Bareu of Village/Town Bobindra Nagar, Kamchampur sub-division Dharmanagar, North Tripura District of the State of Tripura belongs to Maj. Commission which is recognised as Scheduled Caste/Scheduled Tribe.

under :—
the Constitution (Scheduled Caste) Order, 1980.

The Constitution (Scheduled Caste Order, 1950) and the Constitution (Scheduled Tribes Order, 1950).

The Constitution { Scheduled Tribe } Order. The Constitution { Scheduled Caste } { Union Territories } Order. The Constitution { Other Backward Classes } { Union Territories } Order.

The Constitution (Scheduled Tribes), (Union Territories) Order.

* As amended by the Scheduled Caste and Scheduled Tribes List (Modification) Order, 1956 the Bonibay Re-Organisation Act, 1960, the Punjab Re-Organisation Act, 1966, The State Himachal Pradesh Act, 1970, The North Eastern Areas Re-Organisation Act, 1971 and the Scheduled Caste and Scheduled Tribes (amendment) Act, 1978.

Shri/ Shri/..... Bikash Baruah.....
and/or his/her family ordinarily resides in village/Town Rabindra
Nagar, Karatimpur..... North Tripura District, Sub-Division
Mamnagar of the State of Tripura.

Since- Shavmanagar

Date - 3/01/81

Cgl Sub-Divisional Officer
Dharmnagar.

Please delete the works which are not applicable.

Note* the term ordinarily used here will have the same meaning in section 20 of the Representation of the People Act, 1949.

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To,
The Director (admin)
Central Ground Water Board
NH-IV, Faridabad
Haryana.

Dated : 17th April 2002.

(Through Proper Channel)

Sub:- Resignation.

Sir,

I am submitting herewith notice of my resignation for 3 months i.e. w.e.f 17.07.2002 from the post of S.T.A.(HG) Central Ground Water Board , North Eastern Region,Guwahati.. You are requested kindly to accept my resignation within the period specified above , as I have to attend the treatment of my mother who is hospitalised at Digboi which may required myself to attended for a long period of time . This is for your kind perusal and necessary action.

Yours' faithfully

Bikash Baruah
(Bikash Baruah)
Senior Technical Assistant
(Hydrogeology)
C.G.W.B,N.E.R.
Guwahati

FAX 011-3386743

No. 23/15-66/CGWB/NER/Estt/97

Government of India
 Central Ground Water Board
 North Eastern Region
 Tarun Nagar
 Guwahati-781005

April 23, 2002

To
 The Chairman
 Central Ground Water Board
 NH-IV, Faridabad

Sub : Letter of resignation submitted by Shri Bikash Barua, STA(HG) - reg.

Sir,

I am forwarding herewith letter of resignation submitted by Shri Bikash Barua, STA (HG) of this office for your kind perusal.

Acceptance of his resignation may kindly be conveyed to this office at an early date.

Yours faithfully

A. R. Bakshi
 (A. R. Bakshi)
 Regional Director

Enclo : as above

1. Director (Admn), CGWB, NH-IV, Faridabad with a copy of resignation submitted by Shri Bikash Barua, STA(HG).

A. R. Bakshi
 (A. R. Bakshi)
 Regional Director

715
 25/2

30/4/02
 16/1

28/4/02
 Sent

12
 28/4/02
 Sent
 07/05

(95)

To,

✓ The Chairman,
Central Ground Water Board
N.H.-IV, Faridabad
Haryana.

Dated : 23rd April 2002.

(Through proper Channel)

Sub : Resignation,

Sir,

I hereby tender my resignation from the post of STA(HG) with immediate effect.
Kindly release me at the earliest possible.

Yours' faithfully

Baruah 23/4/02
(BIKASH BARUAH)
Senior Technical Assistant
(Hydrogeology)
Central Ground Water Board.
North Eastern Region
Guwahati.

Copy to:-

1. Director (Administration), Central Ground Water Board, N.H.-IV
Faridabad, Haryana.

S
(BIKASH BARUAH)

REGISTERED

No.4-4896/97-Sci.Estt - 5436
Government of India
Ministry of Water Resources
Central Ground Water Board
NH IV, Faridabad

1051

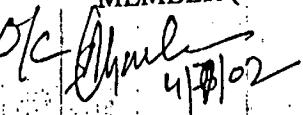
DATED

24 JUL 2002

OFFICE ORDER NO.660 OF 2002

The resignation dated 23rd April, 2002 tendered by Sh. Bikash Barua, STA(hydrogeology), CGWB, NER, Guwahati is hereby accepted with immediate effect.


(S. S. CHAUHAN)
MEMBER (ED & MM)


O/C 4/7/02

DISTRIBUTION

1. Sh. Bikash Barua, STA(HG), CGWB, NER, Guwahati with reference to his letter dated 23.4.2002.
2. The Regional Director, Central Ground Water Board, NER, Guwahati with reference to his letter No.2137/5-66/CGWB/NER/Estt/97 dated 23.4.2002. It is requested that all the government dues outstanding against the name of Sh. Bikash Barua, STA(HG) may be recovered from him immediately.
3. The Director(GW), Ministry of Water Resources, Shram Shakti Bhawan, New Delhi.
4. The Pay and Accounts Officer, Central Ground Water Board, NH IV, Faridabad.
5. The Administrative Officer (Vig.), Central Ground Water Board, NH IV, Faridabad.
6. PS to Chairman, CGWB, New Delhi.
7. Office Order File.
8. CR folder

131 Adm. IX 40
NO. 3605 /8-66/CGWB/NER/ESTT/97

GOVERNMENT OF INDIA
Central Ground Water Board
North Eastern Region
G.S. ROAD, TARUN NAGAR
DIME LAKE 781 005
GUWAHATI - 781 005

Dated : 21/7/02

OFFICE ORDER NO. 475 OF 2002

Shri Bikash Baruah, STA(Hydrogeology) stands released from this office w.e.f 09.07.2002(AM) consequent upon his resignation in pursuance of CGWB, CHQ, Faridabad's O.O No. 660 of 2002 issued under letter No. A-4896/97-Sci. RPTC-5436 dated 04.07.2002.

B. C. Kalita
(B.C. KALITA)
JR. HYDROGEOLOGIST (SCIENTIST 'B')
for REGIONAL DIRECTOR

DISTRIBUTION :

1. Shri Bikash Baruah, STA(Hydrogeology), CGWB, NER, Guwahati.
2. Member (ED & MM), CGWB, CHQ, NH. IV, Faridabad, Haryana.
3. Director (Admn.), CGWB, CHQ, NH. IV, Faridabad, Haryana.
4. Pay & Accounts Officer, CGWB, NH. IV, Faridabad, Haryana.
5. Accounts section, CGWB, NER, Guwahati (2 copies)
6. Office Order file.

S. S. Chakraborty
S. S. Chakraborty

The Chairman,
Central Ground Water Board,
Faridabad.

Advance Copy

18th July 2002

Annexure - 2 - X

(Through proper channel)

Sub: Request for withdrawal of my resignation from the post of STA (HG).
Ref: My letter of resignation dated 17/4/02 and 23/4/02.

Sir,

I have joined as an STA (HG) on 18/2/97 in CGWB, SUO, Itanagar. I was transferred to NER, Guwahati on 17/8/2000. During the year 1999 my probation was cleared and declared permanent in 2000. During the service I have done my duties with utmost care and responsibilities to the satisfaction of my superiors.

By the end of 2001 I got into some family problems and was mentally a little bit depressed. My old parents, both depending upon me were seriously ill and my wife also was under medical care continuously after my marriage in 2000.

During November 2001 I was on E.L. for 11 days to attend my family problems. While I was under tension with family disturbance I was deputed to ILTC training at Bangalore w.e.f. 9/12/01 to 25/3/02. My continued absence from hometown has resulted in aggravation of family problem. On return from ILTC training I have submitted an application for E.L. w.e.f. 16/4/2002 which was rejected due to exigency of work. Subsequently though I had requested for leave w.e.f. 2.7.02 I was sanctioned leave w.e.f. 8.7.02 for 26 days.

During the above period I was mentally very much disturbed and in a moment of despair. I have submitted a letter of resignation of 17.4.02 and another on 23/4/02. Now I have regained my health after treatment and came to know with shock that I have resigned and my resignation is being accepted.

In this context, I am to submit that I belong to a very poor family and is an S.T. candidate. I am aged 32 years and hence there is no scope of getting any fresh employment.

Considering the above, I request your kindself to treat this application as letter of withdrawal of resignation from the post of STA (HG) dt: 17/4/2002 and 23/4/2002 and I may kindly be permitted to report for duty on 5/8/2002 on expiry of leave.

I remain with prayers for acceptance of this withdrawal of resignation from the post of STA (HG).

Thanking you,

Yours faithfully,

(Bikash Baruah)
STA (HG), CGWB, NER,
Guwahati.

18/7/02
2002

REGISTERED OFFICE MEMORANDUM

DATED

OFFICE MEMORANDUM

With reference to his application dated 22/2/2002 and 7/10/2002 for withdrawal of resignation from the post of STA (Hydrogeology), Sh. Bikash Baruah, Ex STA (HG), Central Ground Water Board, NER, Guwahati is informed that his request has not been acceded by the competent authority.

(A.K. AGGARWAL)
DEPUTY DIRECTOR

To

Sh. Bikash Baruah
Ex STA (HG),
Central Ground Water Board,
NER, Guwahati.

NOO

1. The Regional Director, Central Ground Water Board, North Eastern Region, Guwahati, with reference to his letter No.424/BB/CC/RD/CGWB/NER/2000 dated 7/6/2001, H. is requested to kindly deliver the enclosed Office Memorandum and obtain a receipt in token of having received the OM and send it to CHO for record.
2. PS to Chairman, CGWB, New Delhi

(A.K. AGGARWAL)
DEPUTY DIRECTOR

भारत सरकार
Central Administrative Tribunal
22/12/2003
गुवाहाटी नगरपालिका
Guwahati Bench

Filed by
the applicant through
Advocate
Bikash Baruah

22/12/2003

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 398/2002

Bikash Baruah

-VS-

Union of India & Ors.

IN THE MATTER OF

Rejoinder to the Written Statement
filed in the above noted OA.

1. That the applicant has received the copy of the written statement and has gone through the same. Save and except the statements which are not admitted hereinbelow other statements are categorically denied and the respondents are put to the strictest proof thereof. The statements which are not born out of records are also denied and the respondents are put to the strictest proof thereof.

2. That with regard to the statement made in para 1(A) Back Ground of the case. While denying the contentions made therein the applicant begs to reiterate and reaffirm the statements made in the OA. It is stated that the respondents have accepted the request for resignation not in public interest but to cut short the process of removing him from service. The acceptance in question is a conditional

one as a short cut to a proposed departmental proceeding and such same is not at all maintainable and liable to be set aside and quashed.

3. That with regard to the statement made in para 1 of the written statement while denying the contentious made therein begs to state that the application made by him is a conditional one and there was a mention regarding ailment of his mother and as such the concerned authority ought to have taken into consideration that aspect of the matter while rejecting the case of the applicant. Admittedly, the purported action has been adopted as a short cut to dispense with the service of the applicant without there being any administrative exigency or public interest.

4. That with regard to the statement made in para 2,3 and 4 of the Written Statement the applicant denies the correctness of the same and begs to state that his appointment as STA (Hg) has been made following the due process of selection and after verification of all the relevant document.

5. That with regard to the statement made in para 5 of the written statement the applicant while denying the contentions made therein begs to state that since no chargesheet was issued nor any intimation was made regarding initiation of any disciplinary proceeding, question of escaping from such proceeding does not arise. As it would be evident from the letter dated 17.4.2002 (Annexure-3 to the OA), the designation tendered by the applicant was, in fact a conditional one.

6. That with regard to the statement made in para 6 and 7 of the written statement the applicant begs to state that after making all the required formalities and proper verification of the records applicant was allowed to appear before the DPC.

7. That with regard to the statement made in para 8 of the written statement the applicant while reiterating reaffirmed the statement made above begs to state the representation submitted by him for withdrawal of resignation was considered on the premise that in the event of drawal of departmental proceeding department may lose the case. Such improper consideration as admitted by the respondents can not be stated to be legal and as such same requires to be set aside and quash.

8. That with regard to the statement made in para 9 of the written statement the applicant while denying the contentions made therein begs to state that the request made through his appeals dated 22.7.2002 and 7.10.2002 were not considered by the authority taking into consideration the rules guiding the field as well as the circumstances under which the conditional resignation was tendered by the applicant. The personal hearing allowed to the applicant was in fact an one sided one same could not have been made final without affording the applicant the opportunity of hearing. The respondents all along took his case to be a case of framed without making proper verification of the factual matrix of the case and the case of the applicant was rejected treating it to be a short cut of a departmental proceeding which has got no legal sanctity as such same is

liable to be set aside and quash.

9. That with regard to the statement made in para 10 of the written statement the applicant while reiterating and reaffirming the statement made above as well as in the OA begs to state that acceptance of resignation was never been communicated to the applicant and through this rejoinder the applicant in continuation to his prayer made in the OA also prays for setting aside and quashing of the orders dated 23.4.2002 and 4.7.2002 with all consequential benefits.

10. That with regard to the Statement made in para 11, 12 of the written statement while denying the contentious made therein the applicant begs to state that the respondents never intimated the applicant regarding drawal of any disciplinary action as he was not served with any chargesheet nor there was any such contemplation and/or proceeding under Rule 10 of CCS(CCA) Rules 1965 placing the applicant undue suspension contemplating departmental proceeding. Admittedly, the representation considered by the Respondents has not indicate any application of mind as no reason was resigned as contemplated under the rules guiding the field.

11. That with regard to the statement made in para 13 of the written statement the applicant while reiterating and reaffirming the statement made above begs to state as the order of acceptance of resignation was not communicated to the applicant prior to submission of his withdrawal of resignation it can not be presumed to be and acceptance prior to submission of withdrawal of resignation.

12. That with regard to the statement made in 14, 15, 16, 17 to 24 of the written statement the applicant while denying the contentious made above as well as OA begs to state that the contentious raised by the respondents is not correct and not legally sustainable.

13. That the applicant begs to state that the enquiry conducted by the respondents is not proper enquiry and the enquiry officer drawn his conclusion regarding the genuineness of the caste certificate of the applicant without any jurisdiction. Sri K. Keerthiseelan, Supdt. Hydrologist and HOO is not a competent authority to decide the genuineness of the certificate while issuing authority that is ADC(A), Dimapur did not make any comment of it's genuineness. In the recommendation part the said authority took into consideration the genuineness of the certificate on the premise that during his school years he did not avail the benefit. Under any circumstances the authority who conducted the enquiry could not have exercised his jurisdiction over a matter of civil dispute. Apart from that although a departmental enquiry was made the report of such enquiry dated 5.9.2001 was never communicated to the applicant enabling him to prefer representation against the said report and as such any finding and/or comments taken into consideration by the respondents in passing the impugned orders are per se illegal and same requires judicial intervention of the Hon'ble Tribunal by setting aside those impugned order allowing the applicant to resume duty with full back wages and all consequential service benefits.

VERIFICATION

I Shri Bikash Baruah, aged about 32 years, son of Sri Subash Ch. Baruah, resident of Nag Colony, Maligaon, Guwahati, do hereby solemnly affirm and verify that I am the applicant in this instant application and conversant with the facts and circumstances of the case, the statements made in paragraphs 1 to 13 are true to my knowledge ; those made in paragraphs are true to my information derived from records and the rests are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this the 22nd day of .. December .., 2003.

Bikash Baruah