CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

10.11.17

JORM No. 4 (SEE RULF 42)

CENTRAL ALMINISTRATIVE TRIBUNAL

		GUWAHATI BENCH		
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	Counsal for the	Railway/C.G.S.	Chris D Krishah	
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d learned counsel for the app

O.A. is admitted , call for ls, returnable by four weeks. on 10.9.2004 for orders.

Hon'ble Justice Shri R.K. Batta, Vice-Chairman

A. Deb Roy, learned adjournment seeks file written statement. S.O. 04 for written statement.

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t on 21.1.2005 for hearing. Meanwhile, the applicant may file

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28.01.2005 Adjourned to 11.2.2005 for hearing.

Kritica Member

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11.02.2005 Present: The Hon ble Mr. M.K. Gupta, Member (J).

Heard learned counsel for the applicant. None present for the Respondents. The application is disposed of. No order as to costs.

Memper (J)

mb

RESPONDINT(5).

CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI SENCH

O.A./R/A.NO.
DATE OF DECISION 11.02.2005.
Sri Rupak Dey
Mr. P.K. Deka Mr. I.H. Laskar Mr. S. BaruaMDVOCATE FOR THE
-VERSUS -
Union of India & Ors
ADVOCATE FOR THE

THE HON'BLE MR. M.K. Gupta, Judicial Member.

THE HON BLE MR.

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

 Judgment delivered by Hon'ble Member (J).

CENTRAL ADMINISTRATIVE TRIBUNAL :::: GUWAHATI BENCH

Original Application No. 171/2004.

Date of Order: This the 11th day of February, 2005.

THE HON'BLE MR. M.K. GUPTA, JUDICIAL MEMBER.

Sri Rupak Dey Son of Late Hrishindra Ch. Dey Resident of Lakshmicharan Road, Ward No. 6 P.O., P.S. and District – Karimganj (Assam)

... Applicant.

By Advocates Mr. P.K. Deka, Mr. I.H. Laskar, Ms. I. Krishatiya and Mr. S. Baruah.

- Versus –
- 1. The Union of India, represented by the Secretary to Govt. Of India, Ministry of Communications, New Delhi.
- 2. The Director General of Post Office New Delhi.
- 3. The Chief Post Master General, Assam, Guwahati.
- 4. The Post Master General, Assam Region, Dibrugarh.
- 5. The Senior Superintendent of Post Offices, Cachar Division, Silchar 1, Assam.
- 6. The Head Post Master, Karimgani Head Office, Karimgani, Assam

... Respondents

Mr. A. Deb Roy, Sr. C.G.S.C. not present.

ORDER (ORAL)

M.K. Gupta, Member (J):

I have heard Mr. S. Baruah, learned counsel for the applicant. Since none appeared on behalf of the Respondents, I peruse the pleadings carefully and decided to proceed in the matter under the provisions of Rule 15(1) of the C.A.T. (Procedure) Rules, 1987.



V

- 2. By the present O.A. the applicant, the son of Late Hrishindra Ch. Dey, ex Night Guard, Department of Post, Grade 'D' employee, seeks direction for quashing the impugned communication dated 31.05.2004 rejecting his request for appointment on compassionate ground as well as direction to appoint him in Grade 'D' post in the postal department.
- 3. The applicant's father died on 11.10.2002 while duty and the applicant being certificate holder of 10th standard certificate applied for compassionate appointment. The Respondents after considering his request rejected the same vide order dated 31.05.2004 stating that Circle Selection Meeting which was held on 22.04.2004 considered his case for appointment with utmost sympathy did not find it covered under the guidelines governing compassionate appointment.
- 4. It is contended that Principle of Natural Justice were not observed and no reasons furnished in the said communication. Further, in the reply filed by the Respondents except for making vague statement that compassionate appointment depends upon the availability of posts and the decision was taken by Circle Selection Committee, no reference was made neither to policy in vouge on the said subject nor any plausible reasons were stated for arriving at the said conclusion. Recording of reasons is necessary to appreciate as to what was considered by the respondents, which is totally absent in the present O.A., contended the learned counsel for the applicant.
- 5. On bestowing my careful consideration to the contentions raised and on perusal of pleadings, I find that the respondents have made no attempt to explain the details of factors considered nor stated any reasons while rejecting the applicant's request. Even the Counter affidavit, which in my view, is very scathy and vague. No attempt was made to explain as to why the Circle Selection



Committee, which considered stated that the applicant's did not find any justification in his request.

6. On perusal of the impugned communication dated 31.05.2004, I am satisfied that same is neither a speaking order nor it contain any reasons, which is must to appreciate the background in which such decision was arrived at. The Respondents are, accordingly, directed to pass reasoned and speaking order highlighting the various factors considered while examining applicant's case for compassionate appointment. This exercise shall be completed within a period of three months from the date of receipt of this order.

The application is accordingly disposed of. No order as to costs.

' (M.K. Gupta) Judicial Member

/mb/

- 2 AUG 2004

भुवादाको स्थाप है। Germana के करा

List of Dates :-

- 12.10.2002 :- Applicant's father Late Hrishindra Ch. Dey, who was a Grade 'D' Postal employee, Karimganj H.O. was most brutally murdered by some miscreants while he was in Official duty.
- 21.10.2002 :- The applicant filed representation before the concerned authority to consider the present applicant for the Grade 'D' post earlier held by his deceased father.
- 18.12.2002: Applicant's mother filed representation before the men concerned authority to consider the applicant for the Grade 'D' post earlier held by his deceased father.
- 31.05.2004:- The Senior Suptd. of Post Offices, Cachar Division, Silchar, vide his letter/order No. BI/Rectt/Relax/Rlg/Misc. Clearly stated that the case of the applicant is not covered under the guidelines Governing Compassionate appointment.

DISTRICT: KARIMGANJ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

ORIGINAL APPLICATION NO. /7/ /2004

Sri Rupak Dey

......Aoplicant

- Versus -

The Union of India And Ors .

Respondents

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Date:-2-8-04

Filed by:Adoprova Krihnatraiya
(I. KRISHNATRAIYA)

Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :

GUWAHATI BENCH :

ORIGINAL APPLICATION NO. 17) / 2004

- BETWEEN

Sri Rupak Dey

S/O Late Hrishindra Ch. Dey .

Resident of Lakshmicharan Road, Ward No. 6

P.O., P.S. And Dist. - Karimganj (Assam)

.....APPLICANT

- AND -

- 1. The Union of India,

 Represented by the Secretary to the

 Government of India, Ministry of

 Communications, New Delhi.
- 2. The Director General of Post Office . New Delhi .
- 3. The Chief Post Master General, Assam , Guwahati .
- 4. The Post Master General .

 Assam Region, Dibrugarh .
- 5. The Senior Superintendent of Post Office , Cachar Division , Silchar -1, Assam .
- 6. The Head Post Master ,
 Karimganj Head Office, Karimganj , Assam .

.....RESPONDENTS

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DETAILS OF APPLICATION :-

- (a) Name of the Applicant :- Sri Rupak Dey
- (b) Name of the Father :- Late Hrishindra Ch. Dey ,

 Ex-Gr.'D' (Night Guard)

 Karimganj, H.O.
- (c) Age of the Applicant :- About 29 years .
- (d) Address of the Applicant :- Sri Rupak Dey

 S/O Late Hrishindra Ch. Dey

 Resident of Lakshmicharan Road,

 Ward No.6, P.O. AND Dist. Karimganj,

Assam .

PARTICULAR OF THE ORDER FOR WHICH APPLICATION IS MADE:

(a) The Order passed by the Senior Superintendent of Post Offices, Cachar Division, Silchar-1, Vide Order/letter No. Bl/Rectt/Relax/Rig/Misc. dated 31.05-2004, whereby it was held that the applicant's Case could not be covered under the guidlines governing Compassionate appointment.

SUBJECT IN BRIEF :

The applicant is entitled for the post of grade 'D' under the compassionate appointment in the postal Department, Applicant's late father Sri Hrishindra Ch. Dey was a grade 'D' employee in the Karimganj Head Post Office, Karimganj, Assam, on being

Control

posted as night guard. On the fateful night of the 11th October, 2002 while he was on duty guarding the Office, some miscreants came to the office premises and most brutally murdered him. Late Shri Hrishindra Ch. Dey was the only breadearner and after his sudden death the family is suffering under acute financial difficulties. The poor family consisting of 4 members including the applicant, who has passed H.S.L.C. Examination and still being an unemployed, the whole burden of his family is lying on his shoulder. Being the eldest son of his family, he made representation for appointing him in the postal department on compassionate ground.

JURISDICTION OF THE TRIBUNAL:

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

LIMITATION:

The applicant further declares that the present application is within the limitation provided under section 21 of the Central Administrative Tribunal Act, 1985 .

BRIEF FACTS OF THE CASE :-

- 1. That the applicant is Citizen of India and as such he is entitled to all the rights, privileges and protections guaranteed to the citizens of India under the Constitution of India and the laws framed thereunder.
- 2. That the applicant's deceased father Late Hrishindra

 Ch. Dey was a Grade 'D' Employee (Night Guard), Karimganj

 H.O. and served uninterruptedly in the said Office since



21.4.1968 till his death on 12.10.2002 white in service. He was most brutally murdered by some miscreants on the said fateful night while he was in official duty, leaving behind 4 family members including the present applicant who, being the eldest son, has no source of income to run the family.

A copy of the death certificate is annexed hereto and marked as Annexure- 1 .

3. That after the expiry of his father, the present applicant as well as his mother vide their representations dated 21.10.2002 and 18.12.2002 prayed before the concerned authorities to consitive derypresent applicant for the Grade 'D' post earlier held by his deceased father who died while in service .

The Copies of the aforesaid representations dated 21.10.2002 and 18.12.2002 are annexed hereto and marked as Annexure-2-A and Annexure-2-B.

4. That, thereafter the Senior Sundt. of post Offices, Cachar Division, Silchar-1, (Respondent No. 5) vide his letter/order No. Bl/Rectt/Relax/RIg/Misc. dated 31.05.2004 clearly stated that the applicant's case is not covered under the guidelines governing compassionate appointment and thereby the plea made by the applicant for appointment on compassionate ground was most Arbitrarily rejected.

A copy of the aforesaid impugned order dated 13.05.2004 is annexed as Annexure- 3.

Endy 24)

5. That the applicant's educational qualification is class Xth passed and he is the only qualified candidate in his family and deserving the Grade 'D' post on compassionate ground which fell vacant due to the sudden death of his father late Hrishindra Ch. Dey who worked in the aforesaid post Office since 21.04.1968 to till his death on 12.10.2002 and as such denying appointing to the applicant to the said post by the respondent authorities is causing miscarriage of justice to the applicant.

A copy of the aforesaid educational qualification certificate of the applicant is annexed as Annexure-4.

- 6. That the applicant submits that, the Senior Supdt. of Post Offices, Cachar Division (Respondent No. 5) vide his impugned order dated 31.5.2004 had rejected the application made by the applicant for appointing him on compassionate ground by simply stating that his case was not covered under the guidelines governing compassionate appointment. The applicant was shocked to find that his case was not considered eventhough his father was murdered white; in Official duty.
- 7. That, under the relevant rules there is a proxision for the compassionate appointment to the dependant of Grade 'D' deceased employee of the Central Govt, and being a qualified candidate for the post of Grade 'D' post, the applicant is entitled to get this benefit.

Port set

- 8. That the applicant is a qualified as well as an unemployed person with poor family background and he has to look after the family members consisting of his aged mother, younger brother and sister and he has no source of livelihood and as such it is most urgent need of the applicant to get a job for survival of him and his family members.
- 9. That the respondent authorities have violated the Fundamental Rights of the applicant under the constitution of India as well as the Principles of natural justice.
- 10. That the applicant has no other alternative and/or efficacious remedy and the remedy prayed for is just, adequate and proper .
- 11. That the applicant has demanded justice and the same was denied to him .

12. RELIEFS SOUGHT FOR :-

In view of the facts mentioned above, the applicant prays for the following reliefs:-

- (a) To set-aside and quash the order No.Bl/Rectt/Relax/Rlg/Misc, dated 31.05.04 passed by the Senior Supdt. of Post Offices, Cachar Division, Silchar . (Annexume-3)
- (b) To direct the concerned Respondent authorities to appoint the applicant for any Grade 'D' post in the postal Department on compassionate ground .

End John

(c) Any order/orders or direction as Your Lordship may deem fit and proper and in accordance with law in order to give full relief to the RM applicant.

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m nd}$ for this act of kindness. Your applicant as in duty bound shall ever pray .

13. LIST OF ENCLOSURES:-

- (a) Copy of death certificatem
- (b) Copy of representation made by the applicant to the Head Post Master, Karimganj Head Post Officer, Karimganj dated 21.10.2002.
- (C) Copy of representation made by the applicant's mother Smti.
 Nilima Dey to the Post Master General, Meghdoot Bhawan, Pan Bazar,
 Guwahati-1 dated 18.12.2002.
- (d) Copy of the impugned order No. Bl/Rectt/Relax/Rlg/Misc,dated 31.05.04 passed by the Senior Supdt. of Post Offices, Cachar Division, Silchar-1.
- (e) Copy of H.S.L.C. qualification Certificate .
- 14. Details of postal orders :-

Postal order No.: 206-112638

Date of issue: 3 -8-04

Issued from: 600,

Payable at: Gpo

······ VERIFICATION .

Conf. Only

VERIFICATION

years, resident of Lakshmicharan Road, Ward No.6, P.O., P.S. and District- Karimganj, Assam, do hereby verify that the contents of Paragraph No.s 1,6511 of the application are true to my personal knowledge and the contents of Paragraphs No.

2,3,425 are matters of records, which I believe to be true and correct and the rest are my humble prayer and submissions before this Hon'ble Tribunal.

And I sign this Verification on this 2^{N} day of August 2004 at Guwahati .

Date: - 2.08.2004

Place :- Guwahati

/ Rupar Dey

Signature of the Applicant .

Form No. 6 एक्स की -७



SI. No. 0031380



ি GOVERNMENT OF ASSAM
(অসম চৰকাৰ)

DIRECTORATE OF HEALTH SERVICES
(স্বাস্থ্য সেৱা সঞ্চালকালয়)

CERTIFICATE OF DEATH
(মৃত্যুৰ প্রমাণ পত্র)

ISSUED UNDER SECTION 12/17 of the Registration of Births and Deaths Act, 1969. জনু মৃত্যুৰ পঞ্জীয়ন আইন ১৯৬৯ ৰ ১২/১৭ অংশত লিপিবদ্ধ)

This is to Certify that the following information has been taken from the Registration unit of Name and Joseph District & archall Jos the ... Jof the State of Assam. ইয়াৰ দাৰা প্ৰমাণিত কৰা হয় ে নিশ্ৰ লিখিত তথা অসম ৰাজাৰ ---- জিলাৰ ---- খণ্ডৰ/ -মৌজাৰ অন্তৰ্গত ------ পঞ্জীয়ন গোটৰ পঞ্জীৰ মূল **অভিলেখৰ পৰা** সংগৃহীত কৰা হৈছে HRISHINDRA CHANDRA DEY Male. 12-10 2002 Head post office Karcingany Place of Death/মৃত্যুৰ স্থান 174 Registration No./পঞ্জীয়ন নং Date of Registration /शङ्कीयुगन अनिया - 20-10-2 कि 2 Name of Father/Mother/Hysband Kali Binoy haw পিতৃ /নাতৃ /সামীৰ নাম) Signature of issuing authority/জাৰী কৰা ছিত্

No disclosure shall be made of particulars regarding the cause of death as entered in the Register. See proviso to Section 17 (1)

Chishnathaigh

30/7/04

X

XXX

To

The Head Post Master ,

Karimganj Head Post Office, Karimganj .

Sub :- Service on Compassionate Ground

Sir,

With deep sorrow and respect I have the honour to intimate you that my father Late. Hrishendra Chandra Dey was an employee of your post Office and had been working for more edrard than 20 years in the department and was the only source of bread T of 4 members of his family. But he was brutally killed while he was in the post Office, discharging his duty. It is a known fact that he was a Night Guard of the Head Post Office and in the night of 11-10-2002 Friday he was murdered on the very day i.e.11-10-02 he come to Office in the evening as usually but he could not reture. His sudden death is stumbling block to our family and we become totally helpless on his death. The situation that our family have been facing is unbearable.

The Condition that have emerged after the death of our • father is not mentionable. As the family do not have any source of incomethe family members are in wrost position . I am as the eldest son though providing consulation yet I too become help-less . The things that going with our family can be easily imagined.

Under the circumstances I find no alternatives but to humbly pray my service with your department on sympethetic ground as per norms equity .

As per my BIO-DATA , I am in the age of 27 years , with active habit & having some experience of Officel works .

I Passed the H.S.L.C. in the Year 1993 . My date of Birth is 28.1.75

A favourable act from Your end will service a family from hunger & starvation and the same shall be highly appreciated .

Dated ::: Karimganj
The 21.10.02

Yours faithfully

Sd/
Rupak Dey

Lakkhicharan Road ,

P.O. & Dist . Karimganj

Alishnatronya Alvocate

To

The Post $^{\mathrm{M}}$ aster General , Magdut Bhavan ,

Pan Bazar ,

Guwahati ,

Pin_-_781_001.

Sub: - Prayer for appointment of my son Sri Rupak Dey on compassionate ground against the murder of my husband on duty at Karimganj Head Post

Office - A reminder.

Ref : - My earlier representation dtd. 20.10.2002 .

With due respect and humble submission I beg to state that my husband Late Hrishindra Ch. Dey a group D staff posted at Karimganj Head Office as a Night Watchman was murdered on duty in robery on the night of 12th October , 2002 .

It is in this context. I beg to mention that I had the opportunity to meet you at Karimganj Head Post Office on 20.10.2002 while your were camping there and was sympathetically consoled by your honour and assured of your kind consideration for appointment of my elder son Sri Rupak Dey in Your department on compassionate ground.

On the occassion & submitted & representation to your goodself on 28.11.2002 for the purpose of the compassionate appointment of my son Sri Rupak Dey .

That Sir, My husband sacrificed his life in guarding the property of the department . He was the only bread-earner for the family with five members , has been left on a dire strait of poverty .

Under the circumstances I, as helpless widow and mother of one unmarried daughter and two unemployed sons, beg to seek your kind consideration for appointment of my son in your department on compassionate ground and request your honour to take necessary action so as to expediate the process.

In fine, I beg to state that the extire family of mine is looking forward to the consideration of your honour in hope that your honour would be kind enough to consider the matter to save the bereared and helpless family.

Dated at Karimganj the 18-12-02 Dec., 2002. Yours faithfully sd/- Smti. Nilima Dey Lakshmicharan Road . P.O. & Dt. Karimganj

Pin- 788710.

Chilfied to be true Copy
Authoritary
30/7/64

ANNEXURE-3

a

DEPARTMENT OF POSTS: INDIA

OFFICE OF THE SENIOR SUPDT OF POST OFFICES

CACHAR DIVISION: SILCHAR-788001

No. BI/Reett/Relax/Rlg/Misc

Dated at Silchar 31-05-04

Sub: Holding CSC(Circle Selection Committee) for consideration of compassionate appointment cases .

In pursuance of CO's' letter no. Staff/16-CSC/2004 dtd. 21-05-04, it has been intimated following compassionate appointment under relaxation of normal rules were considered in the Circle Selection Committee held on 02-04-04 with utmost sympathy and found not covered under the guidelines governing compassionate appointment and rejected.

1. Miss Rumi Das

CO/RO File No Staff/16-18/03

D.O. Late K.K.Das

Ex Postman R.F. Na

Cachar Dvn.

V. Sri Rupak Dey

Staff/16-16/03

S.O. Late Hrishwindra Ch. Dey

3. Md. Akram Hussain Miah S/O Late Abdul Uzir Meah Staff/16-16/03

Ex. Postman R.F. College Silchar

Sd/-

J.K. BARBHUIYA Senior Supdt.of Post Offices Cachar Division: Silchar-788001

Copy to : 1. ASP/SDI 2. Concerned

Sd/-Senior Supdt.of Post Offices Cachar Division: Silchar-788001

Authoritage 30/7/64 Atrocate

CONDERIU Education

High School LeavingCertificate (Compartmental) Examination 1992... Code - RC 1

Results announced on. 23/07/93

This is to certify that Rupak Dey

Roll N3-269 No. 5015 has duly passed the High

School Leaving Certificate (Compartmental) Examination,

1992 of this Board.

His/Her date of birth is 28/01/75

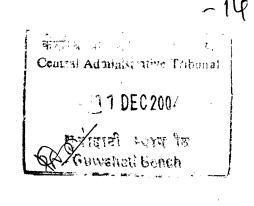
EXAMINATION CHANGE CHANCE CHANCE CHANCE SPECIAL SC 1

002284

GUWAHATI ASSAM

WB. REGISTŘAR II

BALENDRA KUMAR DAS SECRETARY



S. (A. DEB ROY)
S. C. G. S. C.
A. T., Guwahau Beace

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::: GUWAHATI

O.A. NO. 171 OF 2004 Shri Rupak Dey

- Vs-

Union of India & Ors.

In the matter of :

Written Statement submitted by the respondents.

The respondents beg to submit
a brief history of the case
which may be treated as a part
of the written statement

(BRIEF HISTORY OF THE CASE)

Night Guard, Karimganj H.O. his son Shri Rupak Dey has applied for appointment in Group 'D' cadre on compassionate ground and after collecting all required documents his case was forwarded to RO on 05.02.03 B1/Rectt/Relax/Rlg/Misc. The case has been rejected by \$ CSC meeting vide CO's letter no. Staff/16-CSC/2004.

Parawise Comments:

- 1. That with regard to para 1, of the application, the respondents beg to offer no comments.
- 2. That with regard to the statement made in para 2, of the application, the respondents beg to state that Late Hrishindra Ch. Day, ex-Night Guard was found dead inside the Post Office and the case was reported to the Police and till under Police Investivation.
- 2. That with regard to the statement made in para 3, of the application, the respondents beg to state that after collection of documents, the compassionate appointment case of Sri Rupak Dey S/O Late Hrishindra Ch. Dey, Ex-Group 'D' (Night Guard) Karimganj H.O., the case has been sent to RO with all related documents vide this office letter no. B1/Rectt/Relax dated 05.02.03.
- That with regard to the statement made in para 4 & 5, of the application, the respondents beg to state that decision of Circle Selection Committee meeting held on 02.04.04 vide CO's letter no. Staff/16-CSC/2004 dated 21.05.04 was conveyed to the candidate under this letter of B1/Rectt/Relax/Rlg/Misc dated 31.05.04.
- That with regard to the statement made in para 6, of the application, the respondents beg to state that the statement that "his case was not covered under the guidelines governing compassionate appointment"

was informed by CO's letter vide no. Staff/16-CSC/2004 dated 21.05.04 and communicated to the candidate vide this office letter no. B1/Rectt/Relax/Rlg/Misc.

- 5. That with regard to the statement made in para 7, of the application, the respondents beg to state that it depends upon the availability of Posts on compassionate ground and gravity of the case and the decision is made by Circle Selection Committee.
- 6. That with regard to para 8, of the application, the respondents beg to offer no comments.
- 7. That with regard to the statement made in para 9, of the application, the respondents beg to state that it cannot be claimed as a right as it depends upon financial condition of the family and various other factors requiring scrutiny having regard vacancy of compassionate quota along with comparative preference among others.
- 8. That with regard to paras 10 and 11 of the application, the respondents beg to offer no comments.

Verification

YERIFICATION

I, J.K. Barbhuiya, Senior Supdt. of Post Offices, Cachar Division, Silchar, do hereby verify that the statements made in paragraph / (A) to confidence of the written statement are true to my knowledge, those made in paragraphs being matter of records are true to my information of derived therefrom which I believe to be true and those made in the rest are humble submissions before the Hon'ble Tribunal. I have not suppressed any material facts.

And I signed this verification on this the day of , 2004.

Deponent .

Jay Lishore Bookhuiga