

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 134/2004

R.A/C.P No.

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SECTION OFFICER (Judl.)

FORM No. 4
(SEE RULE 12)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Org. App./Misc Petn/Cont. Petn/Rev. Appl. 134/2004

Name of the Applicant(s) In O.A. P. Thomas Kumar

Name of the Respondent(s) U.O. 1, 2, 3, 4, 5, 6, 7, 8

Advocate for the Applicant Ms. A. M. Myranda, M.R. Hazarika

Counsel for the Railway/CGSC. CGSC

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

4.6.2004

This application is in form
is filed. F. No. 50/-
deposited SD
No. JLG 389712
Dated 2/6/04

Dy. Registrar

Heard Mr. M.R. Hazarika, learned
counsel for the applicant and also Mr.
A.K. Chaudhuri, learned Addl. C.G.S.C.
for the respondents.

Issue notice to show cause as to
why application shall not be admitted.
Returnable within four weeks.

List on 6.7.2004 for admission.

Member (A)

20.7.2004

Notice & order
sent to D/Section
for issuing to
respondent nos
1 to 5, by regd.
with A/D.

Present: Hon'ble Shri K.V.
Sachidanandan, Judicial
Member.
Hon'ble Shri K.V.
Prahlan, Administrative
Member.

None for the parties. Post
the matter before the next Division
Bench.

Member (A)

Member (J)

nkm

Respondent No. 6 is
Incomplete Address.

3/Memo No- 1021 to 1023
Dt. 11/6/04.

13.9.2004 Present: The Hon'ble Mr. Justice R. K. Batta, Vice-Chairman.

A/D card return
from resp. No-3,4,

The Hon'ble Mr. K.V. Prahladan,
Member (A).

None present for the
applicant. Mr. A.K. Chaudhuri, learned
Addl. C.G.S.C. was present for the
respondents.

Stand over for one week. List
on 20.9.2004 for admission.

[Signature]
Member (A)

[Signature]
Vice-Chairman

bb

20.9.2004

When the matter was called on, one appeared on behalf of the applicant and the matter was kept pending.

When the matter was called for the second time again non one appeared on behalf of the applicant. Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. was present on behalf of the respondents on both occasions.

This is the third time in a row that no one was appearing on behalf of the applicant - the other dates being 20.7.2004 and 13.9.2004.

In view of this, application is hereby dismissed for default with no order as to costs.

[Signature]
Member (A)

[Signature]
Vice-Chairman

bb

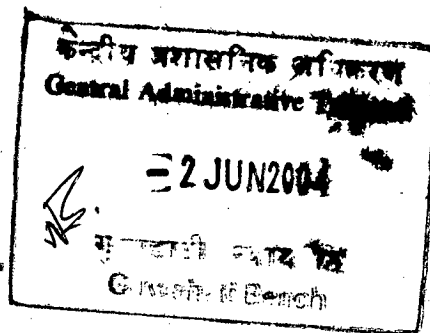
13.9.04

W/s filed by the
Respondent Nos. 1, 2, 3 & 4.

[Signature]

28.9.04

Copy of the order
has been sent to
The Office for
issuing the rule to
applicant as well
as to the Addl. C.G.S.C.
for the Respondents.
[Signature]



Filed by
The Petitioner
Through
M. R. Hemanta
Advocate

DISTRICT: KAMRUP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH, GUWAHATI

ORIGINAL APPLICATION NO. 134 /2004

BETWEEN:

Sri Promod Kumar, aged 28 years, S/o
Sri Jagat Kumar, Village Balisatra, Via
Senekuchi, P.O. Balisatra, P.S. Rangia,
District Kamrup, Assam.

..APPLICANT

-AND-

1. The Union of India, represented by
Secretary to the Govt. of India,
Ministry of Communication, Post &
Telegraph.
2. The Chief Post Master General,
N.E. Circle, Shillong- 793001.
3. The Director of Postal Services,
Nagaland, Kohima- 797001.
4. The Senior Superintendent of Post
Offices, Kohima Division,
Nagaland.

Sri Promod Kumar

5. The Post Master, Kohima Head Post Office, Nagaland, Kohima-797001.
6. The Chairman, Respective Circle Selection Committee.

RESPONDENTS.

DETAILS OF THE APPLICATION.

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

This application is made against the following orders.

- 1.1. Memo No. B2/ Invalid Pension/ Ch-1, dated Kohima the 2nd of November, 2000 addressed to the Director Health Service, Nagaland, Kohima- 797001 and a copy of which was also served upon the petitioner's father.
- 1.2. Form for Medical Certificate for invalid pension signed by the Chairman of other members of the Medical Board on 8.12.2000.
- 1.3. Memo No. B2/ Invalid Pension/ Ch-1, dated Kohima the 21.12.2000 retiring the petitioner's father on invalidation ground with effect from 8.12.2000 signed by the Director of Postal Services, Nagaland, Kohima-1.

Sri pramod Kumar

1.4. Letter No.B1/32/R/Pt, dated 27.7.2002 which has been forwarded by the Supdt of Pez. Kohima for appointment of the petitioner on compassionate ground.

1.5. Representation submitted to the Chief Post Master General, N.E. Circle, Shillong- 793001 dated 9th December, 2002 by the petitioner's father to appoint the petitioner on compassionate ground.

1.6. In the matter of Original Application No.14 of 2004 decided on the 23rd day of January,2004 at admission stage.

1.7. Memo No. B1/32/R/Pt, dated at Kohima the 19.3.2004 with reference to CO letter No. Staff/175-22/2002, dated 16.9.2003 addressed by Director of Postal Services, Nagaland, Kohima-7908001 to the Chief Post Master General (Staff) N.E. Circle, Shillong-793001

Page:

1.8. Memo No. Staff/175-22/2002, dated Shillong the 11th March,2004 issued by Assistant Director (Staff) addressed to the petitioner.

Page:

1.9. Memo No./175-22/2002, dated Shillong the 23rd March, 2004 issued by Chief Post Master General, N.E. Circle, Shillong addressed to the petitioner.

Sri pramod Kumar

Contd

Page:

2. JURISDICTION OF THE TRIBUNAL.

The applicant states that the subject matter of this application for which the applicant wants redressal is within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATION.

The applicant states that the O.A. No. 14/2004 filed by the applicant before this Hon'ble Tribunal was within time and this O.A. is continuation of the O.A. No. 14/2004.

4. FACTS OF THE CASE:

4.1. That the applicant is a citizen of India and a permanent resident of the aforesaid address and as such as a citizen of India, he is entitled to all the rights and privileges enshrined in the Constitution of India.

4.2. That the applicant before your Lordship, who belongs to OBC as recognized by the Govt. of Assam, who has passed his Matriculation/ H.S.L.C. Examination in the year, 1995 is the eldest son of Sri Jagat Kumar, who was compulsorily retired on medical ground while serving as a O/S cash at Kohima Head Post Office in the District of Kohima, Nagaland. At the time when the petitioner's father was compulsorily retired his age was 54 years 4 months and 22 days considering his date of birth

Sri Pramod Kumar

Contd

as per official record as 27.7.46, further more, Sri Jagat Kumar applicant's father has a family consisting of himself and other six members as his wife, three sons and two daughters.

Photocopy of the applicant's Matriculation Certificate is annexed herewith and marked as ANNEXURE-1.

4.3. That the applicant further begs to state that his father Sri Jagat Kumar joined service in Kohima Head Post Office on 18th December, 1965 as a Postman at the age of approximately 19 years and subsequently he was promoted on 1972 as Mail Officer and has been rendering his services satisfactorily as O/S Cash till the date of 8.12.2000 when he was retired on medical ground and has been receiving invalid pension. Since his date of compulsory retirement on medical ground he has completed approximately 35 years of service life.

For that the applicant thinks that it is pertinent to mention herewith that, while on service, during mid of the year, 2000. While returning to Kohima Head Post Office after collecting cash of Rs.39000.00 from Monkhola Sub Post Office and Kohima P.W.D. Sub Post Office, he was attacked by miscreants and after being severely wounded and looted of the cash, he was thrown from the top of the hillock and as a result though he survived he was maimed and became invalid.

Sri Pramod Kumar

Contd

Thereupon FIR lodged by the authority of the Post Office and he was admitted in the Hospital by the Staff of the Post Office:

4.4. That thereafter, on an application for compulsorily retirement and invalid pension, as he was unable to perform his duties after the above mentioned incident, the then Director of Postal Services, Nagaland, Kohima requested the Director, Health Services, Nagaland, Kohima to constitute a Medical Board and to examine the official (Jagat Kumar) and to give its findings as to whether he is fit to remain in service or not.

Further more, the findings of the Board was to be given in form-23 for Medical Certificate which was enclosed.

A photocopy of the official letter No. B2/ Invalid Pension/CH-1 by the Director of Postal Services, Nagaland, Kohima addressed to the Director, Health Service, Nagaland, Kohima is annexed herewith and marked as ANNEXURE-2.

4.5. That, thereupon on a careful examination of Jagat Kumar applicant's father by the Medical Board constituted by and including the Civil Surgeon/M.O., Kohima District and opinion which is as follows :

Sri pramod Kumar

Contd

"We consider he is suffering from frequent seizure attack to be completely and permanently incapacitated for further service of any kind (or in the Department to which he belongs) in consequence of (here state disease or cause). His incapacity does not appear to us to have been caused by irregular or intemperate habit.

H/O, Head Inquiry presently suffering from seizure Actor off and on (based on history). Hence, we consider him to be completely and permanently incapacitated for further service".

The said form of Medical Certificate for invalid pension was signed by the Chairman of the Board who is also the Civil Surgeon, Kohima District, Nagaland and other members constituting the Board.

A photocopy of the said for Medical Certificate for invalid pension passed on behalf of the petitioner's father is annexed herewith and marked as ANNEXURE-3.

That the applicant begs to state that, thereafter his father was retired on Medical Ground of invalidity of resume duties and with effect from 8.12.2000 and thereafter was allotted invalid pension and as per the revised scale is getting an monthly invalid pension amounting to Rs.2700.00.

Stc premod Kumar

Contd

A photocopy of such an order passed by
Director of Postal Services, Nagaland,
Kohima is annexed herewith and marked
as ANNEXURE-4.

4.6. That the applicant begs to state that the pension was hardly enough to maintain their family as the lion's share of it was spent on his father's medication and he applied for appointment on compassionate ground as there was a provision for dependents of Central Government Servant Compulsorily Retired on Medical Ground before the attaining the age of 55 years and such provision for compassionate appointment can be made up to 5% of direct recruitment vacancies.

4.7. That the applicant following the due procedure of the mode of applying for compassionate ground, filled up the necessary forms and submitted the same to the office of the Director of Postal Services, Nagaland, Kohima. In this regard it is needless to say that the petitioner had submitted the Part-I, Part-II and Part-III forms in the year, 2001.

Photocopies of Part-I, Part-II and Part-III forms are enclosed herewith and marked as ANNEXURES-5(SERIES).

4.8. That the applicant beg to state that his father Sri Jagat Kumar had submitted a representation on 27.7.02 to the

Sri pramod Kumar

director of Postal Services, Nagaland, Kohima and it was addressed to the Chief Postmaster General, N.E. Circle, Shillong-793001.

4.9. That the applicant begs to state that the petitioner had filed an Original Application No. 14 of 2004 which was disposed off at the admission stage on 23rd January, 2004, to dispose off the representations within a period of 15 days by passing a speaking and reasoned order.

A Photocopy of the O.A. No. 14/04 is annexed and marked as ANNEXURE-6.

4.10. That the applicant begs to state that in the letter dated Kohima 19.3.2004 bearing Memo No. B1/32/R/Pt, passed by the Director of Postal Services, Nagaland, Kohima and addressed to the Chief Post Master General (Staff) had mentioned that-

"The applicant has applied for Postman Cadre. The case is recommended as there is vacant post under the relevant quota and the candidate can be absorbed".

A photo copy of the said order passed by the Director of Postal Services, Nagaland, Kohima addressed to the Chief Postmaster General Staff is

Stg pramod Kumar

Contd

annexed herewith and marked as

ANNEXURE-7.

4.11. That the applicant begs to state that he was totally taken by surprise on receipt of the letter No. Staff/175-22/2002, dated Shillong the 11th March, 2004 issued by Assistant Director (Staff) N.E. Circle, Shillong whereby it appeared that there was no quota for compassionate appointment in Postman Cadre under stipulated ceiling of Direct Recruitment Vacancies and hence the petitioner can could not be considered.

A photocopy of the said order passed by Asst. Director (Staff) addressed to the petitioner is annexed herewith and marked as ANNEXURE-8.

4.12. That subsequent to the aforesaid para, the petitioner received another letter issued vide Memo No. Staff/175-22/2002 dated Shillong the 23rd March, 2004 issued by Chief Post Master General, N.E. Circle which confirmed that there was no quota for compassionate appointment in Postman Cadre under the stipulated ceiling of Direct Recruitment Vacancies. Hence the case of the applicant could not be considered.

A Photocopy of the said order passed by the Chief Postmaster General, N.E. Circle addressed to the petitioner is

Sri Pramod Kumar

Contd

annexed herewith and marked as

ANNEXURE-9.

4.13. That the petitioner states that, he is totally over struck with the diversifying report of the Director of Postal Services, Nagaland on one hand, stating that the case is recommended as there is vacant post under the relevant quota and the candidate can be absorbed and the reports order passed by the Asst. Director (Staff) and the Chief Post Master General, N.E. Circle on the other hand that there is no quota for compassionate appointment in Post Man Cadre under the Direct Recruitment Vacancies and hence the petitioner could not be considered.

4.14. That the petitioner states that in compliance with the order of the Hon'ble Tribunal, the petitioner could have been appointed to the post of the Postman, vide the official letter of the Director of Postal Services, Nagaland, Kohima and states further that as if was seeking an appointment under the Directorate of Postal Service, Nagaland, Kohima the Directorate of Postal Services, Nagaland who in a better position to know the vacancy position and the letters furnished by the Asst. Director (Staff) N.E. Circle and Chief Postmaster General an unreliable, unauthentic and liable to be issued notice to show cause for furnishing such misleading, arbitrary and whimsical letters in a most irresponsible manner.

Sri pramod kumar

Contd

4.15. That the petitioner begs to submit that the appointment to the dependants of the person who "retire on medical ground is to ensure that the family of such a Central Government Servant, does not suffer from extreme financial difficulties and such unemployment is to be provided to one of the dependants of the Central Government only if there is no other member of the family already in the employment of the State Government or the Central Government or corporations, undertakings or such other bodies of the Central Government. The sole intention is to ensure that the family gets the benefit of having at least one salaried person subject to the qualification, availability of service of the appropriate category and having record to the Roster Point, Educational Qualification, age etc.

The petitioner further submitted that inspite of qualifying all the basics as mentioned above his prayer for appointment on compassionate ground has been turned down over the last 3 years, as there is a Rule that compassionate appointment of dependants of Central Govt. Servant retired compulsorily on medical ground should made within three years and this limitation period of three (3) years shall expire on 9.12.03 and as such, is now fit case to be interfered by this Hon'ble Forum.

4.16. That the petitioner further begs to submit that the scheme "Compassionate Appointment" itself is aimed to give immediate relief and solace to the family to save them from

Sri premnand Kumar

immediate relief and solace to the family to save them from immediate financial crisis faced on the sudden and untimely retirement of the bread winner.

Thus the benefit of appointment on compassionate ground under "retirement on medical ground before attaining the age of 55 years" should have been made available to the petitioner in accordance with the terms and conditions laid down in the said scheme whereby 5% of the post are reserved on the said ground.

4.17. That the petitioner states that despite his financial constraints, all these years since 8.12.2000, he had been frustrated with his efforts and felt let down as because he had demanded justice but the same has been denied to him thereby the respondent Nos.2,3 and 4 could have appointed the petitioner in the same other jobs pertaining to his qualification in Group-D posts honoring the order of Hon'ble Tribunal.

4.18. That the petitioner further submits that thereby the respondents could have appointed the petitioner in any of the post available under their disposal pertaining to the qualification of the petitioner in Group- D category, the respondents have taken a lame excuse and have willfully and deliberately sat above the Hon'ble Tribunal order on the excuse that no post pertaining to Postman Cadre is vacant.

Sri premnool Kumar

Contd

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:

5.1 For that the, compassionate appointment is applicable to the applicant as his father had retired on medical ground before attaining the age of 55 years (57 years in the case of Group-D officials).

5.2 For that the word "Dependant" does include son/daughter, for the purpose of appointment on medical ground.

5.3 For that the minimum age limit may be relaxed whenever necessary, though the applicant has not crossed the age of 28 years.

5.4 For that the applicant belongs to OBC and as such to be adjusted in the recruitment roster against the appropriate category.

5.5 For that this Original Application is in continuance of the O.A. No. 14/2004 which was decided on 23rd day of January, 2004 at Admission Stage and Hon'ble Gauhati High Court's order dated 9.12.2003 in W.P.(C) No. 9936 of 2003.

6. DETAILS OF THE REMEDY EXHAUSTED.

That the applicant states that the applicant challenges the legality and the validity of the official letters passed by Director of Postal Services, Nagaland, Kohima vide No. B-1/32/R/Pt, dated 19.3.2004 and letter passed by the Asst.

Sri Pramod Kumar

Contd

Director (Staff) N.E. Circle and Chief Post Master General, N.E. Circle vide Memo Nos. Staff/175-22/2002, dated 11th March, 2004 and 23rd March, 2004 respectively.

7. MATTER WHETHER PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT.

7.1. The matter was moved before the Hon'ble Gauhati High Court on 9.12.03 and the same has been disposed off with a direction to file it before the appropriate court (Forum)/ Tribunal.

7.2. That the matter was moved before the Hon'ble Tribunal, Guwahati Bench in Original Application No. 14 of 2004 and decided on 23rd day of January, 2004 at admission stage.

7.3. Now, the applicant states that the matter regarding which the application is made is in continuance of the Original Application No. 14 of 2004 and that the matter is not pending in any other court of law or any other authority or in any other Bench of the Tribunal.

8. RELIEF SOUGHT.

8.1. For issuing a direction, that the applicant be appointed to any vacant post of any category of Group-D post pertaining to his qualification and later on vacancy arising be shifted to the post of Postman.

Sri pramod Kumar

Contd

8.2. For such further and other reliefs as to this Hon'ble Tribunal may deem fit and proper under facts and circumstances of the case and in the interest of justice.

9. That this application has been filed through Advocate.

10. DETAILS OF ENCLOSURES:

	<u>Page No.</u>
10.1. H.S.L.C. Pass Certificate Annexure 1A.	18
10.2. O.B.C. Certificate Annexure 1B	19
10.3. Office Memo No. B2/ Invalid Pension/ Ch-1, dated 2.11.2000, Annexure-2.	20
10.4. Medical form for invalid form, Annexure-3	21
10.5. Memo No. B2/Invalid Pension/Ch-1, Kohima 21.12.2000, Annexure-4	22
10.6. Part-I, II, III form submitted by the applicant for consideration of appointment on compass- ionate ground, Annexure-5 Series.	23, 24, 25
10.7. Certified copy of High Court order, Annexure	(6) 26, 27, 28, 29, + 30
10.8. Certified copy of O.A. 14/2004, Annexure	(7) 31 (Both sides)
10.9. Letter issued vide Memo No. B1/32/R/Pt, Dated 19.3.2004, Kohima, Annexure-	(8) - 32

Sri pramod Kumar

Contd

10.10. Letter issued vide Memo No. Staff/175-22/2002...

dated Shillong the 11th March, 2004 by Asst.

Director (Staff) N.E. Circle, Annexure- 9

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10.11. Letter issued vide Memo No. Staff/175-22/2002...

dated Shillong the 23rd March, 2004 by the Chief

Post Master General, N.E. Circle, Annexure- 10

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VERIFICATION.

I, Sri Promod Kumar, son of Jagat Kumar, resident of village Balisatra, Via Senekuchi, P.O. Balisatra, P.S. Rangia District Kamrup, Assam aged about 28 years, do hereby verify that the contents declared from paragraphs 1 to 10 of the above application are true to my knowledge and I have not suppressed any material fact.

I, sign this Verification on this the 2nd day of June, 2004 at Guwahati.

Sri promod Kumar

DEPONENT.

Sri promod Kumar

Contd

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ANNEXURE - 1 -

P. B. KANIHA HIGHER SECONDARY SCHOOL

P. O. - KANIHA, Dist. KAMRUP (ASSAM) - 1942

TRANSFER CERTIFICATE

Book No.

Serial N261

Date 27.1.1995

Certified that Shri/Shrimati Pranod Kumar
Son/daughter of Sri Jagat Kumar an inhabitant of
Village Balisatra P.O. Balisatra P.S. Kanyama in the
district of Kamrup, left P. B. Kanuha Higher Secondary
School on 31-2-94. His/Her date of birth as per School
Admission Register is 2-2-77. He/She was reading in
Class 8 (5th) and ~~Passed/Could not pass the Annual~~
~~Examination in~~ for promotion to class
H.S.L.C./H.S. 7th Examination in 1995 under Roll R1-262
No. 26 in II (Shrd) Division/camp at mental. All sums
due by him/her have been paid ; viz res up to 31-3-94

Fines Rs. 10.00

Character Good

Reasons for leaving -

- (i) Unavoidable change of Residence
- (ii) Ill health
- (iii) Completion of School Course.
- (iv) ~~Minor reasons.~~

Attested
by
Principal

P. B. Kanuha H. S. School

Principal

P. B. Kanuha H. S. School
Principal
P. B. Kanuha Higher Secondary School

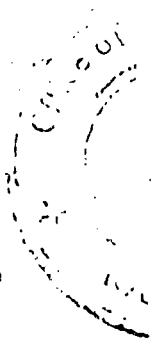
12/4/95

Certified to be true copy
M. A. Hossain
Advocate

GOVT. OF ASSAM

ANNEXURE-1

B-DIVISIONAL DEVELOPMENT BOARD
FOR O.B.C. RANGIA



No. 3186

19-7-75

CERTIFIED that Shri/Shrimati Pranod Kumar
[daughter/wife of Shri/Late Jugal Kumar
of Bairpata Village / Town
in Kojan P. S. of the Rangia Sub-Division in the
District of Kamrup Assam belongs Kojan which
is recognised as other backward / more other backward class by the
Govt. of Assam.

His / her family generally resides at Pharapeta
Village / Town under Kojan P. S. in the District
Kamrup Assam.

19/7/75
Later Signed of
S.D.O. (Civil)
(Seal)

Pranod Kumar
Chairman, Sub-Divisional Development
Board for O.B.C. Rangia
(Seal)

Certified to be true copy.
M.R. Baranika
Advocate

-20--

Annexure-2
3
V

ANNEXURE-2

DEPARTMENT OF POSTS:INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND: KOHIMA- 797001

No. B2/Invalid pension/Ch-1
Dtd, Kohima the 2.11.00

To,
The Director Health Services
Nagaland, Kohima- 797001

Sub:- Medical Examination for Invalid pension.
Sir,

Shri Jagat Kumar O/S cash Kohima Head Post office has applied for invalid pension on Medical ground. It is, therefore, requested that a medical board may kindly be constituted to examine the official and give its findings as to whether he is fit to remain in service or not.

The finding of the board may kindly be given inform-23 for medical certificate which is enclosed. As per official record his date of birth is 20.7.46.

Yours faithfully,

(F.P. Solo)
Director of Postal Services
Nagaland, Kohima-797001

Copy to:-

1. Shri Jagat Kumar O/S cash Kohima HO. w.r.t. his application dtd. 1.11.00, he is requested to appear before the medical board as and when called for.

*Copy to be given
M.R. Hiranika
Advocate*

(F.P. Solo)
Director of Postal Services
Nagaland Kohima-797001

FORM FOR MEDICAL CERTIFICATE FOR INVALID PENSION

Certified that I/We have carefully examined Shri/Smtt
JOGATH KUMAR Son of Late Gonoham Kumar
 in the Post office His age is by his own statement 50
 Years and by appearance about 50 Years.

I/We consider THIS SUFFERING FROM FREQUENT SEIZURE to be
ATTACK completely and permanently incapacitated for further service
 of any kind (or in the Department to which he belongs) in
 consequence of (here state disease or cause).. His incapacity
 does not appear to me/us to have been caused by irregular or
 intemperate habits.

H/O Head injury

Presently suffering from Seizure Attack

1. (DR. V. SEKHOSÉ) INCAPACITATED FOR FURTHER SERVICE
CIVIL SURGEON

KOHIMA DISTRICT : KOHIMA : NAGALAND.

2. (DR. M.A. EZUNG)
ASSTT. CIVIL SURGEON/M.O.
KOHIMA DISTRICT:

3. (DR. ADI BELHO)
M.P.C./H.I.O/M.O.
KOHIMA DISTRICT:

Chairman
Civil Surgeon
Kohima District
Kohima, Nagaland

8-12-2000
Asst. Civil Surgeon
Under Civil Surgeon
Kohima, Nagaland

8-12-2000
Member Surgeon
Under Civil Surgeon
Kohima, Nagaland

*Certified to be true copy.
 M. R. Herank.
 Advocate*

-29-22-

Annexure-4

ANNEXURE-4

DEPARTMENT OF POSTS:INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND: KOHIMA- 797001

No. B2/Invalid pension/Ch-1
Dtd, Kohima the 21.12.00

Shri Jagat Kumar O/S Cash Kohima HO is hereby permitted to
retire on Invalidation ground with effect from 8.12.00.

(F.P. Solo)
Director of Postal Services
Nagaland, Kohima-797001

Copy to:-

1. The Postmaster, Kohima HO for information and n/action.
2. The Budget Section Divisional Office, Kohima for information and n/action ((I) one M.C., enclosed.)
3. Shri Jagat Kumar O/S Cash Kohima HO
4. Spare.

(F.P. Solo)
Director of Postal Services
Nagaland Kohima-797001

Authd by the copy
M.R. H. H. H.
Advocate

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Annexure - 5 Series
Annexure - 5 (Series)

PART I

- Particulars of the deceased ~~deceased~~ invalid pension employee
- i. Name: SRI JAGAT KUMAR
 - ii. Designation: EX-O/S Cash, Kachima HC
 - iii. Date of birth: 20.07.1946
 - iv. Date of death / retirement on invalid pension: 9.12.2000
 - v. Date of superannuation: 31.07.2006
 - vi. Total length of service rendered: 33 years
 - vii. Whether Permanent or Temporary: Permanent
 - viii. Whether belonging to SC/ST/OBC: OBC
 - ix. Name of the candidate for appointment: Sri Pramod Kumar
 - x. His/her relationship with the government servant: Son
 - xi. Date of Birth: 02.02.1977
 - xii. Educational qualifications: HSLC Passed
 - xiii. Whether any other dependent family member has been appointed on compassionate grounds: No.

B. Financial Status of the family

Terminal Benefits. Paid to the official who retired on invalidation / to the family of the official who expired in harness.

- (i) Family pension (Bank and F.R. separately please indicate the latest amount): Provisional Pension 2000 + DR 820 Pm. w.e.f. 9.12.00.
- (ii) D.C.R. G. Provisional DCRG Rs 60000.
- (iii) G.P.F. Balances: Not received
- (iv) Life Insurance Policies (P.L.I., etc.): NIL
- (v) S.G.E.I.S amount: yet to be received.
- (vi) Encashment of leave: NIL
- (vii) Any other items: NIL
- (viii) Total amount of terminal benefits: Rs 62820.

C. Assets and Other sources of income etc.

- i. Immovable property:
 - a. Agricultural land - bare, and uncultivable or not, income from the land: Nil
 - b. House, (approximate value of the house): Rs 20000.
- ii. Movable Property (Furniture, etc.): Nil
- iii. Annual income from other sources: Nil
- iv. Where does the family live? in own house or rented. Please give details: in own house
- v. Details of the family should be given: Balisatra via - Saneckuchi Kamrup, Assam.
- vi. Liabilities:
 - a. Educational expenses children: 5.
 - b. Medical: 2.
 - c. Loan: Nil
 - d. Other: Nil

checked & signed by
P. R. Hiranika
Assistant

II. Particulars of all dependents of the Govt. servant

PART II

Note 1. If some family members are employed their income and whether they are living separately should be clearly indicated

Sl. No.	Name	Relationship with the Govt. servant	Date of birth	Employed or not (please give details asked in Note 1)	Educational qualifications	Marital Status	Whether living with the family or separately from the family; give address if living separately.
1.	Jagat Kumar	Self	20.7.46	Self Retd.	IX	M.	NO
2.	Smt Namuni Kumar	wife	1.9.56	not		M.	NO
3.	Smt. Premod Kumar	Son	2.2.77	- do -	HSLC	Un-m.	NO
4.	Smt. Kalpana Kumar	daughter	17.5.79	- do -	P.U.	- do -	NO
5.	Son Prabir Kumar	Son	11.6.81	- do -	Matriculation	- do -	NO
6.	" Rishi Kumar	Son	2.3.83	- do -	- do -	- do -	NO
7.	Smt. Alok Kumar	daughter	29.6.85	- do -	- do -	- do -	NO

DECLARATION

I hereby declare that the facts given by me above are, to the best of my knowledge, correct. If any of the facts herein mentioned are found to be incorrect or false at a future date my service may be terminated.
I hereby also declare that I shall maintain properly the other family members who were dependent on the Government servant mentioned against me, Part I of the form and in case it is proved at any time that the family members are being neglected or not being properly maintained by me, my appointment may be terminated.

Date of filling the Synopsis :

Signature of the candidate.

Present Residential Address of the candidate: H-14, P.O. Badli, District Sonapat, Karnal (Haryana)

Signature is known to me and the facts mentioned by him are correct

Date

Name & address of permanent Govt. servant

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

Signature

Name and address of the Verifying Officer

(With Seal)

Defects of the candidate and recommendations of the CPMG

Prüfung in der Fachrichtung Elektrotechnik Seite 5 von 5

DOB: - 02.02.1977
Experience: - NIL.
Postman Candidate.

Postman Centre

၂၃

70

yes

(10) If the Govt. servant died (retired or invalid pension more than five years back reasons for not sponsoring the case earlier.

Does not arise

(12) Signature of the Head of the Division and seal.
(with date)

RECEIVED FROM THE NATIONAL BUREAU OF THE FIRE

(in case of a negative recommendation and also the reasons for the recommendation)

Signature of the Head of the Circle.
(affix seal)

Date .

मूचित करने की तिथि तारीख Date fixed for notifying the requisite number of stamps and folios.	देने की तारीख 23 Date of delivery of the requisite stamps and folios.	प्रतिलिपि तैयार की Date on which the copy was ready for delivery.	तारीख ANNEXURE Date of making over the copy to the applicant. ANNEXURE - 6
15/11/13	10/11/13	16/11/13	17/11/13

-26-

IN THE GAUHATI HIGH COURT
 (High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura,
 Mizoram & Arunachal Pradesh)
 CIVIL APPELLATE SIDE

appeal from
 civil Rule

Case No. 9936 of 2003

Appellant
 Petitioner

Sri Pramod Kumar

Versus

Union of India & Ors

Respondent
 Opposite Party

Appellant Mr. A.M. Mazumdar

Petitioner Mr. M.R. Hazanika - Adv.

Respondent

Opposite Party C.A.S.C.

11/12/13
 Certified to be true copy
 M.R. Hazanika
 Advocate

2

IN THE MATTER OF

Sri Pramod Kumar, age 28 years, S/o.

Sri Jagat Kumar, vill.- Ballisatra via

O/S

15/11/19

- 28 -

4

Sanekuchi, P.O. Balisatra P.S.
Rangia, Dist. Kamrup, Assam.

.....Petitioner.

Versus

The Union of India, represented by:-

1. Secretary to the Govt. of
India Post and Telegraph Dept., New
Delhi.
2. Chief Post master General,
North East Circle, Shillong-793001.
3. Director of Postal Services,
Nagaland, Kohima, -797001.
4. Post Master, Kohima Head Post
Office, Nagaland, Kohima, -797001.

.....Respondent

10/1/72
12

20-29

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9.12.03.

BEFORE

HON'BLE MR. JUSTICE B.M.SHARMA.

Heard the learned counsel for
the parties.

This writ petition has been filed
making a prayer for compassionate appointment
The father of the petitioner was an employee
of the postal department who was released
from service on medical ground on 8.12.2000.
The petitioner seeks for his appointment
in the postal department.

The matter relates to recruitment
of the petitioner in the postal department.

...

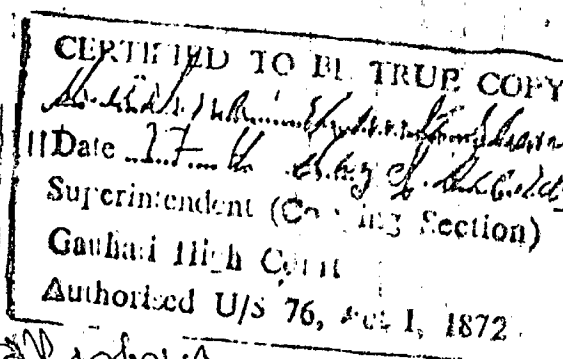
- 27 -
- 30 -

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Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4
			<p style="text-align: center;">-2-</p> <p>In view of the provisions of G.A.T. Act, 1985 and the law laid down in L. Chandrakumar's case reported in 1997 (1) GLT, this Court is not inclined to entertain the writ petition at this stage. The petitioner may approach the appropriate forum G.A.T. if so advised.</p> <p>This writ petition stands disposed of.</p>

Sd. B K Sharma
Judge

Gauhati High Court



PNO 5051
9/2/03

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.14 of 2004

Date of decision: This the 23rd day of January 2004
(At Admisstion Stage)

The Hon'ble Shri Bharat Bhusan, Judicial Member

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

Shri Pramod Kumar
S/o Shri Jagat Kumar
Village: Balisatra, Via Sanekuchi,
P.O.- Balisatra, P.S. Rangia,
District- Kamrup, Assam
By Advocates Mr A.M. Mazumdar and
Mr M.R. Hazarika.

.....Applicant.

- versus -

1. The Union of India represented the Secretary to the Government of India, Ministry of Communication (Post & Telegraph) New Delh.
 2. The Chief Post Master General, N.E. Circle, Shillong.
 3. The Director of Postal Services Nagaland, Kohima.
 4. The Senior Superintendent of Post Offices, Kohima Division, Nagaland.
 5. The Post Master, Kohima Head Post Office, Nagaland, Kohima.
 6. The Chairman, Respective Circle Selection Committee
- By Advocate Mr A. Deb Roy, Sr. C.G.S.C.Respondents

ORDER (ORAL)BHARAT BHUSAN, MEMBER (J)

The applicant seeks appointment on compassionate grounds. The case of the applicant is that his father, Shri Jagat Kumar was an employee of the Postal Department and was released from service on medical grounds on 8.12.2000. On that ground, the applicant seeks appointment on compassionate grounds. It is stated on behalf of the

certified to be true copy
M.R. Hazarika
Adv

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applicant that the pension of his father is very meagre, so it is not possible for them to maintain their family and that none of his sisters are the earning members and he too is unemployed. He has particularly brought to our notice the fact that during mid of the year 2000 while returning to Kohima Head Post Office after collecting cash of Rs.39,000/- from Monkhola Sub Post Office and Kohima P.W.D. Sub Post Office, his father who was an employee of the Postal Department was attacked by miscreants and after being severely wounded and looted of the cash, his father was thrown from the top of a hillock and as a result though his father survived he was maimed and became invalid. This is the main ground for seeking the compassionate appointment. He contends that a representation dated 9.12.2001 had been made to the Chief Post Master General, N.E. Circle, Shillong, but the same has so far remained unanswered. He further submits that he had approached the Hon'ble Gauhati High Court for the relief but the Hon'ble High Court has directed him to approach the appropriate forum i.e. the Central Administrative Tribunal. Consequently, he has approached this Tribunal.

2. Since the representation has remained pending so far, in our view it would be in the fitness of things if the respondents are directed to dispose of the representation within a period of fifteen days from today by passing a speaking and reasoned order. The respondents are accordingly directed.

3. The O.A. thus stands disposed of.

4. Copy of the order may be given to the learned counsel for the parties.

Sd/MEMBER (A)

Sd/MEMBER (J)

14/12/01
11/12

-32- Annexure - 8 35

DEPARTMENT OF POSTS : INDIA

OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND DN.KOHIMA-797001

No. B-1/32/R/Pt

Dated at Kohima the 19.3.2004

To,

The Chief Postmaster General (Staff)
N.E. Circle, Shillong -793001

Sub:-

Compassionate appointment of near relative of invalid pensioner- case of
Pramod Kumar, S/O Jagat Kumar, Ex. O/S Kohima HPO.

Ref:-

CO letter No. Staff/ 175-22/2002 dated 16.9.2003.

As required by the Circle Office, the Information sheet duly filled in by
the applicant, as noted above, along with one form of synopsis and a copy of
Invalidation order are forwarded herewith for further disposal.

The applicant has applied for Postman cadre. The case is recommended
as there is vacant post under the relevant quota and the candidate can be absorbed.

Enclosed as above.

(Rakesh Kumar)

Director of Postal Services
Nagaland, Kohima-7907001

Copy to:-

✓ Mr. Pramod Kumar, (S/O Jagat Kumar, Ex. O/S, Kohima) BPO & Vill.
Ballsatra, Vla Samekuchi, Dist. Kamrup (Assam), for information.

*Delivered to the office - Copy
M.R. Heeranka
Advocate*

DEPARTMENT OF POSTS: INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL N.E. CIRCLE: SHILLONG-793 001.

No. Staff 175-22/2002

Dated at Shillong, the 11th March 2004.

To,

Sri Promode Kumar,
S/o Sri Jagat Kumar,
P.O. Vill - Balisatra,
Via Sanekuchi Dist.
Kamrup (Assam)

Sub:- Disposal of Application of Sri Promode Kumar.

I have been directed to intimate that your application for appointment under compassionate ground was received in this office under DPS, Kohima L/No.B-1/32/R/Pt dtd.22-7-2002. As per your educational qualification i.e. HSLC passed, you were proposed for the post of Postman. However, on receipt of clearance of posts for Direct Recruit conveyed by the Dte. New Delhi it appears that there was no quota for compassionate appointment in Postman cadre under stipulated ceiling of Direct Recruit vacancies. Hence, your case could not be considered.

(B. R. HALDER)
Asstt. Director (Staff)
For Chief Postmaster General,
N. E. Circle, Shillong.

Copy to:-

The AFMG(LC), Circle Office, Shillong.

SD/-
For Chief Postmaster General,
N. E. Circle, Shillong.

Certified to be true copy
M.R. Hazarika
ADV

-34-

A-9.
Annexure - 10
38

DEPARTMENT OF POSTS, INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL, N. E. CIRCLE, SHILLONG-793 001.

No. Staff 175/12/2002

Dtd. 1 Shillong 11/23rd March 2002.

In compliance to para 2 of the Hon'ble CAT's award order in OA No.14 of 2004 dated 25-1-04 the case has been examined and it is seen that the application for appointment under compassionate ground of Sri Pramode Kumar, son of Shri Jagat Kumar, ex-Festimat, Nagaland Division was received by this office under D.P.S. Kohima L.No.B-1-32-R Ft dtd.22-7-2002. Since the educational qualification of Sri Pramode Kumar is H.S.L.C. passed he was proposed for appointment in the cadre of Postman. On receipt of clearance of vacancies for Direct Recruitment conveyed by the Directorate, N. Delhi, it appears that there was no quota for compassionate appointment in Postman cadre under the stipulated ceiling of Direct Recruitment vacancies. Hence the case of the applicant could not be considered.

A. Ghosh Dastidar
(A. Ghosh Dastidar)
Chief Postmaster General,
N. E. Circle, Shillong.

Copy to:-

- Regd*
1. Shri Pramode Kumar, S/o Sri Jagat Kumar PO. Vill- Balisatra, Via Sanekuchi Dist. Kamrup (Assam).
 2. The D.P.S., Nagaland Division, Kohima.
 3. The Director (Staff) Dak Bhavan, Sansad Marg, New Delhi.

(A. Ghosh Dastidar)
Chief Postmaster General,
N. E. Circle, Shillong.

*Copy
M.R. Hazarika
Advocate*

Central Administrative Tribunal
 13 SEP 2004
 IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
 GUWAHATI BENCH :: GUWAHATI

35
 Union of India & Ors.
 Through: Respondent
 Shri Pramod Kumar Counsel for
 Addl. Central Govt. Standing Council
 G. A. T. 13/9/04
 Guwahati

In the matter of :-

O.A.No.134 of 2004

Shri Pramod Kumar ... Applicant

-Versus-

Union of India & Ors. ..Respondent

WRITTEN STATEMENT FOR AND ON BEHALF OF RESPONDENTS
 NOS.1,2,3 & 4.

I, Rakesh Kumar, Director Postal Services, Nagaland, Kohima-797001, do hereby solemnly affirm and say as follows :-

1) That I am the Director Postal Services, Nagaland, Kohima and as such fully acquainted with the facts and circumstance of the case. I have gone through a copy of the application and have understood the contents thereof. Save and except whatever is specifically admitted in this written statement the other contentions and statement may be deemed to have been denied. I am authorised to file the written statement on behalf of all the respondents.

2) That the respondents beg to place the Brief History of the case as follows :-

i) Shri Jagat Kumar, the then overseer (Cash) Kohima represented vide his application dated 28-8-2000 (Annexure-V) that he wants to retire on medical grounds because of his ill-health. Director, Postal Services, Kohima (respondent No.3), vide his memo No.B2/Invalid Pension Ch.I dtd.02-11-2000 (Annexure-I) asked Director, Health Services, Nagaland, Kohima to constitute a medical Board to medically examine the official and submit his findings whether he is fit to remain in service or not.

ii) Assistant Civil Surgeon, Kohima vide his letter No.CSK-1/3/PB/2000-2001/2368 dtd.12-12-2000 (Annexure-II) submitted the medical examination report (Annexure-III), in which the official was not found fit to be retained in service because of his ill health/ailments. Accordingly, Shri Jagat Kumar, overseer cash, Kohima H.O. was permitted to retire on invalidation ground with effect from 08-12-2000 vide Director Postal Services, Kohima memo No.B2/Invalid Pension/Ch-I dtd.21-12-2000 (ANNEXURE-IV).

Contd..p/2-

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iii) Thereafter, the applicant, son of Shri Jagat Kumar, applied for compassionate appointment in the post of postman vide application dtd.28-8-2000 (Annexure-V). The same was forwarded to the Circle Office, Shillong (respondent No.2) by DPS, Kohima (Respondent No.3). The case was considered by Chief Postmaster General, North East Circle, Shillong and it was not found feasible to accede to his request and the same was communicated to him by letter No.Staff/175-22/2002, dtd.11-3-2004 (Annexure-VI). The applicant filed an application in Hon'ble Tribunal at Guwahati for favourable consideration of his request for compassionate appointment. The same was decided by Hon'ble Tribunal, Guwahati vide its judgement dtd.23-1-2004 in OA No.14/2004 (Annexure-XI). The Hon'ble Tribunal Guwahati by judgement dtd.23-1-2004 directed the respondents to dispose of the representation within a period of 15 days from that day by passing a speaking and reasoned order. The respondent No.2 passed the speaking and reasoned order vide his memo No.Staff/175-22/2002, dtd.23-3-2004 (Annexure-VII) in which he has stated that since there was no quota for compassionate appointment in postmen cadre under the stipulated ceiling of direct recruitment, his case was not considered. Thereafter, the applicant filed a court case in Hon'ble High Court, Guwahati which was disposed off with a direction to file it before the appropriate forum. Thereafter, the applicant filed the present OA in Hon'ble Tribunal and the context of his present petition is same or similar to that made in OA No. 14/2004, which already stands adjudicated on 23-1-2004 and which has already been complied with by the respondents.

iv) The Hon'ble Supreme Court in its judgement dtd.04-05-04 in the case of Umesh Kumar Nagpal Vrs. State of Haryana and others (JT 1994 (3) S.C. 525) has stated that "appointment in public service should be made strictly on the basis of open invitation of applications and merits and appointment on compassionate grounds is exception to the rule. Any such exception should, therefore, be made to the minimum possible extent say one or two percent or maximum of five percent and if it exceeds that it will no longer be an exception. Further, any relaxation of the 5% limit even as a temporary measure will lead to bulk appointment on compassionate ground, which is bound to result in dilution of standards. As appointment on compassionate ground is not based on merit, it is also not through open competition it would, therefore, adversely effect the efficiency of the administration and hence would not be in public interest".

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v) Further, the Hon'ble Supreme Court in its judgement dtd.07-05-96 in the cases of Himachal Road Transport Corporation vrs. Dinesh Kumar (JT 1996 (5) S.C. 519) and in the case of Hindustan Aeronautics Ltd. vrs. Smti A. Radhika Thirumalai (JT 1996 (9), S.C. 197) judgement dtd.09-10-96 have avjudicated that "appointment on compassionate ground can be made only if a vacancy is available for that purpose".

vi) The applicant is claiming for compassionate appointment as a matter of right based on his father's premature retirement on Medical grounds and that the applicant possesses educational qualification for the post of postman. But, as appointment on compassionate ground is not based on open competition or merit and is subject to availability of vacancy under compassionate ground of the post applied for, the claim of the applicant is not justified.

3) That the respondents have no comments to the statements made in paragraph 1.1, 1.2, 1.3, 1.4, 1.5 and 1.6 of the application.

4) That with regard to the statements made in paragraph 1.7 of the application, the respondents beg to state that the letter dtd. 19-03-04 (Annex IX) was checked up with the office records and was not found signed and thus has no administrative/legal validity. A clarification letter was issued vide D.O. No.8-1/32/R/P t. dtd.24-5-2004 (Annex X) categorically stating that memo No.8-1/32/R/Pt dated 19-3-2004 (Annex IX) may be treated as null and void as respondent No.3 is not empowered to calculate the vacancy position under compassionate appointment, which is done by Postal Directorate and the decision on compassionate appointment is taken by Circle Office, Shillong. Thus, the letter dtd. 19-3-2004 has no administrative/legal validity as it was unsigned and even if it was signed it was infructuous right from the start having no administrative/legal validity as the respondent No.3 is not vested with the powers of calculation of vacancy under compassionate appointment quota.

5) That the respondents have no comments to the statements made in paragraph 1.8, 2, 3, 4.1, 4.2, 4.3, 4.4 and 4.5 of the application.

6) That with regard to the statements made in paragraph 4.6 of the application, the respondents beg to state that the provisions of compassio-nate appointment in case of superannuation on medical ground is subject to the limitatio n that overall

the cases of compassionate appointment can not exceed 5% of direct recruitment vacancies, which has been upheld in past by courts.

Supreme Court in its judgement dtd.04-05-2004 in the case of Umesh Kumar Nagpal vrs. State of Haryana and others (WT 1994 (3) S.C. 525) has stated that "appointment in public service should be made strictly on the basis of open invitation of applications and merits and appointment on compassionate grounds is exception to the rule. Any such exception should, therefore, be made to the minimum possible extent say one or two percent or maximum of five percent and if it exceeds that it will no longer be an exception. Further, any relaxation of the 5% limit even as a temporary measure will lead to bulk appointment on compassionate ground, which is bound to result in dilution of standards. As appointment on compassionate ground is not based on merit, it is also not through open competition it would, therefore, adversely effect the efficiency of the administration and hence would not be in public interest".

Further, Supreme Court in its judgement dtd.07-05-96 in the cases of Himachal Road Transport Corporation vrs. Dinesh Kumar (JT 1996 (5), S.C.519) and in the case of Hindustan Aeronautics Ltd. vrs. Smt. A. Radhika Thirumalai (JT 1996 (9), S.C.197) judgement dtd.09-10-96 have avjudicated that "appointment on compassionate ground can be made only if a vacancy is available for that purpose".

In the instant case, the petitioner was not considered for appointment as there was no quota for compassionate appointment in postman cadre under the stipulated ceiling of direct recruitment vacancies, which has been clearly stated by respondent No.2 in his speaking order dtd.23-03-2004 (Annexure-VII) which was issued in pursuance of Hon'ble Tribunal, Guwahati judgement dtd.23-01-2004 in OA No.14 of 2004 (Annex XI).

7) That the respondents have no comments to the statements made in paragraph 4.7, 4.8 and 4.9 of the application.

8) That with regard to the statements made in paragraph 4.10 of the application, the respondents beg to state that as stated in para 4 above, the letter dtd.19-3-2004 (Annex IX) was not signed and thus has no administrative/legal validity. A clarification letter was issued by respondent No.3 to respondent No.2 vide memo No.B-1/32/R/Pt, dtd.24-5-04 (Annex X) in which it was categorically stated that the letter dtd.19-3-04 may be treated as null and void

Contd./p-5

as respondent No.3 is not empowered to calculate the vacancy position under compassionate appointment, which is done by the Postal Directorate, New Delhi and the decision on compassionate appointment depending on vacancy position is taken by Circle Office, Shillong (respondent No.2). Thus, the letter dtd.19-3-04 has no administrative/legal validity as it was unsigned and even it was signed, it was infructuous right from the start as it has no administrative/legal validity as the respondent No.3 is not vested with the powers of calculation of vacancy under compassionate appointment quota. The respondent No.3 was also not in a position to calculate the vacancy position under compassionate appointment as the same is calculated for the North East Circle as a whole and the respondent No.3 being in charge of only Nagaland Division did not had statistics or the powers to call for statistics relating to other units falling under North-East Circle.

9) That the respondents have no comments to the statements made in paragraph 4.11 and 4.12 of the application.

10) That with regard to the statements made in paragraph 4.13 of the application, the respondents beg to state that the respondents reiterate the statements made in paragraph 8 of this written statements.

11) That with regard to the statements made in paragraph 4.14 of the ~~respondent's~~ application, the respondents beg to state that as stated in paragraph 8 above, the vacancy position under compassionate appointment is calculated for the Circle as a whole, which should not exceed 5% of direct recruitment vacancies.

Further, Supreme Court in its judgement dtd.07-05-96 in the cases of Himachal Road Transport Corporation vrs. Dinesh Kumar (JT 1996 (5) S.C.519) and in the case of Hindustan Aeronautics Ltd. vrs. Smt. A. Radhika Thirumalai (JT 1996 (9), S.C. 197) judgement dtd.09-10-96 have avjudicated that "appointment on compassionate ground can be made only if a vacancy is available for that purpose".

The letter dtd.19-03-04 (Annex-IX) was unsigned and had no administrative or legal validity and even presuming that it was signed, was administratively/legally invalid as respondent No.3 is not vested or was not in a position to calculate the vacancy position under compassionate appointment for the circle as a whole.

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12) That with regard to the statements made in paragraph 4.15 of the application, the respondents beg to state that the compassionate appointment is given in extreme cases subject to availability of vacancies under compassionate appointment quota and therefore, his case was not considered.

13) That with regard to the statements made in paragraph 4.16 of the application, the respondents beg to state that the interest of the dependent of the deceased/invalid employees has to be seen in context of interests of Govt. department. In several judgement of courts including the Supreme Court, it has been categorically stated the compassionate appointment cases should not exceed the upper ceiling of 5% of total direct recruitment vacancies, as it leads to lowering down of standard of employees thereby adversely affecting the efficiency of the department. The upper ceiling of 5% quota for appointment on compassionate ground includes both the employees who died during their service span as ^{well as} employees who superannuated on invalid/medical grounds. Thus, the contention of the petitioner that 5% of the quota is reserved for official retiring on medical grounds only is not correct. It included ~~of~~ employees who died in harness also.

14) That with regard to the statements made in paragraph 4.18 of the application, the respondents beg to state that the appointment under compassionate grounds is dependent on vacancies under this category as well as rules framed by Govt. of India. It can not be claimed as a matter of right which otherwise would lead to dilution of standards of employees in the department.

15) That the respondents have no comments to the statements made in paragraph 4.17, 5.1, 5.2, 5.3, 5.4, 5.5, 6, 7.1, 7.2 and 7.3 of the application.

16) That with regard to the statements made in paragraph 8.1 of the application, the respondents beg to state that the petitioner applied for compassionate appointment under postman quota and accordingly his case was considered against postman quota for compassionate appointment in postman cadre under the stipulated ceiling of Direct recruitment vacancies. There is no provision in the departmental rules to give compassionate appointment on a lower post and thereafter shift one to a higher post subsequent upon vacancy being created in that cadre in future.

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The applicant has stated that he should be given compassionate appointment to a post commensurate to his educational qualification is not correct as the appointments in public service is made strictly on the basis of open invitation of applications and merits and petitioner has not gone through that process and is merely quoting his educational qualification as sole criterion for his selection as a postman on compassionate grounds.

17) That the respondents have no comments to the statements made in paragraph 8.2 of the application.

18) That the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with costs.

VERIFICATION

I, Rakesh Kumar, presently working as Director Postal Service, Office of the Director of Postal Services, Nagaland, Kohima being duly authorised and competent to sign this verification do hereby solemnly affirm and state that the statements made in paragraphs 1, 3 of the application are true to my knowledge and belief, those made in paragraphs 2, 4 - 15 being matter of record are true to my information derived there from and those made in the rest are humble submission before the Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 27th day of Aug, 2004

Rakesh Kumar
Deputy
(Rakesh Kumar)
निदेशक डाक सेवा
Director of Postal Services
नागालैंड कोहिमा - 791000
Nagaland, Kohima 791000

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DEPARTMENT OF POSTS, INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND, KOHIMA-797001

Annexure-I

(42)

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No.B2/Invalid pension/Ch-I
Dtd,Kohima the 2.11.00

To,
The Director Health Services
Nagaland, Kohima-797001

Sub:- Medical Examination for Invalid pension.

Sir,

Shri.Jagat Kumar O/S cash Kohima Head Post Office has applied for invalid pension on Medical ground. It is therefore, requested that a medical board may kindly be constituted to examine the official and give its findings as to whether he is fit to remain in service or not.

The finding of the board may kindly be given inform-23 for medical certificate which is enclosed. As per official record his date of birth is 20.7.46.

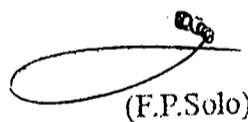
Yours faithfully,


(F.P.Solo)

Director of Postal services
Nagaland, Kohima-797001

Copy to :-

1. Shri.jagat Kumar O/S cash Kohima HO. w.r.t his application dtd, 1.11.00, He is requested to appear before the medical board as and when called for.


(F.P.Solo)

Director of Postal services
Nagaland, Kohima-797001

0/c
Enclosed
Adl. C. G. S. O.

Staff 9-11-2000

CONFIDENTIAL.

GOVERNMENT OF NAGALAND
OFFICE OF THE CIVIL SURGEON KOHIMA DIST:

Annexure-II

KOHIMA :: :: NAGALAND.

NO.CSK-1/3/MB/2000-01/ 2368

Dated Kohima, the 12 th December 2000.

To,

The Director of Postal Services,
Nagaland, Kohima.

Subject :- FORWARDING OF MEDICAL BOARD EXAMINATION REPORT.

Sir,

With reference to your letter No.B2/Invalid Pension/Ch-I : Dated Kohima 2-11-2000, I have the honour to forward herewith the findings of Medical Board Examination Report held on 08-12-2000 for Invalid Pension in respect of Shri. Jagat Kumar Son of Late Gonoram Kumar of your staff for favour of further necessary action.

Enclosed :-

1) Certificate.

Yours faithfully,

(DR. M. A. EZUNG)

ASSTT. CIVIL SURGEON

KOHIMA DIST: KOHIMA : NAGALAND.

S.K.Jha/12-12-2K..

FORM FOR MEDICAL CERTIFICATE FOR INVALID PENSION

Certified that I/We have carefully examined Shri/Smtt
JOGATH KUMAR Son of Late Gonham Kumar
 in the Post office His age is by his own statement 50
 Years and by appearance about 50 Years.

I/We consider his suffering from frequent seizure to be
 completely and permanently incapacitated for further service
 of any kind (or in the Department to which he belongs) in
 consequence of (here state disease or cause).. His incapacity
 does not appear to me/us to have been caused by irregular or
 intemperate habits.

H/O Head injury

Probably suffering from Seizure Attack

NA CONSIDER AS TO BE COMPLETELY incapacitated History
 (DR. V. SEKHSE) INCAPACITATED FOR FURTHER SERVICE
 CIVIL SURGEON

1.

KOHIMA DISTRICT : KOHIMA : NAGALAND.

(DR. M.A. EZUNG)

ASSTT. CIVIL SURGEON/M.O.

KOHIMA DISTRICT:

2.

(DR. ADI SELHO)

D.F.H.G./M.O./M.O.

KOHIMA DISTRICT:

Chairman
 Civil Surgeon
 Kohima District
 Kohima, Nagaland

8-12-2000
 Asstt. Civil Surgeon
 Under Civil Surgeon
 Kohima, Nagaland

8-12-2000
 Asstt. Civil Surgeon
 Under Civil Surgeon
 Kohima, Nagaland

Attested
 Addl. C.G.S.O.


11 Annexure-IV
20/C

(45)
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DEPARTMENT OF POSTS; INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND: KOHIMA-797001


No.B2/Invalid Pension/Ch-I
Dtd,Kohima the 21.12.00


Shri. Jagat Kumar O/S cash Kohima HO is hereby permitted to retire on Invalidation ground with effect from 8.12.00.


21/12/00
(F.P Solo)
Director of Postal Services
Nagaland : Kohima-797001

Copy to :-

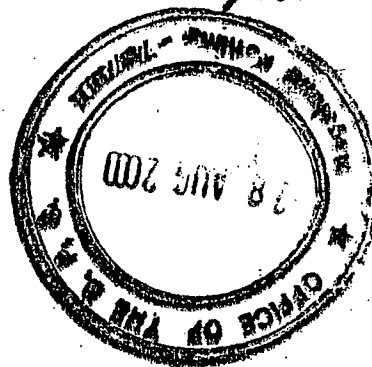
- 1.The Postmaster,Kohima HO.for information and n/action.
- 2.The Budget Section Divisional Office,Kohima for information and n/action (I (one) M.C. enclosed)
- 3.Shri.Jagat Kumar O/S Cash Kohima HO
- 4.Spare.


(F.P Solo)
Director of Postal Services
Nagaland : Kohima-797001


Received
Add. G. B. B. B.

To, "

The Director of Postal Services,
Nagaland, Kohima-797001.



Sub:- Request for grant of invalid pension.

Sir,

Most respectfully I beg to state that I have some constant illness which has unabled me to do any kind of works continuously. Apart from it, as the nature of duty in the postal department is such a heavy job that I find myself very difficult to remain in service for longer period. Moreover, the doctor has also advice me for rest.

I therefore, request your honour to kindly allow me to go retirement on invalidation ground with effect from 4.9.2000. For which act of your kindness I shall remain grateful to you.

Yours faithfully,

(Jagat Kumar)
O/S Cash, Kohima HO.

Dated: Kohima the
28.8.2000

Attested
[Signature]
Smt. G. G. S. (A)

13 Annexure-VI

DEPARTMENT OF POSTS: INDIA

OFFICE OF THE CHIEF POSTMASTER GENERAL N.E. CIRCLE: SHILLONG-793 001.

No. Staff 175-22/2002

Dated at Shillong, the 11th March' 2004.

To,

Sri Promode Kumar,
S/o Sri Jagat Kumar,
P.O. Vill - Balisatra,
Via Sanekuchi Dist.
Kamrup (Assam)

Sub:- Disposal of Application of Sri Promode Kumar.

I have been directed to intimate that your application for appointment under compassionate ground was received in this office under DPS, Kohima L/No.B-1/32/R/Pt dtd.22-7-2002. As per your educational qualification i.e. HSLC passed, you were proposed for the post of Postman. However, on receipt of clearance of posts for Direct Recruit conveyed by the Dte. New Delhi it appears that there was no quota for compassionate appointment in Postman cadre under stipulated ceiling of Direct Recruit vacancies. Hence, your case could not be considered.

(B. R. HALDER)
Asstt. Director (Staff)
For Chief Postmaster General,
N. E. Circle, Shillong.

Copy to:-

The APMG(LC), Circle Office, Shillong.

sd/-
For Chief Postmaster General,
N. E. Circle, Shillong.

Attested

AK
Sd/- C. G. S. A.

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Annexure-VII

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A-9.

DEPARTMENT OF POSTS, INDIA

OFFICE OF THE CHIEF POSTMASTER GENERAL, N. E. CIRCLE, SHILLONG-793 001.

No. SHILL 175-22/2002

Dated Shillong, the 23rd March 2004.

In compliance to para 2 of the Hon'ble CAT Gauhati order in OA No.14 of 2004 and 25-1-04 the case has been examined and it is seen that the application for appointment under compassionate ground of Sri Pramode Kumar, son of Shri Jagat Kumar, ex-Postman, Nagaland Division was received by this office under D.P.S., Kohima L/No.B-1/32/R/Pt dtd.22-7-2002. Since the Educational qualification of Sri Pramode Kumar is H.S.L.C. passed he was proposed for appointment in the cadre of Postman. On receipt of clearance of vacancies for Direct Recruitment conveyed by the Directorate, N. Delhi, it appears that there was no quota for compassionate appointment in Postman cadre under the stipulated ceiling of Direct Recruitment vacancies. Hence the case of the applicant could not be considered.

(Signature)
(A. Ghosh Dastidar)
Chief Postmaster General,
N. E. Circle, Shillong.

Copy to:-

1. Shri Pramode Kumar, S/o Sri Jagat Kumar PO. Vill- Balisaba, Via Sanekuchi Dist. Kamrup (Assam).
2. The D.P.S., Nagaland Division, Kohima.
3. The Director (Staff) Dak Bhavan, Sansad Marg, New Delhi.

(Signature)
(A. Ghosh Dastidar)
Chief Postmaster General,
N. E. Circle, Shillong.

(Signature)
Addl. C.P.G.

Staff



R/ 8520 15/6/04

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Annexure - VII

RECORDED & INDEXED POST/BY HAND

R. No = 4

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

NOTICE FOR APPEARANCE AND PRODUCTION OF RELEVANT RECORDS
(Under Rule 29 of the Central Administrative Tribunal Rule of Practice 1993)

ORIGINAL APPLICATION NO. 134/2004/1024

Sri P. Kumar

Versus Union of India & Ors.

Applicant(s)

Respondent(s)

Represented by the Applicant Adv.

Represented by Sr. C.G.S.C./Addl.

Sri M. K. Haryanka

C.G.S.C./ Govt. Adv.

To

The Sr. Superintendent of post offices,
Kohima Division, Nagaland.

WHEREAS AN APPLICATION filed by the above named applicant under Section 19 of the Administrative Tribunals Act, 1985 as in the copy annexed hereinto has been registered and upon preliminary hearing the Tribunal has directed that you should be given an opportunity to show cause why the application should not be admitted or why it should not be disposed of at the admission stage itself, if admitted why it should not be disposed of at the subsequent stage without any further notice. In order to contest the application, you may file your reply alongwith the documents in support thereof and after serving copy of the same on the application or his legal practioner within 30 (thirty) days of the receipt of this notice and appear before this Tribunal either in person or through a Legal practioner/presenting Officer appointed by you in this behalf.

THEREFORE, notice is hereby given to you to appear alongwith the relevant records before this Bench of the Tribunal in person or through Legal practioner/presenting Officer in this matter at 10:30 A.M. of the 6th day of July/04. If you fail to appear the application will be heard and disposed of in your absence without any further notice to you.

GIVEN UNDER my hand and seal of the Tribunal this day of

7/6/04.

ENCLO.: An application & order dated 7/6/04.

BY ORDER OF THE TRIBUNAL

DEPUTY REGISTRAR

Attested
Addl. C.G.S.C.

FORM No. 4
(SEE RULE 12)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

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134/2004
Orig. App./Misc Petn/Cont. Petn/Rev. Appl.....

In O.A.....

Name of the Applicant(s) P. Thomas Kumar

Name of the Respondent(s) U.O.I. Dars

Advocate for the Applicant Mo. A. M. Majumdar, M.R. Hazarika

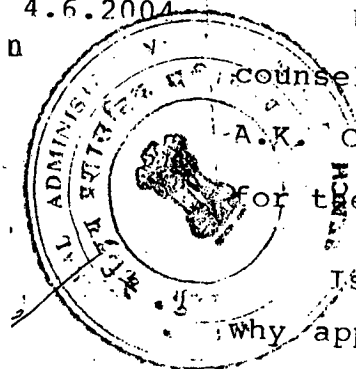
Counsel for the Railway/CGSC CGSC-

OFFICE NOTE

DATE

ORDER OF THE TRIBUNAL

4.6.2004



Heard Mr. M.R. Hazarika, learned Counsel for the applicant and also Mr. A.K. Chaudhuri, learned Addl. C.G.S.C. for the respondents.

Issue notice to show cause as to why application shall not be admitted.

Returnable within four weeks.

List on 6.7.2004 for admission.

TRUE COPY

8/6/04

Sd/MEMBER(ADM)

জস্টিস অফিস (এ)
কেন্দ্রীয় প্রশাসনিক আদালত
Guwahati Bench, Guwahati

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DISTRICT: KAMRUP

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GUWAHATI BENCH, GUWAHATI

ORIGINAL APPLICATION NO. 134/2004

BETWEEN:

Sri Promod Kumar, aged 28 years, S/o
Sri Jagat Kumar, Village Balisatra, Via
Senekuchi, P.O. Balisatra, P.S. Rangia,
District Kamrup, Assam.

APPLICANT

-AND-

1. The Union of India, represented by
Secretary to the Govt. of India,
Ministry of Communication Post &
Telegraph. N.D.
2. The Chief Post Master General,
N.E. Circle, Shillong- 793001.
3. The Director of Postal Services,
Nagaland, Kohima- 797001.
4. The Senior Superintendent of Post
Offices Kohima Division,
Nagaland.

5. The Post Master, Kohima Head Post Office, Nagaland, Kohima-797001.
6. The Chairman, Respective Circle Selection Committee.

RESPONDENTS.

DETAILS OF THE APPLICATION.

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

This application is made against the following orders.

- 1.1. Memo No. B2/ Invalid Pension/ Ch-1, dated Kohima the 2nd of November, 2000 addressed to the Director Health Service, Nagaland, Kohima, 797001 and a copy of which was also served upon the petitioner's father.
- 1.2. Form for Medical Certificate for invalid pension signed by the Chairman of other members of the Medical Board on 8.12.2000.
- 1.3. Memo No. B2/ Invalid Pension/ Ch-1, dated Kohima the 21.12.2000 retiring the petitioner's father on invalidation ground with effect from 8.12.2000 signed by the Director of Postal Services, Nagaland, Kohima-1.

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1.4. Letter No.B1/32/R/Pt, dated 27.7.2002 which has been forwarded by the Supdt of Pez. Kohima for appointment of the petitioner on compassionate ground.

1.5. Representation submitted to the Chief Post Master General, N.E. Circle, Shillong- 793001 dated 9th December, 2002 by the petitioner's father to appoint the petitioner on compassionate ground.

1.6. In the matter of Original Application No.14 of 2004 decided on the 23rd day of January,2004 at admission stage.

1.7. Memo No. B1/32/R/Pt, dated at Kohima the 19.3.2004 with reference to CO letter No. Staff/175-22/2002, dated 16.9.2003 addressed by Director of Postal Services, Nagaland, Kohima-7908001 to the Chief Post Master General (Staff) N.E. Circle, Shillong-793001

Page:

1.8. Memo No. Staff/175-22/2002, dated Shillong the 11th March,2004 issued by Assistant Director (Staff) addressed to the petitioner.

Page:

1.9. Memo No./175-22/2002, dated Shillong the 23rd March, 2004 issued by Chief Post Master General, N.E. Circle, Shillong addressed to the petitioner.

Contd

Page:

2. JURISDICTION OF THE TRIBUNAL.

The applicant states that the subject matter of this application for which the applicant wants redressal is within the jurisdiction of the Hon'ble Tribunal.

3. LIMITATION.

The applicant states that the O.A. No. 14/2004 filed by the applicant before this Hon'ble Tribunal was within time and this O.A. is continuation of the O.A. No. 14/2004.

4. FACTS OF THE CASE:

4.1. That the applicant is a citizen of India and a permanent resident of the aforesaid address and as such as a citizen of India, he is entitled to all the rights and privileges enshrined in the Constitution of India.

4.2. That the applicant before your Lordship, who belongs to OBC as recognized by the Govt. of Assam, who has passed his Matriculation/ H.S.L.C. Examination in the year, 1995 is the eldest son of Sri Jagat Kumar, who was compulsorily retired on medical ground while serving as a O/S cash at Kohima Head Post Office in the District of Kohima, Nagaland. At the time when the petitioner's father was compulsorily retired his age was 54 years 4 months and 22 days considering his date of birth

as per official record as 27.7.46, further more, Sri Jagat Kumar applicant's father has a family consisting of himself and other six members as his wife, three sons and two daughters.

Photocopy of the applicant's Matriculation Certificate is annexed herewith and marked as ANNEXURE-1.

4.3. That the applicant further begs to state that his father Sri Jagat Kumar joined service in Kohima Head Post Office on 18th December, 1965 as a Postman at the age of approximately 19 years and subsequently he was promoted on 1972 as Mail Officer and has been rendering his services satisfactorily as O/S Cash till the date of 8.12.2000 when he was retired on medical ground and has been receiving invalid pension. Since his date of compulsory retirement on medical ground he has completed approximately 35 years of service life.

For that the applicant thinks that it is pertinent to mention herewith that, while on service, during mid of the year, 2000. While returning to Kohima Head Post Office after collecting cash of Rs.39000.00 from Monkhola Sub Post Office and Kohima P.W.D. Sub Post Office, he was attacked by miscreants and after being severely wounded and looted of the cash, he was thrown from the top of the hillock and as a result though he survived he was maimed and became invalid.

Contd

Thereupon FIR lodged by the authority of the Post Office and he was admitted in the Hospital by the Staff of the Post Office.

4.4. That thereafter, on an application for compulsorily retirement and invalid pension, as he was unable to perform his duties after the above mentioned incident, the then Director of Postal Services, Nagaland, Kohima requested the Director, Health Services, Nagaland, Kohima to constitute a Medical Board and to examine the official (Jagat Kumar) and to give its findings as to whether he is fit to remain in service or not.

Further more, the findings of the Board was to be given in form-23 for Medical Certificate which was enclosed.

A photocopy of the official letter No. B2/ Invalid Pension/CH-1 by the Director of Postal Services, Nagaland, Kohima addressed to the Director, Health Service, Nagaland, Kohima is annexed herewith and marked as ANNEXURE-2.

4.5. That, thereupon on a careful examination of Jagat Kumar applicant's father by the Medical Board constituted by and including the Civil Surgeon/M.O., Kohima District and opinion which is as follows :

Contd

"We consider he is suffering from frequent seizure attack to be completely and permanently incapacitated for further service of any kind (or in the Department to which he belongs) in consequence of (here state disease or cause). His incapacity does not appear to us to have been caused by irregular or intemperate habit.

H/O, Head Inquiry presently suffering from seizure Actor off and on (based on history). Hence, we consider him to be completely and permanently incapacitated for further service".

The said form of Medical Certificate for invalid pension was signed by the Chairman of the Board who is also the Civil Surgeon, Kohima District, Nagaland and other members constituting the Board.

A photocopy of the said for Medical Certificate for invalid pension passed on behalf of the petitioner's father is annexed herewith and marked as ANNEXURE-3.

That the applicant begs to state that, thereafter his father was retired on Medical Ground of invalidity of resume duties and with effect from 8.12.2000 and thereafter was allotted invalid pension and as per the revised scale is getting an monthly invalid pension amounting to Rs.2700.00.

A photocopy of such an order passed by Director of Postal Services, Nagaland, Kohima is annexed herewith and marked as ANNEXURE-4.

4.6. That the applicant begs to state that the pension was hardly enough to maintain their family as the lion's share of it was spent on his father's medication and he applied for appointment on compassionate ground as there was a provision for dependents of Central Government Servant Compulsorily Retired on Medical Ground before the attaining the age of 55 years and such provision for compassionate appointment can be made up to 5% of direct recruitment vacancies.

4.7. That the applicant following the due procedure of the mode of applying for compassionate ground, filled up the necessary forms and submitted the same to the office of the Director of Postal Services, Nagaland, Kohima. In this regard it is needless to say that the petitioner had submitted the Part-I, Part-II and Part-III forms in the year, 2001.

Photocopies of Part-I, Part-II and Part-III forms are enclosed herewith and marked as ANNEXURES-5(SERIES).

4.8. That the applicant beg to state that his father Sri Jagat Kumar had submitted a representation on 27.7.02 to the

Contd

director of Postal Services, Nagaland, Kohima and it was addressed to the Chief Postmaster General, N.E. Circle, Shillong-793001.

4.9. That the applicant begs to state that the petitioner had filed an Original Application No. 14 of 2004 which was disposed off at the admission stage on 23rd January, 2004, to dispose off the representations within a period of 15 days by passing a speaking and reasoned order.

A Photocopy of the O.A. No. 14/04 is annexed and marked as ANNEXURE-6.

4.10. That the applicant begs to state that in the letter dated Kohima 19.3.2004 bearing Memo No. B1/32/R/Pt, passed by the Director of Postal Services, Nagaland, Kohima and addressed to the Chief Post Master General (Staff) had mentioned that-

"The applicant has applied for Postman Cadre. The case is recommended as there is vacant post under the relevant quota and the candidate can be absorbed".

A photo copy of the said order passed by the Director of Postal Services, Nagaland, Kohima addressed to the Chief Postmaster General Staff is

annexed herewith and marked as
ANNEXURE-7.

4.11. That the applicant begs to state that he was totally taken by surprise on receipt of the letter No. Staff/175-22/2002, dated Shillong the 11th March, 2004 issued by Assistant Director (Staff) N.E. Circle, Shillong whereby it appeared that there was no quota for compassionate appointment in Postman Cadre under stipulated ceiling of Direct Recruitment Vacancies and hence the petitioner can could not be considered.

A photocopy of the said order passed by Asst. Director (Staff) addressed to the petitioner is annexed herewith and marked as ANNEXURE-8.

4.12. That subsequent to the aforesaid para, the petitioner received another letter issued vide Memo No. Staff/175-22/2002 dated Shillong the 23rd March, 2004 issued by Chief Post Master General, N.E. Circle which confirmed that there was no quota for compassionate appointment in Postman Cadre under the stipulated ceiling of Direct Recruitment Vacancies. Hence the case of the applicant could not be considered.

A Photocopy of the said order passed by the Chief Postmaster General, N.E. Circle addressed to the petitioner is

Contd

annexed herewith and marked as
ANNEXURE-9.

4.13. That the petitioner states that, he is totally over struck with the diversifying report of the Director of Postal Services, Nagaland on one hand, stating that the case is recommended as there is vacant post under the relevant quota and the candidate can be absorbed and the reports order passed by the Asst. Director (Staff) and the Chief Post Master General, N.E. Circle on the other hand that there is no quota for compassionate appointment in Post Man Cadre under the Direct Recruitment Vacancies and hence the petitioner could not be considered.

4.14. That the petitioner states that in compliance with the order of the Hon'ble Tribunal, the petitioner could have been appointed to the post of the Postman, vide the official letter of the Director of Postal Services, Nagaland, Kohima and states further that as if was seeking an appointment under the Directorate of Postal Service, Nagaland, Kohima the Directorate of Postal Services, Nagaland who in a better position to know the vacancy position and the letters furnished by the Asst. Director (Staff) N.E. Circle and Chief Postmaster General an unreliable, unauthentic and liable to be issued notice to show cause for furnishing such misleading, arbitrary and whimsical letters in a most irresponsible manner.

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4.15. That the petitioner begs to submit that the appointment to the dependants of the person who "retire on medical ground is to ensure that the family of such a Central Government Servant, does not suffer from extreme financial difficulties and such unemployment is to be provided to one of the dependants of the Central Government only if there is no other member of the family already in the employment of the State Government or the Central Government or corporations, undertakings or such other bodies of the Central Government. The sole intention is to ensure that the family gets the benefit of having at least one salaried person subject to the qualification, availability of service of the appropriate category and having record to the Roster Point, Educational Qualification, age etc.

The petitioner further submitted that inspite of qualifying all the basics as mentioned above his prayer for appointment on compassionate ground has been turned down over the last 3 years, as there is a Rule that compassionate appointment of dependants of Central Govt. Servant retired compulsorily on medical ground should made within three years and this limitation period of three (3) years shall expire on 9.12.03 and as such, is now fit case to be interfered by this Hon'ble Forum.

4.16. That the petitioner further begs to submit that the scheme "Compassionate Appointment" itself is aimed to give immediate relief and solace to the family to save them from

Continued...

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immediate relief and solace to the family to save them from immediate financial crisis faced on the sudden and untimely retirement of the bread winner.

Thus the benefit of appointment on compassionate ground under "retirement on medical ground before attaining the age of 55 years" should have been made available to the petitioner in accordance with the terms and conditions laid down in the said scheme whereby 5% of the post are reserved on the said ground.

4.17. That the petitioner states that despite his financial constraints, all these years since 8.12.2000, he had been frustrated with his efforts and felt let down as because he had demanded justice but the same has been denied to him thereby the respondent Nos.2,3 and 4 could have appointed the petitioner in the same other jobs pertaining to his qualification in Group-D posts honoring the order of Hon'ble Tribunal.

4.18. That the petitioner further submits that thereby the respondents could have appointed the petitioner in any of the post available under their disposal pertaining to the qualification of the petitioner in Group- D category, the respondents have taken a lame excuse and have willfully and deliberately sat above the Hon'ble Tribunal order on the excuse that no post pertaining to Postman Cadre is vacant.

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5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:

5.1 For that the, compassionate appointment is applicable to the applicant as his father had retired on medical ground before attaining the age of 55 years (57 years in the case of Group-D officials).

5.2 For that the word "Dependant" does include son/daughter, for the purpose of appointment on medical ground.

5.3 For that the minimum age limit may be relaxed whenever necessary, though the applicant has not crossed the age of 28 years.

5.4 For that the applicant belongs to OBC and as such to be adjusted in the recruitment roster against the appropriate category.

5.5 For that this Original Application is in continuance of the O.A. No. 14/2004 which was decided on 23rd day of January, 2004 at Admission Stage and Hon'ble Gauhati High Court's order dated 9.12.2003 in W.P.(C) No. 9936 of 2003.

6. DETAILS OF THE REMEDY EXHAUSTED.

That the applicant states that the applicant challenges the legality and the validity of the official letters passed by Director of Postal Services, Nagaland, Kohima vide No. B-1/32/R/Pt, dated 19.3.2004 and letter passed by the Asst.

Contd

Director (Staff) N.E. Circle and Chief Post Master General, N.E. Circle vide Memo Nos. Staff/175-22/2002, dated 11th March, 2004 and 23rd March, 2004 respectively.

7. MATTER WHETHER PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT.

7.1. The matter was moved before the Hon'ble Gauhati High Court on 9.12.03 and the same has been disposed off with a direction to file it before the appropriate court (Forum)/ Tribunal.

7.2. That the matter was moved before the Hon'ble Tribunal, Guwahati Bench in Original Application No. 14 of 2004 and decided on 23rd day of January, 2004 at admission stage.

7.3. Now, the applicant states that the matter regarding which the application is made is in continuance of the Original Application No. 14 of 2004 and that the matter is not pending in any other court of law or any other authority or in any other Bench of the Tribunal.

3. RELIEF SOUGHT.

3.1. For issuing a direction, that the applicant be appointed to any vacant post of any category of Group-D post pertaining to his qualification and later on vacancy arising be shifted to the post of Postman.

8.2. For such further and other reliefs as to this Hon'ble Tribunal may deem fit and proper under facts and circumstances of the case and in the interest of justice.

9. That this application has been filed through Advocate.

10. DETAILS OF ENCLOSURES:

Page No.

10.1. H.S.L.C. Pass Certificate Annexure 1A. ..

10.2. O.B.C. Certificate Annexure 1B ..

10.3. Office Memo No. B2/ Invalid Pension/ ..

Ch-1, dated 2.11.2000, Annexure-2

10.4 Medical form for invalid form, Annexure-3 ..

10.5 Memo No.B2/Invalid Pension/Ch-1, ...

Kohima 21.12.2000, Annexure-4

10.6. Part-I, II, III form submitted by the applicant ...

for consideration of appointment on compass-

ionate ground, Annexure-5 Series.

10.7. Certified copy of High Court order, Annexure-

10.8. Certified copy of O.A. 14/2004, Annexure-

10.9. Letter issued vide Memo No. B1/32/R/Pt, ...

Dated 19.3.2004, Kohima, Annexure-

10.10. Letter issued vide Memo No. Staff/175-22/2002...

dated Shillong the 11th March, 2004 by Asst.

Director(Staff) N.E. Circle, Annexure-

10.11. Letter issued vide Memo No. Staff/175-22/2002...

dated Shillong the 23rd March, 2004 by the Chief

Post Master General, N.E. Circle, Annexure-

VERIFICATION.

I, Sri Promod Kumar, son of Jagat Kumar, resident of village Balisatra, Via Senekuchi, P.O. Balisatra, P.S. Rangia District Kamrup, Assam aged about 28 years, do hereby verify that the contents declared from paragraphs 1 to 10 of the above application are true to my knowledge and I have not suppressed any material fact.

I, sign this Verification on this the _____ day of June, 2004 at Guwahati.

DEPONENT.

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P. B. KANIHA HIGHER SECONDARY SCHOOL

P. O. - KANIHA, DIST. KAMRUP (ASSAM) - 1942

TRANSFER CERTIFICATE

Book No.

Serial N261

Date 27.1.1995

Certified that Shri/Shrimati Pranmod Kumar
 Son/daughter of Sri Jagat Kumar an inhabitant of
 Village Balisetra P.O. Balisetra P.S. Kanyama in the
 district of Kamrup, left P. B. Kanuha Higher Secondary
School on 31-3-94. His/Her date of birth as per School
 Admission Register is 2-2-77. He/She was reading in
 Class X (Sci) and Passed/Could not pass the Annual
 Examination in for promotion to class
H.S.L.C./H.S. Arts Examination in 1995 under Roll No. 262
No. 26 in II (Sci) Division/compartmental. All sums
 due by him/her have been paid; viz. res. up to 31-3-94

Fines.....

Character Good

J.C = 10.00

Reasons for leaving—

- (i) Unavoidable change of Residence
- (ii) Ill health
- (iii) Completion of School Course.
- (iv) Minor reasons.

10/1/95
 P. B. Kanuha

Principal
 P. B. Kanuha H. S. School
 P. O. Kanuha
 P. B. Kanuha Higher Secondary School

(60)

x²

(9)

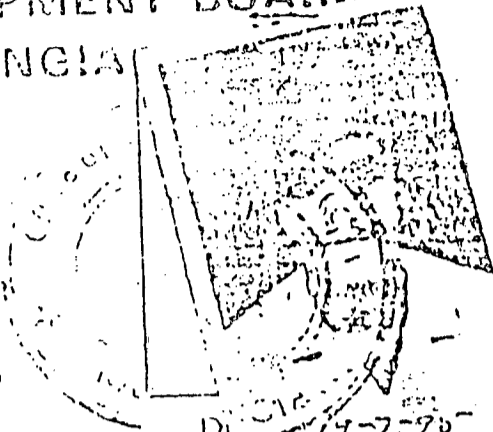
26 ANNEXURE - 1

-16-

GOVT. OF ASSAM

SUB-DIVISIONAL DEVELOPMENT BOARD

FOR O.B.C. RANGIA



DEC 17-7-75

3186

CERTIFIED that Shri/Shyamati Pranod Kumar
daughter/wife of Shri/Late Jugal Kumar
of Balipara Village / Town
in Kojan P. S. of the Rangia Sub-Division in the
District of Kamrup Assam belongs to Category which
is recognised as other backward / more other backward class by the
Govt. of Assam.

His / her family generally resides at Balipara
Village / Town under Kojan P. S. in the District
of Kamrup Assam.

By 4915
Secretary Signed of
S.D.O. (Civil)
(Seal)

[Signature]
Chairman, Sub-Divisional Development
Board for O.B.C. Rangia
(Seal)

DEPARTMENT OF POSTS:INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND: KOHIMA- 797001

No. B2/Invalid pension/Ch-1
Dtd, Kohima the 2.11.00

To,

The Director Health Services
Nagaland, Kohima- 797001

Sub:- Medical Examination for Invalid pension.

Sir,

Shri Jagat Kumar O/S cash Kohima Head Post office has applied for invalid pension on Medical ground. It is, therefore, requested that a medical board may kindly be constituted to examine the official and give its findings as to whether he is fit to remain in service or not.

The finding of the board may kindly be given inform-23 for medical certificate which is enclosed. As per official record his date of birth is 20.7.46.

Yours faithfully,

(F.P. Solo)
Director of Postal Services
Nagaland, Kohima-797001

Copy to:-

1. Shri Jagat Kumar O/S cash Kohima HO. w.r.t. his application dtd. 1.11.00, he is requested to appear before the medical board as and when called for.

(F.P. Solo)
Director of Postal Services
Nagaland Kohima-797001

16. 27 Mc Ann ⁶¹ ⁴

FORM FOR MEDICAL CERTIFICATE FOR INVALID PENSION

Certified that I/We have carefully examined Shri/Shmt
JOGATH KUMAR Son of Late Gonoham Kumar
 in the Post office His age is by his own statement 50
 Years and by appearance about 50 Years.

I/We consider his suffering from frequent seizure to be
 completely and permanently incapacitated for further service
 of any kind (or in the Department to which he belongs) in
 consequence of (here state disease or cause).. His incapacity
 does not appear to me/us to have been caused by irregular or
 intemperate habits.

H/O Head injury.
 Presently suffering from Seizure History
 N.C. NA CONSIDER AS TO BE COMPLETELY AND PERMANENTLY
 (DR. V. SEKHSE) INCAPACITATED FOR FURTHER SERVICE
 1. CIVIL SURGEON

KOHIMA DISTRICT : KOHIMA : NAGALAND.

(DR. M. A. EZUNG)
 2. ASSTT. CIVIL SURGEON/M.O.
 KOHIMA DISTRICT:

(DR. AMI BELHO)
 M.O. H-6/B-10/M.O.
 KOHIMA DISTRICT:

Chairman
 Civil Surgeon
 Kohima District
 Kohima, Nagaland
 8-12-2000
 Asst. Civil Surgeon
 Under Civil Surgeon
 Kohima, Nagaland

8-12-2000
 Asst. Civil Surgeon
 Under Civil Surgeon
 Kohima, Nagaland

ANNEXURE-4

DEPARTMENT OF POSTS:INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND: KOHIMA- 797001

No. B2/Invalid pension/Ch-1
Dtd, Kohima the 21.12.00

Shri Jagat Kumar O/S cash Kohima HO is hereby permitted to retire on Invalidation ground with effect from 8.12.00.

(F.P. Solo)
Director of Postal Services
Nagaland, Kohima-797001

Copy to:-

1. The Postmaster, Kohima HO for information and n/action.
2. The Budget Section Divisional Office, Kohima for information and n/action ((I) one M.C., enclosed.)
3. Shri Jagat Kumar O/S Cash Kohima HO
4. Spare.

(F.P. Solo)
Director of Postal Services
Nagaland Kohima-797001

(62) 77

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Annexure - 5 (Series)

Particulars of the dependent family member in invalid pension employee

Name: SRI JAGAT KUMAR

i. Designation: EX-C/S Cash, Nehru

ii. Date of birth: 20.07.1946

iii. Date of death / retirement on invalid pension: 9.12.2000

iv. Date of superannuation: 31.07.2006

v. Total length of service rendered: 33 years

vi. Whether Permanent or Temporary: Permanent

vii. Whether belonging to SC/ST/OBC: OBC

ix. Name of the candidate for appointment: SRI Pramod Kumar

x. His/her relationship with the government servant: Son

xi. Date of birth: 02.02.1977

xii. Educational qualifications: HSLC Passed

xiii. Whether any other dependent family member has been appointed on comparable grounds: No

B. Financial Status of the family

Terminal Benefits. Paid to the official who retired on invalidation / to the family of the official who expired in harness.

(i) Family pension (Basic and D separately please indicate the latest amount): Provisional Pension 2000 + DR 820 p.m. w.e.f 9.12.00

(ii) D.C.R.G.: Provisional DCRG Rs 60000-

(iii) G.P.F. Balances: Not received

(iv) Life Insurance Policies (P.L. etc.): NIL

(v) C.G.E.I.S. amount: yet to be received

(vi) Encashment of leave: NIL

(vii) Any other items: NIL

(viii) Total amount of terminal benefits: Rs 62800-

C. Assets and Other sources of income etc.

Immovable property:

Agricultural land - Size, income cultivable or not, income on the land: Nil

House, (approximate value of the house): Rs 20000-

Movable Property (Furniture, etc.): NIL

Source of income from other sources: NIL

Where does the family live? In own house or rented. Please give details: in own house

(If a rented address of the family should be given) Balisatra, Vin-Sankuchi

Liabilities: Kamrup, Assam

Detail details of the liabilities:

1. Education of minor children: 5

2. Marriage: 2

3. Loan - interest and principal etc: Nil

4. Others: Nil

II. Particulars of all dependents of the Govt. servant

Note: 1. If some family members are employed their income and whether they are living separately should be clearly indicated.

Sl. No.	Name	Relationship with the Govt. servant	Date of birth	Employed or not (Please give details asked in Note II)	Education & qualifications	Marital Status	Whether living with the family or separately from the family; give address if living separately.
1	Jagat Kumar	self	20.7.46	Govt. Rd.	X	M.	NO
2	Smt. Kamrunnisa	wife	1.9.56	not	HSJC	M.	NO
3	Smt. Mahmud Kumar	son	2.2.71	do	HSJC	M.	NO
4	Smt. Rafiqun Nissa	daughter	17.5.79	do	P.U.	M.	NO
5	Smt. Rubina Kumar	son	11.6.81	do	Mahmudnagar	M.	NO
6	" Rubel Kumar	son	2.3.83	do	do	M.	NO
7	Smt. Aleka Kumar	daughter	29.6.85	do	do	M.	NO

Civil

I hereby declare that the facts given by me above are, to the best of my knowledge, correct & any of the facts herein mentioned are found to be incorrect, errors in a future date my service may be terminated.

I also declare that I shall maintain properly the other family members who were dependent on the Government servant mentioned against my name at the time of my appointment, and in case I am proved at any time that the family members are not being properly maintained by me, my appointment may stand in jeopardy.

Date of filling the Synopsis:

Signature of the candidate
Smt. Mahmud Kumar

Present position, address of the candidate: 11-A, Bhabha Nagar, Bhubaneswar

It is known to me and the facts mentioned by him are correct.

Signature:

Name & position of Government Servant

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

Signature:

Name and position of the Verifying Officer

(With Seal)

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DETAILS

Details of the candidate and recommendations of the CPAG

- (1) Name of the candidate for appointment. *S. G. Prasad Sharma*
- (2) Relationship with the Govt. servant *Son*
- (3) (a) Educational qualifications, (b) Age (date of birth) and (c) experience if any *11.5 L.C. Direct
DOB: - 02.02.1977
Experience - NIL*
- (4) Post for which employment is proposed. *Postman Cadet*
As per the schedule of Govt. Post
- (5) Whether the post is to be filled in Central Secretariat Clerical Service (CSCS) or not. *No*
- (6) Whether the relevant Recruitment Rules provide for direct recruitment. *No*
- (7) Whether the candidate fulfills the requirements of the Recruitment Rules for the post. *Yes*
- (8) Apart from waiver of Employment Exchange/SSC procedure what other relaxation are to be given.
- (9) Whether the facts mentioned at Part I have been verified by the office and if so, indicate the records.
- (10) If the Govt. servant died/retired on invalid pension more than five years back reasons for not sponsoring the case earlier. *Does not arise*
- (11) Recommendations of the Head of the Division.
- (12) Signature of the Head of the Division and seal. (with Date)

FOR THE RECOMMENDATION OF THE HEAD OF THE DIVISION
(Please give a strong recommendation and also the reasons for the recommendation)

Signature of the Head of the Circle.
(affix seal)

Date

तारीख Date fixed for notifying the requisite number of stamps and folios.	दिनांक Date of delivery of the requisite stamps and folios.	प्रतिपत्र दिनांक Date on which the copy was ready for delivery.	तारीख Date of making over the copy to the applicant.
19/11/03	16/11/03	16/11/03	17/11/03

IN THE GAUHATI HIGH COURT
(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura,
Mizoram & Arunachal Pradesh)
CIVIL APPELLATE SIDE

Appeal from _____
Civil Rule _____

WRP (C) No. 9936 of 2003

Appellant
Petitioner

Sri Pramod Kumar

Versus

Union of India & ORS

Respondent
Opposite Party

Appellant Mr. A.M. Mazumdar
Petitioner Mr. M.R. Hazarika - Advts

Respondent
Opposite Party C.A.S.C.

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Tapi, Baga

IN THE MATTER OF
Sri Pramod Kumar, age 28 years, S/O.
Sri Jagat Kumar, vill.- Balisatra via

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Sanokuchi, P.O. Balisatra P.S.
Rangia, Dist. Kamrup, Assam.

.....Petitioner.

Versus

The Union of India, represented by:-

1. Secretary to the Govt. of
India Post and Telegraph Dept., New
Delhi.
2. Chief Post master General,
North East Circle, Shillong-793001.
3. Director of Postal Services,
Nagaland, Kohima, -797001.
4. Post Master, Kohima Head Post
Office, Nagaland, Kohima, -797001.

.....Respondent

NO
1/1/71
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No	with signature
9.12.03	28- 1
BEFORE	
HON'BLE MR. JUSTICE B.K. SHARMA.	
Heard the learned counsel for the parties.	
This writ petition has been filed making a prayer for compassionate appointment. The father of the petitioner was an employee of the postal department who was released from service on medical ground on 8.12.2000. The petitioner seeks for his appointment in the postal department.	
The matter relates to recruitment of the petitioner in the postal department.	

10/12/03

Noting by Officer or	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4
			<p>-2-</p> <p>In view of the provisions of G.A.T. Act, 1985 and the law laid down in L. Chandrakumar's case reported in 1997(1) GLT, this Court is not inclined to entertain the writ petition at this stage. The petitioner may approach the appropriate forum C.A.T. if so advised.</p> <p>This writ petition stands disposed of.</p>

Sd. B. K. Sharma
Judge

Gauhati High Court

CERTIFIED TO BE TRUE COPY
Sd. B. K. Sharma
 Date 17.11.2001
 Superintendent (Crim. Sec. Section)
 Gauhati High Court
 Authorized U/s 76, Act 1 of 1872

P. No. 5051
 18/12/03

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(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.14 of 2004

Date of decision: This the 23rd day of January 2004
(At Admisstion Stage)

The Hon'ble Shri Bharat Bhusan, Judicial Member

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

Shri Pramod Kumar
S/o Shri Jagat Kumar
Village: Balisatra, Via Sanekuchi,
P.O.- Balisatra, P.S. Rangia,
District- Kamrup, Assam
By Advocates Mr A.M. Mazumdar and
Mr M.R. Hazarika.

.....Applicant.

- versus -

1. The Union of India represented the Secretary to the Government of India, Ministry of Communication (Post & Telegraph) New Delh.
2. The Chief Post Master General, N.E. Circle, Shillong.
3. The Director of Postal Services Nagaland, Kohima.
4. The Senior Superintendent of Post Offices, Kohima Division, Nagaland.
5. The Post Master, Kohima Head Post Office, Nagaland, Kohima.
6. The Chairman, Respective Circle Selection Committee Respondents
By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....
ORDER (ORAL)

BHARAT BHUSAN, MEMBER (J)

The applicant seeks appointment on compassionate grounds. The case of the applicant is that his father, Shri Jagat Kumar was an employee of the Postal Department and was released from service on medical grounds on 8.12.2000. On that ground the applicant seeks appointment on compassionate grounds. It is stated on behalf of the

applicant that the pension of his father is very meagre, so it is not possible for them to maintain their family and that none of his sisters are the earning members and he too is unemployed. He has particularly brought to our notice the fact that during mid of the year 2000 while returning to Kohima Head Post Office after collecting cash of Rs.39,000/- from Monkhola Sub Post Office and Kohima P.W.D. Sub Post Office, his father who was an employee of the Postal Department was attacked by miscreants and after being severely wounded and looted of the cash, his father was thrown from the top of a hillock and as a result though his father survived he was maimed and became invalid. This is the main ground for seeking the compassionate appointment. He contends that a representation dated 9.12.2001 had been made to the Chief Post Master General, N.E. Circle, Shillong, but the same has so far remained unanswered. He further submits that he had approached the Hon'ble Gauhati High Court for the relief but the Hon'ble High Court has directed him to approach the appropriate forum i.e. the Central Administrative Tribunal. Consequently, he has approached this Tribunal.

2. Since the representation has remained pending so far, in our view it would be in the fitness of things if the respondents are directed to dispose of the representation within a period of fifteen days from today by passing a speaking and reasoned order. The respondents are accordingly directed.

3. The O.A. thus stands disposed of.

4. Copy of the order may be given to the learned counsel for the parties.

sd/MEMBER (A)

sd/MEMBER (J)

11/12/04
 Registrar Office (II)
 C.A.T. Gauhati Bench
 Gauhati-781005
 11/12

33

A-7 (67) 87
(2)

DEPARTMENT OF POSTS : INDIA

OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND DN.KOHIMA-797001

No. B-1/32/R/Pt

Dated at Kohima the 19.3.2004

To,

The Chief Postmaster General (Staff)
N.E. Circle, Shillong -793001

Sub:- Compassionate appointment of near relative of invalid pensioner- case of
Pramod Kumar, S/O Jagat Kumar, Ex O/S Kohima HPO.

Ref:- CO letter No. Staff/ 175-22/2002 dated 16.9.2003.

As required by the Circle Office, the Information sheet duly filled in by
the applicant, as noted above, along with one form of synopsis and a copy of
Invalidation order are forwarded herewith for further disposal.

The applicant has applied for Postman cadre. The case is recommended
as there is vacant post under the relevant quota and the candidate can be absorbed.

Enclosed as above:

(Rakesh Kumar)

Director of Postal Services
Nagaland, Kohima-7907001

Copy to:-

Mr. Pramod Kumar, (S/O Jagat Kumar, Ex. O/S, Kohima) BPO & VIII.
Balsatra, Via Samekuchi, Dist. Kamrup (Assam), for information.

DEPARTMENT OF POSTS, INDIA

OFFICE OF THE CHIEF POSTMASTER GENERAL, N. E. Circle (No. 795/001)

No. SHF/175-22/2002

Dated at Shillong, the 11th March 2004.

Sri Premode Kumar,
S/o Sri Jagat Kumar,
P.O. Vill - Balisatra,
Via Sanekuchi Dist.
Kamrup (Assam)

Subj: Disposal of Application of Sri Premode Kumar

I have been directed to intimate that your application for appointment under compassionate ground was received in this office under DPS, Kohima L/No.B-1/32/R/Pt dtd.22-7-2002. As per your educational qualification i.e. HSLC passed, you were proposed for the post of Postman. However, on receipt of clearance of posts for Direct Recruit conveyed by the Dte. New Delhi it appears that there was no quota for compassionate appointment in Postman cadre under stipulated ceiling of Direct Recruit vacancies. Hence, your case could not be considered.

(B. R. HALDER)
Asstt. Director (Staff)
For Chief Postmaster General,
N. E. Circle, Shillong.

Copy to:-

The APMG(LC), Circle Office, Shillong.

For Chief Postmaster General,
N. E. Circle, Shillong.

Attested
M. Chandra
M. O. G. S. C.

34 Annexure-TX 68
87

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE DIRECTOR OF POSTAL SERVICES
NAGALAND DN.KOHIMA-797001

No. B-1/32/R/Pt
Dated at Kohima the 19.3.2004

To,

The Chief Postmaster General (Staff)
N.E. Circle, Shillong -793001

Sub:- Compassionate appointment of near relative of invalid pensioner- case of
Pramod Kumar, S/O Jagat Kumar, Ex. O/S Kohima HPO.

Ref:- CO letter No. Staff/ 175-22/2002 dated 16.9.2003.

As required by the Circle Office, the Information sheet duly filled in by the applicant, as noted above, along with one form of synopsis and a copy of. Invalidation order are forwarded herewith for further disposal.

The applicant has applied for Postman cadre. The case is recommended as there is vacant post under the relevant quota and the candidate can be absorbed.

Enclosed as above.

(Rakesh Kumar)
Director of Postal Services
Nagaland, Kohima-7907001

Copy to:-

Mr. Pramod Kumar, (S/O Jagat Kumar, Ex. O/S, Kohima) BPO & Vill.
Ballsatra, Via Samekuchi, Dist. Kamrup (Assam), for information.

30.3.2004
Addl. C. G. O. C.

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GOVERNMENT OF INDIA
MINISTRY OF POSTS AND TELEGRAPHS
POSTAL DEPARTMENT
POSTAL REVENUE DIVISION
CIRCULAR NO. 107

17th Dec 2007

Dated Shillong, the 23rd

In compliance to para 1 of the Hon'ble C.A. Ghoshal's order in O. No. 1-1-01 the case has been examined and it is seen that the application for appointment of Sri Premode Kumar, son of Sri Jagat Kumar, ex-Postman was received by this office under D.P.S., Kohima (No. B-1-0-1-R Pt. 1). The educational qualification of Sri Premode Kumar is H.S.C. passed. He was appointed in the cadre of Postman. On receipt of clearance of vacancies for Direct Recruitment by the Directorate, N. Delhi, it appears that there was no quota for appointment in Postman cadre under the stipulated ceiling of Direct Recruitment. The case of the applicant could not be considered.

[Signature]
Sd/-
Chief Postmaster
N. E. Circle,

Copy to:-

1. Sri Premode Kumar, S/o Sri Jagat Kumar PO, Vill- Balisatri, Dist. Kamrup (Assam).
2. The D.P.S., Nagaland Division, Kohima.
3. The Director (Staff) Lok Bhavan, Sansad Marg, New Delhi.

[Signature]
Sd/-
Chief Postmaster
N. E. Circle,

[Signature]

Annexure - X

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DO No. B-1/32/R/Pt.

Dated at Kohima the 24.5.2004

Dear Sir,


This is with reference to your D.O No. Staff/175-22/02 dated 13.5.2004, regarding request for appointment under compassionate ground of Shri. Pramod Kumar, S/O Shri. Jagat Kumar, Ex. O/S, Kohima HPO in Postman cadre.

2. It is regretted that para-2 of our letter No. B-1/32/R/Pt. dated 19.3.2004 stated that 'there is vacant post under relevant quota to accommodate the official'. As you have rightly pointed out in your letter under reference that this Office was not competent to give a statement like this and it is the prerogative of C.O and Postal Directorate to allot vacancies in compassionate quota. under


3. Therefore, the statement made in our letter No. B-1/32/R/Pt. dated 19.3.2004 to the effect that "there is vacant post under the relevant quota and candidate can be absorbed", be treated as deleted and null and void.

4. Inconvenience caused by the above statement is deeply regretted and all concerned like O/A staff, D.S.P of my office have been directed to be more careful in choice of words while drafting important letters.

With regards.


(Rakesh Kumar)

Shri. Lalhluna
Postmaster General
N.E. Circle
Shillong-793001


A.K. Choudhary
ADD. C.O. & G.O.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.14 of 2004

Date of decision: This the 23rd day of January 2004
(At Admisstion Stage)

The Hon'ble Shri Bharat Bhuyan, Judicial Member

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

Shri Pramod Kumar
S/o Shri Jagat Kumar
Village: Balisatra, Via Sanekuchi,
P.O.- Balisatra, P.S. Rangia,
District- Kamrup, Assam
By Advocates Mr A.M. Mazumdar and
Mr M.R. Hazarika.

.....Applicant

- versus -

1. The Union of India represented the Secretary to the Government of India, Ministry of Communication (Post & Telegraph) New Delh.
 2. The Chief Post Master General, N.E. Circle, Shillong.
 3. The Director of Postal Services Nagaland, Kohima.
 4. The Senior Superintendent of Post Offices, Kohima Division, Nagaland.
 5. The Post Master, Kohima Head Post Office, Nagaland, Kohima.
 6. The Chairman, Respective Circle Selection Committee Respondents
- By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

ORDER (ORAL)BHARAT BHUSAN, MEMBER (J)

The applicant seeks appointment on compassionate grounds. The case of the applicant is that his father, Shri Jagat Kumar was an employee of the Postal Department and was released from service on medical grounds on 8.12.2000. On that ground the applicant seeks appointment on compassionate grounds. It is stated on behalf of the

applicant that the pension of his father is very meagre, so it is not possible for them to maintain their family and that none of his sisters are the earning members and he too is unemployed. He has particularly brought to our notice the fact that during mid of the year 2000 while returning to Kohima Head Post Office after collecting cash of Rs.39,000/- from Monkhola Sub Post Office and Kohima P.W.D. Sub Post Office, his father who was an employee of the Postal Department was attacked by miscreants and after being severely wounded and looted of the cash, his father was thrown from the top of a hillock and as a result though his father survived he was maimed and became invalid. This is the main ground for seeking the compassionate appointment. He contends that a representation dated 9.12.2001 had been made to the Chief Post Master General, N.E. Circle, Shillong, but the same has so far remained unanswered. He further submits that he had approached the Hon'ble Gauhati High Court for the relief but the Hon'ble High Court has directed him to approach the appropriate forum i.e. the Central Administrative Tribunal. Consequently, he has approached this Tribunal.

2. Since the representation has remained pending so far, in our view it would be in the fitness of things if the respondents are directed to dispose of the representation within a period of fifteen days from today by passing a speaking and reasoned order. The respondents are accordingly directed.

3. The O.A. thus stands disposed of.

Copy of the order may be given to the learned counsel

for the parties

Sd/MEMBER (A)

Sd/MEMBER (J)

11/2/04
Sd/MEMBER (A)
Sd/MEMBER (J)
11/2/04

Annexure XII

Staff Sec: 28

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BPA
(m) 23/12/04

Government of India,
Ministry of Communications,
Department of Posts, Dak Bhavan,
Sansad Marg, New Delhi-110 001.



No.24-1/2004-SPB-I

Dated: 19.4.2004

To

All Heads of Circles.

Subject: Important Supreme Court Judgments on compassionate appointments-
circulation of.

I am directed to circulate the important court judgments passed by the Hon'ble Supreme Court in various cases regarding appointments of dependents family members of the deceased employee on compassionate ground.

(a) The Supreme Court in its judgment dated April 8, 1993 in the case of Auditor General of India and others vs. G. Ananta Rajeswar Rao [(1994) 1 SCC. 192] has held that appointment on grounds of descent clearly violates Article 16(2) of the Constitution; but if the appointment is confined to the son or daughter or widow of the Government Servant who died in harness and who needs immediate appointment on grounds of immediate need of assistance in the event of there being no other earning member in the family to supplement the loss of income from the bread winner to relieve the economic distress of the member of the family, it is unexceptionable.

b) The Supreme Court's judgment dated May 4, 1994 in the case of Umesh Kumar Nagpal vs. State of Haryana and others [JT 1994(3) S.C. 525] has laid down the following important principles in this regard:

- (i) Only dependents of an employee dying in harness leaving his family in penury and without any means of livelihood can be appointed on compassionate ground.
- (ii) The posts in Group 'C' and 'D' (formerly Class III and IV) are the lowest posts in non-manual and manual categories and hence they

22-4-04

alone can be offered on compassionate grounds and no other post i.e. in the Group 'A' or Group 'B' category is expected or required to be given for this purpose as it is legally impermissible.

- (iii) The whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis and to relieve the family of the deceased from financial destitution and to help it get over the emergency.
- (iv) Offering compassionate appointment as a matter of course irrespective of the financial condition of the family of the deceased or medically retired Government servant is legally impermissible.
- (v) Neither the qualifications of the applicant (dependent family member) nor the post held by the deceased or medically retired Government servant is relevant. If the applicant finds it below his dignity to accept the post offered, he is free not to do so. The post is not offered to cater to his status but to see the family through the economic calamity.
- (vi) Compassionate appointment cannot be granted after lapse of a reasonable period and it is not a vested right, which can be exercised at any time in future.
- (vii) Compassionate appointment cannot be offered by an individual functionary on an ad-hoc basis.

(viii) Appointments in public service should be made strictly on the basis of open invitation of applications and merits and appointment on compassionate grounds is an exception to the rule. Any such exception should, therefore, be made to the minimum possible extent say one or two percent or maximum of five percent and if it exceeds that it will no longer be an exception. Further any relaxation of the 5% limit even as a temporary measure will lead to bulk appointment on compassionate grounds, which is bound to result in dilution of standards. As appointment on compassionate ground is not based on merit and it is also not through open competition it would, therefore, adversely affect the efficiency of the administration and hence would not be in public interest.

(e) The Supreme Court has held in its judgment dated February 28, 1995 in the case of the Life Insurance Corporation of India Vs. Mrs Asha Ramchandra Ambekar and others [JT 1994(2) S.C. 183] that the High Courts and Administrative Tribunals

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can not give direction for appointment of a person on compassionate grounds but can merely direct consideration of the claim for such an appointment.

✓ (d) The Supreme Court has ruled in the cases of Himachal Road Transport Corporation Vs. Dinesh Kumar [JT 1996 (5) S.C. 319] on May 7, 1996 and Hindustan Aeronautics Limited vs. Smt. A. Radhika Thirumalai [JT 1996 (9) S.C. 197] on October 9, 1996 that appointment on compassionate grounds can be made only if a vacancy is available for that purpose.

(e) The Supreme Court has held in its judgement in the cases of State of Haryana and others vs. Rani Devi and others [JT 1996 (6) S.C. 646] on July 15, 1996 that if the scheme regarding appointment on compassionate ground is extended to all sorts of casual, ad-hoc employees including those who are working as Apprentices, then such scheme cannot be justified on Constitutional grounds.

* * * * *

Recently in two cases (i) case of Shri Arun Kumar Awasthi and (ii) case of Shri Debi Prasad Mohanty, Hon'ble Supreme Court is pleased to grant interim stay against the operation of impugned orders. Details of these two cases are mentioned below. All Heads of circles are requested to take advantage of these interim stay and bring it to the notice of the Hon'ble Courts while pursuing the case.

(i) Compassionate Appointment case of Shri Arun Kumar Awasthi:- Shri Arun Kumar Awasthi son of late Shri Bisham Dass applied for compassionate appointment and the case was considered by Circle Selection Committee of H.P. circle and rejected as there was no element of indigent circumstances which required immediate relief by way of appointment on compassionate grounds. Aggrieved by the circle's decision Shri Arun Kumar filed O.A. no. 586/HP/99 in Hon'ble CAT, Chandigarh bench who observed in their order dated 17.8.2000 that compassionate appointments are provided in cases where the family of the deceased Govt. employee is found to be in financial distress due to the sudden demise of the sole bread-winner, and there is no other earning hand. Compassionate appointment is not a hereditary right, but only a concession to the dependents/wards to mitigate the immediate hardship and the O.A. was dismissed by Hon'ble CAT, Chandigarh bench.

Shri Arun Kumar challenged the CAT's order dated 17.8.2000 by filing a civil writ petition before the High Court of H.P. Shimla vide CWP No. 222/2002. The Hon'ble High Court Shimla vide its judgment dated 26.6.2002 allowed the writ petition and as a consequence of it while quashing the decision of the CAT in O.A. No. 586/HP/99 dated 17.8.2000 directed the petitioners to re-examine the case in accordance with the scheme. The office of Chief PMG Shimla vide its order re-examined the case inter alia holding that there was no social liability of the family and that there was no vacancy available and thus respondent cannot be offered appointment on compassionate ground.

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On receipt of the order Shri Arun Kumar has filed a C.P. No. 16/03 in CWP No. 222/02 in H.P. High Court who observed that in the judgment dated 26.2.2002 it was ordered to re-examine the case of the petitioner and department was to offer appointment to the petitioner and as per discussion in the judgment dated 26.6.2002 the scheme vis a vis law has been discussed in detail and as such there is hardly any scope for deptt. to reject the claim of the petitioner but to grant admissible relief.

The Ministry of Law was consulted who opined that the order of High Court is against the provisions laid down by the Supreme Court. Therefore there is substantial question of law of general importance involved in the matter. Therefore, a special leave petition was filed before the Hon'ble Supreme Court of India against the order of Hon'ble High Court of Shimla on the ground that Hon'ble High Court has erroneously directed the petitioners to re-examine the case of the respondent for appointment on compassionate grounds in accordance with the scheme. The Hon'ble High Court failed to appreciate the purpose of giving appointment on compassionate ground is to ensure that in the event of death of the bread winner of the family, immediate relief is provided to the family, but such appointment cannot be claimed as a matter of right. The Hon'ble High Court failed to appreciate that for seeking appointment on compassionate ground one has to come under the purview of the scheme, but the respondent herein is not covered under the scheme taking into account pecuniary condition of the family and thus petitioners ought not to have been directed to consider the appointment of the respondent on compassionate grounds. The Hon'ble Supreme Court is pleased to grant the interim stay against the operation of High Court order dated 26.2.2002 in C.W.P. 222/02.

(ii) Compassionate appointment case of Shri Debi Prasad Mohanty:- Shri Debi Prasad Mohanty son of late, Shri Ramesh Chandra Mohanty applied for appointment on compassionate grounds. The case was considered by Circle Relaxation Committee of Orissa circle and approved the applicant for the post of Postal Assistant subject to availability of vacancy in compassionate appointment quota. His name was placed at appropriate place in the waiting list maintained by the circle. The applicant being aggrieved with the delay in his appointment filed an O.A. no. 135/2000 before the Hon'ble CAT, Cuttack bench. The Hon'ble CAT, Cuttack bench in its order dated 7.3.2001 allowed the application of the respondent directing the petitioners to provide employment to the respondent on compassionate grounds as against an existing vacancy and in its absence against the next available vacancy. It was noticed that six candidates ranking senior to the applicant were in the waiting list of approved candidates. Therefore, the applicant could not be given appointment ignoring the interest of other six senior approved candidates who were already in the waiting list.

An O.J.C petition No. 11154/2001 was therefore filed by the Department before the High Court of Orissa as the judgment was against the policy in the matter of compassionate appointments in terms of which such appointments are not only subject to an over-all ceiling of 5% of the vacancies in Group C and D posts but also subject to a

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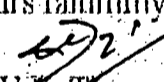
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time-limit of one year. The High Court of Orissa by its impugned order dated 11.2.2003 dismissed the writ petition filed by the Deptt. herein holding that there is no ground for interference with the order of the Tribunal.

The Ministry of Law was consulted who opined that the impugned order of the High Court of Orissa is absolutely against the policy of Government of India. It is the policy of the Government that the compassionate appointment will be up to the extent of 5% of the vacancies available in the current order. The Apex Court has held that the policy decision of the Government shall not be interfered and no tribunal or court can compel the Government to change its policy. Thus a special leave petition was filed before the Supreme Court of India against the final order of High Court of Orissa on the ground as the Court has failed to appreciate the said circumstances and therefore it is necessary in the interest of justice to stay on the operation of the impugned order passed by High Court of Orissa. The Courts failed to see that the respondent is to be considered only when there is a vacancy within the given parameter to accommodate within 5% of the direct recruitment of the year. The mere fact that someone has been recommended for appointment on compassionate grounds does not entitle him to be appointed. Further fresh cases of indigency would get precedence over past cases. Further, the applicant is not availing the option of GDS posting in view of want of regular vacancy in compassionate quota and therefore it is construed that he has no necessity for means of sustenance. The Supreme Court is pleased to grant the interim stay against the operation of the CAT's Judgment dated 7.3.2001.

The above decisions of Hon'ble Supreme Court of India in compassionate appointment cases may be brought to the notice of all concerned for information, guidance and necessary action. These facts may also be brought to the notice of Hon'ble High Courts & Central Administrative Tribunals and promptly highlighted while filing the counter reply.

Attested
Addl. C. G. S. O.

Yours faithfully,

(V.K. Tiwary)
Director (Staff)