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**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 409/02

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SECTION OFFICER (Judl.)

4/2/07

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI

Original Application No : 409/02  
Misc. Petition No. \_\_\_\_\_  
Contempt Petition No. \_\_\_\_\_  
Review Application No. \_\_\_\_\_

- VS. -

Advocate for the Applicant(s): B.K. Sharma, S.S. Sharma, S.K. Das  
Advocate for the Respondent(s): Cafu Mr. J. Das

Advocate for the Respondent(s): Capt. Min U. Daw

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form but not in time. <del>Mediation Petition</del> is filed / not filed C F for Rs. 50/- deposited vide IPO/BD No 7666958 Dated 13.12.02</p> <p><i>21/1/03</i>  <i>Dr. Registrar</i></p> <p><i>steps taken</i></p> <p><i>NS</i>  <i>3/01/03</i></p> <p><i>lets 8 Encls taken. Notice served and sent to Dls for the Respondent No 4 by Regd. AD.</i>  <i>28/1</i></p> <p><i>No 17071 dated 21/1/03</i></p> <p>No written statement has been filed.</p> <p><i>21/3/03</i></p>	<p>24.1.2003</p> <p>mb</p> <p>21.2.2003</p> <p>mb</p>	<p>Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.</p> <p>The Hon'ble Mr. S.K. Hajra Administrative Member.</p> <p>Heard Mr. S.Sarma, learned counsel for the applicant.</p> <p>Issue notice to show cause as to why the application shall not be admitted.</p> <p>List on 21.2.2003 for admission.</p> <p><i>Sun</i>  Member</p> <p><i>[Signature]</i>  Vice-Chairman</p> <p>List on 24.3.2003 to enable the respondents to file written statement if any.</p> <p><i>S. R.</i>  Member</p> <p><i>[Signature]</i>  Vice-Chairman</p>

24.3.2003

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 Mr. B. C. Pathak, learned Addl C.G.S.C.

Written statement has been filed. The application is admitted. Put up the matter for hearing on 1.5.2003. The applicant may file rejoinder, if any, within two weeks from today.

25-3-03  
Reply affidavit  
on behalf of respondent  
Nos. 1, 2, 3 & 4. has  
been submitted.

  
Member

  
Vice-Chairman

bb

1.5.2003

Office to show the name of Mr. B.K. Sharma, learned Sr. counsel assisted by Sri S. Sarma, Sri S.K. Das and Miss U. Das as counsel for the applicant instead of Mr. S. Ali, Sr. counsel. Put up the matter again on 20.5.2003 for hearing before the Single Bench.

  
Vice-Chairman

mb

23.5.2003


On the prayer of Mr. S. Sarma, learned counsel for the respondents the case is adjourned. Put up again on 5.6.2003 for hearing.

  
Vice-Chairman

mb

5.6.2003

The case is adjourned and listed again for hearing on 24.6.2003.

  
Vice-Chairman

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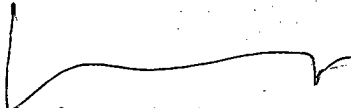
Notes of the Registry	Date	Orders of the Tribunal
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24.6.2003

On the prayer of Mr. B.C. Pathak, learned Addl. C.G.S.C. for the respondents the case is adjourned.

Put up again on 25.7.2003 for hearing.

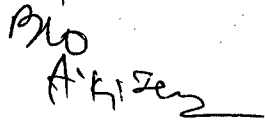
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Vice-Chairman

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25-7-2003

Heard Mr. S. Sarma, learned Counsel for the appellant & Mr. B.C. Pathak, Addl. C.G.S.C. for the respondents.  
Hearing Concluded.  
Judgment reserved.

  
P. K. A. K. S. S.

1.8.2003

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

Judgment delivered in open Court, kept in separate sheets. The application is dismissed in terms of the order. No order as to costs.

  
Member

mb

18.8.2003

Copy of the Judgt has been sent to the office for receipt. The same to the applicant as well as to the Addl. C.G.S.C. for the Respondent.

HS

Recd copy

Recharat  
22/8/03

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Notes of the Registry

Date

Orders of the Tribunal

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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH ::: GUWAHATI-5.

O.A. No. 409 ..... of 2002

DATE OF DECISION ...1.8.2003,....

Sri Nagen Choudhury ..... PETITIONER (S)

Mr. B.K. Sharma, Mr. S. Sarma Miss U.Das ..... ADVOCATE FOR THE  
PETITIONER (S)

- VERSUS -

Union of India & Ors. .... RESPONDENT (S)

Mr. B.C. Pathak, Addl. C.G.S.C. .... ADVOCATE FOR THE  
RESPONDENTS.

THE HON'BLE MR. N.D. DAYAL, ADMINISTRATIVE MEMBER.

THE HON'BLE

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

Judgment delivered by Hon'ble Administrative Member.

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Original Application No. 409/2002.

Date of Order : This the 1st day of August 2003.

THE HON'BLE MR. N.D. DAYAL, ADMINISTRATIVE MEMBER.

Sri Nagen Choudhury,  
Son of late Hem Ch. Choudhury, resident  
of Village : Kaitasiddsi,  
P.O. : Bangara,  
District : Kamrup, Assam. . . . Applicant.

By Advocate Mr. B.K. Sharma, Mr. S. Sarma, Miss U. Das.

- Versus -

1. The Union of India, represented by  
the Chief Engineer, Central Public Works  
Department, Dhankheti, Shillong -1.
2. The Superintending Engineer, Assam  
Central Circle No.1, CPWD, Guwahati -21.
3. The Superintending Engineer, Assam  
Central Circle No.II, CPWD, Guwahati-5.
4. The Executive Engineer, Assam  
Aviation Works Division, CPWD, Guwahati-15.

. . . Respondents.

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

### O R D E R

Mr. N.D. Dayal, Admn. Member :

The applicant is the son of Late Hem Ch. Choudhury who was employed as Asstt. Mason under the respondents at Guwahati and expired on 14.5.1995 while in service. The applicant has sought direction from the Tribunal to the respondents to take immediate steps and issue necessary orders to appoint the applicant on compassionate ground. The applicant is aggrieved that the action of the respondents in not considering his case is arbitrary and discriminatory and that they have made undue delay in appointing the applicant on compassionate ground. The details of the legal heirs of Late Hem Ch. Choudhury mentioned at para 4.4 of the O.A. show that he had

left behind 4 sons and 3 daughters apart from his wife. Two of the four sons are employed, one in Airport Authority of India as Peon and the other is a Radio & TV Mechanic. Both live separately from the family. Of the remaining two sons, the younger one is 25 years old and he is studying in Higher Secondary at Rajdhar Bora HS School. All the three daughters are married.

2. A request was made by the applicant's mother to the Executive Engineer, CPWD on 19.6.95 seeking appointment of the applicant as Peon on compassionate ground. The initial request was followed up and further prayers by the applicant and his mother for appointment on compassionate ground were made later on for the post of LDC instead of Peon. The Superintending Engineer, CPWD, Guwahati wrote in December, 1996 to the Chief Engineer, CPWD, Shillong conveying that the 1st son is working in Airport Authority of India and he had already separated from the family, 2nd son is a daily Labourer and the 3rd and 4th are unemployed. Further information on the income of the family, qualifications of the applicant, declaration from the widow were also enclosed. Again, the Superintending Engineer wrote to the Chief Engineer, CPWD, Shillong by letter dated 26.3.2001 sending the applicant's case for compassionate appointment in the prescribed proforma alongwith affidavit of the elder son and other details of the immovable property possessed by the family. The papers included details of pay, certificate of the Revenue Officer, copy of certificate of Mouzadar, certificate of Marks, HSLG Pass certificate typewriter passing certificate, OBC association certificate among others. The CPWD Staff Association also took up the case of the applicant with the Chief Engineer, Shillong by letter dated 15.11.2001. Finally, the respondents decided the matter and office of the D.G. Works, CPWD, Nirman Bhawan, New Delhi informed the Chief Engineer, Shillong <sup>of the same</sup> by their letter dated 31.12.2001. It was conveyed inter-alia, to the effect that the family of the deceased



Government servant is not in a indigent circumstance or in need of immediate financial help. That they have received their terminal benefits and possess immovable property. Besides, the elder son being gainfully employed and there being no liability like daughter's marriage, the case of the applicant was not covered under the rules governing appointment on compassionate ground. This was further conveyed to the applicant by the Executive Engineer, CPWD, Guwahati by letter dated 27.2.2003.

3. In the application the applicant mentioned that he had made several visits to the office of the respondent and wrote repeated reminders. They in turn gave assurances but no result was forthcoming. He also stated that persons similarly situated have been appointed on compassionate ground and annexed to the application a copy of the order of the Hon'ble Gauhati High Court in W.P.(C) No.3537/2002. As observed from the copy of order attached the details of personal circumstances of a similar kind are not mentioned therein and decision of the Hon'ble High Court is based on favourable report of the respondents and hence this does not appear to be a ~~similar~~ case. The applicant has contended that a supernumerary post could have been created to accommodate him and the matter need not have <sup>been</sup> delayed causing distress to him and his family and further that the impugned action/inaction on the part of the respondents is in clear violation of the relevant provisions of the Constitution of India.

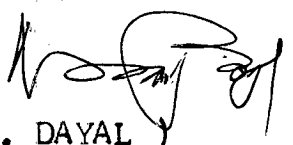
4. The respondents in their reply affidavit have denied that the department have ever given any assurance for compassionate appointment to the applicant and stated that the matter has been decided and communicated by <sup>D.G. Works by</sup> letter dated 31.12.2001 giving the reasons therein for non acceptance of the request for compassionate appointment.

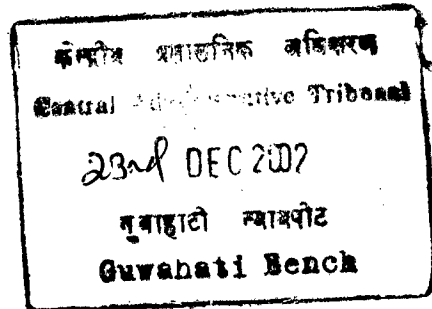
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5. The learned counsel for the applicant pointed out that there is considerable delay and despite repeated pursuance no decision was taken timely. It is seen from the records that there is some delay on part of both the parties. The prescribed formal application with details and enclosures were sent on 23.6.2001 although some correspondence was required prior to that between the Superintending Engineer, Guwahati and Chief Engineer, Shillong. Undoubtedly the applicant and the office of the Superintending Engineer were collectively engaged in this endeavour to send the required papers complete in all respects. It is further seen that the matter had to be decided by the D.G. Works, New Delhi necessitating correspondence of the case with them and it could not be expected to be done without taking some time. There was considerable force in the submission of the learned counsel for the respondents that in view of the decision already conveyed by the competent authority, the plea of delay in a case of compassionate appointment could not per se be a ground for approving the appointment. Also, since the decision showed application of mind and took into account relevant factors it would not be correct to imply that it was un-reasonable or arbitrary. Finally, the learned counsel for the applicant proposed that the applicant may make a fresh representation against the decision denying compassionate appointment. However, no fresh grounds for making the proposed representation could be elaborated for consideration.

6. As such <sup>in</sup> the consideration of the case, I find no sufficient grounds by way of infirmity or irregularity in the decision of the competent authority that may warrant intervention in the matter.

The Original Application is accordingly dismissed. No order as to costs.

  
( N.D. DAYAL )  
ADMINISTRATIVE MEMBER



THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH  
GUWAHATI

O.A. No. 409 of 2002

Nagen Choudhury

... Applicant

- Versus -

Union of India & Ors.

... Respondents

I N D E X

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Filed by : S. Sarma.

Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

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

O.A. No. /2002

BETWEEN

Sri Nagen Choudhury, son  
of late Hem Ch. Choudhury, resident of  
Village: Kaitasiddsi, P.O.: Bangara,  
District: Kamrup, Assam.

... Applicant

- AND -

1. The Union Of India, represented by  
the Chief Engineer, Central Public Works  
Department, Dhankheti, Shillong-1.
2. The Superintending Engineer, Assam  
Central Circle No.1, CPWD, Guwahati-21
3. The Superintending Engineer, Assam  
Central Circle No.II, CPWD, Guwahati-5
4. The Executive Engineer, Assam  
Aviation Works Division, CPWD, Guwahati-15

... Respondents

DETAILS OF APPLICATION

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

The present application under Section 19 of the Administrative Tribunal Act, 1985 is being filed by the Applicant, who is aggrieved by the arbitrary and discriminatory action on the part of the Respondents in not considering the case of the Applicant and making undue delay of appointment the applicant on compassionate ground.

2. JURISDICTION OF THE TRIBUNAL

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

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Filed by: Sri Nagen Choudhury  
Assam  
17/12/02

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### 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 permanent resident in the state of Assam and as such he is entitled to all the rights, protections and privileges guaranteed under the Constitution of India and laws framed thereunder.

4.2. That the grievance raised in this application is as regards the arbitrary and discriminatory action on the part of the Respondents in not considering the case of the Applicant for appointment on compassionate ground.

4.3. That the Applicant is the son of Late Hem Ch. Choudhury, who was employed as Ex-Asstt Mason in the office of the Respondent No 21, Guwahati and expired on 14.05.1995 during his service period due to Cardio Respiratory Failure following Brain Tumor. At the time of his death, he had still several years of service in his credit. After the death of his father, he prayed before the Respondents to appoint him on compassionate ground and thereby to facilitate him to maintain his family members. But inspite of repeated appeals/prayers made by the Applicant, the Respondents are yet to take a decision as regards appointing the Applicant on compassionate grounds. The delay on the part of the Respondents in passing necessary orders in this direction has caused immense difficulties to the Applicant in even meeting the basic minimum needs of the family for

the last seven years, since the Applicant's father died. Finding no other alternative, the Applicant by way of this application has come under the protective hands of Your Lordships praying for redressal of his grievances.

4.4. That the Applicant states that his father late Hem Ch. Choudhury died in harness on 14.05.95. At the time of his death he was working as an Ex-Asstt Mason in the office of the Respondent No. 2. At the time of his death he left behind the following as legal heirs.

- U 1. Ms Champa Choudhury, wife, presently aged about 50 years. (Housewife)
- S 2. Mr. Hari Charan Choudhury, son, presently aged about 40 years, working as a peon in the Airport Authority of India. ( Separated after marriage before father's death)
- D 3. Ms Labanya Choudhury, daughter, presently aged about 37 years. (Now married)
- S 4. Mr. Haren Choudhury, Son, presently aged about 32 years, working as a mechanic of Radio, TV. (Now separated)
- S 5. Mr. Nagen Choudhury, son, presently aged about 30 years. (Jobless, the present applicant)
- D 6. Ms Basanti Choudhury, daughter, presently aged about 27 years. (Now married)
- S 7. Mr. Suresh Choudhury, son, presently aged about 25 years, studying higher Secondary in Rajdhar Bora HS School.
- D 8. Ms Putuli Choudhury, daughter, presently aged about 21 years. (Now married).

4.5. That the Applicant begs to state that his father died during his service tenure in the office of the Respondent No.3. He served in the office in the capacity of Ex-Asstt Mason. He died due to brain tumor on 14.05.95.

A copy of the death certificate issued by Dr HC Medhi is annexed herewith as Annexure-1.

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4.6 That the Applicant begs to state that immediately after finishing all the rites and rituals of his father, his mother made a representation before the Respondent No. 4, drawing the attention to the plight of her family and to the fact that out of her four sons, two elder sons have completely separated from the family even before the expiry of the deceased and not looking after her family. And as such she requested to appoint her third son Sri Nagen Choudhury, the present applicant in the post of LDC or against any Grade-IV post compatible to his educational qualification on compassionate ground and thereby help her to overcome the crisis that had fallen upon her family. Be it stated here that the Applicant has passed Higher Secondary examination.

A copy of the representation submitted by the Applicant's mother dated 19.6.1995 is annexed herewith as Annexure-2

A copy of the Applicant's HS passed marksheet is annexed herewith as Annexure-3.

4.7 That the Applicant begs to state that though one of his elder brother is employed in Airport Authority of India, he has refused to look after the family. Moreover, his brother has separated from the family long back even before the expiry of his father after getting married.

A copy of the affidavit dated 11.9.2000 certifying that the brother of the Applicant has been separated is annexed herewith as ANNEXURE-4

4.8 That the Applicant begs to state that pursuant to his

application he was asked to submit the requisite information for appointment on compassionate ground, which he did to the satisfaction of all concerned and thereafter made several representations before the Respondents to appoint him as LDC on compassionate ground so as to enable him to look after the family.

Copies of the representations dated 19.8.1996, 15.10.96 and 20.2.1997 are annexed herewith as Annexure-5 series

4.9. That the Applicant begs to state that pursuant to his several representations and reminders, there were several communications between the Respondent No. 1 and Respondent No.2 and 3 wherein both the later Respondents by office orders No.10(24)/ACC-I/BS/2336 and order No. 9(1)/ACC-11/2000-01/414 dated 2.12.1996 and 26.3.2001 respectively recommended to consider the case of the Applicant for appointment on compassionate ground with a finding that the Applicant is fit and possess the requisite qualification for appointment to the post of LDC on compassionate ground.

Copies of the said recommendation office orders dated 2.12.1996 and 26.3.2001 are annexed herewith as Annexure-6 series

4.10. That the Applicants begs to state that even after the approval by the Respondents No. 2 and 3 by letters dated 2.12.96 and 26.3.2001 (ANNEXURE-6 Series), the Respondent authority failed to appoint the Applicant. Being aggrieved and seeing the plight of the family of the Applicant the CPWD Staff Association (EZ) by a letter under Ref. No.



CPWD/SA/EZ/Zo/NEZ/274 dated 15.11.2001 wrote to the Respondent No. 1 to consider the case of the Applicant sympathetically as per recommendation by the Respondent No.2 and 3 for appointment on compassionate ground and also looking at the distress condition for maintenance of the family of late HC Choudhury, as the matter has been over delayed for a long period.

A copy of the said Association letter dated 15.11.2001 is annexed herewith as Annexure-7.

4.11 That the Applicant begs to state that thereafter he paid several visits to the office of the Respondents giving repeated reminders, but without any success. During the Applicant's repeated requests to absorb him in any suitable Grade-IV post, the respondent authorities in turn used to give assurances from time to time that his grievances would be redressed and he would be given appointment but nothing actually materialised.

4.12 That the Applicant states that inspite of several representations, the Respondents failed to appoint him. During his queries, the only answer he used to get is that his case would be considered at an early date. There were several communications between the office of the Respondents, which the Applicant is ignorant.

4.13. That the Applicant states that having being approved both by the Respondents No. 2 and 3, he has been unnecessarily deprived of his legitimate appointment. The applicant is being made to wait for long 7 years now.

4.14. That the Applicant states that after the death of his

father, the whole responsibility fell upon him. He has no other person to fall back upon. The applicant's family are leading life of sheer poverty due to great financial hardships.

4.15. That the Applicant states that on being continuously pursuing the matter with the Respondents, the Respondent though have assured to give appointment but nothing actually materialised. The applicant further states that his appointment on compassionate ground having been approved by the Respondent No. 2 and 3 there is no question of any further approval.

4.16 . That the Applicant begs to state that he has been regularly apprising the Respondents about the plight of his family and the delay on the part of the Respondents to appoint him then itself forced him to submit several representations not to speak of the earlier representations on numerous occasions, who continued to disregard the urgency of appointment of the Applicant on compassionate ground.

4.17. That the Applicant begs to state that he has been forced to live hand to mouth. The situation that prevailed in the year 1995, immediately after the death of his father has not at all improved.

4.18. That the Applicant begs to state that the persons similarly situated like the Applicant have been appointed on compassionate ground. There are quite a few instances of persons being appointed on compassionate ground even by relaxation of the requisite qualification. But in case of the Applicant, he has the requisite qualification for direct

NO specific  
cases  
with  
details

appointment also and any other posts commensurating to his educational qualification. There are several similar orders passed by the Hon'ble Gauhati High Court directing the Government to give appointment on compassionate ground to those deprived persons, who as a last resort had to come before the Hon'ble High Court. One such order passed by this Hon'ble Court in the case of one Sri Samiran Thakuria -vs- State of Assam could be taken into consideration, which was disposed of during the motion stage itself.

A copy of the said order and judgment passed in WP(C) No. 3537/2002 is annexed herewith as Annexure-8.

4.19. That the Applicant states that ever since the death of his father it has been a story of running from pillar to post praying for appointment on compassionate ground but inspite of repeated assurances nothing concrete has been done by the Respondents in this direction. As stated earlier after the death of his father there is no bread earner in his family. He is not in a position to manage two square meal for his family including his ailing mother. Be it stated here that this is a fit case, wherein the authority ought to have created a supernumary post for appointing the Applicant on compassionate ground at that particular point of time itself.

4.20. That the Applicant states that verbal assurances given to him from time to time as regards appointing him on compassionate ground is yet to be acted upon. His family has been living in wretch conditions and utter financial stringency. They have managed to survive till date only with the hope that once the Applicant is appointed on

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compassionate ground they would be able to live a more decent life.

4.21. That the Applicant submits that the objective behind the concept of giving appointment on compassionate ground is to mitigate the hardships being faced by the family members after the death of the employee. The action on the part of the Respondents in delaying the matter of appointment of the Applicant on compassionate ground has the effect of defeating the very purpose of giving appointment on compassionate grounds. In the case on hands the Applicant's father expired on 14.5.95 and immediately thereafter his mother preferred an application praying for appointment on compassionate ground. The delay on the part of the Respondents to the pleas of the Applicant have forced the Applicant and his family members to suffer continuously for no fault of theirs. The prolonged delay so occasioned is not because of the fault of the Applicant and he and his family members have rendered the difficulties being faced by them because of financial stringency and related problems only with the hope that the Respondents honoring their assurances would pass appropriate orders towards appointing the Applicant in the post of LDC on compassionate ground.

4.22. That the Applicant submits that after the death of his father, the responsibility of his family fell upon him as his two elder brothers have already separated and they have no other persons to fall back upon. The Applicant and his family are leading life of utter poverty and the situation, the Applicant and his family members are in today is a creation of the discriminatory and uncaring attitude on the

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part of the Respondents. Be it stated here that the present position of the family of the Applicant is no better than it was at the time of the death of his father and as before they are still in need of a regular source of income for sustaining themselves. In fact, the position has worsen. Any further delay in passing of necessary orders towards appointing the Applicant on compassionate grounds would have dire consequences and their very existence would be in peril. The Respondents inspite of availability of vaccancies have deemed it fit and proper to disregard the prayers of the Applicant for appointment on compassionate grounds.

4.23. That the Applicant submits that in the facts and circumstances enumerated in the foregoing paragraphs, it is a fit case wherein Your Lordships would be pleased to interfere in the matter in exercise of the extra-ordinary powers conferred under the Constitution of India to direct the Respondents to appoint the Applicant on compassionate grounds in any posts commensurating his educational qualification.

4.24. That the Applicant submits that there is no person gainfully employed in the family and he has the responsibility to meet the basic minimum needs of his family in addition to providing for education and medical treatment to his young brother and as such he prays before the Hon'ble Court to pass an interim order as has been prayed for and further be pleased to direct expeditious hearing of this petition, if necessary.

4.25. That in the facts and circumstances of the case as stated earlier, the Applicant has been continuously

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pursuing the matter of his appointment on compassionate grounds with the Respondents and based on the assurances given to him from time to time by the Respondents about his appointment on compassionate grounds in the near future, he and his family have been enduring the hurdles in their way only with the hope that the difficulties being faced by them in maintaining themselves would come to an end on the Applicant being appointed on compassionate grounds. Further, as before even at present the Applicant is in need for a source of regular income inasmuch as needs have increased manifold.

4.26. That the impugned action/inaction on the part of the Respondents is in clear violation of the provisions of Article 14, 16 and 21 of the Constitution of India, in addition to being in violation and administrative fair play.

4.27 . That the Applicant by way of representations made from time to time demanded justice, the same having been denied to him, he has approached this Hon'ble Court by way of this application as a last resort.

4.28. That there is no other equally efficacious alternative remedy and the reliefs sought, if granted will be just proper and adequate.

#### 5. GROUND FOR RELIEF WITH LEGAL PROVISIONS

5.1. For that the Respondents have acted contrary to the settled propositions of law and prima facie their action/inaction is not sustainable in the eye of law.

5.2. For that the action on the part of the Respondents in not considering the Applicant for appointment on

B

compassionate ground although being recommended by Respondent No.3 is illegal and arbitrary.

5.3. For that the impugned remark made by the Director General, CPWD is not sustainable as the Applicant had clearly submitted his reasonable reasons in the preceding paragraph (Annexure-B) will verify the matter. Hence, the Respondent is duty bound to appoint the Applicant on compassionate ground.

5.4. 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 the 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 he has 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.

12

8. RELIEFS SOUGHT FOR:

Under the facts and circumstances stated above, the Applicant prays 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 direct the Respondents to take immediate steps and issue necessary orders to appoint the Applicant on compassionate ground.

8.2. Cost of the application

8.3. 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 considering the facts and circumstances of the case.

9. INTERIM ORDER PRAYED FOR:

During the pendency of the OA the Applicant prays for an interim order directing the Respondents to keep any one LDC post vacant, if needed even by relaxing the standard of recruitment against any post commensurating his education qualification.

10. ....

The application is filed through Advocate.

11. PARTICULARS OF THE I.P.O:

- i) I.P.O No. : 74606958
- ii) Date : 13/12/02
- iii) Payable at : Guwahati

12. LIST OF ENCLOSURES  
As stated in the index.

R



VERIFICATION

I, Sri Nagen Choudhury , aged about 30 years, son of Late Hem Choudhury, resident of Village-Kaitasiddsi, P.O. Bangara, District-Kamrup, 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. I am competent to verify this case and the statements made in paragraphs 41-44, 44-47, 48-52 are true to my knowledge ; those made in paragraphs 45-50 and 51 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 17th day of December, 2002.

Applicant

*Nagen Choudhury*

ANNEXURE - 1

Phone : 84379 (Res)

Dr. H. C. Medhi M.B.B.S (Gau) D.H.E. (IHCA-Mads)

Specialty Trained in Family Planning  
MTP & Immunization (New Delhi)

ডাঃ হৰিচন্দ্ৰ মেধী

Regd. No. 6477 (A.M.C.)

A.M.A National Airport Authority

A.M.A. Indian Air Force

A.M.A. State Bank of India. Gau-15

A.M.A. MES Borjhar

A.M.A C.P.W.D. Gau-15

Metereological Dept. Gau-15

CONSULTING HOURS :

Morning-

Greenland Nursing Home

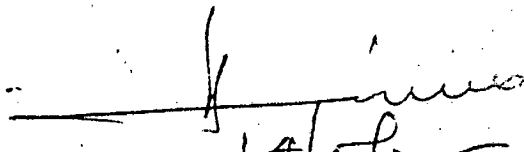
Evening-4 P.M. 8 PM

(Reecepee Medico's)

at KAHIKUCHI

Date... 14/5/95

Certified That Mr.  
Hem chandra choudhary  
Bongora Kaitakuli,  
Kamrup, Assam, who  
was under my treatment  
for brain tumor, died  
on 14/5/95 at 4 AM.  
due to cardio respiratory  
failure.

  
14/5/95

Attested

Advocate.

To

The Executive Engineer,  
Assam Aviation Works Division,  
C.P.W.D., Guwahati-781 015.

Subject::: Request for appointment on Compassionate  
ground to my son Shri Nagen Choudhury.

Sir,

I beg to state that my husband Late Hon  
Chandra Choudhury, Ex-Asstt. Mason has expired on 14.5.95  
while he was in service.

Sir, due to sudden death of my husband,  
I am unable to maintain my family for which service is  
very essential to my son Shri Nagen Choudhury as that I  
can able to maintain my family.

Sir, I have 4(four) sons and out of which  
2(two) eldest sons have completely separated from me and  
they are not look-after me. As such I request to you  
to kindly appoint my third son Shri Nagen Choudhury as  
"Peon" who is very sincere and will look-after me.

Sir, as I am very old and suffering from  
different diseases where it will not at all possible to serve  
me in your Department hence I request your honour to appoint  
my third son as "Peon" in your Department on compassionate  
ground. Necessary prescribed application form if any, may  
kindly be issued to me and oblige.

Dated : 19/06/95.

Yours faithfully,

R.T.I. of (Mrs. Champa Choudhury )

Widow of Late Hon Chandra  
Choudhury, Ex-Asstt. Mason.

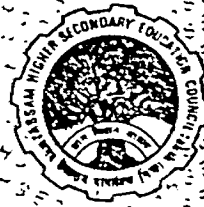
Attested

Attested.

Form No. Ex-32(a)

Date 27/6/1993

Assam Higher Secondary



Education Council, Guwahati-1

No. NA 130875

MARKS-SHEET ARTS STREAM NEW COURSE

This is to certify that Nagen Choudhury Roll 334 No. A 75  
of Rajdhar Barua College/H.S. School secured marks as detailed below, in the Higher Secondary Examination, 1993.

ENGLISH	MIL/ AJL English	ELECTIVE SUBJECTS												★ Grand Total Marks 500 Pass Marks 150/153/156/159	1st Division: 300 & Above 2nd Division: 225-299 3rd Division: 150/153/156/159-224	Compartmental In
		First Elec- tive	Second Elec- tive	Third Elec- tive	Second Elective with Practical			Third Elective with Practical			Fourth Elective Subject					
					Theory	Pass Marks	Practical Pass Marks	Theory	Pass Marks	Practical Pass Marks	Without Practical	With Practical				
Total Marks 100 Pass Marks 30	Total Marks 100 Pass Marks 30	Total Marks 100 Pass Marks 30	Total Marks 100 Pass Marks 30	Total Marks 100 Pass Marks 30	Theory 70 Pass Marks 21	Practical 30 Pass Marks 12	Total Marks 100 Pass Marks 33	Theory 70 Pass Marks 21	Practical 30 Pass Marks 12	Total Marks 100 Pass Marks 33	Total Marks 100 Pass Marks 30	Theory 70 Pass Marks 21	Practical 30 Pass Marks 12	Total Marks 100 Pass Marks 33		
26 +4	41	30	40	35							162	114				

Rs. 10-00

Marks entered

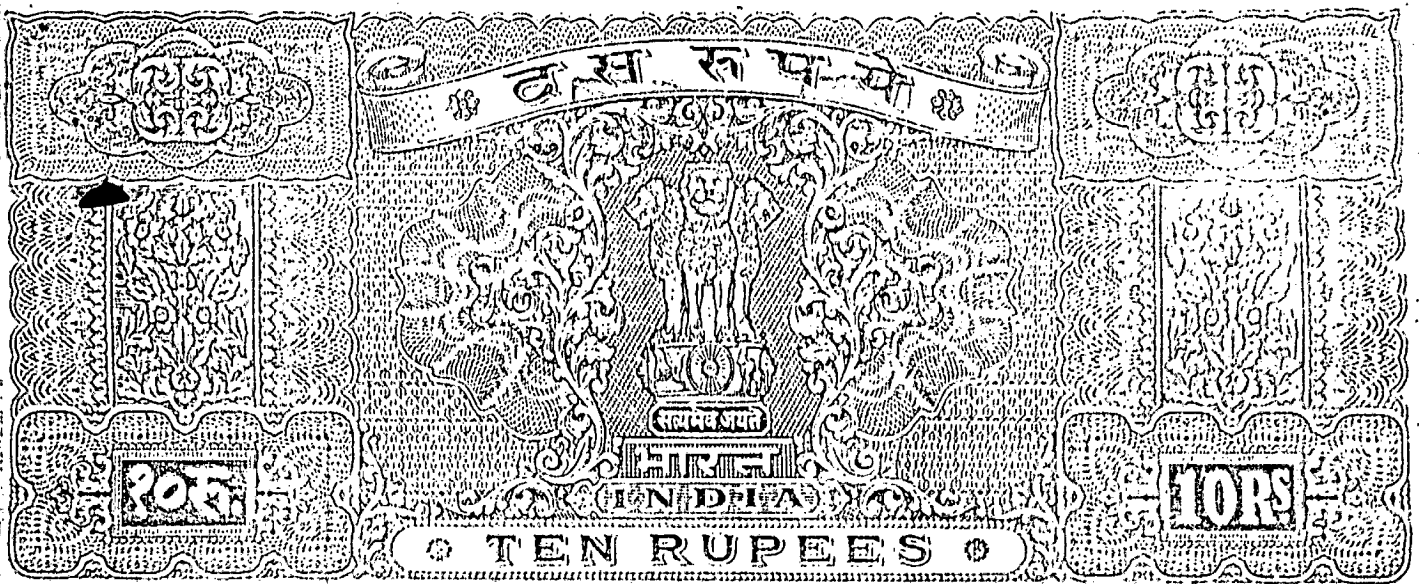
Marks compared

Date

Date

CONTROLLER OF EXAMINATIONS

★ Grand total marks of subjects excluding the fourth elective. Abbreviations for the subjects are shown on the reverse.



IN THE COURT OF THE MAGISTRATE:..... AT GUWAHATI :..:

A F F I D A V I T

I, Sri Hari Chandra Choudhury, son of Late Hem Chandra Choudhury, aged about 39 years, by religion- Hindu, by occupation- Service, resident of village- Kaitashidhi, P.O. Dongra, P.S. Palasbari, in the district of Kamrup (Assam), do hereby solemnly affirm and declare as follows:-

1. That I am the eldest son of late Hem Chandra Choudhury, resident of village- Kaitishidhi, P.O. Dongra, P.S. Palasbari, in the district of Kamrup, Assam.

2. That I am working in National Airport Authority. (Now Airport Authority of India) Guwahati Airport since 1.7.90 as Beldar and my total emoluments is Rs. 9570/- per month now.

3. That I am residing separately since 16-4-1990 i.e. before expiry of my father Late Hem Chandra Choudhury, with my wife and children

Sub-Divisional  
Magistrate (S)  
Guwahati.



Contd.... 2.

Attested

Advocate.

Sri H.C. Choudhury  
Sri Hari Ch. Choudhury

4. That I am having no liabilities and/or any other responsibilities for my other family members except my wife and children.

5. All the statements made above are true to the best of my knowledge and belief and I signed this affidavit on this 11th day of September, 2000 at Guwahati:

Identified by me:

*Basanta Nath*

Advocate/Advocate's Clerk:

*EN 78/00*

*Sri Hari K. Choudhury*

*Sri H.C. Choudhury*

DEPONENT:

Solemnly affirmed and declared before me by the deponent who is identified by Sri *Basanta Nath* Advocate/Advocate's Clerk, this 11th day of September, 2000 at Guwahati:



*@V/12.9.00*  
Magistrate: Guwahati:  
Sub-Divisional Judicial  
Magistrate (S) No-1,  
Guwahati.

**Attested**

*ate.*

To,

The Chief Engineer (MRE),  
Central P.W.D.,  
Cleve's colony,  
Diankhetti, Shillong-1.

Subject:-Prayer to appoint me on compassionate ground.

Sir,

I beg to state that my father late Hon Chandra Choudhary, Ex-Assistant Mason has expired on 14-5-95 while he was in service.

Sir, due to sudden death of my father, my mother is unable to maintain our family, so, Sir I am going to request you kindly to appoint me on the ground mentioned on the subject, so that I can support my family along with my mother. She has also selected me to appoint in your Department, out of her 4 (four) sons; because the oldest 2 (two) have already separated from our family. I am the third one. This is why, I feel that I must have to support my family members and I feel it is my first and foremost duty to help them to survive.

Therefore, I promise you, Sir, if I get the service, I shall support all the family members till the last moment of my life. Other also, I shall be acquainted to get any conviction given as per service rule of your Department.

Necessary declaration of myself and widow mother is enclosed please.

This is for your kind consideration and I shall remain ever grateful to you.

Thanking you.

Yours faithfully,

Encl :-

Son Nagen Choudhary  
( Shri Nagen Choudhary )  
Third son of late Hon  
Ch. Choudhary, Ex-Assst. Mason.

Dated 12-8-96

Attested

Signature

To,

The Chief Engineer(NER)  
C. P. W. D,  
Dhankheti,  
Shillong - 3.

(Through the Ex. Engineer, A.A.W.D, CPWD, Guwahati-15)

Sub 1:- Appointment on Compassionate ground as LDC to  
Shri Nagen Choudhury, Son of Late Hem Chandra Choudhury,  
Ex. Asstt. Mason.

S i r ,

I beg to draw your kind attention to the Superintending  
Engineer, Assam Central Circle No. 1, CPWD, Guwahati - 21 Letter  
No.10(24)/ACC-I/GS/2336. dated 2/12/96 on the above subject.

In this connection it is my earnest request to your good  
self to kindly look into my above mentioned case and arrange to  
issue me the favourable order so that I can able to look after my  
present family members as there is none the earning members ex-  
cept the family pension of my widow mother.

Your kind help in this regard is requested.

Yours faithfully ,

Date:- 15.10.96

( Sh. Nagen Choudhury )  
S/O Late Hem chandra Choudhury  
Ex. Assistant Mason.  
C/O Assam Avn. Works Division  
CPWD, Guwahati - 15.

Attested

15/10/96



88

To,

The Chief Engineer (NER)  
CPWD, Dhankheti,  
Shillong - 3.

Sub :- Appointment on compassionate ground as  
IDC to Shri Nagen Choudhury, Son of  
Lt. Hem Chandra Choudhury, Ex. Asstt. Mason

Respected Sir,

Your kind attention is invited to the Superintending Engineer, Assam Central Circle No. I, CPWD, Guwahati-21 letter No. 10 (24)/ACCI/GS/2336 of 2/12/96 and my subsequent letter dated 20/2/97 on the above subject in which the requisite information as called for was submitted to your goodself for consideration.

As I am in the urgent need for the above appointment it is once again requested to kindly look to my case sympathetically and assuage to issue me the favourable order so that I can be able to look after my present family members and oblige,

Thanking you,

Yours faithfully,

Date:- 20/2/97

(Sh. Nagen Choudhury)  
H/O Late Hem Chandra Choudhury  
Ex. Asstt. Mason,  
C/O Assam Area Works Division  
CPWD, Guwahati - 15.

Copy to :-

1. Superintending Engineer,  
Assam Central Circle No. I, CPWD, Ghy-21. for information & n. o.
2. The Superintending Engineer,  
Assam Central Circle No II, CPWD, Ghy-5, for information.

Amended

2

100.

Govt. Of India  
Central Public Works Deptt.

No. (24)/ACC-I/GS/ 2336.

Dt. 2.12.96

To

The Chief Engineer (NEZ),  
C.P.W.D., Dhankheti,  
Shillong-3.

Sub:- Appointment on compassionate ground as LDC to  
Shri Nagen Choudhury son of late Hem Ch. Choudhury,  
Ex. Asstt. Mason.

Ref:- Your No. 1/66/96-EI Dt. 13-6-96.

\*\*\*

Kindly refer to your above letter. In this connection it is to be submitted that the requisite information has been obtained from EE/AAWD which are given as under.

Smt. Champa Choudhury wife of late Hem Ch. Choudhury has submitted the declaration that her 1st son is working in Airport Authority as a Beliger who has already been separated. The 2nd son is working as a daily labour and the 3rd and 4th sons are unemployed.

Smt. Champa Choudhury has also submitted the declaration for her source of income that she is depending upon family pension after the death of her husband and she has no other source of income.

On the basis of information received from EE/AAWD it is recommended that the applicant (the third son) deserve appointment on compassionate ground. It is further added that the applicant possesses requisite qualification for the post of LDC as per his H.S. Certificate submitted earlier. As such, it is recommended that the applicant is fit for the post of LDC.

The declaration dated 21-8-96 (in original) received from Smt. Champa Choudhury through EE/AAWD/96/1941 Dt. 28-8-96 is submitted herewith for favour of your kind consideration.

Encl:- Declaration in Orgl. as mentioned above.

Superintending Engineer  
Assam Central Circle-I  
CPWD, Guwahati-21.

Copy to :- The Executive Engineer, Assam Aviation Works Divn.,  
CPWD, Guwahati-15 w.r.t. his No. 15(418)/AAWD/96/1941  
Dt. 28-8-96 for information and necessary action.

SUPERINTENDING ENGINEER

CPWD.  
No. 15(418)/AAWD/97/290

dt 6/2/97

Copy to :- Shri Nagen Choudhury, S/o. Late H.C. Choudhury,  
Vill - Ranta siddhi, P.O. Barga, Dist. Kamrup

Noted

date.

*[Signature]*  
Executive Engineer  
Assam Aviation Works Division  
C.P.W.D., Guwahati-15

Govt. of India  
Central Public Works Department

No. 9(1)/ACC-II/2000-01/4/17

Dated 25/03/2001.

To

The Chief Engineer (NEZ),  
CPWD, Dimakheti,  
Shillong-01

Subj: Compassionate appointment of Shri Nagen Choudhury, S/o Late Hem Chandra Choudhury.

Ref:- Your letter no. 4/10/99-Admin. dated 23.6.2000 addressed to SE, ACC-I.

With reference to above letter which was addressed to SE, ACC-I, CPWD, Hamunimaidan, Guwahati-21, Executive Engineer AAWD has furnished details and accordingly the para wise reply is given below.

- 1) Application in the revised proforma is enclosed herewith. Revised family pension case as per recommendation of 5<sup>th</sup> CPC has been submitted to PAO but the sanction is still awaited.
- 2) Regarding vacancy under 5% quota the same is maintained by the St. Co Ordination, (EZ), CPWD, Calcutta.
- 3) The affidavit for separation of eldest son Shri Hari Chandra Choudhury and his place of working, since when working and place of residence duly sign by the Magistrate, Guwahati is enclosed herewith. Copy of certificate of immovable property belonging to late Hem Chandra Choudhury from the Palasbari Revenue Circle and Income certificate of Shri Nagen Choudhury from local Mouzadar are also enclosed herewith.
- 4) Shri Nagen Choudhury who is second son of late Hem Chandra Choudhury is having meager income. He has passed H.S.L.C. Since separation of Shri Hari Chandra Choudhury, the other members of family of late Hem Chandra Choudhury are in a penurious condition. It is recommended to consider the case for appointment of Shri Nagen Chandra Choudhury on compassionate ground for the post of LDC.

Encl:-

- (1) Part 'A' and Part 'B' from duly filled in.
- (2) One affidavit (original).
- (3) One no. pay details.
- (4) 1 copy of certificate of the Revenue officer.
- (5) 1 copy of certificate of Mouzadar.
- (6) 1 copy of H.S.L.C. passed certificate.
- (7) 1 copy of typewriter passing certificate.
- (8) 2 copies of marksheet.
- (9) Copy of OBC Association certificate.

WJ  
26/3  
Superintending Engineer,  
Assam Central Circle-II,  
CPWD, Guwahati-05.

Attested

3  
Signature.

- 25 -

ANNEXURE-7

# CPWD STAFF ASSOCIATION [EZ]

RECOGNISED BY THE GOVT. OF INDIA ( REGD. NO. 1932 )

ESTD. - 1948

Central Office :

Nizam Palace

234/4, Acharya J. C. Bose Road

CALCUTTA-700 020

West Bengal

Zonal Office (NEZ)

CPWD Staff Association (EZ)

Nirman Bhawan

( CPWD Office Complex )

Bamunimaidan,

GUWAHATI-781 021 (Assam)

Phone 55-0086, 55-0315

Branch under NEZ : AGARTALA □ SHILLONG □ SILCHAR □ GUWAHATI AIRPORT

Ref. No. CPWD/SA/EZ/ZO/NEZ/274/.....

To

Date 15/11/01

The Chief Engineer (NEZ),  
CPWD, Dhankheti,  
Shillong - 03.

Sub : Compassionate appointment in respect of Shri Nagen Chowdhury, S/o Late H.C. Chowdhury, Ex-Assst. Mason.

Dear Sir,

It is brought to the notice of this Association, that Shri Nagen Chowdhury, S/o Late H.C. Chowdhury, Ex-Assst. Mason (who died while in service on 14.5.95) had applied for appointment on compassionate grounds long back. Despite a service of representation and complying with all clarification sought for from time to time, no offer of appointment has been issued from your good office.

The bereaved family members of Late H.C. Chowdhury are in very distress condition for maintenance of their livelihood and children's education.

In view of above your goodself is requested to kindly consider the prayer of Shri Nagen Chowdhury sympathetically and an offer of appointment as recommended by the SE concerned, may kindly be issued at the earliest since the matter is over-delayed.

Your favourable action in this regard is solicited.

Yours faithfully,

Zonal Secretary (NEZ)

Copy to :-

1) Shri Nagen Chowdhury, S/o Late H.C. Chowdhury, Vill : Kaitashidhi P.O. Bongars, Kamrup.

2) SE/ACC-II, Gt. S. He is requested to pursue the matter from his end please.

Zonal Secretary (NEZ)

Attested

Signed by officer or Advocate	Serial No.	Date	Office notes, reports, Orders or proceedings with signature.
-------------------------------	------------	------	--

WP(C) NO. 3537/2002

BEFORE  
HON'BLE MR JUSTICE PC PHUKAN

14-6-2002

Heard Mr BK Sarma, learned senior counsel for the petitioner and the learned Govt Advocate, Assam appearing for the State respondents.

The petitioner's father was serving as Mandal in Circle Office, Chaygaon and died in harness on 19-1-95. After his father's death the petitioner approached the respondents to appoint him on compassionate ground. The Sub Divisional Officer (Sadar), Guwahati wrote to the Circle Officer, Chaygaon Revenue Circle to submit a report whether there was any other Govt service holder in the family; about moveable and immoveable property of the family; annual income including family pension and how the family is financially managing. The Circle Officer reported back stating that there was no Govt employee in the family and that the family was maintaining with an amount received from their family pension only. Another query was made by the Sub Divisional Officer by letter dated 18-7-98 as to the petitioner's educational qualification. That was also furnished stating that the petitioner passed BA Pt-II Examination in 1995. Thereafter, the Deputy Commissioner wrote to the Secretary to the Govt of Assam, Revenue (LR) Department, Dispur by his letter dated 17-2-99 (Annexure-6) to approve the proposal for appointment of the petitioner on compassionate ground. The then Deputy Secretary to the Govt of Assam, Revenue (LR) Department by letter dated 18-6-99 (Annexure-7) asked the Deputy Commissioner to furnish the following information - (1) whether 5% vacancy or quota is available as per Govt O.M. ASP 357/

Accepted

1/

by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature.
		2	

80/ 137 dt 9-9-83 to absorb the applicant on compassionate ground; (2) How many applications are pending for disposal; (3) Whether roster point is maintained and (4) Present total vacancy position in Grade III post during the year 1999.

The Deputy Commissioner by letter dated 29-11-99 (Annexure-8) replied that (1) 5% vacancy or quota is available; (2) there is no such application pending for disposal; (3) Number of vacancy is 20. Curiously enough, even when all the queries made by the Govt were replied in favour of the petitioner his appointment has not yet been approved by the Government.

In the facts and circumstances, this writ petition is finally disposed of with a direction to the State respondents, more particularly the respondent No.1 Secretary, Department of Revenue, Dispur to approve the appointment of the petitioner on compassionate ground in the light of the Govt O.M. dated 9.9.83 (Annexure-9 to the petition) and on receiving such approval from the Government the respondent No.2 Deputy Commissioner, Kamrup shall appoint the petitioner in a Grade-III post as per the above Office Memo.

The petitioner shall furnish a certified copy of this order along with a copy of the writ petition and the annexure thereto to the above mentioned respondents who shall comply with the above direction of this court within two months of the date of receipt of the same.

This disposes of the writ petition. No c

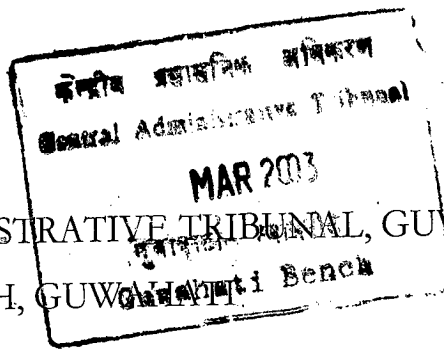
*Sd/- P. E. Phukan*  
Jc

**CERTIFIED TO BE TRUE COPY**  
*[Signature]*  
 Date 32 Nov 2002  
 Superintendent (Copying Section)  
 Gauhati High Court  
 Assam  
 Authorized U.S. No. 1, 1971

*minute*  
*11/1/2002*

11768  
1716 *lor*

*27/2/2002*



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI  
BENCH, GUWAHATI

In

O. A. No: 409/2002

Sh. Nagen Choudhury

Applicant

Vs.

Union of India & others

Respondents.

REPLY AFFIDAVIT ON BEHALF OF RESPONDENTS.1,2,3 & 4

MOST RESPECTFULLY SHOWETH: -

I, B. Subramanian, working as Executive Engineer (Administration), Assam Central Circle No.I, Central Public Works Department, Guwahati under Chief Engineer(NEZ), CPWD, Shillong of the Director General of Works, CPWD under Ministry of Urban Development & Poverty Alleviation, New Delhi, do hereby solemnly state and affirm as under: -

1. That the deponent is Executive Engineer (Administration), Assam Central Circle-I, CPWD, under Chief Engineer, North Eastern Zone, CPWD, Shillong and in Respondent No.2 and has been authorized to file the Counter Reply on behalf of Respondents. Deponent is also fully acquainted with the facts of the case.
2. That the Deponent has read and understood the contents of the Application filed by the Applicant.

B. Subramanian  
Executive Engineer (A),  
Assam Central Circle No.-I  
C. P. W. D., Wm. L. Chawman,  
Bamunimeidan, Chy-21

29  
40

2

3. That the averments of the applicant in the aforesaid application, which are not specifically admitted, are denied.

4. That the Respondents crave leave to submit the following objections and being facts of the case before submitting their parawise reply to the application.

#### PRELIMINARY OBJECTIONS.

1. That the applicant is not a Central Government Employee and hence the interference by this Honorable Tribunal as contemplated under Section 19 of the Administrative Tribunal Act 1985 does not arise. Hence under this ground, the O.A. is liable to be inadmissible.

#### PARAWISE REPLY

1. The present Application is not admissible under Section 19 of the Administrative Tribunal Act 1985 as the Applicant is not a Central Government Employee. Under such circumstances, the O.A. is to be dismissed. The competent authority has passed orders on compassionate ground appointment on 31-12-2001 which has been communicated vide letter No.5/4/99-EC.V dated 31-12-2001 and the Applicant has been informed accordingly vide letter No. ACC-I/MISC/CAT/2002 dated:27-2-2003.

2. Jurisdiction of this Hon'ble Tribunal is not disputed.

3. This is a matter of arguments.

#### 4. FACTS OF THE CASE.

4.1 to 4.9. - The contents of these paras are matters of records and therefore need no reply.

*B. B. B.*  
Executive Engineer (A),  
Assam Central Circle No.-I  
C. P. W. D. Nityan Bhawan,  
Bamunimaidan, Ghy-21



4.10. It is hereby denied that the Respondent No.2 & 3 have approved the compassionate appointment of the Applicant as the Respondents 2 & 3 are not competent authority in this matter. ✓

4.11. It is also hereby denied that the department has ever given any assurance in the compassionate appointment to Applicant. ✓


4.12. It is a matter of record and hence not reply.

4.13 to 4.28. It is hereby denied that appointment of Applicant has been approved by the Respondent No.2 & 3 as they are not the competent authorities. Based on the documents provided by the Applicant, the matter was taken up with competent authorities and the competent authority passed suitable orders considering merits and demerits of the Applicant's case and declared that his case is not covered under the rules governing on compassionate grounds vide office memorandum No.5/4/99-EC.V dt.31-12-2001 (enclosed as Annexure-I) stating the reason that the family of the deceased Government servant is not in a indigent circumstances or in need of immediate financial help, the family has received Rs.86,255.00 as terminal benefits and having an immovable property of 1B, 1K, 8 laches, the elder son is gainfully employed in Airport Authority of India. Hence his contention of claiming compassionate appointment is hereby denied.

#### 5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

5.1 to 5.4 : In view of the submission made above and the legal position mentioned therein, none of the grounds in 5.1. to 5.4 are maintainable under the law and the present O.A. is liable to be dismissed being devoid of any merit.

6. The contents of this para need no reply in view of submissions made in the preceding paras.

  
**Executive Engineer (A),  
Assam Central Circle No.-I  
C. P. W. D., Nirman Bhawan,  
Bamunideian, Ghy-21**

2

81

42

7. Denied for want of knowledge.

8 & 9. In view of the factual position stated and parawise replies furnished herein above with legal submissions made therein, none of the relief including interim relief prayed for the applicant is legally admissible to him. The present O.A. being devoid of any merit is liable to be dismissed with costs in favour of the Respondents.

It is prayed accordingly.

10. This para need no reply being formal in nature.

*B. Saha*  
Dependent  
Executive Engineer (A),  
Assam Central Circle No.-1  
C. P. W. D., Nirmal Chawan,  
Bamunimaidan, Ghy-21

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(82)  
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VERIFICATION

I, Shri B. Subramanian (Administration), Assam Central Circle-I, Guwahati under Chief Engineer (NEZ), CPWD, Shillong do hereby verify that contents of the above reply affidavit are true and correct to my knowledge which is derived from the office records and upon information received from concerned Officers. Nothing material has been concealed there from.

Verified at Guwahati on the date 13<sup>th</sup> day of March, 2003.

*B. Subramanian*  
DEPONENT  
Executive Engineer (A),  
Assam Central Circle No.-I  
C. P. W. D., Nirman Bhawan,  
Bamunimaidan, Ghy-21

29(R)

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Annexure-I

No.5/4/99-EC.V  
GOVERNMENT OF INDIA  
DIRECTORATE GENERAL OF WORKS  
CENTRAL PUBLIC WORKS DEPARTMENT

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Nirman Bhawan, New Delhi.  
Dated : 28<sup>th</sup> December, 2001  
3)

OFFICE MEMORANDUM

Subject :- Appointment of Shri Nagen Choudhary, S/o. Late Shri Hem Chand Choudhary on compassionate grounds.

-X-X-X-X-X-X-

The undersigned is directed to refer to C.E. (NEZ)'s U.O. No.4/40/99-Admn. Dated 31.10.2001 on the subject cited above and to say that the case of appointment of Shri Nagen Choudhary has been examined carefully in this Directorate. The family of the deceased Government servant is not in a indigent circumstance or in need of immediate financial help. The family has received Rs.86,255/- as terminal benefits and having an immovable property of 1B. 1K. 8 Laches. The elder son is gainfully employed in Airport Authority of India. There is no liability like daughter's marriage. **The case is therefore not covered under the rules governing appointment on Compassionate grounds.**

F.No.4/40/99-Admn. is returned herewith. Kindly acknowledge its receipt.

**The applicant may be informed in the form of a Speaking Order.**

Enclosure : As above.

*Kemilish Kumar*  
(K.K. JHELL)  
SECTION OFFICER  
EC.V SECTION  
Ph: 301 0504

To

The Chief Engineer (NEZ),  
CPWD, Dhankheti, Cleve's Colony,  
Shillong-793 003.

*22/12*  
*21/12*  
*21/12*

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Annexure-2 By Regd. Post.

(84) 45

Government of India  
Central Public Works Department

No. Misc. CAT/OA 409 of 2002/NC ACC-1-430

dt. 27-2-2003

To,

Shri Nagen Choudhury  
S/o Late Hem Ch. Choudhury  
Village- Kaitasiddsi  
P.O. Bangara, Kamrup (Assam)

Subject :- Appointment of Shri Nagen Choudhury, S/o Late Shri Hem Chandra Choudhury on Compassionate Grounds.

Reference :- Your application dated 19-8-1996

Sir,

Kindly refer to your above mentioned letter. Your application has been considered sympathically by the competent authority and could not be accorded by him. A copy of Office Memorandum No.5/4/99-FC.A dt.31-12-2001 is hereby enclosed for your information please.

Enclosure :- As stated.

*[Signature]*  
Executive Engineer(Admn)  
Assam Central Circle I  
CPWD, Guwahati-781021

N.L.O.

Copy to :-

1. The Chief Engineer(NEZ) CPWD, Dhankheti Shillong- 3 for favour of information w.r.t. letter No.4/40/99-Admn. dt.20-2-2003.
2. The Superintending Engineer, ACC-II, CPWD, Ghy-05 for favour of information alongwith a copy of above Memorandum issued by DG(W).
3. The Executive Engineer, AAWD, CPWD, Guwahati-15. for information and necessary action alongwith a copy of above Memorandum issued by DG(W).

*[Signature]*  
o/c Executive Engineer(Admn)